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Volume I

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LAWS
of the
STATE OF UTAH, 2025

Passed at the
GENERAL SESSION
of the
SIXTY-SIXTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
January 21, 2025
and Adjourned Sine Die on
March 7, 2025

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2025 General Session of the Sixty-Sixth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2025 General Session of the Sixty-Sixth Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 21st of January 2025 and adjourned sine die on the 7th of March 2025.

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

this Nov. 24, 2025

DEIDRE M. HENDERSON
Lieutenant Governor

CHAPTER 1
H. B. 1
Passed January 30, 2025
Approved February 14, 2025
Effective July 1, 2025

HIGHER EDUCATION BASE BUDGET

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

Highlighted Provisions:

This bill:

- ► provides appropriations for the use and support of higher education agencies and institutions;
- ► provides appropriations for other purposes as described;
- ► provides an estimate of the total budgets for higher education institutions; and
- ► provides intent language.

Money Appropriated in this Bill:

This bill appropriates ($147,689,300) in operating and capital budgets for fiscal year 2025, including:

- ($147,689,300) from various sources as detailed in this bill.

This bill appropriates ($7,397,000) in restricted fund and account transfers for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $2,868,144,100 in operating and capital budgets for fiscal year 2026, including:

- $454,058,100 from General Fund; and
- $1,263,162,900 from Income Tax Fund; and
- $1,150,923,100 from various sources as detailed in this bill.

This bill appropriates $57,779,000 in restricted fund and account transfers for fiscal year 2026, including:

- $71,500,000 from Income Tax Fund; and
- ($13,721,000) from various sources as detailed in this bill.

This bill reflects $12,836,683,300 in higher education budget reporting for fiscal year 2026.

Other Special Clauses:

This bill provides a special effective date.

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2025.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 1(a). Operating and Capital Budgets

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

UNIVERSITY OF UTAH

ITEM 1

To University of Utah - Education and General

From Beginning Nonlapsing Balances	33,714,700
From Closing Nonlapsing Balances	-(55,909,500)
Schedule of Programs:	
Operations and Maintenance	-(27,003,700)
Instruction	-(50,062,900)
Research	1,125,900
Public Service	-(18,516,200)

Academic Support - - -

From Closing Nonlapsing Balances - - -

From Beginning Nonlapsing Balances - (7,667,800)
From Closing Nonlapsing Balances -(23,062,200)
Schedule of Programs:
Operations and Maintenance -(11,320,400)
Instruction - (7,660,500)
Public Service - (797,900)
Academic Support - 2,253,800
Student Services - 3,975,900
Institutional Support -(15,998,600)
Scholarships and Fellowships - (1,182,300)

ITEM 16

To Utah Valley University - Special Projects
From Beginning Nonlapsing Balances - (263,100)
From Closing Nonlapsing Balances - (901,100)
Schedule of Programs:
Fire and Rescue Training - (1,164,200)

SNOW COLLEGE

ITEM 17

To Snow College - Education and General
From Beginning Nonlapsing Balances - (2,023,100)
From Closing Nonlapsing Balances - (2,999,800)
Schedule of Programs:
Operations and Maintenance - (4,543,100)
Instruction - (2,591,200)
Public Service -(20,400)
Academic Support - (466,900)
Student Services - 2,825,200
Institutional Support - (147,700)
Scholarships and Fellowships -(78,800)

ITEM 18

To Snow College - Career and Technical Education
From Beginning Nonlapsing Balances - 311,000
From Closing Nonlapsing Balances - (237,200)
Schedule of Programs:
Instruction - 274,600
Academic Support - 421,700
Student Services - (258,900)
Institutional Support - (1,250,700)
Custom Fit - (172,700)
Operations & Maintenance - 963,300
Public Service - 96,500

UTAH TECH UNIVERSITY

ITEM 19

To Utah Tech University - Education and General
From Beginning Nonlapsing Balances - (1,797,400)
From Closing Nonlapsing Balances - (7,790,100)
Schedule of Programs:
Instruction - (5,376,100)
Public Service - 321,900
Academic Support - 2,011,500
Student Services - 827,100
Institutional Support - (8,278,600)
Operations and Maintenance - 968,900
Scholarships and Fellowships -(62,200)

ITEM 20

To Utah Tech University - Special Projects
From Beginning Nonlapsing Balances -(48,100)
From Closing Nonlapsing Balances -(42,900)
Schedule of Programs:

Zion Park Amphitheater - - -

BRIDGERLAND TECHNICAL COLLEGE

ITEM 27

To Bridgerland Technical College - Education and General
From Beginning Nonlapsing Balances - - -

Schedule of Programs:
Instruction - - -

ITEM 36

To University of Utah - Education and General
From State Appropriations, One-time - - -

To University of Utah - Special Projects
From State Appropriations, One-time - - -

From Grants and Contracts, One-time - - -

Public Service - - -

Public Service - - -

SALT LAKE COMMUNITY COLLEGE

ITEM 55

To Salt Lake Community College - Education and General
- From State Appropriations, One-time - 8,152,600
- From Tuition and Fees, One-time - 1,382,300
- From Grants and Contracts, One-time -(14,703,100)
- From Gifts and Contributions, One-time - 2,436,400
- From Other Sources, One-time - (3,934,100)
- From Sales and Services: Auxiliary Enterprises, One-time - (5,014,900)
- From Sales and Services: Educational Activities, One-time - 261,900
- From Investment Income, One-time - 6,647,500
- From Capital Appropriations, Gifts, and Contracts, One-time - 32,212,500

Schedule of Programs:
- Instruction -(13,538,800)
- Public Service - 1,182,500
- Academic Support - 4,521,600
- Student Services - 9,011,800
- Institutional Support - (8,711,800)
- Scholarships and Fellowships - 11,871,600
- Operations and Maintenance - 8,101,800
- Depreciation - 9,960,000
- Auxiliary Enterprises - 3,068,300
- Other Expenses and Deductions - 1,974,100

ITEM 56

To Salt Lake Community College - Career and Technical Education
- From State Appropriations, One-time - 722,500
- From Grants and Contracts, One-time - (1,554,600)
- From Gifts and Contributions, One-time - 271,000
- From Other Sources, One-time - 266,600
- From Sales and Services: Auxiliary Enterprises, One-time - (383,100)
- From Sales and Services: Educational Activities, One-time - 8,600
- From Investment Income, One-time - 521,000
- From Capital Appropriations, Gifts, and Contracts, One-time - 2,267,700

Schedule of Programs:
- Instruction - (1,071,600)
- Academic Support - 149,900
- Student Services - 847,800
- Institutional Support - 350,600
- Operations and Maintenance - 277,300
- Scholarships and Fellowships - 1,558,000
- Custom Fit - 7,700

BRIDGERLAND TECHNICAL COLLEGE

ITEM 57

To Bridgerland Technical College - Education and General
- From State Appropriations, One-time - 308,400
- From Tuition and Fees, One-time - (8,200)
- From Grants and Contracts, One-time - (1,339,200)
- From Gifts and Contributions, One-time - 298,500
- From Other Sources, One-time - 978,100
- From Sales and Services: Auxiliary Enterprises, One-time - 44,000
- From Sales and Services: Educational Activities, One-time - (107,100)
- From Investment Income, One-time - 667,300
- From Capital Appropriations, Gifts, and Contracts, One-time - 46,675,500

Schedule of Programs:
- Instruction - 18,143,700
- Public Service - 669,300
- Academic Support - 2,650,300
- Student Services - 1,988,000
- Institutional Support - 6,912,300
- Operations and Maintenance - 8,845,500
- Custom Fit - (700,000)

Scholarships and Fellowships - - -

From Other Sources, One-time - - -

Scholarships and Fellowships - - -

Schedule of Programs:
School of Medicine - - -

Number of students, interns, residents, and fellows who receive training from the Poison Control Center compared to the number of learners needed to fulfill faculty and program requirements for training learners (Target = 18); 14. Number of visitors to KUED's informational and video pages (Target = 3,369,184); 15. Number of visitors who receive food assistance at Red Butte Garden (Target = 1); 16. Percent increase in admissions to the Red Butte Garden (Target = 3%); 17. Percent increase in memberships to the Red Butte Garden (Target = 3%); 18. Percentage of actionable mental health care recommendations for long-text chats acted upon (Target = 75%); 19. Percentage of Calls Answered Within 20 Seconds (Target = 85%); 20. Percentage of households that tune into KUED television (Target = 45); 21. Percentage of long chats at SafeUT evaluated for support/satisfaction (Target = 10%); 22. Percentage of users rating their experience with SafeUT as satisfied (Target = 75%); 23. Poison Center Utilization (Target = 25); 24. Publications and Presentations Related to Earthquakes. (Target = 25); 25. Timeliness of Response to Earthquakes in the Utah Region. (Target = 100%); 26. Total offsite attendance at the Natural History Museum of Utah (Target = 200,000); and 27. Total onsite attendance at the Natural History Museum of Utah (Target = 282,000).

UTAH STATE UNIVERSITY

ITEM 72

To Utah State University - Education and General

From General Fund	1,000,000
From Income Tax Fund	238,199,900
From Dedicated Credits Revenue	169,466,000
From General Fund Restricted - Infrastructure and Economic Diversification Investment Account	400,000
From Income Tax Fund Restricted - Performance Funding Rest. Acct.	9,300,900
From Revenue Transfers	324,200
From Beginning Nonlapsing Balances	9,256,300
From Closing Nonlapsing Balances	(19,462,100)

Schedule of Programs:

Operations and Maintenance	47,700,100
Instruction	191,276,300
Research	6,254,800
Academic Support	44,715,400
Student Services	34,411,700
Institutional Support	74,471,800
Scholarships and Fellowships	2,928,500
Public Service	6,726,600

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State University report on the following Education and General line item performance measures for FY 2026: 1. Access: percent of Utah high school graduates enrolled (Target = 0.73%); 2. FTE Student Enrollment at Regional Campuses (Target = 2,225); 3. FTE Student Enrollment at the Brigham City Campus (Target = 650); 4. FTE Student Enrollment at the Tooele Campus (Target = 1,200); 5. FTE Student Enrollment at the Uintah Basin Campus (Target = 375); 6. High-yield awards: percent of high-yield awards granted (Target = 3%); 7. Integrated Postsecondary Education Data System (IPEDS) overall graduation rate at USU - Eastern (Target = 49%); 8. Number of Degrees and Certificates Awarded at USU - Eastern (Target = 365); and 9. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 4%).

ITEM 73

To Utah State University - USU - Eastern Career and Technical Education

From Income Tax Fund	7,832,700
From Dedicated Credits Revenue	439,000
From Income Tax Fund Restricted - Performance Funding Rest. Acct.	59,600
From Beginning Nonlapsing Balances	1,935,400
From Closing Nonlapsing Balances	(1,901,600)

Schedule of Programs:

Instruction	1,355,100
Academic Support	6,615,400
Custom Fit	373,300
Institutional Support	21,300

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State University report on the following USU - Eastern Career and Technical Education line item performance measures for FY 2026: 1. Access: percent of Utah high school graduates enrolled (Target = 0.73%); 2. High-yield awards: percent of high-yield awards granted (Target = 3%); and 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 4%).

ITEM 74

To Utah State University - Veterinary Medicine

From Income Tax Fund	21,640,700
From Dedicated Credits Revenue	2,073,900
From Beginning Nonlapsing Balances	602,700

Schedule of Programs:

Instruction	6,152,000
Academic Support	18,165,300

ITEM 75

To Utah State University - Special Projects

From General Fund	80,900
From Income Tax Fund	47,070,700

From Federal Funds - - -

From Closing Nonlapsing Balances - - -

From Income Tax Fund Restricted - Performance Funding Rest. Acct. 1,822,600
From Revenue Transfers - 753,400
From Beginning Nonlapsing Balances 4,601,700
From Closing Nonlapsing Balances (5,542,500)
Schedule of Programs:
Operations and Maintenance - 6,147,300
Instruction 20,200,000
Public Service - 480,500
Academic Support 4,952,600
Student Services 9,489,600
Institutional Support 12,911,900
Scholarships and Fellowships - 254,900

In accordance with UCA 63J-1-903, the Legislature intends that the Snow College report on the following Education and General line item performance measures for FY 2026: 1. Access: percent of Utah high school graduates enrolled (Target = 0.33%); 2. High-yield awards: percent of high-yield awards granted (Target = 7%); and 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 4%).

ITEM 83

To Snow College - Career and Technical Education
From Income Tax Fund 5,193,500
From Dedicated Credits Revenue - 271,800
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 93,600
From Beginning Nonlapsing Balances - 237,200
From Closing Nonlapsing Balances (1,823,600)
Schedule of Programs:
Instruction 1,971,500
Academic Support - 415,400
Student Services - 167,700
Institutional Support - 157,300
Custom Fit - 621,400
Operations & Maintenance - 581,000
Public Service 58,200

In accordance with UCA 63J-1-903, the Legislature intends that the Snow College report on the following Career and Technical Education line item performance measures for FY 2026: 1. Access: percent of Utah high school graduates enrolled (Target = 0.33%); 2. High-yield awards: percent of high-yield awards granted (Target = 7%); and 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 4%).

ITEM 84

To Snow College - Special Projects
From Income Tax Fund - 185,800
Schedule of Programs:
Student Success - 185,800

UTAH TECH UNIVERSITY

ITEM 85

To Utah Tech University - Education and General
From Income Tax Fund 64,354,300
From Dedicated Credits Revenue 44,764,100
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 2,707,300
From Revenue Transfers - 705,000
From Beginning Nonlapsing Balances 7,790,100
From Closing Nonlapsing Balances (6,577,900)
Schedule of Programs:
Instruction 40,129,500
Public Service - 2,376,900
Academic Support 16,533,500
Student Services 15,078,800
Institutional Support 27,398,800
Operations and Maintenance 12,225,400

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Tech University report on the following Education and General line item performance measures for FY 2026: 1. Access: percent of Utah high school graduates enrolled (Target = 0.4%); 2. High-yield awards: percent of high-yield awards granted (Target = 6%); and 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 3%).

ITEM 86

To Utah Tech University - Special Projects

From Income Tax Fund - - -

ITEM 91

To Utah Board of Higher Education - Math Competency Initiative

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Board of Higher Education report on the following Math Competency Initiative line item performance measure for FY 2026: 1. Percent Increase in Number of Students Taking Math Credit Through Concurrent Enrollment (Target = 5%).

ITEM 92

To Utah Board of Higher Education - Strategic Reinvestment

From Income Tax Fund	60,452,700
Schedule of Programs:	
Salt Lake Community College	5,246,800
Snow College	1,678,700
Southern Utah University	3,176,000
University of Utah	19,585,200
Utah State University	12,645,300
Utah Tech University	2,555,100
Utah Valley University	8,904,800
Weber State University	6,660,800

BRIDGERLAND TECHNICAL COLLEGE

ITEM 93

To Bridgerland Technical College - Education and General

From Income Tax Fund	23,755,800
From Dedicated Credits Revenue	2,282,300
From Income Tax Fund Restricted - Performance Funding Rest. Acct.	627,100
From Beginning Nonlapsing Balances	741,200
From Closing Nonlapsing Balances	(871,200)
Schedule of Programs:	
Instruction	14,998,500
Public Service	280,000
Academic Support	2,127,800
Student Services	1,432,400
Institutional Support	4,051,800
Operations and Maintenance	2,842,100
Custom Fit	709,200
Scholarships & Fellowships	93,400

In accordance with UCA 63J-1-903, the Legislature intends that the Bridgerland Technical College report on the following Education and General line item performance measures for FY 2026: 1. Access: percent of Utah high school graduates enrolled (Target = 0.02%); 2. High-yield awards: percent of high-yield awards granted (Target = 1%); and 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 0.3%).

ITEM 94

To Bridgerland Technical College - Special Projects

From Income Tax Fund	16,000
Schedule of Programs:	
Student Success	16,000

DAVIS TECHNICAL COLLEGE

ITEM 95

To Davis Technical College - Education and General

From Income Tax Fund	28,586,200
From Dedicated Credits Revenue	2,824,600
From Income Tax Fund Restricted - Performance Funding Rest. Acct.	619,900
From Beginning Nonlapsing Balances	1,458,400
From Closing Nonlapsing Balances	(824,300)
Schedule of Programs:	
Instruction	15,635,900
Academic Support	2,950,000
Student Services	4,493,800
Institutional Support	4,865,800
Operations and Maintenance	4,032,400
Custom Fit	686,900

In accordance with UCA 63J-1-903, the Legislature intends that the Davis Technical College report on the following Education and General line item performance measures for FY 2026: 1. Access: percent of Utah high school graduates enrolled (Target = 0.09%); 2. High-

yield awards: percent of high-yield awards granted (Target = 1%); and 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 6%).

ITEM 96

To Davis Technical College - Special Projects
From Income Tax Fund - - -

From Income Tax Fund Restricted - Performance Funding Rest. Acct. - 670,700
From Beginning Nonlapsing Balances - 286,400
From Closing Nonlapsing Balances - (1,070,400)
Schedule of Programs:
Instruction - 13,271,300
Academic Support - 2,160,500
Student Services - 3,083,400
Institutional Support - 5,644,500
Operations and Maintenance - 2,661,200
Custom Fit - 681,200
Scholarships & Fellowships - 327,500

In accordance with UCA 63J-1-903, the Legislature intends that the Ogden-Weber Technical College report on the following Education and General line item performance measures for FY 2026: 1. Access: percent of Utah high school graduates enrolled (Target = 0.07%); 2. High-yield awards: percent of high-yield awards granted (Target = 0.0%); and 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 0.4%).

ITEM 102

To Ogden-Weber Technical College - Special Projects
From Income Tax Fund - 77,700
Schedule of Programs:
Student Success - 77,700

SOUTHWEST TECHNICAL COLLEGE

ITEM 103

To Southwest Technical College - Education and General
From Income Tax Fund - 10,236,700
From Dedicated Credits Revenue - 490,000
From Income Tax Fund Restricted - Performance Funding Rest. Acct. - 195,500
From Beginning Nonlapsing Balances - 571,000
From Closing Nonlapsing Balances - (903,900)
Schedule of Programs:
Instruction - 4,075,000
Academic Support - 594,400
Student Services - 830,600
Institutional Support - 3,423,000
Operations and Maintenance - 978,100
Custom Fit - 548,100
Public Service - 140,100

In accordance with UCA 63J-1-903, the Legislature intends that the Southwest Technical College report on the following Education and General line item performance measures for FY 2026: 1. Access: percent of Utah high school graduates enrolled (Target = 0.01%); 2. High-yield awards: percent of high-yield awards granted (Target = 0.4%); and 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 3%).

ITEM 104

To Southwest Technical College - Special Projects
From Income Tax Fund - 88,600
Schedule of Programs:
Student Success - 88,600

TOOELE TECHNICAL COLLEGE

ITEM 105

To Tooele Technical College - Education and General
From Income Tax Fund - 9,114,800
From Dedicated Credits Revenue - 580,300
From Income Tax Fund Restricted - Performance Funding Rest. Acct. - 143,800
From Beginning Nonlapsing Balances - 2,300
From Closing Nonlapsing Balances - (1,308,200)
Schedule of Programs:
Instruction - 3,990,800
Student Services - 1,167,200
Institutional Support - 2,030,300
Operations and Maintenance - 472,300
Custom Fit - 397,400
Academic Support - 475,000

In accordance with UCA 63J-1-903, the Legislature intends that the Tooele Technical College report on the following Education and General line item performance measures for FY 2026: 1. Access: percent of Utah high school graduates enrolled (Target = 0.02%); 2. High-yield awards: percent of high-yield awards granted (Target = 6%); and 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 1%).

ITEM 106

To Tooele Technical College - Special Projects
From Income Tax Fund - - -

ITEM 110

To University of Utah - University Hospital
From State Appropriations - - -

From Sales and Services: Auxiliary Enterprises - - -

WEBER STATE UNIVERSITY

ITEM 118

To Weber State University - Education and General
- From State Appropriations - 136,852,300
- From Tuition and Fees - 84,564,200
- From Grants and Contracts - 44,227,700
- From Independent Operations - 146,700
- From Gifts and Contributions - 9,703,900
- From Other Sources - 6,924,600
- From Sales and Services: Auxiliary Enterprises - 16,340,800
- From Sales and Services: Educational Activities - 2,758,300
- From Investment Income - 33,565,400
- From Capital Appropriations, Gifts, and Contracts - 12,998,900
- From Additions to Permanent Endowments - 1,940,800

Schedule of Programs:
- Instruction - 125,354,900
- Research - 1,179,000
- Public Service - 2,888,900
- Academic Support - 39,008,100
- Student Services - 28,776,100
- Institutional Support - 41,874,800
- Scholarships and Fellowships - 19,996,600
- Operations and Maintenance - 45,487,800
- Depreciation - 21,104,300
- Auxiliary Enterprises - 23,347,200
- Other Expenses and Deductions - 1,005,900

ITEM 119

To Weber State University - Special Projects
- From State Appropriations - 1,952,700

Schedule of Programs:
- Rocky Mountain Center for Occupational &Environmental Health - 1,612,200
- Student Success - 340,500

SOUTHERN UTAH UNIVERSITY

ITEM 120

To Southern Utah University - Education and General
- From State Appropriations - 79,188,700
- From Tuition and Fees - 67,885,000
- From Grants and Contracts - 40,523,100
- From Gifts and Contributions - 7,082,700
- From Sales and Services: Auxiliary Enterprises - 6,921,100
- From Sales and Services: Educational Activities - 19,454,000
- From Investment Income - 11,500,800
- From Capital Appropriations, Gifts, and Contracts - 9,255,900
- From Additions to Permanent Endowments - 1,157,400

Schedule of Programs:
- Instruction - 78,055,800
- Public Service - 22,378,800
- Academic Support - 18,986,500
- Student Services - 34,031,200
- Institutional Support - 25,390,900
- Scholarships and Fellowships - 25,461,900
- Operations and Maintenance - 17,967,800
- Research - 495,500
- Other Expenses and Deductions - 3,722,400
- Depreciation - 10,655,500
- Auxiliary Enterprises - 5,822,400

ITEM 121

To Southern Utah University - Special Projects
- From State Appropriations - 982,200

Schedule of Programs:
- Shakespeare Festival - 366,000

Rural Health - - -

From State Appropriations - - -

From Grants and Contracts - - -

Scholarships and Fellowships - - -

ITEM 137

To Dixie Technical College - Special Projects
From State Appropriations - - -

Schedule of Programs:
Student Success - - -

UINTAH BASIN TECHNICAL COLLEGE

ITEM 146

To Uintah Basin Technical College - Education and General
- From State Appropriations - 14,358,200
- From Tuition and Fees - 817,200
- From Grants and Contracts - 1,145,100
- From Gifts and Contributions - 817,500
- From Other Sources - 168,600
- From Sales and Services: Auxiliary Enterprises - 445,600
- From Investment Income - 855,700
- From Capital Appropriations, Gifts, and Contracts - 1,047,800

Schedule of Programs:
- Instruction - 7,675,300
- Student Services - 1,015,300
- Institutional Support - 4,647,500
- Operations and Maintenance - 2,948,500
- Custom Fit - 497,500
- Scholarships and Fellowships - 151,800
- Depreciation - 1,559,400
- Auxiliary Enterprises - 282,200
- Academic Support - 878,200

ITEM 147

To Uintah Basin Technical College - Special Projects
- From State Appropriations - 58,400

Schedule of Programs:
- Student Success - 58,400

Section 3. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 3(a). Operating and Capital Budgets

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

UTAH BOARD OF HIGHER EDUCATION

ITEM 148

To Utah Board of Higher Education - Administration
- From General Fund - 2,301,100
- From Income Tax Fund - 15,973,400
- From Revenue Transfers - 443,400
- From Beginning Nonlapsing Balances - 580,900

Schedule of Programs:
- Administration - 14,086,900
- Utah Data Research Center - 1,690,100
- Pass Through Funding - 3,521,800

ITEM 149

To Utah Board of Higher Education - Student Assistance
- From Income Tax Fund - 34,622,000
- From Beginning Nonlapsing Balances - 19,141,600

Schedule of Programs:
- Opportunity Scholarship - 30,395,400
- Student Financial Aid - 8,455,000
- Utah Promise Program - 5,662,600
- Western Interstate Commission for Higher Education - 1,185,200
- T.H. Bell Education Scholarship Program - 2,093,900
- Veterans Tuition Gap Program - 481,600
- Public Safety Officer Career Advancement Grant - 153,100
- Student Prosperity Savings Program - 49,700
- Talent Development Grant Program - 1,468,800
- Career and Technical Education Scholarships - 1,094,500
- Adult Learner Grant - 965,000
- First Responder Mental Health - 447,700

Prime Pilot Program Amendments - - -

CHAPTER 2
H. B. 4
Passed January 30, 2025
Approved February 14, 2025
Effective July 1, 2025

ECONOMIC AND COMMUNITY DEVELOPMENT BASE BUDGET

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $39,987,200 in operating and capital budgets for fiscal year 2025, including:

- $3,075,000 from General Fund; and
- $36,912,200 from various sources as detailed in this bill.

This bill appropriates $10,097,800 in expendable funds and accounts for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $131,348,200 in business-like activities for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $7,419,700 in restricted fund and account transfers for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $1,723,416,600 in operating and capital budgets for fiscal year 2026, including:

- $216,109,400 from General Fund; and
- $27,402,500 from Income Tax Fund; and
- $1,479,904,700 from various sources as detailed in this bill.

This bill appropriates $42,694,800 in expendable funds and accounts for fiscal year 2026, including:

- $5,492,900 from General Fund; and
- $37,201,900 from various sources as detailed in this bill.

This bill appropriates $449,379,900 in business-like activities for fiscal year 2026, including:

- $2,250,000 from General Fund; and
- $447,129,900 from various sources as detailed in this bill.

This bill appropriates $62,077,400 in restricted fund and account transfers for fiscal year 2026, including:

- $48,410,700 from General Fund; and
- $870,800 from Income Tax Fund; and
- $12,795,900 from various sources as detailed in this bill.

This bill appropriates $4,710,900 in fiduciary funds for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2025.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 1(a). Operating and Capital Budgets

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

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

ITEM 1

To Department of Alcoholic Beverage Services - DABS Operations
From Beginning Nonlapsing Balances - (359,200)
Schedule of Programs:
Administration - (1,031,100)
Executive Director - 10,926,300
Operations - (992,300)
Stores and Agencies - (6,629,100)
Warehouse and Distribution - (2,633,000)

ITEM 2

To Department of Alcoholic Beverage Services - Parents Empowered
From Beginning Nonlapsing Balances - 166,600
From Closing Nonlapsing Balances -(68,400)
Schedule of Programs:
Parents Empowered - 98,200

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

ITEM 3

To Governor's Office of Economic Opportunity - Administration
From Beginning Nonlapsing Balances - 81,900
From Closing Nonlapsing Balances - (616,800)
Schedule of Programs:
Administration - (534,900)

ITEM 4

To Governor's Office of Economic Opportunity - Economic Prosperity
From Beginning Nonlapsing Balances - 10,096,400
From Closing Nonlapsing Balances - 1,595,500
Schedule of Programs:
Administration -(55,000)
Business Services - 1,010,100
Incentives and Grants -(23,419,800)
Strategic Initiatives - 31,260,000
Systems and Control - 2,896,600

ITEM 5

To Governor's Office of Economic Opportunity - Office of Tourism
From Beginning Nonlapsing Balances - 5,072,400
From Closing Nonlapsing Balances - (3,863,100)
Schedule of Programs:
Film Commission - (220,700)
Tourism - 1,430,000

ITEM 6

To Governor's Office of Economic Opportunity - Pass-Through
From Beginning Nonlapsing Balances - 34,041,100
From Closing Nonlapsing Balances -(30,759,500)
Schedule of Programs:
Pass-Through - 3,100,300
Economic Assistance Grants - 181,300

ITEM 7

To Governor's Office of Economic Opportunity - Utah Sports Commission

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that of the appropriations provided in "Appropriations Adjustments Act, (House Bill 3, 2024 General Session), Item 209, the Governor's Office of Economic Opportunity provide pass through funds to the Utah Sports Commission to provide a direct award grant of $125,000 to the Rocky Mountain Golden Gloves in FY 2026 to enhance Utah's economy and quality of life through the attraction, promotion, and development of national and international sports.

ITEM 8

To Governor's Office of Economic Opportunity - Utah Fairpark Area Investment and Redevelopment District
From General Fund, One-time - 450,000
Schedule of Programs:
Utah Fairpark Area Investment and Redevelopment District - 450,000

ITEM 9

To Governor's Office of Economic Opportunity - State Fair Park Authority
From General Fund, One-time - - -

STEM Action Center - - -

Schedule of Programs:
General Assistance - - -

ITEM 35

To Department of Cultural and Community Engagement - Heritage and Arts Foundation Fund

From Dedicated Credits Revenue, One-time	(208,200)
From History Donation Fund, One-time	4,187,500
From Beginning Fund Balance	1,504,600
From Closing Fund Balance	(1,793,200)
Schedule of Programs:	
Heritage and Arts Foundation Fund	3,690,700

DEPARTMENT OF WORKFORCE SERVICES

ITEM 36

To Department of Workforce Services - Individuals with Visual Impairment Fund

From Beginning Fund Balance	43,100
From Closing Fund Balance	(13,100)
Schedule of Programs:	
Individuals with Visual Impairment Fund	30,000

ITEM 37

To Department of Workforce Services - Individuals with Visual Impairment Vendor Fund

From Beginning Fund Balance	60,700
From Closing Fund Balance	(83,500)
Schedule of Programs:	
Individuals with Visual Disabilities Vendor Fund	(22,800)

ITEM 38

To Department of Workforce Services - Navajo Revitalization Fund

From Interest Income, One-time	1,000,000
From Other Financing Sources, One-time	(1,000,000)
From Beginning Fund Balance	157,600
From Closing Fund Balance	335,400
Schedule of Programs:	
Navajo Revitalization Fund	493,000

ITEM 39

To Department of Workforce Services - Permanent Community Impact Bonus Fund

From Beginning Fund Balance	(1,916,200)
From Closing Fund Balance	1,916,200

ITEM 40

To Department of Workforce Services - Permanent Community Impact Fund

From Beginning Fund Balance	(2,977,800)
From Closing Fund Balance	2,977,800

ITEM 41

To Department of Workforce Services - Qualified Emergency Food Agencies Fund

From Beginning Fund Balance	143,300
From Closing Fund Balance	(143,300)

ITEM 42

To Department of Workforce Services - Uintah Basin Revitalization Fund

From Beginning Fund Balance	3,602,500
From Closing Fund Balance	(2,801,400)
Schedule of Programs:	
Uintah Basin Revitalization Fund	801,100

ITEM 43

To Department of Workforce Services - Utah Community Center for the Deaf Fund

From Beginning Fund Balance	(2,400)
From Closing Fund Balance	2,400

ITEM 44

To Department of Workforce Services - Olene Walker Low Income Housing

From Beginning Fund Balance	33,192,700
From Closing Fund Balance	(32,591,400)
Schedule of Programs:	
Olene Walker Low Income Housing	601,300

ITEM 45

To Department of Workforce Services - Workforce Initiatives Fund

From Revenue Transfers, One-time	24,811,500
From Closing Fund Balance	(21,086,500)
Schedule of Programs:	
Workforce Initiatives Fund	3,725,000

Subsection 1(c). Business-like Activities

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

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

ITEM 46

To Department of Alcoholic Beverage Services - State Store Land Acquisition Fund

From Beginning Fund Balance	79,631,900
From Closing Fund Balance	(79,631,900)

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

ITEM 47

To Governor's Office of Economic Opportunity - Rural Opportunity Fund

From Beginning Fund Balance	12,300,000
Schedule of Programs:	
Rural Opportunity Fund	12,300,000

ITEM 48

To Governor's Office of Economic Opportunity - State Small Business Credit Initiative Program Fund

From Beginning Fund Balance	20,734,300
From Closing Fund Balance	(7,592,400)
Schedule of Programs:	
State Small Business Credit Initiative Program Fund	13,141,900

DEPARTMENT OF WORKFORCE SERVICES

ITEM 49

To Department of Workforce Services - Economic Revitalization and Investment Fund

From Beginning Fund Balance	(94,600)
From Closing Fund Balance	94,600

ITEM 50

To Department of Workforce Services - Unemployment Compensation Fund

From Beginning Fund Balance	101,715,600
From Closing Fund Balance	4,190,700
Schedule of Programs:	
Unemployment Compensation Fund	105,906,300

Subsection 1(d). Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 51

To General Fund Restricted - Industrial Assistance Account

From Beginning Fund Balance	6,936,400
From Closing Fund Balance	(8,936,400)
Schedule of Programs:	
General Fund Restricted - Industrial Assistance Account	(2,000,000)

ITEM 52

To General Fund Restricted - Native American Repatriation Restricted Account

From Closing Fund Balance	10,000
Schedule of Programs:	
General Fund Restricted - Native American Repatriation Restricted Account	10,000

ITEM 53

To General Fund Restricted - Homeless to Housing Reform Account

From Beginning Fund Balance - - -

Administration - - -

Schedule of Programs:
Inland Port Authority - - -

From Federal Funds - - -

From General Fund - - -

ITEM 80

To Department of Cultural and Community Engagement - Heritage & Events Grants
From General Fund - 650,000
From Beginning Nonlapsing Balances - 400,000
Schedule of Programs:
Pass Through Grants - 1,050,000

ITEM 81

To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission
From General Fund - 203,100
From Dedicated Credits Revenue - 153,100
Schedule of Programs:
Pete Suazo Athletics Commission - 356,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report on the following Pete Suazo Athletics Commission line item performance measures for FY 2026: 1. Number of High Profile Events (Target = 1); 2. Percent Licensed (Target = 90%); and 3. Revenue Increase (Target = 12%).

ITEM 82

To Department of Cultural and Community Engagement - State Historic Preservation Office
From General Fund - 1,845,400
From Federal Funds - 2,605,600
From Dedicated Credits Revenue - 200,200
From Beginning Nonlapsing Balances - 180,000
Schedule of Programs:
Administration - 3,853,300
Public Archaeology - 482,900
Main Street Program - 365,000
Cemeteries - 130,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report on the following State Historic Preservation Office line item performance measures for FY 2026: 1. Cultural Compliance Review Rate (Target = 95%); 2. Dollars of Utah Cultural Stewardship and Public Outreach donated time and mileage exceeds the cost of two state-funded FTEs per year. (Target = $210,000); and 3. Pass through of federal grant funds to local communities for historic preservation purposes (Target = 10%).

DEPARTMENT OF WORKFORCE SERVICES

ITEM 83

To Department of Workforce Services - Administration
From General Fund - 5,137,400
From Federal Funds - 11,333,000
From Dedicated Credits Revenue - 128,400
From Expendable Receipts - 126,700
From Workforce Initiatives Fund - 70,500
From Education Savings Incentive Restricted Account - 31,800
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct - 23,400
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account - 10,000
From Medicaid ACA Fund - 1,200
From Navajo Revitalization Fund - 5,400
From Olene Walker Housing Loan Fund - 10,800
From OWHTF-Low Income Housing - 40,500
From Permanent Community Impact Loan Fund - 98,800
From Permanent Community Impact Bonus Fund - 70,500
From Qualified Emergency Food Agencies Fund - 7,000
From Shared Equity Revolving Loan Fund - 1,000
From General Fund Restricted - School Readiness Account - 18,700
From Rural Single-Family Home Loan - 1,000
From Revenue Transfers - 4,108,200
From Uintah Basin Revitalization Fund - 3,700
Schedule of Programs:
Administrative Support - 13,063,800
Communications - 1,637,600
Executive Director's Office - 2,109,400
Human Resources - 2,350,000
Internal Audit - 2,067,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report on the following Administration line item performance measures for FY 2026: 1. Percent of DWS Facilities for Which an Annual Facilities Risk Assessment

Is Completed Using the Division of Risk Management Guidelines and Checklist (Target = 98%); 2. Percent of DWS programs/systems that have reviewed, planned for, or mitigated identified risks (Target = 100%); and 3. Provide accurate and timely department-wide fiscal administration as measured by audit findings or responses (Target = 0).

ITEM 84

To Department of Workforce Services - General Assistance

From General Fund	4,375,600
From Revenue Transfers	251,400
Schedule of Programs:	
General Assistance	4,627,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report on the following General Assistance line item performance measures for FY 2026: 1. General Assistance - Average monthly customers served (Target = 730); 2. Internal review compliance accuracy (Target = 95%); and 3. Positive Closure Rate (SSI Achievement or Close With Earnings) (Target = 65%).

ITEM 85

To Department of Workforce Services - Housing and Community Development

From General Fund	1,951,200
From Federal Funds	49,372,100
From Dedicated Credits Revenue	914,000
From Expendable Receipts	1,295,500
From Economic Revitalization & Investment Fund	500
From Housing Opportunities for Low Income Households	6,900
From Navajo Revitalization Fund	64,100
From Olene Walker Housing Loan Fund	208,200
From OWHLF Multi-Family House Preserve Revolve Loan	5,500
From OWHT-Fed Home	6,900
From OWHTF-Low Income Housing	606,800
From Permanent Community Impact Loan Fund	776,300
From Permanent Community Impact Bonus Fund	591,300
From Qualified Emergency Food Agencies Fund	70,000
From Shared Equity Revolving Loan Fund	60,000
From Rural Single-Family Home Loan	80,000
From Revenue Transfers	557,400
From Uintah Basin Revitalization Fund	44,900
Schedule of Programs:	
Community Development	8,186,700
Community Development Administration	1,183,700
Community Services	4,663,700
HEAT	25,031,400
Housing Development	6,151,900
Weatherization Assistance	11,394,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report on the following Housing and Community Development line item performance measures for FY 2026: 1. Affordable housing units funded from Olene Walker and Private Activity Bonds (Target = 2,200); 2. Number of Unique Low Income Households Assisted by Installing Permanent Energy Conservation Measures (Target = 347); and 3. Utilities Assistance for Low-income Households - Unique number of eligible households assisted with home energy costs (Target = 26,000).

ITEM 86

To Department of Workforce Services - Operations and Policy

From General Fund	56,309,900
From Income Tax Fund	3,160,900
From Federal Funds	319,135,600
From Dedicated Credits Revenue	230,000
From Expendable Receipts	2,213,200
From Workforce Initiatives Fund	2,815,500
From Education Savings Incentive Restricted Account	870,800
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct	42,700
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account	20,000
From Medicaid ACA Fund	3,753,300
From Navajo Revitalization Fund	7,900
From Olene Walker Housing Loan Fund	15,400
From OWHTF-Low Income Housing	70,700
From Permanent Community Impact Loan Fund	161,500
From Permanent Community Impact Bonus Fund	118,600
From Qualified Emergency Food Agencies Fund	10,200
From Shared Equity Revolving Loan Fund	1,000
From General Fund Restricted - School Readiness Account	6,128,900

From Rural Single-Family Home Loan - - -

From Education Savings Incentive Restricted Account - - -

From Beginning Fund Balance - - -

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report on the following Utah Community Center for the Deaf Fund line item performance measure for FY 2026: 1. Increase the number of individuals accessing interpreter certification exams (Target = 25).

ITEM 99

To Department of Workforce Services - Olene Walker Low Income Housing

From General Fund	5,492,900
From Federal Funds	7,450,000
From Dedicated Credits Revenue	20,000
From Interest Income	3,080,000
From Revenue Transfers	(800,000)
From Beginning Fund Balance	258,080,600
From Closing Fund Balance	(265,203,500)
Schedule of Programs:	
Olene Walker Low Income Housing	8,120,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report on the following Olene Walker Low Income Housing line item performance measures for FY 2026: 1. Housing units preserved or created (Target = 175); 2. Ratio of Other Funds to Olene Walker Housing Loan Fund for All Projects (Target = 15); and 3. Rural housing units created (Target = 15).

ITEM 100

To Department of Workforce Services - Workforce Initiatives Fund

From Beginning Fund Balance	21,086,500
From Closing Fund Balance	-(17,361,500)
Schedule of Programs:	
Workforce Initiatives Fund	3,725,000

Subsection 2(c). Business-like Activities

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

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

ITEM 101

To Department of Alcoholic Beverage Services - State Store Land Acquisition Fund

From Beginning Fund Balance	79,631,900
From Closing Fund Balance	(5,000,000)
Schedule of Programs:	
State Store Land Acquisition Fund	74,631,900

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

ITEM 102

To Governor's Office of Economic Opportunity - Rural Opportunity Fund

From General Fund	2,250,000
Schedule of Programs:	
Rural Opportunity Fund	2,250,000

ITEM 103

To Governor's Office of Economic Opportunity - State Small Business Credit Initiative Program Fund

From Interest Income	150,000
From Beginning Fund Balance	11,972,500
Schedule of Programs:	
State Small Business Credit Initiative Program Fund	12,122,500

DEPARTMENT OF WORKFORCE SERVICES

ITEM 104

To Department of Workforce Services - Economic Revitalization and Investment Fund

From Interest Income	100,000
From Beginning Fund Balance	2,179,100
From Closing Fund Balance	(2,278,600)
Schedule of Programs:	
Economic Revitalization and Investment Fund	500

ITEM 105

To Department of Workforce Services - Unemployment Compensation Fund

From Federal Funds - - -

Schedule of Programs:
General Fund Restricted - School Readiness Account - 3,050,000

ITEM 114

To Education Savings Incentive Restricted Account
From Income Tax Fund - 870,800
From Beginning Fund Balance - 675,500
From Closing Fund Balance - (675,500)
Schedule of Programs:
Education Savings Incentive Restricted Account - 870,800

Subsection 2(e). Fiduciary Funds

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

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

ITEM 115

To Governor's Office of Economic Opportunity - Transient Room Tax Fund
From Revenue Transfers - 4,710,900
From Beginning Fund Balance - 250,700
From Closing Fund Balance - (250,700)
Schedule of Programs:
Transient Room Tax Fund - 4,710,900

Section 3. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 3(a). Operating and Capital Budgets

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

DEPARTMENT OF WORKFORCE SERVICES

ITEM 116

To Department of Workforce Services - Community Development Capital Budget
From Permanent Community Impact Loan Fund - 93,060,000
Schedule of Programs:
Community Impact Board - 93,060,000

ITEM 117

To Department of Workforce Services - Nutrition Assistance - SNAP
From Federal Funds - 593,483,100
Schedule of Programs:
Nutrition Assistance - SNAP - 593,483,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report on the following Nutrition Assistance - SNAP line item performance measures for FY 2026: 1. Percentage of cases where a decision of eligibility was made within 30 calendar days (Target = 95%); 2. SNAP - Accuracy of paid benefits (Target = 97%); and 3. SNAP Calendar Days to Decision from Application Submission to Eligibility Decision (Target = 12).

ITEM 118

To Department of Workforce Services - Special Service Districts
From General Fund Restricted - Mineral Lease - 3,015,800
Schedule of Programs:
Special Service Districts - 3,015,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report on the following Special Service Districts line item performance measure for FY 2026: 1. The Total Percentage of Pass Through of Funds to Qualifying Special Service Districts in Counties of the 5th, 6th, and 7th Class (completed Quarterly) (Target = 100%).

Subsection 3(b). Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF WORKFORCE SERVICES

ITEM 119

To Department of Workforce Services - Navajo Revitalization Fund

From Dedicated Credits Revenue - - -

CHAPTER 3
H. B. 5
Passed January 30, 2025
Approved February 14, 2025
Effective July 1, 2025

GENERAL GOVERNMENT BASE BUDGET

Chief Sponsor: Norman K Thurston
Senate Sponsor: Evan J. Vickers

LONG TITLE

Committee Note:

The Executive Appropriations Committee recommended this bill.

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates ($31,420,100) in operating and capital budgets for fiscal year 2025, including:

- ($2,400,000) from General Fund; and
- ($29,020,100) from various sources as detailed in this bill.

This bill appropriates ($6,885,200) in expendable funds and accounts for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $12,907,800 in business-like activities for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $5,000,000 in transfers to unrestricted funds for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $100 in fiduciary funds for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $397,098,200 in operating and capital budgets for fiscal year 2026, including:

- $126,728,100 from General Fund; and
- $29,143,700 from Income Tax Fund; and
- $241,226,400 from various sources as detailed in this bill.

This bill appropriates $28,324,100 in expendable funds and accounts for fiscal year 2026, including:

- $500,000 from General Fund; and
- $27,824,100 from various sources as detailed in this bill.

This bill appropriates $460,251,000 in business-like activities for fiscal year 2026, all of which is from the various sources as detailed in this bill.

This bill appropriates $155,417,600 in restricted fund and account transfers for fiscal year 2026, including:

- $86,389,400 from General Fund; and
- $69,028,200 from Income Tax Fund.

This bill appropriates $940,200 in fiduciary funds for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2025.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 1(a). Operating and Capital Budgets

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

DEPARTMENT OF COMMERCE

ITEM 1

To Department of Commerce - Building Inspector Training
From Beginning Nonlapsing Balances - - -

ITEM 9

To Insurance Department - Title Insurance Program
From Beginning Nonlapsing Balances - - -

Administration - - -

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $4,150,000 of the appropriations provided for the Finance Administration in Item in Item 122, Chapter 6, Laws of Utah 2024 shall not lapse at the close of FY 2025. Expenditures of these funds are limited to: $2,650,000 for maintenance and operation of statewide systems; $100,000 for websites; $150,000 for training; $200,000 for professional services and studies; $50,000 for computer replacement; $750,000 for the Chart of Accounts project; and $250,000 for costs associated with federal funds accountability.

ITEM 23

To Department of Government Operations - Inspector General of Medicaid Services

From Beginning Nonlapsing Balances	(92,400)
From Closing Nonlapsing Balances	92,400

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of the appropriations provided for the Inspector General of Medicaid Services in Item 123, Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to: $25,000 for training; $25,000 for travel; and $450,000 for case management system maintenance.

ITEM 24

To Department of Government Operations - Judicial Conduct Commission

From Beginning Nonlapsing Balances	(45,400)
From Closing Nonlapsing Balances	(257,700)
Schedule of Programs:	
Judicial Conduct Commission	(303,100)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $350,000 of appropriations provided for Judicial Conduct Commission in Item 124, Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to professional services for investigations.

ITEM 25

To Department of Government Operations - Post Conviction Indigent Defense

From Beginning Nonlapsing Balances	(6,700)
From Closing Nonlapsing Balances	6,700

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of appropriations provided for Post Conviction Indigent Defense in Item in Item 125, Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to legal costs for death row inmates.

ITEM 26

To Department of Government Operations - State Archives

From Beginning Nonlapsing Balances	(30,200)
From Closing Nonlapsing Balances	(198,800)
Schedule of Programs:	
Archives Administration	(125,600)
Patron Services	(19,700)
Records Analysis	(83,700)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of appropriations provided for the State Archives in Item 43, Chapter 487, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to general operations of division.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $150,000 of appropriations provided for the State Archives in Item 127, Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to: $50,000 for electronic records management and preservation; $25,000 for system improvements; and $75,000 for general operations.

ITEM 27

To Department of Government Operations - Finance Mandated - Mineral Lease Special Service Districts

From Beginning Nonlapsing Balances	(35,422,500)
From Closing Nonlapsing Balances	35,422,500

ITEM 28

To Department of Government Operations - Chief Information Officer

From Beginning Nonlapsing Balances	(3,002,800)
From Closing Nonlapsing Balances	(26,000,200)
Schedule of Programs:	
Administration	(19,145,900)
Innovation Projects	(10,107,100)
IT Projects	250,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $21,000,000 of appropriations provided for the Chief Information Officer in Item 67 of Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to: costs associated with development of a Human Capital Management system $5,000,000; and for Innovation funds (H.B. 2, Item 36, 2022 General Session) $16,000,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $100,000 of appropriations provided for the Chief Information Officer in Item 163 of Chapter 488 Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to the implement the Customer Experience Program $100,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $4,050,000 of appropriations provided for the Chief

Information Officer in Item 44 of Chapter 487 Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to implement the State and Local Cybersecurity Grant Program $3,800,000; to implement the AI Pilot Program $250,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,050,000 of appropriations provided for the Chief Information Officer in Item 129 of Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to: costs associated with IT initiatives $100,000; the provisions relating to a technology innovation program (H.B. 395, 2018 General Session) $450,000; and the provisions of Government Digital Verifiable Record Amendments (H.B.470, 2023 General Session) $500,000.

ITEM 29

To Department of Government Operations - Integrated Technology

From Beginning Nonlapsing Balances - - -

Real Estate Education, Research, and Recovery Fund - (258,000)

ITEM 35

To Department of Commerce - Residence Lien Recovery Fund
From Beginning Fund Balance - (100,200)
From Closing Fund Balance - 100,200

ITEM 36

To Department of Commerce - Residential Mortgage Loan Education, Research, and Recovery Fund
From Beginning Fund Balance - 40,200
From Closing Fund Balance -(40,200)

ITEM 37

To Department of Commerce - Securities Investor Education/Training/Enforcement Fund
From Beginning Fund Balance - 111,700
From Closing Fund Balance - (111,700)

ITEM 38

To Department of Commerce - Electrician Education Fund
From Beginning Fund Balance -(16,300)
From Closing Fund Balance - 16,300

ITEM 39

To Department of Commerce - Plumber Education Fund
From Beginning Fund Balance -(14,100)
From Closing Fund Balance - 14,100

INSURANCE DEPARTMENT

ITEM 40

To Insurance Department - Insurance Fraud Victim Restitution Fund
From Licenses/Fees, One-time - (235,000)
From Beginning Fund Balance - 194,000
From Closing Fund Balance -(61,100)
Schedule of Programs:
Insurance Fraud Victim Restitution Fund - (102,100)

ITEM 41

To Insurance Department - Title Insurance Recovery Education and Research Fund
From Interest Income, One-time - 40,000
From Beginning Fund Balance - 134,500
From Closing Fund Balance - (205,300)
Schedule of Programs:
Title Insurance Recovery Education and Research Fund -(30,800)

PUBLIC SERVICE COMMISSION

ITEM 42

To Public Service Commission - Universal Public Telecom Service
From Dedicated Credits Revenue, One-time - 26,973,600
From Revenue Transfers, One-time -(21,284,900)
From Beginning Fund Balance - 3,230,700
From Closing Fund Balance -(16,204,300)
Schedule of Programs:
Universal Public Telecommunications Service Support - (7,284,900)

GOVERNOR'S OFFICE

ITEM 43

To Governor's Office - State Elections Grant Fund
From Beginning Fund Balance - 1,079,400
From Closing Fund Balance - (1,079,400)

ITEM 44

To Governor's Office - Municipal Incorporation Expendable Special Revenue Fund
From Beginning Fund Balance - 23,300
From Closing Fund Balance - 700
Schedule of Programs:

Municipal Incorporation Expendable Special Revenue Fund - 24,000

DEPARTMENT OF GOVERNMENT OPERATIONS

ITEM 45

To Department of Government Operations - State Debt Collection Fund
From Beginning Fund Balance - 123,900
From Closing Fund Balance - 642,800
Schedule of Programs:
State Debt Collection Fund - 766,700

ITEM 46

To Department of Government Operations - Wire Estate Memorial Fund
From Beginning Fund Balance - 10,000
From Closing Fund Balance - (10,000)

Subsection 1(c). Business-like Activities

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

LABOR COMMISSION

ITEM 47

To Labor Commission - Employers Reinsurance Fund
From Dedicated Credits Revenue, One-time - 1,466,000
From Trust and Agency Funds, One-time - (1,466,000)
From Beginning Fund Balance - (2,830,900)
From Closing Fund Balance - 2,830,900

ITEM 48

To Labor Commission - Uninsured Employers Fund
From Dedicated Credits Revenue, One-time - 17,600
From Trust and Agency Funds, One-time - (17,600)
From Beginning Fund Balance - 2,723,900
From Closing Fund Balance - (2,723,900)

DEPARTMENT OF GOVERNMENT OPERATIONS

ITEM 49

To Department of Government Operations - Division of Finance
From Beginning Fund Balance - 26,500
From Closing Fund Balance - 293,200
Schedule of Programs:
ISF - Purchasing Card - 319,700

ITEM 50

To Department of Government Operations - Division of Fleet Operations
From Beginning Fund Balance - 4,799,300
From Closing Fund Balance - (3,090,000)
Schedule of Programs:
ISF - Fuel Network - 1,950,800
ISF - Motor Pool - (131,400)
ISF - Travel Office - (110,300)
Transactions Group - 200

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the appropriations for the Fleet Operations in Item in Item 96, Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to capital outlay authority granted within FY 2025 for vehicles not delivered by the end of FY 2025.

ITEM 51

To Department of Government Operations - Division of Purchasing and General Services
From Beginning Fund Balance - (352,400)
From Closing Fund Balance - 352,400
Budgeted FTE - (10.3)
Authorized Capital Outlay - (200,000)

ITEM 52

To Department of Government Operations - Risk Management
From Beginning Fund Balance - - -

ITEM 59

To Department of Commerce - Building Inspector Training
From Dedicated Credits Revenue - 842,600
From Beginning Nonlapsing Balances - 3,063,100
From Closing Nonlapsing Balances (2,626,200)
Schedule of Programs:
Building Inspector Training - 1,279,500

ITEM 60

To Department of Commerce - Commerce General Regulation
From General Fund - 288,000
From Federal Funds - 506,800
From Dedicated Credits Revenue - 1,738,600
From General Fund Restricted - Commerce Electronic Payment Fee Restricted Account - 826,200
From General Fund Restricted - Commerce Service Account - 38,819,400
From General Fund Restricted - Factory Built Housing Fees - 122,000
From Gen. Fund Rest. - Geologist Education and Enforcement - 23,500
From Gen. Fund Rest. - Nurse Education & Enforcement Acct. - 58,300
From OWHTF-Low Income Housing - 100
From General Fund Restricted - Pawnbroker Operations - 165,700
From General Fund Restricted - Public Utility Restricted Acct. - 7,271,500
From Revenue Transfers - 1,133,300
From General Fund Restricted - Utah Housing Opportunity Restricted - 50,000
From Pass-through - 156,500
From Beginning Nonlapsing Balances - 3,682,800
From Closing Nonlapsing Balances (3,032,800)
Schedule of Programs:
Administration - 10,189,300
Building Operations and Maintenance - 374,700
Consumer Protection - 4,565,600
Corporations and Commercial Code - 4,902,200
Occupational and Professional Licensing - 16,497,600
Office of Consumer Services - 1,613,800
Public Utilities - 5,986,900
Real Estate - 3,124,000
Securities - 4,555,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report on the following Commerce General Regulation line item performance measures for FY 2026: 1. Licensing Renewals Conducted Online for DOPL (Target = 94%); 2. Percentage of Online Filers for Registrations (Target = 50%); and 3. Percentage of Online Reminders to Renew (Target = 20%).

ITEM 61

To Department of Commerce - Office of Consumer Services Professional and Technical Services
From General Fund Restricted - Public Utility Restricted Acct. - 504,100
From Beginning Nonlapsing Balances - 1,227,800
From Closing Nonlapsing Balances (731,900)
Schedule of Programs:
Professional and Technical Services - 1,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report on the following Office of Consumer Services Professional and Technical Services line item performance measure for FY 2026: 1. Dollars spent per each instance of customer impact (Target = 10%).

ITEM 62

To Department of Commerce - Public Utilities Professional and Technical Services
From General Fund Restricted - Public Utility Restricted Acct. - 151,400
From Beginning Nonlapsing Balances - 64,600
From Closing Nonlapsing Balances -(64,600)
Schedule of Programs:
Professional and Technical Services - 151,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report on the following Public Utilities Professional and Technical Services line item performance measure for FY 2026: 1. Savings From Consultant Contracts (Target = 40%).

ITEM 63

To Department of Commerce - Utility Bill Assistance Program
From Beginning Nonlapsing Balances - 1,408,100
From Closing Nonlapsing Balances (1,408,100)

FINANCIAL INSTITUTIONS

ITEM 64

To Financial Institutions - Financial Institutions Administration
From General Fund Restricted - Financial Institutions - 10,950,700
Schedule of Programs:
Administration - 10,630,700
Building Operations and Maintenance - 320,000

In accordance with UCA 63J-1-903, the Legislature intends that the Financial Institutions report on the following Financial Institutions Administration line item performance measures for FY 2026: 1. Depository Institutions Not on the Department's "Watched Institutions" List (Target = 80%); 2. Number of Safety and Soundness Examinations (Target = 51); and 3. Total Assets per Examiner (Target = $8,800,000,000).

INSURANCE DEPARTMENT

ITEM 65

To Insurance Department - Health Insurance Actuary
From General Fund Rest. - Health Insurance Actuarial Review - 460,600
From Beginning Nonlapsing Balances - 228,500
From Closing Nonlapsing Balances - (162,600)
Schedule of Programs:
Health Insurance Actuary - 526,500

In accordance with UCA 63J-1-903, the Legislature intends that the Insurance Department report on the following Health Insurance Actuary line item performance measures for FY 2026: 1. Department Efficiency (Target = 5%); 2. Percent of customers surveyed that report satisfactory or exceptional service (Target = 75%); and 3. Regulated Insurance Industry's Financial Contribution to Utah's Economy (Target = 3%).

ITEM 66

To Insurance Department - Insurance Department Administration
From General Fund Restricted - Bail Bond Surety Administration - 44,200
From General Fund Restricted - Captive Insurance - 1,766,300
From General Fund Restricted - Criminal Background Check - 165,000
From General Fund Restricted - Guaranteed Asset Protection Waiver - 129,100
From General Fund Restricted - Insurance Department Acct. - 11,895,700
From General Fund Rest. - Insurance Fraud Investigation Acct. - 3,856,400
From General Fund Restricted - Relative Value Study Account - 119,000
From General Fund Restricted - Technology Development - 669,800
From Beginning Nonlapsing Balances - 2,807,700
From Closing Nonlapsing Balances - (2,233,600)
Schedule of Programs:
Administration - 11,895,700
Captive Insurers - 1,812,500
Criminal Background Checks - 190,000
Electronic Commerce Fee - 999,100
GAP Waiver Program - 129,100
Insurance Fraud Program - 4,030,000
Relative Value Study - 119,000
Bail Bond Program - 44,200

In accordance with UCA 63J-1-903, the Legislature intends that the Insurance Department report on the following Insurance Department Administration line item performance measures for FY 2026: 1. Department Efficiency (Target = 5%); 2. Percent of customers surveyed that report satisfactory or exceptional service (Target = 75%); and 3. Regulated Insurance Industry's Financial Contribution to Utah's Economy (Target = 3%).

ITEM 67

To Insurance Department - Title Insurance Program
From General Fund Rest. - Title Licensee Enforcement Acct. - 304,500
From Beginning Nonlapsing Balances - 236,300
From Closing Nonlapsing Balances - (299,800)
Schedule of Programs:
Title Insurance Program - 241,000

In accordance with UCA 63J-1-903, the Legislature intends that the Insurance Department report on the following Title Insurance Program line item performance measures for FY 2026: 1. Department Efficiency (Target = 5%); 2. Percent of customers surveyed that report satisfactory or exceptional service (Target = 75%); and 3. Regulated Insurance Industry's Financial Contribution to Utah's Economy (Target = 3%).

ITEM 68

To Insurance Department - Coverage for Autism Spectrum Disorder
From General Fund Restricted - State Mandated Insurer Payments Restricted - - - - - - - - - - - - - - - - - - 8,778,000

From Beginning Nonlapsing Balances - - -

Management and Special Projects - - -

Schedule of Programs:
Development Zone Partial Rebates - - -

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report on the following Judicial Conduct Commission line item performance measures for FY 2026: 1. Average Days to Conduct Preliminary Investigation (Target = 90) and 2. Publish Annual Report in 60 Days After Fiscal Year End (Target = 100%).

ITEM 84

To Department of Government Operations - Post Conviction Indigent Defense

From General Fund	33,900
From Beginning Nonlapsing Balances	193,300
From Closing Nonlapsing Balances	(193,300)
Schedule of Programs:	
Post Conviction Indigent Defense Fund	33,900

ITEM 85

To Department of Government Operations - State Archives

From General Fund	4,066,900
From Federal Funds	51,800
From Dedicated Credits Revenue	78,700
From Beginning Nonlapsing Balances	232,200
From Closing Nonlapsing Balances	(661,900)
Schedule of Programs:	
Archives Administration	2,240,800
Patron Services	452,500
Preservation Services	345,000
Records Analysis	729,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report on the following State Archives line item performance measures for FY 2026: 1. Percent of Government Entity or Subdivision Records Officers Certified (Target = 95%); 2. Percent of Reformatted Records That Meet or Exceed Estimated Completion Date (Target = 95%); and 3. Percentage of the State's Permanent Government Record Archivally Processed (Target = 5%).

ITEM 86

To Department of Government Operations - Finance Mandated - Mineral Lease Special Service Districts

From General Fund Restricted - Mineral Lease	27,797,500
Schedule of Programs:	
Mineral Lease Payments	24,162,700
Mineral Lease Payments in Lieu	3,634,800

ITEM 87

To Department of Government Operations - Chief Information Officer

From General Fund	6,701,000
From Dedicated Credits Revenue	450,000
From Beginning Nonlapsing Balances	26,000,200
From Closing Nonlapsing Balances	(6,690,500)
Schedule of Programs:	
Administration	13,060,700
Innovation Projects	13,190,000
IT Projects	210,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report on the following Chief Information Officer line item performance measures for FY 2026: 1. Customer Satisfaction for Application Development Projects (Target = 83%); 2. Data Security Systematic Prioritization of High-Risk Areas (Target = 700); and 3. Number of Days for Employees to Receive Computers (Target = 10).

ITEM 88

To Department of Government Operations - Integrated Technology

From General Fund	2,268,900
From Federal Funds	108,000
From Dedicated Credits Revenue	1,321,100
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct.	364,600
From Beginning Nonlapsing Balances	600,000
From Closing Nonlapsing Balances	(109,000)
Schedule of Programs:	
Utah Geospatial Resource Center	3,873,400
GPS Network	680,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report on the following Integrated Technology line item performance measures for FY 2026: 1. Road Centerline and Addressing Map Data Layer Published Monthly (Target = 165); 2. UGRC Availability (Target = 99.5%); and 3. Utah Reference Network GPS Service Availability (Target = 99.5%).

ITEM 89

To Department of Government Operations - Finance Mandated - Paid Postpartum Recovery and Parental Leave Program

From General Fund - - -

ITEM 96

To Department of Commerce - Landscapes Architects Education and Enforcement Fund
From Licenses/Fees - - -

INSURANCE DEPARTMENT

ITEM 104

To Insurance Department - Insurance Fraud Victim Restitution Fund
From Licenses/Fees - - -

From Closing Fund Balance - - -

From Federal Funds - - -

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

LABOR COMMISSION

ITEM 122

To Labor Commission - Employers Reinsurance Fund
From Dedicated Credits Revenue 18,766,500
From Interest Income 3,000,100
Schedule of Programs:
Employers Reinsurance Fund 21,766,600

ITEM 123

To Labor Commission - Uninsured Employers Fund
From Dedicated Credits Revenue 5,133,500
From Interest Income 103,900
From Premium Tax Collections 1,369,700
From Beginning Fund Balance 20,932,600
From Closing Fund Balance (20,932,600)
Schedule of Programs:
Uninsured Employers Fund 6,607,100

DEPARTMENT OF GOVERNMENT OPERATIONS

ITEM 124

To Department of Government Operations - Division of Finance
From Dedicated Credits Revenue 1,462,300
From Beginning Fund Balance 461,600
From Closing Fund Balance (310,900)
Schedule of Programs:
ISF - Purchasing Card 1,613,000
Budgeted FTE 2.5

ITEM 125

To Department of Government Operations - Division of Fleet Operations
From Dedicated Credits Revenue 87,369,800
From Beginning Fund Balance 64,819,900
From Closing Fund Balance (64,811,500)
Schedule of Programs:
ISF - Fuel Network 62,342,500
ISF - Motor Pool 24,538,000
Transactions Group 497,700
Budgeted FTE 41
Authorized Capital Outlay 25,000,000

The Legislature intends that Fleet Operations transfer vehicles as appropriate from other agencies to meet statewide fleet needs and to reduce the overall count of the state fleet. In authorizing capital outlay for Fleet Operations, the Legislature intends that Fleet Operations purchase electric and plug-in hybrid vehicles whenever prudent.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report on the following Division of Fleet Operations line item performance measures for FY 2026: 1. Audit Agency Customers' Mobility Options (Target = 12); 2. Improved EPA Emission Level for Light-Duty Fleet in Non-Attainment Areas (Target = 35%); and 3. Maintain Financial Solvency of the Fleet (Percent of Allowed Debt) (Target = 40%).

ITEM 126

To Department of Government Operations - Division of Purchasing and General Services
From Dedicated Credits Revenue 21,233,400
From Beginning Fund Balance 11,924,500
From Closing Fund Balance (11,799,500)
Schedule of Programs:
ISF - Central Mailing 12,964,300
ISF - Cooperative Contracting 5,082,400
ISF - Federal Surplus Property 65,300
ISF - Print Services 2,007,500
ISF - State Surplus Property 669,800
Purchasing Program 569,100
Budgeted FTE 94.8
Authorized Capital Outlay 1,650,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report on the following Division of Purchasing and General Services line item performance measures for FY 2026: 1. Best Value Cooperative Contracts Discount (Target = 40%); 2. Best Value Cooperative Contracts Spend (Target = $1,000,000,000); 3. Customer Service Score (Target = 9); 4. Days to Review Contract (Target = 4); and 5. Number of Best Value Cooperative Contracts (Target = 1,400).

ITEM 127

To Department of Government Operations - Risk Management

From Interest Income	1,552,200
From Premiums	131,425,800
From Beginning Fund Balance	32,503,700
From Closing Fund Balance	(32,920,700)
Schedule of Programs:	
ISF - Risk Management Administration	3,054,200
ISF - Workers' Compensation	5,914,400
Risk Management - Auto	3,816,000
Risk Management - Liability	33,993,000
Risk Management - Property	85,783,400
Budgeted FTE	38

ITEM 128

To Department of Government Operations - Enterprise Technology Division

From Dedicated Credits Revenue	161,903,700
From Beginning Fund Balance	12,788,300
From Closing Fund Balance	(4,963,000)
Schedule of Programs:	
Administration and Overhead	1,159,700
Desktop Services	35,139,400
Hosting Services	23,882,600
Application Services	68,805,200
Print Services	754,200
Communication Services	9,205,800
Network and Security Services	30,782,100
Budgeted FTE	775.1
Authorized Capital Outlay	6,000,000

The Legislature intends that the DTS Enterprise Technology line item purchase one new vehicle.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report on the following Enterprise Technology Division line item performance measures for FY 2026: 1. Agency Application Availability (Target = 99%); 2. Customer Satisfaction (Out of 5) (Target = 4.5); and 3. DTS Rates Are Competitive or Better Than Private Market (Target = 100%).

ITEM 129

To Department of Government Operations - Human Resources Internal Service Fund

From Dedicated Credits Revenue	16,180,000
From Beginning Fund Balance	3,184,200
From Closing Fund Balance	(3,184,200)
Schedule of Programs:	
Administration	1,777,500
Information Technology	800,900
ISF - Core HR Services	248,800
ISF - Field Services	10,324,400
ISF - Payroll Field Services	983,800
Policy	2,044,600
Budgeted FTE	138

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report on the following Human Resources Internal Service Fund line item performance measures for FY 2026: 1. Customer Agency Satisfaction Results (Target = 91%); 2. Days of Operating Expenses Held in Reserve (Target = 30); and 3. Percent of Eligible Agencies Meeting Requirements for Pay for Performance (Target = 95%).

Subsection 3(c). Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 130

To General Fund Restricted - Rural Health Care Facilities Fund

From General Fund	218,900
Schedule of Programs:	
General Fund Restricted - Rural Health Care Facilities Fund	218,900

Subsection 3(d). Fiduciary Funds

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

LABOR COMMISSION

ITEM 131

To Labor Commission - Wage Claim Agency Fund
From Dedicated Credits Revenue - - -

CHAPTER 4
H. B. 6
Passed January 30, 2025
Approved February 14, 2025
Effective July 1, 2025

TRANSPORTATION AND INFRASTRUCTURE BASE BUDGET

Chief Sponsor: Doug Welton
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates ($45,524,800) in operating and capital budgets for fiscal year 2025, including:

- ($25,513,500) from General Fund; and
- ($100,000,000) from Income Tax Fund; and
- $79,988,700 from various sources as detailed in this bill.

This bill appropriates $40,000,000 in expendable funds and accounts for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates ($350,000) in fiduciary funds for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates ($27,842,800) in capital project funds for fiscal year 2025, including:

- $25,513,500 from General Fund; and
- ($53,356,300) from various sources as detailed in this bill.

This bill appropriates $3,689,506,900 in operating and capital budgets for fiscal year 2026, including:

- $120,245,800 from General Fund; and
- $188,442,800 from Income Tax Fund; and
- $3,380,818,300 from various sources as detailed in this bill.

This bill appropriates $57,827,400 in expendable funds and accounts for fiscal year 2026, all of which is from the various sources as detailed in this bill.

This bill appropriates $53,686,600 in business-like activities for fiscal year 2026, all of which is from the various sources as detailed in this bill.

This bill appropriates $2,547,800 in fiduciary funds for fiscal year 2026, all of which is from the various sources as detailed in this bill.

This bill appropriates $3,054,954,000 in capital project funds for fiscal year 2026, including:

- $368,669,600 from General Fund; and
- $120,000,000 from Income Tax Fund; and
- $2,566,284,400 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2025.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 1(a). Operating and Capital Budgets

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

GOVERNMENT OPERATIONS - DFCM

ITEM 1

To Government Operations - DFCM - DFCM
From Beginning Nonlapsing Balances - - -

To Capital Budget - Capital Development - Public Education

From Beginning Nonlapsing Balances	-(29,875,500)
From Closing Nonlapsing Balances	29,875,500

ITEM 8

To Capital Budget - Capital Improvements

From General Fund, One-time	-(25,513,500)
From Beginning Nonlapsing Balances	(115,239,200)
From Closing Nonlapsing Balances	115,239,200
Schedule of Programs:	
Capital Improvements	-(25,513,500)

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

ITEM 9

To State Board of Bonding Commissioners - Debt Service - Debt Service

From Income Tax Fund, One-time	(100,000,000)
From Beginning Nonlapsing Balances	(892,600)
From Closing Nonlapsing Balances	905,300
Schedule of Programs:	
G.O. Bonds - Higher Ed	(100,000,000)
G.O. Bonds - Transportation	(892,600)
Revenue Bonds Debt Service	905,300

TRANSPORTATION

ITEM 10

To Transportation - Aeronautics

From Beginning Nonlapsing Balances	(854,800)
Schedule of Programs:	
Administration	99,400
Airplane Operations	25,300
Airport Construction	(979,800)
Civil Air Patrol	300

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of appropriations provided for the Aeronautics line item in Item 75, Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to state planes maintenance costs.

There is appropriated to the Department of Transportation from the Aeronautic Restricted Account, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Aeronautic Restricted Account, to be used by the department for the construction, improvement, operation and maintenance of publicly used airports in Utah. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of appropriations provided for the Aeronautics line item in Item 52, Chapter 487, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to advanced air mobility and unmanned aerial systems.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $7,000,000 of appropriations provided for the Aeronautics line item in Item 28, Chapter 468, Laws of Utah 2023, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to the purchase of a state plane.

ITEM 11

To Transportation - Highway System Construction

From Beginning Nonlapsing Balances	141,913,800
From Closing Nonlapsing Balances	(130,098,000)
Schedule of Programs:	
Federal Construction	(7,508,400)
State Construction	19,324,200

There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient but not more than the surplus of the Transportation Fund, to be used by the department for the construction, rehabilitation, and preservation of State highways in Utah. The Legislature intends that the appropriation fund first, a maximum participation with the federal government for the construction of federally designated highways, as provided by law, and fund construction of State highways, as funding permits. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance the appropriation otherwise made by this act to the Department of Transportation for other purposes.

The Legislature intends that any unexpended funds from the one-time appropriation of $20,000,000 for the Highway Systems Construction line item in Item 51, Chapter 485, Laws of Utah 2023, shall not lapse at the close of FY 2025.

ITEM 12

To Transportation - Engineering Services

From Beginning Nonlapsing Balances	(466,500)

Schedule of Programs:

Civil Rights	11,200
Construction Management	676,600
Engineer Development Pool	46,200
Engineering Services	(4,701,400)
Environmental	342,900
Highway Project Management Team	134,800
Planning and Investment	(301,600)
Materials Lab	389,800
Preconstruction Admin	1,087,700
Program Development	1,113,600
Research	127,300
Right-of-Way	148,500
Structures	414,300
Transit Capital Development	33,600
Active Transportation	10,000

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that of the appropriations provided in Infrastructure and General Government Base Budget" (Senate Bill 6, 2024 General Session), Item 79, the Utah Department of Transportation provide a direct award grant of up to $1,000,000 to cities, towns, or other organizations outside of metropolitan planning organization boundaries in fiscal year 2025 for emerging area planning.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $4,100,000 of appropriations provided for the Engineering Services line item in Item 79, Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to: engineering services special project, $300,000; road usage charge program, $2,500,000; SPR state match for federal projects, $600,000; emerging areas, $200,000; active transportation, $200,000; and transit capital development, $300,000.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Utah Department of Transportation use the ongoing appropriation to this line item to provide a direct award grant of $315,000 to Wasatch Front Regional Council and $120,000 to the Mountainland Association of Governments in fiscal year 2025 for transportation planning.

ITEM 13

To Transportation - Operations/Maintenance Management

From Beginning Nonlapsing Balances	-(12,315,300)

Schedule of Programs:

Equipment Purchases	6,732,200
Field Crews	780,500
Lands and Buildings	1,963,200
Maintenance Administration	-(18,877,100)
Maintenance Planning	1,785,800
Region 1	(609,100)
Region 2	(158,200)
Region 3	(593,200)
Region 4	(1,197,000)
Seasonal Pools	(101,300)
Shops	93,700
Traffic Operations Center	(3,346,300)
Traffic Safety/Tramway	1,211,500

Under Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $2,000,000 in unexpended funds for lands and buildings shall not lapse at the close FY 2025. Expenditures of these funds are limited to the improvement of a maintenance facility.

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $41,000,000 of appropriations for the Highway System Construction line item in Item 24, Chapter 6, Laws of Utah 2023, shall not lapse at the close of FY 2025.

The Legislature intends that the Department of Transportation use $40,000,000 appropriated by Senate Bill 6, Item 24, to apply for and match a federal rail grant, including project design activities if necessary to obtain a grant, and that the Department report to the Executive Appropriations Committee prior to expending state funds to match a federal rail grant.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $88,500,000 of appropriations for the Highway System Construction line item in Item 251, Chapter 486, Laws of Utah 2023, shall not lapse at the close of FY 2025.

The Legislature intends that if the Department of Transportation determines that land owned by the department near the Calvin L. Rampton Complex is surplus to the department's needs, proceeds from the sale of the surplus property may be used to help mitigate the traffic impact associated with the Taylorsville State Office Building.

The Legislature intends for the Department of Transportation to utilize maintenance funds previously allocated for state highways now eligible for the Transportation Investment Fund of 2005 to address maintenance and preservation issues on other state highways.

The Legislature also intends that any unexpended funds from the one-time appropriation of $6,000,000 for the Advanced Traffic Management System, as authorized by the 2021 General Session SB 2 Item 45, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to the Advanced Traffic Management System.

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature also intends that up to $1,500,000 in unexpended proceeds derived from the sale of real property or an interest in real property from a maintenance facility shall not lapse at the close of FY 2025. Expenditures of these funds are limited to the purchase or improvement of another maintenance facility, including real property.

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $5,000,000 of appropriations provided for

Operations/Maintenance Management in Item 80, Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to highway maintenance: $2,000,000; and equipment purchases: $3,000,000.

ITEM 14

To Transportation - Region Management

Schedule of Programs:

Region 1	1,069,500
Region 2	(2,990,900)
Region 3	986,200
Region 4	935,200

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $800,000 of appropriations provided for the Region Management line item in Item 81, Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to region management.

ITEM 15

To Transportation - Safe Sidewalk Construction

From Beginning Nonlapsing Balances	(67,600)

Schedule of Programs:

Sidewalk Construction	(67,600)

The Legislature intends that the funds appropriated from the Transportation Fund for pedestrian safety projects be used specifically to correct pedestrian hazards on State highways. The Legislature also intends that local authorities be encouraged to participate in the construction of pedestrian safety devices. The appropriated funds are to be used according to the criteria set forth in Section 72-8-104, Utah Code Annotated, 1953. The funds appropriated for sidewalk construction shall not lapse at the close of FY 2025. If local governments cannot use their allocation of Sidewalk Safety Funds in two years, these funds will be available for other governmental entities which are prepared to use the resources. The Legislature intends that local participation in the Sidewalk Construction Program be on a 75% state and 25% local match basis.

ITEM 16

To Transportation - Support Services

From Beginning Nonlapsing Balances	(29,200)

Schedule of Programs:

Administrative Services	(1,109,000)
Community Relations	38,900
Comptroller	375,600
Data Processing	4,300
Human Resources Management	44,000
Internal Auditor	139,700
Ports of Entry	220,300
Procurement	34,300
Risk Management	222,700

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that any expended funds from the one-time appropriation of $850,000 from the Transportation Fund to Support Services in Item 138, Chapter 463, Laws of Utah 2018, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to the development of rules and standards.

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $1,000,000 of appropriations provided for Support Services in Item 84, Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to computer software development projects, $300,000; building improvements, $500,000; and communication outreach projects, $200,000.

ITEM 17

To Transportation - Transportation Investment Fund Capacity Program

From Beginning Nonlapsing Balances	(231,054,100)
From Closing Nonlapsing Balances	231,054,100

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $733,000,000 of appropriations provided for the TIF Capacity Program line item in Item 1, Chapter 387, Laws of Utah 2021, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to requirements in Chapter 387, Laws of Utah 2021.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $35,000,000 of appropriations provided for the TIF Capacity Program line item in Item 48, Chapter 441, Laws of Utah 2021, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to requirements in Chapter 485, Laws of Utah 2021.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $15,976,200 of appropriations provided for the TIF Capacity Program line item in Item 3, Chapter 77, Laws of Utah 2022, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to requirements in Chapter 77, Laws of Utah 2022.

There is appropriated to the Department of Transportation from the Transportation Investment Fund of 2005, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Investment Fund of 2005, to be used by the department for the construction, rehabilitation, and preservation of State and Federal highways in Utah. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

The Legislature intends that as funding is available from the Transportation Investment Fund, the Department of Transportation may use funds along with matching and other funding to help mitigate traffic impact associated with the Taylorsville State Office Building.

ITEM 18

To Transportation - Amusement Ride Safety

From Beginning Nonlapsing Balances - - -

To Transportation - Office of Rail Safety Account
From Beginning Fund Balance - - -

From Closing Fund Balance - - -

Projects Completed in the Fiscal Year They Are Funded (Target = 75%).

UTAH EDUCATION AND TELEHEALTH NETWORK

ITEM 42

To Utah Education and Telehealth Network - Digital Teaching and Learning Program
From Income Tax Fund - 195,700
From Federal Funds - 5,300
From Beginning Nonlapsing Balances - 313,800
From Closing Nonlapsing Balances - (361,000)
Schedule of Programs:
Digital Teaching and Learning Program - 153,800

ITEM 43

To Utah Education and Telehealth Network - Utah Education and Telehealth Network Operations
From General Fund - 881,100
From Income Tax Fund - 34,938,800
From Federal Funds - 4,339,000
From Dedicated Credits Revenue - 15,813,100
From Beginning Nonlapsing Balances - 29,659,000
From Closing Nonlapsing Balances - (16,196,000)
Schedule of Programs:
Administration - 4,658,400
Course Management Systems - 13,047,300
Instructional Support - 5,975,700
KUEN Broadcast - 726,300
Public Information - 396,100
Technical Services - 42,166,200
Utah Telehealth Network - 2,465,000

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Education and Telehealth Network report on the following Utah Education and Telehealth Network Operations line item performance measures for FY 2026: 1. Number of interactive videoconferencing (IVC) hours supporting statewide education (Target = 830,000); 2. Percentage of time that the UETN network is available (Target = 99.999%); and 3. Utilization of UETN Learning Management System Services (Target = 74%).

OFFICE OF THE STATE TREASURER

ITEM 44

To Office of the State Treasurer - State Treasurer
From General Fund - 1,333,100
From Dedicated Credits Revenue - 1,490,000
From Unclaimed Property Trust - 2,382,000
From Beginning Nonlapsing Balances - 140,000
From Closing Nonlapsing Balances - (70,000)
Schedule of Programs:
Money Management Council - 134,000
Treasury and Investment - 2,767,200
Unclaimed Property - 2,373,900

In accordance with UCA 63J-1-903, the Legislature intends that the Office of the State Treasurer report on the following State Treasurer line item performance measures for FY 2026: 1. PTIF Rate Spread to Benchmark Rate (Target = 0.15%); 2. Ratio of Claim Dollars Paid to Unclaimed Property Received (Target = 50%); and 3. Unclaimed Property Claims (Target = $20,000,000).

ITEM 45

To Office of the State Treasurer - Advocacy Office
From Land Trusts Protection and Advocacy Account - 687,400
Schedule of Programs:
Advocacy Office - 687,400

CAPITAL BUDGET

ITEM 46

To Capital Budget - Capital Development - Other State Government
From Capital Projects Fund - 2,077,400
From Capital Projects Fund, One-time - 22,932,200
Schedule of Programs:
Offender Housing - 2,077,400
Capitol Hill North Building - 7,932,200
DFCM and DPS Block 407 - 4,000,000

Capitol Hill Complex - - -

From Federal Funds - - -

Region 2 - - -

ITEM 64

To Transportation - Railroad Crossing Safety
From Rail Transportation Restricted Account - - -

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

TRANSPORTATION

ITEM 73

To Transportation - State Infrastructure Bank Fund
From Interest Income - - -

ITEM 79

To Capital Budget - Technical Colleges Capital Projects Fund
From Income Tax Fund - - -

To Transportation - Transportation Investment Fund of 2005
From General Fund - 330,000,000
From Transportation Fund 80,170,800
From Licenses/Fees 98,825,200
From Interest Income 11,114,900
From County of First Class Highway Projects Fund 1,318,100
From Designated Sales Tax - 845,520,000
From Beginning Fund Balance - 2,038,717,300
From Closing Fund Balance (807,265,600)
Schedule of Programs:
Transportation Investment Fund - 2,598,400,700

ITEM 85

To Transportation - Transit Transportation Investment Fund
From Interest Income 7,000,000
From Designated Sales Tax 52,137,400
From Revenue Transfers 5,000,000
From Beginning Fund Balance - 651,495,900
From Closing Fund Balance (572,633,300)
Schedule of Programs:
Transit Transportation Investment Fund - 143,000,000

ITEM 86

To Transportation - Cottonwood Canyon Transportation Investment Fund
From Interest Income 1,000,000
From Designated Sales Tax 20,000,000
From Beginning Fund Balance - 157,386,600
From Closing Fund Balance (127,386,600)
Schedule of Programs:
Cottonwood Canyon Transportation Investment Fund 51,000,000

ITEM 87

To Transportation - Active Transportation Investment Fund
From Designated Sales Tax 45,000,000
From Beginning Fund Balance 91,687,200
From Closing Fund Balance -(91,687,200)
Schedule of Programs:
Active Transportation Investment Fund 45,000,000

ITEM 88

To Transportation - Commuter Rail Subaccount
From Revenue Transfers 46,900,000
Schedule of Programs:
Commuter Rail Subaccount 46,900,000

Section 4. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect July 1, 2025.

(2) The actions affecting Section 1 (Effective upon governor's approval) take effect:

(a) except as provided in Subsection (2)(b), May 7, 2025; or

(b) if approved by two-thirds of all members elected to each house:

(i) upon approval by the governor;

(ii) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(iii) in the case of a veto, the date of veto override.

CHAPTER 5
H. B. 7
Passed January 30, 2025
Approved February 14, 2025
Effective July 1, 2025

NATIONAL GUARD, VETERANS AFFAIRS, AND LEGISLATURE BASE BUDGET

Chief Sponsor: Val L. Peterson
Senate Sponsor: Jerry W Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $4,411,900 in operating and capital budgets for fiscal year 2025, including:

- $2,150,000 from General Fund; and
- $2,261,900 from various sources as detailed in this bill.

This bill appropriates ($31,766,400) in expendable funds and accounts for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $142,524,500 in operating and capital budgets for fiscal year 2026, including:

- $72,780,200 from General Fund; and
- $1,850,300 from Income Tax Fund; and
- $67,894,000 from various sources as detailed in this bill.

This bill appropriates $48,552,600 in expendable funds and accounts for fiscal year 2026, all of which is from the various sources as detailed in this bill.

This bill appropriates $5,000,000 in restricted fund and account transfers for fiscal year 2026, including:

- $5,009,500 from General Fund; and
- ($9,500) from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2025.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 1(a). Operating and Capital Budgets

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

CAPITOL PRESERVATION BOARD

ITEM 1

To Capitol Preservation Board - Operations
From Expendable Receipts, One-time - - -

LEGISLATURE

ITEM 2

To Legislature - Senate
From General Fund, One-time - (250,000)
From Beginning Nonlapsing Balances - (64,100)
From Closing Nonlapsing Balances - 1,214,100
Schedule of Programs:
Administration - 900,000

ITEM 3

To Legislature - House of Representatives
From General Fund, One-time - (250,000)
From Beginning Nonlapsing Balances - 352,900
From Closing Nonlapsing Balances - (102,900)

ITEM 4

To Legislature - Office of Legislative Research and General Counsel
From General Fund, One-time - (133,000)
From Beginning Nonlapsing Balances - 4,477,700
From Closing Nonlapsing Balances - (4,344,600)
Schedule of Programs:
Administration - 100

ITEM 5

To Legislature - Office of the Legislative Fiscal Analyst
From General Fund, One-time - (133,000)
From Beginning Nonlapsing Balances - 213,300
From Closing Nonlapsing Balances - (80,300)

ITEM 6

To Legislature - Office of the Legislative Auditor General
From General Fund, One-time - (133,000)
From Beginning Nonlapsing Balances - 466,000
From Closing Nonlapsing Balances - (333,000)

ITEM 7

To Legislature - Office of Legislative Services
From General Fund, One-time - 1,056,500
From Revenue Transfers, One-time - (490,000)
From Beginning Nonlapsing Balances - 501,600
From Closing Nonlapsing Balances - 109,100
Schedule of Programs:
Administration - 259,700
Pass Through - 595,000
Legislative Interns - 157,500
Information Technology - 165,000

UTAH NATIONAL GUARD

ITEM 8

To Utah National Guard - Utah National Guard Operations
From Beginning Nonlapsing Balances - 3,283,100
From Closing Nonlapsing Balances - (2,729,500)
Schedule of Programs:
Tuition Assistance - 1,786,600
West Traverse Sentinel Landscape - (1,233,000)

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

ITEM 9

To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund, One-time - 1,992,500
From Beginning Nonlapsing Balances - 897,600
From Closing Nonlapsing Balances - (727,400)
Schedule of Programs:
Administration - (96,500)

Cemetery - - -

To Legislature - Office of Legislative Services
From General Fund - 9,302,300
From Dedicated Credits Revenue - 42,000
From Beginning Nonlapsing Balances - 3,679,700
From Closing Nonlapsing Balances - (3,554,100)
Schedule of Programs:
Administration - 2,189,200
Pass Through - 667,700
Legislative Interns - 578,400
Information Technology - 6,034,600

In accordance with UCA 63J-1-903, the Legislature intends that the Legislature report on the following Office of Legislative Services line item performance measures for FY 2026: 1. Employee onboarding completed within three business days (Target = 100%); 2. File Server Up-time (Target = 95%); 3. Legislative committee rooms opened, tested, and ready for meetings no later than one hour before any scheduled meetings (Target = 100%); and 4. Vendor Invoices Paid Within Four Business Days After Approval to Pay Received (Target = 95%).

UTAH NATIONAL GUARD

ITEM 15

To Utah National Guard - Utah National Guard Operations
From General Fund - 9,613,900
From Income Tax Fund - 1,650,300
From Federal Funds - 62,840,200
From Dedicated Credits Revenue - 48,700
From Beginning Nonlapsing Balances - 2,992,900
Schedule of Programs:
Administration - 1,829,400
Operations and Maintenance - 70,074,900
Tuition Assistance - 3,024,900
West Traverse Sentinel Landscape - 2,216,800

The Legislature intends that the Utah National Guard be allowed to increase its vehicle fleet by up to three vehicles with funding from existing appropriations.

In accordance with UCA 63J-1-903, the Legislature intends that the Utah National Guard report on the following Utah National Guard Operations line item performance measures for FY 2026: 1. Facility Maintenance Cost per Square Foot (Target = $3); 2. Facility project federal share (Target = 75%); 3. Individual Training Completion (Target = 90%); 4. Installation Readiness (Target = 2); 5. National Guard Mission Fulfillment (Target = 100%); 6. Percent of acres preserved under the West Traverse Sentinel Landscape Program (Target = 55%); 7. Percentage of tuition assistance applications fulfilled (Target = 75%); 8. Personnel Readiness (Target = 100%); 9. Tuition Assistance Applications Fulfilled (Target = 700); and 10. Utility Cost per Square Foot (Target = $2).

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

ITEM 16

To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund - 3,864,000
From Federal Funds - 769,200
From Dedicated Credits Revenue - 364,500
From Beginning Nonlapsing Balances - 727,400
From Closing Nonlapsing Balances - (727,400)
Schedule of Programs:
Administration - 855,800
Cemetery - 958,000
State Approving Agency - 289,700
Outreach Services - 2,371,300
Military Affairs - 522,900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Veterans and Military Affairs report on the following Veterans and Military Affairs line item performance measures for FY 2026: 1. Annual growth in compensation, pension, and educational benefits assistance to veterans (Target = 5%); 2. Annual Increase in the Number of Current Conflict Veterans Who Are Connected to Appropriate Services (Target = 10%); 3. Veterans benefits received (in $ millions) (Target = $600); and 4. Veterans unemployment rate equal to or lower than the statewide unemployment rate (Target = 2.5%).

ITEM 17

To Department of Veterans and Military Affairs - DVMA Pass Through
From General Fund - 2,197,500
From Income Tax Fund - 200,000
Schedule of Programs:
DVMA Pass Through - 2,397,500

Subsection 2(b). Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

UTAH NATIONAL GUARD

ITEM 18

To Utah National Guard - National Guard MWR Fund
From Dedicated Credits Revenue - - -

From Beginning Nonlapsing Balances - - -

CHAPTER 6
S. B. 1
Passed January 30, 2025
Approved February 14, 2025
Effective July 1, 2025

PUBLIC EDUCATION BASE BUDGET AMENDMENTS

Chief Sponsor: Heidi Balderree
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2024, and ending June 30, 2025, and appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2025, and ending June 30, 2026.

Highlighted Provisions:

This bill:

- ► requires the State Board of Education (state board) to:
  - • provide information necessary to calculate certain budgetary adjustments by a given date each year; and
  - • establish certain budgetary data reporting requirements and deadlines;
- ► allows the state board to adjust per-teacher amounts for classroom supplies and materials if ongoing funding is insufficient;
- ► amends the state guarantee on local property tax levies to ensure that a hold harmless provision only applies in the case of a change in property valuation;
- ► provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- ► sets the value of the weighted pupil unit (WPU) initially at $4,674 for fiscal year 2025-2026;
- ► adjusts the number of weighted pupil units (WPUs) in certain programs for student enrollment changes and statutory formula calculations;
- ► appropriates funds to the Uniform School Fund Restricted - Public Education Budget Stabilization Account;
- ► makes an appropriation from the Uniform School Fund Restricted - Trust Distribution Account to the School LAND Trust program to support educational programs in the public schools;
- ► adjusts the revenue targets and estimates tax rates for the statewide Basic Rate and WPU Value Rate according to statutory provisions;
- ► provides appropriations for other purposes as described; and
- ► approves intent language.

Money Appropriated in this Bill:

This bill appropriates $149,586,000 in operating and capital budgets for fiscal year 2025, including:

- $3,493,700 from Uniform School Fund; and
- $146,092,300 from various sources as detailed in this bill.

This bill appropriates $11,768,300 in restricted fund and account transfers for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $8,345,186,900 in operating and capital budgets for fiscal year 2026, including:

- $9,435,700 from General Fund; and
- $292,591,200 from Income Tax Fund; and
- $4,698,728,600 from Uniform School Fund; and
- $3,344,431,400 from various sources as detailed in this bill.

This bill appropriates $3,327,000 in expendable funds and accounts for fiscal year 2026, all of which is from the various sources as detailed in this bill.

This bill appropriates $936,670,800 in restricted fund and account transfers for fiscal year 2026, including:

- $412,010,900 from Income Tax Fund; and
- $511,141,600 from Uniform School Fund; and
- $13,518,300 from various sources as detailed in this bill.

This bill appropriates $118,600 in fiduciary funds for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Utah Code Sections Affected:

AMENDS:

53F-2-208, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapters 460, 484
53F-2-301, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapters 124, 460
53F-2-527, (Effective 07/01/25) as enacted by Laws of Utah 2024, Chapter 322
53F-2-601, (Effective 07/01/25) as last amended by Laws of Utah 2023, Chapter 467

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

Section 1. Section 53F-2-208 is amended to read:

53F-2-208 (Effective 07/01/25). Cost of adjustments for growth and inflation.

(1) In accordance with Subsection [~~(2)~~](5), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in care, described in Section 53E-3-503;

(ii) concurrent enrollment courses for accelerated foreign language students described in Section 53E-10-307;

(iii) the Basic Program, described in Part 3, Basic Program (Weighted Pupil Units);

(iv) the Adult Education Program, described in Section 53F-2-401;

(v) state support of pupil transportation, described in Section 53F-2-402;

(vi) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

(vii) the Concurrent Enrollment Program, described in Section 53F-2-409;

(viii) the juvenile gang and other violent crime prevention and intervention program, described in Section 53F-2-410; and

(ix) dual language immersion, described in Section 53F-2-502; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a);

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Salary Supplement for Highly Needed Educators Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2) The state board shall provide all information necessary to calculate adjustments described in Subsection (1) to the Office of the Legislative Fiscal Analyst no later than October 15 of each year.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to ensure compliance with Subsection (2), including:

(a) establishing the necessary information from the LEA, including:

(i) fall student enrollment counts;

(ii) the number of educators the LEA employs; and

(iii) other information as the Utah Code identifies for each program described in Subsection (1); and

(b) requiring a deadline for an LEA to provide the information necessary for the state board to comply with Subsection (2).

(4) If an LEA does not meet the deadline or provide the required information described in Subsection (3), the state board may not use the LEA's information to calculate growth as described in Subsection (1)(b).

[~~(2)~~](5) (a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection [~~(2)(a)~~](5)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and Budget.

[~~(3)~~](6) Beginning in the 2026 fiscal year, if the Executive Appropriations Committee includes in the public education base budget or the final public education budget an increase in the value of the WPU in excess of the amounts described in Subsection (1)(a), the Executive Appropriations Committee shall also include an appropriation to the Local Levy Growth Account established in Section 53F-9-305 in an amount equivalent to at least 0.5% of the total amount appropriated for WPUs in the relevant budget.

Section 2. Section 53F-2-301 is amended to read:

53F-2-301 (Effective 07/01/25). Minimum basic tax rate for a fiscal year that begins after July 1, 2022.

(1) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to $75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic rate; and

(ii) set annually by the Legislature in Subsection (2)(a).

(e) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (2)(a).

(f) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(g) "WPU value amount" means an amount:

(i) that is equal to the product of:

(A) the WPU value increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the immediately preceding fiscal year; and

(ii) set annually by the Legislature in Subsection (3)(a).

(h) "WPU value increase limit" means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

(i) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (3)(a).

(2) (a) The minimum basic local amount for the fiscal year that begins on July 1, [~~2024, is $759,529,000~~]2025, is $810,593,200 in revenue statewide.

(b) The preliminary estimate of the minimum basic tax rate for a fiscal year that begins on July 1, [~~2024, is .001429~~]2025, is .001408.

(3) (a) The WPU value amount for the fiscal year that begins on July 1, [~~2024, is $29,240,600~~]2025, is $31,508,600 in revenue statewide.

(b) The preliminary estimate of the WPU value rate for the fiscal year that begins on July 1, [~~2024, is .000055~~]2025, is .000055.

(4) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (2)(b) and the estimate of the WPU value rate provided in Subsection (3)(b) are based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (4)(a)(i) and the certified WPU value rate described in Subsection (4)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(5) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, each local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (5).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (5).

(6) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of revenue generated by the school district by the following:

(i) the combined basic rate; and

(ii) the basic levy increment rate.

(b) (i) If the difference described in Subsection (6)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (6)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(7) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302; and

(b) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

Section 3. Section 53F-2-527 is amended to read:

53F-2-527 (Effective 07/01/25). Appropriations for teaching supplies and materials.

(1) As used in this section:

(a) "Classroom teacher" means a teacher who:

(i) is assigned by an LEA in a permanent teacher position filled by one teacher or two or more job-sharing teachers employed by an LEA;

(ii) is licensed and paid on an LEA's salary schedule;

(iii) is employed for an entire contract period; and

(iv) is primarily responsible to provide instruction or a combination of instructional and counseling services to students in public schools.

(b) "Teaching supplies and materials" means consumable and non-consumable items that are used for educational purposes by teachers in classroom activities that are approved by the LEA.

(2) For the fiscal year that begins on or after July 1, 2024, and except as provided in Subsection (3), the state board shall distribute money appropriated for teaching supplies and materials as follows:

(a) $500 to each classroom teacher position for pre-kindergarten special education and kindergarten through grade 6; and

(b) $250 to each classroom teacher position for grades 7 through 12.

(3) If funding is insufficient to provide the per-teacher amounts described in Subsection (2), the state board may proportionally adjust the per-teacher amount based on the amount of available funding.

Section 4. Section 53F-2-601 is amended to read:

53F-2-601 (Effective 07/01/25). State guaranteed local levy increments -- Appropriation to increase number of guaranteed local levy increments -- No effect of change of minimum basic tax rate -- Voted and board local levy funding balance -- Use of guaranteed local levy increment funds.

(1) As used in this section:

(a) "Board local levy" means a local levy described in Section 53F-8-302.

(b) "Capital local levy" means a local levy described in Section 53F-8-303.

[~~(b)~~](c) "Guaranteed local levy increment" means a local levy increment guaranteed by the state:

(i) for the board local levy, described in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(B); or

(ii) for the voted local levy, described in Subsections (2)(a)(ii)(B) and (2)(b)(ii)(A).

[~~(c)~~](d) "Local levy increment" means .0001 per dollar of taxable value.

[~~(d)~~](e) (i) "Voted and board local levy funding balance" means the difference between:

(A) the amount appropriated for the guaranteed local levy increments in a fiscal year; and

(B) the amount necessary to fund in the same fiscal year the guaranteed local levy increments as determined under this section.

(ii) "Voted and board local levy funding balance" does not include appropriations described in Subsection (2)(b)(i).

[~~(e)~~](f) "Voted local levy" means a local levy described in Section 53F-8-301.

(2) (a) (i) In addition to the revenue collected from the imposition of a voted local levy or a board local levy, the state shall guarantee that a school district receives, subject to Subsections (2)(b)(ii)(C) and (3)(a), for each guaranteed local levy increment, an amount sufficient to guarantee for a fiscal year that begins on July 1, 2018, $43.10 per weighted pupil unit.

(ii) Except as provided in Subsection (2)(b)(ii), the number of local levy increments that are subject to the guarantee amount described in Subsection (2)(a)(i) are:

(A) for a board local levy, the first four local levy increments a local school board imposes under the board local levy; and

(B) for a voted local levy, the first 16 local levy increments a local school board imposes under the voted local levy.

(b) (i) Subject to future budget constraints and Subsection (2)(c), the Legislature shall annually appropriate money from the Local Levy Growth Account established in Section 53F-9-305 for purposes described in Subsection (2)(b)(ii).

(ii) The state board shall, for a fiscal year beginning on or after July 1, 2018, and subject to Subsection (2)(c), allocate funds appropriated under Subsection (2)(b)(i)and the amount described in Subsection (3)(c) in the following order of priority by increasing:

(A) by up to four increments the number of voted local levy guaranteed local levy increments above 16;

(B) by up to 16 increments the number of board local levy guaranteed local levy increments above four; and

(C) the guaranteed amount described in Subsection (2)(a)(i).

(c) The number of guaranteed local levy increments under this Subsection (2) for a school district may not exceed 20 guaranteed local levy increments, regardless of whether the guaranteed local levy increments are from the imposition of a voted local levy, a board local levy, or a combination of the two.

(3) (a) The guarantee described in Subsection (2)(a)(i) is indexed each year to the value of the weighted pupil unit by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit.

(b) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for each year subject to the Legislature appropriating funds for an increase in the guarantee.

(c) If the indexing and growth described in Subsections (3)(a) and (b) result in a cost to the state in a given fiscal year that is less than the amount the Legislature appropriated, the state board shall dedicate the difference to the allocation described in Subsection (2)(b)(ii).

(4) (a) The amount of state guarantee money that a school district would otherwise be entitled to receive under this section may not be reduced for the sole reason that the school district's board local levy or voted local levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation, if the school district applies the certified rate reduction proportionally to the district's voted local levy, board local levy, and capital local levy.

(b) Subsection (4)(a) applies for a period of five years following a change in the certified tax rate as described in Subsection (4)(a).

(c) Subsection (4)(a) does not apply if a school district:

(i) does not apply the certified rate reduction proportionally to the district's local levies in accordance with Subsection (4)(a); or

(ii) otherwise moves tax rate capacity from the board local levy or voted local levy to the capital local levy.

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

(6) (a) If a voted and board local levy funding balance exists for the prior fiscal year, the state board shall distribute the voted and board local levy funding balance, using the calculations for distribution of program balances for the fiscal year in which the balance occurs, to qualifying school districts in a one-time payment during the first quarter of the current fiscal year.

(b) The state board shall report action taken under Subsection (6)(a) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

(7) A local school board of a school district that receives funds described in this section shall budget and expend the funds for public education purposes.

Section 5. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 5(a). Operating and Capital Budgets

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

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

ITEM 1

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

From Public Education Economic Stabilization Restricted Account, One-time - - - - - - - - - - - - - - - - - 45,000,000

From Beginning Nonlapsing Balances -(55,397,000)
From Closing Nonlapsing Balances - 67,863,000
Schedule of Programs:
Kindergarten - 7,595,800
Foreign Exchange - 300,000
Necessarily Existent Small Schools - 6,671,900
Professional Staff - 1,319,000
Special Education - Self-Contained - 578,400
Special Education - Preschool - 252,000
Special Education - Extended School Year - 28,200
Special Education - Impact Aid - 142,900
Special Education - Extended Year for Special Educators - 260,800
Career and Technical Education - Add-on - 32,300
Class Size Reduction - 3,231,100
Enrollment Growth Contingency - (8,248,600)
Students At-Risk Add-on - 302,200
Mid and Final Year Distribution Balancing - 45,000,000

ITEM 2

To State Board of Education - Minimum School Program - Related to Basic School Programs
From Uniform School Fund, One-time - 3,493,700
From Beginning Nonlapsing Balances - 8,953,400
From Closing Nonlapsing Balances - 21,923,600
Schedule of Programs:
Pupil Transportation To & From School - 346,800
Flexible Allocation - 6,000
At-Risk Students - Gang Prevention and Intervention - 116,600
Adult Education - 778,800
Enhancement for Accelerated Students - 12,700
School LAND Trust Program - 100
Charter School Local Replacement - 3,106,200
Educator Salary Adjustments - 3,504,100
Salary Supplement for Highly Needed Educators - 1,140,700
Teacher Supplies and Materials - 4,100
Beverley Taylor Sorenson Elem. Arts Learning Program - 1,231,900
Special Education - Intensive Services - 333,300
Digital Teaching and Learning Program - 5,535,300
Elementary School Counselor Program - 200,000
Teacher and Student Success Program - 229,500
Student Health and Counseling Support Program - 8,098,100
Grants for Professional Learning - 5,000
Charter School Funding Base Program - 530,100
English Language Learner Software - 1,301,800
Grow Your Own Teacher and Counselor Pipeline - 7,889,600

STATE BOARD OF EDUCATION

ITEM 3

To State Board of Education - Child Nutrition Programs
From Beginning Nonlapsing Balances -(14,730,700)
From Closing Nonlapsing Balances - 14,730,700

ITEM 4

To State Board of Education - Educator Licensing
From Beginning Nonlapsing Balances - (911,200)
From Closing Nonlapsing Balances - 904,000
Schedule of Programs:
STEM Endorsement Incentives - (7,200)

ITEM 5

To State Board of Education - Fine Arts Outreach
From Beginning Nonlapsing Balances - 348,000
From Closing Nonlapsing Balances - 331,100
Schedule of Programs:
Professional Outreach Programs in the Schools - 579,000
Provisional Program - 75,100

Subsidy Program - - -

Special Education - - -

To State Board of Education - Hospitality and Tourism Mgmt. Education Acct.
From Beginning Fund Balance - - -

Subsection 6(a). Operating and Capital Budgets

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

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

ITEM 27

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

From Uniform School Fund	3,560,208,600
From Public Education Economic Stabilization Restricted Account, One-time	50,000,000
From Local Revenue	842,101,800
From Beginning Nonlapsing Balances	23,253,800
From Closing Nonlapsing Balances	(4,045,600)

Schedule of Programs:

Kindergarten (41,603 WPUs)	194,453,900
Grades 1 - 12 (604,599 WPUs)	2,825,895,900
Foreign Exchange (407 WPUs)	2,009,700
Necessarily Existent Small Schools (10,661 WPUs)	50,829,500
Professional Staff (57,610 WPUs)	269,269,300
Special Education - Add-on (101,987 WPUs)	476,687,300
Special Education - Self-Contained (11,691 WPUs)	54,643,800
Special Education - Preschool (11,174 WPUs)	52,227,300
Special Education - Extended School Year (452 WPUs)	2,112,600
Special Education - Impact Aid (2,036 WPUs)	9,516,100
Special Education - Extended Year for Special Educators (909 WPUs)	4,248,900
Career and Technical Education - Add-on (28,747 WPUs)	134,363,400
Class Size Reduction (41,861 WPUs)	195,658,500
Enrollment Growth Contingency	19,101,000
Students At-Risk Add-on (27,918 WPUs)	130,501,400
Mid and Final Year Distribution Balancing	50,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education - Minimum School Program report on the following Basic School Program line item performance measures for FY 2026:

1. Four-Year Cohort Graduation Rate of State of Utah (Target = 92.1%);

2. Number of students K-12 that were expelled during the reported academic year (Target = 37);

3. Number of students K-12 that were suspended during the reported academic year (Target = 9,655);

4. Percentage of 4th grade students proficient or above on English Language Arts National Assessment of Educational Progress (Target = 64.1%);

5. Percentage of 4th grade students proficient or above on mathematics National Assessment of Educational Progress (Target = 66.5%);

6. Percentage of 4th grade students proficient or above on science National Assessment of Educational Progress (Target = 67.1%);

7. Percentage of 8th grade students proficient or above on English Language Arts National Assessment of Educational Progress (Target = 64.1%);

8. Percentage of 8th grade students proficient or above on mathematics National Assessment of Educational Progress (Target = 66.5%);

9. Percentage of 8th grade students proficient or above on science National Assessment of Educational Progress (Target = 67.1%);

10. Percentage of Kindergarten students making typical or better progress on Acadience Math PoP (Target = 60%);

11. Percentage of Kindergarten students making typical or better progress on Acadience Reading PoP (Target = 60%);

12. Percentage of students in grades 1-12 in public schools that are chronically absent (Target = 17.33%);

13. Percentage of students in Utah scoring 18 or above on American College Test (Target = 74%);

14. Percentage of students K-12 that were expelled during the reported academic year (Target = 0.07%);

15. Percentage of students K-12 that were suspended during the reported academic year (Target = 1.43%);

16. Percentage of students making typical or better progress on Acadience Math Pathways of Progress (Target = 60%);

17. Percentage of students making typical or better progress on Acadience Reading Pathways of Progress (Target = 60%);

18. Percentage of students proficient on English Language Arts in grades 3-8 Readiness, Improvement, Success, Empowerment or Dynamic Learning Maps (Target = 63.33%);

19. Percentage of students proficient on science in grades 3-8 Readiness, Improvement, Success, Empowerment or Dynamic Learning Maps (Target = 65.67%);

20. Percentage of students proficient on Mathematics in grades 3-8 Readiness, Improvement, Success, Empowerment or Dynamic Learning Maps (Target = 62.8%);

21. Percentage of students successfully completing readiness coursework (Target = 86%); and

22. Percentage of teachers who are professionally qualified for their assignment (Target = 87.3%).

ITEM 28

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

From Uniform School Fund	1,032,592,700
From Automobile Driver Education Tax Account	2,000,000
From Income Tax Fund Restricted - Charter School Levy Account	47,454,800
From Public Education Economic Stabilization Restricted Account, One-time	86,500,000
From Teacher and Student Success Account	228,549,600
From Uniform School Fund Rest. - Trust Distribution Account	106,221,900
From Uniform School Fund Rest. - Trust Distribution Account, One-time	5,092,600
From Beginning Nonlapsing Balances	4,656,200
From Closing Nonlapsing Balances	(4,656,200)

Schedule of Programs:

Pupil Transportation To & From School	134,414,900
Flexible Allocation	1,852,000
Youth in Custody	33,963,300
Adult Education	19,087,700
Enhancement for Accelerated Students	7,383,700
Concurrent Enrollment	23,345,400
School LAND Trust Program	111,314,500
Charter School Local Replacement	302,909,000
Educator Salary Adjustments	443,118,200
Salary Supplement for Highly Needed Educators	26,036,200
Dual Immersion	7,859,700
Teacher Supplies and Materials	14,300,000
Beverley Taylor Sorenson Elem. Arts Learning Program	19,445,000
Digital Teaching and Learning Program	19,852,400
Teacher and Student Success Program	228,549,600
Student Health and Counseling Support Program	25,480,000
Grants for Professional Learning	3,935,000
Charter School Funding Base Program	7,865,000
Educator Professional Time	77,700,000

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education - Minimum School Program report on the following Related to Basic School Programs line item performance measures for FY 2026:

1. Percent of educators in Digital Teaching and Learning LEAs that have an EdTech endorsement (Target = 10%); and

2. Percent of youth with high mental health treatment needs identified by Student Health and Risk Prevention Data (Target = 16.4%).

ITEM 29

To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

From Uniform School Fund	105,927,300
From Local Levy Growth Account	127,553,300
From Local Revenue	983,274,100
From Income Tax Fund Restricted - Minimum Basic Growth Account	56,250,000

Schedule of Programs:

Voted Local Levy Program	761,947,600
Board Local Levy Program	511,057,100

STATE BOARD OF EDUCATION - SCHOOL BUILDING PROGRAMS

ITEM 30

To State Board of Education - School Building Programs - Capital Outlay Programs

From Income Tax Fund	14,499,700
From Income Tax Fund Restricted - Minimum Basic Growth Account	18,750,000

Schedule of Programs:

Foundation Program	27,610,900
Enrollment Growth Program	5,638,800

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education - School Building Programs report on the following Capital Outlay Programs line item performance measures for FY 2026:

1. Percentage of loan applications processed and approved within 90 days (Target = 100%); and

2. Percentage of schools repaying loans on time (Target = 100%).

ITEM 31

To State Board of Education - School Building Programs - Utah Charter School Finance Authority

From Income Tax Fund Restricted - Charter School Reserve Account - 50,000
Schedule of Programs:
Utah Charter School Finance Authority - 50,000

STATE BOARD OF EDUCATION

ITEM 32

To State Board of Education - Child Nutrition Programs
From Income Tax Fund - 400
From Federal Funds - 354,375,900
From Dedicated Credits Revenue - 6,200
From Dedicated Credit - Liquor Tax - 50,123,000
From Revenue Transfers - (570,300)
From Beginning Nonlapsing Balances - 2,679,500
From Closing Nonlapsing Balances - (1,003,000)
Schedule of Programs:
Child Nutrition - 374,073,400
Federal Commodities - 31,538,300

ITEM 33

To State Board of Education - Educator Licensing
From Income Tax Fund - 5,210,600
From Revenue Transfers - (384,900)
From Beginning Nonlapsing Balances - 1,111,800
From Closing Nonlapsing Balances - (814,300)
Schedule of Programs:
Educator Licensing - 3,464,800
STEM Endorsement Incentives - 1,312,100
National Board-Certified Teachers - 346,300

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report on the following Educator Licensing line item performance measures for FY 2026:

1. Number of incidents reported for educator violations (Target = 0);

2. Number of license areas recommended by Utah Institutions of Higher Education (Target = 9,500);

3. Percentage of educators with a District or Charter-Specific license (Less than) (Target = 4%);

4. Percentage of educators with a professional license (Target = 91%);

5. Percentage of educators with an associate license (Less than) (Target = 5%);

6. Percentage of K-12 mentored teachers with positive impact on improved instruction (Target = 86.67%);

7. Percentage of K-12 teachers that had a mentor assigned as a new educator (Target = 78.2%); and

8. Percentage of newly recommended educators working in public schools (Target = Unknown).

ITEM 34

To State Board of Education - Fine Arts Outreach
From Income Tax Fund - 6,175,000
From Beginning Nonlapsing Balances - 64,800
From Closing Nonlapsing Balances - (7,100)
Schedule of Programs:
Professional Outreach Programs in the Schools - 6,153,700
Subsidy Program - 79,000

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the State Board of Education provide direct award grants totaling $6,121,000 in fiscal year 2026 to the following direct award grant recipients for the Fine Arts Outreach - Professional Outreach Programs in the Schools (POPS):

(1) $727,700 to Ballet West;

(2) $225,000 to the Nora Eccles Harrison Museum of Art;

(3) $159,000 to Plan-B Theatre;

(4) $342,700 to Repertory Dance Theatre;

(5) $289,500 to Ririe-Woodbury Dance Company;

(6) $359,900 to the Springville Museum of Art;

(7) $271,900 to Spy Hop;

(8) $458,100 to Tanner Dance;

(9) $387,800 to the Utah Festival Opera and Musical Theatre;

(10) $233,900 to the Utah Film Center;

(11) $216,000 to the Utah Museum of Contemporary Art;

(12) $209,900 to the Utah Museum of Fine Art

(13) $449,000 to the Utah Opera;

(14) $447,600 to the Utah Shakespeare Festival; and

(15) $1,343,000 to the Utah Symphony.

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report on the following Fine Arts Outreach line item performance measures for FY 2026:

1. Number of public school educators receiving services from POPS program providers (Target = 14,000);

2. Number of students receiving services from POPS program organizations (Target = 442,000);

3. Percentage of charter schools served by POPS program over a three-year period (Target = 100%); and

4. Percentage of school districts served by POPS program over a three-year period (Target = 100%).

ITEM 35

To State Board of Education - Contracted Initiatives and Grants

From General Fund	9,020,200
From Income Tax Fund	117,810,200
From General Fund Restricted - Autism Awareness Account	50,700
From Revenue Transfers	(160,300)
From Beginning Nonlapsing Balances	21,013,700
From Closing Nonlapsing Balances	(7,217,000)

Schedule of Programs:

Autism Awareness	50,700
Carson Smith Scholarships	10,979,500
Computer Science Initiatives	5,000,000
Contracts and Grants	8,304,400
Software Licenses for Early Literacy	12,750,400
Early Warning Program	2,800,000
Elementary Reading Assessment Software Tools	3,767,100
General Financial Literacy	481,400
Intergenerational Poverty Interventions	9,600
IT Academy	500,000
Partnerships for Student Success	3,189,700
ProStart Culinary Arts Program	501,500
UPSTART	32,800
ULEAD	591,400
Supplemental Educational Improvement Matching Grants	2,700
Competency-Based Education Grants	3,058,200
Special Needs Opportunity Scholarship Administration	113,200
Education Technology Management System	1,900,000
School Data Collection and Analysis	900,000
Education Innovation Program	751,500
Utah Fits All Scholarship Program	82,633,400
Pupil Transportation Rural School Reimbursement	500,000
Center for the School of the Future	200,000
Child Sexual Abuse Prevention Grant Program	500,000
Child Sexual Abuse Prevention	1,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report on the following Contracted Initiatives and Grants line item performance measures for FY 2026:

1. Percentage high school graduation rate for students at Partnership for Student Success schools (Target = 90.6%);

2. Percentage of Carson Smith Scholarship participating schools complying with annual reporting requirements (Target = 100%);

3. Percentage of educators in DTL LEAs that have an EdTech endorsement (Target = 10%);

4. Percentage of proficiency in English Language Arts for Intergenerational Poverty after school students (Target = 52.6%);

5. Percentage of proficiency in mathematics for Intergenerational Poverty after school students (Target = 49%);

6. Percentage of proficiency in science for Intergenerational Poverty after school students (Target = 54%);

7. Percentage proficient of 3rd grade students at Partnership for Student Success schools in English Language Arts (Target = 52%); and

8. Percentage Proficient of 8th Grade Students at Partnership for Student Success Schools in Mathematics (Target = 49.3%).

ITEM 36

To State Board of Education - MSP Categorical Program Administration

From Income Tax Fund	8,309,400
From Revenue Transfers	(515,500)
From Beginning Nonlapsing Balances	1,600,300
From Closing Nonlapsing Balances	(933,900)
Schedule of Programs:	
Adult Education	303,800
Beverley Taylor Sorenson Elem. Arts Learning Program	265,800
CTE Comprehensive Guidance	318,100
Digital Teaching and Learning	529,000
Dual Immersion	489,800
At-Risk Students	544,700
Special Education State Programs	278,900
Youth-in-Custody	1,119,900
Early Literacy Program	488,600
CTE Online Assessments	625,500
CTE Student Organizations	1,160,900
State Safety and Support Program	535,300
Student Health and Counseling Support Program	309,800
Early Learning Training and Assessment	1,239,400
Early Intervention	250,800

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report on the following MSP Categorical Program Administration line item performance measures for FY 2026:

1. Arts Learning Program Implementation (Target = 50);

2. Beverley Taylor Sorenson Arts Learning Program Survey (Target = 100%);

3. Number of Dual Language Immersion educators receiving professional learning (Target = 900);

4. Number of guest Dual Language Immersion educators receiving direct support services (Target = 180); and

5. Percentage of educators demonstrating competency in Science of Reading (Target = 95%).

ITEM 37

To State Board of Education - Regional Education Service Agencies

From Income Tax Fund	2,163,600
Schedule of Programs:	
Regional Education Service Agencies	2,163,600

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report on the following Regional Education Service Agencies line item performance measures for FY 2026:

1. Number of professional learning hours provided by RESAs (Target = 5,000);

2. Percentage Match of Local Effort to RESA Budget (Target = 100%);

3. Percentage of APPEL Completers in 3rd year that receive professional license (Target = 60%); and

4. Percentage of RESA LEAs that adopt CIS Controls (Target = 70%).

ITEM 38

To State Board of Education - Science Outreach

From Income Tax Fund	6,265,000
From Beginning Nonlapsing Balances	100,500
Schedule of Programs:	
Informal Science Education Enhancement	6,040,000
Provisional Program	325,500

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the State Board of Education provide direct award grants totalling $6,040,000 in fiscal year 2026 to the following direct award grant recipients for the Science Outreach Informal Science Education Enhancement (iSEE) program:

(1) $1,052,600 to the Clark Planetarium;

(2) $715,600 to Discovery Gateway;

(3) $119,600 to Hawkwatch International;

(4) $807,400 to Loveland Living Planet Aquarium;

(5) $866,800 to the Natural History Museum of Utah;

(6) $245,300 to the Ogden Nature Center;

(7) $355,800 to Red Butte Gardens;

(8) $897,200 to Thanksgiving Point;

(9) $598,100 to The Leonardo; and

(10) $381,600 to Utah's Hogle Zoo.

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report on the following Science Outreach line item performance measures for FY 2026:

1. Number of iSEE in-person student experiences (Target = 250,000);

2. Number of iSEE professional learning opportunities provided to Utah teachers (Target = 200); and

3. Number of iSEE students participating in field trips (Target = 279,000).

ITEM 39

To State Board of Education - Policy, Communication, & Oversight

From General Fund	415,200
From Income Tax Fund	18,910,500
From Federal Funds	62,742,100
From Dedicated Credits Revenue	64,300
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account	5,084,200
From General Fund Restricted - Mineral Lease	167,400
From Revenue Transfers	(1,012,600)
From Income Tax Fund Restricted - Underage Drinking Prevention Program Restricted Account	1,759,500
From Beginning Nonlapsing Balances	32,707,800
From Closing Nonlapsing Balances	(32,822,400)

Schedule of Programs:

Teacher Retention in Indigenous Schools Grants	728,500
Policy and Communication	2,440,300
Student Support Services	77,966,900
School Turnaround and Leadership Development Act	5,880,300
Student Mental Health Screenings	1,000,000

ITEM 40

To State Board of Education - System Standards & Accountability

From General Fund	100
From Income Tax Fund	35,159,800
From Federal Funds	179,168,900
From Dedicated Credits Revenue	1,033,700
From Expendable Receipts	451,900
From Automobile Driver Education Tax Account	5,100,000
From General Fund Restricted - Mineral Lease	407,200
From Revenue Transfers	(2,005,400)
From Beginning Nonlapsing Balances	22,792,300
From Closing Nonlapsing Balances	(9,585,200)

Schedule of Programs:

Student Achievement	500,900
Teaching and Learning	28,180,500
Assessment and Accountability	26,805,400
Career and Technical Education	19,204,200
Special Education	141,718,900
RTC Fees	94,500
Early Literacy Outcomes Improvement	15,677,300
CPR Training Grant Program	341,600

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report on the following System Standards &Accountability line item performance measures for FY 2026:

1. Number of course completers for trauma informed courses with Utah State Board of Education (Target = 1,530);

2. Number of educators engaged in State Board of Education created coursework (Target = 4,000);

3. Number of educators engaged in Utah State Board of Education Alternate Path to Professional Educator Licensure for Special Education licensure program (Target = 300);

4. Percentage of charter schools participating in Personalized, Competency-Based Learning Professional Learning (Target = 28%);

5. Percentage of districts participating in Personalized, Competency-Based Learning Professional Learning (Target = 33%);

6. Percentage of educators engaging in Career &Technical Education plans and upskilling (Target = 61%); and

7. Percentage of Local Education Agencies meeting Individuals with Disabilities Education Act state targets (Target = 100%).

ITEM 41

To State Board of Education - State Charter School Board

From Income Tax Fund	3,977,400
From Revenue Transfers	(275,100)
From Beginning Nonlapsing Balances	5,201,800
From Closing Nonlapsing Balances	(2,548,600)
Schedule of Programs:	
State Charter School Board & Administration	2,305,500
Statewide Charter School Training Programs	550,000
New Charter School Start-up Funding	3,500,000

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report on the following State Charter School Board line item performance measures for FY 2026:

1. Local Charter School Outreach (Target = 100%);

2. Open Meetings Act Compliance - Charter Schools (Target = 100%); and

3. State Charter School Board Member Training (Target = 50%).

ITEM 42

To State Board of Education - Utah Schools for the Deaf and the Blind

From Income Tax Fund	44,811,000
From Federal Funds	117,300
From Dedicated Credits Revenue	5,122,800
From Revenue Transfers	6,744,500
From Beginning Nonlapsing Balances	4,580,000
From Closing Nonlapsing Balances	(9,440,500)
Schedule of Programs:	
Administration	14,580,500
Transportation and Support Services	12,572,300
Utah State Instructional Materials Access Center	1,878,100
School for the Deaf	13,064,200
School for the Blind	9,840,000

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report on the following Utah Schools for the Deaf and the Blind line item performance measures for FY 2026:

1. Compliance with federal, state and USBE administrative rules (Target = 100%);

2. Educator retention (Target = 85%);

3. Graduation rate for all campus enrolled USB students (Target = 90%);

4. Graduation rate for all campus enrolled USD students (Target = 90%);

5. Number of safety incidents during student transportation (Target = 0%);

6. Operational and maintenance expenses (Target = 8%);

7. Percentage of blind/visually impaired students complete transition outcomes, as outlined in their individual transition plans, within one year of their program completion (Target = 80%);

8. Percentage of eligible students receiving transportation services (Target = 100%);

9. Percentage of USB families that receive the mandated service minutes as outlined in their Individual Family Service Plans (IFSPs) (Target = 90%);

10. Percentage of USB outreach students receive the mandated service minutes in their Individualized Education Plan (IEPs) (Target = 90%);

11. Percentage of USD deaf students achieve their vocational skills within 1 year of program completion (Target = 80%);

12. Percentage of USD families that receive the mandated service minutes as outlined in their Individual Family Service Plans (IFSPs) (Target = 85%); and

13. Percentage of USD outreach students receive the mandated service minutes in their Individualized Education Plan (IEPs) (Target = 90%).

ITEM 43

To State Board of Education - Statewide Online Education Program Subsidy

From Income Tax Fund	12,138,700
From Revenue Transfers	(60,900)
From Beginning Nonlapsing Balances	3,109,200
From Closing Nonlapsing Balances	(1,487,000)

Schedule of Programs:
Statewide Online Education Program - - -

STATE BOARD OF EDUCATION

ITEM 48

To State Board of Education - Hospitality and Tourism Mgmt. Education Acct.
From Dedicated Credits Revenue - - -

Education Tax Check-off Lease Refunding - - -

CHAPTER 7
S. B. 6
Passed January 30, 2025
Approved February 14, 2025
Effective July 1, 2025

CRIMINAL JUSTICE BASE BUDGET

Chief Sponsor: Brady Brammer
House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $26,547,600 in operating and capital budgets for fiscal year 2025, including:

- $26,547,600 from various sources as detailed in this bill.

This bill appropriates $2,456,000 in expendable funds and accounts for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates ($572,500) in business-like activities for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $865,100 in transfers to unrestricted funds for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $1,293,639,700 in operating and capital budgets for fiscal year 2026, including:

- $906,834,000 from General Fund; and
- $280,500 from Income Tax Fund; and
- $386,525,200 from various sources as detailed in this bill.

This bill appropriates $20,860,300 in expendable funds and accounts for fiscal year 2026, including:

- $3,775,900 from General Fund; and
- $17,084,400 from various sources as detailed in this bill.

This bill appropriates $87,804,700 in business-like activities for fiscal year 2026, all of which is from the various sources as detailed in this bill.

This bill appropriates $23,901,200 in restricted fund and account transfers for fiscal year 2026, including:

- $25,401,200 from General Fund; and
- ($1,500,000) from various sources as detailed in this bill.

This bill appropriates $1,313,000 in fiduciary funds for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2025.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 1(a). Operating and Capital Budgets

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

GOVERNOR'S OFFICE

ITEM 1

To Governor's Office - CCJJ - Factual Innocence Payments
From Beginning Nonlapsing Balances - (107,800)

Schedule of Programs:
Factual Innocence Payments - - -

UTAH DEPARTMENT OF CORRECTIONS

ITEM 10

To Utah Department of Corrections - Administration
From Beginning Nonlapsing Balances - - -

DEPARTMENT OF PUBLIC SAFETY

ITEM 17

To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management

From Beginning Nonlapsing Balances	(3,154,900)
From Closing Nonlapsing Balances	3,154,900

ITEM 18

To Department of Public Safety - Driver License

From Beginning Nonlapsing Balances	1,490,400
From Closing Nonlapsing Balances	209,400
Schedule of Programs:	
Driver License Administration	700,000
Driver Services	999,800

ITEM 19

To Department of Public Safety - Emergency Management

From Beginning Nonlapsing Balances	6,607,700
From Closing Nonlapsing Balances	(6,607,700)

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that of the appropriations provided in "Appropriations Adjustments" (House Bill 3, 2024 General Session), Item 137, the Department of Public Safety provide direct award grants of $500,000 to the YWCA Utah in fiscal year 2025 for security infrastructure.

ITEM 20

To Department of Public Safety - Highway Safety

From Beginning Nonlapsing Balances	42,800
Schedule of Programs:	
Highway Safety	42,800

ITEM 21

To Department of Public Safety - Peace Officers' Standards and Training

From Beginning Nonlapsing Balances	(109,900)
Schedule of Programs:	
POST Administration	(109,900)

ITEM 22

To Department of Public Safety - Programs & Operations

From Beginning Nonlapsing Balances	6,671,100
From Closing Nonlapsing Balances	(3,070,800)
Schedule of Programs:	
CITS Communications	(400,700)
CITS State Crime Labs	1,342,300
Department Commissioner's Office	9,210,500
Department Grants	(1,342,300)
Fire Marshal - Fire Operations	(231,200)
Highway Patrol - Field Operations	(2,721,600)
Highway Patrol - Special Services	(2,256,700)

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that of the appropriations provided in "Appropriations Adjustments" (House Bill 3, 2024 General Session), Item 139, the Department of Public Safety provide direct award grants of $250,000 to rape crisis centers in fiscal year 2025 for sexual assault prevention with the assistance of the Utah Office for Victims of Crime.

ITEM 23

To Department of Public Safety - Bureau of Criminal Identification

From Beginning Nonlapsing Balances	(2,285,100)
From Closing Nonlapsing Balances	4,000,000
Schedule of Programs:	
Non-Government/Other Services	1,714,900

Subsection 1(b). Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

GOVERNOR'S OFFICE

ITEM 24

To Governor's Office - Crime Victim Reparations Fund

From Beginning Fund Balance - - -

To Department of Public Safety - Local Government Emergency Response Loan Fund
From Interest Income, One-time - - -

Utah Office for Victims of Crime - - -

From Federal Funds - - -

From General Fund - - -

Schedule of Programs:
Grand Jury - - -

CITS Communications - - -

From Beginning Fund Balance - - -

Schedule of Programs:
General Fund Restricted - Indigent Defense Resources Account - 9,635,200

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report on the following General Fund Restricted - Indigent Defense Resources Account line item performance measures for FY 2026: 1. Criminal Appeals (Target = 20%); 2. Independently-Administered Defense Resources (Target = 40%); 3. Principle 1: Organizational Capacity (Target = 10%); 4. Principle 2: Counsel for All Eligible (Target = 10%); 5. Principle 3: Scope of Representation (Target = 10%); 6. Principle 4: Independence (Target = 10%); 7. Principle 5: Specialization (Target = 10%); 8. Principle 6: Right to Appeal (Target = 10%); 9. Principle 7: Free From Conflicts of Interest (Target = 10%); 10. Principle 8: Effective Representation (Training, Resources, Compensation) (Target = 10%); 11. Regionalization of Indigent Defense Commission (Target = 50%); 12. Specialization (Target = 30%); and 13. Survey Response (Target = 10%).

ITEM 71

To Victim Services Restricted Account
From General Fund - 12,000,000
Schedule of Programs:
Victim Services Restricted Account - 12,000,000

ITEM 72

To Employment Incentive Restricted Account
From General Fund - 1,500,000
From Beginning Fund Balance - 4,500,000
From Closing Fund Balance - (6,000,000)

ITEM 73

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

ITEM 74

To Road Rage Awareness and Prevention Restricted Account
From General Fund - 50,000
Schedule of Programs:
Road Rage Awareness and Prevention Restricted Account - 50,000

Subsection 2(e). Fiduciary Funds

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

OFFICE OF THE ATTORNEY GENERAL

ITEM 75

To Office of the Attorney General - Financial Crimes Trust Fund
From Trust and Agency Funds - 1,225,000
From Beginning Fund Balance - 137,600
From Closing Fund Balance - (137,600)
Schedule of Programs:
Financial Crimes Trust Fund - 1,225,000

Section 3. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 3(a). Operating and Capital Budgets

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

GOVERNOR'S OFFICE

ITEM 76

To Governor's Office - Indigent Defense Commission
From General Fund - 156,300
From General Fund Restricted - Indigent Defense Resources - 1,868,400
Schedule of Programs:
Indigent Appellate Defense Division - 2,024,700

DEPARTMENT OF PUBLIC SAFETY

ITEM 77

To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management
From Expendable Receipts - 10,000,000

From Beginning Nonlapsing Balances - - -

ITEM 83

To Department of Public Safety - Local Alcohol Law Enforcement and Treatment
From General Fund Restricted - Alcoholic Beverage Enforcement and Treatment Account - - - - - - - - - - - - 9,247,800
Schedule of Programs:
Local Alcohol Law Enforcement and Treatment - 9,247,800

Subsection 3(b). Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

OFFICE OF THE ATTORNEY GENERAL

ITEM 84

To Office of the Attorney General - Attorney General Litigation Fund
From Dedicated Credits Revenue - 2,036,400
From Beginning Fund Balance - 4,000,000
From Closing Fund Balance - (4,000,000)
Schedule of Programs:
Attorney General Litigation Fund - 2,036,400

Subsection 3(c). Business-like Activities

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

OFFICE OF THE ATTORNEY GENERAL

ITEM 85

To Office of the Attorney General - ISF - Attorney General
From Dedicated Credits Revenue - 41,574,400
From Beginning Fund Balance - 7,920,500
From Closing Fund Balance - (7,535,800)
Schedule of Programs:
Civil Division - 41,959,100
Budgeted FTE - 182.9

DEPARTMENT OF PUBLIC SAFETY

ITEM 86

To Department of Public Safety - Local Government Emergency Response Loan Fund
From Interest Income - 200,000
From Beginning Fund Balance - 7,997,500
From Closing Fund Balance - (8,197,500)

Subsection 3(d). Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 87

To Emergency Medical Services System Account
From General Fund - 2,000,000
From Beginning Fund Balance - 16,700
From Closing Fund Balance - (16,700)
Schedule of Programs:
Emergency Medical Services System Account - 2,000,000

Subsection 3(e). Fiduciary Funds

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

GOVERNOR'S OFFICE

ITEM 88

To Governor's Office - Indigent Inmate Trust Fund
From Dedicated Credits Revenue - 25,300
From Beginning Fund Balance - 601,100

From Closing Fund Balance - - -

CHAPTER 8
S. B. 5
Passed January 30, 2025
Approved February 14, 2025
Effective July 1, 2025

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY BASE BUDGET

Chief Sponsor: David P. Hinkins
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates ($235,710,600) in operating and capital budgets for fiscal year 2025, including:

- $3,925,000 from General Fund; and
- ($239,635,600) from various sources as detailed in this bill.

This bill appropriates ($65,250,500) in expendable funds and accounts for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $2,624,800 in business-like activities for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates ($1,275,900) in restricted fund and account transfers for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $926,024,300 in operating and capital budgets for fiscal year 2026, including:

- $132,141,100 from General Fund; and
- $523,800 from Income Tax Fund; and
- $793,359,400 from various sources as detailed in this bill.

This bill appropriates $156,260,300 in expendable funds and accounts for fiscal year 2026, including:

- $10,000,000 from General Fund; and
- $146,260,300 from various sources as detailed in this bill.

This bill appropriates $127,013,400 in business-like activities for fiscal year 2026, including:

- $1,000,000 from General Fund; and
- $126,013,400 from various sources as detailed in this bill.

This bill appropriates $26,311,700 in restricted fund and account transfers for fiscal year 2026, including:

- $12,769,300 from General Fund; and
- $13,542,400 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2025.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 1(a). Operating and Capital Budgets

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

DEPARTMENT OF AGRICULTURE AND FOOD

ITEM 1

To Department of Agriculture and Food - Administration
From Beginning Nonlapsing Balances - - -

To Department of Agriculture and Food - Rangeland Improvement
From Beginning Nonlapsing Balances - - -

DEPARTMENT OF ENVIRONMENTAL QUALITY

ITEM 14

To Department of Environmental Quality - Drinking Water
From Beginning Nonlapsing Balances - - -

From Beginning Nonlapsing Balances - (6,800)
From Closing Nonlapsing Balances -(23,200)
Schedule of Programs:
Trip Reduction Program -(30,000)

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $23,300 provided for the Department of Environmental Quality - Trip Reduction Program in Item 73, Chapter 8, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $23,300 for UTA Trip Reduction Program.

ITEM 20

To Department of Environmental Quality - Air Quality
From Beginning Nonlapsing Balances - (3,005,200)
From Closing Nonlapsing Balances - (5,507,500)
Schedule of Programs:
Air Quality Administration - (271,500)
Planning - (6,897,100)
Compliance - (499,400)
Permitting - (844,700)

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $5,507,500 provided for the Department of Environmental Quality - Air Quality in Item 74, Chapter 8, Laws of Utah 2024, Item 301, Chapter 488, Laws of Utah 2024, and Item 303, Chapter 488, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $550,000 for Air Monitoring Equipment; up to $992,000 for Electric Vehicle Charging Equipment; up to $275,000 for GSL Dust Impact Monitoring; up to $24,000 for H.B. 220 Emissions Reduction Amendments; up to $311,000 for H.B. 3004 Energy Security Amendments; up to $775,500 for Lawn Equipment Exchange; up to $145,000 for Mobile Air Quality Observation; up to $146,000 for Monitoring Network in Summit and Wasatch Counties; up to $140,000 for NSR Permit Annual Fees; up to $100,000 for Operating Permit Fees; up to $60,000 for Ozone and PM2.5 Study; up to $230,000 for Ozone Modeling; up to $618,000 for Ozone Monitoring Infrastructure for Wasatch Front; up to $480,000 for Research Projects; up to $287,000 for Uintah Basin Air Monitoring Infrastructure and Equipment; and up to $374,000 for Wood Stove Replacements.

ITEM 21

To Department of Environmental Quality - Laboratory Services
From Beginning Nonlapsing Balances - (225,700)
From Closing Nonlapsing Balances - (250,000)
Schedule of Programs:
Laboratory Services - (475,700)

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $250,000 provided for the Department of Environmental Quality - Laboratory Services in Item 75, Chapter 8, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $250,000 for Laboratory Services.

OFFICE OF THE GOVERNOR

ITEM 22

To Office of the Governor - Colorado River Authority of Utah
From Beginning Nonlapsing Balances - 3,281,800
From Closing Nonlapsing Balances - (3,707,500)
Schedule of Programs:
Colorado River Authority of Utah - (425,700)

DEPARTMENT OF NATURAL RESOURCES

ITEM 23

To Department of Natural Resources - Administration
From Beginning Nonlapsing Balances - (108,000)
From Closing Nonlapsing Balances - (2,200,000)
Schedule of Programs:
Executive Director - (2,375,300)
Public Information Office - 67,300

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $2,200,000 provided for the Department of Natural Resources - Administration in Item 76, Chapter 8, Laws of Utah 2024 and Item 3, Chapter 2, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $75,000 for Computer Equipment and Software; up to $125,000 for Current Expense; up to $1,847,000 for Federal Overreach (H.B. 3002); up to $25,000 for Supplies; and up to $128,000 for Utah Water Infrastructure Study.

ITEM 24

To Department of Natural Resources - DNR Pass Through
From Beginning Nonlapsing Balances - (623,300)
From Closing Nonlapsing Balances - (6,007,400)
Schedule of Programs:
DNR Pass Through - (6,630,700)

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends with the appropriations provided in the 2024

General Session, House Bill 2, Item 183, the Department of Natural Resources (DNR) provide a direct award grant of $250,000 to Hunter Nation in fiscal year 2025 for State Management of Wolves. DNR shall distribute the grant funds only on a reimbursement basis, and all requested documentation related to reimbursement shall be free of redaction.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Natural Resources provide a direct award grant of $45,000 from the General Fund and $55,00 from the Sovereign Lands Management Account in fiscal year 2025 to the Bear Lake Commission for natural resource management and coordination. The Department of Natural Resources shall require that these funds be matched 1:1 by the State of Idaho.

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $6,007,400 provided for the Department of Natural Resources - DNR Pass Through in Item 79, Chapter 8, Laws of Utah 2024 and Item 183, Chapter 487, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $250,000 for State Management of Wolves; up to $104,700 for Utah County Fire Rehabilitation; and up to $5,652,700 for Utah Lake Authority.

ITEM 25

To Department of Natural Resources - Forestry, Fire, and State Lands

From Beginning Nonlapsing Balances	1,277,600
From Closing Nonlapsing Balances	(25,870,700)
Schedule of Programs:	
Fire Management	13,400
Forest Management	484,500
Lands Management	(211,300)
Lone Peak Center	1,269,000
Program Delivery	74,600
Project Management	(26,223,300)

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $25,870,700 provided for the Department of Natural Resources - Forestry, Fire, and State Lands in Item 80, Chapter 8, Laws of Utah 2024 and Item 184, Chapter 487, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $17,800 for Little Willow Water Line; up to $63,800 for Richfield Fire Cache; up to $4,177,300 for Shared Stewardship; up to $20,532,100 for Sovereign Lands and Catfire Projects; and up to $1,079,700 for Strategic and Targeted Fire Mitigation.

ITEM 26

To Department of Natural Resources - Oil, Gas, and Mining

From Beginning Nonlapsing Balances	579,400
From Closing Nonlapsing Balances	(4,568,100)
Schedule of Programs:	
Administration	261,900
Coal Program	(820,400)
Minerals Reclamation	698,200
OGM Misc. Nonlapsing	(3,168,300)
Oil and Gas Program	(960,100)

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $1,150,000 provided for the Department of Natural Resources - Oil, Gas, and Mining in Item 81, Chapter 8, Laws of Utah 2024 and Item 185, Chapter 487, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $250,000 for Board Improvement; up to $50,000 for Employee Training and Incentives; up to $100,000 for Equipment and Software; up to $500,000 for Mining Improvement; and up to $250,000 for Mining Special Projects.

ITEM 27

To Department of Natural Resources - Species Protection

From Closing Nonlapsing Balances	(400,000)
Schedule of Programs:	
Species Protection	(400,000)

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $400,000 provided for the Department of Natural Resources - Species Protection in Item 186, Chapter 487, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $400,000 for Species Protection Projects.

ITEM 28

To Department of Natural Resources - Utah Geological Survey

From Beginning Nonlapsing Balances	(320,800)
From Closing Nonlapsing Balances	(1,272,200)
Schedule of Programs:	
Administration	(825,200)
Board	(500)
Energy and Minerals	(678,400)
Geologic Hazards	296,200
Groundwater	(52,300)
Technical Services	(332,800)

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $1,272,200 provided for the Department of Natural Resources - Utah Geological Survey in Item 83, Chapter 8, Laws of Utah 2024 and Item 187, Chapter 487, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $315,900 for Bonneville Salt Flats Restoration; up to $380,000 for Critical Mineral Studies; up to $25,000 for Current Expense; up to $50,000 for Equipment and Supplies; up to $137,000 for Grant Projects Match; up to $289,300 for Great Salt Lake Groundwater Studies; up to $50,000 for Software; and up to $25,000 for

Training and Incentives.

ITEM 29

To Department of Natural Resources - Water Resources

From General Fund, One-time	5,000,000
From Beginning Nonlapsing Balances	2,915,300
From Closing Nonlapsing Balances	(87,355,000)
Schedule of Programs:	
Administration	(300,000)
Cloud Seeding	(13,047,600)
Construction	(44,832,900)
Interstate Streams	(200,000)
Planning	(20,923,300)
Funding Projects and Research	(135,900)

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $92,355,000 provided for the Department of Natural Resources - Water Resources in Item 84, Chapter 8, Laws of Utah 2024 and Item 188, Chapter 487, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $130,000 for Agricultural Water Optimization; up to $24,000,000 for Aqueduct Resilience; up to $13,000,000 for Cloud Seeding; up to $9,000,000 for Cove East Fork Virgin River Watershed Project; up to $3,500,000 for Great Salt Lake Amendments; up to $560,000 for Growing Water Smart; up to $4,770,000 for Hyrum Dam; up to $10,850,000 for Landscape Incentives; up to $300,000 for Operating Budget Items; up to $4,000,000 for Secondary Water Metering; up to $1,500,000 for Transparent Water Billing; up to $1,500,000 for Utah Water Ways; up to $400,000 for Water Planning Amendments; up to $120,000 for Water as Part of a General Plan; up to $300,000 for Water Conservation Funding; up to $13,000,000 for Water Infrastructure Projects; up to $425,000 for Western Beaver Cedar Valleys Water Study; and up to $5,000,000 for Panguitch Dam Replacement.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Natural Resources (DNR) provide a direct award grant of $5 million to the West Panguitch Irrigation Company (WPIC) one-time in fiscal year 2025 to repair and replace the dam on Panguitch Lake. The Legislature intends that DNR include in its grant agreement with the WPIC the following deliverables, reporting, and performance metrics: 1. direct award grant funds shall be used to replace the Panguitch Dam with a new structure that complies with minimum standards; 2. WPIC shall remain in good standing with the use of its water rights; 3. WPIC shall comply with any order of the State Engineer, past or present, for the administration and regulation of its water rights; 4. WPIC shall install and maintain an approved measurement device and stilling well below the company's lowest diversion by November 1, 2025.

ITEM 30

To Department of Natural Resources - Water Rights

From Beginning Nonlapsing Balances	2,649,400
From Closing Nonlapsing Balances	(8,763,000)
Schedule of Programs:	
Administration	25,000
Applications and Records	(230,900)
Field Services	(4,300,000)
Technical Services	(1,607,700)

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $8,763,000 provided for the Department of Natural Resources - Water Rights in Item 118, Chapter 8, Laws of Utah 2024, Item 2, Chapter 25, Laws of Utah 2024, and Item 189, Chapter 487, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $2,623,000 for Data Management Improvements; up to $12,500 for Employee Training, Incentives and Travel; up to $275,000 for Great Salt Lake Plan; up to $1,000,000 for GSL Basin Measurement; up to $27,500 for Postage and Advertising; up to $50,000 for Professional Services; up to $310,000 for Software and Equipment; and up to $4,465,000 for Water Rights Measurements and Data Enhancement.

ITEM 31

To Department of Natural Resources - Watershed Restoration Initiative

From Beginning Nonlapsing Balances	(3,355,400)
From Closing Nonlapsing Balances	(5,000,000)
Schedule of Programs:	
Watershed Restoration Initiative	(8,355,400)

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $5,000,000 provided for the Department of Natural Resources - Watershed Restoration in Item 85, Chapter 8, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $5,000,000 for Projects Obligated by Contracted in FY 2025.

ITEM 32

To Department of Natural Resources - Wildlife Resources

From Beginning Nonlapsing Balances	(173,000)
From Closing Nonlapsing Balances	(1,300,000)
Schedule of Programs:	
Habitat Section	550,000
Wildlife Section	(2,023,000)

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $1,300,000 provided for the Department of Natural Resources - Wildlife Resources in Item 119, Chapter 8, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $700,000 for Big Game Depredation; up to $400,000 for Great Salt Lake and Utah Lake Waterbirds; and up to $200,000 for Predator Control Program Plan Implementation.

ITEM 33

To Department of Natural Resources - Wildlife Resources Capital Budget

From Beginning Nonlapsing Balances - - -

Schedule of Programs:
Office of Energy Development - - -

To Department of Agriculture and Food - Dept. Agriculture and Food Laboratory Equip. Fund
From Beginning Fund Balance - - -

included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF AGRICULTURE AND FOOD

ITEM 55

To Department of Agriculture and Food - Qualified Production Enterprise Fund
From Beginning Fund Balance - - -

From Federal Funds - - -

From Federal Funds - - -

From Revenue Transfers - - -

System Assistance - - -

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report on the following Waste Management and Radiation Control line item performance measures for FY 2026: 1. Compliance Rate of Medical X-Ray Facilities (Target = 90%); 2. Number of Small Businesses Receiving Compliance Assistance (Target = 65); and 3. Percent of Permits and Licenses Issued/ Modified Within Set Timeframes (Target = 90%).

ITEM 79

To Department of Environmental Quality - Water Quality

From General Fund	5,283,700
From Federal Funds	3,946,300
From Dedicated Credits Revenue	3,112,800
From General Fund Restricted - GFR - Division of Water Quality Oil, Gas, and Mining	119,300
From Revenue Transfers	(299,900)
From Gen. Fund Rest. - Underground Wastewater System	92,200
From Water Dev. Security Fund - Utah Wastewater Loan Prog.	2,024,700
From Water Dev. Security Fund - Water Quality Orig. Fee	131,900
From Beginning Nonlapsing Balances	1,550,600

Schedule of Programs:

Water Quality Support	4,207,600
Water Quality Protection	7,079,900
Water Quality Permits	4,580,800
Onsite Wastewater	93,300

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report on the following Water Quality line item performance measures for FY 2026: 1. Municipal Wastewater Effluent Quality (mg/L Oxygen Potential) (Target = 381); 2. Number of Backlogged Individual Permits (Target = 10); 3. Percent of Permit Holders in Compliance (Target = 90%); and 4. Percent of Permits Renewed on Time (Target = 95%).

ITEM 80

To Department of Environmental Quality - Trip Reduction Program

From Beginning Nonlapsing Balances	23,200

Schedule of Programs:

Trip Reduction Program	23,200

ITEM 81

To Department of Environmental Quality - Air Quality

From General Fund	9,434,800
From Federal Funds	7,472,800
From Dedicated Credits Revenue	8,418,000
From General Fund Restricted - GFR - Division of Air Quality Oil, Gas, and Mining	840,900
From Clean Fuel Conversion Fund	269,600
From Revenue Transfers	(1,388,000)
From Beginning Nonlapsing Balances	5,507,500
From Closing Nonlapsing Balances	(148,000)

Schedule of Programs:

Air Quality Administration	2,256,800
Planning	18,400,500
Compliance	5,924,000
Permitting	3,826,300

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report on the following Air Quality line item performance measures for FY 2026: 1. Facility Compliance With Air Quality Standards (Target = 100%); 2. Per Capita Rate of Statewide Air Emissions (Target = 0.5); 3. Percent of Approval Orders Issued Within 180 Days (Target = 80%); and 4. Percent of Data Available From Air Monitoring Samplers (Target = 100%).

ITEM 82

To Department of Environmental Quality - Laboratory Services

From General Fund	900,000
From Beginning Nonlapsing Balances	250,000

Schedule of Programs:

Laboratory Services	1,150,000

OFFICE OF THE GOVERNOR

ITEM 83

To Office of the Governor - Colorado River Authority of Utah

From Expendable Receipts	160,100
From General Fund Restricted - Colorado River Authority of Utah Restricted Account	1,663,200
From Beginning Nonlapsing Balances	14,544,600
From Closing Nonlapsing Balances	(8,848,100)

Schedule of Programs:

Colorado River Authority of Utah - - -

ITEM 90

To Department of Natural Resources - Forestry, Fire, and State Lands

From General Fund	13,905,900
From Federal Funds	8,930,600
From Dedicated Credits Revenue	13,961,200
From General Fund Restricted - Sovereign Lands Management	6,278,800
From Revenue Transfers	25,092,400
From Beginning Nonlapsing Balances	25,870,700

Schedule of Programs:

Division Administration	2,159,700
Fire Management	4,964,100
Fire Suppression Emergencies	30,258,600
Forest Management	4,834,800
Lands Management	2,664,300
Lone Peak Center	7,992,800
Program Delivery	11,739,700
Project Management	29,425,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report on the following Forestry, Fire, and State Lands line item performance measures for FY 2026: 1. Acres of Hazardous Fuel Reduction Treatments (Target = 7,500); 2. Communities With 'Tree City USA' Recognition (Target = 72); and 3. Number of Trained Firefighters (Target = 3,246).

ITEM 91

To Department of Natural Resources - Oil, Gas, and Mining

From Federal Funds	14,485,300
From Dedicated Credits Revenue	302,300
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining	3,655,100
From Gen. Fund Rest. - Oil & Gas Conservation Account	5,322,400
From Beginning Nonlapsing Balances	4,568,100

Schedule of Programs:

Abandoned Mine	11,526,300
Administration	2,767,100
Board	450,400
Coal Program	2,654,500
Minerals Reclamation	2,540,700
OGM Misc. Nonlapsing	3,418,100
Oil and Gas Program	4,976,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report on the following Oil, Gas, and Mining line item performance measures for FY 2026: 1. Average Number of Days Between Well Inspections (Target = 365); 2. Average Number of Days to Conduct Inspections for Priority 1 Sites (Target = 90); and 3. Timing of Issuing Large Mine Mineral Permits (Target = 100%).

ITEM 92

To Department of Natural Resources - Species Protection

From Designated Sales Tax	2,450,000
From General Fund Restricted - Species Protection	1,069,200
From Beginning Nonlapsing Balances	400,000

Schedule of Programs:

Species Protection	3,919,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report on the following Species Protection line item performance measures for FY 2026: 1. Delisting or Downlisting (Target = 1); 2. June Sucker Population Enhancement (Target = 5,000); and 3. Red Shiner Eradication from 37 miles of the Virgin River in Utah (Target = 100%).

ITEM 93

To Department of Natural Resources - Utah Geological Survey

From General Fund	5,829,700
From Federal Funds	1,688,500
From Dedicated Credits Revenue	774,400
From General Fund Restricted - Utah Geological SurveRestricted Account	755,200
From General Fund Restricted - Mineral Lease	2,382,300
From Gen. Fund Rest. - Land Exchange Distribution Account	27,900
From Revenue Transfers	2,538,800
From Beginning Nonlapsing Balances	1,272,200

Schedule of Programs:

Administration	1,275,300
Board	3,000
Energy and Minerals	4,058,200

Geologic Hazards - - -

From General Fund - - -

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

ITEM 102

To School and Institutional Trust Lands Administration - School and Institutional Trust Lands Administration Operations

From Land Grant Management Fund - - -

To Department of Environmental Quality - Hazardous Substance Mitigation Fund
From Dedicated Credits Revenue - - -

Wild Game Meat Donation Fund - - -

Water Quality - - -

General Fund Restricted - Constitutional Defense Restricted Account - 1,042,400

ITEM 131

To General Fund Restricted - Federal Overreach Restricted Account
From Beginning Fund Balance - 4,773,000
From Closing Fund Balance - (4,773,000)

ITEM 132

To General Fund Restricted - Great Salt Lake Account
From General Fund - 2,500,000
From Beginning Fund Balance - 12,500,000
Schedule of Programs:
General Fund Restricted - Great Salt Lake Account - 15,000,000

Section 3. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 3(a). Operating and Capital Budgets

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

DEPARTMENT OF NATURAL RESOURCES

ITEM 133

To Department of Natural Resources - Public Lands Policy Coordinating Office
From General Fund - 3,442,100
From Dedicated Credits Revenue - 5,000
From General Fund Restricted - Constitutional Defense - 1,462,600
From Beginning Nonlapsing Balances - 4,264,000
Schedule of Programs:
Administration - 5,163,700
Case Preparation & Coordination - 1,193,600
Data Management - 549,200
Litigation - 1,575,000
Planning - 692,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report on the following Public Lands Policy Coordinating Office line item performance measures for FY 2026: 1. Number of Presentations on Public Land Management at Conferences, Events, and Expositions (Target = 15); 2. Number of Settlements, Litigation Successes, and Favorable Federal Policy Decisions (Target = 10); and 3. Percent of R.S. 2477 Road Miles Documented (Target = 82%).

ITEM 134

To Department of Natural Resources - State Parks
From General Fund - 4,869,000
From Federal Funds - 164,500
From Dedicated Credits Revenue - 1,239,600
From Expendable Receipts - 137,000
From General Fund Restricted - State Park Fees - 37,896,000
From Revenue Transfers - 147,200
Schedule of Programs:
Executive Management - 984,200
Support Services - 5,799,800
Recreational Parks - 28,295,100
Golf Courses - 4,289,200
Heritage Parks - 4,085,000
This Is The Place Park - 1,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report on the following State Parks line item performance measures for FY 2026: 1. Gate Revenue (Target = $40,000,000); 2. Total Revenue Collections (Target = $48,000,000); and 3. Visitor Satisfaction (Target = 100%).

ITEM 135

To Department of Natural Resources - State Parks - Capital
From Federal Funds - 4,293,400
From Expendable Receipts - 178,000
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account - - - - - - - - - - - - - - 6,759,600
From General Fund Restricted - State Park Fees - 1,054,400
From Beginning Nonlapsing Balances - 77,455,000
Schedule of Programs:

Donated Capital Projects - - -

CHAPTER 9
S. B. 7
Passed January 30, 2025
Approved February 14, 2025
Effective July 1, 2025

SOCIAL SERVICES BASE BUDGET

Chief Sponsor: Keven J. Stratton
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates ($180,618,200) in operating and capital budgets for fiscal year 2025, including:

- ($82,732,200) from General Fund; and
- $0 from Income Tax Fund; and
- ($97,886,000) from various sources as detailed in this bill.

This bill appropriates $1,592,100 in expendable funds and accounts for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $5,061,600 in business-like activities for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates ($129,323,000) in restricted fund and account transfers for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $8,371,722,200 in operating and capital budgets for fiscal year 2026, including:

- $1,537,765,800 from General Fund; and
- $4,329,500 from Income Tax Fund; and
- $6,829,626,900 from various sources as detailed in this bill.

This bill appropriates $2,002,900 in expendable funds and accounts for fiscal year 2026, including:

- $300,000 from General Fund; and
- $1,702,900 from various sources as detailed in this bill.

This bill appropriates $3,303,200 in business-like activities for fiscal year 2026, all of which is from the various sources as detailed in this bill.

This bill appropriates $162,859,900 in restricted fund and account transfers for fiscal year 2026, including:

- $44,589,900 from General Fund; and
- $118,270,000 from various sources as detailed in this bill.

This bill appropriates $221,493,900 in fiduciary funds for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2025.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 1(a). Operating and Capital Budgets

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ITEM 1

To Department of Health and Human Services - Operations
From Federal Funds, One-time - - -

From Beginning Nonlapsing Balances - - -

Schedule of Programs:
Child & Family Services - - -

ITEM 14

To Department of Health and Human Services - Brain and Spinal Cord Injury Fund
From Beginning Fund Balance - - -

To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Beginning Fund Balance - - -

To Department of Health and Human Services - Utah State Hospital Patient Trust Fund
From Beginning Fund Balance (229,600)
From Closing Fund Balance 229,600

Section 2. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 2(a). Operating and Capital Budgets

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ITEM 36

To Department of Health and Human Services - Operations
From General Fund 31,122,000
From Income Tax Fund 586,500
From Federal Funds 6,972,100
From Dedicated Credits Revenue 3,288,100
From Medicaid ACA Fund 5,100
From Revenue Transfers 451,900
From Beginning Nonlapsing Balances 4,642,000
From Closing Nonlapsing Balances (3,372,000)
Schedule of Programs:
Executive Director Office 5,206,500
Ancillary Services 8,854,800
Finance & Administration 12,238,100
Data, Systems, & Evaluations 9,736,500
Public Affairs, Education & Outreach 2,108,600
American Indian / Alaska Native 660,600
Continuous Quality Improvement 2,840,600
Customer Experience 2,050,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Operations line item performance measures for FY 2026: 1. Number of DHHS audit recommendations unresolved after one year (Target = 5); 2. Percent of key data systems that are modernized, optimized, and integrated by 2026 (American Rescue Plan Act project tracking) (Target = 100%); and 3. Percent of strategic objectives that are due and completed per fiscal year (Target = 80%).

ITEM 37

To Department of Health and Human Services - Clinical Services
From General Fund 13,252,300
From Income Tax Fund 3,311,700
From Federal Funds 3,014,600
From Expendable Receipts 196,300
From Dedicated Credits Revenue 9,304,100
From Department of Public Safety Restricted Account 463,700
From Gen. Fund Rest. - State Lab Drug Testing Account 787,000
From Revenue Transfers 1,221,200
Schedule of Programs:
Medical Examiner 10,944,500
State Laboratory 15,757,400
Health Equity 1,537,300
Medical Education Council 1,261,700
Medical Residency Grant Program 1,500,000
Forensic Psychiatry Grant Program 550,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Clinical Services line item performance measures for FY 2026: 1. Percent of operational units or offices that increase their activity score after participating in the Building Organizational Capacity project (Target = 100%); 2. Percentage of autopsy reports completed within 60 days (Target = 90%); and 3. Percentage of turnaround times standards met (Target = 90%).

ITEM 38

To Department of Health and Human Services - Department Oversight
From General Fund 9,505,600
From Federal Funds 6,687,000
From Dedicated Credits Revenue 2,440,800
From Revenue Transfers 3,326,300
From Beginning Nonlapsing Balances 4,212,000

From Closing Nonlapsing Balances - - -

From Income Tax Fund - 201,300
From Federal Funds - 14,735,600
From Expendable Receipts - 1,400,000
From Dedicated Credits Revenue - 1,624,500
From General Fund Restricted - Division of Services for People with Disabilities Restricted Account - 4,017,400
From Revenue Transfers - 420,376,200
Schedule of Programs:
Aging & Adult Services - 21,802,900
Adult Protective Services - 5,451,000
Office of Public Guardian - 1,428,400
Aging Waiver Services - 2,008,200
Services for People with Disabilities - 14,587,000
Community Supports Waiver Services - 563,681,100
Disabilities - Non Waiver Services - 2,765,500
Disabilities - Other Waiver Services - 45,859,600
Utah State Developmental Center - 63,487,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Long-Term Services & Support line item performance measures for FY 2026: 1. People Receiving Supports in their home or a Family Member's Home Rather Than a Residential Setting (Target = 57%); 2. Percent of Adults Who Report that Services and Supports Help Them Live a Good Life (Target = 92%); 3. Percent of individuals who do not currently have a paid job in the community, but would like a job in the community (NCI) (Target = 44%); 4. Percent of Office of the Public Guardian (OPG) referrals where an alternative to guardianship with OPG is made (Target = 60%); and 5. The percentage of APS clients who accept referrals to community services (Target = 60%).

ITEM 42

To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From General Fund - 13,184,400
From Federal Funds - 137,103,000
From Expendable Receipts - Rebates - 3,746,600
From Expendable Receipts - 1,825,100
From Dedicated Credits Revenue - 244,000
From General Fund Restricted - Cancer Research Account - 20,000
From General Fund Restricted - Cigarette Tax Restricted Account - 3,150,000
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account 9,518,400
From General Fund Restricted - Opioid Litigation Proceeds Restricted Account - 443,400
From General Fund Restricted - Tobacco Settlement Account - 3,458,800
From Revenue Transfers - 6,430,700
Schedule of Programs:
Communicable Diseases - 13,471,900
Health Promotion and Prevention - 21,150,000
Preparedness and Response - 2,151,400
Local Health Departments - 106,016,100
Population Health - 1,436,100
State Epidemiology Inform Survey & Public Health Infrastructure - 6,385,100
Emerging Infections & Surge Response - 28,513,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Public Health, Prevention, and Epidemiology line item performance measures for FY 2026: 1. Decrease the Percent of Utah Adults Who Report Fair or Poor General Health in Very High Health Improvement Index Areas (Target = 1%); 2. Decreasing the number of Utahns who experience a preventable illness or injury of public health concern (Target = 149); 3. Percentage of Rules, Disease Plans, and Response Plans That Are Current (Target = 95%); and 4. Proportion of State and Private Funding Vs Total Funds Allocated to Essential Public Health Services (Target = 20).

ITEM 43

To Department of Health and Human Services - Children, Youth, & Families
From General Fund - 206,818,200
From General Fund, One-time - 520,000
From Income Tax Fund - 173,600
From Federal Funds - 148,985,500
From Expendable Receipts - 582,000
From Dedicated Credits Revenue - 2,546,800
From Expendable Receipts - Rebates - 7,985,300
From General Fund Restricted - Adult Autism Treatment Account - 1,566,100
From General Fund Restricted - Victim Services Restricted Account - 3,204,900
From General Fund Restricted - Children's Account - 340,000
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp. - 112,200
From General Fund Restricted - National Professional Men's Basketball Team Support of Women and Children Issues - 101,600
From Revenue Transfers - (1,510,300)

From Beginning Nonlapsing Balances - - -

evidence of refusal) (Target = 90%); 3. Percentage of inmates failing to keep appointments (Target = 10%); and 4. Percentage of Mental Health screenings completed within 14 days of admission (Target = 90%).

Subsection 2(b). Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ITEM 47

To Department of Health and Human Services - Brain and Spinal Cord Injury Fund

From General Fund	200,000
From Dedicated Credits Revenue	450,000
From Beginning Fund Balance	669,000

Schedule of Programs:

Brain and Spinal Cord Injury Fund	1,319,000

ITEM 48

To Department of Health and Human Services - Maurice N. Warshaw Trust Fund

From Interest Income	1,000
From Beginning Fund Balance	175,500
From Closing Fund Balance	(176,500)

ITEM 49

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

From Dedicated Credits Revenue	75,600
From Interest Income	3,000
From Beginning Fund Balance	124,300
From Closing Fund Balance	(124,300)

Schedule of Programs:

Out and About Homebound Transportation Assistance Fund	78,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Out and About Homebound Transportation Assistance Fund line item performance measure for FY 2026: 1. Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

ITEM 50

To Department of Health and Human Services - Utah State Developmental Center Long-Term Sustainability Fund

From Dedicated Credits Revenue	12,100
From Interest Income	14,500
From Revenue Transfers	38,700
From Beginning Fund Balance	33,016,000
From Closing Fund Balance	(33,016,000)

Schedule of Programs:

Utah State Developmental Center Long-Term Sustainability Fund	65,300

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Utah State Developmental Center Long-Term Sustainability Fund line item performance measure for FY 2026: 1. Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

ITEM 51

To Department of Health and Human Services - Utah State Developmental Center Miscellaneous Donation Fund

From Dedicated Credits Revenue	6,000
From Interest Income	6,000
From Beginning Fund Balance	618,600
From Closing Fund Balance	(618,600)

Schedule of Programs:

Utah State Developmental Center Miscellaneous Donation Fund	12,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Utah State Developmental Center Miscellaneous Donation Fund line item performance measure for FY 2026: 1. Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

ITEM 52

To Department of Health and Human Services - Utah State Developmental Center Workshop Fund

From Dedicated Credits Revenue	140,000
From Beginning Fund Balance	17,400
From Closing Fund Balance	(17,400)

Schedule of Programs:

Utah State Developmental Center Workshop Fund	140,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Utah State Developmental Center Workshop Fund line item performance measure for FY 2026: 1. Internal Reviews of the Utah State Developmental Center Workshop Fund (Target = 1).

ITEM 53

To Department of Health and Human Services - Utah State Hospital Unit Fund

From Dedicated Credits Revenue	42,400
From Interest Income	8,000
From Beginning Fund Balance	253,100
From Closing Fund Balance	(253,100)
Schedule of Programs:	
Utah State Hospital Unit Fund	50,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Utah State Hospital Unit Fund line item performance measure for FY 2026: 1. Internal Reviews of the Utah State Hospital Unit Fund (Target = 1).

ITEM 54

To Department of Health and Human Services - Mental Health Services Donation Fund

From General Fund	100,000
From Beginning Fund Balance	430,400
From Closing Fund Balance	(430,400)
Schedule of Programs:	
Mental Health Services Donation Fund	100,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Mental Health Services Donation Fund line item performance measure for FY 2026: 1. Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

ITEM 55

To Department of Health and Human Services - Suicide Prevention and Education Fund

From Beginning Fund Balance	1,229,800
From Closing Fund Balance	(1,229,800)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Suicide Prevention and Education Fund line item performance measure for FY 2026: 1. Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

ITEM 56

To Department of Health and Human Services - Pediatric Neuro-Rehabilitation Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Pediatric Neuro-Rehabilitation Fund line item performance measure for FY 2026: 1. Percentage of children that had an increase in functional activity (Target = 70%).

ITEM 57

To Department of Health and Human Services - Licensed Provider Assessment Fund

From Beginning Fund Balance	604,600
From Closing Fund Balance	(604,600)

Subsection 2(c). Business-like Activities

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ITEM 58

To Department of Health and Human Services - Qualified Patient Enterprise Fund

From Dedicated Credits Revenue	5,493,800
From Beginning Fund Balance	8,475,300
From Closing Fund Balance	(10,665,900)
Schedule of Programs:	
Qualified Patient Enterprise Fund	3,303,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Qualified Patient Enterprise Fund line item performance measure for FY 2026: 1. Audit compliance rate of recommending medical providers, medical cannabis cardholders, and pharmacy medical providers (Target = 95%).

Subsection 2(d). Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 59

To Medicaid ACA Fund
From General Fund - - -

To Department of Health and Human Services - Utah State Hospital Patient Trust Fund

From Trust and Agency Funds - - -

From Revenue Transfers - - -

CHAPTER 10
H. B. 267
Passed February 6, 2025
Approved February 14, 2025
Effective July 1, 2025

PUBLIC SECTOR LABOR UNION AMENDMENTS

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

LONG TITLE

General Description:

This bill amends provisions governing public employee, public safety, and public fire labor organizations.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires a labor organization for which a public employer collects union dues to provide an annual accounting to the labor organization members and to the Labor Commission;
- ► prohibits a public employer from recognizing a labor organization as a bargaining agent for public employees;
- ► prohibits a public employer from entering into collective bargaining contracts;
- ► prohibits using public money or public property to assist, promote, or deter union organizing or administration;
- ► excludes new labor organization employees from participating in Utah Retirement Systems;
- ► authorizes the state risk manager to acquire and administer professional liability insurance for:
  - • disputes between a K-12 personnel and a public employer; and
  - • other public employees if there is a sufficient demand; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-3-1109, as enacted by Laws of Utah 2003, Chapter 284
17-33-11.5, as enacted by Laws of Utah 2003, Chapter 284
17B-1-804, as last amended by Laws of Utah 2023, Chapter 15
49-11-202, as last amended by Laws of Utah 2020, Chapter 352
49-11-205, as last amended by Laws of Utah 2023, Chapter 16
49-12-202, as last amended by Laws of Utah 2023, Chapter 328
49-13-202, as last amended by Laws of Utah 2023, Chapter 328
49-22-202, as last amended by Laws of Utah 2018, Chapter 415
63A-4-101.5, as last amended by Laws of Utah 2022, Chapter 169

ENACTS:

34-32-202, Utah Code Annotated 1953
49-11-627, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

34-32-101, (Renumbered from 34-32-1, as last amended by Laws of Utah 2011, Chapter 220)
34-32-102, (Renumbered from 34-32-1.1, as last amended by Laws of Utah 2023, Chapter 16)
34-32-201, (Renumbered from 34-32-2, as enacted by Laws of Utah 1969, Chapter 85)
34-32-301, (Renumbered from 34-32-3, as last amended by Laws of Utah 2018, Chapter 148)
34-32-401, (Renumbered from 34-32-4, as last amended by Laws of Utah 2011, Chapter 297)

REPEALS:

34-20a-1, as last amended by Laws of Utah 1995, Chapter 20
34-20a-2, as last amended by Laws of Utah 1995, Chapter 20
34-20a-3, as enacted by Laws of Utah 1975, Chapter 102
34-20a-4, as enacted by Laws of Utah 1975, Chapter 102
34-20a-5, as enacted by Laws of Utah 1975, Chapter 102
34-20a-6, as last amended by Laws of Utah 1995, Chapter 20
34-20a-7, as enacted by Laws of Utah 1975, Chapter 102
34-20a-8, as enacted by Laws of Utah 1975, Chapter 102
34-20a-9, as enacted by Laws of Utah 1975, Chapter 102

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

Section 1. Section 10-3-1109 is amended to read:
10-3-1109. Compliance with Labor Code requirements.

Each municipality shall comply with the requirements of Section [~~34-32-1.1~~]34-32-102.

Section 2. Section 17-33-11.5 is amended to read:
17-33-11.5. Compliance with Labor Code requirements.

Each county shall comply with the requirements of Section [~~34-32-1.1~~]34-32-102.

Section 3. Section 17B-1-804 is amended to read:
17B-1-804. Compliance with Labor Code requirements.

Each special district shall comply with the requirements of Section [~~34-32-1.1~~]34-32-102.

Section 4. Section 34-32-101, which is renumbered from Section 34-32-1 is renumbered and amended to read:

CHAPTER 32. PUBLIC SECTOR LABOR ORGANIZATIONS

PART 1. General Provisions

[~~34-32-1~~]34-32-101. Definitions.

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

[~~(a) "Employee" means a person employed by any person, partnership, public, private, or municipal corporation, school district, the state, or any political subdivision of the state.~~]

[~~(b) "Employer" means the person or entity employing an employee.~~]

[~~(c) (i) "Labor organization" means a lawful organization of any kind that is composed, in whole or in part, of employees, and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of employment.~~]

[~~(ii) Except as provided in Subsection (1)(c)(iii), "labor organization" includes each employee association and union for employees of public and private sector employers.~~]

[~~(iii) "Labor organization" does not include organizations governed by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq. or the Railroad Labor Act, 45 U.S.C. Sec. 151 et seq.~~]

[~~(d) "Union dues" means dues, fees, money, or other assessments required as a condition of membership or participation in a labor organization.~~]

[~~(2) An employee may direct an employer, in writing, to deduct from the employee's wages a specified sum for union dues, not to exceed 3% per month, to be paid to a labor organization designated by the employee.~~]

[~~(3) An employer shall promptly commence or cease making deductions for union dues from the wages of an employee for the benefit of a labor organization when the employer receives a written communication from the employee directing the employer to commence or cease making deductions.~~]

[~~(4) An employee's request that an employer cease making deductions may not be conditioned upon a labor organization's:~~]

[~~(a) receipt of advance notice of the request; or~~]

[~~(b) prior consent to cessation of the deductions.~~]

[~~(5) A labor organization is not liable for any claim, service, or benefit that is:~~]

[~~(a) available only to a member of the labor organization; and~~]

[~~(b) terminated as a result of an employee's request that the employer cease making deductions for union dues.~~]

[~~(6) An employee may join a labor organization or terminate membership at any time. A person may not place a restriction on the time that an employee may join, or terminate membership with, a labor organization.~~]

[~~(7) An employee may not waive a provision of this section.~~]

(1) "Employee" means an individual employed by a person, partnership, public, private, or municipal corporation, school district, the state, or a political subdivision of the state.

(2) "Employer" means the person employing an employee.

(3) (a) "Labor organization" means a lawful organization of any kind that is composed, in whole or in part, of employees, and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of employment.

(b) Except as provided in Subsection (3)(c), "labor organization" includes each employee association and union for employees of public and private sector employers.

(c) "Labor organization" does not include an organization that has entered into a labor agreement or labor protective agreement under the Urban Mass Transportation Act, 49 U.S.C. Sec. 5333(b).

(4) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, an individual to refrain from voting or to vote for or against any candidate for public office at any caucus, political convention, primary, or election.

(5) "Public employee" means an individual employed by a public employer.

(6) "Public employer" means an employer that is:

(a) the state of Utah or any administrative subunit of the state;

(b) a state institution of higher education; or

(c) a municipal corporation, a county, a municipality, a school district, a special district, a special service district, or any other political subdivision of the state.

(7) "Public money" means the same as that term is defined in Section 76-1-101.5.

(8) (a) "Public property" means real property, personal property, or intellectual property that is owned, held, or managed by a public employer.

(b) "Public property" includes a website, computer program, record, or data that is owned, held, or managed by a public employer.

(9) "Representative" means a labor organization representative.

(10) (a) "Union activity" means an activity that a labor organization, a member, or a representative performs that relates to:

(i) advocating the general interests of members in wages, benefits, or terms and conditions of employment;

(ii) enforcing the labor organization's internal policies and procedures;

(iii) fulfilling the labor organization's obligations;

(iv) advancing the labor organization's external relations; or

(v) union organizing.

(b) "Union activity" does not include advocating for a public employee in a specific employment dispute.

(11) "Union dues" means dues, fees, assessments, or other money required as a condition of membership or participation in a labor organization.

(12) "Union organizing" means communicating with a public employee in an effort to persuade the public employee to join or support a labor organization.

Section 5. Section 34-32-102, which is renumbered from Section 34-32-1.1 is renumbered and amended to read:

[~~34-32-1.1~~]34-32-102. Prohibiting public employers from collective bargaining -- Prohibiting the use of public money or public property for union activity.

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

[~~(a) (i) "Labor organization" means a lawful organization of any kind that is composed, in whole or in part, of employees and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of employment.~~]

[~~(ii) Except as provided in Subsection (1)(a)(iii), "labor organization" includes each employee association and union for public employees.~~]

[~~(iii) "Labor organization" does not include organizations governed by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq. or the Railroad Labor Act, 45 U.S.C. Sec. 151 et seq.~~]

[~~(b) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate for public office at any caucus, political convention, primary, or election.~~]

[~~(c) "Public employee" means a person employed by:~~]

[~~(i) the state of Utah or any administrative subunit of the state;~~]

[~~(ii) a state institution of higher education; or~~]

[~~(iii) a municipal corporation, a county, a municipality, a school district, a special district, a special service district, or any other political subdivision of the state.~~]

[~~(d) "Public employer" means an employer that is:~~]

[~~(i) the state of Utah or any administrative subunit of the state;~~]

[~~(ii) a state institution of higher education; or~~]

[~~(iii) a municipal corporation, a county, a municipality, a school district, a special district, a special service district, or any other political subdivision of the state.~~]

[~~(e) "Union dues" means dues, fees, assessments, or other money required as a condition of membership or participation in a labor organization.~~]

[~~(2)~~](1) A public employer may not deduct from the wages of [~~its~~]the public employer's employees any amounts to be paid to:

(a) a candidate as defined in Section 20A-11-101;

(b) a personal campaign committee as defined in Section 20A-11-101;

(c) a political action committee as defined in Section 20A-11-101;

(d) a political issues committee as defined in Section 20A-11-101;

(e) a registered political party as defined in Section 20A-11-101;

(f) a political fund as defined in Section 20A-11-1402; or

(g) any entity established by a labor organization to solicit, collect, or distribute money primarily for political purposes as defined in this chapter.

(2) (a) Notwithstanding Section 34-19-1, a public employer may not recognize a labor organization as a bargaining agent of public employees or collectively bargain or enter into any collective bargaining contract with a labor organization or a representative.

(b) (i) For a public employer with a collective bargaining agreement in effect on May 7, 2025, Subsection (2)(a) applies on the day on which the collective bargaining agreement expires.

(ii) A public employer may not enter into a new collective bargaining agreement or renew, extend, or modify an existing collective bargaining agreement.

(3) A public employer may not use public money or public property to:

(a) assist or support union activity;

(b) compensate a public employee or a third party for union activity; or

(c) provide a public employee paid leave that is in addition to the public employee's regularly accrued leave to allow the public employee to participate in union activity.

(4) A labor organization, member, or representative may not receive public money or use public property in a manner that violates Subsection (3).

(5) Nothing in Subsection (3) or (4) prohibits:

(a) a public employer from:

(i) spending public money or using public property for performing an activity required by federal law or state law; or

(ii) compensating a public employee for annual leave, sick leave, or other leave that the public employee accrues as a benefit of the public employee's employment, provided the public employer gives the compensation on the same terms as any other public employee;

(b) a labor organization or a representative from accessing public property that is real property:

(i) in the same manner and to the same extent as the public employer allows access to any other external individual or entity; or

(ii) on a limited case-by-case basis, at the public employer's invitation, and if the public employer determines that allowing the labor organization or representative access to the public property is in the public employees' best interests; or

(c) a public employee from engaging in discussion with other individuals in the workplace during the public employee's break or when the public employee may discuss non-work related matters.

[~~(3) The attorney general may bring an action to require a public employer to comply with the requirements of this section.~~]

Section 6. Section 34-32-201, which is renumbered from Section 34-32-2 is renumbered and amended to read:

PART 2. Assignments

[~~34-32-2~~]34-32-201. Assignments to farm organizations -- Effect.

Whenever any producer of farm products within the state executes and delivers to a dealer or processor of farm products, either as a clause in a sales agreement or other instrument in writing, whereby such processor or dealer is directed to deduct a sum or a rate not exceeding 3% of the price to be paid for any such produce, such processor or dealer shall deduct from the price to be paid for any farm product being sold by any such producer to any such processor or dealer, the amount so authorized and the producer or dealer shall pay the same to a farm organization as assignee.

Section 7. Section 34-32-202 is enacted to read:

34-32-202. Assignments to labor organizations -- Effect -- Reporting requirement.

(1) (a) A public employee may direct a public employer, in writing, to deduct from the public employee's wages a specified sum for union dues, not to exceed 3% per month, to be paid to a labor organization designated by the public employee.

(b) A public employer shall verify the labor organization is accepting union dues from the public employee before deducting the specified sum for union dues.

(2) A public employer shall promptly commence or stop making deductions for union dues from the wages of a public employee for the benefit of a labor organization when the public employer receives a written communication from the public employee directing the public employer to commence or stop making deductions.

(3) A public employee's request that a public employer stop making deductions may not be conditioned upon a labor organization's:

(a) receipt of advance notice of the request; or

(b) consent to stop the deductions.

(4) A labor organization is not liable for any claim, service, or benefit that is:

(a) available only to a member of the labor organization; and

(b) terminated as a result of a public employee's request that the public employer stop making deductions for union dues.

(5) (a) A public employee may join a labor organization or terminate membership at any time.

(b) A person may not place a restriction on the time that a public employee may join or terminate participation with a labor organization.

(6) A public employee may not waive a provision of this section.

(7) On April 1 of each year, a labor organization that receives union dues using payroll deduction shall report to the labor organization's members and to the Labor Commission for the preceding calendar year:

(a) the amount the labor organization spent on:

(i) representing union members in disputes;

(ii) lobbying;

(iii) giving to political donations and other political activities; and

(iv) giving to affiliate or umbrella organizations; and

(b) the number of members in the labor organization.

(8) Nothing in this section provides public employees a right to collective bargaining.

Section 8. Section 34-32-301, which is renumbered from Section 34-32-3 is renumbered and amended to read:

PART 3. Enforcement

[~~34-32-3~~]34-32-301. Failure to comply -- Penalty -- Attorney general to enforce.

(1) Any employer, dealer, or processor who willfully fails to comply with the duties imposed by [~~this chapter~~]Section 34-32-102 is guilty of a class B misdemeanor.

(2) The attorney general may bring a civil action to require compliance with a provision of this chapter.

Section 9. Section 34-32-401, which is renumbered from Section 34-32-4 is renumbered and amended to read:

PART 4. Exceptions

[~~34-32-4~~]34-32-401. Exceptions from chapter.

(1) The provisions of this chapter do not apply to carriers as that term is defined in the Railway Labor Act passed by the Congress of the United States, June 21, 1934[~~.~~], 48 Stat. 1189, U.S. Code, Title 45, Section 151.

(2) Nothing in this chapter is intended to, or may be construed to, preempt any requirement of federal law.

Section 10. Section 49-11-202 is amended to read:

49-11-202. Establishment of Utah State Retirement Board -- Quorum -- Terms -- Officers -- Expenses and per diem.

(1) There is established the Utah State Retirement Board composed of seven board members determined as follows:

(a) [~~Four~~]four board members, with experience in investments or banking, shall be appointed by the governor from the general public[~~.~~];

(b) [~~One~~]one board member shall be a school employee appointed by the governor [~~from at least three nominations submitted by the governing board of the school employees' association that is representative of a majority of the school employees who are members of a system administered by the board.~~];

(c) [~~One~~]one board member shall be a public employee appointed by the governor [~~from at least three nominations submitted by the governing board of the public employee association that is representative of a majority of the public employees who are members of a system administered by the board.~~]; and

(d) [~~One~~]one board member shall be the state treasurer.

(2) Four board members constitute a quorum for the transaction of business.

(3) (a) All appointments to the board shall be made on a nonpartisan basis, with the advice and consent of the Senate.

(b) Board members shall serve until their successors are appointed and take the constitutional oath of office.

(c) When a vacancy occurs on the board for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) Except as required by Subsection (4)(b), all appointed board members shall serve for four-year terms.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that:

(i) approximately half of the board is appointed every two years; and

(ii) no more than two of the board members appointed under Subsection (1)(a) are appointed every two years.

(c) A board member who is appointed as a school employee or as a public employee who retires or who is no longer employed with a participating employer shall immediately resign from the board.

(5) (a) Each year the board shall elect a president and vice president from its membership.

(b) A board member may not receive compensation or benefits for the board member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 11. Section 49-11-205 is amended to read:

49-11-205. Membership Council established -- Members -- Chair -- Duties -- Expenses and per diem.

(1) There is established a Membership Council to perform the duties under Subsection (5).

(2) (a) The Membership Council shall be composed of 15 council members [~~selected as follows:~~].

(b) The office shall select 11 council members for the Membership Council as follows:

[~~(a)~~](i) three council members shall be school employees [~~selected by the governing board of an association~~]representative of a majority of school employees who are members of a system administered by the board;

[~~(b)~~](ii) one council member shall be a classified school employee [~~selected by the governing board of the association~~]representative of a majority of classified school employees who are members of a system administered by the board;

[~~(c)~~](iii) two council members shall be public employees [~~selected by the governing board of the association~~]representative of a majority of the public employees who are members of a system administered by the board;

(iv) one council member shall be a representative of members of the Public Safety Retirement System;

(v) one council member shall be a representative of paid professional firefighters who are members of the Firefighters' Retirement System;

(vi) one council member shall be a retiree representing retirees, who are not public education retirees, from the Public Employees' Contributory Retirement System, Public Employees' Noncontributory Retirement System, and New Public Employees' Tier II Contributory Retirement System;

(vii) one council member shall be a retiree representing the largest number of public education retirees; and

(viii) one council member shall be a school business official representative of a majority of the school business officials from public education employers who participate in a system administered by the board.

[~~(g) one council member shall be a representative of members of the Public Safety Retirement Systems selected by the governing board of the association representative of the majority of peace officers who are members of the Public Safety Retirement Systems;~~]

[~~(h) one council member shall be a representative of members of the Firefighters' Retirement System selected by the governing board of the association representative of the majority of paid professional firefighters who are members of the Firefighters' Retirement System;~~]

[~~(i) one council member shall be a retiree selected by the governing board of the association representing the largest number of retirees, who are not public education retirees, from the Public Employees' Contributory, Public Employees' Noncontributory, and New Public Employees' Tier II Contributory Retirement Systems;~~]

[~~(j) one council member shall be a retiree selected by the governing board of the association representing the largest number of public education retirees;~~]

[~~(k) one council member shall be a school business official selected by the governing board of the association representative of a majority of the school business officials from public education employers who participate in a system administered by the board; and~~]

(c) Four members for the Membership Council are as follows:

[~~(d)~~](i) one council member shall be a municipal officer or employee selected by the governing board of the association representative of a majority of the municipalities who participate in a system administered by the board;

[~~(e)~~](ii) one council member shall be a county officer or employee selected by the governing board of the association representative of a majority of counties who participate in a system administered by the board;

[~~(f)~~](iii) one council member shall be a representative of members of the Judges' Noncontributory Retirement System selected by the Judicial Council; and

[~~(i)~~](iv) one council member shall be a special district officer or employee selected by the governing board of the association representing the largest number of special service districts and special districts who participate in a system administered by the board.

(3) (a) Each entity granted authority to select council members under Subsection (2) may also revoke the selection at any time.

(b) Each term on the council shall be for a period of four years, subject to Subsection (3)(a).

(c) Each term begins on July 1 and expires on June 30.

(d) When a vacancy occurs on the council for any reason, the replacement shall be selected for the remainder of the unexpired term.

(4) The council shall annually designate one council member as chair.

(5) The council shall:

(a) recommend to the board and to the Legislature benefits and policies for members of any system or plan administered by the board;

(b) recommend procedures and practices to improve the administration of the systems and plans and the public employee relations responsibilities of the board and office;

(c) examine the record of all decisions affecting retirement benefits made by a hearing officer under Section 49-11-613;

(d) submit nominations to the board for the position of executive director if that position is vacant;

(e) advise and counsel with the board and the director on policies affecting members of the various systems administered by the office; and

(f) perform other duties assigned to it by the board.

(6) A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 12. Section 49-11-627 is enacted to read:

49-11-627. Withdrawing public employees' association -- Participation election date -- Withdrawal costs -- Rulemaking.

(1) As used in this section, "withdrawing entity" means a public employees' association that participates in a system or plan under this title on January 1, 2025.

(2) Notwithstanding any other provision of this title, a withdrawing entity shall provide for the participation of the withdrawing entity's employees with that system or plan as follows:

(a) the withdrawing entity shall determine a date that is before July 1, 2027, on which the withdrawing entity shall complete withdrawal under Subsection (3);

(b) the withdrawing entity shall provide to the office notice of the withdrawing entity's intent to enter into an agreement described in Subsection (2)(c);

(c) the withdrawing entity and the office shall enter into an intent to withdraw agreement to document a good faith arrangement to complete a withdrawal under this section; and

(d) subject to Subsection (3), the withdrawing entity shall pay to the office any reasonable actuarial and administrative costs determined by the office, including an actuarially determined short-fall liability contribution and a contingency payment to provide financial protection to the remaining participating employers.

(3) The withdrawing entity shall:

(a) continue the withdrawing entity's participation for all of the withdrawing entity's current employees who are covered by a system or plan on the date set under Subsection (2)(a); and

(b) withdraw from participation in all systems and plans for employees initially entering employment with the withdrawing entity, beginning on the date set under Subsection (2)(a).

(4) Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on:

(a) the costs described under Subsection (2)(d); and

(b) arrangements for the payment of the costs described under Subsection (2)(d).

Section 13. Section 49-12-202 is amended to read:

49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Exceptions -- Nondiscrimination requirements.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to participation in this system, a participating employer may provide or participate in public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for the participating employer's employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system prior to January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for the employer's employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3, Charter School Authorization, and does not elect to participate in accordance with Section 53G-5-407;

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (4); or

(d) an employer that is licensed as a nursing care facility under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes an election of nonparticipation in accordance with Subsection (4).

(3) (a) An employer who did not become a participating employer in this system prior to July 1, 1986, may not participate in this system.

(b) A public employees' association may not become a participating employer after January 1, 2025.

(4) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (4)(a):

(i) is a one-time election made no later than the time specified under Subsection (4)(a);

(ii) shall be documented by a resolution adopted by the governing body of the special service district;

(iii) is irrevocable; and

(iv) applies to the special service district as the employer and to all employees of the special service district.

(c) The governing body of the special service district may offer employee benefit plans for special service district's employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(5) (a) If a participating employer purchases service credit on behalf of a regular full-time employee for service rendered prior to the participating employer's admission to this system, the participating employer shall:

(i) purchase service credit in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered; and

(ii) comply with the provisions of Section 49-11-403, except for the requirement described in Subsection 49-11-403(2)(a).

(b) For a purchase made under this Subsection (5), an employee is not required to:

(i) have at least four years of service credit before the purchase can be made; or

(ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

Section 14. Section 49-13-202 is amended to read:

49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Nondiscrimination requirements -- Service credit purchases.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to participation in this system, a participating employer may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for the participating employer's employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system before January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for the employer's employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3, Charter School Authorization, and does not elect to participate in accordance with Section 53G-5-407;

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (5);

(d) an employer that is licensed as a nursing care facility under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes an election of nonparticipation in accordance with Subsection (5); or

(e) an employer that is a risk management association initially created by interlocal agreement before 1986 for the purpose of implementing a self-insurance joint protection program for the benefit of member municipalities of the association.

(3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to provide or participate in any type of public or private retirement, supplemental or defined contribution plan, either directly or indirectly, except for Social Security, the employer shall be a participating employer in this system regardless of whether the employer has applied for admission under Subsection (4).

(4) (a) An employer may, by resolution of the employer's governing body, apply for admission to this system.

(b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.

(5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make an election of nonparticipation as an employer for retirement programs under this chapter.

(iii) On or before July 1, 2010, an employer described in Subsection (2)(e) may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (5)(a):

(i) is a one-time election made no later than the time specified under Subsection (5)(a);

(ii) shall be documented by a resolution adopted by the governing body of the employer;

(iii) is irrevocable; and

(iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all employees of that employer.

(c) The employer making an election under Subsection (5)(a) may offer employee benefit plans for the employer's employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(6) (a) If a participating employer purchases service credit on behalf of a regular full-time employee for service rendered prior to the participating employer's admission to this system, the participating employer shall:

(i) purchase service credit in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered; and

(ii) comply with the provisions of Section 49-11-403, except for the requirement described in Subsection 49-11-403(2)(a).

(b) For a purchase made under this Subsection (6), an employee is not required to:

(i) have at least four years of service credit before the purchase can be made; or

(ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

(7) A public employees' association may not become a participating employer after January 1, 2025.

Section 15. Section 49-22-202 is amended to read:

49-22-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements.

(1) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system before January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3, Charter School Authorization, and does not elect to participate in accordance with Section 53G-5-407; or

(c) an employer that is a risk management association initially created by interlocal agreement before 1986 for the purpose of implementing a self-insurance joint protection program for the benefit of member municipalities of the association.

(3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to provide or participate in any type of public or private retirement, supplemental or defined contribution plan, either directly or indirectly, except for Social Security, the employer shall be a participating employer in this system regardless of whether the employer has applied for admission under Subsection (4).

(4) (a) An employer may, by resolution of its governing body, apply for admission to this system.

(b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.

(5) If a participating employer purchases service credit on behalf of a regular full-time employee for service rendered prior to the participating employer's admission to this system, the participating employer:

(a) shall purchase credit in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered; and

(b) shall comply with the provisions of Section 49-11-403.

(6) A public employees' association may not become a participating employer after January 1, 2025.

Section 16. Section 63A-4-101.5 is amended to read:

63A-4-101.5. Risk manager -- Appointment -- Duties.

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

(a) "K-12 personnel" means a public employee of a local education agency.

(b) "Local education agency" means the same as that term is defined in Section 53E-1-102.

(2) (a) There is created within the department the Division of Risk Management.

(b) The executive director shall, with the approval of the governor, appoint a risk manager as the division director, who shall be qualified by education and experience in the management of general property and casualty insurance.

[~~(2)~~](3) The risk manager shall:

(a) except as provided in Subsection [~~(4)~~](5), acquire and administer the following purchased by the state or any captive insurance company created by the risk manager:

(i) all property and casualty insurance;

(ii) (A) professional liability insurance for K-12 personnel; and

(B) other professional liability insurance for public employees not covered under Subsection (3)(a)(ii)(A) if the risk manager determines there is sufficient demand;

[~~(ii)~~](iii) reinsurance of property[~~ and~~], casualty insurance, and professional liability insurance; and

[~~(iii)~~](iv) subject to Section 34A-2-203, workers' compensation insurance;

[~~(b)~~]

(b) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) prescribing reasonable and objective underwriting and risk control standards for:

(A) all covered entities of the Risk Management Fund; [~~and~~]

(B) management of the professional liability insurance described in Subsection (3)(a)(ii); and

[~~(B)~~](C) any captive insurance company created by the risk manager;

(ii) prescribing the risks to be covered by the Risk Management Fund and the extent to which these risks will be covered;

(iii) prescribing the properties, risks, deductibles, and amount limits eligible for payment out of the Risk Management Fund;

(iv) prescribing procedures for making claims and proof of loss; and

(v) establishing procedures for the resolution of disputes relating to coverage or claims, which may include binding arbitration;

(c) implement a risk management and loss prevention program for covered entities for the purpose of reducing risks, accidents, and losses to assist covered entities in fulfilling their responsibilities for risk control and safety;

(d) coordinate and cooperate with any covered entity having responsibility to manage and protect state properties, including:

(i) the state fire marshal;

(ii) the director of the Division of Facilities Construction and Management;

(iii) the Department of Public Safety;

(iv) institutions of higher education;

(v) school districts; and

(vi) charter schools;

(e) maintain records necessary to fulfill the requirements of this section;

(f) manage the Risk Management Fund and any captive insurance company created by the risk manager in accordance with economically and actuarially sound principles to produce adequate reserves for the payment of contingencies, including unpaid and unreported claims, and may purchase any insurance or reinsurance considered necessary to accomplish this objective; and

(g) inform the covered entity's governing body and the governor when any covered entity fails or refuses to comply with reasonable risk control recommendations made by the risk manager.

[~~(3)~~](4) Before the effective date of any rule, the risk manager shall provide a copy of the rule to each covered entity affected by it.

[~~(4)~~](5) The risk manager may not use a captive insurance company created by the risk manager to purchase:

(a) workers' compensation insurance;

(b) health insurance; or

(c) life insurance.

Section 17. Repealer.

This bill repeals:

Section 34-20a-1, Title.

Section 34-20a-2, Definitions.

Section 34-20a-3, Fire fighters' right to bargain collectively.

Section 34-20a-4, Exclusive bargaining representative -- Selection -- Exclusions from negotiating team.

Section 34-20a-5, Corporate authority duty -- Collective bargaining agreement -- No-strike clause.

Section 34-20a-6, Notice of request for collective bargaining -- Time.

Section 34-20a-7, Arbitration.

Section 34-20a-8, Procedure for arbitration.

Section 34-20a-9, Board of arbitration -- Determination -- Final and binding -- Exception -- Expense.

Section 18. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 11
H. B. 269
Passed February 10, 2025
Approved February 14, 2025
Effective June 1, 2025

PRIVACY PROTECTIONS IN SEX-DESIGNATED AREAS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies provisions regarding sex-designated privacy spaces in education and government facilities.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the Utah Board of Higher Education to provide guidance regarding student housing that degree-granting institutions own or control;
- ► provides a definitional change for nonprofit exceptions to and broadens the scope of a nonprofit educational institution exception to the Utah Fair Housing Act;
- ► narrows an exception for a prohibition on sex-based distinctions to apply only to a determination of the School Activity Eligibility Commission and a student's participation in a certain gender-designated interscholastic activity;
- ► removes an ambiguous medical treatment documentation provision from certain lists of evidence supporting an individual's access to certain sex-designated privacy spaces;
- ► amends provisions regarding government entity facility compliance to specify which government entity bears certain duties;
- ► requires degree-granting institutions to comply with sex designations in assigning students to dwelling units within the institution's sex-designated student housing; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53B-1-118, (Effective 06/01/25) as enacted by Laws of Utah 2024, Chapter 3
53G-6-1005, (Effective upon governor's approval) as enacted by Laws of Utah 2022, Chapter 478
57-21-3, (Effective 06/01/25) as last amended by Laws of Utah 2024, Chapter 200
63G-31-101, (Effective 06/01/25) as enacted by Laws of Utah 2024, Chapter 2
63G-31-201, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 2
63G-31-202, (Effective 06/01/25) as enacted by Laws of Utah 2024, Chapter 2
63G-31-301, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 2
63G-31-302, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 2
63G-31-304, (Effective 06/01/25) as enacted by Laws of Utah 2024, Chapter 2

ENACTS:

53B-1-411, (Effective 06/01/25) Utah Code Annotated 1953
63G-31-305, (Effective 06/01/25) Utah Code Annotated 1953

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

Section 1. Section 53B-1-118 is amended to read:

53B-1-118 (Effective 06/01/25). Prohibited discriminatory practices -- Restrictions -- Campus climate survey -- Exceptions.

(1) As used in this section:

(a) "Important government interest" means a governmental purpose relating to[]:

(i) athletic competition or athletic safety in public education; or[]

(ii) privacy, including compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex.

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

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

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

(B) influences the employment decisions of an individual other than through the use of neutral hiring processes with regard to personal

identity characteristics and in accordance with federal law;

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

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

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

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

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

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

(D) asserts that an individual's moral character is determined by the individual's personal identity characteristics;

(E) asserts that an individual, by virtue of the individual's personal identity characteristics, bears responsibility for actions committed in the past by other individuals with the same personal identity characteristics;

(F) asserts that an individual should feel discomfort, guilt, anguish, or other psychological distress solely because of the individual's personal identity characteristics;

(G) asserts that meritocracy is inherently racist or sexist;

(H) asserts that socio-political structures are inherently a series of power relationships and struggles among racial groups;

(I) promotes resentment between, or resentment of, individuals by virtue of their personal identity characteristics;

(J) ascribes values, morals, or ethical codes, privileges, or beliefs to an individual because of the individual's race, color, ethnicity, sex, sexual orientation, national origin, or gender identity;

(K) considers an individual's personal identity characteristics in determining receipt of state financial aid or other state financial assistance, including a scholarship award or tuition waiver; or

(L) is referred to or named diversity, equity, and inclusion.

(iii) "Prohibited discriminatory practice" does not include policies or procedures required by state or federal law, including laws relating to prohibited discrimination or harassment.

(d) "Student success and support" means an office, division, employment position, or other unit of an institution established or maintained to provide support, guidance, and resources that equip all students, including all students at higher risk of not completing a certificate or degree, with experiences and opportunities for success in each student's academic and career goals, and without excluding individuals on the basis of an individual's personal identity characteristics.

(e) "Title VI" means Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.

(f) "Title VII" means Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et seq.

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

(2) An institution may not:

(a) engage in prohibited discriminatory practices;

(b) take, express, or assert a position or opinion on subjects described in Subsection 67-27-107(1)(b)(ii);

(c) establish or maintain an office, division, employment position, or other unit of an institution established to implement, develop, plan, or promote campus policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or

(d) employ or assign an employee or a third-party whose duties for an institution include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.

(3) An institution shall:

(a) ensure that all students have access to programs providing student success and support;

(b) publish the titles and syllabi of all mandatory courses, seminars, classes, workshops, and training sessions on the institution's website in an online database readily searchable by the public;

(c) annually train employees on the separation of personal political advocacy from an institution's business and employment activities;

(d) develop strategies, including inviting speakers, to promote viewpoint diversity; and

(e) establish policies and procedures to include opportunities for education and research on free speech and civic education.

(4) Beginning on or before July 1, 2025, the board shall report to the Higher Education Appropriations Subcommittee on the status and allocation of appropriated funds for student success and support.

(5) The Legislature shall, in a line item appropriation, appropriate ongoing funding to support an institution's student success and support program in accordance with this section.

(6) (a) On or before January 1, 2025, the board shall contract with a third-party contractor, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to conduct a campus expression climate survey of each institution:

(i) to assess student, faculty, and staff perceptions of and experiences with an institution's campus environment that measures the student's, faculty member's, and staff member's perception of and experience with an institution's campus environment; and

(ii) that measures the student's, faculty member's, and staff member's perception of and experience with campus policy and practice regarding freedom of speech and academic freedom at the institution.

(b) The board shall collect the results of each campus expression climate survey under Subsection (6) and submit the results to the Office of Legislative Research and General Counsel beginning on or before July 1.

(7) (a) The Office of Legislative Research and General Counsel shall provide a summary report on the data collected from the campus expression climate surveys to the Education Interim Committee on or before:

(i) November 1, 2027, for reports received in years 2025, 2026, and 2027;

(ii) November 1, 2030, for reports received in years 2028, 2029, and 2030; and

(iii) November 1, 2033, for reports received in years 2031, 2032, and 2033.

(b) On or before November 1, 2035, the Office of Legislative Research and General Counsel shall provide a comprehensive report of the campus expression climate surveys to the Education Interim Committee.

(8) Nothing in this section requires an individual to respond to a campus expression climate survey.

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

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

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

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

(i) research;

(ii) teaching agenda;

(iii) artistic creations; or

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

(10) This section does not apply to:

(a) requirements necessary for athletic and accreditation compliance;

(b) academic research;

(c) academic course teaching in the classroom;

(d) a grant that would otherwise require:

(i) a department, office, division, or other unit of an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the institution's board of trustees; or

(ii) an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the board;

(e) requirements necessary for an institution to establish or maintain eligibility for any federal program; or

(f) private scholarships administered by an institution.

(11) Notwithstanding any other provision of this part, the University of Utah may take any action required for the University of Utah to comply with the terms of an agreement entered into between the University of Utah and the Ute Indian Tribe before July 1, 2024.

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

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

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

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

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

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

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

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

(b) if a violation is identified, the remediation plan and progress under Subsection (12)(b).

(14) On or before December 1 of each year, the Higher Education Appropriations Subcommittee shall:

(a) report the findings under Subsections (4) and (13) to the Legislature; and

(b) make appropriation recommendations about an institution's compliance with this section.

(15) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (12)(b).

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

Section 2. Section 53B-1-411 is enacted to read:

53B-1-411 (Effective 06/01/25). Board guidance to degree-granting institutions on student housing.

The board shall make policies or otherwise provide to each degree-granting institution guidance regarding the institution's student housing, including:

(1) compliance with the requirements for sex-designated dwelling units within the institution's student housing, as those terms are defined in Section 63G-31-305, and the provision of dwelling units that are not sex-designated; and

(2) practices to ensure individual privacy within the institution's student housing.

Section 3. Section 53G-6-1005 is amended to read:

53G-6-1005 (Effective upon governor's approval). Reasonable accommodations.

Nothing in this part prohibits an athletic association, LEA, or school from adopting reasonable safety and privacy rules and policies that designate facilities, including restrooms, shower facilities, and dressing facilities [~~, provided that~~]if the rules and policies described in this section afford reasonable accommodations based on gender identity to all students in compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex.

Section 4. Section 57-21-3 is amended to read:

57-21-3 (Effective 06/01/25). Exemptions -- Sale by private individuals -- Nonprofit organizations -- Noncommercial transactions.

(1) This chapter does not apply to a single-family dwelling unit sold or rented by its owner if:

(a) the owner does not own an interest in four or more single-family dwelling units held for sale or lease at the same time;

(b) during a 24-month period, the owner does not sell two or more single-family dwelling units in which the owner was not residing or was not the most recent resident at the time of sale;

(c) the owner does not retain or use the facilities or services of a real estate broker or salesperson; and

(d) the owner does not use a discriminatory housing practice under Subsection 57-21-5(2) in the sale or rental of the dwelling.

(2) This chapter does not apply to a dwelling or a temporary or permanent residence facility if:

(a) the discrimination is by sex, as defined in Section 68-3-12.5, sexual orientation, gender identity, or familial status for reasons of personal modesty or privacy, or in the furtherance of a religious institution's free exercise of religious rights under the First Amendment of the United States Constitution or the Utah Constitution; and

(b) the dwelling or the temporary or permanent residence facility is:

(i) operated by a nonprofit or charitable organization;

(ii) owned by, operated by, or under contract with a religious organization, a religious association, a religious educational institution, or a religious society;

(iii) owned by, operated by, or under contract with an affiliate of an entity described in Subsection (2)(b)(ii); or

(iv) owned by or operated by a person under contract with an entity described in Subsection (2)(b)(ii).

(3) This chapter, except for Subsection 57-21-5(2), does not apply to the rental of a room in a single-family dwelling by an owner-occupant of the single-family dwelling to another person if:

(a) the dwelling is designed for occupancy by four or fewer families; and

(b) the owner-occupant resides in one of the units.

(4) (a) (i) Unless membership in a religion is restricted by race, color, sex, or national origin, this chapter does not prohibit an entity described in Subsection (4)(a)(ii)from:

(A) limiting the sale, rental, or occupancy of a dwelling or temporary or permanent residence facility the entity owns or operates for primarily noncommercial purposes to persons of the same religion; or

(B) giving preference to persons of the same religion when selling, renting, or selecting occupants for a dwelling, or a temporary or permanent residence facility, the entity owns or operates for primarily noncommercial purposes.

(ii) The following entities are entitled to the exemptions described in Subsection (4)(a)(i):

(A) a religious organization, association, or society; or

(B) a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society.

(b) (i) This chapter does not prohibit an entity described in Subsection (4)(b)(ii) from:

(A) limiting the sale, rental, or occupancy of a dwelling, or a temporary or permanent residence facility, the entity owns or operates to persons of a particular religion, sex, sexual orientation, or gender identity; or

(B) giving preference to persons of a particular religion, sex, sexual orientation, or gender identity when selling, renting, or selecting occupants for a dwelling, or a temporary or permanent residence facility, the entity owns or operates.

(ii) The following entities are entitled to the exemptions described in Subsection (4)(b)(i):

(A) an entity described in Subsection (4)(a)(ii); and

(B) a person who owns a dwelling, or a temporary or permanent residence facility, that is under contract with an entity described in Subsection (4)(a)(ii).

(5) (a) If the conditions of Subsection (5)(b) are met, this chapter does not prohibit a private club not open to the public, including a fraternity or sorority associated with an institution of higher education, from:

(i) limiting the rental or occupancy of lodgings to members; or

(ii) giving preference to its members.

(b) This Subsection (5) applies only if the private club owns or operates the lodgings as an incident to its primary purpose and not for a commercial purpose.

(6) This chapter does not prohibit distinctions based on inability to fulfill the terms and conditions, including financial obligations, of a lease, rental agreement, contract of purchase or sale, mortgage, trust deed, or other financing agreement.

(7) This chapter does not prohibit a nonprofit educational institution, including a degree-granting institution of higher education listed in Subsection 53B-1-102(1)(a), from:

(a) requiring its single students to live in a dwelling, or a temporary or permanent residence facility, that is owned by, operated by, or under contract with the nonprofit educational institution;

(b) segregating a dwelling, or a temporary or permanent residence facility, that is owned by, operated by, or under contract with the nonprofit educational institution on the basis of sex, as defined in Section 68-3-12.5, regardless of gender identity, or familial status or both:

(i) for reasons of personal modesty or privacy; or

(ii) in the furtherance of a religious institution's free exercise of religious rights under the First Amendment of the United States Constitution or the Utah Constitution; or

(c) otherwise assisting another person in making a dwelling, or a temporary or permanent residence facility, available to students on a sex-segregated basis as may be permitted by:

(i) regulations implementing the federal Fair Housing Amendments Act of 1988;

(ii) Title IX of the Education Amendments of 1972; or

(iii) other applicable law.

(8) This chapter does not prohibit any reasonable local, state, or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling.

(9) A provision of this chapter that pertains to familial status does not apply to the existence, development, sale, rental, advertisement, or financing of an apartment complex, condominium, or other housing development designated as housing for older persons, as defined by Title VIII of the Civil Rights Act of 1968, as amended.

Section 5. Section 63G-31-101 is amended to read:

63G-31-101 (Effective 06/01/25). Definitions.

As used in this chapter:

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

(b) "Changing room" includes:

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

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

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

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

(3) "Government entity" means [~~:~~]the same as that term is defined in Section 63G-2-103.

[~~(a) the state; or~~]

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

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

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

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

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

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

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

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

(iii) accessible to a student of an institution of higher education described in Section 52B-2-101[~~,~~]:

(A) either freely or as described in Subsection (6)(a)(ii)[~~-~~]; or

(B) within student housing as defined in Section 63G-31-305.

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

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

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

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

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

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

(b) "Restroom" includes:

(i) sex-designated men's restrooms;

(ii) sex-designated women's restrooms;

(iii) unisex restrooms; and

(iv) single-occupant restrooms.

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

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

(a) has floor-to-ceiling walls;

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

(c) is designated for single occupancy.

(12) "Unamended birth certificate" means a birth certificate:

(a) with no amendment history; or

(b) with an amendment history that:

(i) does not include gender-related amendments; or

(ii) includes gender-related amendments that only:

(A) correct an error or omission resulting from a scrivener's error under Subsection 26B-8-107(2); or

(B) correct a misidentification of birth sex for an intersex individual under Subsection 26B-8-107(3).

[~~(12)~~](13) "Unisex" means, in relation to a unisex facility or privacy space, that the facility or privacy space:

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

(b) is not sex-designated.

[~~(13)~~](14) "Women's restroom" means a restroom that is designated for the exclusive use of females and not males.

Section 6. Section 63G-31-201 is amended to read:

63G-31-201 (Effective upon governor's approval). Distinctions on the basis of sex.

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

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

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

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

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

(ii) the individual is not female.

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

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

(ii) the individual is not male.

(4) [~~Notwithstanding~~]Subsections (1) through (3)[~~, this chapter does~~]and Subsection 63G-31-204(4) do not apply to:

(a) a determination of the School Activity Eligibility Commission, created in Section 53G-6-1003, regarding a student's athletic eligibility; or

(b) [~~in the context of~~]the participation of a student[~~who~~], if the student has obtained the eligibility approval of the commission under Subsection 53G-6-1004(2)[~~to participate~~], in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's birth certificate, as those terms are defined in Section 53G-6-1001.

Section 7. Section 63G-31-202 is amended to read:

63G-31-202 (Effective 06/01/25). Sex-based distinctions to protect individual privacy.

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

(1) a privacy space;[~~and~~]

(2) a correctional facility as defined in Section 77-16b-102[~~.~~]; and

(3) multi-occupancy sex-designated publicly owned dwellings.

Section 8. Section 63G-31-301 is amended to read:

63G-31-301 (Effective upon governor's approval). Sex-designated privacy spaces in public schools.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) an intersex individual.

Section 9. Section 63G-31-302 is amended to read:

63G-31-302 (Effective upon governor's approval). Sex-designated changing rooms in publicly owned facilities open to the general public.

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

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

(ii) the individual has:

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

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

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

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

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

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

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

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

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

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

(4) The surgical provision described in Subsection (1)(a)(ii) does not shield an individual from the offense of lewdness related to genitalia under Subsection 76-9-702(3) or 76-9-702.5(4).

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

(a) for an individual whose birth sex corresponds with the sex designation of the changing room[~~:~~]**.**

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

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

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

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

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

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

(a) a unisex or single-occupant facility;

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

(c) an intersex individual.

Section 10. Section 63G-31-304 is amended to read:

63G-31-304 (Effective 06/01/25). Government entity facility compliance.

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

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

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

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

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

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

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

(a) a government entity that has administrative control over access to a given facility with a privacy space that is open to the general public shall adopt a privacy compliance plan to address compliance with the government entity's duties under this chapter;

(b) for construction of a new facility [~~, a~~]with a privacy space that is open to the general public, the government entity that has authority over construction or remodeling of the facility shall ensure that the new construction includes a single-occupant facility; and

(c) for existing privacy spaces, [~~a~~]the government entity that has authority over construction or remodeling of the facility that contains the privacy space:

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

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

(B) curtains; or

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

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

(3) [~~A~~]The government entity with authority regarding the design of a facility with a privacy space that is open to the general public shall ensure sufficient sex-designated privacy spaces through compliance with Sections 15A-3-112 and 15A-3-304 regarding unisex facilities.

Section 11. Section 63G-31-305 is enacted to read:

63G-31-305 (Effective 06/01/25). Higher education student housing.

(1) As used in this section:

(a) "Degree-granting institution" means the same as that term is defined in Section 53B-1-101.5.

(b) "Dwelling unit" means the same as that term is defined in Section 15A-5-102.

(c) "Student housing" means housing that a degree-granting institution publicly owns or controls.

(2) To preserve the individual privacy of males and females, a degree-granting institution that provides student housing may only rent to, assign, or otherwise place an individual in a dwelling unit that is sex-designated within the institution's student housing if the individual's sex corresponds with the sex designation of the dwelling unit within the institution's student housing.

(3) An individual may use the following evidence as a defense against an allegation that the individual is not eligible for renting, assignment, or placement in a sex-designated dwelling unit under Subsection (2): an individual's unamended birth certificate that corresponds with the sex designation of the dwelling unit, which may be supported with a review of any amendment history obtained under Section 26B-8-125.

(4) Subsection (2) does not apply to:

(a) dwelling units within student housing that the institution designates as unisex or single-occupant; or

(b) an intersex individual.

(5) Nothing in this section prohibits a degree-granting institution from offering a dwelling unit in student housing that is not sex-designated if the institution only assigns or places an individual in the dwelling unit who seeks a dwelling unit that is not sex-designated.

Section 12. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect June 1, 2025.

(2) (a) The actions affecting sections described in Subsection (2)(b) take effect:

(i) except as provided in Subsection (2)(a)(ii), May 7, 2025; or

(ii) if approved by two-thirds of all members elected to each house:

(A) upon approval by the governor;

(B) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(C) in the case of a veto, the date of veto override.

(b) Subsection (2)(a) applies to the actions affecting the following sections:

(i) Section 63G-31-301 (Effective upon governor's approval);

(ii) Section 53G-6-1005 (Effective upon governor's approval);

(iii) Section 63G-31-201 (Effective upon governor's approval); and

(iv) Section 63G-31-302 (Effective upon governor's approval).

CHAPTER 12
H. B. 13
Passed February 14, 2025
Approved February 27, 2025
Effective February 27, 2025

SEXUAL EXTORTION AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill amends the crime of sexual extortion.

Highlighted Provisions:

This bill:

► amends the crime of sexual extortion to include the act of threatening to distribute a counterfeit intimate image; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

76-5b-204, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 127

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

Section 1. Section 76-5b-204 is amended to read:

76-5b-204 (Effective upon governor's approval). Sexual extortion.

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

(i) "Adult" means an individual 18 years old or older.

(ii) "Child" means any individual under [~~the age of~~]18 years old.

(iii) "Counterfeit intimate image" means the same as that term is defined in Section 76-5b-205.

[~~(iii)~~](iv) "Intimate image" means the same as that term is defined in Section 76-5b-203.

[~~(iv)~~](v) "Position of special trust" means the same as that term is defined in Section 76-5-404.1.

[~~(v)~~](vi) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

[~~(vi)~~](vii) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits the offense of sexual extortion if the actor:

(i) with an intent to coerce a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute an image, video, or other recording of any individual naked or engaged in sexually explicit conduct, communicates by any means a threat:

(A) to the victim's person, property, or reputation; or

(B) to distribute an intimate image, counterfeit intimate image, or video of the victim;

(ii) knowingly causes a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute any image, video, or other recording of any individual naked or engaged in sexually explicit conduct by means of a threat:

(A) to the victim's person, property, or reputation; or

(B) to distribute an intimate image, counterfeit intimate image, or video of the victim; or

(iii) with intent to obtain a thing of value from a victim communicates, by any means, a threat to distribute an intimate image, counterfeit intimate image, or video of the victim.

(b) An actor commits aggravated sexual extortion when, in conjunction with the offense described in Subsection (2)(a), any of the following circumstances have been charged and admitted or found true in the action for the offense:

(i) the victim is a child or vulnerable adult;

(ii) the offense was committed by the use of a dangerous weapon or by violence, intimidation, menace, fraud, or threat of physical harm, or was committed during the course of a kidnapping;

(iii) the actor caused bodily injury or severe psychological injury to the victim during or as a result of the offense;

(iv) the actor was a stranger to the victim or became a friend of the victim for the purpose of committing the offense;

(v) the actor, before sentencing for the offense, was previously convicted of any sexual offense;

(vi) the actor occupied a position of special trust in relation to the victim;

(vii) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling; or

(viii) the actor caused the penetration, however slight, of the genital or anal opening of the victim by any part or parts of the human body, or by any other object.

(3) (a) If the actor is an adult:

(i) A violation of Subsection (2)(a) is a third degree felony.

(ii) A violation of Subsection (2)(b) in which the victim is an adult is a second degree felony.

(iii) A violation of Subsection (2)(b) in which the victim is a child or a vulnerable adult is a first degree felony.

(b) If the actor is a child:

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

(ii) A violation of Subsection (2)(b) is a third degree felony if there is more than a two-year age gap between the actor and the victim.

(c) An actor commits a separate offense under this section:

(i) for each victim the actor subjects to the offense outlined in Subsection (2)(a); and

(ii) for each separate time the actor subjects a victim to the offense outlined Subsection (2)(a).

(d) This section does not preclude an actor from being charged and convicted of a separate criminal act if the actor commits the separate criminal act while the individual violates or attempts to violate this section.

(4) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to liability under this section related to content provided by a user of the interactive computer service.

Section 2. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 13
H. B. 14
Passed February 5, 2025
Approved February 27, 2025
Effective May 7, 2025

EMERGENCY SERVICES PERSONNEL AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill allows licensed emergency medical service personnel to provide non-911 emergency medical services in certain circumstances.

Highlighted Provisions:

This bill:

- ► defines terms; and
- ► allows a licensed emergency medical service personnel to provide non-911 emergency medical services to individuals consistent with the personnel's medical expertise.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53-2d-210, Utah Code Annotated 1953

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

Section 1. Section 53-2d-210 is enacted to read:

53-2d-210. Emergency medical service employees providing medical services in non-911 emergency settings.

(1) As used in this section:

(a) "Direct supervision" means a medical director or other physician is present and available for face-to-face communication with an emergency medical service employee being supervised by the medical director or other physician at the time and place any non-911 emergency medical services authorized by the medical director or other physician are being provided by the emergency medical service employee.

(b) "Emergency medical service employee" means a following individual licensed under this chapter:

(i) a paramedic;

(ii) an advanced emergency medical services technician;

(iii) emergency medical services technician; or

(iv) an emergency medical responder.

(c) "Indirect supervision" means a medical director or other physician, licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who is available for consultation regarding any non-911 emergency medical services the medical director or other physician has authorized an emergency medical service employee to perform, regardless of whether the medical director or other physician is located on the same premises as the emergency medical service employee being supervised.

(d) "Medical director" means a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who is accountable for the non-911 emergency medical services provided by an emergency medical service employee.

(e) "Non-911 emergency medical services" means medical services that are not provided by a licensed ambulance provider or a licensed paramedic provider.

(2) A company, a corporation, a partnership, or other entity may employ an emergency medical service employee to provide non-911 emergency medical services as described in Subsection (3) if the company, corporation, partnership, or other entity:

(a) employs a medical director to manage the emergency medical service employee;

(b) has protocols approved by the medical director establishing how the emergency medical service employee is:

(i) to provide non-911 emergency medical services; and

(ii) to be supervised by the medical director or other physician as described in Subsection (4);

(c) implements and maintains a quality improvement process;

(d) establishes a process for the emergency medical service employee to initiate 911 emergency services for identified emergencies in compliance with rules made by the bureau;

(e) maintains patient records for all patients receiving non-911 emergency medical services that:

(i) comply with typical medical documentation standards; and

(ii) are auditable and accessible upon request by the bureau;

(f) obtains any licenses required by law for the non-911 emergency medical services the company, corporation, partnership, or other entity will employ the emergency medical service employee to perform;

(g) does not advertise or claim that the company, corporation, partnership, or other entity is providing non-911 emergency medical services as an alternative to 911 emergency response;

(h) assesses the education and training of the emergency medical service employee to ensure that the emergency medical service employee is competent and able to provide the non-911 emergency medical services sought;

(i) provides continuing education and training as needed to ensure the continued competency and eligibility for licensure of the emergency medical service employee to provide the non-911 emergency medical services sought; and

(j) complies with any bureau rules created in accordance with this section.

(3) (a) Except as provided in Subsection (3)(b), and subject to Subsection (4), an emergency medical service employee employed by a company, a corporation, a partnership, or other entity that complies with Subsection (2) may provide non-911 emergency medical services that:

(i) the emergency medical service employee has been trained to perform;

(ii) the emergency medical service employee has been credentialed, privileged, or authorized to perform; and

(iii) are within the emergency medical service employee's scope of practice as defined by the bureau.

(b) Notwithstanding Subsection (3)(a), an emergency medical service employee may provide non-911 emergency medical services outside the emergency medical service employee's scope of practice described in Subsection (3)(a) if:

(i) the medical service is approved by the bureau;

(ii) the emergency medical service employee has been trained to perform the non-911 emergency medical service; and

(iii) the emergency medical service employee is otherwise complying with the requirements of this section.

(4) (a) Except as provided in Subsection (4)(b), an emergency medical service employee may provide the non-911 emergency medical services described in Subsection (3) if the emergency medical service employee is providing the services under the direct supervision or indirect supervision of a medical director or another physician.

(b) An emergency medical service employee may provide the non-911 emergency medical services described in Subsection (3) under the direct supervision or indirect supervision of a nurse practitioner or physician assistant if:

(i) the emergency medical service employee is providing the non-911 emergency medical services in a county of the fourth, fifth, or sixth class as described in Section 17-50-501; or

(ii) if approved by the bureau.

(5) An emergency medical service employee providing non-911 emergency medical services under this section may perform the non-911 emergency medical services in a hospital, in an emergency room, in a clinic, in a community paramedicine program, at an event, or any other location where non-911 emergency medical services may need to be provided.

(6) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) define the scope of practice for an emergency medical service employee as described in Subsection (3)(a); and

(b) establish minimum standards for the requirements listed in Subsection (2).

(7) This section does not expand or limit the scope of practice for an emergency medical service employee when the emergency medical service employee is responding to an emergency or providing 911 ambulance services.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 14
H. B. 18
Passed February 11, 2025
Approved February 27, 2025
Effective May 7, 2025

PETROLEUM STORAGE TANK AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses the regulation of petroleum storage tanks.

Highlighted Provisions:

This bill:

- ► modifies definitions;
- ► changes terms "underground" and "petroleum" as appropriate;
- ► provides that the Petroleum Storage Tank Restricted Account earns interest to be deposited into that account;
- ► addresses registration of underground storage tanks and aboveground petroleum storage tanks;
- ► addresses the Petroleum Storage Tank Fund, including authorization to request certain legislative appropriations;
- ► modifies assessment of an environmental assurance fee based on the cash balance of the Petroleum Storage Tank Fund;
- ► modifies the petroleum storage tank fee provisions;
- ► provides for certificates of compliance;
- ► clarifies restrictions on petroleum storage tank installation companies;
- ► directs certain monies be deposited into the Petroleum Storage Tank Cleanup Fund;
- ► addresses claims not covered by the Petroleum Storage Tank Fund;
- ► clarifies language regarding liability;
- ► addresses eligibility for participation in the Petroleum Storage Tank Fund; and
- ► makes technical and conforming amendments.

Money Appropriated in this Bill:

This bill appropriates $4,000,000 in restricted fund and account transfers for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-1-105, (Effective 05/07/25) as last amended by Laws of Utah 2015, Chapter 451
19-2a-103, (Effective 05/07/25) as renumbered and amended by Laws of Utah 2018, Chapter 120
19-6-105, (Effective 05/07/25) as last amended by Laws of Utah 2021, Chapter 202
19-6-402, (Effective 05/07/25) as last amended by Laws of Utah 2022, Chapter 451
19-6-403, (Effective 05/07/25) as last amended by Laws of Utah 2021, Chapter 202
19-6-404, (Effective 05/07/25) as last amended by Laws of Utah 2014, Chapter 227
19-6-405.5, (Effective 05/07/25) as last amended by Laws of Utah 1998, Chapter 95
19-6-407, (Effective 05/07/25) as last amended by Laws of Utah 2021, Chapter 202
19-6-409, (Effective 05/07/25) as last amended by Laws of Utah 2022, Chapter 451
19-6-410.5, (Effective 05/07/25) as last amended by Laws of Utah 2022, Chapter 451
19-6-411, (Effective 05/07/25) as last amended by Laws of Utah 2022, Chapter 451
19-6-412, (Effective 05/07/25) as last amended by Laws of Utah 2012, Chapter 360
19-6-416.5, (Effective 05/07/25) as last amended by Laws of Utah 2012, Chapter 360
19-6-420, (Effective 05/07/25) as last amended by Laws of Utah 2021, Chapter 202
19-6-424, (Effective 05/07/25) as last amended by Laws of Utah 2012, Chapter 360
19-6-426, (Effective 05/07/25) as last amended by Laws of Utah 1997, Chapter 172
19-6-428, (Effective 05/07/25) as last amended by Laws of Utah 2021, Chapter 202
19-8-113, (Effective 05/07/25) as last amended by Laws of Utah 2005, Chapter 200
19-8-119, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 158
63G-4-102, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 147
63I-1-219, (Effective 05/07/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

REPEALS:

19-6-401, (Effective 05/07/25) as renumbered and amended by Laws of Utah 1991, Chapter 112

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

Section 1. Section 19-1-105 is amended to read:
19-1-105 (Effective 05/07/25). Divisions of department -- Control by division directors.

(1) The following divisions are created within the department:

(a) the Division of Air Quality, to administer [~~Title 19, Chapter 2, Air Conservation Act~~]Chapter 2, Air Conservation Act;

(b) the Division of Drinking Water, to administer [~~Title 19, Chapter 4, Safe Drinking Water Act~~]Chapter 4, Safe Drinking Water Act;

(c) the Division of Environmental Response and Remediation, to administer:

(i) [~~Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act~~]Chapter 6, Part 3, Hazardous Substances Mitigation Act; and

(ii) [~~Title 19, Chapter 6, Part 4, Underground Storage Tank Act~~]Chapter 6, Part 4, Petroleum Storage Tank Act;

(d) the Division of Waste Management and Radiation Control, to administer:

(i) [~~Title 19, Chapter 3, Radiation Control Act~~]Chapter 3, Radiation Control Act;

(ii) [~~Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act~~]Chapter 6, Part 1, Solid and Hazardous Waste Act;

(iii) [~~Title 19, Chapter 6, Part 2, Hazardous Waste Facility Siting Act~~]Chapter 6, Part 2, Hazardous Waste Facility Siting Act;

(iv) [~~Title 19, Chapter 6, Part 5, Solid Waste Management Act~~]Chapter 6, Part 5, Solid Waste Management Act;

(v) [~~Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal~~]Chapter 6, Part 6, Lead Acid Battery Disposal;

(vi) [~~Title 19, Chapter 6, Part 7, Used Oil Management Act~~]Chapter 6, Part 7, Used Oil Management Act;

(vii) [~~Title 19, Chapter 6, Part 8, Waste Tire Recycling Act~~]Chapter 6, Part 8, Waste Tire Recycling Act;

(viii) [~~Title 19, Chapter 6, Part 10, Mercury Switch Removal Act~~]Chapter 6, Part 10, Mercury Switch Removal Act;

(ix) [~~Title 19, Chapter 6, Part 11, Industrial Byproduct Reuse~~]Chapter 6, Part 11, Industrial Byproduct Reuse; and

(x) [~~Title 19, Chapter 6, Part 12, Disposal of Electronic Waste Program~~]Chapter 6, Part 12, Disposal of Electronic Waste Program; and

(e) the Division of Water Quality, to administer [~~Title 19, Chapter 5, Water Quality Act~~]Chapter 5, Water Quality Act.

(2) Each division is under the immediate direction and control of a division director appointed by the executive director.

(3) (a) A division director shall possess the administrative skills and training necessary to perform the duties of division director.

(b) A division director shall hold one of the following degrees from an accredited college or university:

(i) a four-year degree in physical or biological science or engineering;

(ii) a related degree; or

(iii) a degree in law.

(4) The executive director may remove a division director at will.

(5) A division director shall serve as the executive secretary to the policymaking board, created in Section 19-1-106, that has rulemaking authority over the division director's division.

Section 2. Section 19-2a-103 is amended to read:
19-2a-103 (Effective 05/07/25). Gasoline vapor recovery -- Penalties.

(1) As used in this section:

(a) "Gasoline cargo tank" means a tank that:

(i) is intended to hold gasoline;

(ii) has a capacity of 1,000 gallons or more; and

(iii) is attached to or intended to be drawn by a motor vehicle.

(b) "Operator" means an individual who controls a motor vehicle:

(i) to which a gasoline cargo tank is attached; or

(ii) that draws a gasoline cargo tank.

(c) [~~"Underground~~]"Petroleum storage tank" means the same as that term is defined in Section [~~19-6-102~~]19-6-402.

(2) The operator of a gasoline cargo tank shall comply with requirements of this section if the operator:

(a) permits the loading of gasoline into the gasoline cargo tank; or

(b) loads [~~an underground~~]a petroleum storage tank with gasoline from the gasoline cargo tank.

(3) Except as provided in Subsection (6), the operator of a gasoline cargo tank may permit the loading of gasoline into a tank described in Subsection (2) or load [~~an underground~~]a petroleum storage tank with gasoline from the gasoline cargo tank described in Subsection (1) only if:

(a) emissions from the tank that dispenses 10,000 gallons or more in any one calendar month are controlled by the use of:

(i) a properly installed and maintained vapor collection and control system that is equipped with fittings that:

(A) make a vapor-tight connection; and

(B) prevent the release of gasoline vapors by automatically closing upon disconnection; and

(ii) submerged filling or bottom filling methods; and

(b) the resulting vapor emitted into the air does not exceed the levels described in Subsection (4).

(4) Vapor emitted into the air as a result of the loading of a tank under Subsection (3) may not exceed 0.640 pounds per 1,000 gallons transferred.

(5) (a) The department may fine an operator who violates this section:

(i) up to $1,000 for a first offense; or

(ii) up to $2,000 for a second offense.

(b) An operator who violates this section is guilty of a class C misdemeanor for a third or subsequent offense.

(6) If a facility at which [~~an underground~~]a petroleum storage tank is located does not have the equipment necessary for an operator of a gasoline cargo tank to comply with Subsection (3), the operator is excused from the requirements of Subsections (3) and (4)and may not be fined or penalized under Subsection (5).

Section 3. Section 19-6-105 is amended to read:

19-6-105 (Effective 05/07/25). Rules of board.

(1) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) establishing minimum standards for protection of human health and the environment, for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste, including requirements for the approval by the director of plans for the construction, extension, operation, and closure of solid waste disposal sites;

(b) identifying wastes that are determined to be hazardous, including wastes designated as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C., Sec. 6921, et seq.;

(c) governing generators and transporters of hazardous wastes and owners and operators of hazardous waste treatment, storage, and disposal facilities, including requirements for keeping records, monitoring, submitting reports, and using a manifest, without treating high-volume wastes such as cement kiln dust, mining wastes, utility waste, gas and oil drilling muds, and oil production brines in a manner more stringent than they are treated under federal standards;

(d) requiring an owner or operator of a treatment, storage, or disposal facility that is subject to a plan approval under Section 19-6-108 or that received waste after July 26, 1982, to take appropriate corrective action or other response measures for releases of hazardous waste or hazardous waste constituents from the facility, including releases beyond the boundaries of the facility;

(e) specifying the terms and conditions under which the director shall approve, disapprove, revoke, or review hazardous wastes operation plans;

(f) governing public hearings and participation under this part;

(g) establishing standards governing underground storage tanks and aboveground petroleum storage tanks, in accordance with [~~Title 19, Chapter 6, Part 4, Underground Storage Tank Act~~]Chapter 6, Part 4, Petroleum Storage Tank Act;

(h) relating to the collection, transportation, processing, treatment, storage, and disposal of infectious waste in health facilities in accordance with the requirements of Section 19-6-106;

(i) defining closure plans, modification requests, or both for hazardous waste, as class I, class I with prior director approval, class II, or class III; and

(j) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or organic waste substance of any kind to be thrown, or remain upon or in a street, road, ditch, canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring, or well.

(2) If any of the following are determined to be hazardous waste and are therefore subjected to the provisions of this part, the board shall, in the case of landfills or surface impoundments that receive the solid wastes, take into account the special characteristics of the wastes, the practical difficulties associated with applying requirements for other wastes to the wastes, and site-specific characteristics, including the climate, geology, hydrology, and soil chemistry at the site, if the modified requirements assure protection of human health and the environment and are no more stringent than federal standards applicable to waste:

(a) solid waste from the extraction, beneficiation, or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium;

(b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; and

(c) cement kiln dust waste.

(3) The board shall establish criteria for siting commercial hazardous waste treatment, storage, and disposal facilities, including commercial hazardous waste incinerators. Those criteria shall apply to any facility or incinerator for which plan approval is required under Section 19-6-108.

Section 4. Section 19-6-402 is amended to read:

PART 4. Petroleum Storage Tank Act

19-6-402 (Effective 05/07/25). Definitions.

As used in this part:

(1) "Abatement action" means action taken to limit, reduce, mitigate, or eliminate:

(a) a release from a petroleum storage tank; or

(b) the damage caused by that release.

(2) "Aboveground petroleum storage tank" means a storage tank that is, by volume, less than 10% buried in the ground, including the pipes connected to the storage tank and:

(a) (i) has attached underground piping; or

(ii) rests directly on the ground;

(b) contains regulated substances;

(c) has the capacity to hold 501 gallons or more; and

(d) is not:

(i) used in agricultural operations, as defined by the board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) used for heating oil for consumptive use on the premises where stored;

(iii) related to a petroleum facility under SIC Code 2911 or 5171 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(iv) directly related to oil or gas production and gathering operations; [~~or~~]

(v) used in the fueling of aircraft or ground service equipment at a commercial airport that serves passengers or cargo, with commercial airport defined in Section 72-10-102[~~.~~]; or

(vi) exempted from the definition of "aboveground petroleum storage tank" by rule made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, because the storage tank is outside the purposes of this part.

(3) "Board" means the Waste Management and Radiation Control Board created in Section 19-1-106.

(4) "Bodily injury" means bodily harm, sickness, disease, or death sustained by [~~a person~~]an individual.

(5) "Certificate of compliance" means a certificate issued to a facility by the director:

(a) demonstrating that an owner or operator of a facility containing one or more petroleum storage tanks has met the requirements of this part; and

(b) listing petroleum storage tanks at the facility, specifying:

(i) which tanks may receive petroleum; and

(ii) which tanks have not met the requirements for compliance.

(6) "Certificate of registration" means a certificate issued to a facility by the director demonstrating that an owner or operator of a facility containing one or more petroleum storage tanks has:

(a) registered the tanks; and

(b) paid the annual tank fee.

(7) (a) "Certified petroleum storage tank consultant" means a person who:

(i) for a fee, or in connection with services for which a fee is charged, provides or contracts to provide information, opinions, or advice relating to [~~underground~~]petroleum storage tank release:

(A) management;

(B) abatement;

(C) investigation;

(D) corrective action; or

(E) evaluation;

(ii) has submitted an application to the director;

(iii) received a written statement of certification from the director; and

(iv) meets the education and experience standards established by the board under Subsection 19-6-403(1)(a)(vii).

(b) "Certified petroleum storage tank consultant" does not include:

(i) (A) an employee of the owner or operator of the [~~underground~~]petroleum storage tank; or

(B) an employee of a business operation that has a business relationship with the owner or operator of the [~~underground~~]petroleum storage tank, and markets petroleum products or manages [~~underground~~]petroleum storage tanks; or

(ii) [~~a person~~]an individual licensed to practice law in this state who offers only legal advice on [~~underground~~]petroleum storage tank release:

(A) management;

(B) abatement;

(C) investigation;

(D) corrective action; or

(E) evaluation.

(8) "Closed" means a petroleum storage tank that is no longer in use that has been:

(a) emptied and cleaned to remove the liquids and accumulated sludges; and

(b) (i) removed along with all underground components; or

(ii) filled with an inert solid material, and in the case of piping, secured and capped.

(9) "Corrective action plan" means a plan for correcting a release from a petroleum storage tank that includes provisions for any of the following:

(a) cleanup or removal of the release;

(b) containment or isolation of the release;

(c) treatment of the release;

(d) correction of the cause of the release;

(e) monitoring and maintenance of the site of the release;

(f) provision of alternative water supplies to a person whose drinking water has become contaminated by the release; or

(g) temporary or permanent relocation, whichever is determined by the director to be more cost-effective, of a person whose dwelling has been determined by the director to be no longer habitable due to the release.

(10) "Costs" means money expended for:

(a) investigation;

(b) abatement action;

(c) corrective action;

(d) judgments, awards, and settlements for bodily injury or property damage to third parties;

(e) legal and claims adjusting costs incurred by the state in connection with judgments, awards, or settlements for bodily injury or property damage to third parties; or

(f) costs incurred by the state risk manager in determining the actuarial soundness of the fund.

(11) "Covered by the fund" means the requirements of Section 19-6-424 have been met.

(12) "Director" means the director of the Division of Environmental Response and Remediation.

(13) "Division" means the Division of Environmental Response and Remediation, created in Subsection 19-1-105(1)(c).

(14) "Dwelling" means a building that is usually occupied by a person lodging there at night.

(15) "Enforcement proceedings" means a civil action or the procedures to enforce orders established by Section 19-6-425.

(16) "Facility" means the petroleum storage tanks located on a single parcel of property or on any property adjacent or contiguous to that parcel.

(17) "Fund" means the Petroleum Storage Tank Fund created in Section 19-6-409.

(18) "Operator" means a person in control of or who is responsible on a daily basis for the maintenance of a petroleum storage tank that is in use for the storage, use, or dispensing of a regulated substance.

(19) "Owner" means:

(a) in the case of an underground storage tank in use on or after November 8, 1984, a person who owns an underground storage tank used for the storage, use, or dispensing of a regulated substance;

(b) in the case of an underground storage tank in use before November 8, 1984, but not in use on or after November 8, 1984, a person who owned the tank immediately before the discontinuance of its use for the storage, use, or dispensing of a regulated substance; and

(c) in the case of an aboveground petroleum storage tank, a person who owns the aboveground petroleum storage tank.

(20) "Petroleum" includes crude oil or a fraction of crude oil that is liquid at:

(a) 60 degrees Fahrenheit; and

(b) a pressure of 14.7 pounds per square inch absolute.

(21) "Petroleum storage tank" means a tank that:

(a) is an underground storage tank;

(b) is an aboveground petroleum storage tank; or

(c) is a tank containing regulated substances that is voluntarily submitted for participation in the [~~Petroleum Storage Tank Fund~~]fund under Section 19-6-415.

(22) "Petroleum storage tank installation company" means a person or governmental entity that installs petroleum storage tanks.

(23) "Petroleum storage tank installation company permit" means a permit issued by the director to a petroleum storage tank installation company.

[~~(22)~~](24) "Petroleum Storage Tank Restricted Account" means the account created in Section 19-6-405.5.

[~~(23)~~](25) "Program" means the [~~Environmental Assurance Program~~]environmental assurance program under Section 19-6-410.5.

[~~(24)~~](26) "Property damage" means physical injury to, destruction of, or loss of use of tangible property.

[~~(25)~~](27) (a) "Regulated substance" means petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing.

(b) "Regulated substance" includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

[~~(26)~~](28) (a) "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing a regulated substance from a petroleum storage tank into ground water, surface water, or subsurface soils.

(b) A release of a regulated substance from a petroleum storage tank is considered a single release from that tank system.

[~~(27)~~](29) (a) "Responsible party" means a person who:

(i) is the owner or operator of a facility;

(ii) owns or has legal or equitable title in a facility or a petroleum storage tank;

(iii) owned or had legal or equitable title in a facility at the time petroleum was received or contained at the facility;

(iv) operated or otherwise controlled activities at a facility at the time petroleum was received or contained at the facility; or

(v) is [~~an underground~~]a petroleum storage tank installation company.

(b) "Responsible party," [~~is~~]as defined in Subsections [~~(27)(a)(i),~~](29)(a)(i),(ii), and (iii), does not include:

(i) a person who is not an operator and, without participating in the management of a facility and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership:

(A) primarily to protect the person's security interest in the facility; or

(B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an employee benefit plan; or

(ii) governmental ownership or control of property by involuntary transfers as provided in CERCLA Section 101(20)(D), 42 U.S.C. Sec. 9601(20)(D).

(c) The exemption created by Subsection [~~(27)(b)(i)(B)~~](29)(b)(i)(B) does not apply to actions taken by the state or [~~its~~]the state's officials or agencies under this part.

(d) The terms and activities "indicia of ownership," "primarily to protect a security interest," "participation in management," and "security interest" under this part are in accordance with 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9).

(e) The terms "participate in management" and "indicia of ownership" as defined in 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9) include and apply to the fiduciaries listed in Subsection [~~(27)(b)(i)(B)~~](29)(b)(i)(B).

[~~(28)~~](30) "Rests directly on the ground" means that at least some portion of a petroleum storage tank situated aboveground is in direct contact with soil.

[~~(29)~~](31) "Soil test" means a test, established or approved by board rule, to detect the presence of petroleum in soil.

[~~(30)~~](32) "State cleanup appropriation" means money appropriated by the Legislature to the department to fund the investigation, abatement, and corrective action regarding releases not covered by the fund.

[~~(31)~~](33) "Underground piping" means piping that is buried in the ground that is in direct contact with soil and connected to an aboveground petroleum storage tank.

[~~(32)~~](34) "Underground storage tank" means a tank regulated under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq., including:

(a) underground pipes and lines connected to a storage tank;

(b) underground ancillary equipment;

(c) a containment system; and

(d) each compartment of a multi-compartment storage tank.

[~~(33) "Underground storage tank installation company" means a person, firm, partnership, corporation, governmental entity, association, or other organization that installs underground storage tanks.~~]

[~~(34) "Underground storage tank installation company permit" means a permit issued to an underground storage tank installation company by the director.~~]

[~~(35) "Underground storage tank technician" means a person employed by and acting under the direct supervision of a certified petroleum storage tank consultant to assist in carrying out the functions described in Subsection (7)(a).~~]

Section 5. Section 19-6-403 is amended to read:

19-6-403 (Effective 05/07/25). Powers and duties of board.

The board shall regulate a petroleum storage tank by:

(1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that:

(a) provide for the:

(i) certification of [~~an underground~~]a petroleum storage tank installer, inspector, tester, or remover;

(ii) registration of an underground storage tank operator;

(iii) registration of [~~an underground~~]a petroleum storage tank;

(iv) administration of the petroleum storage tank program;

(v) format of, and required information in, a record kept by an underground storage or petroleum storage tank owner or operator who is participating in the fund;

(vi) voluntary participation in the fund for a tank containing regulated substances, but excluded from the definition of a petroleum storage tank as provided in Section 19-6-415;

(vii) certification of a petroleum storage tank consultant including:

(A) a minimum education or experience requirement; and

(B) a recognition of the educational requirement of a professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, as meeting the education requirement for certification; and

(viii) compliance with this chapter by an aboveground petroleum storage tank;

(b) adopt the requirements for an underground storage tank contained in:

(i) the Solid Waste Disposal Act, Subchapter IX, 42 U.S.C. Sec. 6991, et seq., as may be amended in the future; and

(ii) an applicable federal requirement authorized by the federal law referenced in Subsection (1)(b)(i); and

(c) comply with the requirements of the Solid Waste Disposal Act, Subchapter IX, 42 U.S.C. Sec. 6991, et seq., as may be amended in the future, for the state's assumption of primacy in the regulation of an underground storage tank; and

(2) applying the provisions of this part.

Section 6. Section 19-6-404 is amended to read:

19-6-404 (Effective 05/07/25). Powers and duties of director.

(1) The director shall:

(a) administer the petroleum storage tank program established in this part; and

(b) as authorized by the board and subject to the provisions of this part, act as executive secretary of the board under the direction of the chairman of the board.

(2) As necessary to meet the requirements or carry out the purposes of this part, the director may:

(a) advise, consult, and cooperate with other persons;

(b) employ persons;

(c) authorize a certified employee or a certified representative of the department to conduct facility inspections and reviews of records required to be kept by this part and by rules made under this part;

(d) encourage, participate in, or conduct studies, investigation, research, and demonstrations;

(e) collect and disseminate information;

(f) enforce rules made by the board and any requirement in this part by issuing notices and orders;

(g) review plans, specifications, or other data;

(h) under the direction of the executive director, represent the state in [~~all~~]matters pertaining to interstate [~~underground~~]petroleum storage tank management and control, including entering into interstate compacts and other similar agreements;

(i) enter into contracts or agreements with political subdivisions for the performance of any of the department's responsibilities under this part if:

(i) the contract or agreement is not prohibited by state or federal law and will not result in a loss of federal funding; and

(ii) the director determines that:

(A) the political subdivision is willing and able to satisfactorily discharge its responsibilities under the contract or agreement; and

(B) the contract or agreement will be practical and effective;

(j) take any necessary enforcement action authorized under this part, including filing a lien against the real property, which is subject to cleanup and is owned by a responsible party, for the costs of abatement, investigative and corrective actions taken by the agency, if necessary, and depositing any funds received into the Petroleum Storage Tank Cleanup Fund created in Section 19-6-405.7;

(k) require an owner or operator of [~~an underground~~]a petroleum storage tank to:

(i) furnish information or records relating to the tank, its equipment, and contents;

(ii) monitor, inspect, test, or sample the tank, its contents, and any surrounding soils, air, or water; or

(iii) provide access to the tank at reasonable times;

(l) take any abatement, investigative, or corrective action as authorized in this part; or

(m) enter into agreements or issue orders to apportion percentages of liability of responsible parties under Section 19-6-424.5.

Section 7. Section 19-6-405.5 is amended to read:

19-6-405.5 (Effective 05/07/25). Creation of restricted account.

(1) There is created in the General Fund a restricted account known as the "Petroleum Storage Tank Restricted Account[~~.~~]," which for purposes of this section is referred to as the "account."

(2) [~~All~~]The penalties and interest imposed under this part shall be deposited [~~in~~]into this account, except as provided in Section 19-6-410.5. Specified program [~~funds~~]money under this part that [~~are~~]is unexpended at the end of the fiscal year [~~lapse~~]lapses into this account.

(3) The account shall earn interest, which shall be deposited into the account.

[~~(3)~~](4) The Legislature shall appropriate the money in the account to the department for the costs of administering the petroleum storage tank program under this part.

Section 8. Section 19-6-407 is amended to read:

19-6-407 (Effective 05/07/25). Registration -- Change of ownership or operation -- Civil penalty.

(1) (a) An owner or operator of an underground storage tank shall register the tank with the director if the tank:

(i) is in use; or

(ii) was closed after January 1, 1974.

(b) If a new person assumes ownership or operational responsibilities for an underground storage tank, that person shall inform the director of the change [~~within~~]by no later than 30 days after the change occurs.

(c) [~~Each~~]An installer of an underground storage tank shall notify the director [~~of the completed installation within 60 days following~~]by no later than 30 days before the installation of an underground storage tank.

(2) (a) [~~The~~]An owner or operator of an aboveground petroleum storage tank shall [~~notify the director of the location of the aboveground petroleum storage tank by no later than:~~]register the aboveground petroleum storage tank with the director if the aboveground petroleum storage tank is in use after May 5, 2021.

(b) If a new person assumes ownership or operational responsibilities for an aboveground petroleum storage tank, the new person shall inform the director of the change by no later than 30 days after the change occurs.

(c) An installer of an aboveground petroleum storage tank shall notify the director at least 30 days before the installation of an aboveground petroleum storage tank.

(d) An owner or operator of an aboveground petroleum storage tank shall register the aboveground petroleum storage tank by no later than:

(i) June 30, 2022, if the aboveground petroleum storage tank is installed on or before June 30, 2022; or

(ii) if the aboveground petroleum storage tank is installed on or after July 1, 2022, at least30 days [~~after~~]before the day on which installation of the aboveground petroleum storage tank [~~is installed;~~]begins.

[~~(iii) 30 days before the aboveground petroleum storage tank is closed; or~~]

[~~(iv) within 24 hours of the discovery of a reportable release or suspected release, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from an aboveground petroleum storage tank.~~]

[~~(b)~~](e) When notifying the director under this Subsection (2), an owner of an aboveground petroleum storage tank described in this Subsection (2) shall pay a processing fee established under Section 63J-1-504.

[~~(c)~~](f) Before operating an aboveground petroleum storage tank on or after June 30, 2023, the owner or operator of the aboveground petroleum storage tank shall provide financial responsibility by participating in the [~~Environmental Assurance Program~~]program under Section 19-6-410.5 or demonstrating coverage through another method approved by the board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(d)~~](g) (i) The director shall certify when an owner or operator of an aboveground petroleum storage tank is in compliance with this Subsection (2).

(ii) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the identification, through a tag or other readily identifiable method, of an aboveground petroleum storage tank under Subsection (2)(a) that is not certified by the director as in compliance with this Subsection (2).

(3) The director may issue a notice of agency action assessing a civil penalty in the amount of $1,000 if an owner, operator, or installer of [~~a petroleum~~]an underground storage tank or aboveground petroleum storage tank fails to register the tank or provide notice as required in Subsection (1) or (2).

(4) The penalties collected under authority of this section shall be deposited in the Petroleum Storage Tank Restricted Account created in Section 19-6-405.5.

Section 9. Section 19-6-409 is amended to read:

19-6-409 (Effective 05/07/25). Petroleum Storage Tank Fund -- Source of revenues.

(1) (a) There is created an enterprise fund entitled the "Petroleum Storage Tank Fund."

(b) The sole sources of revenues for the fund are:

(i) petroleum storage tank fees paid under Section 19-6-411;

(ii) [~~underground~~]petroleum storage tank installation company permit fees paid under Section 19-6-411;

(iii) the environmental assurance fee and penalties paid under Section 19-6-410.5;

(iv) appropriations to the fund;

(v) principal and interest received from the repayment of loans made by the director under Subsection (5); and

(vi) interest accrued on revenues listed in this Subsection (1)(b).

(c) Interest earned on fund money is deposited into the fund.

(2) The director may expend money from the fund to pay costs:

(a) covered by the fund under Section 19-6-419;

(b) of administering [~~the:~~]this part;

[~~(i) fund; and~~]

[~~(ii) environmental assurance program and fee under Section 19-6-410.5;~~]

(c) incurred by the state for a legal service or claim adjusting service provided in connection with a claim, judgment, award, or settlement for bodily injury or property damage to a third party;

(d) incurred by the director in determining the actuarial soundness of the fund;

(e) incurred by a third party claiming injury or damages from a release reported on or after May 11, 2010, for hiring a certified petroleum storage tank consultant:

(i) to review an investigation or corrective action by a responsible party; and

(ii) in accordance with Subsection (4); and

(f) allowed under this part that are not listed under this Subsection (2).

(3) Costs for the administration of [~~the fund and the environmental assurance fee~~]this part shall be as appropriated by the Legislature.

(4) The director shall:

(a) in paying costs under Subsection (2)(e):

(i) determine a reasonable limit on costs paid based on the:

(A) extent of the release;

(B) impact of the release; and

(C) services provided by the certified petroleum storage tank consultant;

(ii) pay, per release, costs for one certified petroleum storage tank consultant agreed to by all third parties claiming damages or injury;

(iii) include costs paid in the coverage limits allowed under Section 19-6-419; and

(iv) not pay legal costs of third parties;

(b) review and give careful consideration to reports and recommendations provided by a certified petroleum storage tank consultant hired by a third party; and

(c) make reports and recommendations provided under Subsection (4)(b) available on the [~~Division of Environmental Response and Remediation's~~]division's website.

(5) The director may loan, in accordance with this section, money available in the fund to a person to be used for:

(a) upgrading [~~an underground~~]a petroleum storage tank;

(b) replacing [~~an underground~~]a petroleum storage tank; or

(c) permanently closing [~~an underground~~]a petroleum storage tank.

(6) (a) A person may apply to the director for a loan under Subsection (5)(c) if [~~all~~]the tanks owned or operated by that person are in substantial compliance with [~~all~~] state and federal requirements or will be brought into substantial compliance using money from the fund.

(b) A person may apply to the director for a loan under Subsection (5)(a) or (b) if:

(i) the requirements of Subsection (6)(a) are met; and

(ii) the person participates in the [~~Environmental Assurance Program~~]program under Section 19-6-410.5.

(7) The director shall consider loan applications under Subsection (6) to meet the following objectives:

(a) support availability of gasoline in rural parts of the state;

(b) support small businesses; and

(c) reduce the threat of a petroleum release endangering the environment.

(8) (a) A loan made under this section may not be for more than:

(i) $300,000 for all tanks at any one facility;

(ii) $100,000 per tank; and

(iii) 80% of the total cost of:

(A) upgrading [~~an underground~~]a petroleum storage tank;

(B) replacing [~~an underground~~]a petroleum storage tank; or

(C) permanently closing [~~an underground~~]a petroleum storage tank.

(b) A loan made under this section shall:

(i) have a fixed annual interest rate of 0%;

(ii) have a term no longer than 10 years;

(iii) be made on the condition the loan applicant obtains adequate security for the loan as established by board rule under Subsection (9); and

(iv) comply with rules made by the board under Subsection (9).

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing:

(a) form, content, and procedure for a loan application;

(b) criteria and procedures for prioritizing a loan application;

(c) requirements and procedures for securing a loan;

(d) procedures for making a loan;

(e) procedures for administering and ensuring repayment of a loan, including late payment penalties;

(f) procedures for recovering on a defaulted loan; and

(g) the maximum amount of the fund that may be used for loans.

(10) A decision by the director to loan money from the fund and otherwise administer the fund is not subject to Title 63G, Chapter 4, Administrative Procedures Act.

(11) The Legislature shall appropriate money from the fund to the department for the administration costs associated with making loans under this section.

(12) The director may enter into an agreement with a public entity or private organization to perform a task associated with administration of loans made under this section.

(13) The director may request that the Legislature appropriate money in the fund that is in excess of the cash balance required for actuarial soundness to the Petroleum Storage Tank Cleanup Fund created in Section 19-6-405.7.

Section 10. Section 19-6-410.5 is amended to read:

19-6-410.5 (Effective 05/07/25). Environmental assurance program -- Participant fee .

(1) As used in this section:

(a) "Cash balance" means cash plus investments and current accounts receivable minus current accounts payable, excluding the liabilities estimated by the executive director.

(b) "Commission" means the State Tax Commission, as defined in Section 59-1-101.

(2) (a) There is created an [~~Environmental Assurance Program~~]environmental assurance program.

(b) The program shall provide to a participating owner or operator, upon payment of the fee imposed under Subsection (4), assistance with satisfying the financial responsibility requirements of 40 C.F.R., Part 280, Subpart H, by providing [~~funds from the Petroleum Storage Tank Fund~~]money from the fund established in Section 19-6-409, subject to the terms and conditions of this part, and rules implemented under this part.

(3) (a) Subject to Subsection (3)(b), participation in the program is voluntary.

(b) An owner or operator seeking to satisfy financial responsibility requirements through the program shall use the program for all petroleum storage tanks that the owner or operator owns or operates.

(4) (a) There is assessed an environmental assurance fee of 13/20 cent per gallon on the first sale or use of petroleum products in the state.

(b) The environmental assurance fee and any other revenue collected under this section shall be deposited [~~in the Petroleum Storage Tank Fund~~]into the fund created in Section 19-6-409 and used solely for the purposes listed in Section 19-6-409.

(5) (a) The commission shall administer, collect, and enforce the fee imposed under this section according to the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to establish:

(i) the method of payment of the environmental assurance fee;

(ii) the procedure for reimbursement or exemption of an owner or operator that does not participate in the program, including an owner or operator of an [~~above ground~~]aboveground petroleum storage tank; and

(iii) the procedure for confirming with the department that an owner or operator qualifies for reimbursement or exemption under Subsection (5)(b)(ii).

(c) The commission may retain an amount not to exceed 2.5% of fees collected under this section for the cost to the commission of rendering its services.

(d) By January 1, 2015, for underground storage tanks, and by July 1, 2026, for aboveground petroleum storage tanks, the division shall, by rule, create:

(i) a model for assessing the risk profile of each facility participating in the program, for purposes of qualifying for a rebate of a portion of the environmental assurance fee described in Subsection (4) collected from an owner or operator that participates in the program; and

(ii) a rebate schedule listing the amount of the environmental assurance fee that an owner or operator participating in the program may qualify for based on risk profiles determined by the model developed under Subsection (5)(d)(i).

(e) The rebate described in Subsection (5)(d):

(i) may not exceed 40% of the actual fee collected from an owner or operator of a low-risk [~~underground~~]petroleum storage tank as defined in the risk-based model developed under Subsection (5)(d);

(ii) is administered on a per facility basis;

(iii) is based on the facility's risk profile at the end of the prior calendar year;

(iv) is only applicable to an environmental assurance fee collected after December 30, 2014, for underground storage tanks, and June 30, 2026, for aboveground petroleum storage tanks; and

(v) shall be claimed in the form of a refund from the commission.

(f) The refund described in Subsection (5)(e)(v) may be claimed on a monthly basis.

(6) (a) The person responsible for payment of the fee under this section shall, by the last day of the month following the month in which the sale occurs:

(i) complete and submit the form prescribed by the commission; and

(ii) pay the fee to the commission.

(b) (i) The penalties and interest for failure to file the form or to pay the environmental assurance fee are the same as the penalties and interest under Sections 59-1-401 and 59-1-402.

(ii) The commission shall deposit penalties and interest collected under this section in the [~~Petroleum Storage Tank Fund~~]fund.

(c) The commission shall report to the department a person who is delinquent in payment of the fee under this section.

(7) (a) (i) If the cash balance of the [~~Petroleum Storage Tank Fund~~]fund on June 30 of any year exceeds [~~$50,000,000~~]$60,000,000, the assessment of the environmental assurance fee as provided in Subsection (4) is reduced to 1/4 cent per gallon beginning the following November 1.

(ii) If after the environmental assurance fee is reduced under Subsection (7)(a)(i) and the cash balance of the fund on June 30 of any year is less than $20,000,000, the assessment of the environmental assurance fee reverts back to 13/20 cent per gallon as provided in Subsection (4) beginning the following November 1.

[~~(ii) The reduction under this Subsection (7)(a) remains in effect until modified by the Legislature in a general or special session.~~]

(b) The commission shall determine the cash balance of the fund each year as of June 30.

(c) Before September 1 of each year, the department shall provide the commission with the accounts payable of the fund as of June 30.

Section 11. Section 19-6-411 is amended to read:

19-6-411 (Effective 05/07/25). Petroleum storage tank fee for program participants.

(1) In addition to the [~~underground~~]petroleum storage tank registration fee paid in Section 19-6-408, the owner or operator of a petroleum storage tank who elects to participate in the [~~environmental assurance~~]program under Section 19-6-410.5 shall also pay [~~an annual petroleum storage tank fee~~]the following petroleum storage tank fees to the department for each facility[~~as follows~~]:

(a) an annual fee of:

(i) $450 for each tank in a facility with an annual facility throughput rate of 70,000 gallons or less;

(ii) $150 for each tank in a facility with an annual facility throughput rate of greater than 70,000 gallons; and

(iii) $450 for each tank in a facility regarding which:

(A) the facility's throughput rate is not reported to the department [~~within~~]by no later than 30 days after the date this throughput information is requested by the department; or

(B) the owner or operator elects to pay the fee under this Subsection (1)(a)(iii), rather than report under Subsection (1)(a)(i) or (ii); and

(b) for any new tank:

(i) that is installed to replace an existing tank at an existing facility, any annual petroleum storage tank fee paid for the current fiscal year for the existing tank is applicable to the new tank; and

(ii) installed at a new facility or at an existing facility, which is not a replacement for another existing tank, the fees are as provided in Subsection (1)(a)(ii).

(2) (a) As a condition of receiving a petroleum storage tank installation permit and being eligible for benefits under Section 19-6-419 from the [~~Petroleum Storage Tank Fund, each underground~~]fund, a petroleum storage tank installation company shall pay to the department the following fees to be deposited in the fund:

(i) an annual fee of:

(A) $2,000 per [~~underground~~]petroleum storage tank installation company if the installation company has installed 15 or fewer [~~underground~~]petroleum storage tanks within the 12 months preceding the fee due date; or

(B) $4,000 per [~~underground~~]petroleum storage tank installation company if the installation company has installed 16 or more [~~underground~~]petroleum storage tanks within the 12 months preceding the fee due date; and

(ii) $200 for each [~~underground~~]petroleum storage tank installed in the state, to be paid [~~prior to completion of installation~~]before installation begins.

(b) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying which portions of [~~an underground~~]a petroleum storage tank installation shall be subject to the permitting fees when less than a [~~full underground~~]complete petroleum storage tank system is installed.

(3) (a) Fees under Subsection (1) are due on or before July 1 annually.

(b) If the department does not receive payment of the fee on or before July 1, the department shall impose a [~~late~~]civil penalty of [~~$60~~]$100 per facility.

(c) (i) The fee and the [~~late~~]civil penalty accrue interest at 12% per annum.

(ii) If the fee, the [~~late~~]civil penalty, and all accrued interest are not received by the department [~~within 60 days after July 1~~]by no later than September 1, the eligibility of the owner or operator to receive payments for claims against the fund lapses [~~on the61st day after July 1~~].

(iii) In order for the owner or operator to reinstate eligibility to receive payments for claims against the fund, the owner or operator shall meet the requirements of Subsection [~~19-6-428(3)~~]19-6-428(2).

(4) (a) (i) Fees under Subsection (2)(a)(i) are due [~~on or before July 1 annually~~]30 days before the petroleum storage tank installation company begins the first install of a fiscal year. If the department does not receive payment of the fees [~~on or before July 1~~]30 days before the petroleum storage tank installation company begins the first install of a fiscal year, the department shall impose a [~~late~~]civil penalty of [~~$60~~]$100 per petroleum storage tank installation company. The fee and the [~~late~~]civil penalty accrue interest at 12% per annum.

(ii) If payment of the fee, [~~late~~]civil penalty, and all accrued interest due are not received by the department [~~within 60 days after July 1, the underground~~]by no later than 30 days after the petroleum storage tank installation company begins the first install of the fiscal year, the petroleum storage tank installation company's permit and eligibility to receive payments for claims against the fund lapse on [~~the 61st day after July 1~~]the 31st day after the petroleum storage tank installation company begins the first install of the fiscal year.

(b) (i) [~~Fees under Subsection (2)(a)(ii) are due prior to completion of installation~~]A petroleum storage tank installation company shall pay the fees under Subsection (2)(a) before installation and issuance of a petroleum storage tank installation company permit. If the department does not receive payment of the fees [~~prior to completion of~~]before installation, the department shall impose a [~~late~~]civil penalty of [~~$60 per facility~~]$500 per petroleum storage tank. The fee and the [~~late~~]civil penalty accrue interest at 12% per annum.

(ii) If installation is complete without paying the installation permit fee and having a valid petroleum storage tank installation company permit, the petroleum storage tank installation company is not eligible to receive payments for claims against the fund for releases from the petroleum storage tank being installed that may occur before a certificate of compliance is issued for that petroleum storage tank.

[~~(ii) If the fee, late penalty, and all accrued interest are not received by the department within 60 days after the underground storage tank installation is completed, eligibility to receive payments for claims against the fund for that tank lapse on the 61st day after the tank installation is completed.~~]

(c) The director may not reissue the [~~underground~~]petroleum storage tank installation company permit until the fee, [~~late~~]civil penalty, and [~~all~~]accrued interest are received by the department.

(5) If the executive director determines that the fees established in Subsections (1) and (2)and the environmental assurance fee established in Section 19-6-410.5 are insufficient to maintain the fund on an actuarially sound basis, the executive director may petition the Legislature to increase the petroleum storage tank and [~~underground~~]petroleum storage tank installation company permit fees, and the environmental assurance fee to a level that will sustain the fund on an actuarially sound basis.

(6) The director may waive all or part of the fees required to be paid[~~on or before May 5, 1997,~~] for a petroleum storage tank under this section if no fuel has been dispensed from the tank on or after July 1, 1991.

(7) (a) The director shall issue a certificate of compliance to the owner or operator of a petroleum storage tank[~~or underground storage tank~~], for which payment of fees has been made and other requirements have been met to qualify for a certificate of compliance under this part.

(b) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the identification, through a tag or other readily identifiable method, of a petroleum storage tank[~~or underground storage tank~~] under Subsection (7)(a) that does not qualify for a certificate of compliance under this part.

Section 12. Section 19-6-412 is amended to read:

19-6-412 (Effective 05/07/25). Petroleum storage tank -- Certificate of compliance.

(1) [~~(a) Beginning July 1, 1990, an owner or operator of a petroleum storage tank may obtain a certificate of compliance for the facility.~~]

[~~(b) Effective July 1, 1991, each~~]An owner or operator of a petroleum storage tank shall have a certificate of compliance for the facility.

(2) The director shall issue a certificate of compliance if:

(a) the owner or operator has a certificate of registration;

(b) the owner or operator demonstrates [~~it~~]the owner or operator is participating in the [~~Environmental Assurance Program~~]program under Section 19-6-410.5, or otherwise demonstrates compliance with financial assurance requirements as defined by rule;

(c) all state and federal statutes, rules, and regulations have been substantially complied with; and

(d) all tank test requirements of Section 19-6-413 have been met.

(3) If the ownership of or responsibility for the petroleum storage tank changes, the certificate of compliance is still valid unless it has been revoked or has lapsed.

(4) The director may issue a certificate of compliance for a period of less than one year to maintain an administrative schedule of certification.

(5) The director shall reissue a certificate of compliance if the owner or operator of [~~an underground~~]a petroleum storage tank has complied with the requirements of Subsection (2).

(6) If the owner or operator electing to participate in the program has a number of tanks in an area where the director finds it would be difficult to accurately determine which of the tanks may be the source of a release, the owner may only elect to place all of the tanks in the area in the program, but not just some of the tanks in the area.

Section 13. Section 19-6-416.5 is amended to read:

19-6-416.5 (Effective 05/07/25). Restrictions on petroleum storage tank installation companies -- Civil penalty.

(1) [~~After July 1, 1994, no individual or underground~~]An individual or petroleum storage tank installation company may not install [~~an underground~~]a petroleum storage tank without having a valid [~~underground~~]petroleum storage tank installation company permit.

(2) [~~Any~~]An individual or [~~underground~~]petroleum storage tank installation company who installs [~~an underground~~]a petroleum storage tank in violation of Subsection (1) is subject to a civil penalty of $500 per [~~underground~~]petroleum storage tank.

(3) The director shall issue a notice of agency action assessing a civil penalty of $500 against [~~any underground~~]a petroleum storage tank installation company or [~~person~~]individual who installs [~~an underground~~]a petroleum storage tank in violation of Subsection (1).

Section 14. Section 19-6-420 is amended to read:

19-6-420 (Effective 05/07/25). Releases -- Abatement actions -- Corrective actions.

(1) If the director determines that a release from a petroleum storage tank has occurred, the director shall:

(a) identify and name as many of the responsible parties as reasonably possible; and

(b) determine which responsible parties, if any, are covered by the fund regarding the release in question.

(2) Regardless of whether the petroleum storage tank generating the release is covered by the fund:

(a) the director may order the owner or operator to take abatement, or investigative or corrective action, including the submission of a corrective action plan; and

(b) if the owner or operator fails to comply with the action ordered by the director under Subsection (2)(a), the director may take one or more of the following actions:

(i) subject to the conditions in this part, use money from the fund, if the tank involved is covered by the fund, state cleanup appropriation, or the Petroleum Storage Tank Cleanup Fund created under Section 19-6-405.7 to perform investigative, abatement, or corrective action;

(ii) commence an enforcement proceeding;

(iii) enter into agreements or issue orders as allowed by Section 19-6-424.5;

(iv) recover costs from responsible parties equal to their proportionate share of liability as determined by Section 19-6-424.5; or

(v) where the owner or operator is the responsible party, revoke the responsible party's certificate of compliance, as described in Section 19-6-414.

(3) (a) Subject to the limitations established in Section 19-6-419, the director shall provide money from the fund for abatement action for a release generated by a tank covered by the fund if:

(i) the owner or operator takes the abatement action ordered by the director; and

(ii) the director approves the abatement action.

(b) If a release presents the possibility of imminent and substantial danger to the public health or the environment, the owner or operator may take immediate abatement action and petition the director for reimbursement from the fund for the costs of the abatement action. If the owner or operator can demonstrate to the satisfaction of the director that the abatement action was reasonable and timely in light of circumstances, the director shall reimburse the petitioner for costs associated with immediate abatement action, subject to the limitations established in Section 19-6-419.

(c) The owner or operator shall notify the director within 24 hours of the abatement action taken.

(4) (a) If the director determines corrective action is necessary, the director shall order the owner or operator to submit a corrective action plan to address the release.

(b) If the owner or operator submits a corrective action plan, the director shall review the corrective action plan and approve or disapprove the plan.

(c) In reviewing the corrective action plan, the director shall consider the following:

(i) the threat to public health;

(ii) the threat to the environment; and

(iii) the cost-effectiveness of alternative corrective actions.

(5) If the director approves the corrective action plan or develops the director's own corrective action plan, the director shall:

(a) approve the estimated cost of implementing the corrective action plan;

(b) order the owner or operator to implement the corrective action plan;

(c) (i) if the release is covered by the fund, determine the amount of fund money to be allocated to an owner or operator to implement a corrective action plan; and

(ii) subject to the limitations established in Section 19-6-419, provide money from the fund to the owner or operator to implement the corrective action plan.

(6) (a) The director may not distribute any money from the fund for corrective action until the owner or operator obtains the director's approval of the corrective action plan.

(b) An owner or operator who begins corrective action without first obtaining approval from the director and who is covered by the fund may be reimbursed for the costs of the corrective action, subject to the limitations established in Section 19-6-419, if:

(i) the owner or operator submits the corrective action plan to the director [~~within~~]by no later than seven days after beginning corrective action; and

(ii) the director approves the corrective action plan.

(7) If the director disapproves the plan, the director shall solicit a new corrective action plan from the owner or operator.

(8) If the director disapproves the second corrective action plan, or if the owner or operator fails to submit a second plan within a reasonable time, the director may:

(a) develop an alternative corrective action plan; and

(b) act as authorized under Subsections (2) and (5).

(9) (a) When notified that the corrective action plan has been implemented, the director shall inspect the location of the release to determine whether or not the corrective action has been properly performed and completed.

(b) If the director determines the corrective action has not been properly performed or completed, the director may issue an order requiring the owner or operator to complete the corrective action within the time specified in the order.

(10) (a) For releases not covered by the fund, the director may recover from the responsible party expenses incurred by the division for managing and overseeing the abatement, and investigation or corrective action of the release. These expenses shall be:

(i) billed quarterly per release;

(ii) due [~~within~~]by no later than 30 days [~~of~~]from billing;

(iii) deposited [~~with the division as dedicated credits~~]into the Petroleum Storage Tank Cleanup Fund established in Section 19-6-405.7;

(iv) used by the division for the administration of the [~~underground~~]petroleum storage tank program outlined in this part; and

(v) billed per hourly rates as established under Section 63J-1-504.

(b) If the responsible party fails to pay expenses under Subsection 10(a), the director may:

(i) revoke the responsible party's certificate of compliance, as described in Section 19-6-414, if the responsible party is also the owner or operator; and

(ii) pursue an action to collect expenses in Subsection 10(a), including the costs of collection.

(11) This section does not apply to a release of a substance defined as a regulated substance in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

Section 15. Section 19-6-424 is amended to read:

19-6-424 (Effective 05/07/25). Claims not covered by fund.

(1) The director may not authorize payments from the fund unless:

(a) the claim was based on a release occurring during a period for which that tank was covered by the fund;

(b) there are sufficient revenues in the fund; and

[~~(b)~~](c) the claim was made:

[~~(i) during a period for which that tank was covered by the fund; or~~]

[~~(ii) (A) within~~]

(i) no later than one year after that fund-covered tank is closed; or

[~~(B) within~~]

(ii) no later than six months after the end of the period during which the tank was covered by the fund[~~; and~~].

[~~(c) there are sufficient revenues in the fund.~~]

(2) The director may authorize payments from the fund if the claim was made by a responsible party, as determined in accordance with Section 19-6-420 or 19-6-424.5, that:

(a) was in good standing with the program under Section 19-6-410.5 at the time ownership ceased; and

(b) lost coverage for a release due to the actions or inactions of a subsequent responsible party.

(3) The director may not authorize payments from the fund for [~~an underground~~]a petroleum storage tank installation company unless:

(a) the claim was based on a release occurring during the period prior to the issuance of a certificate of compliance;

(b) the claim was made [~~within~~]no later than 12 months after the date the tank is issued a certificate of compliance for that tank; and

(c) there are sufficient revenues in the fund.

[~~(3)~~](4) The director may require the claimant to provide additional information as necessary to demonstrate coverage by the fund at the time of submittal of the claim.

[~~(4)~~](5) If the Legislature repeals or refuses to reauthorize the program for petroleum storage tanks established in this part, the director may authorize payments from the fund as provided in this part for claims made until the end of the time period established in Subsection

(1)[~~or~~],(2), or (3) provided there are sufficient revenues in the fund.

Section 16. Section 19-6-426 is amended to read:

19-6-426 (Effective 05/07/25). Limitation of liability of state -- Liability of responsible parties -- Indemnification agreement involving responsible parties.

(1) This part [~~is not intended to~~]does not create an insurance program.

(2) The fund established in this part shall only provide funds to finance costs for responsible parties who meet the requirements of this part when releases from petroleum storage tanks occur.

(3) The assets of the fund, if any, are the sole source of money to pay claims against the fund.

(4) The state is not liable for:

(a) any amounts payable from the fund for which the fund does not have sufficient assets;

(b) any expenses or debts of the fund; or

(c) any claim arising from the creation, management, rate-setting, or any other activity pertaining to the fund.

(5) The responsible parties are liable for any costs associated with any release from the [~~underground~~]petroleum storage tank system.

(6) This part does not preclude a responsible party from enforcing or recovering under any agreement or contract for indemnification associated with a release from the tank or from pursuing any other legal remedies that may be available against any party.

(7) If any payment is made under this part, the fund shall be subrogated to all the responsible parties' rights of recovery against any person [~~or organization~~] and the responsible parties shall execute and deliver instruments and papers and do whatever else is necessary to secure the rights. The responsible parties shall do nothing after a release is discovered to prejudice the rights. In the event of recovery by the fund, any amount recovered shall first be used to reimburse the responsible parties for costs they are required to pay pursuant to Section 19-6-419.

(8) Parties who elect to participate in the fund do so subject to the conditions and limitations in this section and in this part.

Section 17. Section 19-6-428 is amended to read:

19-6-428 (Effective 05/07/25). Eligibility for participation in the fund.

(1) Subject to [~~the requirements of~~]Section 19-6-410.5, an owner or operator of [~~an existing~~]a petroleum storage tank [~~that is covered by the fund on May 5, 1997,~~] may elect to [~~continue to~~] participate in the program by meeting the requirements of this part, including paying the tank fees and environmental assurance fee as provided in Sections 19-6-410.5 and 19-6-411.

[~~(2) A new petroleum storage tank that is installed after May 5, 1997, or a tank eligible under Section 19-6-415, may elect to participate in the program by complying with the requirements of this part.~~]

[~~(3)~~](2) (a) [~~An owner or operator of a petroleum storage tank who elects to not participate in the program, including by the use of an alternative financial assurance mechanism~~]If an owner or operator elects to participate in the program after a period of non-participation, the owner or operator of the petroleum storage tankshall, in order to subsequently participate in the program:

(i) perform a tank tightness test;

(ii) except as provided in Subsection [~~(3)(b),~~](2)(b),(c), or (d), perform a site check, including soil and, when applicable, groundwater samples, to demonstrate that no release of petroleum exists or that there has been adequate remediation of releases as required by board rules;

(iii) provide the required tests and samples to the director; and

(iv) comply with the requirements of this part.

(b) A site check under Subsection [~~(3)(a)(ii)~~](2)(a)(ii) is not required if the director determines, with reasonable cause, that soil and groundwater samples are unnecessary to establish that no petroleum has been released.

(c) [~~For an aboveground petroleum storage tank, a site check under Subsection (3)(a)(ii)is not required to participate in the program except that if the aboveground petroleum storage tank does not conduct a site check:~~]

(i) For an aboveground petroleum storage tank, a site check under Subsection (2)(a)(ii) is not required to participate in the program and historic contamination is covered as provided in Subsection (2)(c)(ii) if the release meets the requirements of this part.

[~~(i) historic~~]

(ii) (A) Historic contamination, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~:~~]

[~~(A) subject to the other provisions of this Subsection (3)(c),~~],is covered only if the historic contamination is discovered more than five years after the day the owner or operator elects to participate in the program [~~;~~].

(B) Historic contamination is 20% covered beginning on the five-year date [~~; and~~]after five years of continuous participation in the program.

(C) Historic contamination is covered at increasing amounts of 20% each year after [~~the five-year date until at the 10-year date~~]the five years of continuous participation in the program until after 10 years of continuous participation in the program the historic contamination is covered at 100%[~~; and~~].

[~~(ii) new~~]

(iii) New releases, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, are covered at 100% beginning on the day the aboveground petroleum storage tank participates in the program.

(d) (i) For an underground storage tank that previously elected not to participate in the program, a site check under Subsection [~~(3)(a)(ii)~~](2)(a)(ii) is not required to begin participating in the program [~~, except that if the underground storage tank does not conduct a site check:~~]and historic contamination is covered as provided in under Subsection (2)(d)(ii) if the release meets the requirements of this part.

[~~(i) historic~~]

(ii) (A) Historic contamination, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~:~~]

[~~(A) subject to the other provisions of this Subsection (3)(d),~~],is covered only if the historic contamination is discovered more than five years after the day the owner or operator elects to participate in the program [~~;~~].

(B) Historic contamination is 20% covered [~~beginning on the five-year date; and~~]after five years of continuous participation in the program.

(C) Historic contamination is covered at increasing amounts of 20% each year after [~~the five-year date until at the 10-year date~~]the five years of continuous participation in the program until after 10 years of continuous participation in the program the historic contamination is covered at 100% [~~; and~~].

[~~(ii) new~~]

(iii) New releases, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, are covered at 100% beginning on the day the underground storage tank participates in the program.

[~~(4)~~](3) The director shall review the tests and samples provided under Subsection [~~(3)(a)(iii)~~](2)(a)(iii) to determine:

(a) whether or not any release of the petroleum has occurred; or

(b) if the remediation is adequate.

Section 18. Section 19-8-113 is amended to read:

19-8-113 (Effective 05/07/25). Applicant's release from liability.

(1) (a) An applicant who is not responsible for the contaminant or contamination under the provisions listed in Subsection (1)(b) at the time the applicant applies to enter into a voluntary cleanup agreement under this chapter is released by issuance of a certificate of completion under Section 19-8-111 from all liability to the state for cleanup of property covered by the certificate and from all liability for claims arising under state law for contribution regarding matters addressed by the certificate of completion, except for any releases or consequences the applicant causes.

(b) Provisions referred to in Subsection (1)(a) are: [~~Title 19, Chapter 5, Water Quality Act; Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act; Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act; or Title 19, Chapter 6, Part 4, Underground Storage Tank Act.~~]

(i) Chapter 5, Water Quality Act;

(ii) Chapter 6, Part 1, Solid and Hazardous Waste Act;

(iii) Chapter 6, Part 3, Hazardous Substances Mitigation Act; or

(iv) Chapter 6, Part 4, Petroleum Storage Tank Act.

(2) There is no release from liability under this chapter if a certificate of completion is obtained by fraud, misrepresentation, or the knowing failure to disclose material information.

(3) (a) After a certificate of completion is issued under this chapter, an owner who then acquires property covered by the certificate, or a lender who then makes a loan secured by property covered by the certificate, is released from all liability to the state regarding property covered by the certificate for cleanup of contamination released before the date of the certificate, and from all liability for claims arising under state law for contribution regarding matters addressed by the certificate of completion, except under Subsection (3)(b).

(b) A release of liability under Subsection (3)(a) is not available to an owner or lender under Subsection (3)(a) who:

(i) was originally responsible for a release or contamination under [~~Title 19, Chapter 5, Water Quality Act; Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act; Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act; or Title 19, Chapter 6, Part 4, Underground Storage Tank Act~~]:

(A) Chapter 5, Water Quality Act;

(B) Chapter 6, Part 1, Solid and Hazardous Waste Act;

(C) Chapter 6, Part 3, Hazardous Substances Mitigation Act; or

(D) Chapter 6, Part 4, Petroleum Storage Tank Act;

(ii) changes the land use from the use specified in the certificate of completion if the changed use or uses may reasonably be expected to result in increased risks to human health or the environment; or

(iii) causes further releases on the property covered by the certification.

(c) A release under this Subsection (3) is subject to the limitations of Subsection (2).

(4) The executive director may issue enforceable written assurances to a contiguous property owner of real property stating that no enforcement action under this part may be initiated against the contiguous property owner and providing the owner protection from state law cost recovery and contribution actions.

Section 19. Section 19-8-119 is amended to read:

19-8-119 (Effective 05/07/25). Apportionment or contribution.

(1) Any party who incurs costs under a voluntary agreement entered into under this part in excess of the party's liability may seek contribution in an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, from any other party who is or may be liable under Subsection 19-6-302(21) or [~~19-6-402(27)~~]19-6-402(29)for the excess costs after providing written notice to any other party that the party bringing the action has entered into a voluntary agreement and will incur costs.

(2) In resolving claims made under Subsection (1), the court shall allocate costs using the standards in Subsection 19-6-310(2).

Section 20. Section 63G-4-102 is amended to read:

63G-4-102 (Effective 05/07/25). Scope and applicability of chapter.

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) state agency action that determines the legal rights, duties, privileges, immunities, or other legal interests of an identifiable person, including agency action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of the action.

(2) This chapter does not govern:

(a) the procedure for making agency rules, or judicial review of the procedure or rules;

(b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the issuance of a tax assessment, except that this chapter governs an agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of the action;

(c) state agency action relating to extradition, to the granting of a pardon or parole, a commutation or termination of a sentence, or to the rescission, termination, or revocation of parole or probation, to the discipline of, resolution of a grievance of, supervision of, confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction of the Office of Substance Use and Mental Health, or a person on probation or parole, or judicial review of the action;

(d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a student or teacher in a school or educational institution, or judicial review of the action;

(e) an application for employment and internal personnel action within an agency concerning its own employees, or judicial review of the action;

(f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that this chapter governs an agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency action relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of the action;

(h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, and Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action;

(i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency action relating to the distribution or award of a monetary grant to or between governmental units, or for research, development, or the arts, or judicial review of the action;

(k) the issuance of a notice of violation or order under Title 53, Chapter 2d, Emergency Medical Services Act, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, [~~Underground~~]Petroleum Storage Tank Act, [~~or~~]Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures;

(m) the initial determination of a person's eligibility for government or public assistance benefits;

(n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration;

(o) a license for use of state recreational facilities;

(p) state agency action under Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603;

(q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action;

(r) state agency action relating to the installation, maintenance, and repair of headgates, caps, values, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;

(s) the issuance and enforcement of an initial order under Section 73-2-25;

(t) (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and

(ii) an action taken by the Division of Securities under a hearing conducted under Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange of securities described in Subsection 61-1-11.1(1);

(u) state agency action relating to water well driller licenses, water well drilling permits, water well driller registration, or water well drilling construction standards, or judicial review of the action;

(v) the issuance of a determination and order under Title 34A, Chapter 5, Utah Antidiscrimination Act;

(w) state environmental studies and related decisions by the Department of Transportation approving state or locally funded projects, or judicial review of the action;

(x) the suspension of operations under Subsection 32B-1-304(3);

(y) the issuance of a determination of violation by the Governor's Office of Economic Opportunity under Section 11-41-104; or

(z) a challenge to an aspect of a distribution management plan under Section 73-33-202.

(3) This chapter does not affect a legal remedy otherwise available to:

(a) compel an agency to take action; or

(b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering a conference with parties and interested persons to:

(i) encourage settlement;

(ii) clarify the issues;

(iii) simplify the evidence;

(iv) facilitate discovery; or

(v) expedite the proceeding; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is governed by this chapter.

(6) This chapter does not preclude an agency from enacting a rule affecting or governing an adjudicative proceeding or from following the rule, if the rule is enacted according to the procedures outlined in Chapter 3, Utah Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.

(7) (a) If the attorney general issues a written determination that a provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of the provision to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening a time period prescribed in this chapter, except the time period established for judicial review.

(10) Notwithstanding any other provision of this section, this chapter does not apply to a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent expressly provided in Section 19-1-301.5.

(11) Subsection (2)(w), regarding action taken based on state environmental studies and policies of the Department of Transportation, applies to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order before May 14, 2019.

Section 21. Section 63I-1-219 is amended to read:
63I-1-219 (Effective 05/07/25). Repeal dates: Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

(2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2029.

(3) Section 19-4-115, Drinking water quality in schools and child care centers, is repealed July 1, 2027.

(4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

(5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.

(6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2030.

(7) Title 19, Chapter 6, Part 4, [~~Underground~~]Petroleum Storage Tank Act, is repealed July 1, 2028.

(8) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

(9) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.

(10) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.

(11) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

Section 22. Repealer.

This bill repeals:

Section 19-6-401, Short title.

Section 23. FY 2026 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 23(a). Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To Petroleum Storage Tank Cleanup Fund

From Petroleum Storage Tank Fund, One-time - 4,000,000

Schedule of Programs:

Petroleum Storage Tank Cleanup Fund - 4,000,000

Section 24. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 15
H. B. 32
Passed February 13, 2025
Approved February 27, 2025
Effective May 7, 2025

BORGSTROM BROTHERS MEMORIAL HIGHWAY DESIGNATION

Chief Sponsor: Thomas W. Peterson
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill enacts provisions related to the name of Route 102.

Highlighted Provisions:

This bill:

► establishes the name of Route 102 as the Borgstrom Brothers Memorial Highway.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

72-4-223, Utah Code Annotated 1953

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

Section 1. Section 72-4-223 is enacted to read:

72-4-223. Borgstrom Brothers Memorial Highway.

(1) There is established the Borgstrom Brothers Memorial Highway composed of the existing Route 102.

(2) In addition to other official designations, the Department of Transportation shall designate the highway identified in Subsection (1) as the Borgstrom Brothers Memorial Highway on future state highway maps.

(3) As soon as practicable, the Department of Transportation shall install appropriate signs along portions of the highway indicating the designation as the Borgstrom Brothers Memorial Highway as described in Subsection (1).

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 16
H. B. 41
Passed February 14, 2025
Approved February 27, 2025
Effective May 7, 2025

STATE WATER POLICY AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill amends the state water policy.

Highlighted Provisions:

This bill:

- ► addresses water quality in groundwater;
- ► references saved water;
- ► encourages monitoring of watersheds in consultation with watershed councils;
- ► promotes state water planning;
- ► accounts for regionally appropriate water reuse; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-1-21, as last amended by Laws of Utah 2024, Chapter 37

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

Section 1. Section 73-1-21 is amended to read:

73-1-21. State water policy.

(1) It is the policy of the state that:

(a) Utah shall pursue adequate, reliable, affordable, sustainable, and clean water resources, recognizing that Utah is one of the most arid states in the nation and as such, there is, and will continue to be, a need to ensure Utah's finite water resources are used beneficially;

(b) Utah will promote:

(i) water conservation, efficiency, and the optimal use of water resources, while identifying intended and unintended consequences to ensure appropriate choice and implementation of particular strategies;

(ii) water resource development and the creation of new water infrastructure necessary to meet the state's growing demand and promote economic development;

(iii) compliance with state statutes regarding Lake Powell pipeline development and Bear River development;

(iv) the timely replacement of aging or inefficient water resource, drinking water, wastewater, and storm water infrastructure;

(v) the optimal use of agricultural water to sustain and improve food production and the productive capacity of agricultural lands;

(vi) water quality in rivers[~~and~~], lakes, and groundwater that:

(A) complies with state clean water and safe drinking water statutes; and

(B) protects public health;

(vii) water pricing and funding mechanisms that:

(A) provide revenue stability while encouraging conservation, efficiency, and optimization efforts;

(B) adequately cover infrastructure needs; and

(C) balance social, economic, public interest, and environmental values;

(viii) respect for water rights;

(ix) standards for accurate water use measurement, telemetry, tracking, enforcement, and reporting;

(x) efforts to educate and engage the public in:

(A) individual actions that protect water quality, including preventing and mitigating water pollution; and

(B) conservation practices and the efficient and optimal use of water resources;

(xi) the implementation of cyber security and physical security measures for water infrastructure;

(xii) the study and consideration of mechanisms for increased flexibility in water use such as water banking, saved water, and split season uses;

(xiii) the monitoring, in consultation with watershed councils created under Chapter 10g, Part 3, Watershed Councils Act, of activities in watersheds that provide water to drinking water systems to protect the watersheds;

[~~(xiii)~~](xiv) continued improvements in the management of water resources through protection, restoration, and science-based evaluation of Utah watersheds, increased reservoir capacity, and aquifer recharge or aquifer storage and recovery;

[~~(xiv)~~](xv) the development and beneficial use of Utah's allocated share of interstate rivers, including Utah's allocations under the 1922 and 1948 Colorado River Compacts and the 1980 Amended Bear River Compact;

[~~(xv)~~](xvi) the study and development of strategies and practices necessary to address declining water levels and protect the water quality and quantity of the Great Salt Lake, Utah Lake, and Bear Lake, taking into consideration natural climate change, natural weather systems and patterns, and normal cyclic water level change over time, while balancing economic, social, and environmental needs;

[~~(xvi)~~](xvii) regulations and practices, including voluntary practices, that maintain sufficient stream flows and lake levels to provide reasonable access to recreational activities and protect and restore water quality, quantity, and healthy ecosystems, including protecting groundwater and surface water sources from pollution;

[~~(xvii)~~](xviii) equitable access to safe, affordable, and reliable drinking water to protect public health;

[~~(xviii)~~](xix) regulations and practices that encourage effective treatment of wastewater to maximize its availability for beneficial use and minimize depletion and the further degradation of other waters;

[~~(xix)~~](xx) the control of invasive species that threaten or degrade waters of the state;

[~~(xx)~~](xxi) coordination among the state, water providers, water users, local governments, government agencies, and researchers in the study of ways weather and climate will impact future water supplies, demand, and quality;

(xxii) state water planning, including the formation of the state water plan as provided in Section 73-10-15;

(xxiii) water reuse with appropriate conditions for the region in which the water reuse occurs;

[~~(xxi)~~](xxiv) water laws, rules, and enforcement that are consistent with this Subsection (1) and encourage transparency, order, and certainty in the use of public water;

[~~(xxii)~~](xxv) the support and funding of research, science, and technology necessary to achieve the provisions of this Subsection (1); and

[~~(xxiii)~~](xxvi) the collaboration, cooperation, and engagement of stakeholders in the identification and advancement of actions that support the provisions of this Subsection (1); and

(c) Utah supports the timely and appropriate negotiated settlement of federally reserved water right claims for both Native American trust lands and other existing federal reservations, and opposes any future designation of public lands that does not quantify any associated federally reserved water rights.

(2) State agencies are encouraged to conduct agency activities consistent with Subsection (1) and implement policies established by the Legislature that promote the near- and long-term stewardship of water quality and water resources.

(3) This section does not create a cause of action against the state's or a state agency's action that is inconsistent with Subsection (1) and does not waive governmental immunity under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(4) The Natural Resources, Agriculture, and Environment Interim Committee shall review the state water policy annually and recommend priority balancing and any other changes to the Legislature.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 17
H. B. 50
Passed February 7, 2025
Approved February 27, 2025
Effective May 7, 2025

OCCUPATIONAL SAFETY AND HEALTH AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends civil penalties related to occupational health and safety.

Highlighted Provisions:

This bill:

► increases certain Utah Occupational Health and Safety civil penalties.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-6-307, as last amended by Laws of Utah 2022, Chapter 333

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

Section 1. Section 34A-6-307 is amended to read:

34A-6-307. Civil and criminal penalties.

(1) (a) The commission may assess civil penalties against an employer who has received a citation under Section 34A-6-302 as follows:

(i) except as provided in Subsections (1)(a)(ii) through (1)(a)(iv), the commission may assess up to [~~$13,653~~]$16,131 for each cited violation;

(ii) the commission may not assess more than [~~$13,653~~]$16,131 for each cited serious violation;

(iii) the commission may not assess less than [~~$9,753~~]$11,518 nor more than [~~$136,532~~]$161,323 for each cited willful violation;

(iv) the commission may assess up to [~~$136,532~~]$161,323 for each cited violation if the employer has previously been found to have violated the same standards, code, rule, or order; and

(v) after the expiration of the time permitted to an employer to correct a cited violation, the commission may assess up to [~~$13,653~~]$16,131 for each day the violation continues uncorrected.

(b) For purposes of Subsection (1)(a)(ii), a violation is serious only if:

(i) [~~it~~]the violation arises from a condition, practice, method, operation, or process in the workplace of which the employer knows or should know through the exercise of reasonable diligence; and

(ii) there is a substantial possibility that the condition, practice, method, operation, or process could result in death or serious physical harm.

(2) The commission may assess a civil penalty of up to [~~$13,653~~]$16,131 for each violation of a posting requirement under this chapter.

(3) In deciding the amount to assess for a civil penalty, the commission shall consider all relevant factors, including:

(a) the size of the employer's business;

(b) the nature of the violation;

(c) the employer's good faith or lack of good faith; and

(d) the employer's previous record of compliance or noncompliance with this chapter.

(4) A civil penalty collected under this chapter shall be paid into the General Fund.

(5) (a) Criminal penalties under this chapter are as follows:

(i) an employer who willfully violates a standard, code, rule, or order issued under Section 34A-6-202, or a rule made under this chapter, is guilty of a class A misdemeanor if the violation caused the death of an employee;

(ii) a person who gives advance notice of any inspection conducted under this chapter without authority from the administrator or the administrator's representatives is guilty of a class A misdemeanor; and

(iii) a person who knowingly makes a false statement, representation, or certification in an application, a record, a report, a plan, or another document filed or required to be maintained under this chapter is guilty of a class A misdemeanor.

(b) For purposes of Subsection (5)(a)(i), if the violation causes the death of more than one employee, each death is considered a separate offense.

(6) (a) After a citation issued under this chapter and an opportunity for a hearing under Title 63G, Chapter 4, Administrative Procedures Act, the division may file an abstract for any uncollected citation penalty in the district court.

(b) The filed abstract described in Subsection (6)(a)[~~shall have~~]has the effect of a judgment issued by that court.

(c) The abstract described in Subsection (6)(a) shall state the amount of:
(i) the uncollected citation penalty;
(ii) reasonable attorney fees as set by commission rule; and
(iii) court costs.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 18
H. B. 59
Passed February 10, 2025
Approved February 27, 2025
Effective May 7, 2025

FIREWORKS MODIFICATIONS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill amends provisions related to fireworks.

Highlighted Provisions:

This bill:

► replaces incorrect terms related to fireworks; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-3-10, as last amended by Laws of Utah 2023, Chapter 34
53-7-204, as last amended by Laws of Utah 2021, Chapter 237
53-7-225, as last amended by Laws of Utah 2024, Chapters 128, 438
53-7-225.1, as enacted by Laws of Utah 2018, Chapter 189

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

Section 1. Section 11-3-10 is amended to read:

11-3-10. Exemptions -- Limitation on chapter.

(1) This chapter does not apply to [~~class A, class B, and class C explosives that are~~]a division 1.1G explosive, a division 1.2G explosive, a division 1.3G explosive, or a division 1.4G explosive that is not for use in [~~Utah~~]the state, but [~~are~~]is manufactured, stored, warehoused, or in transit for destinations outside of [~~Utah~~]the state.

(2) This chapter does not supersede Section 23A-2-208, regarding use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

(3) Provided that the display operators are properly licensed as required by Section 53-7-223, municipalities and counties for the unincorporated areas within the county may conduct, permit, or regulate:

(a) exhibitions of display fireworks; or

(b) pyrotechnic displays held inside public buildings.

Section 2. Section 53-7-204 is amended to read:

53-7-204. Duties of Utah Fire Prevention Board -- Unified Code Analysis Council -- Local administrative duties.

(1) The board shall:

(a) administer the state fire code as the standard in the state;

(b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing standards for the prevention of fire and for the protection of life and property against fire and panic in any:

(A) publicly owned building, including all public and private schools, colleges, and university buildings;

(B) building or structure used or intended for use as an asylum, a mental hospital, a hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or day care center, or any building or structure used for a similar purpose; or

(C) place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

(ii) establishing safety and other requirements for placement and discharge of display fireworks on the basis of:

(A) the state fire code; and

(B) relevant publications of the National Fire Protection Association;

(iii) establishing safety standards for retail storage, handling, and sale of [~~class C~~]a division 1.4G common state approved [~~explosives~~]explosive;

(iv) defining methods to establish proof of competence to place and discharge display fireworks, special effects fireworks, and flame effects;

(v) subject to Subsection (2), creating a uniform statewide policy regarding a state, county, special district, and local government

entity's safe seizure, storage, and repurposing, destruction, or disposal of [~~a firework, class A explosive, or class B~~]a division 1.1G explosive, division 1.2G explosive, division 1.3G explosive, or division 1.4G explosive that:

(A) is illegal; or

(B) a person uses or handles in an illegal manner;

(vi) deputizing qualified persons to act as deputy fire marshals, and to secure special services in emergencies;

(vii) implementing Section 15A-1-403;

(viii) establishing criteria for the certification of firefighters, pump operators, instructors, fire officers, fire investigators, and rescue personnel not certified or licensed under any other section of the Utah Code;

(ix) establishing criteria for training and safety equipment grants for fire departments enrolled in firefighter certification;

(x) establishing ongoing training standards for hazardous materials emergency response agencies;

(xi) establishing criteria for the fire safety inspection of a food truck; and

(xii) establishing criteria for the accreditation and reaccreditation of fire service training organizations;

(c) recommend to the commissioner a state fire marshal;

(d) develop policies under which the state fire marshal and the state fire marshal's authorized representatives will perform;

(e) provide for the employment of field assistants and other salaried personnel as required;

(f) prescribe the duties of the state fire marshal and the state fire marshal's authorized representatives;

(g) provide technical expertise, advice, and support to Utah Valley University in the establishment and operation of the fire and rescue training program described in Section 53B-29-202;

(h) establish a statewide fire statistics program for the purpose of gathering fire data from all political subdivisions of the state;

(i) coordinate the efforts of all people engaged in fire suppression in the state;

(j) work aggressively with the local political subdivisions to reduce fire losses;

(k) regulate the sale and servicing of portable fire extinguishers and automatic fire suppression systems in the interest of safeguarding lives and property;

(l) establish a certification program for persons who inspect and test automatic fire sprinkler systems;

(m) establish a certification program for persons who inspect and test fire alarm systems;

(n) establish a certification for persons who provide response services regarding hazardous materials emergencies;

(o) in accordance with Sections 15A-1-403 and 68-3-14, submit a written report to the Business and Labor Interim Committee; and

(p) jointly create the Unified Code Analysis Council with the Uniform Building Code Commission in accordance with Section 15A-1-203.

(2) (a) In the rules that the board makes under Subsection (1)(b)(v), the board shall include a provision prohibiting a state, county, special district, or local government entity from disposing of an item described in Subsection (1)(b)(v) by means of open burning, except under circumstances described in the rule.

(b) When making a rule under Subsection (1)(b)(v), the board shall:

(i) review and include applicable references to:

(A) requirements described in Title 15A, Chapter 5, State Fire Code Act; and

(B) provisions of the International Fire Code; and

(ii) consider the appropriate role of the following in relation to the rule:

(A) the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives; and

(B) a firework wholesaler or distributor.

(3) The board may incorporate in its rules by reference, in whole or in part:

(a) the state fire code; or

(b) subject to the state fire code, a nationally recognized and readily available standard pertaining to the protection of life and property from fire, explosion, or panic.

(4) The following functions shall be administered locally by a city, county, or fire protection district:

(a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and 19-2-114;

(b) creating a local board of appeals in accordance with the state fire code; and

(c) subject to the state fire code and the other provisions of this chapter, establishing, modifying, or deleting fire flow and water supply requirements.

Section 3. Section 53-7-225 is amended to read:

53-7-225. Times for sale and discharge of fireworks -- Criminal penalty -- Permissible closure of certain areas -- Maps and signage.

(1) Except as provided in Section 53-7-221, this section supersedes any other code provision regarding the sale or discharge of fireworks.

(2) (a) Except as provided in Subsection (2)(b), a person may sell [~~class C~~]a division 1.4G common state approved [~~explosives~~]explosive in the state as follows:

(i) beginning on June 24 and ending on July 25;

(ii) beginning on December 29 and ending on December 31; and

(iii) two days before and on the Chinese New Year's eve.

(b) The restrictions in Subsection (2)(a) do not apply to:

(i) online sales to a person outside the state for use outside the state; or

(ii) sales to persons described in Subsection 53-7-222(1)(b)(i)(A).

(3) A person may not discharge [~~class C~~]a division 1.4G common state approved [~~explosives~~]explosive in the state except as follows:

(a) between the hours of 11 a.m. and 11 p.m., except that on July 4 and July 24, the hours are 11 a.m. to midnight:

(i) beginning on July 2 and ending on July 5; and

(ii) beginning on July 22 and ending on July 25;

(b) (i) beginning at 11 a.m. on December 31 and ending at 1 a.m. on the following day; or

(ii) if New Year's eve is on a Sunday and the county or municipality determines to celebrate New Year's eve on the prior Saturday, then a person may discharge [~~class C~~]a division 1.4G common state approved [~~explosives~~]explosive on that prior Saturday within the county or municipality;

(c) between the hours of 11 a.m. and 11 p.m. on January 1; and

(d) beginning at 11 a.m. on the Chinese New Year's eve and ending at 1 a.m. on the following day.

(4) A person is guilty of an infraction, punishable by a fine of up to $1,000, if the person discharges a [~~class C~~]division 1.4G common state approved explosive:

(a) outside the legal discharge dates and times described in Subsection (3); or

(b) in an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b).

(5) (a) Except as provided in Subsection (5)(b) or (c), a county, a municipality, or the state forester may not prohibit a person from discharging [~~class C~~]a division 1.4G common state approved [~~explosives~~]explosive during the permitted periods described in Subsection (3).

(b) (i) As used in this Subsection (5)(b), "negligent discharge":

(A) means the improper use and discharge of a [~~class C~~]division 1.4G common state approved explosive; and

(B) does not include the date or location of discharge or the type of explosive used.

(ii) A municipality may prohibit:

(A) the discharge of [~~class C~~]a division 1.4G common state approved [~~explosives~~]explosive in certain areas with hazardous environmental conditions, in accordance with Subsection 15A-5-202.5(1)(b); or

(B) the negligent discharge of [~~class C~~]a division 1.4G common state approved [~~explosives~~]explosive.

(iii) A county may prohibit the negligent discharge of [~~class C~~]a division 1.4G common state approved [~~explosives~~]explosive.

(c) The state forester may prohibit the discharge of [~~class C~~]a division 1.4G common state approved [~~explosives~~]explosive as provided in Subsection 15A-5-202.5(1)(b) or Section 65A-8-212.

(6) If a municipal legislative body or the state forester provides a map to a county identifying an area in which the discharge of fireworks is prohibited due to a historical hazardous environmental condition under Subsection 15A-5-202.5(1)(b), the county shall, before June 1 of that same year:

(a) create a county-wide map, based on each map the county has received, indicating each area within the county in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b);

(b) provide the map described in Subsection (6)(a) to:

(i) each retailer that sells fireworks within the county; and

(ii) the state fire marshal; and

(c) publish the map on the county's website.

(7) A retailer that sells fireworks shall display:

(a) a sign that:

(i) is clearly visible to the general public in a prominent location near the point of sale;

(ii) indicates the legal discharge dates and times described in Subsection (3); and

(iii) indicates the criminal charge and fine associated with discharge:

(A) outside the legal dates and times described in Subsection (3); and

(B) within an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b); and

(b) the map that the county provides, in accordance with Subsection (6)(b).

Section 4. Section 53-7-225.1 is amended to read:

53-7-225.1. Civil liability.

(1) (a) An individual who negligently, recklessly, or intentionally causes or spreads a fire through discharge of a [~~class C~~]division 1.4G explosive is liable for the cost of suppressing that fire and any damages the fire causes.

(b) If the individual described in Subsection (1)(a) is a minor, the parent or legal guardian having legal custody of the minor is liable for the costs and damages for which the minor is liable under this section.

(c) A court may waive part or all of the parent or guardian's liability for damages under Subsection (1)(b) if the court finds:

(i) good cause; and

(ii) that the parent or legal guardian:

(A) made a reasonable effort to supervise and direct the minor; or

(B) in the event the parent or guardian knew in advance of the negligent, reckless, or intentional conduct described in Subsection (1)(a), made a reasonable effort to restrain the minor.

(2) (a) The conduct described in Subsection (1) includes any negligent, reckless, or intentional conduct, regardless of whether:

(i) the person discharges a [~~class C~~]division 1.4G common state approved explosive:

(A) within the permitted time periods described in Subsection 53-7-225(3); or

(B) in an area where discharge was not prohibited under Subsection 53-7-225(5)(b)or (c); or

(ii) the fire begins on:

(A) private land;

(B) land owned by the state or a political subdivision of the state;

(C) federal land; or

(D) tribal land.

(b) Discharging a [~~class C~~]division 1.4G explosive in an area in which fireworks are prohibited due to hazardous environmental

conditions, in accordance with Subsection 15A-5-202.5(1)(b), constitutes the negligent, reckless, or intentional conduct described in Subsection (1).

(3) A person who incurs costs to suppress a fire described in Subsection (1) may bring an action under this section to recover those costs against an individual described in Subsection (1).

(4) A person who suffers damage from a fire described in Subsection (1) may:

(a) bring an action under this section for those damages against an individual described in Subsection (1); and

(b) pursue all other legal remedies in addition to seeking damages under Subsection (4)(a).

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 19
H. B. 97
Passed February 14, 2025
Approved February 27, 2025
Effective May 7, 2025

PRIVATE POSTSECONDARY EDUCATION MODIFICATIONS

Chief Sponsor: Stephen L. Whyte
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to a postsecondary school's required disclosures.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► exempts a reasonable deposit from the amount a postsecondary school must refund a student under certain circumstances; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-34-109, as repealed and reenacted by Laws of Utah 2023, Chapter 458

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

Section 1. Section 13-34-109 is amended to read:

13-34-109. Required disclosures.

(1) As used in this section, "cooling off period" means a three-business day period during which a student may rescind an enrollment agreement and receive a refund of all money paid, except:

(a) a reasonable application fee; and

(b) a deposit that does not exceed 10% of the total cost of tuition for the first term.

[~~(1)~~](2) Before a postsecondary school may enroll or accept payment from a student, the postsecondary school shall clearly and conspicuously disclose in writing to the student:

(a) the postsecondary school's name, address, and location;

(b) the requirements or qualifications a student is required to satisfy to enroll in the postsecondary school;

(c) a complete description of the services for which the student will pay, including:

(i) facilities, faculty, resources, or equipment that the student may use in connection with the services, or to access the services;

(ii) the duration of services provided; and

(iii) completion or graduation requirements;

(d) information regarding how the postsecondary school's services relate to state licensing requirements if the services are intended to prepare a student for licensure;

(e) tuition, fees, and any other charge or expense to be paid by the student;

(f) a financial assistance policy, if any;

(g) the complete terms of any financing agreement, including an income sharing or other agreement, offered to the student;

(h) the postsecondary school's cancellation and tuition refund policy [~~that~~]which shall include, at a minimum:

(i) a [~~three-business-day~~]cooling off period [~~during which a person may rescind the enrollment agreement and receive a refund of all money paid, less a reasonable application fee,~~] that may not end before midnight on the third business day after the latest of:

(A) the day on which the [~~person~~]student signs the enrollment agreement;

(B) the day on which the [~~person~~]student pays the postsecondary school for services, other than an application fee;

(C) the day on which the [~~person~~]student first attends the postsecondary school; or

(D) the day on which the [~~person~~]student first gains access to the postsecondary school's services; and

(ii) a written description of the postsecondary school's refund policy following the cooling off period described in Subsection [~~(8)(a);~~](2)(h)(i);

(i) (i) whether the postsecondary school is accredited by an accrediting agency; and

(ii) whether the program in which a student intends to enroll is accredited by an accrediting agency, if applicable;

(j) the existence and amount of the postsecondary school's surety bond, certificate of deposit, or irrevocable letter of credit;

(k) information regarding how to file a complaint against the postsecondary school with the division, the postsecondary school's accrediting agency, and the postsecondary school's approval or licensing entity; and

(l) student outcomes specified in rules made by the division under Section 13-34-103.

[~~(2)~~](3) A postsecondary school may comply with Subsection [~~(1)(k)~~](2)(k) by placing a conspicuous link on the postsecondary school's website that connects to:

(a) the contact information for each entity described in Subsection [~~(1)(k)~~](2)(k) with which a person may file a complaint; or

(b) a third party's website that states the contact information for each entity described in Subsection [~~(1)(k)~~](2)(k) with which a person may file a complaint.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 20
H. B. 108
Passed February 14, 2025
Approved February 27, 2025
Effective May 7, 2025

FRAUDULENT DEED AMENDMENTS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends the Fraudulent Deeds Act.

Highlighted Provisions:

This bill:

► excludes governing documents or a reinvestment fee covenant from the definition of a deed.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-31-101, as enacted by Laws of Utah 2024, Chapter 188

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

Section 1. Section 57-31-101 is amended to read:
57-31-101. Definitions.

As used in this chapter:

(1) (a) "Deed" means an instrument in writing, including any conveyance that affects, purports to affect, describes, or otherwise concerns any right, title, or interest in real property.

(b) "Deed" does not include governing documents as defined in Section 57-8-3 or 57-8a-102 or a reinvestment fee covenant recorded in accordance with Section 57-1-46.

(2) "Fraudulent deed" means a deed that is not executed or authorized to be executed by the record interest holder.

(3) "Interest holder" means a person who holds or possesses a present, lawful property interest in real property.

(4) "Purported grantee" means a person who is identified as the grantee on a fraudulent deed.

(5) "Purported grantor" means a person who executes or causes to be executed a fraudulent deed.

(6) "Record interest holder" means a person:

(a) who holds or possesses a present, lawful property interest in real property; and

(b) whose name and interest in the real property appears in the county recorder's records for the county in which the property is located.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 21
H. B. 11
Passed January 30, 2025
Approved March 3, 2025
Effective May 7, 2025

NATIVE AMERICAN REMAINS REVIEW COMMITTEE AMENDMENTS

Chief Sponsor: Carol S. Moss
Senate Sponsor: Karen Kwan

LONG TITLE

General Description:

This bill extends the sunset for the Native American Remains Review Committee.

Highlighted Provisions:

This bill:

► extends the sunset for the Native American Remains Review Committee for five years; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-209, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

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

Section 1. Section 63I-1-209 is amended to read:

63I-1-209. Repeal dates: Title 9.

(1) Subsection 9-1-208(5), regarding the One Utah Service Fellowship Program, is repealed July 1, 2027.
(2) Section 9-6-301, Utah Arts and Museums Advisory Board, is repealed July 1, 2029.
(3) Section 9-6-302, Arts and museums board powers and duties, is repealed July 1, 2029.
(4) Subsection 9-8a-101(2), regarding the National Register Review Committee, is repealed July 1, 2027.
(5) Section 9-8a-204, National Register Review Committee, is repealed July 1, 2027.
(6) Section 9-9-112, Bears Ears Visitor Center Advisory Committee, is repealed December 31, 2026.
(7) Section 9-9-405, Review [~~Committee~~]committee, is repealed [~~July 1, 2025~~]July 1, 2030.
(8) Title 9, Chapter 20, Utah Commission on Service and Volunteerism Act, is repealed July 1, 2027.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 22
H. B. 111
Passed February 21, 2025
Approved March 3, 2025
Effective May 7, 2025

WORKERS' COMPENSATION AMENDMENTS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies provisions of the Workers' Compensation Act related to home and community based services.

Highlighted Provisions:

This bill:

- ► clarifies the circumstances under which an individual with a disability is the employer of an individual providing home and community based services; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-2-103, as last amended by Laws of Utah 2021, Chapter 286

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

Section 1. Section 34A-2-103 is amended to read:

34A-2-103. Employers enumerated and defined -- Regularly employed -- Statutory employers -- Exceptions.

(1) (a) The state, and each county, city, town, and school district in the state are considered employers under this chapter and Chapter 3, Utah Occupational Disease Act.

(b) For the purposes of the exclusive remedy in this chapter and Chapter 3, Utah Occupational Disease Act, [~~prescribed~~]provided in Sections 34A-2-105 and 34A-3-102, the state is considered to be a single employer and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.

(2) (a) Subject to the other provisions of this section, each person, including each public utility and each independent contractor, [~~who~~]that regularly employs one or more workers or operatives in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written, is considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act.

(b) As used in this Subsection (2):

(i) "Independent contractor" means any person engaged in the performance of any work for another who, while so engaged, is:

(A) independent of the employer in all that pertains to the execution of the work;

(B) not subject to the routine rule or control of the employer;

(C) engaged only in the performance of a definite job or piece of work; and

(D) subordinate to the employer only in effecting a result in accordance with the employer's design.

(ii) "Regularly" includes all employments in the usual course of the trade, business, profession, or occupation of the employer, whether continuous throughout the year or for only a portion of the year.

(3) (a) The client under a professional employer organization agreement regulated under Title 31A, Chapter 40, Professional Employer Organization Licensing Act:

(i) is considered the employer of a covered employee; and

(ii) subject to Section 31A-40-209, shall secure workers' compensation benefits for a covered employee by complying with Subsection 34A-2-201(1) and commission rules.

(b) The division shall promptly inform the Insurance Department if the division has reason to believe that a professional employer organization is not in compliance with Subsection 34A-2-201(1) and commission rules.

(4) A domestic employer who does not employ one employee or more than one employee at least 40 hours per week is not considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act.

(5) (a) As used in this Subsection (5):

(i) (A) "Agricultural employer" means a person who employs agricultural labor as defined in Subsections 35A-4-206(1) and (2) and does not include employment as provided in Subsection 35A-4-206(3).

(B) Notwithstanding Subsection (5)(a)(i)(A), only for purposes of determining who is a member of the employer's immediate family under Subsection (5)(a)(ii), if the agricultural employer is a corporation, partnership, or other business entity, "agricultural employer" means an officer, director, or partner of the business entity.

(ii) "Employer's immediate family" means:

(A) an agricultural employer's:

(I) spouse;

(II) grandparent;

(III) parent;

(IV) sibling;

(V) child;

(VI) grandchild;

(VII) nephew; or

(VIII) niece;

(B) a spouse of any person provided in Subsections (5)(a)(ii)(A)(II) through (VIII); or

(C) an individual who is similar to those listed in Subsection (5)(a)(ii)(A) or (B) as defined by rules of the commission.

(iii) "Nonimmediate family" means a person who is not a member of the employer's immediate family.

(b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an agricultural employer is not considered an employer of a member of the employer's immediate family.

(c) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an agricultural employer is not considered an employer of a nonimmediate family employee if:

(i) for the previous calendar year the agricultural employer's total annual payroll for all nonimmediate family employees was less than $8,000; or

(ii) (A) for the previous calendar year the agricultural employer's total annual payroll for all nonimmediate family employees was equal to or greater than $8,000 but less than $50,000; and

(B) the agricultural employer maintains insurance that covers job-related injuries of the employer's nonimmediate family employees in at least the following amounts:

(I) $300,000 liability insurance, as defined in Section 31A-1-301; and

(II) $5,000 for health care benefits similar to benefits under health care insurance as defined in Section 31A-1-301.

(d) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an agricultural employer is considered an employer of a nonimmediate family employee if:

(i) for the previous calendar year the agricultural employer's total annual payroll for all nonimmediate family employees is equal to or greater than $50,000; or

(ii) (A) for the previous year the agricultural employer's total payroll for nonimmediate family employees was equal to or exceeds $8,000 but is less than $50,000; and

(B) the agricultural employer fails to maintain the insurance required under Subsection (5)(c)(ii)(B).

(6) An employer of agricultural laborers or domestic servants who is not considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act, may come under this chapter and Chapter 3, Utah Occupational Disease Act, by complying with:

(a) this chapter and Chapter 3, Utah Occupational Disease Act; and

(b) the rules of the commission.

(7) (a) (i) As used in this Subsection (7)(a), "employer" includes any of the following persons that procures work to be done by a contractor notwithstanding whether or not the person directly employs a person:

(A) a sole proprietorship;

(B) a corporation;

(C) a partnership;

(D) a limited liability company; or

(E) a person similar to one described in Subsections (7)(a)(i)(A) through (D).

(ii) If an employer procures any work to be done wholly or in part for the employer by a contractor over whose work the employer retains supervision or control, and this work is a part or process in the trade or business of the employer, the contractor, all persons employed by the contractor, all subcontractors under the contractor, and all persons employed by any of these subcontractors, are considered employees of the original employer for the purposes of this chapter and Chapter 3, Utah Occupational Disease Act.

(b) Any person who is engaged in constructing, improving, repairing, or remodeling a residence that the person owns or is in the process of acquiring as the person's personal residence may not be considered an employee or employer solely by operation of Subsection (7)(a).

(c) A partner in a partnership or an owner of a sole proprietorship is not considered an employee under Subsection (7)(a) if the employer who procures work to be done by the partnership or sole proprietorship obtains and relies on either:

(i) a valid certification of the partnership's or sole proprietorship's compliance with Section 34A-2-201 indicating that the partnership or sole proprietorship secured the payment of workers' compensation benefits pursuant to Section 34A-2-201; or

(ii) if a partnership or sole proprietorship with no employees other than a partner of the partnership or owner of the sole proprietorship, a workers' compensation coverage waiver issued pursuant to Part 10, Workers' Compensation Coverage Waivers Act, stating that:

(A) the partnership or sole proprietorship is customarily engaged in an independently established trade, occupation, profession, or business; and

(B) the partner or owner personally waives the partner's or owner's entitlement to the benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the partnership or sole proprietorship.

(d) A director or officer of a corporation is not considered an employee under Subsection (7)(a) if the director or officer is excluded from coverage under Subsection 34A-2-104(4).

(e) A contractor or subcontractor is not an employee of the employer under Subsection (7)(a), if the employer who procures work to be done by the contractor or subcontractor obtains and relies on either:

(i) a valid certification of the contractor's or subcontractor's compliance with Section 34A-2-201; or

(ii) if a partnership, corporation, or sole proprietorship with no employees other than a partner of the partnership, officer of the corporation, or owner of the sole proprietorship, a workers' compensation coverage waiver issued pursuant to Part 10, Workers'

Compensation Coverage Waivers Act, stating that:

(A) the partnership, corporation, or sole proprietorship is customarily engaged in an independently established trade, occupation, profession, or business; and

(B) the partner, corporate officer, or owner personally waives the partner's, corporate officer's, or owner's entitlement to the benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the partnership's, corporation's, or sole proprietorship's enterprise under a contract of hire for services.

(f) (i) For purposes of this Subsection (7)(f), "eligible employer" means a person who:

(A) is an employer; and

(B) procures work to be done wholly or in part for the employer by a contractor, including:

(I) all persons employed by the contractor;

(II) all subcontractors under the contractor; and

(III) all persons employed by any of these subcontractors.

(ii) Notwithstanding the other provisions in this Subsection (7), if the conditions of Subsection (7)(f)(iii) are met, an eligible employer is considered an employer for purposes of Section 34A-2-105 of the contractor, subcontractor, and all persons employed by the contractor or subcontractor described in Subsection (7)(f)(i)(B).

(iii) Subsection (7)(f)(ii) applies if the eligible employer:

(A) under Subsection (7)(a) is liable for and pays workers' compensation benefits as an original employer under Subsection (7)(a) because the contractor or subcontractor fails to comply with Section 34A-2-201;

(B) (I) secures, in accordance with Section 34A-2-201, the payment of workers' compensation coverage for the contractor or subcontractor;

(II) procures work to be done that is part or process of the trade or business of the eligible employer; and

(III) does the following with regard to a written workplace accident and injury reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

(Aa) adopts the workplace accident and injury reduction program;

(Bb) posts the workplace accident and injury reduction program at the work site at which the eligible employer procures work; and

(Cc) enforces the workplace accident and injury reduction program according to the terms of the workplace accident and injury reduction program; or

(C) (I) obtains and relies on:

(Aa) a valid certification described in Subsection (7)(c)(i) or (7)(e)(i);

(Bb) a workers' compensation coverage waiver described in Subsection (7)(c)(ii) or (7)(e)(ii); or

(Cc) proof that a director or officer is excluded from coverage under Subsection 34A-2-104(4);

(II) is liable under Subsection (7)(a) for the payment of workers' compensation benefits if the contractor or subcontractor fails to comply with Section 34A-2-201;

(III) procures work to be done that is part or process in the trade or business of the eligible employer; and

(IV) does the following with regard to a written workplace accident and injury reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

(Aa) adopts the workplace accident and injury reduction program;

(Bb) posts the workplace accident and injury reduction program at the work site at which the eligible employer procures work; and

(Cc) enforces the workplace accident and injury reduction program according to the terms of the workplace accident and injury reduction program.

(8) (a) For purposes of this Subsection (8), "unincorporated entity" means an entity organized or doing business in the state that is not:

(i) an individual;

(ii) a corporation; or

(iii) publicly traded.

(b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who holds, directly or indirectly, an ownership interest in the unincorporated entity. Notwithstanding Subsection (7)(c) and Subsection 34A-2-104(3), the unincorporated entity shall provide the individual who holds the ownership interest workers' compensation coverage under this chapter and Chapter 3, Utah Occupational Disease Act, unless the presumption is rebutted under Subsection (8)(c).

(c) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (8)(b) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(d) As part of the rules made under Subsection (8)(c), the commission may define:

(i) "active manager";

(ii) "directly or indirectly holds at least an 8% ownership interest"; and

(iii) "subject to supervision or control in the performance of work."

(9) (a) As used in this Subsection (9), "home and community based services" means one or more of the following services provided to an individual with a disability or to the individual's family that helps prevent the individual with a disability from being placed in a more restrictive setting:

(i) respite care;

(ii) skilled nursing;

(iii) nursing assistant services;

(iv) home health aide services;

(v) personal care and attendant services;

(vi) other in-home care, such as support for the daily activities of the individual with a disability;

(vii) specialized in-home training for the individual with a disability or a family member of the individual with a disability;

(viii) specialized in-home support, coordination, and other supported living services; and

(ix) [~~other home and community based services~~]any other in-home service that isunique to the individual with a disability or the family of the individual with a disability [~~that help prevent the individual with a disability from being placed in a more restrictive setting~~].

(b) (i) Notwithstanding Subsection (4) and subject to Subsection (9)(c), an individual with a disability or designated representative of the individual with a disability is considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act, of an individual who provides home and community based services if the individual with a disability or designated representative of the individual with a disability:

[~~(i)~~](A) employs the individual to provide home and community based services for seven hours per week or more; and

[~~(ii)~~](B) pays the individual providing the home and community based services from state or federal money received by the individual with a disability or designated representative of the individual with a disability to fund home and community based services, including through a person designated by the Secretary of the Treasury in accordance with Section 3504, Internal Revenue Code, as a fiduciary, agent, or other person who has the control, receipt, custody, or disposal of, or pays the wages of, the individual providing the home and community based services.

(ii) For purposes of Subsection (9)(b)(i), an entity is not a designated representative of an individual with a disability solely because the entity, in the course of business, connects the individual with a disability or the individual's family with an individual who provides home and community based services.

(c) The state and federal money received by an individual with a disability or designated representative of an individual with a disability shall include the cost of the workers' compensation coverage required by this Subsection (9) in addition to the money necessary to fund the home and community based services that the individual with a disability or family of the individual with a disability is eligible to receive so that the home and community based services are not reduced in order to pay for the workers' compensation coverage required by this Subsection (9).

(10) (a) For purposes of this Subsection (10), "federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

(b) For purposes of determining whether two or more persons are considered joint employers under this chapter or Chapter 3, Utah Occupational Disease Act, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(11) (a) As used in this Subsection (11):

(i) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(ii) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(iii) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(b) For purposes of this chapter, a franchisor is not considered to be an employer of:

(i) a franchisee; or

(ii) a franchisee's employee.

(c) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (11) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 23
H. B. 161
Passed February 21, 2025
Approved March 3, 2025
Effective July 1, 2025

SCHOOL BUS ROUTE AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Karen Kwan

LONG TITLE

General Description:

This bill amends student eligibility for state-supported transportation.

Highlighted Provisions:

This bill:

► amends student eligibility for state-supported transportation; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-2-403, as last amended by Laws of Utah 2024, Chapter 507

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

Section 1. Section 53F-2-403 is amended to read:

53F-2-403. Eligibility for state-supported transportation -- Approved bus routes.

(1) A student eligible for state-supported transportation means:

(a) except as provided in Subsection (1)(b), a student enrolled in kindergarten through grade 6 who lives at least 1-1/2 miles from school;

(b) a student enrolled in grade 6, if grade 6 is in a middle school, and grades 7 through 12 who lives at least two miles from school; and

(c) a student enrolled in a special program offered by a school district and approved by the state board for trainable, motor, multiple-disability, or other students with severe disabilities who are incapable of walking to school or where it is unsafe for students to walk because of their disabling condition, without reference to distance from school.

(2) If a school district implements double sessions as an alternative to new building construction, with the approval of the state board, those affected elementary school students residing less than 1-1/2 miles from school may be transported one way to or from school because of safety factors relating to darkness or other hazardous conditions as determined by the local school board.

(3) (a) The state board shall distribute transportation money to school districts based on:

(i) an allowance per mile for approved bus routes;

(ii) an allowance per hour for approved bus routes; and

(iii) a minimum allocation for each school district eligible for transportation funding.

(b) (i) Except as provided in Subsection (3)(b)(ii), the state board shall distribute appropriated transportation funds based on the prior year's eligible transportation costs as legally reported under Subsection 53F-2-402(3).

(ii) The state board shall distribute state appropriations for transportation for fiscal years 2021 and 2022 using fiscal year 2019 eligible transportation costs described in Subsection 53F-2-402(3).

(c) The state board shall annually review the allowance per mile and the allowance per hour and adjust the allowances to reflect current economic conditions.

(4) (a) Approved bus routes for funding purposes shall be determined on fall data collected by October 1.

(b) Approved route funding shall be determined on the basis of the most efficient and economic routes.

(5) A local school board may provide for the transportation of students regardless of the distance from school, from general funds of the school district.

Section 2. Effective date.

This bill takes effect on July 1, 2025.

CHAPTER 24
S. B. 239
Passed February 27, 2025
Approved March 3, 2025
Effective March 3, 2025

INLAND PORT AUTHORITY AMENDMENTS

Chief Sponsor: Jerry W Stevenson
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill modifies provisions related to the Utah Inland Port Authority.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► provides that the Utah Inland Port Authority (authority) may facilitate and provide funding for the development of land in a project area, land related to land in a project area, and land adjacent to a project area, including:
  - • the development of public infrastructure and improvements in a project area and directly adjacent to a project area; and
  - • other infrastructure and improvements, including environmental sustainability projects, on or related to land in a project area;
- ► authorizes the authority to provide funding through grant or agreement to another governmental entity to help fulfill the authority's duties and responsibilities;
- ► provides that contaminated land or land within a remediation project area may be used for a distribution center if the contaminated land is owned by a private landowner;
- ► provides that the authority executive director may make policies to allow the authority to classify a business proposal submitted to the authority by a nongovernment party as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal and determine whether to proceed or not proceed;
- ► requires the Utah Inland Port Authority Board (board) to conduct a review of the authority's statutory authority at least annually and, if necessary, recommend statutory changes to the Legislature;
- ► modifies the structure of the board;
- ► provides that the authority may use funding to pay for all of or part of development of land within or adjacent to a project area;
- ► modifies the timeline for an optional extension of nonmunicipal differential payments and municipal deferential payments to the authority;
- ► provides that the authority may use primary municipality differential funds on environmental projects within or adjacent to authority jurisdictional land and economic development activities within or adjacent to authority jurisdictional land; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-58-202, as last amended by Laws of Utah 2022, Chapters 32, 82
11-58-205, as last amended by Laws of Utah 2024, Chapters 438, 535
11-58-301, as last amended by Laws of Utah 2020, Chapter 126
11-58-302, as last amended by Laws of Utah 2023, Chapter 259
11-58-303, as last amended by Laws of Utah 2023, Chapter 259
11-58-601, as last amended by Laws of Utah 2023, Chapter 259
11-58-602, as last amended by Laws of Utah 2024, Chapter 535
11-58-604, as last amended by Laws of Utah 2023, Chapter 259
11-58-605, as last amended by Laws of Utah 2024, Chapter 535

ENACTS:

11-58-209, Utah Code Annotated 1953

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

Section 1. Section 11-58-202 is amended to read:

11-58-202. Authority powers and duties.

(1) The authority has exclusive jurisdiction, responsibility, and power to coordinate the efforts of all applicable state and local government entities, property owners and other private parties, and other stakeholders to:

(a) develop and implement a business plan for the authority jurisdictional land, to include an environmental sustainability component, developed in conjunction with the [~~Utah~~]Department of Environmental Quality, incorporating policies and best practices to meet or exceed applicable federal and state standards, including:

(i) emissions monitoring and reporting; and

(ii) strategies that use [~~the~~]best available [~~technology~~]practices to mitigate environmental impacts resulting from development and uses on the authority jurisdictional land;

(b) plan and facilitate the development of inland port uses on authority jurisdictional land and on land in other authority project areas;

(c) manage any inland port located on land owned or leased by the authority; and

(d) establish a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land or land in other authority project areas.

(2) The authority may:

(a) facilitate and bring about the development of inland port uses on land that is part of the authority jurisdictional land or that is in other authority project areas, including engaging in marketing and business recruitment activities and efforts to encourage and facilitate:

(i) the development of an inland port on the authority jurisdictional land; and

(ii) other development of the authority jurisdictional land consistent with the policies and objectives described in Subsection 11-58-203(1);

(b) facilitate and provide funding for the development of land in a project area, land related to land in a project area, and land adjacent to a project area, including:

(i) the development of public infrastructure and improvements in a project area and directly adjacent to a project area; and

(ii) other infrastructure and improvements, including environmental sustainability projects, on or related to land in a project area;

(c) engage in marketing and business recruitment activities and efforts to encourage and facilitate development of the authority jurisdictional land;

(d) apply for and take all other necessary actions for the establishment of a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land;

(e) as the authority considers necessary or advisable to carry out any of [~~its~~]the authority's duties or responsibilities under this chapter:

(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;

(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(iii) provide funding, through a grant or agreement, to another governmental entity for the governmental entity to help fulfill the authority's duties and responsibilities; or

[~~(iii)~~](iv) enter into a lease agreement on real or personal property, either as lessee or lessor;

(f) sue and be sued;

(g) enter into contracts generally;

(h) provide funding for the development of public infrastructure and improvements or other infrastructure and improvements on or related to the authority jurisdictional land or other authority project areas;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) receive the property tax differential, as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Chapter 17, Utah Industrial Facilities and Development Act, bonds under Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) engage one or more consultants to advise or assist the authority in the performance of the authority's duties and responsibilities;

(q) work with other political subdivisions and neighboring property owners and communities to mitigate potential negative impacts from the development of authority jurisdictional land;

(r) own, lease, operate, or otherwise control public infrastructure and improvements in a project area;

(s) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(t) develop and implement world-class, state-of-the-art, zero-emissions logistics to:

(i) support continued growth of the state's economy;

(ii) promote the state as the global center of efficient and sustainable supply chain logistics;

(iii) facilitate the efficient movement of goods on roads and rails and through the air; and

(iv) benefit the commercial viability of tenants and users; and

(u) attract capital and expertise in pursuit of the next generation of logistics solutions.

(3) (a) Beginning April 1, 2020, the authority shall:

(i) be the repository of the official delineation of the boundary of the authority jurisdictional land, identical to the boundary as delineated in the shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session, subject to Subsection (3)(b) and any later changes to the boundary enacted by the Legislature; and

(ii) maintain an accurate digital file of the boundary that is easily accessible by the public.

(b) (i) As used in this Subsection (3)(b), "split property" means a piece of land:

(A) with a single tax identification number; and

(B) that is partly included within and partly excluded from the authority jurisdictional land by the boundary delineated in the shapefile described in Subsection 11-58-102(2).

(ii) With the consent of the mayor of the municipality in which the split property is located, the executive director may adjust the boundary of the authority jurisdictional land to include an excluded portion of a split property or exclude an included portion of a split property.

(iii) In adjusting the boundary under Subsection (3)(b)(ii), the executive director shall consult with the county assessor, the county surveyor, the owner of the split property, and the municipality in which the split property is located.

(iv) A boundary adjustment under this Subsection (3)(b) affecting the northwest boundary of the authority jurisdictional land shall maintain the buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land to be preserved from development.

(v) Upon completing boundary adjustments under this Subsection (3)(b), the executive director shall cause to be recorded in the county recorder's office a map or other description, sufficient for purposes of the county recorder, of the adjusted boundary of the authority jurisdictional land.

(vi) The authority shall modify the official delineation of the boundary of the authority jurisdictional land under Subsection (3)(a) to reflect a boundary adjustment under this Subsection (3)(b).

(4) (a) The authority may establish a community enhancement program designed to address the impacts that development or inland port uses within project areas have on adjacent communities.

(b) (i) The authority may use authority money to support the community enhancement program and to pay for efforts to address the impacts described in Subsection (4)(a).

(ii) Authority money designated for use under Subsection (4)(b)(i) is exempt from execution or any other process in the collection of a judgment against or debt or other obligation of the authority arising out of the authority's activities with respect to the community enhancement program.

Section 2. Section 11-58-205 is amended to read:

11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal services -- Disclosure by nonauthority governing body member -- Services from state agencies -- Procurement policy.

(1) Except as otherwise provided in this chapter, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) (a) [~~The~~]Except as provided in Subsection (2)(b), the authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(b) Notwithstanding Subsection 63E-2-109(2)(c), the executive director may make policies as approved by the board as described in Section 11-58-209.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5) (a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:

(i) determined by the municipality; and

(ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard to any contrary provision in the municipality's land use ordinances.

(6) (a) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.

(b) Notwithstanding a permitted or conditional use allowed under applicable municipal ordinances, contaminated land may not be used for a distribution center unless the contaminated land is owned by a private landowner.

(7) (a) A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(8) (a) As used in this Subsection (8):

(i) "Direct financial benefit" means the same as that term is defined in Section 11-58-304.

(ii) "Nonauthority governing body member" means a member of the board or other body that has authority to make decisions for a nonauthority government owner.

(iii) "Nonauthority government owner" mean a state agency or nonauthority local government entity that owns land that is part of the authority jurisdictional land.

(iv) "Nonauthority local government entity":

(A) means a county, city, town, special district, special service district, community reinvestment agency, or other political subdivision of the state; and

(B) excludes the authority.

(v) "State agency" means a department, division, or other agency or instrumentality of the state, including an independent state agency.

(b) A nonauthority governing body member who owns or has a financial interest in land that is part of the authority jurisdictional land or who reasonably expects to receive a direct financial benefit from development of authority jurisdictional land shall submit a written disclosure to the authority board and the nonauthority government owner.

(c) A written disclosure under Subsection (8)(b) shall describe, as applicable:

(i) the nonauthority governing body member's ownership or financial interest in property that is part of the authority jurisdictional land; and

(ii) the direct financial benefit the nonauthority governing body member expects to receive from development of authority jurisdictional land.

(d) A nonauthority governing body member required under Subsection (8)(b) to submit a written disclosure shall submit the disclosure

no later than 30 days after:

(i) the nonauthority governing body member:

(A) acquires an ownership or financial interest in property that is part of the authority jurisdictional land; or

(B) first knows that the nonauthority governing body member expects to receive a direct financial benefit from the development of authority jurisdictional land; or

(ii) the effective date of this Subsection (8), if that date is later than the period described in Subsection (8)(d)(i).

(e) A written disclosure submitted under this Subsection (8) is a public record.

(9) (a) The authority may request and, upon request, shall receive:

(i) fuel dispensing and motor pool services provided by the Division of Fleet Operations;

(ii) surplus property services provided by the Division of Purchasing and General Services;

(iii) information technology services provided by the Division of Technology Services;

(iv) archive services provided by the Division of Archives and Records Service;

(v) financial services provided by the Division of Finance;

(vi) human resources services provided by the Division of Human Resource Management;

(vii) legal services provided by the Office of the Attorney General; and

(viii) banking services provided by the Office of the State Treasurer.

(b) Nothing in Subsection (9)(a) may be construed to relieve the authority of the obligation to pay the applicable fee for the service provided.

(10) (a) To govern authority procurements, the board shall adopt a procurement policy that the board determines to be substantially consistent with applicable provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(b) The board may delegate to the executive director the responsibility to adopt a procurement policy.

(c) The board's determination under Subsection (10)(a) of substantial consistency is final and conclusive.

Section 3. Section 11-58-209 is enacted to read:

11-58-209. Evaluating business proposals.

(1) The executive director may make policies as approved by the board that allow the authority to classify a business proposal submitted to the authority by a nongovernmental party as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal and determine whether to proceed or not proceed.

(2) If, after evaluation of a business proposal, the authority determines not to proceed with the business proposal, the authority:

(a) shall return the business proposal to the nongovernmental party that submitted the business proposal; and

(b) incurs no duties or obligations under Title 63G, Chapter 2, Government Records Access and Management Act, in regard to the business proposal.

(3) The authority shall classify the business proposal pursuant to Title 63G, Chapter 2, Government Records Access and Management Act, if the authority proceeds with the business proposal.

(4) Section 63G-2-403 does not apply in regard to the authority or a business proposal in the possession of the authority during the evaluation period of the business proposal.

(5) Nothing in this section limits the ability of the authority to properly classify a record in the authority's possession as protected pursuant to Section 63G-2-305.

Section 4. Section 11-58-301 is amended to read:

11-58-301. Port authority board -- Delegation of power.

(1) The authority shall be governed by a board which:

(a) shall manage and conduct the business and affairs of the authority[~~, and~~];

(b) shall determine all questions of authority policy[~~,~~]; and

(c) constitutes a mixed-function board.

(2) All powers of the authority are exercised through the board or, as provided in Section 11-58-305, the executive director.

(3) The board may by resolution delegate powers to authority staff.

(4) The board shall, at least annually:

(a) review the statutory authority of the authority, the board, and the executive director;

(b) evaluate whether the authority is achieving the objectives outlined in Section 11-58-203;

(c) determine whether changes to board rules, policies, or guidelines are advisable and, if so, modify the rule, policy, or guideline; and

(d) determine whether to recommend statutory changes to Chapter 58, Utah Inland Port Authority Act, to the Legislature.

Section 5. Section 11-58-302 is amended to read:

11-58-302. Number of board members -- Appointment -- Vacancies.

(1) The authority's board shall consist of five voting members, as provided in Subsection (2).

(2) (a) The governor shall appoint as board members [~~two~~]three individuals who are not elected government officials:

(i) one of whom shall be an individual engaged in statewide economic development or corporate recruitment and retention; [~~and~~]

(ii) one of whom shall be an individual engaged in statewide trade, import and export activities, foreign direct investment, or public-private partnerships[~~,~~]; and

(iii) one of whom shall be an individual with relevant business expertise.

(b) The president of the Senate shall appoint as a board member one individual with relevant business expertise.

(c) The speaker of the House of Representatives shall appoint as a board member one individual with relevant business expertise.

[~~(d) The president of the Senate and speaker of the House of Representatives shall jointly appoint as a board member one individual with relevant business expertise.~~]

(3) (a) The board shall include three nonvoting board members.

(b) The board shall appoint as nonvoting board members two individuals with expertise in transportation and logistics.

(c) One of the nonvoting board members shall be a member of the Salt Lake City Council, designated by the Salt Lake City Council, who represents a council district whose boundary includes authority jurisdictional land.

(d) The board may set the term of office for nonvoting board members appointed under Subsection (3)(b).

(4) An individual required under Subsection (2) to appoint a board member shall appoint each initial board member the individual is required to appoint no later than [~~June 1, 2022~~]July 1, 2025.

(5) (a) A vacancy in the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) A person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(6) A member of the board appointed under Subsection (2) serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the individual or individuals who appointed the member.

(7) Upon a vote of a majority of all voting members, the board may appoint a board chair and any other officer of the board.

(8) The board may appoint one or more advisory committees that may include individuals from impacted public entities, community organizations, environmental organizations, business organizations, or other organizations or associations.

Section 6. Section 11-58-303 is amended to read:

11-58-303. Term of board members -- Quorum -- Compensation.

(1) The term of a board member appointed under Subsection 11-58-302(2) is four years, except that the initial term of [~~one~~]two of the [~~two~~]three members appointed under Subsection 11-58-302(2)(a)[~~and of the member appointed under Subsection 11-58-302(2)(d)~~] is two years.

(2) Each board member shall serve until a successor is duly appointed and qualified.

(3) A board member may serve multiple terms if duly appointed to serve each term under Subsection 11-58-302(2).

(4) A majority of voting members constitutes a quorum, and the action of a majority of voting members constitutes action of the board.

(5) (a) A board member who is not a legislator may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member as allowed in:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section 7. Section 11-58-601 is amended to read:

11-58-601. General differential and nonmunicipal differential.

(1) As used in this section:

(a) "Designation resolution" means a resolution adopted by the board that designates a transition date and a trigger date, which may be the same date, for the parcel specified in the resolution.

(b) "Post-designation parcel" means a parcel within a project area after the transition date for that parcel.

(c) "Pre-designation parcel" means a parcel within a project area before the transition date for that parcel.

(d) "Transition date" means the date indicated in a designation resolution after which the parcel that is the subject of the designation resolution is a post-designation parcel.

(e) "Trigger date" means the date indicated in a designation resolution upon which tax differential payments due to the authority commence.

(2) This section applies to nonmunicipal differential and general differential to be paid to the authority.

(3) The authority shall be paid 75% of nonmunicipal differential generated from a pre-designation parcel that is part of the authority jurisdictional land:

(a) for the period beginning November 2019 and ending the earlier of:

(i) the transition date for that parcel; and

(ii) November 30, 2044; and

(b) for a period of up to15 years following November 2044 if, before the end of November 2044:

(i) the parcel has not become a post-designation parcel; and

(ii) the board adopts a resolution approving the [~~15-year~~]extension.

(4) (a) As provided in Subsection (4)(b), the authority shall be paid:

(i) 75% of nonmunicipal differential generated from a post-designation parcel that is part of the authority jurisdictional land; and

(ii) 75% of general differential generated from a post-designation parcel that is not part of the authority jurisdictional land.

(b) The property tax differential paid under Subsection (4)(a) from a post-designation parcel shall be paid:

(i) for a period of 25 years beginning on the [~~transition~~]trigger date for that parcel; and

(ii) for a period of up toan additional 15 years beyond the period stated in Subsection (4)(b)(i) if the board determines by resolution that the additional years of nonmunicipal differential or general differential, as the case may be, from that parcel will produce a significant benefit.

(5) (a) For purposes of this section, the authority may designate an improved portion of a parcel in a project area as a separate parcel.

(b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection (5)(a) does not constitute a subdivision, as defined in Section 10-9a-103 or Section 17-27a-103.

(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the authority as a separate parcel under Subsection (5)(a).

Section 8. Section 11-58-602 is amended to read:

11-58-602. Allowable uses of property tax differential and other funds.

(1) (a) The authority may use money from property tax differential, money the authority receives from the state, money the authority receives under Subsection 59-12-205(2)(a)(ii)(C), and other money available to the authority:

(i) for any purpose authorized under this chapter;

(ii) for administrative, overhead, legal, consulting, and other operating expenses of the authority;

(iii) to pay for, including financing or refinancing, all or part of the development of land within or adjacent to a project area, including assisting the ongoing operation of a development or facility within or adjacent to the project area;

(iv) to pay the cost of the installation and construction of public infrastructure and improvements within the project area from which the property tax differential funds were collected;

(v) to pay the cost of the installation of public infrastructure and improvements outside a project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area;

(vi) to pay to a community reinvestment agency for affordable housing, as provided in Subsection 11-58-606(2);

(vii) to pay the principal and interest on bonds issued by the authority;

(viii) to pay the cost of acquiring [~~a conservation~~]land or an easement on land that is part of or adjacent to authority jurisdictional land:

(A) for the perpetual preservation of the land from development; and

(B) to provide a buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land; and

(ix) subject to Subsection (1)(b), to encourage, incentivize, or require development that:

(A) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;

(B) mitigates traffic congestion; or

(C) uses high efficiency building construction and operation.

(b) (i) (A) The authority shall establish minimum mitigation and environmental standards that a landowner is required to meet to qualify for the use of property tax differential under Subsection (1)(a)(ix) in the landowner's development.

(B) Minimum mitigation and environmental standards established under Subsection (1)(b)(i)(A) shall include a standard prohibiting the use of property tax differential as a business recruitment incentive, as defined in Section 11-58-603, for new commercial or industrial development or an expansion of existing commercial or industrial development within the authority jurisdictional land if the new or expanded development will consume on an annual basis more than 200,000 gallons of potable water per day.

(ii) In establishing minimum mitigation and environmental standards, the authority shall consult with:

(A) the municipality in which the development is expected to occur, for development expected to occur within a municipality; or

(B) the county in whose unincorporated area the development is expected to occur, for development expected to occur within the unincorporated area of a county.

(iii) The authority may not use property tax differential under Subsection (1)(a)(viii) for a landowner's development in a project area unless the minimum mitigation and environmental standards are followed with respect to that landowner's development.

(2) The authority may use revenue generated from the operation of public infrastructure operated by the authority or improvements, including an intermodal facility, operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) The determination of the board under Subsection (1)(a)(v) regarding benefit to the project area is final.

(4) The authority may not use property tax differential revenue collected from one project area for a development project within another project area.

(5) The authority may use up to 10% of the general differential revenue generated from a project area to pay for affordable housing within or near the project area.

(6) The authority may share general differential funds with a taxing entity that levies a property tax on land within the project area from which the general differential is generated.

Section 9. Section 11-58-604 is amended to read:

11-58-604. Distribution and use of primary municipality differential.

(1) This section applies to the payment and use of primary municipality differential.

(2) Beginning the first tax year that begins on or after January 1, 2023:

(a) the authority shall be paid 25% of primary municipality differential:

(i) for the authority's use as provided in Subsection (4); and

(ii) (A) for a period of 25 years beginning January 1, 2023; and

(B) for a period of time , not [~~exceeding~~]to exceed an additional 15 years beyond the period stated in Subsection (2)(a)(ii)(A), if the board determines by resolution, adopted before the expiration of the 25-year period under Subsection (2)(a)(ii)(A), that the additional years will produce a significant benefit to the uses described in Subsection (4) and if the primary municipality and the authority agree to the additional period of time;

(b) the authority shall be paid, in addition to the amounts under Subsection (2)(a), a percentage, as defined in Subsection (3), of primary municipality differential for the authority's use as provided in Subsection (4); and

(c) the primary municipality shall be paid, for the primary municipality's use for municipal operations, all primary municipality differential remaining after the payment of primary municipality differential to the authority as required under Subsections (2)(a) and (b).

(3) The percentage of primary municipality differential paid to the authority as provided in Subsection (2)(b):

(a) shall be 40% for the first tax year that begins on or after January 1, 2023, decreasing 2% each year after the 2023 tax year, so that in 2029 the percentage is 28;

(b) beginning January 1, 2030, and for a period of seven years, shall be 10%;

(c) beginning January 1, 2037, and for a period of 11 years, shall be 8%; and

(d) after 2047, shall be 0%.

(4) Of the primary municipality differential the authority receives, the authority shall use:

(a) 40% for environmental mitigation projects within:

(i) the authority jurisdictional land; and

(ii) adjacent land to the authority jurisdictional land if the adjacent land is within the municipality from which the primary municipality differential was generated;

(b) 40% for mitigation projects, which may include a regional traffic study and an environmental impact mitigation analysis, for communities that are:

(i) within the primary municipality;

(ii) adjacent to the authority jurisdictional land; and

(iii) west of the east boundary of the right of way of a fixed guideway used, as of January 1, 2022, for commuter rail within the primary municipality; and

(c) 20% for economic development activities [~~on~~]within:

(i) the authority jurisdictional land[~~.~~]; and

(ii) adjacent land to the authority jurisdictional land if the adjacent land is within the municipality from which the primary municipality differential was generated.

Section 10. Section 11-58-605 is amended to read:

11-58-605. Creation of remediation project area and payment of remediation differential.

(1) As used in this section:

(a) "Remedial action plan" means a plan for the cleanup of contaminated land under a voluntary cleanup agreement under Title 19, Chapter 8, Voluntary Cleanup Program.

(b) "Subsidiary district" means a public infrastructure district that is a subsidiary of the authority.

(2) This section applies to a remediation project area and to remediation differential.

(3) (a) The authority may adopt a resolution creating a remediation project area[].

(b) Land within a remediation project area may not be used for a distribution center unless the land within the remediation project area is owned by a private landowner.

(4) If the authority adopts a resolution creating a remediation project area, the authority shall reconfigure the boundary of the project area that consists of the authority jurisdictional land to exclude the remediation project area.

(5) The authority may pay the costs of a remediation project from funds available to the authority, including funds of a subsidiary district.

(6) (a) If the authority pays some or all the costs of a remediation project, the authority shall be paid 100% of the remediation differential, subject to Subsection (6)(b), until the authority is fully reimbursed for the costs the authority paid for the remediation project.

(b) (i) Subject to Subsection (6)(b)(iii), the authority's use of remediation differential paid to the authority under Subsection (6)(a) is subject to any bonds of a subsidiary district issued before May 3, 2023, pledging property tax differential funds generated from the contaminated land.

(ii) Before using remediation differential to pay subsidiary district bonds described in Subsection (6)(b)(i), the authority shall use other funds available to the authority to pay the bonds.

(iii) A pledge of property tax differential under subsidiary district bonds issued before May 3, 2023 , may be satisfied if:

(A) the authority or the subsidiary district pledges additional property tax differential, other than remediation differential, or other authority or subsidiary district funds to offset any decrease in property tax differential resulting from the payment under Subsection (6)(a) of remediation differential funds that would otherwise have been available to pay the subsidiary district bonds; and

(B) the pledge described in Subsection (6)(b)(iii)(A) is senior in right to any pledge of remediation differential for a commitment the authority makes in connection with a remediation project.

(7) If a remediation project is conducted pursuant to a remedial action plan, the use of the land that is the subject of the remediation project shall be consistent with the remedial action plan unless the change of use:

(a) occurs after the government owner, as defined in Subsection 63G-7-201(3)(b), is environmentally compliant, as defined in Subsection 63G-7-201(3)(b), with respect to the land that is the subject of the remediation project; and

(b) is approved by the board following a public hearing on the proposed change of use.

(8) (a) Upon the authority receiving full reimbursement for the authority's payment of costs for a remediation project, the remediation project area is automatically and immediately dissolved and the land within the remediation project area automatically and immediately becomes part of the project area consisting of the authority jurisdictional land.

(b) The board shall take any action necessary to effectuate and reflect in authority project area records and any other applicable records the reincorporation of the remediation project area under Subsection (8)(a) into the project area consisting of the authority jurisdictional land.

Section 11. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 25
H. B. 455
Passed March 3, 2025
Approved March 6, 2025
Effective March 6, 2025

UTAH FITS ALL SCHOLARSHIP PROGRAM AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to the Utah Fits All Scholarship Program.

Highlighted Provisions:

This bill:

- ► strengthens residency requirements and income verification processes;
- ► amends the definition of the program manager;
- ► creates a financial administrator to process payments and fund expenditures from a scholarship account;
- ► prohibits contracted entities from charging processing fees to families;
- ► establishes deadlines for scholarship acceptance or denial;
- ► limits extracurricular expenses to 20% of the scholarship amount;
- ► limits physical education expenses to an additional 20% of the scholarship amount;
- ► creates procedures for students with special needs;
- ► enhances program manager accountability through audits and transparency;
- ► adds requirements for a local education agency acting as a qualified provider;
- ► allows for scholarship amount rollovers;
- ► creates the Utah Fits All Scholarship Restricted Account (the account);
- ► allows funds within the account to accrue interest and be invested;
- ► allows for rollover amounts of unused scholarship awards;
- ► clarifies the State Tax Commission's role in income verification; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-1-201, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 3, 460 and 525
53F-6-401, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 26
53F-6-402, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 26
53F-6-403, (Effective upon governor's approval) as enacted by Laws of Utah 2023, Chapter 1
53F-6-404, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 26
53F-6-405, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 26
53F-6-406, (Effective upon governor's approval) as enacted by Laws of Utah 2023, Chapter 1
53F-6-407, (Effective upon governor's approval) as enacted by Laws of Utah 2023, Chapter 1
53F-6-408, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 26
53F-6-409, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 26
53F-6-410, (Effective upon governor's approval) as enacted by Laws of Utah 2023, Chapter 1
53F-6-411, (Effective upon governor's approval) as enacted by Laws of Utah 2023, Chapter 1
53F-6-412, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 26

ENACTS:

53F-6-405.5, (Effective upon governor's approval) Utah Code Annotated 1953
53F-6-415.5, (Effective upon governor's approval) Utah Code Annotated 1953
53F-6-416, (Effective upon governor's approval) Utah Code Annotated 1953
53F-6-417, (Effective upon governor's approval) Utah Code Annotated 1953

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

Section 1. Section 53E-1-201 is amended to read:
53E-1-201 (Effective upon governor's approval). Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(e) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(h) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(i) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(j) the report described in Section 53F-2-522 regarding mental health screening programs;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F-6-412 by the program manager of the Utah Fits All Scholarship Program;

[~~(l)~~](m) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

[~~(m)~~](n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

[~~(n)~~](o) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

[~~(o)~~](p) the report described in Section 53F-5-405 by the state board regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;

[~~(p)~~](q) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

[~~(q)~~](r) the report described in Section 53G-7-221 by the state board regarding innovation plans; and

[~~(r)~~](s) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) in 2027, 2030, 2033, and 2035, the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

(b) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(c) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(d) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(e) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(f) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

(g) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

(h) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the state board, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 2. Section 53F-6-401 is amended to read:

53F-6-401 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Contract administrator" means the state board's appointed Deputy Superintendent of Operations that ensures the program manager or financial administrator meets contractual obligations.

(2) "Contract oversight and compliance" means the oversight and coordination functions performed by the Department of Operations contract administrator, including:

(a) establishing and maintaining program standards within a contract with a program manager or financial administrator;

(b) determining operational requirements and structures;

(c) procuring and managing contracts for program services and standards;

(d) ensuring program integrity through direct or contracted oversight;

(e) coordinating program functions and contracted services with a program manager or financial administrator; and

(f) maintaining appropriate separation between government oversight and independent program operations.

(3) "Contracted entity" means:

(a) an organization that:

(i) contracts with the state board under Section 53F-6-404 to perform duties and functions necessary for program administration and operations;

(ii) is not affiliated with any international organization;

(iii) does not harvest data for the purpose of reproducing or distributing the data to other entities;

(iv) is not involved in guiding or directing any curriculum or curriculum standards; and

(v) performs the specific duties and functions assigned in the contract with the state board.

(b) "Contracted entity" includes:

(i) the program manager, unless the program manager is the Department of Operations for any duration of time;

(ii) the financial administrator; and

(iii) any other entity contracted to perform program functions under Section 53F-6-404.

(c) "Contracted entity" does not include:

(i) a qualifying provider;

(ii) an eligible school; or

(iii) an eligible service provider.

(4) (a) "Contracted entity employee" means an individual working for an entity contracted under Section 53F-6-404 in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.

(b) "Contracted entity employee" does not include:

(i) an individual who volunteers for a contracted entity or for a qualifying provider;

(ii) an individual who works for a qualifying provider; or

(iii) a qualifying provider.

(5) "Contracted entity officer" means:

(a) a member of the board of a contracted entity; or

(b) the chief administrative officer of a contracted entity.

(6) "Department of Operations" means the section of the state board that oversees financial operations, procurement operations, data and statistics operations, school land trust, and information technology operations for the state board.

(7) (a) "Educational supplements" means:

(i) materials, tools, and equipment that:

(A) are directly related to and necessary for subjects aligned with the core standards the state board establishes pursuant to Section 53E-4-202;

(B) are used for specific learning objectives or competencies;

(C) support structured learning activities or lessons; and

(D) are consumable or non-reusable in nature;

(ii) supplemental learning materials that:

(A) directly support or enhance the delivery of instruction in core academic subjects;

(B) are tied to specific educational goals or outcomes; and

(C) are not primarily for entertainment or general enrichment purposes;

(iii) arts and music education materials that:

(A) align with state core standards; and

(B) are used in structured arts or music instruction; and

(iv) other educational materials that the program manager determines are:

(A) necessary for meeting specific learning objectives;

(B) appropriate for the student's age or grade level; and

(C) primarily educational rather than recreational in nature.

(b) "Educational supplements" does not include:

(i) entertainment materials;

(ii) recreational equipment;

(iii) food or nutritional items;

(iv) furniture or household items;

(v) general office supplies not specific to an educational activity; or

(vi) other items that do not have a clear, direct educational purpose aligned with academic instruction.

[~~(1)~~](8) "Eligible student" means a student:

(a) who is eligible to participate in public school, in kindergarten, or grades 1 through 12;

(b) who is a primary resident of the state, including a child of a military service member, as that term is defined in Section 53B-8-102;

(c) who, during the school year for which the student is applying for a scholarship account:

(i) does not receive a scholarship under:

(A) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(B) the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402; and

(ii) [~~is not enrolled in, upon~~]before receiving the scholarship is not enrolled in:

(A) an LEA; or

(B) the Statewide Online Education Program to participate in a course with funding provided under [~~Title 53F,~~]Chapter 4, Part 5, Statewide Online Education Program, which does not include participation in a course by an entity as described in Subsection 53F-6-409(7);

(d) whose eligibility is not suspended or disqualified under Section 53F-6-401;[~~and~~]

(e) who completes, to maintain eligibility, the portfolio requirement described in Subsection 53F-6-402(3)(d)[~~.~~];

(f) who provides verification of primary residence in Utah, including a parent's utility bill, mortgage statement, lease agreement, or

property tax records from the current calendar year in which the eligible student is renewing, reapplying, or applying for the scholarship for the first time; and

(g) for out-of-state military families, who attests that the student is not enrolled in a public school elsewhere while receiving the scholarship.

[~~(2)~~](9) "Federal poverty level" means the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(10) (a) "Financial administrator" means an organization that:

(i) is not affiliated with any international organization;

(ii) does not harvest data for the purpose of reproducing or distributing the data to other entities;

(iii) is not involved in guiding or directing any curriculum or curriculum standards; and

(iv) contracts with the state board to administer scholarship payments in accordance with this part.

(b) "Financial administrator" may include an organization that serves as both program manager and financial administrator if the organization maintains appropriate separation of duties and meets all qualifications for both roles.

[~~(3)~~](11) (a) "Home-based scholarship student" means a student who:

(i) is eligible to participate in public school, in kindergarten or grades 1 through 12;

(ii) [~~is~~]attests to being[~~excused~~]exited from enrollment in [~~an LEA in accordance with Section 53G-6-204~~]a public school to attend a home school if the student was enrolled at any time in a public school; and

(iii) receives a benefit of scholarship funds.

(b) "Home-based scholarship student" does not mean a home school student who does not receive a scholarship under the program.

[~~(4)~~](12) "Household income" means:

(a) the combined gross income of all parents residing in the same household as the eligible student;

(b) the gross income of a single parent who claims the student as a dependent; or

(c) the gross income of a parent who claims the student as a dependent under the terms of a joint custody agreement.

(13) "Parent" means:

(a) the same as that term is defined in Section 53E-1-102; and

(b) a foster parent who has initiated a process to adopt the foster child.

[~~(5) "Program manager" means an organization that:~~]

[~~(a) is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code;~~]

[~~(b) is not affiliated with any international organization;~~]

[~~(c) does not harvest data for the purpose of reproducing or distributing the data to other entities;~~]

[~~(d) has no involvement in guiding or directing any curriculum or curriculum standards;~~]

[~~(e) does not manage or otherwise administer a scholarship under:~~]

[~~(i) the Carson Smith Scholarship Program established in Section 53F-4-302; or~~]

[~~(ii) the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402; and~~]

[~~(f) an agreement with the state board recognizes as a program manager, in accordance with this part.~~]

(14) "Primary residence" means the one location where an individual resides for the majority of the year.

(15) "Private school" means a full-time, tuition-bearing educational institution where the student receives the majority of the student's academic instruction.

(16) (a) "Program manager" means a contracted entity or entities that:

(i) perform program operational functions outlined in the procurement agreement described in Section 53F-6-404, including:

(A) processing scholarship applications and eligibility determinations;

(B) maintaining scholarship account records;

(C) coordinating with qualifying providers and the financial administrator; and

(D) providing customer service to program participants;

(ii) in accordance with required program administration, implement established program standards and procedures; and

(iii) perform other operational duties as specified in the contract.

(b) "Program manager" may include an organization that serves as both program manager and financial administrator if the organization maintains appropriate separation of duties and meets all qualifications for both roles.

[~~(6) (a) "Program manager employee" means an individual working for the program manager in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.~~]

[~~(b) "Program manager employee" does not include:~~]

[~~(i) an individual who volunteers for the program manager or for a qualifying provider;~~]

[~~(ii) an individual who works for a qualifying provider; or~~]

[~~(iii) a qualifying provider.~~]

[~~(7) "Program manager officer" means:~~]

[~~(a) a member of the board of a program manager; or~~]

[~~(b) the chief administrative officer of a program manager.~~]

[~~(8)~~](17) (a) "Qualifying provider" means one of the following entities:

(i) an eligible school that the program manager approves in accordance with Section 53F-6-408; or

(ii) an eligible service provider that the program manager approves in accordance with Section 53F-6-409.

(b) "Qualifying provider" does not include:

(i) a parent of a home-based scholarship student or a home school student solely in relation to the parent's child; or

(ii) any other individual that does not meet the requirements described in Subsection [~~(8)(a)~~](17)(a).

[~~(9)~~](18) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

[~~(10)~~](19) "Scholarship account" means the account to which a program manager allocates funds for the payment of approved scholarship expenses in accordance with this part.

[~~(11)~~](20) (a) "Scholarship expense" means an expense described in Section 53F-6-402that a parent or scholarship student incurs in the education of the scholarship student for a service or goods that a qualifying provider provides, including:

[~~(a)~~](i) tuition and fees of a qualifying provider;

[~~(b)~~](ii) fees and instructional materials at a technical college;

[~~(c)~~](iii) tutoring services;

[~~(d)~~](iv) fees for after-school or summer education programs;

[~~(e)~~](v) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum or a qualifying provider recommends;

[~~(f)~~](vi) educational software and applications;

[~~(g)~~](vii) supplies or other equipment related to a scholarship student's educational needs;

[~~(h)~~](viii) computer hardware or other technological devices that are intended primarily for a scholarship student's educational needs, not to exceed once every three years for a scholarship student;

[~~(i)~~](ix) fees for the following examinations, or for a preparation course for the following examinations, that the program manager approves:

[~~(i)~~](A) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;

[~~(ii)~~](B) a state-recognized industry certification examination; and

[~~(iii)~~](C) an examination related to college or university admission;

[~~(j)~~](x) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;

[~~(k)~~](xi) contracted services that the program manager approves and that an LEA provider[~~provides~~]offers, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;

[~~(l)~~](xii) ride fees or fares for a fee-for-service transportation provider to transport the scholarship student to and from a qualifying provider, not to exceed $750 in a given school year;

[~~(m)~~](xiii) in accordance with Subsection (20)(c),expenses related to extracurricular activities, field trips, educational supplements, physical education experiences, and other educational experiences; [~~or~~]

(xiv) coursework or an educational supplement for arts and music that aligns with state core standards;

(xv) a musical instrument rental, excluding purchase; or

[~~(n)~~](xvi) any other expense for a good or service that:

[~~(i)~~](A) a parent or scholarship student incurs in the education of the scholarship student; and

[~~(ii)~~](B) the program manager approves[~~, in accordance with Subsection (5)(d).~~].

(b) "Scholarship expense" does not include:

(i) chaperone expenses, except that a family with one or more scholarship students receiving the scholarship under Subsection 53F-6-402(2)(c)(i) may use scholarship funds for one chaperone expense or pass per family, regardless of how many scholarship students are in the family or household;

(ii) season tickets or subscriptions to entertainment venues;

(iii) ski passes or lift tickets;

(iv) access to recreational facilities unless for physical education of the student;

(v) playground equipment;

(vi) the purchase of any type of:

(A) furniture; or

(B) a musical instrument;

(vii) apparel; and

(viii) other non-educational expenses as the program manager determines.

(c) (i) A scholarship expense for extracurricular activities may not exceed 20% of the total scholarship amount.

(ii) A scholarship expense for physical education requirements may not exceed an additional 20% of the total scholarship amount from the amount described in Subsection (20)(c)(i).

(iii) A scholarship expense for arts and music described in Subsection (20)(a)(xiv) is not an extracurricular activity.

[~~(12)~~](21) "Scholarship funds" means:

(a) funds that the Legislature appropriates for the program; and

(b) interest that scholarship funds accrue.

[~~(13)~~](22) (a) "Scholarship student" means an eligible student, including a home-based scholarship student, for whom the program manager establishes and maintains a scholarship account in accordance with this part.

(b) "Scholarship student" does not include a home school student who does not receive a scholarship award under the program.

[~~(14)~~](23) "Utah Fits All Scholarship Program" or "program" means the scholarship program established in Section 53F-6-402.

Section 3. Section 53F-6-402 is amended to read:

53F-6-402 (Effective upon governor's approval). Utah Fits All Scholarship Program -- Scholarship account application -- Scholarship expenses -- Program information.

(1) [~~There~~]Subject to Section 53F-6-415.5, there is established the Utah Fits All Scholarship Program under which[~~, beginning March 1, 2024,~~] a parent may apply [~~to a program manager on behalf of the parent's student~~]to establish and maintain a scholarship account to cover the cost of a scholarship expense.

(2) (a) [~~The~~]In accordance with this part and required program administration, the program manager shall establish and maintain [~~, in accordance with this part,~~]scholarship accounts for eligible students.

(b) The program manager shall:

(i) determine that a student meets the requirements to be an eligible student; and

(ii) subject to Subsection (2)(c), each year the student is an eligible student, coordinate with the financial administrator to maintain a scholarship account for the scholarship student to pay for the cost of one or more scholarship expenses that the student or student's parent incurs in the student's education.

[~~(c) Each year, subject to this part and legislative appropriations, a scholarship student is eligible for no more than:~~]

[~~(i) for the 2024-2025 school year, $8,000; and~~]

[~~(ii) for each school year following the 2024-2025 school year, the maximum allowed amount under this Subsection (2)(c) in the previous year plus a percentage increase that is equal to the five-year rolling average inflationary factor described in Section 53F-2-405.~~]

(c) Each year, subject to this part and legislative appropriations, a scholarship student is eligible for no more than:

(i) for a private school student, $8,000;

(ii) for a home-based scholarship student age 5-11 as of September 1 of the scholarship year, $4,000; and

(iii) for a home-based scholarship student age 12-18 as of September 1 of the scholarship year, $6,000.

(d) Unless otherwise authorized under Section 53F-6-411, scholarship funds to eligible scholarship students shall be distributed to the program manager and through the financial administrator in two equal payments:

(i) the first payment no later than July 31 of the scholarship year; and

(ii) the second payment no later than December 31 of the scholarship year.

(e) When a scholarship student exits the program during the school year:

(i) the program manager or the financial administrator shall:

(A) remove any remaining funds from the exited student's scholarship account; and

(B) make those funds available for new scholarship awards within the same year; and

(ii) any new scholarship award made during the same year and using funds from an exited student's account shall be prorated as follows:

(A) if awarded during the second quarter of the school year, no more than 75% of the annual scholarship amount is allocated;

(B) if awarded during the third quarter of the school year, no more than 50% of the annual scholarship amount is allocated; and

(C) no new scholarship awards shall be made during the fourth quarter of the school year.

(3) (a) [~~A~~]In accordance with required program administration, a program manager shall direct the financial administrator to establish a scholarship account on behalf of an eligible student who submits a timely application, unless the number of applications exceeds available scholarship funds for the school year.

(b) If the number of applications exceeds the available scholarship funds for a school year, the program manager shall select students on a random basis, except as provided in Subsection (6), and as long as the student meets the eligibility criteria.

(c) An eligible student or a public education student shall submit an application for an initial scholarship or renewal for each school year that the student intends to receive scholarship funds.

(d) (i) To maintain eligibility for the following school year, a scholarship student or the scholarship student's parent shall:

(A) complete and deliver to the program manager a portfolio describing the scholarship student's educational opportunities and achievements under the program for the given year; or

(B) submit results from an assessment as described in Section 53F-6-410.

(ii) The portfolio or assessment described in Subsection (3)(d)(i) must be submitted:

(A) no later than May 31; or

(B) in accordance with the assessment schedule submitted to and approved by the program manager.

(iii) The receipt of the portfolio or assessment results by the program manager is a condition of scholarship award for the following school year.

(iv) The program manager may not disclose the content of a given scholarship student's portfolio except to the scholarship student's parent, unless the parent provides written consent for the portfolio to be used as a sample or example, in which case all personally identifiable information must be removed prior to such use.

[~~(d) (i) To maintain eligibility, a scholarship student or the scholarship student's parent shall annually complete and deliver to the program manager a portfolio describing the scholarship student's educational opportunities and achievements under the program for the given year.~~]

[~~(ii) The program manager may not disclose the content of a given scholarship student's portfolio except to the scholarship student's parent.~~]

(4) (a) An application for a scholarship account shall contain an acknowledgment by the student's parent that the qualifying provider selected by the parent for the student's enrollment or engagement [~~is capable of providing~~]can provide education services for the student.

(b) A scholarship account application form shall contain the following statement:

"I acknowledge that:

1: A qualifying provider may not provide the same level of disability services that are provided in a public school;

2: I will assume full financial responsibility for the education of my scholarship recipient if I agree to this scholarship account;

3: Agreeing to establish this scholarship account has the same effect as a parental refusal to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

4: My child may return to a public school at any time, and I will notify the program manager within five business days if my child returns

to a public school that is not a qualifying provider or if we have elected to take courses from the public portion of a qualifying provider.".

(c) Upon agreeing to establish a scholarship account, the parent assumes full financial responsibility for the education of the scholarship student, including the balance of any expense incurred at a qualifying provider or for goods that are not paid for by the scholarship student's scholarship account.

(d) Agreeing to establish a scholarship account has the same effect as a parental refusal to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(e) The creation of the program or establishment of a scholarship account on behalf of a student does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(5) A program manager or financial administrator may not charge a scholarship account application fee.

(6) (a) A program manager shall give an enrollment preference based on the following order of preference:

(i) to an eligible student who used a scholarship account in the previous school year and has submitted the required accountability measure;

(ii) to an eligible student:

(A) who did not use a scholarship account in the previous school year; and

(B) with a family income at or below [~~200%~~]300% of the federal poverty level;

(iii) to an eligible student who is a sibling of an eligible student who:

(A) uses a scholarship account at the time the sibling applies for a scholarship account; or

(B) used a scholarship account in the school year immediately preceding the school year for which the sibling is applying for a scholarship account; and

(iv) for any remaining scholarships, to an eligible student [~~:~~]on a lottery basis.

[~~(A) who did not use a scholarship account in the previous school year; and~~]

[~~(B) with a family income between 200% and 555% of the federal poverty level.~~]

[~~(b) The State Tax Commission may, upon request, provide state individual income tax information to the program manager for income verification purposes regarding a given individual if:~~]

[~~(i) the individual voluntarily provides the individual's social security number to the program manager; and~~]

[~~(ii) consents in writing to the sharing of state individual income tax information solely for income verification purposes.~~]

[~~(c) In addition to the tax information described in Subsection (6)(b), the program manager shall accept the following for income verification:~~]

[~~(i) a federal form W-2;~~]

[~~(ii) a wage statement from an employer; and~~]

[~~(iii) other methods or documents that the program manager identifies.~~]

(b) If the number of eligible students within any preference tier described in Subsection (6)(a) exceeds available scholarship funds the program manager shall grant awards on a lottery basis.

(c) (i) For income verification purposes, a parent of a scholarship student shall:

(A) provide written consent authorizing the State Tax Commission to disclose the parent's state individual income tax return information to the program manager; and

(B) submit the consent in a form prescribed by the State Tax Commission.

(ii) Upon receiving the consent described in Subsection (6)(c)(i), the State Tax Commission shall provide state individual income tax information to the program manager for income verification purposes regarding the parent within 10 business days.

(d) For income verification purposes:

(i) the program manager shall require documentation of household income, not individual income;

(ii) if the individual income tax is a business income filing, require:

(A) the most recently filed business tax returns;

(B) year-to-date profit and loss statements; and

(C) documentation of the owner's draw or distributions; and

(iii) for households awaiting completion of tax filings for the year immediately preceding the current year, the program manager shall accept the following documentation for conditional approval and only until such a time as the current tax year returns, year-to-date profit and loss statements, or documentation of owner's draw or distributions are provided for the current tax year:

(A) the most recent W-2s;

(B) a current pay stub showing year-to-date earnings; and

(C) an employer verification letter.

(7) (a) Subject to Subsections (7)(b) through (e), a parent may use a scholarship account to pay for a scholarship expense from a qualifying provider that a parent or scholarship student incurs in the education of the scholarship student.

(b) A scholarship student or the scholarship student's parent may not use a scholarship account for an expense that the student or parent does not incur in the education of the scholarship student, including:

(i) a rehabilitation program that is not primarily designed for an educational purpose; or

(ii) a travel expense other than a transportation expense described in Section 53F-6-401.

(c) The program manager or financial administrator may not:

(i) approve a scholarship expense for a service that a qualifying provider provides unless the program manager determines that the scholarship student or the scholarship student's parent incurred the scholarship expense in the education of the scholarship student; or

(ii) reimburse an expense for a service or good that a provider that is not a qualifying provider provides unless:

(A) the parent or scholarship student submits a receipt that shows the cost and type of service or good and the name of provider;

(B) the expense would have qualified as a scholarship expense if a qualifying provider provided the good or service;

(C) the provider of the good or service is not the parent of the student who is a home-based scholarship student solely in relation to the parent's child; [~~and~~]

(D) the program manager determines that the parent or scholarship student incurred the expense in the education of the scholarship student [~~.~~]; and

(E) the program manager or financial administrator determines that the parent or scholarship student incurred the expense when the student was not enrolled in a public school.

(d) The parent of a scholarship student may not receive scholarship funds as payment for the parent's time spent educating the parent's child.

(e) Except for cases in which a scholarship student or the scholarship student's parent is convicted of fraud in relation to scholarship funds, if a qualifying provider, scholarship student, or scholarship student's parent repays an expenditure from a scholarship account for an expense that is not approved under this Subsection (7), the program manager shall credit the repaid amount back to the scholarship account balance within 30 days after the day on which the program manager receives the repayment.

(8) Notwithstanding any other provision of law, funds that the program manager or financial administrator disburses from the Utah Fits All Scholarship Program Restricted Account created in Section 53F-6-411 under this part to a scholarship account on behalf of a scholarship student do not constitute state taxable income to the parent of the scholarship student.

(9) The program manager shall prepare and disseminate information on the program to a parent applying for a scholarship account on behalf of a student, including the information that the program manager provides in accordance with Section 53F-6-405.

(10) [~~On or before September 1, 2023, and as~~]As frequently as necessary to maintain the information, the state board shall provide information on the state board's website, including:

(a) scholarship account information;

(b) information on the program manager or financial administrator, including the program [~~manager's~~]manager's or financial administrator's contact information; and

(c) an overview of the program.

(11) In accordance with required program administration, the program manager shall:

(a) in alignment with deadlines specified in Subsection 53F-6-405(1)(c), establish and communicate to an eligible student a deadline by which the eligible student must accept or deny the scholarship offer; and

(b) communicate to an eligible student that failure to respond by the deadline described in Subsection (11)(a) shall result in forfeiture of the scholarship offer.

(12) In accordance with Subsection 53F-6-403(7), the program manager shall:

(a) verify student eligibility status before removing any student from scholarship eligibility;

(b) establish protocols for reviewing disputed eligibility determinations;

(c) implement a process for immediate reinstatement of eligibility when errors are identified;

(d) maintain detailed records of all eligibility removals and reinstatements; and

(e) provide regular reports to the state board regarding eligibility status changes of a scholarship student.

Section 4. Section 53F-6-403 is amended to read:

53F-6-403 (Effective upon governor's approval). Qualifying providers.

(1) Before the beginning of the school year immediately following a school year in which a qualifying provider receives scholarship funds equal to or more than $500,000, the qualifying provider shall file with the program manager a surety bond payable to the program manager in an amount equal to the aggregate amount of scholarship funds expected to be received during the school year.

(2) If a program manager determines that a qualifying provider has violated a provision of this part, the program manager may [~~interrupt~~]have the disbursement [~~of~~]interrupted or withhold scholarship funds from the qualifying provider.

(3) (a) If the program manager determines that a qualifying provider no longer meets the eligibility requirements described in this part, the program manager may withdraw the organization's approval of the qualifying provider.

(b) A provider or person that does not have the approval of the program manager in accordance with the following may not accept scholarship funds for services under this part:

(i) Section 53F-6-408 regarding eligible schools; or

(ii) Section 53F-6-409 regarding eligible service providers.

(4) If a qualifying provider requires partial payment of tuition or fees before the beginning of the academic year to reserve space for a scholarship student who has been admitted to the qualifying provider, the program manager may direct the financial administrator to:

(a) pay the partial payment before the beginning of the school year in which the scholarship funds are awarded; and

(b) deduct the amount of the partial payment from subsequent scholarship fund deposits in an equitable manner that provides the best availability of scholarship funds to the student throughout the remainder of the school year.

(5) If a scholarship student [~~described in Subsection (4)(a)~~]chooses to withdraw from or otherwise not engage with the qualifying provider before the beginning of the school year:

(a) the qualifying provider shall remit the partial payment described in Subsection (4)(a)[~~to the program manager~~]to the financial administrator; and

(b) the program manager shall direct the financial administrator to credit the remitted partial payment to the scholarship student's scholarship account.

(6) A qualifying provider that is an LEA shall:

(a) comply with the additional requirements set forth in Section 53F-6-408, including ensuring enrollment systems provide a distinct separation of a scholarship student from a public education student;

(b) utilize the reporting process established under Subsection (7);

(c) submit enrollment verifications in accordance with rules established by the state board; and

(d) maintain records of enrollment reporting and verification activities.

(7) The Department of Operations shall:

(a) establish a process for an LEA provider to report:

(i) instances of double counted enrollment; and

(ii) students who are erroneously removed from scholarship eligibility;

(b) develop a standardized reporting mechanism that:

(i) allows LEA providers to submit verification of accurate student enrollment status;

(ii) maintains documentation of enrollment discrepancies; and

(iii) tracks resolution of reported enrollment issues;

(c) implement data validation measures to:

(i) identify potential double counted enrollment across LEA providers; and

(ii) ensure students maintain proper scholarship eligibility status; and

(d) provide training to LEA providers on:

(i) proper enrollment reporting procedures;

(ii) use of the reporting mechanism described in Subsection (7)(b); and

(iii) resolution of enrollment discrepancies.

Section 5. Section 53F-6-404 is amended to read:

53F-6-404 (Effective upon governor's approval). State board procurement -- Failure to comply.

(1) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue [~~a request~~]requests for proposals [~~, on or before June 15, 2023, and enter an agreement with no more than one organization that qualifies as tax exempt under Section 501(c)(3), Internal Revenue Code, for the state board to recognize as the program manager, on or before September 1, 2023.~~]for entities to perform duties and functions necessary for program operations.

(b) An organization that responds to a request for proposals described in Subsection (1)(a) shall submit [~~the following~~]information [~~in the organization's response~~]demonstrating:

(i) organizational qualifications and capacity to perform the specific duties or functions;

(ii) relevant experience in education program administration or financial management;

(iii) the proposed methodology for performing assigned responsibilities; and

(iv) an affidavit or other evidence that the organization:

(A) is not affiliated with any international organization;

(B) does not harvest data for the purpose of reproducing or distributing the data to another entity; and

(C) has no involvement in guiding or directing any curriculum standards.

[~~(i) a copy of the organization's incorporation documents;~~]

[~~(ii) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue Code;~~]

[~~(iii) a description of the methodology the organization will use to verify a student's eligibility under this part;~~]

[~~(iv) a description of the organization's proposed scholarship account application process; and~~]

[~~(v) an affidavit or other evidence that the organization:~~]

[~~(A) is not affiliated with any international organization;~~]

[~~(B) does not harvest data for the purpose of reproducing or distributing the data to another entity; and~~]

[~~(C) has no involvement in guiding or directing any curriculum standards.~~]

(c) The state board shall ensure that the agreement described in Subsection (1)(a):

(i) clearly delineates the specific duties and functions to be performed;

(ii) ensures the efficiency and success of the program;

(iii) maintains appropriate separation between program and contract administration and direct educational services;

(iv) preserves the independence of educational decisions made between parents and providers; and

[~~(ii)~~](v) does not impose any requirements on the program manager that:

(A) are not essential to the basic administration of the program; or

(B) create restrictions, directions, or mandates regarding instructional content or curriculum.

(2) The state board may regulate and take enforcement action as necessary against [~~a program manager~~]a contracted entity in accordance with the provisions of the state board's agreement with the [~~program manager~~]contracted entity.

(3) (a) If the state board determines that a [~~program manager~~]contracted entity has violated a provision of this part or a provision of the state board's agreement with the [~~program manager~~]contracted entity, the state board shall send written notice to the [~~program manager~~]contracted entity explaining the violation and the remedial action required to correct the violation.

(b) A [~~program manager~~]contracted entity that receives a notice described in Subsection (3)(a) shall, no later than 60 days after the day on which the [~~program manager~~]contracted entity receives the notice, correct the violation and report the correction to the state board.

(c) (i) If a [~~program manager~~]contracted entity that receives a notice described in Subsection (3)(a) fails to correct a violation in the time period described in Subsection (3)(b), the state board may bar the [~~program manager~~]contracted entity from further participation in the program.

(ii) A [~~program manager~~]contracted entity may appeal a decision of the state board under Subsection (3)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) A [~~program manager~~]contracted entity may not accept state funds while the [~~program manager~~]contracted entity:

(i) is barred from participating in the program under Subsection (3)(c)(i); or

(ii) has an appeal pending under Subsection (3)(c)(ii).

(e) A [~~program manager~~]contracted entity that has an appeal pending under Subsection (3)(c)(ii) may continue to administer scholarship accounts during the pending appeal.

(4) The state board shall establish a process for a [~~program manager~~]contracted entity to report the information the [~~program manager~~]contracted entity is required to report to the state board under Section 53F-6-405.

(5) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and include provisions in the state board's agreement with [~~the scholarship organization~~]a contracted entity for:

(a) subject to Subsection (6), the administration of scholarship accounts and disbursement of scholarship funds if a [~~program manager~~]contracted entity is barred from participating in the program under Subsection (3)(c)(i); and

(b) audit and report requirements as described in Section 53F-6-405.

(6) (a) The state board shall include in the rules and provisions described in Subsection (5)(a) measures to ensure that the establishment and maintenance of scholarship accounts and enrollment in the program are not disrupted if the [~~program manager~~]contracted entity is barred from participating in the program.

(b) The state board may, if the [~~program manager~~]contracted entity is barred from participating in the program, issue a new request for proposals and enter into a new agreement with an alternative [~~program manager~~]contracted entity in accordance with this section and, if applicable, Section 53F-6-415.5.

[~~(7) (a) On or before January 1, 2024, the program manager shall:~~]

[~~(i) establish a process for a scholarship student or a scholarship student's parent to appeal any administrative decision of the program manager, includingscholarship expense denialsand determinations regarding enrollment eligibility or suspension or disqualification under Section 53F-6-405;~~]

[~~(ii) ensure that the body that determines the outcome of internal appeals:~~]

[~~(A) includes parents of scholarship students; and~~]

[~~(B) makes a determination within 30 days after the day of the appeal;~~]

[~~(iii) make information available regarding the internal appeals process on the program manager's website and on the scholarship application.~~]

[~~(b) If the program manager stays or reverses an administrative decision of the program manager on internal appeal, the program manager may not withhold scholarship funds or application approval for the scholarship student on account of the appealed administrative decision unless as the resolution of the internal appeal expressly allows.~~]

[~~(8)~~](7) The state board may not include a provision in any rule that creates or implies a restriction, direction, or mandate regarding:

(a) instructional content [~~or~~];

(b) curriculum[~~.~~]; or

(c) program operations that a contracted entity performs pursuant to an agreement under this section.

[~~(9)~~](8) No later than 10 business days after [~~July 1 of each year~~]each distribution described in Section 53F-6-411, the state board shall disperse to the program manager an amount equal to the funds appropriated for the Utah Fits All Scholarship Program for the given fiscal year.

Section 6. Section 53F-6-405 is amended to read:

53F-6-405 (Effective upon governor's approval). Program manager duties -- Audit -- Prohibitions.

(1) The program manager shall:

(a) administer the program, including:

[~~(a)~~](i) maintaining an application website that includes information on enrollment, relevant application dates, and dates for notification of acceptance;

[~~(b)~~](ii) reviewing applications from and determining if a person is:

[~~(i)~~](A) an eligible school under Section 53F-6-408; or

[~~(ii)~~](B) an eligible service provider under Section 53F-6-409;

[~~(c)~~](iii) establishing an application process [~~, including application dates opening before March 1, 2024, in accordance with Section 53F-6-402;~~]that:

(A) opens March 1 of each year for existing scholarship students;

(B) opens April 1 of each year for new scholarship students;

(C) closes May 1 of each year;

(D) aligns with the acceptance deadline established under Subsection 53F-6-402 (11) that shall be prior to July 1 of each year; and

(E) provides an eligible student with a decision regarding the eligible student's application within 30 days of the application deadline specified in this Subsection (1)(a);

[~~(d)~~](iv) reviewing and granting or denying applications for a scholarship account;

(v) determining the eligibility of scholarship expenses, including establishing necessary policies and procedures;

(vi) approving qualifying providers in accordance with Section 53F-6-403; and

(vii) maintaining a list of approved qualifying providers;

[~~(i) expending all revenue from interest on scholarship funds or investments on scholarship expenses;~~]

(b) direct the financial administrator to:

[~~(e)~~](i) [~~providing~~]provide an online portal for the parent of a scholarship student to access the scholarship student's account;

(ii) [~~to~~]facilitate payments to a qualifying provider from the online portal;

[~~(f)~~](iii) [~~ensuring~~]ensure that scholarship funds in a scholarship account are readily available to a scholarship student within five business days after receipt of funds from the state board;

(iv) process scholarship payments in accordance with the payment schedule established in Section 53F-6-411, unless otherwise authorized;

(v) in accordance with program administration when needed, develop and implement a commercially viable, cost-effective, and parent-friendly system that:

(A) processes scholarship payments;

(B) maximizes payment flexibility;

(C) allows scholarship students and scholarship student's parents to publicly rate, review, and share information about qualifying providers; and

(D) provides the program manager with continuous, real-time, view-only access to all scholarship account transactions and balances, payment processing status, provider payment history, reimbursement tracking, and account reconciliation data;

(vi) upon receiving notification under Subsection (1)(c):

(A) obtain reimbursement of scholarship funds from a qualifying provider that provides the services in which a scholarship student is no longer enrolled or with which the scholarship student is no longer engaged; and

(B) expend all revenue from interest on scholarship funds or investments on scholarship expenses; and

(vii) implement accounting procedures to track partial payments and remaining balances;

[~~(g)~~](c) [~~requiring~~]require a parent to notify the program manager if the parent's scholarship student is no longer enrolled in or engaging a service:

(i) for which the scholarship student receives scholarship funds; and

(ii) that is provided to the scholarship student for an entire school year;

[~~(h) obtaining reimbursement of scholarship funds from a qualifying provider that provides the services in which a scholarship student is no longer enrolled or with which the scholarship student is no longer engaged;~~]

[~~(i)~~](d) each time the program manager makes an administrative decision that is adverse to a scholarship student or the scholarship student's parent, [~~informing~~]inform the scholarship student and the scholarship student's parent of the opportunity and process to appeal an administrative decision of the program manager in accordance with the process described in Section [~~53F-6-404~~]53F-6-417;

[~~(k)~~](e) [~~maintaining~~]maintain a protected internal waitlist of all eligible students who have applied to the program and are not yet scholarship students, including any student who removed the student's application from the waitlist; [~~and~~]

[~~(l)~~](f) [~~providing~~]provide aggregate data regarding the number of scholarship students and the number of eligible students on the waitlist described in Subsection [~~(1)(k).~~](1)(e);

(g) contract for annual and random audits on scholarship accounts conducted:

(i) by a certified public accountant who is independent from:

(A) the program manager; and

(B) the financial administrator's accounts and records pertaining to scholarship funds; and

(ii) in accordance with generally accepted auditing standards;

(h) require the financial administrator to demonstrate financial accountability through annual reporting requirements described in Section 53F-6-405.5;

(i) develop and implement an annual orientation for qualifying providers;

(j) administer the appeals process described in Section 53F-6-417;

(k) in accordance with Subsection 53F-6-411(4), manage scholarship rollovers;

(l) track and ensure compliance of allowed scholarship expenses; and

(m) comply with enhanced accountability measures, including independent audits and public disclosure of third-party contracts and fees related to the administration of the program.

(2) The program manager shall:

[~~(a) contract with one or more private entities to develop and implement a commercially viable, cost-effective, and parent-friendly system~~]

(a) require the financial administrator to submit monthly financial reports including:

(i) a statement of financial position;

(ii) a statement of activities;

(iii) account reconciliation statements;

(iv) detailed transaction reports; and

(v) [~~to:~~]exception reports highlighting any unusual activity; and

[~~(i) establish scholarship accounts;~~]

[~~(ii) maximize payment flexibility by allowing:~~]

[~~(A) for payment of services to qualifying providers using scholarship funds by electronic or online funds transfer from the online portal; and~~]

[~~(B) pre-approval of a reimbursement to a parent for a good that is a scholarship expense; and~~]

[~~(iii) allow scholarship students and scholarship student's parents to publicly rate, review, and share information about qualifying providers;~~]

(b) oversee the financial administrator's compliance with requirements regarding:

[~~(b)~~](i) except for a reimbursement authorized under this part, [~~ensuring~~]the use of scholarship funds from the online portal directly to a qualifying provider to pay for scholarship expenses without the availability of withdrawal or other direct access to scholarship funds by an individual; and

[~~(c)~~](ii) [~~ensure that the~~]system [~~complies~~]compliance with industry standards for data privacy and cybersecurity, including ensuring compliance with the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

(3) In advance of the program manager accepting applications in accordance with Section 53F-6-402 and as regularly as information develops, the program manager shall provide information regarding the program by publishing a program handbook online for scholarship applicants, scholarship students, parents, service providers seeking to become qualifying providers, and qualifying providers, that includes information regarding:

(a) the policies and processes of the program;

(b) approved scholarship expenses and qualifying providers;

(c) the responsibilities of parents regarding the program and scholarship funds;

(d) the duties of [~~the program manager~~]each contracted entity; and

(e) the opportunity and process to appeal an administrative decision of the program manager in accordance with the process described in Section [~~53F-6-404; and~~]53F-6-417.

[~~(f) the role of any private financial management firms or other private organizations with which the program manager may contract to administer any aspect of the program.~~]

(4) To ensure the fiscal security and compliance of the program, the program manager shall:

(a) prohibit [~~a program manager employee or program manager officer~~]any person from handling, managing, or processing scholarship funds, if, [~~based on a criminal background check that the state board conducts in accordance with Section 53F-6-407, the state board identifies the program manager employee or program manager officer as posing a risk to the appropriate use of scholarship funds~~]the person poses a risk to the appropriate use of scholarship funds, as determined by background checks the program manager conducted in accordance with Section 53F-6-407;

(b) establish procedures to ensure a fair process to:

(i) suspend scholarship student's eligibility for the program in the event of the scholarship student's or scholarship student's parent's:

(A) intentional or substantial misuse of scholarship funds; or

(B) violation of this part or the terms of the program; and

(ii) if the program manager or financial administrator obtains evidence of fraudulent use of scholarship funds, refer the case to the attorney general for collection or criminal investigation; and

(iii) ensure that a scholarship student whose eligibility is suspended or disqualified under this Subsection (4)(b) or Subsection (4)(c) based on the actions of the student's parent regains eligibility if the student is placed with a different parent or otherwise no longer resides with the parent related to the suspension or disqualification; and

(c) notify the [~~state board~~]financial administrator, scholarship student, and scholarship student's parent in writing:

(i) of the suspension described in Subsection (4)(b)(i);

(ii) that no further transactions, disbursements, or reimbursements are allowed;

(iii) that the scholarship student or scholarship student's parent may take corrective action within 10 business days of the day on which the program manager provides the notification; and

(iv) that without taking the corrective action within the time period described in Subsection (4)(c)(iii), the program manager may disqualify the student's eligibility.

(5) (a) A program manager may not direct the financial administrator to:

(i) disburse scholarship funds to a qualifying provider or allow a qualifying provider to use scholarship funds if:

(A) the program manager determines that the qualifying provider intentionally or substantially misrepresented information on overpayment;

(B) the qualifying provider fails to refund an overpayment in a timely manner; or

(C) the qualifying provider routinely fails to provide scholarship students with promised educational services; or

(ii) reimburse with scholarship funds an individual for the purchase of a good or service if the program manager determines that:

(A) the scholarship student or the scholarship student's parent requesting reimbursement intentionally or substantially misrepresented the cost or educational purpose of the good or service; or

(B) the relevant scholarship student was not the exclusive user of the good or service.

(b) A program manager shall notify a scholarship student if the program manager:

(i) stops disbursement of the scholarship student's scholarship funds to a qualifying provider under Subsection (5)(a)(i); or

(ii) refuses reimbursement under Subsection (5)(a)(ii).

(6) (a) At any time, a scholarship student may change the qualifying provider to which the scholarship student's scholarship account makes distributions.

(b) If, during the school year, a scholarship student changes the student's enrollment in or engagement with a qualifying provider to another qualifying provider, the program manager may direct the financial administrator to prorate scholarship funds between the qualifying providers based on the time the scholarship student received the goods or services or was enrolled.

(7) A program manager may not subvert the enrollment preferences required under Section 53F-6-402 or other provisions of this part to establish a scholarship account on behalf of a relative [~~of a program manager officer~~]of a contracted entity employee or contracted employee officer.

(8) In regards to customer service needs related to the program, the program manager shall:

(a) provide customer service regarding:

(i) program eligibility determinations;

(ii) application status;

(iii) qualifying provider approvals;

(iv) scholarship expense eligibility;

(v) program policies and requirements;

(vi) appeals and grievances;

(vii) accessibility for disabled individuals; and

(viii) general program information;

(b) ensure the financial administrator provides customer service regarding:

(i) scholarship account access;

(ii) payment processing status;

(iii) technical support for the payment portal;

(iv) account balance inquiries;

(v) transaction history; and

(vi) reimbursement status;

(c) establish customer service standards that the program manager and the financial administrator must meet;

(d) require the financial administrator to:

(i) maintain adequate customer service staffing;

(ii) meet specified response time requirements; and

(iii) track and report on customer service metrics; and

(e) coordinate with the financial administrator to ensure seamless referral of inquiries between contracted entities.

[~~(8) The program manager shall:~~]

[~~(a) contract for annual and random audits on scholarship accounts conducted:~~]

[~~(i) by a certified public accountant who is independent from:~~]

[~~(A) the program manager;~~]

[~~(B) the state board; and~~]

[~~(C) the program manager's accounts and records pertaining to scholarship funds; and~~]

[~~(ii) in accordance with generally accepted auditing standards;~~]

[~~(b) demonstrate the program manager's financial accountability by annually submitting to the state board the following:~~]

[~~(i) a financial information report that a certified public accountant prepares and that includes the total number and total dollar amount of scholarship funds disbursed during the previous calendar year; and~~]

[~~(ii) no later than 180 days after the last day of the program manager's fiscal year, the results of the audits described in Subsection (8)(a), including the program manager's financial statements in a format that meets generally accepted accounting principles.~~]

[~~(9) (a) The state board:~~]

[~~(i) shall review a report described in this section; and~~]

[~~(ii) may request that the program manager revise or supplement the report if the report does not fully comply with this section.~~]

[~~(b) The program manager shall provide to the state board a revised report or a supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (9)(a).~~]

(9) Contracted entities may not charge processing fees to an eligible student or pass on third-party fees related to the use or management of scholarship funds.

Section 7. Section 53F-6-405.5 is enacted to read:

53F-6-405.5 (Effective upon governor's approval). Financial administrator duties and requirements.

(1) The financial administrator shall:

(a) operate independently in processing and distributing scholarship funds while:

(i) following program requirements the program manager establishes;

(ii) implementing payment directives from the program manager regarding:

(A) scholarship student eligibility;

(B) qualifying provider status;

(C) payment timing; and

(D) other established program requirements;

(iii) maintaining separate systems and controls from program administration; and

(iv) providing necessary reporting while preserving operational independence;

(b) implement and maintain a payment processing system that:

(i) provides an online portal for scholarship account access;

(ii) facilitates electronic payments to qualifying providers;

(iii) enables pre-approval of parent reimbursements for eligible expenses;

(iv) includes provider rating and review capabilities;

(v) processes payments efficiently;

(vi) prevents unauthorized access;

(vii) provides real-time reporting to the program manager; and

(viii) maintains backup systems and disaster recovery capabilities;

(c) process payments only:

(i) to qualifying providers approved by the program manager;

(ii) for scholarship expenses determined eligible by the program manager, including the reimbursement for the scholarship expense to parents; and

(iii) when directed by the program manager;

(d) maintain security measures that:

(i) prevent unauthorized access to scholarship funds;

(ii) comply with industry standards for data privacy; and

(iii) ensure compliance with federal education privacy laws; and

(e) process scholarship payments according to the distribution schedule described in Section 53F-6-411, including:

(i) tracking initial and second-half payments;

(ii) managing early disbursement authorizations; and

(iii) reconciling payment records with the Utah Fits All Scholarship Restricted Account balance.

(2) For financial accountability, the financial administrator shall:

(a) maintain detailed records of:

(i) all scholarship account transactions to the service or item level;

(ii) payment processing activities; and

(iii) reimbursements and refunds;

(b) provide monthly reports to the program manager including:

(i) scholarship account balances and activity;

(ii) payment processing status and issues;

(iii) provider payment summaries; and

(iv) reimbursement tracking; and

(c) submit annual financial reports including:

(i) total scholarship funds disbursed;

(ii) account reconciliation statements; and

(iii) audit results and responses.

(3) The financial administrator shall:

(a) implement payment suspensions or cancellations as directed by the program manager;

(b) process reimbursements from providers as required;

(c) credit returned funds to appropriate scholarship accounts; and

(d) maintain records of all suspended or canceled payments.

(4) The financial administrator:

(a) may not:

(i) approve or deny scholarship expenses;

(ii) determine provider eligibility;

(iii) establish program policies; and

(iv) charge processing fees to an eligible student or pass on third-party fees related to the use or management of scholarship funds; and

(b) shall:

(i) follow all program manager directives regarding fund disbursement;

(ii) maintain separation between policy decisions and payment processing; and

(iii) implement internal controls to prevent unauthorized payments.

(5) The financial administrator shall:

(a) cooperate with all program audits;

(b) provide requested financial records;

(c) respond to audit findings as directed; and

(d) implement corrective actions as required by the program manager.

Section 8. Section 53F-6-406 is amended to read:

53F-6-406 (Effective upon governor's approval). Qualifying provider regulatory autonomy -- Home school autonomy -- Student records -- Scholarship student status.

(1) Nothing in this part:

(a) except as expressly described in this part, grants additional authority to any state agency or LEA to regulate or control:

(i) a private school, qualifying provider, or home school;

(ii) students receiving education from a private school, qualifying provider, or home school;

(b) applies to or otherwise affects the freedom of choice of a home school student, including the curriculum, resources, developmental planning, or any other aspect of the home school student's education; or

(c) except as expressly provided in Section 53F-6-408 regarding LEA providers, expands the regulatory authority of the state, a state office holder, or an LEA to impose any additional regulation of a qualifying provider beyond any regulation necessary to administer this part.

(2) A qualifying provider:

(a) has a right to maximum freedom from unlawful governmental control in providing for the educational needs of a scholarship student who attends or engages with the qualifying provider; and

(b) is not an agent of the state by virtue of the provider's acceptance of payment from a scholarship account in accordance with this part.

(3) Except as provided in Section 53F-6-403 regarding qualifying providers, Section 53F-6-408 regarding eligible schools, or Section 53F-6-409 regarding eligible service providers, a program manager may not require a qualifying provider to alter the qualifying provider's creed, practices, admissions policies, hiring practices, or curricula in order to accept scholarship funds.

(4) An LEA or a school in an LEA in which a scholarship student was previously enrolled shall provide to the scholarship student's parent a copy of all school records relating to the student that the LEA possesses within 30 days after the day on which the LEA or school receives the parent's request for the student's records, subject to:

(a) Title 53E, Chapter 9, Student Privacy and Data Protection; and

(b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

(5) By virtue of a scholarship student's involvement in the program and unless otherwise expressly provided in statute, a scholarship student is not:

(a) enrolled in the public education system; or

(b) otherwise subject to statute, administrative rules, or other state regulations as if the student was enrolled in the public education system.

Section 9. Section 53F-6-407 is amended to read:

53F-6-407 (Effective upon governor's approval). Background checks for program manager -- Bureau responsibilities -- Fees.

(1) As used in this section:

(a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201within the Department of Public Safety.

(b) "Department" means the Department of Public Safety.

(c) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.

(d) "Personal identifying information" means:

(i) current name;

(ii) former names;

(iii) nicknames;

(iv) aliases;

(v) date of birth;

(vi) address;

(vii) telephone number;

(viii) driver license number or other government-issued identification number;

(ix) social security number; and

(x) fingerprints.

(e) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(f) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) [~~The program manager~~]Each contracted entity shall:

(a) require an employee or officer of the [~~program manager~~]contracted entity to submit to a criminal background check and ongoing monitoring;

(b) collect the following from an employee or officer of the [~~program manager~~]contracted entity:

(i) personal identifying information;

(ii) a fee described in Subsection (4); and

(iii) consent, on a form specified by the program manager, for:

(A) an initial fingerprint-based background check by the bureau;

(B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Subsection (3); and

(C) disclosure of any criminal history information to the [~~program manager~~]contracted entity;

(c) submit the personal identifying information of an employee or officer of the [~~program manager~~]contracted entity to the bureau for:

(i) an initial fingerprint-based background check by the bureau; and

(ii) ongoing monitoring through registration with the systems described in Subsection (3) if the results of the initial background check do not contain disqualifying criminal history information as determined by the program manager;

(d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the [~~program manager~~]contracted entity only receives notifications for individuals with whom the [~~program manager~~]contracted entity maintains an authorizing relationship; and

(e) submit the information to the bureau for ongoing monitoring through registration with the systems described in Subsection (3).

(3) The bureau shall:

(a) upon request from the program manager, register the fingerprints submitted by the [~~program manager~~]contracted entity as part of a background check with the WIN Database rap back system, or any successor system;

(b) notify the program manager when a new entry is made against an individual whose fingerprints are registered with the WIN Database rap back system regarding:

(i) an alleged offense; or

(ii) a conviction, including a plea in abeyance;

(c) assist the [~~program manager~~]contracted entity to identify the appropriate privacy risk mitigation strategy that is to be used to ensure that the [~~program manager~~]contracted entity only receives notifications for individuals with whom the authorized [~~entity maintains~~]entity maintains an authorizing relationship; and

(d) collaborate with the [~~program manager~~]contracted entity to provide training to appropriate [~~program manager~~]contracted entity employees on the notification procedures and privacy risk mitigation strategies described in this section.

(4) (a) The division shall impose fees that the division sets in accordance with Section 63J-1-504 for the fingerprint card of an employee or officer of the program manager, for a name check, and to register fingerprints under this section.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

Section 10. Section 53F-6-408 is amended to read:

53F-6-408 (Effective upon governor's approval). Eligible schools.

(1) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, a private school with 150 or more enrolled students shall:

(a) (i) contract with an independent licensed certified public accountant to conduct an agreed upon procedures engagement as the state board adopts, or obtain an audit and report that:

(A) a licensed independent certified public accountant conducts in accordance with generally accepted auditing standards;

(B) presents the financial statements in accordance with generally accepted accounting principles; and

(C) audits financial statements from within the 12 months immediately preceding the audit; and

(ii) submit the audit report or report of the agreed upon procedure to the program manager when the private school applies to receive scholarship funds;

(b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(c) provide a written disclosure to the parent of each prospective scholarship student, before the student is enrolled, of:

(i) the education services that the school will provide to the scholarship student, including the cost of the provided services;

(ii) tuition costs;

(iii) additional fees the school will require a parent to pay during the school year; and

(iv) the skill or grade level of the curriculum in which the prospective scholarship student will participate; and

(d) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold:

(A) a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure; or

(B) if the private school is not physically located in Utah, a current educator license in the state where the private school is physically located; and

(ii) a contract employee.

(2) A private school described in Subsection (1) is not eligible to receive scholarship funds if:

(a) the private school requires a scholarship student to sign a contract waiving the scholarship student's right to transfer to another qualifying provider during the school year;

(b) the audit report described in Subsection (1)(a) contains a going concern explanatory paragraph; or

(c) the report of the agreed upon procedures described in Subsection (1)(a) shows that the private school does not have adequate working capital to maintain operations for the first full year.

(3) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, a private school with fewer than 150 enrolled students shall:

(a) provide to the program manager and financial administrator:

(i) a federal employer identification number;

(ii) the provider's address and contact information;

(iii) a description of each program or service the provider proposes to offer a scholarship student; and

(iv) any other information as required by the program manager or financial administrator; and

(b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d.

(4) A private school described in Subsection (3) is not eligible to receive scholarship funds if the private school requires a scholarship student to sign a contract waiving the student's rights to transfer to another qualifying provider during the school year.

(5) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, an LEA shall:

(a) provide to the program manager and financial administrator:

(i) a federal employer identification number;

(ii) the LEA's address and contact information; and

(iii) the amount to be charged under the program[~~for~~], in correlation with the LEA's course and activity fee schedules, and a description of a class, program, or service the LEA provides to a [~~home-based~~]scholarship student;

(b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and

(c) ensure the provision of services to a scholarship student through which:

(i) the scholarship student does not enroll in the LEA; and

(ii) in accordance with Subsection 53F-2-302(2), the LEA does not receive WPU funding related to the student's participation with the LEA[~~-~~];

(d) treat a scholarship student the same as the LEA would treat an enrolled student, including in:

(i) participation allowances;

(ii) audition rules;

(iii) athletic team participation;

(iv) extracurricular activities; and

(v) co-curricular activities;

(e) not deny a scholarship student participation in any activity, team, or program simply because:

(i) the student is a scholarship student; or

(ii) of liability concerns specific to the student's scholarship status;

(f) establish a transparent and fair fee structure for scholarship expenses offered by the LEA, including a fee schedule that:

(i) is based on actual costs of providing services;

(ii) is consistent with fees charged to enrolled students;

(iii) itemizes all charges and fees;

(iv) explains the basis for each fee; and

(v) is updated annually;

(g) provide the same liability coverage to scholarship students as provided to enrolled students; and

(h) in accordance with Subsection 53F-6-402(7), create and maintain a distinct identifier in the LEA's student information system that:

(i) clearly identifies a scholarship student; and

(ii) distinguishes the scholarship student from a student enrolled in the LEA.

(6) An LEA described in Subsection (5) is not eligible to receive scholarship funds if:

(a) the LEA requires a public education system scholarship student to sign a contract waiving the student's rights to engage with another qualifying provider for a scholarship expense during the school year; or

(b) the LEA refuses to offer services that do not require LEA enrollment to scholarship students under the program.

(7) Residential treatment facilities licensed by the state are not eligible to receive scholarship funds.

(8) A private school or LEA intending to receive scholarship funds shall:

(a) (i) for a private school, submit an application to the program manager; or

(ii) for an LEA, submit a notice to the program manager containing the information described in Subsection (5)(a); and

(b) agree to not refund, rebate, or share scholarship funds with scholarship students or scholarship student's parents in any manner except remittances or refunds processed through the financial administrator to a scholarship account in accordance with this part and procedures that the program manager establishes, and the payment schedule described in Section 53F-6-411.

(9) The program manager shall:

(a) if the private school or LEA meets the eligibility requirements of this section, recognize the private school or LEA as an eligible school and, for a private school, approve the application; and

(b) make available to the public a list of eligible schools approved under this section.

(10) A private school approved under this section that changes ownership shall:

(a) cease operation as an eligible school until:

(i) the school submits a new application to the program manager; and

(ii) the program manager approves the new application; and

(b) demonstrate that the private school continues to meet the eligibility requirements of this section.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall establish rules for an LEA to create and publish fee structures for scholarship students.

Section 11. Section 53F-6-409 is amended to read:

53F-6-409 (Effective upon governor's approval). Eligible service providers.

(1) To be an eligible service provider, a private program or service:

(a) shall provide to the program manager and financial administrator:

(i) a federal employer identification number;

(ii) the provider's address and contact information;

(iii) a description of each program or service the provider proposes to offer directly to a scholarship student; and

(iv) subject to Subsection (2), any other information as required by the program manager;

(b) shall comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and

(c) may not act as a consultant, clearing house, or intermediary that connects a scholarship student with or otherwise facilitates the student's engagement with a program or service that another entity provides.

(2) The program manager shall adopt policies that maximize the number of eligible service providers, including accepting new providers throughout the school year, while ensuring education programs or services provided through the program meet student needs and otherwise comply with this part.

(3) A private program or service intending to receive scholarship funds shall:

(a) submit an application to the program manager;

(b) complete all required orientation programs established by the program manager before receiving any scholarship funds and maintain a current orientation status throughout participation in the program; and

[~~(b)~~](c) agree to not refund, rebate, or share scholarship funds with scholarship students or scholarship students' parents in any manner except remittances or refunds processed through the financial administrator to a scholarship account in accordance with this part and procedures that the program manager establishes.

(4) The program manager shall:

(a) if the private program or service meets the eligibility requirements of this section, recognize the private program or service as an eligible service provider and approve a private program or service's application to receive scholarship funds on behalf of a scholarship student; and

(b) make available to the public a list of eligible service providers approved under this section.

(5) A private program or service approved under this section that changes ownership shall:

(a) cease operation as an eligible service provider until:

(i) the program or service submits a new application to the program manager; and

(ii) the program manager approves the new application; and

(b) demonstrate that the private program or service continues to meet the eligibility requirements of this section.

(6) The following are not eligible service providers:

(a) a parent of a home-based scholarship student or a home school student solely in relation to the parent's child; or

(b) any other individual that does not meet the requirements described in this section.

(7) Nothing prohibits an entity that provides education services under the Statewide Online Education Program described in [~~Title 53F,~~]Chapter 4, Part 5, Statewide Online Education Program, from operating as an eligible service provider under this part to provide education services to scholarship students.

Section 12. Section 53F-6-410 is amended to read:

53F-6-410 (Effective upon governor's approval). Parental rights -- Optional assessment.

(1) In accordance with Section 53G-6-803 regarding a parent's right to academic accommodations, nothing in this chapter restricts or affects a parent's interests and role in the care, custody, and control of the parent's child, including the duty and right to nurture and direct the child's upbringing and education.

(2) (a) A parent may request that the program manager facilitate one of the following assessments of the parent's scholarship student:

(i) a standards assessment described in Section 53E-4-303;

(ii) a high school assessment described in Section 53E-4-304;

(iii) a college readiness assessment described in Section 53E-4-305;

(iv) an assessment of students in grade 3 to measure reading grade level described in Section 53E-4-307; or

(v) a nationally norm-referenced assessment.

(b) (i) Notwithstanding any other provision of law, the entity administering an assessment described in Subsection (2)(a) to a scholarship student in accordance with this section may not report the result of or any other data pertaining to the assessment or scholarship student to a person other than the program manager, the scholarship student, or the scholarship student's parent.

(ii) The program manager may not report or communicate the result or data described in Subsection (2)(b)(i) to a person other than the relevant scholarship student and the scholarship student's parent unless the result or data is included in a de-identified compilation of data related to all scholarship students.

(c) In any communication from the program manager regarding an assessment described in this Subsection (2), the program manager shall include a disclaimer that no assessment is required.

(d) The completion of an optional assessment under this section satisfies the portfolio eligibility qualification described in Subsection 53F-6-402(3)(d).

(3) The rights described in this section shall be exercised in conjunction with the procedures for students with special needs as described in Section 53F-6-416.

Section 13. Section 53F-6-411 is amended to read:

53F-6-411 (Effective upon governor's approval). Program funding.

(1) [~~If~~]Except as provided in Subsection (7), if a scholarship student enters or reenters the public education system during a given school year:

(a) no later than five business days after the day on which the student enters or reenters the public education system, the program manager shall direct the financial administrator to immediately remove the balance in the scholarship student's scholarship account for other use within the program;

(b) the state board may not distribute any remaining state funds to the program manager or financial administrator for the student; and

(c) the program manager may direct the financial administrator to use the balance described in Subsection (1)(a) for another scholarship student.

(2) At the end of a school year, a program manager shall:

(a) direct the financial administrator to:

(i) withdraw any remaining scholarship funds in a scholarship account; and

(ii) [~~retain the scholarship funds for disbursement in the following year.~~]allocate these funds as rollovers in accordance with Subsection (4); and

(b) return any funds not allocated as rollovers to the program manager or the state board to be deposited in the restricted account described in Subsection (4).

(3) (a) To administer the program, the program manager may use up to [~~the lesser of~~]5% [~~or $2,500,000~~]of the funds the Legislature appropriates for the program.

(b) [~~Subject to Subsection (3)(a), the~~]The funds for program administration described in Subsection (3)(a) are nonlapsing.

(c) The program manager may not retain administrative cost balances in excess of 25% of total administrative costs in any fiscal year.

(4) (a) There is created a restricted account within the Income Tax Fund known as the "Utah Fits All Scholarship Program Restricted Account."

(b) The restricted account shall consist of:

(i) money appropriated to the restricted account by the Legislature;

(ii) interest earned on the restricted account; and

(iii) in accordance with Subsection (6), unused scholarship funds returned to the restricted account under this section.

(5) (a) Subject to legislative appropriations, the state board shall distribute scholarship funds to the program manager or financial administrator from the restricted account in two equal payments:

(i) the first payment at the beginning of the scholarship year; and

(ii) the second payment during the second half of the scholarship year.

(b) Notwithstanding Subsection (5)(a), the program manager may authorize disbursement of a scholarship student's full annual award amount at the beginning of the scholarship year if:

(i) the funds are for private school tuition; or

(ii) the program manager determines immediate disbursement is necessary for the student's education.

(6) The program manager shall:

(a) allow unused scholarship funds to rollover in a 2:1 ratio, where:

(i) for every three dollars of unused scholarship funds, two dollars rollover to the scholarship student to be added to the student's scholarship award for the next scholarship year, up to a maximum rollover amount of $2,000 that may cumulate; and

(ii) the remaining unused funds return to the restricted account;

(b) verify the scholarship student maintains program eligibility before executing any rollover; and

(c) direct the financial administrator to return any unused funds not allocated as rollovers to the restricted account described in this section.

(7) (a) Before determining a student has reentered public education, the program manager shall:

(i) notify the parent in writing of:

(A) the identified public school enrollment; and

(B) the parent's right to verify or dispute the enrollment finding; and

(ii) allow the parent five business days to:

(A) confirm the accuracy of the enrollment; or

(B) provide evidence disputing the enrollment finding.

(b) A parent may appeal an incorrect reentry determination by submitting documentation to the program manager within the time specified in Subsection (7)(a).

Section 14. Section 53F-6-412 is amended to read:

53F-6-412 (Effective upon governor's approval). Reports.

[~~Beginning in 2025 and in~~]In accordance with Section 68-3-14 and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, the program manager shall submit a report on the program to the Education Interim Committee no later than September 1 of each year that includes:

(1) the number and outcomes of appeals processed through the appeals process established in Section 53F-6-417;

(2) the total amount and usage of rollover funds as described in Section 53F-6-411;

(3) a summary of the income verification process and outcomes, including the number of households verified through each method described in Section 53F-6-402;

(4) for scholarship rollovers:

(a) the total amount of funds rolled over;

(b) the number of students with rollovers; and

(c) the impact on subsequent year scholarship amounts;

(5) for restricted expenses:

(a) the total amount spent on extracurricular and physical education expenses;

(b) the percentage of scholarship funds used for restricted expenses by students; and

(c) the number of students reaching:

(i) the 20% restriction limit for physical education expenses; and

(ii) the 20% limit for extracurricular related expenses;

(6) in consultation with the financial administrator, all financial data necessary for the preparation of the report required under this section no later than 30 days before each reporting deadline;

[~~(1)~~](7) the total amount of tuition and fees qualifying providers charged for the current year and previous two years;

[~~(2)~~](8) the total amount of goods paid for with scholarship funds in the previous year and a general characterization of the types of goods;

[~~(3)~~](9) administrative costs of the program;

[~~(4)~~](10) the number of scholarship students from each county and the aggregate number of eligible students on the waitlist described in Section 53F-6-405;

[~~(5)~~](11) the percentage of first-time scholarship students who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;

[~~(6)~~](12) the program manager's strategy and outreach efforts to reach eligible students whose family income is at or below 200% of the federal poverty level and related obstacles to enrollments;

[~~(7)~~](13) in the report that the program manager submits in 2025, information on steps the program manager has taken and processes the program manager has adopted to implement the program; [~~and~~]

(14) breakdown of scholarship students by:

(a) private school enrollment versus home-based education; and

(b) enrollment preference tier through which the student received the scholarship; and

[~~(8)~~](15) any other information regarding the program and the program's implementation that the committee requests.

Section 15. Section 53F-6-415.5 is enacted to read:

53F-6-415.5 (Effective upon governor's approval). Transition provisions.

(1) As used in this section:

(a) "Previous contracted entity" means an organization that was contracted to perform program functions immediately prior to a transition event.

(b) "Transition event" means:

(i) the expiration or termination of a contracted entity contract;

(ii) the inability of a contracted entity to perform required duties; or

(iii) any other circumstance requiring transition to a new contracted entity, including legislative changes to this part or the program appropriations.

(c) "Transition period" means the time between:

(i) the occurrence of a transition event; and

(ii) the effective date of a contract with a new contracted entity selected through the state's procurement process.

(2) Upon the occurrence of a transition event, the Department of Operations shall:

(a) serve as a temporary bridge program administrator solely during the time required to:

(i) maintain essential program operations with the full cooperation from the previous contracted entity that is undergoing termination of contract; and

(ii) complete the procurement process for selecting new contracted entities;

(b) immediately initiate and complete the procurement process described in Section 53F-6-404 in an expedited manner;

(c) establish clear timelines and procedures for the transition process between the previous contracted entity to the Department of Operations to the new contracted entity;

(d) if the transition event affects the financial administrator:

(i) immediately secure temporary financial services through an emergency procurement process to ensure continuity of payment processing;

(ii) ensure the temporary financial services provider meets all qualifications of a financial administrator under Section 53F-6-401; and

(iii) maintain separation between program administration and financial operations during the transition period; and

(e) provide proper notice to and coordinate with:

(i) qualifying providers;

(ii) parents;

(iii) all contracted entities;

(iv) the state board; and

(v) other affected parties.

(3) During the transition period, the Department of Operations:

(a) shall ensure with full cooperation and support of the previous contracted entity:

(i) all existing scholarship accounts remain valid and operational;

(ii) all qualifying provider approvals remain in effect;

(iii) no interruption in:

(A) scholarship payments;

(B) account access for parents;

(C) contracted entity operations; and

(D) other essential program functions;

(iv) if a temporary financial services provider is necessary:

(A) the provider's compliance with program requirements;

(B) proper processing of scholarship payments; and

(C) appropriate separation of duties is maintained between the provider and the Department of Operations;

(v) preservation of all program data and records for transfer to new contracted entities; and

(vi) continuation of necessary reporting and compliance activities;

(b) may not:

(i) implement new policies or procedures;

(ii) modify existing program operations; or

(iii) directly handle or process any scholarship funds; and

(c) shall maintain the program's operational independence from governmental control.

(4) The Department of Operations' temporary bridge program administrator role:

(a) is limited to maintaining essential program functions;

(b) may not extend beyond the minimum time necessary to complete the procurement process;

(c) does not constitute ongoing program management or operations;

(d) shall be performed solely to maintain program continuity during the transition to a new program manager; and

(e) shall terminate immediately upon the new program manager assuming the duties of a program manager.

(5) All contracts, agreements, and obligations with the previous contracted entity shall:

(a) remain in effect during the transition period unless specifically terminated through appropriate procedures;

(b) be reviewed by the Department of Operations for continuation, modification, or termination; and

(c) if necessary, be transferred to appropriate entities as determined through the procurement process.

(6) Upon selection and awarding of a new contract to a contracted entity, the Department of Operations shall:

(a) facilitate an orderly transfer of all relevant program operations, records, and data;

(b) ensure the new contracted entity is prepared to assume all relevant program responsibilities; and

(c) except for contract administrator duties, terminate all temporary administrative duties.

(7) During the transition period:

(a) if a temporary financial services provider is necessary:

(i) the provider shall process all program payments and maintain all scholarship accounts;

(ii) the Department of Operations may not directly handle or process any scholarship funds; and

(iii) the temporary financial services provider shall receive the portion of administrative funds necessary for financial operations;

(b) the state board shall:

(i) allocate administrative funds as directed by the Department of Operations to:

(A) the temporary financial services provider for financial operations; and

(B) other contracted entities continuing to perform program functions; and

(ii) ensure the total administrative costs do not exceed the limit in Subsection 53F-6-411(3)(a)(i); and

(c) the Department of Operations:

(i) shall maintain detailed accounting of all transition period administrative expenditures;

(ii) shall report transition period expenditures to the state board;

(iii) may not directly handle scholarship funds or accounts; and

(iv) shall ensure proper separation between program administration and financial operations is maintained throughout the transition period.

(8) Any unexpended administrative funds at the end of the transition period shall:

(a) transfer to the newly contracted entities upon completion of the procurement process; or

(b) return to the restricted account described in Section 53F-6-411 if not needed for contracted entity operations.

(9) Within 30 days after terminating temporary administrative duties under Subsection (6)(c), the Department of Operations shall submit a report to the Executive Appropriations Committee that includes:

(a) a summary of actions taken during the transition period;

(b) an accounting of all expenditures made during the transition period;

(c) confirmation that all program operations, records, and data have been properly transferred to new contracted entities; and

(d) verification that all temporary administrative duties have been terminated.

Section 16. Section 53F-6-416 is enacted to read:

53F-6-416 (Effective upon governor's approval). Students with special needs.

The program manager shall coordinate with the program manager of the Carson Smith Opportunity Scholarship Program created in Section 53E-7-402 and the Carson Smith Scholarship Program created in Section 53F-4-302 to ensure that a student is not receiving duplicate benefits.

Section 17. Section 53F-6-417 is enacted to read:

53F-6-417 (Effective upon governor's approval). Appeals process for denied reimbursements.

In accordance with required program administration the program manager shall:

(1) follow an appeals process for when a student's eligibility is suspended or disqualified under Section 53F-6-405; and

(2) establish the process and procedures for the appeals process described in this section.

Section 18. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 26
H. B. 24
Passed February 21, 2025
Approved March 12, 2025
Effective May 7, 2025

LIMITATIONS ON LIABILITY AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill addresses the limitation on the liability of an employer for an employee convicted of an offense.

Highlighted Provisions:

This bill:

► extends the sunset date for a statute addressing the liability of an employer for an employee convicted of an offense.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-278, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

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

Section 1. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates: Title 78A and Title 78B.

(1) Subsection 78A-7-106(7), regarding the transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed July 1, 2029.

(2) Section 78B-3-421, Arbitration agreements, is repealed July 1, 2029.

(3) Section 78B-4-518, Limitation on liability of employer for an employee convicted of an offense, is repealed July 1, [~~2025~~]2029.

(4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

(5) Section 78B-22-805, Interdisciplinary Parental Representation Pilot Program, is repealed December 31, 2026.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 27
H. B. 46
Passed February 14, 2025
Approved March 12, 2025
Effective May 7, 2025

WATER RIGHTS APPLICATIONS AMENDMENTS

Chief Sponsor: Doug Owens
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses applications before the state engineer.

Highlighted Provisions:

This bill:

► addresses time frames related to reinstatement of a lapsed application; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-18, as last amended by Laws of Utah 2021, Chapter 81

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

Section 1. Section 73-3-18 is amended to read:

73-3-18. Lapse of application -- Notice -- Reinstatement -- Priorities -- Assignment of application -- Filing and recording -- Constructive notice -- Effect of failure to record.

(1) If an application lapses for failure of the applicant to comply with a provision of this title or an order of the state engineer, the state engineer shall promptly give notice of the lapse to the applicant by regular mail, or send notice electronically if receipt is verifiable.

(2) [~~Within 60 days after notice of a lapse described in Subsection (1), the~~]

(a) The state engineer may, upon a showing of reasonable cause, reinstate [~~the application with~~]a lapsed application if, no later than 60 days after the state engineer mails or sends electronically the notice of lapse described in Subsection (1), the applicant files:

(i) a request to reinstate the application using a reinstatement form provided by the state engineer; and

(ii) a request for an extension of time under Section 73-3-12.

(b) Except as provided in Subsection (2)(c), the state engineer shall change the date of priority [~~changed~~]of a reinstated application to the date [~~of~~]the request for reinstatement was filed.

[~~(3)~~](c) The original priority date of a lapsed application may not be reinstated, except upon a showing of [~~fraud or~~]mistake of the state engineer or fraud.

[~~(4)~~](3) Except as provided in Section 73-3-5.6, Section 73-3-12, Section 73-3-20, or Subsection (2), the priority of an application is determined by the day on which the state engineer's office receives the written application.

[~~(5)~~](4) Before the state engineer issues a certificate of appropriation, a right claimed under an application for the appropriation of water may be assigned by a written instrument, including by use of a form provided by the state engineer's office.

[~~(6)~~](5) (a) An instrument assigning a right described in Subsection [~~(5)~~](4) shall be recorded in the office of the applicable county recorder to provide notice of the instrument's contents.

(b) Beginning July 1, 2017, the state engineer shall consider an assignment using the state engineer's form described in Subsection [~~(5)~~](4) that is recorded and forwarded to the state engineer as a submitted report of water right conveyance for purposes of fulfilling Subsection 73-1-10(3)(a).

[~~(7)~~](6) An instrument described in Subsection [~~(5)~~](4) that is not recorded as described in Subsection [~~(6)~~](5) is void against any subsequent assignee in good faith and for valuable consideration of the same application or any portion of the same application, if the subsequent assignee's own assignment is recorded as described in Subsection [~~(6)~~](5)first.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 28
H. B. 98
Passed February 20, 2025
Approved March 12, 2025
Effective May 7, 2025

LANDOWNER LIABILITY AMENDMENTS

Chief Sponsor: David Shallenberger
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill amends the definition of "recreational purpose" in the context of landowner liability.

Highlighted Provisions:

This bill:

► adds new activities to the definition of "recreational purpose" in the context of landowner liability; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-14-102, as last amended by Laws of Utah 2024, Chapter 399

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

Section 1. Section 57-14-102 is amended to read:

57-14-102. Definitions.

As used in this chapter:

(1) "Charge" means the admission price or fee asked in return for permission to enter or go upon the land.

(2) "Child" means an individual who is 16 years old or younger.

(3) (a) "Land" means any land within the state boundaries.

(b) "Land" includes roads, railway corridors, water, water courses, private ways and buildings, structures, and machinery or equipment when attached to the realty.

(4) "Owner" means the possessor of any interest in the land, whether public or private land, including a tenant, a lessor, a lessee, an occupant, or person in control of the land.

(5) "Person" includes any [~~person~~]individual, regardless of age, maturity, or experience, who enters upon or uses land for recreational purposes.

(6) "Recreational purpose" includes any of the following or any combination of the following:

(a) hunting;

(b) fishing;

(c) swimming;

(d) skiing;

(e) snowshoeing;

(f) camping;

(g) picnicking;

(h) hiking;

(i) studying nature;

(j) waterskiing;

(k) engaging in water sports;

(l) engaging in equestrian activities;

(m) using boats;

(n) mountain biking;

(o) riding narrow gauge rail cars on a narrow gauge track that does not exceed 24 inch gauge;

(p) using off-highway vehicles or recreational vehicles;

(q) viewing or enjoying historical, archaeological, scenic, or scientific sites;

(r) aircraft operations;

(s) equestrian activity, skateboarding, skydiving, paragliding, hang gliding, roller skating, ice skating, walking, running, jogging, bike

riding, or in-line skating;

(t) rock climbing;

(u) climbing a via ferrata route;

(v) target shooting; or

[~~(u)~~](w) any other similar activity or combination of similar activities.

(7) "Serious physical injury" means any physical injury or set of physical injuries that:

(a) seriously impairs a person's health;

(b) was caused by use of a dangerous weapon as defined in Section 76-1-101.5;

(c) involves physical torture or causes serious emotional harm to a person; or

(d) creates a reasonable risk of death.

(8) "Trespasser" means a person who enters on the land of another without:

(a) express or implied permission; or

(b) invitation.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 29
S. B. 26
Passed March 7, 2025
Approved March 12, 2025
Effective March 12, 2025

HOUSING AND TRANSIT REINVESTMENT ZONE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends provisions relating to the Housing and Transit Reinvestment Zone Act.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► amends provisions relating to the Housing and Transit Reinvestment Zone Act;
- ► amends provisions related to the Hotel Impact Mitigation Fund and distribution of funds;
- ► amends the allowable use of certain sales and use taxes to be used for convention center revitalization;
- ► allows certain sales and use tax revenue distributed to a county to be used for convention center revitalization;
- ► creates a process to propose a convention center reinvestment zone to facilitate revitalization of a convention center and surrounding areas within a county of the first class to:
  - • allow capture of sales and use tax increment related to state and certain local sales and use taxes;
  - • allow capture of property tax increment; and
  - • provide for distribution of funds to enable bonding;
- ► amends provisions to exclude remote sales tax revenue for the capture of sales and use tax increment;
- ► amends the median gross income for a certain percentage of proposed dwelling units within the housing and transit reinvestment zone to the county median gross income for households of the same size;
- ► clarifies that the collection of a tax increment for a housing and transit reinvestment zone project may be triggered no more than three times per project;
- ► modifies provisions related to housing and transit reinvestment zones within certain transit stations or hubs;
- ► amends provisions related to mixed-use development;
- ► modifies the requirement that a proposal for a transit reinvestment zone includes a mix of dwelling units with at least 25% of the dwelling units having more than one bedroom;
- ► amends the date by which a tax increment collection notice is sent to certain entities to no later than December 31 of the year before the year tax increment is to take place;
- ► requires certain limitations on use of funds in certain convention center reinvestment zones;
- ► requires the base year to be updated in certain circumstances regarding existing community reinvestment projects; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-70-204, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 419
17-27a-403, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 381, 431
17-27a-408, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 381, 413
17C-1-409, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapters 15, 471 and 492
17C-1-411, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapters 471, 492
17C-1-412, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 413
17D-4-102, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 419
17D-4-203, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapters 15, 259
59-1-306, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 35
59-1-404, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapters 21, 492
59-2-924, (Effective 01/01/26) as last amended by Laws of Utah 2024, Chapter 258
59-2-924.2, (Effective 01/01/26) as last amended by Laws of Utah 2024, Chapter 246
59-12-103, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 88, 501
59-12-205, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 535
59-12-302, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 471
59-12-354, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 419
59-12-402.1, (Effective upon governor's approval) as last amended by Laws of Utah 2017, Chapter 422

59-12-403, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 471
59-12-603, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 274
59-12-703, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 471
59-12-802, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 333
59-12-804, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 471
59-12-1102, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapters 435, 471
59-12-1302, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 471
59-12-1402, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 471
59-12-2103, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 471
59-12-2206, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 471
59-12-2214, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapter 377
59-12-2217, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapter 377
59-12-2219, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 498
59-12-2220, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 498, 501
63H-1-205, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 514
63N-2-512, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 159
63N-3-602, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 521, 537
63N-3-603, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 521, 537
63N-3-604, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 521
63N-3-605, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 521, 537
63N-3-606, (Effective upon governor's approval) as enacted by Laws of Utah 2021, Chapter 411
63N-3-607, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 521
63N-3-608, (Effective upon governor's approval) as enacted by Laws of Utah 2021, Chapter 411
63N-3-609, (Effective upon governor's approval) as enacted by Laws of Utah 2021, Chapter 411
63N-3-610, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 521
63N-3-611, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 521
63N-3-1403, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 436
72-1-214, (Effective upon governor's approval) as last amended by Laws of Utah 2018, Chapter 424
72-1-304, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 517
72-17-105, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 531
73-10-36, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 238

ENACTS:

17D-4-202.1, (Effective upon governor's approval) Utah Code Annotated 1953
63N-3-603.1, (Effective upon governor's approval) Utah Code Annotated 1953
63N-3-604.1, (Effective upon governor's approval) Utah Code Annotated 1953
63N-3-610.1, (Effective upon governor's approval) Utah Code Annotated 1953

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

Section 1. Section 11-70-204 is amended to read:

11-70-204 (Effective upon governor's approval). Fairpark district accommodations tax.

(1) As used in this section:

(a) (i) "Accommodations and services" means an accommodation or service described in Subsection 59-12-103(1)(i).

(ii) "Accommodations and services" does not include an accommodation or service for which amounts paid or charged are not part of a rental room rate.

(b) "Accommodations tax" means a tax imposed as provided in this section.

(2) By resolution, the fairpark district board may impose an accommodations tax on a provider for amounts paid or charged for accommodations and services, if the place of accommodation is located within the district sales tax area.

(3) The maximum rate of an accommodations tax is 15% of the amounts paid to or charged by the provider for accommodations and services.

(4) A provider may recover an amount equal to the accommodations tax from customers, if the provider includes the amount as a separate billing line item.

(5) If the fairpark district imposes an accommodations tax, a public entity, including the fairpark district, may not impose, on the amounts paid or charged for accommodations and services within the district sales tax area, any other tax described in:

(a) Title 59, Chapter 12, Sales and Use Tax Act; or

(b) Title 59, Chapter 28, State Transient Room Tax Act.

(6) Except as provided in Subsection (7) or (8), an accommodations tax shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Title 59, Chapter 12, Part 1, Tax Collection; or

(ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

(b) Title 59, Chapter 1, General Taxation Policies.

(7) The location of a transaction shall be determined in accordance with Sections 59-12-211through 59-12-215.

(8) (a) An accommodations tax is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) [~~through (5)~~]and (4) through (6).

(b) The exemptions described in Sections 59-12-104, 59-12-104.1, and 59-12-104.6 do not apply to an accommodations tax.

(9) The State Tax Commission shall:

(a) except as provided in Subsection (9)(b), distribute the revenue collected from an accommodations tax to the fairpark district; and

(b) retain and deposit an administrative charge in accordance with Section 59-1-306from revenue the commission collects from an accommodations tax.

(10) (a) If the fairpark district imposes, repeals, or changes the rate of an accommodations tax, the implementation, repeal, or change takes effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the State Tax Commission receives the notice described in Subsection (10)(b) from the fairpark district.

(b) The notice required in Subsection (10)(a)(ii) shall state:

(i) that the fairpark district will impose, repeal, or change the rate of an accommodations tax;

(ii) the effective date of the implementation, repeal, or change of the accommodations tax; and

(iii) the rate of the accommodations tax.

(11) In addition to the uses permitted under Section 11-70-207, the fairpark district may allocate revenue from an accommodations tax to a county in which a place of accommodation that is subject to the accommodations tax is located, if:

(a) the county had a transient room tax described in Section 59-12-301 in effect at the time the fairpark district board imposed an accommodations tax; and

(b) the revenue replaces revenue that the county received from a county transient room tax described in Section 59-12-301 for the county's general operations and administrative expenses.

Section 2. Section 17-27a-403 is amended to read:

17-27a-403 (Effective upon governor's approval). Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of the planning commission's intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) is coordinated to integrate the land use element with the water use and preservation element; and

(D) accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) for a specified county as defined in Section 17-27a-408, a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(B) selects three or more moderate income housing strategies described in Subsection (2)(b)(ii) for implementation; and

(C) includes an implementation plan as provided in Subsection (2) [~~(e)~~](f);

(iv) a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3); and

(v) a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the county to modify the county's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the county, an employer that provides contracted services for the county, or any other public employer that operates within the county;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) create a home ownership promotion zone pursuant to Part 12, Home Ownership Promotion Zone for Counties;

(S) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

(T) create a program to transfer development rights for moderate income housing;

(U) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(V) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(W) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

(X) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing.

[~~(c) If a specified county, as defined in Section 17-27a-408, has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified county shall include as part of the specified county's recommended strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy described in Subsection (2)(b)(ii)(Q).~~]

[~~(d)~~](c) The planning commission shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(ii).

[~~(e)~~](d) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

[~~(f)~~](e) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the county's region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

[~~(g)~~](f) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the county for implementation.

(ii) The timeline described in Subsection (2) [~~(g)(i)~~](f)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and

(B) provide flexibility for the county to make adjustments as needed.

[~~(h)~~](g) In drafting the water use and preservation element, the planning commission:

(i) shall consider applicable regional water conservation goals recommended by the Division of Water Resources;

(ii) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and water use and preservation element may affect the Great Salt Lake;

(iii) shall notify the community water systems serving drinking water within the unincorporated portion of the county and request feedback from the community water systems about how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(iv) shall consider the potential opportunities and benefits of planning for regionalization of public water systems;

(v) shall consult with the Department of Agriculture and Food for information and technical resources regarding the potential benefits of agriculture conservation easements and potential implementation of agriculture water optimization projects that would support regional water conservation goals;

(vi) shall notify an irrigation or canal company located in the county so that the irrigation or canal company can be involved in the protection and integrity of the irrigation or canal company's delivery systems;

(vii) shall include a recommendation for:

(A) water conservation policies to be determined by the county; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(viii) shall review the county's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(ix) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(x) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(xi) shall include a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 3. Section 17-27a-408 is amended to read:

17-27a-408 (Effective upon governor's approval). Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified county's general plan as provided in Subsection 17-27a-403(2) [~~(g)~~](f).

(c) "Initial report" means the one-time moderate income housing report described in Subsection (2).

(d) "Moderate income housing strategy" means a strategy described in Subsection 17-27a-403(2)(b)(ii).

(e) "Report" means an initial report or a subsequent report.

(f) "Specified county" means a county of the first, second, or third class, which has a population of more than 5,000 in the county's unincorporated areas.

(g) "Subsequent progress report" means the annual moderate income housing report described in Subsection (3).

(2) (a) The legislative body of a specified county shall annually submit an initial report to the division.

(b) (i) This Subsection (2)(b) applies to a county that is not a specified county as of January 1, 2023.

(ii) As of January 1, if a county described in Subsection (2)(b)(i) changes from one class to another or grows in population to qualify as a specified county, the county shall submit an initial plan to the division on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.

(c) The initial report shall:

(i) identify each moderate income housing strategy selected by the specified county for continued, ongoing, or one-time implementation, using the exact language used to describe the moderate income housing strategy in Subsection 17-27a-403(2)(b)(ii); and

(ii) include an implementation plan.

(3) (a) After the division approves a specified county's initial report under this section, the specified county shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified county is required to submit the initial report.

(b) The subsequent progress report shall include:

(i) subject to Subsection (3)(c), a description of each action, whether one-time or ongoing, taken by the specified county during the previous 12-month period to implement the moderate income housing strategies identified in the initial report for implementation;

(ii) a description of each land use regulation or land use decision made by the specified county during the previous 12-month period to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;

(iii) a description of any barriers encountered by the specified county in the previous 12-month period in implementing the moderate income housing strategies;

(iv) the number of residential dwelling units that have been entitled that have not received a building permit as of the submission date of the progress report;

(v) shapefiles, or website links if shapefiles are not available, to current maps and tables related to zoning;

(vi) information regarding the number of internal and external or detached accessory dwelling units located within the specified county for which the specified county:

(A) issued a building permit to construct; or

(B) issued a business license or comparable license or permit to rent;

(vii) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(viii) any recommendations on how the state can support the specified county in implementing the moderate income housing strategies.

(c) For purposes of describing actions taken by a specified county under Subsection (3)(b)(i), the specified county may include an ongoing action taken by the specified county prior to the 12-month reporting period applicable to the subsequent progress report if the specified county:

(i) has already adopted an ordinance, approved a land use application, made an investment, or approved an agreement or financing that substantially promotes the implementation of a moderate income housing strategy identified in the initial report; and

(ii) demonstrates in the subsequent progress report that the action taken under Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified county's implementation plan.

(d) A specified county's report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before May 1 of the year in which the report is required.

(4) Within 90 days after the day on which the division receives a specified county's report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified county is located, and, if the unincorporated area of the specified county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (5), review the report to determine compliance with this section.

(5) (a) An initial report does not comply with this section unless the report:

(i) includes the information required under Subsection (2)(c);

(ii) [~~subject to Subsection (5)(c),~~]demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies; and

(iii) is in a form approved by the division.

(b) A subsequent progress report does not comply with this section unless the report:

(i) [~~subject to Subsection (5)(c),~~]demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies;

(ii) is in a form approved by the division; and

(iii) provides sufficient information for the division to:

(A) assess the specified county's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified county's implementation plan;

(C) identify a clear correlation between the specified county's land use decisions and efforts to implement the moderate income housing strategies;

(D) identify how the market has responded to the specified county's selected moderate income housing strategies; and

(E) identify any barriers encountered by the specified county in implementing the selected moderate income housing strategies.

[~~(c) (i) This Subsection (5)(c) applies to a specified county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.~~]

[~~(ii) In addition to the requirements of Subsections (5)(a) and (b), a report for a specified county described in Subsection (5)(c)(i) does not comply with this section unless the report demonstrates to the division that the specified county:~~]

[~~(A) made plans to implement the moderate income housing strategy described in Subsection 17-27a-403(2)(b)(ii)(Q); and~~]

[~~(B) is in compliance with Subsection 63N-3-603(8).~~]

(6) (a) A specified county qualifies for priority consideration under this Subsection (6) if the specified county's report:

(i) complies with this section; and

(ii) demonstrates to the division that the specified county made plans to implement five or more moderate income housing strategies.

(b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within the unincorporated areas of a specified county described in Subsection (6)(a) until the Department of Transportation receives notice from the division under Subsection (6)(e).

(c) Upon determining that a specified county qualifies for priority consideration under this Subsection (6), the division shall send a notice of prioritization to the legislative body of the specified county and the Department of Transportation.

(d) The notice described in Subsection (6)(c) shall:

(i) name the specified county that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified county qualifies to receive priority consideration; and

(iii) state the basis for the division's determination that the specified county qualifies for priority consideration.

(e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the specified county no longer qualifies for priority consideration under this Subsection (6).

(7) (a) If the division, after reviewing a specified county's report, determines that the report does not comply with this section, the division shall send a notice of noncompliance to the legislative body of the specified county.

(b) A specified county that receives a notice of noncompliance may:

(i) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(c) The notice described in Subsection (7)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified county has an opportunity to:

(A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

(iii) state that failure to take action under Subsection (7)(c)(ii) will result in the specified county's ineligibility for funds and fees owed under Subsection (9).

(d) For purposes of curing the deficiencies in a report under this Subsection (7), if the action needed to cure the deficiency as described by the division requires the specified county to make a legislative change, the specified county may cure the deficiency by making that legislative change within the 90-day cure period.

(e) (i) If a specified county submits to the division a corrected report in accordance with Subsection (7)(b)(i), and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified county.

(ii) A specified county that receives a second notice of noncompliance may request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent.

(iii) The notice described in Subsection (7)(e)(i) shall:

(A) state that the specified county has an opportunity to submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; and

(B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the specified county's ineligibility for funds under Subsection (9).

(8) (a) A specified county that receives a notice of noncompliance under Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(b) Within 90 days after the day on which the division receives a request for an appeal, an appeal board consisting of the following three members shall review and issue a written decision on the appeal:

(i) one individual appointed by the Utah Association of Counties;

(ii) one individual appointed by the Utah Homebuilders Association; and

(iii) one individual appointed by the presiding member of the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified county is a member.

(c) The written decision of the appeal board shall either uphold or reverse the division's determination of noncompliance.

(d) The appeal board's written decision on the appeal is final.

(9) (a) A specified county is ineligible for funds and owes a fee under this Subsection (9) if:

(i) the specified county fails to submit a report to the division;

(ii) after submitting a report to the division, the division determines that the report does not comply with this section and the specified county fails to:

(A) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent;

(iii) after submitting to the division a corrected report to cure the deficiencies in a previously submitted report, the division determines that the corrected report does not comply with this section and the specified county fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection (8), the appeal board issues a written decision upholding the division's determination of noncompliance.

(b) The following apply to a specified county described in Subsection (9)(a) until the division provides notice under Subsection (9)(e):

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the unincorporated areas of the specified county in accordance with Subsection 72-2-124(6);

(ii) beginning with the report submitted in 2024, the specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $250 per day that the specified county:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (7); and

(iii) beginning with the report submitted in 2025, the specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $500 per day that the specified county, for a consecutive year:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (7).

(c) Upon determining that a specified county is ineligible for funds under this Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the division shall send a notice of ineligibility to the legislative body of the specified county, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (9)(c) shall:

(i) name the specified county that is ineligible for funds;

(ii) describe the funds for which the specified county is ineligible to receive;

(iii) describe the fee the specified county is required to pay under Subsection (9)(b), if applicable; and

(iv) state the basis for the division's determination that the specified county is ineligible for funds.

(e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the provisions of this Subsection (9) no longer apply to the specified county.

(f) The division may not determine that a specified county that is required to pay a fee under Subsection (9)(b) is in compliance with the reporting requirements of this section until the specified county pays all outstanding fees required under Subsection (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(10) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 4. Section 17C-1-409 is amended to read:

17C-1-409 (Effective upon governor's approval). Allowable uses of agency funds.

(1) (a) An agency may use agency funds:

(i) for any purpose authorized under this title;

(ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B)or funding for a business resource center;

(iii) subject to Section 11-41-103, to pay for, including financing or refinancing, all or part of:

(A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;

(B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;

(C) an incentive or other consideration paid to a participant under a participation agreement;

(D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or

(E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area;

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area;

(v) subject to Subsection (5), to transfer funds to a community that created the agency; or

(vi) subject to Subsection (1)(f), for agency-wide project development under Part 10, Agency Taxing Authority.

(b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

(c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.

(d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:

(A) the board approves; and

(B) the community legislative body approves.

(ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for agency funds are sufficient to repay the loan amount.

(iii) A loan described in this Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts.

(e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:

(i) the Department of Transportation; or

(ii) a public transit district.

(f) Before an agency may use project area funds for agency-wide project development, as defined in Section 17C-1-1001, the agency shall obtain the consent of the taxing entity committee or each taxing entity party to an interlocal agreement with the agency.

(2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Retail Facility Incentive Payments Act.

(b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.

(3) (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.

(b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.

(4) Notwithstanding any other provision of this title, an agency may not use project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001, to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.

(5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Subsection [~~59-12-205(4)~~]59-12-205(5).

Section 5. Section 17C-1-411 is amended to read:

17C-1-411 (Effective upon governor's approval). Use of project area funds for housing-related improvements and for relocating mobile home park residents -- Funds to be held in separate accounts.

(1) An agency may use project area funds:

(a) to pay all or part of the value of the land for and the cost of installation, construction, or rehabilitation of any housing-related building, facility, structure, or other housing improvement, including infrastructure improvements related to housing, located in any project area within the agency's boundaries;

(b) outside of a project area for the purpose of:

(i) replacing housing units lost by project area development; or

(ii) increasing, improving, or preserving the affordable housing supply within the boundary of the agency;

(c) for relocating mobile home park residents displaced by project area development, whether inside or outside a project area; or

(d) subject to Subsection (4), to transfer funds to a community that created the agency.

(2) (a) Each agency shall create a housing fund and separately account for project area funds allocated under this section.

(b) Interest earned by the housing fund described in Subsection (2)(a), and any payments or repayments made to the agency for loans, advances, or grants of any kind from the housing fund, shall accrue to the housing fund.

(c) An agency that designates a housing fund under this section shall use the housing fund for the purposes set forth in this section or Section 17C-1-412.

(3) An agency may lend, grant, or contribute funds from the housing fund to a person, public entity, housing authority, private entity or business, or nonprofit corporation for affordable housing or homeless assistance.

(4) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(d), 17C-1-409(1)(a)(v), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Subsection [~~59-12-205(4)~~]59-12-205(5).

Section 6. Section 17C-1-412 is amended to read:

17C-1-412 (Effective upon governor's approval). Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.

(1) (a) An agency shall use the agency's housing allocation to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where a board has determined that a development impediment exists;

(vi) replace housing units lost as a result of the project area development;

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(ix) relocate mobile home park residents displaced by project area development;

(x) subject to Subsection (7), transfer funds to a community that created the agency; or

(xi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of housing that:

(A) is located in the same county as the agency;

(B) is owned in whole or in part by, or is dedicated to supporting, a public nonprofit college or university; and

(C) only students of the relevant college or university, including the students' immediate families, occupy.

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:

(i) the community for use as described in Subsection (1)(a);

(ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;

(iii) a housing authority established by the county in which the agency is located for providing:

(A) income targeted housing within the county;

(B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or

(C) homeless assistance within the county;

(iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community;

(v) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if the housing is located along or near a major transit investment corridor that services the community and the related project has been approved by the community in which the housing is or will be located;

(vi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if there is an interlocal agreement between the agency and the receiving community; or

(vii) pay for or make a contribution toward the expansion of child care facilities within the boundary of the agency, provided that any recipient of funds from the agency's housing allocation reports annually to the agency on how the funds were used.

(2) (a) An agency may combine all or any portion of the agency's housing allocation with all or any portion of one or more additional agency's housing allocations if the agencies execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) An agency that has entered into an interlocal agreement as described in Subsection (2)(a), meets the requirements of Subsection (1)(a) or (1)(b) if the use of the housing allocation meets the requirements for at least one agency that is a party to the interlocal agreement.

(3) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.

(4) An agency may:

(a) issue bonds to finance a housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (4)(a) previously issued by the agency.

(5) (a) Except as provided in Subsection (5)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.

(b) Subsection (5)(a) does not apply in a year in which tax increment is insufficient.

(6) (a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.

(b) In an action under Subsection (6)(a), the court:

(i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and

(ii) may not award the agency the agency's attorney fees, unless the court finds that the action was frivolous.

(7) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in Subsection [~~59-12-205(4)~~]59-12-205(5).

(8) An agency shall spend, encumber, or allot the money contributed to the housing fund under Subsection (5)(a) within six years from the day on which the agency first receives the money.

Section 7. Section 17D-4-102 is amended to read:

17D-4-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Board" means the board of trustees of a public infrastructure district.

(2) "Capital city" means a city of the first class that is the capital of the state that has a convention center within the boundary of the city.

(3) "Convention center" means a government facility:

(a) owned by the county in which the convention center is located;

(b) primarily used for hosting conventions, exhibitions, trade shows, or similar events; and

(c) is located within the boundaries of a city of the first class in a county of the first class.

(4) "Convention center public infrastructure district" means a public infrastructure district created to finance public infrastructure and improvements associated with and benefiting a convention center area and surrounding area, including the costs to finance any public or privately owned improvements, including:

(a) convention center-related improvements;

(b) arena improvements; and

(c) a convention revitalization project, as that term is defined in Section 63N-3-602.

(5) "Convention center public infrastructure district in a capital city" means a convention center public infrastructure district created to finance public infrastructure and improvements for a convention center in a capital city, including:

(a) the costs to finance any public improvements that serve the convention center;

(b) privately owned improvements if the improvements are an allowed use of funds under Section 63N-3-1403; and

(c) a convention center revitalization project, as that term is defined in Section 63N-3-602.

[~~(2)~~](6) "Creating entity" means the county, municipality, or development authority that approves the creation of a public infrastructure district.

[~~(3)~~](7) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201;

(b) the Point of the Mountain State Land Authority created in Section 11-59-201;

(c) the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201; or

(d) the military installation development authority created in Section 63H-1-201.

[~~(4)~~](8) "District applicant" means the person proposing the creation of a public infrastructure district.

[~~(5)~~](9) "Division" means a division of a public infrastructure district:

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

[~~(6)~~](10) "Governing document" means the document governing a public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Title 17B, Chapter 1, Provisions Applicable to All Special Districts, and this chapter.

[~~(7)~~](11) (a) "Limited tax bond" means a bond:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by a public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the property tax levy rate limit established under Section 17D-4-303 for any fiscal year, except as provided in Subsection 17D-4-301(8).

(b) "Limited tax bond" does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

[~~(8)~~](12) (a) "Participation agreement" means an executed agreement between a local government entity and project participant, as those terms are defined in Section 63N-3-1401.

(b) "Participation agreement" includes an agreement under Title 63N, Chapter 3, Part 14, Capital City Revitalization Zone.

(13) "Public infrastructure and improvements" means:

(a) the same as that term is defined in Section 11-58-102, for a public infrastructure district created by the Utah Inland Port Authority created in Section 11-58-201;

(b) the same as that term is defined in Section 11-70-101, for a public infrastructure district created by the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201; [~~and~~]

(c) the same as that term is defined in Section 63H-1-102, for a public infrastructure district created by the military installation development authority created in Section 63H-1-201[~~.~~]; and

(d) for a convention center public infrastructure district, infrastructure, utilities, improvements, facilities, buildings, or remediation that:

(i) benefit the public and are owned by a public entity or a utility;

(ii) benefit the public and are publicly maintained or operated by a public entity;

(iii) are privately owned and provide a substantial benefit, as determined by the board of a convention center public infrastructure district, to:

(A) the development and operation of a convention center public infrastructure district; or

(B) the residents or property owners within the boundaries of a convention center public infrastructure district or within the boundaries of a convention center reinvestment zone to which the convention center public infrastructure district is either within or adjacent; or

(iv) if the infrastructure and improvements are outside of the boundaries of a convention center public infrastructure district, benefit a convention center public infrastructure district to which the convention center public infrastructure district project area is either within or adjacent.

Section 8. Section 17D-4-202.1 is enacted to read:

17D-4-202.1 (Effective upon governor's approval). Convention center public infrastructure -- District board -- Petition and process requirements -- Governing document.

(1) As used is this section:

(a) "City" means a municipality of the first class located in a county of the first class in which a convention center is located.

(b) "County" means a county in which a convention center is located.

(c) "Lessee" means a lessee of property within the proposed convention center public infrastructure district that leases the property from the city or county for a term of at least 10 years.

(d) (i) "Petitioner" means:

(A) a surface property owner, a property owner, or lessee of property within a proposed convention center public infrastructure district's boundaries that initiates the formation of a convention center public infrastructure district; or

(B) a surface property owner under this chapter, and Title 17B, Chapter 1, Provisions Applicable to All Special Districts, in relation to a convention center public infrastructure district.

(ii) "Petitioner" does not include a city, county, or other public entity.

(2) A convention center public infrastructure district shall be created in a city upon the submission of a petition in accordance with this part and shall have all the powers of a public infrastructure district under this chapter.

(3) A convention center public infrastructure district may only be created within a city in which a convention center is located.

(4) The petition described in Subsection (2) shall:

(a) include the governing document; and

(b) for a petition to a city which has previously authorized revitalization taxes described in Section 63N-3-1403, include as part of the governing document approval and authorization of an interlocal agreement pledging and securing the revitalization taxes for debt of the proposed convention center public infrastructure district.

(5) (a) The process for creating a convention center public infrastructure district or a convention center public infrastructure district in a capital city shall be initiated by the submission of a petition and a governing document to the city, except that:

(i) the city recorder shall certify the petition within 14 days from the day the petitioner submits the petition to the city recorder;

(ii) if the city recorder fails to certify the petition within the time described in Subsection (5)(a)(i), the petition shall be considered certified; and

(iii) within 30 days from the day that the petitioner submits the petition to the city recorder, or if the city and the petitioner have come to an agreement as described in Subsection (5)(b), the city shall adopt a resolution to approve:

(A) the governing document the petitioner submitted with the petition; and

(B) the creation of a convention center public infrastructure district or a convention center public infrastructure district in a capital city.

(b) Notwithstanding Subsection (5)(a), the city and petitioner may negotiate the finalized terms of the petition, including the terms of an interlocal agreement, within a time period agreed upon by the city and petitioner.

(6) (a) The boundaries of a convention center public infrastructure district shall be limited to an area within a one-half-mile radius of a convention center.

(b) If a parcel is intersected by the radius described in Subsection (6)(a), the entire parcel may be included in the district.

(7) A convention center public infrastructure district shall be subject to the following provisions regarding taxation and financing:

(a) a convention center public infrastructure district may levy an administrative tax of up to 0.0005 per dollar of taxable value on taxable property within the district; and

(b) the administrative tax shall be used exclusively for administrative expenses and may not be used for capital costs or debt payment.

(8) A convention center public infrastructure district shall be governed by the governing document submitted and approved as described in this section.

(9) The convention center public infrastructure board shall consist of five members as follows:

(a) three members shall be representatives of the petitioner and selected by the petitioner;

(b) one member may be a representative of the city and selected by the mayor of the city; and

(c) one member may be a representative of the county and selected by the mayor of the county.

(10) If a city or county mayor chooses not to select a member of the board as described in Subsection (9)(b) or (c), elects in writing to

permanently abdicate the board seat, or chooses to vacate a member at any time, the petitioner shall select a member for the replacement who shall not be a representative of the city or county in which the convention center is located.

(11) (a) A convention center public infrastructure district shall enter into an interlocal agreement with the relevant county that provides that, for any revenue that is transferred to the convention center public infrastructure district from a convention center reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the mayor of the county shall have approval authority for the expenditure of any revenue related to a convention center revitalization project, as that term is defined in Section 63N-3-602.

(b) The approval authority described in Subsection (11)(a) does not include approval authority over:

(i) any bonds or debt or related terms issued by the convention center public infrastructure district; or

(ii) revenue subject to a participation agreement entered into pursuant to Title 63N, Chapter 3, Part 14, Capital City Revitalization Zone.

Section 9. Section 17D-4-203 is amended to read:

17D-4-203 (Effective upon governor's approval). Public infrastructure district powers.

A public infrastructure district:

(1) has all of the authority conferred upon a special district under Section 17B-1-103; and

(2) may:

(a) issue negotiable bonds to pay:

(i) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

(ii) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-102;

(iii) public improvements related to the provision of housing;

(iv) capital costs related to public transportation;

(v) for a public infrastructure district that is within or adjacent to a housing and transit reinvestment zone described in Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, any and all costs to finance any public or privately owned improvements, which, in the discretion of the board of the public infrastructure district, promote the objectives described in Section 63N-3-603.1;

(vi) for a public infrastructure district[~~created by a development authority~~], the cost of acquiring or financing public infrastructure and improvements; [~~and~~]

[~~(vi)~~](vii) for a public infrastructure district that is a subsidiary of the Utah Inland Port Authority, the costs associated with a remediation project, as defined in Section 11-58-102;

(viii) for a convention center public infrastructure district that is within or adjacent to a convention center reinvestment zone as defined in Section 63N-3-602, any or all of the costs to finance any public or privately owned improvements, including convention center-related improvements and arena improvements, which, in the discretion of the board of a convention center public infrastructure district, promote the objectives of the convention center reinvestment zone, as described in Section 63N-3-603.1;

(ix) for a convention center public infrastructure district, the costs of financing a convention revitalization project, as the term is defined in Section 63N-3-602;

(x) for a convention center public infrastructure district in a capital city that is within or adjacent to a convention center reinvestment zone in a capital city, as defined in Section 63N-3-602, any or all of the costs to financing any publicly owned improvements, including the cost of financing a convention center revitalization project in a capital city, as defined in Section 63N-3-602, convention center-related improvements, and publicly or privately owned improvements that directly serve the convention center, which, in the discretion of the board of the convention center public infrastructure district in a capital city, promote the objectives of the convention center reinvestment zone in a capital city, as described in Section 63N-3-603.1; and

(xi) for a convention center public infrastructure district in a capital city that is within a capital city revitalization zone project area, as defined in Section 63N-3-1401, any allowed uses of funds or revenue provided for under Section 59-12-402.5, including eligible expenses consistent with the terms of the participation agreement, except that a convention center public infrastructure district in a capital city may not issue negotiable bonds serviced by the revitalization tax under Section 59-12-402.5 for privately owned improvements for more than the maximum dollar amount described in the participation agreement.

(b) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

(c) acquire completed or partially completed improvements for fair market value as reasonably determined by:

(i) the board;

(ii) the creating entity, if required in the governing document; or

(iii) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements;

(d) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity; and

(e) for a public infrastructure district created by a development authority:

(i) (A) operate and maintain public infrastructure and improvements the district acquires or finances; and

(B) use fees, assessments, or taxes to pay for the operation and maintenance of those public infrastructure and improvements; and

(ii) issue bonds under Title 11, Chapter 42, Assessment Area Act; and

(f) for a public infrastructure district that is a subsidiary of the Utah Inland Port Authority, pay for costs associated with a remediation project, as defined in Section 11-58-102, of the Utah Inland Port Authority.

Section 10. Section 59-1-306 is amended to read:

59-1-306 (Effective upon governor's approval). Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenue into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.

(1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge the commission administers under:

(a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(c) Section 19-6-714;

(d) Section 19-6-805;

(e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;

(f) Section 59-27-105;

(g) Chapter 31, Cannabinoid Licensing and Tax Act;

(h) Section 63H-1-205; [~~or~~]

(i) Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act; or

[~~(i)~~](j) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges.

(2) There is created a restricted account within the General Fund known as the "State Tax Commission Administrative Charge Account."

(3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.

(4) For purposes of this section, the administrative charge is a percentage of revenue the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:

(a) 1.5%; or

(b) an equal percentage of revenue the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.

(5) The commission shall deposit an administrative charge into the restricted account.

(6) Interest earned on the restricted account shall be deposited into the General Fund.

(7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

Section 11. Section 59-1-404 is amended to read:

59-1-404 (Effective upon governor's approval). Definitions -- Confidentiality of commercial information obtained from a property taxpayer or derived from the commercial information -- Rulemaking authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of signed explanation by employer -- Penalty.

(1) As used in this section:

(a) "Appraiser" means an individual who holds an appraiser's certificate or license issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act and includes an individual associated with an appraiser who assists the appraiser in preparing an appraisal.

(b) "Appraisal" is as defined in Section 61-2g-102.

(c) (i) "Commercial information" means:

(A) information of a commercial nature obtained from a property taxpayer regarding the property taxpayer's property; or

(B) information derived from the information described in this Subsection (1)(c)(i).

(ii) (A) "Commercial information" does not include information regarding a property taxpayer's property if the information is intended for public use.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(c)(ii)(A), the commission may by rule prescribe the circumstances under which information is intended for public use.

(d) "Consultation service" is as defined in Section 61-2g-102.

(e) "Locally assessed property" means property that is assessed by a county assessor in accordance with Chapter 2, Part 3, County Assessment.

(f) "Property taxpayer" means a person that:

(i) is a property owner; or

(ii) has in effect a contract with a property owner to:

(A) make filings on behalf of the property owner;

(B) process appeals on behalf of the property owner; or

(C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.

(g) "Property taxpayer's property" means property with respect to which a property taxpayer:

(i) owns the property;

(ii) makes filings relating to the property;

(iii) processes appeals relating to the property; or

(iv) pays a tax under Chapter 2, Property Tax Act, on the property.

(h) "Protected commercial information" means commercial information that:

(i) identifies a specific property taxpayer; or

(ii) would reasonably lead to the identity of a specific property taxpayer.

(2) An individual listed under Subsection 59-1-403(2)(a) may not disclose commercial information:

(a) obtained in the course of performing any duty that the individual listed under Subsection 59-1-403(2)(a) performs under Chapter 2, Property Tax Act; or

(b) relating to an action or proceeding:

(i) with respect to a tax imposed on property in accordance with Chapter 2, Property Tax Act; and

(ii) that is filed in accordance with:

(A) this chapter;

(B) Chapter 2, Property Tax Act; or

(C) this chapter and Chapter 2, Property Tax Act.

(3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual listed under Subsection 59-1-403(2)(a) may disclose the following information:

(i) the assessed value of property;

(ii) the tax rate imposed on property;

(iii) a legal description of property;

(iv) the physical description or characteristics of property, including a street address or parcel number for the property;

(v) the square footage or acreage of property;

(vi) the square footage of improvements on property;

(vii) the name of a property taxpayer;

(viii) the mailing address of a property taxpayer;

(ix) the amount of a property tax:

(A) assessed on property;

(B) due on property;

(C) collected on property;

(D) abated on property; or

(E) deferred on property;

(x) the amount of the following relating to property taxes due on property:

(A) interest;

(B) costs; or

(C) other charges;

(xi) the tax status of property, including:

(A) an exemption;

(B) a property classification;

(C) a bankruptcy filing; or

(D) whether the property is the subject of an action or proceeding under this title;

(xii) information relating to a tax sale of property; or

(xiii) information relating to single-family residential property.

(b) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual listed under Subsection 59-1-403(2)(a) shall disclose, upon request, the information described in Subsection 59-2-1007(9).

(c) (i) Subject to Subsection (3)(c)(ii), a person may receive the information described in Subsection (3)(a) or (b) in written format.

(ii) The following may charge a reasonable fee to cover the actual cost of providing the information described in Subsection (3)(a) or (b) in written format:

(A) the commission;

(B) a county;

(C) a city; or

(D) a town.

(4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an individual listed under Subsection 59-1-403(2)(a) shall disclose commercial information:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding:

(A) under this title;

(B) under another law under which a property taxpayer is required to disclose commercial information; or

(C) to which the commission is a party;

(iii) on behalf of any party to any action or proceeding under this title if the commercial information is directly involved in the action or proceeding; or

(iv) if the requirements of Subsection (4)(b) are met, that is:

(A) relevant to an action or proceeding:

(I) filed in accordance with this title; and

(II) involving property; or

(B) in preparation for an action or proceeding involving property.

(b) Commercial information shall be disclosed in accordance with Subsection (4)(a)(iv):

(i) if the commercial information is obtained from:

(A) a real estate agent if the real estate agent is not a property taxpayer of the property that is the subject of the action or proceeding;

(B) an appraiser if the appraiser:

(I) is not a property taxpayer of the property that is the subject of the action or proceeding; and

(II) did not receive the commercial information pursuant to Subsection (8);

(C) a property manager if the property manager is not a property taxpayer of the property that is the subject of the action or proceeding; or

(D) a property taxpayer other than a property taxpayer of the property that is the subject of the action or proceeding;

(ii) regardless of whether the commercial information is disclosed in more than one action or proceeding; and

(iii) (A) if a county board of equalization conducts the action or proceeding, the county board of equalization takes action to provide that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section;

(B) if the commission conducts the action or proceeding, the commission enters a protective order or, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, makes rules specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section; or

(C) if a court of competent jurisdiction conducts the action or proceeding, the court enters a protective order specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section.

(c) Notwithstanding Subsection (4)(a), a court may require the production of, and may admit in evidence, commercial information that is specifically pertinent to the action or proceeding.

(5) Notwithstanding Subsection (2), this section does not prohibit:

(a) the following from receiving a copy of any commercial information relating to the basis for assessing a tax that is charged to a property taxpayer:

(i) the property taxpayer;

(ii) a duly authorized representative of the property taxpayer;

(iii) a person that has in effect a contract with the property taxpayer to:

(A) make filings on behalf of the property taxpayer;

(B) process appeals on behalf of the property taxpayer; or

(C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;

(iv) a property taxpayer that purchases property from another property taxpayer; or

(v) a person that the property taxpayer designates in writing as being authorized to receive the commercial information;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of a particular property taxpayer's commercial information;

(c) the inspection by the attorney general or other legal representative of the state or a legal representative of a political subdivision of the state of the commercial information of a property taxpayer:

(i) that brings action to set aside or review a tax or property valuation based on the commercial information;

(ii) against which an action or proceeding is contemplated or has been instituted under this title; or

(iii) against which the state or a political subdivision of the state has an unsatisfied money judgment; or

(d) the commission from disclosing commercial information to the extent necessary to comply with the requirements of Subsection [~~59-12-205(5)~~]59-12-205(6).

(6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish standards authorizing an individual listed under Subsection 59-1-403(2)(a) to disclose commercial information:

(a) (i) in a published decision; or

(ii) in carrying out official duties; and

(b) if that individual listed under Subsection 59-1-403(2)(a) consults with the property taxpayer that provided the commercial information.

(7) Notwithstanding Subsection (2):

(a) an individual listed under Subsection 59-1-403(2)(a) may share commercial information with the following:

(i) another individual listed in Subsection 59-1-403(2)(a)(i) or (ii); or

(ii) a representative, agent, clerk, or other officer or employee of a county as required to fulfill an obligation created by Chapter 2, Property Tax Act;

(b) an individual listed under Subsection 59-1-403(2)(a) may perform the following to fulfill an obligation created by Chapter 2, Property Tax Act:

(i) publish notice;

(ii) provide notice; or

(iii) file a lien; or

(c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share commercial information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, if these political subdivisions or the federal government grant substantially similar privileges to this state.

(8) Notwithstanding Subsection (2):

(a) subject to the limitations in this section, an individual described in Subsection 59-1-403(2)(a) may share the following commercial information with an appraiser:

(i) the sales price of locally assessed property and the related financing terms;

(ii) capitalization rates and related rates and ratios related to the valuation of locally assessed property; and

(iii) income and expense information related to the valuation of locally assessed property; and

(b) except as provided in Subsection (4), an appraiser who receives commercial information:

(i) may disclose the commercial information:

(A) to an individual described in Subsection 59-1-403(2)(a);

(B) to an appraiser;

(C) in an appraisal if protected commercial information is removed to protect its confidential nature; or

(D) in performing a consultation service if protected commercial information is not disclosed; and

(ii) may not use the commercial information:

(A) for a purpose other than to prepare an appraisal or perform a consultation service; or

(B) for a purpose intended to be, or which could reasonably be foreseen to be, anti-competitive to a property taxpayer.

(9) (a) The commission shall:

(i) prepare a written explanation of this section; and

(ii) make the written explanation described in Subsection (9)(a)(i) available to the public.

(b) An employer of a person described in Subsection 59-1-403(2)(a) shall:

(i) provide the written explanation described in Subsection (9)(a)(i) to each person described in Subsection 59-1-403(2)(a) who is reasonably likely to receive commercial information;

(ii) require each person who receives a written explanation in accordance with Subsection (9)(b)(i) to:

(A) read the written explanation; and

(B) sign the written explanation; and

(iii) retain each written explanation that is signed in accordance with Subsection (9)(b)(ii) for a time period:

(A) beginning on the day on which a person signs the written explanation in accordance with Subsection (9)(b)(ii); and

(B) ending six years after the day on which the employment of the person described in Subsection (9)(b)(iii)(A) by the employer terminates.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define "employer."

(10) (a) An individual described in Subsection (1)(a) or 59-1-403(2)(a), or an individual that violates a protective order or similar limitation entered pursuant to Subsection (4)(b)(iii), is guilty of a class A misdemeanor if that person:

(i) intentionally discloses commercial information in violation of this section; and

(ii) knows that the disclosure described in Subsection (10)(a)(i) is prohibited by this section.

(b) If the individual described in Subsection (10)(a) is an officer or employee of the state or a county and is convicted of violating this section, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) If the individual described in Subsection (10)(a) is an appraiser, the appraiser shall forfeit any certification or license received under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

(d) If the individual described in Subsection (10)(a) is an individual associated with an appraiser who assists the appraiser in preparing appraisals, the individual shall be prohibited from becoming licensed or certified under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

(11) Notwithstanding Subsection (10), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization:

(a) an individual does not violate a protective order or similar limitation entered in accordance with Subsection (4)(b)(iii); and

(b) an individual described in Subsection (1)(a) or 59-1-403(2)(a):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to the penalties described in Subsections (10)(b) through (d).

Section 12. Section 59-2-924 is amended to read:

59-2-924 (Effective 01/01/26). Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in

Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(v) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

(vi) for a host local government, the same as that term is defined in Section 63N-2-502;

(vii) for a housing and transit reinvestment zone or convention center reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, [~~a property's taxable value as shown upon the assessment roll last equalized during the base year,~~]the same as that term is defined in Section 63N-3-602;

(viii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 10-9a-1001 or Section 17-27a-1201; or

(ix) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-1601.

(e) "Centrally assessed benchmark value" means an amount equal to the average year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous three calendar years, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity;

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the amount calculated by multiplying:

(A) the difference between the taxable value for the current year and the base taxable value of the property that is located within a project area; and

(B) the number that represents the percentage of enhanced property tax revenue, as defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(v) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority;

(vi) for a housing and transit reinvestment zone or convention center reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone or convention center reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone or convention center reinvestment zone;

(vii) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government;

(viii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a home ownership promotion zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the home ownership promotion zone; or

(ix) for a first home investment zone created pursuant to Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a first home investment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the first home investment zone.

(o) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; [~~or~~]

(iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102[~~.~~];

(v) for a housing and transit reinvestment zone or convention center reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602;

(vi) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, the same as that term is defined in Section 10-9a-1001 or Section 17-27a-1201; or

(vii) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, the same as that term is defined in Section 63N-3-1601.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, an amount equal to the incremental value that is no longer provided to the Utah Fairpark Area Investment and Restoration District;

(iv) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment;

(v) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation;

(vi) for a housing and transit reinvestment zone or convention center reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone or convention center reinvestment zone as tax increment;

(vii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, an amount equal to the incremental value that is no longer provided to a home ownership promotion zone as tax increment; or

(viii) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount equal to the incremental value that is no longer provided to a first home investment zone as tax increment.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

(u) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

(v) "Tax increment" means:

(i) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(ii) for a housing and transit reinvestment zone or convention center reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as [~~that term is~~]the term "property tax increment" is defined in Section 63N-3-602;

(iii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, the same as that term is defined in Section 10-9a-1001 or Section 17-27a-1201; or

(iv) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, the same as that term is defined in Section 63N-3-1601.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 13. Section 59-2-924.2 is amended to read:

59-2-924.2 (Effective 01/01/26). Adjustments to the calculation of a taxing entity's certified tax rate.

(1) For purposes of this section, "certified tax rate" means a certified tax rate calculated in accordance with Section 59-2-924.

(2) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, or 72-10-110.5 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(i) decreased on a one-time basis by the amount of the estimated sales and use tax revenue to be distributed to the county under Subsection [~~59-12-1102(3)~~]59-12-1102(4); and

(ii) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, or 72-10-110.5 as a result of the decrease in the certified tax rate under Subsection (3)(a)(i).

(b) The commission shall determine estimates of sales and use tax distributions for purposes of Subsection (3)(a).

(4) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales and use tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales and use tax imposed under Section 59-12-402.

(5) (a) This Subsection (5) applies to each county that:

(i) establishes a countywide special service district under Title 17D, Chapter 1, Special Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

(ii) levies a property tax on behalf of the special service district under Section 17D-1-105.

(b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the levy on behalf of the special service district under Section 17D-1-105.

(6) (a) As used in this Subsection (6):

(i) "Annexing county" means a county whose unincorporated area is included within a public safety district by annexation.

(ii) "Annexing municipality" means a municipality whose area is included within a public safety district by annexation.

(iii) "Equalized public safety protection tax rate" means the tax rate that results from:

(A) calculating, for each participating county and each participating municipality, the property tax revenue necessary:

(I) in the case of a fire district, to cover all of the costs associated with providing fire protection, paramedic, and emergency services:

(Aa) for a participating county, in the unincorporated area of the county; and

(Bb) for a participating municipality, in the municipality; or

(II) in the case of a police district, to cover all the costs:

(Aa) associated with providing law enforcement service:

(Ii) for a participating county, in the unincorporated area of the county; and

(IIii) for a participating municipality, in the municipality; and

(Bb) that the police district board designates as the costs to be funded by a property tax; and

(B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all participating counties and all participating municipalities and then dividing that sum by the aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

(I) for participating counties, in the unincorporated area of all participating counties; and

(II) for participating municipalities, in all the participating municipalities.

(iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act:

(A) created to provide fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(d).

(v) "Participating county" means a county whose unincorporated area is included within a public safety district at the time of the creation of the public safety district.

(vi) "Participating municipality" means a municipality whose area is included within a public safety district at the time of the creation of the public safety district.

(vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act, within a county of the first class:

(A) created to provide law enforcement service; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(d).

(viii) "Public safety district" means a fire district or a police district.

(ix) "Public safety service" means:

(A) in the case of a public safety district that is a fire district, fire protection, paramedic, and emergency services; and

(B) in the case of a public safety district that is a police district, law enforcement service.

(b) In the first year following creation of a public safety district, the certified tax rate of each participating county and each participating municipality shall be decreased by the amount of the equalized public safety tax rate.

(c) In the first budget year following annexation to a public safety district, the certified tax rate of each annexing county and each annexing municipality shall be decreased by an amount equal to the amount of revenue budgeted by the annexing county or annexing municipality:

(i) for public safety service; and

(ii) in:

(A) for a taxing entity operating under a January 1 through December 31 fiscal year, the prior calendar year; or

(B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior fiscal year.

(d) Each tax levied under this section by a public safety district shall be considered to be levied by:

(i) each participating county and each annexing county for purposes of the county's tax limitation under Section 59-2-908; and

(ii) each participating municipality and each annexing municipality for purposes of the municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a city.

(e) The calculation of a public safety district's certified tax rate for the year of annexation shall be adjusted to include an amount of revenue equal to one half of the amount of revenue budgeted by the annexing entity for public safety service in the annexing entity's prior fiscal year if:

(i) the public safety district operates on a January 1 through December 31 fiscal year;

(ii) the public safety district approves an annexation of an entity operating on a July 1 through June 30 fiscal year; and

(iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

(7) (a) The base taxable value as defined in Section 17C-1-102 shall be reduced for any year to the extent necessary to provide a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate, calculated in accordance with Section 59-2-924, if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17C-1-403 or 17C-1-404.

(b) The base taxable value as defined in Section 17C-1-102 shall be increased in any year to the extent necessary to provide a community reinvestment agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the base taxable value as defined in Section 17C-1-102 is reduced due to a decrease in the certified tax rate under Subsection (2) or (3)(a); and

(ii) the certified tax rate of a city, school district, special district, or special service district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a), the amount of money allocated and, when collected, paid each year to a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have been without a decrease in the certified tax rate under Subsection (2) or (3)(a).

(8) (a) For the calendar year beginning on January 1, 2014, the calculation of a county assessing and collecting levy shall be adjusted by the amount necessary to offset:

(i) any change in the certified tax rate that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3; and

(ii) the difference in the amount of revenue a taxing entity receives from or contributes to the Property Tax Valuation Fund, created in Section 59-2-1602, that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3.

(b) A taxing entity is not required to comply with the notice and public hearing requirements in Section 59-2-919 for an adjustment to the county assessing and collecting levy described in Subsection (8)(a).

(9) If a taxing entity receives decreased revenues from uniform fees on tangible personal property under Section 59-2-405 as a result of any error in applying uniform fees to motor vehicle registration in the calendar year beginning on January 1, 2023, the commission may, for the calendar year beginning on January 1, 2024, increase the taxing entity's budgeted revenue to offset the decreased revenues.

Section 14. Section 59-12-103 is amended to read:

59-12-103 (Effective upon governor's approval). Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenue.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in

Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) (A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(f)(i)(A)(I).

(j) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(k) (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l) (i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Wildlife Resources to:

(A) implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Division of Wildlife Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7) (a) Notwithstanding Subsection (3)(a) and subject to Subsections (7)(b), (c), and (d), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to .44% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

(ii) The commission shall annually deposit the amount described in Subsection (7)(b)(i) into the Cottonwood Canyons Transportation Investment Fund created in Section 72-2-124.

(c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenue transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(d) (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under this Subsection (7) by an amount that is equal to 1% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

(ii) The commission shall annually deposit the amount described in Subsection (7)(d)(i) into the Commuter Rail Subaccount created

in Section 72-2-124.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to [~~Subsections (8)(b) and (d)(ii)~~]Subsection (8)(b), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenue collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid ACA Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13) (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsections (18) and (19), and as described in Section 63N-3-610, beginning the first day of [~~the~~]a calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(b) Beginning no sooner than January 1, 2026, notwithstanding Subsection (3)(a), and except as provided in Subsections (18) and (19), and as described in Section 63N-3-610.1, beginning the first day of a calendar quarter after the year set in the proposal and after the sales and use tax boundary for a convention center reinvestment zone is established in a capital city under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the commission, at least annually, shall transfer an amount equal to 50% of the sales and use tax increment as defined in Section 63N-3-602 from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring within an established sales and use tax boundary, as defined in Section 63N-3-602, to a convention center public infrastructure district created in accordance with Section 17D-4-202.1 and specified in the convention center reinvestment zone proposal submitted pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenue collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(f)(i)(A)(I).

(16) Notwithstanding Subsection (3)(a), and except as provided in Subsections (18) and (19), beginning October 1, 2024 the commission shall transfer to the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring within the district sales tax area, as defined in Section 11-70-101.

(17) (a) As used in this Subsection (17):

(i) "Additional land" means point of the mountain state land described in Subsection 11-59-102(6)(b) that the point of the mountain authority acquires after the point of the mountain authority provides the commission a map under Subsection (17)(c).

(ii) "Point of the mountain authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(iii) "Point of the mountain state land" means the same as that term is defined in Section 11-59-102.

(b) Notwithstanding Subsection (3)(a), and except as provided in Subsections (18) and (19),the commission shall distribute to the point of the mountain authority 50% of the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring on the point of the mountain state land.

(c) The distribution under Subsection (17)(b) shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map that:

(i) accurately describes the point of the mountain state land; and

(ii) the point of the mountain authority certifies as accurate.

(d) A distribution under Subsection (17)(b) with respect to additional land shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map of point of the mountain state land that:

(i) accurately describes the point of the mountain state land, including the additional land; and

(ii) the point of the mountain authority certifies as accurate.

(e) (i) Upon the payment in full of bonds secured by the sales and use tax revenue distributed to the point of the mountain authority under Subsection (17)(b), the point of the mountain authority shall immediately notify the commission in writing that the bonds are paid in full.

(ii) The commission shall discontinue distributions of sales and use tax revenue under Subsection (17)(b) at the beginning of the calendar quarter that begins at least 90 days after the date that the commission receives the written notice under Subsection (17)(e)(i).

(18) (a) As used in Subsections (18) and (19):

(i) "Applicable percentage" means, for a convention center reinvestment zone created in a capital city under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to 50% of the sales and use tax increment, as that term is defined in Section 63N-3-602, from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate for sales occurring within the qualified development zone described in Subsection (18)(a)(ii).

(ii) "Qualified development zone" means the sales and use tax boundary of a convention center reinvestment zone created in a capital city under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(iii) "Qualifying construction materials" means construction materials that are:

(A) delivered to a delivery outlet within a qualified development zone; and

(B) intended to be permanently attached to real property within the qualified development zone.

(b) For a sale of qualifying construction materials, the commission shall distribute the product calculated in Subsection (18)(c) to a qualified development zone if the seller of the construction materials:

(i) establishes a delivery outlet with the commission within the qualified development zone;

(ii) reports the sales of the construction materials to the delivery outlet described in Subsection (18)(b)(i); and

(iii) does not report the sales of the construction materials on a simplified electronic return.

(c) For the purposes of Subsection (18)(b), the product is equal to:

(i) the sales price or purchase price of the qualifying construction materials; and

(ii) the applicable percentage.

(19) (a) As used in this Subsection (19), "Schedule J sale" means a sale reported on State Tax Commission Form TC-62M, Schedule J, or a substantially similar form as designated by the commission.

(b) Revenue generated from the applicable percentage by a Schedule J sale within a qualified development zone shall be distributed into the General Fund.

Section 15. Section 59-12-205 is amended to read:

59-12-205 (Effective upon governor's approval). Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) (a) Except as provided in Subsections [~~(3) and (4)~~](3), (4), and (5) and subject to Subsection [~~(5)~~](6):

(i) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(ii) (A) except as provided in Subsections (2)(a)(ii)(B), (C), and (D), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(B) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201;

(C) beginning July 1, 2024, 20% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201; and

(D) 50% of each dollar collected from the sales and use tax authorized by this part within the lake authority boundary, as defined in Section 11-65-101, shall be distributed to the Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter following the creation of the Utah Lake Authority.

(b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before July 1, 2022.

(3) Beginning no sooner than January 1, 2026, and before application of Subsections (2), (4), (5), and (6), and except as provided in Subsections (8) and (9), and as described in Section 63N-3-610.1, beginning the first day of a calendar quarter after the year set in the proposal and after the sales and use tax boundary for a convention center reinvestment zone is established under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the commission, at least annually, shall transfer an amount equal to 100% of the sales and use tax increment, as defined in Section 63N-3-602, from the sales and use tax imposed under this part on transactions occurring within an established sales and use tax boundary, as defined in Section 63N-3-602, to the entity specified in the convention center reinvestment zone proposal submitted pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

[~~(3)~~](4) (a) As used in this Subsection [~~(3)~~](4):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection [~~(3)(b)~~](4)(b) equal to the amount described in Subsection [~~(3)(b)(ii)~~](4)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(c) For an eligible county, city, or town that qualifies to receive a distribution described in this Subsection (4), the commission shall apply the provisions of this Subsection (4) after the commission applies the provisions of Subsection (3).

[~~(4)~~](5) (a) For purposes of this Subsection [~~(4)~~](5):

(i) "Annual local contribution" means the lesser of $275,000 or an amount equal to 2.55% of the participating local government's tax revenue distribution amount under Subsection (2)(a)(i) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality certified in accordance with Section 35A-16-404.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a)(i) to a participating local government, shall:

(i) adjust a participating local government's tax revenue distribution under Subsection (2)(a)(i) by:

(A) subtracting an amount equal to one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution; and

(B) if applicable, reducing the amount described in Subsection [~~(4)(b)(i)(A)~~](5)(b)(i)(A) by an amount equal to one-twelfth of $250 for each bed that is available at all homeless shelters located within the boundaries of the participating local government, as reported to the commission by the Office of Homeless Services in accordance with Section 35A-16-405; and

(ii) deposit the resulting amount described in Subsection [~~(4)(b)(i)~~](5)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(c) For a participating local government that qualifies to receive a distribution described in Subsection [~~(3)~~](4), the commission shall apply the provisions of this Subsection [~~(4)~~](5) after the commission applies the provisions of [~~Subsection (3)~~]Subsections (3)and (4).

[~~(5)~~](6) (a) As used in this Subsection [~~(5)~~](6):

(i) "Annual dedicated sand and gravel sales tax revenue" means an amount equal to the total revenue an establishment described in NAICS Code 327320, Ready-Mix Concrete Manufacturing, of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, collects and remits under this part for a calendar year.

(ii) "Sand and gravel" means sand, gravel, or a combination of sand and gravel.

(iii) "Sand and gravel extraction site" means a pit, quarry, or deposit that:

(A) contains sand and gravel; and

(B) is assessed by the commission in accordance with Section 59-2-201.

(iv) "Ton" means a short ton of 2,000 pounds.

(v) "Tonnage ratio" means the ratio of:

(A) the total amount of sand and gravel, measured in tons, sold during a calendar year from all sand and gravel extraction sites located within a county, city, or town; to

(B) the total amount of sand and gravel, measured in tons, sold during the same calendar year from sand and gravel extraction sites statewide.

(b) For purposes of calculating the ratio described in Subsection [~~(5)(a)(v)~~](6)(a)(v), the commission shall:

(i) use the gross sales data provided to the commission as part of the commission's property tax valuation process; and

(ii) if a sand and gravel extraction site operates as a unit across municipal or county lines, apportion the reported tonnage among the counties, cities, or towns based on the percentage of the sand and gravel extraction site located in each county, city, or town, as approximated by the commission.

(c) (i) Beginning July 2023, and each July thereafter, the commission shall distribute from total collections under this part an amount equal to the annual dedicated sand and gravel sales tax revenue for the preceding calendar year to each county, city, or town in the same proportion as the county's, city's, or town's tonnage ratio for the preceding calendar year.

(ii) The commission shall ensure that the revenue distributed under this Subsection [~~(5)(c)~~](6)(c) is drawn from each jurisdiction's collections in proportion to the jurisdiction's share of total collections for the preceding 12-month period.

(d) A county, city, or town shall use revenue described in Subsection [~~(5)(c)~~](6)(c) for class B or class C roads.

[~~(6)~~](7) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

(8) (a) As used in Subsections (8) and (9):

(i) "Applicable percentage" means, for a convention center reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, for sales occurring within the qualified development zone described in Subsection (8)(a)(ii), 100% of the sales and use tax increment, as that term is defined in Section 63N-3-602, from the sales and use tax:

(A) imposed by a city of the first class in a county of the first class under this part;

(B) imposed by a city of the first class in a county of the first class under Section 59-12-402.1;

(C) imposed by a county of the first class under Section 59-12-1102; and

(D) imposed by a county of the first class under Part 22, Local Option Sales and Use Taxes for Transportation Act.

(ii) "Qualified development zone" means the sales and use tax boundary of a convention center reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(iii) "Qualifying construction materials" means construction materials that are:

(A) delivered to a delivery outlet within a qualified development zone; and

(B) intended to be permanently attached to real property within the qualified development zone.

(b) For a sale of qualifying construction materials, the commission shall distribute the product calculated in Subsection (8)(c) to a qualified development zone if the seller of the construction materials:

(i) establishes a delivery outlet with the commission within the qualified development zone;

(ii) reports the sales of the construction materials to the delivery outlet described in Subsection (8)(b)(i); and

(iii) does not report the sales of the construction materials on a simplified electronic return.

(c) For the purposes of Subsection (8)(b), the product is equal to:

(i) the sales price or purchase price of the qualifying construction materials; and

(ii) the applicable percentage.

(9) (a) As used in this Subsection (9), "Schedule J sale" means a sale reported on State Tax Commission Form TC-62M, Schedule J, or a substantially similar form as designated by the commission.

(b) Revenue generated from the applicable percentage by a Schedule J sale within a qualified development zone shall be distributed into the jurisdiction that would have received the revenue in the absence of the qualified development zone.

Section 16. Section 59-12-302 is amended to read:

59-12-302 (Effective upon governor's approval). Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2), (3), and (4), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) The location of a transaction shall be determined in accordance with Sections 59-12-211through 59-12-215.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2)[~~through (5)~~]and (4) through (6).

(4) A county auditor may make referrals to the commission to assist the commission in determining whether to require an audit of any person that is required to remit a tax authorized under this part.

(5) The commission:

(a) shall distribute the revenue collected from the tax to the county within which the revenue was collected; and

(b) shall retain and deposit an administrative charge in accordance with Section 59-1-306from revenue the commission collects from a tax under this part.

Section 17. Section 59-12-354 is amended to read:

59-12-354 (Effective upon governor's approval). Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) (a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(b) Except as provided in Subsection (2)(c), the commission shall distribute the revenue collected from the tax to:

(i) (A) the municipality within which the revenue was collected, for a tax imposed under this part by a municipality; or

(B) the Utah Fairpark Area Investment and Restoration District, for a tax imposed under this part by the Utah Fairpark Area Investment and Restoration District; and

(ii) the Point of the Mountain State Land Authority, for a tax imposed under Subsection 59-12-352(6).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) [~~through (5)~~]and (4) through (6).

Section 18. Section 59-12-402.1 is amended to read:

59-12-402.1 (Effective upon governor's approval). State correctional facility sales and use tax -- Base -- Rate -- Collection fees -- Imposition -- Prohibition of military installation development authority imposition of tax.

(1) As used in this section, "new state correctional facility" means a new prison in the state:

(a) that is operated by the Department of Corrections;

(b) the construction of which begins on or after May 12, 2015; and

(c) that provides a capacity of 2,500 or more inmate beds.

(2) Subject to the other provisions of this part, a city or town legislative body may impose a tax under this section if the construction of a new state correctional facility has begun within the boundaries of the city or town.

(3) For purposes of this section, the tax rate may not exceed .5%.

(4) Except as provided in Subsection (5), a tax under this section shall be imposed on the transactions described in Subsection 59-12-103(1) within the city or town.

(5) A city or town may not impose a tax under this section on:

(a) the sale of:

(i) a motor vehicle;

(ii) an aircraft;

(iii) a watercraft;

(iv) a modular home;

(v) a manufactured home; or

(vi) a mobile home;

(b) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt under Section 59-12-104; and

(c) except as provided in Subsection (7), amounts paid or charged for food and food ingredients.

(6) For purposes of this section, the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(7) A city or town that imposes a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(8) Beginning no sooner than January 1, 2026, and subject to Section 59-12-205, before distribution of a sales and use tax imposed under this section, and as described in Section 63N-3-610.1, beginning the first day of a calendar quarter after the year set in the proposal and after the sales and use tax boundary for a convention center reinvestment zone is established under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the commission, at least annually, shall transfer an amount equal to 100% of the sales and use tax increment as defined in Section 63N-3-602, from the sales and use tax imposed under this section on transactions occurring within an established sales and use tax boundary, as defined in Section 63N-3-602, to a convention center public infrastructure district created in accordance with Section 17D-4-202.1.

[~~(8)~~](9) A city or town may impose a tax under this section by majority vote of the members of the city or town legislative body.

[~~(9)~~](10) A city or town that imposes a tax under this section is not subject to Section 59-12-405.

[~~(10)~~](11) A military installation development authority may not impose a tax under this section.

Section 19. Section 59-12-403 is amended to read:

59-12-403 (Effective upon governor's approval). Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2)[~~through (5)~~]and (4) through (6).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

Section 20. Section 59-12-603 is amended to read:

59-12-603 (Effective upon governor's approval). County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

(iii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food;

(iv) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i); and

(v) if a county legislative body of any county imposes a tax under Subsection (1)(a)(i), a tax at the same rate applies to car sharing of less than 30 days, except for car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement.

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(c), a county may use revenue from the imposition of a tax under Subsection (1) for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) (i) In addition to the uses described in Subsection (2)(a) and subject to Subsection (2)(b)(ii), a county of the fourth, fifth, or sixth class or a county with a population density of fewer than 15 people per square mile may expend the revenue from the imposition of a tax under Subsections (1)(a)(i) and (ii) on the following activities to mitigate the impacts of tourism:

(A) solid waste disposal;

(B) search and rescue activities;

(C) law enforcement activities;

(D) emergency medical services; or

(E) fire protection services.

(ii) A county may only expend the revenue as outlined in Subsection (2)(b)(i) if the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) has prioritized the use of revenue to mitigate the impacts of tourism.

(c) A county of the first class shall expend at least $450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect a tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) [~~through (5)~~]and (4) through (6).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 21. Section 59-12-703 is amended to read:

59-12-703 (Effective upon governor's approval). Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) sales and uses within a municipality that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(i) described in Subsection (1); and

(ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenue generated from a tax imposed under Subsection (2)(a) without submitting an opinion question to residents of the county.

(3) Subject to Section 59-12-704, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(b) to fund ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a);

(ii) botanical organizations, cultural organizations, and zoological organizations within the county; and

(iii) rural radio stations within the county; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the [~~ten~~]10-year period in accordance with this section.

(b) A tax under this part is not subject to Subsections 59-12-205(2)[~~through (5)~~]and (4) through (6).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 22. Section 59-12-802 is amended to read:

59-12-802 (Effective upon governor's approval). Imposition of rural county health care tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A county legislative body of the following counties may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county:

(i) a county of the third, fourth, fifth, or sixth class; or

(ii) a county of the second class that has:

(A) a national park within or partially within the county's boundaries; and

(B) two or more state parks within or partially within the county's boundaries.

(b) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Except as provided in Subsection (5)(b), before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) Subject to Subsection (4), a county legislative body may use money collected from a tax imposed under Subsection (1) to fund:

(a) for a county described in Subsection (1)(a)(i):

(i) the following costs associated with a federally qualified health center within the county, a freestanding urgent care center within the county, a rural county health care facility within the county, or a rural health clinic within the county:

(A) ongoing operating expenses of the center, clinic, or facility;

(B) the acquisition of land for the center, clinic, or facility; or

(C) the design, construction, equipping, or furnishing of the center, clinic, or facility;

(ii) rural emergency medical services within the county; or

(iii) a combination of the activities described in this Subsection (3)(a); and

(b) for a county described in Subsection (1)(a)(ii), emergency medical services that are provided by a political subdivision within that county, subject to Subsection (5)(c).

(4) (a) For a tax enacted on or after July 1, 2024, by a county described in Subsection (1)(a)(i), a county legislative body may use money collected from a tax imposed under Subsection (1) to fund:

(i) the costs described in Subsection (3)(a)(i);

(ii) the following activities to mitigate the impacts of visitors within the county:

(A) emergency medical services;

(B) solid waste disposal;

(C) search and rescue activities;

(D) law enforcement activities; or

(E) fire protection services;

(iii) avalanche forecasting within the county; or

(iv) a combination of the activities described in this Subsection (4)(a).

(b) For a tax increased on or after July 1, 2024, by a county described in Subsection (1)(a)(i), a county legislative body may use the money collected from the increased tax rate to fund the activities described in Subsections (4)(a)(i) through (iv).

(5) (a) A county described in Subsection (1)(a)(ii) may impose a tax under this section within a portion of the county if the affected area includes:

(i) the entire unincorporated area of the county; and

(ii) the entire boundaries of any municipality located within the affected area.

(b) Before a county described in Subsection (1)(a)(ii) may impose a tax under this section within a portion of the county, the county legislative body shall obtain approval to impose the tax from a majority of:

(i) the members of the county's legislative body;

(ii) the county's registered voters within the affected area voting on the imposition of the tax, in an election conducted according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act; and

(iii) (A) the members of the legislative body of each municipality located within the affected area; or

(B) the members of the governing body of a special service district established under Title 17D, Chapter 1, Special Service District Act, to provide emergency medical services within the affected area.

(c) A county described in Subsection (1)(a)(ii) that imposes a tax under this section within a portion of the county in accordance with this Subsection (5) may use the money collected from the tax to fund emergency medical services that are provided by a political subdivision within the affected area.

(6) (a) A tax under this section shall be:

(i) except as provided in Subsection (6)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the 10-year period by the county legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) [~~through (5)~~]and (4) through (6).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

(7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 23. Section 59-12-804 is amended to read:

59-12-804 (Effective upon governor's approval). Imposition of rural city hospital tax -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A city legislative body may impose a sales and use tax of up to 1%:

(i) on the transactions described in Subsection 59-12-103(1) located within the city; and

(ii) to fund rural city hospitals in that city.

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the city legislative body; and

(ii) city's registered voters voting on the imposition of the tax.

(b) The city legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) The money collected from a tax imposed under Subsection (1) may only be used to fund:

(a) ongoing operating expenses of a rural city hospital;

(b) the acquisition of land for a rural city hospital; or

(c) the design, construction, equipping, or furnishing of a rural city hospital.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the [~~ten~~]10-year period by the city legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2)[~~through (5)~~]and (4) through (6).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 24. Section 59-12-1102 is amended to read:

59-12-1102 (Effective upon governor's approval). Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through [~~(6)~~](7), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or [~~(5)~~](6), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) The county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement

required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) for the county, as a class A notice under Section 63G-30-102, for two weeks before the day on which the first of the two public hearings is held.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) Beginning no sooner than January 1, 2026, and subject to Section 59-12-205, before application of Subsections (4) through (7), and as described in Section 63N-3-610.1, beginning the first day of a calendar quarter after the year set in the proposal and after the sales and use tax boundary for a convention center reinvestment zone is established under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the commission, at least annually, shall transfer an amount equal to 100% of the sales and use tax increment as defined in Section 63N-3-602, from the sales and use tax imposed under this part on transactions occurring within an established sales and use tax boundary, as defined in Section 63N-3-602, to a convention center public infrastructure district created in accordance with Section 17D-4-202.1.

[~~(3)~~](4) (a) Subject to Subsection [~~(5)~~](6), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection [~~(5)~~](6), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection [~~(3)(c)~~](4)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection [~~(5)~~](6), the amount to be distributed annually to a county under Subsection [~~(3)(b)(ii)~~](4)(b)(ii), when combined with the amount distributed to the county under Subsection [~~(3)(b)(i)~~](4)(b)(i), does not equal at least $75,000, then:

(i) the amount to be distributed annually to that county under Subsection [~~(3)(b)(ii)~~](4)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection [~~(3)(b)(i)~~](4)(b)(i), the amount distributed annually to the county is $75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection [~~(3)(b)(ii)~~](4)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections [~~(3)(a)~~](4)(a), (b), and (c).

[~~(4)~~](5) (a) Except as provided in Subsection [~~(4)(b)~~](5)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2)[~~through (5)~~]and (4) through (6).

(c) (i) Subject to Subsection [~~(4)(c)(ii)~~](5)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection [~~(4)(c)(i)~~](5)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection [~~(3)~~](4) have been made; and

(B) the commission retains the amount required by Subsection [~~(5)~~](6).

[~~(5)~~](6) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection [~~(5)~~](6).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection [~~(5)(b)~~](6)(b) for the county; and

(ii) $6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection [~~(5)~~](6) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section

35A-8-1009.

[~~(6)~~](7) (a) For purposes of this Subsection [~~(6)~~](7):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection [~~(6)(c)~~](7)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection [~~(6)(b)(ii)~~](7)(b)(ii) from the county.

(ii) The notice described in Subsection [~~(6)(b)(i)(B)~~](7)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection [~~(6)(b)(ii)(A)~~](7)(b)(ii)(A);

(C) the effective date of the tax described in Subsection [~~(6)(b)(ii)(A)~~](7)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection [~~(6)(b)(ii)(A)~~](7)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection [~~(6)(b)(i)~~](7)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection [~~(6)(b)(i)~~](7)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection [~~(6)(f)~~](7)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection [~~(6)(e)(ii)~~](7)(e)(i) from the county that annexes the annexing area.

(ii) The notice described in Subsection [~~(6)(e)(i)(B)~~](7)(e)(i)(B) shall state:

(A) that the annexation described in Subsection [~~(6)(e)(i)~~](7)(b)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection [~~(6)(e)(ii)(A)~~](7)(e)(ii)(A);

(C) the effective date of the tax described in Subsection [~~(6)(e)(ii)(A)~~](7)(e)(ii)(A); and

(D) the rate of the tax described in Subsection [~~(6)(e)(ii)(A)~~](7)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection [~~(6)(e)(i)~~](7)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection [~~(6)(e)(i)~~](7)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 25. Section 59-12-1302 is amended to read:

59-12-1302 (Effective upon governor's approval). Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount that does not exceed 1%.

(2) A town may impose a tax as provided in this part if the town imposed a license fee or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.

(3) A town imposing a tax under this section shall:

(a) except as provided in Subsection (4), impose the tax on the transactions described in Subsection 59-12-103(1) located within the town; and

(b) provide an effective date for the tax as provided in Subsection (5).

(4) (a) A town may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food ingredients.

(b) For purposes of this Subsection (4), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) A town imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients

and tangible personal property other than food and food ingredients.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(e)(ii)(A), the rate of the tax.

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) The commission shall:

(a) distribute the revenue generated by the tax under this section to the town imposing the tax; and

(b) except as provided in Subsection (8), administer, collect, and enforce the tax authorized under this section in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) A tax under this section is not subject to Subsections 59-12-205(2)[~~through (5)~~]and (4) through (6).

Section 26. Section 59-12-1402 is amended to read:

59-12-1402 (Effective upon governor's approval). Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations in that city or town; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A city or town legislative body may not impose a tax under this section:

(i) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(ii) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) Except as provided in Subsection (6), the election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) Subject to Section 59-12-1403, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to finance cultural facilities, recreational facilities, and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for cultural facilities, recreational facilities, or zoological facilities;

(b) to finance ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a) within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational facilities; or

(ii) botanical organizations, cultural organizations, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical organizations, cultural organizations, or zoological organizations; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be:

(i) administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this section.

(b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the tax shall be levied for a period of 10 years.

(ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or after July 1, 2011, the tax shall be reauthorized for a [~~ten~~]10-year period.

(c) A tax under this section is not subject to Subsections 59-12-205(2)[~~through (5)~~]and (4) through (6).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1) an opinion question to the city's or town's residents.

Section 27. Section 59-12-2103 is amended to read:

59-12-2103 (Effective upon governor's approval). Imposition of tax -- Base -- Rate -- Expenditure of revenue collected from the tax --

Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) As used in this section, "eligible city or town" means a city or town that imposed a tax under this part on July 1, 2016.

(b) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), the legislative body of an eligible city or town may impose a sales and use tax of up to .20% on the transactions:

(i) described in Subsection 59-12-103(1); and

(ii) within the city or town.

(c) A city or town legislative body that imposes a tax under Subsection (1)(b) shall expend the revenue collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund revenue.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(2) (a) A city or town legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.

(b) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(3) An eligible city or town may impose a tax under this part until no later than June 30, 2030.

(4) The commission shall transmit revenue collected within a city or town from a tax under this part:

(a) to the city or town legislative body;

(b) monthly; and

(c) by electronic funds transfer.

(5) (a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2)[~~through (5)~~]and (4) through (6).

(6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(a)(i) from the city or town.

(ii) The notice described in Subsection (7)(a)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of the tax under this part;

(B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(a)(ii)(A), the rate of the tax.

(b) (i) If the billing period for a transaction begins before the enactment of the tax or the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(a)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (7)(a)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (7)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (7)(d)(i)(B) will result in the enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change under Subsection (7)(d)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 28. Section 59-12-2206 is amended to read:

59-12-2206 (Effective upon governor's approval). Administration, collection, and enforcement of a sales and use tax under this part -- Transmission of revenue monthly by electronic funds transfer -- Transfer of revenue to a public transit district or eligible political subdivision.

(1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a sales and use tax imposed under this part.

(2) The commission shall administer, collect, and enforce a sales and use tax imposed under this part in accordance with:

(a) the same procedures used to administer, collect, and enforce a tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(3) A sales and use tax under this part is not subject to Subsections 59-12-205(2)[~~through (5)~~]and (4) through (6).

(4) Subject to Section 59-12-2207 and except as provided in [~~Subsection (5)~~]Subsections (5) and (6) or another provision of this part, the state treasurer shall transmit revenue collected within a county, city, or town from a sales and use tax under this part to the county, city, or town legislative body monthly by electronic funds transfer.

(5) Beginning no sooner than January 1, 2026, and subject to Section 59-12-205, before transmitting revenue as described in Subsection (4), and before application of Subsection (6), and as described in Section 63N-3-610.1, beginning the first day of a calendar quarter after the year set in the proposal and after the sales and use tax boundary for a convention center reinvestment zone is established under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the commission, at least annually, shall transfer an amount equal to 100% of the sales and use tax increment, as that term is defined in Section 63N-3-602, from a sales and use tax on transactions occurring within an established sales and use tax boundary, as that term is defined in Section 63N-3-602, to a convention center public infrastructure district created in accordance with Section 17D-4-202.1 for sales and use taxes imposed by a county of the first class pursuant to:

(a) Section 59-12-2213;

(b) Section 59-12-2214;

(c) Section 59-12-2217;

(d) Section 59-12-2219; and

(e) Section 59-12-2220.

[~~(5)~~](6) (a) Subject to Section 59-12-2207, and except as provided in Subsection [~~(5)(b)~~](6)(b), the state treasurer shall transfer revenue collected within a county, city, or town from a sales and use tax under this part directly to a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, or an eligible political subdivision as defined in Section 59-12-2219, if the county, city, or town legislative body:

(i) provides written notice to the commission and the state treasurer requesting the transfer; and

(ii) designates the public transit district or eligible political subdivision to which the county, city, or town legislative body requests the state treasurer to transfer the revenue.

(b) The commission shall transmit a portion of the revenue collected within a county, city, or town from a sales and use tax under this part that would be transferred to a public transit district or an eligible political subdivision under Subsection [~~(5)(a)~~](6)(a) to the county, city, or town to fund public transit fixed guideway safety oversight under Section 72-1-214 if the county, city, or town legislative body:

(i) provides written notice to the commission and the state treasurer requesting the transfer; and

(ii) specifies the amount of revenue required to be transmitted to the county, city, or town.

Section 29. Section 59-12-2214 is amended to read:

59-12-2214 (Effective upon governor's approval). County, city, or town option sales and use tax to fund a system for public transit, an airport facility, a water conservation project, or to be deposited into the County of the First Class Highway Projects Fund -- Base -- Rate.

(1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town.

(2) Notwithstanding Section 59-12-2212.2, and subject to Subsections (3) and (4), a county, city, or town that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax:

(a) to fund a system for public transit;

(b) to fund a project or service related to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county that imposes the sales and use tax, if the airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town that imposes the sales and use tax, if:

(A) that city or town is located within a county of the second class;

(B) that city or town owns or operates the airport facility; and

(C) an airline is headquartered in that city or town; or

(c) for a combination of Subsections (2)(a) and (b).

(3) [~~A~~]After application of Subsection 59-12-2206(5), a county of the first class that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax as follows:

(a) 80% of the revenues collected from the sales and use tax shall be expended to fund a system for public transit; and

(b) 20% of the revenues collected from the sales and use tax shall be deposited into the County of the First Class Highway Projects Fund created by Section 72-2-121.

(4) (a) A county of the third class that has a portion of the county annexed into a large public transit district and that has imposed a sales and use tax under this section as of January 1, 2020, may change the list of purposes for which the sales and use tax revenue may be expended if:

(i) the proposed uses of the sales and use tax revenue are allowed uses described in this section; and

(ii) in coordination with a relevant large public transit district, the county legislative body passes an ordinance describing the allowed uses of the sales and use tax revenue.

(b) Notwithstanding Section 59-12-2208, and regardless of whether the imposition of the sales and use tax imposed under this section was submitted to the voters as described in Section 59-12-2208, the county legislative body is not required to submit an opinion question to the county's registered voters to change the allowed uses as described in Subsection (4)(a).

Section 30. Section 59-12-2217 is amended to read:

59-12-2217 (Effective upon governor's approval). County option sales and use tax for transportation -- Base -- Rate -- Written prioritization process -- Approval by county legislative body.

(1) Subject to the other provisions of this part, and subject to Subsection (8), a county legislative body may impose a sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) (a) Except as provided in Subsection (2)(b), and subject to Subsections (3) through (6)and Section 59-12-2207, the revenue collected from a sales and use tax under this section may only be expended as described in Section 59-12-2212.2.

(b) Subject to Subsections (3) through (6), and after application of Subsection 59-12-2206(5), in a county of the first or second class, or if a county is part of an area metropolitan planning organization, that portion of the county within the metropolitan planning organization, the revenue collected from a sales and use tax under this section may only be expended as described in Section 59-12-2212.2, and only if the expenditure is for:

(i) a project or service:

(A) relating to a regionally significant transportation facility or collector road for the portion of the project or service that is performed within the county;

(B) for new capacity or congestion mitigation, and not for operation or maintenance, if the project or service is performed within the county; and

(C) on a priority list created by the county's council of governments in accordance with Subsection (5) and approved by the county legislative body in accordance with Subsection (5);

(ii) corridor preservation for a project or service described in Subsection (2)(b)(i)(A)or (B); or

(iii) debt service or bond issuance costs related to a project or service described in Subsection (2)(b)(i)(A) or (B).

(c) The restriction in Subsection (2)(b)(i)(B) from using revenue for operation or maintenance does not apply to any revenue subject to rights or obligations under a contract entered into before January 1, 2019, between a county and a public transit district.

(3) For revenue expended under this section for a project or service described in Subsection (2) that is on or part of a regionally significant transportation facility and that constructs or adds a new through lane or interchange, or provides new fixed guideway public transit service, the project shall be part of:

(a) the statewide long-range plan; or

(b) a regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization area exists for the area.

(4) (a) As provided in this Subsection (4), a council of governments shall:

(i) develop a written prioritization process for the prioritization of projects to be funded by revenues collected from a sales and use tax under this section;

(ii) create a priority list of transportation projects or services described in Section 59-12-2212.2 in accordance with Subsection (5); and

(iii) present the priority list to the county legislative body for approval in accordance with Subsection (5).

(b) The written prioritization process described in Subsection (4)(a)(i) shall include:

(i) a definition of the type of projects to which the written prioritization process applies;

(ii) subject to Subsection (4)(c), the specification of a weighted criteria system that the council of governments will use to rank proposed projects and how that weighted criteria system will be used to determine which proposed projects will be prioritized;

(iii) the specification of data that is necessary to apply the weighted criteria system;

(iv) application procedures for a project to be considered for prioritization by the council of governments; and

(v) any other provision the council of governments considers appropriate.

(c) The weighted criteria system described in Subsection (4)(b)(ii) shall include the following:

(i) the cost effectiveness of a project;

(ii) the degree to which a project will mitigate regional congestion;

(iii) the compliance requirements of applicable federal laws or regulations;

(iv) the economic impact of a project;

(v) the degree to which a project will require tax revenues to fund maintenance and operation expenses; and

(vi) any other provision the council of governments considers appropriate.

(d) A council of governments of a county of the first or second class shall submit the written prioritization process described in Subsection (4)(a)(i) to the Executive Appropriations Committee for approval prior to taking final action on:

(i) the written prioritization process; or

(ii) any proposed amendment to the written prioritization process.

(5) (a) A council of governments shall use the weighted criteria system adopted in the written prioritization process developed in accordance with Subsection (4) to create a priority list of transportation projects or services for which revenues collected from a sales and use tax under this section may be expended.

(b) Before a council of governments may finalize a priority list or the funding level of a project, the council of governments shall conduct a public meeting on:

(i) the written prioritization process; and

(ii) the merits of the projects that are prioritized as part of the written prioritization process.

(c) A council of governments shall make the weighted criteria system ranking for each project prioritized as part of the written prioritization process publicly available before the public meeting required by Subsection (5)(b) is held.

(d) If a council of governments prioritizes a project over another project with a higher rank under the weighted criteria system, the council of governments shall:

(i) identify the reasons for prioritizing the project over another project with a higher rank under the weighted criteria system at the public meeting required by Subsection (5)(b); and

(ii) make the reasons described in Subsection (5)(d)(i) publicly available.

(e) Subject to Subsections (5)(f) and (g), after a council of governments finalizes a priority list in accordance with this Subsection (5), the council of governments shall:

(i) submit the priority list to the county legislative body for approval; and

(ii) obtain approval of the priority list from a majority of the members of the county legislative body.

(f) A council of governments may only submit one priority list per calendar year to the county legislative body.

(g) A county legislative body may only consider and approve one priority list submitted under Subsection (5)(e) per calendar year.

(6) In a county of the first class, revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Section 59-12-2212.2 shall be:

(a) deposited in or transferred to the County of the First Class Highway Projects Fund created by Section 72-2-121; and

(b) expended as provided in Section 72-2-121.

(7) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(8) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (8)(a), any sales and use tax imposed under this section on or before June 30, 2022, may remain in effect.

Section 31. Section 59-12-2219 is amended to read:

59-12-2219 (Effective upon governor's approval). County option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.

(1) Subject to the other provisions of this part, and subject to Subsection (13), a county legislative body may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) Subject to Subsection (9), the commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (3) through (8).

(3) [~~If~~]After application of Subsection 59-12-2206(5), if the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(b) .10% shall be distributed as provided in Subsection (6); and

(c) .05% shall be distributed to the county legislative body.

(4) If the entire boundary of a county that imposes a sales and use tax under this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single large public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (6); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (6); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (4)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (6); and

(ii) .15% shall be distributed to the county legislative body.

(5) For a county not described in Subsection (3) or (4), if a county of the second, third, fourth, fifth, or sixth class imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be distributed as provided in Subsection (6);

(ii) .10% shall be distributed as provided in Subsection (7); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be distributed as provided in Subsection (6);

(ii) .10% shall be distributed as provided in Subsection (7); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (6); and

(ii) .15% shall be distributed to the county legislative body.

(6) (a) Subject to Subsection (6)(b), the commission shall make the distributions required by Subsections (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) as follows:

(i) 50% of the total revenue collected under Subsections (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties and cities that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the location of the transaction as determined under Sections 59-12-211through 59-12-215.

(b) (i) Population for purposes of this Subsection (6) shall be determined on the basis of the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from an estimate from the Utah Population Committee.

(7) (a) (i) Subject to the requirements in Subsections (7)(b) and (c), a county legislative body:

(A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county, and in compliance with the requirements for changing an allocation under Subsection (7)(e), allocate the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or

(B) for a county that imposes a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(ii) If a county described in Subsection (7)(a)(i)(A) does not allocate the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) in accordance with Subsection (7)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) to:

(A) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(B) an eligible political subdivision within the county.

(b) If a county legislative body allocates the revenue as described in Subsection (7)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) to:

(i) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(ii) an eligible political subdivision within the county.

(c) Notwithstanding Section 59-12-2208, the opinion question described in Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this Subsection (7).

(d) The commission shall make the distributions required by Subsection (5)(a)(ii) or (5)(b)(ii) as follows:

(i) the percentage specified by a county legislative body shall be distributed in accordance with a resolution adopted by a county legislative body under Subsection (7)(a) to an eligible political subdivision or a public transit district within the county; and

(ii) except as provided in Subsection (7)(a)(ii), if a county legislative body allocates less than 100% of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) to a public transit district or an eligible political subdivision, the remainder of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) not allocated by a county legislative body through a resolution under Subsection (7)(a) shall be distributed as follows:

(A) 50% of the revenue as provided in Subsection (6); and

(B) 50% of the revenue to the county legislative body.

(e) If a county legislative body seeks to change an allocation specified in a resolution under Subsection (7)(a), the county legislative body may change the allocation by:

(i) adopting a resolution in accordance with Subsection (7)(a) specifying the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision;

(ii) obtaining approval to change the allocation of the sales and use tax by a majority of all the members of the county legislative body; and

(iii) subject to Subsection (7)(f):

(A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the

allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (7)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with Subsection (7)(e) and approved by the county legislative body in accordance with Subsection (7)(e)(ii).

(g) (i) If a county makes an allocation by adopting a resolution under Subsection (7)(a) or changes an allocation by adopting a resolution under Subsection (7)(e), the allocation shall take effect on the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice meeting the requirements of Subsection (7)(g)(ii) from the county.

(ii) The notice described in Subsection (7)(g)(i) shall state:

(A) that the county will make or change the percentage of an allocation under Subsection (7)(a) or (e); and

(B) the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(8) (a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.

(b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the eligible political subdivision intends to provide public transit service within the county.

(9) (a) (i) Notwithstanding Subsections (3) through (8), for a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute all of the sales and use tax revenue collected by the county before June 30, 2019, to the county for the purposes described in Subsection (9)(a)(ii).

(ii) For any revenue collected by a county pursuant to Subsection (9)(a)(i) before June 30, 2019, the county may expend that revenue for:

(A) reducing transportation related debt;

(B) a regionally significant transportation facility; or

(C) a public transit project of regional significance.

(b) For a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute the sales and use tax revenue collected by the county on or after July 1, 2019, as described in Subsections (3) through (8).

(c) For a county that has not imposed a sales and use tax under this section before June 30, 2019, if the entire boundary of that county is annexed into a large public transit district, and if the county imposes a sales and use tax under this section on or after July 1, 2019, the commission shall distribute the sales and use tax revenue collected by the county as described in Subsections (3) through (8).

(10) (a) [~~A~~]Except as provided in Subsection (10)(b), a county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection (3)(a), (4)(a)(i), (4)(b)(i), or (7)(d)(i), for a purpose described in Section 59-12-2212.2.

(b) In addition to the uses permitted in Subsection (10)(a), a county of the first class may transfer the portion allocated to the county under this section to a convention center public infrastructure district created in accordance with Section 17D-4-202.1 for revitalization of a convention center owned by the county within a city of the first class and surrounding revitalization projects related to the convention center.

(11) (a) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection (3)(a), (4)(a)(i), (4)(b)(i), or (7)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

(b) As provided in Section 59-12-2212.2, for the .10% designated for public transit described in Subsection (3)(a) that is not contractually obligated for debt service, beginning on July 1, 2025, a public transit district shall make available to the Department of Transportation an amount equal to 10% of the .10% to be used for public transit innovation grants as provided in Title 72, Chapter 2, Part [~~3~~]4, Public Transit Innovation Grants.

(12) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(13) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (13)(a), any sales and use tax imposed under this section by passage of a county ordinance on or before June 30, 2022, may remain in effect.

(14) (a) Beginning on July 1, 2020, and subject to Subsection (15), if a county has not imposed a sales and use tax under this section, subject to the provisions of this part, the legislative body of a city or town described in Subsection (14)(b) may impose a .25% sales and use tax on the transactions described in Subsection 59-12-103(1) within the city or town.

(b) The following cities or towns may impose a sales and use tax described in Subsection (14)(a):

(i) a city or town that has been annexed into a public transit district; or

(ii) an eligible political subdivision.

(c) If a city or town imposes a sales and use tax as provided in this section, the commission shall distribute the sales and use tax revenue collected by the city or town as follows:

(i) .125% to the city or town that imposed the sales and use tax, to be distributed as provided in Subsection (6); and

(ii) .125%, as applicable, to:

(A) the public transit district in which the city or town is annexed; or

(B) the eligible political subdivision for public transit services.

(d) If a city or town imposes a sales and use tax under this section and the county subsequently imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the city or town as described in Subsection (14)(c).

(15) (a) (i) Notwithstanding any other provision in this section, if a city or town legislative body wishes to impose a sales and use tax under this section, the city or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) A city or town legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (15)(a), any sales and use tax imposed under this section by passage of an ordinance by a city or town legislative body on or before June 30, 2022, may remain in effect.

Section 32. Section 59-12-2220 is amended to read:

59-12-2220 (Effective upon governor's approval). County option sales and use tax to fund highways or a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the entire boundary of a county is annexed into a large public transit district; and

(ii) the maximum amount of sales and use tax authorizations allowed pursuant to Section 59-12-2203 and authorized under the following sections has been imposed:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision; or

(ii) a city or town within the boundary of the county is an eligible political subdivision; or

(c) a county legislative body of a county not described in Subsection (1)(a) or (1)(b) may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of .2%.

(3) (a) The commission shall distribute sales and use tax revenue collected under this section as determined by a county legislative body as described in Subsection (3)(b).

(b) If a county legislative body imposes a sales and use tax as described in this section, the county legislative body may elect to impose a sales and use tax revenue distribution as described in Subsection (4), (5), (6), or (7), depending on the class of county, and presence and type of a public transit provider in the county.

(4) [~~If~~]After application of Subsection 59-12-2206(5), if a county legislative body imposes a sales and use tax as described in this section, and the entire boundary of the county is annexed into a large public transit district, and the county is a county of the first class, the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(5) If a county legislative body imposes a sales and use tax as described in this section and the entire boundary of the county is annexed into a large public transit district, and the county is a county not described in Subsection (4), the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(6) (a) Except as provided in Subsection (12)(c), if the entire boundary of a county that imposes a sales and use tax as described in this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district, or if the city or town is an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the county as provided in Subsection (6)(b) or (c).

(b) For a city, town, or portion of the county described in Subsection (6)(a) that is annexed into the single public transit district, or an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the portion of the county that is within a public transit district or eligible political subdivision as follows:

(i) .05% to a public transit provider as described in Subsection (11);

(ii) .075% to the cities and towns as provided in Subsection (8); and

(iii) .075% to the county legislative body.

(c) Except as provided in Subsection (12)(c), for a city, town, or portion of the county described in Subsection (6)(a) that is not annexed into a single public transit district or eligible political subdivision in the county, the commission shall distribute the sales and use tax revenue collected within that portion of the county as follows:

(i) .08% to the cities and towns as provided in Subsection (8); and

(ii) .12% to the county legislative body.

(7) For a county without a public transit service that imposes a sales and use tax as described in this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .08% to the cities and towns as provided in Subsection (8); and

(b) .12% to the county legislative body.

(8) (a) Subject to Subsections (8)(b) and (c), the commission shall make the distributions required by Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c) (i) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a city or town is ineligible for funds in accordance with Subsection 10-9a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that city or town would have received under Subsection (8)(a) to cities or towns to which Subsection 10-9a-408(7) does not apply.

(ii) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a county is ineligible for funds in accordance with Subsection 17-27a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that county would have received under Subsection (8)(a) to counties to which Subsection 17-27a-408(7) does not apply.

(9) If a public transit service is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit provider that the public transit service has been organized.

(10) (a) Except as provided in [~~Subsection (10)(b)~~]Subsections (10)(b) and (c), a county, city, or town that received distributions described in Subsections (4)(b), (4)(c), (5)(b), (5)(c), (6)(b)(ii), (6)(b)(iii), (6)(c), and (7) may only expend those funds for a purpose described in Section 59-12-2212.2.

(b) If a county described in Subsection (1)(a) that is a county of the first class imposes the sales and use tax authorized in this section, the county may also use funds distributed in accordance with Subsection (4)(c) for public safety purposes.

(c) In addition to the purposes described in Subsections (10)(a) and (b), for a city relevant to a project area, as that term is defined in Section 63N-3-1401, an allowable use of revenue from a sales and use tax under this section includes the revitalization of a convention center owned by the county within a city of the first class and surrounding revitalization projects related to the convention center.

(11) (a) Subject to Subsections (11)(b), (c), and (d), revenue designated for public transit as described in this section may be used for capital expenses and service delivery expenses of:

(i) a public transit district;

(ii) an eligible political subdivision; or

(iii) another entity providing a service for public transit or a transit facility within the relevant county, as those terms are defined in Section 17B-2a-802.

(b) (i) (A) If a county of the first class imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit within a county of the first class as described in Subsection (4)(a) shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121.

(B) Revenue deposited into the County of the First Class Highway Projects Fund created in Section 72-2-121 as described in Subsection (11)(b)(i)(A) may be used for public transit innovation grants as provided in Title 72, Chapter 2, Part [~~3~~]4, Public Transit Innovation Grants.

(ii) If a county of the first class imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(b)(i), for revenue designated for public transit as described in Subsection (4)(a):

(A) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9).

(c) (i) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit as described in Subsection (5)(a) shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(ii) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(c)(i), for the revenue that is designated for public transit in Subsection (5)(a):

(A) 50% shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9); and

(B) 50% shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(d) Except as provided in Subsection (12)(c), for a county that imposes a sales and use tax under this section, for revenue designated for public transit as described in Subsection (6)(b)(i), the revenue shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(12) For a city described in Subsection (10)(c), during the bondable term of a revitalization project described in Subsection (10)(c),

the city shall transfer at least 50%, and may transfer up to 100%, of any revenue the city receives from a distribution under Subsection (4)(b) to a convention center public infrastructure district created in accordance with Section 17D-4-202.1 for revitalization of a convention center owned by the county within a city of the first class and surrounding revitalization projects related to the convention center as permitted in Subsection (10)(c).

[~~(12)~~](13) (a) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(b) If a county passes an ordinance to impose a sales and use tax as described in this section, the sales and use tax shall take effect on the first day of the calendar quarter after a 90-day period that begins on the date the commission receives written notice from the county of the passage of the ordinance.

(c) A county that imposed the local option sales and use tax described in this section before January 1, 2023, may maintain that county's distribution allocation in place as of January 1, 2023.

[~~(13)~~](14) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county, city, or town budgeted for transportation or public transit as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection [~~(13)(a)~~](14)(a) does not apply to a designated transportation or public transit capital or reserve account a county, city, or town established before the date the tax becomes effective.

Section 33. Section 63H-1-205 is amended to read:

63H-1-205 (Effective upon governor's approval). MIDA accommodations tax.

(1) As used in this section:

(a) "Accommodations and services" means an accommodation or service described in Subsection 59-12-103(1)(i).

(b) "Accommodations and services" does not include amounts paid or charged that are not part of a rental room rate.

(2) By ordinance, the authority board may impose a MIDA accommodations tax on a provider for amounts paid or charged for accommodations and services, if the place of accommodation is located within a project area and on:

(a) authority-owned or other government-owned property[];

(b) privately owned property on which the authority owns a condominium unit that is part of the place of accommodation; or

(c) privately owned property on which the authority board finds that a provider is providing a significant long-term benefit, including lodging but not including a benefit that is commonly provided, to members of the military at the property.

(3) The maximum rate of the MIDA accommodations tax is 15% of the amounts paid to or charged by the provider for accommodations and services.

(4) A provider may recover an amount equal to the MIDA accommodations tax from customers, if the provider includes the amount as a separate billing line item.

(5) If the authority imposes the tax described in this section, neither the authority nor a public entity may impose, on the amounts paid or charged for accommodations and services, any other tax described in:

(a) Title 59, Chapter 12, Sales and Use Tax Act; or

(b) Title 59, Chapter 28, State Transient Room Tax Act.

(6) Except as provided in Subsection (7) or (8), the tax imposed under this section shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Title 59, Chapter 12, Part 1, Tax Collection; or

(ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

(b) Title 59, Chapter 1, General Taxation Policies.

(7) The location of a transaction shall be determined in accordance with Sections 59-12-211through 59-12-215.

(8) (a) A tax under this section is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) [~~through (5)~~]and (4) through (6).

(b) The exemptions described in Sections 59-12-104, 59-12-104.1, and 59-12-104.6 do not apply to a tax imposed under this section.

(9) The State Tax Commission shall:

(a) except as provided in Subsection (9)(b), distribute the revenue collected from the tax to the authority; and

(b) retain and deposit an administrative charge in accordance with Section 59-1-306from revenue the commission collects from a tax under this section.

(10) (a) If the authority imposes, repeals, or changes the rate of tax under this section, the implementation, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the State Tax Commission receives the notice described in Subsection (10)(b) from the authority.

(b) The notice required in Subsection (10)(a)(ii) shall state:

(i) that the authority will impose, repeal, or change the rate of a tax under this section;

(ii) the effective date of the implementation, repeal, or change of the tax; and

(iii) the rate of the tax.

(11) In addition to the uses permitted under Section 63H-1-502, the authority may allocate revenue from the MIDA accommodations tax to a county in which a place of accommodation that is subject to the MIDA accommodations tax is located, if:

(a) the county had a transient room tax described in Section 59-12-301 in effect at the time the authority board imposed a MIDA accommodations tax by ordinance; and

(b) the revenue replaces revenue that the county received from a county transient room tax described in Section 59-12-301 for the county's general operations and administrative expenses.

Section 34. Section 63N-2-512 is amended to read:

63N-2-512 (Effective upon governor's approval). Hotel Impact Mitigation Fund.

(1) As used in this section:

(a) "Affected hotel" means a hotel built in the state before July 1, 2014.

(b) "City-wide event" means an event hosted at a convention facility pursuant to a contract by a nonprofit corporation responsible for the promotion of convention business.

[~~(b) "Direct losses" means affected hotels' losses of hotel guest business attributable to the qualified hotel room supply being added to the market in the state.~~]

(c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).

(d) "Qualified losses" means revenue lost by an affected hotel for city-wide events attributable to the qualified hotel room supply being added to the market in the state, calculated by taking the difference between:

(i) an affected hotel's average total annual room-night revenue for city-wide events for the three-year period between January 1, 2017, and December 31, 2019; and

(ii) the affected hotel's total annual room-night revenue for city-wide events for the applicable year.

(2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(3) The mitigation fund shall:

(a) be administered by GOEO;

(b) earn interest; and

(c) be funded by:

(i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103(10);

(ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and

(iii) any money deposited into the mitigation fund under Subsection [~~(6)~~](7).

(4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

(5) In accordance with office rules and Subsection (6), GOEO shall annually pay $2,100,000 from the mitigation fund to affected hotels to mitigate qualified losses as follows:

(a) for calendar years 2023 and 2024, on or before June 1, 2025;

(b) for calendar year 2025, on or before February 28, 2026; and

(c) for calendar year 2026, on or before February 28, 2026.

[~~(5) (a) In accordance with office rules, GOEO shall annually pay up to $2,100,000 of money in the mitigation fund:~~]

[~~(i) to affected hotels;~~]

[~~(ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and~~]

[~~(iii) to mitigate direct losses.~~]

[~~(b) (i) If the amount GOEO pays under Subsection (5)(a) in any year is less than $2,100,000, GOEO shall pay to the Stay Another Day and Bounce Back Fund, created in Section 63N-2-511, the difference between $2,100,000 and the amount paid under Subsection (5)(a).~~]

[~~(ii) GOEO shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much GOEO is required to pay to affected hotels under Subsection (5)(a).~~]

(6) Each calendar year, GOEO shall award the available $2,100,000 to affected hotels proportionally, according to each affected hotel's qualified losses in relation to the total qualified losses suffered collectively by all affected hotels.

[~~(6)~~](7) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.

[~~(7)~~](8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection [~~(5)(a)~~](5) to affected hotels.

Section 35. Section 63N-3-602 is amended to read:

63N-3-602 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income:

(a) equal to or less than 80% of the county median gross income [~~of the applicable municipal or county statistical area~~]for households of the same size, in certain circumstances as provided in this part; or

(b) equal to or less than 60% of the county median gross income [~~of the applicable municipal or county statistical area~~]for households of the same size, in certain circumstances as provided in this part.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.

(4) "Base year" means, for each property tax increment collection period triggered within a proposed housing and transit reinvestment zone or convention center reinvestment zoneproject area, the calendar year prior to the calendar year the property tax increment begins to be collected for [~~those~~]the parcels that are in a project that is triggered for that collection period.

(5) "Bus rapid transit" means a high-quality bus-based transit system that delivers fast and efficient service that may include dedicated lanes, busways, traffic signal priority, off-board fare collection, elevated platforms, and enhanced stations.

(6) "Bus rapid transit station" means an existing station, stop, or terminal, or a proposed station, stop, or terminal that is specifically identified as needed in phase one of a metropolitan planning organization's adopted long-range transportation plan and in phase one of the relevant public transit district's adopted long-range transit plan:

(a) along an existing bus rapid transit line; or

(b) along an extension to an existing bus rapid transit line or new bus rapid transit line.

(7) "Capital city" means the same as that term is defined in Section 17D-4-102.

[~~(7)~~](8) (a) "Commuter rail" means a [~~heavy rail~~]regional passenger rail transit facility operated by a large public transit district.

(b) "Commuter rail" does not include a light-rail passenger rail facility of a large public transit district.

[~~(8)~~](9) "Commuter rail station" means an existing station, stop, or terminal, or a proposed station, stop, or terminal, which has been specifically identified as needed in phase one of a metropolitan planning organization's adopted long-range transportation plan and in phase one of the relevant public transit district's adopted long-range transit plan:

(a) along an existing commuter rail line;

(b) along an extension to an existing commuter rail line or new commuter rail line; [~~or~~]

(c) along a fixed guideway extension from an existing commuter rail line[~~.~~]; or

(d) at the landing point of a pedestrian bridge or vehicle bridge extending from an existing commuter rail station.

(10) "Convention center" means a convention center owned by a county of the first class within a city of the first class.

(11) "Convention center revitalization project" means a project within a city of the first class within a county of the first class for the revitalization, activation, and modernization of a convention center and the surrounding area, including projects meeting the objectives described in Section 63N-3-603.1.

(12) "Convention center reinvestment zone" means a convention center reinvestment zone created under this part.

[~~(9)~~](13) (a) "Developable area" means the portion of land within a housing and transit reinvestment zone available for development and construction of business and residential uses.

(b) "Developable area" does not include portions of land within a housing and transit reinvestment zone that are allocated to:

(i) parks;

(ii) recreation facilities;

(iii) open space;

(iv) trails;

(v) publicly-owned roadway facilities; or

(vi) other public facilities.

[~~(10)~~](14) "Dwelling unit" means one or more rooms arranged for the use of one or more individuals living together, as a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities.

(15) "Eligible municipality" means a city that:

(a) (i) is the county seat of a county of the first class; or

(ii) a city of the first class located in a county of the first class; and

(b) has a convention center within the boundary of the city.

[~~(11)~~](16) "Enhanced development" means the construction of mixed uses including housing, commercial uses, and related facilities.

[~~(12)~~](17) "Enhanced development costs" means extra costs associated with structured parking costs, vertical construction costs, horizontal construction costs, life safety costs, structural costs, conveyor or elevator costs, and other costs incurred due to the increased height of buildings or enhanced development.

[~~(13)~~](18) "First home investment zone" means the same as that term is defined in Section 63N-3-1601.

[~~(14)~~](19) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

[~~(15)~~](20) "Horizontal construction costs" means the additional costs associated with earthwork, over excavation, utility work, transportation infrastructure, and landscaping to achieve enhanced development in the housing and transit reinvestment zone.

[~~(16)~~](21) "Housing and transit reinvestment zone" means a housing and transit reinvestment zone created pursuant to this part.

[~~(17)~~](22) "Housing and transit reinvestment zone committee" means a housing and transit reinvestment zone committee created pursuant to Section 63N-3-605.

[~~(18)~~](23) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

[~~(19)~~](24) "Light rail" means a passenger rail public transit system with right-of-way and fixed rails:

(a) dedicated to exclusive use by light-rail public transit vehicles;

(b) that may cross streets at grade; and

(c) that may share parts of surface streets.

[~~(20)~~](25) "Light rail station" means an existing station, stop, or terminal or a proposed station, stop, or terminal, which has been specifically identified as needed in phase one of a metropolitan planning organization's adopted long-range transportation plan and in phase one of the relevant public transit district's adopted long-range plan:

(a) along an existing light rail line; or

(b) along an extension to an existing light rail line or new light rail line.

[~~(21)~~](26) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

[~~(22)~~](27) "Mixed use development" means development with a mix of:

(a) multi-family residential use; and

(b) at least one additional land use, which shall be a significant part of the overall development.

[~~(23)~~](28) "Municipality" means the same as that term is defined in Section 10-1-104.

[~~(24)~~](29) "Participant" means the same as that term is defined in Section 17C-1-102.

[~~(25)~~](30) "Participation agreement" means the same as that term is defined in Section 17C-1-102, except that the agency may not provide and the person may not receive a direct subsidy.

(31) "Project" means a housing and transit reinvestment zone or convention center reinvestment zone created under this part.

(32) (a) "Property tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a housing and transit reinvestment zone or convention center reinvestment zone designated in the applicable reinvestment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Property tax increment" does not include property tax revenue from:

(i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2);

(ii) a county additional property tax described in Subsection 59-2-1602(4); or

(iii) a public library fund levy described in Subsection 9-7-501(2).

[~~(26)~~](33) "Public transit county" means a county that has created a small public transit district.

[~~(27)~~](34) "Public transit hub" means a public transit depot or station where four or more routes serving separate parts of the county-created transit district stop to transfer riders between routes.

[~~(28)~~](35) "Sales and use tax base year" means:

(a) for a housing and transit reinvestment zone, a sales and use tax year determined by the first year pertaining to the tax imposed in Section 59-12-103 after the sales and use tax boundary for a housing and transit reinvestment zone is established[~~.~~]; or

(b) for a convention center reinvestment zone, a sales and use tax year determined by the year specified in the approved proposal for a convention center reinvestment zone, pertaining to the taxes:

(i) imposed under Section 59-12-103;

(ii) imposed by a city of the first class in a county of the first class under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act;

(iii) imposed by a city of the first class in a county of the first class under Section 59-12-402.1;

(iv) imposed by a county of the first class under Section 59-12-1102; and

(v) imposed by a county of the first class under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act.

[~~(29)~~](36) "Sales and use tax boundary" means:

(a) for a housing and transit reinvestment zone, a boundary created as described in Section 63N-3-604, based on state sales and use tax collection boundaries that [~~corresponds~~]correspond as closely as reasonably practicable to the housing and transit reinvestment zone boundary[~~.~~]; or

(b) for a convention center reinvestment zone, a boundary created as described in Section 63N-3-604.1, based on state sales and use tax collection boundaries that correspond as closely as reasonably practicable to the convention center reinvestment zone boundary.

[~~(30)~~](37) "Sales and use tax increment" means:

(a) for a housing and transit reinvestment zone, the difference between:

[~~(a)~~](i) the amount of state sales and use tax revenue generated each year following the sales and use tax base year by the sales and use tax from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which sales and use tax increment is to be collected; and

[~~(b)~~](ii) the amount of state sales and use tax revenue that was generated from that same area during the sales and use tax base year[~~.~~]; or

(b) for a convention center reinvestment zone, the difference between:

(i) the amount of sales and use tax revenue generated each year following the sales and use tax base year by the sales and use tax from the area within a convention center reinvestment zone designated in the convention center reinvestment zone proposal as the area from which sales and use tax increment is to be collected; and

(ii) the amount of sales and use tax revenue that was generated from that same area during the sales and use tax base year.

[~~(31)~~](38) "Sales and use tax revenue" means:

(a) for a housing and transit reinvestment zone, revenue that is generated from the tax imposed under Section 59-12-103[~~.~~]; or

(b) for a convention center reinvestment zone, revenue that is generated from:

(i) the sales and use taxes imposed under Section 59-12-103; and

(ii) the sales and use taxes:

(A) imposed by a city of the first class in a county of the first class under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) imposed by a city of the first class in a county of the first class under Section 59-12-402.1;

(C) imposed by a county of the first class under Section 59-12-1102; and

(D) imposed by a county of the first class under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act.

[~~(32)~~](39) "Small public transit district" means the same as that term is defined in Section 17B-2a-802.

[~~(33)~~](40) "Tax Commission" means the State Tax Commission created in Section 59-1-201.

[~~(34) (a) "Tax increment" means the difference between:~~]

[~~(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and~~]

[~~(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.~~]

[~~(b) "Tax increment" does not include property tax revenue from:~~]

[~~(i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2); or~~]

[~~(ii) a county additional property tax described in Subsection 59-2-1602(4).~~]

[~~(35)~~](41) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

[~~(36)~~](42) "Vertical construction costs" means the additional costs associated with construction above four stories and structured parking to achieve enhanced development in the housing and transit reinvestment zone.

Section 36. Section 63N-3-603 is amended to read:

63N-3-603 (Effective upon governor's approval). Applicability, requirements, and limitations on a housing and transit reinvestment zone.

(1) A housing and transit reinvestment zone proposal created under this part shall [~~promote~~]demonstrate how the proposal addresses the following objectives:

(a) higher utilization of public transit;

(b) increasing availability of housing, including affordable housing, and fulfillment of moderate income housing plans;

(c) promoting and encouraging development of owner-occupied housing;

(d) improving efficiencies in parking and transportation, including walkability of communities near public transit facilities;

(e) overcoming development impediments and market conditions that render a development cost prohibitive absent the proposal and incentives;

(f) conserving water resources through efficient land use;

(g) improving air quality by reducing fuel consumption and motor vehicle trips;

(h) encouraging transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;

(i) strategic land use and municipal planning in major transit investment corridors as described in Subsection 10-9a-403(2);

(j) increasing access to employment and educational opportunities; and

(k) increasing access to child care.

(2) (a) In order to accomplish the objectives described in Subsection (1), a municipality or public transit county that initiates the process to create a housing and transit reinvestment zone as described in this part shall ensure that the proposal for a housing and transit reinvestment zone includes:

(i) except as provided in Subsection (3), at least 12% of the proposed dwelling units within the housing and transit reinvestment zone are affordable housing units, with:

(A) up to 9% of the proposed dwelling units occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the county median gross income [~~of the applicable municipal or county statistical area~~]for households of the same size; and

(B) at least 3% of the proposed dwelling units occupied or reserved for occupancy by households with a gross household income equal to or less than 60% of the county median gross income [~~of the applicable municipal or county statistical area~~]for households of the same size;

(ii) except as provided in Subsection (2)(c), a housing and transit reinvestment zone shall include:

(A) at least 51% of the developable area within a housing and transit reinvestment zone as residential uses; and

(B) an average of at least 50 dwelling units per acre within the acreage of the housing and transit reinvestment zone dedicated to residential uses;

(iii) mixed-use development; and

(iv) a mix of dwelling units to ensure that [~~a reasonable percentage~~]at least 25% of the dwelling units [~~has~~]have more than one bedroom.

(b) (i) If a housing and transit reinvestment zone is phased, a municipality or public transit county shall ensure that a housing and transit reinvestment zone is phased and developed to provide the required 12% of affordable housing units in each phase of development.

(ii) A municipality or public transit county may allow a housing and transit reinvestment zone to be phased and developed in a manner to provide more of the required affordable housing units in early phases of development.

(iii) A municipality or public transit county shall include in a housing and transit reinvestment zone proposal an affordable housing plan, which may include deed restrictions, to ensure the affordable housing required in the proposal will continue to meet the definition of affordable housing at least throughout the entire term of the housing and transit reinvestment zone.

(c) For a housing and transit reinvestment zone proposed by a public transit county at a public transit hub, or for a housing and transit reinvestment zone proposed by a municipality at a bus rapid transit station, the housing and transit reinvestment zone shall include:

(i) at least 51% of the developable area within a housing and transit reinvestment zone as residential uses; and

(ii) an average of at least 39 dwelling units per acre within the acreage of the housing and transit reinvestment zone dedicated to residential uses.

(3) A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement described in Subsection (2)(a).

(4) (a) A municipality may only propose a housing and transit reinvestment zone at a commuter rail station, and a public transit county may only propose a housing and transit reinvestment zone at a public transit hub, that:

(i) subject to Subsection (5)(a):

(A) (I) except as provided in Subsection (4)(a)(i)(A)(II), for a municipality, does not exceed a 1/3 mile radius of a commuter rail station;

(II) for a municipality that is a city of the first or second class [~~with a population greater than 150,000~~]that is within a county of the first or second class, with an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code, does not exceed a 1/2 mile radius of a commuter rail station located within the opportunity zone; or

(III) for a public transit county, does not exceed a 1/3 mile radius of a public transit hub; and

(B) has a total area of no more than 125 noncontiguous acres;

(ii) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's property tax increment above the base year for a term of no more than 25 consecutive years on each parcel within a 45-year period not to exceed the property tax increment amount approved in the housing and transit reinvestment zone proposal; and

(iii) the commencement of collection of property tax increment, for all or a portion of the housing and transit reinvestment zone [~~, will~~]project area, shall be triggered by providing notice as described in Subsection (6), but a housing and transit reinvestment zone proposal may not propose or include triggering more than three property tax increment collection periods for the same project during the applicable 45-year period.

(b) A municipality or public transit county may only propose a housing and transit reinvestment zone at a light rail station or bus rapid transit station that:

(i) subject to Subsection (5):

(A) does not exceed:

(I) except as provided in Subsection (4)(b)(i)(A)(II), (III), or (4)(e), a 1/4 mile radius of a bus rapid transit station or light rail station;

(II) for a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, a 1/2 mile radius of a light rail station located in an opportunity zone created pursuant to Section

1400Z-1, Internal Revenue Code; or

(III) a 1/2 mile radius of a light rail station located within a master-planned development of 500 acres or more; and

(B) has a total area of no more than 100 noncontiguous acres;

(ii) subject to Subsection (4)(c) and Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's property tax increment above the base year for a term of no more than 15 consecutive years on each parcel within a 30-year period not to exceed the property tax increment amount approved in the housing and transit reinvestment zone proposal; and

(iii) the commencement of collection of property tax increment, for all or a portion of the housing and transit reinvestment zone [~~, will~~]project area, shall be triggered by providing notice as described in Subsection (6), but a housing and transit reinvestment zone proposal may not propose or include triggering more than three property tax increment collection periods for the same project during the applicable 30-year period.

(c) For a housing and transit reinvestment zone proposed by a public transit county at a public transit hub, or for a housing and transit reinvestment zone proposed by a municipality at a bus rapid transit station, if the proposed housing density within the housing and transit reinvestment zone is between 39 and 49 dwelling units per acre, the maximum capture of each taxing entity's property tax increment above the base year is 60%.

(d) A municipality that is a city of the first class with a population greater than 150,000 in a county of the first class as described in Subsections (4)(a)(i)(A)(II) and (4)(b)(i)(A)(II) may only propose one housing and transit reinvestment zone within an opportunity zone.

(e) (i) Subject to Subsection (4)(e)(ii), the radius restrictions described in Subsection (4)(b)(i) do not apply, and a housing and transit reinvestment zone may extend to an area between two light rail stations located within a city of the third class if the two light rail stations are within a .95 mile distance on the same light rail line.

(ii) If a housing and transit reinvestment zone is extended to accommodate two light rail stations as described in Subsection (4)(e)(i):

(A) the housing and transit reinvestment zone is limited to a total area not to exceed 100 noncontiguous acres; and

(B) the housing and transit reinvestment zone may not exceed a 1/4 mile radius from the light rail stations or any point on the light rail line between the two stations.

(f) If a parcel within the housing and transit reinvestment zone is included as an area that is part of a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, that parcel may not be triggered for collection unless the project area funds collection period, as that term is defined in Section 17C-1-102, has expired.

(5) (a) For a housing and transit reinvestment zone for a commuter rail station, if a parcel is [~~bisected~~]intersected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(a)(i).

(b) For a housing and transit reinvestment zone for a light rail or bus rapid transit station, if a parcel is [~~bisected~~]intersected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(b)(i).

(c) A housing and transit reinvestment zone may not be smaller than 10 acres.

(6) (a) The notice of commencement of collection of property tax increment required in Subsection (4)(a)(iii) or (4)(b)(iii) shall be sent by mail or electronically to the following entities no later than [~~January 1~~]December 31 of the year before the year for which the property tax increment collection is proposed to commence:

[~~(a)~~](i) the [~~tax commission~~]State Tax Commission;

[~~(b)~~](ii) the State Board of Education;

[~~(c)~~](iii) the state auditor;

[~~(d)~~](iv) the auditor of the county in which the housing and transit reinvestment zone is located;

[~~(e)~~](v) each taxing entity affected by the collection of property tax increment from the housing and transit reinvestment zone; and

[~~(f)~~](vi) the Governor's Office of Economic Opportunity.

(b) The notice described in Subsection (4)(a)(iii) or (4)(b)(iii) may not be triggered until the date on which the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee.

(7) (a) The maximum number of housing and transit reinvestment zones at light rail stations, not including a convention center reinvestment zone, is eight in any given county.

(b) Within a county of the first class, the maximum number of housing and transit reinvestment zones at bus rapid transit stations is three.

(c) Within a county of the first class, the maximum total combined number of housing and transit reinvestment zones described in Subsections (7)(a) and (b) and first home investment zones created under Part 16, First Home Investment Zone Act, is 11.

(8) (a) For purposes of this Subsection (8), "entitlement agreement" means:

(i) a land use application;

(ii) a rezone petition; or

(iii) a request, petition, or application to:

(A) enact or approve a development agreement; or

(B) to amend or modify a development agreement.

(b) This Subsection (8) applies to a specified county, as defined in Section 17-27a-408, that has created a small public transit district on or before January 1, 2022.

(c) To accomplish the objectives described in Subsection (1), an owner of undeveloped property within an unincorporated county shall have the right to develop and build a mixed-use development if:

(i) the owner has submitted an entitlement agreement to the county on or before December 31, 2022, and is within a 1/3 mile radius of a public transit hub in a county described in Subsection (8)(b), including parcels that are intersected by the 1/3 mile radius; and

(ii) the county described in Subsection (8)(b) has failed to approve the entitlement agreement described in Subsection (8)(c)(i) by ordinance before December 31, 2022.

(d) The mixed use development described in Subsection (8)(c) shall include the following:

(i) (A) (I) a maximum number of dwelling units equal to 30 multiplied by the total acres of developable area within the mixed-use development dedicated exclusively to residential use; or

(II) a maximum number of dwelling units equal to 15 multiplied by the total acres of the mixed-use development; and

(B) at least 33% of the dwelling units as affordable housing;

(ii) commercial uses, including office, retail, educational, and healthcare in support of the mixed-use development constituting no more than 1/3 of the total planned gross building square footage of the subject parcels; and

(iii) any other infrastructure element necessary or reasonable to support the mixed-use development, including:

(A) parking infrastructure;

(B) streets;

(C) sidewalks;

(D) parks; and

(E) trails.

(e) (i) The mixed-use development described in this Subsection (8) may qualify for a housing and transit reinvestment zone described in Subsection (4)(a).

(ii) The county described in Subsection (8)(b) may propose a housing and transit reinvestment zone pursuant to this part, if the housing and transit reinvestment zone includes:

(A) (I) an average of at least 30 dwelling units per acre within the acreage of the housing and transit reinvestment zone dedicated to residential use; or

(II) a minimum number of 14 dwelling units per acre on average within the acreage of the housing and transit reinvestment zone; and

(B) at least 33% of the dwelling units as affordable housing units.

(f) A county may not take an action or enforce an agreement, ordinance, regulation, or requirement that prevents or creates development impediments to the development of a mixed-use development as described in this Subsection (8).

(g) A county action to approve or implement the development of a mixed-use development as described in this Subsection (8) shall constitute an administrative action taken by the county and does not require county legislative action.

[~~(8) (a) This Subsection (8) applies to a specified county, as defined in Section 17-27a-408, that has created a small public transit district on or before January 1, 2022.~~]

[~~(b) (i) A county described in Subsection (8)(a) shall, in accordance with Section 63N-3-604, prepare and submit to the Governor's Office of Economic Opportunity a proposal to create a housing and transit reinvestment zone on or before December 31, 2022.~~]

[~~(ii) A county described in Subsection (8)(a) that, on December 31, 2022, was noncompliant under Section 17-27a-408 for failure to demonstrate in the county's moderate income housing report that the county complied with Subsection (8)(b)(i), may cure the deficiency in the county's moderate income housing report by submitting satisfactory proof to the Housing and Community Development Division that, notwithstanding the deadline in Subsection (8)(b)(i), the county has submitted to the Governor's Office of Economic Opportunity a proposal to create a housing and transit reinvestment zone.~~]

[~~(c) (i) A county described in Subsection (8)(a) may not propose a housing and transit reinvestment zone if more than 15% of the acreage within the housing and transit reinvestment zone boundary is owned by the county.~~]

[~~(ii) For purposes of determining the percentage of acreage owned by the county as described in Subsection (8)(c)(i), a county may exclude any acreage owned that is used for highways, bus rapid transit, light rail, or commuter rail within the boundary of the housing and transit reinvestment zone.~~]

[~~(d) To accomplish the objectives described in Subsection (1), if a county described in Subsection (8)(a) has failed to comply with Subsection (8)(b)(i) by failing to submit an application before December 31, 2022, an owner of undeveloped property who has submitted a land use application to the county on or before December 31, 2022, and is within a 1/3 mile radius of a public transit hub in a county described in Subsection (8)(a), including parcels that are bisected by the 1/3 mile radius, shall have the right to develop and build a mixed-use development including the following:~~]

[~~(i) excluding the parcels devoted to commercial uses as described in Subsection (8)(d)(ii), at least 39 dwelling units per acre on average over the developable area, with at least 10% of the dwelling units as affordable housing units;~~]

[~~(ii) commercial uses including office, retail, educational, and healthcare in support of the mixed-use development constituting up to 1/3 of the total planned gross building square footage of the subject parcels; and~~]

[~~(iii) any other infrastructure element necessary or reasonable to support the mixed-use development, including parking infrastructure, streets, sidewalks, parks, and trails.~~]

Section 37. Section 63N-3-603.1 is enacted to read:

63N-3-603.1 (Effective upon governor's approval). Applicability, requirements, and limitations on a convention center reinvestment zone.

(1) A convention center reinvestment zone proposal created under this part shall demonstrate how the proposal addresses the following objectives:

(a) redevelopment of a convention center and the surrounding area's infrastructure and assets;

(b) activation of unrealized economic opportunities related to the convention center and surrounding infrastructure and assets;

(c) modernization of infrastructure and design of the convention center and surrounding area and related public spaces;

(d) encouragement of transformative development and investment, including parking improvements;

(e) promotion of economic development and employment opportunities;

(f) improvement of the aesthetic, functionality, and walkability of the convention center and surrounding area;

(g) enhancement of tourism opportunities; and

(h) creation of outdoor event space to accommodate events or festivals open to the public.

(2) A convention center reinvestment zone in a capital city proposal created under this part shall also demonstrate how the proposal addresses the following objectives:

(a) redevelopment of a convention center and surrounding infrastructure and assets that directly serve the convention center, including

parking facilities;

(b) modernization of infrastructure and design of the convention center; and

(c) improvement of the aesthetic, functionality, and walkability of the convention center.

(3) The Governor's Office of Economic Opportunity shall propose a convention center reinvestment zone to accomplish the objectives described in Subsections (1) and (2).

(4) (a) (i) A convention center reinvestment zone proposal may propose the capture of 100% of the property tax increment and 100% of the sales and use tax increment described in Subsection 63N-3-602(38)(b)(ii) for a period of 30 years.

(ii) For a convention center reinvestment zone in a capital city, in addition to the proposed capture of property tax increment and sales and use tax increment described in Subsection (4)(a)(i), the convention center reinvestment zone may propose the capture of 50% of the sales and use tax increment described in Subsection 63N-3-602(38)(b)(i).

(b) The convention center reinvestment zone proposal shall include the respective start date and base year date from which to calculate:

(i) the 30-year period of property tax increment; and

(ii) the 30-year period of the sales and use tax increment.

(c) The convention center reinvestment zone proposal may not stagger the collection periods for the parcels within the convention center reinvestment zone boundary and the parcels within the convention center reinvestment zone boundary shall have the same 30-year collection period.

(d) The convention center reinvestment zone proposal start date for the 30-year period described in this Subsection (4), shall be no sooner than January 1 of the year of the identified tax collection year.

(e) (i) For a convention center reinvestment zone in a capital city, revenue from the property tax increment and sales and use tax increment shall be distributed directly to a convention center public infrastructure district in a capital city created as required in Subsection 63N-3-607(8)(b); and

(ii) For a convention center reinvestment zone in a city other than a capital city, revenue from the property tax increment and sales and use tax increment may be distributed directly to the municipality or public infrastructure district as described in the convention center reinvestment zone proposal.

(5) The Governor's Office of Economic Opportunity may only propose a convention center reinvestment zone:

(a) within the boundary of the eligible municipality;

(b) consisting of a total area:

(i) not to exceed 50 acres; or

(ii) if greater than 50 acres, approved by the relevant eligible municipality;

(c) consisting only of contiguous parcels; and

(d) for a convention center reinvestment zone in a capital city, in an area that includes any portion of an existing convention center and any city block that is bordered by an existing convention center.

(6) (a) For a convention center reinvestment zone in a capital city, the Governor's Office of Economic Opportunity shall propose a convention center reinvestment zone on or before April 15, 2025.

(b) For a convention center reinvestment zone that is not in a capital city, the Governor's Office of Economic Opportunity shall propose a convention center reinvestment zone within 60 days after receiving a petition from the relevant city.

(7) A convention center reinvestment zone does not count toward the maximum of eight housing and transit reinvestment zones in a given county as provided in Subsection 63N-3-603(7)(a).

Section 38. Section 63N-3-604 is amended to read:

63N-3-604 (Effective upon governor's approval). Process for a proposal of a housing and transit reinvestment zone -- Analysis.

(1) Subject to approval of the housing and transit reinvestment zone committee as described in Section 63N-3-605, in order to create a housing and transit reinvestment zone, a municipality or public transit county that has general land use authority over the housing and transit reinvestment zone area, shall:

(a) prepare a proposal for the housing and transit reinvestment zone that:

(i) demonstrates that the proposed housing and transit reinvestment zone will meet the objectives described in Subsection 63N-3-603(1);

(ii) explains how the municipality or public transit county will achieve the requirements of Subsection 63N-3-603(2)(a)(i);

(iii) defines the specific transportation infrastructure needs, if any, and proposed improvements and estimated budgets;

(iv) defines the boundaries of:

(A) the housing and transit reinvestment zone; and

(B) the sales and use tax boundary corresponding to the housing and transit reinvestment zone boundary, as described in Section 63N-3-610;

(v) includes maps of the proposed housing and transit reinvestment zone to illustrate:

(A) the proposed boundary and radius from a public transit hub;

(B) proposed housing density within the housing and transit reinvestment zone; and

(C) existing zoning and proposed zoning changes related to the housing and transit reinvestment zone;

(vi) identifies any development impediments that prevent the development from being a market-rate investment [~~and~~], including proposed strategies and estimated budgets for addressing each one;

(vii) describes the proposed development plan and estimated budgets, including the requirements described in Subsections 63N-3-603(2) and (4);

(viii) establishes a base year and collection period to calculate the property tax increment within the housing and transit reinvestment zone;

(ix) establishes a sales and use tax base year to calculate the sales and use tax increment within the housing and transit reinvestment zone in accordance with Section 63N-3-610;

(x) describes projected maximum revenues generated and the amount of property tax increment capture from each taxing entity and proposed expenditures of revenue derived from the housing and transit reinvestment zone;

(xi) includes an analysis of other applicable or eligible incentives, grants, or sources of revenue that can be used to reduce the finance gap;

(xii) estimates budgets and evaluates possible benefits to active and public transportation availability and impacts on air quality;

(xiii) proposes a finance schedule to align expected revenue with required financing costs and payments;

(xiv) provides a pro-forma for the planned development that:

(A) satisfies the requirements described in Subsections 63N-3-603(2), (3), and (4); [~~and~~]

(B) includes data showing the cost difference between what type of development could feasibly be developed absent the housing and transit reinvestment zone property tax increment and the type of development that is proposed to be developed with the housing and transit reinvestment zone property tax increment; and

(C) provides estimated budgets and construction costs, anticipated revenue, financing, expenses, and other sources and uses of funds for the project area; and

(xv) for a housing and transit reinvestment zone at a commuter rail station, light rail station, or bus rapid transit station that is proposed and not in public transit service operation as of the date of submission of the proposal, demonstrates that the proposed station is:

(A) included as needed in phase one of a metropolitan planning organization's adopted long-range transportation plan and in phase one of the relevant public transit district's adopted long-range plan; and

(B) reasonably anticipated to be constructed in the near future; and

(b) submit the housing and transit reinvestment zone proposal to the Governor's Office of Economic Opportunity.

(2) As part of the proposal described in Subsection (1), a municipality or public transit county shall study and evaluate possible impacts of a proposed housing and transit reinvestment zone on parking within the city and housing and transit reinvestment zone.

(3) (a) After receiving the proposal as described in Subsection (1)(b), the Governor's Office of Economic Opportunity shall:

(i) within 14 days after the date on which the Governor's Office of Economic Opportunity receives the proposal described in Subsection (1)(b), provide notice of the proposal to all affected taxing entities, including the Tax Commission, cities, counties, school districts, metropolitan planning organizations, and the county assessor and county auditor of the county in which the housing and transit reinvestment zone is located; and

(ii) at the expense of the proposing municipality or public transit county as described in Subsection (5), contract with an independent entity to perform the financial gap analysis described in Subsection (3)(b).

(b) The gap analysis required in Subsection (3)(a)(ii) shall include:

(i) a description of the planned development;

(ii) a market analysis relative to other comparable project developments included in or adjacent to the municipality or public transit county absent the proposed housing and transit reinvestment zone;

(iii) an evaluation of the proposal to and a determination of the adequacy and efficiency of the proposal;

(iv) an evaluation of the proposed increment capture needed to cover the enhanced development costs associated with the housing and transit reinvestment zone proposal and enable the proposed development to occur; and

(v) based on the market analysis and other findings, an opinion relative to the appropriate amount of potential public financing reasonably determined to be necessary to achieve the objectives described in Subsection 63N-3-603(1).

(c) After receiving notice from the Governor's Office of Economic Opportunity of a proposed housing and transit reinvestment zone as described in Subsection (3)(a)(i), the State Tax Commission shall:

(i) evaluate the feasibility of administering the tax implications of the proposal; and

(ii) provide a letter to the Governor's Office of Economic Opportunity describing any challenges in the administration of the proposal, or indicating that the Tax Commission can feasibly administer the proposal.

(4) After receiving the results from the analysis described in Subsection (3)(b), the municipality or public transit county proposing the housing and transit reinvestment zone may:

(a) amend the housing and transit reinvestment zone proposal based on the findings of the analysis described in Subsection (3)(b) and request that the Governor's Office of Economic Opportunity submit the amended housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee; or

(b) request that the Governor's Office of Economic Opportunity submit the original housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee.

(5) (a) The Governor's Office of Economic Opportunity may accept, as a dedicated credit, up to $20,000 from a municipality or public transit county for the costs of the gap analysis described in Subsection (3)(b).

(b) The Governor's Office of Economic Opportunity may expend funds received from a municipality or public transit county as dedicated credits to pay for the costs associated with the gap analysis described in Subsection (3)(b).

Section 39. Section 63N-3-604.1 is enacted to read:

63N-3-604.1 (Effective upon governor's approval). Process for proposing a convention center reinvestment zone.

(1) To create a convention center reinvestment zone under this part, the Governor's Office of Economic Opportunity shall, after consulting with and giving notice to the related eligible municipality and county, provide a proposal for a convention center reinvestment zone to the housing and transit reinvestment zone committee.

(2) (a) The Governor's Office of Economic Opportunity shall ensure that a proposal for the creation of a convention center reinvestment zone includes the following information and data that:

(i) defines the boundary of the proposed convention center reinvestment zone;

(ii) describes generally the proposed development plan;

(iii) identifies a base year and collection period to calculate the property tax increment within the convention center reinvestment zone;

(iv) specifies a sales and use tax base year to calculate the sales and use tax increment within the convention center reinvestment zone in accordance with Section 63N-3-610.1;

(v) provides estimated project and investment objectives for the convention center reinvestment zone; and

(vi) outlines generally the impacts on transportation in and around the proposed convention center reinvestment zone.

(b) For a convention center reinvestment zone in a capital city, the proposal described in Subsection (2)(a) shall also provide estimated

budgets and construction costs, anticipated revenue, financing, expenses, and other sources and uses of funds for the project area.

(c) The proposal described in Subsection (2)(b) shall limit the use of funds to:

(i) a convention center;

(ii) a publicly owned entertainment venue;

(iii) parking; and

(iv) infrastructure related to the project.

(3) A proposal by the Governor's Office of Economic Opportunity for a convention center reinvestment zone shall demonstrate how the information and data provided in the proposal pursuant to Subsection (2) furthers the objectives described in Section 63N-3-603.1 and is in the public interest.

(4) After submitting the proposal as described in Subsection (2), the Governor's Office of Economic Opportunity shall provide notice of the proposal to all affected taxing entities, including the State Tax Commission, cities, counties, school districts, metropolitan planning organizations, and the county assessor and county auditor of the county in which the convention center reinvestment zone is located.

(5) After receiving notice from the Governor's Office of Economic Opportunity of a proposed convention center reinvestment zone as described in Subsection (4), the Tax Commission shall, within 14 days:

(a) evaluate the feasibility of administering the tax implications of the proposal; and

(b) provide a letter to the Governor's Office of Economic Opportunity describing any challenges in the administration of the proposal, or indicating that the State Tax Commission can feasibly administer the proposal.

Section 40. Section 63N-3-605 is amended to read:

63N-3-605 (Effective upon governor's approval). Housing and transit reinvestment zone committee -- Creation.

(1) For any housing and transit reinvestment zone proposed under this part, or for a first home investment zone proposed in accordance with Part 16, First Home Investment Zone Act, there is created a housing and transit reinvestment zone committee with membership described in Subsection (2).

(2) Each housing and transit reinvestment zone committee shall consist of the following members:

(a) one representative from the Governor's Office of Economic Opportunity, designated by the executive director of the Governor's Office of Economic Opportunity;

(b) one representative from each municipality that is a party to the proposed housing and transit reinvestment zone or first home investment zone, designated by the chief executive officer of each respective municipality;

(c) a member of the Transportation Commission created in Section 72-1-301;

(d) a member of the board of trustees of a large public transit district;

(e) one individual from the Office of the State Treasurer, designated by the state treasurer;

(f) two members designated by the president of the Senate;

(g) two members designated by the speaker of the House of Representatives;

(h) one member designated by the chief executive officer of each county affected by the housing and transit reinvestment zone or first home investment zone;

(i) two representatives designated by the school superintendent from the school district affected by the housing and transit reinvestment zone or first home investment zone; and

(j) one representative, representing the largest participating local taxing entity, after the municipality, county, and school district.

(3) The individual designated by the Governor's Office of Economic Opportunity as described in Subsection (2)(a) shall serve as chair of the housing and transit reinvestment zone committee.

(4) (a) A majority of the members of the housing and transit reinvestment zone committee constitutes a quorum of the housing and transit reinvestment zone committee.

(b) An action by a majority of a quorum of the housing and transit reinvestment zone committee is an action of the housing and transit reinvestment zone committee.

(5) (a) After the Governor's Office of Economic Opportunity receives the results of the analysis described in Section 63N-3-604, and after the Governor's Office of Economic Opportunity has received a request from the submitting municipality or public transit county to submit the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee, the Governor's Office of Economic Opportunity shall notify each of the entities described in Subsection (2) of the formation of the housing and transit reinvestment zone committee.

(b) For a first home investment zone, the housing and transit reinvestment zone committee shall follow the procedures described in Section 63N-3-1604.

(6) (a) The chair of the housing and transit reinvestment zone committee shall convene a public meeting to consider the proposed housing and transit reinvestment zone.

(b) A meeting of the housing and transit reinvestment zone committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(7) (a) The proposing municipality or public transit county shall present the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee in a public meeting.

(b) The housing and transit reinvestment zone committee shall, for a housing and transit reinvestment zone proposal:

(i) evaluate and verify whether the elements of a housing and transit reinvestment zone described in Subsections 63N-3-603(2) and (4) have been met; and

(ii) evaluate the proposed housing and transit reinvestment zone relative to the analysis described in Subsection 63N-3-604(2).

(c) The housing and transit reinvestment zone committee shall, for a convention center reinvestment zone proposal, evaluate and verify whether the objectives of a convention center reinvestment zone described in Section 63N-3-603.1 have been met.

(8) (a) Subject to Subsection (8)(b), the housing and transit reinvestment zone committee may:

(i) (A) for a housing and transit reinvestment zone, request changes to the housing and transit reinvestment zone proposal based on the analysis, characteristics, and criteria described in Section 63N-3-604; or

(B) for a convention center reinvestment zone, request changes to the convention center reinvestment zone proposal based on the

characteristics and criteria described in Sections 63N-3-603.1 and 63N-3-604.1; or

(ii) vote to approve or deny the proposal.

(b) Before the housing and transit reinvestment zone committee may approve the housing and transit reinvestment zone proposal, the municipality or public transit county proposing the housing and transit reinvestment zone shall ensure that the area of the proposed housing and transit reinvestment zone is zoned in such a manner to accommodate the requirements of a housing and transit reinvestment zone described in this section and the proposed development.

(9) If a housing and transit reinvestment zone is approved by the committee:

(a) the proposed housing and transit reinvestment zone is established according to the terms of the housing and transit reinvestment zone proposal;

(b) affected local taxing entities are required to participate according to the terms of the housing and transit reinvestment zone proposal; and

(c) each affected taxing entity is required to participate at the same rate[].

(10) A housing and transit reinvestment zone proposal may be amended by following the same procedure as approving a housing and transit reinvestment zone proposal.

(11) (a) The approval for a convention center reinvestment zone in a capital city may be completed with a condition that the relevant municipality also create a public infrastructure district as provided in Subsection 63N-3-607(8)(b).

(b) The approval described in Subsection (11)(a) shall verify that the requirements and limitations on use of funds is limited to the conditions described under Subsections 63N-3-604.1(2)(b) and (c).

Section 41. Section 63N-3-606 is amended to read:

63N-3-606 (Effective upon governor's approval). Notice requirements.

(1) In approving a housing and transit reinvestment zone or convention center reinvestment zone proposal, the housing and transit reinvestment zone committee shall follow the hearing and notice requirements for creating a housing and transit reinvestment zone or convention center reinvestment zone area proposal.

(2) Within 30 days after the housing and transit reinvestment zone committee approves a proposed housing and transit reinvestment zone, the municipality or public transit county, or for a convention center reinvestment zone, the Governor's Office of Economic Opportunity, shall:

(a) record with the recorder of the county in which the housing and transit reinvestment zone or convention center reinvestment zone is located a document containing:

(i) a description of the land within the housing and transit reinvestment zone or convention center reinvestment zone;

(ii) a statement that the proposed housing and transit reinvestment zone or convention center reinvestment zone has been approved; and

(iii) the date of adoption;

(b) transmit a copy of the description of the land within the housing and transit reinvestment zone or convention center reinvestment zone and an accurate map or plat indicating the boundaries of the housing and transit reinvestment zone or convention center reinvestment zone to the Utah Geospatial Resource Center created under Section 63A-16-505; and

(c) transmit a copy of the approved housing and transit reinvestment zone or convention center reinvestment zone proposal, map, and description of the land within the housing and transit reinvestment zone or convention center reinvestment zone, to:

(i) the auditor, recorder, attorney, surveyor, and assessor of the county in which any part of the housing and transit reinvestment zone or convention center reinvestment zone is located;

(ii) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(iii) the legislative body or governing board of each taxing entity;

(iv) the [~~tax commission~~]State Tax Commission; and

(v) the State Board of Education.

Section 42. Section 63N-3-607 is amended to read:

63N-3-607 (Effective upon governor's approval). Payment, use, and administration of revenue from a housing and transit reinvestment zone.

(1) [~~A~~]In accordance with this part:

(a) a municipality or public transit county may receive and use property tax increment and housing and transit reinvestment zone funds;

(b) (i) a public infrastructure district shall use the funds from a convention center reinvestment zone in a capital city within or for the benefit of a convention center reinvestment zone in a capital city; and

(ii) funds from a convention center reinvestment zone in a capital city may be used outside of the capital city convention center reinvestment zone if the use meets the objectives described in Section 63N-3-603.1 and is determined by the board of the public infrastructure district to be a direct benefit to the convention center reinvestment zone in a capital city; and

(c) [~~in accordance with this part~~]a municipality or a public infrastructure district may receive and use property tax increment and convention center reinvestment zone funds for a convention center reinvestment zone that is not within a capital city.

(2) (a) [~~A~~]Except as provided in Subsection (3), a county that collects property tax on property located within a housing and transit reinvestment zone shall, in accordance with Section 59-2-1365, distribute to the municipality or public transit county any property tax increment the municipality or public transit county is authorized to receive up to the maximum approved by the housing and transit reinvestment zone committee.

(b) [~~Tax~~]Property tax increment distributed to a municipality or public transit county in accordance with Subsection (2)(a) is not revenue of the taxing entity or municipality or public transit county.

(c) (i) [~~Tax~~]Property tax increment paid to the municipality or public transit county are housing and transit reinvestment zone funds and shall be administered by an agency created by the municipality or public transit county within which the housing and transit reinvestment zone is located.

(ii) Before an agency may receive housing and transit reinvestment zone funds from the municipality or public transit county, the municipality or public transit county and the agency shall enter into an interlocal agreement with terms that:

(A) are consistent with the approval of the housing and transit reinvestment zone committee; and

(B) meet the requirements of Section 63N-3-603or, for a convention center reinvestment zone, the requirements of Section 63N-3-603.1.

(3) (a) A county that collects property tax on property located within a convention center reinvestment zone shall, in accordance with Section 59-2-1365, distribute to the relevant public infrastructure district created by the eligible municipality any property tax increment the public infrastructure district is authorized to receive up to the amounts approved by the housing and transit reinvestment zone committee.

(b) Property tax increment distributed to a public infrastructure district in accordance with Subsection (3)(a) is not revenue of the taxing entity or municipality.

(c) Property tax increment paid to the public infrastructure district are convention center reinvestment zone funds and shall be administered by the public infrastructure district within which the convention center reinvestment zone is located.

[~~(3)~~](4) (a) (i) A municipality or public transit county and agency shall use housing and transit reinvestment zone funds within, or for the direct benefit of, the housing and transit reinvestment zone.

(ii) A public infrastructure district shall use convention center reinvestment zone funds within, or for the benefit of, the convention center reinvestment zone.

(b) If any housing and transit reinvestment zone funds will be used outside of the housing and transit reinvestment zone there must be a finding in the approved proposal for a housing and transit reinvestment zone that the use of the housing and transit reinvestment zone funds outside of the housing and transit reinvestment zone will directly benefit the housing and transit reinvestment zone.

[~~(4)~~](5) (a) A municipality or public transit county shall use housing and transit reinvestment zone funds to achieve the purposes described in Subsections 63N-3-603(1) and (2), by paying all or part of the costs of any of the following:

[~~(a)~~](i) income targeted housing costs;

[~~(b)~~](ii) structured parking within the housing and transit reinvestment zone;

[~~(c)~~](iii) enhanced development costs;

[~~(d)~~](iv) horizontal construction costs;

[~~(e)~~](v) vertical construction costs;

[~~(f)~~](vi) property acquisition costs within the housing and transit reinvestment zone; or

[~~(g)~~](vii) the costs of the municipality or public transit county to create and administer the housing and transit reinvestment zone, which may not exceed 2% of the total housing and transit reinvestment zone funds, plus the costs to complete the gap analysis described in Subsection 63N-3-604(2).

(b) A public infrastructure district shall use convention center reinvestment zone funds to achieve the purposes described in Section 63N-3-603.1.

[~~(5)~~](6) Housing and transit reinvestment zone funds may be paid to a participant, if the agency and participant enter into a participation agreement which requires the participant to utilize the housing and transit reinvestment zone funds as allowed in this section.

[~~(6)~~](7) (a) Housing and transit reinvestment zone funds may be used to pay all of the costs of bonds issued by the municipality or public transit county in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.

(b) Convention center reinvestment zone funds may be used to pay all of the costs of debt incurred by the public infrastructure district, including the cost to issue and repay the debt including interest.

[~~(7)~~](8) (a) A municipality or public transit county may create one or more public infrastructure districts within the housing and transit reinvestment zone under Title 17D, Chapter 4, Public Infrastructure District Act, and pledge and utilize the housing and transit reinvestment zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

(b) An eligible municipality that is a capital city shall create one or more public infrastructure districts within the convention center reinvestment zone under Title 17D, Chapter 4, Public Infrastructure District Act, and the convention center reinvestment zone funds may be used to pay all or any portion of debt incurred by the public infrastructure district, including the cost to issue and repay the debt including interest.

Section 43. Section 63N-3-608 is amended to read:

63N-3-608 (Effective upon governor's approval). Applicability to an existing community reinvestment project.

(1) For a housing and transit reinvestment zone created under this part that overlaps any portion of an existing inactive industrial site community reinvestment project area plan created [~~pursuant to~~]in accordance withTitle 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act:

[~~(1)~~](a) if the community reinvestment project area plan captures less than 80% of the property tax increment from a taxing entity, or if a taxing entity is not participating in the community reinvestment project area plan, the housing and transit reinvestment zone may capture the difference between:

[~~(a)~~](i) 80%; and

[~~(b)~~](ii) the percentage of property tax increment captured pursuant to the community reinvestment project area plan; and

[~~(2)~~](b) if a community reinvestment project area plan expires before the housing and transit reinvestment zone, the housing and transit reinvestment zone may capture the property tax increment allocated to the community reinvestment project area plan for any remaining portion of the term of the housing and transit reinvestment zone and the base year shall be updated in accordance with Subsection 63N-3-602(4).

(2) For a convention center reinvestment zone created under this part that overlaps any portion of an existing community reinvestment project area created in accordance with Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act:

(a) if the community reinvestment project area captures less than 100% of the property tax increment from a taxing entity, or if a taxing entity is not participating in the community reinvestment project area, the convention center reinvestment zone may capture the difference between:

(i) 100%; and

(ii) the percentage of property tax increment captured pursuant to the community reinvestment project area for each taxing entity; and

(b) if a community reinvestment project area plan expires before the convention center reinvestment zone, the convention center reinvestment zone may capture the property tax increment allocated to the community reinvestment project area for any remaining portion of the term of the convention center reinvestment zone with the base year relating back to the base year established by the community reinvestment project area.

Section 44. Section 63N-3-609 is amended to read:

63N-3-609 (Effective upon governor's approval). Property tax increment protections.

(1) Upon petition by a participating taxing entity or on the initiative of the housing and transit reinvestment zone committee creating a housing and transit reinvestment zone or convention center reinvestment zone, a housing and transit reinvestment zone or convention center reinvestment zone may suspend or terminate the collection of property tax increment in a housing and transit reinvestment zone or convention center reinvestment zone if the housing and transit reinvestment zone committee determines, by clear and convincing evidence, presented in a public meeting of the housing and transit reinvestment zone committee, that:

(a) a substantial portion of the property tax increment collected in the housing and transit reinvestment zone or convention center reinvestment zone has not or will not be used for the purposes provided in Section 63N-3-607; and

(b) (i) the housing and transit reinvestment zone or convention center reinvestment zone and related public infrastructure district has no indebtedness secured by funds provided for in this chapter; or

(ii) the housing and transit reinvestment zone or convention center reinvestment zone and related public infrastructure district has no binding financial obligations secured by this chapter.

(2) A housing and transit reinvestment zone or convention center reinvestment zone may not collect property tax increment in excess of the property tax increment projections or limitations set forth in the housing and transit reinvestment zone or convention center reinvestment zone proposal.

(3) The agency administering the property tax increment collected in a housing and transit reinvestment zone under Subsection 63N-3-607(2)(c)or the public infrastructure district administering the property tax increment collected in a convention center reinvestment zone under Subsection 63N-3-607(3)(c), shall have standing in a court with proper jurisdiction to enforce provisions of the housing and transit reinvestment zone or convention center reinvestment zone proposal, participation agreements, and other agreements for the use of the property tax increment collected.

(4) The agency administering property tax increment from a housing and transit reinvestment zone under Subsection 63N-3-607(2)(c)or the public infrastructure district administering the property tax increment collected in a convention center reinvestment zone under Subsection 63N-3-607(3)(c) which is collecting property tax increment shall follow the reporting requirements described in Section 17C-1-603 and the audit requirements described in Sections 17C-1-604 and 17C-1-605.

(5) For each housing and transit reinvestment zone or convention center reinvestment zone collecting tax increment within a county, the county auditor shall follow the reporting requirement found in Section 17C-1-606.

Section 45. Section 63N-3-610 is amended to read:

63N-3-610 (Effective upon governor's approval). Sales and use tax increment in a housing and transit reinvestment zone.

(1) A housing and transit reinvestment proposal shall, in consultation with the tax commission:

(a) create a sales and use tax boundary as described in Subsection (2); and

(b) establish a sales and use tax base year and collection period to calculate and transfer the state sales and use tax increment within the housing and transit reinvestment zone, which sales and use tax base year is established prospectively, 90 days after the date of the notice described in Subsection (4).

(2) (a) The municipality or public transit county, in consultation with the tax commission, shall establish a sales and use tax boundary that:

(i) is based on state sales and use tax collection boundaries, which are determined using the ZIP Code as defined in Section 59-12-102, including the four digit delivery route extension;

(ii) follows as closely as reasonably practicable the boundary of the housing and transit reinvestment zone; and

(iii) is one contiguous area that includes at least the entire boundary of the housing and transit reinvestment zone.

(b) If a state sales and use tax boundary is [~~bisected~~]intersected by the boundary of the housing and transit reinvestment zone, the housing and transit reinvestment zone may include the entire state sales and use tax boundary.

(c) The municipality or public transit county shall include the sales and use tax boundary in the housing and transit reinvestment zone proposal as described in Section 63N-3-604.

(3) (a) Beginning the first day of [~~the~~]a calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the tax commission shall, at least annually, transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary into the Transit Transportation Investment Fund created in Section 72-2-124.

(b) A municipality or public transit county may only propose one sales and use tax increment period and one sales and use tax base year for a housing and transit reinvestment zone established under this [~~section~~]part.

(4) (a) The establishment of a sales and use tax base year and the requirement described in Subsection (3) to transfer incremental sales tax revenue shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day waiting period, beginning on the date the commission receives notice from the municipality or public transit county meeting the requirements of Subsection (4)(b).

(b) The notice described in Subsection (4)(a) shall include:

(i) a statement that the housing and transit reinvestment zone will be established under this part;

(ii) the approval date and effective date of the housing and transit reinvestment zone; and

(iii) the definitions of the sales and use tax boundary and sales and use tax base year.

(5) The State Tax Commission may retain and deposit an administrative charge in accordance with Section 59-1-306 from sales and use tax increment the State Tax Commission collects and administers under this section.

Section 46. Section 63N-3-610.1 is enacted to read:

63N-3-610.1 (Effective upon governor's approval). Sales and use tax increment in a convention center reinvestment zone.

(1) A convention center revitalization zone proposal shall, in consultation with the State Tax Commission:

(a) create a sales and use tax boundary as described in Subsection (2); and

(b) establish a sales and use tax base year to calculate and transfer the sales and use tax increment within the convention center revitalization zone 90 days after the date of the notice described in Subsection (4).

(2) (a) The Governor's Office of Economic Opportunity, in consultation with the State Tax Commission, shall establish a sales and use tax boundary that:

(i) is based on state sales and use tax collection boundaries, which are determined using the ZIP Code as defined in Section 59-12-102, including the four digit delivery route extension;

(ii) follows as closely as reasonably practicable the boundary of the convention center revitalization zone; and

(iii) is one contiguous area that includes at least the entire boundary of the convention center revitalization zone.

(b) If a state sales and use tax boundary is intersected by the boundary of the convention center revitalization zone, the convention center revitalization zone may include the entire state sales and use tax boundary.

(c) The Governor's Office of Economic Opportunity shall include the sales and use tax boundary in the convention center revitalization zone proposal as described in Section 63N-3-603.1.

(3) (a) For a convention center reinvestment zone that is not located in a capital city, beginning no sooner than January 1, 2026, and on the first day of a calendar quarter after the year set in the proposal and after the sales and use tax boundary for a convention center reinvestment zone is established, the State Tax Commission shall, at least annually, transfer an amount equal to 100% of the local sales and use tax increment within an established sales and use tax boundary to the relevant municipality or public infrastructure district.

(b) For a convention center reinvestment zone that is located in a capital city, beginning no sooner than January 1, 2026, and on the first day of a calendar quarter after the year set in the proposal and after the sales and use tax boundary for a convention center reinvestment zone in a capital city is established, the State Tax Commission shall, at least annually, transfer an amount equal to 50% of the state sales and use tax increment and 100% of any local sales and use tax increment within an established sales and use tax boundary to the public infrastructure district created pursuant to Subsection 63N-3-607(8)(b).

(4) The Governor's Office of Economic Opportunity may only propose one sales and use tax increment period and one sales and use tax base year for a convention center revitalization zone established under this part.

(5) (a) The distribution of the sales and use tax increment shall begin:

(i) on the first day of a calendar quarter;

(ii) after a 90-day waiting period, beginning on the date the State Tax Commission receives notice from the Governor's Office of Economic Opportunity meeting the requirements of Subsection (5)(b); and

(iii) no earlier than January 1, 2026 after the year set in the proposal of the approved convention center reinvestment zone.

(b) The notice described in Subsection (5)(a) shall include:

(i) a statement that the convention center revitalization zone will be established under this part;

(ii) the approval date and effective date of the convention center revitalization zone; and

(iii) the definitions of the sales and use tax boundary and sales and use tax base year.

(6) The State Tax Commission may retain and deposit an administrative charge in accordance with Section 59-1-306 from sales and use tax revenues the State Tax Commission collects and administers under this section.

Section 47. Section 63N-3-611 is amended to read:

63N-3-611 (Effective upon governor's approval). Boundary adjustments.

If the relevant county assessor or county auditor adjusts parcel boundaries relevant to a housing and transit reinvestment zone or a convention center reinvestment zone, the municipality administering the property tax increment collected in the housing and transit reinvestment zone, or for a convention center reinvestment zone, the Governor's Office of Economic Opportunity may make corresponding adjustments to the boundary of the housing and transit reinvestment zone.

Section 48. Section 63N-3-1403 is amended to read:

63N-3-1403 (Effective upon governor's approval). Allowable uses of funds.

(1) A local government shall use any funds or revenue provided under Section 59-12-402.5within and for the direct benefit of the project area, and subject to the requirements of this section.

(2) In addition to the requirements of Subsection (1), the allowable uses for the funds and revenue collected as authorized under this part are:

(a) costs for, including debt service or the costs of bonds issued by the local government or state:

(i) paid to or for the benefit of a project participant for the construction or remodel of a qualified stadium within the project area in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay bonds and interest; and

(ii) the construction, demolition, modification, or realignment of infrastructure or structures within the project area for the purpose of:

(A) complementing a qualified stadium and its associated uses, including entertainment and recreational uses on land within the project area; and

(B) improvement, demolition, modification, realignment, or restoration of areas within the project area for pedestrian and traffic flow, and for aesthetic, entertainment, recreational, and safety purposes;

(b) infrastructure and roads, including state roads, within the project area;

(c) traffic mitigation costs within the project area;

(d) law enforcement or public security needs within the project area; [~~and~~]

(e) land acquisition costs;

(f) commercial development, housing development, and parking infrastructure within the project area; and

[~~(e)~~](g) costs of the local government to create a project area or participation agreement and to administer the funds, which cost may not exceed 1% of the tax revenue collected under Section 59-12-402.5.

(3) (a) The amount of funds and revenue used for, or for the benefit of, the project participant shall be limited to a maximum dollar amount that shall be explicitly stated in the participation agreement.

(b) A project participant may not receive the benefit of funds or revenue in an amount greater than the maximum dollar amount referred to in Subsection (3)(a).

Section 49. Section 72-1-214 is amended to read:

72-1-214 (Effective upon governor's approval). Department designated as state safety oversight agency for rail fixed guideway public transportation safety -- Powers and duties -- Rulemaking.

(1) (a) Except as provided in Subsection (1)(b), as used in this section, "fixed guideway" means the same as that term is defined in Section 59-12-102.

(b) For purposes of this section, "fixed guideway" does not include a rail system subject to regulation by the Federal Railroad Administration.

(2) The department is designated as the state safety oversight agency for rail fixed guideway public transportation safety in accordance with 49 U.S.C. Sec. 5329(e)(4).

(3) As the state safety oversight agency, the department may, to the extent necessary to fulfill the department's obligations under federal law:

(a) enter into and inspect the property of a fixed guideway rail system receiving federal funds without prior notice to the operator;

(b) audit an operator of a fixed guideway rail system receiving federal funds for compliance with:

(i) federal and state laws regarding the safety of the fixed guideway rail system; and

(ii) a public transportation agency safety plan adopted by a specific operator in accordance with 49 U.S.C. Sec. 5329(d);

(c) direct the operator of a fixed guideway rail system to correct a safety hazard by a specified date and time;

(d) prevent the operation of all or part of a fixed guideway rail system that the department has determined to be unsafe;

(e) audit, review, approve, and oversee an operator of a fixed guideway rail system receiving federal funds for compliance with a plan adopted by the operator in compliance with 49 U.S.C. Sec. 5329(d); and

(f) enforce statutes, rules, regulations, and executive orders relating to the operation of a fixed guideway rail public transportation system in Utah.

(4) The department shall, at least annually, provide a status report on the safety of the rail fixed guideway public transportation systems the department oversees to:

(a) the Federal Transit Administration;

(b) the governor; and

(c) members of the board of any rail fixed guideway public transportation system that the department oversees in accordance with this section.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules necessary to administer and enforce this section, including rules providing for the legal and financial independence of state safety oversight agency activities and functions.

(b) The rules made in accordance with Subsection (5)(a) shall conform to the requirements of and regulations enacted in accordance with 49 U.S.C. Sec. 5329.

(6) (a) Notwithstanding any other agreement, a county, city, or town with fixed guideway rail transit service provided by a public transit district that is subject to safety oversight as provided in this section may request local option transit sales tax in accordance with Section 59-12-2206 and spend local option transit sales tax in the amount requested by the department to meet nonfederal match requirements for costs of safety oversight described in this section.

(b) A county, city, or town that requests local option transit sales tax as described in Subsection (6)(a) shall transmit to the department all of the funds requested under Subsection (6)(a) and transmitted to the county, city, or town under Subsection [~~59-12-2206(5)(b)~~]59-12-2206(6)(b).

(c) A county, city, or town that requests local option transit sales tax as described in Subsection (6)(a) may not request more local option transit sales tax than is necessary to carry out the state safety oversight functions under this section and the amount shall only reflect a maximum of 20% nonfederal match requirement of eligible costs of state safety oversight.

Section 50. Section 72-1-304 is amended to read:

72-1-304 (Effective upon governor's approval). Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;

(ii) paved pedestrian or paved nonmotorized transportation projects described in Section 72-2-124;

(iii) public transit projects that directly add capacity to the public transit systems within the state, not including facilities ancillary to the public transit system; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or public transit district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or public transit district nominates a project for prioritization by the commission, the local government or public transit district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or public transit district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or public transit district will provide the percentage of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or public transit district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the percentage of costs required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

(3) (a) When prioritizing a public transit project that increases capacity, the commission:

(i) may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802; and

(ii) shall give priority consideration to projects that are within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(b) When prioritizing a transportation project that increases capacity, the commission may give priority consideration to projects that are:

(i) part of a transportation reinvestment zone created under Section 11-13-227 if:

(A) the state is a participant in the transportation reinvestment zone; or

(B) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system; or

(ii) within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(c) If the department receives a notice of prioritization for a municipality as described in [~~Subsection 10-9a-408(5)~~]Subsection 10-9a-408(6), or a notice of prioritization for a county as described in [~~Subsection 17-27a-408(5)~~]Subsection 17-27a-408(6), the commission may give priority consideration to transportation projects that are within the boundaries of the municipality or the unincorporated areas of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that the municipality or county no longer qualifies for prioritization under this Subsection (3)(c).

(4) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(6) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (5).

Section 51. Section 72-17-105 is amended to read:

72-17-105 (Effective upon governor's approval). Establishment of administrative fees -- Payment -- Expenditures.

(1) The provisions in this section apply beginning on May 7, 2025.

(2) The office shall annually determine a fee to be paid by each railroad that operated within the state and is subject to the jurisdiction of the office on a pro rata basis as described in Subsection (3).

(a) The office and the department shall establish the annual fee to produce a total amount not less than the amount required to regulate railroads and carry out the duties described in this part.

(b) The office shall use the revenue generated by the fees paid by each railroad for the investigation and enforcement activities of the office as authorized under this part.

(3) (a) For grade crossings inspections and services, the office shall establish and each railroad shall pay a fee based on:

(i) as of January 1 of each year, the number of crossings the railroad operates within this state that cross a highway, whether at grade, by overhead structure, or subway; and

(ii) the frequency of use of each crossing the railroad operates, including:

(A) the frequency of train operation at the crossing; and

(B) the frequency of highway traffic at the crossing.

(b) For hazardous materials related inspections and services, the office shall establish and each railroad shall pay a fee based on the tonnage of hazardous materials transported in this state during a given year.

(c) For motive power and equipment related inspections and services, the office shall establish and each railroad shall pay a fee based on the number of motive power units and other equipment units operated by the railroad in this state.

(d) For track related inspections and services, the office shall establish and each railroad shall pay a fee based on the number of miles of track owned or operated by the railroad within this state.

(e) For signal and train control inspections and services, as well as operating practices inspections and services, the office shall establish and each railroad shall pay a fee based on gross operating revenue of each railroad generated within this state.

(f) (i) For inspection services related to commuter rail, notwithstanding any other agreement, a county or municipality with commuter rail service provided by a public transit district may request local option transit sales tax in accordance with Section 59-12-2206 and spend local option transit sales tax in the amount requested by the office.

(ii) A county or municipality that requests local option transit sales tax as described in Subsection (3)(f)(i) may transmit to the office the funds requested under Subsection (3)(f)(i) and transmitted to the county or municipality under Subsection [~~59-12-2206(5)(b)~~]59-12-2206(6)(b).

(iii) A county or municipality that requests local option transit sales tax as described in Subsection (3)(f)(i) may not request more local option transit sales tax than is necessary to carry out the safety inspection and functions under this chapter.

(iv) The office is not required to charge or collect a fee related to inspections of commuter rail.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to establish each of the fee amounts described in Subsection (3):

(i) according to the data described in Subsection (3); and

(ii) to collect an amount sufficient to cover the budget and costs to administer the duties of the office.

(b) The department shall annually adjust the fees established in accordance with Subsection (4)(a) to account for inflation and other budgetary factors.

(5) Each railroad that operates within this state shall pay to the office the fees described and established by the office.

Section 52. Section 73-10-36 is amended to read:

73-10-36 (Effective upon governor's approval). Division to provide technical assistance in local government planning.

(1) As used in this section:

(a) "Division" means the Division of Water Resources.

(b) "General plan":

(i) for a municipality, means the same as that term is defined in Section 10-9a-103; and

(ii) for a county, means the same as that term is defined in Section 17-27a-103.

(c) "Local government" means a county or a municipality, as defined in Section 10-1-104.

(d) "Watershed council" means a council created under Chapter 10g, Part 3, Watershed Councils Act.

(2) The division shall provide technical assistance to a local government to support the local government's adoption of a water use and preservation element in a general plan.

(3) When consulted by a local government for information and technical resources regarding regional water conservation goals under Subsection 10-9a-403(2)(f)(vi) or [~~17-27a-403(2)(f)(ii)~~]17-27a-403(2)(e)(ii), the division may seek input from the appropriate watershed council or councils.

Section 53. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect:

(a) except as provided in Subsection (1)(b), May 7, 2025; or

(b) if approved by two-thirds of all members elected to each house:

(i) upon approval by the governor;

(ii) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(iii) in the case of a veto, the date of veto override.

(2) The actions affecting the following sections take effect on January 1, 2026:

(a) Section 59-2-924.2 (Effective 01/01/26); and

(b) Section 59-2-924 (Effective 01/01/26).

CHAPTER 30
H. B. 33
Passed February 20, 2025
Approved March 12, 2025
Effective May 7, 2025

CHILD WELFARE REPORTING AMENDMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill amends provisions concerning false reports of child abuse or neglect.

Highlighted Provisions:

This bill:

- ► requires the Division of Child and Family Services to notify law enforcement when the division determines that a person knowingly made a false report of child abuse or neglect; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-2-611, as renumbered and amended by Laws of Utah 2022, Chapter 334

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

Section 1. Section 80-2-611 is amended to read:

80-2-611. False reports -- Investigation -- Notice of penalty.

(1) The division may conduct an investigation to determine whether a report under Section 80-2-602 or 80-2-603 is false.

(2) The division shall send a certified letter to a person who makes a report of abuse or neglect that is placed into or included in any part of the Management Information System, if the division determines, at the conclusion of the division's investigation, that:

(a) the report is false;

(b) it is more likely than not that the person knew the report was false at the time that person made the report; and

(c) the reporting person's address is known or reasonably available.

(3) The certified letter described in Subsection (2) shall inform the reporting person of:

(a) the division's determination made under Subsection (2);

(b) the penalty for submitting false information under Section 76-8-506 and other applicable laws; and

(c) the obligation [~~or ability~~]of the division under Subsection (4) to inform law enforcement and the person alleged to have committed abuse or neglect[~~:~~].

[~~(i) in the present instance if the division considers an immediate referral of the reporting person to law enforcement to be justified by the facts; or~~]

[~~(ii) if the reporting person submits a subsequent false report involving the same alleged perpetrator or victim.~~]

(4) The division:

(a) [~~may~~]subject to Subsection (4)(b), shall inform law enforcement and the alleged perpetrator of a report for which a certified letter is required to be sent under Subsection (2)[~~, if an immediate referral is justified by the facts~~]; and

[~~(b) shall inform law enforcement and the alleged perpetrator of a report for which a certified letter is required to be sent under Subsection (2) if a second letter is sent to the reporting person involving the same alleged perpetrator or victim; and~~]

[~~(c)~~](b) shall determine, in consultation with law enforcement:

(i) what information should be given to an alleged perpetrator relating to a false report; and

(ii) whether good cause exists, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for not informing an alleged perpetrator about a false report.

(5) This section does not require the division to conduct an investigation beyond what is described in Subsections (1) and (2), to determine whether a report is false.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 31
S. B. 166
Passed February 27, 2025
Approved March 12, 2025
Effective March 12, 2025

POINT OF THE MOUNTAIN STATE LAND AUTHORITY AMENDMENTS

Chief Sponsor: Jerry W Stevenson
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies provisions related to the Point of the Mountain State Land Authority.

Highlighted Provisions:

This bill:

- ► modifies definitions;
- ► clarifies that the authority of a local government under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, or Title 17, Chapter 27a, County Land Use, Development, and Management Act, does not apply to the use of point of the mountain state land;
- ► describes the method for a county treasurer to distribute privilege tax to the Point of the Mountain State Land Authority (authority);
- ► repeals and reenacts provisions related to the authority board and modifies the composition of the authority board;
- ► modifies the procedure for the authority to provide notice of a public hearing;
- ► requires the county recorder for a county of the first class to record a plat submitted by the authority for point of the mountain state land, if certain requirements are met; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-59-102, as last amended by Laws of Utah 2024, Chapters 53, 207 and 438
11-59-103, as last amended by Laws of Utah 2023, Chapter 263
11-59-202, as last amended by Laws of Utah 2024, Chapters 53, 207
11-59-207, as last amended by Laws of Utah 2024, Chapter 207
11-59-303, as enacted by Laws of Utah 2018, Chapter 388
11-59-401, as last amended by Laws of Utah 2021, Chapters 84, 345
17-21-20, as last amended by Laws of Utah 2022, Chapter 420
51-4-2, as last amended by Laws of Utah 2023, Chapter 16
59-4-101, as last amended by Laws of Utah 2024, Chapter 419

REPEALS AND REENACTS:

11-59-302, as last amended by Laws of Utah 2023, Chapter 263

REPEALS:

11-59-305, as enacted by Laws of Utah 2018, Chapter 388

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

Section 1. Section 11-59-102 is amended to read:
11-59-102. Definitions.

As used in this chapter:

(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(2) "Board" means the authority's board, created in Section 11-59-301.

(3) "Development":

(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including:

(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other preliminary site work; and

(iii) any associated planning, design, engineering, and related activities; and

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and

(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.

(4) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(5) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.

(6) "Point of the mountain state land" means:

(a) the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility; and

(b) any land, in addition to the land described in Subsection (6)(a), that:

(i) the state or authority acquires; and

(ii) is contiguous to the land described in Subsection (6)(a).

(7) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(8) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity; and

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, clean energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities; and

(iii) greenspace, parks, trails, recreational amenities, or other similar facilities.

(9) "Taxing entity" means the same as that term is defined in Section 59-2-102.

Section 2. Section 11-59-103 is amended to read:

11-59-103. Scope of chapter -- Limit on selling or leasing point of the mountain state land -- Authority control over point of the mountain state land -- Role of Division of Facilities Construction and Management -- Local government authority not applicable.

(1) This chapter governs the management of the point of the mountain state land, and the process of planning, managing, and implementing the development of the point of the mountain state land.

(2) (a) No part of the point of the mountain state land may be sold or otherwise disposed of or leased without the approval of the board.

(b) The authority has complete and exclusive control over the management, development, and disposition of the point of the mountain state land.

(3) (a) The facilities division serves the role of compliance agency under Title 15A, State Construction and Fire Codes Act, with respect to the point of the mountain state land.

(b) The facilities division is the permitting agency responsible for the issuance of a building permit or certificate of occupancy related to construction on the point of the mountain state land, in accordance with applicable building codes and standards.

(4) The [~~zoning~~]authority of a local government under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, or Title 17, Chapter 27a, County Land Use, Development, and Management Act, does not apply to the use of the point of the mountain state land or to any improvements constructed on the point of the mountain state land, including improvements constructed by an entity other than the authority.

Section 3. Section 11-59-202 is amended to read:

11-59-202. Authority powers.

The authority may:

(1) as provided in this chapter, plan, manage, and implement the development of the point of the mountain state land, including the ongoing operation of facilities on the point of the mountain state land;

(2) undertake, or engage a consultant to undertake, any study, effort, or activity the board considers appropriate to assist or inform the board about any aspect of the proposed development of the point of the mountain state land, including the best development model and financial projections relevant to the authority's efforts to fulfill its duties and responsibilities under this section and Section 11-59-203;

(3) sue and be sued;

(4) enter into contracts generally, including a contract for the sharing of records under Section 63G-2-206;

(5) buy, obtain an option upon, or otherwise acquire any interest in real or personal property, as necessary to accomplish the duties and responsibilities of the authority, including an interest in real property, apart from point of the mountain state land, or personal property, outside point of the mountain state land, for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(6) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(7) enter into a lease agreement on real or personal property, either as lessee or lessor;

(8) provide for the development of the point of the mountain state land under one or more contracts, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the point of the mountain state land;

(9) exercise powers and perform functions under a contract, as authorized in the contract;

(10) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend

any funds so received for any of the purposes of this chapter;

(11) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(12) subject to Part 6, Authority Bonds, issue bonds to finance the undertaking of any development objectives of the authority;

(13) issue bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(14) hire employees, including contract employees, in addition to or in place of staff provided under Section 11-59-304;

(15) transact other business and exercise all other powers provided for in this chapter;

(16) enter into a development agreement with a developer of some or all of the point of the mountain state land;

(17) provide for or finance an energy efficiency upgrade, a clean energy system, or electric vehicle charging infrastructure , as those terms are defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

(18) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(19) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more local government entities for the delivery of services to the point of the mountain state land;

(20) enter into an agreement with the federal government or an agency of the federal government, as the board considers necessary or advisable, to enable or assist the authority to exercise its powers or fulfill its duties and responsibilities under this chapter;

(21) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the point of the mountain state land; and

(22) impose impact fees under Title 11, Chapter 36a, Impact Fees Act, and other fees related to development activities.

Section 4. Section 11-59-207 is amended to read:

11-59-207. Privilege tax on leased property on state-owned land.

(1) As used in this section:

[~~(a) "Annual assessment" means an assessment:~~]

[~~(i) that is levied and collected each year, as provided in this section; and~~]

[~~(ii) in an amount that is the equivalent of the cumulative real property tax that would be levied and collected on leased property by all taxing entities if the leased property were not exempt property.~~]

[~~(b)~~](a) "Exempt property" means real property that is exempt from ad valorem property tax because the real property is owned by the state.

[~~(c)~~](b) "Lease agreement" means an agreement by which a private person leases from the state real property that is part of the point of the mountain state land.

[~~(d)~~](c) (i) "Leased property" means real property that:

(A) is part of the point of the mountain state land;

(B) is leased by a private person; and

(C) would be subject to ad valorem property tax if the real property were owned by the private person.

(ii) "Leased property" includes attachments and other improvements to the real property that would be included in an assessment of the value of the real property if the real property were not exempt property.

[~~(e) "Leased property value" means the value that leased property would have if the leased property were subject to ad valorem property tax.~~]

[~~(f)~~](d) "Lessee" means a private person that leases property that is part of the point of the mountain state land under a lease agreement.

(e) "Privilege tax" means a tax imposed under Section 59-4-101.

(2) Beginning January 1 of the year immediately following the execution of a lease agreement, [~~a lessee under the lease agreement shall pay an annual assessment with respect to the leased property that is the subject of the lease agreement.~~]the possession or other beneficial use enjoyed by any person of property on point of the mountain state land, if that property is used in connection with a business conducted for profit, is subject to Title 59, Chapter 4, Privilege Tax.

(3) The treasurer of the county in which the point of the mountain state land is located shall, in the manner and at the time provided in Section 59-2-1365:

(a) collect privilege tax from a lessee; and

(b) distribute privilege tax revenue to the authority in the following percentages:

(i) beginning January 1, 2025, 100% of the revenue generated by the privilege tax on point of the mountain state land;

(ii) beginning January 1, 2038, 96.3% of the revenue generated by the privilege tax on point of the mountain state land;

(iii) beginning January 1, 2044, 92.5% of the revenue generated by the privilege tax on point of the mountain state land;

(iv) beginning January 1, 2049, 90% of the revenue generated by the privilege tax on point of the mountain state land;

(v) beginning January 1, 2054, 87.5% of the revenue generated by the privilege tax on point of the mountain state land; and

(vi) beginning January 1, 2068, 25% of the revenue generated by the privilege tax on point of the mountain state land.

[~~(3) In a county in which the point of the mountain state land is located:~~]

[~~(a) the county assessor shall determine the leased property value of leased property that is subject to an annual assessment as though the leased property were subject to ad valorem property tax;~~]

[~~(b) the county treasurer shall collect an annual assessment in the same way and at the same time that the treasurer would collect ad valorem property tax on the leased property if the leased property were subject to ad valorem property tax;~~]

[~~(c) the county may retain an administrative fee for collecting and distributing the annual assessment in the same amount that would apply if the leased property were not exempt property; and~~]

[~~(d) the county treasurer shall distribute to the authority all revenue from an annual assessment on leased property in the same way and at the same time as the treasurer distributes ad valorem property tax revenue to taxing entities in accordance with Section 59-2-1365.~~]

[~~(4) Leased property is not subject to a privilege tax under Title 59, Chapter 4, Privilege Tax.~~]

Section 5. Section 11-59-302 is repealed and re-enacted to read:

11-59-302. Number of board members -- Appointment -- Vacancies -- Chairs.

(1) The board shall consist of seven voting members as provided in Subsection (2).

(2) (a) The governor shall appoint as board members three individuals with experience in economic development, corporate recruitment, workforce development, real estate development, or other relevant business experience.

(b) The president of the Senate shall appoint as a board member one individual with relevant business expertise.

(c) The speaker of the House of Representatives shall appoint as a board member one individual with relevant business expertise.

(d) The mayor of Salt Lake County, or the mayor's designee, shall serve as a board member.

(e) The mayor of the city of Draper, or the mayor's designee, shall serve as a board member.

(3) (a) A vacancy on the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) Each individual appointed or designated to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the individual is filling.

(4) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(5) A member of the board may be removed by a vote of two-thirds of all members of the board.

(6) (a) The governor shall appoint one board member to serve as cochair of the board.

(b) The president of the Senate and speaker of the House of Representatives shall jointly appoint one member of the board to serve as cochair of the board.

(7) The board may appoint, as nonvoting members, board members with needed relevant experience.

Section 6. Section 11-59-303 is amended to read:

11-59-303. Term of board members -- Quorum requirements -- Compensation.

(1) (a) The term of each board member appointed under Subsection [~~11-59-302(2)(a), (b),~~][~~(c), or (d)~~]11-59-302(2) is four years, except that the initial term of [~~half of the members appointed under Subsections 11-59-302(2)(a), (b), and (c)~~]one of the members appointed under Subsection 11-59-302(2)(a) is two years and the member appointed under Subsection 11-59-302(2)(c) is two years.

(b) At the time of making the appointments described in Subsection 11-59-302(2)(a), the governor shall designate the board member whose initial term is two years.

(2) Each board member shall serve until a successor is duly appointed and qualified.

(3) A majority of voting board members constitutes a quorum, and [~~, except as provided in Subsection 11-59-302(5),~~] the action of a majority of a quorum constitutes the action of the board.

(4) (a) A board member who is not a legislator may not receive compensation or benefits for the member's service on the board, but may receive per diem and expense reimbursement for travel expenses incurred as a board member as allowed in:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section 7. Section 11-59-401 is amended to read:

11-59-401. Annual authority budget -- Fiscal year -- Public hearing and notice required -- Auditor forms.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 22.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice[~~:~~]

[~~(i) at least once in a newspaper of general circulation within the state, one week before the public hearing; and~~]

[~~(ii)~~] on the Utah Public Notice Website created in Section 63A-16-601, for at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

Section 8. Section 17-21-20 is amended to read:

17-21-20. Recording required -- Recorder may impose requirements on documents to be recorded -- Prerequisites -- Additional fee for noncomplying documents -- Recorder may require tax serial number -- Exceptions -- Requirements for recording final local entity plat.

(1) Subject to Subsections (2), (3), and (4), a county recorder shall record each paper, notice, and instrument required by law to be recorded in the office of the county recorder unless otherwise provided.

(2) Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, each document that is submitted for recording to a county recorder's office shall:

(a) unless otherwise provided by law, be an original or certified copy of the document;

(b) be in English or be accompanied by an accurate English translation of the document;

(c) contain a brief title, heading, or caption on the first page stating the nature of the document;

(d) except as otherwise provided by statute, contain the legal description of the property that is the subject of the document in accordance with Subsection 57-3-105(4);

(e) comply with the requirements of Section 17-21-25 and Subsections 57-3-105(1) and (2);

(f) except as otherwise provided by statute, be notarized with the notary stamp with the seal legible; and

(g) have original signatures.

(3) (a) Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, a county recorder may require that each paper, notice, and instrument submitted for recording in the county recorder's office:

(i) be on white paper that is 8-1/2 inches by 11 inches in size;

(ii) have a margin of one inch on the left and right sides and at the bottom of each page;

(iii) have a space of 2-1/2 inches down and 4-1/2 inches across the upper right corner of the first page and a margin of one inch at the top of each succeeding page;

(iv) not be on sheets of paper that are continuously bound together at the side, top, or bottom;

(v) not contain printed material on more than one side of each page;

(vi) be printed in black ink and not have text smaller than seven lines of text per vertical inch; and

(vii) be sufficiently legible to make certified copies.

(b) A county recorder who intends to establish requirements under Subsection (3)(a)shall first:

(i) provide formal notice of the requirements; and

(ii) establish and publish an effective date for the requirements that is at least three months after the formal notice under Subsection (3)(b)(i).

(4) (a) To facilitate the abstracting of an instrument to which a tax identification number is assigned, a county recorder may require that the applicable tax identification number of each parcel described in the instrument be noted on the instrument before the county recorder accepts the instrument for recording.

(b) If a county recorder requires the applicable tax identification number to be on an instrument before the instrument may be recorded:

(i) the county recorder shall post a notice of that requirement in a conspicuous place at the recorder's office;

(ii) the tax identification number may not be considered to be part of the legal description and may be indicated on the margin of the instrument; and

(iii) an error in the tax identification number does not affect the validity of the instrument or effectiveness of the recording.

(5) Subsections (2), (3), and (4) do not apply to:

(a) a map or plat;

(b) a certificate or affidavit of death that a government agency issues;

(c) a military discharge or other record that a branch of the United States military service issues;

(d) a document regarding taxes that is issued by the Internal Revenue Service of the United States Department of the Treasury;

(e) a document submitted for recording that has been filed with a court and conforms to the formatting requirements established by the court; or

(f) a document submitted for recording that is in a form required by law.

(6) (a) As used in this Subsection (6):

(i) "Boundary action" has the same meaning as defined in Section 17-23-20.

(ii) "Local entity" has the same meaning as defined in Section 67-1a-6.5.

(b) A person may not submit to a county recorder for recording a plat depicting the boundary of a local entity as the boundary exists as a result of a boundary action, unless:

(i) the plat has been approved under Section 17-23-20 by the county surveyor as a final local entity plat, as defined in Section 17-23-20; and

(ii) the person also submits for recording:

(A) the original notice of an impending boundary action, as defined in Section 67-1a-6.5, for the boundary action for which the plat is submitted for recording;

(B) the original applicable certificate, as defined in Section 67-1a-6.5, issued by the lieutenant governor under Section 67-1a-6.5 for the boundary action for which the plat is submitted for recording; and

(C) each other document required by statute to be submitted for recording with the notice of an impending boundary action and applicable certificate.

(c) Promptly after recording the documents described in Subsection (6)(b) relating to a boundary action, but no later than 10 days after recording, the county recorder shall send a copy of all those documents to the State Tax Commission.

(7) The county recorder for a county of the first class shall record a plat submitted by the Point of the Mountain State Land Authority, created in Section 11-59-201, for point of the mountain state land if the submitted plat:

(a) is in a recordable and legible format; and

(b) includes:

(i) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(ii) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the authority will use any parcel of ground as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(iii) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, and acreage or square footage for all parcels, units, or lots;

(iv) every existing right-of-way and recorded easement located within the plat for:

(A) an underground facility;

(B) a water conveyance facility; or

(C) any other utility facility; and

(v) any water conveyance facility located, entirely or partially, within the plat that:

(A) is not recorded; and

(B) of which the authority has actual or constructive knowledge, including from information made available to the authority in the state engineer's inventory of canals or from a surveyor.

Section 9. Section 51-4-2 is amended to read:

51-4-2. Deposits by political subdivisions.

(1) As used in this section:

(a) "Officer" means each:

(i) county treasurer, county auditor, county assessor, county clerk, clerk of the district court, city treasurer, city clerk, justice court judge; and

(ii) other officer of a political subdivision.

(b) "Political subdivision" means a county, city, town, school district, special district, and special service district.

(2) (a) Each officer shall deposit all public funds daily, if practicable, but no later than once every three banking days.

(b) Each officer shall deposit all public funds only in qualified depositories unless the public funds need to be deposited in a bank outside Utah in order to provide for:

(i) payment of maturing bonds or other evidences of indebtedness; or

(ii) payment of the interest on bonds or other evidences of indebtedness.

(3) (a) (i) Each officer shall require all checks to be made payable to the office of the officer receiving funds or to the political subdivision's treasurer.

(ii) An officer may not accept a check unless it is made payable to the office of the officer receiving funds or to the political subdivision's treasurer.

(b) Each officer shall deposit all money the officer collects into an account controlled by the political subdivision's treasurer.

(4) (a) Except as provided in Subsection (4)(b) and unless a shorter time for depositing funds is otherwise required by law, each political subdivision that has collected funds that are due to the state or to another political subdivision of the state shall, on or before the tenth day of each month, pay all of those funds that were receipted during the last month:

(i) to a qualified depository for the credit of the appropriate public treasurer; or

(ii) to the appropriate public treasurer.

(b) Property tax collections, or privilege tax collections directed by statute to be treated as property tax collections, shall be apportioned and paid according to Section 59-2-1365.

Section 10. Section 59-4-101 is amended to read:

59-4-101. Tax basis -- Exceptions -- Assessment and collection -- Designation of person to receive notice.

(1) (a) Except as provided in Subsections (1)(b), (1)(c), and (3), a tax is imposed on the possession or other beneficial use enjoyed by any person of any real or personal property that is exempt for any reason from taxation, if that property is used in connection with a business conducted for profit.

(b) Any interest remaining in the state in state lands after subtracting amounts paid or due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a contract of sale is subject to taxation under this chapter regardless of whether the property is used in connection with a business conducted for profit.

(c) The tax imposed under Subsection (1)(a) does not apply to property exempt from taxation under Section 59-2-1114.

(2) (a) The tax imposed under this chapter is the same amount that the ad valorem property tax would be if the possessor or user were the owner of the property.

(b) The amount of any payments that are made in lieu of taxes is credited against the tax imposed on the beneficial use of property owned by the federal government.

(3) A tax is not imposed under this chapter on the following:

(a) the use of property that is a concession in, or relative to, the use of a public airport, park, fairground, or similar property that is available as a matter of right to the use of the general public;

(b) the use or possession of property by a religious, educational, or charitable organization;

(c) the use or possession of property if the revenue generated by the possessor or user of the property through its possession or use of the property inures only to the benefit of a religious, educational, or charitable organization and not to the benefit of any other person;

(d) the possession or other beneficial use of public land occupied under the terms of an agricultural lease or permit issued by the United States or this state;

(e) the use or possession of any lease, permit, or easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates;

(f) the use or possession of property by a public agency, as defined in Section 11-13-103, to the extent that the ownership interest of the public agency in that property is subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or

(g) the possession or beneficial use of public property as a tollway by a private entity through a tollway development agreement as defined in Section 72-6-202.

(4) For purposes of Subsection (3)(e):

(a) every lessee, permittee, or other holder of a right to remove or extract the mineral covered by the holder's lease, right permit, or easement, except from brines of the Great Salt Lake, is considered to be in possession of the premises, regardless of whether another party has a similar right to remove or extract another mineral from the same property; and

(b) a lessee, permittee, or holder of an easement still has exclusive possession of the premises if the owner has the right to enter the premises, approve leasehold improvements, or inspect the premises.

(5) (a) A tax imposed under this chapter is assessed to the possessors or users of the property on the same forms, and collected and, subject to [~~Section~~]Sections11-70-203and 11-59-207, distributed at the same time and in the same manner, as taxes assessed owners,

possessors, or other claimants of property that is subject to ad valorem property taxation.

(b) The tax imposed under this chapter is not a lien against the property, and no tax-exempt property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

(6) (a) (i) Except as provided in Subsection (6)(a)(ii), if a governmental entity is required under this chapter to send information or notice to a person, the governmental entity shall send the information or notice to:

(A) the person required under the applicable provision of this chapter; and

(B) each person designated in accordance with Subsection (6)(b) by the person described in Subsection (6)(a)(i)(A).

(ii) If a governmental entity is required under Section 59-2-919.1 or 59-2-1317 to send information or notice to a person, the governmental entity shall send the information or notice to:

(A) the person required under the applicable section; or

(B) one person designated in accordance with Subsection (6)(b) by the person described in Subsection (6)(a)(ii)(A).

(b) (i) A person to whom a governmental entity is required under this chapter to send information or notice may designate a person to receive the information or notice in accordance with Subsection (6)(a).

(ii) To make a designation described in Subsection (6)(b)(i), the person shall submit a written request to the governmental entity on a form prescribed by the commission.

(c) A person who makes a designation described in Subsection (6)(b) may revoke the designation by submitting a written request to the governmental entity on a form prescribed by the commission.

(7) Sections 59-2-301.1 through 59-2-301.7 apply for purposes of assessing a tax under this chapter.

Section 11. Repealer.

This bill repeals:

Section 11-59-305, Considering recommendations of the Point of the Mountain Development Commission -- Board recommendations on financing.

Section 12. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 32
H. B. 441
Passed March 7, 2025
Approved March 17, 2025
Effective March 17, 2025

FRANCHISEE PROTECTION ACT

Chief Sponsor: Ken Ivory
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill establishes protections for franchisees.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► prohibits a franchisor from requiring a franchisee to open on a when operating conflicts with the franchisee's sincerely held religious belief;
- ► provides exceptions under which a franchisor may require a franchisee to open a franchise despite a conflict with the franchisee's sincerely held religious belief;
- ► provides a remedy for a franchisee if the franchisor violates the prohibition without an exception; and
- ► provides a civil penalty for a franchisor that violates the prohibition without an exception.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

13-75-101, Utah Code Annotated 1953
13-75-201, Utah Code Annotated 1953

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

Section 1. Section 13-75-101 is enacted to read:

CHAPTER 75. FRANCHISE PROTECTION ACT

PART 1. General Provisions

13-75-101. Definitions.

(1) (a) "Franchise agreement" means a written agreement that:

(i) grants a franchisee the right to engage in a business of offering, selling, or distributing goods or services;

(ii) grants the franchisee license to use a trademark, service mark, trade name, advertising, or other commercial symbol that the franchisor owns or leases; and

(iii) requires the franchisee to pay a franchise fee.

(b) "Franchise agreement" includes all written documents incorporated in the written agreement by reference.

(c) "Franchise agreement" does not include a sales and service agreement regulated by:

(i) Chapter 14, New Automobile Franchise Act; or

(ii) Title 29, Hotels and Hotel Keepers.

(2) (a) "Franchisee" means a person to which a franchisor grants a franchise.

(b) "Franchisee" does not include:

(i) a person that is regulated by Chapter 14, New Automobile Franchise Act; or

(ii) a person that is regulated by Title 29, Hotels and Hotel Keepers.

(3) (a) "Franchisor" means a person that grants a franchise to another person.

(b) "Franchisor" does not include:

(i) a person that is regulated by Chapter 14, New Automobile Franchise Act;

(ii) a person that is regulated by Title 29, Hotels and Hotel Keepers; or

(iii) a person that is granting franchises for the right to operate businesses regulated by Title 29, Hotels and Hotel Keepers.

(4) "Original franchise agreement" means the initial franchise agreement that the franchisee and franchisor sign.

(5) "Religious day operation requirement" means any requirement that has the effect of requiring a franchisee to operate a franchise on a day when operating would conflict with the franchisee's sincerely held religious belief.

(6) "Violation" means a franchisor's failure to comply with this chapter resulting in a court with jurisdiction imposing a civil penalty

under Section 13-75-201 against the franchisor.

Section 2. Section 13-75-201 is enacted to read:

PART 2. Franchisee Protection

13-75-201. Franchisee religious day operation protection.

(1) Except as provided in Subsection (2), when a franchisee asserts a sincerely held religious belief, a franchisor may not:

(a) unilaterally impose a religious day operation requirement;

(b) require a franchisee to accept a religious day operation requirement as a part of an amendment to the franchise agreement; or

(c) refuse to renew a franchise agreement based solely on a franchisee's failure to comply with a religious day operation requirement.

(2) Subsection (1) does not apply when:

(a) the original franchise agreement provides a religious day operation requirement;

(b) the franchisee agrees through a renewal or an amendment to the franchise agreement to a religious day operation requirement; or

(c) the franchisor and the franchisee enter into a franchise agreement to develop an additional franchise location that contains a religious day operation requirement.

(3) The protections provided in Subsection (1) are not transferable.

(4) If a court with jurisdiction finds reasonable cause to believe that a franchisor violated Subsection (1), the court may order:

(a) actual damages, reasonable attorney fees, and costs to the franchisee;

(b) a permanent or temporary injunction, a temporary restraining order, or other appropriate order; and

(c) civil penalties against the franchisor in an amount not exceeding:

(i) $10,000 for a first violation;

(ii) $25,000 for a second violation within three years after the day on which the franchisee filed the complaint for the first violation; or

(iii) $50,000 for a violation subsequent to a second violation within five years after the day on which the franchisee filed the complaint for the first violation.

Section 3. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 33
S. B. 188
Passed March 7, 2025
Approved March 17, 2025
Effective March 17, 2025

SCHOOL DISTRICT MODIFICATIONS

Chief Sponsor: Keith Grover
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill addresses creation of new school districts and the transition process from divided to new school districts.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► enacts dates regarding the redistricting of local school board districts after the creation of certain new school districts;
- ► amends the duties of the Office of the Legislative Auditor General to include receiving and providing certain information during the transition process from divided to new school districts;
- ► extends the rights of transferred employees regarding salary and benefits;
- ► reduces the body of voters whose approval is required to create a new school district to voters within the proposed new school district;
- ► reduces the threshold for interlocal participants to propose a new school district to a majority of municipalities that are participants in the interlocal agreement;
- ► amends certain dates regarding election cycles following the creation of a new school district;
- ► amends certain deadlines for the duties of municipal legislative bodies, county legislative bodies, local school boards, and other entities under certain circumstances after the creation of a new school district;
- ► enacts provisions regarding the transition from a divided school district to new and reorganized new school districts, including:
  - • school district employee and other personnel issues;
  - • records of the divided school district;
  - • the actual transfer of funds, property, assets, and liabilities;
  - • retrospectively voiding certain agreements or policies; and
  - • resolution of disputes between school districts through an agreed upon or appointed arbiter;
- ► requires a government entity to send an invoice before requiring payment of past fees before processing a new request; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

36-12-15, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
53G-3-102, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
53G-3-202, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
53G-3-205, (Effective upon governor's approval) as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-3-301, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
53G-3-301.1, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
53G-3-301.3, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
53G-3-301.4, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
53G-3-302, (Effective upon governor's approval) (Applies beginning 11/04/24) as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
53G-3-303, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
53G-3-305, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
53G-3-307, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 526
63G-2-203, (Effective upon governor's approval) as last amended by Laws of Utah 2022, Chapter 128

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

Section 1. Section 36-12-15 is amended to read:

36-12-15 (Effective upon governor's approval). Office of the Legislative Auditor General established -- Qualifications -- Powers, functions, and duties -- Reporting -- Criminal penalty -- Employment.

(1) As used in this section:

(a) "Audit action" means an audit, examination, investigation, or review of an entity conducted by the office.

(b) "Entity" means:

(i) a government organization; or

(ii) a receiving organization.

(c) "Government organization" means:

(i) a state branch, department, or agency; or

(ii) a political subdivision, including a county, municipality, special district, special service district, school district, interlocal entity as defined in Section 11-13-103, or any other local government unit.

(d) "Office" means the Office of the Legislative Auditor General.

(e) "Receiving organization" means an organization that receives public funds that is not a government organization.

(2) There is created the Office of the Legislative Auditor General as a permanent staff office for the Legislature.

(3) The legislative auditor general shall be a licensed certified public accountant or certified internal auditor with at least seven years of experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

(4) The legislative auditor general shall appoint and develop a professional staff within budget limitations.

(5) The office shall exercise the constitutional authority provided in Utah Constitution, Article VI, Section 33.

(6) Under the direction of the legislative auditor general, the office shall:

(a) conduct comprehensive and special purpose audits, examinations, investigations, or reviews of entity funds, functions, and accounts;

(b) prepare and submit a written report on each audit action to the Audit Subcommittee created in Section 36-12-8 and make the report available to all members of the Legislature within 75 days after the audit action is completed;

(c) monitor, conduct a risk assessment of, or audit any efficiency evaluations that the legislative auditor general determines necessary, in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule;

(d) create, manage, and report to the Audit Subcommittee a list of high risk programs and operations that:

(i) threaten public funds or programs;

(ii) are vulnerable to inefficiency, waste, fraud, abuse, or mismanagement; or

(iii) require transformation;

(e) monitor and report to the Audit Subcommittee the health of a government organization's internal audit functions;

(f) make recommendations to increase the independence and value added of internal audit functions throughout the state;

(g) implement a process to track, monitor, and report whether the subject of an audit has implemented recommendations made in the audit report;

(h) establish, train, and maintain individuals within the office to conduct investigations and represent themselves as lawful investigators on behalf of the office;

(i) establish policies, procedures, methods, and standards of audit work and investigations for the office and staff;

(j) prepare and submit each audit and investigative report independent of any influence external of the office, including the content of the report, the conclusions reached in the report, and the manner of disclosing the legislative auditor general's findings;

(k) prepare and submit the annual budget request for the office; and

(l) perform other duties as prescribed by the Legislature.

(7) In conducting an audit action of an entity, the office may include a determination of any or all of the following:

(a) the honesty and integrity of any of the entity's fiscal affairs;

(b) the accuracy and reliability of the entity's internal control systems and specific financial statements and reports;

(c) whether or not the entity's financial controls are adequate and effective to properly record and safeguard the entity's acquisition, custody, use, and accounting of public funds;

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

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

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

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

(8) (a) If requested by the office, each entity that the legislative auditor general is authorized to audit under Utah Constitution, Article VI, Section 33, or this section shall, notwithstanding any other provision of law except as provided in Subsection (8)(b), provide the office with access to information, materials, or resources the office determines are necessary to conduct an audit, examination, investigation, or review, including:

(i) the following in the possession or custody of the entity in the format identified by the office:

(A) a record, document, and report; and

(B) films, tapes, recordings, and electronically stored information;

(ii) entity personnel; and

(iii) each official or unofficial recording of formal or informal meetings or conversations to which the entity has access.

(b) To the extent compliance would violate federal law, the requirements of Subsection (8)(a) do not apply.

(9) (a) In carrying out the duties provided for in this section and under Utah Constitution, Article VI, Section 33, the legislative auditor general may issue a subpoena to access information, materials, or resources in accordance with Chapter 14, Legislative Subpoena Powers.

(b) The legislative auditor general may issue a subpoena, as described in Subsection (9)(a), to a financial institution or any other entity to obtain information as part of an investigation of fraud, waste, or abuse, including any suspected malfeasance, misfeasance, or nonfeasance involving public funds.

(10) To preserve the professional integrity and independence of the office:

(a) no legislator or public official may urge the appointment of any person to the office; and

(b) the legislative auditor general may not be appointed to serve on any board, authority, commission, or other agency of the state during the legislative auditor general's term as legislative auditor general.

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

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

(ii) records and audit workpapers that would disclose the identity of a person who, during the course of a legislative audit, communicated the existence of:

(A) unethical behavior;

(B) waste of public funds, property, or personnel; or

(C) a violation or suspected violation of a United States, Utah state, or political subdivision law, rule, ordinance, or regulation, if the person disclosed on the condition that the identity of the person be protected;

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

(iv) records that would disclose:

(A) an outline;

(B) all or part of an audit survey, audit risk assessment plan, or audit program; or

(C) other procedural documents necessary to fulfill the duties of the office; and

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

(b) The provisions of Subsection (11)(a) do not prohibit the disclosure of records or information to a government prosecutor or peace officer if those records or information relate to a violation of the law by an entity or entity employee.

(c) A record, as defined in Section 63G-2-103, created by the office in a closed meeting held in accordance with Section 52-4-205:

(i) is a protected record, as defined in Section 63G-2-103;

(ii) to the extent the record contains information:

(A) described in Section 63G-2-302, is a private record; or

(B) described in Section 63G-2-304, is a controlled record; and

(iii) may not be reclassified by the office.

(d) The provisions of this section do not limit the authority otherwise given to the legislative auditor general to maintain the private, controlled, or protected record status of a shared record in the legislative auditor general's possession or classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(12) The legislative auditor general shall:

(a) be available to the Legislature and to the Legislature's committees for consultation on matters relevant to areas of the legislative auditor general's professional competence;

(b) conduct special audits as requested by the Audit Subcommittee;

(c) report immediately to the Audit Subcommittee any apparent violation of penal statutes disclosed by the audit of an entity and furnish to the Audit Subcommittee all information relative to the apparent violation;

(d) report immediately to the Audit Subcommittee any apparent instances of malfeasance or nonfeasance by an entity officer or employee disclosed by the audit of an entity; and

(e) make any recommendations to the Audit Subcommittee with respect to the alteration or improvement of the accounting system used by an entity.

(13) If the legislative auditor general conducts an audit of an entity that has previously been audited and finds that the entity has not implemented a recommendation made by the legislative auditor general in a previous audit report, the legislative auditor general shall report to the Audit Subcommittee that the entity has not implemented the recommendation.

(14) Before each annual general session, the legislative auditor general shall:

(a) prepare an annual report that:

(i) summarizes the audits, examinations, investigations, and reviews conducted by the office since the last annual report; and

(ii) evaluate and report the degree to which an entity that has been the subject of an audit has implemented the audit recommendations;

(b) include in the report any items and recommendations that the legislative auditor general believes the Legislature should consider in the annual general session; and

(c) deliver the report to the Legislature and to the appropriate committees of the Legislature.

(15) (a) If the chief officer of an entity has actual knowledge or reasonable cause to believe that there is misappropriation of the entity's public funds or assets, or another entity officer has actual knowledge or reasonable cause to believe that the chief officer is misappropriating the entity's public funds or assets, the chief officer or, alternatively, the other entity officer, shall immediately notify, in writing:

(i) the office;

(ii) the attorney general, county attorney, or district attorney; and

(iii) (A) for a state government organization, the chief executive officer;

(B) for a political subdivision government organization, the legislative body or governing board; or

(C) for a receiving organization, the governing board or chief executive officer unless the chief executive officer is believed to be misappropriating the funds or assets, in which case the next highest officer of the receiving organization.

(b) As described in Subsection (15)(a), the entity chief officer or, if applicable, another entity officer, is subject to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act.

(c) If the Office of the Legislative Auditor General receives a notification under Subsection (15)(a) or other information of misappropriation of public funds or assets of an entity, the office shall inform the Audit Subcommittee.

(d) The attorney general, county attorney, or district attorney shall notify, in writing, the Office of the Legislative Auditor General whether the attorney general, county attorney, or district attorney pursued criminal or civil sanctions in the matter.

(16) (a) An actor commits interference with a legislative audit if the actor uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with:

(i) a legislative audit action; or

(ii) the office's decisions relating to:

(A) the content of the office's report;

(B) the conclusions reached in the office's report; or

(C) the manner of disclosing the results and findings of the office.

(b) A violation of Subsection (16)(a) is a class B misdemeanor.

(17) (a) The office may require any current employee, or any applicant for employment, to submit to a fingerprint-based local, regional, and criminal history background check as an ongoing condition of employment.

(b) An employee or applicant for employment shall provide a completed fingerprint card to the office upon request.

(c) The office shall require that an individual required to submit to a background check under this Subsection (17) also provide a signed waiver on a form provided by the office that meets the requirements of Subsection 53-10-108(4).

(d) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the office shall submit to the Bureau of Criminal Identification:

(i) the employee's or applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(ii) a request for all information received as a result of the local, regional, and nationwide background check.

(18) Subject to prioritization of the Legislative Audit Subcommittee, the Office of the Legislative Auditor General shall []:

(a) conduct a feasibility study [~~under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4.~~]that an entity requests under Title 53G, Chapter 3, Part 3, Creating a New School District; and

(b) accept and maintain submissions for local school boards to have sufficient information to resolve disputes through an agreed upon or appointed arbiter in accordance with Section 53G-3-302.

Section 2. Section 53G-3-102 is amended to read:

53G-3-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Allocation date" means:

(a) July 1 of the second calendar year following the local school board election date as described in Section 53G-3-302; or

(b) another date to which the new local school board and reorganized school board agree.

(2) "Creation date" means the date on which voters approve the creation of a new school district under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4.

(3) "Divided school district" means:

(a) an existing school district from which a new school district is created under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4; and

(b) an existing school district from which a reorganized new school district is created.

(4) [~~(a)~~] "Feasibility study" means a study:

[~~(i)~~](a) [~~conducted by~~]that one of the following conducts:

[~~(A)~~](i) a school district, municipal legislative body, or interlocal agreement participants [~~before July 1, 2024~~]; or

[~~(B)~~](ii) the Office of the Legislative Auditor General, subject to prioritization by the Legislative Audit Subcommittee; and

[~~(ii)~~](b) to determine:

[~~(A)~~](i) the financial viability for a new school district and reorganized new school district that is contained within the boundaries of a divided school district;

[~~(B)~~](ii) the financial impact on a new school district and reorganized new school district that is contained within the boundaries of a divided school district; and

[~~(C)~~](iii) the impact of the tax burden on taxpayers within the boundaries of the proposed new school district.

(5) "Interlocal agreement participant" means a public agency, as that term is defined in Section 11-13-103, that enters into an agreement with one or more other public agencies for the purpose described in and in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(6) "Isolated area" means an area that:

(a) is entirely within the boundaries of an existing school district;

(b) is contiguous to the proposed new school district;

(c) has a combined student population of fewer than 5,000 students; and

(d) because of the creation of a new school district from the existing district in which the area is located, would become completely geographically isolated.

(7) "Municipality" means the same as that term is defined in Section 10-1-104.

(8) "New school district" means a school district created under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4.

(9) "Public hearing" means the same as that term is defined in Section 10-9a-103.

[~~(9)~~](10) "Reorganized new school district" means the remaining portion of the divided school district after voters approve the creation of a new school district under [~~Subsection~~]Section53G-3-301.1, 53G-3-301.3, or 53G-3-301.4[~~.~~], when:

(a) the entire geographical area of the reorganized new school district is not included in a proposal for the new school district; or

(b) the entire geographical area of the reorganized new school district is:

(i) included in a proposal for a new school district that voters do not approve; and

(ii) within the boundaries of an existing district that contains an area that is included in the new district for which voters approve the creation.

Section 3. Section 53G-3-202 is amended to read:

53G-3-202 (Effective upon governor's approval). School districts independent of municipal and county governments -- School district name -- Control of property.

(1) (a) [~~Each school district shall be controlled by its~~]Each school district, including a new school district or a reorganized new school district upon the election of the local school board, is:

(i) under the control of the district's local school board; and [~~shall be~~]

(ii) independent of municipal and county governments.

(b) The name of each school district created after May 1, 2000, including a reorganized new school district, shall[]:

(i) comply with Section 17-50-103[~~.~~]; and

(ii) be a name:

(A) that the local school board of the relevant new school district or reorganized new school district selects; and

(B) that another school district has not previously chosen and recorded.

(2) The local school board[~~ shall have~~]:

(a) except as provided in Subsection 53G-3-302(6), has direction and control of all school property in the district; and[]

(b) may enter into cooperative agreements with other local school boards to provide educational services that best [~~utilize~~]use resources for overall operation of the public school system.

(3) (a) On or before [~~30~~]60 days following the day on which the creation of a new school district occurs under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4, and in accordance with Section 67-1a-15, the following shall register a new school district [~~shall be registered~~] as a limited purpose entity[~~by~~]:

(i) the municipal legislative body of the municipality in which the boundaries for the new school district [~~is~~]are entirely located; or

(ii) the legislative body of interlocal agreement participants in which the new school district is located.

(b) Each school district shall [~~register and~~]maintain the school district's registration as a limited purpose entity in accordance with Section 67-1a-15.

(c) A school district that fails to comply with Subsections (3)(a) and (b) or Section 67-1a-15 is subject to enforcement by the state auditor in accordance with Section 67-3-1.

Section 4. Section 53G-3-205 is amended to read:

53G-3-205 (Effective upon governor's approval). Rights of transferred employees -- Salary during first year -- Leave and tenure benefits -- Written offer of employment.

(1) If a school or school district employee described in Subsection (4)(a) is transferred from one district to another because of district consolidation, creation, or restructuring, the employee's salary may not be less, during the first year after the transfer, than [~~it~~]the employee's salary would have been had the transfer not taken place.

(2) The district to which an employee is transferred under Subsection (1) shall credit the employee with all accumulated leave and tenure recognized by the district from which the employee was transferred.

(3) If the district to which an employee is transferred does not have a leave benefit which reasonably corresponds to one the employee seeks to transfer, that district shall compensate the employee for the benefit on the same basis as would have been done had the employee retired.

(4) (a) On or before the day that is six months before the allocation date, each new school district and each reorganized new school district shall provide a written offer of employment to contracted employees of the divided district, in a number that is proportional to the student population distribution within each new and reorganized new school district, who are not:

(i) employed on an administrative salary schedule;

(ii) provisional; or

(iii) at-will.

(b) For purposes of Subsection (1), the allocation date is the date of the transfer for an employee described in Subsection (4)(a).

(c) The job responsibilities or titles of an employee described in Subsection (4)(a) are subject to change.

Section 5. Section 53G-3-301 is amended to read:

53G-3-301 (Effective upon governor's approval). Creation of new school district -- Initiation of process -- Procedures to follow.

(1) A new school district may be created from one or more existing school districts, as provided in this chapter.

(2) The process to create a new school district may be initiated:

(a) through a citizens' petition in accordance with Section 53G-3-301.1;

(b) at the request of a municipality within the boundaries of the school district in accordance with Section 53G-3-301.3; or

(c) at the request of interlocal agreement participants in accordance with Section 53G-3-301.4.

(3) [~~Except as provided in Sections 53G-3-301.3 and 53G-3-301.4, a~~]A request or petition under Subsection (2) may not form a new school district unless the new school district boundaries and the reorganized new school district boundaries:

(a) are contiguous;

(b) do not create an isolated area, as defined in Section 53G-3-102; and

(c) include the entire boundaries of each participant municipality or town, unless the excluded portion of the municipality or town is not within the divided school district.

(4) For each new school district, each county legislative body shall comply with the notice and plat filing requirements of Section 53G-3-203.

(5) [~~If a new school district is created, the new district shall reimburse the reorganized new district's documented costs to study and~~

~~implement the proposal in proportion to the student population of each school district.~~]No later than July 1 of the second year following the inaugural local school board election of the new and reorganized new school districts, each new school district and each reorganized new school district shall reimburse the municipalities in which the school districts are located for any legal or administrative costs the municipality incurs relating to compliance with Sections 53G-3-202, 53G-3-203, 53G-3-301, 53G-3-301.3, and 53G-3-301.4.

(6) On January 1 of each of the first and second years following the local school board election for new and reorganized new school districts following the division of a school district, the relevant divided district shall provide to each relevant new and reorganized new school districts, the greater of the following amounts, distributed based on student population in the new and reorganized new school districts, using the most recent October student count:

(a) 1% of the divided district's total WPU funding; or

(b) $60 per student.

[~~(6)~~](7) An inadequacy of a feasibility study, as defined in Section 53G-3-102, may not be the basis of a legal action or other challenge to:

(a) an election for voter approval of the creation of a new school district; or

(b) the creation of the new school district.

[~~(7)~~](8) Notwithstanding the creation of a new district as provided in this part:

(a) a new school district and a reorganized new school district may not begin to provide educational services to the area within the new school district and reorganized new school district until July 1 of the second calendar year following the local school board election date as described in Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4; and

(b) the divided school district shall continue, until the time specified in Subsection [~~(7)(a)~~](8)(a), to provide educational services within the entire area covered by the divided school district.

[~~(8)~~](9) A new school district and a reorganized new school district shall enter into a shared services agreement, except if the local school boards of the districts mutually agree to not enter into an agreement, that permits students residing in each [~~new~~]school district access to attend a school that serves students with disabilities within or outside of each school district boundary:

(a) for up to five years after the day on which the new school district commences educational services;

(b) for actual costs of services provided to students; and

(c) without affecting services provided to other students.

[~~(9)~~](10) The process described in Subsection (2)[]:

(a) may not be initiated more than once during any two-year period[~~:~~]; and

(b) may only be initiated within a divided school district in the year of the allocation date.

Section 6. Section 53G-3-301.1 is amended to read:

53G-3-301.1 (Effective upon governor's approval). Creation of a new school district -- Citizens' petition -- Procedures to follow.

(1) Citizens may file a petition to create a new school district in accordance with this section and Section 53G-3-301.

(2) (a) The county clerk shall ensure that a petition described in Subsection (1) is signed by registered voters residing within the geographical boundaries of the proposed new school district in an amount equal to at least 10% of all votes cast within the geographic boundaries of the proposed new school district for all candidates for president of the United States at the last regular general election at which a president of the United States was elected.

(b) The sponsors of a petition described in Subsection (1) shall file the petition with the clerk of each county in which any part of the proposed new school district is located.

(c) The petition sponsors shall ensure that the petition described in Subsection (1):

(i) indicates the typed or printed name and current residence address of each voter who signs the petition;

(ii) describes the proposed new school district boundaries; and

(iii) designates up to five signers of the petition as sponsors, designating one as the contact sponsor, with the mailing address and telephone number of each.

(3) (a) (i) A signer of a petition described in Subsection (1) may withdraw or, once withdrawn, reinstate the signer's signature by filing a written statement requesting for withdrawal or reinstatement with the county clerk no later than three business days after the day on which the petition is filed with the county clerk.

(ii) A statement described in Subsection (3)(a)(i) shall comply with the requirements described in Subsection 20A-1-1003(2).

(iii) The county clerk shall use the procedures described in Subsection 20A-1-1003(3)to determine whether to remove or reinstate an individual's signature from a petition after receiving a timely, valid statement.

(b) The county clerk shall use the procedures described in Section 20A-1-1002 to determine whether the petition has been signed by the required number of registered voters residing within the geographical boundaries of the proposed new school district.

(4) Within 14 days after the day on which a petition described in Subsection (1) is filed, the clerk of each county with which the request or petition is filed shall:

(a) determine whether the petition complies with Subsections (2) and (3), as applicable, and Section 53G-3-301; and

(b) (i) if the county clerk determines that the request or petition complies with the applicable requirements:

(A) certify the petition and deliver the certified petition to the county legislative body; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the petition fails to comply with any of the applicable requirements, reject the petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(5) (a) If the county clerk fails to certify or reject a petition within the time specified in Subsection (4), the petition is considered to be certified.

(b) If the county clerk rejects a petition, the individual who submitted the petition may amend the petition to correct the deficiencies for which the county clerk rejected the petition and refile the petition.

(6) Within 10 days after the day on which a county legislative body receives a certified petition as described in Subsection (4) or (5), the county legislative body shall request[~~that the Legislative Audit Subcommittee consider prioritizing~~] a feasibility study[~~, as that term is defined in Section 53G-3-102~~].

(7) (a) The county legislative body shall:

(i) provide for a [~~45-day~~]30-day public comment period to begin on the day the county legislative body receives the study under Subsection (6); and

(ii) hold at least two public hearings[~~, as defined in Section 10-9a-103,~~] on the study and recommendations.

(b) Within five business days after the day on which the public comment period ends, the legislative body of each county with which a petition is filed shall vote on the creation of the proposed new school district.

(c) A county legislative body approves a petition proposing a new school district if a majority of the members of the legislative body vote in favor of the petition.

(8) (a) Within five business days after the day on which a county legislative body approves a petition proposing a new school district under Subsection (7), the county legislative body shall provide notice of the approval and a copy of the petition to which the approval relates to the county clerk of each county described in Subsection (2)(b).

(b) If each county described in Subsection (2)(b) approves a petition proposing a new school district, the county clerks of the counties shall submit the proposal for the creation of a new school district to all legal voters in the [~~existing school district~~]proposed new school district for approval or rejection at the next regular general election that is at least 65 days after the day on which all of the counties described in Subsection (2)(b) have complied with Subsection (8)(a).

(c) The new school district proposed in the petition and the reorganized new school district are created if a majority of the voters in the [~~existing~~]proposed new school district vote in favor of creating the new school district.

Section 7. Section 53G-3-301.3 is amended to read:

53G-3-301.3 (Effective upon governor's approval). Creation of a new school district -- Request by a municipality -- Procedures to follow.

(1) A municipality located within the boundaries of a school district may file a request to create a new school district in accordance with this section and Section 53G-3-301.

(2) (a) The municipality shall file the request to create a new school district with the clerk of each county in which any part of the proposed new school district is located.

(b) The filing municipality shall ensure that the request described in Subsection (2)(a):

(i) indicates the typed or printed and current residence address of each governing board member making the request;

(ii) describes the proposed new school district boundaries; and

(iii) designates up to five signers of the request as sponsors, including one as the contact sponsor, with the mailing address and telephone number of each.

(3) Within five business days after the day on which a request described in Subsection (2) is filed, the clerk of each county with which the request is filed shall:

(a) determine whether the request complies with Subsection (2) and Section 53G-3-301; and

(b) (i) if the county clerk determines that the request complies with the applicable requirements:

(A) certify the request and deliver the certified request to the municipality and each county legislative body; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the request fails to comply with any of the applicable requirements, reject the request and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(4) (a) If the county clerk fails to certify or reject the request within the time specified in Subsection (3), the request is considered to be certified.

(b) If the county clerk rejects the request, the municipality that submitted the request may amend the request to correct the deficiencies for which the county clerk rejected the request and refile the request.

(5) [~~(a)~~] Within 10 days after the day on which a municipal legislative body receives a certification as described in Subsection (3) or (4), a municipal legislative body shall request [~~that the Legislative Audit Subcommittee consider prioritizing~~]a feasibility study[~~, as that term is defined in Section 53G-3-102~~].

[~~(b) For the year 2024, the municipal legislative body may use a feasibility study that the municipal legislative body conducted before July 1, 2024, if:~~]

[~~(i) the feasibility study contains the determinations described in Section 53G-3-102; and~~]

[~~(ii) the municipality receives a report and recommendation regarding the feasibility study in a public meeting.~~]

(6) (a) The municipal legislative body shall:

(i) provide for a 30-day public comment period to begin [~~:~~]

[~~(A)~~] on the day the study is presented to the municipal legislative body under Subsection (5); [~~or~~]and

[~~(B) if the municipal legislative body uses a feasibility study described in Subsection (5)(b), on July 1, 2024; and~~]

(ii) hold at least two public hearings[~~, as defined in Section 10-9a-103,~~] on the study and recommendation.

(b) Within 14 days after the day on which the public comment period ends, the municipal legislative body shall vote on the creation of the proposed new school district.

(c) A municipal legislative body approves a proposal if a majority of the municipal legislative body vote in favor of the proposal.

(d) Within five business days after the day on which the municipal legislative body approves a request proposing the creation of a new school district, the municipal legislative body shall notify the legislative body and the county clerk of each county described in Subsection (2)(a).

(7) The county clerks of the counties described in Subsection (2)(a) shall submit the proposal for the creation of a new school district to all legal voters residing within the proposed new school district boundaries for approval or rejection at the next regular general election that is a least 65 days after the day on which the municipal legislative body complies with Subsection (6)(d).

(8) The new school district described in the request and the reorganized new school district are created if a majority of the voters in the proposed new school district boundaries vote in favor of creating the new school district.

(9) Nothing in this section prevents a municipality from assisting the new school district or reorganized new school district, including by:

(a) entering into a loan agreement with the new school district or reorganized new school district; or

(b) assisting the new school district or reorganized new school district in securing a line of credit.

Section 8. Section 53G-3-301.4 is amended to read:

53G-3-301.4 (Effective upon governor's approval). Creation of a new school district -- By interlocal agreement participants -- Procedures to follow.

(1) (a) On or after April 30, 2024, interlocal agreement participants may file a request proposing the creation of a new school district in accordance with this section and Section 53G-3-301.

(b) A municipality may not:

(i) enter into more than one interlocal agreement for the purpose of submitting for voter approval, in the same election, a proposal to create a new school district under this part; or

(ii) participate in a request under this section and submit a request under Section 53G-3-301.3 for the same election.

(c) A municipality may not withdraw from an interlocal agreement under this part, unless, before August 1 of the year in which the interlocal agreement participants file the request under Subsection (1)(a):

(i) the municipality votes, via the legislative body of the municipality, to withdraw from the interlocal agreement; and

(ii) a majority of all municipalities that are participants in the interlocal agreement vote to withdraw from the interlocal agreement, via a separate vote of the legislative body of each municipality.

(d) If a majority of all municipalities that are participants in the interlocal agreement vote to withdraw from the interlocal agreement under Subsection (1)(a), the request is void and the interlocal agreement participants may not participate in a new or a revised request until the following year.

(2) (a) Except as provided in Subsection (3), by a majority vote of each legislative body, the legislative body of a municipality, together with at least one other municipality, may enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose of submitting for voter approval a measure to create a new school district if the new school district boundaries comply with the requirements of Section 53G-3-301.

(b) A county may only participate in an interlocal agreement under this Subsection (2)for the unincorporated areas of the county.

(c) Boundaries of a new school district created under this section may include:

(i) a portion of one or more existing school districts; and

(ii) a portion of the unincorporated area of a county.

(3) (a) As used in this Subsection (3), "municipality's school district" means the school district that includes all of the municipality in which the isolated area is located except the isolated area[~~, as that term is defined in Section 53G-3-102~~].

(b) Notwithstanding Subsection 53G-3-301(3), a municipality may be a participant in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries if:

(i) the portion of the municipality proposed to be included in the new school district would, if not included, become an isolated area upon the creation of the new school district; or

(ii) (A) the portion of the municipality proposed to be included in the new school district is within the boundaries of the same school district that includes the other interlocal agreement participants; and

(B) the portion of the municipality proposed to be excluded from the new school district is within the boundaries of a school district other than the school district that includes the other interlocal agreement participants.

(c) (i) Notwithstanding Subsection 53G-3-301(3), interlocal agreement participants may submit a proposal to the legal voters residing within the proposed new school district boundaries to create a new school district in accordance with an interlocal agreement under Subsection (2)(a), even though the new school district boundaries would create an isolated area, [~~as that term is defined in Section 53G-3-102,~~]if:

(A) the potential isolated area is contiguous to one or more of the interlocal agreement participants;

(B) the interlocal participants submit a written request to the municipality in which the potential isolated area is located, requesting the municipality to enter into an interlocal agreement under Subsection (2)(a) that proposes to submit for voter approval a proposal to create a new school district that includes the potential isolated area; and

(C) the municipality, to which the interlocal agreement participants submitted a request under Subsection (3)(c)(i)(B), did not respond to the written request within 30 days after the day on which the request was submitted.

(ii) Each municipality receiving a request under Subsection (3)(c)(i) shall hold at least two public hearings to allow input from the public and affected school districts regarding whether the municipality should enter into an interlocal agreement with respect to the potential isolated area.

(iii) A municipal legislative body approves a proposal to enter into an interlocal agreement with respect to the potential isolated area if a majority of the municipal legislative body votes in favor of the proposal.

(d) (i) The isolated area described in this Subsection (3) shall, on July 1 of the second calendar year following the local school board general election date described in Section 53G-3-302, become part of the municipality's school district.

(ii) The divided school district shall continue to provide educational services to the isolated area until July 1 of the second calendar year following the local school board general election date described in Section 53G-3-302.

(4) (a) Interlocal agreement participants shall file a request described in Subsection (1)with the clerk of each county in which any part of the proposed new school district is located.

(b) The filing interlocal agreement participants shall ensure that the request described in Subsection (4)(a):

(i) indicates the typed or printed and current residence address of each governing board member making a request;

(ii) describes the proposed new school district boundaries; and

(iii) designates up to five signers of the request as sponsors, including as the contact sponsor, with the mailing address and telephone number of each.

(5) Within five business days after the day on which a request described in Subsection (4)(a)is filed, the clerk of each county with which the request is filed shall:

(a) determine whether the request complies with this section and Section 53G-3-301; and

(b) (i) if the county clerk determines that the request complies with the applicable requirements:

(A) certify the request and deliver the certified request to the legislative bodies of the interlocal agreement participants; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the request fails to comply with any of the applicable requirements, reject the request and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(6) (a) If the county clerk fails to certify or reject a request within the time specified in Subsection (5), the request is considered to be certified.

(b) If the county clerk rejects a request, the interlocal agreement participants that submitted the request may amend the request to correct the deficiencies for which the county clerk rejected the request, and refile the request.

(7) [~~(a)~~] Within 30 days after the day on which the contact sponsor receives certification as described in Subsection (5) or (6), the contact sponsor shall request [~~that the Legislative Audit Subcommittee consider prioritizing~~]a feasibility study[~~, as that term is defined in Section 53G-3-102~~].

[~~(b) For the year 2024, the interlocal agreement participants may use a feasibility study that interlocal agreement participants conducted before July 1, 2024, if:~~]

[~~(i) the feasibility study contains the determinations described in Section 53G-3-102; and~~]

[~~(ii) the legislative bodies of the interlocal agreement participants receive a report and recommendation regarding the feasibility study in a public meeting.~~]

(8) (a) The legislative bodies of the interlocal agreement participants, and each municipality within the geographic boundaries of the proposed new school district, shall:

(i) provide for a 30-day public comment period to begin[~~:~~]

[~~(A)~~] on the day on which the legislative bodies of the interlocal agreement participants receive [~~the report under~~]a feasibility study described in Subsection (7); [~~or~~]and

[~~(B) on July 1, 2024, if the municipal legislative body uses a feasibility study described in Subsection (7)(b), regardless of whether the municipal legislative body provided all or a portion of a public comment period in relation to the feasibility study before July 1, 2024; and~~]

(ii) [~~except as provided in Subsection (8)(d),~~]hold at least two public hearings [~~, as defined in Section 10-9a-103,~~] on the study and recommendation.

(b) Within 14 days after the day on which the public comment period ends, the legislative bodies of the interlocal agreement participants shall vote on the creation of the proposed new school district.

(c) The interlocal agreement participants approve a proposal if a majority of [~~each of~~]the legislative bodies of municipalities that are participants in the interlocal agreement [~~participants' members~~] vote in favor of the proposal.

[~~(d) If the municipal legislative body uses a feasibility study described in Subsection (7)(b), the number of public hearings required under Subsection (8)(a)(ii) is reduced by the number of public hearings the municipal legislative body held on the feasibility study before July 1, 2024.~~]

(9) Within five business days after the day on which the interlocal agreement participants approve a request proposing the creation of a new school district, the interlocal agreement participants shall notify the legislative body and the county clerk of each county described in Subsection (4)(a).

(10) (a) The county clerks of the counties described in Subsection (4)(a) shall submit the proposal for the creation of a new school district to all legal voters residing within the proposed new school district boundaries for approval or rejection at the next regular general election that is at least 65 days after the day on which the interlocal agreement participants comply with Subsection (9).

(b) The new school district described in the request and the reorganized new school district are created if a majority of the voters in the proposed new school district boundaries vote in favor of creating the new school district.

(11) Nothing in this section prevents an interlocal agreement participant from assisting the new school district or reorganized new school district, including by:

(a) entering into a loan agreement with the new school district or reorganized new school district; or

(b) assisting the new school district or reorganized new school district in securing a line of credit.

Section 9. Section 53G-3-302 is amended to read:

53G-3-302 (Effective upon governor's approval) (Applies beginning 11/04/24). Election of local school board members -- Allocation of assets and liabilities -- Startup costs -- Transfer of title.

(1) As used in this section:

(a) "Associated property" means furniture, equipment, or supplies located in or specifically associated with a physical asset.

(b) (i) "Discretionary asset or liability" means an asset or liability that is not tied to a specific project, school, student, or employee by law or school district accounting practice.

(ii) "Discretionary asset or liability" does not include a physical asset, associated property, a vehicle, an employee, or bonded indebtedness.

(c) (i) "Nondiscretionary asset or liability" means an asset or liability that is tied to a specific project, school, student, or employee by law or school district accounting practice.

(ii) "Nondiscretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(d) "Physical asset" means a building, land, or water right together with revenue derived from the lease or use of the building, land, or water right.

(e) (i) "Physical liability" means a liability associated with a physical asset, including:

(A) a seismic safety evaluation or mitigation; or

(B) deferred maintenance.

(ii) "Physical liability" does not include a liability associated with any debt, including a general obligation or lease revenue bond.

[~~(1)~~](2) (a) If voters approve a proposal to create a new school district under this part:

(i) the legislative body of each county where all or a part of the new school district and the reorganized new school district are located shall hold elections, during the year immediately following the year in which the voters approve the proposal or municipal legislative bodies or interlocal agreement participants create a new school district, to elect members to the local school board of the new school district and to the local school board of the reorganized new school district, as follows:

(A) the filing period for a declaration of candidacy [~~will be~~]is the same as the filing period for [~~a~~]the next regular or municipal general election for the given year;

(B) the primary election [~~will be~~]is held on the same day as the [~~municipal~~]primary election for the next regular or municipal general election for the given year; and

(C) the general election [~~will be~~]is held on the same day as the [~~municipal~~]next regular or municipal general election for the given year;

(ii) [~~the~~]any new school district and reorganized new school district shall divide the assets and liabilities of the divided school district between the [~~new school district and the reorganized new school district as provided in Subsection (3)~~]school districts in accordance with Subsection (4) and Section 53G-3-307;

(iii) [~~transferred employees shall be treated~~]any new school district and reorganized new school district shall treat the employment of transferred employees from the divided school district in accordance with Sections 53G-3-205 and 53G-3-308;

(iv) an individual residing within the boundaries of a new school district or reorganized new school district at the time the new school district is created may, for six school years following the creation of the new school district, elect to enroll in a secondary school located outside the boundaries of the [~~reorganized new~~]school district if:

(A) the individual resides within the boundaries of [~~that~~]the secondary school [~~as of~~]on the day before the creation of the new school district[~~is created~~]; and

(B) the individual would have been eligible to enroll in [~~that~~]the secondary school [~~had~~]if not for the creation of the new school district[~~not been created~~];

[~~(v)~~](C) the [~~reorganized~~]new school district [~~in which the secondary school is located~~]shall provide educational services, including, if provided before the creation of the new school district, busing to each individual making an election under Subsection [~~(1)(a)(iv)~~](2)(a)(iv) for each school year for which the individual makes the election; and

[~~(vi)~~](v) within one year following the date on which the new school district begins providing educational services, the superintendent of each affected school district shall meet, together with the state superintendent, to determine if further boundary changes should take place in accordance with Section 53G-3-501.

(b) (i) The county or municipal legislative bodies that conduct redistricting for the new school district and the reorganized new school district shall, at the meeting where the county or municipal legislative bodies adopt the final redistricting maps, adjust the initial terms of the board members for the new school district and the reorganized new school district, by lot, so that approximately half of the board members on each board will have an initial term of three years with the other members having an initial term of five years.

[~~(ii) The term of a member of the divided school district local school board terminates on January 1 of the year following the allocation date.~~]

[~~(iii)~~](ii) Notwithstanding the existence of the new school district local school board and the reorganized new school district local school board under Subsection [~~(1)(a)(i)~~](2)(a)(i), the divided school district local school board shall continue to function and exercise authority as a local school board until the allocation date to the extent necessary to continue to provide educational services to the entire divided school district.

[~~(iv)~~](iii) An individual may simultaneously serve as or be elected to be a member of the local school board of a divided school district and a member of the local school board of:

(A) a new school district; or

(B) a reorganized new school district.

(iv) On the allocation date, the divided school district and the associated local school board cease to exist.

(c) (i) On the Tuesday immediately following certification of the election results for the first election for the members of the local school board described in Subsection (2)(a)(i), the newly elected members of the local school board for the new school district or reorganized new school district shall take the oath of office and begin serving.

(ii) If the term of a member of the local school board of the divided school district ends within one year of the allocation date, the member's term shall extend to the allocation date.

[~~(2)~~](3) (a) The divided school district local school board shall[~~:~~]:

(i) within 60 days after the creation date[~~:~~]

[~~(i)~~] prepare an initial inventory of the divided school district's:

(A) assets, both tangible and intangible, real and personal; and

(B) liabilities; [~~and~~]

[~~(ii) deliver a copy of the inventory to the Office of the Legislative Auditor General.~~]

(ii) on or before December 1 of the year following the creation date:

(A) prepare an asset inventory, with records, of the divided school district's assets and the location of each associated property, discretionary asset, nondiscretionary asset, and physical asset; and

(B) prepare an inventory of the divided school district's liabilities, with records, that includes a description of any liability, including an estimated cost to resolve the liability, for each associated property, discretionary asset, nondiscretionary asset, physical asset, and unresolved demands, claims, or suits with an estimated cost to resolve each liability;

(iii) mutually agree with the local school board of each relevant district to establish a regular schedule for the divided school district local school board to, between the creation date and the allocation date, prepare regular updates including any change in the information required in the inventory and liability reports described in this Subsection (3)(a); and

(iv) deliver the reports described in this Subsection (3)(a) to:

(A) the Office of the Legislative Auditor General; and

(B) the local school board of each relevant new school district and reorganized new school district.

(b) Following the local school board election date described in Subsection [~~(1)(a)~~](2)(a), the new school district and reorganized new school district local school boards shall:

[~~(i) request a copy of the inventory described in Subsection (2)(a) from the Office of the Legislative Auditor General;~~]

[~~(ii)~~](i) in cooperation with the local school board of each new school district and reorganized new school district, determine the allocation of the divided school district's assets and, except for indebtedness under Section 53G-3-307, liabilities of the new school district and reorganized new school district in accordance with Subsection [~~(3)~~](4);

[~~(iii)~~](ii) prepare a written report detailing the allocation under Subsection [~~(2)(b)(ii); and~~](3)(b)(i);

(iii) prepare a written report of the disposition of assets and liabilities upon which the local school boards could not agree; and

(iv) deliver a copy of the written report to the Office of the Legislative Auditor General and the local school board of the divided school district[~~local board~~].

(c) The new school district and reorganized new school district local boards shall determine the allocation under Subsection [~~(2)(b)~~](3)(b) and deliver the report required under Subsection [~~(2)(b)~~](3)(b) on or before [~~July 1~~]December 15 of the year following the school board election date described in Subsection (2)(a), unless that deadline is extended by mutual agreement of the local school boards of the new school district and reorganized new school district [~~local boards~~].

[~~(3) (a) As used in this Subsection (3):~~]

[~~(i) "Associated property" means furniture, equipment, or supplies located in or specifically associated with a physical asset.~~]

[~~(ii) (A) "Discretionary asset or liability" means, except as provided in Subsection (3)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or employee by law or school district accounting practice.~~]

[~~(B) "Discretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.~~]

[~~(iii) (A) "Nondiscretionary asset or liability" means, except as provided in Subsection (3)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or employee by law or school district accounting practice.~~]

[~~(B) "Nondiscretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.~~]

[~~(iv) "Physical asset" means a building, land, or water right together with revenue derived from the lease or use of the building, land, or water right.~~]

[~~(b)~~](4) (a) Except as provided under Subsection [~~(3)(c)~~](4)(c), the new school district and reorganized new school district local school boards shall allocate all assets and liabilities the divided school district owns on the allocation date, both tangible and intangible, real and personal [~~as follows~~], allocating:

(i) a physical asset, physical liability, and associated property asset [~~shall be allocated~~]to the school district in which the physical asset is located;

(ii) a discretionary asset or liability [~~shall be allocated~~]between the new school district and reorganized new school district in proportion to the student population of the school districts;

(iii) vehicles used for pupil transportation[~~shall be allocated~~]:

(A) according to the transportation needs of schools, as measured by the number and assortment of vehicles used to serve eligible state supported transportation routes serving schools within the new school district and the reorganized new school district; and

(B) in a manner that gives each school district a fleet of vehicles for pupil transportation that is equivalent in terms of age, condition, and variety of carrying capacities; and

(iv) other vehicles[~~shall be allocated~~]:

(A) in proportion to the student population of the school districts; and

(B) in a manner that gives each district a fleet of vehicles that is similar in terms of age, condition, and carrying capacities.

(b) Each new and reorganized new school district retains the buildings, land, and water rights of the divided district within the boundaries of the relevant new or reorganized new school district.

(c) By mutual agreement, the new school district and reorganized new school district local school boards may allocate an asset or liability in a manner different than the allocation method specified in Subsection [~~(3)(b)~~](4)(a).

[~~(4) (a) As used in this Subsection (4):~~]

[~~(i) "New school district startup costs" means the costs and expenses incurred by a new school district in order to prepare to begin providing educational services on July 1 of the second calendar year following the local school board election date described in Subsection (1)(a)(i).~~]

[~~(ii) "Reorganized new school district startup costs" means the costs and expenses that a reorganized new school district incurs to make necessary adjustments to deal with the impacts resulting from the creation of the new school district and to prepare to provide educational services within the reorganized new school district once the new school district begins providing educational services within the new school district.~~]

[~~(b) On or before January 1 of the year following the new local school board election date described in Subsection (1)(a)(i), the divided school district shall make the unassigned reserve funds from the divided school district's general fund available for the use of the reorganized new school district and the new school district in proportion to the student enrollment of each new school district.~~]

[~~(c) The divided school district may make additional funds available for the use of the reorganized new school district and the new school district beyond the amount specified in Subsection (4)(b) through an interlocal agreement.~~]

[~~(d) The following may access and spend money made available under Subsection (4)(b):~~]

[~~(i) the reorganized new school district local school board; and~~]

[~~(ii) the new school district local school board.~~]

[~~(e) The new school district and the reorganized new school district may use the money made available under Subsection (4)(b) to pay for the new school district and reorganized new school district startup costs.~~]

(5) (a) (i) After the creation date, the local school board of the divided district may issue a lease revenue bond, in accordance with Section 11-14-103:

(A) that records the date, terms, and amount of the lease revenue bond the divided school district provides;

(B) that designates the new and reorganized new school districts that are the joint recipients of the bond proceeds, in proportion to the property tax values within each district, as the local political subdivisions receiving the bond proceeds;

(C) that obligates the new and reorganized new school districts receiving the bond proceeds to proportionally repay the remainder of the bond debt after the allocation date, in proportion to the portion of the bond proceeds each new or reorganized new school district receives;

(D) that prohibits the bond from inclusion in the outstanding bond indebtedness of the divided school district, in accordance with Section 53G-3-307;

(E) to which, if the relevant local school board has been seated, the local school board of the new school district or reorganized new school district consents in writing; and

(F) that provides that the divided school district is responsible for the bond payments until the allocation date and that each new and

reorganized new school district receiving the bond proceeds under this section is responsible for a proportional share of the bond payments after the allocation date.

(ii) This Subsection (5)(a) applies retrospectively to a lease revenue bond that a divided school district issued after November 4, 2024.

(b) (i) After the creation date, the local school board of the divided school district may issue a general obligation bond for the interlocal agreement participants on behalf of the relevant new and reorganized new school district within the divided school district, in accordance with Section 11-14-103.

(ii) The local school board shall ensure that the resolution submitting the question of the issuance of the bond by the divided school district, in accordance with Section 11-14-201:

(A) designates the new and reorganized new school districts that are the joint recipients of the bond proceeds, in proportion to the property tax values within each district, as the local political subdivisions receiving the bond proceeds;

(B) obligates the new and reorganized new school districts receiving the bond proceeds to proportionally repay the remainder of the bond debt after the allocation date, in proportion to the portion of the bond proceeds each new or reorganized new school district receives;

(C) prohibits the bond from inclusion in the outstanding bonded indebtedness of the divided school district, in accordance with Section 53G-3-307;

(D) provides that the divided school district may not issue the bond unless the majority of the qualified voters of the divided school district who vote on the bond proposition approve the issuance of the bond; and

(E) provides that the divided school district is responsible for the bond payments until the allocation date and that each new and reorganized new school district receiving the bond proceeds under this section is responsible for a proportional share of the bond payments after the allocation date.

(iii) This Subsection (5)(b) applies retrospectively to a general obligation bond that a divided school district issued after November 4, 2024.

(c) (i) If, within the preceding three years, voters within the divided school district rejected a general obligation bond for which a majority of voters within the area now included in a new or reorganized new school district voted in favor of the general obligation bond, the local school board of the divided district shall issue a lease revenue bond in accordance with Subsection (5)(a)(i) for the relevant new or reorganized new school district.

(ii) A lease revenue bond described in Subsection (5)(c)(i) is not subject to the combined total limitation described in Subsection 11-14-103(6)(b)(i) due to the prior approval of voters within the new or reorganized new school district for the general obligation bond.

(d) The local school board of each new and reorganized new school district may access and spend funds made available under Subsections 53G-3-301.3(9) and 53G-3-301.4(11) and under this Subsection (5).

[~~(5)~~](6) (a) The divided school district shall transfer title or, if applicable, partial title of property to the new school district and the reorganized new school district in accordance with the allocation of property as stated in the report under Subsection [~~(2)(b)(iii)~~](3)(b)(ii).

(b) The divided school district shall complete each transfer of title or, if applicable, partial title to real property and vehicles on [~~or before one calendar year from the date of the local school board election date described in Subsection (1)(a)(i)~~]the allocation date, except as that date is changed by the mutual agreement of:

(i) the local school board of the divided school district;

(ii) the local school board of the reorganized new school district; and

(iii) the local school board of the new school district.

(c) The divided school district shall complete the transfer of all property not included in Subsection [~~(5)(b)~~](6)(b) on [~~or before November 1 of the calendar year following the local school board election date described in Subsection (1)(a)(i)~~]the allocation date.

[~~(6)~~](d) Except as provided in this Subsection [~~(5)~~](6), a divided school district may not transfer or agree to transfer title to district property beginning on the [~~day the new school district or reorganized new school district is created~~]creation date, without the prior consent of:

(i) before the election of local school boards for the new or reorganized new school district:

[~~(a)~~](A) the legislative body of the municipality in which the boundaries for the new school district or reorganized new school district are entirely located; or

[~~(b)~~](B) the legislative bodies of all interlocal agreement participants in which the boundaries of the new school district or reorganized new school district are located[~~.~~]; or

(ii) after the election of local school boards for the new or reorganized new school district, the local school board of the school district where the physical property is located.

(e) (i) A divided district may:

(A) sell property associated with a career and technical education program; and

(B) use proceeds from a sale described in this Subsection (6)(e) to fund the following year's career and technical education program project.

(ii) A divided district shall distribute any proceeds from a sale described in this Subsection (6)(e) two years after the inaugural election of local school board members for the new and reorganized new school districts based on student population.

(7) (a) On July 1 of the second year following the local school board election date described in Subsection (2)(a), the new school district or the reorganized new school district that receives title to the physical asset of the divided school district main office that existed at the creation date shall become the successor district to the records of the divided school district, unless the local school boards of any relevant new school district and reorganized new school district agree to a chosen successor district.

(b) As described in Subsection 63G-2-206(1)(a), the successor district shall serve as a repository of archives for purposes of historical preservation, administrative maintenance, or destruction of all the divided school district's books, accounts, and records.

(c) For one year after the allocation date, each new school district or reorganized new school district within the divided school district may access the records of the divided school district through an interlocal agreement and without cost.

(8) (a) Upon the creation date, a divided school district may not, except by mutual agreement of the local school boards of the new and reorganized new school districts:

(i) destroy a school district record;

(ii) enter into any employment agreement without including a statement providing that the contract does not bind any new school district or reorganized new school district;

(iii) pay any severance or bonuses, issue a retirement package, or provide buy-out compensation to any employee unless under a written agreement or policy that was executed before the creation date; or

(iv) increase compensation for any school district employee, other than:

(A) a yearly cost-of-living adjustment; or

(B) any pay structure increases the divided district established before the creation date for longevity, years of experience, or additional education and professional development.

(b) Notwithstanding Subsection 53G-4-402(24), upon the creation of a new school district or a reorganized new school district, a divided school district may not close a school, except with the consent of the relevant local school board of the new school district or relevant reorganized new school district once the members of the local school board take the oath of office.

(c) Any agreement or policy contrary to this Subsection (8) is void, including retrospective operation to any agreement or policy that a divided school district created after November 4, 2024.

(9) The newly elected local school boards of any new school district and any reorganized new school district, by December 15 in the year following the local school board election for the new and reorganized new school districts, shall establish a transition plan with the local school board of the divided school district.

(10) Unless otherwise specified in this section, the following bear all costs and expenses to create a new school district or a reorganized new school district and to comply with this section:

(a) for costs that a new school district incurs, the new school district;

(b) for costs that a reorganized new school district incurs, the reorganized new school district; and

(c) for costs that a divided school district incurs, the divided school district.

(11) (a) A mutually agreed upon arbiter shall resolve any disagreements between local school boards of the divided school district, any new school district, and any reorganized new school district.

(b) If the local school boards do not agree on an arbiter, the state board shall appoint an arbiter.

(c) The Office of the Legislative Auditor General shall provide information the office receives under this part to local school boards and the arbiter described in this Subsection (11) during the dispute resolution process.

Section 10. Section 53G-3-303 is amended to read:

53G-3-303 (Effective upon governor's approval). New school district property tax -- Limitations.

(1) A new school district, created under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4,and a reorganized new school district may not impose a property tax before the fiscal year in which the new school district and reorganized new school district assume responsibility for providing student instruction.

(2) (a) If at the time a new school district created in accordance with Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4[~~,~~] assumes responsibility for student instruction any portion of the territory within the new school district was subject to a levy [~~pursuant to~~]under Section 53F-8-301, the new school district's local school board may:

(i) discontinue the levy for the new school district;

(ii) impose a levy on the new school district as provided in Section 53F-8-301; or

(iii) impose the levy on the new school district, subject to Subsection (2)(b).

(b) If the new school district's local school board applies a levy to the new school district in accordance with Subsection (2)(a)(iii), the levy may not exceed the maximum duration or rate authorized by the voters of the divided school district at the time of the vote to create the new school district or that resulted in the creation of the reorganized new school district.

Section 11. Section 53G-3-305 is amended to read:

53G-3-305 (Effective upon governor's approval). Redistricting -- Local school board membership.

(1) Upon the creation of a new school district or a reorganized new school district in accordance with Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4, the applicable legislative body shall redistrict the affected school districts in accordance with Section 20A-14-201.

(2) Except as provided in Section 53G-3-302, local school board membership in the affected school districts [~~shall be determined under~~]is subject to Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

Section 12. Section 53G-3-307 is amended to read:

53G-3-307 (Effective upon governor's approval). Tax to pay for indebtedness of divided school district.

(1) As used in [~~Subsections (2) and (3)~~]this section, "outstanding bonded indebtedness" means, except for a lease revenue bond or a general obligation bond described in Subsection 53G-3-302(5), debt owed for a general obligation bond or lease revenue bond [~~issued by~~]that the divided school district issues:

(a) before the creation of the new school district; or

(b) in accordance with a mutual agreement of the local school boards of the reorganized new school district and the new school district under Subsection (4).

(2) If the creation date of a new school district [~~is created~~]occurs on or after May 10, 2011, property within the new school district and the reorganized new school district is subject to the levy of a tax to pay the divided school district's outstanding bonded indebtedness as provided in Subsection (3).

(3) (a) Except as provided in Subsection (3)(b), the local school board of the new school district and the local school board of the reorganized new school district shall impose a tax levy at a rate that:

(i) generates from the combined districts the amount of revenue required each year to meet the outstanding bonded indebtedness of the divided school district; and

(ii) is based on the adjusted assessed value of the new school district and reorganized new school district as of the creation date, as the State Tax Commission determines.

(b) A local school board of a new school district may abate a property tax [~~required to be imposed under~~]that Subsection (3)(a)requires the board to impose to the extent the new school district has money available to pay to the reorganized new school district the amount of revenue that [~~would be generated~~]the tax rate described in Subsection (3)(a) would generate within the new school district [~~from the tax rate specified in Subsection (3)(a)~~].

(4) (a) The local school boards of the new school district and the reorganized new school district shall determine, by mutual agreement, the disposition of bonds [~~approved but not issued by~~]the divided school district approved but did not issue before the creation of the new school district and reorganized new school district based primarily on the representation made to the voters at the time of the bond election.

(b) Before the local school boards make a determination[~~is made~~] under Subsection (4)(a), a reorganized new school district may not issue the approved and unissued bonds [~~approved but not issued before the creation of the new school district and reorganized new school district~~]described in Subsection (4)(a) if property in the new school district would be subject to the levy of a tax to pay the bonds.

Section 13. Section 63G-2-203 is amended to read:

63G-2-203 (Effective upon governor's approval). Fees.

(1) (a) Subject to Subsection (5), a governmental entity may charge a reasonable fee to cover the governmental entity's actual cost of providing a record.

(b) A fee under Subsection (1)(a) shall be approved by the governmental entity's executive officer.

(2) (a) When a governmental entity compiles a record in a form other than that normally maintained by the governmental entity, the actual costs under this section may include the following:

(i) the cost of staff time for compiling, formatting, manipulating, packaging, summarizing, or tailoring the record either into an organization or media to meet the person's request;

(ii) the cost of staff time for search, retrieval, and other direct administrative costs for complying with a request; and

(iii) in the case of fees for a record that is the result of computer output other than word processing, the actual incremental cost of providing the electronic services and products together with a reasonable portion of the costs associated with formatting or interfacing the information for particular users, and the administrative costs as set forth in Subsections (2)(a)(i) and (ii).

(b) An hourly charge under Subsection (2)(a) may not exceed the salary of the lowest paid employee who, in the discretion of the custodian of records, has the necessary skill and training to perform the request.

(3) (a) Fees shall be established as provided in this Subsection (3).

(b) A governmental entity with fees established by the Legislature:

(i) shall establish the fees defined in Subsection (2), or other actual costs associated with this section through the budget process; and

(ii) may use the procedures of Section 63J-1-504 to set fees until the Legislature establishes fees through the budget process.

(c) Political subdivisions shall establish fees by ordinance or written formal policy adopted by the governing body.

(d) The judiciary shall establish fees by rules of the judicial council.

(4) A governmental entity may fulfill a record request without charge and is encouraged to do so if it determines that:

(a) releasing the record primarily benefits the public rather than a person;

(b) the individual requesting the record is the subject of the record, or an individual specified in Subsection 63G-2-202(1) or (2); or

(c) the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

(5) (a) As used in this Subsection (5), "media representative":

(i) means a person who requests a record to obtain information for a story or report for publication or broadcast to the general public; and

(ii) does not include a person who requests a record to obtain information for a blog, podcast, social media account, or other means of mass communication generally available to a member of the public.

(b) A governmental entity may not charge a fee for:

(i) reviewing a record to determine whether it is subject to disclosure, except as permitted by Subsection (2)(a)(ii);

(ii) inspecting a record; or

(iii) the first quarter hour of staff time spent in responding to a request under Section 63G-2-204.

(c) Notwithstanding Subsection (5)(b)(iii), a governmental entity is not prevented from charging a fee for the first quarter hour of staff time spent in responding to a request under Section 63G-2-204 if the person who submits the request:

(i) is not a Utah media representative; and

(ii) previously submitted a separate request within the 10-day period immediately before the date of the request to which the governmental entity is responding.

(6) (a) A person who believes that there has been an unreasonable denial of a fee waiver under Subsection (4) may appeal the denial in the same manner as a person appeals when inspection of a public record is denied under Section 63G-2-205.

(b) The adjudicative body hearing the appeal:

(i) shall review the fee waiver de novo, but shall review and consider the governmental entity's denial of the fee waiver and any determination under Subsection (4); and

(ii) has the same authority when a fee waiver or reduction is denied as it has when the inspection of a public record is denied.

(7) (a) All fees received under this section by a governmental entity subject to Subsection (3)(b) shall be retained by the governmental entity as a dedicated credit.

(b) Those funds shall be used to recover the actual cost and expenses incurred by the governmental entity in providing the requested record or record series.

(8) (a) A governmental entity may require payment of past fees and future estimated fees before beginning to process a request if:

(i) fees are expected to exceed $50; or

(ii) after the government entity has sent an invoice, the requester has not paid fees from a previous [~~requests~~]request.

(b) Any prepaid amount in excess of fees due shall be returned to the requester.

(9) This section does not alter, repeal, or reduce fees established by other statutes or legislative acts.

(10) (a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be set as provided in this Subsection (10).

(b) The lieutenant governor shall:

(i) after consultation with county clerks, establish uniform fees for voter registration and voter history records that meet the requirements of this section; and

(ii) obtain legislative approval of those fees by following the procedures and requirements of Section 63J-1-504.

Section 14. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect on May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

Section 15. Retrospective operation.

Section 53G-3-302 (Effective upon governor's approval) (Applies beginning 11/04/24) has retrospective operation to November 4, 2024.

CHAPTER 34
S. B. 279
Passed March 7, 2025
Approved March 17, 2025
Effective July 1, 2025

HIGH SCHOOL RODEO AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill includes rodeo as a valid excuse for a student to be absent from school.

Highlighted Provisions:

This bill:

► amends the definition of "valid excuse" to include a student that competes in a rodeo sanctioned by certain organizations; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-6-201, as last amended by Laws of Utah 2024, Chapter 464

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

Section 1. Section 53G-6-201 is amended to read:

53G-6-201. Definitions.

As used in this part:

(1) (a) "Absence" or "absent" means the failure of a school-age child assigned to a class or class period to attend a class or class period.

(b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence for the sake of a truancy.

(2) "Educational neglect" means the same as that term is defined in Section 80-1-102.

(3) (a) "Home-based microschool" means an individual or association of individuals that:

(i) registers as a business entity in accordance with state and local laws; and

(ii) for compensation, provides kindergarten through grade 12 education services to 16 or fewer students from an individual's residential dwelling, accessory dwelling unit, or residential property.

(b) "Home-based microschool" does not include a daycare.

(4) "Instructor" means an individual who teaches a student as part of a home-based microschool or micro-education entity.

(5) (a) "Micro-education entity" means a person or association of persons that:

(i) registers as a business entity in accordance with state and local laws; and

(ii) for compensation, provides kindergarten through grade 12 education services to 100 students or fewer.

(b) "Micro-education entity" does not include:

(i) a daycare;

(ii) a home-based microschool;

(iii) a private school; or

(iv) a school within the public education system.

(6) "Minor" means an individual who is under 18 years old.

(7) "Parent" includes:

(a) a custodial parent of the minor;

(b) a legally appointed guardian of a minor; or

(c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (7)(a) or (b).

(8) "School day" means the portion of a day that school is in session in which a school-age child is required to be in school for purposes of receiving instruction.

(9) "School year" means the period of time designated by a local school board or charter school governing board as the school year for the school where the school-age child:

(a) is enrolled; or

(b) should be enrolled, if the school-age child is not enrolled in school.

(10) "School-age child" means a minor who:

(a) is at least six years old but younger than 18 years old; and

(b) is not emancipated.

(11) (a) "Truant" means a condition in which a school-age child, without a valid excuse, and subject to Subsection (11)(b), is absent for at least:

(i) half of the school day; or

(ii) if the school-age child is enrolled in a learner verified program, as that term is defined by the state board, the relevant amount of time under the LEA's policy regarding the LEA's continuing enrollment measure as it relates to truancy.

(b) A school-age child may not be considered truant under this part more than one time during one day.

(12) "Truant minor" means a school-age child who:

(a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and

(b) is truant.

(13) (a) "Valid excuse" means:

(i) an illness, which may be either mental or physical, regardless of whether the school-age child or parent provides documentation from a medical professional;

(ii) mental or behavioral health of the school-age child;

(iii) a family death;

(iv) an approved school activity;

(v) an absence permitted by a school-age child's:

(A) individualized education program; or

(B) Section 504 accommodation plan;

(vi) competition in a rodeo sanctioned by an international, non-profit organization dedicated to the development of sportsmanship, horsemanship, and character in youth through the sport of rodeo;

[~~(vi)~~](vii) an absence permitted in accordance with Subsection 53G-6-803(5); or

[~~(vii)~~](viii) any other excuse established as valid by a local school board, charter school governing board, or school district.

(b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason other than a reason described in Subsections (13)(a)(i) through [~~(vi)~~](vii), unless specifically permitted by the local school board, charter school governing board, or school district under Subsection [~~(13)(a)(vi)~~](13)(a)(viii).

Section 2. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 35
S. B. 282
Passed March 7, 2025
Approved March 17, 2025
Effective March 17, 2025

HIGHER EDUCATION HIRING AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Doug Fiefia

LONG TITLE

General Description:

This bill amends provisions regarding the hiring process of an institution of higher education president.

Highlighted Provisions:

This bill:

- ► exempts a search committee for an institution of higher education president from the Open and Public Meetings Act;
- ► expands the duties of a search committee;
- ► requires a search committee to:
  - • protect candidate confidentiality, including by meeting in closed executive sessions; and
  - • recommend three finalists to the Utah Board of Higher Education (board);
- ► maintains all presidential application materials as protected records;
- ► requires an open and public meeting of the board for final hiring action of a president; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

52-4-103, as last amended by Laws of Utah 2024, Chapters 392, 522
53B-1-402, as last amended by Laws of Utah 2024, Chapters 144, 378
53B-2-102, as last amended by Laws of Utah 2023, Chapter 254
63G-2-305, as last amended by Laws of Utah 2024, Chapters 18, 101, 135, 267, 344, and 522

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

Section 1. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means:

(a) the physical location where the public body conducting an electronic meeting under Section 52-4-207 normally conducts meetings of the public body; or

(b) a location other than the location described in Subsection (1)(a) that is reasonably as accessible to the public as the location described in Subsection (1)(a).

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) "Electronic meeting" means a meeting that some or all public body members attend through an electronic video, audio, or both video and audio connection, as provided in Section 52-4-207.

(4) "Fiduciary or commercial information" means information:

(a) related to any subject if disclosure:

(i) would conflict with a fiduciary obligation; or

(ii) is prohibited by insider trading provisions; or

(b) that is commercial in nature including:

(i) account owners or borrowers;

(ii) demographic data;

(iii) contracts and related payments;

(iv) negotiations;

(v) proposals or bids;

(vi) investments;

(vii) management of funds;

(viii) fees and charges;

(ix) plan and program design;

(x) investment options and underlying investments offered to account owners;

(xi) marketing and outreach efforts;

(xii) financial plans; or

(xiii) reviews and audits excluding the final report required under Section 53B-8a-111.

(5) "Meeting" means a gathering:

(a) of a public body or specified body;

(b) with a quorum present; and

(c) that is convened:

(i) by an individual:

(A) with authority to convene the public body or specified body; and

(B) following the process provided by law for convening the public body or specified body; and

(ii) for the express purpose of acting as a public body or specified body to:

(A) receive public comment about a relevant matter;

(B) deliberate about a relevant matter; or

(C) take action upon a relevant matter.

(6) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(7) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more individuals;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:

(A) consists of two or more individuals;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.

(b) "Public body" includes:

(i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103, except for the Water District Water Development Council created pursuant to Section 11-13-228;

(ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102;

(iii) the Utah Independent Redistricting Commission; and

(iv) a project entity, as that term is defined in Section 11-13-103.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, a sifting committee, or an administrative staff committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;

(iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed interlocal entity is not a project entity; [~~or~~]

(v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee[~~.~~]; or

(vi) a search committee that selects finalists for a position as an institution of higher education president under Section 53B-2-102.

(8) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(9) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(10) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(11) (a) "Relevant matter" means a matter that is within the scope of the authority of a public body or specified body.

(b) "Relevant matter" does not include, for a public body with both executive and legislative responsibilities, a managerial or operational matter.

(12) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (7)(c)(ii) or (7)(c)(v).

Section 2. Section 53B-1-402 is amended to read:

53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.

(1) (a) There is established the Utah Board of Higher Education, which:

(i) is the governing board for the institutions of higher education; and

(ii) controls, oversees, and regulates the Utah System of Higher Education in a manner consistent with the purpose of this title and the specific powers and responsibilities granted to the board.

(b) (i) The University of Utah shall provide administrative support for the board.

(ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's independence, including in relation to the powers and responsibilities granted to the board.

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize data-driven retrospective and prospective system priorities, including:

(i) quality;

(ii) affordability;

(iii) access and equity;

(iv) completion;

(v) workforce alignment and preparation for high-quality jobs; and

(vi) economic growth;

(b) establish system policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

(ii) performance on measures of operational efficiency;

(d) collect and analyze data including economic data, demographic data, and data related to the metrics;

(e) govern data quality and collection across institutions;

(f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;

(g) assess an institution's performance in accomplishing the institution's mission and role;

(h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;

(i) perform the following duties related to an institution of higher education president, including:

(i) hiring an institution of higher education president in accordance with Section 53B-2-102;

(ii) through the commissioner and the board's executive committee:

(A) providing support and guidance to an institution of higher education president; and

(B) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities;

(iii) setting the terms of employment for an institution of higher education president, including performance-based compensation, through an employment contract or another method of establishing employment; and

(iv) establishing, through a [~~public~~]confidential process, a statewide succession plan to develop potential institution presidents from within the system;

(j) create and implement a strategic finance plan for higher education, including by:

(i) establishing comprehensive budget and finance priorities for academic education and technical education;

(ii) allocating statewide resources to institutions;

(iii) setting tuition for each institution;

(iv) administering state financial aid programs;

(v) administering performance funding in accordance with Chapter 7, Part 7, Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

(k) create and annually report to the Higher Education Appropriations Subcommittee on a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs;

(vii) coordinating work-based learning; and

(viii) emphasizing the system priorities and metrics described in Subsections (2)(a) and (c);

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and

(iv) other responsibilities determined by the board;

(n) delegate to an institution of higher education president management of the institution of higher education;

(o) consult with an institution of higher education board of trustees or institution of higher education president before acting on matters pertaining to the institution of higher education;

(p) maximize efficiency throughout the Utah System of Higher Education by identifying and establishing shared administrative services, beginning with:

(i) commercialization;

(ii) services for compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(iii) information technology services; and

(iv) human resources, payroll, and benefits administration;

(q) develop strategies for providing higher education, including career and technical education, in rural areas;

(r) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives, beginning with common applications and direct admissions;

(s) provide ongoing quality review of programs;

(t) before each annual legislative general session, provide to the Higher Education Appropriations Subcommittee a prioritization of all projects and proposals for which the board or an institution of higher education seeks an appropriation; and

(u) coordinate with the Department of Corrections to establish educational programs for inmates as described in Section 64-13-6.

(3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:

(a) the Education Interim Committee;

(b) the Higher Education Appropriations Subcommittee;

(c) the governor; and

(d) each institution of higher education.

(4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education, to the governor and to the Education Interim Committee by October 31 of each year, including information detailing:

(a) how institutions of higher education are meeting the career and technical education needs of secondary students;

(b) how the system emphasized high demand, high wage, and high skill jobs in business and industry;

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.

(6) The board may not take action relating to merging a technical college with another institution of higher education without legislative approval.

(7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(9) The board shall demonstrate compliance with Subsection (2)(p) by providing to the Higher Education Appropriations Subcommittee:

(a) on or before October 1, 2024, evidence of implementation of at least one shared administrative service;

(b) on or before October 1, 2025, evidence of implementation of at least two shared administrative services; and

(c) on or before October 1, 2026, evidence of implementation of at least three shared administrative services.

(10) If the Higher Education Appropriations Subcommittee finds the board to be out of compliance with Subsection (9), the Legislature shall:

(a) deduct 10% of the appropriation described in Section 53B-7-703 for the following fiscal year; and

(b) deduct an additional 10% of the appropriation described in Section 53B-7-703 for each subsequent year of noncompliance up to a maximum deduction of 30%.

Section 3. Section 53B-2-102 is amended to read:

53B-2-102. Appointment of institution of higher education presidents.

(1) As used in this section:

(a) "Institution of higher education" means:

(i) a degree-granting institution; or

(ii) a technical college.

(b) "President" means the president of an institution of higher education.

(c) "Search committee" means a committee that selects finalists for a position as an institution of higher education president.

(2) The board shall appoint a president for each institution of higher education.

(3) [~~An institution of higher education~~]A president serves in accordance with the terms of employment that the board establishes as described in Section 53B-1-402.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), to appoint [~~an institution of higher education~~]a president, the board shall establish a search committee that includes representatives of faculty, staff, students, the institution of higher education board of trustees, alumni, the outgoing [~~institution of higher education~~]president's executive council or cabinet, and the board.

(ii) The board may delegate the authority to appoint the search committee [~~described in Subsection (4)(a)(i)~~]to an institution of higher education board of trustees.

(iii) The commissioner shall provide staff support to a search committee.

(b) (i) Except as provided in Subsection (4)(b)(ii), [~~a search committee shall be cochaired by~~]a member of the board and a member of the institution of higher education board of trustees shall cochair a search committee.

(ii) The board may delegate the authority to chair a search committee to the institution of higher education board trustees.

(c) A search committee [~~described in Subsection (4)(a) shall forward three to five finalists~~]shall:

(i) respect and protect candidate confidentiality; and

(ii) through closed executive sessions:

(A) review prospective candidates; and

(B) forward three prioritized finalists to the board to consider for a position as [~~an institution of higher education~~]a president.

(d) A search committee may not forward an individual to the board as a finalist unless [~~two-thirds~~]a majority of the search committee members, as verified by the commissioner, find the individual to be qualified and likely to succeed as [~~an institution of higher education~~]a president.

(5) (a) The board shall select an institution of higher education president from among the finalists [~~presented by~~]a search committee presents to the board under Subsections (4)(c) and (5)(b).

(b) If the board is not satisfied with the finalists [~~forwarded by~~]a search committee presents to the board, the board may direct the search committee to resume the search process and submit three additional prioritized finalists until the search committee [~~has forwarded three finalists with whom the board is satisfied~~]presents a finalist whom the board approves.

(6) The board, through the commissioner, shall:

(a) create a comprehensive, active recruiting plan to ensure a strong, diverse pool of potential candidates for [~~institution of higher education~~]presidents; and

(b) review, in a closed executive session, individuals from within the system whose candidacy may be considered for future applicant pools in relation to the succession plan described in Section 53B-1-402.

(7) [~~(a) Except as provided in Subsection (7)(b), a~~]A record or information gathered or generated during the search process, including a candidate's application and the search committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

[~~(b) Application materials for a publicly named finalist described in Subsection (5)(a)are not protected records under Section 63G-2-305.~~]

(8) The board shall take final hiring action of a president in an open and public board meeting.

Section 4. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) a research request from a legislator to a legislative staff member and research findings prepared in response to the request;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26B-2-709:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a provider, program, or facility which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a provider, program, or facility;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

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

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under

Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(65) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102[~~, except for application materials for a publicly announced finalist~~];

(66) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(67) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(68) work papers as defined in Section 31A-2-204;

(69) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(70) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(71) a record described in Section 31A-37-503;

(72) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(73) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (74) or (75), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(78) a record submitted to the Insurance Department under Section 31A-48-103;

(79) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(80) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding;

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest; or

(d) the image is displayed to a person who is permitted to view the image under Section 17-22-30[~~.~~]_;_

(81) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(82) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (82) may not be used to restrict access to a record evidencing a final contract or approval decision;

(83) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (83)(a);

(84) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

(85) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401;

(86) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake; [~~and~~]

(87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is reclassified as public as described in Subsection 13-2-11(4)[~~.~~]; and

(88) a record of the Utah water agent, appointed under Section 73-10g-702:

(a) concerning a claim to the use of waters;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state, a tribe, the federal government, or other government entity as provided in Title 73, Chapter 10g, Part 6, Utah Water Agent; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water;

(ii) harm the ability of the Utah water agent to negotiate the best terms and conditions regarding the use of water; or

(iii) give an advantage to another state, a tribe, the federal government, or other government entity in negotiations regarding the use of water.

Section 5. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 36
S. B. 230
Passed March 5, 2025
Approved March 18, 2025
Effective May 7, 2025

UTAH RESIDENT TERMINOLOGY AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill addresses the state demonym.

Highlighted Provisions:

This bill:

► establishes "Utahn" as the state demonym.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-601, as last amended by Laws of Utah 2023, Chapters 337, 338

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

Section 1. Section 63G-1-601 is amended to read:

63G-1-601. State symbols.

(1) Utah's state animal is the elk.

(2) Utah's state bird is the sea gull.

(3) Utah's state bird of prey is the golden eagle.

(4) Utah's state centennial astronomical symbol is the Beehive Cluster located in the constellation of Cancer the Crab.

(5) Utah's state centennial star is Dubhe, one of the seven bright stars composing the Big Dipper in the constellation Ursa Major.

(6) Utah's state centennial tartan, which honors the first Scots known to have been in Utah and those Utahns of Scottish heritage, shall have a pattern or repeating-half-sett of white-2, blue-6, red-6, blue-4, red-6, green-18, red-6, and white-4 to represent the tartan worn anciently by the Logan and Skene clans, with the addition of a white stripe.

(7) Utah's state cooking pot is the dutch oven.

(8) Utah's state crustacean is the Artemia franciscana, or brine shrimp.

(9) Utah's state demonym is "Utahn."

[~~(9)~~](10) Utah's state dinosaur is the Utahraptor.

[~~(10)~~](11) Utah's state emblem is the beehive.

[~~(11)~~](12) Utah's state emblem of service and sacrifice of lives lost by members of the military in defense of our freedom is the "Honor and Remember" flag, which consists of:

(a) a red field covering the top two-thirds of the flag;

(b) a white field covering the bottom one-third of the flag, which contains the words "honor" and "remember";

(c) a blue star overlaid by a gold star with a thin white border in the center of the flag spanning the red field and the white field; and

(d) a representation of a folded United States flag beneath the blue and gold stars with three tongues of flame emanating from its top point into the center of the gold star.

[~~(12)~~](13) Utah's state firearm is the John M. Browning designed M1911 automatic pistol.

[~~(13)~~](14) Utah's state fish is the Bonneville cutthroat trout.

[~~(14)~~](15) Utah's state flower is the sego lily.

[~~(15)~~](16) Utah's state folk dance is the square dance, the folk dance that is called, cued, or prompted to the dancers and includes squares, rounds, clogging, contra, line, and heritage dances.

[~~(16)~~](17) Utah's state fossil is the Allosaurus.

[~~(17)~~](18) Utah's state fruit is the cherry.

[~~(18)~~](19) Utah's state gem is topaz, as is prominently found in the Thomas Mountain Range in Juab County, Utah.

[~~(19)~~](20) Utah's state grass is Indian rice grass.

[~~(20)~~](21) Utah's state hymn is "Utah We Love Thee" by Evan Stephens.

[~~(21)~~](22) Utah's state insect is the honeybee.

[~~(22)~~](23) Utah's state military museum is the Fort Douglas Military Museum.
[~~(23)~~](24) Utah's state mineral is copper.
[~~(24)~~](25) Utah's state motto is "Industry."
[~~(25)~~](26) Utah's state mushroom is the porcini.
[~~(26)~~](27) Utah's state railroad museum is Ogden Union Station.
[~~(27)~~](28) Utah's state reptile is the Gila Monster (Heloderma suspectum), whose habitat includes Southwest Utah.
[~~(28)~~](29) Utah's state rock is coal.
[~~(29)~~](30) Utah's state song is "Utah This is the Place" by Sam and Gary Francis.
[~~(30)~~](31) Utah's state stone is honeycomb calcite, which originates in Duchesne County, Utah.
[~~(31)~~](32) Utah's state tree is the quaking aspen.
[~~(32)~~](33) Utah's state vegetable is the Spanish sweet onion.
[~~(33)~~](34) Utah's historic state vegetable is the sugar beet.
[~~(34)~~](35) Utah's state winter sports are skiing and snowboarding.
[~~(35)~~](36) Utah's state works of art are Native American rock art.
[~~(36)~~](37) Utah's state work of land art is the Spiral Jetty.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 37
H. B. 256
Passed March 6, 2025
Approved March 19, 2025
Effective May 7, 2025

MUNICIPAL AND COUNTY ZONING AMENDMENTS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Evan J. Vickers

Cosponsor:
Paul A. Cutler

LONG TITLE

General Description:

This bill modifies provisions related to the authority of municipalities and counties regarding short-term rentals.

Highlighted Provisions:

This bill:

- ► defines terms and modifies definitions;
- ► clarifies that a municipality or county that regulates short-term rentals may use a listing or offering on a short-term rental website as evidence that a short-term rental took place so long as the municipality or county has additional information to support its position that an owner or lessee violated a municipality or county ordinance;
- ► provides that a municipality or county may require the owner of a short-term rental to obtain a business license or other permit from the municipality or county to operate a short-term rental in the municipality or in an unincorporated area of the county;
- ► provides that a municipality or county may request a short-term rental website remove a listing or offering that violates business licensing requirements or zoning requirements;
- ► provides that a municipality or county that imposes transient room tax on short-term rentals may provide a listing or offering on a short-term rental website to the county auditor as evidence that a short-term rental owner or lessee may be subject to the transient room tax; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-85.4, as last amended by Laws of Utah 2021, Chapter 102
17-50-338, as last amended by Laws of Utah 2021, Chapter 102

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

Section 1. Section 10-8-85.4 is amended to read:

10-8-85.4. Ordinances regarding short-term rentals -- Prohibition on ordinances restricting speech on short-term rental websites -- Evidence of short-term rental -- Removing a listing.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means the same as that term is defined in Section 10-9a-511.5.

(b) "Permit number" means a unique identifier issued by a municipality and may include a business license number.

(c) "Request" means a formal inquiry made by a municipality to a short-term rental website that is not a legal requirement.

[~~(b)~~](d) "Residential unit" means a residential structure or any portion of a residential structure that is occupied as a residence.

[~~(c)~~](e) "Short-term rental" means a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days.

[~~(d)~~](f) "Short-term rental website" means a website or other digital platform that:

(i) allows a person to offer a short-term rental to one or more prospective renters; and

(ii) facilitates the renting of, and payment for, a short-term rental.

(g) "URL" means uniform resource locater.

(2) Notwithstanding Section 10-9a-501 or Subsection 10-9a-503(1), a legislative body may not:

(a) enact or enforce an ordinance that prohibits an individual from listing or offering a short-term rental on a short-term rental website; or

(b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term rental on a short-term rental website.

(3) If a municipality regulates short-term rentals, Subsection (2)(b) does not prevent the municipality from using a listing or offering of a short-term rental on a short-term rental website as evidence that a short-term rental took place so long as the municipality has additional

information to support the position that an owner or lessee violated a municipal ordinance.

(4) A municipality may adopt an ordinance requiring the owner or lessee of a short-term rental to obtain a business license or other permit from the municipality before operating a short-term rental within the municipality.

(5) (a) A municipality may not regulate a short-term rental website.

(b) If a municipality allows short-term rentals within a portion of or all residential or commercial zones in the municipality, the municipal legislative body may request a short-term rental website to remove a short-term rental listing or offering from the short-term rental website after notice from the municipality, as described in Subsection (6), only if the short-term rental is operating in violation of business license requirements or zoning requirements.

(6) A municipality that provides a notice to a short-term rental website that a short-term rental within the municipality is in violation of the municipality's business licensing requirements or zoning requirements shall identify in the notice:

(a) the listing or offering to be removed by the listing's offering's URL; and

(b) the reason for the requested removal.

(7) If a legislative body imposes transient room tax on the rental of rooms in hotels, motels, inns, trailer courts, campgrounds, tourist homes, and similar accommodations for stays of less than 30 consecutive days as authorized by Section 59-12-352 or 59-12-353:

(a) the municipality may provide the listing or offering of a short-term rental on a short-term rental website to the county auditor as evidence that the owner or lessee of a short-term rental may be subject to the transient room tax; and

(b) the county auditor may utilize the listing or offering of a short-term rental on a short-term rental website when making a referral to the State Tax Commission, as described in Section 59-12-302.

[~~(3)~~](8) Subsection (2) does not apply to an individual who lists or offers an internal accessory dwelling unit as a short-term rental on a short-term rental website if the municipality records a notice for the internal accessory dwelling unit under Subsection 10-9a-530(6).

Section 2. Section 17-50-338 is amended to read:

17-50-338. Ordinances regarding short-term rentals -- Prohibition on ordinances restricting speech on short-term rental websites -- Evidence of short-term rental -- Removing a listing.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means the same as that term is defined in Section 10-9a-511.5.

(b) "Permit number" means a unique identifier issued by a county and may include a business license number.

(c) "Request" means a formal inquiry made by a county to a short-term rental website that is not a legal requirement.

[~~(b)~~](d) "Residential unit" means a residential structure or any portion of a residential structure that is occupied as a residence.

[~~(c)~~](e) "Short-term rental" means a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days.

[~~(d)~~](f) "Short-term rental website" means a website or other digital platform that:

(i) allows a person to offer a short-term rental to one or more prospective renters; and

(ii) facilitates the renting of, and payment for, a short-term rental.

(g) "URL" means uniform resource locater.

(2) Notwithstanding Section 17-27a-501 or Subsection 17-27a-503(1), a legislative body may not:

(a) enact or enforce an ordinance that prohibits an individual from listing or offering a short-term rental on a short-term rental website; or

(b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term rental on a short-term rental website.

(3) If a county regulates short-term rentals, Subsection (2)(b) does not prevent the county from using a listing or offering of a short-term rental on a short-term rental website as evidence that a short-term rental took place so long as the county has additional information to support the position that a property owner or lessee violated a county ordinance.

(4) A county may adopt an ordinance requiring the owner or lessee of a short-term rental to obtain a business license or other permit from the county before operating a short-term rental within an unincorporated area of the county.

(5) (a) A county may not regulate a short-term rental website.

(b) If a county allows short-term rentals within a portion of or all residential or commercial unincorporated zones in the county, the legislative body of a county may only request a short-term rental website to remove a short-term rental listing or offering from the short-term rental website after notice from the county, as described in Subsection (5), only if the short-term rental is operating in violation of business license requirements or zoning requirements.

(6) A county that provides a notice to a short-term rental website that a short-term rental within the unincorporated county is in violation of the county's business licensing requirements or zoning requirements shall identify in the notice:

(a) the listing or offering to be removed by the listing's or offering's URL; and

(b) the reason for the requested removal.

(7) If a legislative body imposes transient room tax on the rental of rooms in hotels, motels, inns, trailer courts, campgrounds, tourist homes, and similar accommodations for stays of less than 30 consecutive days as authorized by Section 59-12-301:

(a) the county may utilize a listing or offering of a short-term rental on a short-term rental website as evidence that the owner or lessee of a short-term rental may be subject to the transient room tax; and

(b) the county auditor may utilize the listing or offering of a short-term rental on a short-term rental website when making a referral to the State Tax Commission, as described in Section 59-12-302.

(8) Subsection (2) does not apply to an individual who lists or offers an internal accessory dwelling unit as a short-term rental on a short-term rental website if the county records a notice for the internal accessory dwelling unit under Subsection 17-27a-526(6).

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 38
S. B. 53
Passed February 5, 2025
Approved March 19, 2025
Effective May 7, 2025

ELECTION CODE AMENDMENTS

Chief Sponsor: Calvin R. Musselman
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill amends the Election Code and related provisions.

Highlighted Provisions:

This bill:

- ► standardizes language related to a voter who, after signing a petition, seeks to remove the voter's signature from the petition;
- ► reduces the amount of time that the sponsors of a petition for incorporation that passes have to determine certain features of the new municipal government from 60 to 30 days;
- ► clarifies the deadline for a candidate for mayor or municipal council of a newly incorporating municipality to file a declaration of candidacy;
- ► clarifies that the county clerk determines whether to remove a voter's signature from a petition for incorporation of a municipality;
- ► repeals the in-state residency requirement for a signature-gatherer who circulates a petition on behalf of:
  - • an organization of registered voters seeking to become a registered political party; or
  - • a candidate for elective office seeking the nomination of a registered or qualified political party;
- ► repeals provisions related to the in-state residency requirement described above;
- ► for a regular primary or presidential primary election, or for certain regular general or statewide special elections, requires a board of canvassers to immediately transmit to the lieutenant governor certain vote total information;
- ► eliminates the requirement that a board of canvassers make the transmission described above by telephone, fax, or mail;
- ► establishes a process for a voter who signs a petition on behalf of a candidate for elective office seeking the nomination of a registered political party to have the voter's signature removed from the petition; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2a-208, as last amended by Laws of Utah 2023, Chapters 116, 224 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 116
10-2a-213, as last amended by Laws of Utah 2023, Chapters 224, 435 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 224 and further amended by Revisor Instructions, Laws of Utah 2023, Chapter 224
10-2a-214, as last amended by Laws of Utah 2023, Chapters 224, 435
17B-1-205, as last amended by Laws of Utah 2024, Chapter 388
17B-1-506, as last amended by Laws of Utah 2024, Chapter 388
17B-1-1305, as last amended by Laws of Utah 2023, Chapters 15, 116
20A-4-304, as last amended by Laws of Utah 2024, Chapter 503
20A-8-103, as last amended by Laws of Utah 2023, Chapter 116
20A-9-203, as last amended by Laws of Utah 2024, Chapter 465
20A-9-405, as last amended by Laws of Utah 2022, Chapter 325
20A-9-408, as last amended by Laws of Utah 2023, Chapter 116
53G-3-301.1, as last amended by Laws of Utah 2024, Third Special Session, Chapter 3

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

Section 1. Section 10-2a-208 is amended to read:

10-2a-208. Petition for incorporation -- Requirements and form -- Removal of signature.

(1) At any time within one year after the day on which the county clerk completes the public hearings required under Section 10-2a-207, individuals within the proposed municipality may proceed with the incorporation process by circulating, and submitting to the county clerk, a petition for incorporation that, to be certified under Subsection 10-2a-209(1)(b)(i), is required to be signed by:

(a) 10% of all registered voters within the area proposed to be incorporated as a municipality, as of the day on which the petition for incorporation is filed;

(b) if the petition for incorporation proposes the incorporation of a city, and subject to Subsection (5), 10% of all registered voters

within 90% of the voting precincts within the area proposed to be incorporated as a city, as of the day on which the petition for incorporation is filed; and

(c) the owners of private real property that:

(i) is located within the proposed municipality;

(ii) covers at least 10% of the total private land area within the proposed municipality; and

(iii) on January 1 of the current year, was equal in assessed fair market value to at least 7% of the assessed fair market value of all private real property within the proposed municipality.

(2) The petition for incorporation shall:

(a) include the typed or printed name and current residence address of each voter who signs the petition for incorporation;

(b) describe the area proposed to be incorporated as a municipality, as described in the feasibility request or the modified feasibility request that complies with Subsection 10-2a-205(5)(a);

(c) state the proposed name for the proposed municipality;

(d) designate five signers of the petition for incorporation as petition sponsors, one of whom is designated as the contact sponsor, with the mailing address and telephone number of each;

(e) if the sponsors propose the incorporation of a city, state that the signers of the petition for incorporation appoint the sponsors, if the incorporation measure passes, to represent the signers in:

(i) selecting the number of commission or council members the new city will have; and

(ii) drawing district boundaries for the election of council members, if the voters decide to elect council members by district;

(f) be accompanied by and circulated with an accurate plat or map, prepared by a licensed surveyor, showing the boundaries of the proposed municipality; and

(g) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed municipality)

To the Honorable Lieutenant Governor and the [name of county legislative body]:

We, the undersigned registered voters within the area described in this petition for incorporation, respectfully petition the lieutenant governor and the county legislative body to submit to the registered voters residing within the area described in this petition for incorporation, at the next regular general election, the question of whether the area should incorporate as a municipality. Each of the undersigned affirms that each has personally signed this petition for incorporation and is a registered voter who resides within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a municipality is described as follows: [insert an accurate description of the area proposed to be incorporated].

(3) (a) Except as provided in Subsection (3)(b), a valid signature on a feasibility request described in Section 10-2a-202 or a modified feasibility request described in Section 10-2a-206 may be used toward fulfilling the signature requirement described in Subsection (1) if the feasibility request notified the signer in conspicuous language that the signature, unless [~~withdrawn~~]removed, would also be used for a petition for incorporation under this section.

(b) A signature described in Subsection (3)(a) may not be used toward fulfilling the signature requirement described in Subsection (1) if the signer files with the county clerk a written [~~withdrawal~~]statement requesting removal of the signature before the petition for incorporation is filed with the county clerk under this section.

(4) (a) A voter who signs a petition for incorporation may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition for incorporation is submitted to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (4)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

[~~(c) The lieutenant governor shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.~~]

[~~(d)~~](c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3)to determine whether to remove an individual's signature from a petition for incorporation after receiving a timely, valid statement requesting removal of the signature.

(5) (a) A signature does not qualify under Subsection (1)(b) if the signature is gathered from a voting precinct that:

(i) except in a proposed municipality that will be a city of the fifth class, is not located entirely within the boundaries of a proposed city; or

(ii) includes less than 50 registered voters.

(b) A voting precinct that is not located entirely within the boundaries of the proposed city does not qualify as a voting precinct under Subsection (1)(b).

Section 2. Section 10-2a-213 is amended to read:

10-2a-213. Determination of number of council members -- Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the sponsors of the petition for incorporation shall, within [~~60~~]30 days after the day on which the county conducts the canvass of the election under Section 10-2a-212:

(a) for the incorporation of a city:

(i) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the city council of the city; and

(ii) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population; and

(b) for the incorporation of any municipality:

(i) determine the initial terms of the mayor and members of the municipal council so that:

(A) the mayor and approximately half the members of the municipal council are elected to serve an initial term, of no less than one year, that allows the mayor's and members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the municipal council are elected to serve an initial term, of no less than one year, that allows the

members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

(ii) submit in writing to the county legislative body the results of the determinations made by the sponsors under Subsections (1)(a) and (b)(i).

(2) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(3) Before making a determination under Subsection (1)(a) or (b)(i), the sponsors of the petition for incorporation shall, under the direction of the county clerk, hold a public hearing within the future municipality on the applicable issues described in Subsections (1)(a) and (b)(i).

(4) Notice of the public hearing described in Subsection (3) shall be provided as follows:

(a) the county clerk shall provide notice for the future municipality, as a class B notice under Section 63G-30-102, for at least two weeks before the day of the public hearing; and

(b) if the future municipality has a website, the sponsors of the petition for incorporation shall post notice on the future municipality's website for at least two weeks before the day of the public hearing.

(5) The county clerk may bill the petition sponsors for the cost of preparing, printing, and publishing the notice described in Subsection (4).

Section 3. Section 10-2a-214 is amended to read:

10-2a-214. Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for municipal office.

(1) Within 20 days after the day on which a county legislative body receives the determination described in Subsection 10-2a-213(1)(b)(ii), the county clerk shall provide a notice, in accordance with Subsection (2), containing:

(a) the number of municipal council members to be elected for the new municipality;

(b) except as provided in Subsection (3), if some or all of the municipal council members are to be elected by district, a description of the boundaries of those districts;

(c) information about the deadline for an individual to file a declaration of candidacy to become a candidate for mayor or municipal council; and

(d) information about the length of the initial term of each of the municipal officers.

(2) The county clerk shall provide the notice described in Subsection (1) for the future municipality, as a class B notice under Section 63G-30-102, for two weeks.

(3) Instead of including a description of the district boundaries under Subsection (1)(b), the notice may include a statement that specifies the following sources where a resident of the future municipality may view or obtain a copy of the district boundaries:

(a) the county website;

(b) the physical address of the county clerk's office; and

(c) a mailing address and telephone number.

[~~(4) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or municipal council of a municipality incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future municipality is located and in accordance with:~~]

[~~(a) for an incorporation held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or~~]

[~~(b) for an incorporation held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.~~]

(4) Each individual seeking to become a candidate for mayor or municipal council of a municipality incorporating under this part shall, in the year in which a final election described in Section 10-2a-215 is held, file a declaration of candidacy with the clerk of the county in which the future municipality is located and in accordance with:

(a) for an election of officers of a new municipality held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or

(b) for an election of officers of a new municipality held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.

Section 4. Section 17B-1-205 is amended to read:

17B-1-205. Petition and request requirements -- Removal or reinstatement of signature.

(1) Each petition and request shall:

(a) indicate the typed or printed name and current residence address of each property owner, groundwater right owner, or registered voter signing the petition;

(b) (i) if it is a property owner request or petition, indicate the address of the property as to which the owner is signing the request or petition; or

(ii) if it is a groundwater right owner request or petition, indicate the location of the diversion of the groundwater as to which the owner is signing the groundwater right owner request or petition;

(c) describe the entire area of the proposed special district;

(d) be accompanied by a map showing the boundaries of the entire proposed special district;

(e) specify the service proposed to be provided by the proposed special district;

(f) if the petition or request proposes the creation of a specialized special district, specify the type of specialized special district proposed to be created;

(g) for a proposed basic special district:

(i) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;

(ii) if one or more members will be elected, state the basis upon which each elected member will be elected; and

(iii) if applicable, explain how the election or appointment of board members will transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;

(h) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those members will be elected;

(i) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:

(i) the county legislative body;

(ii) appointed as provided in Section 17B-1-304; or

(iii) elected as provided in Section 17B-1-306;

(j) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;

(k) if the petition or request is a groundwater right owner petition or request proposing the creation of a special district to acquire a groundwater right under Section 17B-1-202, explain the anticipated method:

(i) of paying for the groundwater right acquisition; and

(ii) of addressing blowing dust created by the reduced use of water;

(l) if the petition or request is a groundwater right owner petition or request proposing the creation of a special district to assess a groundwater right under Section 17B-1-202, explain the anticipated method:

(i) of assessing the groundwater right and securing payment of the assessment; and

(ii) of addressing blowing dust created by the reduced use of water; and

(m) for a proposed infrastructure financing district:

(i) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed;

(ii) if one or more members will be elected, state the basis upon which each elected member will be elected;

(iii) explain how appointed board member positions will transition to elected board member positions based on stated milestones or events, as provided in Section 17B-2a-1303;

(iv) state whether divisions will be established within the boundary of the infrastructure financing district so that some or all board members represent a division rather than the district at large and, if so, describe the boundary of each division; and

(v) if applicable, be accompanied by the governing document prepared according to Section 17B-2a-1303.

(2) (a) Subject to Subsection (2)(b), a signer of a request or petition may [~~withdraw~~]remove or, once [~~withdrawn~~]removed, reinstate the signer's signature at any time before the filing of the request or petition by filing a written [~~withdrawal or reinstatement~~]statement for removal or reinstatement with:

(i) in the case of a request:

(A) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's property is located, if the request is a property owner request;

(B) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's groundwater diversion point is located, if the request is a groundwater right owner request; or

(C) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer resides, if the request is a registered voter request; or

(ii) in the case of a petition, the responsible clerk.

(b) The time for a signer of a petition for the creation of an infrastructure financing district to [~~withdraw~~]remove or reinstate the signer's signature is any time before the petition is certified under Section 17B-1-209.

(3) (a) A clerk of the county who receives a timely, valid written [~~withdrawal or reinstatement~~]statement for removal or reinstatement from a signer of a registered voter request or registered voter petition shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove or reinstate the individual's signature.

(b) If a municipal clerk or recorder receives a timely, valid written [~~withdrawal or reinstatement~~]statement for removal or reinstatement from a signer of a registered voter request or registered voter petition, the clerk of the municipality's county shall assist the municipal clerk or recorder with determining whether to remove or reinstate the individual's signature using the procedures described in Subsection 20A-1-1003(3).

Section 5. Section 17B-1-506 is amended to read:

17B-1-506. Withdrawal petition requirements -- Removal or reinstatement of signature.

(1) Each petition under Section 17B-1-504 shall:

(a) indicate the typed or printed name and current address of each owner of acre-feet of water, property owner, registered voter, or authorized representative of the governing body signing the petition;

(b) separately group signatures by municipality and, in the case of unincorporated areas, by county;

(c) if it is a petition signed by the owners of land, the assessment of which is based on acre-feet of water, indicate the address of the property and the property tax identification parcel number of the property as to which the owner is signing the request;

(d) designate up to three signers of the petition as sponsors, or in the case of a petition filed under Subsection 17B-1-504(1)(a)(iv), designate a governmental representative as a sponsor, and in each case, designate one sponsor as the contact sponsor with the mailing address and telephone number of each;

(e) state the reasons for withdrawal; and

(f) when the petition is filed with the special district board of trustees, be accompanied by a map generally depicting the boundaries of the area proposed to be withdrawn and a legal description of the area proposed to be withdrawn.

(2) (a) The special district may prepare an itemized list of expenses, other than attorney expenses, that will necessarily be incurred by the special district in the withdrawal proceeding. The itemized list of expenses may be submitted to the contact sponsor. If the list of expenses is submitted to the contact sponsor within 21 days after receipt of the petition, the contact sponsor on behalf of the petitioners shall be required to pay the expenses to the special district within 90 days of receipt. Until funds to cover the expenses are delivered to the special district, the district will have no obligation to proceed with the withdrawal and the time limits on the district stated in this part will be tolled. If the expenses are not paid within the 90 days, or within 90 days from the conclusion of any arbitration under Subsection (2)(b), the petition requesting the withdrawal shall be considered to have been withdrawn.

(b) If there is no agreement between the board of trustees of the special district and the contact sponsor on the amount of expenses that will necessarily be incurred by the special district in the withdrawal proceeding, either the board of trustees or the contact sponsor may submit the matter to binding arbitration in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act; provided that, if the parties cannot agree upon an arbitrator and the rules and procedures that will control the arbitration, either party may pursue arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(3) (a) A signer of a petition may [~~withdraw~~]remove or, once [~~withdrawn~~]removed, reinstate the signer's signature at any time before the public hearing under Section 17B-1-508 by submitting a written statement requesting [~~withdrawal~~]removal or reinstatement with the board of trustees of the special district in which the area proposed to be withdrawn is located.

(b) A statement described in Subsection (3)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) As applicable and using the procedures described in Subsection 20A-1-1003(3), the county clerk shall assist the board of trustees to determine whether to remove or reinstate a registered voter's signature after the voter submits a timely, valid statement described in Subsection (3)(a).

(4) If it reasonably appears that, if the withdrawal which is the subject of a petition filed under Subsection 17B-1-504(1)(a)(i) or (ii) is granted, it will be necessary for a municipality to provide to the withdrawn area the service previously supplied by the special district, the board of trustees of the special district may, within 21 days after receiving the petition, notify the contact sponsor in writing that, before it will be considered by the board of trustees, the petition shall be presented to and approved by the governing body of the municipality as provided in Subsection 17B-1-504(1)(a)(iv) before it will be considered by the special district board of trustees. If the notice is timely given to the contact sponsor, the petition shall be considered to have been withdrawn until the municipality files a petition with the special district under Subsection 17B-1-504(1)(a)(iv).

(5) (a) After receiving the notice required by Subsection 17B-1-504(2), unless specifically allowed by law, a public entity may not make expenditures from public funds to support or oppose the gathering of signatures on a petition for withdrawal.

(b) Nothing in this section prohibits a public entity from providing factual information and analysis regarding a withdrawal petition to the public, so long as the information grants equal access to both the opponents and proponents of the petition for withdrawal.

(c) Nothing in this section prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official's constitutional rights.

(6) Subsections (2), (3), (4), and (5) do not apply to a petition seeking the withdrawal of an area from an infrastructure financing district.

Section 6. Section 17B-1-1305 is amended to read:

17B-1-1305. Petition certification -- Removal or reinstatement of signature.

(1) Within 30 days after the filing of a petition under Subsection 17B-1-1303(1)(a) or (2), the clerk shall:

(a) with the assistance of officers of the county in which the special district is located from whom the clerk requests assistance, determine whether the petition meets the requirements of Section 17B-1-1303 and Subsection 17B-1-1304(1); and

(b) (i) if the clerk determines that the petition complies with the requirements, certify the petition and mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the clerk determines that the petition fails to comply with any of the requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the contact sponsor.

(2) For a registered voter petition, the county clerk shall determine or shall assist a board of trustees or municipal clerk or recorder with determining whether a signer is a registered voter using the procedures described in Section 20A-1-1002.

(3) (a) If the clerk rejects a petition under Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a petition that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (3)(a).

(4) The clerk shall process an amended petition filed under Subsection (3)(a) in the same manner as an original petition under Subsection (1).

(5) (a) A signer of a petition may [~~withdraw~~]remove or, once [~~withdrawn~~]removed, reinstate the signer's signature at any time before the public hearing under Section 17B-1-1306 by submitting a written statement requesting [~~withdrawal~~]removal or reinstatement with the clerk.

(b) For a registered voter petition:

(i) a statement described in Subsection (5)(a) shall comply with the requirements described in Subsection 20A-1-1003(2); and

(ii) the county clerk shall determine or shall assist a board of trustees or municipal clerk or recorder with determining whether to remove or reinstate the signer's signature using the procedures described in Subsection 20A-1-1003(3).

Section 7. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) (a) Except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction.

(b) Except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare a "tie vote" if:

(i) two or more candidates for an office receive an equal and the highest number of votes for that office; or

(ii) in a race for an at-large office:

(A) two or more candidates receive an equal number of votes; and

(B) a recount is necessary to determine which candidates are elected to the at-large office.

(c) A board of canvassers shall declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction; or

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction.

(d) A board of canvassers shall:

(i) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(ii) if applicable, certify the results of each special district election to the special district clerk.

(2) The election officer shall submit a report to the board of canvassers that includes the following information:

(a) the total number of votes cast in the board's jurisdiction;

(b) the names of each candidate whose name appeared on the ballot;

(c) the title of each ballot proposition that appeared on the ballot;

(d) each office that appeared on the ballot;

(e) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each ballot-counting phase; and

(iii) the number of votes for and against each ballot proposition;

(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(g) standardized statistics, on a form provided by the lieutenant governor, disclosing:

(i) the number of ballots counted;

(ii) provisional ballots; and

(iii) the number of ballots rejected;

(h) a final ballot reconciliation report;

(i) other information required by law to be provided to the board of canvassers; and

(j) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that the report is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, publicize the certified report described in Subsection (2) for the jurisdiction, as a class A notice under Section 63G-30-102, for at least seven days.

(6) Instead of including a copy of the entire certified report, a notice required under Subsection (5) may contain a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election]."; and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall[~~:~~], immediately upon adjournment of the board, transmit to the lieutenant governor a report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition.

[~~(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and~~]

[~~(b) transmit the separate report by registered mail to the lieutenant governor.~~]

(8) In each county election, municipal election, school election, special district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, [~~the board shall transmit to the lieutenant governor~~]the board of canvassers shall, immediately upon adjournment of the board, transmit to the lieutenant governor:

(a) the county totals for multi-county races [~~, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election~~]; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct [~~, to be mailed to the lieutenant governor on or before the third Friday following the primary election~~].

Section 8. Section 20A-8-103 is amended to read:

20A-8-103. Petition procedures -- Criminal penalty -- Removal of signature.

(1) As used in this section, the proposed name or emblem of a registered political party is "distinguishable" if a reasonable person of average intelligence will be able to perceive a difference between the proposed name or emblem and any name or emblem currently being used by another registered political party.

(2) To become a registered political party, an organization of registered voters that is not a continuing political party shall:

(a) circulate a petition seeking registered political party status beginning no earlier than the date of the statewide canvass held after the last regular general election and ending before 5 p.m. no later than November 30 of the year before the year in which the next regular general election will be held;

(b) file a petition with the lieutenant governor that is signed, with a holographic signature, by at least 2,000 registered voters before 5 p.m. no later than November 30 of the year in which a regular general election will be held; and

(c) file, with the petition described in Subsection (2)(b), a document certifying:

(i) the identity of one or more registered political parties whose members may vote for the organization's candidates;

(ii) whether unaffiliated voters may vote for the organization's candidates; and

(iii) whether, for the next election, the organization intends to nominate the organization's candidates in accordance with the provisions of Section 20A-9-406.

(3) The petition shall:

(a) be on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the name of the political party and the words "Political Party Registration Petition" printed directly below the horizontal line;

(d) contain the word "Warning" printed directly under the words described in Subsection (3)(c);

(e) contain, to the right of the word "Warning," the following statement printed in not less than eight-point, single leaded type:

"It is a class A misdemeanor for anyone to knowingly sign a political party registration petition signature sheet with any name other than the individual's own name or more than once for the same party or if the individual is not registered to vote in this state and does not intend to become registered to vote in this state before the petition is submitted to the lieutenant governor.";

(f) contain the following statement directly under the statement described in Subsection (3)(e):

"POLITICAL PARTY REGISTRATION PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, seek registered political party status for ____ (name);

Each signer says:

I have personally signed this petition with a holographic signature;

I am registered to vote in Utah or will register to vote in Utah before the petition is submitted to the lieutenant governor;

I am or desire to become a member of the political party; and

My street address is written correctly after my name.";

(g) be vertically divided into columns as follows:

(i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle;

(ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iii) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of Registered Voter";

(iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

(v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; and

(vi) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be certified as a valid signature if you change your address before petition signatures are certified or if the information you provide does not match your voter registration records.";

(h) have a final page bound to one or more signature sheets that are bound together that contains the following printed statement:

"Verification

State of Utah, County of ____

I, _____, of ____, hereby state that:

I [~~am a Utah resident and~~]am at least 18 years old;

All the names that appear on the signature sheets bound to this page were signed by individuals who professed to be the individuals whose names appear on the signature sheets, and each individual signed the individual's name on the signature sheets in my presence;

I believe that each individual has printed and signed the individual's name and written the individual's street address correctly, and that each individual is registered to vote in Utah or will register to vote in Utah before the petition is submitted to the lieutenant governor.

_____

(Signature) (Residence Address) (Date)"; and

(i) be bound to a cover sheet that:

(i) identifies the political party's name, which may not exceed four words, and the emblem of the party;

(ii) states the process that the organization will follow to organize and adopt a constitution and bylaws; and

(iii) is signed by a filing officer, who agrees to receive communications on behalf of the organization.

(4) The filing officer described in Subsection (3)(i)(iii) shall ensure that the individual in whose presence each signature sheet is signed:

(a) is at least 18 years old; and

[~~(b) meets the residency requirements of Section 20A-2-105; and~~]

[~~(c)~~](b) verifies each signature sheet by completing the verification bound to one or more signature sheets that are bound together.

(5) An individual may not sign the verification if the individual signed a signature sheet bound to the verification.

(6) The lieutenant governor shall:

(a) use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter;

(b) review the proposed name and emblem to determine if they are "distinguishable" from the names and emblems of other registered political parties; and

(c) certify the lieutenant governor's findings to the filing officer described in Subsection (3)(i)(iii) within 30 days of the filing of the petition.

(7) (a) If the lieutenant governor determines that the petition meets the requirements of this section, and that the proposed name and emblem are distinguishable, the lieutenant governor shall authorize the filing officer described in Subsection (3)(i)(iii)to organize the prospective political party.

(b) If the lieutenant governor finds that the name, emblem, or both are not distinguishable from the names and emblems of other registered political parties, the lieutenant governor shall notify the filing officer that the filing officer has seven days to submit a new name or emblem to the lieutenant governor.

(8) A registered political party may not change its name or emblem during the regular general election cycle.

(9) (a) It is unlawful for an individual to:

(i) knowingly sign a political party registration petition:

(A) with any name other than the individual's own name;

(B) more than once for the same political party; or

(C) if the individual is not registered to vote in this state and does not intend to become registered to vote in this state before the petition is submitted to the lieutenant governor; or

(ii) sign the verification of a political party registration petition signature sheet if the individual:

[~~(A) does not meet the residency requirements of Section 20A-2-105;~~]

[~~(B)~~](A) has not witnessed the signing by those individuals whose names appear on the political party registration petition signature sheet; or

[~~(C)~~](B) knows that an individual whose signature appears on the political party registration petition signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state.

(b) An individual who violates this Subsection (9) is guilty of a class A misdemeanor.

(10) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition is filed with the lieutenant governor, submitting to the lieutenant governor a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (10)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The lieutenant governor shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 9. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections -- Nomination petition -- Removal of signature.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b), Section 10-2a-214, or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

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

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

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

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

(iv) inform the candidate that the candidate must provide the filing officer with an email address that the candidate actively monitors:

(A) to receive a communication from a filing officer or an election officer; and

(B) if the candidate wishes to display a candidate profile on the Statewide Electronic Voter Information Website, to submit to the website the biographical and other information described in Subsection 20A-7-801(4)(a)(ii);

(v) inform the candidate that the email address described in Subsection (4)(c)(iv) is not a record under Title 63G, Chapter 2, Government Records Access and Management Act;

(vi) obtain from the candidate the email address described in Subsection (4)(c)(iv);

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

(A) signing the pledge is voluntary; and

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

(viii) accept the declaration of candidacy or nomination petition.

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

(i) accept the candidate's pledge; and

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

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn and under penalty of perjury, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____(month\day\year).

(Signed) _____ (Clerk or other officer qualified to administer oath)."

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) [~~(i)~~] The clerk shall verify with the county clerk that all candidates are registered voters.

(b) With the assistance of the county clerk, and using the procedures described in Section 20A-1-1002, the municipal clerk shall determine whether the required number of signatures of registered voters appears on a nomination petition.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) publicize a list of the names of the candidates as they will appear on the ballot by publishing the list for the municipality, as a class A notice under Section 63G-30-102, for seven days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within 10 days after the last day for filing.

(b) If a person files an objection, the clerk shall:

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

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

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

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

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

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

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

(12) (a) A voter who signs a nomination petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition is filed with the city recorder or municipal clerk, submitting to the municipal clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (12)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) With the assistance of the county clerk and using the procedures described in Subsection 20A-1-1003(3), the municipal clerk shall determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 10. Section 20A-9-405 is amended to read:

20A-9-405. Nomination petitions for regular primary elections.

(1) This section applies to the form and circulation of nomination petitions for regular primary elections described in Subsection 20A-9-403(3)(a).

(2) A candidate for elective office, and the agents of the candidate, may not circulate nomination petitions until the candidate has submitted a declaration of candidacy in accordance with Subsection 20A-9-202(1).

(3) For the manual candidate qualification process, the nomination petitions shall be in substantially the following form:

(a) the petition shall be printed on paper 8-1/2 inches long and 11 inches wide;

(b) the petition shall be ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for purposes of binding;

(c) the petition shall be headed by a caption stating the purpose of the petition and the name of the proposed candidate;

(d) the petition shall feature the word "Warning" followed by the following statement in no less than eight-point, single leaded type: "It is a class A misdemeanor for anyone to knowingly sign a nomination petition with any name other than the person's own name, or more than once for the same candidate, or if the person is not registered to vote in this state.";

(e) the petition shall feature 10 lines spaced one-half inch apart and consecutively numbered one through 10;

(f) the signature portion of the petition shall be divided into columns headed by the following titles:

(i) Registered Voter's Printed Name;

(ii) Signature of Registered Voter;

(iii) Party Affiliation of Registered Voter;

(iv) Birth Date or Age (Optional);

(v) Street Address, City, Zip Code; and

(vi) Date of Signature; and

(g) a photograph of the candidate may appear on the nomination petition.

(4) For the electronic candidate qualification process, the lieutenant governor shall design an electronic form, using progressive screens, that includes:

(a) the following warning:

"Warning: It is a class A misdemeanor for anyone to knowingly sign a nomination petition with any name other than the person's own name, or more than once for the same candidate, or if the person is not registered to vote in this state."; and

(b) the following information for each individual who signs the petition:

(i) name;

(ii) party affiliation;

(iii) date of birth or age, (optional);

(iv) street address, city, zip code;

(v) date of signature;

(vi) other information required under Section 20A-21-201; and

(vii) other information required by the lieutenant governor.

(5) For the manual candidate qualification process, if one or more nomination petitions are bound together, a page shall be bound to the nomination petition(s) that features the following printed verification statement to be signed and dated by the petition circulator:

"Verification

State of Utah, County of ____

I, ____, of ____, hereby state that:

I [~~am a Utah resident and~~]am at least 18 years old;

All the names that appear on the signature sheets bound to this page were, to the best of my knowledge, signed by the persons who professed to be the persons whose names appear on the signature sheets, and each of them signed the person's name on the signature sheets in my presence;

I believe that each has printed and signed the person's name and written the person's street address correctly, and that each signer is registered to vote in Utah."

(6) The lieutenant governor shall prepare and make public model nomination petition forms and associated instructions.

(7) A nomination petition circulator [~~must be at least 18 years old and a resident of the state, but may affiliate with any political party.~~]:

(a) must be at least 18 years old; and

(b) may affiliate with any political party.

(8) It is unlawful for any person to:

(a) knowingly sign the nomination petition described in this section or Section 20A-9-408:

(i) with any name other than the person's own name;

(ii) more than once for the same candidate; or

(iii) if the person is not registered to vote in this state;

(b) sign the verification of a signature for a nomination petition if the person:

[~~(i) does not meet the residency requirements of Section 20A-2-105;~~]

[~~(ii)~~](i) has not witnessed the signing by those persons whose names appear on the nomination petition; or

[~~(iii)~~](ii) knows that a person whose signature appears on the nomination petition is not registered to vote in this state;

(c) pay compensation to any person to sign a nomination petition; or

(d) pay compensation to any person to circulate a nomination petition, if the compensation is based directly on the number of signatures submitted to a filing officer rather than on the number of signatures verified or on some other basis.

(9) Any person violating Subsection (8) is guilty of a class A misdemeanor.

(10) (a) A voter who signs a nomination petition may have the voter's signature removed from the petition by, no later than three business days after the day on which the candidate files the petition with the appropriate filing officer, submitting to the filing officer a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (10)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The filing officer shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a nomination petition after receiving a timely, valid statement requesting removal of the signature.

[~~(10) Withdrawal of petition signatures is prohibited.~~]

Section 11. Section 20A-9-408 is amended to read:

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

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

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

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

(a) during the declaration of candidacy filing period described in Section 20A-9-201.5, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

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

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

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

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

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy, in person, with the filing officer during the declaration of candidacy filing period described in Section 20A-9-201.5; and

(c) pay the filing fee.

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

(a) during the declaration of candidacy filing period described in Section 20A-9-201.5, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

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

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

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

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

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy, in person, with the filing officer during the declaration of candidacy filing period described in Section 20A-9-201.5; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, during the declaration of candidacy filing period described in Section 20A-9-201.5, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

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

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

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

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

(b) collecting signatures, on a form approved by the lieutenant governor that complies with Subsection 20A-9-405(3), during the period beginning on the day on which the member files a notice of intent to gather signatures and ending at 5 p.m. 14 days before the day on which the qualified political party's convention for the office is held, in the following amounts:

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

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

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

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

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

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

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

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

(9) (a) This Subsection (9) applies only to the manual candidate qualification process.

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

(i) collect the signatures on a form approved by the lieutenant governor, using the same circulation and verification requirements described in Sections 20A-7-105and 20A-7-204; and

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

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

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

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

(iii) with the assistance of the county clerk as applicable, determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-1-1002, used to verify a signature on a petition; and

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

(d) (i) A registered voter who physically signs a form under Subsections (8) and (9)(b)may have the voter's signature removed from the form by, no later than three business days after the day on which the member submits the signature form to the election officer, submitting to the election officer a statement requesting that the voter's signature be removed.

(ii) A statement described in Subsection (9)(d)(i) shall comply with the requirements described in Subsection 20A-1-1003(2).

(iii) With the assistance of the county clerk as applicable, the election officer shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature after receiving a timely, valid statement requesting removal of the signature.

(10) (a) This Subsection (10) applies only to the electronic candidate qualification process.

(b) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall, before 5 p.m. no later than 14 days before the day on which the qualified political party holds the party's convention to select candidates, for the elective office, for the qualified political party's nomination, collect signatures electronically:

(i) in accordance with Section 20A-21-201; and

(ii) using progressive screens, in a format approved by the lieutenant governor, that complies with Subsection 20A-9-405(4).

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

(i) check the name of each individual who completes the verification for a signature to determine whether each individual [~~is a resident~~

~~of Utah and~~]is at least 18 years old; and

(ii) submit the name of each individual described in Subsection (10)(c)(i) who is not [~~a Utah resident or who is not~~]at least 18 years old to the attorney general and the county attorney.

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

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

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

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (11)(b)(i).

(c) Upon timely receipt of the signatures described in Subsections (8) and (9)(b), or Subsections (8) and (10)(b), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate, notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

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

Section 12. Section 53G-3-301.1 is amended to read:

53G-3-301.1. Creation of a new school district -- Citizens' petition -- Procedures to be followed -- Removal or reinstatement of signature.

(1) Citizens may file a petition to create a new school district in accordance with this section and Section 53G-3-301.

(2) (a) The county clerk shall ensure that a petition described in Subsection (1) is signed by registered voters residing within the geographical boundaries of the proposed new school district in an amount equal to at least 10% of all votes cast within the geographic boundaries of the proposed new school district for all candidates for president of the United States at the last regular general election at which a president of the United States was elected.

(b) The sponsors of a petition described in Subsection (1) shall file the petition with the clerk of each county in which any part of the proposed new school district is located.

(c) The petition sponsors shall ensure that the petition described in Subsection (1):

(i) indicates the typed or printed name and current residence address of each voter who signs the petition;

(ii) describes the proposed new school district boundaries; and

(iii) designates up to five signers of the petition as sponsors, designating one as the contact sponsor, with the mailing address and telephone number of each.

(3) (a) (i) A signer of a petition described in Subsection (1) may [~~withdraw~~]remove or, once [~~withdrawn~~]removed, reinstate the signer's signature by filing a written statement requesting [~~for withdrawal~~]removal or reinstatement with the county clerk no later than three business days after the day on which the petition is filed with the county clerk.

(ii) A statement described in Subsection (3)(a)(i) shall comply with the requirements described in Subsection 20A-1-1003(2).

(iii) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove or reinstate an individual's signature from a petition after receiving a timely, valid statement.

(b) The county clerk shall use the procedures described in Section 20A-1-1002 to determine whether the petition has been signed by the required number of registered voters residing within the geographical boundaries of the proposed new school district.

(4) Within 14 days after the day on which a petition described in Subsection (1) is filed, the clerk of each county with which the request or petition is filed shall:

(a) determine whether the petition complies with Subsections (2) and (3), as applicable, and Section 53G-3-301; and

(b) (i) if the county clerk determines that the request or petition complies with the applicable requirements:

(A) certify the petition and deliver the certified petition to the county legislative body; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the petition fails to comply with any of the applicable requirements, reject the petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(5) (a) If the county clerk fails to certify or reject a petition within the time specified in Subsection (4), the petition is considered to be certified.

(b) If the county clerk rejects a petition, the individual who submitted the petition may amend the petition to correct the deficiencies for which the county clerk rejected the petition and refile the petition.

(6) Within 10 days after the day on which a county legislative body receives a certified petition as described in Subsection (4) or (5), the county legislative body shall request that the Legislative Audit Subcommittee consider prioritizing a feasibility study, as that term is defined in Section 53G-3-102.

(7) (a) The county legislative body shall:

(i) provide for a 45-day public comment period to begin on the day the county legislative body receives the study under Subsection (6); and

(ii) hold at least two public hearings, as defined in Section 10-9a-103, on the study and recommendations.

(b) Within five business days after the day on which the public comment period ends, the legislative body of each county with which a petition is filed shall vote on the creation of the proposed new school district.

(c) A county legislative body approves a petition proposing a new school district if a majority of the members of the legislative body vote in favor of the petition.

(8) (a) Within five business days after the day on which a county legislative body approves a petition proposing a new school district under Subsection (7), the county legislative body shall provide notice of the approval and a copy of the petition to which the approval relates to the county clerk of each county described in Subsection (2)(b).

(b) If each county described in Subsection (2)(b) approves a petition proposing a new school district, the county clerks of the counties shall submit the proposal for the creation of a new school district to all legal voters in the existing school district for approval or rejection

at the next regular general election that is at least 65 days after the day on which all of the counties described in Subsection (2)(b) have complied with Subsection (8)(a).

(c) The new school district proposed in the petition and the reorganized new school district are created if a majority of the voters in the existing school district vote in favor of creating the new school district.

Section 13. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 39
S. B. 54
Passed February 19, 2025
Approved March 19, 2025
Effective May 7, 2025

APPEARANCE OF CANDIDATE NAME ON BALLOT

Chief Sponsor: Stephanie Pitcher
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill addresses the manner in which a candidate's name may appear on a ballot.

Highlighted Provisions:

This bill:

- ► establishes criteria for permitting a candidate to:
  - • use the candidate's middle name instead of the candidate's first name on a ballot;
  - • use the candidate's nickname on a ballot; or
  - • use the candidate's initial on a ballot;
- ► establishes a procedure for a candidate to request that the candidate's name appear on a ballot as described in the preceding paragraph; and
- ► provides for an appeal of a rejection of a request described in the preceding paragraph.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-306, as last amended by Laws of Utah 2024, Chapters 382, 465
20A-6-203, as last amended by Laws of Utah 2020, Chapter 31
20A-6-301, as last amended by Laws of Utah 2021, Chapter 136
20A-6-302, as last amended by Laws of Utah 2020, Chapter 31
20A-6-401, as last amended by Laws of Utah 2024, Chapters 438, 465
20A-6-401.1, as last amended by Laws of Utah 2020, Chapter 31
20A-6-402, as last amended by Laws of Utah 2024, Chapter 438
20A-9-201, as last amended by Laws of Utah 2024, Chapter 465
20A-9-203, as last amended by Laws of Utah 2024, Chapter 465
20A-9-403, as last amended by Laws of Utah 2024, Chapter 503
20A-9-409, as last amended by Laws of Utah 2021, Second Special Session, Chapter 6
20A-12-201, as last amended by Laws of Utah 2023, Chapter 394

ENACTS:

20A-6-109, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

20A-6-110, (Renumbered from 20A-6-305, as last amended by Laws of Utah 2020, Chapter 49)

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

Section 1. Section 17B-1-306 is amended to read:

17B-1-306. Special district board -- Election procedures -- Notice.

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a special district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the special district board in consultation with the county clerk for each county in which the special district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The special district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) (a) The clerk of each special district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(i) each elective position of the special district to be filled at the next municipal general election or regular general election, as applicable;

(ii) the constitutional and statutory qualifications for each position; and

(iii) the dates and times for filing a declaration of candidacy.

(b) If the election is to be held at the same time as the municipal general election, a declaration of candidacy shall be filed on the days specified in Subsection 20A-9-203(3)(a)(i).

(c) If the election is to be held at the same time as the regular general election, a declaration of candidacy shall be filed by the deadline stated in Subsection 20A-9-201.5(2).

(4) The clerk of the special district shall publish the notice described in Subsection (3)(a) for the special district, as a class A notice under Section 63G-30-102, for at least 10 days before the first day for filing a declaration of candidacy.

(5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective special district board position, an individual shall file a declaration of candidacy in person with an official designated by the special district within the candidate filing period for the applicable election year in which the election for the special district board is held and:

(i) during the special district's standard office hours, if the standard office hours provide at least three consecutive office hours each day during the candidate filing period that is not a holiday or weekend; or

(ii) if the standard office hours of a special district do not provide at least three consecutive office hours each day, a three-hour consecutive time period each day designated by the special district during the candidate filing period that is not a holiday or weekend.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the special district if:

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

(ii) the designated agent appears in person before the official designated by the special district; and

(iii) the individual communicates with the official designated by the special district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

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

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, state of Utah, (Zip Code) _____, (Telephone Number, if any)_____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the special district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)".

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective special district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6) (a) A primary election may be held if:

(i) the election is authorized by the special district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7) (a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the special district clerk shall certify the candidate names to the clerk of each county in which the special district is located.

(b) (i) Except as provided in Subsection (7)(c) and in accordance with [~~Section 20A-6-305~~]Sections 20A-6-109 and 20A-6-110, the clerk of each county in which the special district is located and the special district clerk shall coordinate [~~the~~]placement of the name of each

candidate for special district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the special district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the special district board of trustees, in consultation with the county clerk, shall provide for a separate special district election ballot to be administered by poll workers at polling places designated under Subsection (2).

(c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

[~~(ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.~~]

[~~(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.~~]

[~~(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.~~]

(ii) The board of an irrigation district shall:

(A) subject to Subsections (7)(c)(ii)(B) and (C), establish the form of the ballot for a board member election;

(B) ensure that the ballot is in a nonpartisan format; and

(C) ensure that the name of each candidate is placed on the ballot in accordance with Sections 20A-6-109 and 20A-6-110.

(8) (a) Each voter at an election for a board of trustees member of a special district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic special district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of special district board members is governed by Title 20A, Election Code.

(10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a special district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11) (a) Except as provided in Subsection (11)(b), each special district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that special district.

(b) Each irrigation district shall bear the district's own costs of each election the district holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14) (a) As used in this Subsection (14), "board" means:

(i) a special district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) If a board desires to hold elections for membership on the board at a regular general election instead of a municipal general election, or at a municipal general election instead of a regular general election, the board may submit an application to the lieutenant governor that:

(i) requests permission to change the election year for membership on the board in a manner described in this Subsection (14)(b);

(ii) indicates that a change in the election year is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason; and

(iii) if a change in the election year may result in shortening a board member's term of office, indicates that the members of the board unanimously support the lieutenant governor taking that action.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the if:

(i) the lieutenant governor concludes that changing the election year is beneficial based on the criteria described in Subsection (14)(b)(ii); and

(ii) for an application that may result in shortening a board member's term of office, the application satisfies the unanimity requirement described in Subsection (14)(b)(iii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the general election specified in the application; and

(ii) the board may not hold elections at the time of an election other than the general election specified in the application, unless the board receives permission from the lieutenant governor to change the election under the same procedure, and by applying the same criteria, described in this Subsection (14).

(15) (a) This Subsection (15) applies to a special district if:

(i) the special district's board members are elected by the owners of real property, as provided in Subsection 17B-1-1402(1)(b); and

(ii) the special district was created before January 1, 2020.

(b) The board of a special district described in Subsection (15)(a) may conduct an election:

(i) to fill a board member position that expires at the end of the term for that board member's position; and

(ii) notwithstanding Subsection 20A-1-512(1)(a)(i), to fill a vacancy in an unexpired term of a board member.

(c) An election under Subsection (15)(b) may be conducted as determined by the special district board, subject to Subsection (15)(d).

(d) (i) The special district board shall provide to property owners eligible to vote at the special district election:

(A) notice of the election; and

(B) a form to nominate an eligible individual to be elected as a board member.

(ii) (A) The special district board may establish a deadline for a property owner to submit a nomination form.

(B) A deadline under Subsection (15)(d)(ii)(A) may not be earlier than 15 days after the board provides the notice and nomination

form under Subsection (15)(d)(i).

(iii) (A) After the deadline for submitting nomination forms, the special district board shall provide a ballot to all property owners eligible to vote at the special district election.

(B) A special district board shall allow at least five days for ballots to be returned.

(iv) A special district board shall certify the results of an election under this Subsection (15) during an open meeting of the board.

Section 2. Section 20A-6-109 is enacted to read:

20A-6-109. Appearance of candidate's name on ballot -- Name variations -- Appeal.

(1) Except as otherwise provided in this section, an election officer shall ensure that a candidate's name appears on the ballot with the candidate's legal first name, followed by the candidate's legal surname.

(2) An election officer shall place on the ballot a candidate's legal middle name, or a common derivative of the candidate's legal middle name, in place of the candidate's legal first name, if:

(a) the candidate normally uses the candidate's legal middle name, or the common derivative, instead of the candidate's legal first name; and

(b) no later than 5 p.m. on the day on which the applicable declaration of candidacy period ends, the candidate files with the election officer:

(i) a request that the election officer place on the ballot the candidate's legal middle name, or a common derivative of the candidate's legal middle name, instead of the candidate's legal first name, specifying the candidate's legal middle name, or the common derivative of the candidate's legal middle name;

(ii) an affidavit signed by the candidate in which the candidate states, under penalty of perjury, that the candidate is generally known by acquaintances in the candidate's county of residence by the legal middle name, or the common derivative of the legal middle name, specified in the request described in Subsection (2)(b)(i), and stated in the affidavit, instead of the candidate's legal first name; and

(iii) an affidavit signed by five residents of the candidate's county of residence who are not immediate family members of the candidate stating, under penalty of perjury, that the candidate is generally known by acquaintances in the candidate's county of residence by the legal middle name, or the common derivative of the legal middle name, specified in the request described in Subsection (2)(b)(i), and stated in the affidavit, instead of the candidate's legal first name.

(3) Subject to Subsection (4), an election officer shall place a candidate's nickname on a ballot, if:

(a) the election officer determines that the nickname:

(i) does not imply that the candidate is an individual other than the candidate, regardless of whether the individual is living or deceased;

(ii) does not constitute a slogan;

(iii) does not associate the candidate with an economic, religious, political, or other group, issue, or opinion;

(iv) is not offensive, profane, or spurious; and

(v) is not a title, rank, degree, certification, job description, or similar designation; and

(b) no later than 5 p.m. on the day on which the applicable declaration of candidacy period ends, the candidate files with the election officer:

(i) a request that the election officer place the candidate's nickname on the ballot, specifying the desired nickname and, in accordance with Subsection (4), the desired placement of the nickname;

(ii) an affidavit signed by the candidate in which the candidate states, under penalty of perjury, that the candidate:

(A) is generally known by acquaintances in the candidate's county of residence by the nickname specified in the request described in Subsection (3)(b)(i) and stated in the affidavit; and

(B) is not using the nickname to gain an advantage on the ballot; and

(iii) an affidavit signed by five residents of the candidate's county of residence who are not immediate family members of the candidate stating, under penalty of perjury, that the candidate is generally known by acquaintances in the candidate's county of residence by the nickname specified in the request described in Subsection (3)(b)(i) and stated in the affidavit.

(4) If, under Subsection (3), an election officer places a candidate's nickname on the ballot, the candidate may choose one of the following:

(a) to place the nickname on the ballot before or after the candidate's legal first name;

(b) to place the nickname on the ballot before or after the candidate's legal middle name, if the candidate's legal middle name appears on the ballot under Subsection (2) or (7); or

(c) to place the nickname on the ballot in place of the candidate's legal first name.

(5) An election officer may, without requiring compliance with Subsection (3), approve a written request filed with the election officer no later than 5 p.m. on the day on which the applicable declaration of candidacy period ends, to:

(a) place on the ballot a nickname instead of a legal first name, if the nickname is a common derivative of the legal first name;

(b) place on the ballot the first initial of a legal middle name between a legal first name, or a common derivative of the legal first name, and a legal last name; or

(c) place on the ballot the first initial of a legal first name before a legal middle name, or a common derivative of the legal middle name, if the candidate's legal middle name, or a common derivative of the legal middle name, appears on the ballot under Subsection (2) or (7).

(6) (a) An election officer shall approve or reject a request filed under Subsection (2)(b), (3)(b), or (5) within five business days after the day on which the election officer receives the request.

(b) Failure by an election officer to timely comply with Subsection (6)(a) is considered a rejection of the request.

(c) If an election officer rejects a request described in Subsection (6)(a) or fails to timely comply with Subsection (6)(a), the candidate may, within five days after the day of the rejection or, if the election officer fails to timely comply with Subsection (6)(a), within five days after the day of the deadline described in Subsection (6)(a), appeal the rejection to a court with jurisdiction.

(7) If two or more candidates for the same office have the same or similar names, the election officer may do one of the following, to the extent the election officer determines necessary, to differentiate between the candidates:

(a) for one or more of the candidates, include the candidate's legal middle name, in addition to the candidate's legal first name and legal last name; or

(b) negotiate another manner of differentiation with the candidates who have the same or similar names.

(8) Regardless of whether an election officer approves placement of a candidate's name on the ballot in a manner other than the candidate's legal first name followed by the candidate's legal last name, the candidate's legal name will be used to determine the order of

placement on the ballot under Section 20A-6-110.

Section 3. Section 20A-6-110, which is renumbered from Section 20A-6-305 is renumbered and amended to read:

[~~20A-6-305~~]20A-6-110. Master ballot position list -- Random selection -- Procedures -- Publication -- Surname -- Exemptions -- Ballot order.

(1) As used in this section, "master ballot position list" means an official list of the 26 characters in the alphabet listed in random order and numbered from one to 26 as provided under Subsection (2).

(2) The lieutenant governor shall:

(a) within 30 days after the candidate filing deadline in each even-numbered year, conduct a random selection to create a master ballot position list for all elections in accordance with procedures established under Subsection (2)(c);

(b) publish the master ballot position list on the lieutenant governor's election website no later than 15 days after creating the list; and

(c) establish written procedures for:

(i) the election official to use the master ballot position list; and

(ii) the lieutenant governor in:

(A) conducting the random selection in a fair manner; and

(B) providing a record of the random selection process used.

(3) In accordance with the written procedures established under Subsection (2)(c)(i), an election officer shall use the master ballot position list for the current year to determine the order in which to list candidates on the ballot for an election held during the year.

(4) To determine the order in which to list candidates on the ballot required under Subsection (3), the election officer shall apply the randomized alphabet using:

(a) the candidate's surname;

(b) for candidates with a surname that has the same spelling [~~, the candidate's given name; and~~]:

(i) the candidate's legal first name; or

(ii) if the candidates also have a legal first name that has the same spelling, the candidate's legal middle name; and

(c) the surname of the president and the surname of the governor for an election for the offices of president and vice president and governor and lieutenant governor.

(5) Subsections (1) through (4) do not apply to:

(a) an election for an office for which only one candidate is listed on the ballot; or

(b) a judicial retention election under Section 20A-12-201.

(6) Subject to Subsection (7), each ticket that appears on a ballot for an election shall appear separately, in the following order:

(a) for federal office:

(i) president and vice president of the United States;

(ii) United States Senate office; and

(iii) United States House of Representatives office;

(b) for state office:

(i) governor and lieutenant governor;

(ii) attorney general;

(iii) state auditor;

(iv) state treasurer;

(v) state Senate office;

(vi) state House of Representatives office; and

(vii) State Board of Education member;

(c) for county office:

(i) county executive office;

(ii) county legislative body member;

(iii) county assessor;

(iv) county or district attorney;

(v) county auditor;

(vi) county clerk;

(vii) county recorder;

(viii) county sheriff;

(ix) county surveyor;

(x) county treasurer; and

(xi) local school board member;

(d) for municipal office:

(i) mayor; and

(ii) city or town council member;

(e) elected planning and service district council member;

(f) judicial retention questions; and

(g) ballot propositions not described in Subsection (6)(f).

(7) (a) A ticket for a race for a combined office shall appear on the ballot in the place of the earliest ballot ticket position that is reserved for an office that is subsumed in the combined office.

(b) Each ticket, other than a ticket described in Subsection (6)(f), shall list:

(i) each candidate in accordance with Subsections (1) through (4); and

(ii) except as otherwise provided in this title, the party name, initials, or title following each candidate's name.

Section 4. Section 20A-6-203 is amended to read:

20A-6-203. Ballots for regular primary elections.

(1) The lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties, shall:

(a) develop ballots to be used in Utah's regular primary election;

(b) ensure that the ballots comply[~~generally~~], where applicable, with the requirements of Title 20A, Chapter 6, Part 1, General Requirements for All Ballots, Section 20A-6-109, Section 20A-6-110, and this section; and

(c) provide voting booths, election records and supplies, ballot boxes, and as applicable, voting devices, for each voting precinct as required by Section 20A-5-403.

(2) (a) Notwithstanding the requirements of Subsections (1)(b) and (c), Title 20A, Chapter 6, Part 1, General Requirements for All Ballots, and Sections 20A-5-403, 20A-6-401, and 20A-6-401.1, the lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties shall ensure that the ballots, voting booths, election records and supplies, and ballot boxes:

(i) facilitate the distribution, voting, and tallying of ballots in a primary where not all voters are authorized to vote for a party's candidate;

(ii) simplify the task of poll workers, particularly in determining a voter's party affiliation;

(iii) minimize the possibility of spoiled ballots due to voter confusion; and

(iv) protect against fraud.

(b) To accomplish the requirements of this Subsection (2), the lieutenant governor, county clerks, suppliers of election materials, and representatives of registered political parties shall:

(i) mark ballots as being for a particular registered political party; and

(ii) instruct individuals counting the ballots to count only those votes for candidates from the registered political party whose ballot the voter received.

Section 5. Section 20A-6-301 is amended to read:

20A-6-301. Manual ballots -- Regular general election.

(1) Each election officer shall ensure that:

(a) all manual ballots furnished for use at the regular general election contain:

(i) no captions or other endorsements except as provided in this section;

(ii) no symbols, markings, or other descriptions of a political party or group, except for a registered political party that has chosen to nominate its candidates in accordance with Section 20A-9-403; and

(iii) no indication that a candidate for elective office has been nominated by, or has been endorsed by, or is in any way affiliated with a political party or group, unless the candidate has been nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5);

(b) at the top of the ballot, the following endorsements are printed in 18 point bold type:

(i) "Official Ballot for ____ County, Utah";

(ii) the date of the election; and

(iii) the words "certified by the Clerk of _____ County" or, as applicable, the name of a combined office that includes the duties of a county clerk;

(c) unaffiliated candidates, candidates not affiliated with a registered political party, and all other candidates for elective office who were not nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5), are listed with the other candidates for the same office in accordance with [~~Section 20A-6-305~~]Sections 20A-6-109 and 20A-6-110, without a party name or title;

(d) each ticket containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

(e) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

(f) the names of candidates are printed in capital letters, not less than one-eighth nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point, between lines or rules three-eighths of an inch apart; and

(g) on a ticket for a race in which a voter is authorized to cast a write-in vote and in which a write-in candidate is qualified under Section 20A-9-601:

(i) the ballot includes a space for a write-in candidate immediately following the last candidate listed on that ticket; or

(ii) for the offices of president and vice president and governor and lieutenant governor, the ballot includes two spaces for write-in candidates immediately following the last candidates on that ticket, one placed above the other, to enable the entry of two valid write-in candidates.

(2) An election officer shall ensure that:

(a) each individual nominated by any registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5), and no other individual, is placed on the ballot:

(i) under the registered political party's name, if any; or

(ii) under the title of the registered political party as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in [~~the order specified under Section 20A-6-305~~]accordance with Sections 20A-6-109 and 20A-6-110, with the surnames last; and

(f) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed on the ballot in accordance with Section 20A-6-107;

(c) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206; and

(d) the judicial retention section of the ballot includes a statement at the beginning directing voters to the Judicial Performance Evaluation Commission's website in accordance with Subsection 20A-12-201(4).

Section 6. Section 20A-6-302 is amended to read:

20A-6-302. Manual ballots -- Placement of candidates' names.

(1) An election officer shall ensure, for manual ballots in regular general elections, that:

(a) each candidate is listed by party, if nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5);

(b) candidates' surnames are listed in alphabetical order on the ballots when two or more candidates' names are required to be listed on a ticket under the title of an office; and

(c) the names of candidates are placed on the ballot in:

(i) the manner described in Section 20A-6-109; and

(ii) []the order [~~specified under Section 20A-6-305~~]described in Section 20A-6-110.

(2) (a) When there is only one candidate for county attorney at the regular general election in counties that have three or fewer registered voters of the county who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of county attorney? Yes ____ No ____."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of county attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for county attorney is printed on the ballot under authority of this Subsection (2), the county clerk may not count any write-in votes received for the office of county attorney.

(e) If no qualified individual files for the office of county attorney or if the candidate is not elected by the voters, the county legislative body shall appoint the county attorney as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (2)(f), be placed on the ballot under Subsection (2)(a) has been elected on a ballot under Subsection (2)(a)to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (2)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before 5 p.m. no later than one day before that year's primary election that:

(i) requests the procedure set forth in Subsection (2)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

(3) (a) When there is only one candidate for district attorney at the regular general election in a prosecution district that has three or fewer registered voters of the district who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of district attorney? Yes ____ No ____."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of district attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for district attorney is printed on the ballot under authority of this Subsection (3), the county clerk may not count any write-in votes received for the office of district attorney.

(e) If no qualified individual files for the office of district attorney, or if the only candidate is not elected by the voters under this subsection, the county legislative body shall appoint a new district attorney for a four-year term as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (3)(f), be placed on the ballot under Subsection (3)(a) has been elected on a ballot under Subsection (3)(a)to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (3)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before 5 p.m. no later than one day before that year's primary election that:

(i) requests the procedure set forth in Subsection (3)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

Section 7. Section 20A-6-401 is amended to read:

20A-6-401. Ballots for municipal primary elections.

(1) Each election officer shall ensure that:

(a) the following endorsements are printed in 18 point bold type:

(i) "Official Primary Ballot for ____ (City or Town), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight point type;

(b) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

(c) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10 point bold type that states: "To vote for a candidate, mark the space adjacent to the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

(d) after the rules, the designation of the office for which the candidates seek nomination is printed and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" are printed in 10-point bold type, followed by a hair-line rule;

(e) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in [~~the order specified under Section 20A-6-305~~]accordance with Sections 20A-6-109 and 20A-6-110, with surnames last and grouped according to the office that [~~they~~]the candidates seek;

(f) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates; and

(g) the candidate groups are separated from each other by one light and one heavy line or rule.

(2) A municipal primary ballot may not contain any space for write-in votes.

Section 8. Section 20A-6-401.1 is amended to read:

20A-6-401.1. Ballots for partisan municipal primary elections.

(1) An election officer shall ensure that:

(a) all manual ballots furnished for use at the regular primary election:

(i) separate the candidates of one political party from those of the other political parties; and

(ii) contain no captions or other endorsements except as provided in this section;

(b) the names of all candidates from each party are listed on the same ballot in one or more columns under their party name and emblem;

(c) the political parties are printed on the ballot in the order specified under Section [~~20A-6-305~~]20A-6-110;

(d) the following endorsements are printed in 18-point bold type:

(i) "Official Primary Ballot for ____ (name of municipality), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight point type;

(e) after the facsimile signature, the political party emblem and the name of the political party are printed;

(f) after the party name and emblem, the ballot contains the following printed in not smaller than 10-point bold face, double leaded type: "Instructions to Voters: To vote for a candidate, mark the space following the name of the person for whom you wish to vote and in no other place. Do not vote for any candidate listed under more than one party or group designation.", followed by two one-point parallel horizontal rules;

(g) after the rules, the designation of the office for which the candidates seek nomination is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

(h) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in [~~the order specified under Section 20A-6-305~~]accordance with Sections 20A-6-109 and 20A-6-110, with surnames last and grouped according to the office that they seek;

(i) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates;

(j) the candidate groups are separated from each other by one light and one heavy line or rule; and

(k) the nonpartisan candidates are listed as follows:

(i) immediately below the listing of the party candidates, the word "NONPARTISAN" is printed in reverse type in an 18 point solid rule that extends the full width of the type copy of the party listing above; and

(ii) below "NONPARTISAN," the office, the number of candidates to vote for, the candidate's name, the voting square, and any other necessary information is printed in the same style and manner as for party candidates.

(2) For mechanical ballots, the election officer may require that:

(a) the ballot for a regular primary election consist of several groups of pages or display screens, so that a separate group can be used to list the names of candidates seeking nomination of each qualified political party, with additional groups used to list candidates for other nonpartisan offices;

(b) the separate groups of pages or display screens are identified by color or other suitable means; and

(c) the ballot contains instructions that direct the voter how to vote the ballot.

Section 9. Section 20A-6-402 is amended to read:

20A-6-402. Ballots for municipal general elections.

(1) Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, for a manual ballot at a municipal general election, an election officer shall ensure that:

(a) the names of the two candidates who received the highest number of votes for mayor in the municipal primary are placed upon the ballot;

(b) if no municipal primary election was held, the names of the candidates who filed declarations of candidacy for municipal offices are placed upon the ballot;

(c) for other offices:

(i) twice the number of candidates as there are positions to be filled are certified as eligible for election in the municipal general election from those candidates who received the greater number of votes in the primary election; and

(ii) the names of those candidates are placed upon the municipal general election ballot;

(d) the names of the candidates are placed on the ballot in [~~the order specified under Section 20A-6-305~~]accordance with Sections 20A-6-109 and 20A-6-110;

(e) in an election in which a voter is authorized to cast a write-in vote and where a write-in candidate is qualified under Section 20A-9-601, a write-in area is placed upon the ballot that contains, for each office in which there is a qualified write-in candidate:

(i) a blank, horizontal line to enable a voter to submit a valid write-in candidate; and

(ii) a square or other conforming area that is adjacent to or opposite the blank horizontal line to enable the voter to indicate the voter's vote;

(f) ballot propositions that have qualified for the ballot, including propositions submitted to the voters by the municipality, municipal initiatives, and municipal referenda, are listed on the ballot in accordance with Section 20A-6-107; and

(g) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

(2) Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when using a mechanical ballot at municipal general elections, each election officer shall ensure that:

(a) the following endorsements are displayed on the first portion of the ballot:

(i) "Official Ballot for ____ (City or Town), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title;

(b) immediately below the election officer's title, a distinct border or line separates the endorsements from the rest of the ballot;

(c) immediately below the border or line, an "Instructions to Voters" section is displayed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;

(d) after the border or line, the designation of the office for which the candidates seek election is displayed, and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" are displayed, followed by a line or border;

(e) after the line or border, the names of the candidates are displayed in [~~the order specified under Section 20A-6-305~~]accordance with Sections 20A-6-109 and 20A-6-110, with surnames last and grouped according to the office that [~~they~~]the candidates seek;

(f) a voting square or position is located adjacent to the name of each candidate;

(g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains a write-in space where the voter may enter the name of and vote for a valid write-in candidate for the office; and

(h) the candidate groups are separated from each other by a line or border.

(3) When a municipality has chosen to nominate candidates by convention or committee, the election officer shall ensure that the party name is included with the candidate's name on the ballot.

Section 10. Section 20A-9-201 is amended to read:

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

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

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) a United States citizen;

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

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

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

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

(i) a United States citizen;

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

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

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

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

(i) is a United States citizen;

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

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

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

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

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

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure that the individual filing the declaration of candidacy also makes the conflict of interest disclosure described in Section 20A-11-1603.

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

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

(a) inform the individual that:

(i) subject to Section 20A-6-109,the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

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

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

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

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

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

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

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

(ii) inform the individual that the individual must provide the filing officer with an email address that the individual actively monitors:

(A) to receive a communication from a filing officer or an election officer; and

(B) if the individual wishes to display a candidate profile on the Statewide Electronic Voter Information Website, to submit to the website the biographical and other information described in Subsection 20A-7-801(4)(a)(ii);

(iii) inform the individual that the email address described in Subsection (5)(c)(ii) is not a record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(iv) obtain from the individual the email address described in Subsection (5)(c)(ii);

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

(i) signing the pledge is voluntary; and

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

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

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

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

(a) accept the candidate's pledge; and

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

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

(i) be substantially as follows:

"State of Utah, County of ____

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

_____

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

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

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

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

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

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

(8) (a) Except for a candidate for president or vice president of the United States, the fee for filing a declaration of candidacy is:

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

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

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

(i) who is disqualified; or

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

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

(ii) The lieutenant governor shall:

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

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

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

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

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

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

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

"Affidavit of Impecuniosity

Individual Name _____Address_____

Phone Number _____

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

Date _____ Signature_____ Affiant

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

_____

(signature)

Name and Title of Officer Authorized to Administer Oath

_____".

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

"Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false

statement, in addition to being subject to criminal penalties, will be removed from the ballot."

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

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

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

Section 11. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections -- Nomination petition -- Removal of signature.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

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

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that, subject to Section 20A-6-109, the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

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

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

(iv) inform the candidate that the candidate must provide the filing officer with an email address that the candidate actively monitors:

(A) to receive a communication from a filing officer or an election officer; and

(B) if the candidate wishes to display a candidate profile on the Statewide Electronic Voter Information Website, to submit to the website the biographical and other information described in Subsection 20A-7-801(4)(a)(ii);

(v) inform the candidate that the email address described in Subsection (4)(c)(iv) is not a record under Title 63G, Chapter 2, Government Records Access and Management Act;

(vi) obtain from the candidate the email address described in Subsection (4)(c)(iv);

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

(A) signing the pledge is voluntary; and

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

(viii) accept the declaration of candidacy or nomination petition.

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

(i) accept the candidate's pledge; and

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

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn and under penalty of perjury, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____(month\day\year).

(Signed) _____ (Clerk or other officer qualified to administer oath)."

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) (i) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) With the assistance of the county clerk, and using the procedures described in Section 20A-1-1002, the municipal clerk shall determine whether the required number of signatures of registered voters appears on a nomination petition.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) publicize a list of the names of the candidates as they will appear on the ballot by publishing the list for the municipality, as a class A notice under Section 63G-30-102, for seven days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within 10 days after the last day for filing.

(b) If a person files an objection, the clerk shall:

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

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

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

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

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

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

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

(12) (a) A voter who signs a nomination petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition is filed with the city recorder or municipal clerk, submitting to the municipal clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (12)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) With the assistance of the county clerk and using the procedures described in Subsection 20A-1-1003(3), the municipal clerk shall determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 12. Section 20A-9-403 is amended to read:

20A-9-403. Regular primary elections.

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The regular primary election is held on the date specified in Section 20A-1-201.5. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an

unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

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

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

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

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

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

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

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

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

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

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

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

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

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

(c) (i) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) or 20A-9-408(8) by counting the aggregate number of individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on or before November 15 of each odd-numbered year.

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

(d) The filing officer shall:

(i) except as otherwise provided in Section 20A-21-201, verify signatures on nomination petitions in a transparent and orderly manner, no later than 14 days after the day on which a candidate submits the signatures to the filing officer;

(ii) for all qualifying candidates for elective office who submit nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than the deadline described in Subsection 20A-9-202(1)(b);

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

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

(v) except as otherwise provided in Section 20A-21-201 and with the assistance of the county clerk as applicable, use the procedures described in Section 20A-1-1002to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures in accordance with rules made under Subsection (3)(f).

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

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

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

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

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

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

(g) The county clerk shall:

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

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

(iii) [~~determine the order of~~]place the local board of education candidates' names on the ballot in accordance with [~~Section 20A-6-305~~]Sections 20A-6-109 and 20A-6-110.

(4) (a) Before the deadline described in Subsection 20A-9-409(4)(c), the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary election ballot in accordance with [~~Section 20A-6-305~~]Sections 20A-6-109 and 20A-6-110; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c)

and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 13. Section 20A-9-409 is amended to read:

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

(1) The regular primary election is held on the date specified in Section 20A-1-201.5.

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

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

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

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

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

(a) there is more than one:

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

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

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

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

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

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

(b) Before the deadline described in Subsection (4)(c), the lieutenant governor shall:

(i) provide to the county clerks:

(A) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications from the appropriate filing officer, along with instructions on how those names shall appear on the primary election ballot in accordance with [~~Section 20A-6-305~~]Sections 20A-6-109 and 20A-6-110; and

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

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

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

Section 14. Section 20A-12-201 is amended to read:

20A-12-201. Judicial appointees -- Retention elections.

(1) (a) Each judicial appointee to a court is subject to an unopposed retention election at the first general election held more than three years after the judge or justice was appointed.

(b) After the first retention election:

(i) each Supreme Court justice shall be on the regular general election ballot for an unopposed retention election every tenth year; and

(ii) each judge of other courts shall be on the regular general election ballot for an unopposed retention election every sixth year.

(2) (a) Each justice or judge of a court of record who wishes to retain office shall, in the year the justice or judge is subject to a retention election:

(i) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on July 1 and ending at 5 p.m. on July 15 in the year of a regular general election; and

(ii) pay a filing fee of $50.

(b) (i) Each justice court judge who wishes to retain office shall, in the year the justice court judge is subject to a retention election:

(A) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on July 1 and ending at 5 p.m. on July 15 in the year of a regular general election; and

(B) pay a filing fee of $25 for each judicial office.

(ii) If a justice court judge is appointed or elected to more than one judicial office, the declaration of candidacy shall identify all of the courts included in the same general election.

(iii) If a justice court judge is appointed or elected to more than one judicial office, filing a declaration of candidacy in one county in which one of those courts is located is valid for the courts in any other county.

(3) (a) The lieutenant governor shall, no later than August 31 of each regular general election year:

(i) transmit a certified list containing the names of the justices of the Supreme Court, judges of the Court of Appeals, and judges of the Business and Chancery Court declaring their candidacy to the county clerk of each county; and

(ii) transmit a certified list containing the names of judges of other courts declaring their candidacy to the county clerk of each county in the geographic division in which the judge filing the declaration holds office.

(b) Each county clerk shall place the names of justices and judges standing for retention election:

(i) []in the nonpartisan section of the ballot [-]; and

(ii) in accordance with Section 20A-6-109.

(4) (a) At the general election, the ballots shall contain:

(i) at the beginning of the judicial retention section of the ballot, the following statement:

"Visit judges.utah.gov to learn about the Judicial Performance Evaluation Commission's recommendations for each judge"; and

(ii) as to each justice or judge of any court to be voted on in the county, the following question:

"Shall _____(name of justice or judge) be retained in the office of _____? (name of office, such as "Justice of the Supreme Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the Business and Chancery Court of Utah"; "Judge of the District Court of the Third Judicial District"; "Judge of the Juvenile Court of the Fourth Juvenile Court District"; "Justice Court Judge of (name of county) County or (name of municipality)")

Yes ()

No ()."

(b) If a justice court exists by means of an interlocal agreement under Section 78A-7-102, the ballot question for the judge shall include the name of that court.

(5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge is retained for the term of office provided by law.

(b) If the justice or judge does not receive more yes votes than no votes, the justice or judge is not retained, and a vacancy exists in the office on the first Monday in January after the regular general election.

(6) A justice or judge not retained is ineligible for appointment to the office for which the justice or judge was defeated until after the expiration of that term of office.

(7) (a) If a justice court judge is standing for retention for one or more judicial offices in a county in which the judge is a county justice court judge or a municipal justice court judge in a town or municipality of the fourth or fifth class, as described in Section 10-2-301, or any combination thereof, the election officer shall place the judge's name on the county ballot only once for all judicial offices for which the judge seeks to be retained.

(b) If a justice court judge is standing for retention for one or more judicial offices in a municipality of the first, second, or third class, as described in Section 10-2-301, the election officer shall place the judge's name only on the municipal ballot for the voters of the municipality that the judge serves.

Section 15. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 40
S. B. 104
Passed February 27, 2025
Approved March 19, 2025
Effective May 7, 2025

BOUNDARY LINE AMENDMENTS

Chief Sponsor: Calvin R. Musselman
House Sponsor: Paul A. Cutler

LONG TITLE

General Description:

This bill modifies provisions related to boundary changes.

Highlighted Provisions:

This bill:

- ► modifies definitions applicable to municipal and county land use and development;
- ► modifies the process for proposing a boundary adjustment;
- ► modifies the process for creating a boundary establishment;
- ► modifies the process for a municipality or county to review a proposed boundary adjustment;
- ► modifies exemptions from plat requirements;
- ► modifies the process for a subdivision amendment;
- ► clarifies and creates recording requirements for boundary adjustments and boundary establishments; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-103, as last amended by Laws of Utah 2024, Chapter 464
10-9a-523, as last amended by Laws of Utah 2021, Chapter 385
10-9a-524, as last amended by Laws of Utah 2021, Chapter 385
10-9a-529, as last amended by Laws of Utah 2024, Chapter 464
10-9a-605, as last amended by Laws of Utah 2020, Chapter 434
10-9a-608, as last amended by Laws of Utah 2023, Chapter 501
17-27a-103, as last amended by Laws of Utah 2024, Chapter 464
17-27a-522, as last amended by Laws of Utah 2021, Chapter 385
17-27a-523, as last amended by Laws of Utah 2021, Chapter 385
17-27a-605, as last amended by Laws of Utah 2020, Chapter 434
17-27a-608, as last amended by Laws of Utah 2023, Chapter 501
57-1-13, as last amended by Laws of Utah 2021, Chapter 385
57-1-45, as last amended by Laws of Utah 2022, Chapter 355
57-8-32, as last amended by Laws of Utah 2024, Chapter 519

ENACTS:

57-1-45.5, Utah Code Annotated 1953

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

Section 1. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Boundary adjustment" means an agreement between adjoining property owners to relocate a common boundary that results in a conveyance of property between the adjoining lots, adjoining parcels, or adjoining lots and parcels.

(b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:

(i) creates an additional lot or parcel; or

(ii) is made by the Department of Transportation.

(8) (a) "Boundary establishment" means an agreement between adjoining property owners to clarify the location of an ambiguous, uncertain, or disputed common boundary.

(b) "Boundary establishment" does not mean a modification of a lot or parcel boundary that:

(i) creates an additional lot or parcel; or

(ii) is made by the Department of Transportation.

[~~(7)~~](9) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

[~~(8)~~](10) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

[~~(9)~~](11) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

[~~(10)~~](12) "Conveyance document" means an instrument that:

(a) meets the definition of "document" in Section 57-1-1; and

(b) meets the requirements of Section 57-1-45.5.

(13) "Conveyance of property" means the transfer of ownership of any portion of real property from one person to another person.

(14) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(15) "Department of Transportation" means the entity created in Section 72-1-201.

[~~(11)~~](16) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

[~~(12)~~](17) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

[~~(13)~~](18) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(19) "Document" means the same as that term is defined in Section 57-1-1.

[~~(14)~~](20) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection [~~(14)(a)(i)~~](20)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle

storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection [~~(14)(a)(i)~~](20)(a)(i); and

(B) used in support of the purposes of a building described in Subsection [~~(14)(a)(i)~~](20)(a)(i); or

(ii) a therapeutic school.

(21) "Establishment document" means an instrument that:

(a) meets the definition of "document" in Section 57-1-1; and

(b) meets the requirements of Section 57-1-45.

(22) "Full boundary adjustment" means a boundary adjustment that is not a simple boundary adjustment.

[~~(15)~~](23) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

[~~(16)~~](24) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

[~~(17)~~](25) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

[~~(18)~~](26) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

[~~(19)~~](27) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

[~~(20)~~](28) "Home-based microschool" means the same as that term is defined in Section 53G-6-201.

[~~(21)~~](29) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

[~~(22)~~](30) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

[~~(23)~~](31) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

[~~(24)~~](32) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

[~~(25)~~](33) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

[~~(26)~~](34) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required

the applicant to mitigate the suspect soil.

[~~(27)~~](35) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

[~~(28)~~](36) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

[~~(29)~~](37) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

[~~(30)~~](38) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

[~~(31)~~](39) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

[~~(32)~~](40) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit; or

(b) a land use application.

[~~(33)~~](41) "Land use permit" means a permit issued by a land use authority.

[~~(34)~~](42) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

[~~(35)~~](43) "Legislative body" means the municipal council.

[~~(36)~~](44) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

[~~(37)~~](45) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

[~~(38) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:~~]

[~~(i) whether or not the lots are located in the same subdivision; and~~]

[~~(ii) with the consent of the owners of record.~~]

[~~(b) "Lot line adjustment" does not mean a new boundary line that:~~]

[~~(i) creates an additional lot; or~~]

[~~(ii) constitutes a subdivision or a subdivision amendment.~~]

[~~(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.~~]

[~~(39)~~](46) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

[~~(40)~~](47) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.

[~~(41)~~](48) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household

income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

[~~(42)~~](49) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

[~~(43)~~](50) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[~~(44)~~](51) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

[~~(45)~~](52) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[~~(46)~~](53) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

[~~(47)~~](54) "Parcel" means any real property that is not a lot.

[~~(48) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:~~]

[~~(i) none of the property identified in the agreement is a lot; or~~]

[~~(ii) the adjustment is to the boundaries of a single person's parcels.~~]

[~~(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:~~]

[~~(i) creates an additional parcel; or~~]

[~~(ii) constitutes a subdivision.~~]

[~~(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.~~]

[~~(49)~~](55) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(50)~~](56) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

[~~(51)~~](57) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

[~~(52)~~](58) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[~~(53)~~](59) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, special district, special service district, or other political subdivision of the state; or

(d) a charter school.

[~~(54)~~](60) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(55)~~](61) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(56)~~](62) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation

easement, or other public way.

[~~(57)~~](63) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(58)~~](64) "Record of survey map" means a map of a survey of land prepared in accordance with Section [~~10-9a-603,~~]17-23-17[~~, 17-27a-603, or 57-8-13~~].

[~~(59)~~](65) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

[~~(60)~~](66) "Residential roadway" means a public local residential road that:

(a) will serve primarily to provide access to adjacent primarily residential areas and property;

(b) is designed to accommodate minimal traffic volumes or vehicular traffic;

(c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;

(d) has a posted speed limit of 25 miles per hour or less;

(e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;

(f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

[~~(61)~~](67) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(62)~~](68) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(63)~~](69) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(70) "Simple boundary adjustment" means a boundary adjustment that does not:

(a) affect a public right-of-way, municipal utility easement, or other public property;

(b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or

(c) result in a lot or parcel out of conformity with land use regulations.

[~~(64)~~](71) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[~~(65)~~](72) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(66)~~](73) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(67)~~](74) "State" includes any department, division, or agency of the state.

[~~(68)~~](75) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection [~~(68)(c)~~](75)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of [~~agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance~~]land used for agricultural purposes as provided in Subsection 10-9a-605(2);

[~~(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;~~]

[~~(iii)~~](ii) a recorded [~~document, executed by the owner of record~~]conveyance document:

(A) [~~revising the legal descriptions of~~]consolidating multiple lots or parcels into one legal description encompassing all [~~such~~]lots by reference to a recorded plat and all parcels by metes and bounds description; or

(B) joining a lot to a parcel;

[~~(iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:~~]

[~~(A) no new dwelling lot or housing unit will result from the adjustment; and~~]

[~~(B) the adjustment will not violate any applicable land use ordinance;~~]

[~~(v)~~](iii) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

[~~(vi)~~](iv) a [~~parcel~~]boundary adjustment;

[~~(vii)~~](v) a [~~lot line adjustment~~]boundary establishment;

[~~(viii)~~](vi) a road, street, or highway dedication plat;

[~~(ix)~~](vii) a deed or easement for a road, street, or highway purpose; or

[~~(x)~~](viii) any other division of land authorized by law.

[~~(69)~~](76) (a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(i) vacates all or a portion of the subdivision;

[~~(ii) alters the outside boundary of the subdivision;~~]

[~~(iii)~~](ii) [~~changes~~]increases the number of lots within the subdivision;

[~~(iv)~~](iii) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

[~~(v)~~](iv) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a [~~lot line~~]simple boundary adjustment[~~, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision~~].

[~~(70)~~](77) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

[~~(71)~~](78) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~(72)~~](79) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~(73)~~](80) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~(74)~~](81) "Unincorporated" means the area outside of the incorporated area of a city or town.

[~~(75)~~](82) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[~~(76)~~](83) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section 10-9a-523 is amended to read:

10-9a-523. Simple boundary adjustment -- Full boundary adjustment -- Process -- Review by land use authority.

(1) A person may propose a simple boundary adjustment to a land use authority as described in this section.

(2) A proposal for a simple boundary adjustment shall:

(a) include a conveyance document that complies with Section 57-1-45.5; and

(b) describe all lots or parcels affected by the proposed boundary adjustment.

(3) A land use authority shall consent to a proposed simple boundary adjustment if the land use authority verifies that the proposed simple boundary adjustment:

(a) meets the requirements of Subsection (2); and

(b) does not:

(i) affect a public right-of-way, municipal utility easement, or other public property;

(ii) affect an existing easement, onsite wastewater system, or an internal lot restriction; or

(iii) result in a lot or parcel out of conformity with land use regulations.

(4) If the land use authority determines that a proposed simple boundary adjustment does not meet the requirements of Subsection (3), a full boundary adjustment is required.

(5) To [~~make~~]propose a [~~parcel~~]full boundary adjustment[~~, a property owner~~], the adjoining property owners shall submit a proposal to the land use authority that includes:

[~~(a) execute a boundary adjustment through:~~]

[~~(i) a quitclaim deed; or~~]

[~~(ii) a boundary line agreement under Section 10-9a-524; and~~]

[~~(b) record the quitclaim deed or boundary line agreement described in Subsection (1)(a) in the office of the county recorder of the county in which each property is located.~~]

(a) a conveyance document that complies with Section 57-1-45.5;

(b) a survey that complies with Subsection 57-1-45.5(3)(b); and

(c) if required by municipal ordinance, a proposed plat amendment corresponding with the proposed full boundary adjustment, prepared in accordance with Section 10-9a-608.

(6) A land use authority shall consent to a proposed full boundary adjustment made under Subsection (5) if:

(a) the proposal submitted to the land use authority under Subsection (5) includes all necessary information;

(b) the survey described in Subsection (5)(b) shows no evidence of a violation of a land use regulation; and

(c) if required by municipal ordinance, the plat amendment corresponding with the proposed full boundary adjustment has been approved in accordance with Section 10-9a-608.

(7) (a) Consent under Subsection (3) or (6) is an administrative act.

(b) Notice of consent under Subsection (3) or (6) shall be provided to the person proposing the boundary adjustment in a format that makes clear:

(i) the land use authority is not responsible for any error related to the boundary adjustment; and

(ii) a county recorder may record the boundary adjustment.

[~~(2) To make a lot line adjustment, a property owner shall:~~]

[~~(a) obtain approval of the boundary adjustment under Section 10-9a-608;~~]

[~~(b) execute a boundary adjustment through:~~]

[~~(i) a quitclaim deed; or~~]

[~~(ii) a boundary line agreement under Section 10-9a-524; and~~]

[~~(c) record the quitclaim deed or boundary line agreement described in Subsection (2)(b) in the office of the county recorder of the county in which each property is located.~~]

(8) A boundary adjustment is effective from the day on which the boundary adjustment, as consented to by the land use authority, is recorded by a county recorder along with the relevant conveyance document.

[~~(3) A parcel boundary adjustment under Subsection (1) is not subject to review of a land use authority unless:~~]

[~~(a) the parcel includes a dwelling; and~~]

[~~(b) the land use authority's approval is required under Subsection 10-9a-524(5).~~]

[~~(4)~~](9) The recording of a boundary [~~line agreement or other document used to adjust a mutual boundary line that is not subject to review of a land use authority:~~]adjustment does not constitute a land use approval.

[~~(a) does not constitute a land use approval; and~~]

[~~(b) does not affect the validity of the boundary line agreement or other document used to adjust a mutual boundary line.~~]

[~~(5)~~](10) A municipality may enforce municipal ordinances against, or withhold approval of a land use application for, property that is subject to a [~~recorded boundary line agreement or other document used to adjust a mutual boundary line~~]boundary adjustment if the municipality determines that the resulting lots or parcels[~~, as adjusted by the boundary line agreement or other document used to adjust the mutual boundary line,~~] are not in compliance with the municipality's land use regulations in effect on the day on which the boundary [~~line agreement or other document used to adjust the mutual boundary line~~]adjustment is recorded.

Section 3. Section 10-9a-524 is amended to read:

10-9a-524. Boundary establishment -- Process -- Boundary agreement not subject to review by land use authority -- Prohibitions.

(1) [~~If properly executed and acknowledged as required by law, an agreement between~~]The owners of adjoining property [~~that designates the boundary line between the adjoining properties acts, upon recording in the office of the recorder of the county in which each property is located, as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement~~]may initiate a boundary establishment to:

(a) resolve an ambiguous, uncertain, or disputed boundary between the adjoining properties; and

(b) agree upon the location of an existing common boundary between the adjoining properties.

(2) Adjoining property owners executing a boundary [~~line agreement~~]establishment described in Subsection (1) shall:

(a) prepare an establishment document that complies with Section 57-1-45; and

(b) record the boundary establishment with the county recorder for the county in which the property exists, in accordance with Section 57-1-45.

[~~(a) ensure that the agreement includes:~~]

[~~(i) a legal description of the agreed upon boundary line and of each parcel or lot after the boundary line is changed;~~]

[~~(ii) the name and signature of each grantor that is party to the agreement;~~]

[~~(iii) a sufficient acknowledgment for each grantor's signature;~~]

[~~(iv) the address of each grantee for assessment purposes;~~]

[~~(v) a legal description of the parcel or lot each grantor owns before the boundary line is changed; and~~]

[~~(vi) the date of the agreement if the date is not included in the acknowledgment in a form substantially similar to a quitclaim deed as described in Section 57-1-13;~~]

[~~(b) if any of the property subject to the boundary line agreement is a lot, prepare an amended plat in accordance with Section 10-9a-608 before executing the boundary line agreement; and~~]

[~~(c) if none of the property subject to the boundary line agreement is a lot, ensure that the boundary line agreement includes a statement citing the file number of a record of a survey map in accordance with Section 17-23-17, unless the statement is exempted by the municipality.~~]

(3) A boundary establishment:

(a) is not subject to review of a land use authority; and

(b) does not require consent or approval from a land use authority before it may be recorded.

(4) A boundary establishment is effective from the day it is recorded by a county recorder.

(5) A municipality may enforce municipal ordinances against property with a boundary establishment that violates a land use regulation.

[~~(3)~~](6) A boundary [~~line agreement described in Subsection (1) that complies with Subsection (2)~~]establishment that complies with this section presumptively:

(a) has no detrimental effect on any easement on the property that is recorded before the day on which the agreement is executed[~~unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document~~]; and

(b) [~~relocates the parties' common boundary line for an exchange of consideration.~~]conveys the ownership of the adjoining parties to the established common boundary.

[~~(4) Notwithstanding Part 6, Subdivisions, or a municipality's ordinances or policies, a boundary line agreement that only affects parcels is not subject to:~~]

[~~(a) any public notice, public hearing, or preliminary platting requirement;~~]

[~~(b) the review of a land use authority; or~~]

[~~(c) an engineering review or approval of the municipality, except as provided in Subsection (5).~~]

[~~(5) (a) If a parcel that is the subject of a boundary line agreement contains a dwelling unit, the municipality may require a review of the boundary line agreement if the municipality:~~]

[~~(i) adopts an ordinance that:~~]

[~~(A) requires review and approval for a boundary line agreement containing a dwelling unit; and~~]

[~~(B) includes specific criteria for approval; and~~]

[~~(ii) completes the review within 14 days after the day on which the property owner submits the boundary line agreement for review.~~]

[~~(b) (i) If a municipality, upon a review under Subsection (5)(a), determines that the boundary line agreement is deficient or if the municipality requires additional information to approve the boundary line agreement, the municipality shall send, within the time period described in Subsection (5)(a)(ii), written notice to the property owner that:~~]

[~~(A) describes the specific deficiency or additional information that the municipality requires to approve the boundary line agreement; and~~]

[~~(B) states that the municipality shall approve the boundary line agreement upon the property owner's correction of the deficiency or submission of the additional information described in Subsection (5)(b)(i)(A).~~]

[~~(ii) If a municipality, upon a review under Subsection (5)(a), approves the boundary line agreement, the municipality shall send written notice of the boundary line agreement's approval to the property owner within the time period described in Subsection (5)(a)(ii).~~]

[~~(c) If a municipality fails to send a written notice under Subsection (5)(b) within the time period described in Subsection (5)(a)(ii), the property owner may record the boundary line agreement as if no review under this Subsection (5) was required.~~]

Section 4. Section 10-9a-529 is amended to read:

10-9a-529. Specified public utility located in a municipal utility easement.

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:

(1) with the consent of a municipality; and

(2) that is located within a municipal utility easement described in Subsections [~~10-9a-103(42)(a) through (c)~~]10-9a-103(49)(a) through (e).

Section 5. Section 10-9a-605 is amended to read:

10-9a-605. Exemptions from plat requirement.

(1) Notwithstanding any other provision of law, a plat is not required if:

(a) a municipality establishes a process to approve an administrative land use decision for a subdivision of 10 or fewer [~~lots~~]parcels without a plat; and

(b) the municipality provides in writing that:

(i) the municipality has provided [~~notice~~]a certificate or written approval as required by ordinance; and

(ii) the proposed subdivision:

(A) is not traversed by the mapped lines of a proposed street as shown in the general plan unless the municipality has approved the location and dedication of any public street, municipal utility easement, any other easement, or any other land for public purposes as the municipality's ordinance requires;

(B) has been approved by the culinary water authority and the sanitary sewer authority;

(C) is located in a zoned area; and

(D) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a [~~lot or~~]parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 10-9a-603 if the [~~lot or~~]parcel:

(i) qualifies as land in agricultural use under Section 59-2-502;

(ii) meets the minimum size requirement of applicable land use ordinances; and

(iii) is not used and will not be used for any nonagricultural purpose.

[~~(b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under Section 10-9a-604, shall be recorded with the county recorder.~~]

[~~(c)~~](b) If a [~~lot or~~]parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the municipality may require the [~~lot or~~]parcel to comply with the requirements of Section 10-9a-603.

(3) (a) Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

(i) prohibit the county recorder from recording a document; or

(ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached and that complies with Section 57-3-106.

(4) (a) The boundaries of any subdivision exempted from the plat requirement under this section shall be graphically illustrated on a record of survey map that includes:

(i) a legal description of the parcel to be divided;

(ii) a legal description of each parcel created by the subdivision; and

(iii) a citation to the specific provision of this section for which an exemption to the plat requirement is authorized.

(b) The record of survey map described in Subsection (4)(a) shall be filed with the county surveyor in accordance with Section 17-23-17.

Section 6. Section 10-9a-608 is amended to read:

10-9a-608. Subdivision amendments.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a [~~written~~]petition with the land use authority to request a subdivision amendment.

(b) Upon filing a [~~written~~]petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 10-9a-603 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

(c) (i) [~~If a petition is filed under Subsection (1)(a), the~~]The land use authority shall provide notice of [~~the~~]a petition filed under Subsection (1)(a) by mail[~~,~~]or email [~~, or other effective means~~]to []:

(A) each affected entity that provides a service to [~~an~~]a property owner of record of the portion of the plat that is being vacated or amended [~~at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment.~~]; and

(B) each property owner of record within the portion of the subdivision that is proposed to be amended.

(ii) The notice described in Subsection (1)(c)(i)(B) shall include a deadline by which written objections to the petition are due to the land use authority, but no earlier than 10 calendar days after the day on which the land use authority sends the notice.

(d) [~~If a petition is filed under Subsection (1)(a), the~~]The land use authority shall hold a public hearing within 45 days after the day on which [~~the~~]a petition is filed under Subsection (1)(a) if:

(i) any property owner within the [~~plat~~]subdivision that is proposed to be amended notifies the municipality of the owner's objection in writing [~~within 10 days of mailed notification~~]before the deadline for objections as described in Subsection (1)(c)(ii); or

(ii) a municipal ordinance requires a public hearing [~~is required because~~]if all of the property owners [~~in~~]within the portion of the subdivision proposed to be amended have not signed the [~~revised~~]proposed amended plat.

(e) A land use authority may approve a petition for subdivision amendment no earlier than:

(i) the day after the day on which written objections were due to the land use authority, as described in Subsection (1)(c)(ii); or

(ii) if a public hearing is required as described in Subsection (1)(d), the day the public hearing takes place.

(f) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

(2) The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioner fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

[~~(iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join in the petition, regardless of whether the properties are located in the same subdivision;~~]

[~~(iv)~~](iii) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

[~~(v)~~](iv) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or municipal utility easement is also subject to

Section 10-9a-609.5.

(4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and

(b) the signature of each owner described in Subsection (4)(a) who consents to the petition.

[~~(5) (a) The owners of record of adjoining properties where one or more of the properties is a lot may exchange title to portions of those properties if the exchange of title is approved by the land use authority as a lot line adjustment in accordance with Subsection (5)(b).~~]

[~~(b) The land use authority shall approve a lot line adjustment under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.~~]

[~~(c) If a lot line adjustment is approved under Subsection (5)(b):~~]

[~~(i) a notice of lot line adjustment approval shall be recorded in the office of the county recorder which:~~]

[~~(A) is approved by the land use authority; and~~]

[~~(B) recites the legal descriptions of both the original properties and the properties resulting from the exchange of title; and~~]

[~~(ii) a document of conveyance shall be recorded in the office of the county recorder.~~]

[~~(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.~~]

[~~(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).~~]

[~~(b) The surveyor preparing the amended plat shall certify that the surveyor:~~]

[~~(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;~~]

[~~(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; or~~]

[~~(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and~~]

[~~(iii) has placed monuments as represented on the plat.~~]

[~~(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.~~]

[~~(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.~~]

(5) A surveyor preparing an amended plat under this section shall certify that the surveyor:

(a) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(b) (i) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements;

(ii) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; or

(iii) has referenced the original plat that created the lot boundaries being amended; and

(c) has placed monuments as represented on the plat.

Section 7. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owner's association, public utility, or the Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Boundary adjustment" means an agreement between adjoining property owners to relocate a common boundary that results in a conveyance of property between the adjoining lots, adjoining parcels, or adjoining lots and parcels.

(b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:

(i) creates an additional lot or parcel; or

(ii) is made by the Department of Transportation.

(8) (a) "Boundary establishment" means an agreement between adjoining property owners to clarify the location of an ambiguous, uncertain, or disputed common boundary.

(b) "Boundary establishment" does not mean a modification of a lot or parcel boundary that:

(i) creates an additional lot or parcel; or

(ii) is made by the Department of Transportation.

[~~(7)~~](9) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

[~~(8)~~](10) "Chief executive officer" means the person or body that exercises the executive powers of the county.

[~~(9)~~](11) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

[~~(10)~~](12) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

[~~(11)~~]

(13) "Conveyance document" means an instrument that:

(a) meets the definition of "document" in Section 57-1-1; and

(b) meets the requirements of Section 57-1-45.5.

(14) "Conveyance of property" means the transfer of ownership of any portion of real property from one person to another person.

(15) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

[~~(12)~~](16) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(17) "Department of Transportation" means the entity created in Section 72-1-201.

[~~(13)~~](18) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

[~~(14)~~](19) (a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

[~~(15)~~](20) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

[~~(16)~~]

(21) "Document" means the same as that term is defined in Section 57-1-1.

(22) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection [~~(16)(a)(i)~~](22)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection [~~(16)(a)(i)~~](22)(a)(i); and

(B) used in support of the purposes of a building described in Subsection [~~(16)(a)(i)~~](22)(a)(i); or

(ii) a therapeutic school.

(23) "Establishment document" means an instrument that:

(a) meets the definition of "document" in Section 57-1-1; and

(b) meets the requirements of Section 57-1-45.

(24) "Full boundary adjustment" means a boundary adjustment that is not a simple boundary adjustment.

[~~(17)~~](25) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

[~~(18)~~](26) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

[~~(19)~~](27) "Gas corporation" has the same meaning as defined in Section 54-2-1.

[~~(20)~~](28) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

[~~(21)~~](29) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

[~~(22)~~](30) "Home-based microschool" means the same as that term is defined in Section 53G-6-201.

[~~(23)~~](31) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

[~~(24)~~](32) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

[~~(25)~~](33) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

[~~(26)~~](34) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

[~~(27)~~](35) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

[~~(28)~~](36) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

[~~(29)~~](37) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

[~~(30)~~](38) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

[~~(31)~~](39) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

[~~(32)~~](40) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

[~~(33)~~](41) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

[~~(34)~~](42) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

[~~(35)~~](43) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

[~~(36)~~](44) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

[~~(37)~~](45) "Land use permit" means a permit issued by a land use authority.

[~~(38)~~](46) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

[~~(39)~~](47) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

[~~(40)~~](48) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

[~~(41) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 17-27a-608:~~]

[~~(i) whether or not the lots are located in the same subdivision; and~~]

[~~(ii) with the consent of the owners of record.~~]

[~~(b) "Lot line adjustment" does not mean a new boundary line that:~~]

[~~(i) creates an additional lot; or~~]

[~~(ii) constitutes a subdivision or a subdivision amendment.~~]

[~~(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.~~]

[~~(42)~~](49) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

[~~(43)~~](50) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.

[~~(44)~~](51) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

[~~(45)~~](52) "Mountainous planning district" means an area designated by a county legislative body in accordance with Section 17-27a-901.

[~~(46)~~](53) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[~~(47)~~](54) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

[~~(48)~~](55) "Nonconforming use" means a use of land that:

(a) legally existed before the current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[~~(49)~~](56) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

[~~(50)~~](57) "Parcel" means any real property that is not a lot.

[~~(51) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:~~]

[~~(i) none of the property identified in the agreement is a lot; or~~]

[~~(ii) the adjustment is to the boundaries of a single person's parcels.~~]

[~~(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:~~]

[~~(i) creates an additional parcel; or~~]

[~~(ii) constitutes a subdivision.~~]

[~~(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.~~]

[~~(52)~~](58) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(53)~~](59) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

[~~(54)~~](60) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

[~~(55)~~](61) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

[~~(56)~~](62) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[~~(57)~~](63) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, special district, special service district, or other political subdivision of the state; or

(d) a charter school.

[~~(58)~~](64) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(59)~~](65) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(60)~~](66) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(61)~~](67) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(62)~~](68) "Record of survey map" means a map of a survey of land prepared in accordance with Section [~~10-9a-603,~~]17-23-17[~~, 17-27a-603, or 57-8-13~~].

[~~(63)~~](69) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

[~~(64)~~](70) "Residential roadway" means a public local residential road that:

(a) will serve primarily to provide access to adjacent primarily residential areas and property;

(b) is designed to accommodate minimal traffic volumes or vehicular traffic;

(c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;

(d) has a posted speed limit of 25 miles per hour or less;

(e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;

(f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

[~~(65)~~](71) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(66)~~](72) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(67)~~](73) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(74) "Simple boundary adjustment" means a boundary adjustment that does not:

(a) affect a public right-of-way, county utility easement, or other public property;

(b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or

(c) result in a lot or parcel out of conformity with land use regulations.

[~~(68)~~](75) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

[~~(69)~~](76) (a) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(b) "Special district" includes a governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[~~(70)~~](77) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(71)~~](78) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(72)~~](79) "State" includes any department, division, or agency of the state.

[~~(73)~~](80) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection [~~(73)(c)~~](80)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

[~~(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 17-27a-523 if no new lot is created;~~]

[~~(iii)~~](ii) a recorded conveyance document [~~, executed by the owner of record~~]:

(A) [~~revising the legal descriptions of~~]consolidating multiple lots or parcels into one legal description encompassing all [~~such~~]lots by reference to a recorded plat and all parcels by metes and bounds description; or

(B) joining a lot to a parcel;

[~~(iv)~~](iii) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

[~~(v) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 17-27a-523and 17-27a-608 if:~~]

[~~(A) no new dwelling lot or housing unit will result from the adjustment; and~~]

[~~(B) the adjustment will not violate any applicable land use ordinance;~~]

[~~(vi)~~](iv) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

[~~(viii)~~](v) a [~~parcel~~]boundary adjustment;

[~~(viii)~~](vi) a [~~lot line adjustment~~]boundary establishment;

[~~(ix)~~](vii) a road, street, or highway dedication plat;

[~~(x)~~](viii) a deed or easement for a road, street, or highway purpose; or

[~~(xi)~~](ix) any other division of land authorized by law.

[~~(74)~~](81) (a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(i) vacates all or a portion of the subdivision;

[~~(ii) alters the outside boundary of the subdivision;~~]

[~~(iii)~~](ii) [~~changes~~]increases the number of lots within the subdivision;

[~~(iv)~~](iii) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

[~~(v)~~](iv) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a [~~lot line~~]simple boundary adjustment[~~, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision~~].

[~~(75)~~](82) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

[~~(76)~~](83) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~(77)~~](84) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~(78)~~](85) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~(79)~~](86) "Unincorporated" means the area outside of the incorporated area of a municipality.

[~~(80)~~](87) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[~~(81)~~](88) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 8. Section 17-27a-522 is amended to read:

17-27a-522. Simple boundary adjustment -- Full boundary adjustment -- Process -- Review by land use authority.

(1) A person may propose a simple boundary adjustment to a land use authority as described in this section.

(2) A proposal for a simple boundary adjustment shall:

(a) include a conveyance document that complies with Section 57-1-45.5; and

(b) describe all lots or parcels affected by the proposed boundary adjustment.

(3) A land use authority shall consent to a proposed simple boundary adjustment if the land use authority verifies that the proposed simple boundary adjustment:

(a) meets the requirements of Subsection (2); and

(b) does not:

(i) affect a public right-of-way, county utility easement, or other public property;

(ii) affect an existing easement, onsite wastewater system, or an internal lot restriction; or

(iii) result in a lot or parcel out of conformity with land use regulations.

(4) If the land use authority determines that a proposed simple boundary adjustment does not meet the requirements of Subsection (3), a full boundary adjustment is required.

(5) To [~~make~~]propose a [~~parcel line~~]full boundary adjustment [~~, a property owner~~], the adjoining property owners shall submit a proposal to the land use authority that includes:

[~~(a) execute a boundary adjustment through:~~]

[~~(i) a quitclaim deed; or~~]

[~~(ii) a boundary line agreement under Section 17-27a-523; and~~]

[~~(b) record the quitclaim deed or boundary line agreement described in Subsection (1)(a) in the office of the county recorder of the county in which each property is located.~~]

(a) a conveyance document that complies with Section 57-1-45.5;

(b) a survey that complies with Subsection 57-1-4.5(3)(b); and

(c) if required by county ordinance, a proposed plat amendment corresponding with the proposed full boundary adjustment, prepared in accordance with Section 17-27a-608.

(6) The land use authority shall consent to a proposed full boundary adjustment made under Subsection (5) if:

(a) the proposal submitted to the land use authority under Subsection (5) includes all necessary information;

(b) the survey described in Subsection (5)(b) shows no evidence of a violation of a land use regulation; and

(c) if required by county ordinance, the plat amendment corresponding with the proposed full boundary adjustment has been approved in accordance with Section 17-27a-608.

(7) (a) Consent under Subsection (3) or (6) is an administrative act.

(b) Notice of consent under Subsection (3) or (6) shall be provided to the person proposing the boundary adjustment in a format that makes clear:

(i) the land use authority is not responsible for any error related to the boundary adjustment; and

(ii) a county recorder may record the boundary adjustment.

(8) A boundary adjustment is effective from the day on which the boundary adjustment, as consented to by the land use authority, is recorded by the county recorder along with the relevant conveyance document.

(9) The recording of a boundary adjustment does not constitute a land use approval.

[~~(2) To make a lot line adjustment, a property owner shall:~~]

[~~(a) obtain approval of the boundary adjustment under Section 17-27a-608;~~]

[~~(b) execute a boundary adjustment through:~~]

[~~(i) a quitclaim deed; or~~]

[~~(ii) a boundary line agreement under Section 17-27a-523; and~~]

[~~(c) record the quitclaim deed or boundary line agreement described in Subsection (2)(b) in the office of the county recorder of the county in which each property is located.~~]

[~~(3) A parcel boundary adjustment under Subsection (1) is not subject to review of a land use authority unless:~~]

[~~(a) the parcel includes a dwelling; and~~]

[~~(b) the land use authority's approval is required under Subsection 17-27a-523(5).~~]

[~~(4) The recording of a boundary line agreement or other document used to adjust a mutual boundary line that is not subject to review of a land use authority:~~]

[~~(a) does not constitute a land use approval; and~~]

[~~(b) does not affect the validity of the boundary line agreement or other document used to adjust a mutual boundary line.~~]

[~~(5)~~](10) A county may enforce county ordinances against, or withhold approval of a land use application for, property that is subject to a [~~recorded boundary line agreement or other document used to adjust a mutual boundary line~~]boundary adjustment if the county determines that the resulting lots or parcels[~~, as adjusted by the boundary line agreement or other document used to adjust the mutual boundary line,~~] are not in compliance with the county's land use regulations in effect on the day on which the boundary [~~line agreement or other document used to adjust the mutual boundary line~~]adjustment is recorded.

Section 9. Section 17-27a-523 is amended to read:

17-27a-523. Boundary establishment -- Process -- Boundary agreement not subject to review by land use authority -- Prohibitions.

(1) [~~If properly executed and acknowledged as required by law, an agreement between~~]The owners of adjoining property [~~that designates the boundary line between the adjoining properties acts, upon recording in the office of the recorder of the county in which each property is located, as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.~~]may initiate a boundary establishment to:

(a) resolve an ambiguous, uncertain, or disputed boundary between the adjoining properties; and

(b) agree upon the location of the boundary between the adjoining properties.

(2) Adjoining property owners executing a boundary [~~line agreement~~]establishment described in Subsection (1) shall:

[~~(a) ensure that the agreement includes:~~]

[~~(i) a legal description of the agreed upon boundary line and of each parcel or lot after the boundary line is changed;~~]

[~~(ii) the name and signature of each grantor that is party to the agreement;~~]

[~~(iii) a sufficient acknowledgment for each grantor's signature;~~]

[~~(iv) the address of each grantee for assessment purposes;~~]

[~~(v) a legal description of the parcel or lot each grantor owns before the boundary line is changed; and~~]

[~~(vi) the date of the agreement if the date is not included in the acknowledgment in a form substantially similar to a quitclaim deed as described in Section 57-1-13;~~]

[~~(b) if any of the property subject to the boundary line agreement is a lot, prepare an amended plat in accordance with Section 17-27a-608 before executing the boundary line agreement; and~~]

[~~(c) if none of the property subject to the boundary line agreement is a lot, ensure that the boundary line agreement includes a statement citing the file number of a record of a survey map in accordance with Section 17-23-17, unless the statement is exempted by the county.~~]

(a) prepare an establishment document that complies with Section 57-1-45; and

(b) record the boundary establishment with the county recorder, in accordance with Section 57-1-45.

(3) A boundary establishment:

(a) is not subject to review of a land use authority; and

(b) does not require consent or approval from a land use authority before it may be recorded.

(4) A boundary establishment is effective from the day it is recorded by the county recorder.

(5) A county may enforce county ordinances against property with a boundary establishment that violates a land use regulation.

[~~(3)~~](6) A boundary [~~line agreement described in Subsection (1) that complies with Subsection (2)~~]establishment that complies with this section presumptively:

(a) has no detrimental effect on any easement on the property that is recorded before the day on which the agreement is executed[~~unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document~~]; and

(b) [~~relocates the parties' common boundary line for an exchange of consideration.~~]conveys the ownership of the adjoining parties to the established common boundary.

[~~(4) Notwithstanding Part 6, Subdivisions, or a county's ordinances or policies, a boundary line agreement that only affects parcels is not subject to:~~]

[~~(a) any public notice, public hearing, or preliminary platting requirement;~~]

[~~(b) the review of a land use authority; or~~]

[~~(c) an engineering review or approval of the county, except as provided in Subsection (5).~~]

[~~(5) (a) If a parcel that is the subject of a boundary line agreement contains a dwelling unit, the county may require a review of the boundary line agreement if the county:~~]

[~~(i) adopts an ordinance that:~~]

[~~(A) requires review and approval for a boundary line agreement containing a dwelling unit; and~~]

[~~(B) includes specific criteria for approval; and~~]

[~~(ii) completes the review within 14 days after the day on which the property owner submits the boundary line agreement for review.~~]

[~~(b) (i) If a county, upon a review under Subsection (5)(a), determines that the boundary line agreement is deficient or if the county requires additional information to approve the boundary line agreement, the county shall send, within the time period described in Subsection (5)(a)(ii), written notice to the property owner that:~~]

[~~(A) describes the specific deficiency or additional information that the county requires to approve the boundary line agreement; and~~]

[~~(B) states that the county shall approve the boundary line agreement upon the property owner's correction of the deficiency or submission of the additional information described in Subsection (5)(b)(i)(A).~~]

[~~(ii) If a county, upon a review under Subsection (5)(a), approves the boundary line agreement, the county shall send written notice of the boundary line agreement's approval to the property owner within the time period described in Subsection (5)(a)(ii).~~]

[~~(c) If a county fails to send a written notice under Subsection (5)(b) within the time period described in Subsection (5)(a)(ii), the property owner may record the boundary line agreement as if no review under this Subsection (5) was required.~~]

Section 10. Section 17-27a-605 is amended to read:

17-27a-605. Exemptions from plat requirement.

(1) Notwithstanding any other provision of law, a plat is not required if:

(a) a county establishes a process to approve an administrative land use decision for the subdivision of unincorporated land or mountainous planning district land into 10 or fewer [~~lots~~]parcels without a plat; and

(b) the county provides in writing that:

(i) the county has provided [~~notice~~]a certificate or written approval as required by ordinance; and

(ii) the proposed subdivision:

(A) is not traversed by the mapped lines of a proposed street as shown in the general plan unless the county has approved the location and dedication of any public street, county utility easement, any other easement, or any other land for public purposes as the county's ordinance requires;

(B) has been approved by the culinary water authority and the sanitary sewer authority;

(C) is located in a zoned area; and

(D) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a [~~lot or~~]parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 17-27a-603 if:

(i) the [~~lot or~~]parcel:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used and will not be used for any nonagricultural purpose; and

(ii) the new owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel by legal description; and

(B) stating that the [~~lot or~~]parcel is created for agricultural purposes as defined in Section 59-2-502 and will remain so until a future zoning change permits other uses.

(b) If a [~~lot or~~]parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county shall require the [~~lot or~~]parcel

to comply with the requirements of Section 17-27a-603 and all applicable land use ordinance requirements.

(3) (a) Except as provided in Subsection (4), a document recorded in the county recorder's office that divides property by a metes and bounds description does not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

(i) prohibit the county recorder from recording a document; or

(ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached and that complies with Section 57-3-106.

(4) (a) As used in this Subsection (4):

(i) "Divided land" means land that:

(A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and

(B) has been divided by a minor subdivision.

(ii) "Land to be divided" means land that is proposed to be divided by a minor subdivision.

(iii) "Minor subdivision" means a division of at least 100 contiguous acres of agricultural land in a county of the third, fourth, fifth, or sixth class to create one new [~~lot~~]parcel that, after the division, is separate from the remainder of the original 100 or more contiguous acres of agricultural land.

(iv) "Minor subdivision [~~lot~~]parcel" means a [~~lot~~]parcel created by a minor subdivision.

(b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100 contiguous acres of agricultural land may make a minor subdivision by submitting for recording in the office of the recorder of the county in which the land to be divided is located:

(i) a recordable deed containing the legal description of the minor subdivision [~~lot~~]parcel; and

(ii) a notice:

(A) indicating that the owner of the land to be divided is making a minor subdivision;

(B) referring specifically to this section as the authority for making the minor subdivision; and

(C) containing the legal description of:

(I) the land to be divided; and

(II) the minor subdivision [~~lot~~]parcel.

(c) A minor subdivision [~~lot~~]parcel:

(i) may not be less than one acre in size;

(ii) may not be within 1,000 feet of another minor subdivision [~~lot~~]parcel; and

(iii) is not subject to the subdivision ordinance of the county in which the minor subdivision [~~lot~~]parcel is located.

(d) Land to be divided by a minor subdivision may not include divided land.

(e) A county:

(i) may not deny a building permit to an owner of a minor subdivision [~~lot~~]parcel based on:

(A) the [~~lot's~~]parcel's status as a minor subdivision [~~lot~~]parcel; or

(B) the absence of standards described in Subsection (4)(e)(ii); and

(ii) may, in connection with the issuance of a building permit, subject a minor subdivision [~~lot~~]parcel to reasonable health, safety, and access standards that the county has established and made public.

(5) (a) Notwithstanding Sections 17-27a-603 and 17-27a-604, and subject to Subsection (1), the legislative body of a county may enact an ordinance allowing the subdivision of a parcel, without complying with the plat requirements of Section 17-27a-603, if:

(i) the parcel contains an existing legal single family dwelling unit;

(ii) the subdivision results in two parcels, one of which is agricultural land;

(iii) the parcel of agricultural land:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used, and will not be used, for a nonagricultural purpose;

(iv) both the parcel with an existing legal single family dwelling unit and the parcel of agricultural land meet the minimum area, width, frontage, and setback requirements of the applicable zoning designation in the applicable land use ordinance; and

(v) the owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel of agricultural land by legal description; and

(B) stating that the parcel of agricultural land is created as land in agricultural use, as defined in Section 59-2-502, and will remain as land in agricultural use until a future zoning change permits another use.

(b) If a parcel of agricultural land divided from another parcel under Subsection (5)(a) is later used for a nonagricultural purpose, the exemption provided in Subsection (5)(a) no longer applies, and the county shall require the owner of the parcel to:

(i) retroactively comply with the subdivision plat requirements of Section 17-27a-603; and

(ii) comply with all applicable land use ordinance requirements.

(6) (a) The boundaries of any subdivision exempted from the plat requirement under this section shall be graphically illustrated on a record of survey map that includes:

(i) a legal description of the parcel to be divided;

(ii) a legal description of each parcel created by the subdivision; and

(iii) a citation to the specific provision of this section for which an exemption to the plat requirement is authorized.

(b) The record of survey map described in Subsection (6)(a) shall be filed with the county surveyor in accordance with Section 17-23-17.

Section 11. Section 17-27a-608 is amended to read:

17-27a-608. Subdivision amendments.

(1) (a) A fee owner of a lot, as shown on the last county assessment roll, in a plat that has been laid out and platted as provided in this part may file a [~~written~~]petition with the land use authority to request a subdivision amendment.

(b) Upon filing a [~~written~~]petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 17-27a-603 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

(c) (i) [~~If a petition is filed under Subsection (1)(a), the~~]The land use authority shall provide notice of [~~the~~]a petition filed under Subsection (1)(a) by mail[~~,~~]or email[~~, or other effective means~~] to:

(A) each affected entity that provides a service to [~~an~~]a property owner of record of the portion of the plat that is being amended [~~at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment~~]; and

(B) each property owner of record within the portion of the subdivision that is proposed to be amended.

(ii) The notice described in Subsection (1)(c)(i)(B) shall include a deadline by which written objections to the petition are due to the land use authority, but no earlier than 10 calendar days after the day on which the land use authority sends the notice.

(d) [~~If a petition is filed under Subsection (1)(a), the~~]The land use authority shall hold a public hearing within 45 days after the day on which [~~the~~]a petition is filed under Subsection (1)(a)if:

(i) any property owner within the [~~plat~~]subdivision that is proposed to be amended notifies the county of the owner's objection in writing [~~within 10 days of mailed notification~~]by the deadline for objections, as described in Subsection (1)(c)(ii); or

(ii) a county ordinance requires a public hearing [~~is required because~~]if all of the owners [~~in~~]within the portion of the subdivision proposed to be amended have not signed the [~~revised~~]proposed amended plat.

(e) A land use authority may approve a petition for subdivision amendment no earlier than:

(i) the day after the day on which written objections were due to the land authority, as described in Subsection (1)(c)(ii); or

(ii) if a public hearing is required as described in Subsection (1)(d), the day on which the public hearing takes place.

(f) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

(2) The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioning fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

[~~(iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join the petition, regardless of whether the properties are located in the same subdivision;~~]

[~~(iv)~~](iii) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

[~~(v)~~](iv) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or county utility easement is also subject to Section 17-27a-609.5.

(4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in:

(i) the entire plat; or

(ii) that portion of the plan described in the petition; and

(b) the signature of each owner who consents to the petition.

[~~(5) (a) The owners of record of adjoining properties where one or more of the properties is a lot may exchange title to portions of those properties if the exchange of title is approved by the land use authority as a lot line adjustment in accordance with Subsection (5)(b).~~]

[~~(b) The land use authority shall approve a lot line adjustment under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.~~]

[~~(c) If a lot line adjustment is approved under Subsection (5)(b):~~]

[~~(i) a notice of lot line adjustment approval shall be recorded in the office of the county recorder which:~~]

[~~(A) is approved by the land use authority; and~~]

[~~(B) recites the legal descriptions of both the properties and the properties resulting from the exchange of title; and~~]

[~~(ii) a document of conveyance of title reflecting the approved change shall be recorded in the office of the county recorder.~~]

[~~(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to real property.~~]

[~~(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).~~]

[~~(b) The surveyor preparing the amended plat shall certify that the surveyor:~~]

[~~(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;~~]

[~~(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; or~~]

[~~(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and~~]

[~~(iii) has placed monuments as represented on the plat.~~]

[~~(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.~~]

[~~(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.~~]

(5) A surveyor preparing an amended plat under this section shall certify that the surveyor:

(a) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(b) (i) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements;

(ii) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; or

(iii) has referenced the original plat that created the lot boundaries being amended; and

(c) has placed monuments as represented on the plat.

Section 12. Section 57-1-13 is amended to read:

57-1-13. Form of quitclaim deed.

[~~(1)~~] A conveyance of land may also be substantially in the following form:

"QUITCLAIM DEED

____ (here insert name), grantor, of ____ (insert place of residence), hereby quitclaims to ____ (insert name), grantee, of ____ (here insert place of residence), for the sum of ____ dollars, the following described tract ____ of land in ____ County, Utah, to wit: (here describe the premises).

Witness the hand of said grantor this _____(month\day\year).

A quitclaim deed when executed as required by law shall have the effect of a conveyance of all right, title, interest, and estate of the grantor in and to the premises therein described and all rights, privileges, and appurtenances thereunto belonging, at the date of the conveyance."

[~~(2) A boundary line agreement operating as a quitclaim deed shall meet the requirements described in Section 10-9a-524 or 17-27a-523, as applicable.~~]

Section 13. Section 57-1-45 is amended to read:

57-1-45. Boundary establishments -- Establishment documents -- Effect.

[~~(1) An agreement to adjust a known boundary between adjoining properties shall comply with Section 10-9a-524 or 17-27a-523, as applicable.~~]

[~~(2) A recorded boundary line agreement to establish the location of a boundary between adjoining properties where the location of the boundary is ambiguous, uncertain, or disputed shall comply with Subsections (3) and (4).~~]

[~~(3)~~](1) A boundary establishment shall:

(a) be finalized by recording an establishment document, as defined in Sections 10-9a-103 and 17-27a-103; and

(b) comply with this section.

(2) [~~A boundary line agreement between adjoining property owners establishing the owners' existing common boundary for the purpose of settling an ambiguity, uncertainty, or dispute~~]An establishment document shall include:

(a) the name and signature of each party to the [~~agreement and, if applicable, the name and signature of a party's predecessor in interest who agreed to the location of the boundary line~~]establishment document;

[~~(b) the date of the boundary line agreement;~~]

[~~(c)~~](b) the address of each party to the [~~boundary line agreement~~]establishment document for assessment purposes;

[~~(d)~~](c) a statement describing [~~why the owners of adjoining properties were unable to determine the true location of the boundary line between the adjoining properties~~]the ambiguity, uncertainty, or dispute being resolved with the boundary establishment;

[~~(e)~~](d) a statement that the adjoining property owners [~~of the adjoining properties~~]agree on the established boundary [~~line~~]location described in the [~~boundary line agreement~~]establishment document;

[~~(f)~~](e) a current legal description of each parcel or lot that is subject to the established boundary [~~line agreement~~];

[~~(g)~~](f) a new legal description of the [~~agreed~~]established boundary [~~line~~];

[~~(h)~~](g) (i) if the property owners have conducted a survey, a reference to a record of the survey map, as defined in Section 17-23-17[~~in conjunction with the boundary line agreement that shows~~], showing information necessary to identify the established boundary that may include:

(A) existing dwellings, outbuildings, improvements, and other physical features;

(B) existing easements, rights-of-way, conditions, or restrictions recorded or apparent;

(C) the location of the agreed boundary[~~line~~]; and

(D) an explanation in the survey narrative of the reason for the boundary [~~line agreement~~]establishment; or

(ii) if the parcels or lots are unimproved, or if the property owners have otherwise not conducted a survey, an attached [~~exhibit~~]visual or graphic depicting a [~~graphical~~]representation of the location of the [~~agreed~~]established boundary [~~line~~]relative to physical objects marking the [~~agreed~~]established boundary;

[~~(i)~~](h) if any of the property that is the subject of the [~~agreement~~]establishment document is located in a recorded subdivision[~~and the agreed boundary line is different from the boundary line recorded in the plat~~], an acknowledgment that each party to the agreement has been [~~advised~~]notified of the potential requirement of a subdivision plat amendment; and

[~~(j)~~](i) a sufficient acknowledgment for each party's signature.

[~~(4)~~](3) [~~A boundary line agreement~~]An establishment document described in Subsection [~~(3)~~](2) may not be [~~:~~]used to create a new parcel or new lot.

[~~(a) used to adjust a known boundary described in Subsection (1) between adjoining properties;~~]

[~~(b) used to adjust a lot line in a recorded subdivision plat or create a new parcel or lot; or~~]

[~~(c) used by or recorded by a successor in interest to a property owner who agreed to the boundary line unless the property owners who agreed to the boundary line treated the line as the actual boundary as demonstrated by:~~]

[~~(i) actual possession by each owner up to the boundary line;~~]

[~~(ii) a fence built and agreed to by each owner on the boundary line; or~~]

[~~(iii) each owner cultivating or controlling the land up to the boundary line.~~]

(4) Property owners who agree to a boundary establishment shall treat the established boundary as the common boundary, as demonstrated by:

(a) actual possession by each owner of the owner's property up to the common boundary, as visibly marked by monuments, fences, buildings, or other physical improvements; or

(b) each owner cultivating or controlling the owner's property up to the visibly marked common boundary.

(5) (a) Before recording an establishment document, a county recorder shall confirm that the establishment document and any accompanying exhibit is presented in a legible and recordable format.

(b) Upon receipt of an establishment document that is not in a legible and recordable format, the county recorder shall provide the person submitting the establishment document with an explanation of corrections necessary to record the establishment document.

(6) (a) An establishment document is effective on the day it is recorded.

(b) A recorded establishment document creates a boundary establishment.

(c) If a judgment made by a court that establishes the location of a disputed boundary is recorded in the county title record:

(i) the judgment is considered an establishment document; and

(ii) the recording of the judgment creates a boundary establishment.

[~~(5)~~](7) [~~A boundary line agreement~~]Once recorded, an establishment document described in Subsection [~~(3)~~](2):

(a) does not affect any previously recorded easement [~~unless the easement is expressly modified by the boundary line agreement~~];

(b) establishes the location of the common boundary between the adjoining properties[~~in the originally intended location of the boundary line~~];

(c) [~~affixes~~]conveys the ownership of the adjoining parties to the agreed boundary[~~line~~]; and

[~~(d) is not subject to the review or approval of a municipal or county land use authority; and~~]

[~~(e)~~](d) shall be indexed by a county recorder in the title record against each property affected by the [~~agreed~~]established boundary [~~line~~].

[~~(6)~~](8) The recording of [~~a boundary line agreement described in Subsection (3)~~]an establishment document does not constitute a land use approval by a municipality or a county.

[~~(7)~~](9) A municipality or a county may enforce a municipal or county ordinance against, or withhold approval of a land use application for, property that is subject to a boundary [~~line agreement described in Subsection (3)~~]establishment if the municipality or the county determines that the [~~land, as established by the boundary line agreement,~~]established boundary was not in compliance with the municipality's or the county's land use regulations in effect on the day on which the boundary [~~line agreement~~]establishment was recorded.

[~~(8) If a judgment made by a court that establishes the location of a disputed boundary is recorded in the county title record, the judgment shall act as a boundary line agreement recorded under this section.~~]

Section 14. Section 57-1-45.5 is enacted to read:

57-1-45.5. Conveyance document for a boundary adjustment -- Form and effect.

(1) A conveyance document, as defined in Sections 10-9a-103 and 17-27a-103, for a boundary adjustment shall comply with this section.

(2) A conveyance document shall include:

(a) the name and signature of each party to the conveyance document;

(b) the address of each party to the conveyance document for assessment purposes;

(c) a legal description of the parcel or lot owned by each party before the boundary adjustment;

(d) a legal description of the parcel or lot owned by each party after the boundary adjustment; and

(e) sufficient language to convey title from one party to another party, in conformity with the proposed boundary adjustment.

(3) In addition to the information required in Subsection (2), a conveyance document shall include as an exhibit, in a legible and recordable format:

(a) a visual or graphic of the proposed boundary adjustment and all properties affected by the proposed boundary adjustment, depicting:

(i) the former boundary location;

(ii) the new boundary location; and

(iii) the size, shape, and dimensions of each adjusted parcel or lot;

(b) if the property owners have conducted a survey, a reference to the record of the survey map, as defined in Section 17-23-17, showing:

(i) existing dwellings, outbuildings, improvements, and other physical features;

(ii) existing easements, rights-of-way, conditions, or restrictions recorded or apparent;

(iii) the former boundary location;

(iv) the new boundary location;

(v) the size, shape, and dimensions of each adjusted lot or adjusted parcel; and

(vi) other existing or proposed improvements that impact or are subject to land use regulations; and

(c) if the conveyance document addresses a boundary adjustment that requires an amendment to a subdivision plat under Section 10-9a-523 or 17-27a-522, the amendment to the subdivision plat.

(4) (a) A conveyance document is effective on the day it is recorded as part of a boundary adjustment.

(b) Before recording a conveyance document, a county recorder shall confirm that the conveyance document is:

(i) in a legible and recordable format, including any exhibit to the conveyance document; and

(ii) accompanied by a notice of consent to the boundary adjustment from a land use authority under Subsection 10-9a-523(3) or (6) or Subsection 17-27a-522(3) or (6).

(c) Upon receipt of a conveyance document, or any exhibit to a conveyance document, that is not in a legible and recordable format, a county recorder shall provide the person submitting the conveyance document with an explanation of the corrections necessary to record the conveyance document.

(5) The recording of a boundary adjustment presumptively:

(a) relocates an existing boundary by creating a new boundary between the adjoining properties;

(b) changes the size, shape, or configuration of two or more adjoining lots or parcels;

(c) does not affect any previously recorded easement unless the easement is expressly and properly modified by the boundary adjustment; and

(d) affixes the ownership of the adjoining parties to the adjusted boundary.

Section 15. Section 57-8-32 is amended to read:

57-8-32. Sale of property and common areas and facilities.

(1) Subject to Subsection [~~10-9a-605(5)~~]10-9a-606(5) or 17-27a-606(5), unless otherwise provided in the declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect to sell, convey, transfer, or otherwise dispose of the property or all or part of the common areas and facilities.

(2) An affirmative vote described in Subsection (1) is binding upon all unit owners, and each unit owner shall execute and deliver the appropriate instruments and perform all acts as necessary to [~~effect~~]affect the sale, conveyance, transfer, or other disposition of the property or common areas and facilities.

(3) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and unit owners through recorded governing documents is extinguished in any portion of the common areas and facilities the unit owners sell, convey, transfer, or otherwise dispose of, if:

(a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the portion of the common areas and facilities, comply with:

(i) the provisions of this section; and

(ii) Section 10-9a-606 or 17-27a-606; and

(b) the sale, conveyance, transfer, or other disposition of the portion of the common areas and facilities results in a person other than the association or a unit owner owning the portion of the common areas and facilities.

(4) This section applies to an association of unit owners regardless of when the association of unit owners is created.

Section 16. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 41
S. B. 121
Passed March 7, 2025
Approved March 19, 2025
Effective May 7, 2025

PROPERTY LOSS AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill enacts provisions related to property loss related to homelessness.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► enacts provisions related to property loss related to homelessness;
- ► creates the Property Loss Related to Homelessness Compensation Enterprise Fund (fund);
- ► describes allowable uses of the fund;
- ► provides that money in the fund is nonlapsing;
- ► provides for a sunset review by July 1, 2028.

Money Appropriated in this Bill:

This bill appropriates $10,000 in business-like activities for fiscal year 2026, all of which is from the General Fund.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-235, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63J-1-602.1, as last amended by Laws of Utah 2024, Chapters 88, 501

ENACTS:

35A-16-212, Utah Code Annotated 1953

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

Section 1. Section 35A-16-212 is enacted to read:
35A-16-212. Property Loss Related to Homelessness Compensation Enterprise Fund.

(1) As used in this part:
(a) "Fund" means the Property Loss Related to Homelessness Compensation Enterprise Fund created in Subsection (3).
(b) "Homeless services facility" means an eligible shelter under Subsection 35A-16-401(5)(a) or (5)(b).
(c) "Property loss" means:
(i) documented damage to or theft of personal property; or
(ii) documented cost of cleaning, sanitizing, repairing, or restoring real property.
(2) Documentation required for Subsection (1)(c) shall include closed insurance claim information with any settlement amount.
(3) There is created an enterprise fund known as the Property Loss Related to Homelessness Compensation Enterprise Fund.
(4) The fund shall consist of:
(a) gifts, grants, donations, and loan repayments or any other conveyance of money that may be made to the fund from private sources; and
(b) additional amounts as appropriated by the Legislature.
(5) The fund shall be administered by the office.
(6) Funds may be used to:
(a) provide a no-interest loan to a business that:
(i) meets the requirements of Subsection (6)(b); and
(ii) enters into an agreement with the department to:
(A) use loan funds for documented costs for property loss or for documented costs to mitigate property loss as a direct result of the presence of the homeless services facility; and
(B) repay the loan no later than one year from the day on which the loan is disbursed to the business;
(b) except as provided in Subsection (12), compensate a business that:
(i) is located within 1/5 of a mile of a homeless services facility; and
(ii) experiences property loss as a direct result of the presence of the homeless services facility; or

(c) compensate an individual who:

(i) lives within 1/5 of a mile from a homeless services facility; and

(ii) experiences property loss as a direct result of the presence of the homeless services facility.

(7) An individual who receives compensation from the fund shall:

(a) be a resident of Utah; and

(b) have a need that meets the requirements of this section.

(8) (a) A business that receives compensation or a loan from the fund shall be in good standing with the State Tax Commission and Department of Commerce.

(b) The State Tax Commission and Department of Commerce may charge a business described in Subsection (8)(a) a nominal fee to obtain a certificate of good standing to meet the requirements under this section.

(9) (a) The fund may not duplicate or supplant a service or support mechanism provided to an individual or business by another government entity or private agency.

(b) The fund may supplement a service or support mechanism provided to an individual or business by another government entity or private agency, if the service or support mechanism does not fully cover the cost of the individual's or business's property loss.

(10) Administrative and operating expenses for the fund shall be paid from the fund.

(11) The executive director may expend up to 4% of the revenues of the fund, including any appropriations to the fund, for administrative expenses.

(12) A business located at parcel record number 15-26-326-016-0000 is not eligible to receive compensation for property loss as a direct result of the presence of a homeless services facility.

(13) The office shall:

(a) administer the loan program, including:

(i) in each calendar year that money is available from the fund for distribution by the office, announcing, at least once in that year, a loan application period by sending notice to interested persons;

(ii) accepting applications received in a timely manner;

(iii) reviewing loan applications;

(iv) determining eligibility in accordance with this section; and

(v) distributing loan money to an approved loan recipient; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer the program, including:

(i) loan application requirements;

(ii) procedures to approve a loan;

(iii) procedures for distributing money to loan recipients;

(iv) criteria for confirming the amount of property loss; and

(v) criteria prioritizing disbursements in the event of limited funds.

(14) The office may do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

(a) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the servicing of loans made by the fund;

(b) make or execute contracts and other instruments necessary or convenient for the performance of the office's duties and exercise of the office's powers and functions under this part, including contracts or agreements for the servicing and originating of loans; and

(c) selling, at a public or private sale, with public bidding, an obligation held by the fund.

(15) Any money returned to the department under this section from a person that received a loan from the fund shall be deposited into the fund.

Section 2. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates: Title 35A.

(1) Subsection 35A-1-202(2)(d), regarding the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, Creation of committee, is repealed July 1, 2026.

(3) Subsection 35A-4-502(5), regarding the Employment Advisory Council, is repealed July 1, 2029.

(4) Title 35A, Chapter 9, Part 6, Education Savings Incentive Program, is repealed July 1, 2028.

(5) Section 35A-13-303, State Rehabilitation Advisory Council, is repealed July 1, 2034.

(6) Section 35A-16-206, Utah Homeless Network Steering Committee, is repealed July 1, 2027.

(7) Section 35A-16-207, Duties of the steering committee, is repealed July 1, 2027.

(8) Section 35A-16-212, Property Loss Related to Homelessness Compensation Enterprise Fund, is repealed July 1, 2028.

Section 3. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Native American Repatriation Restricted Account created in Section 9-9-407.

(2) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Title 9, Chapter 23, Pete Suazo Utah Athletic Commission Act.

(3) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(4) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(5) The Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17.

(6) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(7) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(8) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26B-3-906.

(9) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26B-7-111.

(10) The Technology Development Restricted Account created in Section 31A-3-104.

(11) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(12) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(13) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(14) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(15) The State Mandated Insurer Payments Restricted Account created in Section 31A-30-118.

(16) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(17) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(18) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(19) The School Readiness Restricted Account created in Section 35A-15-203.

(20) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(21) The Property Loss Related to Homelessness Compensation Enterprise Fund created in Section 35A-16-212.

[~~(21)~~](22) The Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

[~~(22)~~](23) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

[~~(23)~~](24) The Oil and Gas Conservation Account created in Section 40-6-14.5.

[~~(24)~~](25) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

[~~(25)~~](26) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

[~~(26)~~](27) The License Plate Restricted Account created by Section 41-1a-122.

[~~(27)~~](28) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

[~~(28)~~](29) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[~~(29)~~](30) The Response, Recovery, and Post-disaster Mitigation Restricted Account created in Section 53-2a-1302.

[~~(30)~~](31) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[~~(31)~~](32) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[~~(32)~~](33) The DNA Specimen Restricted Account created in Section 53-10-407.

[~~(33)~~](34) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[~~(34)~~](35) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[~~(35)~~](36) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[~~(36)~~](37) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[~~(37)~~](38) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[~~(38)~~](39) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~(39)~~](40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[~~(40)~~](41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[~~(41)~~](42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[~~(42)~~](43) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~(43)~~](44) The Relative Value Study Restricted Account created in Section 59-9-105.

[~~(44)~~](45) The Cigarette Tax Restricted Account created in Section 59-14-204.

[~~(45)~~](46) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[~~(46)~~](47) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[~~(47)~~](48) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

[~~(48)~~](49) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

[~~(49)~~](50) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(50)~~](51) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~(51)~~](52) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~(52)~~](53) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[~~(53)~~](54) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~(54)~~](55) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(55)~~](56) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(56)~~](57) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(57)~~](58) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(58)~~](59) The following funds or accounts created in Section 72-2-124:

(a) Transportation Investment Fund of 2005;

(b) Transit Transportation Investment Fund;

(c) Cottonwood Canyons Transportation Investment Fund;

(d) Active Transportation Investment Fund; and

(e) Commuter Rail Subaccount.

[~~(59)~~](60) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(60)~~](61) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(61)~~](62) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(62)~~](63) Award money under the State Asset Forfeiture Grant Program, as provided under Section 77-11b-403.

[~~(63)~~](64) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(64)~~](65) Fees for certificate of admission created under Section 78A-9-102.

[~~(65)~~](66) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(66)~~](67) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(67)~~](68) The Utah Geological Survey Restricted Account created in Section 79-3-403.

[~~(68)~~](69) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(69)~~](70) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 4. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 4(a). Business-like Activities

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

ITEM 1

To Department of Workforce Services - Property Loss Related to Homelessness Compensation Enterprise Fund

From General Fund, One-time - - -

CHAPTER 42
S. B. 118
Passed February 20, 2025
Approved March 19, 2025
Effective May 7, 2025

POLITICAL PARTY PROCEDURES AMENDMENTS

Chief Sponsor: Brady Brammer
House Sponsor: Kristen Chevrier

LONG TITLE

General Description:

This bill amends provisions relating to the use of public meeting buildings by political parties.

Highlighted Provisions:

This bill:

► provides that certain facilities under the control of a public institution of higher education are not exempt from use by political parties.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-8-404, as last amended by Laws of Utah 2023, Chapter 68

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

Section 1. Section 20A-8-404 is amended to read:

20A-8-404. Use of public meeting buildings by political parties.

(1) The legislative body of a county, municipality, school district, or public institution of higher education shall make all meeting facilities in buildings under its control available to registered political parties, without discrimination, to be used for political party activities if:

(a) the political party requests the use of the meeting facility before 5 p.m. no later than 30 calendar days before the day on which the use by the political party will take place; and

(b) the meeting facility is not already scheduled for another purpose at the time of the proposed use.

(2) Subject to the requirements of Subsection (3), when a legislative body makes a meeting facility available under Subsection (1), it may establish terms and conditions for use of that meeting facility.

(3) The charge imposed for the use of a meeting facility described in Subsection (1) by a registered political party may not exceed the actual cost of:

(a) custodial services for cleaning the meeting facility after the use by the political party; and

(b) any service requested by the political party and provided by the meeting facility.

(4) An entity described in Subsection (1) shall, to the extent possible, avoid scheduling an event in a government building for the same evening as an announced party caucus meeting.

(5) This section does not apply to a[~~publicly owned or operated~~] convention center, sports arena, or other facility at which conventions, conferences, [~~and~~]or other gatherings are held:

(a) that is owned or operated by a public entity other than a public institution of higher education; and

(b) whose primary business or function is to host [~~such~~]sporting events, conventions, conferences, [~~and~~]or other gatherings.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 43
S. B. 128
Passed March 7, 2025
Approved March 19, 2025
Effective May 7, 2025

ASSISTED REPRODUCTION AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses egg retrieval for purposes of assisted reproduction.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires a written agreement or consent for an egg retrieval to include a clause that discloses any reasonably foreseeable complication associated with the egg retrieval; and
- ► prohibits a certain clause in a written agreement or consent for an egg retrieval.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-3-407.5, Utah Code Annotated 1953

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

Section 1. Section 78B-3-407.5 is enacted to read:

78B-3-407.5. Requirements for written agreement or consent for egg retrieval.

(1) As used in this section:

(a) "Assisted reproduction" means the same as that term is defined in Section 78B-15-102.

(b) "Donor" means an individual who provides the individual's egg for use in assisted reproduction that is to be performed on a recipient other than the individual or the individual's regular sexual partner.

(c) "Egg retrieval" means a procedure by which an egg is collected from an individual's ovarian follicles.

(d) "Reproductive tissue facility" means the facility that performs an egg retrieval.

(2) A written agreement or consent between a reproductive tissue facility and a donor for an egg retrieval shall contain a clause that discloses any reasonably foreseeable complication associated with the egg retrieval.

(3) A clause in a written agreement or consent between a reproductive tissue facility and a donor for an egg retrieval is against public policy and is void and unenforceable if the clause requires the donor to release the reproductive tissue facility from liability for any complication associated with the egg retrieval that arises within 90 days after the day on which the egg retrieval occurs.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 44
S. B. 161
Passed March 5, 2025
Approved March 19, 2025
Effective May 7, 2025

CULTURAL AND COMMUNITY ENGAGEMENT AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill modifies provisions related to cultural and community engagement.

Highlighted Provisions:

This bill:

- ► amends terms;
- ► creates the Community Library Enhancement Fund Grant Program;
- ► creates the Utah Women's History Initiative;
- ► amends provisions of the State Library division;
- ► provides that a state agency with management authority over state lands shall retain temporary custody of remains under certain circumstances;
- ► amends certain provisions of the One Utah Service Fellowship Program (program), including:
  - • allowing a third-party administrator to receive matching funds by a qualified partner organization for supplementing a living allowance;
  - • providing exceptions for funding under certain circumstances;
  - • requiring disbursement of a living allowance on no less than a monthly basis over the term of the agreement;
  - • allowing an institution of higher education that is a qualified partner organization to enter into a tuition agreement with a student participant; and
  - • provides that the director may discontinue a tuition-only award under the program if participation does not support continuation of the tuition-only award; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-1-201, as last amended by Laws of Utah 2021, Chapter 184
9-1-208, as last amended by Laws of Utah 2024, Chapter 379
9-6-201, as last amended by Laws of Utah 2024, Chapter 323
9-6-301, as last amended by Laws of Utah 2024, Chapter 506
9-7-101, as last amended by Laws of Utah 2024, Chapter 323
9-7-201, as last amended by Laws of Utah 2024, Chapter 323
9-7-203, as last amended by Laws of Utah 2023, Chapters 160, 291
9-7-205, as last amended by Laws of Utah 2024, Chapter 323
9-7-213, as last amended by Laws of Utah 2023, Chapter 160
9-8a-309, as renumbered and amended by Laws of Utah 2023, Chapter 160
9-9-403, as last amended by Laws of Utah 2023, Chapter 160
9-9-405, as last amended by Laws of Utah 2023, Chapter 160
9-20-301, as enacted by Laws of Utah 2024, Chapter 379
9-24-102, as last amended by Laws of Utah 2023, Chapter 160

ENACTS:

9-7-219, Utah Code Annotated 1953
9-8-210, Utah Code Annotated 1953

REPEALS:

9-7-207, as last amended by Laws of Utah 2023, Chapters 160, 291 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 291
9-7-208, as last amended by Laws of Utah 2023, Chapters 160, 291

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

Section 1. Section 9-1-201 is amended to read:
9-1-201. Department of Cultural and Community Engagement -- Creation -- Powers and duties.

(1) There is created the Department of Cultural and Community Engagement.

(2) The department is responsible for:

(a) planning, promoting, and supporting cultural and community engagement in the state, including programs and activities related to:

(i) libraries;

(ii) history;

(iii) the arts;

(iv) STEM engagement;

(v) museums;

(vi) cultural development;

(vii) cultural organizations;

(viii) multicultural organizations and communities;

(ix) service and volunteerism; [~~and~~]

(x) the coordination of relationships with tribal nations;

(xi) the regulation of professional unarmed combat sports; and

(xii) historic preservation;

(b) overseeing and coordinating the program plans of the divisions within the department;

(c) administering and coordinating state and federal grant programs related to the programs and activities described in Subsection (2)(a);

(d) administering any other programs over which the department is given administrative supervision by the governor;

(e) submitting an annual written report to the governor and the Legislature as described in Section 9-1-208;

(f) ensuring that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(g) performing any other duties as provided by the Legislature.

(3) The department may:

(a) solicit and accept contributions of money, services, and facilities from any other sources, public or private, but may not use those contributions for publicizing the exclusive interest of the donor; and

(b) establish a nonprofit foundation called the Cultural and Community Engagement Foundation under the control and direction of the executive director to assist in the development and implementation of the programs and objectives described in this title.

(4) Money received under Subsection (3)(a) shall be deposited into the General Fund as dedicated credits.

(5) A foundation established by the department under Subsection (3)(b):

(a) may receive contributions of money, services, and facilities from legislative appropriations, government grants, and private sources for the development and implementation of the programs and objectives described in this title;

(b) shall comply with the requirements described in Section 9-1-209; and

(c) shall provide information detailing all transactions and balances associated with the foundation to the department, which shall be summarized by the department and included in the department's annual report described in Section 9-1-208.

(6) (a) For a pass-through funding grant of $50,000 or less, the department shall make an annual disbursement to the pass-through funding grant recipient.

(b) For a pass-through funding grant of more than $50,000, the department shall make a semiannual disbursement to the pass-through funding grant recipient, contingent upon the department receiving a semiannual progress report from the pass-through funding grant recipient.

(c) The department shall:

(i) provide the pass-through funding grant recipient with a progress report form for the reporting purposes described in Subsection (6)(b); and

(ii) include reporting requirement instructions with the form.

Section 2. Section 9-1-208 is amended to read:

9-1-208. Annual report -- Content -- Format.

(1) [~~The~~]On or before November 1 of each year, the department shall prepare and submit to the governor and the Legislature[~~, by October 1 of each year,~~] an annual written report of the operations, activities, programs, and services of the department, including its divisions, offices, boards, commissions, councils, and committees, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the department, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data selected and used by the department to measure progress, performance, and scope of the operation, activity, program, or service, including summary data;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the department that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The department shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the department's website.

(5) [~~Beginning in 2025,~~]On or before November 1 of each year, in addition to the annual report required by Subsection (1), the department shall provide a written report to the Education Interim Committee [~~about~~]on the progress of the One Utah Service Fellowship Program created in Section 9-20-301, including the progress of the Utah Commission on Service and Volunteerism created in Section 9-20-201 on the duties described in Subsection 9-20-301(3)[~~, by October 1 of each year~~].

Section 3. Section 9-6-201 is amended to read:

9-6-201. Division of Arts and Museums -- Creation -- Powers and duties.

(1) There is created within the department the Division of Arts and Museums under the administration and general supervision of the executive director or the designee of the executive director.

(2) The division shall:

(a) advance the interests of arts and museums in the state in all stages of development;

(b) promote and encourage the development of arts, museums, and culture in the state;

(c) support the efforts of state and local government and nonprofit arts, museums, and cultural organizations to encourage the development of arts, museums, and culture in the state;

(d) provide assistance to museums in the state to improve museums' ability to:

(i) care for and manage collections;

(ii) develop quality educational resources such as exhibitions, collections, and publications;

(iii) provide access to collections for research; and

(iv) provide other services as needed;

(e) assist arts and museum organizations in the state in cultural development as needed;

(f) cooperate with federal agencies and locally sponsor federal projects directed to the development of arts, museums, and culture in the state;

(g) develop the influence of arts and museums in education and life-long learning;

(h) cooperate with the private sector, including businesses, charitable interests, educational interests, manufacturers, agriculturalists, and industrialists in arts, museums, and cultural endeavors;

(i) disseminate information related to arts, museums, and culture by utilizing broadcast media and print media;

(j) foster, promote, encourage, and facilitate the study, creation, and appreciation of the arts, museums, and culture in the state;

(k) foster, promote, encourage, and facilitate, the study, creation, and appreciation of the works of indigenous artists in the state;

(l) advise state and local government agencies and employees regarding arts and museums related issues, including arts and museums capital development projects;

(m) provide technical advice and information about sources of technical assistance to arts, museums, and cultural organizations in the state;

(n) develop, coordinate, and support programs, workshops, seminars, and similar activities that provide training for staff members of arts, museums, and cultural organizations in the state;

(o) undertake research to understand the training needs of the arts, museums, and cultural organizations community and assess how those needs can be met;

(p) administer grant programs to assist eligible arts, museums, and cultural organizations in the state, including cultural organizations associated with institutions of higher education; and

(q) create strategic partnerships to advance the development of arts, museums, and cultural organizations in the state.

Section 4. Section 9-6-301 is amended to read:

9-6-301. Utah Arts and Museums Advisory Board.

(1) There is created within the division the Utah Arts and Museums Advisory Board.

(2) (a) Except as provided in Subsection (2)(b), the arts and museums board shall consist of nine members appointed or reappointed by the governor to four-year terms with the advice and consent of the Senate.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of arts and museums board members are staggered so that approximately half of the arts and museums board is appointed every two years.

(3) The governor shall appoint:

(a) five members who are working artists or administrators, one from each of the following areas:

(i) visual arts, media arts, architecture, or design;

(ii) literature;

(iii) music;

(iv) folk, traditional, or native arts; and

(v) theater or dance;

(b) two members who are qualified, trained, and experienced museum professionals who each have a minimum of five years of continuous paid work experience at a museum;

(c) one member who is knowledgeable in or appreciative of the arts or museums; and

(d) one member who has expertise in technology, marketing, business, or finance.

(4) The governor shall appoint members described in Subsection (3) from the state at large with due consideration for organizational

size and geographical representation.

(5) When a vacancy occurs in the membership for any reason, the governor shall, within 30 days after the date on which the vacancy occurs, appoint a replacement with the advice and consent of the Senate, for the unexpired term.

(6) A simple majority of the voting members of the arts and museums board constitutes a quorum for the transaction of business.

(7) (a) The arts and museums board members shall elect a chair and a vice chair from among the arts and museums board's members.

(b) The chair and the vice chair shall serve a term of two years.

(8) The arts and museums board shall meet at least twice each year.

(9) A member of the arts and museums board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) Except as provided in Subsection (9), a member may not receive any gifts, prizes, or awards of money from division funds during the member's term of office.

(11) The division shall provide staff to the arts and museums board.

Section 5. Section 9-7-101 is amended to read:

9-7-101. Definitions.

As used in this chapter:

(1) "Board" means the State Library Board created in Section 9-7-204.

[~~(2) "Digital library" means the web-accessible digital library of state publications created under Section 9-7-208.~~]

[~~(3)~~](2) "Division" means the State Library Division.

[~~(4)~~](3) "Internet policy" means the public library online access policy required in Section 9-7-215.

[~~(5) "Legislative staff office" means the Office of Legislative Research and General Counsel.~~]

[~~(6) "Legislative publication" means:~~]

[~~(a) the Utah Code after the legislative staff office prepares an updated Utah Code database incorporating amendments to the Utah Code;~~]

[~~(b) the Laws of Utah; and~~]

[~~(c) the Utah Constitution after the legislative staff office incorporates into the Utah Constitution amendments to the Utah Constitution that passed during the preceding regular general election.~~]

[~~(7)~~](4) "Library board" means the library board of directors appointed locally as authorized by Section 9-7-402 or 9-7-502 and which exercises general policy authority for library services within a city or county of the state, regardless of the title by which the board is known locally.

[~~(8) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.~~]

[~~(9)~~](5) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.

[~~(10) (a) "State agency" means:~~]

[~~(i) the state; or~~]

[~~(ii) an office, department, division or other agency or instrumentality of the state.~~]

[~~(b) "State agency" does not include:~~]

[~~(i) the Office of Legislative Research and General Counsel;~~]

[~~(ii) a political subdivision; or~~]

[~~(iii) a state institution of higher education.~~]

[~~(11) "State institution of higher education" means an institution described in Section 53B-2-101 or any other university or college that is established and maintained by the state.~~]

[~~(12) (a) "State publication" means any information issued or published by a state agency for distribution.~~]

[~~(b) "State publication" includes a book, compilation, directory, map, fact sheet, newsletter, brochure, bulletin, journal, magazine, pamphlet, periodical, report, video recording, and electronic publication.~~]

[~~(c) "State publication" does not include public information, as that term is defined in Section 63A-16-601.~~]

Section 6. Section 9-7-201 is amended to read:

9-7-201. State Library Division -- Creation -- Purpose.

(1) There is created within the department the State Library Division under the administration and general supervision of the executive director or the designee of the executive director.

(2) The division shall be under the policy direction of the board.

(3) [~~(a)~~] The division shall function as the library authority for:

[~~(i)~~](a) general library services;

[~~(ii)~~](b) mobile library services; and

[~~(iii) providing for permanent public access to state publications; and~~]

[~~(iv)~~](c) other services considered proper for a state library.

[~~(b) The division is responsible for providing access to legislative publications, as provided in this part, that the legislative staff office deposits with the division.~~]

Section 7. Section 9-7-203 is amended to read:

9-7-203. Division duties.

Subject to the requirements of this part, the division shall:

(1) establish, operate, and maintain[~~:~~]

[~~(a) a state publications collection;~~]

[~~(b) a digital library of state publications and legislative publications; and~~]

[~~(c)~~] a bibliographic control system;

(2) cooperate with:

[~~(a) other state agencies to facilitate public access to government information through electronic networks or other means;~~]

[~~(b)~~](a) other state or national libraries or library agencies; and

[~~(c)~~](b) the federal government or agencies in accepting federal aid whether in the form of funds or otherwise;

(3) receive bequests, gifts, and endowments of money and deposit the funds with the state treasurer to be placed in the State Library Donation Fund, which funds shall be held for the purpose, if any, specifically directed by the donor; and

(4) receive bequests, gifts, and endowments of property to be held, used, or disposed of, as directed by the donor:

(a) in accordance with the division's policies for collection development; and

(b) with the approval of the Division of Finance.

Section 8. Section 9-7-205 is amended to read:

9-7-205. Duties of board and director.

(1) The board shall:

(a) promote, develop, and organize a state library and make provisions for the state library's housing;

(b) promote and develop library services throughout the state in cooperation with other state or municipal libraries, schools, or other agencies wherever practical;

(c) promote the establishment of district, regional, or multicounty libraries as conditions within particular areas of the state may require;

(d) supervise the books and materials of the state library and require the keeping of careful and complete records of the condition and affairs of the state library;

(e) establish policies for the administration of the division and for the control, distribution, and lending of books and materials to those libraries, institutions, groups, or individuals entitled to them under this chapter;

(f) serve as the agency of the state for the administration of state or federal funds that may be appropriated to further library development within the state;

(g) aid and provide general advisory assistance in the development of statewide school library service and encourage contractual and cooperative relations between school and public libraries;

(h) give assistance, advice, and counsel to all tax-supported libraries within the state and to all communities or persons proposing to establish a tax-supported library and conduct courses and institutes on the approved methods of operation, selection of books, or other activities necessary to the proper administration of a library;

(i) furnish or contract for the furnishing of library or information service to state officials, state departments, or any groups that in the opinion of the director warrant the furnishing of those services, particularly through the facilities of traveling libraries to those parts of the state otherwise inadequately supplied by libraries;

(j) where sufficient need exists and if the director considers it advisable, establish and maintain special departments in the state library to provide services for the blind, visually impaired, persons with disabilities, and professional, occupational, and other groups;

[~~(k) administer a state publications and legislative publications library program by collecting state publications and legislative publications, providing access to state publications and legislative publications through the digital library, and providing a bibliographic control system;~~]

[~~(l)~~](k) require the collection of information and statistics necessary to the work of the state library and the distribution of findings and reports;

[~~(m)~~](l) make any report concerning the activities of the state library to the governor as the governor may require; and

[~~(n)~~](m) develop standards for public libraries.

(2) The director shall, under the policy direction of the board, carry out the responsibilities under Subsection (1).

Section 9. Section 9-7-213 is amended to read:

9-7-213. Rulemaking.

The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement and administer the provisions of this chapter including:

[~~(1) standards for submitting state publications to the division under Section 9-7-207;~~]

[~~(2)~~](1) the method by which grants are made to individual libraries, but not including appropriations made directly to any other agency or institution;

[~~(3)~~](2) standards for the certification of public librarians; and

[~~(4)~~](3) standards for the public library online access policy required in Section 9-7-215.

Section 10. Section 9-7-219 is enacted to read:

9-7-219. Community Library Enhancement Fund Grant Program.

(1) There is created within the division the Community Library Enhancement Fund Grant Program, consisting of grants to be distributed to certified public libraries within the state for:

(a) collection development;

(b) patron-facing technology;

(c) programming;

(d) compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.; and

(e) minor capital projects.

(2) The division shall:

(a) establish a formula-based grant application process that includes the following data points:

(i) service area;

(ii) population served;

(iii) local operating expenditures;

(iv) median household income; and

(v) state certification status;

(b) assign and distribute funding based on the established criteria described in Subsection (2)(a); and

(c) gather metrics to analyze grant effectiveness and impact.

Section 11. Section 9-8-210 is enacted to read:

9-8-210. Utah Women's History Initiative -- Creation -- Duties.

(1) There is created within the society the Utah Women's History Initiative under the administration and supervision of the director or the designee of the director.

(2) The Utah Women's History Initiative shall:

(a) function as an educational outlet for the society to educate the public on the contribution of women to Utah history;

(b) bring attention to the stories of women to deepen understanding and appreciation of women's roles in Utah history;

(c) provide support to museums, historical organizations, and other cultural organizations to promote and preserve the history of women in Utah; and

(d) stimulate research, study, and activity in the field of women's history.

Section 12. Section 9-8a-309 is amended to read:

9-8a-309. Ancient human remains on nonfederal lands that are not state lands.

(1) If a person knows or has reason to know that the person discovered ancient human remains on nonfederal land that is not state land:

(a) the person shall:

(i) cease activity in the area of the discovery until activity may be resumed in accordance with Subsection [~~(1)(c)~~](2)(c);

(ii) notify a local law enforcement agency in accordance with Section 76-9-704; and

(iii) notify the person who owns or controls the nonfederal land, if that person is different than the person who discovers the ancient human remains; and

(b) the person who owns or controls the nonfederal land shall:

(i) require that activity in the area of the discovery cease until activity may be resumed in accordance with Subsection [~~(1)(c)~~](2)(c); and

(ii) make a reasonable effort to protect the discovered ancient human remains before activity may be resumed in accordance with Subsection [~~(1)(c)~~](2)(c).

(2) [~~(c)~~](a) [~~(i)~~] If the local law enforcement agency believes after being notified under [~~this~~] Subsection (1) that a person may have discovered ancient human remains, the local law enforcement agency shall contact the Antiquities Section[~~:~~], which shall:

[~~(ii) The Antiquities Section shall:~~]

[~~(A)~~](i) within two business days of the day on which the Antiquities Section is notified by local law enforcement, notify the landowner that the Antiquities Section may excavate and retrieve the human remains with the landowner's permission; and

[~~(B)~~](ii) if the landowner gives the landowner's permission, excavate the human remains by no later than:

[~~(I)~~](A) five business days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection [~~(1)~~](2); or

[~~(II)~~](B) if extraordinary circumstances exist as provided in Subsection [~~(1)(d),~~](2)(b), within the time period designated by the director not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection [~~(1)~~](2).

[~~(d)~~](b) (i) The [~~director~~]officer may grant the Antiquities Section an extension of time for excavation and retrieval of ancient human remains not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection [~~(1)~~](2), if the [~~director~~]officer determines that extraordinary circumstances exist on the basis of objective criteria such as:

(A) the unusual scope of the ancient human remains;

(B) the complexity or difficulty of excavation or retrieval of the ancient human remains; or

(C) the landowner's concerns related to the excavation or retrieval of the ancient human remains.

(ii) If the landowner objects to the time period designated by the [~~director~~]officer, the landowner may appeal the decision to the executive director of the department in writing.

(iii) If the executive director receives an appeal from the landowner under this Subsection [~~(1)(d)~~](2)(b), the executive director shall:

(A) decide on the appeal within two business days; and

(B) (I) uphold the decision of the [~~director~~]officer; or

(II) designate a shorter time period than the [~~director~~]officer designated for the excavation and retrieval of the ancient human remains.

(iv) An appeal under this Subsection [~~(1)(d)~~](2)(b) may not be the cause for the delay of the excavation and retrieval of the ancient human remains.

(v) A decision and appeal under this Subsection [~~(1)(d)~~](2)(b) is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

[~~(c)~~](c) A person that owns or controls nonfederal land that is not state land may engage in or permit others to engage in activities in the area of the discovery without violating this part or Section 76-9-704 if once notified of the discovery of ancient human remains on the nonfederal land, the person:

(i) consents to the Antiquities Section excavating and retrieving the ancient human remains; and

(ii) engages in or permits others to engage in activities in the area of the discovery only after:

(A) the day on which the Antiquities Section removes the ancient human remains from the nonfederal land; or

(B) the time period described in Subsection [~~(1)(c)(ii)(B)~~](2)(a).

[~~(2)~~](3) A person that owns or controls nonfederal land that is not state land may not be required to pay any costs incurred by the state associated with the ancient human remains, including costs associated with the costs of the:

(a) discovery of ancient human remains;

(b) excavation or retrieval of ancient human remains; or

(c) determination of ownership or disposition of ancient human remains.

[~~(3)~~](4) For nonfederal land that is not state land, nothing in this section limits or prohibits the Antiquities Section and a person who owns or controls the nonfederal land from entering into an agreement addressing the ancient human remains that allows for different terms than those provided in this section.

[~~(4)~~](5) The ownership and control of ancient human remains that are the ancient human remains of a Native American shall be determined in accordance with Chapter 9, Part 4, Native American Grave Protection and Repatriation Act:

(a) if the ancient human remains are in [~~possession~~]temporary custody of the state;

(b) if the ancient human remains are not known to have been discovered on lands owned, controlled, or held in trust by the federal government; and

(c) regardless of when the ancient human remains are discovered.

[~~(5)~~](6) This section:

(a) does not apply to ancient human remains that are subject to the provisions and procedures of:

(i) federal law; or

(ii) Part 4, Historic Sites; and

(b) does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of the ancient human remains.

[~~(6)~~](7) The office, Antiquities Section, or Division of Indian Affairs may not make rules that impose any requirement on a person who discovers ancient human remains or who owns or controls nonfederal land that is not state land on which ancient human remains are discovered that is not expressly provided for in this section.

Section 13. Section 9-9-403 is amended to read:

9-9-403. Ownership and disposition of Native American remains.

(1) If Native American remains are discovered on nonfederal lands on or after April 30, 2007, the ownership or control of the Native American remains shall be determined in the following priority:

(a) first, in the lineal descendants of the Native American;

(b) second, if the lineal descendants cannot be ascertained, in the Indian tribe that:

(i) has the closest cultural affiliation with the Native American remains; and

(ii) states a claim for the Native American remains; or

(c) third:

(i) in the Indian tribe that is recognized as aboriginally occupying the area in which the Native American remains are discovered, if:

(A) cultural affiliation of the Native American remains cannot be reasonably ascertained;

(B) the land is recognized either by a final judgment of the Indian Claims Commission or through other evidence as the exclusive or joint aboriginal land of some Indian tribe; and

(C) that tribe states a claim for the Native American remains; or

(ii) in a different tribe if:

(A) it can be shown by a preponderance of the evidence that that different tribe has a stronger genetic or cultural relationship with the Native American remains; and

(B) that different tribe states a claim for the Native American remains.

(2) Subject to Subsection (7), Native American remains discovered on nonfederal lands that are not claimed under Subsection (1) shall be [~~disposed of~~]cared for in accordance with rules made by the division:

(a) consistent with Chapter 8a, Part 3, Antiquities; and

(b) in consultation with Native American groups, representatives of repositories, and the review committee established under Section 9-9-405.

(3) The intentional removal or excavation of Native American remains from state lands may be permitted only if:

(a) the Native American remains are excavated or removed pursuant to a permit issued under Section 9-8a-305;

(b) the Native American remains are excavated or removed after consultation with and written consent of the owner of the state land; and

(c) the ownership or right of control of the disposition of the Native American remains is determined as provided in Subsections (1) and (2).

(4) (a) A person who knows or has reason to know that the person has discovered Native American remains on state lands after March 17, 1992, shall notify, in writing, the appropriate state agency having primary management authority over the lands as provided in Chapter 8a, Part 3, Antiquities.

(b) If the discovery occurs in connection with construction, mining, logging, agriculture, or a related activity, the person shall:

(i) cease the activity in the area of the discovery;

(ii) make a reasonable effort to protect the Native American remains discovered before resuming the activity; and

(iii) provide notice of discovery to the appropriate state agency under Subsection (4)(a).

(c) Following notification under Subsections (4)(a) and (b) and upon certification by the head of the appropriate state agency that notification is received, the activity may resume after compliance with Section 76-9-704.

(5) (a) Scientific study of Native American remains may be carried out only with approval of the owner of the Native American remains as established in Subsections (1) and (2).

(b) (i) If ownership is unknown, study before identifying ownership is restricted to those sufficient to identify ownership.

(ii) Study to identify ownership shall be approved only in accordance with rules made by the division in consultation with the review committee.

(c) The Native American remains may not be retained longer than 90 days after the date of establishing ownership.

(6) (a) Ownership of Native American remains shall be determined in accordance with this Subsection (6) if:

(i) there are multiple claims of ownership under Subsection (1) of Native American remains; and

(ii) the division cannot clearly determine which claimant is the most appropriate claimant.

(b) If the conditions of Subsection (6)(a) are met, the appropriate state agency having primary authority over the lands as provided in Chapter 8a, Part 3, Antiquities, may retain the remains until:

(i) the multiple claimants for the Native American remains enter into an agreement concerning the disposition of the Native American remains;

(ii) the dispute is resolved through an administrative process:

(A) established by rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) that is exempt from Title 63G, Chapter 4, Administrative Procedures Act; or

(iii) after the administrative process described in Subsection (6)(b)(ii) is complete, the dispute is resolved by a court of competent jurisdiction.

(7) The division may not make rules that impose any requirement on a person who discovers Native American remains or owns or controls nonfederal land that is not state land on which Native American remains are discovered that is not expressly provided for in Section 9-8a-309.

(8) For purposes of this part, if Native American remains are discovered on nonfederal land that is not state land, the Antiquities Section is considered the state agency having primary authority over the nonfederal land.

(9) This part does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of Native American remains.

(10) The state agency with primary authority over state land shall retain temporary custody of the remains until the ownership and control of the ancient human remains is determined in accordance with this part.

Section 14. Section 9-9-405 is amended to read:

9-9-405. Review committee.

(1) There is created a Native American Remains Review Committee.

(2) (a) The review committee shall be composed of seven members as follows:

(i) four Tribal members shall be appointed by the director from nominations submitted by the elected officials of Indian Tribal Nations described in Subsection 9-9-104.5(2)(b); and

(ii) three shall be appointed by the director from nominations submitted by representatives of Utah's repositories.

(b) A member appointed under Subsection (2)(a)(i) shall have familiarity and experience with this part.

(c) (i) A member appointed under Subsection (2)(a)(i) serves at the will of the director, and if the member represents an Indian Tribal Nation, at the will of that Indian Tribal Nation.

(ii) Removal of a member who represents an Indian Tribal Nation requires the joint decision of the director and the Indian Tribal Nation.

[~~(ii)~~](iii) A member appointed under Subsection (2)(a)(ii) serves at the will of the director, and if the member represents a repository, at the will of the [~~Division of State History~~]State Historic Preservation Office.

(iv) Removal of a member who represents a repository requires the joint decision of the director and the [~~Division of State History~~]State Historic Preservation Office.

(d) When a vacancy occurs in the membership for any reason, the director shall appoint a replacement in the same manner as the original appointment under Subsection (2)(a).

(e) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(f) The review committee shall designate one of its members as chair.

(3) The review committee shall:

(a) monitor the identification process conducted under Section 9-9-403 to ensure a fair and objective consideration and assessment of all available relevant information and evidence;

(b) review a finding relating to the following, subject to the rules made by the division under Subsection 9-9-403(6):

(i) the identity or cultural affiliation of Native American remains; or

(ii) the return of Native American remains;

(c) facilitate the resolution of a dispute among Indian Tribal Nations or lineal descendants and state agencies relating to the return of Native American remains, including convening the parties to the dispute if considered desirable;

(d) consult with Indian Tribal Nations on matters within the scope of the work of the review committee affecting these Indian Tribal Nations;

(e) consult with the division in the development of rules to carry out this part;

(f) perform other related functions as the division may assign to the review committee; and

(g) make recommendations, if appropriate, regarding care of Native American remains that are to be repatriated.

(4) A record or finding made by the review committee relating to the identity of or cultural affiliation of Native American remains and the return of Native American remains may be admissible in any action brought under this part.

(5) The appropriate state agency having primary authority over the lands as provided in Chapter 8a, Part 3, Antiquities, shall ensure

that the review committee has reasonable access to:

(a) Native American remains under review; and

(b) associated scientific and historical documents.

(6) The division shall provide reasonable administrative and staff support necessary for the deliberations of the review committee.

(7) The department shall include in the annual written report described in Section 9-1-208:

(a) a description of the progress made, and any barriers encountered, by the review committee in implementing this section during the previous year; and

(b) a review of the expenditures made from the Native American Repatriation Restricted Account.

Section 15. Section 9-20-301 is amended to read:

9-20-301. One Utah Service Fellowship Program.

(1) As used in this section:

(a) "Education expense" means:

(i) tuition or student fees at an institution of higher education that participates in the federal student assistance programs under the Higher Education Act of 1965, Title IV, 20 U.S.C. Sec. 1070 et seq.;

(ii) repayment of a student loan; or

(iii) other costs of attending an institution of higher education described in Subsection (1)(a)(i), as determined by the institution of higher education, for a degree or certificate program, including:

(A) books;

(B) supplies;

(C) transportation; and

(D) room and board.

(b) "Eligible recipient" means an individual who:

(i) is a resident of the state;

(ii) successfully completes a fellowship under the program created in this section; and

(iii) is a citizen of the United States, a United States national, or a lawful permanent resident of the United States.

(c) "Federal requirements for the AmeriCorps program" means:

(i) relevant provisions of:

(A) the National and Community Service Act of 1990, as amended, 42 U.S.C. 12501 et seq. and corresponding federal regulations;

(B) the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4950 et seq. and corresponding federal regulations;

(C) the Federal Grant and Cooperative Agreement Act, as amended, 31 U.S.C. Secs. 6301 through 6308, and corresponding federal regulations; and

(D) AmeriCorps' C.F.R. Chapters XII and XXV; and

(ii) any terms and conditions associated with AmeriCorps federal grant funding.

(d) "Institution of higher education" means an entity described in Section 53B-2-101.

(e) "Participant" means an individual who:

(i) is at least 17 years old;

(ii) has received a high school diploma or its equivalent; and

(iii) the program matches with a qualified partner organization to participate in a program fellowship.

(f) "Program" means the One Utah Service Fellowship Program created in Subsection (2).

(g) "Qualified partner organization" means a nonprofit organization or government entity that:

(i) agrees to supervise a participant for the total number of hours outlined in an agreement with the commission;

(ii) except as provided in [~~Subsection (4)(d)~~]Subsection (4)(d) or (6), agrees to provide the commission or third-party administrator with a matching [~~stipend~~]living allowance amount, as described in Subsection (5); and

(iii) provides a valuable service to the community, as determined by the commission or commission rule.

(h) "State funds" means funds that are owned, held, or administered by the department to administer the program as described in this section.

[~~(h)~~](i) "Supervise" means the act of overseeing the work of an eligible recipient, including some component of in-person interaction.

[~~(i)~~](j) "Third-party administrator" means an entity that:

(i) enters into an agreement with the department, as described in Subsection [~~(7)~~](8);

(ii) is a nonprofit organization or subsidiary or affiliate of an institution of higher education;

(iii) has experience managing programs and funds; and

(iv) operates under the direction of the commission.

[~~(j)~~](k) "Tuition award" means an amount of money to be used for an education expense, as described in Subsection [~~(6)~~](7).

(2) There is created a One Utah Service Fellowship Program to provide meaningful service opportunities to young adults in the state to:

(a) prepare young adults for additional educational, training, and career opportunities;

(b) address high-priority needs within the state; and

(c) provide a [~~stipend~~]living allowance to a participant[~~and~~], a tuition award to an eligible recipient, or both, in accordance with this section.

(3) (a) Subject to appropriations from the Legislature, the commission shall administer the program as described in this section.

(b) Except as otherwise provided in an agreement authorized by Subsection [~~(7)(b),~~](8)(b) the commission:

(i) shall create and maintain a list of high-priority policy needs in the state where program service opportunities can provide the most

value to the state;

(ii) shall receive an application from a potential participant;

(iii) shall match a participant to a qualified partner organization for participation in the program;

(iv) shall approve a potential qualified partner organization to participate in the program;

(v) shall prioritize the placement of participants with qualified partner organizations that address the high-priority policy needs identified under Subsection (3)(b)(i);

(vi) shall create and maintain, or contract with a third-party to create and maintain, an online portal that:

(A) provides information about the program, including required qualifications for participation, tuition awards, and [~~stipends~~]living allowances;

(B) lists all service opportunities with qualified partner organizations that are available through the program; and

(C) allows a potential participant to apply for placement with a qualified partner organization;

(vii) shall determine the metrics of success of the program, including metrics regarding whether an eligible recipient:

(A) matriculates at an institution of higher education after completing a One Utah Service Fellowship; and

(B) graduates from, or otherwise completes a program at, an institution of higher education;

(viii) shall measure the success of the program according to the metrics determined under this Subsection (3);

(ix) shall coordinate with institutions of higher education to:

(A) connect an eligible recipient with additional educational, training, certification, and apprenticeship opportunities; and

(B) explore options to award an eligible recipient with academic credit for the completion of a One Utah Service Fellowship, in addition to the [~~stipend and~~]living allowance or tuition award;

(x) may solicit private donations to supplement the program, including to offset a matching amount required of a qualified partner organization as described in Subsection (4)(d);

(xi) shall market and provide outreach for the program; and

(xii) shall ensure the program complies with federal requirements for the AmeriCorps program administered by the commission.

(c) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

(4) (a) Before a participant begins providing service through the program, the commission or third-party administrator shall enter into an agreement with the participant that outlines the mutual expectations of the program and the participant.

(b) The agreement described in Subsection (4)(a) shall detail the requirements of the participant, including:

(i) the total number of hours of service required under the agreement;

(ii) the exact [~~stipend~~]living allowance amount promised to the participant in consideration of service, as described in Subsection (5);

(iii) the exact tuition award amount promised to the participant upon successful completion of a fellowship, as described in Subsection [~~(6)~~](7);

(iv) qualifications for and acceptable uses of the tuition award, as described in Subsection [~~(6)~~](7); and

(v) the circumstances under which the agreement may be amended, including for participant hardship or compelling personal circumstance.

(c) (i) Subject to Subsection (4)(c)(ii), before a qualified partner organization accepts service from a participant, the commission or third-party administrator shall enter into an agreement with the qualified partner organization that outlines the mutual expectations of the program and qualified partner organization, including the exact amount of matching funds the qualified partner organization shall provide to the commission or third-party administrator to contribute to a participant's [~~stipend~~]living allowance.

(ii) A qualified partner organization shall agree to contribute no less than $5 per hour to a participant's [~~stipend~~]living allowance, except as provided in Subsection (4)(d)or (6).

(d) The agreement described in Subsection (4)(c) may include a provision that the program is reducing the qualified partner organization's matching fund requirement due to the receipt of private donations or eligible federal funds, as described in [~~Subsection (5)(c)(ii)(B)~~]Subsection (5)(c)(ii).

(5) (a) The commission may issue, and a participant may receive, a [~~stipend~~]living allowance for participating in the program.

(b) The commission or third-party administrator shall establish the exact [~~stipend~~]living allowance for a participant on a case-by-case basis in an agreement described in Subsection (4)(a) based on:

(i) available program funds; and

(ii) any matching funds provided by:

(A) the qualified partner organization with which the participant is paired; [~~or~~]

(B) private donations to the program[~~-~~]; or

(C) eligible federal funds.

(c) (i) [~~The~~]Except as provided in Subsection (5)(c)(v) or (6), the commission or third-party administrator shall contribute no less than $5 per hour and no more than $8,500 of the [~~stipend described in this Subsection (5), up to $8,500~~]living allowance for the term of the agreement, from state funds.

(ii) The commission or third-party administrator shall supplement the remaining balance of a participant's exact [~~stipend~~]living allowance from [~~non-state~~]other funds, including:

(A) matching funds provided to the commission or third-party administrator by a qualified partner organization; [~~or~~]

(B) private donations to the program[~~-~~]; or

(C) eligible federal funds.

(iii) The commission or third-party administrator shall prioritize a participant's placement with a qualified partner organization based on the amount of matching funds the qualified partner organization proposes to provide to the commission or third-party administrator under Subsection (5)(c)(ii)(A), with preference going to qualified partner organizations that offer to provide a larger [~~stipend~~]living allowance.

(iv) (A) The living allowance and matching fund amounts shall be established based on the participant's total committed number of hours over the term of the agreement described in Subsection (4).

(B) The commission or third-party administrator shall disburse the [~~stipend~~]living allowance to a participant in equal installments [~~, no less frequently than every three months~~]over the term of the agreement, no less than on a monthly basis.

(v) The commission or third-party administrator may contribute less than $5 per hour of the living allowance from state funds when another source of eligible funding, including funding from federal programs, covers all or part of the living allowance for the term of the agreement.

(6) (a) A qualified partner organization that is an institution of higher education, as defined in Section 53B-2-102, may enter into an agreement with a participant for a tuition-only award under the program.

(b) The agreement in Subsection (6)(a) shall comply with the requirements described in Subsections (4)(a), (4)(b)(i), and (4)(b)(iii) through (v).

(c) (i) The director shall review the participation data collected under Subsection (6)(a) to determine whether the participation data supports continuing the tuition-only award under the program.

(ii) If the participation data fails to support a tuition-only award under the program, the director may discontinue the tuition-only award under the program.

[~~(6)~~](7) (a) The commission or third-party administrator shall provide or approve the issuance of a tuition award to an eligible recipient, according to the terms of the agreement described in Subsection (4), upon the successful completion of a fellowship.

(b) The commission or third-party administrator shall establish the exact tuition award for an eligible recipient on a case-by-case basis in an agreement described in Subsection (4)(a) [~~based on:~~].

[~~(i)~~](c) The commission or third-party shall base the tuition award described in Subsection (7)(b) on federal requirements for the AmeriCorps program, including:

[~~(A)~~](i) a maximum tuition award for 1,700 hours of service during [~~a one-year period~~]the term of service; and

[~~(B)~~](ii) a reduced tuition award for a reduced number of hours of service during [~~a one-year period~~]the term of service.

[~~(c)~~](d) An eligible recipient may use a tuition award:

(i) for an eligible education expense;

(ii) over a seven-year period beginning the day on which the eligible recipient receives the tuition award; and

(iii) subject to the requirements of Subsection [~~(6)(d)~~](7)(e).

[~~(d)~~](e) If the program uses state funds to supplement a tuition award:

(i) the commission or third-party administrator shall detail that information in an agreement described in Subsection (4)(a); and

(ii) an eligible recipient may only use the state funded portion of the tuition award after the eligible recipient has exhausted any scholarship, education grant, or financial aid.

[~~(7)~~](8) The department:

(a) shall provide staff support to the commission to implement the program; and

(b) may enter into an agreement with one or more third-party administrators to administer and implement the program under the direction of the commission, including by fulfilling one or more of the responsibilities described in Subsection (3).

Section 16. Section 9-24-102 is amended to read:

9-24-102. Utah Main Street Program.

(1) The Utah Main Street Program is created within the department to provide resources for the revitalization of downtown or commercial district areas of municipalities in the state.

(2) To implement the program, the department may:

(a) become a member of the National Main Street Center and partner with the center to become the statewide coordinating program for participating municipalities in the state;

(b) establish criteria for the designation of one or more local main street programs[~~administered by a county or municipality in the state~~];

(c) provide training and technical assistance to local governments, businesses, property owners, or other organizations that participate in designated local main street programs;

(d) subject to appropriations from the Legislature or other funding, provide financial assistance to designated local main street programs; and

(e) under the direction of the executive director, appoint full-time staff.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules establishing the eligibility and reporting criteria for a downtown area to receive a local main street program designation, including requirements for:

(a) local government support of the local main street program; and

(b) collecting data to measure economic development impact.

(4) The department shall include in the annual written report described in Section 9-1-208, a report of the program's operations and details of which municipalities have received:

(a) a local main street program designation; and

(b) financial support from the program.

Section 17. Repealer.

This bill repeals:

Section 9-7-207, Deposit of state publications and legislative publications.

Section 9-7-208, Digital library for permanent public access.

Section 18. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 45
S. B. 165
Passed March 6, 2025
Approved March 19, 2025
Effective May 7, 2025

MUNICIPAL BROADBAND SERVICE AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses a municipality's provision of a broadband service.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes requirements and limitations in relation to a municipality providing a broadband service;
- ► addresses bonding, reporting, and public disclosure relating to the provision of a broadband service by a municipality; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-14, as last amended by Laws of Utah 2019, Chapter 99
10-18-101, as enacted by Laws of Utah 2001, Chapter 83
10-18-102, as last amended by Laws of Utah 2016, Chapter 419
10-18-103, as last amended by Laws of Utah 2013, Chapter 187
10-18-104, as last amended by Laws of Utah 2014, Chapter 189
10-18-105, as last amended by Laws of Utah 2016, Chapter 419
10-18-201, as enacted by Laws of Utah 2001, Chapter 83
10-18-202, as enacted by Laws of Utah 2001, Chapter 83
10-18-203, as last amended by Laws of Utah 2023, Chapter 435
10-18-204, as last amended by Laws of Utah 2016, Chapter 419
10-18-301, as enacted by Laws of Utah 2001, Chapter 83
10-18-302, as last amended by Laws of Utah 2023, Chapter 435
10-18-303, as last amended by Laws of Utah 2023, Chapter 435
10-18-304, as enacted by Laws of Utah 2001, Chapter 83
10-18-305, as enacted by Laws of Utah 2001, Chapter 83
10-18-306, as enacted by Laws of Utah 2001, Chapter 83
11-13-201, as last amended by Laws of Utah 2015, Chapter 265
20A-1-203, as last amended by Laws of Utah 2024, Third Special Session, Chapter 3

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

Section 1. Section 10-8-14 is amended to read:

10-8-14. Utility and telecommunications services -- Service beyond municipal limits -- Retainage -- Notice of service and agreement.

(1) As used in this section, " [~~public telecommunications~~]communications service [~~facilities~~]facility" means the same as that term is defined in Section 10-18-102.

(2) (a) A municipality may:

[~~(a)~~](i) construct, maintain, and operate waterworks, sewer collection, sewer treatment systems, gas works, electric light works, broadband services, telecommunications lines, cable television lines, public transportation systems, or [~~public telecommunications~~]communications service facilities;

[~~(b)~~](ii) authorize the construction, maintenance, and operation of the works or systems [~~listed~~]described in Subsection [~~(2)(a)~~](2)(a)(i) by others;

[~~(c)~~](iii) purchase or lease the works or systems [~~listed~~]described in Subsection [~~(2)(a)~~](2)(a)(i) from any person or corporation; and

[~~(d)~~](iv) subject to Subsection (2)(b),sell and deliver the surplus product or service capacity of any works or [~~system listed~~]systems described in Subsection [~~(2)(a)~~](2)(a)(i), not required by the municipality or the municipality's inhabitants, to others beyond the limits of the municipality [~~, except the sale and delivery of:~~].

(b) The sale and delivery of the surplus product or service capacity described in Subsection (2)(a)(iv) in relation to:

(i) retail electricity beyond the municipal boundary is governed by Subsections (3)through [~~(8)~~](7);

(ii) broadband services, cable television services, or public telecommunications services is governed by Subsection [~~(12)~~](11); and

(iii) water is governed by Sections 10-7-14 and 10-8-22.

(3) If any payment on a contract with a private person, firm, or corporation to construct waterworks, sewer collection, sewer treatment systems, gas works, electric works, broadband services, telecommunications lines, cable television lines, public transportation systems, or [~~public telecommunications~~]communications service facilities []is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

(4) (a) Except as provided in [~~Subsection (4)(b), (6), or (10)~~]Subsection (4)(b), (5), or (9), a municipality may not sell or deliver the electricity produced or distributed by the municipality's electric works constructed, maintained, or operated in accordance with Subsection (2) to a retail customer located beyond the municipality's municipal boundary.

(b) A municipality that [~~provides~~]provided retail electric service to a customer beyond the municipality's municipal boundary on or before June 15, 2013, may continue to serve that customer if:

(i) on or before December 15, 2013, the municipality [~~provides~~]provided the electrical corporation, as defined in Section 54-2-1, that is obligated by the municipality's certificate of public convenience and necessity to serve the customer with an accurate and complete verified written notice [~~described in Subsection (4)(c) that identifies~~]identifying each customer served by the municipality beyond the municipality's municipal boundary;

(ii) no later than June 15, 2014, the municipality [~~enters~~]entered into a written filing agreement for the provision of electric service with the electrical corporation; and

(iii) the Public Service Commission [~~approves~~]approved the written filing agreement in accordance with Section 54-4-40.

[~~(c) The municipality shall include in the written notice required in Subsection (4)(b)(i)for each customer:~~]

[~~(i) the customer's meter number;~~]

[~~(ii) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;~~]

[~~(iii) the customer's class of service; and~~]

[~~(iv) a representation that the customer was receiving service from the municipality on or before June 15, 2013.~~]

[~~(5) The written filing agreement entered into in accordance with Subsection (4)(b)(ii) shall require the following:~~]

[~~(a) The municipality shall provide electric service to a customer identified in accordance with Subsection (4)(b)(i) unless the municipality and the electrical corporation subsequently agree in writing that the electrical corporation will provide electric service to the customer.~~]

[~~(b) If a customer who is located outside the municipal boundary and who is not identified in accordance with Subsection (4)(b)(i) requests service from the municipality after June 15, 2013, the municipality may not provide that customer electric service unless the municipality submits a request to and enters into a written agreement with the electric corporation in accordance with Subsection (6).~~]

[~~(6)~~](5) (a) A municipality may submit to the electrical corporation a request to provide electric service to an electric customer [~~described in Subsection (5)(b)~~]who is located outside the municipal boundary and who was not identified in accordance with Subsection (4)(b)(i).

(b) If a municipality submits a request described in Subsection (5)(a), the electrical corporation shall respond to the request within 60 days.

(c) If the electrical corporation agrees to allow the municipality to provide electric service to the customer:

(i) the electrical corporation and the municipality shall enter into a written agreement;

(ii) the municipality shall agree in the written agreement to subsequently transfer service to the customer described in Subsection [~~(5)(b)~~](5)(a) if the electrical corporation notifies, in writing, the municipality that the electrical corporation has installed a facility capable of providing electric service to the customer; and

(iii) the municipality may provide the service if:

(A) except as provided in Subsection [~~(6)(c)(iii)(B)~~](5)(c)(iii)(B), the Public Service Commission approves the agreement in accordance with Section 54-4-40; or

(B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.

(d) The municipality or the electrical corporation may terminate the agreement for the provision of electric service if the Public Service Commission imposes a condition authorized in Section 54-4-40 that is a material change to the agreement.

[~~(7)~~](6) If the municipality and electrical corporation make a transfer described in Subsection [~~(6)(c)(ii)~~](5)(c)(ii):

(a) (i) the municipality shall transfer the electric service customer to the electrical corporation; and

(ii) the electrical corporation shall provide electric service to the customer; and

(b) the municipality shall transfer a facility in accordance with and for the value as provided in Section 10-2-421.

[~~(8)~~](7) (a) In accordance with Subsection [~~(8)(b)~~](7)(b), the municipality shall establish a reasonable mechanism for resolving potential future complaints by an electric customer located outside the municipality's municipal boundary.

(b) The mechanism shall require:

(i) that the rates and conditions of service for a customer outside the municipality's boundary are at least as favorable as the rates and conditions of service for a similarly situated customer within the municipality's boundary; and

(ii) if the municipality provides a general rebate, refund, or other payment to a customer located within the municipality's boundary, that the municipality also provide the same general rebate, refund, or other payment to a similarly situated customer located outside the municipality's boundary.

[~~(9)~~](8) The municipality is relieved of any obligation to transfer a customer described in Subsection [~~(5)(b)~~](5)(a) or facility used to serve the customer in accordance with Subsection [~~(6)(c)(ii)~~](5)(c)(ii) if the municipality annexes the property on which the customer is being served.

[~~(10)~~](9) (a) A municipality may provide electric service outside of the municipality's municipal boundary to a facility that is solely owned and operated by the municipality for municipal service.

(b) A municipality's provision of electric service to a facility that is solely owned and operated by the municipality does not expand the municipality's electric service area.

[~~(11)~~](10) Nothing in this section expands or diminishes the ability of a municipality to enter into a wholesale electrical sales contract with another municipality that serves electric customers to sell and deliver wholesale electricity to the other municipality.

[~~(12)~~](11) A municipality's actions under this section related to works or systems involving broadband services, public telecommunications services, or cable television services are subject to the requirements of [~~Chapter 18, Municipal Cable Television and Public Telecommunications Services Act~~]Chapter 18, Municipal Cable Television and Communications Services Act.

Section 2. Section 10-18-101 is amended to read:

CHAPTER 18. MUNICIPAL CABLE TELEVISION AND COMMUNICATIONS SERVICES ACT

10-18-101. Title -- Policy statement.

[~~(1) This chapter is known as the "Municipal Cable Television and Public Telecommunications Services Act."~~]

[~~(2)~~] The Legislature finds that it is the policy of this state to:

[~~(a)~~](1) ensure that broadband services, cable television services, and public telecommunications services are provided through fair competition consistent with the federal [~~Telecommunications Act of 1996, Pub. L. 104-104~~]Communications Act of 1934, as amended, in order to provide the widest possible diversity of information and news sources to the general public;

[~~(b)~~](2) advance the exercise of rights under the First Amendment of the Constitution of the United States;

[~~(c)~~](3) enhance the development and widespread use of technological advances in providing broadband services, cable television services, and public telecommunications services;

[~~(d)~~](4) encourage improved customer service of broadband services, cable television services, and public telecommunications services at competitive rates;

[~~(e)~~](5) ensure that broadband services, cable television services, and public telecommunications services are each provided within a consistent, comprehensive, and nondiscriminatory federal, state, and local government framework; and

[~~(f)~~](6) ensure that when a municipality provides to [~~its~~]the municipality's inhabitants broadband services, cable television services, public telecommunications services, or [~~both~~]any combination of those services, and competes with private providers whose activities are regulated by the municipality, the municipality does not discriminate against the competing providers of the same services.

Section 3. Section 10-18-102 is amended to read:

10-18-102. Definitions.

As used in this chapter:

(1) (a) "Broadband service" means a mass-market retail or wholesale service that provides, via wire or radio, the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the service.

(b) "Broadband service" does not include dial-up Internet access service.

[~~(1)~~](2) "Cable television service" means:

(a) the one-way transmission to subscribers of:

(i) video programming; or

(ii) other programming service; and

(b) subscriber interaction, if any, that is required for the selection or use of:

(i) the video programming; or

(ii) other programming service.

[~~(2)~~](3) "Capital [~~costs~~]cost" means [~~all costs~~]the cost of providing a service that [~~are~~]is capitalized in accordance with generally accepted accounting principles.

(4) "Communications service facility" means a facility described in Subsection 10-18-105(2).

[~~(3)~~](5) "Cross subsidize" means to pay a cost included in the direct costs or indirect costs of providing a service that is not accounted for in the full cost of accounting of providing the service.

[~~(4)~~](6) "Direct [~~costs~~]cost" means [~~those expenses~~]an expense of a municipality that:

(a) [~~are~~]is directly attributable to providing:

(i) a broadband service;

[~~(i)~~](ii) a cable television service; or

[~~(ii)~~](iii) a public telecommunications service; and

(b) would be eliminated if the service described in Subsection [~~(4)(a)~~](6)(a) were not provided by the municipality.

[~~(5)~~](7) "Feasibility consultant" means an individual or entity with expertise in the processes and economics of providing:

(a) a broadband service;

[~~(a)~~](b) a cable television service; and

[~~(b)~~](c) a public telecommunications service.

[~~(6)~~](8) (a) "Full-cost accounting" means the accounting of all costs incurred by a municipality in providing:

(i) a broadband service;

[~~(i)~~](ii) a cable television service; or

[~~(ii)~~](iii) a public telecommunications service.

(b) The costs included in a full-cost accounting include all:

(i) capital costs;

(ii) direct costs; and

(iii) indirect costs.

[~~(7)~~](9) (a) "Indirect [~~costs~~]cost" means [~~any costs:~~]a cost identified with two or more services or other functions that is not directly

identified with a single service or function.

[~~(i) identified with two or more services or other functions; and~~]

[~~(ii) that are not directly identified with a single service or function.~~]

(b) "Indirect [~~costs~~]cost" may include cost factors for:

(i) administration;

(ii) accounting;

(iii) personnel;

(iv) purchasing;

(v) legal support; and

(vi) other staff or departmental support.

[~~(8)~~](10) "Private provider" means a person that:

(a) provides:

(i) a broadband service;

[~~(i)~~](ii) a cable television [~~services~~]service; or

[~~(ii)~~](iii) a public telecommunications [~~services~~]service; and

(b) is a private entity.

[~~(9)~~](11) (a) "Public telecommunications service" means the two-way transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means offered to the public generally.

(b) "Public telecommunications service" does not include broadband service.

[~~(10) "Public telecommunications service facilities" means a facility described in Subsection 10-18-105(2).~~]

[~~(11)~~](12) [~~"Subscribers"~~]"Subscriber" means a person that lawfully receives:

(a) a broadband service;

(b) a cable television [~~services~~]service; or

[~~(b)~~](c) a public telecommunications [~~services~~]service.

Section 4. Section 10-18-103 is amended to read:

10-18-103. Antitrust immunity.

(1) When a municipality [~~is offering~~]offers or [~~providing~~]provides a broadband service, cable television service, or public telecommunications service, the immunity from antitrust liability afforded to political subdivisions of the state under Section 76-10-3109does not apply to the municipality providing those services.

(2) A municipality that provides a broadband service, cable television service, or a public telecommunications service is subject to applicable antitrust liabilities under the federal Local Government Antitrust Act of 1984, 15 U.S.C. Secs. 34 to 36.

Section 5. Section 10-18-104 is amended to read:

10-18-104. Application to existing contracts.

(1) (a) If, before[~~the sooner of~~] March 1[~~or the effective date of the chapter~~], 2001,the legislative body of a municipality authorized the municipality to offer or provide a cable television [~~services~~]service or public telecommunications [~~services~~]service, each authorized [~~service~~]cable television service or public telecommunications service:

(i) is exempt from Part 2, Conditions for Providing Services; and

(ii) is subject to Part 3, Operational Requirements and Limitations.

(b) The exemption described in Subsection (1)(a)(i)[~~may~~]does not apply to any cable television service or public telecommunications service authorized by the legislative body of a municipality on or after [~~the sooner of~~]March 1[~~or the effective date of this chapter~~], 2001.

(2) (a) If, before March 1, 2025, the legislative body of a municipality authorized the municipality to offer or provide a broadband service, each authorized broadband service:

(i) is exempt from Part 2, Conditions for Providing Services; and

(ii) is subject to Part 3, Operational Requirements and Limitations.

(b) The exemption described in Subsection (2)(a)(i) does not apply to any broadband service authorized by the legislative body of a municipality on or after March 1, 2025.

[~~(2)~~](3) This chapter does not:

(a) invalidate any contract for cable television service or public telecommunications service entered into by a municipality before [~~the sooner of~~]March 1[~~or the effective date of this chapter~~], 2001, or any contract for broadband service entered into by a municipality before March 1, 2025:

(i) for the design, construction, equipping, operation, or maintenance of [~~facilities~~]a facility used or to be used by the municipality, or by a private provider under a contract with the municipality for the purpose of providing:

(A) a broadband service;

[~~(A)~~](B) a cable television [~~services~~]service; or

[~~(B)~~](C) a public telecommunications [~~services~~]service;

(ii) with a private provider for the use of the [~~facilities~~]facility described in Subsection [~~(2)(a)(i)~~](3)(a)(i) in connection with the private provider offering:

(A) a broadband service;

[~~(A)~~](B) a cable television [~~services~~]service; or

[~~(B)~~](C) a public telecommunications [~~services~~]service;

(iii) with a subscriber for providing:

(A) a broadband service;

[~~(A)~~](B) a cable television service; or

[~~(B)~~](C) a public telecommunications service; or

(iv) to obtain or secure financing for the acquisition or operation of the municipality's facilities or equipment used in connection with providing:

(A) a broadband service;

[~~(A)~~](B) a cable television service; or

[~~(B)~~](C) a public telecommunications service; or

(b) impair any security interest granted by a municipality as collateral for the municipality's obligations under a contract described in Subsection [~~(2)(a)~~](3)(a).

[~~(3) (a) A municipality meeting the one or more of the following conditions is exempt from this chapter as provided in Subsection (3)(b):~~]

[~~(i) a municipality that adopts or enacts a bond resolution on or before January 1, 2001, to fund facilities or equipment that the municipality uses to provide:~~]

[~~(A) cable television services; or~~]

[~~(B) public telecommunications services; or~~]

[~~(ii) a municipality that has operated for at least three years consecutively before the sooner of March 1 or the effective date of this chapter:~~]

[~~(A) a cable television service; or~~]

[~~(B) a public telecommunications service.~~]

[~~(b) A municipality described in Subsection (3)(a) is exempt from this chapter except for:~~]

[~~(i) Subsection 10-18-303(4);~~]

[~~(ii) Subsection 10-18-303(7);~~]

[~~(iii) Subsection 10-18-303(9);~~]

[~~(iv) Section 10-18-304; and~~]

[~~(v) Section 10-18-305.~~]

(4) (a) A municipality that, on or before January 1, 2001, enacts a bond resolution to fund a facility or equipment that the municipality uses to provide a cable television service or public telecommunications service is exempt from certain provisions of this chapter, as described in Subsection (5), in relation to the specific service funded by that bond resolution.

(b) A municipality that, on or before January 1, 2025, enacts a bond resolution to fund a facility or equipment that the municipality uses to provide a broadband service is exempt from certain provisions of this chapter, as described in Subsection (5), in relation to the specific service funded by that bond resolution.

(c) A municipality that, before March 1, 2001, operates a cable television service or a public telecommunications service for at least three consecutive years, is exempt from certain provisions of this chapter, as described in Subsection (5), in relation to the specific service operated during that time period.

(d) A municipality that, before March 1, 2025, operates a broadband service for at least three consecutive years, is exempt from certain provisions of this chapter, as described in Subsection (5), in relation to the specific service operated during that time period.

(5) In accordance with Subsection (4), a municipality described in Subsection (4) is exempt from this chapter except for:

(a) Subsection 10-18-303(6);

(b) Subsection 10-18-303(9);

(c) Subsection 10-18-303(12);

(d) Section 10-18-304; and

(e) Section 10-18-305.

[~~(4) For the time period beginning on the effective date of this chapter and ending on December 31, 2001, a municipality that operated a cable television service as of January 1, 2001, is exempt from Subsection 10-18-301(1)(d).~~]

Section 6. Section 10-18-105 is amended to read:

10-18-105. Scope of chapter.

(1) Nothing in this chapter authorizes any county or other political subdivision of this state other than a municipality to:

(a) provide:

(i) a broadband service;

[~~(i)~~](ii) a cable television service; or

[~~(ii)~~](iii) a public telecommunications service; or

(b) purchase, lease, construct, maintain, or operate a facility for the purpose of providing:

(i) a broadband service;

(ii) a cable television service; or

[~~(ii)~~](iii) a public telecommunications service.

(2) Except as provided in Subsections (3) and (4), this chapter does not apply to a municipality []purchasing, leasing, constructing, or equipping [~~facilities~~]a facility:

(a) that [~~are~~]is designed to provide [~~services~~]a service within the municipality[]; and

(b) that the municipality:

(i) uses for internal municipal government purposes; or

(ii) by written contract, leases, sells capacity in, or grants other similar rights to a private provider to use the [~~facilities~~]facility in connection with a private provider offering:

(A) a broadband service;

[~~(A)~~](B) a cable television [~~services~~]service; or

[~~(B)~~](C) a public telecommunications [~~services~~]service.

(3) (a) As used in this Subsection (3), "municipal entity" means:

(i) a municipality; or

(ii) an entity created pursuant to an agreement:

(A) under Title 11, Chapter 13, Interlocal Cooperation Act; and

(B) to which a municipality is a party.

(b) [~~Notwithstanding Subsection (2), a~~]A municipal entity shall comply with Subsection (3)(c) if the municipal entity purchases, leases, constructs, or equips [~~facilities~~]a facility that the municipal entity by written contract leases, sells capacity in, or grants other similar rights to a private provider to use the [~~facilities~~]facility in connection with a private provider offering:

(i) a broadband service;

[~~(i)~~](ii) a cable television [~~services~~]service; or

[~~(ii)~~](iii) a public telecommunications [~~services~~]service.

(c) A municipal entity described in Subsection (3)(b) shall, with respect to an action described in Subsection (3)(b), comply with the obligations imposed on a municipality pursuant to:

(i) Section 10-18-302; and

(ii) Subsections [~~10-18-303(3)~~]10-18-303(5) and [~~(4)~~](6).

(4) A municipality described in Subsection [~~10-18-105(2)~~](2) may call an election under Section 10-18-204 with respect to the provision of [~~public telecommunications~~]a communications service [~~facilities~~]facility.

Section 7. Section 10-18-201 is amended to read:

10-18-201. Limitations on providing broadband, cable television, and public telecommunications services.

(1) Except as provided in this chapter, a municipality may not:

(a) provide to one or more subscribers:

(i) a broadband service;

[~~(i)~~](ii) a cable television service; or

[~~(ii)~~](iii) a public telecommunications service; or

(b) for the purpose of providing a broadband service, a cable television service, or a public telecommunications service to one or more subscribers, purchase, lease, construct, maintain, or operate any facility.

(2) For purposes of this chapter, a municipality provides a broadband service, cable television service, or public telecommunications service if the municipality provides the service:

(a) directly or indirectly, including through an authority or instrumentality:

(i) acting on behalf of the municipality; or

(ii) for the benefit of the municipality;

(b) by itself;

(c) through:

(i) an entity created pursuant to an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, to which the municipality is a party;

(ii) a partnership; or

[~~(ii)~~](iii) a joint venture; or

(d) by contract, resale, or otherwise.

Section 8. Section 10-18-202 is amended to read:

10-18-202. Required steps before a municipality may provide broadband, cable television, or public telecommunications services.

Before a municipality may engage or offer to engage in an activity described in Subsection 10-18-201(1), the legislative body of the municipality shall:

(1) hold a preliminary public hearing;

(2) if the legislative body elects to proceed after holding the preliminary public hearing required by Subsection (1), approve the hiring of a feasibility consultant to conduct a feasibility study in accordance with Section 10-18-203;

(3) determine whether under the feasibility study conducted under Section 10-18-203, the average annual revenues under Subsection 10-18-203(2)(f) exceed the average annual costs under Subsection 10-18-203(2)(e) by at least the amount necessary to meet the bond obligations of any bonds issued to fund the proposed broadband service, cable television [~~services~~]service, or public telecommunications [~~services~~]service:

(a) based on the feasibility study's analysis:

(i) for the first year of the study; and

(ii) the five-year projection; and

(b) separately stated with respect to:

(i) the proposed broadband service;

[~~(i)~~](ii) the proposed cable television [~~services~~]service; or

[~~(ii)~~](iii) the proposed public telecommunications [~~services~~]service;

(4) if the conditions of Subsection (3) are met, hold the public hearings required by Section 10-18-203; and

(5) after holding the public hearings required by Section 10-18-203, if the legislative body of the municipality elects to proceed, adopt by resolution the feasibility study.

Section 9. Section 10-18-203 is amended to read:

10-18-203. Feasibility study on providing broadband, cable television, or public telecommunications services -- Public hearings -- Notice.

(1) If a feasibility consultant is hired under Section 10-18-202, the legislative body of the municipality shall require the feasibility consultant to:

(a) complete the feasibility study in accordance with this section;

(b) submit to the legislative body by no later than 180 days from the date the feasibility consultant is hired to conduct the feasibility study:

(i) the full written results of the feasibility study; and

(ii) a summary of the results that is no longer than one page in length; and

(c) attend the public hearings described in Subsection (4) to:

(i) present the feasibility study results; and

(ii) respond to questions from the public.

(2) The feasibility study described in Subsection (1) shall at a minimum consider:

[~~(a) (i) if the municipality is proposing to provide cable television services to subscribers, whether the municipality providing cable television services in the manner proposed by the municipality will hinder or advance competition for cable television services in the municipality; or~~]

[~~(ii) if the municipality is proposing to provide public telecommunications services to subscribers, whether the municipality providing public telecommunications services in the manner proposed by the municipality will hinder or advance competition for public telecommunications services in the municipality;~~]

(a) whether the municipality providing a broadband service, a cable television service, or a public telecommunications service in the manner proposed by the municipality will hinder or advance competition for the same service in the municipality;

(b) whether but for the municipality any person would provide the proposed:

(i) broadband service;

[~~(i)~~](ii) cable television [~~services~~]service; or

[~~(ii)~~](iii) public telecommunications [~~services~~]service;

(c) the fiscal impact on the municipality of:

(i) the capital investment in facilities that will be used to provide the proposed:

(A) broadband service;

[~~(A)~~](B) cable television [~~services~~]service; or

[~~(B)~~](C) public telecommunications [~~services~~]service; and

(ii) the expenditure of funds for labor, financing, and administering the proposed:

(A) broadband service;

[~~(A)~~](B) cable television [~~services~~]service; or

[~~(B)~~](C) public telecommunications [~~services~~]service;

(d) the projected growth in demand in the municipality for the proposed:

(i) broadband service;

[~~(i)~~](ii) cable television [~~services~~]service; or

[~~(ii)~~](iii) public telecommunications [~~services~~]service;

(e) the projections[~~at~~], from the time of the feasibility study[~~and~~], for the next [~~five~~]10years, of a full-cost accounting for a municipality to purchase, lease, construct, maintain, or operate the facilities necessary to provide the proposed:

(i) broadband service;

[~~(i)~~](ii) cable television [~~services~~]service; or

[~~(ii)~~](iii) public telecommunications [~~services~~]service; and

(f) the projections [~~at~~], from the time of the feasibility study[~~and~~], for the next [~~five~~]10 years of the revenues to be generated from the proposed:

(i) broadband service;

[~~(i)~~](ii) cable television [~~services~~]service; or

[~~(ii)~~](iii) public telecommunications [~~services~~]service.

(3) For purposes of the financial projections required under Subsections (2)(e) and (f), the feasibility consultant shall assume that the municipality will price the proposed broadband service, cable television [~~services~~]service, or public telecommunications [~~services~~]service consistent with Subsection [~~10-18-303(5)~~]10-18-303(7).

(4) If the results of the feasibility study satisfy the revenue requirement of Subsection 10-18-202(3), the legislative body, at the next regular meeting after the legislative body receives the results of the feasibility study, shall schedule at least two public hearings to be held:

(a) within [~~60~~]90 days after the day of the meeting at which the public hearings are scheduled;

(b) at least [~~seven days~~]three weeks apart; and

(c) for the purpose of allowing:

(i) the feasibility consultant to present the results of the feasibility study; and

(ii) the public to:

(A) become informed about the feasibility study results; and

(B) ask questions of the feasibility consultant about the results of the feasibility study.

(5) The municipality shall provide notice of the public hearings required under Subsection (4) for the municipality, as a class A notice under Section 63G-30-102, for at least three weeks before the day on which the first public hearing required under Subsection (4) is held.

Section 10. Section 10-18-204 is amended to read:

10-18-204. Vote permissible -- Referendum.

(1) (a) [~~(i)~~] A legislative body []of a municipality may, []by a majority vote, call an election on whether the municipality shall provide

a proposed:

(i) broadband service;

[~~(A)~~](ii) cable television [~~services~~]service; or

[~~(B)~~](iii) public telecommunications [~~services~~]service.

[~~(ii)~~](b) A municipal legislative body that, before July 1, 2016, approves the provision of public telecommunications service facilities may, by a majority vote, call an election on whether the municipality shall provide proposed public telecommunications service facilities.

[~~(b)~~](c) If under Subsection (1)(a) the legislative body calls an election, the election shall be held:

(i) (A) at the next municipal general election; or

(B) as provided in Subsection 20A-1-203(1), at a local special election the purpose of which is authorized by this section; and

(ii) in accordance with Title 20A, Election Code, except as provided in this section.

[~~(c)~~](d) (i) The notice of [~~the~~]an election []called under Subsection [~~(1)(a)(i)~~](1)(a)shall include with any other information required by law:

(A) a summary of the broadband service, cable television [~~services~~]service, or public telecommunications [~~services~~]service that the legislative body of the municipality proposes to provide to subscribers residing within the boundaries of the municipality;

(B) the feasibility study summary under Section 10-18-203;

(C) a statement that a full copy of the feasibility study is available for inspection and copying; [~~and~~]

(D) the location in the municipality where the feasibility study may be inspected or copied [~~.~~]; and

(E) a hyperlink on the municipality's website where the feasibility study may be accessed.

(ii) The notice of an election called under Subsection [~~(1)(a)(ii)~~](1)(b) shall include a summary prepared by the municipality describing the proposed [~~public~~]communications service [~~facilities~~]facility.

[~~(d)~~](e) (i) For an election called under Subsection [~~(1)(a)(i)~~](1)(a), the ballot for []the election shall pose the question substantially as follows:

"Shall the [name of the municipality] provide [broadband service, cable television service, or public telecommunications service] to the inhabitants of the [municipality]?".

(ii) For an election called under Subsection [~~(1)(a)(ii)~~](1)(b), the ballot for the election shall pose the question substantially as follows:

"Shall the [name of the municipality] provide [~~public telecommunications~~]a communications service [~~facilities~~]facility within [name of the municipality] by [brief description of the method or means and financing terms, including total principal and interest costs, by which the [~~public~~] communications service [~~facilities~~]facility will be provided]?".

[~~(e)~~](f) The ballot proposition may not take effect until submitted to the electors and approved by the majority of those voting on the ballot.

(2) In accordance with Title 20A, Chapter 7, Issues Submitted to the Voters, a municipal legislative body's action to have the municipality []over which the legislative body presides [] provide a broadband service, cable television [~~services~~]service, or public telecommunications [~~services~~]service is subject to local referenda.

(3) (a) The results of an election called under Subsection [~~(1)(a)(ii)~~](1)(b) are not binding and do not:

(i) require the municipality that called the election to take, or refrain from taking, any action; or

(ii) limit the municipality that called the election from taking any action authorized under Section 10-8-14 or 10-18-105.

(b) An election called under Subsection [~~(1)(a)(ii)~~](1)(b) does not exempt a municipality from the applicable requirements of this [~~Title 10, Chapter 18, Municipal Cable Television and Public Telecommunications Services Act~~]chapter.

Section 11. Section 10-18-301 is amended to read:

10-18-301. Enterprise funds for broadband, cable television, or public telecommunications services.

(1) A municipality that provides a broadband service, a cable television service, or a public telecommunications service under this chapter:

(a) shall establish [~~an~~]separate enterprise [~~fund~~]funds to account for the municipality's operations of a broadband service, cable television service, or public telecommunications service;

(b) may fund the services through:

(i) revenues earned from operation of the broadband, cable television, or public telecommunications service; or

(ii) revenue bonds or government obligation bonds authorized in Section 10-18-302;

[~~(b)~~](c) may, for accounting purposes only, [~~may~~]account for [~~its~~]the municipality's broadband services, cable television services, and [~~its~~]public telecommunications services in a single enterprise fund under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;

[~~(c)~~](d) shall, consistent with the requirements of Section 10-6-135, adopt separate operating and capital budgets for the municipality's:

(i) broadband services;

[~~(i)~~](ii) cable television services; and

[~~(ii)~~](iii) public telecommunications services;

[~~(d)~~](e) may not transfer any appropriation or other balance in any enterprise fund established by the municipality under this section to another enterprise fund; [~~and~~]

[~~(e)~~](f) may not transfer any appropriation or other balance in any other enterprise fund established by the municipality under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, to any enterprise fund established by the municipality under this section[~~.~~];

(g) shall maintain separation between the municipality's role as a competitive provider of a broadband service, cable television service, or public telecommunications service, and the municipality's role as a regulator over private providers that offer a service in competition with the service offered by the municipality, including with respect to the personnel, real property, operational capabilities, and other resources between these separate functions; and

(h) may not share any non-public information between employees or contractors responsible for executing the municipality's role as a competitive provider of a broadband service, cable television service, or public telecommunications service, and employees or contractors responsible for executing the municipality's role as a regulator over private providers that offer a service in competition with a service offered by the municipality.

(2) The restrictions on transfers described in Subsections [~~(1)(d)~~](1)(e) and [~~(e)~~](f) do not apply to transfers made by a municipality

between other enterprise funds established by the municipality.

Section 12. Section 10-18-302 is amended to read:

10-18-302. Bonding authority.

(1) In accordance with Title 11, Chapter 14, Local Government Bonding Act, the legislative body of a municipality may by resolution determine to issue one or more revenue bonds or general obligation bonds to finance the capital costs for facilities necessary to provide to subscribers:

(a) a broadband service;

[~~(a)~~](b) a cable television service; or

[~~(b)~~](c) a public telecommunications service.

(2) The resolution described in Subsection (1) shall:

(a) describe the purpose for which the indebtedness is to be created; and

(b) specify the dollar amount of the one or more bonds proposed to be issued.

(3) (a) A revenue bond issued under this section shall be secured and paid for:

(i) from the revenues generated by the municipality from providing:

(A) subject to Subsection (4), a broadband service, if the revenue bond is issued to finance a facility for that broadband service;

[~~(A)~~](B) a cable television [~~services with respect to revenue bonds~~]service, if the revenue bond is issued to finance [~~facilities~~]a facility for [~~the municipality's~~]that cable television [~~services~~]service; and

[~~(B)~~](C) a public telecommunications [~~services with respect to revenue bonds~~]service, if the revenue bond is issued to finance [~~facilities~~]a facility for [~~the municipality's~~]that public telecommunications [~~services~~]service; and

(ii) notwithstanding Subsection (3)(b) and Subsection [~~10-18-303(3)(a)~~]10-18-303(5)(a), and subject to the requirements of Subsection (5),from revenues generated under Title 59, Chapter 12, Sales and Use Tax Act[~~, if:~~].

[~~(A) notwithstanding Subsection 11-14-201(3) and except as provided in Subsections (4) and (5), the revenue bond is approved by the registered voters in an election held:~~]

[~~(I) except as provided in Subsection (3)(a)(ii)(A)(II), pursuant to the provisions of Title 11, Chapter 14, Local Government Bonding Act, that govern bond elections; and~~]

[~~(II) notwithstanding Subsection 11-14-203(2), at a regular general election;~~]

[~~(B) the revenues described in this Subsection (3)(a)(ii) are pledged as security for the revenue bond; and~~]

[~~(C) the municipality or municipalities annually appropriate the revenues described in this Subsection (3)(a)(ii) to secure and pay the revenue bond issued under this section.~~]

(b) Except as provided in Subsection (3)(a)(ii), a municipality may not pay the origination, financing, or other carrying costs associated with [~~the~~]one or more revenue bonds issued under this section from the [~~town or city, respectively,~~]municipality's general funds or other enterprise funds [~~of the municipality~~].

(4) A municipality may only issue a revenue bond described in Subsection (3)(a)(i)(A) if the legislative body of the municipality obtains the approval of registered voters at an election held in accordance with Title 11, Chapter 14, Local Government Bonding Act.

(5) A municipality may only issue a revenue bond described in Subsection (3)(a)(ii) if:

(a) notwithstanding Subsection 11-14-201(3) and except as provided in Subsection (6), the revenue bond is approved by the registered voters in an election held:

(i) except as provided in Subsection (5)(a)(ii), pursuant to the provisions of Title 11, Chapter 14, Local Government Bonding Act, that govern bond elections; and

(ii) notwithstanding Subsection 11-14-203(2), at a regular general election;

(b) the revenues described in Subsection (3)(a)(ii) are pledged as security for the revenue bond; and

(c) the municipality annually appropriates the revenues described in Subsection (3)(a)(ii)to secure and pay the revenue bond issued under this section.

[~~(4) (a) As used in this Subsection (4), "municipal entity" means an entity created pursuant to an agreement:~~]

[~~(i) under Title 11, Chapter 13, Interlocal Cooperation Act; and~~]

[~~(ii) to which a municipality is a party.~~]

[~~(b) The requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality or municipal entity that issues revenue bonds, or to a municipality that is a member of a municipal entity that issues revenue bonds, if:~~]

[~~(i) on or before March 2, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds has published the first notice described in Subsection (4)(b)(iii);~~]

[~~(ii) on or before April 15, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds makes the decision to pledge the revenues described in Subsection (3)(a)(ii) as security for the revenue bonds described in this Subsection (4)(b)(ii);~~]

[~~(iii) (A) the municipality that is issuing the revenue bonds or the municipality that is a member of the municipal entity that is issuing the revenue bonds has held a public hearing for which public notice was given by publication of the notice for the municipality, as a class A notice under Section 63G-30-102, for two weeks before the day of the public hearing; and~~]

[~~(B) the notice identifies:~~]

[~~(I) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;~~]

[~~(II) the purpose for the bonds to be issued;~~]

[~~(III) the maximum amount of the revenues described in Subsection (3)(a)(ii)that will be pledged in any fiscal year;~~]

[~~(IV) the maximum number of years that the pledge will be in effect; and~~]

[~~(V) the time, place, and location for the public hearing;~~]

[~~(iv) the municipal entity that issues revenue bonds:~~]

[~~(A) adopts a final financing plan; and~~]

[~~(B) in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, makes available to the public at the time the municipal entity adopts the final financing plan:~~]

[~~(I) the final financing plan; and~~]

[~~(II) all contracts entered into by the municipal entity, except as protected by Title 63G, Chapter 2, Government Records Access and Management Act;~~]

[~~(v) any municipality that is a member of a municipal entity described in Subsection (4)(b)(iv):~~]

[~~(A) not less than 30 calendar days after the municipal entity complies with Subsection (4)(b)(iv)(B), holds a final public hearing;~~]

[~~(B) provides notice, at the time the municipality schedules the final public hearing, to any person who has provided to the municipality a written request for notice; and~~]

[~~(C) makes all reasonable efforts to provide fair opportunity for oral testimony by all interested parties; and~~]

[~~(vi) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).~~]

[~~(5)~~](6) [~~On or after July 1, 2007, the requirements of Subsection (3)(a)(ii)(A) do~~]The voter approval requirement described in Subsection (5) does not apply to a municipality that issues a revenue [~~bonds~~]bond described in Subsection (3)(a)(ii),if:

(a) the bond is issued to finance a cable television service or a public telecommunications service;

[~~(a)~~](b) (i) the municipality that is issuing the revenue [~~bonds has held~~]bond holds a public hearing for which public notice was given by publication of the notice for the municipality, as a class A notice under Section 63G-30-102, for 14 days before the day of the public hearing; and

(ii) the notice identifies:

(A) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;

(B) the purpose for the [~~bonds~~]bond to be issued;

(C) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;

(D) the maximum number of years that the pledge will be in effect; and

(E) the time, place, and location for the public hearing; and

[~~(b)~~](c) [~~except with respect to a municipality that issued bonds prior to March 1, 2004,~~]not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).

[~~(6)~~](7) A municipality that issues [~~bonds~~]a bond pursuant to this section may not make or grant any undue or unreasonable preference or advantage to [~~itself~~]the municipality or to any private provider of:

(a) a broadband service;

[~~(a)~~](b) a cable television [~~services~~]service; or

[~~(b)~~](c) a public telecommunications [~~services~~]service.

(8) A municipality that issues a bond pursuant to this section shall timely disclose to the general public all matters material to the municipality's issuance of a bond to fund the service, including:

(a) debt service delinquencies and defaults;

(b) non-payment covenant defaults;

(c) unscheduled reserve fund draws;

(d) adverse tax opinions;

(e) credit rating changes;

(f) bond calls;

(g) tender offers; and

(h) private debt placements.

Section 13. Section 10-18-303 is amended to read:

10-18-303. General operating limitations -- Notice of change to price list.

[~~A municipality that provides a cable television service or a public telecommunications service under this chapter is subject to the operating limitations of this section.~~]

(1) A municipality that provides a broadband service, a cable television service, or a public telecommunications service under this chapter is subject to the operating limitations of this section.

(2) A municipality that provides a broadband service shall comply with:

(a) the Communications Act of 1934, as amended; and

(b) the regulations issued by the Federal Communications Commission under the Communications Act of 1934, as amended.

[~~(1)~~](3) A municipality that provides a cable television service shall comply with:

(a) the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.; and

(b) the regulations issued by the Federal Communications Commission under the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.

[~~(2)~~](4) A municipality that provides a public telecommunications service shall comply with:

(a) the [~~Telecommunications Act of 1996, Pub. L. 104-104~~]Communications Act of 1934, as amended;

(b) the regulations issued by the Federal Communications Commission under the [~~Telecommunications Act of 1996, Pub. L. 104-104~~]Communications Act of 1934, as amended;

(c) Section 54-8b-2.2 relating to:

(i) the interconnection of essential facilities; and

(ii) the purchase and sale of essential services; and

(d) the rules made by the Public Service Commission of Utah under Section 54-8b-2.2.

[~~(3)~~](5) A municipality may not cross subsidize [~~its~~]a broadband service, cable television [~~services~~]service, or [~~its~~]public telecommunications [~~services~~]service with:

(a) tax dollars;

(b) income from other municipal or utility services;

(c) below-market rate loans from the municipality; or

(d) any other means.

[~~(4)~~](6) (a) A municipality may not make or grant any undue or unreasonable preference or advantage to [~~itself~~]the municipality or to any private provider of:

(i) a broadband service;

[~~(i)~~](ii) a cable television [~~services~~]service; or

[~~(ii)~~](iii) a public telecommunications [~~services~~]service.

(b) A municipality shall apply, without discrimination as to [~~itself and to any~~]the municipality or a private provider, the municipality's ordinances, rules, [~~and~~]policies, and practices, including those relating to:

(i) obligation to serve;

(ii) access to and use of public rights of way;

(iii) access to and use of municipally owned or controlled conduit, towers, and utility poles;

[~~(iii)~~](iv) permitting;

[~~(iv)~~](v) performance bonding;

[~~(v)~~](vi) reporting; [~~and~~]

[~~(vi)~~](vii) quality of service; and

(viii) administration of or participation in federal, state, or local funding opportunities for broadband deployment.

(c) Subsections [~~(4)(a)~~](6)(a) and (b) do not supersede the exception for a rural telephone company in [~~Section 251 of the Telecommunications Act of 1996, Pub. L. 104-104~~]47 U.S.C. Sec. 251.

[~~(5)~~](7) In calculating the rates charged by a municipality for a broadband service, a cable television service, or a public telecommunications service, the municipality:

(a) shall include within its rates an amount equal to all taxes, fees, and other assessments that would be applicable to a similarly situated private provider of the same services, including:

(i) federal, state, and local taxes;

(ii) franchise fees;

(iii) permit fees;

(iv) pole attachment fees; and

(v) fees similar to those described in Subsections [~~(5)(a)(i)~~](7)(a)(i) through (iv); and

(b) may not price [~~any~~]a broadband service, cable television service, or public telecommunications service at a level that is less than the sum of:

(i) the actual direct costs of providing the service;

(ii) the actual indirect costs of providing the service; and

(iii) the amount determined under Subsection [~~(5)(a)~~](7)(a).

[~~(6)~~](8) (a) A municipality that provides a broadband service, cable television [~~services~~]service, or public telecommunications [~~services~~]service shall establish and maintain a comprehensive price list of all broadband services, cable television services, or public telecommunications services offered by the municipality.

(b) The price list [~~required by~~]described in Subsection [~~(6)(a)~~](8)(a) shall:

(i) include all terms and conditions relating to the municipality providing each broadband service, cable television service, or public telecommunications service offered by the municipality;

(ii) be posted on the Utah Public Notice Website created in Section 63A-16-601; and

(iii) be available for inspection:

(A) at a designated office of the municipality; and

(B) during normal business hours.

(c) At least five days before the date a change to a municipality's price list becomes effective, the municipality shall provide notice of the change:

(i) for the municipality, as a class A notice under Section 63G-30-102, for at least five days; and

(ii) to any other persons requesting notification of any changes to the municipality's price list.

(d) A municipality may not offer a broadband service, a cable television service, or a public telecommunications service except in accordance with the prices, terms, and conditions set forth in the municipality's price list.

[~~(7)~~](9) A municipality may not offer to provide or provide a broadband service, cable television [~~services~~]service, or public telecommunications [~~services~~]service to a subscriber that does not reside within the geographic boundaries of the municipality.

[~~(8)~~](10) (a) A municipality shall keep accurate books and records of the municipality's:

(i) broadband services;

[~~(i)~~](ii) cable television services; and

[~~(ii)~~](iii) public telecommunications services.

(b) The books and records required to be kept under Subsection [~~(8)(a)~~](10)(a) are subject to legislative audit to verify the municipality's compliance with the requirements of this chapter including:

(i) pricing;

(ii) recordkeeping; and

(iii) antidiscrimination.

(11) (a) A municipality shall annually produce a report of the municipality's provision of broadband services, cable television services, and public telecommunications services.

(b) The report described in Subsection (11)(a) shall include, for each broadband service, cable television service, or public telecommunications service provided by the municipality:

(i) the price list described in Subsection (8) that is effective at the time of the report;

(ii) the number of households and businesses within the coverage area of the municipality's network;

(iii) the number of subscribers to the service, including net additions or losses, for the prior fiscal year;

(iv) the revenues generated from the service for the prior fiscal year;

(v) a full-cost accounting for the prior fiscal year regarding:

(A) the municipality's purchase, lease, construction, maintenance, and operation of the facilities necessary to provide the service; and

(B) the municipality's expenditure of funds for labor, financing, and administering the service;

(vi) the projected growth in demand in the municipality for the service for the next 10 years;

(vii) the projections, from the time of the report for the next 10 years, of a full-cost accounting for a municipality to purchase, lease, construct, maintain, or operate the facilities necessary to provide the service;

(viii) the projections, from the time of the report for the next 10 years, of the revenues to be generated from the service;

(ix) with respect to the information described in Subsections (11)(b)(iv) through (viii), a comparison to the results of the feasibility study for the service adopted by the municipality under Section 10-18-202;

(x) a determination as to whether the revenues described in Subsection (11)(b)(iv) exceed the costs described in Subsection (11)(b)(v) by the amount necessary to meet the bond obligations of any bonds issued to fund the service; and

(xi) a disclosure of events in the prior fiscal year that are material to the municipality's issuance of bonds to fund the service, including:

(A) debt service delinquencies and defaults;

(B) non-payment covenant defaults;

(C) unscheduled reserve fund draws;

(D) adverse tax opinions;

(E) credit rating changes;

(F) bond calls;

(G) tender offers; and

(H) private debt placements.

(c) The report shall be submitted to the legislative body of the municipality before October 1 of each year with a summary of the report findings that is no longer than one page in length.

(d) At the next regular meeting after the legislative body of the municipality receives the report, the legislative body shall schedule a public hearing to be held within 30 days after the day of the meeting at which the public hearing is scheduled, for the purpose of allowing:

(i) the municipality's staff to present the report; and

(ii) the public to become informed and ask questions about the report findings.

(e) The municipality shall provide notice of the public hearing described in Subsection (11)(d) for the municipality, as a class A notice under Section 63G-30-102, for at least two weeks before the day on which the public hearing is held.

(f) After the public hearing described in Subsection (11)(d), the legislative body of the municipality shall:

(i) adopt by resolution the report described in Subsection (11)(a); and

(ii) make the report available for inspection at a designated office of the municipality during normal business hours and via hyperlink on the municipality's website.

[~~(9)~~](12) A municipality may not receive distributions from the Universal Public Telecommunications Service Support Fund established in Section 54-8b-15.

Section 14. Section 10-18-304 is amended to read:

10-18-304. Eminent domain.

A municipality may not exercise [~~its~~]the municipality's power of eminent domain to condemn the plant [~~and~~]or equipment of a private provider for the purpose of providing to a subscriber:

(1) a broadband service;

[~~(1)~~](2) a cable television service; or

[~~(2)~~](3) a public telecommunications service.

Section 15. Section 10-18-305 is amended to read:

10-18-305. Quality of service standards.

(1) A municipality that provides a broadband service, a cable television service, or a public telecommunications service shall adopt an ordinance governing the quality of service the municipality shall provide to [~~its~~]the municipality's subscribers.

(2) The legislative body of the municipality shall ensure that the ordinance [~~required by~~]described in Subsection (1)[~~shall~~]:

(a) [~~be~~]is competitively neutral; and

(b) [~~contain~~]contains standards that are substantially similar to the standards imposed on private providers operating within the geographic boundaries of the municipality under:

(i) the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.;

(ii) the [~~Telecommunications Act of 1996, Pub. L. 104-104~~]Communications Act of 1934, as amended;

(iii) Title 54, Public Utilities;

(iv) regulations issued by the Federal Communications Commission under the statutes listed in Subsections (2)(b)(i) and (ii); and

(v) rules made by the Public Service Commission of Utah under Title 54, Public Utilities.

Section 16. Section 10-18-306 is amended to read:

10-18-306. Enforcement and appeal.

(1) Before a person that is or is likely to have a substantial interest affected by a municipality's violation of this chapter may file an action in district court for violation of this chapter, that person shall file a written complaint with the municipality in accordance with this section.

(2) (a) A municipality that provides a broadband service, a cable television service, or a public telecommunications service shall enact an ordinance establishing a procedure for the filing and resolution of complaints relating to the municipality providing:

(i) a broadband service;

(ii) a cable television service; or

[~~(ii)~~](iii) a public telecommunications service.

(b) The procedure [~~required by~~]described in Subsection (2)(a) shall:

(i) permit any person described in Subsection (1) to file a complaint including:

(A) an individual subscriber; or

(B) a private provider that competes with the municipality in the geographic boundaries of the municipality;

(ii) establish an expedited process that requires, within 45 days after the date the complaint is filed, the municipality to:

(A) [~~that~~]hold a hearing [~~be held~~]on the complaint, unless the parties to the proceeding waive the requirement of a hearing; and

(B) [~~the issuance of~~]issue a final decision on the complaint; and

(iii) provide that failure to render a decision within the time [~~allotted~~]required shall be treated as an adverse decision for purposes of appeal.

(3) Appeal of an adverse decision from the municipality may be taken to the district court for a de novo proceeding.

Section 17. Section 11-13-201 is amended to read:

11-13-201. Joint exercise of power, privilege, or authority by public agencies -- Relationship to the Municipal Cable Television and Communications Services Act.

(1) (a) Any power, privilege, or authority exercised or capable of exercise by a Utah public agency may be exercised and enjoyed jointly with any other Utah public agency having the same power, privilege, or authority, in a manner consistent with the provisions of this chapter, and jointly with any out-of-state public agency to the extent that the laws governing the out-of-state public agency permit such joint exercise or enjoyment.

(b) Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges, and authority conferred by this chapter upon a public agency.

(2) This chapter [~~may~~]does not enlarge or expand the authority of a public agency not authorized to offer [~~and~~]or provide a broadband service, a cable television [~~services and~~]service, or a public telecommunications [~~services~~]service under [~~Title 10, Chapter 18, Municipal Cable Television and Public Telecommunications Services Act~~]Title 10, Chapter 18, Municipal Cable Television and Communications Services Act, to offer or provide a broadband service, a cable television [~~services and~~]service, or a public telecommunications [~~services~~]service.

Section 18. Section 20A-1-203 is amended to read:

20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted local levy authorized by Section 53F-8-402 or 53F-8-301;

(iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

(iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

(v) if required or authorized by federal law, a vote to determine whether Utah's legal boundaries should be changed;

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

(vii) a vote on a municipality providing a broadband service, a cable television [~~services~~]service, or a public telecommunications [~~services~~]service under Section 10-18-204;

(viii) a vote to create a new county under Section 17-3-1;

(ix) a vote on a special property tax under Section 53F-8-402; or

(x) a vote on the incorporation of a municipality in accordance with Section 10-2a-210.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election as authorized by Section 20A-1-204; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section 19. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 46
H. B. 276
Passed March 7, 2025
Approved March 19, 2025
Effective May 7, 2025

COMMITMENT REVISIONS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses the commitment of individuals in relation to civil, criminal, and juvenile proceedings.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► amends the definitions of "intellectual disability" and "intermediate care facility for people with an intellectual disability" as used in the Utah Code;
- ► amends provisions relating to the rights and privileges to which an individual is entitled when under commitment to the custody or to the treatment services of a local mental health authority;
- ► provides that if a right of a patient of a local mental health authority is limited or denied, including for the welfare of the patient or caretakers, the nature, extent, and reason for that limitation or denial shall be entered in the patient's treatment record;
- ► requires a designated examiner to conduct an examination of a proposed patient by telehealth except in certain circumstances;
- ► requires a court to hold a hearing on an application for involuntary commitment remotely unless the court finds good cause not to hold the hearing remotely;
- ► amends standards and processes related to the involuntary civil commitment of an individual with an intellectual disability or related condition;
- ► provides that a court may only order the Department of Health and Human Services (department) to provide an initial evaluation and progress toward competency evaluation for a defendant or minor if the defendant or minor is located within the state;
- ► requires a court to dismiss a petition for involuntary civil commitment if both designated examiners determine that the proposed patient does not meet the criteria for involuntary commitment;
- ► provides that when there is a conflict in the opinions of forensic evaluators, if a party seeks an additional competency evaluation then the party is responsible for selecting the evaluator and paying the cost of the evaluator;
- ► amends provisions regarding the release of a defendant determined to be incompetent to proceed from a secured setting;
- ► addresses when the department is required to provide an updated juvenile competency evaluation after an extended attainment period; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-2-121, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-122, as last amended by Laws of Utah 2024, Chapter 240
26B-5-301, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-310, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-322, as last amended by Laws of Utah 2023, Chapter 184 and renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-332, as last amended by Laws of Utah 2024, Chapters 287, 299 and 314
26B-5-362, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-371, as last amended by Laws of Utah 2023, Chapter 184 and renumbered and amended by Laws of Utah 2023, Chapter 308
26B-6-401, as last amended by Laws of Utah 2024, Chapter 240
26B-6-606, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-6-607, as last amended by Laws of Utah 2024, Chapter 299
26B-6-608, as last amended by Laws of Utah 2024, Chapter 299
26B-6-613, as renumbered and amended by Laws of Utah 2023, Chapter 308
68-3-12.5, as last amended by Laws of Utah 2024, Chapter 438
77-15-2, as last amended by Laws of Utah 2023, Chapter 171
77-15-5, as last amended by Laws of Utah 2023, Chapters 171, 417 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 417
77-15-6, as last amended by Laws of Utah 2024, Chapter 174
77-19-203, as enacted by Laws of Utah 2004, Chapter 137
77-29-3, as enacted by Laws of Utah 1980, Chapter 15
80-6-402, as last amended by Laws of Utah 2023, Chapter 330

80-6-403, as last amended by Laws of Utah 2023, Chapter 330

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

Section 1. Section 26B-2-121 is amended to read:

26B-2-121. Access to abuse and neglect information.

(1) As used in this section:

(a) "Direct service worker" means the same as that term is defined in Section 26B-6-401.

(b) "Personal care attendant" means the same as that term is defined in Section [~~26B-6-401~~]26B-6-101.

(2) With respect to a licensee, a direct service worker, or a personal care attendant, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section 80-2-1002 and juvenile court records under Subsection 80-3-404(4), for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to children:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

(ii) informing a licensee that a person associated with the licensee:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2);

(b) (i) determining whether a direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); or

(c) (i) determining whether a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

(ii) informing a person described in Subsections 26B-6-101(9)(a)(i) through (iv) that a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2).

(3) Notwithstanding Subsection (2), the department may access the Division of Child and Family Services' Management Information System under Section 80-2-1001:

(a) for the purpose of licensing and monitoring foster parents;

(b) for the purposes described in Subsection 80-2-1001(5)(b)(iii); and

(c) for the purpose described in Section 26B-1-211.

(4) The department shall receive and process personal identifying information under Subsection 26B-2-120(1) for the purposes described in Subsection (2).

(5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this part, defining the circumstances under which a person may have direct access or provide services to children when:

(a) the person is listed in the Licensing Information System of the Division of Child and Family Services created by Section 80-2-1002; or

(b) juvenile court records show that a court made a substantiated finding under Section 80-3-404, that the person committed a severe type of child abuse or neglect.

Section 2. Section 26B-2-122 is amended to read:

26B-2-122. Access to vulnerable adult abuse and neglect information.

(1) For purposes of this section:

(a) "Direct service worker" means the same as that term is defined in Section 26B-6-401.

(b) "Personal care attendant" means the same as that term is defined in Section [~~26B-6-401~~]26B-6-101.

(2) With respect to a licensee, a direct service worker, or a personal care attendant, the department may access the database created by Section 26B-6-210 for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to vulnerable adults, has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a licensee that a person associated with the licensee has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation;

(b) (i) determining whether a direct service worker has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; or

(c) (i) determining whether a personal care attendant has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a person described in Subsections 26B-6-401(9)(a)(i) through (iv) that a personal care attendant has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation.

(3) The department shall receive and process personal identifying information under Subsection 26B-2-120(2) for the purposes described in Subsection (2).

(4) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this part and Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a Vulnerable Adult, defining the circumstances under which a person may have direct access or provide services to vulnerable adults when the person is listed in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210 as having a supported or substantiated finding of abuse, neglect, or exploitation.

Section 3. Section 26B-5-301 is amended to read:

26B-5-301. Definitions.

As used in this part, Part 4, Commitment of Persons Under Age 18, and Part 5, Essential Treatment and Intervention:

(1) "Adult" means an individual 18 years old or older.

(2) "Approved treatment facility or program" means a mental health or substance use treatment provider that meets the goals and measurements described in Subsection 26B-5-102(2)(j).

(3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section 26B-5-351.

(4) "Attending physician" means a physician licensed to practice medicine in this state who has primary responsibility for the care and treatment of the declarant.

(5) "Attorney-in-fact" means an adult properly appointed under this part to make mental health treatment decisions for a declarant under a declaration for mental health treatment.

(6) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.

(7) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.

(8) "Designated examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of mental illness.

(9) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.

(10) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult's substance use disorder.

(11) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406(2)(a) through (l):

(a) sexual intercourse;

(b) penetration, however slight, of the genital or anal opening of the individual;

(c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or

(d) any sexual act causing substantial emotional injury or bodily pain.

(12) "Informed waiver" means the patient was informed of a right and, after being informed of that right and the patient's right to waive the right, expressly communicated his or her intention to waive that right.

(13) "Incapable" means that, in the opinion of the court in a guardianship proceeding under Title 75, Utah Uniform Probate Code, or in the opinion of two physicians, a person's ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that the person currently lacks the capacity to make mental health treatment decisions.

(14) "Institution" means a hospital or a health facility licensed under Section 26B-2-206.

(15) "Lay person" means an individual identified and authorized by a patient to participate in activities related to the patient's commitment, including court appearances, discharge planning, and grievances, except that a patient may revoke a lay person's authorization at any time.

(16) "Local substance abuse authority" means the same as that term is defined in Section 26B-5-101 and described in Section 17-43-201.

[~~(16)~~](17) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract

with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

[~~(17)~~](18) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:

(a) apply for and provide certification for a temporary commitment; or

(b) assist in the arrangement of transportation to a designated mental health facility.

[~~(18)~~](19) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

[~~(19)~~](20) "Mental health treatment" means convulsive treatment, treatment with psychoactive medication, or admission to and retention in a facility for a period not to exceed 17 days.

[~~(20)~~](21) "Patient" means an individual who is:

(a) under commitment to the custody or to the treatment services of a local mental health authority; or

(b) undergoing essential treatment and intervention.

[~~(21)~~](22) "Physician" means an individual who is:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(22)~~](23) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

[~~(23)~~](24) "State hospital" means the Utah State Hospital established in Section 26B-5-302.

[~~(24)~~](25) "Substantial danger" means that due to mental illness, an individual is at serious risk of:

(a) suicide;

(b) serious bodily self-injury;

(c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual;

(e) engaging in harmful sexual conduct; or

(f) if not treated, suffering severe and abnormal mental, emotional, or physical distress that:

(i) is associated with significant impairment of judgment, reason, or behavior; and

(ii) causes a substantial deterioration of the individual's previous ability to function independently.

[~~(25)~~](26) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 4. Section 26B-5-310 is amended to read:

26B-5-310. Restrictions and limitations -- Rights and privileges.

(1) Subject to the general rules of the division, subject to the requirement in Subsection (2) that the reason, nature, and extent of any limitation or denial of a patient's right shall be entered in the patient's treatment record, and except to the extent that the director or [~~his~~]the director's designee determines that it is necessary for the welfare of the patient or the patient's caretakers to impose restrictions, every patient is entitled to:

(a) (i) communicate, by sealed mail or otherwise, with persons, including official agencies, inside or outside the [~~facility~~]responsible mental health authority, local substance abuse authority, or approved treatment facility or program;

(ii) be provided with letter-writing materials, including postage; and

(iii) have staff of the responsible mental health authority, local substance abuse authority, or approved treatment facility or program assist the patient if the patient is unable to write, prepare, or mail correspondence;

(b) have frequent and consistent opportunities to receive visitors [~~; and~~]at reasonable times that do not interfere with clinical activities;

(c) speak or visit with the patient's attorney or clergy member within a reasonable period of time;

(d) exercise all civil rights, including the right to dispose of property, execute instruments, make purchases, enter contractual relationships, and vote, unless the patient has been adjudicated to be incompetent and has not been restored to legal capacity[~~.~~];

(e) while in an inpatient or residential facility, have access to adequate water and food and have the patient's nutritional needs met in a manner that is consistent with recognized dietary practices;

(f) be treated fairly, with respect and recognition of the patient's dignity and individuality;

(g) not be discriminated against on the basis of a characteristic identified in Subsection 57-21-5(1);

(h) within 72 business hours after the patient's request, see and receive the services of a patient representative, including a peer specialist or patient advocate, who is not involved in the direct clinical care of the patient;

(i) have the patient's behavioral health orders for scope of treatment, declaration for mental health treatment, or other psychiatric advance directive reviewed and considered as the preferred treatment option for involuntary administration of medications by the responsible local mental health authority, local substance abuse authority, or approved treatment facility or program, unless by clear and convincing evidence the patient's directive does not qualify as effective participation in behavioral health decision-making;

(j) with the patient's consent, have the patient's information or records disclosed to an adult family member, the patient's lay person, or, in accordance with state and federal law, to a protection and advocacy system designated pursuant to 42 U.S.C. Sec. 10801 et seq.;

(k) (i) access to a telephone to make and receive private calls, unless determined a clinical or safety risk; and

(ii) staff assistance to be able to communicate with others, if the patient does not have a contact list;

(l) wear the patient's own clothes, keep and use the patient's own possessions, and keep and be allowed to spend a reasonable amount of the patient's own money, unless deemed a clinical or safety risk; and

(m) be told:

(i) the reason for the patient's detainment and the limitation of the patient's detainment, including a description of the patient's right to refuse medication unless the patient requires emergency medications; and

(ii) that the patient's commitment does not mean all treatment during commitment is mandatory.

(2) (a) When any right of a patient is limited or denied, the nature, extent, and reason for that limitation or denial shall be entered in the patient's treatment record.

(b) Information pertaining to a denial of any right of a patient shall be made available, upon request, to the patient, the patient's attorney, and the patient's lay person.

(c) Any continuing denial or limitation of any right of a patient shall be reviewed every 30 days and shall also be entered in [~~that~~]the patient's treatment record.

(d) Notice of [~~that~~]a continuing denial of any right of a patient in excess of 30 days shall be sent to the division, the [~~appropriate~~]responsible local mental health authority, the appropriate local substance abuse authority, or an approved treatment facility or program [~~, whichever is most applicable to the patient~~].

[~~(3) Notwithstanding any limitations authorized under this section on the right of communication, each patient is entitled to communicate by sealed mail with the appropriate local mental health authority, the appropriate local substance abuse authority, an approved treatment facility or program, the division, the patient's attorney, and the court, if any, that ordered the patient's commitment or essential treatment. In no case may the patient be denied a visit with the legal counsel or clergy of the patient's choice.~~]

[~~(4)~~](3) Local mental health authorities, local substance abuse authorities, and approved treatment facilities or programs shall provide reasonable means and arrangements for informing involuntary patients of their right to release as provided in this chapter, and for assisting them in making and presenting requests for release.

[~~(5)~~](4) [~~Mental~~]Local mental health facilities, local substance abuse authorities, and approved treatment facilities or programs shall post a statement, created by the division, describing a patient's rights under Utah law.

[~~(6)~~](5) A local mental health authority, local substance abuse authority, or approved treatment facility or program may not intentionally retaliate or discriminate against a detained patient or employee for contacting or providing information to any official or to an employee of any state protection and advocacy agency or for initiating, participating in, or testifying in a grievance procedure or in an action for any remedy authorized pursuant to this section.

(6) Notwithstanding Section 53B-17-303, an individual committed under this chapter has the right to determine the final disposition of that individual's body after death.

Section 5. Section 26B-5-322 is amended to read:

26B-5-322. Criminal's escape -- Penalty.

Any person committed to the state hospital under the provisions of [~~Title 77, Chapter 15, Inquiry into Sanity of Defendant~~]Title 77, Chapter 15, Defendant's Competency to Proceed, or Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, who escapes or leaves the state hospital without proper legal authority is guilty of a class A misdemeanor.

Section 6. Section 26B-5-332 is amended to read:

26B-5-332. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number;

(b) (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based; and

(c) a statement whether the proposed patient has previously been under an assisted outpatient treatment order, if known by the applicant.

(2) Before issuing a judicial order, the court:

(a) shall require the applicant to consult with the appropriate local mental health authority at or before the hearing; and

(b) may direct a mental health professional from the local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report the existing facts to the court.

(3) The court may issue an order, directed to a mental health officer or peace officer, to immediately place a proposed patient in the custody of a local mental health authority or in a temporary emergency facility, as described in Section 26B-5-334, to be detained for the purpose of examination if:

(a) the court finds from the application, any other statements under oath, or any reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a danger to self or others and requires involuntary commitment pending examination and hearing; or

(b) the proposed patient refuses to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily.

(4) (a) The court shall provide notice of commencement of proceedings for involuntary commitment, setting forth the allegations of

the application and any reported facts, together with a copy of any official order of detention, to a proposed patient before, or upon, placement of the proposed patient in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court.

(b) The place of detention shall maintain a copy of the order of detention.

(5) (a) The court shall provide notice of commencement of proceedings for involuntary commitment as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or the local mental health authority's designee, and any other persons whom the proposed patient or the court designates.

(b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall advise the persons that a hearing may be held within the time provided by law.

(c) If the proposed patient refuses to permit release of information necessary for provisions of notice under this subsection, the court shall determine the extent of notice.

(6) Proceedings for commitment of an individual under 18 years old to a local mental health authority may be commenced in accordance with Part 4, Commitment of Persons Under Age 18.

(7) (a) The court may, in the court's discretion, transfer the case to any other district court within this state, if the transfer will not be adverse to the interest of the proposed patient.

(b) If a case is transferred under Subsection (7)(a), the parties to the case may be transferred and the local mental health authority may be substituted in accordance with Utah Rules of Civil Procedure, Rule 25.

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or the local mental health authority's designee under court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is:

(i) a licensed physician; or

(ii) a psychiatric mental health nurse practitioner or a psychiatric mental health clinical nurse specialist who:

(A) is nationally certified;

(B) is doctorally trained; and

(C) has at least two years of inpatient mental health experience, regardless of the license the individual held at the time of that experience; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days after the day on which the designated examiners are appointed.

(10) (a) The designated examiners shall [~~:~~]

[~~(i)~~] conduct the examinations separately [~~;~~].

[~~(ii)~~](b) [~~conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place, including~~]The designated examiners shall conduct the examinations:

(i) through telehealth [~~,~~]unless the designated examiner determines that:

(A) a telehealth examination would not be sufficient to properly assess the proposed patient;

(B) a telehealth examination would have a harmful effect on the proposed patient's health; or

(C) an in-person examination can be conducted as effectively, conveniently, and timely as an examination through telehealth; and

(ii) if the designated examiner determines, pursuant to Subsection (10)(b)(i), that the examination should be conducted in person, at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place that is not likely to have a harmful effect on the proposed patient's health[~~;~~].

[~~(iii)~~](c) The designated examiners shall inform the proposed patient, if not represented by an attorney:

[~~(A)~~](i) that the proposed patient does not have to say anything;

[~~(B)~~](ii) of the nature and reasons for the examination;

[~~(C)~~](iii) that the examination was ordered by the court;

[~~(D)~~](iv) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment;

[~~(E)~~](v) that findings resulting from the examination will be made available to the court; and

[~~(F)~~](vi) that the designated examiner may, under court order, obtain the proposed patient's mental health records [~~; and~~].

[~~(iv)~~](d) [~~within~~]Within 24 hours of examining the proposed patient, a designated examiner shall report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section 26B-5-360, or has acceptable programs available to the proposed patient without court proceedings.

[~~(b)~~](e) If a designated examiner reports orally under Subsection [~~(10)(a)~~](10)(d), the designated examiner shall immediately send a written report to the clerk of the court.

(11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, the local mental health authority's designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer exist, the local mental health authority, the local mental health authority's designee, or the medical examiner shall immediately report the determination to the court.

(13) (a) The court shall terminate the proceedings and dismiss the application before the hearing if both designated examiners inform the court that the proposed patient does not meet the criteria in Subsection (16).

(b) The court may terminate the proceedings and dismiss the application at any time, including before the hearing, if the designated examiners or the local mental health authority or the local mental health authority's designee informs the court that the proposed patient:

[~~(a) does not meet the criteria in Subsection (16);~~]

[~~(b)~~](i) has agreed to voluntary commitment, as described in Section 26B-5-360;

[~~(c)~~](ii) has acceptable options for treatment programs that are available without court proceedings; or

[~~(d)~~](iii) meets the criteria for assisted outpatient treatment described in Section 26B-5-351.

(14) (a) Before the hearing, the court shall provide the proposed patient an opportunity to be represented by counsel, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing.

(b) In the case of an indigent proposed patient, the county in which the proposed patient resides or is found shall make payment of reasonable attorney fees for counsel, as determined by the court.

(15) (a) (i) The court shall afford the proposed patient, the applicant, and any other person to whom notice is required to be given an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses.

(ii) The court may, in the court's discretion, receive the testimony of any other person.

(iii) The court may allow a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.

(b) The court is authorized to exclude any person not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each designated examiner to be given out of the presence of any other designated examiners.

(c) The court shall:

(i) conduct the hearing in as informal a manner as may be consistent with orderly procedure[~~, and~~]; and

(ii) while preserving the due process rights of the proposed patient:

(A) conduct the hearing remotely, in accordance with Utah Rules of Civil Procedure, Rule 87, unless the court finds good cause under Rule 87 not to conduct the hearing remotely; or

(B) if the court finds good cause under Rule 87 not to conduct the hearing remotely, conduct the hearing in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient [~~, while preserving the due process rights of the proposed patient~~].

(d) The court shall consider any relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Utah Rules of Evidence, Rule 1102.

(e) (i) A local mental health authority or the local mental health authority's designee or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes;

(G) medication records pertaining to the current commitment; and

(H) whether the proposed patient has previously been civilly committed or under an order for assisted outpatient treatment.

(ii) The local mental health authority or the local mental health authority's designee or the physician in charge of the proposed patient's care shall also supply the information described in Subsection (15)(e)(i) [~~shall also be supplied~~]to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request by the proposed patient's counsel.

(16) (a) The court shall order commitment of an adult proposed patient to a local mental health authority if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(i) (A) the proposed patient has a mental illness;

(B) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;

(C) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;

(D) there is no appropriate less-restrictive alternative to a court order of commitment; and

(E) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs; or

(ii) (A) the proposed patient has been charged with a criminal offense;

(B) with respect to the charged offense, the proposed patient is found incompetent to proceed as a result of a mental illness;

(C) the proposed patient has a mental illness;

(D) the proposed patient has a persistent unawareness of their mental illness and the negative consequences of that illness, or within the preceding six months has been requested or ordered to undergo mental health treatment but has unreasonably refused to undergo that treatment;

(E) there is no appropriate less-restrictive alternative to a court order of commitment; and

(F) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs.

(b) (i) If, at the hearing, the court determines that the proposed patient has a mental illness but does not meet the other criteria described in Subsection (16)(a), the court may consider whether the proposed patient meets the criteria for assisted outpatient treatment under Section 26B-5-351.

(ii) The court may order the proposed patient to receive assisted outpatient treatment in accordance with Section 26B-5-351 if, at the hearing, the court finds the proposed patient meets the criteria for assisted outpatient treatment under Section 26B-5-351.

(iii) If the court determines that neither the criteria for commitment under Subsection (16)(a) nor the criteria for assisted outpatient treatment under Section 26B-5-351are met, the court shall dismiss the proceedings after the hearing.

(17) (a) (i) The order of commitment shall designate the period for which the patient shall be treated.

(ii) If the patient is not under an order of commitment at the time of the hearing, the patient's treatment period may not exceed six months without a review hearing.

(iii) Upon a review hearing, to be commenced before the expiration of the previous order of commitment, an order for commitment

may be for an indeterminate period, if the court finds by clear and convincing evidence that the criteria described in Subsection (16) will last for an indeterminate period.

(b) (i) The court shall maintain a current list of all patients under the court's order of commitment and review the list to determine those patients who have been under an order of commitment for the court designated period.

(ii) At least two weeks before the expiration of the designated period of any order of commitment still in effect, the court that entered the original order of commitment shall inform the appropriate local mental health authority or the local mental health authority's designee of the expiration.

(iii) Upon receipt of the information described in Subsection (17)(b)(ii), the local mental health authority or the local mental health authority's designee shall immediately reexamine the reasons upon which the order of commitment was based.

(iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from involuntary commitment and immediately report the discharge to the court.

(v) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(c) (i) The local mental health authority or the local mental health authority's designee responsible for the care of a patient under an order of commitment for an indeterminate period shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate commitment was based.

(ii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from the local mental health authority's or the local mental health authority designee's custody and immediately report the discharge to the court.

(iii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the local mental health authority or the local mental health authority's designee shall send a written report of the findings to the court.

(iv) [~~A~~]The local mental health authority or the local mental health authority's designee shall notify the patient and the patient's counsel of record [~~shall be notified~~]in writing that the involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for the decision to continue, and that the patient has the right to a review hearing by making a request to the court.

(v) Upon receiving a request under Subsection (17)(c)(iv), the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(18) (a) Any patient committed as a result of an original hearing or a patient's legally designated representative who is aggrieved by the findings, conclusions, and order of the court entered in the original hearing has the right to a new hearing upon filing a petition [~~filed~~]with the court within 30 days after the day on which the court entered the order[~~is entered~~].

(b) The petition shall allege error or mistake in the findings, in which case the court shall appoint three impartial designated examiners previously unrelated to the case to conduct an additional examination of the patient.

(c) Except as provided in Subsection (18)(b), the court shall, in all other respects, conduct the new hearing in the manner otherwise permitted.

(19) The county in which the proposed patient resides or is found shall pay the costs of all proceedings under this section.

(20) (a) A local mental health authority shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the local mental health authority's custody, regardless of the circumstances under which the individual is discharged.

(b) Discharge instructions provided under Subsection (20)(a) shall include:

(i) a summary of why the individual was committed to the local mental health authority;

(ii) detailed information about why the individual is being discharged from the local mental health authority's custody;

(iii) a safety plan for the individual based on the individual's mental illness or mental or emotional state;

(iv) notification to the individual's primary care provider, if applicable;

(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

(vi) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

(vii) a copy of any psychiatric advance directive presented to the local mental health authority, if applicable;

(viii) information about how to establish a psychiatric advance directive if one was not presented to the local mental health authority;

(ix) as applicable, information about medications that were changed or discontinued during the commitment;

(x) a list of any screening or diagnostic tests conducted during the commitment;

(xi) a summary of therapeutic treatments provided during the commitment;

(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and

(xiii) information about how to contact the local mental health authority if needed.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (20)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) If an individual refuses to accept discharge instructions, the local mental health authority shall document the refusal in the individual's medical record.

(e) If an individual's discharge instructions include referrals to services under Subsection (20)(b)(v), the local mental health authority shall document those referrals in the individual's medical record.

(f) The local mental health authority shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

(21) If any provision of Subsection (16)(a)(ii) or the application of any provision of Subsection (16)(a)(ii) to any person or circumstance is held invalid by a court with jurisdiction, the remainder of Subsection (16)(a)(ii) shall be given effect without the invalid provision or application. The provisions of Subsection (16)(a)(ii) are severable.

Section 7. Section 26B-5-362 is amended to read:

26B-5-362. Commitment and care of criminally insane.

Nothing contained in this part may be construed to alter or change the method presently employed for the commitment and care of the criminally insane as provided in [~~Title 77, Chapter 15, Inquiry into Sanity of Defendant~~]Title 77, Chapter 15, Defendant's Competency to Proceed.

Section 8. Section 26B-5-371 is amended to read:

26B-5-371. Utah Forensic Mental Health Facility -- Design and operation -- Security.

(1) The forensic mental health facility is a secure treatment facility.

(2) (a) The forensic mental health facility accommodates the following populations:

(i) prison inmates displaying mental illness necessitating treatment in a secure mental health facility;

(ii) criminally adjudicated persons found guilty with a mental illness or guilty with a mental condition at the time of the offense undergoing evaluation for a mental condition under Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition;

(iii) criminally adjudicated persons undergoing evaluation for competency or found guilty with a mental condition or guilty with a mental condition at the time of the offense under Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, who also have an intellectual disability;

(iv) persons undergoing evaluation for competency or found by a court to be incompetent to proceed in accordance with [~~Title 77, Chapter 15, Inquiry into Sanity of Defendant~~]Title 77, Chapter 15, Defendant's Competency to Proceed, or not guilty by reason of insanity under Title 77, Chapter 14, Defenses;

(v) persons who are civilly committed to the custody of a local mental health authority in accordance with this part, and who may not be properly supervised by the Utah State Hospital because of a lack of necessary security, as determined by the superintendent or the superintendent's designee; and

(vi) persons ordered to commit themselves to the custody of the division for treatment at the Utah State Hospital as a condition of probation or stay of sentence pursuant to Title 77, Chapter 18, The Judgment.

(b) Placement of an offender in the forensic mental health facility under any category described in Subsection (2)(a)(ii), (iii), (iv), or (vi) shall be made on the basis of the offender's status as established by the court at the time of adjudication.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules providing for the allocation of beds to the categories described in Subsection (2)(a).

(3) The department shall:

(a) own and operate the forensic mental health facility;

(b) provide and supervise administrative and clinical staff; and

(c) provide security staff who are trained as psychiatric technicians.

(4) Pursuant to Subsection 26B-5-303(3) the executive director shall designate individuals to perform security functions for the state hospital.

Section 9. Section 26B-6-401 is amended to read:

26B-6-401. Definitions.

As used in this part:

(1) "Approved provider" means a person approved by the division to provide home-and community-based services.

(2) "Board" means the Utah State Developmental Center Board created under Section 26B-1-429.

(3) (a) "Brain injury" means an acquired injury to the brain that is neurological in nature, including a cerebral vascular accident.

(b) "Brain injury" does not include a deteriorating disease.

(4) "Designated intellectual disability professional" means:

(a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act, who:

(i) (A) has at least one year of specialized training in working with persons with an intellectual disability; or

(B) has at least one year of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability; or

(b) a clinical social worker, certified social worker, marriage and family therapist, or professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, who:

(i) has at least two years of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability.

(5) "Deteriorating disease" includes:

(a) multiple sclerosis;

(b) muscular dystrophy;

(c) Huntington's chorea;

(d) Alzheimer's disease;

(e) ataxia; or

(f) cancer.

(6) "Developmental center" means the Utah State Developmental Center, established in accordance with Part 5, Utah State Developmental Center.

(7) "Director" means the director of the Division of Services for People with Disabilities.

(8) "Direct service worker" means a person who provides services to a person with a disability:

(a) when the services are rendered in:

(i) the physical presence of the person with a disability; or

(ii) a location where the person rendering the services has access to the physical presence of the person with a disability; and

(b) (i) under a contract with the division;

(ii) under a grant agreement with the division; or

(iii) as an employee of the division.

(9) (a) "Disability" means a severe, chronic disability that:

(i) is attributable to:

(A) an intellectual disability;

(B) a condition that qualifies a person as a person with a related condition, as defined in 42 C.F.R. Sec. 435.1010;

(C) a physical disability; or

(D) a brain injury;

(ii) is likely to continue indefinitely;

(iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a substantial functional limitation in three or more of the following areas of major life activity:

(I) self-care;

(II) receptive and expressive language;

(III) learning;

(IV) mobility;

(V) self-direction;

(VI) capacity for independent living; or

(VII) economic self-sufficiency; or

(B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial limitation in three or more of the following areas:

(I) memory or cognition;

(II) activities of daily life;

(III) judgment and self-protection;

(IV) control of emotions;

(V) communication;

(VI) physical health; or

(VII) employment; and

(iv) requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that:

(A) may continue throughout life; and

(B) must be individually planned and coordinated.

(b) "Disability" does not include a condition due solely to:

(i) mental illness;

(ii) personality disorder;

(iii) deafness or being hard of hearing;

(iv) visual impairment;

(v) learning disability;

(vi) behavior disorder;

(vii) substance abuse; or

(viii) the aging process.

(10) "Division" means the Division of Services for People with Disabilities.

(11) "Eligible to receive division services" or "eligibility" means qualification, based on criteria established by the division, to receive services that are administered by the division.

(12) "Endorsed program" means a facility or program that:

(a) is operated:

(i) by the division; or

(ii) under contract with the division; or

(b) provides services to a person committed to the division under Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(13) "Licensed physician" means:

(a) an individual licensed to practice medicine under:

(i) Title 58, Chapter 67, Utah Medical Practice Act; or

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(b) a medical officer of the United States Government while in this state in the performance of official duties.

(14) "Limited support services" means services that are administered by the division to individuals with a disability:

(a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for Medicare and Medicaid Services that permits the division to limit services to an individual who is eligible to receive division services; and

(b) through a program that:

(i) was not operated by the division on or before January 1, 2020; and

(ii) (A) limits the kinds of services that an individual may receive; or

(B) sets a maximum total dollar amount for program services provided to each individual.

(15) "Physical disability" means a medically determinable physical impairment that has resulted in the functional loss of two or more of a person's limbs.

(16) "Public funds" means state or federal funds that are disbursed by the division.

(17) (a) "Related condition" means a severe, chronic condition that:

(i) manifests before the day on which an individual turns 22 years old;

(ii) is likely to continue indefinitely;

(iii) results in substantial functional limitations;

(iv) is closely related to an intellectual disability because the condition results in the impairment of:

(A) general intellectual functioning, similar to that of an individual with an intellectual disability; or

(B) adaptive behavior, similar to that of an individual with an intellectual disability; and

(v) requires treatment or services similar to the treatment or services required for an individual with an intellectual disability.

(b) "Related condition" does not include mental illness, as that term is defined in Section 26B-5-301.

[~~(17)~~](18) "Resident" means an individual under observation, care, or treatment in an intermediate care facility for people with an intellectual disability.

(19) "Substantial danger" means that because of an intellectual disability or related condition, an individual is at risk of:

(a) suicide;

(b) serious bodily self-injury;

(c) serious bodily injury because the individual lacks capacity to provide the basic necessities of life, such as food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury or serious emotional harm to another individual;

(e) engaging in harmful sexual conduct, as that term is defined in Section 26B-5-301; or

(f) suffering serious physical harm or serious emotional harm as a result of being exploited, abused, or neglected.

[~~(18)~~](20) "Sustainability fund" means the Utah State Developmental Center Long-Term Sustainability Fund created in Section 26B-1-331.

Section 10. Section 26B-6-606 is amended to read:

26B-6-606. Involuntary commitment.

An individual with an intellectual disability or related condition may not be involuntarily committed to [~~an intermediate care facility for people with an intellectual disability~~]the division except in accordance with Sections 26B-6-607 and 26B-6-608.

Section 11. Section 26B-6-607 is amended to read:

26B-6-607. Temporary emergency commitment -- Observation and evaluation.

(1) [~~The director of the division or his designee may temporarily commit an individual to the division and therefore, as a matter of course, to an intermediate care facility for people with an intellectual disability for observation and evaluation~~]An individual with an intellectual disability or related condition may be committed to the division on an emergency basis upon [~~:~~]

[~~(a) written application by a responsible person who has reason to know that the individual is in need of commitment, stating:~~]

[~~(i) a belief that the individual has an intellectual disability and is likely to cause serious injury to self or others if not immediately committed;~~]

[~~(ii) personal knowledge of the individual's condition; and~~]

[~~(iii) the circumstances supporting that belief; or~~]

[~~(b)~~] certification by a [~~licensed physician or~~]designated intellectual disability professional stating that the [~~physician or~~]designated intellectual disability professional:

[~~(i)~~](a) has examined the individual within a three-day period, excluding Saturdays, Sundays, and state holidays, immediately preceding the certification; and

[~~(ii)~~](b) is of the opinion that the individual has an intellectual disability or related condition, and that because of the individual's intellectual disability [~~is likely to injure~~]or related condition is a substantial danger to self or others [~~if not immediately committed~~].

(2) If the individual in need of commitment is not placed in the custody of the director or the director's designee by the person submitting the [~~application, the director's~~]certification, the director or the director's designee may certify, either in writing or orally that the individual is in need of immediate commitment to prevent [~~injury~~]posing substantial danger to self or others.

(3) Upon receipt of the [~~application~~]certification required by Subsection [~~(1)(a) and the certifications required by Subsections (1)(b) and (2)~~](2), a peace officer [~~may take the individual named in the application and certificates into custody, and~~]may transport the individual to a [~~designated intermediate care facility for people with an intellectual disability~~]placement designated by the division.

(4) (a) An individual committed under this section may be held for a maximum of [~~72 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time,~~]10 days, after which the individual shall be released unless proceedings for involuntary commitment have been commenced under Section 26B-6-608.

(b) [~~After~~]If proceedings for involuntary commitment have been commenced[~~the individual shall be released unless an order of detention is issued in accordance with Section 26B-6-608~~], an emergency order under this section remains in effect until:

(i) the division determines that the conditions justifying commitment no longer exist; or

(ii) a court order is issued pursuant to Section 26B-6-608.

(5) (a) If an individual is committed to the division under this section[~~on the application of any person other than the individual's legal guardian, spouse, parent, or next of kin~~], the director or [~~his~~]the director's designee shall immediately give notice of the commitment to the individual's legal guardian[~~, spouse, parent, or next of kin~~], if known.

(b) (i) Immediately after an individual is committed to the division under this section, the division shall inform the individual, orally and in writing, of the individual's right to communicate with an attorney.

(ii) If the individual desires to communicate with an attorney, the division shall take immediate steps to assist the individual in contacting and communicating with an attorney.

(6) (a) The division [~~or an intermediate care facility~~]shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the custody of the division[~~or intermediatecare facility~~], regardless of whether the individual is discharged by being released or under other circumstances.

(b) Discharge instructions provided under Subsection (6)(a) shall include:

(i) a summary of why the individual was committed;

(ii) detailed information about why the individual is being discharged;

(iii) a safety plan for the individual based on the individual's intellectual disability and condition;

(iv) notification to the individual's primary care provider, if applicable;

(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

(vi) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

(vii) a copy of any advance directive presented to the local mental health authority, if applicable;

(viii) information about how to establish an advance directive if one was not presented to the division [~~or intermediatecare facility~~];

(ix) as applicable, information about medications that were changed or discontinued during the commitment;

(x) a list of any screening or diagnostic tests conducted during the commitment;

(xi) a summary of therapeutic treatments provided during the commitment;

(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and

(xiii) information about how to contact the division [~~or intermediatecare facility~~] if needed.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (6)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) If an individual refuses to accept discharge instructions, the division [~~or intermediatecare facility~~] shall document the refusal in the individual's medical record.

(e) If an individual's discharge instructions include referrals to services under Subsection (6)(b)(v), the division [~~or intermediatecare facility~~] shall document those referrals in the individual's medical record.

(f) The division shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 12. Section 26B-6-608 is amended to read:

26B-6-608. Involuntary commitment -- Procedures -- Necessary findings -- Periodic review.

[~~(1) Any responsible person who has reason to know that an individual is in need of commitment, who has a belief that the individual has an intellectual disability, and who has personal knowledge of the conditions and circumstances supporting that belief, may commence proceedings for involuntary commitment by filing a written petition with the district court, or if the subject of the petition is less than 18 years old with the juvenile court, of the county in which the individual to be committed is physically located at the time the petition is filed. The application shall be accompanied by:~~]

[~~(a) a certificate of a licensed physician or a designated intellectual disability professional, stating that within a seven-day period immediately preceding the certification, the physician or designated intellectual disability professional examined the individual and believes that the individual has an intellectual disability and is in need of involuntary commitment; or~~]

[~~(b) a written statement by the petitioner that:~~]

[~~(i) states that the individual was requested to, but refused to, submit to an examination for an intellectual disability by a licensed physician or designated intellectual disability professional, and that the individual refuses to voluntarily go to the division or an intermediate care facility for people with an intellectual disability recommended by the division for treatment;~~]

[~~(ii) is under oath; and~~]

[~~(iii) sets forth the facts on which the statement is based.~~]

[~~(2) Before issuing a detention order, the court may require the petitioner to consult with personnel at the division or at an intermediate care facility for people with an intellectual disability and may direct a designated intellectual disability professional to interview the petitioner and the individual to be committed, to determine the existing facts, and to report them to the court.~~]

[~~(3) The court may issue a detention order and may direct a peace officer to immediately take the individual to an intermediate care facility for people with an intellectual disability to be detained for purposes of an examination if the court finds from the petition, from other statements under oath, or from reports of physicians or designated intellectual disability professionals that there is a reasonable basis to believe that the individual to be committed:~~]

[~~(a) poses an immediate danger of physical injury to self or others;~~]

[~~(b) requires involuntary commitment pending examination and hearing;~~]

[~~(c) the individual was requested but refused to submit to an examination by a licensed physician or designated intellectual disability professional; or~~]

[~~(d) the individual refused to voluntarily go to the division or to an intermediate care facility for people with an intellectual disability recommended by the division.~~]

[~~(4) (a) If the court issues a detention order based on an application that did not include a certification by a designated intellectual disability professional or physician in accordance with Subsection (1)(a), the director or his designee shall within 24 hours after issuance of the detention order, excluding Saturdays, Sundays, and legal holidays, examine the individual, report the results of the examination to the court and inform the court:~~]

[~~(i) whether the director or his designee believes that the individual has an intellectual disability; and~~]

[~~(ii) whether appropriate treatment programs are available and will be used by the individual without court proceedings.~~]

[~~(b) If the report of the director or his designee is based on an oral report of the examiner, the examiner shall immediately send the results of the examination in writing to the clerk of the court.~~]

[~~(5) Immediately after an individual is involuntarily committed under a detention order or under Section 26B-6-607, the director or his designee shall inform the individual, orally and in writing, of his right to communicate with an attorney. If an individual desires to~~

~~communicate with an attorney, the director or his designee shall take immediate steps to assist the individual in contacting and communicating with an attorney.~~]

(1) (a) Any responsible person who has reason to know that an individual is in need of commitment, who has a belief that the individual has an intellectual disability or related condition, and who has personal knowledge of the conditions and circumstances supporting that belief, may make a referral to the division to conduct an assessment to determine if the individual meets the criteria for involuntary commitment under this section.

(b) (i) To conduct an assessment of an individual who may be in need of commitment under this section, the division shall have two designated intellectual disability professionals examine the individual.

(ii) The examinations described in Subsection (1)(b)(i) shall be conducted separately and at a suitable location not likely to have a harmful effect on the individual being examined.

(c) If the designated intellectual disability professionals who conduct the examinations described in Subsection (1)(b)(i) both believe the examined individual meets the criteria for involuntary commitment under this section, the division may file a written petition to commence involuntary commitment proceedings with the district court, or with the juvenile court if the subject of the petition is less than 18 years old, of the county in which the subject of the petition is physically located at the time the petition is filed.

(d) (i) The division shall include with a petition described in Subsection (1)(c) a certification from each of the designated intellectual disability professionals who examined the subject of the petition.

(ii) A designated intellectual disability professional's certification shall state that:

(A) within a seven-day period immediately preceding the filing of the petition, the designated intellectual disability professional examined the subject of the petition separate from the other designated intellectual disability professional; and

(B) it is the designated intellectual disability professional's belief that the subject of the petition has an intellectual disability or related condition and meets the criteria for involuntary commitment under this section.

(2) (a) If, pursuant to Title 77, Chapter 15, Defendant's Competency to Proceed, or Title 80, Chapter 6, Part 4, Competency, a prosecutor informs a court that commitment proceedings will be initiated, the prosecutor shall make a referral to the division pursuant to Subsection (1).

(b) If a prosecutor makes a referral to the division pursuant to Subsection (1), the division shall complete an assessment as described in Subsection (1)(b) within seven days after the day on which the prosecutor makes the referral unless the court enlarges the time for good cause shown.

(c) Upon completion of the assessment described in Subsection (2)(b), if the designated intellectual disability professionals who examine the individual who is the subject of the referral both certify that they believe the individual meets the criteria for involuntary commitment under this section, the division may file a petition to commence involuntary commitment proceedings in accordance with Subsections (1)(c) and (d).

[~~(6)~~](3) (a) Immediately after [~~commencement of proceedings~~]the division files a petition for involuntary commitment under this section, the court shall:

(i) schedule a hearing on the petition for no later than 10 days after the day on which the division filed the petition; and

(ii) give notice of commencement of the proceedings to:

[~~(i)~~](A) the individual to be committed;

[~~(ii)~~](B) the [~~applicant~~]referent under Subsection (1)(a) or (2)(a), if applicable;

[~~(iii)~~](C) any legal guardian of the individual;

[~~(iv)~~](D) adult members of the individual's immediate family;

[~~(v)~~](E) legal counsel of the individual to be committed, if any;

[~~(vi)~~](F) the division; and

[~~(vii)~~](G) any other person to whom the individual requests, or the court designates, notice to be given.

(b) If an individual cannot or refuses to disclose the identity of persons to be notified, the extent of notice shall be determined by the court.

[~~(7)~~](4) [~~That notice~~]The notice described in Subsection (3) shall:

(a) set forth the allegations of the petition and all supporting facts;

(b) be accompanied by a copy of [~~any detention~~]an emergency order issued under [~~Subsection (3)~~]Section 26B-6-607, if applicable; and

(c) state that a hearing will be held within the time provided by law, and give the time and place for that hearing.

[~~(8)~~](5) The court may transfer the case and the custody of the individual to be committed to any other district court within the state [~~, if:~~]if the individual resides in another jurisdiction within the state.

[~~(a) there are no appropriate facilities for persons with an intellectual disability within the judicial district; and~~]

[~~(b) the transfer will not be adverse to the interests of the individual.~~]

[~~(9) (a) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, after any order or commitment under a detention order, the court shall appoint two designated intellectual disability professionals to examine the individual. If requested by the individual's counsel, the court shall appoint a reasonably available, qualified person designated by counsel to be one of the examining designated intellectual disability professionals. The examinations shall be conducted:~~]

[~~(i) separately;~~]

[~~(ii) at the home of the individual to be committed, a hospital, an intermediate care facility for people with an intellectual disability, or any other suitable place not likely to have a harmful effect on the individual; and~~]

[~~(iii) within a reasonable period of time after appointment of the examiners by the court.~~]

[~~(b) The court shall set a time for a hearing to be held within 10 court days of the appointment of the examiners. However, the court may immediately terminate the proceedings and dismiss the application if, prior to the hearing date, the examiners, the director, or his designee informs the court that:~~]

[~~(i) the individual does not have an intellectual disability; or~~]

[~~(ii) treatment programs are available and will be used by the individual without court proceedings.~~]

[~~(10)~~](6) (a) (i) Each individual has the right to be represented by counsel at the commitment hearing and in all preliminary proceedings.

(ii) If neither the individual nor others provide counsel, []the court shall appoint counsel and allow sufficient time for counsel to consult

with the individual prior to any hearing.

(b) If the individual is indigent, the county in which the individual was physically located when taken into custody shall pay reasonable attorney fees as determined by the court.

[~~(11)~~](7) [~~The division or a designated intellectual disability professional in charge of the individual's care~~]Upon order of the court, the division or the division's designee shall provide all [~~documented information on~~]relevant documentation on the individual to be committed [~~and~~]to the court [~~at the time of the hearing. The~~]and the individual's attorney [~~shall have access to all documented information on the individual at the time of and prior to the hearing~~].

[~~(12)~~](8) (a) The court shall provide an opportunity to the individual, the petitioner, and all other persons to whom notice is required to be given to appear at the hearing, to testify, and to present and cross-examine witnesses.

(b) The court may, in its discretion:

(i) receive the testimony of any other person;

(ii) allow a waiver of the right to appear only for good cause shown;

(iii) exclude from the hearing all persons not necessary to conduct the proceedings; and

(iv) upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiner.

(c) (i) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the individual.

(ii) The Utah Rules of Evidence apply, and the hearing shall be a matter of court record.

(iii) A verbatim record of the proceedings shall be maintained.

[~~(13)~~](9) The court may order commitment if, upon completion of the hearing and consideration of the record, [~~it~~]the court finds by clear and convincing evidence that all of the following conditions are met:

(a) the individual to be committed has an intellectual disability or a related condition;

(b) because of the individual's intellectual disability or related condition, one or more of the following conditions exist:

(i) the individual poses [~~an immediate danger of physical injury~~]substantial danger to self or others;

(ii) the individual lacks the capacity to provide the basic necessities of life, such as food, clothing, or shelter; [~~or~~]

(iii) the individual is in immediate need of habilitation, rehabilitation, care, or treatment to minimize the effects of the condition which poses a [~~threat of serious physical or psychological injury to the individual, and~~]risk of substantial danger to self or others; or

(iv) the individual lacks the capacity to engage in a rational decision-making process concerning the need for habilitation, rehabilitation, care, or treatment, as evidenced by an inability to weigh the possible costs and benefits of the care or treatment and the alternatives to it;

(c) there is no appropriate, less restrictive alternative reasonably available; and

(d) the division [~~or the intermediate care facility for people with an intellectual disability recommended by the division in which the individual is to be committed~~]can provide the individual with treatment, care, habilitation, or rehabilitation that is adequate and appropriate to the individual's condition and needs.

[~~(14)~~](10) In the absence of any of the required findings by the court, described in Subsection [~~(13)~~](9), the court shall dismiss the proceedings.

[~~(15)~~](11) (a) The order of commitment shall designate the period for which the individual will be committed.

(b) An initial commitment may not exceed six months. [~~Before the end of the initial commitment period, the administrator of the intermediate care facility for people with an intellectual disability shall commence a review hearing on behalf of the individual.~~]

[~~(b) At the conclusion of the review hearing, the court may issue an order of commitment for up to a one-year period.~~]

[~~(16)~~](12) (a) An individual committed under this part has the right to a rehearing [~~, upon filing a petition with the court within 30 days after entry of the court's order. If the petition for rehearing alleges error or mistake in the court's findings, the~~]if, within 15 days after the court enters the order of commitment, the individual files a petition with the court alleging error or mistake in the court's findings.

(b) Upon a request for rehearing filed in accordance with Subsection (12)(a), the court shall:

(i) appoint [~~one impartial licensed physician and~~] two impartial designated intellectual disability professionals who have not previously been involved in the case to examine the individual[~~.~~]; and

(ii) schedule a rehearing to be held within 30 days after the court entered the order of commitment.

(c) [~~The~~]In all other respects, the rehearing shall [~~, in all other respects,~~] be conducted in accordance with this part.

[~~(17)~~](13) (a) (i) The court shall maintain a current list of all individuals under its orders of commitment.

(ii) [~~That list shall be reviewed in order~~]The court shall review the list described in Subsection (13)(a)(i) to determine those patients who have been under an order of commitment for the designated period.

(b) At least two weeks prior to the expiration of the designated period of any commitment order still in effect, the court that entered the original order shall [~~inform the director of the division of the impending expiration of the designated commitment period~~]commence and send notice to all parties of a review hearing for the committed individual.

(c) Prior to the review hearing, a division-designated intellectual disability professional shall reexamine the basis for the order of commitment and provide a report of that reexamination to the court.

(d) At the conclusion of a review hearing, the court may:

(i) issue an order of commitment for up to a one-year period; or

(ii) discharge the individual from involuntary commitment if the conditions justifying commitment no longer exist.

[~~(c) The staff of the division shall immediately:~~]

[~~(i) reexamine the reasons upon which the order of commitment was based and report the results of the examination to the court;~~]

[~~(ii) discharge the resident from involuntary commitment if the conditions justifying commitment no longer exist; and~~]

[~~(iii) immediately inform the court of any discharge.~~]

[~~(d)~~](e) [~~If the director of the division reports to the court that the conditions justifying commitment no longer exist, and the administrator of the intermediate care facility for people with an intellectual disability does not discharge the individual at the end of the designated period, the court shall order the immediate discharge of the individual, unless involuntary commitment proceedings are again~~

~~commenced in accordance with this section~~]If at any time during the commitment period the director or the director's designee determines that the conditions justifying commitment no longer exist, the division shall immediately discharge the individual from the commitment and notify the court.

(f) If the division does not discharge an individual at the end of the designated period of a commitment order, the court shall order the immediate discharge of the individual unless involuntary commitment proceedings are commenced again in accordance with this section.

[~~(c) If the director of the division, or the director's designee reports to the court that the conditions designated in Subsection (13) still exist, the court may extend the commitment order for up to one year. At the end of any extension, the individual must be reexamined in accordance with this section, or discharged.~~]

[~~(18)~~](14) When a resident is discharged under this [~~subsection~~]section, the division shall [~~provide any further support services available and~~]continue to provide division services for which the individual is eligible and as required to meet the resident's needs.

[~~(19)~~](15) (a) The division [~~or anintermediate carefacility~~] shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the custody of the division [~~or intermediate care facility~~], regardless of whether the individual is discharged by being released or under other circumstances.

(b) Discharge instructions provided under Subsection [~~(19)(a)~~](15)(a) shall include:

(i) a summary of why the individual was committed;

(ii) detailed information about why the individual is being discharged;

(iii) a safety plan for the individual based on the individual's intellectual disability and condition;

(iv) notification to the individual's primary care provider, if applicable;

(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

(vi) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

(vii) a copy of any advance directive presented to the local mental health authority, if applicable;

(viii) information about how to establish an advance directive if one was not presented to the division [~~or intermediate care facility~~];

(ix) as applicable, information about medications that were changed or discontinued during the commitment;

(x) a list of any screening or diagnostic tests conducted during the commitment;

(xi) a summary of therapeutic treatments provided during the commitment;

(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and

(xiii) information about how to contact the division[~~or intermediate care facility~~] if needed.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection [~~(19)(a)~~](15)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) If an individual refuses to accept discharge instructions, the division [~~or intermediate care facility~~] shall document the refusal in the individual's medical record.

(e) If an individual's discharge instructions include referrals to services under Subsection [~~(19)(b)(v)~~](15)(b)(v), the division[~~or intermediate care facility~~] shall document those referrals in the individual's medical record.

(f) The division shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 13. Section 26B-6-613 is amended to read:

26B-6-613. Involuntary treatment with medication -- Committee -- Findings.

(1) If, after commitment, a resident elects to refuse treatment with medication, the director, the administrator of the intermediate care facility for people with an intellectual disability, or a designee, shall submit documentation regarding the resident's proposed treatment to a committee composed of:

(a) a licensed physician experienced in treating persons with an intellectual disability, who is not directly involved in the resident's treatment or diagnosis, and who is not biased toward any one facility;

(b) a psychologist who is a designated intellectual disability professional who is not directly involved in the resident's treatment or diagnosis; and

(c) another designated intellectual disability professional of the facility for persons with an intellectual disability, or a designee.

(2) Based upon the court's finding, under Subsection [~~26B-6-608(13)~~]26B-6-608(9), that the resident lacks the ability to engage in a rational decision-making process regarding the need for habilitation, rehabilitation, care, or treatment, as demonstrated by evidence of inability to weigh the possible costs and benefits of treatment, the committee may authorize involuntary treatment with medication if it determines that:

(a) the proposed treatment is in the medical best interest of the resident, taking into account the possible side effects as well as the potential benefits of the medication; and

(b) the proposed treatment is in accordance with prevailing standards of accepted medical practice.

(3) In making the determination described in Subsection (2), the committee shall consider the resident's general history and present condition, the specific need for medication and its possible side effects, and any previous reaction to the same or comparable medication.

(4) Any authorization of involuntary treatment under this section shall be periodically reviewed in accordance with rules promulgated by the division.

Section 14. Section 68-3-12.5 is amended to read:

68-3-12.5. Definitions for Utah Code.

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

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

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

(2) "Adjudicative proceeding" means:

(a) an action by a board, commission, department, officer, or other administrative unit of the state that determines the legal rights,

duties, privileges, immunities, or other legal interests of one or more identifiable persons, including an action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

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

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

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

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

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

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

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

(6) "County executive" means:

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

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

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

(7) "County legislative body" means:

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

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

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

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

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

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

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

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

(10) "Executor" includes "administrator" when the subject matter justifies the use.

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

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

(13) "Guardian" includes a person who:

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

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

(14) "Highway" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

(15) "Intellectual disability" [~~means a significant, subaverage general intellectual functioning that:~~]means the same as that term is defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

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

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

(16) "Intermediate care facility for people with an intellectual disability" means an [~~intermediate care facility for the mentally retarded, as defined in Title XIX of the Social Security Act~~]institution or distinct part thereof for people with an intellectual disability or related conditions, if the institution or distinct part thereof meets the requirements described in 42 U.S.C. Secs. 1396d(d)(1) through (3).

(17) "Land" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

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

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

(20) "Month" means a calendar month, unless otherwise expressed.

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

(22) "Oath" includes "affirmation."

(23) "Person" means:

(a) an individual;

(b) an association;

(c) an institution;

(d) a corporation;

(e) a company;

(f) a trust;

(g) a limited liability company;

(h) a partnership;

(i) a political subdivision;

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

(k) any other organization or entity.

(24) "Personal property" includes:

(a) money;

(b) goods;

(c) chattels;

(d) effects;

(e) evidences of a right in action;

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

(g) a right or interest in an item described in Subsections (24)(a) through (f).

(25) "Personal representative," "executor," and "administrator" include:

(a) an executor;

(b) an administrator;

(c) a successor personal representative;

(d) a special administrator; and

(e) a person who performs substantially the same function as a person described in Subsections (25)(a) through (d) under the law governing the person's status.

(26) "Policy board," "policy commission," or "policy council" means a board, commission, or council that:

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

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

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

(27) "Population" is shown by the most recent state or national census, unless expressly provided otherwise.

(28) "Process" means a writ or summons issued in the course of a judicial proceeding.

(29) "Property" includes both real and personal property.

(30) "Real estate" or "real property" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

(31) "Review board," "review commission," and "review council" mean a board, commission, committee, or council that:

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

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

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

(32) "Road" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

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

(a) sex and reproductive organ anatomy;

(b) chromosomal makeup; and

(c) endogenous hormone profiles.

(34) "Signature" includes a name, mark, or sign written with the intent to authenticate an instrument or writing.

(35) "State," when applied to the different parts of the United States, includes a state, district, or territory of the United States.

(36) "Swear" includes "affirm."

(37) "Testify" means to make an oral statement under oath or affirmation.

(38) "Uniformed services" means:

(a) the armed forces;

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

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

(39) "United States" includes each state, district, and territory of the United States of America.

(40) "Utah Code" means the 1953 recodification of the Utah Code, as amended, unless the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

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

(b) (i) after the day described in Subsection (40)(a); and

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

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

(42) (a) "Veteran" means an individual who:

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

(A) on active duty; or

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

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

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

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

(43) "Will" includes a codicil.

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

(45) "Writ" means an order or precept in writing, issued in the name of:

(a) the state;

(b) a court; or

(c) a judicial officer.

(46) "Writing" includes:

(a) printing;

(b) handwriting; and

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

Section 15. Section 77-15-2 is amended to read:

77-15-2. Definitions.

As used in this chapter:

(1) "Competency evaluation" means an evaluation conducted by a forensic evaluator to determine if an individual is competent to stand trial.

(2) "Competent to stand trial" means that a defendant has:

(a) a rational and factual understanding of the criminal proceedings against the defendant and of the punishment specified for the offense charged; and

(b) the ability to consult with the defendant's legal counsel with a reasonable degree of rational understanding in order to assist in the defense.

(3) "Department" means the Department of Health and Human Services.

(4) "Forensic evaluator" means a licensed mental health professional who:

(a) is not involved in the defendant's treatment;

(b) is trained and qualified by the department to conduct a competency evaluation, a restoration screening, and a progress toward competency evaluation, based on knowledge, experience, or education relating to:

(i) intellectual functioning or psychopathology; and

(ii) the legal system and the rights of a defendant in a criminal trial; and

(c) if under contract with the department, demonstrates ongoing education and training relating to forensic mental health in accordance with rules established by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Incompetent to proceed" means that a defendant is not competent to stand trial as a result of:

(a) mental illness; or

(b) intellectual disability.

[~~(6) "Intellectual disability" means an intellectual disability as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.~~]

[~~(7)~~](6) "Mental illness" means the same as that term is defined in Section 26B-5-301.

[~~(8)~~](7) "Petition" means a petition to request a court to determine whether a defendant is competent to stand trial.

[~~(9)~~](8) "Progress toward competency evaluation" means an evaluation to determine whether an individual who is receiving restoration treatment is:

(a) competent to stand trial;

(b) incompetent to proceed but has a substantial probability of becoming competent to stand trial in the foreseeable future; or

(c) incompetent to proceed and does not have a substantial probability of becoming competent to stand trial in the foreseeable future.

[~~(10)~~](9) "Restoration treatment" means training and treatment that is:

(a) provided to an individual who is incompetent to proceed;

(b) tailored to the individual's particular impairment to competency; and

(c) limited to the purpose of restoring the individual to competency.

Section 16. Section 77-15-5 is amended to read:

CHAPTER 15. DEFENDANT'S COMPETENCY TO PROCEED

77-15-5. Order for hearing -- Stay of other proceedings -- Examinations of defendant -- Scope of examination and report.

(1) A court in which criminal proceedings are pending shall stay all criminal proceedings, if:

(a) a petition is filed under Section 77-15-3 or 77-15-3.5; or

(b) the court raises the issue of the defendant's competency under Section 77-15-4.

(2) The court in which the petition described in Subsection (1)(a) is filed:

(a) shall inform the court in which criminal proceedings are pending of the petition, if the petition is not filed in the court in which criminal proceedings are pending;

(b) shall review the allegations of incompetency;

(c) may hold a limited hearing solely for the purpose of determining the sufficiency of the petition, if the court finds the petition is not clearly sufficient on its face;

(d) shall hold a hearing, if the petition is opposed by either party; and

(e) may not order an examination of the defendant or order a hearing on the mental condition of the defendant unless the court finds that the allegations in the petition raise a bona fide doubt as to the defendant's competency to stand trial.

(3) (a) If the court finds that there is a bona fide doubt as to the defendant's competency to stand trial, the court shall order the department to have one or two forensic evaluators complete a competency evaluation for the defendant in accordance with Subsection (3)(b) and provide a report to the court regarding the competency of the defendant to stand trial.

(b) The court shall order the department to have the defendant evaluated by one forensic evaluator unless:

(i) the defendant is charged with a capital felony; or

(ii) the defendant is charged with a felony that is not a capital felony, and the court determines, based on the allegations in the petition, that good cause exists to order two competency evaluations.

(c) (i) This section does not prohibit a party from seeking an additional forensic evaluator to conduct a competency evaluation of the defendant.

(ii) If a party seeks an additional competency evaluation under this Subsection (3)(c), the party shall:

(A) select the additional forensic evaluator; and

(B) pay the costs of the additional forensic evaluator.

(d) The stipulation by parties to a bona fide doubt as to the defendant's competency to stand trial alone may not take the place of a competency evaluation ordered under this Subsection (3).

(e) In accordance with state licensing laws, the court may only order the department to provide an initial evaluation and progress toward competency evaluation for a defendant who is located within the state.

(4) (a) If the petition or other information sufficiently raises concerns that the defendant may have an intellectual disability, at least one forensic evaluator who is experienced in assessments of intellectual disabilities shall conduct a competency evaluation.

(b) The petitioner or other party, as directed by the court or requested by the department, shall provide to the forensic evaluator nonmedical information and materials relevant to a determination of the defendant's competency, including the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(c) For purposes of a competency evaluation, a custodian of mental health records pertaining to the defendant, including the defendant's prior mental health evaluations or records relating to the defendant's substance use disorder, may provide the records to:

(i) with the defendant's consent, a forensic evaluator or the department on the department's request; or

(ii) a forensic evaluator by court order.

(d) A court order under Subsection (4)(c) shall include a protective order that expires 180 days after the day on which:

(i) the defendant is found guilty;

(ii) the defendant enters a guilty plea;

(iii) the court sentences the defendant; or

(iv) if the case is appealed, the day on which the final appeal is resolved.

(e) (i) Except as otherwise provided by law and in Subsections (4)(e)(ii) and (4)(f), the court shall order the forensic evaluator to destroy all records subject to the protective order within the 180 day period described in Subsection (4)(d).

(ii) A forensic evaluator is not required to destroy the records subject to the protective order if destroying the records is a violation of ethical standards to which the forensic evaluator is subject for occupational licensing.

(f) The court may extend the protective order described in Subsection (4)(d) if:

(i) the court finds the defendant incompetent to proceed without a substantial probability that the defendant will become competent in the foreseeable future;

(ii) the prosecutor or another individual indicates to the court that the prosecutor or other individual will seek civil commitment of the defendant under Section 77-15-6; and

(iii) the court orders the records be maintained and used only for the purposes of examining the defendant in connection with the petition for civil commitment.

(g) An order for a competency evaluation may not contain an order for any other inquiry into the mental state of the defendant that is

not described in this Subsection (4).

(5) Pending a competency evaluation, unless the court or the department directs otherwise, the defendant shall be retained in the same custody or status that the defendant was in at the time the examination was ordered.

(6) In the conduct of a competency evaluation and in a report to the court, a forensic evaluator shall consider and address, in addition to any other factors determined to be relevant by the forensic evaluator:

(a) [~~(i)~~] the impact of the defendant's mental illness or intellectual disability on the defendant's present ability to:

[~~(A)~~](i) rationally and factually understand the criminal proceedings against the defendant; and

[~~(B)~~](ii) consult with the defendant's legal counsel with a reasonable degree of rational understanding in order to assist in the defense;

(b) in making the determinations described in Subsection (6)(a), the forensic evaluator shall consider, as applicable[~~:~~]

[~~(i)~~] the defendant's present ability to:

[~~(A)~~](i) understand the charges or allegations against the defendant;

[~~(B)~~](ii) communicate facts, events, and states of mind;

[~~(C)~~](iii) understand the range of possible penalties associated with the charges or allegations against the defendant;

[~~(D)~~](iv) engage in reasoned choice of legal strategies and options;

[~~(E)~~](v) understand the adversarial nature of the proceedings against the defendant;

[~~(F)~~](vi) manifest behavior sufficient to allow the court to proceed; and

[~~(G)~~](vii) testify relevantly, if applicable; and

(c) whether the defendant is exhibiting false or exaggerated physical or psychological symptoms relevant to the defendant's capacity to stand trial.

(7) Upon a determination that the defendant is incompetent to proceed, the forensic evaluator shall indicate in the report to the court:

(a) the factors that contribute to the defendant's incompetency, including the nature of the defendant's mental illness or intellectual disability, if any, and its relationship to the factors contributing to the defendant's incompetency;

(b) whether there is a substantial probability that:

(i) restoration treatment may bring the defendant to competency to stand trial in the foreseeable future; or

(ii) the defendant cannot become competent to stand trial in the foreseeable future;

(c) whether the defendant would benefit from restoration treatment; and

(d) if the forensic evaluator makes the determination under Subsection (7)(b)(i) or (7)(c), an explanation of the reason for the determination and a summary of the treatment provided to the defendant in the past.

(8) (a) A forensic evaluator shall provide an initial report to the court and the prosecuting and defense attorneys within 30 days of the receipt of the court's order. The report shall inform the court of the examiner's opinion concerning the competency of the defendant to stand trial.

(b) (i) If the forensic evaluator is unable to complete the report in the time specified in Subsection (8)(a), the forensic evaluator shall give written notice to the court.

(ii) A forensic evaluator who provides the notice described in Subsection (8)(b)(i)shall receive a 15-day extension, giving the forensic evaluator a total of 45 days after the day on which the forensic evaluator received the court's order to conduct a competency evaluation and file a report.

(iii) The court may further extend the deadline for completion of the evaluation and report if the court determines that there is good cause for the extension.

(iv) Upon receipt of an extension described in Subsection (8)(b)(iii), the forensic evaluator shall file the report as soon as reasonably possible.

(9) Any written report submitted by a forensic evaluator shall:

(a) identify the case ordered for evaluation by the case number;

(b) describe the procedures, techniques, and tests used in the examination and the purpose or purposes for each, the time spent by the forensic evaluator with the defendant for purposes of the examination, and the compensation to be paid to the evaluator for the report;

(c) state the forensic evaluator's clinical observations, findings, and opinions on each factor described in Subsection (6); and

(d) identify the sources of information used by the forensic evaluator and present the basis for the forensic evaluator's clinical findings and opinions.

(10) (a) Any statement made by the defendant in the course of any competency examination, whether the examination is with or without the consent of the defendant, any testimony by a forensic evaluator based upon the statement, and any other fruits of the statement may not be admitted in evidence against the defendant in any criminal proceeding except on an issue respecting mental condition on which the defendant has introduced evidence, unless the evidence is relevant to a determination of the defendant's competency.

(b) Before examining the defendant, the forensic evaluator shall specifically advise the defendant of the limits of confidentiality as provided under Subsection (10)(a).

(11) (a) Upon receipt of the forensic evaluators' reports, the court shall set a date for a competency hearing. The hearing shall be held not less than five and not more than 15 days after the day on which the court received the forensic evaluators' reports, unless for good cause the court sets a later date.

(b) Any person directed by the department to conduct the competency evaluation may be subpoenaed to testify at the hearing.

(c) The court may call any forensic evaluator to testify at the hearing who is not called by the parties. []If the court calls a forensic evaluator, counsel for the parties may cross-examine the forensic evaluator.

(d) (i) If the forensic evaluators are in conflict as to the competency of the defendant, all forensic evaluators should be called to testify at the hearing if reasonably available.

(ii) A conflict in the opinions of the forensic evaluators does not require the appointment of an additional forensic evaluator unless the court finds good cause for the appointment.

(iii) If a party seeks an additional competency evaluation under this Subsection (11), that party shall:

(A) select the additional forensic evaluator; and

(B) pay the costs of the additional forensic evaluator.

(12) (a) (i) A defendant shall be presumed competent to stand trial unless the court, by a preponderance of the evidence, finds the defendant incompetent to proceed.

(ii) The burden of proof is upon the proponent of incompetency at the hearing.

(b) An adjudication of incompetent to proceed does not operate as an adjudication of incompetency to give informed consent for medical treatment or for any other purpose, unless specifically set forth in the court order.

(13) In determining the defendant's competency to stand trial, the court shall consider the totality of the circumstances, including:

(a) the petition;

(b) the defendant's criminal and arrest history;

(c) prior mental health evaluations and treatments provided to the court by the defendant;

(d) subject to Subsection (15), whether the defendant was found incompetent to proceed in a criminal action unrelated to the charged offense for which the petition is filed;

(e) the testimony of lay witnesses, if any;

(f) the forensic evaluator's testimony and report;

(g) the materials on which the forensic evaluator's report is based; and

(h) any other relevant evidence or consideration bearing on the competency of the defendant.

(14) If the court finds the defendant incompetent to proceed:

(a) the court shall issue the order described in Subsection 77-15-6(1), which shall:

(i) include findings addressing each of the factors in Subsection (6)(a);

(ii) include a transportation order, if necessary;

(iii) be accompanied by the forensic evaluators' reports, any psychiatric, psychological, or social work reports submitted to the court relative to the mental condition of the defendant, and any other documents made available to the court by either the defense or the prosecution, pertaining to the defendant's current or past mental condition; and

(iv) be sent by the court to the department; and

(b) the prosecuting attorney shall provide to the department:

(i) the charging document and probable cause statement, if any;

(ii) arrest or incident reports prepared by law enforcement and pertaining to the charged offense; and

(iii) additional supporting documents.

(15) The court may not find the defendant incompetent to proceed based solely on a court having ordered the release of the defendant under Section 77-15-3.5 or Section 77-15-6in an unrelated criminal action if the court in the unrelated criminal action ordered the release more than one year before the day on which the petition described in Subsection (13)(a) is filed.

(16) The court may make any reasonable order to ensure compliance with this section.

(17) Failure to comply with this section does not result in the dismissal of criminal charges.

Section 17. Section 77-15-6 is amended to read:

77-15-6. Commitment on finding of incompetency to stand trial -- Subsequent hearings -- Notice to prosecuting attorneys.

(1) (a) Except as provided in Subsection (5), if after a hearing a court finds a defendant to be incompetent to proceed, the court shall order the defendant committed to the department for restoration treatment.

(b) (i) Except as provided in Subsection (1)(b)(ii), the court may recommend but may not order placement of a defendant who is found incompetent to proceed.

(ii) The court may order that the defendant be placed in a secure setting rather than a nonsecure setting.

(c) Following restoration screening, the department's designee shall designate and inform the court of the specific placement and restoration treatment program for the defendant.

(d) Restoration treatment shall be of sufficient scope and duration to:

(i) restore the defendant to competency; or

(ii) determine whether the defendant can be restored to competency in the foreseeable future.

(e) A defendant who a court determines is incompetent to proceed may not be held for restoration treatment longer than:

(i) the time reasonably necessary to determine that the defendant cannot become competent to stand trial in the foreseeable future; and

(ii) the maximum period of incarceration that the defendant could receive if the defendant were convicted of the most severe offense of the offenses charged.

(2) (a) A defendant who is receiving restoration treatment shall receive a progress toward competency evaluation, by:

(i) a forensic evaluator, designated by the department; and

(ii) an additional forensic evaluator, if requested by a party and paid for by the requesting party.

(b) A forensic evaluator shall complete a progress toward competency evaluation and submit a report within 90 days after the day on which the forensic evaluator receives the commitment order from the department.

(c) The report shall:

(i) assess whether the defendant is exhibiting false or exaggerated physical or psychological symptoms;

(ii) describe any diagnostic instruments, methods, and observations used by the evaluator to make the determination;

(iii) describe the defendant's current mental illness or intellectual disability, if any;

(iv) state the forensic evaluator's opinion as to the effect of any false or exaggerated symptoms on the defendant's competency to stand trial;

(v) assess the facility's or program's capacity to provide appropriate restoration treatment for the defendant;

(vi) assess the nature of restoration treatment provided to the defendant;

(vii) assess what progress the defendant has made toward competency restoration, with respect to the factors identified by the court in its initial order;

(viii) assess whether the defendant can reasonably be restored to competency in the foreseeable future given the restoration treatment currently being provided and the facility's or program's capacity to provide appropriate restoration treatment for the defendant;

(ix) assess the likelihood of restoration to competency, the amount of time estimated to achieve competency, or the amount of time estimated to determine whether restoration to competency may be achieved; and

(x) include a statement by the facility's treating physician regarding:

(A) whether the defendant is taking any antipsychotic medication as prescribed;

(B) whether ongoing administration of antipsychotic medication is necessary to maintain the defendant's competency to stand trial;

(C) whether antipsychotic medication is substantially likely to maintain the defendant's competency to stand trial;

(D) whether antipsychotic medication is substantially unlikely to produce side effects which would significantly interfere with the defendant's ability to assist in the defendant's defense;

(E) that no less intrusive means are available, and whether any of those means have been attempted to render the defendant competent; and

(F) whether antipsychotic medication is medically appropriate and in the defendant's best medical interest in light of the defendant's medical condition.

(3) (a) The court on its own motion or upon motion by either party or the department may appoint an additional forensic evaluator to conduct a progress toward competency evaluation.

(b) If the court appoints an additional forensic evaluator upon motion of a party, that party shall pay the costs of the additional forensic evaluator.

(4) (a) Within 15 days after the day on which the court receives the forensic evaluator's report of the progress toward competency evaluation, the court shall hold a hearing to review the defendant's competency.

(b) At the hearing, the burden of proving that the defendant is competent to stand trial is on the proponent of competency.

(c) Following the hearing, the court shall determine by a preponderance of evidence whether the defendant:

(i) is competent to stand trial;

(ii) is competent, but requires the ongoing administration of antipsychotic medication in order to maintain the defendant's competency to stand trial;

(iii) is incompetent to proceed, with a substantial probability that the defendant may become competent in the foreseeable future; or

(iv) is incompetent to proceed, without a substantial probability that the defendant may become competent in the foreseeable future.

(5) (a) If at any time the court determines that the defendant is competent to stand trial, the court shall:

(i) proceed with the trial or other procedures as may be necessary to adjudicate the charges;

(ii) order that the defendant be returned to the placement and status that the defendant was in at the time when the petition for the adjudication of competency was filed or raised by the court, unless the court determines that placement of the defendant in a less restrictive environment is more appropriate;

(iii) order the ongoing administration of antipsychotic medication to the defendant for the purpose of maintaining the defendant's competency to stand trial, if the court finds that the administration of antipsychotic medication is necessary to maintain the defendant's competency to stand trial under Subsection (4)(c)(ii); and

(iv) require the agency, jail, or prison with custody over the defendant to report to the court any noncompliance with the court's orders under this Subsection (5) within 48 hours of the noncompliance.

(b) If the court determines that the defendant is incompetent to proceed with a substantial probability that the defendant may become competent in the foreseeable future, the court may order that the defendant remain committed to the department or the department's designee for the purpose of restoration treatment.

(c) (i) If the court determines that the defendant is incompetent to proceed without a substantial probability that the defendant may become competent in the foreseeable future, the court shall order the defendant released from commitment to the department, unless the prosecutor or another individual informs the court that civil commitment proceedings pursuant to Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, will be initiated.

(ii) The commitment proceedings must be initiated by a petition filed within seven days after the day on which the court makes the determination described in Subsection (4)(c)(iv), unless the court finds that there is good cause to delay the initiation of the civil commitment proceedings.

(iii) The court may order the defendant to remain committed to the department until the civil commitment proceedings conclude.

(iv) If the defendant is civilly committed and admitted to a secure setting, the department shall provide notice to the court that adjudicated the defendant incompetent to proceed and to the prosecution agency that prosecuted the case at least [~~60~~]15 days before any proposed release of the committed individual from the secure setting.

(v) If the prosecution agency that prosecuted the case intends to refile charges against the committed individual:

(A) the prosecution agency shall provide written notice of that intent to the department within 15 days after the department provides the notice described in Subsection (5)(c)(iv); and

(B) the department shall postpone release of the committed individual for at least 30 days after the day on which the department receives the written notice of intent from the prosecution agency.

(vi) If the prosecution agency that prosecuted the case refiles charges against the committed individual and the individual's competency is raised, the department shall postpone release of the individual until the competency proceedings conclude.

(6) (a) At any time following the court's order under Subsection (5)(a)(iii), the defendant, the prosecuting attorney, the department, the treating physician, or the agency, jail, or prison with custody over the defendant, may notify the court of the need to review the medication order under Subsection (5)(a)(iii) for continued appropriateness and feasibility.

(b) The court shall set the matter for a hearing if the notification under Subsection (6)(a) establishes good cause to review the matter.

(7) If a court, under Subsection (5)(b), extends a defendant's commitment, the court shall schedule a competency review hearing for the earlier of:

(a) the department's best estimate of when the defendant may be restored to competency; or

(b) three months after the day on which the court determined under Subsection (5)(b) to extend the defendant's commitment.

(8) Unless the defendant is charged with a crime listed in Subsection (9), if a defendant is incompetent to proceed by the day of the competency review hearing that follows the extension of a defendant's commitment, the court shall:

(a) order the defendant be:

(i) released or temporarily detained pending civil commitment proceedings as described in Subsection (5)(c); and

(ii) terminate the defendant's commitment to the department for restoration treatment; or

(b) if the forensic evaluator reports to the court that there is a substantial probability that restoration treatment will bring the defendant to competency to stand trial in the foreseeable future, extend the defendant's commitment for restoration treatment up to 45 additional days.

(9) If the defendant is charged with aggravated murder, murder, attempted murder, manslaughter, or a first degree felony and the court determines that the defendant is making reasonable progress towards restoration of competency at the time of the hearing held pursuant to Subsection (7), the court may extend the commitment for a period not to exceed nine months for the purpose of restoration treatment, with a mandatory review hearing at the end of the nine-month period.

(10) Unless the defendant is charged with aggravated murder or murder, if, at the nine-month review hearing described in Subsection (9), the court determines that the defendant is incompetent to proceed, the court shall:

(a) (i) order the defendant be released or temporarily detained pending civil commitment proceedings as provided in Subsection (5)(c); and

(ii) terminate the defendant's commitment to the department for restoration treatment; or

(b) if the forensic evaluator reports to the court that there is a substantial probability that restoration treatment will bring the defendant to competency to stand trial in the foreseeable future, extend the defendant's commitment for restoration treatment for up to 135 additional days.

(11) If the defendant is charged with aggravated murder or murder and the court determines that the defendant is making reasonable progress towards restoration of competency at the time of the nine-month review hearing described in Subsection (9), the court may extend the commitment for a period not to exceed 24 months for the purpose of restoration treatment.

(12) If the court extends the defendant's commitment term under Subsection (11), the court shall hold a hearing no less frequently than at 12-month intervals following the extension for the purpose of determining the defendant's competency status.

(13) If, at the end of the 24-month commitment period described in Subsection (11), the court determines that the defendant is incompetent to proceed, the court shall:

(a) (i) order the defendant be released or temporarily detained pending civil commitment proceedings as provided in Subsection (5)(c); and

(ii) terminate the defendant's commitment to the department for restoration treatment; or

(b) if the forensic evaluator reports to the court that there is a substantial probability that restoration treatment will bring the defendant to competency to stand trial in the foreseeable future, extend the defendant's commitment for restoration treatment for up to 12 additional months.

(14) (a) Neither release from a pretrial incompetency commitment under the provisions of this section nor civil commitment requires dismissal of criminal charges.

(b) The court may retain jurisdiction over the criminal case and may order periodic reviews.

(15) A defendant who is civilly committed pursuant to Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, may still be adjudicated competent to stand trial under this chapter.

(16) (a) The remedy for a violation of the time periods specified in this section, other than those specified in Subsection (5)(c), (8), (10), or (13), shall be a motion to compel the hearing, or mandamus, but not release from detention or dismissal of the criminal charges.

(b) The remedy for a violation of the time periods specified in Subsection (5)(c), (8), (9), or (13), or is not dismissal of the criminal charges.

(17) In cases in which the treatment of the defendant is precluded by court order for a period of time, that time period may not be considered in computing time limitations under this section.

(18) (a) If, at any time, the defendant becomes competent to stand trial while the defendant is committed to the department, the clinical director of the Utah State Hospital, the department, or the department's designee shall certify that fact to the court.

(b) The court shall conduct a competency review hearing:

(i) within 15 working days after the day on which the court receives the certification described in Subsection (18)(a); or

(ii) within 30 working days after the day on which the court receives the certification described in Subsection (18)(a), if the court determines that more than 15 working days are necessary for good cause related to the defendant's competency.

(19) The court may order a hearing at any time on the court's own motion or upon recommendations of the clinical director of the Utah State Hospital or other facility or the department.

(20) Notice of a hearing on competency to stand trial shall be given to the prosecuting attorney and all counsel of record.

Section 18. Section 77-19-203 is amended to read:

77-19-203. Petition for inquiry as to competency to be executed -- Filing -- Contents -- Successive petitions.

(1) If an inmate who has been sentenced to death is or becomes incompetent to be executed, a petition under Subsection (2) may be filed in the district court of the county where the inmate is confined.

(2) The petition shall:

(a) contain a certificate stating that it is filed in good faith and on reasonable grounds to believe the inmate is incompetent to be executed; and

(b) contain a specific recital of the facts, observations, and conversations with the inmate that form the basis for the petition.

(3) The petition may be based upon knowledge or information and belief and may be filed by the inmate alleged to be incompetent, legal counsel for the inmate, or by an attorney representing the state.

(4) Before ruling on a petition filed by an inmate or his counsel alleging that the inmate is incompetent to be executed, the court shall give the state and the Department of Corrections an opportunity to respond to the allegations of incompetency.

(5) If a petition is filed after an inmate has previously been found competent under either this chapter or under [~~Title 77, Chapter 15, Inquiry into Sanity of Defendant~~]Chapter 15, Defendant's Competency to Proceed, no further hearing on competency may be granted unless the successive petition:

(a) alleges with specificity a substantial change of circumstances subsequent to the previous determination of competency; and

(b) is sufficient to raise a significant question about the inmate's competency to be executed.

Section 19. Section 77-29-3 is amended to read:

77-29-3. Chapter inapplicable to incompetent persons.

The provisions of this chapter shall not apply to any person while adjudged to be incompetent to proceed under [~~Chapter 15, Inquiry into Sanity of Defendant~~]Chapter 15, Defendant's Competency to Proceed.

Section 20. Section 80-6-402 is amended to read:

80-6-402. Procedure -- Standard.

(1) When a written motion is filed in accordance with Section 80-6-401 raising the issue of a minor's competency to proceed, or when the juvenile []court raises the issue of a minor's competency to proceed, the juvenile court shall stay all proceedings under this chapter.

(2) (a) If a motion for inquiry is opposed by either party, the juvenile []court shall, before granting or denying the motion, hold a limited hearing solely for the purpose of determining the sufficiency of the motion.

(b) If the juvenile []court finds that the allegations of incompetency raise a bona fide doubt as to the minor's competency to proceed, the juvenile court shall:

(i) enter an order for an evaluation of the minor's competency to proceed; and

(ii) set a date for a hearing on the issue of the minor's competency.

(3) (a) After the granting of a motion, and before a full competency hearing, the juvenile []court may order the department to evaluate the minor and to report to the juvenile []court concerning the minor's mental condition.

(b) In accordance with state licensing laws, the court may only order the department to provide an initial evaluation and progress toward competency evaluation for a minor who is located within the state.

(4) The minor shall be evaluated by a forensic evaluator who:

(a) has experience in juvenile forensic evaluations and juvenile brain development;

(b) if it becomes apparent that the minor is not competent due to an intellectual disability or related condition, has experience in intellectual disability or related conditions; and

(c) is not involved in the current treatment of the minor.

(5) The petitioner or other party, as directed by the juvenile court, shall provide all information and materials relevant to a determination of the minor's competency to the department within seven days of the juvenile court's order, including:

(a) the motion;

(b) the arrest or incident reports pertaining to the charged offense;

(c) the minor's known delinquency history information;

(d) the minor's probation record relevant to competency;

(e) known prior mental health evaluations and treatments; and

(f) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the minor's education.

(6) (a) The minor's parent or guardian, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem, shall cooperate, by executing releases of information when necessary, in providing the relevant information and materials to the forensic evaluator, including:

(i) medical records;

(ii) prior mental evaluations; or

(iii) records of diagnosis or treatment of substance abuse disorders.

(b) The minor shall cooperate, by executing a release of information when necessary, in providing the relevant information and materials to the forensic evaluator regarding records of diagnosis or treatment of a substance abuse disorder.

(7) (a) In conducting the evaluation and in the report determining if a minor is competent to proceed, the forensic evaluator shall inform the juvenile court of the forensic evaluator's opinion whether:

(i) the minor has a present ability to consult with counsel with a reasonable degree of rational understanding; and

(ii) the minor has a rational as well as factual understanding of the proceedings.

(b) In evaluating the minor, the forensic evaluator shall consider the minor's present ability to:

(i) understand the charges or allegations against the minor;

(ii) communicate facts, events, and states of mind;

(iii) understand the range of possible penalties associated with the allegations against the minor;

(iv) engage in reasoned choice of legal strategies and options;

(v) understand the adversarial nature of the proceedings against the minor;

(vi) manifest behavior sufficient to allow the juvenile court to proceed;

(vii) testify relevantly; and

(viii) any other factor determined to be relevant to the forensic evaluator.

(8) (a) The forensic evaluator shall provide an initial report to the juvenile court, the prosecuting and defense attorneys, and the attorney guardian ad litem, if applicable, within 30 days of the receipt of the juvenile court's order.

(b) If the forensic evaluator informs the juvenile court that additional time is needed, the juvenile court may grant, taking into consideration the custody status of the minor, up to an additional 15 days to provide the report to the juvenile court and counsel.

(c) The forensic evaluator must provide the report within 45 days from the receipt of the juvenile court's order unless, for good cause shown, the juvenile court authorizes an additional period of time to complete the evaluation and provide the report.

(d) The report shall inform the juvenile court of the forensic evaluator's opinion concerning the minor's competency.

(9) If the forensic evaluator's opinion is that the minor is not competent to proceed, the report shall indicate:

(a) the nature of the minor's:

(i) mental illness;

(ii) intellectual disability or related condition; or

(iii) developmental immaturity;

(b) the relationship of the minor's mental illness, intellectual disability, related condition, or developmental immaturity to the minor's incompetence;

(c) whether there is a substantial likelihood that the minor may attain competency in the foreseeable future;

(d) the amount of time estimated for the minor to achieve competency if the minor undergoes competency attainment treatment, including medication;

(e) the sources of information used by the forensic evaluator; and

(f) the basis for clinical findings and opinions.

(10) Regardless of whether a minor consents to a competency evaluation, any statement made by the minor in the course of the competency evaluation, any testimony by the forensic evaluator based upon any statement made by the minor in the competency evaluation, and any other fruits of the statement made by the minor in the competency evaluation:

(a) may not be admitted in evidence against the minor in a proceeding under this chapter, except the statement may be admitted on an issue respecting the mental condition on which the minor has introduced evidence; and

(b) may be admitted where relevant to a determination of the minor's competency.

(11) Before evaluating the minor for a competency evaluation, a forensic evaluator shall specifically advise the minor, and the minor's parent or guardian if reasonably available, of the limits of confidentiality as provided under Subsection (10).

(12) When the report is received, the juvenile court shall set a date for a competency hearing that shall be held in not less than five and not more than 15 days, unless the juvenile court enlarges the time for good cause.

(13) (a) A minor shall be presumed competent unless the juvenile court, by a preponderance of the evidence, finds the minor not competent to proceed.

(b) The burden of proof is upon the proponent of incompetency to proceed.

(14) (a) Following the hearing, the juvenile court shall determine by a preponderance of evidence whether the minor is:

(i) competent to proceed;

(ii) not competent to proceed with a substantial probability that the minor may attain competency in the foreseeable future; or

(iii) not competent to proceed without a substantial probability that the minor may attain competency in the foreseeable future.

(b) If the juvenile court enters a finding described in Subsection (14)(a)(i), the juvenile court shall proceed with the proceedings in the minor's case.

(c) If the juvenile court enters a finding described in Subsection (14)(a)(ii), the juvenile court shall proceed in accordance with Section 80-6-403.

(d) (i) If the juvenile court enters a finding described in Subsection (14)(a)(iii), the juvenile court shall terminate the competency proceeding, dismiss the charges against the minor without prejudice, and release the minor from any custody order related to the pending proceeding, unless the prosecutor informs the court that commitment proceedings will be initiated in accordance with:

(A) Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability;

(B) if the minor is 18 years old or older, Title 26B, Chapter 5, Part 3, Utah State Hospital and Other Mental Health Facilities; or

(C) if the minor is a child, Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(ii) The commitment proceedings described in Subsection (14)(d)(i) shall be initiated within seven days after the day on which the juvenile court enters the order under Subsection (14)(a), unless the court enlarges the time for good cause shown.

(iii) The juvenile court may order the minor to remain in custody until the commitment proceedings have been concluded.

(15) If the juvenile court finds the minor not competent to proceed, the juvenile court's order shall contain findings addressing each of the factors in Subsection (7)(b).

Section 21. Section 80-6-403 is amended to read:

80-6-403. Disposition on finding of not competent to proceed -- Subsequent hearings -- Notice to prosecuting attorneys.

(1) If the juvenile court determines that the minor is not competent to proceed, and there is a substantial likelihood that the minor may attain competency in the foreseeable future, the juvenile court shall notify the department of the finding and allow the department 30 days to develop an attainment plan for the minor.

(2) The attainment plan shall include:

(a) any services or treatment the minor has been or is currently receiving that are necessary to attain competency;

(b) any additional services or treatment the minor may require to attain competency;

(c) an assessment of the parent, custodian, or guardian's ability to access or provide any recommended treatment or services;

(d) any special conditions or supervision that may be necessary for the safety of the minor or others during the attainment period; and

(e) the likelihood that the minor will attain competency and the amount of time likely required for the minor to attain competency.

(3) The department shall provide the attainment plan to the juvenile court, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem at least three days before the competency disposition hearing.

(4) (a) During the attainment period, the minor shall remain in the least restrictive appropriate setting.

(b) A finding of not competent to proceed does not grant authority for a juvenile court to place a minor in the custody of a division of the department, or create eligibility for services from the Division of Services for People With Disabilities.

(c) If the juvenile court orders the minor to be held in detention during the attainment period, the juvenile court shall make the following findings on the record:

(i) the placement is the least restrictive appropriate setting;

(ii) the placement is in the best interest of the minor;

(iii) the minor will have access to the services and treatment required by the attainment plan in the placement; and

(iv) the placement is necessary for the safety of the minor or others.

(d) A juvenile court shall terminate an order of detention related to the pending proceeding for a minor who is not competent to proceed in that matter if:

(i) the most severe allegation against the minor if committed by an adult is a class B misdemeanor;

(ii) more than 60 days have passed after the day on which the juvenile court adjudicated the minor not competent to proceed; and

(iii) the minor has not attained competency.

(5) (a) At any time that the minor becomes competent to proceed during the attainment period, the department shall notify the juvenile court, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem.

(b) The juvenile court shall hold a hearing with 15 business days of notice from the department described in Subsection (5)(a).

(6) (a) If at any time during the attainment period the juvenile court finds that there is not a substantial probability that the minor will attain competency in the foreseeable future, the juvenile court shall terminate the competency proceeding, dismiss the petition or information without prejudice, and release the minor from any custody order related to the pending proceeding, unless the prosecuting attorney or any other individual informs the juvenile court that commitment proceedings will be initiated in accordance with:

(i) Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability;

(ii) if the minor is 18 years old or older, Title 26B, Chapter 5, Part 3, Utah State Hospital and Other Mental Health Facilities; or

(iii) if the minor is a child, Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(b) The prosecuting attorney shall initiate the proceedings described in Subsection (6)(a)within seven days after the juvenile court's order, unless the juvenile court enlarges the time for good cause shown.

(7) During the attainment period, the juvenile court may order a hearing or rehearing at anytime on the juvenile court's own motion or upon recommendation of any interested party or the department.

(8) (a) Within three months of the juvenile court's approval of the attainment plan, the department shall provide a report on the minor's progress towards competence.

(b) The report described in Subsection (8)(a) shall address the minor's:

(i) compliance with the attainment plan;

(ii) progress towards competency based on the issues identified in the original competency evaluation; and

(iii) current mental illness, intellectual disability or related condition, or developmental immaturity, and need for treatment, if any, and whether there is substantial likelihood of the minor attaining competency within six months.

(9) (a) Within 30 days of receipt of the report, the juvenile court shall hold a hearing to determine the minor's current status.

(b) At the hearing, the burden of proving the minor is competent is on the proponent of competency.

(c) The juvenile court shall determine by a preponderance of the evidence whether the minor is competent to proceed.

(10) If the minor has not attained competency after the initial three month attainment period but is showing reasonable progress towards attainment of competency, the juvenile court may extend the attainment period up to an additional three months.

(11) The department shall provide an updated juvenile competency evaluation at the conclusion of the [~~six month~~]extended attainment period under Subsection (10) to advise the juvenile court on the minor's current competency status.

(12) If the minor does not attain competency within six months after the juvenile court initially finds the minor not competent to proceed, the court shall terminate the competency proceedings and dismiss the petition or information filed without prejudice, unless good cause is shown that there is a substantial likelihood the minor will attain competency within one year from the initial finding of not competent to proceed.

(13) In the event a minor has an unauthorized leave lasting more than 24 hours, the attainment period shall toll until the minor returns.

(14) (a) Regardless of whether a minor consents to attainment, any statement made by the minor in the course of attainment, any testimony by the forensic evaluator based upon any statement made by the minor in the course of attainment, and any other fruits of a statement made by the minor in the course of attainment:

(i) may not be admitted in evidence against the minor in a proceeding under this chapter, except the statement may be admitted on an issue respecting the mental condition on which the minor has introduced evidence; and

(ii) may be admitted where relevant to a determination of the minor's competency.

(b) Before evaluating the minor during the attainment period, a forensic evaluator shall specifically advise the minor, and the minor's parent or guardian if reasonably available, of the limits of confidentiality provided in Subsection (14)(a).

Section 22. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 47
H. B. 282
Passed February 27, 2025
Approved March 19, 2025
Effective May 7, 2025

HEALTH AND HUMAN SERVICES MODIFICATIONS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill addresses repeal dates for health and human services programs.

Highlighted Provisions:

This bill:

► addresses repeal dates for health and human services programs.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-226, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

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

Section 1. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26 through 26B.

(1) Subsection 26B-1-204(2)(h), regarding the Primary Care Grant Committee, is repealed July 1, [~~2025~~]2035.

(2) Section 26B-1-315, Medicaid ACA Fund, is repealed July 1, 2034.

(3) Section 26B-1-318, Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

(4) Section 26B-1-402, Rare Disease Advisory Council Grant Program -- Creation -- Reporting, is repealed July 1, 2026.

(5) Section 26B-1-409, Utah Digital Health Service Commission -- Creation -- Membership -- Duties, is repealed July 1, 2025.

(6) Section 26B-1-410, Primary Care Grant Committee, is repealed July 1, [~~2025~~]2035.

[~~(7) Section 26B-1-416, Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.~~]

[~~(8)~~](7) Section 26B-1-417, Brain and Spinal Cord Injury Advisory Committee -- Membership -- Duties, is repealed July 1, 2029.

[~~(9)~~](8) Section 26B-1-422, Early Childhood Utah Advisory Council -- Creation -- Compensation -- Duties, is repealed July 1, 2029.

[~~(10)~~](9) Section 26B-1-425, Utah Health Workforce Advisory Council -- Creation and membership, is repealed July 1, 2027.

[~~(11)~~](10) Section 26B-1-428, Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee and Program -- Creation -- Membership -- Duties, is repealed July 1, 2025.

[~~(12)~~](11) Section 26B-1-430, Coordinating Council for Persons with Disabilities -- Policy regarding services to individuals with disabilities -- Creation -- Membership -- Expenses, is repealed July 1, 2027.

[~~(13)~~](12) Section 26B-1-432, Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(14)~~](13) Section 26B-2-407, Drinking water quality in child care centers, is repealed July 1, 2027.

[~~(15)~~](14) Subsection 26B-3-107(9), regarding reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(16)~~](15) Section 26B-3-136, Children's Health Care Coverage Program, is repealed July 1, 2025.

[~~(17)~~](16) Section 26B-3-137, Reimbursement for diabetes prevention program, is repealed June 30, 2027.

[~~(18)~~](17) Subsection 26B-3-213(2)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(19)~~](18) Section 26B-3-302, DUR Board -- Creation and membership -- Expenses, is repealed July 1, 2027.

[~~(20)~~](19) Section 26B-3-303, DUR Board -- Responsibilities, is repealed July 1, 2027.

[~~(21)~~](20) Section 26B-3-304, Confidentiality of records, is repealed July 1, 2027.

[~~(22)~~](21) Section 26B-3-305, Drug prior approval program, is repealed July 1, 2027.

[~~(23)~~](22) Section 26B-3-306, Advisory committees, is repealed July 1, 2027.

[~~(24)~~](23) Section 26B-3-307, Retrospective and prospective DUR, is repealed July 1, 2027.

[~~(25)~~](24) Section 26B-3-308, Penalties, is repealed July 1, 2027.

[~~(26)~~](25) Section 26B-3-309, Immunity, is repealed July 1, 2027.

[~~(27)~~](26) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2034.

[~~(28)~~](27) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2034.

[~~(29)~~](28) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[~~(30)~~](29) Section 26B-3-910, Alternative eligibility -- Report -- Alternative Eligibility Expendable Revenue Fund, is repealed July 1, 2028.

[~~(31)~~](30) Section 26B-4-710, Rural residency training program, is repealed July 1, 2025.

[~~(32)~~](31) Subsection 26B-5-112(1)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(33)~~](32) Subsection 26B-5-112(5)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(34)~~](33) Section 26B-5-112.5, Mobile Crisis Outreach Team Grant Program, is repealed December 31, 2026.

[~~(35)~~](34) Section 26B-5-114, Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[~~(36)~~](35) Section 26B-5-118, Collaborative care grant program, is repealed December 31, 2024.

[~~(37)~~](36) Section 26B-5-120, Virtual crisis outreach team grant program, is repealed December 31, 2026.

[~~(38)~~](37) Subsection 26B-5-609(1)(a), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(39)~~](38) Subsection 26B-5-609(3)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(40)~~](39) Subsection 26B-5-610(1)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(41)~~](40) Subsection 26B-5-610(2)(b)(ii), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(42)~~](41) Section 26B-5-612, Integrated behavioral health care grant programs, is repealed December 31, 2025.

[~~(43)~~](42) Title 26B, Chapter 5, Part 7, Utah Behavioral Health Commission, is repealed July 1, 2029.

[~~(44)~~](43) Subsection 26B-5-704(2)(a), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(45)~~](44) Subsection 26B-5-704(2)(b), regarding the Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

[~~(46)~~](45) Title 26B, Chapter 5, Part 8, Utah Substance Use and Mental Health Advisory Committee, is repealed January 1, 2033.

[~~(47)~~](46) Section 26B-7-119, Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(48)~~](47) Section 26B-7-122, Communication Habits to reduce Adolescent Threats Pilot Program, is repealed July 1, 2029.

[~~(49)~~](48) Section 26B-7-123, Report on CHAT campaign, is repealed July 1, 2029.

[~~(50)~~](49) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2026.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 48
H. B. 283
Passed March 7, 2025
Approved March 19, 2025
Effective May 7, 2025

CHILD AND FAMILY SERVICES AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses child and family services, such as child placement, custody, and records.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► addresses bedroom sharing by foster children;
- ► prohibits the Division of Child and Family Services (division) from:
  - • withholding certain information from a child's parent, guardian, or custodian;
  - • creating or changing division records in certain ways without written consent from the child's parent, guardian, or custodian;
  - • initiating certain medical treatment or care on behalf of a child in the division's custody; and
  - • placing a child with a foster parent or taking adverse action against a foster parent if the foster parent expresses discomfort with caring for a child;
- ► allows the division to share certain records concerning a child with an adoptive parent of the child or an individual who has been awarded permanent custody and guardianship of the child;
- ► provides that a parent's approval or disapproval of a child's sexual orientation, in itself, may not be the basis for:
  - • removal of the child from the parent's custody; or
  - • discrimination when a court is determining child custody as part of a divorce or other family law proceeding;
- ► provides that a juvenile court may not determine that reunification services should not be provided based solely on a parent's agreement or disagreement with the child's sexual orientation or gender identity; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-2-128, as last amended by Laws of Utah 2024, Chapter 240
53G-8-211, as last amended by Laws of Utah 2024, Chapters 240, 301
80-1-102, as last amended by Laws of Utah 2024, Chapter 256
80-2-102, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-402, as last amended by Laws of Utah 2024, Chapter 506
80-2-1005, as last amended by Laws of Utah 2023, Chapter 330
80-2a-201, as last amended by Laws of Utah 2023, Chapter 320
80-2a-202, as last amended by Laws of Utah 2024, Chapter 281
80-3-111, as enacted by Laws of Utah 2023, Chapter 309
80-3-204, as last amended by Laws of Utah 2023, Chapter 330
80-3-301, as last amended by Laws of Utah 2023, Chapter 309
80-3-302, as last amended by Laws of Utah 2023, Chapters 309, 330
80-3-303, as last amended by Laws of Utah 2023, Chapter 309
80-3-405, as last amended by Laws of Utah 2023, Chapters 309, 320 and 330
80-3-406, as last amended by Laws of Utah 2023, Chapter 320
80-3-407, as last amended by Laws of Utah 2023, Chapters 309, 320
80-3-409, as last amended by Laws of Utah 2024, Chapter 240
81-9-101, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-204, as renumbered and amended by Laws of Utah 2024, Chapter 366

ENACTS:

80-2-309, Utah Code Annotated 1953

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

Section 1. Section 26B-2-128 is amended to read:

26B-2-128. Numerical limit of foster children in a foster home -- Limits on bedroom sharing.

(1) (a) No more than four foster children may reside in the foster home of a licensed foster parent.

(b) No more than three foster children may reside in the foster home of a certified foster parent.

(2) When placing a child into a foster home, the limits under Subsection (1) may be exceeded:

(a) to place a child into a foster home where a sibling of the child currently resides; or

(b) to place a child in a foster home where the child previously resided.

(3) The limits under Subsection (1) may be exceeded for:

(a) placement of a sibling group in a foster home with no more than one other foster child placement;

(b) placement of a child or sibling group in a foster home where the child or sibling group previously resided; or

(c) placement of a child in a foster home where a sibling currently resides.

(4) (a) A foster child may not share a bedroom with a child of the opposite biological sex unless:

(i) each child sharing the bedroom is under two years old;

(ii) (A) the department's client record identifies gender-specific rationale for sharing the bedroom;

(B) sharing the bedroom is in the best interests of each child sharing the bedroom; and

(C) all children sharing the bedroom are relatives; or

(iii) (A) there is written caseworker approval for the bedroom assignment;

(B) sharing the bedroom is in the best interests of each child sharing the bedroom; and

(C) all children sharing the bedroom are relatives.

(b) The Division of Child and Family Services shall approve a bedroom assignment by which a child has their own bedroom if:

(i) there is a gender-specific or sexual-orientation specific rationale for the bedroom assignment; and

(ii) the bedroom assignment is necessary to promote the child's best interest.

(5) A foster parent's bedroom may only be shared with a foster child who is under the age of two years old.

(6) A foster parent may not share a bed with any foster child.

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

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

(1) As used in this section:

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

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

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

(iii) is created and developed by a school or school district and has been approved by the state board.

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

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

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

(iii) (A) is truant at least 20 days during one school year; or

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

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

(i) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

(d) "Prosecuting attorney" means the same as that term is defined in Subsections [~~80-1-102(65)(b)~~]80-1-102(66)(b) and (c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) This section applies to:

(a) a minor who is alleged to be a habitual truant; and

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

(i) when school is in session; or

(ii) during a school-sponsored activity.

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

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

(i) a mobile crisis outreach team;

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

(iii) a certified youth court, as defined in Section 80-6-901, or comparable restorative justice program;

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

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

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

(vii) truancy mediation; or

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

(4) Except as provided in Subsection (6), if a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, a school administrator, the school administrator's designee, or a school resource officer may refer a minor to a law enforcement officer or agency or a court only if:

(a) the minor allegedly committed an offense on school property on a previous occasion; and

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

(5) If a minor is alleged to be a habitual truant, a school administrator, the school administrator's designee, or a school resource officer may only refer the minor to a law enforcement officer or agency or a court if:

(a) the minor was previously alleged of being a habitual truant at least twice during the same school year; and

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

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

(7) Notwithstanding Subsections (4) and (5), a school resource officer may:

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

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

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

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

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

(8) (a) If a minor is referred to a court or a law enforcement officer or agency under Subsection (4) or (5), the school or the school district shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(b) A school representative appointed under Subsection (8)(a) may not be a school resource officer.

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

(i) attendance records for the minor;

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

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

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

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

(d) A minor referred to a court under Subsection (4) or (5) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353:

(i) when the underlying offense is a status offense or infraction; or

(ii) for being a habitual truant.

(e) If a minor is referred to a court under Subsection (4) or (5), the court may use, when available, the resources of the Division of Juvenile Justice and Youth Services or the Office of Substance Use and Mental Health to address the minor.

(9) If a minor is alleged to have committed an offense on school property that is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a court or to the evidence-based alternative interventions in Subsection (3)(a).

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

Section 3. Section 80-1-102 is amended to read:

80-1-102. Juvenile Code definitions.

Except as provided in Section 80-6-1103, as used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means, except as provided in Subsection (3)(b):

(i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:

(A) a finding by the juvenile court that the facts alleged in a delinquency petition or criminal information alleging that a minor committed an offense have been proved;

(B) an admission by a minor in the juvenile court as described in Section 80-6-306; or

(C) a plea of no contest by minor in the juvenile court; or

(ii) for all other proceedings under this title, a finding by the juvenile court that the facts alleged in the petition have been proved.

(b) "Adjudication" does not include:

(i) an admission by a minor described in Section 80-6-306 until the juvenile court enters the minor's admission; or

(ii) a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 80-3-307.

(9) "Child placing" means the same as that term is defined in Section 26B-2-101.

(10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.

(11) "Child protection team" means a team consisting of:

(a) the child welfare caseworker assigned to the case;

(b) if applicable, the child welfare caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) if applicable, the law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12) (a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(13) (a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(15) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.

(17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth Services in accordance with Section 80-5-501, for minors held in detention.

(25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(29) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(30) "Emancipated" means the same as that term is defined in Section 80-7-102.

(31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(34) "Gender identity" means the same as that term is defined in Section 34A-5-102.

(35) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

[~~(35)~~](36) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

[~~(36)~~](37) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

[~~(37)~~](38) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

[~~(38)~~](39) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.

[~~(39)~~](40) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

[~~(40)~~](41) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(41)~~](42) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(42)~~](43) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

[~~(43)~~](44) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

[~~(44)~~](45) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

[~~(45)~~](46) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

[~~(46)~~](47) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

[~~(47)~~](48) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

[~~(48)~~](49) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

[~~(49)~~](50) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

[~~(50)~~](51) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

[~~(51)~~](52) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

[~~(52)~~](53) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

[~~(53)~~](54) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

[~~(54)~~](55) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

(iii) (A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

[~~(55)~~](56) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

[~~(56)~~](57) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.

[~~(57)~~](58) (a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

[~~(58)~~](59) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated child custody transfer under Section 78B-24-203; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

[~~(59)~~](60) "Neglected child" means a child who has been subjected to neglect.

[~~(60)~~](61) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, guardian, or custodian.

[~~(61)~~](62) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

[~~(62)~~](63) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.

[~~(63)~~](64) "Physical abuse" means abuse that results in physical injury or damage to a child.

[~~(64)~~](65) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

[~~(65)~~](66) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

[~~(66)~~](67) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

[~~(67)~~](68) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

[~~(68)~~](69) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

[~~(69)~~](70) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

[~~(70)~~](71) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

[~~(71)~~](72) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

[~~(72)~~](73) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.

[~~(73)~~](74) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

[~~(74)~~](75) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

[~~(75)~~](76) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

[~~(76)~~](77) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

[~~(77)~~](78) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

[~~(78)~~](79) (a) "Severe type of child abuse or neglect" means, except as provided in Subsection [~~(78)(b)~~](79)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

(B) sexual behavior with or upon another child that indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with Subsection 53G-8-302(2) or Section 76-2-401;

(ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

(iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection [~~(78)(c)~~](79)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(c) Subsection [~~(78)(b)(iii)~~](79)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

[~~(79)~~](80) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection [~~(39)~~](40), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

[~~(80)~~](81) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

[~~(81)~~](82) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

[~~(82)~~](83) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

[~~(83)~~](84) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

(f) family risk factors; and

(g) other related considerations.

[~~(84)~~](85) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

[~~(85)~~](86) "Status offense" means an offense that would not be an offense but for the age of the offender.

[~~(86)~~](87) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

[~~(87)~~](88) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred.

[~~(88)~~](89) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or

(c) the licensing and supervision of a substitute care facility.

[~~(89)~~](90) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

[~~(90)~~](91) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

[~~(91)~~](92) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

[~~(92)~~](93) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

[~~(93)~~](94) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections [~~(93)(a)~~](94)(a) and (b).

[~~(94)~~](95) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

[~~(95)~~](96) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

[~~(96)~~](97) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a

minor's criminogenic needs.

[~~(97)~~](98) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

[~~(98)~~](99) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

Section 4. Section 80-2-102 is amended to read:

80-2-102. Definitions.

As used in this chapter:

(1) "Consult" means an interaction between two persons in which the initiating person:

(a) provides information to another person;

(b) provides the other person an opportunity to respond; and

(c) takes the other person's response, if any, into consideration.

(2) "Consumer" means a person who receives services offered by the division in accordance with this chapter.

(3) "Council" means the Child Welfare Improvement Council created in Section 80-2-1101.

(4) "Custody," with regard to the division, means the custody of a minor in the division as of the date of disposition.

(5) "Day-care services" means care of a child for a portion of the day which is less than 24 hours:

(a) in the child's own home by a responsible individual; or

(b) outside of the child's home in a:

(i) day-care center;

(ii) family group home; or

(iii) family child care home.

(6) "Director" means the director of the division appointed under Section 80-2-202.

(7) "Division" means the Division of Child and Family Services created in Section 80-2-201.

(8) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(9) "Domestic violence services" means:

(a) temporary shelter, treatment, and related services provided to:

(i) an individual who is a victim of abuse, as defined in Section 78B-7-102; and

(ii) the dependent children of an individual who is a victim of abuse, as defined in Section 78B-7-102; and

(b) treatment services for an individual who is alleged to have committed, has been convicted of, or has pled guilty to domestic violence.

(10) "Homemaking services" means the care of an individual in the individual's domicile, and help given to an individual caretaker relative to achieve improved household and family management through the services of a trained homemaker.

(11) "Hormonal transgender treatment" means the same as that term is defined in Section 58-1-603.

(12) "Mutual case" means a case that is:

(a) opened by the division under the division's discretion and procedures;

(b) opened by the law enforcement agency with jurisdiction over the case; and

(c) accepted for investigation by a child protection team, as applicable.

[~~(12)~~](13) (a) "Person responsible for the child's care" means the child's parent, guardian, or other person responsible for the child's care.

(b) "Person responsible for the child's care" includes a person responsible for the child's care in the same home as the child, a relative's home, a group, family, or day care facility, a foster care home, or a residential institution.

[~~(13)~~](14) "Primary sex characteristic surgical procedure" means the same as that term is defined in Section 58-67-102.

(15) "Secondary sex characteristic surgical procedure" means the same as that term is defined in Section 58-67-102.

(16) "Shelter care" means the temporary care of a minor in a nonsecure facility.

[~~(14)~~](17) "Sibling" means a child who shares or has shared at least one parent in common either by blood or adoption.

[~~(15)~~](18) "Sibling visitation" means services provided by the division to facilitate the interaction between a child in division custody with the child's sibling.

[~~(16)~~](19) (a) "Subject of the report" means a person reported under Part 6, Child Abuse and Neglect Reports.

(b) "Subject of the report" includes the child who is the alleged victim of the report and the person responsible for the child's care.

[~~(17)~~](20) "Temporary custody" means, with regard to the division, the custody of a child from the day on which the shelter hearing described in Section 80-3-301 is held until the day on which the juvenile court enters a disposition under Section 80-3-405.

[~~(18)~~](21) "Transportation services" means travel assistance given to an individual with escort service, if necessary, to and from community facilities and resources as part of a service plan.

Section 5. Section 80-2-309 is enacted to read:

80-2-309. Orientation and identity.

(1) As used in this section:

(a) (i) "Custodian" means an individual who has legal custody of a child.

(ii) "Custodian" does not include the division.

(b) (i) "Guardian" means an individual who has qualified as a guardian of a child pursuant to testamentary or court appointment, or by

written instrument as provided in Section 75-5-202.5.

(ii) "Guardian" does not include a guardian ad litem.

(2) (a) For a child in the protective custody, temporary custody, or custody of the division:

(i) subject to Subsection (2)(b), the division may not withhold or conceal information related to a child's asserted gender identity or sexual orientation from the child's parent, guardian, or custodian;

(ii) without consent from the child's parent, guardian, or custodian, the division may not refer to the child in division records in a way that is contrary to the child's biological sex;

(iii) the division may not initiate hormonal transgender treatment, a primary sex characteristic surgical procedure, or a secondary sex characteristic surgical procedure for the child; and

(iv) if a foster parent expresses discomfort with caring for a child based on the child's asserted gender identity or sexual orientation, the division may not place the child with that foster parent and may not discriminate or take other adverse action against the foster parent solely on that basis.

(b) If a child discloses to the division information regarding the child's asserted gender identity or sexual orientation, and the child wants the information to remain private, the division shall develop a plan in cooperation with the child's therapist or counselor that:

(i) allows the division to comply with the requirements described in Subsection (2)(a)(i);

(ii) will not result in harm, as that term is defined in Section 80-1-102, to the child; and

(iii) is in compliance with all applicable privacy laws.

Section 6. Section 80-2-402 is amended to read:

80-2-402. Child welfare training coordinator -- Mandatory education and training of child welfare caseworkers -- Development of curriculum.

(1) There is created within the division a full-time position of a child welfare training coordinator.

(2) The child welfare training coordinator is not responsible for direct casework services or the supervision of casework services, but is required to:

(a) develop child welfare curriculum that:

(i) is current and effective, consistent with the division's mission and purpose for child welfare; and

(ii) utilizes curriculum and resources from a variety of sources including those from:

(A) the public sector;

(B) the private sector; and

(C) inside and outside of the state;

(b) recruit, select, and supervise child welfare trainers;

(c) develop a statewide training program, including a budget and identification of sources of funding to support that training;

(d) evaluate the efficacy of training in improving job performance;

(e) assist child protective services and foster care workers in developing and fulfilling their individual training plans;

(f) monitor staff compliance with division training requirements and individual training plans; and

(g) expand the collaboration between the division and schools of social work within institutions of higher education in developing child welfare services curriculum, and in providing and evaluating training.

(3) The director shall, with the assistance of the child welfare training coordinator, establish and ensure child welfare caseworker competency regarding a core curriculum for child welfare services that:

(a) is driven by child safety and family well-being;

(b) emphasizes child and family voice;

(c) is based on a policy, procedure, program, or practice that demonstrates an ability to minimize retraumatization associated with the criminal and juvenile justice system; and

(d) is consistent with national child welfare practice standards.

(4) A child welfare caseworker shall complete training in:

(a) the legal duties of a child welfare caseworker;

(b) the responsibility of a child welfare caseworker to protect the safety and legal rights of children, parents, and families at all stages of a case, including:

(i) initial contact;

(ii) safety and risk assessment, as described in Section 80-2-403; and

(iii) intervention;

(c) recognizing situations involving:

(i) substance abuse;

(ii) domestic violence;

(iii) abuse; and

(iv) neglect; and

(d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of the United States to the child welfare caseworker's job, including:

(i) search and seizure of evidence;

(ii) the warrant requirement;

(iii) exceptions to the warrant requirement; and

(iv) removing a child from the custody of the child's parent or guardian.

(5) The division shall train the division's child welfare caseworkers to:

(a) apply the risk assessment tools and rules described in Subsection [~~80-1-102(83)~~]80-1-102(84); and

(b) develop child and family plans that comply with:

(i) federal mandates; and

(ii) the specific needs of the child and the child's family.

(6) The division shall use the training of child welfare caseworkers to emphasize:

(a) the importance of maintaining the parent-child relationship;

(b) the preference for providing in-home services over taking a child into protective custody, both for the emotional well-being of the child and the efficient allocation of resources; and

(c) the importance and priority of:

(i) kinship placement in the event a child must be taken into protective custody; and

(ii) guardianship placement, in the event the parent-child relationship is legally terminated and no appropriate adoptive placement is available.

(7) If a child welfare caseworker is hired, before assuming independent casework responsibilities, the division shall ensure that the child welfare caseworker has:

(a) completed the training described in Subsections (4), (5), and (6); and

(b) participated in sufficient skills development for a child welfare caseworker.

Section 7. Section 80-2-1005 is amended to read:

80-2-1005. Classification of reports of alleged abuse or neglect -- Confidential identity of a person who reports -- Access -- Admitting reports into evidence -- Unlawful release and use -- Penalty.

(1) Except as otherwise provided in this chapter or Chapter 2a, Removal and Protective Custody of a Child, a report made under Part 6, Child Abuse and Neglect Reports, and any other information in the possession of the division obtained as a result of the report is a private, protected, or controlled record under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection team;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) the subject of the report, the natural parents of the child, an adoptive parent of the child, an individual who has been awarded permanent custody and guardianship of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;

(g) an office of the public prosecutor or the public prosecutor's deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Individual, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the department or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services described in Subsection [~~26B-5-211(2)(p)~~]26B-5-102(2)(p).

(2) In accordance with Section 80-2-608 and except as provided in Section 80-2-611, the division and a law enforcement agency shall ensure the anonymity of the person who makes the initial report under Part 6, Child Abuse and Neglect Reports, and any other person involved in the division's or law enforcement agency's subsequent investigation of the report.

(3) Notwithstanding any other provision of law, excluding Section 80-3-107, but including this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Title 63G, Chapter 2, Government Records Access and Management Act, if the division makes a report or other information in the division's possession available under Subsection (1)(e)to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

(a) identify the referent;

(b) impede a criminal investigation; or

(c) endanger an individual's safety.

(4) A child-placing agency or person who receives a report from the division under Subsection (1)(m) may provide the report to:

(a) the subject of the report;

(b) a person who is performing a preplacement adoptive evaluation in accordance with Sections 78B-6-128 and 78B-6-130;

(c) to a licensed child-placing agency; or

(d) an attorney seeking to facilitate an adoption.

(5) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.

(6) (a) Except as provided in Subsection (6)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

(A) under Subsection (1)(f); or

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

(ii) describes a parent of the child as the alleged perpetrator; and

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b) (i) After a motion to admit the report described in Subsection (6)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection (6)(b)(i), the court may receive the report into evidence upon a finding on the record of good cause.

(7) (a) A person may not:

(i) willfully permit, or aid and abet, the release of data or information in the possession of the division or contained in the Management Information System in violation of this part or Part 6, Child Abuse and Neglect Reports; or

(ii) if the person is not listed in Subsection (1), request another person to obtain or release a report or other information that the other person obtained under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who violates Subsection (7)(a)(i), or violates Subsection (7)(a)(ii) knowing the person's actions are a violation of Subsection (7)(a)(ii), is guilty of a class C misdemeanor.

Section 8. Section 80-2a-201 is amended to read:

80-2a-201. Rights of parents -- Children's rights -- Interest and responsibility of state.

(1) (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A fundamentally fair process must be provided to parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's child by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's natural parent.

(b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's child is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. Before an adjudication of unfitness, government action in relation to a parent and the parent's child may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's parent share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's parent are adversaries.

(c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of a parent to conceive and raise the parent's child are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.

(d) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's child; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(e) It is the public policy of this state that:

(i) a parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child;

(ii) a parent retains the right to have contact with the parent's child when the child is placed outside of the parent's home, and parent-time should be ordered by a court so long as the contact is not contrary to the best interest of the child; and

(iii) a child has the right to have contact with the child's sibling when the child is placed outside of the home and apart from the child's sibling, and sibling visits should be ordered by a court unless the contact would be contrary to the safety or well-being of the child.

(f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).

(2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect. Therefore, the state, as parens patriae, has an interest in and responsibility to protect a child whose parent abuses the child or does not adequately provide for the child's welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the state may take action for the welfare and protection of the parent's child.

(3) When the division intervenes on behalf of an abused, neglected, or dependent child, the division shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout

the division's involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.

(4) If circumstances within the family pose a threat to the child's immediate safety or welfare, the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with Chapter 3, Abuse, Neglect, and Dependency Proceedings, and when safe and appropriate, return the child to the child's parent or as a last resort, pursue another permanency plan.

(5) In determining and making reasonable efforts with regard to a child, under Section 80-2a-302, both the division's and the juvenile court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the juvenile court.

(6) In accordance with Subsections 80-2a-302(4) and 80-3-301(12), in cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the state has no duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

(7) (a) In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide in-home services, if appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division may pursue a foster placement only if in-home services fail or are otherwise insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services and kinship placement fail and cannot be corrected. The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child.

(b) If the use or continuation of reasonable efforts, as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(c) Subject to the parental rights recognized and protected under this section, if, because of a parent's conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in Chapter 4, Termination and Restoration of Parental Rights, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent's rights should be terminated.

(8) The state's right to direct or intervene in the provision of medical or mental health care for a child is subject to Subsections [~~80-1-102(58)(b)(i)~~]80-1-102(59)(b)(i) through (iii) and Sections 80-3-109 and 80-3-304.

Section 9. Section 80-2a-202 is amended to read:

80-2a-202. Removal of a child by a peace officer or child welfare caseworker -- Search warrants -- Protective custody and temporary care of a child.

(1) A peace officer or child welfare caseworker may remove a child or take a child into protective custody, temporary custody, or custody in accordance with this section.

(2) (a) Except as provided in Subsection (2)(b), a peace officer or a child welfare caseworker may not enter the home of a child whose case is not under the jurisdiction of the juvenile court, remove a child from the child's home or school, or take a child into protective custody unless:

(i) there exist exigent circumstances sufficient to relieve the peace officer or the child welfare caseworker of the requirement to obtain a search warrant under Subsection (3);

(ii) the peace officer or child welfare caseworker obtains a search warrant under Subsection (3);

(iii) the peace officer or child welfare caseworker obtains a court order after the child's parent or guardian is given notice and an opportunity to be heard; or

(iv) the peace officer or child welfare caseworker obtains the consent of the child's parent or guardian.

(b) A peace officer or a child welfare caseworker may not take action under Subsection (2)(a) solely on the basis of:

(i) educational neglect, truancy, or failure to comply with a court order to attend school;

(ii) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26B-4-201; or

(iii) subject to Subsection (2)(c),a parent's agreement or disagreement with a minor child of the couple's:

(A) assertion that the child's gender identity is different from the child's biological sex; [~~or~~]

(B) practice of having or expressing a different gender identity than the child's biological sex[-]; or

(C) sexual orientation.

(c) Subsection (2)(b)(iii) does not preclude a peace officer or a child welfare caseworker from taking action under Subsection (2)(a) if the parent's agreement or disagreement with a minor child as described in Subsection (2)(b)(iii) results in or is related to harm, as that term is defined in Section 80-1-102, to the minor child.

(3) (a) The juvenile court may issue a warrant authorizing a peace officer or a child welfare caseworker to search for a child and take the child into protective custody if it appears to the juvenile court upon a verified petition, recorded sworn testimony or an affidavit sworn to by a peace officer or another individual, and upon the examination of other witnesses if required by the juvenile court, that there is probable cause to believe that:

(i) there is a threat of substantial harm to the child's health or safety;

(ii) it is necessary to take the child into protective custody to avoid the harm described in Subsection (3)(a)(i); and

(iii) it is likely that the child will suffer substantial harm if the child's parent or guardian is given notice and an opportunity to be heard before the child is taken into protective custody.

(b) In accordance with Section 77-23-210, a peace officer making the search under Subsection (3)(a) may enter a house or premises by force, if necessary, in order to remove the child.

(4) (a) A child welfare caseworker may take action under Subsection (2) accompanied by a peace officer or without a peace officer if a peace officer is not reasonably available.

(b) (i) Before taking a child into protective custody, and if possible and consistent with the child's safety and welfare, a child welfare caseworker shall determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the

need to remove the child from the custody of the child's parent or guardian.

(ii) In determining whether the services described in Subsection (4)(b)(i) are reasonably available, the child welfare caseworker shall consider the child's health, safety, and welfare as the paramount concern.

(iii) If the child welfare caseworker determines the services described in Subsection (4)(b)(i) are reasonably available, the services shall be utilized.

(5) (a) If a peace officer or a child welfare caseworker takes a child into protective custody under Subsection (2), the peace officer or child welfare caseworker shall:

(i) notify the child's parent or guardian in accordance with Section 80-2a-203; and

(ii) release the child to the care of the child's parent or guardian or another responsible adult, unless:

(A) the child's immediate welfare requires the child remain in protective custody; or

(B) the protection of the community requires the child's detention in accordance with Chapter 6, Part 2, Custody and Detention.

(b) (i) If a peace officer or child welfare caseworker is executing a warrant under Subsection (3), the peace officer or child welfare caseworker shall take the child to:

(A) a shelter facility; or

(B) if the division makes an emergency placement under Section 80-2a-301, the emergency placement.

(ii) If a peace officer or a child welfare caseworker takes a child to a shelter facility under Subsection (5)(b)(i), the peace officer or the child welfare caseworker shall promptly file a written report that includes the child's information, on a form provided by the division, with the shelter facility.

(c) A child removed or taken into protective custody under this section may not be placed or kept in detention pending court proceedings, unless the child may be held in detention under Chapter 6, Part 2, Custody and Detention.

(6) (a) The juvenile court shall issue a warrant authorizing a peace officer or a child welfare worker to search for a child who is missing, has been abducted, or has run away, and take the child into physical custody if the juvenile court determines that the child is missing, has been abducted, or has run away from the protective custody, temporary custody, or custody of the division.

(b) If the juvenile court issues a warrant under Subsection (6)(a):

(i) the division shall notify the child's parent or guardian who has a right to parent-time with the child in accordance with Subsection 80-2a-203(5)(a);

(ii) the court shall order:

(A) the law enforcement agency that has jurisdiction over the location from which the child ran away to enter a record of the warrant into the National Crime Information Center database within 24 hours after the time in which the law enforcement agency receives a copy of the warrant; and

(B) the division to notify the law enforcement agency described in Subsection (6)(b)(ii)(A) of the order described in Subsection (6)(b)(ii)(A); and

(c) the court shall specify the location to which the peace officer or the child welfare caseworker shall transport the child.

Section 10. Section 80-3-111 is amended to read:

80-3-111. Interstate compact -- Relative placement.

(1) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(a) the preferential consideration granted to a relative in Section 80-3-302;

(b) the rebuttable presumption in Section 80-3-302; and

(c) the division's placement authority under Subsections [~~80-1-102(50)~~]80-1-102(51) and 80-3-303(1).

(2) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 11. Section 80-3-204 is amended to read:

80-3-204. Protective custody of a child after a petition is filed -- Grounds.

(1) When an abuse, neglect, or dependency petition is filed, the juvenile court shall apply, in addressing the petition, the least restrictive means and alternatives available to accomplish a compelling state interest and to prevent irretrievable destruction of family life as described in Subsections 80-2a-201(1) and (7)(a) and Section 80-4-104.

(2) After an abuse, neglect, or dependency petition is filed, if the child who is the subject of the petition is not in protective custody, a juvenile court may order that the child be removed from the child's home or otherwise taken into protective custody if the juvenile court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

(a) (i) there is an imminent danger to the physical health or safety of the child; and

(ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;

(b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and

(ii) there are no less restrictive means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other individual known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child's support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) subject to Subsection [~~80-1-102(58)(b)~~]80-1-102(59)(b) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(i) (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or

(ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child's natural parent:

(i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(l) an infant is an abandoned infant, as defined in Section 80-4-203;

(m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child's welfare is otherwise endangered.

(3) (a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact is prima facie evidence that the child cannot safely remain in the custody of the child's parent.

(b) For purposes of Subsection (2)(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (2)(c) or Subsection (3)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by an individual known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact is prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(4) (a) For purposes of Subsection (2), if the division files an abuse, neglect, or dependency petition, the juvenile court shall consider the division's safety and risk assessments described in Section 80-2-403 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.

(b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 80-2-403 to the juvenile court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 80-3-301.

(5) In the absence of one of the factors described in Subsection (2), a juvenile court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian;

(c) disability of the parent or guardian, as defined in Section 57-21-2; or

(d) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26B-4-201.

(6) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in detention, unless the child may be admitted to detention under Chapter 6, Part 2, Custody and Detention.

(7) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 80-2a-202.

(8) (a) Except as provided in Subsection (8)(b), a juvenile court and the division may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (8)(a), a juvenile court or the division may remove a child under conditions that would otherwise be prohibited under Subsection (8)(a) if failure to take an action described under Subsection (8)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 12. Section 80-3-301 is amended to read:

80-3-301. Shelter hearing -- Court considerations.

(1) A juvenile court shall hold a shelter hearing to determine the temporary custody of a child within 72 hours, excluding weekends and holidays, after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in protective custody;

(c) emergency placement under Subsection 80-2a-202(5);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a motion for expedited placement in temporary custody is filed under Section 80-3-203.

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the individual to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf an abuse, neglect, or dependency petition is brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding is instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after the day on which the child is removed from the child's home, or the day on which a motion for expedited placement in temporary custody under Section 80-3-203 is filed, on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) Notwithstanding Section 80-3-104, the following individuals shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the child welfare caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the juvenile court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other individual with relevant knowledge;

(ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and

(iii) in accordance with Subsections 80-3-302(7)(c) and (d), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The juvenile court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or the requesting party's counsel; and

(iii) may in the juvenile court's discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in protective custody, the division shall report to the juvenile court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 80-3-302(7)(c) and (d), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized to present relevant evidence under this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.

(b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in protective custody, the juvenile court shall order that the child be returned to the custody of the parent or guardian unless the juvenile court finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 80-2a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by:

(A) a parent or guardian;

(B) a member of the parent's household or the guardian's household; or

(C) an individual known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the parent or guardian is unable to have physical custody of the child;

(vii) the child is without any provision for the child's support;

(viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(ix) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(x) subject to Subsection [~~80-1-102(58)(b)(i)~~]80-1-102(59)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(xi) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xii) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiv) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed the child to be in the physical care of an individual after the parent received actual notice that the individual physically abused, sexually abused, or sexually exploited the child, that fact is prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The juvenile court shall make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that the services be provided by the division.

(b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).

(11) If the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section 80-2a-302, was appropriate.

(12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the juvenile court and the division do not have any duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.

(14) (a) If a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which the decision is based.

(b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which the decision is based.

(15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter, Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child.

Section 13. Section 80-3-302 is amended to read:

80-3-302. Shelter hearing -- Placement of a child.

(1) As used in this section:

(a) "Asserted an interest" means to communicate, verbally or in writing, to the division or the court, that the relative or friend is interested in becoming a placement for the child.

(b) (i) "Natural parent," notwithstanding Section 80-1-102, means:

(A) a biological or adoptive mother of the child;

(B) an adoptive father of the child; or

(C) a biological father of the child who:

(I) was married to the child's biological mother at the time the child was conceived or born; or

(II) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal of the child or voluntary surrender of the child by the custodial parent.

(ii) "Natural parent" includes the individuals described in Subsection (1)(b)regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

(2) (a) At the shelter hearing, if the juvenile court orders that a child be removed from the custody of the child's parent in accordance with Section 80-3-301, the juvenile court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the juvenile court's jurisdiction occurred, who desires to assume custody of the child.

(b) Subject to Subsection (7), if another natural parent requests custody under Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile court finds that the placement would be unsafe or otherwise detrimental to the child.

(c) The juvenile court:

(i) shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement;

(ii) shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 80-3-305, and check the Management Information System for any previous reports of abuse or neglect received by the division regarding the parent at issue;

(iii) may order the division to conduct any further investigation regarding the safety and appropriateness of the placement; and

(iv) may place the child in the temporary custody of the division, pending the juvenile court's determination regarding the placement.

(d) The division shall report the division's findings from an investigation under Subsection (2)(c), regarding the child in writing to the juvenile court.

(3) If the juvenile court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the juvenile court;

(b) the juvenile court may order:

(i) that the parent take custody subject to the supervision of the juvenile court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the juvenile court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The juvenile court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child's best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed with a relative under Subsections (6) through (9); or

(d) the child should be placed in the temporary custody of the division.

(5) (a) Legal custody of the child is not affected by an order entered under Subsection (2)or (3).

(b) To affect a previous court order regarding legal custody, the party shall petition the court for modification of legal custody.

(6) Subject to Subsection (7), if, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the juvenile court:

(a) shall, at that time, determine whether there is a relative or a friend who is able and willing to care for the child, which may include asking a child, who is of sufficient maturity to articulate the child's wishes in relation to a placement, if there is a relative or friend with whom the child would prefer to reside;

(b) may order the division to conduct a reasonable search to determine whether there are relatives or friends who are willing and appropriate, in accordance with the requirements of this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to provide information regarding relatives or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the temporary custody of the division pending the determination under Subsection (6)(a).

(7) (a) (i) Subject to Subsection (7)(b), and if the provisions of this section are satisfied, the division and the juvenile court shall give preferential consideration to a relative's or a friend's request for placement of the child, if the placement is in the best interest of the child.

(ii) If a relative or friend verbally communicates to the division or court that the relative or friend is interested in becoming a placement for the child, the division or court shall make a written record of the communication and include that written record in the report the division submits at the initial dispositional hearing, a report the division submits under Section 80-3-408, or the court's legal file.

(b) (i) (A) The preferential consideration that the juvenile court or division initially grants a friend under Subsection (7)(a)(i) expires 120 days after the day on which the shelter hearing occurs.

(B) After the day on which the time period described in Subsection (7)(b)(i)(A)expires, the division or the juvenile court may not grant preferential consideration to a friend, who has not obtained custody or asserted an interest in the child.

(ii) (A) Until eight months after the day on which the shelter hearing occurs, the preferential consideration that the juvenile court or division grants a relative under Subsection (7)(a)(i) is a rebuttable presumption that placement of the child with a relative is in the best interest of the child.

(B) After the rebuttable presumption described in Subsection (7)(b)(ii)(A) expires, the juvenile court or division shall give preferential consideration to a relative's request for placement of the child, if the placement is in the best interest of the child considering the totality of the circumstances.

(C) If a relative asserts an interest in becoming a placement for the child more than one year after the day on which the shelter hearing occurs, the juvenile court may not give the relative the preferential consideration described in Subsection (7)(b)(ii)(B).

(c) The following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing and able to care for the child:

(i) a noncustodial parent of the child;

(ii) a relative of the child;

(iii) subject to Subsection (7)(d), a friend if the friend is a licensed foster parent; and

(iv) other placements that are consistent with the requirements of law.

(d) In determining whether a friend is a willing, able, and appropriate placement for a child, the juvenile court or the division:

(i) subject to Subsections (7)(d)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.

(e) (i) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent, the department shall fully cooperate to expedite the licensing process for the friend.

(ii) If the friend described in Subsection (7)(e)(i) becomes licensed as a foster parent within the time frame described in Subsection (7)(b)(i), the juvenile court shall determine whether it is in the best interest of the child to place the child with the friend.

(8) (a) If a relative or friend who is willing to cooperate with the child's permanency goal is identified under Subsection (6)(a), the juvenile court:

(i) shall make a specific finding regarding:

(A) the fitness of that relative or friend as a placement for the child; and

(B) the safety and appropriateness of placement with the relative or friend; and

(ii) may not consider a request for guardianship or adoption of the child by an individual who is not a relative of the child, or prevent the division from placing the child in the custody of a relative of the child in accordance with this part, until after the day on which the juvenile court makes the findings under Subsection (8)(a)(i).

(b) In making the finding described in Subsection (8)(a), the juvenile court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative, conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 80-2a-301(4) and (6);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 80-3-305;

(iv) visit the relative's or friend's home;

(v) check the Management Information System for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the juvenile court; and

(vii) provide sufficient information so that the juvenile court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

(c) The division may determine to conduct, or the juvenile court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement described in Subsection (8)(a).

(d) The division shall complete and file the division's assessment regarding placement with a relative or friend under Subsections (8)(a) and (b) as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

(9) (a) The juvenile court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation under Subsection (8), and the juvenile court's determination regarding the appropriateness of the placement.

(b) The juvenile court shall ultimately base the juvenile court's determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

(10) If a juvenile court places a child described in Subsection (6) with the child's relative or friend:

(a) the juvenile court shall:

(i) order the relative or friend take custody, subject to the continuing supervision of the juvenile court;

(ii) provide for reasonable parent-time with the parent or parents from whose custody the child is removed, unless parent-time is not in the best interest of the child; and

(iii) conduct a periodic review no less often than every six months, to determine whether:

(A) placement with a relative or friend continues to be in the child's best interest;

(B) the child should be returned home; or

(C) the child should be placed in the custody of the division;

(b) the juvenile court may enter an order:

(i) requiring the division to provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being; or

(ii) that the juvenile court considers necessary for the protection and best interest of the child; and

(c) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the juvenile court.

(11) No later than 12 months after the day on which the child is removed from the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

(12) The time limitations described in Section 80-3-406, with regard to reunification efforts, apply to a child placed with a previously noncustodial parent under Subsection (2) or with a relative or friend under Subsection (6).

(13) (a) If the juvenile court awards temporary custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 80-3-305; and

(ii) if the results of the criminal background check described in Subsection (13)(a)(i)would prohibit the relative from having direct access to the child under Section 26B-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after the day on which the child is taken into physical custody under Subsection (13)(a)(ii)(A), give written notice to the juvenile court, and all parties to the proceedings, of the division's action.

(b) Subsection (13)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection (13)(a) on the relative.

(14) If the juvenile court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the juvenile court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child.

(15) (a) If a child reenters the temporary custody or the custody of the division and the child is not placed with an individual who is a parent, relative, or friend, the division shall:

(i) notify the child's former foster parents; and

(ii) upon a determination of the former foster parents' willingness and ability to safely and appropriately care for the child, give the former foster parents preference for placement of the child.

(b) If, after the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a married couple, unless it is in the best interests of the child to place the child with a single foster parent.

(16) In determining the placement of a child, the juvenile court and the division may not take into account, or discriminate against, the religion of an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with an individual or family of the same religion as the child.

(17) If the juvenile court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the child's wishes.

(18) This section does not guarantee that an identified relative or friend will receive custody of the child.

(19) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections [~~80-1-102(50)~~]80-1-102(51) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 14. Section 80-3-303 is amended to read:

80-3-303. Post-shelter hearing placement of a child in division's temporary custody.

(1) If the juvenile court awards temporary custody of a child to the division under Section 80-3-302, or as otherwise permitted by law, the division shall determine ongoing placement of the child.

(2) In placing a child under Subsection (1), the division:

(a) except as provided in Subsections (2)(b) and (e), shall comply with the applicable background check provisions described in Section 80-3-302;

(b) is not required to receive approval from the juvenile court before making the placement;

(c) shall consider the preferential consideration and rebuttable presumption described in Subsection 80-3-302(7)(a);

(d) shall, within three days, excluding weekends and holidays, after the day on which the placement is made, give written notice to the juvenile court, and the parties to the proceedings, that the placement has been made;

(e) may place the child with a noncustodial parent, relative, or friend, using the same criteria established for an emergency placement under Section 80-2a-301, pending the results of:

(i) the background check described in Subsection 80-3-302(13)(a); and

(ii) evaluation with the noncustodial parent, relative, or friend to determine the individual's capacity to provide ongoing care to the child; and

(f) shall take into consideration the will of the child, if the child is of sufficient maturity to articulate the child's wishes in relation to the child's placement.

(3) If the division's placement decision differs from a child's express wishes and the child is of sufficient maturity to state the child's wishes in relation to the child's placement, the division shall:

(a) make written findings explaining why the division's decision differs from the child's wishes; and

(b) provide the written findings to the juvenile court and the child's attorney guardian ad litem.

(4) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections [~~80-1-102(50)~~]80-1-102(51) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 15. Section 80-3-405 is amended to read:

80-3-405. Dispositions after adjudication.

(1) Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the dispositions described in Subsection (2) at the dispositional hearing.

(2) (a) (i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.

(ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:

(A) shall give primary consideration to the welfare of the minor;

(B) shall give due consideration to the rights of the parent or parents concerning the minor; and

(C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(b) (i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.

(ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:

(A) shall give primary consideration to the welfare of the minor; and

(B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(c) The juvenile court may order:

(i) protective supervision;

(ii) family preservation;

(iii) sibling visitation; or

(iv) other services.

(d) (i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.

(ii) If a juvenile court enters an order of permanent custody and guardianship with an individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on behalf of the minor against the natural parents of the minor.

(iii) An order under this Subsection (2)(d):

(A) shall remain in effect until the minor is 18 years old;

(B) is not subject to review under Section 78A-6-358; and

(C) may be modified by petition or motion as provided in Section 78A-6-357.

(e) The juvenile court may order a child be committed to the physical custody, as defined in Section 26B-5-401, of a local mental health authority, in accordance with the procedures and requirements of Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(f) (i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).

(g) (i) Subject to Subsection [~~80-1-102(58)(b)~~]80-1-102(59)(b) and Section 80-3-304, the juvenile court may order that a minor:

(A) be examined or treated by a mental health therapist, as described in Section 80-3-109; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court shall consider:

(A) the desires of the minor;

(B) the desires of the parent or guardian of the minor if the minor is younger than 18 years old; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(h) The juvenile court may make other reasonable orders for the best interest of the minor.

(3) (a) At the dispositional hearing described in Subsection 80-3-402(3), if a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and

(ii) if parent-time is denied, state the facts that justify the denial.

(b) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (3)(c)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (3)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(4) Upon an adjudication under this chapter, the juvenile court may not:

(a) commit a minor solely on the ground of abuse, neglect, or dependency to the Division of Juvenile Justice and Youth Services;

(b) assume the function of developing foster home services; or

(c) vest legal custody of an abused, neglected, or dependent minor in the division to primarily address the minor's ungovernable or other behavior, mental health, or disability, unless the division:

(i) engages other relevant divisions within the department that are conducting an assessment of the minor and the minor's family's needs;

(ii) based on the assessment described in Subsection (4)(c)(i), determines that vesting custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and

(iii) consents to legal custody of the minor being vested in the division.

(5) The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.

(6) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections [~~80-1-102(50)~~]80-1-102(51) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 16. Section 80-3-406 is amended to read:

80-3-406. Permanency plan -- Reunification services.

(1) If the juvenile court orders continued removal at the dispositional hearing under Section 80-3-402, and that the minor remain in the custody of the division, the juvenile court shall first:

(a) establish a primary permanency plan and a concurrent permanency plan for the minor in accordance with this section; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family under Subsections (5) through (8).

(2) (a) The concurrent permanency plan shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the juvenile court shall consider:

(i) the preference for kinship placement over nonkinship placement, including the rebuttable presumption described in Subsection 80-3-302(7)(a);

(ii) the potential for a guardianship placement if parental rights are terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(3) (a) The juvenile court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 80-3-409.

(b) The juvenile court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the juvenile court determines that reunification is no longer a minor's primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 on or before the earlier of:

(i) 30 days after the day on which the juvenile court makes the determination described in this Subsection (3)(c); or

(ii) the day on which the provision of reunification services, described in Section 80-3-409, ends.

(4) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The juvenile court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(d) Subject to Subsection (4)(e), the juvenile court may not determine that reunification services should not be provided solely on the basis of a parent's agreement or disagreement with the minor's:

(i) assertion that the minor's gender identity is different from the minor's biological sex;

(ii) practice of having or expressing a different gender identity than the child's biological sex; or

(iii) sexual orientation.

(e) Subsection (4)(d) does not preclude the juvenile court from determining that reunification services should not be provided if the parent's agreement or disagreement with a minor as described in Subsection (4)(d) results in or is related to harm, as that term is defined in Section 80-1-102, to the minor.

(5) There is a presumption that reunification services should not be provided to a parent if the juvenile court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based on a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such magnitude that the mental illness renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the child:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a minor; or

(B) child abuse homicide;

(iii) committed sexual abuse against the minor;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor;

(e) the minor suffered severe abuse by the parent or by any individual known by the parent if the parent knew or reasonably should have known that the individual was abusing the minor;

(f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent, and the juvenile court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the minor to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the minor's mother while the minor was in utero, if the minor was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) subject to Subsection (4)(d), any other circumstance that the juvenile court determines should preclude reunification efforts or services.

(6) (a) The juvenile court shall base the finding under Subsection (5)(b) on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.

(b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (5)(k) is not warranted.

(7) In determining whether reunification services are appropriate, the juvenile court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the minor or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification services, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(9) (a) Subject to Subsections (9)(b) through (e), if the juvenile court determines that reunification services are appropriate for the minor and the minor's family, the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(b) Parent-time is in the best interests of a minor unless the juvenile court makes a finding that it is necessary to deny parent-time in order to:

(i) protect the physical safety of the minor;

(ii) protect the life of the minor; or

(iii) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based solely on a parent's failure to:

(i) prove that the parent has not used legal or illegal substances; or

(ii) comply with an aspect of the child and family plan that is ordered by the juvenile court.

(d) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(e) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (9)(e)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (9)(e)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(10) (a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (10)(a), the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved:

(a) the juvenile court does not have any duty to order reunification services; and

(b) the division does not have a duty to make reasonable efforts to or in any other way attempt to provide reunification services or attempt to rehabilitate the offending parent or parents.

(12) (a) The juvenile court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute reasonable efforts on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 80-3-307(5)(g)(iii); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program, the juvenile court may order the parent:

(i) to submit to supplementary drug or alcohol testing, in accordance with Subsection 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) to provide the results of drug or alcohol testing recommended by the substance use disorder program to the juvenile court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the day on which the minor was initially removed from the minor's home, unless the time period is extended under Subsection 80-3-409(7).

(b) This section does not entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the juvenile court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established under Section 80-3-409, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the final permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (10) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 before the day on which the time period for reunification services expires.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who

have abandoned that minor for a period of six months from the day on which reunification services are ordered:

(a) the juvenile court shall terminate reunification services; and

(b) the division shall petition the juvenile court for termination of parental rights.

(18) When a minor is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation, subject to the division obtaining consent from the sibling's guardian, according to the juvenile court's determination of the best interests of the minor for whom the hearing is held.

(19) (a) If reunification services are not ordered under this section, and the whereabouts of a parent becomes known within six months after the day on which the out-of-home placement of the minor is made, the juvenile court may order the division to provide reunification services.

(b) The time limits described in this section are not tolled by the parent's absence.

(20) (a) If a parent is incarcerated or institutionalized, the juvenile court shall order reasonable services unless the juvenile court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (20)(a), the juvenile court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in this section.

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in this section, unless the juvenile court determines that continued reunification services would be in the minor's best interest.

Section 17. Section 80-3-407 is amended to read:

80-3-407. Six-month review hearing -- Findings regarding reasonable efforts by division -- Findings regarding child and family plan compliance.

(1) If reunification efforts have been ordered by the juvenile court under Section 80-3-406, the juvenile court shall hold a hearing no more than six months after the day on which the minor is initially removed from the minor's home, in order for the juvenile court to determine whether:

(a) the division has provided and is providing reasonable efforts to reunify the family in accordance with the child and family plan;

(b) the parent has fulfilled or is fulfilling identified duties and responsibilities in order to comply with the requirements of the child and family plan; and

(c) the division considered the preferential consideration and rebuttable presumption described in Subsections 80-3-302(7)(a) and 80-3-303(2)(c).

(2) (a) At the hearing described in Subsection (1), if a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and

(ii) if parent-time is denied, state the facts that justify the denial.

(b) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (2)(c)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (2)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(3) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections [~~80-1-102(50)~~]80-1-102(51) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 18. Section 80-3-409 is amended to read:

80-3-409. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) If reunification services are ordered under Section 80-3-406, with regard to a minor who is in the custody of the division, the juvenile court shall hold a permanency hearing no later than 12 months after the day on which the minor is initially removed from the minor's home.

(b) If reunification services are not ordered at the dispositional hearing, the juvenile court shall hold a permanency hearing within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services are ordered in accordance with Section 80-3-406, the juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the juvenile court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the minor's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor.

(3) In making a determination under Subsection (2)(a), the juvenile court shall:

(a) review and consider:

(i) the report prepared by the division;

(ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by the minor's attorney guardian ad litem;

(iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);

(iv) any evidence regarding the efforts or progress demonstrated by the parent; and

(v) the extent to which the parent cooperated and used the services provided; and

(b) attempt to keep the minor's sibling group together if keeping the sibling group together is:

(i) practicable; and

(ii) in accordance with the best interest of the minor.

(4) With regard to a case where reunification services are ordered by the juvenile court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the juvenile court shall, unless the time for the provision of reunification services is extended under Subsection (7):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the juvenile court under Section 80-3-406; and

(c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) The juvenile court may order another planned permanent living arrangement other than reunification for a minor who is 16 years old or older upon entering the following findings:

(a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 80-3-301(6)(e);

(b) the division has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Section 80-2-308;

(c) the minor prefers another planned permanent living arrangement; and

(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the juvenile court may not extend reunification services beyond 12 months after the day on which the minor is initially removed from the minor's home, in accordance with the provisions of Section 80-3-406.

(7) (a) Subject to Subsection (7)(b), the juvenile court may extend reunification services for no more than 90 days if the juvenile court finds, by a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any reunification services beyond 15 months after the day on which the minor is initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the juvenile court to extend services for the parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the juvenile court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the juvenile court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the minor;

(ii) the juvenile court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

(iii) the juvenile court specifies the time period in which it is likely that reunification will occur.

(d) A juvenile court may not extend the time period for reunification services without complying with the requirements of this

Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a juvenile court shall take into consideration the status of the minor siblings of the minor.

(8) (a) At the permanency hearing, if a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and

(ii) if parent-time is denied, state the facts that justify the denial.

(b) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (8)(c)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (8)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(9) The juvenile court may, in the juvenile court's discretion:

(a) enter any additional order that the juvenile court determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (8); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor is terminated.

(10) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the day on which the permanency hearing is held.

(b) If the division opposes the plan to terminate parental rights, the juvenile court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 80-4-203(2).

(11) (a) Any party to an action may, at any time, petition the juvenile court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the juvenile court so determines, the juvenile court shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(12) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a juvenile court's ability to terminate reunification services at any time before a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time before a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections 80-2a-201 and 80-4-104.

(13) (a) Subject to Subsection (13)(b), if a petition for termination of parental rights is filed before the date scheduled for a permanency hearing, the juvenile court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (13)(a), if the juvenile court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the juvenile court shall first make a finding regarding whether reasonable efforts have been made by the division to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 80-3-406.

(c) The juvenile court shall make a decision on a petition for termination of parental rights within 18 months after the day on which the minor is initially removed from the minor's home.

(14) (a) If a juvenile court determines that a minor will not be returned to a parent of the minor, the juvenile court shall consider appropriate placement options inside and outside of the state.

(b) In considering appropriate placement options under Subsection (14)(a), the juvenile court shall provide preferential consideration to a relative's request for placement of the minor.

(15) (a) In accordance with Section 80-3-108, if a minor 14 years old or older desires an opportunity to address the juvenile court or testify regarding permanency or placement, the juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.

(b) If the juvenile court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the minor's wishes.

(16) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections [~~80-1-102(50)~~]80-1-102(51) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 19. Section 81-9-101 is amended to read:

81-9-101. Definitions for chapter.

As used in this chapter:

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

(2) (a) "Custodial responsibility" means all powers and duties relating to caretaking authority and decision-making authority for a minor child.

(b) "Custodial responsibility" includes physical custody, legal custody, parenting time, right to access, parent-time, and authority to grant limited contact with a minor child.

(3) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(4) "Gender identity" means the same as that term is defined in Section 34A-5-102.

[~~(4)~~](5) "Joint legal custody" means the sharing of the rights, privileges, duties, and powers of a parent by both parents, where specified.

[~~(5)~~](6) "Joint physical custody" means the minor child stays with each parent overnight for more than 30% of the year and both parents contribute to the expenses of the minor child in addition to paying child support.

[~~(6)~~](7) (a) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the minor child.

(b) "Parenting functions" include:

(i) maintaining a loving, stable, consistent, and nurturing relationship with the minor child;

(ii) attending to the daily needs of the minor child, such as feeding, clothing, physical care, grooming, supervision, health care, day care, and engaging in other activities which are appropriate to the developmental level of the minor child and that are within the social and economic circumstances of the particular family;

(iii) attending to adequate education for the minor child, including remedial or other education essential to the best interest of the minor child;

(iv) assisting the minor child in developing and maintaining appropriate interpersonal relationships;

(v) exercising appropriate judgment regarding the minor child's welfare, consistent with the minor child's developmental level and family social and economic circumstances; and

(vi) providing for the financial support of the minor child.

[~~(7)~~](8) (a) "Parenting plan" means a plan for parenting a minor child.

(b) "Parenting plan" includes the allocation of parenting functions that are incorporated in any final decree or decree of modification including an action for dissolution of marriage, annulment, legal separation, or paternity.

[~~(8)~~](9) "Protective order" means:

(a) a civil protective order, as that term is defined in Section 78B-7-102;

(b) an ex parte civil protective order, as that term is defined in Section 78B-7-102; or

(c) a foreign protection order, as that term is defined in Section 78B-7-302.

[~~(9)~~](10) "Psychological maltreatment" means a repeated pattern or extreme incident of caretaker behavior that:

(a) intentionally thwarts a minor child's basic psychological needs, including physical and psychological safety, cognitive stimulation, and respect;

(b) conveys that a minor child is worthless, defective, or expendable; and

(c) may terrorize a minor child.

[~~(10)~~](11) "Service member" means a member of a uniformed service.

[~~(11)~~](12) "Sexual abuse" means the same as that term is defined in Section 80-1-102.

[~~(12)~~](13) "Supervised parent-time" means parent-time that requires the noncustodial parent to be accompanied during parent-time by an individual approved by the court.

[~~(13)~~](14) "Surrogate care" means care by any individual other than the parent of the minor child.

[~~(14)~~](15) "Uniformed service" means:

(a) active and reserve components of the United States Armed Forces;

(b) the United States Merchant Marine;

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

(d) the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(e) the National Guard of a state.

[~~(15)~~](16) "Uninterrupted time" means parent-time exercised by one parent without interruption at any time by the presence of the other parent.

[~~(16)~~](17) "Virtual parent-time" means parent-time facilitated by tools such as telephone, email, instant messaging, video conferencing, and other wired or wireless technologies over the Internet or other communication media, to supplement in-person visits between a noncustodial parent and a minor child or between a minor child and the custodial parent when the minor child is staying with the noncustodial parent.

Section 20. Section 81-9-204 is amended to read:

81-9-204. Custody and parent-time of a minor child -- Custody factors -- Preferences.

(1) In a proceeding between parents in which the custody and parent-time of a minor child is at issue, the court shall consider the best interests of the minor child in determining any form of custody and parent-time.

(2) The court shall determine whether an order for custody or parent-time is in the best interests of the minor child by a preponderance of the evidence.

(3) In determining any form of custody and parent-time under Subsection (1), the court shall consider:

(a) for each parent, and in accordance with Section 81-9-104, evidence of domestic violence, physical abuse, or sexual abuse involving

the minor child, the parent, or a household member of the parent;

(b) whether the parent has intentionally exposed the minor child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201; and

(c) whether custody and parent-time would endanger the minor child's health or physical or psychological safety.

(4) In determining the form of custody and parent-time that is in the best interests of the minor child, the court may consider, among other factors the court finds relevant, the following for each parent:

(a) evidence of psychological maltreatment;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the minor child, including the minor child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the minor child and the other parent, except that, if the court determines that the parent is acting to protect the minor child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) the past conduct and demonstrated moral character of the parent as described in Subsection (9);

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) the parent's reason for having relinquished custody or parent-time in the past;

(h) duration and depth of desire for custody or parent-time;

(i) the parent's religious compatibility with the minor child;

(j) the parent's financial responsibility;

(k) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the minor child's best interests;

(l) who has been the primary caretaker of the minor child;

(m) previous parenting arrangements in which the minor child has been happy and well-adjusted in the home, school, and community;

(n) the relative benefit of keeping siblings together;

(o) the stated wishes and concerns of the minor child, taking into consideration the minor child's cognitive ability and emotional maturity;

(p) the relative strength of the minor child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the minor child; and

(q) any other factor the court finds relevant.

(5) (a) A minor child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the minor child be heard and there is no other reasonable method to present the minor child's testimony.

(b) (i) The court may inquire and take into consideration the minor child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the minor child's custody or parent-time otherwise.

(ii) The desires of a minor child who is 14 years old or older shall be given added weight, but is not the single controlling factor.

(c) (i) If an interview with a minor child is conducted by the court in accordance with Subsection (5)(b), the interview shall be conducted by the court in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a minor child is the only method to ascertain the minor child's desires regarding custody.

(6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the minor child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the minor child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish:

(a) a preference for either parent solely because of the gender of the parent; or

(b) a preference for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the minor child.

(8) When an issue before the court involves custodial responsibility in the event of a deployment of a parent who is a service member and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-

20-306 through 78B-20-309.

(9) In considering the past conduct and demonstrated moral standards of each party under Subsection (4)(d) or any other factor a court finds relevant, the court may not:

(a) (i) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or

(ii) discriminate against a parent because of the parent's status as a:

(A) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;

(C) medical cannabis courier agent, as that term is defined in Section 26B-4-201; or

(D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(b) discriminate against a parent based upon the parent's agreement or disagreement with a minor child of the couple's:

(i) assertion that the minor child's gender identity is different from the minor child's biological sex; [~~or~~]

(ii) practice of having or expressing a different gender identity than the minor child's biological sex[~~.~~]; or

(iii) sexual orientation.

(10) (a) The court shall consider evidence of domestic violence if evidence of domestic violence is presented.

(b) The court shall consider as primary, the safety and well-being of the minor child and the parent who experiences domestic violence.

(c) A court shall consider an order issued by a court in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or substantiated potential harm to the minor child.

(d) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section 81-9-209.

(11) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the minor child:

(a) it is in the best interest of the minor child to have frequent, meaningful, and continuing access to each parent following separation or divorce;

(b) each parent is entitled to and responsible for frequent, meaningful, and continuing access with the parent's minor child consistent with the minor child's best interests; and

(c) it is in the best interest of the minor child to have both parents actively involved in parenting the minor child.

(12) Notwithstanding any other provision of this chapter, the court may not grant custody or parent-time of a minor child to a parent convicted of a sexual offense, as defined in Section 77-37-2, that resulted in the conception of the minor child unless:

(a) the nonconvicted biological parent, or the legal guardian of the minor child, consents to custody or parent-time and the court determines it is in the best interest of the minor child to award custody or parent-time to the convicted parent; or

(b) after the date of the conviction, the convicted parent and the nonconvicted parent cohabit and establish a mutual custodial environment for the minor child.

(13) A denial of custody or parent-time under Subsection (12) does not:

(a) terminate the parental rights of the parent denied parent-time or custody; or

(b) affect the obligation of the convicted parent to financially support the minor child.

Section 21. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 49
S. B. 179
Passed March 6, 2025
Approved March 19, 2025
Effective May 7, 2025

LOCAL REGULATION OF BUSINESS ENTITIES AMENDMENTS

Chief Sponsor: Calvin R. Musselman
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill enacts provisions related to local classification and approval of new and unlisted business uses.

Highlighted Provisions:

This bill:

- ► defines terms; and
- ► requires each municipality and county to enact a land use regulation establishing a process for reviewing a business use not listed as an approved use in existing ordinances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

10-9a-507.5, Utah Code Annotated 1953
17-27a-506.5, Utah Code Annotated 1953

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

Section 1. Section 10-9a-507.5 is enacted to read:
10-9a-507.5. Classification of new and unlisted business uses.

(1) As used in this section:

(a) "Classification request" means a request to determine whether a proposed business use aligns with an existing land use specified in a municipality's land use ordinances.

(b) "New or unlisted business use" means a business activity that does not align with an existing land use specified in a municipality's land use ordinances.

(2) (a) Each municipality shall incorporate into the municipality's land use ordinances a process for reviewing and approving a new or unlisted business use and designating an appropriate zone or zones for an approved use.

(b) The process described in Subsection (2)(a) shall:

(i) detail how an applicant may submit a classification request;

(ii) establish a procedure for the municipality to review a classification request, including:

(A) providing a land use authority with criteria to determine whether a proposed use aligns with an existing use; and

(B) allowing an applicant to proceed under the regulations of an existing use if a land use authority determines a proposed use aligns with that existing use;

(iii) provide that if a use is determined to be a new or unlisted business use:

(A) the applicant shall submit an application for approval of the new or unlisted business use to the legislative body for review;

(B) the legislative body shall consider and determine whether to approve or deny the new or unlisted business use; and

(C) the legislative body shall approve or deny the new or unlisted business use, within a time frame the legislative body establishes by ordinance, if the applicant responds to requests for additional information within a time frame established by the municipality and appears at required hearings;

(iv) provide that if the legislative body approves a proposed new or unlisted business use, the legislative body shall designate an appropriate zone or zones for the approved use; and

(v) provide that if the legislative body denies a proposed new or unlisted business use, or if an applicant disagrees with the land use authority's classification of the proposed use, the legislative body shall:

(A) notify the applicant in writing of each reason for the classification or denial; and

(B) offer the applicant an opportunity to challenge the classification or denial through an administrative appeal process established by the municipality.

(3) Each municipality shall amend each land use ordinance that contains a list of approved or prohibited business uses to include a reference to the process for petitioning to approve a new or unlisted business use, as described in Subsection (2).

Section 2. Section 17-27a-506.5 is enacted to read:
17-27a-506.5. Classification of new and unlisted business uses.

(1) As used in this section:

(a) "Classification request" means a request to determine whether a proposed business use aligns with an existing land use specified in a county's land use ordinances.

(b) "New or unlisted business use" means a business activity that does not align with an existing land use specified in a county's land use ordinances.

(2) (a) Each county shall incorporate into the county's land use ordinances a process for reviewing and approving a new or unlisted business use and designating an appropriate zone or zones for an approved use.

(b) The process described in Subsection (2)(a) shall:

(i) detail how an applicant may submit a classification request;

(ii) establish a procedure for the county to review a classification request, including:

(A) providing a land use authority with criteria to determine whether a proposed use aligns with an existing use; and

(B) allowing an applicant to proceed under the regulations of an existing use if a land use authority determines a proposed use aligns with that existing use;

(iii) provide that if a use is determined to be a new or unlisted business use:

(A) the applicant shall submit an application for approval of the new or unlisted business use to the legislative body for review;

(B) the legislative body shall consider and determine whether to approve or deny the new or unlisted business use; and

(C) the legislative body shall approve or deny the new or unlisted business use, within a time frame the legislative body establishes by ordinance, if the applicant responds to requests for additional information within a time frame established by the county and appears at required hearings;

(iv) provide that if the legislative body approves a proposed new or unlisted business use, the legislative body shall designate an appropriate zone or zones for the approved use; and

(v) provide that if the legislative body denies a proposed new or unlisted business use, or if an applicant disagrees with a land use authority's classification of the proposed use, the legislative body shall:

(A) notify the applicant in writing of each reason for the classification or denial; and

(B) offer the applicant an opportunity to challenge the classification or denial through an administrative appeal process established by the county.

(3) Each county shall amend each land use ordinance that contains a list of approved or prohibited business uses to include a reference to the process for petitioning to approve a new or unlisted business use, as described in Subsection (2).

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 50
S. B. 196
Passed February 26, 2025
Approved March 19, 2025
Effective May 7, 2025

PHYSICAL THERAPIST PRACTICE AMENDMENTS

Chief Sponsor: Calvin R. Musselman
House Sponsor: Norman K Thurston

LONG TITLE

General Description:

This bill addresses physical therapists and primary care providers.

Highlighted Provisions:

This bill:

- ► expands the definition of primary health care to include the services of physical therapists;
- ► recognizes that a health insurance policy has discretion to allow an insured to select a physical therapist as the insured's primary care provider for a neuromusculoskeletal condition; and
- ► makes conforming and technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-4-301, as last amended by Laws of Utah 2024, Chapter 261
31A-22-624, as last amended by Laws of Utah 2019, Chapter 349

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

Section 1. Section 26B-4-301 is amended to read:

26B-4-301. Definitions.

As used in this part:

(1) "Committee" means the Primary Care Grant Committee described in Section 26B-1-410.

(2) "Community based organization":

(a) means a private entity; and

(b) includes for profit and not for profit entities.

(3) "Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or profession and enables that system, agency, or profession to work effectively in cross-cultural situations.

(4) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the office.

(5) "Health literacy" means the degree to which an individual has the capacity to obtain, process, and understand health information and services needed to make appropriate health decisions.

(6) "Institutional capacity" means the ability of a community based organization to implement public and private contracts.

(7) "Medically underserved population" means the population of an urban or rural area or a population group that the committee determines has a shortage of primary health care.

(8) "Office" means the Office of Emergency Medical Services and Preparedness within the department.

(9) "Pregnancy support services" means services that:

(a) encourage childbirth instead of voluntary termination of pregnancy; and

(b) assist pregnant women, or women who may become pregnant, to choose childbirth whether they intend to parent or select adoption for the child.

(10) "Primary care grant" means a grant awarded by the department under Subsection 26B-4-310(1).

(11) (a) "Primary health care" means:

(i) basic and general health care services given when a person seeks assistance to screen for or to prevent illness and disease, or for simple and common illnesses and injuries; and

(ii) care given for the management of chronic diseases.

(b) "Primary health care" includes:

(i) services of physicians, nurses, physician's assistants, <u>physical therapists,</u> and dentists licensed to practice in this state under Title 58, Occupations and Professions;

(ii) diagnostic and radiologic services;

(iii) preventive health services including perinatal services, well-child services, and other services that seek to prevent injury, disease, or [~~its~~]the consequences of injury or disease;

(iv) emergency medical services;

(v) preventive dental services; and

(vi) pharmaceutical services.

Section 2. Section 31A-22-624 is amended to read:

31A-22-624. Primary care physician, physician assistant, or physical therapist.

(1) An accident and health insurance policy that requires an insured to select a primary care provider or physician to receive optimum coverage shall permit an insured to select a participating provider who is:

[~~(1) shall permit an insured to select a participating provider who:~~]

[~~(a) is an:~~]

[~~(i)~~](a) (i) an obstetrician;

(ii) a gynecologist;

(iii) a pediatrician; or

(iv) a physician assistant who works with a physician:

(A) providing primary care; or

(B) described in [~~Subsections~~]Subsection (1)(a)(i), (ii), or (iii); and

(b) [~~is~~]qualified and willing to provide primary care services, as defined by the health care plan, as the insured's provider from whom primary care services are received[~~;~~].

(2) Subject to Subsection (5), an accident and health insurance policy that requires an insured to select a primary care provider or physician to receive optimum coverage may permit an insured to select a participating provider who is a physical therapist to provide physical therapy services.

[~~(2)~~](3) An accident and health insurance policy shall clearly state in literature explaining the policy the [~~option~~]options available to insureds under [~~Subsection (1); and~~]Subsections (1) and (2).

[~~(3)~~](4) An accident and health insurance policy may not impose a higher premium, higher copayment requirement, or any other additional expense on an insured because the insured selected a primary care physician in accordance with [~~Subsection (1)~~]this section.

(5) Notwithstanding Subsection (2), nothing in this section permits a physical therapist to practice physical therapy outside of the physical therapist's scope of practice under Title 58, Chapter 24b, Physical Therapy Practice Act.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 51
H. B. 296
Passed March 7, 2025
Approved March 19, 2025
Effective May 7, 2025

RECOVERY RESIDENCE SERVICES AMENDMENTS

Chief Sponsor: Jason B. Kyle
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses residential programs and services.

Highlighted Provisions:

This bill:

- ► modifies definitions;
- ► delineates residential recovery services from residential vocational or life skills programs;
- ► removes an application requirement for residential vocational or life skills programs; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2024, Chapter 132
13-53-101, as enacted by Laws of Utah 2018, Chapter 252
13-53-102, as last amended by Laws of Utah 2023, Chapter 458
13-53-103, as enacted by Laws of Utah 2018, Chapter 252
13-53-104, as enacted by Laws of Utah 2018, Chapter 252
13-53-105, as enacted by Laws of Utah 2018, Chapter 252
13-53-106, as enacted by Laws of Utah 2018, Chapter 252
13-53-107, as last amended by Laws of Utah 2019, Chapter 349
13-53-108, as enacted by Laws of Utah 2018, Chapter 252
13-53-109, as enacted by Laws of Utah 2018, Chapter 252
13-53-110, as enacted by Laws of Utah 2018, Chapter 252
13-53-111, as last amended by Laws of Utah 2023, Chapter 177
26B-2-101, as last amended by Laws of Utah 2024, Chapters 240, 267, 307, and 438
26B-5-102, as last amended by Laws of Utah 2024, Chapters 250, 420
63M-7-204, as last amended by Laws of Utah 2024, Chapter 345
64-13-21, as last amended by Laws of Utah 2024, Chapters 208, 434
76-3-402, as last amended by Laws of Utah 2024, Chapter 234

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

Section 1. Section 13-2-1 is amended to read:

13-2-1. Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 10a, Music Licensing Practices Act;

(b) Chapter 11, Utah Consumer Sales Practices Act;

(c) Chapter 15, Business Opportunity Disclosure Act;

(d) Chapter 20, New Motor Vehicle Warranties Act;

(e) Chapter 21, Credit Services Organizations Act;

(f) Chapter 22, Charitable Solicitations Act;

(g) Chapter 23, Health Spa Services Protection Act;

(h) Chapter 25a, Telephone and Facsimile Solicitation Act;

(i) Chapter 26, Telephone Fraud Prevention Act;

(j) Chapter 28, Prize Notices Regulation Act;

(k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(l) Chapter 34, Utah Postsecondary School and State Authorization Act;

(m) Chapter 41, Price Controls During Emergencies Act;

(n) Chapter 42, Uniform Debt-Management Services Act;

(o) Chapter 49, Immigration Consultants Registration Act;

(p) Chapter 51, Transportation Network Company Registration Act;

(q) Chapter 52, Residential Solar Energy Disclosure Act;

(r) Chapter 53, [~~Residential, Vocational and Life Skills~~]Residential Vocational or Life Skills Program Act;

(s) Chapter 54, Ticket Website Sales Act;

(t) Chapter 56, Ticket Transferability Act;

(u) Chapter 57, Maintenance Funding Practices Act;

(v) Chapter 61, Utah Consumer Privacy Act;

[~~(w) Chapter 63, Utah Social Media Regulation Act;~~]

[~~(x)~~](w) Chapter 64, Vehicle Value Protection Agreement Act;

[~~(y)~~](x) Chapter 65, Utah Commercial Email Act;

[~~(z)~~](y) Chapter 67, Online Dating Safety Act;

[~~(aa)~~](z) Chapter 68, Lawyer Referral Consultants Registration Act;

[~~(bb)~~](aa) Chapter 70, Automatic Renewal Contracts Act; and

[~~(cc)~~](bb) Chapter 71, Utah Minor Protection in Social Media Act.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to establish:

(a) a public list that identifies a person who:

(i) violates a chapter described in Subsection (2);

(ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal process issued by:

(A) the division; or

(B) a court of competent jurisdiction; or

(iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar instrument signed by the person and the division; and

(b) a process by which a person may be removed from the list the division establishes as described in Subsection (3)(a).

Section 2. Section 13-53-101 is amended to read:

13-53-101. Title.

This chapter is known as the [~~"Residential, Vocational and Life Skills Program Act~~]"Residential Vocational or Life Skills Program Act."

Section 3. Section 13-53-102 is amended to read:

13-53-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Consumer Protection.

(2) "Human services program" means the same as that term is defined in Section 26B-2-101.

(3) "Participant" means an individual who:

(a) resides at a [~~residential, vocational and life skills~~]residential vocational or life skills program facility;

(b) receives from the [~~residential, vocational and life skills~~]residential vocational or life skills program:

(i) vocational training; or

(ii) life skills training; and

(c) does not receive monetary compensation from the [~~residential, vocational and life skills~~]residential vocational or life skills program.

(4) "Postsecondary school" means the same as that term is defined in Section 13-34-101.

(5) "[~~Residential, vocational and life skills~~]Residential vocational or life skills program" means a program that:

(a) is operated by a nonprofit corporation, as defined in Section 16-6a-102;

(b) does not accept local, state, or federal government funding, government grant money, or any other form of government assistance to operate or provide services or training;

(c) operates on a mutually voluntary basis with each participant;

(d) houses at a program facility in this state participants who are unrelated to an owner or a manager of the program facility without charging money for lodging, food, clothing, or training;

(e) may house transitional graduates for a fee;

[~~(f) provides vocational training to participants;~~]

[~~(g)~~](f) provides vocational or life skills training to participants;

[~~(h)~~](g) maintains a director or senior staff member at a program facility at all times when the facility is in use;

[~~(i)~~](h) does not provide mental health services;

[~~(j)~~](i) does not provide substance use disorder treatment;

[~~(k)~~](j) does not accept payment from an insurance provider for a participant;

[~~(l)~~](k) does not award a degree, diploma, or other educational credential commensurate with a degree or diploma;

[~~(m)~~](l) does not hold itself out as a human services program; and

[~~(n)~~](m) does not hold itself out as a postsecondary school.

(6) "Transitional graduate" means an individual who:

(a) graduated from a [~~residential, vocational and life skills~~]residential vocational or life skills program;

(b) continues to reside at the [~~residential, vocational and life skills~~]residential vocational or life skills program facility; and

(c) is employed by an entity not directly affiliated with the [~~residential, vocational and life skills~~]residential vocational or life skills program.

(7) "Vocational training entity" is a commercial entity where a participant receives vocational training.

Section 4. Section 13-53-103 is amended to read:

13-53-103. Registration of a residential vocational or life skills program.

(1) An owner or a manager of a [~~residential, vocational and life skills~~]residential vocational or life skills program shall annually register the [~~residential, vocational and life skills~~]residential vocational or life skills program with the division.

(2) An application for registration shall be on a form approved by the division and shall require:

(a) the name, address, telephone number, email address, website, and facsimile number, if any, of the nonprofit corporation operating the [~~residential, vocational and life skills~~]residential vocational or life skills program;

(b) the name and address of the registered agent of the corporation operating the [~~residential, vocational and life skills~~]residential vocational or life skills program;

(c) the name, address, telephone number, email address, website, and facsimile number, if any, of the [~~residential, vocational and life skills~~]residential vocational or life skills program;

(d) the name and address of any entity that controls, is controlled by, or is affiliated with the [~~residential, vocational and life skills~~]residential vocational or life skills program;

(e) the name and residential address of any officer, director, manager, or administrator of the [~~residential, vocational and life skills~~]residential vocational or life skills program;

(f) the name, address, telephone number, email address, website, and facsimile number, if any, of any vocational training entity affiliated with the [~~residential, vocational and life skills~~]residential vocational or life skills program;

(g) a disclosure indicating whether any officer, director, or administrator of the [~~residential, vocational and life skills~~]residential vocational or life skills program has been the subject of an administrative action by the division;

(h) a disclosure indicating whether any officer, director, or administrator of the [~~residential, vocational and life skills~~]residential vocational or life skills program has been convicted of a felony or a crime of moral turpitude within the previous 10 years;

[~~(i) if the organization is a charitable organization, as defined by Section 13-22-2, a copy of the charitable organization's registration or exemption;~~]

[~~(j)~~](i) financial information described in Subsection 13-53-108(1);

[~~(k)~~](j) proof of a commercial general liability and umbrella insurance policy providing at least a $1,000,000 per occurrence limit of liability;

[~~(l)~~](k) a copy of the disclosure required under Section 13-53-106;

[~~(m)~~](l) evidence that the applicant meets the description of a [~~residential, vocational and life skills~~]residential vocational or life skills program under Subsection 13-53-102(5); and

[~~(n)~~](m) additional information that the division requires, as provided in administrative rule.

(3) A [~~residential, vocational and life skills~~]residential vocational or life skills program is registered on the day that the division issues the registration.

(4) The division's issuance of a registration for a [~~residential, vocational and life skills~~]residential vocational or life skills program does not constitute the state's or the division's endorsement or approval of the [~~residential, vocational and life skills~~]residential vocational or life skills program.

(5) An applicant for the registration of a [~~residential, vocational and life skills~~]residential vocational or life skills program shall file a separate application and pay a separate application fee for each [~~residential, vocational and life skills~~]residential vocational or life skills program location.

(6) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the registration application process.

(7) The division may set fees in accordance with Section 63J-1-504 for a [~~residential, vocational and life skills~~]residential vocational or life skills program registration application.

Section 5. Section 13-53-104 is amended to read:

13-53-104. Registration denial, suspension, or revocation.

(1) In accordance with Chapter 2, Division of Consumer Protection, and Title 63G, Chapter 4, Administrative Procedures Act, the division may initiate proceedings to deny, suspend, or revoke the registration of a [~~residential, vocational and life skills~~]residential vocational or life skills program, if:

(a) the entity holding the registration fails to meet the description of a [~~residential, vocational and life skills~~]residential vocational or life skills program under Subsection 13-53-102(5);

(b) the operation of the [~~residential, vocational and life skills~~]residential vocational or life skills program creates a serious risk to public safety or welfare;

(c) the registration application or any supplemental information required by the division is incomplete, false, misleading, or filed in an untimely manner;

(d) the [~~residential, vocational and life skills~~]residential vocational or life skills program or an individual described in Subsection 13-53-103(2)(e) causes or allows to occur a violation of any provision of municipal, state, or federal law, including an administrative rule made under this chapter;

(e) (i) an individual described in Subsection 13-53-103(2)(e) is convicted of a felony or a crime of moral turpitude within the previous 10 years; and

(ii) the [~~residential, vocational and life skills~~]residential vocational or life skills program does not have adequate controls to minimize

associated risks to the participants of the [~~residential, vocational and life skills~~]residential vocational or life skills program and to the public; or

(f) the [~~residential, vocational and life skills~~]residential vocational or life skills program fails to pay an administrative fine that the division lawfully imposes on the [~~residential, vocational and life skills~~]residential vocational or life skills program.

(2) The division may place reasonable limits upon a [~~residential, vocational and life skills~~]residential vocational or life skills program's operations, if:

(a) the division has reasonable concerns about the [~~residential, vocational and life skills~~]residential vocational or life skills program's ability to comply with this chapter; and

(b) the limitation is reasonably calculated to protect the interests of the public or the participants of the [~~residential, vocational and life skills~~]residential vocational or life skills program.

(3) When the demands of public safety permit, the division shall allow a [~~residential, vocational and life skills~~]residential vocational or life skills program a reasonable amount of time to remedy a violation under this chapter before the division suspends or revokes a registration.

(4) The division may require an individual described in Subsection 13-53-103(2)(e) to submit to a criminal background check, at the individual's expense or the expense of the [~~residential, vocational and life skills~~]residential vocational or life skills program.

Section 6. Section 13-53-105 is amended to read:

13-53-105. Prohibited acts.

A [~~residential, vocational and life skills~~]residential vocational or life skills program may not:

(1) operate without a registration issued under Section 13-53-103;

(2) utilize any behavioral intervention that is not peer-led or that uses the services of any professional or any person purporting to be a professional;

(3) accept a participant before providing to the participant the disclosure described in Section 13-53-106; or

(4) use physical force or permit the use of physical force.

Section 7. Section 13-53-106 is amended to read:

13-53-106. Disclosure to participants.

(1) Before accepting a participant, a [~~residential, vocational and life skills~~]residential vocational or life skills program shall provide to the prospective participant a written disclosure.

(2) The written disclosure shall include:

(a) a statement that the program is a registered [~~residential, vocational and life skills~~]residential vocational or life skills program, but that the [~~residential, vocational and life skills~~]residential vocational or life skills program is not endorsed by the state or the division;

(b) a statement that the prospective participant's continuation in the program is voluntary and that a participant may leave at any time;

(c) the conditions under which a participant is removed from the [~~residential, vocational and life skills~~]residential vocational or life skills program or required to leave a program facility;

(d) a statement that the [~~residential, vocational and life skills~~]residential vocational or life skills program will contact Adult Probation and Parole, if required by law; and

(e) a description of:

(i) the lodging, food, clothing, and other resources that are available to a participant;

(ii) the nature and scope of the [~~residential, vocational and life skills~~]residential vocational or life skills program, including any activities or work that a participant is required to perform;

(iii) the scope and substance of peer-led activities;

(iv) the types of vocational training available to a participant, including the limitations on availability;

(v) the nature and extent of possible exposure to profanity, accusation, confrontation, nonphysical threats, or nonphysical corrective interaction;

(vi) the terms of any prohibition from contact with a participant's family, friends, or associates; and

(vii) any crimes committed within the previous two years at the [~~residential, vocational and life skills~~]residential vocational or life skills program facility or at a vocational training entity affiliated with the [~~residential, vocational and life skills~~]residential vocational or life skills program.

Section 8. Section 13-53-107 is amended to read:

13-53-107. Participant screening.

(1) A [~~residential, vocational and life skills~~]residential vocational or life skills program shall interview and screen all prospective participants for medical prescriptions, physical and mental health history, and recent alcohol or drug use.

(2) Unless an individual obtains a medical clearance from a physician or physician assistant, a [~~residential, vocational and life skills~~]residential vocational or life skills program may not have as a participant an individual who:

(a) has a recent diagnosis of a mental, social, psychiatric, or psychological illness; or

(b) has an active prescription for medication for a mental, social, psychiatric, or psychological illness.

(3) A [~~residential, vocational and life skills~~]residential vocational or life skills program may not admit a minor.

Section 9. Section 13-53-108 is amended to read:

13-53-108. Financial requirements.

(1) When applying for registration under Subsection 13-53-103(2), an applicant shall demonstrate fiscal responsibility by providing evidence to the division that the [~~residential, vocational and life skills~~]residential vocational or life skills program:

(a) is financially sound; and

(b) reasonably has the fiscal ability to fulfill commitments and obligations to the participants of the [~~residential, vocational and life skills~~]residential vocational or life skills program.

(2) Evidence acceptable to satisfy the requirement described in Subsection (1) includes:

(a) for a [~~residential, vocational and life skills~~]residential vocational or life skills program that has been in operation less than one fiscal year:

(i) pro forma financial statements until further information described in Subsection (2)(b) is available; and

(ii) a commercial credit report for the [~~residential, vocational and life skills~~]residential vocational or life skills program; or

(b) for a [~~residential, vocational and life skills~~]residential vocational or life skills program that has completed a fiscal year, and as soon as the [~~residential, vocational and life skills~~]residential vocational or life skills program completes its first fiscal year:

(i) a current financial statement, with all applicable footnotes, for the most recent fiscal year, including a balance sheet, a statement of income, a statement of retained earnings, and a statement of cash flow; and

(ii) a certified fiscal audit of the [~~residential, vocational and life skills~~]residential vocational or life skills program's financial statement, performed by a certified or licensed public accountant.

(3) In evaluating a [~~residential, vocational and life skills~~]residential vocational or life skills program's fiscal responsibility, the division may consider:

(a) any judgment, tax lien, collection action, bankruptcy schedule, or history of late payments to creditors;

(b) documentation showing the resolution of a matter described in Subsection (3)(a);

(c) the [~~residential, vocational and life skills~~]residential vocational or life skills program's explanation for a matter described in Subsection (3)(a);

(d) a guarantee agreement provided for the [~~residential, vocational and life skills~~]residential vocational or life skills program; and

(e) history of a prior entity that:

(i) is owned or operated by any individual who is an officer, a director, or an administrator of the [~~residential, vocational and life skills~~]residential vocational or life skills program; and

(ii) has failed to maintain fiscal responsibility.

(4) The division may require evidence of financial status at other times when it is in the best interest of the program participants to require the information.

(5) The division may perform a fiscal audit of a [~~residential, vocational and life skills~~]residential vocational or life skills program.

(6) A [~~residential, vocational and life skills~~]residential vocational or life skills program shall develop and maintain adequate internal controls for receipt, management, and disbursement of money that are reasonable in light of the [~~residential, vocational and life skills~~]residential vocational or life skills program's organizational complexity.

Section 10. Section 13-53-109 is amended to read:

13-53-109. Discontinuance of operations.

(1) A [~~residential, vocational and life skills~~]residential vocational or life skills program that is closing shall adopt a plan for the provision of food, shelter, and clothing for at least 30 days from the date of closure to participants displaced by the closure.

(2) At least 30 days before the day on which the [~~residential, vocational and life skills~~]residential vocational or life skills program will close, the [~~residential, vocational and life skills~~]residential vocational or life skills program shall provide written notice to the division of:

(a) the intended date of closure; and

(b) the plan described in Subsection (1).

Section 11. Section 13-53-110 is amended to read:

13-53-110. Enforcement.

(1) The division may investigate facilities and enforce this chapter under the authority described in Chapter 2, Division of Consumer Protection.

(2) To monitor the welfare of participants and transitional graduates, if any, and to monitor the safe operation of a [~~residential, vocational and life skills~~]residential vocational or life skills program, the division shall:

(a) annually perform an on-site inspection of a registered [~~residential, vocational and life skills~~]residential vocational or life skills program;

(b) refer each concern that the division identifies during the on-site inspection to the state or municipal entity responsible for the area of concern; and

(c) coordinate with each relevant state and municipal entity to monitor the [~~residential, vocational and life skills~~]residential vocational or life skills program's compliance with the entity's relevant health and safety regulations.

(3) In addition to penalties established by this chapter and in addition to the enforcement authority described in Chapter 2, Division of Consumer Protection, the division may:

(a) issue a cease and desist order;

(b) impose an administrative fine of up to $2,500 for each violation of this chapter; and

(c) seek injunctive relief in a court of competent jurisdiction.

(4) All money received from fines imposed under this section shall be deposited into the Consumer Protection Education and Training Fund, created in Section 13-2-8.

Section 12. Section 13-53-111 is amended to read:

13-53-111. Recidivism reporting requirements.

(1) On or before August 31 of each year, a [~~residential, vocational and life skills~~]residential vocational or life skills program shall collect and report data on recidivism of participants to the State Commission on Criminal and Juvenile Justice.

(2) The report described in Subsection (1) shall include the metrics and requirements described in Section 63M-7-102.

(3) The State Commission on Criminal and Juvenile Justice shall include the information provided under this section in the report described in Subsection 63M-7-204(1)(x).

Section 13. Section 26B-2-101 is amended to read:

26B-2-101. Definitions.

As used in this part:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

(2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(3) "Applicant" means a person that applies for an initial license or a license renewal under this part.

(4) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (40)(a); or

(B) provides the treatment or services described in Subsection (40)(a) on a limited basis, as described in Subsection (5)(b)(ii).

(b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more grades from kindergarten through grade 12.

(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection (40)(a) on a limited basis if:

(A) the treatment or services described in Subsection (40)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (40)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (40)(a).

(c) "Boarding school" does not include a therapeutic school.

(6) "Certification" means a less restrictive level of licensure issued by the department.

(7) "Child" means an individual under 18 years old.

(8) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(9) "Child-placing agency" means a person that engages in child placing.

(10) "Client" means an individual who receives or has received services from a licensee.

(11) (a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

(12) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(13) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(14) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication

or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(15) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background check approval issued by the office.

(16) "Director" means the director of the office.

(17) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(18) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(19) "Elder adult" means a person 65 years old or older.

(20) "Emergency safety intervention" means a tactic used to protect staff or a client from being physically injured, utilized by an appropriately trained direct care staff and only performed in accordance with a nationally or regionally recognized curriculum in the least restrictive manner to restore staff or client safety.

(21) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

(22) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.

(23) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(24) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

(25) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school;

(ii) a [~~residential, vocational and life~~]residential vocational or life skills program, as defined in Section 13-53-102; or

(iii) a short-term relief care provider.

(26) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(27) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(28) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(29) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

(30) "Licensee" means an individual or a human services program licensed by the office.

(31) "Local government" means a city, town, or county.

(32) "Minor" means child.

(33) "Office" means the Office of Licensing within the department.

(34) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

(35) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(36) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(37) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

(38) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program;

(iii) a residential vocational or life skills program; or

[~~(iii)~~](iv) a home, residence, or facility, in which:

(A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

(39) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(40) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(41) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

(42) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

(43) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

(44) "Short-term relief care provider" means an individual who:

(a) provides short-term and temporary relief care to a foster parent:

(i) for less than six consecutive nights; and

(ii) in the short-term relief care provider's home;

(b) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

(c) is direct access qualified, as that term is defined in Section 26B-2-120;

(d) has been approved to provide short-term relief care by the department;

(e) is not reimbursed by the department for the temporary relief care provided; and

(f) is not an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster child.

(45) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

(46) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

(47) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection (47)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

(48) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

(49) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

(50) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(51) (a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for the program's services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

(52) (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 14. Section 26B-5-102 is amended to read:

26B-5-102. Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.

(1) (a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(c) There is created the Office of Substance Use and Mental Health within the division.

(d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance use by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance use;

(iii) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance use disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance use, mental health, and physical health;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;

(vii) evaluate the effectiveness of programs described in this Subsection (2);

(viii) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member;

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 26B-5-313; and

(v) to the extent authorized and in accordance with statute, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) create a certification for targeted case management;

(B) establish training and certification requirements;

(C) specify the types of services each certificate holder is qualified to provide;

(D) specify the type of supervision under which a certificate holder is required to operate; and

(E) specify continuing education and other requirements for maintaining or renewing certification;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance use and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance use and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance use services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(h); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

(k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);

(l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism in accordance with the metrics and requirements described in Section 63M-7-102;

(m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division to provide treatment;

(n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);

(o) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs

described in Subsection (2)(j) and [~~residential, vocational and life skills~~]residential vocational or life skills programs, as defined in Section 13-53-102; and

(p) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment

services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 15. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The commission shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111and Subsection 26B-5-102(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

(v) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(w) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 26B-5-102(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each [~~residential, vocational and life skills~~]residential vocational or life skills program; and

(ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental health or substance use treatment program;

(x) publish the report described in Subsection (1)(w) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees;

(y) receive, compile, and publish on the commission's website the data provided under:

(i) Section 53-25-202;

(ii) Section 53-25-301; and

(iii) Section 53-25-401;

(z) review, research, advise, and make recommendations to the three branches of government regarding evidence-based sex offense management policies and practices, including supervision standards, treatment standards, and the sex offender registry;

(aa) receive and evaluate a referral from the Department of Public Safety received under Section 53-21-104.3 involving a denial of mental health resources to an eligible individual, including, if appropriate in the commission's discretion, deny the relevant entity from receiving any grant of state funds under Section 63M-7-218 for a specified period of time; and

(bb) accept public comment.

(2) (a) The commission may designate an entity to perform the duties described in this part.

(b) If the commission designates an entity under Subsection (2)(a), the commission shall ensure that the membership of the designated entity includes representation from relevant stakeholder groups from the parts of the justice system implicated in the policy area.

(3) in fulfilling the commission's duties under Subsection (1), the commission may seek input and request assistance from groups with knowledge and expertise in criminal justice, including other boards and commissions affiliated or housed within the commission.

Section 16. Section 64-13-21 is amended to read:

64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.

(1) (a) The department, except as otherwise provided by law, shall supervise a sentenced offender placed in the community if the offender:

(i) (A) is placed on probation by a court;

(B) is released on parole by the Board of Pardons and Parole; or

(C) is accepted for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers; and

(ii) has been convicted of:

(A) a felony;

(B) a class A misdemeanor when an element of the offense is the use or attempted use of physical force against an individual or property; or

(C) notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the department is ordered by a court to supervise the offender under Section 77-18-105.

(b) If a sentenced offender participates in substance use treatment or a [~~residential, vocational and life skills~~]residential vocational or life skills program, as defined in Section 13-53-102, while under supervision on probation or parole, the department shall monitor the offender's compliance with and completion of the treatment or program.

(c) The department shall establish standards for:

(i) the supervision of offenders in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, giving priority, based on available resources, to felony offenders and offenders sentenced under Subsection 58-37-8 (2)(b)(ii); and

(ii) the monitoring described in Subsection (1)(b).

(2) The department shall apply the graduated and evidence-based responses established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of six days within a period of 30 days.

(3) The department shall implement a program of graduated incentives as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4) (a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.

(b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

(6) (a) (i) A monthly supervision fee of $30 shall be collected from each offender on probation or parole.

(ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(7) (a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing an offender to earn a reduction credit of 30 days from the offender's period of probation or parole for each month the offender complies with the terms of the offender's probation or parole agreement, including the case action plan.

(b) (i) For offenders placed on probation under Section 77-18-105 or parole under Section 76-3-202 on or after July 1, 2026, the department shall establish a program, consistent with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to provide incentives for an offender that maintains eligible employment, as defined in Section 64-13g-101.

(ii) The program under Subsection (7)(b)(i) may include a credit towards the reduction of the length of supervision for an offender at a rate of up to 30 days for each month that the offender maintains eligible employment, as defined in Section 64-13g-101.

(iii) A court, or the Board of Pardons and Parole, is not required to grant a request for termination of supervision under the program described in this Subsection (7)(b) if the court, or the Board of Pardons and Parole, finds that:

(A) the offender presents a substantial risk to public safety;

(B) termination would prevent the offender from completing risk reduction programming or treatment; or

(C) the eligibility criteria for termination of supervision, as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, have not been met.

(iv) This Subsection (7)(b) does not prohibit the department, or another supervision services provider, from requesting termination of supervision based on the eligibility criteria in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.

(c) The department shall:

(i) maintain a record of credits earned by an offender under this Subsection (7); and

(ii) request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.

(f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

Section 17. Section 76-3-402 is amended to read:

76-3-402. Conviction of lower degree of offense -- Procedure and limitations.

(1) As used in this section:

(a) "Lower degree of offense" includes an offense for which:

(i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

(ii) the court removes the statutory enhancement in accordance with this section.

(b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

(c) (i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

(ii) "Rehabilitation program" includes:

(A) a domestic violence treatment program, as that term is defined in Section 26B-2-101;

(B) a [~~residential, vocational, and life skills~~]residential vocational or life skills program, as that term is defined in Section 13-53-102;

(C) a substance abuse treatment program, as that term is defined in Section 26B-2-101;

(D) a substance use disorder treatment program, as that term is defined in Section 26B-2-101;

(E) a youth program, as that term is defined in Section 26B-2-101;

(F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;

(G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or

(H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).

(d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.

(e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

(f) (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.

(ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:

(A) the possession, use, or removal of explosive, chemical, or incendiary devices under Subsection 76-10-306(3), (5), or (6); or

(B) the purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

(3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:

(a) after the defendant is successfully discharged from probation or parole for the conviction; and

(b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;

(b) (i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or

(ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (4)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;

(b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (5)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;

(b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);

(c) there are no criminal proceedings pending against the defendant;

(d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(f) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):

(a) the court shall consider:

(i) the nature, circumstances, and severity of the offense for which a reduction is sought;

(ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and

(iii) any input from a victim of the offense; and

(b) the court may consider:

(i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;

(ii) the defendant's criminal history;

(iii) the defendant's employment and community service history;

(iv) whether the defendant participated in a rehabilitative program and successfully completed the program;

(v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;

(vi) whether the level of the offense has been reduced by law after the defendant's conviction;

(vii) any potential impact that the reduction would have on public safety; or

(viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.

(8) (a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) after:

(i) notice is provided to the other party;

(ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

(iii) a hearing is held if a hearing is requested by either party.

(b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).

(c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.

(d) If a defendant files a motion under this section, the prosecuting attorney shall respond to the motion within 35 days after the day on which the motion is filed with the court.

(9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.

(10) (a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) An offense may not be reduced under this section by more than two degrees.

(11) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with [~~Title 44, Chapter 40A,~~]Title 77, Chapter 40a, Expungement of Criminal Records.

(12) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:

(a) the reduction is specifically precluded by law; or

(b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.

(13) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

(14) (a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender, kidnap offender, or child abuse offender until the registration requirements under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, have expired.

(b) An individual required to register as a sex offender, kidnap offender, or child abuse offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender, kidnap offender, or child abuse offender.

Section 18. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 52
S. B. 242
Passed March 5, 2025
Approved March 19, 2025
Effective July 1, 2025

PUBLIC EMPLOYEES' BENEFIT AND INSURANCE PROGRAM MODIFICATIONS

Chief Sponsor: Calvin R. Musselman
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill modifies coverage under the Public Employees' Benefit and Insurance Program.

Highlighted Provisions:

This bill:

► provides coverage under the Public Employees' Benefit and Insurance Program for qualified assisted reproductive technology.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-20-418, as last amended by Laws of Utah 2024, Chapter 422

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

Section 1. Section 49-20-418 is amended to read:

49-20-418. Expanded infertility treatment benefit.

(1) As used in this section:

(a) "Assisted reproductive technology" means the same as the term is defined in 42 U.S.C. Sec. 263a-7.

(b) "Physician" means the same as the term is defined in Section 58-67-102.

(c) "Qualified assisted reproductive technology cycle" means the use of covered assisted reproductive technology to transfer a single embryo for implantation.

(d) "Qualified individual" means an individual:

(i) covered within the state risk pool; and

(ii) eligible for maternity benefits under the program.

(2) (a) The program shall [~~offer a benefit of $4,000 to a qualified individual toward the costs of each~~]provide coverage for qualified assisted reproductive technology [~~cycle~~]cycles.

(b) The benefit is subject to the same cost sharing requirements as the qualified individual's plan.

(3) A qualified individual shall receive the benefit described in Subsection (2) if:

(a) the qualified individual is the patient who will use the assisted reproductive technology;

(b) (i) the patient's physician verifies that the patient or the patient's spouse has a demonstrated condition recognized by a physician as a cause of infertility; or

(ii) the patient attests that the patient is unable to conceive a pregnancy or carry a pregnancy to a live birth after a year or more of regular sexual relations without contraception;

(c) the patient attests that the patient has been unable to attain a successful pregnancy through any less-costly, potentially effective infertility treatments for which coverage is available under the health benefit plan; and

(d) the use of the assisted reproductive technology procedure complies with the program's clinical policies and is performed [~~at a medical facility that conforms to the minimal standards for programs of assisted reproductive technology procedures adopted by the American Society for Reproductive Medicine~~]by a health care provider who contracts with or is otherwise approved by the program.

(4) (a) The provision of a benefit in accordance with this section shall satisfy, in accordance with Subsection 31A-22-610.1(1)(c)(ii), the requirement to provide an adoption indemnity benefit to a qualified individual under Section 31A-22-610.1.

(b) If a qualified individual has received the adoption indemnity benefit required under Section 31A-22-610.1, the qualified individual may not receive a benefit in accordance with this section.

Section 2. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 53
H. B. 310
Passed March 5, 2025
Approved March 19, 2025
Effective May 7, 2025

DISABILITY COVERAGE AMENDMENTS

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill addresses wraparound services for certain individuals with a disability.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the Department of Health and Human Services (department) to apply for a Medicaid waiver or state plan amendment to provide wraparound services to qualified individuals with a disability;
- ► requires qualified individuals who receive services under the waiver or state plan amendment to make cost-sharing payments according to a sliding scale established by the department;
- ► specifies certain percentages and maximum payment amounts for the sliding scale established by the department; and
- ► requires the department to make rules.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26B-3-229, Utah Code Annotated 1953

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

Section 1. Section 26B-3-229 is enacted to read:

26B-3-229. Wraparound services for qualified individuals with a disability.

(1) As used in this section:

(a) "Federal poverty level" means the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(b) "Minimum essential coverage" means the same as that term is defined in 26 U.S.C. Sec. 5000A.

(c) "Qualified individual" means an individual who:

(i) is a disabled individual as described in 42 U.S.C. Sec. 1382c;

(ii) within the past 12 months has been enrolled in the state Medicaid program;

(iii) is enrolled in minimum essential coverage other than the Medicaid program;

(iv) except as provided in Subsections (1)(c)(v) and (vi), does not meet the income or asset requirements for enrollment in the state Medicaid program;

(v) has a household income that is between 250% and 800% of the federal poverty level; and

(vi) has assets, excluding one home and one automobile, that are valued at less than $125,000.

(d) "Wraparound services" means services and benefits that:

(i) are covered by the Medicaid program; and

(ii) are not covered by the minimum essential coverage described in Subsection (1)(c)(iii).

(2) Before July 1, 2025, the department shall apply for a Medicaid waiver with CMS to provide wraparound services to qualified individuals:

(a) as state funding permits; and

(b) in a manner that requires qualified individuals to make cost sharing payments according to the sliding scale described in Subsection (3).

(3) (a) The department shall establish a sliding scale for services received under this section that:

(i) is based on household income in relation to the federal poverty level; and

(ii) is used to determine the percentage of the cost of a wraparound service that a qualified individual is required to pay.

(b) The percentage of the cost of wraparound services that a qualified individual is required to pay:

(i) may not be less than 10% for a qualified individual with a household income greater than 400% of the federal poverty level; and

(ii) for a qualified individual with a household income less than or equal to 400% of the federal poverty level, shall be determined according to income categories established by the department as provided in Subsection (4).

(c) Notwithstanding Subsection (3)(b), the amount paid by a qualified individual under Subsection (3)(b) may not exceed:

(i) $1,500 per month for a qualified individual with a household income greater than 400% of the federal poverty level; and

(ii) for a qualified individual with a household income less than or equal to 400% of the federal poverty level, an amount determined according to income categories established by the department as provided in Subsection (4).

(d) The department shall credit the amount of premium payments that a qualified individual makes for minimum essential coverage other than Medicaid toward the amount that a qualified individual is required to pay for wraparound services under this section.

(4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish the income categories, percentages, and maximum payment amounts described in Subsection (3); and

(b) provide continuous enrollment for 12 months for a qualified individual who receives wraparound services in accordance with this section.

(5) If a waiver or state plan amendment described in Subsection (2) is approved, the department shall provide wraparound services in accordance with this section.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 54
H. B. 317
Passed February 28, 2025
Approved March 19, 2025
Effective May 7, 2025

EXECUTIVE AGENCY INNOVATION INCENTIVES

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends and enacts provisions relating to efficiency improvement processes and certain funding requirements in the Governor's Office of Planning and Budget.

Highlighted Provisions:

This bill:

- ► amends criteria for certain funds to be treated as nonlapsing;
- ► amends provisions relating to efficiency improvement processes in the Governor's Office of Planning and Budget, including:
  - • identifying and prioritizing processes to incentivize, recognize, and reward a certain entity or entity employee for efficiency;
  - • providing for a certain entity or entity employee to recommend an efficiency evaluation;
  - • assessing certain metrics and outcomes to determine whether a certain entity's or entity's employee's recommendation results in cost-savings or time-savings; and
  - • whether the nonlapsing funds are used for employee retention or incentives;
- ► provides for reporting requirements; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63J-1-602, as last amended by Laws of Utah 2024, Chapter 86
63J-1-904, as last amended by Laws of Utah 2023, Chapter 24

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

Section 1. Section 63J-1-602 is amended to read:

63J-1-602. Nonlapsing appropriations.

(1) The appropriations from a fund or account and appropriations to a program that are listed in Section 63J-1-602.1 or 63J-1-602.2 are nonlapsing.

(2) No appropriation from a fund or account or appropriation to a program may be treated as nonlapsing unless:

(a) it is listed in Section 63J-1-602.1 or 63J-1-602.2;

(b) it is designated in a condition of appropriation in the appropriations bill; [~~or~~]

(c) nonlapsing authority is granted under Section 63J-1-603[~~.~~]; or

(d) it is reviewed under Section 63J-1-904.

(3) Each legislative appropriations subcommittee shall review the accounts and funds that have been granted nonlapsing authority under the provisions of this section or Section 63J-1-603.

(4) Except as provided in Subsection (5), on or before October 1 of each calendar year, an agency shall submit to the legislative appropriations subcommittee with jurisdiction over the agency's budget a report that describes the agency's plan to expend any nonlapsing appropriations, including:

(a) if applicable, the results of the prior year's planned use of the agency's nonlapsing appropriations; and

(b) if the agency plans to save all or a portion of the agency's nonlapsing appropriations over multiple years to pay for an anticipated expense:

(i) the estimated cost of the expense; and

(ii) the number of years until the agency will accumulate the amount required to pay for the expense.

(5) The State Board of Education shall submit the report described in Subsections (4)(a) and (b) on or before October 10 of each calendar year.

Section 2. Section 63J-1-904 is amended to read:

63J-1-904. Efficiency improvement process.

(1) The Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst shall jointly operate a process [~~that identifies and prioritizes~~]to identify and prioritize government processes to target for efficiency improvements.

(2) The Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst shall ensure that the efficiency improvement process described in Subsection (1)addresses the following:

(a) the roles of the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst throughout the efficiency improvement process;

(b) the process by which an appropriated entity's government process is selected for an efficiency evaluation;

(c) the criteria and methodology used for an efficiency evaluation;

(d) metrics demonstrating success, including:

(i) service delivery savings;

(ii) cost-savings; or

(iii) time-savings;

[~~(d) whether to provide any rewards or incentives for an appropriated entity to implement recommendations from an efficiency evaluation;~~]

(e) rewards, recognitions, or incentives for an appropriated entity to make recommendations for or implement recommendations from an efficiency evaluation or other measurable efficiency improvements;

(f) whether to create a formal or informal committee that advises the efficiency improvement process; and

[~~(f)~~](g) the process by which the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst notify the Office of the Legislative Auditor General when an efficiency evaluation is completed.

(3) On or before October 1 of each year, the entity shall report to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst on the entity's progress toward the metrics described in Subsection (2)(d).

(4) If the efficiency improvements result in cost-savings, as described in Subsection (2)(d), the entity may:

(a) request a portion of funds to be treated as nonlapsing in accordance with Section 63J-1-602; and

(b) use the funds for employee retention or employee performance incentives.

[~~(3)~~](5) The Office of the Legislative Auditor General shall:

(a) independently review the results of each efficiency evaluation conducted under this section, including whether the executive department agency implemented any recommendations from the efficiency evaluation;

(b) provide a copy of the findings from the review to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst; [~~and~~]

(c) verify the reported progress described in Subsection (3); and

[~~(c)~~](d) report the findings from the review to the Legislative Management Committee.

[~~(4) (a) Following an independent review under Subsection (3), the Office of the Legislative Auditor General may conduct initial survey work at the discretion of the legislative auditor general.~~]

[~~(b) If, based on the initial survey work described in Subsection (4)(a), the legislative auditor general determines further review is necessary, the legislative auditor general shall recommend to the Audit Subcommittee created in Section 36-12-8 that the Office of the Legislative Auditor General conduct an in-depth audit of the appropriated entity.~~]

[~~(5)~~](6) Each calendar year before December 31, the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst shall report to the governor and the Legislative Management Committee, respectively, regarding the status of the efficiency improvement process and recommended changes, if any.

[~~(6)~~](7) The efficiency improvement process described in this section does not apply to a legislative department government process.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 55
S. B. 245
Passed March 7, 2025
Approved March 19, 2025
Effective May 7, 2025

PEHP AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill amends provisions related to the Public Employees' Benefit and Insurance Program.

Highlighted Provisions:

This bill:

► requires the Public Employees' Benefit and Insurance Program to allow a newly born or adopted child to be added to a health plan within 60 days of the birth or the adoption.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

49-20-407.1, Utah Code Annotated 1953

REPEALS:

34-49-101, as enacted by Laws of Utah 2015, Chapter 156

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

Section 1. Section 49-20-407.1 is enacted to read:

49-20-407.1. Time to add child to plan.

(1) After a birth or adoption, the program shall allow an individual to add the individual's newly born or adopted child to the individual's health plan or health coverage for a period of 60 days after the day the birth or adoption of the child occurred.

(2) The requirement described in Subsection (1) applies to an individual covered under the state employee health plan.

Section 2. Repealer.

This bill repeals:

Section 34-49-101, Title.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 56
S. B. 255
Passed March 7, 2025
Approved March 19, 2025
Effective May 7, 2025

LINE-OF-DUTY DEATH BENEFIT AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Douglas R. Welton

LONG TITLE

General Description:

This bill modifies provisions relating to benefits resulting from a line-of-duty death.

Highlighted Provisions:

This bill:

- ► adds dental and vision benefits to the benefits available to the spouse and surviving children of a public safety employee or fire service employee who dies in the line of duty;
- ► removes the 12-month waiting period for accessing funds from the Local Public Safety and Firefighter Surviving Spouse Trust Fund to pay for the surviving spouse's and children's benefits; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-20-406, as last amended by Laws of Utah 2018, Chapter 210
53-17-201, as last amended by Laws of Utah 2017, Chapter 269
53-17-401, as last amended by Laws of Utah 2017, Chapter 269
53-17-402, as last amended by Laws of Utah 2021, Chapter 382

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

Section 1. Section 49-20-406 is amended to read:
49-20-406. Insurance benefits for employees' beneficiaries.

(1) As used in this section:

(a) "Children" includes stepchildren and legally adopted children.

(b) (i) "Line-of-duty death" means a death resulting from:

(A) external force or violence occasioned by an act of duty as an employee; or

(B) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as an employee.

(ii) "Line-of-duty death" does not include a death that:

(A) occurs during an activity that is required as an act of duty as an employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature contributes to the employee's death;

(B) occurs during the commission of a crime committed by the employee;

(C) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(D) occurs in a manner other than as described in Subsection (1)(b)(i).

(c) (i) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(ii) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(2) The beneficiary of a covered individual who is employed by the state and who has a line-of-duty death shall receive:

(a) the proceeds of a $50,000 group term life insurance policy paid for by the state and administered and provided as part of the group life insurance program under this chapter; and

(b) group health, dental, and vision coverage paid for by the state that covers the covered individual's:

(i) surviving spouse until becoming eligible for Medicare as long as the surviving spouse continues coverage with the program; and

(ii) unmarried children up to the age of 26.

(3) A covered employer not required to provide the benefits under Subsection (2) may provide [~~either or both~~]any of the benefits [~~under~~]described in Subsection (2) by paying rates established by the program.

(4) The benefit provided under Subsection (2)(a) is subject to the same terms and conditions as the group life insurance program provided under this chapter.

Section 2. Section 53-17-201 is amended to read:

53-17-201. Surviving spouse and children health, dental, and vision coverage for line-of-duty death.

(1) (a) Subject to Subsection (1)(b), and in accordance with this section, an employer shall allow the surviving spouse and children of a member whose death is classified by the Utah State Retirement Office as a line-of-duty death under the provisions of Title 49, Utah State Retirement and Insurance Benefit Act, to remain eligible for [~~health coverage under the employer's group health plan~~]the following coverage, if offered by the employer, as if the surviving spouse was an employee of the employer[~~.~~]:

(i) health coverage;

(ii) dental coverage; and

(iii) vision coverage.

[~~(b) The employer shall pay 100% of the premium costs and, if the health coverage is a high-deductible plan, the employer share of any contribution into a health savings account for the surviving spouse and dependent children as described under Subsections (1)(a) and (2), and may not require payment from the surviving spouse for premium costs or health savings account contributions as a condition of qualifying to continue to receive the health coverage.~~]

(b) Except as provided in Subsection (1)(d), the employer shall pay:

(i) 100% of the premium costs for the coverage described in Subsection (1)(a); and

(ii) if the health coverage is a high-deductible plan, the employer share of any contribution into a health savings account for the surviving spouse and dependent children as described under Subsections (1)(a) and (2).

(c) The employer may not require the surviving spouse to pay for premium costs or health savings account contributions as a condition of qualifying to continue to receive the coverage described in Subsection (1)(a).

[~~(c) For the first 12 months after the line-of-duty death, the employer shall pay the amount specified under Subsection (1)(b).~~]

(d) [~~Beginning 13 months after the line-of-duty death, an~~]An employer may pay the amount specified under Subsection (1)(b) through a cost-sharing agreement under Section 53-17-301 associated with the trust fund created under Section 53-17-401.

(2) An employer shall allow a surviving spouse and children to remain eligible to receive [~~health~~]coverage from the employer under this section at the option of the surviving spouse:

(a) [~~for health coverage~~]for the surviving spouse, until the surviving spouse becomes eligible for Medicare; and

(b) for [~~health coverage of~~]a child, until the child reaches the age of 26.

(3) This section does not apply to[~~ a member who~~]:

(a) a member who does not qualify for a line-of-duty death benefit under Title 49, Utah State Retirement and Insurance Benefit Act;

(b) coverage for which, at the time of death, the member did not receive or qualify to receive [~~employer group health coverage~~]; or

(c) a member who is covered under Section 49-20-406.

Section 3. Section 53-17-401 is amended to read:

53-17-401. Local Public Safety and Firefighter Surviving Spouse Trust Fund.

(1) There is created a private purpose trust fund entitled the "Local Public Safety and Firefighter Surviving Spouse Trust Fund."

(2) The trust fund consists of:

(a) fees established in Subsection 53-17-402(2)(a);

(b) appropriations made to the fund by the Legislature, if any;

(c) private donations and grants; and

(d) other revenue received from other sources.

(3) The [~~Department of Public Safety~~]department:

(a) shall account for the receipt and expenditures of trust fund money; or

(b) may enter into contract with a third-party administrator to administer the fund and account for the receipt and expenditure of trust fund money.

(4) The trust fund shall earn interest.

(5) The revenue and interest in the account, less actual administrative costs to the department, shall be used to lower fees paid by an employer under Section 53-17-201.

(6) The board of trustees created in Section 53-17-402 may expend money from the trust fund:

[~~(a) for health coverage for a surviving spouse and children under Subsection 53-17-201(1)(d) by paying:~~]

[~~(i) premium costs; or~~]

[~~(ii) if the health coverage is a high-deductible plan, premium costs and the employer contribution to a health savings account; and~~]

(a) as provided in Subsection 53-17-201(1); and

(b) for reasonable administrative costs that the department and the board of trustees incur in performing their duties for administering the trust fund.

(7) Money deposited into the trust fund is irrevocable and is expended only for the purposes described in this chapter.

(8) Assets of the trust fund are dedicated for the purposes established by statute and administrative rule.

(9) Creditors of the board of trustees and of employers liable for the benefits paid under this chapter may not seize, attach, or otherwise obtain assets of the trust fund.

Section 4. Section 53-17-402 is amended to read:

53-17-402. Local Public Safety and Firefighter Surviving Spouse Trust Fund Board of Trustees -- Quorum -- Duties -- Establish rates.

(1) (a) There is created the Local Public Safety and Firefighter Surviving Spouse Trust Fund Board of Trustees composed of four members:

(i) the commissioner of public safety or the commissioner's designee;

(ii) the executive director of the Governor's Office of Planning and Budget or the executive director's designee;

(iii) one person representing municipalities, designated by the Utah League of Cities and Towns; and

(iv) one person representing counties, designated by the Utah Association of Counties.

(b) The commissioner of public safety, or the commissioner's designee, is chair of the board.

(c) Three members of the board are a quorum.

(d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(e) (i) The [~~Department of Public Safety~~]department shall staff the board of trustees.

(ii) The department shall provide accounting services for the trust fund.

(2) The board shall:

(a) establish rates to charge each employer based on the number of public safety service employees and firefighter service employees who are eligible for the health, dental, and vision coverage under this chapter;

(b) act as trustee of the trust fund and exercise the state's fiduciary responsibilities;

(c) meet at least once per year;

(d) review and approve all policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports;

(e) review and approve the budget for the trust fund;

(f) review financial records of the trust fund, including trust fund receipts, expenditures, and investments;

(g) commission and obtain financial or actuarial studies of the liabilities for the trust fund;

(h) calculate and approve administrative expenses of the trust fund; and

(i) do any other things necessary to perform the fiduciary obligations under the trust.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 57
H. B. 412
Passed March 7, 2025
Approved March 19, 2025
Effective May 7, 2025

BOARDS AND COMMISSIONS REVISIONS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill amends provisions related to membership on a board, commission, committee, or council (board).

Highlighted Provisions:

This bill:

- ► eliminates requirements providing that no more than a certain number of members of certain boards may be affiliated with or a member of the same political party;
- ► modifies appointment provisions and removes members who are legislators from certain boards; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-9-112, as last amended by Laws of Utah 2022, Chapter 68
9-20-201, as last amended by Laws of Utah 2024, Chapter 323
10-3-1004, as last amended by Laws of Utah 2010, Chapter 378
17-28-2, as last amended by Laws of Utah 2002, Chapter 158
17-30-3, as last amended by Laws of Utah 2023, Chapter 15
17-30a-202, as enacted by Laws of Utah 2014, Chapter 366
19-2-103, as last amended by Laws of Utah 2024, Chapter 529
19-4-103, as last amended by Laws of Utah 2024, Chapter 529
19-5-103, as last amended by Laws of Utah 2024, Chapter 529
19-6-103, as last amended by Laws of Utah 2020, Chapters 352, 373
26B-1-426, as last amended by Laws of Utah 2024, Chapter 529
32B-2-201, as last amended by Laws of Utah 2022, Chapter 447
34A-1-205, as last amended by Laws of Utah 2021, Chapter 345
35A-1-205, as last amended by Laws of Utah 2021, Chapter 344
35A-1-206, as last amended by Laws of Utah 2020, Chapter 365
36-2-4, as last amended by Laws of Utah 2021, Chapter 382
40-6-4, as last amended by Laws of Utah 2024, Chapter 529
51-7-16, as last amended by Laws of Utah 2024, Chapter 529
53B-34-110, as enacted by Laws of Utah 2024, Chapter 378
54-10a-202, as last amended by Laws of Utah 2020, Chapter 154
63H-8-201, as last amended by Laws of Utah 2024, Chapter 443
63M-15-201, as enacted by Laws of Utah 2021, Chapter 91
63N-7-201, as last amended by Laws of Utah 2024, Chapter 529
67-8-4, as last amended by Laws of Utah 2020, Chapter 432
73-10-2, as last amended by Laws of Utah 2023, Chapter 205
78A-12-201, as last amended by Laws of Utah 2022, Chapter 11
79-3-302, as last amended by Laws of Utah 2020, Chapters 352, 373

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

Section 1. Section 9-9-112 is amended to read:
9-9-112. Bears Ears Visitor Center Advisory Committee.

(1) Utah extends an invitation to the Navajo Nation, the Ute Mountain Ute Tribe, the Hopi Nation, the Zuni Tribe, and the Ute Indian Tribe of the Uintah Ouray to form an advisory committee for the purpose of exploring the feasibility, location, functions, and other important matters surrounding the creation of a visitor center at Bears Ears.

(2) As used in this section:

(a) "Advisory committee" means the Bears Ears Visitor Center Advisory Committee created by this section.

(b) "Bears Ears" means the Bears Ears National Monument.

(3) (a) Subject to Subsection (3)(b), there is created the Bears Ears Visitor Center Advisory Committee consisting of the following [~~eight~~]voting members:

[~~(i) five voting members as follows:~~]

[~~(A)~~](i) a representative of the Navajo Nation, appointed by the Navajo Nation;

[~~(B)~~](ii) a representative of the Ute Mountain Ute Tribe, appointed by the Ute Mountain Ute Tribe;

[~~(C)~~](iii) a representative of the Hopi Nation, appointed by the Hopi Nation;

[~~(D)~~](iv) a representative of the Zuni Tribe, appointed by the Zuni Tribe; and

[~~(E)~~](v) a representative of the Ute Indian Tribe of the Uintah Ouray, appointed by the Ute Indian Tribe of the Uintah Ouray[~~; and~~].

[~~(ii) subject to Subsection (4), three nonvoting members as follows:~~]

[~~(A) one member of the Senate, appointed by the president of the Senate; and~~]

[~~(B) two members of the House of Representatives, appointed by the speaker of the House of Representatives.~~]

(b) The advisory committee is formed when all of the tribes described in Subsection (1)have communicated to the other tribes and to the Division of Indian Affairs that the tribe has appointed a member to the advisory committee.

(c) (i) The president of the Senate and the speaker of the House of Representatives may each appoint to the advisory committee one nonvoting individual.

(ii) If an individual appointed under Subsection (3)(c)(i) is a member of the Legislature, the member serves as a member of the public and not in the member's legislative capacity.

[~~(4) At least one of the three legislative members appointed under Subsection (3)(a)(ii) shall be from a minority party.~~]

[~~(5)~~](4) The advisory committee may select from the advisory committee members the chair or other officers of the advisory committee.

[~~(6)~~](5) (a) If a vacancy occurs in the membership of the advisory committee appointed under Subsection (3), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member appointed under Subsection (3) serves until the member's successor is appointed and qualified.

[~~(7)~~](6) (a) A majority of the voting members of the advisory committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory committee.

[~~(8) (a) The salary and expenses of an advisory committee member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.~~]

[~~(b)~~](7) An advisory committee member [~~who is not a legislator~~]may not receive compensation or benefits for the member's service on the advisory committee, but may receive per diem and reimbursement for travel expenses incurred as an advisory committee member at the rates established by the Division of Finance under:

[~~(i)~~](a) Sections 63A-3-106 and 63A-3-107; and

[~~(ii)~~](b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(9)~~](8) The advisory committee may invite the United States Forest Service, the Bureau of Land Management, the Division of State Parks, the Division of Outdoor Recreation, and the Utah Office of Tourism within the Governor's Office of Economic Opportunity, to serve as technical advisors to the advisory committee.

[~~(10)~~](9) The Division of Indian Affairs shall staff the advisory committee.

[~~(11)~~](10) The advisory committee shall study and make recommendations concerning:

(a) the need for a visitor center associated with Bears Ears;

(b) the feasibility of a visitor center associated with Bears Ears, including investigating:

(i) potential locations for the visitor center;

(ii) purposes for the visitor center; and

(iii) sources of funding to build and maintain the visitor center;

(c) whether a visitor center will increase visitorship to Bears Ears; and

(d) whether a visitor center at Bears Ears could function as a repository of traditional knowledge and practices.

[~~(12)~~](11) The advisory committee may contract with one or more consultants to conduct work related to the issues raised in Subsection [~~(11)~~](10) if the Legislature appropriates money expressly for the purpose of the advisory committee contracting with a consultant.

[~~(13)~~](12) The advisory committee shall hold at least one public hearing to obtain public comment on the creation of a Bears Ears visitor center.

[~~(14)~~](13) The advisory committee shall report the advisory committee's recommendations to one or more of the following:

(a) the Economic Development and Workforce Services Interim Committee;

(b) the House Economic Development and Workforce Services Committee; or

(c) the Senate Economic Development and Workforce Services Committee.

Section 2. Section 9-20-201 is amended to read:

9-20-201. Creation -- Members -- Appointment -- Terms -- Vacancies -- Per diem and expenses.

(1) There is created the Utah Commission on Service and Volunteerism consisting of 19 voting members and one nonvoting member.

(2) The 19 voting members of the commission are:

(a) the lieutenant governor;

(b) the commissioner of higher education or the commissioner's designee;

(c) the state superintendent of public instruction or the superintendent's designee;

(d) the executive director of the Department of Cultural and Community Engagement or the executive director's designee;

(e) nine members appointed by the governor as follows:

(i) an individual with expertise in the educational, training, and developmental needs of youth, particularly disadvantaged youth;

(ii) an individual with experience in promoting the involvement of older adults in volunteer service;

(iii) a representative of a community-based agency or organization within the state;

(iv) a representative of local government;

(v) a representative of a local labor organization in the state;

(vi) a representative of business;

(vii) an individual between the ages of 16 and 25 years old who participates in a volunteer or service program;

(viii) a representative of a national service program; and

(ix) a representative of the volunteer sector; and

(f) six members appointed by the governor from among the following groups:

(i) local educators;

(ii) experts in the delivery of human, educational, cultural, environmental, or public safety services to communities and individuals;

(iii) representatives of Native American tribes;

(iv) representatives of organizations that assist out-of-school youth or other at-risk youth; or

(v) representatives of entities that receive assistance under the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4950 et seq.

(3) The nonvoting member of the commission is the regional representative of the corporation.

(4) (a) In appointing persons to serve on the commission, the governor shall ensure that [~~:~~]no more than five voting members of the commission are state government employees.

[~~(i) no more than 10 voting members of the commission are members of the same political party; and~~]

[~~(ii) no more than five voting members of the commission are state government employees.~~]

(b) In appointing persons to serve on the commission, the governor shall strive for balance on the commission according to race, ethnicity, age, gender, disability characteristics, and geography.

(5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a three-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately one-third of the commission is appointed every year.

(6) When a vacancy occurs in the membership, the replacement shall be appointed for the unexpired term.

(7) A member appointed by the governor may not serve more than two consecutive terms.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 3. Section 10-3-1004 is amended to read:

10-3-1004. Qualifications of commissioners -- Salary -- Removal.

[~~Not more than two members of the civil service commission shall at any one time be of the same political party.~~]

(1) No member of the civil service commission shall during [~~his~~]the member's tenure of office hold any other public office, or be a candidate for any other public office.

(2) Each member shall receive $25 for each meeting of the commission which [~~he~~]the member shall attend, but may not receive more than $100 in any one month.

(3) In case of misconduct, inability or willful neglect in the performance of the duties of the office by any member, the member may be removed from office by the board of city commissioners by a majority vote of the entire membership, but the member shall, if [~~he~~]the member so desires, have an opportunity to be heard in defense.

Section 4. Section 17-28-2 is amended to read:

17-28-2. Vacancies -- Compensation -- Removal from office.

(1) Any vacancy occurring on the County Fire Civil Service Council shall be filled by appointment by the county executive for the unexpired term.

[~~(2) Not more than two members of any council shall at any one time be affiliated with or a member of the same political party.~~]

[~~(3)~~](2) A member of the council may not hold, during the term of [~~his~~]the member's office, any other public office or be a candidate for any other public office.

[~~(4)~~](3) (a) Each council member shall receive $50 for each meeting of the council attended by [~~him~~]the council member.

(b) The county legislative body may raise the compensation of [~~council members as it~~]a council member as the county legislative body considers appropriate.

(c) [~~This compensation and allowance~~]The compensation and allowance described in Subsections (3)(a) and (b) shall be a charge against the county and paid monthly.

[~~(5)~~](4) (a) [~~In case of misconduct, willful neglect, or inability to perform the duties of his office, any council member may be removed from office by the county legislative body upon a majority vote of the body, but the member is entitled to an opportunity to be heard in his own defense.~~]In case of misconduct, willful neglect, or an inability to perform the duties of the council member's office, a council member may be removed from office by the county legislative body upon a majority vote of the county legislative body.

(b) A county legislative body that moves to remove a council member from office under Subsection (4)(a) shall provide the council member with the opportunity to be heard in the council member's own defense.

Section 5. Section 17-30-3 is amended to read:

17-30-3. Establishment of merit system commission -- Appointment, qualifications, and compensation of members.

(1) (a) Each county with a population of 20,000 or more shall establish a merit system commission consisting of three members appointed as provided in Subsection (1)(b).

(b) (i) As used in this Subsection (1)(b):

(A) "Police interlocal entity" means an interlocal entity, as defined in Section 11-13-103, that is created:

(I) under Title 11, Chapter 13, Interlocal Cooperation Act, by an agreement to which a county of the first class is a party; and

(II) to provide law enforcement service to an area that includes the unincorporated part of the county.

(B) "Police special district" means a special district, as defined in Section 17B-1-102:

(I) whose creation was initiated by the adoption of a resolution under Section 17B-1-203 by the legislative body of a county of the first class, alone or with one or more other legislative bodies; and

(II) that is created to provide law enforcement service to an area that includes the unincorporated part of the county.

(ii) For a county in which a police interlocal entity is created, whether or not a police special district is also created in the county:

(A) two members shall be appointed by the legislative body of the county; and

(B) one member shall be appointed by the governing body of the interlocal entity.

(iii) For a county in which a police special district is created but in which a police interlocal entity has not been created:

(A) two members shall be appointed by the legislative body of the county; and

(B) one member shall be appointed by the board of trustees of the police special district.

(iv) For each other county, all three members shall be appointed by the county legislative body.

[~~(c) Not more than two members of the commission shall be affiliated with or members of the samepolitical party.~~]

[~~(d)~~](c) Of the original appointees, one member shall be appointed for a term ending February 1 of the first odd-numbered year after the date of appointment, and one each for terms ending two and four years thereafter.

[~~(e)~~](d) Upon the expiration of any of the terms, a successor shall be appointed for a full term of six years.

[~~(f)~~](e) Appointment to fill a vacancy resulting other than from expiration of term shall be for the unexpired portion of the term only.

(2) Members of a commission shall be citizens of the state, shall have been residents of the area embraced by the governmental unit from which appointed not less than five years next preceding the date of appointment, and shall hold no other office or employment under the governmental unit for which appointed.

(3) The county legislative body may compensate a member for service on the commission and reimburse the member for necessary expenses incurred in the performance of the member's duties.

Section 6. Section 17-30a-202 is amended to read:

17-30a-202. Establishment of merit commission -- Appointment, qualifications, and compensation of members.

(1) (a) Except as provided in Subsection (1)(b), a county subject to this chapter shall establish a merit system commission consisting of three appointed members:

(i) two members appointed by the legislative body of the county; and

(ii) one member appointed by the governing body of a police interlocal entity.

(b) If there is no police interlocal entity within the county, the county legislative body shall appoint all three members of a commission described in Subsection (1)(a).

[~~(c) No more than two members of the commission may be affiliated with or members of the same political party.~~]

[~~(d)~~](c) (i) Of the original appointees described in Subsection (1)(a) or (b), one member shall be appointed for a term ending February 1 of the first odd-numbered year after the date of appointment, and one each for terms ending two and four years thereafter.

(ii) For a term subsequent to a term described in Subsection [~~(1)(d)~~](1)(c), a commission member shall hold a term of six years.

[~~(e)~~](d) If an appointed position described in Subsection (1)(a) or (b) is vacated for a cause other than expiration of the member's term, the position is filled by appointment for the unexpired portion of the term only.

(2) A member of the commission:

(a) shall be a resident of the state;

(b) for at least five years preceding the date of appointment a resident of:

(i) the county; or

(ii) if applicable, the area served by the police interlocal entity from which appointed; and

(c) may not hold another office or employment with the county or, if applicable, in a municipality served by the police interlocal entity for which the member is appointed.

(3) The county legislative body or interlocal entity governing body may compensate a member for service on the commission and reimburse the member for necessary expenses incurred in the performance of the member's duties.

Section 7. Section 19-2-103 is amended to read:

19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per diem and expenses.

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed or reappointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:

(i) one representative who:

(A) is not connected with industry;

(B) is an expert in air quality matters; and

(C) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with relevant training and experience;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the mining industry;

(iv) one representative from the fuels industry;

(v) one representative from the manufacturing industry;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about air pollution matters, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest, and the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B).

[~~(3) No more than five of the appointed members of the board shall belong to the same political party.~~]

[~~(4)~~](3) A majority of the members of the board may not derive any significant portion of their income from persons subject to permits or orders under this chapter.

[~~(5)~~](4) (a) Members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection [~~(5)(a)~~](4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

[~~(6)~~](5) A member may serve more than one term.

[~~(7)~~](6) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, but not more than 90 days after the expiration of the member's term.

[~~(8)~~](7) When a vacancy occurs in the membership for any reason, the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

[~~(9)~~](8) The board shall elect annually a chair and a vice chair from its members.

[~~(10)~~](9) (a) The board shall meet at least quarterly.

(b) Special meetings may be called by the chair upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.

(c) Three days' notice shall be given to each member of the board before a meeting.

[~~(11)~~](10) Five members constitute a quorum at a meeting, and the action of a majority of members present is the action of the board.

[~~(12)~~](11) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 8. Section 19-4-103 is amended to read:

19-4-103. Drinking Water Board -- Members -- Organization -- Meetings -- Per diem and expenses.

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:

(i) one representative who is a Utah-licensed professional engineer with expertise in civil or sanitary engineering;

(ii) two representatives who are elected officials from a municipal government that is involved in the management or operation of a public water system;

(iii) one representative from an improvement district, a water conservancy district, or a metropolitan water district;

(iv) one representative from an entity that manages or operates a public water system;

(v) one representative from:

(A) the state water research community; or

(B) an institution of higher education that has comparable expertise in water research to the state water research community;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about drinking water and public water systems, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) represent different geographical areas within the state insofar as practicable;

(c) be a resident of Utah;

(d) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(e) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B) and the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

[~~(3) No more than five appointed members of the board shall be from the same political party.~~]

[~~(4)~~](3) (a) As terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection [~~(4)(a)~~](3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(c) (i) Notwithstanding Subsection [~~(4)(a)~~](3)(a), the term of a board member who is appointed before May 1, 2013, shall expire on April 30, 2013.

(ii) On May 1, 2013, the governor shall appoint or reappoint board members in accordance with this section.

[~~(5)~~](4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

[~~(6)~~](5) When the governor makes a new appointment or reappointment under Subsection [~~(4)(a)~~](3)(a), or a vacancy appointment under Subsection [~~(5)~~](4), the governor's new appointment, reappointment, or vacancy appointment shall be with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(7)~~](6) Each member holds office until the expiration of the member's term, and until a successor is appointed, but not for more than 90 days after the expiration of the term.

[~~(8)~~](7) The board shall elect annually a chair and a vice chair from its members.

[~~(9)~~](8) (a) The board shall meet at least quarterly.

(b) Special meetings may be called by the chair upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.

(c) Reasonable notice shall be given to each member of the board before any meeting.

[~~(10)~~](9) Five members constitute a quorum at any meeting and the action of the majority of the members present is the action of the board.

[~~(11)~~](10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 9. Section 19-5-103 is amended to read:

19-5-103. Water Quality Board -- Members of board -- Appointment -- Terms -- Organization -- Meetings -- Per diem and expenses.

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed or reappointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:

(i) one representative who:

(A) is an expert and has relevant training and experience in water quality matters;

(B) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with relevant training and experience; and

(C) represents local and special service districts in the state;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the mineral industry;

(iv) one representative from the manufacturing industry;

(v) one representative who represents agricultural and livestock interests;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about water quality matters, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B) and the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

[~~(3) No more than five of the appointed members may be from the same political party.~~]

[~~(4)~~](3) When a vacancy occurs in the membership for any reason, the governor shall, with the advice and consent of the Senate in

accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

[~~(5)~~](4) (a) A member shall be appointed for a term of four years and is eligible for reappointment.

(b) Notwithstanding the requirements of Subsection [~~(5)(a)~~](4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

[~~(6)~~](5) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, not to exceed 90 days after the formal expiration of the term.

[~~(7)~~](6) The board shall:

(a) organize and annually select one of its members as chair and one of its members as vice chair;

(b) hold at least four regular meetings each calendar year; and

(c) keep minutes of its proceedings which are open to the public for inspection.

[~~(8)~~](7) The chair may call a special meeting upon the request of three or more members of the board.

[~~(9)~~](8) Each member of the board and the director shall be notified of the time and place of each meeting.

[~~(10)~~](9) Five members of the board constitute a quorum for the transaction of business, and the action of a majority of members present is the action of the board.

[~~(11)~~](10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 10. Section 19-6-103 is amended to read:

19-6-103. Waste Management and Radiation Control Board -- Members -- Terms -- Organization -- Meetings -- Per diem and expenses.

(1) The board consists of the following 12 members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following 11 voting members appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:

(i) one representative who is:

(A) not connected with industry; and

(B) a Utah-licensed professional engineer;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the manufacturing, mining, or fuel industry;

(iv) one representative from the private solid or hazardous waste disposal industry;

(v) one representative from the private hazardous waste recovery industry;

(vi) one representative from the radioactive waste management industry;

(vii) one representative from the uranium milling industry;

(viii) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests;

(ix) one representative from the public who is trained and experienced in public health and a licensed:

(A) medical doctor; or

(B) dentist; and

(x) one representative who is:

(A) a medical physicist or a health physicist; or

(B) a professional employed in the field of radiation safety.

(2) A member of the board shall:

(a) be knowledgeable about solid and hazardous waste matters and radiation safety and protection as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department in accordance with Subsection 19-1-201(1)(d)(i)(B) and the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

[~~(3) No more than six of the appointed members may be from the same political party.~~]

[~~(4)~~](3) (a) Members shall be appointed for terms of four years each.

(b) Notwithstanding the requirements of Subsection [~~(4)(a)~~](3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

[~~(5)~~](4) Each member is eligible for reappointment.

[~~(6)~~](5) Board members shall continue in office until the expiration of their terms and until their successors are appointed, but not more than 90 days after the expiration of their terms.

[~~(7)~~](6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, after considering recommendations of the board and with the advice and consent of the Senate.

[~~(8)~~](7) The board shall elect a chair and vice chair on or before April 1 of each year from its membership.

[~~(9)~~](8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(10)~~](9) (a) The board shall hold a meeting at least once every three months including one meeting during each annual general session of the Legislature.

(b) Meetings shall be held on the call of the chair, the director, or any three of the members.

[~~(11)~~](10) Six members constitute a quorum at any meeting, and the action of the majority of members present is the action of the board.

Section 11. Section 26B-1-426 is amended to read:

26B-1-426. Board of Aging and Adult Services -- Members, appointment, terms, vacancies, chairperson, compensation, meetings, quorum.

(1) The Board of Aging and Adult Services created in Section 26B-1-204 shall have seven members who are appointed or reappointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) Except as required by Subsection (2)(b), each member shall be appointed for a term of four years, and is eligible for one reappointment.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Board members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 90 days after the formal expiration of a term.

(d) When a vacancy occurs in the membership for any reason, the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

[~~(3) (a) No more than four members of the board may be from the same political party.~~]

[~~(b)~~](3) The board shall have diversity of gender, ethnicity, and culture; and members shall be chosen on the basis of their active interest, experience, and demonstrated ability to deal with issues related to the Board of Aging and Adult Services.

(4) (a) The board shall annually elect a chairperson from the board's membership.

(b) The board shall hold meetings at least once every three months.

(c) Within budgetary constraints, meetings may be held from time to time on the call of the chairperson or of the majority of the members of the board.

(d) Four members of the board are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) (a) The board shall adopt bylaws governing its activities.

(b) The bylaws described in Subsection (6)(a) shall include procedures for removal of a board member who is unable or unwilling to fulfill the requirements of the board member's appointment.

(7) The board has program policymaking authority for the division over which the board presides.

(8) A member of the board shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 12. Section 32B-2-201 is amended to read:

32B-2-201. Alcoholic Beverage Services Commission created.

(1) (a) There is created the "Alcoholic Beverage Services Commission."

(b) The commission is the governing board over the department.

(2) [~~(a)~~] The commission is composed of seven part-time commissioners appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(b) No more than four commissioners may be of the same political party.~~]

(3) (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the governor shall appoint each new commissioner or reappointed commissioner to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of no more than three commissioners expire in a fiscal year.

(4) (a) When a vacancy occurs on the commission for any reason, the governor shall appoint a replacement for the unexpired term with the advice and consent of the Senate.

(b) Unless removed in accordance with Subsection (6), a commissioner shall remain on the commission after the expiration of a term until a successor is appointed by the governor, with the advice and consent of the Senate.

(5) A commissioner shall take the oath of office.

(6) (a) The governor may remove a commissioner from the commission for cause, neglect of duty, inefficiency, or malfeasance after a public hearing conducted by:

(i) the governor; or

(ii) an impartial hearing examiner appointed by the governor to conduct the hearing.

(b) At least 10 days before the hearing described in Subsection (6)(a), the governor shall provide the commissioner notice of:

(i) the date, time, and place of the hearing; and

(ii) the alleged grounds for the removal.

(c) The commissioner shall have an opportunity to:

(i) attend the hearing;

(ii) present witnesses and other evidence; and

(iii) confront and cross examine witnesses.

(d) After a hearing under this Subsection (6):

(i) the person conducting the hearing shall prepare written findings of fact and conclusions of law; and

(ii) the governor shall serve a copy of the prepared findings and conclusions upon the commissioner.

(e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing examiner shall issue a written recommendation to the governor in addition to complying with Subsection (6)(d).

(f) A commissioner has five days from the day on which the commissioner receives the findings and conclusions described in Subsection (6)(d) to file written objections to the recommendation before the governor issues a final order.

(g) The governor shall:

(i) issue the final order under this Subsection (6) in writing; and

(ii) serve the final order upon the commissioner.

(7) A commissioner may not receive compensation or benefits for the commissioner's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) (i) The governor shall annually appoint the chair of the commission.

(ii) A commissioner serves as chair to the commission at the pleasure of the governor.

(iii) If removed as chair, the commissioner continues to serve as a commissioner unless removed as a commissioner under Subsection (6).

(b) The commission shall elect:

(i) another commissioner to serve as vice chair; and

(ii) other commission officers as the commission considers advisable.

(c) A commissioner elected under Subsection (8)(b) shall serve in the office to which the commissioner is elected at the pleasure of the commission.

(9) (a) Each commissioner has equal voting rights on a commission matter when in attendance at a commission meeting.

(b) Four commissioners is a quorum for conducting commission business.

(c) A majority vote of the quorum present at a meeting is required for the commission to act.

(d) A commissioner shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(10) (a) The commission shall meet at least monthly, but may hold other meetings at times and places as scheduled by:

(i) the commission;

(ii) the chair; or

(iii) three commissioners upon filing a written request for a meeting with the chair.

(b) (i) Notice of the time and place of a commission meeting shall be given to each commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(ii) A commission meeting is open to the public, except for a commission meeting or portion of a commission meeting that is closed by the commission as authorized by Sections 52-4-204 and 52-4-205.

Section 13. Section 34A-1-205 is amended to read:

34A-1-205. Appeals Board -- Chair -- Appointment -- Compensation -- Qualifications.

(1) (a) There is created the Appeals Board within the commission consisting of three members.

(b) The board may call and preside at adjudicative proceedings to review an order or decision that is subject to review by the Appeals Board under this title.

(2) (a) With the advice and consent of the Senate and in accordance with this section, the governor shall appoint:

(i) one member of the board to represent employers; and

(ii) one member of the board to represent employees.

(b) With the advice and consent of the Senate and in accordance with this section, the governor may appoint:

(i) one alternate member of the board to represent employers in the event that the member representing employers is unavailable; or

(ii) one alternate member of the board to represent employees in the event that the member representing employees is unavailable.

(c) In making the appointments described in this subsection, the governor shall:

(i) when appointing a member or alternate member to represent employers, consider nominations from employer organizations; and

(ii) when appointing a member or alternate member to represent employees, consider nominations from employee organizations[~~;~~].

[~~(iii) ensure that no more than two members belong to the same political party; and~~]

[~~(iv) ensure that an alternate member belongs to the same political party as the member for whom the alternate stands in.~~]

(d) The governor shall, at the time of appointment or reappointment, make appointments to the board so that at least two of the members of the board are members of the Utah State Bar in good standing or resigned from the Utah State Bar in good standing.

(3) (a) The term of a member and an alternate member shall be six years beginning on March 1 of the year the member or alternate member is appointed, except that the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members and alternate members are staggered so that one member and alternate member is appointed every two years.

(b) The governor may remove a member or alternate member only for inefficiency, neglect of duty, malfeasance or misfeasance in office, or other good and sufficient cause.

(c) A member or alternate member shall hold office until a successor is appointed and has qualified.

(4) A member and alternate member shall be part-time and receive compensation as provided by Title 63A, Chapter 17, Utah State Personnel Management Act.

(5) (a) The chief officer of the board shall be the chair, who shall serve as the executive and administrative head of the board.

(b) The governor shall appoint and may remove at will the chair from the position of chair.

(6) A majority of the board shall constitute a quorum to transact business.

(7) (a) The commission shall provide the Appeals Board necessary staff support, except as provided in Subsection (7)(b).

(b) At the request of the Appeals Board, the attorney general shall act as an impartial aid to the Appeals Board in outlining the facts and the issues.

Section 14. Section 35A-1-205 is amended to read:

35A-1-205. Workforce Appeals Board -- Chair -- Appointment -- Compensation -- Qualifications.

(1) There is created the Workforce Appeals Board within the department consisting of one or more panels to hear and decide appeals from the decision of an administrative law judge.

(2) [~~(a)~~] A panel shall consist of three impartial members appointed by the governor as follows:

[~~(i)~~](a) the board chair, appointed in accordance with Subsection (5);

[~~(ii)~~](b) one member appointed to represent employers; and in making this appointment, the governor shall consider nominations from employer organizations; and

[~~(iii)~~](c) one member appointed to represent employees; and in making this appointment, the governor shall consider nominations from employee organizations.

[~~(b) No more than two members of a panel may belong to the same political party.~~]

(3) (a) (i) The term of a member shall be six years beginning on March 1 of the year the member is appointed, except as otherwise provided in Subsection (3)(a)(ii).

(ii) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately one third of the members are appointed every two years.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(c) The governor may remove a member for inefficiency, neglect of duty, malfeasance or misfeasance in office, or other good and sufficient cause.

(d) A member shall hold office until a successor is appointed and has qualified.

(4) (a) Except as provided in Subsection (4)(b), a member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) The member appointed as board chair in accordance with Subsection (5) shall be compensated at an hourly rate determined by the Division of Human Resource Management in accordance with Title 63A, Chapter 17, Utah State Personnel Management Act.

(5) (a) The chief officer of the board shall be the chair, who shall serve as the executive and administrative head of the board.

(b) The chair shall be appointed by the governor to represent the public and may be removed from that position at the will of the governor.

(c) The chair shall be experienced in administration and possess any additional qualifications determined by the governor.

(6) (a) The chair shall designate an alternate from a panel appointed under this section:

(i) in the absence of a regular member or the chair; or

(ii) if the regular member or the chair has a conflict of interest.

(b) Each case shall be decided by a full three-member panel.

(7) The department shall provide the Workforce Appeals Board necessary staff support, except, the board may employ, retain, or appoint legal counsel.

Section 15. Section 35A-1-206 is amended to read:

35A-1-206. State Workforce Development Board -- Appointment -- Membership -- Terms of members -- Compensation.

(1) There is created within the department the State Workforce Development Board in accordance with the provisions of the Workforce Innovation and Opportunity Act, 29 U.S.C. Sec. 3101 et seq.

(2) The board shall consist of the following [~~38~~]members:

(a) the governor or the governor's designee;

[~~(b) one member of the Senate, appointed by the president of the Senate;~~]

[~~(c) one representative of the House of Representatives, appointed by the speaker of the House of Representatives;~~]

[~~(d)~~](b) the executive director or the executive director's designee;

[~~(e)~~](c) the executive director of the Department of Health and Human Services or the executive director's designee;

[~~(f)~~](d) the director of the Utah State Office of Rehabilitation or the director's designee;

[~~(g)~~](e) the state superintendent of public instruction or the superintendent's designee;

[~~(h)~~](f) the commissioner of higher education or the commissioner's designee;

[~~(i)~~](g) the executive director of the Governor's Office of Economic Opportunity or the executive director's designee;

[~~(j)~~](h) the executive director of the Department of Veterans and Military Affairs or the executive director's designee; and

[~~(k)~~](i) the following members appointed by the governor:

(i) 20 representatives of business in the state, selected among the following:

(A) owners of businesses, chief executive or operating officers of businesses, or other business executives or employers with policymaking or hiring authority;

(B) representatives of businesses, including small businesses, that provide employment opportunities that include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the state; and

(C) representatives of businesses appointed from among individuals nominated by state business organizations or business trade associations;

(ii) six representatives of the workforce within the state, which:

(A) shall include at least two representatives of labor organizations who have been nominated by state labor federations;

(B) shall include at least one representative from a registered apprentice program;

(C) may include one or more representatives from a community-based organization that has demonstrated experience and expertise in addressing the employment, training, or educational needs of individuals with barriers to employment; and

(D) may include one or more representatives from an organization that has demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including organizations that serve out of school youth; and

(iii) two elected officials that represent a city or a county.

(3) (a) The governor shall appoint one of the appointed business representatives as chair of the board.

(b) The chair shall serve at the pleasure of the governor.

(4) (a) The governor shall ensure that members appointed to the board represent diverse geographic areas of the state, including urban, suburban, and rural areas.

(b) A member appointed by the governor shall serve a term of four years and may be reappointed to one additional term.

(c) A member shall continue to serve until the member's successor has been appointed and qualified.

(d) Except as provided in Subsection (4)(e), as terms of board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(e) Notwithstanding the requirements of Subsection (4)(d), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately one half of the board is appointed every two years.

(f) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(g) The executive director shall terminate the term of any governor-appointed member of the board if the member leaves the position that qualified the member for the appointment.

(5) A majority of members constitutes a quorum for the transaction of business.

(6) [~~(a)~~] A member of the board [~~who is not a legislator~~]may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

[~~(i)~~](a) Section 63A-3-106;

[~~(ii)~~](b) Section 63A-3-107; and

[~~(iii)~~](c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

[~~(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.~~]

(7) The department shall provide staff and administrative support to the board at the direction of the executive director.

(8) The board has the duties, responsibilities, and powers described in 29 U.S.C. Sec. 3111, including:

(a) identifying opportunities to align initiatives in education, training, workforce development, and economic development;

(b) developing and implementing the state workforce services plan described in Section 35A-1-207;

(c) utilizing strategic partners to ensure the needs of industry are met, including the development of expanded strategies for partnerships for in-demand occupations and understanding and adapting to economic changes;

(d) developing strategies for staff training;

(e) developing and improving employment centers; and

(f) performing other responsibilities within the scope of workforce services as requested by:

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

Section 16. Section 36-2-4 is amended to read:

36-2-4. Legislative Compensation Commission created -- Governor's considerations in appointments -- Organization and expenses.

(1) There is created a state Legislative Compensation Commission composed of seven members appointed by the governor[~~, not more than four of whom shall be from the same political party~~].

(2) (a) Except as required by Subsection (2)(b), the members shall be appointed for four-year terms.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the vacated member was chosen.

(3) In appointing members of the commission, the governor shall give consideration to achieving representation from the major geographic areas of the state, and representation from a broad cross section of occupational, professional, employee, and management interests.

(4) The commission shall select a chair. Four members of the commission shall constitute a quorum. The commission shall not make

any final determination without the concurrence of a majority of the commission's members appointed and serving on the commission being present.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) (a) The commission shall be a citizen commission and no member or employee of the legislative, judicial, or executive branch is eligible for appointment to the commission.

(b) The executive director of the Governor's Office of Planning and Budget:

(i) shall provide staff to the commission; and

(ii) is responsible for administration, budgeting, procurement, and related management functions for the commission.

Section 17. Section 40-6-4 is amended to read:

40-6-4. Board of Oil, Gas, and Mining created -- Functions -- Appointment of members -- Terms -- Chair -- Quorum -- Expenses.

(1) (a) There is created within the Department of Natural Resources the Board of Oil, Gas, and Mining.

(b) The board shall be the policy making body for the Division of Oil, Gas, and Mining.

(2) (a) The board shall consist of seven members appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(b) No more than four members shall be from the same political party.~~]

[~~(c)~~](b) In accordance with the requirements of Section 79-2-203, the members appointed under Subsection (2)(a) shall include the following:

(i) two members who are knowledgeable in mining matters;

(ii) two members who are knowledgeable in oil and gas matters;

(iii) one member who is knowledgeable in ecological and environmental matters;

(iv) one member who:

(A) is a private land owner;

(B) owns a mineral or royalty interest; and

(C) is knowledgeable in mineral or royalty interests; and

(v) one member who is knowledgeable in geological matters.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, but not more than 90 days after the expiration of the member's term.

(4) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor with the advice and consent of the Senate.

(b) The person appointed shall have the same qualifications as the person's predecessor.

(5) When the governor makes a new appointment or reappointment under Subsection (3)(a), or a vacancy appointment under Subsection (4)(a), the governor's new appointment, reappointment, or vacancy appointment shall be made with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(6) (a) The board shall appoint its chair from the membership.

(b) Four members of the board shall constitute a quorum for the transaction of business and the holding of hearings.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 18. Section 51-7-16 is amended to read:

51-7-16. State Money Management Council -- Members -- Terms -- Vacancies -- Chair and vice chair-- Executive secretary -- Meetings -- Quorum -- Members' disclosure of interests -- Per diem and expenses.

(1) (a) There is created a State Money Management Council composed of five members appointed or reappointed by the governor after consultation with the state treasurer and with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) The members of the council shall be qualified by training and experience in the field of investment or finance as follows:

(i) at least one member, but not more than two members, shall be experienced in the banking business;

(ii) at least one member, but not more than two members, shall be an elected treasurer;

(iii) at least one member, but not more than two members, shall be an appointed public treasurer; and

(iv) two members, but not more than two members, shall be experienced in the field of investment.

[~~(c) No more than three members of the council may be from the same political party.~~]

(2) (a) Except as required by Subsection (2)(b), the council members shall be appointed for terms of four years.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the

length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

(d) All members shall serve until their successors are appointed and qualified.

(3) (a) The council members shall elect a chair and vice chair.

(b) The state treasurer shall serve as executive secretary of the council without vote.

(4) (a) The council shall meet at least once per quarter at a regular date to be fixed by the council and at other times at the call of the chair, the state treasurer, or any two members of the council.

(b) Three members are a quorum for the transaction of business.

(c) Actions of the council require a vote of a majority of those present.

(d) All meetings of the council and records of its proceedings are open for inspection by the public at the state treasurer's office during regular business hours except for:

(i) reports of the commissioner of financial institutions concerning the identity, liquidity, or financial condition of qualified depositories and the amount of public funds each is eligible to hold; and

(ii) reports of the director concerning the identity, liquidity, or financial condition of certified dealers.

(5) (a) Each member of the council shall file a sworn or written statement with the lieutenant governor that discloses any position or employment or ownership interest that the member has in any financial institution or investment organization.

(b) Each member shall file the statement required by this Subsection (5) when the member becomes a member of the council and when substantial changes in the member's position, employment, or ownership interests occur.

(c) Each member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 19. Section 53B-34-110 is amended to read:

53B-34-110. Talent advisory councils.

(1) As used in this section:

(a) "Advisory council" means an advisory council the talent board creates under Subsection (10).

(b) "Institution of higher education" means the same as the term is defined in Section 53B-1-102.

(c) "Talent initiative" means an initiative the board creates under Subsection (2).

(2) (a) Subject to legislative appropriations and in accordance with the proposal process and other provisions of this section, the board shall develop and oversee one or more talent initiatives that include providing funding for expanded programs at an institution of higher education related to the talent initiative.

(b) The board shall ensure that a talent initiative the board creates:

(i) uses a name for the talent initiative that reflects the area the initiative is targeting;

(ii) contains an outline of the disciplines, industries, degrees, certifications, credentials, and types of skills the talent initiative will target; and

(iii) uses a corresponding advisory council created in Subsection (10).

(3) In creating a talent initiative, the board shall facilitate collaborations between an institution of higher education and participating employers that:

(a) create expanded, multidisciplinary programs or stackable credential programs offered at a technical college, undergraduate, or graduate level of study; and

(b) prepare students to be workforce participants in jobs requiring skills related to a talent initiative.

(4) (a) An institution of higher education seeking to partner with one or more participating employers to create a program related to a talent initiative shall submit a proposal to the talent board through a process the talent board creates.

(b) An institution of higher education shall submit a proposal that contains:

(i) a description of the proposed program, including:

(A) implementation timelines for the program;

(B) a demonstration of how the program will be responsive to the talent needs related to the talent initiative;

(C) an outline of relevant industry involvement that includes at least one participating employer that partners with the institution of higher education; and

(D) an explanation of how the program addresses an unmet regional workforce need related to a talent initiative;

(ii) an estimate of:

(A) projected student enrollment and completion rates for a program;

(B) the academic credit or credentials that a program will provide; and

(C) occupations for which a graduate will qualify;

(iii) evidence that each participating employer is committed to participating and contributing to the program by providing any combination of:

(A) instruction;

(B) curriculum review;

(C) feedback regarding effectiveness of program graduates as employees;

(D) work-based learning opportunities; or

(E) mentoring;

(iv) a description of any resources a participating employer will provide within the program; and

(v) the amount of funding requested for the program, including:

(A) the justification for the funding; and

(B) the cost per student served as estimated under Subsection (4)(b)(ii).

(5) In reviewing a proposal, the talent board shall provide a proposal to the relevant advisory council described in Subsections (10) and (11).

(6) The relevant advisory council shall:

(a) review and prioritize each proposal the advisory council receives; and

(b) recommend to the talent board whether the proposal should be funded and the funding amount based on:

(i) the quality and completeness of the elements of the proposal described in Subsection (4)(b);

(ii) to what extent the proposed program:

(A) would expand the capacity to meet state or regional workforce needs related to the talent initiative;

(B) would integrate industry-relevant competencies with disciplinary expertise;

(C) would incorporate internships or significant project experiences, including team-based experiences;

(D) identifies how industry professionals would participate in elements described in Subsection (4)(b)(iii); and

(E) would be cost effective; and

(iii) other relevant criteria as the relevant advisory council and the talent board determines.

(7) The board shall review the recommendations of an advisory council and may provide funding for a program related to a talent initiative using the criteria described in Subsection (6)(b).

(8) In a form that the board approves, each institution of higher education that receives funding shall annually provide written information to the board regarding the activities, successes, and challenges related to administering the program related to the talent initiative, including:

(a) specific entities that received funding under this section;

(b) the amount of funding provided to each entity;

(c) the number of participating students in each program;

(d) the number of graduates of the program;

(e) the number of graduates of the program employed in jobs requiring skills related to the talent initiative; and

(f) progress and achievements relevant to the implementation timeline submitted under Subsection (4)(b)(i)(A).

(9) On or before October 1 of each year, the board shall provide an annual written report containing the information described in Subsection (8) to the:

(a) Education Interim Committee; and

(b) Higher Education Appropriations Subcommittee.

(10) The talent board shall create a talent advisory council for each talent initiative created under Subsection (2) to make recommendations to the board regarding the administration of a talent initiative including:

(a) a deep technology initiative;

(b) a life sciences workforce initiative; and

(c) health professions initiatives including a nursing initiative.

(11) An advisory council shall consist of the following members:

(a) four members who have extensive experience in the talent initiative's subject matter from the private sector whom the chair of the talent board appoints and the board approves;

(b) a representative of the board described in Section 53B-1-402 whom the chair of the board appoints;

(c) a representative of the Governor's Office of Economic Opportunity whom the executive director of the Governor's Office of Economic Opportunity appoints;

(d) a representative from Talent Ready Utah; and

[~~(e) one member of the Senate whom the president of the Senate appoints;~~]

[~~(f) one member of the House of Representatives whom the speaker of the House of Representatives appoints; and~~]

[~~(g)~~](e) any other specialized industry experts whom a majority of the advisory council may invite to participate as needed as nonvoting members.

(12) Talent Ready Utah shall provide staff support for an advisory council.

(13) (a) Two advisory council members appointed under Subsection (11)(a) shall serve an initial term of two years.

(b) Except as described in Subsection (13)(a), all other advisory council members shall serve an initial term of four years.

(c) Successor advisory council members upon appointment or reappointment shall each serve a term of four years.

(d) When a vacancy occurs in the membership for any reason, the initial appointing authority shall appoint a replacement for the unexpired term.

(e) An advisory council member may not serve more than two consecutive terms.

(14) A vote of a majority of the advisory council members constitutes an action of the advisory council.

(15) The duties of the advisory council include reviewing, prioritizing, and making recommendations to the board regarding proposals for funding under the talent initiative created in accordance with Subsection (2) for which the council was created.

(16) An advisory council member may not receive compensation or benefits for the member's service, but [~~an advisory council member who is not a legislator~~]may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(17) The board may discontinue a talent initiative and the related talent advisory council by majority vote.

Section 20. Section 54-10a-202 is amended to read:

54-10a-202. Committee of Consumer Services.

(1) (a) There is created within the office a committee known as the "Committee of Consumer Services."

(b) A member of the committee shall maintain the member's principal residence within Utah.

(2) (a) The governor shall appoint five members to the committee subject to Subsection (3).

(b) Except as required by Subsection (2)(c), as terms of current committee members expire, the governor shall appoint a new member or reappointed member to a four-year term.

(c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(d) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term.

(3) Members of the committee shall represent the following consumer interests:

(a) one member shall be an individual with experience and understanding of issues affecting low-income residents;

(b) one member shall be a retired person;

(c) one member shall be an individual with experience and understanding of issues affecting small commercial consumers;

(d) one member shall be a farmer or rancher who uses electric power to pump water in the member's farming or ranching operation; and

(e) one member shall be a residential consumer.

[~~(4) (a) No more than three members of the committee may be from the same political party.~~]

[~~(b)~~](4) Subject to Subsection (3), for a member of the committee appointed on or after May 12, 2009, the governor shall appoint, to the extent possible, an individual with expertise or experience in:

[~~(i)~~](a) public utility matters related to consumers;

[~~(ii)~~](b) economics;

[~~(iii)~~](c) accounting;

[~~(iv)~~](d) financing;

[~~(v)~~](e) engineering; or

[~~(vi)~~](f) public utilities law.

(5) The governor shall designate one member as chair of the committee.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The committee may hold monthly meetings.

(b) The committee may hold other meetings, at the times and places the chair and a majority of the committee determine.

(8) (a) Three members of the committee constitute a quorum of the committee.

(b) A majority of members voting when a quorum is present constitutes an action of the committee.

Section 21. Section 63H-8-201 is amended to read:

63H-8-201. Creation -- Trustees -- Terms -- Vacancies -- Chair -- Powers -- Quorum -- Per diem and expenses -- Annual conflict of interest disclosure statement -- Penalties.

(1) (a) There is created an independent body politic and corporate, constituting a public corporation, known as the "Utah Housing Corporation."

(b) The corporation may also be known and do business as the:

(i) Utah Housing Finance Association; and

(ii) Utah Housing Finance Agency in connection with a contract entered into when that was the corporation's legal name.

(c) No other entity may use the names described in Subsections (1)(a) and (b) without the express approval of the corporation.

(2) The corporation is governed by a board of trustees composed of the following nine trustees:

(a) the executive director of the Department of Workforce Services or the executive director's designee;

(b) the commissioner of the Department of Financial Institutions or the commissioner's designee;

(c) the state treasurer or the treasurer's designee; and

(d) six public trustees, who are private citizens of the state, as follows:

(i) two people who represent the mortgage lending industry;

(ii) two people who represent the home building and real estate industry; and

(iii) two people who represent the public at large.

(3) The governor shall:

(a) appoint the six public trustees of the corporation with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies; and

(b) ensure that [~~:~~]the six public trustees are from different counties and are residents of the state.

[~~(i) the six public trustees are from different counties and are residents of the state; and~~]

[~~(ii) not more than three of the public trustees are members of the same political party.~~]

(4) (a) Except as required by Subsection (4)(b), the governor shall appoint the six public trustees to terms of office of four years each.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of corporation trustees are staggered so that approximately half of the board is appointed every two years.

(5) (a) A public trustee of the corporation may be removed from office for cause either by the governor or by an affirmative vote of six trustees of the corporation.

(b) When a vacancy occurs in the board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(c) A public trustee shall hold office for the term of appointment and until the trustee's successor has been appointed and qualified.

(d) A public trustee is eligible for reappointment but may not serve more than two full consecutive terms.

(6) (a) The governor shall select the chair of the corporation.

(b) The trustees shall elect from among their number a vice chair and other officers they may determine.

(7) (a) Five trustees of the corporation constitute a quorum for transaction of business.

(b) An affirmative vote of at least five trustees is necessary for any action to be taken by the corporation.

(c) A vacancy in the board of trustees does not impair the right of a quorum to exercise all rights and perform all duties of the corporation.

(8) A trustee may not receive compensation or benefits for the trustee's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(9) A trustee shall, no sooner than January 1 and no later than January 31 of each year during which the trustee holds office on the board of trustees:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the board of trustees.

(10) (a) No later than 10 business days after the date on which the trustee submits the written disclosure statement described in Subsection (9) to the administrator or clerk of the board of trustees, the administrator or clerk shall:

(i) post a copy of the written disclosure statement on the corporation's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (10)(a)(i).

(b) The administrator or clerk shall ensure that the trustee's written disclosure statement remains posted on the corporation's website until the trustee leaves office.

(11) The administrator or clerk of the board of trustees shall take the action described in Subsection (12) if:

(a) a trustee fails to timely file the written disclosure statement described in Subsection (9); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(12) If a circumstance described in Subsection (11) occurs, the administrator or clerk of the board of trustees shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the trustee of the violation and direct the trustee to submit an amended written disclosure statement correcting the problem.

(13) (a) It is unlawful for a trustee to fail to submit or amend a written disclosure statement within seven days after the day on which the trustee receives the notice described in Subsection (12).

(b) A trustee who violates Subsection (13)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the board of trustees shall report a violation of Subsection (13)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (13)(b), the administrator or clerk of the board of trustees shall impose a civil fine of $100 against a member who violates Subsection (13)(a).

(14) The administrator or clerk of the board shall deposit a fine collected under this section into the corporation's account to pay for the costs of administering this section.

(15) In addition to the written disclosure statement described in Subsection (9), a trustee described in Subsection (2)(d) shall also comply with the conflict of interest provisions described in Section 63G-24-301.

Section 22. Section 63M-15-201 is amended to read:

63M-15-201. Composition -- Appointments -- Terms -- Removal.

(1) There is created within the governor's office the [~~"~~]Utah Marriage Commission.[~~"~~]

[~~(2) The commission comprises at least 10 members but no more than 30 members, appointed as follows:~~]

[~~(a) the president of the Senate shall appoint two members of the Senate;~~]

[~~(b) the speaker of the House of Representatives shall appoint two members of the House of Representatives;~~]

[~~(c)~~](2) [~~the~~]The governor, or commission leadership under Section 63M-15-202, shall appoint up to 28 commission members that:

[~~(i)~~](a) may come from the following groups:

[~~(A)~~](i) non-profit organizations or governmental agencies;

[~~(B)~~](ii) social workers who are, or have been, licensed under Title 58, Chapter 60, Part 2, Social Worker Licensing Act;

[~~(C)~~](iii) psychologists who are, or have been, licensed under Title 58, Chapter 61, Psychologist Licensing Act;

[~~(D)~~](iv) physicians who are, or have been, board certified in psychiatry and are, or have been, licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

[~~(E)~~](v) marriage and family therapists who are, or have been, licensed under Title 58, Chapter 60, Part 3, Marriage and Family Therapist Licensing Act;

[~~(F)~~](vi) representatives of faith communities;

[~~(G)~~](vii) public health professionals;

[~~(H)~~](viii) representatives of domestic violence prevention organizations;

[~~(I)~~](ix) academics from marriage and family studies departments, social or behavioral sciences departments, health sciences departments, colleges of law, or other related and supporting departments at institutions of higher education in this state;

[~~(J)~~](x) the general public;

[~~(K)~~](xi) individuals with marketing or public relations experience; and

[~~(L)~~](xii) legal professionals; or

[~~(ii)~~](b) have skills or expertise the commission requires to fulfill the commission's duties described in Section 63M-15-204.

(3) (a) An individual appointed under Subsection [~~(2)(c)~~](2) shall serve for a term of four years.

(b) If approved by the commission, an individual may be appointed for subsequent terms.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the applicable appointing authority for the remainder of the unexpired term of the original appointment.

(d) Upon majority vote within commission leadership, commission leadership may remove a member of the commission if the member is unable to serve.

(e) Commission leadership may appoint as many non-voting members as necessary if the individuals appointed have skills or expertise related to the commission's duties, described in Section 63M-15-204.

Section 23. Section 63N-7-201 is amended to read:

63N-7-201. Board of Tourism created -- Members -- Meetings -- Expenses.

(1) There is created within the tourism office the Board of Tourism Development.

(2) (a) The board shall consist of 15 members appointed or reappointed by the governor to four-year terms with the advice and consent of the Senate.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(3) The members may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

[~~(4) Not more than eight members of the board may be from the same political party.~~]

[~~(5)~~](4) (a) The members shall be representative of:

(i) all areas of the state with six being appointed from separate geographical areas as provided in Subsection [~~(5)(b)~~](4)(b); and

(ii) a diverse mix of business ownership or executive management of tourism related industries.

(b) The geographical representatives shall be appointed as follows:

(i) one member from Salt Lake, Tooele, or Morgan County;

(ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;

(iii) one member from Utah, Summit, Juab, or Wasatch County;

(iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;

(v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and

(vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.

(c) The tourism industry representatives of ownership or executive management shall be appointed as follows:

(i) one member from ownership or executive management of the lodging industry, as recommended by the tourism industry for the governor's consideration;

(ii) one member from ownership or executive management of the restaurant industry, as recommended by the restaurant industry for the governor's consideration;

(iii) one member from ownership or executive management of the ski industry, as recommended by the ski industry for the governor's consideration; and

(iv) one member from ownership or executive management of a tourism-related transportation provider, as recommended by the tourism industry for the governor's consideration.

(d) One member shall be appointed at large from ownership or executive management of business, finance, economic policy, or the academic media marketing community.

(e) One member shall be appointed from the Utah Tourism Industry Association, as recommended by the association for the governor's consideration.

(f) One member shall be appointed to represent the state's counties, as recommended by the Utah Association of Counties for the governor's consideration.

(g) One member shall be appointed from an arts and cultural organization, as recommended by the arts and cultural community for the governor's consideration.

(h) One member shall be appointed to represent the outdoor recreation industry, as recommended by the outdoor recreation industry for the governor's consideration.

(i) (i) The governor may choose to disregard a recommendation made for the board members described in Subsections [~~(5)(c)~~](4)(c), (e), and (f) through (h).

(ii) The governor shall request additional recommendations if recommendations are disregarded under Subsection [~~(5)(i)(i)~~](4)(i)(i).

[~~(6)~~](5) When a vacancy occurs in the membership for any reason, the governor shall, with the advice and consent of the Senate, appoint a replacement for the unexpired term from the same geographic area or industry representation as the member whose office was vacated.

[~~(7)~~](6) Eight members of the board constitute a quorum for conducting board business and exercising board powers.

[~~(8)~~](7) The governor shall select one of the board members as chair and one of the board members as vice chair, each for a four-year term as recommended by the board for the governor's consideration.

[~~(9)~~](8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses

in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

[~~(10)~~](9) The board shall meet monthly or as often as the board determines to be necessary at various locations throughout the state.

[~~(11)~~](10) Members who may have a potential conflict of interest in consideration of fund allocation decisions shall identify the potential conflict prior to voting on the issue.

[~~(12)~~](11) (a) The board shall determine attendance requirements for maintaining a designated board seat.

(b) If a board member fails to attend according to the requirements established pursuant to Subsection (12)(a), the board member shall be replaced upon written certification from the board chair or vice chair to the governor.

(c) A replacement appointed by the governor under Subsection (12)(b) shall serve for the remainder of the board member's unexpired term.

[~~(13)~~](12) (a) The board's office shall be in Salt Lake City.

(b) The tourism office shall provide staff support to the board.

Section 24. Section 67-8-4 is amended to read:

67-8-4. State Elected Official and Judicial Compensation Commission created -- Composition -- Appointment -- Terms -- Organization -- Vacancies -- Quorum -- Compensation -- Staff.

(1) There is created a state Elected Official and Judicial Compensation Commission comprised of six members [~~, not more than three of whom may be from the same political party,~~] appointed as follows:

(a) one member appointed by the governor;

(b) one member appointed by the president of the Senate;

(c) one member appointed by the speaker of the House of Representatives;

(d) two members appointed by the other three appointed members; and

(e) one member appointed by the State Bar Commission.

(2) (a) Except as required by Subsection (2)(b), all persons appointed to the commission shall serve four-year terms or until their successors are duly appointed and qualified.

(b) Notwithstanding the requirements of Subsection (2)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(3) (a) The commission shall select a chair and a vice chair from opposite political parties at its first meeting.

(b) Four members of the commission constitute a quorum.

(c) The action of a majority of a quorum constitutes the action of the commission.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) An individual may not serve as a member of the commission if the individual is a member or employee of the legislative branch, judicial branch, or executive branch.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) A nonpartisan office of the Legislature, selected by the president of the Senate and the speaker of the House of Representatives, shall staff the commission.

Section 25. Section 73-10-2 is amended to read:

73-10-2. Board of Water Resources -- Members -- Appointment -- Terms -- Vacancies.

(1) [~~(a)~~] The Board of Water Resources shall be comprised of nine members to be appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(b) In addition to the requirements of Section 79-2-203, not more than five members shall be from the same political party.~~]

(2) [~~The~~]Subject to Section 79-2-203, the Board of Water Resources shall consist of:

(a) one member appointed from each of the following districts:

(i) Bear River District, comprising the counties of Box Elder, Cache, and Rich;

(ii) Weber District, comprising the counties of Weber, Davis, Morgan, and Summit;

(iii) Salt Lake District, comprising the counties of Salt Lake and Tooele;

(iv) Provo River District, comprising the counties of Juab, Utah, and Wasatch;

(v) Sevier River District, comprising the counties of Millard, Sanpete, Sevier, Piute, and Wayne;

(vi) Green River District, comprising the counties of Daggett, Duchesne, and Uintah;

(vii) Upper Colorado River District, comprising the counties of Carbon, Emery, Grand, and San Juan; and

(viii) Lower Colorado River District, comprising the counties of Beaver, Garfield, Iron, Washington, and Kane; and

(b) one member that represents the interests of the Great Salt Lake.

(3) (a) Except as required by Subsection (3)(b), all appointments shall be for terms of four years.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement member for the unexpired term,

with the advice and consent of the Senate, who:

(i) is from the same district as the individual leaving the board; or

(ii) if the individual leaving the board is appointed under Subsection (2)(b), represents the interests of the Great Salt Lake.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 26. Section 78A-12-201 is amended to read:

78A-12-201. Judicial Performance Evaluation Commission -- Creation -- Membership.

(1) There is created an independent commission called the Judicial Performance Evaluation Commission consisting of 13 members, as follows:

(a) two members appointed by the president of the Senate, only one of whom may be a member of the Utah State Bar;

(b) two members appointed by the speaker of the House of Representatives, only one of whom may be a member of the Utah State Bar;

(c) four members appointed by the members of the Supreme Court, at least one of whom, but not more than two of whom, may be a member of the Utah State Bar;

(d) four members appointed by the governor, at least one of whom, but not more than two of whom, may be a member of the Utah State Bar; and

(e) the executive director of the Commission on Criminal and Juvenile Justice.

(2) (a) The president of the Senate and the speaker of the House of Representatives shall confer when appointing members under Subsections (1)(a) and (b) to ensure that there is at least one member from among their four appointees who is a member of the Utah State Bar.

[~~(b) Each of the appointing authorities may appoint no more than half of the appointing authority's members from the same political party.~~]

[~~(c)~~](b) A sitting legislator or a sitting judge may not serve as a commission member.

(3) (a) A member appointed under Subsection (1) shall be appointed for a four-year term.

(b) A member may serve no more than three consecutive terms.

(4) At the time of appointment, the terms of commission members shall be staggered so that approximately half of commission members' terms expire every two years.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the same appointing authority that appointed the member creating the vacancy.

(6) (a) Eight members of the commission constitute a quorum.

(b) The action of a majority of the quorum constitutes the action of the commission, except that the commission may not make a determination that a judge meets or exceeds minimum performance standards, or that a judge does not meet or exceed minimum performance standards, by a vote of less than six members.

(c) If, because of absences, the commission is unable to make a determination described in Subsection (6)(b) by at least six votes, the commission may meet a second time to make a determination.

(d) If a vote on the question of whether a judge meets or exceeds minimum performance standards or does not meet or exceed minimum performance standards ends in a tie or does not pass by at least six votes, the record shall reflect that the commission made no determination in relation to that judge.

Section 27. Section 79-3-302 is amended to read:

79-3-302. Members of board -- Qualifications and appointment -- Vacancies -- Organization -- Meetings -- Financial gain prohibited -- Expenses.

(1) The board consists of seven members appointed by the governor, with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) In addition to the requirements of Section 79-2-203, the members shall have the following qualifications:

(a) one member knowledgeable in the field of geology as applied to the practice of civil engineering;

(b) four members knowledgeable and representative of various segments of the mineral industry throughout the state, such as hydrocarbons, solid fuels, metals, and industrial minerals;

(c) one member knowledgeable of the economic or scientific interests of the mineral industry in the state; and

(d) one member who is interested in the goals of the survey and from the public at large.

(3) The director of the School and Institutional Trust Lands Administration is an ex officio member of the board but without any voting privileges.

(4) (a) Except as required by Subsection (4)(b), members are appointed for terms of four years.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

[~~(c) No more than four members may be of the same political party.~~]

[~~(d)~~](c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor with the advice and consent of the Senate.

(5) The board shall select from its members a chair and such officers and committees as it considers necessary.

(6) (a) The board shall hold meetings at least quarterly on such dates as may be set by its chair.

(b) Special meetings may be held upon notice of the chair or by a majority of its members.

(c) A majority of the members of the board present at a meeting constitutes a quorum for the transaction of business.

(7) (a) Members of the board may not obtain financial gain by reason of information obtained during the course of their official duties.

(b) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 28. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 58
H. B. 414
Passed March 6, 2025
Approved March 19, 2025
Effective May 7, 2025

RAW MILK AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses enforcement steps with regard to raw milk, including when raw milk is suspected in a food borne illness outbreak.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► directs the Department of Agriculture and Food (department) to make rules regarding raw milk testing at third-party laboratories;
- ► addresses epidemiological investigation;
- ► addresses when and how testing occurs;
- ► provides the standard for reissuing a suspended permit;
- ► addresses the issuance of a cease and desist order;
- ► provides the standard for removing a cease and desist order following a foodborne illness outbreak;
- ► addresses disclosure of persons subject to a cease and desist order;
- ► requires the department to provide information to a producer under certain circumstances;
- ► clarifies penalty provisions; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-3-503, as last amended by Laws of Utah 2023, Chapter 78

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

Section 1. Section 4-3-503 is amended to read:

4-3-503. Sale of raw milk products -- Suspension of producer's permit -- Severability not permitted.

(1) As used in this section:

(a) "Batch" means all the milk emptied from one bulk tank and bottled in a single day.

(b) "Foodborne illness outbreak" means the occurrence of two or more cases from different households of a similar illness resulting from the ingestion of a common food.

[~~(b)~~](c) "Raw milk product" means any product produced from raw milk.

[~~(c)~~](d) "Self-owned retail store" means a retail store:

(i) of which the producer owns at least 51% of the value of the real property and tangible personal property used in the operations of the retail store; or

(ii) for which the producer has the power to vote at least 51% of any class of voting shares or ownership interest in the business entity that operates the retail store.

(2) Except as provided in Subsection (5), a raw milk product may be manufactured, distributed, sold, delivered, held, stored, or offered for sale if:

(a) the producer obtains a permit from the department to produce the raw milk product under Subsection 4-3-301(6);

(b) the sale and delivery of the raw milk product is made upon the premises where the raw milk product is produced, except as provided by Subsection (3);

(c) the raw milk product is sold to consumers for household use and not for resale;

(d) the raw milk product is bottled or packaged under sanitary conditions and in sanitary containers on the premises where the raw milk product is produced;

(e) the raw milk product is labeled "raw milk product" and meets the labeling requirements under 21 C.F.R. Parts 101 and 131 and rules established by the department;

(f) the raw milk used to produce the raw milk product is:

(i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being drawn from the animal;

(ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the animal; and

(iii) maintained at 41 degrees Fahrenheit or a lower temperature until the raw milk is delivered to the consumer or used to produce the raw milk product;

(g) the bacterial count of the raw milk used to produce the raw milk product does not exceed 20,000 colony forming units per milliliter [~~;~~]and, if the bacterial count of raw milk used to produce the raw milk product exceeds 40,000 colony forming units per milliliter or the producer is implicated in a foodborne illness outbreak, the raw milk shall be tested and may not contain the following pathogens:

(i) shiga toxin-producing e. coli;

(ii) listeria monocytogenes;

(iii) salmonella; and

(iv) campylobacter;

(h) the coliform count of the raw milk used to produce the raw milk product does not exceed 10 colony forming units per milliliter [~~;~~]and, if the coliform count of the raw milk used to produce the raw milk product exceeds 20 colony forming units per milliliter or the producer is implicated in a foodborne illness outbreak, the raw milk shall be tested and may not contain the following pathogens:

(i) shiga toxin-producing e. coli;

(ii) listeria monocytogenes;

(iii) salmonella; and

(iv) campylobacter;

(i) the production of the raw milk product conforms to departmental rules for the production of grade A milk products;

(j) the dairy animals on the premises are:

(i) permanently and individually identifiable; and

(ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and

(k) any [~~person~~]individual on the premises performing any work in connection with the production, bottling, packaging, handling, or sale of the raw milk product is free from communicable disease.

(3) A producer may distribute, sell, deliver, hold, store, or offer for sale a raw milk product at a self-owned retail store, that is properly staffed, or from a mobile unit where the raw milk product is maintained through mechanical refrigeration at 41 degrees Fahrenheit or a lower temperature, if, in addition to the requirements of Subsection (2), the producer:

(a) transports the raw milk product from the premises where the raw milk product is produced to the self-owned retail store in a refrigerated truck where the raw milk product is maintained at 41 degrees Fahrenheit or a lower temperature;

(b) retains ownership of the raw milk product until it is sold to the final consumer, including transporting the raw milk product from the premises where the raw milk product is produced to the self-owned retail store without any:

(i) intervening storage;

(ii) change of ownership; or

(iii) loss of physical control;

(c) stores the raw milk product at 41 degrees Fahrenheit or a lower temperature in a display case equipped with a properly calibrated thermometer at the self-owned retail store;

(d) places a sign above each display case that contains a raw milk product at the self-owned retail store that:

(i) is prominent;

(ii) is easily readable by a consumer;

(iii) reads in print that is no smaller than .5 inch in bold type, "This milk product is raw and unpasteurized. Please keep refrigerated."; and

(iv) meets any other requirement established by the department by rule;

(e) labels the raw milk product with:

(i) a date, no more than nine days after the raw milk product is produced, by which the raw milk product should be sold;

(ii) the statement "Raw milk products, no matter how carefully produced, may be unsafe.";

(iii) handling instructions to preserve quality and avoid contamination or spoilage;

(iv) a specific colored label as determined by the department by rule; and

(v) any other information required by rule;

(f) refrains from offering the raw milk product for sale until:

(i) the department or a third party certified by the department tests each batch of raw milk used to produce a raw milk product for standard plate count and coliform count; and

(ii) the test results meet the minimum standards established for those tests;

(g) (i) maintains a database of the raw milk product sales; and

(ii) makes the database available to the Department of Health and Human Services during the self-owned retail store's business hours for purposes of epidemiological investigation;

(h) ensures that the plant and retail store complies with Chapter 5, Utah Wholesome Food Act, and the rules governing food establishments enacted under Section 4-5-301; and

(i) complies with the applicable rules adopted as authorized by this chapter.

(4) A producer may distribute, sell, deliver, hold, store, or offer for sale a raw milk product and pasteurized milk at the same self-owned retail store if:

(a) the self-owned retail store is properly staffed; and

(b) the producer:

(i) meets the requirements of Subsections (2) and (3);

(ii) operates the self-owned retail store on the same property where the raw milk product is produced; and

(iii) maintains separate, labeled, refrigerated display cases for raw milk products and pasteurized milk.

(5) A producer may, without meeting the requirements of Subsection (2), sell up to 120 gallons of raw milk per month if:

(a) the sale is directly to an end consumer, for household use and not for resale;

(b) the sale and delivery of the raw milk is made upon the premises where the raw milk is produced;

(c) the producer labels the raw milk with:

(i) the producer's name and address;

(ii) a date, no more than nine days after the raw milk is produced, by which the raw milk should be sold;

(iii) the statement "This raw milk has not been licensed or inspected by the state of Utah. Raw milk, no matter how carefully produced, may be unsafe."; and

(iv) handling instructions to preserve quality and avoid contamination or spoilage;

(d) the raw milk is:

(i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being drawn from the animal; and

(ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the animal;

(e) the producer conducts a monthly test ensuring the coliform count of the raw milk does not exceed 10 colony-forming units per milliliter;

(f) the dairy animals on the producer's premises are free of tuberculosis, brucellosis, and other diseases carried through milk;

(g) the producer maintains records of tests and sales for a minimum of two years; and

(h) the producer notifies the department of the producer's intent to sell raw milk pursuant to this Subsection (5) and includes in the notification the producer's name and address.

(6) A person who conducts a test required by Subsection (3) shall send a copy of the test results to the department as soon as the test results are available.

(7) (a) The department shall [~~adopt~~]make rules, as authorized by Section 4-3-201and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the sale of raw milk products at a self-owned retail store.

(b) The rules adopted by the department shall include rules regarding:

(i) permits;

(ii) building and premises requirements;

(iii) sanitation and operating requirements, including bulk milk tanks requirements;

(iv) additional tests;

(v) use of a third-party testing laboratory within or outside of the state;

[~~(v)~~](vi) frequency of inspections, including random cooler checks;

[~~(vi)~~](vii) recordkeeping; and

[~~(vii)~~](viii) packaging and labeling.

(c) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the standards of identity for a raw milk product.

(d) (i) The department shall establish and collect a fee for the tests and inspections required by this section and by rule in accordance with Section 63J-1-504.

(ii) Notwithstanding Section 63J-1-504, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce this section.

(8) (a) The department shall suspend a permit issued under Section 4-3-301 if:

(i) two out of four consecutive samples or two samples in a 30-day period violate sample limits established under this section; or

(ii) a producer violates this section or a rule adopted as authorized by this section.

(b) The department may reissue a permit that has been suspended under Subsection (8)(a)if the producer has:

(i) obtained a sample result that meets the standards described in Subsections (2)(g) and (h); and

(ii) []complied with all of the requirements of this section and rules [~~adopted~~]made as authorized by this section.

(c) Upon written request by a producer with a suspended permit, the department shall provide the producer information on how to request a hearing regarding the department's decision to suspend the permit.

(9) (a) If any subsection of this section or the application of any subsection to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of the section may not be given effect without the invalid subsection or application.

(b) The provisions of this section may not be severed.

(10) (a) Nothing in this chapter shall [~~be construed to~~]impede the Department of Health and Human Services or the [~~Department of Agriculture and Food~~]department in an investigation of a foodborne illness outbreak.

(b) Notwithstanding Subsection (10)(a), if the Department of Health and Human Services or the department uses a survey to determine whether there is a foodborne illness outbreak linked to a raw milk product, the survey shall include questions that probe the common sources of the implicated pathogen for the foodborne illness outbreak.

(11) (a) [~~The~~]If after the investigation of a foodborne illness outbreak the department links the foodborne illness outbreak to a producer, the department shall issue a cease and desist order to [~~a~~]the producer linked to [~~a~~]the foodborne illness [~~and shall stop sale of a raw milk product currently being sold.~~]outbreak prohibiting the sale of the raw milk product pending testing required by Subsection (11)(h)(i).

(b) For purposes of the cease and desist order, to positively link a producer to a foodborne illness outbreak, the department shall produce evidence from the investigation under Subsection (10) that the foodborne illness outbreak originated with the producer's raw milk product.

(c) A producer who receives a cease and desist order from the department shall:

(i) stop the sale of the raw milk product named in the cease and desist order; and

(ii) notify persons who purchased raw milk products from the implicated contaminated batch of the cease and desist order.

(d) The department shall collect a sample within two working days of issuing a cease and desist order for the purpose of submitting the sample to a laboratory for:

(i) testing for pathogens; and

(ii) if the department wants to publicly disclose a producer's name or identifying information under Subsection (11)(g), whole genome sequencing testing.

(e) The time between the department collecting the sample under Subsection (11)(d) and the department notifying the producer of whole genome sequencing test results may not exceed 15 working days unless before the 15-working day period expires the department notifies the producer in writing that the department requires additional time to notify the producer of the whole genome sequencing test results.

(f) (i) Upon the producer's request and the producer being liable for the costs of the second laboratory, the department shall have the sample collected under Subsection (11)(d) analyzed by two laboratories.

(ii) The producer shall select the second laboratory from a list of laboratories approved by the department.

(g) Before publicly disclosing a producer's name or identifying information, the department shall notify the producer that the department has linked the producer to a foodborne illness outbreak with a positive whole genome sequencing test.

[~~(12) The~~]

(h) (i) A cease and desist order shall remain in effect until the department:

(A) []verifies that the producer [~~:~~]who is subject to the cease and desist order

[~~(a)~~] adheres to this section[~~;~~] and

[~~(b)~~] has three consecutive [~~clean~~]tests of the raw milk product [~~.~~]that show that the raw milk product meets the standards described in Subsections (2)(g) and (h) and is free of the pathogens listed in Subsections (2)(g) and (h); or

(B) receives a genome sequencing test result that demonstrates that the producer's raw milk product is not linked to the foodborne illness outbreak that is the subject of the cease and desist order.

(ii) The department shall notify a producer who is subject to a cease and desist order that the cease and desist order is not in effect within one working day of the conditions of Subsection (11)(h)(i) being met.

(iii) For purposes of a test described in Subsection (11)(h)(i)(A), the department shall collect a sample for each test within two working days of the producer requesting that a sample be collected.

[~~(13) In addition to Subsections (11) and (12), if a producer's raw milk product has been linked to a foodborne illness outbreak,~~]

(12) (a) If the Department of Health and Human Services or the department links a producer's raw milk product to a foodborne illness outbreak and the department finds that the producer has violated [~~the applicable provisions of~~]this section, the department may impose upon the producer the following administrative penalties:

[~~(a)~~](i) upon the first violation, a penalty of no more than $300;

[~~(b)~~](ii) upon a second violation, a penalty of no more than $750; and

[~~(c)~~](iii) upon a third or subsequent violation a penalty of no more than $1,500.

(b) The department may impose the penalties described in Subsection (12)(a) in addition to:

(i) issuing a cease and desist order under Subsection (11); or

(ii) suspending a permit under Subsection (8).

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 59
S. B. 278
Passed March 5, 2025
Approved March 19, 2025
Effective May 7, 2025

STATE DEBT COLLECTION AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Doug Fiefia

LONG TITLE

General Description:

This bill modifies provisions related to state debt collection.

Highlighted Provisions:

This bill:

- ► modifies the duties of the Office of State Debt Collection (office);
- ► allows the office to hold title to real property or dispose or acquire surplus property, if doing so is incidental to execution or collection proceedings;
- ► provides that the Department of Health and Human Services may enforce certain rights to recovery against a decedent's estate regardless of any contrary provisions in the Utah Uniform Probate Code;
- ► requires notice to the office when a person files an application or a petition for probate;
- ► exempts proceedings to enforce or collect a criminal account receivable, civil judgment of restitution, or civil account receivable from certain time limitations in the Utah Uniform Probate Code;
- ► addresses enforcement of a civil judgment of restitution or civil account receivable; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-2-409, as last amended by Laws of Utah 2015, Chapter 98
63A-3-502, as last amended by Laws of Utah 2024, Chapter 398
63A-3-507, as last amended by Laws of Utah 2024, Chapter 158
75-3-104, as enacted by Laws of Utah 1975, Chapter 150
75-3-104.5, as last amended by Laws of Utah 2023, Chapter 330
75-3-803, as last amended by Laws of Utah 2023, Chapter 330
75-3-812, as enacted by Laws of Utah 1975, Chapter 150
78B-5-201, as last amended by Laws of Utah 2023, Chapter 401
78B-5-202, as last amended by Laws of Utah 2023, Chapter 401

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

Section 1. Section 63A-2-409 is amended to read:

63A-2-409. Disposal of certain surplus property.

This part does not apply to:

(1) disposition by:

[~~(1)~~](a) the legislative branch of surplus property that is information technology equipment, if the Legislative Management Committee, by rule, establishes its own policy for disposition, by the legislative branch, of surplus property that is information technology equipment; or

[~~(2)~~](b) the Department of Transportation of surplus personal property that was acquired as part of a transaction or legal action by the Department of Transportation acquiring real property for a state transportation purpose[~~.~~]; or

(2) the Office of State Debt Collection's disposition or acquisition of surplus property, if the disposition or acquisition is incidental to execution or collection proceedings.

Section 2. Section 63A-3-502 is amended to read:

63A-3-502. Office of State Debt Collection created -- Duties.

(1) The state and each state agency shall comply with:

(a) the requirements of this chapter; and

(b) any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Division of Finance.

(3) The office shall:

(a) have overall responsibility for collecting and managing state receivables;

[~~(b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;~~]

[~~(c)~~](b) oversee and monitor state receivables to ensure that state agencies are:

(i) implementing all appropriate collection methods;

(ii) following established receivables guidelines; and

(iii) accounting for and reporting receivables in the appropriate manner;

[~~(d)~~](c) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;

[~~(e) provide information, training, and technical assistance to each state agency on various collection-related topics;~~]

[~~(f)~~](d) write an inclusive receivables management and collection manual for use by each state agency;

[~~(g)~~](e) prepare quarterly and annual reports of the state's receivables;

[~~(h)~~](f) create or coordinate a state accounts receivable database;

[~~(i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;~~]

[~~(j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;~~]

[~~(k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;~~]

[~~(l) establish an automated cash receipt process between each state agency;~~]

[~~(m)~~](g) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;

[~~(n)~~](h) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or the office's designee;

[~~(o)~~](i) be a real party in interest for:

(i) an account receivable referred to the office by any state agency; and

(ii) a civil judgment of restitution entered on a civil judgment docket by a court;

[~~(p)~~](j) allocate money collected for a judgment entered on the civil judgment docket under Section 77-18-114 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110;

[~~(q)~~](k) if a criminal accounts receivable is transferred to the office under Subsection 77-32b-103(2)(a)(ii), receive, process, and distribute payments for the criminal accounts receivable;

[~~(r)~~](l) provide a debtor online access to the debtor's accounts receivable or criminal accounts receivable in accordance with Section 63A-3-502.5;

[~~(s)~~](m) establish a written policy for each of the following:

(i) the settling of an accounts receivable, including any amount of restitution owed to a victim in a civil judgment of restitution if the victim approves of the settlement;

(ii) allowing a debtor to pay off a single debt as part of an accounts receivable even if the debtor has a balance on another debt as part of an accounts receivable or criminal accounts receivable;

(iii) setting a payment deadline for settlement agreements and for obtaining an extension of a settlement agreement deadline; and

(iv) reducing administrative costs when a settlement has been reached;

[~~(t)~~](n) consult with a state agency on whether:

(i) the office may agree to a settlement for an amount that is less than the debtor's principal amount; and

(ii) the state agency may retain authority to negotiate a settlement with a debtor; and

[~~(u)~~](o) provide the terms and conditions of any payment arrangement that the debtor has made with a state agency or the office when:

(i) the payment arrangement is created; or

(ii) the debtor requests a copy of the terms and conditions.

(4) The office may:

(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;

(b) collect accounts receivables for higher education entities, if the higher education entity agrees;

(c) prepare a request for proposal for consulting services to:

(i) analyze the state's receivable management and collection efforts; and

(ii) identify improvements needed to further enhance the state's effectiveness in collecting the state's receivables;

(d) contract with private or state agencies to collect past-due accounts;

(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;

(f) provide information, training, and technical assistance to each state agency on various collection-related topics;

(g) prepare a written receivables management and collection policy and make the policy available for use by state agencies;

(h) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;

(i) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;

(j) coordinate information, systems, and procedures for each state agency to maximize the collection of past-due accounts receivable;

[~~(f)~~](k) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial declaration form described in Section 77-38b-204;

[~~(g)~~](l) at rates authorized by the Legislature or set in statute, assess and collect the following interest and fees:

(i) a fee to cover the administrative costs of collection on accounts administered by the office;

(ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;

(iii) an interest charge that is:

(A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or

(B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and

(iv) fees to collect accounts receivable for higher education;

[~~(h)~~](m) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;

[~~(i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;~~]

[~~(j)~~](n) for a case that is referred to the office or in which the office is a judgment creditor, file a motion or other document related to the office or the accounts receivable in that case, including a satisfaction of judgment, in accordance with the Utah Rules of Civil Procedure;

[~~(k)~~](o) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;

[~~(l)~~](p) notwithstanding Section 63G-2-206, share records obtained under Subsection [~~(4)(f)~~](4)(k) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record;

[~~(m)~~](q) enter into written agreements with other governmental agencies to obtain and share information for the purpose of collecting state accounts receivable; [~~and~~]

[~~(n)~~](r) collect accounts receivable for a political subdivision of the state if the political subdivision enters into an agreement or contract with the office under Title 11, Chapter 13, Interlocal Cooperation Act, for the office to collect the political subdivision's accounts receivable[~~.~~]; and

(s) notwithstanding Section 63A-5b-303, hold title to real property if doing so is incidental to execution or collection proceedings.

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor under Subsection [~~(4)(l)~~](4)(p):

(i) is used only for the limited purpose of collecting accounts receivable; and

(ii) is subject to federal, state, and local agency records restrictions; and

(b) any individual employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection [~~(4)(l)~~](4)(p) is subject to:

(i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and

(ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.

(6) (a) The office shall collect a civil accounts receivable or a civil judgment of restitution ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 77-18-114(1) or (2).

(b) The office may not assess:

(i) the interest charge established by the office under Subsection (4) on an account receivable subject to the postjudgment interest rate established by Section 15-1-4; and

(ii) an interest charge on a criminal accounts receivable that is transferred to the office under Subsection 77-32b-103(2)(a)(ii).

(7) The office [~~shall~~]may require a state agency to:

(a) transfer collection responsibilities to the office or the office's designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report the state's receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of the state agency's receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) All interest, fees, and other amounts authorized to be collected by the office under Subsection [~~(4)(g)~~](4)(l):

(a) are penalties that may be charged by the office;

(b) do not require an order from a court for the office to assess or collect;

(c) are not compensation for actual pecuniary loss;

(d) for a civil accounts receivable:

(i) begin to accrue on the day on which the civil accounts receivable is entered on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) may be collected as part of the civil accounts receivable;

(e) for a civil judgment of restitution:

(i) begin to accrue on the day on which the civil judgment of restitution is entered on the civil judgment docket under Subsection 77-18-114(1); and

(ii) may be collected as part of the civil judgment of restitution;

(f) for all other accounts receivable:

(i) begin to accrue on the day on which the accounts receivable is transferred to the office, even if there is no court order on the day on which the accounts receivable is transferred; and

(ii) may be collected as part of the accounts receivable; and

(g) may be waived by:

(i) the office; or

(ii) if the interest, fee, or other amount is charged in error, the court.

Section 3. Section 63A-3-507 is amended to read:

63A-3-507. Administrative garnishment order.

(1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may issue an administrative garnishment order against the debtor's personal property, including wages, in the possession of or under the control of a party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued by a court with jurisdiction.

(2) The office may issue the administrative garnishment order if:

(a) the order is signed by the director or the director's designee; and

(b) the underlying debt is for:

(i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or

(ii) nonpayment of a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by an agency of the state.

(3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.

(4) An administrative garnishment order issued by the office shall:

(a) contain a statement that includes:

(i) if known:

(A) the nature, location, account number, and estimated value of the property; and

(B) the name, address, and phone number of the person holding the property;

(ii) whether any of the property consists of earnings;

(iii) the amount of the judgment and the amount due on the judgment; and

(iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property;

(b) identify the defendant, including the defendant's name and last known address;

(c) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

(d) state where the garnishee may deliver property.

(5) The office may, in the office's discretion, include in an administrative garnishment order:

(a) the last four digits of the defendant's Social Security number;

(b) the last four digits of the defendant's driver license number;

(c) the state in which the defendant's driver license was issued;

(d) one or more interrogatories inquiring:

(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;

(ii) whether the garnishee possesses or controls any property of the defendant and, if so, the nature, location, and estimated value of the property;

(iii) whether the garnishee knows of any property of the defendant in the possession or under the control of another and, if so:

(A) the nature, location, and estimated value of the property; and

(B) the name, address, and telephone number of the person who has possession or control of the property;

(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant, and the amount deducted;

(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;

(vi) the dates on which any previously served writs of continuing garnishment were served; and

(vii) any other relevant information, including the defendant's position, rate of pay, method of compensation, pay period, and computation of the amount of the defendant's disposable earnings.

(6) (a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount determined by the court.

(c) The amount for which a garnishee is liable under Subsection (6)(b) includes:

(i) (A) the value of the judgment; or

(B) the value of the property, if the garnishee shows that the value of the property is less than the value of the judgment;

(ii) reasonable costs; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(d) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

(7) (a) If the office has reason to believe that a garnishee has failed to comply with the requirements of this section in the garnishee's response to a garnishment order issued under this section, the office may submit a motion to the court requesting the court to issue an order against the garnishee requiring the garnishee to appear and show cause why the garnishee should not be held liable under this section.

(b) The office shall attach to a motion under Subsection (7)(a) a statement that the office has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.

(9) (a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.

(b) The office's receipt of an amount described in Subsection (9)(a) discharges the debtor for the amount paid.

(10) A garnishee may deduct from the property any liquidated claim against the defendant that is due to the garnishee at the time of service.

(11) (a) If a debt to the garnishee is secured by property, the office:

(i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and

(ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.

(b) Notwithstanding Subsection (11)(a)(i):

(i) the administrative garnishment order remains in effect; and

(ii) the office may apply the property to the debt.

(c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:

(i) the obligation is secured by property; and

(ii) (A) the obligation does not require the personal performance of the defendant; and

(B) a third party may perform the obligation.

(12) (a) The office may issue a continuing garnishment order against a nonexempt periodic payment.

(b) This section is subject to the Utah Exemptions Act.

(c) A continuing garnishment order issued in accordance with this section applies to payments to, or for the benefit of, the defendant from the date of service upon the garnishee until the earliest of the following:

(i) the last periodic payment;

(ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or

(iii) the office releases the order.

(d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:

(i) answer each interrogatory;

(ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and

(iii) deliver the property to the office.

(e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by a court, the order issued by the office:

(i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection (13);

(ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (13) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

(13) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or

(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(14) (a) In accordance with the requirements of this Subsection (14), the office may, at its discretion, determine a dollar amount that a garnishee is to withhold from earnings and deliver to the office in a continuing administrative garnishment order issued under this section.

(b) The office may determine the dollar amount that a garnishee is to withhold from earnings under Subsection (14)(a) if the dollar amount determined by the office:

(i) does not exceed the maximum amount allowed under Subsection (13); and

(ii) is based on:

(A) earnings information received by the office directly from the Department of Workforce Services; or

(B) previous garnishments issued to the garnishee by the office where payments were received at a consistent dollar amount.

(c) The earnings information or previous garnishments relied on by the office under Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

(i) for one debtor;

(ii) from the same employer;

(iii) for two or more consecutive quarters; and

(iv) received within the last six months.

(15) (a) A garnishee who provides the calculation for withholdings on a defendant's wages in the garnishee's initial response to an interrogatory in an administrative garnishment order under this section is not required to provide the calculation for withholdings after the garnishee's initial response if:

(i) the garnishee's accounting system automates the amount of defendant's wages to be paid under the garnishment; and

(ii) the defendant's wages do not vary by more than five percent from the amount disclosed in the garnishee's initial response.

(b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a garnishee shall provide, for the last pay period or other pay period specified by the office or defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

(16) (a) A garnishee under an administrative garnishment order under this section is entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of:

(i) $10 per garnishment order, for a noncontinuing garnishment order; and

(ii) $25, as a one-time fee, for a continuing garnishment order.

(b) A garnishee may deduct the amount of the garnishee fee from the amount to be remitted to the office under the administrative garnishment order, if the amount to be remitted exceeds the amount of the fee.

(c) If the amount to be remitted to the office under an administrative garnishment order does not exceed the amount of the garnishee fee:

(i) the garnishee shall notify the office that the amount to be remitted does not exceed the amount of the garnishee fee; and

(ii) (A) the garnishee under a noncontinuing garnishment order shall return the administrative garnishment order to the office, and the office shall pay the garnishee the garnishee fee; or

(B) the garnishee under a continuing garnishment order shall delay remitting to the office until the amount to be remitted exceeds the garnishee fee.

(d) If, upon receiving the administrative garnishment order, the garnishee does not possess or control any property, including money or wages, in which the defendant has an interest:

(i) the garnishee under a continuing or noncontinuing garnishment order shall, except as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office, and the office shall pay the garnishee the applicable garnishee fee; or

(ii) if the garnishee under a continuing garnishment order believes that the garnishee will, within 90 days after issuance of the continuing garnishment order, come into possession or control of property in which the defendant owns an interest, the garnishee may retain the garnishment order and deduct the garnishee fee for a continuing garnishment once the amount to be remitted exceeds the garnishee fee.

(17) Section 78A-2-216 does not apply to an administrative garnishment order issued under this section.

(18) An administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.

(19) If the office issues an administrative garnishment order under this section to collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the administrative garnishment order shall be construed as a continuation of the criminal action for which the civil accounts receivable or civil judgment of restitution arises if the amount owed is from a fine, fee, or restitution for the criminal action.

Section 4. Section 75-3-104 is amended to read:

75-3-104. Claims against decedent -- Necessity of administration -- Exclusions.

(1) (a) No proceeding to enforce a claim against the estate of a decedent or his successors may be revived or commenced before the appointment of a personal representative.

(b) After the appointment and until distribution, all proceedings and actions to enforce a claim against the estate are governed by the procedure prescribed by this Chapter 3, Probate of Wills and Administration.

(2) After distribution a creditor whose claim has not been barred may recover from the distributees as provided in Section 75-3-1004 or from a former personal representative individually liable as provided in Section 75-3-1005.

(3) This section has no application to a proceeding by a secured creditor of the decedent to enforce his right to his security except as to any deficiency judgment which might be sought therein.

(4) (a) For purposes of this chapter, a lien or right to recover described in Section 26B-3-1013 is not a claim.

(b) Nothing in this chapter limits the Department of Health and Human Services' right to recovery under Section 26B-3-1013.

Section 5. Section 75-3-104.5 is amended to read:

75-3-104.5. Notice to state agencies.

Within 30 days after the day on which a person files an application or a petition for probate under this chapter[~~ for a decedent who was at least 55 years old, the court shall~~], the court shall:

(1) if the decedent was at least 18 years old, provide notice of the application or petition to the Office of State Debt Collection created in Section 63A-3-502; and

(2) if the decedent was at least 55 years old, provide notice of the application or petition to the Office of Recovery Services created in Section 26B-9-103 for purposes of presentation or enforcement of a lien or claim under Section 26B-3-1013.

Section 6. Section 75-3-803 is amended to read:

75-3-803. Limitations on presentation of claims.

(1) All claims against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision of it, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented within the earlier of the following dates:

(a) one year after the decedent's death; or

(b) within the time provided by Subsection 75-3-801(2) for creditors who are given actual notice, and where notice is published, within the time provided in Subsection 75-3-801(1) for all claims barred by publication.

(2) In all events, claims barred by the nonclaim statute at the decedent's domicile are also barred in this state.

(3) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any of its subdivisions, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(a) a claim based on a contract with the personal representative within three months after performance by the personal representative is due; or

(b) any other claim within the later of three months after it arises, or the time specified in Subsection (1)(a).

(4) Nothing in this section affects or prevents:

(a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate;

(b) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which the decedent or the personal representative is protected by liability insurance;

(c) collection of compensation for services rendered and reimbursement for expenses advanced by the personal representative or by the attorney or accountant for the personal representative of the estate; [~~or~~]

(d) medical assistance recovery under [~~Title 26B, Chapter 3, Part 10, Medical Benefits Recovery.~~]Title 26B, Chapter 3, Part 10, Medical Benefits Recovery; or

(e) any proceeding to enforce or collect a criminal account receivable, civil judgment of restitution, or civil account receivable, as those

terms are defined in Section 77-32b-102.

(5) If a personal representative has not been timely appointed in accordance with this chapter, one may be appointed for the limited purposes of Subsection (4)(b) for any claim timely brought against the decedent.

Section 7. Section 75-3-812 is amended to read:

75-3-812. Execution and levies prohibited.

(1) [~~No~~]Except as provided in Subsection (2), no execution may issue upon nor may any levy be made against any property of the estate under any judgment against a decedent or a personal representative[~~, but this section shall not be construed to~~].

(2) This section does not prevent:

(a) the enforcement of mortgages, pledges, or liens upon real or personal property in an appropriate proceeding[~~,~~]; or

(b) the collection of a criminal account receivable, civil judgment of restitution, or civil account receivable, as those terms are defined in Section 77-32b-102.

Section 8. Section 78B-5-201 is amended to read:

78B-5-201. Definitions -- Judgment recorded in Registry of Judgments.

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

(a) "Judgment" includes a civil judgment of restitution or a civil account receivable, as those terms are defined in Section 77-32b-102.

(b) "Registry of Judgments" means the index where a judgment is filed and searchable by the name of the judgment debtor through electronic means or by tangible document.

(2) On or after July 1, 1997, a judgment entered by a court of this state does not create a lien upon or affect the title to real property unless the judgment is filed in the Registry of Judgments of the office of the clerk of the district court of the county in which the property is located.

(3) (a) On or after July 1, 2002, except as provided in Subsection (3)(b), a judgment entered by a court of this state does not create a lien upon or affect the title to real property unless the judgment or an abstract of judgment is recorded in the office of the county recorder in which the real property of the judgment debtor is located.

(b) State agencies are exempt from the recording requirement of Subsection (3)(a).

(4) In addition to the requirements of Subsections (2) and (3)(a), any judgment that is filed in the Registry of Judgments on or after September 1, 1998, or any judgment or abstract of judgment that is recorded in the office of a county recorder after July 1, 2002, shall include:

(a) the information identifying the judgment debtor as required under Subsection (4)(b)on the judgment or abstract of judgment; or

(b) a copy of the separate information statement of the judgment creditor that contains:

(i) the correct name and last-known address of each judgment debtor and the address at which each judgment debtor received service of process;

(ii) the name and address of the judgment creditor;

(iii) the amount of the judgment as filed in the Registry of Judgments;

(iv) if known, the judgment debtor's Social Security number, date of birth, and driver's license number if a natural person; and

(v) whether or not a stay of enforcement has been ordered by the court and the date the stay expires.

(5) For the information required in Subsection (4), the judgment creditor shall:

(a) provide the information on the separate information statement if known or available to the judgment creditor from its records, its attorney's records, or the court records in the action in which the judgment was entered; or

(b) state on the separate information statement that the information is unknown or unavailable.

(6) (a) Any judgment that requires payment of money and is entered by a court of this state on or after September 1, 1998, or any judgment or abstract of judgment recorded in the office of a county recorder after July 1, 2002, that does not include the debtor identifying information as required in Subsection (4) is not a lien until a separate information statement of the judgment creditor is recorded in the office of a county recorder in compliance with Subsections (4) and (5).

(b) The separate information statement of the judgment creditor referred to in Subsection (6)(a) shall include:

(i) the name of any judgment creditor, debtor, assignor, or assignee;

(ii) the date on which the judgment was recorded in the office of the county recorder as described in Subsection (4); and

(iii) the county recorder's entry number and book and page of the recorded judgment.

(7) A judgment that requires payment of money recorded on or after September 1, 1998, but prior to July 1, 2002, has as its priority the date of entry, except as to parties with actual or constructive knowledge of the judgment.

(8) A judgment or notice of judgment wrongfully filed against real property is subject to Title 38, Chapter 9, Wrongful Lien Act.

(9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the office of a county recorder, a person shall, in the office of the county recorder of each county in which an instrument creating the lien is recorded, record a document releasing, assigning, renewing, or extending the lien.

(b) The document described in Subsection (9)(a) shall include:

(i) the date of the release, assignment, renewal, or extension;

(ii) the name of any judgment creditor, debtor, assignor, or assignee; and

(iii) for the county in which the document is recorded in accordance with Subsection (9)(a):

(A) the date on which the instrument creating the lien was recorded in that county's office of the county recorder; and

(B) in accordance with Section 57-3-106, that county recorder's entry number and book and page of the recorded instrument creating the judgment lien.

Section 9. Section 78B-5-202 is amended to read:

78B-5-202. Duration of judgment -- Judgment as a lien upon real property -- Abstract of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child support orders.

(1) Judgments shall continue for eight years from the date of entry in a court unless previously satisfied or unless enforcement of the

judgment is stayed in accordance with law.

(2) Prior to July 1, 1997, except as limited by Subsections (4) and (5), the entry of judgment by a district court creates a lien upon the real property of the judgment debtor, not exempt from execution, owned or acquired during the existence of the judgment, located in the county in which the judgment is entered.

(3) An abstract of judgment issued by the court in which the judgment is entered may be filed in any court of this state and shall have the same force and effect as a judgment entered in that court.

(4) Prior to July 1, 1997, and after May 15, 1998, a judgment entered in a small claims action may not qualify as a lien upon real property unless abstracted to the district court and recorded in accordance with Subsection (3).

(5) (a) If any judgment is appealed, upon deposit with the court where the notice of appeal is filed of cash or other security in a form and amount considered sufficient by the court that rendered the judgment to secure the full amount of the judgment, together with ongoing interest and any other anticipated damages or costs, including attorney fees and costs on appeal, the lien created by the judgment shall be terminated as provided in Subsection (5)(b).

(b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court shall enter an order terminating the lien created by the judgment and granting the judgment creditor a perfected lien in the deposited security as of the date of the original judgment.

(6) (a) A child support order, including an order or judgment for guardian ad litem attorney fees and costs, or a sum certain judgment for past due support may be enforced:

(i) within four years after the date the youngest child reaches majority; or

(ii) eight years from the date of entry of the sum certain judgment entered by a tribunal.

(b) The longer period of duration shall apply in every order.

(c) A sum certain judgment may be renewed to extend the duration.

(7) (a) After July 1, 2002, a judgment entered by a district court, a justice court, or the Business and Chancery Court, becomes a lien upon real property if:

(i) the judgment or an abstract of the judgment containing the information identifying the judgment debtor as described in Subsection 78B-5-201(4)(b) is recorded in the office of the county recorder; or

(ii) the judgment or an abstract of the judgment and a separate information statement of the judgment creditor as described in Subsection 78B-5-201(5) is recorded in the office of the county recorder.

(b) The judgment shall run from the date of entry by the court.

(c) The real property subject to the lien includes all the real property of the judgment debtor:

(i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and

(ii) owned or acquired at any time by the judgment debtor during the time the judgment is effective.

(d) If the judgment that gives rise to a lien described in Subsection (7)(a) is a judgment in favor of a state agency, the real property subject to the lien includes all real property of the judgment debtor in the state.

[~~(d)~~](e) State agencies are exempt from the recording requirement of Subsection (7)(a).

(8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the judgment debtor in the judgment index in the office of the county recorder as required in Section 17-21-6.

(b) A judgment containing a legal description shall also be abstracted in the appropriate tract index in the office of the county recorder.

(9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the office of a county recorder, a person shall, in the office of the county recorder of each county in which an instrument creating the lien is recorded, record a document releasing, assigning, renewing, or extending the lien.

(b) The document described in Subsection (9)(a) shall include:

(i) the date of the release, assignment, renewal, or extension;

(ii) the name of any judgment creditor, debtor, assignor, or assignee; and

(iii) for the county in which the document is recorded in accordance with Subsection (9)(a):

(A) the date on which the instrument creating the lien was recorded in that county's office of the county recorder; and

(B) in accordance with Section 57-3-106, that county recorder's entry number and book and page of the recorded instrument creating the judgment lien.

Section 10. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 60
S. B. 269
Passed March 3, 2025
Approved March 19, 2025
Effective May 7, 2025

TELECOMMUNICATIONS AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies provisions related to telecommunications corporations and carrier of last resort obligations.

Highlighted Provisions:

This bill:

- ► modifies provisions related to pricing flexibility for incumbent telephone corporations;
- ► provides for the expiration of certain carrier of last resort obligations after July 1, 2025;
- ► modifies provisions regarding Universal Public Telecommunications Service Support Fund eligibility;
- ► requires continued basic residential service to existing locations under certain conditions; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-8b-2.3, as last amended by Laws of Utah 2009, Chapter 10
54-8b-3, as last amended by Laws of Utah 2017, Chapter 130
54-8b-15, as last amended by Laws of Utah 2020, Chapter 294

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

Section 1. Section 54-8b-2.3 is amended to read:
54-8b-2.3. Pricing flexibility.

(1) (a) A telecommunications corporation that obtains a certificate to compete with the incumbent telephone corporation in a defined geographic area pursuant to Section 54-8b-2.1 may price any public telecommunications services it is authorized to offer, or any new public telecommunications service, by means of a price list or competitive contract.

(b) Before the telecommunications corporation begins providing any authorized public telecommunications service, it shall notify the commission of:

(i) its intent to begin providing the service; and

(ii) the defined geographic area in which it will provide the service.

(2) (a) Notwithstanding other requirements of this chapter relating to pricing flexibility, beginning on May 2, 2005, an incumbent telephone corporation may offer retail end user public telecommunications services by means of a price list or competitive contract in the same manner as a competing telecommunications corporation as provided in Subsection (1)[~~:~~]

[~~(i)~~] if the incumbent telephone corporation:

[~~(A)~~](i) is in substantial compliance with rules and orders of the commission issued under Section 54-8b-2.2; and

[~~(B)~~](ii) has more than 30,000 access lines[~~; and~~].

[~~(ii) except as provided in Subsection (2)(b).~~]

(b) [~~(i)~~] The incumbent telephone corporation's pricing flexibility shall be the same as a competing telecommunications corporation's pricing flexibility for all public telecommunications services.

[~~(ii) The incumbent telephone corporation shall offer basic residential service throughout the area in which the incumbent telephone corporation is authorized by certificate to provide basic residential service.~~]

(3) Each price list shall:

(a) be filed with the commission:

(i) electronically; or

(ii) by paper copies only if permitted by commission rule;

(b) describe the public telecommunications service;

(c) set forth the basic terms and conditions upon which the public telecommunications service is offered; and

(d) list the prices to be charged for the public telecommunications service or the basis on which the services will be priced.

(4) Prices, terms, and conditions offered under price lists or competitive contracts that are different from tariff prices, terms, and

conditions for the same services are not considered discriminatory under Section 54-3-8 and Subsection 54-8b-3.3(2).

(5) A price list filed with the commission under this section shall take effect five days after it is filed with the commission.

(6) (a) Except as provided in Subsection (6)(b), the prices, terms, and conditions of a public telecommunications service offered by a telecommunications corporation pursuant to a competitive contract with a retail customer need not be filed with the commission.

(b) Notwithstanding Subsection (6)(a), a copy of a competitive contract shall be provided to the commission or division of public utilities if the commission or division of public utilities, pursuant to general investigatory powers, requests a copy of the competitive contract.

(7) (a) Subject to Subsection (7)(b), the commission may, as determined necessary to protect the public interest, set an upper limit on the price that may be charged by telecommunications corporations for public telecommunications services that may be priced by means of a price list or competitive contract in a defined geographic area.

(b) The upper limit on price imposed under Subsection (7)(a) shall be applied to all telecommunications corporations holding a certificate to provide the public telecommunications services in the defined geographic area in a competitively neutral manner.

(8) (a) The commission may revoke the authority of a telecommunications corporation to offer a public telecommunications service pursuant to a price list or competitive contract or the commission may adopt conditions or restrictions on the telecommunications corporation's pricing flexibility if the commission finds:

(i) (A) the telecommunications corporation has materially violated statutes or rules applicable to the specific service;

(B) there has been or there is an imminent threat of a material and substantial diminution in the level of competition; or

(C) competition has not developed; and

(ii) revocation or conditions or restrictions on the telecommunications corporation's pricing flexibility is in the public interest.

(b) The party asserting that revocation or conditions or restrictions on the telecommunications corporation's pricing flexibility should be imposed shall bear the burden of proof.

(9) The commission shall establish rules or procedures to protect confidential, proprietary, and competitively sensitive information provided to the commission or the division pursuant to this section.

(10) (a) An incumbent telephone corporation serving fewer than 30,000 access lines in the state may petition the commission to be regulated under price regulation rather than traditional rate of return regulation.

(b) In implementing price regulation for an incumbent telephone corporation serving fewer than 30,000 access lines, the commission may modify the requirements of any provision of this section if necessary to the individual circumstances of the incumbent telephone corporation.

(11) An incumbent telephone corporation that is regulated under price regulation under this section rather than traditional rate of return regulation:

(a) is not a carrier of last resort within the incumbent telephone corporation's local exchanges after July 1, 2025; and

(b) shall:

(i) continue to provide basic residential service to each existing location where a customer subscribes to the service on or before July 1, 2025; and

(ii) continue to provide and maintain the basic residential service to existing locations described in Subsection (11)(b)(i) until the commission recognizes and adopts discontinuance findings under Subsection 54-8b-3(8).

(12) (a) The commission may exercise any statutory power pertaining to this section, including reinstating a carrier of last resort obligation for any wire center:

(i) on the commission's own initiative; or

(ii) in response to a request for agency action.

(b) Before taking action under Subsection (12)(a), the commission shall:

(i) provide notice and conduct a hearing; and

(ii) determine that modifying or reinstating carrier of last resort obligations is in the public interest.

(13) (a) Beginning July 1, 2025, a local exchange area that was served by an incumbent telephone corporation regulated under price regulation under this section on June 30, 2025:

(i) is designated as a competitive area; and

(ii) is ineligible for Universal Public Telecommunications Service Support Fund under Section 54-8b-15.

(b) Notwithstanding Subsection (13)(a), funding from the Universal Public Telecommunications Service Support Fund for the lifeline program pursuant to Subsections 54-8b-15(3) and (15) shall remain unchanged.

Section 2. Section 54-8b-3 is amended to read:

54-8b-3. Exemptions from requirements.

(1) (a) The commission, on its own initiative or in response to an application by a telecommunications corporation, a public agency, or a user of a public telecommunications service, may, after public notice and a hearing, issue an order exempting any telecommunications corporation or public telecommunications service from any requirement of this title, including any requirement or limitation relating to a telecommunication corporation's earnings, rate base, or pricing of public telecommunications services.

(b) The commission may issue an order described in Subsection (1)(a), after an informal adjudication, without a hearing if:

(i) the matter is not a proceeding described in Subsection 54-1-3(2)(a);

(ii) a party to an application submitted under Subsection (1)(a) requests an informal adjudication; and

(iii) no person opposes the request for informal adjudication before 10 business days after the day on which the party files the request.

(2) The commission shall specify in the order any requirements, terms, or conditions which may apply to any exemption.

(3) An exemption may be granted for the entire service territory of a telecommunications corporation or for a specific geographic area of the service territory.

(4) The commission may issue an order for an exemption only if it finds that:

(a) the telecommunications corporation or service is subject to effective competition; and

(b) the exemption is in the public interest.

(5) In determining if the telecommunications corporation or service is subject to effective competition, the commission shall consider all relevant factors, which may include:

(a) the extent to which competing telecommunications services are available from alternative telecommunications providers;

(b) the ability of alternative telecommunications providers to offer competing telecommunications services that are functionally equivalent or substitutable and reasonably available at comparable prices, terms, quality, and conditions;

(c) the market share of the telecommunications corporation for which an exemption is proposed;

(d) the extent of economic or regulatory barriers to entry;

(e) the impact of potential competition; and

(f) the type and degree of exemptions to this title that are proposed.

(6) In determining if the proposed exemption is in the public interest, the commission shall consider, in addition to other relevant factors, the impact the proposed exemption would have on captive customers of the telecommunications corporation.

(7) (a) The commission shall approve or deny any application for exemption under this section within 240 days, except that the commission may by order defer action for an additional 30-day period.

(b) If the commission has not acted on any application within the permitted time period, the application is considered granted.

(8) If the Federal Communications Commission permits a telecommunications corporation to discontinue service under 47 U.S.C. Sec. 214(a), the commission shall recognize and adopt the Federal Communications Commission's discontinuance findings.

Section 3. Section 54-8b-15 is amended to read:

54-8b-15. Universal Public Telecommunications Service Support Fund -- Commission duties -- Charges -- Lifeline program.

(1) For purposes of this section:

(a) "Broadband Internet access service" means the same as that term is defined in 47 C.F.R. Sec. 8.2.

(b) "Carrier of last resort" means [~~:~~]a rate-of-return regulated:

(i) [~~an~~]incumbent telephone corporation; or

(ii) [~~a~~]telecommunications corporation that, under Section 54-8b-2.1:

(A) has a certificate of public convenience and necessity to provide local exchange service; and

(B) has an obligation to provide public telecommunications service to any customer or class of customers that requests service within the local exchange.

(c) "Connection" means an authorized session that uses Internet protocol or a functionally equivalent technology standard to enable an end-user to initiate or receive a call from the public switched network.

(d) "Fund" means the Universal Public Telecommunications Service Support Fund established in this section.

[~~(e) "Non-rate-of-return regulated" means having price flexibility under Section 54-8b-2.3.~~]

[~~(f)~~](e) "Rate-of-return regulated" means subject to regulation under Section 54-4-4.

[~~(g)~~](f) "Wholesale broadband Internet access service" means the end-user loop component of Internet access provided by a [~~rate-of-return regulated~~]carrier of last resort that is used to provide, at retail:

(i) combined consumer voice and broadband Internet access; or

(ii) stand-alone, consumer, broadband-only Internet access.

(2) (a) There is established an expendable special revenue fund known as the "Universal Public Telecommunications Service Support Fund."

(b) The fund shall provide a mechanism for a qualifying carrier of last resort to obtain specific, predictable, and sufficient funds to deploy and manage, for the purpose of providing service to end-users, networks capable of providing:

(i) access lines;

(ii) connections; or

(iii) wholesale broadband Internet access service.

(c) The commission shall develop, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, policies and procedures to govern the administration of the fund.

(3) Subject to this section, the commission shall use funds in the Universal Public Telecommunications Service Support Fund to:

(a) fund the hearing and speech impaired program described in Section 54-8b-10;

(b) fund a lifeline program that covers the reasonable cost to an eligible telecommunications carrier, as determined by the commission, to offer lifeline service consistent with the Federal Communications Commission's lifeline program for low-income consumers; and

(c) fund, for the purpose of providing service to end-users, a [~~rate-of-return regulated or non-rate-of-return regulated~~]carrier of last resort's deployment and management of networks capable of providing:

(i) access lines;

(ii) connections; or

(iii) wholesale broadband Internet access service that is consistent with Federal Communications Commission rules[~~; and~~].

[~~(d) fund one-time distributions from the Universal Public Telecommunications Service Support Fund for a non-rate-of-return regulated carrier of last resort's deployment and management of networks capable of providing:~~]

[~~(i) access lines;~~]

[~~(ii) connections; or~~]

[~~(iii) broadband Internet access service.~~]

(4) [~~(a)~~] A [~~rate-of-return regulated~~]carrier of last resort is eligible for payment from the Universal Public Telecommunications Service Support Fund if:

[~~(i)~~](a) the [~~rate-of-return regulated~~]carrier of last resort provides the services described in Subsections (3)(c)(i) through (iii); and

[~~(ii)~~](b) the [~~rate-of-return regulated~~]carrier of last resort's reasonable costs, as determined by the commission, to provide public telecommunications service and wholesale broadband Internet access service are greater than the sum of:

[~~(A)~~](i) the [~~rate-of-return regulated~~]carrier of last resort's revenue from basic residential service considered affordable by the commission;

[~~(B)~~](ii) the [~~rate-of-return regulated~~]carrier of last resort's regulated revenue derived from providing other public telecommunications service;

[~~(C)~~](iii) the [~~rate-of-return regulated~~]carrier of last resort's revenue from rates approved by the Federal Communications Commission for wholesale broadband Internet access service; and

[~~(D)~~](iv) the amount the [~~rate-of-return regulated~~]carrier of last resort receives from federal universal service funds.

[~~(b) A non-rate-of-return regulated carrier of last resort is eligible for payment from the Universal Public Telecommunications Service Support Fund for reimbursement of reasonable costs as determined by the commission if the non-rate-of-return regulated carrier meets criteria that are:~~]

[~~(i) consistent with Subsections (2) and (3); and~~]

[~~(ii) developed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(5) A [~~rate-of-return regulated~~]carrier of last resort that qualifies for funds under this section:

(a) is entitled to a rate of return equal to the weighted average cost of capital rate of return prescribed by the Federal Communications Commission for rate-of-return regulated carriers; and

(b) may use any depreciation method allowed by the Federal Communications Commission.

(6) (a) The commission shall determine if a [~~rate-of-return regulated~~]carrier of last resort is correctly applying a depreciation method described in Subsection (5)(b).

(b) If the commission determines under Subsection (6)(a) that a [~~rate-of-return regulated~~]carrier of last resort is incorrectly applying a depreciation method or that the [~~rate-of-return regulated~~]carrier of last resort is not using a depreciation method allowed by the Federal Communications Commission, the commission shall issue an order that provides corrections to the [~~rate-of-return regulated~~]carrier of last resort's method of depreciation.

(7) A carrier of last resort that receives funds from the Universal Public Telecommunications Service Support Fund may only use the funds in accordance with this section within the area for which the carrier of last resort has a carrier of last resort obligation.

(8) (a) Except as provided in Subsection (8)(b), each access line provider and each connection provider shall contribute to the Universal Public Telecommunications Service Support Fund through an explicit charge assessed by the commission on the access line provider or connection provider.

(b) The charge described in Subsection (8)(a) does not apply to a prepaid wireless telecommunications service, as defined in Section 69-2-405, that is subject to the service charge described in Subsection 69-2-405(2)(b).

(9) The commission shall calculate the amount of each explicit charge described in Subsection (8) using a method developed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) does not discriminate against:

(i) any access line or connection provider; or

(ii) the technology used by any access line or connection provider;

(b) is competitively neutral; and

(c) is a function of an access line or connection provider's:

(i) annual intrastate revenue;

(ii) number of access lines or connections in the state; or

(iii) a combination of an access line or connection provider's annual intrastate revenue and number of access lines or connections in the state.

(10) The commission shall develop the method described in Subsection (9) before January 1, 2018.

(11) An access line or connection provider that provides mobile telecommunications service shall contribute to the Universal Public Telecommunications Service Support Fund only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(12) Nothing in this section shall be construed to enlarge or reduce the commission's jurisdiction or authority, as provided in other provisions of this title.

(13) A person that fails to make a required contribution to the fund created by this section, or that fails to comply with a commission directive concerning the person's books, records, or other information required by the commission to administer this section, is subject to applicable penalties.

(14) Nothing in this section gives the commission the authority:

(a) to regulate broadband Internet access service;

(b) to require a carrier of last resort to provide broadband Internet access service; or

(c) assess a contribution in violation of the Internet Tax Freedom Act, 47 U.S.C. Sec. 151 note.

(15) (a) A facilities-based or nonfacilities-based wireless telecommunication provider is eligible for distributions from the Universal Telecommunications Service Support Fund under the lifeline program described in Subsection (3)(b) for providing lifeline service that is consistent with the Federal Communications Commission's lifeline program for low-income consumers.

(b) Except as provided in Subsection (15)(c), the commission may impose reasonable conditions for providing a distribution to a wireless telecommunication provider under the lifeline program described in Subsection (3)(b).

(c) The commission may not require a wireless telecommunication provider to offer unlimited local calling to a lifeline customer as a condition of receiving a distribution under the lifeline program described in Subsection (3)(b).

(16) The commission shall report to the Public Utilities, Energy, and Technology Interim Committee each year before November 1 regarding:

(a) the contribution method described in Subsection (9);

(b) the amount of distributions from and contributions to the Universal Public Telecommunications Service Support Fund during the last fiscal year;

(c) the availability of services for which Subsection (3) permits Universal Public Telecommunications Service Support Fund funds to be used; and

(d) the effectiveness and efficiency of the Universal Public Telecommunications Service Support Fund.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 61
S. B. 284
Passed March 5, 2025
Approved March 19, 2025
Effective May 7, 2025

MEDICAID DOULA SERVICES

Chief Sponsor: Luz Escamilla
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill authorizes the Medicaid program to cover doula services.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the Department of Health and Human Services (department) to apply for a Medicaid state plan amendment authorizing coverage of doula services;
- ► requires the department to develop the state plan amendment in consultation with certain stakeholders; and
- ► requires the department to establish training and registration requirements for doulas providing services to Medicaid program enrollees.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26B-3-229, Utah Code Annotated 1953

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

Section 1. Section 26B-3-229 is enacted to read:

26B-3-229. Doula services.

(1) As used in this section, "doula services" means non-medical advice, information, emotional support, and physical comfort provided to an individual during the individual's pregnancy, childbirth, and postpartum period.

(2) (a) Before October 1, 2025, the department shall apply for a Medicaid state plan amendment to cover doula services.

(b) The department shall develop the state plan amendment in consultation with individuals representing patients, doulas, physicians, nurses, and health care facilities in the state.

(3) If the state plan amendment is approved, the Medicaid program shall provide coverage of doula services.

(4) The department shall establish through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, training and registration requirements for a doula providing doula services to an enrollee.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 62
H. B. 550
Passed March 7, 2025
Approved March 19, 2025
Effective May 7, 2025

BUILDING PERMIT FEE PROHIBITION AMENDMENTS

Chief Sponsor: Thomas W. Peterson
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill amends provisions related to permitting fees.

Highlighted Provisions:

This bill:

- ► prevents a municipality or a county from imposing an inspection fee on a water conservancy district that hires a qualified inspector to conduct inspections on new infrastructure; and
- ► provides a repeal date for the prohibition.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-510, as last amended by Laws of Utah 2021, Chapter 35
17-27a-509, as last amended by Laws of Utah 2021, Chapter 35
63I-2-210, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-217, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

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

Section 1. Section 10-9a-510 is amended to read:

10-9a-510. Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

(1) A municipality may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the municipality charges for a building permit fee for that building.

(2) Subject to Subsection (1), a municipality may impose and collect only a nominal fee for reviewing and approving identical floor plans.

(3) A municipality may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, and appurtenance to connect to the municipal water, sewer, storm water, power, or other utility system.

(4) A municipality may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; [~~or~~]

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review[~~.~~]; or

(c) an inspection fee on a qualified water conservancy district, as defined in Section 17B-2a-1010, that hires a qualified inspector to conduct inspections on new infrastructure.

(5) (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the municipality shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the municipality shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the municipality to create the calculation method described in Subsection (5)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed; and

(iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A municipality shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:

(i) regulation;

(ii) processing an application;

(iii) issuing a permit; or

(iv) delivering the service for which the applicant or owner paid the fee.

(6) A municipality may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

(b) subject to Subsection (3), a hookup fee; and

(c) an impact fee for a public facility listed in Subsection 11-36a-102(17)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a municipality:

(a) Subsections (5) and (6);

(b) Section 10-9a-508; and

(c) Section 10-9a-509.5.

Section 2. Section 17-27a-509 is amended to read:

17-27a-509. Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

(1) A county may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the county charges for a building permit fee for that building.

(2) Subject to Subsection (1), a county may impose and collect only a nominal fee for reviewing and approving identical floor plans.

(3) A county may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the county water, sewer, storm water, power, or other utility system.

(4) A county may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; [~~or~~]

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review[~~.~~]; or

(c) an inspection fee on a qualified water conservancy district, as defined in Section 17B-2a-1010, that hires a qualified inspector to conduct inspections on new infrastructure.

(5) (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the county shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the county shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the county to create the calculation method described in Subsection (5)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed; and

(iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A county shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:

(i) regulation;

(ii) processing an application;

(iii) issuing a permit; or

(iv) delivering the service for which the applicant or owner paid the fee.

(6) A county may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

(b) subject to Subsection (3), a hookup fee; and

(c) an impact fee for a public facility listed in Subsection 11-36a-102(17)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a county:

(a) Subsections (5) and (6);

(b) Section 17-27a-507; and

(c) Section 17-27a-509.5.

Section 3. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates: Title 10.

(1) Subsection 10-2a-205(2)(b)(iii), regarding a feasibility study for the proposed incorporation of a community council area, is repealed July 1, 2028.

(2) Section 10-2a-205.5, Additional feasibility consultant considerations for proposed incorporation of community council area -- Additional feasibility study requirements, is repealed July 1, 2028.

(3) Subsection 10-9a-510(4)(c) is repealed July 1, 2026.

[~~(3)~~](4) Section 10-9a-604.9, Effective dates of Sections 10-9a-604.1 and 10-9a-604.2, is repealed January 1, 2025.

Section 4. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates: Titles 17 through 17D.

(1) Subsection 17-22-2(1)(o), regarding a sheriff's contractual duties under an interlocal agreement for law enforcement services, is repealed July 1, 2025.

(2) Subsection 17-22-2(3), regarding the role of a sheriff in a police interlocal entity or police local district, is repealed July 1, 2025.

(3) Section 17-27a-604.9, Effective dates of Sections 17-27a-604.1 and 17-27a-604.2, is repealed January 1, 2025.

(4) Subsection 17-27a-509(4)(c) is repealed July 1, 2026.

[~~(4)~~](5) Subsection 17-52a-103(3), regarding the process for changing a form of county government[], is repealed January 1, 2028.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 63
S. B. 297
Passed March 5, 2025
Approved March 19, 2025
Effective July 1, 2025

CONGREGATE CARE AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses congregate care programs.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates the Congregate Care Advisory Committee (committee);
- ► authorizes and directs the Office of Licensing (office), in consultation with the committee, to:
  - • set minimum safety requirements for congregate care programs;
  - • review proposed admissions criteria that a program submits in connection with an application for or renewal of licensure; and
  - • deny or accept a program's proposed admissions criteria;
- ► creates the position of congregate care ombudsman (ombudsman);
- ► authorizes and directs the ombudsman to receive and investigate reports regarding congregate care programs;
- ► creates the Licensed Provider Civil Money Penalty Fund;
- ► denies direct access qualified status for certain individuals;
- ► establishes requirements for congregate care programs, including that the programs:
  - • adopt admissions criteria by which to determine whether an individual child is a qualified candidate for the program;
  - • maintain a list of a child's authorized contacts who may contact the child if the child is in crisis;
  - • notify the authorized contacts and the parent or guardian of a child who is in crisis;
  - • post notice within the program regarding the ombudsman;
  - • provide a dedicated telephone from which a child or staff may contact the ombudsman at any time; and
  - • provide disclosures to a child, the child's parent or guardian, and the child's authorized contacts;
- ► establishes responsibility for payment to a health care facility that provides services to a child, including transportation costs;
- ► establishes whistleblower protections for individuals who report a concern to, or who facilitate or cooperate with, the ombudsman; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-1-204, as last amended by Laws of Utah 2024, Chapters 240, 404 and 506
26B-1-334, as enacted by Laws of Utah 2023, Chapter 325
26B-2-101, as last amended by Laws of Utah 2024, Chapters 240, 267, 307, and 438
26B-2-104, as last amended by Laws of Utah 2024, Chapters 240, 307
26B-2-107, as last amended by Laws of Utah 2024, Chapters 267, 307
26B-2-120, as last amended by Laws of Utah 2024, Chapter 234
26B-2-124, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-709, as renumbered and amended by Laws of Utah 2024, Chapter 267

ENACTS:

26B-1-336, Utah Code Annotated 1953
26B-2-124.1, Utah Code Annotated 1953
26B-2-124.2, Utah Code Annotated 1953
26B-2-124.3, Utah Code Annotated 1953

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

Section 1. Section 26B-1-204 is amended to read:

26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not

inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

(2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

(c) Health Facility Committee;

(d) Health Data Committee;

(e) Child Care Provider Licensing Committee;

(f) Adult Autism Treatment Program Advisory Committee;

(g) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee;[]

(h) Congregate Care Advisory Committee; and

[~~(h)~~](i) any boards, councils, or committees that are created by statute in this title.

(3) The following divisions and offices are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality and Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in Chapter 5, Health Care - Substance Use and Mental Health;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities;

(c) relating to community health and well-being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services;

(v) the Office of Families; and

(vi) the Office of Recovery Services; and

(d) relating to clinical services, the Division of Health Access.

(4) The executive director may establish offices to facilitate management of the department as required by, and in accordance with this title.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in this title.

Section 2. Section 26B-1-334 is amended to read:

26B-1-334. Licensed Provider Assessment Fund -- Creation -- Deposits -- Uses.

(1) There is created an expendable special revenue fund known as the "Licensed Provider Assessment Fund" consisting of:

(a) the assessments collected under, and any interest and penalties levied with the administration of:

(i) [~~Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection~~]Chapter 2, Part 2, Health Care Facility Licensing and Inspection Act, except assessments that comprise the Licensed Provider Civil Money Penalty Fund pursuant to Section 26B-1-336;

(ii) [~~Title 26B, Chapter 1, Part 4, Child Care Licensing~~]Chapter 2, Part 1, Human Services Programs and Facilities; and

(iii) [~~Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities~~]Chapter 2, Part 4, Child Care Licensing;

(b) money appropriated or otherwise made available by the Legislature; and

(c) any interest earned on the fund.

(2) Money in the fund may only be used by the department:

(a) for upgrades to and maintenance of licensing databases and applications;

(b) for training for providers and staff;

(c) to assist individuals during a facility shutdown; or

(d) for administrative expenses, if the administrative expenses for the fiscal year do not exceed 3% of the money deposited into the fund during the fiscal year.

Section 3. Section 26B-1-336 is enacted to read:

26B-1-336. Licensed Provider Civil Money Penalty Fund.

(1) There is created an expendable special revenue fund known as the "Licensed Provider Civil Money Penalty Fund" consisting of:

(a) federal civil money penalty funds received under the federal Centers for Medicare and Medicaid Facility Licensing and Inspection Act, including any existing funds previously received and allocable to the Division of Licensing and Background Checks;

(b) money appropriated or otherwise made available by the Legislature; and

(c) any interest earned on the fund.

(2) Money in the fund may only be used by the department under a federally approved state plan:

(a) to assist individuals effected by a shutdown of a facility or program under this title;

(b) for administrative expenses; or

(c) for allowable activities.

Section 4. Section 26B-2-101 is amended to read:

26B-2-101. Definitions.

As used in this part:

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

[~~(1)~~](2) "Adoption services" means the same as that term is defined in Section 80-2-801.

[~~(2)~~](3) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

[~~(3)~~](4) "Applicant" means a person that applies for an initial license or a license renewal under this part.

[~~(4)~~](5) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection [~~(4)(a)(i).~~](5)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

[~~(5)~~](6) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection [~~(5)(b)(i);~~](6)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection [~~(40)(a)~~](44)(a); or

(B) provides the treatment or services described in Subsection [~~(40)(a)~~](44)(a) on a limited basis, as described in Subsection [~~(5)(b)(ii)~~](6)(b)(ii).

(b) (i) For purposes of Subsection [~~(5)(a)(iii)~~](6)(a)(iii), "education" means a course of study for one or more grades from kindergarten through grade 12.

(ii) For purposes of Subsection [~~(5)(a)(iv)(B)~~](6)(a)(iv)(B), a private school provides the treatment or services described in Subsection [~~(40)(a)~~](44)(a) on a limited basis if:

(A) the treatment or services described in Subsection [~~(40)(a)~~](44)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [~~(40)(a);~~](44)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection [~~(40)(a)~~](44)(a).

(c) "Boarding school" does not include a therapeutic school.

[~~(6)~~](7) "Certification" means a less restrictive level of licensure issued by the department.

[~~(7)~~](8) "Child" means an individual under 18 years old.

[~~(8)~~](9) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

[~~(9)~~](10) "Child-placing agency" means a person that engages in child placing.

[~~(10)~~](11) "Client" means an individual who receives or has received services from a licensee.

[~~(11)~~](12) (a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

[~~(12)~~](13) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

[~~(13)~~](14) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

[~~(14)~~](15) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

[~~(15)~~](16) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background check approval issued by the office.

[~~(16)~~](17) "Director" means the director of the office.

(18) "Division" means the Division of Licensing and Background Checks created under Section 26B-2-103.

[~~(17)~~](19) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(18)~~](20) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

[~~(19)~~](21) "Elder adult" means a person 65 years old or older.

[~~(20)~~](22) "Emergency safety intervention" means a tactic used to protect staff or a client from being physically injured, utilized by an appropriately trained direct care staff and only performed in accordance with a nationally or regionally recognized curriculum in the least restrictive manner to restore staff or client safety.

[~~(21)~~](23) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

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

[~~(22)~~](25) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.

[~~(23)~~](26) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(24)~~](27) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

[~~(25)~~](28) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school;

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102; or

(iii) a short-term relief care provider.

[~~(26)~~](29) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(27)~~](30) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

[~~(28)~~](31) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(29)~~](32) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

[~~(30)~~](33) "Licensee" means an individual or a human services program licensed by the office.

[~~(31)~~](34) "Local government" means a city, town, or county.

[~~(32)~~](35) "Minor" means child.

[~~(33)~~](36) "Office" means, except as provided in Section 26B-2-120, the Office of Licensing within the department.

(37) "Ombudsman" means the congregate care ombudsman created in Section 26B-2-124.2.

[~~(34)~~](38) "Outdoor youth program" means a program that provides:

(a) services to a child [~~that~~]who has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

[~~(35)~~](39) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

[~~(36)~~](40) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

[~~(37)~~](41) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

[~~(38)~~](42) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

[~~(39)~~](43) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[~~(40)~~](44) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[~~(41)~~](45) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

[~~(42)~~](46) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

[~~(43)~~](47) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

[~~(44)~~](48) "Short-term relief care provider" means an individual who:

(a) provides short-term and temporary relief care to a foster parent:

(i) for less than six consecutive nights; and

(ii) in the short-term relief care provider's home;

(b) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

(c) is direct access qualified, as that term is defined in Section 26B-2-120;

(d) has been approved to provide short-term relief care by the department;

(e) is not reimbursed by the department for the temporary relief care provided; and

(f) is not an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster child.

[~~(45)~~](49) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[~~(46)~~](50) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

[~~(47)~~](51) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [~~(47)(a)~~](51)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

[~~(48)~~](52) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[~~(49)~~](53) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~(50)~~](54) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(51)~~](55) (a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for the program's services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

[~~(52)~~](56) (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 5. Section 26B-2-104 is amended to read:

26B-2-104. Division responsibilities.

(1) Subject to the requirements of federal and state law, the office shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for licensees, that shall be limited to:

(A) fire safety;

(B) food safety;

(C) sanitation;

(D) infectious disease control;

(E) safety of the:

(I) physical facility and grounds; and

(II) area and community surrounding the physical facility;

(F) transportation safety;

(G) emergency preparedness and response;

(H) the administration of medical standards and procedures, consistent with the related provisions of this title;

(I) staff and client safety and protection;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

(ii) basic health and safety standards for therapeutic schools, that shall be limited to:

(A) fire safety, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(B) food safety;

(C) sanitation;

(D) infectious disease control, except that the standards are limited to:

(I) those required by law or rule under this title, or Title 26A, Local Health Authorities; and

(II) requiring a separate room for clients who are sick;

(E) safety of the physical facility and grounds, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(F) transportation safety;

(G) emergency preparedness and response;

(H) access to appropriate medical care, including:

(I) subject to the requirements of law, designation of a person who is authorized to dispense medication; and

(II) storing, tracking, and securing medication;

(I) staff and client safety and protection that permits the school to provide for the direct supervision of clients at all times;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

(iii) procedures and standards for permitting a licensee to:

(A) provide in the same facility and under the same conditions as children, residential treatment services to a person 18 years old or older who:

(I) begins to reside at the licensee's residential treatment facility before the person's 18th birthday;

(II) has resided at the licensee's residential treatment facility continuously since the time described in Subsection (1)(a)(iii)(A)(I);

(III) has not completed the course of treatment for which the person began residing at the licensee's residential treatment facility; and

(IV) voluntarily consents to complete the course of treatment described in Subsection (1)(a)(iii)(A)(III); or

(B) (I) provide residential treatment services to a child who is:

(Aa) at least 12 years old or, as approved by the [~~office~~]division, younger than 12 years old; and

(Bb) under the custody of the department, or one of its divisions; and

(II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I), residential treatment services to a person who is:

(Aa) at least 18 years old, but younger than 21 years old; and

(Bb) under the custody of the department, or one of its divisions;

(iv) minimum administration and financial requirements for licensees;

(v) guidelines for variances from rules established under this Subsection (1);

(vi) ethical standards, as described in Subsection 78B-6-106(3), and minimum responsibilities of a child-placing agency that provides adoption services and that is licensed under this part;

(vii) what constitutes an "outpatient treatment program" for purposes of this part;

(viii) a procedure requiring a licensee to provide an insurer the licensee's records related to any services or supplies billed to the insurer [~~;~~] and a procedure allowing the licensee and the insurer to contact the Insurance Department to resolve any disputes;

(ix) a protocol for the office to investigate and process complaints about licensees;

(x) a procedure for a licensee to:

(A) report the use of a restraint or seclusion within one business day after the day on which the use of the restraint or seclusion occurs; [~~and~~]

(B) report a critical incident within one business day after the day on which the incident occurs; and

(C) comply with any requirements of this part;

(xi) guidelines for the policies and procedures described in Sections 26B-2-109 and 26B-2-123;

(xii) a procedure for the [~~office~~]division to review and approve the policies and procedures described in Sections 26B-2-109 and 26B-2-123; [~~and~~]

(xiii) a requirement that each human services program publicly post information that informs an individual how to submit a complaint about a human services program to the [~~office~~]division; and

(xiv) requirements for disruption plans under Section 26B-2-124;

(b) enforce rules relating to the [~~office~~]division;

(c) issue licenses in accordance with this part;

(d) if the United States Department of State executes an agreement with the [~~office~~]division that designates the [~~office~~]division to act as an accrediting entity in accordance with the Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to provide intercountry adoption services pursuant to:

(i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and

(ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L. No. 106-279;

(e) make rules to implement the provisions of Subsection (1)(d);

(f) conduct surveys and inspections of licensees and facilities in accordance with Section 26B-2-107;

(g) collect licensure fees;

(h) notify licensees of the name of a person within the department to contact when filing a complaint;

(i) investigate complaints regarding any licensee or human services program;

(j) have access to all records, correspondence, and financial data required to be maintained by a licensee;

(k) have authority to interview any client, family member of a client, employee, or officer of a licensee;

(l) have authority to deny, condition, revoke, suspend, or extend any license issued by the department under this part by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act;

(m) cooperate with the Division of Child and Family Services to condition, revoke, or suspend the license of a foster home when a child welfare caseworker from the Division of Child and Family Services identifies a safety concern with the foster home;

(n) electronically post notices of agency action issued to a human services program, with the exception of a foster home, on the [~~office's~~]division's website, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and

(o) upon receiving a local government's request under Section 26B-2-118, notify the local government of new human services program license applications, except for foster homes, for human services programs located within the local government's jurisdiction.

(2) In establishing rules under Subsection (1)(a)(ii)(G), the [~~office~~]division shall require a licensee to establish and comply with an emergency response plan that requires clients and staff to:

(a) immediately report to law enforcement any significant criminal activity, as defined by rule, committed:

(i) on the premises where the licensee operates its human services program;

(ii) by or against its clients; or

(iii) by or against a staff member while the staff member is on duty;

(b) immediately report to emergency medical services any medical emergency, as defined by rule:

(i) on the premises where the licensee operates [~~its human services program~~]a program;

(ii) involving its clients; or

(iii) involving a staff member while the staff member is on duty; and

(c) immediately report other emergencies that occur on the premises where the licensee operates its human services program to the appropriate emergency services agency.

Section 6. Section 26B-2-107 is amended to read:

26B-2-107. Administrative inspections.

(1) As used in this section:

(a) "Foster home" does not include a residence that is licensed or certified for proctor care or care by a professional parent.

(b) "Material change" means a significant change in circumstances that may include:

(i) a loss or gain of employment;

(ii) a change in marital status;

(iii) a change of individuals living in the home; or

(iv) other changes that may affect a foster child's well-being.

(2) (a) Subject to Subsections (2)(b) and (3), the office may, for the purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility or program of a licensee.

(b) (i) The office shall enter and inspect a congregate care program at least once each calendar quarter.

(ii) At least two of the inspections described in Subsection (2)(b)(i) shall be unannounced.

(iii) The division shall verify whether a congregate care program maintains strict compliance with the program's approved admissions criteria under Section 26B-2-124 at least quarterly.

(c) If another government entity conducts an inspection that is substantially similar to an inspection conducted by the office, the office may conclude the inspection satisfies an inspection described in Subsection (2)(b).

(3) (a) Except as provided in Subsection (3)(b):

(i) for the first two years of a foster home's license, the [~~office~~]division shall enter and inspect the facility once each year;

(ii) after a foster home has been licensed for two years, the [~~office~~]division shall enter and inspect the facility once every three years; and

(iii) for a foster home licensed for two or more years as of May 1, 2023, and that was inspected by the office on or after May 1, 2023, the office may not enter and inspect the facility until three years after the date of the last inspection.

(b) (i) If a foster home has not had a placement for more than 12 months after the date of the office's last inspection, the office shall enter and inspect the [~~facility~~]home within 30 days after the date on which the foster home receives a new placement.

(ii) If the license for a foster home is placed on conditions, suspended, or revoked by the office, or voluntarily returned to the office by the licensee, the office may enter and inspect the [~~facility~~]home on a routine basis.

(iii) If there is a material change to a foster home:

(A) the foster parent shall immediately notify the office of the material change; and

(B) the office shall inspect the foster home as soon as practicable after receiving notice of or otherwise becoming aware of the material change.

(iv) If a health and safety concern is reported to the office, the office may conduct an unannounced inspection of the foster home during regular business hours.

(c) Except as provided in Subsection (3)(b)(iv), an inspection of a foster home shall be announced.

(4) Before conducting an inspection under Subsection (2) or (3), the office shall, after identifying the person in charge:

(a) give proper identification;

(b) request to see the applicable license;

(c) describe the nature and purpose of the inspection; and

(d) if necessary, explain the authority of the office to conduct the inspection and the penalty for refusing to permit the inspection as provided in Section 26B-2-707.

(5) In conducting an inspection under Subsection (2) or (3), the office may, after meeting the requirements of Subsection (4):

(a) inspect the physical facilities;

(b) inspect and copy records and documents;

(c) interview officers, employees, clients, family members of clients, and others; and

(d) observe the licensee in operation.

(6) An inspection conducted under Subsection (2) shall be during regular business hours and may be announced or unannounced.

(7) The licensee shall make copies of inspection reports available to the public upon request.

(8) The provisions of this section apply to on-site inspections and do not restrict the office from contacting family members, neighbors, or other individuals, or from seeking information from other sources to determine compliance with this part.

Section 7. Section 26B-2-120 is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the department under this part and has direct access, including:

(A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in accordance with Section 78B-6-128;

(B) a foster parent or prospective foster parent;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) an individual who transports a child for a youth transportation company;

(E) an individual who provides certified peer support, as defined in Section 26B-5-610;

(F) an individual who provides peer supports, has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder;

(G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;

(H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;

(I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the division;

(J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access;

(K) a foster home licensee that submits an application for an annual background screening as required by Subsection 26B-2-105(4)(d)(iii); or

(L) a short-term relief care provider.

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services;

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services;

(C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or

(D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.

(b) "Application" means a background check application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Criminal finding" means a record of:

(i) an arrest for a criminal offense;

(ii) a warrant for a criminal arrest;

(iii) charges for a criminal offense; or

(iv) a criminal conviction.

(e) "Direct access" means that an individual has, or likely will have:

(i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or

(ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.

(f) (i) "Direct access qualified" means that the applicant has an eligible determination by the office within the license and renewal time period; and

(ii) no more than 180 days have passed since the date on which the applicant's association with a certification, contract, or licensee with the department expires.

(g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(h) "Licensee" means an individual or a human services program licensed by the division.

(i) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) juvenile court arrest, adjudication, and disposition records;

(v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or

(vi) a state child abuse or neglect registry.

(j) "Office" means the Office of Background Processing within the department.

(k) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504;

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon association with a certification, contract, or licensee with the department;

(ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification, contract, or licensee with the department for 180 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(c) and (4);

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories; and

(e) an application showing an applicant's association with a certification, contract, or a licensee with the department, for the purpose of the office tracking the direct access qualified status of the applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18 years old or older;

(v) search the Division of Child and Family Services' Management Information System in Section 80-2-1001, if the applicant [~~is associated with a licensee for~~]is:

(A) a prospective foster or adoptive parent[~~, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;~~];

(B) an employee of a congregate care program; or

(C) an adult who lives in a foster home.

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;

(e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;

(f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and

(h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The [~~Bureau~~]bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that an individual who has direct access qualified status will no longer be associated with a certification, contract, or licensee with the department, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation or prostitution;

(D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

(E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

(F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

(G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;

(H) an offense included in Title 76, Chapter 7, Offenses Against the Family;

(I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;

(K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(L) aggravated arson, as described in Section 76-6-103;

(M) aggravated burglary, as described in Section 76-6-203;

(N) aggravated exploitation of prostitution, as described in Section 76-10-1306;

(O) aggravated robbery, as described in Section 76-6-302;

(P) endangering persons in a human services program, as described in Section 26B-2-113;

(Q) failure to report, as described in Section 80-2-609;

(R) identity fraud crime, as described in Section 76-6-1102;

(S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;

(T) riot, as described in Section 76-9-101;

(U) sexual battery, as described in Section 76-9-702.1; or

(V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section 76-10-506; or

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider or a mental health professional, if the applicant provides services in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (7).

(c) [~~The~~]Subject to Subsection (5)(d), the office shall deny direct access qualified status to an applicant [~~if~~]who:

(i) [~~the office finds that~~]a court order prohibits [~~the applicant~~]from having direct access to a child or vulnerable adult[~~.~~]; or

(ii) is an applicant for a congregate care program and:

(A) is subject to an open investigation for a non-criminal finding; or

(B) has a supported non-criminal finding, excluding a supported finding for dependency, as defined in Section 80-1-102, within three years from the date on which the office conducts the background check.

(d) (i) Subsection (5)(c) does not apply retrospectively for congregate care program employees who have an approved background screening on or before July 1, 2025; or

(ii) notwithstanding Subsection (5)(c)(ii)(A), the division may grant temporary direct access qualified status to an applicant subject to a condition that the applicant is directly supervised at all times.

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);

(b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;

(d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);

(e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;

(f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

(h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);

(i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;

(j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(k) has a pending charge for an offense described in Subsection (5)(a);

(l) has a [~~listing~~]supported finding that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(m) has a [~~listing~~]supported finding that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;

(n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;

(p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504[]; or

(q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

(7) (a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.

(b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status to an applicant if the office finds the approval would likely create a risk of harm to a child or vulnerable adult.

(8) The office shall grant direct access qualified status to an applicant who is not denied under this section.

(9) (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice, without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice, without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall grant or deny direct access qualified status to the applicant in accordance with this section.

(10) (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.

(b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

(i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(c) Notwithstanding any other provision of this section, an applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office grants direct access qualified status to the applicant through a subsequent application in accordance with this section.

(11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.

(12) (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.

(b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.

(c) The office shall conduct a comprehensive review for an applicant if:

(i) the applicant is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal finding.

(13) (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

(b) As federally required, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(c) The requirements described in Subsection (13)(b) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).

(d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;

(E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(F) aggravated murder, as described in Section 76-5-202;

(G) murder, as described in Section 76-5-203;

(H) manslaughter, as described in Section 76-5-205;

(I) child abuse homicide, as described in Section 76-5-208;

(J) homicide by assault, as described in Section 76-5-209;

(K) kidnapping, as described in Section 76-5-301;

(L) child kidnapping, as described in Section 76-5-301.1;

(M) aggravated kidnapping, as described in Section 76-5-302;

(N) human trafficking of a child, as described in Section 76-5-308.5;

(O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

(Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(R) aggravated arson, as described in Section 76-6-103;

(S) aggravated burglary, as described in Section 76-6-203;

(T) aggravated robbery, as described in Section 76-6-302;

(U) lewdness involving a child, as described in Section 76-9-702.5;

(V) incest, as described in Section 76-7-102; or

(W) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).

(e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(f) In addition to the circumstances described in Subsection (6), the office shall conduct a comprehensive review of an applicant's background check under this section if the applicant:

(i) has an offense described in Subsection (5)(a);

(ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;

(iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-2-210;

(v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6), (7), and (13); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services for purposes of granting or denying direct access qualified status to an applicant.

Section 8. Section 26B-2-124 is amended to read:

26B-2-124. Congregate care program requirements -- Admissions criteria -- Costs incurred at health care facilities.

[~~(1) As used in this section, "disruption plan" means a child specific plan used:~~]

[~~(a) when the private-placement child stops receiving services from a congregate care program; and~~]

[~~(b) for transporting a private-placement child to a parent or guardian or to another congregate care program.~~]

(1) As used in this section:

(a) "Admissions criteria" means the risk factors that must be present in the life of a child in order for a congregate care program to admit the child to the program.

(b) "Approved admissions criteria" means the admissions criteria that the division has approved pursuant to Section 26B-2-124.1.

(c) "Critical incident" means an occurrence of any of the following:

(i) a self-harm, or a suicide emergency, as defined in Section 78B-4-516;

(ii) a practice that is prohibited under Section 26B-2-123;

(iii) a restraint, seclusion, or emergency safety intervention under Section 26B-2-123occurring at the program, whether it:

(A) complies with Section 26B-2-123; or

(B) fails to comply with Section 26B-2-123;

(iv) a child's request for medical attention, except:

(A) medical attention that is part of the child's treatment plan; or

(B) when the medical attention requested does not require professional attention;

(v) a denial or an unreasonable delay of required medical attention to a child in the program;

(vi) an admittance or a transport of a child in the program to or from a medical facility;

(vii) an incident or allegation of abuse or harm to a child while in the program;

(viii) an unauthorized departure or attempted unauthorized departure of a child from the program;

(ix) a use of force, coercion, or deception in transporting a child to or from the program, unless the program did not conduct or pay for the transport and:

(A) the program does not know about the use of force, coercion, or deception; or

(B) if the alleged use of force, coercion, or deception has been reported to the division or to the Division of Child and Family Services;

(x) a child in the program who is in crisis;

(xi) a police report or investigation involving:

(A) a child; or

(B) an individual who has had access to the program;

(xii) a physical condition of the program's facility that jeopardizes the health, safety, or well-being of a child; and

(xiii) any additional occurrence or condition that the division defines as a critical incident in rule.

(d) "Disruption plan" means instructions and a predetermined protocol, specific to an individual child, that a congregate care program implements:

(i) if the child:

(A) is in crisis; or

(B) stops receiving services at a congregate care program; or

(ii) for transporting a child to:

(A) a parent or guardian;

(B) another congregate care program; or

(C) a health care facility, as that term is defined in Section 78B-3-403, except for preventative or non-emergency health care.

(e) "Qualified candidate" means, for an individual congregate care program's approved admissions criteria, a child who meets the program's approved admissions criteria.

(f) (i) "Risk factors" means objectively identifiable characteristics, elements, or a combination of characteristics or elements of a child's

life that, if present, evidence an ongoing criminogenic, emotional, or behavioral concern that a congregate care program can safely address.

(ii) "Risk factors" include:

(A) diagnoses defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association; and

(B) any other characteristic, element, or combination of characteristics or elements of a child's life that the office, in consultation with the committee, establishes by rule.

(2) For purposes of this section, congregate care program, as defined in Section 26B-2-101, does not include a youth shelter, youth receiving center, or any other short-term or temporary setting for children.

(3) Notwithstanding any provision of this part, a congregate care program may not admit a child who the program knew or should have known the program is unqualified or unable to:

(a) safely serve; and

(b) protect from reasonably foreseeable harm.

[~~(2)~~](4) A congregate care program shall[~~keep the following for a private-placement child whose parent or guardian lives outside the state~~]:

[~~(a) regularly updated contact information for the parent or guardian that lives outside the state; and~~]

[~~(b) a disruption plan.~~]

(a) for each child who is admitted to the program:

(i) collect and maintain:

(A) contact information for each individual who the child's parent, guardian, or sending government or private agency identifies as an authorized contact; and

(B) accurate contact information for the child's parent or guardian;

(ii) prepare a disruption plan tailored to the child; and

(iii) prepare a suicide prevention plan, tailored to the child, and maintained and revised as necessary to maintain the child's safety;

(b) develop proposed admissions criteria that, if approved by the office:

(i) prescribe with specificity the criteria by which the program shall determine whether a child is a qualified candidate;

(ii) are appropriate given the program's facilities, staffing, programming, policies, procedures, and any other elements of the program designed to safely and effectively serve the children who are admitted to the program;

(iii) subject to Subsection (3), are the determining criteria against which the program shall consider and determine whether a child is a qualified candidate; and

(iv) the program shall utilize to determine whether any child:

(A) meets the admissions criteria, and therefore is a qualified candidate for the program; or

(B) does not meet the admissions criteria, and therefore is not a qualified candidate for the program;

(c) submit proposed admissions criteria in accordance with Subsection (4)(b) with each application for licensure or renewal of licensure;

(d) subject to Subsection (5), decline to admit a child who does not meet the program's approved admissions criteria;

(e) document and report each critical incident no later than one business day after the time at which the incident begins, to:

(i) the parent or guardian of each child affected by the critical incident; and

(ii) the office;

(f) post a conspicuous notice:

(i) in a common area that is frequently used and generally accessible to each child who is admitted to the program;

(ii) in a bold font that is not less than one inch in height; and

(iii) that includes the information and statement described in Subsection (7)(a)(i);

(g) provide a telephone from which a child in the program, staff, or any other individual may place a direct call to the ombudsman under Section 26B-2-124.2:

(i) at any time;

(ii) without interference;

(iii) with sufficient privacy to preclude another individual from hearing the conversation; and

(iv) subject to the whistleblower protections under Section 26B-2-124.3; and

(h) maintain a dedicated business telephone number that directly connects a caller to an individual who:

(i) is physically present at the congregate care program; and

(ii) who has been trained to and will comply with Subsection (6).

(5) Notwithstanding the other provisions of this section, the department may grant an exception to the admittance requirements of this section for a child who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services, if the placement is with a program operated by the department or under contract with the department.

(6) If a child is in crisis, a congregate care program shall:

(a) notify the child's parent or guardian as soon as reasonably possible but not later than five hours after the time at which the child's state of crisis first begins; and

(b) make every reasonable effort to connect a child by telephone to an authorized contact who:

(i) attempts to contact the child by calling the program's telephone number described in Subsection (4)(h); and

(ii) is an authorized contact under Subsection (4)(a)(i).

(7) (a) A congregate care program shall provide the following information to the persons identified in Subsection (7)(b):

(i) the name, telephone number, email, and address of the ombudsman established under Section 26B-2-124.2, immediately below a statement:

(A) in bold font that is not less than one inch in height; and

(B) stating "ANY PERSON WHO HAS A COMPLAINT OR A CONCERN REGARDING THIS CONGREGATE CARE PROGRAM MAY CONTACT THE CONGREGATE CARE OMBUDSMAN:";

(ii) a list of the child's authorized contacts, including name, contact information, and relationship to the child to:

(A) the child's parent or guardian;

(B) any other individual designated by the child's parent or guardian as an authorized contact; and

(C) the ombudsman under Section 26B-2-124.2; and

(iii) on the list described in Subsection (7)(a)(ii):

(A) a copy of the division rule regarding a child who is in crisis, made pursuant to Subsection (12)(a)(iii);

(B) a notice that the program will notify each authorized contact if the program determines that the child is in crisis; and

(C) a notice that an authorized contact may contact the child by telephone if the child is in crisis.

(b) A congregate care program shall provide the information described in Subsection (7)(a) to:

(i) each child who is admitted to the program;

(ii) the child's sending government or private agency; and

(iii) the child's parent or guardian.

[~~(3)~~](8) If a [~~private-placement child~~]child whose parent or guardian resides outside the state leaves a congregate care program without following the child's disruption plan, the congregate care program shall:

(a) notify the parent or guardian, office, and local law enforcement authorities;

(b) assist the state in locating the [~~private-placement child~~]child; and

(c) after the child is located, transport the [~~private-placement child~~]child:

(i) to a parent or guardian;

(ii) back to the [~~congregate care~~]program; or

(iii) to another [~~congregate care~~]program.

(9) A congregate care program may not solicit or accept payment from or on behalf of a child, unless:

(a) the child meets the program's admissions criteria; and

(b) the child's parent or guardian has executed a contract for the program's services.

(10) (a) The payment provisions under this Subsection (10) apply if:

(i) a child is transported to a health care facility; and

(ii) the child's parent or guardian resides outside the state.

(b) The payment provisions under this Subsection (10) do not apply to a child who is in state custody.

(c) A health care facility that provides services to a child who was transported from a congregate care program to the facility is entitled to payment in accordance with this Subsection (10).

(d) (i) The child's private or public health insurance policy or policies are responsible for and shall pay all amounts owed and for which there is coverage.

(ii) The health care facility shall bill the private or public health insurance policy or policies, if any, for which there may be coverage, prior to seeking payment from any other person.

(e) The program at which the child was admitted, if any, immediately prior to admittance at the health care facility is liable for and shall pay all amounts owed to the health care facility after any insurance payments are received under Subsection (10)(d).

(f) (i) Subject to Subsections (10)(f)(ii) and (iii), if a child is admitted to a health care facility for inpatient behavioral health services, the program described in Subsection (10)(e) shall pay to the health care facility 70% of the health care facility's billed charges for services provided to the child.

(ii) Notwithstanding Subsection (10)(f)(i), if a health care facility collects payment from a public or private insurer for any covered services provided under Subsection (10)(f)(i), the health care facility may not collect additional amounts for those covered services under Subsection (10)(f)(i).

(iii) For purposes of the Health Information Portability and Accountability Act, disclosure of claim payment information by the health care facility meets the definition of payment in 45 C.F.R. Sec. 164.501 and is required under this section for the purpose of obtaining reimbursement for the provision of health care or engaging in collection activities pursuant to 45 C.F.R. Sec. 164.506(c).

(g) The residential program at which the child was admitted at the time of admittance to a health care facility is liable for and shall pay all amounts owed under Subsection (10)(c), including the reasonable costs of transport from the health care facility to:

(i) the child's home state residence;

(ii) another residential or inpatient care facility or program; or

(iii) any other lawful destination.

(h) Nothing in this Subsection (10) may be construed to limit a health care facility's right to collect payment for health care services provided.

[~~(4)~~](11) This section does not apply to a guardian that is a state or agency.

[~~(5)~~](12) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~,~~]:

(a) describing:

[~~(a)~~](i) additional mandatory provisions for a disruption plan;

(ii) additional mandatory provisions for a discharge plan;

(iii) objective criteria that a congregate care program shall apply in determining whether a child is in crisis; and

[~~(b)~~](iv) how a congregate care program shall notify the office when a [~~private-placement child~~]child begins receiving services[~~.~~];

(b) defining key terms; and

(c) establishing rules necessary to administer this section.

Section 9. Section 26B-2-124.1 is enacted to read:
26B-2-124.1. Congregate Care Advisory Committee.

(1) As used in this section:

(a) "Committee" means the Congregate Care Advisory Committee created in Section 26B-1-204.

(b) "Level of congregate care" means a designation of:

(i) "standard congregate care," as defined by the office, in consultation with the committee; or

(ii) "intensive congregate care," as defined by the office, in consultation with the committee.

(c) "Minimum safety requirements" means, with respect to a level of congregate care, the set of minimum required policies, procedures, staffing, programming, or other elements of the program that the office, in consultation with the committee, determines are necessary for a program of that particular level to safely serve a child who qualifies for admittance under the program's admissions criteria.

(d) "Physician" means an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(e) "Risk factors" means the same as that term is defined in Section 26B-1-124.

(2) The committee shall be composed of eight members, who the office appoints, as follows:

(a) a physician who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(b) a pediatrician who:

(i) has experience working with children in behavioral health; and

(ii) is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(c) a psychologist who is licensed under Title 58, Chapter 61, Psychologist Licensing Act;

(d) a marriage and family therapist who is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(e) two licensed therapists who:

(i) have experience working in congregate care programs, as defined in Section 26B-2-101; and

(ii) are licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(f) a licensed therapist who:

(i) has experience working in juvenile justice; and

(ii) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; and

(g) a community representative who the office designates and who has experience in the congregate care industry as:

(i) an individual who has been an admitted child at a congregate care program;

(ii) a parent or guardian of a child who has been an admitted child at a congregate care program; or

(iii) a current or former owner or staff member of a congregate care program.

(3) The office is authorized to and shall, in consultation with the committee:

(a) define the levels of congregate care;

(b) in accordance with Subsection (4), for each defined level of congregate care, adopt by rule a set of applicable minimum safety requirements; and

(c) for each application for licensure or renewal of licensure:

(i) review and consider the applicant's proposed admissions criteria;

(ii) deny a program's proposed admissions criteria if the criteria:

(A) are inconsistent with the definitions of the levels of care made pursuant to Subsection (3)(a); or

(B) would fail to preclude the admittance of a child for whom the program is not designed to address;

(iii) approve a program's proposed admissions criteria if the criteria are not denied under Subsection (3)(c)(ii); and

(d) designate the program as a standard congregate care program or an intensive congregate care program, based on the program's approved admissions criteria.

(4) The minimum safety requirements under Subsection (3)(b) shall describe the minimum operating and safety practices that a program of that level of congregate care shall maintain, in terms of:

(a) services;

(b) programming;

(c) facilities;

(d) staffing;

(e) policies;

(f) procedures; or

(g) any other element or characteristic of a congregate care program that the office, in consultation with the committee, determines impacts the safety of the children who are admitted.

(5) A majority of the members of the committee constitutes a quorum, and a vote of the majority of the members present constitutes an action of the committee.

(6) The director of the division shall appoint a chair from the committee's membership.

(7) (a) The committee shall meet at least monthly until the office, in consultation with the committee, has:

(i) defined the levels of congregate care programs pursuant to Subsection (3)(a); and

(ii) established applicable minimum safety requirements pursuant to Subsection (3)(b).

(b) The committee shall meet at least once per quarter after the completion of Subsections (7)(a)(i) and (ii).

(8) A member of the committee may not receive compensation or benefits for the member's service but may receive per diem

reimbursement and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Section 63A-3-106 or 63A-3-107.

(9) The division shall provide staffing to support the committee.

(10) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement and enforce this section.

Section 10. Section 26B-2-124.2 is enacted to read:

26B-2-124.2. Congregate care ombudsman.

(1) As used in this section:

(a) "Ombudsman" means the congregate care ombudsman created under this section.

(b) "Report" means a communication received by the ombudsman and containing information that the ombudsman determines warrants further investigation.

(2) There is created within the department the title and position of congregate care ombudsman.

(3) (a) The core roles and functions of the ombudsman include:

(i) serving as a resource and advocate for children admitted to congregate care programs; and

(ii) receiving and investigating reports pertaining to a congregate care program or staff.

(b) The ombudsmann shall meet the following minimum qualifications:

(i) have an understanding of congregate care services and supports;

(ii) have an understanding of consumer-oriented public policy advocacy; and

(iii) have an understanding of public policy and customer advocacy, including at minimum:

(A) a bachelors degree in social work, public policy, or other related field;

(B) three years of experience in a field related to social work or public policy; or

(C) a combination of experience and degree that the department deems sufficient.

(4) The ombudsman shall have the following authority and duties:

(a) to receive and consider communications pertaining to:

(i) a congregate care program; and

(ii) any individual who has accessed a congregate care program;

(b) to investigate, at the ombudsman's discretion, a report for which the department or other state agency lacks investigative authority;

(c) to interview:

(i) any child admitted to a congregate care program;

(ii) the parent or guardian of a child admitted to a congregate care program;

(iii) any individual staff of a congregate care program;

(iv) a sending or receiving agency or program, whether public or private; or

(v) any individual who has entered a program within the last year;

(d) to enter or inspect any physical area of a program's facilities;

(e) to access, copy, or inspect a program's records, including communications; and

(f) to observe a program's operations, programming, or facilities.

(5) The ombudsman shall refer all reports or information received by the ombudsman to the:

(a) department; and

(b) any other state or local agency authorized to investigate the report or information.

(6) The ombudsman shall:

(a) keep generally accepted business hours; and

(b) maintain a messaging system to receive calls and collect messages during non-operating hours.

(7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement and enforce this section.

Section 11. Section 26B-2-124.3 is enacted to read:

26B-2-124.3. Whistleblower protections.

(1) A congregate care program may not take any adverse action against a child or any other individual for:

(a) communicating with the ombudsman;

(b) cooperating with the ombudsman; or

(c) facilitating the ombudsman in performing the ombudsman's duties under Section 26B-2-124.2.

(2) An adverse action under Subsection (1) includes:

(a) a termination;

(b) a demotion;

(c) a suspension;

(d) a reduction in hours;

(e) harassment;

(f) intimidation;

(g) creating a hostile work environment;

(h) threatening to report an employee to licensing agencies or law enforcement without cause;

(i) a reduction in pay, benefits, or access to opportunities; or

(j) any other action that would deter a reasonable employee from performing any action described in Subsection (1).

Section 12. Section 26B-2-709 is amended to read:

26B-2-709. Complaint investigations -- Records.

(1) As used in this section:

(a) "Anonymous complainant" means a complainant for whom the department does not have the minimum personal identifying information necessary, including the complainant's full name, to attempt to communicate with the complainant after a complaint has been made.

(b) "Child care program" means the same as that term is defined in Section 26B-2-401.

(c) "Confidential complainant" means a complainant for whom the department has the minimum personal identifying information necessary, including the complainant's full name, to attempt to communicate with the complainant after a complaint has been made, but who elects under Subsection (3)(c) not to be identified to the subject of the complaint.

(d) "Exempt provider" means the same as that term is defined in Section 26B-2-401.

(e) "Subject of the complaint" means the provider about whom the complainant is informing the department.

(2) The department may conduct investigations necessary to enforce the provisions of this chapter.

(3) (a) If the department receives a complaint about a program or facility or an exempt provider, the department shall:

(i) solicit information from the complainant to determine whether the complaint suggests actions or conditions that could pose a serious risk to the safety or well-being of a client;

(ii) as necessary:

(A) encourage the complainant to disclose the minimum personal identifying information necessary, including the complainant's full name, for the department to attempt to subsequently communicate with the complainant;

(B) if the complaint is against a child care program or an exempt provider, inform the complainant that the department may not investigate an anonymous complaint;

(C) if the complaint is not against a child care program or an exempt provider, inform the complainant that the department may not use information provided by the complainant to substantiate an alleged violation of state law or department rule unless the department independently corroborates the information;

(D) inform the complainant that the identity of a confidential complainant may be withheld from the subject of a complaint only as provided in Subsection (3)(c)(iii); and

(E) inform the complainant that the department may be limited in its use of information provided by a confidential complainant, as provided in Subsection (3)(c)(iii)(B); and

(iii) inform the complainant that a person is guilty of a class B misdemeanor under Section 76-8-506 if the person gives false information to the department with the purpose of inducing a change in that person's or another person's license, certificate, or certification status.

(b) [~~If the complainant elects to be an anonymous complainant~~]If the complaint concerns events that occurred more than 48 months before the day on which the complainant contacted the department, or if the complaint concerns events that occurred more than six months before the complainant contacted the department and involves a child care program, the department:

(i) shall refer the information in the complaint to the Division of Child and Family Services within the department, law enforcement, or any other appropriate agency, if the complaint suggests actions or conditions which could pose a serious risk to the safety or well-being of a client;

(ii) may not investigate or substantiate the complaint[~~ if the complaint is against a child care program or an exempt provider~~]; and

(iii) may, during a regularly scheduled annual survey, inform the provider that is the subject of the complaint of allegations or concerns raised by the anonymous complainant.

(c) (i) If the complainant elects to be a confidential complainant, the department shall determine whether the complainant wishes to remain confidential:

(A) only until the investigation of the complaint has been completed; or

(B) indefinitely.

(ii) If the complainant elects to remain confidential only until the investigation of the complaint has been completed, the department shall disclose the name of the complainant to the subject of the complaint at the completion of the investigation, but no sooner.

(iii) If the complainant elects to remain confidential indefinitely, the department:

(A) notwithstanding Subsection 63G-2-201(5)(b), may not disclose the name of the complainant, including to the subject of the complaint; and

(B) may not use information provided by the complainant to substantiate an alleged violation of state law or department rule unless the department independently corroborates the information.

(4) (a) Prior to conducting an investigation of a program or facility or an exempt provider in response to a complaint, a department investigator shall review the complaint with the investigator's supervisor.

(b) The investigator may proceed with the investigation only if:

(i) the supervisor determines the complaint is credible;

(ii) the complaint is not from an anonymous complainant and against a child care program or an exempt provider; and

(iii) prior to the investigation, the investigator informs the subject of the complaint of:

(A) except as provided in Subsection (3)(c), the name of the complainant; and

(B) except as provided in Subsection (4)(c), the substance of the complaint.

(c) An investigator is not required to inform the subject of a complaint of the substance of the complaint prior to an investigation if doing so would jeopardize the investigation. However, the investigator shall inform the subject of the complaint of the substance of the complaint as soon as doing so will no longer jeopardize the investigation.

(5) If the department is unable to substantiate a complaint, any record related to the complaint or the investigation of the complaint:

(a) shall be classified under Title 63G, Chapter 2, Government Records Access and Management Act, as:

(i) a private or controlled record if appropriate under Section 63G-2-302 or 63G-2-304; or

(ii) a protected record under Section 63G-2-305; and

(b) if disclosed in accordance with Subsection 63G-2-201(5)(b), may not identify an individual provider, exempt provider, or complainant.

(6) Any record of the department related to a complaint is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, and, notwithstanding Subsection 63G-2-201(5)(b), may not be disclosed in a manner that identifies an individual program or facility, exempt provider, provider, or complainant.

Section 13. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 64
S. B. 19
Passed February 5, 2025
Approved March 19, 2025
Effective July 1, 2025

UTAH RETIREMENT SYSTEMS AMENDMENTS FOR MILITARY PERSONNEL

Chief Sponsor: Heidi Balderree
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill modifies the vesting requirements for employer contributions made to a defined contribution plan.

Highlighted Provisions:

This bill:

- ► provides that employer nonelective contributions made on behalf of an employee to a defined contribution plan vest upon the member's termination of employment, if the member or the member's spouse is a military service member who receives permanent change of station or relocation orders outside the state;
- ► allows specified Utah National Guard personnel, including the adjutant general, to elect to be exempt from the retirement systems, allowing employer contributions to vest immediately; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-12-203, as last amended by Laws of Utah 2023, Chapter 512
49-13-203, as last amended by Laws of Utah 2023, Chapter 512
49-22-205, as last amended by Laws of Utah 2022, Chapter 171
49-22-303, as last amended by Laws of Utah 2016, Chapter 227
49-22-401, as last amended by Laws of Utah 2022, Chapter 171
49-23-302, as last amended by Laws of Utah 2019, Chapter 484
49-23-401, as last amended by Laws of Utah 2022, Chapter 171

ENACTS:

49-22-504, Utah Code Annotated 1953
49-23-505, Utah Code Annotated 1953

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

Section 1. Section 49-12-203 is amended to read:
49-12-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed on or after July 1, 2009, with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c);

(g) an employee who is employed on or after July 1, 2014, with an employer that has elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d);

(h) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

(i) an employee described in Subsection (1)(i)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b);

(j) an employee who is employed with a withdrawing entity that has elected under Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this system; or

(k) an employee who is employed with a withdrawing entity that elects under Section 49-11-626 to exclude:

(i) new employees from participation in this system under Subsection 49-11-626(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-626(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Planning and Budget;

(e) an employee of the Governor's Office of Economic Opportunity;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the Public Lands Policy Coordinating Office, created in Section 63L-11-201;

(i) an employee of the State Auditor's Office;

(j) an employee of the State Treasurer's Office;

(k) any other member who is permitted to make an election under Section 49-11-406;

(l) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to the organization's members; [~~and~~]

(n) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system[~~.~~]; and

(o) the adjutant general of the Utah National Guard appointed under Section 39A-1-201and each individual listed in Subsection 39A-1-203(1).

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 2. Section 49-13-203 is amended to read:

49-13-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement

system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed with an employer that has elected to be excluded from participation in this system under Subsection 49-13-202(5), effective on or after the date of the employer's election under Subsection 49-13-202(5);

(g) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

(h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b);

(i) an employee who is employed with a withdrawing entity that has elected under Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this system; or

(j) an employee who is employed with a withdrawing entity that elects under Section 49-11-626 to exclude:

(i) new employees from participation in this system under Subsection 49-11-626(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-626(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Planning and Budget;

(e) an employee of the Governor's Office of Economic Opportunity;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; [~~and~~]

(m) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system[~~.~~]; and

(n) the adjutant general of the Utah National Guard appointed under Section 39A-1-201and each individual listed in Subsection 39A-1-203(1).

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 3. Section 49-22-205 is amended to read:

49-22-205. Exemptions from participation in system.

(1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section:

(a) an executive department head of the state;

(b) a member of the State Tax Commission;

(c) a member of the Public Service Commission;

(d) a member of a full-time or part-time board or commission;

(e) an employee of the Governor's Office of Planning and Budget;

(f) an employee of the Governor's Office of Economic Opportunity;

(g) an employee of the Commission on Criminal and Juvenile Justice;

(h) an employee of the Governor's Office;

(i) an employee of the State Auditor's Office;

(j) an employee of the State Treasurer's Office;

(k) any other member who is permitted to make an election under Section 49-11-406;

(l) a person appointed as a city manager or appointed as a city administrator or another at-will employee of a municipality, county, or other political subdivision;

(m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; [~~and~~]

(n) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system[~~.~~]; and

(o) the adjutant general of the Utah National Guard appointed under Section 39A-1-201and each individual listed in Subsection 39A-1-203(1).

(2) (a) A participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (1).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).

(3) (a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(4) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update an employee exemption in the event of any change.

(5) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):

(a) for a member of the Tier II defined contribution plan:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the nonelective contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(iii) the member is not eligible for additional service credit in the plan for the period of exempt employment; and

(b) for a member of the Tier II hybrid retirement system:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(iii) the member is not eligible for additional service credit in the system for the period of exempt employment.

(6) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection (5)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

(7) (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-22-303(3)(a) or 49-22-401(4)(a) until the one-year election period under Subsection 49-22-201(2)(c) is expired if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) continues employment with the participating employer through the one-year election period under Subsection 49-22-201(2)(c).

(b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) terminates employment prior to the one-year election period under Subsection 49-22-201(2)(c).

(8) (a) The office shall make rules to implement this section.

(b) The rules made under this Subsection (8) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.

(9) An employee's exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 4. Section 49-22-303 is amended to read:

49-22-303. Defined contribution benefit established -- Contribution by employer and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of plans.

(1) (a) A participating employer shall make a nonelective contribution on behalf of each regular full-time employee who is a member of this system in an amount equal to 10% minus the contribution rate paid by the employer under Subsection 49-22-301(2)(a) of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (1); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(2) (a) [~~The~~]Except as provided in Sections 49-22-503 and 49-23-504, the total amount contributed by the participating employer under Subsection (1)(a), including associated investment gains and losses, vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (1)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) (i) Years of service credit under Subsection (2)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

(3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (2)(a).

(b) A member may direct the investment of contributions made by a participating employer under Subsection (1)(a) only after the contributions have vested in accordance with Subsection (2)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (1)(b).

(4) No loans shall be available from contributions made by a participating employer under Subsection (1)(a).

(5) No hardship distributions shall be available from contributions made by a participating employer under Subsection (1)(a).

(6) (a) Except as provided in Subsection (6)(b) and Section 49-22-205, if a member terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a), all contributions, including associated investment gains and losses, made by a participating employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (2)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.

(7) The office may request from any other qualified 401(k) plan under Subsection (1) or (2)any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(8) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 5. Section 49-22-401 is amended to read:

49-22-401. Contributions -- Rates.

(1) Up to the amount allowed by federal law, the participating employer shall make a nonelective contribution of 10% of the participant's compensation to a defined contribution plan.

(2) (a) The participating employer shall contribute the 10% nonelective contribution described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code that:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan that receives the employer contribution described in this Subsection (2); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) Except as provided under Sections 49-22-503 and 49-23-504 and Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a)vests to the member upon accruing four years of employment as a regular full-time employee under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) (i) Upon filing a written request for exemption with the office, an eligible employee is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section 49-22-205.

(ii) An employee who is exempt under this Subsection (3)(c) is not eligible for additional service credit in the plan for the period of

exempt employment.

(d) (i) Years of employment under Subsection (3)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of employment required for vesting.

(4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

(b) A member may direct the investment of contributions including associated investment gains and losses made by a participating employer under Subsection (2)(a)only after the contributions have vested in accordance with Subsection (3)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (3)(b).

(5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).

(6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).

(7) (a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member including associated investment gains and losses under Subsection (2)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member including associated investment gains and losses shall be reinstated upon the member's employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.

(8) The office may request from any other plan under Subsection (2)(b)(ii) any relevant information pertaining to the maintenance of the plan's tax qualification under the Internal Revenue Code.

(9) The office may take any action that in the office's judgment is necessary to maintain the tax-qualified status of the office's 401(k) defined contribution plan under federal law.

Section 6. Section 49-22-504 is enacted to read:

49-22-504. Exemption from vesting requirements for military service members and spouses with orders outside the state.

(1) As used in this section, "service member" means the same as that term is defined in Section 71A-1-101.

(2) Employer nonelective contributions made on a member's behalf to a defined contribution plan under Section 49-22-303 or 49-22-401 are exempt from the vesting requirements of Subsections 49-22-303(2)(a) and 49-22-401(3)(a) if:

(a) the member or the member's lawful spouse is a service member;

(b) before the employer nonelective contributions vest in accordance with Subsection 49-22-303(2)(a) or 49-22-401(3)(a), the member or the member's spouse receives permanent change of station or relocation orders outside the state;

(c) the member has a bona fide termination of employment with all participating employers; and

(d) the member applies in writing to the office requesting an exemption under this section.

(3) After the office receives a written application under this section and determines the member satisfies the conditions described in Subsection (2), the total amount of employer nonelective contributions made on a member's behalf vest to the member.

Section 7. Section 49-23-302 is amended to read:

49-23-302. Defined contribution benefit established -- Contribution by employer and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of plans.

(1) (a) A participating employer shall make a nonelective contribution on behalf of each public safety service employee or firefighter service employee who is a member of this system in an amount equal to 14% minus the contribution rate paid by the employer under Subsection 49-23-301(2)(a) of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (1); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(2) (a) [~~The~~]Except as provided in Sections 49-22-504 and 49-23-505, the total amount contributed by the participating employer under Subsection (1)(a), including associated investment gains and losses, vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (1)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) (i) Years of service credit under Subsection (2)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

(3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (2)(a).

(b) A member may direct the investment of contributions made by a participating employer under Subsection (1)(a) only after the contributions have vested in accordance with Subsection (2)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (1)(b).

(4) No loans shall be available from contributions made by a participating employer under Subsection (1)(a).

(5) No hardship distributions shall be available from contributions made by a participating employer under Subsection (1)(a).

(6) (a) Except as provided in Subsection (6)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a), all contributions, including associated investment gains and losses, made by a participating employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (2)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.

(7) The office may request from any other qualified 401(k) plan under Subsection (1) or (2)any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(8) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 8. Section 49-23-401 is amended to read:

49-23-401. Contributions -- Rates.

(1) (a) Up to the amount allowed by federal law, the participating employer shall make a nonelective contribution of 14% of the participant's compensation to a defined contribution plan.

(b) In addition to the nonelective contribution described in Subsection (1)(a), if a participating employer elects under Subsection 49-23-301(2)(c) to pay all or part of the required member contribution on behalf of the participating employer's employees that are members covered under Part 3, Tier II Hybrid Retirement System, the participating employer shall make an additional nonelective contribution to an employee that is a member covered under this part at the same percentage rate of the participant's compensation as the participating employer's election to pay required member contributions on behalf of the participating employer's employees that are members covered under Part 3, Tier II Hybrid Retirement System.

(2) (a) The participating employer shall contribute the contributions described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code that:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan that receives the employer contribution described in this Subsection (2); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(c) In addition to the contributions specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) Except as provided under Sections 49-22-504 and 49-23-505 and Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) (i) Upon filing a written request for exemption with the office, an eligible employee is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section 49-23-203.

(ii) An employee who is exempt under this Subsection (3)(c) is not eligible for additional service credit in the plan for the period of exempt employment.

(d) (i) Years of service credit under Subsection (3)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

(4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

(b) A member may direct the investment of contributions, including associated investment gains and losses, made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (3)(b).

(5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).

(6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).

(7) (a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member under Subsection (2)(a), including associated investment gains and losses are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs of employer contributions made under this section.

(8) The office may request from any other plan under Subsection (2)(b)(ii) any relevant information pertaining to the maintenance of the plan's tax qualification under the Internal Revenue Code.

(9) The office may take any action that in the office's judgment is necessary to maintain the tax-qualified status of the office's 401(k) defined contribution plan under federal law.

Section 9. Section 49-23-505 is enacted to read:

49-23-505. Exemption from vesting requirements for military service members and spouses with orders outside the state.

(1) As used in this section, "service member" means the same as that term is defined in Section 71A-1-101.

(2) Employer nonelective contributions made on a member's behalf to a defined contribution plan under Section 49-22-303 or 49-22-401 are exempt from the vesting requirements of Subsections 49-22-303(2)(a) and 49-22-401(3)(a) if:

(a) the member or the member's lawful spouse is a service member;

(b) before the employer nonelective contributions vest in accordance with Subsection 49-22-303(2)(a) or 49-22-401(3)(a), the member or the member's spouse receives permanent change of station or relocation orders outside the state;

(c) the member has a bona fide termination of employment with all participating employers; and

(d) the member applies in writing to the office requesting an exemption under this section.

(3) After the office receives a written application under this section and determines the member satisfies the conditions described in Subsection (2), the total amount of employer nonelective contributions made on a member's behalf vest to the member.

Section 10. Effective date.

This bill takes effect on July 1, 2025.

CHAPTER 65
S. B. 21
Passed February 13, 2025
Approved March 19, 2025
Effective July 1, 2025

LONG-TERM DISABILITY AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Cheryl K. Acton

LONG TITLE

General Description:

This bill modifies provisions related to public employee long-term disability benefits.

Highlighted Provisions:

This bill:

- ► modifies the definition of objective medical impairment for purposes of the Public Employees' Long-Term Disability Act;
- ► amends provisions related to the application for and determination of long-term disability benefits;
- ► clarifies which employees are eligible for a disability benefit for a total disability due to a mental objective medical impairment through June 30, 2026;
- ► modifies the exclusions for monthly disability benefits;
- ► directs the Public Employees' Long-Term Disability program to administer the existing basic long-term benefit for volunteer emergency medical services personnel; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-21-102, as last amended by Laws of Utah 2023, Chapter 274
49-21-401, as last amended by Laws of Utah 2023, Chapter 274
49-21-403, as last amended by Laws of Utah 2016, Chapter 227
49-21-405, as renumbered and amended by Laws of Utah 2002, Chapter 250

ENACTS:

49-21-410, Utah Code Annotated 1953

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

Section 1. Section 49-21-102 is amended to read:
49-21-102. Definitions.

As used in this chapter:

(1) "Date of disability" means the date on which a period of total disability begins, and may not begin on or before the last day of performing full-duty work in the eligible employee's regular occupation.

(2) (a) "Eligible employee" means any of the following employees whose employer provides coverage under this chapter:

(i) (A) any regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102;

(B) any public safety service employee as defined under Section 49-14-102, 49-15-102, or 49-23-102;

(C) any firefighter service employee or volunteer firefighter as defined under Section 49-23-102 who began firefighter service on or after July 1, 2011;

(D) any judge as defined under Section 49-17-102 or 49-18-102; or

(E) the governor of the state;

(ii) an employee who is exempt from participating in a retirement system under Subsection 49-12-203(4), 49-13-203(4), 49-14-203(1), or 49-15-203(1); and

(iii) an employee who is covered by a retirement program offered by a public or private system, organization, or company designated by the Utah Board of Higher Education.

(b) "Eligible employee" does not include:

(i) any employee that is exempt from coverage under Section 49-21-201; or

(ii) a retiree.

(3) "Elimination period" means the three months at the beginning of each continuous period of total disability for which no benefit will be paid. The elimination period begins on the nearest first day of the month from the date of disability. The elimination period may include a one-time trial return to work period of less than 15 consecutive calendar days.

(4) (a) "Gainful employment" means any occupation or employment position in the state that:

(i) contemplates continued employment during a fiscal or calendar year; and

(ii) would pay an amount equal to or greater than 40 hours per week at the legally required minimum wage, regardless of the number of hours worked.

(b) "Gainful employment" does not mean that an occupation or employment position in the state is:

(i) available within any geographic boundaries of the state;

(ii) offered at a certain level of wages;

(iii) available at a particular number of hours per week; or

(iv) currently available.

(5) "Maximum benefit period" means the maximum period of time the monthly disability income benefit will be paid under Section 49-21-403 for any continuous period of total disability.

(6) "Monthly disability benefit" means the monthly payments and accrual of service credit under Section 49-21-401.

(7) "Objective medical impairment" means an impairment [~~resulting~~]that:

(a) is diagnosed by a physician based on accepted objective medical tests or findings rather than subjective complaints; and

(b) resulted from an injury or illness that is diagnosed by a physician [~~and that is~~]based on accepted objective medical tests or findings rather than subjective complaints.

(8) "Ongoing disability" means, after the elimination period and the first 24 months of disability benefits, the complete inability due to objective medical impairment, as determined under Subsection 49-21-401(9), to engage in any gainful employment which is reasonable, considering the eligible employee's education, training, and experience.

(9) "Own occupation disability" means the complete inability, due to objective medical impairment, whether physical or mental, to engage in the eligible employee's regular occupation during the elimination period and the first 24 months of disability benefits.

(10) "Physician" means a licensed physician.

(11) "Pilot period" means the period beginning on July 1, 2023, and ending on June 30, 2026.

(12) "Regular monthly salary" means the amount certified by the participating employer as the monthly salary of the eligible employee, unless there is a discrepancy between the certified amount and the amount actually paid, in which case the office shall determine the regular monthly salary.

(13) "Regular occupation" means either:

(a) the primary duties performed by the eligible employee for the 12 months preceding the date of disability; or

(b) a permanent assignment of duty to the eligible employee, as long as the eligible employee has actually performed all the required duties of the permanent assignment of duty.

(14) "Rehabilitative employment" means any occupation or employment for wage or profit, for which the eligible employee is reasonably qualified to perform based on education, training, or experience.

(15) "Total disability" means:

(a) own occupation disability; or

(b) ongoing disability.

(16) (a) "Workers' compensation indemnity benefits" means benefits provided that are designed to replace wages under Title 34A, Chapter 2, Part 4, Compensation and Benefits, including wage replacement for a temporary disability, temporary partial disability, permanent partial disability, or permanent total disability.

(b) "Workers' compensation indemnity benefits" includes a settlement amount following a claim for indemnity benefits.

Section 2. Section 49-21-401 is amended to read:

49-21-401. Disability benefits -- Application -- Eligibility.

(1) An eligible employee shall apply for long-term disability benefits under this chapter by:

(a) completing an application form prepared by the office;

(b) signing a consent form allowing the office access to the eligible employee's medical records; and

(c) providing any documentation or information reasonably requested by the office.

(2) (a) If an eligible employee is unable to apply on the employee's own behalf, the application may be made by a person who is:

(i) the attorney for an eligible employee; or

(ii) appointed as a conservator or guardian of the eligible employee.

(b) A person described in Subsection (2)(a), may not make an application for a deceased employee.

(3) Upon request by the office, the participating employer of the eligible employee shall provide to the office documentation and information concerning the eligible employee.

(4) (a) [~~The~~]Upon receipt of the items described in Subsection (1) and any documentation or information the office requests under Subsection (3), the office:

[~~(a)~~](i) shall review all relevant information;

[~~(b)~~](ii) may request additional information; and

[~~(c)~~](iii) shall determine whether [~~or not~~]the eligible employee has a total disability.

(b) In evaluating any claim for disability benefits, the office shall:

(i) determine whether the eligible employee has a total disability as of the date the office makes the determination; and

(ii) consider only objective medical impairment that the office determines as a disabling condition on the date of disability.

(5) (a) If the office determines that the eligible employee has a total disability due to accidental bodily injury or illness that is not the result of the performance of an employment duty, the eligible employee shall receive a monthly disability benefit equal to:

(i) two-thirds of the eligible employee's regular monthly salary, for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period; minus

(ii) any required reductions or reimbursements under Section 49-21-402.

[~~(b) For an eligible employee under an own occupation disability, the office shall, at the end of the two-year disability period or when a claim for total disability is made by an eligible employee:~~]

[~~(i) review and determine whether the eligible employee qualifies for ongoing disability benefits;~~]

[~~(ii) make the determination under Subsection (5)(b)(i) as of the day after the eligible employee's own occupation disability benefits end;~~]

[~~(iii) consider only objective medical impairment that the office determines as a disabling condition on the date of disability; and~~]

[~~(iv) exclude any new intervening causes or new diagnoses during the own occupation disability period.~~]

(b) For an eligible employee receiving own occupation disability benefits, if the office reviews the eligible employee's claim for own occupation disability benefits, the office may not consider any condition unrelated to the condition the office relied upon in awarding the own occupation disability benefits, including any new intervening cause or new diagnosis during the own occupation disability period.

(6) (a) At the end of the 24-month own occupation disability period or when the eligible employee makes a claim for ongoing disability, the office shall evaluate the eligible employee's eligibility for ongoing disability benefits.

(b) An eligible employee shall receive a monthly disability benefit equal to 100% of the eligible employee's regular monthly salary for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period, but reduced by any required reductions and reimbursements under Section 49-21-402, if the office determines that the employee meets all of the following:

(i) the eligible employee has a total disability:

(A) during the pilot period, due to a physical objective medical impairment or a mental objective medical impairment; or

(B) except as provided in Subsection [~~(6)(b)~~](6)(c), after the pilot period, due to a physical objective medical impairment;

(ii) the objective medical impairment described in Subsection [~~(6)(a)(i)~~](6)(b)(i)resulted from physical, external force or violence to the body of the eligible employee in the performance of an employment duty; and

(iii) the eligible employee received workers' compensation indemnity benefits for the objective medical impairment described in Subsection [~~(6)(a)(i)~~](6)(b)(i).

[~~(b)~~](c) If an eligible employee qualifies for a total disability during the pilot period, the office shall determine whether the employee has a total disability after the pilot period due to a physical objective medical impairment or a mental objective medical impairment.

[~~(c)~~](d) An eligible employee who receives workers' compensation indemnity benefits for an objective medical impairment is not guaranteed to receive the 100% monthly disability benefit described in Subsection [~~(6)(a)~~](6)(b).

(e) An eligible employee may receive a disability benefit for a total disability due to a mental objective medical impairment in accordance with this subsection only if the eligible employee is a state employee or an employee of a participating employer who has not opted out of providing a disability benefit for a total disability due to a mental objective medical impairment.

(7) (a) Successive periods of disability are considered as a continuous period of disability if the period of disability:

(i) results from the same or related causes;

(ii) is separated by less than six months of continuous full-time work at the individual's usual place of employment; and

(iii) commences while the individual is an eligible employee covered by this chapter.

(b) The inability to work for a period of less than 15 consecutive calendar days is not considered as a period of disability.

(c) If Subsection (7)(a) or (b) does not apply, successive periods of disability are considered as separate periods of disability.

(8) The office may, at any time, have any eligible employee claiming to have a disability examined by a physician chosen by the office [~~to determine if~~]for purposes of the office's review and determination of whether the eligible employee has, or continues to have, a total disability.

(9) (a) For purposes of determining whether an eligible employee has an ongoing disability, inability is determined:

(i) during the pilot period, due to physical objective medical impairment or mental objective medical impairment; or

(ii) except as provided in Subsection (9)(b), after the pilot period, due to a physical objective medical impairment.

(b) If an eligible employee has a total disability during the pilot period, the office shall determine whether the employee has an ongoing disability after the pilot period due to a physical objective medical impairment or a mental objective medical impairment.

(10) A claim brought by an eligible employee for long-term disability benefits under the Public Employee's Long-Term Disability Program is barred if it is not commenced within six months from the eligible employee's date of disability, unless the office determines that under the surrounding facts and circumstances, the eligible employee's failure to comply with the time limitations was reasonable.

(11) (a) If the office denies or terminates a claim for long-term disability benefits, the eligible employee shall have the right to appeal the denial or termination:

(i) to the executive director of the office within 60 days after the day of the denial or termination of long-term disability benefits; and

(ii) in accordance with Section 49-11-613.

(b) An appeal of a denial or termination of long-term disability benefits described in Subsection (11)(a) is barred if it is not commenced within the time limit described in Subsection (11)(a).

(12) Medical or psychiatric conditions that existed before eligibility may not be a basis for disability benefits until the eligible employee has had one year of continuous eligibility in the Public Employees Long-Term Disability Program.

(13) If there is a valid benefit protection contract, service credit shall accrue during the period of total disability, unless the disabled eligible employee is:

(a) exempted from a system;

(b) eligible to retire with an unreduced retirement allowance; or

(c) otherwise ineligible for service credit.

(14) Regardless of any medical evidence provided by the employee to support the application for disability, an employee is not eligible for long-term disability benefits during any period in which the employee:

(a) makes a claim that the employee is able to work; or

(b) has a pending action in a court or before any federal, state, or local administrative body in which the employee has made a claim that the employee is able to work.

(15) Notwithstanding the provisions of Section 49-11-618, upon written request by an employer, information obtained under this part

may, upon an order of a court or an administrative law judge, be released to an employer who is a party in an action under Subsection (14).

(16) On or after May 1, 2025, but on or before November 1, 2025, the office shall provide a written electronic report to the Retirement and Independent Entities Committee regarding the costs and benefits of the changes to the disability benefits during the pilot period.

Section 3. Section 49-21-403 is amended to read:

49-21-403. Termination of disability benefits -- Calculation of retirement benefit.

(1) An eligible employee covered by this chapter and eligible for service credit under a system or plan, including an eligible employee who relinquishes rights to retirement benefits under Section 49-11-619, who applies and is qualified for a monthly disability benefit shall receive a monthly disability benefit until the earlier of:

(a) the date of the eligible employee's death;

(b) the date the eligible employee no longer has a total disability;

(c) the date the eligible employee has accumulated or would have accumulated, if the employee had not chosen the Title 49, Chapter 22, Part 4, Tier II Defined Contribution Plan, Title 49, Chapter 23, Part 4, Tier II Defined Contribution Plan, been a volunteer firefighter, or exempted from a retirement system or plan:

(i) 20 years of service credit if the eligible employee is covered by Chapter 14, Public Safety Contributory Retirement Act, or Chapter 15, Public Safety Noncontributory Retirement Act;

(ii) 25 years of service credit if the eligible employee is covered by Chapter 17, Judges' Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act;

(iii) 30 years of service credit if the eligible employee is covered by Chapter 12, Public Employees' Contributory Retirement Act, or Chapter 13, Public Employees' Noncontributory Retirement Act;

(iv) 35 years of service credit if the eligible employee is covered by the defined benefit portion under Chapter 22, Part 3, Tier II Hybrid Retirement System, or is covered by the defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(v) 25 years of service credit if the eligible employee is covered by the defined benefit portion under Chapter 23, Part 3, Tier II Hybrid Retirement System, or is covered by the defined contribution plan under Chapter 23, Part 4, Tier II Defined Contribution Plan;

(d) the date the eligible employee has received a monthly disability benefit for the following applicable time periods:

(i) if the eligible employee is under age 60, the monthly disability benefit is payable until age 65;

(ii) if the eligible employee is 60 or 61 years of age on the date of disability, the monthly disability benefit is payable for five years;

(iii) if the eligible employee is 62 or 63 years of age on the date of disability, the monthly disability benefit is payable for four years;

(iv) if the eligible employee is 64 or 65 years of age on the date of disability, the monthly disability benefit is payable for three years;

(v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the monthly disability benefit is payable for two years; and

(vi) if the eligible employee is 69 years of age or older on the date of disability, the monthly disability benefit is payable for one year; or

(e) the eligible employee's retirement date, set when the eligible employee retires from a system or from the Utah Governors' and Legislators' Retirement Plan.

(2) (a) Upon termination of a monthly disability benefit, an eligible employee eligible for service credit under a system may retire under the requirements of the system which covered the eligible employee on the date of disability.

(b) The final average salary used in the calculation of the allowance shall be based on the annual rate of pay on the date of disability, improved by the annual cost-of-living increase factor applied to retirees of the system which covered the eligible employee on the date of disability.

(3) An eligible employee who is eligible for service credit in a system, but has relinquished rights to an allowance under Section 49-11-619, may receive the benefits the eligible employee would have received by being eligible for service credit in the system covering the eligible employee on the date of disability, except for the accrual of service credit, in accordance with this title.

(4) An eligible employee receiving a monthly disability benefit who has service credit from two or more systems may not combine service credits under Section 49-11-405 in qualifying for retirement, unless the eligible employee would receive a greater allowance by combining the service credits.

(5) An eligible employee covered by this chapter who is a participant in the Tier II Defined Contribution Plan, created in Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution Plan, who applies and is qualified for a monthly disability benefit, shall receive a monthly disability benefit until the earlier of:

(a) the date of the eligible employee's death;

(b) the date the eligible employee no longer has a disability;

(c) (i) 35 years from the date the eligible employee began participation in the Tier II Defined Contribution Plan, created in Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(ii) 25 years from the date the eligible employee began participation in the Tier II Defined Contribution Plan created in Chapter 23, Part 4, Tier II Defined Contribution Plan; or

(d) the date the eligible employee has received a monthly disability benefit for the following applicable time periods:

(i) if the eligible employee is under age 60, the monthly disability benefit is payable until age 65;

(ii) if the eligible employee is 60 or 61 years of age on the date of disability, the monthly disability benefit is payable for five years;

(iii) if the eligible employee is 62 or 63 years of age on the date of disability, the monthly disability benefit is payable for four years;

(iv) if the eligible employee is 64 or 65 years of age on the date of disability, the monthly disability benefit is payable for three years;

(v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the monthly disability benefit is payable for two years; and

(vi) if the eligible employee is 69 years of age or older on the date of disability, the monthly disability benefit is payable for one year.

Section 4. Section 49-21-405 is amended to read:

49-21-405. Disability benefit -- Exclusions.

A monthly disability benefit is not payable for [~~the following~~]a total disability proximately caused by:

(1) self-inflicted injury;

(2) [~~alcoholism~~]abuse or misuse of any substance, including alcohol;

(3) [~~substance abuse~~]illicit drug use;

(4) [~~disability arising from or caused by acts~~]an act of aggression committed by the eligible employee; or

(5) the eligible [~~employee committing or attempting to commit~~]employee's commission or attempted commission of a felony or other illegal act.

Section 5. Section 49-21-410 is enacted to read:

49-21-410. Basic long-term disability benefit for volunteer emergency medical service personnel.

The program shall administer a basic long-term disability benefit, as defined in Section 53-2d-703, for volunteer emergency medical service personnel as provided in Section 53-2d-703.

Section 6. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 66
S. B. 22
Passed March 6, 2025
Approved March 19, 2025
Effective March 19, 2025

STATE EMPLOYEE BENEFIT AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Cheryl K. Acton

LONG TITLE

General Description:

This bill modifies provisions related to public employee benefits.

Highlighted Provisions:

This bill:

- ► modifies the definition of gainful employment for purposes of the Public Employees' Long-Term Disability Act;
- ► includes pay for time that exceeds an eligible employee's regular schedule in the calculation of the eligible employee's regular monthly salary;
- ► establishes a death benefit for employees receiving long-term disability benefits;
- ► makes life assistance counseling that the Utah State Retirement Office offers available to employees receiving long-term disability benefits;
- ► increases the state-paid basic life insurance benefit for state employees;
- ► creates additional state-paid basic life insurance benefit tiers for exempt state employees; and
- ► directs savings from a reduction in long-term disability premium rates be used to pay for the cost of the changes in this bill.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-11-609, as last amended by Laws of Utah 2020, Chapter 24
49-21-102, as last amended by Laws of Utah 2023, Chapter 274
49-21-401, as last amended by Laws of Utah 2023, Chapter 274

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 49-11-609 is amended to read:

49-11-609. Beneficiary designations -- Revocation of beneficiary designation -- Procedure -- Beneficiary not designated -- Payment to survivors in order established under the Uniform Probate Code -- Restrictions on payment -- Payment of deceased's expenses.

(1) As used in this section, "member" includes a member, retiree, participant, covered individual, eligible employee as defined in Section 49-21-102,a spouse of a retiree participating in the insurance benefits created by Sections 49-12-404, 49-13-404, 49-22-307, and 49-23-306, or an alternate payee under a domestic relations order dividing a defined contribution account.

(2) (a) Except as provided under Subsection (2)(b) or (c), the most recent beneficiary designations signed by the member and filed with the office, including electronic records, at the time of the member's death are binding in the payment of any benefits due under this title.

(b) (i) The divorce or annulment of a member's marriage shall revoke the member's former spouse as a beneficiary from any of the member's beneficiary designations.

(ii) A revocation of a former spouse as a beneficiary in accordance with Subsection (2)(b)(i) does not revoke any other beneficiaries named on the member's beneficiary designations.

(c) A former spouse whose beneficiary designation is revoked solely under Subsection (2)(b) shall be revived on the member's beneficiary designations by:

(i) the member's remarriage to the former spouse; or

(ii) a nullification of the divorce or annulment.

(d) A revocation under Subsection (2)(b) does not apply to a former spouse named as a beneficiary in a beneficiary designation signed by the member and filed with the office after the date of the divorce or annulment.

(e) The office is not liable for having made a payment of any benefits to a beneficiary designated in a beneficiary designation affected by a divorce, annulment, or remarriage before the office received written notice of the divorce, annulment, or remarriage.

(3) (a) Except where an optional continuing benefit is chosen, or the law makes a specific benefit designation to a dependent spouse, a member may revoke a beneficiary designation at any time and may execute and file a different beneficiary designation with the office.

(b) A beneficiary designation or change of beneficiary designation shall be completed on forms provided by the office.

(4) (a) All benefits payable by the office may be paid or applied to the benefit of the decedent's heirs in the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills, if:

(i) no beneficiary is designated or if all designated beneficiaries have predeceased the member;

(ii) the location of the beneficiary or secondary beneficiaries cannot be ascertained by the office within 12 months of the date a reasonable attempt is made by the office to locate the beneficiaries; or

(iii) the beneficiary has not completed the forms necessary to pay the benefits within six months of the date that beneficiary forms are sent to the beneficiary's last-known address.

(b) (i) A payment may not be made to a person included in any of the groups referred to in Subsection (4)(a) if at the date of payment there is a living person in any of the groups preceding it.

(ii) Payment to a person in any group may be based upon receipt of an affidavit in a form satisfactory to the office that:

(A) there are no living individuals in the group preceding it;

(B) the probate of the estate of the deceased has not been commenced; and

(C) more than 30 days have elapsed since the date of death of the decedent.

(5) Benefits paid under this section shall be:

(a) a full satisfaction and discharge of all claims for benefits under this title; and

(b) payable by reason of the death of the decedent.

Section 2. Section 49-21-102 is amended to read:

49-21-102. Definitions.

As used in this chapter:

(1) "Date of disability" means the date on which a period of total disability begins, and may not begin on or before the last day of performing full-duty work in the eligible employee's regular occupation.

(2) (a) "Eligible employee" means any of the following employees whose employer provides coverage under this chapter:

(i) (A) any regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102;

(B) any public safety service employee as defined under Section 49-14-102, 49-15-102, or 49-23-102;

(C) any firefighter service employee or volunteer firefighter as defined under Section 49-23-102 who began firefighter service on or after July 1, 2011;

(D) any judge as defined under Section 49-17-102 or 49-18-102; or

(E) the governor of the state;

(ii) an employee who is exempt from participating in a retirement system under Subsection 49-12-203(4), 49-13-203(4), 49-14-203(1), or 49-15-203(1); and

(iii) an employee who is covered by a retirement program offered by a public or private system, organization, or company designated by the Utah Board of Higher Education.

(b) "Eligible employee" does not include:

(i) any employee that is exempt from coverage under Section 49-21-201; or

(ii) a retiree.

(3) "Elimination period" means the three months at the beginning of each continuous period of total disability for which no benefit will be paid. The elimination period begins on the nearest first day of the month from the date of disability. The elimination period may include a one-time trial return to work period of less than 15 consecutive calendar days.

(4) (a) "Gainful employment" means any occupation or employment position in the state that:

(i) contemplates continued employment during a fiscal or calendar year; and

(ii) would pay an amount equal to or greater than 40 hours per week at [~~the legally required minimum wage~~]60% of the eligible employee's regular monthly salary, regardless of the number of hours worked.

(b) "Gainful employment" does not mean that an occupation or employment position in the state is:

(i) available within any geographic boundaries of the state;

(ii) offered at a certain level of wages;

(iii) available at a particular number of hours per week; or

(iv) currently available.

(5) "Maximum benefit period" means the maximum period of time the monthly disability income benefit will be paid under Section 49-21-403 for any continuous period of total disability.

(6) "Monthly compensation" means:

(a) the amount an eligible employee's participating employer certifies under Section 49-11-603; plus

(b) if not included in the amount described in Subsection (6)(a), the eligible employee's monthly compensation for the average number of hours the eligible employee demonstrates the eligible employee worked per week during the preceding 12-month period that exceeded the eligible employee's regular weekly schedule, up to 10 hours per week, calculated at the eligible employee's base rate of pay.

[~~(6)~~](7) "Monthly disability benefit" means the monthly payments and accrual of service credit under Section 49-21-401.

[~~(7)~~](8) "Objective medical impairment" means an impairment resulting from an injury or illness that is diagnosed by a physician and that is based on accepted objective medical tests or findings rather than subjective complaints.

[~~(8)~~](9) "Ongoing disability" means, after the elimination period and the first 24 months of disability benefits, the complete inability due to objective medical impairment, as determined under Subsection 49-21-401(9), to engage in any gainful employment which is reasonable, considering the eligible employee's education, training, and experience.

[~~(9)~~](10) "Own occupation disability" means the complete inability, due to objective medical impairment, whether physical or mental, to engage in the eligible employee's regular occupation during the elimination period and the first 24 months of disability benefits.

[~~(10)~~](11) "Physician" means a licensed physician.

[~~(11)~~](12) "Pilot period" means the period beginning on July 1, 2023, and ending on June 30, 2026.

[~~(12)~~](13) "Regular monthly salary" means the amount certified by the participating employer as the eligible employee's monthly [~~salary of the eligible employee~~]compensation, unless there is a discrepancy between the certified amount and the amount actually paid, in which case the office shall determine the regular monthly salary.

[~~(13)~~](14) "Regular occupation" means either:

(a) the primary duties performed by the eligible employee for the 12 months preceding the date of disability; or

(b) a permanent assignment of duty to the eligible employee, as long as the eligible employee has actually performed all the required duties of the permanent assignment of duty.

[~~(14)~~](15) "Rehabilitative employment" means any occupation or employment for wage or profit, for which the eligible employee is reasonably qualified to perform based on education, training, or experience.

[~~(15)~~](16) "Total disability" means:

(a) own occupation disability; or

(b) ongoing disability.

[~~(16)~~](17) (a) "Workers' compensation indemnity benefits" means benefits provided that are designed to replace wages under Title 34A, Chapter 2, Part 4, Compensation and Benefits, including wage replacement for a temporary disability, temporary partial disability, permanent partial disability, or permanent total disability.

(b) "Workers' compensation indemnity benefits" includes a settlement amount following a claim for indemnity benefits.

Section 3. Section 49-21-401 is amended to read:

49-21-401. Disability benefits -- Application -- Eligibility.

(1) An eligible employee shall apply for long-term disability benefits under this chapter by:

(a) completing an application form prepared by the office;

(b) signing a consent form allowing the office access to the eligible employee's medical records; and

(c) providing any documentation or information reasonably requested by the office.

(2) (a) If an eligible employee is unable to apply on the employee's own behalf, the application may be made by a person who is:

(i) the attorney for an eligible employee; or

(ii) appointed as a conservator or guardian of the eligible employee.

(b) A person described in Subsection (2)(a), may not make an application for a deceased employee.

(3) Upon request by the office, the participating employer of the eligible employee shall provide to the office documentation and information concerning the eligible employee.

(4) The office:

(a) shall review all relevant information;

(b) may request additional information; and

(c) shall determine whether or not the eligible employee has a total disability.

(5) (a) If the office determines that the eligible employee has a total disability due to accidental bodily injury or illness that is not the result of the performance of an employment duty, the eligible employee shall receive a monthly disability benefit equal to:

(i) two-thirds of the eligible employee's regular monthly salary, for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period; minus

(ii) any required reductions or reimbursements under Section 49-21-402.

(b) For an eligible employee under an own occupation disability, the office shall, at the end of the two-year disability period or when a claim for total disability is made by an eligible employee:

(i) review and determine whether the eligible employee qualifies for ongoing disability benefits;

(ii) make the determination under Subsection (5)(b)(i) as of the day after the eligible employee's own occupation disability benefits end;

(iii) consider only objective medical impairment that the office determines as a disabling condition on the date of disability; and

(iv) exclude any new intervening causes or new diagnoses during the own occupation disability period.

(6) (a) An eligible employee shall receive a monthly disability benefit equal to 100% of the eligible employee's regular monthly salary for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period, but reduced by any required reductions and reimbursements under Section 49-21-402, if the office determines that the employee meets all of the following:

(i) the eligible employee has a total disability:

(A) during the pilot period, due to a physical objective medical impairment or a mental objective medical impairment; or

(B) except as provided in Subsection (6)(b), after the pilot period, due to a physical objective medical impairment;

(ii) the objective medical impairment described in Subsection (6)(a)(i) resulted from physical, external force or violence to the body of the eligible employee in the performance of an employment duty; and

(iii) the eligible employee received workers' compensation indemnity benefits for the objective medical impairment described in Subsection (6)(a)(i).

(b) If an eligible employee qualifies for a total disability during the pilot period, the office shall determine whether the employee has a total disability after the pilot period due to a physical objective medical impairment or a mental objective medical impairment.

(c) An eligible employee who receives workers' compensation indemnity benefits for an objective medical impairment is not guaranteed to receive the 100% monthly disability benefit described in Subsection (6)(a).

(7) (a) Successive periods of disability are considered as a continuous period of disability if the period of disability:

(i) results from the same or related causes;

(ii) is separated by less than six months of continuous full-time work at the individual's usual place of employment; and

(iii) commences while the individual is an eligible employee covered by this chapter.

(b) The inability to work for a period of less than 15 consecutive calendar days is not considered as a period of disability.

(c) If Subsection (7)(a) or (b) does not apply, successive periods of disability are considered as separate periods of disability.

(8) The office may, at any time, have any eligible employee claiming to have a disability examined by a physician chosen by the office to determine if the eligible employee has a total disability.

(9) (a) For purposes of determining whether an eligible employee has an ongoing disability, inability is determined:

(i) during the pilot period, due to physical objective medical impairment or mental objective medical impairment; or

(ii) except as provided in Subsection (9)(b), after the pilot period, due to a physical objective medical impairment.

(b) If an eligible employee has a total disability during the pilot period, the office shall determine whether the employee has an ongoing disability after the pilot period due to a physical objective medical impairment or a mental objective medical impairment.

(10) A claim brought by an eligible employee for long-term disability benefits under the Public Employee's Long-Term Disability Program is barred if it is not commenced within six months from the eligible employee's date of disability, unless the office determines that under the surrounding facts and circumstances, the eligible employee's failure to comply with the time limitations was reasonable.

(11) (a) If the office denies or terminates a claim for long-term disability benefits, the eligible employee shall have the right to appeal the denial or termination:

(i) to the executive director of the office within 60 days after the day of the denial or termination of long-term disability benefits; and

(ii) in accordance with Section 49-11-613.

(b) An appeal of a denial or termination of long-term disability benefits described in Subsection (11)(a) is barred if it is not commenced within the time limit described in Subsection (11)(a).

(12) Medical or psychiatric conditions that existed before eligibility may not be a basis for disability benefits until the eligible employee has had one year of continuous eligibility in the Public Employees Long-Term Disability Program.

(13) If there is a valid benefit protection contract, service credit shall accrue during the period of total disability, unless the disabled eligible employee is:

(a) exempted from a system;

(b) eligible to retire with an unreduced retirement allowance; or

(c) otherwise ineligible for service credit.

(14) Regardless of any medical evidence provided by the employee to support the application for disability, an employee is not eligible for long-term disability benefits during any period in which the employee:

(a) makes a claim that the employee is able to work; or

(b) has a pending action in a court or before any federal, state, or local administrative body in which the employee has made a claim that the employee is able to work.

(15) Notwithstanding the provisions of Section 49-11-618, upon written request by an employer, information obtained under this part may, upon an order of a court or an administrative law judge, be released to an employer who is a party in an action under Subsection (14).

(16) (a) Subject to Subsection (16)(b), if an eligible employee is receiving long-term disability benefits on the date of the eligible employee's death, the program shall pay the eligible employee's beneficiary, as defined in Section 49-11-102, a lump sum payment equal to three months of the eligible employee's monthly disability benefit.

(b) Section 49-21-402 does not apply to a lump sum payment described in Subsection (16)(a).

(17) An eligible employee receiving long-term disability benefits is eligible for any life assistance counseling that the program offers.

[~~(16)~~](18) On or after May 1, 2025, but on or before November 1, 2025, the office shall provide a written electronic report to the Retirement and Independent Entities Committee regarding the costs and benefits of the changes to the disability benefits during the pilot period.

Section 4. Intent Language.

The Legislature intends that beginning in fiscal year 2025-26:

(1) the state-paid basic life insurance benefit for state employees be increased from $25,000 to $50,000;

(2) the state-paid life insurance benefit for exempt state employees include a $300,000 tier for exempt state employees with salaries over $75,000 per year and a $400,000 tier for exempt state employees with salaries over $100,000; and

(3) the cost of the benefit enhancements authorized in this bill be funded by a reduction in the employer paid premium rate described in Section 49-21-301, which equals $2.4 million.

Section 5. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 67
S. B. 50
Passed February 19, 2025
Approved March 19, 2025
Effective May 7, 2025

LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES BOARD OF TRUSTEES COMPENSATION AMENDMENTS

Chief Sponsor: Calvin R. Musselman
House Sponsor: Thomas W. Peterson

LONG TITLE

General Description:

This bill eliminates the compensation limit for a member of a board of trustees of a limited purpose local government entity.

Highlighted Provisions:

This bill:

- ► eliminates the compensation limit for a member of a board of trustees of a limited purpose local government entity;
- ► requires a board of trustees of a limited purpose local government entity to hold a public hearing on a proposed compensation increase before implementing the compensation increase; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-307, as last amended by Laws of Utah 2023, Chapter 15
17D-1-305, as last amended by Laws of Utah 2023, Chapter 15

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

Section 1. Section 17B-1-307 is amended to read:

17B-1-307. Annual compensation -- Per diem compensation -- Participation in group insurance plan -- Reimbursement of expenses.

(1) (a) Except as provided in Subsection 17B-1-308(1)(e), a member of a board of trustees may receive compensation for service on the board, as determined by the board of trustees.

[~~(b) The amount of compensation under this Subsection (1) may not exceed $5,000 per year.~~]

[~~(c)~~](b) [~~(i)~~] As determined by the board of trustees, a member of the board of trustees may participate in a group insurance plan provided to employees of the special district on the same basis as employees of the special district.

[~~(ii) The amount that the special district pays to provide a member with coverage under a group insurance plan shall be included as part of the member's compensation for purposes of Subsection (1)(b).~~]

[~~(d)~~](c) The amount that a special district pays employer-matching employment taxes, if a member of the board of trustees is treated as an employee for federal tax purposes, does not constitute compensation under this Subsection (1).

(2) Before a board of trustees may adopt a compensation increase for a member of the board of trustees, the board of trustees shall:

(a) hold a public hearing on the compensation increase; and

(b) publish notice of the time, place, and purpose of the public hearing:

(i) for at least seven days before the date of the hearing; and

(ii) as class A notice under Section 63G-30-102.

(3) A public hearing described in Subsection (2)(a):

(a) shall be held separately from any other public hearing of the board of trustees; and

(b) may be held the same day as another public hearing of the board of trustees, including immediately before or after the other public meeting of the board of trustees.

(4) In addition to the compensation provided under Subsection (1), the board of trustees may elect to allow a member to receive per diem and travel expenses for up to 12 meetings or activities per year in accordance with rules adopted by the board of trustees or Section 11-55-103.

Section 2. Section 17D-1-305 is amended to read:

17D-1-305. Compensation for administrative control board members.

An administrative control board member may receive compensation, per diem, and reimbursement of travel expenses as provided in Section 17B-1-307 to the same extent as if the member were a member of a board of trustees of a special district.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 68
S. B. 25
Passed February 12, 2025
Approved March 19, 2025
Effective July 1, 2025

POSTRETIREMENT REEMPLOYMENT FOR EMERGENCY SERVICES WORKERS

Chief Sponsor: Wayne A. Harper
House Sponsor: Cheryl K. Acton

LONG TITLE

General Description:

This bill modifies provisions of the Utah State Retirement and Insurance Benefits Act relating to postretirement reemployment.

Highlighted Provisions:

This bill:

► modifies the earnings limit for postretirement reemployment as an affiliated emergency services worker; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-11-1205, as last amended by Laws of Utah 2024, Chapter 405

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

Section 1. Section 49-11-1205 is amended to read:

49-11-1205. Postretirement reemployment restriction exceptions.

(1) (a) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) the retiree has a bona fide termination of employment on the retiree's retirement date;

(iii) upon reemployment after the break in service under Subsection (1)(a)(i), the retiree does not receive any employer paid benefits, including:

(A) retirement service credit or retirement-related contributions;

(B) medical benefits;

(C) dental benefits;

(D) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease Act, and withholdings required by federal or state law for social security, Medicare, and unemployment insurance; or

(E) paid time off, including sick, annual, or other type of leave; and

(iv) (A) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of $15,000 or one-half of the retiree's final average salary upon which the retiree's retirement allowance is based; or

(B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

(b) The board shall adjust the amounts under Subsection (1)(a)(iv) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(2) A retiree shall be considered as having completed the one-year separation from employment with a participating employer described in Section 49-11-1204, if the retiree:

(a) before retiring:

(i) was employed with a participating employer as a public safety service employee as defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) during the employment under Subsection (2)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, for which injury the retiree would have been approved for total disability in accordance with the provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an unreduced allowance making the public safety service employee ineligible for long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program;

(iv) does not receive any long-term disability benefits from any participating employer; and

(v) is at least 50 years old; and

(b) is reemployed by a different participating employer.

(3) (a) The office may not cancel the retirement allowance of a retiree who is employed as an affiliated emergency services worker within one year of the retiree's retirement date if the affiliated emergency services worker does not receive any compensation, except for:

[~~(i) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or cash equivalent payment not tied to productivity and paid periodically for services;~~]

[~~(ii) a length-of-service award;~~]

(i) compensation, including any payment, discount, tax credit, voucher, or cash equivalent, the total of which, excluding any amount described in Subsection (3)(a)(ii) or (iii), does not exceed in any calendar year the amount described in Subsection (1)(a)(iv)(A), as adjusted in accordance with Subsection (1)(b);

[~~(iii)~~](ii) insurance policy premiums paid by the participating employer in the event of death of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

[~~(iv)~~](iii) reimbursement of expenses incurred in the performance of duties.

[~~(b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax credits, vouchers, and payments to an affiliated emergency services worker may not exceed $500 per month.~~]

[~~(c) The board shall adjust the amount under Subsection (3)(b) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.~~]

[~~(d)~~](b) A retiree is eligible for an exemption from the requirement to cease service without cancellation of a retirement allowance under this Subsection (3) only if the retiree, at the time of retirement, is at least:

(i) 50 years old, if the retiree is retiring from a public safety system or a firefighter system; or

(ii) 55 years old.

(4) (a) The office may not cancel the retirement allowance of a retiree who is employed as a part-time appointed or elected board member within one year after the retiree's retirement date if the part-time appointed or elected board member does not receive any compensation exceeding the amount described in this Subsection (4).

(b) A retiree who is a part-time appointed or elected board member for one or more boards, commissions, councils, committees, panels, or other bodies of participating employers:

(i) may receive an aggregate amount of compensation, remuneration, a stipend, or other benefit for service on a single or multiple boards, commissions, councils, committees, panels, or other bodies of no more than $5,000 per year; and

(ii) may not receive an employer paid retirement service credit or retirement-related contribution.

(c) For purposes of Subsection (4)(b)(i):

(i) a part-time appointed or elected board member's compensation includes:

(A) an amount paid for the part-time appointed or elected board member's coverage in a group insurance plan provided by the participating employer; and

(B) the part-time appointed or elected board member's receipt of any other benefit provided by the participating employer; and

(ii) the part-time appointed or elected board member's compensation does not include:

(A) an amount the participating employer pays for employer-matching employment taxes, if the participating employer treats the part-time appointed or elected board member as an employee for federal tax purposes; or

(B) an amount that the part-time appointed or elected board member receives for per diem and travel expenses for up to 12 approved meetings or activities of the government board per year, if the per diem and travel expenses do not exceed the amounts established by the Division of Finance under Sections 63A-3-106 and 63A-3-107 or by rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(d) The board shall adjust the amount under Subsection (4)(b)(i) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average, as determined by the board.

(5) (a) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree has a bona fide termination of employment on the retiree's retirement date;

(ii) the retiree is not employed, including by a fee-for-service relationship, with any participating employer for a period of:

(A) at least 90 days if the retiree is a public employee retiree; or

(B) at least 90 days if the retiree is a public safety or firefighter retiree;

(iii) the retiree agrees to a modified retirement allowance as described in Subsections (5)(b), (c), and (d); and

(iv) the participating employer that reemploys the retiree agrees to pay to the office the normal cost rate in addition to the amortization rate.

(b) During a period of reemployment, the retiree:

(i) receives a retirement allowance that is 20% less than the retirement allowance the retiree is entitled to receive in accordance with:

(A) for a retiree who retired under Chapter 12, Public Employees' Contributory Retirement Act, Section 49-12-402;

(B) for a retiree who retired under Chapter 13, Public Employees' Noncontributory Retirement Act, Section 49-13-402; or

(C) for a retiree who retired under Chapter 22, Part 3, Tier II Hybrid Retirement System, Section 49-22-305; or

(ii) a retirement allowance that is 15% less than the retirement allowance the retiree is entitled to receive in accordance with:

(A) for a retiree who retired under Chapter 14, Public Safety Contributory Retirement Act, Section 49-14-402;

(B) for a retiree who retired under Chapter 15, Public Safety Noncontributory Retirement Act, Section 49-15-402;

(C) for a retiree who retired under Chapter 16, Firefighters' Retirement Act, Section 49-16-402; or

(D) for a retiree who retired under Chapter 23, Part 3, Tier II Hybrid Retirement System, Section 49-23-304.

(c) During the period of reemployment, the retiree does not receive the annual cost-of-living adjustment described in:

(i) for a retiree who retired under Chapter 12, Public Employees' Contributory Retirement Act, Section 49-12-407;

(ii) for a retiree who retired under Chapter 13, Public Employees' Noncontributory Retirement Act, Section 49-13-407;

(iii) for a retiree who retired under Chapter 14, Public Safety Contributory Retirement Act, Section 49-14-403;

(iv) for a retiree who retired under Chapter 15, Public Safety Noncontributory Retirement Act, Section 49-15-403;

(v) for a retiree who retired under Chapter 16, Firefighters' Retirement Act, Section 49-16-403;

(vi) for a retiree who retired under Chapter 22, Part 3, Tier II Hybrid Retirement System, Section 49-22-308; or

(vii) for a retiree who retired under Chapter 23, Part 3, Tier II Hybrid Retirement System, Section 49-23-307.

(d) (i) The office shall begin paying the retiree's full retirement allowance on the first day of the month following the month in which the office receives written notification that the reemployed retiree has a subsequent retirement date based on a termination of the reemployment.

(ii) (A) For purposes of Subsection (5)(d)(i), the full retirement allowance includes the elimination of the allowance reduction described in Subsection (5)(b)(i) or (5)(b)(ii) and the annual cost-of-living adjustment that was prohibited under Subsection (5)(c) during the period of reemployment.

(B) A retiree may not receive the difference between the full retirement allowance and the reduced retirement allowance described in Subsection (5)(b)(i) or (5)(b)(ii) or the annual cost-of-living adjustment that the retiree would have received if the retiree had not been reemployed.

(6) (a) If a retiree is reemployed under the provisions of Subsection (1) or (4), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement described in Section 49-11-1204.

(b) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection (1)(a)(iv), [~~(3)(b)~~](3)(a), or (4)(b).

(7) A retiree who is reemployed under the provisions of Subsection (5) may not subsequently be reemployed under Section 49-11-1204 unless the office cancels the retirement allowance during the subsequent reemployment.

Section 2. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 69
H. B. 12
Passed February 7, 2025
Approved March 19, 2025
Effective May 7, 2025

DIVISION OF PURCHASING AND GENERAL SERVICES AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies the Utah Procurement Code.

Highlighted Provisions:

This bill:

- ► defines a term;
- ► eliminates the limiting option of the Purchasing from Persons with Disabilities Advisory Board (PPDAB) to form an association to assist the PPDAB with its functions;
- ► authorizes the PPDAB to contract with a person to assist the PPDAB with its functions;
- ► codifies that awarding a contract to a vendor is not the creation of a contract with the vendor;
- ► prohibits the inclusion of certain contractual provisions in a procurement contract, with exceptions;
- ► codifies that the state and a procurement unit may not be held liable for certain types of damages; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-6a-103, as last amended by Laws of Utah 2024, Chapters 291, 408 and 438
63G-6a-109, as last amended by Laws of Utah 2022, Chapter 421
63G-6a-303, as last amended by Laws of Utah 2023, Chapter 43
63G-6a-506, as last amended by Laws of Utah 2021, Chapter 344
63G-6a-805, as last amended by Laws of Utah 2016, Chapter 271
63G-6a-1203, as last amended by Laws of Utah 2015, Chapter 218

ENACTS:

63G-6a-1201.5, Utah Code Annotated 1953

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

Section 1. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) (a) "Award" means, in relation to a contract, a procurement unit's selection of a vendor to supply a procurement item after the procurement unit engages in:

(i) a standard procurement process; or

(ii) an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements.

(b) "Award" does not mean, in relation to a contract, a procurement unit's offer or acceptance of any terms or conditions related to the procurement unit's acquisition or receipt of the procurement item.

[~~(4)~~](5) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

[~~(5)~~](6) "Bidding process" means the procurement process described in Part 6, Bidding.

[~~(6)~~](7) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

[~~(7)~~](8) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

[~~(8)~~](9) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

[~~(9)~~](10) "Chief procurement officer" means the individual appointed under Section 63A-2-102.

[~~(10)~~](11) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

[~~(11)~~](12) "Conservation district" means the same as that term is defined in Section 17D-3-102.

[~~(12)~~](13) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

[~~(13)~~](14) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

[~~(14)~~](15) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

[~~(15)~~](16) "Contract" means an agreement for a procurement.

[~~(16)~~](17) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

[~~(17)~~](18) "Contractor" means a person who is awarded a contract with a procurement unit.

[~~(18)~~](19) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

[~~(19)~~](20) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

[~~(20)~~](21) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

[~~(21)~~](22) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

[~~(22)~~](23) "Days" means calendar days, unless expressly provided otherwise.

[~~(23)~~](24) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

[~~(24)~~](25) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(c) an individual licensed under Title 58, Chapter 53, Landscape Architects Licensing Act, to engage in the practice of landscape

architecture, as defined in Section 58-53-102; or

(d) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

[~~(25)~~](26) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

[~~(26)~~](27) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services;

(d) professional services within the scope of the practice of landscape architecture, as defined in Section 58-53-102; or

(e) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

[~~(27)~~](28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

[~~(28)~~](29) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

[~~(29)~~](30) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

[~~(30)~~](31) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

[~~(31)~~](32) (a) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(b) "Executive branch procurement unit" does not include the Colorado River Authority of Utah as provided in Section 63M-14-210.

[~~(32)~~](33) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

[~~(33)~~](34) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

[~~(34)~~](35) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

[~~(35)~~](36) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

[~~(36)~~](37) "Human services procurement item" means a procurement item used to provide services or support to a child, youth, adult, or family.

[~~(37)~~](38) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

[~~(38)~~](39) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[~~(39)~~](40) "Independent procurement unit" means:

(a) (i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local [~~government~~]governmental procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a special district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code;

(e) the Department of Health and Human Services, but only for the procurement of a human services procurement item; or

(f) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

[~~(40)~~](41) (a) "Interlocal entity" means a separate political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(b) "Interlocal entity" does not include a project entity.

[~~(41)~~](42) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection [~~(41)(a)~~](42)(a).

[~~(42)~~](43) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

[~~(43)~~](44) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

[~~(44)~~](45) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

[~~(45)~~](46) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

[~~(46)~~](47) "Local building authority" means the same as that term is defined in Section 17D-2-102.

[~~(47)~~](48) "Local government procurement unit" means:

(a) a county, municipality, interlocal entity, or project entity, and each office of the county, municipality, interlocal entity, or project entity, unless:

(i) the county or municipality adopts a procurement code by ordinance;

(ii) the interlocal entity adopts procurement rules or policies as provided in Subsection 11-13-226(2); or

(iii) the project entity adopts a procurement code through the process described in Section 11-13-316;

(b) (i) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; and

(ii) a project entity that has adopted this entire chapter through the process described in Subsection 11-13-316; or

(c) a county, municipality, or project entity, and each office of the county, municipality, or project entity that has adopted a portion of this chapter to the extent that:

(i) a term in the ordinance is used in the adopted chapter; or

(ii) a term in the ordinance is used in the language a project entity adopts in its procurement code through the process described in Section 11-13-316.

[~~(48)~~](49) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

[~~(49)~~](50) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

[~~(50)~~](51) "Municipality" means a city or town.

[~~(51)~~](52) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection [~~(51)(a)~~](52)(a).

[~~(52)~~](53) "Offeror" means a person who submits a proposal in response to a request for proposals.

[~~(53)~~](54) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

[~~(54)~~](55) "Procure" means to acquire a procurement item through a procurement.

[~~(55)~~](56) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

[~~(56)~~](57) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

[~~(57)~~](58) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a special district, the board of trustees of the special district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee; or

(p) (i) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

(ii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

(iii) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designee;

(iv) for the Department of Health and Human Services, and only to the extent of the procurement activities of the Department of Health and Human Services as an independent procurement unit, the executive director of the Department of Health and Human Services or the executive director's designee; or

(v) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

[~~(58)~~](59) "Procurement unit" means:

(a) a legislative procurement unit;

(b) an executive branch procurement unit;

(c) a judicial procurement unit;

(d) an educational procurement unit;

(e) the Utah Communications Authority, established in Section 63H-7a-201;

(f) a local government procurement unit;

(g) a special district;

(h) a special service district;

(i) a local building authority;

(j) a conservation district; or

(k) a public corporation.

[~~(59)~~](60) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

[~~(60)~~](61) "Project entity" means the same as that term is defined in Section 11-13-103.

[~~(61)~~](62) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

[~~(62)~~](63) "Public corporation" means the same as that term is defined in Section 63E-1-102.

[~~(63)~~](64) "Public entity" means the state or any other [~~government~~]governmental entity within the state that expends public funds.

[~~(64)~~](65) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

[~~(65)~~](66) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

[~~(66)~~](67) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

[~~(67)~~](68) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

[~~(68)~~](69) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

[~~(69)~~](70) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

[~~(70)~~](71) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

[~~(71)~~](72) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

[~~(72)~~](73) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

[~~(73)~~](74) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

[~~(74)~~](75) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[~~(75)~~](76) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

[~~(76)~~](77) "Responsive" means conforming in all material respects to the requirements of a solicitation.

[~~(77)~~](78) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

[~~(78)~~](79) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the facilities division, the facilities division;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation;

(D) for the Department of Health and Human Services, the executive director of the Department of Health and Human Services; and

(E) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the Utah Board of Higher Education;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a special district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the special district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

[~~(79)~~](80) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

[~~(80)~~](81) "Small purchase process" means the procurement process described in Section 63G-6a-506.

[~~(81)~~](82) "Sole source contract" means a contract resulting from a sole source procurement.

[~~(82)~~](83) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

[~~(83)~~](84) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

[~~(84)~~](85) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

[~~(85)~~](86) "Special district" means the same as that term is defined in Section 17B-1-102.

[~~(86)~~](87) "Special service district" means the same as that term is defined in Section 17D-1-102.

[~~(87)~~](88) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

[~~(88)~~](89) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

[~~(89)~~](90) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

[~~(90)~~](91) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

[~~(91)~~](92) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

[~~(92)~~](93) "Technology" means the same as "information technology," as defined in Section 63A-16-102.

[~~(93)~~](94) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

[~~(94)~~](95) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost

to the contractor.

[~~(95)~~](96) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

[~~(96)~~](97) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 2. Section 63G-6a-109 is amended to read:

63G-6a-109. Issuing procurement unit and conducting procurement unit.

(1) With respect to a procurement by an executive branch procurement unit, except for a procurement by an executive branch procurement unit that, under Subsection [~~63G-6a-103(38)(b), (c), (d), or (e)~~]63G-6a-103(40)(b), (c), (d), or (e), is designated as an independent procurement unit:

(a) the division is the issuing procurement unit; and

(b) the executive branch procurement unit is the conducting procurement unit and is responsible to ensure that the procurement is conducted in compliance with this chapter.

(2) With respect to a procurement by any other procurement unit, the procurement unit is both the issuing procurement unit and the conducting procurement unit.

(3) A conducting procurement unit is responsible for contract administration.

Section 3. Section 63G-6a-303 is amended to read:

63G-6a-303. Role, duties, and authority of chief procurement officer.

(1) The chief procurement officer:

(a) is the director of the division;

(b) serves as the central procurement officer of the state;

(c) serves as a voting member of the board; and

(d) serves as the protest officer for a protest relating to a procurement of an executive branch procurement, except an executive branch procurement unit designated under Subsection [~~63G-6a-103(38)(b), (c), (d), or (e)~~]63G-6a-103(40)(b), (c), (d), or (e) as an independent procurement unit, or a state cooperative contract procurement, unless the chief procurement officer designates another to serve as protest officer, as authorized in this chapter.

(2) Except as otherwise provided in this chapter, the chief procurement officer shall:

(a) develop procurement policies and procedures supporting ethical procurement practices, fair and open competition among vendors, and transparency within the state's procurement process;

(b) administer the state's cooperative purchasing program, including state cooperative contracts and associated administrative fees;

(c) enter into an agreement with a public entity for services provided by the division, if the agreement is in the best interest of the state;

(d) ensure the division's compliance with any applicable law, rule, or policy, including a law, rule, or policy applicable to the division's role as an issuing procurement unit or conducting procurement unit, or as the state's central procurement organization;

(e) manage the division's electronic procurement system;

(f) oversee the recruitment, training, career development, certification requirements, and performance evaluation of the division's procurement personnel;

(g) make procurement training available to procurement units and persons who do business with procurement units;

(h) provide exemplary customer service and continually improve the division's procurement operations;

(i) exercise all other authority, fulfill all other duties and responsibilities, and perform all other functions authorized under this chapter; and

(j) ensure that any training described in this Subsection (2) complies with Chapter 22, State Training and Certification Requirements.

(3) With respect to a procurement or contract over which the chief procurement officer has authority under this chapter, the chief

procurement officer, except as otherwise provided in this chapter:

(a) shall:

(i) manage and supervise a procurement to ensure to the extent practicable that taxpayers receive the best value;

(ii) prepare and issue standard specifications for procurement items;

(iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;

(iv) in accordance with Section 63G-6a-109.5, coordinate with the Division of Technology Services, created in Section 63A-16-103, with respect to the procurement of information technology services by an executive branch procurement unit;

(v) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a board rule;

(vi) after consultation with the attorney general's office, correct, amend, or cancel a contract at any time during the term of the contract if:

(A) the contract is out of compliance with this chapter or a board rule; and

(B) the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(vii) make a reasonable attempt to resolve a contract dispute, in coordination with the attorney general's office; and

(b) may:

(i) delegate limited purchasing authority to a state agency, with appropriate oversight and control to ensure compliance with this chapter;

(ii) delegate duties and authority to an employee of the division, as the chief procurement officer considers appropriate;

(iii) negotiate and settle contract overcharges, undercharges, and claims, in accordance with the law and after consultation with the attorney general's office;

(iv) authorize a procurement unit to make a procurement pursuant to a regional solicitation, as defined in Subsection 63G-6a-2105(7), even if the procurement item is also offered under a state cooperative contract, if the chief procurement officer determines that the procurement pursuant to a regional solicitation is in the best interest of the acquiring procurement unit; and

(v) remove an individual from the procurement process or contract administration for:

(A) having a conflict of interest or the appearance of a conflict of interest with a person responding to a solicitation or with a contractor;

(B) having a bias or the appearance of bias for or against a person responding to a solicitation or for or against a contractor;

(C) making an inconsistent or unexplainable score for a solicitation response;

(D) having inappropriate contact or communication with a person responding to a solicitation;

(E) socializing inappropriately with a person responding to a solicitation or with a contractor;

(F) engaging in any other action or having any other association that causes the chief procurement officer to conclude that the individual cannot fairly evaluate a solicitation response or administer a contract; or

(G) any other violation of a law, rule, or policy.

(4) The chief procurement officer may not delegate to an individual outside the division the chief procurement officer's authority over a procurement described in Subsection (3)(a)(iv).

(5) The chief procurement officer has final authority to determine whether an executive branch procurement unit's anticipated expenditure of public funds, anticipated agreement to expend public funds, or provision of a benefit constitutes a procurement that is subject to this chapter.

(6) Except as otherwise provided in this chapter, the chief procurement officer shall review, monitor, and audit the procurement activities and delegated procurement authority of an executive branch procurement unit, except to the extent that an executive branch procurement unit is designated under Subsection [~~63G-6a-103(38)(b), (c), (d), or (e)~~]63G-6a-103(40)(b), (c), (d), or (e) as an independent procurement unit, to ensure compliance with this chapter, rules made by the applicable rulemaking authority, and division policies.

Section 4. Section 63G-6a-506 is amended to read:

63G-6a-506. Small purchases.

(1) As used in this section:

(a) "Annual cumulative threshold" means the maximum total annual amount, established by the rulemaking authority under Subsection (2), that a procurement unit may expend to obtain procurement items from the same source under this section.

(b) "Individual procurement item threshold" means the maximum amount, established by the rulemaking authority under Subsection (2), for which a procurement unit may purchase a procurement item under this section.

(c) "Single procurement aggregate threshold" means the maximum total amount, established by the rulemaking authority under Subsection (2), that a procurement unit may expend to obtain multiple procurement items from one source at one time under this section.

(2) (a) The rulemaking authority may make rules governing small purchases of any procurement item, including construction, job order contracting, design professional services, other professional services, information technology, and goods.

(b) Rules under Subsection (2)(a) may include provisions:

(i) establishing expenditure thresholds, including:

(A) an annual cumulative threshold;

(B) an individual procurement item threshold; and

(C) a single procurement aggregate threshold;

(ii) establishing procurement requirements relating to the thresholds described in Subsection (2)(b)(i); and

(iii) providing for the use of electronic, telephone, or written quotes.

(c) If a procurement unit obtains administrative law judge service through a small purchase standard procurement process, rules made under Subsection (2)(a) shall provide that the process for the procurement of administrative law judge service include an evaluation committee described in Subsection 63G-6a-116(3).

(3) Expenditures made under this section by a procurement unit may not exceed a threshold established by the rulemaking authority, unless the procurement official gives written authorization to exceed the threshold that includes the reasons for exceeding the threshold.

(4) Except as provided in Subsection (5), an executive branch procurement unit may not obtain a procurement item through a small purchase standard procurement process if the procurement item may be obtained through a state cooperative contract or a contract awarded

by the chief procurement officer under Subsection 63G-6a-2105(1).

(5) Subsection (4) does not apply if:

(a) the procurement item is obtained for an unanticipated, urgent, or emergency condition, including:

(i) an item needed to avoid stopping a public construction project;

(ii) an immediate repair to a facility or equipment; or

(iii) another emergency condition; or

(b) the chief procurement officer or the procurement official of a procurement unit that is an executive branch procurement unit with independent procurement authority:

(i) determines in writing that it is in the best interest of the procurement unit to obtain an individual procurement item outside of the state contract, comparing:

(A) the contract terms and conditions applicable to the procurement item under the state contract with the contract terms and conditions applicable to the procurement item if the procurement item is obtained outside of the state contract;

(B) the maintenance and service applicable to the procurement item under the state contract with the maintenance and service applicable to the procurement item if the procurement item is obtained outside of the state contract;

(C) the warranties applicable to the procurement item under the state contract with the warranties applicable to the procurement item if the procurement item is obtained outside of the state contract;

(D) the quality of the procurement item under the state contract with the quality of the procurement item if the procurement item is obtained outside of the state contract; and

(E) the ability of the vendor under the state contract to match the quoted cost of the procurement item if the procurement item is obtained outside of the state contract;

(ii) for a procurement item that, if defective in its manufacture, installation, or performance, may result in serious physical injury, death, or substantial property damage, determines in writing that the terms and conditions, relating to liability for injury, death, or property damage, available from the source other than the contractor who holds the state contract, are similar to, or better than, the terms and conditions available under the state contract; and

(iii) grants an exception, in writing, to the requirement described in Subsection (4).

(6) Except as otherwise expressly provided in this section, a procurement unit:

(a) may not use the small purchase standard procurement process described in this section for ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold; and

(b) shall make its ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold through a contract awarded through another standard procurement process described in this chapter or an applicable exception to another standard procurement process, described in Part 8, Exceptions to Procurement Requirements.

(7) This section does not prohibit regularly scheduled payments for a procurement item obtained under another provision of this chapter.

(8) (a) It is unlawful for a person knowingly to divide a single procurement into multiple smaller procurements, including by dividing an invoice or purchase order into multiple invoices or purchase orders, if:

(i) the single procurement would not have qualified as a small purchase under this section;

(ii) one or more of the multiple smaller procurements qualify as a small purchase under this section; and

(iii) the division is done with the intent to:

(A) avoid having to use a standard procurement process, other than the small purchase process, that the person would otherwise be required to use for the single procurement; or

(B) make one or more of the multiple smaller procurements fall below a small purchase expenditure threshold established by rule under Subsection (2)(b) that the single procurement would not have fallen below without the division.

(b) A violation of Subsection (8)(a) is subject to penalties as provided in Subsection 63G-6a-2404.3(2).

(9) The Division of Finance within the Department of Government Operations may conduct an audit of an executive branch procurement unit to verify compliance with the requirements of this section.

(10) An executive branch procurement unit may not make a small purchase after January 1, 2014, unless the chief procurement officer certifies that the person responsible for procurements in the procurement unit has satisfactorily completed training on this section and the rules made under this section.

Section 5. Section 63G-6a-805 is amended to read:

63G-6a-805. Purchase from community rehabilitation programs.

(1) As used in this section:

(a) "Advisory board" means the Purchasing from Persons with Disabilities Advisory Board created under this section.

[~~(b) "Central not-for-profit association" means a group of experts designated by the advisory board to do the following, under guidelines established by the advisory board:~~]

[~~(i) assist the advisory board with its functions; and~~]

[~~(ii) facilitate the implementation of advisory board policies.~~]

[~~(c)~~](b) (i) "Community rehabilitation program" means a program that is operated primarily for the purpose of the employment and training of persons with a disability by a government agency or qualified nonprofit organization which is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) of the Internal Revenue Code.

(ii) A community rehabilitation program:

(A) maintains an employment ratio of at least 75% of the program employees under the procurement contract in question have severe disabilities;

(B) (I) complies with any applicable occupational health and safety standards prescribed by the United States Department of Labor; or

(II) is a supported employment program approved by the Utah State Office of Rehabilitation created in Section 35A-1-202;

(C) has its principal place of business in Utah;

(D) produces [~~any~~]a good provided under this section in Utah; and

(E) provides [~~any~~]a service that is provided by individuals with a majority of whom domiciled in Utah.

[~~(d)~~](c) "Person with a disability" means a person with [~~any~~]a disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102.

(2) There is created within the division the Purchasing from Persons with Disabilities Advisory Board.

(3) The advisory board shall consist of three members, as follows:

(a) the director of the division or the director's designee;

(b) the director of the Utah State Office of Rehabilitation or the director's designee; and

(c) a representative of the private business community who shall be appointed to a three-year term by the governor with the advice and consent of the Senate.

(4) (a) The advisory board shall meet, as needed, to facilitate [~~the procurement of goods and services from community rehabilitation programs by a procurement unit under this chapter by:~~]a procurement unit's procurement of a good or service under this chapter from a community rehabilitation program.

(b) The advisory board shall:

[~~(a)~~](i) [~~identifying goods and services that are available from community rehabilitation programs~~]identify the good or service that is available from a community rehabilitation program in accordance with the requirements of Subsection (7);

[~~(b)~~](ii) [~~approving prices~~]approve a price in accordance with Subsection (7)(c) for [~~goods and services that are identified under Subsection (4)(a)~~]the good or service that the advisory board identifies under Subsection (4)(b)(i);

[~~(c)~~](iii) [~~developing, maintaining, and approving a preferred procurement contract list of goods and services identified and priced under Subsections (4)(a) and (b)~~]develop, maintain, and approve a preferred procurement contract list of the goods and services that the advisory board identifies and prices under Subsections (4)(b)(i) and (ii);

[~~(d)~~](iv) [~~reviewing bids received by a community rehabilitation program~~]review a community rehabilitation program's bid; and

[~~(e)~~](v) [~~awarding and renewing~~]award and renew specified contracts for set contract times, without competitive bidding, for [~~the~~]a procurement unit's purchase of [~~goods and services~~]a good or service under Subsection (7).

(5) The provisions of Subsections (4) and (7)(a) are an exception to the procurement provisions under this chapter.

(6) (a) The advisory board may [~~designate a central not-for-profit association, appoint its members, and establish guidelines for its duties~~]enter into an agreement with a person to provide administrative support to the advisory board.

[~~(b) The designated central not-for-profit association serves at the pleasure of the advisory board. The central not-for-profit association or its individual members may be removed by the advisory board at any time by a majority vote of the advisory board.~~]

[~~(c)~~](b) Subject to the advisory board guidelines and discretion, [~~a designated central not-for-profit association may be assigned to perform the following duties~~]a person described in Subsection (6)(a) shall:

(i) identify [~~qualified~~]a community rehabilitation [~~programs~~]program and the [~~goods and services that they provide or have~~]good or service that the community rehabilitation program provides or has the potential to provide;

(ii) [~~help ensure that goods and services are~~]help ensure that a community rehabilitation program's good or service is provided at reasonable quality and delivery levels;

(iii) recommend pricing for [~~goods and services~~]a community rehabilitation program's good or service;

(iv) under the advisory board's discretion:

(A) review [~~bids and recommend the award of contracts under the advisory board's direction~~]a community rehabilitation program's bid; and

(B) recommend to the advisory board that a procurement unit award a contract to a community rehabilitation program;

(v) collect and report program data to the advisory board and [~~to~~]the division; and

(vi) [~~other duties specified by the advisory board~~]perform other duties that the advisory board specifies.

(7) Except as provided under Subsection (9), notwithstanding any provision of this chapter to the contrary, [~~each~~]a procurement unit shall purchase [~~goods and services produced by a community rehabilitation program~~]a community rehabilitation program's good or service using the preferred procurement contract list approved under Subsection [~~(4)(c)~~](4)(b)(iii) if:

(a) [~~the good or service offered for sale by a community rehabilitation program~~]the community rehabilitation program's good or service reasonably conforms to the needs and specifications of the procurement unit;

(b) the community rehabilitation program can supply the good or service within a reasonable time; and

(c) the price of the good or service is reasonably competitive with the cost of procuring the good or service from another source.

(8) [~~Each~~]A community rehabilitation program:

(a) may submit a bid to the advisory board at any time and not necessarily in response to an invitation for bids; and

(b) shall certify on [~~any bid it~~]the bid that the community rehabilitation program submits to the advisory board or to a procurement unit under this section that [~~it~~]the community rehabilitation program is claiming a preference under this section.

(9) During a fiscal year, the requirement for a procurement unit to purchase [~~goods and services produced by a community rehabilitation program~~]a good or service that a community rehabilitation program produces under the preferred procurement list under Subsection (7) does not apply if the division determines that the total amount of procurement contracts with community rehabilitation programs has reached $5 million for that fiscal year.

(10) In the case of conflict between a purchase under this section and a purchase under Section 63G-6a-804, this section prevails.

Section 6. Section 63G-6a-1201.5 is enacted to read:

63G-6a-1201.5. Award of contract -- Effect.

An award of a procurement contract under this chapter:

(1) is not an offer or an acceptance of a bid, proposal, estimate, quote, or an offer; and

(2) does not create a contract.

Section 7. Section 63G-6a-1203 is amended to read:

63G-6a-1203. Void and unenforceable provisions of a contract -- Exemptions -- Limitation of liability and damages.

[~~(1) A contract, including an amendment to an existing contract, entered into under this chapter may not require that a design~~

~~professional indemnify another from liability claims that arise out of the design professional's services, unless the liability claim arises from the design professional's negligent act, wrongful act, error or omission, or other liability imposed by law.~~]

[~~(2) Subsection (1) may not be waived by contract.~~]

[~~(3) Notwithstanding Subsections (1) and (2), a design professional may be required to indemnify a person for whom the design professional has direct or indirect control or responsibility.~~]

(1) As used in this section, "governmental entity" means the same as that term is defined in Section 63G-7-102.

(2) This section does not apply to:

(a) a procurement contract that becomes operative or enforceable before the effective date of this section; or

(b) the extension or renewal of a contract described in Subsection (2)(a).

(3) (a) Except as provided under Subsections (5) and (6), a provision of a procurement contract described in Subsection (4), including a provision incorporated into the contract by reference, is void and unenforceable.

(b) Notwithstanding any provision of a procurement contract that is void and unenforceable under Subsection (3)(a), the remaining provisions of the contract are severable, valid, and enforceable to the fullest extent provided under Utah law.

(4) A provision is void and unenforceable under Subsection (3)(a) if the provision:

(a) restricts the state's or a procurement unit's protection under Chapter 7, Governmental Immunity Act of Utah, from suit, liability, judgment, or obligation, including an obligation to respond to or defend against any claim;

(b) requires a governmental entity to indemnify, defend, or hold harmless another person;

(c) restricts a governmental entity's ability to seek relief in state court;

(d) subjects a governmental entity to binding arbitration or other form of dispute resolution outside the courts;

(e) disallows the procurement unit from having legal counsel and representation from:

(i) legal counsel that the procurement unit chooses;

(ii) the attorney general; or

(iii) legal counsel chosen by a person that has a contractual obligation to indemnify, defend, or hold harmless the state or a procurement unit, subject to the written consent of the state or the procurement unit;

(f) subject to Subsection (5):

(i) subjects a procurement contract or a party to the contract to the laws of any jurisdiction other than Utah; or

(ii) requires the parties to resolve a dispute in a jurisdiction or venue other than Utah;

(g) restricts a governmental entity from making disclosures of information, as required by law or for any legitimate governmental purpose;

(h) allows a vendor to unilaterally modify any part of the procurement contract, including any provision to which the contract contemplates giving legal effect upon the vendor providing notice to the procurement unit of the modification or of the created legal effect; and

(i) subject to Subsection (6):

(i) requires a governmental entity to maintain insurance coverage beyond the types and limits required by the state risk manager appointed under Section 63A-4-101.5, or to name an additional insured under that coverage;

(ii) allows a vendor to automatically renew a procurement contract or that creates a contractual term in violation of the terms permitted under Section 63G-6a-1204; or

(iii) limits the liability of a vendor or any third-party for bodily injury, death, or damage to tangible property caused by the negligence or willful misconduct of a vendor, a third-party, or the vendor's or third-party's employees or agents.

(5) The assistant attorney general or authorized legal counsel for the procurement unit that will sign a procurement contract may, via a signed, express, written authorization made prior to the formation of the contract, exempt the contract from a provision described in Subsection (4)(f), if the assistant attorney general or authorized legal counsel determines that an exemption is necessary to promote the best interests of the state or the procurement unit due to:

(a) the relative disproportionate bargaining positions of the contracting parties;

(b) market conditions; or

(c) other unique circumstances identified and described in the authorization.

(6) The procurement official for a procurement unit seeking to enter into a procurement contract may, via a signed, express, written authorization made prior to the formation of the contract, exempt the contract from a provision described in Subsection (4)(i), if the contract indicates the procurement unit's intent to include the provision, with explicit reference to this section.

(7) Notwithstanding any provision of a procurement contract to the contrary, under no circumstance may the state or a procurement unit be held liable for any special, incidental, indirect, or consequential damages arising from or relating to a procurement contract.

Section 8. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 70
H. B. 55
Passed February 14, 2025
Approved March 19, 2025
Effective May 7, 2025

COUNTY OFFICE AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies how county officers and county legislative bodies maintain office space and hold meetings.

Highlighted Provisions:

This bill:

- ► provides that a county legislative body may authorize the elected county officers of the county to maintain additional office space at a location within the county that is not at the county seat;
- ► provides that a county legislative body may have a regular meeting of the county legislative body at the county seat or another location within the county that is established by ordinance; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-16-9, as last amended by Laws of Utah 2011, Chapter 297
17-23-1, as last amended by Laws of Utah 2001, Chapter 241
17-53-204, as renumbered and amended by Laws of Utah 2000, Chapter 133
20A-4-201, as last amended by Laws of Utah 2020, Chapter 31

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

Section 1. Section 17-16-9 is amended to read:

17-16-9. Officers at county seats -- Office hours.

(1) (a) The elected county officers of [~~all counties~~]a county, except [~~those in counties having a~~]a county with a population of less than 8,000, shall have [~~their~~]offices at the county [~~seats~~]seat.

(b) A county legislative body may authorize the elected county officers of the county to maintain additional office space at a location within the county that is not at the county seat.

(2) (a) In all counties []the clerk, sheriff, recorder, auditor, treasurer, assessor, and attorney []shall keep [~~their offices~~]office space open for the transaction of business as authorized by resolution of the county legislative body.

(b) If the county legislative body does not authorize hours of operation for Saturdays, then the hours served by the employees of the county may not be less than under their present schedule.

(c) (i) Any act authorized, required, or permitted to be performed at or by, or with respect to, any county []office on a Saturday when the county office is closed, may be performed on the next business day.

(ii) No liability or loss of rights of any kind may result from the delay described in Subsection (2)(c)(i).

Section 2. Section 17-23-1 is amended to read:

17-23-1. County surveyor to be elected -- Requirement to be licensed land surveyor -- Authority to contract with licensed land surveyor if no elected county surveyor -- County surveyor duties.

(1) (a) The office of the county surveyor in each county shall be filled by election and, except as provided in Subsection (1)(b), the county surveyor shall be a licensed professional land surveyor in the state.

(b) In a county where the office of county surveyor is consolidated with another elected office, all county surveying work shall be performed by a licensed professional land surveyor.

(c) In a county where there is no elected county surveyor:

(i) the county executive or legislative body may, consistent with Section 17-53-313, contract with a licensed professional land surveyor to perform those duties;

(ii) all county survey work shall be done by a licensed land surveyor;

(iii) the county recorder shall assume and perform all statutory functions and duties of the county surveyor related to the retention and maintenance of survey records;

(iv) the recorder's office shall act as the county surveyor's office only for the purpose of accepting, retaining, and managing county survey records;

(v) the county shall furnish sufficient office space, furniture, stationery, and record books necessary for the county recorder's office to fulfill its functions and duties under Subsection (1)(c)(iv); and

(vi) for purposes of this chapter, "county surveyor" means:

(A) for purposes of the retention and management of county survey records, the county recorder; and

(B) except as provided in Subsection (1)(c)(vi)(A), the licensed land surveyor under contract with the county to perform county surveyor duties.

(2) The county surveyor shall execute:

(a) all orders directed to the surveyor by any court; and

(b) all orders of survey required by the county executive or county legislative body.

(3) (a) The surveyor of each county shall:

(i) advise the county executive and county legislative body regarding all surveying work;

(ii) perform or arrange for the performance of all surveying work for the county;

(iii) permanently keep at county government offices [~~at the county seat~~]a fair and accurate record of all surveys made, including legal descriptions and geographic coordinates, all surveys received pursuant to Section 17-23-17, and all corner files received pursuant to Section 17-23-17.5;

(iv) number progressively all surveys received and state by whom and for whom the surveys were made;

(v) deliver a copy of any survey to any person or court requiring the survey after the payment of the fee established by the county legislative body;

(vi) ensure that all surveys of legal subdivisions of sections are made according to the United States Manual of Surveying Instructions in effect at the time the survey is completed;

(vii) verify the correctness of or establish correct coordinates for all survey reference monuments set in place and shown on all subdivision maps and plats which have a spatial relationship with any section or quarter section corner; and

(viii) perform other duties required by law.

(b) In arranging for the performance of surveying work for the county under Subsection (3)(a)(ii), a surveyor may comply with Section 17-53-313.

(4) (a) The county surveyor or [~~his~~]the county surveyor's designee shall establish all corners of government surveys and reestablish all corners of government surveys where corners have been destroyed and where witness markers or other evidences of the government corners remain so that the corners established by government survey can be positively located.

(b) The corners shall be reestablished in the manner provided in Section 17-23-13 for establishing corners.

(c) The county surveyor shall keep a separate record of the established and reestablished corners of government surveys, giving the date and names of persons present and shall provide those records to [~~his~~]the county surveyor's successor when [~~he~~]the county surveyor vacates [~~his~~]office.

(d) Established or reestablished corners shall be recognized as the legal and permanent corners.

(5) The county executive or legislative body may direct the county surveyor or [~~his~~]county surveyor staff to perform engineering and architectural work if the county surveyor or [~~his~~]county surveyor staff is qualified and licensed to perform that work.

Section 3. Section 17-53-204 is amended to read:

17-53-204. Meetings -- At county seat -- Exception.

(1) (a) The county legislative body shall provide by ordinance for the holding of regular meetings of the county legislative body.

(b) The county legislative body may cancel a regular meeting as the county legislative body considers appropriate.

(2) (a) Except as provided in Subsection (2)(b), each regular meeting of the county legislative body shall be held at:

(i) the county seat[~~.~~]; or

(ii) a location within the county, established by county ordinance.

(b) If approved by a vote of the county legislative body, a county legislative body may hold an occasional meeting [~~outside the county seat~~]in a location not described in Subsection (2)(a) but within the county as the public business requires.

Section 4. Section 20A-4-201 is amended to read:

20A-4-201. Delivery of election returns.

(1) At least two poll workers shall deliver the ballots and other items described in Subsection 20A-4-103(3)(d) to:

(a) the election officer; or

(b) the location directed by the election officer.

(2) (a) Before they adjourn, the poll workers shall choose two or more of their number to deliver the election returns to the election officer.

(b) The poll workers shall [~~:~~]

[~~(i)~~] deliver the unopened envelopes to the election officer or counting center immediately but no later than 24 hours after the polls close[~~; or~~].

[~~(ii) if the polling place is 15 miles or more from the county seat, mail the election returns to the election officer by registered mail from the post office most convenient to the polling place within 24 hours after the polls close.~~]

(3) The election officer shall pay each poll worker reasonable compensation for travel that is necessary to deliver the election returns and to return to the polling place.

(4) The requirements of this section do not prohibit transmission of the unofficial vote count to the counting center via electronic means, provided that reasonable security measures are taken to preserve the integrity and privacy of the transmission.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 71
H. B. 122
Passed March 7, 2025
Approved March 19, 2025
Effective May 7, 2025

MILITARY AFFAIRS AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill makes changes to the code addressing military affairs.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► amends resident student status eligibility for veterans who use veteran benefits to pay for tuition;
- ► amends how much money the Interstate Commission on Educational Opportunity for Military Children may assess, levy, or collect from Utah legislative appropriations;
- ► clarifies that the Department of Veterans and Military Affairs:
  - • is required to provide service benefits to service members, veterans, and the families of service members and veterans; and
  - • serves as the State Approving Agency for Utah under United States Code, Title 38, Veterans Benefits;
- ► allows the Department of Veterans and Military Affairs to receive gifts, contributions, and donations to support service members, veterans, and the families of service members and veterans;
- ► allows the Department of Veterans and Military Affairs to enter into an intergovernmental support agreement with a military installation or entity, including the National Guard, to provide support services to the military installation or entity;
- ► repeals Title 63M, Chapter 6, Military Base Easements Act, and enacts sections in Title 71A, Veterans and Military Affairs, related to easements; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-8-102, as last amended by Laws of Utah 2024, Chapters 144, 378 and 481
53E-3-915, as renumbered and amended by Laws of Utah 2018, Chapter 1
71A-1-101, as last amended by Laws of Utah 2023, Chapter 16 and renumbered and amended by Laws of Utah 2023, Chapter 44
71A-1-201, as enacted by Laws of Utah 2023, Chapter 44 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 154
71A-1-202, as last amended by Laws of Utah 2024, Chapter 334

ENACTS:

71A-9-101, Utah Code Annotated 1953
71A-9-102, Utah Code Annotated 1953
71A-9-301, Utah Code Annotated 1953
71A-9-302, Utah Code Annotated 1953
71A-9-303, Utah Code Annotated 1953

REPEALS:

63M-6-101, as enacted by Laws of Utah 2008, Chapter 382
63M-6-201, as last amended by Laws of Utah 2021, Chapter 282
63M-6-202, as last amended by Laws of Utah 2021, Chapter 282
63M-6-203, as last amended by Laws of Utah 2021, Chapter 282

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

Section 1. Section 53B-8-102 is amended to read:
53B-8-102. Definitions -- Resident student status -- Exceptions.

(1) As used in this section:

(a) "Eligible person" means an individual who is entitled to post-secondary educational benefits under Title 38 U.S.C., Veterans' Benefits.

(b) "Immediate family member" means an individual's spouse or dependent child.

(c) "Inmate" means the same as that term is defined in Section 64-13-1.

(d) "Military service member" means an individual who:

(i) is serving on active duty in the United States Armed Forces within the state of Utah;

(ii) is a member of a reserve component of the United States Armed Forces assigned in Utah;

(iii) is a member of the [~~Utah~~]National Guard; or

(iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned outside of Utah pursuant to federal permanent change of station orders.

(e) "Military veteran" has the same meaning as veteran in Section 68-3-12.5.

(f) "National Guard" means the same as that term is defined in Section 39A-1-102.

[~~(f)~~](g) "Parent" means a student's biological or adoptive parent.

(2) The meaning of "resident student" is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3) (a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student's name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student's name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military service member, if the military service member provides:

(i) the military service member's current United States military identification card; and

(ii) (A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah; or

(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a);

(b) a military service member's immediate family member, if the military service member's immediate family member provides:

(i) (A) the military service member's current United States military identification card; or

(B) the immediate family member's current United States military identification card; and

(ii) (A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah;

(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a); or

(C) evidence that the immediate family member completed at least one year of grades 9 through 12 at a local education agency, as defined in Section 53E-1-102, within the state while the military service member was assigned in Utah, regardless of the service member's current assignment.

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

(E) a rental agreement showing the military veteran's name and Utah address; or

(F) utility bills showing the military veteran's name and Utah address;

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge;

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah, which may include one of the items described in Subsection (8)(c)(iii);

(e) a foreign service member as defined in the Foreign Service Family Act of 2021 who is either:

(i) domiciled in Utah, recognizing the individual may not be physically present in the state due to an assignment; or

(ii) assigned to a duty station in Utah if the foreign service member provides:

(A) evidence of the foreign service member's status;

(B) a statement from the foreign service member's current commander, or equivalent, stating that the foreign service member is assigned in Utah; or

(C) evidence that the foreign service member is domiciled in Utah;

(f) a foreign service member's immediate family member if the foreign service member is either:

(i) domiciled in Utah, recognizing the individual may not be physically present in the state due to an assignment; or

(ii) assigned to a duty station in Utah if the foreign service member provides:

(A) evidence of the foreign service member's status;

(B) a statement from the foreign service member's current commander, or equivalent, stating that the foreign service member is assigned in Utah; or

(C) evidence that the foreign service member is domiciled in Utah;

(g) an eligible person who provides:

(i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits; and

(ii) a signed written declaration that the eligible person will use the Veteran Benefits under Title 38 U.S.C.; [~~and~~]

[~~(iii) objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include one of the items described in Subsection (8)(c)(iii);~~]

(h) an alien who provides:

(i) evidence that the alien is a special immigrant visa recipient;

(ii) evidence that the alien has been granted refugee status, humanitarian parole, temporary protected status, or asylum; or

(iii) evidence that the alien has submitted in good faith an application for refugee status, humanitarian parole, temporary protected status, or asylum under United States immigration law; or

(i) an inmate:

(i) during the time the inmate is enrolled in the course; and

(ii) for one year after the day on which the inmate is released from a correctional facility as defined in Section 64-13-1.

(9) (a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:

(i) a current Utah voter registration card;

(ii) a valid Utah driver license or identification card;

(iii) a current Utah vehicle registration;

(iv) a copy of a Utah income tax return, in the military service member's or military service member's spouse's name, filed as a resident in accordance with Section 59-10-502; or

(v) proof that the military service member or military service member's spouse owns a home in Utah, including a property tax notice for property owned in Utah.

(b) Aliens who are present in the United States on visitor, student, or other visas not listed in Subsection (8)(h) or (9)(c), which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(c) Aliens who have been granted or have applied for permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14) (a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a

nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15) (a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16) (a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) A foreign service member or the foreign service member's immediate family member deemed eligible for resident student status under Subsection (8)(e) or (f) shall retain the eligibility for resident student status if the foreign service member or immediate family member maintains continuous enrollment even in the case of a change in domicile or duty station.

(18) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

(19) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

Section 2. Section 53E-3-915 is amended to read:

53E-3-915. Article XIV -- Financing of the Interstate Commission.

(1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(2) In accordance with the funding limit established in Subsection (5), the Interstate Commission may levy and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which shall be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

(3) The Interstate Commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

(4) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

(5) The Interstate Commission may not assess, levy, or collect more than [~~$5,000~~]$10,000 per year from Utah legislative

appropriations. Other funding sources may be accepted and used to offset expenses related to the state's participation in the compact.

Section 3. Section 71A-1-101 is amended to read:

71A-1-101. Veterans and Military Affairs -- Definitions.

As used in this title:

(1) "Armed forces" means the same as that term is defined in Section 68-3-12.5.

(2) "Contractor" means a person who is or may be awarded a government entity contract.

(3) "Council" means the Veterans Advisory Council.

(4) "Department" means the Department of Veterans and Military Affairs.

(5) "Executive director" means the executive director of the Department of Veterans and Military Affairs.

(6) "Government entity" means the state and any county, municipality, special district, special service district, and any other political subdivision or administrative unit of the state, including state institutions of education.

(7) "National Guard" means the Utah National Guard created in Section 39A-3-101 and in accordance with Utah Constitution Article XV.

[~~(7)~~](8) "Service member" means a currently serving member of the armed forces.

[~~(8)~~](9) "Uniformed services" means the same as that term is defined in Section 68-3-12.5.

[~~(9)~~](10) "VA" means the United States Department of Veterans Affairs.

[~~(10)~~](11) "Veteran" means the same as that term is defined in Section 68-3-12.5.

[~~(11)~~](12) "Veterans service organization" means an organization or individual accredited by the VA Office of General Counsel or recognized by the department whose purpose is to serve service members and veterans, their spouses, surviving spouses, and children.

Section 4. Section 71A-1-201 is amended to read:

71A-1-201. Department of Veterans and Military Affairs -- Creation -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department who is subject to Senate confirmation.

(3) The executive director shall be a veteran.

(4) The department shall:

(a) conduct and supervise all veteran and military affairs activities as provided in this title;

(b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title;

(c) in accordance with Section 41-1a-418:

(i) determine which campaign or combat theater awards are eligible for a special group license plate;

(ii) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it; and

(iii) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;

(d) maintain liaison with local, state, and federal veterans agencies and with Utah veterans organizations;

(e) provide current information to veterans, service members, their surviving spouses and family members, and Utah veterans and military organizations on benefits they are entitled to;

(f) assist veterans, service members, and their families in applying for benefits and services;

(g) cooperate with other state entities in the receipt of information to create and maintain a record of veterans in Utah;

(h) create and administer a veterans assistance registry in accordance with Chapter 5, Veterans Assistance Registry, with recommendations from the council, that provides contact information to the qualified donors of materials and labor for certain qualified recipients;

(i) identify military-related issues, challenges, and opportunities, and develop plans for addressing them;

(j) develop, coordinate, and maintain relationships with military leaders of Utah military installations, including the [~~Utah~~]National Guard;

(k) develop and maintain relationships with military-related organizations in Utah; [~~and~~]

(l) consult with municipalities and counties regarding compatible use plans as described in Sections 10-9a-537 and 17-27a-533;

(m) provide services and benefits directly or indirectly to service members, veterans, and families of service members and veterans, including services and benefits related to claims, health care, employment, education, mental wellness, counseling, business, housing, recognition, camaraderie, and other functions; and

(n) serve as the State Approving Agency under United States Code, Title 38, Veterans Benefits.

(5) (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (5)(a) to:

(i) an institution of higher education listed in Section 53B-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:

(i) the form and process for submitting an application to the department;

(ii) the method and criteria for selecting a grant recipient;

(iii) the method and formula for determining a grant amount; and

(iv) the reporting requirements of a grant recipient.

(6) (a) The department may:

(i) receive gifts, contributions, and donations to support service members, veterans, families of service members and veterans, and

military missions, including tangible objects and real property, if the department uses the gifts, contributions, and donations for the benefit of, or in connection with, service members, veterans, families of service members and veterans, or military missions; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules related to the administration of gifts, contributions, and donations described in Subsection (6)(a).

(b) A gift, contribution, or donation received by the department as described in Subsection (6)(a), does not revert to the General Fund and is considered non-lapsing funds.

[~~(6)~~](7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules related to:

(a) the consultation with municipalities and counties regarding compatible use plans as required in Subsection (4)(l); and

(b) criteria to evaluate whether a proposed land use is compatible with military operations.

[~~(7)~~](8) Nothing in this chapter [~~shall be construed as altering or preempting~~]alters or preempts any provisions of Title 39A, National Guard and Militia Act, as specifically related to the [~~Utah~~]National Guard.

Section 5. Section 71A-1-202 is amended to read:

71A-1-202. Department of Veterans and Military Affairs -- Executive director -- Responsibilities.

(1) The executive director is the chief administrative officer of the department.

(2) The executive director is responsible for:

(a) the administration and supervision of the department;

(b) the coordination of policies and program activities conducted through the department;

(c) the development and approval of the proposed budget of the department;

(d) preparing an annual report for presentation not later than November 30 of each year to the Government Operations Interim Committee which covers:

(i) services provided to veterans, service members, and their families;

(ii) services provided by third parties through the Veterans Assistance Registry;

(iii) coordination of veterans services by government entities with the department; and

(iv) the status of military missions within the state;

(e) advising the governor on matters pertaining to veterans and military affairs throughout the state, including active duty service members, reserve duty service members, veterans, and their families;

(f) developing, coordinating, and maintaining relationships with Utah's congressional delegation and appropriate federal agencies; and

(g) entering into grants, contracts, agreements, and interagency transfers necessary to support the department's programs.

(3) The executive director is the acceptance authority for any gifts, contributions, or donations received under Subsection 71A-1-201(6) and shall ensure compliance with the restrictions and limitations described in Section 63G-6a-2404.

[~~(3)~~](4) The executive director may appoint deputy directors to assist the executive director in carrying out the department's responsibilities.

[~~(4)~~](5) A deputy director, described in Subsection (3), of veterans' services shall be a veteran.

Section 6. Section 71A-9-101 is enacted to read:

CHAPTER 9. MILITARY INSTALLATIONS

PART 1. General Provisions

71A-9-101. Definitions.

As used in this chapter, "state institution of higher education" means an institution described in Section 53B-2-101 or any other university or college that is established and maintained by the state.

Section 7. Section 71A-9-102 is enacted to read:

71A-9-102. Military installation ability to enter into an intergovernmental support agreement.

(1) A state agency, local municipality, special service district, or state institution of higher education may enter into an intergovernmental support agreement with a military installation or entity, including the National Guard, to provide support services to the military installation or entity in accordance with the agreement.

(2) Copies of the agreement described in Subsection (1) shall be filed with the department.

Section 8. Section 71A-9-301 is enacted to read:

PART 2. Military Installation Easements

71A-9-301. Definitions.

Reserved.

Section 9. Section 71A-9-302 is enacted to read:

71A-9-302. Acquisition of easements -- Restrictions -- Resale.

(1) The department may acquire, by purchase, from landowners voluntarily entering a contract with the department, property or easements for the establishment, maintenance, and operation of a restrictive use area for the operation of military missions adjacent to, or within the boundaries of the approved compatible use plan for:

(a) Hill Air Force Base;

(b) Little Mountain Test Facility;

(c) the Utah Test and Training Range;

(d) Dugway Proving Ground; or

(e) a National Guard facility.

(2) (a) The department shall ensure that any easements established by voluntary purchase described in Subsection (1) place conditions on land use identified in the applicable land use compatibility guidelines study or according to military best practice or recommendations.

(b) The department may allow other uses on easements described in Subsection (1) not prohibited by the guidelines described in Subsection (2)(a) if the uses are consistent with the purpose of this part.

(c) Nothing in this part authorizes the department or any other state agency to:

(i) purchase a business;

(ii) require a landowner to sell property or an easement to the department; or

(iii) require a person to relocate or move.

(d) To calculate the purchase price for an easement described in Subsection (1), the department shall use the fair market value of the real property.

(e) When a military installation has not been used for seven years, the department shall:

(i) notify by certified mail each current owner of any property to which an easement is attached near the military installation that the owner may purchase the easement for the same price that the state originally paid for the easement or for the market value of the easement at the time of the owner's buyback, whichever is less; and

(ii) sell the easement to an owner notified under Subsection (2)(e)(i) if the owner tenders the purchase price described in Subsection (2)(e)(i).

(3) (a) The department may take action to enforce the provisions of this chapter.

(b) The attorney general shall represent the department in an action described in Subsection (3)(a).

Section 10. Section 71A-9-303 is enacted to read:

71A-9-303. Certain improvements, alterations, and expansions prohibited.

(1) A person may not begin to develop, or authorize development, on any land on which the department or the Governor's Office of Economic Opportunity holds a lawful easement unless the department or the Governor's Office of Economic Opportunity has affirmatively authorized the development of the land.

(2) Nothing in this part prohibits a property owner from improving, altering, or expanding an existing residential or commercial use of the property owner's property if the improvement, alteration, or expansion does not violate any conditions of an easement placed on the property owner's land.

Section 11. Repealer.

This bill repeals:

Section 63M-6-203, Certain improvements, alterations, and expansions prohibited.

Section 63M-6-202, Location of easements.

Section 63M-6-201, Acquisition of easements -- Restrictions -- Resale.

Section 63M-6-101, Title.

Section 12. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 72
H. B. 25
Passed February 19, 2025
Approved March 19, 2025
Effective May 7, 2025

RETIREMENT AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions of the Utah State Retirement and Insurance Benefit Act.

Highlighted Provisions:

This bill:

- ► modifies record retention requirements for a participating employer in the Utah Retirement Systems;
- ► amends provisions relating to an entity eligible to withdraw from participation in the Utah Retirement Systems; and
- ► repeals a section that allows PEHP Health and Benefits to implement a prescribing policy for certain opioid prescriptions.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-11-602, as last amended by Laws of Utah 2024, Chapter 421
49-11-623, as last amended by Laws of Utah 2015, Chapter 364
49-11-626, as last amended by Laws of Utah 2023, Chapter 512

REPEALS:

49-20-415, as last amended by Laws of Utah 2024, Chapter 381

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

Section 1. Section 49-11-602 is amended to read:

49-11-602. Participating employer to maintain records -- Time limit -- Penalties for failure to comply.

(1) A participating employer shall:

(a) maintain records necessary to calculate benefits under this title and other records necessary for proper administration of this title as required by the office; and

(b) maintain records that indicate whether an employee is receiving:

(i) a benefit under state or federal law that, under Subsection 49-12-102(1)(b)(vi) or (vii), is excluded from the definition of benefits normally provided for purposes of Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, or Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(ii) a benefit under a benefit package generally offered to similarly situated employees.

(2) A participating employer shall maintain all records necessary to support the participating employer's reports and certifications required by Section 49-11-603.

(3) A participating employer shall maintain the records required under Subsections (1) and (2) until the earliest of:

(a) [~~three~~]four years after the date of retirement of the employee from a system or plan;

(b) [~~three~~]four years after the date of death of the employee; or

(c) 65 years from the date of employment with the participating employer.

(4) A participating employer shall be liable to the office for:

(a) any liabilities and expenses, including administrative expenses and the cost of increased benefits to members, resulting from the participating employer's failure to maintain records under this section; and

(b) a penalty equal to 1% of the participating employer's last month's contributions.

(5) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.

(6) The office may estimate the length of service, compensation, or age of any member, if that information is not contained in the records.

(7) (a) A participating employer shall enroll an employee, make reports, submit contributions, and provide other requested information electronically in a manner approved by the office.

(b) A participating employer shall treat any information provided electronically or otherwise by the office as subject to the confidentiality provisions of this title.

Section 2. Section 49-11-623 is amended to read:

49-11-623. Withdrawing entity -- Participation election date -- Withdrawal costs -- Rulemaking.

(1) As used in this section, "withdrawing entity" means an entity that:

(a) participates in a system or plan under this title prior to July 1, 2014;

(b) provides mental health and substance abuse services for a county under Section 17-50-318;

(c) after beginning participation with a system or plan under this title, has modified its federal tax status to a nonprofit organization that qualifies under Section 501(c) [~~(3)~~]of the Internal Revenue Code; and

(d) is not a state institution of higher education as described in Section 53B-2-101.

(2) Notwithstanding any other provision of this title, a withdrawing entity may provide for the participation of its employees with that system or plan as follows:

(a) the withdrawing entity shall determine a date that is no later than January 1, 2017, on which the withdrawing entity shall make an election under Subsection (3); and

(b) subject to the provisions of Subsection (6), the withdrawing entity shall pay to the office any reasonable actuarial and administrative costs determined by the office to have arisen out of an election made under this section, including an actuarially determined short-fall liability contribution and a contingency payment to provide financial protection to the remaining participating employers.

(3) The withdrawing entity described under Subsection (2) may elect to:

(a) (i) continue its participation for all current employees of the withdrawing entity, who are covered by a system or plan as of the date set under Subsection (2)(a); and

(ii) withdraw from participation in all systems or plans for all persons initially entering employment with the withdrawing entity, beginning on the date set under Subsection (2)(a); or

(b) withdraw from participation in all systems or plans for all current and future employees of the withdrawing entity, beginning on the date set under Subsection (2)(a).

(4) (a) An election provided under Subsection (3):

(i) is a one-time election made no later than the date specified under Subsection (2)(a);

(ii) shall be documented by a resolution adopted by the governing body of the withdrawing entity;

(iii) is irrevocable; and

(iv) applies to the withdrawing entity as the employer and to all employees of the withdrawing entity.

(b) Notwithstanding an election made under Subsection (3), any eligibility for service credit earned by an employee under this title before the date specified under Subsection (2)(a) is not affected by this section.

(5) If a withdrawing entity elects to continue participation under Subsection (3), the withdrawing entity shall continue to be subject to the laws and the rules governing the system or plan in which an employee participates, including the accrual of service credit and payment of contributions.

(6) Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on:

(a) the costs described under Subsection (2)(b); and

(b) arrangements for the payment of the costs described under Subsection (2)(b).

(7) The board shall make rules to implement this section.

Section 3. Section 49-11-626 is amended to read:

49-11-626. Withdrawing entity -- Participation election date -- Withdrawal costs -- Rulemaking.

(1) As used in this section, "withdrawing entity" means an entity that:

(a) participates in a system or plan under this title before January 1, 2023; and

(b) (i) is a public employees' association;

(ii) is an insurer that is subject to the disclosure requirements of Section 31A-4-113; or

(iii) after beginning participation with a system or plan under this title, has modified the entity's federal tax status to a nonprofit organization that qualified under Section 501(c) [~~(3)~~] of the Internal Revenue Code.

(2) Notwithstanding any other provision of this title, a withdrawing entity may provide for the participation of the withdrawing entity's employees with that system or plan as follows:

(a) the withdrawing entity shall determine a date that is no later than July 1, [~~2025~~]2028, on which the withdrawing entity shall make an election and complete withdrawal under Subsection (3);

(b) the withdrawing entity shall provide to the office notice of the withdrawing entity's intent to enter into an agreement described in Subsection (2)(c);

(c) the withdrawing entity and the office may enter into an intent to withdraw agreement to document a good faith arrangement to complete a withdrawal under this section; and

(d) subject to Subsection (6), the withdrawing entity shall pay to the office any reasonable actuarial and administrative costs determined by the office to have arisen out of an election made under this section, including an actuarially determined short-fall liability contribution and a contingency payment to provide financial protection to the remaining participating employers.

(3) The withdrawing entity may elect to:

(a) (i) continue the withdrawing entity's participation for all current employees of the withdrawing entity, who are covered by a system or plan on the date set under Subsection (2)(a); and

(ii) withdraw from participation in all systems and plans for all persons initially entering employment with the withdrawing entity, beginning on the date set under Subsection (2)(a); or

(b) withdraw from participation in all systems or plans for all current and future employees of the withdrawing entity, beginning on the date set under Subsection (2)(a).

(4) (a) An election made under Subsection (3):

(i) shall be made on or before the date specified under Subsection (2)(a);

(ii) shall be documented by a resolution adopted by the governing body of the withdrawing entity;

(iii) remains in effect unless and until the withdrawing entity again becomes a participating employer with the office in accordance with Subsection (5); and

(iv) applies to the withdrawing entity as the employer and to all employees of the withdrawing entity.

(b) Notwithstanding an election made under Subsection (3), any eligibility for service credit earned by an employee under this title before the date specified under Subsection (2)(a) is not affected by this section.

(c) Notwithstanding any other provision of this title, a withdrawing entity that makes an election under Subsection (3) may provide or participate in any type of public or private retirement for the withdrawing entity's employees after the withdrawal.

(5) After the withdrawal and subject to the laws and rules governing participating employer admission, the withdrawing entity may elect, by resolution of the withdrawing entity's governing body, to resume participation with the office and apply for admission as a participating employer in a system or plan under this title.

(6) Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on:

(a) the costs described under Subsection (2)(d); and

(b) arrangements for the payment of the costs described under Subsection (2)(d).

Section 4. Repealer.

This bill repeals:

Section 49-20-415, Prescribing policies for certain opioid prescriptions.

Section 5. Effective date.

This bill takes effect on July 1, 2025.

CHAPTER 73
H. B. 47
Passed February 20, 2025
Approved March 19, 2025
Effective May 7, 2025

PUBLIC LANDS WATERING RIGHTS AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses livestock watering rights on public lands.

Highlighted Provisions:

This bill:

- ► modifies the definition provision;
- ► repeals language regarding livestock water use certificates;
- ► addresses when a federal land management agency reduces livestock grazing animal unit month (AUMs);
- ► addresses a claim under Public Water Reserve No. 107; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-2-14, as last amended by Laws of Utah 2020, Chapter 421
73-3-31, as last amended by Laws of Utah 2022, Chapter 68

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

Section 1. Section 73-2-14 is amended to read:

73-2-14. Fees of state engineer -- Deposited as a dedicated credit.

(1) The state engineer shall charge fees pursuant to Section 63J-1-504 for the following:

(a) applications to appropriate water;

(b) applications to temporarily appropriate water;

(c) applications for a change;

(d) applications for exchange;

(e) applications for nonuse of water;

(f) applications to appropriate water, or make a change, for use outside the state filed pursuant to Title 73, Chapter 3a, Water Exports;

(g) groundwater recovery permits;

(h) diligence claims for surface or underground water filed pursuant to Section 73-5-13;

(i) republication of notice to water users after amendment of application where required by this title;

(j) applications to segregate;

(k) requests for an extension of time in which to submit proof of appropriation not to exceed 14 years after the date of approval of the application;

(l) requests for an extension of time in which to submit proof of appropriation 14 years or more after the date of approval of the application;

(m) groundwater recharge permits;

(n) applications for a well driller's license, annual renewal of a well driller's license, and late annual renewal of a well driller's license;

(o) certification of copies;

(p) preparing copies of documents; and

(q) reports of water right conveyance [~~; and~~].

[~~(r) requests for a livestock water use certificate under Section 73-3-31.~~]

(2) Fees for the services specified in Subsections (1)(a) through (i) shall be based upon the rate of flow or volume of water. If it is proposed to appropriate by both direct flow and storage, the fee shall be based upon either the rate of flow or annual volume of water stored, whichever fee is greater.

(3) Fees collected under this section:

(a) shall be deposited [~~in~~]into the General Fund as a dedicated credit to be used by the Division of Water Rights; and

(b) may only be used by the Division of Water Rights to:

(i) meet the publication of notice requirements under this title;

(ii) process reports of water right conveyance; and

[~~(iii) process a request for a livestock water use certificate; and~~]

[~~(iv)~~](iii) hire an employee to assist with processing an application.

Section 2. Section 73-3-31 is amended to read:

73-3-31. Water right for watering livestock on public land -- Public Water Reserve No. 107.

(1) As used in this section:

(a) "Acquire" means to gain the right to use water through obtaining:

(i) an approved application to appropriate water; or

(ii) a perfected water right.

(b) "Allotment" means a designated area of public land available for livestock grazing.

(c) "Animal unit month (AUM)" is the amount of forage needed to sustain one cow and her calf, one horse, or five sheep and goats for one month.

(d) (i) "Beneficial user" means the person that has the right to use the grazing permit.

(ii) "Beneficial user" does not mean the public land agency issuing the grazing permit.

(e) "Grazing permit" means a document authorizing livestock to graze on an allotment.

(f) "Livestock" means a domestic animal raised or kept for profit or personal use.

(g) "Livestock watering right" means a right for:

(i) livestock to consume water:

(A) directly from the water source located on public land; or

(B) from an impoundment located on public land into which the water is diverted; and

(ii) associated uses of water related to the raising and care of livestock on public land.

(h) (i) "Public land" means land owned or managed by the United States or the state.

(ii) "Public land" does not mean land owned by:

(A) the Division of Wildlife Resources;

(B) the School and Institutional Trust Lands Administration;

(C) the Division of State Parks; or

[~~(D) the Division of Outdoor Recreation.~~]

(D) the Division of Forestry, Fire, and State Lands.

(i) "Public land agency" means the agency that owns or manages the public land.

(j) "Public Water Reserve No. 107" means a claim for water under Public Water Reserve No. 107, Exec. Order of April 17, 1926.

(2) A public land agency may not:

(a) condition the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock on the transfer of any water right directly to the public land agency;

(b) require any water user to apply for, or acquire a water right in the name of [~~,~~] the public land agency as a condition for the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock; or

(c) acquire a livestock watering right if the public land agency is not a beneficial user.

(3) The state engineer may not approve a change application under Section 73-3-3 for a livestock watering right or Public Water Reserve No. 107 claim without the written consent of the beneficial user.

(4) A beneficial user may file a nonuse application under Section 73-1-4 on a livestock watering right or a portion of a livestock watering right that the beneficial user puts to beneficial use.

(5) A livestock watering right or Public Water Reserve No. 107 claim is appurtenant to the allotment on which the livestock is watered.

[~~(6) (a) (i) A beneficial user or a public land agency may file a request with the state engineer for a livestock water use certificate.~~]

[~~(ii) The state engineer shall:~~]

[~~(A) provide the livestock water use certificate application form on the Internet; and~~]

[~~(B) allow electronic submission of the livestock water use certificate application.~~]

[~~(b) The state engineer shall grant a livestock water use certificate to a beneficial user if the beneficial user:~~]

[~~(i) demonstrates that the beneficial user has a right to use a grazing permit for the allotment to which the livestock watering right is appurtenant; and~~]

[~~(ii) pays the fee set in accordance with Section 73-2-14.~~]

[~~(c) A livestock water use certificate is valid as long as the livestock watering right is:~~]

[~~(i) held by a beneficial user who has the right to use the grazing permit and graze livestock on the allotment;~~]

[~~(ii) put to beneficial use within a seven-year time period; or~~]

[~~(iii) subject to a nonuse application approved under Section 73-1-4.~~]

[~~(7)~~](6) A beneficial user may access or improve an allotment as necessary for the beneficial user to beneficially use, develop, and maintain the [~~beneficial user's~~]water right appurtenant to the allotment.

[~~(8)~~](7) If a federal land management agency reduces livestock grazing animal unit month (AUMs) on federal grazing allotments, and the reduction results in the potential, partial forfeiture of an appropriated water right [~~,~~]:

(a) a beneficial user may file a nonuse application under Section 73-1-4 for the amount of water in question for nonuse as a livestock water right [~~shall be held in trust by the state engineer until such water may be appropriated for livestock watering,~~]consistent with this [~~act~~

~~and~~]section and other state law[~~.~~];

(b) the state engineer shall approve a nonuse application filed under this Subsection (7); and

(c) the amount of water in question for nonuse as a livestock water right may not be used for a purpose other than watering livestock.

[~~(9)~~](8) [~~Nothing~~]Except under Subsection (9), nothing in this section affects a livestock watering right [~~or a livestock water use certificate~~]held by a public land agency on May 13, 2014.

(9) (a) To recognize a Public Water Reserve No. 107 claim for a spring or water hole on public land owned or managed by a federal public land agency, the state engineer shall:

(i) require that the public land agency:

(A) file a statement of claim pursuant to Section 73-4-5 with the state engineer;

(B) file the statement of claim described in Subsection (9)(a)(i)(A) with the written consent of the beneficial user of the Public Water Reserve No. 107 claim; and

(C) establish the extent to which, as of April 17, 1926, the Public Water Reserve No. 107 use supported the beneficial use of livestock watering and human consumption by grazing permittees, including the quantity of water required to fulfill the purpose of the claim;

(ii) determine whether the spring or water hole claimed under Public Water Reserve No. 107:

(A) is an important spring or a water hole that provides enough water for general use for livestock watering purposes;

(B) affords more than enough water for the use of one family and the family's domestic animals;

(C) is accessible to livestock and satisfies the need for livestock watering and human consumption by grazing permittees;

(D) existed on April 17, 1926; and

(E) is formed naturally and not due to artificial development or human-made structures; and

(iii) determine whether the purposes described in this Subsection (9) would be frustrated without the water.

(b) The state engineer may not recognize more than one Public Water Reserve No. 107 claim within a 40-acre parcel or a Public Water Reserve No. 107 claim that is closer than 1/4 mile from another Public Water Reserve No. 107 claim.

(c) The state engineer may not recognize a Public Water Reserve No. 107 claim that has as its beneficial use the watering of wildlife, as defined in Section 23A-1-101.

(d) A Public Water Reserve No. 107 claim may not impair a water right that existed before April 17, 1926.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 74
H. B. 48
Passed March 5, 2025
Approved March 19, 2025
Effective January 1, 2026

WILDLAND URBAN INTERFACE MODIFICATIONS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses efforts to oversee wildfire risks associated with wildland urban interface property.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires counties to take certain actions related to wildland urban interface property, including assessing a fee;
- ► directs the fee to be retained by a county and deposited into the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund;
- ► addresses insuring wildland urban interface property;
- ► imposes notice requirements related to insuring wildland urban interface property;
- ► requires counties and municipalities to adopt the wildland urban interface building code standards;
- ► permits the Division of Forestry, Fire, and State Lands (division) to choose not to cover costs of local governments under certain circumstances;
- ► directs the division to establish a program for wildland urban interface coordinators to evaluate, using a triage scale, high risk wildland urban interface property;
- ► addresses actions related to evaluating the high risk wildland urban interface property;
- ► provides for a database to be accessed by certain insurers related to evaluating high risk wildland urban interface property;
- ► authorizes rulemaking;
- ► addresses liability; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

15A-5-203, as last amended by Laws of Utah 2024, Chapters 21, 381
63G-7-201, as last amended by Laws of Utah 2023, Chapters 34, 105, 259, 329, 452, and 456
65A-8-203, as last amended by Laws of Utah 2024, Chapter 77
65A-8-215, as last amended by Laws of Utah 2024, Chapter 77

ENACTS:

17-16-22, Utah Code Annotated 1953
31A-22-1310, Utah Code Annotated 1953
65A-8-401, Utah Code Annotated 1953
65A-8-402, Utah Code Annotated 1953
65A-8-403, Utah Code Annotated 1953

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

Section 1. Section 15A-5-203 is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows: "An authority having jurisdiction over a structure built in accordance with the requirements of the International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection 65A-8-203(4) [~~(a)~~](f) and Utah Administrative Code, R652-122-1300, Minimum Standards for County Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah

Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet;

(iv) the total floor area of all floor levels within the exterior walls of the dwelling unit exceeds 10,000 square feet; or

(v) the total floor area of all floor levels within the exterior walls of the dwelling unit is double the average of the total floor area of all floor levels of unsprinkled homes in the subdivision that are no larger than 10,000 square feet.

(vi) Exception: A single family dwelling does not require a fire sprinkler system if the dwelling:

(A) is located outside the wildland urban interface;

(B) is built in a one-lot subdivision; and

(C) has 50 feet of defensible space on all sides that limits the propensity of fire spreading from the dwelling to another property."

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: "Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure."

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a full fire-flow requirement is impractical."

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows:

"507.1.2 Pre-existing subdivision lots.

The requirements for a pre-existing subdivision lot shall not exceed the requirements described in Section 501.5."

(e) In IFC, Chapter 5, Section 507.5.1, here required, a new exception is added: "3. One interior and one detached accessory dwelling unit on a single residential lot."

(f) IFC, Chapter 5, Section 510.1, Emergency responder communication coverage in new buildings, is amended by adding: "When required by the fire code official, unless the new building is a public school as that term is defined in Section 53G-9-205.1 or a private school, then the fire code official shall require," at the beginning of the first paragraph.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) IFC, Chapter 6, Section 604.6.1, Elevator key location, is deleted and rewritten as follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The elevator key box shall be accessed using a 6049 numbered key."

(b) IFC, Chapter 6, Section 606.1, General, is amended as follows: On line three, after the word "Code", add the words "and NFPA 96".

(c) IFC, Chapter 6, Section 607.2, a new exception 5 is added as follows: "5. A Type 1 hood is not required for a cooking appliance in a microenterprise home kitchen, as that term is defined in Utah Code, Section 26B-7-401, for which the operator obtains a permit in accordance with Section 26B-7-416."

(3) IFC, Chapter 7, Fire and Smoke Protection Features, Section 702.5, is deleted.

Section 2. Section 17-16-22 is enacted to read:

17-16-22. Wildland urban interface evaluation and fees.

(1) As used in this section:

(a) "County officer" means the same as that term is defined in Section 17-16-21.

(b) "High risk wildland urban interface property" means the same as that term is defined in Section 65A-8-401.

(c) "Wildland urban interface" means the same as that term is defined in Section 65A-8-401.

(d) "Wildland urban interface coordinator" means the same as that term is defined in Section 65A-8-401.

(2) If evaluation of high risk wildland urban interface property is assigned to a county under Section 65A-8-402:

(a) the county shall enter into a cooperative agreement with the Division of Forestry, Fire, and State Lands, in accordance with Subsection 65A-8-203(2)(a), which agreement shall address compliance with this Subsection (2) for evaluation and classification of high risk wildland urban interface property; and

(b) a county officer shall require that a wildland urban interface coordinator representing the county annually evaluate high risk wildland urban interface property within the county in accordance with Section 65A-8-402.

(3) Beginning January 1, 2026, a county officer shall:

(a) annually assess a fee:

(i) against the property owner of high risk wildland urban interface property within the incorporated and unincorporated portions of the county; and

(ii) in the amount set by the Division of Forestry, Fire, and State Lands under Section 65A-8-402; and

(b) (i) after retaining a portion of the fee under Subsection (3)(b)(ii), transmit the fee assessed under Subsection (3)(a) to the Division of Forestry, Fire, and State Lands for deposit into the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund created in Section 65A-8-215; and

(ii) retain that portion of the fee assessed under Subsection (3)(a) necessary to pay costs incurred by the county in implementing this section, which the county may include in the county's annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs for purposes of Subsection 65A-8-203(4)(c).

(4) A county may hold a political subdivision lien on high risk wildland urban interface property for a fee that is past due by following the procedures in Sections 17B-1-902and 17B-1-902.1, as if the county is a special district.

Section 3. Section 31A-22-1310 is enacted to read:

31A-22-1310. Insuring wildland urban interface property.

(1) As used in this section:

(a) "High risk wildland urban interface property" means the same as that term is defined in Section 65A-8-401.

(b) "Wildland urban interface" means the same as that term is defined in Section 65A-8-401.

(c) "Wildland urban interface property and casualty insurer" means an insurer that issues property or casualty insurance for wildland urban interface property.

(2) (a) For purposes of determining whether property is high risk wildland urban interface property, a wildland urban interface property and casualty insurer may only use the boundary provided in the wildfire risk assessment mapping tool maintained by the Division of Forestry, Fire, and State Lands in accordance with Subsection 65A-8-203(8) to determine whether the property is high risk wildland urban interface property.

(b) A wildland urban interface property and casualty insurer may use additional fire hazard data, beyond the wildfire risk assessment mapping tool described in Subsection (2)(a), in connection with setting a rate for, or the underwriting of, high risk wildland urban interface property if the wildland urban interface property and casualty insurer's use of additional fire hazard data is in compliance with:

(i) the boundary determination made in Subsection (2)(a); and

(ii) this title and department rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) If a property is determined not to be high risk wildland urban interface in accordance with Subsection (2)(a), this Subsection (2) does not apply to the use of fire hazard data in connection with rate setting or underwriting of the property.

(d) This Subsection (2) does not restrict the use of data or underwriting tools in determining risks that are unrelated to fire risk.

(3) (a) If an owner of property located within the wildland urban interface files a complaint with the department asserting that a wildland urban interface property and casualty insurer has violated, or is violating, this section, the department may investigate the wildland urban interface property and casualty insurer to determine whether a violation has occurred or is occurring.

(b) If after an investigation under this Subsection (3) the department finds that a wildland urban interface property and casualty insurer has violated or is violating this section, the department may:

(i) issue prohibitory, mandatory, and other orders as necessary to secure compliance with this section; and

(ii) impose penalties against the wildland urban interface property and casualty insurer in accordance with Section 31A-2-308.

(4) In addition to complying with relevant requirements of Section 31A-21-303, if due to risks of wildfire a wildland urban interface property and casualty insurer:

(a) cancels or nonrenews property and casualty insurance covering wildland urban interface property, the wildland urban interface property and casualty insurer shall include in the notice of cancellation or nonrenewal the facts on which the wildland urban interface property and casualty insurer's decision is based with reasonable precision; and

(b) increases the premium by more than 20% of the previous term's premium for property and casualty insurance covering wildland urban interface property, after receipt of a request for the information by the insured the wildland urban interface property and casualty insurer shall provide the insured the facts on which the wildland urban interface property and casualty insurer's decision is based with reasonable precision.

(5) Subsections (1) through (4) apply on and after January 1, 2026.

(6) This section does not:

(a) create a cause of action for an act or failure to act under this section against:

(i) the state;

(ii) the department;

(iii) the Division of Forestry, Fire, and State Lands;

(iv) an officer, consultant, or employee of the department or Division of Forestry, Fire, and State Lands;

(v) a wildland urban interface coordinator, as defined in Section 65A-8-401; or

(vi) a county;

(b) waive governmental immunity in accordance with Subsection 63G-7-201(5); or

(c) create a cause of action against a wildland urban interface property and casualty insurer for use in accordance with Subsection (2)(a) of the boundary provided in the wildfire risk assessment mapping tool maintained by the Division of Forestry, Fire, and State Lands in accordance with Subsection 65A-8-203(8).

Section 4. Section 63G-7-201 is amended to read:

63G-7-201. Immunity of governmental entities and employees from suit.

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigate and control suspected bioterrorism and disease as set out in Sections 26B-7-316 through 26B-7-324;

(iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(A) an emergency shelter;

(B) housing;

(C) a staging place; or

(D) a medical facility; and

(iv) adopt methods or measures, in accordance with Section 26B-1-202, for health care providers, public health entities, and health

care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) (a) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(i) a latent dangerous or latent defective condition of:

(A) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(B) another structure located on any of the items listed in this Subsection (3)(a)(i); or

(ii) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(b) (i) As used in this Subsection (3)(b):

(A) "Contaminated land" means the same as that term is defined in Section 11-58-102.

(B) "Contamination" means the condition of land that results from the placement, disposal, or release of hazardous matter on, in, or under the land, including any seeping or escaping of the hazardous matter from the land.

(C) "Damage" means any property damage, personal injury, or other injury or any loss of any kind, however denominated.

(D) "Environmentally compliant" means, as applicable, obtaining a certificate of completion from the Department of Environmental Quality under Section 19-8-111 following participation in a voluntary cleanup under Title 19, Chapter 8, Voluntary Cleanup Program, obtaining an administrative letter from the Department of Environmental Quality for a discrete phase of a voluntary cleanup that is conducted under a remedial action plan as defined in Section 11-58-605, or complying with the terms of an environmental covenant, as defined in Section 57-25-102, signed by an agency, as defined in Section 57-25-102, and duly recorded in the office of the recorder of the county in which the contaminated land is located.

(E) "Government owner" means a governmental entity, including an independent entity, as defined in Section 63E-1-102, that acquires an ownership interest in land that was contaminated land before the governmental entity or independent entity acquired an ownership interest in the land.

(F) "Hazardous matter" means hazardous materials, as defined in Section 19-6-302, hazardous substances, as defined in Section 19-6-302, or landfill material, as defined in Section 11-58-102.

(G) "Remediation" means the same as that term is defined in Section 11-58-102.

(ii) (A) A government owner and the government owner's officers and employees are immune from suit, and immunity is not waived, for any claim for damage that arises out of or in connection with, or results from, contamination of contaminated land.

(B) A government owner's ownership of contaminated land may not be the basis of a claim against the government owner for damage that arises out of or in connection with, or results from, contamination of contaminated land.

(iii) Subsection (3)(b)(ii) does not limit or affect:

(A) the liability of a person that placed, disposed of, or released hazardous matter on, in, or under the land; or

(B) a worker compensation claim of an employee of an entity that conducts work on or related to contaminated land.

(iv) Immunity under Subsection (3)(b)(ii)(A) is not affected by a government owner's remediation of contaminated land if the government owner is environmentally compliant.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a trail that is along a water facility, as defined in Section 73-1-8, stream, or river, regardless of ownership or operation of the water facility, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity;

(v) an activity of wildlife, as defined in Section 23A-1-101, that arises during the use of a public or private road;

(w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section 53-14-103; or

(x) providing or failing to provide information under Section 53-27-102 or Subsection 41-1a-213(6), (7), or (8), 53-3-207(4), or 53-3-805(5).

(5) The following are immune from suit, and immunity is not waived for an action or failure to act within the scope of duties or employment, if the injury arises out of, in connection with, or results from the implementation of Section 17-16-22 to the extent it addresses evaluating and classifying high risk wildland urban interface property, Section 31A-22-1310, or Title 65A, Chapter 8, Part 4, Wildland Urban Interface Property:

(a) the Division of Forestry, Fire, and State Lands;

(b) an officer, employee, or consultant of the Division of Forestry, Fire, and State Lands;

(c) a county;

(d) a wildland urban interface coordinator, as defined in Section 65A-8-401;

(e) the Insurance Department; or

(f) an officer, employee, or consultant of the Insurance Department.

Section 5. Section 65A-8-203 is amended to read:

65A-8-203. Cooperative fire protection agreements with eligible entities.

(1) As used in this section:

(a) "Eligible entity" means:

(i) a county, a municipality, or a special service district, special district, or service area with:

(A) wildland fire suppression responsibility as described in Section 11-7-1; and

(B) wildland fire suppression cost responsibility and taxing authority for a specific geographic jurisdiction; or

(ii) upon approval by the director, a political subdivision established by a county, municipality, special service district, special district, or service area that is responsible for:

(A) providing wildland fire suppression services; and

(B) paying for the cost of wildland fire suppression services.

(b) "Fire service provider" means a public or private entity that fulfills the duties of Subsection 11-7-1(1).

(2) (a) The governing body of any eligible entity may enter into a cooperative agreement with the division to receive financial and wildfire management cooperation and assistance from the division, as described in this part.

(b) A cooperative agreement shall last for a term of no more than five years and be renewable if the eligible entity continues to meet the requirements of this chapter.

(3) (a) The state shall assume an eligible entity's cost of suppressing catastrophic wildfire as defined in the cooperative agreement if the eligible entity has entered into, and is in full compliance with, a cooperative agreement with the division, as described in this section.

(b) A county or municipality that is not covered by a cooperative agreement with the division, as described in this section, shall be responsible for wildland fire costs within the county or municipality's jurisdiction, as described in Section 65A-8-203.2.

(4) To enter into a cooperative agreement with the division, the eligible entity shall:

[~~(a) if the eligible entity is a county, adopt and enforce on unincorporated land a wildland fire ordinance based upon minimum standards established by the division or Uniform Building Code Commission;~~]

[~~(b)~~](a) require that the fire department or equivalent fire service provider under contract with, or delegated by, the eligible entity on unincorporated land meet minimum standards for wildland fire training, certification, and suppression equipment based upon nationally accepted standards as specified by the division;

[~~(c)~~](b) invest in prevention, preparedness, and mitigation efforts, as agreed to with the division, that will reduce the eligible entity's risk of catastrophic wildfire;

[~~(d)~~](c) (i) file with the division an annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs;

(ii) meet the eligibility entity's participation commitment by making direct payments to the division; or

(iii) do a combination of Subsections [~~(4)(d)(i) and (ii)~~](4)(c)(i) and (ii);

[~~(e)~~](d) return the financial statement described in Subsection (6), signed by the chief executive of the eligible entity, to the division on or before the date set by the division; [~~and~~]

[~~(f)~~](e) if the eligible entity is a county, have a designated fire warden as described in Section 65A-8-209.1[~~.~~];

(f) subject to Subsection (9), adopt and enforce the wildland urban interface building standards, as defined in Section 65A-8-401, if the eligible entity is a:

(i) county for purposes of an unincorporated area within the county; or

(ii) municipality for an incorporated area within a county; and

(g) if the eligible entity is a county, comply with Section 17-16-22.

(5) (a) The state forester may execute a cooperative agreement with the eligible entity.

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the:

(i) cooperative agreements described in this section;

(ii) manner in which an eligible entity shall provide proof of compliance with Subsection (4);

(iii) manner by which the division may revoke a cooperative agreement if an eligible entity ceases to meet the requirements described in this section;

(iv) accounting system for determining suppression costs;

(v) manner in which the division shall determine the eligible entity's participation commitment; and

(vi) manner in which an eligible entity may appeal a division determination.

(6) (a) The division shall send a financial statement to each eligible entity participating in a cooperative agreement that details the eligible entity's participation commitment for the coming fiscal year, including the prevention, preparedness, and mitigation actions agreed to under Subsection (4) [~~(c)~~](b).

(b) Each eligible entity participating in a cooperative agreement shall:

(i) have the chief executive of the eligible entity sign the financial statement, or the legislative body of the eligible entity approve the financial statement by resolution, confirming the eligible entity's participation for the upcoming year; and

(ii) return the financial statement to the division, on or before a date set by the division.

(c) A financial statement shall be effective for one calendar year, beginning on the date set by the division, as described in Subsection (6)(b).

(7) (a) An eligible entity may revoke a cooperative agreement before the end of the cooperative agreement's term by:

(i) informing the division, in writing, of the eligible entity's intention to revoke the cooperative agreement; or

(ii) failing to sign and return its annual financial statement, as described in Subsection (6)(b), unless the director grants an extension.

(b) An eligible entity may not revoke a cooperative agreement before the end of the term of a signed annual financial statement, as described in Subsection (6)(c).

(8) (a) The division shall develop and maintain a wildfire risk assessment mapping tool that is online and publicly accessible.

(b) [~~(i)~~] The division shall analyze [~~adding an additional high-risk category~~]and establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, boundaries for high risk wildland urban interface property and what constitutes wildland urban interface property that is not high risk within the wildfire risk assessment mapping tool described in Subsection (8)(a):

[~~(A)~~](i) using a scientific assessment; and

[~~(B)~~](ii) that is focused on the risk to dwellings within the wildland [~~-~~]urban interface area.

[~~(ii) The division shall report the results of the division's analysis under this Subsection (8)(b) to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the 2024 November interim meeting of that committee.~~]

(c) With regard to the categories used within the wildfire risk assessment mapping tool described in Subsection (8)(a), the division may adjust the assessment for participation commitments if the adjustment is based on the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor, in accordance with a formula established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) (a) If the state under Section 15A-2-103 adopts an edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the division, as a wildland urban interface building standard that may be adopted by a local compliance agency:

(i) for purposes of an unincorporated area within a county, the county shall adopt and enforce the wildland urban interface building standard described in this Subsection (9)(a); and

(ii) for purposes of an incorporated area within a county, the relevant municipality shall adopt and enforce the wildland urban interface building standard described in this Subsection (9)(a).

(b) If a county or municipality fails to comply with Subsections (4)(f) and (9)(a), the division may choose to not pay costs of the county or municipality under a cooperative agreement executed under this section.

(c) (i) If the state adopts a different wildland urban interface building standard than was previously adopted under Section 15A-2-103, a county or municipality has two years from the date the state adopts the different wildland urban interface building standard to adopt the appropriate wildland urban interface building standard.

(ii) If a county or municipality fails to adopt the appropriate wildland urban interface building standard within the time period described in Subsection (9)(c)(i), the division may choose to not pay costs of the county or municipality under a cooperative agreement executed under this section beginning two years from the day on which the state adopts the different wildland urban interface building standard and until such time as the county or municipality adopts the appropriate wildland urban interface building standard.

Section 6. Section 65A-8-215 is amended to read:

65A-8-215. Wildland-urban interface fire prevention, preparedness, and mitigation.

(1) As used in this section:

(a) "Prevention, preparedness, and mitigation fund" means the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund created in this section.

(b) "Suppression fund" means the Wildland Fire Suppression Fund created in Section 65A-8-204.

(c) "Wildland-urban interface" means the zone where structures and other human development meets, or intermingles with, undeveloped wildland.

(2) (a) There is created an expendable special revenue fund known as the "Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund."

(b) The prevention, preparedness, and mitigation fund shall consist of:

(i) interest and earnings from the investment of money from the prevention, preparedness, and mitigation fund;

(ii) money received as direct payment from cooperative wildfire system participation commitments;

(iii) money appropriated by the Legislature; [~~and~~]

(iv) money transferred to the prevention, preparedness, and mitigation fund under Section 63J-1-314[~~.~~]; and

(v) fees deposited into the prevention, preparedness, and mitigation fund under Section 17-16-22.

(c) The division shall administer the prevention, preparedness, and mitigation fund to:

(i) pay costs of prevention and preparedness efforts on wildland-urban interface within the state, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including costs of an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203;

(ii) issue fire department assistance grants, which in the aggregate may not exceed 10% of the money in the prevention, preparedness, and mitigation fund each fiscal year; and

(iii) in cases of catastrophic need as determined by the state forester, pay costs that could be paid from the suppression fund under Section 65A-8-204.

(d) Disbursements from the prevention, preparedness, and mitigation fund may only be made upon written order of the state forester or the state forester's authorized representative.

(3) (a) The division may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish criteria for community wildfire preparedness plans addressing wildland-urban interface. The criteria shall require action that is:

(i) qualitative and quantitative; and

(ii) leads to reduced wildfire risk.

(b) An eligible entity, as defined in Section 65A-8-203, shall agree to implement prevention, preparedness, and mitigation actions identified in a community wildfire preparedness plan addressing wildland-urban interface that is approved by the division.

Section 7. Section 65A-8-401 is enacted to read:

PART 4. Wildland Urban Interface Property

65A-8-401. Definitions.

As used in this section:

(1) "High risk wildland urban interface property" means property located within the boundary of high risk wildland urban interface as designated by the wildfire risk assessment tool in Subsection 65A-8-203(8)(a) and defined by rule made in accordance with Subsection 65A-8-402(5)(a).

(2) "Triage scale" means a scale with three classifications adopted by the division to evaluate and classify property located within the wildland urban interface as to what actions are needed to prepare the property for fire.

(3) "Wildland urban interface" means the same as that term is defined in Section 65A-8a-102.

(4) "Wildland urban interface building standards" means the edition of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103.

(5) "Wildland urban interface coordinator" means a representative of the division or a county who evaluates and classifies wildland urban interface property in accordance with Section 65A-8-402.

(6) "Wildland urban interface property and casualty insurer" means the same as that term is defined in Section 31A-22-1310.

Section 8. Section 65A-8-402 is enacted to read:

65A-8-402. Evaluation of wildland urban interface property -- Fee amounts -- Rulemaking.

(1) (a) The division shall establish a program under which a wildland urban interface coordinator evaluates and classifies high risk wildland urban interface property using a triage scale.

(b) The wildland urban interface coordinator shall be:

(i) a representative of the division; or

(ii) if the evaluation and classification is assigned to a county, a representative of the county.

(c) At the beginning of each calendar year, the division shall determine whether to assign evaluation and classification under this section of high risk wildland urban interface property to a county.

(2) After completing the evaluation and classification under this section, the wildland urban interface coordinator shall inform a property owner of property described in Subsection (1)(a) of:

(a) the classification assigned to the property described in Subsection (1)(a) under the triage scale;

(b) the fee the property owner shall pay under Section 17-16-22; and

(c) resources from the division or county that the property owner may access to bring the property described in Subsection (1)(a) to the first or second classification by applying wildland urban interface building standards.

(3) As part of the program established under this section, the division:

(a) may provide resources to a property owner described in Subsection (2)(b) to facilitate the property owner bringing the property described in Subsection (1)(a) to the first or second classification under the triage scale; and

(b) beginning on January 1, 2028, shall develop and maintain a database that may be accessed by a wildland urban interface property and casualty insurer to learn the classification under the triage scale for any portion of high risk wildland urban interface property to be covered by the wildland urban interface property and casualty insurer.

(4) (a) The division shall annually set a fee amount that is based on the square footage of a structure within the high risk wildland urban interface to pay for the costs associated with the implementation of this part to be assessed and collected by a county in accordance with Section 17-16-22.

(b) The division may tier the fee amount to account for what level on the triage scale a property is assigned by a wildland urban interface coordinator.

(5) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) define high risk wildland urban interface property and wildland urban interface property that is not high risk as provided in Subsection 65A-8-203(8)(b);

(b) establish the criteria used to evaluate and classify property located within high risk wildland urban interface property;

(c) create a process by which the division and counties communicate classifications assigned to property described in Subsection (1)(a);

(d) create a process for communicating to a property owner the information described in Subsection (2);

(e) establish how the division may provide resources under Subsection (3);

(f) create a process for a wildland urban interface property and casualty insurer to learn the classification described in Subsection (3)(b); and

(g) establish how the fee amount described in Subsection (4) is set.

Section 9. Section 65A-8-403 is enacted to read:

65A-8-403. Liability.

This part does not create a cause of action against the state, the division, an officer, employee, or consultant of the division, a county, or a wildland urban interface coordinator for an act or failure to act under this part and does not waive governmental immunity in accordance with Subsection 63G-7-201(5).

Section 10. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 75
H. B. 58
Passed March 5, 2025
Approved March 19, 2025
Effective January 1, 2026

BUILDING INSPECTOR AMENDMENTS

Chief Sponsor: Thomas W. Peterson
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies provisions relating to building inspectors.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► directs the Uniform Building Code Commission to:
  - • collect data pertaining to building inspectors;
  - • publish gathered data on an annual basis; and
  - • report the data annually to the Legislature;
- ► expands the scope for the Division of Professional Licensing to spend money from surcharges;
- ► adds unlawful and unprofessional conduct provisions for licensed building inspectors acting as qualified building officials;
- ► requires a local regulator to hire or contract with a qualified building official; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

15A-1-105, as enacted by Laws of Utah 2024, Chapter 375
15A-1-202, as last amended by Laws of Utah 2024, Chapters 375, 431
15A-1-203, as last amended by Laws of Utah 2021, Chapters 199, 344
15A-1-209, as last amended by Laws of Utah 2024, Chapter 72
15A-1-302, as last amended by Laws of Utah 2024, Chapter 431
58-56-9, as last amended by Laws of Utah 2024, Chapter 375
58-56-9.1, as enacted by Laws of Utah 2007, Chapter 145
58-56-9.3, as last amended by Laws of Utah 2018, Chapter 229

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

Section 1. Section 15A-1-105 is amended to read:
15A-1-105. Third-party inspection firms.

(1) As used in this section:

(a) "Building permit applicant" means [~~a person~~]an individual who applies to a local regulator for a building permit.

(b) "Inspection" means a physical examination of all aspects of a structure to ensure compliance with the State Construction Code.

(c) "Local regulator" means the same as that terms is defined in Section [~~15A-1-102~~]15A-1-202.

(d) "Third-party inspection firm" means an entity that[~~is~~]:

[~~(i) licensed under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing;~~]

[~~(ii)~~](i) employs or contracts with licensed building inspectors to enforce building codes adopted in this title;

(ii) is independent, but may include a building inspector for an adjacent city or county; and

(iii) is included on the local regulator's third-party inspection firm list.

(e) "Third-party inspection firm list" means a list of:

(i) for a first, second, third, or fourth class county, or a municipality located within a first, second, third, or fourth class county, three or more third-party inspection firms approved by the local regulator; or

(ii) for a fifth or sixth class county, or a municipality located within a fifth or sixth class county, one or more third-party inspection firms approved by the local regulator.

(2) (a) Subject to the provisions of this section and Subsections 10-6-160(2) and 17-36-55(2), after submitting a request for inspection, a building permit applicant may engage a third-party inspection firm from the local regulator's third-party inspection firm list to conduct or complete an inspection for the scope of work identified under the original request for inspection.

(b) If a building permit applicant wishes to engage a third-party inspection firm in accordance with Subsection (2)(a), the building permit applicant shall first notify the local regulator of the third-party inspection firm the building permit applicant intends to engage.

(c) Upon completing the inspection, the third-party inspection firm shall submit the inspection report to the local regulator.

(d) (i) The local regulator shall pay the cost of the inspection to the third-party inspection firm after the local regulator receives the third-party inspection report indicating the third-party inspection firm completed the inspection.

(ii) This section does not require a local regulator to pay for an inspection that exceeds the scope of work identified under the original request for inspection.

(3) (a) The local regulator shall issue a certificate of occupancy to the building permit applicant if the third-party inspection firm:

(i) completes the inspection; and

(ii) submits the inspection report to the local regulator.

(b) The local regulator shall promptly issue the certificate of occupancy or letter of completion after the third-party inspection firm submits the final inspection report to the local regulator as described in Subsection (3)(a)(ii).

(4) A local regulator is not liable for any inspection performed by a third-party inspection firm.

Section 2. Section 15A-1-202 is amended to read:

15A-1-202. Definitions.

As used in this chapter:

(1) "Agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals.

(2) (a) "Approved code" means a code, including the standards and specifications contained in the code, approved by the division under Section 15A-1-204 for use by a compliance agency.

(b) "Approved code" does not include the State Construction Code.

(3) "Building" means a structure used or intended for supporting or sheltering any use or occupancy and any improvements attached to it.

(4) "Building permit applicant" means the same as that term is defined in Section 15A-1-105.

(5) "Code" means:

(a) the State Construction Code; or

(b) an approved code.

(6) "Commission" means the Uniform Building Code Commission created in Section 15A-1-203.

(7) "Compliance agency" means:

(a) an agency of the state or any of its political subdivisions [~~which~~]that issues permits for construction regulated under the codes;

(b) any other agency of the state or its political subdivisions specifically empowered to enforce compliance with the codes;

(c) a third-party inspection firm as defined in Section 15A-1-105; or

(d) any other state agency [~~which~~]that chooses to enforce codes adopted under this chapter by authority given the agency under a title other than this part and Part 3, Factory Built Housing and Modular Units Administration Act.

(8) "Construction code" means standards and specifications published by a nationally recognized code authority for use in circumstances described in Subsection 15A-1-204(1), including:

(a) a building code;

(b) an electrical code;

(c) a residential one and two family dwelling code;

(d) a plumbing code;

(e) a mechanical code;

(f) a fuel gas code;

(g) an energy conservation code;

(h) a swimming pool and spa code;

(i) a manufactured housing installation standard code; and

(j) Modular Building Institute Standards 1200 and 1205, issued by the International Code Council, except as specifically modified by provisions of this title governing modular units.

(9) "Construction project" means the same as that term is defined in Section 38-1a-102.

(10) "Executive director" means the executive director of the Department of Commerce.

(11) "Legislative action" includes legislation that:

(a) adopts a new State Construction Code;

(b) amends the State Construction Code; or

(c) repeals one or more provisions of the State Construction Code.

(12) (a) "Local regulator" means a political subdivision of the state that employs or contracts a qualified building official and is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, installation, inspection, or other activities subject to the codes.

(b) "Local regulator" [~~may include~~]includes the local regulator's designee.

(13) "Membrane-covered frame structure" means a nonpressurized building with a structure composed of a rigid framework to support a tensioned membrane that provides a weather barrier.

(14) "Not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:

(a) maintenance or repair; or

(b) the care of livestock, crops, or equipment intended for agricultural use which are kept there.

(15) "Opinion" means a written, nonbinding, and advisory statement issued by the commission concerning an interpretation of the

meaning of the codes or the application of the codes in a specific circumstance issued in response to a specific request by a party to the issue.

(16) "Qualified building official" means an individual who:

(a) has at least six years of experience as an architect, engineer, inspector, plan examiner, contractor or superintendent of construction, or any combination of these;

(b) is actively licensed as a combination inspector in accordance with Section 58-56-9; and

(c) has completed 40 hours of management training as the division establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or is a certified building official.

[~~(16)~~](17) "Remote yurt" means a membrane-covered frame structure that:

(a) is no larger than 710 square feet;

(b) is not used as a permanent residence;

(c) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;

(d) does not have plumbing or electricity;

(e) is set back at least 300 feet from any river, stream, lake, or other body of water; and

(f) is registered with the local health department.

[~~(17)~~](18) "State regulator" means an agency of the state [~~which~~]that is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes adopted pursuant to this chapter.

Section 3. Section 15A-1-203 is amended to read:

15A-1-203. Uniform Building Code Commission -- Unified Code Analysis Council.

(1) There is created a Uniform Building Code Commission to advise the division with respect to the division's responsibilities in administering the codes.

(2) The commission shall consist of 13 members as follows:

(a) one member shall be a heating, ventilation, and air conditioning contractor licensed by the state;

(b) one member shall be a licensed building inspector nominated by the Utah League of Cities and Towns;

(c) one member shall be a licensed professional engineer;

(d) one member shall be a licensed architect;

(e) one member shall be:

(i) a licensed architect who specializes in residential architecture; or

(ii) a residential home designer;

(f) one member shall be a member of an association of building owners;

(g) one member shall be a fire official;

(h) four members shall be contractors licensed by the state, of which:

(i) two shall be general contractors, one of which shall specialize in residential construction;

(ii) one shall be an electrical contractor; and

(iii) one shall be a plumbing contractor;

(i) one member shall be from the general public and have no affiliation with the construction industry or real estate development industry; and

(j) one member shall be from the Division of Facilities Construction and Management of the Department of Government Operations.

(3) (a) The executive director shall appoint each commission member after submitting a nomination to the governor for confirmation or rejection.

(b) (i) If the governor rejects a nominee, the executive director shall submit an alternative nominee until the governor confirms the nomination.

(ii) An appointment is effective after the governor confirms the nomination.

(4) (a) Except as required by Subsection (4)(b), as terms of commission members expire, the executive director shall appoint each new commission member or reappointed commission member [~~to~~]for a four-year term.

(b) [~~Notwithstanding the requirements of Subsection (4)(a), the~~]The executive director shall adjust, at the time of appointment or reappointment, [~~adjust~~]the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(5) When a vacancy occurs in the commission membership for any reason, the executive director shall appoint a replacement for the unexpired term.

(6) (a) A commission member may not serve more than two full terms.

(b) A commission member who ceases to serve may not again serve on the commission until after the expiration of two years after the day on which service ceased.

(7) A majority of the commission members constitute a quorum and may act on behalf of the commission.

(8) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) (a) The commission shall [~~annually designate~~]designate annually one of the commission's members to serve as chair of the commission.

(b) The division shall provide a secretary to facilitate the function of the commission and to record the commission's actions and recommendations.

(10) The commission shall:

(a) in accordance with Section 15A-1-204, report to the Business and Labor Interim Committee;

(b) act as an appeals board as provided in Section 15A-1-207;

(c) establish advisory peer committees on either a standing or ad hoc basis to advise the commission with respect to matters related to a code, including a committee to advise the commission regarding health matters related to a plumbing code; [~~and~~]

(d) assist the division in overseeing code-related training in accordance with Section 15A-1-209[~~.~~];

(e) collect, with the assistance of the division, data related to the building inspection process, including building code interpretation and enforcement, throughout the state through the following methods:

(i) surveying and interviewing stakeholders;

(ii) visiting building sites and building departments; and

(iii) any other reasonable data collection method;

(f) use the data outlined in Subsection (10)(e) to:

(i) issue guidance to the division for providing education using surcharges described in Subsection 15A-1-209(5);

(ii) issue opinions regarding the proper interpretation of commonly disputed code items;

(iii) send letters of concern to local regulators, building officials, third-party firms, and contractors who are found to be incorrectly interpreting, enforcing, or complying with code; and

(iv) issue a publicly available report annually, before October 1, on the performance of local regulators within the state on the following:

(A) interpreting and enforcing of the building code consistent with this chapter;

(B) interpreting code for all building permit applicants and all inspectors consistently and equitably;

(C) following consistent and equitable building inspection processes for all permit holders and across all inspectors;

(D) meeting inspection timelines as described in Subsection 10-6-160(2);

(E) responding to building permit applicants in a timely manner;

(F) maintaining adequate training, oversight, and use of employed and contracted qualified building inspectors; and

(G) employing or contracting with a qualified building inspector;

(g) annually make a summary of data collected in accordance with Subsection (10)(f) publicly available through the Division of Professional Licensing; and

(h) annually present the report described in Subsection (10)(f)(iv) and the summary required in Subsection (10)(g), to the Business and Labor Interim Committee before October 1.

(11) (a) In a manner consistent with Subsection (10)(c), the commission shall [~~jointly create~~]create jointly with the Utah Fire Prevention Board an advisory peer committee known as the ["]Unified Code Analysis Council ["] to review fire prevention and construction code issues that require definitive and specific analysis.

(b) The commission and Utah Fire Prevention Board shall provide jointly, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [~~provide~~] for:

(i) the appointment of members to the Unified Code Analysis Council; and

(ii) procedures followed by the Unified Code Analysis Council.

Section 4. Section 15A-1-209 is amended to read:

15A-1-209. Building permit requirements -- Geologic, fault hazard, or geotechnical report.

(1) As used in this section, "project" means a "construction project" as defined in Section 38-1a-102.

(2) (a) The division shall develop a standardized building permit numbering system for use by any compliance agency in the state that issues a permit for construction.

(b) The standardized building permit numbering system described under Subsection (2)(a) shall include a combination of alpha or numeric characters arranged in a format acceptable to the compliance agency.

(c) A compliance agency issuing a permit for construction shall use the standardized building permit numbering system described under Subsection (2)(a).

(d) A compliance agency may not use a numbering system other than the system described under Subsection (2)(a) to define a building permit number.

(3) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall adopt a standardized building permit form by rule.

(b) The standardized building permit form created under this Subsection (3) shall include fields for indicating the following information:

(i) the name and address of the owner of each parcel of property on which the project will occur;

(ii) the name and address of the contractor for the project;

(iii) (A) the address of the project; or

(B) a general description of the project;

(iv) the county in which the property on which the project will occur is located;

(v) the tax parcel identification number of each parcel of the property; and

(vi) [~~whether~~]the permit [~~applicant is~~]applicant's role as an original contractor or owner-builder.

(c) The standardized building permit form created under this Subsection (3) may include any other information the division considers useful.

(d) A compliance agency shall issue a permit for construction only on a standardized building permit form approved by the division.

(e) A permit for construction issued by a compliance agency under Subsection (3)(d) shall print the standardized building permit number assigned under Subsection (2) in the upper right-hand corner of the building permit form in at least 12-point font.

(f) (i) Except as provided in Subsection (3)(f)(ii), a compliance agency may not issue a permit for construction if the information required by Subsection (3)(b) is not completed on the building permit form.

(ii) If a compliance agency does not issue a separate permit for different aspects of the same project, the compliance agency may issue

a permit for construction without the information required by Subsection (3)(b)(vi).

(g) A compliance agency may require additional information for the issuance of a permit for construction.

(4) A local regulator issuing a single-family residential building permit application shall include in the application or attach to the building permit the following notice prominently placed in at least 14-point font: "Decisions relative to this application are subject to review by the chief executive officer of the municipal or county entity issuing the single-family residential building permit and appeal under the International Residential Code as adopted by the Legislature."

(5) (a) A compliance agency shall:

(i) charge a 1% surcharge on a building permit the compliance agency issues; and

(ii) transmit 85% of the amount collected to the division [~~to be used by the division~~]for use in accordance with Subsection (5)(c).

(b) The division shall deposit the portion of the surcharge transmitted to the division [~~shall be deposited~~]as a dedicated credit.

(c) (i) The division shall use [~~30%~~]40% of the money received under Subsection (5)(a)(ii) to:

(A) provide education to building inspectors, and individuals working to become building inspectors, regarding the codes and code amendments under Section 15A-1-204 that are adopted, approved, or being considered for adoption or approval[~~.~~]; and

(B) collect data as outlined in Subsection 15A-1-203(10)(e).

(ii) The division shall use 10% of the money received under Subsection (5)(a)(ii) to provide education to individuals licensed in construction trades or related professions through a construction trade association or a related professional association.

(iii) The division shall transmit [~~60%~~]50% of the money received under Subsection (5)(a)(ii) to the Office of the Property Rights Ombudsman created in Title 13, Chapter 43, Property Rights Ombudsman Act, to provide education and training regarding:

(A) the drafting and application of land use laws and regulations; and

(B) land use dispute resolution.

(6) (a) (i) A compliance agency that receives a geologic report, fault hazard report, or geotechnical report as part of a building permitting process or another infrastructure permitting process shall submit the final report to the Utah Geological Survey within 90 days after the day on which the compliance agency receives the report.

(ii) (A) When submitting a report, the compliance agency shall indicate what portion of the report is confidential.

(B) [~~The~~]In accordance with Subsection 79-3-202(2), the Utah Geological Survey shall keep confidential [~~those~~]the portions of the report that the compliance agency indicates are confidential[~~in accordance with Subsection 79-3-202(2)~~].

(b) (i) If submitting a physical copy of a report, a compliance agency shall mail or deliver the physical copy of the report to the address shown on the Utah Geological Survey website.

(ii) The Utah Geological Survey shall return the physical copy of a report to the compliance agency submitting the report after the Utah Geological Survey completes digital scanning of the report.

(c) If submitting a digital copy of a report, a compliance agency shall:

(i) submit the digital copy in a form [~~approved by~~]the Utah Geological Survey approves; and

(ii) (A) submit the digital copy through an online process [~~approved by~~]the Utah Geological Survey approves;

(B) email the digital copy to an email address provided on the Utah Geological Survey's public website; or

(C) mail or deliver the digital copy to the address described in Subsection (6)(b).

(d) A compliance agency may include in a contract related to a geologic report, fault hazard report, or geotechnical report, a statement that:

(i) the compliance agency shall share a copy of the report with the Utah Geological Survey in accordance with this Subsection (6); and

(ii) the Utah Geological Survey may use information in the report as provided in Section 79-3-202 subject to keeping portions of the report confidential as provided in Subsection (6)(a)(ii).

(e) A compliance agency may not be held liable for the use or reliance on a geologic report, fault hazard report, or geotechnical report shared with the Utah Geological Survey by:

(i) the Utah Geological Survey; or

(ii) a person [~~who~~]that obtains information from the Utah Geological Survey that is based on the geologic report, fault hazard report, or geotechnical report.

Section 5. Section 15A-1-302 is amended to read:

15A-1-302. Definitions.

As used in this part:

(1) "Compliance agency" means the same as that term is defined in Section 15A-1-202.

(2) "Construction documents" means the same as that term is defined by Modular Building Institute Standards 1200.

(3) "Decal" means a form of certification, created by the Division of Facilities Construction and Management and issued by a third party inspection agency, to be permanently attached to a module, panelized system, or modular building unit indicating that the module, panelized system, or modular building unit has been constructed to meet or exceed applicable building code requirements.

(4) "Factory built housing" means a manufactured home or mobile home.

(5) "Factory built housing set-up contractor" means an individual licensed by the division to set up or install factory built housing on a temporary or permanent basis.

(6) "HUD Code" means the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. Sec. 5401 et seq.

(7) "Local regulator" means the same as that term is defined in Section 15A-1-202.

(8) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the HUD Code, in one or more sections, that:

(a) in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet; and

(b) is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(9) "Manufacturing plant" means the same as that term is defined by Modular Building Institute Standards 1200.

(10) "Mobile home" means a transportable factory built housing unit built before June 15, 1976, in accordance with a state mobile home code which existed prior to the HUD Code.

(11) "Modular manufacturer" means the entity responsible for manufacturing a panelized system or module.

(12) "Modular unit" or "modular building unit" means a structure:

(a) constructed from one or more modules or panelized systems that is manufactured in accordance with the State Construction Code and transported to a location;

(b) the purpose of which is for human habitation, occupancy, or use; and

(c) is not a factory-built house, manufactured home, or mobile home.

(13) "Module" means a three-dimensional, volumetric section of a modular building unit designed and approved to be transported as a single section, independent of other sections, to a location for onsite construction.

(14) "Private home inspector" means an individual who:

(a) offers services to the public; and

(b) examines residential dwellings and the components of a residential dwelling to identify potential issues associated with the sale or purchase of real property.

[~~(14)~~](15) "Offsite construction" means a modular building unit that:

(a) is designed and constructed in compliance with this part;

(b) is wholly or in substantial part fabricated in a manufacturing plant for installation at an onsite location; and

(c) has been manufactured in such a manner that all parts or processes cannot be inspected at the end site location without disassembly, potentially resulting in damage or destruction to the modular building unit.

[~~(15)~~](16) "Onsite construction" means:

(a) the preparation of a location where a modular building unit will be installed, including preparation of site foundation, construction of any necessary supporting structure, and preparation to connect the modular building unit to necessary utilities; and

(b) assembly and installation of one or more modules or panelized systems in accordance with construction documents into a modular building unit, including completion of any site-related construction and connecting the modular building unit to necessary utilities.

[~~(16)~~](17) "Panelized system" means a closed wall, roof, or floor component that is constructed at a manufacturing plant or by a modular manufacturer in a manner that prevents the construction from being fully inspected at an onsite location without disassembly, damage, or destruction.

[~~(17)~~](18) "State regulator" means the same as that term is defined in Section 15A-1-202.

[~~(18)~~](19) "Third party inspection agency" means an entity approved by the Division of Facilities Construction and Management to be qualified to inspect a module or panelized system for compliance with the construction documents, compliance control, and applicable code.

[~~(19)~~](20) "Third party inspector" means a person who:

(a) is qualified to inspect a modular building unit for compliance with construction documents, compliance control, and applicable building code;

(b) works under the direction of a third party inspection agency;

(c) has been licensed by the division under Section 15A-1-307; and

(d) is approved by the Division of Facilities Construction and Management to conduct third party inspections, as described in Section 15A-1-307.

[~~(20)~~](21) "Unregistered modular unit" means a modular unit that:

(a) has not been inspected as required by this title; or

(b) does not have a required decal.

Section 6. Section 58-56-9 is amended to read:

58-56-9. Qualifications of inspectors -- Contract for inspection services.

(1) [~~An~~]A building inspector employed by a local regulator, state regulator, or compliance agency to enforce the codes shall:

[~~(a) (i) meet minimum qualifications as established by the division in collaboration with the commission;~~]

[~~(ii) be certified by a nationally recognized organization which promulgates construction codes; or~~]

[~~(iii) pass an examination developed by the division in collaboration with the commission;~~]

[~~(b)~~](a) be currently licensed by the division as meeting [~~those~~]the minimum qualifications [~~:~~]the division establishes in collaboration with the commission, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

[~~(c)~~](b) be subject to disciplinary or other action if the [~~licensee~~]building inspector engages in unlawful or unprofessional conduct.

(2) A local regulator, state regulator, or compliance agency may contract for the services of a [~~licensed~~]building inspector not regularly employed by the regulator or agency.

(3) A private home inspector shall:

(a) be currently licensed by the division as meeting the minimum qualifications the division establishes in collaboration with the commission, by rule in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) be subject to disciplinary or other action if the individual engages in unlawful or unprofessional conduct.

[~~(3)~~](4) In accordance with Section 58-1-401, the division may:

(a) refuse to issue a license to an applicant;

(b) refuse to renew the license of a licensee;

(c) revoke, suspend, restrict, or place on probation the license of a licensee;

(d) issue a public or private reprimand;

(e) issue a citation to a licensee; and

(f) issue a cease and desist order.

Section 7. Section 58-56-9.1 is amended to read:

58-56-9.1. Unlawful conduct.

(1) [~~Unlawful conduct is as~~]"Unlawful conduct" means the same as that term is defined in [~~Subsection 58-1-501(1) and includes:~~]Section 58-1-501.

(2) "Unlawful conduct" includes:

[~~(1)~~](a) engaging in the sale of factory built housing without being registered with the division as a dealer, unless the sale is exempt under Section 58-56-16;

[~~(2)~~](b) selling factory built housing within the state as a dealer without collecting and remitting to the division the fee required by Section 58-56-17;

[~~(3)~~](c) acting as a building inspector or representing oneself to be acting as a building inspector, unless licensed or [~~exempted from licensure~~]exempt under this chapter or using the title building inspector or any other description, words, letters, or abbreviation indicating that the person is a building inspector if the person has not been licensed under this chapter;

[~~(4)~~](d) acting as a building inspector beyond the scope of the license held under this chapter; [~~and~~]

[~~(5)~~](e) hiring or employing in any manner an unlicensed person as a building inspector, unless [~~exempted~~]exempt from licensure under this chapter[~~.~~]; and

(f) as a building official, directing or knowingly allowing an employed or contracted inspector to perform beyond the scope of the inspector's license held under this chapter.

Section 8. Section 58-56-9.3 is amended to read:

58-56-9.3. Unprofessional conduct.

(1) [~~Unprofessional conduct is as~~]"Unprofessional conduct" means the same as that term is defined in [~~Subsection 58-1-501(2) and includes:~~]Section 58-1-501.

[~~(1)~~](2) "Unprofessional conduct" includes:

(a) as a building inspector:

(i) knowingly failing to inspect or issue correction notices for code violations [~~which~~]that when left uncorrected would constitute a hazard to the public health and safety; and

(ii) [~~and~~]knowingly failing to require [~~that~~]compliance with correction notices [~~are complied with as a building inspector~~];

[~~(2)~~](b) the use of alcohol or the illegal use of drugs while performing duties [~~as a building inspector or at any time~~]to the extent that the inspector is physically or mentally impaired and unable to effectively perform the duties of an inspector;

[~~(3)~~](c) gross negligence in the performance of official duties as [~~a building~~]an inspector;

[~~(4)~~](d) the personal use of information or knowingly revealing information to unauthorized persons when that information has been obtained by [~~a building~~]an inspector as a result of the inspector's employment, work, or position as an inspector;

[~~(5)~~](e) unlawful acts or practices [~~which~~]that are clearly unethical under generally recognized standards of conduct of [~~a building~~]an inspector;

[~~(6)~~](f) engaging in fraud or knowingly misrepresenting a fact relating to the performance of duties and responsibilities as [~~a building~~]an inspector;

[~~(7)~~](g) a building inspector knowingly failing to require that all plans, specifications, drawings, documents, and reports be stamped by architects, professional engineers, or both as established by law;

[~~(8)~~](h) a building inspector knowingly failing to report to the division an act or omission of a licensee under [~~Title 58, Chapter 55, Utah Construction Trades Licensing Act~~]Chapter 55, Utah Construction Trades Licensing Act, which when left uncorrected constitutes a hazard to public health and safety;

[~~(9)~~](i) [~~a building~~]an inspector knowingly failing to report to the division unlicensed practice persons who are required to be licensed under [~~Title 58, Chapter 55, Utah Construction Trades Licensing Act~~]Chapter 55, Utah Construction Trades Licensing Act;

[~~(10)~~](j) a building inspector's approval of work [~~which~~]that materially varies from approved documents that have been stamped by an architect, professional engineer, or both unless authorized by the licensed architect, professional engineer, or both;

[~~(11)~~](k) a building inspector failing to produce verification of current licensure and current certifications for the codes upon request of the division, a compliance agency, or a contractor or property owner whose work is being inspected;

[~~(12)~~](l) a building inspector requiring work that materially varies from the [~~building~~]codes adopted by the state, including amendments;

(m) an inspector failing to make reasonable efforts to maintain a current knowledge of amendments to code;

(n) falsifying inspection reports or purporting to perform an inspection that was not actually performed as an inspector;

(o) an inspector engaging in retaliatory actions against individuals or companies that file complaints or question the local regulator's decisions;

(p) an inspector accepting what would reasonably be viewed as a bribe, including monetary, goods, materials, or other benefits in the course of duty;

(q) any willful, fraudulent, or deceitful act by an inspector, caused by an inspector, or at an inspector's direction that causes material injury to another;

[~~(13)~~](r) nondelivery of goods or services by a registered dealer [~~which~~]that constitutes a breach of contract by the dealer;

[~~(14)~~](s) the failure of a registered dealer to pay a subcontractor or supplier any amounts to which that subcontractor or supplier is legally entitled; [~~and~~]

[~~(15)~~](t) any other activity [~~which~~]that is defined as unprofessional conduct by division rule in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~.~~]; and

(u) a building official knowingly or willfully allowing an inspector contracted or employed within the building official's jurisdiction or firm to engage in the actions listed in Subsections (2)(a) through (2)(t).

Section 9. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 76
H. B. 64
Passed February 14, 2025
Approved March 19, 2025
Effective May 7, 2025

PUBLIC OFFICIAL BONDING AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill amends provisions relating to bonds required for public officials and employees to protect against malfeasance or misfeasance in office and replaces the requirement to post a bond with a requirement to obtain crime insurance.

Highlighted Provisions:

This bill:

- ► replaces requirements for bonds that a public official or employee is required to post in relation to the performance of duties with a requirement to obtain crime insurance;
- ► removes provisions relating to bonds that do not apply when replaced with crime insurance;
- ► removes provisions that make it difficult or impossible to obtain crime insurance;
- ► modifies, in certain circumstances, the scope of the coverage that relates to a bond that will be replaced with crime insurance;
- ► establishes requirements relating to crime insurance;
- ► addresses liability relating to certain public officials;
- ► addresses the setting of rates and record keeping for crime insurance;
- ► addresses the failure to obtain crime insurance;
- ► repeals certain provisions relating to actions on bonds; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-21-107, as enacted by Laws of Utah 2018, Chapter 393
4-22-108, as renumbered and amended by Laws of Utah 2017, Chapter 345
10-3-831, as enacted by Laws of Utah 2019, Chapter 318
10-8-78, as last amended by Laws of Utah 2024, Chapter 365
11-68-601, as renumbered and amended by Laws of Utah 2023, Chapter 502
17-16-4, as last amended by Laws of Utah 2011, Chapter 297
17-16-11, as last amended by Laws of Utah 2007, Chapter 268
17-53-103, as renumbered and amended by Laws of Utah 2000, Chapter 133
17-53-307, as last amended by Laws of Utah 2011, Chapter 140
17B-1-301, as last amended by Laws of Utah 2023, Chapter 15
17B-1-303, as last amended by Laws of Utah 2024, Chapters 388, 465
17B-2a-1005, as last amended by Laws of Utah 2024, Chapter 529
51-7-15, as last amended by Laws of Utah 2019, Chapter 56
52-1-1, as last amended by Laws of Utah 2024, Chapter 438
52-1-2, as repealed and reenacted by Laws of Utah 2011, Chapter 336
52-1-3, Utah Code Annotated 1953
52-1-4, Utah Code Annotated 1953
52-1-5, Utah Code Annotated 1953
52-1-6, Utah Code Annotated 1953
52-1-10, Utah Code Annotated 1953
52-2-1, as last amended by Laws of Utah 2011, Chapter 336
59-2-314, as last amended by Laws of Utah 1993, Chapter 227
59-2-315, as last amended by Laws of Utah 1993, Chapter 227
63G-7-805, as renumbered and amended by Laws of Utah 2008, Chapter 382
63H-7a-603, as last amended by Laws of Utah 2017, Chapter 430
67-4-10, as last amended by Laws of Utah 1998, Chapter 14
67-4-11, as last amended by Laws of Utah 2011, Chapter 342
67-9-1, as last amended by Laws of Utah 1984, Chapter 68

67-9-2, as last amended by Laws of Utah 2024, Chapter 365
78B-2-310, as renumbered and amended by Laws of Utah 2008, Chapter 3

REPEALS AND REENACTS:

17-53-227, as renumbered and amended by Laws of Utah 2000, Chapter 133
52-1-13, as last amended by Laws of Utah 2013, Chapter 121

REPEALS:

52-1-7, Utah Code Annotated 1953
52-1-8, as last amended by Laws of Utah 2024, Chapter 365
52-1-9, Utah Code Annotated 1953
52-1-11, as last amended by Laws of Utah 2024, Chapter 365
52-1-12, Utah Code Annotated 1953

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

Section 1. Section 4-21-107 is amended to read:

4-21-107. Council may require crime insurance -- Payment of premium.

(1) The council may require the administrator or a council employee to [~~post a surety bond conditioned for the faithful performance of the council's official~~]obtain crime insurance in relation to the administrator's or employee's duties.

[~~(2) The amount and type of bond shall be fixed by the council and each bond premium shall be paid by the council.~~]

(2) The council shall set the amount of crime insurance required and pay the premium.

Section 2. Section 4-22-108 is amended to read:

4-22-108. Commission may require crime insurance -- Payment of premium.

(1) The commission may require the administrator [~~, or any commission employees, to post a surety bond conditioned for the faithful performance of the commission's official duties. The amount, form, and kind of such a bond shall be fixed by the commission and each bond premium shall be paid by the commission.~~]or a commission employee to obtain crime insurance in relation to the administrator's or employee's duties.

(2) The commission shall set the amount of crime insurance required and pay the premium.

Section 3. Section 10-3-831 is amended to read:

10-3-831. Crime insurance.

(1) As used in this section, "municipal officer" means:

(a) the mayor;

(b) each member of the municipal legislative body;

(c) the municipal treasurer; and

[~~(d) anyone for whom the municipal legislative body determines a general fidelity or public employee blanket bond or theft or crime insurance should be acquired.~~]

(d) an individual whom the municipal legislative body requires to obtain crime insurance.

[~~(2) (a) (i) Except as provided in Subsection (2)(b), the legislative body of each municipality shall prescribe the amount of a general fidelity bond or theft or crime insurance to be acquired for the municipal officer.~~]

[~~(ii) If, under Subsection (2)(a)(i), a municipality has prescribed the amount of the general fidelity bond required, then theft or crime insurance in an amount that is not less than the bond satisfies the requirement described in Subsection (2)(a)(i).~~]

(2) (a) Except as provided in Subsection (2)(c), the legislative body of each municipality shall set the amount of crime insurance required for each municipal officer.

[~~(iii)~~](b) Before a municipal officer may discharge the duties of the officer's office, the municipality shall have in place [~~a bond or theft or~~] crime insurance covering the municipal officer in the [~~amounts~~]amount set by the municipality [~~prescribes~~].

[~~(b)~~](c) Before [~~the~~]a municipal treasurer may discharge the duties of the treasurer's office, the municipality shall have in place [~~a bond or theft or~~]crime insurance covering the treasurer in an amount not less than the amount set by the State Money Management Council, created in Section 51-7-16[~~, prescribes~~].

[~~(c)~~](d) A municipal legislative body may acquire [~~a fidelity bond or theft or~~]crime insurance on all municipal officers and the municipal treasurer as a group rather than individually.

(3) The municipal legislative body shall pay the [~~cost of each fidelity bond and theft or~~]premium of a crime insurance policy described in this section from municipal funds.

(4) The municipal recorder shall [~~file and~~]maintain [~~each fidelity bond~~]proof of crime insurance acquired under this section.

Section 4. Section 10-8-78 is amended to read:

10-8-78. Crime insurance and reports.

[~~They~~]The governing body of a city may require all municipal officers and agents, elected or appointed, to [~~give bond and security for the faithful performance of their duties,~~]:

(1) obtain crime insurance in relation to the performance of the officers' or agents' duties; and

(2) require from every officer of the city at any time a report in detail of all transactions in the [~~officer of the city's~~]officer's office or any matters connected [~~therewith~~]with the officer's office.

Section 5. Section 11-68-601 is amended to read:

11-68-601. Financial reports -- Audit -- Crime insurance.

(1) (a) The authority shall, following the close of each fiscal year, submit an annual report of the authority's activities for the preceding

year to the governor and the Legislature.

(b) The report shall contain:

(i) a complete operating report detailing the authority's activities; and

(ii) financial statements of the authority audited by a certified public accountant according to generally accepted auditing standards.

(2) (a) At least once a year, the state auditor shall:

(i) audit the books and accounts of the authority; or

(ii) contract with a nationally recognized independent certified public accountant to conduct the audit and review the audit report when the audit is completed.

(b) The authority shall reimburse the state auditor for the costs of the audit.

(c) If the audit is conducted by an independent auditor, the independent auditor shall submit a copy of the audit to the state auditor for review within 90 days after the end of the fiscal year covered by the audit.

(3) (a) The authority shall maintain [~~a surety bond in the penal sum~~]crime insurance coverage of $25,000 for each member of the board.

(b) The authority shall maintain [~~a surety bond in the penal sum~~]crime insurance coverage of $50,000 for the executive director.

(c) The authority shall ensure that [~~each surety bond~~]the crime insurance coverage described in this section is:

(i) [~~conditioned upon the faithful~~]related to the performance of the duties of office to which the [~~surety bond attaches~~]crime insurance relates;

(ii) issued by [~~a surety~~]an insurance company authorized to transact business in the state as [~~a surety~~]an insurer; and

(iii) [~~filed~~]recorded by filing proof of the insurance in the office of the State Treasurer.

(d) The authority shall pay the [~~cost of the surety bonds~~]crime insurance premiums.

Section 6. Section 17-16-4 is amended to read:

17-16-4. Election of officer to consolidated office.

When offices are united and consolidated:

(1) only one person shall be elected to fill the united and consolidated offices; and

(2) the person elected shall:

(a) take the oath and [~~give the bond~~]obtain the crime insurance required for each of the offices; and

(b) discharge all the duties [~~pertaining to~~]of each of the offices.

Section 7. Section 17-16-11 is amended to read:

17-16-11. Crime insurance.

(1) As used in this section, "county officials" means:

(a) the members of the county legislative body;

(b) the county executive;

(c) the county clerk;

(d) the county auditor;

(e) the county sheriff;

(f) the county attorney;

(g) in a county that is within a prosecution district, the district attorney;

(h) the county recorder;

(i) the county assessor;

(j) the county surveyor;

(k) each justice court judge and constable within the county;

(l) the county treasurer; and

[~~(m) each deputy or assistant of those listed in Subsections (1)(a) through (l) for whom the county legislative body determines a general fidelity bond or theft or crime insurance should be acquired.~~]

(m) a deputy or assistant of an individual described in Subsections (1)(a) through (l) whom the county legislative body requires to obtain crime insurance.

[~~(2) (a) The legislative body of each county shall prescribe the amount of each general fidelity bond or of theft or crime insurance to be acquired for county officials, except the county treasurer, before the county officials, except the county treasurer, may discharge the duties of their respective offices.~~]

[~~(b) The State Money Management Council created in Section 51-7-16 shall prescribe the amount of a general fidelity bond or theft or crime insurance to be acquired for the county treasurer before the county treasurer may discharge the duties of that office.~~]

[~~(c) A county legislative body may acquire a fidelity bond or theft or crime insurance on all county officials as a group rather than individually.~~]

[~~(3) (a) The county legislative body shall approve the premium for each fidelity bond before the bond may be filed.~~]

[~~(b) The cost of each fidelity bond and theft or crime insurance policy shall be paid from county funds.~~]

[~~(4) Each fidelity bond shall be filed and maintained in the office of the county clerk.~~]

(2) (a) Except as provided in Subsection (2)(b):

(i) the legislative body of each county shall set the amount of crime insurance to be acquired for county officials; and

(ii) a county official may not discharge the duties of the county official's office before obtaining the crime insurance described in Subsection (2)(a)(i).

(b) The State Money Management Council created in Section 51-7-16 shall set the amount of crime insurance required for the county treasurer.

(c) The county treasurer may not discharge the duties of the county treasurer's office before obtaining the crime insurance described in Subsection (2)(b).

(3) A county legislative body may acquire crime insurance on all county officials as a group rather than individually.

(4) The cost of a crime insurance policy shall be paid from county funds.

(5) The county clerk shall maintain proof of the crime insurance described in this section.

[~~(5)~~](6) (a) The district attorney of each multicounty prosecution district shall:

(i) [~~execute a fidelity bond or acquire theft or~~]obtain crime insurance in the amount specified in the interlocal agreement that created the prosecution district; and

(ii) file [~~each fidelity bond~~]proof of the crime insurance policy with the county clerk as specified in the interlocal agreement.

(b) The cost of [~~each fidelity bond or theft or~~]a crime insurance policy [~~under Subsection (5)(a)~~]described in Subsection (6)(a) shall be paid as specified in the interlocal agreement that created the prosecution district.

Section 8. Section 17-53-103 is amended to read:

17-53-103. Unauthorized payment or warrant -- Investigation by another county attorney -- Action to enjoin or recover payment.

(1) (a) If a county officer, without authority of law, orders any money paid for any purpose, or if any other county officer draws a warrant in the officer's own favor or in favor of any other person without being authorized [~~to do so~~]by the county legislative body or by law, the county attorney of that county shall request a county attorney from another county to investigate whether an unauthorized payment has been ordered or an unauthorized warrant drawn.

(b) If the county attorney requests a county attorney from another county to investigate under Subsection (1)(a), the county attorney shall deputize the investigating county attorney.

(2) If an investigating county attorney determines that an unauthorized payment has been ordered or that an unauthorized warrant has been drawn, that county attorney may commence and prosecute an action in the name of the county:

(a) if the payment has not been made or the warrant paid, to enjoin the payment of the unauthorized payment or of the unauthorized warrant; or

(b) if the payment has been made or the warrant paid[~~, to recover from the payee or the county officer and the officer's official bondsman the amount paid~~]:

(i) to the extent possible, to recover the amount from the payee or the county officer; or

(ii) to the extent applicable, to recover the amount in accordance with the applicable crime insurance policy.

(3) An order of the county legislative body is not necessary in order to maintain an action under Subsection (2).

Section 9. Section 17-53-227 is repealed and re-enacted to read:

17-53-227. Crime insurance for breach of duty by county legislative body member.

A county legislative body shall:

(1) obtain, and pay the premiums for, crime insurance on the members of the county legislative body in relation to the performance of the member's duties; and

(2) set the amount of coverage required for the crime insurance described in Subsection (1).

Section 10. Section 17-53-307 is amended to read:

17-53-307. County purchasing agent -- Appointment -- Oath -- Crime insurance -- Supervision -- Duties.

(1) The county executive, with the advice and consent of the county legislative body, in each county having a taxable value in excess of $500,000,000 may appoint a county purchasing agent.

(2) (a) The purchasing agent shall qualify by taking, subscribing, and filing the constitutional oath[~~and giving bond to the county in a sum fixed by the county legislative body~~].

(b) The county shall obtain crime insurance:

(i) in an amount set by the county legislative body, in relation to the duties of the purchasing agent; and

(ii) before the purchasing agent begins fulfilling the duties of the purchasing agent.

(3) (a) The county purchasing agent shall, under the direction and supervision of the county executive and except as provided in Subsection (3)(b):

(i) negotiate for the purchase of or contract for all supplies and materials required by the county;

(ii) submit all contracts and purchases negotiated by the purchasing agent under Subsection (3)(a)(i) to the county executive for approval and ratification; [~~and~~]

(iii) keep an accurate and complete record of all purchases and a detailed disposition of [~~them and,~~]the purchases; and

(iv) when required by the county legislative body, make a complete and detailed report to [~~it~~]the county legislative body of business transacted.

(b) Subject to Subsection (3)(c), the county executive may structure the county purchasing agent's office so that:

(i) the county purchasing agent's office is physically located within the county auditor's office; and

(ii) the county purchasing agent receives direction and supervision from the county auditor.

(c) The county executive:

(i) may not structure the county purchasing agent's office as described in Subsection (3)(b) unless:

(A) the county executive receives the advice and consent of the county council; and

(B) the county executive and county auditor agree, in writing, to the proposed structure, including the level of direction and supervision of the county purchasing agent retained by the county executive; and

(ii) shall maintain the level of direction and supervision over the county purchasing agent as agreed upon with the county auditor.

(4) The county executive may exclude from the purchasing agent's responsibility a county clerk's duties concerning elections or a sheriff's duties under Section 17-22-8.

Section 11. Section 17B-1-301 is amended to read:

17B-1-301. Board of trustees duties and powers.

(1) (a) Each special district shall be governed by a board of trustees [~~which~~]that shall:

(i) []manage and conduct the business and affairs of the district; and [~~shall~~]

(ii) determine all questions of district policy.

(b) All powers of a special district are exercised through the board of trustees.

(2) The board of trustees may:

(a) fix the location of the special district's principal place of business and the location of all offices and departments, if any;

(b) fix the times of meetings of the board of trustees;

(c) select and use an official district seal;

(d) subject to Subsections (3) and (4), employ employees and agents, or delegate to district officers power to employ employees and agents, for the operation of the special district and [~~its~~]the special district's properties and prescribe or delegate to district officers the power to prescribe the duties, compensation, and terms and conditions of employment of those employees and agents;

(e) require crime insurance for district officers and employees charged with the handling of district funds [~~to provide surety bonds~~] in an amount set by the board [~~or provide a blanket surety bond to cover officers and employees~~];

(f) contract for or employ professionals to perform work or services for the special district that cannot satisfactorily be performed by the officers or employees of the district;

(g) through counsel, prosecute on behalf of or defend the special district in all court actions or other proceedings in which the district is a party or is otherwise involved;

(h) adopt bylaws for the orderly functioning of the board;

(i) adopt and enforce rules and regulations for the orderly operation of the special district or for carrying out the district's purposes;

(j) prescribe a system of civil service for district employees;

(k) on behalf of the special district, enter into contracts that the board considers to be for the benefit of the district;

(l) acquire, construct or cause to be constructed, operate, occupy, control, and use buildings, works, or other facilities for carrying out the purposes of the special district;

(m) on behalf of the special district, acquire, use, hold, manage, occupy, and possess property necessary to carry out the purposes of the district, dispose of property when the board considers it appropriate, and institute and maintain in the name of the district any action or proceeding to enforce, maintain, protect, or preserve rights or privileges associated with district property;

(n) delegate to a district officer the exercise of a district duty; and

(o) exercise all powers and perform all functions in the operation of the special district and [~~its~~]the special district's properties as are ordinarily exercised by the governing body of a political subdivision of the state and as are necessary to accomplish the purposes of the district.

(3) (a) As used in this Subsection (3), "interim vacancy period" means:

(i) if any member of the special district board is elected, the period of time that:

(A) begins on the day on which an election is held to elect a special district board member; and

(B) ends on the day on which the special district board member-elect begins the member's term; or

(ii) if any member of the special district board is appointed, the period of time that:

(A) begins on the day on which an appointing authority posts a notice of vacancy in accordance with Section 17B-1-304; and

(B) ends on the day on which the [~~person~~]individual who is appointed by the special district board to fill the vacancy begins the [~~person's~~]individual's term.

(b) (i) The special district may not hire during an interim vacancy period a manager, a chief executive officer, a chief administrative officer, an executive director, or a similar position to perform executive and administrative duties or functions.

(ii) Notwithstanding Subsection (3)(b)(i):

(A) the special district may hire an interim manager, a chief executive officer, a chief administrative officer, an executive director, or a similar position during an interim vacancy period; and

(B) the interim manager's, chief executive officer's, chief administrative officer's, or similar position's employment shall terminate once a new manager, chief executive officer, chief administrative officer, or similar position is hired by the new special district board after the interim vacancy period has ended.

(c) Subsection (3)(b) does not apply if:

(i) all the elected special district board members who held office on the day of the election for the special district board members, whose term of office was vacant for the election are re-elected to the special district board; and

(ii) all the appointed special district board members who were appointed whose term of appointment was expiring are re-appointed to the special district board.

(4) A special district board that hires an interim manager, a chief executive officer, a chief administrative officer, an executive director, or a similar position in accordance with this section may not [~~, on or after May 10, 2011,~~]enter into an employment contract that contains an automatic renewal provision with the interim manager, chief executive officer, chief administrative officer, executive director, or similar position.

Section 12. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Crime insurance -- Notice of board member contact information.

(1) (a) Except as provided in Subsections (1)(b), (c), (d), and (e), the term of each member of a board of trustees begins at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created special district begins:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member whom the governor appoints in accordance with Subsection 17B-2a-

1005(2)(c):

(i) begins on the later of the following:

(A) the date on which the Senate consents to the appointment; or

(B) the expiration date of the prior term; and

(ii) ends on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).

(d) The term of a member of a board of trustees whom an appointing authority appoints in accordance with Subsection (5)(b) begins upon the member taking the oath of office.

(e) If the member of the board of trustees fails to assume or qualify for office on January 1 for any reason, the term begins on the date the member assumes or qualifies for office.

(2) (a) (i) Except as provided in Subsection (8), and subject to Subsections (2)(a)(ii) and (iii), the term of each member of a board of trustees is four years, except that:

(A) approximately half the members of the initial board of trustees of an infrastructure financing district, as designated in the governing document, shall serve a six-year term so that the term of approximately half the board members expires every two years; and

(B) for any other special district, approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) If the terms of members of the initial board of trustees of a newly created special district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(iii), to result in the terms of their successors complying with:

(A) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(B) the requirement under Subsection (2)(a)(i) that terms be four years.

(iii) If the term of a member of a board of trustees does not begin on January 1 because of the application of Subsection (1)(e), the term is shortened as necessary to result in the term complying with the requirement under Subsection (1)(a) that the successor member's term, regardless of whether the incumbent is the successor, begins at noon on January 1 following the successor member's election or appointment.

(iv) An adjustment under Subsection (2)(a)(ii) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), (2), (3), (4), (5), (6), or (7), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution, Article IV,

Section 10.

(ii) A judge, county clerk, notary public, or the special district clerk may administer an oath of office.

(b) The member of the board of trustees taking the oath of office shall file the oath of office with the clerk of the special district.

(c) The failure of a board of trustees member to take the oath under Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member may serve any number of terms.

(5) (a) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position is filled in accordance with Section 20A-1-512.

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(10), the appointing authority may appoint an individual to fill a new board of trustees position in accordance with Section 17B-1-304 or 20A-1-512.

(6) (a) As used in this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a special district board of trustees by a county or municipality that is entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) A member of a board of trustees shall obtain [~~a fidelity bond or obtain theft or~~]crime insurance [~~for the faithful~~]in relation to performance of the member's duties, in the amount [~~and with the sureties or with an insurance company that~~]set by the board of trustees [~~prescribes~~].

(b) The special district:

(i) may assist the board of trustees in obtaining [~~a fidelity bond or obtaining theft or~~]crime insurance as a group or for members individually; and

(ii) shall pay the cost of [~~each fidelity bond or~~]the premium for the insurance coverage required under this Subsection (7).

(8) (a) In order to compensate for a change in the election year under Subsection 17B-1-306(14), the lieutenant governor may:

(i) extend the term of an elected district board member by one year; or

(ii) subject to Subsection 17B-1-306(14)(b)(iii), and in accordance with Subsection (2)(a), shorten the term of an elected district board member by one year, if necessary, to ensure that the term of approximately half of the board members expires every two years.

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(10), to ensure that the term of approximately half of the board members expires every two years in accordance with Subsection (2)(a):

(i) the board shall set shorter terms for approximately half of the new board members, chosen by lot; and

(ii) the initial term of a new board member position may be less than two or four years.

(9) (a) A special district shall:

(i) post on the Utah Public Notice Website created in Section 63A-16-601 the name, phone number, and email address of each member of the special district's board of trustees;

(ii) update the information described in Subsection (9)(a)(i) when:

(A) the membership of the board of trustees changes; or

(B) a member of the board of trustees' phone number or email address changes; and

(iii) post any update required under Subsection (9)(a)(ii) within 30 days after the date on which the change requiring the update occurs.

(b) This Subsection (9) applies regardless of whether the county or municipal legislative body also serves as the board of trustees of the special district.

Section 13. Section 17B-2a-1005 is amended to read:

17B-2a-1005. Water conservancy district board of trustees -- Selection of members -- Number -- Qualifications -- Terms -- Vacancies -- Crime insurance -- Authority.

(1) Members of the board of trustees for a water conservancy district shall be:

(a) elected in accordance with:

(i) the petition or resolution that initiated the process of creating the water conservancy district; and

(ii) Section 17B-1-306;

(b) appointed in accordance with Subsection (2); or

(c) elected under Subsection (4)(a).

(2) (a) If the members of the board of trustees are appointed, within 45 days after the day on which a water conservancy district is created as provided in Section 17B-1-215, the board of trustees shall be appointed as provided in this Subsection (2).

(b) For a district located entirely within the boundaries of a single county, the county legislative body of that county shall appoint each trustee.

(c) (i) For a district located in more than a single county, the governor, with the advice and consent of the Senate, shall appoint each trustee from nominees submitted as provided in this Subsection (2)(c).

(ii) (A) Except as provided in Subsection (2)(c)(ii)(B), in a division composed solely of municipalities, the legislative body of each municipality within the division shall submit two nominees per trustee.

(B) The legislative body of a municipality may submit fewer than two nominees per trustee if the legislative body certifies in writing to the governor that the legislative body is unable, after reasonably diligent effort, to identify two nominees who are willing and qualified to serve as trustee.

(iii) (A) Except as provided in Subsection (2)(c)(iii)(B), in all other divisions, the county legislative body of the county in which the division is located shall submit three nominees per trustee.

(B) The county legislative body may submit fewer than three nominees per trustee if the county legislative body certifies in writing to the governor that the county legislative body is unable, after reasonably diligent effort, to identify three nominees who are willing and qualified to serve as trustee.

(iv) If a trustee represents a division located in more than one county, the county legislative bodies of those counties shall collectively compile the list of three nominees.

(v) For purposes of this Subsection (2)(c), a municipality that is located in more than one county shall be considered to be located in only the county in which more of the municipal area is located than in any other county.

(d) In districts where substantial water is allocated for irrigated agriculture, one trustee appointed in that district shall be a person who owns irrigation rights and uses those rights as part of that person's livelihood.

(3) (a) The board shall give written notice of the upcoming vacancy in an appointed trustee's term and the date when the trustee's term expires to the county legislative body in single county districts and to the nominating entities and the governor in all other districts:

(i) if the upcoming vacancy is in a single county district, at least 90 days before the expiration of the trustee's term; and

(ii) for all other districts, on or before October 1 before the expiration of the appointed trustee's term.

(b) (i) Upon receipt of the notice of the expiration of an appointed trustee's term or notice of a vacancy in the office of an appointed trustee, the county or municipal legislative body, as the case may be, shall nominate candidates to fill the unexpired term of office pursuant to Subsection (2).

(ii) If a trustee is to be appointed by the governor and the entity charged with nominating candidates has not submitted the list of nominees within 90 days after service of the notice, the governor shall, with the advice and consent of the Senate, make the appointment from qualified candidates without consultation with the county or municipal legislative body.

(iii) If the governor fails to appoint, the incumbent shall continue to serve until a successor is appointed and qualified.

(iv) Appointment by the governor vests in the appointee, upon qualification, the authority to discharge the duties of trustee, subject only to the advice and consent of the Senate.

(c) Each trustee shall hold office during the term for which appointed and until a successor is duly appointed and has qualified.

(4) (a) Members of the board of trustees of a water conservancy district shall be elected, if, subject to Subsection (4)(b):

(i) two-thirds of all members of the board of trustees of the water conservancy district vote in favor of changing to an elected board; and

(ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.

(b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(5) The board of trustees of a water conservancy district shall consist of:

(a) except as provided in Subsection (5)(b), not more than 11 persons who are residents of the district; or

(b) if the district consists of five or more counties, not more than 21 persons who are residents of the district.

(6) If an elected trustee's office is vacated, the vacated office shall be filled in accordance with Section 17B-1-303.

(7) Each trustee shall [~~furnish a corporate surety bond~~]obtain crime insurance at the expense of the district, conditioned for the faithful performance of duties as a trustee.

(8) (a) The board of trustees of a water conservancy district may:

(i) make and enforce all reasonable rules and regulations for the management, control, delivery, use, and distribution of water;

(ii) withhold the delivery of water with respect to which there is a default or delinquency of payment;

(iii) provide for and declare a forfeiture of the right to the use of water upon the default or failure to comply with an order, contract, or agreement for the purchase, lease, or use of water, and resell, lease, or otherwise dispose of water with respect to which a forfeiture has been declared;

(iv) allocate and reallocate the use of water to lands within the district;

(v) provide for and grant the right, upon terms, to transfer water from lands to which water has been allocated to other lands within the district;

(vi) create a lien, as provided in this part, upon land to which the use of water is transferred;

(vii) discharge a lien from land to which a lien has attached; and

(viii) subject to Subsection (8)(b), enter into a written contract for the sale, lease, or other disposition of the use of water.

(b) (i) A contract under Subsection (8)(a)(viii) may provide for the use of water perpetually or for a specified term.

(ii) (A) If a contract under Subsection (8)(a)(viii) makes water available to the purchasing party without regard to actual taking or use, the board may require that the purchasing party give security for the payment to be made under the contract, unless the contract requires the purchasing party to pay for certain specified annual minimums.

(B) The security requirement under Subsection (8)(b)(ii)(A) in a contract with a public entity may be met by including in the contract a provision for the public entity's levy of a special assessment to make annual payments to the district.

Section 14. Section 51-7-15 is amended to read:

51-7-15. Crime insurance for state treasurer and other public treasurers -- Reports to council.

(1) (a) The state treasurer, county, city, and town treasurers, the clerk or treasurer of each school district, and other public treasurers that the council designates by rule shall [~~be bonded or may procure crime or theft~~]obtain crime insurance as described in Section 17-16-11 in an amount of not less than that established by the council.

(b) The council shall base the minimum [~~bond amount or crime or theft~~]crime insurance coverage amount as described in Section 17-16-11 on the amount of public funds normally in the treasurer's possession or control.

[~~(2) (a) When a public treasurer deposits or invests public funds as authorized by this chapter, the public treasurer and the public treasurer's bondsmen or insurers are not liable for any loss of public funds invested or deposited unless the loss is caused by the malfeasance of the public treasurer or a member of the public treasurer's staff.~~]

[~~(b) A public treasurer and the public treasurer's bondsmen or insurers are liable for a loss for any reason from deposits or investments not made in conformity with this chapter and the rules of the council.~~]

[~~(3)~~](2) (a) A public treasurer shall file a written report with the council on or before January 31 and July 31 of each year.

(b) The report shall contain:

(i) the information about the deposits and investments of that public treasurer during the preceding six months ending December 31 and June 30, respectively, that the council requires by rule; and

(ii) information detailing the nature and extent of interest rate contracts permitted by Subsection 51-7-17(3).

(c) A public treasurer shall make copies of the report available to the public at the public treasurer's office during normal business hours.

Section 15. Section 52-1-1 is amended to read:

52-1-1. Crime insurance to run to state, county, municipality, or other agency.

If a public officer is required to [~~give a bond~~]obtain crime insurance but the requirement does not [~~prescribe to whom the bond is to be made, the bond shall be made to~~]specify the beneficiary of the insurance policy, the policy shall specify the beneficiary as:

(1) the state, if the public officer is a state officer;

(2) the county, if the public officer is a county, precinct, or district officer;

(3) the city or town, if the public officer is a municipal officer; or

(4) the board of education, if the public officer is a school officer.

Section 16. Section 52-1-2 is amended to read:

52-1-2. Crime insurance in favor of state -- Approval and recording -- Filing of oaths.

(1) Unless otherwise provided in statute, if a state officer or an official of a state institution is required to [~~give an official bond to~~]obtain crime insurance in favor of the state, the state officer or executive director of the state institution shall:

(a) ensure that the [~~bond is provided~~]crime insurance policy is obtained as required by statute; and

(b) keep [~~the bond~~]proof of insurance on file at the administrative office of the:

(i) state officer or the state institution; or

(ii) Division of Risk Management.

(2) A state official shall file the state official's oath of office with the Division of Archives and Records Service created under Section 63A-12-101.

Section 17. Section 52-1-3 is amended to read:

52-1-3. County, precinct, and district officers -- Where filed.

Official oaths and [~~bonds of~~]proof of crime insurance relating to county, precinct and district officers shall be filed with the county

clerk, except those of the county clerk which shall be filed with the county treasurer.

Section 18. Section 52-1-4 is amended to read:

52-1-4. City officers -- Where filed.

Official oaths and [~~bonds of~~]proof of crime insurance relating to city officers shall be filed with the city recorder, except those of the city recorder which shall be filed with the city treasurer.

Section 19. Section 52-1-5 is amended to read:

52-1-5. Town officers -- Where filed.

Official oaths and [~~bonds of~~]proof of crime insurance relating to town officers shall be filed with the town clerk, except those of the town clerk which shall be filed with the town treasurer.

Section 20. Section 52-1-6 is amended to read:

52-1-6. School district officers -- Where filed.

Official oaths and [~~bonds of~~]proof of crime insurance relating to school district officers shall be filed with the clerk of the board of education, except those of the clerk which shall be filed with the treasurer of the board of education.

Section 21. Section 52-1-10 is amended to read:

52-1-10. Duties imposed by subsequent laws to be covered by crime insurance.

[~~The bonds~~]To the extent possible, crime insurance of all civil officers shall also cover duties required by laws passed subsequent to [~~giving them. No bond shall be void for failure to comply with the law as to matters of form, but it shall be valid as to all matters contained therein, if it complies substantially with the law~~]taking office.

Section 22. Section 52-1-13 is repealed and re-enacted to read:

52-1-13. Crime insurance as substitute for surety bond -- Requirements -- Failure to obtain and maintain crime insurance.

(1) In all cases where a bond is required of a public officer in this state to ensure against malfeasance or misfeasance in office, crime insurance shall instead be obtained.

(2) Crime insurance and the amount of coverage required is subject to approval as provided by law.

(3) The several boards, courts, or officers authorized by law to approve crime insurance may require review and update of the insurance annually.

(4) Intentional failure to obtain and maintain required crime insurance is malfeasance in office and may subject the officeholder to proceedings for removal from office.

Section 23. Section 52-2-1 is amended to read:

52-2-1. Time in which to qualify -- Failure -- Office declared vacant.

[~~(1)~~] When [~~any person duly~~]an individual elected or appointed to any office of the state or any of [~~its~~]the state's political subdivisions, fails to qualify for the office within 60 days after the date of the beginning of the term of office for which the [~~person was~~]individual is elected or appointed, the office is vacant and shall be filled as provided by law.

[~~(2) When a required bond of any officer of the state or of any of its political subdivisions is canceled, revoked, annulled or otherwise becomes void or of no effect, without another proper required bond being given so that continuance of the required bonded protection is afforded, the office of the officer is vacant and shall be filled as provided by law.~~]

Section 24. Section 59-2-314 is amended to read:

59-2-314. Penalty for failure to complete assessment book.

Any assessor who fails to complete and deliver the assessment book to the county auditor within the time prescribed by law, or who fails to transmit the information required under Section 59-2-313 to the commission, shall pay a civil penalty of $1,000 [~~, to be recovered on the assessor's official bond, for the use of~~]to the county, or [~~deducted from salary by~~]the county legislative body may deduct the civil penalty from the assessor's salary.

Section 25. Section 59-2-315 is amended to read:

59-2-315. Crime insurance -- Liability for willful failure or neglect of duty -- Judgment.

(1) The assessor [~~and sureties are liable on the official bond for all taxes on property within the county which, through willful failure or neglect, is not assessed or which has been willfully assessed at less than its fair market value~~]shall obtain crime insurance in relation to the duties of the assessor, in an amount set by the county legislative body.

(2) The county attorney shall, upon showing of proper evidence and upon written demand by the commission or the county []legislative body, commence and prosecute to judgment an action [~~upon the assessor's bond for all taxes lost from~~]against the assessor for willful failure or neglect in assessing property.

(3) If, during the trial of the action against the assessor, the value of the unassessed or underassessed property is determined, the assessor is liable for the difference between the amount of taxes collected and the amount of taxes which should have been collected pursuant to law.

Section 26. Section 63G-7-805 is amended to read:

63G-7-805. Liability insurance -- Insurance for employees authorized.

(1) [~~(a)~~] A governmental entity may insure any or all of its employees against liability, in whole or in part, for injury or damage resulting from an act or omission occurring during the performance of an employee's duties, within the scope of employment, or under color of authority, regardless of whether [~~or not that~~]the governmental entity is immune from suit for that act or omission.

[~~(c) Under any contract or policy of insurance providing coverage on behalf of a governmental entity or employee for any liability defined by this section, regardless of the source of funding for the coverage, the insurer has no right to indemnification or contribution from the governmental entity or its employee for any loss or liability covered by the contract or policy.~~]

[~~(b)~~](2) [~~Any expenditure for that insurance~~]An expenditure for insurance described in Subsection (1) is for a public purpose.

[~~(2) Any surety covering a governmental entity or its employee under any faithful performance surety bond has no right to indemnification or contribution from the governmental entity or its employee for any loss covered by that bond based on any act or~~

~~omission for which the governmental entity would be obligated to defend or indemnify under the provisions of Section 63G-7-902.~~]

Section 27. Section 63H-7a-603 is amended to read:

63H-7a-603. Financial officer -- Duties.

(1) The executive director shall appoint a financial officer for the Administrative Services Division with the approval of the board.

(2) The financial officer shall be responsible for accounting for the authority, including:

(a) safekeeping and investment of public funds of the authority, including the funds expended from the restricted accounts created in this chapter;

(b) the proper collection, deposit, disbursement, and management of the public funds of the authority in accordance with Title 51, Chapter 7, State Money Management Act;

(c) having authority to sign all bills payable, notes, checks, drafts, warrants, or other negotiable instruments in the absence of the executive director and the executive director's designated employee;

(d) providing to the board and the executive director a statement of the condition of the finances of the authority, at least annually and at such other times as shall be requested by the board; and

(e) performing all other duties incident to the financial officer.

(3) The financial officer shall:

(a) [~~be bonded~~]obtain crime insurance in an amount established by the State Money Management Council; and

(b) file written reports with the State Money Management Council pursuant to Section 51-7-15.

Section 28. Section 67-4-10 is amended to read:

67-4-10. Crime insurance.

(1) The state treasurer, within 30 days after taking office, shall [~~give to the state a surety-company bond~~]obtain crime insurance in a sum to be determined by the State Money Management Council.

(2) The state shall pay the premium of the [~~surety-company bond~~]crime insurance.

Section 29. Section 67-4-11 is amended to read:

67-4-11. Delict of treasurer -- Duties of auditor and governor -- Suspension.

(1) The state auditor shall notify the governor if the state auditor examines the books of the state treasurer, and finds that:

(a) the books do not correspond with the amount of funds on hand;

(b) the books do not show the actual condition of the funds;

(c) money belonging to the state has been embezzled, diverted, or in any manner taken from the treasury without authority of law; or

(d) the state treasurer has been guilty of negligence in keeping the books or in taking care of the public money.

(2) Upon receipt of the notice, the governor shall:

(a) take possession of all books, money, papers, and other property belonging to the state in the possession of the state treasurer; and

(b) temporarily suspend the state treasurer from office.

(3) (a) The state auditor shall:

(i) examine the books, papers, and all matters connected with the office of the suspended state treasurer; and

(ii) notify the governor of the findings.

(b) If, based upon the examination, the auditor concludes that the state treasurer has embezzled or converted to personal use the public money, or has been negligent in keeping the books, or in taking care of the public money, the governor shall appoint another person to replace the suspended state treasurer.

(c) The new state treasurer shall [~~execute an official bond~~]obtain crime insurance, and enter upon the office of state treasurer, as provided by law.

(d) The governor shall report all of the acts done under this section to the Legislature.

(4) The new state treasurer shall hold office until the suspended state treasurer is restored or until [~~his~~]a successor is elected and qualified.

Section 30. Section 67-9-1 is amended to read:

67-9-1. Appointment -- Powers.

(1) The state auditor, the state treasurer, the attorney general, and the superintendent of public instruction may each appoint a deputy, who may, during the absence or disability of the principal, perform all the duties pertaining to the office, except those required of the principal as a member of any board.

(2) The principal shall be answerable for the neglect or misconduct in office of [~~his~~]the principal's deputy, and may require [~~from him a bond for his own security. The appointment of a deputy shall be in writing, and shall be revocable at the pleasure of the principal; and all such appointments and revocations shall be filed with the lieutenant governor.~~]the deputy to obtain crime insurance.

(3) The principal:

(a) shall, if the principal appoints a deputy:

(i) make the appointment in writing; and

(ii) file the written appointment with the lieutenant governor;

(b) may revoke the appointment of the principal's deputy, at will, in writing; and

(c) shall, if the principal revokes appointment of a deputy, file the written revocation with the lieutenant governor.

Section 31. Section 67-9-2 is amended to read:

67-9-2. Crime insurance.

Where a deputy of any state officer is required to [~~give a bond to the state , the deputy shall give a surety-company bond, and the premium therefor shall be paid by~~]obtain crime insurance, the state shall pay the premium.

Section 32. Section 78B-2-310 is amended to read:

78B-2-310. Actions against public officers -- Within six years.

An action by the state, [~~any~~]an agency, or a public corporation against [~~any~~]a public officer for malfeasance, misfeasance, or nonfeasance in office or against [~~any surety upon his official bond~~]a crime insurance policy in relation to the public officer's duties may be brought within six years after the officer ceases to hold [~~his~~]the office.

Section 33. Repealer.

This bill repeals:

Section 52-1-12, Cost of bonds -- How paid.

Section 52-1-11, Bonds to cover special penalties and liabilities.

Section 52-1-9, Successive actions on official bonds.

Section 52-1-8, Official bonds -- Actions on -- Parties.

Section 52-1-7, Bonds to be deemed security.

Section 34. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 77
H. B. 115
Passed March 3, 2025
Approved March 19, 2025
Effective May 7, 2025

STATE PARK FUNDING AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies funding provisions related to the Division of State Parks.

Highlighted Provisions:

This bill:

► allows interest earned on the money in the State Park Fees Restricted Account to remain in the account; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-4-402, as last amended by Laws of Utah 2023, Chapter 33

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

Section 1. Section 79-4-402 is amended to read:

79-4-402. State Park Fees Restricted Account.

(1) There is created within the General Fund a restricted account known as the State Park Fees Restricted Account.

(2) (a) Except as provided in Subsection (2)(b), the account [~~shall consist~~]consists of revenue from:

(i) all charges allowed under Section 79-4-203;

(ii) proceeds from the sale or disposal of buffalo under Subsection 79-4-1001(2)(b); [~~and~~]

(iii) civil damages collected under Section 76-6-206.2; and

(iv) interest on money deposited in the account as follows:

(A) 25% of total interest beginning on July 1, 2025, through June 30, 2026;

(B) 50% of total interest beginning on July 1, 2026, through June 30, 2027;

(C) 75% of total interest beginning on July 1, 2027, through June 30, 2028; and

(D) 100% of total interest beginning on July 1, 2028, and each year thereafter.

(b) The account shall not include revenue the division receives under Section 79-4-403and Subsection 79-4-1001(2)(a).

(3) The division shall use funds in this account for the purposes described in Section 79-4-203.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 78
H. B. 134
Passed February 28, 2025
Approved March 19, 2025
Effective May 7, 2025

FOOD CART AMENDMENTS

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill clarifies that a food cart may be moved with an electric assisted bicycle.

Highlighted Provisions:

This bill:

► clarifies that a food cart may be moved with an electric assisted bicycle.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-56-102, as last amended by Laws of Utah 2024, Chapter 438

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

Section 1. Section 11-56-102 is amended to read:
11-56-102. Definitions.

As used in this chapter:

(1) (a) "Enclosed mobile business" means a business that maintains ongoing mobility and of which the receipt of goods or services offered and point of sales occurs within an enclosed vehicle, an enclosed trailer, or an enclosed mobile structure.

(b) An enclosed mobile business's goods or services include those offered in the following industries:

(i) barber;

(ii) beauty and cosmetic, including nail, eyelash, and waxing;

(iii) cycling;

(iv) cell phone;

(v) computer;

(vi) footwear;

(vii) media archive and transfer;

(viii) pet grooming;

(ix) sewing and tailoring;

(x) small engine; and

(xi) tool.

(c) "Enclosed mobile business" does not include a food cart, a food truck, or an ice cream truck.

(2) "Event permit" means a permit that a political subdivision issues to the organizer of a mobile business event located on public property.

(3) (a) "Food cart" means a cart:

(i) that, except as provided in Subsection (3)(c), is not motorized; and

(ii) that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption.

(b) "Food cart" does not include an enclosed mobile business, a food truck, or an ice cream truck.

(c) "Food cart" includes a cart that is pulled by an electric assisted bicycle, as that term is defined in Section 41-6a-102.

(4) (a) "Food truck" means a fully encased food service establishment:

(i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and

(ii) from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption.

(b) "Food truck" does not include an enclosed mobile business, a food cart, or an ice cream truck.

(5) "Health department permit" means a document that a local health department issues to authorize a mobile business to operate within the jurisdiction of the local health department.

(6) (a) "Ice cream truck" means a fully encased food service establishment:

(i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport;

(ii) from which a vendor, from within the frame of the vehicle, serves ice cream;

(iii) that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and

(iv) that may stop to serve ice cream at the signal of a patron.

(b) "Ice cream truck" does not include an enclosed mobile business, a food cart, or a food truck.

(7) "Local health department" means the same as that term is defined in Section 26A-1-102.

(8) "Mobile business" means an enclosed mobile business, a food cart, a food truck, or an ice cream truck.

(9) "Mobile business event" means an event at which a mobile business has been invited by the event organizer to offer the mobile business's goods or services at a private or public gathering.

(10) "Operator" means a person, including a vendor, who owns, manages, controls, or operates a mobile business.

(11) "Political subdivision" means:

(a) a city or town; or

(b) a county, as it relates to the licensing and regulation of businesses in the unincorporated area of the county.

(12) (a) "Temporary mass gathering" means:

(i) an actual or reasonably anticipated assembly of 500 or more people that continues, or reasonably can be expected to continue, for two or more hours per day; or

(ii) an event that requires a more extensive review to protect public health and safety because the event's nature or conditions have the potential of generating environmental or health risks.

(b) "Temporary mass gathering" does not include an assembly of people at a location with permanent facilities designed for that specific assembly, unless the assembly is a temporary mass gathering described in Subsection (15)(a)(i).

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 79
H. B. 138
Passed February 27, 2025
Approved March 19, 2025
Effective May 7, 2025

FOOD LABELING AMENDMENTS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses labeling of meat type products.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires labeling of food containing cultivated meat products;
- ► requires labeling of food containing plant or insect based meat substitutes;
- ► provides for notification, inspections, and the payment of a fee related to cultivated meat products and plant or insect based meat substitutes;
- ► addresses rulemaking; and
- ► makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-5-102, as last amended by Laws of Utah 2023, Chapter 528
4-5-201, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-5-301, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-5a-103, as last amended by Laws of Utah 2023, Chapter 362

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

Section 1. Section 4-5-102 is amended to read:

4-5-102. Definitions.

As used in this chapter:

(1) "Advertisement" means a representation, other than by labeling, made to induce the purchase of food.

(2) (a) "Color additive":

(i) means a dye, pigment, or other substance not exempted under the federal act that, when added or applied to a food, is capable of imparting color; and

(ii) includes black, white, and intermediate grays.

(b) "Color additive" does not include a pesticide chemical, soil or plant nutrient, or other agricultural chemical that imparts color solely because of the chemical's effect, before or after harvest, in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of any plant life.

(3) (a) "Consumer commodity" means a food, as defined by this chapter, or by the federal act.

(b) "Consumer commodity" does not include:

(i) a commodity subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.;

(ii) a commodity subject to Chapter 16, Utah Seed Act;

(iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;

(iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec. 451 et seq.;

(v) a tobacco or tobacco product; or

(vi) a beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

(4) "Contaminated" means not securely protected from dust, dirt, or foreign or injurious agents.

(5) (a) "Cultivated meat product" means a meat, as defined in Section 4-32-105, or another food or food product that is:

(i) produced by cultivating or culturing an animal cell in vitro; and

(ii) used for human consumption.

(b) "Cultivated meat product" includes poultry, fish, and other livestock, as defined in Section 4-7-103, that meets the requirements of Subsection (5)(a).

[~~(5)~~](6) (a) "Farm" means an agricultural operation, under management by one entity, that grows or harvests crops.

(b) "Farm" does not include an entity that is exempt under 21 C.F.R. 112.4(a) or 21 C.F.R. 112.5.

[~~(6)~~](7) "Farmers market" means a market where a producer of a food product sells only a fresh, raw, whole, unprocessed, and unprepared food item directly to the final consumer.

[~~(7)~~](8) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

[~~(8)~~](9) "Food" means:

(a) an article used for food or drink for human or animal consumption or the components of the article;

(b) chewing gum or chewing gum components; or

(c) a food supplement for special dietary use that is necessitated because of a physical, physiological, pathological, or other condition.

[~~(9)~~](10) (a) "Food additive" means a substance, the intended use of which results in the substance becoming a component, or otherwise affecting the characteristics, of a food.

(b) (i) "Food additive" includes a substance or source of radiation intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food.

(ii) "Food additive" does not include:

(A) a pesticide chemical in or on a raw agricultural commodity;

(B) a pesticide chemical that is intended for use or is used in the production, storage, or transportation of a raw agricultural commodity; or

(C) a substance used in accordance with a sanction or approval granted pursuant to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.

[~~(10)~~](11) (a) "Food establishment" means a grocery store, bakery, candy factory, food processor, bottling plant, sugar factory, cannery, farm, rabbit processor, meat processor, flour mill, cold or dry warehouse storage, or other facility where food products are manufactured, canned, processed, packaged, stored, transported, prepared, sold, or offered for sale.

(b) "Food establishment" does not include:

(i) a dairy farm, a dairy plant, or a meat establishment, that is subject to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;

(ii) a farmers market; or

(iii) a food service establishment, as that term is defined in Section 26B-7-401.

[~~(11)~~](12) "Label" means a written, printed, or graphic display on the immediate container of an article of food.

[~~(12)~~](13) "Labeling" means a label and other written, printed, or graphic display:

(a) on an article of food or the article of food's container or wrapper; or

(b) accompanying the article of food.

[~~(13)~~](14) "Official compendium" means the official documents or supplements to the:

(a) United States Pharmacopoeia;

(b) National Formulary; or

(c) Homeopathic Pharmacopoeia of the United States.

[~~(14)~~](15) (a) "Package" means a container or wrapping in which a consumer commodity is enclosed for use in the delivery or display of the consumer commodity to retail purchasers.

(b) "Package" does not include:

(i) a package liner;

(ii) a shipping container or wrapping used solely for the transportation of a consumer commodity in bulk or in quantity to a manufacturer, packer, processor, or wholesale or retail distributor; or

(iii) a shipping container or outer wrapping used by a retailer to ship or deliver a consumer commodity to a retail customer, if the container and wrapping bear no printed information relating to the consumer commodity.

[~~(15)~~](16) (a) "Pesticide" means a substance intended:

(i) to prevent, destroy, repel, or mitigate a pest, as defined under Section 4-14-102; or

(ii) for use as a plant regulator, defoliant, or desiccant.

(b) "Pesticide" does not include:

(i) a new animal drug, as defined by 21 U.S.C. Sec. 321, that has been determined by the United States Secretary of Health and Human Services not to be a new animal drug by federal regulation establishing conditions of use of the drug; or

(ii) animal feed, as defined by 21 U.S.C. Sec. 321, bearing or containing a new animal drug.

(17) "Plant or insect based meat substitute" means a food or food product that:

(a) is plant or insect based;

(b) approximates the aesthetic qualities, primarily texture, flavor, and appearance, or the chemical characteristics of a type of meat, as defined in Section 4-32-105, including fish; and

(c) does not include the flesh, offal, or other by-product of any part of the carcass of a live animal that has been slaughtered.

[~~(16)~~](18) "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

[~~(17)~~](19) "Produce" means a food that is a:

(a) fruit, vegetable, mix of intact fruits and vegetables, mushroom, sprout from any seed source, peanut, tree nut, or herb; and

(b) raw agricultural commodity.

[~~(18)~~](20) "Raw agricultural commodity" means a food in the food's raw or natural state, including all fruits that are washed, colored, or otherwise treated in the fruit's unpeeled, natural form before marketing.

[~~(19)~~](21) "Registration" means the commissioner's issuance of a certificate to a qualified food establishment.

[~~(20)~~](22) "Sprout" means the shoot of a plant generally harvested when cotyledons are undeveloped or underdeveloped and mature leaves have not emerged.

Section 2. Section 4-5-201 is amended to read:

4-5-201. Labeling requirements -- Misbranded food specified.

(1) The department may require that a label contain specific written, printed, or graphic information which is:

(a) displayed on the outside container or wrapper of a retail package of an article; or

(b) easily legible through the outside container or wrapper.

(2) Food is misbranded if:

(a) its label is false or misleading in any way;

(b) its labeling or packaging fails to conform with the requirements of Section 4-5-205;

(c) it is offered for sale under the name of another food;

(d) its container is so made, formed, or filled with packing material or air as to be misleading; or

(e) it fails to conform with any requirement specified in this section.

(3) (a) A food that is an imitation of another food shall bear a label, in type of uniform size and prominence, stating the word "imitation," and, immediately thereafter, the name of the food imitated.

(b) If the state allows a cultivated meat product to be manufactured, sold, held or offered for sale, or distributed, a food that contains the cultivated meat product shall bear a term or phrase on a label in a place on the packaging that is reasonably certain to notify a consumer that the food contains a cultivated meat product.

(c) A food that contains a plant or insect based meat substitute:

(i) is not subject to Subsection (3)(a); and

(ii) shall bear a term or phrase on a label in a place on the packaging that is reasonably certain to notify a consumer that the food contains a plant or insect based meat substitute.

(d) The department shall interpret and enforce this Subsection (3) in a manner consistent with applicable federal statute and regulations.

(e) The department may not enforce the requirements of Subsections (3)(b) and (c) on or before October 31, 2025.

(4) (a) A food in package form shall bear a label containing:

(i) the name and place of business of the manufacturer, packer, or distributor; and

(ii) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

(b) The statement required by Subsection (4)(a)(ii) shall be separately and accurately stated in a uniform location upon the principal display panel of the label unless reasonable variations and exemptions for small packages are established by a rule made by the department.

(c) A manufacturer or distributor of carbonated beverages who utilizes proprietary stock or a proprietary crown is exempt from Subsection (4)(a)(i) if [~~he~~]the manufacturer or distributor files with the department:

(i) a sworn affidavit giving a full and complete description of each area within the state in which beverages of [~~his~~]the manufacturer's or distributor's manufacturing or distributing are to be distributed; and

(ii) the name and address of the person responsible for compliance with this chapter within each of those areas.

(5) Any word, statement, or other information required by this chapter to appear on the label or labeling shall be:

(a) prominently placed on the label;

(b) conspicuous in comparison with other words, statements, designs, or devices in the labeling; and

(c) in terms which render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(6) If a food is represented as a food for which a definition and standard of identity has been prescribed by federal regulations or department rules as provided by Section 4-5-207, it shall:

(a) conform to the definition and standard; and

(b) have a label bearing:

(i) the name of the food specified in the definition and standard; and

(ii) insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavorings, and colorings, present in the food.

(7) If a food is represented as a food for which a standard of quality has been prescribed by federal regulations or department rules as provided by Section 4-5-207, and its quality falls below the standard, its label shall bear, in the manner and form as the regulations or rules specify, a statement indicating that it falls below the standards.

(8) If a food is represented as a food for which a standard of fill of container has been prescribed by federal regulations or department rules as provided by Section 4-5-207, and it falls below the applicable standard of fill, its label shall bear, in the manner and form as the regulations or rules specify, a statement indicating that it falls below the standard.

(9) (a) Any food for which neither a definition nor standard of identity has been prescribed by federal regulations or department rules as provided by Section 4-5-207shall bear labeling clearly giving:

(i) the common or usual name of the food, if any; and

(ii) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient, except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each.

(b) To the extent that compliance with the requirements of Subsection (9)(a)(ii) is impractical or results in deception or unfair competition, exemptions shall be established by rules made by the department.

(10) If a food is represented as a food for special dietary uses, its label shall bear the information concerning its vitamin, mineral, and other dietary properties as the department by rule prescribes.

(11) (a) If a food bears or contains any artificial flavoring, artificial coloring, or chemical preservatives, its label shall state that fact.

(b) If compliance with the requirements of Subsection (11)(a) is impracticable, exemptions shall be established by rules made by the department.

(12) (a) The shipping container of any raw agricultural commodity bearing or containing a pesticide chemical applied after harvest shall bear labeling which declares the presence of the chemical in or on the commodity and the common or usual name and function of the chemical.

(b) The declaration is not required while the commodity, having been removed from the shipping container, is being held or displaced for sale at retail out of the container in accordance with the custom of the trade.

(13) A product intended as an ingredient of another food, when used according to the directions of the purveyor, may not result in the final food product being adulterated or misbranded.

(14) The packaging and labeling of a color additive shall be in conformity with the packaging and labeling requirements applicable to the color additive prescribed under the federal act.

(15) (a) Subsections (6), (9), and (11) with respect to artificial coloring do not apply to butter, cheese, or ice cream.

(b) Subsection (11) with respect to chemical preservatives does not apply to a pesticide chemical when used in or on a raw agricultural commodity.

Section 3. Section 4-5-301 is amended to read:

4-5-301. Registration of food establishments -- Fee -- Suspension and reinstatement of registration -- Inspection for compliance.

(1) (a) Pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall [~~establish~~]make rules providing for the registration of food establishments to protect public health and ensure a safe food supply.

(b) The owner or operator of a food establishment shall register with the department before operating a food establishment.

(c) Before granting a registration to the owner or operator of a food establishment, the department shall inspect and assess the food establishment to determine whether it complies with the rules established under Subsection (1)(a).

(d) An applicant shall register with the department, in writing, using forms required by the department.

(e) The department shall issue a registration to an applicant, if the department determines that the applicant meets the qualifications of registration established under Subsection (1)(a).

(f) If the applicant does not meet the qualifications of registration, the department shall notify the applicant, in writing, that the applicant's registration is denied.

(g) (i) If an applicant submits an incomplete application, a written notice of conditional denial of registration shall be provided to an applicant.

(ii) The applicant shall correct the deficiencies within the time period specified in the notice to receive a registration.

(h) (i) The department may, as provided under Subsection 4-2-103(2), charge the food establishment a registration fee.

(ii) The department shall retain the fees as dedicated credits and shall use the fees to administer the registration of food establishments.

(2) (a) A registration, issued under this section, shall be valid from the date the department issues the registration, to December 31 of the year the registration is issued.

(b) A registration may be renewed for the following year by applying for renewal by December 31 of the year the registration expires.

(3) A registration, issued under this section, shall specify:

(a) the name and address of the food establishment;

(b) the name of the owner or operator of the food establishment; and

(c) the registration issuance and expiration date.

(4) (a) The department may immediately suspend a registration, issued under this section, if any of the conditions of registration have been violated.

(b) (i) The holder of a registration suspended under Subsection (4)(a) may apply for the reinstatement of a registration.

(ii) If the department determines that all registration requirements have been met, the department shall reinstate the registration.

(5) (a) A food establishment, registered under this section, shall allow the department to have access to the food establishment to determine if the food establishment is complying with the registration requirements.

(b) If a food establishment denies access for an inspection required under Subsection (5)(a), the department may suspend the food establishment's registration until the department is allowed access to the food establishment's premises.

(6) (a) A food establishment shall:

(i) notify the department as part of the registration or renewal process whether the food establishment plans to sell, hold or offer for sale, or distribute a cultivated meat product or a plant or insect based meat substitute;

(ii) permit the department to inspect for compliance with Subsection 4-5-201(3); and

(iii) pay a fee established in accordance with Subsection 4-2-103(2).

(b) The department shall retain the fee as a dedicated credit and shall use the fee to administer Subsection 4-5-201(3).

(c) Pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to address notification, inspection, and payment of fees under this Subsection (6).

Section 4. Section 4-5a-103 is amended to read:

4-5a-103. Regulation of a direct-to-sale farmers market.

(1) Except as provided in Subsection (4), a direct-to-sale farmers market selling homemade food under this chapter shall:

(a) display signage indicating to an informed final consumer that the homemade food and food products sold by producers at the market have not been certified, licensed, regulated, or inspected by state or local authorities; and

(b) only include products for sale that have not been certified, licensed, regulated, or inspected by state or local authorities.

(2) If the direct-to-sale farmers market is in any way associated with a farmers market as defined in [~~Subsection 4-5-102(6)~~]Section 4-5-102, the direct-to-sale farmers market section selling homemade food under this chapter shall comply with the following requirements:

(a) the direct-to-sale farmers market section shall be separated from the farmers market section; and

(b) the separate direct-to-sale farmers market section shall include signs or other markings clearly indicating which space is the farmers market space offering inspected items for sale and which space is the direct-to-sale farmers market space offering items that are uninspected.

(3) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the signage described in Subsection (1).

(4) The requirements described in Subsection (1) do not apply to a direct-to-sale farmers market comprising only minor producers or minor-operated businesses.

Section 5. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 80
H. B. 175
Passed February 20, 2025
Approved March 19, 2025
Effective May 7, 2025

HOUSING CONSTRUCTION AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies the state construction code related to housing.

Highlighted Provisions:

This bill:

► amends adopted language from Section R101.2 of the International Residential Code to include three- and four-family dwellings.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

15A-3-202, as last amended by Laws of Utah 2024, Chapter 505

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

Section 1. Section 15A-3-202 is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R101.2, Exception, the words "where provided with an automatic sprinkler system complying with Section P2904" are deleted.

(2) In IRC, Section R101.2, the words "one- and two-family dwellings" are deleted and replaced with "one- and two- family dwellings and three- and four- family dwellings of up to two levels".

[~~(2)~~](3) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements."

[~~(3)~~](4) In IRC Section R105.2, under Building, the following changes are made:

(a) Number 3 is deleted and replaced with the following: "3. Retaining walls retaining less than 4 feet (1219mm) of unbalanced fill, unless supporting a surcharge or requiring design per Section R404.4."

(b) Number 10 is deleted and replaced with the following: "10. Decks that are not more than 30 inches (762mm) above grade at any point and not requiring guardrails, that do not serve exit door required by Section R311.4."

[~~(4)~~](5) In IRC, Section R105.2, a new exception is added: "11. Grade level, non-connected conex boxes, less than 350 square feet, used for storage only."

[~~(5)~~](6) In IRC, Section R108.3, the following sentence is added at the end of the section: "The building official shall not request proprietary information."

[~~(6)~~](7) IRC, Section 109.1.5, is deleted and replaced with the following: "R109.1.5 Other inspections. In addition to the inspections listed in R109.1.1 through R109.1.4, the building official shall have the authority to inspect the proper installation of insulation. R109.1.5.1 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.4 to prevent water from entering the weather-resistive barrier.R109.1.5.2 Fire-resistance-rated construction inspection. Where fire-resistance-rated construction is required between dwelling units or due to location on property, the building official shall require an inspection of such construction after lathing or gypsum board or gypsum panel products are in place, but before any plaster is applied, or before board or panel joints and fasteners are taped and finished."

[~~(7)~~](8) In IRC, Section R202, the following definition is added: "ACCESSORY DWELLING UNIT: A habitable living unit created within the existing footprint of a primary owner-occupied single-family dwelling."

[~~(8)~~](9) In IRC, Section R202, the definition for "Approved" is modified by adding the words "or independent third-party licensed engineer or architect and submitted to the building official" after the word "official."

[~~(9)~~](10) In IRC, Section R202, the definition for "Approved Agency" is modified by replacing the word "and" with "or."

[~~(10)~~](11) In IRC, Section 202, the definition for "Approved Source" is modified by adding the words "or licensed engineer or architect" after the word "official."

[~~(11)~~](12) In IRC, Section R202, the following definition is added: "CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4)."

[~~(12)~~](13) In IRC, Section R202, the definition of "Cross Connection" is deleted and replaced with the following: "CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow, Water Distribution")."

[~~(13)~~](14) In IRC, Section 202, the following definition is added: "DUAL SOURCE CONNECTION. A pipe that is installed so that either the nonpotable (i.e. secondary) irrigation water or the potable water is connected to a pressurized irrigation system at one time, but not both at the same time; or a pipe that is installed so that either the potable water or private well water is connected to a residence at one time, but not both at the same time. The potable water supply line shall be protected by a reduced pressure backflow preventer."

[~~(14)~~](15) In IRC, Section 202, the following definition is added: "ENERGY STORAGE SYSTEM (ESS). One or more devices, assembled together, that are capable of storing energy for supplying electrical energy at a future time."

[~~(15)~~](16) In IRC, Section 202, in the definition for gray water a comma is inserted after the word "washers"; the word "and" is deleted; and the following is added to the end: "and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility."

[~~(16)~~](17) In IRC, Section R202, the definition of "Potable Water" is deleted and replaced with the following: "POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction."

[~~(17)~~](18) IRC, Figure R301.2 (3), is deleted and replaced with R301.2 (3) as follows:

"TABLE R301.2 (3)

GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

City/Town	County	Ground Snow Load (lb/ft2)	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964
Loa	Wayne	37	7060
Logan	Cache	43	4531
Manila	Daggett	26	6368
Manti	Sanpete	37	5620
Moab	Grand	21	4029
Monticello	San Juan	67	7064
Morgan	Morgan	52	5062
Nephi	Juab	39	5131
Ogden	Weber	37	4334
Panguitch	Garfield	41	6630
Parowan	Iron	32	6007
Price	Carbon	31	5558
Provo	Utah	31	4541
Randolph	Rich	50	6286
Richfield	Sevier	27	5338
St. George	Washington	21	2585

Salt Lake City	Salt Lake	28	4239
Tooele	Tooele	35	5029
Vernal	Uintah	39	5384

Note: To convert lb/ft2 to kN/m2, multiply by 0.0479. To convert feet to meters, multiply by 0.3048.1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.

2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).

3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values."

[~~(18)~~](19) IRC, Section R301.6, is deleted and replaced with the following: "R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, for other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values."

[~~(19)~~](20) In IRC, Section R302.2, the following sentence is added at the end of the paragraph: "When an access/maintenance agreement or easement is in place, plumbing, mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including feeders, are permitted to penetrate the common wall at grade, above grade, or below grade."

[~~(20)~~](21) In IRC, Section R302.3, a new exception 3 is added as follows: "3. Accessory dwelling units separated by walls or floor assemblies protected by not less than 1/2-inch (12.7 mm) gypsum board or equivalent on each side of the wall or bottom of the floor assembly are exempt from the requirements of this section."

[~~(21)~~](22) In IRC, Section R302.5.1, the last sentence is deleted.

[~~(22)~~](23) IRC, Section R302.13, is deleted.

[~~(23)~~](24) In IRC, Section R303.4, the following exception is added: "Exception: Dwelling units tested in accordance with Section N1102.4.1.2 (R402.4.1.2) which has an air tightness of 3.0 ACH (50) or greater do not require mechanical ventilation."

[~~(24)~~](25) In IRC, Section R310.1, all words in the last sentence after "or to a yard or court", are deleted, and Exception 3 of this section is deleted.

[~~(25)~~](26) In IRC, Section R310.7, in the exception, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(26)~~](27) IRC, Sections R311.7.45 through R311.7.5.3, are deleted and replaced with the following: "R311.7.45.1 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.3 Nosing. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less."

[~~(27)~~](28) IRC, Section R312.2, is deleted.

[~~(28)~~](29) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: "R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D."

[~~(29)~~](30) In IRC, Section R314.2.2, the words "accessory dwelling units," are added after the words "Where alterations, repairs."

[~~(30)~~](31) In IRC, Section R315.2.2, the words "accessory dwelling units," are added after the words "Where alterations, repairs."

[~~(31)~~](32) In IRC, Section 315.3, the following words are added to the first sentence after the word "installed": "on each level of the dwelling unit and."

[~~(32)~~](33) A new IRC, Section R328.12, is added as follows:

"R328.12 Signage. A sign located on the exterior of the dwelling shall be installed at a location approved by the authority having jurisdiction which identifies the battery chemistry included in the ESS. This sign shall be of sufficient durability to withstand the environment involved and shall not be handwritten."

[~~(33)~~](34) In IRC, Section 403.1.3.5.3, an exception is added as follows: "Exception: Vertical steel in footings shall be permitted to

be located while concrete is still plastic and before it has set. Where vertical steel resists placement or the consolidation of concrete around steel is impeded, the concrete shall be vibrated to ensure full contact between the vertical steel and concrete."

[~~(34)~~](35) In IRC, Section R403.1.6, a new Exception 3 is added as follows: "3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(35)~~](36) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: "Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(36)~~](37) In IRC, Section R404.1, a new exception is added as follows: "Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules."

[~~(37)~~](38) In IRC, Section R405.1, a second exception is added as follows: "Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The geotechnical report shall make a recommendation regarding a drainage system."

[~~(38)~~](39) In IRC, Section R506.2.3, the words "10-mil (0.010 inch; 0.25 mm)" are deleted and replaced with "6-mil (0.006 inch; 0.152 mm)" and the words "conforming to ASTM E1745 Class A requirements" are deleted.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 81
H. B. 174
Passed February 25, 2025
Approved March 19, 2025
Effective May 7, 2025

WATER RIGHTS RESTRICTED ACCOUNT

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions creating the Water Rights Restricted Account.

Highlighted Provisions:

This bill:

► addresses money for obtaining legal support; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-2-1.6, as last amended by Laws of Utah 2024, Chapter 154

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

Section 1. Section 73-2-1.6 is amended to read:

73-2-1.6. Water Rights Restricted Account.

(1) As used in this section:

(a) "Account" means the Water Rights Restricted Account created by this section.

(b) "Division" means the Division of Water Rights.

(2) There is created in the General Fund a restricted account known as the "Water Rights Restricted Account."

(3) The account shall consist of the money deposited into the account under Subsection 59-12-103(5)(e).

(4) Upon appropriation, the division may use money in the account for:

(a) costs incurred by the division that benefit water rights adjudications, including:

(i) employing technical staff;

(ii) acquiring equipment;

[~~(iii) obtaining legal support;~~]

[~~(iv)~~](iii) conducting studies;

[~~(A)~~](iv) installing, operating, and maintaining measurement infrastructure; and

[~~(B)~~](v) sharing the costs of installed United States Geological Survey stream gauges; [~~and~~]

(b) not to exceed 5% of the money deposited into the account under Subsection 59-12-103(5)(e) in the fiscal year preceding the fiscal year of appropriation, costs incurred by the division to acquire, manage, and analyze surface and groundwater data, not limited to geographic areas of adjudication[.]; and

(c) costs incurred by the division to obtain legal support, not limited to geographic areas of adjudication.

(5) (a) The account may not exceed $8,000,000 at the end of a fiscal year.

(b) If the account exceeds $8,000,000 at the end of a fiscal year, the Division of Finance shall deposit into the Water Resources Conservation and Development Fund, created in Section 73-10-24, the money in excess of the amount necessary to maintain the account balance at $8,000,000.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 82
H. B. 194
Passed February 26, 2025
Approved March 19, 2025
Effective May 7, 2025

BEEKEEPING AND VETERINARY AMENDMENTS

Chief Sponsor: Ariel Defay
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses veterinarian-client-patient relationship and bees.

Highlighted Provisions:

This bill:

- ► provides for the veterinarian-client-patient relationship with regard to bees; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-28-604, as enacted by Laws of Utah 2006, Chapter 109

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

Section 1. Section 58-28-604 is amended to read:

58-28-604. Veterinarian-client-patient relationship.

(1) [~~A~~]

(a) Except as provided in Subsection (1)(b), a licensee under this chapter may only practice under a veterinarian-client-patient relationship as defined in Section 58-28-102.

(b) Notwithstanding Section 58-28-102, when a veterinarian employed by the Department of Agriculture and Food issues a veterinary feed directive to a beekeeper who is registered in accordance with Section 4-11-104, a veterinarian-client-patient relationship is established for the veterinarian employed by the Department of Agriculture and Food if:

(i) the relevant apiary is inspected by:

(A) a county bee inspector appointed under Section 4-11-105; or

(B) an inspector for the Department of Agriculture and Food; and

(ii) in conducting the inspection under Subsection (1)(b)(i), the inspector works in conjunction with the veterinarian employed by the Department of Agriculture and Food.

(2) A veterinarian-client-patient relationship may not be established solely by telephone or other electronic means.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 83
H. B. 200
Passed February 14, 2025
Approved March 19, 2025
Effective May 7, 2025

OUTDOOR RECREATION AMENDMENTS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses the Division of Outdoor Recreation.

Highlighted Provisions:

This bill:

- ► modifies the lands that the governor may keep open and operational during a fiscal emergency;
- ► changes the reporting subcommittee for the Division of Outdoor Recreation report on recreation restoration infrastructure grants; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-7-602, (Effective 05/07/25) (Repealed 07/01/29) as renumbered and amended by Laws of Utah 2024, Chapter 88
79-8-203, (Effective 05/07/25) as renumbered and amended by Laws of Utah 2021, Chapter 280

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

Section 1. Section 79-7-602 is amended to read:

79-7-602 (Effective 05/07/25) (Repealed 07/01/29). Governor's duties -- Priority of federal property.

(1) During a fiscal emergency, the governor shall:

(a) if financially practicable, work with the federal government to open and maintain the operation of one or more national parks, national monuments, national forests, [~~and~~]national recreation areas, and lands managed by the United States Fish and Wildlife Service in the state, in the order established under this section; and

(b) report to the speaker of the House of Representatives and the president of the Senate on the need, if any, for additional appropriations to assist the division in opening and operating one or more national parks, national monuments, national forests, [~~and~~]national recreation areas, and lands managed by the United States Fish and Wildlife Service in the state.

(2) [~~The~~]In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of the Division of Outdoor Recreation, in consultation with the executive director of the Department of Natural Resources, shall [~~determine, by rule,~~]make rules to determine the priority of national parks, national monuments, national forests, [~~and~~]national recreation areas, and lands managed by the United States Fish and Wildlife Service in the state.

(3) In determining the priority described in Subsection (2), the director of the Division of Outdoor Recreation shall consider the:

(a) economic impact of the national park, national monument, national forest, [~~or~~]national recreation area, and lands managed by the United States Fish and Wildlife Service in the state; and

(b) recreational value offered by the national park, national monument, national forest, [~~or~~]national recreation area, and lands managed by the United States Fish and Wildlife Service.

(4) The director of the Division of Outdoor Recreation shall annually review the priority set under Subsection (2) to determine whether the priority list should be amended.

Section 2. Section 79-8-203 is amended to read:

79-8-203 (Effective 05/07/25). Award of recreation restoration infrastructure grants.

(1) In determining the award of a recreation restoration infrastructure grant, the advisory committee shall prioritize projects that the advisory committee considers to be high demand outdoor recreation amenities or high priority trails.

(2) The division may give special consideration to [~~projects from qualified applicants~~]a project from a qualified applicant within rural counties to ensure geographic parity of the awarded money.

(3) (a) An applicant shall use a recreation restoration infrastructure grant to leverage private and other nonstate public money[~~and the division may give priority to projects that exceed a 50% match from the applicant~~], including cash, resources, goods, or services necessary to complete a project.

(b) The division may give priority to a project from an applicant that contributes a 50% or greater financial match from the applicant or other private and nonstate public money.

[~~(b) Leverage includes cash, resources, goods, or services necessary to complete a project.~~]

(c) The division shall apply money from a cooperative agreement entered into with the United States Department of Agriculture or the

United States Department of the Interior as a portion of the applicant's match.

(4) A recreation restoration infrastructure grant may only be awarded by the executive director after consultation with the director and the advisory committee.

(5) A recreation restoration infrastructure grant is available for rehabilitation or restoration projects for high demand outdoor recreation amenities and high priority trails that relate directly to the visitor including:

(a) a trail, trail head infrastructure, signage, and crossing infrastructure, for both nonmotorized and motorized recreation;

(b) a campground or picnic area;

(c) water recreation infrastructure, including a pier, dock, or boat ramp; and

(d) recreation facilities that are accessible to visitors with disabilities.

(6) The following are not eligible for a recreation restoration infrastructure grant:

(a) general facility operations and administrative costs;

(b) land acquisitions;

(c) visitor facilities, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) water and utility systems; and

(e) employee housing.

(7) The division shall compile data and report to the [~~Business, Economic Development, and Labor Appropriations Subcommittee~~]Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee on the:

(a) effectiveness of the grant program in addressing the deferred maintenance and repair backlog of trails, campgrounds, and other recreation amenities on public lands;

(b) estimated value of the rehabilitation or restoration projects;

(c) number of miles of trails that are rehabilitated or restored; and

(d) leverage of state money to federal and private money and in-kind services such as volunteer labor.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 84
H. B. 202
Passed March 7, 2025
Approved March 19, 2025
Effective May 7, 2025

PRIVATE LANDOWNER BIG GAME REVISIONS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses the hunting of big game.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes the criteria for a landowner draw;
- ► provides procedures to become an applicant for a landowner draw;
- ► addresses receipt of other vouchers;
- ► addresses the redeeming of a voucher;
- ► requires compliance with other laws;
- ► addresses rulemaking; and
- ► addresses landowners associations.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

23A-4-711, Utah Code Annotated 1953
23A-4-712, Utah Code Annotated 1953

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

Section 1. Section 23A-4-711 is enacted to read:

23A-4-711. Private landowner vouchers.

(1) As used in this section:

(a) "Applicant" means a person who:

(i) holds a fee simple ownership interest in at least 640 contiguous acres but not more than 8,999 contiguous acres of private land in Utah within a limited entry elk unit; and

(ii) has submitted an application to the division to participate in a landowner draw to hunt bull elk.

(b) "Block" means 640 contiguous acres that are not excluded under Subsection (2).

(c) "Voucher" means an authorization issued by the division that entitles a person to purchase a bull elk permit valid for the private land submitted in the application.

(2) (a) An applicant may enter an annual landowner draw for a bull elk voucher for every complete block owned by the applicant.

(b) The private land that is the basis for determining whether there is a block for an application to qualify for a landowner draw shall have at least one common owner throughout the private land.

(c) In order for an applicant to qualify for a landowner draw, all the owners of the private land described in Subsection (2)(b) shall agree to the applicant applying for a landowner draw.

(d) Multiple applicants may not submit an application for the same block and the division may reject all applications for a block if more than one application is received for a single block.

(e) The following private land is not eligible for purposes of determining a block:

(i) private land within a cooperative wildlife management unit under Chapter 7, Cooperative Wildlife Management Units; or

(ii) private land within a landowners association program established by the Wildlife Board in accordance with Section 23A-4-712.

(3) (a) The division shall determine the number of vouchers in a bull elk landowner draw under this section by allocating an additional 5% of the total number of limited entry bull permits available in the public draw within a limited entry elk unit.

(b) The division shall allocate:

(i) 50% of the vouchers in a landowner draw to applicants with at least 4,000 contiguous acres but not more than 8,999 contiguous acres; and

(ii) 50% of the vouchers in the landowner draw to applicants with at least 640 contiguous acres but less than 4,000 contiguous acres.

(c) If there is an odd number of vouchers in a landowner draw, the division shall allocate the one extra voucher to:

(i) applicants described in Subsection (3)(b)(i) in years ending in odd numbers; and

(ii) applicants described in Subsection (3)(b)(ii) in years ending in even numbers.

(d) If a limited entry elk unit only has only one voucher available for the bull elk landowner draw described in Subsection (3)(a), the division shall allocate that voucher to an applicant with acreage of at least 640 contiguous acres but not more than 3,999 contiguous acres of private land.

(4) (a) To qualify as an applicant under Subsection (2), a person shall obtain approval of the information described in Subsection (4)(b) by the division.

(b) To seek approval, a person shall file an application with the division that includes:

(i) the name of the person;

(ii) the date of the application;

(iii) the number of blocks in which the person holds an ownership interest;

(iv) proof of the ownership interest in the private land for which the person is seeking a voucher;

(v) proof of the number of contiguous acres owned by the person within a limited entry elk unit; and

(vi) the location of the private land for which the person is seeking a voucher.

(c) The division shall:

(i) review an application; and

(ii) verify that property submitted in an application is capable of harboring bull elk during the hunting season described in Subsection (5)(b).

(d) Once a person is approved as an applicant for a landowner draw, the applicant is automatically approved each year and does not need to reapply unless there is a change in land ownership, acreage, or habitat quality that would affect the person's level of participation in the landowner draw. If there is a change in ownership or acreage, the person shall file the information required under Subsection (4)(b) to be eligible for the next landowner draw.

(5) (a) An individual may redeem a voucher to obtain a permit to hunt bull elk:

(i) if the individual is the applicant or is an individual to whom the applicant sells, donates, or otherwise transfers the voucher; and

(ii) conditioned on the individual:

(A) being otherwise authorized to hunt big game under this title; and

(B) only hunting under that permit on the contiguous acres of private land owned by the applicant within a limited entry elk unit.

(b) An individual who hunts on the applicant's private land pursuant to a voucher redeemed under Subsection (5)(a) may:

(i) hunt with one type of legal weapon, as defined by the Wildlife Board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) hunt during one of the corresponding season dates for the type of legal weapon used by the individual that is established by the Wildlife Board for a bull elk hunt on the corresponding limited entry elk unit.

(6) (a) Except as provided in Subsection (6)(f), an applicant that qualifies for a landowner draw under Subsections (2) through (5) and who owns at least 4,000 contiguous acres of private land but not more than 8,999 contiguous acres of private land within a limited entry elk unit may qualify for up to an additional two bull elk vouchers annually that are determined by the division based on Subsection (4)(c)(ii)and rules for criteria made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) An individual may redeem a voucher obtained under this Subsection (6) in accordance with Subsection (5).

(c) An applicant described in Subsection (6)(a) may sell, donate, or otherwise transfer a voucher received under Subsection (6)(a).

(d) A voucher under this Subsection (6) is in addition to and not taken from the 5% additional bull elk permits that are designated for the landowner draw under Subsection (3).

(e) An applicant that receives a voucher under this Subsection (6) may also enter a landowner draw for a bull elk voucher in accordance with Subsection (2).

(f) The division may eliminate or reduce the number of vouchers issued to an applicant under Subsection (6)(a) for any year in which the average age of the harvested bull elk in the limited entry elk unit where the voucher applies is lower than the age objective in the applicable elk management plan. The elimination or reduction of vouchers under this Subsection (6)(f) applies until the average age of the harvested bull elk for that limited entry elk unit in a year equals or exceeds the age objective in the applicable elk management plan.

(g) The division shall review a voucher issued under Subsection (6)(a) every three years to determine if the correct number of vouchers are being issued based on Subsection (4)(c)(ii) and rules described in Subsection (6)(a).

(h) This Subsection (6) does not apply to land or a landowner within a limited entry elk unit that has a landowners association on May 7, 2025, or that is a member of a landowners association on May 7, 2025.

(i) This Subsection (6) does not apply to land or a landowner that has the option of joining a cooperative wildlife management unit or who is in a cooperative wildlife management unit that is issued a certificate of registration before May 7, 2025.

(7) During the fiscal year in which an applicant receives a bull elk voucher, the applicant may not receive a depredation bull elk permit or submit a claim for compensation for wildlife damage to the applicant's private land within the limited entry elk unit.

(8) An individual who redeems a voucher under this section shall comply with the other applicable provisions of this title and rules or proclamations of the Wildlife Board.

(9) (a) The Wildlife Board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to administer this section.

(b) Notwithstanding Subsection (9)(a), a rule made by the Wildlife Board shall be consistent with this section.

Section 2. Section 23A-4-712 is enacted to read:

23A-4-712. Landowners association program.

(1) As used in this section:

(a) "Landowners association" means an organization consisting of private landowners working with the division to implement this section and whose land:

(i) provides habitat for deer, elk, or pronghorn as determined by the division; and

(ii) is not enrolled in another private lands permit program.

(b) "Voucher" means an authorization issued by the division to a landowner that entitles the landowner or a permitted transferee of the landowner to purchase a permit from the division.

(2) The landowners association program under this section:

(a) provides an incentive for a private landowner to manage the private landowner's land as quality habitat for public wildlife;

(b) assists and supports the division in managing big game populations;

(c) increases private landowner tolerance of big game on the private landowner's private land;

(d) increases big game hunting opportunities;

(e) increases and secures public hunting access on a participating landowner's private land;

(f) reduces the division's obligations in responding to and compensating for depredation events occurring on private lands;

(g) uses objective criteria to determine how hunting opportunities are allocated to the landowners association program; and

(h) allocates hunting opportunities in a manner that fluctuates in proportion to variations in public draw permits.

(3) A landowners association may not be established or operate without first obtaining a certificate of registration from the Wildlife Board.

(4) (a) The division shall establish the number of limited entry landowners association program vouchers available on an annual basis by:

(i) identifying the total number of public draw permits in a limited entry unit for the previous hunt year;

(ii) identifying the total acreage of private land in a limited entry unit enrolled in the landowners association;

(iii) calculating the percentage of habitat of a big game species in the landowners association by dividing the habitat acreage represented by the landowners association by the habitat acreage in the whole limited entry unit; and

(iv) applying the percentage described in Subsection (4)(a)(iii) to the total number of available public draw permits from the previous year to determine the number of limited entry landowners association program vouchers to be allocated to the landowners association.

(b) The division shall round numbers when determining permit numbers by rounding down when the number is .49 or less and rounding up when the number is .50 or greater.

(c) An approved landowners association that qualifies for less than one voucher under Subsection (4)(a) does not receive a voucher under Subsection (4)(a), but shall annually receive one voucher in accordance with Subsection (4)(d).

(d) The division shall annually allocate one additional voucher to each landowners association described in Subsection (4)(a) or (c).

(5) A landowner participating in the landowners association program may not submit a claim for compensation for wildlife damage under Chapter 8, Part 4, Damage by Big Game, to the landowner's private land that is enrolled in the landowners association program.

(6) The Wildlife Board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and enforce rules applicable to the landowners association program organized for the hunting of big game that in the Wildlife Board's judgment are necessary to administer and enforce this section.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 85
H. B. 208
Passed March 4, 2025
Approved March 19, 2025
Effective May 7, 2025

URBAN FARMING ASSESSMENT MODIFICATIONS

Chief Sponsor: Jason B. Kyle
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to the application for assessment under the Urban Farming Assessment Act.

Highlighted Provisions:

This bill:

- ► repeals the requirement for an owner of land eligible for assessment under the Urban Farming Assessment Act to submit an annual renewal application;
- ► provides the circumstances under which the county assessor may ask for additional information from an owner; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1707, as last amended by Laws of Utah 2023, Chapter 189

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

Section 1. Section 59-2-1707 is amended to read:

59-2-1707. Application -- Signed statement -- Consent to creation of a lien -- Consent to audit and review -- Notice.

(1) [~~For land to be assessed~~]Before a county assessor may assess land under this part, an owner of land eligible for assessment under this part shall submit [~~annually~~]an application described in Subsection (2) to the county assessor of the county in which the land is located[~~:~~].

[~~(a) an application described in Subsection (2); or~~]

[~~(b) a renewal application described in Subsection (3) if:~~]

[~~(i) the land was assessed under this part for the preceding tax year; and~~]

[~~(ii) there have been no changes to the eligibility information provided in the most recently submitted application described in Subsection (2), other than the information described in Subsection 59-2-1703(2)(b).~~]

(2) An application required by Subsection (1) shall:

(a) be on a form:

(i) approved by the commission; and

(ii) provided to an owner:

(A) by the county assessor; and

(B) at the request of an owner;

(b) provide for the reporting of information related to this part;

(c) be submitted by:

(i) May 1 of the tax year in which assessment under Subsection (1) is requested if the land was not assessed under this part in the year before the application is submitted; or

(ii) the date otherwise required by this part for land that before the application being submitted has been assessed under this part;

(d) be signed by all of the owners of the land that under the application would be assessed under this part;

(e) be accompanied by the prescribed fees made payable to the county recorder;

(f) include a certification by an owner that the facts set forth in the application or signed statement are true;

(g) include a statement that the application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and

(h) be recorded by the county recorder.

[~~(3) A renewal application required by Subsection (1) shall:~~]

[~~(a) be on a form:~~]

[~~(i) approved by the commission; and~~]

[~~(ii) provided to an owner:~~]

[~~(A) by the county assessor; and~~]

[~~(B) at the request of an owner;~~]

[~~(b) provide for the reporting of the information described in Subsection 59-2-1703(2)(b);~~]

[~~(c) be submitted on or before January 30 of the tax year in which the owner requests assessment under this part;~~]

[~~(d) be signed by all of the owners of the land;~~]

[~~(e) be accompanied by the prescribed fees made payable to the county recorder;~~]

[~~(f) include a certification by an owner that the following are true:~~]

[~~(i) the facts set forth in the renewal application or signed statement; and~~]

[~~(ii) other than the information described in Subsection 59-2-1703(2)(b), the facts set forth in the most recently submitted application described in Subsection (2), as of the date the renewal application is submitted;~~]

[~~(g) include a statement that the renewal application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and~~]

[~~(h) be recorded by the county recorder.~~]

[~~(4)~~](3) An application described in Subsection (2)[~~or a renewal application described in Subsection (3)~~]constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part.

[~~(5)~~](4) (a) If the county determines that a timely filed application[~~or a timely filed renewal application~~] is incomplete, the county shall:

(i) notify the owner of the incomplete application[~~or renewal application~~]; and

(ii) allow the owner to complete the application[~~or renewal application~~] within 30 days from the day on which the county provides notice to the owner.

(b) An application that has not been completed within 30 days of the day of the notice described in Subsection [~~(5)(a) shall be~~](4)(a) is considered denied.

[~~(6)~~](5) (a) [~~Except as provided in Subsections (1) through (3), a~~]Once the application required by Subsection (1) has been approved, the county assessor may[~~not require an~~]:

(i) require, by written request of the county assessor, the owner to submit a new application or a signed statement that verifies that the land qualifies for assessment under this part; or

(ii) except as provided in Subsection (5)(b), require no additional signed statement or application for assessment under this part.

(b) [~~Notwithstanding Subsection (6)(a), a county~~]A county assessor shall require that:

(i) an owner provide notice if land is withdrawn from this part as provided in Section 59-2-1705[~~.~~]; and

(ii) a new owner submit an application in accordance with this section.

(c) An owner shall submit an application or signed statement required under Subsection (5)(a) by the date specified in the written request of the county assessor for the application or signed statement.

[~~(7)~~](6) A certification under Subsection (2)(f)[~~or (3)(f)~~] is considered as if made under oath and subject to the same penalties as provided by law for perjury.

[~~(8)~~](7) (a) An owner applying for participation under this part or a purchaser or lessee that signs a statement under Subsection [~~(9)~~](8) is considered to have given consent to a field audit and review by:

(i) the commission;

(ii) the county assessor; or

(iii) the commission and the county assessor.

(b) The consent described in Subsection [~~(8)(a)~~](7)(a) is a condition to the acceptance of an application or signed statement.

[~~(9)~~](8) An owner of land eligible for assessment under this part, because a purchaser or lessee actively devotes the land to agricultural use as required by Section 59-2-1703, may qualify the land for assessment under this part by submitting, with the application described in Subsection (2)[~~or the renewal application described in Subsection (3)~~], a signed statement from that purchaser or lessee certifying those facts that would be necessary to meet the requirements of Section 59-2-1703 for assessment under this part.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

Section 3. Retrospective operation.

This bill has retrospective operation to January 1, 2025.

CHAPTER 86
H. B. 224
Passed March 5, 2025
Approved March 19, 2025
Effective May 7, 2025

INMATE REENTRY, FINANCES, AND DEBT MODIFICATIONS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill concerns inmate and former inmate reentry, finances, and debts.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires, with a delayed implementation date, a county jail to notify certain state agencies that may have information concerning an inmate's existing debts when an inmate is incarcerated in the county jail for more than 90 days and when the inmate is released from the county jail;
- ► requires, with a delayed implementation date, the Office of State Debt Collection to suspend the accrual of interest on certain accounts receivable during periods of at least 90 days of incarceration and for an additional period after release;
- ► expands the duties of the reentry division created by the Department of Corrections (department);
- ► requires the department to provide information to an inmate on a regular basis concerning:
  - • the inmate's known debts;
  - • incentives for paying certain debts while incarcerated; and
  - • information on how to access additional information concerning debts and resources on financial literacy and money management;
- ► requires the department:
  - • with a delayed implementation date, to notify certain state agencies that may have information concerning an inmate's existing debts when an inmate enters and leaves incarceration; and
  - • to provide educational resources to individuals designated by an inmate concerning incentives for repaying certain debts while incarcerated;
- ► amends provisions concerning when incarceration may not be considered by the Office of Recovery Services (office) as voluntary unemployment for purposes of a child support order;
- ► requires the office to suspend child support orders and money judgments in certain circumstances relating to incarceration;
- ► provides that the office shall resume a suspended child support obligation after the offender has been released for 90 days; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

64-13-6, as last amended by Laws of Utah 2024, Chapters 144, 208
64-13-23, as last amended by Laws of Utah 2024, Chapter 144
81-6-101, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-6-203, as renumbered and amended by Laws of Utah 2024, Chapter 366

ENACTS:

17-22-35, Utah Code Annotated 1953
63A-3-509, Utah Code Annotated 1953
81-6-211.5, Utah Code Annotated 1953

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

Section 1. Section 17-22-35 is enacted to read:

17-22-35. Notification requirements to state agencies concerning potential inmate debts.

(1) As used in this section, "inmate" means an individual who is in the custody of a county jail.

(2) (a) Beginning on January 1, 2027, a county jail is required to notify the Office of State Debt Collection, the State Tax Commission, and the Office of Recovery Services:

(i) within five business days after the day on which an inmate has been incarcerated in the county jail for 90 consecutive days; and

(ii) if an inmate has been incarcerated in the county jail for more than 90 consecutive days, within five business days after the day on which an inmate is released from the county jail.

(b) The notification described in Subsection (2)(a) shall include:

(i) the relevant dates of the inmate's incarceration and identifying information concerning the inmate's identity; and

(ii) whether the inmate's incarceration is based on:

(A) criminal non-payment of a child support order; or

(B) an offense against the inmate's child or custodial parent of the inmate's child.

(c) The requirement described in Subsection (2)(a)(i) does not apply if a court, another county jail, the Department of Corrections, or another entity already has notified the Office of State Debt Collection, the State Tax Commission, and the Office of Recovery Services as described in Subsection (2)(a) about the inmate's incarceration.

(d) The requirement described in Subsection (2)(a)(ii) does not apply if an inmate is transferred to a different county jail or another incarcerated setting for the purpose of continued incarceration.

Section 2. Section 63A-3-509 is enacted to read:

63A-3-509. Suspension of interest on certain accounts receivable during and subsequent to incarceration.

Beginning on January 1, 2027, unless prohibited by another provision of law or a court order, or unless an account receivable contains restitution as defined in Section 77-38b-102, the office shall, upon receipt of a notification from a county jail in accordance with Section 17-22-35 or a notification from the Department of Corrections in accordance with Subsection 64-13-23(9), suspend the accrual of interest on an individual's accounts receivable under Subsection 63A-3-502(4)(g):

(1) during any period that the individual is incarcerated in a county jail or a state prison, if the period is 90 or more consecutive days; and

(2) for a period of 180 days after the day on which the individual is released from a period of incarceration as described in Subsection (1).

Section 3. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

(f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(h) manage programs that take into account the needs and interests of victims, where reasonable;

(i) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(j) subject to Subsection (3), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i) (A) if an offender is to be supervised in the community, the department shall establish a case action plan for the offender no later than 60 days after the day on which the department's community supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan for the offender no later than 90 days after the day on which the offender is committed to the custody of the department;

(ii) each case action plan shall:

(A) integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements; and

(B) require that a case manager will:

(I) ensure that an assessment of the education level, occupational interests, and aptitudes of the inmate has been completed;

(II) refer the inmate to a higher education student advisor at an institution offering programs consistent with the inmate's interests and aptitudes for advisement on educational preferences and plans;

(III) incorporate the inmate's interests, aptitudes, and student advisement into an education plan consistent with the guidance provided by the Higher Education and Corrections Council created in Section 53B-35-201; and

(IV) refer the inmate to the student advisor at the institution called for in the case action plan for guidance and assistance with the education process;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change;

(n) ensure that an inmate has reasonable access to legal research;

(o) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(p) when reporting on statewide recidivism, include the metrics and requirements described in Section 63M-7-102;

(q) create a reentry division that focuses on the successful reentry of inmates into the community[~~;~~], which shall include:

(i) screening and assessments for an inmate's risks and needs;

(ii) individualized plans and case management;

(iii) quality treatment, education, and job preparation;

(iv) community partnerships; and

(v) comprehensive release planning before the inmate's release, including:

(A) coordination with support services; and

(B) coordination with one or more family members or friends, if the inmate has given permission to contact specific individuals for this purpose;

(r) coordinate with the Board of Pardons and Parole regarding inmate records that are necessary for the Board of Pardons and Parole to make necessary determinations regarding an inmate; and

(s) ensure that inmate records regarding discipline, programs, and other relevant metrics are:

(i) complete and updated in a timely manner; and

(ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.

(2) The department may in the course of supervising probationers and parolees:

(a) respond to an individual's violation of one or more terms of the probation or parole in accordance with the graduated and evidence-based processes established by the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Before investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5) (a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding:

(i) the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time; and

(ii) the progress of the department's implementation of the inmate program requirements described in Section 64-13-50.

(6) (a) As used in this Subsection (6):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-13-21, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection (6)(c); and

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

Section 4. Section 64-13-23 is amended to read:

64-13-23. Offender's income, debt, and finances -- Department responsibilities concerning offender debt and financial information.

(1) The department may require each offender, while in the custody of the department or while on probation or parole, to place funds received or earned by the offender from any source into:

(a) an account administered by the department; or

(b) a joint account with the department at a federally insured financial institution.

(2) The department may require each offender to maintain a minimum balance in an account under Subsection (1) for the particular offender's use upon:

(a) discharge from the custody of the department; or

(b) completion of parole or probation.

(3) If the funds are placed in a joint account at a federally insured financial institution:

(a) any interest accrues to the benefit of the offender account; and

(b) the department may require that the signatures of both the offender and a departmental representative be submitted to the financial institution to withdraw funds from the account.

(4) If the funds are placed in an account administered by the department, the department may by rule designate:

(a) a certain portion of the offender's funds as interest-bearing savings; and

(b) a portion of the offender's funds as noninterest-bearing to be used for day-to-day expenses.

(5) (a) The department may withhold part of the offender's funds in an account under Subsection (1) for expenses of:

[~~(a)~~](i) supervision or treatment;

[~~(b)~~](ii) restitution, reparation, fines, alimony, support payments, or similar court-ordered payments;

[~~(c)~~](iii) obtaining the offender's DNA specimen, if the offender is required under Section 53-10-404 to provide a specimen;

[~~(d)~~](iv) department-ordered repayment of a fine that is incurred under Section 64-13-33; and

[~~(e)~~](v) other debt to the state.

(b) The department shall provide or make available an account statement at least every two weeks to each inmate who has an account under Subsection (1) that contains:

(i) a list of the inmate's known existing debts, including debts related to the inmate's restitution, court costs, fines, tax obligations, alimony, child support, other court-ordered payments, and similar debts;

(ii) information regarding incentives for paying certain debts while incarcerated; and

(iii) information on how the inmate can access information concerning:

(A) the debts listed in Subsection (5)(b)(i); and

(B) educational resources on financial literacy and money management.

(c) The department may provide an account statement to a former inmate through the former inmate's parole officer through the Division of Adult Probation and Parole upon request.

(6) (a) An offender may not be granted free process in civil actions, including petitions for a writ of habeas corpus, if, at any time from the date the cause of action arose through the date the cause of action remains pending, there are any funds in an account under Subsection (1) that have not been withheld or are not subject to withholding under Subsection (4) or (5).

(b) The amount assessed for the filing fee, service of process and other fees and costs shall not exceed the total amount of funds the offender has in excess of the indigence threshold established by the department but not less than $25 including the withholdings under Subsection (4) or (5) during the identified period of time.

(c) The amounts assessed shall not exceed the regular fees and costs provided by law.

(7) The department may disclose information on offender accounts to the Office of Recovery Services and other appropriate state agencies.

(8) The department shall publish a notice on the department's website, and any website used by an individual depositing funds into an offender's account, that the individual may request from the department a copy of a statement of the offender's financial account in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) (a) (i) Beginning on January 1, 2027, within 15 days after an inmate has been incarcerated in a state prison for 90 consecutive days, the department shall notify the Office of State Debt Collection, the State Tax Commission, and the Office of Recovery Services about the inmate's incarceration, including:

(A) the relevant dates of the inmate's incarceration and identifying information concerning the inmate's identity; and

(B) whether the inmate's incarceration is based on criminal non-payment of a child support order or an offense against the child or custodial parent.

(ii) Beginning on January 1, 2027, within 15 days after the day on which an inmate is released from incarceration, the department shall notify the entities listed in Subsection (9)(a)(i) of the inmate's release date.

(b) The requirement described in Subsection (9)(a)(i) does not apply if a court, county jail, or other entity previously has notified the agencies listed in Subsection (9)(a)(i) about the inmate's incarceration.

(10) (a) The department shall, on a periodic basis, offer educational resources to one or more individuals designated by an inmate concerning financial incentives for repaying certain debts during an inmate's incarceration.

(b) The department may, if the department has received an inmate's consent, provide one or more individuals designated by an inmate with information concerning the inmate's current financial account balance and existing known debts, in addition to the information provided under Subsection (10)(a).

Section 5. Section 81-6-101 is amended to read:

81-6-101. Definitions for chapter.

As used in this chapter:

(1) "Administrative agency" means the Office of Recovery Services or the Department of Health and Human Services.

(2) "Administrative order" means the same as that term is defined in Section 26B-9-201.

(3) "Alimony" means the same as that term is defined in Section 81-4-101.

(4) "Base child support award" means the award that may be ordered and is calculated using the child support guidelines before additions for medical expenses and work-related child care costs.

(5) "Base combined child support obligation" means the presumed amount of child support that the parents should provide for their child as described in Subsection 81-6-204(1).

(6) "Base combined child support obligation table" means the appropriate table described in Sections 81-6-302 and 81-6-304.

(7) "Child" means:

(a) a son or daughter who is under 18 years old and who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(b) a son or daughter who is 18 years old or older while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.

(8) (a) "Child support" means a base child support award, or a monthly financial award for uninsured medical expenses, ordered by a tribunal for the support of a child.

(b) "Child support" includes current periodic payments, arrearages that accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(9) "Child support guidelines" means the calculation and application of child support as described in Part 2, Calculation and Adjustment of Child Support.

(10) "Child support order" means a judgment, decree, or order issued by a tribunal whether temporary, final, or subject to modification, that:

(a) establishes or modifies child support;

(b) reduces child support arrearages to judgment; or

(c) establishes child support or registers a child support order under Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act.

(11) "Child support tables" means the tables described in Part 3, Child Support Tables.

(12) "Child support services" means the same as that term is defined in Section 26B-9-101.

(13) "Gross income" means the amount of income calculated for a parent as described in Section 81-6-203.

(14) "Health care coverage" means coverage under which medical services are provided to a child through:

(a) fee for service;

(b) a health maintenance organization;

(c) a preferred provider organization;

(d) any other type of private health insurance; or

(e) public health care coverage.

(15) (a) "Incarceration" means the placement of an obligor who has been ordered to pay child support into a carceral setting in which the obligor is not permitted to earn wages from employment outside of the carceral setting.

(b) "Incarceration" does not include being placed on probation, parole, or work release.

[~~(15)~~](16) (a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

(b) "Income" includes:

(i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(ii) interest and dividends;

(iii) periodic payments made under pension or retirement programs or insurance policies of any type;

(iv) unemployment compensation benefits;

(v) workers' compensation benefits; and

(vi) disability benefits.

[~~(16)~~](17) "Joint physical custody" means the same as that term is defined in Section 81-9-101.

[~~(17)~~](18) "Low income table" means the appropriate table under Section 81-6-303 or 81-6-305.

[~~(18)~~](19) "Medical expenses" means health and dental expenses and related insurance costs.

[~~(19)~~](20) "Minor child" means a child who is younger than 18 years old.

[~~(20)~~](21) "Obligee" means an individual, this state, another state, or another comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of child support or public assistance.

[~~(21)~~](22) "Obligor" means a person owing a duty of support.

[~~(22)~~](23) "Office" means the Office of Recovery Services within the Department of Health and Human Services.

[~~(23)~~](24) "Pregnancy expenses" means an amount equal to:

(a) the sum of a pregnant mother's:

(i) health insurance premiums while pregnant that are not paid by an employer or government program; and

(ii) medical costs related to the pregnancy, incurred after the date of conception and before the pregnancy ends; and

(b) minus any portion of the amount described in Subsection [~~(23)(a)~~](24)(a) that a court determines is equitable based on the totality of the circumstances, not including any amount paid by the mother or father of the child.

[~~(24)~~](25) "Split custody" means that each parent has physical custody of at least one of the children.

[~~(25)~~](26) "State" means a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American tribe, or other comparable domestic or foreign jurisdiction.

[~~(26)~~](27) "Support" means past-due, present, and future obligations to provide for the financial support, maintenance, or medical expenses of a child.

[~~(27)~~](28) "Support order" means:

(a) a child support order; or

(b) a judgment, decree, or order by a tribunal, whether temporary, final, or subject to modification, for alimony.

(29) "Suspension" means adjusting a child support order to zero dollars during the period of an obligor's incarceration.

[~~(28)~~](30) "Temporary" means a period of time that is projected to be less than 12 months in duration.

[~~(29)~~](31) "Third party" means an agency or a person other than a parent or a child who provides care, maintenance, and support to a child.

[~~(30)~~](32) "Tribunal" means the district court, the Department of Health and Human Services, Office of Recovery Services, or court

or administrative agency of a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American tribe, or other comparable domestic or foreign jurisdiction.

[~~(31)~~](33) "Work-related child care expenses" means reasonable child care costs for up to a full-time work week or training schedule as necessitated by the employment or training of a parent.

[~~(32)~~](34) "Worksheet" means a form used to aid in calculating the base child support award.

Section 6. Section 81-6-203 is amended to read:

81-6-203. Determination of gross income for child support -- Imputing income to a parent.

(1) (a) Each parent shall provide verification of current income to the court or administrative agency.

(b) Each parent shall provide year-to-date pay stubs or employer statements and complete copies of tax returns from at least the most recent year, unless the court finds the verification is not reasonably available.

(c) Verification of income from records maintained by the Department of Workforce Services may be substituted for pay stubs, employer statements, and income tax returns.

(2) (a) To calculate gross income of a parent, the court or administrative agency may include:

(i) prospective income of the parent, including income from earned and nonearned sources, such as salaries, wages, commissions, royalties, bonuses, rents, gifts from anyone, prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, Social Security benefits, worker compensation benefits, unemployment compensation, income replacement disability insurance benefits, and payments from nonmeans-tested government programs; and

(ii) income imputed to the parent as described in Subsection (6).

(b) Income from earned income sources is limited to the equivalent of one full-time 40-hour job.

(c) If and only if during the time before the original support order, the parent normally and consistently worked more than 40 hours at the parent's job, the court may consider this extra time as a pattern in calculating the parent's ability to provide child support.

(3) (a) The court or administrative agency shall use historical and current earnings to determine whether an underemployment or overemployment situation exists.

[~~(b) The office may not treat incarceration of at least six months as voluntary unemployment in establishing or modifying a support order.~~]

(b) When establishing or modifying a child support order for an obligor who is a parent and incarcerated, the office shall follow the requirements of Section 81-6-211.5.

(4) (a) To calculate income from self-employment or operation of a business, the court or administrative agency:

(i) shall calculate gross income from self-employment or operation of a business by subtracting necessary expenses required for self-employment or business operation from gross receipts;

(ii) shall review income and expenses from self-employment or operation of a business to determine an appropriate level of gross income available to the parent to satisfy a child support award; and

(iii) may only deduct those expenses necessary to allow the business to operate at a reasonable level from gross receipts.

(b) Gross income determined under this Subsection (4) may differ from the amount of business income determined for tax purposes.

(5) When possible, the court or administrative agency shall determine the average monthly gross income for each parent by:

(a) calculating the gross income of each parent on an annual basis; and

(b) dividing the annual gross income for each parent by 12.

(6) (a) The court or administrative agency may not impute income to a parent unless the parent stipulates to the amount imputed, the parent defaults, or, in contested cases, a hearing is held and the court or administrative agency enters findings of fact as to the evidentiary basis for the imputation.

(b) If income is imputed to a parent, the court or administrative agency shall base income upon employment potential and probable earnings considering, to the extent known:

(i) employment opportunities;

(ii) work history;

(iii) occupation qualifications;

(iv) educational attainment;

(v) literacy;

(vi) age;

(vii) health;

(viii) criminal record;

(ix) other employment barriers and background factors; and

(x) prevailing earnings and job availability for persons of similar backgrounds in the community.

(c) If a parent has no recent work history or a parent's occupation is unknown, the court or administrative agency may impute an income to that parent at the federal minimum wage for a 40-hour work week.

(d) To impute a greater or lesser income, the court or administrative agency shall enter specific findings of fact as to the evidentiary basis for the imputation.

(e) The court or administrative agency may not impute income to a parent if any of the following conditions exist and the condition is not of a temporary nature:

(i) the reasonable costs of child care for the parents' minor child approach or equal the amount of income the custodial parent can earn;

(ii) a parent is physically or mentally unable to earn minimum wage;

(iii) a parent is engaged in career or occupational training to establish basic job skills; or

(iv) unusual emotional or physical needs of a child require the custodial parent's presence in the home.

(7) Notwithstanding Subsection (2), the court or administrative agency may not include the following sources of income when calculating the gross income of a parent:

(a) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program;

(b) benefits received under a housing subsidy program, the Job Training Partnership Act, Supplemental Security Income, Social Security Disability Insurance, Medicaid, SNAP benefits, or General Assistance;

(c) other similar means-tested welfare benefits received by a parent;

(d) the earned income of a child who is the subject of a child support award; or

(e) except as otherwise provided in Subsection (8), the benefits to a child in the child's own right, such as Supplemental Security Income.

(8) (a) The court or administrative agency shall credit, as child support, the amount of social security benefits received by a child due to the earnings of the parent on whose earning record the social security benefits are based by crediting the amount against the potential obligation of that parent.

(b) The court or administrative agency may consider other unearned income of a child as income of a parent depending upon the circumstances of each case.

Section 7. Section 81-6-211.5 is enacted to read:

81-6-211.5. Child support orders for an incarcerated obligor -- Suspension -- Exceptions.

(1) The office may not treat incarceration of 90 or more consecutive days as voluntary unemployment in establishing or modifying a child support order.

(2) (a) Except as provided in Subsection (2)(c), for any period of 90 or more consecutive days of the obligor's incarceration, suspension of a money judgment or support order issued in this state for an obligor ordered to pay child support shall occur by operation of law.

(b) For a suspension under Subsection (2)(a), the office shall:

(i) retroactively date the period of suspension to the date on which the office notified the required parties of the suspension, with the eligible period beginning on the first day of the first full month of the date that the office provided the parties with the notification;

(ii) issue a balance credit for any funds collected during the period of suspension, unless the funds have already been distributed, in which case, the funds may not be credited or otherwise recovered; and

(iii) resume the obligation described in Subsection (2)(a) on the first day of the first full month that occurs once 90 days have passed after the day on which the obligor is released from incarceration.

(c) The office may not suspend an obligation under Subsection (2)(a) if the obligor is incarcerated for:

(i) criminal non-payment of a child support order; or

(ii) an offense against the inmate's child or custodial parent of the inmate's child.

(3) The suspension described in Subsection (2)(a) is only applicable for an obligor whose term of incarceration begins on or after January 1, 2027.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

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STATE GRANT REQUIREMENTS

Chief Sponsor: Jennifer Dailey-Provost
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Cosponsor:	Ashlee Matthews	Hoang Nguyen
Rosalba Dominguez	Verona Mauga	Doug Owens
Sahara Hayes	Grant Amjad Miller	Angela Romero
Sandra Hollins	Carol S. Moss	Andrew Stoddard

LONG TITLE

General Description:

This bill modifies provisions related to state grants.

Highlighted Provisions:

This bill:

► upon a grantee's request, requires an administering agency to disclose the administering agency's costs associated with administering a grant.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63G-6b-202, Utah Code Annotated 1953

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

Section 1. Section 63G-6b-202 is enacted to read:
63G-6b-202. Administration costs.

(1) Upon request from a grantee, an administering agency shall disclose in writing any amount of the grant's grant appropriation that the administering agency used or retained to pay costs of administering the grant.

(2) An administering agency shall include in a disclosure under Subsection (1):

(a) the total number of work hours needed to administer the grant;

(b) the average per hour cost of the time described in Subsection (2)(a);

(c) any other costs associated with administering the grant, including any outside vendor or consultant charges; and

(d) the total amount the administering agency used or retained to pay costs of administering the grant.

(3) An administering agency shall provide a copy of any disclosure provided under this section to the appropriations subcommittee with jurisdiction over the grant appropriation.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 88
H. B. 252
Passed February 20, 2025
Approved March 19, 2025
Effective May 7, 2025

STATE CUSTODY AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Derrin R. Owens

Cosponsor:	Jon Hawkins	Michael J. Petersen
Tyler Clancy	Jason B. Kyle	Ryan D. Wilcox
Matthew H. Gwynn	Trevor Lee	

LONG TITLE

General Description:

This bill amends provisions related to individuals in state custody.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► enacts provisions related to treatments government entities may provide to individuals in state custody;
- ► amends housing provisions related to youth juvenile detention and secure care facilities;
- ► amends criminal laws related to improper relationships with individuals in state custody; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-8, as last amended by Laws of Utah 2023, Chapters 119, 420
76-5-413, as last amended by Laws of Utah 2024, Chapter 240
80-5-102, as last amended by Laws of Utah 2024, Chapter 240
80-5-501, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-5-503, as renumbered and amended by Laws of Utah 2021, Chapter 261

ENACTS:

17-22-8.2, Utah Code Annotated 1953
26B-4-901, Utah Code Annotated 1953
26B-4-903, Utah Code Annotated 1953
80-5-209, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26B-4-902, (Renumbered from 26B-4-325, as last amended by Laws of Utah 2024, Chapter 266)

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

Section 1. Section 17-22-8 is amended to read:

17-22-8. Care of prisoners -- Funding of services -- Private contractor.

(1) As used in this section, "medication assisted treatment plan" means a prescription plan to use buprenorphine, methadone, or naltrexone to treat substance use withdrawal symptoms or an opioid use disorder.

(2) Except as provided in Subsection (7), a sheriff shall:

(a) receive each individual committed to jail by competent authority;

(b) provide each prisoner with necessary food, clothing, and bedding in the manner prescribed by the county legislative body;

(c) subject to Section 17-22-8.2, provide each prisoner medical care when:

(i) the prisoner's symptoms evidence a serious disease or injury;

(ii) the prisoner's disease or injury is curable or may be substantially alleviated; and

(iii) the potential for harm to the person by reason of delay or the denial of medical care would be substantial;

(d) provide each prisoner, as part of the intake process, with the option of continuing any of the following medically prescribed

methods of contraception:

(i) an oral contraceptive;

(ii) an injectable contraceptive;

(iii) a patch;

(iv) a vaginal ring; or

(v) an intrauterine device, if the prisoner was prescribed the intrauterine device because the prisoner experiences serious and persistent adverse effects when using the methods of contraception described in Subsections (2)(d)(i) and (ii); and

(e) cooperate with medical personnel to continue a medication assisted treatment plan for an inmate if the inmate was an active client before arrest and commitment.

(3) A sheriff may provide the generic form of a contraceptive described in Subsection (2)(d)(i) or (ii).

(4) A sheriff shall follow the provisions of Section 64-13-46 if a prisoner is pregnant or in postpartum recovery, including the reporting requirements in Subsection 64-13-45(2)(c).

(5) (a) Except as provided in Section 17-22-10 and Subsection (5)(b), the expense incurred in providing the services required by this section to prisoners shall be paid from the county treasury.

(b) The expense incurred in providing the services described in Subsection (2)(d) to prisoners shall be paid by the Department of Health and Human Services.

(6) A medication used for a medication assisted treatment plan under Subsection (2)(e):

(a) shall be administered to an inmate in accordance with the inmate's prescription under the direction of the sheriff;

(b) may be paid for by a county; and

(c) may be left or stored at a jail at the discretion of the sheriff.

(7) If the county executive contracts with a private contractor to provide the services required by this section, the sheriff shall provide only those services required of the sheriff by the contract between the county and the private contractor.

Section 2. Section 17-22-8.2 is enacted to read:

17-22-8.2. Jail health care.

(1) As used in this section:

(a) "Cross-sex hormone treatment" means the same as that term is defined in Section 26B-4-901.

(b) "Primary sex characteristic surgical procedure" means the same as that term is defined in Section 26B-4-901.

(c) "Secondary sex characteristic surgical procedure" means the same as that term is defined in Section 26B-4-901.

(2) A sheriff may not initiate any of the following procedures or treatments for a prisoner:

(a) a cross-sex hormone treatment;

(b) a primary sex characteristic surgical procedure; or

(c) a secondary sex characteristic surgical procedure.

(3) Subject to Subsection (1) and Section 17-22-5, to treat a prisoner's gender dysphoria and any co-occurring mental health disorder, the sheriff may provide psychotherapy, mental health care, or any other necessary and appropriate treatment.

Section 3. Section 26B-4-901 is enacted to read:

PART 9. Inmate Health

26B-4-901. Definitions.

As used in this part:

(1) "Correctional facility" means a facility operated to house inmates in a secure or nonsecure setting:

(a) by the Department of Corrections; or

(b) under a contract with the Department of Corrections.

(2) "Cross-sex hormone treatment" means administering, prescribing, or supplying for effectuating or facilitating an individual's attempted sex change:

(a) to an individual whose biological sex at birth is female, a dose of testosterone or other androgens at levels above those normally found in an individual whose biological sex at birth is female; or

(b) to an individual whose biological sex at birth is male, a dose of estrogen or a synthetic compound with estrogenic activity or effect at levels above those normally found in an individual whose biological sex at birth is male.

(3) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(4) "Inmate" means an individual who is:

(a) committed to the custody of the Department of Corrections; and

(b) housed at a correctional facility or at a county jail at the request of the Department of Corrections.

(5) "Medical monitoring technology" means a device, application, or other technology that can be used to improve health outcomes and the experience of care for patients, including evidence-based clinically evaluated software and devices that can be used to monitor and treat diseases and disorders.

(6) (a) "Primary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, castration, orchiectomy, penectomy, vaginoplasty, or vulvoplasty;

(ii) for an individual whose biological sex at birth is female, hysterectomy, oophorectomy, metoidioplasty, or phalloplasty; or

(iii) any surgical procedure that is related to or necessary for a procedure described in Subsection (6)(a)(i) or (ii), that would result in the sterilization of an individual who is not sterile.

(b) "Primary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(7) (a) "Secondary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, breast augmentation surgery, chest feminization surgery, or facial feminization surgery; or

(ii) for an individual whose biological sex at birth is female, mastectomy, breast reduction surgery, chest masculinization surgery, or facial masculinization surgery.

(b) "Secondary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(8) "Terminally ill" means the same as that term is defined in Section 31A-36-102.

Section 4. Section 26B-4-902, which is renumbered from Section 26B-4-325 is renumbered and amended to read:

[~~26B-4-325~~]26B-4-902. Medical care for inmates -- Reporting of statistics.

[~~As used in this section:~~]

[~~(1) "Correctional facility" means a facility operated to house inmates in a secure or nonsecure setting:~~]

[~~(a) by the Department of Corrections; or~~]

[~~(b) under a contract with the Department of Corrections.~~]

[~~(2) "Health care facility" means the same as that term is defined in Section 26B-2-201.~~]

[~~(3) "Inmate" means an individual who is:~~]

[~~(a) committed to the custody of the Department of Corrections; and~~]

[~~(b) housed at a correctional facility or at a county jail at the request of the Department of Corrections.~~]

[~~(4) "Medical monitoring technology" means a device, application, or other technology that can be used to improve health outcomes and the experience of care for patients, including evidence-based clinically evaluated software and devices that can be used to monitor and treat diseases and disorders.~~]

[~~(5) "Terminally ill" means the same as that term is defined in Section 31A-36-102.~~]

[~~(6)~~](1) The department shall:

(a) for each health care facility owned or operated by the Department of Corrections, assist the Department of Corrections in complying with Section 64-13-39;

(b) in coordination with the Department of Corrections, and as the Department of Correction's agent:

(i) create policies and procedures for providing comprehensive health care to inmates;

(ii) provide inmates with comprehensive health care; and

(iii) develop standard population indicators and performance measures relating to the health of inmates; and

(c) collaborate with the Department of Corrections to comply with Section 64-13-25.1.

[~~(7)~~](2) In providing the comprehensive health care described in Subsection [~~(6)(b)(ii)~~](1)(b)(ii), the department may not, without entering into an agreement with the Department of Corrections, provide, operate, or manage any treatment plans for inmates that are:

(a) required to be provided, operated, or managed by the Department of Corrections in accordance with Section 64-13-6; and

(b) not related to the comprehensive health care provided by the department.

[~~(8)~~](3) Beginning July 1, 2023, and ending June 30, 2024, the department shall:

(a) evaluate and study the use of medical monitoring technology and create a plan for a pilot program that identifies:

(i) the types of medical monitoring technology that will be used during the pilot program; and

(ii) eligibility for participation in the pilot program; and

(b) make the indicators and performance measures described in Subsection [~~(6)(b)(iii)~~](1)(b)(iii) available to the public through the Department of Corrections and the department websites.

[~~(9)~~](4) Beginning July 1, 2024, and ending June 30, 2029, the department shall implement the pilot program.

[~~(10)~~](5) The department shall submit to the Health and Human Services Interim Committee and the Law Enforcement and Criminal Justice Interim Committee:

(a) a report on or before October 1 of each year regarding the costs and benefits of the pilot program;

(b) a report that summarizes the indicators and performance measures described in Subsection [~~(6)(b)(iii)~~](1)(b)(iii) on or before October 1, 2024; and

(c) an updated report before October 1 of each year that compares the indicators and population measures of the most recent year to the initial report described in Subsection [~~(10)(b)~~](5)(b).

[~~(11)~~](6) An inmate receiving comprehensive health care from the department remains in the custody of the Department of Corrections.

Section 5. Section 26B-4-903 is enacted to read:

26B-4-903. Requirements for certain treatments for inmates.

(1) The department may not initiate any of the following procedures or treatments for an inmate:

(a) a cross-sex hormone treatment;

(b) a primary sex characteristic surgical procedure; or

(c) a secondary sex characteristic surgical procedure.

(2) Subject to Subsection (1) and Section 63-14-45, to treat an inmate's gender dysphoria and any co-occurring mental health disorder, the department may provide psychotherapy, mental health care, or any other necessary and appropriate treatment.

Section 6. Section 76-5-413 is amended to read:

76-5-413. Custodial sexual relations with youth receiving state services -- Penalties -- Defenses and limitations.

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

(i) "Actor" means:

(A) an individual employed by the Department of Health and Human Services created in Section 26B-1-201, or an employee of a private provider or contractor; or

(B) an individual employed by the juvenile court of the state, or an employee of a private provider or contractor.

(ii) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(iii) "Juvenile court" means the juvenile court of the state created in Section 78A-6-102.

(iv) "Private provider or contractor" means a person that contracts with the:

(A) department to provide services or functions that are part of the operation of the department; or

(B) juvenile court to provide services or functions that are part of the operation of the juvenile court.

(v) "Youth receiving state services" means an individual:

(A) younger than 18 years old, except as provided under Subsection (1)(a)(v)(B), who is:

(I) in the custody of the department under Section 80-6-703; or

(II) receiving services from any division of the department if any portion of the costs of these services is covered by public money; or

(B) younger than [~~21~~]25 years old:

(I) who is in the custody of the Division of Juvenile Justice and Youth Services, or the Division of Child and Family Services; or

(II) whose case is under the jurisdiction of the juvenile court.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits custodial sexual relations with a youth receiving state services if:

(i) the actor commits any of the acts described in Subsection (2)(b); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) Acts referred to in Subsection (2)(a)(i) are:

(i) having sexual intercourse with a youth receiving state services;

(ii) engaging in any sexual act with a youth receiving state services involving the genitals of one individual and the mouth or anus of another individual; or

(iii) (A) causing the penetration, however slight, of the genital or anal opening of a youth receiving state services by any foreign object, substance, instrument, or device, including a part of the human body; and

(B) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual.

(c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) (a) A violation of Subsection (2) is a third degree felony.

(b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger than 18 years old, a violation of Subsection (2) is a second degree felony.

(c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.

(4) The offenses referred to in Subsection (2) are:

(a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

(b) rape, in violation of Section 76-5-402;

(c) rape of a child, in violation of Section 76-5-402.1;

(d) object rape, in violation of Section 76-5-402.2;

(e) object rape of a child, in violation of Section 76-5-402.3;

(f) forcible sodomy, in violation of Section 76-5-403;

(g) sodomy on a child, in violation of Section 76-5-403.1;

(h) forcible sexual abuse, in violation of Section 76-5-404;

(i) sexual abuse of a child, in violation of Section 76-5-404.1;

(j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;

(k) aggravated sexual assault, in violation of Section 76-5-405; or

(l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).

(5) (a) It is not a defense to the commission of, or an attempt to commit, the offense described in Subsection (2) if the youth receiving state services is younger than 18 years old, that the actor:

(i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the youth receiving state services.

(b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2).

(6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 7. Section 80-5-102 is amended to read:

80-5-102. Definitions.

As used in this chapter:

(1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in Section 80-5-302.

(2) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include a juvenile offender.

(3) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.

(4) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(5) "Control" means the authority to detain, restrict, and supervise a juvenile offender in a manner consistent with public safety and the well-being of the juvenile offender and division employees.

(6) "Cross-sex hormone treatment" means the same as that term is defined in Section 26B-4-901.

[~~(6)~~](7) "Director" means the director of the Division of Juvenile Justice and Youth Services.

[~~(7)~~](8) "Discharge" means the same as that term is defined in Section 80-6-102.

[~~(8)~~](9) "Division" means the Division of Juvenile Justice and Youth Services created in Section 80-5-103.

[~~(9)~~](10) "Homeless youth" means a child, other than an emancipated minor:

(a) who is a runaway; or

(b) who is:

(i) not accompanied by the child's parent or guardian; and

(ii) without care, as defined in Section 80-5-602.

(11) "Housing unit" means an area with secured entrances, minor rooms, and common area space.

(12) "Minor room" means a secured room where an individual sleeps and uses restroom facilities.

[~~(10)~~](13) "Observation and assessment program" means a nonresidential service program operated or purchased by the division that is responsible only for diagnostic assessment of minors, including for substance use disorder, mental health, psychological, and sexual behavior risk assessments.

[~~(11)~~](14) "Performance based contracting" means a system of contracting with service providers for the provision of residential or nonresidential services that:

(a) provides incentives for the implementation of evidence-based juvenile justice programs or programs rated as effective for reducing recidivism by a standardized tool in accordance with Section 63M-7-208; and

(b) provides a premium rate allocation for a minor who receives the evidence-based dosage of treatment and successfully completes the program within three months.

(15) "Puberty inhibition drug treatment" means administering, prescribing, or supplying for effectuating or facilitating an individual's attempted sex change, any of the following alone or in combination with aromatase inhibitors:

(a) gonadotropin-releasing hormone agonists; or

(b) androgen receptor inhibitors.

(16) "Primary sex characteristic surgical procedure" means the same as that term is defined in Section 26B-4-901.

[~~(12)~~](17) "Rescission" means the same as that term is defined in Section 80-6-102.

[~~(13)~~](18) "Restitution" means the same as that term is defined in Section 80-6-102.

[~~(14)~~](19) "Revocation" means the same as that term is defined in Section 80-6-102.

(20) "Secondary sex characteristic surgical procedure" means the same as that term is defined in Section 26B-4-901.

[~~(15)~~](21) "Temporary custody" means the same as that term is defined in Section 80-6-102.

[~~(16)~~](22) "Temporary homeless youth shelter" means a facility that:

(a) provides temporary shelter to homeless youth; and

(b) is licensed by the Department of Health and Human Services, created in Section 26B-1-201, as a residential support program.

[~~(17)~~](23) "Termination" means the same as that term is defined in Section 80-6-102.

[~~(18)~~](24) "Victim" means the same as that term is defined in Section 80-6-102.

[~~(19)~~](25) "Work program" means a nonresidential public or private service work project established and administered by the division

for juvenile offenders for the purpose of rehabilitation, education, and restitution to victims.

[~~(20)~~](26) (a) "Youth services" means services provided in an effort to resolve family conflict:

(i) for families in crisis when a minor is ungovernable or a runaway; or

(ii) involving a minor and the minor's parent or guardian.

(b) "Youth services" include efforts to:

(i) resolve family conflict;

(ii) maintain or reunite minors with the minors' families; and

(iii) divert minors from entering or escalating in the juvenile justice system.

(c) "Youth services" may provide:

(i) crisis intervention;

(ii) short-term shelter;

(iii) time-out placement; and

(iv) family counseling.

[~~(21)~~](27) "Youth services center" means a center established by, or under contract with, the division to provide youth services.

Section 8. Section 80-5-209 is enacted to read:

80-5-209. Health care for minors in custody.

(1) The division may not initiate any of the following procedures or treatments for a minor:

(a) puberty inhibition drug treatment;

(b) a cross-sex hormone treatment;

(c) a primary sex characteristic surgical procedure; or

(d) a secondary sex characteristic surgical procedure.

(2) Subject to Subsection (1) and Sections 80-5-501 and 80-5-503 regarding housing a minor, to treat a minor's gender dysphoria and any co-occurring mental health disorder, the division may provide psychotherapy, mental health care, or any other necessary and appropriate treatment.

Section 9. Section 80-5-501 is amended to read:

80-5-501. Detention facilities and services.

(1) The division shall provide detention facilities and services in each county, or group of counties, as the population demands, in accordance with this chapter.

(2) (a) The division is responsible for development, implementation, and administration of home detention services available in every judicial district.

(b) The division shall establish criteria for placement in home detention.

(3) The division shall provide training regarding implementation of the rules made under Subsection 80-5-202(1)(a) to law enforcement agencies, division employees, juvenile court employees, and other affected agencies and individuals upon their request.

(4) The division may not allow a male individual and female individual to share a minor room in a detention facility.

Section 10. Section 80-5-503 is amended to read:

80-5-503. Secure care facilities.

(1) The division shall maintain and operate secure care facilities for the custody and rehabilitation of juvenile offenders:

(a) who pose a danger of serious bodily harm to others;

(b) who cannot be controlled in a less secure setting; or

(c) who have engaged in a pattern of conduct characterized by persistent and serious criminal offenses that, as demonstrated through the use of other alternatives, cannot be controlled in a less secure setting.

(2) (a) The director shall appoint an administrator for each secure care facility.

(b) An administrator of a secure care facility shall have experience in social work, law, criminology, corrections, or a related field, and in administration.

(3) (a) (i) The division, in cooperation with the State Board of Education, shall provide instruction, or make instruction available, to juvenile offenders in secure care facilities.

(ii) The instruction shall be appropriate to the age, needs, and range of abilities of the juvenile offender.

(b) A secure care facility shall:

(i) assess each juvenile offender to determine the juvenile offender's abilities, possible learning disabilities, interests, attitudes, and other attributes related to appropriate educational programs; and

(ii) provide prevocational education to juvenile offenders to acquaint juvenile offenders with vocations, and vocational requirements and opportunities.

(4) (a) The division shall place juvenile offenders who have been committed to the division for secure care in a secure care facility, operated by the division or by a private entity, that is appropriate to ensure that humane care and rehabilitation opportunities are afforded to the juvenile offender.

(b) The division shall have separate housing units for male individuals and female individuals in secure care facilities.

(5) The division shall adopt standards, policies, and procedures for the regulation and operation of secure care facilities, consistent with state and federal law.

Section 11. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 89
H. B. 239
Passed February 27, 2025
Approved March 19, 2025
Effective May 7, 2025

DISASTER FUNDS REVISIONS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill concerns disaster funds.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► modifies provisions related to the State Disaster Recovery Restricted Account to change the amounts that may be expended by the Division of Emergency Management under certain conditions;
- ► renames the Response, Recovery, and Post-disaster Mitigation Restricted Account as the Disaster Response, Recovery, and Mitigation Restricted Account (account);
- ► modifies the amounts of funds available from the account for disaster response and recovery under specified circumstances;
- ► modifies the available uses for funds in the account to include pre-disaster mitigation under certain circumstances;
- ► modifies standards relating to disaster response and recovery grants;
- ► grants rulemaking authority to the Division of Emergency Management regarding the use of funds from the account for pre-disaster mitigation purposes;
- ► requires the Division of Finance to transfer certain funds from the State Disaster Recovery Restricted Account into the account under certain conditions; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-2a-603, as last amended by Laws of Utah 2023, Chapters 434, 534
53-2a-606, as last amended by Laws of Utah 2023, Chapter 434
53-2a-1301, as last amended by Laws of Utah 2023, Chapters 16, 434
53-2a-1302, as last amended by Laws of Utah 2023, Chapter 434
53-2a-1303, as last amended by Laws of Utah 2023, Chapter 434
53-2a-1304, as repealed and reenacted by Laws of Utah 2023, Chapter 434
53-2a-1305, as last amended by Laws of Utah 2023, Chapter 434
63J-1-314, as last amended by Laws of Utah 2023, Chapters 153, 434
63J-1-602.1, as last amended by Laws of Utah 2024, Chapters 88, 501

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

Section 1. Section 53-2a-603 is amended to read:
53-2a-603. State Disaster Recovery Restricted Account.

(1) (a) There is created a restricted account in the General Fund known as the "State Disaster Recovery Restricted Account."

(b) The disaster recovery account consists of:

(i) money deposited into the disaster recovery account in accordance with Section 63J-1-314;

(ii) money appropriated to the disaster recovery account by the Legislature; and

(iii) any other public or private money received by the division that is:

(A) given to the division for purposes consistent with this section; and

(B) deposited into the disaster recovery account at the request of:

(I) the division; or

(II) the person or entity giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(2) Money in the disaster recovery account may only be expended or committed to be expended as follows:

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed [~~$500,000~~]$3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a

declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds [~~$500,000~~]$3,000,000, but does not exceed [~~$3,000,000~~]$10,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment to expend from the governor;

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2);

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds [~~$3,000,000, but does not exceed $5,000,000~~]$10,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment to expend from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3);

(iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed $500,000 to fund expenses incurred by the National Guard if:

(A) in accordance with Section 39A-3-103, the governor orders into active service the National Guard in response to a declared disaster; and

(B) the money is not used for expenses that qualify for payment as emergency disaster services; and

(v) in any fiscal year, the division may expend an amount that does not exceed $750,000 to fund expenses incurred to develop or enhance emergency management capabilities if:

(A) the money is used for personnel, equipment, supplies, contracts, training, exercises, or other expenses deemed reasonable and necessary to:

(I) promote and strengthen the state's level of resiliency through mitigation, preparedness, response, or recovery activities; or

(II) meet federal grant matching requirements; and

(B) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of $5,000,000;

(b) money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs to the state directly related to a declared disaster that are not costs related to:

(i) emergency disaster services;

(ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund;

(c) to fund:

(i) the Local Government Emergency Response Loan Fund created in Section 53-2a-607; and

(ii) the Disaster Response, Recovery, and [~~Post-disaster~~]Mitigation Restricted Account created in Section 53-2a-1302;

(d) the division may provide advanced funding from the disaster recovery account to recognized agents of the state when:

(i) Utah has agreed, through the division, to enact the Emergency Management Assistance Compact with another member state that has requested assistance during a declared disaster;

(ii) Utah agrees to provide resources to the requesting member state;

(iii) the agent of the state who represents the requested resource has no other funding source available at the time of the Emergency Management Assistance Compact request; and

(iv) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of $5,000,000;

(e) to fund up to $500,000 for the governor's emergency appropriations described in Subsection 63J-1-217(4); and

(f) to pay the state's deductible in the event of an earthquake.

(3) All funding provided in advance to an agent of the state and subsequently reimbursed shall be credited to the account.

(4) The state treasurer shall invest money in the disaster recovery account according to Title 51, Chapter 7, State Money Management Act.

(5) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery account to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery account is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money in the disaster recovery account may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(6) The division:

(a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and

(b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

Section 2. Section 53-2a-606 is amended to read:

53-2a-606. Reporting.

(1) By no later than December 31 of each year, the division shall provide a written report to the governor and the Executive Offices and Criminal Justice Appropriations Subcommittee of:

(a) the division's activities under this part;

(b) money expended or committed to be expended in accordance with this part;

(c) the balances in the disaster recovery fund; and

(d) any unexpended balance of appropriations from the disaster recovery fund.

(2) (a) The governor and the Department of Public Safety shall report to the Legislative Management Committee an expenditure or commitment to expend made in accordance with Subsection 53-2a-603(2)(a)(ii)[~~or 53-2a-1302(5)(b)(ii)~~], 53-2a-1302(6)(b), or 53-2a-1302(7).

(b) The governor and the Department of Public Safety shall make the report required by this Subsection (2) on or before the sooner of:

(i) the day on which the governor calls the Legislature into session; or

(ii) 15 days after the division makes the expenditure or commitment to expend described in Subsection 53-2a-603(2)(a)(ii)[~~or 53-2a-1302(5)(b)(ii)~~], 53-2a-1302(6)(b), or 53-2a-1302(7).

(3) (a) Subject to Subsection (3)(b), before the division makes an expenditure or commitment to expend described in Subsection 53-2a-603(2)(a)(iii) or [~~53-2a-1302(5)(b)(iii)~~]53-2a-1302(6)(c), the governor and the Department of Public Safety shall submit the expenditure or commitment to expend to the Executive Appropriations Committee for [~~its~~]the Executive Appropriations Committee's review and recommendations.

(b) The Executive Appropriations Committee shall review the expenditure or commitment to expend and may:

(i) recommend that the division make the expenditure or commitment to expend;

(ii) recommend that the division not make the expenditure or commitment to expend; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the expenditure or commitment to expend.

Section 3. Section 53-2a-1301 is amended to read:

PART 13. Disaster Response, Recovery, and Mitigation Restricted Account

53-2a-1301. Definitions.

As used in the part:

(1) "Account" means the Disaster Response, Recovery, and [~~Post-disaster~~] Mitigation Restricted Account created in Section 53-2a-1302.

(2) "Affected community" means a community directly affected by an ongoing or recent disaster.

(3) "Affected community member" means a resident, property owner, business, nonprofit, or other individual or entity that is:

(a) located within an affected community; and

(b) suffered damage due to the ongoing or recent disaster in the affected community.

(4) "Community" means a county, municipality, special district, or special service district.

(5) "Disaster response and recovery" means:

(a) action taken to respond to and recover from a disaster, including action taken to remove debris, implement life-saving emergency protective measures, or repair, replace, or restore facilities in response to a disaster; and

(b) post-disaster hazard mitigation directly related to the recovery from the disaster described in Subsection (5)(a).

(6) "Disaster response and recovery grant" means money granted to an affected community for disaster response and recovery.

(7) "Minimum threshold payment amount" means the amount of costs that an affected community or an affected community member shall pay before the affected community or affected community member is eligible to receive money from a disaster response and recovery grant.

(8) "Official damage assessment" means a financial assessment of the damage to an affected community, caused by a disaster, that is conducted under the direction of the governing body of the affected community, in accordance with the rules described in Section 53-2a-1305.

[~~(8)~~](9) "Post-disaster hazard mitigation" means action taken[~~,~~] after a natural disaster[~~,~~] to reduce or eliminate risk to people or property that may occur as a result of the long-term effects of the natural disaster or a subsequent natural disaster, including action to prevent damage caused by flooding, earthquake, dam failure, wildfire, landslide, severe weather, drought, [~~and~~]or problem soil.

(10) "Pre-disaster mitigation" means action taken before a natural disaster occurs to reduce or eliminate the long-term risk to people or property that may occur as a result of a natural disaster, including action to prevent damage caused by flooding, earthquake, dam failure, wildfire, landslide, severe weather, drought, or problem soil.

[~~(9) "Official damage assessment" means a financial assessment of the damage to an affected community, caused by a disaster, that is conducted under the direction of the governing body of the affected community, in accordance with the rules described in Section 53-2a-1305.~~]

Section 4. Section 53-2a-1302 is amended to read:

53-2a-1302. Disaster Response, Recovery, and Mitigation Restricted Account.

(1) There is created a restricted account in the General Fund known as the "Disaster Response, Recovery, and [~~Post-disaster~~]Mitigation Restricted Account."

(2) The account consists of:

(a) money appropriated to the account by the Legislature;

(b) money deposited into the account in accordance with Section 63J-1-314;

(c) income and interest derived from the deposit and investment of money in the account; and

(d) private donations, grants, gifts, bequests, or money made available from any other source to implement this section.

(3) (a) At the close of a fiscal year, money in the account exceeding $50,000,000, excluding money granted to the account under Subsection (2)(d), shall be transferred to the State Disaster Recovery Restricted Account.

(b) Except as provided by Subsection (3)(a), money in the Disaster Response, Recovery, and [~~Post-disaster~~]Mitigation Restricted Account may only be used for the purposes set forth in this part.

(4) Subject to the requirements described in this part, and upon appropriation by the Legislature, the division may grant money appropriated from the account

to an affected community for the affected community's disaster response and recovery efforts as described in Section 53-2a-1303.

(5) [~~(a)~~] Money in the account may only be expended or committed to be expended as provided in Subsections [~~(5)(b) and (5)(c)~~](6), (7), and (8).

[~~(b)~~](6) Subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend for disaster response and recovery efforts as described in Section 53-2a-1303:

[~~(i)~~](a) an amount that does not exceed [~~$500,000~~]$3,000,000 in response to a disaster described in Subsection 53-2a-1303(2)(b);

[~~(ii)~~](b) an amount that exceeds [~~$500,000~~]$3,000,000 but does not exceed [~~$3,000,000~~]$10,000,000 for a disaster described in Subsection 53-2a-1303(2)(b) if the division:

[~~(A)~~](i) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment from the governor;

[~~(B)~~](ii) provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

[~~(C)~~](iii) makes the report required by Subsection 53-2a-606(2); and

[~~(iii)~~](c) an amount that exceeds [~~$3,000,000 but does not exceed $5,000,000~~]$10,000,000, if, before making the expenditure or commitment to expend, the division:

[~~(A)~~](i) obtains approval for the expenditure or commitment from the governor; and

[~~(B)~~](ii) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3).

(7) (a) Money in the account may only be expended or committed to be expended for pre-disaster mitigation under Subsection (7)(b) if money remains in the account at the end of the fiscal year after the division has expended or committed to expend money from the account as provided in Subsection (6).

(b) Subject to Subsection (7)(a) and in accordance with rules created under Section 53-2a-1305, the division may expend or commit to expend money in the account for pre-disaster mitigation to a community if:

(i) the community:

(A) submits an application to receive money for pre-disaster mitigation during the current fiscal year; and

(B) meets the qualification and prioritization criteria established by rule; and

(ii) the division:

(A) before making the expenditure or commitment to expend to a community described in Subsection (7)(b)(i), obtains approval for the expenditure or commitment to expend from the governor;

(B) provides written notice of the expenditure or commitment to expend described in Subsection (7)(b)(i) to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst; and

(C) makes the report required by Subsection 53-2a-606(2).

[~~(c)~~](8) Money paid by the division under this part to government entities and private persons providing emergency disaster services are subject to Title 63G, Chapter 6a, Utah Procurement Code.

Section 5. Section 53-2a-1303 is amended to read:

53-2a-1303. Disaster Response and Recovery Grant.

(1) The division may grant money under Subsection 53-2a-1302(4) appropriated from the account after receiving an application from an affected community for a disaster response and recovery grant.

(2) An affected community is eligible to receive a disaster response and recovery grant appropriated from the account if:

(a) the affected community submits an application described in Subsection (1) that includes the information required by the rules described in Section 53-2a-1305;

(b) the occurrence of a disaster in the affected community results in:

(i) the president of the United States declaring an emergency or major disaster in the state;

(ii) the governor declaring a state of emergency under Section 53-2a-206; or

(iii) the local municipality or county declaring an emergency under Section 53-2a-208;

(c) the governing body of the affected community conducts an official damage assessment of the disaster;

(d) the division, after reviewing the application described in Subsection (2)(a), the official damage assessment described in Subsection (2)(c), and other information relevant to the division's determination, determines that a grant to the affected community would be an appropriate and necessary use of account funds;

(e) the division determines there is sufficient money for the grant; and

(f) the affected community agrees to grant funding requirements as determined by the division, including the affected community's minimum threshold payment amount[~~and cost-sharing requirements~~].

Section 6. Section 53-2a-1304 is amended to read:

53-2a-1304. Allowed uses for disaster response and recovery grant funds.

(1) An affected community may use or distribute grant funds provided under Section 53-2a-1303 in accordance with funding guidelines provided by the division, which may include providing funds for disaster response and recovery to:

(a) an affected community member;

(b) a publicly owned facility in the affected community; or

(c) publicly owned infrastructure in the affected community.

(2) The director may expend money from the account to pay necessary costs of evaluating and administering grants under this part.

(3) In accordance with Section 53-2a-1305, the division shall establish standards and procedures for the distribution of grant funds under this section, including standards and procedures for determining:

(a) when an individual or entity described in Subsection (1) (a), (b), or (c) may receive grant funds;

(b) which costs are eligible for grant funds, including administration costs; and

(c) minimum threshold payment amounts[~~andcost-sharingrequirements~~].

Section 7. Section 53-2a-1305 is amended to read:

53-2a-1305. Rulemaking authority and division responsibilities.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to:

(a) designate the requirements and procedures

for the governing body of an affected community to:

(i) apply for a disaster response and recovery grant; and

(ii) conduct an official damage assessment;

(b) establish standards to determine:

(i) the categories of and criteria for entities and costs that are eligible for grant funds; and

(ii) minimum threshold payment amounts[~~and cost-sharing requirements; and~~];

(c) establish standards, procedures, and criteria for a community to qualify for pre-disaster mitigation funding, including:

(i) defining excluded expenses for which money may not be expended for pre-disaster mitigation;

(ii) establishing criteria for prioritization of projects for money to be expended for pre-disaster mitigation; and

(iii) establishing a process by which a community may apply to receive money for pre-disaster mitigation; and

[~~(c)~~](d) establish standards and procedures to ensure that funds distributed in accordance with this part are distributed in a cost effective and equitable manner, are reasonably necessary for disaster response and recovery or pre-disaster mitigation, are an appropriate and necessary use of public funds, and that all receipts and invoices are documented.

(2) No later than December 31 of each year, the division shall provide the governor and the Criminal Justice Appropriations Subcommittee a written report of the division's activities under this part, including:

(a) an accounting of the money expended or committed to be expended under this part; and

(b) the balance of the account.

Section 8. Section 63J-1-314 is amended to read:

63J-1-314. Deposits related to the Wildland Fire Suppression Fund and the Disaster Recovery Funding Act -- Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund.

(1) As used in this section, "operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(2) Except as provided under Subsections (3) and (4), at the end of each fiscal year, the Division of Finance shall, after the transfer of General Fund revenue surplus has been made to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315, and the General Fund Budget Reserve Account, as provided in Section 63J-1-312, transfer:

(a) to the Wildland Fire Suppression Fund created in Section 65A-8-204 an amount equal to the lesser of:

(i) $4,000,000; or

(ii) an amount necessary to make the balance in the Wildland Fire Suppression Fund equal to $12,000,000;

(b) if no money is transferred to the Wildland Fire Suppression Fund under Subsection (2)(a), to the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund created in Section 65A-8-215 an amount equal to the lesser of:

(i) $4,000,000; and

(ii) the amount necessary to make the balance in the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund equal to $12,000,000; and

(c) an amount into the State Disaster Recovery Restricted Account, created in Section 53-2a-603, from the General Fund revenue surplus as defined in Section 63J-1-312, calculated by:

(i) determining the amount of General Fund revenue surplus after the transfer to the Medicaid Growth Reduction and Budget Stabilization Account under Section 63J-1-315, the General Fund Budget Reserve Account under Section 63J-1-312, and the transfer to the Wildland Fire Suppression Fund as described in Subsection (2)(a);

(ii) calculating an amount equal to the lesser of:

(A) 25% of the amount determined under Subsection (2)(c)(i); or

(B) 6% of the total of the General Fund appropriation amount for the fiscal year in which the surplus occurs; and

(iii) adding to the amount calculated under Subsection (2)(c)(ii) an amount equal to the lesser of:

(A) 25% more of the amount described in Subsection (2)(c)(i); or

(B) the amount necessary to replace, in accordance with this Subsection (2)(c)(iii), any amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal years before the fiscal year in which the surplus occurs if:

(I) a surplus exists; and

(II) the Legislature appropriates money from the State Disaster Recovery Restricted Account that is not replaced by appropriation or as provided in this Subsection (2)(c)(iii).

(3) (a) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the division shall reduce the transfer to the State Disaster Recovery Restricted Account by an amount necessary to eliminate the operating deficit, up to the full amount of the transfer.

(b) If, after reducing the transfer to the State Disaster Recovery Account to zero under Subsection (3)(a), the Division of Finance determines that an operating deficit still exists, the division shall reduce the transfer to the Wildland Fire Suppression Fund by an amount necessary to eliminate the operating deficit, up to the full amount of the transfer.

(4) Notwithstanding Subsection (2):

(a) for the period beginning July 1, 2015, and ending June 30, 2020, the Division of Finance shall transfer to the Local Government Emergency Response Loan Fund 25% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection (2)(c)(ii); and

(b) on and after July 1, 2020, the Division of Finance shall transfer to the Local Government Emergency Response Loan Fund 10% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection (2)(c)[~~; and~~].

[~~(c) on and after July 1, 2023, the Division of Finance shall~~]

(5) On and after July 1, 2025, once annually at the close of the fiscal year, if the balance of the State Disaster Recovery Restricted Account, created in Section 53-2a-603, exceeds $50,000,000, the Division of Finance shall:

(a) reduce the balance of the State Disaster Recovery Restricted Account by the lesser of:

(i) the amount that exceeds $50,000,000; or

(ii) $10,000,000; and

(b) transfer to the Disaster Response, Recovery, and [~~Post-disaster~~]Mitigation Restricted Account [~~25% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection (2)(c)~~]the money described in Subsection (5)(a).

Section 9. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Native American Repatriation Restricted Account created in Section 9-9-407.

(2) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Title 9, Chapter 23, Pete Suazo Utah Athletic Commission Act.

(3) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(4) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(5) The Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17.

(6) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(7) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(8) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26B-3-906.

(9) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26B-7-111.

(10) The Technology Development Restricted Account created in Section 31A-3-104.

(11) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(12) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(13) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(14) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(15) The State Mandated Insurer Payments Restricted Account created in Section 31A-30-118.

(16) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(17) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(18) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(19) The School Readiness Restricted Account created in Section 35A-15-203.

(20) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(21) The Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(22) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(23) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(24) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(25) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(26) The License Plate Restricted Account created by Section 41-1a-122.

(27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(28) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(29) The Disaster Response, Recovery, and [~~Post-disaster~~]Mitigation Restricted Account created in Section 53-2a-1302.

(30) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(31) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(32) The DNA Specimen Restricted Account created in Section 53-10-407.

(33) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(34) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(35) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(36) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(37) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(38) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(42) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(43) The Relative Value Study Restricted Account created in Section 59-9-105.

(44) The Cigarette Tax Restricted Account created in Section 59-14-204.

(45) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(46) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(47) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

(48) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

(49) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(50) The Immigration Act Restricted Account created in Section 63G-12-103.

(51) Money received by the military installation development authority, as provided in Section 63H-1-504.

(52) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(53) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(54) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(55) The Motion Picture Incentive Account created in Section 63N-8-103.

(56) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(57) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(58) The following funds or accounts created in Section 72-2-124:

(a) Transportation Investment Fund of 2005;

(b) Transit Transportation Investment Fund;

(c) Cottonwood Canyons Transportation Investment Fund;

(d) Active Transportation Investment Fund; and

(e) Commuter Rail Subaccount.

(59) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(60) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(61) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(62) Award money under the State Asset Forfeiture Grant Program, as provided under Section 77-11b-403.

(63) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(64) Fees for certificate of admission created under Section 78A-9-102.

(65) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(66) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(67) The Utah Geological Survey Restricted Account created in Section 79-3-403.

(68) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(69) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 10. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 90
H. B. 504
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FINANCIAL AND CONFLICT OF INTEREST DISCLOSURES BY CANDIDATES AMENDMENTS

Chief Sponsor: Lisa Shepherd
Senate Sponsor: Ronald M. Winterton

Cosponsor:
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LONG TITLE

General Description:

This bill amends provisions related to campaign finance and conflict of interest disclosures.

Highlighted Provisions:

This bill:

- ► requires a candidate for elective office in a county, municipality, or special district to file a conflict of interest disclosure statement at the time the candidate files a declaration of candidacy;
- ► requires a candidate seeking to fill a midterm vacancy in an office described above to file a financial report of contributions and expenditures;
- ► for a midterm vacancy in an office described above, or for a midterm vacancy in a statewide, state school board, or state legislative office, requires a candidate seeking to fill the vacancy to file a conflict of interest disclosure statement;
- ► requires an election officer who receives a conflict of interest disclosure statement to make the disclosure available for public inspection on the state's or political subdivision's website;
- ► if a midterm vacancy occurs in an office for which a registered political party is entitled to declare a nominee to fill the vacancy, requires the registered political party to notify the election officer of the date, time, and location of the meeting to select the nominee;
- ► requires a candidate seeking to fill a midterm vacancy on the state school board to file an interim financial report with the lieutenant governor;
- ► clarifies when a vacancy occurs in an elective office described above;
- ► for a midterm vacancy in certain county offices and in a municipal office, requires the county or municipal legislative body to notify, respectively, the county or municipal clerk;
- ► establishes deadlines related to the processes described above;
- ► for state and legislative office candidates seeking appointment to fill a midterm vacancy, amends the deadline to file a campaign finance report with the lieutenant governor;
- ► amends conflict of interest disclosure provisions to:
  - • eliminate a disclosure related to a candidate's or officeholder's spousal information;
  - • require the disclosure of certain household adult information only in certain circumstances; and
  - • permit the candidate or officeholder making the disclosure to request the redaction of certain personally identifiable information from the disclosure if the candidate, officeholder, or the candidate's or officeholder's spouse is an at-risk government employee; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-208, as last amended by Laws of Utah 2024, Chapter 158
10-3-301, as last amended by Laws of Utah 2023, Chapter 435
17-16-6.5, as last amended by Laws of Utah 2024, Chapter 158
20A-1-503, as last amended by Laws of Utah 2019, First Special Session, Chapter 4
20A-1-504, as last amended by Laws of Utah 2020, Chapter 352
20A-1-508, as last amended by Laws of Utah 2022, Chapters 13, 166 and 177
20A-1-509.1, as last amended by Laws of Utah 2022, Chapter 13
20A-1-509.2, as last amended by Laws of Utah 2019, Chapter 255
20A-1-510, as last amended by Laws of Utah 2024, Chapters 438, 450
20A-1-511, as last amended by Laws of Utah 2020, Chapter 271
20A-8-101, as last amended by Laws of Utah 2023, Chapter 68
20A-11-103, as last amended by Laws of Utah 2024, Chapter 443
20A-11-204, as last amended by Laws of Utah 2021, Chapter 20

20A-11-303, as last amended by Laws of Utah 2021, Chapter 20
20A-11-1303, as last amended by Laws of Utah 2021, Chapter 20
20A-11-1604, as last amended by Laws of Utah 2022, Chapter 170
36-11-102, as last amended by Laws of Utah 2024, Chapters 425, 438

ENACTS:

10-3-301.5, Utah Code Annotated 1953
17-16-1.5, Utah Code Annotated 1953
17B-1-306.1, Utah Code Annotated 1953
20A-8-402.6, Utah Code Annotated 1953

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

Section 1. Section 10-3-208 is amended to read:

10-3-208. Campaign finance disclosure in municipal election.

(1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for purposes of this section:

(a) "Agent of a candidate" means:

(i) a person acting on behalf of a candidate at the direction of the reporting entity;

(ii) a person employed by a candidate in the candidate's capacity as a candidate;

(iii) the personal campaign committee of a candidate;

(iv) a member of the personal campaign committee of a candidate in the member's capacity as a member of the personal campaign committee of the candidate; or

(v) a political consultant of a candidate.

(b) "Anonymous contribution limit" means for each calendar year:

(i) $50; or

(ii) an amount less than $50 that is specified in an ordinance of the municipality.

(c) (i) "Candidate" means a person who:

(A) files a declaration of candidacy for municipal office; or

(B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.

(ii) "Candidate" does not mean a person who files for the office of judge.

(d) (i) "Contribution" means any of the following when done for political purposes:

(A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;

(B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;

(C) any transfer of funds from another reporting entity to the candidate;

(D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;

(E) a loan made by a candidate deposited to the candidate's own campaign; and

(F) an in-kind contribution.

(ii) "Contribution" does not include:

(A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;

(B) money lent to the candidate by a financial institution in the ordinary course of business; or

(C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.

(e) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:

(i) with the candidate's prior knowledge, if the candidate does not object;

(ii) by agreement with the candidate;

(iii) in coordination with the candidate; or

(iv) using official logos, slogans, and similar elements belonging to a candidate.

(f) (i) "Expenditure" means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:

(A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a);

(B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;

(E) a transfer of funds between the candidate and a candidate's personal campaign committee as defined in Section 20A-11-101; or

(F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.

(ii) "Expenditure" does not include:

(A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or

(B) money lent to a candidate by a financial institution in the ordinary course of business.

(g) "In-kind contribution" means anything of value other than money, that is accepted by or coordinated with a candidate.

(h) (i) "Political consultant" means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.

(ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i), where the person:

(A) has already been paid, with money or other consideration;

(B) expects to be paid in the future, with money or other consideration; or

(C) understands that the person may, in the discretion of the candidate or another person on behalf of and with the knowledge of the candidate, be paid in the future, with money or other consideration.

(i) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal office at any caucus, political convention, or election.

(j) "Reporting entity" means:

(i) a candidate;

(ii) a committee appointed by a candidate to act for the candidate;

(iii) a person who holds an elected municipal office;

(iv) a party committee as defined in Section 20A-11-101;

(v) a political action committee as defined in Section 20A-11-101;

(vi) a political issues committee as defined in Section 20A-11-101;

(vii) a corporation as defined in Section 20A-11-101; or

(viii) a labor organization as defined in Section 20A-11-1501.

(2) (a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3) through [~~(7)~~](8).

(b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1).

(c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3) through [~~(7)~~](8).

(3) Each candidate:

(a) shall deposit a contribution in a separate campaign account in a financial institution; and

(b) may not deposit or mingle any campaign contributions received into a personal or business account.

(4) (a) In a year in which a municipal primary is held, each candidate who will participate in the municipal primary shall file a campaign finance statement with the municipal clerk or recorder no later than seven days before the day described in Subsection 20A-1-201.5(2).

(b) Each candidate who is not eliminated at a municipal primary election shall file a campaign finance statement with the municipal clerk or recorder no later than:

(i) 28 days before the day on which the municipal general election is held;

(ii) seven days before the day on which the municipal general election is held; and

(iii) 30 days after the day on which the municipal general election is held.

(c) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement within 30 days after the day on which the municipal primary election is held.

(5) If a municipality does not conduct a primary election for a race, each candidate who will participate in that race shall file a campaign finance statement with the municipal clerk or recorder no later than:

(a) 28 days before the day on which the municipal general election is held;

(b) seven days before the day on which the municipal general election is held; and

(c) 30 days after the day on which the municipal general election is held.

(6) (a) If a candidate seeks appointment to fill a midterm vacancy in a municipal office the candidate shall, no later than three business days before the day on which the municipal legislative body meets to interview the candidate in accordance with Section 20A-1-510, file a campaign finance statement with the municipal clerk or recorder.

(b) Upon receipt of the campaign finance statement described in Subsection (6)(a), the municipal clerk or recorder shall immediately submit a copy of the statement to the municipal legislative body.

[~~(6)~~](7) Each campaign finance statement described in Subsection [~~(4) or (5)~~](4), (5), or (6) shall:

(a) except as provided in Subsection [~~(6)(b)~~](7)(b):

(i) report all of the candidate's itemized and total:

(A) contributions, including in-kind and other nonmonetary contributions, received up to and including five days before the campaign finance statement is due, excluding a contribution previously reported; and

(B) expenditures made up to and including five days before the campaign finance statement is due, excluding an expenditure previously reported; and

(ii) identify:

(A) for each contribution, the amount of the contribution and the name of the donor, if known; and

(B) for each expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or

(b) report the total amount of all contributions and expenditures if the candidate receives $500 or less in contributions and spends $500 or less on the candidate's campaign.

[~~(7)~~](8) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds the anonymous contribution limit, and is from a donor whose name is unknown, a candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

[~~(8)~~](9) (a) A municipality may, by ordinance:

(i) provide an anonymous contribution limit less than $50;

(ii) require greater disclosure of contributions or expenditures than is required in this section; and

(iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.

(b) A candidate is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection [~~(8)(a)~~](9)(a) if:

(i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and

(ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection [~~(9)~~](10).

[~~(9)~~](10) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 35 days before each municipal general election, notify the candidate in writing of:

(a) the provisions of statute or municipal ordinance governing the disclosure of contributions and expenditures;

(b) the dates when the candidate's campaign finance statement is required to be filed; and

(c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.

[~~(10)~~](11) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the day on which the statement is filed; and

(ii) in order to comply with the requirements of Subsection 20A-11-103(4)(b)(ii), providing the lieutenant governor with a link to the electronic posting described in Subsection [~~(10)(b)(i)~~](11)(b)(i) no later than two business days after the day on which the statement is filed.

[~~(11)~~](12) (a) If a candidate fails to timely file a campaign finance statement required under Subsection (4) or (5), the municipal clerk or recorder:

(i) may send an electronic notice to the candidate that states:

(A) that the candidate failed to timely file the campaign finance statement; and

(B) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified; and

(ii) may impose a fine of $50 on the candidate.

(b) The municipal clerk or recorder shall disqualify a candidate and inform the appropriate election official that the candidate is disqualified if the candidate fails to file a campaign finance statement described in Subsection (4) or (5) within 24 hours after the deadline for filing the report.

(c) If a candidate is disqualified under Subsection [~~(11)(b)~~](12)(b), the election official:

(i) shall:

(A) notify every opposing candidate for the municipal office that the candidate is disqualified;

(B) send an email notification to each voter who is eligible to vote in the municipal election office race for whom the election official has an email address informing the voter that the candidate is disqualified and that votes cast for the candidate will not be counted;

(C) post notice of the disqualification on a public website; and

(D) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; and

(ii) may not count any votes for that candidate.

[~~(12)~~](13) An election official may fulfill the requirements described in Subsection [~~(11)(c)(i)~~](12)(c)(i) in relation to a mailed ballot, including a military overseas ballot, by including with the ballot a written notice:

(a) informing the voter that the candidate is disqualified; or

(b) directing the voter to a public website to inform the voter whether a candidate on the ballot is disqualified.

[~~(13)~~](14) Notwithstanding Subsection [~~(11)(b)~~](12)(b), a candidate who timely files each campaign finance statement required under Subsection (4) or (5) is not disqualified if:

(a) the statement details accurately and completely the information required under Subsection [~~(6)~~](7), except for inadvertent omissions or insignificant errors or inaccuracies; and

(b) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

[~~(14)~~](15) A candidate for municipal office who is disqualified under Subsection [~~(11)(b)~~](12)(b) shall file with the municipal clerk or recorder a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.

[~~(15)~~](16) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.

[~~(16)~~](17) (a) A private party in interest may bring a civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the provisions of this section or an ordinance adopted under this section.

(b) In a civil action under Subsection [~~(16)(a)~~](17)(a), the court may award costs and attorney fees to the prevailing party.

Section 2. Section 10-3-301 is amended to read:

10-3-301. Notice -- Eligibility and residency requirements for elected municipal office -- Mayor and recorder limitations.

(1) As used in this section:

(a) "Absent" means that an elected municipal officer fails to perform official duties, including the officer's failure to attend each regularly scheduled meeting that the officer is required to attend.

(b) "Principal place of residence" means the same as that term is defined in Section 20A-2-105.

(c) "Secondary residence" means a place where an individual resides other than the individual's principal place of residence.

(2) (a) On or before May 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:

(i) the municipal offices to be voted on in the municipal general election; and

(ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (2)(a)(i).

(b) The municipal clerk shall publish the notice described in Subsection (2)(a) for the municipality, as a class A notice under Section 63G-30-102, for at least seven days.

(3) (a) An individual who files a declaration of candidacy for a municipal office shall:

(i) comply with the requirements described in Section 20A-9-203[~~.~~]; and

(ii) file the conflict of interest disclosure statement described in Section 10-3-301.5.

(b) (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(3)(a)(i) and (c)(i) unless the date occurs on a:

(A) Saturday or Sunday; or

(B) state holiday as listed in Section 63G-1-301.

(ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (3)(b)(i) without maintaining office hours by:

(A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the main door to the municipal offices, and, if available, on the municipal website; and

(B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i), via the contact information described in Subsection (3)(b)(ii)(A).

(4) An individual elected to municipal office shall be a registered voter in the municipality in which the individual is elected.

(5) (a) Each elected officer of a municipality shall maintain a principal place of residence within the municipality, and within the district that the elected officer represents, during the officer's term of office.

(b) Except as provided in Subsection (6), an elected municipal office is automatically vacant if the officer elected to the municipal office, during the officer's term of office:

(i) establishes a principal place of residence outside the district that the elected officer represents;

(ii) resides at a secondary residence outside the district that the elected officer represents for a continuous period of more than 60 days while still maintaining a principal place of residence within the district;

(iii) is absent from the district that the elected officer represents for a continuous period of more than 60 days; or

(iv) fails to respond to a request, within 30 days after the day on which the elected officer receives the request, from the county clerk or the lieutenant governor seeking information to determine the officer's residency.

(6) (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the consent of the municipal legislative body in accordance with Subsection (6)(b) before the expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:

(i) reside at a secondary residence outside the district that the elected officer represents while still maintaining a principal place of residence within the district for a continuous period of up to one year during the officer's term of office; or

(ii) be absent from the district that the elected officer represents for a continuous period of up to one year during the officer's term of office.

(b) At a public meeting, the municipal legislative body may give the consent described in Subsection (6)(a) by majority vote after taking public comment regarding:

(i) whether the legislative body should give the consent; and

(ii) the length of time to which the legislative body should consent.

(7) (a) The mayor of a municipality may not also serve as the municipal recorder or treasurer.

(b) The recorder of a municipality may not also serve as the municipal treasurer.

(c) An individual who holds a county elected office may not, at the same time, hold a municipal elected office.

(d) The restriction described in Subsection (7)(c) applies regardless of whether the individual is elected to the office or appointed to fill a vacancy in the office.

Section 3. Section 10-3-301.5 is enacted to read:

10-3-301.5. Conflict of interest disclosure statement for municipal office -- Required when filing for candidacy -- Public availability -- Enforcement.

(1) (a) A city recorder or town clerk shall, for each person seeking to become a candidate for a municipal office that is to be filled at the next general election, create, print, and provide the person with a copy of the conflict of interest disclosure statement described in Subsection (1)(b).

(b) A conflict of interest disclosure statement shall:

(i) be divided into sections representing each item of information described in Subsections 20A-11-1604(6)(a) through (p); and

(ii) immediately beneath each section, include a space for the candidate to provide a written response.

(2) Except as provided in Subsection (3), a candidate for an office described in Subsection (1)(a) shall complete the conflict of interest disclosure statement and submit the statement to the city recorder or town clerk at the time the candidate files a declaration of candidacy.

(3) A candidate is not required to comply with Subsection (2) if the candidate:

(a) currently holds the office for which the candidate seeks reelection;

(b) already, that same year, filed a conflict of interest disclosure statement for the office described in Subsection (3)(a), in accordance with Section 10-3-1313; and

(c) at the time the candidate files a declaration of candidacy, indicates, in writing, that the conflict of interest disclosure statement described in Subsection (3)(b) is updated and accurate as of the date of filing the declaration of candidacy.

(4) Except as provided in Subsection (3), a city recorder or town clerk:

(a) may not accept a declaration of candidacy from a candidate for an office described in Subsection (1)(a) until the city recorder or town clerk receives a complete conflict of interest disclosure statement from the candidate; and

(b) shall make a candidate's conflict of interest disclosure statement available for public inspection by posting an electronic copy of

the statement:

(i) on the municipality's website; or

(ii) if the municipality does not have a website, on the website of the county where the municipality is located.

(5) A city recorder or town clerk shall ensure that a candidate's conflict of interest disclosure statement remains posted on the website described in Subsection (4)(b) until:

(a) the candidate resigns or is disqualified as a candidate; or

(b) the day after the day of the official canvass for the general election.

(6) (a) A private party in interest may bring a civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the provisions of this section.

(b) In a civil action under Subsection (6)(a), the court may award costs and attorney fees to the prevailing party.

Section 4. Section 17-16-1.5 is enacted to read:

17-16-1.5. Conflict of interest disclosure statement for county and local school board office -- Required when filing for candidacy -- Public availability -- Enforcement.

(1) (a) A county clerk shall, for each person seeking to become a candidate for a county office or local school board office that is to be filled at the next general election, create, print, and provide the person with a copy of the conflict of interest disclosure statement described in Subsection (1)(b).

(b) A conflict of interest disclosure statement shall:

(i) be divided into sections representing each item of information described in Subsections 20A-11-1604(6)(a) through (p); and

(ii) immediately beneath each section, include a space for the candidate to provide a written response.

(2) Except as provided in Subsection (3), a candidate for an office described in Subsection (1)(a) shall complete the conflict of interest disclosure statement and submit the statement to the county clerk at the time the candidate files a declaration of candidacy.

(3) A candidate is not required to comply with Subsection (2) if the candidate:

(a) currently holds the office for which the candidate seeks reelection;

(b) already, that same year, filed a conflict of interest disclosure statement for the office described in Subsection (3)(a), in accordance with:

(i) for a county office, Section 17-16a-13; or

(ii) for a local school board office, Section 67-16-16; and

(c) at the time the candidate files a declaration of candidacy, indicates, in writing, that the conflict of interest disclosure statement described in Subsection (3)(b) is updated and accurate as of the date of filing the declaration of candidacy.

(4) Except as provided in Subsection (3), a county clerk:

(a) may not accept a declaration of candidacy from a candidate for an office described in Subsection (1)(a) until the county clerk receives a complete conflict of interest disclosure statement from the candidate; and

(b) shall make a candidate's conflict of interest disclosure statement available for public inspection by posting an electronic copy of the statement on the county's website.

(5) A county clerk shall ensure that a candidate's conflict of interest disclosure statement remains posted on the website described in Subsection (4)(b) until:

(a) the candidate resigns or is disqualified as a candidate; or

(b) the day after the day of the official canvass for the general election.

(6) (a) A private party in interest may bring a civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the provisions of this section.

(b) In a civil action under Subsection (6)(a), the court may award costs and attorney fees to the prevailing party.

Section 5. Section 17-16-6.5 is amended to read:

17-16-6.5. Campaign financial disclosure in county elections.

(1) [~~(a)~~] A county shall adopt an ordinance establishing campaign finance disclosure requirements for:

[~~(i)~~](a) candidates for county office; and

[~~(ii)~~](b) candidates for local school board office who reside in that county.

[~~(b)~~](2) The ordinance required by Subsection [~~(1)(a)~~](1) shall include:

[~~(i)~~](a) a requirement that each candidate for county office or local school board office report the candidate's itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;

[~~(ii)~~](b) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things;

[~~(iii)~~](c) a requirement that the financial reports identify:

[~~(A)~~](i) for each contribution, the name of the donor of the contribution, if known, and the amount of the contribution; and

[~~(B)~~](ii) for each expenditure, the name of the recipient and the amount of the expenditure;

[~~(iv)~~](d) a requirement that a candidate for county office or local school board office deposit a contribution in a separate campaign account into a financial institution;

[~~(v)~~](e) a prohibition against a candidate for county office or local school board office depositing or mingling any contributions received into a personal or business account; [~~and~~]

[~~(vi)~~](f) a requirement that a candidate for county office who receives a contribution that is cash or a negotiable instrument, exceeds $50, and is from a donor whose name is unknown, shall, within 30 days after receiving the contribution, disburse the amount of the contribution to:

[~~(A)~~](i) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

[~~(B)~~](ii) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code[~~.~~];

(g) a requirement that a candidate seeking appointment to fill a midterm vacancy in a county office or local school board office file the financial report described in Subsection (2)(c) with the county clerk:

(i) for a county office vacancy described in Subsection 20A-1-508(3) or (7), no later than three business days before the day on which the political party of the prior officeholder submits the candidate's name to the county legislative body as the individual the political party selects to fill the vacancy;

(ii) for a county or district attorney office vacancy described in Subsection 20A-1-509.1(5)(a), no later than three business days before the day on which the political party of the prior officeholder submits the candidate's name to the county legislative body as one of the three individuals the party nominates to fill the vacancy;

(iii) for a county or district attorney office vacancy described in Section 20A-1-509.2:

(A) no later than the deadline for the candidate to submit an application to fill the vacancy under Subsection 20A-1-509.2(2)(c); and

(B) if, under Subsection 20A-1-509.2(3), more than three attorneys submit an application to fill the vacancy, no later than three business days before the day on which the political party of the prior officeholder submits the candidate's name to the county legislative body as one of the three individuals the party nominates to fill the vacancy; or

(iv) for a local school board office vacancy, no later than three business days before the day on which the local school board meets to interview each candidate interested in filling the vacancy in accordance with Section 20A-1-511; and

(h) a requirement that, upon receipt of the financial report described in Subsection (2)(g), the county clerk immediately submit a copy of the report to the county legislative body.

[~~(c)~~](3) [~~(i)~~](a) As used in this Subsection [~~(1)(c)~~](3), "account" means an account in a financial institution:

[~~(A)~~](i) that is not described in Subsection [~~(1)(b)(iv)~~](2)(d); and

[~~(B)~~](ii) into which or from which a person who, as a candidate for an office, other than a county office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

[~~(ii)~~](b) The ordinance required by Subsection [~~(1)(a)~~](1) shall include a requirement that a candidate for county office or local school board office include on a financial report filed in accordance with the ordinance a contribution deposited in or an expenditure made from an account:

[~~(A)~~](i) since the last financial report was filed; or

[~~(B)~~](ii) that has not been reported under a statute or ordinance that governs the account.

[~~(2)~~](4) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections [~~(3)~~](5) through [~~(8)~~](10).

[~~(3)~~](5) A candidate for elective office in a county or local school board office:

(a) shall deposit a contribution into a separate campaign account in a financial institution; and

(b) may not deposit or mingle any contributions received into a personal or business account.

[~~(4)~~](6) Each candidate for elective office in any county who is not required to submit a campaign financial statement to the lieutenant governor, and each candidate for local school board office, shall file a signed campaign financial statement with the county clerk:

(a) seven days before the date of the regular general election, reporting each contribution and each expenditure as of 10 days before the date of the regular general election; and

(b) no later than 30 days after the date of the regular general election.

[~~(5)~~](7) (a) The statement filed seven days before the regular general election shall include:

(i) a list of each contribution received by the candidate, and the name of the donor, if known; and

(ii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

(b) The statement filed 30 days after the regular general election shall include:

(i) a list of each contribution received after the cutoff date for the statement filed seven days before the election, and the name of the donor; and

(ii) a list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.

[~~(6)~~](8) (a) As used in this Subsection [~~(6)~~](8), "account" means an account in a financial institution:

(i) that is not described in Subsection [~~(3)(a)~~](5)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than a county office for which the person filed a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person filed a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A county office candidate and a local school board office candidate shall include on any campaign financial statement filed in accordance with Subsection [~~(4)~~](6) or [~~(5)~~](7):

(i) a contribution deposited into an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

[~~(7)~~](9) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from a donor whose name is unknown, a county office candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

[~~(8)~~](10) Candidates for elective office in any county, and candidates for local school board office, who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(11) (a) A candidate seeking appointment to fill a midterm vacancy in a county office or local school board office shall:

(i) comply with Subsections (5) and (9); and

(ii) file a signed campaign financial statement with the county clerk no later than the deadline described in Subsection (2)(g).

(b) Upon receipt of the campaign financial statement described in Subsection (11)(a)(ii), the county clerk shall immediately submit a copy of the statement to the county legislative body.

[~~(9)~~](12) Any person who fails to comply with this section is guilty of an infraction.

[~~(10)~~](13) (a) Counties may, by ordinance, enact requirements that:

(i) require greater disclosure of campaign contributions and expenditures; and

(ii) impose additional penalties.

(b) The requirements described in Subsection [~~(10)(a)~~](13)(a) apply to a local school board office candidate who resides in that county.

[~~(11)~~](14) If a candidate fails to file an interim report due before the election, the county clerk:

(a) may send an electronic notice to the candidate and the political party of which the candidate is a member, if any, that states:

(i) that the candidate failed to timely file the report; and

(ii) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified and the political party will not be permitted to replace the candidate; and

(b) impose a fine of $100 on the candidate.

[~~(12)~~](15) (a) The county clerk shall disqualify a candidate and inform the appropriate election officials that the candidate is disqualified if the candidate fails to file an interim report described in Subsection [~~(11)~~](14) within 24 hours after the deadline for filing the report.

(b) The political party of a candidate who is disqualified under Subsection [~~(12)(a)~~](15)(a) may not replace the candidate.

(c) A candidate who is disqualified under Subsection [~~(12)(a)~~](15)(a) shall file with the county clerk a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.

[~~(13)~~](16) If a candidate is disqualified under Subsection [~~(12)(a)~~](15)(a), the election official:

(a) shall:

(i) notify every opposing candidate for the county office that the candidate is disqualified;

(ii) send an email notification to each voter who is eligible to vote in the county election office race for whom the election official has an email address informing the voter that the candidate is disqualified and that votes cast for the candidate will not be counted;

(iii) post notice of the disqualification on the county's website; and

(iv) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; and

(b) may not count any votes for that candidate.

[~~(14)~~](17) An election official may fulfill the requirement described in Subsection [~~(13)(a)~~](16)(a) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to the county's website to inform the voter whether a candidate on the ballot is disqualified.

[~~(15)~~](18) A candidate is not disqualified if:

(a) the candidate files the interim reports described in Subsection [~~(11)~~](14) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

[~~(16)~~](19) (a) A report is considered timely filed if:

(i) the report is received in the county clerk's office no later than midnight, Mountain Time, at the end of the day on which the report is due;

(ii) the report is received in the county clerk's office with a United States Postal Service postmark three days or more before the date that the report was due; or

(iii) the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a report is due, the county clerk shall permit a candidate to file the report via email or another electronic means designated by the county clerk.

[~~(17)~~](20) (a) Any private party in interest may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the provisions of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection [~~(17)(a)~~](20)(a), the court shall award costs and attorney fees to the prevailing party.

[~~(18)~~](21) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) posting an electronic copy or the contents of the statement on the county's website no later than seven business days after the day on which the statement is filed; and

(ii) in order to meet the requirements of Subsection 20A-11-103(4)(b)(ii), providing the lieutenant governor with a link to the electronic posting described in Subsection [~~(18)(b)(i)~~](21)(b)(i) no later than two business days after the day the statement is filed.

Section 6. Section 17B-1-306.1 is enacted to read:

17B-1-306.1. Conflict of interest disclosure statement for special district office -- Required when filing for candidacy -- Public availability -- Enforcement.

(1) As used in this section, "filing officer" means the official designated by a special district board under Subsection 17B-1-306(5)(a) to receive a declaration of candidacy.

(2) (a) A filing officer shall, for each person seeking to become a candidate for an elective special district board that is to be filled at the next general election, create, print, and provide the person with a copy of the conflict of interest disclosure statement described in Subsection (2)(b).

(b) A conflict of interest disclosure statement shall:

(i) be divided into sections representing each item of information described in Subsections 20A-11-1604(6)(a) through (p); and

(ii) immediately beneath each section, include a space for the candidate to provide a written response.

(3) Except as provided in Subsection (4), a candidate for an office described in Subsection (2)(a) shall complete the conflict of interest disclosure statement and submit the statement to the filing officer at the time the candidate files a declaration of candidacy.

(4) A candidate is not required to comply with Subsection (3) if the candidate:

(a) currently holds the office for which the candidate seeks reelection;

(b) already, that same year, filed a conflict of interest disclosure statement for the office described in Subsection (4)(a), in accordance with Section 67-16-16; and

(c) at the time the candidate files a declaration of candidacy, indicates, in writing, that the conflict of interest disclosure statement described in Subsection (4)(b) is updated and accurate as of the date of filing the declaration of candidacy.

(5) Except as provided in Subsection (4), a filing officer:

(a) may not accept a declaration of candidacy from a candidate for an office described in Subsection (2)(a) until the filing officer receives a complete conflict of interest disclosure statement from the candidate; and

(b) shall make a candidate's conflict of interest disclosure statement available for public inspection by posting an electronic copy of the statement on:

(i) the special district's website; or

(ii) if the special district does not have a website, the website of each county in which the special district is located.

(6) A filing officer shall ensure that a candidate's conflict of interest disclosure statement remains posted on the website described in Subsection (5)(b) until:

(a) the candidate resigns or is disqualified as a candidate; or

(b) the day after the day of the official canvass for the general election.

(7) (a) A private party in interest may bring a civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the provisions of this section.

(b) In a civil action under Subsection (7)(a), the court may award costs and attorney fees to the prevailing party.

Section 7. Section 20A-1-503 is amended to read:

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

(1) As used in this section:

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

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

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

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

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

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

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

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

(i) establish a date and time, which is before the date for a candidate to be certified for the ballot under Section 20A-9-701 and no later than 21 days after the day on which the vacancy occurred, by which a person intending to obtain a position on the ballot for the vacant office shall file:

(A) a declaration of candidacy; or

(B) a certificate of nomination; and

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

(A) on the lieutenant governor's website; and

(B) to each registered political party.

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

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

(ii) run in the regular general election if:

(A) nominated as a party candidate; or

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

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

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

liaison of the same political party as the prior senator.

(6) (a) Except as provided in Subsection (6)(b), an individual seeking appointment to fill a vacancy described in this section shall, no later than the deadline for the individual to file an interim report under Subsection 20A-11-303(3)(a), make a complete conflict of interest disclosure on the website described in Section 20A-11-1602.5.

(b) An individual described in Subsection (6)(a) is not required to comply with Subsection (6)(a) if the individual:

(i) (A) currently holds the office of senator and is seeking appointment as a representative; or

(B) currently holds the office of representative and is seeking appointment as a senator;

(ii) already, that same year, filed a conflict of interest disclosure for the office described in Subsection (6)(b)(i), in accordance with Section 20A-11-1604; and

(iii) no later than the deadline described in Subsection (6)(a), indicates, in a written statement, that the conflict of interest disclosure described in Subsection (6)(b)(ii)is updated and accurate as of the date of the written statement.

(7) The lieutenant governor shall make each conflict of interest disclosure made by an individual described in Subsection (6)(a) available for public inspection in accordance with Subsection 20A-11-1603(4).

(8) A vacancy in the office of senator or representative of the Legislature does not occur unless the senator or representative:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to:

(i) for a senator, the president of the Senate; or

(ii) for a representative, the speaker of the House of Representatives.

Section 8. Section 20A-1-504 is amended to read:

20A-1-504. Midterm vacancies in the offices of attorney general, state treasurer, state auditor, State Board of Education member, and lieutenant governor.

(1) (a) When a vacancy occurs for any reason in the office of attorney general, state treasurer, state auditor, or State Board of Education member, the vacancy shall be filled for the unexpired term at the next regular general election.

(b) The governor shall fill the vacancy until the next regular general election by:

(i) appointing a person who meets the qualifications for the office from three persons nominated by the state central committee of the same political party as the prior officeholder; or

(ii) for a State Board of Education vacancy, if the individual who is being replaced:

(A) was elected at a nonpartisan State Board of Education election, by appointing, with the advice and consent of the Senate, an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103;

(B) was elected at a partisan State Board of Education election, but is not a member of a political party, by appointing, with the advice and consent of the Senate, an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103; or

(C) was elected at a partisan State Board of Education election, and is a member of a political party, by appointing an individual who meets the qualifications for the office from three persons nominated by the state central committee of the same political party as the prior officeholder.

(2) If a vacancy occurs in the office of lieutenant governor, the governor shall, with the advice and consent of the Senate, appoint a person to hold the office until the next regular general election at which the governor stands for election.

(3) (a) Except as provided in Subsection (3)(b), an individual seeking appointment to fill a vacancy described in this section shall make a complete conflict of interest disclosure on the website described in Section 20A-11-1602.5:

(i) for a vacancy in the office of lieutenant governor, attorney general, state treasurer, or state auditor, no later than the deadline for the individual to file an interim report under Subsection 20A-11-204(3)(a); or

(ii) for a vacancy in the office of State Board of Education member, no later than the deadline for the individual to file an interim report under Subsection 20A-11-1303(2)(a).

(b) An individual described in Subsection (3)(a) is not required to comply with Subsection (3)(a) if the individual:

(i) currently holds an office described in Subsection (1)(a) or (2);

(ii) already, that same year, filed a conflict of interest disclosure for the office described in Subsection (3)(b)(i), in accordance with Section 20A-11-1604; and

(iii) no later than the deadline described in Subsection (3)(a), indicates, in a written statement, that the conflict of interest disclosure described in Subsection (3)(b)(ii)is updated and accurate as of the date of the written statement.

(4) The lieutenant governor shall make each conflict of interest disclosure made by an individual described in Subsection (3)(a) available for public inspection in accordance with Subsection 20A-11-1603(4).

(5) A vacancy in an office described in Subsection (1)(a) or (2) does not occur unless the individual occupying the office:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the governor.

Section 9. Section 20A-1-508 is amended to read:

20A-1-508. Midterm vacancies in county elected offices -- Temporary manager -- Interim replacement.

(1) As used in this section:

(a) (i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not include the office of county attorney, district attorney, or judge.

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

(2) (a) Except as provided in Subsection (2)(d), until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall temporarily discharge the duties of the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or

(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).

(c) The temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office:

(i) may not take an oath of office for the county office as a temporary manager;

(ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;

(iii) unless approved by the county legislative body, may not change the compensation of an employee;

(iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;

(v) may terminate an employee only if the termination is conducted in accordance with:

(A) personnel rules described in Subsection 17-33-5(4) that are approved by the county legislative body; and

(B) applicable law;

(vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office for which the temporary manager discharges duties was vacated;

(vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and

(viii) if approved by the county legislative body, may receive a performance award after:

(A) the county legislative body appoints an interim replacement under Subsection (3); and

(B) the interim replacement is sworn into office.

(d) This Subsection (2) does not apply to a vacancy in the office of county legislative body member.

(3) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (3).

(b) (i) To appoint an interim replacement, the county legislative body shall, within 10 days after the day on which the vacancy occurs, give notice of the vacancy to:

(A) the county clerk; and

(B) the party liaison of the same political party of the prior office holder[~~and~~].

(ii) [~~invite that party liaison~~]The county legislative body shall invite the party liaison described in Subsection (3)(b)(i)(B) to submit the name of an individual to fill the vacancy.

[~~(ii)~~](iii) [~~That party liaison~~]The party liaison shall, before 5 p.m. within 30 days after the day on which the party liaison receives the notice described in Subsection (3)(b)(i)(B), or if the party liaison does not receive the notice, before 5 p.m. within 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual the party selects in accordance with the party's constitution or bylaws to serve as the interim replacement.

[~~(iii)~~](iv) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the individual to serve as the interim replacement, appoint the individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection [~~(3)(b)(iii)~~](3)(b)(iv), the county clerk shall, no later than five days after the day of the deadline described in Subsection (3)(b)(iii), send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (3)(c)(i), appoint the individual named by the party liaison as an interim replacement to fill the vacancy.

(d) An individual appointed as interim replacement under this Subsection (3) shall hold office until a successor is elected and has qualified.

(4) (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the officeholder was elected, but before the first day of the declaration of candidacy filing period described in Section 20A-9-201.5.

(b) (i) When the conditions described in Subsection (4)(a) are met, the county clerk shall as soon as practicable, but no later than 180 days before the next regular general election, notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a party candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) An individual who is nominated as a party candidate, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-

in Candidates, shall run in the regular general election.

(5) (a) The requirements of this Subsection (5) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs on or after the first day of the declaration of candidacy filing period described in Section 20A-9-201.5, but more than 75 days before the regular primary election.

(b) When the conditions described in Subsection (5)(a) are met, the county clerk shall as soon as practicable, but no later than 70 days before the next regular primary election, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines described in Subsection (5)(c)(i) and the deadlines established under Subsection (5)(d)(ii).

(c) (i) An individual intending to become a party candidate for a vacant office shall, within five days after the day on which the notice is given, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(ii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk as soon as practicable, but before 5 p.m. no later than 60 days before the day of the regular primary election.

(d) (i) Except as provided in Subsection (5)(d)(ii), an individual intending to become a candidate for a vacant office who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(ii) (A) The county clerk shall establish, in the clerk's reasonable discretion, a deadline that is before 5 p.m. no later than 65 days before the day of the next regular general election by which an individual who is not affiliated with a registered political party is required to submit a certificate of nomination under Subsection (5)(d)(i).

(B) The county clerk shall establish the deadline described in Subsection (5)(d)(ii)(A) in a manner that gives an unaffiliated candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is nominated as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(6) (a) The requirements of this Subsection (6) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 75 days or less remain before the day of the regular primary election but more than 65 days remain before the day of the regular general election.

(b) When the conditions described in Subsection (6)(a) are met, the county clerk shall, as soon as practicable, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines established under Subsection (6)(d).

(c) (i) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(A), the county central committee of each registered political party that wishes to submit a candidate for the office shall certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(ii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(B), a candidate who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(iii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(C), a write-in candidate shall submit to the county clerk a declaration of candidacy described in Section 20A-9-601.

(d) (i) The county clerk shall establish, in the clerk's reasonable discretion, deadlines that are before 5 p.m. no later than 65 days before the day of the next regular general election by which:

(A) a registered political party is required to certify a name under Subsection (6)(c)(i);

(B) an individual who does not wish to affiliate with a registered political party is required to submit a certificate of nomination under Subsection (6)(c)(ii); and

(C) a write-in candidate is required to submit a declaration of candidacy under Subsection (6)(c)(iii).

(ii) The county clerk shall establish deadlines under Subsection (6)(d)(i) in a manner that gives an unaffiliated candidate or a write-in candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is certified as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(7) (a) The requirements of this Subsection (7) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 days or less remain before the day of the next regular general election.

(b) (i) When the conditions described in Subsection (7)(a) are met, the county legislative body shall as soon as practicable, but no later than 10 days after the day on which the vacancy occurs, give notice of the vacancy to:

(A) the county clerk; and

(B) the party liaison of the same political party as the prior office holder[~~and~~].

(ii) [~~invite that party liaison~~]The county legislative body shall invite the party liaison described in Subsection (7)(b)(i)(B) to submit the name of an individual to fill the vacancy.

[~~(ii)~~](iii) [~~That party liaison~~]The party liaison shall, before 5 p.m. within 30 days after the day on which the party liaison receives the

notice described in Subsection (7)(b)(i)(B), or if the party liaison does not receive the notice, before 5 p.m. no later than 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual to fill the vacancy.

[~~(iii)~~](iv) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the individual to fill the vacancy, appoint the individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an individual to fill the vacancy in accordance with Subsection [~~(7)(b)(iii)~~](7)(b)(iv), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint an individual to fill the vacancy within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (7)(c)(i), appoint the individual named by the party liaison to fill the vacancy.

(d) An individual appointed to fill the vacancy under this Subsection (7) shall hold office until a successor is elected and has qualified.

(8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

(9) Nothing in this section prohibits a candidate that does not wish to affiliate with a political party from filing a certificate of nomination for a vacant office within the same time limits as a candidate that is affiliated with a political party.

(10) (a) Each individual elected under Subsection (4), (5), or (6) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the individual who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section 17-16-6.

(11) (a) Except as provided in Subsection (11)(b), for an individual seeking appointment to fill a vacancy described in Subsection (3) or (7) the individual shall, no later than the deadline for the individual to file a financial report under Section 17-16-6.5:

(i) complete a conflict of interest disclosure statement in accordance with Section 17-16-1.5; and

(ii) submit the conflict of interest disclosure statement to the county legislative body and the county clerk.

(b) An individual described in Subsection (11)(a) is not required to comply with Subsection (11)(a) if the individual:

(i) currently holds an office described in Subsection (1)(a)(i);

(ii) already, that same year, filed a conflict of interest disclosure statement for the office described in Subsection (11)(b)(i), in accordance with Section 17-16a-13; and

(iii) no later than the deadline described in Subsection (11)(a), indicates, in a written notice submitted to the county clerk, that the conflict of interest disclosure statement described in Subsection (11)(b)(ii) is updated and accurate as of the date of the written notice.

(12) (a) The county clerk shall make each conflict of interest disclosure statement made by an individual described in Subsection (11)(a) available for public inspection by posting an electronic copy of the statement on the county's website for at least 10 calendar days after the day on which the county legislative body:

(i) appoints an interim replacement under Subsection (3); or

(ii) appoints an individual to fill a vacancy under Subsection (7).

(b) The county clerk shall post the electronic statement described in Subsection (12)(a)no later than two business days after the day on which the county clerk receives the statement.

(13) A vacancy in a county office does not occur unless the individual occupying the office:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the county legislative body.

Section 10. Section 20A-1-509.1 is amended to read:

20A-1-509.1. Procedure for filling midterm vacancy in county or district with 15 or more attorneys.

(1) When a vacancy occurs in the office of county or district attorney in a county or district having 15 or more attorneys who are licensed active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

(2) (a) The requirements of this Subsection (2) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs before the first day of the declaration of candidacy filing period described in Section 20A-9-201.5.

(b) When the conditions established in Subsection (2)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(c) All persons intending to become candidates for the vacant office shall:

(i) file a declaration of candidacy according to the procedures and requirements of Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy;

(ii) if nominated as a party candidate or qualified as an independent or write-in candidate under Chapter 9, Candidate Qualifications and Nominating Procedures, run in the regular general election; and

(iii) if elected, complete the unexpired term of the person who created the vacancy.

(d) If the vacancy occurs during the declaration of candidacy filing period described in Section 20A-9-201.5:

(i) the time for filing a declaration of candidacy under Section 20A-9-202 shall be extended until 5 p.m. seven days after the last day of the filing period described in Section 20A-9-201.5; and

(ii) the county clerk shall notify the public and each registered political party that the vacancy exists.

(3) (a) The requirements of this Subsection (3) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the third Thursday in March of the even-numbered year but more than 75 days before the regular primary election.

(b) When the conditions established in Subsection (3)(a) are met, the county clerk shall:

(i) notify the public and each registered political party that the vacancy exists; and

(ii) identify the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.

(c) All persons intending to become candidates for the vacant office shall:

(i) before 5 p.m. within five days after the day on which the county clerk gives the notice described in Subsection (3)(b)(i), file a declaration of candidacy for the vacant office as required by Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(ii) if elected, complete the unexpired term of the person who created the vacancy.

(d) The county central committee of each party shall:

(i) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(ii) certify the name of the candidate or candidates to the county clerk:

(A) before 5 p.m. no later than 60 days before the day of the regular primary election; or

(B) electronically, before midnight no later than 60 days before the day of the regular primary election.

(4) (a) The requirements of this Subsection (4) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) 75 days or less remain before the regular primary election but more than 65 days remain before the regular general election.

(b) When the conditions established in Subsection (4)(a) are met, the county central committees of each registered political party that [~~wish~~]wishes to submit a candidate for the office shall, not later than five days after the day on which the vacancy occurs, certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(c) The candidate elected shall complete the unexpired term of the person who created the vacancy.

(5) (a) The requirements of this Subsection (5) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of less than two years; or

(ii) the vacant office has an unexpired term of two years or more but 65 days or less remain before the next regular general election.

(b) When the conditions established in Subsection (5)(a) are met, the county legislative body shall give notice of the vacancy to:

(i) the county clerk; and

(ii) the county central committee of the same political party of the prior officeholder[~~and~~].

(c) [~~invite that committee~~]The county legislative body shall invite the committee described in Subsection (5)(b)(ii) to submit the names of three nominees to fill the vacancy.

[~~(c)~~](d) [~~That~~]The county central committee shall, within 30 days after the day on which the county legislative body gives the notice described in Subsection (5)(b)(ii), submit to the county legislative body the names of three nominees to fill the vacancy.

[~~(d)~~](e) The county legislative body shall, within 45 days after the vacancy occurs, appoint one of those nominees to serve out the unexpired term.

[~~(e)~~](f) If the county legislative body fails to appoint a person to fill the vacancy within 45 days, the county clerk shall send to the governor a letter that:

(i) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(ii) contains the list of nominees submitted by the party central committee.

[~~(f)~~](g) The governor shall appoint a person to fill the vacancy from that list of nominees within 30 days after receipt of the letter.

[~~(g)~~](h) A person appointed to fill the vacancy under this Subsection (5) shall complete the unexpired term of the person who created the vacancy.

(6) A person seeking appointment to fill a vacancy described in Subsection (5)(a) shall, no later than the deadline for the person to file a financial report under Section 17-16-6.5:

(a) complete a conflict of interest disclosure statement in accordance with Section 17-16-1.5; and

(b) submit the conflict of interest disclosure statement to the county legislative body and the county clerk.

(7) (a) The county clerk shall make each conflict of interest disclosure statement made by a person described in Subsection (6) available for public inspection by posting an electronic copy of the statement on the county's website for at least 10 calendar days after the day on which the county legislative body appoints a person to fill the vacancy.

(b) The county clerk shall post the electronic statement described in Subsection (7)(a) no later than two business days after the day on which the county clerk receives the statement.

(8) A vacancy in the office described in Subsection (1) does not occur unless the person occupying the office:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the county legislative body.

[~~(6)~~](9) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the required time limits.

Section 11. Section 20A-1-509.2 is amended to read:

20A-1-509.2. Procedure for filling vacancy in county or district with fewer than 15 attorneys.

(1) When a vacancy occurs in the office of county or district attorney, including a vacancy created by the failure of a person to file as a candidate for the office of county or district attorney in an election, in a county or district having fewer than 15 attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

(2) The county clerk shall send a letter to each attorney residing in the county or district who is a licensed, active member in good standing with the Utah State Bar and a registered voter that:

(a) informs the attorney of the vacancy;

(b) invites the attorney to apply for the vacancy; and

(c) informs the attorney that if the attorney has not responded before 5 p.m. within 10 calendar days after the day on which the county clerk sends the letter, the attorney's candidacy to fill the vacancy will not be considered.

(3) (a) (i) If, before the deadline described in Subsection (2)(c), more than three attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county clerk shall, except

as provided in Subsection (3)(a)(ii), submit the applications to the county central committee of the same political party of the prior officeholder.

(ii) In multicounty prosecution districts, the clerk shall submit the applications to the county central committee of each county within the prosecution district.

(b) The central committee shall nominate three of the applicants and forward the applicants' names to the county legislative body before 5 p.m. within 20 days after the day on which the county clerk submits the applicants' names under Subsection (3)(a).

(c) The county legislative body shall appoint one of the nominees to fill the vacant position.

(d) If the central committee of the political party fails to submit at least three names to the county legislative body before the deadline described in Subsection (3)(b), the county legislative body shall appoint one of the applicants to fill the vacant position.

(e) If the county legislative body fails to appoint a person to fill the vacancy within 120 days after the day on which the vacancy occurs, the county clerk shall mail to the governor:

(i) a letter informing the governor that the county legislative body has failed to appoint a person to fill the vacancy; and

(ii) (A) the list of nominees, if any, submitted by the central committee of the political party; or

(B) if the party central committee has not submitted a list of at least three nominees within the required time, the names of the persons who submitted applications for the vacant position to the county clerk.

(f) The governor shall appoint, within 30 days after the day on which the governor receives the letter, a person from the list to fill the vacancy.

(4) (a) If, before the deadline described in Subsection (2)(c), three or fewer attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county legislative body may:

(i) appoint one of them to be county or district attorney; or

(ii) solicit additional applicants and appoint a county or district attorney as provided in Subsection (4)(b).

(b) (i) If three or fewer attorneys who are licensed members in good standing of the Utah State Bar and registered voters in the county or district submit applications, the county legislative body may publicly solicit and accept additional applications for the position from licensed, active members in good standing of the Utah State Bar who are not residents of the county or prosecution district.

(ii) The county legislative body shall consider the applications submitted by the attorneys who are residents of and registered voters in the county or prosecution district and the applications submitted by the attorneys who are not residents of the county or prosecution district and shall appoint one of the applicants to be county attorney or district attorney.

(c) If the legislative body fails to appoint a person to fill the vacancy within 120 days after the day on which the vacancy occurs, the county clerk shall:

(i) notify the governor that the legislative body has failed to fill the vacancy within the required time period; and

(ii) provide the governor with a list of all the applicants.

(d) The governor shall appoint a person to fill the vacancy within 30 days after the day on which the governor receives the notification.

(5) The person appointed to fill the vacancy shall serve for the unexpired term of the person who created the vacancy.

(6) A person seeking appointment to fill a vacancy under this section shall, no later than the deadline for the person to file a financial report under Section 17-16-6.5:

(a) complete a conflict of interest disclosure statement in accordance with Section 17-16-1.5; and

(b) submit the conflict of interest disclosure statement to the county legislative body and the county clerk.

(7) (a) The county clerk shall make each conflict of interest disclosure statement made by a person described in Subsection (6) available for public inspection by posting an electronic copy of the statement on the county's website for at least 10 calendar days after the day on which the county legislative body appoints a person to fill the vacancy.

(b) The county clerk shall post the electronic statement described in Subsection (7)(a) no later than two business days after the day on which the county clerk receives the statement.

(8) A vacancy in the office described in Subsection (1) does not occur until the person occupying the office:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the county legislative body.

Section 12. Section 20A-1-510 is amended to read:

20A-1-510. Midterm vacancies in municipal offices.

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

(i) "Vacancy," subject to Subsection (1)(a)(ii), means the same as that term is defined in Section 20A-1-102.

(ii) "Vacancy," if due to resignation, occurs[~~on the effective date of the resignation.~~]:

(A) for a municipal executive, on the effective date of an irrevocable letter of resignation submitted by the municipal executive to the municipal legislative body; or

(B) for a member of a municipal legislative body, on the effective date of an irrevocable letter of resignation submitted by the member to the municipal legislative body.

(b) Except as otherwise provided in this section, if any vacancy occurs in the office of municipal executive or member of a municipal legislative body, the municipal legislative body shall, within 30 calendar days after the day on which the vacancy occurs, appoint a registered voter in the municipality who meets the qualifications for office described in Section 10-3-301 to fill the unexpired term of the vacated office.

(c) Before acting to fill the vacancy, the municipal legislative body shall:

(i) immediately notify the municipal recorder or clerk;

(ii) give public notice of the vacancy at least 14 calendar days before the day on which the municipal legislative body meets to fill the vacancy;

[~~(ii)~~](iii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the person to whom an individual interested in being appointed to fill the vacancy may submit the interested individual's name for consideration; and

(C) the deadline for submitting an interested individual's name; and

[~~(iii)~~](iv) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.

(d) (i) The municipal legislative body shall take an initial vote to fill the vacancy from among the names of the candidates interviewed under Subsection [~~(1)(e)(iii)~~](1)(c)(iv).

(ii) (A) If no candidate receives a majority vote of the municipal legislative body in the initial vote described in Subsection (1)(d)(i), the two candidates that received the most votes in the initial vote, as determined by the tie-breaking procedures described in Subsections (1)(d)(ii)(B) through (D) if necessary, shall be placed before the municipal legislative body for a second vote to fill the vacancy.

(B) If the initial vote results in a tie for second place, the candidates tied for second place shall be reduced to one by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall be between the candidate that received the most votes in the initial vote and the candidate that wins the coin toss described in this Subsection (1)(d)(ii)(B).

(C) If the initial vote results in a tie among three or more candidates for first place, the candidates tied for first place shall be reduced to two by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall be between the two candidates that remain after the coin toss described in this Subsection (1)(d)(ii)(C).

(D) A coin toss required under this Subsection (1)(d) shall be conducted by the municipal clerk or recorder in the presence of the municipal legislative body.

(iii) If, in the second vote described in Subsection (1)(d)(ii)(A), neither candidate receives a majority vote of the municipal legislative body, the vacancy shall be determined by a coin toss between the two candidates in accordance with Subsection (1)(d)(ii)(D).

(e) If the municipal legislative body does not timely comply with Subsections (1)(b) through (d), the municipal clerk or recorder shall immediately notify the lieutenant governor.

(f) After receiving notice that a municipal legislative body has failed to timely comply with Subsections (1)(b) through (d), the lieutenant governor shall:

(i) notify the municipal legislative body of the violation; and

(ii) direct the municipal legislative body to, within 30 calendar days after the day on which the lieutenant governor provides the notice described in this Subsection (1)(f), appoint an eligible individual to fill the vacancy in accordance with Subsections (1)(c) and (d).

(g) If the municipality fails to timely comply with a directive described in Subsection (1)(f):

(i) the lieutenant governor shall notify the governor of the municipality's failure to fill the vacancy; and

(ii) the governor shall, within 45 days after the day on which the governor receives the notice described in Subsection (1)(g)(i), provide public notice soliciting candidates to fill the vacancy in accordance with Subsection (1)(c) and appoint an individual to fill the vacancy.

(2) (a) A vacancy in the office of municipal executive or member of a municipal legislative body shall be filled by an interim appointment, followed by an election to fill a two-year term, if:

(i) the vacancy occurs, or a letter of resignation is received, by the municipal executive at least 14 days before the deadline for filing for election in an odd-numbered year; and

(ii) two years of the vacated term will remain after the first Monday of January following the next municipal election.

(b) In appointing an interim replacement, the municipal legislative body shall:

(i) comply with the notice requirements of this section; and

(ii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.

(3) (a) In a municipality operating under the council-mayor form of government, as defined in Section 10-3b-102:

(i) the council may appoint an individual to fill a vacancy in the office of mayor before the effective date of the mayor's resignation by making the effective date of the appointment the same as the effective date of the mayor's resignation; and

(ii) if a vacancy in the office of mayor occurs before the effective date of an appointment under Subsection (1) or (2) to fill the vacancy, the remaining council members, by majority vote, shall appoint a council member to serve as acting mayor during the time between the creation of the vacancy and the effective date of the appointment to fill the vacancy.

(b) A council member serving as acting mayor under Subsection (3)(a)(ii) continues to:

(i) act as a council member; and

(ii) vote at council meetings.

(4) (a) (i) For a vacancy of a member of a municipal legislative body as described in this section, the municipal legislative body member whose resignation creates the vacancy on the municipal legislative body may:

(A) interview an individual whose name is submitted for consideration under Subsection [~~(1)(e)(iii)~~](1)(c)(iv) or (2)(b)(ii); and

(B) vote on the appointment of an individual to fill the vacancy.

(ii) Notwithstanding Subsection (4)(a)(i), a member of a legislative body who is removed from office in accordance with state law may not cast a vote under Subsection (4)(a)(i).

(b) A member of a municipal legislative body who submits his or her resignation to the municipal legislative body may not rescind the resignation.

(c) A member of a municipal legislative body may not vote on an appointment under this section for himself or herself to fill a vacancy in the municipal legislative body.

(5) In a municipality operating under the council-mayor form of government, the mayor may not:

(a) participate in the vote to fill a vacancy;

(b) veto a decision of the council to fill a vacancy; or

(c) vote in the case of a tie.

(6) A mayor whose resignation from the municipal legislative body is due to election or appointment as mayor may, in the case of a tie, participate in the vote under this section.

(7) A municipal legislative body may, consistent with the provisions of state law, adopt procedures governing the appointment, interview, and voting process for filling vacancies in municipal offices.

(8) (a) Except as provided in Subsection (8)(b), an individual seeking appointment to fill a vacancy under this section shall, no later

than the deadline for the individual to file a campaign finance statement under Section 10-3-208:

(i) complete a conflict of interest disclosure statement in accordance with Section 10-3-301.5; and

(ii) submit the conflict of interest disclosure statement to the municipal legislative body and the municipal clerk or recorder.

(b) An individual described in Subsection (8)(a) is not required to comply with Subsection (8)(a) if the individual:

(i) currently holds an office described in Subsection (1)(b);

(ii) already, that same year, filed a conflict of interest disclosure statement for the office described in Subsection (8)(b)(i), in accordance with Section 10-3-1313; and

(iii) no later than the deadline described in Subsection (8)(a), indicates, in a written notice submitted to the municipal clerk or recorder, that the conflict of interest disclosure statement described in Subsection (8)(b)(ii) is updated and accurate as of the date of the written notice.

(9) (a) The municipal clerk or recorder shall make each conflict of interest disclosure statement made by an individual described in Subsection (8)(a) available for public inspection by posting an electronic copy of the statement on:

(i) the municipality's website; or

(ii) if the municipality does not have a website, on the website of the county in which the municipality is located.

(b) The municipal clerk or recorder shall:

(i) post the electronic statement described in Subsection (9)(a) no later than two business days after the day on which the municipal recorder or clerk receives the statement; and

(ii) ensure that the electronic statement remains posted on the website described in Subsection (9)(a) for at least 10 calendar days after the day on which the municipal legislative body appoints an individual to fill the vacancy.

Section 13. Section 20A-1-511 is amended to read:

20A-1-511. Midterm vacancy on a local school board.

(1) (a) A local school board shall fill a vacancy on the local school board by appointment, except as otherwise provided in Subsections (1)(b) and (2).

(b) The county legislative body, or municipal legislative body in a city district, shall fill a vacancy on a local school board by appointment if the local school board fails to make an appointment to fill the vacancy:

(i) except as provided in Subsection (1)(b)(ii), within 30 days after a vacancy occurs on the local school board; or

(ii) within 45 days after a vacancy occurs on the local school board due to the death of a local school board member.

(c) A member appointed and qualified under this Subsection (1) shall serve until a successor is elected or appointed and qualified.

(2) (a) A vacancy on the board shall be filled by an interim appointment, followed by an election to fill a two-year term if:

(i) the vacancy on the board occurs, or a letter of resignation is received by the board, at least 14 days before the deadline for filing a declaration of candidacy; and

(ii) two years of the vacated term will remain after the first Monday of January following the next school board election.

(b) A member elected under this Subsection (2) shall serve for the remaining two years of the vacated term and until a successor is elected and qualified.

(3) Before appointing an individual to fill a vacancy under this section, the local school board shall:

(a) immediately notify the county clerk;

[~~(a)~~](b) give public notice of the vacancy at least two weeks before the local school board meets to fill the vacancy;

[~~(b)~~](c) identify, in the public notice:

(i) the date, time, and place of the meeting where the vacancy will be filled; and

(ii) the person to whom and the date and time before which an individual interested in being appointed to fill the vacancy may submit the individual's name for consideration; and

[~~(c)~~](d) in an open meeting, interview each individual whose name is submitted for consideration and who meets the qualifications for office, regarding the individual's qualifications.

(4) (a) Subject to Subsection (4)(b), a local school board may appoint an individual to fill a vacancy described in Subsection (1) or (2) before the vacancy occurs if a member of the local school board submits a letter of resignation.

(b) An individual appointed under Subsection (4)(a) may not take office until on or after the day on which the vacancy occurs for which the individual is appointed.

(c) A member of a local school board who submits a letter of resignation under Subsection (4)(a) may not rescind the resignation after the local school board makes an appointment to fill the vacancy created by the resignation.

(5) An individual seeking appointment to fill a vacancy on a local school board shall, no later than the deadline for the individual to file a financial report under Section 17-16-6.5:

(a) complete a conflict of interest disclosure statement in accordance with Section 17-16-1.5; and

(b) submit the conflict of interest disclosure statement to the county legislative body and the county clerk.

(6) (a) The county clerk shall make each conflict of interest disclosure statement made by an individual described in Subsection (5) available for public inspection by posting an electronic copy of the statement on the county's website for at least 10 calendar days after the day on which the county legislative body appoints an individual to fill the vacancy.

(b) The county clerk shall post the electronic statement described in Subsection (6)(a) no later than two business days after the day on which the county clerk receives the statement.

Section 14. Section 20A-8-101 is amended to read:

20A-8-101. Definitions.

As used in this chapter:

(1) "Continuing political party" means an organization of voters that:

(a) participated in the last regular general election; and

(b) in at least one of the last two regular general elections, polled a total vote for any of its candidates for any office equal to 2% or

more of the total votes cast for all candidates for the United States House of Representatives in the same regular general election.

(2) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the county political party, are members of the registered political party.

(3) "Legislative office" means the office of state senator or state representative.

[~~(3)~~](4) "Newly registered political party" means a statewide organization of voters that has complied with the petition and organizing procedures of this chapter to become a registered political party.

[~~(4)~~](5) "Public institution of higher education" means the same as that term is defined in Section 53B-16-301.

[~~(5)~~](6) "Registered political party" means an organization of voters that:

(a) (i) participated in the last regular general election; and

(ii) in at least one of the last two regular general elections, polled a total vote for any of its candidates for any office equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives in the same regular general election; or

(b) has complied with the petition and organizing procedures of this chapter.

(7) "State office" means the office of governor, lieutenant governor, attorney general, state auditor, state treasurer, or state school board member.

[~~(6)~~](8) "State political party" means, for each registered political party, all of the persons in Utah who, under definitions established by the state political party, are members of the registered political party.

Section 15. Section 20A-8-402.6 is enacted to read:

20A-8-402.6. Notification of meeting to declare midterm vacancy nominee by appointment.

(1) When there is a midterm vacancy in an office for which a registered political party is entitled to declare a nominee to fill the vacancy by appointment, the registered political party shall, no later than five business days before the day on which the registered political party meets to declare a nominee:

(a) notify the lieutenant governor of the date, time, and location of the meeting, if the vacated office is a state office or legislative office; or

(b) notify the county clerk, if the vacated office is a county office.

(2) If, after providing the notice described in Subsection (1), a registered political party changes the date, time, or location of the meeting, the registered political party shall notify the election officer of the change before 5 p.m. no later than one business day after the day on which the registered political party makes the change described in this Subsection (2).

Section 16. Section 20A-11-103 is amended to read:

20A-11-103. Notice of pending interim and summary reports -- Form of submission -- Public availability -- Notice of reporting and filing requirements.

(1) (a) Except as provided under Subsection (1)(b), 10 days before an interim report or summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections, the chief election officer shall inform the filing entity by electronic mail unless postal mail is requested:

(i) that the financial statement is due;

(ii) of the date that the financial statement is due; and

(iii) of the penalty for failing to file the financial statement.

(b) The chief election officer is not required to provide notice:

(i) to a candidate or political party of the financial statement that is due before the candidate's or political party's political convention;

(ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1; or

(iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

(2) A filing entity shall electronically file a financial statement via electronic mail or the Internet according to specifications established by the chief election officer.

(3) (a) A financial statement is considered timely filed if the financial statement is received by the chief election officer's office before midnight, Mountain Time, at the end of the day on which the financial statement is due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a financial statement is due, the county clerk shall permit a candidate to file the financial statement via email or another electronic means designated by the county clerk.

(c) A chief election officer may extend the time in which a filing entity is required to file a financial statement if a filing entity notifies the chief election officer of the existence of an extenuating circumstance that is outside the control of the filing entity.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) post on a website established by the lieutenant governor:

(i) an electronic copy or the contents of each summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date on which the summary report or interim report is electronically filed; or

(ii) for a campaign finance statement filed under the requirements of Section 10-3-208, for a municipality, or Section 17-16-6.5, for a county, a link to the municipal or county website that hosts the campaign finance statement, no later than seven business days after the date on which the lieutenant governor receives the link from:

(A) the municipal clerk or recorder, in accordance with Subsection [~~10-3-208(10)(b)(ii)~~]10-3-208(11)(b)(ii); or

(B) the county clerk, in accordance with Subsection [~~17-16-6.5(18)(b)(ii)~~]17-16-6.5(21)(b)(ii).

(5) Between January 1 and January 15 of each year, the chief election officer shall provide notice, by postal mail or email, to each filing entity for which the chief election officer has a physical or email address, of the reporting and filing requirements described in this chapter.

Section 17. Section 20A-11-204 is amended to read:

20A-11-204. State office candidate and state officeholder -- Financial reporting requirements -- Interim reports.

(1) As used in this section:

(a) "Campaign account" means a separate campaign account required under Subsection 20A-11-201(1)(a) or (c).

(b) "Received" means:

(i) for a cash contribution, that the cash is given to a state office candidate or a member of the state office candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated;

(iii) for a direct deposit made into a campaign account by a person not associated with the campaign, the earlier of:

(A) the day on which the state office candidate or a member of the state office candidate's personal campaign committee becomes aware of the deposit and the source of the deposit;

(B) the day on which the state office candidate or a member of the state office candidate's personal campaign committee receives notice of the deposit and the source of the deposit by mail, email, text, or similar means; or

(C) 31 days after the day on which the direct deposit occurs; or

(iv) for any other type of contribution, that any portion of the contribution's benefit inures to the state office candidate.

(2) Except as provided in Subsection (3), each state office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(a) (i) seven days before the candidate's political convention; or

(ii) for an unaffiliated candidate, the fourth Saturday in March;

(b) seven days before the regular primary election date;

(c) September 30; and

(d) seven days before the regular general election date.

(3) If a state office candidate is a state office candidate seeking appointment for a midterm vacancy, the state office candidate:

(a) shall file an interim report:

(i) no later than three business days before the day on which the political party of the party for which the state office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Subsection 20A-1-504(1)(a); or

[~~(i) (A) no later than seven days before the day on which the political party of the party for which the state office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-504; and~~]

[~~(B) two days before the day on which the political party of the party for which the state office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Subsection 20A-1-504(1)(b)(i); or~~]

[~~(ii) if a state office candidate decides to seek the appointment with less than seven days before the party meets, or the political party schedules the meeting to declare a nominee less than seven days before the day of the meeting, no later than 5 p.m. on the last day of business before the day on which the party meets; and~~]

(ii) if a state office candidate decides to seek the appointment with less than three business days before the day on which the political party meets, or the political party schedules the meeting to declare a nominee less than three business days before the day of the meeting, no later than 5 p.m. on the last day of business before the day on which the political party meets; and

(b) is not required to file an interim report at the times described in Subsection [~~(1)~~](2).

(4) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of:

(i) for a state office candidate, each contribution received since the last summary report that has not been reported in detail on a prior interim report; or

(ii) for a state officeholder, each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions and public service assistance received during the period since the last statement;

(iii) total contributions and public service assistance received to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the state office candidate or state officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(5) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a state office candidate or state officeholder more than five days before the required

filing date of a report required by this section shall be included in the interim report.

Section 18. Section 20A-11-303 is amended to read:

20A-11-303. Legislative office candidate and legislative officeholder -- Financial reporting requirements -- Interim reports.

(1) As used in this section:

(a) "Campaign account" means a separate campaign account required under Subsection 20A-11-301(1)(a)(i) or (c)(i).

(b) "Received" means:

(i) for a cash contribution, that the cash is given to a legislative office candidate or a member of the legislative office candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated;

(iii) for a direct deposit made into a campaign account by a person not associated with the campaign, the earlier of:

(A) the day on which the legislative office candidate or a member of the legislative office candidate's personal campaign committee becomes aware of the deposit and the source of the deposit;

(B) the day on which the legislative office candidate or a member of the legislative office candidate's personal campaign committee receives notice of the deposit and the source of the deposit by mail, email, text, or similar means; or

(C) 31 days after the day on which the direct deposit occurs; or

(iv) for any other type of contribution, that any portion of the contribution's benefit inures to the legislative office candidate.

(2) Except as provided in Subsection (3), each legislative office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(a) (i) seven days before the candidate's political convention; or

(ii) for an unaffiliated candidate, the fourth Saturday in March;

(b) seven days before the regular primary election date;

(c) September 30; and

(d) seven days before the regular general election date.

(3) If a legislative office candidate is a legislative office candidate seeking appointment for a midterm vacancy, the legislative office candidate:

(a) shall file an interim report:

(i) no later than three business days before the day on which the political party of the party for which the legislative office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-503; or

[~~(i) (A) seven days before the day on which the political party of the party for which the legislative office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-503; and~~]

[~~(B) two days before the day on which the political party of the party for which the legislative office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-503; or~~]

[~~(ii) if the legislative office candidate decides to seek the appointment with less than seven days before the party meets, or the political party schedules the meeting to declare a nominee less than seven days before the day of the meeting, two days before the day on which the party meets; and~~]

(ii) if the legislative office candidate decides to seek the appointment with less than three business days before the day on which the political party meets, or the political party schedules the meeting to declare a nominee less than three business days before the day of the meeting, no later than 5 p.m. on the last day of business before the day on which the political party meets; and

(b) is not required to file an interim report at the times described in Subsection [~~(2)(a)~~](2).

(4) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of:

(i) for a legislative office candidate, each contribution received since the last summary report that has not been reported in detail on a prior interim report; or

(ii) for a legislative officeholder, each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions and public service assistance received during the period since the last statement;

(iii) total contributions and public service assistance received to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the legislative office candidate or legislative officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(5) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a legislative office candidate or legislative officeholder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 19. Section 20A-11-1303 is amended to read:

20A-11-1303. School board office candidate and school board officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this section, "received" means:

(i) for a cash contribution, that the cash is given to a school board office candidate or a member of the school board office candidate's personal campaign committee;

(ii) for a contribution that is a check or other negotiable instrument, that the check or other negotiable instrument is negotiated;

(iii) for a direct deposit made into a campaign account by a person not associated with the campaign, the earlier of:

(A) the day on which the school board office candidate or a member of the school board office candidate's personal campaign committee becomes aware of the deposit and the source of the deposit;

(B) the day on which the school board office candidate or a member of the school board office candidate's personal campaign committee receives notice of the deposit and the source of the deposit by mail, email, text, or similar means; or

(C) 31 days after the day on which the direct deposit occurs; or

(iv) for any other type of contribution, that any portion of the contribution's benefit inures to the school board office candidate.

(b) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-1301(1)(a)(i) or (c)(i).

(c) [~~Each~~]Except as provided in Subsection (2), each school board office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(i) May 15;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

(2) If a school board office candidate is a school board office candidate seeking appointment for a midterm vacancy, the school board office candidate:

(a) shall file an interim report:

(i) for a vacancy described in Subsection 20A-1-504(1)(b)(ii)(A) or (B), no later than three business days before the day on which the Senate meets to consider the school board office candidate's nomination; or

(ii) for a vacancy described in Subsection 20A-1-504(1)(b)(ii)(C):

(A) no later than three business days before the day on which the political party of the party for which the school board office candidate seeks nomination meets to declare a nominee for the governor to appoint; or

(B) if the school board office candidate decides to seek the appointment with less than three business days before the day on which the political party meets, or the political party schedules the meeting to declare a nominee less than three business days before the day of the meeting, no later than 5 p.m. on the last day of business before the day on which the political party meets; and

(b) is not required to file an interim report at the times described in Subsection (1)(c).

[~~(2)~~](3) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of:

(i) for a school board office candidate, each contribution received since the last summary report that has not been reported in detail on a prior interim report; or

(ii) for a school board officeholder, each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the school board office candidate or school board officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

[~~(3)~~](4) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a school board office candidate or school board officeholder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 20. Section 20A-11-1604 is amended to read:

20A-11-1604. Failure to disclose conflict of interest -- Failure to comply with reporting requirements.

(1) (a) Before or during the execution of any order, settlement, declaration, contract, or any other official act of office in which a state constitutional officer has actual knowledge that the state constitutional officer has a conflict of interest that is not stated in the conflict of interest disclosure, the state constitutional officer shall publicly declare that the state constitutional officer may have a conflict of interest and what that conflict of interest is.

(b) Before or during any vote on legislation or any legislative matter in which a legislator has actual knowledge that the legislator has a conflict of interest that is not stated in the conflict of interest disclosure, the legislator shall orally declare to the committee or body before which the matter is pending that the legislator may have a conflict of interest and what that conflict is.

(c) Before or during any vote on any rule, resolution, order, or any other board matter in which a member of the State Board of Education has actual knowledge that the member has a conflict of interest that is not stated in the conflict of interest disclosure, the member shall orally declare to the board that the member may have a conflict of interest and what that conflict of interest is.

(2) Any public declaration of a conflict of interest that is made under Subsection (1) shall be noted:

(a) on the official record of the action taken, for a state constitutional officer;

(b) in the minutes of the committee meeting or in the Senate or House Journal, as applicable, for a legislator; or

(c) in the minutes of the meeting or on the official record of the action taken, for a member of the State Board of Education.

(3) A state constitutional officer shall make a complete conflict of interest disclosure on the website:

(a) (i) no sooner than January 1 each year, and before January 11 each year; or

(ii) if the state constitutional officer takes office after January 10, within 10 days after the day on which the state constitutional officer takes office; and

(b) each time the state constitutional officer changes employment.

(4) A legislator shall make a complete conflict of interest disclosure on the website:

(a) (i) no sooner than January 1 each year, and before January 11 each year; or

(ii) if the legislator takes office after January 10, within 10 days after the day on which the legislator takes office; and

(b) each time the legislator changes employment.

(5) A member of the State Board of Education shall make a complete conflict of interest disclosure on the website:

(a) (i) no sooner than January 1 each year, and before January 11 each year; or

(ii) if the member takes office after January 10, within 10 days after the day on which the member takes office; and

(b) each time the member changes employment.

(6) A conflict of interest disclosure described in Subsection (3), (4), or (5) shall include:

(a) the regulated officeholder's name;

(b) subject to Subsection (7):

(i) the name and address of each of the regulated officeholder's current employers and each of the regulated officeholder's employers during the preceding year; and

[~~(c)~~](ii) for each employer described in this Subsection (6)(b), a brief description of the employment, including the regulated officeholder's occupation and, as applicable, job title;

[~~(d)~~](c) for each entity in which the regulated officeholder is an owner or officer, or was an owner or officer during the preceding year:

(i) the name of the entity;

(ii) a brief description of the type of business or activity conducted by the entity; and

(iii) the regulated officeholder's position in the entity;

[~~(e)~~](d) in accordance with Subsection [~~(7)~~](8), for each individual from whom, or entity from which, the regulated officeholder has received $5,000 or more in income during the preceding year:

(i) the name of the individual or entity; and

(ii) a brief description of the type of business or activity conducted by the individual or entity;

[~~(f)~~](e) for each entity in which the regulated officeholder holds any stocks or bonds having a fair market value of $5,000 or more as of the date of the disclosure form or during the preceding year, but excluding funds that are managed by a third party, including blind trusts, managed investment accounts, and mutual funds:

(i) the name of the entity; and

(ii) a brief description of the type of business or activity conducted by the entity;

[~~(g)~~](f) for each entity not listed in Subsections [~~(6)(d)~~](6)(c) through [~~(f)~~](e) in which the regulated officeholder currently serves, or served in the preceding year, in a paid leadership capacity or in a paid or unpaid position on a board of directors:

(i) the name of the entity or organization;

(ii) a brief description of the type of business or activity conducted by the entity; and

(iii) the type of position held by the regulated officeholder;

[~~(h)~~](g) at the option of the regulated officeholder, a description of any real property in which the regulated officeholder holds an ownership or other financial interest that the regulated officeholder believes may constitute a conflict of interest, including a description of the type of interest held by the regulated officeholder in the property;

(h) subject to Subsection (7):

(i) the name of the regulated officeholder's spouse; and

(ii) the name of each of the regulated officeholder's spouse's current employers and each of the regulated officeholder's spouse's employers during the preceding year, if the regulated officeholder believes the employment may constitute a conflict of interest;

(i) the name of any adult residing in the regulated officeholder's household who is not related to the officeholder by blood;

[~~(i) the name of the regulated officeholder's spouse and any other adult residing in the regulated officeholder's household who is not related by blood or marriage, as applicable;~~]

[~~(j) for the regulated officeholder's spouse, the information that a regulated officeholder is required to provide under Subsection (6)(b);~~]

[~~(k)~~](j) [~~a brief description of the employment and occupation of each adult who:~~]for each adult described in Subsection (6)(i), a brief description of the adult's employment or occupation, if the regulated officeholder believes the adult's presence in the regulated officeholder's household may constitute a conflict of interest;

[~~(i) resides in the regulated officeholder's household; and~~]

[~~(ii) is not related to the regulated officeholder by blood or marriage;~~]

[~~(l)~~](k) at the option of the regulated officeholder, a description of any other matter or interest that the regulated officeholder believes may constitute a conflict of interest;

[~~(m)~~](l) the date the form was completed;

[~~(n)~~](m) a statement that the regulated officeholder believes that the form is true and accurate to the best of the regulated officeholder's knowledge; and

[~~(o)~~](n) the signature of the regulated officeholder.

(7) (a) In making the disclosure described in Subsection (6)(b) or (h), if a regulated officeholder or regulated officeholder's spouse is an at-risk government employee, as that term is defined in Subsection 63G-2-303(1)(a), the regulated officeholder may request the filing officer to redact from the conflict of interest disclosure:

(i) the regulated officeholder's employment information under Subsection (6)(b); and

(ii) the regulated officeholder's spouse's name and employment information under Subsection (6)(h).

(b) A filing officer who receives a redaction request under Subsection (7)(a) shall redact the disclosures made under Subsection (6)(b) or (h) before the filing officer makes the conflict of interest disclosure available for public inspection.

[~~(7)~~](8) In making the disclosure described in Subsection [~~(6)(c)~~](6)(d), a regulated officeholder who provides goods or services to multiple customers or clients as part of a business or a licensed profession is only required to provide the information described in Subsection [~~(6)(c)~~](6)(d) in relation to the entity or practice through which the regulated officeholder provides the goods or services and is not required to provide the information described in Subsection [~~(6)(c)~~](6)(d) in relation to the regulated officeholder's individual customers or clients.

[~~(8)~~](9) The disclosure requirements described in this section do not prohibit a regulated officeholder from voting or acting on any matter.

[~~(9)~~](10) A regulated officeholder may amend a conflict of interest disclosure described in this part at any time.

[~~(10)~~](11) A regulated officeholder who violates the requirements of Subsection (1) is guilty of a class B misdemeanor.

[~~(11)~~](12) (a) A regulated officeholder who intentionally or knowingly violates a provision of this section, other than Subsection (1), is guilty of a class B misdemeanor.

(b) In addition to the criminal penalty described in Subsection [~~(11)(a)~~](12)(a), the lieutenant governor shall impose a civil penalty of $100 against a regulated officeholder who violates a provision of this section, other than Subsection (1).

Section 21. Section 36-11-102 is amended to read:

36-11-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved activity" means an event, a tour, or a meeting:

(a) (i) to which a legislator or another nonexecutive branch public official is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives or another nonexecutive branch public official; or

(B) the president of the Senate, if the public official is a member of the Senate or another nonexecutive branch public official; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

(4) "Capitol hill complex" means capitol hill, as defined in Section 63O-1-101.

(5) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to social security deductions, including a payment in excess of the maximum amount subject to deduction under social security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(6) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(7) "Education action" means:

(a) a resolution, policy, or other official action for consideration by a board of education;

(b) a nomination or appointment by an education official or a board of education;

(c) a vote on an administrative action taken by a vote of a board of education;

(d) an adjudicative proceeding over which an education official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(8) "Education official" means:

(a) a member of a board of education;

(b) an individual appointed to or employed in a position under a board of education, if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts resolutions or policies or drafts or makes rules;

(iii) determines rates or fees;

(iv) makes decisions relating to an education budget or the expenditure of public money; or

(v) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (8)(a) or (b).

(9) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(10) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(11) (a) "Expenditure" means any of the items listed in this Subsection (11)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (11)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution:

(A) reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, Section 10-3-208, Section 17-16-6.5, or any applicable ordinance adopted under Subsection [~~10-3-208(6)~~]10-3-208(7) or 17-16-6.5(1); or

(B) lawfully given to a person that is not required to report the contribution under a law or ordinance described in Subsection (11)(b)(ii)(A);

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection (11)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official;

(C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

(D) the item is not food or beverage, has a value of less than $10, and the aggregate daily expenditures do not exceed $10;

(vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:

(A) all members of the Legislature;

(B) all members of a standing or interim committee;

(C) all members of an official legislative task force;

(D) all members of a party caucus; or

(E) all members of a group described in Subsections (11)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;

(vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:

(A) giving a speech at the event, tour, or meeting;

(B) participating in a panel discussion at the event, tour, or meeting; or

(C) presenting or receiving an award at the event, tour, or meeting;

(viii) a plaque, commendation, or award that:

(A) is presented in public; and

(B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;

(ix) a gift that:

(A) is an item that is not consumable and not perishable;

(B) a public official, other than a local official or an education official, accepts on behalf of the state;

(C) the public official promptly remits to the state;

(D) a property administrator does not reject under Section 63G-23-103;

(E) does not constitute a direct benefit to the public official before or after the public official remits the gift to the state; and

(F) after being remitted to the state, is not transferred, divided, distributed, or used to distribute a gift or benefit to one or more public officials in a manner that would otherwise qualify the gift as an expenditure if the gift were given directly to a public official;

(x) any of the following with a cash value not exceeding $30:

(A) a publication; or

(B) a commemorative item;

(xi) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit a contribution that is reportable under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, 2 U.S.C. Sec. 434, Section 10-3-208, Section 17-16-6.5, or an applicable ordinance adopted under Subsection [~~10-3-208(6)~~]10-3-208(7) or 17-16-6.5(1);

(B) to solicit a campaign contribution that a person is not required to report under a law or ordinance described in Subsection (11)(b)(xi)(A); or

(C) charitable solicitation, as defined in Section 13-22-2;

(xii) travel to, lodging at, food or beverage served at, and admission to an approved activity;

(xiii) sponsorship of an approved activity;

(xiv) notwithstanding Subsection (11)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:

(A) that is sponsored by a governmental entity;

(B) that is widely attended and related to a governmental duty of a public official;

(C) for a local official, that is sponsored by an organization that represents only local governments, including the Utah Association of Counties, the Utah League of Cities and Towns, or the Utah Association of Special Districts; or

(D) for an education official, that is sponsored by a public school, a charter school, or an organization that represents only public schools or charter schools, including the Utah Association of Public Charter Schools, the Utah School Boards Association, or the Utah School Superintendents Association; or

(xv) travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to:

(A) for a public official who is not a local official or an education official, the state; or

(B) for a public official who is a local official or an education official, the local government or board of education to which the public official belongs.

(12) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(13) (a) "Foreign agent" means an individual who engages in lobbying under contract with a foreign government.

(b) "Foreign agent" does not include an individual who is recognized by the United States Department of State as a duly accredited diplomatic or consular officer of a foreign government, including a duly accredited honorary consul.

(14) "Foreign government" means a government other than the government of:

(a) the United States;

(b) a state within the United States;

(c) a territory or possession of the United States; or

(d) a political subdivision of the United States.

(15) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (15)(a)(i) or (ii), when acting in the capacity of the

position; or

(iv) an individual appointed to or employed in a full-time position by state government, local government, or a board of education, when acting in the capacity of the individual's appointment or employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(16) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

(17) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

(18) "Lobbying" means communicating with a public official for the purpose of influencing a legislative action, executive action, local action, or education action.

(19) (a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature, a local government, a board of education, or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative action, executive action, local action, or education action;

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature, an agency of the executive branch of state government, a board of education, the governing body of a local government, a committee of a local government, or a committee of a board of education, solely for the purpose of testifying in support of or in opposition to legislative action, executive action, local action, or education action; or

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official's capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

(20) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and government officers, who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(21) "Local action" means:

(a) an ordinance or resolution for consideration by a local government;

(b) a nomination or appointment by a local official or a local government;

(c) a vote on an administrative action taken by a vote of a local government's legislative body;

(d) an adjudicative proceeding over which a local official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(22) "Local government" means:

(a) a county, city, or town;

(b) a special district governed by Title 17B, Limited Purpose Local Government Entities - Special Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

(23) "Local official" means:

(a) an elected member of a local government;

(b) an individual appointed to or employed in a position in a local government if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts ordinances or resolutions or drafts or makes rules;

(iii) determines rates or fees; or

(iv) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (23)(a) or (b).

(24) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(25) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(26) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(27) "Public official" means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions;

(b) an immediate family member of a person described in Subsection (27)(a);

(c) a local official; or

(d) an education official.

(28) "Public official type" means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection (27)(a)(iii);

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection (27)(a)(iii);

(v) a local official, including a description of the type of local government for which the individual is a local official; or

(vi) an education official, including a description of the type of board of education for which the individual is an education official; or

(b) an immediate family member of an individual described in Subsection (27)(a), (c), or (d).

(29) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(30) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(31) "Relative" means:

(a) a spouse;

(b) a child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin; or

(c) a spouse of an individual described in Subsection (31)(b).

(32) "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official's duties.

Section 22. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 91
H. B. 253
Passed February 20, 2025
Approved March 24, 2025
Effective May 7, 2025

AGRICULTURE AND FOOD AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill addresses issues related to the regulation, oversight, or encouragement of agriculture and food.

Highlighted Provisions:

This bill:

- ► modifies the definition of "qualified veterinarian";
- ► changes references to the National Council on Weights and Measures;
- ► changes the Utah Fertilizer Act to the Utah Plant Food Act, including modifying definitions and making conforming references;
- ► repeals the Utah Agriculture Certificate of Environmental Stewardship Program;
- ► changes the time frames for annual fees under the Agricultural and Wildlife Damage Prevention Act;
- ► addresses the expiration of livestock brands;
- ► modifies information to be provided to operate a livestock market;
- ► amends the Domesticated Elk Act to address licensing, record retention, health information, and marking of domesticated elk;
- ► clarifies that money in the LeRay McAllister Working Farm and Ranch Fund Program is nonlapsing;
- ► changes the Agriculture Conservation Easement Account to an expendable special revenue fund;
- ► addresses use of money in the Agriculture Resource Development Fund to pay administrative costs;
- ► addresses regulation of livestock by political subdivisions;
- ► modifies the earmarking of sales and use taxes related to the Division of Conservation within the Department of Agriculture and Food;
- ► addresses grants under the agricultural water optimization program; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

3-1-4, as last amended by Laws of Utah 2010, Chapter 324
4-2-305, as enacted by Laws of Utah 2017, Chapter 86 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 345
4-2-901, as last amended by Laws of Utah 2024, Chapter 91
4-9-106, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-9-107, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-9-108, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-9-109, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-13-102, as last amended by Laws of Utah 2023, Chapter 528
4-13-103, as last amended by Laws of Utah 2020, Chapter 311
4-13-104, as last amended by Laws of Utah 2020, Chapter 311
4-13-105, as last amended by Laws of Utah 2020, Chapter 311
4-13-106, as last amended by Laws of Utah 2020, Chapter 311
4-13-108, as last amended by Laws of Utah 2020, Chapter 311
4-13-109, as last amended by Laws of Utah 2020, Chapter 311
4-13-110, as enacted by Laws of Utah 2020, Chapter 311
4-18-102, as last amended by Laws of Utah 2022, Chapter 68
4-18-103, as last amended by Laws of Utah 2023, Chapter 144
4-18-106, as last amended by Laws of Utah 2023, Chapters 126, 144
4-23-107, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-202, as last amended by Laws of Utah 2022, Chapter 79
4-30-105, as last amended by Laws of Utah 2020, Chapter 154
4-39-203, as last amended by Laws of Utah 2017, Chapter 345
4-39-205, as last amended by Laws of Utah 2018, Chapter 355
4-39-206, as last amended by Laws of Utah 2017, Chapter 345
4-39-301, as last amended by Laws of Utah 2017, Chapter 345

4-39-303, as last amended by Laws of Utah 2024, Chapter 71
4-39-304, as last amended by Laws of Utah 2018, Chapter 355
4-41a-204, as last amended by Laws of Utah 2023, Chapter 327
4-46-302, as last amended by Laws of Utah 2024, Chapter 59
4-46-304, as enacted by Laws of Utah 2023, Chapter 528
10-11-1, as last amended by Laws of Utah 2022, Chapter 432
59-12-103, as last amended by Laws of Utah 2024, Chapters 88, 501
63J-1-602.2, as last amended by Laws of Utah 2024, Chapters 241, 285, 425, and 467
73-10g-205, as last amended by Laws of Utah 2024, Chapter 233

ENACTS:

11-46b-101, Utah Code Annotated 1953
11-46b-102, Utah Code Annotated 1953

REPEALS:

4-13-101, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-18-107, as last amended by Laws of Utah 2017, Chapter 345
19-5-105.6, as enacted by Laws of Utah 2014, Chapter 383

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

Section 1. Section 3-1-4 is amended to read:
3-1-4. Purposes.

Such association may be organized for the purpose of engaging in any cooperative activity for producers of agricultural products in connection with:

(1) producing, assembling, marketing, buying or selling agricultural products, or harvesting, preserving, drying, processing, manufacturing, blending, canning, packing, ginning, grading, storing, warehousing, handling, shipping, or utilizing such products, or manufacturing or marketing the by-products thereof;

(2) seed and crop improvement, and soil conservation and rehabilitation;

(3) manufacturing, buying or supplying to its members and others, machinery, equipment, feed, [~~fertilizer~~]plant food, coal, gasoline and other fuels, oils and other lubricants, seeds, and all other agricultural and household supplies;

(4) generating and distributing electrical energy and furnishing telephone service to its members and others;

(5) performing or furnishing business or educational services, on a co-operative basis, for or to its members; or

(6) financing any of the above enumerated activities.

Section 2. Section 4-2-305 is amended to read:
4-2-305. Preemption.

(1) Subject to concurrence with relevant federal laws and except as provided in Subsection (4), the department has exclusive jurisdiction over regulation regarding:

(a) commercial feed, as described in Chapter 12, Utah Commercial Feed Act;

(b) fertilizer, as described in [~~Chapter 13, Utah Fertilizer Act~~]Chapter 13, Utah Plant Food Act;

(c) pesticides, as described in Chapter 14, Utah Pesticide Control Act; and

(d) seeds, as described in Chapter 16, Utah Seed Act.

(2) The regulation of commercial feed, fertilizer, pesticides, and seeds within the state is of statewide concern, except as provided in Subsection (4), and this title occupies the whole field of potential regulation.

(3) Except as provided in Subsection (4), a political subdivision of the state is prohibited from regulating commercial feed, fertilizer, pesticides, and seeds, and local ordinances, resolutions, amendments, regulations, or laws that seek to do so are void.

(4) Nothing in this section preempts or otherwise limits the authority of a political subdivision to:

(a) adopt and enforce zoning regulations, fire codes, building codes, or waste disposal restrictions; or

(b) in consultation with the department, enforce, maintain, amend, or otherwise continue to implement a regulation created on or before January 1, 2017, related to the use of pesticides and fertilizers in surface water and groundwater source water protection areas.

Section 3. Section 4-2-901 is amended to read:
4-2-901. Definitions.

As used in this part:

(1) "Animal shelter" means the same as that term is defined in Section 11-46-102.

(2) "Education loan" means a loan received for education at a domestic or foreign institution of higher education, including a school or college of veterinary medicine.

(3) "Education loan balance" includes charges for paying off the balance of the loan.

(4) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(5) "Livestock" means the same as that term is defined in Section 4-1-109.

(6) "Loan" means a loan that is made directly by, insured by, or guaranteed under a government program of:

(a) a state;

(b) the United States; or

(c) a foreign government.

(7) "Maximum payment value" means the lesser of:

(a) the sum of a qualified veterinarian's education loan balances; or

(b) $20,000.

(8) "Program" means the Veterinarian Education Loan Repayment Program created in Section 4-2-902.

(9) "Qualified veterinarian" means a veterinarian who has practiced, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a veterinarian:

(a) in an area of the state that is Indian country;

(b) in an animal shelter within the state operated by:

(i) a county;

(ii) a municipality; or

(iii) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(c) in any area of the state as an employee of the department;

(d) in any combination of the [~~places~~]areas described in Subsections (9)(a) through (c); or

(e) with a practice that includes:

(i) []at least 30% livestock medicine [~~.~~]; or

(ii) at least 20% livestock medicine if the veterinarian practices at least 10% in any combination of the areas described in Subsection (9)(a) through (c).

(10) "Veterinarian" means an individual licensed under Title 58, Chapter 28, Veterinary Practice Act.

Section 4. Section 4-9-106 is amended to read:

4-9-106. Weights and measures -- Specifications, tolerances, and technical data published in National Institute of Standards and Technology Handbook govern.

Unless modified by the department, Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, National Institute of Standards and Technology, adopted by the National [~~Conference~~]Council on Weights and Measures, including supplements or revisions to Handbook 44, shall determine the specifications, tolerances, and other technical requirements for devices used for:

(1) commercial weighing and measuring;

(2) law enforcement;

(3) data gathering; and

(4) other weighing and measuring purposes.

Section 5. Section 4-9-107 is amended to read:

4-9-107. Adopting uniform packaging and labeling regulation.

Unless modified by the department, the Uniform Packaging and Labeling Regulation, adopted by the National [~~Conference~~]Council on Weights and Measures in Handbook 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality, National Institute of Standards and Technology, shall apply to packaging and labeling in the state.

Section 6. Section 4-9-108 is amended to read:

4-9-108. Adopting uniform regulation for the method of sale of commodities.

Unless modified by the department, the Uniform Regulation for the Method of Sale of Commodities, adopted by the National [~~Conference~~]Council on Weights and Measures, in Handbook 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality, National Institute of Standards and Technology, shall apply to the method of sale of commodities in the state.

Section 7. Section 4-9-109 is amended to read:

4-9-109. Adopting uniform regulation for the voluntary registration of servicepersons and service agencies for commercial weighing and measuring devices.

Unless modified by the department, the Uniform Regulation for the Voluntary Registration of Servicepersons and Service Agencies for Commercial Weighing and Measuring Devices, adopted by the National [~~Conference~~]Council on Weights and Measures in Handbook 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality, National Institute of Standards and Technology, shall apply to the registration of servicepersons and service agencies in the state.

Section 8. Section 4-13-102 is amended to read:

CHAPTER 13. UTAH PLANT FOOD ACT

4-13-102. Definitions.

As used in this chapter:

(1) "Adulterated [~~fertilizer~~]" means [~~a fertilizer or soil amendment that~~]a plant food that:

(a) contains a deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with the directions for use on the label;

(b) has a composition that falls below or differs from that which the composition is purported to possess by the composition's labeling;

(c) contains unwanted crop or weed seed; or

(d) exceeds levels of metals permitted by the United States Environmental Protection Agency.

(2) "Beneficial [~~substances or compounds" means a substance or compound other than primary, secondary, and micro plant nutrients that can be demonstrated by scientific research to be beneficial to one or more species of plants when applied exogenously~~]substance" means a substance or compound, other than a primary nutrient, secondary nutrient, or micro plant nutrient, and excluding a pesticide, that can be demonstrated by scientific research to be beneficial to one or more species of plants, soil, or media.

[~~(3) "Biostimulant" means a product containing naturally-occurring substances and microbes that are used to stimulate plant growth, enhance resistance to plant pests, and reduce abiotic stress.~~]

[~~(4)~~](3) "Blender" means a person engaged in the business of blending or mixing [~~fertilizer, soil amendments, or both~~]plant food.

[~~(5)~~](4) "Brand" means a term, design, or trade mark used in connection with one or several grades of [~~fertilizer or soil amendment~~]plant food.

[~~(6)~~](5) "Bulk [~~fertilizer~~]" means [~~fertilizer delivered to the purchaser either in solid or liquid state in a non-packaged form to which a label cannot be attached~~]plant food delivered to a purchaser in a non-packaged form.

[~~(7)~~](6) "Custom blend" means a [~~fertilizer~~]plant food blended according to specification provided to a blender in a soil test nutrient recommendation or to meet the specific consumer request before blending.

[~~(8)~~](7) "Deficiency" means the amount of nutrient found by analysis to be less than that guaranteed.

[~~(9)~~](8) "Derivation" means the source from which the guaranteed nutrients are derived.

[~~(10)~~](9) "Distribute" means to [~~import, consign, manufacture, produce, compound, mix, blend, or to offer for sale, sell, barter, or supply fertilizer or soil amendments in the state~~]offer for sale, sell, exchange, or barter plant food.

[~~(11)~~](10) "Distributor" means a person who distributes.

[~~(12)~~](11) "Fertilizer" means a substance that contains one or more recognized plant nutrients that is used for the substance's plant nutrient content and is designed for use or claimed to have value in promoting plant growth, exclusive of unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted by rule.

[~~(13)~~](12) "Fertilizer material" means a fertilizer that contains:

(a) quantities of no more than one of the primary plant nutrients, nitrogen (N), phosphate (P2O5), Potash (K2O);

(b) 85% plant nutrients in the form of a single chemical compound; or

(c) plant or animal residues or by-products, or a natural material deposit that is processed so that its primary plant nutrients have not been materially changed, except through purification and concentration.

[~~(14)~~](13) "Grade" means the percentage of total nitrogen, available phosphate and soluble potash stated in the same terms, order, and percentages as in the guaranteed analysis.

[~~(15)~~](14) (a) "Guaranteed analysis" means the minimum percentage by weight of plant nutrients claimed in the following order and form:

Total Nitrogen (N)	____ percent
Available Phosphate (P2O5)	____ percent
Soluble Potash (K2O)	____ percent

(b) For unacidulated mineral phosphatic material and basic slag, bone, tankage, and other organic phosphate or degree of fineness may also be guaranteed.

(c) (i) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium may be permitted or required by rule of the department.

(ii) The guarantees for such other nutrients shall be expressed in the form of the element.

(iii) The sources of such other nutrients, such as oxides, salt, chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label.

(iv) Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department.

(v) Any plant nutrients or other substances or compounds guaranteed are subject to inspection and analysis in accord with the methods and rules prescribed by the department.

[~~(16)~~](15) "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of [~~fertilizer or soil amendment~~]plant food.

[~~(17)~~](16) "Label" means the display of the written, printed, or graphic matter upon the immediate container or statement accompanying [~~a fertilizer or soil amendment~~]plant food.

[~~(18)~~](17) "Labeling" means the written, printed, or graphic matter upon or accompanying [~~fertilizer or soil amendment~~]plant food, or advertisements, brochures, posters, television and radio announcements used in promoting the sale of [~~fertilizers or soil amendments~~]plant food.

[~~(19)~~](18) "Lot" means a definite quantity identified by a combination of numbers, letters, characters, or amount represented by a weight certificate from which every part is uniform within recognized tolerances from which the distributor can be determined.

[~~(20)~~](19) "Micro plant nutrient" means boron, chlorine, [~~eolbalt~~]cobalt, copper, iron, manganese, molybdenum, nickel, sodium, and zinc.

[~~(21)~~](20) "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials.

[~~(22) "Nonplant food ingredient" means a substance or compound other than the primary, secondary, or micro nutrients.~~]

[~~(23)~~](21) "Official sample" means a sample of [~~fertilizer or soil amendment~~]plant foodtaken by the department and designated as "official."

[~~(24) "Other ingredients" means the non-soil amending ingredients present in soil amendments.~~]

[~~(25)~~](22) "Percent" or "percentage" means the percentage by weight.

[~~(26)~~](23) "Plant amendment" means a substance applied to plants or seeds that is intended to improve growth, yield, product quality, reproduction, flavor, or other favorable characteristics of plants except fertilizer, soil amendments, agricultural liming materials, animal and vegetable manure, pesticides, or plant regulators.

(24) "Plant biostimulant" means a substance, microorganism, or mixture of a substance and microorganism, that, when applied to seeds, plants, the rhizosphere, soil, or other growth media, act to support a plant's natural nutrition processes independently of the biostimulant's nutrient content, and thereby improving:

(a) nutrient availability;

(b) uptake;

(c) use efficiency;

(d) tolerance to abiotic stress; and

(e) consequent growth, development, quality, or yield.

(25) "Plant food" means a fertilizer, soil amendment, beneficial substance, plant amendment, plant biostimulant, plant inoculant, soil inoculant, or any combination of these products.

(26) "Plant inoculant" means a product consisting of microorganisms to be applied to the plant or soil for the purpose of enhancing the availability or uptake of plant nutrients through the root system.

(27) "Primary nutrient" includes total nitrogen, available phosphate, and soluble potash.

(28) "Registrant" means a person who registers a [~~fertilizer or a soil amendment~~]plant food under this chapter.

(29) "Secondary nutrient" includes calcium, magnesium, and sulfur.

[~~(30) "Slow release fertilizer" means a fertilizer in a form that releases, or converts to a plant-available form, plant nutrients at a slower rate relative to an appropriate reference soluble product.~~]

[~~(31)~~](30) "Soil amending ingredient" means a substance that will improve the physical, chemical, biochemical, biological, or other characteristics of the soil.

[~~(32)~~](31) "Soil amendment" means a substance or a mixture of substances that is intended to improve the physical, chemical, biochemical, biological, or other characteristics of the soil, except fertilizers, agricultural liming materials, unmanipulated animal manures, unmanipulated vegetable manures, or pesticides.

(32) "Soil inoculant" means a microbial product that is applied to colonize the soil to benefit the soil chemistry, biology, or structure.

(33) "Specialty fertilizer" means fertilizer distributed primarily for non-farm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.

(34) "Ton" means a net weight of 2,000 pounds avoirdupois.

Section 9. Section 4-13-103 is amended to read:

4-13-103. Distribution of plant food -- Registration required -- Application -- Fees -- Expiration -- Renewal -- Exemptions specified -- Blenders and mixers.

(1) (a) [~~A brand and grade of fertilizer or soil amendment shall be registered in the name of the person whose name appears upon the label before being distributed in this state~~]Before a plant food is distributed in this state, a person shall register the brand and grade of the plant food in the name of the person whose name appears upon the label of the plant food.

(b) [~~The~~]A person shall submit an application for registration[~~shall be submitted~~] to the department on a form prescribed and furnished by the department, and shall [~~be accompanied by~~]accompany the application with payment of a fee determined by the department pursuant to Subsection 4-2-103(2) for each brand and grade.

(c) Upon approval by the department, the department shall furnish a copy of the registration [~~shall be furnished~~]to the applicant.

(d) (i) A registration expires at midnight on December 31 of the year in which issued.

(ii) A registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.

(iii) A person shall pay the renewal fee [~~shall be paid~~]on or before December 31 of each year.

(2) A distributor is not required to register [~~fertilizer~~]plant food that has been registered by another person under this chapter if the label does not differ in any respect.

(3) (a) A blender is not required to register each grade of [~~fertilizer or soil amendment~~]plant food formulated according to specifications provided by a consumer before mixing, but is required to:

(i) license the name under which the business of blending or mixing is conducted;

(ii) pay an annual blenders license fee determined by the department pursuant to Subsection 4-2-103(2); and

(iii) label the [~~fertilizer or soil amendment~~]plant food as provided in Section 4-13-104.

(b) (i) A blenders license expires at midnight on December 31 of the year in which the license is issued.

(ii) A blenders license is renewable for a period of one year upon the payment of an annual license renewal fee in an amount equal to the current applicable original blenders license fee.

(iii) A renewal fee shall be paid on or before December 31 of each year.

(4) (a) [~~A~~]The department shall assess a tonnage fee [~~shall be assessed~~]on fertilizer [~~and soil amendment~~]products sold in the state.

(b) The fee shall be determined by the department pursuant to Subsection 4-2-103(2).

(c) When more than one person is involved in the distribution of a fertilizer[~~, or soil amendment~~], the final person who has the fertilizer [~~or soil amendment~~]registered and distributed to a non-registrant or consumer is responsible for reporting the tonnage and paying the tonnage fee, unless the report and payment is made by a prior distributor of the fertilizer[~~, or soil amendment~~].

(d) [~~The~~]A person shall submit the tonnage report [~~shall be submitted~~]on a form provided by the department on or before December 31 annually covering shipments made during the preceding 12-month period from November 1 to October 31.

(e) Revenue generated by the fee shall be deposited into the General Fund as dedicated credits to be used by the department for education and research about and promotion of proper [~~fertilizer and soil amendment~~]plant food distribution, handling, and use.

Section 10. Section 4-13-104 is amended to read:

4-13-104. Labeling requirements for fertilizer and soil amendments specified.

(1) A container of fertilizer distributed in this state shall bear a label in clearly legible and conspicuous form setting forth the:

(a) brand name and grade;

(b) guaranteed analysis, except that:

(i) sources of nutrients, when shown on the label, shall be listed below the completed guaranteed analysis in order of predominance;

(ii) guarantees of zeros may not be made and may not appear in statement except in nutrient guarantee breakdowns; and

(iii) if chemical forms of nitrogen are claimed or required, the form shall be shown, but no implied order of the forms of nitrogen is intended;

(c) subject to Subsection (12), derivation statement of guaranteed nutrients[~~, nonplant food ingredients, and beneficial substances or compounds~~] if present;

(d) directions for use when applicable;

(e) caution or warning statement when applicable;

(f) name and address of the registrant or the manufacturer, if different from the registrant;

(g) net weight or volume; and

(h) lot number.

(2) A container of specialty fertilizer distributed in this state shall bear a label in clear, legible, and conspicuous form setting forth the information specified in Subsections (1)(a) through (h).

(3) A shipment of custom blend fertilizer shall be accompanied by a printed or written statement setting forth the:

(a) information specified in Subsections (1)(a) through (c);

(b) name and address of the licensed blender;

(c) net weight or volume; and

(d) lot number.

(4) A person who ships fertilizer material shall accompany the shipment of fertilizer material [~~shall be accompanied by~~]with a printed or written statement setting forth the:

(a) information specified in Subsections (1)(a) through (c);

(b) name and address of the registrant if different from the supplier or shipper;

(c) net weight or volume; and

(d) lot number.

[~~(5) The grade is not required on a fertilizer label when no primary nutrients are claimed or are less than one percent.~~]

[~~(6) Additional nutrient guarantees may not be an extension of the grade statement and shall be a separate line or include terms such as "plus," "with," or "including."~~]

[~~(7)~~](5) A soil amendment or beneficial substance distributed in the state shall bear a label in clearly legible and conspicuous form setting forth [~~the~~]:

(a) the brand name;

(b) a statement of composition showing the amount of each non-nutritive ingredient, that is the agent in a product primarily responsible for the intended effects using the following format:

(i) for a soil amendment:

SOIL AMENDING INGREDIENTS	
1. Name of the ingredient	% or other acceptable units

(ii) for a beneficial substance:

CONTAINS BENEFICIAL SUBSTANCE(S)	
1. Name of beneficial substance	% or other acceptable units
2. Genus and species of microorganism	viable CFU/cm3,/mL,/g, or other acceptable units
3. Name of the ingredient	% or other acceptable units
(Substances shall include ingredient source, if applicable. Ex. humic acid from leonardite or saponin from Yucca schidigera)	

[~~(b) guaranteed analysis, which includes:~~]

[~~(i) nonplant food ingredients separated out by soil amending ingredients and other total ingredients, in that order, by percentages; and~~]

[~~(ii) nonsoil amending ingredients separating out beneficial substances and beneficial compounds, in that order, by percentage or acceptable units;~~]

(c) the purpose of product;

(d) the direction for application;

(e) the caution or warning statement when applicable;

(f) the name and address of the registrant or the manufacturer, if different from the registrant; and

(g) the net weight or volume.

(6) In case of a bulk shipment, the information required by Subsection (5) in written or printed form shall accompany delivery and be supplied to the purchaser at time of delivery.

(7) The grade is not required on a fertilizer label when no primary nutrients are claimed or are less than 1%.

(8) Additional nutrient guarantees may not be an extension of the grade statement and shall be a separate line or include terms such as "plus," "with," or "including."

[~~(8)~~](9) The department may require proof of claims made, usefulness, and value of the soil amendments.

[~~(9) For evidence of proof the department may rely on experimental data, evaluations, or advice supplied from such sources as the director of the Agricultural Experiment Station. The experimental design shall be related to state conditions for which the product is intended.~~]

(10) Information or a statement may not appear on a package, label, delivery slip, or advertising matter that is false or misleading to the purchaser as to the use, value, quality, analysis, type, or composition of the [~~soil amendment~~]plant food.

(11) A [~~fertilizer~~]plant food is misbranded if:

(a) the [~~fertilizer's~~] labeling is false or misleading in any particular;

(b) the [~~fertilizer~~]plant food is distributed under the name of another [~~fertilizer~~]plant food product;

(c) the [~~fertilizer~~]plant food is not labeled as required; or

(d) the [~~fertilizer~~]plant food purports to be or is represented as [~~fertilizer~~]plant food, or is represented as containing [~~a plant nutrient fertilizer~~]an ingredient that does not conform with the definition of identity or any commonly accepted definitions of official fertilizer terms.

(12) An abbreviation, brand name, trade mark, or trade name may not appear in a derivation statement.

Section 11. Section 4-13-105 is amended to read:

4-13-105. Enforcement -- Inspection and samples authorized -- Methods for sampling and analysis prescribed -- Warrants.

(1) The department shall periodically sample, inspect, analyze, and test [~~fertilizers and soil amendments~~]plant food distributed within this state to determine [~~if they comply~~]whether the plant food complies with this chapter.

(2) (a) The methods of sampling and analysis shall be those adopted by the AOAC International.

(b) In a case not covered by the methods adopted under Subsection (2)(a), or in a case when a method is available in which improved applicability has been demonstrated, the department may adopt appropriate methods from other sources.

(3) In determining whether a [~~fertilizer or soil amendment~~]plant food is deficient, the department shall be guided solely by the official sample.

(4) (a) The department may enter any public or private premises or carriers during regular business hours to have access to [~~fertilizers or soil amendments~~]plant food and records relating to the distribution of [~~fertilizers and soil amendments~~]plant food subject to this chapter.

(b) If admittance is refused, the department may proceed immediately to obtain an ex parte warrant from the nearest court [~~of competent~~]with jurisdiction to allow entry upon the premises for the purpose of making inspections and obtaining samples.

(5) The department shall distribute the results of an official sample.

(6) The department shall retain an official sample for a minimum of 90 days from the issuance of a report.

Section 12. Section 4-13-106 is amended to read:

4-13-106. Distribution of plant food not complying with labeling requirements prohibited -- Penalty assessed -- Court action to vacate or amend finding authorized -- Adulterated plant food.

(1) A person may not distribute in this state a [~~fertilizer, fertilizer material, soil amendment, or specialty fertilizer~~]plant food if the official sample [~~thereof~~]of the plant food establishes that the [~~fertilizer, fertilizer material, soil amendment, or specialty fertilizer~~]plant food is deficient in the nutrients or ingredients guaranteed on the label by an amount exceeding the values established by rule.

(2) The department shall evaluate and take administrative action the department prescribes for a deficiency beyond the investigational allowances established by the department.

(3) A registrant aggrieved by the finding of an official sample deficiency may file a complaint with a court [~~of competent~~]with jurisdiction to vacate or amend the finding of the department.

(4) A person may not distribute in this state a plant food that is adulterated.

Section 13. Section 4-13-108 is amended to read:

4-13-108. Denial, suspension, or revocation authorized -- Grounds -- Stop sale, use, or removal order authorized -- Court action -- Procedure -- Costs.

(1) The department may deny, revoke, or suspend the license for a blender or the registration of a brand of [~~fertilizer or soil amendment~~]plant food upon satisfactory evidence that the licensee or registrant has used fraudulent or deceptive practices in licensure, registration, or distribution in this state.

(2) (a) The department may issue a "stop sale, use, or removal order" to the owner or person in possession of any designated lot of [~~fertilizer or soil amendment~~]plant food that the department finds or has reason to believe is being offered or exposed for sale in violation of this chapter.

(b) The order shall be in writing and [~~fertilizer or soil amendment~~]plant food subject to the order may not be moved or offered or exposed for sale, except upon the subsequent written release of the department.

(c) Before a release is issued, the department may require the owner or person in possession of the "stopped" lot to pay the expense incurred by the department in connection with the withdrawal of the product from the market.

(3) (a) The department may seek in a court [~~of competent~~]with jurisdiction an order of seizure or condemnation of any [~~fertilizer~~]plant food that violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction, to prevent violation of this chapter.

(b) A bond may not be required of the department in any injunctive proceeding under this section.

(4) If condemnation is ordered, the [~~fertilizer or soil amendment~~]plant food shall be disposed of as the court directs, except that the court may not order condemnation without giving the claimant of the [~~fertilizer or soil amendment~~]plant food an opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the product into conformance, or to remove the [~~fertilizer or soil amendment~~]plant food from the state.

(5) If the court orders condemnation of the [~~fertilizer or soil amendment~~]plant food, court costs, fees, storage, and other expenses shall be awarded against the claimant of the [~~fertilizer or soil amendment~~]plant food.

Section 14. Section 4-13-109 is amended to read:

4-13-109. Sales or exchanges of plant food between manufacturers, importers, or manipulators permitted.

This chapter may not be construed to restrict or avoid sales or exchanges of [~~fertilizers or soil amendments~~]plant food to each other by importers, manufacturers, or manipulators who mix [~~fertilizer or soil amendment~~]plant food materials for sale or as preventing the free and unrestricted shipment of [~~fertilizer or soil amendments~~]plant food to manufacturers or manipulators who have registered their brands as required by this chapter.

Section 15. Section 4-13-110 is amended to read:

4-13-110. Department may make and enforce rules -- Cooperation with state and federal agencies authorized.

(1) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and enforce the rules to administer and enforce this chapter.

(b) The department shall by rule adopt the official terms, tables, definitions, and statements adopted by the Association of American Plant Food Control officials and published in the official publications of that organization.

(2) The department may enter into agreements with other agencies of the state, other states, and agencies of the federal government to administer and enforce this chapter.

[~~(3) The department may use the following terms in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to the extent that the department is authorized to make rules by a provision other than this Subsection (3):~~]

[~~(a) biostimulant;~~]

[~~(b) bulk fertilizer;~~]

[~~(c) plant amendment;~~]

[~~(d) secondary nutrient; and~~]

[~~(e) slow release fertilizer.~~]

Section 16. Section 4-18-102 is amended to read:

4-18-102. Findings and declarations -- Duties.

(1) In addition to the policy provided in Section 4-46-101, the Legislature finds and declares that:

(a) the soil and water resources of this state constitute one of the state's basic assets; and

(b) the preservation of soil and water resources requires planning and programs to ensure:

(i) the development and use of soil and water resources; and

(ii) soil and water resources' protection from the adverse effects of wind and water erosion, sediment, and sediment related pollutants.

(2) The Legislature finds that local production of food is essential for:

(a) the security of the state's food supply; and

(b) the self-sufficiency of the state's citizens.

(3) The Legislature finds that sustainable agriculture is critical to:

(a) the success of rural communities;

(b) the historical culture of the state;

(c) maintaining healthy farmland;

(d) maintaining high water quality;

(e) maintaining abundant wildlife;

(f) high-quality recreation for citizens of the state; and

(g) helping to stabilize the state economy.

(4) The Legislature finds that livestock grazing on public lands is important for the proper management, maintenance, and health of public lands in the state.

(5) The Legislature encourages each agricultural producer in the state to operate in a reasonable and responsible manner to maintain the integrity of soil, water, and air.

[~~(6) The department shall administer the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107, to encourage each agricultural producer in this state to operate in a reasonable and responsible manner to maintain the integrity of the state's resources.~~]

[~~(7)~~](6) The Legislature finds that soil health is essential to protecting the state's soil and water resources, bolstering the state's food supply, and sustaining the state's agricultural industry.

Section 17. Section 4-18-103 is amended to read:

4-18-103. Definitions.

As used in this chapter:

(1) (a) "Agricultural discharge" means the release of agriculture water from the property of a farm, ranch, or feedlot that:

(i) pollutes a surface body of water, including a stream, lake, pond, marshland, watercourse, waterway, river, ditch, or other water conveyance system;

(ii) pollutes ground water; or

(iii) constitutes a significant nuisance to urban land.

(b) "Agricultural discharge" does not include:

(i) runoff from a farm, ranch, or feedlot, or the return flow of water from an irrigated field onto land that is not part of a body of water; or

(ii) a release of water from a farm, ranch, or feedlot into a normally dry water conveyance leading to an active body of water, if the release does not reach the water of a lake, pond, stream, marshland, river, or other active body of water.

(2) "Agricultural operation" means a farm, ranch, or animal feeding operation.

(3) "Agriculture water" means:

(a) water used by a farm, ranch, or feedlot for the production of food, fiber, or fuel;

(b) the return flow of water from irrigated agriculture; or

(c) agricultural storm water runoff.

(4) "Alternate" means a substitute for a district supervisor if the district supervisor cannot attend a meeting.

(5) (a) "Animal feeding operation" means a facility where animals, other than aquatic animals, are stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period.

(b) "Animal feeding operation" does not include an operation where animals are in areas such as pastures or rangeland that sustain crops or forage growth during the normal growing season.

(6) "Best management practices" means practices, including management policies and the use of technology, used by each sector of agriculture in the production of food and fiber that are commonly accepted practices, or that are at least as effective as commonly accepted

practices, and that:

(a) protect the environment;

(b) protect human health;

(c) ensure the humane treatment of animals; and

(d) promote the financial viability of agricultural production.

[~~(7) "Certified agricultural operation" means an agricultural operation that is certified under the Utah Agriculture Certificate of Environmental Stewardship Program in accordance with Section 4-18-107.~~]

[~~(8) "Certified conservation planner" means a planner of a state conservation district, or other qualified planner, that is approved by the commission to certify an agricultural operation under the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107.~~]

[~~(9)~~](7) "Commission" means the Conservation Commission created in Section 4-18-104.

[~~(10)~~](8) "Comprehensive nutrient management plan" or "nutrient management plan" means a plan to properly store, handle, and spread manure and other agricultural byproducts to:

(a) protect the environment; and

(b) provide nutrients for the production of crops.

[~~(11)~~](9) "Coordinated resource management plan" means a plan of action created at a local level with broad participation of land owners, natural resource agencies, and interested stakeholders to protect or enhance the environment, human health, humane treatment of animals, and financial viability in the community.

[~~(12)~~](10) "District" or "conservation district" has the same meaning as "conservation district" as defined in Section 17D-3-102.

[~~(13)~~](11) "Fodder" means food for livestock.

[~~(14)~~](12) "Hydroponic" means a technique for growing plants without soil.

[~~(15)~~](13) "Pollution" means a harmful human-made or human-induced alteration to the water of the state, including an alteration to the chemical, physical, biological, or radiological integrity of water that harms the water of the state.

[~~(16)~~](14) "State technical standards" means a collection of best management practices that will protect the environment in a reasonable and economical manner for each sector of agriculture as required by this chapter.

[~~(17)~~](15) "Sustainable agriculture" means agriculture production and practices that promote:

(a) the environmental responsibility of owners and operators of farms, ranches, and feedlots; and

(b) the profitability of owners and operators of farms, ranches, and feedlots.

Section 18. Section 4-18-106 is amended to read:

4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund money -- Advisory board.

(1) As used in this section:

(a) "Disaster" means an extraordinary circumstance, including a flood, drought, or fire, that results in:

(i) the president of the United States declaring an emergency or major disaster in the state;

(ii) the governor declaring a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(iii) the chief executive officer of a local government declaring a local emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

(b) "Fund" means the Agriculture Resource Development Fund created in this section.

(c) "Local government" means the same as that term is defined in Section 53-2a-602.

(2) There is created a revolving loan fund known as the "Agriculture Resource Development Fund."

(3) The fund shall consist of:

(a) money appropriated to the fund by the Legislature;

[~~(b) sales and use tax receipts transferred to the fund in accordance with Section 59-12-103;~~]

[~~(c)~~](b) money received for the repayment of loans made from the fund;

[~~(d)~~](c) money from a preferential user to reimburse the commission for loans made from the fund in accordance with Title 73, Chapter 3d, Part 4, Compensation;

[~~(e)~~](d) money made available to the state for agriculture resource development or for a temporary water shortage emergency, as defined in Section 73-3d-101, from any source; and

[~~(f)~~](e) interest earned on the fund.

(4) The commission may make loans from the fund for:

(a) a rangeland improvement and management project;

(b) a watershed protection or flood prevention project;

(c) a soil and water conservation project;

(d) a program designed to promote energy efficient farming practices;

(e) an improvement program for agriculture product storage or program designed to protect a crop or animal resource;

(f) a hydroponic or aquaponic system, including a hydroponic fodder production system;

(g) a project or program to improve water quality;

(h) a project to address other environmental issues;

(i) subject to Subsection (5), a disaster relief program designed to aid the sustainability of agriculture during and immediately following a disaster; or

(j) subject to Subsection (6), authorized for temporary water shortage emergencies as provided in Title 73, Chapter 3d, Part 4, Compensation.

(5) (a) Loans made through a disaster relief program described in Subsection (4)(i) may not comprise more than 10% of the funds

appropriated by the Legislature to the fund.

(b) Notwithstanding Subsection (5)(a), the department may use the money appropriated to the fund by the Legislature or another source, without limitation, if the money is appropriated specifically for use in a disaster relief program.

(c) (i) Until December 31, 2024, the department is authorized to borrow up to $3,000,000 of General Fund appropriations from the Agricultural Water Optimization Account created in Section 73-10g-204 to be used in making loans through a disaster relief program described in Subsection (4)(i).

(ii) If the department borrows from the Agricultural Water Optimization Account under Subsection (5)(c)(i), the department shall deposit the repayment of principal and interest on loans made through a disaster relief program, regardless of the source of the funds used to make those loans, into the Agricultural Water Optimization Account, with preference over the repayment of any other source of funds, until the Agricultural Water Optimization Account is repaid in full.

(6) The commission may not have at one time an aggregate amount of loans made under Subsection (4)(j) that exceeds $5,000,000.

(7) The commission may appoint an advisory board to:

(a) oversee the award process for loans, as described in this section;

(b) approve loans; and

(c) recommend policies and procedures for the fund that are consistent with statute.

(8) The department shall obtain an approved annual budget from the commission to use money from the fund to pay for the costs of administering the fund and loans made from the fund.

Section 19. Section 4-23-107 is amended to read:

4-23-107. Annual fees on sheep, goats, cattle, and turkeys -- Determination by board -- Collection methods.

(1) To assist the department in meeting the annual expense of administering this chapter, the following annual predator control fees are imposed upon animals owned by persons whose interests this chapter is designed to protect: Sheep and goats (except on farm dairy

goats or feeder lambs).....
at least $.70 but not

more than $1 per head

Cattle (except on farm dairy cattle).....
at least $.15 but not

more than $.50 per head

Turkeys (breeding stock only).....
at least $.05 but not

more than $.10 per head

(2) The amount of the fees imposed upon each category of animals specified in this section shall be determined by the board annually on or before [~~January 1~~]July 1 of each year.

(3) (a) Fee brand inspected cattle are subject to a predator control fee upon change of ownership or slaughter.

(b) The fee shall be collected by the local brand inspector at the time of the inspection of cattle, or withheld and paid by the market from proceeds derived from the sale of the cattle.

(c) Cattle that are fee brand inspected prior to confinement to a feedlot are not subject to any subsequent predator control fee.

(4) (a) Fleece of sheared sheep is subject to a predator control fee upon sale of the fleece.

(b) (i) The fee shall be withheld and paid by the marketing agency or purchaser of wool from proceeds derived from the sale of the fleece.

(ii) The department shall enter into cooperative agreements with in-state and out-of-state wool warehouses and wool processing facilities for the collection of predator control fees on the fleece of sheep that graze on private or public range in the state.

(c) The fee shall be based on the number of pounds of wool divided by 10 pounds for white face sheep and five pounds for black face sheep.

(5) Predator control fees on turkey breeding stock shall be paid by the turkey cooperative.

(6) (a) Livestock owners shall pay a predator control fee on any livestock that uses public or private range in the state [~~which~~]that is not otherwise subject to the fee under Subsection (3) or (4).

(b) By [~~January 1~~]September 1, the commissioner shall mail to each owner of livestock specified in Subsection (6)(a) a reporting form requiring sufficient information on the type and number of livestock grazed in the state and indicating the fee imposed for each category of livestock.

(c) [~~Each~~]An owner shall file the completed form and the appropriate fee with the commissioner before [~~April 1~~]December 31.

(d) If any person who receives the reporting form fails to return the completed form and the imposed fee as required, the commissioner is authorized to commence suit through the office of the attorney general, in a court [~~of competent~~]with jurisdiction, to collect the imposed fee, the amount of which shall be as determined by the commissioner.

(7) [~~All fees~~]A fee collected under this section shall be remitted to the department and deposited in the Agricultural and Wildlife Damage Prevention Account.

Section 20. Section 4-24-202 is amended to read:

4-24-202. Recordation of brand.

(1) [~~(a) Application for a recorded brand shall be made~~]A person shall submit an application for a recorded brand to the department upon forms prescribed and furnished by the department.

[~~(b)~~](a) The application shall contain the following information:

(i) the name of each applicant;

(ii) a single designated address where the department will send a notice of brand renewal; and

(iii) a description of the brand that is the subject of the application.

[~~(c)~~](b) [~~An~~]The department may not approve an application [~~may not be approved~~]without payment of the appropriate recording fee.

[~~(d)~~](c) Upon receipt of a proper application, payment of the recording fee, and recordation of the brand in the central Brand Registry of the department, the commissioner shall issue the applicant a certified copy of recording that entitles the applicant to the exclusive use of the brand recorded.

(2) (a) A recorded brand filed with the central Brand Registry expires during the calendar year 1980, and during each fifth or tenth year thereafter. The applicant at the time of application shall decide whether the brand filed with the central Brand Registry expires during the fifth or the tenth year.

(b) (i) The department shall send notice in writing to the address designated under Subsection (1)(b)(ii) within a reasonable time before the date of expiration of recordation.

(ii) The notice required by this Subsection (2)(b) may be provided by email or regular mail at the department's discretion.

(iii) The holder of a registered brand has an affirmative duty to inform the department of a change to the contact information provided on the initial application for a recorded brand.

(c) Brand renewal is affected by filing an appropriate application with the department together with payment of the renewal fee.

(d) A recorded brand, not timely renewed, shall lapse and be removed from the central Brand Registry.

Section 21. Section 4-30-105 is amended to read:

4-30-105. License required -- Application -- Fee -- Expiration -- Renewal.

(1) (a) [~~No person may~~]A person may not operate a livestock market in this state without a license issued by the department.

(b) [~~Application for a license shall be made~~]A person shall submit an application for a licenseto the department upon forms prescribed and furnished by the department, and the application shall specify:

(i) if the applicant is an individual, the name, address, and [~~date of birth~~]age of the applicant; or

(ii) if the applicant is a partnership, corporation, or association, the name, address, and [~~date of birth~~]age of each person who has a financial interest in the applicant and the amount of each person's interest;

(iii) a certified statement of the financial assets and liabilities of the applicant detailing:

(A) current assets;

(B) current liabilities;

(C) long-term assets; and

(D) long-term liabilities;

(iv) a legal description of the property where the market is proposed to be located, the property's street address, and a description of the facilities proposed to be used in connection with the property;

(v) a schedule of the charges or fees the applicant proposes to charge for each service rendered; and

(vi) a detailed statement of the trade area proposed to be served by the applicant, the potential benefits which will be derived by the livestock industry, and the specific services the applicant intends to render at the livestock market.

(2) (a) Upon receipt of a proper application, payment of a license fee in an amount determined by the department pursuant to Subsection 4-2-103(2), the commissioner, if satisfied that the convenience and necessity of the industry and the public will be served, shall issue a license allowing the applicant to operate the livestock market proposed in the application valid through December 31 of the year in which the license is issued, subject to suspension or revocation for cause.

(b) A livestock market license is annually renewable on or before December 31 of each year upon the payment of an annual license renewal fee in an amount determined by the department pursuant to Subsection 4-2-103(2).

(3) [~~No~~]The department may not issue a livestock market original or renewal license [~~may be issued~~]until the applicant has provided the department with a certified copy of a surety bond filed with the United States Department of Agriculture as required by the Packers and Stockyards Act, 1921, 7 U.S.C. Section 181 et seq.

Section 22. Section 4-39-203 is amended to read:

4-39-203. License required to operate a domesticated elk facility.

(1) A person may not operate a domesticated elk facility without first obtaining a license from the department.

(2) (a) [~~Each~~]An application for a license to operate a domesticated elk facility shall be accompanied by a fee.

(b) The fee shall be established by the department in accordance with Section 63J-1-504.

(3) [~~Each~~]An applicant for a domesticated elk facility license shall submit an application providing all information in the form and manner as required by the department.

(4) (a) [~~No license shall be issued until the department has inspected and approved~~]The department may not issue a license until the department inspects and approves the facility.

(b) The department shall:

(i) notify the Division of Wildlife Resources at least 48 hours [~~prior to~~]before a scheduled inspection so that a Division of Wildlife Resources representative may be present at the inspection; and

(ii) provide the Division of Wildlife Resources with copies of all licensing and inspection reports.

(5) Each separate location of the domesticated elk operation shall be licensed separately.

(6) (a) If a domesticated elk facility is operated under more than one business name from a single location, the name of each operation shall be listed with the department in the form and manner required by the department.

(b) The department shall require that a separate fee be paid for each business name listed.

(c) If a domesticated elk facility operates under more than one business name from a single location, each facility shall maintain separate records.

(7) [~~Each person or business entity~~]A person with an equity interest in the domesticated elk shall be listed on the application for license.

(8) [~~Each~~]A domesticated elk facility license shall expire on [~~July 1~~]June 30 in the year following the year of issuance.

(9) [~~Each~~]A licensee shall report to the department, in the form and manner required by the department, any change in the information provided in the licensee's application or in the reports previously submitted, within 15 days of each change.

(10) [~~Licenses~~]A license issued pursuant to this section [~~are~~]is not transferable.

Section 23. Section 4-39-205 is amended to read:

4-39-205. License renewal.

(1) To renew a license, the licensee shall submit to the department the following:

(a) renewal fee;

(b) paperwork showing that the:

(i) domesticated elk, on the domesticated elk facility, have been inspected and certified by the department for health [~~,~~]and proof of ownership[~~, and genetic purity certification~~] for all elk imported into the state; and

(ii) facility has been properly maintained, as provided in this chapter, during the immediately preceding 60-day period; and

(c) record of each purchase of domesticated elk and transfer of domesticated elk into the facility, which shall include the following information:

(i) name [~~,~~]and address[~~, and health approval number~~] of the source;

(ii) date of transaction; and

(iii) number and sex.

(2) (a) If the renewal fee and paperwork are not received on or before April 30, the department shall charge a late fee [~~will be charged~~].

(b) A license may not be renewed until the renewal fee and any late fee is paid.

(3) If the application and fee for renewal are not received on or before [~~July 1~~]June 30, the license may not be renewed, and a new license shall be required.

Section 24. Section 4-39-206 is amended to read:

4-39-206. Records to be maintained.

(1) The following records and information shall be maintained by a domesticated elk facility for the life of the animal plus [~~two~~]five years:

(a) records of purchase, acquisition, distribution, and production histories of domesticated elk;

(b) records documenting antler harvesting, production, and distribution; and

(c) health certificates.

(2) For purposes of carrying out [~~the provisions of~~]this chapter and rules made under this chapter, at any reasonable time during regular business hours, the department shall have free and unimpeded access to inspect all records required to be kept.

(3) The department may make copies of the records referred to in this section.

Section 25. Section 4-39-301 is amended to read:

4-39-301. Proof of source.

The department shall require [~~:~~]

[~~(1) that each domesticated elk, including gametes, eggs, or sperm, imported into the state:~~]

[~~(a) test negative for the red deer genetic factor;~~]

[~~(b) be registered with gold or silver status with the North American Elk Breeders Association; or~~]

[~~(c) come from a state which has a red deer genetic factor prevention program approved by the department; and~~]

[~~(2)~~] proof that the domesticated elk originates from a legal source as provided in Section 4-39-302.

Section 26. Section 4-39-303 is amended to read:

4-39-303. Importation of domesticated elk -- Enforcement.

(1) A person may not import domesticated elk into the state for use in domesticated elk facilities without first obtaining:

(a) an entry permit from the state veterinarian's office; and

(b) a domesticated elk facility license from the department.

(2) The entry permit shall include the following information and certificates:

(a) a health certificate with an indication of the current health status;

[~~(b) proof of genetic purity as required in Section 4-39-301;~~]

[~~(c)~~](b) the name and address of the consignor and consignee;

[~~(d)~~](c) proof that the elk are:

(i) tuberculosis free; or

(ii) enrolled in a tuberculosis herd monitoring accreditation program administered by the United State Department of Agriculture or the Canadian Food Inspection Agency;

[~~(c)~~](d) the origin of shipment;

[~~(d)~~](e) the final destination;

[~~(e)~~](f) the total number of animals in the shipment;

[~~(h)~~](g) for an elk imported from east of the 100 degree meridian, proof that the elk has been dewormed in accordance with Subsection (3)(a); and

[~~(i)~~](h) any other information required by the state veterinarian's office or the department.

(3) In addition to the requirements described in Subsections (1) and (2), a person importing a domesticated elk from east of the 100 degree meridian shall:

(a) deworm the elk within 60 days before arrival in the state;

(b) deworm or harvest the elk no later than 150 days after arrival in the state;

(c) for a bull sent to an elk ranch:

(i) hold the bull for harvest until the bull has completed a slaughter withdrawal period; or

(ii) be able to demonstrate that the elk is free from dewormer residue; and

(d) make the elk available to the department for monitoring and inspection upon request by the department.

(4) The department may stop the importation of a domesticated elk or quarantine a domesticated elk if the department identifies the spread of meningeal worm in the elk or the elk's domesticated herd.

(5) A person who imports domesticated elk into the state from an international herd:

(a) may only import domesticated elk:

(i) that are male; and

(ii) to an elk ranch for use in the elk ranch; and

(b) shall ensure that the domesticated elk are harvested in the same season in which the domesticated elk enter the state.

(6) For the purpose of enforcing Subsection (5), the department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the use of radio frequency identification tags to track male elk imported into the state from an international herd.

Section 27. Section 4-39-304 is amended to read:

4-39-304. Marking domesticated elk.

[~~(1) Each~~]A domesticated elk shall be marked by [~~either an official USDA tag or by~~]an electronic identification tag [~~, as provided in Subsection (2):~~]and unique visual tag pursuant to rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(a) within 30 days of a change of ownership; or~~]

[~~(b) in the case of newborn calves, within 15 days after being weaned, but in any case, no later than January 31.~~]

[~~(2) If a domesticated elk is identified with an electronic identification tag, it shall be placed in the right ear.~~]

Section 28. Section 4-41a-204 is amended to read:

4-41a-204. Operating plan.

(1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of the proposed facility or, for a cannabis cultivation facility, no more than two facility locations, including a floor plan and an architectural elevation;

(b) a description of the credentials and experience of:

(i) each officer, director, and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26B-4-202;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

(g) for a cannabis cultivation facility, the information described in Subsection (2);

(h) for a cannabis processing facility, the information described in Subsection (3); and

(i) for an independent cannabis testing laboratory, the information described in Subsection (4).

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:

(i) cannabis cultivation practices, including the facility's intended pesticide use and [~~fertilizer~~]plant food use; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.

(b) Except as provided in Subsection (2)(c)(i) or (c)(ii), a cannabis cultivation facility may not:

(i) for a facility that cultivates cannabis only indoors, use more than 100,000 total square feet of cultivation space;

(ii) for a facility that cultivates cannabis only outdoors, use more than four acres for cultivation; and

(iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).

(c) (i) Each licensee may apply to the department for:

(A) a one-time, permanent increase of up to 20% of the limitation on the cannabis cultivation facility's cultivation space; or

(B) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on the cannabis cultivation facility's cultivation space.

(ii) After conducting a review equivalent to the review described in Subsection 4-41a-205(2)(a), if the department determines that additional cultivation is needed, the department may:

(A) grant the one-time, permanent increase described in Subsection (2)(c)(i)(A); or

(B) grant the short-term increase described in Subsection (2)(c)(i)(B).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b), the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation.

(e) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor cultivation that:

(i) does not exceed, in estimated cultivation yield, the aggregate limitations described in Subsection (2)(b)(i) or (ii); and

(ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

(f) (i) The department may authorize a cannabis cultivation facility to operate at no more than two separate locations.

(ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two cannabis cultivation facility locations combined may not exceed the cultivation limitations described in this Subsection (2).

(3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:

(a) offered variety of cannabis product;

(b) cannabinoid extraction method;

(c) cannabinoid extraction equipment;

(d) processing equipment;

(e) processing techniques; and

(f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:

(a) cannabis and cannabis product testing capability;

(b) cannabis and cannabis product testing equipment; and

(c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

(5) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

Section 29. Section 4-46-302 is amended to read:

4-46-302. Program -- Use of money in fund -- Criteria -- Administration.

(1) Subject to Subsection (2), the board shall administer the LeRay McAllister Working Farm and Ranch Fund Program under which the board may authorize the use of money in the fund, by grant, to:

(a) a local entity;

(b) the Department of Natural Resources created under Section 79-2-201;

(c) an entity within the department; or

(d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code.

(2) (a) The money in the fund shall be used for preserving or restoring open land and agricultural land.

(b) Except as provided in Subsection (2)(c), money from the fund:

(i) may be used to:

(A) establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act; or

(B) fund similar methods to preserve open land or agricultural land; and

(ii) may not be used to purchase a fee interest in real property to preserve open land or agricultural land.

(c) Money from the fund may be used to purchase a fee interest in real property to preserve open land or agricultural land if:

(i) the property to be purchased is no more than 20 acres in size; and

(ii) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.

(d) Eminent domain may not be used or threatened in connection with any purchase using money from the fund.

(e) A parcel of land larger than 20 acres in size may not be divided to create one or more parcels that are smaller than 20 acres in order to comply with Subsection (2)(c)(i).

(f) A local entity, department, or organization under Subsection (1) may not receive money from the fund unless the local entity, department, or organization provides matching funds equal to or greater than the amount of money received from the fund.

(g) In granting money from the fund, the board may impose conditions on the recipient as to how the money is to be spent.

(h) The board shall give priority to:

(i) working agricultural land; and

(ii) after giving priority to working agricultural land under Subsection (2)(h)(i), requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the fund if the money is used for the protection of wildlife or watershed.

(i) (i) The board may not make a grant from the fund that exceeds $1,000,000 until after making a report to the Legislative Management Committee about the grant.

(ii) The Legislative Management Committee may make a recommendation to the board concerning the intended grant, but the recommendation is not binding on the board.

(3) In determining the amount and type of financial assistance to provide a local entity, department, or organization under Subsection (1) and subject to Subsection (2)(i), the board shall consider:

(a) the nature and amount of open land and agricultural land proposed to be preserved or restored;

(b) the qualities of the open land and agricultural land proposed to be preserved or restored;

(c) the cost effectiveness of the project to preserve or restore open land or agricultural land;

(d) the funds available;

(e) the number of actual and potential applications for financial assistance and the amount of money sought by those applications;

(f) the open land preservation plan of the local entity where the project is located and the priority placed on the project by that local entity;

(g) the effects on housing affordability and diversity; and

(h) whether the project protects against the loss of private property ownership.

(4) If a local entity, department, or organization under Subsection (1) seeks money from the fund for a project whose purpose is to protect critical watershed, the board shall require that the needs and quality of that project be verified by the state engineer.

(5) An interest in real property purchased with money from the fund shall be held and administered by the state or a local entity.

(6) (a) The board may not authorize the use of money under this section for a project unless the land use authority for the land in which the project is located consents to the project.

(b) To obtain consent to a project, the person who is seeking money from the fund shall submit a request for consent to a project with the applicable land use authority. The land use authority may grant or deny consent. If the land use authority does not take action within 60 days from the day on which the request for consent is filed with the land use authority under this Subsection (6), the board shall treat the project as having the consent of the land use authority.

(c) An action of a land use authority under this Subsection (6) is not a land use decision subject to:

(i) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(ii) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

Section 30. Section 4-46-304 is amended to read:

4-46-304. Agriculture Conservation Easement Account.

(1) There is created [~~within the General Fund a restricted account~~]an expendable special revenue fund known as the Agriculture Conservation Easement Account.

(2) The Agriculture Conservation Easement Account consists of:

(a) conservation easement stewardship fees;

(b) grants from private foundations;

(c) grants from local governments, the state, or the federal government;

(d) grants from the Land Conservation Board created under Section 4-46-201;

(e) donations from landowners for monitoring and enforcing compliance with conservation easements;

(f) donations from any other person; and

(g) interest on account money.

(3) [~~Upon appropriation by the Legislature, the~~]The department shall use money from the account to monitor and enforce compliance with conservation easements held by the department.

(4) The department may not receive or expend donations from the account to acquire conservation easements.

Section 31. Section 10-11-1 is amended to read:

10-11-1. Abatement of weeds, garbage, public nuisances, and hazardous materials -- Selection of service provider.

(1) As used in this chapter, "hazardous materials" means the same as that term is defined in Section 19-6-902.

(2) A municipal legislative body may:

(a) designate and regulate the abatement of:

(i) the growth and spread of injurious and noxious weeds;

(ii) garbage and refuse;

(iii) a public nuisance;

(iv) an illegal object or structure; or

(v) for a structure or any real property closed to occupancy or entry by a local health department, hazardous materials; and

(b) appoint a municipal inspector for the purpose of carrying out and in accordance with the provisions of this chapter.

(3) A municipal legislative body may not:

(a) prohibit an owner or occupant of real property within the municipality's jurisdiction, including an owner or occupant who receives a notice in accordance with Section 10-11-2, from selecting a person, as defined in Section 10-1-104, to provide an abatement service for injurious and noxious weeds, garbage and refuse, a public nuisance, or an illegal object or structure; or

(b) require that an owner or occupant described in Subsection (3)(a) use the services of the municipal inspector or any assistance employed by the municipal inspector described in Section 10-11-3 to provide an abatement service described in Subsection (3)(a).

(4) A municipality may require that an owner or occupant described in Subsection (3)(a) use the abatement services, as described in Section 10-11-3, of the municipal inspector, including the use of a certified decontamination specialist as described in Section 19-6-906, or any assistance employed by the municipal inspector if:

(a) the municipality adopts an ordinance providing a reasonable period of time of at least 10 days for an owner or occupant to abate the owner's or occupant's property after receiving a notice described in Section 10-11-2; and

(b) the owner or occupant fails to abate the property within the reasonable period of time and in accordance with the notice.

(5) A municipality may require that an owner or occupant use the abatement services of a certified decontamination specialist to abate hazardous materials.

(6) Nothing in this chapter may be construed:

(a) as authorizing a municipality to regulate items that are within the exclusive jurisdiction of the Department of Agriculture and Food

as provided in Section 4-2-305, including commercial feed, [~~fertilizer~~]plant food, pesticides, and seeds; or

(b) as limiting or abrogating the authority of a local health department under Section 19-6-905.

Section 32. Section 11-46b-101 is enacted to read:

CHAPTER 46b. REGULATION OF LIVESTOCK

11-46b-101. Definitions.

As used in this chapter:

(1) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, or domesticated elk as defined in Section 4-39-102.

(2) "Political subdivision" means:

(a) a municipality as defined in Section 10-1-104; or

(b) a county, as it relates to the regulation of livestock in the unincorporated area of the county.

Section 33. Section 11-46b-102 is enacted to read:

11-46b-102. Actions allowed regarding livestock.

(1) If an ordinance, resolution, or policy of a political subdivision permits a person to own livestock within the political subdivision's boundaries, the political subdivision shall, in accordance with this chapter, permit the person to trade, sell, or otherwise transfer the livestock up to the number of livestock the person is permitted to own by the political subdivision.

(2) A political subdivision may require a business license for a person described in Subsection (1) to trade, sell, or otherwise transfer livestock, except that the political subdivision may not deny the issuance of a business license based in whole or in part on the fact that the person owns livestock or is trading, selling, or otherwise transferring the livestock.

Section 34. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenue.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) (A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(f)(i)(A)(I).

(j) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(k) (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l) (i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Wildlife Resources to:

(A) implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Division of Wildlife Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be [~~deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106~~]transferred each year as designated sales and use tax revenue to the Division of Conservation created in Section 4-46-401to implement water related programs.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7) (a) Notwithstanding Subsection (3)(a) and subject to Subsections (7)(b), (c), and (d), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to .44% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

(ii) The commission shall annually deposit the amount described in Subsection (7)(b)(i) into the Cottonwood Canyons Transportation Investment Fund created in Section 72-2-124.

(c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenue transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(d) (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under this Subsection (7) by an amount that is equal to 1% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

(ii) The commission shall annually deposit the amount described in Subsection (7)(d)(i) into the Commuter Rail Subaccount created in Section 72-2-124.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) [~~and(d)(ii)~~], for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenue collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid ACA Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13) (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenue collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(f)(i)(A)(I).

(16) Notwithstanding Subsection (3)(a), beginning October 1, 2024 the commission shall transfer to the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring within the district sales tax area, as defined in Section 11-70-101.

(17) (a) As used in this Subsection (17):

(i) "Additional land" means point of the mountain state land described in Subsection 11-59-102(6)(b) that the point of the mountain authority acquires after the point of the mountain authority provides the commission a map under Subsection (17)(c).

(ii) "Point of the mountain authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(iii) "Point of the mountain state land" means the same as that term is defined in Section 11-59-102.

(b) Notwithstanding Subsection (3)(a), the commission shall distribute to the point of the mountain authority 50% of the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring on the point of the mountain state land.

(c) The distribution under Subsection (17)(b) shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map that:

(i) accurately describes the point of the mountain state land; and

(ii) the point of the mountain authority certifies as accurate.

(d) A distribution under Subsection (17)(b) with respect to additional land shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map of point of the mountain state land that:

(i) accurately describes the point of the mountain state land, including the additional land; and

(ii) the point of the mountain authority certifies as accurate.

(e) (i) Upon the payment in full of bonds secured by the sales and use tax revenue distributed to the point of the mountain authority under Subsection (17)(b), the point of the mountain authority shall immediately notify the commission in writing that the bonds are paid in full.

(ii) The commission shall discontinue distributions of sales and use tax revenue under Subsection (17)(b) at the beginning of the calendar quarter that begins at least 90 days after the date that the commission receives the written notice under Subsection (17)(e)(i).

Section 35. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund Program created in [~~Section 4-46-301~~]Title 4, Chapter 46, Part 3, LeRay McAllister Working Farm and Ranch Fund Program.

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The primary care grant program created in Section 26B-4-310.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(12) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(16) The Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program created in Section 26B-7-122.

(17) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(18) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(19) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

(20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(21) The Emergency Medical Services Grant Program in Section 53-2d-207.

(22) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(23) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(24) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(25) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The State Capitol Preservation Board created by Section 63O-2-201.

(28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) County correctional facility reimbursement program for state probationary inmates and state parole inmates as described in Section 64-13e-104.

(34) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(35) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(36) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(37) The Traffic Noise Abatement Program created in Section 72-6-112.

(38) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(39) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(40) A state rehabilitative employment program, as provided in Section 78A-6-210.

(41) The Utah Geological Survey, as provided in Section 79-3-401.

(42) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(43) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(44) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(45) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(46) The State Tax Commission for reimbursing counties for deferrals in accordance with Section 59-2-1802.5.

(47) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 36. Section 73-10g-205 is amended to read:

73-10g-205. Agricultural Water Optimization Committee.

(1) There is created in the department a committee known as the "Agricultural Water Optimization Committee" that consists of:

(a) the commissioner of the department, or the commissioner's designee;

(b) the director of the division, or the director's designee;

(c) the director of the Division of Water Rights, or the director's designee;

(d) the dean of the College of Agriculture and Applied Science from Utah State University, or the dean's designee;

(e) one individual representing local conservation districts created by Title 17D, Chapter 3, Conservation District Act, appointed by the executive director of the Department of Natural Resources;

(f) one individual representing water conservancy districts, appointed by the executive director of the Department of Natural Resources; and

(g) three Utah residents representing the interests of the agriculture industry appointed by the executive director of the Department of Natural Resources.

(2) (a) An individual appointed under Subsection (1) shall serve for a term of four years.

(b) Notwithstanding the requirements of Subsection (2)(a), the executive director of the Department of Natural Resources shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(3) (a) The presence of five members constitutes a quorum.

(b) The vote of five members constitutes the transaction of business by the committee.

(c) The committee shall select one of the committee's members to be chair. The committee may select a member to be vice chair to act in place of the chair:

(i) during the absence or disability of the chair; or

(ii) as requested by the chair.

(d) The committee shall convene at the times and places prescribed by the chair.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The department shall provide administrative support to the committee.

(6) The committee shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(a) eligibility requirements for a grant issued under Section 73-10g-206, except that the eligibility requirements shall:

(i) require at least a match for grant money of 50% of the total costs, except that for a grant application filed on or after January 1, 2024, the eligibility requirements shall require at least a match of 25% of the total costs for:

(A) a subsurface drip [~~or automated surge~~]irrigation project;

(B) an automated surge irrigation project; or

(C) a measurement, telemetry, or reporting project;

(ii) consider the statewide need to distribute grant money;

(iii) require a grant recipient to construct or install and maintain one or more measuring devices as necessary to comply with Section 73-5-4 and rules adopted by the Division of Water Rights regarding installation, use, and maintenance of devices to measure water use and to demonstrate water use in accordance with a project funded by a grant; and

(iv) require a grant recipient to report water diversion and use measurements to the state engineer pursuant to Section 73-5-4 and rules made by the state engineer, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for water measurement and reporting;

(b) the process for applying for a grant issued under Section 73-10g-206; and

(c) preliminary screening criteria to be used by the department under Subsection 73-10g-206(2)(d).

(7) The committee shall, in coordination with the division:

(a) as of July 1, 2023, assume oversight of all remaining research and contracts of the previous Agricultural Water Optimization Task Force activities;

(b) post research to address and account for farm economics at the enterprise and community level that affects agricultural water optimization and encourage market behavior that financially rewards agricultural water optimization practices;

(c) oversee research to identify obstacles to and constraints upon optimization of agricultural water use, and to recommend management tools, technologies, and other opportunities to optimize agricultural water use as measured at the basin level; and

(d) facilitate benefits for farmers who optimize water use and protect water quality.

(8) The committee shall comply with Section 73-10g-206 related to grants issued under this part.

Section 37. Repealer.

This bill repeals:

Section 4-13-101, Title.

Section 4-18-107, Utah Agriculture Certificate of Environmental Stewardship Program.

Section 19-5-105.6, Agriculture Certificate of Environmental Stewardship.

Section 38. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 92
H. B. 254
Passed February 24, 2025
Approved March 24, 2025
Effective May 7, 2025

WASTE CLASSIFICATION AMENDMENTS

Chief Sponsor: Bridger Bolinder
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill relates to nuclear waste classification.

Highlighted Provisions:

This bill:

► modifies the definition of high-level nuclear waste and low-level radioactive waste; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-3-102, as last amended by Laws of Utah 2017, Chapter 360
19-3-303, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 19-3-102 is amended to read:

19-3-102. Definitions.

As used in this chapter:

(1) "Board" means the Waste Management and Radiation Control Board created under Section 19-1-106.

(2) (a) "Broker" means a person [~~who~~]that performs one or more of the following functions for a generator:

(i) arranges for transportation of the radioactive waste;

(ii) collects or consolidates shipments of radioactive waste; or

(iii) processes radioactive waste in some manner.

(b) "Broker" does not include a carrier whose sole function is to transport the radioactive waste.

(3) "Byproduct material" means the same as that term is defined in 42 U.S.C. Sec. 2014(e)(2).

(4) "Class B and class C low-level radioactive waste" means the same as that term is defined in 10 C.F.R. Sec. 61.55.

(5) "Director" means the director of the Division of Waste Management and Radiation Control.

(6) "Division" means the Division of Waste Management and Radiation Control [~~,~~] created in Subsection 19-1-105(1)(d).

(7) "Generator" means a person [~~who~~]that:

(a) possesses any material or component:

(i) that contains radioactivity or is radioactively contaminated; and

(ii) for which the person foresees no further use; and

(b) transfers the material or component to:

(i) a commercial radioactive waste treatment or disposal facility; or

(ii) a broker.

(8) "High-level nuclear waste" means the same as the term "high-level radioactive waste" is defined in 42 U.S.C. Sec. 10101.

[~~(8) (a) "High-level nuclear waste" means spent reactor fuel assemblies, dismantled nuclear reactor components, and solid and liquid wastes from fuel reprocessing and defense-related wastes.~~]

[~~(b) "High-level nuclear waste" does not include medical or institutional wastes, naturally occurring radioactive materials, or uranium mill tailings.~~]

[~~(9) (a) "Low-level radioactive waste" means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release.~~]

[~~(b) "Low-level radioactive waste" does not include waste containing more than 100 nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations.~~]

(9) "Low-level radioactive waste" means the same as that term is defined in 42 U.S.C. Sec. 10101.

(10) "Radiation" means ionizing and nonionizing radiation, including gamma rays, X-rays, alpha and beta particles, high speed electrons, and other nuclear particles.

(11) "Radioactive" means any solid, liquid, or gas which emits radiation spontaneously from decay of unstable nuclei.

(12) "Unlicensed facility" means a structure, road, or property:

(a) adjacent to, but outside of, a licensed or permitted area; and

(b) that is not used for waste disposal or waste management.

Section 2. Section 19-3-303 is amended to read:

19-3-303. Definitions.

As used in this part:

(1) "Final judgment" means a final ruling or judgment, including any supporting opinion, that determines the rights of the parties and concerning which all appellate remedies have been exhausted or the time for appeal has expired.

(2) "Goods" means any materials or supplies, whether raw, processed, or manufactured.

(3) "Greater than class C radioactive waste" means low-level radioactive waste that has higher concentrations of specific radionuclides than allowed for class C waste.

(4) "Gross value of the contract" means the totality of the consideration received for any goods, services, or municipal-type services delivered or rendered in the state without any deduction for expense paid or accrued with respect to it.

(5) "High-level nuclear waste" [~~has the same meaning as in~~]means the same as that term is defined in Section 19-3-102.

(6) "Municipal-type services" includes, but is not limited to:

(a) fire protection service;

(b) waste and garbage collection and disposal;

(c) planning and zoning;

(d) street lighting;

(e) life support and paramedic services;

(f) water;

(g) sewer;

(h) electricity;

(i) natural gas or other fuel; or

(j) law enforcement.

(7) "Organization" means a corporation, limited liability company, partnership, limited liability partnership, joint venture, consortium, association, trust, or other entity formed to undertake an enterprise, whether or not for profit.

(8) "Placement" means transportation, transfer, storage, decay in storage, treatment, or disposal.

(9) "Political subdivision" means any county, city, town, school district, public transit district, redevelopment agency, special improvement or taxing district, or other governmental subdivision or public corporation.

(10) "Rule" means a rule made by the department under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) "Service" or "services" means any work or governmental program which provides a benefit.

(12) "Storage facility" means any facility which stores, holds, or otherwise provides for the emplacement of waste regardless of the intent to recover that waste for subsequent use, processing, or disposal.

(13) "Transfer facility" means any facility which transfers waste from and between transportation modes, vehicles, cars, or other units, and includes rail terminals and intermodal transfer points.

(14) "Waste" or "wastes" means high-level nuclear waste and greater than class C radioactive waste.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 93
H. B. 520
Passed March 6, 2025
Approved March 24, 2025
Effective July 1, 2025

WATER ENTITY AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill addresses various water entities including their relationship with the Department of Natural Resources

Highlighted Provisions:

This bill:

- ► removes certain water agencies from a definition of an independent entity;
- ► modifies provisions governing the water trust for the Great Salt Lake, including expanding the duties of the Great Salt Lake Trust Council;
- ► requires the state water agent to coordinate with the Department of Natural Resources (department);
- ► moves the Great Salt Lake commissioner and the Office of the Great Salt Lake Commissioner to be within the department;
- ► requires the review by the Great Salt Lake Trust Council of certain expenditures of the Great Salt Lake commissioner; and
- ► makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63H-9-101, as enacted by Laws of Utah 2024, Chapter 370
65A-16-101, as last amended by Laws of Utah 2023, Chapter 205
65A-16-202, as last amended by Laws of Utah 2023, Chapter 205
65A-16-203, as last amended by Laws of Utah 2024, Chapter 300
65A-16-301, as last amended by Laws of Utah 2024, Chapter 300
73-10-18, as last amended by Laws of Utah 2024, Chapter 522
73-10g-703, as enacted by Laws of Utah 2024, Chapter 522
73-32-101, as enacted by Laws of Utah 2023, Chapter 205
73-32-201, as enacted by Laws of Utah 2023, Chapter 205
73-32-202, as enacted by Laws of Utah 2023, Chapter 205
73-32-302, as last amended by Laws of Utah 2024, Chapter 443
73-32-303, as last amended by Laws of Utah 2024, Chapter 25
79-2-201, as last amended by Laws of Utah 2024, Chapter 507

ENACTS:

65A-16-302, Utah Code Annotated 1953
73-32-102, Utah Code Annotated 1953

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

Section 1. Section 63H-9-101 is amended to read:
63H-9-101. Definitions.

As used in this chapter:

(1) "Best practices toolbox" means the collection of resources for governmental entities provided on the website of the Office of the Legislative Auditor General that includes a best practice self-assessment and other resources, tools, surveys, and reports designed to help government organizations better serve the citizens of the state.

(2) "Consensus group" means the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst.

(3) (a) "Independent entity" means an entity that:

(i) has a public purpose relating to the state or its citizens;

(ii) is individually created by the state;

(iii) is separate from the judicial and legislative branches of state government; and

(iv) is not under the direct supervisory control of the governor.

(b) "Independent entity" does not include an entity that is:

(i) a county;

(ii) a municipality as defined in Section 10-1-104;

(iii) an institution of higher education as defined in Section 53B-2-102;

(iv) a public school as defined in Section 53G-8-701;

(v) a special district as defined in Section 17B-1-102;

(vi) a special service district as defined in Section 17D-1-102;

(vii) created by an interlocal agreement as described in Section 11-13-203; or

(viii) an elective constitutional office, including the state auditor, the state treasurer, and the attorney general.

(c) Independent entities that are subject to the provisions of this chapter include the:

(i) Career Service Review Office created in Section 67-19a-201;

(ii) Capitol Preservation Board created in Section 63C-9-201;

[~~(iii) Colorado River Authority created in Section 63M-14-201;~~]

[~~(iv)~~](iii) Heber Valley Historic Railroad Authority created in Section 63H-4-102;

[~~(v)~~](iv) Military Installation Development Authority created in Section 63H-1-201;

[~~(vi) Office of the Great Salt Lake Commissioner created in Section 73-32-301;~~]

[~~(vii)~~](v) Office of Inspector General of Medicaid Services created in Section 63A-13-201;

[~~(viii)~~](vi) Point of the Mountain State Land Authority created in Section 11-59-201;

[~~(ix)~~](vii) Public Service Commission created in Section 54-1-1;

[~~(x)~~](viii) School and Institutional Trust Fund Office created in Section 53C-1-201;

[~~(xi)~~](ix) School and Institutional Trust Lands Administration created in Section 53D-1-201;

[~~(xii)~~](x) Utah Beef Council created in Section 4-21-103;

[~~(xiii)~~](xi) Utah Capital Investment Corporation created in Section 63N-6-301;

[~~(xiv)~~](xii) Utah Communications Authority created in Section 63H-7a-201;

[~~(xv)~~](xiii) Utah Dairy Commission created in Section 4-22-103;

[~~(xvi)~~](xiv) Utah Education and Telehealth Network created in Section 53B-17-105;

[~~(xvii)~~](xv) Utah Housing Corporation created in Section 63H-8-201;

[~~(xviii)~~](xvi) Utah Inland Port Authority created in Section 11-58-201;

[~~(xix)~~](xvii) Utah Innovation Lab created in Section 63N-20-201;

[~~(xx)~~](xviii) Utah Lake Authority created in Section 11-65-201;

[~~(xxi)~~](xix) Utah Retirement Systems created in Section 49-11-201; and

[~~(xxii)~~](xx) Utah State Fair Park Authority created in Section 11-68-201.

Section 2. Section 65A-16-101 is amended to read:

65A-16-101. Definitions.

As used in this chapter:

(1) "Commissioner" means the Great Salt Lake commissioner appointed under Section 73-32-201.

(2) "Conservation organization" means an institution, corporation, foundation, or association that is:

(a) private;

(b) nonprofit; and

(c) founded for the purpose of promoting conservation of natural resources.

(3) "Council" means the Great Salt Lake Advisory Council created in Section 73-32-302.

(4) "Division" means the Division of Forestry, Fire, and State Lands.

(5) "Eligible applicant" means two or more conservation organizations that submit a joint grant application to the division under Section 65A-16-201 and meet the criteria listed in Subsection 65A-16-201(3)(a).

(6) "Grant money" means money awarded to an eligible applicant pursuant to this chapter.

(7) "Grantee" means an eligible applicant that receives a grant authorized under this chapter.

(8) "Great Salt Lake watershed" means the area comprised of the Great Salt Lake, the Bear River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River watershed, and the West Desert watershed.

(9) "Program" means the Great Salt Lake Watershed Enhancement Program created under Section 65A-16-201.

(10) "Trust council" means the Great Salt Lake Trust Council created in accordance with Section 65A-16-301.

Section 3. Section 65A-16-202 is amended to read:

65A-16-202. Oversight.

(1) (a) The division shall oversee whether a grantee and the water trust that the grantee establishes comply with this chapter.

(b) In overseeing a grantee under this chapter, the division shall consult with the commissioner.

(c) The trust council shall oversee expenditures of grant money in accordance with Section 65A-16-302.

(2) (a) The division, in consultation with the council and the Division of Water Quality, shall establish by rule made in accordance with Section 65A-16-102, interventions for a grantee or water trust that fails to comply with this chapter.

(b) The rules establishing interventions under Subsection (2)(a) shall include, among other actions, requiring the grantee or water trust to return unexpended grant money to the division for failure to comply with this chapter.

(3) This section may not be construed as limiting the state auditor's enforcement authority under Section 51-2a-201.5.

Section 4. Section 65A-16-203 is amended to read:

65A-16-203. Grantee requirements.

(1) A grantee that receives grant money under this chapter shall:

[~~(1)~~](a) comply with Section 51-2a-201.5, Title 63G, Chapter 6b, State Grants, and other applicable laws, regulations, ordinances, or rules; and

[~~(2)~~](b) use grant money to:

(i) []carry out the objectives of Subsection 65A-16-201(1), subject to approval by the trust council in accordance with Section 65A-16-302; and [~~to~~]

(ii) []operate the water trust in a manner required by Section 65A-16-301[~~, provided that this~~].

(2) This chapter may not be construed as limiting the grantee's ability to obtain funding from other public and private sources to assist in the establishment, operation, and administration of the water trust.

Section 5. Section 65A-16-301 is amended to read:

65A-16-301. Water trust -- Powers and duties -- Advisory councils.

(1) The grantee under this chapter shall establish a water trust that:

(a) is organized:

(i) as a private nonprofit organization; or

(ii) as an agreement between two or more conservation organizations; and

(b) complies with this section.

(2) A water trust created under this section shall:

(a) use a fiduciary to hold and administer grant money appropriated under this chapter;

(b) subject to Subsection (6):

(i) register with the lieutenant governor as a limited purpose entity pursuant to Section 51-2a-201.5;

(ii) file with the state auditor on or before June 30 of each year the accounting report that:

(A) satisfies Subsection 51-2a-201.5(2);

(B) includes an itemized accounting of the in-kind contributions and other monetary contributions described in Subsection (4); and

(C) includes an itemized accounting of the costs incurred under Subsection (3)(a);

(iii) provide a copy of the accounting report described in Subsection (2)(b)(ii) to:

(A) the division;

(B) the commissioner;

(C) the Division of Water Quality;

(D) the council; and

(E) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee;

(iv) file with the division on or before January 31 of each year a report that satisfies the requirements of Subsection 51-2a-201.5(4); and

(v) provide a copy of the report described in Subsection (2)(b)(iv) to:

(A) the Division of Water Quality;

(B) the council; and

(C) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee; and

(c) comply with applicable laws, regulations, ordinances, and rules.

(3) A water trust established by a grantee under this section:

(a) may use grant money for costs to establish, operate, or administer the water trust, including the hiring of staff or contractors;

(b) shall use no less than 25% of the grant money to protect and restore wetlands and habitats in the Great Salt Lake's surrounding ecosystem to benefit the hydrology of the Great Salt Lake; and

(c) may invest grant money the water trust receives under this chapter or any private money the water trust may receive, except that the water trust shall:

(i) invest and account for grant money and private money separately; and

(ii) use the earnings received from the investment of grant money to carry out the purposes described in Subsection 65A-16-201(1).

(4) The water trust shall provide a significant match of in-kind contributions or other monetary contributions to support the water trust's operations and for the purposes described in Subsection 65A-16-201(1).

(5) (a) A water trust established under this section shall create and consult with one or more advisory councils on matters related to the mission and objectives of the water trust.

(b) [~~At least one~~]One of the advisory councils shall be known as the "Great Salt Lake Trust Council" and consist of [~~nine~~]10 members[~~with~~]:

(i) the commissioner or the commissioner's designee; and

(ii) a representative from the following:

[~~(i)~~](A) agriculture;

[~~(ii)~~](B) a private land owner adjacent to the Great Salt Lake;

[~~(iii)~~](C) a conservation organization dedicated to the preservation of migratory waterfowl;

[~~(iv)~~](D) a conservation organization dedicated to the protection of non-game avian species;

[~~(v)~~](E) another conservation organization working on Great Salt Lake issues;

[~~(vi)~~](F) aquaculture;

[~~(vii)~~](G) mineral extraction;

[~~(viii)~~](H) a water conservancy district; and

[~~(ix)~~](I) wastewater treatment facilities.

(6) The duties of the water trust under Subsection (2)(b) apply to the water trust notwithstanding whether the holdings, revenues, or expenditures of the water trust include grant money or other money from the state.

Section 6. Section 65A-16-302 is enacted to read:

65A-16-302. Coordination -- Great Salt Lake Trust Council powers and duties.

(1) The commissioner shall coordinate with the water trust concerning projects designed to meet the objectives of Subsection 65A-16-201(1) or to acquire or lease water or water rights for the Great Salt Lake.

(2) The trust council shall set a threshold for expenditures above which the trust council shall review and may approve an expenditure by the grantee or the water trust of grant money if the trust council finds that the expenditure meets the purposes described in Subsection 65A-16-201(1).

(3) In accordance with Subsection 73-32-202(3), the trust council shall review the expenditure of money by the commissioner for a project designed to acquire or lease water or water rights for the Great Salt Lake and may make recommendations regarding the expenditure.

(4) By no later than July 1, 2025, the division, in cooperation with the grantee, shall modify the Great Salt Lake Watershed Enhancement Trust Grant Agreement, signed January 1, 2023, to comply with the requirements imposed under this section and Section 65A-16-301.

Section 7. Section 73-10-18 is amended to read:

73-10-18. Division of Water Resources -- Creation -- Power and authority.

(1) There is created the Division of Water Resources, which shall be within the Department of Natural Resources under the administration and general supervision of the executive director of the Department of Natural Resources and under the policy direction of the Board of Water Resources.

(2) Except for the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act, or state representation under the Bear River Compact or Columbia Interstate Compact, the Division of Water Resources shall:

(a) be the water resource authority for the state; and

(b) assume all of the functions, powers, duties, rights, and responsibilities of the Utah water and power board except those which are delegated to the board by this act and is vested with such other functions, powers, duties, rights and responsibilities as provided in this act and other law.

(3) Notwithstanding Subsection (2), the Utah water agent, appointed under Section 73-10g-702, has authority over out-of-state negotiations related to water importation in accordance with [~~Chapter 10g, Part 6, Utah Water Agent~~]Chapter 10g, Part 7, Utah Water Agent, except when limited by Section 73-10g-703.

Section 8. Section 73-10g-703 is amended to read:

73-10g-703. Powers and duties of water agent.

(1) (a) Subject to Subsection (1)(b) and in consultation with the speaker of the House of Representatives, president of the Senate, and governor, the water agent shall explore and negotiate with officials of other states, tribes, and other government entities regarding possible water importation projects, including:

(i) for the citizens of Utah, representing the state concerning waters of out-of-state rivers, lakes, and other sources of supply of waters except when representation is otherwise provided in statute;

(ii) identifying potential out-of-state water resources;

(iii) working with the council and division to match the water resources described in Subsection (1)(a)(ii) to needs identified by the council or division;

(iv) establishing a strategy to designate what out-of-state water resources to pursue and how to execute that strategy;

(v) negotiating directly with out-of-state partners to execute the strategy described in Subsection (1)(a)(iv);

(vi) represent the state in interstate conferences between the state and one or more sister states held for the purpose of entering into compacts between such states for the division of the waters of interstate rivers, lakes, or other sources of water supply, and to represent the state upon commissions or other governing bodies provided for by any compacts that have been or may be entered into between the state and one or more sister states, except that a compact is not binding on the state until the compact is ratified and approved by the Legislature and the legislatures of other states that are parties to the compact;

(vii) recommending to the Legislature and to the council actions that may assist in the development of, strategies for, and execution of water importation projects; and

(viii) annually reporting findings and recommendations to:

(A) the governor;

(B) the president of the Senate;

(C) the speaker of the House of Representatives;

(D) the Legislative Water Development Commission created in Section 73-27-102;

(E) the Natural Resources, Agriculture, and Environment Interim Committee; and

(F) the Board of Water Resources created in Section 73-10-1.5.

(b) The water agent may not act under this section in relation to interests governed by interstate compacts in which Utah is a party, such as the 1922 and 1948 Colorado River Compacts and the 1980 Amended Bear River Compact.

(2) The water agent shall consult and work with the council, state entities, the Colorado River Authority of Utah, and other bodies established by the state for interstate water negotiations.

(3) Subject to Title 63G, Chapter 2, Government Records Access and Management Act, upon request of the water agent, a state or local entity shall provide to the water agent a document, report, or information available within the state or local entity.

(4) The water agent may negotiate with tribes in accordance with this section, except to the extent that the water at issue comes from the Colorado River.

(5) This chapter may not be interpreted to override, substitute, or modify a water right within the state or the role and authority of the state engineer.

(6) In implementing this part, the water agent shall at least monthly coordinate with and receive input from the relevant divisions within the Department of Natural Resources regarding the water agent's activities.

Section 9. Section 73-32-101 is amended to read:

73-32-101. Definitions.

As used in this chapter:

(1) "Account" means the Great Salt Lake Account created in Section 73-32-304.

(2) "Commissioner" means the Great Salt Lake commissioner appointed under Section 73-32-201.

(3) "Council" means the Great Salt Lake Advisory Council created in Section 73-32-302.

(4) "Department" means the Department of Natural Resources.

(5) "Executive director" means the executive director of the department.

[~~(5)~~](6) "Office" means the Office of the Great Salt Lake Commissioner created in Section 73-32-301.

[~~(6)~~](7) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

[~~(7)~~](8) "Strategic plan" means the plan prepared by the commissioner under Sections 73-32-202 and 73-32-204.

Section 10. Section 73-32-102 is enacted to read:

73-32-102. Transition to department.

(1) The commissioner shall cooperate with the department to transition, to the extent consistent with this chapter, the commissioner's functions as a part of the department.

(2) The department shall succeed to any contract in which the commissioner is a party.

Section 11. Section 73-32-201 is amended to read:

73-32-201. Great Salt Lake commissioner appointment.

(1) (a) The governor shall appoint a Great Salt Lake commissioner with the advice and consent of the Senate. The commissioner shall serve within the department and report to the executive director.

(b) Before the governor appoints the commissioner under this section, the governor shall consult with the speaker of the House of Representatives and the president of the Senate concerning the selection of potential candidates for the position of commissioner.

(2) The commissioner shall serve a term of six years and may be appointed to more than one term, but shall be subject to removal at the pleasure of the governor.

(3) The governor shall establish the commissioner's compensation within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Section 12. Section 73-32-202 is amended to read:

73-32-202. Duties and authorizations of the commissioner.

(1) The commissioner,under the administrative oversight of the executive director, shall:

(a) subject to Section 73-32-204, prepare an approved strategic plan for the long-term health of the Great Salt Lake and update the strategic plan regularly;

(b) oversee the execution of the strategic plan by other state agencies as provided in Section 73-32-203;

(c) maintain information that measures Great Salt Lake levels, salinity, and overall health;

(d) meet regularly with the executive director [~~of the department~~]and with the executive director of the Department of Environmental Quality;

(e) consult with the Division of Forestry, Fire, and State Lands regarding Title 65A, Chapter 16, Great Salt Lake Watershed Enhancement Program;

(f) monitor the integrated water assessment conducted under Chapter 10g, Part 4, Great Salt Lake Watershed Integrated Water Assessment;

(g) inform the governor, the president of the Senate, and the speaker of the House of Representatives, at least annually, about the status of the strategic plan and the progress regarding implementation of the strategic plan;

(h) at least annually report to the Executive Appropriations Committee regarding the expenditure of money under this chapter;

(i) work cooperatively with and receive input and recommendations from the Great Salt Lake Trust Council created under Section 65A-16-301 in accordance with Section 65A-16-302;

[~~(i)~~](j) coordinate and work collaboratively with water conservancy districts that serve water users within the Great Salt Lake watershed; and

[~~(j)~~](k) annually report to the Natural Resources, Agriculture, and Environment Interim Committee regarding the activities of the commissioner.

(2) The commissioner may:

(a) access information from other state or federal agencies related to the Great Salt Lake;

(b) develop cooperative agreements between the state, political subdivisions, and agencies of the federal government for involvement in the strategic plan;

(c) produce research, documents, maps, studies, analysis, or other information that supports the strategic plan for the Great Salt Lake;

(d) facilitate and coordinate the exchange of information, comments, and recommendations on Great Salt Lake policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) institutions of higher education that conduct research relevant to the Great Salt Lake;

(iv) nonprofit entities; and

(v) private business;

(e) communicate with the Great Salt Lake Watershed Council created under Chapter 10g, Part 3, Watershed Councils Act; and

(f) perform other duties that the commissioner considers necessary or expedient to carry out the purposes of this chapter.

(3) (a) The commissioner may not expend money for the purpose of acquiring or leasing water or water rights without first obtaining a review and recommendations regarding the expenditure from the Great Salt Lake Trust Council created in accordance with Section 65A-16-301.

(b) The Great Salt Lake Trust Council shall review an expenditure described in Subsection (3)(a) and may make a favorable recommendation if the Great Salt Lake Trust Council finds that the expenditure is consistent with:

(i) the strategic plan; and

(ii) activities of the water trust created in Title 65A, Chapter 16, Great Salt Lake Watershed Enhancement Program.

[~~(3)~~](4) In fulfilling the duties under this chapter, the commissioner shall consult and coordinate, as necessary, with:

(a) divisions within the department;

(b) the Department of Agriculture and Food;

(c) the Department of Environmental Quality;

(d) other applicable state agencies;

(e) political subdivisions of the state;

(f) federal agencies;

(g) elected officials; and

(h) local tribal officials.

Section 13. Section 73-32-302 is amended to read:

73-32-302. Advisory council created -- Staffing -- Per diem and travel expenses -- Annual conflict of interest disclosure statement -- Exception -- Penalties.

(1) There is created an advisory council known as the "Great Salt Lake Advisory Council" consisting of 11 members listed in Subsection (2).

(2) (a) The governor shall appoint the following members, with the advice and consent of the Senate:

(i) one representative of industry representing the extractive industry;

(ii) one representative of industry representing aquaculture;

(iii) one representative of conservation interests;

(iv) one representative of a migratory bird protection area as defined in Section 23A-13-101;

(v) one representative who is an elected official from municipal government, or the elected official's designee;

(vi) five representatives who are elected officials from county government, or the elected official's designee, one each representing:

(A) Box Elder County;

(B) Davis County;

(C) Salt Lake County;

(D) Tooele County; and

(E) Weber County; and

(vii) one representative of a publicly owned treatment works.

(3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year term.

(b) Notwithstanding Subsection (3)(a), at the time of appointment or reappointment, the governor shall adjust the length of terms of voting members to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term with the advice and consent of the Senate.

(d) A member shall hold office until the member's successor is appointed and qualified.

(4) The council shall determine:

(a) the time and place of meetings; and

(b) any other procedural matter not specified in this chapter.

(5) (a) Attendance of six members at a meeting of the council constitutes a quorum.

(b) A vote of the majority of the members present at a meeting when a quorum is present constitutes an action of the council.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The [~~office, the~~]department[~~,~~] and the Department of Environmental Quality shall coordinate and provide necessary staff assistance to the council.

(8) Except as provided in Subsection (14), a council member shall, no sooner than January 1 and no later than January 31 of each year during which the council member holds office on the council:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the council.

(9) (a) No later than 10 business days after the date on which the council member submits the written disclosure statement described in Subsection (8) to the administrator or clerk of the council, the administrator or clerk shall:

(i) post an electronic copy of the written disclosure statement on the council's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (9)(a)(i).

(b) The administrator or clerk of the council shall ensure that the council member's written disclosure statement remains posted on the council's website until the council member leaves office.

(10) The administrator or clerk of the council shall take the action described in Subsection (11) if:

(a) a council member fails to timely file the written disclosure statement described in Subsection (8); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(11) If a circumstance described in Subsection (10) occurs, the administrator or clerk of the council shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the council member of the violation and direct the council member to submit an amended written disclosure statement correcting the problem.

(12) (a) It is unlawful for a council member to fail to submit or amend a written disclosure statement within seven days after the day on which the council member receives the notice described in Subsection (11).

(b) A council member who violates Subsection (12)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the council shall report a violation of Subsection (12)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (12)(b), the administrator or clerk of the council shall impose a civil fine of $100 against a council member who violates Subsection (12)(a).

(13) The administrator or clerk of the council shall deposit a fine collected under this section into the council's account to pay for the costs of administering this section.

(14) For an individual appointed to the council under Subsection (2)(a)(v) or (vi):

(a) Subsection (8) does not apply; and

(b) the administrator or clerk of the council shall, instead:

(i) post an electronic link on the council's website to the written disclosure statement the council member made in the council member's capacity as an elected officer of:

(A) a county, under Section 17-16a-13; or

(B) a municipality, under Section 10-3-1313; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (14)(b)(i).

Section 14. Section 73-32-303 is amended to read:

73-32-303. Duties of the council.

(1) (a) The council shall advise the persons listed in Subsection (1)(b) on the sustainable use, protection, and development of the Great Salt Lake in terms of balancing:

(i) sustainable use;

(ii) environmental health; and

(iii) reasonable access for existing and future development.

(b) The council shall advise, as provided in Subsection (1)(a):

(i) the governor;

(ii) the [~~Department of Natural Resources~~]department;

(iii) the Department of Environmental Quality; and

(iv) the commissioner.

(2) The council shall assist the Division of Forestry, Fire, and State Lands in the Division of Forestry, Fire, and State Land's responsibilities for the Great Salt Lake described in Sections 65A-17-201 and 65A-17-202.

(3) The council:

(a) may recommend appointments to the Great Salt Lake technical team created by the Division of Forestry, Fire, and State Lands; and

(b) shall receive and use technical support from the Great Salt Lake technical team.

(4) The council shall assist the department, the Department of Environmental Quality, and their applicable boards in accomplishing their responsibilities for the Great Salt Lake.

(5) The council shall report annually to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee on the council's activities.

Section 15. Section 79-2-201 is amended to read:

79-2-201. Department of Natural Resources created.

(1) There is created the Department of Natural Resources.

(2) The department comprises the following:

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

(c) Office of Energy Development, created in Section 79-6-401;

(d) Wildlife Board, created in Section 23A-2-301;

(e) Board of the Utah Geological Survey, created in Section 79-3-301;

(f) Water Development Coordinating Council, created in Section 73-10c-3;

(g) Division of Water Rights, created in Section 73-2-1.1;

(h) Division of Water Resources, created in Section 73-10-18;

(i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

(j) Division of Oil, Gas, and Mining, created in Section 40-6-15;

(k) Division of State Parks, created in Section 79-4-201;

(l) Division of Outdoor Recreation, created in Section 79-7-201;

(m) Division of Wildlife Resources, created in Section 23A-2-201;

(n) Utah Geological Survey, created in Section 79-3-201;

(o) Utah Outdoor Recreation Infrastructure Advisory Committee, created in Section 79-7-206;

(p) (i) an advisory council that includes in the advisory council's duties advising on state boating policy, authorized by Section 73-18-3.5; or

(ii) an advisory council that includes in the advisory council's duties advising on off-highway vehicle use, authorized by Section 41-22-10;

(q) Wildlife Board Nominating Committee, created in Section 23A-2-302;

(r) Wildlife Regional Advisory Councils, created in Section 23A-2-303;

(s) Utah Watersheds Council, created in Section 73-10g-304;

(t) Utah Natural Resources Legacy Fund Board, created in Section 23A-3-305; [~~and~~]

(u) Public Lands Policy Coordinating Office created in Section 63L-11-201[~~.~~]; and

(v) the Great Salt Lake commissioner, appointed under Section 73-32-201, and the Office of the Great Salt Lake Commissioner, created in Section 73-32-301.

[~~(3) The department shall provide office space, furnishings, and supplies to the Great Salt Lake commissioner appointed under Section 73-32-201, the Office of the Great Salt Lake Commissioner created in Section 73-32-301, and support staff for the Office of the Great Salt Lake Commissioner.~~]

Section 16. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 94
H. B. 251
Passed March 5, 2025
Approved March 24, 2025
Effective May 7, 2025

POLLINATOR PROGRAM AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill makes changes to the pollinator pilot program.

Highlighted Provisions:

This bill:

- ► renames the pollinator pilot program to the pollinator habitat program;
- ► repeals the scheduled sunset date for the pollinator pilot program;
- ► makes the pollinator habitat program permanent; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-701, as enacted by Laws of Utah 2021, Chapter 375
63I-1-204, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

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

Section 1. Section 4-2-701 is amended to read:

4-2-701. Pollinator habitat program.

(1) Subject to the other provisions of this section, the department shall implement a [~~three-year pollinator pilot program~~]pollinator habitat program that includes one or more of the following:

(a) public education efforts that include workshops, planting guides, or a public education campaign to raise awareness about creating pollinator habitats;

(b) distribution of pollinator-friendly native flowering plants or seeds for native flowering plants for planting within the state to protect a diversity of pollinators;

(c) pollinator programs run by local governments and nonprofit organizations with support from the department; and

(d) grants that:

(i) are provided on a [~~first-come-first-serve~~]first-come, first-served basis; and

(ii) cover up to [~~25%~~]75% of the costs for the planting of pollinator-friendly native flowering plants or seeds for native flowering plants on private or public land.

(2) [~~(a) The cost to the department related to the native flowering plants or seeds described in Subsection (1) may not exceed $60,000 in a fiscal year.~~]

[~~(b)~~](a) The department may coordinate with the federal government, other state agencies, state institutions of higher education, or political subdivisions to provide for the activities described in Subsection (1).

[~~(c)~~](b) The department may designate smaller areas of the state to begin the activities described in Subsection (1).

(3) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the criteria for receiving a grant under this section; and

(b) the process to apply for and receive a grant under this section.

Section 2. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates: Title 4.

(1) Section 4-2-108, Agricultural Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation -- Executive committee, is repealed July 1, 2028.

[~~(2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2026.~~]

[~~(3)~~](2) Section 4-17-104, Creation of State Weed Committee -- Membership -- Powers and duties -- Expenses, is repealed July 1, 2026.

[~~(4)~~](3) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

[~~(5)~~](4) Section 4-20-103, Utah Grazing Improvement Program Advisory Board -- Duties, is repealed July 1, 2032.

[~~(6)~~](5) Section 4-23-104, Agricultural and Wildlife Damage Prevention Board created -- Composition -- Appointment -- Terms --

Vacancies -- Compensation, is repealed July 1, 2034.

[~~(7)~~](6) Section 4-23-105, Board responsibilities -- Damage prevention policy -- Rules -- Methods to control predators and depredating birds and animals, is repealed July 1, 2034.

[~~(8)~~](7) Section 4-24-104, Livestock Brand Board created -- Composition -- Terms -- Removal -- Quorum for transaction of business -- Compensation -- Duties, is repealed July 1, 2025.

[~~(9)~~](8) Section 4-39-104, Domesticated Elk Act advisory council, is repealed July 1, 2027.

[~~(10)~~](9) Title 4, Chapter 46, Part 2, Land Conservation Board, is repealed July 1, 2027.

[~~(11)~~](10) Subsection 4-46-304(2)(d), regarding the Land Conservation Board, is repealed July 1, 2027.

[~~(12)~~](11) Subsection 4-46-401(3)(a), regarding the Land Conservation Board, is repealed July 1, 2027.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 95
H. B. 547
Passed March 5, 2025
Approved March 24, 2025
Effective May 7, 2025

DIAPER PROGRAM AMENDMENTS

Chief Sponsor: Rosalba Dominguez
Senate Sponsor: Luz Escamilla

Cosponsor:	Jake Fitisemanu	Hoang Nguyen
Cheryl K. Acton	Sahara Hayes	Doug Owens
Melissa G. Ballard	Sandra Hollins	Angela Romero
Gay Lynn Bennion	Anthony E. Loubet	Jake Sawyer
Tyler Clancy	Ashlee Matthews	David Shallenberger
Jennifer Dailey-Provost	Verona Mauga	Lisa Shepherd
Ariel Defay	Grant Amjad Miller	Casey Snider
Joseph Elison	Carol S. Moss	Andrew Stoddard

LONG TITLE

General Description:

This bill addresses grants for entities that provide free diapering supplies to individuals.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the Department of Health and Human Services (department) to, within appropriations, award grants to nonprofit entities who provide free diapering supplies;
- ► provides rulemaking authority to the department to govern the awarding of grants;
- ► creates the Diapering Supplies Fund;
- ► allows individual taxpayers to make contributions to the Diapering Supplies Fund on tax returns; and
- ► requires reporting related to awarded grants.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-1304, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapters 419, 513 and 534

ENACTS:

26B-7-125, (Effective 05/07/25) Utah Code Annotated 1953
59-10-1322, (Effective 05/07/25) (Applies beginning 01/01/25) Utah Code Annotated 1953

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

Section 1. Section 26B-7-125 is enacted to read:

26B-7-125 (Effective 05/07/25). Diapering supplies grant program -- Rulemaking -- Reporting.

(1) As used in this section:

(a) "Diaper distribution center" means a community-based diaper bank or distribution center, a public health agency, or a nonprofit organization with a minimum of ten years' experience distributing baby or toddler products.

(b) "Diapering supplies" means diapers, diaper wipes, and diaper cream.

(2) Within appropriations specified by the Legislature for this purpose, funds dispersed to the department from the Diapering Supplies Fund under Section 59-10-1322, and any grants, gifts, or donations under Subsection (3), the department shall make grants to one or more diaper distribution centers that provide, either directly or through a network of partners, diapering supplies at no cost to parents, guardians, or family members of a child or an individual with a disability who needs diapering supplies.

(3) The department may accept grants, gifts, and donations of money or property for use by the grant program.

(4) A person who receives a grant under this section shall use the funds for the purchase and distribution of diapering supplies in the state.

(5) To be eligible for a grant under this section, a person shall:

(a) demonstrate a capacity for regularly distributing diapering supplies in the state;

(b) demonstrate the ability to engage in building community awareness of the need for diapering supplies; and

(c) meet any other criteria or satisfy any other qualifications required by the department by rule made in accordance with Subsection (6).

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the application form, process, and criteria to be used in awarding grants under this section.

(7) An entity that receives a grant from the department under this section shall:

(a) retain records documenting expenditure of the grant money; and

(b) report to the department on or before August 1 in the year following receipt of the grant regarding the quantity of diapering supplies the entity distributed, or the number of individuals to whom the person distributed diapering supplies.

(8) The department shall provide a written report regarding grants awarded under this section to the Health and Human Services Interim Committee on or before October 1 each year, that shall include, for the preceding fiscal year:

(a) the total amount of grants awarded; and

(b) a summary of reports made to the department under Subsection (7)(b).

(9) The department may use funds collected under Subsections (2) and (3) to pay the administrative costs associated with making grants under this section.

Section 2. Section 59-10-1304 is amended to read:

59-10-1304 (Effective 05/07/25). Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b)generate less than $30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than $30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1306;

(ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iii) the contribution provided for in Section 59-10-1308;

(iv) the contribution provided for in Section 59-10-1319;

(v) the contribution provided for in Section 59-10-1320; [~~or~~]

(vi) the contribution provided for in Section 59-10-1321[~~.~~]; or

(vii) the contribution provided for in Section 59-10-1322.

(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee by electronic means that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

(3) (a) Within a 30-day period after the day on which the commission makes the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that the commission:

(A) is required to remove the contribution from the individual income tax return; and

(B) may not collect the contribution;

(iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (3).

Section 3. Section 59-10-1322 is enacted to read:

59-10-1322 (Effective 05/07/25) (Applies beginning 01/01/25). Contribution to Diapering Supplies Fund.

(1) As used in this section, "fund" means the Diapering Supplies Fund created in Subsection (2).

(2) There is created an expendable special revenue fund known as the "Diapering Supplies Fund."

(3) The fund consists of amounts deposited into the fund in accordance with Subsection (4).

(4) Except as provided in Section 59-10-1304, a resident or nonresident individual who files an income tax return under this chapter may designate on the resident or nonresident individual's income tax return a contribution to be:

(a) deposited into the Diapering Supplies Fund; and

(b) expended as provided in Subsection (5).

(5) (a) Each year, the commission shall:

(i) disburse from the Diapering Supplies Fund all money deposited into the fund since the last disbursement; and

(ii) transfer the money to the Department of Health and Human Services for distribution in accordance with Section 26B-7-125.

(b) The commission shall complete the transfer of funds to the Department of Health and Human Services by August 15 of each year.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

Section 5. Retrospective operation.

Section 59-10-1322 (Effective 05/07/25) (Applies beginning 01/01/25)

has retrospective operation for a taxable year beginning on or after January 1, 2025.

CHAPTER 96
H. B. 551
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

ELECTED OFFICIAL PUBLICITY AMENDMENTS

Chief Sponsor: Jason B. Kyle
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill addresses a public official's use of public funds.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► prohibits a public official from making an expenditure from public funds on a billboard or mass communication:
  - • that contains certain content; and
  - • is posted, displayed, or mailed less than 60 days before the date of a caucus, convention, or election at which the public official is a candidate for elective office; and
- ► contains exceptions to the prohibition described above for certain types of mass communications.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-11-1202, as last amended by Laws of Utah 2023, Chapters 15, 327

ENACTS:

20A-11-1203.5, Utah Code Annotated 1953

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

Section 1. Section 20A-11-1202 is amended to read:

20A-11-1202. Definitions.

As used in this part:

(1) "Applicable election officer" means:

(a) a county clerk, if the email relates only to a local election; or

(b) the lieutenant governor, if the email relates to an election other than a local election.

(2) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, bond approvals, or other questions submitted to the voters for their approval or rejection.

(3) "Billboard" means a freestanding outdoor sign used for advertising to, or communicating with, the general public.

[~~(3)~~](4) "Campaign contribution" means any of the following when done for a political purpose or to advocate for or against a ballot proposition:

(a) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to a filing entity;

(b) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to a filing entity;

(c) any transfer of funds from another reporting entity to a filing entity;

(d) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(e) remuneration from:

(i) any organization or the organization's directly affiliated organization that has a registered lobbyist; or

(ii) any agency or subdivision of the state, including a school district; or

(f) an in-kind contribution.

[~~(4)~~](5) (a) "Commercial interlocal cooperation agency" means an interlocal cooperation agency that receives its revenues from conduct of its commercial operations.

(b) "Commercial interlocal cooperation agency" does not mean an interlocal cooperation agency that receives some or all of its revenues from:

(i) government appropriations;

(ii) taxes;

(iii) government fees imposed for regulatory or revenue raising purposes; or

(iv) interest earned on public funds or other returns on investment of public funds.

[~~(5)~~](6) "Expenditure" means:

(a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(b) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(c) a transfer of funds between a public entity and a candidate's personal campaign committee;

(d) a transfer of funds between a public entity and a political issues committee; or

(e) goods or services provided to or for the benefit of a candidate, a candidate's personal campaign committee, or a political issues committee for political purposes at less than fair market value.

[~~(6)~~](7) "Filing entity" means the same as that term is defined in Section 20A-11-101.

[~~(7)~~](8) "Governmental interlocal cooperation agency" means an interlocal cooperation agency that receives some or all of its revenues from:

(a) government appropriations;

(b) taxes;

(c) government fees imposed for regulatory or revenue raising purposes; or

(d) interest earned on public funds or other returns on investment of public funds.

[~~(8)~~](9) "Influence" means to campaign or advocate for or against a ballot proposition.

[~~(9)~~](10) "Interlocal cooperation agency" means an entity created by interlocal agreement under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

(11) "Mass communication" means any printed communication that:

(a) contains identical or substantially similar content; and

(b) is mailed to more than 500 recipients in a calendar year, regardless of whether the mailing occurs simultaneously or at different times during the calendar year.

[~~(10)~~](12) "Political purposes" means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate for public office at any caucus, political convention, primary, or election; or

(b) judge standing for retention at any election.

[~~(11)~~](13) "Proposed initiative" means an initiative proposed in an application filed under Section 20A-7-202 or 20A-7-502.

[~~(12)~~](14) "Proposed referendum" means a referendum proposed in an application filed under Section 20A-7-302 or 20A-7-602.

[~~(13)~~](15) (a) "Public entity" includes the state, each state agency, each county, municipality, school district, special district, governmental interlocal cooperation agency, and each administrative subunit of each of them.

(b) "Public entity" does not include a commercial interlocal cooperation agency.

(c) "Public entity" includes local health departments created under Title 26A, Local Health Authorities.

[~~(14)~~](16) (a) "Public funds" means any money received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.

(b) "Public funds" does not include money donated to a public entity by a person or entity.

[~~(15)~~](17) (a) "Public official" means an elected or appointed member of government with authority to make or determine public policy.

(b) "Public official" includes the person or group that:

(i) has supervisory authority over the personnel and affairs of a public entity; and

(ii) approves the expenditure of funds for the public entity.

[~~(16)~~](18) "Reporting entity" means the same as that term is defined in Section 20A-11-101.

[~~(17)~~](19) (a) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(b) "Special district" includes a special service district under Title 17D, Chapter 1, Special Service District Act.

[~~(18)~~](20) (a) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "State agency" includes the legislative branch, the Utah Board of Higher Education, each institution of higher education board of trustees, and each higher education institution.

Section 2. Section 20A-11-1203.5 is enacted to read:

20A-11-1203.5. Public official prohibited from expending public funds on certain communications.

(1) Except as provided in Subsection (2), a public official may not make an expenditure from public funds for a billboard or mass communication that:

(a) (i) includes a photograph, image, or likeness of the public official; or

(ii) contains the name of the public official in a font size that is larger than any other font size on the billboard or mass communication; and

(b) is posted, displayed, or mailed less than 60 calendar days before the date of any caucus, political convention, or election at which the public official is a candidate for elective office.

(2) A public official may make an expenditure from public funds for a mass communication described in Subsection (1) if:

(a) the mass communication is mailed to a person in response to that person making an inquiry of the public official;

(b) the mass communication is sent to another public official;

(c) the mass communication is a news release sent to a news media organization; or

(d) the public official is legally required to mail the mass communication.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 97
H. B. 244
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

WILDLIFE MANAGEMENT AREA AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses wildlife management areas.

Highlighted Provisions:

This bill:

- ► directs the creation of a wildlife management area known as the Bear River Bay Waterfowl Management Area;
- ► provides limits and requirements related to the Bear River Bay Waterfowl Management Area;
- ► removes restrictions on impounding structures in certain waterfowl management areas;
- ► removes prohibitions related to the regulation of airboats or small watercraft in certain waterfowl management areas;
- ► requires the creation of an advisory committee for the Willard Spur Waterfowl Management Area under certain circumstances; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23A-6-403, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-12-301, as renumbered and amended by Laws of Utah 2023, Chapter 103

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

Section 1. Section 23A-6-403 is amended to read:

23A-6-403. State-owned lands authorized for use as wildlife management areas, fishing waters, and for other recreational activities.

(1) The Wildlife Board may use any and all unsurveyed state-owned lands below the 1855 meander line of the Great Salt Lake within the following townships for the creation, operation, maintenance and management of wildlife management areas, fishing waters, and other recreational activities:

Township 2 South, Range 5 West, S.L.B. and M.; Township 2 South, Range 4 West, S.L.B. and M.; Township 1 South, Range 5 West, S.L.B. and M.; Township 1 South, Range 4 West, S.L.B. and M.; Township 1 South, Range 3 West, S.L.B. and M.; Township 1 North, Range 3 West, S.L.B. and M.; Township 1 North, Range 2 West, S.L.B. and M.; Township 2 North, Range 3 West, S.L.B. and M.; Township 2 North, Range 2 West, S.L.B. and M.; Township 2 North, Range 1 West, S.L.B. and M.; Township 3 North, Range 3 West, S.L.B. and M.; Township 3 North, Range 2 West, S.L.B. and M.; Township 3 North, Range 1 West, S.L.B. and M.; Township 4 North, Range 3 West, S.L.B. and M.; Township 4 North, Range 2 West, S.L.B. and M.; Sections 1, 2, 11, 12, 13, 14, 23, and 24, Township 4 North, Range 4 West, S.L.B. and M.; Township 5 North, Range 3 West, S.L.B. and M.; Township 5 North, Range 4 West, S.L.B. and M.; Sections 1, 2, 3, 4, 11, and 12, Township 5 North, Range 5 West, S.L.B. and M.; Township 6 North, Range 5 West, S.L.B. and M.; Township 6 North, Range 4 West, S.L.B. and M.; Township 6 North, Range 3 West, S.L.B. and M.; Township 7 North, Range 5 West, S.L.B. and M.; Township 7 North, Range 4 West, S.L.B. and M.; Township 7 North, Range 3 West, S.L.B. and M.; Township 7 North, Range 2 West, S.L.B. and M.; Township 8 North, Range 5 West, S.L.B. and M.; Township 8 North, Range 4 West, S.L.B. and M.; Township 8 North, Range 3 West, S.L.B. and M.; Township 8 North, Range 2 West, S.L.B. and M.; Township 9 North, Range 5 West, S.L.B. and M.; Township 9 North, Range 4 West, S.L.B. and M.; Township 11 North, Range 11 West, S.L.B. and M.; Township 11 North, Range 10 West, S.L.B. and M.; Township 11 North, Range 9 West, S.L.B. and M.; Township 11 North, Range 8 West, S.L.B. and M.; North 1/2 of Township 10 North, Range 10 West, S.L.B. and M.; North 1/2 of Township 10 North, Range 9 West, S.L.B. and M.; North 1/2 of Township 10 North, Range 8 West, S.L.B. and M.

(2) (a) The Wildlife Board shall establish a wildlife management area known as the "Willard Spur Waterfowl Management Area" on the unsurveyed state-owned lands below the 1855 meander line of the Great Salt Lake in Sections 26, 35, 36 of Township 8 North, Range 4 West, S.L.B. and M.; Township 8 North, Range 3 West, S.L.B. and M.; Sections 1, 2, 11, 12 of Township 7 North, Range 4 West, S.L.B. and M.; Township 7 North, Range 3 West, S.L.B. and M.; Sections 20, 21, 29, 30, 31 of Township 8 North, Range 2 West, S.L.B. and M., except for the following:

(i) lands within the May 14, 2019, boundaries of the Bear River Migratory Bird Refuge;

(ii) lands within the May 14, 2019, boundaries of Harold Crane Waterfowl Management Area;

(iii) lands within the May 14, 2019, boundaries of Willard Bay Reservoir; and

(iv) lands within the May 14, 2019, boundaries of state mineral leases.

(b) The division shall execute a memorandum of understanding with the Division of Forestry, Fire, and State Lands recognizing the division's use of the state-owned lands described in Subsection (2)(a) as a wildlife management area.

(c) The division shall manage the state-owned lands described in Subsection (2)(a) as a wildlife management area and consistent with:

(i) the beneficial purposes identified in Subsection (2)(d); and

(ii) a management plan created consistent with the procedures in this chapter for a management plan.

(d) The division shall manage the Willard Spur Waterfowl Management Area for the following beneficial purposes:

(i) propagating and sustaining waterfowl, upland gamebirds, desirable mammals, shorebirds, and other migratory and nonmigratory birds that use the Great Salt Lake ecosystem and the Great Salt Lake ecosystem's surrounding wetlands;

(ii) preserving and enhancing the natural function, vegetation, and water flows under existing or acquired water rights to provide productive habitat for the species listed in Subsection (2)(d)(i);

(iii) providing recreational opportunity for traditional marsh-related activities, including hunting, fishing, trapping, and wildlife viewing; and

(iv) providing public access in the [~~management area~~]Willard Spur Waterfowl Management Area for purposes of hunting, fishing, trapping, and wildlife viewing, including access with airboats and other small watercraft.

(e) The division shall provide the habitat, recreational opportunities, and public access described in Subsection (2)(d)[~~without construction or use of an impounding dike, impounding levee, or other impounding structure~~].

(f) (i) The division may construct a structure within the Willard Spur Waterfowl Management Area only after the division forms and meets with an advisory committee concerning the structure.

(ii) The advisory committee formed by the division under this Subsection (2)(f) shall include representatives of users of airboats, users of other small watercraft, hunters of waterfowl, and other stakeholders in the Willard Spur Waterfowl Management Area.

[~~(f) Notwithstanding the purposes identified in Subsection (2)(d), the division may not prohibit year-round public airboat and small watercraft access in the management area except in selected areas during limited periods of time to protect habitat, nesting birds, or vulnerable wildlife.~~]

(3) (a) The Wildlife Board shall establish a wildlife management area known as the "Bear River Bay Waterfowl Management Area" on the unsurveyed state-owned lands below the 1855 meander line of the Great Salt Lake in Bear River Bay or as mutually determined by the division and the Division of Forestry, Fire, and State Lands.

(b) The division shall execute a memorandum of understanding with the Division of Forestry, Fire, and State Lands recognizing the division's use of the state-owned lands described in Subsection (3)(a) as a wildlife management area.

(c) The division shall manage the state-owned lands described in Subsection (3)(a) as a wildlife management area and consistent with:

(i) the beneficial purposes identified in Subsection (3)(d); and

(ii) a management plan created consistent with the procedures in this chapter for a management plan.

(d) The division shall manage the Bear River Bay Waterfowl Management Area for the following beneficial purposes:

(i) propagating and sustaining waterfowl, upland gamebirds, desirable mammals, shorebirds, and other migratory and nonmigratory birds that use the Great Salt Lake ecosystem and the Great Salt Lake ecosystem's surrounding wetlands;

(ii) preserving and enhancing the natural function, vegetation, and water flows under existing or acquired water rights to provide productive habitat for the species listed in Subsection (3)(d)(i);

(iii) providing recreational opportunity for traditional marsh-related activities, including hunting, fishing, trapping, and wildlife viewing; and

(iv) providing public access in the Bear River Bay Waterfowl Management Area for purposes of hunting, fishing, trapping, and wildlife viewing, including access with airboats and other small watercraft.

(e) The division shall provide the habitat, recreational opportunities, and public access described in Subsection (3)(d).

Section 2. Section 23A-12-301 is amended to read:

23A-12-301. Definitions.

(1) The definitions in Section 58-79-102 apply to this part.

(2) (a) As used in this part, "waterfowl management area" means real property owned or managed by the division that is:

(i) primarily used for the conservation, production, or recreational harvest of ducks, mergansers, geese, brant, swans, and other waterfowl; and

(ii) designated as a waterfowl management area by the Wildlife Board in accordance with Section 23A-12-303.

(b) "Waterfowl management area" includes the following referenced in Section 23A-6-403:

(i) Willard Spur Waterfowl Management Area [~~and the~~];

(ii) []Harold Crane Waterfowl Management Area [~~described in Section 23A-6-403.~~]; and

(iii) Bear River Bay Waterfowl Management Area.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 98
S. B. 18
Passed February 4, 2025
Approved March 24, 2025
Effective May 7, 2025

ELECTION FUNDRAISING AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill amends provisions relating to prohibited campaign contributions.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► exempts a campaign contribution for federal office, made by a person other than a lobbyist or principal, from the prohibition on campaign contributions during a legislative session or the time period when the governor may veto a bill;
- ► makes it a crime to make a federal contribution with the intent to influence the governor or a state official to take or not take an action or to reward the governor or a state official for taking or not taking an action; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-11-305, as last amended by Laws of Utah 2018, Chapter 139

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

Section 1. Section 36-11-305 is amended to read:

36-11-305. Campaign contribution during session or veto period prohibited -- Exceptions related to federal campaigns -- Federal contribution intended to influence governor or state official prohibited.

(1) As used in this section:

(a) "Federal campaign contribution" means a contribution made for a campaign for federal office to:

(i) a state official who is a candidate for federal office; or

(ii) a governor who is a candidate for federal office.

(b) (i) "State campaign contribution" means a contribution, as defined in Section 20A-11-101.

(ii) "State campaign contribution" does not include a federal campaign contribution.

(c) "State official" means:

(i) a member of the Utah Senate or the Utah House of Representatives;

(ii) the lieutenant governor;

(iii) the attorney general;

(iv) the state auditor; or

(v) the state treasurer.

[~~(1)~~](2) It is unlawful for a person, lobbyist, principal, or political committee to make a state campaign contribution to, or to contract, promise, or agree to make a state campaign contribution[~~,~~] to, any of the following during the time the Legislature is convened in annual general session, veto override session, or special session:

[~~(a) (i) a legislator;~~]

[~~(ii) the lieutenant governor;~~]

[~~(iii) the attorney general;~~]

[~~(iv) the state auditor; or~~]

[~~(v) the state treasurer;~~]

(a) a state official;

(b) the personal campaign committee of [~~an individual described in Subsection (1)(a)~~]a state official; or

(c) a political action committee controlled by a [~~person described in Subsection (1)(a)~~]state official.

(3) It is unlawful for a lobbyist or principal to make a federal campaign contribution to, or to contract, promise, or agree to make a federal campaign contribution to, any of the following during the time the Legislature is convened in annual general session, veto override session, or special session:

(a) a state official who is running for federal office;

(b) a federal campaign committee of a person described in Subsection (3)(a); or

(c) a political committee, as defined in 52 U.S.C. Sec. 30101, that is controlled by a person described in Subsection (3)(a).

(4) It is unlawful for a person to make a federal campaign contribution to, or to contract, promise, or agree to make a federal campaign contribution to, a person described in Subsection (3)(a), (b), or (c), if the person makes the federal campaign contribution, contract, promise, or agreement with the intent to:

(a) influence a state official to take or fail to take an action in the state official's capacity as a state official; or

(b) reward a state official for taking or failing to take an action in the state official's capacity as a state official.

[~~(2)~~](5) It is unlawful for a person, lobbyist, principal, or political committee to make a state campaign contribution to, or to contract, promise, or agree to make a state campaign contribution [~~, to the governor, the governor's personal campaign committee, or a political action committee controlled by the governor~~]to, any of the following during the time the Legislature is convened in annual general session, veto override session, or special session, or during the time period established by the Utah Constitution, Article VII, Section 8, for the governor to approve or veto bills passed by the Legislature in the annual general session[~~.~~]:

(a) the governor;

(b) the governor's personal campaign committee; or

(c) a political action committee controlled by the governor.

(6) It is unlawful for a lobbyist or principal to make a federal campaign contribution to, or to contract, promise, or agree to make a federal campaign contribution to, any of the following during the time the Legislature is convened in annual general session, veto override session, or special session, or during the time period established by the Utah Constitution, Article VII, Section 8, for the governor to approve or veto bills passed by the Legislature in the annual general session:

(a) a governor who is running for federal office;

(b) the governor's federal campaign committee; or

(c) a political committee, as defined in 52 U.S.C. Sec. 30101, that is controlled by the governor.

(7) It is unlawful for a person to make a federal campaign contribution to, or to contract, promise, or agree to make a federal campaign contribution to, a person described in Subsection (6)(a), (b), or (c), if the person makes the federal campaign contribution, contract, promise, or agreement with the intent to:

(a) influence the governor to take or fail to take an action in the governor's capacity as governor; or

(b) reward the governor for taking or failing to take an action in the governor's capacity as governor.

[~~(3)~~](8) [~~Any person who violates~~]A violation of this section is[~~guilty of~~] a class A misdemeanor.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 99
H. B. 243
Passed March 6, 2025
Approved March 24, 2025
Effective May 7, 2025

AGRICULTURAL WATER OPTIMIZATION AMENDMENTS

Chief Sponsor: David Shallenberger
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses agricultural water optimization.

Highlighted Provisions:

This bill:

- ► allows the Agricultural Water Optimization Committee to use certain money to fund research;
- ► modifies eligibility requirements related to grants for agricultural water optimization; and
- ► makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-10g-204, as last amended by Laws of Utah 2023, Chapter 261
73-10g-205, as last amended by Laws of Utah 2024, Chapter 233

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

Section 1. Section 73-10g-204 is amended to read:
73-10g-204. Agricultural Water Optimization Account.

(1) There is created a restricted account within the General Fund called the "Agricultural Water Optimization Account."

(2) The account consists of:

(a) appropriations from the Legislature;

(b) federal funds; and

(c) grants or donations from other public or private sources.

(3) Subject to appropriation, the conservation commission may use money in the account to:

(a) issue grants in accordance with Section 73-10g-206 to improve agricultural water optimization[.]; and

(b) fund research approved by the committee under Subsection 73-10g-205(7).

(4) Until December 31, 2024, the department may loan up to $3,000,000 of General Fund money in the account to the Agriculture Resource Development Fund, subject to the conditions described in Section 4-18-106.

(5) (a) The department shall maintain the account and record the debits and credits made to the account by the department.

(b) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the account into the account.

(6) The department and the Department of Natural Resources may use money in the account for the administration of this part, except that the aggregate amount expended under this Subsection (6) may not exceed 1.5% of the money appropriated to the grant program described in Section 73-10g-206.

Section 2. Section 73-10g-205 is amended to read:
73-10g-205. Agricultural Water Optimization Committee.

(1) There is created in the department a committee known as the "Agricultural Water Optimization Committee" that consists of:

(a) the commissioner of the department, or the commissioner's designee;

(b) the director of the division, or the director's designee;

(c) the director of the Division of Water Rights, or the director's designee;

(d) the dean of the College of Agriculture and Applied Science from Utah State University, or the dean's designee;

(e) one individual representing local conservation districts created by Title 17D, Chapter 3, Conservation District Act, appointed by the executive director of the Department of Natural Resources;

(f) one individual representing water conservancy districts, appointed by the executive director of the Department of Natural Resources; and

(g) three Utah residents representing the interests of the agriculture industry appointed by the executive director of the Department of Natural Resources.

(2) (a) An individual appointed under Subsection (1) shall serve for a term of four years.

(b) Notwithstanding the requirements of Subsection (2)(a), the executive director of the Department of Natural Resources shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(3) (a) The presence of five members constitutes a quorum.

(b) The vote of five members constitutes the transaction of business by the committee.

(c) The committee shall select one of the committee's members to be chair. The committee may select a member to be vice chair to act in place of the chair:

(i) during the absence or disability of the chair; or

(ii) as requested by the chair.

(d) The committee shall convene at the times and places prescribed by the chair.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The department shall provide administrative support to the committee.

(6) The committee shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(a) eligibility requirements for a grant issued under Section 73-10g-206, except that the eligibility requirements shall:

(i) require at least a match for grant money of 50% of the total costs, except that for a grant application filed on or after January 1, 2024, the eligibility requirements shall require at least a match of 25% of the total costs for:

(A) a subsurface drip [~~or automated surge~~]irrigation project;

(B) an automated surge irrigation project; or

(C) a measurement, telemetry, or reporting project;

(ii) consider the statewide need to distribute grant money;

(iii) require a grant recipient to construct or install and maintain one or more measuring devices as necessary to comply with Section 73-5-4 and rules adopted by the Division of Water Rights regarding installation, use, and maintenance of devices to measure water use and to demonstrate water use in accordance with a project funded by a grant; and

(iv) require a grant recipient to report water diversion and use measurements to the state engineer pursuant to Section 73-5-4 and rules made by the state engineer, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for water measurement and reporting;

(b) the process for applying for a grant issued under Section 73-10g-206; and

(c) preliminary screening criteria to be used by the department under Subsection 73-10g-206(2)(d).

(7) The committee shall, in coordination with the division:

(a) as of July 1, 2023, assume oversight of all remaining research and contracts of the previous Agricultural Water Optimization Task Force activities;

(b) post research to address and account for farm economics at the enterprise and community level that affects agricultural water optimization and encourage market behavior that financially rewards agricultural water optimization practices;

(c) oversee research to identify obstacles to and constraints upon optimization of agricultural water use, and to recommend management tools, technologies, and other opportunities to optimize agricultural water use as measured at the basin level; [~~and~~]

(d) use money in the account to fund research approved by the committee that:

(i) is described in Subsection (7)(b) or (c); or

(ii) establishes methods for measuring saved water or the effectiveness of the agricultural water optimization funding programs established by this part; and

[~~(d)~~](e) facilitate benefits for farmers who optimize water use and protect water quality.

(8) The committee shall comply with Section 73-10g-206 related to grants issued under this part.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 100
H. B. 255
Passed February 27, 2025
Approved March 24, 2025
Effective May 7, 2025

LOCAL LAND USE MODIFICATIONS

Chief Sponsor: Scott H. Chew
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies provisions related to minor subdivisions of agricultural land in a county of the third, fourth, fifth, or sixth class.

Highlighted Provisions:

This bill:

- ► modifies definitions;
- ► authorizes an owner of at least 50 contiguous acres of agricultural land in a county of the third, fourth, fifth, or sixth class to create a new parcel that, after the division, is separate from the remainder of the original 50 contiguous acres of agricultural land; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-27a-605, as last amended by Laws of Utah 2020, Chapter 434

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

Section 1. Section 17-27a-605 is amended to read:

17-27a-605. Exemptions from plat requirement.

(1) Notwithstanding any other provision of law, a plat is not required if:

(a) a county establishes a process to approve an administrative land use decision for the subdivision of unincorporated land or mountainous planning district land into 10 or fewer [~~lots~~]parcels without a plat; and

(b) the county provides in writing that:

(i) the county has provided notice as required by ordinance; and

(ii) the proposed subdivision:

(A) is not traversed by the mapped lines of a proposed street as shown in the general plan unless the county has approved the location and dedication of any public street, county utility easement, any other easement, or any other land for public purposes as the county's ordinance requires;

(B) has been approved by the culinary water authority and the sanitary sewer authority;

(C) is located in a zoned area; and

(D) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a [~~lot or~~]parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 17-27a-603 if:

(i) the[~~lot or~~] parcel:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used and will not be used for any nonagricultural purpose; and

(ii) the new owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel by legal description; and

(B) stating that the [~~lot or~~]parcel is created for agricultural purposes as defined in Section 59-2-502 and will remain so until a future zoning change permits other uses.

(b) If a [~~lot or~~]parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county shall require the [~~lot or~~]parcel to comply with the requirements of Section 17-27a-603 and all applicable land use ordinance requirements.

(3) (a) Except as provided in Subsection (4), a document recorded in the county recorder's office that divides property by a metes and bounds description does not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

(i) prohibit the county recorder from recording a document; or

(ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached and that complies with Section 57-3-106.

(4) (a) As used in this Subsection (4):

(i) "Divided land" means land that[~~:~~]

[~~(A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and~~]

[~~(B)~~] has been divided by a minor subdivision.

(ii) "Land to be divided" means land that is proposed to be divided by a minor subdivision.

(iii) "Minor subdivision" means a division of at least [~~100~~]50 contiguous acres of agricultural land in a county of the third, fourth, fifth, or sixth class to create one new [~~lot~~]parcel that, after the division, is separate from the remainder of the original [~~100~~]50 or more contiguous acres of agricultural land.

(iv) "Minor subdivision [~~lot~~]parcel" means a [~~lot~~]parcel created by a minor subdivision.

(b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least [~~100~~]50contiguous acres of agricultural land may make a minor subdivision by submitting for recording in the office of the recorder of the county in which the land to be divided is located:

(i) a recordable deed containing the legal description of the minor subdivision [~~lot~~]parcel; and

(ii) a notice:

(A) indicating that the owner of the land to be divided is making a minor subdivision;

(B) referring specifically to this section as the authority for making the minor subdivision; and

(C) containing the legal description of:

(I) the land to be divided; and

(II) the proposed minor subdivision [~~lot~~]parcel.

(c) A minor subdivision [~~lot~~]parcel:

(i) may not be less than one acre in size;

(ii) may not be within [~~1,000~~]500 feet of another minor subdivision [~~lot~~]parcel within the divided land; [~~and~~]

(iii) is not subject to the subdivision ordinance of the county in which the minor subdivision [~~lot~~]parcel is located [~~.~~]; and

(iv) is not required to be owned by the same person that owns the divided land.

[~~(d) Land to be divided by a minor subdivision may not include divided land.~~]

(d) A minor subdivision is effective the day on which it is recorded.

(e) A county:

(i) may not deny a building permit to an owner of a minor subdivision [~~lot~~]parcel based on:

(A) the [~~lot's~~]parcel's status as a minor subdivision [~~lot~~]parcel; or

(B) the absence of standards described in Subsection (4)(e)(ii); and

(ii) may, in connection with the issuance of a building permit, subject a minor subdivision [~~lot~~]parcel to reasonable health, safety, and access standards that the county has established and made public.

(5) (a) Notwithstanding Sections 17-27a-603 and 17-27a-604, and subject to Subsection (1), the legislative body of a county may enact an ordinance allowing the subdivision of a parcel, without complying with the plat requirements of Section 17-27a-603, if:

(i) the parcel contains an existing legal single family dwelling unit;

(ii) the subdivision results in two parcels, one of which is agricultural land;

(iii) the parcel of agricultural land:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used, and will not be used, for a nonagricultural purpose;

(iv) both the parcel with an existing legal single family dwelling unit and the parcel of agricultural land meet the minimum area, width, frontage, and setback requirements of the applicable zoning designation in the applicable land use ordinance; and

(v) the owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel of agricultural land by legal description; and

(B) stating that the parcel of agricultural land is created as land in agricultural use, as defined in Section 59-2-502, and will remain as land in agricultural use until a future zoning change permits another use.

(b) If a parcel of agricultural land divided from another parcel under Subsection (5)(a) is later used for a nonagricultural purpose, the exemption provided in Subsection (5)(a)no longer applies, and the county shall require the owner of the parcel to:

(i) retroactively comply with the subdivision plat requirements of Section 17-27a-603; and

(ii) comply with all applicable land use ordinance requirements.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 101
S. B. 30
Passed February 5, 2025
Approved March 24, 2025
Effective May 7, 2025

FOREST FIRE RESOURCES COMPACT AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Troy Shelley

LONG TITLE

General Description:

This bill enacts the Great Plains Interstate Fire Compact.

Highlighted Provisions:

This bill:

► empowers the governor to enter into the compact related to forest fires in the form provided in statute.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

65A-8-216, Utah Code Annotated 1953

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

Section 1. Section 65A-8-216 is enacted to read:

65A-8-216. Great Plains Interstate Fire Compact.

The governor may enter into a compact on behalf of the state with any other state or states legally joining therein in the form substantially as follows:

ARTICLE I

The purpose of this compact is to promote effective prevention and control of forest fires in the great plains region of the United States by the maintenance of adequate forest fire fighting services by the member states, and by providing for reciprocal aid in fighting forest fires among the compacting states of the region, including South Dakota, North Dakota, Wyoming, Colorado and any adjoining state of a current member state.

ARTICLE II

This compact is operative immediately as to those states ratifying it if any two or more of the member states have ratified it.

ARTICLE III

In each state, the state forester or officer holding the equivalent position who is responsible for forest fire control may act as a compact administrator for that state and may consult with like officials of the other member states and may implement cooperation between the states in forest fire prevention and control. The compact administrators of the member states may organize to coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact. Each member state may formulate and put in effect a forest fire plan for that state.

ARTICLE IV

If the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling, or preventing forest fires, the state forest fire control agency of that state may render all possible aid to the requesting agency, consonant with the maintenance of protection at home.

ARTICLE V

If the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of the state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges, and immunities as comparable employees of the state to which they are rendering aid.

No member state or its officers or employees rendering outside aid pursuant to this compact is liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection with rendering the outside aid.

All liability, except as otherwise provided in this compact, that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving the aid for any loss or damage to, or expense incurred in the operation of, any equipment used in answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and maintenance of employees and equipment incurred in connection with such request. However, nothing in this compact prevents any assisting member state from assuming such loss, damage, expense, or other cost, or from loaning such equipment, or from donating the services to the receiving member state without charge or cost.

Each member state shall assure that workers compensation benefits in conformity with the minimum legal requirements of the state are available to all employees and contract firefighters sent to a requesting state pursuant to this compact.

For the purposes of this compact, the term "employee" includes any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding state under the laws of the aiding state.

The compact administrators may formulate procedures for claims and reimbursement under the provisions of this article, in accordance with the laws of the member states.

ARTICLE VI

Ratification of this compact does not affect any existing statute so as to authorize or permit curtailment or diminution of the forest fighting forces, equipment, services, or facilities of any member state.

Nothing in the compact authorizes or permits any member state to curtail or diminish its forest fire fighting forces, equipment, services, or facilities. Each member state shall maintain adequate forest fire fighting forces and equipment to meet demands for forest fire protection within its borders in the same manner and to the same extent as if this compact were not operative.

Nothing in this compact limits or restricts the powers of any state ratifying the compact to provide for the prevention, control, and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules, or regulations intended to aid in the prevention, control, and extinguishment in the state.

Nothing in this compact affects any existing or future cooperative relationship or arrangement between the United States Forest Service and a member state or states.

ARTICLE VII

Representatives of the United States Forest Service may attend meetings of the compact administrators.

ARTICLE VIII

The provisions of Articles IV and V of this compact that relate to reciprocal aid in combating, controlling, or preventing forest fires are operative as between any state party to this compact and any other state which is party to this compact and any other state that is party to a regional forest fire protection compact in another region if the Legislature of the other state has given its assent to the mutual aid provisions of this compact.

ARTICLE IX

This compact shall continue in force and remain binding on each state ratifying it until the Legislature or the Governor of the state takes action to withdraw from the compact. Such action is not effective until six months after notice of the withdrawal has been sent by the chief executive of the state desiring to withdraw to the chief executives of all states then parties to the compact.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 102
H. B. 274
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

WATER AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses regulations related to water.

Highlighted Provisions:

This bill:

- ► provides circumstances of when a municipality may set different water rates based in part on water conservation;
- ► addresses special district fees;
- ► defines terms;
- ► addresses rate setting by a retail water supplier and public water systems;
- ► provides for how revenues from retail rates may be spent;
- ► creates a presumption regarding the reasonableness of certain water rates that include water conservation as an element in determining the rate;
- ► modifies provisions related to the Board of Water Resources;
- ► addresses tiered rates for secondary water; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-22, as last amended by Laws of Utah 2019, Chapter 99
17B-1-121, as last amended by Laws of Utah 2023, Chapter 15
73-10-2, as last amended by Laws of Utah 2023, Chapter 205
73-10-32.5, as last amended by Laws of Utah 2022, Chapter 90
73-10-34, as last amended by Laws of Utah 2024, Chapters 171, 438

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

Section 1. Section 10-8-22 is amended to read:

10-8-22. Water rates.

(1) As used in this section:

(a) "Designated water service area" means the area defined by a municipality in accordance with the Utah Constitution, Article XI, Section 6, Subsection (1)(c).

(b) "Large municipal drinking water system" means a municipally owned and operated drinking water system serving a population of 10,000 or more.

(c) "Retail customer" means an end user:

(i) who receives culinary water directly from a municipality's waterworks system; and

(ii) whom the municipality described in Subsection (1)(c)(i) bills for water service.

(2) A municipality shall fix the rates to be paid for the use of water furnished by the municipality.

(3) The setting of municipal water rates is a legislative act.

(4) Within the municipality's designated water service area, a municipality shall:

(a) establish, by ordinance, reasonable rates for the services provided to the municipality's retail customers;

(b) use the same method of providing notice to all retail customers of proposed rate changes; and

(c) allow all retail customers the same opportunity to appear and participate in a public meeting addressing water rates.

(5) (a) A municipality may establish different rates for different classifications of retail customers within the municipality's designated water service area, if the rates and classifications have a reasonable basis.

(b) A reasonable basis for charging different rates for different classifications may include, among other things, a situation in which:

(i) there is a difference in the cost of providing service to a particular classification;

(ii) one classification bears more risk in relation to a system operation or obligation;

(iii) retail customers in one classification invested or contributed to acquire a water source or supply or build or maintain a system differently than retail customers in another classification;

(iv) the needs or conditions of one classification:

(A) are distinguishable from the needs or conditions of another classification; and

(B) based on economic, public policy, or other identifiable elements, support a different rate; [~~or~~]

(v) there is a differential between the classifications based on a cost of service standard or a generally accepted rate setting method, including a standard or method the American Water Works Association establishes[~~.~~]; or

(vi) water conservation is used as an element in determining the rate charged for a block unit of water as provided in Section 73-10-32.5.

(c) An adjustment based solely on the fact that a particular classification of retail customers is located either inside or outside of the municipality's corporate boundary is not a reasonable basis.

(6) (a) If more than 10% of the retail customers within a large municipal drinking water system's designated water service area are located outside of the municipality's corporate boundary, the municipality shall:

(i) post on the municipality's website the rates assessed to retail customers within the designated water service area; and

(ii) establish an advisory board to make recommendations to the municipal legislative body regarding water rates, capital projects, and other water service standards.

(b) In establishing an advisory board described in Subsection (6)(a)(ii), a municipality shall:

(i) if more than 10% but no more than 30% of the municipality's retail customers receive service outside the municipality's municipal boundary, ensure that at least 20% of the advisory board's members represent the municipality's retail customers receiving service outside the municipality's municipal boundary;

(ii) if more than 30% of the municipality's retail customers receive service outside of the municipality's municipal boundary, ensure that at least 40% of the advisory board's members represent the municipality's retail customers receiving service outside of the municipality's municipal boundary; and

(iii) in appointing board members who represent retail customers receiving service outside of the municipality's municipal boundary, as required in Subsections (6)(b)(i) and (ii), solicit recommendations from each municipality and county outside of the municipality's municipal boundary whose residents are retail customers within the municipality's designated water service area.

(7) A municipality that supplies water outside of the municipality's designated water service area shall supply the water only by contract and shall include in the contract the terms and conditions under which the contract can be terminated.

(8) A municipality shall:

(a) notify the director of the Division of Drinking Water of a contract the municipality enters into with a person outside of the municipality's designated water service area, including the name and contact information of the person named in each contract; and

(b) each year, provide to the director of the Division of Drinking Water any supplementing or new information regarding a contract described in Subsection (8)(a), including whether there is no new information to provide at that time.

Section 2. Section 17B-1-121 is amended to read:

17B-1-121. Limit on fees -- Requirement to itemize and account for fees -- Appeals.

(1) A special district may not impose or collect:

(a) an application fee that exceeds the reasonable cost of processing the application; or

(b) an inspection or review fee that exceeds the reasonable cost of performing an inspection or review.

(2) (a) Upon request by a service applicant who is charged a fee or an owner of residential property upon which a fee is imposed, a special district shall provide a statement of each itemized fee and calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for a statement of each itemized fee no later than 30 days after the day on which the applicant or owner pays the fee, the special district shall, no later than 10 days after the day on which the request is received, provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the special district to create the calculation method described in Subsection (2)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed by the special district; and

(iv) information on filing a fee appeal through the process described in Subsection (2)(c).

(c) (i) A special district shall establish an impartial fee appeal process to determine whether a fee reflects only the reasonable estimated cost of delivering the service for which the fee was paid.

(ii) A party to a fee appeal described in Subsection (2)(c)(i) may petition for judicial review of the special district's final decision.

(d) The reasonable estimated cost of delivering a service by a special district that provides water services includes costs for water conservation, and a water conservation effort, as an element in determining the rate charged for a block unit of water as provided in Section 73-10-32.5.

(3) A special district may not impose on or collect from a public agency a fee associated with the public agency's development of the public agency's land other than:

(a) subject to Subsection (1), a hookup fee; or

(b) an impact fee, as defined in Section 11-36a-102 and subject to Section 11-36a-402, for a public facility listed in Subsection 11-36a-102(17)(a), (b), (c), (d), (e), or (g).

Section 3. Section 73-10-2 is amended to read:

73-10-2. Board of Water Resources -- Members -- Appointment -- Terms -- Vacancies.

(1) [~~(a)~~] The Board of Water Resources shall be comprised of nine members to be appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(b) In addition to the requirements of Section 79-2-203, not more than five members shall be from the same political party.~~]

(2) [~~The~~]Subject to Section 79-2-203, the Board of Water Resources shall consist of:

(a) one member appointed from each of the following districts:

(i) Bear River District, comprising the counties of Box Elder, Cache, and Rich;

(ii) Weber District, comprising the counties of Weber, Davis, Morgan, and Summit;

(iii) Salt Lake District, comprising the counties of Salt Lake and Tooele;

(iv) Provo River District, comprising the counties of Juab, Utah, and Wasatch;

(v) Sevier River District, comprising the counties of Millard, Sanpete, Sevier, Piute, and Wayne;

(vi) Green River District, comprising the counties of Daggett, Duchesne, and Uintah;

(vii) Upper Colorado River District, comprising the counties of Carbon, Emery, Grand, and San Juan; and

(viii) Lower Colorado River District, comprising the counties of Beaver, Garfield, Iron, Washington, and Kane; and

(b) one member that represents the interests of the Great Salt Lake.

(3) (a) Except as required by Subsection (3)(b), all appointments shall be for terms of four years.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement member for the unexpired term, with the advice and consent of the Senate, who:

(i) is from the same district as the individual leaving the board; or

(ii) if the individual leaving the board is appointed under Subsection (2)(b), represents the interests of the Great Salt Lake.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 4. Section 73-10-32.5 is amended to read:

73-10-32.5. Culinary water pricing structure.

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

(a) "Public water system" means the same as that term is defined in Section 19-4-102.

(b) "Retail water supplier" means the same as that term is defined in Section 19-4-102.

(c) (i) "Water conservation effort" means a program that is designed to incentivize, encourage, or result in reduced water usage or more efficient use of water.

(ii) "Water conservation effort" includes the costs associated with designing, implementing, and operating a program described in Subsection (1)(c)(i).

(d) "Wholesale water supplier" means the same as that term is defined in Section 19-4-102.

(2) A retail water supplier shall:

(a) consider water conservation, including at least one water conservation effort, in setting water rates with the goal of encouraging efficient water use and eliminating wasteful or excessive water use;

(b) establish a culinary water rate structure that:

(i) incorporates increasing block units of water used; [~~and~~]

(ii) provides for an increase in the rate charged for additional block units of water used as usage increases from one block unit to the next;

(iii) by July 1, 2027, includes one or more water conservation efforts as an element in determining the rate charged for at least the highest usage block unit of water for a customer classification that primarily serves residential customers; and

(iv) is based on a generally accepted rate setting method, including a standard or method established by the American Water Works Association;

[~~(b)~~](c) provide in customer billing notices, or in a notice that is distributed to customers at least annually, block unit rates and the customer's billing cycle; [~~and~~]

[~~(c)~~](d) include individual customer water usage in customer billing notices [~~.~~]; and

(e) consider urban farming that improves food security, reduces pollution, and creates green spaces in setting rates.

(3) This section does not prohibit:

(a) a public water system with 500 or fewer service connections from taking an action or adopting a culinary water rate structure described in Subsection (2); or

(b) a retail water supplier from including water conservation and a water conservation effort as an element in setting rates for customer classifications that do not primarily serve residential customers.

(4) A public water system:

(a) is not required to establish or show that the portion of the rate designed to encourage water conservation, and fund a water conservation effort, within the highest usage block unit of water for a customer classification:

(i) is based on the public water system's actual cost of service;

(ii) has a reasonable basis when compared to rates the public water system charges:

(A) for other block units of water within a customer classification; or

(B) for block units of water in other customer classifications; or

(iii) is limited to a reasonable profit or return on investment;

(b) may include in a customer billing a fee, surcharge, penalty, or other charge that is collected pursuant to an agreement between the public water system and the wholesale water supplier from whom the public water system purchases water; and

(c) if the public water system is a for-profit entity, may not use revenue from the highest usage block unit of water designed to

encourage water conservation to pay profits or dividends to the public water system's investors or owners.

(5) The use of revenue collected from the portion of any block unit of water designed to encourage water conservation may include funding water conservation efforts that are shared with or administered by another public water system or a wholesale water supplier.

(6) The adoption and implementation of that portion of a public water system's water rate that includes water conservation as an element in determining the rate charged for the highest usage block unit of water, as provided in this section, is conclusively presumed:

(a) to be reasonable; and

(b) to reflect the reasonable estimated cost of delivering the service for which the fee was paid.

Section 5. Section 73-10-34 is amended to read:

73-10-34. Secondary water metering -- Loans and grants.

(1) As used in this section:

(a) "Agriculture use" means water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

(b) (i) "Commercial user" means a secondary water user that is a place of business.

(ii) "Commercial user" does not include a multi-family residence, an agricultural user, or a customer that falls within the industrial or institutional classification.

(c) "Critical area" means an area:

(i) serviced by one of the four largest water conservancy districts, as defined in Section 17B-1-102, measured by operating budgets; or

(ii) within the Great Salt Lake basin, which includes:

(A) the surveyed meander line of the Great Salt Lake;

(B) the drainage areas of the Bear River or the Bear River's tributaries;

(C) the drainage areas of Bear Lake or Bear Lake's tributaries;

(D) the drainage areas of the Weber River or the Weber River's tributaries;

(E) the drainage areas of the Jordan River or the Jordan River's tributaries;

(F) the drainage areas of Utah Lake or Utah Lake's tributaries;

(G) other water drainages lying between the Bear River and the Jordan River that are tributary to the Great Salt Lake and not included in the drainage areas described in Subsections (1)(c)(ii)(B) through (F); and

(H) the drainage area of Tooele Valley.

(d) "Full metering" means that use of secondary water is accurately metered by a meter that is installed and maintained on every secondary water connection of a secondary water supplier.

(e) (i) "Industrial user" means a secondary water user that manufactures or produces materials.

(ii) "Industrial user" includes a manufacturing plant, an oil and gas producer, and a mining company.

(f) (i) "Institutional user" means a secondary water user that is dedicated to public service, regardless of ownership.

(ii) "Institutional user" includes a school, church, hospital, park, golf course, and government facility.

(g) "Power generation use" means water used in the production of energy, such as use in an electric generation facility, natural gas refinery, or coal processing plant.

(h) (i) "Residential user" means a secondary water user in a residence.

(ii) "Residential user" includes a single-family or multi-family home, apartment, duplex, twin home, condominium, or planned community.

(i) "Secondary water" means water that is:

(i) not culinary or water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(ii) delivered to and used by an end user for the irrigation of landscaping or a garden.

(j) "Secondary water connection" means the location at which the water leaves the secondary water supplier's pipeline and enters into the remainder of the pipes that are owned by another person to supply water to an end user.

(k) "Secondary water supplier" means an entity that supplies pressurized secondary water.

(l) "Small secondary water retail supplier" means an entity that:

(i) supplies pressurized secondary water only to the end user of the secondary water; and

(ii) (A) is a city or town; or

(B) supplies 5,000 or fewer secondary water connections.

(2) (a) (i) A secondary water supplier that supplies secondary water within a county of the first or second class and begins design work for new service on or after April 1, 2020, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(ii) A secondary water supplier that supplies secondary water within a county of the third, fourth, fifth, or sixth class and begins design work for new service on or after May 4, 2022, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(b) By no later than January 1, 2030, a secondary water supplier shall install and maintain a meter of the use of pressurized secondary water by each user receiving secondary water service from the secondary water supplier.

(c) Beginning January 1, 2022, a secondary water supplier shall establish a meter installation reserve for metering installation and replacement projects.

(d) A secondary water supplier, including a small secondary water retail supplier, may not raise the rates charged for secondary water:

(i) by more than 10% in a calendar year for costs associated with metering secondary water unless the rise in rates is necessary because the secondary water supplier experiences a catastrophic failure or other similar event; or

(ii) unless, before raising the rates on the end user, the entity charging the end user provides a statement explaining the basis for why the needs of the secondary water supplier required an increase in rates.

(e) (i) A secondary water supplier that provides pressurized secondary water to a commercial, industrial, institutional, or residential user shall develop a plan, or if the secondary water supplier previously filed a similar plan, update the plan for metering the use of the

pressurized water.

(ii) The plan required by this Subsection (2)(e) shall be filed or updated with the Division of Water Resources by no later than December 31, 2025, and address the process the secondary water supplier will follow to implement metering, including:

(A) the costs of full metering by the secondary water supplier;

(B) how long it would take the secondary water supplier to complete full metering, including an anticipated beginning date and completion date, except a secondary water supplier shall achieve full metering by no later than January 1, 2030; and

(C) how the secondary water supplier will finance metering.

(3) A secondary water supplier shall on or before March 31 of each year, report to the Division of Water Rights:

(a) for commercial, industrial, institutional, and residential users whose pressurized secondary water use is metered, the number of acre feet of pressurized secondary water the secondary water supplier supplied to the commercial, industrial, institutional, and residential users during the preceding 12-month period;

(b) the number of secondary water meters within the secondary water supplier's service boundary;

(c) a description of the secondary water supplier's service boundary;

(d) the number of secondary water connections in each of the following categories through which the secondary water supplier supplies pressurized secondary water:

(i) commercial;

(ii) industrial;

(iii) institutional; and

(iv) residential;

(e) the total volume of water that the secondary water supplier receives from the secondary water supplier's sources; and

(f) the dates of service during the preceding 12-month period in which the secondary water supplier supplied pressurized secondary water.

(4) (a) Beginning July 1, 2019, the Board of Water Resources may make up to $10,000,000 in low-interest loans available each year:

(i) from the Water Resources Conservation and Development Fund, created in Section 73-10-24; and

(ii) for financing the cost of secondary water metering.

(b) The Division of Water Resources and the Board of Water Resources shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the criteria and process for receiving a loan described in this Subsection (4), except the rules may not include prepayment penalties.

(5) (a) Beginning July 1, 2021, subject to appropriation, the Division of Water Resources may make matching grants each year for financing the cost of secondary water metering for a commercial, industrial, institutional, or residential user by a small secondary water retail supplier that:

(i) is not for new service described in Subsection (2)(a); and

(ii) matches the amount of the grant.

(b) For purposes of issuing grants under this section, the division shall prioritize the small secondary water retail suppliers that can demonstrate the greatest need or greatest inability to pay the entire cost of installing secondary water meters.

(c) The amount of a grant under this Subsection (5) may not:

(i) exceed 50% of the small secondary water retail supplier's cost of installing secondary water meters; or

(ii) supplant federal, state, or local money previously allocated to pay the small secondary water retail supplier's cost of installing secondary water meters.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Water Resources shall make rules establishing:

(i) the procedure for applying for a grant under this Subsection (5); and

(ii) how a small secondary water retail supplier can establish that the small secondary water retail supplier meets the eligibility requirements of this Subsection (5).

(6) Nothing in this section affects a water right holder's obligation to measure and report water usage as described in Sections 73-5-4 and 73-5-8.

(7) If a secondary water supplier fails to comply with Subsection (2)(b), the secondary water supplier:

(a) beginning January 1, 2030, may not receive state money for water related purposes until the secondary water supplier completes full metering; and

(b) is subject to an enforcement action of the state engineer in accordance with Subsection (8).

(8) (a) (i) The state engineer shall commence an enforcement action under this Subsection (8) if the state engineer receives a referral from the director of the Division of Water Resources.

(ii) The director of the Division of Water Resources shall submit a referral to the state engineer if the director:

(A) finds that a secondary water supplier fails to fully meter secondary water as required by this section; and

(B) determines an enforcement action is necessary to conserve or protect a water resource in the state.

(b) To commence an enforcement action under this Subsection (8), the state engineer shall issue a notice of violation that includes notice of the administrative fine to which a secondary water supplier is subject.

(c) The state engineer's issuance and enforcement of a notice of violation is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce a notice of violation, that includes:

(i) provisions consistent with this Subsection (8) for enforcement of the notice if a secondary water supplier to whom a notice is issued fails to respond to the notice or abate the violation;

(ii) the right to a hearing, upon request by a secondary water supplier against whom the notice is issued; and

(iii) provisions for timely issuance of a final order after the secondary water supplier to whom the notice is issued fails to respond to

the notice or abate the violation, or after a hearing held under Subsection (8)(d)(ii).

(e) A person may not intervene in an enforcement action commenced under this section.

(f) After issuance of a final order under rules made pursuant to Subsection (8)(d), the state engineer shall serve a copy of the final order on the secondary water supplier against whom the order is issued by:

(i) personal service under Utah Rules of Civil Procedure, Rule 5; or

(ii) certified mail.

(g) (i) The state engineer's final order may be reviewed by trial de novo by the [~~district~~]court with jurisdiction in Salt Lake County or the county where the violation occurred.

(ii) A secondary water supplier shall file a petition for judicial review of the state engineer's final order issued under this section within 20 days from the day on which the final order was served on the secondary water supplier.

(h) The state engineer may bring suit in a court of competent jurisdiction to enforce a final order issued under this Subsection (8).

(i) If the state engineer prevails in an action brought under Subsection (8)(g) or (h), the state may recover court costs and a reasonable attorney fee.

(j) As part of a final order issued under this Subsection (8), the state engineer shall order that a secondary water supplier to whom an order is issued pay an administrative fine equal to:

(i) $10 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2030;

(ii) $20 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2031;

(iii) $30 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2032;

(iv) $40 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2033; and

(v) $50 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2034, and for each subsequent year the secondary water supplier fails to comply with full metering.

(k) Money collected under this Subsection (8) shall be deposited into the Water Resources Conservation and Development Fund, created in Section 73-10-24.

(9) A secondary water supplier located within a county of the fifth or sixth class is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) if:

(a) the owner or operator of the secondary water supplier seeks an exemption under this Subsection (9) by establishing with the Division of Water Resources that the cost of purchasing, installing, and upgrading systems to accept meters exceeds 25% of the total operating budget of the owner or operator of the secondary water supplier;

(b) the secondary water supplier agrees to not add a new secondary water connection to the secondary water supplier's system on or after May 4, 2022;

(c) within six months of when the secondary water supplier seeks an exemption under Subsection (9)(a), the secondary water supplier provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;

(d) the secondary water supplier annually reports to the Division of Water Resources on the results of the plan described in Subsection (9)(c); and

(e) the secondary water supplier submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (9)(c).

(10) A secondary water supplier is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) to the extent that the secondary water supplier:

(a) is unable to obtain a meter that a meter manufacturer will warranty because of the water quality within a specific location served by the secondary water supplier;

(b) submits reasonable proof to the Division of Water Resources that the secondary water supplier is unable to obtain a meter as described in Subsection (10)(a);

(c) within six months of when the secondary water supplier submits reasonable proof under Subsection (10)(b), provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;

(d) annually reports to the Division of Water Resources on the results of the plan described in Subsection (10)(c); and

(e) submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (10)(c).

(11) A secondary water supplier that is located within a critical management area that is subject to a groundwater management plan adopted or amended under Section 73-5-15on or after May 1, 2006, is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8).

(12) If a secondary water supplier is required to have a water conservation plan under Section 73-10-32, that water conservation plan satisfies the requirements of Subsection (9)(c) or (10)(c).

(13) (a) Notwithstanding the other provisions of this section and unless exempt under Subsection (9), (10), or (11), to comply with this section, a secondary water supplier is not required to meter every secondary water connection of the secondary water supplier's system, but shall meter at strategic points of the system as approved by the state engineer under this Subsection (13) if:

(i) the system has no or minimal storage and relies primarily on stream flow;

(ii) (A) the majority of secondary water users on the system are associated with agriculture use or power generation use; and

(B) less than 50% of the secondary water is used by residential secondary water users; or

(iii) the system has a mix of pressurized lines and open ditches and:

(A) 1,000 or fewer users if any part of the system is within a critical area; or

(B) 2,500 or fewer users for a system not described in Subsection (13)(a)(iii)(A).

(b) (i) A secondary water supplier may obtain the approval by the state engineer of strategic points where metering is to occur as required under this Subsection (13) by filing an application with the state engineer in the form established by the state engineer.

(ii) The state engineer may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish procedures for approving strategic points for metering under this Subsection (13).

(14) (a) A contract entered into or renewed on or after July 1, 2025, between a secondary water supplier and an end user shall allow for billing by tiered conservation rates.

(b) Except as provided in Subsection (14)(f), by no later than July 1, 2030, regardless of whether the secondary water supplier is fully metered or has modified existing contracts with end users, a secondary water supplier shall begin billing an end user using a tiered conservation rate that considers:

(i) revenue stability;

(ii) water conservation; and

(iii) cost of service.

(c) A secondary water supplier may comply with Subsection (14)(b) by entering into a contract with a third-party, including the public water system that serves an end user of the secondary water supplier, to bill the end user according to end user's usage of secondary water and the secondary water supplier's tiered conservation rate.

(d) By no later than April 1, 2030, a secondary water supplier shall provide an educational component for end users as determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, either on a monthly statement or by an end user specific Internet portal that provides information on the end user's usage more frequently than monthly.

(e) A public water system:

(i) shall enter into a contract with a secondary water supplier described in Subsection (14)(c) upon request from the secondary water supplier if the secondary water supplier agrees to provide water use and other data necessary for accurate billing in a file format compatible with the public water supplier's billing system;

(ii) may collect the costs associated with billing on behalf of a secondary water supplier under this section from the secondary water end users, including reasonable administrative and overhead expenses; and

(iii) shall, as the public water supplier and the secondary water supplier find necessary or convenient, exchange with the secondary water supplier, for the purpose of maintaining accurate records, relevant information with regard to an end user of the secondary water supplier, such as:

(A) a billing address;

(B) an address where the secondary water is delivered;

(C) a parcel identification number; and

(D) ownership information.

(f) (i) A secondary water supplier is not required to bill an end user a tiered conservation rate if the secondary water supplier is:

(A) exempt from metering under Subsection (9), (10), or (11); or

(B) authorized to meter at strategic points of the system under Subsection (13).

(ii) Notwithstanding the other provisions of this section, on or after July 1, 2030, a secondary water supplier with a tiered conservation rate under this Subsection (14) shall charge an end user at the lowest rate of the tiered conservation rate if the end user is using a portion of the water to grow food, including growing a garden, fruit trees, or pasture for grazing.

(g) (i) If a secondary water supplier violates this Subsection (14) on or after April 1, 2030, the secondary water supplier:

(A) may not receive state money for water related purposes until the secondary water supplier complies with this Subsection (14); and

(B) is subject to an enforcement action of the state engineer in accordance with this Subsection (14)(g).

(ii) The state engineer shall commence an enforcement action under this Subsection (14)(g) if the state engineer receives a referral from the director of the Division of Water Resources.

(iii) The director of the Division of Water Resources shall submit a referral to the state engineer if the director:

(A) finds that a secondary water supplier fails to comply with this Subsection (14); and

(B) determines an enforcement action is necessary to conserve or protect a water resource in the state.

(iv) To commence an enforcement action under this Subsection (14)(g), the state engineer shall issue a notice of violation that includes notice of the administrative fine described in Subsection (14)(g)(xiii) to which a secondary water supplier is subject.

(v) The state engineer's issuance and enforcement of a notice of violation is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce a notice of violation, that includes:

(A) provisions consistent with this Subsection (14)(g) for enforcement of the notice if a secondary water supplier to whom a notice is issued fails to respond to the notice or abate the violation;

(B) the right to a hearing, upon request by a secondary water supplier against whom the notice is issued; and

(C) provisions for timely issuance of a final order after the secondary water supplier to whom the notice is issued fails to respond to the notice or abate the violation, or after a hearing held under Subsection (14)(g)(vi)(B).

(vii) A person may not intervene in an enforcement action commenced under this Subsection (14)(g).

(viii) After issuance of a final order under rules made pursuant to Subsection (14)(g)(vi), the state engineer shall serve a copy of the final order on the secondary water supplier against whom the order is issued by:

(A) personal service under Utah Rules of Civil Procedure, Rule 5; or

(B) certified mail.

(ix) The state engineer's final order may be reviewed by trial de novo by a court with jurisdiction in Salt Lake County or the county where the violation occurred.

(x) A secondary water supplier shall file a petition for judicial review of the state engineer's final order issued under this Subsection (14)(g) within 20 days from the day on which the final order was served on the secondary water supplier.

(xi) The state engineer may bring suit in a court to enforce a final order issued under this Subsection (14)(g).

(xii) If the state engineer prevails in an action brought under Subsection (14)(g)(x) or (xi), the state may recover court costs and reasonable attorney fees.

(xiii) The administrative fine imposed under this section shall be an amount not to exceed the sum of any money received by the secondary water supplier under this section or Section 73-10-34.5 to fund costs related to metering.

(xiv) Money collected under this Subsection (14) shall be deposited into the Water Resources Conservation and Development Fund, created in Section 73-10-24.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 103
S. B. 33
Passed February 5, 2025
Approved March 24, 2025
Effective May 7, 2025

WATER RIGHTS RECORDING AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Rex P. Shipp

LONG TITLE

General Description:

This bill addresses water rights addenda.

Highlighted Provisions:

This bill:

► allows certain signatures to be by facsimile or electronic means; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-3-109, as enacted by Laws of Utah 2010, Chapter 70

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

Section 1. Section 57-3-109 is amended to read:

57-3-109. Water rights addenda.

(1) As used in this section:

(a) "Applicable deed" means a deed executed on or after July 1, 2011:

(i) conveying fee simple title to land; or

(ii) conveying title to water rights without conveying title to land.

(b) "Water rights addendum" means a written document that:

(i) is an addendum to an applicable deed;

(ii) is in a form approved by the Legislature in a joint resolution; and

(iii) (A) identifies and describes the water rights transferred under an applicable deed; or

(B) states that no water rights are transferred under an applicable deed.

(2) Beginning July 1, 2011, a person submitting an applicable deed to a county recorder's office for recording may also submit a water rights addendum as an addendum to the applicable deed.

(3) (a) A grantor shall complete and sign a water rights addendum submitted under Subsection (2).

(b) [~~(i)~~] A grantee shall sign a water rights addendum to acknowledge receipt of a copy of the water rights addendum.

[~~(ii)~~]

(c) A grantor's or grantee's signature on a water rights addendum may be by facsimile or electronic means.

(4) The state engineer shall use and make available to the public the water rights addendum form approved by the Legislature.

(5) Upon recording an applicable deed with a water rights addendum, a county recorder shall transmit a paper or electronic copy of the deed and water rights addendum to the state engineer.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 104
H. B. 27
Passed March 6, 2025
Approved March 24, 2025
Effective May 7, 2025

VOTING PRECINCT AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses voting precincts.

Highlighted Provisions:

This bill:

- ► authorizes a county legislative body to establish a voting precinct consisting of two or more noncontiguous geographic areas in certain circumstances;
- ► requires the name of a voting precinct to be distinguishable from any other voting precinct;
- ► authorizes the county clerk to adjust the boundaries of a voting precinct in order to:
  - • match the current boundaries of a local political subdivision; or
  - • match the resulting boundaries of a local subdivision that expands, divides, alters, or changes the local political subdivision's boundaries;
- ► requires a county clerk who adjusts the boundaries of a voting precinct to:
  - • file a notice with the Utah Geospatial Resource Center at least 65 days before the date of an election; and
  - • provide a copy of the notice to the county legislative body; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-5-303, as last amended by Laws of Utah 2021, Chapters 162, 345

ENACTS:

20A-5-303.5, Utah Code Annotated 1953

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

Section 1. Section 20A-5-303 is amended to read:

20A-5-303. Establishing, dividing, abolishing, and changing voting precincts -- Common polling places -- Combined voting precincts.

(1) [~~(a)~~] After receiving recommendations from the county clerk, the county legislative body may establish, divide, abolish, [~~and change voting precincts~~]or change the boundaries of a voting precinct.

(2) (a) Subject to Subsection (2)(b), a county legislative body may establish a voting precinct that consists of two or more noncontiguous geographic areas if:

(i) each noncontiguous area is located entirely within the same municipality; or

(ii) the noncontiguous areas are located within a municipality and immediately adjacent to a municipality.

(b) A voting precinct described in Subsection (2)(a) must consist of the same elective offices.

[~~(b)~~](3) Within 30 days after the establishment, division, abolition, or change of a voting precinct under this section, the county legislative body shall file with the Utah Geospatial Resource Center, created under Section 63A-16-505, a notice describing the action taken and specifying the resulting boundaries of each voting precinct affected by the action.

[~~(2)~~](4) (a) The county legislative body shall alter or divide voting precincts so that each voting precinct contains not more than 1,250 active voters at the time of the redistricting described in Subsection (5).

(b) The county legislative body [~~shall~~]may identify a voting precinct that:

(i) [~~identify those precincts that may reach the limit of active voters in a precinct under Subsection (2)(a) or that becomes~~]is too large to facilitate the election process; and

(ii) except as provided by Subsection [~~(3)~~](5), divide [~~those precincts~~]the precinct on or before January 1 of a general election year.

[~~(3)~~](5) A county legislative body shall divide a precinct identified under Subsection [~~(2)(b)(i)~~](4)(b)(i) on or before January 31 of a regular general election year that immediately follows the calendar year in which the Legislature divides the state into districts in accordance with Utah Constitution, Article IX, Section 1.

[~~(4)~~](6) Notwithstanding Subsection [~~(2)(a)~~](4)(a), and except as provided by Subsection [~~(5)~~](7), the county legislative body may not:

(a) establish or abolish [~~any~~]a voting precinct after January 1 of a regular general election year;

(b) alter or change the boundaries of [~~any~~]a voting precinct after January 1 of a regular general election year; or

(c) establish, divide, abolish, alter, or change a voting precinct between January 1 of a year immediately preceding the year in which an enumeration is required by the United States Constitution, and the day on which the Legislature divides the state into districts in accordance with Utah Constitution, Article IX, Section 1.

[~~(5)~~](7) A county legislative body may establish, divide, abolish, alter, or change a voting precinct on or before January 31 of a regular general election year that immediately follows the calendar year in which the Legislature divides the state into districts in accordance with Utah Constitution, Article IX, Section 1.

[~~(6)~~](8) (a) For the purpose of voting in an election, the county legislative body may establish a common polling place for two or more whole voting precincts.

(b) At least 90 days before the date of the election, the county legislative body shall designate:

(i) [~~the voting precincts~~]each voting precinct that will vote at the common polling place; and

(ii) the location of the common polling place.

(c) A county may use one set of election judges for the common polling place under this Subsection [~~(6)~~](8).

(9) Each voting precinct established under this section shall have a name that is distinguishable from the name of any other voting precinct in the state.

[~~(7)~~](10) Each county shall have at least two polling places open for voting on the date of the election.

[~~(8)~~](11) Each common polling place shall have at least one voting device that is accessible for individuals with disabilities in accordance with Public Law 107-252, the Help America Vote Act of 2002.

Section 2. Section 20A-5-303.5 is enacted to read:

20A-5-303.5. Voting precinct boundaries -- Adjustment by county clerk.

(1) Notwithstanding Section 20A-5-303, the county clerk may adjust the boundaries of a voting precinct in order to:

(a) match the current boundaries of a local political subdivision; or

(b) match the resulting boundaries of a local political subdivision that expands, divides, alters, or changes the local political subdivision's boundaries.

(2) (a) A county clerk who adjusts the boundaries of a voting precinct under Subsection (1) shall, no later than 65 days before the date of an election, file with the Utah Geospatial Resource Center, created in Section 63A-16-505, a notice that:

(i) describes the reason for the voting precinct boundary adjustment; and

(ii) specifies the resulting boundaries of the voting precinct affected by the adjustment.

(b) The county clerk shall provide a copy of the notice described in Subsection (2)(a) to the county legislative body.

(3) A county clerk may not adjust the boundaries of a voting precinct except as provided in Subsection (1).

(4) A county clerk's adjustment of a voting precinct's boundaries under this section is not effective until the county clerk files the notice described in Subsection (2)(a).

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 105
H. B. 285
Passed February 28, 2025
Approved March 24, 2025
Effective May 7, 2025

WATER INFRASTRUCTURE MODIFICATIONS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses funding and planning for water infrastructure.

Highlighted Provisions:

This bill:

- ► repeals the Water Resources Cities Water Loan Fund and provides that loan repayments go into the Water Infrastructure Fund;
- ► authorizes transfers of money in water funds and accounts to and from the Water Infrastructure Fund;
- ► requires capital asset management plans and reserve funding under certain circumstances;
- ► modifies definitions, including the definition of "relevant agency";
- ► addresses the water infrastructure prioritization process, including exemptions from the process;
- ► repeals outdated language; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-3-205, as last amended by Laws of Utah 2022, Chapters 100, 451
63B-1b-102, as last amended by Laws of Utah 2022, Chapters 100, 451
63C-25-101, as last amended by Laws of Utah 2024, Chapter 419
73-10-23, as last amended by Laws of Utah 2007, Chapter 306
73-10-25, as last amended by Laws of Utah 2023, Chapter 261
73-10-25.1, as last amended by Laws of Utah 1996, Chapter 199
73-10c-4, as last amended by Laws of Utah 2007, Chapter 142
73-10c-5, as last amended by Laws of Utah 2011, Chapter 342
73-10g-107, as enacted by Laws of Utah 2024, Chapter 335
73-10g-502, as enacted by Laws of Utah 2022, Chapter 66
73-10g-601, as enacted by Laws of Utah 2024, Chapter 335
73-10g-602, as enacted by Laws of Utah 2024, Chapter 335
73-10g-603, as enacted by Laws of Utah 2024, Chapter 335
73-10g-604, as enacted by Laws of Utah 2024, Chapter 335
73-10g-605, as enacted by Laws of Utah 2024, Chapter 335

ENACTS:

73-10g-502.5, Utah Code Annotated 1953
73-10g-606, Utah Code Annotated 1953

REPEALS:

73-10-22, as last amended by Laws of Utah 1995, Chapter 183
73-10g-504, as enacted by Laws of Utah 2022, Chapter 66

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

Section 1. Section 63A-3-205 is amended to read:
63A-3-205. Revolving loan funds -- Standards and procedures.

(1) As used in this section, "revolving loan fund" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

[~~(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;~~]

[~~(d)~~](c) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Emission Reduction Technology Program Act;

[~~(c)~~](d) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

[~~(f)~~](e) the Agriculture Resource Development Fund, created in Section 4-18-106;

[~~(g)~~](f) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

[~~(h)~~](g) the Permanent Community Impact Fund, created in Section 35A-8-303;

[~~(i)~~](h) the Petroleum Storage Tank Fund, created in Section 19-6-409;

[~~(j)~~](i) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;

[~~(k)~~](j) the Navajo Revitalization Fund, created in Section 35A-8-1704; and

[~~(l)~~](k) the Energy Efficiency Fund, created in Section 11-45-201.

(2) The division shall for each revolving loan fund make rules establishing standards and procedures governing:

(a) payment schedules and due dates;

(b) interest rate effective dates;

(c) loan documentation requirements; and

(d) interest rate calculation requirements.

Section 2. Section 63B-1b-102 is amended to read:

63B-1b-102. Definitions.

As used in this chapter:

(1) "Agency bonds" means any bond, note, contract, or other evidence of indebtedness representing loans or grants made by an authorizing agency.

(2) "Authorized official" means the state treasurer or other person authorized by a bond document to perform the required action.

(3) "Authorizing agency" means the board, person, or unit with legal responsibility for administering and managing revolving loan funds.

(4) "Bond document" means:

(a) a resolution of the commission; or

(b) an indenture or other similar document authorized by the commission that authorizes and secures outstanding revenue bonds from time to time.

(5) "Commission" means the State Bonding Commission, created in Section 63B-1-201.

(6) "Revenue bonds" means any special fund revenue bonds issued under this chapter.

(7) "Revolving Loan Funds" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

[~~(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;~~]

[~~(d)~~](c) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Emission Reduction Technology Program Act;

[~~(c)~~](d) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

[~~(f)~~](e) the Agriculture Resource Development Fund, created in Section 4-18-106;

[~~(g)~~](f) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

[~~(h)~~](g) the Permanent Community Impact Fund, created in Section 35A-8-303;

[~~(i)~~](h) the Petroleum Storage Tank Fund, created in Section 19-6-409; and

[~~(j)~~](i) the State Infrastructure Bank Fund, created in Section 72-2-202.

Section 3. Section 63C-25-101 is amended to read:

63C-25-101. Definitions.

As used in this chapter:

(1) "Authority" means the same as that term is defined in Section 63B-1-303.

(2) "Bond" means the same as that term is defined in Section 63B-1-101.

(3) (a) "Bonding government entity" means the state or any entity that is authorized to issue bonds under any provision of state law.

(b) "Bonding government entity" includes:

(i) a bonding political subdivision; and

(ii) a public infrastructure district that is authorized to issue bonds either directly, or through the authority of a bonding political subdivision or other governmental entity.

(4) "Bonding political subdivision" means:

(a) the Utah Inland Port Authority, created in Section 11-58-201;

(b) the Military Installation Development Authority, created in Section 63H-1-201;

(c) the Point of the Mountain State Land Authority, created in Section 11-59-201;

(d) the Utah Lake Authority, created in Section 11-65-201;

(e) the State Fair Park Authority, created in Section 11-68-201; or

(f) the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(5) "Commission" means the State Finance Review Commission created in Section 63C-25-201.

(6) "Concessionaire" means a person who:

(a) operates, finances, maintains, or constructs a government facility under a contract with a bonding political subdivision; and

(b) is not a bonding government entity.

(7) "Concessionaire contract" means a contract:

(a) between a bonding government entity and a concessionaire for the operation, finance, maintenance, or construction of a government facility;

(b) that authorizes the concessionaire to operate the government facility for a term of five years or longer, including any extension of the contract; and

(c) in which all or some of the annual source of payment to the concessionaire comes from state funds provided to the bonding government entity.

(8) "Creating entity" means the same as that term is defined in Section 17D-4-102.

(9) "Government facility" means infrastructure, improvements, or a building that:

(a) costs more than $5,000,000 to construct; and

(b) has a useful life greater than five years.

(10) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(11) "Loan entity" means the board, person, unit, or agency with legal responsibility for making a loan from a revolving loan fund.

(12) "Obligation" means the same as that term is defined in Section 63B-1-303.

(13) "Parameters resolution" means a resolution of a bonding government entity that sets forth for proposed bonds:

(a) the maximum:

(i) amount of bonds;

(ii) term; and

(iii) interest rate; and

(b) the expected security for the bonds.

(14) "Public infrastructure district" means a public infrastructure district created under Title 17D, Chapter 4, Public Infrastructure District Act.

(15) "Revolving loan fund" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

[~~(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;~~]

[~~(d)~~](c) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Emission Reduction Technology Program Act;

[~~(e)~~](d) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

[~~(f)~~](e) the Agriculture Resource Development Fund, created in Section 4-18-106;

[~~(g)~~](f) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

[~~(h)~~](g) the Permanent Community Impact Fund, created in Section 35A-8-303;

[~~(i)~~](h) the Petroleum Storage Tank Fund, created in Section 19-6-409;

[~~(j)~~](i) the School Building Revolving Account, created in Section 53F-9-206;

[~~(k)~~](j) the State Infrastructure Bank Fund, created in Section 72-2-202;

[~~(l)~~](k) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;

[~~(m)~~](l) the Navajo Revitalization Fund, created in Section 35A-8-1704;

[~~(n)~~](m) the Energy Efficiency Fund, created in Section 11-45-201;

[~~(o)~~](n) the Brownfields Fund, created in Section 19-8-120;

[~~(p)~~](o) any of the enterprise revolving loan funds created in Section 63A-3-402: and

[~~(q)~~](p) any other revolving loan fund created in statute where the borrower from the revolving loan fund is a public non-profit entity or political subdivision, including a fund listed in Section 63A-3-205, from which a loan entity is authorized to make a loan.

(16) (a) "State funds" means an appropriation by the Legislature identified as coming from the General Fund or Education Fund.

(b) "State funds" does not include:

(i) a revolving loan fund; or

(ii) revenues received by a bonding political subdivision from:

(A) a tax levied by the bonding political subdivision;

(B) a fee assessed by the bonding political subdivision; or

(C) operation of the bonding political subdivision's government facility.

Section 4. Section 73-10-23 is amended to read:

73-10-23. Loans for water systems -- Board of Water Resources authority -- Procedure.

(1) The Board of Water Resources [~~is authorized to~~]may make loans to cities, towns, metropolitan water districts, water conservancy districts, improvement districts, special improvement districts, or special service districts within the state for the acquisition or construction of new or existing water systems or the improvement or extension of those systems from [~~funds~~]money appropriated for the purpose of this chapter.

(2) (a) Cities, towns, or districts which participate in this program shall submit an application for [~~funds~~]money to the Board of Water Resources.

(b) The application may request a loan to cover all or part of the cost of an eligible project.

(c) Requests for loans shall be submitted in a form and shall include information as the [~~board~~]Board of Water Resources prescribes.

(3) (a) The [~~board~~]Board of Water Resources shall establish criteria for determining eligibility for loans and shall determine appropriate priorities among projects.

(b) [~~Funds~~]Money received from the repayment of loans shall be [~~added to this special fund~~]deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 and be available for additional loans under the administration of the [~~board~~]Board of Water Resources.

(c) In determining priorities for eligible projects, the [~~board~~]Board of Water Resources shall consider:

(i) probable growth of population due to actual or prospective economic development in an area;

(ii) possible additional sources of state and local revenue;

(iii) opportunities for expanded employment;

(iv) present or potential health hazards;

(v) water systems which do not meet minimum state standards;

(vi) cities, towns, or districts which have insufficient water to meet current demands;

(vii) feasibility and practicality of the project;

(viii) per capita cost of the project;

(ix) per capita income of the residents in the area;

(x) the borrowing capacity of the city, town, or district and its ability to sell bonds in the open market; and

(xi) the availability of federal [~~funds~~]money for the project.

(4) (a) The [~~board~~]Board of Water Resources shall consult with the Governor's Advisory Council on Community Affairs in the establishment of priorities but that advice is not binding upon the [~~board~~]Board of Water Resources.

(b) If an application is rejected, the [~~board~~]Board of Water Resources shall notify the applicant stating the reasons for the rejection.

(5) The Board of Water Resources shall review the plans and specifications for the project prior to approval and may condition approval and the availability of [~~funds~~]money on assurances the [~~board~~]Board of Water Resources considers necessary to ensure that the proceeds of the loan will be used to pay the cost of the project and that the project will be completed.

(6) Any loan shall specify the terms for repayment and may be evidenced by general obligation bonds, revenue bonds, special assessment bonds, or other bonds or obligations legally issued by the appropriate city, town, metropolitan water district, water conservancy district, improvement district, special improvement district, or special service district and purchased by the [~~board~~]Board of Water Resources pursuant to the authority for the issuance that exists at the time of the loan.

(7) (a) Upon approval of an application, the [~~board~~]Board of Water Resources shall advise the applicant and may provide [~~funds~~]money as a loan to cover all or part of the costs of eligible projects.

(b) Costs of an eligible project may include all costs of acquisition and construction as well as costs incurred for preliminary planning to determine the economic and engineering feasibility of a proposed project, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the project and its financing; the cost of erection, building, acquisition, modification, improvement, or extension of water system facilities and the inspection and supervision of the construction of such facilities.

(8) [~~No loan shall~~]A loan may not include any project costs for which the applicant receives federal financial assistance, other than federal loans [~~which~~]that must be repaid by the applicant.

Section 5. Section 73-10-25 is amended to read:

73-10-25. Contents of fund -- Investment -- Contributions -- Transfers.

(1) The Water Resources Conservation and Development Fund consists of:

(a) money appropriated to it by the Legislature;

(b) money received from the sale of project water and power, less operating and maintenance costs;

(c) annual payments on contracts for projects constructed under Section 73-10-24 or the State Water Conservation Program; [~~and~~]

(d) other money or tax revenues designated by the Legislature to be credited to the Water Resources Conservation and Development Fund [~~.~~]; and

(e) money transferred from the Water Infrastructure Fund in accordance with Subsection 73-10g-603(1)(f).

(2) Money deposited into the Water Resources Conservation and Development Fund shall be invested by the state treasurer with interest accruing to the Water Resources Conservation and Development Fund, except for payments, if any, necessary to comply with Section 148(f), Internal Revenue Code of 1986.

(3) A contribution of money, property, or equipment may be received from a political subdivision of the state, federal agency, water users' association, or person for use in carrying out the purposes of Section 73-10-24.

(4) Notwithstanding Subsection (1), the division shall transfer a payment on a loan to the Water Infrastructure Restricted Account, created in Section 73-10g-103, if the loan:

(a) is issued from the Water Resources Conservation and Development Fund on or after July 1, 2023; and

(b) relates to a project described in Subsection 73-10g-104(4).

(5) The Board of Water Resources may direct the transfer of money out of the Water Resources Conservation and Development Fund to the Water Infrastructure Fund in accordance with Section 73-10g-107.

Section 6. Section 73-10-25.1 is amended to read:

73-10-25.1. Credit enhancement and interest buy-down agreements.

(1) The Board of Water Resources may enter into credit enhancement agreements with political subdivisions containing terms and provisions that the board determines will reasonably improve the security for or marketability of water project obligations financed using the [~~Water Resources Cities Water Loan Fund created in Section 73-10-22 or the~~]Water Resources Conservation and Development Fund created in Section 73-10-24. Credit enhancement agreements may include provisions for loans to political subdivisions to pay the costs of obtaining letters of credit or other forms of insurance or security to provide security for water project obligations.

(2) The Board of Water Resources may make loans or grants from [~~the Water Resources Cities Water Loan Fund or~~]the Water Resources Conservation and Development Fund to political subdivisions for interest buy-down agreements for water development projects.

Section 7. Section 73-10c-4 is amended to read:

73-10c-4. Credit enhancement and interest buy-down agreements -- Loans or grants -- Hardship grants -- Transfer of money.

(1) On behalf of the state, the Water Quality Board and the Drinking Water Board may each enter into credit enhancement agreements with political subdivisions containing terms and provisions that the acting board determines will reasonably improve the security for or marketability of drinking water and wastewater project obligations, including any of the following:

(a) a term providing security for drinking water and wastewater project obligations, as provided in Subsection 73-10c-6(2)(b), by agreeing to purchase the drinking water or wastewater project obligations of, or to make loans to, political subdivisions from a subaccount of the security fund for the purpose of preventing defaults in the payment of principal and interest on drinking water and wastewater project obligations;

(b) a term making loans to political subdivisions to pay the cost of obtaining:

(i) letters of credit from banks, savings and loan institutions, insurance companies, or other financial institutions;

(ii) municipal bond insurance; or

(iii) other forms of insurance or security to provide security for drinking water and wastewater project obligations; and

(c) a term providing other methods and assistance to political subdivisions that are reasonable and proper to enhance the marketability of or security for drinking water and wastewater project obligations.

(2) (a) The Drinking Water Board and the Water Quality Board may each make loans from a security fund subaccount to political subdivisions to finance all or part of drinking water and wastewater project costs by following the procedures and requirements of Sections 73-10c-4.1 and 73-10c-4.2.

(b) These loans may only be made after credit enhancement agreements, interest buy-down agreements, and all other financing alternatives have been evaluated by the acting board and the board determines those options are unavailable or unreasonably expensive for the subdivision requesting assistance.

(c) Loans may be made from the security fund subaccount at interest rates determined by the board.

(3) (a) The Drinking Water Board and the Water Quality Board may each make loans or grants from the security fund to political subdivisions for interest buy-down agreements for drinking water or wastewater project obligations.

(b) The Drinking Water Board may make loans or grants from the security account to political subdivisions for planning for drinking water projects.

(4) (a) Of the total amount of money annually available to the Drinking Water Board and Water Quality Board for financial assistance to political subdivisions, at least 10% shall be allocated by each board for credit enhancement and interest buy-down agreements.

(b) The requirement specified in Subsection (4)(a) shall apply only so long as sales and use tax is transferred to the Utah Wastewater Loan Program Subaccount and Drinking Water Loan Program Subaccount as provided in Section 59-12-103.

(5) To the extent money is available in the hardship grant subaccounts of the security fund, the Drinking Water Board and the Water Quality Board may each make grants to political subdivisions that meet the drinking water or wastewater project loan considerations respectively, but whose projects are determined by the granting board to not be economically feasible unless grant assistance is provided.

(6) The Drinking Water and Water Quality Boards may at any time transfer money out of their respective hardship grant subaccounts of the security fund to their respective loan program subaccounts.

(7) The Water Quality Board may make a grant from the Hardship Grant Program for Wastewater Projects Subaccount created in Subsection 73-10c-5(2)(c) for a nonpoint source project as provided by Section 73-10c-4.5 if:

(a) money is available in the subaccount; and

(b) the Water Quality Board determines that the project would not be economically feasible unless a grant were made.

(8) (a) The Water Quality Board may direct the transfer of money out of the Water Quality Security - Utah Wastewater Loan Program Subaccount created by Subsection 73-10c-5(2)(a) to the Water Infrastructure Fund in accordance with Section 73-10g-107.

(b) The Drinking Water Board may direct the transfer of money out of the Drinking Water Security - Drinking Water Loan Program Subaccount created by Subsection 73-10c-5(3)(a) to the Water Infrastructure Fund in accordance with Section 73-10g-107.

Section 8. Section 73-10c-5 is amended to read:

73-10c-5. Water Development Security Fund created -- Water Quality Security and Drinking Water Security Subaccounts created -- Use -- Revolving loan funds -- Hardship grants.

(1) There is established an enterprise fund known as the Water Development Security Fund which includes the Water Quality Security Subaccount and the Drinking Water Security Subaccount.

(2) The Water Quality Security Subaccount consists of four subaccounts:

(a) the Utah Wastewater Loan Program Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received from the repayment of the principal of loans made by the Water Quality Board under Sections 73-10c-4 and 73-10c-6 from the Utah Wastewater Loan Program Subaccount; [~~and~~]

(iii) money deposited in the subaccount under any other law; and

(iv) money transferred from the Water Infrastructure Fund in accordance with Subsection 73-10g-603(1)(f);

(b) the Utah State Revolving Fund for Wastewater Projects Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received from the Utah Wastewater Loan Program Subaccount applied to meet match requirements for federal funds under 33 [~~U.S.C.A.~~]U.S.C. 1251 et seq., federal Clean Water Act;

(iii) money received from the repayment of loans made by the Water Quality Board under Section 73-10c-4 from the Utah State Revolving Fund for Wastewater Projects Subaccount;

(iv) money received from the repayment of loans made by the Water Quality Board under Section 73-10c-4.5;

(v) money deposited in the subaccount under any other law;

(vi) money received under and subject to the restrictions of 33 [~~U.S.C.A.~~]U.S.C. 1251 et seq., federal Clean Water Act, and which is eligible for use in state revolving loan funds established to meet the requirements of the act; and

(vii) all investment income derived from money in the Utah State Revolving Fund for Wastewater Projects Subaccount;

(c) the Hardship Grant Program for Wastewater Projects Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received as interest payments on loans made by the Water Quality Board under Sections 73-10c-4 and 73-10c-6, from the Utah Wastewater Loan Program Subaccount;

(iii) money deposited in the subaccount under any other law;

(iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients; and

(v) all investment income derived from money in the Utah Wastewater Loan Program Subaccount or the Hardship Grant Program for Wastewater Projects Subaccount; and

(d) the Water Quality Origination Fee Subaccount, which consists of the origination fee paid under Section 73-10c-10.

(3) The Drinking Water Security Subaccount consists of four subaccounts:

(a) the Drinking Water Loan Program Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received from the repayment of the principal of loans made by the Drinking Water Board under Sections 73-10c-4 and 73-10c-6, from the Drinking Water Loan Program Subaccount; [~~and~~]

(iii) money deposited in the subaccount under any other law; and

(iv) money transferred from the Water Infrastructure Fund in accordance with Subsection 73-10g-603(1)(f);

(b) the State Revolving Fund for Drinking Water Projects Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received from the Utah Drinking Water Loan Program Subaccount and applied to meet match requirements for federal funds under 42 [~~U.S.C.A.~~]U.S.C. 300f et seq., federal Safe Drinking Water Act;

(iii) money received from the repayment of loans made by the Drinking Water Board under Section 73-10c-4 from the State Revolving Fund for Drinking Water Projects Subaccount;

(iv) money deposited in the subaccount under any other law;

(v) money received under and subject to the restrictions of 42 [~~U.S.C.A.~~]U.S.C. 300f et seq., federal Safe Drinking Water Act, and which is eligible for use in state revolving loan funds established to meet the requirements of the act; and

(vi) all investment income derived from money in the State Revolving Fund for Drinking Water Projects Subaccount;

(c) the Hardship Grant Program for Drinking Water Projects Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received from interest payments on loans made by the Drinking Water Board under Sections 73-10c-4 and 73-10c-6, from the Drinking Water Loan Program Subaccount;

(iii) money deposited in the subaccount under any other law;

(iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients; and

(v) all investment income derived from money in the Drinking Water Loan Program Subaccount or the Hardship Grant Program for Drinking Water Projects Subaccount; and

(d) the Drinking Water Origination Fee Subaccount, which consists of the origination fee paid under Section 73-10c-10.

(4) State money in the Water Quality Security Subaccount and the Drinking Water Security Subaccount may be applied to meet match requirements for federal funds under the Clean Water Act, 33 U.S.C. Sec. 1251 et seq. and the Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.

(5) If the money in the security fund is insufficient for the purposes for which the security fund is established, the council shall ask the governor to request the Legislature to appropriate additional money to the account.

(6) (a) The Drinking Water Board and Water Quality Board may use the money in the appropriate security fund subaccount only to the extent of the money available in the account, for the support of drinking water projects and wastewater projects in accordance with the terms of credit enhancement agreements, grant agreements, and loan agreements.

(b) Repayments to the security fund from loans made by the acting board, money allocated by the Legislature, and interest accrued on the money shall remain available for use by that board for further project funding.

(c) The Drinking Water Board and Water Quality Board may use the money in the origination fee subaccount to administer this chapter.

(7) Funds received under the Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq. may be used for providing financial assistance to community water systems and nonprofit noncommunity water systems as defined and within the limits of that act.

Section 9. Section 73-10g-107 is amended to read:

73-10g-107. Water Infrastructure Fund.

(1) There is created an enterprise fund known as the "Water Infrastructure Fund," which is referred to in this section as the "fund."

(2) The fund shall consist of:

(a) appropriations from the Legislature;

(b) money from the federal government;

(c) grants or donations from a person;

(d) money made available to the state for purposes of water infrastructure projects from any source;

(e) money received for the repayment of loans made from [~~the fund; and~~]the Water Resources Cities Water Loan Fund that were issued before May 7, 2025;

(f) money transferred to the fund under Subsection (5); and

[~~(f)~~](g) interest and earnings on the fund.

(3) The state treasurer shall invest the money in the fund according to Title 51, Chapter 7, State Money Management Act, except that interest or other earnings derived from those investments shall be deposited into the fund.

(4) (a) The Water Development Coordinating Council may use money in the fund to pay for the costs of administering Part 6, Planning and Prioritization, including staff directly related to the activities of the Water Development Coordinating Council under Part 6, Planning and Prioritization.

(b) The division may use money in the fund to pay for the costs of the study required by Section 73-10-39.

(c) Fund money may be used [~~to issue loans or grants prioritized~~],in accordance with Section 73-10g-603[~~.~~], to provide money to a relevant agency, as defined in Section 73-10g-601.

(5) (a) Each fiscal year beginning with fiscal year 2027, the Division of Finance shall transfer the money described in this Subsection (5) to the fund at the close of the fiscal year.

(b) The Water Quality Board shall at the close of a fiscal year beginning with fiscal year 2027:

(i) determine the amount of money in the Water Quality Security - Utah Wastewater Loan Program Subaccount, created in Section 73-10c-5, that is in excess of the money needed to fund loans authorized in the previous fiscal year under the Utah Wastewater Loan Program;

(ii) determine the amount of the money described in Subsection (5)(b)(i) that should be transferred under this Subsection (5)(b); and

(iii) direct the Division of Finance to transfer the amount of money described in Subsection (5)(b)(ii) to the fund.

(c) The Drinking Water Board shall at the close of a fiscal year beginning with fiscal year 2027:

(i) determine the amount of money in the Drinking Water Security - Drinking Water Loan Program Subaccount, created in Section 73-10c-5, that is in excess of the money needed to fund loans authorized in the previous fiscal year under the Drinking Water Loan Program;

(ii) determine the amount of the money described in Subsection (5)(c)(i) that should be transferred under this Subsection (5)(c); and

(iii) direct the Division of Finance to transfer the amount of money described in Subsection (5)(c)(ii) to the fund.

(d) The Board of Water Resources shall at the close of a fiscal year beginning with fiscal year 2027:

(i) determine the amount of money in the Water Resources Conservation and Development Fund, created in Section 73-10-24, that is in excess of the sum of the money:

(A) specified in Subsection 59-12-103(5)(d) for the purposes described in Subsection 59-12-103(5)(d); and

(B) needed to fund loans or grants authorized in the previous fiscal year under Chapter 10, Board of Water Resources - Division of Water Resources;

(ii) determine the amount of the money described in Subsection (5)(d)(i) that should be transferred under this Subsection (5)(d); and

(iii) direct the Division of Finance to transfer the amount of money described in Subsection (5)(d)(ii) to the fund.

Section 10. Section 73-10g-502 is amended to read:

73-10g-502. Capital asset management for a water conservancy district.

(1) As a condition of receiving state or federal financing or grants to be used for an improvement to a capital asset related to water infrastructure, the governing body of a water [~~provider~~]conservancy district shall commit to adopt a capital asset management plan.

[~~(2) (a) The Drinking Water Board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the elements of a capital asset management plan required under Subsection (1) for a water provider that is a retail water supplier.~~]

[~~(b)~~](2) The Board of Water Resources shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the elements of a capital asset management plan required under Subsection (1) for a water provider that is a water conservancy district.

(3) A qualified water conservancy district, as defined in Section 17B-2a-1010, is not subject to this section but shall comply with Section 17B-2a-1010.

Section 11. Section 73-10g-502.5 is enacted to read:

73-10g-502.5. Capital asset management and reserve funding analysis for public water systems.

(1) As used in this section:

(a) "Board" means the Drinking Water Board appointed under Section 19-4-103.

(b) "Public water system" means the same as that term is defined in Section 19-4-102.

(c) "Reserve analysis" means a detailed evaluation of a public water system's reserves, assessing fund balances and projected future needs to ensure sufficient money is set aside to cover repairs, replacements, or restoration of water infrastructure capital assets and operational needs to determine:

(i) the need for a reserve fund to accumulate reserve money; and

(ii) the appropriate amount of money in a reserve fund, as determined by the public water system through recognized financial practices for public water systems, such as updated rate studies, budgeting, asset management, and financing resources.

(2) By no later than July 1, 2028, as a condition of receiving state or federal financing or grants, the governing body of a public water system that is not a water conservancy district shall adopt a capital asset management plan.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Drinking Water Board shall make rules that establish the elements of a capital asset management plan for a public water system that is not a water conservancy district.

(4) By no later than July 1, 2028, as a condition of receiving state or federal financing or grants, the governing body of a public water system shall adopt a capital asset reserve funding plan that includes:

(a) an inventory of the major capital assets identified in a reserve analysis that reasonably require reserve money;

(b) a statement of the condition and probable remaining useful life, as of the date of the reserve analysis, of each capital asset identified under Subsection (4)(a);

(c) an estimate of the cost to renew, replace, or upgrade each capital asset identified under Subsection (4)(a);

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the costs identified in Subsection (4)(c) during a capital asset's useful life and at the end of a capital asset's useful life;

(e) an analysis of a reserve fund's relationship to the setting of water rates, including the setting of rates pursuant to recognized affordability metrics for nondiscretionary indoor water use for health and sanitation; and

(f) a reserve funding plan that:

(i) recommends how the public water system may fund the costs described in Subsection (4)(c), which may include long term financing strategies in addition to cash reserves such as municipal bonding when authorized; and

(ii) does not rely on obtaining grants to fund the reserve fund.

(5) The governing body of a public water system required to adopt a capital asset reserve funding plan under this section shall update

the public water system's capital asset reserve funding plan every five years.

(6) The governing body of a public water system required to adopt a capital asset reserve funding plan under this section shall collect money in accordance with the capital asset reserve funding plan recommendations described in Subsection (4)(f).

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Drinking Water Board shall make rules that:

(a) provide a process under which the division may monitor a public water system's compliance with this section; and

(b) impose administrative penalties similar to the penalties imposed under Section 19-4-109 for failure to comply with this section.

Section 12. Section 73-10g-601 is amended to read:

73-10g-601. Definitions.

As used in this part:

(1) "Agency plan" means a water infrastructure plan adopted by a relevant agency.

(2) "Executive director" means the executive director of the Department of Natural Resources.

(3) "Relevant agency" means:

(a) the Division of Water Resources;

(b) the Division of Drinking Water; and

(c) the Division of Water Quality[~~;~~].

[~~(d) the Housing and Community Development Division; and~~]

[~~(e) the Department of Agriculture and Food.~~]

(4) "State council" means the Water Development Coordinating Council created in Sections 73-10c-3 and 79-2-201.

(5) "Utah Watersheds Council" means the Utah Watersheds Council created in Section 73-10g-304.

(6) "Water infrastructure fund money" means money in:

(a) []the Water Infrastructure Fund, created by Section 73-10g-107[~~.~~];

(b) the Water Quality Security - Utah Wastewater Loan Program Subaccount, created in Section 73-10c-5;

(c) the Drinking Water Security - Drinking Water Loan Program Subaccount, created in Section 73-10c-5;

(d) the Water Resources Conservation and Development Fund, created in Section 73-10-24; or

(e) another fund or account administered by a relevant agency:

(i) unless use of the money is restricted by federal law; or

(ii) except as provided in Section 73-10g-606.

Section 13. Section 73-10g-602 is amended to read:

73-10g-602. Unified water infrastructure plan -- Annual reporting.

(1) (a) The state council shall adopt a unified water infrastructure plan in accordance with this section by no later than March 1, 2026.

(b) The state council shall update the unified water infrastructure plan as needed, but at least every four years.

(c) A relevant agency may request that the state council amend the unified water infrastructure plan.

(2) A unified water infrastructure plan shall:

(a) describe water infrastructure projects:

(i) needed to maintain the reliable supply of safe and clean water within the state; and

(ii) organized in 10-year phases up to at least a 20-year plan;

(b) be consistent with the policies, goals, and recommendations of the state water plan; and

(c) be based primarily on agency plans submitted by the relevant agencies.

(3) Beginning on June 30, 2025, a relevant agency shall:

(a) annually adopt a water infrastructure agency plan that describes and ranks needed water infrastructure projects under the jurisdiction of the relevant agency;

(b) include in the agency plan ranking justifications and descriptions of whether a water infrastructure project is:

(i) ready for construction;

(ii) planning for construction; or

(iii) a future project;

(c) organize an agency plan under this section in 10-year phases up to at least a 20-year plan; and

(d) annually submit the agency plan to the state council by no later than June 30.

(4) Before adopting or amending a unified water infrastructure plan, the state council shall provide a draft of the proposed unified water infrastructure plan to the Utah Watersheds Council and the Utah Watersheds Council may advise the state council concerning the unified water infrastructure plan.

(5) (a) Beginning September 1, 2024, a relevant agency shall annually prepare a report and submit it to the state council concerning the funds or accounts that the relevant agency administers.

(b) The report required by this Subsection (5) shall provide for the fund or account:

(i) the balance at the beginning of the fiscal year of the report;

(ii) revenues received from any source during the fiscal year;

(iii) the ending balance after the close of the fiscal year; and

(iv) projected revenues and disbursements for the coming fiscal year.

(c) The state council shall compile the reports submitted pursuant to this Subsection (5) by no later than October 1 and distribute the compiled report to:

(i) the governor;

(ii) the Legislative Management Committee;

(iii) the Natural Resources, Agriculture, and Environment Interim Committee; [~~and~~]

(iv) the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee[~~.~~]; and

(v) the Legislative Water Development Commission.

Section 14. Section 73-10g-603 is amended to read:

73-10g-603. Ranking and prioritizing water infrastructure projects.

(1) The state council, in consultation with the relevant agencies, shall develop a written prioritization process for ranking and prioritizing water infrastructure projects that are or will be funded by water infrastructure fund money beginning with fiscal year 2027. The written prioritization process shall:

(a) identify water infrastructure projects listed in the unified water infrastructure plan described in Section 73-10g-602; [~~and~~]

(b) establish a process under which an applicant may apply for funding of a water infrastructure project listed in the unified water infrastructure plan;

(c) provide for the assignment by the state council of a water infrastructure project application to a relevant agency;

[~~(b)~~](d) provide for a relevant agency to rank the water infrastructure projects [~~identified under Subsection (1)(a).~~]assigned to the relevant agency under Subsection (1)(c);

(e) on the basis of the ranking of water infrastructure projects under Subsection (1)(d), establish a process for the state council to prioritize water infrastructure projects; and

(f) establish a process for transferring money from the Water Infrastructure Fund, created in Section 73-10g-107, into a fund or account described in Subsection 73-10g-601(6) to fund water infrastructure projects prioritized by the state council.

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) subject to Subsection (3), categories of the types of water infrastructure projects against which other water infrastructure projects are prioritized, including:

(i) drinking water projects;

(ii) wastewater projects;

(iii) stormwater projects;

(iv) secondary water projects;

(v) dam and reservoir projects;

(vi) off-farm agriculture projects; and

(vii) water reuse projects;

(b) exclusion of the following types of water infrastructure projects:

(i) an emergency water infrastructure project; or

(ii) a small water infrastructure project that receives less than an amount of water infrastructure fund money established by rule made by the state council in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) hardship criteria that at a minimum refer to the hardship criteria of the Division of Drinking Water and the Division of Water Quality;

(d) criteria related to the public interest, including conservation and the protection of public health and safety;

(e) criteria to ensure that the project is adequately designed based on sound engineering and geologic considerations;

(f) criteria for ranking or prioritizing a local water infrastructure project based on:

(i) a local water infrastructure plan that is consistent with this section; and

(ii) consultation with local entities about local water infrastructure projects;

(g) criteria for ranking or prioritizing a water infrastructure project when water infrastructure fund money will be used to match federal funding;

(h) a requirement that a person who receives water infrastructure fund money for a water infrastructure project:

(i) engage in long-term planning consistent with Section 73-10g-602; and

(ii) comply with Section 73-10g-605; and

(i) any other provision the state council considers appropriate.

(3) When including categories of types of water infrastructure projects used in the written prioritization process, the state council shall consider:

(a) whether to apply percentages of water infrastructure fund money assigned to each category;

(b) the size and resources of recipients; and

(c) the potential purposes of the different types of water infrastructure projects, such as agricultural, municipal, or industrial uses.

(4) In developing the written prioritization process, the state council shall seek and consider public comment related to developing the written prioritization process by holding public meetings at locations throughout the state in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state council shall make rules establishing the written prioritization process under Subsection (1).

(b) The state council shall submit a proposed rule to [~~a committee or commission designated by the Legislative Management Committee~~]the Legislative Water Development Commission for review before taking final action on the proposed rule or a proposed amendment to the rule described in this Subsection (5).

(6) In determining priorities and funding levels of water infrastructure projects, the state council shall use the ranked list of water infrastructure projects based on the criteria adopted in the written prioritization process under Subsection (1).

(7) A relevant agency shall annually report to the state council on the status of new water infrastructure projects, including water infrastructure projects that are funded by the Legislature in an appropriation act.

(8) For a fiscal year before fiscal year 2027, a relevant agency shall prioritize water infrastructure projects within the jurisdiction of

the relevant agency and not the state council.

Section 15. Section 73-10g-604 is amended to read:

73-10g-604. State council's general duties related to prioritizing -- Reporting -- Relevant agency actions.

(1) The state council shall:

(a) beginning with fiscal year 2027, determine priorities and funding levels of water infrastructure projects for each fiscal year based on [~~ranked~~]the water infrastructure projects ranked by relevant agencies under Section 73-10g-603;

(b) hold public meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act, and otherwise provide for public input on funding of water infrastructure projects; and

(c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the state council's duties related to:

(i) adopting the unified water infrastructure plan;

(ii) adopting a written prioritization [~~plan~~]process; and

(iii) prioritizing and setting funding levels for water infrastructure projects.

(2) (a) For water infrastructure projects prioritized with funding provided under this title, the state council shall annually report, by no later than the October interim meeting of the Legislature, to [~~a committee or commission designated by the Legislative Management Committee~~]the Legislative Water Development Commission:

(i) a prioritized list of the water infrastructure projects and the funding levels available for those water infrastructure projects; and

(ii) the unfunded water infrastructure projects and maintenance needs within the state.

(b) The [~~committee or commission designated by the Legislative Management Committee under Subsection (2)(a)~~]Legislative Water Development Commission shall:

(i) review the prioritized list reported by the state council; and

(ii) recommend to the Legislature:

(A) the amount of additional funding to allocate to water infrastructure projects; and

(B) the source of revenue for the additional funding allocation under Subsection (2)(b)(ii)(A).

(3) A relevant agency shall administer money prioritized under this part in a manner consistent with this part.

Section 16. Section 73-10g-605 is amended to read:

73-10g-605. Capital asset management and reserve analysis -- Assistance for person seeking state funds.

(1) As a condition of receiving water infrastructure fund money for a water infrastructure project by a loan or grant, a recipient shall:

(a) conduct a reserve study showing how the recipient shall:

(i) repay the loan if the recipient receives a loan; and

(ii) collect money for repair and replacement of the water infrastructure project;

(b) if the recipient receives a loan, update the reserve study described in Subsection (1)(a) every five years or until the loan is repaid; and

(c) comply with the relevant capital asset management requirements under:

(i) Section 19-5-202 for a water infrastructure project related to wastewater or sewage infrastructure; [~~or~~]

(ii) Section 73-10g-502 for a water [~~provider's~~]conservancy district's, as defined in Section 73-10g-501, water infrastructure project that is not described in Subsection (1)(c)(i) [~~.~~]; or

(iii) Section 73-10g-502.5, for a public water system, as defined in Section 73-10g-502.5, that is not a water conservancy district.

(2) A reserve study required under this section shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(e) a reserve funding plan that recommends how the system may fund the annual contribution described in Subsection (2)(d).

(3) If a person seeking [~~water infrastructure fund money under this part~~]state or federal financing or grants establishes a need to the satisfaction of a relevant agency, the relevant agency may provide the person:

(a) water infrastructure fund money to assist the recipient in complying with the planning, reserve analysis, and capital asset management requirements of this part or Part 5, Capital Assets for Water; or

(b) technical assistance with the planning, reserve analysis, or capital asset management requirements of this part or Part 5, Capital Assets for Water.

Section 17. Section 73-10g-606 is enacted to read:

73-10g-606. Scope of part.

This part does not apply to:

(1) the Water Resources Construction Fund created in Section 73-10-8; and

(2) the Water Infrastructure Restricted Account created in Section 73-10g-103.

Section 18. Repealer.

This bill repeals:

Section 73-10-22, Water Resources Cities Water Loan Fund -- Annual appropriation -- Interest.

Section 73-10g-504, Review and reporting by the Water Development Coordinating Council.

Section 19. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 106
H. B. 29
Passed February 7, 2025
Approved March 24, 2025
Effective May 7, 2025

CHILD VISITATION AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill modifies provisions related to custody and visitation for individuals other than a parent.

Highlighted Provisions:

This bill:

- ► modifies a standard required to support an award of non-parental custody or visitation;
- ► clarifies that a court that has received a petition seeking non-parent custody or visitation may, as part of the adjudication of the petition, make findings relating to a parent's ability to exercise primary physical custody, and make findings relating to a claim of parental abuse or neglect of a minor child; and
- ► clarifies the time period that is applicable to a court's findings.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

81-9-402, as renumbered and amended by Laws of Utah 2024, Chapter 366

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

Section 1. Section 81-9-402 is amended to read:

81-9-402. Custody and visitation for individuals other than a parent -- Venue.

(1) (a) In accordance with Section 80-2a-201, it is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of a minor child of the parent.

(b) There is a rebuttable presumption that a parent's decisions are in the minor child's best interests.

(2) [~~A court may find the~~]The presumption in Subsection (1) is rebutted and a court may grant custodial or visitation rights to an individual other than a parent [~~who, by clear and convincing evidence, establishes that~~]if the court finds, by clear and convincing evidence, that the individual seeking custodial or visitation rights has established that:

(a) the individual has intentionally assumed the role and obligations of a parent;

(b) the individual and the minor child have formed a substantial emotional bond and created a parent-child type relationship;

(c) the individual substantially contributed emotionally or financially to the minor child's well being;

(d) the assumption of the parental role is not the result of a financially compensated surrogate care arrangement;

(e) the continuation of the relationship between the individual and the minor child is in the minor child's best interest;

(f) the loss or cessation of the relationship between the individual and the minor child would substantially harm the minor child; and

(g) the parent:

(i) is absent as of the time of filing of the petition;

(ii) does not have the ability to exercise primary physical custody of the minor child as of the time of filing of the petition; or

[~~(ii)~~](iii) [~~is found by a court to have~~]has abused or neglected the minor child, or that another court has found that the parent has abused or neglected the minor child.

(3) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, or Section 78A-6-350, an individual shall file a verified petition, or a petition supported by an affidavit, for custodial or visitation rights to the minor child in the juvenile court if a matter is pending in the juvenile court, or in the district court in the county where the minor child:

(a) currently resides; or

(b) lived with a parent or an individual other than a parent who acted as a parent within six months before the commencement of the action.

(4) An individual may file a petition under this section in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court involving custody of or visitation with a minor child.

(5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information described in Section 78B-13-209.

(6) An individual may not file a petition under this section against a parent who is actively serving outside the state in any branch of the military.

(7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the Utah Rules of Civil Procedure on all of the

following:

(a) the minor child's biological, adopted, presumed, declarant, and adjudicated parents;

(b) any individual who has court-ordered custody or visitation rights;

(c) the minor child's guardian;

(d) the guardian ad litem, if one has been appointed;

(e) an individual or agency that has physical custody of the minor child or that claims to have custody or visitation rights; and

(f) any other individual or agency that has previously appeared in any action regarding custody of or visitation with the minor child.

(8) The court may order a custody evaluation to be conducted in any proceeding brought under this section.

(9) The court may enter temporary orders in a proceeding brought under this section pending the entry of final orders.

(10) Except as provided in Subsection (11), a court may not grant custody of a minor child under this section to an individual:

(a) who is not the parent of the minor child; and

(b) who, before a custody order is issued, is convicted, pleads guilty, or pleads no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(i) child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114;

(ii) child abuse homicide, as described in Section 76-5-208;

(iii) child kidnapping, as described in Section 76-5-301.1;

(iv) human trafficking of a child, as described in Section 76-5-308.5;

(v) sexual abuse of a minor, as described in Section 76-5-401.1;

(vi) rape of a child, as described in Section 76-5-402.1;

(vii) object rape of a child, as described in Section 76-5-402.3;

(viii) sodomy on a child, as described in Section 76-5-403.1;

(ix) sexual abuse of a child, as described in Section 76-5-404.1, or aggravated sexual abuse of a child, as described in Section 76-5-404.3;

(x) sexual exploitation of a minor, as described in Section 76-5b-201;

(xi) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1; or

(xii) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (10).

(11) (a) As used in this Subsection (11), "disqualifying offense" means an offense listed in Subsection (10) that prevents a court from granting custody except as provided in this Subsection (11).

(b) An individual described in Subsection (10) may only be considered for custody of a minor child if the following criteria are met by clear and convincing evidence:

(i) the individual is a relative, as defined in Section 80-3-102, of the minor child;

(ii) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(iii) during the 10 years before the day on which the individual files a petition with the court seeking custody the individual has not been convicted, plead guilty, or plead no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the minor child;

(iv) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(v) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the minor child currently or at any time in the future when considering all of the following:

(A) the minor child's age;

(B) the minor child's gender;

(C) the minor child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a minor child who is 12 years old or older;

(F) any available assessments, including custody evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(vi) the individual can provide evidence of the following:

(A) the relationship with the minor child is of long duration;

(B) that an emotional bond exists with the minor child; and

(C) that custody by the individual who has committed the disqualifying offense ensures the best interests of the minor child are met;

(vii) (A) there is no other responsible relative known to the court who has or likely could develop an emotional bond with the minor child and does not have a disqualifying offense; or

(B) if there is a responsible relative known to the court that does not have a disqualifying offense, Subsection (11)(d) applies; and

(viii) that the continuation of the relationship between the individual with the disqualifying offense and the minor child could not be sufficiently maintained through any type of visitation if custody were given to the relative with no disqualifying offense described in Subsection (11)(d).

(c) The individual with the disqualifying offense bears the burden of proof regarding why placement with that individual is in the best interest of the minor child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to the court who does not have a disqualifying offense:

(i) preference for custody is given to a relative who does not have a disqualifying offense; and

(ii) before the court may place custody with the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final decision on custody has not been made and to a case filed on or after March 25, 2017.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 107
S. B. 36
Passed February 19, 2025
Approved March 24, 2025
Effective May 7, 2025

WATER QUALITY BOARD AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Paul A. Cutler

LONG TITLE

General Description:

This bill addresses the Utah Water Quality Board.

Highlighted Provisions:

This bill:

- ► establishes a process for members of the Utah Water Quality Board to conduct a mediated settlement conference between the director and a party in alleged violation of the Utah Water Quality Act; and
- ► authorizes members of the Utah Water Quality Board to recommend a reasonable penalty amount to the director.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-5-104, as last amended by Laws of Utah 2023, Chapter 176
19-5-106, as last amended by Laws of Utah 2023, Chapter 176

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

Section 1. Section 19-5-104 is amended to read:

19-5-104. Powers and duties of board.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules that:

(a) taking into account Subsection (6):

(i) implement the awarding of construction loans to political subdivisions and municipal authorities under Section 11-8-2, including:

(A) requirements pertaining to applications for a loan;

(B) requirements for determination of an eligible project;

(C) requirements for determination of the costs upon which a loan is based, which costs may include engineering, financial, legal, and administrative expenses necessary for the construction, reconstruction, and improvement of a sewage treatment plant, including a major interceptor, collection system, or other facility appurtenant to the plant;

(D) a priority schedule for awarding loans, in which the board may consider, in addition to water pollution control needs, any financial needs relevant, including per capita cost, in making a determination of priority; and

(E) requirements for determination of the amount of the loan;

(ii) implement the awarding of loans for nonpoint source projects pursuant to Section 73-10c-4.5;

(iii) set effluent limitations and standards subject to Section 19-5-116;

(iv) implement or effectuate the powers and duties of the board; and

(v) protect the public health for the design, construction, operation, and maintenance of underground wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies;

(b) govern inspection, monitoring, recordkeeping, and reporting requirements for underground injections and require permits for underground injections, to protect drinking water sources, except for wells, pits, and ponds covered by Section 40-6-5regarding gas and oil, recognizing that underground injection endangers drinking water sources if:

(i) injection may result in the presence of a contaminant in underground water that supplies or can reasonably be expected to supply a public water system, as defined in Section 19-4-102; and

(ii) the presence of the contaminant may:

(A) result in the public water system not complying with any national primary drinking water standards; or

(B) otherwise adversely affect the health of persons;

(c) govern sewage sludge management, including permitting, inspecting, monitoring, recordkeeping, and reporting requirements; and

(d) notwithstanding Section 19-4-112, govern design and construction of irrigation systems that:

(i) convey sewage treatment facility effluent of human origin in pipelines under pressure, unless contained in surface pipes wholly on private property and for agricultural purposes; and

(ii) are constructed after May 4, 1998.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall adopt and enforce rules and establish fees to cover the costs of:

(i) managing the certification and testing program; and

(ii) testing for certification of operators of treatment works and sewerage systems operated by political subdivisions.

(b) In establishing certification rules under Subsection (2)(a), the board shall:

(i) base the requirements for certification on the size, treatment process type, and complexity of the treatment works and sewerage systems operated by political subdivisions;

(ii) allow operators until three years after the date of adoption of the rules to obtain initial certification;

(iii) allow a new operator one year from the date the operator is hired by a treatment plant or sewerage system or three years after the date of adoption of the rules, whichever occurs later, to obtain certification;

(iv) issue certification upon application and without testing, at a grade level comparable to the grade of current certification to operators who are currently certified under the voluntary certification plan for wastewater works operators as recognized by the board; and

(v) issue a certification upon application and without testing that is valid only at the treatment works or sewerage system where that operator is currently employed if the operator:

(A) is in charge of and responsible for the treatment works or sewerage system on March 16, 1991;

(B) has been employed at least 10 years in the operation of that treatment works or sewerage system before March 16, 1991; and

(C) demonstrates to the board the operator's capability to operate the treatment works or sewerage system at which the operator is currently employed by providing employment history and references as required by the board.

(3) The board shall:

(a) develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state;

(b) adopt, modify, or repeal standards of quality of the waters of the state and classify those waters according to their reasonable uses in the interest of the public under conditions the board may prescribe for the prevention, control, and abatement of pollution;

(c) give reasonable consideration in the exercise of its powers and duties to the economic impact of water pollution control on industry and agriculture;

(d) meet the requirements of federal law related to water pollution;

(e) establish and conduct a continuing planning process for control of water pollution, including the specification and implementation of maximum daily loads of pollutants;

(f) (i) review total daily maximum load reports and recommendations for water quality end points and implementation strategies developed by the division before submission of the report, recommendation, or implementation strategy to the EPA;

(ii) disapprove, approve, or approve with conditions the staff total daily maximum load recommendations; and

(iii) provide suggestions for further consideration to the Division of Water Quality in the event a total daily maximum load strategy is rejected; [~~and~~]

(g) to ensure compliance with applicable statutes and regulations:

(i) review a settlement negotiated by the director [~~in accordance with~~]under Subsection 19-5-106(2)(k) that requires a civil penalty of $25,000 or more; and

(ii) approve or disapprove the settlement described in Subsection (3)(g)(i)[~~.~~]; and

(h) to ensure a prompt and fair settlement under Subsection 19-5-106(2)(k):

(i) review an ongoing penalty negotiation between the director and a publicly-owned alleged violator of a provision under this chapter if:

(A) the director's proposed penalty exceeds $25,000;

(B) the alleged violator requests in writing that the board review the penalty negotiation;

(C) the director and the alleged violator do not dispute the violations alleged by the director; and

(D) the director and the alleged violator are unable to agree on a penalty amount; and

(ii) upon receiving a written request for board review that meets the requirements described in Subsection (3)(h)(i):

(A) assign no more than four board members to conduct a mediated settlement conference with the director and the alleged violator;

(B) schedule a settlement conference for no sooner than 45 days and no later than 90 days after the day on which the written request is received;

(C) recommend a reasonable penalty amount no later than 30 days after the settlement conference; and

(D) inform the alleged violator that the director may commence a civil proceeding to assess penalties if necessary to prevent the running of a statute of limitation described in Sections 19-1-305 and 78B-2-307.5.

(4) The board may:

(a) order the director to issue, modify, or revoke an order:

(i) prohibiting or abating discharges;

(ii) (A) requiring the construction of new treatment works or any parts of the new treatment works;

(B) requiring the modification, extension, or alteration of existing treatment works as specified by board rule or any parts of existing treatment works; or

(C) the adoption of other remedial measures to prevent, control, or abate pollution;

(iii) setting standards of water quality, classifying waters or evidencing any other determination by the board under this chapter; or

(iv) requiring compliance with this chapter and with rules made under this chapter;

(b) advise, consult, and cooperate with another agency of the state, the federal government, another state, an interstate agency, an affected group, an affected political subdivision, or affected industry to further the purposes of this chapter; or

(c) delegate the authority to issue an operating permit to a local health department.

(5) In performing the duties listed in Subsections (1) through (4), the board shall give priority to pollution that results in a hazard to the public health.

(6) The board shall take into consideration the availability of federal grants:

(a) in determining eligible project costs; and

(b) in establishing priorities pursuant to Subsection (1)(a)(i).

(7) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-5-106:

(a) a permit;

(b) a license;

(c) a registration;

(d) a certification; or

(e) another administrative authorization made by the director.

(8) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

Section 2. Section 19-5-106 is amended to read:

19-5-106. Director -- Appointment -- Duties.

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2) The director shall:

(a) develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state;

(b) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter;

(c) develop programs for the management of sewage sludge;

(d) subject to the provisions of this chapter, enforce rules made by the board through the issuance of orders, which orders may include:

(i) prohibiting or abating discharges of wastes into the waters of the state;

(ii) requiring the construction of new control facilities or any parts of them or the modification, extension, or alteration of existing control facilities or any parts of them, or the adoption of other remedial measures to prevent, control, or abate water pollution; or

(iii) prohibiting any other violation of this chapter or rules made under this chapter;

(e) review plans, specifications, or other data relative to pollution control systems or any part of the systems provided for in this chapter;

(f) issue construction or operating permits for the installation or modification of treatment works or any parts of the treatment works;

(g) after public notice and opportunity for public hearing, issue, continue in effect, renew, revoke, modify, or deny discharge permits under reasonable conditions the board may prescribe to:

(i) control the management of sewage sludge; or

(ii) prevent or control the discharge of pollutants, including effluent limitations for the discharge of wastes into the waters of the state;

(h) meet the requirements of federal law related to water pollution;

(i) under the direction of the executive director, represent the state in all matters pertaining to water pollution, including interstate compacts and other similar agreements;

(j) collect and disseminate information relating to water pollution and the prevention, control, and abatement of water pollution;

(k) subject to [~~Subsection~~]Subsections 19-5-104(3)(g) and (h), settle or compromise any civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter; and

(l) (i) approve, approve in part, approve with conditions, or deny, in writing, an application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and

(ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act.

(3) The director may:

(a) employ full-time employees as necessary to carry out the provisions of this chapter;

(b) subject to the provisions of this chapter, authorize any employee or representative of the department to enter, at reasonable times and upon reasonable notice, in or upon public or private property for the purposes of inspecting and investigating conditions and plant records concerning possible water pollution;

(c) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution and causes of water pollution as necessary for the discharge of duties assigned under this chapter, including the establishment of inventories of pollution sources;

(d) collect and disseminate information relating to water pollution and the prevention, control, and abatement of water pollution;

(e) subject to the provisions of this chapter, exercise all incidental powers necessary to carry out the purposes of this chapter, including certification to any state or federal authorities for tax purposes only if the construction, installation, or acquisition of any facility, land, building, machinery, equipment, or any part of them conforms with this chapter;

(f) cooperate with any person in studies and research regarding water pollution and its control, abatement, and prevention;

(g) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution and causes of water pollution; or

(h) as authorized by the board and subject to the provisions of this chapter, act as executive secretary of the board under the direction of the chairman of the board.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 108
H. B. 31
Passed March 5, 2025
Approved March 24, 2025
Effective May 7, 2025

OFFENDER INFORMATION AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill concerns electronic access to personal and financial information for an offender.

Highlighted Provisions:

This bill:

- ► requires the Division of Technology Services to make a version of the single sign-on citizen portal available for certain individuals who are or were offenders that contains:
  - • if possible, an electronic copy of, or link to, the individual's digital verifiable credentials and records; and
  - • if available, information on certain debts the individual may have; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-16-803, as last amended by Laws of Utah 2023, Chapters 34, 329

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

Section 1. Section 63A-16-803 is amended to read:

63A-16-803. Single sign-on citizen portal -- Creation.

(1) The division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on citizen portal that is:

(a) a web portal through which an individual may access information and services described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

(b) secure, centralized, and interconnected.

(2) The division shall ensure that the single sign-on citizen portal allows an individual, at a single point of entry, to:

(a) access and submit an application for:

(i) medical and support programs including:

(A) a medical assistance program administered under Title 26B, Chapter 3, Health Care - Administration and Assistance, including Medicaid;

(B) the Children's Health Insurance Program under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program;

(C) the Primary Care Network as defined in Section 26B-3-211; and

(D) the Women, Infants, and Children program administered under 42 U.S.C. Sec. 1786;

(ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;

(iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;

(iv) employment with a state agency;

(v) a driver license or state identification card renewal under Title 53, Chapter 3, Uniform Driver License Act;

(vi) a birth or death certificate under Title 26B, Chapter 8, Part 1, Vital Statistics; and

(vii) a hunting or fishing license under Title 23A, Chapter 4, Licenses, Permits, Certificates of Registration, and Tags;

(b) access the individual's:

(i) transcripts from an institution of higher education described in Section 53B-2-101; and

(ii) immunization records maintained by the Department of Health and Human Services;

(c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration, with the Motor Vehicle Division of the State Tax Commission;

(d) file the individual's state income taxes under Title 59, Chapter 10, Individual Income Tax Act, beginning December 1, 2020;

(e) access information about positions available for employment with the state; and

(f) access any other service or information the department determines is appropriate in consultation with the entities described in Subsection (4).

(3) The division shall develop the single sign-on citizen portal using an open platform that:

(a) facilitates participation in the portal by a state entity;

(b) allows for optional participation in the portal by a political subdivision of the state; and

(c) contains a link to the State Tax Commission website.

(4) In developing the single sign-on citizen portal, the department shall consult with:

(a) each state executive branch agency that administers a program, provides a service, or manages applicable information described in Subsection (2);

(b) the Utah League of Cities and Towns;

(c) the Utah Association of Counties; and

(d) other appropriate state executive branch agencies.

(5) The division shall ensure that the single sign-on citizen portal is fully operational no later than January 1, 2025.

(6) (a) As used in this Subsection (6):

(i) "Digital verifiable credential" means the same as that term is defined in Section 63A-16-108.

(ii) "Digital verifiable record" means the same as that term is defined in Section 63A-16-108.

(iii) "Offender" means the same as that term is defined in Section 64-13-1.

(b) No later than January 1, 2027, the division shall ensure that a version of the single sign-on citizen portal is made available to an individual who:

(i) is a Utah resident; and

(ii) (A) is an offender; or

(B) previously was an offender resulting from a conviction that occurred on or after January 1, 2027.

(c) The portal described in Subsection (6)(b) shall include:

(i) if possible, an electronic copy of, or link to, the individual's digital verifiable credentials and digital verifiable records; and

(ii) if available:

(A) information on the individual's debts such as restitution, court costs, fines, tax obligations, alimony, child support, other court-ordered payments, and similar debts; and

(B) links or another method to access more information concerning the debts listed in Subsection (6)(c)(ii)(A).

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 109
H. B. 294
Passed February 27, 2025
Approved March 24, 2025
Effective May 7, 2025

INFECTIOUS DISEASE PROCEDURES AMENDMENTS

Chief Sponsor: Matt MacPherson
Senate Sponsor: Wayne A. Harper

Cosponsor:	Colin W. Jack	Logan J. Monson
Kristen Chevrier	Jason B. Kyle	
Doug Fiefia	Trevor Lee	

LONG TITLE

General Description:

This bill modifies provisions related to infectious disease procedures.

Highlighted Provisions:

This bill:

- ► modifies definitions;
- ► requires a place of public accommodation and certain other entities to provide an accommodation related to face coverings for certain people;
- ► prohibits the issuance of orders of constraint; and
- ► limits an order of restriction to be issued for individuals, not groups of individuals.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26A-1-102, as last amended by Laws of Utah 2024, Chapter 152
26A-1-108, as last amended by Laws of Utah 2024, Chapter 425
26A-1-114, as last amended by Laws of Utah 2024, Chapter 259
26A-1-121, as last amended by Laws of Utah 2023, Chapter 327
26B-7-202, as last amended by Laws of Utah 2024, Chapter 152
26B-7-301, as last amended by Laws of Utah 2024, Chapters 152, 283
26B-7-303, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-304, as last amended by Laws of Utah 2024, Chapter 283
26B-7-305, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-306, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-307, as last amended by Laws of Utah 2024, Chapter 283
26B-7-310, as last amended by Laws of Utah 2024, Chapter 283
26B-7-311, as last amended by Laws of Utah 2024, Chapter 283
26B-7-317, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-321, as renumbered and amended by Laws of Utah 2023, Chapter 308

ENACTS:

13-7-6, Utah Code Annotated 1953
26B-7-304.5, Utah Code Annotated 1953

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

Section 1. Section 13-7-6 is enacted to read:

13-7-6. Face coverings and qualified individuals.

(1) As used in this section:

(a) "Face covering" means a mask, shield, or other device that is intended to be worn in a manner to cover the mouth, nose, or face to prevent the spread of an infectious disease.

(b) "Health care facility" means the same as that term is defined in Section 78B-3-403.

(c) "Qualified individual" means an individual who experiences physical or emotional distress when wearing a face covering if the physical or emotional distress is caused by a diagnosed medical condition, mental health condition, or disability.

(2) Except as provided in Subsection (3)(a), a place of public accommodation or enterprise regulated by the state may not require a qualified individual to wear a face covering as a condition for entering a premises owned or operated by the entity described in this Subsection (2).

(3) (a) Subject to Subsection (3)(b), a health care facility or a physician's office may require the use of face coverings in an area in the health care facility where patient care or treatment is provided.

(b) Consistent with applicable federal law, nothing in Subsection (3)(a) allows a health care facility or a physician's office to deny services to a qualified individual who is not able to wear a face covering.

Section 2. Section 26A-1-102 is amended to read:

26A-1-102. Definitions.

As used in this part:

(1) "Board" means a local board of health established under Section 26A-1-109.

(2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52a, Part 2, Forms of County Government.

(3) "County health department" means a local health department that serves a county and municipalities located within that county.

(4) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(5) "Local food" means the same as that term is defined in Section 4-1-109.

(6) "Local health department" means:

(a) a single county local health department;

(b) a multicounty local health department;

(c) a united local health department; or

(d) a multicounty united local health department.

(7) "Mental health authority" means a local mental health authority created in Section 17-43-301.

(8) "Multicounty local health department" means a local health department that is formed under Section 26A-1-105 and that serves two or more contiguous counties and municipalities within those counties.

(9) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous counties and municipalities within those counties.

(10) [~~(a)~~] "Order of constraint" means [~~an order, rule, or regulation issued by a local health department in response to a declared public health emergency under this chapter that:~~]the same as that term is defined in Section 26B-7-301.

[~~(i) applies to all or substantially all:~~]

[~~(A) individuals or a certain group of individuals; or~~]

[~~(B) public places or certain types of public places; and~~]

[~~(ii) for the protection of the public health and in response to the declared public health emergency:~~]

[~~(A) establishes, maintains, or enforces isolation or quarantine;~~]

[~~(B) establishes, maintains, or enforces a stay-at-home order;~~]

[~~(C) exercises physical control over property or individuals;~~]

[~~(D) requires an individual to perform a certain action or engage in a certain behavior; or~~]

[~~(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.~~]

[~~(b) "Order of constraint" includes a stay-at-home order.~~]

(11) "Public health emergency" means the same as that term is defined in Section 26B-7-301.

(12) "Single county local health department" means a local health department that is created by the governing body of one county to provide services to the county and the municipalities within that county.

(13) "Stay-at-home order" means [~~an order of constraint that:~~]

[~~(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and~~]

[~~(b) may include exceptions for certain essential tasks.~~]the same as that term is defined in Section 26B-7-301.

(14) "Substance abuse authority" means a local substance abuse authority created in Section 17-43-201.

(15) "United local health department":

(a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and

(b) includes a multicounty united local health department.

Section 3. Section 26A-1-108 is amended to read:

26A-1-108. Jurisdiction and duties of local health departments -- Registration as a limited purpose entity.

(1) [~~(a) Except as provided in Subsection (1)(b), a~~]A local health department has jurisdiction in all unincorporated and incorporated areas of the county or counties in which it is established and shall enforce state health laws, Department of Health and Human Services, Department of Environmental Quality, and local health department rules, regulations, and standards within those areas.

[~~(b) Notwithstanding Subsection (1)(a), a local health department's jurisdiction or authority to issue an order of constraint pursuant to a declared public health emergency does not apply to any facility, property, or area owned or leased by the state, including capitol hill, as defined in Section 63O-1-101.~~]

(2) (a) Each local health department shall register and maintain the local health department's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A local health department that fails to comply with Subsection (2)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 4. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and [~~(11)~~](10), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food Safety, in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, over an individual in accordance with an order of restriction issued under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) exercise physical control of property to abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or the Department of Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321;

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities; and

(q) when conducting routine inspections of businesses regulated by the local health department, notify the Department of Agriculture and Food of a potential violation of Title 4, Chapter 41, Hemp and Cannabinoid Act.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws;

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually; and

(e) investigate a report made in accordance with Section 59-14-811 to determine whether a product is sold in violation of law.

(3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease,

whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c) (i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) This part does not authorize a local health department to:

(a) require the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling; or

(b) control the production, processing distribution, or sale price of local food in response to a public health emergency.

(7) (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency [~~or issue an order of constraint~~]until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency [~~or issue an order of constraint~~]without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency [~~or issues an order of constraint~~]as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before [~~issuing the order of constraint~~]declaring a public health emergency.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency [~~or an order of constraint issued~~]as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency [~~or issuance of the order of constraint~~].

(d) (i) The relevant county governing body may at any time terminate a public health emergency [~~or an order of constraint~~]issued by the local health department by majority vote of the county governing body [~~in response to a declared public health emergency~~].

(ii) A vote by the relevant county governing body to terminate a public health emergency [~~or an order of constraint~~]as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b) (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

[~~(9) (a) During a public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:~~]

[~~(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;~~]

[~~(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and~~]

[~~(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.~~]

[~~(b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.~~]

[~~(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.~~]

[~~(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.~~]

[~~(c) (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.~~]

[~~(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.~~]

[~~(10) (a) During a public health emergency declared as described in this title:~~]

[~~(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and~~]

[~~(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:~~]

[~~(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or~~]

[~~(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.~~]

[~~(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).~~]

[~~(c)~~](9) (a) During a public health emergency declared as described in this title, the department or a local health department [~~shall~~]may not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

[~~(d)~~](b) Notwithstanding [~~Subsections (10)(a) and (c)~~]Subsection (9)(a), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

[~~(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including capitol hill, as defined in Section 63O-1-101.~~]

[~~(12)~~](10) A local health department may not:

(a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5); [~~or~~]

(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:

(i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or

(ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice[~~.~~]; or

(c) issue an order of constraint under any circumstance.

Section 5. Section 26A-1-121 is amended to read:

26A-1-121. Standards and regulations adopted by local board -- Local standards not more stringent than federal or state standards -- Administrative and judicial review of actions -- Regulations affecting religious practice.

(1) (a) [~~Subject to Subsection (1)(g), the~~]The board may make standards and regulations:

(i) not in conflict with rules of the department or the Department of Environmental Quality; and

(ii) necessary for the promotion of public health, environmental health quality, injury control, and the prevention of outbreaks and spread of communicable and infectious diseases.

(b) The standards and regulations under Subsection (1)(a):

(i) supersede existing local standards, regulations, and ordinances pertaining to similar subject matter;

(ii) except where specifically allowed by federal law or state statute, may not be more stringent than those established by federal law, state statute, or administrative rules adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) notwithstanding Subsection (1)(b)(ii), may be more stringent than those established by federal law, state statute, or administrative rule adopted by the department if the standard or regulation is:

(A) in effect on February 1, 2022; and

(B) not modified or amended after February 1, 2022.

(c) The board shall provide public hearings prior to the adoption of any regulation or standard.

(d) Notice of any public hearing shall be published at least twice throughout the county or counties served by the local health department. The publication may be in one or more newspapers, if the notice is provided in accordance with this Subsection (1)(d).

(e) The hearings may be conducted by the board at a regular or special meeting, or the board may appoint hearing officers who may conduct hearings in the name of the board at a designated time and place.

(f) A record or summary of the proceedings of a hearing shall be taken and filed with the board.

[~~(g) (i) During a declared public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:~~]

[~~(A) except as provided in Subsection (1)(h), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;~~]

[~~(B) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and~~]

[~~(C) a county governing body may at any time terminate, by majority vote of the governing body, an order of constraint issued by a local health department in response to a declared public health emergency.~~]

[~~(ii) (A) For a local health department that serves more than one county, the approval described in Subsection (1)(g)(i)(A) is required for the chief executive officer for which the order of constraint is applicable.~~]

[~~(B) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (1)(g)(i)(C) for the county served by the county governing body.~~]

[~~(h) (i) Notwithstanding Subsection (1)(g)(i)(A), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (1)(g)(i)(A)would substantially increase the likelihood of loss of life due to an imminent threat.~~]

[~~(ii) If a local health department issues an order of constraint as described in Subsection (1)(h)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.~~]

[~~(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (1)(h)(i) within 72 hours of issuance of the order of constraint.~~]

[~~(i) (i) During a public health emergency declared as described in this title:~~]

[~~(A) a local health department may not impose an order of constraint on a public gathering that applies to a religious gathering differently than the order of constraint applies to any other relevantly similar gathering; and~~]

[~~(B) an individual, while acting or purporting to act within the course and scope of the individual's official local health department capacity, may not prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title, or impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.~~]

[~~(ii) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (1)(i).~~]

[~~(iii)~~](g) (i) During a public health emergency declared as described in this title, [~~the department or~~]a local health department [~~shall~~]may not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(A) is in furtherance of a compelling government interest; and

(B) is the least restrictive means of furthering that compelling government interest.

[~~(iv)~~](ii) Notwithstanding [~~Subsections (1)(i)(i) and (ii), the department or~~]Subsection (1)(g)(i), a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

[~~(j)~~](h) If a local health department declares a public health emergency as described in this chapter, and the local health department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the local legislative body, the local health department shall provide written notice to the local legislative body at least 10 days before the expiration of the public health emergency.

(2) (a) A person aggrieved by an action or inaction of the local health department relating to the public health shall have an opportunity for a hearing with the local health officer or a designated representative of the local health department. The board shall grant a subsequent hearing to the person upon the person's written request.

(b) In an adjudicative hearing, a member of the board or the hearing officer may administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name of the board requiring the testimony of witnesses and the production of evidence relevant to a matter in the hearing. The local health department shall make a written record of the hearing, including findings of facts and conclusions of law.

(c) Judicial review of a final determination of the local board may be secured by a person adversely affected by the final determination, or by the department or the Department of Environmental Quality, by filing a petition in the district court within 30 days after receipt of notice of the board's final determination.

(d) The petition shall be served upon the secretary of the board and shall state the grounds upon which review is sought.

(e) The board's answer shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter together with the board's findings of fact, conclusions of law, and order.

(f) The appellant and the board are parties to the appeal.

(g) The department and the Department of Environmental Quality may become a party by intervention as in a civil action upon showing cause.

(h) A further appeal may be taken to the Court of Appeals under Section 78A-4-103.

(3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability of a local health department board to make standards and regulations in accordance with Subsection (1)(a) for:

(a) emergency rules made in accordance with Section 63G-3-304; or

(b) items not regulated under federal law, state statute, or state administrative rule.

Section 6. Section 26B-7-202 is amended to read:

26B-7-202. Authority to investigate and control epidemic infections and communicable disease.

(1) Subject to [~~Subsection (4) and~~]the restrictions in this title, the department has authority to investigate and control the causes of epidemic infections and communicable disease, and shall provide for the detection, reporting, prevention, and control of communicable diseases and epidemic infections or any other health hazard which may affect the public health.

(2) This part does not authorize the department to control the production, processing, distribution, or sale price of local food in response to a public health emergency, as that term is defined in Section 26B-7-301.

(3) (a) As part of the requirements of Subsection (1), the department shall distribute to the public and to health care professionals:

(i) medically accurate information about sexually transmitted diseases that may cause infertility and sterility if left untreated, including descriptions of:

(A) the probable side effects resulting from an untreated sexually transmitted disease, including infertility and sterility;

(B) medically accepted treatment for sexually transmitted diseases;

(C) the medical risks commonly associated with the medical treatment of sexually transmitted diseases; and

(D) suggested screening by a private physician or physician assistant; and

(ii) information about:

(A) public services and agencies available to assist individuals with obtaining treatment for the sexually transmitted disease;

(B) medical assistance benefits that may be available to the individual with the sexually transmitted disease; and

(C) abstinence before marriage and fidelity after marriage being the surest prevention of sexually transmitted disease.

(b) The information described in Subsection (3)(a):

(i) shall be distributed by the department and by local health departments free of charge; and

(ii) shall be relevant to the geographic location in which the information is distributed by:

(A) listing addresses and telephone numbers for public clinics and agencies providing services in the geographic area in which the information is distributed; and

(B) providing the information in English as well as other languages that may be appropriate for the geographic area.

(c) (i) Except as provided in Subsection (3)(c)(ii), the department shall develop written material that includes the information described in this Subsection (3).

(ii) In addition to the written materials described in Subsection (3)(c)(i), the department may distribute the information described in this Subsection (3) by any other methods the department determines is appropriate to educate the public, excluding public schools, including websites, toll free telephone numbers, and the media.

(iii) If the information described in Subsection (3)(b)(ii)(A) is not included in the written pamphlet developed by the department, the written material shall include either a website, or a 24-hour toll free telephone number that the public may use to obtain that information.

[~~(4) (a) The Legislature may at any time terminate by joint resolution an order of constraint issued by the department as described in this section in response to a declared public health emergency.~~]

[~~(b) A county governing body may at any time terminate by majority vote an order of constraint issued by the relevant local health department as described in this section in response to a declared public health emergency.~~]

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

26B-7-301. Definitions.

As used in this part:

(1) "Bioterrorism" means:

(a) the intentional use of any microorganism, virus, infectious substance, or biological product to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence, intimidate, or coerce the conduct of government or a civilian population; and

(b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic fevers.

(2) "Dangerous public health condition" means any of the following:

(a) a health condition that is:

(i) directly or indirectly caused by an act of bioterrorism, natural disaster, or human created accident; and

(ii) transmittable to another individual;

(b) cholera;

[~~(b)~~](c) pneumonic plague;

[~~(c)~~](d) severe acute respiratory syndrome;

[~~(d)~~](e) smallpox;

[~~(e)~~](f) tuberculosis;

[~~(f)~~](g) any viral hemorrhagic fever;

[~~(g)~~](h) measles; or

[~~(h)~~](i) any infection:

(i) that is new, drug resistant, or reemerging;

(ii) that evidence suggests is likely to cause either high mortality or morbidity; and

(iii) only if the relevant legislative body of the county where the infection is located approves as needing containment.

(3) "Diagnostic information" means a clinical facility's record of individuals who present for treatment, including the reason for the visit, chief complaint, presenting diagnosis, final diagnosis, and any pertinent lab results.

(4) (a) "Epidemic or pandemic disease"[~~:~~]

[~~(a)~~] means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy[~~; and~~].

(b) "Epidemic or pandemic disease" includes diseases designated by the department which have the potential to cause serious illness or death.

(5) "Exigent circumstances" means a significant change in circumstances following the expiration of a public health emergency declared in accordance with this title that:

(a) substantially increases the danger to public safety or health relative to the circumstances in existence when the public health emergency expired;

(b) poses an imminent danger to public safety or health; and

(c) was not known or foreseen and could not have been known or foreseen at the time the public health emergency expired.

(6) "First responder" means:

(a) a law enforcement officer as defined in Section 53-13-103;

(b) emergency medical service personnel as defined in Section 26B-4-101;

(c) firefighters; and

(d) public health personnel having jurisdiction over the location where an individual subject to an order of restriction is found.

(7) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(8) "Legislative emergency response committee" means the same as that term is defined in Section 53-2a-203.

(9) "Local food" means the same as that term is defined in Section 4-1-109.

(10) (a) "Order of constraint" means an order, rule, or regulation [~~issued in response to a declared public health emergency under this part,~~]that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

(11) "Order of restriction" means an order issued by [~~a~~]the department, a local health department, or a district court which requires an individual [~~or group of individuals who are subject to restriction~~] to:

(a) []submit to an examination, treatment, isolation, or quarantine[~~.~~]; or

(b) perform a certain action or engage in certain behavior.

(12) (a) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability.

(b) "Public health emergency" includes an illness or health condition resulting from a natural disaster.

(13) "Public health official" means:

(a) the executive director or the executive director's authorized representative; or

(b) the executive director of a local health department or the executive director's authorized representative.

(14) "Reportable emergency illness and health condition" includes the diseases, conditions, or syndromes designated by the department.

(15) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

(16) "Threat to public health" means a situation where a dangerous public health condition could spread to other individuals.

(17) "Subject to restriction" as applied to an individual[~~, or a group of individuals,~~] means the individual [~~or group of individuals~~]could create a threat to public health.

Section 8. Section 26B-7-303 is amended to read:

26B-7-303. Applicability -- Administrative procedures.

(1) Sections 26B-7-304 through 26B-7-315 apply to involuntary [~~examination, treatment, isolation, and quarantine actions~~]orders of restriction applied to [~~individuals or groups of individuals~~]an individual by the department or a local health department.

(2) The provisions of Sections 26B-7-304 through 26B-7-315 supersede the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(3) The department may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of Sections 26B-7-304 through 26B-7-315.

Section 9. Section 26B-7-304 is amended to read:

26B-7-304. Order of restriction.

(1) Subject to Subsection (5), the department or a local health department having jurisdiction over the location where an individual [~~or a group of individuals who are~~]who is subject to restriction [~~are~~]is found may:

(a) issue a written order of restriction for the individual [~~or group of individuals~~]pursuant to Section 26B-1-202 or Subsection 26A-1-114(1)(b) upon compliance with the requirements of Sections 26B-7-304 through 26B-7-314; and

(b) issue a verbal order of restriction for an individual [~~or group of individuals~~]pursuant to Subsection (2)(c).

(2) (a) [~~A~~]The department or local health department's determination to issue an order of restriction shall be based upon the totality of circumstances reported to and known by the department or local health department, including:

(i) observation;

(ii) information that the department or local health department determines is credible and reliable information; and

(iii) knowledge of current public health risks based on medically accepted guidelines as may be established by the department by administrative rule.

(b) An order of restriction issued by the department or a local health department shall:

(i) in the opinion of the public health official, be for the shortest reasonable period of time necessary to protect the public health;

(ii) use the least intrusive method of restriction that, in the opinion of the department or local health department, is reasonable based on the totality of circumstances known to the department or local health department issuing the order of restriction;

(iii) be in writing unless the provisions of Subsection (2)(c) apply; and

(iv) contain notice of an individual's rights as required in Section 26B-7-307.

(c) (i) The department or a local health department may issue a verbal order of restriction, without prior notice to the individual [~~or group of individuals~~] if the delay in imposing a written order of restriction would significantly jeopardize the department or local health department's ability to prevent or limit a threat to public health.

(ii) A verbal order of restriction issued under Subsection (2)(c)(i):

(A) is valid for 24 hours from the time the order of restriction is issued;

(B) may be verbally communicated to the [~~individuals or group of individuals~~]individual subject to restriction by a first responder;

(C) may be enforced by the first responder until the department or local health department is able to establish and maintain the place of restriction; and

(D) may only be continued beyond the initial 24 hours if a written order of restriction is issued pursuant to the provisions of Section 26B-7-307.

(d) The department or a local health department may not issue an order of restriction that applies to more than one individual.

(3) Pending issuance of a written order of restriction under Section 26B-7-307, or judicial review of an order of restriction under Section 26B-7-311, an individual who is subject to the order of restriction may be required to submit to involuntary examination, quarantine, isolation, or treatment in the individual's home, a hospital, or any other suitable facility under reasonable conditions prescribed by the department or local health department.

(4) The department or local health department that issued the order of restriction shall take reasonable measures, including the provision of medical care, as may be necessary to assure proper care related to the reason for the involuntary examination, treatment, isolation, or quarantine of an individual ordered to submit to an order of restriction.

(5) (a) The Legislature may at any time terminate by joint resolution an order of restriction issued by the department or local health department as described in this section in response to a declared public health emergency.

(b) A county governing body may at any time terminate by majority vote an order of restriction issued by the relevant local health department under this section issued in response to a declared public health emergency.

Section 10. Section 26B-7-304.5 is enacted to read:

26B-7-304.5. Order of constraint prohibited.

The department and a local health department may not issue an order of constraint under any circumstance.

Section 11. Section 26B-7-305 is amended to read:

26B-7-305. Consent to order of restriction -- Periodic review.

(1) (a) The department or a local health department shall either seek judicial review of an order of restriction under Sections 26B-7-309 through 26B-7-311, or obtain the consent of an individual subject to an order of restriction.

(b) If the department or a local health department obtains consent, the consent shall be in writing and shall inform the individual[~~ or group of individuals~~]:

(i) of the terms and duration of the order of restriction;

(ii) of the importance of complying with the order of restriction to protect the public's health;

(iii) that [~~each~~]the individual has the right to agree to the order of restriction, or refuse to agree to the order of restriction and seek a judicial review of the order of restriction;

(iv) that for any individual who consents to the order of restriction:

(A) the order of restriction will not be reviewed by the court unless the individual withdraws consent to the order of restriction in accordance with Subsection (1)(b)(iv)(B); and

(B) the individual shall notify the department or local health department in writing, with at least five business day's notice, if the individual intends to withdraw consent to the order of restriction; and

(v) that a breach of a consent agreement prior to the end of the order of restriction may subject the individual to an involuntary order of restriction under Section 26B-7-306.

(2) (a) The department or local health department responsible for the care of an individual who has consented to the order of restriction shall periodically reexamine the reasons upon which the order of restriction was based. This reexamination shall occur at least once every six months.

(b) (i) If at any time, the department or local health department determines that the conditions justifying the order of restriction for [~~either a group or~~]an individual no longer exist, the department or local health department shall immediately discharge the individual [~~or group~~] from the order of restriction.

(ii) If the department or local health department determines that the conditions justifying the order of restriction continue to exist, the department or local health department shall send to the individual a written notice of:

(A) the department or local health department's findings, the expected duration of the order of restriction, and the reason for the decision; and

(B) the individual's right to a judicial review of the order of restriction by the court if requested by the individual.

(iii) Upon request for judicial review by an individual, the department or local health department shall:

(A) file a petition with the court within five business days after the individual's request for a judicial review; and

(B) proceed under Sections 26B-7-309 through 26B-7-311.

Section 12. Section 26B-7-306 is amended to read:

26B-7-306. Involuntary order of restriction -- Notice -- Effect of order during judicial review.

(1) If the department or local health department cannot obtain consent to the order of restriction from an individual, or if an individual withdraws consent to an order under Subsection 26B-7-305(1)(b)(iv)(B), the department or local health department shall:

(a) give the individual [~~or group of individuals~~] subject to the order of restriction a written notice of:

(i) the order of restriction and any supporting documentation; and

(ii) the individual's right to a judicial review of the order of restriction; and

(b) file a petition for a judicial review of the order of restriction under Section 26B-7-309in court within:

(i) five business days after issuing the written notice of the order of restriction; or

(ii) if consent has been withdrawn under Subsection 26B-7-305(1)(b)(iv)(B), within five business days after receiving notice of the individual's withdrawal of consent.

(2) (a) An order of restriction remains in effect during any judicial proceedings to review the order of restriction if the department or local health department files a petition for judicial review of the order of restriction within the period of time required by this section.

(b) Law enforcement officers with jurisdiction in the area where the individual who is subject to the order of restriction can be located

shall assist the department or local health department with enforcing the order of restriction.

Section 13. Section 26B-7-307 is amended to read:

26B-7-307. Contents of notice of order of restriction -- Rights of individuals.

(1) A written order of restriction issued by a department or local health department shall include the following information:

(a) the identity of the individual [~~or a description of the group of individuals~~]subject to the order of restriction;

(b) the identity or location of any premises that may be subject to restriction;

(c) the date and time for which the restriction begins and the expected duration of the restriction;

(d) the suspected dangerous public health condition that poses a threat to public health;

(e) the requirements for termination of the order of restriction, such as necessary laboratory reports, the expiration of an incubation period, or the completion of treatment for the communicable disease;

(f) any conditions on the restriction, such as limitation of visitors or requirements for medical monitoring;

(g) the medical or scientific information upon which the restriction is based;

(h) a statement advising of the right to a judicial review of the order of restriction by the court; and

(i) pursuant to Subsection (2), the rights of each individual subject to restriction.

(2) An individual subject to restriction has the following rights:

(a) the right to be represented by legal counsel in any judicial review of the order of restriction in accordance with Subsection 26B-7-309(3);

(b) the right to be provided with prior notice of the date, time, and location of any hearing concerning the order of restriction;

(c) the right to participate in any hearing, in a manner established by the court based on precautions necessary to prevent additional exposure to communicable or possibly communicable diseases or to protect the public health;

(d) the right to respond and present evidence and arguments on the individual's own behalf in any hearing;

(e) the right to cross examine witnesses; and

(f) the right to review and copy all records in the possession of the department that issued the order of restriction which relate to the subject of the written order of restriction.

[~~(3) (a) Notwithstanding the provisions of Subsection (1), if the department or a local health department issues an order of restriction for a group of individuals, the department or local health department may modify the method of providing notice to the group or modify the information contained in the notice, if the public health official determines the modification of the notice is necessary to:~~]

[~~(i) protect the privacy of medical information of individuals in the group; or~~]

[~~(ii) provide notice to the group in a manner that will efficiently and effectively notify the individuals in the group within the period of time necessary to protect the public health.~~]

[~~(b) When the department or a local health department modifies notice to a group of individuals under Subsection (3)(a), the department or local health department shall provide each individual in the group with notice that complies with the provisions of Subsection (1) as soon as reasonably practical.~~]

[~~(4)~~](3) (a) In addition to the rights of an individual described in Subsections (1) and (2), an individual subject to an order of restriction may not be terminated from employment if the reason for termination is based solely on the fact that the individual is or was subject to an order of restriction.

(b) The department or local health department issuing the order of restriction shall give the individual subject to the order of restriction notice of the individual's employment rights under Subsection [~~(4)(a)~~](3)(a).

(c) An employer in the state, including an employer who is the state or a political subdivision of the state, may not violate the provisions of Subsection [~~(4)(a)~~](3)(a).

Section 14. Section 26B-7-310 is amended to read:

26B-7-310. Petition for judicial review of order of restriction -- Court-ordered examination period.

(1) (a) A department may petition for a judicial review of the department's order of restriction for an individual [~~or group of individuals who are~~]who is subject to restriction by filing a written petition with the court of the county in which the individual [~~or group of individuals reside~~]resides or [~~are~~]is located.

(b) (i) The county attorney for the county where the individual [~~or group of individuals reside or are~~]resides or is located shall represent the local health department in any proceedings under Sections 26B-7-304 through 26B-7-314.

(ii) The Office of the Attorney General shall represent the department when the petitioner is the department in any proceedings under Sections 26B-7-304 through 26B-7-314.

(2) The petition under Subsection (1) shall be accompanied by:

(a) written affidavit of the department stating:

(i) a belief the individual [~~or group of individuals are~~]is subject to restriction;

(ii) a belief that the individual [~~or group of individuals who are subject to restriction are~~]is likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately restrained;

(iii) this failure would pose a threat to the public health; and

(iv) the personal knowledge of the individual's [~~or group of individuals'~~]condition or the circumstances that lead to that belief; and

(b) a written statement by a licensed physician or physician assistant indicating the physician or physician assistant finds the individual [~~or group of individuals are~~]is subject to restriction.

(3) The court shall issue an order of restriction requiring the individual[~~or group of individuals~~] to submit to involuntary restriction to protect the public health if the court finds:

(a) there is a reasonable basis to believe that the individual's [~~or group of individuals'~~]condition requires involuntary examination, quarantine, treatment, or isolation pending examination and hearing; or

(b) the individual [~~or group of individuals have~~]has refused to submit to examination by a health professional as directed by the department or to voluntarily submit to examination, treatment, quarantine, or isolation.

(4) If the individual [~~or group of individuals who are~~]who is subject to restriction [~~are~~]is not in custody, the court may make [~~its~~]the

court's determination and issue [~~its~~]an order of restriction in an ex parte hearing.

(5) At least 24 hours prior to the hearing required by Section 26B-7-311, the department which is the petitioner, shall report to the court, in writing, the opinion of qualified health care providers:

(a) regarding whether the individual [~~or group of individuals are~~]is infected by or contaminated with a dangerous public health condition;

(b) that despite the exercise of reasonable diligence, the diagnostic studies have not been completed;

(c) whether the individual [~~or group of individuals have~~]has agreed to voluntarily comply with necessary examination, treatment, quarantine, or isolation; and

(d) whether the petitioner believes the individual [~~or group of individuals~~]will comply without court proceedings.

Section 15. Section 26B-7-311 is amended to read:

26B-7-311. Court determination for an order of restriction after examination period.

(1) The court shall set a hearing regarding the involuntary order of restriction of an individual[~~, or group of individuals~~], to be held within 10 business days of the issuance of its order of restriction issued pursuant to Section 26B-7-310, unless the petitioner informs the court prior to this hearing that the individual[~~, or group of individuals~~]:

(a) [~~are~~]is not subject to restriction; or

(b) [~~have~~]has stipulated to the issuance of an order of restriction.

(2) If the individual [~~or an individual in a group of individuals~~]has stipulated to the issuance of an order of restriction, the court may issue an order as provided in Subsection (6) for those individuals without further hearing.

(3) (a) If the examination report required in Section 26B-7-310 proves the individual [~~or group of individuals are~~]is not subject to restriction, the court may without further hearing terminate the proceedings and dismiss the petition.

(b) The court may, after a hearing at which the individual [~~or group of individuals are~~]is present in person or by telephonic or other electronic means and [~~have~~]has had the opportunity to be represented by counsel, extend [~~its~~]the court's order of restriction for a reasonable period, not to exceed 90 days, if the court has reason to believe the individual [~~or group of individuals are~~]is infected by or contaminated with a dangerous public health condition.

(4) The petitioner shall, at the time of the hearing, provide the court with the following items, to the extent that they have been issued or are otherwise available:

(a) the order of restriction issued by the petitioner;

(b) admission notes if any individual was hospitalized; and

(c) medical records pertaining to the current order of restriction.

(5) The information provided to the court under Subsection (4) shall also be provided to the individual's [~~or group of individual's~~]counsel at the time of the hearing, and at any time prior to the hearing upon request of counsel.

(6) (a) The court shall order the individual [~~and each individual in a group of individuals~~]to submit to the order of restriction if, upon completion of the hearing and consideration of the record, [~~it~~]the court finds by clear and convincing evidence that:

(i) the individual [~~or group of individuals are~~]is infected with a dangerous public health condition that poses a threat to public health;

(ii) there is no appropriate and less restrictive alternative to a court order of examination, quarantine, isolation, and treatment, or any of them;

(iii) the petitioner can provide the individual or group of individuals with treatment that is adequate and appropriate to the individual's [~~or group of individuals' conditions~~]condition and needs; and

(iv) it is in the public interest to order the individual [~~or group of individuals~~]to submit to involuntary examination, quarantine, isolation, and treatment, or any of them after weighing the following factors:

(A) the personal or religious beliefs, if any, of the individual that are opposed to medical examination or treatment;

(B) the ability of the department to control the public health threat with treatment alternatives that are requested by the individual;

(C) the economic impact for the department if the individual is permitted to use an alternative to the treatment recommended by the department; and

(D) other relevant factors as determined by the court.

(b) If upon completion of the hearing the court does not find all of the conditions listed in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

(7) The order of restriction shall designate the period, subject to Subsection (8), for which the individual [~~or group of individuals~~]shall be examined, treated, isolated, or quarantined.

(8) (a) The order of restriction may not exceed six months without benefit of a court review hearing.

(b) (i) The court review hearing shall be held prior to the expiration of the order of restriction issued under Subsection (7).

(ii) At the review hearing the court may issue an order of restriction for up to an indeterminate period, if the court enters a written finding in the record determining by clear and convincing evidence that the required conditions in Subsection (6) will continue for an indeterminate period.

Section 16. Section 26B-7-317 is amended to read:

26B-7-317. Authorization to report -- Declaration of a public health emergency -- Termination of a public health emergency.

(1) A health care provider is authorized to report to the department any case of a [~~reportable emergency illness or health~~]dangerous public health condition in any person when:

(a) the health care provider knows of a confirmed case; or

(b) the health care provider believes, based on the health care provider's professional judgment that a person likely harbors a [~~reportable emergency illness or~~]dangerous public health condition.

(2) A report pursuant to this section shall include, if known:

(a) the name of the facility submitting the report;

(b) a patient identifier that allows linkage with the patient's record for follow-up investigation if needed;

(c) the date and time of visit;

(d) the patient's age and sex;

(e) the zip code of the patient's residence;

(f) the reportable illness or condition detected or suspected;

(g) diagnostic information and, if available, diagnostic codes assigned to the visit; and

(h) whether the patient was admitted to the hospital.

(3) (a) Subject to [~~Subsections (3)(b) and~~]Subsection(4), if the department determines that a public health emergency exists, the department may, with the concurrence of the governor and the executive director or in the absence of the executive director, the executive director's designee, declare a public health emergency[~~, issue an order of constraint,~~] and mandate reporting under this section for a limited reasonable period of time, as necessary to respond to the public health emergency.

[~~(b) (i) During a public health emergency that has been in effect for more than 30 days, the department may not issue an order of constraint until the department has provided notice of the proposed action to the legislative emergency response committee no later than 24 hours before the department issues the order of constraint.~~]

[~~(ii) The department:~~]

[~~(A) shall provide the notice required by Subsection (3)(b)(i) using the best available method under the circumstances as determined by the executive director;~~]

[~~(B) may provide the notice required by Subsection (3)(b)(i) in electronic format; and~~]

[~~(C) shall provide the notice in written form, if practicable.~~]

[~~(c)~~](b) The department may not mandate reporting under this subsection for more than 90 days.

(4) (a) Except as provided in Subsection (4)(b), a public health emergency declared by the department as described in Subsection (3) expires at the earliest of:

(i) the day on which the department or the governor finds that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by a joint resolution of the Legislature.

(b) (i) The Legislature, by joint resolution, may extend a public health emergency for a time period designated in the joint resolution.

(ii) If the Legislature extends a public health emergency as described in Subsection (4)(b)(i), the public health emergency expires on the date designated by the Legislature.

(c) Except as provided in Subsection (4)(d), if a public health emergency declared by the department expires as described in Subsection (4)(a) or (b), the department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (4)(c), subject to Subsection (4)(e), if the department finds that exigent circumstances exist, after providing notice to the Legislature, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (4)(d)(i) expires in accordance with Subsection (4)(a) or (b).

(e) If the Legislature terminates a public health emergency declared due to exigent circumstances as described in Subsection (4)(d)(i), the department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

[~~(5) During a declared public health emergency declared under this title:~~]

[~~(a) the Legislature may:~~]

[~~(i) at any time by joint resolution terminate an order of constraint issued by the department; or~~]

[~~(ii) by joint resolution terminate an order of constraint issued by a local health department in response to a public health emergency that has been in effect for more than 30 days; and~~]

[~~(b) a county legislative body may at any time terminate an order of constraint issued by a local health department in response to a declared public health emergency.~~]

[~~(6)~~](5) (a) (i) If the department declares a public health emergency as described in this part, and the department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the Legislature as described in this section, the department shall provide written notice to the speaker of the House of Representatives and the president of the Senate at least 10 days before the expiration of the public health emergency.

(ii) If a local health department declares a public health emergency as described in [~~this part~~]Title 26A, Local Health Authorities, and the local health department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the county governing body as described in this section, the local health department shall provide written notice to the county governing body at least 10 days before the expiration of the public health emergency.

(b) If the department provides notice as described in Subsection [~~(6)(a)(i)~~](5)(a)(i) for a public health emergency within the first 30 days from the initial declaration of the public health emergency, the speaker of the House of Representatives and the president of the Senate:

(i) shall poll the members of their respective bodies to determine whether the Legislature will extend the public health emergency; and

(ii) may jointly convene the committee created in Section 53-2a-218.

(c) If the department provides notice as described in Subsection [~~(6)(a)(i)~~](5)(a)(i) for a public health emergency that has been extended beyond the 30 days from the initial declaration of the public health emergency, the speaker of the House of Representatives and the president of the Senate shall jointly convene the committee created in Section 53-2a-218.

[~~(7)~~](6) If the committee created in Section 53-2a-218 is convened as described in Subsection [~~(6)~~](5), the committee shall conduct a public meeting to:

(a) discuss the nature of the public health emergency and conditions of the public health emergency;

(b) evaluate options for public health emergency response;

(c) receive testimony from individuals with expertise relevant to the current public health emergency;

(d) receive testimony from members of the public; and

(e) provide a recommendation to the Legislature whether to extend the public health emergency by joint resolution.

[~~(8) (a) During a public health emergency declared as described in this title:~~]

[~~(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and~~]

[~~(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:~~]

[~~(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or~~]

[~~(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.~~]

[~~(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (8).~~]

[~~(c)~~](7) (a) During a public health emergency declared as described in this title, the department or a local health department [~~shall~~]may not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

[~~(d)~~](b) Notwithstanding [~~Subsections (8)(a) and (c)~~]Subsection (7)(a), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

[~~(9)~~](8) (a) Unless the provisions of Subsection (3) apply, a health care provider is not subject to penalties for failing to submit a report under this section.

(b) If the provisions of Subsection (3) apply, a health care provider is subject to the penalties of Subsection 26B-7-316(3) for failure to make a report under this section.

Section 17. Section 26B-7-321 is amended to read:

26B-7-321. Investigation of suspected bioterrorism and diseases -- Termination of orders of constraint.

(1) [~~Subject to Subsection (6), the~~]The department shall:

(a) ascertain the existence of cases of an illness or condition caused by the factors described in Subsections 26B-7-316(1) and 26B-7-317(1);

(b) investigate all such cases for sources of infection or exposure;

(c) ensure that any cases, suspected cases, and exposed persons are subject to proper control measures; and

(d) define the distribution of the suspected illness or health condition.

(2) (a) Acting on information received from the reports required by Sections 26B-7-316through 26B-7-320, or other reliable information, the department shall identify all individuals thought to have been exposed to an illness or condition described in Subsection 26B-7-316(1).

(b) The department may request information from a health care provider concerning an individual's identifying information as described in Subsection 26B-7-316(2)(b)when:

(i) the department is investigating a potential illness or condition described in Subsection 26B-7-316(1) and the health care provider has not submitted a report to the department with the information requested; or

(ii) the department has received a report from a pharmacist under Section 26B-7-318, a medical laboratory under Section 26B-7-319, or another health care provider under Subsection 26B-7-317(1) and the department believes that further investigation is necessary to protect the public health.

(c) A health care provider shall submit the information requested under this section to the department within 24 hours after receiving a request from the department.

(3) The department shall counsel and interview identified individuals as appropriate to:

(a) assist in the positive identification of other cases and exposed individuals;

(b) develop information relating to the source and spread of the illness or condition; and

(c) obtain the names, addresses, phone numbers, or other identifying information of any other person from whom the illness or health condition may have been contracted and to whom the illness or condition may have spread.

(4) The department shall, for examination purposes, close, evacuate, or decontaminate any facility when the department reasonably believes that such facility or material may endanger the public health due to a condition or illness described in Subsection 26B-7-316(1).

(5) The department shall destroy personally identifying health information about an individual collected by the department as a result of a report under Sections 26B-7-316through 26B-7-322 upon the earlier of:

(a) the department's determination that the information is no longer necessary to carry out an investigation under Sections 26B-7-316 through 26B-7-324; or

(b) 180 days after the information is collected.

[~~(6) (a) The Legislature may at any time terminate by joint resolution an order of constraint issued by the department in response to a declared public health emergency.~~]

[~~(b) A county governing body may at any time terminate by majority vote an order of constraint issued by the relevant local health department in response to a declared public health emergency.~~]

Section 18. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 110
H. B. 302
Passed March 5, 2025
Approved March 24, 2025
Effective July 1, 2025

MINORS IN STATE CUSTODY AMENDMENTS

Chief Sponsor: Doug Fiefia
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill addresses federal benefits for minors who are in the custody of the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the Department of Health and Human Services (department) to apply for a Medicaid waiver to ensure that minors in the custody of the department who receive federal benefits will maintain resource-eligibility for Medicaid;
- ► requires the department to evaluate whether a minor in the custody of the department is receiving or is eligible to receive federal benefits;
- ► provides that, as appropriate, the department shall apply for federal benefits on behalf of a minor in the custody of the department, and may accept appointment as the representative payee for a minor's federal benefits;
- ► provides accounting, reporting, and administrative requirements for the department concerning a federal benefit provided to a minor in the custody of the department;
- ► requires the department to offer financial literacy training for a minor who received a federal benefit while in the custody of the department, or for a successor representative payee;
- ► grants rulemaking authority to the department relating to the administration of federal benefits for minors in the custody of the department;
- ► requires the department to report annually to the Health and Human Services Interim Committee regarding federal benefits received on behalf of minors in the custody of the department; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

26B-3-231, Utah Code Annotated 1953
80-2-504, Utah Code Annotated 1953

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

Section 1. Section 26B-3-231 is enacted to read:

26B-3-231. Medicaid waiver for minor beneficiaries.

(1) As used in this section:

(a) "ABLE account" means the same as that term is defined in Section 80-2-504.

(b) "Federal benefit" means the same as that term is defined in Section 80-2-504.

(c) "Minor beneficiary" means the same as that term is defined in Section 80-2-504.

(d) "Qualified minor" means a minor beneficiary who is not eligible for an ABLE account or other account that would allow the funds in the account to be disregarded for the purpose of determining resource-eligibility for Medicaid.

(2) On or before January 1, 2026, the department shall apply for a Medicaid waiver or state plan amendment to:

(a) disregard a qualified minor's federal benefit for the purpose of determining resource-eligibility for Medicaid; or

(b) increase the resource-eligibility limit for qualified minors to an amount that would allow qualified minors to remain resource-eligible for Medicaid while also continuing to receive federal benefits.

Section 2. Section 80-2-504 is enacted to read:

80-2-504. Definitions -- Federal benefits for minors in the custody of the department -- Financial training -- Rulemaking -- Reporting.

(1) As used in this section:

(a) "ABLE account" means an Achieving a Better Life Experience account.

(b) "Custody of the department" means the legal custody of the department.

(c) "Department" means the same as that term is defined in Section 80-1-102, or one of the department's divisions, offices, or institutions.

(d) "Federal benefit" means a benefit administered by the United States Social Security Administration, the United States Department of Veterans Affairs, or the United States Railroad Retirement Board.

(e) "Maintenance cost" means a payment to a foster parent, kin, or other caregiver for the costs of providing a minor with food, clothing, housing, daily supervision, personal incidentals, and transportation.

(f) "Minor beneficiary" means a minor:

(i) who is in the legal custody of the department; and

(ii) for whom the department receives or manages a federal benefit.

(g) "Representative payee" means a person appointed by a federal agency to manage a benefit the federal agency provides to a minor.

(2) (a) Within 60 days after a minor is placed in the custody of the department, the department shall determine whether the minor is receiving or may be eligible for any federal benefit.

(b) If the department determines that a minor in the custody of the department is eligible or may be eligible for a federal benefit, the department shall apply for the benefit on the minor's behalf.

(c) After any material change in the circumstances of a minor in the custody of the department that could affect the minor's potential eligibility for federal benefits, the department shall reevaluate whether the minor may be eligible for any federal benefit and, if the department determines that the minor is eligible or may be eligible for a federal benefit, the department shall apply for the benefit on the minor's behalf.

(3) (a) The department shall apply to become and may accept an appointment to serve as the representative payee for a minor in the custody of the department.

(b) For a minor beneficiary in the custody of the department for whom the department has been appointed as the representative payee, the department shall annually review whether it is in the best interest of the minor beneficiary for someone other than the department to apply to assume the role of representative payee.

(4) (a) The department shall establish a separate account for each minor beneficiary into which the minor beneficiary's benefit shall be deposited.

(b) Unless good cause, as defined in rules adopted in accordance with Subsection (6), exists to use a different type of account, if a minor beneficiary is eligible for an ABLE account the department shall use an ABLE account as the account into which the minor beneficiary's benefit shall be deposited.

(c) If good cause exists to not use an ABLE account for a minor beneficiary, or if a minor beneficiary is not eligible for an ABLE account, the department shall determine and use the type of account that will best preserve the minor beneficiary's benefit, which may include:

(i) a 529 savings account, as that term is defined in Section 35A-9-601;

(ii) a special needs trust; or

(iii) another type of tax-advantaged account that the department can administer in compliance with the requirements described in Subsection (4)(d).

(d) The department shall administer each minor beneficiary's account:

(i) in the best interest of the minor beneficiary for whom the account is established;

(ii) in accordance with the provisions of this section;

(iii) consistent with the department's fiduciary duties; and

(iv) in a manner that does not interfere with asset limitations for any state or federal benefit program for which the minor beneficiary is or may be eligible.

(e) As permitted by, and unless otherwise required by the source of the benefit:

(i) the department may expend up to 75% of a federal benefit deposited into a minor beneficiary's account established pursuant to Subsection (4)(a) for maintenance costs; and

(ii) the department shall conserve or invest the balance of a minor beneficiary's federal benefit that is not expended for maintenance costs.

(f) The department shall provide an annual statement to each minor beneficiary and the minor beneficiary's guardian ad litem, if applicable, detailing each receipt and disbursement involving funds deposited on the minor beneficiary's behalf.

(5) (a) Unless otherwise directed by the source of the benefit, the department shall transfer a minor beneficiary's account to the minor, the minor's parent or guardian, a successor payee, or otherwise as required by the source of the balance, when the department's custody over the minor is terminated.

(b) When transferring an account pursuant to Subsection (5)(a), the department shall seek to and take all necessary steps to transfer the minor beneficiary's account directly to the minor, the minor's parent or guardian, including requesting any necessary authorization for the direct transfer from the source of the benefit.

(c) At the time the department transfers the minor beneficiary's account pursuant to Subsection (5)(a), the department shall offer financial literacy training to the minor or the successor payee.

(d) The department may work with other state agencies, departments, or offices to provide the training described in Subsection (5)(c).

(6) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the requirements of this section and to provide for the accounting and protection of federal benefits for minor beneficiaries in the division's custody, including:

(a) criteria for the preservation and disbursement of a minor beneficiary's federal benefits;

(b) defining what constitutes good cause for the use of an account other than an ABLE account, as described in Subsection (4)(b);

(c) safeguards to prevent the mismanagement of and protect against theft, loss, or misappropriation of minor beneficiary's federal benefits; and

(d) policies and procedures to ensure compliance with federal regulations.

(7) On or before September 1 each year, the department shall provide a report to the Health and Human Services Interim Committee that includes, for the preceding fiscal year:

(a) the number of minor beneficiaries in the custody of the department who received federal benefits;

(b) the types of federal benefits received by minor beneficiaries in the custody of the department;

(c) a description of the department's policies or procedures for managing minor beneficiaries' federal benefits in accordance with the requirements of this section; and

(d) the total amount of federal benefits received and expended on behalf of minor beneficiaries in the custody of the department.

Section 3. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 111
H. B. 34
Passed February 6, 2025
Approved March 24, 2025
Effective May 7, 2025

STATE CAMPGROUNDS AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses the designation of state campgrounds.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes the procedure for designating a state campground;
- ► addresses management of state campgrounds; and
- ► authorizes rulemaking by the Division of State Parks to:
  - • establish the process for completing and submitting an application; and
  - • administer management of a state campground.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

79-4-1301, Utah Code Annotated 1953
79-4-1302, Utah Code Annotated 1953
79-4-1303, Utah Code Annotated 1953
79-4-1304, Utah Code Annotated 1953

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

Section 1. Section 79-4-1301 is enacted to read:

PART 13. State Campgrounds

79-4-1301. Definitions.

As used in this part:

(1) "Application" means a written application that a person submits to the division to nominate a parcel of state land or an existing campground located on state land for designation as a state campground.

(2) (a) "Campground" means real property made available to individuals for camping, whether camping by tent, trailer, camper, cabin, recreational vehicle, or similar equipment.

(b) "Campground" includes the outdoor recreational infrastructure, as that term is defined in Section 51-9-901, located on the real property.

(3) "Committee" means:

(a) the Natural Resources, Agriculture, and Environment Interim Committee if the Legislature is not in session; or

(b) the House or Senate Natural Resources, Agriculture, and Environment Standing Committee if the Legislature is in session.

(4) "State campground" means a campground:

(a) located on state land;

(b) confined to the smallest area compatible with proper care and management of the campground; and

(c) designated in accordance with this part.

(5) "State land" means land owned or managed by the state.

Section 2. Section 79-4-1302 is enacted to read:

79-4-1302. Application for state campground -- Rulemaking -- Division duties -- Committee duties.

(1) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) to establish the process for the submission of an application; and

(b) for the administration of a state campground, subject to valid existing rights and Section 79-4-1304.

(2) When the division receives a completed application, the division shall:

(a) evaluate the application;

(b) submit the completed application and the results of the division's evaluation described in Subsection (2)(a) to the following entities or individuals for review, as applicable:

(i) the legislative body of a county that contains some portion of the proposed state campground within the county's geographic borders;

(ii) the legislative body of a municipality that contains some portion of the proposed state campground within the municipality's geographic borders;

(iii) each legislator whose legislative district is located within the geographic borders of the proposed state campground; and

(iv) a state agency if the proposed state campground is located within the jurisdictional boundaries of the state agency; and

(c) provide a written report to a committee that includes:

(i) the results of the division's evaluation described in Subsection (2)(a); and

(ii) any resolution or comment the division received from an entity or individual described in Subsection (2)(b).

(3) The division may:

(a) evaluate private and federal land with the potential to be purchased by, transferred to, or leased to the state for potential designation as a state campground; and

(b) enter into negotiations with the relevant federal agency or private entity to pursue the transfer, sale, or lease of private or federal land for the proposed state campground, as appropriations allow.

(4) Except as provided in Subsection (5), after reviewing a report described in Subsection (2)(c), a committee may:

(a) recommend that the Legislature and governor approve the proposed state campground in accordance with Section 79-4-1303; or

(b) return the report to the division for further study and evaluation.

(5) A committee may not recommend a proposed state campground to the Legislature if:

(a) a county or municipality described in Subsection (2)(b)(i) or (ii) adopts a resolution opposing the proposed state campground; or

(b) designating the state campground may cause a state agency to breach a fiduciary, contractual, or other legal obligation governing management or use of land that is included within the geographic borders of the proposed state campground.

Section 3. Section 79-4-1303 is enacted to read:

79-4-1303. Designation.

(1) The Legislature and the governor shall designate a state campground through concurrent resolution.

(2) Notwithstanding the requirements described in Section 79-4-1302, the Legislature and governor may act under this section to designate a state campground.

Section 4. Section 79-4-1304 is enacted to read:

79-4-1304. Management.

(1) (a) Subject to Subsection (2), the division is responsible for the management of a state campground.

(b) The division may contract with another agency or entity for management services related to the management of a state campground.

(2) Upon Title 63L, Chapter 8, Utah Public Land Management Act, taking effect as described in Section 63L-8-602, the government entity responsible for management of the public lands is responsible for the management of a state campground.

Section 5. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 112
H. B. 39
Passed March 6, 2025
Approved March 24, 2025
Effective May 7, 2025

CORRECTIONAL HEALTH AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Scott D. Sandall

Cosponsor:
Melissa G. Ballard

LONG TITLE

General Description:

This bill addresses health care for individuals who are involved with the criminal justice system.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the Department of Health and Human Services (department) to contract with a telehealth psychiatric consultation provider to provide consultation services to staff responsible for inmates' psychiatric care;
- ► requires the department to convene a working group to study the department's needs regarding an electronic health record system for inmate health care and provide recommendations to the Health and Human Services Interim Committee;
- ► requires the department to contract with psychiatrists to meet staffing needs for correctional health services, except under certain circumstances;
- ► requires the department to provide an annual report to the Health and Human Services Interim Committee concerning the provision of comprehensive health care to inmates;
- ► requires the Department of Corrections and a local mental health authority to cooperate to have certain offenders assessed for available community-based services, and to take steps to connect an offender to appropriate community-based services based on the results of the assessment; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-43-301, as last amended by Laws of Utah 2024, Chapters 240, 299
26B-1-235, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-410, as renumbered and amended by Laws of Utah 2023, Chapter 305
63A-17-307, as last amended by Laws of Utah 2023, Chapter 489
64-13-21, as last amended by Laws of Utah 2024, Chapters 208, 434

ENACTS:

26B-4-901, Utah Code Annotated 1953
26B-4-903, Utah Code Annotated 1953
26B-4-904, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26B-4-902, (Renumbered from 26B-4-325, as last amended by Laws of Utah 2024, Chapter 266)

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

Section 1. Section 17-43-301 is amended to read:
17-43-301. Local mental health authorities -- Responsibilities.

(1) As used in this section:

(a) "Assisted outpatient treatment" means the same as that term is defined in Section 26B-5-301.

(b) "Crisis worker" means the same as that term is defined in Section 26B-5-610.

(c) "Local mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Public funds" means the same as that term is defined in Section 17-43-303.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(2) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to individuals within the county; and

(ii) cooperate with efforts of the division to promote integrated programs that address an individual's substance use, mental health, and physical healthcare needs, as described in Section 26B-5-102.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the department to promote a system of care, as defined in Section 26B-5-101, for minors with or at risk for complex emotional and behavioral needs, as described in Section 26B-1-202.

(3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance use treatment services, mental health services, and local health department services in accordance with Subsection (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(5) (a) Each local mental health authority is accountable to the department and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(6) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for:

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section 26B-5-351;

(ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; [~~and~~]

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18[~~.~~]; and

(xiii) cooperate with the Department of Corrections to complete the requirements described in Subsection 64-13-21(8).

(b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; [~~and~~]

(x) services to [~~persons~~]individuals incarcerated in a county jail or other county correctional facility[~~.~~]; and

(xi) services to individuals described in Subsection 64-13-21(8)(a).

(7) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

(i) collaborate with the statewide mental health crisis line described in Section 26B-5-610;

(ii) ensure that each individual who answers calls to the local mental health crisis line:

(A) is a mental health therapist or a crisis worker; and

(B) meets the standards of care and practice established by the Division of Integrated Healthcare, in accordance with Section 26B-5-610; and

(iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:

(A) waiting on hold; or

(B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

(8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall provide assisted outpatient treatment services to a resident of the county who has been ordered under Section 26B-5-351 to receive assisted outpatient treatment.

Section 2. Section 26B-1-235 is amended to read:

26B-1-235. Request for proposal required for non-state supplied services.

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

[~~(a) "AED" means the same as that term is defined in Section 26B-4-325.~~]

[~~(b) "Office" means the Office of Emergency Medical Services and Preparedness within the department.~~]

[~~(c) "Sudden cardiac arrest" means the same as that term is defined in Section 26B-4-325.~~]

[~~(2)~~](1) Funds provided to the department through Sections 51-9-201 and 59-14-204 to be used to provide services, shall be awarded to non-governmental entities based on a competitive process consistent with Title 63G, Chapter 6a, Utah Procurement Code.

[~~(3)~~](2) Beginning July 1, 2010, and not more than every five years thereafter, the department shall issue requests for proposals for

new or renewing contracts to award funding for programs under Subsection (1).

Section 3. Section 26B-1-410 is amended to read:
26B-1-410. Primary Care Grant Committee.

(1) As used in this section:

(a) "Committee" means the Primary Care Grant Committee created in Subsection (2).

(b) "Program" means the Primary Care Grant Program described in Sections 26B-4-310and 26B-4-313.

(2) There is created the Primary Care Grant Committee.

(3) The committee shall:

(a) review grant applications forwarded to the committee by the department under Subsection 26B-4-312(1);

(b) recommend, to the executive director, grant applications to award under Subsection 26B-4-310(1);

(c) evaluate:

(i) the need for primary health care as defined in Section 26B-4-325 in different areas of the state;

(ii) how the program is addressing those needs; and

(iii) the overall effectiveness and efficiency of the program;

(d) review annual reports from primary care grant recipients;

(e) meet as necessary to carry out its duties, or upon a call by the committee chair or by a majority of committee members; and

(f) make rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that govern the committee, including the committee's grant selection criteria.

(4) The committee shall consist of:

(a) as chair, the executive director or an individual designated by the executive director; and

(b) six members appointed by the governor to serve up to two consecutive, two-year terms of office, including:

(i) four licensed health care professionals; and

(ii) two community advocates who are familiar with a medically underserved population as defined in Section [~~26B-4-325~~]26B-4-301 and with health care systems, where at least one is familiar with a rural medically underserved population.

(5) The executive director may remove a committee member:

(a) if the member is unable or unwilling to carry out the member's assigned responsibilities; or

(b) for a rational reason.

(6) A committee member may not receive compensation or benefits for the member's service, except a committee member who is not an employee of the department may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 4. Section 26B-4-901 is enacted to read:

PART 9. Inmate Health

26B-4-901. Definitions.

As used in this part:

(1) "Correctional facility" means a facility operated to house inmates in a secure or nonsecure setting:

(a) by the Department of Corrections; or

(b) under a contract with the Department of Corrections.

(2) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(3) "Inmate" means an individual who is:

(a) committed to the custody of the Department of Corrections; and

(b) housed at a correctional facility or at a county jail at the request of the Department of Corrections.

(4) "Medical monitoring technology" means a device, application, or other technology that can be used to improve health outcomes and the experience of care for patients, including evidence-based clinically evaluated software and devices that can be used to monitor and treat diseases and disorders.

(5) "Telehealth psychiatric consultation" means the same as that term is defined in Section 26B-1-328.

Section 5. Section 26B-4-902, which is renumbered from Section 26B-4-325 is renumbered and amended to read:
[~~26B-4-325~~]26B-4-902. Medical care for inmates -- Reporting of statistics.

[~~As used in this section:~~]

[~~(1) "Correctional facility" means a facility operated to house inmates in a secure or nonsecure setting:~~]

[~~(a) by the Department of Corrections; or~~]

[~~(b) under a contract with the Department of Corrections.~~]

[~~(2) "Health care facility" means the same as that term is defined in Section 26B-2-201.~~]

[~~(3) "Inmate" means an individual who is:~~]

[~~(a) committed to the custody of the Department of Corrections; and~~]

[~~(b) housed at a correctional facility or at a county jail at the request of the Department of Corrections.~~]

[~~(4) "Medical monitoring technology" means a device, application, or other technology that can be used to improve health outcomes~~

~~and the experience of care for patients, including evidence-based clinically evaluated software and devices that can be used to monitor and treat diseases and disorders.~~]

[~~(5) "Terminally ill" means the same as that term is defined in Section 31A-36-102.~~]

[~~(6)~~](1) The department shall:

(a) for each health care facility owned or operated by the Department of Corrections, assist the Department of Corrections in complying with Section 64-13-39;

(b) in coordination with the Department of Corrections, and as the Department of Correction's agent:

(i) create policies and procedures for providing comprehensive health care to inmates;

(ii) provide inmates with comprehensive health care; and

(iii) develop standard population indicators and performance measures relating to the health of inmates; [~~and~~]

(c) collaborate with the Department of Corrections to comply with Section 64-13-25.1[~~.~~]; and

(d) contract with a telehealth psychiatric consultation provider to provide consultation services to staff responsible for inmates' psychiatric care.

[~~(7)~~](2) In providing the comprehensive health care described in Subsection [~~(6)(b)(ii)~~](1)(b)(ii), the department may not, without entering into an agreement with the Department of Corrections, provide, operate, or manage any treatment plans for inmates that are:

(a) required to be provided, operated, or managed by the Department of Corrections in accordance with Section 64-13-6; and

(b) not related to the comprehensive health care provided by the department.

[~~(8)~~](3) Beginning July 1, 2023, and ending June 30, 2024, the department shall:

(a) evaluate and study the use of medical monitoring technology and create a plan for a pilot program that identifies:

(i) the types of medical monitoring technology that will be used during the pilot program; and

(ii) eligibility for participation in the pilot program; and

(b) make the indicators and performance measures described in Subsection [~~(6)(b)(iii)~~](1)(b)(iii) available to the public through the Department of Corrections and the department websites.

[~~(9)~~](4) Beginning July 1, 2024, and ending June 30, 2029, the department shall implement the pilot program.

[~~(10)~~](5) The department shall submit to the Health and Human Services Interim Committee and the Law Enforcement and Criminal Justice Interim Committee:

(a) a report on or before October 1 of each year regarding the costs and benefits of the pilot program;

(b) a report that summarizes the indicators and performance measures described in Subsection [~~(6)(b)(iii)~~](1)(b)(iii) on or before October 1, 2024; and

(c) an updated report before October 1 of each year that compares the indicators and population measures of the most recent year to the initial report described in Subsection [~~(10)(b)~~](5)(b).

[~~(11)~~](6) An inmate receiving comprehensive health care from the department remains in the custody of the Department of Corrections.

Section 6. Section 26B-4-903 is enacted to read:

26B-4-903. Electronic health record system study.

(1) On or before June 30, 2025, the department shall convene a working group to study and develop recommendations regarding the electronic health record system used in connection with providing inmates with comprehensive health care, including:

(a) identification of the department's electronic health record system requirements;

(b) an analysis of what features of an electronic health record system are needed to maximize the implementation, effectiveness, and efficiency of the waiver described in Section 26B-3-217; and

(c) a determination of whether the department's current electronic health record system meets the requirements and includes the features identified under Subsections (1)(a)and (b).

(2) The working group described in Subsection (1) shall include department staff as determined by the director.

(3) The working group shall provide recommendations regarding the electronic health record system to the Health and Human Services Interim Committee on or before the date of the committee's meeting in November 2025.

Section 7. Section 26B-4-904 is enacted to read:

26B-4-904. Staffing -- Reporting.

(1) (a) Except as provided in Subsection (1)(b), the department shall contract with psychiatrists to ensure that all correctional psychiatric positions are filled.

(b) If all correctional psychiatric positions are filled by internal staff for six continuous months:

(i) the department shall submit a certification of that fact to the Health and Human Services Interim Committee; and

(ii) the department is exempt from the requirement in Subsection (1)(a) for a period of 24 months from the date the certification is submitted to the Health and Human Services Interim Committee.

(2) On or before September 1 each year, the department shall provide a report to the Health and Human Services Interim Committee that includes, for the fiscal year immediately preceding the report:

(a) a description of the staff positions responsible for providing comprehensive health care to inmates, including an identification of any staff position that was open for more than half of the preceding fiscal year;

(b) the average time after admission for an inmate to receive:

(i) an initial health assessment;

(ii) a mental health evaluation; and

(iii) an oral examination by a dentist;

(c) the number of inmates who did not receive an initial health assessment within seven days after admission;

(d) the number of inmates who did not receive a mental health evaluation within 30 days after admission;

(e) the number of inmates who did not receive an oral examination by a dentist within 30 days after admission;

(f) the average time for an inmate to have a face-to-face encounter with department staff after the inmate submits a health care request; and

(g) the number of inmates who did not have a face-to-face encounter with department staff within 24 hours after the inmate submitted a health care request.

Section 8. Section 63A-17-307 is amended to read:

63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of director.

(1) (a) This section, and the rules made by the division under this section, apply to each career and noncareer employee not specifically exempted under Subsection (2).

(b) If not exempted under Subsection (2), an employee is considered to be in classified service.

(2) The following employees are exempt from this section:

(a) members of the Legislature and legislative employees;

(b) members of the judiciary and judicial employees;

(c) elected members of the executive branch and employees designated as schedule AC as provided under Subsection 63A-17-301(1)(c);

(d) employees of the State Board of Education;

(e) officers, faculty, and other employees of state institutions of higher education;

(f) employees in a position that is specified by statute to be exempt from this Subsection (2);

(g) employees in the Office of the Attorney General;

(h) department heads and other persons appointed by the governor under statute;

(i) schedule AS employees as provided under Subsection 63A-17-301(1)(m);

(j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection 63A-17-301(1)(d);

(k) employees that determine and execute policy designated as schedule AR as provided under Subsection 63A-17-301(1)(l);

(l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection 63A-17-301(1)(g);

(m) temporary employees described in Subsection 63A-17-301(1)(r);

(n) patients and inmates designated as schedule AU as provided under Subsection 63A-17-301(1)(o) who are employed by state institutions; and

(o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection 63A-17-301(1)(k).

(3) (a) The director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.

(b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range, subject to Section 63A-17-112, may be applied equitably to each position in the same class.

(c) The director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.

(d) (i) The division shall conduct periodic studies and interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.

(ii) The director shall determine the need for studies and interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.

(e) In accordance with Subsections (3)(a) and (b), and in consultation with the Department of Health and Human Services and the Department of Corrections, the director may create a classification plan for employee positions responsible for providing comprehensive health care and clinical interventions to inmates in a correctional facility, as those terms are defined in Section 26B-4-901, that accounts for the specific challenges of providing health care in a correctional facility.

(4) (a) With the approval of the executive director and the governor, the director shall develop and adopt pay plans for each position in classified service.

(b) The director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to the market using data obtained from private enterprise and other public employment for similar work.

(c) The director shall adhere to the following in developing each pay plan:

(i) each pay plan shall consist of sufficient salary ranges to:

(A) permit adequate salary differential among the various classes of positions in the classification plan; and

(B) reflect the normal growth and productivity potential of employees in that class.

(ii) The director shall issue rules for the administration of pay plans.

(d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a, Grievance Procedures, or otherwise.

(e) The director shall make rules, accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for:

(i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment; and

(ii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.

(5) (a) On or before October 31 of each year, the director shall submit an annual compensation plan to the executive director and the governor for consideration in the executive budget and to the State Employee Benefits Advisory Commission created in Section 63C-31-102.

(b) The plan described in Subsection (5)(a) may include recommendations, including:

(i) salary increases that generally affect employees, including a general increase or merit increase;

(ii) salary increases that address compensation issues unique to an agency or occupation;

(iii) structure adjustments, including a cost of living adjustment or market comparability adjustment; or

(iv) changes to employee benefits.

(c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the results of a salary survey of a reasonable cross

section of comparable positions in private and public employment in the state into the annual compensation plan.

(B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section 53-6-102, shall at minimum include the three largest political subdivisions in the state that employ, respectively, comparable positions.

(C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1, Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit Insurance Corporation, Federal Reserve, and National Credit Union Administration.

(ii) The director may cooperate with or participate in any survey conducted by other public and private employers.

(iii) The director shall obtain information for the purpose of constructing the survey from the Division of Workforce Information and Payment Services and shall include employer name, number of persons employed by the employer, employer contact information and job titles, county code, and salary if available.

(iv) The division shall acquire and protect the needed records in compliance with the provisions of Section 35A-4-312.

(d) The director may incorporate any other relevant information in the plan described in Subsection (5)(a), including information on staff turnover, recruitment data, or external market trends.

(e) The director shall:

(i) establish criteria to assure the adequacy and accuracy of data used to make recommendations described in this Subsection (5); and

(ii) when preparing recommendations use accepted methodologies and techniques similar to and consistent with those used in the private sector.

(f) (i) Upon request and subject to Subsection (5)(f)(ii), the division shall make available foundational information used by the division or director in the drafting of a plan described in Subsection (5)(a), including:

(A) demographic and labor market information;

(B) information on employee turnover;

(C) salary information;

(D) information on recruitment; and

(E) geographic data.

(ii) The division may not provide under Subsection (5)(f)(i) information or other data that is proprietary or otherwise protected under the terms of a contract or by law.

(g) The governor shall:

(i) consider salary and structure adjustments recommended under Subsection (5)(b)in preparing the executive budget and shall recommend the method of distributing the adjustments;

(ii) submit compensation recommendations to the Legislature; and

(iii) support the recommendation with schedules indicating the cost to individual departments and the source of funds.

(h) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment unless otherwise indicated.

(6) (a) The director shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the granting of incentive awards, including awards for cost saving actions, awards for commendable actions by an employee, or a market-based award to attract or retain employees.

(b) An agency may not grant a market-based award unless the award is previously approved by the division.

(c) In accordance with Subsection (6)(b), an agency requesting the division's approval of a market-based award shall submit a request and documentation, subject to Subsection (6)(d), to the division.

(d) In the documentation required in Subsection (6)(c), the requesting agency shall identify for the division:

(i) any benefit the market-based award would provide for the agency, including:

(A) budgetary advantages; or

(B) recruitment advantages;

(ii) a mission critical need to attract or retain unique or hard to find skills in the market; or

(iii) any other advantage the agency would gain through the utilization of a market-based award.

(7) (a) The director shall regularly evaluate the total compensation program of state employees in the classified service.

(b) The division shall determine if employee benefits are comparable to those offered by other private and public employers using information from:

(i) a study conducted by a third-party consultant; or

(ii) the most recent edition of a nationally recognized benefits survey.

Section 9. Section 64-13-21 is amended to read:

64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee -- Coordination with local mental health authority.

(1) (a) The department, except as otherwise provided by law, shall supervise a sentenced offender placed in the community if the offender:

(i) (A) is placed on probation by a court;

(B) is released on parole by the Board of Pardons and Parole; or

(C) is accepted for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers; and

(ii) has been convicted of:

(A) a felony;

(B) a class A misdemeanor when an element of the offense is the use or attempted use of physical force against an individual or property; or

(C) notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the department is ordered by a court to supervise the offender under Section 77-18-105.

(b) If a sentenced offender participates in substance use treatment or a residential, vocational and life skills program, as defined in

Section 13-53-102, while under supervision on probation or parole, the department shall monitor the offender's compliance with and completion of the treatment or program.

(c) The department shall establish standards for:

(i) the supervision of offenders in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, giving priority, based on available resources, to felony offenders and offenders sentenced under Subsection 58-37-8 (2)(b)(ii); and

(ii) the monitoring described in Subsection (1)(b).

(2) The department shall apply the graduated and evidence-based responses established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of six days within a period of 30 days.

(3) The department shall implement a program of graduated incentives as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4) (a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance [~~Abuse~~]Use and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.

(b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

(6) (a) (i) A monthly supervision fee of $30 shall be collected from each offender on probation or parole.

(ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(7) (a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing an offender to earn a reduction credit of 30 days from the offender's period of probation or parole for each month the offender complies with the terms of the offender's probation or parole agreement, including the case action plan.

(b) (i) For offenders placed on probation under Section 77-18-105 or parole under Section 76-3-202 on or after July 1, 2026, the department shall establish a program, consistent with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to provide incentives for an offender that maintains eligible employment, as defined in Section 64-13g-101.

(ii) The program under Subsection (7)(b)(i) may include a credit towards the reduction of the length of supervision for an offender at a rate of up to 30 days for each month that the offender maintains eligible employment, as defined in Section 64-13g-101.

(iii) A court, or the Board of Pardons and Parole, is not required to grant a request for termination of supervision under the program described in this Subsection (7)(b) if the court, or the Board of Pardons and Parole, finds that:

(A) the offender presents a substantial risk to public safety;

(B) termination would prevent the offender from completing risk reduction programming or treatment; or

(C) the eligibility criteria for termination of supervision, as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, have not been met.

(iv) This Subsection (7)(b) does not prohibit the department, or another supervision services provider, from requesting termination of supervision based on the eligibility criteria in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.

(c) The department shall:

(i) maintain a record of credits earned by an offender under this Subsection (7); and

(ii) request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.

(f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

(8) (a) The department shall coordinate with a local mental health authority to complete the requirements of this Subsection (8) for an offender who:

(i) is a habitual offender as that term is defined in Section 77-18-102;

(ii) has a mental illness as that term is defined in Section 26B-5-301; and

(iii) based on a risk and needs assessment:

(A) is at a high risk of reoffending; and

(B) has risk factors that may be addressed by available community-based services.

(b) For an offender described in Subsection (8)(a), at any time clinically appropriate or at least three months before termination of an offender's parole or expiration of an offender's sentence, the department shall coordinate with the Department of Health and Human Services and the relevant local mental health authority to provide applicable clinical assessments and transitional treatment planning and services for the offender so that the offender may receive appropriate treatment and support services after the termination of parole or expiration of sentence.

(c) The local mental health authority may determine whether the offender:

(i) meets the criteria for civil commitment;

(ii) meets the criteria for assisted outpatient treatment; or

(iii) would benefit from assignment to an assertive community treatment team or available community-based services.

(d) Based on the local mental health authority's determination under Subsection (8)(c), the local mental health authority shall, as appropriate:

(i) initiate an involuntary commitment court proceeding;

(ii) file a written application for assisted outpatient treatment; or

(iii) seek to have the offender assigned to an assertive community treatment team or available community-based services.

(e) On or before November 1, 2025, the department shall provide a report to the Law Enforcement and Criminal Justice Interim Committee regarding any proposed changes to the requirements in this Subsection (8), including whether the requirements of this Subsection (8) should also apply to any other category of offenders.

Section 10. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 113
H. B. 307
Passed March 5, 2025
Approved March 24, 2025
Effective July 1, 2025

WILDFIRE FUNDING AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses wildfires.

Highlighted Provisions:

This bill:

- ► merges several funds into the Utah Wildfire Fund (fund);
- ► modifies references to the funds merged into the fund;
- ► amends definition provisions;
- ► addresses delegation of fire management authority;
- ► addresses elements of the fund such as what is deposited into the fund and how money in the fund is used;
- ► requires reporting;
- ► authorizes rulemaking;
- ► moves provisions related to community wildfire preparedness plans addressing wildland-urban interface;
- ► includes a coordination clause with H.B. 48 to address the transition to the Utah Wildfire Fund; and
- ► makes technical and conforming amendments.

Money Appropriated in this Bill:

This bill appropriates $150,022,500 in expendable funds and accounts for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53-2a-602, as last amended by Laws of Utah 2023, Chapter 16
53-2a-603, as last amended by Laws of Utah 2023, Chapters 434, 534
59-21-2, as last amended by Laws of Utah 2024, Chapter 88
63J-1-314, as last amended by Laws of Utah 2023, Chapters 153, 434
63J-1-315, as last amended by Laws of Utah 2024, Chapters 77, 439
63J-3-103, as last amended by Laws of Utah 2024, Chapter 77
63N-3-106, as last amended by Laws of Utah 2024, Chapters 77, 159
65A-1-1, as last amended by Laws of Utah 2024, Chapter 80
65A-8-203, as last amended by Laws of Utah 2024, Chapter 77
65A-8-203.1, as enacted by Laws of Utah 2016, Chapter 174
65A-8a-102, as last amended by Laws of Utah 2010, Chapter 40

ENACTS:

65A-8-216, Utah Code Annotated 1953

REPEALS:

65A-8-204, as last amended by Laws of Utah 2023, Chapter 153
65A-8-206, as last amended by Laws of Utah 2016, Chapter 174
65A-8-207, as last amended by Laws of Utah 2016, Chapter 174
65A-8-213, as last amended by Laws of Utah 2023, Chapter 153
65A-8-215, as last amended by Laws of Utah 2024, Chapter 77

Utah Code Sections Affected by Coordination Clause:

AMENDS:

65A-8-216, Utah Code Annotated 1953

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

Section 1. Section 53-2a-602 is amended to read:
53-2a-602. Definitions.

(1) Unless otherwise defined in this section, the terms that are used in this part mean the same as those terms are defined in Part 1, Emergency Management Act.

(2) As used in this part:

(a) "Agent of the state" means any representative of a state agency, local agency, or non-profit entity that agrees to provide support to a requesting intrastate or interstate government entity that has declared an emergency or disaster and has requested assistance through the division.

(b) "Declared disaster" means one or more events:

(i) within the state;

(ii) that occur within a limited period of time;

(iii) that involve:

(A) a significant number of persons being at risk of bodily harm, sickness, or death; or

(B) a significant portion of real property at risk of loss;

(iv) that are sudden in nature and generally occur less frequently than every three years; and

(v) that results in:

(A) the president of the United States declaring an emergency or major disaster in the state;

(B) the governor declaring a state of emergency under Part 2 Disaster Response and Recovery Act; or

(C) the chief executive officer of a local government declaring a local emergency under Part 2, Disaster Response and Recovery Act.

(c) "Disaster recovery account" means the State Disaster Recovery Restricted Account created in Section 53-2a-603.

(d) (i) "Emergency disaster services" means:

(A) evacuation;

(B) shelter;

(C) medical triage;

(D) emergency transportation;

(E) repair of infrastructure;

(F) safety services, including fencing or roadblocks;

(G) sandbagging;

(H) debris removal;

(I) temporary bridges;

(J) procurement and distribution of food, water, or ice;

(K) procurement and deployment of generators;

(L) rescue or recovery;

(M) emergency protective measures; or

(N) services similar to those described in Subsections (2)(d)(i)(A) through (M), as defined by the division by rule, that are generally required in response to a declared disaster.

(ii) "Emergency disaster services" does not include:

(A) emergency preparedness; or

(B) notwithstanding whether [~~or not~~]a county participates in the [~~Wildland Fire Suppression Fund created in Section 65A-8-204~~]Utah Wildfire Fund created in Section 65A-8-216, any fire suppression or presuppression costs that may be paid for from the [~~Wildland Fire Suppression~~]Utah Wildfire Fund if the county participates in the [~~Wildland Fire Suppression~~]Utah Wildfire Fund.

(e) "Emergency preparedness" means the following done for the purpose of being prepared for an emergency as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) the purchase of equipment;

(ii) the training of personnel; or

(iii) the obtaining of a certification.

(f) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a special district, the board of trustees of the special district; and

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.

(g) "Local fund" means a local government disaster fund created in accordance with Section 53-2a-605.

(h) "Local government" means:

(i) a county;

(ii) a city or town; or

(iii) a special district or special service district that:

(A) operates a water system;

(B) provides transportation service;

(C) provides, operates, and maintains correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;

(D) provides consolidated 911 and emergency dispatch service;

(E) operates an airport; or

(F) operates a sewage system.

(i) "Special district" means the same as that term is defined in Section 17B-1-102.

(j) "Special fund" means a fund other than a general fund of a local government that is created for a special purpose established under the uniform system of budgeting, accounting, and reporting.

(k) "Special service district" means the same as that term is defined in Section 17D-1-102.

(l) "State's prime interest rate" means the average interest rate paid by the state on general obligation bonds issued during the most recent fiscal year in which bonds were sold.

Section 2. Section 53-2a-603 is amended to read:

53-2a-603. State Disaster Recovery Restricted Account.

(1) (a) There is created a restricted account in the General Fund known as the "State Disaster Recovery Restricted Account."

(b) The disaster recovery account consists of:

(i) money deposited into the disaster recovery account in accordance with Section 63J-1-314;

(ii) money appropriated to the disaster recovery account by the Legislature; and

(iii) any other public or private money received by the division that is:

(A) given to the division for purposes consistent with this section; and

(B) deposited into the disaster recovery account at the request of:

(I) the division; or

(II) the person or entity giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(2) Money in the disaster recovery account may only be expended or committed to be expended as follows:

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed $500,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $500,000, but does not exceed $3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment to expend from the governor;

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2);

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $3,000,000, but does not exceed $5,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment to expend from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3);

(iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed $500,000 to fund expenses incurred by the National Guard if:

(A) in accordance with Section 39A-3-103, the governor orders into active service the National Guard in response to a declared disaster; and

(B) the money is not used for expenses that qualify for payment as emergency disaster services; and

(v) in any fiscal year, the division may expend an amount that does not exceed $750,000 to fund expenses incurred to develop or enhance emergency management capabilities if:

(A) the money is used for personnel, equipment, supplies, contracts, training, exercises, or other expenses deemed reasonable and necessary to:

(I) promote and strengthen the state's level of resiliency through mitigation, preparedness, response, or recovery activities; or

(II) meet federal grant matching requirements; and

(B) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of $5,000,000;

(b) money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs to the state directly related to a declared disaster that are not costs related to:

(i) emergency disaster services;

(ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the [~~Wildland Fire Suppression Fund created in Section 65A-8-204~~]Utah Wildfire Fund created in Section 65A-8-216, any fire suppression or presuppression costs that may be paid for from the [~~Wildland Fire Suppression~~]Utah Wildfire Fund if the county participates in the [~~Wildland Fire Suppression~~]Utah Wildfire Fund;

(c) to fund:

(i) the Local Government Emergency Response Loan Fund created in Section 53-2a-607; and

(ii) the Response, Recovery, and Post-disaster Mitigation Restricted Account created in Section 53-2a-1302;

(d) the division may provide advanced funding from the disaster recovery account to recognized agents of the state when:

(i) Utah has agreed, through the division, to enact the Emergency Management Assistance Compact with another member state that

has requested assistance during a declared disaster;

(ii) Utah agrees to provide resources to the requesting member state;

(iii) the agent of the state who represents the requested resource has no other funding source available at the time of the Emergency Management Assistance Compact request; and

(iv) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of $5,000,000;

(e) to fund up to $500,000 for the governor's emergency appropriations described in Subsection 63J-1-217(4); and

(f) to pay the state's deductible in the event of an earthquake.

(3) All funding provided in advance to an agent of the state and subsequently reimbursed shall be credited to the account.

(4) The state treasurer shall invest money in the disaster recovery account according to Title 51, Chapter 7, State Money Management Act.

(5) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery account to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery account is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money in the disaster recovery account may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(6) The division:

(a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and

(b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

Section 3. Section 59-21-2 is amended to read:

59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus Account money -- Mineral Lease Account created -- Contents -- Appropriation of money from Mineral Lease Account.

(1) (a) There is created a restricted account within the General Fund known as the "Mineral Bonus Account."

(b) The Mineral Bonus Account consists of federal mineral lease bonus payments deposited pursuant to Subsection 59-21-1(3).

(c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

(i) invest the money in the Mineral Bonus Account by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(ii) deposit all interest or other earnings derived from the account into the Mineral Bonus Account.

(e) The Division of Finance shall, beginning on July 1, 2017, annually deposit 30% of mineral lease bonus payments deposited under Subsection (1)(b) from the previous fiscal year into the [~~Wildland Fire Suppression Fund created in Section 65A-8-204~~]Utah Wildfire Fund created in Section 65A-8-216, up to $2,000,000 but not to exceed 20% of the amount expended in the previous fiscal year from the [~~Wildland Fire Suppression~~]Utah Wildfire Fund.

(2) (a) There is created a restricted account within the General Fund known as the "Mineral Lease Account."

(b) The Mineral Lease Account consists of federal mineral lease money deposited pursuant to Subsection 59-21-1(1).

(c) The Legislature shall make appropriations from the Mineral Lease Account as provided in Subsection 59-21-1(1) and this Subsection (2).

(d) The Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 35A-8-303.

(e) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the State Board of Education, to be used for education research and experimentation in the use of staff and facilities designed to improve the quality of education in Utah.

(f) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Utah Geological Survey Restricted Account, created in Section 79-3-403, to be used by the Utah Geological Survey for activities carried on by the Utah Geological Survey having as a purpose the development and exploitation of natural resources in the state.

(g) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used for activities carried on by the laboratory having as a purpose the development and exploitation of water resources in the state.

(h) (i) The Legislature shall annually appropriate to the Division of Finance 40% of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection (2)(h)(ii) to:

(A) counties;

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(C) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Division of Finance shall allocate the funds specified in Subsection (2)(h)(i):

(A) in amounts proportionate to the amount of mineral lease money generated by each county; and

(B) to a county or special service district established by a county under Title 17D, Chapter 1, Special Service District Act, as

determined by the county legislative body.

(i) (i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral Lease Account to the Department of Workforce Services to be distributed to:

(A) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Workforce Services may distribute the amounts described in Subsection (2)(i)(i) only to special service districts established under Title 17D, Chapter 1, Special Service District Act, by counties:

(A) of the third, fourth, fifth, or sixth class;

(B) in which 4.5% or less of the mineral lease money within the state is generated; and

(C) that are significantly socially or economically impacted as provided in Subsection (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.

(iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C) shall be as a result of:

(A) the transportation within the county of hydrocarbons, including solid hydrocarbons as defined in Section 59-5-101;

(B) the employment of persons residing within the county in hydrocarbon extraction, including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

(C) a combination of Subsections (2)(i)(iii)(A) and (B).

(iv) For purposes of distributing the appropriations under this Subsection (2)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, the Department of Workforce Services shall:

(A) (I) allocate 50% of the appropriations equally among the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(II) allocate 50% of the appropriations based on the ratio that the population of each county meeting the requirements of Subsections (2)(i)(ii) and (iii) bears to the total population of all of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(B) after making the allocations described in Subsection (2)(i)(iv)(A), distribute the allocated revenues to special service districts established by the counties under Title 17D, Chapter 1, Special Service District Act, as determined by the executive director of the Department of Workforce Services after consulting with the county legislative bodies of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii).

(v) The executive director of the Department of Workforce Services:

(A) shall determine whether a county meets the requirements of Subsections (2)(i)(ii) and (iii);

(B) shall distribute the appropriations under Subsection (2)(i)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, that meet the requirements of Subsections (2)(i)(ii) and (iii); and

(C) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may make rules:

(I) providing a procedure for making the distributions under this Subsection (2)(i) to special service districts; and

(II) defining the term "population" for purposes of Subsection (2)(i)(iv).

(j) (i) The Legislature shall annually make the following appropriations from the Mineral Lease Account:

(A) an amount equal to 52 cents multiplied by the number of acres of school or institutional trust lands, lands owned by the Division of State Parks or the Division of Outdoor Recreation, and lands owned by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each county in which those lands are located;

(B) to each county in which school or institutional trust lands are transferred to the federal government after December 31, 1992, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between 52 cents per acre and the per acre payment made to that county in the most recent payment under the federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal payment was equal to or exceeded the 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(B) may not be made for the transferred lands;

(C) to each county in which federal lands, which are entitlement lands under the federal in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between the most recent per acre payment made under the federal payment in lieu of taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(C) may not be made for the transferred land; and

(D) to a county of the fifth or sixth class, an amount equal to the product of:

(I) $1,000; and

(II) the number of residences described in Subsection (2)(j)(iv) that are located within the county.

(ii) A county receiving money under Subsection (2)(j)(i) may, as determined by the county legislative body, distribute the money or a portion of the money to:

(A) special service districts established by the county under Title 17D, Chapter 1, Special Service District Act;

(B) school districts; or

(C) public institutions of higher education.

(iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the Division of Finance shall increase or decrease the amounts per acre provided for in Subsections (2)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance shall increase or decrease the amount described in Subsection (2)(j)(i)(D)(I) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(iv) Residences for purposes of Subsection (2)(j)(i)(D)(II) are residences that are:

(A) owned by:

(I) the Division of State Parks;

(II) the Division of Outdoor Recreation; or

(III) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of State Parks;

(II) the Division of Outdoor Recreation; or

(III) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

(k) The Legislature shall annually appropriate to the Permanent Community Impact Fund all deposits remaining in the Mineral Lease Account after making the appropriations provided for in Subsections (2)(d) through (j).

(3) (a) Each agency, board, institution of higher education, and political subdivision receiving money under this chapter shall provide the Legislature, through the Office of the Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual basis.

(b) The accounting required under Subsection (3)(a) shall:

(i) include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year; and

(ii) be reviewed by the Business, Economic Development, and Labor Appropriations Subcommittee as part of its normal budgetary process under Title 63J, Chapter 1, Budgetary Procedures Act.

Section 4. Section 63J-1-314 is amended to read:

63J-1-314. Deposits related to the Utah Wildfire Fund and the Disaster Recovery Funding Act.

(1) As used in this section, "operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(2) Except as provided under Subsections (3) and (4), at the end of each fiscal year, the Division of Finance shall, after the transfer of General Fund revenue surplus has been made to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315, and the General Fund Budget Reserve Account, as provided in Section 63J-1-312, transfer:

(a) (i) for a fiscal year ending on or after June 30, 2026, to the Utah Wildfire Fund created in Section 65A-8-216, $4,000,000 each fiscal year until an aggregate amount of $20,000,000 is transferred under this Subsection (2)(a)(i); and

(ii) [~~to the Wildland Fire Suppression Fund created in Section 65A-8-204~~]for a fiscal year ending after the requirements of Subsection (2)(a)(i) are met, to the Utah Wildfire Fund created in Section 65A-8-216, an amount equal to the lesser of:

[~~(i)~~](A) $4,000,000; or

[~~(ii)~~](B) an amount necessary to make the balance in the [~~Wildland Fire Suppression~~]Utah Wildfire Fund equal to [~~$12,000,000;~~]$70,000,000; and

[~~(b) if no money is transferred to the Wildland Fire Suppression Fund under Subsection (2)(a), to the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund created in Section 65A-8-215 an amount equal to the lesser of:~~]

[~~(i) $4,000,000; and~~]

[~~(ii) the amount necessary to make the balance in the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund equal to $12,000,000; and~~]

[~~(c)~~](b) an amount into the State Disaster Recovery Restricted Account, created in Section 53-2a-603, from the General Fund revenue surplus as defined in Section 63J-1-312, calculated by:

(i) determining the amount of General Fund revenue surplus after the transfer to the Medicaid Growth Reduction and Budget Stabilization Account under Section 63J-1-315, the General Fund Budget Reserve Account under Section 63J-1-312, and the transfer to the [~~Wildland Fire Suppression~~]Utah Wildfire Fund as described in Subsection (2)(a);

(ii) calculating an amount equal to the lesser of:

(A) 25% of the amount determined under Subsection [~~(2)(c)(i)~~](2)(b)(i); or

(B) 6% of the total of the General Fund appropriation amount for the fiscal year in which the surplus occurs; and

(iii) adding to the amount calculated under Subsection [~~(2)(c)(ii)~~](2)(b)(ii) an amount equal to the lesser of:

(A) 25% more of the amount described in Subsection [~~(2)(c)(i)~~](2)(b)(i); or

(B) the amount necessary to replace, in accordance with this Subsection [~~(2)(c)(iii)~~](2)(b)(iii), any amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal years before the fiscal year in which the surplus occurs if:

(I) a surplus exists; and

(II) the Legislature appropriates money from the State Disaster Recovery Restricted Account that is not replaced by appropriation or as provided in this Subsection [~~(2)(c)(iii)~~](2)(b)(iii).

(3) (a) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the division shall reduce the transfer to the State Disaster Recovery Restricted Account by an amount necessary to eliminate the operating deficit, up to the full amount of the transfer.

(b) If, after reducing the transfer to the State Disaster Recovery Account to zero under Subsection (3)(a), the Division of Finance determines that an operating deficit still exists, the division shall reduce the transfer to the [~~Wildland Fire Suppression~~]Utah Wildfire Fund by an amount necessary to eliminate the operating deficit, up to the full amount of the transfer.

(4) Notwithstanding Subsection (2):

(a) for the period beginning July 1, 2015, and ending June 30, 2020, the Division of Finance shall transfer to the Local Government Emergency Response Loan Fund 25% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection [~~(2)(c)(ii)~~](2)(b)(ii);

(b) on and after July 1, 2020, the Division of Finance shall transfer to the Local Government Emergency Response Loan Fund 10% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection [~~(2)(c)~~](2)(b); and

(c) on and after July 1, 2023, the Division of Finance shall transfer to the Response, Recovery, and Post-disaster Mitigation Restricted Account 25% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection [~~(2)(c)~~](2)(b).

Section 5. Section 63J-1-315 is amended to read:

63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account -- Transfers of Medicaid growth savings -- Base budget adjustments.

(1) As used in this section:

(a) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(b) "Division" means the Division of Integrated Healthcare created in Section 26B-3-102.

(c) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

(e) "Medicaid growth target" means Medicaid program expenditures for the previous year multiplied by 1.08.

(f) "Medicaid program" is as defined in Section 26B-3-101.

(g) "Medicaid program expenditures" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

(h) "Medicaid program expenditures for the previous year" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for which Medicaid program expenditures are calculated.

(i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the extent the money is appropriated for the Medicaid program by the Legislature.

(2) There is created within the General Fund a restricted account to be known as the Medicaid Growth Reduction and Budget Stabilization Account.

(3) (a) The following shall be deposited into the Medicaid Growth Reduction and Budget Stabilization Account:

(i) deposits described in Subsection (4);

(ii) beginning July 1, 2024, any general funds appropriated to the department for the state plan for medical assistance or for Medicaid administration by the Division of Integrated Healthcare that are not expended by the department in the fiscal year for which the general funds were appropriated and which are not otherwise designated as nonlapsing shall lapse into the Medicaid Growth Reduction and Budget Stabilization Account;

(iii) beginning July 1, 2024, any unused state funds that are associated with the Medicaid program from the Department of Workforce Services;

(iv) beginning July 1, 2024, any penalties imposed and collected under:

(A) Section 17B-2a-818.5;

(B) Section 19-1-206;

(C) Section 63A-5b-607;

(D) Section 63C-9-403;

(E) Section 72-6-107.5; or

(F) Section 79-2-404; and

(v) at the close of fiscal year 2024, the Division of Finance shall transfer any existing balance in the Medicaid Restricted Account created in Section 26B-1-309 into the Medicaid Growth Reduction and Budget Stabilization Account.

(b) In addition to the deposits described in Subsection (3)(a), the Legislature may appropriate money into the Medicaid Growth Reduction and Budget Stabilization Account.

(4) (a) (i) Except as provided in Subsection (7), if, at the end of a fiscal year, there is a General Fund revenue surplus, the Division of Finance shall transfer an amount equal to Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and Budget Stabilization Account.

(ii) If the amount transferred is reduced to prevent an operating deficit, as provided in Subsection (7), the Legislature shall include, to the extent revenue is available, an amount equal to the reduction as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the Legislature shall include, to the extent revenue is available, an amount equal to Medicaid growth savings as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(c) Subsections (4)(a) and (4)(b) apply only to the fiscal year in which the department implements the proposal developed under Section 26B-3-202 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year.

(5) The Division of Finance shall calculate the amount to be transferred under Subsection (4):

(a) before transferring revenue from the General Fund revenue surplus to:

(i) the General Fund Budget Reserve Account under Section 63J-1-312;

[~~(ii) (A) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described in Section 63J-1-314; or~~]

[~~(B) the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund under Section 63J-1-314; and~~]

(ii) the Utah Wildfire Fund created in Section 65A-8-216, as described in Section 63J-1-314; and

(iii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

(b) before earmarking revenue from the General Fund revenue surplus to the Industrial Assistance Account under Section 63N-3-106; and

(c) before making any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law.

(6) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay additional debt service for any bonded debt authorized by the Legislature, the Division of Finance may hold back from any General Fund revenue surplus money sufficient to pay the additional debt service requirements resulting from issuance of bonded debt that was authorized by the Legislature.

(b) The Division of Finance may not spend the hold back amount for debt service under Subsection (6)(a) unless and until it is appropriated by the Legislature.

(c) If, after calculating the amount for transfer under Subsection (4), the remaining General Fund revenue surplus is insufficient to cover the hold back for debt service required by Subsection (6)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to cover the debt service hold back.

(d) Notwithstanding Subsections (4) and (5), the Division of Finance shall hold back the General Fund balance for debt service authorized by this Subsection (6) before making any transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other designation or allocation of General Fund revenue surplus.

(7) Notwithstanding Subsections (4) and (5), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists and that holding back earmarks to the Industrial Assistance Account under Section 63N-3-106, transfers to the [~~Wildland Fire Suppression Fund~~]Utah Wildfire Fund and State Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order, does not eliminate the operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

(8) The Legislature may appropriate money from the Medicaid Growth Reduction and Budget Stabilization Account only:

(a) for the Medicaid program; and

(b) (i) if Medicaid program expenditures for the fiscal year for which the appropriation is made are estimated to be 108% or more of Medicaid program expenditures for the previous year; or

(ii) if the amount of the appropriation is equal to or less than the balance in the Medicaid Growth Reduction and Budget Stabilization Account that comprises deposits described in Subsections (3)(a)(ii) through (v) and appropriations described in Subsection (3)(b).

(9) The Division of Finance shall deposit interest or other earnings derived from investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Section 6. Section 63J-3-103 is amended to read:

63J-3-103. Definitions.

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund and Income Tax Fund sources.

(b) "Appropriations" includes appropriations that are contingent upon available surpluses in the General Fund and Income Tax Fund.

(c) "Appropriations" does not mean:

(i) public education expenditures;

(ii) Utah Education and Telehealth Network expenditures in support of public education;

(iii) Utah Board of Higher Education expenditures in support of public education;

(iv) State Tax Commission expenditures related to collection of income taxes in support of public education;

(v) debt service expenditures;

(vi) emergency expenditures;

(vii) expenditures from all other fund or subfund sources;

(viii) transfers or appropriations from the Income Tax Fund to the Uniform School Fund;

(ix) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section 63J-1-312;

(x) transfers into, or appropriations made to, the Income Tax Fund Budget Reserve Account established in Section 63J-1-313;

(xi) transfers in accordance with Section 63J-1-314 into, or appropriations made to [~~the Wildland Fire Suppression Fund created in Section 65A-8-204, the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund created in Section 65A-8-215,~~]the Utah Wildfire Fund created in Section 65A-8-216 or the State Disaster Recovery Restricted Account created in Section 53-2a-603;

(xii) money appropriated to fund the total one-time project costs for the construction of capital development projects as defined in Section 63A-5b-401;

(xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund created by Section 72-2-118;

(xiv) transfers or deposits into or appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124;

(xv) transfers or deposits into or appropriations made to:

(A) the Department of Transportation from any source; or

(B) any transportation-related account or fund from any source; or

(xvi) supplemental appropriations from the General Fund to the Division of Forestry, Fire, and State Lands to provide money for wildland fire control expenses incurred during the current or previous fire years.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt money by:

(a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session, Chapter 4.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt money.

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

(8) (a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of Planning and Budget according to the procedures and requirements of Section 63J-3-202.

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 7. Section 63N-3-106 is amended to read:

63N-3-106. Structure of loans, grants, and assistance -- Repayment -- Earned credits.

(1) (a) Subject to Subsection (1)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the restricted account.

(b) Loans made under this part shall be structured so the intended repayment or return to the state, including cash or credit, equals at least the amount of the assistance together with an annual interest charge as negotiated by the administrator.

(c) Payments resulting from grants awarded from the restricted account shall be made only after the administrator has determined that the company has satisfied the conditions upon which the payment or earned credit was based.

(2) (a) The administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.

(b) The value of the credits described in Subsection (2)(a) shall be based on factors determined by the administrator, including:

(i) the number of Utah jobs created;

(ii) the increased economic activity in Utah; or

(iii) other events and activities that occur as a result of the restricted account assistance.

(3) (a) A cash loan repayment or other cash recovery from a company receiving assistance under this section, including interest, shall be deposited into the restricted account.

(b) The administrator and the Division of Finance shall determine the manner of recognizing and accounting for the earned credits used in lieu of loan repayments or to support grant payments as provided in Subsection (2).

(4) (a) (i) At the end of each fiscal year, the Division of Finance shall transfer the balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers of General Fund revenue surplus described in Subsection (4)(b) to the Industrial Assistance Account in an amount equal to any credit that has accrued under this part.

(ii) The transfer under Subsection (4)(a)(i) is capped at $50,000,000and the Division of Finance shall deposit any interest accrued above the $50,000,000 cap into the General Fund.

(b) The Division of Finance shall make the transfer required by Subsection (4)(a) after the Division of Finance transfers the General Fund revenue [~~surplusto~~]surplus to:

(i) the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as provided in Section 63J-1-315;

(ii) the General Fund Budget Reserve Account, as provided in Section 63J-1-312; and

(iii) as provided in Section 63J-1-314:

(A) the [~~Wildland Fire Suppression Fund or the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund~~]Utah Wildfire Fund; and

(B) the State Disaster Recovery Restricted Account.

(c) These credit amounts may not be used for purposes of the restricted account as provided in this part until appropriated by the Legislature.

Section 8. Section 65A-1-1 is amended to read:

65A-1-1. Definitions.

As used in this title:

(1) "Division" means the Division of Forestry, Fire, and State Lands.

(2) "Division of Law Enforcement" means the division within the Department of Natural Resources created under Title 79, Chapter 2, Part 7, Division of Law Enforcement.

(3) "Fire service provider" means a public or private entity that fulfills the duties of Subsection 11-7-1(1).

[~~(3)~~](4) "Initial attack" means action taken by the first resource to arrive at a wildland fire incident, including evaluating the wildland fire, patrolling, monitoring, holding action, or aggressive suppression action.

[~~(4)~~](5) "Multiple use" means the management of various surface and subsurface resources in a manner that will best meet the present and future needs of the people of this state.

[~~(5)~~](6) "Municipality" means a city or town.

[~~(6)~~](7) "Public trust assets" means those lands and resources, including sovereign lands, administered by the division.

[~~(7)~~](8) "Sovereign lands" means those lands lying below the ordinary high water mark of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty.

[~~(8)~~](9) "State lands" means all lands administered by the division.

[~~(9)~~](10) "Sustained yield" means the achievement and maintenance of high level annual or periodic output of the various renewable resources of land without impairment of the productivity of the land.

[~~(10)~~](11) "Wildland" means an area where:

(a) development is essentially non-existent, except for roads, railroads, powerlines, or similar transportation facilities; and

(b) structures, if any, are widely scattered.

[~~(11)~~](12) "Wildland fire" means a fire that consumes:

(a) wildland; or

(b) wildland-urban interface [~~, as defined in Section 65A-8a-102~~].

(13) "Wildland-urban interface" means the zone where structures and other human development meets, or intermingles with, undeveloped wildland.

Section 9. Section 65A-8-203 is amended to read:

65A-8-203. Cooperative fire protection agreements.

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

[~~(a) "Eligible~~], "eligible entity" means:

[~~(i)~~](a) a county, a municipality, or a special service district, special district, or service area with:

[~~(A)~~](i) wildland fire suppression responsibility as described in Section 11-7-1; and

[~~(B)~~](ii) wildland fire suppression cost responsibility and taxing authority for a specific geographic jurisdiction; or

[~~(ii)~~](b) upon approval by the director, a political subdivision established by a county, municipality, special service district, special district, or service area that is responsible for:

[~~(A)~~](i) providing wildland fire suppression services; and

[~~(B)~~](ii) paying for the cost of wildland fire suppression services.

[~~(b) "Fire service provider" means a public or private entity that fulfills the duties of Subsection 11-7-1(1).~~]

(2) (a) The governing body of any eligible entity may enter into a cooperative agreement with the division to receive financial and wildfire management cooperation and assistance from the division, as described in this part.

(b) A cooperative agreement shall last for a term of no more than five years and be renewable if the eligible entity continues to meet the requirements of this chapter.

(3) (a) The state shall assume an eligible entity's cost of suppressing catastrophic wildfire as defined in the cooperative agreement if the eligible entity has entered into, and is in full compliance with, a cooperative agreement with the division, as described in this section.

(b) A county or municipality that is not covered by a cooperative agreement with the division, as described in this section, shall be responsible for wildland fire costs within the county or municipality's jurisdiction, as described in Section 65A-8-203.2.

(4) To enter into a cooperative agreement with the division, the eligible entity shall:

(a) if the eligible entity is a county, adopt and enforce on unincorporated land a wildland fire ordinance based upon minimum standards established by the division or Uniform Building Code Commission;

(b) require that the fire department or equivalent fire service provider under contract with, or delegated by, the eligible entity on unincorporated land meet minimum standards for wildland fire training, certification, and suppression equipment based upon nationally accepted standards as specified by the division;

(c) invest in prevention, preparedness, and mitigation efforts, as agreed to with the division, that will reduce the eligible entity's risk of catastrophic wildfire;

(d) (i) file with the division an annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs;

(ii) meet the eligibility entity's participation commitment by making direct payments to the division; or

(iii) do a combination of Subsections (4)(d)(i) and (ii);

(e) return the financial statement described in Subsection (6), signed by the chief executive of the eligible entity, to the division on or before the date set by the division; and

(f) if the eligible entity is a county, have a designated fire warden as described in Section 65A-8-209.1.

(5) (a) The state forester may execute a cooperative agreement with the eligible entity.

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the:

(i) cooperative agreements described in this section;

(ii) manner in which an eligible entity shall provide proof of compliance with Subsection (4);

(iii) manner by which the division may revoke a cooperative agreement if an eligible entity ceases to meet the requirements described in this section;

(iv) accounting system for determining suppression costs;

(v) manner in which the division shall determine the eligible entity's participation commitment; and

(vi) manner in which an eligible entity may appeal a division determination of participation commitment.

(6) (a) The division shall send a financial statement to each eligible entity participating in a cooperative agreement that details the eligible entity's participation commitment for the coming fiscal year, including the prevention, preparedness, and mitigation actions agreed to under Subsection (4)(c).

(b) Each eligible entity participating in a cooperative agreement shall:

(i) have the chief executive of the eligible entity sign the financial statement, or the legislative body of the eligible entity approve the financial statement by resolution, confirming the eligible entity's participation for the upcoming year; and

(ii) return the financial statement to the division, on or before a date set by the division.

(c) A financial statement shall be effective for one calendar year, beginning on the date set by the division, as described in Subsection (6)(b).

(7) (a) An eligible entity may revoke a cooperative agreement before the end of the cooperative agreement's term by:

(i) informing the division, in writing, of the eligible entity's intention to revoke the cooperative agreement; or

(ii) failing to sign and return its annual financial statement, as described in Subsection (6)(b), unless the director grants an extension.

(b) An eligible entity may not revoke a cooperative agreement before the end of the term of a signed annual financial statement, as described in Subsection (6)(c).

(8) (a) The division shall develop and maintain a wildfire risk assessment mapping tool that is online and publicly accessible.

(b) [~~(i)~~] The division shall analyze adding an additional high-risk category within the wildfire risk assessment mapping tool described in Subsection (8)(a):

[~~(A)~~](i) using a scientific assessment; and

[~~(B)~~](ii) that is focused on the risk to dwellings within the wildland-urban interface area.

[~~(ii) The division shall report the results of the division's analysis under this Subsection (8)(b) to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the 2024 November interim meeting of that committee.~~]

(c) With regard to the categories used within the wildfire risk assessment mapping tool described in Subsection (8)(a), the division may adjust the assessment for participation commitments if the adjustment is based on the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor, in accordance with a formula established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) (a) The division may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish criteria for community wildfire preparedness plans addressing wildland-urban interface. The criteria shall require action that is:

(i) qualitative and quantitative; and

(ii) leads to reduced wildfire risk.

(b) An eligible entity shall agree to implement prevention, preparedness, and mitigation actions identified in a community wildfire preparedness plan addressing wildland-urban interface that is approved by the division.

Section 10. Section 65A-8-203.1 is amended to read:

65A-8-203.1. Delegation of fire management authority.

(1) As used in this section, "delegation of fire management authority" means the acceptance by the division of responsibility for:

(a) managing a wildfire; and

(b) [~~the cost of fire suppression, as described in Section 65A-8-203~~]wildfire costs and wildfire prevention costs as defined in Section 65A-8-216.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the process for delegation of fire management authority.

(3) Upon delegation of fire management authority, the division and its named designee becomes the primary incident commander.

(4) The division may take action to recover costs described in Subsection (1)(b) upon delegation of fire management authority.

Section 11. Section 65A-8-216 is enacted to read:

65A-8-216. Utah Wildfire Fund.

(1) As used in this section:

(a) "Eligible entity" means the same as that term is defined in Section 65A-8-203.

(b) "Fund" means the Utah Wildfire Fund created by this section.

(c) "Wildfire" means a fire that consumes:

(i) wildland; or

(ii) wildland-urban interface.

(d) "Wildfire costs" means costs associated with the suppression of a wildfire or rehabilitation efforts after a wildfire is suppressed as further defined by the division by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including costs for an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203.

(e) "Wildfire prevention costs" means costs for prevention, preparedness, or mitigation efforts before a wildfire, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including costs of an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203.

(2) (a) There is created an expendable special revenue fund known as the "Utah Wildfire Fund."

(b) The fund shall consist of:

(i) interest and earnings from the investment of fund money;

(ii) money appropriated by the Legislature to the fund;

(iii) federal funds received by the division for wildfire management costs, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iv) suppression costs billed to an eligible entity that does not participate in a cooperative agreement;

(v) suppression costs paid to the division by another state agency;

(vi) costs recovered from a settlement or a civil or administrative action related to wildfire suppression;

(vii) restitution payments ordered by a court following a criminal adjudication;

(viii) voluntary contributions received by the division;

(ix) money received as direct payment from cooperative wildfire system participation commitments;

(x) money deposited by the Division of Finance, pursuant to Section 59-21-2; and

(xi) money transferred by the Division of Finance, pursuant to Section 63J-1-314.

(c) The state treasurer shall:

(i) invest the money in the fund in accordance with Title 51, Chapter 7, State Money Management Act; and

(ii) deposit interest or other earnings derived from each investment described in Subsection (2)(c)(i) into the fund.

(3) (a) The division shall administer the fund to:

(i) pay wildfire costs on:

(A) state lands; or

(B) if delegated fire management authority, as described in Section 65A-8-203.1, private land located in an unincorporated area;

(ii) subject to Subsection (4), make one or more grants for the purpose of assisting one or more local fire departments or volunteer fire departments in building capacity for the suppression of wildfire; and

(iii) subject to Subsection (5), pay wildfire prevention costs.

(b) The division may disburse money from the fund only upon written order of the state forester or the state forester's authorized representative.

(c) If the state forester determines money in the fund may be insufficient to cover eligible costs in a fire season, the state forester may:

(i) delay making disbursements from the fund until the close of the fire season; and

(ii) request supplemental appropriations from the Legislature.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to administer the fund consistent with the requirements of this section.

(4) (a) The division may not issue in a fiscal year an aggregate of grants described in Subsection (3)(a)(ii) that exceed $300,000.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing criteria for receiving a grant under Subsection (3)(a)(ii).

(5) (a) Except as provided in Subsection (5)(b), the division shall pay wildfire prevention costs during that fiscal year in an amount that is the greater of:

(i) $10,000,000; or

(ii) the sum of:

(A) $3,000,000; and

(B) 10% of the money deposited into the fund but not expended in the previous fiscal year for wildfire costs.

(b) In a case of catastrophic need, as determined by the state forester, the division may use money described in Subsection (5)(a) to pay wildfire costs.

(6) Beginning with the fiscal year ending June 30, 2026, the division shall, by no later than the October 31 immediately following the fiscal year, annually report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee:

(a) the balance in the fund at the end of the fiscal year;

(b) the amount of expenditures under Subsections (3)(a)(i), (ii), and (iii) during the fiscal year; and

(c) the revenues deposited into the fund under Subsection (2) during the fiscal year.

Section 12. Section 65A-8a-102 is amended to read:

65A-8a-102. Definitions.

As used in this chapter:

(1) "Commercial tree species" means:

(a) Abies concolor (white fir);

(b) Abies lasiocarpa (subalpine fir);

(c) Juniperus osteosperma (Utah juniper);

(d) Juniperus scopulorum (Rocky Mountain juniper);

(e) Picea engelmannii (Engelmann spruce);

(f) Picea pungens (blue spruce);

(g) Pinus contorta (lodgepole pine);

(h) Pinus edulis (pi on pine);

(i) Pinus flexilis (limber pine);

(j) Pinus longaeva (bristlecone pine);

(k) Pinus monophylla (singleleaf pi on);

(l) Pinus ponderosa (ponderosa pine);

(m) Populous tremuloides (quaking aspen);

(n) Pseudotsuga menziesii (Douglas fir); or

(o) Quercus gambelii (gambel oak).

(2) (a) "Forest practice" means, except as provided in Subsection (2)(b):

(i) the harvesting of commercial tree species;

(ii) new road construction associated with harvesting or accessing trees;

(iii) site preparation for regeneration of a timber stand;

(iv) reforestation; or

(v) the management of logging slash.

(b) "Forest practice" does not include:

(i) the operation of a nursery or Christmas tree farm;

(ii) the harvest of Christmas trees;

(iii) the harvest of trees for the noncommercial, personal use by the owner of forested land from which the trees are harvested;

(iv) a harvesting operation encompassing fewer than five contiguous acres of forested land;

(v) clearing land for defensible space in a wildland-urban interface; or

(vi) fuel reduction for a wildland-urban interface or hazardous fuel reduction project.

(3) "Forested land" means land, except land owned by the federal government or located within an incorporated city, growing commercial tree species that are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products.

(4) "Forest Water Quality Guidelines" means the field-applicable practice guidelines adopted by the division for use during forestry activities to protect water quality and contained within a nonpoint source management plan.

(5) "Landowner" means a person who holds an ownership interest in forested land.

(6) "Operator" means a person who:

(a) is responsible for conducting forest practices; or

(b) through a contractual agreement with the landowner, is obligated to or entitled to conduct forest practices or to carry out a timber sale.

[~~(7) "Wildland-urban interface" means the zone where structures and other human development meets, or intermingles with, undeveloped wildland.~~]

Section 13. Repealer.

This bill repeals:

Section 65A-8-204, Wildland Fire Suppression Fund created.

Section 65A-8-206, Disbursements from the Wildland Fire Suppression Fund.

Section 65A-8-207, Division to administer Wildland Fire Suppression Fund -- Rulemaking -- Procedures.

Section 65A-8-213, Creation of the Wildland Fire Preparedness Grants Fund -- Awarding of grants -- Rulemaking.

Section 65A-8-215, Wildland-urban interface fire prevention, preparedness, and mitigation.

Section 14. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 14(a). Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 1

To Department of Natural Resources - Utah Wildfire Fund

From Wildland-Urban Interface Prevention, Preparedness, and Mitigation Fund, One-time - - - - - - - - - - - - - 3,549,800

From Wildland Fire Preparedness Grants Fund, One-time - 140,200

From Wildland Fire Suppression Fund, One-time - 146,332,500

Schedule of Programs:

Utah Wildfire Fund - 150,022,500

Section 15. Effective Date.

This bill takes effect on July 1, 2025.

Section 16. Coordinating H.B. 307 with H.B. 48.

If H.B. 307, Wildfire Funding Amendments, and H.B. 48, Wildland Urban Interface Modifications, both pass and become law, the Legislature intends that, on January 1, 2026:

(1) "Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund created in Section 65A-8-215" be replaced with "Utah Wildfire Fund created in Section 65A-8-216" in Subsection 17-16-22(3)(b)(i) enacted in H.B. 48; and

(2) the following language be inserted as Subsection 65A-8-216(2)(b)(xii) in H.B. 307: "(xii) money deposited by the Division of Forestry, Fire, and State Lands, pursuant to Section 17-16-22.".

CHAPTER 114
H. B. 54
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

CANNABINOID AMENDMENTS

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to hemp and medical cannabis regulation.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► prohibits certain cannabinoids from being used in cannabinoid products;
- ► allows the Department of Agriculture and Food to limit certain types of cannabinoids that are found in a cannabinoid product;
- ► amends background check requirements for cannabinoid processor licenses;
- ► amends qualifications for obtaining a cannabinoid processor license;
- ► requires industrial hemp retailers to maintain a video surveillance system;
- ► amends provisions related to cannabinoid product enforcement;
- ► requires a person to have a cannabinoid processor license to transport hemp concentrate;
- ► removes the requirement that certain cannabinoid products be in a medicinal dosage form;
- ► allows for additional medical cannabis pharmacies;
- ► creates a new medical cannabis pharmacy license for independent medical cannabis pharmacies;
- ► creates ownership restrictions for independent medical cannabis pharmacies;
- ► adjusts fees for certain medical cannabis pharmacy licenses;
- ► amends provisions regarding cannabis production and sanitation;
- ► modifies provisions related to enforcement and appeals;
- ► amends provisions related to closed-door medical cannabis pharmacies;
- ► allows a cannabis processing facility to have a website that includes product information;
- ► amends provisions regarding when the department may seize products and test products;
- ► amends provisions related to information a medical cannabis pharmacy must have available to a patient purchasing medical cannabis;
- ► creates a reporting requirement for the department;
- ► repeals sections related to the state central patient portal; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-41-102, as last amended by Laws of Utah 2024, Chapter 35
4-41-103.2, as last amended by Laws of Utah 2023, Chapter 146
4-41-103.3, as last amended by Laws of Utah 2023, Chapters 146, 327
4-41-105, as last amended by Laws of Utah 2024, Chapter 35
4-41-404, as last amended by Laws of Utah 2019, Chapter 23
4-41a-102, as last amended by Laws of Utah 2024, Chapters 217, 238 and 240
4-41a-403, as last amended by Laws of Utah 2023, Chapter 327
4-41a-501, as last amended by Laws of Utah 2023, Chapter 313
4-41a-701, as last amended by Laws of Utah 2023, Chapters 313, 317
4-41a-801, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
4-41a-802, as last amended by Laws of Utah 2024, Chapter 217
4-41a-1001, as last amended by Laws of Utah 2024, Chapters 217, 238 and 240
4-41a-1003, as last amended by Laws of Utah 2023, Chapter 435 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
4-41a-1005, as last amended by Laws of Utah 2024, Chapter 217
4-41a-1101, as last amended by Laws of Utah 2024, Chapter 217
4-41a-1201, as enacted by Laws of Utah 2023, Chapter 273
4-41a-1202, as last amended by Laws of Utah 2024, Chapters 217, 240

4-41a-1203, as renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
4-41a-1206, as enacted by Laws of Utah 2024, Chapter 238
26B-1-435, as last amended by Laws of Utah 2024, Chapters 238, 240
26B-4-201, as last amended by Laws of Utah 2024, Chapters 217, 240
26B-4-202, as last amended by Laws of Utah 2024, Chapters 217, 240
26B-4-214, as last amended by Laws of Utah 2024, Chapter 240
26B-4-222, as last amended by Laws of Utah 2024, Chapter 240
58-37-3.6, as last amended by Laws of Utah 2024, Chapter 35
58-85-102, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
63N-3-1301, as enacted by Laws of Utah 2024, Chapter 35
77-39-101, as last amended by Laws of Utah 2024, Chapter 35

ENACTS:

4-41-405, Utah Code Annotated 1953
4-41a-1006, Utah Code Annotated 1953

REPEALS:

26B-4-236, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

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

Section 1. Section 4-41-102 is amended to read:
4-41-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to human health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoids;

(f) toxins; or

(g) foreign matter.

(2) (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substances derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) cannabinoids that are produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(3) "Cannabidiol" or "CBD" means the cannabinoid identified as CAS# 13956-29-1.

(4) "Cannabidiolic acid" or "CBDA" means the cannabinoid identified as CAS# 1244-58-2.

(5) "Cannabinoid processor license" means a license that the department issues to a person for the purpose of processing a cannabinoid product.

(6) "Cannabinoid product" means a product that:

(a) contains or is represented to contain one or more naturally occurring cannabinoids;

(b) contains less than the cannabinoid product THC level, by dry weight;

(c) contains a combined amount of total THC and any THC analog that does not exceed 10% of the total cannabinoid content;

(d) does not exceed a total of THC and any THC analog that is greater than:

(i) 5 milligrams per serving; and

(ii) 150 milligrams per package; and

(e) unless the product is in an oil based suspension, has a serving size that:

(i) is an integer; and

(ii) is a discrete unit of the cannabinoid product.

(7) "Cannabinoid product class" means a group of cannabinoid products that:

(a) have all ingredients in common; and

(b) are produced by or for the same company.

(8) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.

(9) "Cannabis" means the same as that term is defined in Section 26B-4-201.

(10) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS# 1972-08-3, the primary psychotropic cannabinoid in cannabis.

(11) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

(12) "Industrial hemp producer registration" means a registration that the department issues to a person for the purpose of processing

industrial hemp or an industrial hemp product.

(13) (a) "Industrial hemp product" means a product made by processing industrial hemp plants or industrial hemp parts.

(b) "Industrial hemp product" does not include cannabinoid material or a cannabinoid product.

[~~(13)~~](14) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells any viable industrial hemp seed or cannabinoid product.

[~~(14) (a) "Industrial hemp product" means a product made by processing industrial hemp plants or industrial hemp parts.~~]

[~~(b) "Industrial hemp product" does not include cannabinoid material.~~]

(15) "Key participant" means any of the following:

(a) a licensee;

(b) an operation manager;

(c) a site manager; or

(d) an employee who has access to any industrial hemp material with a THC concentration above 0.3%.

(16) "Licensee" means a person possessing a cannabinoid processor license that the department issues under this chapter.

(17) "Newly identified cannabinoid" means a cannabinoid that:

(a) is not expressly identified by chemical name or CAS number in this chapter; and

(b) is identified by the department under Section 4-41-405.

[~~(17)~~](18) "Non-compliant material" means:

(a) a hemp plant that does not comply with this chapter, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; [~~and~~]

(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level [~~.~~]; and

(c) a cannabinoid product containing any of the following:

(i) delta-9- (THCP), tetrahydrocannabiphorolhe cannabinoid identified as CAS# 54763-99-4;

(ii) delta-8-tetrahydrocannabiphorol (THCP), the cannabinoid identified as CAS# 51768-60-6;

(iii) delta-9-tetrahyrdocannabinol (THC) acetate, the cannabinoid identified as CAS# 23132-17-4;

(iv) delta-8-tetrahydrocannabinol (THC) acetate, the cannabinoid identified as CAS# 23050-54-6;

(v) 9(s)-hexahydrocannabinol (HHC), the cannabinoid identified as CAS# 36403-91-5; or

(vi) 9(r)-hexahyrdocannabinol (HHC), the cannabinoid identified as CAS# 36403-90-4.

[~~(18)~~](19) "Permittee" means a person possessing a permit that the department issues under this chapter.

[~~(19)~~](20) "Person" means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

[~~(20)~~](21) "Retailer permittee" means a person possessing an industrial hemp retailer permit that the department issues under this chapter.

[~~(21)~~](22) "Tetrahydrocannabinol" or "THC" means a delta-9-tetrahydrocannabinol, the cannabinoid identified as CAS# 1972-08-3.

[~~(22)~~](23) (a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.

(b) "THC analog" does not include the following substances or the naturally occurring acid forms of the following substances:

(i) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;

(ii) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;

(iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

(iv) cannabidivarol (CBDV), the cannabinoid identified as CAS# 24274-48-4;

(v) cannabielsoin (CBE), the cannabinoid identified as CAS# 52025-76-0;

(vi) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;

(vii) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;

(viii) cannabinol (CBN), the cannabinoid identified as CAS# 521-35-7;

(ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or

(x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS# 31262-37-0.

[~~(23)~~](24) "Total cannabidiol" or "total CBD" means the combined amounts of cannabidiol and cannabidiolic acid, calculated as "total CBD = CBD + (CBDA x 0.877)".

[~~(24)~~](25) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined amounts of delta-9-THC, tertrahydrocannabinolic acid, calculated as "total THC = delta-9-THC + (THCA x 0.877)".

[~~(25)~~](26) "Transportable industrial hemp concentrate" means any amount of a natural cannabinoid in a purified state that:

(a) is the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass;

(b) is derived from a cannabis plant that, based on sampling that was collected no more than 30 days before the day on which the cannabis plant was harvested, contains a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis;

(c) has a THC and THC analog concentration total that is less than 20% when concentrated from the cannabis plant to the purified state; and

(d) is intended to be processed into a cannabinoid product.

Section 2. Section 4-41-103.2 is amended to read:

4-41-103.2. Cannabinoid processor license.

(1) The department or a licensee of the department may process a cannabinoid product.

(2) A person seeking a cannabinoid processor license shall provide to the department:

(a) the legal description and global positioning coordinates sufficient for locating the facility the person uses to process industrial hemp; and

(b) written consent allowing a representative of the department and local law enforcement to enter all premises where the person processes or stores industrial hemp for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

[~~(3) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain a cannabinoid processor license.~~]

[~~(4)~~](3) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for a cannabinoid processor license.

[~~(5)~~](4) A licensee may only market a cannabinoid product that the licensee processes.

(5) (a) An applicant for a cannabinoid processor license shall:

(i) be at least 18 years old; and

(ii) submit a nationwide criminal history from the Federal Bureau of Investigation to the department.

(b) The department shall reject an individual's application for a cannabinoid processor license if the criminal history described in Subsection (5)(a)(ii) was not completed in the previous 90 days before the day the applicant submits the license application to the department.

(6) An applicant is not eligible to receive a cannabinoid processor license if the applicant has:

(a) been convicted of a felony; or

(b) been convicted of a drug-related misdemeanor within the previous 10 years.

[~~(6) (a) Each applicant for a license to process cannabinoid products shall submit to the department, at the time of application, from each key participant:~~]

[~~(i) a fingerprint card in a form acceptable to the Department of Public Safety;~~]

[~~(ii) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and~~]

[~~(iii) consent to a fingerprint background check by:~~]

[~~(A) the Bureau of Criminal Identification; and~~]

[~~(B) the Federal Bureau of Investigation.~~]

[~~(b) The Bureau of Criminal Identification shall:~~]

[~~(i) check the fingerprints the applicant submits under Subsection (6)(a) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;~~]

[~~(ii) report the results of the background check to the department;~~]

[~~(iii) maintain a separate file of fingerprints that applicants submit under Subsection (6)(a) for search by future submissions to the local and regional criminal records databases, including latent prints;~~]

[~~(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and~~]

[~~(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.~~]

[~~(c) The department shall:~~]

[~~(i) assess an individual who submits fingerprints under Subsection (6)(a) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and~~]

[~~(ii) remit the fee described in Subsection (6)(c)(i) to the Bureau of Criminal Identification.~~]

Section 3. Section 4-41-103.3 is amended to read:

4-41-103.3. Industrial hemp retailer permit.

(1) Except as provided in Subsection [~~(4)~~](5), a retailer permittee of the department may market or sell a cannabinoid product or a viable industrial hemp seed.

(2) A person seeking an industrial hemp retailer permit shall provide to the department:

(a) the name of the person that is seeking to market or sell a cannabinoid product or a viable industrial hemp seed;

(b) the address of each location where a cannabinoid product or a viable industrial hemp seed will be sold; and

(c) written consent allowing a representative of the department to enter all premises where the person is selling a cannabinoid product or a viable industrial hemp seed for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(3) Beginning January 1, 2026, an industrial hemp retailer permittee shall:

(a) maintain a video surveillance system that:

(i) is able to monitor who purchases a cannabinoid product from the permittee;

(ii) is tamper proof; and

(iii) stores a video record for at least 45 days; and

(b) provide the department access to the video surveillance system upon request.

[~~(3)~~](4) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp retailer permit.

[~~(4)~~](5) Any marketing for a cannabinoid product or a viable industrial hemp seed shall include a notice to consumers that the product is hemp and is not cannabis or medical cannabis, as those terms are defined in Section 26B-4-201.

Section 4. Section 4-41-105 is amended to read:

4-41-105. Unlawful acts.

(1) It is unlawful for a person to handle, process, or market living industrial hemp plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp without the appropriate license or permit issued by the department under this chapter.

(2) (a) It is unlawful for any person to:

(i) distribute, sell, or market a cannabinoid product that is:

(A) not registered with the department under Section 4-41-104; or

(B) noncompliant material;

(ii) except as provided in Subsection (2)(b), transport into or out of the state extracted material or final product that contains 0.3% or more of total THC and any THC analog;

(iii) sell or use a cannabinoid product that is:

(A) added to a conventional food or beverage, as the department further defines in rules described in Section 4-41-403;

(B) marketed or manufactured to be enticing to children, as further defined in rules described in Section 4-41-403; or

(C) smokable flower; or

(iv) knowingly or intentionally sell or give a cannabinoid product that contains THC or a THC analog in the course of business to an individual who is not at least 21 years old.

(b) A person may transport transportable industrial hemp concentrate if the person:

(i) complies with rules created by the department under Section 4-41-103.1 related to transportable industrial hemp concentrate; and

(ii) (A) has [~~an industrial hemp producer registration~~]a cannabinoid processor license; or

(B) the equivalent to [~~an industrial hemp producer registration~~]a cannabinoid processor license from another state.

(3) The department may seize and destroy non-compliant material.

(4) Nothing in this chapter authorizes any person to violate federal law, regulation, or any provision of this title.

Section 5. Section 4-41-404 is amended to read:

4-41-404. Department duties.

The department [~~shall assess the fine described in Subsection 4-41-403(4)~~]may take an enforcement action in accordance with Section 4-41-106 against any person who offers an unregistered cannabinoid product for sale in this state.

Section 6. Section 4-41-405 is enacted to read:

4-41-405. Newly identified cannabinoid.

(1) For a newly identified cannabinoid, the department may:

(a) establish a maximum allowable concentration that a cannabinoid product may contain of the newly identified cannabinoid;

(b) prohibit the newly identified cannabinoid from appearing in a cannabinoid product; or

(c) modify the maximum allowable concentration described in Subsection (1)(a) as necessary if it would not create a threat to public health.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to implement Subsection (1).

Section 7. Section 4-41a-102 is amended to read:

4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoid;

(f) toxins; or

(g) foreign matter.

(2) "Advertise" or "advertising" means information provided by a person in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

(3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(4) (a) "Anticompetitive business practice" means any practice that reduces the amount of competition in the medical cannabis market that would be considered an attempt to monopolize, as defined in Section 76-10-3103.

(b) "Anticompetitive business practice" may include:

(i) agreements that may be considered unreasonable when competitors interact to the extent that they are:

(A) no longer acting independently; or

(B) when collaborating are able to wield market power together;

(ii) monopolizing or attempting to monopolize trade by:

(A) acting to maintain or acquire a dominant position in the market; or

(B) preventing new entry into the market; or

(iii) other conduct outlined in rule.

(5) (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular

structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(6) "Batch" means a quantity of:

(a) cannabis extract produced on a particular date and time and produced between completion of equipment and facility sanitation protocols until the next required sanitation cycle during which lots of cannabis are used;

(b) cannabis product produced on a particular date and time and produced between completion of equipment and facility sanitation protocols until the next required sanitation cycle during which cannabis extract is used; or

(c) cannabis flower packaged on a particular date and time and produced between completion of equipment and facility sanitation protocols until the next required sanitation cycle during which lots of cannabis are being used.

[~~(6)~~](7) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

[~~(7)~~](8) "Cannabis" means the same as that term is defined in Section 26B-4-201.

[~~(8)~~](9) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural cannabinoid or artificially derived cannabinoid in an artificially derived cannabinoid's purified state.

[~~(9)~~](10) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

[~~(10)~~](11) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

[~~(11)~~](12) "Cannabis cultivation facility agent" means an individual who

holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.

[~~(12)~~](13) "Cannabis derivative product" means a product made using cannabis concentrate.

[~~(13)~~](14) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

[~~(14)~~](15) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

[~~(15)~~](16) "Cannabis processing facility agent" means an individual who

holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

[~~(16)~~](17) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

[~~(17)~~](18) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

[~~(18)~~](19) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

[~~(19)~~](20) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

[~~(20)~~](21) "Closed-door medical cannabis pharmacy" means a facility operated by a home delivery medical cannabis pharmacy for delivering [~~cannabis or a medical cannabis product~~]medical cannabis.

[~~(21)~~](22) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

[~~(22)~~](23) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

[~~(23)~~](24) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility:

(i) the medical cannabis cardholder's home address; or

(ii) an address designated by the medical cannabis cardholder that:

(A) is the medical cannabis cardholder's workplace; and

(B) is not a community location; or

(b) for a medical cannabis cardholder that is a facility, the facility's address.

[~~(24)~~](25) "Department" means the Department of Agriculture and Food.

[~~(25)~~](26) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

[~~(26)~~](27) "Government issued photo identification" means the same as that term is defined in Section 26B-4-201, including expired identification in accordance with Section 26B-4-244.

[~~(27)~~](28) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders [~~that the state central patient portal facilitates~~].

[~~(28)~~](29) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

[~~(29)~~](30) "Independent cannabis testing laboratory agent" means an individual who

holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.

[~~(30)~~](31) "Inventory control system" means a system described in Section 4-41a-103.

[~~(31)~~](32) "Licensing board" or "board" means the Cannabis Production Establishment and Pharmacy Licensing Advisory Board created in Section 4-41a-201.1.

[~~(32)~~](33) "Medical cannabis" or "medical cannabis product" means the same as that term is defined in Section 26B-4-201.

[~~(33)~~](34) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.

[~~(34)~~](35) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 4-41a-1201; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders [~~that the state central patient portal facilitates~~].

[~~(35)~~](36) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

[~~(36)~~](37) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

[~~(37)~~](38) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.

[~~(38)~~](39) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

[~~(39)~~](40) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

[~~(40)~~](41) "Medical cannabis shipment" means a shipment of medical cannabis that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order [~~that the state central patient portal facilitates~~].

[~~(41)~~](42) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.

[~~(42)~~](43) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

[~~(43)~~](44) "Pharmacy ownership limit" means an amount equal to 30% of the total number of medical cannabis pharmacy licenses issued by the department rounded down to the nearest whole number.

[~~(44)~~](45) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(45)~~](46) "Qualified medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(46)~~](47) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

[~~(47)~~](48) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(48)~~](49) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

[~~(49)~~](50) "State electronic verification system" means the system described in Section 26B-4-202.

[~~(50)~~](51) "Targeted marketing" means the promotion of [~~a cannabis product,~~]medical cannabis, a medical cannabis brand, or a medical cannabis device using any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

(b) an in-person marketing event that is:

(i) held inside a medical cannabis pharmacy; and

(ii) in an area where only a medical cannabis cardholder may access the event;

(c) other marketing material that is physically available or digitally displayed in a medical cannabis pharmacy; or

(d) a leaflet a medical cannabis pharmacy places in the opaque package or box that is provided to an individual when obtaining medical cannabis:

(i) in the medical cannabis pharmacy;

(ii) at the medical cannabis pharmacy's drive-through pick up window; or

(iii) in a medical cannabis shipment.

[~~(51)~~](52) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

[~~(52)~~](53) "THC analog" means the same as that term is defined in Section 4-41-102.

[~~(53)~~](54) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

[~~(54)~~](55) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 8. Section 4-41a-403 is amended to read:

4-41a-403. Advertising.

(1) Except as provided in this section and Section 4-41a-604, a cannabis production establishment may not advertise to the general public in any medium.

(2) A cannabis production establishment may advertise an employment opportunity at the cannabis production establishment.

(3) (a) A cannabis production establishment may maintain a website that:

[~~(a)~~](i) contains information about the establishment and employees; and

[~~(b)~~](ii) except as provided in Subsection (3)(b), does not advertise any medical cannabis, cannabis products, or medical cannabis devices.

(b) A cannabis processing facility may:

(i) if the website has age verification mechanisms that effectively prevent access by individuals under 21 years old, maintain a website that contains:

(A) educational information regarding medical cannabis produced by the cannabis processing facility, including the certificate of analysis that is created by an independent cannabis testing facility; and

(B) where medical cannabis produced by the cannabis processing facility may be purchased in the state; and

(ii) engage in targeted marketing in accordance with Section 4-41a-604 for advertising a particular medical cannabis product, medical cannabis device, or medical cannabis brand.

(4) (a) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis production establishment may use signage on the outside of the cannabis production establishment that:

(i) includes only:

(A) in accordance with Subsection (4)(b), the cannabis production establishment's name, logo, and hours of operation; and

(B) a green cross; and

(ii) complies with local ordinances regulating signage.

(b) The department shall define standards for a cannabis production establishment's name and logo to ensure a medical rather than recreational disposition.

(5) (a) A cannabis production establishment may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).

(b) A cannabis production establishment may not include in an educational event described in Subsection (5)(a):

(i) any topic that conflicts with this chapter or Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(ii) any gift items or merchandise other than educational materials, as those terms are defined by the department;

(iii) any marketing for a specific product from the cannabis production establishment or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

(iv) a presenter other than the following:

(A) a cannabis production establishment agent;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or

(F) a state employee.

(c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the elements of and restrictions on the educational event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

Section 9. Section 4-41a-501 is amended to read:

4-41a-501. Cannabis cultivation facility -- Operating requirements.

(1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible from the ground level of the cannabis cultivation facility perimeter.

(2) A cannabis cultivation facility shall use a unique identifier that is connected to the facility's inventory control system to identify:

(a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each cannabis plant;

(b) each unique harvest of cannabis plants;

(c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, a cannabis processing facility, or an independent cannabis testing laboratory; and

(d) any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.

(3) A cannabis cultivation facility shall identify cannabis biomass as cannabis byproduct or cannabis plant product before transferring the cannabis biomass from the facility.

(4) A cannabis cultivation facility shall either:

(a) ensure that a cannabis processing facility chemically or physically processes cannabis cultivation byproduct to produce a cannabis concentrate for incorporation into cannabis derivative products; or

(b) destroy cannabis cultivation byproduct in accordance with Section 4-41a-405.

(5) A cannabis cultivation facility may utilize radiation-based methods and equipment for quality assurance or remediation purposes.

(6) The department shall make rules establishing:

(a) the records a cannabis cultivation facility must keep regarding each batch, amount of product treated, and the methods used; and

(b) disclosure requirements to a cannabis processor receiving the material subject to the radiation including the methods and equipment used.

Section 10. Section 4-41a-701 is amended to read:

4-41a-701. Cannabis and cannabis product testing.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:

(a) determine required adulterant tests for a cannabis plant product, cannabis concentrate, or cannabis product;

(b) determine the amount of any adulterant that is safe for human consumption;

(c) immediately ban or limit the presence of any ingredient in a medical cannabis product after receiving a recommendation to do so from a public health authority under Section 26B-1-102;

(d) establish protocols for a recall of [~~cannabis or a cannabis product~~]medical cannabis by a cannabis production establishment; or

(e) allow the propagation of testing results forward to derived product if the processing steps the cannabis production establishment uses to produce the product are unlikely to change the results of the test.

(2) (a) The department may require testing for a toxin if:

[~~(a)~~](i) the department receives information indicating the potential presence of a toxin; or

[~~(b)~~](ii) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.

(b) The department may not require a cannabis processor to test a cannabis batch or a cannabis product batch a third time if the cannabis batch or cannabis product has previously met all testing requirements after being tested by:

(i) an independent cannabis testing laboratory that is not the department; and

(ii) the department.

(3) (a) A cannabis production establishment may not:

(i) incorporate cannabis concentrate into a cannabis derivative product until an independent cannabis testing laboratory tests the cannabis concentrate in accordance with department rule; or

(ii) transfer cannabis or a cannabis product to a medical cannabis pharmacy until an independent cannabis testing laboratory tests a representative sample of the cannabis or cannabis product in accordance with department rule.

(b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product in accordance with department rule.

(4) Before the sale of a medical cannabis product, an independent cannabis testing laboratory shall:

(a) identify and quantify any cannabinoid known to be present in [~~a~~]the medical cannabis product; and

(b) test terpene profiles for the following products:

(i) raw cannabis; or

(ii) a cannabis product:

(A) contained in a vaporizer cartridge; or

(B) in concentrate form; and

(c) record the five highest terpene profiles tested under Subsection (4)(b).

(5) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.

(6) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Section 11. Section 4-41a-801 is amended to read:

4-41a-801. Enforcement -- Fine -- Citation.

(1) If a person that is a cannabis production establishment or a cannabis production establishment agent violates this chapter, the department may:

(a) revoke the person's license or cannabis production establishment agent registration card;

(b) decline to renew the person's license or cannabis production establishment agent registration card; or

(c) assess the person an administrative penalty that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The department shall deposit an administrative penalty imposed under this section into the General Fund.

(3) (a) The department may take an action described in Subsection (3)(b) if the department concludes, upon investigation, that, for a person that is a cannabis production establishment or a cannabis production establishment agent:

(i) the person has violated the provisions of this chapter, a rule made under this chapter, or an order issued under this chapter; or

(ii) the person produced cannabis or a cannabis product batch that contains a substance, other than cannabis, that poses a significant threat to human health.

(b) If the department makes the determination about a person described in Subsection (3)(a), the department shall:

(i) issue the person a written administrative citation;

(ii) attempt to negotiate a stipulated settlement;

[~~(iii) seize, embargo, or destroy the cannabis or cannabis product batch;~~]

[~~(iv)~~](iii) order the person to cease and desist from the action that creates a violation; [~~and~~]or

[~~(v)~~](iv) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(c) If the department concludes, upon investigation, that a cannabis production establishment or a cannabis production establishment agent has produced a cannabis batch or a cannabis product batch that contains a substance that poses a significant threat to human health, the department shall seize, embargo, or destroy the cannabis batch or cannabis product batch.

(4) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, for a fine amount not already specified in law, assess the person, who is not an individual, a fine of up to $5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G,

Chapter 3, Utah Administrative Rulemaking Act.

(5) The department may not revoke a [~~cannabis production establishment's~~]license without first directing the [~~cannabis production establishment~~]licensee to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(6) If within [~~20~~]30 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(7) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or cannabis production establishment agent registration card; or

(b) suspend, revoke, or place on probation the person's license or cannabis production establishment registration card.

(8) (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual:

(i) violates a provision of this chapter, the individual is:

(A) guilty of an infraction; and

(B) subject to a $100 fine; or

(ii) intentionally or knowingly violates a provision of this chapter or violates this chapter three or more times, the individual is:

(A) guilty of a class B misdemeanor; and

(B) subject to a $1,000 fine.

(b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).

(9) Nothing in this section prohibits the department from referring potential criminal activity to law enforcement.

(10) An appeal of administrative action taken under this chapter shall be heard by an administrative law judge as an informal proceeding in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Section 12. Section 4-41a-802 is amended to read:

4-41a-802. Report.

(1) At or before the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications that the department receives under this chapter;

(b) the number of each type of cannabis production facility that the department licenses in each county;

(c) the amount of cannabis that licensees grow;

(d) the amount of cannabis that licensees manufacture into cannabis products;

(e) the number of licenses the department revokes under this chapter;

(f) the department's operation of an independent cannabis testing laboratory under Section 4-41a-201, including:

(i) the cannabis and cannabis products the department tested; and

(ii) the results of the tests the department performed;

(g) the expenses incurred and revenues generated under this chapter; and

(h) an analysis of product availability in medical cannabis pharmacies in consultation with the Department of Health and Human Services.

(2) The department may not include personally identifying information in the report described in this section.

(3) The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

(4) (a) Before August 1, of each year, the department shall provide a report to the working group described in Section 36-12-8.2 that provides the following for each fine issued by the department under this chapter:

(i) the date of the fine;

(ii) the reference to the statute or rule that was violated for each fine issued; and

(iii) a short description explaining why the fine was issued.

(b) The report described in Subsection (4)(a) may not include identifying information of the person that was subject to the fine.

Section 13. Section 4-41a-1001 is amended to read:

4-41a-1001. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not:

(a) operate as a medical cannabis pharmacy without a license that the department issues under this part;

(b) obtain a medical cannabis pharmacy license if obtaining the license would cause the person to exceed the pharmacy ownership limit;

(c) obtain a partial ownership share of a medical cannabis pharmacy if obtaining the partial ownership share would cause the person to exceed the pharmacy ownership limit; or

(d) enter into any contract or agreement that allows the person to directly or indirectly control the operations of a medical cannabis pharmacy if the person's control of the medical cannabis pharmacy would cause the person to effectively exceed the pharmacy ownership limit.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 4-41a-1005, the department shall issue a license to operate a medical cannabis pharmacy through the licensing board created under Section 4-41a-201.1.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 10% or greater in the proposed medical cannabis pharmacy;

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;

(iii) for each application that the applicant submits to the department, a statement from the applicant that the applicant will obtain and maintain:

(A) a performance bond in the amount of $100,000 issued by a surety authorized to transact surety business in the state; or

(B) a liquid cash account in the amount of $100,000 with a financial institution;

(iv) an operating plan that:

(A) complies with Section 4-41a-1004;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this part and with a relevant municipal or county law that is consistent with Section 4-41a-1106; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to cite the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant complies with the bond or liquid cash requirement described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(f) In considering the issuance of a medical cannabis pharmacy license under this section, the department may consider the extent to which the pharmacy can increase efficiency and reduce cost to patients of medical cannabis.

[~~(3) If the department selects an applicant~~]

(3) (a) After an entity has been selected for a medical cannabis pharmacy license under this section, the department shall:

[~~(a)~~](i) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504;

[~~(b)~~](ii) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii); and

[~~(c)~~](iii) charge the licensee a fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

(b) For a fee described in Subsection (3)(a)(i), a license fee for a medical cannabis pharmacy located in a medically underserved area as determined by the federal Health Resources and Services Administration shall be 50% less than what is charged for other medical cannabis pharmacies.

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony in the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5) [~~(a)~~] If an applicant for a medical cannabis pharmacy license under this section holds another license under this chapter, the department may not give preference to the applicant based on the applicant's status as a holder of the license.

[~~(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under this section, the department may give consideration to the applicant's status as a holder of the license if:~~]

[~~(i) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and~~]

[~~(ii) the department finds multiple other factors, in addition to the existing license, that support granting the new license.~~]

(6) The licensing board may revoke a license under this part:

(a) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the department's intent to award a license to the medical cannabis pharmacy;

(b) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(c) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(e) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter;

(f) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; or

(g) if through an investigation conducted under Subsection 4-41a-201.1(11) and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the board finds that the licensee has participated in anticompetitive business practices.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Production Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(11) (a) A medical cannabis pharmacy license is not transferrable or assignable.

(b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.

(c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

(i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the department's cost of conducting the application review.

Section 14. Section 4-41a-1003 is amended to read:

4-41a-1003. Renewal -- Notice of available license.

(1) (a) The department shall renew a license [~~under Sections 4-41a-1001 through 4-41a-1005~~]issued under this part every year if, at the time of renewal:

[~~(a)~~](i) the licensee meets the requirements of Section 4-41a-1001;

[~~(b)~~](ii) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-1004(5), the department sets in accordance with Section 63J-1-504; and

[~~(c)~~](iii) if the medical cannabis pharmacy changes the operating plan described in Section 4-41a-1004 that the department approved under Subsection 4-41a-1001(2)(b)(iv), the department approves the new operating plan.

(b) A license fee for a medical cannabis pharmacy located in a county of the third, fourth, fifth, or sixth class shall be 50% less than what is charged for other medical cannabis pharmacies.

(2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license [], for the geographic area in which the medical cannabis pharmacy license is available, as a class A notice under Section 63G-30-102, for at least seven days.

(b) The department may establish criteria, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

(3) If the department has not completed the necessary processes to make a determination on a license renewal under Subsections (1)(a) and (c) before the expiration of a license, the department may issue a conditional medical cannabis pharmacy license to a licensed medical cannabis pharmacy that has applied for license renewal under this section and paid the fee described in Subsection (1)(b).

Section 15. Section 4-41a-1005 is amended to read:

4-41a-1005. Maximum number of licenses.

(1) [~~(a) Except as provided in Subsection (1)(b) or (d), if a sufficient number of applicants apply, the department~~]The licensing board shall issue up to [~~15~~]17 medical cannabis pharmacy licenses in accordance with this section including the two medical cannabis pharmacy licenses in accordance with Section 4-41a-1006.

[~~(b) If an insufficient number of qualified applicants apply for the available number of medical cannabis pharmacy licenses, the department shall issue a medical cannabis pharmacy license to each qualified applicant.~~]

[~~(c) The department may issue the licenses described in Subsection (1)(a) in accordance with this Subsection (1)(c).~~]

[~~(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.~~]

[~~(ii) The department shall:~~]

[~~(A) divide the state into no less than four geographic regions, set by the department in rule;~~]

[~~(B) issue at least one license in each geographic region during each phase of issuing licenses; and~~]

[~~(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.~~]

[~~(iii) In issuing a 15th license under Subsection (1), the department shall ensure that the license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah, Carbon, Sevier, Emery, Grand, or San Juan County.~~]

[~~(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Health and Human Services and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.~~]

[~~(ii) The department shall:~~]

[~~(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i); and~~]

[~~(B) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A).~~]

(2) (a) [~~If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department~~]The licensing board shall:

(i) evaluate each applicant and award the license to the applicant that best demonstrates:

(A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(B) an operating plan that will best ensure the safety and security of patrons and the community;

(C) positive connections to the local community;

(D) the suitability of the proposed location and the location's accessibility for qualifying patients;

(E) the extent to which the applicant can increase efficiency and reduce the cost of medical cannabis for patients; and

(F) a strategic plan described in Subsection 4-41a-1004(7) that has a comparatively high likelihood of success; and

(ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the licensing board may give increased consideration to applicants who indicate a willingness to:

(i) site a medical cannabis pharmacy in an area or population center designated as a medically underserved area or population as determined by the federal Health Resources and Services Administration; and

(ii) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders.

[~~(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:~~]

[~~(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and~~]

[~~(ii) accept payments through:~~]

[~~(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 4-41a-108; or~~]

[~~(B) a financial institution in accordance with Subsection 4-41a-108(4).~~]

(3) The [~~department~~]licensing board may conduct a face-to-face interview with an applicant for a license that the [~~department~~]licensing board evaluates under Subsection (2).

Section 16. Section 4-41a-1006 is enacted to read:

4-41a-1006. Independent medical cannabis licenses.

(1) (a) Subject to the requirements of Subsection (3) and the criteria established for obtaining a medical cannabis pharmacy license under this chapter, the licensing board shall:

(i) before January 1, 2026, select one entity to receive a medical cannabis pharmacy license; and

(ii) before January 1, 2027, but not before January 1, 2026, select one entity to receive a medical cannabis pharmacy license.

(b) When selecting entities under this section, if there is a conflict between the criteria established for obtaining a medical cannabis pharmacy license under the other sections of this chapter and this section, this section controls.

(2) For the license described in Subsection (1)(a)(ii), the licensing board may not select an entity:

(a) that owns any interest in or operates a medical cannabis production establishment; or

(b) that is owned, partially or entirely, or operated by a medical cannabis production establishment.

(3) The licensing board:

(a) may not select an entity to receive a license under this section if the entity owns a financial interest in a medical cannabis pharmacy or is owned by an entity that owns a financial interest in a medical cannabis pharmacy; and

(b) shall select an entity that will site a medical cannabis pharmacy license issued under this section in an area:

(i) designated as a medically underserved area as determined by the federal Health Resources and Services Administration; and

(ii) located in a county of the third, fourth, fifth, or sixth class.

(4) A license described in this section may not be transferred to another entity unless that entity meets the requirements of Subsections (2) and (3) that the transferring entity met when obtaining the license.

(5) Notwithstanding Subsection (4), for a license described in Subsection (1)(a)(i), an applicant shall commit to not alienating or otherwise transferring control of the license or of the entity that holds the license to another person for at least 15 years from the day the license is issued under this chapter.

(6) The department shall provide regular updates to the Medical Cannabis Governance Structure Working Group created in Section 36-12-8.2 regarding the application and selection process for licenses issued under this section.

Section 17. Section 4-41a-1101 is amended to read:

4-41a-1101. Operating requirements -- General.

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 4-41a-1001; and

(ii) in accordance with the operating plan provided to the department under Section 4-41a-1001 and, if applicable, Section 4-41a-1004.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

(b) except as provided in Subsection (4):

(i) possesses a valid:

(A) medical cannabis pharmacy agent registration card;

(B) pharmacy medical provider registration card; or

(C) medical cannabis card;

(ii) is an employee of the department performing an inspection under Section 4-41a-1103; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(5) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores [~~cannabis or a cannabis product~~]medical cannabis.

(6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 4-41a-1102(2).

(7) Except for an emergency situation described in Subsection 26B-4-213(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(8) A medical cannabis pharmacy may not sell [~~cannabis or a cannabis product~~]medical cannabis without first indicating on the [~~cannabis or cannabis product~~]medical cannabis label the name of the medical cannabis pharmacy.

(9) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the recommending medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection (9)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the recommending medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the requirement to provide the following information under Subsection (9)(b)(i) if the information is already provided on the product label that a cannabis production establishment affixes:

(A) a unique identification number;

(B) directions for use and cautionary statements;

(C) amount and cannabinoid content; and

(D) a suggested use date.

(iii) If the size of a medical cannabis container does not allow sufficient space to include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis pharmacy may provide the following information described in Subsection (9)(b)(i) on a supplemental label attached to the container or an informational enclosure that accompanies the container:

(A) the cannabinoid content;

(B) the suggested use date; and

(C) any other requirements that the department determines.

(iv) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (9)(b)(i).

(10) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a limited medical provider in accordance with Subsections 26B-4-204(1)(b) through (d):

(i) for a written order or an electronic order under circumstances that the department determines, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and

(ii) for an order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (10)(a)(i) or an electronic order that is not subject to verification under Subsection (10)(a)(i), enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26B-4-213(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

(c) unless the medical cannabis cardholder has had a consultation under Subsection 26B-4-231(5), verbally offer to a medical cannabis cardholder at the time of a purchase of [~~cannabis, a cannabis product,~~]medical cannabis or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(11) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis or cannabis residue from a medical cannabis device in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis by:

(i) rendering the deposited medical cannabis unusable and unrecognizable before transporting deposited medical cannabis from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) A medical cannabis pharmacy:

(a) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(b) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(c) shall ensure that a pharmacy medical provider described in Subsection (12)(a) works onsite during all business hours;

(d) shall designate one pharmacy medical provider described in Subsection (12)(a) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy; [~~and~~]

(e) shall allow the pharmacist-in-charge to determine which [~~cannabis and cannabis products~~]medical cannabis products the medical cannabis pharmacy maintains in the medical cannabis pharmacy's inventory [~~.~~]; and

(f) for each medical cannabis product sold by the medical cannabis pharmacy, shall:

(i) allow a medical cannabis cardholder located in the pharmacy to view the back panel of the product when requested; and

(ii) beginning July 1, 2025, include a picture of the back panel of the product on the medical cannabis pharmacy's website.

(13) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section 18. Section 4-41a-1201 is amended to read:

4-41a-1201. Medical cannabis home delivery designation.

(1) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:

(a) safely conduct transactions for medical cannabis shipments;

(b) accept electronic medical cannabis orders [~~that the state central patient portal facilitates~~]; and

(c) accept payments through:

(i) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(ii) a financial institution in accordance with Subsection 26-61a-603(4).

(2) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (1), including:

(a) the name and contact information of the payment provider;

(b) the nature of the relationship between the prospective licensee and the payment provider;

(c) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(i) the prospective licensee; and

(ii) the electronic payment provider or the financial institution described in Subsection (1)(c); and

(d) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical

cannabis [~~or medical cannabis product~~]to a medical cannabis cardholder.

(3) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this part.

Section 19. Section 4-41a-1202 is amended to read:

4-41a-1202. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders [~~that the state central patient portal facilitates~~], including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 10% or greater in the proposed medical cannabis courier; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(i).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(i):

(a) has been convicted under state or federal law of:

(i) a felony in the preceding 10 years; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(6) The department may revoke a license under this part if:

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this chapter three times;

(c) an individual described in Subsection (3)(b)(i) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(d) after a change of ownership described in Subsection (14)(c), the department determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Production Enterprise Fund.

(8) The department's authority to issue a license under this section is plenary and is not subject to review.

(9) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 10% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(10) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (9) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (9) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(11) The department shall:

(a) assess an individual who submits fingerprints under Subsection (9) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (11)(a) to the Bureau of Criminal Identification.

(12) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(13) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

(14) (a) A medical cannabis courier license is not transferable or assignable.

(b) A medical cannabis courier shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis courier.

(c) If the ownership of a medical cannabis courier changes by 50% or more:

(i) concurrent with the report described in Subsection (14)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis courier for the remainder of the term of the medical cannabis courier's license before the ownership change if the medical cannabis courier meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

(15) (a) Except as provided in Subsection(15)(b), a person may not advertise regarding the transportation of medical cannabis.

(b) Notwithstanding Subsection (14)(a) and subject to Section 4-41a-109, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:

(i) a green cross;

(ii) the pharmacy's or courier's name and logo; and

(iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

Section 20. Section 4-41a-1203 is amended to read:

4-41a-1203. Medical cannabis shipment transportation.

(1) The department shall ensure that each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner.

(2) (a) A home delivery medical cannabis pharmacy may contract with a licensed medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical cannabis orders [~~that the state central patient portal facilitates~~].

(b) If a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the pharmacy shall:

(i) impose security and personnel requirements on the medical cannabis courier sufficient to ensure the security and safety of medical cannabis shipments; and

(ii) provide regular oversight of the medical cannabis courier.

(3) Notwithstanding Subsection 4-41a-404(1), an individual may transport a medical cannabis shipment if the individual is:

(a) a registered pharmacy medical provider;

(b) a registered medical cannabis pharmacy agent; or

(c) a registered agent of the medical cannabis courier described in Subsection (2).

(4) An individual transporting a medical cannabis shipment under Subsection (3) shall comply with the requirements of Subsection 4-41a-404(3).

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that are related to safety for human consumption of [~~cannabis or acannabis product~~]medical cannabis.

(6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a)is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 21. Section 4-41a-1206 is amended to read:

4-41a-1206. Closed-door medical cannabis pharmacy.

(1) (a) Subject to Subsections (1)(b) and (c), a home delivery medical cannabis pharmacy may open a single closed-door medical cannabis pharmacy.

(b) A home delivery medical cannabis pharmacy may not open a closed-door medical cannabis pharmacy unless the home delivery medical cannabis pharmacy:

(i) has an operating plan that includes a closed-door medical cannabis pharmacy; and

(ii) obtains a license issued by the department for a closed-door medical cannabis pharmacy.

(c) An entity that owns multiple home delivery medical cannabis pharmacies may open only one closed-door medical cannabis pharmacy.

(d) The department may institute a fee in accordance with Section 63J-1-504 to administer this section.

(2) A home delivery medical cannabis pharmacy that opens a closed-door medical cannabis pharmacy under Subsection (1) shall ensure:

(a) that a pharmacy medical provider who is a licensed pharmacist:

(i) is directly supervising the packaging of an order; and

(ii) is present in the closed-door medical cannabis pharmacy when an order is packaged for delivery; and

(b) all record keeping requirements, labeling requirements, and patient counseling requirements described in this chapter and Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, are satisfied before sending out an order.

(3) An individual who prepares an order at a closed-door medical cannabis pharmacy under this section shall be registered as:

(a) a pharmacy medical provider; or

(b) a medical cannabis pharmacy agent.

(4) (a) A closed-door medical cannabis pharmacy shall operate:

(i) except as provided in Subsection (4)(b), in a facility that is accessible only by an individual who is a pharmacy medical provider or a medical cannabis pharmacy agent; and

(ii) at a physical address in accordance with Subsection (6).

(b) A closed-door medical cannabis pharmacy may authorize an individual who is at least 18 years old and is not a pharmacy medical provider or a cannabis pharmacy agent to access the closed-door medical cannabis pharmacy if the closed-door medical cannabis pharmacy:

(i) tracks and monitors the individual at all times while the individual is at the closed-door medical cannabis pharmacy; and

(ii) maintains a record of the individual's access, including arrival and departure.

(c) A closed-door medical cannabis pharmacy shall operate in a facility that has:

(i) a single, secure public entrance; and

(ii) a security system with a backup power source that:

(A) detects and records entry into the closed-door medical cannabis pharmacy;

(B) provides notice of an unauthorized entry to law enforcement when the closed-door medical cannabis pharmacy is closed; and

(C) a lock or equivalent restrictive security feature on any area where the closed-door medical cannabis pharmacy stores a cannabis product.

(d) A closed-door medical cannabis pharmacy shall ensure that any cannabis or cannabis products in the closed-door medical cannabis pharmacy that are intended for home delivery are separated in a manner that is readily distinguishable from any other cannabis or cannabis product in the facility.

(5) A closed-door medical cannabis pharmacy may only provide cannabis or a cannabis product to an individual through a delivery that complies with this part.

(6) (a) A person may not locate a closed-door medical cannabis pharmacy:

(i) within 1,000 feet of a community location; or

(ii) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(b) The proximity requirements described in Subsection (6)(a) shall be measured from the nearest entrance to the closed-door medical cannabis pharmacy by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(c) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (6)(a) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed closed-door medical cannabis pharmacy without the waiver.

(d) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (6)(a).

(7) When determining where a closed-door medical cannabis pharmacy may open, the licensing board:

(a) shall utilize geographic regions created by the department through rule;

(b) shall prioritize allowing entities that do not have a medical cannabis pharmacy in a region to open a closed-door medical cannabis pharmacy in the region;

(c) of the total amount of closed-door medical cannabis pharmacies, may allow only three closed-door medical cannabis pharmacies to operate in counties of the first and second class as described in Section 17-50-501; and

(d) for determining the three closed-door medical cannabis pharmacies described in Subsection (7)(c), consider the following:

(i) the history of compliance with state law and rules for all licenses issued under this chapter;

(ii) the medical cannabis pharmacy's willingness to offer a variety of brands and products;

(iii) the ability of the operating plan to ensure the safety and security of the community;

(iv) the suitability of the proposed location and the location's ability to serve the local community; and

(v) any other relevant information determined through rule.

(8) A closed-door medical cannabis pharmacy may not account for more than:

(a) for an entity that holds a single medical cannabis pharmacy license, the greater of:

(i) 35% of the medical cannabis pharmacy's total revenue; or

(ii) $2,000,000 in total revenue; or

(b) for an entity that holds more than one medical cannabis pharmacy license, the greater of:

(i) 35% of the total revenue of the entity's medical cannabis pharmacy that generates the most revenue; or

(ii) $2,000,000 in total revenue.

(9) Notwithstanding any other provision of this section, the [~~department~~]licensing board may issue only [~~three~~]one closed-door medical cannabis pharmacy [~~licenses~~]license before July 1, 2027.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to implement this section.

Section 22. Section 26B-1-435 is amended to read:

26B-1-435. Medical Cannabis Policy Advisory Board creation -- Membership -- Duties.

(1) There is created within the department the Medical Cannabis Policy Advisory Board.

(2) (a) The advisory board shall consist of the following members:

(i) appointed by the executive director:

(A) a qualified medical provider who has recommended medical cannabis to at least 100 patients before being appointed;

[~~(B) a medical research professional;~~]

[~~(C)~~](B) a mental health specialist;

[~~(D)~~](C) an individual who represents an organization that advocates for medical cannabis patients;

[~~(E)~~](D) [~~an individual~~]a member of the general public who holds a medical cannabis patient card; and

[~~(F)~~](E) a member of the general public who does not hold a medical cannabis card; [~~and~~]

(ii) appointed by the commissioner of the Department of Agriculture and Food:

(A) an individual who owns or operates a licensed cannabis cultivation facility, as defined in Section 4-41a-102;

(B) an individual who owns or operates a licensed medical cannabis pharmacy; and

(C) a law enforcement officer [~~.~~]; and

(iii) a representative from the Center for Medical Cannabis Research created in Section 53B-14-1402, appointed by the Center for Medical Cannabis Research.

(b) The commissioner of the Department of Agriculture and Food shall ensure that at least one individual appointed under Subsection (2)(a)(ii)(A) or (B) also owns or operates a licensed cannabis processing facility.

(3) (a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a four year term.

(b) When appointing the initial membership of the advisory board, the executive director and the commissioner of the Department of Agriculture and Food shall coordinate to appoint four advisory board members to serve a term of two years to ensure that approximately half of the board is appointed every two years.

(4) (a) If an advisory board member is no longer able to serve as a member, a new member shall be appointed in the same manner as the original appointment.

(b) A member appointed in accordance with Subsection (4)(a) shall serve for the remainder of the unexpired term of the original appointment.

(5) (a) A majority of the advisory board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory board.

(c) For a term lasting one year, the advisory board shall annually designate members of the advisory board to serve as chair and vice-chair.

(d) When designating the chair and vice-chair, the advisory board shall ensure that at least one individual described Subsection (2)(a)(i) is appointed as chair or vice-chair.

(6) An advisory board member may not receive compensation or benefits for the member's service on the advisory board but may receive per diem and reimbursement for travel expenses incurred as an advisory board member in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department shall:

(a) provide staff support for the advisory board; and

(b) assist the advisory board in conducting meetings.

(8) The advisory board may recommend:

(a) to the department or the Department of Agriculture and Food changes to current or proposed medical cannabis rules or statutes; and

(b) to the appropriate legislative committee whether the advisory board supports a change to medical cannabis statutes.

(9) The advisory board shall:

(a) review any draft rule that is authorized under [~~this chapter~~]Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) consult with the Department of Agriculture and Food regarding the issuance of an additional:

(i) cultivation facility license under Section 4-41a-205; or

(ii) pharmacy license under Section 4-41a-1005;

(c) consult with the department regarding cannabis patient education;

(d) consult regarding the reasonableness of any fees set by the department or the Department of Agriculture and Food that pertain to the medical cannabis program; and

(e) consult regarding any issue pertaining to medical cannabis when asked by the department or the Utah Department of Agriculture and Food.

Section 23. Section 26B-4-201 is amended to read:

26B-4-201. Definitions.

As used in this part:

(1) "Active tetrahydrocannabinol" means THC, any THC analog, and tetrahydrocannabinolic acid.

(2) "Administration of criminal justice" means the performance of detection, apprehension, detention, pretrial release, post-trial release, prosecution, and adjudication.

(3) "Advertise" means information provided by a person in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

(4) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(5) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(6) "Cannabis" means marijuana.

(7) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

(8) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.

(9) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(10) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

(11) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

(12) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26B-4-213(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

(13) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

(14) "Delivery address" means the same as that term is defined in Section 4-41a-102.

(15) "Department" means the Department of Health and Human Services.

(16) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section 26B-4-214; or

(b) (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26B-4-214(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26B-4-214(1)(b)(ii).

(17) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

(18) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

(19) "Government issued photo identification" means any of the following forms of identification:

(a) a valid state-issued driver license or identification card;

(b) a valid United States federal-issued photo identification, including:

(i) a United States passport;

(ii) a United States passport card;

(iii) a United States military identification card; or

(iv) a permanent resident card or alien registration receipt card; or

(c) a foreign passport.

(20) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders [~~that the state central patient portal facilitates~~].

(21) "Inventory control system" means the system described in Section 4-41a-103.

(22) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or [~~the state central patient portal or~~]pharmacy medical provider, in accordance with Subsection [~~26B-4-230(5)~~]26B-4-231(5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

(23) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

(24) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card as a result of the individual's recommendation, in accordance with Subsection 26B-4-204(1)(b).

(25) "Marijuana" means the same as that term is defined in Section 58-37-2.

(26) "Medical cannabis" or "medical cannabis product" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(27) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

(28) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in Subsection (16)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26B-4-214(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26B-4-214(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

(29) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

(30) "Medical cannabis courier" means the same as that term is defined in Section 4-41a-102.

(31) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale [~~cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form~~]medical cannabis.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

(32) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

(33) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

(34) "Medical cannabis pharmacy" means a person that:

(a) (i) acquires or intends to acquire medical cannabis [~~or a cannabis product in a medicinal dosage form~~]from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or

(ii) possesses medical cannabis or a medical cannabis device; and

(b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.

(35) "Medical cannabis pharmacy agent" means an individual who holds a valid medical cannabis pharmacy agent registration card issued by the department.

(36) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

(37) "Medical cannabis shipment" means the same as that term is defined in Section 4-41a-102.

(38) "Medical cannabis treatment" means [~~cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or~~]medical cannabis or a medical cannabis device.

(39) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension that does not exceed 30 milliliters;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape;

(I) a resin or wax;

(J) an aerosol;

(K) a suppository preparation; or

(L) a soft or hard confection that is a uniform rectangular cuboid or uniform spherical shape, is homogeneous in color and texture, and each piece is a single serving; or

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis flower in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque bag or box that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and a barcode that provides information connected to an inventory control system.

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection (39)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection (39)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection (39)(a)(ii), except as provided in Subsection (39)(b);

(ii) any unprocessed cannabis flower in a container described in Subsection (39)(a)(ii) after the legal use termination date;

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch;

(iv) a liquid suspension that is branded as a beverage;

(v) a substance described in Subsection (39)(a)(i) or (ii) if the substance is not measured in grams, milligrams, or milliliters; or

(vi) a substance that contains or is covered to any degree with chocolate.

(40) "Nonresident patient" means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26B-4-203.

(41) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26B-4-219.

(42) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a recommending medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

(43) "Qualified medical provider" means an individual:

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26B-4-204.

(44) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26B-1-310.

(45) "Qualifying condition" means a condition described in Section 26B-4-203.

(46) "Recommend" or "recommendation" means, for a recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient's eligibility for a medical cannabis card; and

(b) may include, at the recommending medical provider's discretion, directions of use, with or without dosing guidelines.

(47) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

(48) "Recommending qualifications" means that an individual:

(a) (i) has the authority to write a prescription;

(ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(49) "State central patient portal" means the website the department creates, in accordance with Section 26B-4-236, to facilitate patient safety, education, and an electronic medical cannabis order.~~]

[~~(50)~~](49) "State electronic verification system" means the system described in Section 26B-4-202.

[~~(51)~~](50) "Targeted marketing" means the promotion by a qualified medical provider, medical clinic, or medical office that employs a qualified medical provider of a medical cannabis recommendation service using any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

(b) an in-person marketing event that is held in an area where only an individual who is at least 21 years old may access the event;

(c) other marketing material that is physically or digitally displayed in the office of the medical clinic or office that employs a qualified medical provider; or

(d) a leaflet that a qualified medical provider, medical clinic, or medical office that employs a qualified medical provider shares with an individual who is at least 21 years old.

[~~(52)~~](51) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

[~~(53)~~](52) "THC analog" means the same as that term is defined in Section 4-41-102.

Section 24. Section 26B-4-202 is amended to read:

26B-4-202. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification

system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Division of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall ensure that the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until:

(i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or

(ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26B-4-213;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend treatment with [~~cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form~~]medical cannabis and optionally recommend dosing guidelines;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit; and

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(d) allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection 4-41a-1101(10)(a), to:

(i) access the electronic verification system to review the history within the system of a patient with whom the provider or agent is interacting, limited to read-only access for medical cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge authorizes add and edit access;

(ii) record a patient's recommendation from a limited medical provider, including any directions of use, dosing guidelines, or caregiver indications from the limited medical provider;

(iii) record a limited medical provider's renewal of the provider's previous recommendation; and

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(e) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any [~~cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form,~~]medical cannabis or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of [~~cannabis, cannabis product,~~]medical cannabis or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the [~~cannabis, cannabis product,~~]medical cannabis or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(f) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this part;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; and

(iii) the Division of Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical

Practice Act; or

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

[~~(g) provides access to and interaction with the state central patient portal;~~]

[~~(h)~~](g) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection 4-41a-1102(3)(a)(ii) to the controlled substance database;

[~~(i)~~](h) provides access to state or local law enforcement only to verify the validity of an individual's medical cannabis card for the administration of criminal justice and through a database used by law enforcement; and

[~~(j)~~](i) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3) (a) An employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) A prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26B-4-222; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(9) (a) Except as provided in Subsections (9)(c) and (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) A law enforcement officer who uses the database used by law enforcement to access information in the electronic verification system for a reason that is not the administration of criminal justice is guilty of a class B misdemeanor.

(d) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(e) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(f) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 25. Section 26B-4-214 is amended to read:

26B-4-214. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.

(1) (a) A cardholder described in Section 26B-4-213 may designate [~~, through the state central patient portal,~~] up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder.

(b) (i) A cardholder described in Section 26B-4-213 may designate one of the following types of facilities as one of the caregivers

described in Subsection (1)(a):

(A) for a patient or resident, an assisted living facility, as that term is defined in Section 26B-2-201;

(B) for a patient or resident, a nursing care facility, as that term is defined in Section 26B-2-201; or

(C) for a patient, a general acute hospital, as that term is defined in Section 26B-2-201.

(ii) A facility may:

(A) assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b); and

(B) receive a medical cannabis shipment from a medical cannabis pharmacy or a medical cannabis courier on behalf of the medical cannabis cardholder within the facility who designated the facility as a caregiver.

(iii) The department shall make rules to regulate the practice of facilities and facility employees serving as designated caregivers under this Subsection (1)(b).

(c) A parent or legal guardian described in Subsection 26B-4-213(2)(d), in consultation with the minor and the minor's qualified medical provider, may designate [~~, through the state central patient portal,~~] up to two individuals to serve as a designated caregiver for the minor, if the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section 26B-4-213.

(d) (i) Upon the entry of a caregiver designation under Subsection (1) by a patient with a terminal illness described in Section 26B-4-203, the department shall issue to the designated caregiver an electronic conditional medical cannabis caregiver card, in accordance with this Subsection (1)(d).

(ii) A conditional medical cannabis caregiver card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis caregiver card application, or revokes the conditional medical cannabis caregiver card under Section26B-4-246.

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):

(a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;

(b) in accordance with this part, may purchase, possess, transport, or assist the patient in the use of [~~cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form,~~]medical cannabis or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver; and

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis.

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsections (5)(b) and (3)(c)(i).

(c) If a cardholder described in Section 26B-4-213 designates an individual as a caregiver who already holds a medical cannabis caregiver card, the individual with the medical cannabis caregiver card:

(i) shall report to the department the information required of applicants under Subsection (5)(b) regarding the new designation;

(ii) if the individual makes the report described in Subsection (3)(c)(i), is not required to file an application for another medical cannabis caregiver card;

(iii) may receive an additional medical cannabis caregiver card in relation to each additional medical cannabis patient who designates the caregiver; and

(iv) is not subject to an additional background check.

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26B-4-215; and

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26B-4-213(9) [].

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26B-4-213 who designated the applicant;

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder; and

(iv) any additional information that the department requests to assist in matching the application with the designating medical cannabis patient.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26B-4-213 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26B-4-213 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26B-4-213 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26B-4-213 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 26. Section 26B-4-222 is amended to read:

26B-4-222. Report.

(1) By the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients;

(g) the number of license applications and renewal license applications received;

(h) the number of licenses the department has issued in each county;

(i) the number of licenses the department has revoked;

(j) the quantity of medical cannabis shipments [~~that the state central patient portal facilitates~~];

(k) the number of overall purchases of medical cannabis [~~and medical cannabis products~~]from each medical cannabis pharmacy;

(l) the expenses incurred and revenues generated from the medical cannabis program; and

(m) an analysis of product availability in medical cannabis pharmacies in consultation with the Department of Agriculture and Food.

(2) The report shall include information provided by the Center for Medical Cannabis Research described in Section 53B-17-1402.

(3) The department may not include personally identifying information in the report described in this section.

(4) The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 27. Section 58-37-3.6 is amended to read:

58-37-3.6. Exemption for possession or distribution of a cannabinoid product, expanded cannabinoid product, or transportable industrial hemp concentrate.

(1) As used in this section:

(a) "Cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis; and

[~~(ii) is prepared in a medicinal dosage form; and~~]

[~~(iii)~~](ii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

[~~(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.~~]

[~~(d)~~](c) "Expanded cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis; and

[~~(ii) is prepared in a medicinal dosage form; and~~]

[~~(iii)~~](ii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

[~~(e) "Hemp cannabinoid product" means a product that:~~]

[~~(i) contains or is represented to contain one or more naturally occurring cannabinoids;~~]

[~~(ii) contains less than the cannabinoid product THC level, by dry weight;~~]

[~~(iii) contains a combined amount of total THC and any THC analog that does not exceed 10% of the total cannabinoid content;~~]

[~~(iv) does not exceed a total of THC and any THC analog that is greater than five milligrams per serving and 150 milligrams per package; and~~]

[~~(v) unless the product is in an oil based suspension, has a serving size that is an integer.~~]

[~~(f)~~](d) "Transportable industrial hemp concentrate" means any amount of a natural cannabinoid in a purified state that:

(i) is the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass;

(ii) is derived from a cannabis plant that, based on sampling that was collected no more than 30 days before the day on which the cannabis plant was harvested, contains a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis; and

(iii) has a THC and THC analog concentration total less than 20% when concentrated from the cannabis plant to the purified state.

[~~(g) "Medicinal dosage form" means:~~]

[~~(i) a tablet;~~]

[~~(ii) a capsule;~~]

[~~(iii) a concentrated oil;~~]

[~~(iv) a liquid suspension;~~]

[~~(v) a transdermal preparation; or~~]

[~~(vi) a sublingual preparation.~~]

[~~(h)~~](e) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of this chapter an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession or distribution of the cannabinoid product or expanded cannabinoid product complies with [~~Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis~~]Section 26B-4-212.

(3) Notwithstanding any other provision of this chapter, a person who possesses and distributes transportable industrial hemp concentrate is not subject to the penalties described in this chapter for the possession or distribution of transportable industrial hemp concentrate if the transportable industrial hemp concentrate is handled in accordance with the rules established under Subsection 4-41-103.1(1)(e) or is destroyed.

Section 28. Section 58-85-102 is amended to read:

58-85-102. Definitions.

As used in this chapter:

(1) "Eligible patient" means an individual who has been diagnosed with a terminal illness by a physician.

(2) "Insurer" means the same as that term is defined in Section 31A-1-301.

(3) "Investigational device" means a device that:

(a) meets the definition of "investigational device" in 21 C.F.R. Sec. 812.3; and

(b) has successfully completed the United States Food and Drug Administration Phase 1 testing for an investigational device described in 21 C.F.R. Part 812.

(4) "Investigational drug" means a drug that:

(a) meets the definition of "investigational new drug" in 21 C.F.R. Sec. 312.3; and

(b) has successfully completed the United States Food and Drug Administration Phase 1 testing for an investigational new drug described in 21 C.F.R. Part 312.

(5) "Medicinal dosage form" [~~means the same as that term is defined in Section 58-37-3.6.~~]means:

(a) a tablet;

(b) a capsule;

(c) a concentrated oil;

(d) a liquid suspension;

(e) a transdermal preparation; or

(f) a sublingual preparation.

(6) "Physician" means an individual who is licensed under:

(a) Title 58, Chapter 67, Utah Medical Practice Act; or

(b) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(7) "Terminal illness" means a condition of a patient that:

(a) as determined by a physician:

(i) is likely to pose a greater risk to the patient than the risk posed to the patient by treatment with an investigational drug or investigational device; and

(ii) will inevitably lead to the patient's death; and

(b) presents the patient, after the patient has explored conventional therapy options, with no treatment option that is satisfactory or comparable to treatment with an investigational drug or device.

Section 29. Section 63N-3-1301 is amended to read:

63N-3-1301. Definitions.

As used in this part:

(1) "Cannabinoid processor license" means the same as that term is defined in Section 4-41-102.

(2) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

(3) "Industrial hemp product" means the same as that term is defined in Section 4-41-102.

(4) "Industrial hemp producer registration" means the same as that term is defined in Section 4-41-102.

Section 30. Section 77-39-101 is amended to read:

77-39-101. Investigation of sales of alcohol, tobacco products, electronic cigarette products, nicotine products, and cannabinoid products to underage individuals.

(1) As used in this section:

(a) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

(b) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(c) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(d) "Peace officer" means the same as the term is described in Section 53-13-109.

(e) "Tobacco product" means the same as that term is defined in Section 76-10-101.

(2) (a) A peace officer may investigate the possible violation of:

(i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase of alcohol from a retail establishment;

(ii) Section 76-10-114 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase from a retail establishment of:

(A) a tobacco product;

(B) an electronic cigarette product; or

(C) a nicotine product; or

(iii) Subsection [~~4-41-105(2)(d)~~]4-41-105(2)(a)(iv) by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase of a cannabinoid product that contains THC or a THC analog from a retail establishment.

(b) A peace officer who is present at the site of a proposed purchase shall direct, supervise, and monitor the individual requested to make the purchase.

(c) Immediately following a purchase or attempted purchase or as soon as practical the supervising peace officer shall inform the cashier and the proprietor or manager of the retail establishment that the attempted purchaser was under the legal age to purchase:

(i) alcohol;

(ii) (A) a tobacco product;

(B) an electronic cigarette product; or

(C) a nicotine product; or

(iii) a cannabinoid product that contains THC or a THC analog.

(d) If a citation or information is issued, the citation or information shall be issued within seven days after the day on which the purchase occurs.

(3) (a) If an individual under 18 years old is requested to attempt a purchase, a written consent of that individual's parent or guardian shall be obtained before the individual participates in any attempted purchase.

(b) An individual requested by the peace officer to attempt a purchase may:

(i) be a trained volunteer; or

(ii) receive payment, but may not be paid based on the number of successful purchases of alcohol, tobacco products, electronic cigarette products, nicotine products, or cannabinoid products that contain THC or a THC analog.

(4) The individual requested by the peace officer to attempt a purchase and anyone accompanying the individual attempting a purchase may use false identification in attempting the purchase if:

(a) the Department of Public Safety created in Section 53-1-103 provides the false identification;

(b) the false identification:

(i) accurately represents the individual's age; and

(ii) displays a current photo of the individual; and

(c) the peace officer maintains possession of the false identification at all times outside the attempt to purchase.

(5) An individual requested to attempt to purchase or make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for the purchase of, attempted purchase of, or possession of alcohol, a tobacco product, an electronic cigarette product, a nicotine product, or a cannabinoid product that contains THC or a THC analog if a peace officer directs, supervises, and monitors the individual.

(6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section shall be conducted within a 12-month period:

(i) on a random basis at any one retail establishment location, not more often than four times for the attempted purchase of alcohol;

(ii) a minimum of two times at a retail establishment that sells tobacco products, electronic cigarette products, or nicotine products for the attempted purchase of a tobacco product, an electronic cigarette product, or a nicotine product; and

(iii) a minimum of one time at a retail establishment that sells a cannabinoid product that contains THC or a THC analog.

(b) This section does not prohibit an investigation or an attempt to purchase alcohol, a tobacco product, an electronic cigarette product, or a nicotine product under this section if:

(i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a tobacco product, an electronic cigarette product, a nicotine product, or a cannabinoid product that contains THC or a THC analog to an individual under the age established by Section 32B-4-403, Section 76-10-114, or Subsection 4-41-105(2)(d); and

(ii) the supervising peace officer makes a written record of the grounds for the reasonable suspicion.

(7) (a) The peace officer exercising direction, supervision, and monitoring of the attempted purchase shall make a report of the attempted purchase, whether or not a purchase was made.

(b) The report required by this Subsection (7) shall include:

(i) the name of the supervising peace officer;

(ii) the name of the individual attempting the purchase;

(iii) a photograph of the individual attempting the purchase showing how that individual appeared at the time of the attempted purchase;

(iv) the name and description of the cashier or proprietor from whom the individual attempted the purchase;

(v) the name and address of the retail establishment; and

(vi) the date and time of the attempted purchase.

Section 31. Repealer.

This bill repeals:

Section 26B-4-236, State central patient portal -- Department duties.

Section 32. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 115
S. B. 51
Passed February 13, 2025
Approved March 24, 2025
Effective May 7, 2025

STATE RESOURCE MANAGEMENT PLAN AMENDMENTS

Chief Sponsor: Keven J. Stratton
House Sponsor: Ken Ivory

LONG TITLE

General Description:

This bill addresses the state resource management plan.

Highlighted Provisions:

This bill:

► adopts a state resource management plan to replace a previously adopted plan.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63L-10-103, as last amended by Laws of Utah 2024, Chapter 40

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

Section 1. Section 63L-10-103 is amended to read:

63L-10-103. Statewide resource management plan adopted.

(1) (a) The statewide resource management plan, dated [~~January 8, 2024~~]May 7, 2025, and on file with the office, is adopted.

(b) The plan described in Subsection (1)(a) replaces and supersedes the plan dated January [~~9, 2023~~]8, 2024.

(2) The office shall, to the extent possible and as funding allows, monitor federal, state, and local government compliance with the plan.

(3) (a) If the office finds the need to modify the plan, the office shall notify the commission of the modification and the office's reasoning for the modification.

(b) The office shall coordinate with the commission to discuss policy direction and to draft any modifications to the plan.

(4) (a) The commission may request additional information of the office regarding any modifications to the plan, as described in Subsection (3).

(b) The office shall promptly respond to any request for additional information, as described in Subsection (4)(a).

(c) The commission may make a recommendation that the Legislature approve a modification or disapprove a modification, or the commission may decline to take action.

(5) The office shall annually:

(a) prepare a report detailing any modifications the office recommends for the plan and deliver the report to the commission before August 31; and

(b) report on the implementation of the plan at the federal, state, and local levels to the commission before August 31.

(6) (a) If the commission makes a recommendation that the Legislature approve a modification to the plan, the commission shall prepare a bill in anticipation of the annual general session of the Legislature for approval of the modification.

(b) A modification to the plan does not take effect until approved by the Legislature.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 116
H. B. 309
Passed March 5, 2025
Approved March 24, 2025
Effective May 7, 2025

WILDLIFE AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses state activities related to wildlife.

Highlighted Provisions:

This bill:

- ► modifies definitions;
- ► addresses night hunting of nonprotected wildlife;
- ► imposes requirements for holding a hunting or combination license for service on the Wildlife Board or a regional advisory council;
- ► addresses definition of and access to wildlife management areas;
- ► modifies provisions concerning the Department of Agriculture and Food's activities related to livestock depredation and big game protection;
- ► addresses compensation for damage to livestock;
- ► corrects a definition of "big game"; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23A-1-101, as last amended by Laws of Utah 2024, Chapter 80
23A-1-103, as last amended by Laws of Utah 2024, Chapter 347
23A-1-204, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-2-301, as last amended by Laws of Utah 2024, Chapter 529
23A-2-302, as last amended by Laws of Utah 2023, Chapter 211 and renumbered and amended by Laws of Utah 2023, Chapter 103
23A-2-303, as last amended by Laws of Utah 2024, Chapter 529
23A-6-101, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-6-402, as last amended by Laws of Utah 2024, Chapter 347
23A-8-101, as enacted by Laws of Utah 2023, Chapter 103
23A-8-201, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-8-202, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-11-101, as last amended by Laws of Utah 2024, Chapter 347
23A-11-302, as renumbered and amended by Laws of Utah 2023, Chapter 103

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

Section 1. Section 23A-1-101 is amended to read:

23A-1-101. Definitions.

As used in this title:

(1) "Activity regulated under this title" means an act, attempted act, or activity prohibited or regulated under this title or the rules and proclamations promulgated under this title pertaining to protected wildlife including:

(a) fishing;

(b) hunting;

(c) trapping;

(d) taking;

(e) permitting a dog, falcon, or other domesticated animal to take;

(f) transporting;

(g) possessing;

(h) selling;

(i) wasting;

(j) importing;

(k) exporting;

(l) rearing;

(m) keeping;

(n) using as a commercial venture; and

(o) releasing to the wild.

(2) "Aquaculture facility" means the same as that term is defined in Section 4-37-103.

(3) "Aquatic animal" means the same as that term is defined in Section 4-37-103.

(4) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or amphibians.

(5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that one person may legally take during one day.

(6) "Big game" means species of hoofed protected wildlife.

(7) "Carcass" means the dead body of an animal or the animal's parts.

(8) "Certificate of registration" means a paper-based or electronic document issued under this title, or a rule or proclamation of the Wildlife Board granting authority to engage in activities not covered by a license, permit, or tag.

(9) "Closed season" means the period of time during which the taking of protected wildlife is prohibited.

(10) "Dedicated hunter program" means a program that provides:

(a) expanded hunting opportunities;

(b) opportunities to participate in projects that are beneficial to wildlife; and

(c) education in hunter ethics and wildlife management principles.

(11) "Department" means the Department of Natural Resources.

(12) "Director" means the director of the division appointed under Section 23A-2-202.

(13) "Division" means the Division of Wildlife Resources.

(14) "Division of Law Enforcement" means the division within the Department of Natural Resources created under Title 79, Chapter 2, Part 7, Division of Law Enforcement.

(15) Subject to Section 23A-1-103, "domicile" means the place:

(a) where an individual has a fixed permanent home and principal establishment;

(b) to which the individual if absent, intends to return and has an actual plan, method, and means to return to the individual's domicile within six months;

(c) in which the individual, and the individual's family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home; and

(d) is a place where the individual resides for the majority of the individual's time.

(16) "Endangered" means wildlife designated as endangered according to Section 3 of the federal Endangered Species Act of 1973.

(17) "Executive director" means the executive director of the Department of Natural Resources.

(18) "Fee fishing facility" means the same as that term is defined in Section 4-37-103.

(19) "Feral" means an animal that is normally domesticated but has reverted to the wild.

(20) "Fishing" means to take fish or crayfish by any means.

(21) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and Castoridae families, except coyote and cougar.

(22) "Game" means wildlife normally pursued, caught, or taken by sporting means for human use.

(23) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any means.

(24) "Hunting guide" means the same as that term is defined in Section 58-79-102.

(25) "Intimidate or harass" means to physically interfere with or impede, hinder, or diminish the efforts of an officer in the performance of the officer's duty.

(26) (a) "Light enhancement device" means a device or other technology that allows an individual to see in the dark.

(b) "Light enhancement device" includes a spotlight, thermal vision, and night vision.

[~~(26)~~](27) (a) "Natural flowing stream" means a topographic low where water collects and perennially or intermittently flows with a perceptible current in a channel formed exclusively by forces of nature.

(b) "Natural flowing stream" includes perennial or intermittent water flows in a:

(i) realigned or modified channel that replaces the historic, natural flowing stream channel; and

(ii) dredged natural flowing stream channel.

(c) "Natural flowing stream" does not include a human-made ditch, canal, pipeline, or other water delivery system that diverts and conveys water to an approved place of use pursuant to a certificated water right.

[~~(27)~~](28) (a) "Natural lake" means a perennial or intermittent body of water that collects on the surface of the earth exclusively through the forces of nature and without human assistance.

(b) "Natural lake" does not mean a lake where the surface water sources supplying the body of water originate from groundwater springs no more than 100 yards upstream.

[~~(28)~~](29) "Natural resources officer" means the same as that term is defined in Section 79-2-701.

(30) "Night hunting" means the practice of using a light enhancement device to aid in seeing in the dark while hunting wildlife between sunset and sunrise that is not protected wildlife.

[~~(29)~~](31) "Nominating committee" means the Wildlife Board Nominating Committee created in Section 23A-2-302.

[~~(30)~~](32) "Nonresident" means a person who does not qualify as a resident.

[~~(31)~~](33) "Open season" means the period of time during which protected wildlife may be legally taken.

[~~(32)~~](34) "Outfitter" means the same as that term is defined in Section 58-79-102.

[~~(33)~~](35) "Pecuniary gain" means the acquisition of money or something of monetary value.

[~~(34)~~](36) "Permit" means a paper-based or electronic document that grants authority to engage in specified activities under this title or a rule or proclamation of the Wildlife Board.

[~~(35)~~](37) "Person" means an individual, association, partnership, government agency, corporation, or an agent of the individual, association, partnership, government agency, or corporation.

[~~(36)~~](38) "Pollute water" means to introduce into waters within the state matter or thermal energy that:

(a) exceeds state water quality standards; or

(b) could harm protected wildlife.

[~~(37)~~](39) "Possession" means actual or constructive possession.

[~~(38)~~](40) "Possession limit" means the number of bag limits one individual may legally possess.

[~~(39)~~](41) (a) "Private fish pond" means a pond, reservoir, or other body of water, including a fish culture system, located on privately owned land where privately owned fish:

(i) are propagated or kept for a private noncommercial purpose; and

(ii) may be taken without a fishing license.

(b) "Private fish pond" does not include:

(i) an aquaculture facility;

(ii) a fee fishing facility;

(iii) a short-term fishing event; or

(iv) private stocking.

[~~(40)~~](42) "Private stocking" means an authorized release of privately owned, live fish in the waters of the state not eligible as:

(a) a private fish pond under Section 23A-9-203; or

(b) an aquaculture facility or fee fishing facility under Title 4, Chapter 37, Aquaculture Act.

[~~(41)~~](43) "Private wildlife farm" means an enclosed place where privately owned birds or furbearers are propagated or kept and that restricts the birds or furbearers from:

(a) commingling with wild birds or furbearers; and

(b) escaping into the wild.

[~~(42)~~](44) "Proclamation" means the publication that is:

(a) used to convey a statute, rule, policy, or pertinent information related to wildlife; and

(b) issued in accordance with a rule made by the Wildlife Board under this title.

[~~(43)~~](45) (a) "Protected aquatic wildlife" means aquatic wildlife except as provided in Subsection [~~(43)~~](45)(b).

(b) "Protected aquatic wildlife" does not include aquatic insects.

[~~(44)~~](46) (a) "Protected wildlife" means wildlife, except as provided in Subsection [~~(44)~~](46)(b).

(b) "Protected wildlife" does not include:

(i) coyote;

(ii) feral swine;

[~~(ii)~~](iii) field mouse;

[~~(iii)~~](iv) gopher;

[~~(iv)~~](v) ground squirrel;

[~~(v)~~](vi) jack rabbit;

[~~(vi)~~](vii) muskrat; [~~or~~]

(viii) striped skunk;

[~~(vii)~~](ix) raccoon[~~.~~]; or

(x) red fox.

[~~(45)~~](47) "Regional advisory council" means a council created under Section 23A-2-303.

[~~(46)~~](48) "Released to the wild" means to be turned loose from confinement.

[~~(47)~~](49) (a) "Reservoir constructed on a natural stream channel" means a body of water collected and stored on the course of a natural flowing stream by impounding the stream through excavation or diking.

(b) "Reservoir constructed on a natural stream channel" does not mean an impoundment on a natural flowing stream where all surface water sources supplying the impoundment originate from groundwater springs no more than 100 yards upstream.

[~~(48)~~](50) Subject to Section 23A-1-103, "resident" means a person who:

(a) has been domiciled in the state for six consecutive months immediately preceding the purchase of a license; and

(b) does not claim residency for hunting, fishing, or trapping in another state or country.

[~~(49)~~](51) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging, or trading.

[~~(50)~~](52) "Short-term fishing event" means an event when:

(a) privately acquired fish are held or confined for a period not to exceed 10 days for the purpose of providing fishing or recreational opportunity; and

(b) no fee is charged as a requirement to fish.

[~~(51)~~](53) "Small game" means species of protected wildlife:

(a) commonly pursued for sporting purposes;

(b) not classified as big game, aquatic wildlife, or furbearers; and

(c) excluding turkey, cougar, and bear.

[~~(52)~~](54) "Spoiled" means impairment of the flesh of wildlife that renders the flesh unfit for human consumption.

[~~(53)~~](55) "Spotlighting" means throwing or casting the rays of a spotlight, headlight, or other artificial light on a highway or in a field, woodland, or forest while having in possession a weapon by which protected wildlife may be killed.

[~~(54)~~](56) "Tag" means a card, label, or other paper-based or electronic means of identification used to document harvest of protected wildlife.

[~~(55)~~](57) "Take" means to:

(a) hunt, pursue, harass, catch, capture, possess, gather, angle, seine, trap, or kill protected wildlife; or

(b) attempt an action referred to in Subsection [~~(55)~~](57)(a).

(58) "Thermal vision" means the ability of a biological or artificial system to detect infrared radiation by detecting temperature to capture and recognize diverse levels of infrared illumination.

[~~(56)~~](59) "Threatened" means wildlife designated as threatened pursuant to Section 3 of the federal Endangered Species Act of 1973.

[~~(57)~~](60) "Trapping" means taking protected wildlife with a trapping device.

[~~(58)~~](61) "Trophy animal" means an animal described as follows:

(a) deer - a buck with an outside antler measurement of 24 inches or greater;

(b) elk - a bull with six points on at least one side;

(c) bighorn, desert, or rocky mountain sheep - a ram with a curl exceeding half curl;

(d) moose - a bull with at least one antler exceeding five inches in length;

(e) mountain goat - a male or female;

(f) pronghorn antelope - a buck with horns exceeding 14 inches; or

(g) bison - a bull.

[~~(59)~~](62) "Upland game" means pheasant, quail, partridge, grouse, ptarmigan, mourning dove, band-tailed pigeon, turkey, cottontail rabbit, or snowshoe hare.

[~~(60)~~](63) "Waste" means to:

(a) abandon protected wildlife; or

(b) allow protected wildlife to spoil or to be used in a manner not normally associated with the protected wildlife's beneficial use.

[~~(61)~~](64) "Wild" means the natural environment, including a private pond or private property.

[~~(62)~~](65) "Wildlife" means:

(a) crustaceans, including brine shrimp and crayfish;

(b) mollusks; and

(c) vertebrate animals living in nature, except feral animals.

[~~(63)~~](66) "Wildlife Board" means the board created in Section 23A-2-301.

[~~(64)~~](67) "Wildlife parts" means biological material derived from the body or anatomy of wildlife, including:

(a) an antler or horn;

(b) a hide;

(c) a bone; or

(d) meat.

Section 2. Section 23A-1-103 is amended to read:

23A-1-103. Domicile or residency.

(1) (a) Subject to Subsections 23A-1-101(15) and 23A-1-101[~~(47)~~](50), an individual is considered a resident who:

(i) has been domiciled in the state for six consecutive months immediately preceding the purchase of a license or application of a license, permit, or tag; and

(ii) does not claim residency for hunting, fishing, or trapping in another state or country.

(b) To create a new domicile an individual shall:

(i) abandon the old domicile; and

(ii) be able to prove that a new domicile has been established.

(2) A Utah resident retains Utah residency if that individual leaves this state:

(a) to serve in the armed forces of the United States or for religious or educational purposes; and

(b) the individual complies with Subsection 23A-1-101[~~(47)(b)~~](50)(b).

(3) (a) A member of the armed forces of the United States and dependents are residents for the purposes of this title as of the date the member reports for duty under assigned orders in the state if the member:

(i) is not on temporary duty in this state; and

(ii) complies with Subsection 23A-1-101[~~(47)(b)~~](50)(b).

(b) A member shall present a copy of the assignment orders to a division office to verify the member's qualification as a resident.

(4) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this title if the student:

(a) has been present in this state for 60 consecutive days immediately preceding the purchase of the license; and

(b) complies with Subsection 23A-1-101[~~(47)(b)~~](50)(b).

(5) A Utah resident license is invalid if a resident license for hunting, fishing, or trapping is purchased in another state or country.

(6) An absentee landowner paying property tax on land in Utah does not qualify as a resident.

Section 3. Section 23A-1-204 is amended to read:

23A-1-204. Night hunting of nonprotected wildlife -- County ordinances -- Permits.

(1) (a) For purposes of a county ordinance enacted pursuant to this section, "motor vehicle" means the same as that term is defined in Section 41-6a-102.

(b) For purposes of this section, "nonprotected wildlife" means the wildlife that is excluded from the definition of protected wildlife under Section 23A-1-101.

(2) [~~Spotlighting may be used to hunt coyote, red fox, striped skunk, or raccoon~~]A person may engage in night hunting of nonprotected wildlife when allowed by a county ordinance enacted pursuant to this section.

(3) The county ordinance shall provide that:

(a) a hunter shall carry [~~the artificial light used to spotlight coyote, red fox, striped skunk, or raccoon~~]a light enhancement device used to locate nonprotected wildlife;

(b) a motor vehicle headlight or light attached to or powered by a motor vehicle may not be used to [~~spotlight the coyote, red fox, striped skunk, or raccoon~~]locate nonprotected wildlife; and

(c) while hunting with the use of [~~an artificial light~~]a light enhancement device, the hunter may not occupy or operate a motor vehicle.

(4) The county ordinance may specify:

(a) the time of day and seasons when [~~spotlighting~~]night hunting is permitted;

(b) areas closed or open to [~~spotlighting~~]night hunting within the unincorporated area of the county;

(c) safety zones within which [~~spotlighting~~]night hunting is prohibited;

(d) the weapons permitted; and

(e) penalties for violation of the county ordinance.

(5) (a) A county may restrict the number of hunters engaging in [~~spotlighting~~]night hunting by requiring a permit to [~~spotlight~~]night hunt and issuing a limited number of permits.

(b) (i) A county may charge a fee for a [~~spotlighting~~]night hunting permit.

(ii) A county ordinance shall establish the permit fee.

(iii) A county shall remit revenue generated by the permit fee to the division for deposit into the Wildlife Resources Account, except the Wildlife Board may allow a county that enacts an ordinance pursuant to this section to retain a reasonable amount to pay for the costs of administering and enforcing the county ordinance if the use of the permit revenues does not affect federal funds received by the state under Wildlife Restoration Act, 16 U.S.C. Sec. 669 et seq., and Sport Fish Restoration Act, 16 U.S.C. Sec. 777 et seq.

(6) A county may require a hunter to notify the county sheriff of the time and place the hunter will be engaged in [~~spotlighting~~]night hunting.

(7) The requirement that a county enact an ordinance before a person may [~~use spotlighting to hunt coyote, red fox, striped skunk, or raccoon~~]engage in night hunting to hunt nonprotected wildlife does not apply to:

(a) a person or the person's agent who is lawfully acting to protect the person's crops or domestic animals from predation by those animals; or

(b) an animal damage control agent acting in the agent's official capacity under a memorandum of agreement with the division.

Section 4. Section 23A-2-301 is amended to read:

23A-2-301. Wildlife Board created.

(1) There is created a Wildlife Board that consists of seven members appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) In addition to the requirements of Section 79-2-203, the members of the Wildlife Board shall have expertise or experience in at least one of the following areas:

(i) wildlife management or biology;

(ii) habitat management, including range or aquatic;

(iii) business, including knowledge of private land issues; and

(iv) economics, including knowledge of recreational wildlife uses.

(b) At least one member of the Wildlife Board shall represent each of the areas of expertise under Subsection (2)(a).

(c) (i) Except as provided in Subsection (2)(c)(iv), as a qualification for service on the Wildlife Board, a member of the Wildlife Board shall:

(A) have obtained a hunting or combination license for use by the member that is issued under Chapter 4, Licenses, Permits, Certificates of Registration, and Tags, at least three times during the five years before the day on which the individual is nominated by the nominating committee for appointment to the Wildlife Board; and

(B) possess a hunting or combination license issued under Chapter 4, Licenses, Permits, Certificates of Registration, and Tags, while serving on the Wildlife Board.

(ii) The director shall remove an individual from the Wildlife Board if the director determines that the individual does not meet the requirement of Subsection (2)(c)(i)(A).

(iii) (A) The director shall remove an individual from the Wildlife Board 15 days after the day on which the director notifies the individual that the individual is not in compliance with Subsection (2)(c)(i)(B) unless during the 15-day period the individual obtains or otherwise proves that the individual holds a valid hunting or combination license.

(B) The director shall send the notice required by this Subsection (2)(c)(iii), if the director finds that final action has been taken to suspend the license required by Subsection (2)(c)(i)(B) or the individual fails to obtain a new license required under Subsection (2)(c)(i)(B) once the previous license expires.

(iv) An individual who is a member of the Wildlife Board as of May 7, 2025, is not subject to Subsection (2)(c)(i), except that if the governor reappoints the member to the Wildlife Board, the individual is subject to Subsection (2)(c)(i) as of the new membership term.

(3) (a) The governor shall select a board member from a list of nominees submitted by the nominating committee pursuant to Section 23A-2-302.

(b) No more than two members shall be from a single wildlife region described in Subsection 23A-2-303(1).

(c) The governor may request an additional list of at least two nominees from the nominating committee if the initial list of nominees for a given position is unacceptable.

(d) (i) If the governor fails to appoint a board member within 60 days after receipt of the initial or additional list, the nominating committee shall make an interim appointment by majority vote.

(ii) The interim board member shall serve until the matter is resolved by the nominating committee and the governor or until the board member is replaced pursuant to this chapter.

(4) (a) Except as required by Subsection (4)(b), as terms of current board members expire, the governor shall appoint a new member or reappointed member to a six-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that:

(i) the terms of board members are staggered so that approximately one-third of the Wildlife Board is appointed every two years; and

(ii) members serving from the same region have staggered terms.

(c) If a vacancy occurs, the nominating committee shall submit at least two names, as provided in Subsection 23A-2-302(4), to the governor and the governor shall appoint a replacement for the unexpired term.

(d) A board member may serve only one term unless the board member:

(i) is among the first board members appointed to serve four years or less; or

(ii) filled a vacancy under Subsection (4)(c) for four years or less.

(5) When the governor makes a new appointment or reappointment under Subsection (4)(a), or a vacancy appointment under Subsection (4)(c), the governor's new appointment, reappointment, or vacancy appointment shall be made with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(6) (a) The Wildlife Board shall elect a chair and a vice chair from the Wildlife Board's membership.

(b) Four members of the Wildlife Board constitutes a quorum.

(c) The director shall act as secretary to the Wildlife Board, but is not a voting member of the Wildlife Board.

(7) (a) The Wildlife Board shall hold a sufficient number of public meetings each year to expeditiously conduct the Wildlife Board's business.

(b) Meetings may be called by the chair upon five days notice or upon shorter notice in emergency situations.

(c) Meetings may be held at the Salt Lake City office of the division or elsewhere as determined by the Wildlife Board.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) (a) A member of the Wildlife Board shall complete an orientation course to assist the member in the performance of the duties of the member's office.

(b) The department shall provide the course required under Subsection (9)(a).

(10) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 5. Section 23A-2-302 is amended to read:

23A-2-302. Wildlife Board Nominating Committee created.

(1) There is created a Wildlife Board Nominating Committee that consists of 11 members.

(2) The governor shall appoint members to the nominating committee as follows:

(a) three members shall be appointed from a list of at least two nominees per position submitted by the agriculture industry;

(b) three members shall be appointed from a list of at least two nominees per position submitted by sportsmen groups;

(c) two members shall be appointed from a list of at least two nominees per position submitted by [~~nonconsumptive~~]watchable wildlife interests;

(d) one member shall be appointed from a list of at least two nominees submitted by federal land management agencies;

(e) one local elected official shall be appointed from a list of at least two nominees submitted by the Utah Association of Counties; and

(f) one range management specialist shall be appointed from a list of at least two nominees submitted jointly by the Utah Chapter, Society of Range Management and the Utah Chapter, The Wildlife Society.

(3) A wildlife region described in Subsection 23A-2-303(1) shall be represented by at least one member. A wildlife region may not be represented by more than three members.

(4) (a) The nominating committee shall nominate at least two, but not more than four, candidates for each position or vacancy that occurs on the Wildlife Board.

(b) The nominating committee may not nominate a candidate for a position or vacancy on the Wildlife Board if the candidate does not meet the requirements of Subsection 23A-2-301(2)(c)(i)(A) on the day the candidate is nominated by the nominating committee.

(5) (a) Except as required by Subsection (5)(b), as terms of current nominating committee members expire, the governor shall appoint a new or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that:

(i) the terms of nominating committee members are staggered so that approximately half of the nominating committee is appointed every two years; and

(ii) members from the same wildlife region serve staggered terms.

(c) If a vacancy occurs for any reason, the governor shall appoint a replacement in the same manner that the position was originally filled to serve the remainder of the unexpired term.

(6) The nominating committee shall select a chair and vice chair from the nominating committee's membership.

(7) Six members shall constitute a quorum.

(8) A member of the nominating committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 6. Section 23A-2-303 is amended to read:

23A-2-303. Regional advisory councils created.

(1) There are created five regional advisory councils that consist of 12 to 15 members each from the wildlife region whose boundaries are established for administrative purposes by the division.

(2) (a) The members shall include individuals who represent the following groups and interests:

[~~(a)~~](i) agriculture;

[~~(b)~~](ii) sportsmen;

[~~(c)~~](iii) [~~nonconsumptive~~]watchable wildlife;

[~~(d)~~](iv) locally elected public officials;

[~~(e)~~](v) federal land agencies; and

[~~(f)~~](vi) the public at large.

(b) (i) Except as provided in Subsections (2)(b)(iv) and (v), as a qualification for service on a regional advisory council, a member of the regional advisory council shall:

(A) have obtained a hunting or combination license for use by the member that is issued under Chapter 4, Licenses, Permits, Certificates of Registration, and Tags, at least three times during the five years before the day on which the individual is nominated for appointment to the regional advisory council under Subsection (3); and

(B) possess a hunting or combination license issued under Chapter 4, Licenses, Permits, Certificates of Registration, and Tags, while serving on the regional advisory council.

(ii) Except as provided in Subsection (2)(b)(iv), the director shall remove an individual from a regional advisory council if the director determines that the individual does not meet the requirement of Subsection (2)(b)(i)(A).

(iii) (A) Except as provided in Subsection (2)(b)(iv), the director shall remove an individual from a regional advisory council 15 days after the day on which the director notifies the individual that the individual is not in compliance with Subsection (2)(b)(i)(B) unless during the 15-day period the individual obtains or otherwise proves that the individual holds a valid hunting or combination license.

(B) The director shall send the notice required by this Subsection (2)(b)(iii), if the director finds that final action has been taken to suspend the license required by Subsection (2)(b)(i)(B) or the individual fails to obtain a new license required under Subsection (2)(b)(i)(B) once the previous license expires.

(iv) An individual who is a member of a regional advisory council as of May 7, 2025, is not subject to Subsection (2)(b)(i), except that if the executive director reappoints the member to the regional advisory council, the individual is subject to Subsection (2)(b)(i) as of the new membership term.

(v) This Subsection (2)(b) does not apply to an individual selected by the executive director to serve on a regional advisory council for the purpose of representing agriculture.

(3) The executive director, in consultation with the director, shall select the members from a list of nominees submitted by the respective interest group or agency.

(4) The regional advisory councils shall:

(a) hear broad input, including recommendations, biological data, and information regarding the effects of wildlife;

(b) gather information from staff, the public, and government agencies; and

(c) make recommendations to the Wildlife Board in an advisory capacity.

(5) (a) Except as required by Subsection (5)(b), a member shall serve a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(7) The councils shall determine:

(a) the time and place of meetings; and

(b) a procedural matter not specified in this chapter.

(8) Members of the councils shall complete an orientation course described in Subsection 23A-2-301(9).

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 7. Section 23A-6-101 is amended to read:

23A-6-101. Definitions.

As used in this chapter:

(1) (a) "General plan" means a document that a municipality or county adopts that sets forth general guidelines for proposed future development of the land within the municipality or county.

(b) "General plan" includes what is commonly referred to as a "master plan."

(2) "Management plan" means a document prepared in accordance with this chapter that describes how one or more tracts of land owned or managed by the division are to be used.

[~~(3) "Wildlife management area" means:~~]

[~~(a) a single tract of land owned or managed by the division; or~~]

[~~(b) two or more tracts of land owned or managed by the division that are within close proximity of each other and managed as a single unit.~~]

(3) (a) Except as provided in Subsection (3)(b), "wildlife management area" means one or more tracts of land owned or managed by the division to:

(i) protect, conserve, and perpetuate wildlife resources;

(ii) provide public access; or

(iii) allow wildlife-based recreation.

(b) "Wildlife management area" does not include a walk-in access area, fish hatchery, angler access area, division facility, or shooting range.

Section 8. Section 23A-6-402 is amended to read:

23A-6-402. Right of access to lands for hunting, trapping, or fishing reserved to public -- Exception.

(1) Except as provided in Section 65A-2-5, there is reserved to the public the right of access to lands owned by the state, including those lands lying below the official government meander line or high water line of navigable waters, for the purpose of hunting, trapping, or fishing.

(2) When a department or agency of the state leases or sells land belonging to the state lying below the official government meander line or the high water line of the navigable waters within the state, the lease, contract of sale, or deed shall contain a provision that:

(a) the lands shall be open to the public for the purpose of hunting, trapping, or fishing during the lawful season, except as provided by Section 65A-2-5; and

(b) the lessee, contractee, or grantee may not charge a person who desires to go upon the land for the purpose of hunting, trapping, or fishing.

(3) Lands referred to in this section shall be regulated or closed to hunting, trapping, or fishing as provided in this title for other lands and waters.

(4) The division may temporarily close that portion of a highway, as defined in Section 72-1-102, that enters into or crosses land owned by the division if closure is needed for the benefit of wildlife.

(5) (a) Except as provided in Subsections (5), (6), and (7), an individual who is 18 years old or older may not enter that portion of a wildlife management area that is located within a county of the first or second class for any use unless the individual:

(i) holds a valid hunting, fishing, or combination license;

(ii) is permitted to engage in the use under a contract with, or other permission given by, the division; or

(iii) is permitted to engage in the use or to access the land in accordance with a property right giving the individual the right to use or access land within the wildlife management area.

(b) If the use engaged in by an individual described in Subsection (5)(a) would require a specific license, permit, cooperative agreement, or certificate of registration under this title if engaged in on other lands or waters, the individual shall hold the correct license, permit, cooperative agreement, or certificate of registration to engage in the use.

(6) (a) If an individual is expressly exempt under this title from a requirement to hold a license, permit, cooperative agreement, or certificate of registration to engage in hunting, trapping, or fishing if engaged in on other lands or waters, the individual is not required to hold a hunting, fishing, or combination license to enter a wildlife management area described in Subsection (5)(a).

(b) An individual may travel on a highway, as defined in Section 72-1-102, located within a wildlife management area described in Subsection (5)(a) without obtaining a hunting, fishing, or combination license.

(c) An individual may participate in an educational program or visit an education or visitor center located within a wildlife management area described in Subsection (5)(a) without obtaining a hunting, fishing, or combination license.

(7) (a) The Wildlife Board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define for purposes of Subsection (6):

(i) what is meant to be "expressly exempt under this title from a requirement to hold a license, permit, cooperative agreement, or certificate of registration to engage in hunting, trapping, or fishing"; or

(ii) what constitutes an "educational program" or "education or visitor center."

(b) The Wildlife Board may not exempt an individual under Subsection (6)(a), on the basis that the individual is not engaged in hunting, trapping, or fishing within a wildlife management area.

Section 9. Section 23A-8-101 is amended to read:

23A-8-101. Definitions.

As used in this chapter:

(1) "72 hours" means a time period that begins with the hour a request for action is made pursuant to Section 23A-8-402 and ends 72 hours later with the exclusion of any hour that occurs on the day of a legal holiday that is on a Monday or Friday and listed in Section 63G-1-301.

(2) "Cultivated crops" means:

(a) annual or perennial crops harvested from or on cleared and planted land;

(b) perennial orchard trees on cleared and planted land;

(c) crop residues that have forage value for livestock; and

(d) pastures.

(3) "Depredation" means an act causing damage or death.

(4) "Depredation mitigation plan" means the plan described in Subsection 23A-8-402(2).

(5) "Growing season" means the portion of a year in which local conditions permit normal plant growth.

(6) "Livestock" means cattle, sheep, horses, goats, or turkeys.

(7) "Management unit" means a prescribed area of contiguous land designated by the division for the purpose of managing a species of big game animal.

(8) "Mitigation review panel" means the panel created under Section 23A-8-404.

(9) (a) For purposes of Part 2, Damage in General, "predator" means a mountain lion or bear.

(b) For purposes of Part 4, Damage by Big Game, "predator" means a cougar, bear, or coyote.

(10) "Predator control program" means a program of the Department of Agriculture and Food that helps resolve conflicts with wildlife to protect agriculture, other property and natural resources, and to safeguard human health and safety.

(11) "State trapper" means an individual of the Department of Agriculture and Food within the predator control program.

[~~(10)~~](12) For purposes of Section 23A-8-302, "turkey" means a wild, free-ranging turkey and does not include a privately owned or domestic turkey.

[~~(11) "Wildlife Services Program" means a program of the United States Department of Agriculture that helps resolve conflicts with wildlife to protect agriculture, other property, and natural resources, and to safeguard human health and safety.~~]

[~~(12) "Wildlife specialist" means a United States Department of Agriculture, Wildlife Services specialist.~~]

(13) (a) "Wolf" means the gray wolf Canis lupus.

(b) "Wolf" does not mean a wolf hybrid with a domestic dog.

Section 10. Section 23A-8-201 is amended to read:

23A-8-201. Procedure to obtain compensation for livestock damage done by bear, mountain lion, wolf, or eagle.

(1) (a) (i) Except as provided by Subsection (1)(a)(ii), if livestock are damaged by a bear, mountain lion, wolf, or an eagle, the owner may receive compensation for the fair market value of the damage to the livestock.

(ii) The owner of livestock may not receive compensation if the livestock is damaged by a wolf within an area where a wolf is endangered or threatened under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531, et seq.

(b) To obtain compensation under this section, the owner of the damaged livestock shall notify the division of the damage as soon as possible, but no later than four days after the damage to the livestock is discovered.

(c) The owner shall notify the division each time damage to livestock is discovered.

(2) The livestock owner shall file a proof of loss form, provided by the division, no later than 30 days after the original notification of damage to livestock was given to the division by the owner.

(3) (a) (i) The division, with the assistance of the Department of Agriculture and Food, shall:

(A) within 30 days after the owner files the proof of loss form, either accept or deny the claim for damages; and

(B) subject to Subsections (3)(a)(ii) through (3)(a)(iv), pay the accepted claims to the extent money appropriated by the Legislature is available for this purpose.

(ii) Money appropriated from the Wildlife Resources Account may be used to provide compensation for only up to 50% of the fair market value of damaged livestock.

(iii) Money appropriated from the Wildlife Resources Account may not be used to provide compensation for livestock damaged by an eagle or a wolf.

(iv) The division may not pay an eagle damage claim until the division has paid all accepted mountain lion and bear livestock damage claims for the fiscal year.

(b) The division may not pay mountain lion, bear, wolf, or eagle damage claims to a livestock owner unless the owner has filed a completed livestock form and the appropriate fee as outlined in Section 4-23-107 for the immediately preceding and current year.

(c) The division's payment is subject to a 3:1 multiplier for a bear or mountain lion damage claim if the livestock owner has demonstrated and documented husbandry practices to prevent losses including daily contact with the livestock and the use of guardian animals.

(d) The division may not pay damage claims in excess of the total number of animals of a single species owned by an individual producer.

[~~(c)~~](e) (i) Unless the division denies a claim for the reason identified in Subsection (3)(b), the owner may appeal the decision to a panel consisting of one person selected by the owner, one person selected by the division, and a third person selected by the first two panel members.

(ii) The panel shall decide whether the division should pay all of the claim, a portion of the claim, or none of the claim.

(4) The Wildlife Board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and enforce rules to administer and enforce this section.

Section 11. Section 23A-8-202 is amended to read:

23A-8-202. Livestock depredation by predators.

(1) If a predator harasses, chases, disturbs, harms, attacks, or kills livestock, within 96 hours of the act:

(a) in a depredation case, the livestock owner, an immediate family member, or an employee of the livestock owner on a regular payroll and not specifically hired to take a predator, may take predators subject to the requirements of this section;

(b) a landowner or livestock owner may notify the division of the depredation or human health and safety concerns, who may authorize a local hunter to take the offending predator or notify a [~~wildlife specialist~~]state trapper; or

(c) the livestock owner may notify a [~~wildlife specialist~~]state trapper of the depredation who may take the depredating predator.

(2) A depredating predator may be taken at any time by a [~~wildlife specialist~~]state trapper, supervised by the [~~Wildlife Services Program~~]Department of Agriculture and Food, while acting in the performance of the [~~wildlife specialist's~~]state trapper assigned duties and in accordance with procedures approved by the division.

(3) (a) A depredating predator may be taken by an individual authorized in Subsection (1)(a):

(i) with a weapon authorized by the division, pursuant to rules made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for taking the predator; or

(ii) only using snares:

(A) with written authorization from the director;

(B) subject to the conditions and restrictions set out in the written authorization; and

(C) if the division verifies that there has been a chronic depredation situation when numerous livestock have been killed by a predator as described in rule made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) An individual authorized in Subsection (1)(a) to take depredating predators may take no more than two bears per incident.

(4) (a) In accordance with Subsection (4)(b), the division may issue a depredation permit to take a predator on specified private lands and public land grazing allotments with a chronic depredation situation when numerous livestock have been killed by predators.

(b) The division may:

(i) issue one or more depredation permits to an affected livestock owner or a designee of the affected livestock owner, provided that the livestock owner does not receive monetary consideration from the designee for the opportunity to use the depredation permit;

(ii) determine the legal weapons and methods of taking allowed; and

(iii) specify the area and season that the depredation permit is valid.

(5) (a) A predator taken under Subsection (1)(a) or (4) remains the property of the state and shall be delivered to a division office or employee with 96 hours of the take.

(b) The division may issue a predatory damage permit to a person who has taken a depredating predator under Subsection (1)(a) that authorizes the individual to keep the carcass.

(c) An individual who takes a predator under Subsection (1)(a) or (4) may acquire and use a limited entry permit or harvest objective permit in the same year.

(d) Notwithstanding Subsections (5)(b) and (c), a person may retain no more than one predator carcass annually.

(6) Money derived from the sale of a predator taken under this section shall be deposited into the Wildlife Resources Account created in Section 23A-3-201.

(7) Nothing in this section prohibits the division from permitting the removal of a bear causing damage to cultivated crops on cleared and planted land pursuant to rule made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) Nothing is this section prohibits receiving compensation for livestock damage done by a bear, mountain lion, wolf, or eagle in accordance with Section 23A-8-201.

Section 12. Section 23A-11-101 is amended to read:

23A-11-101. Definitions.

As used in this chapter:

(1) "Big game" includes deer, elk, [~~big horn~~]bighorn sheep, moose, mountain goats, pronghorn[~~.~~], or bison.

(2) (a) "Big game byproduct" means those parts of the carcass of a lawfully taken big game animal that are listed in Subsections (2)(a)(i) through (ix):

(i) bones with less than 1/2 inch of attached muscle tissue;

(ii) fat, tendons, ligaments, cartilage, and silverskin with less than 1/2 inch attached muscle tissue;

(iii) muscle tissue damaged by wound channels and within one inch of damaged tissue;

(iv) head;

(v) rib and neck meat on deer, pronghorn, mountain goat, and bighorn sheep;

(vi) antlers and horns;

(vii) legs below the knee and hock;

(viii) internal organs; and

(ix) hide.

(b) Notwithstanding Subsection (2)(a), "big game byproduct" does not include:

(i) brain or brain tissue;

(ii) spine or any part of the spinal column;

(iii) any portion of the carcass of an animal testing positive for chronic wasting disease;

(iv) any carcass or portion of a carcass that otherwise fails to meet local, state, or federal regulations governing processing, sale, or distribution of wild game; and

(v) spoiled product.

(3) (a) "Centerfire rifle hunt" means a hunt for which a hunter may use a centerfire rifle, except as provided in Subsection (3)(b).

(b) "Centerfire rifle hunt" does not include:

(i) a bighorn sheep hunt;

(ii) a mountain goat hunt;

(iii) a bison hunt;

(iv) a moose hunt;

(v) a hunt requiring the hunter to possess a statewide conservation permit; or

(vi) a hunt requiring the hunter to possess a statewide sportsman permit.

(4) "Cultivated crops" means:

(a) annual or perennial crops harvested from or on cleared and planted land;

(b) perennial orchard trees on cleared and planted land;

(c) crop residues that have forage value for livestock; and

(d) pastures.

(5) "Financial advantage" means an act through which a person in lawful possession of a protected wildlife carcass uses or disposes of that carcass or carcass parts in a transaction for which the person receives consideration or expects to recover associated costs.

(6) "Management unit" means a prescribed area of contiguous land designated by the division for the purpose of managing a species

of big game animal.

(7) "Predator" means a cougar, bear, or coyote.

(8) "Shed antler" means any portion of an antler that:

(a) has been dropped naturally from a big game animal as part of the big game animal's annual life cycle; and

(b) has a rounded base commonly known as the antler button or burr attached which signifies a natural life cycle process.

(9) "Shed horn" means:

(a) the sheath from a pronghorn that has been dropped naturally as part of the animal's annual life cycle; or

(b) bighorn sheep, mountain goat, or bison horn naturally detached from the horn core.

(10) "Spoiled product" means any portion of a protected wildlife carcass that is not fit for human or animal consumption due to the presence of parasites, pathogens, or rot.

(11) "Statewide conservation permit" means a permit:

(a) issued by the division;

(b) distributed through a nonprofit organization founded for the purpose of promoting wildlife conservation; and

(c) valid:

(i) on open hunting units statewide; and

(ii) for the species of big game and time period designated by the Wildlife Board.

(12) "Statewide sportsman permit" means a permit:

(a) issued by the division through a public draw; and

(b) valid:

(i) on open hunting units statewide; and

(ii) for the species of big game and time period designated by the Wildlife Board.

Section 13. Section 23A-11-302 is amended to read:

23A-11-302. Big game protection -- Director authority.

(1) It is the policy of the state that big game animals are of great importance to the citizens of the state, the citizen's quality of life, and the long term sustainability of the herds for future generations.

(2) (a) Unless the condition described in Subsection (2)(b) is determined, the director shall take immediate action to reduce the number of predators within a management unit when the big game population is under the established herd size objective for that management unit.

(b) Subsection (2)(a) does not apply if the division determines that predators are not significantly contributing to the big game population being under the herd size objective for the management unit.

(3) Immediate action under Subsection (2) includes any of the following management tools:

(a) increasing take permits or tags for cougar and bear until the herd size objective is met;

(b) allowing big game hunters to harvest predators with the appropriate permit during a big game hunting season, including issuing over-the-counter predator permits;

(c) professional trapping and predator control by [~~the United States Department of Agriculture Wildlife Services,~~]the following, including aerial control measures:

(i) the Department of Agriculture and Food's predator control program;

(ii) private contracts [~~,~~]; and

(iii) the general public [~~, including aerial control measures~~]; and

(d) other management tools as determined by the director.

(4) The director shall annually give a status report on predator control measures implemented pursuant to this chapter and Chapter 8, Part 4, Damage by Big Game, to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Natural Resources, Agriculture, and Environment Interim Committee.

Section 14. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 117
S. B. 73
Passed March 6, 2025
Approved March 24, 2025
Effective March 24, 2025

STATEWIDE INITIATIVES AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Jason B. Kyle

LONG TITLE

General Description:

This bill amends provisions relating to a statewide initiative.

Highlighted Provisions:

This bill:

- ► modifies requirements for a statewide initiative application and a fiscal impact statement in relation to funding a law proposed by initiative;
- ► requires initiative petition sponsors to publish the initiative application in the same manner required for publication of a proposed constitutional amendment;
- ► prohibits submission of an initiative, or counting votes cast for or against an initiative, if the sponsors of the initiative petition fail to comply with the publication requirement; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-7-202, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 107
20A-7-202.5, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 442
20A-7-211, (Effective 01/01/27) as last amended by Laws of Utah 2023, Chapter 107

ENACTS:

20A-7-209.5, (Effective 01/01/27) Utah Code Annotated 1953

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

Section 1. Section 20A-7-202 is amended to read:
20A-7-202 (Effective upon governor's approval). Statewide initiative process -- Initiative application procedures -- Time to gather signatures -- Grounds for rejection.

(1) Individuals wishing to circulate an initiative petition shall file an initiative application with the lieutenant governor.

(2) The initiative application shall include:

(a) the name and residence address of at least five sponsors of the initiative petition;

(b) a statement indicating that each of the sponsors is registered to vote in Utah;

(c) a statement indicating whether the initiative will be presented to:

(i) the Legislature under Subsection 20A-7-201(1); or

(ii) a vote of the people under Subsection 20A-7-201(2);

(d) the signature of each of the sponsors, attested to by a notary public; and

[~~(e) a copy of the proposed law that includes, in the following order:~~]

[~~(i) the title of the proposed law, that clearly expresses the subject of the law;~~]

[~~(ii) a description of all proposed sources of funding for the costs associated with the proposed law, including the proposed percentage of total funding from each source; and~~]

[~~(iii) the text of the proposed law;~~]

(e) the following, in the following order:

(i) the title of the proposed law that clearly expresses the subject of the law;

(ii) except as provided in Subsection (3)(c), a description of the manner in which the proposed law will be funded, including:

(A) all proposed sources of funding for the costs associated with the proposed law, including the proposed percentage of total funding from each source;

(B) if the proposed law will be funded, in whole or in part, by a new tax, a description of the new tax and the tax rate;

[~~(f)~~](C) if the [~~initiative proposes~~]proposed law will be funded, in whole or in part, by a tax increase, the following statement for each tax increase, "This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; [~~and~~]

(D) if the proposed law will be funded, in whole or in part, from new revenues, a description of the amount and source of the new revenues; and

(E) if the proposed law will be funded, in whole or in part, from existing revenues, a description of the existing line items or programs that will receive less funding in order to fund the proposed law and the amount by which the funding will be reduced;

[~~(g)~~](iii) a statement indicating whether persons gathering signatures for the initiative petition may be paid for gathering signatures[~~.~~]; and

(iv) the text of the proposed law.

(3) (a) An individual's status as a resident, under Subsection (2), is determined in accordance with Section 20A-2-105.

(b) The initiative application and the initiative application's contents are public when filed with the lieutenant governor.

(c) If the fiscal impact of the law proposed by an initiative is less than the amount specified by joint legislative rule for designating a bill as a fiscal note bill:

(i) the initiative application is not required to include the description described in Subsection (2)(e)(ii); and

(ii) the lieutenant governor may not reject the initiative application or initiative application addendum under Subsection (5)(c).

(4) If the initiative petition fails to qualify for the ballot of the election described in Subsection 20A-7-201(2)(b), the sponsors shall:

(a) submit a new initiative application;

(b) obtain new signature sheets; and

(c) collect signatures again.

(5) The lieutenant governor shall reject an initiative application or an initiative application addendum filed under Subsection 20A-7-204.1(5) and not issue signature sheets if:

(a) the proposed law:

(i) is [~~patently~~]unconstitutional;

(ii) is nonsensical;

(iii) could not become law if passed;

(iv) contains more than one subject as evaluated in accordance with Subsection (6); or

(v) is identical or substantially similar to a law proposed by an initiative for which signatures were submitted to the county clerks and lieutenant governor for certification within two years preceding the date on which the initiative application for the new initiative is filed; [~~or~~]

(b) the subject of the proposed law is not clearly expressed in the law's title[~~.~~]; or

(c) except as provided in Subsection (3)(c), the lieutenant governor determines, after consultation with the Office of the Legislative Fiscal Analyst, that the funding description, described in Subsection (2)(e)(ii):

(i) does not comply with the requirements of Subsection (2)(e)(ii); or

(ii) is unlikely to provide adequate funding for the proposed law.

(6) To evaluate whether the proposed law contains more than one subject under Subsection (5)(a)(iv), the lieutenant governor shall apply the same standard provided in Utah Constitution, Article VI, Section 22, which prohibits a bill from passing that contains more than one subject.

Section 2. Section 20A-7-202.5 is amended to read:

20A-7-202.5 (Effective upon governor's approval). Initial fiscal impact statement -- Preparation of statement -- Challenge to statement.

(1) Within three working days after the day on which the lieutenant governor receives an initiative application, the lieutenant governor shall submit a copy of the initiative application to the Office of the Legislative Fiscal Analyst.

(2) (a) [~~The~~]Except as provided in Subsection (2)(b), the Office of the Legislative Fiscal Analyst shall prepare an unbiased, good faith initial fiscal impact statement for the proposed law, not exceeding 100 words plus 100 words per revenue source created or impacted by the proposed law, that contains:

(i) a description of the total estimated fiscal impact of the proposed law over the time period or time periods determined by the Office of the Legislative Fiscal Analyst to be most useful in understanding the estimated fiscal impact of the proposed law;

(ii) if the proposed law would increase taxes, decrease taxes, or impose a new tax, a dollar amount representing the total estimated increase or decrease for each type of tax affected under the proposed law, a dollar amount showing the estimated amount of a new tax, and a dollar amount representing the total estimated increase or decrease in taxes under the proposed law;

(iii) if the proposed law would increase a particular tax or tax rate, the tax percentage difference and the tax percentage increase for each tax or tax rate increased;

(iv) if the proposed law will be funded, in whole or in part, from new revenues, a description of the amount and source of the new revenues;

(v) if the proposed law will be funded, in whole or in part, from existing revenues, a description of:

(A) the existing line items or programs that will receive less funding in order to fund the proposed law and the amount by which the funding will be reduced; and

(B) the likely impact of the reduction in funding described in Subsection (2)(a)(v)(A);

[~~(iv)~~](vi) if the proposed law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt under the proposed law;

[~~(v)~~](vii) a dollar amount representing the estimated cost or savings, if any, to state or local government entities under the proposed law;

[~~(vi)~~](viii) if the proposed law would increase costs to state government, a listing of all sources of funding for the estimated costs; and

[~~(vii)~~](ix) a concise description and analysis titled "Funding Source," not to exceed 100 words for each funding source, of the funding source information described in Subsection 20A-7-202(2)(e)(ii).

(b) If the proposed law is estimated to have [~~no~~]fiscal impact of less than the amount specified by joint legislative rule for designating a bill as a fiscal note bill, the Office of the Legislative Fiscal Analyst shall [~~include a summary statement in the initial fiscal impact statement in substantially the following form~~]prepare the initial fiscal impact statement to read substantially as follows:

"The Office of the Legislative Fiscal Analyst estimates that the law proposed by this initiative would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(3) Within 25 calendar days after the day on which the lieutenant governor delivers a copy of the initiative application, the Office of

the Legislative Fiscal Analyst shall:

(a) send a copy of the initial fiscal impact statement to the lieutenant governor's office; and

(b) send a copy of the initial fiscal impact statement to the first five sponsors named in the initiative application.

(4) (a) (i) Three or more of the sponsors of the initiative petition may, within 20 calendar days after the day on which the Office of the Legislative Fiscal Analyst delivers the initial fiscal impact statement to the lieutenant governor's office, file a petition with the appropriate court, alleging that the initial fiscal impact statement, taken as a whole, is an inaccurate estimate of the fiscal impact of the initiative.

(ii) After receipt of the appeal, the court shall direct the lieutenant governor to send notice of the petition filed with the court to:

(A) any person or group that has filed an argument with the lieutenant governor's office for or against the initiative that is the subject of the challenge; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the initiative.

(b) (i) There is a presumption that the initial fiscal impact statement prepared by the Office of the Legislative Fiscal Analyst is based upon reasonable assumptions, uses reasonable data, and applies accepted analytical methods to present the estimated fiscal impact of the initiative.

(ii) The court may not revise the contents of, or direct the revision of, the initial fiscal impact statement unless the plaintiffs rebut the presumption by clear and convincing evidence that establishes that the initial fiscal impact statement, taken as a whole, is an inaccurate statement of the estimated fiscal impact of the initiative.

(iii) The court may refer an issue related to the initial fiscal impact statement to a master to examine the issue and make a report in accordance with Utah Rules of Civil Procedure, Rule 53.

(c) The court shall certify to the lieutenant governor a fiscal impact statement for the initiative that meets the requirements of this section.

Section 3. Section 20A-7-209.5 is enacted to read:

20A-7-209.5 (Effective 01/01/27). Initiative application -- Required publication.

(1) The sponsors shall publish the entire initiative application in the same manner required for a constitutional amendment under Utah Constitution, Article XXIII, Section 1.

(2) If the sponsors fail to comply with Subsection (1):

(a) the initiative cannot be submitted to the voters; and

(b) an election officer may not count votes cast for or against the initiative.

Section 4. Section 20A-7-211 is amended to read:

20A-7-211 (Effective 01/01/27). Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) [~~The~~]Except as provided in Subsection 20A-7-209.5(2), the votes on the law proposed by the initiative petition shall be counted, canvassed, and delivered as provided in [~~Title 20A, Chapter 4, Part 3, Canvassing Returns~~]Chapter 4, Part 3, Canvassing Returns.

(2) [~~After~~]Except as provided in Subsection 20A-7-209.5(2), after the state board of canvassers completes the canvass, the lieutenant governor shall certify to the governor the vote for and against the law proposed by the initiative petition.

(3) (a) [~~The~~]Except as provided in Subsection 20A-7-209.5(2),thegovernor shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the state for and against each law proposed by an initiative petition; and

(ii) declares those laws proposed by an initiative petition that are approved by majority vote to be in full force and effect on the date described in Subsection 20A-7-212(2).

(b) When the governor believes that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, the governor shall proclaim as law the initiative that receives the greatest number of affirmative votes, regardless of the difference in the majorities which those initiatives receive.

(c) Within 10 days after the day of the governor's proclamation, any qualified voter who signed the initiative petition proposing the law that is declared by the governor to be superseded by another initiative approved at the same election may bring an action in the appropriate court to review the governor's decision.

(4) Within 10 days after the day on which the court issues an order in an action described in Subsection (3)(c), the governor shall:

(a) proclaim as law all initiatives approved by the people that the court determines are not entirely in conflict; and

(b) of the initiatives approved by the people that the court determines to be entirely in conflict, proclaim as law, regardless of the difference in majorities, the law that receives the greatest number of affirmative votes, to be in full force and effect on the date described in Subsection 20A-7-212(2).

Section 5. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect:

(a) except as provided in Subsection (1)(b), May 7, 2025; or

(b) if approved by two-thirds of all members elected to each house:

(i) upon approval by the governor;

(ii) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(iii) in the case of a veto, the date of veto override.

(2) The actions affecting the following sections take effect on January 1, 2027:

(a) Section 20A-7-211 (Effective 01/01/27); and

(b) Section 20A-7-209.5 (Effective 01/01/27).

CHAPTER 118
H. B. 56
Passed February 10, 2025
Approved March 24, 2025
Effective May 7, 2025

CIVIL COMMITMENT MODIFICATIONS

Chief Sponsor: Steve Eliason
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill amends provisions relating to civil commitment.

Highlighted Provisions:

This bill:

- ► amends notification requirements for when a patient is discharged from temporary, involuntary commitment;
- ► amends the information that must be included in discharge instructions that are given to an individual who is discharged from a local mental health authority's custody and allows discharge instructions to be provided in paper or electronic form depending on the individual's preference;
- ► provides that certain requirements related to civil commitment may be performed by a local mental health authority's designee;
- ► addresses when a local mental health authority is required to follow up with certain individuals discharged from civil commitment; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-5-331, as last amended by Laws of Utah 2024, Chapter 299
26B-5-332, as last amended by Laws of Utah 2024, Chapters 287, 299 and 314
26B-6-607, as last amended by Laws of Utah 2024, Chapter 299
26B-6-608, as last amended by Laws of Utah 2024, Chapter 299

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

Section 1. Section 26B-5-331 is amended to read:

26B-5-331. Temporary commitment -- Requirements and procedures -- Rights.

(1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:

(a) a written application that:

(i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and

(ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding the certification, and that the physician, physician assistant, nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or

(b) a peace officer or a mental health officer:

(i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:

(A) the adult has a mental illness; and

(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

(A) is on a form prescribed by the division;

(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;

(C) states the specific nature of the danger;

(D) provides a summary of the observations upon which the statement of danger is based; and

(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.

(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), [~~the local mental health authority or~~]the local mental health authority's designee shall:

(a) document the change and release the patient; and

(b) if the patient was admitted under Subsection (1)(b), notify the [~~peace officer or mental health officer of the patient's release~~]local mental health authority of the patient's release if deemed appropriate by a licensed health care provider or if the patient consents to the

information being shared.

(3) A patient committed under this section may be held for a maximum of 72 hours after commitment, excluding Saturdays, Sundays, and [~~legal~~]state holidays, unless:

(a) as described in Section 26B-5-332, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 26B-5-332(4); or

(b) the patient makes a voluntary application for admission.

(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:

(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the adult meets any of the criteria described in Section 26B-4-119;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, physician assistant, nurse practitioner, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the adult is present, if the adult is not transported by ambulance;

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section 53-2d-101.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6) (a) The local mental health authority shall inform an adult patient committed under this section of the reason for commitment.

(b) An adult patient committed under this section has the right to:

(i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice; and

(ii) see and communicate with an attorney.

(7) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.

(b) This section does not create a special duty of care.

(8) (a) A local mental health authority or the local mental health authority's designee shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the local mental health authority's custody, regardless of whether the individual is discharged by being released, taken into a peace officer's protective custody, transported to a medical facility or other facility, or other circumstances.

(b) Discharge instructions provided under Subsection (8)(a) shall include:

[~~(i) a summary of why the individual was committed to the local mental health authority;~~]

[~~(ii) detailed information about why the individual is being discharged from the local mental health authority's custody;~~]

[~~(iii)~~](i) a safety plan for the individual based on the individual's mental illness or mental or emotional state, if applicable;

[~~(iv)~~](ii) notification to the individual's primary care provider, if applicable;

[~~(v)~~](iii) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

[~~(vi)~~](iv) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

[~~(vii)~~](v) a copy of any psychiatric advance directive [~~presented to the local mental health authority~~], if applicable;

[~~(viii)~~](vi) information about how to establish a psychiatric advance directive if one [~~was not presented to the local mental health authority~~]has not been completed;

[~~(ix)~~](vii) as applicable, information about medications that were changed or discontinued during the commitment;

[~~(x) a list of any screening or diagnostic tests conducted during the commitment;~~]

[~~(xi) a summary of therapeutic treatments provided during the commitment;~~]

[~~(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and~~]

[~~(xiii)~~](viii) information about how to contact the local mental health authority if needed [~~.~~]; and

(ix) information about how to request a copy of the individual's medical record and how to access the electronic patient portal for the individual's medical record.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (8)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) Discharge instructions shall be provided in paper or electronic format based on the individual's preference.

[~~(d)~~](e) If an individual refuses to accept discharge instructions, the local mental health authority or the local mental health authority's designee shall document the refusal in the individual's medical record.

[~~(e)~~](f) If an individual's discharge instructions include referrals to services under Subsection [~~(8)(b)(v)~~](8)(b)(iii), the local mental health authority or the local mental health authority's designee shall document those referrals in the individual's medical record.

[~~(f)~~](g) The local mental health authority shall attempt to follow up with a discharged individual at least 48 hours after discharge, when

appropriate, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 2. Section 26B-5-332 is amended to read:

26B-5-332. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number;

(b) (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based; and

(c) a statement whether the proposed patient has previously been under an assisted outpatient treatment order, if known by the applicant.

(2) Before issuing a judicial order, the court:

(a) shall require the applicant to consult with the appropriate local mental health authority at or before the hearing; and

(b) may direct a mental health professional from the local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report the existing facts to the court.

(3) The court may issue an order, directed to a mental health officer or peace officer, to immediately place a proposed patient in the custody of a local mental health authority or in a temporary emergency facility, as described in Section 26B-5-334, to be detained for the purpose of examination if:

(a) the court finds from the application, any other statements under oath, or any reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a danger to self or others and requires involuntary commitment pending examination and hearing; or

(b) the proposed patient refuses to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily.

(4) (a) The court shall provide notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, to a proposed patient before, or upon, placement of the proposed patient in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court.

(b) The place of detention shall maintain a copy of the order of detention.

(5) (a) The court shall provide notice of commencement of proceedings for involuntary commitment as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or the local mental health authority's designee, and any other persons whom the proposed patient or the court designates.

(b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall advise the persons that a hearing may be held within the time provided by law.

(c) If the proposed patient refuses to permit release of information necessary for provisions of notice under this subsection, the court shall determine the extent of notice.

(6) Proceedings for commitment of an individual under 18 years old to a local mental health authority may be commenced in accordance with Part 4, Commitment of Persons Under Age 18.

(7) (a) The court may, in the court's discretion, transfer the case to any other district court within this state, if the transfer will not be adverse to the interest of the proposed patient.

(b) If a case is transferred under Subsection (7)(a), the parties to the case may be transferred and the local mental health authority may be substituted in accordance with Utah Rules of Civil Procedure, Rule 25.

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or the local mental health authority's designee under court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is:

(i) a licensed physician; or

(ii) a psychiatric mental health nurse practitioner or a psychiatric mental health clinical nurse specialist who:

(A) is nationally certified;

(B) is doctorally trained; and

(C) has at least two years of inpatient mental health experience, regardless of the license the individual held at the time of that experience; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days after the day on which the designated examiners are appointed.

(10) (a) The designated examiners shall:

(i) conduct the examinations separately;

(ii) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place, including through telehealth, that is not likely to have a harmful effect on the proposed patient's health;

(iii) inform the proposed patient, if not represented by an attorney:

(A) that the proposed patient does not have to say anything;

(B) of the nature and reasons for the examination;

(C) that the examination was ordered by the court;

(D) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment;

(E) that findings resulting from the examination will be made available to the court; and

(F) that the designated examiner may, under court order, obtain the proposed patient's mental health records; and

(iv) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section 26B-5-360, or has acceptable programs available to the proposed patient without court proceedings.

(b) If a designated examiner reports orally under Subsection (10)(a), the designated examiner shall immediately send a written report to the clerk of the court.

(11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, the local mental health authority's designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer exist, the local mental health authority, the local mental health authority's designee, or the medical examiner shall immediately report the determination to the court.

(13) The court may terminate the proceedings and dismiss the application at any time, including before the hearing, if the designated examiners or the local mental health authority or the local mental health authority's designee informs the court that the proposed patient:

(a) does not meet the criteria in Subsection (16);

(b) has agreed to voluntary commitment, as described in Section 26B-5-360;

(c) has acceptable options for treatment programs that are available without court proceedings; or

(d) meets the criteria for assisted outpatient treatment described in Section 26B-5-351.

(14) (a) Before the hearing, the court shall provide the proposed patient an opportunity to be represented by counsel, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing.

(b) In the case of an indigent proposed patient, the county in which the proposed patient resides or is found shall make payment of reasonable attorney fees for counsel, as determined by the court.

(15) (a) (i) The court shall afford the proposed patient, the applicant, and any other person to whom notice is required to be given an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses.

(ii) The court may, in the court's discretion, receive the testimony of any other person.

(iii) The court may allow a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.

(b) The court is authorized to exclude any person not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each designated examiner to be given out of the presence of any other designated examiners.

(c) The court shall conduct the hearing in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient, while preserving the due process rights of the proposed patient.

(d) The court shall consider any relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Utah Rules of Evidence, Rule 1102.

(e) (i) A local mental health authority or the local mental health authority's designee or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes;

(G) medication records pertaining to the current commitment; and

(H) whether the proposed patient has previously been civilly committed or under an order for assisted outpatient treatment.

(ii) The information described in Subsection (15)(e)(i) shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.

(16) (a) The court shall order commitment of an adult proposed patient to a local mental health authority if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(i) (A) the proposed patient has a mental illness;

(B) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;

(C) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;

(D) there is no appropriate less-restrictive alternative to a court order of commitment; and

(E) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs; or

(ii) (A) the proposed patient has been charged with a criminal offense;

(B) with respect to the charged offense, the proposed patient is found incompetent to proceed as a result of a mental illness;

(C) the proposed patient has a mental illness;

(D) the proposed patient has a persistent unawareness of their mental illness and the negative consequences of that illness, or within the preceding six months has been requested or ordered to undergo mental health treatment but has unreasonably refused to undergo that treatment;

(E) there is no appropriate less-restrictive alternative to a court order of commitment; and

(F) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs.

(b) (i) If, at the hearing, the court determines that the proposed patient has a mental illness but does not meet the other criteria described in Subsection (16)(a), the court may consider whether the proposed patient meets the criteria for assisted outpatient treatment under Section 26B-5-351.

(ii) The court may order the proposed patient to receive assisted outpatient treatment in accordance with Section 26B-5-351 if, at the hearing, the court finds the proposed patient meets the criteria for assisted outpatient treatment under Section 26B-5-351.

(iii) If the court determines that neither the criteria for commitment under Subsection (16)(a) nor the criteria for assisted outpatient treatment under Section 26B-5-351are met, the court shall dismiss the proceedings after the hearing.

(17) (a) (i) The order of commitment shall designate the period for which the patient shall be treated.

(ii) If the patient is not under an order of commitment at the time of the hearing, the patient's treatment period may not exceed six months without a review hearing.

(iii) Upon a review hearing, to be commenced before the expiration of the previous order of commitment, an order for commitment may be for an indeterminate period, if the court finds by clear and convincing evidence that the criteria described in Subsection (16) will last for an indeterminate period.

(b) (i) The court shall maintain a current list of all patients under the court's order of commitment and review the list to determine those patients who have been under an order of commitment for the court designated period.

(ii) At least two weeks before the expiration of the designated period of any order of commitment still in effect, the court that entered the original order of commitment shall inform the appropriate local mental health authority or the local mental health authority's designee of the expiration.

(iii) Upon receipt of the information described in Subsection (17)(b)(ii), the local mental health authority or the local mental health authority's designee shall immediately reexamine the reasons upon which the order of commitment was based.

(iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from involuntary commitment and immediately report the discharge to the court.

(v) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(c) (i) The local mental health authority or the local mental health authority's designee responsible for the care of a patient under an order of commitment for an indeterminate period shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate commitment was based.

(ii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from the local mental health authority's or the local mental health authority designee's custody and immediately report the discharge to the court.

(iii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the local mental health authority or the local mental health authority's designee shall send a written report of the findings to the court.

(iv) A patient and the patient's counsel of record shall be notified in writing that the involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for the decision to continue, and that the patient has the right to a review hearing by making a request to the court.

(v) Upon receiving a request under Subsection (17)(c)(iv), the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(18) (a) Any patient committed as a result of an original hearing or a patient's legally designated representative who is aggrieved by the findings, conclusions, and order of the court entered in the original hearing has the right to a new hearing upon a petition filed with the court within 30 days after the day on which the court order is entered.

(b) The petition shall allege error or mistake in the findings, in which case the court shall appoint three impartial designated examiners previously unrelated to the case to conduct an additional examination of the patient.

(c) Except as provided in Subsection (18)(b), the court shall, in all other respects, conduct the new hearing in the manner otherwise permitted.

(19) The county in which the proposed patient resides or is found shall pay the costs of all proceedings under this section.

(20) (a) A local mental health authority or the local mental health authority's designee shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the local mental health authority's custody, regardless of the circumstances under which the individual is discharged.

(b) Discharge instructions provided under Subsection (20)(a) shall include:

[~~(i) a summary of why the individual was committed to the local mental health authority;~~]

[~~(ii) detailed information about why the individual is being discharged from the local mental health authority's custody;~~]

[~~(iii)~~](i) a safety plan for the individual based on the individual's mental illness or mental or emotional state, if applicable;

[~~(iv)~~](ii) notification to the individual's primary care provider, if applicable;

[~~(v)~~](iii) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

[~~(vi)~~](iv) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

[~~(vii)~~](v) a copy of any psychiatric advance directive[~~ presented to the local mental health authority~~], if applicable;

[~~(viii)~~](vi) information about how to establish a psychiatric advance directive if one [~~was not presented to the local mental health authority~~]has not been completed;

[~~(ix)~~](vii) as applicable, information about medications that were changed or discontinued during the commitment;

[~~(x) a list of any screening or diagnostic tests conducted during the commitment;~~]

[~~(xi) a summary of therapeutic treatments provided during the commitment;~~]

[~~(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and~~]

[~~(xiii)~~](viii) information about how to contact the local mental health authority [~~if needed~~]or established provider as appropriate; and

(ix) information about how to request a copy of the individual's medical record and how to access the electronic patient portal for the individual's medical record.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (20)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) Discharge instructions shall be provided in paper or electronic format based on the individual's preference.

[~~(d)~~](e) If an individual refuses to accept discharge instructions, the local mental health authority shall document the refusal in the individual's medical record.

[~~(e)~~](f) If an individual's discharge instructions include referrals to services under Subsection [~~(20)(b)(v)~~](20)(b)(iii), the local mental health authority shall document those referrals in the individual's medical record.

[~~(f)~~](g) The local mental health authority shall attempt to follow up with a discharged individual at least 48 hours after discharge, when appropriate, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

(21) If any provision of Subsection (16)(a)(ii) or the application of any provision of Subsection (16)(a)(ii) to any person or circumstance is held invalid by a court with jurisdiction, the remainder of Subsection (16)(a)(ii) shall be given effect without the invalid provision or application. The provisions of Subsection (16)(a)(ii) are severable.

Section 3. Section 26B-6-607 is amended to read:

26B-6-607. Temporary emergency commitment -- Observation and evaluation.

(1) The director of the division or his designee may temporarily commit an individual to the division and therefore, as a matter of course, to an intermediate care facility for people with an intellectual disability for observation and evaluation upon:

(a) written application by a responsible person who has reason to know that the individual is in need of commitment, stating:

(i) a belief that the individual has an intellectual disability and is likely to cause serious injury to self or others if not immediately committed;

(ii) personal knowledge of the individual's condition; and

(iii) the circumstances supporting that belief; or

(b) certification by a licensed physician or designated intellectual disability professional stating that the physician or designated intellectual disability professional:

(i) has examined the individual within a three-day period immediately preceding the certification; and

(ii) is of the opinion that the individual has an intellectual disability, and that because of the individual's intellectual disability is likely to injure self or others if not immediately committed.

(2) If the individual in need of commitment is not placed in the custody of the director or the director's designee by the person submitting the application, the director's or the director's designee may certify, either in writing or orally that the individual is in need of immediate commitment to prevent injury to self or others.

(3) Upon receipt of the application required by Subsection (1)(a) and the certifications required by Subsections (1)(b) and (2), a peace officer may take the individual named in the application and certificates into custody, and may transport the individual to a designated intermediate care facility for people with an intellectual disability.

(4) (a) An individual committed under this section may be held for a maximum of 72 hours, excluding Saturdays, Sundays, and [~~legal~~]state holidays. At the expiration of that time, the individual shall be released unless proceedings for involuntary commitment have been commenced under Section 26B-6-608.

(b) After proceedings for involuntary commitment have been commenced the individual shall be released unless an order of detention is issued in accordance with Section 26B-6-608.

(5) If an individual is committed to the division under this section on the application of any person other than the individual's legal guardian, spouse, parent, or next of kin, the director or his designee shall immediately give notice of the commitment to the individual's legal guardian, spouse, parent, or next of kin, if known.

(6) (a) The division or an intermediate care facility shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the custody of the division or intermediate care facility, regardless of whether the individual is discharged by being released or under other circumstances.

(b) Discharge instructions provided under Subsection (6)(a) shall include:

[~~(i) a summary of why the individual was committed;~~]

[~~(ii) detailed information about why the individual is being discharged;~~]

[~~(iii) a safety plan for the individual based on the individual's intellectual disability and condition;~~]

[~~(iv) notification to the individual's primary care provider, if applicable;~~]

[~~(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;~~]

[~~(vi)~~](i) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services; and

[~~(vii) a copy of any advance directive presented to the local mental health authority, if applicable;~~]

[~~(viii) information about how to establish an advance directive if one was not presented to the division or intermediate care facility;~~]

[~~(ix) as applicable, information about medications that were changed or discontinued during the commitment;~~]

[~~(x) a list of any screening or diagnostic tests conducted during the commitment;~~]

[~~(xi) a summary of therapeutic treatments provided during the commitment;~~]

[~~(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and~~]

[~~(xiii)~~](ii) information about how to contact the division or intermediate care facility if needed.

[~~(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (6)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.~~]

[~~(d) If an individual refuses to accept discharge instructions, the division or intermediate care facility shall document the refusal in the individual's medical record.~~]

[~~(e) If an individual's discharge instructions include referrals to services under Subsection (6)(b)(v), the division or intermediate care facility shall document those referrals in the individual's medical record.~~]

[~~(f)~~](c) The division shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 4. Section 26B-6-608 is amended to read:

26B-6-608. Involuntary commitment -- Procedures -- Necessary findings -- Periodic review.

(1) Any responsible person who has reason to know that an individual is in need of commitment, who has a belief that the individual has an intellectual disability, and who has personal knowledge of the conditions and circumstances supporting that belief, may commence proceedings for involuntary commitment by filing a written petition with the district court, or if the subject of the petition is less than 18 years old with the juvenile court, of the county in which the individual to be committed is physically located at the time the petition is filed. The application shall be accompanied by:

(a) a certificate of a licensed physician or a designated intellectual disability professional, stating that within a seven-day period immediately preceding the certification, the physician or designated intellectual disability professional examined the individual and believes that the individual has an intellectual disability and is in need of involuntary commitment; or

(b) a written statement by the petitioner that:

(i) states that the individual was requested to, but refused to, submit to an examination for an intellectual disability by a licensed physician or designated intellectual disability professional, and that the individual refuses to voluntarily go to the division or an intermediate care facility for people with an intellectual disability recommended by the division for treatment;

(ii) is under oath; and

(iii) sets forth the facts on which the statement is based.

(2) Before issuing a detention order, the court may require the petitioner to consult with personnel at the division or at an intermediate care facility for people with an intellectual disability and may direct a designated intellectual disability professional to interview the petitioner and the individual to be committed, to determine the existing facts, and to report them to the court.

(3) The court may issue a detention order and may direct a peace officer to immediately take the individual to an intermediate care facility for people with an intellectual disability to be detained for purposes of an examination if the court finds from the petition, from other statements under oath, or from reports of physicians or designated intellectual disability professionals that there is a reasonable basis to believe that the individual to be committed:

(a) poses an immediate danger of physical injury to self or others;

(b) requires involuntary commitment pending examination and hearing;

(c) the individual was requested but refused to submit to an examination by a licensed physician or designated intellectual disability professional; or

(d) the individual refused to voluntarily go to the division or to an intermediate care facility for people with an intellectual disability recommended by the division.

(4) (a) If the court issues a detention order based on an application that did not include a certification by a designated intellectual disability professional or physician in accordance with Subsection (1)(a), the director or his designee shall within 24 hours after issuance of the detention order, excluding Saturdays, Sundays, and legal holidays, examine the individual, report the results of the examination to the court and inform the court:

(i) whether the director or his designee believes that the individual has an intellectual disability; and

(ii) whether appropriate treatment programs are available and will be used by the individual without court proceedings.

(b) If the report of the director or his designee is based on an oral report of the examiner, the examiner shall immediately send the results of the examination in writing to the clerk of the court.

(5) Immediately after an individual is involuntarily committed under a detention order or under Section 26B-6-607, the director or his designee shall inform the individual, orally and in writing, of his right to communicate with an attorney. If an individual desires to communicate with an attorney, the director or his designee shall take immediate steps to assist the individual in contacting and communicating with an attorney.

(6) (a) Immediately after commencement of proceedings for involuntary commitment, the court shall give notice of commencement of the proceedings to:

(i) the individual to be committed;

(ii) the applicant;

(iii) any legal guardian of the individual;

(iv) adult members of the individual's immediate family;

(v) legal counsel of the individual to be committed, if any;

(vi) the division; and

(vii) any other person to whom the individual requests, or the court designates, notice to be given.

(b) If an individual cannot or refuses to disclose the identity of persons to be notified, the extent of notice shall be determined by the court.

(7) That notice shall:

(a) set forth the allegations of the petition and all supporting facts;

(b) be accompanied by a copy of any detention order issued under Subsection (3); and

(c) state that a hearing will be held within the time provided by law, and give the time and place for that hearing.

(8) The court may transfer the case and the custody of the individual to be committed to any other district court within the state, if:

(a) there are no appropriate facilities for persons with an intellectual disability within the judicial district; and

(b) the transfer will not be adverse to the interests of the individual.

(9) (a) Within 24 hours, excluding Saturdays, Sundays, and [~~legal~~]state holidays, after any order or commitment under a detention order, the court shall appoint two designated intellectual disability professionals to examine the individual. If requested by the individual's counsel, the court shall appoint a reasonably available, qualified person designated by counsel to be one of the examining designated intellectual disability professionals. The examinations shall be conducted:

(i) separately;

(ii) at the home of the individual to be committed, a hospital, an intermediate care facility for people with an intellectual disability, or any other suitable place not likely to have a harmful effect on the individual; and

(iii) within a reasonable period of time after appointment of the examiners by the court.

(b) The court shall set a time for a hearing to be held within 10 court days of the appointment of the examiners. However, the court may immediately terminate the proceedings and dismiss the application if, prior to the hearing date, the examiners, the director, or his designee informs the court that:

(i) the individual does not have an intellectual disability; or

(ii) treatment programs are available and will be used by the individual without court proceedings.

(10) (a) Each individual has the right to be represented by counsel at the commitment hearing and in all preliminary proceedings. If neither the individual nor others provide counsel, the court shall appoint counsel and allow sufficient time for counsel to consult with the individual prior to any hearing.

(b) If the individual is indigent, the county in which the individual was physically located when taken into custody shall pay reasonable attorney fees as determined by the court.

(11) The division or a designated intellectual disability professional in charge of the individual's care shall provide all documented information on the individual to be committed and to the court at the time of the hearing. The individual's attorney shall have access to all documented information on the individual at the time of and prior to the hearing.

(12) (a) The court shall provide an opportunity to the individual, the petitioner, and all other persons to whom notice is required to be given to appear at the hearing, to testify, and to present and cross-examine witnesses.

(b) The court may, in its discretion:

(i) receive the testimony of any other person;

(ii) allow a waiver of the right to appear only for good cause shown;

(iii) exclude from the hearing all persons not necessary to conduct the proceedings; and

(iv) upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiner.

(c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the individual. The Utah Rules of Evidence apply, and the hearing shall be a matter of court record. A verbatim record of the proceedings shall be maintained.

(13) The court may order commitment if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that all of the following conditions are met:

(a) the individual to be committed has an intellectual disability;

(b) because of the individual's intellectual disability one or more of the following conditions exist:

(i) the individual poses an immediate danger of physical injury to self or others;

(ii) the individual lacks the capacity to provide the basic necessities of life, such as food, clothing, or shelter; or

(iii) the individual is in immediate need of habilitation, rehabilitation, care, or treatment to minimize the effects of the condition which poses a threat of serious physical or psychological injury to the individual, and the individual lacks the capacity to engage in a rational decision-making process concerning the need for habilitation, rehabilitation, care, or treatment, as evidenced by an inability to weigh the possible costs and benefits of the care or treatment and the alternatives to it;

(c) there is no appropriate, less restrictive alternative reasonably available; and

(d) the division or the intermediate care facility for people with an intellectual disability recommended by the division in which the individual is to be committed can provide the individual with treatment, care, habilitation, or rehabilitation that is adequate and appropriate to the individual's condition and needs.

(14) In the absence of any of the required findings by the court, described in Subsection (13), the court shall dismiss the proceedings.

(15) (a) The order of commitment shall designate the period for which the individual will be committed. An initial commitment may not exceed six months. Before the end of the initial commitment period, the administrator of the intermediate care facility for people with an intellectual disability shall commence a review hearing on behalf of the individual.

(b) At the conclusion of the review hearing, the court may issue an order of commitment for up to a one-year period.

(16) An individual committed under this part has the right to a rehearing, upon filing a petition with the court within 30 days after entry of the court's order. If the petition for rehearing alleges error or mistake in the court's findings, the court shall appoint one impartial licensed physician and two impartial designated intellectual disability professionals who have not previously been involved in the case to examine the individual. The rehearing shall, in all other respects, be conducted in accordance with this part.

(17) (a) The court shall maintain a current list of all individuals under its orders of commitment. That list shall be reviewed in order to determine those patients who have been under an order of commitment for the designated period.

(b) At least two weeks prior to the expiration of the designated period of any commitment order still in effect, the court that entered the original order shall inform the director of the division of the impending expiration of the designated commitment period.

(c) The staff of the division shall immediately:

(i) reexamine the reasons upon which the order of commitment was based and report the results of the examination to the court;

(ii) discharge the resident from involuntary commitment if the conditions justifying commitment no longer exist; and

(iii) immediately inform the court of any discharge.

(d) If the director of the division reports to the court that the conditions justifying commitment no longer exist, and the administrator of the intermediate care facility for people with an intellectual disability does not discharge the individual at the end of the designated period, the court shall order the immediate discharge of the individual, unless involuntary commitment proceedings are again commenced in accordance with this section.

(e) If the director of the division, or the director's designee reports to the court that the conditions designated in Subsection (13) still exist, the court may extend the commitment order for up to one year. At the end of any extension, the individual must be reexamined in accordance with this section, or discharged.

(18) When a resident is discharged under this subsection, the division shall provide any further support services available and required to meet the resident's needs.

(19) (a) The division or an intermediate care facility shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the custody of the division or intermediate care facility, regardless of whether the individual is discharged by being released or under other circumstances.

(b) Discharge instructions provided under Subsection (19)(a) shall include:

[~~(i) a summary of why the individual was committed;~~]

[~~(ii) detailed information about why the individual is being discharged;~~]

[~~(iii) a safety plan for the individual based on the individual's intellectual disability and condition;~~]

[~~(iv) notification to the individual's primary care provider, if applicable;~~]

[~~(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;~~]

[~~(vi)~~](i) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services; and

[~~(vii) a copy of any advance directive presented to the local mental health authority, if applicable;~~]

[~~(viii) information about how to establish an advance directive if one was not presented to the division or intermediate care facility;~~]

[~~(ix) as applicable, information about medications that were changed or discontinued during the commitment;~~]

[~~(x) a list of any screening or diagnostic tests conducted during the commitment;~~]

[~~(xi) a summary of therapeutic treatments provided during the commitment;~~]

[~~(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and~~]

[~~(xiii)~~](ii) information about how to contact the division or intermediate care facility if needed.

[~~(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (19)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.~~]

[~~(d) If an individual refuses to accept discharge instructions, the division or intermediate care facility shall document the refusal in the individual's medical record.~~]

[~~(e) If an individual's discharge instructions include referrals to services under Subsection (19)(b)(v), the division or intermediate care facility shall document those referrals in the individual's medical record.~~]

[~~(f)~~](c) The division shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 119
H. B. 311
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

WATERSHED AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses provisions related to water resources and water management in Utah watersheds.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► clarifies when a water commissioner is:
  - • treated as a regular full-time employee;
  - • eligible for health and retirement benefits; and
  - • exempt from the Utah State Personnel Management Act;
- ► allows the Utah water agent to include facilities and land in the state water agent's negotiations for water augmentation projects;
- ► allows the Board of Water Resources to enter into contracts for water augmentation projects negotiated by the Utah water agent;
- ► modifies the membership requirements for the Legislative Water Development Commission; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-273, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
73-5-1, as last amended by Laws of Utah 2021, Chapter 345
73-10-4, as last amended by Laws of Utah 2024, Chapter 522
73-10g-701, as enacted by Laws of Utah 2024, Chapter 522
73-10g-703, as enacted by Laws of Utah 2024, Chapter 522
73-27-102, as last amended by Laws of Utah 2021, Chapter 229

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

Section 1. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates: Title 73.

(1) Subsection 73-1-4(2)(e)(xi), regarding a water right subject to an approved change application for use within a water bank that has been authorized but not dissolved, is repealed December 31, 2030.

(2) Subsection [~~73-10-4(1)(h)~~]73-10-4(1)(i), regarding management of an application to create a water bank, is repealed December 31, 2030.

(3) Section 73-10-39, Study and recommendations related to the financing of water infrastructure, is repealed July 1, 2027.

(4) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2028.

(5) Title 73, Chapter 10g, Part 7, Utah Water Agent, is repealed July 1, 2034.

(6) Section 73-18-3.5, Advisory council, is repealed July 1, 2029.

(7) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

(8) Title 73, Chapter 31, Water Banking Act, is repealed December 31, 2030.

(9) Section 73-32-302, Advisory council created -- Staffing -- Per diem and travel expenses -- Annual conflict of interest disclosure statement -- Exception -- Penalties, is repealed July 1, 2027.

(10) Section 73-32-303, Duties of the council, is repealed July 1, 2027.

Section 2. Section 73-5-1 is amended to read:

73-5-1. Appointment of water commissioners -- Procedure.

(1) (a) If, in the judgment of the state engineer or the district court, it is necessary to appoint a water commissioner for the distribution of water from any river system or water source, the commissioner shall be appointed for a four-year term by the state engineer.

(b) The state engineer shall determine whether all or a part of a river system or other water source shall be served by a commissioner, and if only a part is to be served, the state engineer shall determine the boundaries of that part.

(c) The state engineer may appoint:

(i) more than one commissioner to distribute water from all or a part of a water source; or

(ii) a single commissioner to distribute water from several separate and distinct water sources.

(d) A water commissioner appointed by the state engineer under this section is:

(i) an employee of the Division of Water Rights;

(ii) an appointed officer under Subsection 49-13-102(5)(b)(iii), if the water commissioner meets the requirements for a regular full-time employee under Subsection 49-13-102(5)(a);

(iii) eligible for health and retirement benefits as determined by the water commissioner's distribution system committee, if the water commissioner is a regular full-time employee as that term is defined in Section 49-13-102; and

(iv) exempt from Title 63A, Chapter 17, Utah State Personnel Management Act.

[~~(ii) career service exempt under Subsection 63A-17-301(1)(k); and~~]

[~~(iii) exempt under Subsection 63A-17-307(2)(f) from the classified service provisions of Section 63A-17-307.~~]

(2) (a) The state engineer shall consult with the water users before appointing a commissioner. The form of consultation and notice to be given shall be determined by the state engineer so as to best suit local conditions, while providing for full expression of majority opinion.

(b) The state engineer shall act in accordance with the recommendation of a majority of the water users, if the majority of the water users:

(i) agree upon:

(A) a qualified individual to be appointed as a water commissioner;

(B) the duties the individual shall perform; and

(C) subject to the requirements of Title 49, Utah State Retirement and Insurance Benefit Act, the compensation the individual shall receive; and

(ii) submit a recommendation to the state engineer on the items described in Subsection (2)(b)(i).

(c) If a majority of water users do not agree on the appointment, duties, or compensation, the state engineer shall make a determination for them.

(3) (a) (i) The salary and expenses of the commissioner and all other expenses of distribution, including printing, postage, equipment, water users' expenses, and any other expenses considered necessary by the state engineer, shall be borne pro rata by the users of water from the river system or water source in accordance with a schedule to be fixed by the state engineer.

(ii) The schedule shall be based on the established rights of each water user, and the pro rata share shall be paid by each water user to the state engineer on or before May 1 of each year.

(b) The payments shall be deposited in the Water Commissioner Fund created in Section 73-5-1.5.

(c) If a water user fails to pay the assessment as provided by Subsection (3)(a), the state engineer may do any or all of the following:

(i) create a lien upon the water right affected by filing a notice of lien in the office of the county recorder in the county where the water is diverted and bring an action to enforce the lien;

(ii) forbid the use of water by the delinquent water user or the delinquent water user's successors or assignees, while the default continues; or

(iii) bring an action in the district court for the unpaid expense and salary.

(d) In any action brought to collect any unpaid assessment or to enforce any lien under this section, the delinquent water user shall be liable for the amount of the assessment, interest, any penalty, and for all costs of collection, including all court costs and a reasonable attorney fee.

(4) (a) A commissioner may be removed by the state engineer for cause.

(b) The users of water from any river system or water source may petition the district court for the removal of a commissioner and after notice and hearing, the court may order the removal of the commissioner and direct the state engineer to appoint a successor.

Section 3. Section 73-10-4 is amended to read:

73-10-4. Powers and duties of board.

(1) The board shall have the following powers and duties to:

(a) authorize studies, investigations, and plans for the full development, use, and promotion of the water and power resources of the state, including preliminary surveys, stream gauging, examinations, tests, and other estimates either separately or in consultation with federal, state and other agencies;

(b) enter into contracts subject to the provisions of this chapter for the construction [~~of conservation projects~~]or purchase of a project that in the opinion of the board will conserve and use for the best advantage of the people of this state the water and power resources of the state, including projects beyond the boundaries of the state of Utah located on interstate waters when the benefit of such projects accrues to the citizens of the state;

(c) sue and be sued in accordance with applicable law;

(d) enter into a contract that the Utah water agent, appointed under Section 73-10g-702, recommends for a water augmentation project under Section 73-10g-703;

[~~(d)~~](e) cooperate with the Utah water agent, appointed under Section 73-10g-702, in matters affecting interstate compact negotiations and the administration of the compacts affecting the waters of interstate rivers, lakes and other sources of supply, with the exception of:

(i) the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act; or

(ii) state representation under:

(A) the Bear River Compact as provided in Section 73-16-4; or

(B) the Columbia Interstate Compact as provided in Section 73-19-9;

[~~(e)~~](f) contract with federal and other agencies and with the National Water Resources Association and to make studies, investigations and recommendations and do all other things on behalf of the state for any purpose that relates to the development, conservation, protection and control of the water and power resources of the state;

[~~(f)~~](g) consult and advise with the Utah Water Users' Association and other organized water users' associations in the state;

[~~(g)~~](h) consider and make recommendations on behalf of the state of reclamation projects or other water development projects for

construction by any agency of the state or United States and in so doing recommend the order in which projects shall be undertaken; or

[~~(h)~~](i) review, approve, and revoke an application to create a water bank under Chapter 31, Water Banking Act, collect an annual report, maintain the water banking website, and conduct any other function related to a water bank as described in Chapter 31, Water Banking Act.

(2) Nothing contained in this section shall be construed to impair or otherwise interfere with the authority of the state engineer granted by this title, except as specifically otherwise provided in this section.

Section 4. Section 73-10g-701 is amended to read:

73-10g-701. Definitions.

As used in this part:

(1) "Council" means the Water District Water Development Council created pursuant to Section 11-13-228.

(2) "Division" means the Division of Water Resources.

(3) "State or local entity" means:

(a) a department, division, commission, agency, or other instrumentality of state government; or

(b) a political subdivision or the political subdivision's instrumentalities.

(4) "Water agent" means the Utah water agent appointed by the governor under Section 73-10g-702.

(5) "Water augmentation project" means a project on interstate waters that increases or impacts the amount of water available in this state.

Section 5. Section 73-10g-703 is amended to read:

73-10g-703. Powers and duties of water agent.

(1) (a) [~~Subject to Subsection (1)(b) and in~~]In consultation with the speaker of the House of Representatives, president of the Senate, and governor, the water agent shall explore and negotiate with officials of other states, tribes, and other government entities regarding possible water [~~importation~~]augmentation projects, including:

(i) for the citizens of Utah, representing the state concerning waters of out-of-state rivers, lakes, and other sources of supply of waters except when representation is otherwise provided in statute;

(ii) identifying potential out-of-state water resources, including land or a facility necessary for the use of the water resources;

(iii) working with the council and division to match the water resources described in Subsection (1)(a)(ii) to needs identified by the council or division;

(iv) establishing a strategy to designate what out-of-state water resources to pursue and how to execute that strategy;

(v) negotiating directly with out-of-state partners to execute the strategy described in Subsection (1)(a)(iv);

(vi) represent the state in interstate conferences between the state and one or more sister states held for the purpose of entering into compacts between such states for the division of the waters of interstate rivers, lakes, or other sources of water supply, and to represent the state upon commissions or other governing bodies provided for by any compacts that have been or may be entered into between the state and one or more sister states, except that a compact is not binding on the state until the compact is ratified and approved by the Legislature and the legislatures of other states that are parties to the compact;

(vii) recommending to the Legislature and to the council actions that may assist in the development of, strategies for, and execution of water [~~importation~~]augmentation projects; and

(viii) annually reporting findings and recommendations to:

(A) the governor;

(B) the president of the Senate;

(C) the speaker of the House of Representatives;

(D) the Legislative Water Development Commission created in Section 73-27-102;

(E) the Natural Resources, Agriculture, and Environment Interim Committee; and

(F) the Board of Water Resources created in Section 73-10-1.5.

[~~(b) The water agent may not act under this section in relation to interests governed by interstate compacts in which Utah is a party, such as the 1922 and 1948 Colorado River Compacts and the 1980 Amended Bear River Compact.~~]

(b) The water agent may recommend to the Board of Water Resources, created in Section 73-10-1.5, a water augmentation project that the water agent negotiates under this section, if the water augmentation project is in the best interest of the people of this state and the state's water resources.

(2) The water agent shall consult and work with the council, state entities, the Colorado River Authority of Utah, and other bodies established by the state for interstate water negotiations.

(3) Subject to Title 63G, Chapter 2, Government Records Access and Management Act, upon request of the water agent, a state or local entity shall provide to the water agent a document, report, or information available within the state or local entity.

(4) The water agent may negotiate with tribes in accordance with this section[~~, except to the extent that the water at issue comes from the Colorado River~~].

(5) This chapter may not be interpreted to override, substitute, or modify a water right within the state or the role and authority of the state engineer.

Section 6. Section 73-27-102 is amended to read:

73-27-102. Legislative Water Development Commission created.

(1) (a) The Legislative Water Development Commission is created to determine the state's role in the protection, conservation, and development of the state's water resources.

(b) For purposes of this chapter, "commission" means the Legislative Water Development Commission.

(2) (a) The commission membership shall include:

(i) [~~five~~]a minimum of two members of the Senate, appointed by the president of the Senate [~~, no more than four of whom may be from the same political party~~], with at least one member from the minority political party;

(ii) [~~eight~~]a minimum of two members of the House of Representatives, appointed by the speaker of the House of Representatives[~~, no more than six of whom may be from the same political party~~], with at least one member from the minority political party; and

(iii) subject to Subsections (2)(b) and (c), []nonvoting members, appointed by the Legislative Management Committee, from a list recommended by the cochairs of the commission described in Subsection (5).

(b) If the Legislative Management Committee chooses to not appoint an individual on the list described in Subsection (2)(a)(iii), the Legislative Management Committee may ask the cochairs of the commission to submit an additional list of recommendations.

(c) The Legislative Management Committee may not appoint an individual who is not recommended by the cochairs of the commission.

(3) (a) The members appointed by the Legislative Management Committee under Subsection (2)(a)(iii) shall be appointed or reappointed to a two-year term.

(b) When a vacancy occurs in the membership for any reason, the Legislative Management Committee, in consultation with the cochairs of the commission, shall appoint a replacement for the unexpired term.

(4) The president of the Senate and the speaker of the House of Representatives shall, to the extent possible, appoint members under Subsections (2)(a)(i) and (ii) that represent both rural and urban areas of the state.

(5) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a)(i) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(a)(ii) as a cochair of the commission.

(6) What constitutes a quorum of the commission is determined in accordance with Legislative Joint Rules, Title 7, Chapter 1, Part 2, Creation and Organization of Legislative Committees, except nonvoting members of the commission described in Subsection (2)(a)(iii) may not be considered for purposes of determining a quorum.

(7) (a) Compensation and expenses of a member of the commission who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) Commission members who are employees of the state shall receive no additional compensation.

(c) Other commission members shall receive no compensation or expenses for their service on the commission.

(8) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 120
H. B. 70
Passed March 5, 2025
Approved March 24, 2025
Effective March 24, 2025

DECOMMISSIONED ASSET DISPOSITION AMENDMENTS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill makes changes to the requirements related to the decommissioning and disposal of electrical generation facilities and equipment by a project entity.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► prohibits a project entity from:
  - • altering facilities that provide power to station service;
  - • disconnecting from or modifying existing interconnections and critical switchyard equipment; and
  - • taking actions that would require a new plant owner to make an interconnection request;
- ► creates the Utah Energy Council (council);
- ► establishes council membership and duties;
- ► provides authority for the council to manage decommissioned electrical generation facilities;
- ► requires the council to select facility operators through a competitive process;
- ► establishes minimum qualifications and criteria for facility operators;
- ► repeals provisions related to the Decommissioned Asset Disposition Authority; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-13-318, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 4
11-13-320, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 4
19-2-109.4, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 4

ENACTS:

79-6-1101, (Effective upon governor's approval) Utah Code Annotated 1953
79-6-1102, (Effective upon governor's approval) Utah Code Annotated 1953
79-6-1103, (Effective upon governor's approval) Utah Code Annotated 1953
79-6-1104, (Effective upon governor's approval) Utah Code Annotated 1953

REPEALS:

79-6-407, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 4
79-6-408, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 4

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

Section 1. Section 11-13-318 is amended to read:

11-13-318 (Effective upon governor's approval). Notice of decommissioning or disposal of project entity assets.

(1) As used in this section:

[~~(a) "Alternative permit" means the same as that term is defined in Section 11-13-320.~~]

(a) "Critical switchyard equipment" means equipment located in a switchyard that is necessary for the delivery of electricity to the transmission or distribution system, including transformers, circuit breakers, disconnect switches, and other essential interconnection equipment.

(b) "Decommissioning" means to remove an electrical generation facility from active service.

(c) "Disposal" means the sale, transfer, dismantling, or other disposition of a project entity's assets.

(d) "Division" means the Division of Air Quality created in Section 19-1-105.

(e) "Fair market value" means the same as that term is defined in Section 79-6-408.

(f) "Interconnection" means the physical system that connects an electrical generation facility to the transmission or distribution

system, including all switching stations, transformers, and other equipment necessary to deliver electricity to customers.

[~~(f)~~](g) (i) "Project entity asset" means a project entity's:

(A) land;

(B) water;

(C) buildings; or

(D) essential equipment, including turbines, generators, transformers, and transmission lines.

(ii) "Project entity asset" does not include an asset that is not essential for the generation of electricity in the project entity's coal-powered electrical generation facility.

(h) "Project purchaser" means any entity that has the right to purchase power from the project entity.

(i) "Station service" means the electric supply required for the operation of an electrical generation facility and associated facilities, essential auxiliary equipment, and all facilities necessary to maintain electrical output.

(2) A project entity shall provide a notice of decommissioning or disposal to the Legislative Management Committee at least 180 days before:

(a) the disposal of any project entity assets; or

(b) the decommissioning of the project entity's coal-powered electrical generation facility.

(3) The notice of decommissioning or disposal described in Subsection (2) shall include:

(a) the date of the intended decommissioning or disposal;

(b) a description of the project entity's coal-powered electrical generation facility intended for decommissioning or any project entity asset intended for disposal; and

(c) the reasons for the decommissioning or disposal.

(4) A project entity may not intentionally prevent the functionality of the project entity's existing coal-powered electrical generation facility.

(5) A project entity shall:

(a) maintain:

(i) facilities that provide power to station service so as to ensure continued functionality;

(ii) at least one operational coal-powered electrical generation unit connected to existing interconnection facilities; and

(iii) existing interconnection and critical switchyard equipment in a manner that ensures the ability to reactivate any remaining coal-powered electrical generation units; and

(b) make available an interconnection with the switchyard for a project entity's coal-powered electrical generation facility that does not require a new interconnection request.

[~~(5)~~](6) Notwithstanding the requirements in Subsections (2) through (4), a project entity may take any action necessary to transition to a new electrical generation facility powered by natural gas, hydrogen, or a combination of natural gas and hydrogen, including any action that has been approved by a permitting authority[~~.~~], provided that such actions:

(a) do not violate the requirements in Subsection (5); or

(b) are specifically required by a permitting authority as an essential component of the transition, with no feasible alternative that would avoid violating Subsection (5).

[~~(6)~~](7) A project entity shall provide the state the option to purchase for fair market value a project entity asset intended for decommissioning, with the option remaining open for at least two years, beginning on July 2, 2025.

Section 2. Section 11-13-320 is amended to read:

11-13-320 (Effective upon governor's approval). Air quality permitting transition process.

(1) As used in this section:

(a) "Alternative permit" means [~~an amendment to a transition permit that, for purposes of transitioning an electrical generation facility to a new facility, allows one or more existing generating units to continue operating while also providing for closure of one but not all existing generating units~~]the same as that term is defined in Section 19-2-109.4.

[~~(b) "Authority" means the Decommissioned Asset Disposition Authority established in Section 79-6-407.~~]

[~~(c)~~](b) "Division" means the Division of Air Quality created in Section 19-1-105.

[~~(d)~~](c) "Pre-existing permit" means the air quality permit held by the operator of an existing electrical generation facility prior to any amendments associated with transitioning to a new facility.

[~~(e)~~](d) "Transition permit" [~~means an amendment to the pre-existing permit, issued to the operator of an existing electrical generation facility for the purpose of transitioning to a new electrical generation facility, which authorizes construction of the new facility but does not require closure of all existing generating units until after the new facility commences operation~~]means the same as that term is defined in Section 19-2-109.4.

(2) A project entity that holds a pre-existing permit for an existing electrical generation facility with multiple generating units, and has been issued a transition permit for a new electrical generation facility, may submit an application to the division in accordance with Section 19-2-109.4 for issuance of an alternative permit.

Section 3. Section 19-2-109.4 is amended to read:

19-2-109.4 (Effective upon governor's approval). Project entity transition permit.

(1) As used in this section:

(a) "Alternative permit" means an amendment to a transition permit that [~~, for purposes of transitioning an electrical generation facility to a new facility, allows one or more existing generating units to continue operating while also providing for closure of one but not all existing generating units.~~]allows for multiple operating scenarios, including:

(i) the operating scenario set forth in the transition permit; and

(ii) at least one alternative operating scenario that allows:

(A) the operation of the new electrical generation facility at full capacity as contemplated by the transition permit; and

(B) continued operation of one or more existing generating units at or below the capacity factor and in compliance with the other conditions specified in the application for the amendment to the transition permit.

[~~(b) "Authority" means the Decommissioned Asset DispositionAuthorityestablished in Section 79-6-407.~~]

[~~(c)~~](b) "Division" means the Division of Air Quality created in Section 19-1-105.

(c) "Existing generating unit" means an electric generating unit that is part of an existing electrical generation facility owned at any time by a project entity.

(d) "New electrical generation facility" means an electrical generation facility powered by natural gas, hydrogen, or any combination of natural gas and hydrogen.

[~~(d)~~](e) "Pre-existing permit" means the air quality permit held by the operator of an existing electrical generation facility prior to any amendments associated with transitioning to a new facility.

[~~(e)~~](f) "Project entity" means the same as that term is defined in Section 11-13-103.

[~~(f)~~](g) "Transition permit" means an amendment to the pre-existing permit, issued to the operator of an existing electrical generation facility for the purpose of transitioning to a new electrical generation facility, which authorizes construction of the new electrical generation facility but does not require closure of all existing generating units until after the new electrical generation facility commences operation.

(2) The division shall accept an application for an alternative permit from a project entity that has previously obtained a [~~transition permit to authorize the same new electrical generating capacity contemplated by the~~]transition permit.

(3) If the application for an alternative permit meets the requirements established by the board:

(a) the division shall issue an approval order for the alternative permit to the project entity;

(b) [~~the conditions of the transition permit shall cease to apply, including requirements to reduce the capacity of existing generating units at the electrical generation facility~~]if the division approves the alternative permit, the conditions of the transition permit, including those requiring an existing generating unit to cease operation and to be placed in maintenance status shall remain in effect until:

(i) the project entity's sale of the existing generating units; or

(ii) both the resolution of all administrative and judicial challenges to the alternative permit and the expiration of the applicable limitations period to file such challenges; and

(c) the project entity shall submit all documentation required to modify any federal operating permit required to be maintained by the project entity, consistent with deadlines established by the division.

(4) If an alternative permit is not approved under Subsection (3), the conditions of the transition permit shall remain effective.

[~~(5) (a) Upon receipt of an alternative air permit application prepared and submitted by theauthorityin accordance with Subsection 79-6-407(4)(c), the division shall conduct a full evaluation as if the application had been prepared and submitted by a project entity to determine whether the alternative air permit would be issued if applied for by the project entity.~~]

[~~(b) The division shall provide the results of any evaluation conducted under Subsection (5)(a) to theauthoritywithin 30 days after the date that the division receives the application described in Subsection (5)(a), unless the division provides written notice to theauthoritythat additional time is needed to complete the evaluation.~~]

[~~(c) If the division concludes after evaluation that an alternative permit would likely be issued to a project entity, theauthorityshall, within 30 days after theauthorityreceives the results of the evaluation, submit recommendations to the Legislative Management Committee regarding options for the state to continue to authorize construction of the project entity's new electrical generation facility that do not require the closure of all of the project entity's existing electrical generating facilities.~~]

[~~(6)~~](5) The division shall evaluate an application for an alternative permit independently from any pre-existing permit or transition permit based on updated assumptions, modeling, and requirements established in rule by the division and may rely upon the reduction of capacity of the existing electrical generation facility only as necessary to ensure that emissions of the new [~~generating~~]electrical generation facility do not exceed thresholds established by federal law which would necessitate new source review as a major modification.

(6) If an administrative or judicial challenge to the alternative permit succeeds in invalidating:

(a) a portion of the alternative permit, the remaining conditions of the alternative permit shall remain valid and in force; or

(b) the primary operating scenario of the alternative permit or the entire alternative permit, the transition permit shall remain in force with respect to the conditions governing the construction and operation of the new electrical generation facility.

Section 4. Section 79-6-1101 is enacted to read:

PART 11. Utah Energy Council

79-6-1101 (Effective upon governor's approval). Utah Energy Council -- Creation and purpose.

(1) As used in this part:

(a) "Council" means the Utah Energy Council created in Section 79-6-1101.

(b) "Decommissioned asset" means a project entity asset that:

(i) has been removed from active service by a project entity;

(ii) has been transferred to the council, including:

(A) transfer of legal title; and

(B) transfer of operational responsibility; and

(iii) will be operated and managed under the direction of the council.

(c) "Operator" means an entity that:

(i) manages and maintains the daily operations of an electrical generation facility;

(ii) employs the workforce necessary to run the facility;

(iii) procures fuel and other necessary supplies;

(iv) ensures compliance with all applicable regulations; and

(v) maintains the reliability of power generation.

(d) "Project entity" means the same as that term is defined in Section 11-13-103.

(e) "Project entity asset" means the same as that term is defined in Section 11-13-318.

(2) There is created within the office the Utah Energy Council.

(3) The purpose of the council is to facilitate the development of electrical energy generation and transmission projects within the state, including:

(a) power plants;

(b) transmission lines;

(c) energy storage facilities; and

(d) related infrastructure.

Section 5. Section 79-6-1102 is enacted to read:

79-6-1102 (Effective upon governor's approval). Council composition -- Appointment -- Terms -- Staffing.

(1) The council shall be composed of:

(a) the director or the director's designee, who shall serve as chair of the council;

(b) two individuals appointed by the governor;

(c) one individual appointed by the president of the Senate; and

(d) one individual appointed by the speaker of the House of Representatives.

(2) (a) Except as provided in Subsection (2)(b), a council member appointed under Subsection (1):

(i) shall serve a four-year term;

(ii) may be removed by the appointing authority;

(iii) may be reappointed; and

(iv) continues to serve until the member's successor is appointed and qualified.

(b) Initial terms for the appointed council members shall be staggered as follows:

(i) one member appointed by the governor under Subsection (1)(b) shall serve a two-year term;

(ii) one member appointed by the governor under Subsection (1)(b) shall serve a three-year term;

(iii) the member appointed by the president of the Senate under Subsection (1)(c) shall serve a four-year term; and

(iv) the member appointed by the speaker of the House of Representatives under Subsection (1)(d) shall serve a two-year term.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the relevant appointing authority for the unexpired term.

(4) (a) A majority of council members constitutes a quorum for conducting council business.

(b) A majority vote of the quorum present is required for any action taken by the council.

(5) The council shall meet:

(a) at least quarterly; and

(b) at the call of the chair or a majority of the council members.

(6) (a) A council member who is not a legislator may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a council member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The office shall provide staff support to the council.

Section 6. Section 79-6-1103 is enacted to read:

79-6-1103 (Effective upon governor's approval). Council powers and duties.

(1) The council shall:

(a) create and implement a strategic plan for a decommissioned asset, taking into consideration:

(i) the state energy policy, as provided in Section 79-6-301;

(ii) reliability of electrical generation; and

(iii) economic viability;

(b) make recommendations regarding electrical energy policy to state and local governments;

(c) identify and recommend solutions to barriers affecting electrical energy development;

(d) assess and address potential public health impacts of electrical energy development zones;

(e) enter into contracts necessary to fulfill the council's duties;

(f) report annually by October 31 to the Public Utilities, Energy, and Technology Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee regarding:

(i) the council's activities;

(ii) energy development opportunities;

(iii) infrastructure needs;

(iv) the status of designated electrical energy development zones;

(v) investment decisions made by the council;

(vi) recommended policy changes; and

(vii) approve budgets and expenditures;

(g) establish policies and procedures for the management of a decommissioned asset;

(h) administer contracts for the management and operations of a decommissioned asset;

(i) enter into contracts necessary for the operation and management of a decommissioned asset;

(j) acquire, hold, and dispose of property related to a decommissioned asset;

(k) select an operator for a decommissioned asset as provided in Section 79-6-1104; and

(l) report annually to the Legislative Management Committee regarding:

(i) the status and progress of the asset transfer;

(ii) operational and financial status of the asset under council control;

(iii) status of the operator contract;

(iv) environmental compliance status; and

(v) recommendations for legislation.

(2) The council may:

(a) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to fulfill the council's duties under this part; and

(b) take other actions necessary to fulfill the council's purposes and duties as provided in this part.

(3) If the council acquires a project entity asset under Section 11-13-318, the council shall enter into an agreement with the project entity that:

(a) provides for the transfer, disposition, and future operation of the asset; and

(b) ensures the transfer, disposition, and future operation does not interfere with the project entity's ownership or operation of electrical generation facilities powered by natural gas, hydrogen, or a combination of natural gas and hydrogen.

Section 7. Section 79-6-1104 is enacted to read:

79-6-1104 (Effective upon governor's approval). Selection of facility operator.

(1) The council shall initiate the selection of an operator for a decommissioned asset by:

(a) issuing a request for proposals; and

(b) publishing the request for proposals on the Utah Public Notice Website created under Section 63A-16-601.

(2) The request for proposals shall specify that an entity must demonstrate:

(a) at least 10 years of experience operating coal-fired electrical generation facilities;

(b) a commitment to maintaining substantial operations within the state;

(c) financial capability to operate and maintain the facility;

(d) experience with similar coal types and specifications;

(e) proven capability to comply with state and federal environmental requirements;

(f) existing relationships with regional transmission organizations;

(g) ability to maintain reliable baseload power generation;

(h) experience with western coal markets and transportation;

(i) capability to retain the existing skilled workforce; and

(j) ability to integrate operations with existing transmission infrastructure.

(3) The council shall:

(a) allow at least 60 days for the submission of proposals; and

(b) establish or contract with a technical review committee to evaluate proposals.

(4) In evaluating proposals, the council shall consider:

(a) operational efficiency metrics from similar facilities;

(b) proposed operational cost structure;

(c) economic considerations;

(d) reliability and availability guarantees;

(e) environmental compliance history and plans;

(f) workplace safety record and plans;

(g) local economic benefit commitments; and

(h) proposed timeline for assuming operations.

(5) Nothing in this section:

(a) requires the council to select any proposal; or

(b) prevents the council from:

(i) rejecting all proposals; or

(ii) terminating the request for proposals process.

Section 8. Repealer.

This bill repeals:

Section 79-6-407, (Effective upon governor's approval)Decommissioned Asset Disposition Authority.

Section 79-6-408, (Effective upon governor's approval)Study of project entity asset intended for decommissioning.

Section 9. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or
(2) if approved by two-thirds of all members elected to each house:
(a) upon approval by the governor;
(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or
(c) in the case of a veto, the date of veto override.

CHAPTER 121
H. B. 85
Passed March 5, 2025
Approved March 24, 2025
Effective May 7, 2025

ENVIRONMENTAL PERMITTING MODIFICATIONS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill addresses provisions related to environmental permitting.

Highlighted Provisions:

This bill:

- ► requires the Division of Air Quality (division) to:
  - • develop and publish guidance and rules related to federal plantwide applicability limitations;
  - • review the division's rules related to permit by rule registration;
  - • include at least five new categories of sources in the division's permit by rule program; and
  - • report to the Natural Resources, Agriculture, and Environment Interim Committee the results of the division's review of the permit by rule program;
- ► adds a repeal date for the sections related to plantwide applicability limitations and permit by rule registration; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-1-201, as last amended by Laws of Utah 2024, Chapter 178
19-2-102, as last amended by Laws of Utah 2015, Chapter 154
19-2-109.1, as last amended by Laws of Utah 2020, Chapter 256
63I-1-219, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

19-2-109.6, Utah Code Annotated 1953
19-2-109.7, Utah Code Annotated 1953

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

Section 1. Section 19-1-201 is amended to read:

19-1-201. Powers and duties of department -- Rulemaking authority -- Committee -- Monitoring environmental impacts of inland port.

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health and Human Services to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(b) consult with the Department of Health and Human Services and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(c) coordinate implementation of environmental programs to maximize efficient use of resources by developing, in consultation with local health departments, a Comprehensive Environmental Service Delivery Plan that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually;

(d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(i) for a board created in Section 19-1-106, rules regarding:

(A) board meeting attendance; and

(B) conflicts of interest procedures; and

(ii) procedural rules that govern:

(A) an adjudicative proceeding, consistent with Section 19-1-301; and

(B) a special adjudicative proceeding, consistent with Section 19-1-301.5;

(e) ensure that training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(f) subject to Subsection (2), establish annual fees that conform with Title V of the Clean Air Act for each regulated pollutant as defined in Section 19-2-109.1, applicable to a source subject to the Title V program.

(2) (a) A fee established under Subsection (1)(f) is in addition to a fee assessed under Subsection (6)(i) for issuance of an approval order.

(b) In establishing a fee under Subsection (1)(f), the department shall comply with Section 63J-1-504 that requires a public hearing and requires the established fee to be submitted to the Legislature for the Legislature's approval as part of the department's annual appropriations request.

(c) A fee established under this section shall cover the reasonable direct and indirect costs required to develop and administer the Title V program and the small business assistance program established under Section 19-2-109.2.

(d) A fee established under Subsection (1)(f) shall be established for all sources subject to the Title V program and for all regulated pollutants.

(e) An emission fee may not be assessed for a regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.

(f) An emission fee may not be assessed for any amount of a regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

(g) An emission fee shall be based on actual emissions for a regulated pollutant unless a source elects, before the issuance or renewal of a permit, to base the fee during the period of the permit on allowable emissions for that regulated pollutant.

(h) The fees collected by the department under Subsection (1)(f) and penalties collected under Subsection [~~19-2-109.1(4)~~]19-2-109.1(3) shall be deposited into the General Fund as the Air Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by the department in developing and administering the program and the small business assistance program under Section 19-2-109.2.

(3) The department shall establish a committee that consists of:

(a) the executive director or the executive director's designee;

(b) two representatives of the department appointed by the executive director; and

(c) three representatives of local health departments appointed by a group of all the local health departments in the state.

(4) (a) The committee established in Subsection (3) shall:

(i) review the allocation of environmental quality resources between the department and the local health departments, including whether funds allocated by contract were allocated in accordance with the formula described in Section 26A-1-116;

(ii) evaluate rules and department policies that affect local health departments in accordance with Subsection (4)(b);

(iii) consider policy changes proposed by the department or by local health departments;

(iv) coordinate the implementation of environmental quality programs to maximize environmental quality resources; and

(v) review each department application for any grant from the federal government that affects a local health department before the department submits the application.

(b) When evaluating a policy or rule that affects a local health department, the committee shall:

(i) compute an estimate of the cost a local health department will bear to comply with the policy or rule;

(ii) specify whether there is any funding provided to a local health department to implement the policy or rule; and

(iii) advise whether the policy or rule is still needed.

(c) Before November 1 of each year, the department shall provide a report to the Rules Review and General Oversight Committee regarding the determinations made under Subsection (4)(b).

(5) The committee shall create bylaws to govern the committee's operations.

(6) The department may:

(a) investigate matters affecting the environment;

(b) investigate and control matters affecting the public health when caused by environmental hazards;

(c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;

(d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;

(e) use local health departments in the delivery of environmental health programs to the extent provided by law;

(f) enter into contracts with local health departments or others to meet responsibilities established under this title;

(g) acquire real and personal property by purchase, gift, devise, and other lawful means;

(h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;

(i) in accordance with Section 63J-1-504, establish a schedule of fees that may be assessed for actions and services of the department that are reasonable, fair, and reflect the cost of services provided;

(j) for an owner or operator of a source subject to a fee established by Subsection (6)(i) who fails to timely pay that fee, assess a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually;

(k) prescribe by rule reasonable requirements not inconsistent with law relating to environmental quality for local health departments;

(l) perform the administrative functions of the boards established by Section 19-1-106, including the acceptance and administration of grants from the federal government and from other sources, public or private, to carry out the board's functions;

(m) upon the request of a board or a division director, provide professional, technical, and clerical staff and field and laboratory

services, the extent of which are limited by the money available to the department for the staff and services; and

(n) establish a supplementary fee, not subject to Section 63J-1-504, to provide service that the person paying the fee agrees by contract to be charged for the service to efficiently use department resources, protect department permitting processes, address extraordinary or unanticipated stress on permitting processes, or make use of specialized expertise.

(7) In providing service under Subsection (6)(n), the department may not provide service in a manner that impairs another person's service from the department.

(8) (a) As used in this Subsection (8):

(i) "Environmental impacts" means:

(A) impacts on air quality, including impacts associated with air emissions; and

(B) impacts on water quality, including impacts associated with storm water runoff.

(ii) "Inland port" means the same as that term is defined in Section 11-58-102.

(iii) "Inland port area" means the area in and around the inland port that bears the environmental impacts of destruction, construction, development, and operational activities within the inland port.

(iv) "Monitoring facilities" means:

(A) for monitoring air quality, a sensor system consisting of monitors to measure levels of research-grade particulate matter, ozone, and oxides of nitrogen, and data logging equipment with internal data storage that are interconnected at all times to capture air quality readings and store data; and

(B) for monitoring water quality, facilities to collect groundwater samples, including in existing conveyances and outfalls, to evaluate sediment, metals, organics, and nutrients due to storm water.

(b) The department shall:

(i) develop and implement a sampling and analysis plan to:

(A) characterize the environmental baseline for air quality and water quality in the inland port area;

(B) characterize the environmental baseline for only air quality for the Salt Lake International Airport; and

(C) define the frequency, parameters, and locations for monitoring;

(ii) establish and maintain monitoring facilities to measure the environmental impacts in the inland port area arising from destruction, construction, development, and operational activities within the inland port;

(iii) publish the monitoring data on the department's website; and

(iv) provide at least annually before November 30 a written report summarizing the monitoring data to:

(A) the Utah Inland Port Authority board, established under Title 11, Chapter 58, Part 3, Port Authority Board; and

(B) the Legislative Management Committee.

Section 2. Section 19-2-102 is amended to read:

19-2-102. Definitions.

As used in this chapter:

(1) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.

[~~(1)~~](2) "Air pollutant" means a substance that qualifies as an air pollutant as defined in 42 U.S.C. Sec. 7602.

[~~(2)~~](3) "Air pollutant source" means private and public sources of emissions of air pollutants.

[~~(3)~~](4) "Air pollution" means the presence of an air pollutant in the ambient air in the quantities, for a duration, and under the conditions and circumstances that are injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property, as determined by the rules adopted by the board.

[~~(4)~~](5) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

[~~(5)~~](6) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, actinolite-tremolite, and libby amphibole.

[~~(6)~~](7) "Asbestos-containing material" means a material containing more than 1% asbestos, as determined using the method adopted in 40 C.F.R. Part 61, Subpart M, National Emission Standard for Asbestos.

[~~(7)~~](8) "Asbestos inspection" means an activity undertaken to determine the presence or location, or to assess the condition of, asbestos-containing material or suspected asbestos-containing material, whether by visual or physical examination, or by taking samples of the material.

[~~(8)~~](9) "Board" means the Air Quality Board.

[~~(9)~~](10) "Clean school bus" means the same as that term is defined in 42 U.S.C. Sec. 16091.

[~~(10)~~](11) "Director" means the director of the Division of Air Quality.

[~~(11)~~](12) "Division" means the Division of Air Quality created in Section 19-1-105.

(13) "EPA" means the federal Environmental Protection Agency.

[~~(12)~~](14) "Friable asbestos-containing material" means a material containing more than 1% asbestos, as determined using the method adopted in 40 C.F.R. Part 61, Subpart M, National Emission Standard for Asbestos, that hand pressure can crumble, pulverize, or reduce to powder when dry.

[~~(13)~~](15) "Indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard.

(16) "Operating permit" means a permit issued by the director to sources of air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.

(17) "Regulated pollutant" means the same as that term is defined in Title V of the 1990 Clean Air Act and implementing federal regulations.

Section 3. Section 19-2-109.1 is amended to read:

19-2-109.1. Operating permit required -- Fees -- Implementation.

[~~(1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:~~]

[~~(a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.~~]

[~~(b) "EPA" means the federal Environmental Protection Agency.~~]

[~~(c) "Operating permit" means a permit issued by the director to sources of air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.~~]

[~~(d) "Program" means the air pollution operating permit program established under this section to comply with Title V of the 1990 Clean Air Act.~~]

[~~(e) "Regulated pollutant" means the same as that term is defined in Title V of the 1990 Clean Air Act and implementing federal regulations.~~]

[~~(2)~~](1) A person may not operate a source of air pollution required to have a permit under Title V of the 1990 Clean Air Act without having obtained an operating permit from the director under procedures the board establishes by rule.

[~~(3)~~](2) (a) Operating permits issued under this section shall be for a period of five years unless the director makes a written finding, after public comment and hearing, and based on substantial evidence in the record, that an operating permit term of less than five years is necessary to protect the public health and the environment of the state.

(b) The director may issue, modify, or renew an operating permit only after providing public notice, an opportunity for public comment, and an opportunity for a public hearing.

(c) The director shall, in conformity with the 1990 Clean Air Act and implementing federal regulations, revise the conditions of issued operating permits to incorporate applicable federal regulations in conformity with Section 502(b)(9) of the 1990 Clean Air Act, if the remaining period of the permit is three or more years.

(d) The director may terminate, modify, revoke, or reissue an operating permit for cause.

[~~(4)~~](3) If the owner or operator of a source subject to this section fails to timely pay a fee established under Subsection 19-1-201(1)(f), the director may:

(a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually; or

(b) revoke the operating permit.

[~~(5)~~](4) The owner or operator of a source subject to this section may contest a fee assessment or associated penalty in an adjudicative hearing under the Title 63G, Chapter 4, Administrative Procedures Act, and Section 19-1-301, as provided in this Subsection [~~(5)~~](4).

(a) The owner or operator shall pay the fee under protest before being entitled to a hearing. Payment of a fee or penalty under protest is not a waiver of the right to contest the fee or penalty under this section.

(b) A request for a hearing under this Subsection [~~(5)~~](4) shall be made after payment of the fee and within six months after the fee was due.

[~~(6)~~](5) To reinstate an operating permit revoked under Subsection [~~(4)~~](3) the owner or operator shall pay the outstanding fees, a penalty of not more than 50% of outstanding fees, and interest on the outstanding fees computed at 12% annually.

[~~(7)~~](6) Failure of the director to act on an operating permit application or renewal is a final administrative action only for the purpose of obtaining judicial review by any of the following persons to require the director to take action on the permit or the permit's renewal without additional delay:

(a) the applicant;

(b) a person who participated in the public comment process; or

(c) a person who could obtain judicial review of that action under applicable law.

Section 4. Section 19-2-109.6 is enacted to read:

19-2-109.6. Plantwide applicability limitation -- Publication of guidance required -- Report to committee -- Rulemaking.

(1) As used in this section:

(a) "Facility" means any building, structure, or installation that emits or may emit an air pollutant.

(b) "Plantwide applicability limitation" means the same as that term is defined in 40 C.F.R. Sec. 52.21.

(2) The director shall, in conformity with the 1990 Clean Air Act and implementing federal regulations:

(a) develop written guidance on plantwide applicability limitations:

(i) consistent with the EPA's Guidance on Plantwide Applicability Limitation Provisions Under the New Source Review Regulations Memorandum, dated August 4, 2020;

(ii) describing the benefits and advantages for a facility that may qualify for a plantwide applicability limitation;

(iii) considering examples of relevant guidance materials published in other states; and

(iv) considering examples of relevant programs implemented in other states;

(b) make rules on plantwide applicability limitations in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing an application procedure for obtaining a plantwide applicability limitation;

(ii) establishing the circumstances under which a plantwide applicability limitation may be reopened and adjusted;

(iii) ensuring the division receives input from a facility when the facility's plantwide applicability limitation is modified or reopened;

(iv) requiring public participation when a facility subject to a plantwide applicability limitation is reopened; and

(v) in contrast to 40 C.F.R. Sec. 51.166(w)(10)(iv)(b), requiring the director to renew a plantwide applicability limitation at the same level if the emissions level calculated upon renewal in accordance with 40 C.F.R. Sec. 51.166(w)(6) is equal to or greater than 80% of the existing plantwide applicability limitation level;

(c) publish the guidance described in Subsection (2)(a) on the division's website in a manner that is easily accessible to members of industry and the public;

(d) identify any facilities in the state that may benefit from a plantwide applicability limitation and share with the facilities the guidance described in Subsection (2)(a); and

(e) upon request by a facility, provide individual consultation on how to apply for a plantwide applicability limitation.

(3) On or before November 30 of each year, the division shall submit a report to the Natural Resources, Agriculture, and Environment Interim Committee:

(a) detailing the status of facilities adopting a plantwide applicability limitation in the state, including the number of plantwide applicability limitation applications approved and rejected; and

(b) recommending improvements to the plantwide applicability limitation program.

(4) The division may make rules to implement the provisions of this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 5. Section 19-2-109.7 is enacted to read:

19-2-109.7. Permit by rule registration expansion study.

(1) As used in this section:

(a) "Permit by rule" means a permitting or registration process in which a stationary source submits a written registration notice to the director to exempt the stationary source from the requirement to obtain an approval order.

(b) "Permit by rule" includes a permitting or registration process designed to exempt a category of similar stationary sources from the requirement to obtain an approval order.

(2) The division shall conduct a study on the feasibility of expanding the division's permit by rule program by:

(a) reviewing successful permit by rule programs in other states;

(b) identifying potential categories of sources suitable for inclusion in the permit by rule program, including:

(i) abrasive cleaning;

(ii) aggregate processing;

(iii) asphalt plants;

(iv) auto body refinishing shops;

(v) boilers and combustion devices;

(vi) concrete batch plants;

(vii) crushing and screening operations;

(viii) degreasing operations;

(ix) dry cleaning;

(x) dust control;

(xi) emergency generators, pumps, and compressors;

(xii) fuel dispensing;

(xiii) internal combustion engines;

(xiv) mineral processing;

(xv) natural gas-fired boilers and heaters;

(xvi) printing operations;

(xvii) sand and gravel operations;

(xviii) surface coating;

(xix) landfills; and

(xx) wood processing; and

(c) assessing the environmental and economic impacts of expanding the program.

(3) On or before November 30, 2025, the division shall:

(a) make rules to include at least five categories of sources listed in Subsection (2)(b) in the division's permit by rule program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) report to the Natural Resources, Agriculture, and Environment Interim Committee:

(i) the division's recommendations for expanding the permit by rule program, including:

(A) the addition of new categories of sources, if any, to the program; and

(B) changes to statute or rules necessary to implement the program; and

(ii) the estimated impacts of expanding the permit by rule program on:

(A) air quality;

(B) permitting efficiency; and

(C) regulated sources.

Section 6. Section 63I-1-219 is amended to read:

63I-1-219. Repeal dates: Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

(2) Section 19-2-109.6, Plantwide applicability limitation -- Publication of guidance required -- Report to committee -- Rulemaking, is repealed July 1, 2026.

(3) Section 19-2-109.7, Permit by rule registration expansion study, is repealed July 1, 2026.

[~~(2)~~](4) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2029.

[~~(3)~~](5) Section 19-4-115, Drinking water quality in schools and child care centers, is repealed July 1, 2027.

[~~(4)~~](6) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

[~~(5)~~](7) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.

[~~(6)~~](8) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2030.

[~~(7)~~](9) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

[~~(8)~~](10) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

[~~(9)~~](11) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.

[~~(10)~~](12) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.

[~~(11)~~](13) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 122
H. B. 333
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

MEDICATIONS IN SCHOOLS AMENDMENTS

Chief Sponsor: Jill Koford
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends the definition of a medical device used to administer epinephrine.

Highlighted Provisions:

This bill:

- ► amends defined terms;
- ► creates a defined term;
- ► allows a student to possess or self-administer epinephrine nasal spray at a school in certain circumstances; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-4-401, as last amended by Laws of Utah 2024, Chapter 311
26B-4-406, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-407, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-409, as last amended by Laws of Utah 2024, Chapter 311
26B-4-410, as last amended by Laws of Utah 2024, Chapter 311
26B-4-411, as renumbered and amended by Laws of Utah 2023, Chapter 307
49-20-421, as last amended by Laws of Utah 2023, Chapters 267, 328
53G-9-502, as last amended by Laws of Utah 2024, Chapter 309
58-17b-1001, as enacted by Laws of Utah 2020, Chapter 372
58-17b-1002, as last amended by Laws of Utah 2023, Chapter 329
58-17b-1003, as enacted by Laws of Utah 2020, Chapter 372
58-17b-1004, as last amended by Laws of Utah 2023, Chapter 329
58-17b-1005, as last amended by Laws of Utah 2024, Chapter 507
58-17b-1006, as enacted by Laws of Utah 2020, Chapter 372
58-17b-1007, as enacted by Laws of Utah 2020, Chapter 372

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

Section 1. Section 26B-4-401 is amended to read:
26B-4-401. Definitions.

As used in this part:

(1) "Agent" means a coach, teacher, employee, representative, or volunteer.

(2) (a) "Amateur sports organization" means, except as provided in Subsection (2)(b):

(i) a sports team;

(ii) a public or private school;

(iii) a public or private sports league;

(iv) a public or private sports camp; or

(v) any other public or private organization that organizes, manages, or sponsors a sporting event for its members, enrollees, or attendees.

(b) "Amateur sports organization" does not include a professional:

(i) team;

(ii) league; or

(iii) sporting event.

(3) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.

(a) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(b) Causes of anaphylaxis may include insect sting, food allergy, drug reaction, and exercise.

(4) "Asthma action plan" means a written plan:

(a) developed with a school nurse, a student's parent or guardian, and the student's health care provider to help control the student's asthma; and

(b) signed by the student's:

(i) parent or guardian; and

(ii) health care provider.

(5) "Asthma emergency" means an episode of respiratory distress that may include symptoms such as wheezing, shortness of breath, coughing, chest tightness, or breathing difficulty.

(6) "Child" means an individual who is under [~~the age of 18~~]18 years old.

(7) "Department health care provider" means a health care provider who is acting in the capacity of a health care provider during employment for the department.

(8) "Epinephrine nasal spray" means a portable, disposable drug delivery device that contains a measured, single dose of epinephrine administered nasally, that is used to treat a person suffering a potentially fatal anaphylactic reaction.

[~~(8) "Epinephrine auto-injector" means a portable, disposable drug delivery device that contains a measured, single dose of epinephrine that is used to treat a person suffering a potentially fatal anaphylactic reaction.~~]

(9) "Health care provider" means an individual who is licensed as:

(a) a physician under Title 58, Chapter 67, Utah Medical Practice Act;

(b) a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(c) an advanced practice registered nurse under Section 58-31b-302; or

(d) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(10) "Injectable epinephrine rescue medication" means a portable, disposable drug delivery device that contains a measured, single dose of epinephrine administered through injection, that is used to treat a person suffering a potentially fatal anaphylactic reaction.

[~~(10)~~](11) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

[~~(11)~~](12) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

[~~(12)~~](13) "Physician" means the same as that term is defined in Section 58-67-102.

[~~(13)~~](14) "Public school" means a district school or a charter school.

[~~(14)~~](15) "Qualified adult" means a person who:

(a) is at least 18 years old; and

(b) (i) for purposes of administering an injectable epinephrine [~~auto-injector~~]rescue medication, has successfully completed the training program established in Section 26B-4-407; and

(ii) for purposes of administering stock albuterol, has successfully completed the training program established in Section 26B-4-408.

[~~(15)~~](16) "Qualified injectable epinephrine [~~auto-injector~~]rescue medication entity":

(a) means a facility or organization that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience anaphylaxis; and

(b) includes:

(i) recreation camps;

(ii) an education facility, school, or university;

(iii) a day care facility;

(iv) youth sports leagues;

(v) amusement parks;

(vi) food establishments;

(vii) places of employment; and

(viii) recreation areas.

[~~(16)~~](17) "Qualified health care provider" means a health care provider who:

(a) is licensed under Title 58, Occupations and Professions; and

(b) may evaluate and manage a concussion within the health care provider's scope of practice.

[~~(17)~~](18) "Qualified stock albuterol entity" means a public or private school that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience an asthma emergency.

[~~(18)~~](19) (a) "Sporting event" means any of the following athletic activities that is organized, managed, or sponsored by an organization:

(i) a game;

(ii) a practice;

(iii) a sports camp;

(iv) a physical education class;

(v) a competition; or

(vi) a tryout.

(b) "Sporting event" does not include:

(i) the issuance of a lift ticket or pass by a ski resort, the use of the ticket or pass, or a ski or snowboarding class or school at a ski resort, unless the skiing or snowboarding is part of a camp, team, or competition that is organized, managed, or sponsored by the ski resort;

(ii) as applied to a government entity, merely making available a field, facility, or other location owned, leased, or controlled by the government entity to an amateur sports organization or a child, regardless of whether the government entity charges a fee for the use; or

(iii) free play or recess taking place during school hours.

[~~(19)~~](20) "Stock albuterol" means a prescription inhaled medication:

(a) used to treat asthma; and

(b) that may be delivered through a device, including:

(i) an inhaler; or

(ii) a nebulizer with a mouthpiece or mask.

[~~(20)~~](21) "Traumatic head injury" means an injury to the head arising from blunt trauma, an acceleration force, or a deceleration force, with one of the following observed or self-reported conditions attributable to the injury:

(a) transient confusion, disorientation, or impaired consciousness;

(b) dysfunction of memory;

(c) loss of consciousness; or

(d) signs of other neurological or neuropsychological dysfunction, including:

(i) seizures;

(ii) irritability;

(iii) lethargy;

(iv) vomiting;

(v) headache;

(vi) dizziness; or

(vii) fatigue.

Section 2. Section 26B-4-406 is amended to read:

26B-4-406. Voluntary participation.

(1) Sections 26B-4-406 through 26B-4-411 do not create a duty or standard of care for:

(a) a person to be trained in the use and storage of injectable epinephrine [~~auto-injectors~~]rescue medication or stock albuterol; or

(b) except as provided in Subsection (5), a qualified injectable epinephrine [~~auto-injector~~]rescue medication entity to store injectable epinephrine [~~auto-injectors~~]rescue medication or a qualified stock albuterol entity to store stock albuterol on its premises.

(2) Except as provided in Subsections (3) and (5), a decision by a person to successfully complete a training program under Section 26B-4-407 or 26B-4-408 and to make emergency injectable epinephrine [~~auto-injectors~~]rescue medication or stock albuterol available under the provisions of Sections 26B-4-406 through 26B-4-411 is voluntary.

(3) A school, school board, or school official may not prohibit or dissuade a teacher or other school employee at a primary or secondary school in the state, either public or private, from:

(a) completing a training program under Section 26B-4-407 or 26B-4-408;

(b) possessing or storing an injectable epinephrine [~~auto-injector~~]rescue medication or stock albuterol on school property if:

(i) the teacher or school employee is a qualified adult; and

(ii) the possession and storage is in accordance with the training received under Section 26B-4-407 or 26B-4-408; or

(c) administering an injectable epinephrine [~~auto-injector~~]rescue medication or stock albuterol to any person, if:

(i) the teacher or school employee is a qualified adult; and

(ii) the administration is in accordance with the training received under Section 26B-4-407 or 26B-4-408.

(4) A school, school board, or school official may encourage a teacher or other school employee to volunteer to become a qualified adult.

(5) (a) Each primary or secondary school in the state, both public and private, shall make an emergency injectable epinephrine [~~auto-injector~~]rescue medication available to any teacher or other school employee who:

(i) is employed at the school; and

(ii) is a qualified adult.

(b) This section does not require a school described in Subsection (5)(a) to keep more than one emergency injectable epinephrine [~~auto-injector~~]rescue medication on the school premises, so long as it may be quickly accessed by a teacher or other school employee, who is a qualified adult, in the event of an emergency.

(6) (a) Each primary or secondary school in the state, both public and private, may make stock albuterol available to any school employee who:

(i) is employed at the school; and

(ii) is a qualified adult.

(b) A qualified adult may administer stock albuterol to a student who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan.

(c) This Subsection (6) may not be interpreted to relieve a student's parent or guardian of providing a student's medication or create an expectation that a school will have stock albuterol available.

(7) No school, school board, or school official shall retaliate or otherwise take adverse action against a teacher or other school employee for:

(a) volunteering under Subsection (2);

(b) engaging in conduct described in Subsection (3); or

(c) failing or refusing to become a qualified adult.

Section 3. Section 26B-4-407 is amended to read:

26B-4-407. Training in use and storage of injectable epinephrine rescue medication.

(1) (a) Each primary and secondary school in the state, both public and private, shall make initial and annual refresher training,

regarding the storage and emergency use of an injectable epinephrine [~~auto-injector~~]rescue medication, available to any teacher or other school employee who volunteers to become a qualified adult.

(b) The training described in Subsection (1)(a) may be provided by the school nurse, or other person qualified to provide such training, designated by the school district physician, the medical director of the local health department, or the local emergency medical services director.

(2) A person who provides training under Subsection (1) or (6) shall include in the training:

(a) techniques for recognizing symptoms of anaphylaxis;

(b) standards and procedures for the storage and emergency use of injectable epinephrine [~~auto-injectors~~]rescue medication;

(c) emergency follow-up procedures, including calling the emergency 911 number and contacting, if possible, the student's parent and physician; and

(d) written materials covering the information required under this Subsection (2).

(3) A qualified adult shall retain for reference the written materials prepared in accordance with Subsection (2)(d).

(4) A public school shall permit a student to[]:

(a) possess an epinephrine nasal spray;

(b) self-administer an epinephrine nasal spray;

(c) possess an injectable epinephrine [~~auto-injector~~]rescue medication; or

(d) [~~or possess and~~]self-administer an injectable epinephrine [~~auto-injector~~]rescue medication if:

[~~(a)~~](i) the student's parent or guardian signs a statement:

[~~(i)~~](A) authorizing the student to possess or possess and self-administer an injectable epinephrine [~~auto-injector~~]rescue medication; and

[~~(ii)~~](B) acknowledging that the student is responsible for, and capable of, possessing or possessing and self-administering an injectable epinephrine [~~auto-injector~~]rescue medication; and

[~~(b)~~](ii) the student's health care provider provides a written statement that states that:

[~~(i)~~](A) it is medically appropriate for the student to possess or possess and self-administer an injectable epinephrine [~~auto-injector~~]rescue medication; and

[~~(ii)~~](B) the student should be in possession of the injectable epinephrine [~~auto-injector~~]rescue medication at all times.

(5) The department, in cooperation with the state superintendent of public instruction, shall design forms to be used by public and private schools for the parental and health care providers statements described in Subsection (4).

(6) (a) The department:

(i) shall approve educational programs conducted by other persons, to train:

(A) people under Subsection (6)(b) of this section, regarding the proper use and storage of emergency injectable epinephrine [~~auto-injectors~~]rescue medication; and

(B) a qualified injectable epinephrine [~~auto-injector~~]rescue medication entity regarding the proper storage and emergency use of injectable epinephrine [~~auto-injectors~~]rescue medication; and

(ii) may, as funding is available, conduct educational programs to train people regarding the use of and storage of emergency injectable epinephrine [~~auto-injectors~~]rescue medication.

(b) A person who volunteers to receive training as a qualified adult to administer an injectable epinephrine [~~auto-injector~~]rescue medication under the provisions of this Subsection (6) shall demonstrate a need for the training to the department, which may be based upon occupational, volunteer, or family circumstances, and shall include:

(i) camp counselors;

(ii) scout leaders;

(iii) forest rangers;

(iv) tour guides; and

(v) other persons who have or reasonably expect to have contact with at least one other person as a result of the person's occupational or volunteer status.

Section 4. Section 26B-4-409 is amended to read:

26B-4-409. Authority to obtain and use an injectable epinephrine rescue medication or stock albuterol.

(1) The school district physician, a department health care provider, the medical director of the local health department, or the local emergency medical services director may provide a prescription for the following if requested by a qualified adult, who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse:

(a) injectable epinephrine [~~auto-injectors~~]rescue medication for use in accordance with this part; or

(b) stock albuterol for use in accordance with this part.

(2) (a) A qualified adult may obtain an injectable epinephrine [~~auto-injector~~]rescue medication for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(b) A qualified adult may obtain stock albuterol for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(3) A qualified adult:

(a) may immediately administer an injectable epinephrine [~~auto-injector~~]rescue medication to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician or physician assistant is not immediately available; and

(b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-407 after administering an injectable epinephrine [~~auto-injector~~]rescue medication.

(4) If a school nurse is not immediately available, a qualified adult:

(a) may immediately administer stock albuterol to an individual who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan; and

(b) shall initiate appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-408 after administering stock albuterol.

(5) (a) A qualified entity that complies with Subsection (5)(b) or (c), may obtain a supply of injectable epinephrine [~~auto-injectors~~]rescue medication or stock albuterol, respectively, from a pharmacist under Section 58-17b-1004, or a pharmacy intern under Section 58-17b-1004 for:

(i) storing:

(A) the injectable epinephrine [~~auto-injectors~~]rescue medication on the qualified injectable epinephrine [~~auto-injector~~]rescue medication entity's premises; and

(B) stock albuterol on the qualified stock albuterol entity's premises; and

(ii) use by a qualified adult in accordance with Subsection (3) or (4).

(b) A qualified injectable epinephrine [~~auto-injector~~]rescue medication entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of an injectable epinephrine [~~auto-injector~~]rescue medication available to a qualified adult; and

(ii) store injectable epinephrine [~~auto-injectors~~]rescue medication in accordance with the standards established by the department in Section 26B-4-411.

(c) A qualified stock albuterol entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of stock albuterol available to a qualified adult; and

(ii) store stock albuterol in accordance with the standards established by the department in Section 26B-4-411.

Section 5. Section 26B-4-410 is amended to read:

26B-4-410. Immunity from liability.

(1) The following, if acting in good faith, are not liable in any civil or criminal action for any act taken or not taken under the authority of Sections 26B-4-406 through 26B-4-411with respect to an anaphylactic reaction, or asthma emergency:

(a) a qualified adult;

(b) a physician, physician assistant, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs;

(c) a person who conducts training described in Section 26B-4-407 or 26B-4-408;

(d) a qualified injectable epinephrine [~~auto-injector~~]rescue medication entity;

(e) a qualified stock albuterol entity;

(f) the department;

(g) a local health department;

(h) a local education agency; and

(i) a local emergency medical services entity.

(2) Section 53G-9-502 does not apply to the administration of an injectable epinephrine [~~auto-injector~~]rescue medication or stock albuterol in accordance with this part.

(3) This section does not eliminate, limit, or reduce any other immunity from liability or defense against liability that may be available under state law.

Section 6. Section 26B-4-411 is amended to read:

26B-4-411. Administrative rulemaking authority.

The department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) establish and approve training programs in accordance with Sections 26B-4-407 and 26B-4-408;

(2) establish a procedure for determining who is eligible for training as a qualified adult under Subsection 26B-4-407(6)(b)(v); and

(3) establish standards for storage of:

(a) emergency [~~auto-injectors~~]injectable epinephrine rescue medication by a qualified injectable epinephrine [~~auto-injector~~]rescue medication entity under Section 26B-4-407; and

(b) stock albuterol by a qualified stock albuterol entity under Section 26B-4-408.

Section 7. Section 49-20-421 is amended to read:

49-20-421. Prescription discount program.

(1) As used in this section:

(a) "Discount program" means the prescription discount program created by this section.

(b) "Epinephrine auto-injector" means [~~the same as that term is defined in Section 26B-4-401.~~]a portable, disposable drug delivery device that contains a measured, single dose of epinephrine that is used to treat a person suffering a potentially fatal anaphylactic reaction.

(c) "Insulin" means a prescription drug that contains insulin.

(d) "Participant" means a resident of Utah who:

(i) has a prescription or standing prescription for a qualified prescription;

(ii) does not receive health coverage under the program; and

(iii) enrolls in the discount program.

(e) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

(f) "Qualified prescription" means a prescription drug, including insulin and epinephrine auto-injectors, that the program has determined:

(i) treats a serious, prevalent, and ongoing condition;

(ii) does not have a generic substitute;

(iii) qualifies for a substantial rebate; and

(iv) would not result in financial losses to the state risk pool if sold as part of the discount program.

(g) "Rebate" means the same as that term is defined in Section 31A-46-102.

(2) The program shall create a prescription discount program for a participant to purchase a qualified prescription at a discounted, post-rebate price.

(3) The program shall:

(a) provide a participant with a card or electronic document that identifies the participant as eligible for the discount on a qualified prescription;

(b) provide a participant with information about pharmacies that will honor the discount; and

(c) provide a participant with instructions to pursue a reimbursement of the purchase price from the participant's health insurer.

(4) The program may not retain any amount of a rebate for a qualified prescription except for an amount necessary to make the state risk pool whole for providing the qualified prescription to participants.

(5) For each drug added to the discount program, the program shall notify the Health and Human Services Interim Committee, providing:

(a) the name of the drug; and

(b) the primary condition the drug treats.

Section 8. Section 53G-9-502 is amended to read:

53G-9-502. Administration of medication to students -- Prerequisites -- Immunity from liability -- Applicability.

(1) A public or private school that holds any classes in grades kindergarten through 12 may provide for the administration of medication, including epinephrine nasal spray as that term is defined in Section 26B-4-401, to any student during periods when the student is under the control of the school, subject to the following conditions:

(a) the local school board, charter school governing board, or the private equivalent, after consultation with the Department of Health and Human Services and school nurses shall adopt policies that provide for:

(i) the designation of volunteer employees who may administer medication;

(ii) proper identification and safekeeping of medication;

(iii) the training of designated volunteer employees by the school nurse;

(iv) maintenance of records of administration; and

(v) notification to the school nurse of medication that will be administered to students; and

(b) medication may only be administered to a student if:

(i) the student's parent has provided a current written and signed request that medication be administered during regular school hours to the student; and

(ii) the student's licensed health care provider has prescribed the medication and provides documentation as to the method, amount, and time schedule for administration, and a statement that administration of medication by school employees during periods when the student is under the control of the school is medically necessary.

(2) Authorization for administration of medication by school personnel may be withdrawn by the school at any time following actual notice to the student's parent.

(3) School personnel who provide assistance under Subsection (1) in substantial compliance with the licensed health care provider's written prescription and the employers of these school personnel are not liable, civilly or criminally, for:

(a) any adverse reaction suffered by the student as a result of taking the medication; and

(b) discontinuing the administration of the medication under Subsection (2).

(4) Subsections (1) through (3) do not apply to:

(a) the administration of glucagon in accordance with Section 53G-9-504;

(b) the administration of a seizure rescue medication in accordance with Section 53G-9-505;

(c) the administration of an opiate antagonist in accordance with Title 26B, Chapter 4, Part 5, Treatment Access; or

(d) the administration of an adrenal insufficiency medication in accordance with Section 53G-9-507.

Section 9. Section 58-17b-1001 is amended to read:

58-17b-1001. Title.

This part is known as the " Injectable Epinephrine [~~Auto-Injector~~]Rescue Medication and Stock Albuterol Act."

Section 10. Section 58-17b-1002 is amended to read:

58-17b-1002. Definitions.

As used in this part:

(1) [~~"Epinephrine auto-injector~~]"Injectable epinephrine rescue medication" means the same as that term is defined in Section 26B-4-401.

(2) "Local health department" means the same as that term is defined in Section 26A-1-102.

(3) "Physician" means the same as that term is defined in Section 58-67-102.

(4) "Qualified adult" means the same as that term is defined in Section 26B-4-401.

(5) "Qualified injectable epinephrine [~~auto-injector~~]rescue medication entity" means the same as that term is defined in Section 26B-4-401.

(6) "Qualified stock albuterol entity" means the same as that term is defined in Section 26B-4-401.

(7) "Stock albuterol" means the same as that term is defined in Section 26B-4-401.

Section 11. Section 58-17b-1003 is amended to read:

58-17b-1003. Voluntary participation.

This part does not create a duty or standard of care for a person to prescribe or dispense an injectable epinephrine [~~auto-injector~~]rescue medication or stock albuterol.

Section 12. Section 58-17b-1004 is amended to read:

58-17b-1004. Authorization to dispense an injectable epinephrine rescue medication and stock albuterol pursuant to a standing order.

(1) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy intern may dispense an injectable epinephrine [~~auto-injector~~]rescue medication:

(a) (i) to a qualified adult for use in accordance with Title 26B, Chapter 4, Part 4, School Health; or

(ii) to a qualified injectable epinephrine [~~auto-injector~~]rescue medication entity for use in accordance with Title 26B, Chapter 4, Part 4, School Health;

(b) pursuant to a standing prescription drug order made in accordance with Section 58-17b-1005;

(c) without any other prescription drug order from a person licensed to prescribe an injectable epinephrine [~~auto-injector~~]rescue medication; and

(d) in accordance with the dispensing guidelines in Section 58-17b-1006.

(2) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy intern may dispense stock albuterol:

(a) (i) to a qualified adult for use in accordance with Title 26B, Chapter 4, Part 4, School Health; or

(ii) to a qualified stock albuterol entity for use in accordance with Title 26B, Chapter 4, Part 4, School Health;

(b) pursuant to a standing prescription drug order made in accordance with Section 58-17b-1005;

(c) without any other prescription drug order from a person licensed to prescribe stock albuterol; and

(d) in accordance with the dispensing guidelines in Section 58-17b-1006.

Section 13. Section 58-17b-1005 is amended to read:

58-17b-1005. Standing prescription drug orders for injectable epinephrine rescue medication and stock albuterol.

(1) As used in this section:

(a) "Epinephrine protocol" means a protocol that:

(i) requires a physician to specify the persons, by professional license number, authorized to dispense the injectable epinephrine [~~auto-injector~~]rescue medication;

(ii) requires a physician to review at least annually the dispensing practices of the persons authorized by the physician to dispense the injectable epinephrine [~~auto-injector~~]rescue medication;

(iii) requires those authorized by a physician to dispense the injectable epinephrine [~~auto-injector~~]rescue medication to make and retain a record of each dispensing, including:

(A) the name of the qualified adult or qualified injectable epinephrine [~~auto-injector~~]rescue medication entity to whom the injectable epinephrine [~~auto-injector~~]rescue medication is dispensed;

(B) a description of the injectable epinephrine [~~auto-injector~~]rescue medication dispensed; and

(C) other relevant information; and

(iv) is approved by the division through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Medical Licensing Board created in Section 58-67-201 and the board.

(b) "Stock albuterol protocol" means a protocol that:

(i) requires a physician to specify the persons, by professional license number, authorized to dispense the stock albuterol;

(ii) requires a physician to review at least annually the dispensing practices of the persons authorized by the physician to dispense the stock albuterol;

(iii) requires those authorized by the physician to dispense the stock albuterol to make and retain a record of each dispensing, including:

(A) the name of the qualified adult or qualified stock albuterol entity to whom the stock albuterol is dispensed;

(B) a description of the stock albuterol dispensed; and

(C) other relevant information; and

(iv) is approved by the division through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Medical Licensing Board created in Section 58-67-201 and the board.

(2) Under Section 58-17b-1004, the Department of Health and Human Services shall have a physician acting in the physician's capacity as an employee of the Department of Health and Human Services issue a standing prescription drug order authorizing the dispensing of:

(a) an injectable epinephrine [~~auto-injector~~]rescue medication in accordance with an epinephrine protocol; and

(b) stock albuterol in accordance with a stock albuterol protocol.

(3) Under Section 58-17b-1004, a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of:

(a) an injectable epinephrine [~~auto-injector~~]rescue medication in accordance with an epinephrine protocol; or

(b) stock albuterol in accordance with a stock albuterol protocol.

Section 14. Section 58-17b-1006 is amended to read:

58-17b-1006. Guidelines for dispensing an injectable epinephrine rescue medication and stock albuterol.

(1) A pharmacist or pharmacy intern who dispenses an injectable epinephrine [~~auto-injector~~]rescue medication under this part shall, at a minimum, provide patient counseling to the qualified adult or qualified epinephrine [~~auto-injector~~]rescue medication entity to whom the epinephrine [~~auto-injector~~]rescue medication is dispensed regarding:

(a) the appropriate administration and storage of the injectable epinephrine [~~auto-injector~~]rescue medication;

(b) potential side effects and risks of the injectable epinephrine [~~auto-injector~~]rescue medication; and

(c) when to seek emergency medical attention.

(2) A pharmacist or pharmacy intern who dispenses stock albuterol under this part shall, at a minimum, provide patient counseling to the qualified adult or qualified stock albuterol entity to whom the stock albuterol is dispensed regarding:

(a) the appropriate administration and storage of the stock albuterol;

(b) potential side effects and risks of the stock albuterol; and

(c) when to seek emergency medical attention.

Section 15. Section 58-17b-1007 is amended to read:

58-17b-1007. Limited civil liability.

(1) A physician who issues a standing prescription drug order in accordance with Subsection 58-17b-1005(1) is not liable for any civil damages for acts or omissions resulting from the dispensing of an injectable epinephrine [~~auto-injector~~]rescue medication under this part.

(2) A physician who issues a standing prescription drug order in accordance with Subsection 58-17b-1005(2) is not liable for any civil damages for acts or omissions resulting from the dispensing of stock albuterol under this part.

Section 16. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 123
H. B. 89
Passed February 28, 2025
Approved March 24, 2025
Effective May 7, 2025

WATER TRANSFER AMENDMENTS

Chief Sponsor: Gay Lynn Bennion
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies provisions related to probate transfer of personal property by affidavit.

Highlighted Provisions:

This bill:

► prohibits the transfer of water shares via small estate probate procedures involving an affidavit; and
► makes technical and grammatical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

75-3-1201, as last amended by Laws of Utah 2007, Chapter 316

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

Section 1. Section 75-3-1201 is amended to read:

75-3-1201. Collection of personal property by affidavit -- Vehicles -- Water shares excluded.

(1) Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property[~~or~~], including an instrument evidencing a debt, obligation, stock, or chose in action, belonging to the decedent shall pay the indebtedness or deliver the tangible personal property, or [~~an~~]instrument evidencing a debt, obligation, stock, or chose in action to a person claiming to be the successor of the decedent, upon being presented with an affidavit made by or on behalf of the successor stating that:

(a) the value of the entire estate subject to administration, wherever located, less liens and encumbrances, does not exceed $100,000;

(b) 30 days have elapsed since the death of the decedent;

(c) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and

(d) the claiming successor is entitled to payment or delivery of the property.

(2) [~~A~~]Consistent with the requirements of this section, a transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit and the security as provided in Subsection (1).

(3) The Motor Vehicle Division of the State Tax Commission shall transfer title of not more than four boats, motor vehicles, trailers, or semitrailers, registered under Title 41, Motor Vehicles, [~~or Title 73, Water and Irrigation,~~]or Title 73, Chapter 18, State Boating Act, from the decedent to the successor or successors upon presentation of an affidavit as provided in Subsection (1) and upon payment of the necessary fees, except that in lieu of that language in Subsection (1)(a), the affidavit shall state that the value of the entire estate subject to administration, wherever located, other than those motor vehicles, trailers, or semitrailers, less liens and encumbrances, does not exceed $100,000.

(4) Shares of stock in a water company that are transferred under Section 73-1-10 or Title 70A, Chapter 8, Uniform Commercial Code - Investment Securities, are not eligible for transfer under this part.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 124
S. B. 80
Passed March 4, 2025
Approved March 24, 2025
Effective May 7, 2025

WATER FEE AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill allows state agencies to develop a fee schedule for water consumption.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the Department of Environmental Quality (department) to establish a fee schedule;
- ► allows the Water Development Coordinating Council (state council) to establish a fee schedule beginning on July 1, 2026, subject to approval by the Legislature;
- ► exempts a special district from certain fee requirements to pay the fees established by the department and state council;
- ► outlines requirements related to the fee schedules;
- ► allows the department to establish a financial incentive to comply with certain criteria;
- ► provides for the collection of fees by the department and, pending approval by the Legislature, the collection of fees by the state council;
- ► creates an exemption for a wholesale water supplier and agricultural water from the fees;
- ► provides for the deposit of fees into the Water Infrastructure Fund less the department's costs;
- ► requires the department and state council to report on the fee schedule to the Natural Resources, Agriculture, and Environment Interim Committee;
- ► requires monitoring of fees; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17B-1-121, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapter 15
17B-1-643, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 382
63I-2-219, (Effective 05/07/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-273, (Effective 07/01/26) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
73-10g-601, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 335

ENACTS:

19-4-116, (Effective 05/07/25) Utah Code Annotated 1953
73-10g-606, (Effective 07/01/26) Utah Code Annotated 1953

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

Section 1. Section 17B-1-121 is amended to read:

17B-1-121 (Effective 05/07/25). Limit on fees -- Requirement to itemize and account for fees -- Appeals.

(1) A special district may not impose or collect:

(a) an application fee that exceeds the reasonable cost of processing the application; or

(b) an inspection or review fee that exceeds the reasonable cost of performing an inspection or review.

(2) (a) Upon request by a service applicant who is charged a fee or an owner of residential property upon which a fee is imposed, a special district shall provide a statement of each itemized fee and calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for a statement of each itemized fee no later than 30 days after the day on which the applicant or owner pays the fee, the special district shall, no later than 10 days after the day on which the request is received, provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the special district to create the calculation method described in Subsection (2)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed by the special district; and

(iv) information on filing a fee appeal through the process described in Subsection (2)(c).

(c) (i) A special district shall establish an impartial fee appeal process to determine whether a fee reflects only the reasonable estimated cost of delivering the service for which the fee was paid.

(ii) A party to a fee appeal described in Subsection (2)(c)(i) may petition for judicial review of the special district's final decision.

(3) A special district may not impose on or collect from a public agency a fee associated with the public agency's development of the public agency's land other than:

(a) subject to Subsection (1), a hookup fee; or

(b) an impact fee, as defined in Section 11-36a-102 and subject to Section 11-36a-402, for a public facility listed in Subsection 11-36a-102(17)(a), (b), (c), (d), (e), or (g).

(4) This section does not apply to a fee or fee increase that is equal to the amount needed to pay a fee imposed on a special district under Sections 19-4-116 and 73-10g-606.

Section 2. Section 17B-1-643 is amended to read:

17B-1-643 (Effective 05/07/25). Imposing or increasing a fee for service provided by special district.

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a special district, each special district board of trustees shall first hold a public hearing at which:

(i) the special district shall demonstrate its need to impose or increase the fee; and

(ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the special district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each special district board shall give notice of a hearing under Subsection (1) as provided in Subsections (2)(b) and (c) or Subsection (2)(d).

(b) The special district board shall publish the notice described in Subsection (2)(a) for the special district, as a class A notice under Section 63G-30-102, for at least 30 days.

(c) The notice described in Subsection (2)(b) shall state that the special district board intends to impose or increase a fee for a service provided by the special district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the notice is first posted as provided in Subsection (2)(b) for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(d) (i) In lieu of providing notice under Subsection (2)(b), the special district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c).

(iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing fee.

(e) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice required under this Subsection (2):

(i) may be combined with the notice required under Section 17B-1-609; and

(ii) shall be posted or mailed in accordance with the notice provisions of this section.

(f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie evidence that notice was properly given.

(g) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(h) After holding a public hearing under Subsection (1), a special district board may:

(i) impose the new fee or increase the existing fee as proposed;

(ii) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(iii) decline to impose the new fee or increase the existing fee.

(i) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(j) (i) This section does not apply to an impact fee.

(ii) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

(3) This section does not apply to a fee or fee increase that is equal to the amount needed to pay a fee imposed on a special district under Sections 19-4-116 and 73-10g-606.

Section 3. Section 19-4-116 is enacted to read:

19-4-116 (Effective 05/07/25). Fee schedule -- Exemption -- Report -- Monitoring of fees.

(1) (a) The department shall establish a fee schedule for the regulation of public water systems in the state in accordance with Section 63J-1-504.

(b) To create the fee schedule described in Subsection (1)(a), the department shall:

(i) complete a review of program costs and indirect costs of regulating public water systems in the state, after consulting with industry, local governments, special districts, and special service districts;

(ii) use the findings from the review described in Subsection (1)(b)(i); and

(iii) evaluate other sources of funding to support the regulation of public water systems in the state.

(c) The fee schedule described in Subsection (1)(a) may:

(i) implement an annual fee on a public water system in the state, on the basis of consumption, for the direct delivery of water to an

end user for human consumption and other domestic uses;

(ii) implement a reasonable fee for plan review;

(iii) implement a reasonable fee for a public water system sanitary survey;

(iv) provide for reasonable and timely oversight of the fee schedule by the department; and

(v) be in an amount needed to reasonably enable the department and public water systems to:

(A) employ qualified personnel to appropriately oversee public drinking water regulation; and

(B) beginning on July 1, 2026, fund water infrastructure projects ranked and prioritized in the unified water infrastructure plan under Section 73-10g-603.

(d) The fee schedule described in Subsection (1)(a) may include fees that provide financial incentives:

(i) to a public water system that is not a community water system if the public water system complies with Section 19-4-114; and

(ii) to a community water system if the community water system:

(A) installs water meters on each residential connection in the community water system;

(B) adopts tiered water rates;

(C) creates a drinking water master plan report within 10 years before the day on which the fee is imposed; and

(D) complies with Section 19-4-114.

(2) Except for water delivered by a wholesale water supplier directly to an end user for human consumption and other domestic uses, a public water system that is a wholesale water supplier is exempt from the fee established under Subsection (1)(c)(i).

(3) Agricultural water, as that term is defined in Section 73-10g-601, is exempt from the fee established under Subsection (1).

(4) A public water system shall submit payment of the fee established by Subsection (1) to the department:

(a) in accordance with a schedule provided by the department; and

(b) using a form provided by the department.

(5) (a) Except as provided in Subsection (5)(b), the department shall deposit fees collected under this section into the Water Infrastructure Fund created in Section 73-10g-107.

(b) The department shall retain a portion of the fees collected under Subsection (1)(c) to offset the department's costs in regulating public water systems.

(6) On or before October 31, 2025, the department shall report to the Natural Resources, Agriculture, and Environment Interim Committee regarding the development of the fee schedule described in Subsection (1).

(7) The Office of the Legislative Fiscal Analyst shall monitor fees collected under this section.

Section 4. Section 63I-2-219 is amended to read:

63I-2-219 (Effective 05/07/25). Repeal dates: Title 19.

(1) Section 19-1-109, Clean Air Support Restricted Account, is repealed July 1, 2024.

(2) Section 19-2a-102.5, Emissions reduction plan study and recommendations, is repealed July 1, 2024.

(3) Subsection 19-4-116(6), regarding a requirement to report to an interim committee, is repealed January 1, 2026.

Section 5. Section 63I-2-273 is amended to read:

63I-2-273 (Effective 07/01/26). Repeal dates: Title 73.

[~~Reserved.~~]Subsection 73-10g-606(5), regarding a requirement to report to an interim committee, is repealed January 1, 2027.

Section 6. Section 73-10g-601 is amended to read:

73-10g-601 (Effective 05/07/25). Definitions.

As used in this part:

(1) "Agency plan" means a water infrastructure plan adopted by a relevant agency.

(2) (a) "Agricultural water" means water beneficially used in irrigation under a water right in this state for the production of food, fiber, or fuel, or other agricultural purpose.

(b) "Agricultural water" does not include water delivered:

(i) to an end user for human consumption and other domestic uses; or

(ii) through a secondary water connection.

[~~(2)~~](3) "Executive director" means the executive director of the Department of Natural Resources.

[~~(3)~~](4) "Relevant agency" means:

(a) the Division of Water Resources;

(b) the Division of Drinking Water;

(c) the Division of Water Quality;

(d) the Housing and Community Development Division; and

(e) the Department of Agriculture and Food.

(5) "Secondary water connection" means the same as that term is defined in Section 73-10-34.

[~~(4)~~](6) "State council" means the Water Development Coordinating Council created in Sections 73-10c-3 and 79-2-201.

[~~(5)~~](7) "Utah Watersheds Council" means the Utah Watersheds Council created in Section 73-10g-304.

[~~(6)~~](8) "Water infrastructure fund money" means money in the Water Infrastructure Fund created by Section 73-10g-107.

Section 7. Section 73-10g-606 is enacted to read:

73-10g-606 (Effective 07/01/26). Fee schedule --Approval of fee schedule -- Exemption -- Report -- Monitoring of fees.

(1) (a) Subject to Subsection (2), the state council may establish a fee schedule for public water systems for water service and delivery

in the state.

(b) To create a fee schedule for public water systems, the state council shall use the findings from the review described in Section 73-10-39.

(2) The state council may not charge or collect a fee described in Subsection (1) without approval of the fee schedule by the Legislature in accordance with Section 63J-1-504.

(3) Agricultural water is exempt from a fee established under Subsection (1).

(4) Subject to Subsection (2), a public water system shall submit payment of the fee established in Subsection (1) into the Water Infrastructure Fund created in Section 73-10g-107:

(a) in accordance with a schedule provided by the state council; and

(b) using a form provided by the state council.

(5) On or before October 31, 2026, the state council shall report to the Natural Resources, Agriculture, and Environment Interim Committee regarding the development of the fee schedule described in Subsection (1).

(6) The Office of the Legislative Fiscal Analyst shall monitor any fees collected under this section.

Section 8. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect on May 7, 2025.

(2) The actions affecting the following sections take effect on July 1, 2026:

(a) Section 73-10g-606 (Effective 07/01/26); and

(b) Section 63I-2-273 (Effective 07/01/26).

CHAPTER 125
H. B. 342
Passed February 24, 2025
Approved March 24, 2025
Effective May 7, 2025

ANIMAL COMPOSTING AMENDMENTS

Chief Sponsor: Michael L. Kohler
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses farm or ranch operations that relate to animal composting.

Highlighted Provisions:

This bill:

- ► modifies the definition of a commercial nonhazardous solid waste treatment, storage, or disposal facility to exclude certain farm or ranch operations; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-102, as last amended by Laws of Utah 2023, Chapter 206

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

Section 1. Section 19-6-102 is amended to read:

19-6-102. Definitions.

As used in this part:

(1) "Board" means the Waste Management and Radiation Control Board created in Section 19-1-106.

(2) "Closure plan" means a plan under Section 19-6-108 to close a facility or site at which the owner or operator has disposed of nonhazardous solid waste or has treated, stored, or disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the facility or site.

(3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or disposal.

(b) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" does not include a commercial facility that:

(i) receives waste for recycling;

(ii) receives waste to be used as fuel, in compliance with federal and state requirements;

(iii) is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government; [~~or~~]

(iv) receives only waste from the exploration and production of oil and gas[~~-~~]; or

(v) is a farm or ranch operation that receives animal mortality or animal offal waste:

(A) for the purpose of composting or beneficial reuse; and

(B) from a facility that processes one or more animals supplied by the farm or ranch operation.

(4) "Construction waste or demolition waste":

(a) means waste from building materials, packaging, and rubble resulting from construction, demolition, remodeling, and repair of pavements, houses, commercial buildings, and other structures, and from road building and land clearing; and

(b) does not include:

(i) asbestos;

(ii) contaminated soils or tanks resulting from remediation or cleanup at a release or spill;

(iii) waste paints;

(iv) solvents;

(v) sealers;

(vi) adhesives; or

(vii) hazardous or potentially hazardous materials similar to that described in Subsections (4)(b)(i) through (vi).

(5) "Director" means the director of the Division of Waste Management and Radiation Control.

(6) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or discharged into any

waters, including groundwaters.

(7) "Division" means the Division of Waste Management and Radiation Control, created in Subsection 19-1-105(1)(d).

(8) "Generation" or "generated" means the act or process of producing nonhazardous solid or hazardous waste.

(9) (a) "Hazardous waste" means a solid waste or combination of solid wastes other than household waste that, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(b) "Hazardous waste" does not include those wastes listed in 40 C.F.R. Sec. 261.4(b).

(10) "Health facility" means a:

(a) hospital;

(b) psychiatric hospital;

(c) home health agency;

(d) hospice;

(e) skilled nursing facility;

(f) intermediate care facility;

(g) intermediate care facility for people with an intellectual disability;

(h) residential health care facility;

(i) maternity home or birthing center;

(j) free standing ambulatory surgical center;

(k) facility owned or operated by a health maintenance organization;

(l) state renal disease treatment center, including a free standing hemodialysis unit;

(m) the office of a private physician or dentist whether for individual or private practice;

(n) veterinary clinic; or

(o) mortuary.

(11) "Household waste" means any waste material, including garbage, trash, and sanitary wastes in septic tanks, derived from households, including single-family and multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(12) "Infectious waste" means a solid waste that contains or may reasonably be expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

(13) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(14) "Mixed waste" means material that is a hazardous waste as defined in this chapter and is also radioactive as defined in Section 19-3-102.

(15) "Modification request" means a request under Section 19-6-108 to modify a permitted facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste.

(16) "Operation plan" or "nonhazardous solid or hazardous waste operation plan" means a plan or approval under Section 19-6-108, including:

(a) a plan to own, construct, or operate a facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste;

(b) a closure plan;

(c) a modification request; or

(d) an approval that the director is authorized to issue.

(17) "Permit" includes an operation plan.

(18) "Permittee" means a person who is obligated under an operation plan.

(19) (a) "Solid waste" means garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities.

(b) "Solid waste" does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

(c) "Solid waste" does not include metal that is:

(i) purchased as a valuable commercial commodity; and

(ii) not otherwise hazardous waste or subject to conditions of the federal hazardous waste regulations, including the requirements for recyclable materials found at 40 C.F.R. 261.6.

(d) "Solid waste" does not include post-use polymers or recovered feedstock, as those terms are defined in Section 19-6-502, converted or held at an advanced recycling facility.

(20) "Solid waste management facility" means the same as that term is defined in Section 19-6-502.

(21) "Storage" means the actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of the waste.

(22) (a) "Transfer" means the collection of nonhazardous solid waste from a permanent, fixed, supplemental collection facility for movement to a vehicle for movement to an offsite nonhazardous solid waste storage or disposal facility.

(b) "Transfer" does not mean:

(i) the act of moving nonhazardous solid waste from one location to another location on the site where the nonhazardous solid waste is generated; or

(ii) placement of nonhazardous solid waste on the site where the nonhazardous solid waste is generated in preparation for movement

off that site.

(23) "Transportation" means the off-site movement of solid or hazardous waste to any intermediate point or to any point of storage, treatment, or disposal.

(24) "Treatment" means a method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid or hazardous waste so as to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for recovery, amenable to storage, or reduced in volume.

(25) "Underground storage tank" means a tank that is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 126
H. B. 93
Passed February 27, 2025
Approved March 24, 2025
Effective May 7, 2025

REHABILITATION SERVICES MODIFICATIONS

Chief Sponsor: Katy Hall
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to the Brain and Spinal Cord Injury Fund and Advisory Committee.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► allows money in the Brain and Spinal Cord Injury Fund to be used for nervous system research under certain circumstances;
- ► modifies the membership of the Brain and Spinal Cord Injury Advisory Committee (committee);
- ► requires the committee to meet quarterly;
- ► creates a reporting requirement; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-1-318, as last amended by Laws of Utah 2024, Chapter 289
26B-1-417, as repealed and reenacted by Laws of Utah 2024, Chapter 289

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

Section 1. Section 26B-1-318 is amended to read:
26B-1-318. Brain and Spinal Cord Injury Fund.

(1) As used in this section:

(a) "Advisory committee" means the Brain and Spinal Cord Injury Advisory Committee created in Section [~~26B-1-418~~]26B-1-417.

(b) "Nervous system research" means research conducted by a qualified charitable clinic that is:

(i) designed to improve, enhance, accelerate, or advance the clinical outcomes of:

(A) an individual affected by a spinal cord injury, a brain injury, or a stroke; or

(B) a child with a neurological condition or syndrome;

(ii) approved by an institutional review board; and

(iii) designed to be completed in a 12-month period.

[~~(b)~~](c) "Qualified charitable clinic" means a professional medical clinic that:

(i) provides therapeutic services;

(ii) employs licensed therapy clinicians;

(iii) has at least five years experience operating a post-acute care rehabilitation clinic in the state; and

(iv) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).

(d) "Research grant" means a grant that can only be used for nervous system research.

[~~(c)~~](e) (i) "Therapeutic services" means:

(A) rehabilitation services to individuals who have a spinal cord or brain injury that tends to be non-progressive or non-deteriorating and require post-acute care; or

(B) rehabilitation services for children with neurological conditions and who require post-acute care.

(ii) "Therapeutic services" include:

(A) physical, occupational, and speech therapy; and

(B) other services as determined by the department, in consultation with the advisory committee, through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) There is created an expendable special revenue fund known as the "Brain and Spinal Cord Injury Fund."

(3) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; and

(b) additional amounts as appropriated by the Legislature;

(c) a portion of the impound fee as designated in Section 41-6a-1406; and

(d) the fees collected by the Motor Vehicle Division under Subsections 41-1a-1201(8) and 41-22-8(3).

(4) The fund shall be administered by the executive director, in consultation with the advisory committee.

(5) Fund money may be used to:

(a) educate the general public and professionals regarding understanding, treatment, and prevention of brain injury;

(b) provide access to evaluations and coordinate short-term care to assist an individual in identifying services or support needs, resources, and benefits for which the individual may be eligible;

(c) develop and support an information and referral system for persons with a brain injury and their families;

(d) provide grants to persons or organizations to provide the services described in Subsections (5)(a), (b), and (c);

(e) assist one or more qualified charitable clinics to provide therapeutic services; [~~and~~]

(f) purchase equipment for use in the qualified charitable clinic [~~.~~]; and

(g) provide research grants to qualified charitable clinics in accordance with Subsection (7).

(6) Each year, approximately no less than:

(a) 40% of the fund shall be used for programs and services described in Subsections (5)(a) through (d);

(b) 25% of the fund shall be used to assist adults with brain or spinal cord injuries under Subsections (5)(e) and (f); and

(c) 10 % of the fund shall be used to assist children with neurological conditions under Subsections (5)(e) and (f).

(7) (a) Each year, if money remains in the fund after the money has been allocated in accordance with Subsection (6), the advisory committee may award up to $100,000 in research grants divided among one or more qualified charitable clinics.

(b) A qualified charitable clinic that accepts a research grant shall agree to the requirements in Subsection (7)(c) before receiving the grant.

(c) A qualified charitable clinic that accepts a research grant:

(i) shall report the results of the nervous system research to the advisory committee;

(ii) shall provide the committee an itemized list of expenditures for research grant money;

(iii) shall return any unspent research grant money to the fund;

(iv) subject to Subsection (7)(c)(v), may collaborate with another entity for performing the nervous system research;

(v) may not use research grant money to pay another entity to conduct the project; and

(vi) may not use research grant money to pay for administrative costs not directly associated with the research project.

[~~(7)~~](8) An individual who receives services either paid for from the fund, or through an organization under contract with the fund, shall:

(a) be a resident of Utah;

(b) have been diagnosed by a qualified professional as having a brain injury , spinal cord injury, or other neurological condition which results in impairment of cognitive or physical function; and

(c) have a need that can be met within the requirements of this section.

[~~(8)~~](9) The fund may not duplicate any services or support mechanisms being provided to an individual by any other government or private agency.

[~~(9)~~](10) All actual and necessary operating expenses for the Brain and Spinal Cord Injury Advisory Committee created in Section 26B-1-417 and staff shall be paid by the fund.

Section 2. Section 26B-1-417 is amended to read:

26B-1-417. Brain and Spinal Cord Injury Advisory Committee -- Membership -- Duties.

(1) There is created the Brain and Spinal Cord Injury Advisory Committee within the department.

(2) (a) The advisory committee shall be composed of the following members:

(i) an individual employed with the Department of Health and Human Services;

(ii) an individual who has experienced a neurological condition;

(iii) an individual who has experienced a brain injury;

(iv) an individual who has experienced a spinal cord injury;

(v) a parent of a child who has a neurological condition;

(vi) a parent or caretaker of an individual who has experienced a brain or spinal cord injury;

(vii) a professional who:

(A) provides services to adults who have experienced brain or spinal cord injuries; and

(B) does not receive a financial benefit from the fund described in Section 26B-1-318;

(viii) a professional who:

(A) provides services to children who have a neurological condition; and

(B) does not receive a financial benefit from the fund described in Section 26B-1-318;

(ix) an individual licensed as a speech-language pathologist under Title 58, Chapter 41, Speech[]-Language Pathology and Audiology Licensing Act, who works with individuals who have experienced a brain injury;

(x) a representative of an association that advocates for individuals with brain injuries;

(xi) an individual who conducts research or is familiar with or possesses knowledge of research on neurological conditions, brain injuries, or spinal cord injuries;

[~~(xi)~~](xii) a member of the House of Representatives appointed by the speaker of the House of Representatives; and

[~~(xii)~~](xiii) a member of the Senate appointed by the president of the Senate.

(b) Except for members described in [~~Subsection (xi) and (xii)~~]Subsections (2)(a)(xii) through (xiii), the executive director shall appoint members of the advisory committee.

(3) (a) [~~The~~]Except as provided in Subsection (3)(f), the term of advisory committee members shall be four years.

(b) If a vacancy occurs in the committee membership for any reason, a replacement shall be appointed for the unexpired term in the same manner as the original appointment.

[~~(b)~~](c) The committee shall elect a chairperson from the membership.

[~~(c)~~](d) A majority of the committee constitutes a quorum at any meeting, and, if a quorum is present at an open meeting, the action of the majority of members shall be the action of the advisory committee.

[~~(d)~~](e) The terms of the advisory committee shall be staggered so that approximately half of the committee members appointed under Subsections [~~(2)(b), (d), and (f) shall serve an initial two-year term and members appointed under Subsections (2)(c), (e), and (g) shall serve four-year terms. Thereafter, members appointed to the advisory committee shall serve four-year terms.~~](2)(a)(i) through (xi) are appointed every two years.

(f) The executive director may shorten an appointment to comply with Subsection (3)(e).

(4) The advisory committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(5) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules adopted by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The advisory committee shall:

(a) establish priorities and criteria for the advisory committee to follow in recommending distribution of money from the Brain and Spinal Cord Injury Fund created in Section 26B-1-318;

(b) identify, evaluate, and review the quality of care:

(i) available to:

(A) individuals with spinal cord and brain injuries; or

(B) children with non-progressive neurological conditions; and

(ii) that is provided through qualified charitable clinics, as defined in Section 26B-1-318; [~~and~~]

(c) explore, evaluate, and review other possible funding sources and make a recommendation to the Legislature regarding sources that would provide adequate funding for the advisory committee to accomplish its responsibilities under this section [~~.~~];

(d) on or before each July 1, provide a report to the Health and Human Services Interim Committee describing how money in the fund described in Section 26B-1-318 was used the previous year; and

(e) meet at least once each quarter.

(7) Operating expenses for the advisory committee, including the committee's staff, shall be paid for only with money from the Brain and Spinal Cord Injury Fund created in Section 26B-1-318.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 127
S. B. 113
Passed February 26, 2025
Approved March 24, 2025
Effective May 7, 2025

TRAFFIC CODE AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill addresses open range livestock collisions on a highway.

Highlighted Provisions:

This bill:

► creates a rebuttable presumption in a highway collision between a driver and open range livestock; and
► defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-407, as last amended by Laws of Utah 2015, Chapter 412

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

Section 1. Section 41-6a-407 is amended to read:

41-6a-407. Livestock on highway -- Restrictions -- Collision, action for damages.

(1) As used in this section, "open range" means the same as that term is defined in Section 4-24-102.

[~~(1)~~](2) (a) A person who owns or is in possession or control of any livestock may not willfully or negligently permit any of the livestock to stray or remain unaccompanied on a highway, if both sides of the highway are separated from adjoining property by a fence, wall, hedge, sidewalk, curb, lawn, or building.

(b) Subsection [~~(1)(a)~~](2)(a) does not apply to open range [~~stock~~]livestock drifting onto any highway moving to or from their accustomed ranges.

[~~(2)~~](3) (a) A person may not drive any livestock upon, over, or across any highway during the period from half an hour after sunset to half an hour before sunrise.

(b) Subsection [~~(2)(a)~~](3)(a) does not apply if the person has a sufficient number of herders with warning lights on continual duty to open the road to permit the passage of vehicles.

[~~(3)~~](4) A violation of Subsection [~~(1) or~~](2) or (3) is an infraction.

[~~(4)~~](5) In any civil action brought for damages caused by collision with any domestic animal or livestock on a highway, there is no presumption that the collision was due to negligence on behalf of the owner or the person in possession of the domestic animal or livestock.

(6) In any civil action brought for damages caused by a collision with open range livestock on a highway, where open range livestock drift onto any highway to or from the open range livestock's accustomed range, there is a rebuttable presumption that the collision was due to the negligence of the driver.

(7) In an action described in Subsection (6), damages for livestock are limited to the replacement cost of the livestock.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 128
H. B. 343
Passed March 6, 2025
Approved March 24, 2025
Effective May 7, 2025

CANNABIS PRODUCTION AMENDMENTS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to medical cannabis production.

Highlighted Provisions:

This bill:

- ► requires cannabis production establishments to include in their operating plan methods to reduce odor;
- ► requires the Department of Agriculture and Food to create recommendations for odor control; and
- ► amends provisions related to land use for medical cannabis production establishments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-41a-204, as last amended by Laws of Utah 2023, Chapter 327
4-41a-406, as last amended by Laws of Utah 2024, Chapter 238
26B-1-310, as last amended by Laws of Utah 2023, Chapters 273, 281 and renumbered and amended by Laws of Utah 2023, Chapter 305 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 305

ENACTS:

4-41a-204.1, Utah Code Annotated 1953

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

Section 1. Section 4-41a-204 is amended to read:

4-41a-204. Operating plan.

(1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of the proposed facility or, for a cannabis cultivation facility, no more than two facility locations, including a floor plan and an architectural elevation;

(b) a description of the credentials and experience of:

(i) each officer, director, and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26B-4-202;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

(g) for a cannabis cultivation facility, the information described in Subsection (2);

(h) for a cannabis processing facility, the information described in Subsection (3); [~~and~~]

(i) for an independent cannabis testing laboratory, the information described in Subsection (4)[~~.~~]; and

(j) for a cannabis production establishment located in an industrial zone, a plan to reduce odor created by the cannabis production establishment that:

(i) meets local ordinance nuisance laws; and

(ii) identifies:

(A) operations and materials that generate odors; and

(B) equipment, operations, or materials the cannabis production establishment will use to mitigate odor emissions, including plans to maintain equipment.

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:

(i) cannabis cultivation practices, including the facility's intended pesticide use and fertilizer use; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.

(b) Except as provided in Subsection (2)(c)(i) or (c)(ii), a cannabis cultivation facility may not:

(i) for a facility that cultivates cannabis only indoors, use more than 100,000 total square feet of cultivation space;

(ii) for a facility that cultivates cannabis only outdoors, use more than four acres for cultivation; and

(iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).

(c) (i) Each licensee may apply to the department for:

(A) a one-time, permanent increase of up to 20% of the limitation on the cannabis cultivation facility's cultivation space; or

(B) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on the cannabis cultivation facility's cultivation space.

(ii) After conducting a review equivalent to the review described in Subsection 4-41a-205(2)(a), if the department determines that additional cultivation is needed, the department may:

(A) grant the one-time, permanent increase described in Subsection (2)(c)(i)(A); or

(B) grant the short-term increase described in Subsection (2)(c)(i)(B).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b), the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation.

(e) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor cultivation that:

(i) does not exceed, in estimated cultivation yield, the aggregate limitations described in Subsection (2)(b)(i) or (ii); and

(ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

(f) (i) The department may authorize a cannabis cultivation facility to operate at no more than two separate locations.

(ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two cannabis cultivation facility locations combined may not exceed the cultivation limitations described in this Subsection (2).

(3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:

(a) offered variety of cannabis product;

(b) cannabinoid extraction method;

(c) cannabinoid extraction equipment;

(d) processing equipment;

(e) processing techniques; and

(f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:

(a) cannabis and cannabis product testing capability;

(b) cannabis and cannabis product testing equipment; and

(c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

(5) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

Section 2. Section 4-41a-204.1 is enacted to read:

4-41a-204.1. Odor control recommendations.

(1) As used in this section, "objectionable odor" means pollution of the ambient air beyond the property line of a facility consisting of an odor that, considering the odor's characteristics, intensity, frequency, and duration:

(a) is, or can reasonably be expected to be, injurious to public health or welfare; or

(b) unreasonably interferes with the enjoyment of life or the use of a person's property that is exposed to the odor.

(2) (a) Before January 1, 2026, the department shall provide a report with recommendations to the Medical Cannabis Governance Structure Working Group created in Section 36-12-8.2 regarding objectionable odor control standards for cannabis production establishments.

(b) The department shall:

(i) work with a cannabis production establishment to monitor odor emitted by the cannabis production establishment; and

(ii) consult with each county and municipality that currently has a cannabis production establishment sited within the county or municipality's boundaries regarding potential standards for the maximum amounts of objectionable odors emitted by a cannabis production establishment.

(c) A cannabis production establishment shall provide information related to the cannabis production establishment's odor emissions to the department upon request.

(d) The report shall include an analysis regarding:

(i) potential standards for measurement of objectionable odors related to cannabis production and distinct levels of odor tolerability;

(ii) the feasibility of setting a universal odor control standard;

(iii) the feasibility of enforcing odor control standards;

(iv) cost incurred by a cannabis production establishment to comply with potential odor control standards;

(v) interests of other businesses and community members affected by objectionable odor; and

(vi) other information the department deems relevant.

(3) The department shall examine odor control regulation from other locales.

(4) The department may collaborate with other state agencies when creating the recommendations.

Section 3. Section 4-41a-406 is amended to read:

4-41a-406. Local control.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102 and includes a closed-door medical cannabis pharmacy.

(b) "Land use application" means the same as that term is defined in Sections 10-9a-103and 17-27a-103.

[~~(b)~~](c) "Land use decision" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

[~~(c)~~](d) "Land use permit" means the same as that term is defined in Sections 10-9a-103and 17-27a-103.

[~~(d)~~](e) "Land use regulation" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(2) (a) If a municipality's or county's zoning ordinances provide for an industrial zone, the operation of a cannabis production establishment shall be a permitted industrial use in any industrial zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one industrial zone in which the operation of a cannabis production establishment is a permitted use.

(b) If a municipality's or county's zoning ordinances provide for an agricultural zone, the operation of a cannabis production establishment shall be a permitted agricultural use in any agricultural zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one agricultural zone in which the operation of a cannabis production establishment is a permitted use.

(c) The operation of a cannabis production establishment shall be a permitted use on land that the municipality or county has not zoned.

(3) A municipality or county may not:

(a) on the sole basis that the applicant, or cannabis production establishment violates federal law regarding the legal status of cannabis, deny or revoke:

(i) a land use permit to operate a cannabis production facility; or

(ii) a business license to operate a cannabis production facility; or

(b) require a certain distance between a cannabis production establishment and:

(i) another cannabis production establishment;

(ii) a medical cannabis pharmacy;

(iii) a retail tobacco specialty business, as that term is defined in Section 26B-7-501; or

(iv) an outlet, as that term is defined in Section 32B-1-202[~~; or~~].

[~~(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a cannabis production establishment that was not in effect on the day on which the cannabis production establishment submitted a complete land use application.~~]

(4) (a) Subject to the provisions of this section, when evaluating and approving a land use application for a cannabis production establishment:

(i) a municipality shall comply with Section 10-9a-509; and

(ii) a county shall comply with Section 17-27a-508.

(b) An applicant for a land use permit to operate a cannabis production establishment shall comply with the land use requirements and application process described in:

[~~(a)~~](i) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act [~~, including Section 10-9a-528~~]; and

[~~(b)~~](ii) Title 17, Chapter 27a, County Land Use, Development, and Management Act [~~, including Section 17-27a-525~~].

Section 4. Section 26B-1-310 is amended to read:

26B-1-310. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality -- Uniform fee.

(1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund under Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

(4) Money deposited into the fund may only be used by:

(a) the department to accomplish the department's responsibilities described in Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; [~~and~~]

(b) the Center for Medical Cannabis Research created in Section 53B-17-1402 to accomplish the Center for Medical Cannabis Research's responsibilities[~~.~~]; and

(c) the Department of Agriculture and Food for the one time purchase of equipment to meet the requirements described in Section 4-41a-204.1.

(5) The department shall set fees authorized under Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(6) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection (5), the department sets in accordance with Section 63J-1-504.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 129
H. B. 95
Passed February 21, 2025
Approved March 24, 2025
Effective January 1, 2026

FINANCIAL DISCLOSURE REVISIONS

Chief Sponsor: Michael J. Petersen
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill amends provisions of the Election Code relating to financial disclosures.

Highlighted Provisions:

This bill:

► requires the lieutenant governor to provide, on the website relating to political financial disclosures, the ability to search across all disclosures made by filing entities to identify contributions or expenditures made by a particular person.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-11-103, as last amended by Laws of Utah 2024, Chapter 443

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

Section 1. Section 20A-11-103 is amended to read:

20A-11-103. Notice of pending interim and summary reports -- Form of submission -- Public availability -- Notice of reporting and filing requirements.

(1) (a) Except as provided under Subsection (1)(b), 10 days before an interim report or summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections, the chief election officer shall inform the filing entity by electronic mail unless postal mail is requested:

(i) that the financial statement is due;

(ii) of the date that the financial statement is due; and

(iii) of the penalty for failing to file the financial statement.

(b) The chief election officer is not required to provide notice:

(i) to a candidate or political party of the financial statement that is due before the candidate's or political party's political convention;

(ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1; or

(iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

(2) A filing entity shall electronically file a financial statement via electronic mail or the Internet according to specifications established by the chief election officer.

(3) (a) A financial statement is considered timely filed if the financial statement is received by the chief election officer's office before midnight, Mountain Time, at the end of the day on which the financial statement is due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a financial statement is due, the county clerk shall permit a candidate to file the financial statement via email or another electronic means designated by the county clerk.

(c) A chief election officer may extend the time in which a filing entity is required to file a financial statement if a filing entity notifies the chief election officer of the existence of an extenuating circumstance that is outside the control of the filing entity.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) post on a website established by the lieutenant governor:

(i) an electronic copy or the contents of each summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date on which the summary report or interim report is electronically filed; or

(ii) for a campaign finance statement filed under the requirements of Section 10-3-208, for a municipality, or Section 17-16-6.5, for a county, a link to the municipal or county website that hosts the campaign finance statement, no later than seven business days after the date on which the lieutenant governor receives the link from:

(A) the municipal clerk or recorder, in accordance with Subsection 10-3-208(10)(b)(ii); or

(B) the county clerk, in accordance with Subsection 17-16-6.5(18)(b)(ii).

(5) The lieutenant governor shall provide, on the website described in Subsection (4)(b), the ability for an individual to search across disclosures made by all filing entities to identify contributions or expenditures made by a specific person.

[~~(5)~~](6) Between January 1 and January 15 of each year, the chief election officer shall provide notice, by postal mail or email, to each filing entity for which the chief election officer has a physical or email address, of the reporting and filing requirements described in this chapter.

Section 2. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 130
H. B. 346
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

DEPARTMENT OF AGRICULTURE AND FOOD AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses how the Department of Agriculture and Food reviews an account.

Highlighted Provisions:

This bill:

- ► requires an accountant to annually review a Department of Agriculture and Food account containing the proceeds from marketing orders; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-103, as last amended by Laws of Utah 2023, Chapters 126, 232

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

Section 1. Section 4-2-103 is amended to read:

4-2-103. Functions, powers, and duties of department -- Fees for services -- Marketing orders -- Procedure -- Purchasing and auditing.

(1) The department shall:

(a) inquire into and promote the interests and products of agriculture and allied industries;

(b) promote methods for increasing the production and facilitating the distribution of the agricultural products of the state;

(c) (i) inquire into the cause of contagious, infectious, and communicable diseases among livestock and the means for their prevention and cure; and

(ii) initiate, implement, and administer plans and programs to prevent the spread of diseases among livestock;

(d) encourage experiments designed to determine the best means and methods for the control of diseases among domestic and wild animals;

(e) issue marketing orders for any designated agricultural product to:

(i) promote orderly market conditions for any product;

(ii) give the producer a fair return on the producer's investment at the marketplace; and

(iii) only promote and not restrict or restrain the marketing of Utah agricultural commodities;

(f) administer and enforce all laws assigned to the department by the Legislature;

(g) establish standards and grades for agricultural products and fix and collect reasonable fees for services performed by the department in conjunction with the grading of agricultural products;

(h) establish operational standards for any establishment that manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product;

(i) [~~adopt, according to~~]in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary for the effective administration of the agricultural laws of the state;

(j) when necessary, make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning matters related to agriculture;

(k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any private or public place that may become infested or infected with harmful insects, plant diseases, noxious or poisonous weeds, or other agricultural pests;

(ii) establish and enforce quarantines;

(iii) issue and enforce orders and rules for the control and eradication of pests, wherever they may exist within the state; and

(iv) perform other duties relating to plants and plant products considered advisable and not contrary to law;

(l) inspect apiaries for diseases inimical to bees and beekeeping;

(m) take charge of any agricultural exhibit within the state, if considered necessary by the department, and award premiums at that exhibit;

(n) provide for the coordination of state conservation efforts, including by:

(i) assisting the Conservation Commission in the administration of Chapter 18, Conservation Commission Act;

(ii) implementing Chapter 46, Conservation Coordination Act, including entering into agreements with other state agencies; and

(iii) administering and disbursing money available to assist conservation districts in the state in the conservation of the state's soil and water resources;

(o) participate in the United States Department of Agriculture certified agricultural mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;

(p) promote and support the multiple use of public lands;

(q) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an entity within the department;

(r) administer the requirements described in Section 56-1-12 pertaining to livestock damaged by railroad operations;

(s) in accordance with Title 73, Chapter 3d, Part 4, Compensation:

(i) conduct mediation or arbitration; and

(ii) assist in the issuance of loans by the Conservation Commission; and

(t) perform any additional functions, powers, and duties provided by law.

(2) The department, by following the procedures and requirements of Section 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

(3) (a) A marketing order issued under Subsection (1)(e) may not take effect until:

(i) the department gives notice of the proposed order to the producers and handlers of the affected product;

(ii) the commissioner conducts a hearing on the proposed order; and

(iii) at least 50% of the registered producers and handlers of the affected products vote in favor of the proposed order.

(b) (i) The department may establish boards of control to administer marketing orders and the proceeds derived from any order.

(ii) A board of control shall:

(A) ensure that proceeds are placed in an account in the board of control's name in a depository institution; and

(B) ensure that the account described in Subsection (3)(b)(ii)(A) is annually [~~audited~~]reviewed by an accountant approved by the commissioner.

(4) Money collected by grain grading, as provided by Subsection (1)(g), shall be deposited into the General Fund as dedicated credits for the grain grading program.

(5) In fulfilling the department's duties in this chapter, the department may:

(a) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(b) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;

(c) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies;

(d) accept and administer grants from the federal government and from other sources, public or private; and

(e) fund grants using money appropriated by the Legislature or money received from any other source.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 131
H. B. 103
Passed March 6, 2025
Approved March 24, 2025
Effective May 7, 2025

STATE LAND ACCESS ROAD AMENDMENTS

Chief Sponsor: Troy Shelley
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill requires certain state entities to identify and record notice of roads that traverse certain lands owned by the state.

Highlighted Provisions:

This bill:

- ► requires the Public Lands Policy Coordinating Office (PLPCO) and the School and Institutional Trust Lands Administration (SITLA) to identify certain roads located on school and institutional trust lands and state lands, with initial focus within certain counties;
- ► requires PLPCO and SITLA to record with the relevant county recorder's office notice of the roads relevant to state lands and school and institutional trust lands;
- ► exempts class A, class B, and class C roads from the notice requirements;
- ► provides requirements for the Division of Wildlife Resources to identify roads within wildlife management areas;
- ► provides that the Division of Wildlife Resources may not permanently close a road without consent of the legislative body of the county in which the road is located; and
- ► codifies a provision to ensure that title to a class D road abandoned by a county remains with the state, and provides a process for abandonment of a class D road or R.S. 2477 right-of-way.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23A-6-303, as renumbered and amended by Laws of Utah 2023, Chapter 103
63L-11-202, as last amended by Laws of Utah 2024, Chapter 36
72-3-105, as last amended by Laws of Utah 2000, Chapter 324
72-5-305, as renumbered and amended by Laws of Utah 1998, Chapter 270

ENACTS:

53C-2-106, Utah Code Annotated 1953
63L-11-205, Utah Code Annotated 1953

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

Section 1. Section 23A-6-303 is amended to read:

23A-6-303. Review and adoption of management plans.

(1) The division shall submit a draft management plan to the Resource Development Coordinating Committee created in Section 63L-11-401 and the Habitat Council created by the division for their review and recommendations.

(2) The division shall submit a draft management plan and any recommendations received from the Resource Development Coordinating Committee and the Habitat Council to:

(a) the regional advisory council for the wildlife region in which the lands covered by the management plan are located; and

(b) the regional advisory council for a wildlife region that may be affected by the management plan.

(3) A regional advisory council reviewing a draft management plan may make recommendations to the director.

(4) The director may adopt the management plan, adopt the management plan with amendments, or reject the management plan.

(5) (a) At the request of the director or a member of the Wildlife Board, the Wildlife Board may review a management plan to determine whether the plan is consistent with Wildlife Board policies.

(b) The director may amend a management plan in accordance with recommendations made by the Wildlife Board.

(6) Neither the division nor the director may permanently close a road within a wildlife management area as part of a management plan without consent of the county legislative body within which the wildlife management area is located.

Section 2. Section 53C-2-106 is enacted to read:

53C-2-106. Identification and recording of public roads located on trust lands.

(1) The director shall:

(a) subject to Subsection (2), using the State Geographic Information Database created in Section 63A-16-506, and other available

information, identify temporary public easements or rights of entry granted pursuant to Section 72-5-203 for roads located on trust lands within each county; and

(b) subject to Section 72-5-203, record with the county recorder of the county in which the temporary public easement or right of entry is located a grant or permanent easement as described in Subsection (4) that gives notice of the existence of the public road.

(2) (a) Subject to Subsection (2)(b), the director may complete the requirements of Subsection (1) over time and as resources allow.

(b) For Carbon County, Garfield County, Grand County, Kane County, San Juan County, Uintah County, and Wayne County, the director shall complete the requirements described in Subsection (1) on or before January 5, 2026.

(3) The director is not required to identify or record notice of any class A, class B, or class C roads, as those terms are defined in Title 72, Chapter 3, Part 1, Highways in General.

(4) The grant of easement required in Subsection (1)(b) shall include:

(a) a requirement that the roads remain open for public use; and

(b) a legal description, as described in Subsection 57-3-105(4), of the relevant roads sufficient for reasonable identification of the road.

(5) (a) If a parcel of trust lands is subject to a sale or an exchange as provided in this title, the director shall ensure that the requirements of Subsection (1) are completed before the sale or exchange is finalized.

(b) The sale or exchange of trust lands is subject to the grant of permanent easement existing at the time of the sale or exchange.

Section 3. Section 63L-11-202 is amended to read:

63L-11-202. Powers and duties of the office and executive director.

(1) The office shall:

(a) make a report to the Constitutional Defense Council created under Section 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(b) provide staff assistance to the Constitutional Defense Council created under Section 63C-4a-202 for meetings of the council;

(c) (i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and

(ii) execute any action assigned in a constitutional defense plan;

(d) develop public lands policies by:

(i) developing cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal government for involvement in the development of public lands policies;

(ii) producing research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy;

(iii) preparing comments to ensure that the positions of the state and political subdivisions are considered in the development of public lands policy; and

(iv) partnering with state agencies and political subdivisions in an effort to:

(A) prepare coordinated public lands policies;

(B) develop consistency reviews and responses to public lands policies;

(C) develop management plans that relate to public lands policies; and

(D) develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions;

(e) facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) the [~~Office~~]Center of Rural Development created under Section 63N-4-102;

(iv) the coordinating committee;

(v) School and Institutional Trust Lands Administration created under Section 53C-1-201;

(vi) the committee created under Section 63A-16-507 to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and

(vii) the Constitutional Defense Council created under Section 63C-4a-202;

(f) perform the duties established in Title 9, Chapter 8a, Part 3, Antiquities, and Title 9, Chapter 8a, Part 4, Historic Sites;

(g) consistent with other statutory duties, encourage agencies to responsibly preserve archaeological resources;

(h) maintain information concerning grants made under Subsection (1)(j), if available;

(i) report annually, or more often if necessary or requested, concerning the office's activities and expenditures to:

(i) the Constitutional Defense Council; and

(ii) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee jointly with the Constitutional Defense Council;

(j) make grants of up to 16% of the office's total annual appropriations from the Constitutional Defense Restricted Account to a county or statewide association of counties to be used by the county or association of counties for public lands matters if the executive director, with the advice of the Constitutional Defense Council, determines that the action provides a state benefit;

(k) conduct the public lands transfer study and economic analysis required by Section 63L-11-304; [~~and~~]

(l) fulfill the duties described in Section 63L-10-103[~~.~~]; and

(m) perform the duties described in Section 63L-11-205.

(2) The executive director shall comply with Subsection 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be subject to Subsection 63C-4a-203(8) in submitting the comment.

(3) The office may enter into an agreement with another state agency to provide information and services related to:

(a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and Classification Act;

(b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and Classification Act, or R.S. 2477 matters; or

(c) any other matter within the office's responsibility.

(4) In fulfilling the duties under this part, the office shall consult, as necessary, with:

(a) the Department of Natural Resources;

(b) the Department of Agriculture and Food;

(c) the Department of Environmental Quality;

(d) other applicable state agencies;

(e) political subdivisions of the state;

(f) federal land management agencies; and

(g) elected officials.

Section 4. Section 63L-11-205 is enacted to read:

63L-11-205. Identification and recording of public roads located on state-owned public lands.

(1) As used in this section, "state land" means land owned by:

(a) the Department of Natural Resources;

(b) the Division of Forestry, Fire, and State Lands;

(c) the Division of State Parks; and

(d) any other state land management agency.

(2) (a) In coordination with the relevant owner, the executive director shall:

(i) subject to Subsection (3), using the State Geographic Information Database created in Section 63A-16-506, and other available information, identify roads located on state land; and

(ii) subject to Subsection (2)(b), record with the county recorder of the county in which the state land is located a document as described in Subsection (5) that gives notice of the existence of the public road or right-of-way.

(b) The executive director may not record a notice described in Subsection (2)(a)(ii) for a road on state land that is owned by the Division of Wildlife Resources until the land is sold or exchanged as described in Subsection (6).

(3) (a) Subject to Subsection (3)(b), the executive director may complete the requirements of Subsection (2) over time and as resources allow.

(b) For Carbon County, Garfield County, Grand County, Kane County, San Juan County, Uintah County, and Wayne County, the executive director shall complete the requirements described in Subsection (2) on or before January 5, 2026.

(4) The executive director is not required to identify or record notice of any class A, class B, or class C roads, as those terms are defined in Title 72, Chapter 3, Part 1, Highways in General.

(5) The notice required in Subsection (2)(a)(ii) shall include:

(a) a title identifying the roads as "Public Access"; and

(b) a legal description, as described in Subsection 57-3-105(4), of the relevant roads or rights-of-way sufficient for reasonable identification of the road.

(6) (a) If a parcel of state land is subject to a sale or an exchange, the executive director shall ensure that the requirements of Subsection (2) are completed before the sale or exchange is finalized.

(b) The sale or exchange of state land is subject to the public access rights existing at the time of the sale or exchange.

(7) (a) The Division of Wildlife Resources shall identify roads within a wildlife management area in the respective property's habitat management plan, as required in Section 23A-6-302.

(b) For any road identified under Subsection (7)(a), the Division of Wildlife Resources may:

(i) temporarily close a road for the benefit of wildlife; and

(ii) permanently close roads for the benefit of wildlife only:

(A) through the habitat management plan review and approval process in Section 23A-6-303; and

(B) beginning on May 7, 2025, with consent of the county legislative body within which the road is located.

(c) Notwithstanding Subsection (7)(b), the Division of Wildlife Resources may close a road for the benefit of wildlife if:

(i) there is an alternative road that will remain open that provides reasonable access to the same area;

(ii) the road to be closed forks from the alternative road that will remain open;

(iii) the road to be closed is less traveled than the alternative road that will remain open;

(iv) the road to be closed travels in approximately the same direction as the alternative road that will remain open; and

(v) the road to be closed intersects with the alternative road that will remain open within 2,000 feet of the location where the road to be closed forks from the road that will remain open.

(d) (i) The Division of Wildlife Resources shall record with the county in which the wildlife management area property is located, any road on or across the wildlife management area prior to any sale or exchange of any wildlife management area property.

(ii) The sale or exchange of Division of Wildlife Resources land is subject to the public access rights existing at the time of the sale or exchange.

Section 5. Section 72-3-105 is amended to read:

72-3-105. Class D roads -- Maps to be prepared by county -- Indication of roads.

(1) As used in this section, "class D road" means any road, way, or other land surface route that has been or is established by use or constructed and has been maintained to provide for usage by the public for vehicles with four or more wheels that is not a class A, class B, or class C road under this title, or an R.S. 2477 right-of-way, as that term is defined in Section 72-5-301.

(2) Each class D road is part of the highway and road system within the state with the same force and effect as if the class D road had been included within this system upon its being first established or constructed.

(3) The state and county have joint undivided interest in the title to all rights-of-way for class D roads.

(4) (a) [~~The~~]Subject to Subsection (4)(b), the county governing body exercises sole jurisdiction and control of class D roads within the

county.

(b) If a county vacates or abandons a class D road, the department exercises sole jurisdiction and control of the class D road.

(5) (a) Each county shall prepare maps showing to the best of its ability the class D roads within its boundaries which were in existence as of October 21, 1976.

(b) Preparation of these maps may be done by the county itself or through any multi-county planning district in which the county participates.

(6) Any class D road which is established or constructed after October 21, 1976, shall be reflected on maps prepared as provided in Subsection (5).

(7) The county shall provide a copy of any map under Subsection (5) or (6) upon completion to the department.

(8) (a) The department shall scribe each road shown on its own county map series.

(b) The department is not responsible for the validity of any class D road and is not responsible for its being inventoried.

(c) The department shall also keep on file an historical map record of the roads as provided by the counties.

(9) (a) If a county vacates or abandons the county's class D road interest in a road within the county, the right-of-way remains open for public use unless the department, in consultation with the Public Lands Policy Coordinating Office created in Section 63L-11-201, determines that the road or right-of-way:

(i) does not provide a benefit to the state in a manner consistent with the principles of multiple use and sustained yield as described in Section 63L-8-103; or

(ii) is not used to access public or private land.

(b) Before a county may vacate or abandon the county's right-of-way interest in a class D road, the county shall provide to the department 180 days in advance of taking the action a written notice that includes the following:

(i) a legal description and map of the portion of the class D road for which the county intends to abandon the county's interest;

(ii) a statement affirming that all gates and locks, whether or not installed or authorized by the county, and all county agreements, have been removed from the portion to be vacated; and

(iii) documentation that the portion to be vacated is shown as a class D road in the county recorder's office.

(c) A county may not vacate or abandon the county's right-of-way interest in a class D road without the approval of the department.

(d) A person may not place a lock or a gate on a class D road right-of-way over which the department exercises sole jurisdiction.

(10) (a) A county and the department are not required to maintain a class D road.

(b) An individual who travels on a class D road does so at the individual's own risk.

Section 6. Section 72-5-305 is amended to read:

72-5-305. Term of grant -- Abandonment.

(1) In accordance with the terms of the R.S. 2477 right-of-way grant, once accepted, an R.S. 2477 right-of-way is established for a perpetual term.

(2) (a) Abandonment of any R.S. 2477 right-of-way shall only take place in accordance with the procedures in Part 1, Public Highways, of this chapter.

(b) If any R.S. 2477 right-of-way is abandoned by a political subdivision of the state, the right-of-way shall revert to the state.

(c) To abandon an R.S. 2477 right-of-way as described in Subsection (2)(b), a political subdivision shall:

(i) comply with Subsection 72-3-105(9); and

(ii) provide notice of abandonment to the director of the Public Lands Policy Coordinating Office created in Section 63L-11-201.

(3) The passage of time or the frequency of use of an R.S. 2477 right-of-way is not evidence of waiver or abandonment of the R.S. 2477 right-of-way.

(4) An R.S. 2477 right-of-way continues even if the servient estate is transferred out of the public domain.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 132
S. B. 145
Passed February 20, 2025
Approved March 24, 2025
Effective March 24, 2025

TECHNICAL SENATE DISTRICT BOUNDARY ADJUSTMENT

Chief Sponsor: Scott D. Sandall
House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill makes a technical correction to the boundary between two Utah State Senate districts, and includes the printed text of the bill and the electronic data affiliated with the text of the bill, which electronic data is available on the Legislature's website and also included on the electronic storage device accompanying this bill when presented to the governor.

Highlighted Provisions:

This bill:

- makes a technical correction in the boundary between Senate district 1 and Senate district 11;
- establishes the Senate shapefile, that is part of this bill in electronic form, as the corrected legal boundaries of the Utah State Senate districts;
- provides a hash code to verify the authenticity of the Senate shapefile; and
- makes technical and conforming changes.
- **District Boundary Information:**
- The boundary information for the Utah State Senate district boundaries:
- is delineated in a shapefile that:
  - is enacted as part of this bill in electronic form;
  - may be found at: https://le.utah.gov/Session/2025/documents/SB0145_shapefile.zip; and
  - has the following electronic file hash security code: 8c43518875904b22a5f75f1a4520c48d; and
- is also depicted in a format that:
  - is intended to be more accessible to the general public and is provided for informational purposes only;
  - shows the boundary as delineated in the shapefile, but is not enacted as part of this bill; and
  - may be found at: https://www.google.com/maps/d/edit?mid=1kRXYYTRkC6ucH7L42g7LVqUGvxU45mw.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

36-1-101.1, as last amended by Laws of Utah 2021, Second Special Session, Chapter 11
36-1-101.5, as last amended by Laws of Utah 2021, Second Special Session, Chapter 11
36-1-102, as last amended by Laws of Utah 2021, Second Special Session, Chapter 11
36-1-103, as last amended by Laws of Utah 2021, Second Special Session, Chapter 11
36-1-105, as last amended by Laws of Utah 2021, Second Special Session, Chapter 11

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

Section 1. Section 36-1-101.1 is amended to read:
36-1-101.1. Definitions.

As used in this part:

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

[~~(2) "Senate block equivalency file" means the electronic file designated as SB2006S02_BEF.txt that assigns each of Utah's 71,207 census blocks to a particular Utah State Senate district.~~]

[~~(3)~~](1) "Senate shapefile" means the electronic shapefile designated as SB0145_shapefile.zipthat [~~:~~]

[~~(a) is the resulting projection of the Senate block equivalency file; and~~]

[~~(b)~~] stores the boundary of each of the 29 Utah State Senate districts.

[~~(4)~~](2) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

Section 2. Section 36-1-101.5 is amended to read:
36-1-101.5. Utah State Senate -- District boundaries.

(1) The Utah State Senate shall consist of 29 members, with one member to be elected from each Utah State Senate district.

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

(3) (a) [~~The~~]Notwithstanding Subsection (2), the Legislature enacts the district numbers and boundaries of the Senate districts designated in the [~~Senate block equivalency file and resulting~~]Senate shapefile that is the electronic component of [~~Laws of Utah 2021, Second Special Session, Chapter 11:~~]this bill.

[~~(i) for purposes of nominating and electing certain members of the Utah State Senate beginning January 1, 2022; and~~]

[~~(ii) for all other purposes beginning January 1, 2023.~~]

(b) The Legislature shall ensure that the Senate [~~shapefile, and the Senate district boundaries generated from the Senate shapefile, are~~]shapefile is accessible on the Utah Legislature's website.

Section 3. Section 36-1-102 is amended to read:

36-1-102. Election of senators -- Staggered terms.

Unless otherwise provided by law, and notwithstanding Subsection 20A-1-503(3):

(1) voters in the following districts, as designated in the Senate [~~block equivalency file~~]shapefile, shall elect a senator for a term of four years:

(a) at the 2022 General Election, Senate Districts 1, 5, 6, 7, 9, 11, 12, 13, 14, 18, 19, 20, 21, 23, and 28; and

(b) at the 2024 General Election, Senate Districts 2, 3, 4, 8, 10, 15, 16, 17, 22, 24, 25, 26, 27, and 29; and

(2) a senator representing a district described in Subsection (1)(b) on November 16, 2021, shall represent the realigned district, if the senator resides in the realigned district, for a term of office that ends January 1, 2025.

Section 4. Section 36-1-103 is amended to read:

36-1-103. Senate districts -- Filing -- Legal boundaries.

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

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

(2) (a) The lieutenant governor shall:

(i) verify the Senate [~~block equivalency file~~]shapefile that the Legislature [~~filed~~]files under Subsection (1) using [~~block equivalency file security code "4dde7d733138e1360e155dfaf98a0ed5" and the resulting Senate shapefile~~]the file hash security code of "8c43518875904b22a5f75f1a4520c48d";

(ii) generate maps of each Utah State Senate district from the Senate shapefile; and

(iii) ensure that the district maps are available for viewing on the lieutenant governor's website.

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

Section 5. Section 36-1-105 is amended to read:

36-1-105. Uncertain boundaries -- How resolved.

(1) As used in this section:

(a) "Affected party" means:

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

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

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

(b) "Feature" means a geographic or other tangible or intangible mark such as a road or political subdivision boundary that is used to establish a Senate district boundary.

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

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

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

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

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

(i) the [~~Senate block equivalency file and the resulting~~]Senate shapefile; and

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

(c) Within five days after the day on which the lieutenant governor receives the request described in Subsection (2)(a), the lieutenant governor shall:

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

(ii) make a determination.

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

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

(ii) send a copy of the certification to:

(A) the affected party;

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

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

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

(i) the individual;

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

(iii) the county clerk of the affected county.

Section 6. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

Section 7. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the reference in Section 36-1-101.5, from "this bill" to the bill's designated chapter number in the Laws of Utah.

CHAPTER 133
H. B. 129
Passed February 21, 2025
Approved March 24, 2025
Effective November 1, 2025

ADOPTION RECORDS ACCESS AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill addresses access to adoption records.

Highlighted Provisions:

This bill:

- ► allows an individual who is adopted as a minor child to access records associated with the individual's adoption if the individual is 18 years old or older;
- ► amends the jurisdiction of the juvenile court;
- ► allows a pre-existing parent to petition a court to keep the records associated with an individual's adoption sealed;
- ► includes a coordination clause to address substantive and technical conflicts if this bill and S.B. 119, Domestic Relations Recodification, both pass and become law; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

26B-8-125, as renumbered and amended by Laws of Utah 2023, Chapter 306
78A-6-103, as last amended by Laws of Utah 2024, Chapter 366
78B-6-141, as last amended by Laws of Utah 2021, Chapter 262

Utah Code Sections Affected by Coordination Clause:

AMENDS:

26B-8-125, as renumbered and amended by Laws of Utah 2023, Chapter 306
78A-6-103, as last amended by Laws of Utah 2024, Chapter 366
78B-6-141, as last amended by Laws of Utah 2021, Chapter 262

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

Section 1. Section 26B-8-125 is amended to read:

26B-8-125. Inspection of vital records.

(1) As used in this section:

(a) "Designated legal representative" means an attorney, physician, funeral service director, genealogist, or other agent of the subject, or an immediate family member of the subject, who has been delegated the authority to access vital records.

(b) "Drug use intervention or suicide prevention effort" means a program that studies or promotes the prevention of drug overdose deaths or suicides in the state.

(c) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

(2) (a) The vital records shall be open to inspection, but only in compliance with the provisions of this part, department rules, and Sections 78B-6-141 and 78B-6-144.

(b) It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this part, department rule, Section 78B-6-141, or Section 78B-6-144.

(c) (i) An adoption document is open to inspection as provided in Section 78B-6-141or Section 78B-6-144.

(ii) A birth parent may not access an adoption document under Subsection 78B-6-141(3).

(d) A custodian of vital records may permit inspection of a vital record or issue a certified copy of a record or a part of a record when the custodian is satisfied that the applicant has demonstrated a direct, tangible, and legitimate interest.

(3) Except as provided in Subsection (4), a direct, tangible, and legitimate interest in a vital record is present only if:

(a) the request is from:

(i) the subject;

(ii) an immediate family member of the subject;

(iii) the guardian of the subject;

(iv) a designated legal representative of the subject; or

(v) a person, including a child-placing agency as defined in Section 78B-6-103, with whom a child has been placed pending finalization of an adoption of the child;

(b) the request involves a personal or property right of the subject of the record;

(c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;

(d) the request is for a drug use intervention or suicide prevention effort or a statistical or medical research program and prior consent has been obtained from the state registrar; or

(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

(4) (a) Except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or an immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of parental rights under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or by virtue of consenting to or relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest under this section.

(b) Except as provided in Subsection (2)(d), a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest under this section.

(5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make the following records available to the public:

(a) except as provided in Subsection 26B-8-110(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

(b) a death record if 50 years or more have passed since the date of death; and

(c) a vital record not subject to Subsection (5)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.

(6) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections 78B-6-141 and 78B-6-144.

(7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for the inspection of adoption documents under Subsection [~~78B-6-141(4)~~]78B-6-141(3);

[~~(b) for a birth parent's election to permit identifying information about the birth parent to be made available, under Section 78B-6-141;~~]

[~~(c)~~](b) for the release of information by the mutual-consent, voluntary adoption registry, under Section 78B-6-144;

[~~(d)~~](c) for collecting fees and donations under Section 78B-6-144.5; and

[~~(e)~~](d) for the review and approval of a request described in Subsection (3)(d).

Section 2. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as provided in Subsection (3), the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Section 53G-8-211.

(2) The juvenile court has original jurisdiction over:

(a) any proceeding concerning:

(i) a child who is an abused child, neglected child, or dependent child;

(ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(iii) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(v) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(vi) the treatment or commitment of a minor who has an intellectual disability;

(vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 81-2-304;

(viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(x) the treatment or commitment of a child with a mental illness;

(xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 26B-5-204;

(xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(xiv) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(xv) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

(A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(B) has run away from home; and

(xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court;

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement;

(c) the extension of a nonjudicial adjustment under Section 80-6-304;

(d) a petition for special findings under Section 80-3-305; [~~and~~]

(e) a referral of a minor for being a habitual truant as defined in Section 53G-8-211[~~.~~]; and

(f) a pre-existing parent's petition to seal adoption documents as described in Subsection 78B-6-141(5).

(3) The juvenile court does not have original jurisdiction over an offense committed by a minor as described in Subsection (1) if:

(a) the district court has original jurisdiction over the offense under Section 78A-5-102.5;

(b) the district court has original jurisdiction over the offense under Subsection 78A-5-102(8), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5; or

(c) the justice court has original jurisdiction over the offense under Subsection 78A-7-106(2), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5.

(4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a)(xvi), (b), or (c).

(5) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(8) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(6) and Section 80-6-303.

(9) The juvenile court has jurisdiction to enforce foreign protection orders as described in Subsection 78B-7-303(8).

Section 3. Section 78B-6-141 is amended to read:

78B-6-141. Court hearings may be closed -- Adoption documents.

(1) (a) Notwithstanding Section 80-4-106, court hearings in adoption cases may be closed to the public upon request of a party to the adoption petition and upon court approval.

(b) In a closed hearing, only the following individuals may be admitted:

(i) a party to the proceeding;

(ii) the adoptee;

(iii) a representative of an agency having custody of the adoptee;

(iv) in a hearing to relinquish parental rights, the individual whose rights are to be relinquished and invitees of that individual to provide emotional support;

(v) in a hearing on the termination of parental rights, the individual whose rights may be terminated;

(vi) in a hearing on a petition to intervene, the proposed intervenor;

(vii) in a hearing to finalize an adoption, invitees of the petitioner; and

(viii) other individuals for good cause, upon order of the court.

(2) [~~An~~]Except as provided in Subsections (3) and (4), an adoption document and any other documents filed in connection with a petition for adoption are sealed.

(3) The documents described in Subsection (2) may only be open to inspection and copying:

(a) in accordance with Subsection (5)(a), by a party to the adoption proceeding:

(i) while the proceeding is pending; or

(ii) within six months after the day on which the adoption decree is entered;

(b) subject to Subsection (5)(b), if a court enters an order permitting access to the documents by an individual who has appealed the denial of that individual's motion to intervene;

(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;

(d) as provided under Section 78B-6-144;

(e) when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered;

(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth; or

(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b)[~~; or~~].

[~~(h) to an adult adoptee, to the extent permitted under Subsection (4).~~]

[~~(4) (a) An adult adoptee that was born in the state may access an adoption document associated with the adult adoptee's adoption without a court order:~~]

[~~(i) to the extent that a birth parent consents under Subsection (4)(b); or~~]

[~~(ii) if the birth parents listed on the original birth certificate are deceased.~~]

[~~(b) A birth parent may:~~]

[~~(i) provide consent to allow the access described in Subsection (4)(a) by electing, electronically or on a written form provided by the office, allowing the birth parent to elect to:~~]

[~~(A) allow the office to provide the adult adoptee with the contact information of the birth parent that the birth parent indicates;~~]

[~~(B) allow the office to provide the adult adoptee with the contact information of an intermediary that the birth parent indicates;~~]

[~~(C) prohibit the office from providing any contact information to the adult adoptee;~~]

[~~(D) allow the office to provide the adult adoptee with a noncertified copy of the original birth certificate; and~~]

[~~(ii) at any time, file, electronically or on a written document with the office, to:~~]

[~~(A) change the election described in Subsection (4)(b); or~~]

[~~(B) elect to make other information about the birth parent, including an updated medical history, available for inspection by an adult adoptee.~~]

[~~(c) A birth parent may not access any identifying information or an adoption document under this Subsection (4).~~]

[~~(d) If two birth parents are listed on the original birth certificate and only one birth parent consents under Subsection (4)(b) or is deceased, the office may redact the name of the other birth parent.~~]

(4) (a) Unless there is a court order sealing the documents, an adult adoptee may inspect and copy the following adoption documents associated with the adult adoptee's adoption, without a court order:

(i) the report of adoption;

(ii) the original birth certificate;

(iii) the findings of fact for the adoption; and

(iv) the final decree of adoption.

(b) A pre-existing parent of an adult adoptee may bring a petition in the court that entered the final decree of adoption to keep the documents described in Subsection (4)(a) sealed for 10 years after the day on which the adult adoptee reaches 18 years old.

(c) The pre-existing parent shall:

(i) file a petition described in Subsection (4)(a) before the adoptee reaches 18 years old; and

(ii) include in the petition sufficient information for the court to reliably determine the adoption documents at issue in the petition.

(d) The court may only grant the petition described in Subsection (4)(b) if the pre-existing parent establishes by sworn affidavit that the adult adoptee's access to the documents described in Subsection (4)(a) would place the pre-existing parent in reasonable fear of harm from an individual.

(e) If the court grants a pre-existing parent's petition, the documents described in Subsection (4)(a) shall remain sealed for 10 years from the entry of the order, unless the court permits access to the documents under Subsection (3)(c).

(f) The pre-existing parent may bring a new petition every 10 years for an order extending the sealing of the documents described in Subsection (4)(a) for an additional 10 years.

(g) The pre-existing parent shall file a petition described in Subsection (4)(f) before the expiration of the previous order.

(h) A petition to extend the sealing of the documents described in Subsection (4)(a) shall satisfy all of the requirements described in Subsections (4)(b) through (d) for the original petition.

(5) (a) An individual who files a motion to intervene in an adoption proceeding:

(i) is not a party to the adoption proceeding, unless the motion to intervene is granted; and

(ii) may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.

(b) An order described in Subsection (3)(b) shall:

(i) prohibit the individual described in Subsection (3)(b) from inspecting a document described in Subsection (2) that contains identifying information of the adoptive or prospective adoptive parent; and

(ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a document described in Subsection (5)(b)(i) after the identifying information [~~described in Subsection (5)(b)(i)~~]of the adoptive or prospective adoptive parent is redacted from the document.

Section 4. Effective Date.

This bill takes effect on November 1, 2025.

Section 5. Coordinating H.B. 129 with S.B. 119.

If H.B. 129, Adoption Records Access Amendments, and S.B. 119, Domestic Relations Recodification, both pass and become law, the Legislature intends that:

(1) on September 1, 2025, the coordination clause in S.B. 119 that coordinates H.B. 129 with S.B. 119 not take effect; and

(2) on November 1, 2025:

(a) Subsection 26B-8-125(7) be amended to read:

"(7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for the inspection of adoption documents under Subsection [~~78B-6-141(4)~~]81-13-103(3);

[~~(b) for a birth parent's election to permit identifying information about the birth parent to be made available, under Section 78B-6-141;~~]

[~~(c)~~](b) for the release of information by the mutual-consent, voluntary adoption registry [~~, under Section 78B-6-144~~]as described in Section 81-13-504;

[~~(d)~~](c) for collecting fees and donations under Section [~~78B-6-144.5~~]81-13-505; and

[~~(e)~~](d) for the review and approval of a request described in Subsection (3)(d).";

(b) the reference in Subsection 78A-6-103(2)(f) in H.B. 129 be changed from "Subsection 78B-6-141(5)" to "Subsection 81-13-103(6)";

(c) Section 81-13-103 (renumbered from Section 78B-6-141) in S.B. 119 be amended to read:

"[~~78B-6-141~~]81-13-103**. Court hearings -- Adoption documents -- Motion to intervene.**

(1)(a) Notwithstanding Section 80-4-106, [~~court hearings in adoption cases may be closed to the public~~]the court may close to the public any court hearing regarding an adoption upon the request of a party to the [~~adoption petition and upon court approval~~]petition for adoption.

(b) In a closed hearing, the court may only admit the following individuals [~~may be admitted~~]:

(i) a party to the proceeding;

(ii) the adoptee;

(iii) a representative of an agency having custody of the adoptee;

(iv) in a hearing to relinquish parental rights, the individual whose rights are to be relinquished and invitees of that individual to provide emotional support;

(v) in a hearing on the termination of parental rights, the individual whose rights may be terminated;

(vi) in a hearing on a petition to intervene, the proposed intervenor;

(vii) in a hearing to finalize an adoption, invitees of the petitioner; and

(viii) other individuals for good cause, upon order of the court.

(2) [~~An~~]Except as provided in Subsection (3) through (7), an adoption document and any other documents filed in connection with a petition for adoption are sealed.

[~~(3) The documents described in Subsection (2) may only be open to inspection and copying:~~]

[~~(a) in accordance with Subsection (5)(a), by a party to the adoption proceeding:~~]

[~~(i) while the proceeding is pending; or~~]

[~~(ii) within six months after the day on which the adoption decree is entered;~~]

[~~(b) subject to Subsection (5)(b), if a court enters an order permitting access to the documents by an individual who has appealed the denial of that individual's motion to intervene;~~]

[~~(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;~~]

[~~(d) as provided under Section 78B-6-144;~~]

[~~(e) when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered;~~]

[~~(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;~~]

[~~(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b); or~~]

[~~(h) to an adult adoptee, to the extent permitted under Subsection (4).~~]

[~~(4)(a) An adult adoptee that was born in the state may access an adoption document associated with the adult adoptee's adoption without a court order:~~]

[~~(i) to the extent that a birth parent consents under Subsection (4)(b); or~~]

[~~(ii) if the birth parents listed on the original birth certificate are deceased.~~]

[~~(b) A birth parent may:~~]

[~~(i) provide consent to allow the access described in Subsection (4)(a) by electing, electronically or on a written form provided by the office, allowing the birth parent to elect to:~~]

[~~(A) allow the office to provide the adult adoptee with the contact information of the birth parent that the birth parent indicates;~~]

[~~(B) allow the office to provide the adult adoptee with the contact information of an intermediary that the birth parent indicates;~~]

[~~(C) prohibit the office from providing any contact information to the adult adoptee;~~]

[~~(D) allow the office to provide the adult adoptee with a noncertified copy of the original birth certificate; and~~]

[~~(ii) at any time, file, electronically or on a written document with the office, to:~~]

[~~(A) change the election described in Subsection (4)(b); or~~]

[~~(B) elect to make other information about the birth parent, including an updated medical history, available for inspection by an adult adoptee.~~]

[~~(c) A birth parent may not access any identifying information or an adoption document under this Subsection (4).~~]

[~~(d) If two birth parents are listed on the original birth certificate and only one birth parent consents under Subsection (4)(b) or is deceased, the office may redact the name of the other birth parent.~~]

[~~(5)(a) An individual who files a motion to intervene in an adoption proceeding:~~]

[~~(i) is not a party to the adoption proceeding, unless the motion to intervene is granted; and~~]

[~~(ii) may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.~~]

[~~(b) An order described in Subsection (3)(b) shall:~~]

[~~(i) prohibit the individual described in Subsection (3)(b) from inspecting a document described in Subsection (2) that contains identifying information of the adoptive or prospective adoptive parent; and~~]

[~~(ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a document described in Subsection (5)(b)(i) after the identifying information described in Subsection (5)(b)(i) is redacted from the document.~~]

(3) A person may only inspect and copy the documents described in Subsection (2):

(a) if the adoption proceeding is pending and the person is a party to the adoption proceeding;

(b) within 180 days after the day on which the final decree of adoption is entered if the person is a party to the adoption proceeding;

(c) if the court enters an order expressly permitting the inspection or copying the documents after the person filed a motion to intervene and the motion to intervene was granted on appeal;

(d) if the court enters an order expressly permitting the inspection or copying of the documents after good cause is shown;

(e) if the office is permitted to release the documents to the person as described in Section 81-13-504;

(f) when the documents become public 100 years after the day on which the final decree of adoption was entered;

(g) when the birth certificate becomes public 100 years after the day on which the adoptee was born; or

(h) if the person is permitted access to the documents under Subsection (6) or (7).

(4) A person who files a motion to intervene in an adoption proceeding:

(a) is not a party to the adoption proceeding, unless the motion to intervene is granted; and

(b) subject to Subsection (5), may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.

(5) If the court enters an order under Subsection (3)(c) or a potential birth father is made a party to the adoption proceeding upon a motion to intervene, the court shall:

(a) prohibit the person described in Subsection (3)(c) or the potential birth father from inspecting a document described in Subsection (2) that contains identifying information of an adoptive or prospective adoptive parent; and

(b) permit the person described in Subsection (3)(c) or the potential birth father to review a copy of the document described in Subsection (5)(a) after the identifying information of the adoptive or prospective adoptive parent is redacted from the document.

(6) (a) Unless there is a court order sealing the documents, a child adoptee may inspect and copy the following documents associated with the child adoptee's adoption, without a court order, if the child adoptee is 18 years old or older:

(i) the report of adoption;

(ii) the original birth certificate;

(iii) the findings of fact for the adoption; and

(iv) the final decree of adoption.

(b) A pre-existing parent of a child adoptee may bring a petition in the court that entered the final decree of adoption to keep the documents described in Subsection (6)(a) sealed for 10 years after the day on which the child adoptee reaches 18 years old.

(c) The pre-existing parent shall:

(i) file a petition described in Subsection (6)(b) before the child adoptee reaches 18 years old; and

(ii) include in the petition sufficient information for the court to reliably determine the adoption documents at issue in the petition.

(d) The court may only grant the petition described in Subsection (6)(b) if the pre-existing parent establishes by sworn affidavit that the child adoptee's access to the documents described in Subsection (6)(a) would place the pre-existing parent in reasonable fear of harm from an individual.

(e) If the court grants a pre-existing parent's petition, the documents described in Subsection (6)(a) shall remain sealed for 10 years from the entry of the order, unless the court permits access to the documents under Subsection (3)(d).

(f) The pre-existing parent may bring a new petition every 10 years for an order extending the sealing of the documents described in Subsection (6)(a) for an additional 10 years.

(g) The pre-existing parent shall file a petition described in Subsection (6)(f) before the expiration of the previous order.

(h) A petition to extend the sealing of the documents described in Subsection (6)(a)shall satisfy all of the requirements described in Subsections (6)(b) through (d) for the original petition.

(7) An adult adoptee, or the adoptive parent of the adult adoptee, may inspect an adoption document associated with the adult adoptee's adoption without a court order, unless the final decree of adoption is entered by the juvenile court.

(8) A pre-existing parent may not access the documents described in Subsection (2)."; and

(d) the changes to Section 78B-6-141 in H.B. 129 not be made.

CHAPTER 134
H. B. 141
Passed February 20, 2025
Approved March 24, 2025
Effective May 7, 2025

ADOPTION MODIFICATIONS

Chief Sponsor: Rex P. Shipp
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions regarding adoptive evaluations.

Highlighted Provisions:

This bill:

► creates exceptions to the requirement of a preplacement adoptive evaluation; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-128, as last amended by Laws of Utah 2024, Chapter 261

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

Section 1. Section 78B-6-128 is amended to read:

78B-6-128. Preplacement adoptive evaluations -- Exceptions.

(1) (a) Except as otherwise provided in this section, a child may not be placed in an adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive parent and the prospective adoptive home, has been conducted in accordance with the requirements of this section.

(b) Except as provided in Section 78B-6-131, the court may, at any time, authorize temporary placement of a child in a prospective adoptive home pending completion of a preplacement adoptive evaluation described in this section.

(c) (i) Unless the court otherwise requests the preplacement adoption evaluation, Subsection (1)(a) does not apply if:

(A) a pre-existing parent has legal custody of the child to be adopted and the prospective adoptive parent is related to [~~that~~]the child or the pre-existing parent as a stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin[~~, unless the court otherwise requests the preplacement adoption.~~];

(B) a pre-existing parent has or had legal custody of the child to be adopted, the prospective adoptive parent was previously married to the pre-existing parent, and the prospective adoptive parent has lived with the child for at least 180 days before the day on which the petition for adoption was filed; or

(C) the child to be adopted has lived in the adoptive home with the prospective adoptive parent for at least one year before the day on which the petition for adoption was filed and the court finds that the adoption is in the best interests of the child.

(ii) The prospective adoptive parent described in this Subsection (1)(c) shall obtain the information described in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the adoption.

(d) (i) The preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent.

(ii) If the prospective adoptive parent has previously received custody of a child for the purpose of adoption, the preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent and after the placement of the previous child with the prospective adoptive parent.

(2) The preplacement adoptive evaluation shall include:

(a) a criminal history background check regarding each prospective adoptive parent and any other adult living in the prospective home, prepared no earlier than 18 months immediately preceding placement of the child in accordance with the following:

(i) if the child is in state custody, each prospective adoptive parent and any other adult living in the prospective home shall submit fingerprints to the Department of Health and Human Services, which shall perform a criminal history background check in accordance with Section 26B-2-120; or

(ii) subject to Subsection (3), if the child is not in state custody, an adoption service provider or an attorney representing a prospective adoptive parent shall submit fingerprints from the prospective adoptive parent and any other adult living in the prospective home to the Criminal and Technical Services Division of Public Safety for a regional and nationwide background check, to the Office of Background Processing within the Department of Health and Human Services for a background check in accordance with Section 26B-2-120, or to the Federal Bureau of Investigation;

(b) a report containing all information regarding reports and investigations of child abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other adult living in the prospective home, obtained no earlier than 18 months immediately preceding the day on which the child is placed in the prospective home, pursuant to waivers executed by each prospective adoptive parent

and any other adult living in the prospective home, that:

(i) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is a resident of Utah, is prepared by the Department of Health and Human Services from the records of the Department of Health and Human Services; or

(ii) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is not a resident of Utah, prepared by the Department of Health and Human Services, or a similar agency in another state, district, or territory of the United States, where each prospective adoptive parent and any other adult living in the prospective home resided in the five years immediately preceding the day on which the child is placed in the prospective adoptive home;

(c) in accordance with Subsection (6), a home study conducted by an adoption service provider that is:

(i) an expert in family relations approved by the court;

(ii) a certified social worker;

(iii) a clinical social worker;

(iv) a marriage and family therapist;

(v) a psychologist;

(vi) a social service worker, if supervised by a certified or clinical social worker;

(vii) a clinical mental health counselor; or

(viii) an Office of Licensing employee within the Department of Health and Human Services who is trained to perform a home study; and

(d) in accordance with Subsection (7), if the child to be adopted is a child who is in the custody of any public child welfare agency, and is a child who has a special need as defined in Section 80-2-801, the preplacement adoptive evaluation shall be conducted by the Department of Health and Human Services or a child-placing agency that has entered into a contract with the department to conduct the preplacement adoptive evaluations for children with special needs.

(3) For purposes of Subsection (2)(a)(ii), subject to Subsection (4), the criminal history background check described in Subsection (2)(a)(ii) shall be submitted in a manner acceptable to the court that will:

(a) preserve the chain of custody of the results; and

(b) not permit tampering with the results by a prospective adoptive parent or other interested party.

(4) In order to comply with Subsection (3), the manner in which the criminal history background check is submitted shall be approved by the court.

(5) Except as provided in Subsection 78B-6-131(2), in addition to the other requirements of this section, before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent, the Department of Health and Human Services shall comply with Section 78B-6-131.

(6) (a) An individual described in Subsections (2)(c)(i) through (vii) shall be licensed to practice under the laws of:

(i) this state; or

(ii) the state, district, or territory of the United States where the prospective adoptive parent or other person living in the prospective adoptive home resides.

(b) Neither the Department of Health and Human Services nor any of the department's divisions may proscribe who qualifies as an expert in family relations or who may conduct a home study under Subsection (2)(c).

(c) The home study described in Subsection (2)(c) shall be a written document that contains the following:

(i) a recommendation to the court regarding the suitability of the prospective adoptive parent for placement of a child;

(ii) a description of in-person interviews with the prospective adoptive parent, the prospective adoptive parent's children, and other individuals living in the home;

(iii) a description of character and suitability references from at least two individuals who are not related to the prospective adoptive parent and with at least one individual who is related to the prospective adoptive parent;

(iv) a medical history and a doctor's report, based upon a doctor's physical examination of the prospective adoptive parent, made within two years before the date of the application; and

(v) a description of an inspection of the home to determine whether sufficient space and facilities exist to meet the needs of the child and whether basic health and safety standards are maintained.

(7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the responsibility of the adopting parent.

(8) The person conducting the preplacement adoptive evaluation shall, in connection with the preplacement adoptive evaluation, provide the prospective adoptive parent with literature approved by the Division of Child and Family Services relating to adoption, including information relating to:

(a) the adoption process;

(b) developmental issues that may require early intervention; and

(c) community resources that are available to the prospective adoptive parent.

(9) A copy of the preplacement adoptive evaluation shall be filed with the court.

(10) A home study completed for the purposes of foster care licensing in accordance with Title 80, Chapter 2, Part 3, Division Responsibilities, shall be accepted by the court for a proceeding under this part.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 135
H. B. 347
Passed March 6, 2025
Approved March 24, 2025
Effective May 7, 2025

SOCIAL SERVICES PROGRAM AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends the provisions related to social services programs.

Highlighted Provisions:

This bill:

- ► amends provisions related to the Medicaid ACA Fund;
- ► amends provisions related to substance use and mental health program licensure;
- ► amends provisions related to certified community health workers;
- ► amends provisions regarding atypical anti-psychotic, psychotropic drugs, and the Medicaid preferred drug list;
- ► amends provisions related to case management; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates $1,100,000 in operating and capital budgets for fiscal year 2026, all of which is from the General Fund.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-1-315, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 439
26B-2-101, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 240, 267, 307, and 438
26B-3-105, (Effective 07/01/25) as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-217, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 284
26B-5-101, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 240, 420
26B-5-102, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 250, 420
26B-5-301, (Effective 05/07/25) as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-801, (Effective 05/07/25) as renumbered and amended by Laws of Utah 2024, Chapter 245
53-21-101, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 345
63M-7-204, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 345

ENACTS:

26B-2-110, (Effective 05/07/25) Utah Code Annotated 1953

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

Section 1. Section 26B-1-315 is amended to read:
26B-1-315 (Effective 05/07/25). Medicaid ACA Fund.

(1) There is created an expendable special revenue fund known as the "Medicaid ACA Fund."

(2) The fund consists of:

(a) assessments collected under Chapter 3, Part 5, Inpatient Hospital Assessment;

(b) intergovernmental transfers under Section 26B-3-508;

(c) savings attributable to the health coverage improvement program, as defined in Section 26B-3-501, as determined by the department;

(d) savings attributable to the enhancement waiver program, as defined in Section 26B-3-501, as determined by the department;

(e) savings attributable to the Medicaid waiver expansion, as defined in Section 26B-3-501, as determined by the department;

[~~(f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26B-3-105(3) as determined by the department;~~]

[~~(g)~~](f) revenues collected from the sales tax described in Subsection 59-12-103(11);

[~~(h)~~](g) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

[~~(i)~~](h) interest earned on money in the fund; and

[~~(j)~~](i) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of Chapter 3, Part 5, Inpatient Hospital Assessment, may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement program as defined in Section 26B-3-501;

(ii) the enhancement waiver program as defined in Section 26B-3-501;

(iii) a Medicaid waiver expansion as defined in Section 26B-3-501; and

(iv) the outpatient upper payment limit supplemental payments under Section 26B-3-511.

(b) A state agency administering the provisions of Chapter 3, Part 5, Inpatient Hospital Assessment, may not use:

(i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or

(ii) money in the fund for any purpose not described in Subsection (4)(a).

Section 2. Section 26B-2-101 is amended to read:

26B-2-101 (Effective 05/07/25). Definitions.

As used in this part:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

(2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(3) "Applicant" means a person that applies for an initial license or a license renewal under this part.

(4) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection [~~(40)(a)~~](41)(a); or

(B) provides the treatment or services described in Subsection [~~(40)(a)~~](41)(a) on a limited basis, as described in Subsection (5)(b)(ii).

(b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more grades from kindergarten through grade 12.

(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection [~~(40)(a)~~](41)(a) on a limited basis if:

(A) the treatment or services described in Subsection [~~(40)(a)~~](41)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [~~(40)(a)~~](41)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection [~~(40)(a)~~](41)(a).

(c) "Boarding school" does not include a therapeutic school.

(6) "Certification" means a less restrictive level of licensure issued by the department.

(7) "Child" means an individual under 18 years old.

(8) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(9) "Child-placing agency" means a person that engages in child placing.

(10) "Client" means an individual who receives or has received services from a licensee.

(11) (a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

(12) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(13) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(14) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(15) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background check approval issued by the office.

(16) "Director" means the director of the office.

(17) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(18) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(19) "Elder adult" means a person 65 years old or older.

(20) "Emergency safety intervention" means a tactic used to protect staff or a client from being physically injured, utilized by an appropriately trained direct care staff and only performed in accordance with a nationally or regionally recognized curriculum in the least restrictive manner to restore staff or client safety.

(21) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

(22) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.

(23) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(24) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

(25) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school;

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102; or

(iii) a short-term relief care provider.

(26) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(27) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(28) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(29) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

(30) "Licensee" means an individual or a human services program licensed by the office.

(31) "Local government" means a city, town, or county.

(32) "Mental health treatment program" means a program that:

(a) is a structured intervention; and

(b) is used to improve mental health, prevent mental disorders, and treat mental health conditions.

[~~(32)~~](33) "Minor" means child.

[~~(33)~~](34) "Office" means the Office of Licensing within the department.

[~~(34)~~](35) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

[~~(35)~~](36) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

[~~(36)~~](37) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

[~~(37)~~](38) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

[~~(38)~~](39) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

[~~(39)~~](40) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[~~(40)~~](41) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[~~(41)~~](42) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

[~~(42)~~](43) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

[~~(43)~~](44) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

[~~(44)~~](45) "Short-term relief care provider" means an individual who:

(a) provides short-term and temporary relief care to a foster parent:

(i) for less than six consecutive nights; and

(ii) in the short-term relief care provider's home;

(b) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

(c) is direct access qualified, as that term is defined in Section 26B-2-120;

(d) has been approved to provide short-term relief care by the department;

(e) is not reimbursed by the department for the temporary relief care provided; and

(f) is not an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster child.

[~~(45)~~](46) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[~~(46)~~](47) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

[~~(47)~~](48) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [~~(47)(a)~~](48)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

[~~(48)~~](49) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[~~(49)~~](50) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~(50)~~](51) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(51)~~](52) (a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for the program's services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

[~~(52)~~](53) (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 3. Section 26B-2-110 is enacted to read:

26B-2-110 (Effective 05/07/25). Adult substance use and mental health providers.

(1) As used in this section:

(a) "Deemed site" means a site:

(i) operated by a licensee; and

(ii) that is approved by the department in accordance with Subsection (2).

(b) "Good standing" means:

(i) that a licensee has not had a violation that is considered by the department as moderate, high, or extreme noncompliance in the previous 24 months; and

(ii) does not have outstanding fees or civil money penalties owed to the department.

(c) "Licensee" means a substance abuse treatment program or mental health treatment program.

(2) (a) The department may approve a site operated by a licensee as a deemed site if:

(i) the licensee meets the requirements of Subsection (2)(b); and

(ii) at the time of licensure or renewal, the licensee is in good standing.

(b) A deemed site:

(i) may not serve an individual that is not at least 18 years old;

(ii) shall be accredited by a national accrediting organization that is recognized by the department through rule; and

(iii) shall provide the department with documentation from the accrediting organization that includes:

(A) inspection reports;

(B) findings;

(C) plans of correction issued by the accrediting organization; and

(D) progress reports on any plan of correction required by the accrediting organization.

(3) (a) A licensee may opt-out of on-site renewal inspections conducted by the department for a deemed site.

(b) Notwithstanding Subsection (3)(a), the department may investigate complaints or incidents involving the deemed site.

(c) A licensee is still subject to all renewal licensing fees for a deemed site.

(4) The department shall revoke a licensee's deemed site status if:

(a) a compliance or incident investigation of the deemed site results in a moderate, high, or extreme noncompliance violation;

(b) the licensee does not submit accreditation documentation described in Subsection (2)(b)(iii) for the deemed site; or

(c) documentation from the accrediting organization shows any findings that equate to a moderate, high, or extreme noncompliance violation in a state licensing finding for the deemed site.

(5) (a) If a licensee has multiple sites, the department shall consider whether a site becomes a deemed site through a separate evaluation described in Subsection (2).

(b) The revocation of deemed status for a site does not cause the revocation of deemed status for another of a licensee's deemed sites unless the conditions listed in Subsection (4) apply to each site that is subject to losing the site's deemed site status.

(6) Information received by the department from a licensee pertaining to that licensee's accreditation by a voluntary accrediting organization, shall be private data except for a summary prepared by the department related to licensure standards.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules to implement and enforce this section.

Section 4. Section 26B-3-105 is amended to read:

26B-3-105 (Effective 07/01/25). Medicaid drug program -- Preferred drug list.

(1) As used in this section:

(a) "Immunosuppressive drug" means a drug that:

(i) is used in immunosuppressive therapy to inhibit or prevent activity of the immune system to aid the body in preventing the rejection of transplanted organs and tissue; and

(ii) does not include drugs used for the treatment of autoimmune disease or diseases that are most likely of autoimmune origin.

(b) "Psychotropic drug" means the following classes of drugs:

(i) anti-depressant;

(ii) anti-convulsant/mood stabilizer;

(iii) anti-anxiety; and

(iv) attention deficit hyperactivity disorder stimulant.

(c) "Stabilized" means a health care provider has documented in the patient's medical chart that a patient has achieved a stable or steadfast medical state within the past 90 days.

(2) A Medicaid drug program developed by the department under Subsection 26B-3-104(2)(f):

(a) shall, notwithstanding Subsection 26B-3-104(1)(b), be based on clinical and cost-related factors which include medical necessity as determined by a provider in accordance with administrative rules established by the Drug Utilization Review Board;

(b) may include therapeutic categories of drugs that may be exempted from the drug program;

(c) notwithstanding Section 58-17b-606, may include placing some drugs[~~, except the drugs described in Subsection (2),~~] on a preferred drug list:

(i) to the extent determined appropriate by the department; and

(ii) in the manner described in Subsection [~~(3)~~](4) for [~~psychotropic~~]atypical anti-psychotic drugs;

(d) notwithstanding the requirements of Sections 26B-3-302 through 26B-3-309regarding the Drug Utilization Review Board, and except as provided in Subsection [~~(3)~~](4), shall immediately implement the prior authorization requirements for a nonpreferred drug that is in the same therapeutic class as a drug that is:

(i) on the preferred drug list on the date that this act takes effect; or

(ii) added to the preferred drug list after this act takes effect; and

(e) except as prohibited by Subsections 58-17b-606(4) and (5), shall establish the prior authorization requirements [~~established under Subsections (1)(c) and (d)~~]which shall permit a health care provider or the health care provider's agent to obtain a prior authorization override of the preferred drug list through the department's pharmacy prior authorization review process, and which shall:

(i) provide either telephone or fax approval or denial of the request within 24 hours of the receipt of a request that is submitted during normal business hours of Monday through Friday from 8 a.m. to 5 p.m.;

(ii) provide for the dispensing of a limited supply of a requested drug as determined appropriate by the department in an emergency situation, if the request for an override is received outside of the department's normal business hours; and

(iii) require the health care provider to provide the department with documentation of the medical need for the preferred drug list override in accordance with criteria established by the department in consultation with the Pharmacy and Therapeutics Committee.

[~~(2)~~](3) [~~(a) As used in this Subsection (2):~~]

[~~(i) "Immunosuppressive drug":~~]

[~~(A) means a drug that is used in immunosuppressive therapy to inhibit or prevent activity of the immune system to aid the body in preventing the rejection of transplanted organs and tissue; and~~]

[~~(B) does not include drugs used for the treatment of autoimmune disease or diseases that are most likely of autoimmune origin.~~]

[~~(ii) "Stabilized" means a health care provider has documented in the patient's medical chart that a patient has achieved a stable or steadfast medical state within the past 90 days using a particular psychotropic drug.~~]

[~~(b)~~](a) A preferred drug list developed under the provisions of this section may not include an immunosuppressive drug.

[~~(c)~~](i) [~~(i)~~] The state Medicaid program shall reimburse for a prescription for an immunosuppressive drug as written by the health care provider for a patient who has undergone an organ transplant.

(ii) For purposes of Subsection 58-17b-606(4), and with respect to patients who have undergone an organ transplant, the prescription for a particular immunosuppressive drug as written by a health care provider meets the criteria of demonstrating to the department a medical necessity for dispensing the prescribed immunosuppressive drug.

[~~(d)~~](iii) Notwithstanding the requirements of Sections 26B-3-302 through 26B-3-309regarding the Drug Utilization Review Board, the state Medicaid drug program may not require the use of step therapy for immunosuppressive drugs without the written or oral consent of the health care provider and the patient.

[~~(e) The department may include a sedative hypnotic on a preferred drug list in accordance with Subsection (2)(f).~~]

[~~(f) The department shall grant a prior authorization for a sedative hypnotic that is not on the preferred drug list under Subsection (2)(e), if the health care provider has documentation related to one of the following conditions for the Medicaid client:~~]

[~~(i) a trial and failure of at least one preferred agent in the drug class, including the name of the preferred drug that was tried, the length of therapy, and the reason for the discontinuation;~~]

[~~(ii) detailed evidence of a potential drug interaction between current medication and the preferred drug;~~]

[~~(iii) detailed evidence of a condition or contraindication that prevents the use of the preferred drug;~~]

[~~(iv) objective clinical evidence that a patient is at high risk of adverse events due to a therapeutic interchange with a preferred drug;~~]

[~~(v) the patient is a new or previous Medicaid client with an existing diagnosis previously stabilized with a nonpreferred drug; or~~]

[~~(vi) other valid reasons as determined by the department.~~]

[~~(g) A prior authorization granted under Subsection (2)(f) is valid for one year from the date the department grants the prior authorization and shall be renewed in accordance with Subsection (2)(f).~~]

[~~(3)~~](4) [~~(a) As used in this Subsection (3), "psychotropic drug" means the following classes of drugs:~~]

[~~(i) atypical anti-psychotic;~~]

[~~(ii) anti-depressant;~~]

[~~(iii) anti-convulsant/mood stabilizer;~~]

[~~(iv) anti-anxiety; and~~]

[~~(v) attention deficit hyperactivity disorder stimulant.~~]

[~~(b)~~](a) (i) The department shall [~~develop a preferred drug list for psychotropic drugs~~]include atypical anti-psychotic drugs on the

preferred drug list.

(ii) [~~Except as provided in Subsection (3)(d), a preferred drug list for psychotropic drugs developed under this section~~]The department shall allow a health care provider to override the preferred drug list for an atypical anti-psychotic drug by writing "dispense as written" on the prescription for the [~~psychotropic~~]atypical anti-psychotic drug.

(iii) A health care provider may not override Section 58-17b-606 by writing "dispense as written" on a prescription.

[~~(c)~~](b) The department, and a Medicaid accountable care organization that is responsible for providing behavioral health, shall [~~:~~]

[~~(i)~~] establish a system to:

[~~(A)~~](i) track health care provider prescribing patterns for [~~psychotropic~~]atypical anti-psychotic drugs;

[~~(B)~~](ii) educate health care providers who are not complying with the preferred drug list; and

[~~(C)~~](iii) implement peer to peer education for health care providers whose prescribing practices continue to not comply with the preferred drug list[~~; and~~].

[~~(ii) determine whether health care provider compliance with the preferred drug list is at least:~~]

[~~(A) 55% of prescriptions by July 1, 2017;~~]

[~~(B) 65% of prescriptions by July 1, 2018; and~~]

[~~(C) 75% of prescriptions by July 1, 2019.~~]

[~~(d) Beginning October 1, 2019, the department shall eliminate the dispense as written override for the preferred drug list, and shall implement a prior authorization system for psychotropic drugs, in accordance with Subsection (2)(f), if by July 1, 2019, the department has not realized annual savings from implementing the preferred drug list for psychotropic drugs of at least $750,000 General Fund savings.~~]

(5) For enrollees that begin a psychotropic drug treatment on or after July 1, 2025, the department shall pay for a psychotropic drug that is not on the preferred drug list if the department, based on patient claims history or health care provider attestation, has evidence of:

(a) an enrollee's trial and failure of a psychotropic drug on the preferred drug list that is equivalent or similar to the drug that is not on the preferred drug list in the last 365 days; or

(b) the enrollee being stabilized on the psychotropic drug that is not on the preferred drug list at the time of enrollment.

Section 5. Section 26B-3-217 is amended to read:

26B-3-217 (Effective 05/07/25). Medicaid waiver for coverage of qualified inmates leaving prison or jail.

(1) As used in this section:

(a) "Certified community health worker" means an individual who has obtained the certification described in Section 26B-2-504.

(b) "Correctional facility" means:

(i) a county jail;

(ii) a prison, penitentiary, or other institution operated by or under contract with the Department of Corrections for the confinement of an offender, as defined in Section 64-13-1; or

(iii) a facility for secure confinement of minors operated by the Division of Juvenile Justice and Youth Services.

[~~(b)~~](c) "Limited Medicaid benefit" means:

(i) reentry case management services;

(ii) physical and behavioral health clinical services;

(iii) medications and medication administration;

(iv) medication-assisted treatment, including all United States Food and Drug Administration approved medications, including coverage for counseling; [~~and~~]

(v) services provided by a certified community health worker; and

[~~(v)~~](vi) other services as determined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(c)~~](d) "Qualified inmate" means an individual who:

(i) is incarcerated in a correctional facility; and

(ii) is ineligible for Medicaid as a result of incarceration but would otherwise qualify for Medicaid.

(2) Subject to appropriation, before July 1, 2024, the division shall apply for a Medicaid waiver, or amend an existing Medicaid waiver application, with CMS to offer a program to provide a limited Medicaid benefit to a qualified inmate for up to 90 days immediately before the day on which the qualified inmate is released from a correctional facility.

(3) (a) Savings to state and local funds that result from the use of federal funds provided under this section shall be used in accordance with a reinvestment plan as mandated by CMS.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for a participating county to establish a reinvestment plan described in Subsection (3)(a).

(4) If the waiver or amended waiver described in Subsection (2) is approved, the department shall report to the Health and Human Services Interim Committee each year before November 30 while the waiver is in effect regarding:

(a) the number of qualified inmates served under the program;

(b) the cost of the program; and

(c) the effectiveness of the program, including:

(i) any reduction in the number of emergency room visits or hospitalizations by inmates after release from a correctional facility;

(ii) any reduction in the number of inmates undergoing inpatient treatment after release from a correctional facility;

(iii) any reduction in overdose rates and deaths of inmates after release from a correctional facility; and

(iv) any other costs or benefits as a result of the program.

(5) Before July 1, 2024, the department shall amend the Medicaid waiver related to housing support services to include an individual that was a qualified inmate within the previous 12 months.

(6) The department may elect to not apply for a Medicaid waiver or limit services described in this section based on appropriation.

Section 6. Section 26B-5-101 is amended to read:

26B-5-101 (Effective 05/07/25). Chapter definitions.

As used in this chapter:

(1) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect the person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.

(2) "Director" means the director appointed under Section 26B-5-103.

(3) "Division" means the Division of Integrated Healthcare created in Section 26B-1-1202.

(4) "Local mental health authority" means a county legislative body.

(5) "Local substance abuse authority" means a county legislative body.

(6) "Mental health crisis" means:

(a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious danger to the individual's health or well-being; or

(ii) a danger to the health or well-being of others; or

(b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.

(7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.

(8) "Mental health crisis services" means an array of services provided to an individual who experiences a mental health crisis, which may include:

(a) direct mental health services;

(b) on-site intervention provided by a mobile crisis outreach team;

(c) the provision of safety and care plans;

(d) prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis;

(e) referrals to other community resources;

(f) local mental health crisis lines; and

(g) the statewide mental health crisis line.

(9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(11) "Office" means the Office of Substance Use and Mental Health created in Section 26B-5-102.

(12) (a) "Public funds" means federal money received from the department, and state money appropriated by the Legislature to the department, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance use or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services under substance use or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.

(13) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(14) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(15) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(16) "System of care" means a broad, flexible array of services and supports that:

(a) serve a child with or who is at risk for complex emotional and behavioral needs;

(b) are community based;

(c) are informed about trauma;

(d) build meaningful partnerships with families and children;

(e) integrate service planning, service coordination, and management across state and local entities;

(f) include individualized case planning;

(g) provide management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

(h) are guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

[~~(17) "Targeted case management" means a service that assists Medicaid recipients in a target group to gain access to needed medical, social, educational, and other services.~~]

Section 7. Section 26B-5-102 is amended to read:

26B-5-102 (Effective 05/07/25). Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.

(1) (a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(c) There is created the Office of Substance Use and Mental Health within the division.

(d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.

(2) The division shall:

(a) [~~(i)~~] educate the general public regarding the nature and consequences of substance use by promoting school and community-based prevention programs;

[~~(ii)~~](b) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance use;

[~~(iii)~~](c) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;

[~~(iv)~~](d) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance use disorder, by identifying and disseminating information about effective practices and programs;

[~~(v)~~](e) promote integrated programs that address an individual's substance use, mental health, and physical health;

[~~(vi)~~](f) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;

[~~(vii)~~](g) evaluate the effectiveness of programs described in this Subsection (2);

[~~(viii)~~](h) consider the impact of the programs described in this Subsection (2) on:

[~~(A)~~](i) emergency department utilization;

[~~(B)~~](ii) jail and prison populations;

[~~(C)~~](iii) the homeless population; and

[~~(D)~~](iv) the child welfare system; [~~and~~]

[~~(ix)~~](i) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

[~~(b)~~](j) [~~(i)~~] collect and disseminate information pertaining to mental health;

[~~(ii)~~](k) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

[~~(iii)~~](l) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member;

[~~(iv)~~](m) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 26B-5-313; [~~and~~]

[~~(v)~~](n) [~~to the extent authorized and in accordance with statute,~~]make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

[~~(A)~~](i) [~~create a certification for targeted case management~~]certify an adult as a case manager, qualified to provide case management services within the state;

[~~(B)~~](ii) establish training and certification requirements;

[~~(C)~~](iii) specify the types of services each certificate holder is qualified to provide;

[~~(D)~~](iv) specify the type of supervision under which a certificate holder is required to operate; and

[~~(E)~~](v) specify continuing education and other requirements for maintaining or renewing certification;

[~~(c)~~](o) [~~(i)~~] consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

[~~(ii)~~](p) provide consultation and other assistance to public and private agencies and groups working on substance use and mental health issues;

[~~(iii)~~](q) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

[~~(iv)~~](r) promote or conduct research on substance use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

[~~(v)~~](s) receive, distribute, and provide direction over public funds for substance use and mental health services;

[~~(vi)~~](t) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

[~~(vii)~~](u) examine expenditures of local, state, and federal funds;

[~~(viii)~~](v) monitor the expenditure of public funds by:

[~~(A)~~](i) local substance abuse authorities;

[~~(B)~~](ii) local mental health authorities; and

[~~(C)~~](iii) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

[~~(ix)~~](w) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

[~~(xi)~~](v) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

[~~(A)~~](i) a statewide comprehensive continuum of substance use services;

[~~(B)~~](ii) a statewide comprehensive continuum of mental health services;

[~~(C)~~](iii) services result in improved overall health and functioning;

[~~(D)~~](iv) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;

[~~(E)~~](v) compliance, where appropriate, with the certification requirements in Subsection [~~(2)(h)~~](2)(gg); and

[~~(F)~~](vi) appropriate expenditure of public funds;

[~~(xii)~~](z) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

[~~(xiii)~~](aa) monitor and ensure compliance with division rules and contract requirements; [~~and~~]

[~~(xiv)~~](bb) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

[~~(d)~~](cc) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

[~~(e)~~](dd) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

[~~(f)~~](ee) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

[~~(g)~~](ff) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

[~~(h)~~]

[~~(i)~~](gg) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

[~~(A)~~](i) a substance use disorder;

[~~(B)~~](ii) a mental health disorder; [~~or~~]

[~~(C)~~](iii) a substance use disorder and a mental health disorder;

[~~(ii)~~](iv) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

[~~(iii)~~](v) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

[~~(iv)~~](vi) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

[~~(i)~~](hh) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

[~~(j)~~](ii) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

[~~(k)~~](jj) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection [~~(2)(j)~~](2)(ii); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection [~~(2)(j)~~](2)(ii);

[~~(l)~~](kk) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism in accordance with the metrics and requirements described in Section 63M-7-102;

[~~(m)~~](ll) at the division's discretion, use the data described in Subsection [~~(2)(l)~~](2)(kk)to make decisions regarding the use of funds allocated to the division to provide treatment;

[~~(n)~~](mm) annually, on or before August 31, submit the data collected under Subsection [~~(2)(l)~~](2)(kk) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection

63M-7-204(1)(x);

[~~(o)~~](nn) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection [~~(2)(j)~~](2)(ii); and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection [~~(2)(j)~~](2)(ii) and residential, vocational and life skills programs, as defined in Section 13-53-102; and

[~~(p)~~](oo) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 8. Section 26B-5-301 is amended to read:

26B-5-301 (Effective 05/07/25). Definitions.

As used in this part, Part 4, Commitment of Persons Under Age 18, and Part 5, Essential Treatment and Intervention:

(1) "Adult" means an individual 18 years old or older.

(2) "Approved treatment facility or program" means a mental health or substance use treatment provider that meets the goals and measurements described in Subsection [~~26B-5-102(2)(j)~~]26B-5-102(2)(ii).

(3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section 26B-5-351.

(4) "Attending physician" means a physician licensed to practice medicine in this state who has primary responsibility for the care and treatment of the declarant.

(5) "Attorney-in-fact" means an adult properly appointed under this part to make mental health treatment decisions for a declarant under a declaration for mental health treatment.

(6) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.

(7) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.

(8) "Designated examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of mental illness.

(9) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.

(10) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult's substance use disorder.

(11) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406(2)(a) through (l):

(a) sexual intercourse;

(b) penetration, however slight, of the genital or anal opening of the individual;

(c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or

(d) any sexual act causing substantial emotional injury or bodily pain.

(12) "Informed waiver" means the patient was informed of a right and, after being informed of that right and the patient's right to waive the right, expressly communicated his or her intention to waive that right.

(13) "Incapable" means that, in the opinion of the court in a guardianship proceeding under Title 75, Utah Uniform Probate Code, or in the opinion of two physicians, a person's ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that the person currently lacks the capacity to make mental health treatment decisions.

(14) "Institution" means a hospital or a health facility licensed under Section 26B-2-206.

(15) "Local substance abuse authority" means the same as that term is defined in Section 26B-5-101 and described in Section 17-43-201.

(16) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

(17) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:

(a) apply for and provide certification for a temporary commitment; or

(b) assist in the arrangement of transportation to a designated mental health facility.

(18) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(19) "Mental health treatment" means convulsive treatment, treatment with psychoactive medication, or admission to and retention in a facility for a period not to exceed 17 days.

(20) "Patient" means an individual who is:

(a) under commitment to the custody or to the treatment services of a local mental health authority; or

(b) undergoing essential treatment and intervention.

(21) "Physician" means an individual who is:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(22) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(23) "State hospital" means the Utah State Hospital established in Section 26B-5-302.

(24) "Substantial danger" means that due to mental illness, an individual is at serious risk of:

(a) suicide;

(b) serious bodily self-injury;

(c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual;

(e) engaging in harmful sexual conduct; or

(f) if not treated, suffering severe and abnormal mental, emotional, or physical distress that:

(i) is associated with significant impairment of judgment, reason, or behavior; and

(ii) causes a substantial deterioration of the individual's previous ability to function independently.

(25) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 9. Section 26B-5-801 is amended to read:

26B-5-801 (Effective 05/07/25). Definitions -- Creation of committee -- Membership -- Terms.

(1) (a) As used in this part, "committee" means the Utah Substance Use and Mental Health Advisory Committee created in this section.

(b) There is created within the department the Utah Substance Use and Mental Health Advisory Committee, which serves under the direction of the Utah Behavioral Health Commission created in Section 26B-5-702.

(2) The committee shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) one elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner's designee;

(d) the director of the Division of Integrated Healthcare or the director's designee;

(e) the state superintendent of public instruction or the superintendent's designee;

(f) the executive director of the Department of Health and Human Services or the executive director's designee;

(g) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;

(h) the executive director of the Department of Corrections or the executive director's designee;

(i) the director of the Division of Juvenile Justice and Youth Services or the director's designee;

(j) the director of the Division of Child and Family Services or the director's designee;

(k) the chair of the Board of Pardons and Parole or the chair's designee;

(l) the director of the Office of Multicultural Affairs or the director's designee;

(m) the director of the Division of Indian Affairs or the director's designee;

[~~(nn)~~](n) the state court administrator or the state court administrator's designee;

[~~(oo)~~](o) one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

[~~(pp)~~](p) one district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

[~~(qq)~~](q) one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

[~~(rr)~~](r) one prosecutor appointed by the Statewide Association of Prosecutors;

[~~(ss)~~](s) the chair or co-chair of each subcommittee established by the committee;

[~~(tt)~~](t) the chair or co-chair of the Statewide Suicide Prevention Committee created under Subsection 26B-5-611(3);

[~~(uu)~~](u) one representative appointed by the Utah League of Cities and Towns to serve a four-year term;

[~~(vv)~~](v) the chair of the Utah Victim Services Commission or the chair's designee;

[~~(ww)~~](w) the superintendent of the Utah State Hospital or the superintendent's designee;

[~~(xx)~~](x) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

[~~(yy)~~](y) in addition to the voting members described in Subsections (2)(a) through (x), the following voting members appointed by a majority of the members described in Subsections (2)(a) through (x) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

(ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;

(iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;

(iv) one resident of the state who represents prevention professionals;

(v) one resident of the state who represents treatment professionals;

(vi) one resident of the state who represents the physical health care field;

(vii) one resident of the state who is a criminal defense attorney;

(viii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;

(ix) one resident of the state who represents local law enforcement agencies;

(x) one representative of private service providers that serve youth with substance use disorders or mental health disorders; and

(xi) one resident of the state who is certified by the Division of Integrated Healthcare as a peer support specialist as described in Subsection [~~26B-5-102(2)(h)~~]26B-5-102(2)(gg).

(3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the committee.

Section 10. Section 53-21-101 is amended to read:

53-21-101 (Effective 05/07/25). Definitions.

As used in this chapter:

(1) "Crime scene investigator technician" means an individual employed by a law enforcement agency to collect and analyze evidence from crime scenes and crime-related incidents.

(2) "Designated mental health resources liaison" means a non-leadership human resources or other administrative employee designated by a first responder agency who receives and processes a request for mental health resources on behalf of the first responder agency under this chapter.

(3) "First responder" means:

(a) a law enforcement officer, as defined in Section 53-13-103;

(b) an emergency medical technician, as defined in Section 53-2e-101;

(c) an advanced emergency medical technician, as defined in Section 53-2e-101;

(d) a paramedic, as defined in Section 53-2e-101;

(e) a firefighter, as defined in Section 34A-3-113;

(f) a dispatcher, as defined in Section 53-6-102;

(g) a correctional officer, as defined in Section 53-13-104;

(h) a special function officer, as defined in Section 53-13-105, employed by a local sheriff;

(i) a search and rescue worker under the supervision of a local sheriff;

(j) a forensic interviewer or victim advocate employed by a children's justice center established in accordance with Section 67-5b-102;

(k) a credentialed criminal justice system victim advocate as defined in Section 77-38-403 who responds to incidents with a law enforcement officer;

(l) a crime scene investigator technician;

(m) a wildland firefighter;

(n) an investigator or prosecutor of cases involving sexual crimes against children; or

(o) a civilian employee of a first responder agency who has been authorized to view or otherwise access information concerning crimes, accidents, or other traumatic events.

(4) "First responder agency" means:

(a) a special district, municipality, interlocal entity, or other political subdivision that employs a first responder to provide fire protection, paramedic, law enforcement, or emergency services; or

(b) a certified private law enforcement agency as defined in Section 53-19-102.

(5) (a) "Mental health resources" means:

(i) an assessment to determine appropriate mental health treatment that is performed by a mental health therapist;

(ii) outpatient mental health treatment provided by a mental health therapist; or

(iii) peer support services provided by a peer support specialist who is qualified to provide peer support services under Subsection [~~26B-5-102(2)(h)~~]26B-5-102(2)(gg).

(b) "Mental health resources" includes, at a minimum, the following services:

(i) regular periodic screenings for all employees within the first responder agency;

(ii) assessments and availability to mental health services for personnel directly involved in a critical incident within 48 hours of the incident; and

(iii) regular and continuing access to the mental health program for:

(A) spouses and children of first responders;

(B) first responders who have retired or separated from the agency; and

(C) spouses of first responders who have retired or separated from the agency.

(6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(7) "Plan" means a plan to implement or expand a program that provides mental health resources to first responders for which the division awards a grant under this chapter.

(8) "Retired" means the status of an individual who has become eligible, applies for, and may receive an allowance under Title 49, Utah State Retirement and Insurance Benefit Act.

(9) "Separated" means the status of an individual who has separated from employment as a first responder from a first responder agency as a result of a critical incident involving the first responder.

(10) "Small first responder agency" means a first responder agency that:

(a) has 10 or fewer employees;

(b) is primarily staffed by volunteers; or

(c) is located in:

(i) a county of the third, fourth, fifth, or sixth class;

(ii) a city of the third, fourth, fifth, or sixth class; or

(iii) a town.

Section 11. Section 63M-7-204 is amended to read:

63M-7-204 (Effective 05/07/25). Duties of commission.

(1) The commission shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111and Subsection [~~26B-5-102(2)(l)~~]26B-5-102(2)(kk);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

(v) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(w) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection [~~26B-5-102(2)(n)~~]26B-5-102(2)(mm) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection [~~26B-5-102(2)(n)~~]26B-5-102(2)(mm) by each mental health or substance use treatment program;

(x) publish the report described in Subsection (1)(w) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees;

(y) receive, compile, and publish on the commission's website the data provided under:

(i) Section 53-25-202;

(ii) Section 53-25-301; and

(iii) Section 53-25-401;

(z) review, research, advise, and make recommendations to the three branches of government regarding evidence-based sex offense management policies and practices, including supervision standards, treatment standards, and the sex offender registry;

(aa) receive and evaluate a referral from the Department of Public Safety received under Section 53-21-104.3 involving a denial of mental health resources to an eligible individual, including, if appropriate in the commission's discretion, deny the relevant entity from receiving any grant of state funds under Section 63M-7-218 for a specified period of time; and

(bb) accept public comment.

(2) (a) The commission may designate an entity to perform the duties described in this part.

(b) If the commission designates an entity under Subsection (2)(a), the commission shall ensure that the membership of the designated entity includes representation from relevant stakeholder groups from the parts of the justice system implicated in the policy area.

(3) in fulfilling the commission's duties under Subsection (1), the commission may seek input and request assistance from groups with knowledge and expertise in criminal justice, including other boards and commissions affiliated or housed within the commission.

Section 12. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 12(a). Operating and Capital Budgets

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

ITEM 1

To Department of Workforce Services - Office of Homeless Services

From General Fund - - -

CHAPTER 136
H. B. 146
Passed February 13, 2025
Approved March 24, 2025
Effective May 7, 2025

MAMMOGRAPHY AMENDMENTS

Chief Sponsor: Katy Hall
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill modifies the authority and duties of the Department of Health and Human Services.

Highlighted Provisions:

This bill:

► repeals the women's cancer screening notification requirement under state law; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-2-602, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-604, as renumbered and amended by Laws of Utah 2023, Chapter 305

REPEALS:

26B-2-605, as renumbered and amended by Laws of Utah 2023, Chapter 305

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

Section 1. Section 26B-2-602 is amended to read:

26B-2-602. Department rulemaking authority.

The department shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(1) establishing quality assurance standards for all facilities performing screening or diagnostic mammography and developing mammogram x-ray films, including notification and procedures for clinical follow-up of abnormal mammograms; and

(2) providing for:

(a) collection and periodic reporting of mammography examinations and clinical follow-up data to the department;

(b) certification and revocation of certification of mammogram facilities;

(c) inspection of mammogram facilities, including entry of agents of the department into the facilities for inspections;

(d) setting fees for certification; and

(e) an appeal process regarding department certification decisions[~~; and~~].

[~~(3) requiring a facility that is certified under Section 26B-2-603 to comply with the notification requirement described in Section 26B-2-605.~~]

Section 2. Section 26B-2-604 is amended to read:

26B-2-604. Department duties.

The department shall:

(1) enforce rules established under this part;

[~~(2) implement and enforce the notice requirement in Section 26B-2-605;~~]

[~~(3)~~](2) authorize qualified department agents to conduct inspections of mammogram facilities under department rules;

[~~(4)~~](3) collect and credit fees for certification established by the department in accordance with Section 63J-1-504; and

[~~(5)~~](4) provide necessary administrative and staff support to the committee.

Section 3. Repealer.

This bill repeals:

Section 26B-2-605, Women's cancer screening notification requirement.

Section 4. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 137
H. B. 152
Passed March 5, 2025
Approved March 24, 2025
Effective May 7, 2025

HEALTH CARE FACILITIES AMENDMENTS

Chief Sponsor: Katy Hall
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill addresses satellite emergency departments.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes requirements for certain satellite emergency departments; and
- ► limits the number of satellite emergency departments that a health care organization may operate.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-2-203, as renumbered and amended by Laws of Utah 2023, Chapter 305

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

Section 1. Section 26B-2-203 is amended to read:

26B-2-203. Services required -- General acute hospitals -- Specialty hospitals -- Home health agencies -- Satellite emergency departments.

(1) As used in this section:

(a) "Satellite emergency department" means a satellite operation that:

(i) provides emergency care or critical care; or

(ii) holds itself out as providing emergency care or critical care.

(b) "Satellite operation" means a health care treatment facility that:

(i) is operated or administered by a parent hospital, within the scope of the license under which the parent hospital operates;

(ii) is located farther than 250 yards from the parent hospital's campus, including areas determined by the department to be part of the parent hospital's campus;

(iii) is not subject to licensure under this part; and

(iv) complies with this chapter and any applicable rules the department adopts in accordance with Subsection (9).

[~~(1)~~](2) General acute hospitals and specialty hospitals shall remain open and be continuously ready to receive patients 24 hours of every day in a year and have an attending medical staff consisting of one or more physicians licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(2)~~](3) A specialty hospital shall provide on-site all basic services required of a general acute hospital that are needed for the diagnosis, therapy, or rehabilitation offered to or required by patients admitted to or cared for in the facility.

[~~(3)~~](4) (a) A home health agency shall provide at least licensed nursing services or therapeutic services directly through the agency employees.

(b) A home health agency may provide additional services itself or under arrangements with another agency, organization, facility, or individual.

[~~(4)~~](5) Beginning January 1, 2023, a hospice program shall provide at least one qualified medical provider, as that term is defined in Section 26B-4-201, for the treatment of hospice patients.

(6) (a) A satellite emergency department located in a county of the first or second class shall have available on-site, during operating hours, at minimum:

(i) the equipment and personnel to conduct and use:

(A) CT scans;

(B) x-rays; and

(C) clinical laboratory tests and analyses that are customarily used on-site in emergency medical settings, meeting the standards of care for scope, timeliness, and accuracy that apply in hospital-based emergency departments;

(ii) a physician who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, and:

(A) is board certified or board eligible in emergency medicine; or

(B) has at least 10 years experience providing emergency medical services;

(iii) two registered nurses who:

(A) are licensed under Title 58, Chapter 31b, Nurse Practice Act; and

(B) have specialized training providing emergency medical services;

(iv) a staff member who:

(A) is specifically trained, certified, or licensed in respiratory care, sufficient to support the needs of patients in a timely and appropriate manner, as determined by the satellite emergency department's clinical protocols;

(B) completes annual training and education in emergency respiratory care; and

(C) is in addition to the physician and nurses under Subsections (6)(a)(ii) and (iii);

(v) a certified or board-eligible medical laboratory scientist or technologist who is capable of conducting the laboratory tests and analyses described in Subsection (6)(a)(i)(C);

(vi) security personnel capable of maintaining the personal safety of patients and providers; and

(vii) two units of packed red blood cells suitable for emergency use.

(b) A satellite emergency department located in a county of the first or second class shall have available, on-site or on-call to be physically present at the satellite emergency department, during operating hours, at minimum, a certified sonographer and the equipment to conduct and use an ultrasound.

(c) A satellite emergency department shall:

(i) clearly identify itself as an emergency department, using, at minimum, prominently lighted external signage that includes the word "EMERGENCY" or "ER" in conjunction with the name of the satellite emergency department's parent hospital; and

(ii) prominently display, at locations that are readily accessible to and visible by patients outside the entrance to the satellite emergency department and in patient waiting areas, signage that:

(A) states "THIS IS AN EMERGENCY DEPARTMENT"; and

(B) unless the satellite emergency department shares a premises and a public entrance with an urgent care center, "THIS IS NOT AN URGENT CARE CENTER. EMERGENCY DEPARTMENT RATES ARE BILLED FOR SERVICES."

(d) (i) A satellite emergency department may not hold itself out to the public as an urgent care center.

(ii) Notwithstanding Subsection (6)(d)(i), if a satellite emergency department is located on the same premises as an urgent care center, the signage may also identify the urgent care center.

(7) A satellite emergency department that fails to meet a requirement of Subsections (6)(a)through (d) may not hold itself out as providing critical or emergency care.

(8) A health care organization may not operate a higher number of satellite emergency departments than two times the number of hospital emergency departments the health care organization operates in the state.

(9) The department shall:

(a) adopt and enforce rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the process and applicable fees for initial and renewal applications to operate a satellite emergency department;

(b) assess and collect the application and renewal fees described in Subsection (9)(a); and

(c) deposit any fees collected under Subsection (9)(b) into the General Fund, as a dedicated credit, to be used solely to pay for or offset the department's costs incurred to perform the duties under this Subsection (9).

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 138
H. B. 167
Passed February 21, 2025
Approved March 24, 2025
Effective March 24, 2025

OFFENDER REINTEGRATION AMENDMENTS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill concerns the reentry and reintegration of offenders and former offenders into the general public.

Highlighted Provisions:

This bill:

- ► provides that a local mental health authority shall, to the extent feasible, coordinate with the Department of Corrections (department) to ensure the continuity of mental health services for county residents on probation or parole;
- ► provides that a criminal justice coordinating council shall identify strategies for connecting county residents on probation, parole, or leaving jail or prison, with certain county-based services;
- ► adds an expunged conviction and an arrest that occurred as a juvenile to the circumstances when a public employer may not exclude an applicant from an initial interview;
- ► reduces the amount of time following an individual's incarceration for purposes of defining unprofessional conduct in certain circumstances and expands the exceptions under which a conviction would not qualify;
- ► provides that the department may procure or adopt technology to coordinate services with outside organizations involved in supporting individuals on probation or parole;
- ► creates the Rehabilitation and Reentry Services Special Revenue Fund, which:
  - • allows the department to accept donations and other funds; and
  - • restricts funds for specified purposes relating to the successful reintegration of offenders and former offenders into the general public; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates $2,000,000 in operating and capital budgets for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-43-301, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 240, 299
17-55-201, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 187
34-52-201, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapters 115, 344 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 344
58-1-501, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 420
64-13-6, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 144, 208

ENACTS:

64-13h-101, (Effective upon governor's approval) Utah Code Annotated 1953
64-13h-102, (Effective upon governor's approval) Utah Code Annotated 1953
64-13h-103, (Effective upon governor's approval) Utah Code Annotated 1953

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

Section 1. Section 17-43-301 is amended to read:

17-43-301 (Effective upon governor's approval). Local mental health authorities -- Responsibilities.

(1) As used in this section:

(a) "Assisted outpatient treatment" means the same as that term is defined in Section 26B-5-301.

(b) "Crisis worker" means the same as that term is defined in Section 26B-5-610.

(c) "Local mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Public funds" means the same as that term is defined in Section 17-43-303.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(2) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the

county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to individuals within the county; and

(ii) cooperate with efforts of the division to promote integrated programs that address an individual's substance use, mental health, and physical healthcare needs, as described in Section 26B-5-102.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the department to promote a system of care, as defined in Section 26B-5-101, for minors with or at risk for complex emotional and behavioral needs, as described in Section 26B-1-202.

(3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance use treatment services, mental health services, and local health department services in accordance with Subsection (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(5) (a) Each local mental health authority is accountable to the department and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(6) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for:

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section 26B-5-351;

(ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(7) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

(i) collaborate with the statewide mental health crisis line described in Section 26B-5-610;

(ii) ensure that each individual who answers calls to the local mental health crisis line:

(A) is a mental health therapist or a crisis worker; and

(B) meets the standards of care and practice established by the Division of Integrated Healthcare, in accordance with Section 26B-5-610; and

(iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:

(A) waiting on hold; or

(B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

(8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall:

(a) provide assisted outpatient treatment services to a resident of the county who has been ordered under Section 26B-5-351 to receive assisted outpatient treatment[.]; and

(b) to the extent feasible, coordinate with the Department of Corrections to ensure the continuity of mental health services for county residents who are on probation or parole.

Section 2. Section 17-55-201 is amended to read:

17-55-201 (Effective upon governor's approval). Criminal justice coordinating councils -- Creation -- Strategic plan -- Reporting requirements.

(1) (a) Beginning January 1, 2023, a county shall:

(i) create a criminal justice coordinating council; or

(ii) jointly with another county or counties, create a criminal justice coordinating council.

(b) The purpose of a council is to coordinate and improve components of the criminal justice system in the county or counties.

(2) (a) A council shall include:

(i) one county commissioner or county council member;

(ii) the county sheriff or the sheriff's designee;

(iii) one chief of police of a municipality within the county or the chief's designee;

(iv) the county attorney or the attorney's designee;

(v) one public defender or attorney who provides public defense within the county;

(vi) one district court judge;

(vii) one justice court judge;

(viii) one representative from the Division of Adult Probation and Parole within the Department of Corrections;

(ix) one representative from the local mental health authority within the county; and

(x) one individual who is:

(A) a crime victim; or

(B) a victim advocate, as defined in Section 77-38-403.

(b) A council may include:

(i) an individual representing:

(A) local government;

(B) human services programs;

(C) higher education;

(D) peer support services;

(E) workforce services;

(F) local housing services;

(G) mental health or substance use disorder providers;

(H) a health care organization within the county;

(I) a local homeless council;

(J) family counseling and support groups; or

(K) organizations that work with families of incarcerated individuals; or

(ii) an individual with lived experiences in the criminal justice system.

(3) (a) A member who is an elected county official shall serve as chair of the council.

(b) The council shall elect the member to serve as chair under Subsection (3)(a).

(4) (a) A council shall develop and implement a strategic plan for the county's or counties' criminal justice system that includes:

(i) mapping of all systems, resources, assets, and services within the county's or counties' criminal justice system;

(ii) a plan for data sharing across the county's or counties' criminal justice system;

(iii) recidivism reduction objectives; and

(iv) community reintegration goals, including identifying strategies for connecting county residents who are on probation, parole, or leaving jail or prison, including those under the custody of the Division of Juvenile Justice and Youth Services, with county-based housing, employment, mental health services, substance use treatment, and related resources.

(b) The commission may assist a council in the development of a strategic plan.

(5) As part of the council's duties described in Subsection (4)(a)(i), the council shall prepare a list of private probation providers for a court to provide to defendants as described in Section 77-18-105.

(6) Before November 30 of each year, a council shall provide a written report to the commission regarding:

(a) the implementation of a strategic plan described in Subsection (4); and

(b) any data on the impact of the council on the criminal justice system in the county or counties.

Section 3. Section 34-52-201 is amended to read:

34-52-201 (Effective upon governor's approval). Public employer requirements.

(1) Except as provided in Subsections (3) and (6), a public employer may not:

(a) exclude an applicant from an initial interview because of:

(i) a past criminal conviction, an expunged conviction, an arrest for an offense that occurred before the applicant was 18 years old, or a juvenile adjudication; or

(ii) if the applicant is a mental health professional applicant, an arrest for an offense that occurred before the applicant was 18 years old;

(b) make an inquiry related to an applicant's expunged criminal or juvenile delinquency history;

(c) when making a hiring decision regarding a mental health professional applicant, consider:

(i) an arrest for an offense that occurred before the mental health professional applicant was 18 years old;

(ii) an arrest not followed by a criminal conviction or juvenile adjudication;

(iii) a juvenile adjudication; or

(iv) a past criminal conviction if:

(A) the sentence for the criminal conviction is terminated; and

(B) the mental health professional applicant was not incarcerated for the past criminal conviction or the mental health professional applicant's incarceration for the past criminal conviction ended at least three years before the day on which the mental health professional applicant applied for employment; or

(d) deny a mental health professional applicant employment based on a past criminal conviction that does not bear a direct relationship to the mental health professional applicant's ability to safely or competently perform the duties of employment.

(2) A public employer excludes an applicant from an initial interview under Subsection (1)if the public employer:

(a) requires an applicant to disclose a criminal conviction or juvenile adjudication:

(i) on an employment application;

(ii) before an initial interview; or

(iii) if no interview is conducted, before making a conditional offer of employment; or

(b) requires an applicant who is a mental health professional applicant to disclose an arrest for an offense that occurred before the applicant was 18 years old:

(i) on an employment application;

(ii) before an initial interview; or

(iii) if no interview is conducted, before making a conditional offer of employment.

(3) A public employer may not deny a mental health professional applicant employment that requires the mental health professional applicant to provide substance use treatment based on:

(a) the mental health professional applicant's participation in substance use treatment; or

(b) a past criminal conviction for a nonviolent drug offense if:

(i) the sentence for the criminal conviction is terminated; and

(ii) (A) the mental health professional applicant was not incarcerated for the past criminal conviction; or

(B) the mental health professional applicant's incarceration for the past criminal conviction ended at least three years before the day on which the mental health professional applicant applied for employment.

(4) An applicant seeking employment from a public employer may answer a question related to an expunged criminal or juvenile delinquency record as though the action underlying the expunged criminal or juvenile delinquency record never occurred.

(5) Except as provided in Subsections (1) through (3), this section does not prevent a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction or juvenile delinquency history during an initial interview or after an initial interview; or

(b) considering an applicant's criminal conviction or juvenile delinquency history when making a hiring decision.

(6) (a) Subsections (1) through (4) do not apply:

(i) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction, an expunged conviction, an arrest for an offense that occurred before the applicant was 18 years old, or juvenile delinquency history;

(ii) to a public employer that is a law enforcement agency;

(iii) to a public employer that is part of the criminal or juvenile justice system;

(iv) to a public employer seeking a nonemployee volunteer;

(v) to a public employer that works with children or vulnerable adults;

(vi) to the Department of Alcoholic Beverage Services created in Section 32B-2-203;

(vii) to the State Tax Commission;

(viii) to a public employer whose primary purpose is performing financial or fiduciary functions; or

(ix) to a public transit district hiring or promoting an individual for a safety sensitive position described in Section 17B-2a-825.

(b) Subsections (1)(c)(iv) and (1)(d) do not apply to a criminal conviction for:

(i) a violent felony as defined in Section 76-3-203.5; or

(ii) a felony related to a criminal sexual act under Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act.

(c) Subsections (1)(a)(ii), (1)(c), (1)(d), and (3) apply to a person under contract with a public employer.

Section 4. Section 58-1-501 is amended to read:

58-1-501 (Effective upon governor's approval). Unlawful and unprofessional conduct.

(1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:

(a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any profession requiring licensure under this title, except the behavioral health technician under Chapter 60, Part 6, Behavioral Health Coach and Technician Licensing Act, if the person is:

(i) not licensed to do so or not exempted from licensure under this title; or

(ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license;

(b) (i) impersonating another licensee or practicing a profession under a false or assumed name, except as permitted by law; or

(ii) for a licensee who has had a license under this title reinstated following disciplinary action, practicing the same profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;

(c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any profession licensed under this title if the employee is not licensed to do so under this title;

(d) knowingly permitting the person's authority to practice or engage in any profession licensed under this title to be used by another, except as permitted by law;

(e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission;

(f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:

(A) without prescriptive authority conferred by a license issued under this title, or by an exemption to licensure under this title; or

(B) with prescriptive authority conferred by an exception issued under this title or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment; and

(ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title; or

(g) aiding or abetting any other person to violate any statute, rule, or order regulating a profession under this title.

(2) (a) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:

(i) violating any statute, rule, or order regulating an a profession under this title;

(ii) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;

(iii) subject to the provisions of Subsection (4), engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation with respect to a crime that, when considered with the functions and duties of the profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely or competently practice the profession;

(iv) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;

(v) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the profession;

(vi) practicing or attempting to practice a profession regulated under this title despite being physically or mentally unfit to do so;

(vii) practicing or attempting to practice a or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

(viii) practicing or attempting to practice a profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;

(ix) practicing or attempting to practice a profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;

(x) practicing or attempting to practice a profession regulated under this title beyond the scope of the licensee's license;

(xi) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;

(xii) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;

(xiii) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:

(A) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or

(B) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;

(xiv) violating a provision of Section 58-1-501.5;

(xv) violating the terms of an order governing a license; or

(xvi) violating Section 58-1-511.

(b) "Unprofessional conduct" does not include:

(i) a health care provider, as defined in Section 78B-3-403 and who is licensed under this title, deviating from medical norms or established practices if the conditions described in Subsection (5) are met; and

(ii) notwithstanding Section 58-1-501.6, a health care provider advertising that the health care provider deviates from medical norms or established practices, including the maladies the health care provider treats, if the health care provider:

(A) does not guarantee any results regarding any health care service;

(B) fully discloses on the health care provider's website that the health care provider deviates from medical norms or established practices with a conspicuous statement; and

(C) includes the health care provider's contact information on the website.

(3) Unless otherwise specified by statute or administrative rule, in a civil or administrative proceeding commenced by the division under this title, a person subject to any of the unlawful and unprofessional conduct provisions of this title is strictly liable for each violation.

(4) The following are not evidence of engaging in unprofessional conduct under Subsection (2)(a)(iii):

(a) an arrest not followed by a conviction; or

(b) a conviction for which an individual's incarceration has ended more than [~~seven~~]five years before the date of the division's consideration, unless:

(i) after the incarceration the individual has engaged in additional conduct that results in another conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation; or

(ii) the conviction was for:

(A) a violent felony as defined in Section 76-3-203.5;

(B) a felony related to a criminal sexual act under Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act; [~~or~~]

(C) a felony related to criminal fraud or embezzlement, including a felony under Title 76, Chapter 6, Part 5, Fraud, or Title 76, Chapter 6, Part 4, Theft; or

(D) a crime or a pattern of crimes that demonstrates a substantial potential to harm Utah patients or consumers, as may be determined by the director in a process defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) In accordance with Subsection (2)(b)(i), a health care provider may deviate from medical norms or established practices if:

(a) the health care provider does not deviate outside of the health care provider's scope of practice and possesses the education, training, and experience to competently and safely administer the alternative health care service;

(b) the health care provider does not provide an alternative health care service that is otherwise contrary to any state or federal law;

(c) the alternative health care service has reasonable potential to be of benefit to the patient to whom the alternative health care service is to be given;

(d) the potential benefit of the alternative health care service outweighs the known harms or side effects of the alternative health care

service;

(e) the alternative health care service is reasonably justified under the totality of the circumstances;

(f) after diagnosis but before providing the alternative health care service:

(i) the health care provider educates the patient on the health care services that are within the medical norms and established practices;

(ii) the health care provider discloses to the patient that the health care provider is recommending an alternative health care service that deviates from medical norms and established practices;

(iii) the health care provider discusses the rationale for deviating from medical norms and established practices with the patient;

(iv) the health care provider discloses any potential risks associated with deviation from medical norms and established practices; and

(v) the patient signs and acknowledges a notice of deviation; and

(g) before providing an alternative health care service, the health care provider discloses to the patient that the patient may enter into an agreement describing what would constitute the health care provider's negligence related to deviation.

(6) As used in this section, "notice of deviation" means a written notice provided by a health care provider to a patient that:

(a) is specific to the patient;

(b) indicates that the health care provider is deviating from medical norms or established practices in the health care provider's recommendation for the patient's treatment;

(c) describes how the alternative health care service deviates from medical norms or established practices;

(d) describes the potential risks and benefits associated with the alternative health care service;

(e) describes the health care provider's reasonably justified rationale regarding the reason for the deviation; and

(f) provides clear and unequivocal notice to the patient that the patient is agreeing to receive the alternative health care service which is outside medical norms and established practices.

Section 5. Section 64-13-6 is amended to read:

64-13-6 (Effective upon governor's approval). Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

(f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(h) manage programs that take into account the needs and interests of victims, where reasonable;

(i) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(j) subject to Subsection (3), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i) (A) if an offender is to be supervised in the community, the department shall establish a case action plan for the offender no later than 60 days after the day on which the department's community supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan for the offender no later than 90 days after the day on which the offender is committed to the custody of the department;

(ii) each case action plan shall:

(A) integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements; and

(B) require that a case manager will:

(I) ensure that an assessment of the education level, occupational interests, and aptitudes of the inmate has been completed;

(II) refer the inmate to a higher education student advisor at an institution offering programs consistent with the inmate's interests and aptitudes for advisement on educational preferences and plans;

(III) incorporate the inmate's interests, aptitudes, and student advisement into an education plan consistent with the guidance provided by the Higher Education and Corrections Council created in Section 53B-35-201; and

(IV) refer the inmate to the student advisor at the institution called for in the case action plan for guidance and assistance with the education process;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change;

(n) ensure that an inmate has reasonable access to legal research;

(o) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(p) when reporting on statewide recidivism, include the metrics and requirements described in Section 63M-7-102;

(q) create a reentry division that focuses on the successful reentry of inmates into the community;

(r) coordinate with the Board of Pardons and Parole regarding inmate records that are necessary for the Board of Pardons and Parole to make necessary determinations regarding an inmate; and

(s) ensure that inmate records regarding discipline, programs, and other relevant metrics are:

(i) complete and updated in a timely manner; and

(ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.

(2) The department may in the course of supervising probationers and parolees:

(a) respond to an individual's violation of one or more terms of the probation or parole in accordance with the graduated and evidence-based processes established by the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Before investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5) (a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding:

(i) the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time; and

(ii) the progress of the department's implementation of the inmate program requirements described in Section 64-13-50.

(6) (a) As used in this Subsection (6):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-13-21, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection (6)(c); and

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

(7) (a) The department may procure or adopt technology services to facilitate the coordination of services and enhance accountability with agencies, local partners, and community-based organizations that are involved with assisting individuals on probation or parole.

(b) If possible, the technology services described in Subsection (7)(a) shall:

(i) maintain a single, secure client record with a unique identifier to ensure seamless coordination and reduce duplication of services;

(ii) notify authorized users of incoming service requests or referrals;

(iii) provide secure access to information necessary to understanding and addressing the needs of an individual, including the individual's service and care history;

(iv) allow authorized users to exchange information with referring or collaborating organizations through a secure and live chat feature; and

(v) send and track individual referrals, store referral outcomes, and document services provided.

Section 6. Section 64-13h-101 is enacted to read:

CHAPTER 13h. REHABILITATION AND REENTRY SERVICES

64-13h-101 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Department" means the Department of Corrections.

(2) "Fund" means the Rehabilitation and Reentry Services Special Revenue Fund created in Section 64-13h-102.

(3) "Offender" means the same as that term is defined in Section 64-13-1.

Section 7. Section 64-13h-102 is enacted to read:

64-13h-102 (Effective upon governor's approval). Creation of Rehabilitation and Reentry Services Special Revenue Fund.

(1) There is created a special revenue fund known as the Rehabilitation and Reentry Services Special Revenue Fund.

(2) The fund includes:

(a) private donations, grants, gifts, bequests, or money made available from any other source to implement this section and Section 64-13h-103; and

(b) any interest earned on the fund.

(3) The department shall administer the fund for the purposes described in Section 64-13h-103.

(4) Upon appropriation by the Legislature, the department shall use money in the fund as described in Section 64-13h-103.

Section 8. Section 64-13h-103 is enacted to read:

64-13h-103 (Effective upon governor's approval). Uses of Rehabilitation and Reentry Services Special Revenue Fund.

(1) Money in the fund shall be used to provide direct services to offenders that will increase the likelihood of successful reintegration into the general public and decrease the likelihood of recidivism, which may include:

(a) educational services;

(b) job skills training;

(c) life skills training;

(d) apprenticeships;

(e) job placement assistance;

(f) assistance with affordable housing or supervised or transitional housing services;

(g) substance use treatment, mental health services, or physical health services; or

(h) case worker access, before or after leaving incarceration.

(2) The department may expend money from the fund to offset actual department expenses related to administering this section.

Section 9. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 9(a). Operating and Capital Budgets

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

ITEM 1

To Utah Department of Corrections - Re-Entry and Rehabilitation

From Rehabilitation and Reentry Services Special Revenue Fund, One-time - 2,000,000

Schedule of Programs:

Re-Entry - 2,000,000

Section 10. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 139
H. B. 352
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

GEOLOGIC CARBON STORAGE AMENDMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill addresses violations related to geologic carbon storage.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► clarifies that the Board of Oil, Gas, and Mining (board) has enforcement authority over Class VI injection wells upon receiving primacy from the Environmental Protection Agency;
- ► provides for civil and criminal penalties for violations established by the board and the Division of Oil, Gas, and Mining (division);
- ► requires the board and the division to bring an enforcement action within two years of discovering a violation; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

40-11-3, as last amended by Laws of Utah 2024, Chapter 79

ENACTS:

40-11-24, Utah Code Annotated 1953

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

Section 1. Section 40-11-3 is amended to read:

40-11-3. Board authority -- Rulemaking authority.

(1) The board and the division have jurisdiction over all persons and property necessary to enforce this chapter.

(2) To enforce this chapter, the board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including rules establishing penalties for a violation of this chapter consistent with Section 40-11-24.

(3) (a) Subject to the granting of primacy by the Environmental Protection Agency under the process required in 40 C.F.R. [~~Section~~]Sec. 145 and successful application for primacy approval under Section 1425 of the Safe Drinking Water Act, the board and the division have:

[~~(a)~~](i) exclusive jurisdiction in the state over Class VI injection wells located in the state on nonfederal lands; and

[~~(b)~~](ii) cooperative jurisdiction in the state over Class VI injection wells located in the state on federal lands.

(b) If the board receives primacy as described in Subsection (3)(a), the board may adopt, modify, repeal, and enforce procedural requirements described in 40 C.F.R. Sec. 145.13 to maintain the enforcement authority required for primacy over Class VI injection wells.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules to implement the procedural requirements described in Subsection (3)(b).

(4) The board shall establish fees in accordance with Section 63J-1-504, in an amount to pay the costs to the board and division of:

(a) the permitting process;

(b) the regulation of the construction, operation, and pre-closure activities of the storage facility;

(c) the monitoring and management of closed storage facilities; and

(d) administering the fund.

(5) In addition to a fee imposed under Subsection (4), the board, in accordance with Section 63J-1-504:

(a) may impose fees under Section 40-11-20; and

(b) shall impose a fee under Section 40-11-21.

Section 2. Section 40-11-24 is enacted to read:

40-11-24. Criminal and civil violations -- Penalties -- Enforcement -- Emergency order.

(1) As used in this section:

(a) "Knowingly" means the same as that term is defined in Section 76-2-103.

(b) (i) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, or any other legal or commercial entity.

(ii) "Person" includes a director, officer, or agent of a legal or commercial entity.

(c) "Willfully" means the same as that term is defined in Section 76-2-103.

(2) (a) A person is guilty of a class B misdemeanor if the person knowingly or willfully:

(i) makes or causes to be made a false statement, representation, or certification in a report, record, account, or memorandum required by this chapter or an order made under this chapter;

(ii) omits or causes to be omitted a full, true, and correct entry from a report, record, account, or memorandum required by this chapter or an order made under this chapter;

(iii) omits or causes to be omitted a statement, representation, or certification in an application, record, report, plan, or other document required by this chapter or an order made under this chapter;

(iv) removes from this state or destroys, alters, or falsifies a report, record, account, or memorandum required by this chapter or an order made under this chapter; or

(v) violates this chapter or a permit, rule, or order made under this chapter.

(b) Each day that a violation under Subsection (2)(a) continues is a separate violation.

(c) Upon conviction, each violation is subject to a fine of $5,000.

(3) (a) The board or division may impose an administrative penalty by the process described in Subsection 40-6-11(4) on a person that violates this chapter or a permit, rule, or order made under this chapter.

(b) The board or division may only impose an administrative penalty or initiate a civil action on a person that violates this chapter within two years after the day on which the board or division discovers the violation.

(4) (a) The board or division may issue written notice to a person that the board or division determines is in violation of this chapter.

(b) The written notice described in Subsection (4)(a) shall include:

(i) the provision of this chapter that the board or division alleges the person to have violated;

(ii) the facts alleged to constitute the violation; and

(iii) an order for the person to take necessary corrective action no later than 45 days after the day of receipt of the written notice.

(c) The board or division may bring a civil action for injunctive relief and enforcement of this chapter if a violation continues after the 45-day period described in Subsection (4)(b)(iii).

(5) If the director determines that a violation of this chapter presents an immediate threat to the public health or welfare, the director may issue an emergency order in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 140
S. B. 149
Passed March 7, 2025
Approved March 24, 2025
Effective July 1, 2025

NATURAL RESOURCES MODIFICATIONS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill modifies provisions related to hunting and public lands under the Department of Natural Resources.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates the Guide, Outfitter, and Spotter Fund;
- ► establishes when the use of a guide, outfitter, or spotter is unlawful;
- ► requires registration of a guide, outfitter, and spotter with the Division of Wildlife Resources (division);
- ► provides for division rulemaking related to guides, outfitters, and spotters;
- ► outlines prohibited activities and penalties for violations related to guides, outfitters, and spotters;
- ► clarifies that the provisions related to guides, outfitters, and spotters do not apply to private land;
- ► removes a requirement for the Public Lands Policy Coordinating Office (PLPCO) to prepare and submit a constitutional defense plan;
- ► renames the executive director of PLPCO as the advisor on public lands;
- ► clarifies that the advisor of PLPCO and director of the Office of Energy Development:
  - • are appointed by the governor with the advice and consent of the Senate; and
  - • report to the executive director of the Department of Natural Resources, upon the executive director's request;
- ► repeals a committee required to inventory and map R.S. 2477 rights-of-way;
- ► repeals regulation related to hunting guide registration by the Division of Professional Licensing; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

23A-1-101, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapter 80
23A-5-309, (Effective 07/01/25) as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-12-301, (Effective 07/01/25) as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-12-302, (Effective 07/01/25) as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-12-303, (Effective 07/01/25) as renumbered and amended by Laws of Utah 2023, Chapter 103
63C-4a-403, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 81
63L-7-104, (Effective 05/07/25) as last amended by Laws of Utah 2022, Chapter 68
63L-7-105, (Effective 05/07/25) as enacted by Laws of Utah 2014, Chapter 323
63L-7-109, (Effective 05/07/25) as enacted by Laws of Utah 2014, Chapter 323
63L-11-102, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapter 16
63L-11-201, (Effective 05/07/25) as last amended by Laws of Utah 2021, Chapter 345 and renumbered and amended by Laws of Utah 2021, Chapter 382
63L-11-202, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 36
63L-11-305, (Effective 05/07/25) as last amended by Laws of Utah 2022, Chapter 313
63L-11-402, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapter 160
63L-11-403, (Effective 05/07/25) as renumbered and amended by Laws of Utah 2021, Chapter 382
67-22-2, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 522
79-1-103, (Effective 05/07/25) as enacted by Laws of Utah 2021, Chapter 280
79-2-204, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 80
79-6-401, (Effective 05/07/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 4
79-6-407, (Effective 05/07/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 4

ENACTS:

23A-3-216, (Effective 07/01/25) Utah Code Annotated 1953

23A-4-1201, (Effective 07/01/25) Utah Code Annotated 1953
23A-4-1202, (Effective 07/01/25) Utah Code Annotated 1953
23A-4-1203, (Effective 07/01/25) Utah Code Annotated 1953
23A-4-1204, (Effective 07/01/25) Utah Code Annotated 1953
23A-4-1205, (Effective 07/01/25) Utah Code Annotated 1953

REPEALS:

23A-11-204, (Effective 07/01/25) as renumbered and amended by Laws of Utah 2023, Chapter 103
58-79-101, (Effective 07/01/25) as last amended by Laws of Utah 2020, Chapters 316, 376
58-79-102, (Effective 07/01/25) as last amended by Laws of Utah 2023, Chapter 34
58-79-103, (Effective 07/01/25) as enacted by Laws of Utah 2023, Chapter 345
58-79-301, (Effective 07/01/25) as last amended by Laws of Utah 2020, Chapters 316, 376
58-79-302, (Effective 07/01/25) as last amended by Laws of Utah 2020, Chapters 316, 339 and 376
58-79-303, (Effective 07/01/25) as last amended by Laws of Utah 2020, Chapters 316, 376
58-79-304, (Effective 07/01/25) as last amended by Laws of Utah 2020, Chapters 316, 376
58-79-401, (Effective 07/01/25) as last amended by Laws of Utah 2023, Chapter 345
58-79-501, (Effective 07/01/25) as last amended by Laws of Utah 2020, Chapters 316, 376
58-79-502, (Effective 07/01/25) as last amended by Laws of Utah 2020, Chapters 316, 376
63A-16-507, (Effective 05/07/25) as last amended by Laws of Utah 2021, Chapters 162, 382 and renumbered and amended by Laws of Utah 2021, Chapter 344

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

Section 1. Section 23A-1-101 is amended to read:
23A-1-101 (Effective 07/01/25). Definitions.

As used in this title:

(1) "Activity regulated under this title" means an act, attempted act, or activity prohibited or regulated under this title or the rules and proclamations promulgated under this title pertaining to protected wildlife including:

(a) fishing;

(b) hunting;

(c) trapping;

(d) taking;

(e) permitting a dog, falcon, or other domesticated animal to take;

(f) transporting;

(g) possessing;

(h) selling;

(i) wasting;

(j) importing;

(k) exporting;

(l) rearing;

(m) keeping;

(n) using as a commercial venture; and

(o) releasing to the wild.

(2) "Aquaculture facility" means the same as that term is defined in Section 4-37-103.

(3) "Aquatic animal" means the same as that term is defined in Section 4-37-103.

(4) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or amphibians.

(5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that one person may legally take during one day.

(6) "Big game" means species of hoofed protected wildlife.

(7) "Carcass" means the dead body of an animal or the animal's parts.

(8) "Certificate of registration" means a paper-based or electronic document issued under this title, or a rule or proclamation of the Wildlife Board granting authority to engage in activities not covered by a license, permit, or tag.

(9) "Closed season" means the period of time during which the taking of protected wildlife is prohibited.

(10) "Dedicated hunter program" means a program that provides:

(a) expanded hunting opportunities;

(b) opportunities to participate in projects that are beneficial to wildlife; and

(c) education in hunter ethics and wildlife management principles.

(11) "Department" means the Department of Natural Resources.

(12) "Director" means the director of the division appointed under Section 23A-2-202.

(13) "Division" means the Division of Wildlife Resources.

(14) "Division of Law Enforcement" means the division within the Department of Natural Resources created under Title 79, Chapter 2, Part 7, Division of Law Enforcement.

(15) Subject to Section 23A-1-103, "domicile" means the place:

(a) where an individual has a fixed permanent home and principal establishment;

(b) to which the individual if absent, intends to return and has an actual plan, method, and means to return to the individual's domicile within six months;

(c) in which the individual, and the individual's family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home; and

(d) is a place where the individual resides for the majority of the individual's time.

(16) "Endangered" means wildlife designated as endangered according to Section 3 of the federal Endangered Species Act of 1973.

(17) "Executive director" means the executive director of the Department of Natural Resources.

(18) "Fee fishing facility" means the same as that term is defined in Section 4-37-103.

(19) "Feral" means an animal that is normally domesticated but has reverted to the wild.

(20) "Fishing" means to take fish or crayfish by any means.

(21) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and Castoridae families, except coyote and cougar.

(22) "Game" means wildlife normally pursued, caught, or taken by sporting means for human use.

(23) "Guide" means the same as that term is defined in Section 23A-4-1201.

[~~(23)~~](24) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any means.

[~~(24) "Hunting guide" means the same as that term is defined in Section 58-79-102.~~]

(25) "Intimidate or harass" means to physically interfere with or impede, hinder, or diminish the efforts of an officer in the performance of the officer's duty.

(26) (a) "Natural flowing stream" means a topographic low where water collects and perennially or intermittently flows with a perceptible current in a channel formed exclusively by forces of nature.

(b) "Natural flowing stream" includes perennial or intermittent water flows in a:

(i) realigned or modified channel that replaces the historic, natural flowing stream channel; and

(ii) dredged natural flowing stream channel.

(c) "Natural flowing stream" does not include a human-made ditch, canal, pipeline, or other water delivery system that diverts and conveys water to an approved place of use pursuant to a certificated water right.

(27) (a) "Natural lake" means a perennial or intermittent body of water that collects on the surface of the earth exclusively through the forces of nature and without human assistance.

(b) "Natural lake" does not mean a lake where the surface water sources supplying the body of water originate from groundwater springs no more than 100 yards upstream.

(28) "Natural resources officer" means the same as that term is defined in Section 79-2-701.

(29) "Nominating committee" means the Wildlife Board Nominating Committee created in Section 23A-2-302.

(30) "Nonresident" means a person who does not qualify as a resident.

(31) "Open season" means the period of time during which protected wildlife may be legally taken.

(32) "Outfitter" means the same as that term is defined in Section [~~58-79-102~~]23A-4-1201.

(33) "Pecuniary gain" means the acquisition of money or something of monetary value.

(34) "Permit" means a paper-based or electronic document that grants authority to engage in specified activities under this title or a rule or proclamation of the Wildlife Board.

(35) "Person" means an individual, association, partnership, government agency, corporation, or an agent of the individual, association, partnership, government agency, or corporation.

(36) "Pollute water" means to introduce into waters within the state matter or thermal energy that:

(a) exceeds state water quality standards; or

(b) could harm protected wildlife.

(37) "Possession" means actual or constructive possession.

(38) "Possession limit" means the number of bag limits one individual may legally possess.

(39) (a) "Private fish pond" means a pond, reservoir, or other body of water, including a fish culture system, located on privately owned land where privately owned fish:

(i) are propagated or kept for a private noncommercial purpose; and

(ii) may be taken without a fishing license.

(b) "Private fish pond" does not include:

(i) an aquaculture facility;

(ii) a fee fishing facility;

(iii) a short-term fishing event; or

(iv) private stocking.

(40) "Private stocking" means an authorized release of privately owned, live fish in the waters of the state not eligible as:

(a) a private fish pond under Section 23A-9-203; or

(b) an aquaculture facility or fee fishing facility under Title 4, Chapter 37, Aquaculture Act.

(41) "Private wildlife farm" means an enclosed place where privately owned birds or furbearers are propagated or kept and that restricts the birds or furbearers from:

(a) commingling with wild birds or furbearers; and

(b) escaping into the wild.

(42) "Proclamation" means the publication that is:

(a) used to convey a statute, rule, policy, or pertinent information related to wildlife; and

(b) issued in accordance with a rule made by the Wildlife Board under this title.

(43) (a) "Protected aquatic wildlife" means aquatic wildlife except as provided in Subsection (43)(b).

(b) "Protected aquatic wildlife" does not include aquatic insects.

(44) (a) "Protected wildlife" means wildlife, except as provided in Subsection (44)(b).

(b) "Protected wildlife" does not include:

(i) coyote;

(ii) field mouse;

(iii) gopher;

(iv) ground squirrel;

(v) jack rabbit;

(vi) muskrat; or

(vii) raccoon.

(45) "Regional advisory council" means a council created under Section 23A-2-303.

(46) "Released to the wild" means to be turned loose from confinement.

(47) (a) "Reservoir constructed on a natural stream channel" means a body of water collected and stored on the course of a natural flowing stream by impounding the stream through excavation or diking.

(b) "Reservoir constructed on a natural stream channel" does not mean an impoundment on a natural flowing stream where all surface water sources supplying the impoundment originate from groundwater springs no more than 100 yards upstream.

(48) Subject to Section 23A-1-103, "resident" means a person who:

(a) has been domiciled in the state for six consecutive months immediately preceding the purchase of a license; and

(b) does not claim residency for hunting, fishing, or trapping in another state or country.

(49) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging, or trading.

(50) "Short-term fishing event" means an event when:

(a) privately acquired fish are held or confined for a period not to exceed 10 days for the purpose of providing fishing or recreational opportunity; and

(b) no fee is charged as a requirement to fish.

(51) "Small game" means species of protected wildlife:

(a) commonly pursued for sporting purposes;

(b) not classified as big game, aquatic wildlife, or furbearers; and

(c) excluding turkey, cougar, and bear.

(52) "Spoiled" means impairment of the flesh of wildlife that renders the flesh unfit for human consumption.

(53) "Spotlighting" means throwing or casting the rays of a spotlight, headlight, or other artificial light on a highway or in a field, woodland, or forest while having in possession a weapon by which protected wildlife may be killed.

(54) "Tag" means a card, label, or other paper-based or electronic means of identification used to document harvest of protected wildlife.

(55) "Take" means to:

(a) hunt, pursue, harass, catch, capture, possess, gather, angle, seine, trap, or kill protected wildlife; or

(b) attempt an action referred to in Subsection (55)(a).

(56) "Threatened" means wildlife designated as threatened pursuant to Section 3 of the federal Endangered Species Act of 1973.

(57) "Trapping" means taking protected wildlife with a trapping device.

(58) "Trophy animal" means an animal described as follows:

(a) deer - a buck with an outside antler measurement of 24 inches or greater;

(b) elk - a bull with six points on at least one side;

(c) bighorn, desert, or rocky mountain sheep - a ram with a curl exceeding half curl;

(d) moose - a bull with at least one antler exceeding five inches in length;

(e) mountain goat - a male or female;

(f) pronghorn antelope - a buck with horns exceeding 14 inches; or

(g) bison - a bull.

(59) "Upland game" means pheasant, quail, partridge, grouse, ptarmigan, mourning dove, band-tailed pigeon, turkey, cottontail rabbit, or snowshoe hare.

(60) "Waste" means to:

(a) abandon protected wildlife; or

(b) allow protected wildlife to spoil or to be used in a manner not normally associated with the protected wildlife's beneficial use.

(61) "Wild" means the natural environment, including a private pond or private property.

(62) "Wildlife" means:

(a) crustaceans, including brine shrimp and crayfish;

(b) mollusks; and

(c) vertebrate animals living in nature, except feral animals.

(63) "Wildlife Board" means the board created in Section 23A-2-301.

(64) "Wildlife parts" means biological material derived from the body or anatomy of wildlife, including:

(a) an antler or horn;

(b) a hide;

(c) a bone; or

(d) meat.

Section 2. Section 23A-3-216 is enacted to read:

23A-3-216 (Effective 07/01/25). Guide, Outfitter, and Spotter Fund.

(1) There is created an expendable special revenue fund known as the "Guide, Outfitter, and Spotter Fund."

(2) The Guide, Outfitter, and Spotter Fund shall consist of:

(a) revenue from fees collected under Section 23A-4-1202;

(b) money appropriated by the Legislature; and

(c) interest, dividends, or other income earned on fund money.

(3) The division shall use the money in the Guide, Outfitter, and Spotter Fund to administer Chapter 4, Part 12, Guide, Outfitter, and Spotter.

Section 3. Section 23A-4-1201 is enacted to read:

PART 12. Guide, Outfitter, and Spotter

23A-4-1201 (Effective 07/01/25). Definitions.

As used in this part:

(1) "Compensation" means anything of economic value in excess of $100 that is paid, loaned, granted, given, donated, or transferred to a guide, outfitter, or spotter for or in consideration of a service, material, or property.

(2) "Guide" means an individual who offers or provides guide services on public lands for compensation.

(3) "Guide services" means to guide, lead, or assist an individual in hunting protected wildlife.

(4) (a) "Hunting" means to locate, pursue, chase, catch, capture, trap, or kill protected wildlife.

(b) "Hunting" includes fishing.

(5) "Outfitter" means an individual who offers or provides outfitting or guide services for compensation to another individual for hunting protected wildlife on public lands.

(6) (a) "Outfitting services" means, for hunting protected wildlife on public lands, providing:

(i) transportation of people, equipment, supplies, protected wildlife to or from a location;

(ii) cooking for the participants hunting, including fishing;

(iii) packing, protecting, or supervising services; or

(iv) guide services.

(b) "Outfitting services" does not include an activity undertaken by the division or a division employee, associate, volunteer, contractor, or agent under authority granted in this title.

(7) (a) "Public lands" means any lands owned by the United States, the state, or a political subdivision or independent entity of the state that are open to the public for purposes of engaging in a wildlife related activity.

(b) "Public lands" does not include lands owned by the United States, the state, or a political subdivision or independent entity of the state that are included in a cooperative wildlife management unit under Subsection 23A-7-204(6) so long as the guiding and outfitting services furnished by the cooperative wildlife management unit are limited to hunting species of wildlife specifically authorized by the division in the unit's management plan.

(8) "Retain" or "retained" means a written or oral agreement for the delivery of guide services or outfitter services between a guide or outfitter and the recipient of those services.

(9) "Spotter" means an individual compensated by a guide or outfitter to locate or monitor the location of protected wildlife on public land.

Section 4. Section 23A-4-1202 is enacted to read:

23A-4-1202 (Effective 07/01/25). Registration as guide, outfitter, or spotter -- Rulemaking.

(1) Beginning July 1, 2025, to provide the services of a guide, outfitter, or spotter an individual is required to annually obtain a certificate of registration with the division under this part.

(2) The division shall issue to an individual who qualifies under this part a certificate to operate as a:

(a) guide;

(b) outfitter; or

(c) spotter.

(3) The division shall maintain a record of each individual who is registered with the division under this part.

(4) (a) To register as a guide, a resident shall:

(i) submit an application in a form prescribed by the division, subject to rules of the Wildlife Board;

(ii) have the appropriate hunting or fishing license under this chapter to engage in the activity for which the guide provides guide services; and

(iii) pay an annual registration fee of:

(A) $250 if the resident provides guide services related to the hunting of big game or bear; or

(B) $175 if the resident only provides guide services related to the hunting, including fishing, of protected wildlife other than big game or bear.

(b) To register as a guide, a nonresident shall:

(i) submit an application in a form prescribed by the division, subject to rules of the Wildlife Board;

(ii) have the appropriate hunting or fishing license under this chapter to engage in the activity for which the guide provides guide

services; and

(iii) pay an annual registration fee of:

(A) $750 if the nonresident provides guide services related to the hunting of big game or bear; or

(B) $500 if the nonresident only provides guide services related to the hunting, including fishing, of protected wildlife other than big game or bear.

(5) (a) To register as an outfitter, a resident shall:

(i) submit an application in a form prescribed by the division, subject to rules of the Wildlife Board;

(ii) have the appropriate hunting or fishing license under this chapter to engage in the activity for which the outfitter provides outfitter services; and

(iii) pay an annual registration fee of:

(A) $500 if the resident provides services related to the hunting of big game or bear; or

(B) $350 if the resident only provides services related to the hunting, including fishing, of protected wildlife other than big game or bear.

(b) To register as an outfitter, a nonresident shall:

(i) submit an application in a form prescribed by the division, subject to rules of the Wildlife Board;

(ii) have the appropriate hunting or fishing license under this chapter to engage in the activity for which the outfitter provides outfitter services; and

(iii) pay an annual registration fee of:

(A) $1,500 if the nonresident provides services related to the hunting of big game or bear; or

(B) $1,000 if the nonresident only provides services related to the hunting, including fishing, of protected wildlife other than big game or bear.

(6) (a) To register as a spotter, a resident shall:

(i) submit an application in a form prescribed by the division, subject to rules of the Wildlife Board;

(ii) have the appropriate hunting license under this chapter to engage in the activity for which the spotter provides services; and

(iii) pay an annual registration fee of $125.

(b) To register as a spotter, a nonresident shall:

(i) submit an application in a form prescribed by the division, subject to rules of the Wildlife Board;

(ii) have the appropriate hunting license under this chapter to engage in the activity for which the spotter provides services; and

(iii) pay an annual registration fee of $375.

(7) (a) Notwithstanding a fee amount described in Subsections (4), (5), and (6), the Wildlife Board may increase or decrease the fee amount under this section.

(b) An adjustment made by the Wildlife Board under Subsection (7)(a) takes effect when the Legislature adopts the fee schedule in the general session immediately following the adjustment.

(8) The division shall deposit fees collected under this section into the Guide, Outfitter, and Spotter Fund created in Section 23A-3-216.

(9) A registration automatically expires on the expiration date shown on the registration unless the registrant renews the registration.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make rules to address:

(a) the form of an application submitted under this section;

(b) a prohibited activity under Section 23A-4-1203; or

(c) an operation of a guide, outfitter, or spotter regulated under Section 23A-4-1204.

Section 5. Section 23A-4-1203 is enacted to read:

23A-4-1203 (Effective 07/01/25). Grounds for denial or revoking of registration -- Prohibited activities.

(1) The division shall refuse to register an applicant, refuse to renew, or revoke the certificate of registration of a registrant during the time period that the division suspends the applicant's or registrant's privilege to:

(a) hunt, if the applicant or registrant provides services requiring registration under this part related to hunting; or

(b) fish, if the applicant or registrant provides services requiring registration under this part related to fishing.

(2) If the division suspends the privilege to hunt or fish under this title of the chief executive officer of an outfitter under which an applicant or registrant provides guide services, outfitting services, or spotting services:

(a) during the time period that the chief executive officer's privilege to hunt is suspended, the division shall:

(i) refuse to issue a registration to the applicant for services requiring registration under this part related to hunting; and

(ii) refuse to renew or shall revoke the registration of the registrant for services requiring registration under this part related to hunting; and

(b) during the time period that the chief executive officer's privilege to fish is suspended, the division shall:

(i) refuse to issue a registration to the applicant for services requiring registration under this part related to fishing; and

(ii) refuse to renew or shall revoke the registration of the registrant for services requiring registration under this part related to fishing.

(3) An individual may not use the title "guide," "outfitter," or "spotter" or any other title or designation to indicate that the individual is a guide, outfitter, or spotter or acting as a guide, outfitter, or spotter unless the individual is registered as a guide, outfitter, or spotter under this part.

(4) An individual may not:

(a) engage in an activity that would place a registrant's client's, prospective client's, or third party's safety at risk, recognizing the inherent risks associated with hunting wildlife and the activity engaged in being above and beyond those inherent risks;

(b) use false, deceptive, or misleading advertising related to providing services as a guide, outfitter, or spotter;

(c) misrepresent services, outcomes, facilities, equipment, or fees to a client or prospective client; or

(d) fail to provide the division with active and current contact information within 30 days of any change to the registrant's contact information that was provided to the division during registration or the renewal of registration as a guide, outfitter, or spotter.

(5) (a) If an individual violates this part, the division may:

(i) revoke the certificate of registration of the individual; and

(ii) suspend the individual's privilege to hunt or fish under this title.

(b) An individual who violates Subsection (3) or (4) is guilty of a class B misdemeanor in accordance with Section 23A-5-301.

Section 6. Section 23A-4-1204 is enacted to read:

23A-4-1204 (Effective 07/01/25). Operations of a guide, outfitter, and spotter -- Limits on retaining guide or outfitter -- Spotter.

(1) Except as provided in Subsections (2) and (3), a person may not compensate an individual to provide guide services, outfitting services, or spotting services in connection with or in furtherance of taking protected wildlife on public land.

(2) A person may compensate a guide or outfitter to help the person locate and take protected wildlife on public land if:

(a) the guide or outfitter is registered and in good standing under this part;

(b) the person has retained the guide or outfitter and is the recipient of the guide services or outfitting services;

(c) the person possesses the licenses and permits required to take protected wildlife;

(d) in total the number of individuals providing services requiring registration under this part does not exceed:

(i) two individuals; or

(ii) three individuals, if a guide or outfitter is retained for purposes of taking a moose, bison, bighorn sheep, or mountain goat;

(e) subject to Subsection (2)(d), the retained guide or outfitter uses no more than two spotters; and

(f) the person who retains the guide or outfitter is not simultaneously using another guide or outfitter to assist in taking the same species and sex of protected wildlife.

(3) A registered guide or registered outfitter in good standing may use a spotter if:

(a) the guide or outfitter is retained by the recipient of the guide services or outfitting services to assist the recipient to take protected wildlife on public land; and

(b) the guide or outfitter does not use more than the number of spotters allowed under Subsections (2)(d) and (e).

(4) (a) A person who knowingly retains an individual that is not registered under this part as a guide or outfitter or who knowingly retains a spotter in violation of this section is guilty of a class B misdemeanor, except that, notwithstanding Section 76-3-204, a court may not sentence the person to imprisonment or probation.

(b) The division may suspend a person's privilege to hunt or fish under this title if the person knowingly retains an individual that is not registered under this part as a guide or outfitter or knowingly retains a spotter in violation of this section.

Section 7. Section 23A-4-1205 is enacted to read:

23A-4-1205 (Effective 07/01/25). Private land excluded.

This part does not apply to activities on private land.

Section 8. Section 23A-5-309 is amended to read:

23A-5-309 (Effective 07/01/25). Taking, transporting, selling, or purchasing protected wildlife illegal except as authorized -- Criminal penalty.

(1) Except as provided in this title or a rule, proclamation, or order of the Wildlife Board, a person may not:

(a) take protected wildlife or wildlife parts;

(b) collect, import, possess, transport, propagate, store, donate, transfer, or export protected wildlife or wildlife parts;

(c) take, possess, sell, purchase, barter, donate, or trade protected wildlife or wildlife parts without having previously procured the necessary licenses, permits, tags, federal stamps, certificates of registration, authorizations, and receipts required in this title or a rule, proclamation, or order of the Wildlife Board;

(d) take protected wildlife with a weapon, ammunition, implement, tool, device, or any part of any of these not specifically authorized in this title or a rule, proclamation, or order of the Wildlife Board;

(e) possess while in pursuit of protected wildlife a weapon, ammunition, implement, tool, device, or any part of any of these not specifically authorized in this title or a rule, proclamation, or order of the Wildlife Board;

(f) take protected wildlife using a method, means, process, or practice not specifically authorized in this title or a rule, proclamation, or order of the Wildlife Board;

(g) take protected wildlife outside the season dates, location boundaries, and daily time frames established in rule, proclamation, or order of the Wildlife Board;

(h) take protected wildlife in excess of the bag and possession limits established in rule, proclamation, or order of the Wildlife Board;

(i) take protected wildlife in an area closed to hunting, trapping, or fishing by rule, proclamation, or order of the Wildlife Board, or by executive order of the director pursuant to Subsection 23A-2-203(4);

(j) practice falconry or capture, possess, or use birds in falconry;

(k) take wildlife from an airplane or any other airborne vehicle or device or a motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles;

(l) hold in captivity at any time any live protected wildlife;

(m) use or permit a dog or other domestic or trained animal to take protected wildlife;

(n) remove, damage, or destroy an occupied nest of protected wildlife;

(o) release captured or captive wildlife into the wild;

(p) use spotlighting to take protected wildlife;

(q) employ or use a means of concealment or camouflage while taking protected wildlife which is prohibited in this title or a rule, proclamation, or order of the Wildlife Board;

(r) possess or use bait or other attractant to take protected wildlife which is prohibited in this title or a rule, proclamation, or order of the Wildlife Board;

(s) use a decoy or recorded or electronically amplified call which is prohibited in this title or a rule, proclamation, or order of the Wildlife Board to take protected wildlife;

(t) commercially harvest protected wildlife, including brine shrimp and brine shrimp eggs;

(u) use protected wildlife for commercial purposes or financial gain as prohibited by Section 23A-5-304;

(v) enter, establish, or hold a contest or tournament involving the taking of protected wildlife;

(w) operate or participate in a commercial hunting area as described in Section 23A-12-202; [~~or~~]

(x) operate or participate in a cooperative wildlife management unit as defined in Section 23A-7-101[~~.~~]; or

(y) (i) operate or participate in guide, outfitter, or spotter services or activities in violation of Chapter 4, Part 12, Guide, Outfitter, and Spotter; or

(ii) knowingly retain a guide, outfitter, or spotter in violation of Chapter 4, Part 12, Guide, Outfitter, and Spotter.

(2) Possession of protected wildlife without a valid license, permit, tag, certificate of registration, bill of sale, or invoice is prima facie evidence that the protected wildlife was illegally taken and is illegally held in possession.

(3) A person is subject to the penalty under Section 23A-5-301 if the person:

(a) violates Subsection (1); and

(b) does so with criminal negligence as defined in Subsection 76-2-103(4).

Section 9. Section 23A-12-301 is amended to read:

23A-12-301 (Effective 07/01/25). Definitions.

(1) The definitions in Section [~~58-79-102~~]23A-4-1201 apply to this part.

(2) (a) As used in this part, "waterfowl management area" means real property owned or managed by the division that is:

(i) primarily used for the conservation, production, or recreational harvest of ducks, mergansers, geese, brant, swans, and other waterfowl; and

(ii) designated as a waterfowl management area by the Wildlife Board in accordance with Section 23A-12-303.

(b) "Waterfowl management area" includes the Willard Spur Waterfowl Management Area and the Harold Crane Waterfowl Management Area described in Section 23A-6-403.

Section 10. Section 23A-12-302 is amended to read:

23A-12-302 (Effective 07/01/25). Prohibited activities.

(1) A commercial [~~hunting~~]guide or outfitter may not use a waterfowl management area for any of the following, unless the commercial [~~hunting~~] guide or outfitter has an annual permit, issued by the Wildlife Board pursuant to this part, for the use:

(a) [~~hunting~~]guide services or outfitter services; or

(b) transportation of an individual to another area for the purpose of providing [~~hunting~~]guide services or outfitter services.

(2) An individual may not construct a permanent blind or other permanent structure that is used for hunting within the boundaries of a waterfowl management area.

Section 11. Section 23A-12-303 is amended to read:

23A-12-303 (Effective 07/01/25). Rulemaking -- Notice.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board shall make rules:

(a) designating and establishing the boundaries of a waterfowl management area;

(b) governing the management and use of a waterfowl management area in accordance with this part; and

(c) to create an annual permit process by which commercial [~~hunting~~]guides and outfitters may use waterfowl management areas in accordance with this part.

(2) The annual permit process described in Subsection (1)(c) shall:

(a) preserve the opportunity for non-guided hunters to use waterfowl management areas; and

(b) require a permit holder to comply with safety standards established by the Wildlife Board.

(3) The division shall provide an annual report to the Natural Resources, Agriculture, and Environment Interim Committee regarding any rules made or changed in accordance with this part.

(4) The Wildlife Board shall publish a map of the boundaries of each waterfowl management area.

(5) Nothing in this part modifies or limits:

(a) Section 23A-6-403, or the discretion of the division to manage waterfowl management areas for other beneficial purposes, including for the benefit of the public, shorebirds, waterfowl, and other protected wildlife; or

(b) the authority of the division, the director, or the Wildlife Board under Chapter 6, Lands and Waters for Wildlife Purposes.

Section 12. Section 63C-4a-403 is amended to read:

63C-4a-403 (Effective 05/07/25). Due process and adjudication for closure of a road -- Plans for R.S. 2477 rights.

(1) (a) Any road on or across federally managed property and that is found on a county's class B and class D road map or a county travel plan is presumed to be a public road open for public use unless the road has been closed through an appropriate action of the state or federal government properly adjudicated and with due process.

(b) If the federal government attempts to close a road on a county's class B and class D road map or county travel plan without proper adjudication and due process:

(i) the closure is invalid and has no effect; and

(ii) the state and county may disregard the alleged closure.

(c) In an adjudication to determine ownership of a disputed road that is included in a county travel plan, including an R.S. 2477 claim, the federal government has the burden of proof to show that the disputed road is not a public road and warrants closure.

(2) The council may approve an R.S. 2477 plan if the R.S. 2477 plan:

(a) provides for a good faith, cooperative effort between the state and each participating county;

(b) allows a county to formally agree to participate in the R.S. 2477 plan by adopting a resolution;

(c) provides that the state and a participating county are equal partners in determining litigation strategy and the expenditure of resources with respect to that county's rights under R.S. 2477; and

(d) provides a process for resolving any disagreement between the state and a participating county about litigation strategy or resource expenditure that includes the following requirements:

(i) the governor or the governor's designee and a representative of the Utah Association of Counties shall first attempt to resolve the disagreement;

(ii) if the county and the state continue to disagree, the county, the governor, and the Utah Association of Counties shall present their recommendations to the council for a final decision about the strategy or expenditure in question; and

(iii) the county may pursue a strategy or make an expenditure contrary to the final decision of the council only if the county does not claim resources provided to fund the R.S. 2477 plan.

(3) The council shall ensure that the R.S. 2477 plan contains:

(a) provisions identifying which expenditure types require approval of the R.S. 2477 plan committee and which expenditure types may be made without the R.S. 2477 plan committee approval;

(b) provisions requiring that financial statements be provided to members of the R.S. 2477 plan committee and members of the council, and the frequency with which those financial statements must be provided;

(c) provisions identifying those decisions or types of decisions that may be made by the R.S. 2477 plan committee and those decisions or types of decisions that must be referred to the council for decision; and

(d) procedures to assert claims and respond to attempted closures as described in Subsection (1).

[~~(4) (a) The Public Lands Policy Coordinating Office, in consultation with the committee, the Office of the Attorney General and the School and Institutional Trust Lands, shall prepare and submit a constitutional defense plan to the council for the council's approval.~~]

[~~(b) The constitutional defense plan shall contain proposed action and expenditure for:~~]

[~~(i) the council's or the commission's duties; or~~]

[~~(ii) an action filed in accordance with Section 67-5-29.~~]

[~~(5)~~](4) The council shall:

(a) review expenditures, at least [~~quarterly~~]annually, made to further a plan approved under this section;

(b) approve an update to a plan under this section at least annually, or more often, if necessary; and

(c) [~~jointly, with~~]ensure that the Public Lands Policy Coordinating Office[~~,~~];

(i) [~~present~~]presents a R.S. 2477 plan approved under this section, with any updates, to[~~:~~]

[~~(i) the Legislature's~~]the Natural Resources, Agriculture, and Environment Interim Committee [~~by~~]on or before July 1 of each calendar year [~~, after providing the R.S. 2477 plan to the committee at least seven days before the presentation~~]; and

(ii) provides a hard copy or electronic copy of the R.S. 2477 plan approved under this section, with any updates to the plan, to:

(A) the commission[~~, which may be by mail~~]; and

[~~(iii)~~](B) the president of the Senate and the speaker of the House of Representatives [~~, which may be by mail~~].

Section 13. Section 63L-7-104 is amended to read:

63L-7-104 (Effective 05/07/25). Identification of a potential wilderness area.

(1) (a) Subject to Subsection (1)(b), the [~~director~~]advisor of PLPCO, within one year of the acquisition date, shall identify within a parcel of acquired land any conservation areas.

(b) Before identifying a parcel of land as a conservation area, the [~~director~~]advisor of PLPCO shall:

(i) inform the School and Institutional Trust Lands Administration that a parcel is being considered for designation as a conservation area; and

(ii) provide the School and Institutional Trust Lands Administration with the opportunity to trade out land owned by the School and Institutional Trust Lands Administration for the parcel in question subject to reaching an exchange agreement with the agency that manages the parcel.

(2) The [~~director~~]advisor of PLPCO shall:

(a) file a map and legal description of each identified conservation area with the governor, the Senate, and the House of Representatives;

(b) maintain, and make available to the public, records pertaining to identified conservation areas, including:

(i) maps;

(ii) legal descriptions;

(iii) copies of proposed regulations governing the conservation area; and

(iv) copies of public notices of, and reports submitted to the Legislature, regarding pending additions, eliminations, or modifications to a conservation area; and

(c) within five years of the date of acquisition:

(i) review each identified conservation area for its suitability to be classified as a protected wilderness area; and

(ii) report the findings under Subsection (2)(c)(i) to the governor.

(3) The records described in Subsection (2)(b) shall be available for inspection at:

(a) the PLPCO office;

(b) the main office of DNR;

(c) a regional office of the Division of Forestry, Fire, and State Lands for any record that deals with an identified conservation area in that region; and

(d) the Division of State Parks or the Division of Outdoor Recreation.

(4) A conservation area may be designated as a protected wilderness area as described in Section 63L-7-105.

(5) A conservation area identified under Subsection (1) shall be managed by DNR, in coordination with the county government having jurisdiction over the area, without the conservation area being designated as a protected wilderness area unless otherwise provided by the Legislature.

Section 14. Section 63L-7-105 is amended to read:

63L-7-105 (Effective 05/07/25). Report to the governor -- Governor's report to the Legislature -- Designation of a protected wilderness area -- Modification of a protected wilderness area -- Rulemaking authority.

(1) Within five years of the acquisition date of a parcel of land, the [~~director~~]advisor of PLPCO shall:

(a) review all areas identified as conservation areas under Section 63L-7-104; and

(b) subject to Subsection (3), submit a report and recommendation to the governor on the suitability of a conservation area for designation as a protected wilderness area.

(2) Before making a recommendation, the [~~director~~]advisor of PLPCO shall:

(a) give notice of the proposed recommendation in a newspaper having general circulation in the vicinity of the affected land;

(b) hold a public hearing at a location convenient to citizens who live in the affected area; and

(c) at least 30 days before the date of the hearing described in Subsection (2)(b), invite local authorities to submit their opinions on the proposed action:

(i) at the hearing; or

(ii) to the [~~director~~]advisor of PLPCO, in writing, no later than 30 days after the day on which the hearing is held.

(3) Any opinions submitted to the [~~director~~]advisor of PLPCO shall be included with any recommendations to the governor under Subsection (2) and the Legislature under Subsection (5).

(4) The governor shall, after receiving the reports described in Subsection (1)(b):

(a) formulate a recommendation on which conservation areas to designate as protected wilderness areas; and

(b) advise the speaker of the House of Representatives and the president of the Senate of the governor's recommendation.

(5) An area shall be designated as a protected wilderness area upon a concurrent resolution of the Legislature, the governor concurring therein, including:

(a) the legal description of the proposed protected wilderness area; and

(b) any special conditions that shall be placed upon the protected wilderness area.

(6) Any modification or adjustment to the boundaries of a protected wilderness area shall be:

(a) recommended by the [~~director~~]advisor of PLPCO after public notice of, and hearing on, the proposal, as described in Subsections (1) and (2); and

(b) made official as described in Subsections (4) and (5).

(7) DNR shall make rules governing the protection of a protected wilderness area.

Section 15. Section 63L-7-109 is amended to read:

63L-7-109 (Effective 05/07/25). Annual reports.

(1) The [~~director~~]advisor of PLPCO shall report to the governor, for transmission to the Legislature, on:

(a) the status of the Utah wilderness preservation system;

(b) regulations in effect; and

(c) other pertinent information.

(2) The [~~director~~]advisor of PLPCO shall report any recommendations for future action to the Natural Resources, Agriculture, and Environment Interim Committee by November 30 of each year.

Section 16. Section 63L-11-102 is amended to read:

63L-11-102 (Effective 05/07/25). Definitions.

As used in this chapter:

(1) "Advisor" means the advisor of the office appointed under Section 63L-11-201.

[~~(1)~~](2) "Coordinating committee" means the committee created in Section 63L-11-401.

[~~(2)~~](3) "Executive director" means the [~~public lands policy~~]executive director of the Department of Natural Resources appointed under Section [~~63L-11-201~~]79-2-202.

[~~(3)~~](4) "Office" means the Public Lands Policy Coordinating Office created in Section 63L-11-201.

[~~(4)~~](5) "Political subdivision" means:

(a) a county, municipality, special district, special service district, school district, or interlocal entity, as defined in Section 11-13-103; or

(b) an administrative subunit of an entity listed in Subsection [~~(4)(a)~~](5)(a).

Section 17. Section 63L-11-201 is amended to read:

63L-11-201 (Effective 05/07/25). Public Lands Policy Coordinating Office -- Advisor on public lands -- Appointment -- Qualifications -- Compensation.

(1) (a) There is created the Public Lands Policy Coordinating Office within the Department of Natural Resources [~~the Public Lands Policy Coordinating Office to be administered by an executive director~~].

(b) The advisor on public lands is the executive and administrative head of the Public Lands Policy Coordinating Office.

(2) (a) The [~~executive director shall be appointed by the governor~~]governor shall appoint the advisor with the advice and consent of the Senate [~~and shall serve at the pleasure of the governor~~].

(b) The advisor shall:

(i) serve at the pleasure of the governor; and

(ii) report to the executive director on matters concerning the office as the executive director may require.

(3) The [~~executive director~~]advisor shall have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the office's affairs.

(4) (a) The [~~executive director~~]advisor and employees of the office shall receive compensation as provided in Title 63A, Chapter 17, Utah State Personnel Management Act.

(b) The office space for the [~~executive director~~]advisor and employees of the office shall be in a building where the Department of Natural Resources is located.

Section 18. Section 63L-11-202 is amended to read:

63L-11-202 (Effective 05/07/25). Powers and duties of the office and advisor on public lands.

(1) The office shall:

(a) make a report to the Constitutional Defense Council created under Section 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(b) provide staff assistance to the Constitutional Defense Council created under Section 63C-4a-202 for meetings of the council;

[~~(c) (i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and~~]

[~~(ii) execute any action assigned in a constitutional defense plan;~~]

(c) for a R.S. 2477 plan approved under Section 63C-4a-403:

(i) present the plan, with any updates to the plan, to the Natural Resources, Agriculture, and Environment Interim Committee on or before July 1 of each calendar year; and

(ii) provide a hard copy or electronic copy of the plan, with any updates to the plan, to:

(A) the Natural Resources, Agriculture, and Environment Interim Committee no later than seven days before the day of the presentation described in Subsection (1)(c)(i);

(B) the Federalism Commission created in Section 63C-4a-302; and

(C) the president of the Senate and the speaker of the House of Representatives;

(d) develop public lands policies by:

(i) developing cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal government for involvement in the development of public lands policies;

(ii) producing research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy;

(iii) preparing comments to ensure that the positions of the state and political subdivisions are considered in the development of public lands policy; and

(iv) partnering with state agencies and political subdivisions in an effort to:

(A) prepare coordinated public lands policies;

(B) develop consistency reviews and responses to public lands policies;

(C) develop management plans that relate to public lands policies; and

(D) develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions;

(e) facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) the Office of Rural Development created under Section 63N-4-102;

(iv) the coordinating committee;

(v) School and Institutional Trust Lands Administration created under Section 53C-1-201; and

[~~(vi) the committee created under Section 63A-16-507 to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and~~]

[~~(vii)~~](vi) the Constitutional Defense Council created under Section 63C-4a-202;

(f) perform the duties established in Title 9, Chapter 8a, Part 3, Antiquities, and Title 9, Chapter 8a, Part 4, Historic Sites;

(g) consistent with other statutory duties, encourage agencies to responsibly preserve archaeological resources;

(h) maintain information concerning grants made under Subsection (1)(j), if available;

(i) report annually, or more often if necessary or requested, concerning the office's activities and expenditures to:

(i) the Constitutional Defense Council created under Section 63C-4a-202; and

(ii) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee jointly with the Constitutional Defense Council;

(j) make grants of up to 16% of the office's total annual appropriations from the Constitutional Defense Restricted Account to a county or statewide association of counties to be used by the county or association of counties for public lands matters if the executive director, with the advice of the Constitutional Defense Council, determines that the action provides a state benefit;

(k) conduct the public lands transfer study and economic analysis required by Section 63L-11-304; and

(l) fulfill the duties described in Section 63L-10-103.

(2) The [~~executive director~~]advisor shall comply with Subsection 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be subject to Subsection 63C-4a-203(8) in submitting the comment.

(3) The office may enter into an agreement with another state agency to provide information and services related to:

(a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and Classification Act;

(b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and Classification Act, or R.S. 2477 matters; or

(c) any other matter within the office's responsibility.

(4) In fulfilling the duties under this part, the office shall consult, as necessary, with:

(a) the Department of Natural Resources;

(b) the Department of Agriculture and Food;

(c) the Department of Environmental Quality;

(d) other applicable state agencies;

(e) political subdivisions of the state;

(f) federal land management agencies; and

(g) elected officials.

Section 19. Section 63L-11-305 is amended to read:

63L-11-305 (Effective 05/07/25). Facilitating the acquisition of federal land.

(1) As used in this section:

(a) "Federal land" means land that the secretary is authorized to dispose of under the federal land disposal law.

(b) "Federal land disposal law" means the Recreation and Public Purposes Act, 43 U.S.C. Sec. 869 et seq.

(c) "Government entity" means any state or local government entity allowed to submit a land application under the federal land disposal law.

(d) "Land application" means an application under the federal land disposal law requesting the secretary to sell or lease federal land.

(e) "Land application process" means the actions involved in the process of submitting and obtaining a final decision on a land application.

(f) "Secretary" means the Secretary of the Interior of the United States.

(2) The office shall:

(a) develop expertise:

(i) in the land application process; and

(ii) concerning the factors that tend to increase the chances that a land application will result in the secretary selling or leasing federal land as requested in the land application;

(b) work to educate government entities concerning:

(i) the availability of federal land pursuant to the federal land disposal law; and

(ii) the land application process;

(c) advise and consult with a government entity that requests assistance from the office to formulate and submit a land application and to pursue a decision on the land application;

(d) advise and consult with a government entity that requests assistance from the office to identify and quantify the amount of any funds needed to provide the public use described in a land application;

(e) adopt a list of factors to be considered in determining the degree to which a land application or potential land application is in the public interest;

(f) recommend a prioritization of land applications or potential land applications in the state according to the extent to which the land applications are in the public interest, based on the factors adopted under Subsection (2)(e);

(g) prepare and submit a written report of land applications:

(i) to the Natural Resources, Agriculture, and Environment Interim Committee and the Federalism Commission;

(ii) (A) annually no later than August 31; and

(B) at other times, if and as requested by the committee or commission; and

(iii) (A) on the activities of the office under this section;

(B) on the land applications and potential land applications in the state;

(C) on the decisions of the secretary on land applications submitted by government entities in the state; and

(D) the quantity of land acquired under the land applications;

(h) present a summary of information contained in the report described in Subsection (2)(g):

(i) at a meeting of the Natural Resources, Agriculture, and Environment Interim Committee and at a meeting of the Federalism Commission;

(ii) annually no later than August 31; and

(iii) at other times, if and as requested by the committee or commission; and

(i) report to the Executive Appropriations Committee of the Legislature, as frequently as the [~~executive director~~]advisor considers appropriate or as requested by the Executive Appropriations Committee, on the need for legislative appropriations to provide funds for the public purposes described in land applications.

(3) The office may:

(a) assist a government entity or the secretary in the filing and processing of a land application; and

(b) enter into an agreement with the secretary related to the office assisting in processing a land application.

Section 20. Section 63L-11-402 is amended to read:

63L-11-402 (Effective 05/07/25). Membership -- Terms -- Chair -- Expenses.

(1) The Resource Development Coordinating Committee consists of the following 26 members:

(a) the state science advisor;

(b) a representative from the Department of Agriculture and Food appointed by the commissioner of the Department of Agriculture and Food;

(c) a representative from the Department of Cultural and Community Engagement appointed by the executive director of the Department of Cultural and Community Engagement;

(d) a representative from the Department of Environmental Quality appointed by the executive director of the Department of

Environmental Quality;

(e) a representative from the Department of Natural Resources appointed by the executive director of the Department of Natural Resources;

(f) a representative from the Department of Transportation appointed by the executive director of the Department of Transportation;

(g) a representative from the Governor's Office of Economic Opportunity appointed by the director of the Governor's Office of Economic Opportunity;

(h) a representative from the Housing and Community Development Division appointed by the director of the Housing and Community Development Division;

(i) a representative from the Utah Historical Society appointed by the director of the Utah Historical Society;

(j) a representative from the Division of Air Quality appointed by the director of the Division of Air Quality;

(k) a representative from the Division of Drinking Water appointed by the director of the Division of Drinking Water;

(l) a representative from the Division of Environmental Response and Remediation appointed by the director of the Division of Environmental Response and Remediation;

(m) a representative from the Division of Waste Management and Radiation Control appointed by the director of the Division of Waste Management and Radiation Control;

(n) a representative from the Division of Water Quality appointed by the director of the Division of Water Quality;

(o) a representative from the Division of Oil, Gas, and Mining appointed by the director of the Division of Oil, Gas, and Mining;

(p) a representative from the Division of Parks appointed by the director of the Division of Parks;

(q) a representative from the Division of Outdoor Recreation appointed by the director of the Division of Outdoor Recreation;

(r) a representative from the Division of Forestry, Fire, and State Lands appointed by the director of the Division of Forestry, Fire, and State Lands;

(s) a representative from the Utah Geological Survey appointed by the director of the Utah Geological Survey;

(t) a representative from the Division of Water Resources appointed by the director of the Division of Water Resources;

(u) a representative from the Division of Water Rights appointed by the director of the Division of Water Rights;

(v) a representative from the Division of Wildlife Resources appointed by the director of the Division of Wildlife Resources;

(w) a representative from the School and Institutional Trust Lands Administration appointed by the director of the School and Institutional Trust Lands Administration;

(x) a representative from the Division of Facilities Construction and Management appointed by the director of the Division of Facilities Construction and Management;

(y) a representative from the Division of Emergency Management appointed by the director of the Division of Emergency Management; and

(z) a representative from the Division of Conservation, created under Section 4-46-401, appointed by the director of the Division of Conservation.

(2) (a) As particular issues require, the coordinating committee may, by majority vote of the members present, appoint additional temporary members to serve as ex officio voting members.

(b) Those ex officio members may discuss and vote on the issue or issues for which they were appointed.

(3) A chair shall be selected by a vote of 14 committee members with the concurrence of the [~~executive director~~]advisor.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 21. Section 63L-11-403 is amended to read:

63L-11-403 (Effective 05/07/25). Advisor on public lands responsibilities.

The [~~executive director~~]advisor shall:

(1) administer this part;

(2) subject to the direction and approval of the governor, take necessary action to implement this part; and

(3) inform political subdivision representatives, in advance, of all coordinating committee meetings.

Section 22. Section 67-22-2 is amended to read:

67-22-2 (Effective 05/07/25). Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

(iv) director, Department of Alcoholic Beverage Services;

(v) commissioner of the Department of Financial Institutions;

(vi) executive director, Department of Commerce;

(vii) executive director, Commission on Criminal and Juvenile Justice;

(viii) adjutant general;

(ix) executive director, Department of Cultural and Community Engagement;

(x) executive director, Department of Corrections;

(xi) commissioner, Department of Public Safety;

(xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of Planning and Budget;

(xiv) executive director, Department of Government Operations;

(xv) executive director, Department of Environmental Quality;

(xvi) executive director, Governor's Office of Economic Opportunity;

(xvii) executive director, Department of Workforce Services;

(xviii) executive director, Department of Health and Human Services, Nonphysician;

(xix) executive director, Department of Transportation;

(xx) executive director, Department of Veterans and Military Affairs;

(xxi) [~~executive director~~]advisor, Public Lands Policy Coordinating Office, created in Section 63L-11-201;

(xxii) Great Salt Lake commissioner, appointed under Section 73-32-201; and

(xxiii) Utah water agent, appointed under Section 73-10g-602.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Division of Human Resource Management.

(2) (a) The director of the Division of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Division of Human Resource Management.

(b) (i) The Division of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii) or Subsection (3)(d), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health and Human Services is a physician, the governor shall establish a salary within the highest physician salary range established by the Division of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(d) If under Section 73-10g-602 the governor appoints an individual who is serving in an appointed executive branch position to be the Utah water agent, the governor shall adjust the salary of the Utah water agent to account for salary received for the appointed executive branch position.

(4) Salaries for other Schedule A employees, as defined in Section 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 63A-17-301.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use;

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use; and

(h) for the executive director of the Department of Veterans and Military Affairs a vehicle for commute and official use.

Section 23. Section 79-1-103 is amended to read:

79-1-103 (Effective 05/07/25). Coordination council.

(1) There is created a coordination council that consists of:

(a) the executive director of the department;

(b) the executive director of the Department of Environmental Quality;

(c) the commissioner of the Department of Agriculture and Food;

(d) the [~~director~~]advisor of the Public Lands Policy Coordinating Office; and

(e) the director of the Office of Energy Development.

(2) The coordination council shall:

(a) rotate the position of chair among the members; and

(b) meet at least monthly.

(3) The coordination council shall discuss methods to enhance the coordination of regulation and services of the five entities.

Section 24. Section 79-2-204 is amended to read:

79-2-204 (Effective 05/07/25). Division directors -- Appointment -- Removal -- Jurisdiction of executive director.

(1) (a) The chief administrative officer of a division within the department is a director appointed by the executive director with the concurrence of the board having policy authority for the division.

(b) The director of a division may be removed from office by the executive director.

(c) [~~The~~]Notwithstanding the provisions of this section, the appointment and term of office of:

(i) the state engineer [~~, notwithstanding anything to the contrary contained in this section,~~] shall be in accordance with Section 73-2-1[~~.~~];

(ii) the director of the Office of Energy Development shall be in accordance with Subsection 79-6-401(2); and

(iii) the advisor of the Public Lands Policy Coordinating Office created in Section 63L-11-201 shall be in accordance with Subsection 63L-11-201(2).

(2) (a) The executive director has administrative jurisdiction over a division director for the purpose of implementing department policy as established by the division's board.

(b) The executive director may:

(i) consolidate personnel and service functions in the divisions to effectuate efficiency and economy in the operations of the department;

(ii) establish a departmental services division to perform service functions; and

(iii) employ law enforcement officers within the department that have all of the powers of a natural resources officer and law enforcement officer, with the exception of the power to serve civil process.

Section 25. Section 79-6-401 is amended to read:

79-6-401 (Effective 05/07/25). Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees -- Transition for employees.

(1) There is created an Office of Energy Development within the Department of Natural Resources to be administered by a director.

(2) (a) The [~~executive director~~]governor shall appoint the director [~~and the director shall serve at the pleasure of the executive director~~]with the advice and consent of the Senate.

(b) The director shall:

(i) have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the office's affairs[~~.~~];

(ii) serve at the pleasure of the governor; and

(iii) report to the executive director on matters concerning the office as the executive director may require.

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy and mineral development in the state;

(b) implement:

(i) the state energy policy under Section 79-6-301; and

(ii) the governor's energy and mineral development goals and objectives;

(c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;

(d) promote energy and mineral development workforce initiatives;

(e) support collaborative research initiatives targeted at Utah-specific energy and mineral development;

(f) in coordination with the Department of Environmental Quality and other relevant state agencies:

(i) develop effective policy strategies to advocate for and protect the state's interests relating to federal energy and environmental entities, programs, and regulations;

(ii) participate in the federal environmental rulemaking process by:

(A) advocating for positive reform of federal energy and environmental regulations and permitting;

(B) coordinating with other states to develop joint advocacy strategies; and

(C) conducting other government relations efforts; and

(iii) direct the funding of legal efforts to combat federal overreach and unreasonable delays regarding energy and environmental permitting; and

(g) fund the development of detailed and accurate forecasts of the state's long-term energy supply and demand, including a baseline projection of expected supply and demand and analysis of potential alternative scenarios.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102, 59-7-614.7, 59-10-1029, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

(6) (a) For purposes of administering this section, the office may make rules, by following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

(7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.

(8) (a) An employee of the office on April 30, 2024, is an at-will employee.

(b) For an employee described in Subsection (8)(a) who was employed by the office on April 30, 2024, the employee shall have the same salary and benefit options an employee had when the office was part of the office of the governor.

(c) An employee of the office hired on or after May 1, 2024, shall receive compensation as provided in Title 63A, Chapter 17, Utah State Personnel Management Act.

(9) (a) The office shall prepare a strategic energy plan to achieve the state's energy policy, including:

(i) technological and infrastructure innovation needed to meet future energy demand including:

(A) energy production technologies;

(B) battery and storage technologies;

(C) smart grid technologies;

(D) energy efficiency technologies; and

(E) any other developing energy technology, energy infrastructure planning, or investments that will assist the state in meeting energy demand;

(ii) the state's efficient use and development of:

(A) energy resources, including natural gas, coal, clean coal, hydrogen, oil, oil shale, and oil sands;

(B) renewable energy resources, including geothermal, solar, hydrogen, wind, biomass, biofuel, and hydroelectric;

(C) nuclear power; and

(D) earth minerals;

(iii) areas of energy-related academic research;

(iv) specific areas of workforce development necessary for an evolving energy industry;

(v) the development of partnerships with national laboratories; and

(vi) a proposed state budget for economic development and investment.

(b) In preparing the strategic energy plan, the office shall:

(i) consult with stakeholders, including representatives from:

(A) energy companies in the state;

(B) private and public institutions of higher education within the state conducting energy-related research; and

(C) other state agencies; and

(ii) use modeling and industry standard data to:

(A) define the energy services required by a growing economy;

(B) calculate energy needs;

(C) develop state strategy for energy transportation, including transmission lines, pipelines, and other infrastructure needs;

(D) optimize investments to meet energy needs at the least cost and least risk while meeting the policy outlined in this section;

(E) address state needs and investments through a prospective 30-year period, divided into five-year working plans; and

(F) update the plan at least every two years.

(c) The office shall report annually to the Public Utilities, Energy, and Technology Interim Committee on or before the October interim meeting describing:

(i) progress towards creation and implementation of the strategic energy plan;

(ii) the plan's compliance with the state energy policy; and

(iii) a proposed budget for the office to continue development of the strategic energy plan.

(10) The director shall:

(a) annually review and propose updates to the state's energy policy, as contained in Section 79-6-301;

(b) promote as the governor considers necessary:

(i) the development of cost-effective energy resources both renewable and nonrenewable; and

(ii) educational programs, including programs supporting conservation and energy efficiency measures;

(c) coordinate across state agencies to assure consistency with state energy policy, including:

(i) working with the State Energy Program to promote access to federal assistance for energy-related projects for state agencies and members of the public;

(ii) working with the Division of Emergency Management to assist the governor in carrying out the governor's energy emergency powers under Title 53, Chapter 2a, Part 10, Energy Emergency Powers of the Governor Act;

(iii) participating in the annual review of the energy emergency plan and the maintenance of the energy emergency plan and a current list of contact persons required by Section 53-2a-902; and

(iv) identifying and proposing measures necessary to facilitate low-income consumers' access to energy services;

(d) coordinate with the Division of Emergency Management ongoing activities designed to test an energy emergency plan to ensure coordination and information sharing among state agencies and political subdivisions in the state, public utilities and other energy suppliers, and other relevant public sector persons as required by Sections 53-2a-902, 53-2a-1004, 53-2a-1008, and 53-2a-1010;

(e) coordinate with requisite state agencies to study:

(i) the creation of a centralized state repository for energy-related information;

(ii) methods for streamlining state review and approval processes for energy-related projects; and

(iii) the development of multistate energy transmission and transportation infrastructure;

(f) coordinate energy-related regulatory processes within the state;

(g) compile, and make available to the public, information about federal, state, and local approval requirements for energy-related projects;

(h) act as the state's advocate before federal and local authorities for energy-related infrastructure projects or coordinate with the appropriate state agency; and

(i) help promote the Division of Facilities Construction and Management's measures to improve energy efficiency in state buildings.

(11) The director has standing to testify on behalf of the governor at the Public Service Commission created in Section 54-1-1.

(12) The office shall include best practices in developing actionable goals and recommendations as part of preparing and updating every two years the strategic energy plan required under Subsection (9).

(13) The office shall maintain and regularly update a public website that provides an accessible dashboard of relevant metrics and reports and makes available the data used to create the strategic energy plan.

Section 26. Section 79-6-407 is amended to read:

79-6-407 (Effective 05/07/25). Decommissioned Asset Disposition Authority.

(1) As used in this section:

(a) "Asset intended for decommissioning" means an electrical generation facility owned by a project entity that is intended to be removed from active service.

(b) "Authority" means the Decommissioned Asset Disposition Authority created in this section.

(c) "Fair market value" means the value of an electrical generation facility considering both the assets and liabilities of the facility, including the value of water rights necessary to operate the existing electrical generation facility at full capacity.

(d) "Highest and best purchase offer" means the purchase offer for the asset intended for decommissioning that the authority determines to be in the overall best interest of the state, considering:

(i) the purchase price offer amount;

(ii) the potential purchaser's:

(A) commitment to utilize the best available control technology;

(B) intent to use state resources to the maximum extent feasible;

(C) commitment to provide jobs and other economic benefits to the state;

(D) intent to promote the interests of state residents and ratepayers; and

(E) financial capability; and

(iii) any other factors the authority considers relevant.

(e) "Project entity" means the same as that term is defined in Section 11-13-103.

(2) There is established within the office the Decommissioned Asset Disposition Authority.

(3) (a) The authority shall be composed of:

(i) the [~~executive~~]director of the office;

(ii) two members appointed by the governor;

(iii) two members appointed by the president of the Senate; and

(iv) two members appointed by the speaker of the House of Representatives.

(b) The office shall provide staff and support to the authority.

(4) The authority shall:

(a) provide recommendations to the governor and Legislature regarding the state exercising an option to purchase an asset intended for decommissioning;

(b) if the state exercises an option to purchase the asset intended for decommissioning under Section 11-13-318:

(i) enter into contracts and agreements related to the decommissioned asset;

(ii) govern the disposition of assets intended for decommissioning as outlined in Subsection (6); and

(iii) take any other action necessary for governance of a decommissioned asset purchased by the state;

(c) contract with independent professionals that have expertise in emissions modeling, air quality impact assessments, regulatory compliance, and any other discipline necessary for the preparation and submission of a complete alternative air permit application, including:

(i) conducting emissions modeling, air quality impact assessments, and gathering any other information necessary for inclusion in a complete alternative air permit application;

(ii) preparing the full application with all necessary information included, as would be required for an application submitted by the owner of the electrical generation facility; and

(iii) submitting the full permit application to the Division of Air Quality; and

(d) submit a complete alternative air permit application to the division on or before December 31, 2024, unless the authority determines that it is not feasible to submit a complete application on or before that date.

(5) If the authority determines under Subsection (4)(d) that it is not feasible to submit a complete application on or before December 31, 2024, the authority shall:

(a) submit a written report to the Legislative Management Committee on or before December 15, 2024, explaining the reasons for the delay and providing an estimated time line for submitting the complete application; and

(b) submit the complete application to the division as soon as practicable after December 31, 2024.

(6) If the state exercises an option to purchase or otherwise take control of the asset intended for decommissioning under Section 11-13-318, the authority may, no sooner than July 2, 2025:

(a) hold a public hearing to receive comment and evidence regarding:

(i) the fair market value of the asset, including the valuation study conducted by the authority under Section 79-6-408; and

(ii) the proposed disposition of the decommissioned asset;

(b) establish procedures and timelines for potential purchasers to submit binding purchase offers;

(c) evaluate all purchase offers to determine the highest and best purchase offer;

(d) approve the sale of the decommissioned asset to the purchaser that has submitted the highest and best purchase offer; and

(e) take any other action necessary to govern the disposition of the decommissioned asset in accordance with this section.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the authority shall make rules that establish:

(a) procedures and associated timelines for potential purchasers to submit binding purchase offers for a decommissioned asset;

(b) objective criteria and a process to evaluate all purchase offers submitted for a decommissioned asset and determine which purchase offer is the highest and best offer; and

(c) a process for the authority to approve the sale of a decommissioned asset to the purchaser that has submitted the highest and best purchase offer.

Section 27. Repealer.

This bill repeals:

Section 23A-11-204, Limitation on compensating people to locate big game animals.

Section 58-79-101, Title.

Section 58-79-102, Definitions.

Section 58-79-103, Hunting guide and outfitter rules.

Section 58-79-301, Registration required.

Section 58-79-302, Qualifications for registration.

Section 58-79-303, Term of registration -- Expiration -- Renewal.

Section 58-79-304, Exemptions from registration.

Section 58-79-401, Grounds for denial of registration -- Disciplinary proceedings.

Section 58-79-501, Unlawful conduct.

Section 58-79-502, Unprofessional conduct.

Section 63A-16-507, Committee to award grants to counties for inventory and mapping of R.S. 2477 rights-of-way -- Use of grants -- Request for proposals.

Section 28. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect July 1, 2025.

(2) The actions affecting the following sections take effect on May 7, 2025:

(a) Section 63A-16-507;

(b) Section 63C-4a-403 (Effective 05/07/25);

(c) Section 63L-7-104 (Effective 05/07/25);

(d) Section 63L-7-105 (Effective 05/07/25);

(e) Section 63L-7-109 (Effective 05/07/25);

(f) Section 63L-11-102 (Effective 05/07/25);

(g) Section 63L-11-201 (Effective 05/07/25);

(h) Section 63L-11-202 (Effective 05/07/25);

(i) Section 63L-11-305 (Effective 05/07/25);

(j) Section 63L-11-402 (Effective 05/07/25);

(k) Section 63L-11-403 (Effective 05/07/25);

(l) Section 67-22-2 (Effective 05/07/25);

(m) Section 79-1-103 (Effective 05/07/25);

(n) Section 79-2-204 (Effective 05/07/25);

(o) Section 79-6-401 (Effective 05/07/25); and

(p) Section 79-6-407 (Effective 05/07/25).

Section 29. Coordinating S.B. 149 with other 2025 General Session legislation.

The Legislature intends that, on May 7, 2025, all references to the term "executive director" or "director" of the Public Lands Policy Coordinating Office change to "advisor" in any new language added to the Utah Code by legislation that passes in the 2025 General Session and becomes law.

CHAPTER 141
H. B. 199
Passed March 6, 2025
Approved March 24, 2025
Effective May 7, 2025

SUBSTANCE USE TREATMENT AND ENFORCEMENT AMENDMENTS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Brady Brammer

Cosponsor:	Trevor Lee	Michael J. Petersen
Matthew H. Gwynn	Karianne Lisonbee	Candice B. Pierucci

LONG TITLE

General Description:

This bill addresses treatment and enforcement issues related to substance use.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires a local substance abuse authority to include in the authority's annual plan a list of available substance use service providers, in a form and format usable by first responders;
- ► requires a local mental health authority to include in the authority's annual plan a list of available mental health service providers, in a form and format usable by first responders;
- ► allows and encourages first responders to offer a referral to substance use or mental health services to an individual who experiences an intentional or accidental overdose;
- ► addresses requirements for syringe exchange programs and information collected relating to syringe exchange programs;
- ► allows an opioid treatment program to operate a mobile unit to provide medication to treat substance use withdrawal symptoms or an opioid use disorder, and provides certain requirements for operation of a mobile unit;
- ► grants rulemaking authority to the Department of Health and Human Services regarding the requirements for operating a mobile unit to provide medication to treat substance use withdrawal symptoms or an opioid use disorder;
- ► amends criminal provisions of the Utah Controlled Substances Act;
- ► creates the crime of maintenance of a drug-involved premises;
- ► amends provisions regarding civil nuisance actions, including provisions that relate to a nuisance caused by unlawful actions related to a controlled substance;
- ► repeals intent language;
- ► adds a coordination clause between this bill and H.B. 355, Critical Infrastructure Materials Amendments, to provide that changes made to Section 76B-6-1101 in H.B. 355 are incorporated into changes this bill makes to that section; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

10-3-703, as last amended by Laws of Utah 2020, Chapter 89
17-43-102, as last amended by Laws of Utah 2023, Chapter 327
17-43-201, as last amended by Laws of Utah 2023, Chapters 15, 327
17-43-301, as last amended by Laws of Utah 2024, Chapters 240, 299
17-53-223, as last amended by Laws of Utah 2020, Chapter 89
26B-7-117, as last amended by Laws of Utah 2024, Chapter 250
58-17b-309.7, as last amended by Laws of Utah 2024, Chapter 240
58-37-8, as last amended by Laws of Utah 2024, Chapter 105
76-10-801, as enacted by Laws of Utah 1973, Chapter 196
76-10-803, as last amended by Laws of Utah 2019, Chapters 81, 227
78B-6-1101, as last amended by Laws of Utah 2021, Chapter 207
78B-6-1102, as enacted by Laws of Utah 2008, Chapter 3
78B-6-1102.5, as enacted by Laws of Utah 2010, Chapter 99
78B-6-1103, as last amended by Laws of Utah 2011, Chapter 185
78B-6-1106, as enacted by Laws of Utah 2008, Chapter 3
78B-6-1107, as last amended by Laws of Utah 2021, Chapter 207
78B-6-1108, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-1109, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-1110, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-1111, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-1112, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-1113, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-1114, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

26B-5-121, Utah Code Annotated 1953
76-10-803.1, Utah Code Annotated 1953

REPEALS:

78B-6-1105, as renumbered and amended by Laws of Utah 2008, Chapter 3

Utah Code Sections Affected by Coordination Clause:

AMENDS:

78B-6-1101, as last amended by Laws of Utah 2021, Chapter 207

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

Section 1. Section 10-3-703 is amended to read:

10-3-703. Criminal penalties for violation of ordinance -- Civil penalties prohibited -- Exceptions.

(1) (a) The governing body of a municipality may impose a criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301, by a term of imprisonment up to six months, or by both the fine and term of imprisonment.

(b) Notwithstanding Subsection (1)(a), a municipality may not impose a criminal penalty greater than an infraction for a violation pertaining to an individual's pet, as defined in Section 4-12-102, or an individual's use of the individual's residence unless:

(i) the violation:

(A) is a nuisance as that term is defined in [~~Subsection 78B-6-1101(1)~~]Section 78B-6-1101; and

(B) threatens the health, safety, or welfare of the individual or an identifiable third party; or

(ii) the municipality has imposed a fine on the individual for a violation that involves the same residence or pet on three previous occasions within the past 12 months.

(c) Subsection (1)(b) does not apply to municipal enforcement of a building code or fire code ordinance in accordance with Title 15A, State Construction and Fire Codes Act.

(2) (a) Except as provided in Subsection (2)(b), the governing body may prescribe a civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301.

(b) A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

(3) (a) Except as provided in Subsection (3)(b) or Section 77-7-18, a municipal officer or official who is not a law enforcement officer described in Section 53-13-103 or a special function officer described in Section 53-13-105 may not issue a criminal citation for a violation that is punished as a misdemeanor.

(b) Notwithstanding Subsection (1) or (3)(a), the following may issue a criminal citation for a violation that is punished as a misdemeanor if the violation threatens the health and safety of an animal or the public:

(i) a fire officer described in Section 53-7-102; or

(ii) an animal control officer described in Section 11-46-102.

(4) A municipality may not issue more than one infraction within a 14-day time period for a violation described in Subsection (1)(b) that is ongoing.

Section 2. Section 17-43-102 is amended to read:

17-43-102. Definitions.

As used in this chapter:

(1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(2) "Division" means the Division of Integrated Healthcare within the department.

(3) "First responder" means:

(a) a law enforcement officer, as that term is defined in Section 53-13-103;

(b) emergency medical service personnel, as that term is defined in Section 53-2d-101;

(c) an emergency medical technician, as that term is defined in Section 53-2e-101;

(d) an advanced emergency medical technician, as that term is defined in Section 53-2e-101;

(e) a firefighter, as that term is defined in Section 53B-8c-102;

(f) a dispatcher, as that term is defined in Section 53-6-102; or

(g) a mobile outreach social worker.

Section 3. Section 17-43-201 is amended to read:

17-43-201. Local substance abuse authorities -- Responsibilities.

(1) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local substance abuse authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local

substance abuse authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local substance abuse authority.

(b) Within legislative appropriations and county matching funds required by this section, and under the direction of the division, each local substance abuse authority shall:

(i) develop substance use prevention and treatment services plans;

(ii) provide substance use services to residents of the county; and

(iii) cooperate with efforts of the division to promote integrated programs that address an individual's substance use, mental health, and physical healthcare needs, as described in Section 26B-5-102.

(c) Within legislative appropriations and county matching funds required by this section, each local substance abuse authority shall cooperate with the efforts of the department to promote a system of care, as defined in Section 26B-5-101, for minors with or at risk for complex emotional and behavioral needs, as described in Section [~~26B-1-202~~]26B-5-101.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide substance use prevention and treatment services; or

(ii) create a united local health department that provides substance use treatment services, mental health services, and local health department services in accordance with Subsection (3).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of substance use services.

(c) Each agreement for joint substance use services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined substance abuse authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined substance abuse authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined substance abuse authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined substance abuse authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint substance use services may provide for joint operation of services and facilities or for operation of services and facilities under contract by one participating local substance abuse authority for other participating local substance abuse authorities.

(3) A county governing body may elect to combine the local substance abuse authority with the local mental health authority created in Part 3, Local Mental Health Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local substance abuse authority that joins a united local health department shall comply with this part.

(4) (a) Each local substance abuse authority is accountable to the department and the state with regard to the use of state and federal funds received from those departments for substance use services, regardless of whether the services are provided by a private contract provider.

(b) Each local substance abuse authority shall comply, and require compliance by its contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing substance use programs and services. The department shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local substance abuse authorities with regard to programs and services.

(5) Each local substance abuse authority shall:

(a) review and evaluate substance use prevention and treatment needs and services, including substance use needs and services for individuals incarcerated in a county jail or other county correctional facility;

(b) annually prepare and submit to the division a plan approved by the county legislative body for funding and service delivery that includes:

(i) provisions for services, either directly by the substance abuse authority or by contract, for adults, youth, and children, including those incarcerated in a county jail or other county correctional facility; [~~and~~]

(ii) primary prevention, targeted prevention, early intervention, and treatment services; and

(iii) in a form and format usable by a first responder, an inclusive list of providers of substance use services available for individuals within the local substance abuse authority's jurisdiction;

(c) establish and maintain, either directly or by contract, programs licensed under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(d) appoint directly or by contract a full or part time director for substance use programs, and prescribe the director's duties;

(e) provide input and comment on new and revised rules established by the division;

(f) establish and require contract providers to establish administrative, clinical, procurement, personnel, financial, and management policies regarding substance use services and facilities, in accordance with the rules of the division, and state and federal law;

(g) establish mechanisms allowing for direct citizen input;

(h) annually contract with the division to provide substance use programs and services in accordance with the provisions of Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(i) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(j) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;

(k) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(m) for persons convicted of driving under the influence in violation of Section 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

(i) a screening;

(ii) an assessment;

(iii) an educational series; and

(iv) substance [~~use~~]abuse treatment; and

(n) utilize proceeds of the accounts described in Subsection 26B-5-209(1) to supplement the cost of providing the services described in Subsection (5)(m).

(6) Before disbursing any public funds, each local substance abuse authority shall require that each entity that receives any public funds from the local substance abuse authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the local substance abuse authority shall be subject to examination by:

(i) the division;

(ii) the local substance abuse authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide substance use services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local substance abuse authority; and

(c) the entity will comply with the provisions of Subsection (4)(b).

(7) A local substance abuse authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for substance abuse services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(8) (a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-203.

(b) Public funds received for the provision of services pursuant to the local substance abuse plan may not be used for any other purpose except those authorized in the contract between the local substance abuse authority and the provider for the provision of plan services.

(9) Subject to the requirements of the federal Substance Abuse Prevention and Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure that all substance use treatment programs that receive public funds:

(a) accept and provide priority for admission to a pregnant woman or a pregnant minor; and

(b) if admission of a pregnant woman or a pregnant minor is not possible within 24 hours of the time that a request for admission is made, provide a comprehensive referral for interim services that:

(i) are accessible to the pregnant woman or pregnant minor;

(ii) are best suited to provide services to the pregnant woman or pregnant minor;

(iii) may include:

(A) counseling;

(B) case management; or

(C) a support group; and

(iv) shall include a referral for:

(A) prenatal care; and

(B) counseling on the effects of alcohol and drug use during pregnancy.

(10) If a substance use treatment program described in Subsection (9) is not able to accept and admit a pregnant woman or pregnant minor under Subsection (9) within 48 hours of the time that request for admission is made, the local substance abuse authority shall contact the Division of Integrated Healthcare for assistance in providing services to the pregnant woman or pregnant minor.

Section 4. Section 17-43-301 is amended to read:

17-43-301. Local mental health authorities -- Responsibilities.

(1) As used in this section:

(a) "Assisted outpatient treatment" means the same as that term is defined in Section 26B-5-301.

(b) "Crisis worker" means the same as that term is defined in Section 26B-5-610.

(c) "Local mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Public funds" means the same as that term is defined in Section 17-43-303.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(2) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to individuals within the county; and

(ii) cooperate with efforts of the division to promote integrated programs that address an individual's substance use, mental health, and physical healthcare needs, as described in Section 26B-5-102.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the department to promote a system of care, as defined in Section 26B-5-101, for minors with or at risk for complex emotional and behavioral needs, as described in Section [~~26B-1-202~~]26B-5-101.

(3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance use treatment services, mental health services, and local health department services in accordance with Subsection (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(5) (a) Each local mental health authority is accountable to the department and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(6) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for:

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section 26B-5-351;

(ii) in accordance with [~~Subsection (6)(b)~~]Subsections (6)(b) and (c), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(c) Each plan under Subsection (6)(a)(ii) shall include, in a form and format usable by a first responder, an inclusive list of providers of mental health services for individuals within the local mental health authority's jurisdiction.

(7) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

(i) collaborate with the statewide mental health crisis line described in Section 26B-5-610;

(ii) ensure that each individual who answers calls to the local mental health crisis line:

(A) is a mental health therapist or a crisis worker; and

(B) meets the standards of care and practice established by the Division of Integrated Healthcare, in accordance with Section 26B-5-610; and

(iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:

(A) waiting on hold; or

(B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

(8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall provide assisted outpatient treatment services to a resident of the county who has been ordered under Section 26B-5-351 to receive assisted outpatient treatment.

Section 5. Section 17-53-223 is amended to read:

17-53-223. Ordinances -- Power to enact -- Penalty for violation.

(1) A county legislative body may:

(a) pass all ordinances and rules and make all regulations, not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by this title, and as are necessary and proper to provide for the safety, and preserve the health, promote the prosperity, improve the morals, peace, and good order, comfort, and convenience of the county and its inhabitants, and for the protection of property in the county;

(b) enforce obedience to ordinances with fines or penalties as the county legislative body considers proper; and

(c) pass ordinances to control air pollution.

(2) (a) Punishment imposed under Subsection (1)(b) shall be by fine, not to exceed the maximum fine for a class B misdemeanor under Section 76-3-301, imprisonment, or both fine and imprisonment.

(b) Notwithstanding Subsection (2)(a), a county may not impose a criminal penalty greater than an infraction for a violation pertaining to an individual's pet, as defined in Section 4-12-102, or an individual's use of the individual's residence unless:

(i) the violation:

(A) is a nuisance as that term is defined in [~~Subsection 78B-6-1101(1)~~]Section 78B-6-1101; and

(B) threatens the health, safety, or welfare of the individual or an identifiable third party; or

(ii) the county has imposed a fine on the individual for a violation that involves the same residence or pet on three previous occasions within the past 12 months.

(c) Subsection (2)(b) does not apply to county enforcement of a building code or fire code ordinance in accordance with Title 15A, State Construction and Fire Codes Act.

(d) When a penalty for a violation of an ordinance includes any possibility of imprisonment, the county legislative body shall include in the ordinance a statement that the county is required, under Section 78B-22-301, to provide for indigent defense services, as that term is defined in Section 78B-22-102.

(e) Notwithstanding any other provision of law, the following may issue a criminal citation for a violation that is punished as a misdemeanor if the violation threatens the health and safety of an animal or the public:

(i) a fire officer described in Section 53-7-102;

(ii) a law enforcement officer described in Section 53-13-103; or

(iii) an animal control officer described in Section 11-46-102.

(3) (a) Except as specifically authorized by statute, the county legislative body may not impose a civil penalty for the violation of a county traffic ordinance.

(b) Subsection (3)(a) does not apply to an ordinance regulating the parking of vehicles on a highway.

(4) A county may not issue more than one infraction within a 14-day period for a violation described in Subsection (2)(b) that is ongoing.

Section 6. Section 26B-5-121 is enacted to read:

26B-5-121. Voluntary referrals to substance use and mental health services by first responders -- Immunity from liability -- Reporting -- Rulemaking.

(1) As used in this section:

(a) "First responder" means:

(i) a law enforcement officer, as that term is defined in Section 53-13-103;

(ii) emergency medical service personnel, as that term is defined in Section 53-2d-101;

(iii) an emergency medical technician, as that term is defined in Section 53-2e-101;

(iv) an advanced emergency medical technician, as that term is defined in Section 53-2e-101;

(v) a firefighter, as that term is defined in Section 53B-8c-102; or

(vi) a dispatcher, as that term is defined in Section 53-6-102.

(b) "Local services list" means a comprehensive list of local substance use or mental health services, as described in Subsections 17-43-201(5)(b)(iii) and 17-43-301(6)(c).

(2) As and when appropriate, a first responder is encouraged to offer a referral to substance use or mental health services to an individual who experiences an intentional or accidental overdose.

(3) If an individual expresses interest in substance use or mental health services, a first responder may, as appropriate:

(a) facilitate a real-time connection with an appropriate local service provider;

(b) contact the statewide 988 crisis line for assistance; or

(c) if the individual does not wish to speak with a service provider at that time, provide the individual with a physical copy of a local services list.

(4) (a) This section does not create a duty for a first responder to offer or provide a referral to substance use or mental health services.

(b) A first responder and an employer of a first responder are not liable under this section for a first responder's action or failure to act in regards to offering or providing a referral to substance use or mental health services as described in this section.

(c) This section does not affect any privilege or immunity from liability, exemption from law, ordinance, or rule, or any other benefit that applies to a first responder or an employer of a first responder.

(5) (a) If a first responder offers a referral to substance use or mental health services as described in this section, the first responder's employer shall report annually to the division the total number of individuals who accepted a referral from all first responders employed by the employer.

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how the reports required by Subsection (5)(a) shall be submitted.

Section 7. Section 26B-7-117 is amended to read:

26B-7-117. Syringe exchange and education.

(1) The following may operate a syringe exchange program in the state to prevent the transmission of disease[~~ and~~], reduce morbidity and mortality, and facilitate access to treatment and recovery services among individuals who inject drugs, and those individuals' contacts:

(a) a government entity, including:

(i) the department;

(ii) a local health department; or

(iii) a local substance abuse authority, as defined in Section 26B-5-101;

(b) a nongovernment entity, including:

(i) a nonprofit organization; or

(ii) a for-profit organization; or

(c) any other entity that complies with Subsections (2) and [~~(3)~~](4).

(2) An entity operating a syringe exchange program in the state shall:

(a) facilitate the exchange of an individual's used syringe for one or more new syringes in sealed sterile packages;

(b) ensure that a recipient of a new syringe is given verbal and written instruction on:

(i) methods for preventing the transmission of blood-borne diseases, including hepatitis C and human immunodeficiency virus; and

(ii) options for obtaining:

(A) services for the treatment of a substance use disorder;

(B) testing for a blood-borne disease; and

(C) an opiate antagonist, as that term is defined in Section 26B-4-501; and

(c) report annually to the department the following information about the program's activities:

(i) the number of individuals who have exchanged syringes;

(ii) the number of used syringes exchanged for new syringes; [~~and~~]

(iii) the number of new syringes provided in exchange for used syringes [~~.~~];

(iv) information the program provided to individuals about recovery and treatment resources; and

(v) of the individuals who have exchanged syringes, the number of individuals who received services for the treatment of a substance use disorder within 12 months of exchanging syringes.

(3) A person that is licensed by the department to provide residential treatment for a substance use disorder shall include as part of the person's admissions materials a question asking whether the individual seeking treatment has ever received services from a syringe exchange program.

[~~(3)~~](4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary or advisable to implement the provisions of this section, including rules:

(a) specifying requirements for:

(i) syringe distribution;

(ii) data collection; and

(iii) the evaluation of an entity operating a syringe exchange program to ensure compliance with applicable statutes and rules; and

(b) specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).

(5) An entity operating a syringe exchange program may not facilitate the exchange of syringes at a homeless shelter, as that term is defined in Section 35A-16-501, or permanent supportive housing.

Section 8. Section 58-17b-309.7 is amended to read:

58-17b-309.7. Opioid treatment program -- Mobile medication assisted treatment units.

(1) As used in this section:

(a) "Covered provider" means an individual who is licensed to engage in:

(i) the practice of advanced practice registered nursing as defined in Section 58-31b-102;

(ii) the practice of registered nursing as defined in Section 58-31b-102; or

(iii) practice as a physician assistant as defined in Section 58-70a-102.

(b) "Mobile unit" means a mobile unit that provides medication, such as buprenorphine, methadone, or naltrexone, to treat substance use withdrawal symptoms or a substance use disorder.

[~~(b)~~](c) "Opioid treatment program" means a program or practitioner that is:

(i) engaged in dispensing an opiate medication assisted treatment for opioid use disorder;

(ii) registered under 21 U.S.C. Sec. 823(g)(1);

(iii) licensed by the Division of Licensing and Background Checks within the Department of Health and Human Services created in Section 26B-2-103; and

(iv) certified by the federal Substance Abuse and Mental Health Services Administration in accordance with 42 C.F.R. 8.11.

(2) A covered provider may dispense opiate medication assisted treatment at an opioid treatment program if the covered provider:

(a) is operating under the direction of a pharmacist;

(b) dispenses the opiate medication assisted treatment under the direction of a pharmacist; and

(c) acts in accordance with division [~~rule~~]rules made under Subsection [~~(3)~~](4).

(3) (a) An opioid treatment program may operate one or more mobile units to serve individuals without a fixed address and other individuals as appropriate.

(b) A mobile unit shall operate as an extension of, and under the registration, license, and certification held by, the opioid treatment program.

(c) The pharmacist-in-charge who is responsible for directing the operation of the opioid treatment program shall determine the number of mobile units that may be operated as an extension of the opioid treatment program.

(d) A covered provider may dispense prescription medication assisted treatment only:

(i) pursuant to a valid prescription; and

(ii) in compliance with the requirements described in Subsection (2).

(e) Medication may not be left in a mobile unit during the hours that the mobile unit is not in operation.

(f) An opioid treatment program that intends to operate a mobile unit shall notify the division and board of that intention as soon as possible, but not later than one business day before the mobile unit begins operating.

(g) An opioid treatment program that intends to discontinue operation of a mobile unit shall notify the division and board of that intention as soon as possible, but not later than one business day before the mobile unit discontinues operating.

(h) The Department of Health and Human Services may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, to establish requirements for the operation of a mobile unit.

[~~(3)~~](4) The division shall, in consultation with practitioners who work in an opioid treatment program, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines under which a covered provider may dispense opiate medication assisted treatment to a patient in an opioid treatment program under this section.

Section 9. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) (i) Except as provided in Subsection [~~(1)(c)(ii)~~](1)(c)(iii), a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as described in Subsection [~~(1)(b)~~](1)(c)(ii) and Title 76, Chapter 3, Punishments.

(ii) The court shall impose an indeterminate prison term for a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation, the person intentionally or knowingly:

(A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section 76-10-501, that is not a firearm, in an angry, threatening, intimidating, or coercive manner;

(B) used a firearm or had a firearm readily accessible for immediate use, as those terms are defined in Section 76-10-501; or

(C) distributed a firearm, as that term is defined in Section 76-10-501, or possessed a firearm with intent to distribute the firearm.

(iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate prison term for a person convicted under Subsection (1)(c)(ii) if the court:

(A) details on the record the reasons why it is in the interests of justice not to impose the indeterminate prison term;

(B) makes a finding on the record that the person does not pose a significant safety risk to the public; and

(C) orders the person to complete the terms and conditions of supervised probation provided by the Department of Corrections.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place to knowingly and intentionally [~~to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations~~]permit a person to occupy the building, room, tenement, vehicle, boat, aircraft, or other place while the person is unlawfully manufacturing, possessing, using, or distributing a controlled substance at that location; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) (i) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

[~~(i)~~](ii) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years

before the date of the offense upon which the current conviction is based.

[~~(ii)~~](iii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i) through (vi);

(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research;

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment; or

(c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled or counterfeit substance to conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or

otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 10. Section 76-10-801 is amended to read:

76-10-801. Definitions.

[~~(1) A nuisance is any item, thing, manner, condition whatsoever that is dangerous to human life or health or renders soil, air, water, or food impure or unwholesome.~~]As used in this part:

(1) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(2) "Nuisance" means an item, thing, manner, or condition that:

(a) is dangerous to human life or health; or

(b) renders soil, air, water, or food impure or unwholesome.

[~~(2) Any person, whether as owner, agent, or occupant who creates, aids in creating, or contributes to a nuisance, or who supports, continues, or retains a nuisance, is guilty of a class B misdemeanor.~~]

(3) (a) "Supervised drug consumption site" means a facility or premises operated or intended to provide an environment for the unlawful use of a controlled substance.

(b) "Supervised drug consumption site" does not include a facility or premises that provides or facilitates:

(i) an opioid treatment program, as that term is defined in Section 58-17b-309.7; or

(ii) the use of medication pursuant to a medication assisted treatment plan, as that term is defined in Section 64-13-25.1.

Section 11. Section 76-10-803 is amended to read:

76-10-803. "Public nuisance" defined -- Agricultural operations -- Critical infrastructure materials operations.

(1) A public nuisance is a crime against the order and economy of the state and consists in unlawfully doing any act or omitting to perform any duty, which act or omission:

(a) annoys, injures, or endangers the comfort, repose, health, or safety of three or more persons;

(b) offends public decency;

(c) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway;

(d) is a nuisance as described in Section 78B-6-1107; or

(e) in any way renders three or more persons insecure in life or the use of property.

(2) An act which affects three or more persons in any of the ways specified in this section is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.

(3) (a) Activities conducted in the normal and ordinary course of agricultural operations, as defined in Section 4-44-102, and conducted in accordance with sound agricultural practices are presumed to be reasonable and not constitute a public nuisance under Subsection (1).

(b) Agricultural operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound agricultural practices.

(4) (a) Activities conducted in the normal and ordinary course of critical infrastructure materials operations, as that term is defined in [~~Subsection 78B-6-1101(8)~~]Section 78B-6-1101, and conducted in accordance with sound critical infrastructure materials practices are presumed to be reasonable and not constitute a public nuisance under Subsection (1).

(b) Critical infrastructure materials operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound critical infrastructure materials operations.

Section 12. Section 76-10-803.1 is enacted to read:

76-10-803.1. Maintenance of a drug-involved premises.

(1) Terms defined in Sections 76-1-101.5 and 76-10-801 apply to this section.

(2) An actor commits maintenance of a drug-involved premises if the actor knowingly:

(a) opens, leases, rents, uses, or maintains any facility or premises, whether permanently or temporarily, for the purpose of the unlawful manufacturing, distributing, or using any controlled substance;

(b) (i) manages or controls any facility or premises, whether permanently or temporarily, as an owner, tenant, lessee, agent, employee, occupant, or mortgagee; and

(ii) intentionally rents, leases, profits from, or makes available for use, with or without compensation, the facility or premises for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance;

(c) operates a supervised drug consumption site; or

(d) as an owner, tenant, lessee, agent, employee, occupant, or mortgagee, intentionally opens, rents, leases, profits from, maintains, or makes available for use, with or without compensation, any premises for the purpose of operating a supervised drug consumption site.

(3) A violation of Subsection (2) is a second degree felony.

Section 13. Section 78B-6-1101 is amended to read:

78B-6-1101. Definitions -- Nuisance -- Agriculture operations.

(1) [~~A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.~~]As used in this part:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Critical infrastructure materials operations" means the same as that term is defined in Section 10-9a-901.

(c) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

(d) "Nuisance" means anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(e) (i) "Possession or use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of a controlled substance, and includes individual, joint, or group possession or use of a controlled substance.

(ii) For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of a controlled substance with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.

(2) A nuisance may be the subject of an action.

[~~(2)~~](3) A nuisance may include the following:

(a) drug houses and drug dealing as provided in Section 78B-6-1107;

(b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;

(c) criminal activity committed in concert with three or more persons as provided in Section 76-3-203.1;

(d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) party houses that frequently create conditions defined in Subsection [~~(1); and~~](1)(d);

(g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution[~~.~~]; or

(h) the unlawful discharge of a firearm as provided in state or local law.

[~~(3)~~](4) A nuisance under this part includes:

(a) tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

[~~(a)~~](i) drifts in more than once in each of two or more consecutive seven-day periods; and

[~~(b)~~](ii) creates any of the conditions [~~under~~]described in Subsection [~~(1).~~](1)(d); or

(b) fumes resulting from the unlawful manufacturing or the unlawful possession or use of a controlled substance that drift into a residential unit a person rents, leases, or owns, from another residential or commercial unit.

[~~(4)~~](5) Subsection [~~(3)~~](4)(a) does not apply to:

(a) a residential rental unit available for temporary rental, such as for a vacation, or available for only 30 or fewer days at a time; or

(b) a hotel or motel room.

[~~(5)~~](6) Subsection [~~(3)~~](4)(a) does not apply to a unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.

[~~(6) An action may be brought by a person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.~~]

(7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.

[~~(8) "Critical infrastructure materials operations" means the same as that term is defined in Section 10-9a-901.~~]

[~~(9) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.~~]

Section 14. Section 78B-6-1102 is amended to read:

78B-6-1102. Right of action -- Remedies -- Jurisdiction for enforcement.

(1) An action for nuisance may be brought before a court with jurisdiction by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.

(2) Upon judgment, the [~~nuisance may be enjoined or abated, and damages may be recovered.~~]court may, in addition to any other relief the court considers just and proper:

(a) award damages;

(b) order the nuisance to be enjoined or abated, which may include:

(i) requiring a defendant to make repairs to the nuisance property or property that is injuriously affected by the nuisance;

(ii) requiring a defendant to:

(A) install and maintain secure locks on the nuisance property's doors or windows;

(B) provide security personnel or video surveillance monitoring of the nuisance property; or

(C) install and maintain lighting in and around common areas; or

(iii) abatement by eviction as provided in this part;

(c) grant declaratory relief as described in Part 4, Declaratory Judgments; or

(d) award costs and reasonable attorney fees to the prevailing party as described in Section 76B-6-1114.

(3) A court that issues a judgment or order under this part retains jurisdiction to enforce the judgment or order.

Section 15. Section 78B-6-1102.5 is amended to read:

78B-6-1102.5. Violation of order enjoining a nuisance -- Civil penalty.

A person who knowingly violates any judgment or order abating or [~~otherwise~~]enjoining a nuisance, as that term is defined [~~under~~]in Section 78B-6-1101:

(1) is guilty of a class B misdemeanor[~~.~~]; and

(2) is subject to a civil penalty of $50 per day for each day that the nuisance continues in violation of the order.

Section 16. Section 78B-6-1103 is amended to read:

78B-6-1103. Manufacturing facility in operation over three years -- Limited application of restrictions.

(1) (a) Notwithstanding Sections 76-10-803 and 78B-6-1101, a manufacturing facility[~~ or operation~~] may not be considered a nuisance [~~, private or public, by virtue~~]because of any changed circumstance in land uses near the facility [~~after it~~]if:

(i) the manufacturing facility has been in operation for more than three years[~~ if~~]; and

(ii) the manufacturing facility[~~ or operation~~] was not a nuisance at the time it began operation.

(b) The manufacturing facility may not increase the condition asserted to be a nuisance.

(c) The provisions of this Subsection (1) do not apply if a nuisance results from the negligent or improper operation of a manufacturing facility.

(2) [~~The provisions of Subsection (1) may not affect or defeat~~]Nothing in this section affects the right of [~~any~~]a person to recover damages for [~~any~~]injuries or damage sustained [~~because of any pollution of, or change in the condition of,~~]as a result of the pollution or change in the conditions of the waters of [~~any~~]a stream or [~~the~~]overflow of the lands of any person.

(3) (a) Any and all ordinances now or in the future adopted by any county or municipal corporation in which a manufacturing facility is located and which makes its operation a nuisance or providing for an abatement as a nuisance in the circumstances set forth in this section are null and void.

(b) The provisions of this Subsection (3) may not apply whenever a nuisance results from the negligent or improper operation of a manufacturing facility.

Section 17. Section 78B-6-1106 is amended to read:

78B-6-1106. Rental units -- Tobacco smoke -- Drug fumes.

(1) There is no cause of action for a nuisance under Subsection [~~78B-6-1101(3)~~]78B-6-1101(4)(a) if the rental, lease, restrictive covenant, or purchase agreement for the unit states in writing that:

(a) tobacco smoking is allowed in other units, either residential or commercial, and that tobacco smoke from those units may drift into the unit that is subject to the agreement; and

(b) by signing the agreement the renter, lessee, or buyer acknowledges he has been informed that tobacco smoke may drift into the unit he is renting, leasing, or purchasing, and he waives any right to a cause of action for a nuisance under Subsection [~~78B-6-1101(3)~~]78B-6-1101(4).

(2) A cause of action for a nuisance under Subsection [~~78B-6-1101(3)~~]78B-6-1101(4)(a) may be brought against:

(a) the individual generating the tobacco smoke;

(b) the renter or lessee who permits or fails to control the generation of tobacco smoke, in violation of the terms of the rental or lease agreement, on the premises [~~he~~]the renter or lessee rents or leases; or

(c) the landlord, but only if:

(i) the terms of the renter's or lessee's contract provide the unit will not be subject to the nuisance of drifting tobacco smoke;

(ii) the complaining renter or lessee has provided to the landlord a statement in writing indicating that tobacco smoke is creating a nuisance in the renter's or lessee's unit; and

(iii) the landlord knowingly allows the continuation of a nuisance under Subsection [~~78B-6-1101(3)~~]78B-6-1101(4) after receipt of written notice under Subsection (2)(c)(ii), and in violation of the terms of the rental or lease agreement under Subsection (2)(c)(i).

(3) A cause of action for nuisance under Subsection 78B-6-1101(4)(b) may be brought against:

(a) an individual who generates fumes by the unlawful manufacturing or the unlawful possession or use of a controlled substance;

(b) a renter or lessee who permits or fails to control the generation of fumes from the unlawful manufacturing or the unlawful possession or use of a controlled substance on the premises the renter or lessee rents or leases; or

(c) a landlord, but only if:

(i) the complaining renter or lessee has provided to the landlord a statement in writing indicating that fumes from the unlawful manufacturing or the unlawful possession or use of a controlled substance are creating a nuisance in the renter's or lessee's unit; and

(ii) the landlord knowingly allows the continuation of a nuisance under Subsection 78B-6-1101(4)(b) after receipt of written notice under Subsection (3)(c)(i).

Section 18. Section 78B-6-1107 is amended to read:

78B-6-1107. Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Discharge of a firearm -- Defense.

(1) Every building or place is a nuisance where:

(a) the unlawful sale, manufacture, service, storage, distribution, dispensing, [~~or~~]acquisition, or use occurs of any controlled substance, precursor, or analog [~~specified~~]described in Title 58, Chapter 37, Utah Controlled Substances Act;

(b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as that term is defined in Subsection 78B-6-1101(1);

(c) criminal activity is committed in concert with three or more persons as [~~provided~~]described in Section 76-3-203.1;

(d) criminal activity is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) parties occur frequently which create the conditions of a nuisance as that term is defined in Subsection 78B-6-1101(1);

(g) prostitution or promotion of prostitution is regularly carried on by one or more persons as [~~provided~~]described in Title 76, Chapter 10, Part 13, Prostitution; [~~and~~]

(h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises[~~.~~];

(i) the unlawful discharge of a firearm, as provided in state or local law, occurs on the premises; and

(j) human trafficking occurs as described in Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling.

(2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the defendant is lawfully entitled to the possession or use of a controlled substance.

[~~(3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the nuisance as defined in Subsection (1).~~]

(3) Evidence of a previous conviction for a crime described in Subsection (1) may not be used in an action for nuisance under this part.

Section 19. Section 78B-6-1108 is amended to read:

78B-6-1108. Nuisance -- Abatement by eviction.

(1) Whenever there is reason to believe that a nuisance under Sections 78B-6-1107 through 78B-6-1114 is kept, maintained, or exists in any county, the county attorney of the county, the city attorney of any incorporated city, any citizen or citizens of the state residing in the county, or any [~~corporation, partnership~~]person or business doing business in the county, in [~~his or~~]their own name or names, may [~~maintain~~]bring an action for abatement by eviction in a court [~~of competent~~]with jurisdiction [~~to abate the nuisance and obtain an order for the automatic eviction of the tenant~~].

(2) The court may designate a spokesperson [~~of any~~]from a group of citizens who would otherwise have the right to maintain an action in their individual names against the defendant under this section.

Section 20. Section 78B-6-1109 is amended to read:

78B-6-1109. Abatement by eviction order -- Grounds.

[~~An order of abatement by eviction may issue only upon a showing by the applicant~~]A court shall issue an order of abatement by eviction if the applicant shows, by a preponderance of the evidence, that:

(1) the applicant will suffer irreparable harm unless the order of abatement by eviction issues;

(2) the threatened injury to the applicant outweighs [~~whatever~~]any damage the proposed order of abatement by eviction may cause the party [~~so ordered~~]to be evicted;

(3) the order of abatement by eviction[~~, if issued,~~] would not be adverse to the public interest; and

(4) there is a substantial likelihood that:

(a) the applicant will prevail on the merits of the underlying claim[~~;~~]; or

(b) the case presents serious issues on the merits which should be the subject of further litigation.

Section 21. Section 78B-6-1110 is amended to read:

78B-6-1110. Prior acts or threats of violence -- Protection of applicant or witness.

At the time of application for abatement of [~~the~~]a nuisance by eviction pursuant to Sections 78B-6-1108 and 78B-6-1109[~~, if proof of the existence of the nuisance depends, in whole or in part, upon the affidavits of witnesses who are not peace officers, upon a showing of prior threats of violence or acts of violence by any defendant or other person~~], upon a showing of good cause the court may issue [~~orders to protect those witnesses, including,~~]an order to protect the applicant or, if proof of the existence of the nuisance depends in whole or in part upon the affidavit of a witness who is not a peace officer, the witness, which order may include nondisclosure of the name, address, or any other information which may identify [~~those witnesses.~~]the individual protected by the order.

Section 22. Section 78B-6-1111 is amended to read:

78B-6-1111. Landlord, owner, or designated agent -- Necessary party -- Automatic eviction.

(1) A landlord, owner, or designated agent is a necessary party defendant in a nuisance action under Sections 78B-6-1107 through 78B-6-1114 for entry of an order to abate the nuisance by eviction where the acts complained of are those of [~~third parties~~]a third party upon the premises of the landlord, owner, or designated agent.

(2) [~~In the presence of the applicant, the tenant and the landlord, owner, or designated agent at~~]At the court's hearing on the action to abate the nuisance by eviction, the court shall notify the necessary parties[~~ of its finding that~~], including the applicant, the tenant, and the landlord, owner, or designated agent, if:

(a) the court finds that a nuisance exists as [~~defined~~]described in Section 78B-6-1107; and

(b) as a result, the court is issuing an order to evict the tenant subject to compliance with the security requirement in Section 78B-6-1112.

(3) In all cases, including default judgments, the order of abatement by eviction may be issued and enforced immediately.

Section 23. Section 78B-6-1112 is amended to read:

78B-6-1112. Security requirement -- Amount not a limitation -- Jurisdiction over surety.

(1) (a) The court shall condition issuance of [~~the~~]an order of abatement by eviction on the giving of security by the applicant, in such sum and form as the court determines proper, unless:

(i) [~~it appears~~]the court determines that none of the parties will incur or suffer costs, attorney fees, or damage as the result of any

wrongful order of abatement by eviction[~~, or~~];

(ii) [~~unless~~]the court determines that there exists some [~~other~~]substantial reason for dispensing with the requirement of security[~~.~~]; or

(iii) the applicant has proved, by a preponderance of the evidence, the existence of a nuisance described in Section 78B-6-1107.

(b) [~~No such security shall~~]Security described in Subsection (1)(a) may not be required:

(i) of the United States, the [~~State of Utah~~]state, or [~~of~~]an officer, agency, or subdivision of [~~either; nor shall it be required~~]the United States or the state; or

(ii) when [~~it is~~]prohibited by law.

(2) The amount of security [~~shall not establish or~~]may not limit the [~~amount of costs, including~~]award of:

(a) reasonable attorney fees or costs incurred in connection with the order of abatement by eviction[~~,~~]; or

(b) damages that may be awarded to a party who is found to have been wrongfully evicted.

(3) (a) A surety upon a bond or undertaking under this section submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served.

(b) The surety's liability may be enforced on motion without the necessity of an independent action.

(c) The motion and such notice of the motion as the court prescribes may be served on the clerk of the court who shall immediately [~~mail copies to the persons giving the security if their addresses are known~~]provide a copy to the applicant or other person giving the security by the means established at the time of the application.

(4) [~~The plaintiff, upon demand,~~]Upon request, the applicant shall be granted a hearing to be held [~~prior to the expiration of~~]no later than three days from the date the defendant is served with notice of the [~~plaintiff's~~]applicant's giving of security, as [~~provided~~]described in Subsection [~~78B-6-1112(1)~~](1).

Section 24. Section 78B-6-1113 is amended to read:

78B-6-1113. Evidence of nuisance.

[~~In any action for abatement by eviction instituted pursuant to Sections 78B-6-1107through 78B-6-1114~~]In an action for nuisance or abatement by eviction, all evidence [~~otherwise~~]authorized by law, including evidence of reputation in a community, is admissible to prove the existence of a nuisance or the elements required for an order of abatement by eviction by a preponderance of the evidence.

Section 25. Section 78B-6-1114 is amended to read:

78B-6-1114. Award of costs and attorney fees.

(1) The court may award costs, including the costs of investigation and discovery, and reasonable attorney fees, which are not compensated for pursuant to some other provision of law, to the prevailing party in any case in which [~~a governmental agency, private citizen or citizens, corporation, partnership, or business seeks to abate the nuisance by eviction in or upon any building or place where the nuisance occurs as provided in Section 78B-6-1107~~]a party brings an action to abate a nuisance under this part.

(2) The court may award costs, including the costs of investigation and discovery, and reasonable attorney fees against a defendant landlord, owner, or designated agent only when the court finds that the defendant landlord, owner, or designated agent had actual notice of the nuisance action and willfully failed to take reasonable action within a reasonable time to abate the nuisance.

Section 26. Repealer.

This bill repeals:

Section 78B-6-1105, Tobacco smoke -- Legislative intent.

Section 27. Effective Date.

This bill takes effect on May 7, 2025.

Section 28. Coordinating H.B. 199 with H.B. 355.

If H.B. 199, Substance Use Treatment and Enforcement Amendments, and H.B. 355, Critical Infrastructure Materials Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, the following language replace Subsection 78B-6-1101(1)(b)enacted in H.B. 199:

""Critical infrastructure materials operations" means the same as the term "critical infrastructure materials use" is defined in Section 10-9a-901.".

CHAPTER 142
H. B. 381
Passed March 7, 2025
Approved March 24, 2025
Effective July 1, 2025

CIVICS EDUCATION AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Lincoln Fillmore

Cosponsor:	Katy Hall	Michael J. Petersen
Tiara Auxier	Jon Hawkins	Candice B. Pierucci
Jefferson S. Burton	Sahara Hayes	Jake Sawyer
Tyler Clancy	Ken Ivory	David Shallenberger
Paul A. Cutler	Michael L. Kohler	Lisa Shepherd
Jennifer Dailey-Provost	Jason B. Kyle	Andrew Stoddard
Ariel Defay	Trevor Lee	Jason E. Thompson
Rosalba Dominguez	Anthony E. Loubet	Raymond P. Ward
Joseph Elison	Carol S. Moss	Stephen L. Whyte
Doug Fiefia	Doug Owens	
Matthew H. Gwynn	Karen M. Peterson	

LONG TITLE

General Description:

This bill amends certain graduation requirements.

Highlighted Provisions:

This bill:

- ► adds a social studies graduation requirement;
- ► requires certain social studies related instruction;
- ► extends a deadline for certain instructional materials recommendations;
- ► removes a testing requirement;
- ► provides for alternatives to portions of certain graduation requirements; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-4-204, as last amended by Laws of Utah 2023, Chapters 346, 527
53E-4-204.1, as last amended by Laws of Utah 2024, Chapter 20
53E-4-205, as last amended by Laws of Utah 2021, Chapter 114

ENACTS:

53E-4-205.2, Utah Code Annotated 1953

REPEALS:

53E-4-205.1, as enacted by Laws of Utah 2020, Third Special Session, Chapter 10

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

Section 1. Section 53E-4-204 is amended to read:
53E-4-204. Standards and graduation requirements.

(1) The state board shall establish rigorous core standards for Utah public schools and graduation requirements under Section 53E-3-501 for grades 9 through 12 that:

(a) are consistent with state law and federal regulations;

(b) use competency-based standards and assessments;

(c) include instruction that stresses general financial literacy from basic budgeting to financial investments, including bankruptcy education and a general financial literacy test-out option; [~~and~~]

(d) include graduation requirements in language arts, mathematics, and science that exceed:

(i) 3.0 units in language arts including up to 0.5 units emphasizing verbal communication completed in a course or a school sponsored activity;

(ii) 2.0 units in mathematics; and

(iii) and 2.0 units in science[~~.~~]; and

(e) include a graduation requirement in social studies that is equal to or exceeds 3.5 units, including at least 1.0 unit in American constitutional government and citizenship as described in Section 53E-4-205.2;

(f) ensure up to 0.5 units described in Subsection (1)(e) may be earned by:

(i) completing a course or a school sponsored activity emphasizing verbal communication provided that a significant portion of the course or activity is dedicated to civic education, including:

(A) policy analysis;

(B) governmental systems; and

(C) civic engagement; or

(ii) participation in the Junior Reserve Officers' Training Corps described in 10 U.S.C Sec. 2031.

(2) The state board shall establish competency-based standards and assessments for elective courses.

(3) The state board shall study requiring all LEAs to issue a high school diploma to students who receive:

(a) an associate's degree with at least 60 credit hours from an accredited post-secondary institution; or

(b) an industry certification with at least 500 hours of instruction from a business, trade association, or other industry group in accordance with Section 53E-3-501.

Section 2. Section 53E-4-204.1 is amended to read:

53E-4-204.1. Ethnic studies core standards and curriculum requirements.

(1) As used in this section:

(a) "Core standards for Utah public schools" or "core standards" means the standards the state board establishes as described in Section 53E-4-202.

(b) "Ethnic studies" means the interdisciplinary social and historical study of how different populations have experienced and participated in building the United States of America, including the study of the culture, history, and contributions of Utahns of diverse ethnicities.

(c) "Ethnic Studies Commission" means the Ethnic Studies Commission created in Section 63C-28-201.

(d) "Utahns of diverse ethnicities" means individuals who are residents of Utah and:

(i) Native American;

(ii) Alaska Native;

(iii) Native Hawaiian;

(iv) Pacific Islander;

(v) Hispanic or Latino;

(vi) Black or African American;

(vii) Asian or Asian American; or

(viii) from diverse backgrounds and experiences.

(2) (a) The state board shall incorporate ethnic studies into the core standards for Utah public schools.

(b) Before the state board takes formal action to incorporate ethnic studies into the core standards, the state board shall:

(i) consult with the Ethnic Studies Commission; and

(ii) submit the proposed core standards incorporating ethnic studies to the Ethnic Studies Commission for review and recommendations.

(3) In incorporating ethnic studies into the core standards, the state board shall consider, at a minimum:

(a) existing core standards that increase cultural awareness of, and focus on the character traits described in Section 53G-10-204 for, all Utah communities;

(b) opportunities to recognize and incorporate into the ethnic studies core standards the histories, contributions, and perspectives of Utahns of diverse ethnicities; and

(c) recommendations of the Ethnic Studies Commission.

(4) Subject to legislative appropriations, the state board shall provide funding for professional learning in ethnic studies for teachers.

(5) (a) By December 31, [~~2025~~]2027, an LEA shall select curriculum and instructional materials for teaching ethnic studies to students in kindergarten through grade 12 that:

(i) align with the core standards incorporating ethnic studies described in this section; and

(ii) are integrated with regular school work.

(b) An LEA shall implement an ethnic studies curriculum that, at a minimum:

(i) focuses on shared identity and honoring unique cultural differences, including:

(A) that each individual student has unique characteristics;

(B) the common elements that unite Utahns; and

(C) respect for distinct socio-cultural identities; and

(ii) includes themes including cultural histories within the context of United States history and global history.

(c) An LEA shall:

(i) modify or revise as needed the ethnic studies instructional materials and curriculum the LEA selects as described in Subsection (5)(a), to ensure alignment with core standards incorporating ethnic studies; and

(ii) submit a report to the state board that provides evidence that the LEA is complying with the requirements of Subsections (5)(a) and (b).

(d) In fulfilling the requirements of this section, an LEA may offer a course on ethnic studies.

(6) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) to develop guidelines and methods for LEAs to more fully incorporate ethnic studies into other core standards for Utah public schools courses; and

(b) for the report described in Subsection (5)(c).

(7) The guidelines and methods described in Subsection (6)(a) may not change:

(a) the number of instructional hours required for elementary and secondary students; or

(b) the number of instructional hours dedicated to the existing curriculum.

Section 3. Section 53E-4-205 is amended to read:

53E-4-205. American civics education initiative for adult education.

(1) As used in this section:

(a) "Adult education program" means an organized educational program below the postsecondary level, other than a regular full-time K-12 secondary education program, provided by an LEA or nonprofit organization that provides the opportunity for an adult to further the adult's high school level education.

(b) "Basic civics test" means a test that includes 50 of the questions on the civics test form used by the United States Citizenship and Immigration Services:

(i) to determine that an individual applying for United States citizenship meets the basic citizenship skills specified in 8 U.S.C. Sec. 1423; and

(ii) in accordance with 8 C.F.R. Sec. 312.2.

(2) [~~(a) Except as provided in Subsection (2)(b), the~~]The state board shall require[~~:~~]

[~~(i) a public school student who graduates on or after January 1, 2016, to pass a basic civics test as a condition for receiving a high school diploma; and~~]

[~~(ii)~~] a student enrolled in an adult education program to pass a basic civics test as a condition for receiving an adult education secondary diploma.

[~~(b) The state board may require a public school student to pass an alternate assessment instead of a basic civics test if the student qualifies for an alternate assessment, as defined in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(3) An individual who correctly answers a minimum of 35 out of the 50 questions on a basic civics test passes the test and an individual who correctly answers fewer than 35 out of 50 questions on a basic civics test does not pass the test.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

[~~(a) require an LEA that serves secondary students to administer a basic civics test or alternate assessment to a public school student enrolled in the LEA;~~]

[~~(b)~~](a) require an adult education program provider to administer a basic civics test to an individual who intends to receive an adult education secondary diploma; and

[~~(c)~~](b) allow an individual to take a basic civics test as many times as needed in order to pass the test[~~; and~~].

[~~(d) for the alternate assessment described in Subsection (2)(b), describe:~~]

[~~(i) the content of an alternate assessment;~~]

[~~(ii) how a public school student qualifies for an alternate assessment; and~~]

[~~(iii) how an LEA determines if a student passes an alternate assessment.~~]

Section 4. Section 53E-4-205.2 is enacted to read:

53E-4-205.2. American constitutional government and citizenship course standards.

(1) Beginning in the 2026-2027 school year, and as part of the social studies requirement established under Section 53E-4-204, the state board shall require instruction on American constitutional government and citizenship.

(2) In accordance with Subsections (3) and (4), the state board shall create standards for the course required under Subsection (1) that:

(a) examine American founding principles, including:

(i) classical republicanism, natural rights, and colonial religious traditions; and

(ii) the text and principles of the Declaration of Independence and relationship to the United States Constitution;

(b) examine the text of the United States Constitution, including:

(i) structure, powers, and limits of the legislative, executive, and judicial branches; and

(ii) the principles and operation of federalism and the state constitutional tradition;

(c) examine the development of the United States Constitution through amendments, including:

(i) the creation and application of the Bill of Rights;

(ii) the adoption and enforcement of the Civil War and Reconstruction Amendments; and

(iii) the adoption and enforcement of the other voting rights amendments; and

(d) examine the practice of self-government at the state and local level, including:

(i) the Utah Constitution and local government, including counties, municipalities, and tribal governments;

(ii) state and local elections, including the current candidate nomination and selection; and

(iii) the responsibilities of citizenship and participation in civil society.

(3) The course described in this section shall prioritize a close reading of the following primary source documents:

(a) the Mayflower Compact;

(b) the Declaration of Independence;

(c) the Iroquois Constitution;

(d) the United States Constitution;

(e) George Washington's Farewell Address;

(f) selected passages from the Federalist and Antifederalist Papers;

(g) the Articles of Confederation;

(h) speeches of Frederick Douglass;

(i) the Lincoln-Douglas Debates;

(j) speeches of Abraham Lincoln;

(k) the Seneca Falls Declaration;

(l) the Letter from Birmingham Jail;

(m) the Utah Constitution; and

(n) other essential documents from American constitutional history.

(4) The state board shall, in collaboration with the Civic Thought and Leadership Initiative within the Center for Constitutional Studies at Utah Valley University, develop standards that fulfill the requirements of this section.

Section 5. Repealer.

This bill repeals:

Section 53E-4-205.1, Waiver of basic civics test graduation requirement.

Section 6. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 143
H. B. 237
Passed March 3, 2025
Approved March 24, 2025
Effective May 7, 2025

ROLLBACK TAX AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies provisions related to property taxes and fees imposed when land is no longer used for agricultural purposes.

Highlighted Provisions:

This bill:

- ► authorizes the county to use 100% of the rollback tax or fee-in-lieu revenue collected within the county when land is no longer used for agricultural purposes for open land and agricultural use;
- ► directs the unused or unobligated rollback tax or fee-in-lieu revenue from the county where the land is located to the LeRay McAllister Working Farm and Ranch Fund after 10 years;
- ► updates the sources of revenue to the LeRay McAllister Working Farm and Ranch Fund to include the rollback tax and fee-in-lieu revenue; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-46-301, as last amended by Laws of Utah 2024, Chapter 59
17-41-601, as enacted by Laws of Utah 2023, Chapter 180
17-41-602, as enacted by Laws of Utah 2023, Chapter 180
59-2-506, as last amended by Laws of Utah 2024, Chapter 297
59-2-511, as last amended by Laws of Utah 2024, Chapter 297
59-2-1705, as last amended by Laws of Utah 2024, Chapter 297
59-2-1710, as last amended by Laws of Utah 2024, Chapter 297

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

Section 1. Section 4-46-301 is amended to read:
4-46-301. LeRay McAllister Working Farm and Ranch Fund.

(1) There is created a restricted account within the General Fund entitled the "[]LeRay McAllister Working Farm and Ranch Fund."

(2) The LeRay McAllister Working Farm and Ranch Fund shall consist of:

(a) appropriations by the Legislature;

(b) grants from federal or private sources; [~~and~~]

(c) revenue paid in accordance with Section 59-2-506, 59-2-511, 59-2-1705, or 59-2-1710; and

[~~(c)~~](d) interest and earnings from the account.

(3) The Land Conservation Board created in Section 4-46-201 may use appropriations from the fund in accordance with Section 4-46-302.

Section 2. Section 17-41-601 is amended to read:
17-41-601. Definitions.

As used in this part:

(1) "Agricultural land" means "land in agricultural use," as defined in Section 59-2-502.

(2) (a) "Open land" means land that is:

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in, or restoration of the land to, a predominantly natural, open, and undeveloped condition.

(b) "Open land" includes land described in Subsection (2)(a) that contains facilities, including trails, waterways, and grassy areas, that, in the judgment of the county legislative body:

(i) enhance the natural, scenic, or aesthetic qualities of the land; or

(ii) facilitate the public's access to, or use of, the land for the enjoyment of the land's natural, scenic, or aesthetic qualities and for compatible recreational activities.

(c) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities played on fields or courses, including baseball, tennis, soccer, golf, or other sporting or similar activities.

(3) "Public land county" means a county in which over 50% of the land area is publicly owned.

(4) "Rollback tax funds" means the rollback taxes or in lieu fee payments paid to a county in accordance with Sections 59-2-506, 59-2-511, 59-2-1705, and 59-2-1710.

Section 3. Section 17-41-602 is amended to read:

17-41-602. Use of money -- Criteria -- Administration.

(1) The county treasurer shall[~~:~~]

[~~(a) pay rollback taxes in accordance with Sections 59-2-506, 59-2-511, 59-2-1705, and 59-2-1710; and~~]

[~~(b)~~] deposit [~~20~~]100% of the rollback tax funds into an account or fund of the county set aside for preserving or restoring open land and agricultural land.

(2) [~~The percentage of rollback tax funds described in Subsection (1)(b)~~]The rollback funds:

(a) may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land; and

(b) if the property to be purchased is in a public land county, may not be used to purchase a fee interest in real property to preserve open land or agricultural land, unless, the governmental entity purchasing the property contemporaneously transfers to the private ownership real property, in the same public land county, that is roughly equivalent in size to the property to be purchased.

(3) Eminent domain may not be used or threatened in connection with any purchase using the [~~percentage of rollback tax funds described in Subsection (1)(b)~~]rollback tax funds.

(4) The funds collected by the account or fund of the county may roll over from year-to-year, except that if the county does not spend, or obligate, 100% of the rollback tax funds for a purpose described in Subsection (2) within 10 years after the year in which the county collects the rollback tax funds, the county shall pay the balance to the LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

Section 4. Section 59-2-506 is amended to read:

59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution.

(1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) $10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recordation.

(b) The county treasurer shall pay 100% of the rollback tax collected under this section to the county, which the county shall deposit and use in accordance with Section 17-41-602.

[~~(b) The county treasurer shall pay the rollback tax collected under this section as follows:~~]

[~~(i) 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and~~]

[~~(ii) 80% to the various taxing entities pro rata in accordance with the property tax levies for the current year.~~]

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax on or before the due date listed on the notice described in this Subsection (5)(a).

(b) (i) The rollback tax is due and payable within 60 days after the day on which the county assessor mails the notice required by

Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax on or before the due date listed on the notice described in Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under this part:

(i) the rollback tax; and

(ii) interest imposed in accordance with Subsection (7).

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed in accordance with Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-511, land that becomes exempt from taxation under

Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-503 to be assessed under this part.

(10) Land that becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral is not subject to the rollback tax:

(a) (i) for the portion of the land required by a split estate mineral rights owner to extract a mineral if, after the split estate mineral rights owner exercises the right to extract a mineral, the portion of the property that remains in agricultural production still meets the acreage requirements of Section 59-2-503 for assessment under this part; or

(ii) for the entire acreage that would otherwise qualify for assessment under this part if, after the split estate mineral rights owner exercises the right to extract a mineral, the entire acreage that would otherwise qualify for assessment under this part no longer meets the acreage requirements of Section 59-2-503 for assessment under this part only due to the extraction of the mineral by the split estate mineral rights owner; and

(b) for the period of time that the property described in Subsection (10)(a) is ineligible for assessment under this part due to the extraction of a mineral by the split estate mineral rights owner.

(11) (a) A portion of land withdrawn from this part is not subject to the rollback tax if the portion of land:

(i) qualifies for assessment under Part 17, Urban Farming Assessment Act; and

(ii) for the tax year immediately following withdrawal, the owner of the portion of land applies in accordance with Section 59-2-1707 for the land to be assessed under Part 17, Urban Farming Assessment Act.

(b) Any remaining portion of the withdrawn land that does not satisfy the requirements of Subsection (11)(a) is subject to the rollback tax.

Section 5. Section 59-2-511 is amended to read:

59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including:

(i) a county;

(ii) a city;

(iii) a town;

(iv) a school district;

(v) a special district; or

(vi) a special service district; or

(d) an entity created by the state or the United States, including:

(i) an agency;

(ii) a board;

(iii) a bureau;

(iv) a commission;

(v) a committee;

(vi) a department;

(vii) a division;

(viii) an institution;

(ix) an instrumentality; or

(x) an office.

(2) (a) Except as provided in Subsections (3) through (5), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) [~~prior to the governmental entity acquiring~~]before the governmental entity acquires the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-503 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives:

(A) money; or

(B) other consideration.

(3) (a) Except as provided in Subsections (4) and (5), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-506.

(ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) (I) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-503, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity; or

(II) if the land remaining after the acquisition by the governmental entity is less than five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the governmental entity" includes other eligible acreage that is used in conjunction with the land remaining after the acquisition by the governmental entity.

(c) The county treasurer shall pay 100% of the in lieu fee payment collected under this section to the county, which the county shall deposit and use in accordance with Section 17-41-602.

[~~(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues generated by the payment as follows:~~]

[~~(i) 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and~~]

[~~(ii) 80% to the taxing entities in which the land is located.~~]

(4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity is made subject to a conservation easement in accordance with Section 59-2-506.5:

(a) the land is not subject to the rollback tax imposed by this part; and

(b) the governmental entity acquiring the land is not required to make an in lieu fee payment under Subsection (3)(b).

(5) (a) This Subsection (5) applies only to a governmental entity that is the state or a political subdivision of the state as described in Subsections (1)(b) and (c).

(b) Land acquired by a governmental entity described in Subsection (5)(a) is not subject to the rollback tax imposed by this part.

(c) Notwithstanding Subsection (5)(b), a governmental entity described in Subsection (5)(a) may not, within five years after the day on which the governmental entity acquires land, sell the land to a private entity unless the governmental entity makes a one-time in lieu fee payment:

(i) to the county treasurer of the county in which the land is located;

(ii) in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity at the time of acquisition; and

(iii) before selling the land to the private entity.

(6) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until the following are paid to the county treasurer:

(a) any tax due under this part;

(b) any one-time in lieu fee payment due under this part; and

(c) any interest due under this part.

Section 6. Section 59-2-1705 is amended to read:

59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution.

(1) Except as provided in this section or Section 59-2-1710, land that is withdrawn from this part is subject to a rollback tax imposed as provided in this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner who fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) $10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) except as provided in Subsection (3)(c), the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(c) For land that was previously assessed under Part 5, Farmland Assessment Act, the date described in Subsection (3)(b)(i)(A) is the date the land was first assessed under Part 5, Farmland Assessment Act, unless the land was subject to a rollback tax imposed under Section 59-2-506.

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recording.

(b) The county treasurer shall pay 100% of the rollback tax collected under this section to the county, which the county shall deposit and use in accordance with Section 17-41-602.

[~~(b) The county treasurer shall pay the rollback tax collected under this section as follows:~~]

[~~(i) 20% to the county for use for land and working agricultural land as those terms are defined in Section 4-46-102; and~~]

[~~(ii) 80% to the various taxing entities pro rata in accordance with the property tax levies for the current year.~~]

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax on or before the due date listed on the notice described in this Subsection (5)(a).

(b) (i) The rollback tax is due and payable within 60 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax on or before the due date listed on the notice described in Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under Subsection (7) are a lien on the land assessed under this part.

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed under Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-1703 to be assessed under this part.

Section 7. Section 59-2-1710 is amended to read:

59-2-1710. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including a county, city, town, school district, special district, or special service district; or

(d) an entity created by the state or the United States, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) before the governmental entity acquires the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-1703 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives money or other consideration.

(3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-1705.

(ii) A governmental entity that acquires land under Subsection (3)(a)(i) or (ii) shall make a one-time in lieu fee payment to the county treasurer of the county in which the land is located:

(A) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity; or

(B) if the land remaining after the acquisition by the governmental entity is less than one acre, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(c) The county treasurer shall pay 100% of the in lieu fee payment collected under this section to the county, which the county shall deposit and use in accordance with Section 17-41-602.

[~~(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues collected from the payment as follows:~~]

[~~(i) 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and~~]

[~~(ii) 80% to the taxing entities in which the land is located.~~]

(4) (a) This Subsection (4) applies only to a governmental entity that is the state or a political subdivision of the state as described in Subsections (1)(b) and (c).

(b) Land acquired by a governmental entity described in Subsection (4)(a) is not subject to the rollback tax imposed by this part.

(c) Notwithstanding Subsection (4)(b), a governmental entity described in Subsection (4)(a) may not, within five years after the day on which the governmental entity acquires land, sell the land to a private entity unless the governmental entity makes a one-time in lieu fee payment:

(i) to the county treasurer of the county in which the land is located;

(ii) in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity at the time of acquisition; and

(iii) before selling the land to the private entity.

(5) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until any tax, one-time in lieu fee payment, and applicable interest due under this part are paid to the county treasurer.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 144
H. B. 240
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

URBAN FARMING ASSESSMENT AMENDMENTS

Chief Sponsor: Rex P. Shipp
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill modifies provisions related to property tax assessment under the Urban Farming Assessment Act.

Highlighted Provisions:

This bill:

- ► allows for land to qualify for urban farming assessment based on gross sales in addition to qualifying based on agricultural production;
- ► provides for land to continue to qualify for urban farming assessment based on gross sales upon failing to meet certain timing requirements;
- ► requires an applicant for urban farming assessment to submit documentation to the county assessor demonstrating the land meets the agricultural production or gross sales requirements;
- ► clarifies that a portion of land may qualify for urban farming assessment even if other portions of the land do not qualify;
- ► repeals the requirement for an owner of land approved for urban farming assessment to submit an annual renewal application;
- ► establishes circumstances under which a county assessor may request additional information from an owner of land approved for urban farming assessment; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1702, as last amended by Laws of Utah 2021, Chapter 384
59-2-1703, as last amended by Laws of Utah 2024, Chapter 89
59-2-1704, as enacted by Laws of Utah 2012, Chapter 197
59-2-1706, as enacted by Laws of Utah 2012, Chapter 197
59-2-1707, as last amended by Laws of Utah 2023, Chapter 189

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

Section 1. Section 59-2-1702 is amended to read:

59-2-1702. Definitions.

As used in this part:

(1) "Actively devoted to urban farming" means that:

(a) land is devoted to active urban farming activities; and

(b) (i) the land produces greater than 50% of the average agricultural production per acre:

[~~(i)~~](A) as determined under Section 59-2-1703; and

[~~(ii)~~](B) for the given type of land and the given county or area[~~.~~]; or

(ii) agricultural production on the land generates annual gross sales of at least $1,000 for each quarter-acre of land devoted to active urban farming activities.

(2) "Rollback tax" means the tax imposed under Section 59-2-1705.

(3) "Urban farming" means:

(a) cultivating food or other marketable crop or engaging in livestock production, including grazing; and

(b) performing the activity described in Subsection (3)(a) with a reasonable expectation of profit and from irrigated land located in a county that has adopted an ordinance governing urban farming in accordance with Section 59-2-1714.

(4) "Withdrawn from this part" means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:

(a) an owner voluntarily requests that the land be withdrawn from this part;

(b) the land is no longer actively devoted to urban farming;

(c) (i) the land has a change in ownership; and

(ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of

this part to be assessed under this part;

(d) (i) the legal description of the land changes; and

(ii) (A) an owner fails to apply for assessment under this part, as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;

(e) the owner of the land fails to file an application as provided in Section 59-2-1707; or

(f) except as provided in Section 59-2-1703, the land fails to meet a requirement of Section 59-2-1703.

Section 2. Section 59-2-1703 is amended to read:

59-2-1703. Qualifications for urban farming assessment.

(1) (a) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

(i) is actively devoted to urban farming;

(ii) is at least one contiguous acre, but less than five acres, in size; and

(iii) (A) has been actively devoted to urban farming for at least two successive years immediately preceding the tax year for which the land is assessed under this part; or

(B) was assessed under Part 5, Farmland Assessment Act, for the preceding tax year.

(b) Land that is not actively devoted to urban farming may not be assessed as provided in Subsection (1)(a), even if the land is part of a parcel that includes land actively devoted to urban farming.

(2) (a) In determining whether land [~~is actively devoted to urban farming~~]meets the production requirement in Subsection 59-2-1702(1)(b)(i), production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

(i) production levels reported in the current publication of Utah Agricultural Statistics;

(ii) current crop budgets developed and published by Utah State University; or

(iii) the highest per acre value used for land assessed under the Farmland Assessment Act for the county in which the property is located.

(b) A county assessor may not assess land actively devoted to urban farming on the basis of the value that the land has for agricultural use under this part unless an owner [~~annually~~] files documentation with the county assessor:

(i) on a form provided by the county assessor;

(ii) demonstrating to the satisfaction of the county assessor that the land meets:

(A) the production [~~levels required under this part~~]requirement in Subsection 59-2-1702(1)(b)(i); or

(B) the gross sales requirement in Subsection 59-2-1702(1)(b)(ii); and

(iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 [~~for each~~]of the tax year in which the owner applies for assessment under this part.

(3) Notwithstanding Subsection (1)(a)(ii), a county board of equalization may grant a waiver of the acreage requirements of Subsection (1)(a)(ii):

(a) on appeal by an owner; and

(b) if the owner submits documentation to the county assessor demonstrating to the satisfaction of the county assessor that:

(i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a result of an acquisition by a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding;

(ii) the land is actively devoted to urban farming; and

(iii) no change occurs in the ownership of the land.

(4) (a) Notwithstanding Subsection (1) and except as provided in Subsection (4)(d), land for urban farming that is intentionally allowed to lay fallow for one or more growing seasons qualifies for assessment under this part if the fallowing is conducted:

(i) during periods of limited water supply;

(ii) as part of a prudent farm management practice, including crop rotation, rotational grazing, or soil water management; or

(iii) to facilitate voluntary participation in a water management or agricultural water optimization program.

(b) If the owner of land assessed under this part fallows the land during any period in a calendar year, the owner may, on or before December 31 of the year in which the land is fallowed, provide to the county assessor written notice that:

(i) identifies the land that was fallowed during any period of the calendar year in which the notice is provided, including the acreage of the fallowed land;

(ii) demonstrates how the fallowed land qualifies under Subsection (4)(a); and

(iii) specifies whether the owner intends to fallow the land during any period in the following calendar year, and, if so, the intended duration of the fallowing period.

(c) (i) If a written notice under Subsection (4)(b) indicates that the owner intends to fallow the land during any period in the following calendar year, the county assessor may, within 45 days of receiving the written notice, require the owner to submit to the county assessor a land management plan in a form prescribed by the county assessor that:

(A) identifies the owner's objectives in fallowing the land for the intended duration of the fallowing period;

(B) provides adequate assurances to the county assessor that the fallowed land will become actively devoted to urban farming upon the expiration of the intended fallowing period; and

(C) includes any other information required by the county assessor.

(ii) If the owner submits to the county assessor a land management plan for fallowed land that meets the requirements of Subsection (4)(c)(i), the county assessor may not require the owner to submit a new or additional land management plan for the same land within three years from the day on which the owner submitted the plan.

(d) Fallowed land is withdrawn from this part if:

(i) the county assessor determines that the land does not qualify under Subsection (4)(a);

(ii) the owner fails to return the fallowed land to active urban farming upon the expiration of the intended fallowing period as specified in the written notice; or

(iii) the owner fails to comply with the requirements of Subsection (4)(c), if a land management plan is required.

(5) Notwithstanding Subsection (1), land that has been assessed under this part for meeting the gross sales requirement in Subsection 59-2-1702(1)(b)(ii) is not withdrawn from this part solely as a result of failing to meet the requirement of Subsection (1)(a)(iii)(A) if the land met the gross sales requirement in Subsection 59-2-1702(1)(b)(ii) for at least one of the three years immediately preceding the tax year for which the land is being assessed.

Section 3. Section 59-2-1704 is amended to read:

59-2-1704. Indicia of value for urban farming assessment -- Inclusion of fair market value on certain property tax notices.

(1) The county assessor shall consider only those indicia of value that the land has for agricultural use as determined by the commission when assessing land:

(a) that meets the requirements of Section 59-2-1703 to be assessed under this part; and

(b) for which the owner has:

(i) made a timely application in accordance with Section 59-2-1707 for assessment under this part [~~for the tax year for which the land is being assessed~~]; and

(ii) obtained approval of the application described in Subsection (1)(b)(i) from the county assessor.

(2) In addition to the value determined in accordance with Subsection (1), the fair market value assessment shall be included on the notices described in:

(a) Section 59-2-919.1; and

(b) Section 59-2-1317.

(3) The county board of equalization shall review the agricultural use value and fair market value assessments each year as provided under Section 59-2-1001.

Section 4. Section 59-2-1706 is amended to read:

59-2-1706. Land included as urban farming.

(1) (a) Land under a structure used in or related to urban farming, including a barn, shed, silo, crib, or greenhouse, or under a facility used in or related to urban farming, including a lake, dam, pond, stream, or irrigation ditch, is included in determining the total area of land actively devoted to urban farming.

(b) The land described in Subsection (1)(a) shall be included in determining if the land meets the [~~urban farming production requirements of Subsection 59-2-1703(2)(a)~~]production requirement in Subsection 59-2-1702(1)(b)(i) or the gross sales requirement in Subsection 59-2-1702(1)(b)(ii), as applicable.

(2) (a) Except as provided in this part, land under a residence and land used in connection with residential use may not be included in determining the total area of land actively devoted to urban farming.

(b) Land described in Subsection (2)(a) shall be valued, assessed, and taxed in accordance with this chapter other than this part.

(c) The exclusion from assessment under this part of land described in Subsection (2)(a)that is part of a parcel does not disqualify any remaining portion of the land that meets the requirements of Section 59-2-1703 from assessment under this part.

Section 5. Section 59-2-1707 is amended to read:

59-2-1707. Application -- Signed statement -- Consent to creation of a lien -- Consent to audit and review -- Notice.

(1) [~~For land to be assessed~~]Before a county assessor may assess land under this part, an owner of land eligible for assessment under this part shall submit [~~annually~~]an application described in Subsection (2) to the county assessor of the county in which the land is located[~~:~~].

[~~(a) an application described in Subsection (2); or~~]

[~~(b) a renewal application described in Subsection (3) if:~~]

[~~(i) the land was assessed under this part for the preceding tax year; and~~]

[~~(ii) there have been no changes to the eligibility information provided in the most recently submitted application described in Subsection (2), other than the information described in Subsection 59-2-1703(2)(b).~~]

(2) An application required by Subsection (1) shall:

(a) be on a form:

(i) approved by the commission; and

(ii) provided to an owner:

(A) by the county assessor; and

(B) at the request of an owner;

(b) provide for the reporting of information related to this part;

(c) be submitted by:

(i) May 1 of the tax year in which assessment under Subsection (1) is requested if the land was not assessed under this part in the year before the application is submitted; or

(ii) the date otherwise required by this part for land that before the application being submitted has been assessed under this part;

(d) be signed by all of the owners of the land that under the application would be assessed under this part;

(e) be accompanied by the prescribed fees made payable to the county recorder;

(f) include a certification by an owner that the facts set forth in the application or signed statement are true;

(g) include a statement that the application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and

(h) be recorded by the county recorder.

[~~(3) A renewal application required by Subsection (1) shall:~~]

[~~(a) be on a form:~~]

[~~(i) approved by the commission; and~~]

[~~(ii) provided to an owner:~~]

[~~(A) by the county assessor; and~~]

[~~(B) at the request of an owner;~~]

[~~(b) provide for the reporting of the information described in Subsection 59-2-1703(2)(b);~~]

[~~(c) be submitted on or before January 30 of the tax year in which the owner requests assessment under this part;~~]

[~~(d) be signed by all of the owners of the land;~~]

[~~(e) be accompanied by the prescribed fees made payable to the county recorder;~~]

[~~(f) include a certification by an owner that the following are true:~~]

[~~(i) the facts set forth in the renewal application or signed statement; and~~]

[~~(ii) other than the information described in Subsection 59-2-1703(2)(b), the facts set forth in the most recently submitted application described in Subsection (2), as of the date the renewal application is submitted;~~]

[~~(g) include a statement that the renewal application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and~~]

[~~(h) be recorded by the county recorder.~~]

[~~(4)~~](3) An application described in Subsection (2)[~~or a renewal application described in Subsection (3)~~]constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part.

[~~(5)~~](4) (a) If the county determines that a timely filed application [~~or a timely filed renewal application~~]is incomplete, the county shall:

(i) notify the owner of the incomplete application [~~or renewal application~~]; and

(ii) allow the owner to complete the application [~~or renewal application~~]within 30 days from the day on which the county provides notice to the owner.

(b) An application that has not been completed within 30 days of the day of the notice described in Subsection [~~(5)(a) shall be~~](4)(a) is considered denied.

[~~(6)~~](5) (a) [~~Except as provided in Subsections (1) through (3), a~~]Once the application required by Subsection (1) has been approved, the county assessor may [~~not require an~~]:

(i) require, by written request of the county assessor, the owner to submit a new application or a signed statement that verifies that the land qualifies for assessment under this part; or

(ii) except as provided in Subsection (5)(b), require no additional signed statement or application for assessment under this part.

(b) [~~Notwithstanding Subsection (6)(a), a~~]A county assessor shall require that:

(i) an owner provide notice if land is withdrawn from this part as provided in Section 59-2-1705[~~.~~]; and

(ii) a new owner submit an application in accordance with this section.

(c) An owner shall submit an application or signed statement required under Subsection (5)(a) by the date specified in the written request of the county assessor for the application or signed statement.

[~~(7)~~](6) A certification under Subsection (2)(f)[~~or (3)(f)~~]is considered as if made under oath and subject to the same penalties as provided by law for perjury.

[~~(8)~~](7) (a) An owner applying for participation under this part or a purchaser or lessee that signs a statement under Subsection [~~(9)~~](8) is considered to have given consent to a field audit and review by:

(i) the commission;

(ii) the county assessor; or

(iii) the commission and the county assessor.

(b) The consent described in Subsection [~~(8)(a)~~](7)(a) is a condition to the acceptance of an application or signed statement.

[~~(9)~~](8) An owner of land eligible for assessment under this part, because a purchaser or lessee actively devotes the land to agricultural use as required by Section 59-2-1703, may qualify the land for assessment under this part by submitting, with the application described in Subsection (2)[~~or the renewal application described in Subsection (3)~~], a signed statement from that purchaser or lessee certifying those facts that would be necessary to meet the requirements of Section 59-2-1703 for assessment under this part.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

Section 7. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2025.

CHAPTER 145
H. B. 396
Passed March 4, 2025
Approved March 24, 2025
Effective July 1, 2025

SMALL SCHOOL DISTRICT SCALE OF OPERATIONS FORMULA

Chief Sponsor: Karen M. Peterson
Senate Sponsor: David P. Hinkins

Cosponsor:	Joseph Elison	R. Neil Walter
Carl R. Albrecht	Colin W. Jack	Christine F. Watkins
Tiara Auxier	Troy Shelley	
Bridger Bolinder	Rex P. Shipp	

LONG TITLE

General Description:

This bill amends the formula for necessarily existent small schools funding.

Highlighted Provisions:

This bill:

► amends the formula for necessarily existent small schools funding.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

REPEALS AND REENACTS:

53F-2-304, as last amended by Laws of Utah 2021, Chapter 439

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

Section 1. Section 53F-2-304 is repealed and re-enacted to read:

53F-2-304. Weighted pupil units for students in rural school districts and necessarily existent small schools.

(1) As used in this section:

(a) "Necessarily existent small school" means a school that:

(i) is located in an area with a National Center for Education Statistics locale code of 33 or higher;

(ii) is located more than 10 miles from an area with a National Center for Education Statistics locale code of 21 or less;

(iii) is not an online school, specialty school, technical school, alternative school, or charter school; and

(iv) has an average daily membership less than or equal to:

(A) 27 in any individual grade band kindergarten through 6; or

(B) 125 in any individual grade band 7 through 12.

(b) "Scale of operations" means a cost function analysis conducted by the state board to determine the relative higher cost of providing educational services for students enrolled in smaller school districts when compared to larger school districts.

(2) (a) The state board shall adopt a formula to calculate additional weighted pupil units using a two-factor distribution described in Subsection (2)(b).

(b) The two-factor distribution shall be the sum of a scale of operations weighting and a rural-school weighting as follows:

(i) a scale of operations weighting that provides up to 1.5 weighted pupil units based on the cost function analysis the state board conducts and for each student enrolled in:

(A) a school district in a county of the fourth, fifth, or sixth class as described in Section 17-50-501; or

(B) a school district in a county of the third class as described in Section 17-50-501with fewer than 2,000 students; and

(ii) a rural-school weighting for each necessarily existent small school that provides weighted pupil units for each grade band from kindergarten to grade 6 offered:

(A) with five or fewer students, a base of nine weighted pupil units;

(B) for each student above five students but fewer than 12 students, one additional weighted pupil unit for each additional student above five; and

(C) for each student above 12 students, one less weighted pupil unit for each additional student; and

(iii) a rural-school weighting for each necessarily existent small school that provides weighted pupil units for each grade band from

grade 7 to grade 12 offered:

(A) with five or fewer students, a base of nine weighted pupil units;

(B) for each student above five students but fewer than 61 students, one additional weighted pupil unit for each additional student above five;

(C) for each student above 61 students, one less weighted pupil unit for each additional student; and

(D) for each necessarily existent small school with 15 or fewer students, the state board may provide the base level of nine weighted pupil units for each grade band offered.

(c) If any grade band under Subsection (2)(b) generates negative weighted pupil units, the weighted pupil units for that grade band shall be zero.

(d) The funding for a student who falls within the weighting factors described in Subsections (2)(b)(i) and (2)(b)(ii) shall be computed under both weighting factors.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to:

(a) establish the formula described in Subsection (2) including the scale of weighted pupil units described in Subsection (2)(b)(i) by:

(i) conducting a cost function analysis measuring the scale of operations weighting including factors identified by the state board for each small and rural school district compared to all school districts;

(ii) determining a weighting relative to the cost function prediction for each school district that is above the minimum prediction for all school districts;

(iii) establishing a percentile cutoff for a full weighted pupil unit that:

(A) provides a full weighting for districts enrolling fewer than 1,100 students; and

(B) provides no scale of operations weighting described in Subsection (2)(b)(i) for school districts enrolling greater than seven times the full-weight cutoff; and

(iv) based on the cost function analysis, establishing a gradually reduced weighted pupil unit for each school district above the percentile cutoff established;

(b) establish a timeline for the distribution of funds to school districts provided under this section; and

(c) for fiscal year 2030 and subsequently each fifth fiscal year:

(i) revise the:

(A) scale of operations weightings;

(B) county classifications; and

(C) relevant National Center for Education Statistics locale codes; and

(ii) report the results to the Public Education Appropriations Subcommittee by October 1 of the relevant fiscal years including recommendations for any change to the scale of operations or rural-school weightings for each school district.

(4) A local school board shall use money distributed under this section to effectively operate schools in remote areas of the state and with low student populations.

(5) If an allocation under this section to a school district would be less than the allocation the school district received for necessarily existent small schools in the 2025 fiscal year, the Executive Appropriations Committee shall:

(a) include a one-time appropriation in the public education budget to provide the 2025 fiscal year amount to the school district in the 2026 fiscal year; and

(b) decrease the amount described in Subsection (5)(a) to zero in the 2027 fiscal year.

(6) During each five year review described in Subsection (3)(c):

(a) if a school or school district no longer qualifies under the criteria described in Subsection (2), the state board shall:

(i) review the conditions causing the school or school district to no longer qualify;

(ii) if the school or school district has an average daily membership increase of no more than 10% over the preceding five years, allow the school or school district to remain eligible for funding in an amount that is at least equivalent to the amount the school or school district received in the current fiscal year under this section; and

(iii) if the school or school district has an average daily membership increase of more than 10% but less than 30% over the preceding five years, make recommendations to the Public Education Appropriations Subcommittee regarding an extension of the funding received under this section; and

(b) if a school district is receiving an extension of funds as described in this Subsection (6), the state board shall:

(i) review the necessity and impacts of continued eligibility; and

(ii) make recommendations to the Public Education Appropriations Subcommittee regarding the renewal of eligibility.

(7) If, after the review described in Subsection (6), a school or school district no longer qualifies for funding under this section, the Executive Appropriations Committee shall:

(a) include a one-time appropriation in the public education budget to provide the same amount of funding the school district received in the preceding fiscal year; and

(b) decrease the amount to zero in the next fiscal year.

(8) (a) A school district that intends to split a school that qualifies as a necessarily existent small school or has qualified as a necessarily existent small school within the past five years shall submit a proposal to the state board for review and approval.

(b) The school district proposal shall include:

(i) the current enrollment and projected enrollment for the next five years for the existing school and the proposed new school;

(ii) a detailed explanation of the educational and operational reasons for the proposed split;

(iii) an analysis of the financial impact on the district and the state, including any changes in necessarily existent small school funding that would result from the split;

(iv) a plan for ensuring that educational quality will be maintained or improved in both the existing and new school; and

(v) any other information requested by the state board.

(c) The state board shall review the proposal and may:

(i) approve the proposal if the state board determines that the split is educationally and operationally necessary and not primarily motivated by financial considerations related to necessarily existent small school funding;

(ii) deny the proposal if the state board determines that the split is unnecessary or primarily motivated by financial considerations related to necessarily existent small school funding; or

(iii) request additional information or modifications to the proposal before making a final decision.

(d) If the state board approves the proposal, the state board shall submit a report to the Public Education Appropriations Subcommittee, which shall include:

(i) summary of the approved proposal;

(ii) the state board's rationale for approving the proposal; and

(iii) any recommended changes to necessarily existent small school funding allocations resulting from the approved split.

(e) The Public Education Appropriations Subcommittee shall review the state board's report and may:

(i) approve the funding changes recommended by the state board;

(ii) modify the funding changes; or

(iii) deny the funding changes and require the school district to maintain the current funding allocation.

(f) (i) Subject to Subsection (8)(f)(ii), a school district may split a school that qualifies as a necessarily existent small school or has qualified as a necessarily existent small school within the past five years without submitting a proposal as described in this Subsection (8).

(ii) If a school district proceeds with splitting a necessarily existent small school without applying for or receiving approval from both the state board and the Public Education Appropriations Subcommittee, the schools created from the split may not qualify as necessarily existent small schools.

(g) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) the timeline and procedures for submitting and reviewing proposals;

(ii) criteria for evaluating the necessity and appropriateness of proposed school splits;

(iii) requirements for post-approval monitoring and reporting by a school district that has split a necessarily existent small school; and

(iv) any other provisions necessary to implement this subsection.

Section 2. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 146
H. B. 411
Passed March 5, 2025
Approved March 24, 2025
Effective May 7, 2025

PUBLIC ASSET OWNERSHIP AMENDMENTS

Chief Sponsor: Troy Shelley
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses the state ownership of certain environmental assets.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires a state entity selling or exchanging an environmental commodity to report a digital identification number to the Office of Energy Development;
- ► exempts from reporting requirements an environmental commodity created from activities on school and institutional trust lands;
- ► declares that an environmental commodity created from activities receiving state funds is the property of the state in proportion to the state funds contributed to create the environmental commodity;
- ► clarifies that an environmental commodity created or purchased by a state entity remains under the control of the state entity; and
- ► establishes duties for the state treasurer in managing an environmental commodity.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

79-6-1101, Utah Code Annotated 1953
79-6-1102, Utah Code Annotated 1953
79-6-1103, Utah Code Annotated 1953

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

Section 1. Section 79-6-1101 is enacted to read:

PART 11. Environmental Commodities

79-6-1101. Definitions for part.

As used in this part:

(1) "Digital identification number" means an identification number assigned to an environmental commodity by a governmental or accredited third-party verification entity that certifies or registers an environmental commodity for sale or exchange.

(2) (a) "Environmental commodity" means a representation of the financial value of:

(i) a reduction in the amount of greenhouse gas present in the atmosphere; or

(ii) an amount of greenhouse gas prevented from entering the atmosphere.

(b) "Environmental commodity" does not include a right or interest associated with a regulated pollutant, as that term is defined in Title V of the 1990 Clean Air Act.

(3) "Greenhouse gas" means carbon dioxide or methane.

(4) "State entity" means a department, commission, board, council, agency, institution of higher education, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(5) (a) "State funds" means money appropriated by the Legislature.

(b) "State funds" does not include money or financial benefit in the form of:

(i) a tax incentive;

(ii) a permit or an activity related to the development of a permit issued by a state entity; or

(iii) a federal grant administered by a state entity.

Section 2. Section 79-6-1102 is enacted to read:

79-6-1102. Reporting requirement -- Exemption.

(1) Except as provided in Subsection (2), before a state entity may sell or exchange an environmental commodity, the state entity shall:

(a) obtain a digital identification number for the environmental commodity;

(b) report a digital identification number for the environmental commodity to the office; and

(c) report to the office any state funds that the state entity used for the creation of the environmental commodity.

(2) This section does not apply to an environmental commodity created from an activity on school and institutional trust lands, as that term is defined in Section 53C-1-103.

Section 3. Section 79-6-1103 is enacted to read:

79-6-1103. Property of the state -- Management.

(1) If the state or a state entity appropriates or expends state funds for the creation of an environmental commodity, the state owns a portion of an environmental commodity that is proportional to the amount of state funds appropriated or expended for the creation of the environmental commodity.

(2) (a) Except as provided in Subsection (3), the state treasurer may sell, exchange, or hold an environmental commodity, or any portion thereof, owned by the state in accordance with Subsection (2)(b).

(b) The state treasurer shall ensure that an environmental commodity owned by the state is sold, exchanged, or held:

(i) for the benefit of the citizens of the state;

(ii) to promote energy independence for the state;

(iii) to maximize the natural resources of the state; and

(iv) consistent with Part 3, State Energy Policy.

(3) An environmental commodity created or purchased by a state entity shall remain under the control of the state entity.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 147
H. B. 421
Passed March 6, 2025
Approved March 24, 2025
Effective May 7, 2025

GRAZING AMENDMENTS

Chief Sponsor: Logan J. Monson
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses provisions related to grazing.

Highlighted Provisions:

This bill:

► requires the Division of Wildlife Resources, before purchasing or acquiring a grazing permit, to obtain approval from:
- a local land use authority;
- the Department of Natural Resources; and
- the Department of Agriculture and Food; and

► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23A-3-205, as renumbered and amended by Laws of Utah 2023, Chapter 103

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

Section 1. Section 23A-3-205 is amended to read:

23A-3-205. Wildlife Conservation Fund.

(1) As used in this section:

(a) "Fund" means the Wildlife Conservation Fund created by this section.

(b) "Land use authority" means:

(i) a land use authority, as that term is defined in Section 10-9a-103, of a municipality; or

(ii) a land use authority, as that term is defined in Section 17-27a-103, of a county.

[~~(b)~~](c) "Wildlife conservation permit program" means a program under which the division issues permit opportunities to be sold by a conservation organization for auction to the highest bidder at a fund-raising event.

[~~(c)~~](d) "Wildlife exposition program" means a program under which the division allocates permits to a drawing administered by a selected conservation organization as part of a regional or national exposition for the purpose of generating revenue to fund wildlife conservation activities in Utah.

(2) There is created an expendable special revenue fund known as the "Wildlife Conservation Fund."

(3) The fund consists of:

(a) wildlife conservation permit program revenue transferred to the division pursuant to rules, made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) wildlife exposition program revenue transferred to the division pursuant to rules, made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) money appropriated to the fund by the Legislature;

(d) contributions, grants, gifts, transfers, bequests, and donations to the fund accepted by the division and specifically directed to the fund; and

(e) interest and earnings on the fund.

(4) (a) The fund shall earn interest and other earnings.

(b) The interest and earnings described in Subsection (4)(a) shall be deposited into the fund.

(5) (a) The division shall use proceeds in the fund to carry out the purposes of the wildlife conservation permit program or wildlife exposition program.

(b) Deposits into and expenditures from the fund shall specifically identify the wildlife conservation permit program or wildlife exposition program to which the deposits and expenditures apply.

(c) The division shall make expenditures from the fund consistent with the rules governing the applicable program.

(6) (a) Before the division may use or approve the use of money in the fund to purchase or acquire a grazing permit, the division shall obtain approval from:

(i) the land use authority for the land in which the grazing permit is located;

(ii) the Department of Natural Resources created in Section 79-2-201; and

(iii) the Department of Agriculture and Food created in Section 4-2-102.

(b) If a request to purchase or acquire a grazing permit under Subsection (6)(a) is not denied by a land use authority, the Department of Natural Resources, or the Department of Agriculture and Food within 60 days after the day on which the division submits the request, the division may consider the request as approved.

(c) An action of a land use authority under this Subsection (6) is not a land use decision subject to:

(i) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(ii) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

[~~(6)~~](7) The division shall annually report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee regarding:

(a) the amount of money in the fund;

(b) the sources of money in the fund; and

(c) how the money is expended.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 148
S. B. 158
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

SALE OR LEASE OF FEDERALLY MANAGED PUBLIC LAND AMENDMENTS

Chief Sponsor: Keven J. Stratton
House Sponsor: Ken Ivory

LONG TITLE

General Description:

This bill addresses use of the federal Recreation and Public Purposes Act.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► provides for monitoring of land applications;
- ► requires a study of land application information;
- ► requires a report of the results of the study; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63L-11-305, as last amended by Laws of Utah 2022, Chapter 313

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

Section 1. Section 63L-11-305 is amended to read:

63L-11-305. Facilitating the acquisition of federally managed public land.

(1) As used in this section:

(a) " [~~Federal land~~]Federally managed public land" means federally managed public land that the secretary is authorized to dispose of under the [~~federal~~]federally managed public land disposal law.

(b) " [~~Federal land~~]Federally managed public land disposal law" means the Recreation and Public Purposes Act, 43 U.S.C. Sec. 869 et seq.

(c) "Government entity" means any state or local government entity allowed to submit a land application under the [~~federal land~~]federally managed public land disposal law.

(d) "Land application" means an application under the [~~federal land~~]federally managed public land disposal law requesting the secretary to sell or lease [~~federal~~]federally managed public land.

(e) "Land application process" means the actions involved in the process of submitting and obtaining a final decision on a land application.

(f) "Secretary" means the Secretary of the Interior of the United States.

(2) The office shall:

(a) develop expertise:

(i) in the land application process; and

(ii) concerning the factors that tend to increase the chances that a land application will result in the secretary selling or leasing [~~federal~~]federally managed public land as requested in the land application;

(b) work to educate government entities concerning:

(i) the availability of [~~federal~~]federally managed public land pursuant to the [~~federal~~]federally managed public land disposal law; and

(ii) the land application process;

(c) advise and consult with a government entity that requests assistance from the office to formulate and submit a land application and to pursue a decision on the land application;

(d) advise and consult with a government entity that requests assistance from the office to identify and quantify the amount of any funds needed to provide the public use described in a land application;

(e) adopt a list of factors to be considered in determining the degree to which a land application or potential land application is in the public interest;

(f) recommend a prioritization of land applications or potential land applications in the state according to the extent to which the land applications are in the public interest, based on the factors adopted under Subsection (2)(e);

(g) monitor land applications submitted by government entities for federally managed public land located within the state, including annually contacting and collecting relevant data from government entities to determine whether the government entities have submitted land applications;

[~~(g)~~](h) prepare and submit a written report [~~of land applications~~]:

(i) to the Natural Resources, Agriculture, and Environment Interim Committee and the Federalism Commission;

(ii) (A) annually by no later than August 31; and

(B) at other times, if and as requested by the committee or commission; and

(iii) (A) on the activities of the office under this section;

(B) on the land applications and potential land applications in the state, including information based on the monitoring of land applications under Subsection (2)(g);

(C) on the decisions of the secretary on land applications submitted by government entities in the state; and

(D) on the quantity of land acquired under the land applications;

[~~(h)~~](i) present a summary of information contained in the report described in Subsection [~~(2)(g)~~](2)(h):

(i) at a meeting of the Natural Resources, Agriculture, and Environment Interim Committee and at a meeting of the Federalism Commission;

(ii) annually no later than August 31; and

(iii) at other times, if and as requested by the committee or commission; and

[~~(i)~~](j) report to the Executive Appropriations Committee of the Legislature, as frequently as the executive director considers appropriate or as requested by the Executive Appropriations Committee, on the need for legislative appropriations to provide funds for the public purposes described in land applications.

(3) The office may:

(a) assist a government entity or the secretary in the filing and processing of a land application; and

(b) enter into an agreement with the secretary related to the office assisting in processing a land application.

(4) (a) The office shall conduct a survey of the land applications for federally managed public land located within the state that were submitted by a government entity from July 1, 2014, to July 1, 2024, to determine:

(i) which government entities submitted a land application during that time frame;

(ii) when a government entity submitted a land application during that time frame;

(iii) the location and quantity of federally managed public land for which a land application was submitted during that time frame; and

(iv) the status of a land application submitted during that time frame.

(b) The office shall complete the survey required by this Subsection (4) and report the results of the survey to the Natural Resources, Agriculture, and Environment Interim Committee and Federalism Commission by no later than August 31, 2025.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 149
H. B. 438
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

ENVIRONMENTAL LEGAL ACTION AMENDMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies a bond requirement for an environmental action.

Highlighted Provisions:

This bill:

► modifies the definition of "environmental action" to address a permit issued by the Division of Oil, Gas, and Mining; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-5-828, as enacted by Laws of Utah 2011, Chapter 116

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

Section 1. Section 78B-5-828 is amended to read:

78B-5-828. Bond required in an environmental action.

(1) As used in this section:

(a) "Administrative stay" means a stay or other temporary remedy issued by an agency under Section 63G-4-405.

(b) (i) "Environmental action" means a cause of action that:

[~~(i)~~](A) is filed on or after May 10, 2011; and

[~~(ii)~~](B) seeks judicial review of a final agency action to issue a permit by [~~:~~]the Department of Natural Resources, the Department of Transportation, or the School and Institutional Trust Lands Administration.

[~~(A) the Department of Natural Resources;~~]

[~~(B) the Department of Transportation; or~~]

[~~(C) the School and Institutional Trust Lands Administration.~~]

(ii) "Environmental action" does not include a cause of action that seeks judicial review of a final agency action to issue a permit by the Division of Oil, Gas, and Mining under Title 40, Chapter 10, Coal Mining and Reclamation.

(c) "Ultimately prevail on the merits" means, in the final judgment, the court rules in the plaintiff's favor on at least one cause of action.

(2) A plaintiff who obtains a preliminary injunction or administrative stay in an environmental action, but does not ultimately prevail on the merits of the environmental action, is liable for damages sustained by a defendant who:

(a) opposed the preliminary injunction or administrative stay; and

(b) was harmed by the preliminary injunction.

(3) A court may not issue a preliminary injunction and an agency may not grant an administrative stay in an environmental action until the plaintiff posts with the court or the agency a surety bond or cash equivalent:

(a) in an amount the court or agency considers sufficient to compensate each defendant opposing the preliminary injunction or administrative stay for damages that each defendant may sustain as a result of the preliminary injunction or administrative stay;

(b) written by a surety licensed to do business in the state; and

(c) payable to each defendant opposing the preliminary injunction or administrative stay in the event the plaintiff does not prevail on the merits of the environmental action.

(4) If there is more than one plaintiff, the court or agency shall establish the amount of the bond required by Subsection (3) for each plaintiff in a fair and equitable manner.

(5) (a) If the plaintiff does not ultimately prevail on the merits of the environmental action, the court shall execute the bond and award damages to each defendant who:

(i) opposed the preliminary injunction or administrative stay; and

(ii) was harmed as a result of its issuance.

(b) If the amount of money secured by the surety bond or cash equivalent:

(i) exceeds the damages awarded, the court or agency shall return the excess to the plaintiff; and

(ii) is less than the damages awarded, the court or agency shall order the plaintiff to pay the remaining damages.

(6) Notwithstanding any other provision of law, a court's or agency's refusal to require the posting of a surety bond or cash equivalent as required by this section is subject to immediate appeal.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 150
H. B. 439
Passed March 7, 2025
Approved March 24, 2025
Effective March 24, 2025

OUTDOOR RECREATION REVISIONS

Chief Sponsor: Scott H. Chew
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses provisions related to the Off-highway Vehicle Account administered by the Division of Outdoor Recreation.

Highlighted Provisions:

This bill:

- ► defines the term "off-highway vehicle facility";
- ► allows the Division of Outdoor Recreation to award upfront cash grants from the Off-highway Vehicle Account for projects in counties of the third through sixth class; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-22-2, as last amended by Laws of Utah 2024, Chapter 242
41-22-19, as last amended by Laws of Utah 2023, Chapter 11 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 33

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

Section 1. Section 41-22-2 is amended to read:

41-22-2. Definitions.

As used in this chapter:

(1) "Advisory council" means an advisory council appointed by the Division of Outdoor Recreation that has within the advisory council's duties advising on policies related to the use of off-highway vehicles.

(2) "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

(3) (a) "All-terrain type II vehicle" means any motor vehicle 80 inches or less in width, traveling on four or more low pressure tires, having a steering wheel, non-straddle seating, a rollover protection system, and designed for or capable of travel over unimproved terrain, and is:

(i) an electric-powered vehicle; or

(ii) a vehicle powered by an internal combustion engine and has an unladen dry weight of 3,500 pounds or less.

(b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed or modified primarily for recreational use on unimproved terrain, or farm tractors as defined under Section 41-1a-102.

(4) (a) "All-terrain type III vehicle" means any other motor vehicle, not defined in Subsection (2), (3), [~~(12)~~](13), or [~~(22)~~](23), designed for or capable of travel over unimproved terrain.

(b) "All-terrain type III vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed or modified primarily for recreational use on unimproved terrain, or farm tractors as defined under Section 41-1a-102.

(5) "Commission" means the Outdoor Adventure Commission.

(6) "Cross-country" means across natural terrain and off an existing highway, road, route, or trail.

(7) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.

(8) "Division" means the Division of Outdoor Recreation.

(9) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(10) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.

(11) (a) "Motor vehicle" means every vehicle which is self-propelled.

(b) "Motor vehicle" includes an off-highway vehicle.

(12) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(13) "Off-highway implement of husbandry" means every all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, motorcycle, or snowmobile that is used by the owner or the owner's agent for agricultural operations.

(14) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or

motorcycle.

(15) (a) "Off-highway vehicle facility" means a facility or area designated for use by an off-highway vehicle.

(b) "Off-highway vehicle facility" includes a trail, trailhead, storage shed, water and electric infrastructure, or other infrastructure that provides or increases access to an area designated for use by an off-highway vehicle.

[~~(15)~~](16) "Operate" means to control the movement of or otherwise use an off-highway vehicle.

[~~(16)~~](17) "Operator" means the person who is in actual physical control of an off-highway vehicle.

[~~(17)~~](18) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.

[~~(18)~~](19) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.

[~~(19)~~](20) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.

[~~(20)~~](21) "Register" means the act of assigning a registration number to an off-highway vehicle.

[~~(21)~~](22) "Roadway" is used as defined in Section 41-6a-102.

[~~(22)~~](23) "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires, and equipped with a saddle or seat for the use of the rider.

[~~(23)~~](24) "Street or highway" means the entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel.

[~~(24)~~](25) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same meaning as defined in Section 41-6a-102.

Section 2. Section 41-22-19 is amended to read:

41-22-19. Off-highway Vehicle Account -- Deposit and use of funds -- Grants and matching funds.

(1) (a) Except as provided under Subsections (3) through (5) and Sections 41-22-34 and 41-22-36, registration fees and related money collected by the Motor Vehicle Division or any agencies designated to act for the Motor Vehicle Division under this chapter shall be deposited as restricted revenue into the Off-highway Vehicle Account in the General Fund less the costs incurred by the Motor Vehicle Division for collecting off-highway vehicle registration fees.

(b) The balance of the money may be used by the division:

(i) for the construction, improvement, operation, acquisition, or maintenance of publicly owned or administered off-highway vehicle facilities, including public access facilities;

(ii) for the mitigation of impacts associated with off-highway vehicle use;

(iii) for the education of off-highway vehicle users;

(iv) for off-highway vehicle access protection;

(v) to support off-highway vehicle search and rescue activities and programs;

(vi) to promote and encourage off-highway vehicle tourism;

(vii) for other uses that further the policy set forth in Section 41-22-1;

(viii) as grants or matching funds with a federal agency, state agency, political subdivision of the state, or organized user group for any of the uses described in Subsections (1)(b)(i) through (vii); and

(ix) for the administration and enforcement of this chapter.

(2) (a) An agency or political subdivision requesting matching funds shall submit plans for proposed off-highway vehicle facilities to the division for review and approval.

(b) The division may award an upfront grant from the Off-highway Vehicle Account to cover the entire projected cost of a project or program to:

(i) a political subdivision of the state that:

(A) is a county of the third through sixth class; and

(B) submits a plan for a project or program consistent with a use described in Subsection (1)(b); and

(ii) an organized user group or agency that submits a plan for a project or program:

(A) located in a county of the third through sixth class; and

(B) consistent with a use described in Subsection (1)(b).

(c) In awarding a grant under Subsection (2)(b), the division may evaluate a grant application submitted on or after January 1, 2025.

(3) (a) One dollar and 50 cents of each annual registration fee collected under Subsection 41-22-8(1) and each off-highway vehicle user fee collected under Subsection 41-22-35(2) shall be deposited into the Land Grant Management Fund created under Section 53C-3-101.

(b) The Utah School and Institutional Trust Lands Administration shall use the money deposited under Subsection (3)(a) for costs associated with off-highway vehicle use of legally accessible lands within its jurisdiction as follows:

(i) to improve recreational opportunities on trust lands by constructing, improving, maintaining, or perfecting access for off-highway vehicle trails; and

(ii) to mitigate impacts associated with off-highway vehicle use.

(c) An unused balance of the money deposited under Subsection (3)(a) exceeding $350,000 at the end of each fiscal year shall be deposited [~~in~~]into the Off-highway Vehicle Account under Subsection (1).

(4) One dollar of each off-highway vehicle registration fee collected under Subsection 41-22-8(1) shall be deposited into the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(5) (a) The Motor Vehicle Division shall collect a fee for any new or replacement license plate issued under this chapter.

(b) The fee described in Subsection (5)(a) shall be an amount equal to the fee for a new or replacement license plate as established [~~pursuant to~~]in accordance with Section 63J-1-504.

(c) The Motor Vehicle Division shall deposit the fee described in Subsection (5)(a) into the License Plate Restricted Account created under Section 41-1a-122.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after notifying the commission, shall make rules as necessary to implement this section.

Section 3. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 151
H. B. 446
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

GREAT SALT LAKE AMENDMENTS

Chief Sponsor: Jill Koford
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses issues related to the Great Salt Lake.

Highlighted Provisions:

This bill:

- ► clarifies metalliferous compounds for purposes of severance tax issues;
- ► addresses an exception from procurement provisions;
- ► modifies requirements related to a feasibility assessment for activities on the Great Salt Lake;
- ► changes provision related to adaptive management berms;
- ► addresses powers and duties of the Great Salt Lake Commissioner; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-5-203, as last amended by Laws of Utah 2024, Chapter 25
63G-6a-107.6, as last amended by Laws of Utah 2024, Chapters 291, 522
65A-6-4, as last amended by Laws of Utah 2024, Chapter 25
65A-17-201, as renumbered and amended by Laws of Utah 2024, Chapter 25
73-32-101, as enacted by Laws of Utah 2023, Chapter 205
73-32-202, as enacted by Laws of Utah 2023, Chapter 205

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

Section 1. Section 59-5-203 is amended to read:

59-5-203. Determining taxable value.

(1) Except as provided in Subsection (3), the basis for computing the gross proceeds, prior to those deductions or adjustments specified in this chapter, in determining the taxable value of the metals, metalliferous minerals, or metalliferous compounds, as defined in Subsection 59-5-202(5), sold or otherwise disposed of, in the order of priority, is as follows:

(a) If the metals, metalliferous mineral products, or metalliferous compounds are actually sold, the value of those metals, metalliferous mineral products, or metalliferous compounds shall be the gross amount the producer receives from that sale, provided that the metals, metalliferous mineral products, or metalliferous compounds are sold under a bona fide contract of sale between unaffiliated parties. In the case of a sale of uranium concentrates, gross proceeds shall be the gross amount the producer receives from the sale of processed uranium concentrate or "yellowcake," provided that the uranium concentrate is sold under a bona fide contract of sale between unaffiliated parties.

(b) (i) For purposes of a Great Salt Lake extraction operator, as defined in Section 59-5-202, if metals, metalliferous minerals, or metalliferous compounds are not sold, but are otherwise disposed of, the gross proceeds shall be the multiple of the recoverable units of finished or unfinished metals, or of the finished or unfinished metals contained in the metalliferous minerals or metalliferous compounds shipped, and the average daily price per unit of contained metals as quoted by an established authority for market prices of metals for the period during which the tax imposed by this chapter is due.

(ii) The established authority or authorities under this Subsection (1)(b) shall be designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) If the metals, metalliferous mineral products, or metalliferous compounds are not actually sold but are shipped, transported, or delivered out of state, the gross proceeds shall be the multiple of the recoverable units of finished metals, or of the finished metals contained in the metalliferous minerals or metalliferous compounds shipped, and the average daily price per unit of contained metals as quoted by an established authority for market prices of metals for the period during which the tax imposed by this chapter is due.

(ii) The established authority or authorities shall be designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) In the case of metals, metalliferous minerals, or metalliferous compounds not sold, but otherwise disposed of, for which there is no established authority for market prices of metals for the period during which the tax imposed by this chapter is due, gross proceeds is determined by allocating to the state the same proportion of the producer's total sales of metals, metalliferous minerals, or metalliferous compounds sold or otherwise disposed of as the producer's total Utah costs bear to the total costs associated with sale or disposal of the metal [~~or~~], metalliferous mineral [-], or metalliferous compound.

(e) In the event of a sale of metals, metalliferous minerals, or metalliferous compounds between affiliated companies which is not a bona fide sale because the value received is not proportionate to the fair market value of the metals, metalliferous minerals, metalliferous compounds or in the event that Subsection (1)(a), (b), (c), or (d) are not applicable, the commission shall determine the value of such metals, metalliferous minerals, or metalliferous compounds in an equitable manner by reference to an objective standard as specified in a rule adopted in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) For all metals except beryllium, the taxable value of the metalliferous mineral sold or otherwise disposed of is 30% of the gross proceeds received for the metals sold or otherwise disposed of by the producer of the metal.

(3) Notwithstanding Subsection (1) or (4), the taxable value of beryllium sold or otherwise disposed of by the producer of the beryllium is equal to 125% of the direct mining costs incurred in mining the beryllium.

(4) Except as provided in Subsection (3), if the metalliferous mineral sold or otherwise disposed of is sold or shipped out of state in the form of ore, then the taxable value is 80% of the gross proceeds.

Section 2. Section 63G-6a-107.6 is amended to read:

63G-6a-107.6. Exemptions from chapter.

(1) Except for this Subsection (1), [~~the provisions of this chapter do~~]this chapter does not apply to:

(a) a public entity's acquisition of a procurement item from another public entity; or

(b) a public entity that is not a procurement unit, including the Colorado River Authority of Utah as provided in Section 63M-14-210.

(2) Unless otherwise provided by statute and except for this Subsection (2), [~~the provisions of this chapter do~~]this chapter does not apply to the acquisition or disposal of real property or an interest in real property, including the acquisition or lease of water or water rights for the Great Salt Lake.

(3) Except for this Subsection (3) and Part 24, Unlawful Conduct and Penalties, [~~the provisions of this chapter do~~]this chapter does not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) a grant;

(c) medical supplies or medical equipment, including service agreements for medical equipment, obtained by the University of Utah Hospital or the Department of Health and Human Services through a purchasing consortium if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital or the executive director of the Department of Health and Human Services, as the case may be, makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;

(d) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;

(e) supplies purchased for resale to the public;

(f) activities related to the management of investments by a public entity granted investment authority by law; or

(g) activities of the Utah water agent appointed under Section 73-10g-702.

(4) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

(5) Except for this Subsection (5), [~~the provisions of this chapter do~~]this chapter does not apply to a procurement unit's hiring a mediator, arbitrator, or arbitration panel member to participate in the procurement unit's dispute resolution efforts.

Section 3. Section 65A-6-4 is amended to read:

65A-6-4. Mineral leases -- Multiple leases on same land -- Rentals and royalties -- Lease terms -- Great Salt Lake.

(1) As used in this section:

(a) "Great Salt Lake element or mineral" means:

(i) a rare earth element;

(ii) a trace element or mineral; or

(iii) a chemical compound that includes a rare earth element or trace element or mineral.

(b) "Operator" means, for purposes of provisions applicable to the extraction of a Great Salt Lake element or mineral, a person qualified to do business in the state who is pursuing the extraction of a Great Salt Lake element or mineral.

(c) "Rare earth element" is one of the following ores, minerals, or elements located in the brines or the sovereign lands of the Great Salt Lake:

(i) lanthanum;

(ii) cerium;

(iii) praseodymium;

(iv) neodymium;

(v) samarium;

(vi) europium;

(vii) gadolinium;

(viii) terbium;

(ix) dysprosium;

(x) holmium;

(xi) erbium;

(xii) thulium;

(xiii) ytterbium;

(xiv) lutetium; and

(xv) yttrium.

(d) "Trace element or mineral" means an element or mineral that is located in the brines or the sovereign lands of the Great Salt Lake that is not in production by July 1, 2020, and for which the state has not received a royalty payment by July 1, 2020.

(2) (a) Mineral leases, including oil, gas, and hydrocarbon leases, may be issued for prospecting, exploring, developing, and producing minerals covering any portion of state lands or the reserved mineral interests of the state.

(b) (i) Leases may be issued for different types of minerals on the same land.

(ii) If leases are issued for different types of minerals on the same land, the leases shall include stipulations for simultaneous operations, except that for leases related to the Great Salt Lake the leases shall include stipulations for simultaneous operations that will not interfere with, impede, limit, or require changes to pre-existing rights.

(c) No more than one lease may be issued for the same resource on the same land.

(d) The division shall require a separate royalty agreement for extraction of Great Salt Lake elements or minerals from brines of the Great Salt Lake when:

(i) a mineral lease, a royalty agreement, or both that are in effect before the operator seeks to extract a particular Great Salt Lake element or mineral do not expressly include the right to extract the particular Great Salt Lake element or mineral; or

(ii) the proposed operation will use brines from the Great Salt Lake, but will not occupy sovereign lands for the direct production of Great Salt Lake elements or minerals other than for incidental structures such as pumps and intake and outflow pipelines.

(3) (a) Each mineral lease issued by the division shall provide for an annual rental of not less than $1 per acre per year, except that a mineral lease issued by the division involving the extraction of a Great Salt Lake element or mineral from brines in the Great Salt Lake shall provide for an annual rental of not less than $100 per acre per year.

(b) However, a lease may provide for a rental credit, minimum rental, or minimum royalty upon commencement of production, as prescribed by rule.

(4) The primary term of a mineral lease may not exceed:

(a) 20 years for oil shale and tar sands; and

(b) 10 years for oil and gas and any other mineral.

(5) (a) In addition to the requirements of Chapter 17, Part 3, Mineral or Element Extraction, and subject to the other provisions of this Subsection (5), for a mineral lease or royalty agreement involving the extraction of Great Salt Lake elements and minerals from brines in the Great Salt Lake, the division shall ensure that the following terms, as applicable, are included:

(i) an extraction operation or extraction method shall adhere to commercially viable technologies that minimize water depletion;

(ii) a provision authorizing the division to curtail or limit Great Salt Lake element or mineral production at any time the condition of the Great Salt Lake reaches the emergency trigger, as defined in Section 65A-17-101;

(iii) a provision authorizing the division to withdraw lands, operations, extraction methods, or technologies from Great Salt Lake element or mineral production or Great Salt Lake element or mineral operations;

(iv) a provision allowing the division to require an existing operator to use commercially viable, innovative technologies to minimize water depletions caused by the planned mineral extraction as a condition of continued operations if the technology:

(A) has been successfully implemented on a commercial scale in similar circumstances;

(B) has been shown to be economically viable; and

(C) is reasonably compatible with the operator's overall extraction process; and

(v) a provision that provides for the reductions of the following after the primary term of a mineral lease or royalty agreement:

(A) the acreage subject to the mineral lease by the acreage the operator does not use to extract a Great Salt Lake element or mineral during the primary term of the mineral lease under conditions that do not constitute waste, as defined in Section 65A-17-101; and

(B) the volume of water that the operator may divert from the Great Salt Lake, by the volume of water that the operator does not use during the longer of the primary term of the mineral lease or seven years if the operator fails to use the volume of water for a beneficial use, except if the failure to use the volume of water is as a result of a reduction of water usage under Section 73-33-201 or is excused under Section 73-1-4.

(b) If under Subsection (5)(a)(iv) the division requires an existing operator to use a commercially viable, innovative technology, the division may not require use of a technology not yet proven to be commercially viable on the Great Salt Lake and may not require implementation of the technology to begin until after a reasonable period determined by the division that is at least five years but does not exceed seven years.

(c) (i) If the volume of water that the operator may divert from the Great Salt Lake is reduced under Subsection (5)(a)(v), the division shall pursue a judicial action to declare all or a portion of the water right forfeited under Subsection 73-1-4(2).

(ii) If the division secures the reduction under this Subsection (5)(c), the division shall petition the state engineer to order a reversal of the application approval in accordance with the terms of the reduction or forfeiture of the water right.

(iii) Nothing in this Subsection (5) modifies or otherwise affects Section 73-1-4 or 73-3-30.

(6) (a) Before issuing a royalty agreement under Subsection (2)(d), the division may require an operator to engage in a feasibility assessment and may issue a royalty agreement without compliance of Subsection (5)(a) if the agreement:

(i) has a term of 12 months or less; and

(ii) [~~limits use of~~]requires a minimum use of five acre-feet of brines from the Great Salt Lake [~~to a maximum of five acre-feet~~] during the term of the agreement.

(b) Subsection (6)(a)(ii) requiring a minimum use of five acre-feet of brines from the Great Salt Lake does not apply to an operator who filed an application with the division for a feasibility assessment before January 1, 2025.

[~~(b)~~](c) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for implementing this Subsection (6).

(7) (a) Upon nomination from a prospective operator, the division shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a royalty rate and calculation methodology for a Great Salt Lake element or mineral that:

(i) provides for a full and fair return to the state from the production of the Great Salt Lake element or mineral;

(ii) is consistent with market royalty rates applicable to the production of the Great Salt Lake element or mineral or of the production of oil and gas;

(iii) provides a base royalty rate;

(iv) provides a reduced royalty rate from the royalty rate under Subsection (7)(a)(iii) if the royalty agreement:

(A) relates to a non-evaporative method of producing the Great Salt Lake element or mineral; or

(B) provides an incentive to use commercially viable, innovative technology to minimize water depletion and evaporation as determined by the division;

(v) provides a reduced royalty rate from the royalty rate under Subsection (7)(a)(iii) if the prospective operator for the extraction of lithium demonstrates to the satisfaction of the division that the prospective operator has an agreement with a person who will process or manufacture a product in this state, exclusive of any primary or secondary lithium processing or manufacturing, using the lithium extracted by the prospective operator; and

(vi) subject to Subsection (7)(e), provides for a royalty rate that is based on the highest market value prevailing at the time of the sale or disposal of the following:

(A) the Great Salt Lake element or mineral; or

(B) a product the lessee produces from the Great Salt Lake element or mineral.

(b) Before entering into a royalty agreement permitting the extraction of Great Salt Lake elements or minerals, the operator shall:

(i) demonstrate the proposed operation's commercial viability;

(ii) certify before operation begins that the operator is not negatively impacting the biota or chemistry of the Great Salt Lake; and

(iii) obtain the approval of the division and the Department of Environmental Quality that the certification supports a finding that the operation will not negatively impact the biota or chemistry of the Great Salt Lake.

(c) A new mineral lease for a Great Salt Lake element or mineral in production in the Great Salt Lake as of May 3, 2023, is subject to new royalty rates due to emergent technologies.

(d) An operator who as of July 1, 2020, had a mineral lease with the division but not a royalty agreement and who is subject to a severance tax under Subsection 59-5-202(5) shall pay a royalty under this section in addition to the severance tax.

(e) The royalty rate described in Subsection (7)(a)(vi) may not be reassessed during the primary term of an initial royalty agreement issued under this section, but may be reassessed upon the conclusion of the primary term.

(8) (a) Except as provided in Subsection (8)(b), an operator who extracts a Great Salt Lake element or mineral from tailings from the production of Great Salt Lake elements or minerals from brines in the Great Salt Lake is subject to this section to the same extent as an operator producing a Great Salt Lake element or mineral from brines in the Great Salt Lake.

(b) An operator that, as of May 3, 2023, has an agreement to recover a Great Salt Lake element or mineral from existing tailings, discarded material, end-use products, or waste products produced from the evaporation and processing of Great Salt Lake brines is not subject to this section, except as to the payment of royalties set by the division under Subsection (7)(a). The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the issuance and termination of a royalty agreement for mineral extraction from tailings, discarded material, end-use products, or waste products produced from the evaporation and processing of Great Salt Lake brines.

(c) An operator that, as of May 3, 2023, has an underlying agreement to recover a Great Salt Lake element or mineral shall obtain an additional agreement for any additional Great Salt Lake element or mineral produced from the tailings, discarded material, end-use products, or waste products newly produced under the underlying agreement. The additional agreement is subject to this section.

(9) The division shall annually report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee regarding the amount of money collected under this section from royalties provided for in Subsection (7).

(10) (a) In the issuance of royalty agreements for the extraction of lithium from the Great Salt Lake, the division shall prioritize applicants that do not use evaporative concentration of Great Salt Lake brines in any stage of the extractive process.

(b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, creating a process for implementing this Subsection (10).

(11) Except in relationship to mineral leases related to the Great Salt Lake, the division shall make rules regarding the continuation of a mineral lease after the primary term has expired, which shall provide that a mineral lease shall continue so long as:

(a) the mineral covered by the lease is being produced in paying quantities from:

(i) the leased premises;

(ii) lands pooled, communitized, or unitized with the leased premises; or

(iii) lands constituting an approved mining or drilling unit with respect to the leased premises; or

(b) (i) the lessee is engaged in diligent operations, exploration, research, or development which is reasonably calculated to advance development or production of the mineral covered by the lease from:

(A) the leased premises;

(B) lands pooled, communitized, or unitized with the leased premises; or

(C) lands constituting an approved mining or drilling unit with respect to the leased premises; and

(ii) the lessee pays a minimum royalty.

(12) For the purposes of Subsection (11), diligent operations with respect to oil, gas, and other hydrocarbon leases may include cessation of operations not in excess of 90 days in duration.

(13) (a) The division shall study and analyze each mineral lease and mineral royalty agreement issued on the Great Salt Lake and compare and evaluate whether the mineral leases and royalty agreements are representative of current market conditions. As part of this study, the division shall:

(i) make the following determinations for mineral leases:

(A) whether the entire surface area described within the mineral lease is being used; and

(B) whether the annual lease payments are representative of current market conditions; and

(ii) for royalty agreements, perform studies and comparative analyses to determine whether the state is receiving royalty rates consistent with current market conditions.

(b) By no later than the 2023 November interim meeting, the division shall report the division's findings of the study required by this Subsection (13) to the Natural Resources, Agriculture, and Environment Interim Committee.

(14) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for implementing this section.

(15) The provisions in this section related to extraction of a Great Salt Lake element or mineral under a mineral lease or royalty agreement apply to a mineral lease or royalty agreement in effect on May 1, 2024, and any mineral lease or royalty agreement entered into after May 1, 2024.

Section 4. Section 65A-17-201 is amended to read:

65A-17-201. Great Salt Lake -- Management responsibilities of the division.

The division has the following powers and duties:

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the management of the Great Salt Lake that recognize the division's duty to manage public trust assets and balance the following public interest benefits and policies:

(a) strategies to effectively and efficiently manage the Great Salt Lake based on the Great Salt Lake's fluctuating lake levels;

(b) development of the Great Salt Lake that balances, in a manner that promotes a healthy physical and ecological condition:

(i) migratory and shorebirds habitats;

(ii) wetlands;

(iii) brines, minerals or elements, chemicals, and petro-chemicals;

(iv) brine shrimp;

(v) the protection of wildlife and wildlife habitat;

(vi) the protection of recreational access and facilities; and

(vii) search and rescue efforts;

(c) promote water quality management for the Great Salt Lake and the Great Salt Lake's tributary streams;

(d) public access to the Great Salt Lake for recreation, hunting, and fishing;

(e) temperature moderation, a stable role in the water cycle, and dust mitigation;

(f) maintain the Great Salt Lake's flood plain as a hazard zone;

(g) maintain the Great Salt Lake and the marshes as important shorebirds, waterfowl, and other waterbird flyway system;

(h) promote and maintain recreation areas on and surrounding the Great Salt Lake; and

(i) maintain and protect state, federal, and private marshlands, rookeries, and wildlife refuges.

(2) (a) The division shall prepare and maintain a comprehensive management plan for the Great Salt Lake that is consistent with:

(i) the management duty and public interest benefits described in Subsection (1);

(ii) policies established by rule made under Subsection (1); and

(iii) the Great Salt Lake strategic plan adopted under Section 73-32-204.

(b) The comprehensive management plan described in this section shall integrate the land within the Great Salt Lake meander line regardless of whether the land has been excluded from water within the Great Salt Lake because of a berm or other infrastructure on sovereign land associated with the Great Salt Lake.

(c) The division shall prepare the comprehensive management plan in consultation with the Great Salt Lake commissioner.

(3) The division may employ personnel and purchase equipment and supplies that the Legislature authorizes through appropriations for the purposes of this chapter and Chapter 10, Management of Sovereign Lands.

(4) The division may initiate studies of the Great Salt Lake and the Great Salt Lake's related resources.

(5) The division may publish scientific and technical information concerning the Great Salt Lake.

(6) The division shall define the Great Salt Lake's flood plain.

(7) The division may qualify for, accept, and administer grants, gifts, or other funds from the federal government and other sources, for carrying out any functions under this chapter and Chapter 10, Management of Sovereign Lands.

(8) The division shall determine the need for public works and utilities for the lake area.

(9) The division may implement the comprehensive plan described in Subsection (2) through state and local entities or agencies.

(10) The division shall coordinate the activities of the various divisions within the Department of Natural Resources with respect to the Great Salt Lake.

(11) The division shall retain and encourage the continued activity of the Great Salt Lake technical team.

(12) The division shall administer Chapter 16, Great Salt Lake Watershed Enhancement Program.

(13) The division shall administer Section 65A-17-202 when the Great Salt Lake emergency trigger is reached.

(14) (a) The division shall manage the adaptive management berm in the UP causeway breach to keep salinity of Gilbert Bay within target ranges, raising and lowering the adaptive management berm as needed to achieve that goal.

(b) In pursuing the goal described in Subsection (14)(a), the division shall:

(i) consider the other management objectives enumerated in this section, including the preservation of Gunnison Bay;

(ii) raise the adaptive management berm if the Great Salt Lake elevation is 4,190 feet or lower; and

(iii) comply with a plan and schedule required by Subsection (14)(c).

(c) Before raising the adaptive management berm, the division shall have a plan and schedule to lower the adaptive management berm by no later than [~~nine~~]18 months after raising the adaptive management berm, with an objective of equalizing the elevations of Gilbert Bay and Gunnison Bay to be within two feet of each other.

(d) The division will consult with the Great Salt Lake commissioner:

(i) before modifying the adaptive management berm; and

(ii) concerning the adoption of the plan and schedule described in Subsection (14)(c).

(15) Notwithstanding a statute to the contrary and except for activities that interfere with the authority granted the state engineer under

Title 73, Water and Irrigation, the division may construct, operate, modify, or maintain infrastructure related to protecting the Great Salt Lake and adjacent wetlands and may engage in planning and provide staff to manage the infrastructure.

(16) The division may perform acts other than those described in Subsections (1) through (15) that are reasonably necessary to carry out this chapter and Chapter 10, Management of Sovereign Lands.

(17) The division shall complete an analysis to determine the infrastructure and engineering needs related to salinity management within the Great Salt Lake meander line.

(18) The division shall consult with the Division of Wildlife Resources to identify projects on sovereign lands that benefit wildlife habitat through the improved flow of water and management of both native and invasive plant species.

(19) This chapter may not be interpreted to override, supersede, or modify any water right within the state, or the role and authority of the state engineer.

Section 5. Section 73-32-101 is amended to read:

73-32-101. Definitions.

As used in this chapter:

(1) "Account" means the Great Salt Lake Account created in Section 73-32-304.

(2) "Agricultural water" means water placed to beneficial use on land in agricultural use as defined under Section 59-2-502.

[~~(2)~~](3) "Commissioner" means the Great Salt Lake commissioner appointed under Section 73-32-201.

[~~(3)~~](4) "Council" means the Great Salt Lake Advisory Council created in Section 73-32-302.

[~~(4)~~](5) "Department" means the Department of Natural Resources.

[~~(5)~~](6) "Office" means the Office of the Great Salt Lake Commissioner created in Section 73-32-301.

[~~(6)~~](7) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

[~~(7)~~](8) "Strategic plan" means the plan prepared by the commissioner under Sections 73-32-202 and 73-32-204.

Section 6. Section 73-32-202 is amended to read:

73-32-202. Duties and authorizations of the commissioner.

(1) The commissioner shall:

(a) subject to Section 73-32-204, prepare an approved strategic plan for the long-term health of the Great Salt Lake and update the strategic plan regularly;

(b) oversee the execution of the strategic plan by other state agencies as provided in Section 73-32-203;

(c) maintain information that measures Great Salt Lake levels, salinity, and overall health;

(d) meet regularly with the executive director of the department and with the executive director of the Department of Environmental Quality;

(e) consult with the Division of Forestry, Fire, and State Lands regarding Title 65A, Chapter 16, Great Salt Lake Watershed Enhancement Program;

(f) monitor the integrated water assessment conducted under Chapter 10g, Part 4, Great Salt Lake Watershed Integrated Water Assessment;

(g) inform the governor, the president of the Senate, and the speaker of the House of Representatives, at least annually, about the status of the strategic plan and the progress regarding implementation of the strategic plan;

(h) at least annually report to the Executive Appropriations Committee regarding the expenditure of money under this chapter;

(i) coordinate and work collaboratively with water conservancy districts that serve water users within the Great Salt Lake watershed; [~~and~~]

(j) consult on projects funded by state appropriations that are designed to acquire or lease water or water rights for the Great Salt Lake to ensure the project is consistent with the strategic plan; and

[~~(j)~~](k) annually report to the Natural Resources, Agriculture, and Environment Interim Committee regarding the activities of the commissioner.

(2) The commissioner may:

(a) access information from other state or federal agencies related to the Great Salt Lake;

(b) develop cooperative agreements between the state, political subdivisions, and agencies of the federal government for involvement in the strategic plan;

(c) produce research, documents, maps, studies, analysis, or other information that supports the strategic plan for the Great Salt Lake;

(d) facilitate and coordinate the exchange of information, comments, and recommendations on Great Salt Lake policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) institutions of higher education that conduct research relevant to the Great Salt Lake;

(iv) nonprofit entities; and

(v) private business;

(e) communicate with the Great Salt Lake Watershed Council created under Chapter 10g, Part 3, Watershed Councils Act; [~~and~~]

(f) subject to Subsection (3), negotiate agreements, leases, or other means to acquire or lease water or water rights for the Great Salt Lake pursuant to the exemption under Subsection 63G-6a-107.6(2); and

[~~(f)~~](g) perform other duties that the commissioner considers necessary or expedient to carry out the purposes of this chapter.

(3) (a) A change application for a water right acquired or leased under Subsection (2)(f) for use on sovereign lands in the Great Salt Lake shall be administered in accordance with Section 73-3-30.

(b) The commissioner shall consult with the commissioner of the Department of Agriculture and Food regarding terms and conditions for leasing agricultural water for the Great Salt Lake.

[~~(3)~~](4) In fulfilling the duties under this chapter, the commissioner shall consult and coordinate, as necessary, with:

(a) the department;
(b) the Department of Agriculture and Food;
(c) the Department of Environmental Quality;
(d) other applicable state agencies;
(e) political subdivisions of the state;
(f) federal agencies;
(g) elected officials; and
(h) local tribal officials.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 152
H. B. 478
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

BRINE MINING AMENDMENTS

Chief Sponsor: Bridger Bolinder
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses the mining of brine within the state.

Highlighted Provisions:

This bill:

- ► enacts the Brine Conservation Act (act), including:
  - • defining terms;
  - • outlining the scope and application of the act;
  - • providing for the authority and jurisdiction of the Board of Oil, Gas, and Mining, including rulemaking authority;
  - • establishing civil and criminal penalties;
  - • providing for forfeiture of sureties;
  - • addressing the sale of equipment, installation, or material by the Division of Oil, Gas, and Mining;
  - • providing for the establishment and modification of brine production drilling units, pooling, or fields;
  - • requiring permits; and
  - • regulating the payment of proceeds;
- ► repeals outdated language; and
- ► makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

40-13-101, Utah Code Annotated 1953
40-13-102, Utah Code Annotated 1953
40-13-103, Utah Code Annotated 1953
40-13-201, Utah Code Annotated 1953
40-13-202, Utah Code Annotated 1953
40-13-203, Utah Code Annotated 1953
40-13-204, Utah Code Annotated 1953
40-13-205, Utah Code Annotated 1953
40-13-301, Utah Code Annotated 1953
40-13-302, Utah Code Annotated 1953
40-13-303, Utah Code Annotated 1953
40-13-401, Utah Code Annotated 1953
40-13-402, Utah Code Annotated 1953

REPEALS:

40-8-24, as enacted by Laws of Utah 2024, Chapter 76

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

Section 1. Section 40-13-101 is enacted to read:

CHAPTER 13. BRINE CONSERVATION ACT

PART 1. General Provisions

40-13-101. Definitions.

As used in this chapter:

(1) "Artificial brine" means mineralized water formed by dissolving rock salt, evaporites, or other readily soluble rocks or minerals derived through artificial means.

(2) "Board" means the Board of Oil, Gas, and Mining.

(3) (a) Except as provided in Subsection (3)(c), "brine" means subterranean saltwater and all of the saltwater's constituent parts and dissolved minerals contained in the saltwater if the saltwater:

(i) has total dissolved solids in excess of 20,000 parts per million; and

(ii) is not reasonably suitable for domestic or agricultural use.

(b) "Brine" includes saltwater described in Subsection (3)(a) that has dissolved minerals contained within or extracted from the saltwater, such as:

(i) bromine;

(ii) magnesium;

(iii) potassium;

(iv) lithium;

(v) boron;

(vi) chlorine;

(vii) iodine;

(viii) calcium;

(ix) strontium;

(x) sodium;

(xi) sulphur;

(xii) barium; or

(xiii) other marketable minerals, elements, or substances produced with or separated from the saltwater.

(c) "Brine" does not include produced water unless the produced water is saved, sold, or used for the purpose of extracting the dissolved minerals or other chemical substances contained in the produced water.

(4) "Brine field unit" means the formation by an order of the board of a unit of one or more brine reservoirs or parts of brine reservoirs in a field.

(5) (a) "Brine mining operation" means the exploration for, development of, or production of brine, including naturally occurring brine and artificial brine, using production wells in excess of 7,500 feet in depth.

(b) "Brine mining operation" does not include:

(i) operations at the surface to extract brine from the Great Salt Lake;

(ii) solution mining of salt for the primary purpose of creating subterranean caverns for the storage of liquids or gases;

(iii) in situ leaching for other minerals not defined as brine for the purposes of this chapter;

(iv) geothermal operations that do not include mineral extraction; and

(v) off-site operations and transportation.

(6) (a) "Brine proceeds" means a payment that:

(i) derives from production of brine from a brine well located in the state;

(ii) is expressed as a right to a specified interest in the:

(A) cash proceeds received from the sale of the brine; or

(B) the cash value of the brine; and

(iii) is subject to any tax withheld from the payment pursuant to law.

(b) "Brine proceeds" includes a:

(i) royalty interest;

(ii) overriding royalty interest;

(iii) production payment interest; or

(iv) working interest.

(c) "Brine proceeds" does not include a net profits interest or other interest the extent of which cannot be determined with reference to a specified share of:

(i) the cash proceeds received from the sale of the brine; or

(ii) the cash value of the brine.

(7) "Brine production drilling unit" means each separate composite area of land designated as a brine product drilling unit by order of the board for the production of brine and the injection of effluent.

(8) "Brine well" means a well drilled or converted for the purpose of producing natural or artificial brine.

(9) "Consenting owner" means an owner who, in the manner and within the time frame established by the board in rule, consents to the drilling and operation of a brine well and agrees to bear the owner's proportionate share of the costs of the drilling and operation of the brine well.

(10) "Correlative rights" means the opportunity of each owner in a reservoir to produce the owner's just and equitable share of the brine in the reservoir without waste.

(11) "Division" means the Division of Oil, Gas, and Mining.

(12) "Effluent" means the liquid and associated dissolved minerals remaining after extraction of the marketable substances from brine.

(13) "Facility" means equipment or a structure used in the production, storage, treatment, transportation, refining, or processing brine.

(14) "Field" means a general area underlaid by one or more brine reservoirs.

(15) "Leaching" means extracting a soluble metallic compound from an ore by selectively dissolving it in a suitable solvent, such as sulfuric acid or hydrochloric acid.

(16) "Manufacture" means the complete process of drilling, completing, equipping, and operating production and injection wells and of extracting and packaging brine.

(17) "Mineral" means a naturally occurring inorganic element or compound having an orderly internal structure and characteristic chemical composition, crystal form, and physical properties.

(18) "Multiple mineral development area" means an area designated by the board involving the management and development of various concurrent surface and sub-surface resource extraction operations, including exploratory activities for the purpose of efficient and effective development of the concurrent marketable resources in the area without unreasonable interference occurring between the separate operations.

(19) "Nonconsenting owner" means an owner who does not, after written notice and in the manner and within the time frame established by the board in rule, consent to the drilling and operation of a brine well or agree to bear the owner's proportionate share of the costs.

(20) "Operating agreement" is a contract that outlines the rights and obligations of multiple parties involved in a project, including:

(a) establishing who will act as the operator;

(b) identifying the parties' property interests;

(c) allocating costs, benefits, liabilities, and obligations; and

(d) providing a structure for handling disputes and other issues that may arise.

(21) "Operator" means a person who is designated by the owners or the board to operate a brine well or brine production drilling unit.

(22) "Owner" means a person owning an interest in the dissolved minerals and other chemical substances produced with or extracted from brine, or in the brine proceeds including having the right to:

(a) drill into and produce brine from a reservoir; and

(b) appropriate the production for that person or for that person and others.

(23) "Payor" means the person who undertakes to distribute brine proceeds to the persons entitled to the brine proceeds, whether as the first purchaser of that production, as operator of the brine well from which the production is obtained, or as lessee under the lease on which royalty is due.

(24) "Permit" means a permit order issued by the division allowing a person to engage in brine mining operations in the state.

(25) "Permittee" means a person who:

(a) holds a permit issued under this chapter; or

(b) is required by this chapter to hold a permit.

(26) "Pooling" means the bringing together of separately owned interests for the common development and operation of a brine production drilling unit.

(27) "Produced water" means the same as that term is defined in Section 40-12-101.

(28) "Reservoir" means an underground natural container containing a common accumulation of brine, with each zone of a general structure that is completely separated from any other zone in the structure being a separate reservoir, and is a common source of supply.

(29) "Waste" means:

(a) the inefficient, excessive, or improper use or the unnecessary dissipation of brine or reservoir energy;

(b) the inefficient storing of brine, except for a solar evaporation pond permitted by the division; or

(c) the locating, drilling, equipping, operating, or producing of a brine well in a manner that causes:

(i) a significant reduction in the economic recoverability of brine from a reservoir or the dissolved minerals or chemical substances contained therein;

(ii) injecting effluent or other wastes in a manner as to cause unnecessary water channeling or undue forced migration of brine between brine production drilling units;

(iii) the unapproved intrusion of brine and effluent into an oil or gas reservoir;

(iv) unnecessary brine wells to be drilled; or

(v) the loss or destruction of brine either at the surface or subsurface.

Section 2. Section 40-13-102 is enacted to read:

40-13-102. Scope of chapter -- Political subdivisions.

(1) (a) The board has jurisdiction over the drilling and production of brine wells.

(b) The board does not have jurisdiction over Class I, III, IV, or V wells regulated by the Department of Environmental Quality, pursuant to the federal Safe Drinking Water Act, 40 C.F.R. Parts 144 through 148, inclusive, and Title 19, Chapter 5, Water Quality Act.

(2) The legislative body of a political subdivision may enact, amend, or enforce a local ordinance, resolution, or rule consistent with the political subdivision's general land use authority that:

(a) regulates only surface activity that is incidental to brine mining operations;

(b) does not effectively or unduly limit, ban, or prohibit brine mining operations; and

(c) is not otherwise preempted by state or federal law.

Section 3. Section 40-13-103 is enacted to read:

40-13-103. Lands subject to chapter.

This chapter applies to all lands in the state lawfully subject to the state's police power and, to the extent allowed by law, includes lands and appurtenances of the United States or the lands or appurtenances subject to the jurisdiction of the United States.

Section 4. Section 40-13-201 is enacted to read:

PART 2. Administration and Enforcement

40-13-201. Board authority -- Rulemaking.

(1) The board has jurisdiction and authority over:

(a) a person or property necessary to administer and enforce this chapter; and

(b) the drilling for and production of brine for the extraction of dissolved minerals or other chemical substances contained in the brine.

(2) The board shall establish fees in accordance with Section 63J-1-504, in an amount to pay the costs to the board and division of the permitting process.

(3) The board may:

(a) adjudicate multiple mineral development conflicts resulting from brine mining operations;

(b) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to mitigate multiple mineral development conflicts; and

(c) enforce a board's multiple mineral development order as set forth in Subsection 40-13-202(4).

(4) An approval granted under this chapter does not relieve the necessity of obtaining an order, permit, license, consent, water right, or authorization required under any other statute.

(5) The board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and issue orders to:

(a) regulate activities relating to brine mining operations;

(b) protect correlative rights and prevent waste;

(c) form and modify brine production drilling units and brine field units;

(d) regulate the spacing of brine wells for the production of brine and injection wells for the introduction of effluent into a reservoir;

(e) ensure that the drilling, casing, and plugging of a brine well is done in such a manner as to prevent:

(i) the unauthorized escape of brine or effluent from one formation to another;

(ii) the unapproved intrusion of brine and effluent into an oil or gas reservoir;

(iii) the pollution of fresh water supplies throughout the state; and

(iv) blowouts, caving, or seepage;

(f) subject to Subsection (6), prevent brine well construction and related regulated activities without an adequate and approved supply of water for the drilling and completion of the brine well and authorization of the state engineer in the Division of Water Rights for brine production from the brine well as required by Title 73, Chapter 3, Appropriation;

(g) regulate the storage, refining, or processing of brine and effluent;

(h) require the making of reports showing:

(i) the location of brine wells used for production;

(ii) the location of injection wells used for disposal; and

(iii) the filing of well logs, production reports, and drilling records for the wells described in this Subsection (5)(h);

(i) require the return of effluent to the same formation from which the brine was produced unless the board authorizes the disposal of effluent into one or more other formations upon finding that neither underground damage nor waste results from the disposal;

(j) identify the ownership of:

(i) a brine well;

(ii) an injection well;

(iii) pipelines; and

(iv) a facility for the production, storage, treatment, transportation, refining, or processing of brine;

(k) regulate the introduction or injection of effluent and other substances into a reservoir;

(l) require the furnishing of reasonable surety to guarantee that the operator shall:

(i) plug each abandoned brine well;

(ii) repair each brine well leaking or causing waste; and

(iii) maintain and reclaim the site;

(m) exercise continuing jurisdiction:

(i) over brine mining operations;

(ii) to amend a permit; or

(iii) to revoke a permit after notice and hearing;

(n) require operators to keep and maintain complete and accurate records of the quantities of brine produced, sold, purchased, acquired, stored, transported, refined, and processed, and effluent injected for a period of at least six years;

(o) formulate rules for the proper transportation of brine from the producing brine wells to the plant and from the plant to the injection wells and for the maintenance and surveillance of the transportation facilities; and

(p) when brine mining uses produced water, resolve issues related to conflicting correlative rights between the correlative rights established under Chapter 6, Board and Division of Oil, Gas, and Mining, and the correlative rights established under Part 3, Brine Production Drilling Units, Pooling, or Fields, by:

(i) subordinating conflicting correlative rights under this chapter to the correlative rights established under Chapter 6, Board and Division of Oil, Gas, and Mining; and

(ii) establishing a procedure before the board for addressing and resolving conflicts related to conflicting correlative rights.

(6) (a) Subsection (5)(f) does not impose additional legal requirements but is enacted to ensure that legal requirements concerning the use of water have been met before the commencement of drilling.

(b) This chapter does not:

(i) override, substitute, or modify a water right within the state; or

(ii) modify the statutory enforcement and other duties of the state engineer under Title 73, Water and Irrigation.

Section 5. Section 40-13-202 is enacted to read:

40-13-202. Inspections -- Cessation orders -- Civil penalties.

(1) (a) If, on the basis of information available, the division has reason to believe that a person is in violation of this chapter, an order issued under this chapter, a rule made under this chapter, or a permit condition required by this chapter, the division shall immediately order

inspection of the brine mining operation at which the alleged violation is occurring, unless the information available to the division is a result of a previous inspection of the brine mining operation.

(b) (i) If, on the basis of an inspection, the division determines that a condition or practice exists, or that a permittee is in violation of this chapter, an order issued under this chapter, a rule made under this chapter, or a permit condition required by this chapter, and the condition, practice, or violation creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the division shall immediately order cessation of brine mining operations or the portion of brine mining operations relevant to the condition, practice, or violation.

(ii) The cessation order shall remain in effect until the division determines that the condition, practice, or violation is abated, or until the division modifies, vacates, or terminates the order.

(iii) If the division finds that the ordered cessation of brine mining operations, or a portion of the brine mining operations, does not completely abate the imminent danger to the health or safety of the public or the significant imminent environmental harm to land, air, or water resources, the division shall, in addition to the cessation order, impose affirmative obligations on the operator requiring the operator to take whatever steps the division considers necessary to abate the imminent danger or the significant environmental harm.

(c) (i) If, on the basis of an inspection, the division determines that a permittee is in violation of this chapter, an order issued under this chapter, a rule made under this chapter, or a permit condition required by this chapter, but the violation does not create an imminent danger to the health or safety of the public or cannot be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources, the division shall issue a notice to the permittee or the permittee's agent specifying a reasonable time, but not more than 90 days, for the abatement of the violation and providing an opportunity for an informal conference with the division.

(ii) If, upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown, and upon the written finding of the division, the division finds that the violation has not been abated, the division shall immediately order a cessation of brine mining operations or the portion of the brine mining operation relevant to the violation.

(iii) A cessation order issued under this Subsection (1)(c) remains in effect until the division determines that the violation is abated or until the division modifies, vacates, or terminates the order.

(iv) In a cessation order issued by the division under this Subsection (1)(c), the division shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary measures in the order.

(d) (i) A notice or order issued under this section shall set forth with reasonable specificity:

(A) the nature of the violation and the remedial action required;

(B) the period of time established for abatement; and

(C) a reasonable description of the portion of the mining and reclamation operation to which the notice or order applies.

(ii) The division shall promptly give a notice or order issued under this section to the permittee or the permittee's agent.

(iii) The division shall give a notice or order in a writing signed by the director or the director's authorized representative who issues the notice or order.

(iv) The division may modify, vacate, or terminate a notice or order issued under this section.

(2) (a) The division may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, if the permittee or the permittee's agent:

(i) violates or fails or refuses to comply with an order or decision issued by the division under this chapter;

(ii) interferes with, hinders, or delays the division, or the division's authorized representative, in carrying out this chapter;

(iii) refuses to admit an authorized representative to the brine well;

(iv) refuses to permit inspection of the brine well by an authorized representative; or

(v) refuses to furnish information or a report requested by the division in furtherance of this chapter.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney general brings the action described in Subsection (2)(a) in court, the attorney general shall bring the action in the county in which:

(i) the brine mining operation and reclamation operation is located; or

(ii) the permittee of the brine mining operation or reclamation operation has the permittee's principal office.

(c) (i) The court has jurisdiction to provide the relief requested in accordance with this Subsection (2).

(ii) Relief granted by the court to enforce an order under Subsection (2)(a)(i) shall continue in effect until the completion or final termination of all proceedings for review of that order under this chapter, unless, before completion or termination, the court granting the relief sets the order aside or modifies the order.

(3) (a) (i) A permittee issued a notice or order by the division, pursuant to Subsection (1)(b) or (c), or a person having an interest that may be adversely affected by the notice or order, may apply to the board for review of the notice or order by no later than 30 days of receipt of the notice or order, or no later than 30 days of a modification, vacation, or termination of the notice or order.

(ii) On receipt of an application under Subsection (3)(a)(i), the board shall pursue an investigation as the board considers appropriate.

(iii) An investigation pursued by the board shall provide an opportunity for a public hearing at the request of the applicant or the person having an interest that is or may be adversely affected, to enable the applicant or that person to present information relating to the issuance and continuance of the notice or order or the modification, vacation, or termination of the notice or order.

(iv) The filing of an application for review under this Subsection (3)(a) does not operate as a stay of an order or notice.

(b) The board shall give a permittee or other interested person written notice of the time and place of the hearing at least five days before the hearing.

(c) (i) Pending completion of the investigation and hearing required by this section, the applicant may file with the board a written request that the board grant temporary relief from any notice or order issued under this section, with a detailed statement giving the reasons for granting this relief.

(ii) The board shall issue an order or decision granting or denying this relief expeditiously.

(d) (i) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to this section, the board shall hold a public hearing, after giving written notice of the time, place, and date of the hearing.

(ii) By no later than 60 days following the public hearing, the board shall issue and give the permittee and all other parties to the hearing, a written decision, and the reasons for the decision, regarding suspension or revocation of the permit.

(iii) If the board revokes a permit, the permittee shall immediately cease brine mining operations on the permit area and shall complete reclamation within a period specified by the board, or the board shall declare the surety forfeited for the brine mining operation.

(e) An action taken by the board under this section, or any other provision of this chapter, is subject to judicial review by a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(4) (a) (i) The division may assess a permittee a civil penalty if the permittee violates a permit condition, this chapter, an order issued under this chapter, or a rule made under this chapter.

(ii) If a violation leads to the issuance of a cessation order under Subsection (1), the division shall assess a civil penalty.

(b) (i) A civil penalty under this Subsection (4) may not exceed $5,000 for each violation.

(ii) Each day of a continuing violation may be considered to be a separate violation for purposes of the civil penalty assessments.

(c) In determining the amount of the civil penalty, the division shall consider:

(i) the permittee's history of previous violations at the particular brine mining operation;

(ii) the seriousness of the violation, including any irreparable harm to the environment or hazard to the health or safety of the public;

(iii) whether the permittee was negligent; and

(iv) the demonstrated good faith of the permittee in attempting to achieve rapid compliance after notification of the violation.

(5) (a) By no later than 30 days after the issuance of a notice or order charging a violation has occurred, the division shall inform the permittee of a proposed assessment under Subsection (4).

(b) A person charged with the civil penalty has 30 days after issuance of a notice or order to:

(i) pay the proposed assessment in full; or

(ii) request an informal conference with the division.

(c) An informal conference held by the division may address either the amount of the proposed assessment, the fact of the violation, or both.

(d) If a permittee who requests an informal conference and participates in the proceedings is not in agreement with the results of the informal conference, the permittee may, within 30 days of receipt of the decision made by the division in the informal conference, request a hearing before the board.

(e) (i) Before review of the division's decision under Subsection (5)(d) by the board, and by no later than 30 days of receipt of the division's decision, the permittee shall forward to the division the amount of the proposed assessment for placement in an escrow account.

(ii) If the permittee fails to forward the amount of the civil penalty to the division by no later than 30 days of receipt of the results of the informal conference, the operator waives the opportunity for further review of the fact of the violation or to contest the amount of the civil penalty assessed for the violation.

(iii) If the board or a court determines that no violation occurred or that the amount of the civil penalty should be reduced, the division shall, within 30 days, remit the appropriate amount to the operator with interest accumulated.

(6) (a) A civil penalty assessed by the division is final only after the person charged with a violation described under Subsection (4) has been given an opportunity for a public hearing.

(b) If a public hearing is held, the board shall make findings of fact and shall issue a written decision as to the occurrence of the violation and the amount of the civil penalty which is warranted, incorporating, when appropriate, an order requiring that the civil penalty be paid.

(c) When appropriate, the board shall consolidate a hearing with other proceedings under Section 40-13-201.

(d) If a person charged with a violation does not attend the public hearing, the division may assess a civil penalty after the division:

(i) determines:

(A) that a violation occurred; and

(B) the amount of the civil penalty that is warranted; and

(ii) issues an order requiring that the civil penalty be paid.

(7) At the request of the board, the attorney general may bring a civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil penalty owed under this chapter.

(8) (a) The division shall assess an operator who fails to correct a violation for which a notice or cessation order has been issued under Subsection (1)(b) within the period permitted for a correction of the violation a civil penalty of not less than $750 for each day during which the failure or violation continues.

(b) The period permitted for correction of a violation for which a notice of cessation order has been issued under Subsection (1)(b) may not end until:

(i) the entry of a final order by the board, in a review proceeding initiated by the operator, in which the board orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements; or

(ii) the entry of an order of the court after a review proceeding initiated by the operator, in which the court orders the suspension of the abatement requirements of the citation.

(9) The division shall deposit money received by the state from civil penalties collected from actions resulting from this chapter into the Abandoned Mine Reclamation Fund established under Section 40-10-25.1 and shall use the money for the reclamation of mined land impacts not covered by reclamation surety.

(10) The division may not commence or maintain a suit, action, or other proceeding based upon a violation of this chapter, an order issued under this chapter, a rule made under this chapter, or a permit condition under this chapter, unless the suit, action, or proceeding is commenced within five years from the date of the alleged violation.

Section 6. Section 40-13-203 is enacted to read:

40-13-203. Criminal penalties.

(1) It is unlawful for a person to intentionally or knowingly:

(a) for the purpose of evading this chapter or an order issued under this chapter, make or cause to be made a false statement, representation, or certification in a report, record, account, or memorandum required by this chapter or by the order;

(b) omit or cause to be omitted from a report, record, account, or memorandum, a full, true, and correct entry as required by this chapter

or by an order;

(c) fail to make a statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter or an order issued under this chapter;

(d) remove from this state or destroy, mutilate, alter, or falsify a record, account, or memorandum; or

(e) fail or refuse to comply with:

(i) an order issued under Section 40-13-201; or

(ii) an order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision under Subsection 40-13-202(6).

(2) A person who violates Subsection (1) is guilty of a class B misdemeanor, and upon conviction, for each violation, is subject to:

(a) a fine of not to exceed $1,000 as provided in Section 76-3-301;

(b) imprisonment for a term not to exceed six months as provided in Section 76-3-204; or

(c) both a fine and imprisonment.

(3) If a permittee violates Subsection (1), a director, officer, or agent of the permittee may be held criminally responsible in accordance with Section 76-2-205.

(4) A criminal proceeding for a violation described in Subsection (1) shall be commenced, as provided in Section 76-1-302, by no later than two years from the date of the alleged violation.

(5) The division or board may impose a civil penalty under Section 40-13-202 in addition to prosecution under this section.

Section 7. Section 40-13-204 is enacted to read:

40-13-204. Forfeiture of surety.

(1) Subsection (2) applies if the board determines that an operator has neglected, failed, or refused to:

(a) plug and abandon a brine well;

(b) close any surface impoundment;

(c) repair a brine well leaking or causing waste; or

(d) maintain and reclaim a site.

(2) A person who violates Subsection (1) shall forfeit from the person's surety or shall pay to this state a sum equal to the cost of:

(a) plugging a brine well;

(b) closure of the surface impoundment;

(c) repair of the brine well leaking or causing waste; or

(d) reclamation of the site.

Section 8. Section 40-13-205 is enacted to read:

40-13-205. Sale of equipment, installation, or material.

(1) After the board determines a brine well or facility is to be abandoned, as part of the plugging and reclamation process, the division may sell or dispose of in a manner the division sees fit the following found on the site or taken from the brine well or facility:

(a) drilling, producing, or operating equipment;

(b) installations; or

(c) material.

(2) A person to whom any equipment, installations, or material is sold under Subsection (1) receives the title to the equipment, installation, or material, free of any claim.

(3) When the division receives money on the sale or disposal of equipment, installation, or material under Subsection (1), the division shall:

(a) apply the money to the payment of any unpaid costs and civil penalty determined by the division; and

(b) if money remains after applying the money under Subsection (3)(a), the division shall return the unused money to the operator or a person who has established a legal right to the money.

Section 9. Section 40-13-301 is enacted to read:

PART 3. Brine Production Drilling Units, Pooling, or Fields

40-13-301. Establishment or modification of a brine production drilling unit.

(1) Upon the petition of an owner or operator of a brine well, the board may order the establishment of a brine production drilling unit.

(2) Within a brine production drilling unit, only one brine well may be drilled for production from the reservoir, except as provided in Subsections (6) and (7).

(3) A brine production drilling unit may not be smaller than the maximum area that can be efficiently and economically drained by one brine well.

(4) (a) Each brine production drilling unit within a reservoir shall be of uniform size and shape, unless the board finds that the board is required to make an exception due to geologic, geographic, or other factors.

(b) If the board finds it necessary to divide a reservoir into zones and establish a brine production drilling unit for each zone, brine production drilling units may differ in size and shape for each zone.

(5) An order of the board that establishes a brine production drilling unit for a reservoir shall:

(a) be made upon terms and conditions that are just and reasonable;

(b) include the lands determined by the board to overlay the reservoir;

(c) specify the acreage and shape of each brine production drilling unit as determined by the board; and

(d) specify the location of the brine well in terms of distance from brine production drilling unit boundaries and other brine wells.

(6) The board may establish a brine production drilling unit and concurrently authorize the drilling of more than one brine well in a

brine production drilling unit if the board finds that:

(a) engineering or geologic characteristics justify the drilling of more than one brine well in that brine production drilling unit; and

(b) the drilling of more than one brine well in the brine production drilling unit will not result in waste or unreasonably interfere with correlative rights.

(7) The board may modify an order that establishes a brine production drilling unit for a reservoir to provide for:

(a) an exception to the authorized location of a brine well;

(b) the inclusion of additional areas which the board determines overlays the reservoir;

(c) the increase or decrease of the size of the brine production drilling units; or

(d) the drilling of additional brine wells within brine production drilling units.

(8) After an order establishing a brine production drilling unit is entered by the board, the drilling of a brine well into the reservoir at a location other than that authorized by the order is prohibited.

Section 10. Section 40-13-302 is enacted to read:

40-13-302. Pooling of interests for the development and operation of a brine production drilling unit.

(1) Two or more owners within a brine production drilling unit may bring together their interests for the development and operation of the brine production drilling unit.

(2) (a) In the absence of a written agreement for pooling, including an operating agreement, the board may enter an order pooling all interests in the brine production drilling unit for the development and operation of the brine production drilling unit.

(b) The board shall make the order upon terms and conditions that are just and reasonable.

(c) The board may adopt terms appearing in an operating agreement:

(i) for the brine production drilling unit that is in effect between the consenting owners;

(ii) submitted by any party to the proceeding; or

(iii) submitted by the board's own motion.

(3) (a) Operations incident to the drilling of a brine well upon any portion of a brine production drilling unit covered by a pooling order are considered for all purposes to be the conduct of the brine mining operations upon each separately owned tract in the brine production drilling unit by the several owners.

(b) The portion of the production allocated or applicable to a separately owned tract included in a brine production drilling unit covered by a pooling order shall, when produced, be considered for all purposes to have been produced from that tract by a brine well drilled on the tract.

(4) (a) (i) A pooling order shall provide for the payment of just and reasonable costs incurred in the drilling and operating of the brine production drilling unit, including:

(A) the costs of drilling, completing, equipping, producing, gathering, transporting, processing, marketing, and storage facilities;

(B) reasonable charges for the administration and supervision of brine mining operations; and

(C) other costs customarily incurred in the industry.

(ii) An owner is not liable under a pooling order for costs or losses resulting from the gross negligence or willful misconduct of the operator.

(b) A pooling order shall provide for reimbursement to the consenting owners for any nonconsenting owner's share of the costs out of production from the brine production drilling unit attributable to the nonconsenting owner's tract.

(c) A pooling order shall provide that each consenting owner shall own and is entitled to receive, subject to royalty or similar obligations:

(i) the share of the production of the brine well applicable to the consenting owner's interest in the brine production drilling unit; and

(ii) unless the consenting owner has agreed otherwise, the consenting owner's proportionate part of the nonconsenting owner's share of the production until costs are recovered as provided in Subsection (4)(d).

(d) (i) A pooling order shall provide that each nonconsenting owner is entitled to receive, subject to royalty or similar obligations, the share of the production of the brine well applicable to the nonconsenting owner's interest in the brine production drilling unit after the consenting owners have recovered from the nonconsenting owner's share of production the following amounts less any cash contributions made by the nonconsenting owner:

(A) 100% of the nonconsenting owner's share of the cost of surface equipment beyond the wellhead connections, including stock tanks, separators, treaters, pumping equipment, and piping;

(B) 100% of the nonconsenting owner's share of the estimated cost to plug and abandon the brine well as determined by the board;

(C) 100% of the nonconsenting owner's share of the cost of brine mining operations of the brine well commencing with first production and continuing until the consenting owners have recovered all costs; and

(D) 300% on the first brine well and 150% for each subsequent brine well of the nonconsenting owner's share of the costs of staking the location, wellsite preparation, rights-of-way, rigging up, drilling, reworking, recompleting, deepening or plugging back, testing, and completing, and the cost of equipment in the brine well to and including the wellhead connections.

(ii) The nonconsenting owner's share of the costs specified in Subsection (4)(d)(i) is that interest that would have been chargeable to the nonconsenting owner had the nonconsenting owner initially agreed to pay the nonconsenting owner's share of the costs of the brine well from commencement of the brine mining operation.

(iii) A reasonable interest charge may be included if the board finds the interest charge appropriate.

(e) If there is a dispute about costs, the board shall determine the proper costs.

(5) If a nonconsenting owner's tract in the brine production drilling unit is subject to a lease, mining claim, or contract for the development of minerals within the brine, the pooling order shall provide that the consenting owners shall pay any royalty interest or other interest in the tract not subject to the deduction of the costs of production from the production attributable to that tract.

(6) (a) If a nonconsenting owner's tract in the brine production drilling unit is not subject to a lease, mining claim, or contract for the development of minerals within the brine production drilling unit, the pooling order shall provide that the nonconsenting owner shall receive as a royalty:

(i) the acreage weighted average royalty based on each leased fee and privately owned tract within the brine production drilling unit, proportionately reduced by the percentage of the nonconsenting owner's interest in the brine production drilling unit; or

(ii) if there is no leased fee or privately owned tract within the brine production drilling unit other than the one owned by the

nonconsenting owner, 7-1/2% proportionately reduced by the percentage of the nonconsenting owner's interest in the brine production drilling unit.

(b) The royalty shall be:

(i) determined as of the day drilling is commenced; and

(ii) paid from production attributable to each tract until the consenting owners have recovered the costs specified in Subsection (4)(d).

(7) Once the consenting owners have recovered the costs, as described in Subsection (6)(b)(ii), the royalty is merged back into the nonconsenting owner's working interest and is terminated.

(8) The operator of a brine well under a pooling order in which there is a nonconsenting owner shall furnish the nonconsenting owner with monthly statements specifying:

(a) costs incurred;

(b) the total volume of production of brine and the volumes extracted therefrom; and

(c) the amount of brine proceeds realized from the sale of the production during the preceding month.

(9) A pooling order shall provide that when the consenting owners recover from a nonconsenting owner's relinquished interest the amounts provided for in Subsection (4)(d):

(a) the relinquished interest of the nonconsenting owner shall automatically revert to the nonconsenting owner;

(b) the nonconsenting owner shall from that time:

(i) own the same interest in the brine well and the production from the brine well; and

(ii) be liable for the further costs of the brine mining operation as if the nonconsenting owner had participated in the initial drilling and operation; and

(c) costs are payable out of production unless otherwise agreed between the nonconsenting owner and the operator.

(10) A pooling order shall provide that in any circumstance where the nonconsenting owner has relinquished the nonconsenting owner's share of production to consenting owners or at any time fails to take the nonconsenting owner's share of production in-kind when the nonconsenting owner is entitled to do so, the nonconsenting owner is entitled to:

(a) an accounting of the brine proceeds applicable to the nonconsenting owner's relinquished share of production; and

(b) payment of the brine proceeds applicable to that share of production not taken in-kind, net of costs.

Section 11. Section 40-13-303 is enacted to read:

40-13-303. Order establishing brine field unit.

(1) (a) The board may hold a hearing to consider the need for the operation as a unit of one or more brine reservoirs or parts of brine reservoirs in a field.

(b) The board shall consider including any state lands within a brine field unit that would not otherwise be protected from drainage because of the inability to develop the state lands due to geography or other factors.

(2) The board shall make an order providing for the unit operation of a reservoir or part of a reservoir, if the board finds that:

(a) the operation is reasonably necessary for the purposes of this chapter; and

(b) the value of the estimated additional recovery of brine substantially exceeds the estimated additional cost incident to conducting the operations.

(3) (a) An order by the board establishing or modifying a brine field or brine field unit shall prescribe a plan for unit operations that shall include:

(i) a description of the lands and of the reservoir that is established as the brine field or brine field unit;

(ii) subject to Subsection (3)(b), an allocation of the brine produced in the brine field unit to the separately-owned tracts in the brine field or brine field unit;

(iii) the method for apportioning costs of development and operation between the separately owned tracts and how these costs are paid including a provision providing a procedure for the unit production allocated to an owner who does not pay the share of the cost of unit operations charged to such owner, or the interest of that owner, to be sold and the brine proceeds applied to the payment of the costs;

(iv) a provision, if necessary, for carrying or otherwise financing a person who elects to be carried or otherwise financed, allowing a reasonable interest charge for this service payable out of that person's share of the production;

(v) the method and circumstances under which brine or effluent from the brine field unit may be injected into the reservoir or other formations;

(vi) the time when the unit operations shall commence, and the manner in which and the circumstances under which, the unit operations shall terminate;

(vii) the additional provisions that the board finds appropriate for carrying out the unit operations, and for the protection of correlative rights; and

(viii) the designation of a unit operator.

(b) (i) The allocation under Subsection (3)(a)(ii) shall be in accord with the agreement, if any, of the interested parties.

(ii) If there is no agreement, the board shall determine the relative value, from evidence introduced at the hearing, of the separately owned tracts in the brine field unit area and the production allocated to each tract shall be the proportion that the relative value of each tract so determined bears to the relative value of all tracts in the brine field unit area.

(4) (a) An order of the board providing for unit operations of a reservoir may not become effective unless and until:

(i) the plan for unit operations prescribed by the order has been approved in writing by:

(A) those owners who, under the board's order, will be required to pay 70% of the costs of the unit operation; and

(B) the owners of 70% of the production or brine proceeds that will be credited to interests that are free of costs, such as royalties, overriding royalties, and production payments; and

(ii) the board makes a finding, either in the order providing for unit operations or in a supplemental order, that the plan for unit operations has been so approved.

(b) If the persons owning required percentage of interest in a brine field unit area do not approve the plan for unit operations within six months from the date on which the order providing for unit operations is made, the order is ineffective and the board shall revoke the

order unless good cause exists to extend the time.

(5) An order providing for unit operations may be amended by an order made by the board in the same manner and subject to the same conditions as an original order providing for unit operations.

(6) (a) Operations, including the commencement, drilling, or operation of a brine well upon any portion of the brine field unit area is considered for all purposes the conduct of operations upon each separately owned tract in the brine field unit area by the several owners.

(b) The portions of the unit production allocated to a separately owned tract in a brine field unit area shall, when produced, be considered, for all purposes, to have been actually produced from the tract by a brine well drilled.

(7) Operations carried on under the plan of unitization shall constitute a fulfillment of all of the provisions of the brine leases or other contracts upon lands included within the brine field unit area insofar as the leases or contracts may relate to the reservoir or portion of the reservoir included within the brine field unit.

Section 12. Section 40-13-401 is enacted to read:

PART 4. Brine Mining Operations

40-13-401. Permits required.

(1) A person may not engage in brine mining operations in the state without a permit.

(2) A person may only transfer a permit to another person with permission of the division.

(3) The division may issue a permit:

(a) authorizing construction, operation, maintenance, and cessation of processing and refining facilities and brine wells; and

(b) approving, as part of that permit, post-cessation reclamation of the site.

(4) As a condition for approval of a permit, the owner and operator shall furnish surety in an amount determined by the division to cover reclamation costs for the facility and any associated brine wells.

(5) Approval of a permit is conditioned upon compliance with the laws, rules, and orders of the board.

(6) The board may order the closure of a facility and any associated brine wells:

(a) if adequate surety is not posted;

(b) if a violation of the laws, rules, and orders of the board exists and is not abated; or

(c) for a significant violation of federal or state law not described in Subsection (6)(b) or substantial cause related to a natural disaster or imminent property destruction.

Section 13. Section 40-13-402 is enacted to read:

40-13-402. Payment of brine proceeds.

(1) (a) A payor shall pay the brine proceeds derived from the sale of the minerals extracted from the brine to persons legally entitled to payment of the brine proceeds not later than 180 days after the date of first sale, and thereafter not later than 60 days after the end of the calendar month within which brine proceeds are received for subsequent production.

(b) A payor shall make a payment directly to the person entitled to the payment by the payor.

(c) A payor shall include the following information with each payment made to a person entitled to payment of brine proceeds from the sale of the mined minerals:

(i) unit identification;

(ii) month and year of sales included in the payment;

(iii) total volume of production from the unit of brine and volumes of minerals extracted;

(iv) owner's interest, expressed as a decimal, in production from the unit;

(v) total value of extracted dissolved minerals and chemical substances, including the price per unit of measurement at which the products were sold;

(vi) owner's share of the total value of sales prior to any deductions;

(vii) owner's share of the total value of sales after any deductions; and

(viii) a detailed listing of the amount and purpose of any deductions.

(2) (a) A delay in determining whether a person is legally entitled to an interest in the brine proceeds does not affect payments to other persons entitled to payment.

(b) If accrued payments cannot be made within the time limits specified in Subsection (1), the payor shall deposit the brine proceeds credited to the eventual brine proceeds owner to an escrow account in a federally insured bank or savings and loan institution using a standard escrow document form.

(c) An escrow agent shall pay the principal and accrued interest from the escrow account to the person legally entitled to the principal and interest within 30 days from the date of receipt by the escrow agent of final legal determination of entitlement to the payment.

Section 14. Repealer.

This bill repeals:

Section 40-8-24, Brine mining.

Section 15. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 153
H. B. 490
Passed March 6, 2025
Approved March 24, 2025
Effective May 7, 2025

STATE PARKS MODIFICATIONS

Chief Sponsor: Clinton D. Okerlund
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses the Division of State Parks.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► removes a requirement for the Division of State Parks (division) to comply with the Utah Procurement Code in selecting concessionaires in state parks;
- ► requires the division to operate, to the extent possible, from money and revenue collected as fees and charges;
- ► requires the director to implement a comprehensive plan for the long-term use of state parks developed by the division;
- ► grants rulemaking authority to the division to administer the state parks system;
- ► renames the State Parks Restricted Account;
- ► repeals sections related to boating accounts and river enhancement grants; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-206.2, as last amended by Laws of Utah 2023, Chapter 111
79-4-102, as last amended by Laws of Utah 2024, Chapter 507
79-4-201, as last amended by Laws of Utah 2021, Chapter 280
79-4-202, as last amended by Laws of Utah 2021, Chapter 280
79-4-203, as last amended by Laws of Utah 2022, Chapter 68
79-4-206, as renumbered and amended by Laws of Utah 2009, Chapter 344
79-4-402, as last amended by Laws of Utah 2023, Chapter 33
79-4-403, as last amended by Laws of Utah 2010, Chapters 256, 391
79-4-603, as renumbered and amended by Laws of Utah 2009, Chapter 344
79-4-604, as renumbered and amended by Laws of Utah 2009, Chapter 344
79-4-901, as renumbered and amended by Laws of Utah 2009, Chapter 344
79-4-1001, as last amended by Laws of Utah 2010, Chapter 391

ENACTS:

79-4-207, Utah Code Annotated 1953

REPEALS:

79-4-101, as last amended by Laws of Utah 2021, Chapter 280
79-4-401, as last amended by Laws of Utah 2021, Chapter 280
79-4-802, as renumbered and amended by Laws of Utah 2009, Chapter 344

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

Section 1. Section 76-6-206.2 is amended to read:
76-6-206.2. Criminal trespass on state park lands.

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

(i) "Authorization" means specific written permission by, or contractual agreement with, the Division of State Parks.

(ii) "Criminal trespass" means the elements of the crime of criminal trespass, as set forth in Section 76-6-206.

(iii) "Division" means the Division of State Parks created in Section 79-4-201.

(iv) "State park lands" means all lands administered by the division.

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

(2) An actor commits criminal trespass on state park lands and is liable for the civil damages prescribed in Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization, the actor:

(a) constructs improvements or structures on state park lands;

(b) uses or occupies state park lands for more than 30 days after the cancellation or expiration of authorization;

(c) knowingly or intentionally uses state park lands for commercial gain;

(d) intentionally or knowingly grazes livestock on state park lands, except as provided in Section 72-3-112; or

(e) remains, after being ordered to leave by a person with actual authority to act for the division, or by a law enforcement officer.

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

(4) A person does not commit criminal trespass if that person enters onto state park lands:

(a) without first paying the required fee; and

(b) for the sole purpose of pursuing recreational activity.

(5) (a) In addition to an order for restitution under Section 77-38b-205, an actor who commits any act described in Subsection (2) may also be liable for civil damages in the amount of three times the value of:

(i) damages resulting from a violation of Subsection (2);

(ii) the water, mineral, vegetation, improvement, or structure on state park lands that is removed, destroyed, used, or consumed without authorization;

(iii) the historical, prehistorical, archaeological, or paleontological resource on state park lands that is removed, destroyed, used, or consumed without authorization; or

(iv) the consideration which would have been charged by the division for unauthorized use of the land and resources during the period of trespass.

(b) Civil damages awarded under Subsection (5)(a):

(i) may be collected in a separate action by the division; and

(ii) shall be deposited into the [~~State Park Fees~~]State Parks Restricted Account as established in Section 79-4-402.

Section 2. Section 79-4-102 is amended to read:

79-4-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of State Parks.

(2) "Facility" means the same as that term is defined in Section 51-9-901.

(3) "Outdoor recreation infrastructure" means the same as that term is defined in Section 51-9-901.

Section 3. Section 79-4-201 is amended to read:

79-4-201. Division of State Parks -- Creation -- Powers and authority.

(1) There is created within the department the Division of State Parks.

(2) The division is under [~~:~~]

[~~(a)~~] the administration and general supervision of the executive director [~~; and~~].

[~~(b) the policy direction of the board.~~]

(3) The division is the state parks authority for the state.

Section 4. Section 79-4-202 is amended to read:

79-4-202. Director -- Qualifications -- Duties.

(1) The director is the executive and administrative head of the division.

(2) The director shall demonstrate:

(a) executive ability; and

(b) actual experience and training in the conduct of park systems involving both physical development and program.

(3) The director shall:

(a) enforce the policies and rules of the [~~board; and~~]division;

(b) perform the duties necessary to:

(i) properly care for and maintain any property under the jurisdiction of the division; and

(ii) carry out this chapter [~~.~~]; and

(c) implement the comprehensive plan for long-term public use of state park resources developed by the division under Subsection 79-4-203(12).

(4) The director shall acquire, plan, protect, develop, operate, use, and maintain park area and facilities in accordance with the policies and rules of the [~~board~~]division.

Section 5. Section 79-4-203 is amended to read:

79-4-203. Powers and duties of division.

(1) As used in this section, "real property" includes land under water, upland, and all other property commonly or legally defined as real property.

(2) The Division of Wildlife Resources shall retain the power and jurisdiction conferred upon the Division of Wildlife Resources by law within state parks and on property controlled by the Division of State Parks with reference to fish and game.

(3) The division shall permit multiple use of state parks and property controlled by the division for purposes such as grazing, fishing, hunting, camping, mining, and the development and utilization of water and other natural resources.

(4) (a) The division may acquire real and personal property in the name of the state by all legal and proper means, including purchase,

gift, devise, eminent domain, lease, exchange, or otherwise, subject to the approval of the executive director and the governor.

(b) In acquiring any real or personal property, the credit of the state may not be pledged without the consent of the Legislature.

(5) (a) Before acquiring any real property, the division shall notify the county legislative body of the county where the property is situated of the division's intention to acquire the property.

(b) If the county legislative body requests a hearing within 10 days of receipt of the notice, the division shall hold a public hearing in the county concerning the matter.

(6) Acceptance of gifts or devises of land or other property is at the discretion of the division, subject to the approval of the executive director and the governor.

(7) The division shall acquire property by eminent domain in [~~the manner authorized by~~]accordance with Title 78B, Chapter 6, Part 5, Eminent Domain.

(8) (a) The division may make charges for special services and use of [~~facilities~~]a facility or outdoor recreation infrastructure, the [~~income~~]revenue from which is available for park purposes.

(b) The division may conduct and operate [~~those~~] services necessary for the comfort and convenience of the public.

(9) [~~(a)~~] The division may set reasonable charges to lease or rent concessions [~~of all lawful kinds and nature in state parks and property to persons, partnerships, and corporations for a valuable consideration upon the recommendation of the board~~]in a state park or on property owned by the division.

[~~(b) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in selecting concessionaires.~~]

(10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.

(11) The division shall, to the extent possible, implement the requirements of this chapter from revenue the division collects from:

(a) charges for special services, use of a park facility, and use of an outdoor recreation infrastructure; and

(b) service or regulatory fees.

(12) (a) The division shall develop a comprehensive plan for the long-term public use of state parks and state park resources related to the:

(i) acquisition of land and resources;

(ii) protection of state parks and the public;

(iii) operation of state parks;

(iv) maintenance of state parks and division resources; and

(v) development of state parks and division resources.

(b) In developing a comprehensive plan under Subsection (12)(a), the division shall consider:

(i) recreational utility;

(ii) the public benefit in the historical, archaeological, and scientific resources in state parks; and

(iii) the health and wholesome enjoyment of the public.

Section 6. Section 79-4-206 is amended to read:

79-4-206. Support of a nonprofit corporation or foundation.

The division may provide administrative support to a nonprofit corporation or foundation that assists [~~the board and~~] the division in attaining the objectives outlined in the strategic or operational plan.

Section 7. Section 79-4-207 is enacted to read:

79-4-207. Division rulemaking authority.

(1) The division may make rules to:

(a) govern the use of the state park system, including to:

(i) determine when to close or partially close a state park; and

(ii) establish use or access restrictions within a state park; and

(b) protect a natural or cultural resource in a state park from misuse or damage.

(2) The division shall make rules to:

(a) govern the collection of charges under Subsection 79-4-203(8); and

(b) implement a program for veteran access to state parks as described in Section 79-4-1002.

(3) The division may not make rules that prevent the transfer of livestock along a livestock highway established under Section 72-3-112.

(4) The division shall makes rules under this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 8. Section 79-4-402 is amended to read:

79-4-402. State Parks Restricted Account.

(1) There is created within the General Fund a restricted account known as the [~~State Park Fees~~]State Parks Restricted Account.

(2) (a) Except as provided in Subsection (2)(b), the account shall consist of revenue from:

(i) all charges allowed under Section 79-4-203;

(ii) proceeds from the sale or disposal of buffalo under Subsection 79-4-1001(2)(b); and

(iii) civil damages collected under Section 76-6-206.2.

(b) The account shall not include revenue the division receives under Section 79-4-403 and Subsection 79-4-1001(2)(a).

(3) The division shall use funds in this account for the purposes described in Section 79-4-203.

Section 9. Section 79-4-403 is amended to read:

79-4-403. Golf revenue -- Wasatch Mountain, Palisade, and Green River State Parks.

(1) The following [~~user fees~~]charges are assessed in the following parks for playing nine holes of golf:

(a) [~~15~~]30% of the [~~green fees~~]revenue at Wasatch Mountain State Park;

(b) [~~15~~]30% of the [~~green fees~~]revenue at Palisade State Park; and

(c) [~~15~~]30% of the [~~green fees~~]revenue at Green River State Park.

(2) [~~The fee~~]A charge in Subsection (1) is:

(a) in addition to [~~the fee~~]a charge set by the [~~board~~]division; and

(b) to be used at the park where the money is collected for:

(i) the upgrade or development of facilities; or

(ii) the purchase of golf course operation and maintenance equipment and operating supplies or materials.

Section 10. Section 79-4-603 is amended to read:

79-4-603. Iron Mission Historical Monument -- Acceptance of gifts from Iron Mission Park Corporation.

The [~~board~~]division shall accept on behalf of the state the Gronway Parry collection of horse-drawn vehicles, horses, harnesses, figures, costumes, and horse-drawn machinery of the pioneer era, the Melling log cabin, the Osborne blacksmith collection, and a metal exhibit building, all being gifts to the state from the Iron Mission Park Nonprofit Corporation.

Section 11. Section 79-4-604 is amended to read:

79-4-604. Iron Mission Historical Monument -- Acquisition of property.

The division may:

(1) acquire, construct, maintain, and operate any land areas, objects, or structures as necessary to preserve, protect, display, and enhance:

(a) the gifts described in Section 79-4-603; and

(b) other historical objects or collections donated, loaned, or otherwise acquired that appropriately contribute to the pioneer heritage of Utah; and

(2) acquire, directly or through others, by purchase, contract, lease, permit, donations, or otherwise, all real or personal property, rights-of-way, approach roads, parking and other areas, structures, facilities and services that the division [~~and board~~] may consider necessary or desirable to accomplish Subsection (1).

Section 12. Section 79-4-901 is amended to read:

79-4-901. Pioneer heritage of Utah -- Acquisitions and operations by division.

(1) The division may acquire, construct, maintain, and operate any land areas, objects, or structures as necessary to preserve, protect, display, and enhance any gifts and other historical objects or collections donated, loaned, or otherwise acquired that appropriately contribute to the pioneer heritage of Utah.

(2) To accomplish Subsection (1), the division may directly or through others, by purchase, contract, lease, permit, donation, or otherwise, secure all real or personal property, rights-of-way, approach roads, parking and other areas, structures, facilities, and services that the division [~~and board~~]may consider necessary or desirable to contribute to the pioneer heritage of Utah.

Section 13. Section 79-4-1001 is amended to read:

79-4-1001. Purchase, trade, sale, or disposal of buffalo -- Proceeds.

(1) In accordance with a plan [~~,~~] approved by the [~~board,~~]division to manage buffalo herds on Antelope Island, the division may purchase, trade, sell, or dispose of buffalo obtained from Antelope Island through:

(a) competitive bidding; or

(b) a means as established by rule.

(2) Proceeds received from the sale or disposal of buffalo under this section shall be deposited as follows:

(a) the first $75,000 shall accrue to the division for the management of Antelope Island buffalo herds as dedicated credits; and

(b) proceeds in excess of $75,000 shall be deposited [~~in~~]into the [~~State Park Fees~~]State Parks Restricted Account created [~~under~~]in Section 79-4-402.

Section 14. Repealer.

This bill repeals:

Section 79-4-101, Title.

Section 79-4-401, Funds to be appropriated -- Boating account expenses.

Section 79-4-802, Riverway enhancement grants -- Matching funds requirements -- Rules.

Section 15. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 154
H. B. 501
Passed March 5, 2025
Approved March 24, 2025
Effective May 7, 2025

LAW ENFORCEMENT SALARY AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses law enforcement officer salaries.

Highlighted Provisions:

This bill:

- ► requires the director of the Division of Human Resource Management to work with the Division of Law Enforcement and Division of Forestry, Fire, and State Lands to create specialized pay plans for specific positions;
- ► requires the current salary survey for a law enforcement officer to include a survey of all state law enforcement agencies that employ, respectively, comparable positions; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-17-110, as last amended by Laws of Utah 2022, Chapters 169, 274
63A-17-307, as last amended by Laws of Utah 2023, Chapter 489

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

Section 1. Section 63A-17-110 is amended to read:

63A-17-110. State pay plans for DNR law enforcement officers and wildland firefighters.

(1) As used in this section:

(a) "Division of Forestry, Fire, and State Lands" means the division created in Section 65A-1-4 within the Department of Natural Resources.

(b) "Division of Law Enforcement" means the division created in Section 79-2-702 within the Department of Natural Resources.

[~~(a)~~](c) "DNR [~~peace~~]law enforcement officer" means an employee of the Department of Natural Resources who is designated as a [~~peace~~]law enforcement officer by law.

[~~(b)~~](d) "Wildland firefighter" means an employee of the Division of Forestry, Fire, and State Lands who is:

(i) trained in firefighter techniques; and

(ii) assigned to a position of hazardous duty.

(2) The director shall:

(a) coordinate directly with the Division of Forestry, Fire, and State Lands and the Division of Law Enforcement to establish [~~a~~]specialized state pay [~~plan~~]plans for DNR [~~peace~~]law enforcement officers and wildland firefighters that:

(i) meets the requirements of Section 63A-17-307;

(ii) distinguishes the salary range and proposed pay progression for each DNR peace officer [~~and~~];

(iii) distinguishes the salary range for each wildland firefighter classification;

[~~(iii)~~](iv) includes for each DNR [~~peace~~]law enforcement officer and wildland firefighter classification:

(A) the minimum qualifications; and

(B) any training requirements; and

[~~(iv)~~](v) provides standards for:

(A) performance evaluation; and

(B) promotion; and

(b) include, in the plan described in Subsection 63A-17-307(5), recommendations on funding and salary increases for DNR [~~peace~~]law enforcement officers and wildland firefighters.

Section 2. Section 63A-17-307 is amended to read:

63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of director.

(1) (a) This section, and the rules made by the division under this section, apply to each career and noncareer employee not specifically exempted under Subsection (2).

(b) If not exempted under Subsection (2), an employee is considered to be in classified service.

(2) The following employees are exempt from this section:

(a) members of the Legislature and legislative employees;

(b) members of the judiciary and judicial employees;

(c) elected members of the executive branch and employees designated as schedule AC as provided under Subsection 63A-17-301(1)(c);

(d) employees of the State Board of Education;

(e) officers, faculty, and other employees of state institutions of higher education;

(f) employees in a position that is specified by statute to be exempt from this Subsection (2);

(g) employees in the Office of the Attorney General;

(h) department heads and other persons appointed by the governor under statute;

(i) schedule AS employees as provided under Subsection 63A-17-301(1)(m);

(j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection 63A-17-301(1)(d);

(k) employees that determine and execute policy designated as schedule AR as provided under Subsection 63A-17-301(1)(l);

(l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection 63A-17-301(1)(g);

(m) temporary employees described in Subsection 63A-17-301(1)(r);

(n) patients and inmates designated as schedule AU as provided under Subsection 63A-17-301(1)(o) who are employed by state institutions; and

(o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection 63A-17-301(1)(k).

(3) (a) The director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.

(b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range, subject to Section 63A-17-112, may be applied equitably to each position in the same class.

(c) The director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.

(d) (i) The division shall conduct periodic studies and interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.

(ii) The director shall determine the need for studies and interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.

(4) (a) With the approval of the executive director and the governor, the director shall develop and adopt pay plans for each position in classified service.

(b) The director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to the market using data obtained from private enterprise and other public employment for similar work.

(c) The director shall adhere to the following in developing each pay plan:

(i) each pay plan shall consist of sufficient salary ranges to:

(A) permit adequate salary differential among the various classes of positions in the classification plan; and

(B) reflect the normal growth and productivity potential of employees in that class.

(ii) The director shall issue rules for the administration of pay plans.

(d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a, Grievance Procedures, or otherwise.

(e) The director shall make rules, accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for:

(i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment; and

(ii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.

(5) (a) On or before October 31 of each year, the director shall submit an annual compensation plan to the executive director and the governor for consideration in the executive budget and to the State Employee Benefits Advisory Commission created in Section 63C-31-102.

(b) The plan described in Subsection (5)(a) may include recommendations, including:

(i) salary increases that generally affect employees, including a general increase or merit increase;

(ii) salary increases that address compensation issues unique to an agency or occupation;

(iii) structure adjustments, including a cost of living adjustment or market comparability adjustment; or

(iv) changes to employee benefits.

(c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the results of a salary survey of a reasonable cross section of comparable positions in private and public employment in the state into the annual compensation plan.

(B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section 53-6-102, shall at minimum include the three largest political subdivisions [~~in the state~~]and all state law enforcement agencies that employ, respectively, comparable positions.

(C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1, Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit Insurance Corporation, Federal Reserve, and National Credit Union Administration.

(ii) The director may cooperate with or participate in any survey conducted by other public and private employers.

(iii) The director shall obtain information for the purpose of constructing the survey from the Division of Workforce Information and Payment Services and shall include employer name, number of persons employed by the employer, employer contact information and job titles, county code, and salary if available.

(iv) The division shall acquire and protect the needed records in compliance with the provisions of Section 35A-4-312.

(d) The director may incorporate any other relevant information in the plan described in Subsection (5)(a), including information on staff turnover, recruitment data, or external market trends.

(e) The director shall:

(i) establish criteria to assure the adequacy and accuracy of data used to make recommendations described in this Subsection (5); and

(ii) when preparing recommendations use accepted methodologies and techniques similar to and consistent with those used in the private sector.

(f) (i) Upon request and subject to Subsection (5)(f)(ii), the division shall make available foundational information used by the division or director in the drafting of a plan described in Subsection (5)(a), including:

(A) demographic and labor market information;

(B) information on employee turnover;

(C) salary information;

(D) information on recruitment; and

(E) geographic data.

(ii) The division may not provide under Subsection (5)(f)(i) information or other data that is proprietary or otherwise protected under the terms of a contract or by law.

(g) The governor shall:

(i) consider salary and structure adjustments recommended under Subsection (5)(b) in preparing the executive budget and shall recommend the method of distributing the adjustments;

(ii) submit compensation recommendations to the Legislature; and

(iii) support the recommendation with schedules indicating the cost to individual departments and the source of funds.

(h) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment unless otherwise indicated.

(6) (a) The director shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the granting of incentive awards, including awards for cost saving actions, awards for commendable actions by an employee, or a market-based award to attract or retain employees.

(b) An agency may not grant a market-based award unless the award is previously approved by the division.

(c) In accordance with Subsection (6)(b), an agency requesting the division's approval of a market-based award shall submit a request and documentation, subject to Subsection (6)(d), to the division.

(d) In the documentation required in Subsection (6)(c), the requesting agency shall identify for the division:

(i) any benefit the market-based award would provide for the agency, including:

(A) budgetary advantages; or

(B) recruitment advantages;

(ii) a mission critical need to attract or retain unique or hard to find skills in the market; or

(iii) any other advantage the agency would gain through the utilization of a market-based award.

(7) (a) The director shall regularly evaluate the total compensation program of state employees in the classified service.

(b) The division shall determine if employee benefits are comparable to those offered by other private and public employers using information from:

(i) a study conducted by a third-party consultant; or

(ii) the most recent edition of a nationally recognized benefits survey.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 155
S. B. 159
Passed February 26, 2025
Approved March 24, 2025
Effective May 7, 2025

ENVIRONMENTAL QUALITY MODIFICATIONS

Chief Sponsor: Keven J. Stratton
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill addresses nonhazardous solid waste.

Highlighted Provisions:

This bill:

- ► prohibits approval of an operation plan or permit for certain nonhazardous solid waste landfill facilities unless specific conditions are met;
- ► addresses the treatment of certain existing nonhazardous solid waste facilities; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-108, as last amended by Laws of Utah 2021, Chapter 302

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

Section 1. Section 19-6-108 is amended to read:

19-6-108. New nonhazardous solid or hazardous waste operation plans for facility or site -- Approval required -- Exemptions from legislative and gubernatorial approval -- Time periods for review -- Information required -- Other conditions -- Automatic revocation of approval -- Periodic review.

(1) For purposes of this section, the following items shall be treated as submission of a new operation plan:

(a) the submission of a revised operation plan specifying a different geographic site than a previously submitted plan;

(b) an application for modification of a commercial hazardous waste incinerator if the construction or the modification would increase the hazardous waste incinerator capacity above the capacity specified in the operation plan as of January 1, 1990, or the capacity specified in the operation plan application as of January 1, 1990, if no operation plan approval has been issued as of January 1, 1990;

(c) an application for modification of a commercial nonhazardous solid waste incinerator if the construction of the modification would cost 50% or more of the cost of construction of the original incinerator or the modification would result in an increase in the capacity or throughput of the incinerator of a cumulative total of 50% above the total capacity or throughput that was approved in the operation plan as of January 1, 1990, or the initial approved operation plan if the initial approval is subsequent to January 1, 1990;

(d) an application for modification of a commercial nonhazardous solid or hazardous waste treatment, storage, or disposal facility, other than an incinerator, if the modification would be outside the boundaries of the property owned or controlled by the applicant, as shown in the application or approved operation plan as of January 1, 1990, or the initial approved operation plan if the initial approval is subsequent to January 1, 1990; or

(e) a submission of an operation plan to construct a facility, if previous approvals of the operation plan to construct the facility have been revoked pursuant to Subsection (3)(c)(iv) or (v).

(2) Capacity under Subsection (1)(b) shall be calculated based on the throughput tonnage specified for the trial burn in the operation plan or the operation plan application if no operation plan approval has been issued as of January 1, 1990, and on annual operations of 7,000 hours.

(3) (a) (i) Except as specified in Subsection (3)(a)(ii)(C), a person may not own, construct, modify, or operate a facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste without first submitting and receiving the approval of the director for an operation plan for that facility or site.

(ii) (A) A permittee who is the current owner of a facility or site that is subject to an operation plan may submit to the director information, a report, a plan, or other request for approval for a proposed activity under an operation plan:

(I) after obtaining the consent of any other permittee who is a current owner of the facility or site; and

(II) without obtaining the consent of any other permittee who is not a current owner of the facility or site.

(B) The director may not:

(I) withhold an approval of an operation plan requested by a permittee who is a current owner of the facility or site on the grounds that another permittee who is not a current owner of the facility or site has not consented to the request; or

(II) give an approval of an operation plan requested by a permittee who is not a current owner before receiving consent of the current owner of the facility or site.

(C) A facility referred to in Subsection (3)(a)(i) does not include a facility when the waste from the extraction, beneficiation, and processing of ores and minerals listed in 40 C.F.R. Sec. 261.4(b)(7)(ii), or cement kiln dust, is generated and the disposal occurs at an on-site location owned and operated by the generator of the waste.

(b) (i) Except for a facility that receives the following wastes solely for the purpose of recycling, reuse, or reprocessing, a person may not own, construct, modify, or operate any commercial facility that accepts for treatment or disposal, with the intent to make a profit, any of the wastes listed in Subsection (3)(b)(ii) without first submitting a request to and receiving the approval of the director for an operation plan for that facility site.

(ii) Wastes referred to in Subsection (3)(b)(i) are:

(A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(B) wastes from the extraction, beneficiation, and processing of ores and minerals; or

(C) cement kiln dust wastes.

(c) (i) A person may not construct a facility listed under Subsection (3)(c)(ii) until the person receives:

(A) local government approval and the approval described in Subsection (3)(a);

(B) approval from the Legislature that, on and after May 5, 2021, is required to be obtained after the person submits an application under this section; and

(C) after receiving the approvals described in Subsections (3)(c)(i)(A) and (B), approval from the governor.

(ii) A facility referred to in Subsection (3)(c)(i) is:

(A) a commercial nonhazardous solid waste disposal facility;

(B) except for a facility that receives a waste listed in Subsection (3)(c)(iii), solely for the purpose of recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal, with the intent to make a profit; or

(C) a commercial hazardous waste treatment, storage, or disposal facility.

(iii) Subsection (3)(c)(ii)(B) applies to the following wastes:

(A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(B) wastes from the extraction, beneficiation, and processing of ores and minerals; or

(C) cement kiln dust wastes.

(iv) The required approvals described in Subsection (3)(c)(i) for a facility described in Subsection (3)(c)(ii)(A) or (B) are automatically revoked if:

(A) the governor's approval is received on or after May 10, 2011, and the facility is not operational within five years after the day on which the governor's approval is received; or

(B) the governor's approval is received before May 10, 2011, and the facility is not operational on or before May 10, 2016.

(v) For legislative approval described in Subsection (3)(c)(i)(B), the required legislative approval for a facility described in Subsection (3)(c)(ii) is automatically revoked if:

(A) after receiving the legislative approval, the person seeking to construct the facility withdraws the application submitted under this section by providing the division a written statement of withdrawal for the facility that is the basis of the legislative approval; or

(B) after five years from the day on which the required legislative approval takes effect, the application for the facility is not approved by the division.

(vi) The required approvals described in Subsection (3)(c)(i) for a facility described in Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not transferrable to another person for five years after the day on which the governor's approval is received.

(d) A person need not obtain gubernatorial or legislative approval for the construction of a hazardous waste facility for which an operating plan has been approved by or submitted for approval to the executive secretary of the board under this section before April 24, 1989, and which has been determined, on or before December 31, 1990, by the executive secretary of the board to be complete, in accordance with state and federal requirements for operating plans for hazardous waste facilities even if a different geographic site is subsequently submitted.

(e) A person need not obtain gubernatorial and legislative approval for the construction of a commercial nonhazardous solid waste disposal facility for which an operation plan has been approved by or submitted for approval to the executive secretary of the board under this section on or before January 1, 1990, and which, on or before December 31, 1990, the executive secretary of the board determines to be complete, in accordance with state and federal requirements applicable to operation plans for nonhazardous solid waste facilities.

(f) A person owning or operating a facility or site on or before November 19, 1980, who has given timely notification as required by Section 3010 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sec. 6921, et seq., and who has submitted a proposed hazardous waste plan under this section for that facility or site, may continue to operate that facility or site without violating this section until the plan is approved or disapproved under this section.

(g) (i) The director shall suspend acceptance of further applications for a commercial nonhazardous solid or hazardous waste facility upon a finding that the director cannot adequately oversee existing and additional facilities for permit compliance, monitoring, and enforcement.

(ii) The director shall report any suspension to the Natural Resources, Agriculture, and Environment Interim Committee.

(4) The director shall review a proposed nonhazardous solid or hazardous waste operation plan to determine whether that plan complies with this part and the applicable rules of the board.

(5) (a) If the facility is a class I or class II facility, the director shall approve or disapprove that plan within 270 days from the date the plan is submitted.

(b) Within 60 days after receipt of the plans, specifications, or other information required by this section for a class I or II facility, the director shall determine whether the plan is complete and contains the information necessary to process the plan for approval.

(c) (i) If the plan for a class I or II facility is determined to be complete, the director shall issue a notice of completeness.

(ii) If the plan is determined by the director to be incomplete, the director shall issue a notice of deficiency, listing the additional information to be provided by the owner or operator to complete the plan.

(d) The director shall review information submitted in response to a notice of deficiency within 30 days after receipt.

(e) The following time periods may not be included in the 270 day plan review period for a class I or II facility:

(i) time awaiting response from the owner or operator to requests for information issued by the director;

(ii) time required for public participation and hearings for issuance of plan approvals; and

(iii) time for review of the permit by other federal or state government agencies.

(6) (a) If the facility is a class III or class IV facility, the director shall approve or disapprove that plan within 365 days from the date the plan is submitted.

(b) The following time periods may not be included in the 365 day review period:

(i) time awaiting response from the owner or operator to requests for information issued by the director;

(ii) time required for public participation and hearings for issuance of plan approvals; and

(iii) time for review of the permit by other federal or state government agencies.

(7) If, within 365 days after receipt of a modification request or closure plan for any facility, the director determines that the proposed plan or request, or any part of the proposed plan or request, will not comply with applicable rules, the director shall issue an order prohibiting any action under the proposed plan or request for modification or closure in whole or in part.

(8) A person who owns or operates a facility or site required to have an approved hazardous waste operation plan under this section and who has pending a permit application before the United States Environmental Protection Agency shall be treated as having an approved plan until final administrative disposition of the permit application is made under this section, unless the director determines that final administrative disposition of the application has not been made because of the failure of the owner or operator to furnish any information requested, or the facility's interim status has terminated under Section 3005 (e) of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6925 (e).

(9) The director may not approve a proposed nonhazardous solid or hazardous waste operation plan unless the plan contains the information that the board requires, including:

(a) estimates of the composition, quantities, and concentrations of any hazardous waste identified under this part and the proposed treatment, storage, or disposal of the hazardous waste;

(b) evidence that the transfer, treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of hazardous waste will not be done in a manner that may cause or significantly contribute to an increase in mortality, an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment;

(c) consistent with the degree and duration of risks associated with the transfer, treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of specified hazardous waste, evidence of financial responsibility in whatever form and amount that the director determines is necessary to ensure continuity of operation and that upon abandonment, cessation, or interruption of the operation of the facility or site, the reasonable measures consistent with the available knowledge will be taken to ensure that the waste subsequent to being treated, stored, or disposed of at the site or facility will not present a hazard to the public or the environment;

(d) evidence that the personnel employed at the facility or site have education and training for the safe and adequate handling of nonhazardous solid or hazardous waste;

(e) plans, specifications, and other information that the director considers relevant to determine whether the proposed nonhazardous solid or hazardous waste operation plan will comply with this part and the rules of the board;

(f) compliance schedules, when applicable, including schedules for corrective action or other response measures for releases from a solid waste management unit at the facility, regardless of the time the waste was placed in the unit;

(g) for a proposed operation plan submitted on or after July 1, 2013, for a new solid or hazardous waste facility other than a water treatment facility that treats, stores, or disposes site-generated solid or hazardous waste onsite, a traffic impact study that:

(i) takes into consideration the safety, operation, and condition of roadways serving the proposed facility; and

(ii) is reviewed and approved by the Department of Transportation or a local highway authority, whichever has jurisdiction over each road serving the proposed facility, with the cost of the review paid by the person who submits the proposed operation plan; and

(h) for a proposed operation plan submitted on or after July 1, 2013, for a new nonhazardous solid waste facility owned or operated by a local government, financial information that discloses the costs of establishing and operating the facility, including:

(i) land acquisition and leasing;

(ii) construction;

(iii) estimated annual operation;

(iv) equipment;

(v) ancillary structures;

(vi) roads;

(vii) transfer stations; and

(viii) using other operations that are not contiguous to the proposed facility but are necessary to support the facility's construction and operation.

(10) The director may not approve a commercial nonhazardous solid or hazardous waste operation plan that meets the requirements of Subsection (9) unless the operation plan contains the information required by the board, including:

(a) evidence that the proposed commercial facility has a proven market of nonhazardous solid or hazardous waste, including:

(i) information on the source, quantity, and price charged for treating, storing, and disposing of potential nonhazardous solid or hazardous waste in the state and regionally;

(ii) a market analysis of the need for a commercial facility given existing and potential generation of nonhazardous solid or hazardous waste in the state and regionally; and

(iii) a review of other existing and proposed commercial nonhazardous solid or hazardous waste facilities regionally and nationally that would compete for the treatment, storage, or disposal of the nonhazardous solid or hazardous waste;

(b) a description of the public benefits of the proposed facility, including:

(i) the need in the state for the additional capacity for the management of nonhazardous solid or hazardous waste;

(ii) the energy and resources recoverable by the proposed facility;

(iii) the reduction of nonhazardous solid or hazardous waste management methods, that are less suitable for the environment, that would be made possible by the proposed facility; and

(iv) whether any other available site or method for the management of hazardous waste would be less detrimental to the public health or safety or to the quality of the environment; and

(c) compliance history of an owner or operator of a proposed commercial nonhazardous solid or hazardous waste treatment, storage, or disposal facility, that may be applied by the director in a nonhazardous solid or hazardous waste operation plan decision, including any plan conditions.

(11) The director may not approve a commercial nonhazardous solid or hazardous waste facility operation plan unless based on the application, and in addition to the determination required in Subsections (9) and (10), the director determines that:

(a) the probable beneficial environmental effect of the facility to the state outweighs the probable adverse environmental effect; and

(b) there is a need for the facility to serve industry within the state.

(12) (a) The director may not approve an operation plan or permit for a nonhazardous solid waste class VII landfill facility unless, based on the application, the operation plan and permit contain engineering plans and specifications for cell design that includes:

(i) an impervious synthetic liner system that has hydraulic conductivity no greater than 1E-7 centimeters per second; or

(ii) a clay liner system equivalent to a liner system described in Subsection (12)(a)(i).

(b) A nonhazardous solid waste class VII landfill facility is considered to have an approved operation plan or permit for purposes of Subsection (12)(a) if the nonhazardous solid waste class VII landfill facility:

(i) on January 1, 2025, was permitted by the Division of Oil, Gas, and Mining; and

(ii) on or before May 7, 2025, obtains a temporary permit, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the nonhazardous solid waste class VII landfill facility.

(c) Notwithstanding Subsection (12)(b), a nonhazardous solid waste class VII landfill facility described in Subsection (12)(b) shall ensure that as of July 1, 2030, each cell within the nonhazardous solid waste class VII landfill facility has:

(i) an impervious synthetic liner system that has hydraulic conductivity no greater than 1E-7 centimeters per second; or

(ii) a clay liner system equivalent to a liner system described in Subsection (12)(c)(i).

[~~(12)~~](13) Approval of a nonhazardous solid or hazardous waste operation plan may be revoked, in whole or in part, if the person to whom approval of the plan has been given fails to comply with that plan.

[~~(13)~~](14) The director shall review approved nonhazardous solid and hazardous waste operation plans at least once every five years.

[~~(14)~~](15) Subsections (10) and (11) do not apply to a hazardous waste facility in existence or to an application filed or pending in the department before April 24, 1989, that are determined by the executive secretary of the board on or before December 31, 1990, to be complete, in accordance with state and federal requirements applicable to operation plans for hazardous waste facilities.

[~~(15)~~](16) Subsections (9), (10), and (11) do not apply to a nonhazardous solid waste facility in existence or to an application filed or pending in the department before January 1, 1990, that is determined by the director, on or before December 31, 1990, to be complete in accordance with state and federal requirements applicable to operation plans for nonhazardous solid waste facilities.

[~~(16)~~](17) Nonhazardous solid waste generated outside of this state that is defined as hazardous waste in the state where the nonhazardous solid waste is generated and that is received for disposal in this state may not be disposed of at a nonhazardous waste disposal facility owned and operated by local government or a facility under contract with a local government solely for disposal of nonhazardous solid waste generated within the boundaries of the local government, unless disposal is approved by the director.

[~~(17)~~](18) This section may not be construed to exempt a facility from applicable regulation under the federal Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 156
S. B. 172
Passed February 26, 2025
Approved March 24, 2025
Effective May 7, 2025

LOCAL HEALTH DEPARTMENT AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Michael L. Kohler

LONG TITLE

General Description:

This bill addresses provisions related to local health departments and the Department of Environmental Quality.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the Department of Environmental Quality (department) and each local health department to enter into a cooperative agreement for providing environmental health services;
- ► requires that the governance committee comprised of department and local health department personnel:
  - • review all department funding;
  - • review whether funds allocated by contract or cooperative agreement are subject to requirements meeting or exceeding the minimum performance standards created by the department; and
  - • create a process for exempting certain applications for federal funding from committee review;
- ► requires the department to reimburse a local health department for all costs associated with collecting a civil penalty under Title 19, Environmental Quality Code; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-1-102, as enacted by Laws of Utah 1991, Chapter 112
19-1-201, as last amended by Laws of Utah 2024, Chapter 178
19-1-303, as last amended by Laws of Utah 1995, Chapter 324
26A-1-114, as last amended by Laws of Utah 2024, Chapter 259

ENACTS:

19-1-111, Utah Code Annotated 1953

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

Section 1. Section 19-1-102 is amended to read:

19-1-102. Purposes.

The purpose of this title is to:

(1) clarify the powers and duties of the Department of Environmental Quality in relationship to local health departments;

(2) provide effective, coordinated management of state environmental concerns;

(3) safeguard public health and quality of life by protecting and improving environmental quality while considering the benefits to public health, the impacts on economic development, property, wildlife, tourism, business, agriculture, forests, and other interests, and the costs to the public and to industry; [~~and~~]

(4) [~~(a)~~] strengthen local health departments' environmental programs;

(5) promote coordination and cooperation between the Department of Environmental Quality and local health departments;

[~~(b)~~](6) build consensus among the public, industry, and local governments in developing environmental protection goals; and

[~~(c)~~](7) appropriately balance the need for environmental protection with the need for economic and industrial development.

Section 2. Section 19-1-111 is enacted to read:

19-1-111. Governance committee with local health departments.

(1) As used in this section:

(a) "Exempt application" means an application for federal funding that meets the criteria established under Subsection (3)(g).

(b) "Federal funding" means a grant, contract, or other funding from the federal government that could provide funds for a local health department to fulfill the duties and responsibilities of the local health department.

(c) "Governance committee" means the committee created in Subsection (2).

(2) The department shall establish a committee that consists of:

(a) the executive director or the executive director's designee;

(b) two representatives of the department appointed by the executive director; and

(c) three representatives of local health departments appointed by a group representing all the local health departments in the state.

(3) The governance committee shall:

(a) review all state and federal funding to the department to identify funding that the department may use to support:

(i) the requirements of Subsection 26A-1-106(3); and

(ii) the minimum performance standards created by the department under Subsection 26A-1-106(4);

(b) review the allocation of environmental quality resources between the department and the local health departments, including whether funds allocated by contract or cooperative agreement were:

(i) allocated in accordance with the formula described in Section 26A-1-116; and

(ii) subject to requirements satisfying or exceeding the minimum performance standards created by the department under Section 26A-1-106;

(c) evaluate rules and department policies that affect a local health department in accordance with Subsection (4);

(d) consider policy changes proposed by the department or by a local health department;

(e) coordinate the implementation of environmental quality programs to maximize environmental quality resources;

(f) except as provided by Subsection (3)(g), review each department application for any federal funding that affects a local health department before the department submits the application; and

(g) establish a process by which the committee may exempt an application for federal funding from the review required under Subsection (3)(f).

(4) When evaluating a policy or rule that affects a local health department, the governance committee shall:

(a) compute an estimate of the cost a local health department will bear to comply with the policy or rule;

(b) specify whether there is any funding provided to a local health department to implement the policy or rule; and

(c) advise whether the policy or rule is needed.

(5) The governance committee shall create bylaws to govern the committee's operations.

(6) Before November 1 of each year, the department shall provide a report to the Rules Review and General Oversight Committee regarding the determinations made under Subsection (4).

Section 3. Section 19-1-201 is amended to read:

19-1-201. Powers and duties of department -- Rulemaking authority -- Committee -- Monitoring environmental impacts of inland port.

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health and Human Services to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(b) consult with the Department of Health and Human Services and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(c) [~~coordinate implementation of environmental programs to maximize efficient use of resources by developing, in consultation with local health departments, a Comprehensive Environmental Service Delivery Plan~~]enter into a cooperative agreement with each local health department that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in [~~the~~]this state;

(ii) delineates the responsibilities of the department and each local health department, including those described in Subsection 26A-1-106(3), for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority [~~and pass through of funding~~]to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; [~~and~~]

(iv) recognizes the authority granted to a local health department under Section 26A-1-108;

(v) passes through any federal, state, or other funding and resources to local health departments, as necessary and to the extent allowed by applicable law, for the efficient delivery of environmental programs; and

[~~(iv)~~](vi) is reviewed and updated annually;

(d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(i) for a board created in Section 19-1-106, rules regarding:

(A) board meeting attendance; and

(B) conflicts of interest procedures; and

(ii) procedural rules that govern:

(A) an adjudicative proceeding, consistent with Section 19-1-301; and

(B) a special adjudicative proceeding, consistent with Section 19-1-301.5;

(e) ensure that training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(f) subject to Subsection (2), establish annual fees that conform with Title V of the Clean Air Act for each regulated pollutant as defined in Section 19-2-109.1, applicable to a source subject to the Title V program.

(2) (a) A fee established under Subsection (1)(f) is in addition to a fee assessed under Subsection (6)(i) for issuance of an approval order.

(b) In establishing a fee under Subsection (1)(f), the department shall comply with Section 63J-1-504 that requires a public hearing and requires the established fee to be submitted to the Legislature for the Legislature's approval as part of the department's annual appropriations request.

(c) A fee established under this section shall cover the reasonable direct and indirect costs required to develop and administer the Title V program and the small business assistance program established under Section 19-2-109.2.

(d) A fee established under Subsection (1)(f) shall be established for all sources subject to the Title V program and for all regulated pollutants.

(e) An emission fee may not be assessed for a regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.

(f) An emission fee may not be assessed for any amount of a regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

(g) An emission fee shall be based on actual emissions for a regulated pollutant unless a source elects, before the issuance or renewal of a permit, to base the fee during the period of the permit on allowable emissions for that regulated pollutant.

(h) The fees collected by the department under Subsection (1)(f) and penalties collected under Subsection 19-2-109.1(4) shall be deposited into the General Fund as the Air Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by the department in developing and administering the program and the small business assistance program under Section 19-2-109.2.

[~~(3) The department shall establish a committee that consists of:~~]

[~~(a) the executive director or the executive director's designee;~~]

[~~(b) two representatives of the department appointed by the executive director; and~~]

[~~(c) three representatives of local health departments appointed by a group of all the local health departments in the state.~~]

[~~(4) (a) The committee established in Subsection (3) shall:~~]

[~~(i) review the allocation of environmental quality resources between the department and the local health departments, including whether funds allocated by contract were allocated in accordance with the formula described in Section 26A-1-116;~~]

[~~(ii) evaluate rules and department policies that affect local health departments in accordance with Subsection (4)(b);~~]

[~~(iii) consider policy changes proposed by the department or by local health departments;~~]

[~~(iv) coordinate the implementation of environmental quality programs to maximize environmental quality resources; and~~]

[~~(v) review each department application for any grant from the federal government that affects a local health department before the department submits the application.~~]

[~~(b) When evaluating a policy or rule that affects a local health department, the committee shall:~~]

[~~(i) compute an estimate of the cost a local health department will bear to comply with the policy or rule;~~]

[~~(ii) specify whether there is any funding provided to a local health department to implement the policy or rule; and~~]

[~~(iii) advise whether the policy or rule is still needed.~~]

[~~(c) Before November 1 of each year, the department shall provide a report to the Rules Review and General Oversight Committee regarding the determinations made under Subsection (4)(b).~~]

[~~(5) The committee shall create bylaws to govern the committee's operations.~~]

[~~(6)~~](3) The department may:

(a) investigate matters affecting the environment;

(b) investigate and control matters affecting the public health when caused by environmental hazards;

(c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;

(d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;

(e) use local health departments in the delivery of environmental health programs to the extent provided by law;

(f) enter into contracts with local health departments, in addition to a cooperative agreement required under Subsection (1)(c), or others to meet responsibilities established under this title;

(g) acquire real and personal property by purchase, gift, devise, and other lawful means;

(h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;

(i) in accordance with Section 63J-1-504, establish a schedule of fees that may be assessed for actions and services of the department that are reasonable, fair, and reflect the cost of services provided;

(j) for an owner or operator of a source subject to a fee established by Subsection [~~(6)(i)~~](3)(i) who fails to timely pay that fee, assess a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually;

(k) prescribe by rule reasonable requirements not inconsistent with law relating to environmental quality for local health departments;

(l) perform the administrative functions of the boards established by Section 19-1-106, including the acceptance and administration of grants from the federal government and from other sources, public or private, to carry out the board's functions;

(m) upon the request of a board or a division director, provide professional, technical, and clerical staff and field and laboratory services, the extent of which are limited by the money available to the department for the staff and services; and

(n) establish a supplementary fee, not subject to Section 63J-1-504, to provide service that the person paying the fee agrees by contract to be charged for the service to efficiently use department resources, protect department permitting processes, address extraordinary or unanticipated stress on permitting processes, or make use of specialized expertise.

[~~(7)~~](4) In providing service under Subsection [~~(6)(n)~~](3)(n), the department may not provide service in a manner that impairs another person's service from the department.

[~~(8)~~](5) (a) As used in this Subsection [~~(8)~~](5):

(i) "Environmental impacts" means:

(A) impacts on air quality, including impacts associated with air emissions; and

(B) impacts on water quality, including impacts associated with storm water runoff.

(ii) "Inland port" means the same as that term is defined in Section 11-58-102.

(iii) "Inland port area" means the area in and around the inland port that bears the environmental impacts of destruction, construction, development, and operational activities within the inland port.

(iv) "Monitoring facilities" means:

(A) for monitoring air quality, a sensor system consisting of monitors to measure levels of research-grade particulate matter, ozone, and oxides of nitrogen, and data logging equipment with internal data storage that are interconnected at all times to capture air quality readings and store data; and

(B) for monitoring water quality, facilities to collect groundwater samples, including in existing conveyances and outfalls, to evaluate sediment, metals, organics, and nutrients due to storm water.

(b) The department shall:

(i) develop and implement a sampling and analysis plan to:

(A) characterize the environmental baseline for air quality and water quality in the inland port area;

(B) characterize the environmental baseline for only air quality for the Salt Lake International Airport; and

(C) define the frequency, parameters, and locations for monitoring;

(ii) establish and maintain monitoring facilities to measure the environmental impacts in the inland port area arising from destruction, construction, development, and operational activities within the inland port;

(iii) publish the monitoring data on the department's website; and

(iv) provide at least annually before November 30 a written report summarizing the monitoring data to:

(A) the Utah Inland Port Authority board, established under Title 11, Chapter 58, Part 3, Port Authority Board; and

(B) the Legislative Management Committee.

Section 4. Section 19-1-303 is amended to read:

19-1-303. Criminal and civil penalties -- Liability for violations -- Reimbursement.

(1) (a) Any person who violates any provision of this title or lawful orders or rules adopted under this title by the department shall:

(i) in a civil proceeding be assessed a penalty not to exceed the sum of $5,000; or

(ii) in a criminal proceeding:

(A) for the first violation, be guilty of a class B misdemeanor; and

(B) for a subsequent similar violation within two years, be guilty of a class A misdemeanor.

(b) In addition, a person is liable for any expense incurred by the department in removing or abating any violation.

(2) Assessment or conviction under this title does not relieve the person assessed or convicted from civil liability for any act which was also a violation of the public health laws.

(3) Each day of violation of this title or rules made by the department [~~under it~~]may be considered a separate violation.

(4) The enforcement procedures and penalties provided in Subsections (1) through (3) do not apply to chapters in this title which provide for other specific enforcement procedures and penalties.

(5) (a) [~~Unless otherwise specified in statute~~]Except as provided in this Subsection (5) or otherwise in this title, the department shall deposit all civil penalties and fines imposed and collected under this title into the General Fund.

(b) The department shall reimburse a local health department for costs associated with collecting a civil penalty under this title by the local health department.

(c) The department may reimburse the department, a local government, or a local health department from money collected:

(i) from a civil penalty for a qualifying extraordinary expense incurred in a qualifying environmental enforcement activity; and

(ii) notwithstanding the provisions of Section 78A-5-110, from a criminal fine for a qualifying extraordinary expense incurred in a prosecution for a violation of this title.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to define:

(i) a qualifying environmental enforcement activity; and

(ii) a qualifying extraordinary expense.

Section 5. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and (11), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food Safety, in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, over an individual in accordance with an order of restriction issued under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) exercise physical control of property to abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or the Department of Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321;

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities; and

(q) when conducting routine inspections of businesses regulated by the local health department, notify the Department of Agriculture and Food of a potential violation of Title 4, Chapter 41, Hemp and Cannabinoid Act.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws;

(d) enter into a cooperative agreement with the Department of Environmental Quality as described in Subsection 19-1-201(1)(c); and

[~~(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:~~]

[~~(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;~~]

[~~(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;~~]

[~~(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and~~]

[~~(iv) is reviewed and updated annually; and~~]

(e) investigate a report made in accordance with Section 59-14-811 to determine whether a product is sold in violation of law.

(3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c) (i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) This part does not authorize a local health department to:

(a) require the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling; or

(b) control the production, processing distribution, or sale price of local food in response to a public health emergency.

(7) (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by

the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d) (i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b) (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9) (a) During a public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c) (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department

or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (10)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including capitol hill, as defined in Section 63O-1-101.

(12) A local health department may not:

(a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5); or

(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:

(i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or

(ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 157
S. B. 216
Passed March 5, 2025
Approved March 24, 2025
Effective July 1, 2025

ENVIRONMENTAL QUALITY AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill modifies provisions related to the licensing and taxation of radioactive waste.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► modifies the requirements for a waste facility to renew or amend a radioactive waste license;
- ► requires the State Tax Commission to deposit into an energy-related fund the portion of new tax revenue derived from a radioactive waste facility receiving radioactive waste from a new generator;
- ► creates a radioactive waste facility expansion tax on a radioactive waste facility that submits an application to the Division of Waste Management and Radiation Control to construct a new radioactive waste facility or expand an existing facility;
- ► provides for the payment and deposit of the radioactive waste facility expansion tax;
- ► implements a sunset date for the radioactive waste facility expansion tax; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

19-3-102, (Effective 05/07/25) as last amended by Laws of Utah 2017, Chapter 360
19-3-105, (Effective 05/07/25) as last amended by Laws of Utah 2018, Chapter 281
59-24-102, (Effective 07/01/25) as last amended by Laws of Utah 2003, Chapter 295
59-24-103.5, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapter 192
59-24-104, (Effective 07/01/25) as last amended by Laws of Utah 2019, Chapter 466
59-24-105, (Effective 07/01/25) as last amended by Laws of Utah 2003, Chapter 295
63I-2-259, (Effective 05/07/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

59-24-103.8, (Effective 07/01/25) Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

AMENDS:

59-24-103.8, Utah Code Annotated 1953
59-24-105, as last amended by Laws of Utah 2003, Chapter 295

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

Section 1. Section 19-3-102 is amended to read:
19-3-102 (Effective 05/07/25). Definitions.

As used in this chapter:

(1) "Board" means the Waste Management and Radiation Control Board created under Section 19-1-106.

(2) (a) "Broker" means a person who performs one or more of the following functions for a generator:

(i) arranges for transportation of the radioactive waste;

(ii) collects or consolidates shipments of radioactive waste; or

(iii) processes radioactive waste in some manner.

(b) "Broker" does not include a carrier whose sole function is to transport the radioactive waste.

(3) "Byproduct material" means the same as that term is defined in 42 U.S.C. Sec. 2014(e)(2).

(4) "Class B and class C low-level radioactive waste" means the same as that term is defined in 10 C.F.R. Sec. 61.55.

(5) "Director" means the director of the Division of Waste Management and Radiation Control.

(6) "Division" means the Division of Waste Management and Radiation Control, created in Subsection 19-1-105(1)(d).

(7) "Generator" means a person who:

(a) possesses any material or component:

(i) that contains radioactivity or is radioactively contaminated; and

(ii) for which the person foresees no further use; and

(b) transfers the material or component to:

(i) a commercial radioactive waste treatment or disposal facility; or

(ii) a broker.

(8) "Hazardous waste corridor" means an area of land within a county that the legislative body of the county:

(a) designates for the siting of a radioactive waste facility; and

(b) restricts from all residential use or development.

[~~(8)~~](9) (a) "High-level nuclear waste" means spent reactor fuel assemblies, dismantled nuclear reactor components, and solid and liquid wastes from fuel reprocessing and defense-related wastes.

(b) "High-level nuclear waste" does not include medical or institutional wastes, naturally occurring radioactive materials, or uranium mill tailings.

[~~(9)~~](10) (a) "Low-level radioactive waste" means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release.

(b) "Low-level radioactive waste" does not include waste containing more than 100 nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations.

[~~(10)~~](11) "Radiation" means ionizing and nonionizing radiation, including gamma rays, X-rays, alpha and beta particles, high speed electrons, and other nuclear particles.

[~~(11)~~](12) "Radioactive" means any solid, liquid, or gas which emits radiation spontaneously from decay of unstable nuclei.

[~~(12)~~](13) "Unlicensed facility" means a structure, road, or property:

(a) adjacent to, but outside of, a licensed or permitted area; and

(b) that is not used for waste disposal or waste management.

Section 2. Section 19-3-105 is amended to read:

19-3-105 (Effective 05/07/25). Definitions -- Legislative and gubernatorial approval required for radioactive waste license -- Exceptions -- Application for new, renewed, or amended license.

(1) As used in this section:

(a) "Alternate feed material" has the same definition as provided in Section 59-24-102.

(b) "Approval application" means an application by a radioactive waste facility regulated under this chapter or Title 19, Chapter 5, Water Quality Act, for a permit, license, registration, certification, or other authorization.

(c) (i) "Class A low-level radioactive waste" means:

(A) radioactive waste that is classified as class A waste under 10 C.F.R. 61.55; and

(B) radium-226 up to a maximum radionuclide concentration level of 10,000 picocuries per gram.

(ii) "Class A low-level radioactive waste" does not include:

(A) uranium mill tailings;

(B) naturally occurring radioactive materials; or

(C) the following radionuclides if classified as "special nuclear material" under the Atomic Energy Act of 1954, 42 U.S.C. 2014:

(I) uranium-233; and

(II) uranium-235 with a radionuclide concentration level greater than the concentration limits for specific conditions and enrichments established by an order of the Nuclear Regulatory Commission:

(Aa) to ensure criticality safety for a radioactive waste facility in the state; and

(Bb) in response to a request, submitted prior to January 1, 2004, from a radioactive waste facility in the state to the Nuclear Regulatory Commission to amend the facility's special nuclear material exemption order.

(d) (i) "Radioactive waste facility" or "facility" means a facility that decays radioactive waste in storage, treats radioactive waste, or disposes of radioactive waste:

(A) commercially for profit; or

(B) generated at locations other than the radioactive waste facility.

(ii) "Radioactive waste facility" does not include a facility that receives:

(A) alternate feed material for reprocessing; or

(B) radioactive waste from a location in the state designated as a processing site under 42 U.S.C. 7912(f).

(e) "Radioactive waste license" or "license" means a radioactive material license issued by the director to own, construct, modify, or operate a radioactive waste facility.

(2) The provisions of this section are subject to the prohibition under Section 19-3-103.7.

(3) Subject to Subsection (8), a person may not own, construct, modify, or operate a radioactive waste facility without:

(a) having received a radioactive waste license for the facility;

(b) meeting the requirements established by rule under Section 19-3-104;

(c) the approval of the governing body of the municipality or county responsible for local planning and zoning where the radioactive waste is or will be located; and

(d) subsequent to meeting the requirements of Subsections (3)(a) through (c), the approval of the governor and the Legislature.

(4) Subject to Subsection (8), a new radioactive waste license application, or an application to renew or amend an existing radioactive waste license, is subject to the requirements of Subsections (3)(b) through (d) if the application, renewal, or amendment:

(a) specifies a different geographic site than a previously submitted application;

(b) would cost 50% or more of the cost of construction of the original radioactive waste facility or the modification would result in an increase in capacity or throughput of a cumulative total of 50% of the total capacity or throughput which was approved in the facility license as of January 1, 1990, or the initial approval facility license if the initial license approval is subsequent to January 1, 1990; or

(c) requests approval to decay radioactive waste in storage, treat radioactive waste, or dispose of radioactive waste having a higher radionuclide concentration limit than allowed, under an existing approved license held by the facility, for the specific type of waste to be decayed in storage, treated, or disposed of.

(5) The requirements of Subsection (4)(c) do not apply to an application to renew or amend an existing radioactive waste license if:

(a) the radioactive waste facility requesting the renewal or amendment has received a license prior to January 1, 2004; and

(b) the application to renew or amend its license is limited to a request to approve the receipt, transfer, storage, decay in storage, treatment, or disposal of class A low-level radioactive waste.

(6) A radioactive waste facility that receives a new radioactive waste license after May 3, 2004, is subject to the requirements of Subsections (3)(b) through (d) for any license application, renewal, or amendment that requests approval to decay radioactive waste in storage, treat radioactive waste, or dispose of radioactive waste not previously approved under an existing license held by the facility.

(7) If the board finds that approval of additional radioactive waste license applications, renewals, or amendments will result in inadequate oversight, monitoring, or licensure compliance and enforcement of existing and any additional radioactive waste facilities, the board shall suspend acceptance of further applications for radioactive waste licenses. The board shall report the suspension to the Legislative Management Committee.

(8) The requirements of Subsections (3)(c) and (d) and Subsection 19-3-104(10) do not apply to:

(a) a radioactive waste license [~~that is~~] in effect on December 31, 2006, including all amendments to the license [~~that have taken effect as of December 31, 2006~~]thereafter;

(b) a license application for a facility in existence as of December 31, 2006, unless the license application includes an area beyond the facility boundary approved in the license described in Subsection (8)(a); or

(c) an application to renew or amend a license described in Subsection (8)(a), [~~unless~~]if the renewal or amendment includes an area [~~beyond~~]:

(i) within the facility boundary approved in the license described in Subsection (8)(a)[~~.~~]; or

(ii) within a hazardous waste corridor.

(9) (a) The director shall review an approval application to determine whether the application complies with the requirements of this chapter and the rules of the board.

(b) Within 60 days after the day on which the director receives an approval application described in Subsection (10)(a)(ii) or (iii), the director shall:

(i) determine whether the application is complete and contains all the information necessary to process the application for approval; and

(ii) (A) issue a notice of completeness to the applicant; or

(B) issue a notice of deficiency to the applicant and list the additional information necessary to complete the application.

(c) The director shall review information submitted in response to a notice of deficiency within 30 days after the day on which the director receives the information.

(10) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) categorize approval applications as follows:

(i) approval applications that:

(A) are administrative in nature;

(B) require limited scrutiny by the director; and

(C) do not require public input;

(ii) approval applications that:

(A) require substantial scrutiny by the director;

(B) require public input; and

(C) are not described in Subsection (10)(a)(iii); and

(iii) approval applications for:

(A) the granting or renewal of a radioactive waste license;

(B) the granting or renewal of a groundwater permit issued by the director for a radioactive waste facility;

(C) an amendment to a radioactive waste license, or a groundwater permit, that allows the design and approval of a new disposal cell;

(D) an amendment to a radioactive waste license or groundwater discharge permit for a radioactive waste facility to eliminate groundwater monitoring; and

(E) a radioactive waste facility closure plan;

(b) provide time periods for the director to review, and approve or deny, an application described in Subsection (10)(a) as follows:

(i) for applications categorized under Subsection (10)(a)(i), within 30 days after the day on which the director receives the application; and

(ii) for applications categorized under Subsection (10)(a)(ii), within 180 days after the day on which the director receives the application;

(iii) for applications categorized under Subsection (10)(a)(iii), as follows:

(A) for a new radioactive waste license, within 540 days after the day on which the director receives the application;

(B) for a new groundwater permit issued by the director for a radioactive waste facility consistent with the provisions of Title 19, Chapter 5, Water Quality Act, within 540 days after the day on which the director receives the application;

(C) for a radioactive waste license renewal, within 365 days after the day on which the director receives the application;

(D) for a groundwater permit renewal issued by the director for a radioactive waste facility, within 365 days after the day on which

the director receives the application;

(E) for an amendment to a radioactive waste license, or a groundwater permit, that allows the design and approval of a new disposal cell, within 365 days after the day on which the director receives the application;

(F) for an amendment to a radioactive waste license, or a groundwater discharge permit, for a radioactive waste facility to eliminate groundwater monitoring, within 365 days after the day on which the director receives the application; and

(G) for a radioactive waste facility closure plan, within 365 days after the day on which the director receives the application;

(c) toll the time periods described in Subsection (10)(b):

(i) while an owner or operator of a facility responds to the director's request for information;

(ii) during a public comment period; or

(iii) while the federal government reviews the application; and

(d) require the director to prepare a detailed written explanation of the basis for the director's approval or denial of an approval application.

Section 3. Section 59-24-102 is amended to read:

59-24-102 (Effective 07/01/25). Definitions.

As used in this chapter:

(1) (a) "Alternate feed material" means a natural or native material:

(i) mined for the extraction of its constituents or other matter from which source material may be extracted in a licensed uranium or thorium mill; and

(ii) may be reprocessed for its source material content.

(b) "Alternate feed material" does not include:

(i) material containing hazardous waste listed under 40 C.F.R. Part 261, Subpart D;

(ii) natural or unprocessed ore; or

(iii) naturally occurring radioactive materials containing greater than 15 picocuries per gram of radium-226.

(2) "Byproduct material" is as defined in 42 U.S.C. Sec. 2014(e)(2).

(3) "Class A low-level radioactive waste" means radioactive waste that is classified as class A waste under 10 C.F.R. 61.55.

(4) "Containerized class A waste" means class A low-level radioactive waste that is placed in the portion of a radioactive waste facility that is licensed to receive containerized class A waste.

(5) (a) "Generator" means the same as that term is defined in Section 19-3-102.

(b) "Generator" includes an affiliate, subsidiary, or successor of the generator.

[~~(5)~~](6) (a) "Gross receipts" means all consideration an owner or operator of a radioactive waste facility receives for the disposal of radioactive waste in the state, without any deduction or expense paid or accrued related to the disposal of the radioactive waste.

(b) "Gross receipts" do not include fees collected under Section 19-3-106 or any other taxes collected for a state or federal governmental entity.

[~~(6)~~](7) (a) "Processed class A waste" means waste that:

(i) is class A low-level radioactive waste; and

(ii) has been concentrated by a processor.

(b) "Processed class A waste" does not include containerized class A waste.

[~~(7)~~](8) "Radioactive waste" means:

(a) alternate feed material;

(b) byproduct material;

(c) containerized class A waste;

(d) processed class A waste; or

(e) uncontainerized, unprocessed class A waste.

[~~(8)~~](9) "Radioactive waste facility" or "facility" means:

(a) a facility licensed under Section 19-3-105; or

(b) a uranium mill licensed under 10 C.F.R. Part 40, Domestic Licensing of Source Material.

[~~(9)~~](10) (a) "Uncontainerized, unprocessed class A waste" means class A low-level radioactive waste that:

(i) is neither containerized class A waste, nor processed class A waste; and

(ii) must be disposed of under rules of the Nuclear Regulatory Commission in a licensed low-level radioactive waste disposal facility.

(b) "Uncontainerized, unprocessed class A waste" does not include alternate feed material.

Section 4. Section 59-24-103.5 is amended to read:

59-24-103.5 (Effective 07/01/25). Radioactive waste disposal, processing, and recycling facility tax.

(1) [~~On and after July 1, 2003, there~~]There is imposed a tax on a radioactive waste facility, or a processing or recycling facility, as provided in this chapter.

(2) [~~The~~]Except as provided in Subsection (3), the tax is equal to the sum of the following amounts:

(a) 12% of the gross receipts of a radioactive waste facility derived from the disposal of containerized class A waste;

(b) 10% of the gross receipts of a radioactive waste facility derived from the disposal of processed class A waste;

(c) except as provided in Subsection (2)(e), 5% of the gross receipts of a radioactive waste facility derived from the disposal of uncontainerized, unprocessed class A waste from a governmental entity or an agent of a governmental entity:

(i) pursuant to a contract entered into on or after April 30, 2001;

(ii) pursuant to a contract substantially modified on or after April 30, 2001;

(iii) pursuant to a contract renewed or extended on or after April 30, 2001; or

(iv) not pursuant to a contract;

(d) except as provided in Subsection (2)(e), 5% of the gross receipts of a radioactive waste facility derived from the disposal of uncontainerized, unprocessed class A waste received by the facility from an entity other than a governmental entity or an agent of a governmental entity;

(e) .5% of the gross receipts of a radioactive waste facility derived from the disposal of uncontainerized, unprocessed class A waste received by the facility if the uncontainerized, unprocessed class A waste does not exceed 10% of the radioactive concentration limit for class A waste as defined in 10 C.F.R. Sec. 61.55;

(f) 5% of the gross receipts of a radioactive waste facility derived from the disposal of mixed waste, other than the mixed waste described in Subsection (2)(g), received from:

(i) an entity other than a governmental entity or an agent of a governmental entity; or

(ii) a governmental entity or an agent of a governmental entity:

(A) pursuant to a contract entered into on or after April 30, 2005;

(B) pursuant to a contract substantially modified on or after April 30, 2005;

(C) pursuant to a contract renewed or extended on or after April 30, 2005; or

(D) not pursuant to a contract;

(g) 10% of the gross receipts of a radioactive waste facility derived from the disposal of mixed waste:

(i) (A) received from an entity other than a governmental entity or an agent of a governmental entity; or

(B) received from a governmental entity or an agent of a governmental entity:

(I) pursuant to a contract entered into on or after April 30, 2005;

(II) pursuant to a contract substantially modified on or after April 30, 2005;

(III) pursuant to a contract renewed or extended on or after April 30, 2005; or

(IV) not pursuant to a contract; and

(ii) that contains a higher radionuclide concentration level than the mixed waste received by any radioactive waste facility in the state before April 1, 2004;

(h) 10 cents per cubic foot of alternate feed material received at a radioactive waste facility for disposal or reprocessing; and

(i) 10 cents per cubic foot of byproduct material received at a radioactive waste facility for disposal.

(3) The tax is equal to 16.67% of the gross receipts of a radioactive waste facility derived from the disposal of radioactive waste received from a generator that ships to the radioactive waste facility for the first time between June 30, 2025, and June 30, 2028.

[~~(3)~~](4) For purposes of the tax imposed by this section, a fraction of a cubic foot is considered to be a full cubic foot.

[~~(4)~~](5) Except as provided in Subsections (2)(f) and (g), the tax imposed by this section does not apply to radioactive waste containing material classified as hazardous waste under 40 C.F.R. Part 261.

Section 5. Section 59-24-103.8 is enacted to read:

59-24-103.8 (Effective 07/01/25). Radioactive waste facility expansion tax -- Payment -- Deposit of tax revenue.

(1) As used in this section:

(a) "Division" means the Division of Waste Management and Radiation Control created in Section 19-1-105.

(b) "New licensed waste disposal volume" means the increased radioactive waste disposal volume capacity that a radioactive waste facility requests for approval by the division in a radioactive waste facility application.

(c) "Radioactive waste facility application" means an application for a new radioactive waste facility, or an amendment to an existing radioactive waste facility, under Section 19-3-105 that requests authorization to construct a new radioactive waste facility or expand the geographic site covered by an existing radioactive waste facility.

(2) There is imposed a tax on a radioactive waste facility that submits a new radioactive waste facility application to the division on or before December 31, 2025.

(3) The tax imposed by this section is equal to $3.45 per cubic yard of new licensed waste disposal volume, up to and not exceeding 8,700,000 cubic yards of new licensed waste disposal volume for a radioactive waste facility.

(4) The tax imposed by this section shall be paid no later than 60 days after the day on which the radioactive waste facility submits a radioactive waste facility application to the division.

(5) The commission shall deposit the tax revenue collected under this section into the Utah Energy Research Fund created in Section 79-6-1002.

(6) Nothing in this section limits the ability of the director of the division to approve a radioactive waste facility application exceeding the maximum new licensed waste disposal volume described in Subsection (3).

Section 6. Section 59-24-104 is amended to read:

59-24-104 (Effective 07/01/25). Payment of tax.

(1) The tax imposed by Section 59-24-103.5 shall be paid by [~~the owner or operator of~~]a radioactive waste facility that receives radioactive waste for disposal or reprocessing.

(2) The payment shall be accompanied by the form prescribed by the commission.

(3) [~~The~~]Except as otherwise provided in this chapter, the payment shall be paid quarterly on or before the last day of the month next succeeding each calendar quarterly period.

Section 7. Section 59-24-105 is amended to read:

59-24-105 (Effective 07/01/25). Deposit of tax revenue.

(1) [~~The~~]Except as provided in Subsections (2) and 59-24-103.8(5), the commission shall deposit the tax revenue collected under this chapter into the Uniform School Fund.

(2) (a) The commission shall deposit tax revenue collected under Subsection 59-24-103.5(3) into the Utah Energy Research Fund

created in Section 79-6-1002.

(b) The commission may require a radioactive waste facility to share data related to radioactive waste delivered by a generator to the radioactive waste facility for the purposes of calculating the deposit of tax revenue as described in Subsection (2)(a).

Section 8. Section 63I-2-259 is amended to read:

63I-2-259 (Effective 05/07/25). Repeal dates: Title 59.

(1) Subsection 59-7-610(8), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(2) Subsection 59-7-614.10(5), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(3) Section 59-7-624, Targeted business income tax credit, is repealed December 31, 2024.

(4) Subsection 59-10-210(2)(b)(vi), regarding Section 59-10-1112, is repealed December 31, 2024.

(5) Subsection 59-10-1007(8), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(6) Subsection 59-10-1037(5), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(7) Section 59-10-1112, Targeted business income tax credit, is repealed December 31, 2024.

(8) Section 59-24-103.8, Radioactive waste facility expansion tax -- Payment -- Deposit of tax revenue, is repealed July 1, 2026.

Section 9. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect July 1, 2025.

(2) The actions affecting the following sections take effect on May 7, 2025:

(a) Section 19-3-102 (Effective 05/07/25);

(b) Section 19-3-105 (Effective 05/07/25); and

(c) Section 63I-2-259 (Effective 05/07/25).

Section 10. Coordinating S.B. 216 with H.B. 249.

If S.B. 216, Environmental Quality Amendments, and H.B. 249, Nuclear Power Amendments, both pass and become law, the Legislature intends that, on July 1, 2025:

(1) Subsection 59-24-103.8(5), enacted in S.B. 216, be amended to read:

"(5) The commission shall deposit the tax revenue collected under this section into the Electrical Energy Development Investment Fund created in Section 79-6-1105.";

(2) Subsection 59-24-105(2)(a), enacted in S.B. 216, be amended to read:

"(2)(a) The commission shall deposit tax revenue collected under Subsection 59-24-103.5(3)into the Electrical Energy Development Investment Fund created in Section 79-6-1105.";

(3) Subsection 79-6-1105(2), enacted in H.B. 249, be amended to read:

"(2) The fund consists of:

(a) property tax differential revenue collected under Section 79-6-1104;

(b) revenue from the radioactive waste facility expansion tax collected under Section 59-24-103.8; and

(c) revenue from a tax on new generators of radioactive waste as described in Subsection 59-24-103.5(3).''; and

(4) Section 79-6-1106, enacted in H.B. 249, be amended to read:

"(1) The council may use fund money to:

(a) facilitate electrical energy infrastructure development within the state, including:

(i) transmission and distribution lines;

(ii) pipeline development;

(iii) energy storage facilities;

(iv) generation facilities;

(v) related infrastructure; and

(vi) to fund research, site selection, permitting, public outreach, and other activities related to the development of nuclear energy;

(b) provide matching funds for federal energy development grants;

(c) support energy workforce development programs;

(d) provide incentives for electrical energy development projects; and

(e) pay for administrative expenses related to the council's duties.

(2) Fund money derived from the radioactive waste facility expansion tax revenue collected under Section 59-24-103.8 is prioritized for activities related to the development of nuclear energy.".

CHAPTER 158
S. B. 220
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

CONSTRUCTION MODIFICATIONS

Chief Sponsor: Calvin R. Musselman
House Sponsor: Thomas W. Peterson

LONG TITLE

General Description:

This bill addresses construction site storm water runoff controls.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes standards for how the Division of Water Quality:
  - • regulates controls for storm water runoff;
  - • imposes a fine for violation; and
  - • inspects construction sites impacting storm water runoff;
- ► establishes exceptions for the Department of Transportation;
- ► establishes penalties for non-compliance; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-5-105, as last amended by Laws of Utah 2024, Chapter 502
19-5-108.3, as enacted by Laws of Utah 2024, Chapter 502
19-5-111, as last amended by Laws of Utah 2012, Chapter 360
19-5-115, as last amended by Laws of Utah 2024, Chapter 158

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

Section 1. Section 19-5-105 is amended to read:

19-5-105. Rulemaking authority and procedure.

(1) (a) Except as provided in Subsections (2) and (3), no rule that the board makes for the purpose of the state administering a program under the federal Clean Water Act or the federal Safe Drinking Water Act may be more stringent than the corresponding federal regulations.

(b) In making rules, the board may incorporate by reference corresponding federal regulations.

(c) Any rule of the board is subject to Section 63G-3-502.

(2) (a) The board may make rules more stringent than corresponding federal regulations for the purpose described in Subsection (1), only if [~~it~~]the board makes a written finding after public comment and hearing and based on evidence in the record that the corresponding federal regulations are not adequate to protect public health and the environment of the state.

(b) [~~The~~]Except as described in Subsection (4), a municipal system authority may not make requirements for permits that are more stringent than corresponding federal regulations for the purpose described in Subsection (1), unless the municipal system authority makes a written finding after public comment and hearing and based on evidence in the record that the corresponding federal regulations are not adequate to protect public health and the environment of the state.

(c) The board [~~and~~]or a municipal system [~~shall include with~~]authority that makes a written finding described in Subsection (2)(a) [~~an opinion~~]or (2)(b) shall include a finding referring to and evaluating the public health and environmental information and studies contained in the record that [~~form~~]forms the basis for the board's or municipal [~~system's conclusion~~]system authority's finding described in Subsection (2)(a) or (2)(b).

(3) The board may make rules related to agriculture water more stringent than the corresponding federal regulations if the commission approves the rules being more stringent than the corresponding federal regulations.

(4) The Department of Transportation may make requirements more stringent than corresponding federal regulations when acting under a consent decree related to the administration of the Federal Water Pollution Control Act, 33 U.S.C. Sec. 1251, et seq.

Section 2. Section 19-5-108.3 is amended to read:

19-5-108.3. Construction site storm water runoff control.

(1) As used in this section:

(a) (i) "Applicant" means a person that applies for an authorization to discharge under a construction storm water permit to conduct or propose to conduct a use of land for a construction site.

(ii) "Applicant" includes a person granted an authorization to discharge under a construction storm water permit once the authorization has been granted.

(b) "Application" means a construction storm water permit application.

(c) "Authority" means the Division of Water Quality or a municipal system authority.

[~~(c)~~](d) "Best management practice" means the methods, measures, or practices in compliance with [~~the federal Clean Water Act~~]40 C.F.R. Part 450.

[~~(d)~~](e) "Construction storm water permit" means a permit required for soil disturbances where the construction activity causes a soil disturbance of:

(i) [~~of~~]an acre or more [~~,~~]; or

(ii) [~~including~~]less than an acre if [~~it~~]the application is part of a common plan of development or sale [~~, where the disturbance is caused by construction activity.~~].

[~~(e)~~](f) "Electronic site inspection" means geo-located and time-stamped [~~photos taken, evaluated, and submitted electronically by the applicant to the municipal system.~~]photographs the applicant takes, evaluates, and submits electronically to the authority.

(g) "Immediate threat" means contaminants are entering a river, a stream, or a lake.

(h) "Imminent threat" means contaminants are anticipated to be discharged into a river, a stream, or a lake within 48 hours.

(i) "Municipal system authority" means the entity that is responsible for the oversight of the municipal system.

(j) [~~(f)~~] "Municipal system" means a municipal separate storm sewer system described in [~~the federal Clean Water Act~~]40 C.F.R. Sec. 122.26.

[~~(g)~~](k) "Oversight inspection" means a construction site inspection performed by the [~~municipal system~~]authority to [~~assess~~]impose compliance with the permit.

[~~(h)~~](l) "Permit" means a construction storm water permit.

[~~(i)~~](m) "Prevention plan" means the storm water pollution prevention plan described in [~~the federal Clean Water Act~~]40 C.F.R. Sec. 122.26.

[~~(j)~~](n) "Program" means [~~the~~]a program described in Subsection [~~(2)~~]19-5-104(3)(a).

(o) (i) "State transportation project" means a state project on public land to construct, reconstruct, replace, improve, maintain, or preserve transportation infrastructure.

(ii) "State transportation project" includes:

(A) a highway; or

(B) a public transit facility.

[~~(k) "Violation" means a failure to implement or maintain preferred best management practices.~~]

[~~(2) This section does not supersede rules or regulations created by the board or division under this chapter.~~]

[~~(3) No permit, rule, or action by a municipal system for the purpose of administering the program may be more stringent than the minimum requirements of the federal Clean Water Act.~~]

[~~(4)~~](2) [~~A municipal system~~]The authority may not [~~deviate from the federal Clean Water Act~~]make or enforce a rule, an ordinance, or a policy regarding the municipal system, more stringent than the corresponding federal regulations under the federal Clean Water Act, unless [~~the deviation is~~]expressly permitted by state statute.

[~~(5)~~](3) (a) Each [~~municipal system~~]authority shall determine the [~~municipal system's~~]authority's preferred best management practices.

(b) Each [~~municipal system~~]authority shall publish the [~~municipal system's~~]authority's preferred best management practices on [~~a website controlled by the municipal system~~]the authority's website.

[~~(6)~~](4) Each [~~municipal system~~]authority shall:

(a) maintain a list of requirements that make a complete application for a [~~permit~~]prevention plan approval; and

(b) publish [~~on a website controlled by the municipal system~~]the list described in Subsection [~~(6)(a)~~](4)(a) on the authority's website.

[~~(7)~~](5) [~~The list~~]Except as described in Section 19-5-105, the list of requirements described in Subsection [~~(6)(a)~~](4)(a) may not exceed the [~~template in the federal Clean Water Act.~~]application requirements of 40 C.F.R. Part 122, Subpart B.

[~~(8) (a) Each municipal system shall complete the review of the prevention plan within 14 business days after the day on which the applicant submits a complete prevention plan.~~]

[~~(b)~~](6) (a) To apply for a prevention plan approval with a municipal system authority, an applicant shall submit to the municipal system authority a prevention plan for review.

(b) A municipal system authority has 14 business days after the day on which an applicant submits a prevention plan to review the prevention plan for compliance with local ordinances, state law, and federal law.

(c) [~~Each municipal system~~]A municipal system authority may request more information, or modification to the prevention plan, if the request:

(i) [~~is specific~~]for more information, lists specifically why the prevention plan is noncompliant; and

(ii) for modification:

(A) includes citations to the permit requirements, local ordinances, [~~or~~]state law, or federal law that require the modification to the prevention plan; and

[~~(iii)~~](B) is logged in an index of requested modification.

[~~(c)~~](d) [~~Each municipal system has 14~~]The municipal system authority has five business days after the day on which the applicant submits the information or modification described in Subsection [~~(8)(b)~~](6)(b)to complete the review of the prevention plan.

(e) Once the review of the prevention plan is complete, the municipal system authority shall notify the applicant, in writing, whether the authorization to discharge is granted.

[~~(9) A municipal system shall not impose a fine.~~]

[~~(10) Any violation found by the municipal system may not result in an order to stop construction activity if:~~]

[~~(a) an applicant selects the preferred best management practice for the site conditions;~~]

[~~(b) an applicant implements and properly maintains the best management practices as described in Subsection (5), by the municipal system; and~~]

[~~(c) the violation is a result from a deficiency in the best management practice.~~]

[~~(11)~~](7) (a) The [~~municipal system~~]authority:

(i) shall notify the applicant, in writing, of a specific violation;

(ii) shall provide the applicant a reasonable time of at least [~~24 hours~~]one business day to correct the specific violation; and

(iii) may perform an inspection to verify that the applicant corrects the specific violation [~~is corrected~~].

(b) If an applicant does not correct the specific violation described in Subsection [~~(11)(a)(i)~~](7)(a)(i) within the [~~deadline~~]timeline set under Subsection [~~(11)(a)(ii)~~](7)(a)(ii), the [~~municipal system~~]authority:

(i) shall [~~notify the applicant, in writing~~]issue a written warning, that the applicant has not corrected the specific violation [~~has not been corrected~~];

(ii) [~~may issue a written warning that construction activity may be stopped~~]may impose a fine if the applicant does not correct the specific violation [~~is not corrected~~] within no less than [~~another 24-hour period~~]an additional one business day; and

(iii) may perform an inspection to verify that the applicant corrected the specific violation [~~is corrected~~].

(c) If an applicant does not correct the specific violation [~~described in~~]for which the applicant received notice in accordance with Subsection [~~(11)(a)(i)~~](7)(a)(i) within the [~~deadline~~]timeline set under Subsection [~~(11)(b), the municipal system~~](7)(b), the authority:

(i) shall notify the applicant, in writing, that the applicant has not corrected the specific violation [~~has not been corrected~~]; and

(ii) may [~~order the applicant to stop construction activity until the municipal system performs an inspection to verify that the violation is corrected or the applicant demonstrates that the violation is corrected through electronic site inspection.~~]impose an administrative fine for each occurrence as follows:

(A) $500 per occurrence for working without an approved storm water permit;

(B) $300 per occurrence for tracking mud on road;

(C) $250 per occurrence for failure to clean up or report spills;

(D) $100 per occurrence for failure to conduct storm water inspections;

(E) $100 per occurrence for failure to maintain storm water records; and

(F) $500 per site, per occurrence, for failure to use general best management practices, as determined by the authority; and

(iii) may impose the administrative fine:

(A) for each business day the specific violation continues beginning on the day after the day on which the authority issues the administrative fine; and

(B) within 30 days after the day on which the applicant corrects the violation.

(d) The authority shall:

(i) impose each fine in writing and clearly document the specific violation in the writing; and

(ii) deposit collected fines into a restricted account for education and outreach under a program.

[~~(d) A municipal system may not impose the process described in this Subsection (11) later than 30 days after the day on which the municipal system provides the required preceding notice of violation or continuing violation.~~]

(e) [~~A municipal system~~]Except as provided in Subsection (7)(f), the authority may not issue an order to stop construction activity for a violation if:

(i) an applicant selects the preferred best management practice for the site conditions;

(ii) an applicant implements and properly uses the preferred best management practices; and

(iii) the violation results from a deficiency in the preferred best management practice.

(f) The authority may issue an order to stop construction [~~earlier than described in Subsection (11)(e)(ii)~~]if the [~~municipal system~~]authority has a clearly documented reason articulating an immediate threat to water quality.

[~~(f)~~](g) [~~A municipal system~~]The authority may recoup the reasonable costs incurred to correct a specific violation the applicant refuses to correct after the enforcement process described in this Subsection [~~(11)~~](7) has been exhausted if the [~~municipal system~~]authority, at the time of clean up, determines [~~a~~]there is an imminent threat of significant harm to water quality or the storm water system [~~is imminent~~].

(h) An authority may not impose a fine for any reason except as provided in Subsection (7).

(8) (a) Subsections (3) through (7) do not apply to the Department of Transportation.

(b) The Department of Transportation may implement financial disincentives as part of a project contract or specifications.

(c) The Department of Transportation may use financial disincentives under this Subsection (8) to offset the cost of a state transportation project.

[~~(12)~~](9) (a) [~~A municipal system~~]The authority shall develop a checklist for a pre-construction prevention plan review that is consistent with the [~~federal Clean Water Act~~]current EPA Construction General Permit.

(b) The applicant, or an applicant's designee, shall participate in the pre-construction site inspections.

(c) [~~A municipal system~~]The authority may conduct a pre-construction site inspection in person or using an electronic site inspection tool.

[~~(13)~~](10) (a) The authority that owns the municipal system that accepts runoff from the construction site shall inspect the construction site.

(b) Each [~~municipal system~~]authority shall develop, publish, and implement standard operating procedures, forms, or similar types of documents for construction site inspections.

(c) The applicant shall allow construction site inspections by the authority.

[~~(14)~~](11) (a) [~~A municipal system~~]Except as provided in Subsection (12), the authority shall conduct an oversight inspection through an electronic site inspection.

(b) Photographs submitted for electronic site inspection shall:

(i) include meta data verifying the date, time, and GPS location corresponding to the construction site; and

(ii) be of sufficient resolution and clarity to assess compliance with general best management practices.

(c) An applicant may opt out of the electronic site inspection and instead elect an on-site inspection.

[~~(15)~~](12) [~~A municipal system~~]The authority may conduct an on-site inspection if the [~~municipal system~~]authority:

(a) has a documented reason for justifying an on-site oversight inspection [~~.~~], which may include:

(i) alterations of electronic photographs;

(ii) failure to submit an electronic site inspection at the appropriate time; or

(iii) the construction site is within one-half mile of a river, a stream, or a lake;

(b) is inspecting a state transportation project; or

(c) is inspecting a military project.

(13) Only the authority that owns the municipal system that accepts runoff from the construction site may require post-construction maintenance agreements.

[~~(16) Each municipal system shall:~~]

[~~(a) develop and publish a procedure for the applicant to notify the municipal system that the applicant has completed active construction and is prepared for the municipal system to conduct verification of final stabilization; and~~]

[~~(b) provide a copy of the procedure described in Subsection (16)(a) to the applicant when the municipal system issues the permit.~~]

Section 3. Section 19-5-111 is amended to read:

19-5-111. Notice of violations -- Hearings.

(1) Whenever the director determines there are reasonable grounds to believe that there has been a violation of this chapter or any order of the director or the board, the director may give written notice to the alleged violator specifying the provisions that have been violated and the facts that constitute the violation.

(2) The notice shall require that the matters complained of be corrected.

(3) [~~The~~]Except as provided in Subsection (4), the notice may order the alleged violator to appear before an administrative law judge as provided by Section 19-1-301 at a time and place specified in the notice and answer the charges.

(4) A person that receives a notice may request an informal adjudicative proceeding to contest a notice or fine imposed in accordance with Subsection 19-5-108.3(7)(c), Section 63G-4-203, and procedural rules the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section 19-5-115 is amended to read:

19-5-115. Violations -- Penalties -- Civil actions by director -- Ordinances and rules of political subdivisions -- Acts of individuals.

(1) As used in this section:

(a) "Criminal negligence" means the same as that term is defined in Section 76-2-103.

(b) "Knowingly" means the same as that term is defined in Section 76-2-103.

(c) (i) "Organization" means a legal entity, other than a government, established or organized for any purpose [~~, and~~].

(ii) "Organization" includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

(d) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(e) "Willfully" means the same as that term is defined in Section 76-2-103.

(2) (a) A person [~~who~~]that violates this chapter, or any permit, rule, or order adopted under this chapter, [~~upon a showing that the violation occurred,~~]is subject in a civil proceeding to a civil penalty not to exceed $10,000 per day of violation.

(b) The department shall retain the revenue from an administrative fine under Subsection 19-5-108.3(7) as a dedicated credit for the purposes of outreach and education to applicants.

(c) The division may issue an order to stop construction in accordance with Subsection 19-5-108.3(7).

(3) (a) A person is guilty of a class A misdemeanor [~~and is~~], subject to imprisonment under Section 76-3-204, and subject to a fine not exceeding $25,000 per day [~~who~~], if the person with criminal negligence:

(i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any condition or limitation included in a permit issued under Subsection 19-5-107(3);

(ii) violates Section 19-5-113;

(iii) violates a pretreatment standard or toxic effluent standard for publicly owned treatment works; or

(iv) manages sewage sludge in violation of this chapter or rules adopted under this chapter.

(b) A person is guilty of a third degree felony [~~and is~~], subject to imprisonment under Section 76-3-203, and subject to a fine not to exceed $50,000 per day of violation [~~who~~], if the person knowingly:

(i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any condition or limitation included in a permit issued under Subsection 19-5-107(3);

(ii) violates Section 19-5-113;

(iii) violates a pretreatment standard or toxic effluent standard for publicly owned treatment works; or

(iv) manages sewage sludge in violation of this chapter or rules adopted under this chapter.

(4) A person is guilty of a third degree felony [~~and~~], subject to imprisonment under Section 76-3-203, and [~~shall be punished by~~]subject to a fine not exceeding $10,000 per day of violation [~~if that person~~], if the person knowingly:

(a) makes a false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or by any permit, rule, or order issued under this chapter; or

(b) falsifies, tampers with, or knowingly renders inaccurate a monitoring device or method required to be maintained under this chapter.

(5) (a) A person is guilty of a second degree felony [~~and, upon conviction, is~~], subject to imprisonment under Section 76-3-203, and subject to a fine of not more than $250,000 if [~~that~~]the person:

(i) knowingly violates this chapter, or any permit, rule, or order adopted under this chapter; and

(ii) knows at that time that the person is placing another person in imminent danger of death or serious bodily injury.

(b) If a person is an organization, the organization shall, upon conviction of violating Subsection (5)(a), be subject to a fine of not more than $1,000,000.

(c) (i) A defendant who is an individual is considered to have acted knowingly if:

(A) the defendant's conduct placed another person in imminent danger of death or serious bodily injury; and

(B) the defendant was aware of or believed that there was an imminent danger of death or serious bodily injury to another person.

(ii) Knowledge possessed by a person other than the defendant may not be attributed to the defendant.

(iii) Circumstantial evidence may be used to prove that the defendant possessed actual knowledge, including evidence that the defendant took affirmative steps to be shielded from receiving relevant information.

(d) (i) It is an affirmative defense to prosecution under this Subsection (5) that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of:

(A) an occupation, a business, or a profession; or

(B) medical treatment or medical or scientific experimentation conducted by professionally approved methods and the other person was aware of the risks involved before giving consent.

(ii) The defendant has the burden of proof to establish an affirmative defense under this Subsection (5)(d) and shall prove that defense by a preponderance of the evidence.

(6) For purposes of Subsections (3) through (5), a single operational upset that leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(7) (a) The director may bring a civil action for appropriate relief, including a permanent or temporary injunction, for any violation or threatened violation for which the director is authorized to issue a compliance order under Section 19-5-111.

(b) Notwithstanding Title [~~78A, Chapter 3a, Venue for Civil Actions~~]78B, Chapter 3a, Venue for Civil Actions, the director shall bring a civil action in the district court where the violation or threatened violation occurs if the director brings the action in a district court.

(8) (a) The attorney general is the legal advisor for the board and the director and shall defend the board or director in an action or proceeding brought against the board or director.

(b) The county attorney or district attorney, as appropriate under Section 17-18a-202 or 17-18a-203, in the county in which a cause of action arises, shall bring an action, civil or criminal, requested by the director, to abate a condition that exists in violation of, or to prosecute for the violation of, or to enforce, the laws or the standards, orders, and rules of the board or the director issued under this chapter.

(c) The director may initiate an action under this section and be represented by the attorney general.

(9) If a person fails to comply with a cease and desist order that is not subject to a stay pending administrative or judicial review, the director may initiate an action for and be entitled to injunctive relief to prevent any further or continued violation of the order.

(10) A political subdivision of the state may enact and enforce ordinances or rules for the implementation of this chapter that are not inconsistent with this chapter.

(11) (a) Except as provided in [~~Subsection~~]Subsections 19-5-108.3(7)(d) and 19-5-115(11)(b) and (c), the department shall deposit penalties [~~assessed~~]imposed and collected under the authority of this section [~~shall be deposited~~]into the General Fund.

(b) The department may reimburse itself and local governments from money collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.

(c) The department shall regulate reimbursements by making rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) define qualifying environmental enforcement activities; and

(ii) define qualifying extraordinary expenses.

(12) (a) For purposes of this section or an ordinance or rule enacted by a political subdivision under Subsection (10), an act performed by an individual wholly within the scope of the individual's employment with an organization, is attributed to the organization.

(b) Notwithstanding the other provisions of this section, an action may not be brought against an individual acting wholly within the scope of the individual's employment with an organization if the action is brought under:

(i) this section;

(ii) an ordinance or rule issued by a political subdivision under Subsection (10); or

(iii) any local law or ordinance governing discharge.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 159
S. B. 234
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

SEVERANCE AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill modifies provisions relating to severance of oil, gas, and minerals.

Highlighted Provisions:

This bill:

- ► repeals and reenacts the severance tax credit for mining exploration to create an agreement and post-performance certificate process;
- ► schedules the repeal of the severance tax credit for mining exploration but requires legislative review before the repeal;
- ► authorizes a taxpayer to claim the high cost infrastructure tax credit against severance tax liability instead of income tax liability;
- ► allows a taxpayer to claim the high cost infrastructure credit against severance tax liability during the 2025 taxable year for costs incurred during the 2024 taxable year;
- ► creates a new severance tax credit part and moves existing tax credits to the new part;
- ► addresses federal agency consultation before certain acts related to federal designations and minerals; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

40-6-16, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 190
59-5-101, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2009, Chapter 344
59-5-102, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2021, Chapter 280
59-7-619, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2023, Chapter 473
59-10-1034, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2021, Chapters 64, 280 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 280
63I-1-240, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 34, 385
63I-1-259, (Effective 05/07/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
79-6-401, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 4
79-6-602, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2024, Chapter 192
79-6-603, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2024, Chapter 44
79-6-604, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2022, Chapter 44

ENACTS:

59-5-301, (Effective 05/07/25) (Applies beginning 01/01/25) Utah Code Annotated 1953
59-5-302, (Effective 05/07/25) (Applies beginning 01/01/25) Utah Code Annotated 1953
59-5-303, (Effective 05/07/25) (Applies beginning 01/01/25) Utah Code Annotated 1953
59-5-305, (Effective 05/07/25) (Applies beginning 01/01/25) Utah Code Annotated 1953
63L-2-202, (Effective 05/07/25) Utah Code Annotated 1953

REPEALS AND REENACTS:

40-6-24, (Effective 05/07/25) (Applies beginning 01/01/25) as enacted by Laws of Utah 2022, Chapter 108

RENUMBERS AND AMENDS:

59-5-304, (Effective 05/07/25) (Applies beginning 01/01/25) (Renumbered from 59-5-216, as enacted by Laws of Utah 2022, Chapter 108)

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

Section 1. Section 40-6-16 is amended to read:
40-6-16 (Effective 05/07/25). Duties of division.

In addition to the duties assigned by the board, the division shall:

(1) develop and implement an inspection program that will include production data, pre-drilling checks, and site security reviews;

(2) publish a monthly production report;

(3) publish a monthly gas processing plant report;

(4) review and evaluate, before a hearing, evidence submitted with the petition to be presented to the board;

(5) require adequate assurance of approved water rights in accordance with rules and orders enacted under Section 40-6-5;

(6) notify the county executive of the county in which the drilling will take place in writing of the issuance of a drilling permit;

(7) complete the verification of natural gas to hydrogen conversion plants required by Section [~~59-5-102~~]59-5-303;

(8) enter agreements and issue tax credit certificates in accordance with Section 40-6-24; and

(9) through the division's director, implement Title 19, Chapter 12, Pollution Control Act.

Section 2. Section 40-6-24 is repealed and re-enacted to read:

40-6-24 (Effective 05/07/25) (Applies beginning 01/01/25). Tax credit for mining exploration -- Division to issue certificates.

(1) As used in this section:

(a) "Activity" means:

(i) surveying by a geophysical method or by a geochemical method;

(ii) drilling one or more exploration holes;

(iii) conducting underground exploration;

(iv) surface trenching or bulk sampling;

(v) taking aerial photographs;

(vi) geological and geophysical logging;

(vii) sample analysis; or

(viii) metallurgical testing.

(b) "Assigned tax credit certificate" means a tax credit certificate the division issues to a person to which a claimant assigns the claimant's tax credit.

(c) (i) "Certified expenditure" means a cost incurred for an activity in direct support of an eligible exploration activity conducted at a specific site.

(ii) "Certified expenditure" includes:

(A) the cost of obtaining an approval, a permit, a license, or a certificate for an eligible exploration activity;

(B) a direct labor cost and the cost of benefits for employees directly associated with work described in Subsection (1)(c)(i);

(C) the cost of leasing equipment from a third party;

(D) the cost of owning, maintaining, or operating equipment;

(E) insurance and bond premiums associated with the activities described in Subsections (1)(c)(ii)(A) through (D);

(F) the cost of a consultant or an independent contractor; and

(G) any general expense related to operating the business engaged in the eligible exploration activity to the extent the expense is directly attributable to the work described in Subsection (1)(c)(i).

(iii) "Certified expenditure" does not include:

(A) return on investment; or

(B) insurance or bond premiums not described in Subsection (1)(c)(ii)(E).

(d) (i) "Claimant" means a person that:

(A) is engaged in the business of mining or extracting minerals;

(B) is subject to a severance tax, for the taxable year in which the person applies for a tax credit certificate, under Title 59, Chapter 5, Part 2, Mining Severance Tax, as a direct result of minerals produced from eligible exploration activities; and

(C) makes a certified expenditure.

(ii) "Claimant" does not include a person in the business of mining or extracting minerals on the Great Salt Lake from:

(A) the brines of the Great Salt Lake, except for a person using a nonevaporative mining or extraction method; or

(B) a material or secondary source, including tails, slag, waste dumps, or another similar secondary source, derived from the brines of the Great Salt Lake.

(e) "Eligible claimant" means a claimant or a person to which a claimant assigns a tax credit in accordance with Subsections (4)(a)(vi) and (7).

(f) "Eligible exploration activity" means an activity performed in the state that is associated with:

(i) producing a mineral from a natural deposit that is not part of a mine that exists at the time the activity begins;

(ii) producing a mineral not under production within a mine that exists at the time the activity begins;

(iii) recovering a mineral not under production from a secondary source at the time the activity begins, including tails, slag, waste dumps, or another similar secondary source, whether in solution or otherwise;

(iv) expanding production of a mineral using a mining method not used within a mine that exists at the time the activity begins; or

(v) expanding existing production of a mineral that requires a new exploration or mining permit or the modification of a permit issued before the activity begins.

(g) "Geochemical method" means a method of gathering geochemical data, including collecting soil, rock, water, air, vegetation, or any other similar item and performing a chemical analysis on the item.

(h) "Geophysical method" means a method of gathering geophysical data that is used in mineral exploration, including seismic, gravity, magnetic, radiometric, radar, electromagnetic, and other remote sensing measurements.

(i) "Mine" means the same as that term is defined in Section 59-5-201.

(j) "Mineral" means:

(i) a metalliferous mineral as defined in Section 59-5-201; or

(ii) a metalliferous compound as defined in Section 59-5-202.

(k) "Tax credit certificate" means a certificate the division issues that:

(i) lists the claimant's name and taxpayer identification number;

(ii) lists the amount of the claimant's tax credit authorized under this section for a taxable year; and

(iii) includes other information as determined by the division.

(2) Before claiming a tax credit under Section 59-5-304, a person shall apply to the division to enter an agreement and, upon becoming an eligible claimant, to receive a tax credit certificate.

(3) (a) Except as provided in Subsection (3)(b), a person shall enter an agreement with the division before beginning eligible exploration activities.

(b) A person that has certified expenditures from an eligible exploration activity for a taxable year beginning on or after January 1, 2025, and beginning before January 1, 2026, shall enter an agreement with the division as provided by rule.

(4) (a) The agreement shall provide:

(i) the eligible exploration activities for which the person may incur certified expenditures eligible to receive a tax credit certificate, which may include certified expenditures from a taxable year beginning on or after January 1, 2025, and beginning before January 1, 2027;

(ii) the type of mineral the person intends to produce;

(iii) the maximum number of years a person has between the beginning of eligible exploration activities and the production of minerals as a direct result of the eligible exploration activities;

(iv) the maximum number of years, which may not exceed 20 years, that a person may receive a tax credit certificate;

(v) the requirements for reporting certified expenditures and production of minerals as a direct result of eligible exploration activity, including:

(A) a description of the mine where the eligible exploration activity occurred;

(B) evidence that the certified expenditure occurred and the amount of the certified expenditure; and

(C) the means for verifying that severance tax liability occurs as a direct result of an eligible exploration activity; and

(vi) a requirement that, if a claimant intends to assign a tax credit, the claimant shall provide to the division a written notice of intent to assign the tax credit to another person, in a form the division approves, that includes:

(A) written certification or other proof that the claimant irrevocably elects not to claim the tax credit authorized by the tax credit certificate; and

(B) contact information for the person to which the claimant is assigning the tax credit.

(b) The parties to the agreement may modify the terms of the agreement.

(c) (i) The division shall approve certified expenditures upon receiving a report of a certified expenditure unless the division determines that the expenditure does not meet the definition of certified expenditure.

(ii) If the division determines that an expenditure does not meet the definition of certified expenditure, the division shall provide the person a written explanation that states each reason the division denied the expenditure and give the person an opportunity to correct any deficiency or provide additional information.

(5) (a) A person with an agreement may apply for a tax credit certificate:

(i) upon becoming an eligible claimant; and

(ii) for a taxable year beginning on or after January 1, 2027.

(b) The person shall include in the application for a tax credit certificate the following information for the taxable year in which the person seeks a tax credit certificate:

(i) proof that the person is an eligible claimant;

(ii) a description of the mineral that the eligible claimant produced and evidence to support that the mineral is produced from an eligible exploration activity;

(iii) the amount of severance tax liability as a direct result of minerals produced from an eligible exploration activity that the eligible claimant incurred for the taxable year; and

(iv) any other information the division requests.

(6) (a) After the division receives an application for a tax credit certificate, the division shall:

(i) verify that the person is an eligible claimant; and

(ii) determine whether the eligible claimant has approved certified expenditures.

(b) Subject to Subsection (6)(c), the division shall issue a tax credit certificate in an amount equal to the lesser of:

(i) the amount of certified expenditures minus any certified expenditures for which the division previously issued a tax credit certificate; or

(ii) the claimant's severance tax liability as a direct result of minerals produced from an eligible exploration activity for the taxable year.

(c) (i) The division may not issue a tax credit certificate if the aggregate value of tax credit certificates issued for certified expenditures related to eligible exploration activities at the same mine exceeds $20,000,000.

(ii) Notwithstanding Subsection (6)(c)(i), the division may issue a tax credit certificate up to an aggregate value of $30,000,000 for certified expenditures related to eligible exploration activities at the same mine if the certified expenditures that exceed $20,000,000 are for eligible exploration activities undertaken to produce a mineral for which the United States is greater than 50% net import reliant, as provided in the Mineral Commodity Summaries published by the United States Geological Survey, in the calendar year in which an eligible exploration activity commences.

(7) (a) If the claimant meets the requirements of Subsection (4)(a)(vi), the division shall issue an assigned tax credit certificate to the person identified by the claimant in an amount equal to the lesser of:

(i) the amount of the claimant's certified expenditures minus any certified expenditures for which the division previously issued a tax credit certificate; or

(ii) the person's severance tax liability as a direct result of minerals produced from an eligible exploration activity for the taxable year.

(b) A person that receives an assigned tax credit certificate may claim the tax credit under Section 59-5-304 as if the person met the requirements of Section 59-5-304, if the person files a return under Title 59, Chapter 5, Part 2, Mining Severance Tax.

(8) An eligible claimant that receives a tax credit certificate or assigned tax credit certificate in accordance with this section shall retain the tax credit certificate or assigned tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.

(9) The division shall submit annually to the State Tax Commission an electronic list that includes:

(a) the name and identifying information for:

(i) each claimant to which the division issues a tax credit certificate; and

(ii) each person to which the division issues an assigned tax credit certificate in accordance with Subsection (7);

(b) for each person described in Subsection (9)(a), the amount of tax credit stated on the tax credit certificate or assigned tax credit certificate; and

(c) for each person described in Subsection (9)(a)(ii), information necessary to identify the original tax credit certificate and the assigned tax credit certificate.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules governing the administration of the agreement and tax credit certificate process described in this section.

Section 3. Section 59-5-101 is amended to read:

59-5-101 (Effective 05/07/25) (Applies beginning 01/01/25). Definitions.

As used in this part:

(1) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(2) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(3) "Condensate" means [~~those~~]the hydrocarbons, regardless of gravity, that occur naturally in the gaseous phase in the reservoir that are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.

(4) "Crude oil" means [~~those~~]the hydrocarbons, regardless of gravity, that occur naturally in the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.

(5) "Development well" means any oil and gas producing well other than a wildcat well.

(6) "Division" means the Division of Oil, Gas, and Mining established under Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining.

(7) "Enhanced recovery project" means:

(a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a reservoir for the purpose of:

(i) augmenting reservoir energy;

(ii) modifying the properties of the fluids or gases in a reservoir; or

(iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and gas through the joint use of two or more well bores; and

(b) a project initially approved by the board as a new or expanded enhanced recovery project on or after January 1, 1996.

(8) (a) "Gas" means:

(i) natural gas;

(ii) natural gas liquids; or

(iii) any mixture of natural gas and natural gas liquids.

(b) "Gas" does not include solid hydrocarbons.

(9) "Incremental production" means that part of production, certified by the [~~Division of Oil, Gas, and Mining~~]division, which is achieved from an enhanced recovery project that would not have economically occurred under the reservoir conditions existing before the project and that has been approved by the division as incremental production.

(10) "Natural gas" means [~~those~~]the hydrocarbons, other than oil and other than natural gas liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form.

(11) "Natural gas liquids" means [~~those~~]the hydrocarbons initially in reservoir natural gas, regardless of gravity, that are separated in gas processing plants from the natural gas as liquids at the surface through the process of condensation, absorption, adsorption, or other methods.

(12) (a) "Oil" means:

(i) crude oil;

(ii) condensate; or

(iii) any mixture of crude oil and condensate.

(b) "Oil" does not include solid hydrocarbons.

(13) "Oil or gas field" means a geographical area overlying oil or gas structures [~~. The~~], the boundaries of [~~oil or gas fields~~]which shall conform with the boundaries as fixed by the [~~Board and Division of Oil, Gas, and Mining~~]board and division under Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining.

(14) "Oil shale" means a group of fine black to dark brown shales containing bituminous material that yields petroleum upon distillation.

(15) "Operator" means any person engaged in the business of operating an oil or gas well, regardless of whether the person is:

(a) a working interest owner;

(b) an independent contractor; or

(c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(16) "Owner" means any person having a working interest, royalty interest, payment out of production, or any other interest in the oil or gas produced or extracted from an oil or gas well in the state, or in the proceeds of this production.

(17) (a) Subject to Subsections (17)(b) and (c), "processing costs" means the reasonable actual costs of processing oil or gas to remove:

(i) natural gas liquids; or

(ii) contaminants.

(b) If processing costs are determined on the basis of an arm's-length contract, processing costs are the actual costs.

(c) (i) If processing costs are determined on a basis other than an arm's-length contract, processing costs are those reasonable costs associated with:

(A) actual operating and maintenance expenses, including oil or gas used or consumed in processing;

(B) overhead directly attributable and allocable to the operation and maintenance; and

(C) (I) depreciation and a return on undepreciated capital investment; or

(II) a cost equal to a return on the investment in the processing facilities as determined by the commission.

(ii) Subsection (17)(c)(i) includes situations where the producer performs the processing for the producer's product.

(18) "Producer" means any working interest owner in any lands in any oil or gas field from which gas or oil is produced.

[~~(19) "Recompletion" means any downhole operation that is:~~]

[~~(a) conducted to reestablish the producibility or serviceability of a well in any geologic interval; and~~]

[~~(b) approved by the division as a recompletion.~~]

[~~(20)~~](19) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

[~~(21)~~](20) "Royalty interest owner" means the owner of an interest in oil or gas, or in the proceeds of production from the oil or gas who does not have the obligation to share in the expenses of developing and operating the property.

[~~(22)~~](21) "Solid hydrocarbons" means:

(a) coal;

(b) gilsonite;

(c) ozocerite;

(d) elaterite;

(e) oil shale;

(f) tar sands; and

(g) all other hydrocarbon substances that occur naturally in solid form.

[~~(23)~~](22) "Stripper well" means:

(a) an oil well whose average daily production for the days the well has produced has been 20 barrels or less of crude oil a day during any consecutive 12-month period; or

(b) a gas well whose average daily production for the days the well has produced has been 60 MCF or less of natural gas a day during any consecutive 90-day period.

[~~(24)~~](23) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon and require further processing other than mechanical blending before becoming finished petroleum products.

[~~(25)~~](24) (a) Subject to Subsections [~~(25)(b)~~](24)(b) and (c), "transportation costs" means the reasonable actual costs of transporting oil or gas products from the well to the point of sale.

(b) If transportation costs are determined on the basis of an arm's-length contract, transportation costs are the actual costs.

(c) (i) If transportation costs are determined on a basis other than an arm's-length contract, transportation costs are those reasonable costs associated with:

(A) actual operating and maintenance expenses, including fuel used or consumed in transporting the oil or gas;

(B) overhead costs directly attributable and allocable to the operation and maintenance; and

(C) depreciation and a return on undepreciated capital investment.

(ii) Subsection [~~(25)(c)(i)~~](24)(c)(i) includes situations where the producer performs the transportation for the producer's product.

(d) Regardless of whether transportation costs are determined on the basis of an arm's-length contract or a basis other than an arm's-length contract, transportation costs include:

(i) carbon dioxide removal;

(ii) compression;

(iii) dehydration;

(iv) gathering;

(v) separating;

(vi) treating; or

(vii) a process similar to Subsections [~~(25)(d)(i)~~](24)(d)(i) through (vi), as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(26)~~](25) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

[~~(27)~~](26) "Well [~~or wells~~]" means any extractive means from which oil or gas is produced or extracted, located within an oil or gas field, and operated by one person.

[~~(28)~~](27) "Wildcat well" means an oil and gas producing well which is drilled and completed in a pool, as defined under Section 40-6-2, in which a well has not been previously completed as a well capable of producing in commercial quantities.

[~~(29)~~](28) "Working interest owner" means the owner of an interest in oil or gas burdened with a share of the expenses of developing and operating the property.

[~~(30) (a) "Workover" means any downhole operation that is:~~]

[~~(i) conducted to sustain, restore, or increase the producibility or serviceability of a well in the geologic intervals in which the well is currently completed; and~~]

[~~(ii) approved by the division as a workover.~~]

[~~(b) "Workover" does not include operations that are conducted primarily as routine maintenance or to replace worn or damaged~~

~~equipment.~~]

Section 4. Section 59-5-102 is amended to read:

59-5-102 (Effective 05/07/25) (Applies beginning 01/01/25). Definitions -- Severance tax -- Computation -- Rate -- Annual exemption -- Tax rate reduction.

(1) As used in this section:

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

[~~(b) "Office" means the Office of Energy Development created in Section 79-6-401.~~]

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

[~~(d)~~](b) "Taxable value" means the total value of the oil or gas minus:

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

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

[~~(e)~~](c) "Taxable volume" means:

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

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

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

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

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

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

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

(i) produced; and

(ii) (A) saved;

(B) sold; or

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

[~~(g)~~](e) "Total volume" means:

(i) for oil, the number of barrels:

(A) produced; and

(B) (I) saved;

(II) sold; or

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

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

(A) produced; and

(B) (I) saved;

(II) sold; or

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

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

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

(i) produced; and

(ii) (A) saved;

(B) sold; or

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

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

(i) an interest of:

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

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

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

(ii) the value of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Subject to Subsection [~~(9)~~](7):

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

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

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

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

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

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

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

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

(a) the shipment constitutes a sale; and

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

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

(i) sold;

(ii) transported; or

(iii) delivered.

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

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

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

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

[~~(ii) $30,000.~~]

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

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

[~~(ii) The taxpayer shall prepare a summary of the taxpayer's expenses of a well recompletion or workover during the calendar year that the well recompletion or workover is completed.~~]

[~~(iii) An independent certified public accountant shall:~~]

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

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

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

[~~(v) The division shall return to the taxpayer:~~]

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

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

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

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

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

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

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

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

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

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

[~~(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:~~]

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

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

[~~(8) (a) Subject to the other provisions of this Subsection (8), a taxpayer may claim a tax credit against a severance tax owing on natural gas under this section if:~~]

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

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

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

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

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

[~~(ii) $5,000,000.~~]

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

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

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

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

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

[~~(9)~~](7) A 50% reduction in the tax rate is imposed upon the incremental production achieved from an enhanced recovery project.

[~~(10)~~](8) The taxes imposed by this section are:

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

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

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field.

[~~(11)~~](9) With respect to the tax imposed by this section on each owner of an interest in the production of oil or gas or in the proceeds of the production of oil or gas in the state, each owner is liable for the tax in proportion to the owner's interest in the production or in the proceeds of the production.

[~~(12)~~](10) The tax imposed by this section shall be reported and paid by each producer that takes oil or gas in kind pursuant to an agreement on behalf of the producer and on behalf of each owner entitled to participate in the oil or gas sold by the producer or transported by the producer from the field where the oil or gas is produced.

[~~(13)~~](11) Each producer shall deduct the tax imposed by this section from the amounts due to other owners for the production or the proceeds of the production.

Section 5. Section 59-5-301 is enacted to read:

PART 3. Tax Credits

59-5-301 (Effective 05/07/25) (Applies beginning 01/01/25). Definitions.

As used in this part:

(1) "Division" means the Division of Oil, Gas, and Mining established under Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining.

(2) "High cost infrastructure project" means the same as that term is defined in Section 79-6-602.

(3) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 79-6-602.

(4) "Infrastructure-related revenue" means the same as that term is defined in Section 79-6-602.

(5) "Natural gas" means the same as that term is defined in Section 59-5-101.

(6) "Natural gas liquids" means the same as that term is defined in Section 59-5-101.

(7) "Office" means the Office of Energy Development created in Section 79-6-401.

(8) "Recompletion" means any downhole operation that is:

(a) conducted to reestablish the producibility or serviceability of a well in any geologic interval; and

(b) approved by the division as a recompletion.

(9) "Well" means the same as that term is defined in Section 59-5-101.

(10) (a) "Workover" means any downhole operation that is:

(i) conducted to sustain, restore, or increase the producibility or serviceability of a well in the geologic intervals in which the well is currently completed; and

(ii) approved by the division as a workover.

(b) "Workover" does not include operations that are conducted primarily as routine maintenance or to replace worn or damaged equipment.

Section 6. Section 59-5-302 is enacted to read:

59-5-302 (Effective 05/07/25) (Applies beginning 01/01/25). Tax credit for recompletion or workover.

(1) A taxpayer that pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit against taxes due under Section 59-5-102 equal to the amount stated on a tax credit certificate that the office issues to the taxpayer.

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

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

(b) $30,000.

(3) A taxpayer may carry forward a tax credit allowed under this section for the next three calendar years if the tax credit exceeds the taxpayer's tax liability under Section 59-5-102 for the calendar year in which the taxpayer claims the tax credit.

(4) (a) To claim a tax credit, a taxpayer shall follow the procedures and requirements of this Subsection (4).

(b) The taxpayer shall prepare a summary of the taxpayer's expenses of a recompletion or workover during the calendar year that the taxpayer completed the recompletion or workover.

(c) An independent certified public accountant shall:

(i) review the summary from the taxpayer; and

(ii) provide a report on the accuracy and validity of the amount of expenses of a recompletion or workover that the taxpayer included in the summary, in accordance with the agreed upon procedures.

(d) The taxpayer shall submit the taxpayer's summary and the independent certified public accountant's report to the division to verify that the expenses certified by the independent certified public accountant are recompletion or workover expenses.

(e) The division shall return to the taxpayer:

(i) the taxpayer's summary;

(ii) the report by the independent certified public accountant; and

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

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

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

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

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

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

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

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

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the office may make rules to govern the application process for receiving a tax credit certificate; and

(b) the division shall make rules to establish the agreed upon procedures described in Subsection (4).

Section 7. Section 59-5-303 is enacted to read:

59-5-303 (Effective 05/07/25) (Applies beginning 01/01/25). Tax credit for natural gas converted to hydrogen fuel.

(1) A taxpayer may claim a tax credit against a severance tax owing on natural gas under Section 59-5-102 if:

(a) the taxpayer is required to pay a severance tax on natural gas under Section 59-5-102;

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

(c) all of the natural gas for which the taxpayer owes a severance tax under Section 59-5-102 is used for the production in the state of hydrogen fuel for use in zero emission motor vehicles.

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

(a) the amount of tax that the taxpayer owes under Section 59-5-102; and

(b) $5,000,000.

(3) (a) To claim a tax credit, a taxpayer shall follow the procedures and requirements of this Subsection (3).

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

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

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

(4) The division shall submit to the commission an electronic list that includes the name and identifying information of each taxpayer for which the division completed the verification described in Subsection (3).

Section 8. Section 59-5-304, which is renumbered from Section 59-5-216 is renumbered and amended to read:

[~~59-5-216~~]59-5-304 (Effective 05/07/25) (Applies beginning 01/01/25). Tax credit for mining exploration.

(1) As used in this section:

(a) "Assigned tax credit certificate" means the same as that term is defined in Section 40-6-24.

(b) "Eligible claimant" means a person:

(i) [~~who is an eligible~~]that is a claimant as defined in Section 40-6-24 and obtains a tax credit certificate; or

(ii) to [~~whom~~]which a person described in Subsection [~~(1)(a)(i)~~](1)(b)(i) assigns a tax credit certificate and that obtains an assigned tax credit certificate in accordance with Section 40-6-24.

[~~(b)~~](c) "Tax credit certificate" means the same as that term is defined in Section 40-6-24.

(2) [~~Subject to Subsection (3),~~]For a taxable year beginning on or after January 1, 2027, an eligible claimant may claim a nonrefundable tax credit against severance tax otherwise due under [~~this part~~]Part 2, Mining Severance Tax, in an amount equal to the amount stated on [~~the tax credit certificate for the taxable year.~~]:

(a) the tax credit certificate for the taxable year for an eligible claimant described in Subsection (1)(b)(i); or

(b) the assigned tax credit certificate for the taxable year for an eligible claimant described in Subsection (1)(b)(ii).

[~~(3) An eligible claimant may not claim in any taxable year a credit under this section that exceeds 30% of the eligible claimant's severance tax liability for the taxable year.~~]

[~~(4)~~](3) An eligible claimant may carry forward to the next 15 taxable years the amount of the eligible claimant's tax credit that exceeds the amount described in Subsection [~~(3)~~](2).

Section 9. Section 59-5-305 is enacted to read:

59-5-305 (Effective 05/07/25) (Applies beginning 01/01/25). High cost infrastructure tax credit.

(1) (a) Subject to Subsection (1)(b), an infrastructure cost-burdened entity may claim a nonrefundable tax credit against severance

taxes due under Part 1, Oil and Gas Severance Tax, or Part 2, Mining Severance Tax, for development of a high cost infrastructure project.

(b) An infrastructure cost-burdened entity may not claim a tax credit under this section and under Section 59-7-619 or 59-10-1034 using the same tax credit certificate.

(2) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(3) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if the amount of the severance tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

Section 10. Section 59-7-619 is amended to read:

59-7-619 (Effective 05/07/25) (Applies beginning 01/01/25). Nonrefundable high cost infrastructure development tax credit.

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section 79-6-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 79-6-602.

(c) "Infrastructure-related revenue" means the same as that term is defined in Section 79-6-602.

(d) "Office" means the Office of Energy Development created in Section 79-6-401.

(2) (a) Subject to the other provisions of this section, a corporation that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(b) A corporation that is an infrastructure cost-burdened entity may not claim a tax credit under this section and under Section 59-5-305 using the same tax credit certificate.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(B) the infrastructure-related revenue generated by each high cost infrastructure project;

(C) the information contained in the office's latest report under Section 79-6-605; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

(6) Notwithstanding Section 59-7-903, the commission may not remove the tax credit described in this section from the tax return for a taxable year beginning before January 1, 2027.

Section 11. Section 59-10-1034 is amended to read:

59-10-1034 (Effective 05/07/25) (Applies beginning 01/01/25). Nonrefundable high cost infrastructure development tax credit.

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section 79-6-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 79-6-602.

(c) "Infrastructure-related revenue" means the same as that term is defined in Section 79-6-602.

(d) "Office" means the Office of Energy Development created in Section 79-6-401.

(2) (a) Subject to the other provisions of this section, a claimant, estate, or trust that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(b) A claimant, estate, or trust that is an infrastructure cost-burdened entity may not claim a tax credit under this section and under Section 59-5-305 using the same tax credit certificate.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(B) the infrastructure-related revenue generated by each high cost infrastructure project;

(C) the information contained in the office's latest report under Section 79-6-605; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 12. Section 63I-1-240 is amended to read:

63I-1-240 (Effective 05/07/25). Repeal dates: Title 40.

(1) Section 40-2-204, Coal Miner Certification Panel created -- Duties, is repealed July 1, 2034.

(2) Section 40-6-24, Tax credit for mining exploration -- Division to issue certificates, is repealed July 1, 2037.

Section 13. Section 63I-1-259 is amended to read:

63I-1-259 (Effective 05/07/25). Repeal dates: Title 59.

(1) Subsection 59-1-403(4)(aa), regarding a requirement for the State Tax Commission to inform the Department of Workforce Services whether an individual claimed a federal earned income tax credit, is repealed July 1, 2029.

(2) Section 59-5-304, Tax credit for mining exploration, is repealed July 1, 2037.

[~~(2)~~](3) Section 59-7-618.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July 1, 2029.

[~~(3)~~](4) Section 59-9-102.5, Offset for occupational health and safety related donations, is repealed December 31, 2030.

[~~(4)~~](5) Section 59-10-1033.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July 1, 2029.

Section 14. Section 63L-2-202 is enacted to read:

63L-2-202 (Effective 05/07/25). Federal impacts related to critical mineral deposits.

(1) As used in this section:

(a) "Critical mineral deposit" means a deposit of a mineral, element, substance, or material designated as critical by the Secretary of the Interior in accordance with 30 U.S.C. Sec. 1606.

(b) "Federal designation" means the designation of a:

(i) national monument;

(ii) national conservation area;

(iii) wilderness area or wilderness study area;

(iv) area of critical environmental concern;

(v) research natural area; or

(vi) national recreation area.

(2) The Legislature requests that a federal agency, including the president of the United States, consult with the state before implementing, announcing, or planning a federal designation that may impact the exploration or development of a critical mineral deposit in the state.

Section 15. Section 79-6-401 is amended to read:

79-6-401 (Effective 05/07/25) (Applies beginning 01/01/25). Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees -- Transition for employees.

(1) There is created an Office of Energy Development within the Department of Natural Resources to be administered by a director.

(2) (a) The executive director shall appoint the director and the director shall serve at the pleasure of the executive director.

(b) The director shall have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the office's affairs.

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy and mineral development in the state;

(b) implement:

(i) the state energy policy under Section 79-6-301; and

(ii) the governor's energy and mineral development goals and objectives;

(c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;

(d) promote energy and mineral development workforce initiatives;

(e) support collaborative research initiatives targeted at Utah-specific energy and mineral development;

(f) in coordination with the Department of Environmental Quality and other relevant state agencies:

(i) develop effective policy strategies to advocate for and protect the state's interests relating to federal energy and environmental entities, programs, and regulations;

(ii) participate in the federal environmental rulemaking process by:

(A) advocating for positive reform of federal energy and environmental regulations and permitting;

(B) coordinating with other states to develop joint advocacy strategies; and

(C) conducting other government relations efforts; and

(iii) direct the funding of legal efforts to combat federal overreach and unreasonable delays regarding energy and environmental permitting; and

(g) fund the development of detailed and accurate forecasts of the state's long-term energy supply and demand, including a baseline projection of expected supply and demand and analysis of potential alternative scenarios.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 11-42a-106, [~~59-5-102~~]59-5-302, 59-7-614.7, 59-10-1029, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

(6) (a) For purposes of administering this section, the office may make rules, by following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

(7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.

(8) (a) An employee of the office on April 30, 2024, is an at-will employee.

(b) For an employee described in Subsection (8)(a) who was employed by the office on April 30, 2024, the employee shall have the same salary and benefit options an employee had when the office was part of the office of the governor.

(c) An employee of the office hired on or after May 1, 2024, shall receive compensation as provided in Title 63A, Chapter 17, Utah State Personnel Management Act.

(9) (a) The office shall prepare a strategic energy plan to achieve the state's energy policy, including:

(i) technological and infrastructure innovation needed to meet future energy demand including:

(A) energy production technologies;

(B) battery and storage technologies;

(C) smart grid technologies;

(D) energy efficiency technologies; and

(E) any other developing energy technology, energy infrastructure planning, or investments that will assist the state in meeting energy demand;

(ii) the state's efficient use and development of:

(A) energy resources, including natural gas, coal, clean coal, hydrogen, oil, oil shale, and oil sands;

(B) renewable energy resources, including geothermal, solar, hydrogen, wind, biomass, biofuel, and hydroelectric;

(C) nuclear power; and

(D) earth minerals;

(iii) areas of energy-related academic research;

(iv) specific areas of workforce development necessary for an evolving energy industry;

(v) the development of partnerships with national laboratories; and

(vi) a proposed state budget for economic development and investment.

(b) In preparing the strategic energy plan, the office shall:

(i) consult with stakeholders, including representatives from:

(A) energy companies in the state;

(B) private and public institutions of higher education within the state conducting energy-related research; and

(C) other state agencies; and

(ii) use modeling and industry standard data to:

(A) define the energy services required by a growing economy;

(B) calculate energy needs;

(C) develop state strategy for energy transportation, including transmission lines, pipelines, and other infrastructure needs;

(D) optimize investments to meet energy needs at the least cost and least risk while meeting the policy outlined in this section;

(E) address state needs and investments through a prospective 30-year period, divided into five-year working plans; and

(F) update the plan at least every two years.

(c) The office shall report annually to the Public Utilities, Energy, and Technology Interim Committee on or before the October interim meeting describing:

(i) progress towards creation and implementation of the strategic energy plan;

(ii) the plan's compliance with the state energy policy; and

(iii) a proposed budget for the office to continue development of the strategic energy plan.

(10) The director shall:

(a) annually review and propose updates to the state's energy policy, as contained in Section 79-6-301;

(b) promote as the governor considers necessary:

(i) the development of cost-effective energy resources both renewable and nonrenewable; and

(ii) educational programs, including programs supporting conservation and energy efficiency measures;

(c) coordinate across state agencies to assure consistency with state energy policy, including:

(i) working with the State Energy Program to promote access to federal assistance for energy-related projects for state agencies and members of the public;

(ii) working with the Division of Emergency Management to assist the governor in carrying out the governor's energy emergency powers under Title 53, Chapter 2a, Part 10, Energy Emergency Powers of the Governor Act;

(iii) participating in the annual review of the energy emergency plan and the maintenance of the energy emergency plan and a current list of contact persons required by Section 53-2a-902; and

(iv) identifying and proposing measures necessary to facilitate low-income consumers' access to energy services;

(d) coordinate with the Division of Emergency Management ongoing activities designed to test an energy emergency plan to ensure coordination and information sharing among state agencies and political subdivisions in the state, public utilities and other energy suppliers, and other relevant public sector persons as required by Sections 53-2a-902, 53-2a-1004, 53-2a-1008, and 53-2a-1010;

(e) coordinate with requisite state agencies to study:

(i) the creation of a centralized state repository for energy-related information;

(ii) methods for streamlining state review and approval processes for energy-related projects; and

(iii) the development of multistate energy transmission and transportation infrastructure;

(f) coordinate energy-related regulatory processes within the state;

(g) compile, and make available to the public, information about federal, state, and local approval requirements for energy-related projects;

(h) act as the state's advocate before federal and local authorities for energy-related infrastructure projects or coordinate with the appropriate state agency; and

(i) help promote the Division of Facilities Construction and Management's measures to improve energy efficiency in state buildings.

(11) The director has standing to testify on behalf of the governor at the Public Service Commission created in Section 54-1-1.

(12) The office shall include best practices in developing actionable goals and recommendations as part of preparing and updating every two years the strategic energy plan required under Subsection (9).

(13) The office shall maintain and regularly update a public website that provides an accessible dashboard of relevant metrics and reports and makes available the data used to create the strategic energy plan.

Section 16. Section 79-6-602 is amended to read:

79-6-602 (Effective 05/07/25) (Applies beginning 01/01/25). Definitions.

As used in this part:

(1) "Applicant" means a person that conducts business in the state and that applies for a tax credit under this part.

(2) (a) "Energy delivery project" means a project that is designed to:

(i) increase the capacity for the delivery of energy to a user of energy inside or outside the state;

(ii) increase the capability of an existing energy delivery system or related facility to deliver energy to a user of energy inside or outside the state; or

(iii) increase the production and delivery of geothermal energy through horizontal drilling to create injection and production wells.

(b) "Energy delivery project" includes:

(i) a hydroelectric energy storage system;

(ii) a utility-scale battery storage system; or

(iii) a nuclear power generation system.

(3) "Emissions reduction project" means a project that is designed to reduce the emissions of an existing electrical generation facility, refinery, smelter, kiln, mineral processing facility, manufacturing facility, oil or gas production facility, or other industrial facility, by utilizing selective catalytic reduction technology, carbon capture utilization and sequestration technology, or any other emissions reduction technology or equipment.

(4) "Fuel standard compliance project" means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.

(5) "High cost infrastructure project" means:

(a) for an energy delivery project, fuel standard compliance project, mineral processing project, or underground mine infrastructure project, a project:

(i) (A) that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business;

(B) that involves new investment of at least $50,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the first or second class;

(C) that involves new investment of at least $25,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity

located within a county of the third, fourth, fifth, or sixth class, or a municipality with a population of 10,000 or less located within a county of the second class; or

(D) for the construction of a plant or other facility for the storage or production of fuel used for transportation, electricity generation, or industrial use;

(ii) that requires or is directly facilitated by infrastructure construction; and

(iii) for which the cost of infrastructure construction to the entity creating the project is greater than:

(A) 10% of the total cost of the project; or

(B) $10,000,000; and

(b) for an emissions reduction project, water purification project, or water resource forecasting project, a project:

(i) that involves:

(A) new investment of at least $50,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the first or second class; or

(B) new investment of at least $25,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the third, fourth, fifth, or sixth class, or a municipality with a population of 10,000 or less located within a county of the second class; and

(ii) that requires or is directly facilitated by infrastructure construction.

(6) "Infrastructure" means:

(a) an energy delivery project;

(b) a railroad as defined in Section 54-2-1;

(c) a fuel standard compliance project;

(d) a road improvement project;

(e) a water self-supply project;

(f) a water removal system project;

(g) a solution-mined subsurface salt cavern;

(h) a project that is designed to:

(i) increase the capacity for water delivery to a water user in the state; or

(ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state;

(i) an underground mine infrastructure project;

(j) an emissions reduction project;

(k) a mineral processing project;

(l) a water purification project; or

(m) a water resource forecasting project.

(7) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.

(b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (7)(a).

(8) "Infrastructure-related revenue" means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:

(a) Subsection 59-24-103.5(2)(e);

(b) Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax;

(c) Title 59, Chapter 5, Part 2, Mining Severance Tax;

(d) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(e) Title 59, Chapter 10, Individual Income Tax Act; and

(f) Title 59, Chapter 12, Sales and Use Tax Act.

(9) "Mineral processing project" means a project that is designed to:

(a) process, smelt, refine, convert, separate, or otherwise beneficiate metalliferous minerals as defined in Section 59-5-201 or a metalliferous compound as defined in Section 59-5-202;

(b) calcine limestone or manufacture cement;

(c) process, refine, or otherwise beneficiate chloride compounds, salts, potash, gypsum, sulfur or sulfuric acid, ammonium nitrate, phosphate, or uintaite; or

(d) convert or gasify coal to recover chemical compounds, gases, or minerals.

(10) "Office" means the Office of Energy Development created in Section 79-6-401.

(11) "Tax credit" means a tax credit under Section 59-5-305, 59-7-619, or 59-10-1034.

(12) "Tax credit certificate" means a certificate issued by the office to an infrastructure cost-burdened entity that:

(a) lists the name of the infrastructure cost-burdened entity;

(b) lists the infrastructure cost-burdened entity's taxpayer identification number;

(c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and

(d) includes other information as determined by the office.

(13) (a) "Underground mine infrastructure project" means a project that:

(i) is designed to create permanent underground infrastructure to facilitate underground mining operations; and

(ii) services multiple levels or areas of an underground mine or multiple underground mines.

(b) "Underground mine infrastructure project" includes:

(i) an underground access or a haulage road, entry, ramp, or decline;

(ii) a vertical or incline mine shaft;

(iii) a ventilation shaft or an air course; or

(iv) a conveyor or a truck haulageway.

(14) "Water purification project" means a project that, in order to meet applicable quality standards established under Title 19, Chapter 5, Water Quality Act, is designed to reduce the existing total dissolved solids or other naturally existing impurities contained in water sources:

(a) located at a distance of not less than 2,000 feet below the surface;

(b) associated with existing mineral operations; or

(c) associated with deep water mining operations designed primarily for the revitalization of the Great Salt Lake.

(15) "Water resource forecasting project" means a project that includes a network of permanent physical data collection systems designed to improve forecasting for the availability of seasonal water flows within the state, including flash flooding and other event-driven water flows resulting from localized severe weather events.

Section 17. Section 79-6-603 is amended to read:

79-6-603 (Effective 05/07/25) (Applies beginning 01/01/25). Tax credit -- Amount -- Eligibility -- Reporting.

(1) (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the office, in consultation with the Utah Energy Infrastructure Board created in Section 79-6-902, and other state agencies as necessary, shall, in accordance with the procedures described in Section 79-6-604, certify:

(i) that the project meets the definition of a high cost infrastructure project under this part;

(ii) that the high cost infrastructure project will generate infrastructure-related revenue;

(iii) the economic life of the high cost infrastructure project; and

(iv) that the applicant has received a certificate of existence from the Division of Corporations and Commercial Code.

(b) (i) [~~For purposes of determining whether a project meets the definition of a high cost infrastructure project,~~]Except as provided in Subsection (1)(b)(ii), the office shall consider a project to be a new project, for purposes of determining whether a project meets the definition of a high cost infrastructure project, if the project began no earlier than the taxable year before the year in which the applicant submits an application or a preliminary application for a tax credit.

(ii) For the taxable year beginning on or after January 1, 2025, and beginning before January 1, 2026, the office may consider a project to be a new project if the applicant applies for a tax credit in accordance with Subsection (5)(a).

(2) (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the Utah Energy Infrastructure Board shall evaluate the project's net benefit to the state, including:

(i) whether the project is likely to increase the property tax revenue for the municipality or county where the project will be located;

(ii) whether the project would contribute to the economy of the state and the municipality, tribe, or county where the project will be located;

(iii) whether the project would provide new infrastructure for an area where the type of infrastructure the project would create is underdeveloped;

(iv) whether the project is supported by a business case for providing the revenue necessary to finance the construction and operation of the project;

(v) whether the project would have a positive environmental impact on the state;

(vi) whether the project promotes responsible energy development;

(vii) whether the project would upgrade or improve an existing entity in order to ensure the entity's continued operation and economic viability;

(viii) whether the project is less likely to be completed without a tax credit issued to the applicant under this part; and

(ix) other relevant factors that the board specifies in the board's evaluation.

(b) Before the office enters into an agreement described in Subsection (3) with an applicant regarding an energy delivery project, in addition to the criteria described in Subsection (2)(a) the Utah Energy Infrastructure Board shall determine that the project:

(i) is strategically situated to maximize connections to an energy source project located in the state that is:

(A) existing;

(B) under construction;

(C) planned; or

(D) foreseeable;

(ii) is supported by a project plan related to:

(A) engineering;

(B) environmental issues;

(C) energy production;

(D) load or other capacity; and

(E) any other issue related to the building and operation of energy delivery infrastructure; and

(iii) complies with the regulations of the following regarding the building of energy delivery infrastructure:

(A) the Federal Energy Regulatory Commission;

(B) the North American Electric Reliability Council; and

(C) the Public Service Commission of Utah.

(c) The Utah Energy Infrastructure Board may recommend that the office deny an applicant a tax credit if, as determined by the Utah Energy Infrastructure Board:

(i) the project does not sufficiently benefit the state based on the criteria described in Subsection (2)(a); or

(ii) for an energy delivery project, the project does not satisfy the conditions described in Subsection (2)(b).

(3) Subject to the procedures described in Section 79-6-604, if an applicant meets the requirements of Subsection (1) to receive a tax credit, and the applicant's project receives a favorable recommendation from the Utah Energy Infrastructure Board under Subsection (2), the office shall enter into an agreement with the applicant to authorize the tax credit in accordance with this part.

(4) The office shall grant a tax credit to an infrastructure cost-burdened entity, for a high cost infrastructure project, under an agreement described in Subsection (3):

(a) for the lesser of:

(i) the economic life of the high cost infrastructure project;

(ii) 20 years; or

(iii) a time period, the first taxable year of which is the taxable year when the construction of the high cost infrastructure project begins and the last taxable year of which is the taxable year in which the infrastructure cost-burdened entity has recovered, through the tax credit, an amount equal to:

(A) 50% of the cost of the infrastructure construction associated with the high cost infrastructure project; or

(B) if the high cost infrastructure project is a fuel standard compliance project, 30% of the cost of the infrastructure construction associated with the high cost infrastructure project;

(b) except as provided in Subsections (4)(a) and (d), in a total amount equal to 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a);

(c) for a taxable year, in an amount that does not exceed the high cost infrastructure project's infrastructure-related revenue during that taxable year;

(d) that the infrastructure cost-burdened entity may use against severance tax or income tax, but not both; and

[~~(d)~~](e) if the high cost infrastructure project is a fuel standard compliance project, in a total amount that is:

(i) determined by the Utah Energy Infrastructure Board, based on:

(A) the applicant's likelihood of completing the high cost infrastructure project without a tax credit; and

(B) how soon the applicant plans to complete the high cost infrastructure project; and

(ii) equal to or less than 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a).

(5) (a) For the taxable year beginning on or after January 1, 2025, and beginning before January 1, 2026, the office shall grant a tax credit certificate to an infrastructure cost-burdened entity:

(i) that applies for a tax credit described in Section 59-5-305;

(ii) that meets the requirements of Subsection (4) except that the first taxable year for which the infrastructure cost-burdened entity claims a tax credit is the taxable year beginning on or after January 1, 2024, and beginning before January 1, 2025; and

(iii) in an amount that does not exceed the high cost infrastructure project's infrastructure-related revenue during the taxable year beginning on or after January 1, 2024, and beginning before January 1, 2025.

(b) The tax credit described in Subsection (5)(a) is in addition to a tax credit for which the infrastructure cost-burdened entity may claim against income tax or severance tax for the taxable year beginning on or after January 1, 2025, and beginning before January 1, 2026.

[~~(5)~~](6) An infrastructure cost-burdened entity shall, for each taxable year:

(a) file a report with the office showing the high cost infrastructure project's infrastructure-related revenue during the taxable year;

(b) subject to Subsection [~~(7)~~](8), file a report with the office that is prepared by an independent certified public accountant that verifies the infrastructure-related revenue described in Subsection [~~(5)(a)~~](6)(a); and

(c) provide the office with information required by the office to certify the economic life of the high cost infrastructure project.

[~~(6)~~](7) An infrastructure cost-burdened entity shall retain records supporting a claim for a tax credit for the same period of time during which a person is required to keep books and records under Section 59-1-1406.

[~~(7)~~](8) An infrastructure cost-burdened entity for which a report is prepared under Subsection [~~(5)(b)~~](6)(b) shall pay the costs of preparing the report.

[~~(8)~~](9) The office shall certify, for each taxable year, the infrastructure-related revenue generated by an infrastructure cost-burdened entity.

Section 18. Section 79-6-604 is amended to read:

79-6-604 (Effective 05/07/25) (Applies beginning 01/01/25). Tax credit -- Application procedure.

(1) An applicant shall provide the office with:

(a) an application for a tax credit certificate;

(b) documentation that the applicant meets the requirements described in Subsection 79-6-603(1), to the satisfaction of the office, for the taxable year for which the applicant seeks to claim a tax credit; and

(c) documentation that expressly directs and authorizes the State Tax Commission to disclose to the office the applicant's returns and other information concerning the applicant that would otherwise be subject to confidentiality under Section 59-1-403or Section 6103, Internal Revenue Code.

(2) (a) The office shall, for an applicant, submit the documentation described in Subsection (1)(c) to the State Tax Commission.

(b) Upon receipt of the documentation described in Subsection (1)(c), the State Tax Commission shall provide the office with the documentation described in Subsection (1)(c).

(3) If, after the office reviews the documentation from the State Tax Commission under Subsection (2)(b) and the information the applicant submits to the office under Section 79-6-603, the office, in consultation with the Utah Energy Infrastructure Board created in Section 79-6-902, determines that the applicant is not eligible for the tax credit under Section 79-6-603, or that the applicant's documentation is inadequate, the office shall:

(a) deny the tax credit; or

(b) inform the applicant that the documentation supporting the applicant's claim for a tax credit was inadequate and request that the applicant supplement the applicant's documentation.

(4) Except as provided in Subsection (5), if, after the office reviews the documentation described in Subsection (2)(b) and the

information described in Subsection [~~79-6-603(6)~~]79-6-603(5), the office, in consultation with the Utah Energy Infrastructure Board created in Section 79-6-902, determines that the documentation supporting an applicant's claim for a tax credit adequately demonstrates that the applicant is eligible for the tax credit under Section 79-6-603, the office shall, on the basis of the documentation:

(a) enter, with the applicant, into the agreement described in Subsection 79-6-603(3);

(b) issue a tax credit certificate to the applicant; and

(c) provide a duplicate copy of the tax credit certificate described in Subsection (4)(b) to the State Tax Commission.

(5) The office may deny an applicant a tax credit based on the recommendation of the Utah Energy Infrastructure Board, as provided in Subsection 79-6-603(2).

(6) An infrastructure cost-burdened entity may not claim a tax credit [~~under Section 59-7-619 or 59-10-1034~~] unless the infrastructure cost-burdened entity receives a tax credit certificate from the office.

(7) An infrastructure cost-burdened entity that claims a tax credit shall retain the tax credit certificate in accordance with Subsection [~~79-6-603(7)~~]79-6-603(6).

(8) Except for the information that is necessary for the office to disclose in order to make the report described in Section 79-6-605, the office shall treat a document an applicant or infrastructure cost-burdened entity provides to the office as a protected record under Section 63G-2-305.

Section 19. Effective Date.

This bill takes effect on May 7, 2025.

Section 20. Retrospective operation.

The actions affecting the following sections have retrospective operation for a taxable year beginning on or after January 1, 2025:

(1) Section 40-6-24;

(2) Section 59-5-101;

(3) Section 59-5-102;

(4) Section 59-5-301;

(5) Section 59-5-302;

(6) Section 59-5-303;

(7) Section 59-5-304;

(8) Section 59-5-305;

(9) Section 59-7-619;

(10) Section 59-10-1034;

(11) Section 79-6-401;

(12) Section 79-6-602;

(13) Section 79-6-603; and

(14) Section 79-6-604.

CHAPTER 160
S. B. 290
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

CANDIDATE LICENSING AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill codifies the requirements in the Utah Constitution for an individual seeking the office of attorney general.

Highlighted Provisions:

This bill:

- ► updates the statute to reflect the requirements in the Utah Constitution for the office of attorney general; and
- ► requires potential candidates for district attorney, county attorney, or attorney general to submit certain information affirming that the potential candidate meets the constitutional requirements for that office.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-9-201, as last amended by Laws of Utah 2024, Chapter 465

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

Section 1. Section 20A-9-201 is amended to read:

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

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

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[~~(i)~~](A) a United States citizen;

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

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

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

(ii) An individual filing a declaration of candidacy for the office of county attorney shall submit with the individual's declaration:

(A) a letter from the Utah Supreme Court, affirming that the individual is an attorney in good standing;

(B) proof of the individual's application with the Utah State Bar, with an affidavit describing the status of the individual's application; or

(C) an affidavit describing how the individual intends to comply with the requirements for office of county attorney described in Subsection (3)(b)(i), prior to taking office.

(iii) In addition to the requirements described in Subsection (3)(b)(ii), an individual shall also provide the filing officer with the individual's license number with:

(A) the Utah State Bar, if the individual is a member; or

(B) any other state bar association, if the individual is a member.

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

[~~(i)~~](A) a United States citizen;

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

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

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

(ii) An individual filing a declaration of candidacy for the office of district attorney shall submit with the individual's declaration:

(A) a letter from the Utah Supreme Court, affirming that the individual is an attorney in good standing;

(B) proof of the individual's application with the Utah State Bar, with an affidavit describing the status of the individual's application; or

(C) an affidavit describing how the individual intends to comply with the requirements for office of district attorney described in Subsection (3)(c)(i), prior to taking office.

(iii) In addition to the requirements described in Subsection (3)(c)(ii), an individual shall also provide the filing officer with the individual's license number with:

(A) the Utah State Bar, if the individual is a member; or

(B) any other state bar association, if the individual is a member.

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

(i) is a United States citizen;

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

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

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

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

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

(e) (i) An individual filing a declaration of candidacy for the office of attorney general shall submit with the individual's declaration:

(A) a letter from the Utah Supreme Court, affirming that the individual is an attorney in good standing;

(B) proof of the individual's application with the Utah State Bar, with an affidavit describing the status of the individual's application; or

(C) an affidavit describing how the individual intends to comply with the requirements for office of attorney general, described in Article VII, Sec. 3, Utah Constitution, prior to taking office.

(ii) In addition to the requirements described in Subsection (3)(e)(i), an individual shall also provide the filing officer with the individual's license number with:

(A) the Utah State Bar, if the individual is a member; or

(B) any other state bar association, if the individual is a member.

(iii) An individual filing the declaration of candidacy for the office of attorney general shall also make the conflict of interest disclosure described in Section 20A-11-1603.

[~~(e)~~](f) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, [~~attorney general,~~]state legislator, or State Board of Education member, the filing officer shall ensure that the individual filing the declaration of candidacy also makes the conflict of interest disclosure described in Section 20A-11-1603.

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

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

(a) inform the individual that:

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

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

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

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

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

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

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

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

(ii) inform the individual that the individual must provide the filing officer with an email address that the individual actively monitors:

(A) to receive a communication from a filing officer or an election officer; and

(B) if the individual wishes to display a candidate profile on the Statewide Electronic Voter Information Website, to submit to the website the biographical and other information described in Subsection 20A-7-801(4)(a)(ii);

(iii) inform the individual that the email address described in Subsection (5)(c)(ii) is not a record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(iv) obtain from the individual the email address described in Subsection (5)(c)(ii);

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

(i) signing the pledge is voluntary; and

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

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

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

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

(a) accept the candidate's pledge; and

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

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

(i) be substantially as follows:

"State of Utah, County of ____

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

_____

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

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

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

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

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(c) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8) (a) Except for a candidate for president or vice president of the United States, the fee for filing a declaration of candidacy is:

(i) $50 for candidates for the local school district board; and

(ii) $50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the

criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

"Affidavit of Impecuniosity

Individual Name _____Address_____

Phone Number _____

I,_____(name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____ Signature_____ Affiant

Subscribed and sworn to before me on _____ (month\day\year)

_____

(signature)

Name and Title of Officer Authorized to Administer Oath

_____".

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

"Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot."

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (8)(d) file a financial statement on a form prepared by the election official.

(9) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(10) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 161
S. B. 314
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

SPECIAL DISTRICT MODIFICATIONS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Thomas W. Peterson

LONG TITLE

General Description:

This bill amends provisions related to special districts.

Highlighted Provisions:

This bill:

- ► provides for allowing alternate board member selection in certain circumstances;
- ► reduces certain notice periods;
- ► amends provisions related to filling a midterm vacancy on a special district board;
- ► provides for new methods of annexing certain jurisdictions into a special district service area;
- ► provides a uniform time period for a candidate to file for an elected special district board position; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-306, as last amended by Laws of Utah 2024, Chapters 382, 465
17B-1-416, as last amended by Laws of Utah 2023, Chapter 15
17B-1-643, as last amended by Laws of Utah 2024, Chapter 382
17B-2a-1106, as last amended by Laws of Utah 2024, Chapters 342, 438
20A-1-512, as last amended by Laws of Utah 2024, Chapter 388

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-1-306 is amended to read:

17B-1-306. Special district board -- Election procedures -- Notice.

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a special district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the special district board in consultation with the county clerk for each county in which the special district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The special district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) (a) The clerk of each special district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(i) each elective position of the special district to be filled at the next municipal general election or regular general election, as applicable;

(ii) the constitutional and statutory qualifications for each position; and

(iii) the dates and times for filing a declaration of candidacy.

(b) If the election is to be held at the same time as the municipal general election, a declaration of candidacy shall be filed [~~on the days specified in Subsection 20A-9-203(3)(a)(i)~~]between June 1 and June 7 of any odd-numbered year.

(c) If the election is to be held at the same time as the regular general election, a declaration of candidacy shall be filed [~~by the deadline stated in Subsection 20A-9-201.5(2)~~]between June 1 and June 7 of any even-numbered year.

(4) The clerk of the special district shall publish the notice described in Subsection (3)(a) for the special district, as a class A notice under Section 63G-30-102, for at least 10 days before the first day for filing a declaration of candidacy.

(5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective special district board position, an individual shall

file a declaration of candidacy in person with an official designated by the special district within the candidate filing period for the applicable election year in which the election for the special district board is held and:

(i) during the special district's standard office hours, if the standard office hours provide at least three consecutive office hours each day during the candidate filing period that is not a holiday or weekend; [~~or~~]

(ii) if the standard office hours of a special district do not provide at least three consecutive office hours each day, a three-hour consecutive time period each day designated by the special district during the candidate filing period that is not a holiday or weekend [~~.~~]; or

(iii) during the special district's standard office hours if the special district has adopted a four day standard work week with standard office hours of at least eight hours each of those days.

(b) When the candidate filing deadline falls on a Saturday, Sunday, [~~or~~]holiday, or a day that is not a regular business day for the special district pursuant to Subsection (5)(a)(iii), the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the special district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the special district; and

(iii) the individual communicates with the official designated by the special district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, state of Utah, (Zip Code) _____, (Telephone Number, if any)_____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the special district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)".

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective special district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6) (a) A primary election may be held if:

(i) the election is authorized by the special district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7) (a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the special district clerk shall certify the candidate names to the clerk of each county in which the special district is located.

(b) (i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the special district is located and the special district clerk shall coordinate the placement of the name of each candidate for special district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the special district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the special district board of trustees, in consultation with the county clerk, shall provide for a separate special district election ballot to be administered by poll workers at polling places designated under Subsection (2).

(c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8) (a) Each voter at an election for a board of trustees member of a special district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic special district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of special district board members is governed by Title 20A, Election Code.

(10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a special district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11) (a) Except as provided in Subsection (11)(b), each special district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that special district.

(b) Each irrigation district shall bear the district's own costs of each election the district holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14) (a) As used in this Subsection (14), "board" means:

(i) a special district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) If a board desires to hold elections for membership on the board at a regular general election instead of a municipal general election, or at a municipal general election instead of a regular general election, the board may submit an application to the lieutenant governor that:

(i) requests permission to change the election year for membership on the board in a manner described in this Subsection (14)(b);

(ii) indicates that a change in the election year is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason; and

(iii) if a change in the election year may result in shortening a board member's term of office, indicates that the members of the board unanimously support the lieutenant governor taking that action.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the if:

(i) the lieutenant governor concludes that changing the election year is beneficial based on the criteria described in Subsection (14)(b)(ii); and

(ii) for an application that may result in shortening a board member's term of office, the application satisfies the unanimity requirement described in Subsection (14)(b)(iii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the general election specified in the application; and

(ii) the board may not hold elections at the time of an election other than the general election specified in the application, unless the board receives permission from the lieutenant governor to change the election under the same procedure, and by applying the same criteria, described in this Subsection (14).

(15) (a) This Subsection (15) applies to a special district if:

(i) the special district's board members are elected by the owners of real property, as provided in Subsection 17B-1-1402(1)(b); and

(ii) the special district was created before January 1, 2020.

(b) The board of a special district described in Subsection (15)(a) may conduct an election:

(i) to fill a board member position that expires at the end of the term for that board member's position; and

(ii) notwithstanding Subsection 20A-1-512(1)(a)(i), to fill a vacancy in an unexpired term of a board member.

(c) An election under Subsection (15)(b) may be conducted as determined by the special district board, subject to Subsection (15)(d).

(d) (i) The special district board shall provide to property owners eligible to vote at the special district election:

(A) notice of the election; and

(B) a form to nominate an eligible individual to be elected as a board member.

(ii) (A) The special district board may establish a deadline for a property owner to submit a nomination form.

(B) A deadline under Subsection (15)(d)(ii)(A) may not be earlier than 15 days after the board provides the notice and nomination form under Subsection (15)(d)(i).

(iii) (A) After the deadline for submitting nomination forms, the special district board shall provide a ballot to all property owners eligible to vote at the special district election.

(B) A special district board shall allow at least five days for ballots to be returned.

(iv) A special district board shall certify the results of an election under this Subsection (15) during an open meeting of the board.

Section 2. Section 17B-1-416 is amended to read:

17B-1-416. Automatic annexation to a district providing fire protection, paramedic, and emergency services or law enforcement service.

(1) An area outside the boundaries of a special district that is annexed to a municipality or added to a municipality by a boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, is automatically annexed to the special district if:

(a) the special district provides:

(i) fire protection, paramedic, and emergency services; or

(ii) law enforcement service;

(b) the special district is located in a county of the first class, but not otherwise, an election for the creation of the special district was not required because of Subsection 17B-1-214(3)(d); and

(c) before the municipal annexation or boundary adjustment, the entire municipality that is annexing the area or adding the area by boundary adjustment was included within the special district.

(2) The effective date of an annexation under this section is governed by Subsection 17B-1-414(3)(b).

Section 3. Section 17B-1-643 is amended to read:

17B-1-643. Imposing or increasing a fee for service provided by special district.

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a special district, each special district board of trustees shall first hold a public hearing at which:

(i) the special district shall demonstrate its need to impose or increase the fee; and

(ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the special district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each special district board shall give notice of a hearing under Subsection (1) as provided in Subsections (2)(b) and (c) or Subsection (2)(d).

(b) The special district board shall publish the notice described in Subsection (2)(a) for the special district, as a class A notice under Section 63G-30-102, for at least [~~30~~]seven days.

(c) The notice described in Subsection (2)(b) shall state that the special district board intends to impose or increase a fee for a service provided by the special district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the notice is first posted as provided in Subsection (2)(b) for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(d) (i) In lieu of providing notice under Subsection (2)(b), the special district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c).

(iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing fee.

(e) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice required under this Subsection (2):

(i) may be combined with the notice required under Section 17B-1-609; and

(ii) shall be posted or mailed in accordance with the notice provisions of this section.

(f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie evidence that notice was properly given.

(g) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(h) After holding a public hearing under Subsection (1), a special district board may:

(i) impose the new fee or increase the existing fee as proposed;

(ii) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(iii) decline to impose the new fee or increase the existing fee.

(i) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(j) (i) This section does not apply to an impact fee.

(ii) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Section 4. Section 17B-2a-1106 is amended to read:

17B-2a-1106. Municipal services district board of trustees -- Governance.

(1) Notwithstanding any other provision of law regarding the membership of a special district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2) (a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:

(i) subject to Subsection (2)(b), a member of that municipality's governing body;

(ii) one member of the county council of the county in which the municipal services district is located; and

(iii) the total number of board members is not required to be an odd number.

(b) A member described in Subsection (2)(a)(i) shall be designated by the municipal legislative body.

(c) A municipal or county legislative body may appoint a member of the municipality's or the county's legislative body to act as an alternate member of the municipal services district board of trustees, to serve in place of the regular board member selected pursuant to Subsection (2)(a) or (b) during any period of time when the regular board member is absent, unable, or refuses to act as a member of the municipal services district board of trustees, provided that:

(i) the municipal or county legislative body adopts a resolution to make the appointment;

(ii) the alternate member meets all applicable statutory requirements to serve on the board of trustees;

(iii) the alternate member takes the oath of office and is covered by crime insurance as provided in Section 17B-1-303; and

(iv) the term of the alternate member will be identical to that of the board member described in Subsection (2)(a) who is appointed by the municipality's or the county's legislative body.

(d) Should a member of the board of trustees who is appointed pursuant to Subsection (2)(a) or (b) and the alternate board member selected as provided in Subsection (2)(c) both be present at a meeting or other official event of the municipal services district, the alternate board member may not act as a member of the board of trustees during the meeting or event.

(e) An alternate board member designated as provided in Subsection (2)(c) may not chair a meeting of the board of trustees unless only alternate board members are present at the anchor location.

(f) Compensation under Section 17B-1-307 may equitably be apportioned between a regular board member and an alternate board member.

(3) (a) As used in this Subsection (3):

(i) "District participant" means:

(A) the county that created a municipal services district under Section 17B-2a-1105; or

(B) a municipality that is part of the municipal services district.

(ii) "Proportionate amount" means, for each district participant, the amount that is attributable to the district participant in proportion to the total amount attributable to all district participants.

(iii) "Trigger date" means the earliest of:

(A) the effective date of an annexation of an unincorporated island, as defined in Section 10-2-429, that occurs under Title 10, Chapter 2, Part 4, Annexation, excluding an automatic annexation under Section 10-2-429;

(B) the effective date of an incorporation of a community council area, as defined in Section 10-2a-102; and

(C) the effective date of an automatic annexation under Section 10-2-429.

(b) For a board of trustees described in Subsection (2), each board member's vote is weighted:

(i) until the trigger date, using the proportion of the municipal services district population that resides:

(A) for each member described in Subsection (2)(a)(i), within that member's municipality; and

(B) for the member described in Subsection (2)(a)(ii), within the unincorporated county; and

(ii) beginning the trigger date:

(A) 60% according to the proportionate amount of the combined total of sales tax revenue and revenue for B and C roads under Section 72-2-108;

(B) 30% according to the proportionate amount of weighted mileage, as defined in Section 72-2-108; and

(C) 10% according to the proportionate amount of population.

(4) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(5) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(6) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

Section 5. Section 20A-1-512 is amended to read:

20A-1-512. Midterm vacancies on special district boards -- Notice.

(1) (a) When a vacancy occurs on any special district board for any reason, the following shall appoint a replacement to serve out the unexpired term in accordance with this section:

(i) the special district board, if the person vacating the position was elected; or

(ii) the appointing authority, as that term is defined in Section 17B-1-102, if the appointing authority appointed the person vacating the position.

(b) Except as provided in Subsection (1)(c) or (d), before acting to fill the vacancy, the special district board or appointing authority shall:

(i) give public notice of the vacancy for at least two weeks before the special district board or appointing authority meets to fill the vacancy by publishing the notice, as a class A notice under Section 63G-30-102, for the special district; and

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the individual to whom an individual who is interested in an appointment to fill the vacancy may submit the individual's name for consideration; and

(C) any submission deadline.

(c) An appointing authority is not subject to Subsection (1)(b) if:

(i) (A) the appointing authority appoints one of the appointing authority's own members; and

(B) that member meets all applicable statutory board member qualifications; or

(ii) the vacancy is on the board of trustees of an infrastructure financing district with no residents within the district's boundary.

(d) When a vacancy occurs on the board of a water conservancy district located in more than one county:

(i) the board shall give notice of the vacancy to the county legislative bodies that nominated the vacating trustee as provided in Section 17B-2a-1005;

(ii) the county legislative bodies described in Subsection (1)(d)(i) shall collectively compile a list of three nominees to fill the vacancy; and

(iii) the governor shall, with the advice and consent of the Senate, appoint an individual to fill the vacancy from nominees submitted as provided in Subsection 17B-2a-1005(2)(c).

(2) If, 90 days after a vacancy occurs, the special district board has failed to appoint an individual to complete an elected board member's term, the vacancy shall be filled:

(a) in accordance with the procedure for a special district described in Subsection (1)(b); and

(b) by, as applicable:

(i) the legislative body of the county or municipality that created the special district; or

(ii) for a vacancy on a board of trustees of an infrastructure financing district, the legislative body of the county whose unincorporated area contains or the municipality whose boundary contains more of the area within the infrastructure financing district than is contained within the unincorporated area of any other county or within the boundary of any other municipality.

(3) If the body identified in Subsection (2)(b) has failed to appoint an individual to complete an elected board member's term within 90 calendar days after becoming the appointing authority under Subsection (2)(b) and a board quorum, as defined in Subsection 17B-1-310(1), exists, the vacancy shall be filled by the special district board in accordance with the procedure described in Subsection (1)(b).

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 162
S. B. 328
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

ALCOHOL AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill amends provisions relating to alcohol.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► permits a local government to authorize an outlet or restaurant with an alcohol license to be in proximity to a public park under certain conditions;
- ► clarifies the Alcoholic Beverage Services Commission's authority when granting or denying an application for a retail license;
- ► provides that a hotel may serve spirituous liquor in a container that is not the spirituous liquor's original container;
- ► provides that a patron of a facility with multiple licenses may transport beer between the premises under certain conditions;
- ► authorizes staff of a retail licensee that are 21 years old or older to test the quality and taste of liquor using the "straw test";
- ► removes the requirement that dispensing locations under an equity license be connected by a private roadway;
- ► provides that an equity license applies to all locations owned by an equity licensee;
- ► provides that an amphitheater qualifies for a banquet license;
- ► provides that the Department of Alcoholic Beverage Services may approve multiple locations in or on the licensed premises of an on-premise banquet licensee;
- ► lowers the seating capacity threshold for a sport facility or concert venue for purposes of receiving an on-premises beer retailer license;
- ► provides the circumstances under which an off-premise beer retailer may sell beer at a loading area or a designated parking stall;
- ► requires that a person applying for an event permit post a surety bond; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-1-102, as last amended by Laws of Utah 2024, Chapters 438, 464
32B-1-202, as last amended by Laws of Utah 2024, Chapter 94
32B-1-407, as last amended by Laws of Utah 2018, Chapter 249
32B-1-603.5, as enacted by Laws of Utah 2023, Chapter 371
32B-1-607, as last amended by Laws of Utah 2021, Chapter 291
32B-5-201, as last amended by Laws of Utah 2024, Chapter 94
32B-5-304, as last amended by Laws of Utah 2024, Chapter 94
32B-5-307, as last amended by Laws of Utah 2022, Chapter 447
32B-5-308, as last amended by Laws of Utah 2019, Chapter 403
32B-6-403, as last amended by Laws of Utah 2024, Chapter 94
32B-6-603, as last amended by Laws of Utah 2023, Chapter 371
32B-6-604, as last amended by Laws of Utah 2024, Chapter 94
32B-6-605, as last amended by Laws of Utah 2024, Chapter 94
32B-6-702, as last amended by Laws of Utah 2024, Chapter 94
32B-7-202, as last amended by Laws of Utah 2024, Chapter 94
32B-9-203, as enacted by Laws of Utah 2010, Chapter 276

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport or domestic airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 26B-5-205.

(6) (a) "Amphitheater" means an outdoor, multi-use performance venue that:

(i) is primarily used to present live entertainment, including music, dance, comedy, and theater;

(ii) has the capacity to hold over 10,000 patrons; and

(iii) is located in a county of the first class.

(b) "Amphitheater" does not include a space that is used to present sporting events or sporting competitions.

[~~(6)~~](7) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

[~~(7)~~](8) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

[~~(8)~~](9) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility;

(vi) an arena; [~~or~~]

(vii) a restaurant venue; or

(viii) an amphitheater;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection [~~(8)(b)~~](9)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection [~~(8)(b)~~](9)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

[~~(9)~~](10) (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

[~~(10)~~](11) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

[~~(11)~~](12) (a) "Beer" means a product that:

(i) contains:

(A) at least .5% of alcohol by volume; and

(B) no more than 5% of alcohol by volume or 4% by weight;

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute; and

(iii) is clearly marketed, labeled, and identified as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager;

(F) a malt;

(G) a malted beverage; or

(H) seltzer.

(b) "Beer" may contain:

(i) hops extract;

(ii) caffeine, if the caffeine is a natural constituent of an added ingredient; or

(iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:

(A) is used in the production of beer;

(B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and

(C) does not contribute more than 10% of the overall alcohol content of the beer.

(c) "Beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsection [~~(11)(b)(iii)~~](12)(b)(iii), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

[~~(12)~~](13) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

[~~(13)~~](14) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

[~~(14)~~](15) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

[~~(15)~~](16) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

[~~(16)~~](17) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

[~~(17)~~](18) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

[~~(18)~~](19) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

[~~(19)~~](20) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons

pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

[~~(20)~~](21) "Church" means a building:

(a) set apart for worship;

(b) in which religious services are held;

(c) with which clergy is associated; and

(d) that is tax exempt under the laws of this state.

[~~(21)~~](22) "Commission" means the Alcoholic Beverage Services Commission created in Section 32B-2-201.

[~~(22)~~](23) "Commissioner" means a member of the commission.

[~~(23)~~](24) "Community location" means:

(a) a public or private school as defined in Subsection [~~32B-1-102(115)~~](116);

(b) a church;

(c) a public library;

(d) a public playground; or

(e) a public park.

[~~(24)~~](25) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

[~~(25)~~](26) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

[~~(26)~~](27) "Controlled group of manufacturers" means as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(27)~~](28) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

[~~(28)~~](29) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

[~~(29)~~](30) "Crime involving moral turpitude" is as defined by the commission by rule.

[~~(30)~~](31) "Department" means the Department of Alcoholic Beverage Services created in Section 32B-2-203.

[~~(31)~~](32) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

[~~(32)~~](33) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

[~~(33)~~](34) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

[~~(34)~~](35) "Director," unless the context requires otherwise, means the director of the department.

[~~(35)~~](36) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

[~~(36)~~](37) (a) Subject to Subsection [~~(36)(b)~~](37)(b), "dispense" means:

(i) drawing an alcoholic product; and

(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection [~~(36)~~](37) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license;

(iv) a beer-only restaurant license;

(v) a bar license;

(vi) an on-premise beer retailer;

(vii) an airport lounge license;

(viii) an on-premise banquet license; and

(ix) a hospitality amenity license.

[~~(37)~~](38) "Dispensing structure" means a surface or structure on a licensed premises:

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

[~~(38)~~](39) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

[~~(39)~~](40) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

[~~(40)~~](41) "Domestic airport" means an airport that:

(a) has at least 15,000 commercial airline passenger boardings in any five-year period;

(b) receives scheduled commercial passenger aircraft service; and

(c) is not an international airport.

[~~(41)~~](42) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

[~~(42)~~](43) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

[~~(43)~~](44) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

[~~(44)~~](45) (a) "Flavored malt beverage" means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and

(iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

(b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.

(c) "Flavored malt beverage" does not include beer or heavy beer.

(d) "Flavored malt beverage" is considered liquor for purposes of this title.

[~~(45)~~](46) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

[~~(46)~~](47) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

[~~(47)~~](48) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

[~~(48)~~](49) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

[~~(49)~~](50) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

[~~(50)~~](51) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(51)~~](52) (a) "Heavy beer" means a product that:

(i) (A) contains more than 5% alcohol by volume;

(B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes more than 10% of the overall alcohol content of the product; or

(C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and has a label or packaging that is rejected under Subsection 32B-1-606(3)(b); and

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute.

(b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume, contain a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the heavy beer.

(c) "Heavy beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsections [~~(51)(a)(i)(B)~~](52)(a)(i)(B) and [~~(51)(b)~~](52)(b), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(d) "Heavy beer" is considered liquor for the purposes of this title.

[~~(52)~~](53) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

[~~(53)~~](54) (a) "Hotel" means a commercial lodging establishment that:

(i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

(ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete meals;

(B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or

(C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(b) "Hotel" includes a commercial lodging establishment that:

(i) meets the requirements under Subsection [~~(53)(a)~~](54)(a); and

(ii) has one or more privately owned dwelling units.

[~~(54)~~](55) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

[~~(55)~~](56) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

[~~(56)~~](57) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

[~~(57)~~](58) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

[~~(58)~~](59) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

[~~(59)~~](60) "International airport" means an airport:

(a) with a United States Customs and Border Protection office on the premises of the airport; and

(b) at which international flights may enter and depart.

[~~(60)~~](61) "Intoxicated" or "intoxication" means that

an individual exhibits plain and easily observable outward manifestations of behavior or physical signs produced by or as a result of the use of:

(a) an alcoholic product;

(b) a controlled substance;

(c) a substance having the property of releasing toxic vapors; or

(d) a combination of products or substances described in Subsections [~~(60)(a)~~](61)(a) through (c).

[~~(61)~~](62) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

[~~(62)~~](63) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License;

(d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

(f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

(g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

[~~(63)~~](64) "Licensee" means a person who holds a license.

[~~(64)~~](65) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

[~~(65)~~](66) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

[~~(66)~~](67) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

[~~(67)~~](68) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

[~~(68)~~](69) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

[~~(69)~~](70) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

[~~(70)~~](71) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city or town, the governing body of the city or town; or

(c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

[~~(71)~~](72) "Lounge or bar area" is as defined by rule made by the commission.

[~~(72)~~](73) "Malt substitute" means:

(a) rice;

(b) grain;

(c) bran;

(d) glucose;

(e) sugar; or

(f) molasses.

[~~(73)~~](74) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

[~~(74)~~](75) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

[~~(75)~~](76) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

[~~(76)~~](77) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

[~~(77)~~](78) "Minor" means an individual under 21 years old.

[~~(78)~~](79) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, or town; and

(b) has a responsibility to enforce one or more provisions of this title.

[~~(79)~~](80) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

[~~(80)~~](81) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

[~~(81)~~](82) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-premise Beer

Retailer State License.

[~~(82)~~](83) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

[~~(83)~~](84) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

[~~(84)~~](85) "Opaque" means impenetrable to sight.

[~~(85)~~](86) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

[~~(86)~~](87) "Package agent" means a person who holds a package agency.

[~~(87)~~](88) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

[~~(88)~~](89) (a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

[~~(89)~~](90) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

[~~(90)~~](91) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections [~~(90)(a)~~](91)(a) through (f); or

(ii) a package agent.

[~~(91)~~](92) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

[~~(92)~~](93) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

[~~(93)~~](94) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

[~~(94)~~](95) "Principal license" means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

[~~(95)~~](96) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

[~~(96)~~](97) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

[~~(97)~~](98) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued under Title 53, Chapter 3, Uniform Driver License Act, in accordance with the laws of the state in which it is issued, or in accordance with federal law by the United States Department of State;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

[~~(98)~~](99) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Resort Spa Sublicense.

[~~(99)~~](100) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

[~~(100)~~](101) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

[~~(101)~~](102) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection [~~(101)(a)~~](102)(a) to a third party for the third party's event.

[~~(102)~~](103) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

[~~(103)~~](104) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

[~~(104)~~](105) "Residence" means a person's principal place of abode within Utah.

[~~(105)~~](106) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

[~~(106)~~](107) "Resort" means the same as that term is defined in Section 32B-8-102.

[~~(107)~~](108) "Resort facility" is as defined by the commission by rule.

[~~(108)~~](109) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

[~~(109)~~](110) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

[~~(110)~~](111) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

[~~(111)~~](112) "Restaurant license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

[~~(112)~~](113) "Restaurant venue" means a room within a restaurant that:

(a) is located on the licensed premises of a restaurant licensee;

(b) is separated from the area within the restaurant for a patron's consumption of food by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a patron in the area within the restaurant for a patron's consumption of food; and

(c) (i) has at least 1,000 square feet that:

(A) may be reserved for a banquet; and

(B) accommodates at least 75 individuals; or

(ii) if the restaurant is located in a small or unincorporated locality, has an appropriate amount of space, as determined by the commission, that may be reserved for a banquet.

[~~(113)~~](114) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

[~~(114)~~](115) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

(a) hotel; or

(b) resort facility.

[~~(115)~~](116) (a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) "School" does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool;

(v) a home school;

(vi) a home-based microschool as defined in Section 53G-6-201; or

(vii) a micro-education entity as defined in Section 53G-6-201.

[~~(116)~~](117) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

[~~(117)~~](118) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

[~~(118)~~](119) "Serve" means to place an alcoholic product before an individual.

[~~(119)~~](120) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection [~~(119)(b)~~](120)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

[~~(120)~~](121) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

[~~(121)~~](122) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

[~~(122)~~](123) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

(a) if the brewer is part of a controlled group of manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of manufacturers; and

(b) excluding beer, heavy beer, or flavored malt beverage the brewer:

(i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not sell for consumption as, or in, a beverage.

[~~(123)~~](124) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

[~~(124)~~](125) "Spa sublicense" means a sublicense:

(a) to a resort license or hotel license; and

(b) that the commission issues in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.

[~~(125)~~](126) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

[~~(126)~~](127) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. [~~See~~]Secs. 5.11 through 5.23.

[~~(127)~~](128) "Sports center" is as defined by the commission by rule.

[~~(128)~~](129) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

[~~(129)~~](130) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

[~~(130)~~](131) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

[~~(131)~~](132) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

[~~(132)~~](133) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

[~~(133)~~](134) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a spa sublicense.

[~~(134)~~](135) "Supplier" means a person who sells an alcoholic product to the department.

[~~(135)~~](136) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

[~~(136)~~](137) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

[~~(137)~~](138) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

[~~(138)~~](139) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

[~~(139)~~](140) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

[~~(140)~~](141) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

[~~(141)~~](142) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section 32B-1-202 is amended to read:

32B-1-202. Proximity to community location.

(1) As used in this section:

(a) "Designated project area zone" means the area that is:

(i) bounded by:

(A) South Temple Street;

(B) 100 South Street;

(C) West Temple Street; and

(D) 400 West Street; and

(ii) within a project area as defined in Section 63N-3-1401.

(b) (i) "Outlet" means:

(A) a state store;

(B) a package agency; or

(C) a retail licensee.

(ii) "Outlet" does not include:

(A) an airport lounge licensee; or

(B) a restaurant.

(c) "Restaurant" means:

(i) a full-service restaurant licensee;

(ii) a limited-service restaurant licensee;

(iii) a beer-only restaurant licensee; or

(iv) a restaurant venue on-premise banquet licensee.

(2) (a) Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for an outlet if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 600 feet of the proposed outlet, as measured from the nearest patron entrance of the proposed outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed outlet, measured in a straight line from the nearest patron entrance of the proposed outlet to the nearest property boundary of the community location.

(b) Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for a restaurant if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 300 feet of the proposed restaurant, as measured from the nearest patron entrance of the proposed restaurant by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed restaurant, measured in a straight line from the nearest patron entrance of the proposed restaurant to the nearest property boundary of the community location.

(3) (a) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under a previously approved variance to one or more proximity requirements in effect before May 9, 2017, subject to the other provisions of this title, that outlet or restaurant, or another outlet or restaurant with the same type of license as that outlet or restaurant, may operate under the previously approved variance regardless of whether:

(i) the outlet or restaurant changes ownership;

(ii) the property on which the outlet or restaurant is located changes ownership; or

(iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse, the property is used for a different purpose.

(b) An outlet or a restaurant that has continuously operated at a location since before January 1, 2007, is considered to have a previously approved variance.

(4) An outlet or restaurant that holds a license on May 12, 2020, and operates in accordance with the proximity requirements in effect at the time the commission issued the license or operates under a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant or an outlet or a restaurant with the same type of license as that outlet or restaurant may operate at the premises regardless of whether:

(a) the outlet or restaurant changes ownership;

(b) the property on which the outlet or restaurant is located changes ownership; or

(c) there is a lapse of one year or less in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.

(5) (a) If, after an outlet or a restaurant obtains a license under this title, a person establishes a community location on a property that puts the outlet or restaurant in violation of the proximity requirements in effect at the time the license is issued or a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant, or an outlet or a restaurant with the same type of license as that outlet or restaurant, may operate at the premises regardless of whether:

(i) the outlet or restaurant changes ownership;

(ii) the property on which the outlet or restaurant is located changes ownership; or

(iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.

(b) The provisions of this Subsection (5) apply regardless of when the outlet's or restaurant's license is issued.

(6) The proximity requirements described in Subsection (2) do not apply~~:~~

(a) if the proposed outlet or proposed restaurant and the community location are located within the boundaries of a designated project area zone [~~.~~]; or

(b) if a local authority includes in the written consent of the local authority an acknowledgment and authorization of the outlet's or the restaurant's proximity to a public park, including any connected trail system, if the public park and connected trail system are:

(i) at least 12 acres in size;

(ii) on land the state owns; and

(iii) managed by the Point of the Mountain State Land Authority created in Section 11-59-201.

(7) Nothing in this section prevents the commission from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an outlet.

Section 3. Section 32B-1-407 is amended to read:

32B-1-407. Verification of proof of age by applicable licensees.

(1) As used in this section, "applicable licensee" means:

(a) a dining club;

(b) a bar;

(c) a tavern;

(d) a full-service restaurant;

(e) a limited-service restaurant; [~~or~~]

(f) a beer-only restaurant [~~.~~]; or

(g) an off-premise beer retailer selling, offering for sale, or furnishing beer as described in Subsection 32B-7-202(8).

(2) Notwithstanding any other provision of this part, an applicable licensee shall require that an authorized person for the applicable licensee verify proof of age as provided in this section.

(3) An authorized person is required to verify proof of age under this section before an individual who appears to be 35 years of age or younger:

(a) gains admittance to the premises of a bar licensee or tavern;

(b) procures an alcoholic product on the premises of a dining club licensee; or

(c) procures an alcoholic product in a dispensing area in the premises of a full-service restaurant licensee, a limited-service restaurant licensee, or a beer-only restaurant licensee.

(4) To comply with Subsection (3), an authorized person shall:

(a) request the individual present proof of age; and

(b) (i) verify the validity of the proof of age electronically under the verification program created in Subsection (5); or

(ii) if the proof of age cannot be electronically verified as provided in Subsection (4)(b)(i), request that the individual comply with a process established by the commission by rule.

(5) The commission shall establish by rule an electronic verification program that includes the following:

(a) the specifications for the technology used by the applicable licensee to electronically verify proof of age, including that the technology display to the person described in Subsection (2) no more than the following for the individual who presents the proof of age:

(i) the name;

(ii) the age;

(iii) the number assigned to the individual's proof of age by the issuing authority;

(iv) the birth date;

(v) the gender; and

(vi) the status and expiration date of the individual's proof of age; and

(b) the security measures that shall be used by an applicable licensee to ensure that information obtained under this section is:

(i) used by the applicable licensee only for purposes of verifying proof of age in accordance with this section; and

(ii) retained by the applicable licensee for seven days after the day on which the applicable licensee obtains the information.

(6) (a) An applicable licensee may not disclose information obtained under this section except as provided under this title.

(b) Information obtained under this section is considered a record for any purpose under Chapter 5, Part 3, Retail Licensee Operational Requirements.

Section 4. Section 32B-1-603.5 is amended to read:

32B-1-603.5. Requirements for beer flavorings -- Procedure for approval -- Department review.

(1) A manufacturer of a beer that contains a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent as described in Subsection [~~32B-1-102(11)(b)(iii)~~]32B-1-102(12)(b)(iii) may not sell or distribute the beer in the state unless the manufacturer obtains:

(a) the department's approval to sell or distribute the beer under this section; and

(b) the department's approval of the label and packaging of the beer under Sections 32B-1-604 through 32B-1-606.

(2) (a) To obtain approval to sell or distribute a beer that contains a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent as described in Subsection [~~32B-1-102(11)(b)(iii)~~]32B-1-102(12)(b)(iii), the manufacturer of the beer shall submit an application to the department for approval.

(b) The application shall require:

(i) a copy of:

(A) the statement of process and formula filed with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 for the beer; and

(B) the formula approval from the federal Alcohol and Tobacco Tax and Trade Bureau for the beer;

(ii) a complete list of each propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent in the beer;

(iii) a description of the total amount of alcohol each propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent contributes to the beer; and

(iv) other information required by the department to determine whether the beer complies with Subsection [~~32B-1-102(11)(b)(iii)~~]32B-1-102(12)(b)(iii).

(3) The department may:

(a) assess a fee established under Section 63J-1-504 for reviewing an application for approval under this section; and

(b) approve a manufacturer's application to sell or distribute a beer that contains a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent after determining that the beer complies with Subsection [~~32B-1-102(11)(b)(iii)~~]32B-1-102(12)(b)(iii).

(4) If a manufacturer of a beer revises the formula for the beer that the department approved for sale or distribution, the manufacturer shall obtain the department's approval for the revised formula before selling or distributing the beer.

(5) (a) The department may revoke a previous approval under this section upon determining that the beer is not in compliance with this title or the rules of the commission.

(b) The department shall notify the manufacturer that applied for an approval under this section at least 30 business days before the day on which the approval is revoked.

(c) Within 20 business days after the day on which a manufacturer receives the notice under Subsection (5)(b), the manufacturer may present a written argument or evidence to the department regarding why the revocation should not occur.

(6) (a) A manufacturer that applies for approval under this section may appeal a denial or revocation of the approval to the commission.

(b) During the period in which a manufacturer appeals a denial or revocation to the commission under Subsection (6)(a), the denial or revocation remains in force.

Section 5. Section 32B-1-607 is amended to read:

32B-1-607. Rulemaking authority.

(1) The commission may adopt rules necessary to implement this part.

(2) Notwithstanding Subsections [~~32B-1-102(12)~~]32B-1-102(13) and [~~(51)~~](52), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules that allow for a tolerance in the alcohol content of beer or heavy beer as follows:

(a) up to 0.18% above or below when measured by volume; or

(b) up to 0.15% above or below when measured by weight.

Section 6. Section 32B-5-201 is amended to read:

32B-5-201. Application requirements for retail license.

(1) (a) Before a person may store, sell, offer for sale, furnish, or permit consumption of an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a retail license issued by the commission, notwithstanding whether the person holds a local license or a permit issued by a local authority.

(b) Violation of this Subsection (1) is a class B misdemeanor.

(2) To obtain a retail license under this title, a person shall submit to the department:

(a) a written application in a form prescribed by the department;

(b) a nonrefundable application fee in the amount specified in the relevant chapter or part for the type of retail license for which the person is applying;

(c) an initial license fee:

(i) in the amount specified in the relevant chapter or part for the type of retail license for which the person is applying; and

(ii) that is refundable if a retail license is not issued;

(d) written consent of the local authority, including, if applicable, consent for each proposed sublicense;

(e) a copy of:

(i) every license the local authority requires, including the person's current business license; and

(ii) if the person is applying for a principal license, the current business license for each proposed sublicense, except if the local authority determines that the business license for a proposed sublicense is included in the person's current business license;

(f) evidence of the proposed retail licensee's proximity to any community location, with proximity requirements being governed by Section 32B-1-202;

(g) a bond as specified by Section 32B-5-204;

(h) a floor plan, and boundary map where applicable, of the premises of the retail license and each, if any, accompanying sublicense, including any:

(i) consumption area; and

(ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic beverage;

(i) evidence that the retail licensee carries public liability insurance in an amount and form satisfactory to the department;

(j) evidence that the retail licensee carries dramshop insurance coverage of at least:

(i) $1,000,000 per occurrence and $2,000,000 in the aggregate;

(ii) if the retail licensee is a hotel licensee or a resort licensee, $1,000,000 per occurrence and $2,000,000 in the aggregate to cover both the principal license and all accompanying sublicenses; or

(iii) if the retail licensee is an arena licensee, $10,000,000 per occurrence and $20,000,000 in the aggregate to cover both the arena license and all accompanying sublicenses;

(k) a signed consent form stating that the retail licensee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter:

(i) the premises of the retail licensee; and

(ii) if applicable, the premises of each of the retail licensee's accompanying sublicenses;

(l) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity;

(m) a responsible alcohol service plan;

(n) evidence that each individual the person has hired to work as a retail manager, as defined in Section 32B-1-701, has completed the alcohol training and education seminar as required under Chapter 1, Part 7, Alcohol Training and Education Act; and

(o) any other information the commission or department may require.

(3) The commission may not issue a retail license to a person who:

(a) is disqualified under Section 32B-1-304; or

(b) is not lawfully present in the United States.

(4) Unless otherwise provided in the relevant chapter or part for the type of retail license for which the person is applying, the commission may not issue a retail license to a person if the proposed licensed premises does not meet the proximity requirements of Section 32B-1-202.

(5) [~~The~~]Subject to Subsection (6), the commission may not deny an application for a retail license, an application for a conditional retail license under Section 32B-5-205, or an application for a sublicense under Chapter 8d, Sublicense Act, if:

(a) the applicant satisfies the requirements of this chapter and Chapter 6, Specific Retail License Act; and

(b) for a retail license or a conditional retail license, granting the retail license or the conditional retail license would not cause the commission to exceed the maximum number of licenses of that retail license type that the commission is authorized to issue under this chapter.

(6) (a) The commission may deny an application for a retail license, an application for a conditional retail license under Section 32B-5-205, or an application for a sublicense under Chapter 8d, Sublicense Act, if the commission determines that the applicant's violation history warrants the denial.

(b) The commission, when making a determination under this Subsection (6), shall treat applicants with substantially similar violation histories consistently.

Section 7. Section 32B-5-304 is amended to read:

32B-5-304. Portions in which alcoholic product may be sold.

(1) (a) A retail licensee may sell, offer for sale, or furnish spirituous liquor that is a primary spirituous liquor only in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title.

(b) A retail license is not required to dispense spirituous liquor through a calibrated metered dispensing system if the spirituous liquor is:

(i) a secondary flavoring ingredient;

(ii) used as a flavoring on a dessert;

(iii) used to set aflame a food dish, drink, or dessert; [~~or~~]

(iv) in a beverage that:

(A) is served to a patron in the original, sealed container;

(B) is not more than 12 ounces;

(C) contains no more than 10% alcohol by volume or 8% by weight; and

(D) is in a container that has the alcohol by volume percentage on the front label and in a font that measures at least three millimeters high [~~.~~]; or

(v) in a beverage that:

(A) is served to a patron by pouring the beverage from the original sealed container, into a different container as required under Subsection 32B-8d-104(5)(b);

(B) is not more than 12 ounces;

(C) contains no more than 10% alcohol by volume or 8% by weight; and

(D) originates from a container that has the alcohol by volume percentage on the front label and in a font that measures at least three millimeters high.

(c) A retail licensee that dispenses spirituous liquor that is a secondary flavoring ingredient shall:

(i) designate a location where the retail licensee stores secondary flavoring ingredients on the floor plan the retail licensee submits to the department; and

(ii) clearly and conspicuously label each secondary flavoring ingredient's container "flavorings".

(d) (i) A patron may have no more than 2.5 ounces of spirituous liquor at a time.

(ii) Subsection (1)(d)(i) does not apply to a beverage described in Subsection (1)(b)(iv).

(2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an individual portion that does not exceed 5 ounces per glass or individual portion.

(ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to a patron in more than one glass if the total amount of wine does not exceed 5 ounces.

(b) (i) A retail licensee may sell, offer for sale, or furnish wine in a container not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

(ii) A retail licensee may sell, offer for sale, or furnish wine in a container not to exceed 750 milliliters at a price fixed by the commission to a table of less than four persons.

(c) Notwithstanding Subsections (2)(a) and (b), a retail licensee may sell, offer for sale, or furnish hard cider that contains no more than 5% of alcohol by volume in a sealed container not to exceed 16 ounces.

(3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original container at a price fixed by the commission, except that the original container may not exceed one liter.

(4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an original container at a price fixed by the commission, except that the original container may not exceed one liter.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a retail licensee may sell, offer for sale, or furnish beer for on-premise consumption:

(A) in an open original container; and

(B) in a container on draft.

(ii) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a)(i):

(A) in a size of container that exceeds two liters; or

(B) to an individual patron in a size of container that exceeds one liter.

(b) A retail licensee may sell, offer for sale, or furnish beer for off-premise consumption:

(i) in a sealed container; and

(ii) in a size of container that does not exceed two liters.

(c) A retail licensee may sell, offer for sale, or furnish a flight of beer to an individual patron if the total amount of beer does not exceed 16 ounces.

Section 8. Section 32B-5-307 is amended to read:

32B-5-307. Bringing alcoholic product onto or removing alcoholic product from premises.

(1) Except as provided in Subsections (3)[~~and~~],(4), and (6):

(a) [~~a person~~]an individual may not bring onto the licensed premises of a retail licensee an alcoholic product for on-premise consumption;

(b) a retail licensee may not allow a person to:

(i) bring onto licensed premises an alcoholic product for on-premise consumption; or

(ii) consume an alcoholic product brought onto the licensed premises by a person other than the retail licensee; and

(c) a retail licensee may not sell, offer for sale, or furnish an alcoholic product through a window or door to a location off the licensed premises or to a vehicular traffic area.

(2) Except as provided in Subsections (3)[~~and~~],(4), and (6) and Subsection 32B-4-415(5):

(a) [~~a person~~]an individual may not carry from the licensed premises of a retail licensee an open container that:

(i) is used primarily for drinking purposes; and

(ii) contains an alcoholic product;

(b) a retail licensee may not permit a patron to carry from the licensed premises an open container described in Subsection (2)(a); and

(c) (i) [~~a person~~]an individual may not carry from the licensed premises of a retail licensee a sealed container of liquor that has been purchased from the retail licensee; and

(ii) a retail licensee may not permit a patron to carry from the licensed premises of the retail licensee a sealed container of liquor that has been purchased from the retail licensee.

(3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for on-premise consumption if:

(i) permitted by the retail licensee; and

(ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

(b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the patron shall deliver the bottled wine to a server or other representative of the retail licensee upon entering the licensed premises.

(c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a wine service for a bottled wine carried onto the licensed premises in accordance with this Subsection (3) or a bottled wine purchased at the licensed premises.

(d) A patron may remove from a licensed premises the unconsumed contents of a bottle of wine purchased at the licensed premises, or brought onto the licensed premises in accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

(4) Neither a patron nor a retail licensee violates this section if:

(a) the patron is in shared seating; and

(b) the patron purchased the patron's alcoholic beverage from a restaurant licensee whose licensed premises include the shared seating area the patron is in.

(5) (a) A patron may carry from a retail licensee's licensed premises a sealed container of beer that has been purchased from the retail licensee.

(b) A retail licensee may permit a patron to carry from the retail licensee's licensed premises a sealed container of beer that has been purchased from the retail licensee.

(6) A patron may transport beer between the licensed areas of a facility with both an on-premise beer retailer license and an on-premise banquet license if the patron transports the beer to and from an area of each licensed premises:

(a) if the premises are contiguous; and

(b) where the consumption of beer is permitted.

Section 9. Section 32B-5-308 is amended to read:

32B-5-308. Requirements on staff or others on premises -- Employing a minor.

(1) As used in this section, "straw test" means a technique used by staff of a retail licensee to taste liquor to ensure the quality, flavor, and alcohol content of the liquor by:

(a) dipping the straw into the liquor;

(b) removing the straw in a manner that a small amount of liquor remains in the straw; and

(c) tasting the small amount of liquor from the straw.

[~~(1)~~](2) [~~Staff~~]Except as provided in Subsection (5), staff of a retail licensee, while on duty, may not:

(a) consume an alcoholic product; or

(b) be intoxicated.

[~~(2)~~](3) (a) A retail licensee may not employ a minor to sell, offer for sale, furnish, or dispense an alcoholic product.

(b) Notwithstanding Subsection [~~(2)(a)~~](3)(a), unless otherwise prohibited in the provisions related to the specific type of retail license, a retail licensee may employ a minor who is at least 16 years [~~of age~~]old to enter the sale at a cash register or other sales recording device.

[~~(3)~~](4) A full-service restaurant licensee, limited-service restaurant licensee, or beer-only restaurant licensee may employ a minor who is at least 16 years [~~of age~~]old to bus tables, including containers that contain an alcoholic product.

(5) A staff member of a retail licensee may conduct a straw test if the staff member is not a minor.

Section 10. Section 32B-6-403 is amended to read:

32B-6-403. Commission's power to issue bar establishment license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on the person's premises as a bar establishment licensee, the person shall first obtain a bar establishment license from the commission in accordance with this part.

(2) The commission may issue a bar establishment license to establish bar establishment licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated by a bar establishment licensee.

(3) Subject to Section 32B-1-201:

(a) the commission may not issue a total number of bar establishment licenses that at any time exceeds the sum of:

(i) 15; and

(ii) the number determined by dividing the population of the state by:

(A) before fiscal July 1, 2024, 10,200;

(B) in fiscal year 2025, 9,778;

(C) in fiscal year 2026, 9,356;

(D) in fiscal year 2027, 8,934;

(E) in fiscal year 2028, 8,512;

(F) in fiscal year 2029, 8,090;

(G) in fiscal year 2030, 7,668; and

(H) in fiscal year 2031, and in each fiscal year thereafter, 7,246;

(b) the commission may issue a seasonal bar establishment license in accordance with Section 32B-5-206 to a bar licensee;

(c) the commission may authorize as many as three bar establishment license locations within a hotel under one bar establishment license if:

(i) the location, design, and construction of the hotel requires more than one bar license location within the hotel to serve the public convenience;

(ii) the hotel has a minimum of 150 guest rooms;

(iii) all locations under the bar establishment license are:

(A) within the same hotel; and

(B) on premises that are managed or operated, and owned or leased, by the bar establishment licensee;

(d) the commission may authorize up to five dispensing locations under one equity license if the locations under the equity license:

[~~(i) are connected by a private roadway to which the equity licensee, each member of the equity licensee, and each guest has a legal right of access; and~~]

[~~(ii)~~](i) are located on premises managed or operated, and owned or leased, by the equity licensee;

(ii) the locations are under the same leadership or management; and

(iii) an individual who is a member of at least one location that the equity licensee operates has access to all locations the equity licensee operates;

(e) except for a facility operating in accordance with Subsection (3)(d) or a hotel, a facility shall have a separate bar establishment license for each bar establishment license location where an alcoholic product is sold, offered for sale, or furnished;

(f) when a business establishment undergoes a change of ownership, the commission may issue a bar establishment license to the new owner of the business establishment notwithstanding that there is no bar establishment license available under Subsection (3)(a) if:

(i) the primary business activity at the business establishment before and after the change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;

(ii) before the change of ownership there are two or more licensed premises on the business establishment that operate under a retail license, with at least one of the retail licenses being a bar establishment license;

(iii) subject to Subsection (3)(g) the licensed premises of the bar establishment license issued under this Subsection (3)(f) is at the same location where the bar establishment license licensed premises was located before the change of ownership; and

(iv) the person who is the new owner of the business establishment qualifies for the bar establishment license, except for there being no bar establishment license available under Subsection (3)(a); and

(g) if a bar establishment licensee of a bar establishment license issued under Subsection (3)(f) requests a change of location, the bar establishment licensee may retain the bar establishment license after the change of location only if on the day on which the bar establishment licensee seeks a change of location a bar establishment license is available under Subsection (3)(a).

Section 11. Section 32B-6-603 is amended to read:

32B-6-603. Commission's power to issue on-premise banquet license -- Contracts as host.

(1) (a) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product in connection with the person's banquet and room service activities at one of the following, the person shall first obtain an on-premise banquet license in accordance with this part:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility;

(vi) an arena; [~~or~~]

(vii) a restaurant venue [~~.~~]; or

(viii) an amphitheater.

(b) This part does not prohibit an alcoholic product on the premises of a person listed in Subsection (1)(a) to the extent otherwise permitted by this title.

(c) This section does not prohibit a person who applies for an on-premise banquet license to also apply for a package agency if otherwise qualified.

(2) The commission may issue an on-premise banquet license to establish on-premise banquet licensees in the numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product at a banquet or as part of room service activities operated by an on-premise banquet licensee.

(3) Subject to Section 32B-1-201, the commission:

(a) may not issue a total number of restaurant venue on-premise banquet licenses that at any time exceeds 25; and

(b) may not issue a total number of on-premise banquet licenses that at any time exceeds the number determined by dividing the population of the state by 28,765.

(4) Pursuant to a contract between the host of a banquet and an on-premise banquet licensee:

(a) the host of the banquet may request an on-premise banquet licensee to provide an alcoholic product served at the banquet; and

(b) an on-premise banquet licensee may provide an alcoholic product served at the banquet.

(5) At a banquet, an on-premise banquet licensee may furnish an alcoholic product:

(a) without charge to a patron at a banquet, except that the host of the banquet shall pay for an alcoholic product furnished at the banquet; or

(b) with a charge to a patron at the banquet.

(6) To be licensed as an on-premise banquet, a person shall maintain at least 50% of the person's total annual banquet gross receipts from the sale of food, which does not include:

(a) mix for an alcoholic product; or

(b) a charge in connection with the furnishing of an alcoholic product.

Section 12. Section 32B-6-604 is amended to read:

32B-6-604. Specific licensing requirements for an on-premise banquet license.

(1) To obtain an on-premise banquet license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.

(2) (a) An on-premise banquet license expires on October 31 of each year.

(b) To renew a person's on-premise banquet license, a person shall comply with the requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3) (a) The nonrefundable application fee for an on-premise banquet license is $300.

(b) (i) The initial license fee for an on-premise banquet license is $750.

(ii) The department shall prorate the $750 initial license fee for the period that begins the day on which the initial license fee is paid and ends the day on which the on-premise banquet license expires.

(c) The renewal fee for an on-premise banquet license is $750.

(4) The bond amount required for an on-premise banquet license is the penal sum of $10,000.

(5) Notwithstanding the other provisions of this part, if an applicant is a state agency or political subdivision of the state it is not required to:

(a) pay an application fee, initial license fee, or renewal fee;

(b) obtain the written consent of the local authority;

(c) submit a copy of the applicant's current business license; or

(d) post a bond as specified by Section 32B-5-204.

(6) Notwithstanding Subsection 32B-5-303(3), the department may approve [~~an additional location~~]one or more additional locations in accordance with Subsection (7), in or on the licensed premises of an on-premise banquet licensee from which the on-premise banquet licensee may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product that is not included in its original application only:

(a) upon proper application by an on-premise banquet licensee; and

(b) in accordance with guidelines approved by the commission.

(7) The department may approve one or more additional locations under Subsection (6), whether or not the locations are contiguous to one another or to the location included in the original application for the on-premise banquet licensee.

Section 13. Section 32B-6-605 is amended to read:

32B-6-605. Specific operational requirements for on-premise banquet license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise banquet licensee

and staff of the on-premise banquet licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) an on-premise banquet licensee;

(ii) individual staff of an on-premise banquet licensee; or

(iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

(2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and (5) for the entire premises of the hotel, resort facility, sports center, convention center, performing arts facility, arena, [~~or~~]restaurant venue, or amphitheater that is the basis for the on-premise banquet license.

(3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee shall provide the department with advance notice of a scheduled banquet in accordance with rules made by the commission.

(b) Any of the following may conduct a random inspection of a banquet:

(i) an authorized representative of the commission or the department; or

(ii) a law enforcement officer.

(4) (a) An on-premise banquet licensee is not subject to Subsection 32B-5-302(1), but shall make and maintain the records described in Subsection 32B-5-302(2) and the records the commission or department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (4).

(5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the location of the banquet.

(b) Notwithstanding Section 32B-5-307 and except as otherwise provided in this title:

(i) a person at a banquet other than the on-premise banquet licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from the premises of the banquet; and

(ii) a patron at a banquet may not bring an alcoholic product into or onto the premises of the banquet.

(6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, an on-premise banquet licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (6)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:

(i) shall store the alcoholic product in the on-premise banquet licensee's approved locked storage area; and

(ii) may use the alcoholic product at more than one banquet.

(7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not employ a minor to sell, furnish, or dispense an alcoholic product in connection with the on-premise banquet licensee's banquet and room service activities.

(8) An on-premise banquet licensee:

(a) may provide room service in portions described in Section 32B-5-304;

(b) may not sell, offer for sale, or furnish an alcoholic product at a banquet or in connection with room service any day during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.; and

(c) notwithstanding Section 32B-5-305, may provide as room service one alcoholic product free of charge per guest reservation, per guest room, if the alcoholic product:

(i) is not a spirituous liquor; and

(ii) is in an unopened container not to exceed 750 milliliters.

(9) (a) Subject to the other provisions of this Subsection (9), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (9)(a).

(10) (a) An on-premise banquet licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.

(11) A staff person of an on-premise banquet licensee shall remain at the banquet at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the banquet.

(12) (a) Room service of an alcoholic product to a guest room or privately owned dwelling unit of a hotel or resort facility shall be provided in person by staff of an on-premise banquet licensee only to an adult guest in the guest room or privately owned dwelling unit.

(b) An alcoholic product may not be left outside a guest room or privately owned dwelling unit for retrieval by a guest or resident.

(13) An on-premise banquet licensee may not maintain a minibar.

Section 14. Section 32B-6-702 is amended to read:

32B-6-702. Definitions.

As used in this part:

(1) "Commission-approved activity" means a leisure activity that:

(a) the commission approves by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) does not involve the use of a dangerous weapon.

(2) (a) "Recreational amenity" means:

(i) a billiard parlor;

(ii) a pool parlor;

(iii) a bowling facility;

(iv) a golf course;

(v) miniature golf;

(vi) a golf driving range;

(vii) a tennis club;

(viii) a sports facility that hosts professional sporting events and has a seating capacity equal to or greater than [~~5,000~~]2,500;

(ix) a concert venue that has a seating capacity equal to or greater than [~~5,000~~]2,500;

(x) one of the following if owned by a government agency:

(A) a convention center;

(B) a fair facility;

(C) an equestrian park;

(D) a theater; or

(E) a concert venue;

(xi) an amusement park:

(A) with one or more permanent amusement rides; and

(B) located on at least 50 acres;

(xii) a ski resort;

(xiii) a venue for live entertainment if the venue:

(A) is not regularly open for more than five hours on any day;

(B) is operated so that food is available whenever beer is sold, offered for sale, or furnished at the venue; and

(C) is operated so that no more than 15% of its total annual receipts are from the sale of beer;

(xiv) concessions operated within the boundary of a park administered by the:

(A) Division of State Parks; or

(B) National Parks Service;

(xv) a facility or venue that is a recreational amenity for a person licensed under this part before May 12, 2020;

(xvi) a venue for karaoke; or

(xvii) an enterprise developed around a commission-approved activity.

(b) "Recreational amenity" does not include an item described in Subsection (2)(a), if the item is tangential to an enterprise or activity that is not included in Subsection (2)(a).

Section 15. Section 32B-7-202 is amended to read:

32B-7-202. General operational requirements for off-premise beer retailer.

(1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply with the provisions of this title and any applicable rules made by the commission.

(b) Failure to comply with this section may result in a suspension or revocation of a local license and, on or after July 1, 2018, disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act.

(2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) A violation of Subsection (2)(a) is a class A misdemeanor.

(b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

(ii) A violation of Subsection (2)(b) is a class B misdemeanor.

(3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a container larger than two liters.

(4) (a) Staff of an off-premise beer retailer, while on duty, may not:

(i) consume an alcoholic product; or

(ii) be intoxicated.

(b) A minor may not sell beer on the licensed premises of an off-premise beer retailer unless:

(i) the sale is done under the supervision of a person 21 years old or older who is on the licensed premises; and

(ii) the minor is at least 16 years old.

(5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(6) (a) Subject to the other provisions of this Subsection (6), an off-premise beer retailer shall:

(i) display all beer accessible by and visible to a patron in no more than two locations on the retail sales floor, each of which is:

(A) a display cabinet, cooler, aisle, floor display, or room where beer is the only beverage displayed; and

(B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler with a door from which the nonalcoholic beverages are not accessible, or the beer is separated from the display of nonalcoholic beverages by a display of one or more nonbeverage products or another physical divider; and

(ii) display a sign in the area described in Subsection (6)(a)(i) that:

(A) is prominent;

(B) is easily readable by a consumer;

(C) meets the requirements for format established by the commission by rule; and

(D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain alcohol. Please read the label carefully."

(b) Notwithstanding Subsection (6)(a), a nonalcoholic beer may be displayed with beer if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

(c) The requirements of this Subsection (6) apply to beer notwithstanding that it is labeled, packaged, or advertised as:

(i) a malt cooler; or

(ii) a beverage that may provide energy.

(d) A violation of this Subsection (6) is an infraction.

(e) (i) Except as provided in Subsection (6)(e)(ii), the provisions of Subsection (6)(a)(i) apply on and after May 9, 2017.

(ii) For a beer retailer that operates two or more off-premise beer retailers, the provisions of Subsection (6)(a)(i) apply on and after August 1, 2017.

(7) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or who sells beer to a patron for consumption off the premises of the off-premise beer retailer shall wear a unique identification badge:

(i) on the front of the staff's clothing;

(ii) visible above the waist;

(iii) bearing the staff's:

(A) first or last name;

(B) initials; or

(C) unique identification in letters or numbers; and

(iv) with the number or letters on the unique identification badge being sufficiently large to be clearly visible and identifiable while engaging in or directly supervising the retail sale of beer.

(b) An off-premise beer retailer shall make and maintain a record of each current staff's unique identification badge assigned by the off-premise beer retailer that includes the staff's:

(i) full name;

(ii) address; and

(iii) (A) driver license number; or

(B) similar identification number.

(c) An off-premise beer retailer shall make available a record required to be made or maintained under this Subsection (7) for immediate inspection by:

(i) a peace officer;

(ii) a representative of the local authority that issues the off-premise beer retailer license; or

(iii) for an off-premise beer retailer state license, a representative of the commission or department.

(d) A local authority may impose a fine of up to $250 against an off-premise beer retailer that does not comply or require its staff to comply with this Subsection (7).

[~~(8) (a) An off-premise beer retailer may sell, offer for sale, or furnish beer through a drive through window.~~]

[~~(b) Subsection (8)(a) does not modify the display limitations and requirements described in Subsection (6).~~]

(8) (a) An off-premise beer retailer may sell, offer for sale, or furnish beer:

(i) at a drive-through window;

(ii) at a drive-up loading area, if the drive-up loading area is contiguous to the off-premise beer retailer's licensed premises; or

(iii) subject to Subsection (8)(b), at a designated parking stall.

(b) (i) An off-premise beer retailer shall ensure that a parking stall described in Subsection (8)(a)(iii) is:

(A) located on property that the off-premise beer retailer owns or has a legal right to occupy;

(B) designated for picking up pre-ordered items from the off-premise beer retailer; and

(C) labeled in a conspicuous manner that communicates the purpose described in Subsection (8)(b)(ii).

(ii) An off-premise beer retailer may not sell, offer for sale, or furnish beer at a designated parking stall described in Subsection (8)(a)(iii) unless:

(A) the off-premise beer retailer ensures that the individual purchasing the beer purchases the beer before parking in the designated parking stall;

(B) the off-premise beer retailer delivers the beer directly from the off-premise beer retailer's licensed premises to the designated parking stall;

(C) at the designated parking stall, staff of the off-premise beer retailer verifies the purchaser's age in accordance with Section 32B-1-

407; and

(D) the off-premise beer retailer maintains video surveillance of the designated parking stall.

(c) Nothing in this Subsection (8) modifies the other requirements of this section.

(d) Staff of an off-premise beer retailer that sells, offers for sale, or furnishes beer in accordance with this Subsection (8) shall comply with the training requirements described in Section 32B-1-703.

(9) An off-premise beer retailer may not on the licensed premises:

(a) engage in or permit any form of:

(i) gambling, as defined in Section 76-10-1101; or

(ii) fringe gambling, as defined in Section 76-10-1101;

(b) have any fringe gaming device, video gaming device, or gambling device or record as defined in Section 76-10-1101; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(10) An off-premise beer retailer may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess, with the intent to deliver, drug paraphernalia, as defined in Section 58-37a-3.

(11) An off-premise beer retailer may not sell, offer for sale, or furnish a beer that is intended to be frozen and consumed in a manner other than as a beverage, including beer in the form of a freeze pop, popsicle, ice cream, or sorbet.

Section 16. Section 32B-9-203 is amended to read:

32B-9-203. Bond for event permit.

(1) (a) A person applying for an event permit shall post a [~~cash bond or~~]surety bond:

(i) in the amount specified in [~~the relevant part under~~]this chapter for the type of event permit for which the person is applying; and

(ii) payable to the department.

(b) An event permittee shall procure and maintain a bond required under this section for as long as the event permit is in effect.

(2) A bond posted by an event permittee under this section shall be:

(a) in a form approved by the attorney general; and

(b) conditioned upon the event permittee's faithful compliance with this title and the rules of the commission.

(3) No part of a bond posted by an event permittee under this section may be withdrawn during the period the event permit is in effect.

(4) (a) A bond posted by an event permittee under this section may be forfeited if the event permit is revoked.

(b) Notwithstanding Subsection (4)(a), the department may make a claim against a bond posted by an event permittee for money owed the department under this title without the commission first revoking the event permit.

Section 17. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 163
S. B. 334
Passed March 5, 2025
Approved March 24, 2025
Effective May 7, 2025

CENTER FOR CIVIC EXCELLENCE AT UTAH STATE UNIVERSITY

Chief Sponsor: John D. Johnson
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill establishes the Center for Civic Excellence at Utah State University (center).

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes the center as a pilot program;
- ► provides the purposes, curricular focus, responsibilities, authority, and administration of the center;
- ► requires a report to the Utah Board of Higher Education to consider system-wide changes to general education; and
- ► establishes a sunset date for the center.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

53B-18-1901, Utah Code Annotated 1953
53B-18-1902, Utah Code Annotated 1953
53B-18-1903, Utah Code Annotated 1953
53B-18-1904, Utah Code Annotated 1953
53B-18-1905, Utah Code Annotated 1953
53B-18-1906, Utah Code Annotated 1953
53B-18-1907, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-18-1901 is enacted to read:

PART 19. Center for Civic Excellence

53B-18-1901. Definitions.

As used in this part:

(1) "Center" means the Center for Civic Excellence established in Section 53B-18-1902.

(2) "Program" means the general education program at Utah State University.

Section 2. Section 53B-18-1902 is enacted to read:

53B-18-1902. Center for Civic Excellence establishment -- Purpose.

There is established the Center for Civic Excellence as a pilot program and an administrative unit in the Office of the Provost at Utah State University to:

(1) provide general education for all Utah State University students;

(2) replace the existing distribution model of general education with a coherent curriculum with a foundation of the core values, principles, and purposes described in Section 53B-18-1906; and

(3) develop a curriculum grounded in the following mission:

(a) engaging students in civil and rigorous intellectual inquiry, across ideological differences, with a commitment to intellectual freedom in the pursuit of truth;

(b) ensuring, through engagement with foundational primary texts representing "the best of what has been thought and said," that all graduates, regardless of the graduate's major, engage with the "big questions, great debates, and enduring ideas" that continue to shape society's self-understanding, the American experience, and the modern world; and

(c) cultivating students' intellectual and personal habits of mind to enable the students to contribute and thrive in the students' economic, social, political, and personal lives with a focus on civil discourse, critical thinking about enduring questions, wise decision-

making, and durable skills.

Section 3. Section 53B-18-1903 is enacted to read:
53B-18-1903. Duties -- Authority.

The Center for Civic Excellence shall:

(1) serve as the program home of general education at Utah State University;

(2) (a) govern faculty over all general education curriculum; and

(b) establish a faculty curriculum committee to develop and review program outcomes and all courses;

(3) develop and assess the program and all general education courses, ensuring alignment with the purposes and commitments described in Sections 53B-18-1902 and 53B-18-1906;

(4) appoint and evaluate all instructors who will teach general education courses at Utah State University; and

(5) provide professional development for instructors teaching in the program to ensure fidelity to the program's purposes, values, and outcomes.

Section 4. Section 53B-18-1904 is enacted to read:
53B-18-1904. Leadership.

(1) (a) The Office of the Provost shall house the center.

(b) The provost shall appoint a vice-provost to:

(i) lead the center; and

(ii) report to the provost regarding the operation of the center and the general education program.

(2) The vice-provost overseeing the center shall:

(a) appoint faculty to the center's curriculum committee;

(b) oversee the development and assessment of the general education program and the program's courses;

(c) manage the recruitment of affiliate instructors from other academic units;

(d) approve appointments of affiliate instructors who will teach for the center;

(e) approve syllabi from affiliate instructors who will teach for the center;

(f) oversee the development of performance expectations for affiliate faculty;

(g) manage the evaluation of affiliate instructors; and

(h) manage the review and approval of petitions for exceptions for general education requirements.

Section 5. Section 53B-18-1905 is enacted to read:
53B-18-1905. Faculty.

(1) Only an instructor whom the vice-provost leading the center grants an appointment as an affiliate instructor in the center may teach general education courses at Utah State University.

(2) In appointing an instructor under Subsection (1), the vice-provost leading the center shall:

(a) grant an at-will appointment on a two-year, renewable basis;

(b) require the instructor to engage with all professional development the center mandates; and

(c) (i) ensure the center annually evaluates the instructor on the instructor's teaching performance in the general education program; and

(ii) deliver the performance evaluation to the faculty member, department head, and dean.

Section 6. Section 53B-18-1906 is enacted to read:
53B-18-1906. Curriculum.

(1) The center shall:

(a) govern the general education program and general education courses at Utah State University; and

(b) ensure that:

(i) the general education program aligns with the general education program requirements described in board policy; and

(ii) there is general education transferability to and from Utah State University and other institutions within the Utah System of Higher Education.

(2) The center is founded on the following principles, values, and purposes:

(a) a commitment to viewpoint diversity and civil discourse, ensuring that students understand opposing points of view and can contribute in the public square in civil and productive ways;

(b) the development of program outcomes and courses that engage students in enduring questions of meaning, purpose, and value; and

(c) the cultivation in students of the durable skills necessary to thrive in educational, social, political, economic, and personal contexts.

(3) The center shall ensure, within the general education program:

(a) a cap of 30 credits;

(b) the integration of six written and oral communication credits with three humanities credits;

(c) that three three-credit courses in the humanities:

(i) engage with perennial questions about the human condition, the meaning of life, and the nature of social and moral lives;

(ii) emphasize foundational thinking and communication skills through engagement with primary texts predominantly from Western civilization, such as:

(A) the intellectual contributions of ancient Israel, ancient Greece, and Rome; and

(B) the rise of Christianity, medieval Europe, the Renaissance, the Enlightenment, and post-Enlightenment;

(iii) include texts for each course that are historically distributed from antiquity to the present from figures with lasting literary,

philosophical, and historical influence, such as Homer, Plato, Aristotle, Lao Tzu, Cicero, Maimonides, Boethius, Shakespeare, Mill, Woolf, and Achebe; and

(iv) are organized around themes central to the preservation and flourishing of a free society, such as the moral life, happiness, liberty, equality and justice, and goodness and beauty; and

(d) that one three-credit course in American institutions:

(i) engages students with the major debates and ideas that inform the historical development of the republican form of government of the United States of America;

(ii) focus on the founding principles of American government, economics, and history, such as natural rights, liberty, equality, constitutional self-government, and market systems; and

(iii) use primary source material, such as:

(A) the Magna Carta, the United States Constitution, the Federalist Papers; and

(B) material from thinkers, such as Marcus Aurelius, Seneca, Adam Smith, John Locke, Montesquieu, and Alexis de Tocqueville.

(4) The vice-provost overseeing the center:

(a) shall ensure that the center:

(i) no less than seven days before the first day of class for a given semester or other academic term during which the institution offers a course, makes available to the public on the institution's website a syllabus for each section of the courses in the humanities described in Subsection (3) that:

(A) provide the section number;

(B) provides a brief description of each major assignment and examination;

(C) lists any required or recommended reading; and

(D) provides a general description of the subject matter of each lecture or discussion;

(E) is accessible from the home page of the institution's website by use of not more than three links;

(F) is searchable by keywords and phrases; and

(G) is accessible to the public without requiring registration, use of a user name and password, or another method of user identification;

(ii) continues to make the information described in Subsection (4)(a) available on the center's website until at least the second anniversary of the date on which the center initially posted the information; and

(iii) updates the information described in Subsection (4)(a) as soon as practicable after the information changes; and

(b) may assign duties under this Subsection (4) to one or more administrative employees.

Section 7. Section 53B-18-1907 is enacted to read:

53B-18-1907. Oversight -- Reporting.

(1) The vice-provost leading the center shall submit an annual report:

(a) to the provost, president of the institution, and the commissioner;

(b) that includes a mission-based accounting of:

(i) program and instructor performance and goals for improvement;

(ii) professional development offerings and future goals;

(iii) the course offerings and syllabus publication described in Section 53B-18-1906; and

(iv) a full account of the center's budget.

(2) The commissioner shall report annually to the Education Interim Committee regarding the implementation and activities of the center.

(3) Each year, the center shall:

(a) assess the quality of teaching and adherence to program principles, values, and goals;

(b) identify expectations for addressing deficiencies or for continued improvement; and

(c) share the review described in Subsections (2)(a) and (b) with appropriate department heads.

(4) Before July 1, 2029, the center shall:

(a) report to the board educational outcomes and impacts of the pilot program;

(b) provide recommendations for system-wide general education curriculum; and

(c) report to the Education Interim Committee regarding the implementation and activities of the center.

(5) Based on the pilot program's outcomes, the board shall, in consultation with academic experts, pedagogical specialists, and institutional stakeholders, develop a proposed core of system-wide general education courses aligned with the educational principles of this section.

Section 8. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.

(2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

(5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

(6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.

(7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

(8) Section 53-5-703, Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

(9) Section 53-11-104, Board, is repealed July 1, 2029.

(10) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(11) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

(12) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

(13) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.

(14) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(15) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(16) Section 53B-17-1203, SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.

(17) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(18) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

(19) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.

(20) Title 53B, Chapter 18, Part 19, Center for Civic Excellence, is repealed July 1, 2030.

[~~(20)~~](21) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(21)~~](22) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(22)~~](23) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(23)~~](24) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(24)~~](25) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(25)~~](26) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(26)~~](27) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

[~~(27)~~](28) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

[~~(28)~~](29) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(29)~~](30) Subsection 53E-7-207(7), regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(30)~~](31) Section 53F-2-420, Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(31)~~](32) Section 53F-5-214, Grant for professional learning, is repealed July 1, 2025.

[~~(32)~~](33) Section 53F-5-215, Elementary teacher preparation grant, is repealed July 1, 2025.

[~~(33)~~](34) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is repealed July 1, 2025.

[~~(34)~~](35) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(35)~~](36) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(36)~~](37) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(37)~~](38) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

Section 9. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 164
S. B. 338
Passed March 7, 2025
Approved March 24, 2025
Effective May 7, 2025

NONPROFIT ENTITIES AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill amends provisions relating to nonprofit entities.

Highlighted Provisions:

This bill:

- ► modifies the definition of "governmental nonprofit corporation" to exclude the Utah Association of Special Districts;
- ► clarifies that a private nonprofit organization that is not a public employees' association is not required to post employee compensation information online; and
- ► requires a governmental nonprofit corporation to post financial information on the Utah Public Finance Website.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-13a-102, as last amended by Laws of Utah 2024, Chapter 438
67-3-12, as last amended by Laws of Utah 2023, Chapters 16, 502

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13a-102 is amended to read:

11-13a-102. Definitions.

As used in this chapter:

(1) "Controlling interest" means that one or more governmental entities collectively represent a majority of the board's voting power as outlined in the nonprofit corporation's governing documents.

(2) (a) "Governing board" means the body that governs a governmental nonprofit corporation.

(b) "Governing board" includes a board of directors.

(3) "Governmental entity" means the state, a county, a municipality, a special district, a special service district, a school district, a state institution of higher education, or any other political subdivision or administrative unit of the state.

(4) (a) "Governmental nonprofit corporation" means:

(i) a nonprofit corporation that is wholly owned or wholly controlled by one or more governmental entities, unless the nonprofit corporation receives no operating funding or other financial support from any governmental entity; or

(ii) a nonprofit corporation in which one or more governmental entities exercise a controlling interest and:

(A) that exercises taxing authority;

(B) that imposes a mandatory fee for association or participation with the nonprofit corporation where that association or participation is mandated by law; or

(C) that receives a majority of the nonprofit corporation's operating funding from one or more governmental entities under the nonprofit corporation's governing documents, except where voluntary membership fees, dues, or assessments compose the operating funding.

(b) "Governmental nonprofit corporation" does not include:

(i) a water company, as that term is defined in Section 16-4-102, unless the water company is wholly owned by one or more governmental entities [-]; or

(ii) the Utah Association of Special Districts.

(5) "Municipality" means a city or town.

Section 2. Section 67-3-12 is amended to read:

67-3-12. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) As used in this section:

(a) (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same as that term is defined in Section 63E-1-102.

(ii) "Independent entity" includes an entity that is part of an independent entity described in Subsection (1)(a)(i), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(iii) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(b) "Local education agency" means a school district or charter school.

(c) "Participating local entity" means:

(i) a county;

(ii) a municipality;

(iii) the State Fair Park Authority, created in Section 11-68-201;

(iv) a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts;

(v) a special service district under Title 17D, Chapter 1, Special Service District Act;

(vi) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(vii) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(viii) except for a taxed interlocal entity as defined in Section 11-13-602:

(A) an interlocal entity as defined in Section 11-13-103;

(B) a joint or cooperative undertaking as defined in Section 11-13-103; or

(C) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(ix) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (1)(c)(i) through (viii), if the entity is considered a component unit of the entity described in Subsections (1)(c)(i) through (viii) under the governmental accounting standards issued by the Governmental Accounting Standards Board; [~~or~~]

(x) a conservation district under Title 17D, Chapter 3, Conservation District Act[~~.~~]; or

(xi) a governmental nonprofit corporation under Title 11, Chapter 13a, Governmental Nonprofit Corporations Act.

(d) (i) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(ii) "Participating state entity" includes an entity that is part of an entity described in Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(e) "Public finance website" or "website" means the website established by the state auditor in accordance with this section.

(f) "Public financial information" means each record that is required under this section or by rule made by the Office of the State Auditor under Subsection (9) to be made available on the public finance website, a participating local entity's website, or an independent entity's website.

(g) "Qualifying entity" means:

(i) an independent entity;

(ii) a participating local entity;

(iii) a participating state entity;

(iv) a local education agency;

(v) a state institution of higher education as defined in Section 53B-3-102;

(vi) the Utah Educational Savings Plan created in Section 53B-8a-103;

(vii) the Utah Housing Corporation created in Section 63H-8-201;

(viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or

(x) a URS-participating employer.

(h) (i) "URS-participating employer" means an entity that:

(A) is a participating employer, as that term is defined in Section 49-11-102; and

(B) is not required to report public financial information under this section as a qualifying entity described in Subsections (1)(g)(i) through (ix).

(ii) "URS-participating employer" does not include:

(A) the Utah State Retirement Office created in Section 49-11-201;

(B) an insurer that is subject to the disclosure requirements of Section 31A-4-113; [~~or~~]

(C) a private nonprofit organization that is not a public employees' association; or

[~~(C)~~](D) a withdrawing entity.

(i) (i) "Withdrawing entity" means:

(A) an entity that elects to withdraw from participation in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records;

(B) until the date determined under Subsection 49-11-626(2)(a), a public employees' association that provides the notice of intent described in Subsection 49-11-626(2)(b); and

(C) beginning on the date determined under Subsection 49-11-626(2)(a), a public employees' association that makes an election described in Subsection 49-11-626(3).

(ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in Sections 49-11-623 and 49-11-624.

(2) The state auditor shall establish and maintain a public finance website in accordance with this section.

(3) The website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, participating local entities, and URS-participating employers, using the website; and

(ii) link to websites administered by participating local entities, independent entities, or URS-participating employers that do not use

the website for the purpose of providing public financial information as required by this section and by rule made under Subsection (9);

(b) allow a person that has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the website;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule made in accordance with Subsection (9);

(e) have a unique and simplified website address;

(f) be guided by the principles described in Subsection 63A-16-202(2);

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule made under Subsection (9); and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(4) The state auditor shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities; and

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities.

(5) A qualifying entity shall permit the public to view the qualifying entity's public financial information by posting the public financial information to the public finance website in accordance with rules made under Subsection (9).

(6) The content of the public financial information posted to the public finance website is the responsibility of the qualifying entity posting the public financial information.

(7) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the Utah Public Finance Website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.

(8) (a) A qualifying entity may not post financial information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, to the public finance website.

(b) An individual who negligently discloses financial information that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the financial information if the financial information is disclosed solely as a result of the preparation or publication of the website.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of the State Auditor:

(a) shall make rules to:

(i) establish which records a qualifying entity is required to post to the public finance website; and

(ii) establish procedures for obtaining, submitting, reporting, storing, and posting public financial information on the public finance website; and

(b) may make rules governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure.

(10) The rules made under Subsection (9) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the public finance website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state auditor for posting on the public finance website.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 165
H. B. 2
Passed March 5, 2025
Approved March 25, 2025
Effective July 1, 2025

PUBLIC EDUCATION BUDGET AMENDMENTS

Chief Sponsor: Stephen L. Whyte
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2024, and ending June 30, 2025, and appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2025, and ending June 30, 2026.

Highlighted Provisions:

This bill:

- ► increases an educator salary adjustment;
- ► establishes a salary bonus for certain education support professionals;
- ► repeals provisions regarding programs for which funding is eliminated, including:
  - Technology-Life-Careers;
  - student leadership organizations;
  - professional staff weighted pupil units;
  - the Capital Outlay Enrollment Growth Program; and
  - a pilot grant for professional learning;
- ► repeals a statutory increase for the legacy iteration of the Carson Smith Scholarship Program;
- ► provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- ► adjusts the number of weighted pupil units for Career and Technical Education (CTE) - Add-on, Professional Staff, and Special Education - Impact Aid WPU programs to reflect increased student weightings approved by the Legislature;
- ► makes certain statutory changes to adjust programmatic formulas with funding changes;
- ► provides appropriations for other purposes as described;
- ► provides intent language; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates ($139,350,000) in operating and capital budgets for fiscal year 2025, including:

- ($13,451,000) from Income Tax Fund; and
- ($99,184,700) from Uniform School Fund; and
- ($26,714,300) from various sources as detailed in this bill.

This bill appropriates $1,132,000 in transfers to unrestricted funds for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $134,218,200 in operating and capital budgets for fiscal year 2026, including:

- ($400,000) from General Fund; and
- $15,165,000 from Income Tax Fund; and
- $28,090,000 from Uniform School Fund; and
- $91,363,200 from various sources as detailed in this bill.

This bill appropriates ($126,200) in expendable funds and accounts for fiscal year 2026, all of which is from the various sources as detailed in this bill.

This bill appropriates ($51,409,200) in restricted fund and account transfers for fiscal year 2026, all of which is from the Uniform School Fund.

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Utah Code Sections Affected:

AMENDS:

53E-1-201, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapters 3, 460 and 525
53F-2-208, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapters 460, 484
53F-2-311, (Effective 07/01/25) as last amended by Laws of Utah 2019, Chapter 186
53F-2-405, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapter 468
53F-2-421, (Effective 07/01/25) as enacted by Laws of Utah 2023, Chapter 467
53F-2-601, (Effective 07/01/25) as last amended by Laws of Utah 2023, Chapter 467

53F-4-304, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapter 20
53F-9-302, (Effective 07/01/25) as last amended by Laws of Utah 2023, Chapter 7
63I-1-253, (Effective 07/01/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

53F-2-315, (Contingently Effective 07/01/25) Utah Code Annotated 1953
53F-2-422, (Effective 07/01/25) Utah Code Annotated 1953

REPEALS:

53F-2-305, (Effective 07/01/25) as last amended by Laws of Utah 2022, Chapter 415
53F-3-203, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapter 471
53F-5-214, (Effective 07/01/25) as last amended by Laws of Utah 2022, Chapter 285

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-201 is amended to read:

53E-1-201 (Effective 07/01/25). Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(e) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(h) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(i) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(j) the report described in Section 53F-2-522 regarding mental health screening programs;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

(m) the [~~reports described in Sections 53F-5-214 and~~]report described in Section53F-5-215 by the state board related to [~~grants for professional learning and grants~~]a grant for an elementary teacher preparation assessment;

(n) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

(o) the report described in Section 53F-5-405 by the state board regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low-income;

(p) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

(q) the report described in Section 53G-7-221 by the state board regarding innovation plans; and

(r) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) in 2027, 2030, 2033, and 2035, the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

(b) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(c) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(d) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(e) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high-poverty schools;

(f) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

(g) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

(h) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the state board, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 2. Section 53F-2-208 is amended to read:

53F-2-208 (Effective 07/01/25). Cost of adjustments for growth and inflation.

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in care, described in Section 53E-3-503;

(ii) concurrent enrollment courses for accelerated foreign language students described in Section 53E-10-307;

(iii) the Basic Program, described in Part 3, Basic Program (Weighted Pupil Units);

(iv) the Adult Education Program, described in Section 53F-2-401;

(v) state support of pupil transportation, described in Section 53F-2-402;

(vi) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

(vii) the Concurrent Enrollment Program, described in Section 53F-2-409;

(viii) the juvenile gang and other violent crime prevention and intervention program, described in Section 53F-2-410; [~~and~~]

(ix) the flexible allocation, described in Section 53F-2-421; and

[~~(ix)~~](x) dual language immersion, described in Section 53F-2-502; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a);

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Salary Supplement for Highly Needed Educators Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2) (a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and Budget.

(3) Beginning in the 2026 fiscal year, if the Executive Appropriations Committee includes in the public education base budget or the final public education budget an increase in the value of the WPU in excess of the amounts described in Subsection (1)(a), the Executive Appropriations Committee shall also include an appropriation to the Local Levy Growth Account established in Section 53F-9-305 in an amount equivalent to at least 0.5% of the total amount appropriated for WPUs in the relevant budget.

Section 3. Section 53F-2-311 is amended to read:

53F-2-311 (Effective 07/01/25). Weighted pupil units for career and technical education programs -- Funding of approved programs -- Performance measures -- Qualifying criteria.

(1) (a) Money appropriated to the state board for approved career and technical education programs and the comprehensive guidance program:

(i) shall be allocated to eligible recipients as provided in Subsections (2), (3), and (4); and

(ii) may not be used to fund programs below grade 9.

(b) Subsection (1)(a)(ii) does not apply to the following programs:

(i) comprehensive guidance; and

[~~(ii) Technology-Life-Careers; and~~]

[~~(iii)~~](ii) work-based learning programs.

(2) (a) Weighted pupil units are computed for pupils in approved programs.

(b) (i) The state board shall fund approved programs based upon hours of membership of grades 9 through 12 students.

(ii) Subsection (2)(b)(i) does not apply to the following programs:

(A) comprehensive guidance; and

[~~(B) Technology-Life-Careers; and~~]

[~~(C)~~](B) work-based learning programs.

(c) The state board shall use an amount not to exceed 20% of the total appropriation under this section to fund approved programs based on performance measures such as placement and competency attainment defined in standards set by the state board.

[~~(d) Leadership organization funds shall constitute an amount not to exceed 1% of the total appropriation under this section, and shall be distributed to each school district or each charter school sponsoring career and technical education student leadership organizations based on the agency's share of the state's total membership in those organizations.~~]

[~~(c)~~](d) The state board shall make the necessary calculations for distribution of the appropriation to a school district and charter school and may revise and recommend changes necessary for achieving equity and ease of administration.

(3) (a) Twenty weighted pupil units shall be computed for career and technical education administrative costs for each school district, except 25 weighted pupil units may be computed for each school district that consolidates career and technical education administrative services with one or more other school districts.

(b) Between 10 and 25 weighted pupil units shall be computed for each high school conducting approved career and technical education programs in a school district according to standards established by the state board.

(c) Forty weighted pupil units shall be computed for each school district that operates an approved career and technical education center.

(d) Between five and seven weighted pupil units shall be computed for each summer career and technical education agriculture program according to standards established by the [] state board.

(e) The state board shall, by rule, establish qualifying criteria for a school district or charter school to receive weighted pupil units under this Subsection (3).

(4) (a) Money remaining after the allocations made under Subsections (2) and (3) shall be allocated using average daily membership in approved programs for the previous year.

(b) A school district or charter school that has experienced student growth in grades 9 through 12 for the previous year shall have the growth factor applied to the previous year's weighted pupil units when calculating the allocation of money under this Subsection (4).

(c) An LEA may use funds received through the general allocation described in this Subsection (4) for Technology-Life-Careers and student leadership organizations.

(5) (a) The state board shall establish rules for upgrading high school career and technical education programs.

(b) The rules shall reflect career and technical training and actual marketable job skills in society.

(c) The rules shall include procedures to assist school districts and charter schools to convert existing programs that are not preparing students for the job market into programs that will accomplish that purpose.

(6) Programs that do not meet state board standards may not be funded under this section.

Section 4. Section 53F-2-315 is enacted to read:

53F-2-315 (Contingently Effective 07/01/25). Fiscal year 2026 appropriation from local revenue.

Notwithstanding Laws of Utah 2025, Chapter 6, for fiscal year 2026, the Division of Finance shall use the Uniform School Fund as the source of the $842,101,800 previously appropriated from Local Revenue in Laws of Utah 2025, Chapter 6, Item 27.

Section 5. Section 53F-2-405 is amended to read:

53F-2-405 (Effective 07/01/25). Educator salary adjustments.

(1) As used in this section, "educator" means a person employed by a school district, charter school, regional education service agency, or the Utah Schools for the Deaf and the Blind who holds:

(a) (i) a license issued by the state board; and

(ii) a position as a:

(A) classroom teacher;

(B) speech pathologist;

(C) librarian or media specialist;

(D) preschool teacher;

(E) mentor teacher;

(F) teacher specialist or teacher leader;

(G) guidance counselor;

(H) audiologist;

(I) psychologist; or

(J) social worker; or

(b) (i) a license issued by the Division of Professional Licensing; and

(ii) a position as a social worker.

(2) In recognition of the need to attract and retain highly skilled and dedicated educators, the Legislature shall annually appropriate money for educator salary adjustments, subject to future budget constraints.

(3) (a) The state board shall distribute to each school district, each charter school, each regional education service agency, and the Utah Schools for the Deaf and the Blind money that the Legislature appropriates for educator salary adjustments based on the number of educator positions described in Subsection [~~(4)~~](1) in the school district, the charter school, each regional education service agency, or the Utah Schools for the Deaf and the Blind.

(b) Notwithstanding Subsection (3)(a), if appropriations are insufficient to provide the full amount of educator salary adjustments described in this section, the state board shall distribute money appropriated for educator salary adjustments to school districts, charter schools, each regional education service agency, and the Utah Schools for the Deaf and the Blind in proportion to the number of full-time-equivalent educator positions in a school district, a charter school, each regional education service agency, or the Utah Schools for the Deaf and the Blind as compared to the total number of full-time-equivalent educator positions in school districts, charter schools, each regional education service agency, and the Utah Schools for the Deaf and the Blind.

(4) A school district, a charter school, each regional education service agency, or the Utah Schools for the Deaf and the Blind shall award bonuses to educators as follows:

(a) for fiscal year 2026, the amount of the salary adjustment for each full-time-equivalent educator is:

(i) if [~~Title 53F,~~]Chapter 6, Part 4, Utah Fits All Scholarship Program, is funded and in effect, [~~$8,400~~]$10,350; or

(ii) if [~~Title 53F,~~]Chapter 6, Part 4, Utah Fits All Scholarship Program, is not funded and in effect, [~~$4,200~~]$5,175;

(b) an individual who is not a full-time educator shall receive a partial salary adjustment based on the number of hours the individual works as an educator;

(c) a salary adjustment may not be awarded if an educator has received an unsatisfactory rating on the educator's three most recent evaluations; and

(d) for a fiscal year beginning on or after July 1, 2024, the amount of the salary adjustment is equal to:

(i) the amount of salary adjustment in the preceding fiscal year; and

(ii) a percentage increase that is equal to the percentage increase in the value of the WPU in the preceding fiscal year.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board:

(a) shall make rules to ensure that the LEAs do not:

(i) reduce or supplant a compensation increase from an increase in the WPU value with an increase from the salary supplement in this section; or

(ii) reduce or artificially limit a teacher's salary to convert the salary supplement in this section into a windfall to the LEA; and

(b) may make rules as necessary to administer this section.

(6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient money each year to:

(i) maintain educator salary adjustments provided in prior years; and

(ii) provide educator salary adjustments to new employees.

(b) Money appropriated for educator salary adjustments shall include money for the following employer-paid benefits:

(i) retirement;

(ii) worker's compensation;

(iii) social security; and

(iv) Medicare.

(7) (a) Subject to future budget constraints, the Legislature shall:

(i) maintain the salary adjustments provided to school administrators in the 2007-08 school year; and

(ii) provide salary adjustments for new school administrators in the same amount as provided for existing school administrators.

(b) The appropriation provided for educator salary adjustments described in this section shall include salary adjustments for school administrators as specified in Subsection (7)(a).

(c) In distributing and awarding salary adjustments for school administrators, the state board, a school district, a charter school, each regional education service agency, or the Utah Schools for the Deaf and the Blind shall comply with the requirements for the distribution and award of educator salary adjustments as provided in Subsections (3) and (4).

Section 6. Section 53F-2-421 is amended to read:

53F-2-421 (Effective 07/01/25). Flexible allocation.

Subject to appropriations in accordance with Section 53F-2-208, the state board shall distribute funds in the MSP flexible allocation on a WPU basis resulting in LEAs receiving funding proportional to the number of WPUs the LEA generates under the Basic School Program.

Section 7. Section 53F-2-422 is enacted to read:

53F-2-422 (Effective 07/01/25). Education Support Professional Supplemental Stipend.

(1) As used in this section:

(a) (i) "Education support professional" means an individual:

(A) whom an LEA or RESA employs and directly pays; and

(B) who is assigned to work in a school setting.

(ii) "Education support professional" includes the following categories that an LEA reports to the state board:

(A) instructional paraprofessionals;

(B) library paraprofessionals;

(C) student support; and

(D) school and other support, including employees like janitors, bus drivers, and food service.

(iii) "Education support professional" also includes an individual in LEA or RESA administration or administration support if the individual works exclusively in a school setting supporting students.

(b) (i) "Qualifying employee" means an education support professional who was employed by an LEA or RESA as of September 1, 2025.

(ii) "Qualifying employee" does not include:

(A) a licensed school-level educator;

(B) school district employees who are assigned to work in the central administration of the school district, including superintendents, deputy and assistant superintendents, area and regional directors, curriculum specialists, and support staff; or

(C) individuals with whom an LEA contracts but does not directly pay the individual or report the individual to the state board in annual employment reports.

(c) "Regional education service agency" or "RESA" means the same as that term is defined in Section 53G-4-410.

(d) "Stipend" means the one-time Education Support Professional Supplemental Stipend.

(2) There is created a one-time Education Support Professional Supplemental Stipend.

(3) (a) Subject to legislative appropriations, the state board shall allocate funds to a qualifying education entity to provide the stipend to qualifying employees as follows:

(i) for an education support professional, $1,000; and

(ii) employer-paid benefits.

(b) The stipend shall be prorated for each employee based on full-time equivalent status.

(c) Notwithstanding Subsection (3)(a), in the event that an allocation to an LEA or RESA is insufficient to provide the full stipend to each qualifying employee whom the LEA or RESA employs, the LEA or RESA shall reduce the amount of the stipend on a prorated basis.

(4) An LEA or RESA that receives an allocation from the state board under Subsection (3)shall return any unexpended amounts to the state no later than December 31, 2025.

Section 8. Section 53F-2-601 is amended to read:

53F-2-601 (Effective 07/01/25). State guaranteed local levy increments -- Appropriation to increase number of guaranteed local levy increments -- No effect of change of minimum basic tax rate -- Voted and board local levy funding balance -- Use of guaranteed local levy increment funds.

(1) As used in this section:

(a) "Board local levy" means a local levy described in Section 53F-8-302.

(b) "Excess funds" means the difference between:

(i) the amount of state guarantee money a school district received in the 2025 fiscal year; and

(ii) the amount of state guarantee money a school district would receive based solely on the certified tax rate in effect for the 2025 fiscal year.

[~~(b)~~](c) "Guaranteed local levy increment" means a local levy increment guaranteed by the state [~~:~~]as described in Subsection (2).

[~~(i) for the board local levy, described in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(B); or~~]

[~~(ii) for the voted local levy, described in Subsections (2)(a)(ii)(B) and (2)(b)(ii)(A).~~]

[~~(c)~~](d) "Local levy increment" means .0001 per dollar of taxable value.

[~~(d) (i) "Voted and board local levy funding balance" means the difference between:~~]

[~~(A) the amount appropriated for the guaranteed local levy increments in a fiscal year; and~~]

[~~(B) the amount necessary to fund in the same fiscal year the guaranteed local levy increments as determined under this section.~~]

[~~(ii) "Voted and board local levy funding balance" does not include appropriations described in Subsection (2)(b)(i).~~]

(e) "Voted local levy" means a local levy described in Section 53F-8-301.

(2) (a) (i) In accordance with Subsection 53F-2-205(6) and in addition to the revenue collected from the imposition of a voted local levy or a board local levy, the state shall guarantee that a school district receives, subject to Subsections [~~(2)(b)(ii)(C)~~](2)(b)(ii)(B) and (3)(a), for each guaranteed local levy increment, an amount sufficient to guarantee for a fiscal year [~~that begins~~]beginning on or after July 1, 2018, $43.10 per weighted pupil unit.

[~~(ii) Except as provided in Subsection (2)(b)(ii), the number of local levy increments that are subject to the guarantee amount described in Subsection (2)(a)(i) are:~~]

[~~(A) for a board local levy, the first four local levy increments a local school board imposes under the board local levy; and~~]

[~~(B) for a voted local levy, the first 16 local levy increments a local school board imposes under the voted local levy.~~]

(ii) The number of guaranteed local levy increments under this Subsection (2) for a school district may not exceed 20 guaranteed local levy increments, regardless of whether the guaranteed local levy increments are from the imposition of a voted local levy, a board local levy, or a combination of the two.

(b) (i) Subject to future budget constraints [~~and Subsection (2)(c)~~], the Legislature shall annually appropriate money from the Local Levy Growth Account established in Section 53F-9-305 for purposes described in Subsection (2)(b)(ii).

(ii) The state board shall, for a fiscal year beginning on or after July 1, 2018, [~~and subject to Subsection (2)(c),~~]allocate funds appropriated under Subsection (2)(b)(i) and the amount described in Subsection (3)(c) in the following order of priority by increasing:

(A) [~~by up to four increments the number of voted local levy guaranteed local levy increments above 16~~]by the amount described in Subsection (2)(a)(ii); and

[~~(B) by up to 16 increments the number of board local levy guaranteed local levy increments above four; and~~]

[~~(C)~~](B) the guaranteed amount described in Subsection (2)(a)(i).

[~~(c) The number of guaranteed local levy increments under this Subsection (2) for a school district may not exceed 20 guaranteed local levy increments, regardless of whether the guaranteed local levy increments are from the imposition of a voted local levy, a board local levy, or a combination of the two.~~]

(3) (a) The guarantee described in Subsection (2)(a)(i) is indexed each year to the value of the weighted pupil unit by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit.

(b) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for each year subject to the Legislature appropriating funds for an increase in the guarantee.

(c) If the indexing and growth described in Subsections (3)(a) and (b) result in a cost to the state in a given fiscal year that is less than the amount the Legislature appropriated, the state board shall dedicate the difference to the allocation described in Subsection (2)(b)(ii).

(4) (a) The amount of state guarantee money that a school district would otherwise be entitled to receive under this section may not be reduced for the sole reason that the school district's board local levy or voted local levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(b) Subsection (4)(a) applies for a period of [~~five years~~]one year following a change in the certified tax rate as described in Subsection (4)(a).

(5) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

[~~(6) (a) If a voted and board local levy funding balance exists for the prior fiscal year, the state board shall distribute the voted and board local levy funding balance, using the calculations for distribution of program balances for the fiscal year in which the balance occurs, to qualifying school districts in a one-time payment during the first quarter of the current fiscal year.~~]

[~~(b) The state board shall report action taken under Subsection (6)(a) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.~~]

[~~(7)~~](6) A local school board of a school district that receives funds described in this section shall budget and expend the funds for public education purposes.

(7) (a) Beginning with the 2026 fiscal year, the amount of state guarantee money that a school district receives under this section may reduce as a result of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation.

(b) For a school district receiving state guarantee money in excess of the amount the school district would receive based solely on the current certified tax rate, the excess funds:

(i) may not cause the amount the school district receives to exceed the total amount of state guarantee the school district received in the 2025 fiscal year; and

(ii) shall diminish over a three-year period as follows:

(A) in the 2026 fiscal year, the school district shall receive 100% of the excess funds received in the 2025 fiscal year;

(B) in the 2027 fiscal year, the school district shall receive 66% of the excess funds received in the 2025 fiscal year;

(C) in the 2028 fiscal year, the school district shall receive 33% of the excess funds received in the 2025 fiscal year; and

(D) in the 2029 fiscal year, the school district may not receive excess funds.

(c) The state board shall:

(i) calculate the amount of excess funds for each affected school district;

(ii) notify each affected school district of the phase-out schedule for the excess funds described in Subsection (7)(b); and

(iii) oversee the phase-out process described in this Subsection (7).

Section 9. Section 53F-4-304 is amended to read:
53F-4-304 (Effective 07/01/25). Scholarship payments.

(1) (a) The state board shall award scholarships subject to the availability of money appropriated by the Legislature for that purpose.

(b) The Legislature shall annually appropriate money to the state board from the General Fund to make scholarship payments.

[~~(c) The Legislature shall annually increase the amount of money appropriated under Subsection (1)(b) by an amount equal to the product of:~~]

[~~(i) the average scholarship amount awarded as of December 1 in the previous year; and~~]

[~~(ii) the product of:~~]

[~~(A) the number of students in preschool through grade 12 in public schools statewide who have an IEP on December 1 of the previous year; and~~]

[~~(B) 0.0007.~~]

[~~(d) If the number of scholarship students as of December 1 in any school year equals or exceeds 7% of the number of students in preschool through grade 12 in public schools statewide who have an IEP as of December 1 in the same school year, the Public Education Appropriations Subcommittee shall study the requirement to increase appropriations for scholarship payments as provided in this section.~~]

[~~(c)~~](c) (i) If money is not available to pay for all scholarships requested, the state board shall allocate scholarships on a random basis except that the state board shall give preference to students who received scholarships in the previous school year.

(ii) If money is insufficient in a school year to pay for all the continuing scholarships, the state board may not award new scholarships during that school year and the state board shall prorate money available for scholarships among the eligible students who received scholarships in the previous year.

[~~(f)~~](d) Beginning with the 2025 fiscal year, the state board shall:

(i) calculate a maximum award cap that may not exceed the cost of the program including scholarship payments from the previous fiscal year; and

(ii) transfer any funds in excess of the amount described in Subsection [~~(1)(f)(i)~~](1)(d)(i) to the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402.

(2) Except as provided in Subsection (4), the state board shall award full-year scholarships in the following amounts:

(a) for a student who received an average of 180 minutes per day or more of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 2.5; or

(ii) the private school tuition and fees; and

(b) for a student who received an average of less than 180 minutes per day of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.5; or

(ii) the private school tuition and fees.

(3) The scholarship amount for a student enrolled in a half-day kindergarten or part-day preschool program shall be the amount specified in Subsection (2)(a) or (b) multiplied by .55.

(4) If a student leaves a private school before the end of a fiscal quarter:

(a) the private school is only entitled to the amount of scholarship equivalent to the number of days that the student attended the private school; and

(b) the private school shall remit a prorated amount of the scholarship to the state board in accordance with the procedures described in rules adopted by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) For the amount of funds remitted under Subsection (4)(b), the state board shall:

(a) make the amount available to the student to enroll immediately in another qualifying private school; or

(b) refund the amount back to the Carson Smith Scholarship Program account.

(6) (a) The state board shall make an additional allocation on a random basis before June 30 each year only:

(i) if there are sufficient remaining funds in the program; and

(ii) for scholarships for students enrolled in a full-day preschool program.

(b) If the state board awards a scholarship under Subsection (6)(a), the scholarship amount or supplement may not exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.0; or

(ii) the private school tuition and fees.

(c) The state board shall, when preparing annual growth projection numbers for the Legislature, include the annual number of applications for additional allocations described in Subsection (6)(a).

(7) (a) The scholarship amount for a student who receives a waiver under Subsection 53F-4-302(3) shall be based upon the assessment team's determination of the appropriate level of special education services to be provided to the student.

(b) (i) If the student requires an average of 180 minutes per day or more of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(a).

(ii) If the student requires less than an average of 180 minutes per day of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(b).

(iii) If the student is enrolled in a half-day kindergarten or part-day preschool program, a full-year scholarship is equal to the amount specified in Subsection (3).

(8) (a) Except as provided in Subsection (8)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the state board shall make scholarship payments quarterly in four equal amounts in each school year in which a scholarship is in force.

(b) In accordance with state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make a scholarship payment before the first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

(9) A parent of a scholarship student shall notify the state board if the student does not have continuing enrollment and attendance at an eligible private school.

(10) Before scholarship payments are made, the state board shall cross-check enrollment lists of scholarship students, LEAs, and youth in care to ensure that scholarship payments are not erroneously made.

Section 10. Section 53F-9-302 is amended to read:

53F-9-302 (Effective 07/01/25). Minimum Basic Growth Account.

(1) As used in this section, "account" means the Minimum Basic Growth Account created in this section.

(2) There is created within the Income Tax Fund a restricted account known as the "Minimum Basic Growth Account."

(3) The account shall be funded by amounts deposited into the account in accordance with Section 53F-2-301.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) Upon appropriation by the Legislature:

(a) 75% of the money from the account shall be used to fund the state's contribution to the voted local levy guarantee described in Section 53F-2-601; and

(b) [~~20%~~]25% of the money from the account shall be used to fund the Capital Outlay Foundation Program as provided in Section 53F-3-202[~~; and~~].

[~~(c) 5% of the money from the account shall be used to fund the Capital Outlay Enrollment Growth Program as provided in Section 53F-3-203.~~]

Section 11. Section 63I-1-253 is amended to read:

63I-1-253 (Effective 07/01/25). Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.

(2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

(5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

(6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.

(7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

(8) Section 53-5-703, Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

(9) Section 53-11-104, Board, is repealed July 1, 2029.

(10) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(11) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

(12) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

(13) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.

(14) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(15) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(16) Section 53B-17-1203, SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.

(17) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(18) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

(19) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.

(20) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

(21) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(22) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

(23) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

(24) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.

(25) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

(26) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

(27) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

(28) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(29) Subsection 53E-7-207(7), regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

(30) Section 53F-2-420, Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(31) Section 53F-5-214, Grant for professional learning, is repealed July 1, 2025.~~]

[~~(32)~~](31) Section 53F-5-215, Elementary teacher preparation grant, is repealed July 1, 2025.

[~~(33)~~](32) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is repealed July 1, 2025.

[~~(34)~~](33) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(35)~~](34) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(36)~~](35) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(37)~~](36) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

Section 12. Repealer.

This bill repeals:

Section 53F-2-305, Professional staff weighted pupil units.

Section 53F-3-203, Capital Outlay Enrollment Growth Program created -- Distribution formulas -- Allocations.

Section 53F-5-214, Grant for professional learning.

Section 13. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 13(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

ITEM 1

To State Board of Education - Minimum School Program - Basic School Program
From Uniform School Fund, One-time -(15,837,500)
Schedule of Programs:
Necessarily Existent Small Schools - 3,263,500
Enrollment Growth Contingency -(19,101,000)

ITEM 2

To State Board of Education - Minimum School Program - Related to Basic School Programs
From Uniform School Fund, One-time -(83,347,200)
From Revenue Transfers, One-time - (208,200)
From Closing Nonlapsing Balances - 208,200
Schedule of Programs:
Flexible Allocation -(82,510,300)
Beverley Taylor Sorenson Elem. Arts Learning Program - (266,600)
Digital Teaching and Learning Program - (461,600)
Student Health and Counseling Support Program - (108,700)

STATE BOARD OF EDUCATION

ITEM 3

To State Board of Education - Fine Arts Outreach
From Income Tax Fund, One-time -(58,300)
Schedule of Programs:
Professional Outreach Programs in the Schools -(58,300)

ITEM 4

To State Board of Education - Contracted Initiatives and Grants
From Income Tax Fund, One-time - (6,057,600)
From Revenue Transfers, One-time - (853,300)
From Closing Nonlapsing Balances - 2,777,200
Schedule of Programs:
Software Licenses for Early Literacy - (3,899,900)
Intergenerational Poverty Interventions -(77,900)
Interventions for Reading Difficulties -(85,000)
Supplemental Educational Improvement Matching Grants -(70,900)

ITEM 5

To State Board of Education - Policy, Communication, &; Oversight
From Income Tax Fund, One-time - (1,982,600)
From Revenue Transfers, One-time -(58,500)
From Closing Nonlapsing Balances - 1,019,400
Schedule of Programs:
School Turnaround and Leadership Development Act - (1,021,700)

ITEM 6

To State Board of Education - System Standards & Accountability
From Income Tax Fund, One-time - (3,799,000)
From Closing Nonlapsing Balances - 93,100
Schedule of Programs:

Assessment and Accountability - (3,980,900)
Career and Technical Education - 275,000

ITEM 7

To State Board of Education - State Charter School Board
From Income Tax Fund, One-time - (307,800)
From Closing Nonlapsing Balances - 307,800

ITEM 8

To State Board of Education - Utah Schools for the Deaf and the Blind
From Income Tax Fund, One-time - 993,000
Schedule of Programs:
Administration - 993,000

ITEM 9

To State Board of Education - State Board and Administrative Operations
From Income Tax Fund, One-time - (2,238,700)
From Public Education Economic Stabilization Restricted Account, One-time -(30,000,000)
Schedule of Programs:
Board and Administration - (2,238,700)
Excellence in Education and Leadership -(30,000,000)

The Legislature intends that the State Board of Education, in consultation with the Public Education Appropriations Subcommittee and the Education Interim Committee, review the Utah School of the Deaf and Blind's governance, role within the public education system, scope of services, funding for students, obligations of the student's resident local education agency in the provision of services and facilities, and the provision of capital facilities for the schools. The Legislature further intends that the Public Education Appropriations Subcommittee report findings and recommendations to the Executive Appropriations Committee by November 15, 2025.

Subsection 13(b). Transfers to Unrestricted Funds

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Income Tax Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Income Tax Fund, or Uniform School Fund must be authorized by an appropriation.

PUBLIC EDUCATION

ITEM 10

To Income Tax Fund
From Nonlapsing Balances - Related to Basic School Programs - Math and Science Opportunities - - - - - - - - - - 143,800
From Nonlapsing Balances - Related to Basic School Programs - Special Education Intensive Services - - - - - - - - 64,400
From Nonlapsing Balances - Policy, Communication, and Oversight - Math Teacher Training - - - - - - - - - - - - 58,500
From Nonlapsing Balances - Contracted Initiatives and Grants - UPSTART - 865,300
Schedule of Programs:
Income Tax Fund, One-time - 1,132,000

Section 14. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 14(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

ITEM 11

To State Board of Education - Minimum School Program - Basic School Program
From Uniform School Fund - (317,132,100)
From Uniform School Fund, One-time - 40,212,900
Schedule of Programs:
Professional Staff (-57,610 WPUs) - (269,269,300)
Special Education - Impact Aid (-736 WPUs) - (3,441,700)
Career and Technical Education - Add-on (-900 WPUs) - (4,208,200)

The Legislature intends for the State Board of Education to distribute the reduction of weighted pupil units supporting the Special Education - Impact Aid program to local education agencies (LEAs) that enroll more than one percent of the total statewide special education population. The Legislature further intends that LEAs enrolling fewer than one percent of the total statewide special education population, or where special education students represent more than 50 percent of total LEA enrollment, receive at least the same allocation as provided in FY 2025 under the program.

ITEM 12

To State Board of Education - Minimum School Program - Related to Basic School Programs
From Uniform School Fund - 305,009,200
From Public Education Economic Stabilization Restricted Account, One-time 56,127,000
From Beginning Nonlapsing Balances (207,900)
From Closing Nonlapsing Balances 207,900
Schedule of Programs:
Flexible Allocation 265,064,200
Educator Salary Adjustments 47,380,000
Digital Teaching and Learning Program (1,500,000)
Student Health and Counseling Support Program (2,000,000)
Grants for Professional Learning (3,935,000)
Charter School Funding Base Program 3,600,000
Grow Your Own Teacher and Counselor Pipeline 7,327,000
School-Based Education Support Professional Bonus 45,200,000

STATE BOARD OF EDUCATION - SCHOOL BUILDING PROGRAMS

ITEM 13

To State Board of Education - School Building Programs - Capital Outlay Programs
From Income Tax Fund (5,638,800)
Schedule of Programs:
Enrollment Growth Program (5,638,800)

ITEM 14

To State Board of Education - School Building Programs - Public Education Capital Projects
From Public Education Economic Stabilization Restricted Account, One-time 12,500,000
Schedule of Programs:
Small School District Capital Projects 12,500,000

The Legislature intends that the State Board of Education through the Capital Projects Evaluation Panel use the $12,500,000 one-time appropriated in FY 2026 for the Small School District Capital Projects Fund to award multiple grants to small school districts for approved capital projects and prioritize projects from school districts that have not received funding in a prior fiscal year.

STATE BOARD OF EDUCATION

ITEM 15

To State Board of Education - Contracted Initiatives and Grants
From General Fund (400,000)
From Income Tax Fund 41,073,800
From Income Tax Fund, One-time (20,000,000)
From Public Education Economic Stabilization Restricted Account, One-time 8,310,000
From Hospitality Tourism Mgmt Education Account 126,200
Schedule of Programs:
Carson Smith Scholarships (400,000)
Contracts and Grants 8,310,000
Software Licenses for Early Literacy (2,000,000)
Elementary Reading Assessment Software Tools (800,000)
Special Needs Opportunity Scholarship Administration 4,000,000
Utah Fits All Scholarship Program 20,000,000

The Legislature intends that the additional funding appropriated for the Special Needs Opportunity Scholarship be used to fund students who apply for scholarships to offset private school costs as the top priority and then fund other applicants.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the State Board of Education provide a direct award grant of $900,000 to Scrible, Inc. in fiscal year 2026 for providing an online writing tool that documents the authenticity of students' work.

ITEM 16

To State Board of Education - Science Outreach
Schedule of Programs:
Informal Science Education Enhancement 225,000
Provisional Program (225,000)

The Legislature intends that under the provisions of Utah Code Annotated, Title 63G Chapter 6b, that the State Board of Education provide a direct award grant totaling $225,000 in fiscal year 2026 to Utah State University - Extension through the Informal Science Education Enhancement program.

ITEM 17

To State Board of Education - System Standards & Accountability
From Income Tax Fund 5,000

From Public Education Economic Stabilization Restricted Account, One-time - - - - - - - - - - - - - - - - - - - 4,300,000
Schedule of Programs:
Assessment and Accountability - 4,300,000
Career and Technical Education - 275,000
CPR Training Grant Program - (270,000)

ITEM 18

To State Board of Education - State Board and Administrative Operations
From Income Tax Fund - (275,000)
From Public Education Economic Stabilization Restricted Account, One-time - - - - - - - - - - - - - - - - - - - 10,000,000
Schedule of Programs:
Board and Administration - (275,000)
Student Information System - 10,000,000

The Legislature intends that the State Board of Education provide a detailed budget implementation plan for the Student Information System funding item, including a summary of the issue(s) being addressed, proposed solutions, budget spending plan, and participating local education agencies with anticipated compliance dates to state data standards prior to expending any appropriated funding. The Legislature further intends that the State Board of Education report this information to the Public Education Appropriations Subcommittee by August 30, 2025.

Subsection 14(b). Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

ITEM 19

To State Board of Education - Hospitality and Tourism Mgmt. Education Acct.
From Dedicated Credits Revenue - (126,200)
Schedule of Programs:
Hospitality and Tourism Management Education Account - (126,200)

Subsection 14(c). Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

PUBLIC EDUCATION

ITEM 20

To Uniform School Fund Restricted - Public Education Economic Stabilization Restricted Account
From Uniform School Fund -(51,409,200)
Schedule of Programs:
Public Education Economic Stabilization Restricted Account -(51,409,200)

Section 15. Effective Date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect July 1, 2025.

(2) The actions affecting Section 13, Fiscal Year 2025 Appropriations (Effective upon governor's approval), take effect:

(a) except as provided in Subsection (2)(b), May 7, 2025; or

(b) if approved by two-thirds of all members elected to each house:

(i) upon approval by the governor;

(ii) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(iii) in the case of a veto, the date of veto override.

(3) The actions affecting Section 53F-2-315 (Contingently Effective 07/01/25) take effect if S.B. 37, Minimum Basic Tax Rate Amendments, passes and becomes law.

CHAPTER 166
H. B. 8
Passed March 5, 2025
Approved March 25, 2025
Effective March 25, 2025

STATE AGENCY AND HIGHER EDUCATION COMPENSATION APPROPRIATIONS

Chief Sponsor: Walt Brooks
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025 and for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

Highlighted Provisions:

This bill:

- ► provides funding for a 2.5% labor market increase for state agency employees and discretionary pay increases equal to 2.5% for elected official, judiciary, and higher education employees;
- ► provides funding for a 1% one-time pay for performance increase for state employees and discretionary bonuses equal to 1% one-time for employees of elected officials and the judiciary;
- ► provides funding for health and dental benefit cost changes as recommended by the Public Employees Health Programs;
- ► provides funding for retirement rate changes for certain state employees as recommended by the Utah Retirement Systems;
- ► provides funding for an up-to $26 per pay period match for qualifying state employees enrolled in a defined contribution plan; and
- ► provides funding for other compensation adjustments as authorized.

Money Appropriated in this Bill:

This bill appropriates $18,958,200 in operating and capital budgets for fiscal year 2025, including:

- ($1,408,900) from General Fund;
- ($40,100) from Income Tax Fund; and
- $20,407,200 from various sources as detailed in this bill.

This bill appropriates $74,900 in expendable funds and accounts for fiscal year 2025.

This bill appropriates $219,400 in business-like activities for fiscal year 2025.

This bill appropriates $76,100 in restricted fund and account transfers for fiscal year 2025, all of which is from the General Fund.

This bill appropriates $136,754,600 in operating and capital budgets for fiscal year 2026, including:

- $42,133,200 from General Fund;
- $39,041,600 from Income Tax Fund; and
- $55,579,800 from various sources as detailed in this bill.

This bill appropriates $316,200 in expendable funds and accounts for fiscal year 2026, including:

- $3,500 from General Fund; and
- $312,700 from various sources as detailed in this bill.

This bill appropriates $458,100 in business-like activities for fiscal year 2026.

This bill appropriates $129,600 in restricted fund and account transfers for fiscal year 2026, all of which is from the General Fund.

This bill appropriates $37,300 in fiduciary funds for fiscal year 2026.

Other Special Clauses:

This bill provides a special effective date.

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2025.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 1(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CRIMINAL JUSTICE

GOVERNOR'S OFFICE

ITEM 1

To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund, One-time - 94,700
From Federal Funds, One-time - 43,900
From Crime Victim Reparations Fund, One-time - 1,300
Schedule of Programs:
CCJJ Commission - 52,100
Extraditions - 1,200
Judicial Performance Evaluation Commission - 8,200
Sentencing Commission - 3,700
State Asset Forfeiture Grant Program - 1,000
State Task Force Grants - 1,000
Utah Office for Victims of Crime - 67,000
Utah Victim Services Commission - 5,700

ITEM 2

To Governor's Office - Indigent Defense Commission
From General Fund Restricted - Indigent Defense Resources, One-time - 56,500
Schedule of Programs:
Office of Indigent Defense Services - 17,700
Indigent Appellate Defense Division - 38,800

OFFICE OF THE ATTORNEY GENERAL

ITEM 3

To Office of the Attorney General - Attorney General
From General Fund, One-time - (20,300)
From Income Tax Fund, One-time - (400)
Schedule of Programs:
Administration - (20,700)

BOARD OF PARDONS AND PAROLE

ITEM 4

To Board of Pardons and Parole - Board of Pardons and Parole Operations
From General Fund, One-time - 98,300
Schedule of Programs:
Board of Pardons and Parole - 98,300

UTAH DEPARTMENT OF CORRECTIONS

ITEM 5

To Utah Department of Corrections - Administration
From General Fund, One-time - 5,603,400
Schedule of Programs:
Adult Probation and Parole Administration - 10,100
Adult Probation and Parole Programs - 1,856,600
Department Administrative Services - 143,100
Department Executive Director - 403,800
Department Training - 39,700
Prison Operations Administration - 98,000
Prison Operations Central Utah/Gunnison - 847,700
Prison Operations Inmate Placement - 43,200
Re-entry and Rehabilitation Administration - 11,900
Re-entry and Rehabilitation Re-Entry - 185,700
Re-entry and Rehabilitation Treatment - 198,100
Prison Operations Utah State Correctional Facility - 1,765,500

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

ITEM 6

To Judicial Council/State Court Administrator - Administration
From General Fund, One-time - (39,400)
From General Fund Restricted - Children's Legal Defense, One-time - (300)

From General Fund Restricted - Court Trust Interest, One-time - (1,700)
From General Fund Rest. - Justice Court Tech., Security & Training, One-time - - - - - - - - - - - - - - - - - - - (500)
Schedule of Programs:
Administrative Office - - - - - - - - - - - - - - - - - - -

Highway Patrol - Federal/State Projects - - -

Utah Multicultural Affairs Office - - -

From General Fund, One-time - - -

From Dedicated Credits Revenue, One-time - - -

DEPARTMENT OF COMMERCE

ITEM 41

To Department of Commerce - Building Inspector Training
From Dedicated Credits Revenue, One-time - - -

Industrial Accidents - - -

To Office of the State Auditor - State Auditor
From General Fund, One-time (900)
From Dedicated Credits Revenue, One-time (800)
Schedule of Programs:
State Auditor (1,700)

DEPARTMENT OF GOVERNMENT OPERATIONS

ITEM 54

To Department of Government Operations - Administrative Rules
From General Fund, One-time 16,700
Schedule of Programs:
DAR Administration 16,700

ITEM 55

To Department of Government Operations - DGO Administration
From General Fund, One-time 38,800
From Dedicated Credits Revenue, One-time 9,500
Schedule of Programs:
Executive Director's Office 33,100
Finance Office 300
Office of Internal Audit 10,800
Office of Resource Stewardship 3,900
Privacy and Security Office 200

ITEM 56

To Department of Government Operations - Finance - Mandated
From General Fund, One-time -(18,673,300)
From Income Tax Fund, One-time (393,400)
Schedule of Programs:
State Employee Benefits -(19,066,700)

ITEM 57

To Department of Government Operations - Division of Finance
From General Fund, One-time 128,800
From Dedicated Credits Revenue, One-time 26,500
From Gen. Fund Rest. - Internal Service Fund Overhead, One-time 10,800
Schedule of Programs:
Finance Director's Office 18,600
Financial Information Systems 48,600
Financial Reporting 46,400
Payables/Disbursing 34,800
Payroll 17,700

ITEM 58

To Department of Government Operations - Inspector General of Medicaid Services
From General Fund, One-time 24,800
From Federal Funds, One-time 500
From Medicaid ACA Fund, One-time 500
From Revenue Transfers, One-time 33,100
Schedule of Programs:
Inspector General of Medicaid Services 58,900

ITEM 59

To Department of Government Operations - Judicial Conduct Commission
From General Fund, One-time 11,000
Schedule of Programs:
Judicial Conduct Commission 11,000

ITEM 60

To Department of Government Operations - State Archives
From General Fund, One-time 54,000
From Federal Funds, One-time 900
From Dedicated Credits Revenue, One-time 1,300
Schedule of Programs:
Archives Administration 15,100
Patron Services 19,700

Preservation Services - - -

From General Fund, One-time - - -

DEPARTMENT OF ENVIRONMENTAL QUALITY

ITEM 75

To Department of Environmental Quality - Drinking Water
- From General Fund, One-time - 67,900
- From Dedicated Credits Revenue, One-time - 9,700
- From Water Dev. Security Fund - Drinking Water Loan Prog., One-time - 41,500
- From Water Dev. Security Fund - Drinking Water Orig. Fee, One-time - 13,700

Schedule of Programs:
- Drinking Water Administration - 14,800
- Safe Drinking Water Act - 32,800
- System Assistance - 60,800
- State Revolving Fund - 24,400

ITEM 76

To Department of Environmental Quality - Environmental Response and Remediation
- From General Fund, One-time - 63,200
- From Dedicated Credits Revenue, One-time - 25,100
- From General Fund Restricted - Petroleum Storage Tank, One-time - 200
- From Petroleum Storage Tank Trust Fund, One-time - 38,500
- From General Fund Restricted - Voluntary Cleanup, One-time - 6,700

Schedule of Programs:
- Environmental Response and Remediation - 20,000
- Voluntary Cleanup - 6,700
- CERCLA - 47,400
- Tank Public Assistance - 200
- Petroleum Storage Tank Cleanup - 30,000
- Petroleum Storage Tank Compliance - 29,400

ITEM 77

To Department of Environmental Quality - Executive Director's Office
- From General Fund, One-time - 50,300
- From General Fund Restricted - Environmental Quality, One-time - 16,700

Schedule of Programs:
- Executive Director Office Administration - 65,700
- Radon - 1,300

ITEM 78

To Department of Environmental Quality - Waste Management and Radiation Control
- From Expendable Receipts, One-time - 2,500
- From Dedicated Credits Revenue, One-time - 37,200
- From General Fund Restricted - Environmental Quality, One-time - 117,200
- From Gen. Fund Rest. - Used Oil Collection Administration, One-time - 10,100
- From Waste Tire Recycling Fund, One-time - 4,900

Schedule of Programs:
- Hazardous Waste - 71,300
- Solid Waste - 18,500
- Radiation - 28,600
- Low Level Radioactive Waste - 26,600
- WIPP - 2,500
- Used Oil - 10,700
- Waste Tire - 4,900
- X-Ray - 8,800

ITEM 79

To Department of Environmental Quality - Water Quality
- From General Fund, One-time - 96,300
- From Dedicated Credits Revenue, One-time - 57,000
- From General Fund Restricted - GFR - Division of Water Quality Oil, Gas, and Mining, One-time - 2,200
- From Water Dev. Security Fund - Utah Wastewater Loan Prog., One-time - 43,700
- From Water Dev. Security Fund - Water Quality Orig. Fee, One-time - 3,000

Schedule of Programs:
- Water Quality Support - 47,100
- Water Quality Protection - 83,900
- Water Quality Permits - 71,200

ITEM 80

To Department of Environmental Quality - Air Quality
From General Fund, One-time - - -

To Department of Natural Resources - Species Protection
From General Fund Restricted - Species Protection, One-time - 27,300
Schedule of Programs:
Species Protection - 27,300

ITEM 87

To Department of Natural Resources - Utah Geological Survey
From General Fund, One-time - 91,100
From Federal Funds, One-time - 26,700
From Dedicated Credits Revenue, One-time - 8,000
From General Fund Restricted - Utah Geological Survey Restricted Account, One-time - - - - - - - - - - - - - - 45,000
From Gen. Fund Rest. - Land Exchange Distribution Account, One-time - 400
From Revenue Transfers, One-time - 20,700
Schedule of Programs:
Administration - 17,300
Energy and Minerals - 39,100
Geologic Hazards - 29,000
Geologic Information and Outreach - 38,100
Geologic Mapping - 34,600
Groundwater - 33,800

ITEM 88

To Department of Natural Resources - Water Resources
From General Fund, One-time - 95,000
From Water Resources Conservation and Development Fund, One-time - 40,200
Schedule of Programs:
Administration - 14,200
Cloud Seeding - 2,200
Construction - 50,800
Interstate Streams - 8,900
Planning - 59,100

ITEM 89

To Department of Natural Resources - Water Rights
From General Fund, One-time - 161,200
From Federal Funds, One-time - 2,300
From Dedicated Credits Revenue, One-time - 19,900
From General Fund Restricted - Water Rights Restricted Account, One-time - - - - - - - - - - - - - - - - - - 64,200
Schedule of Programs:
Adjudication - 62,400
Administration - 21,500
Applications and Records - 87,700
Dam Safety - 20,500
Field Services - 32,200
Technical Services - 23,300

ITEM 90

To Department of Natural Resources - Watershed Restoration Initiative
From General Fund, One-time - 3,500
Schedule of Programs:
Watershed Restoration Initiative - 3,500

ITEM 91

To Department of Natural Resources - Wildlife Resources
From General Fund, One-time - 111,900
From Federal Funds, One-time - 248,700
From General Fund Restricted - Aquatic Invasive Species Interdiction Account, One-time - - - - - - - - - - - - - 12,000
From General Fund Restricted - Predator Control Account, One-time - 4,300
From General Fund Restricted - Wildlife Habitat, One-time - 7,700
From General Fund Restricted - Wildlife Resources, One-time - 488,300
Schedule of Programs:
Administrative Services - 78,700
Aquatic Section - 191,700
Conservation Outreach - 78,700
Director's Office - 42,100
Habitat Council - 7,700

Habitat Section - - -

From Land Grant Management Fund, One-time - - -

To Department of Health and Human Services - Integrated Health Care Services
From General Fund, One-time - - -

ITEM 108

To Department of Health and Human Services - Juvenile Justice & Youth Services
From General Fund, One-time - - -

Maintenance Planning - - -

Cosmetologist/Barber, Esthetician, Electrologist Fund - 5,000

ITEM 120

To Department of Commerce - Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees, One-time - 3,000
Schedule of Programs:
RMLERR Fund - 3,000

ITEM 121

To Department of Commerce - Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees, One-time - 3,000
Schedule of Programs:
Securities Investor Education/Training/Enforcement Fund - 3,000

PUBLIC SERVICE COMMISSION

ITEM 122

To Public Service Commission - Universal Public Telecom Service
From Dedicated Credits Revenue, One-time - 3,600
Schedule of Programs:
Universal Public Telecommunications Service Support - 3,600

DEPARTMENT OF GOVERNMENT OPERATIONS

ITEM 123

To Department of Government Operations - State Debt Collection Fund
From Dedicated Credits Revenue, One-time - 25,200
Schedule of Programs:
State Debt Collection Fund - 25,200

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

ITEM 124

To Department of Agriculture and Food - Salinity Offset Fund
From Revenue Transfers, One-time - 1,400
Schedule of Programs:
Salinity Offset Fund - 1,400

DEPARTMENT OF NATURAL RESOURCES

ITEM 125

To Department of Natural Resources - Outdoor Recreation Infrastructure Account
From Designated Sales Tax, One-time - 7,300
Schedule of Programs:
Outdoor Recreation Infrastructure Account - 7,300

Subsection 1(c). Business-like Activities

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

ITEM 126

To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits Revenue, One-time - 111,800
Schedule of Programs:
Utah Correctional Industries - 111,800

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

ITEM 127

To Department of Agriculture and Food - Agriculture Loan Programs
From Agriculture Resource Development Fund, One-time - 5,200
Schedule of Programs:
Agriculture Loan Program - 5,200

ITEM 128

To Department of Agriculture and Food - Qualified Production Enterprise Fund
From Dedicated Credits Revenue, One-time - 45,300
Schedule of Programs:
Qualified Production Enterprise Fund - 45,300

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ITEM 129

To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits Revenue, One-time - 57,100
Schedule of Programs:
Qualified Patient Enterprise Fund - 57,100

Subsection 1(d). Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

CRIMINAL JUSTICE

ITEM 130

To General Fund Restricted - Indigent Defense Resources Account
From General Fund, One-time - 56,500
Schedule of Programs:
General Fund Restricted - Indigent Defense Resources Account - 56,500

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

ITEM 131

To Colorado River Authority of Utah Restricted Account
From General Fund, One-time - 19,600
Schedule of Programs:
Colorado River Authority Restricted Account - 19,600

Section 2. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 2(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CRIMINAL JUSTICE

GOVERNOR'S OFFICE

ITEM 132

To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund - 126,300
From General Fund, One-time - 10,400
From Federal Funds - 94,900
From Federal Funds, One-time - 16,600
From Dedicated Credits Revenue - 400
From Dedicated Credits Revenue, One-time - 100
From General Fund Restricted - Victim Services Restricted Account - 8,300
From General Fund Restricted - Victim Services Restricted Account, One-time - - - - - - - - - - - - - - - - - - 2,700
From Crime Victim Reparations Fund - 3,700
From Crime Victim Reparations Fund, One-time - 900
From General Fund Restricted - Criminal Forfeiture Restricted Account - 2,100

From General Fund Restricted - Criminal Forfeiture Restricted Account, One-time - - - - - - - - - - - - - - - - - - - 200
Schedule of Programs:
CCJJ Commission - 94,900
Extraditions - 3,000
Judicial Performance Evaluation Commission - 14,500
Sentencing Commission - 5,900
State Asset Forfeiture Grant Program - 3,300
State Task Force Grants - 3,200
Utah Office for Victims of Crime - 129,900
Utah Victim Services Commission - 11,900

ITEM 133

To Governor's Office - Indigent Defense Commission
From General Fund - 1,500
From General Fund, One-time - 300
From Expendable Receipts - 400
From Expendable Receipts, One-time - 100
From General Fund Restricted - Indigent Defense Resources - 86,800
From General Fund Restricted - Indigent Defense Resources, One-time - 6,300
From Revenue Transfers - 400
From Revenue Transfers, One-time - 100
Schedule of Programs:
Office of Indigent Defense Services - 29,100
Indigent Appellate Defense Division - 66,800

OFFICE OF THE ATTORNEY GENERAL

ITEM 134

To Office of the Attorney General - Attorney General
From General Fund - 292,700
From General Fund, One-time - 306,700
From Income Tax Fund - 800
From Income Tax Fund, One-time - 1,400
From Federal Funds - 45,100
From Federal Funds, One-time - 41,200
From Dedicated Credits Revenue - 8,900
From Dedicated Credits Revenue, One-time - 8,200
From General Fund Restricted - Consumer Privacy Account - 1,100
From General Fund Restricted - Consumer Privacy Account, One-time - 1,400
From Revenue Transfers - 9,700
From Revenue Transfers, One-time - 9,000
Schedule of Programs:
Administration - 150,400
Criminal Prosecution - 368,800
Solicitor General - 207,000

ITEM 135

To Office of the Attorney General - Children's Justice Centers
From General Fund - 5,300
From General Fund, One-time - 4,900
From Federal Funds - 500
From Federal Funds, One-time - 500
From Expendable Receipts - 200
From Dedicated Credits Revenue - 300
From Expendable Receipts, One-time - 300
From Dedicated Credits Revenue, One-time - 100
From General Fund Restricted - Victim Services Restricted Account - 3,400
From General Fund Restricted - Victim Services Restricted Account, One-time - - - - - - - - - - - - - - - - - - 3,300
From Revenue Transfers - 300
From Revenue Transfers, One-time - 300
Schedule of Programs:
Children's Justice Centers - 19,400

ITEM 136

To Office of the Attorney General - Prosecution Council
From General Fund - 3,700

From General Fund, One-time - - -

From Federal Funds, One-time - - -

Emergency Management - - -

CITS Administration - - -

From Federal Funds - - -

From General Fund, One-time - - -

Main Street Program - - -

From Permanent Community Impact Loan Fund, One-time - - -

Rehabilitation Services - - -

From General Fund - - -

From Dedicated Credits Revenue - - -

From General Fund Restricted - Insurance Department Acct., One-time - 39,600
From General Fund Rest. - Insurance Fraud Investigation Acct. - 61,300
From General Fund Rest. - Insurance Fraud Investigation Acct., One-time - 6,700
Schedule of Programs:
Administration - 319,900
Captive Insurers - 50,400
Insurance Fraud Program - 68,000
Bail Bond Program - 3,700

ITEM 185

To Insurance Department - Title Insurance Program
From General Fund Rest. - Title Licensee Enforcement Acct. - 7,100
From General Fund Rest. - Title Licensee Enforcement Acct., One-time - 2,600
Schedule of Programs:
Title Insurance Program - 9,700

LABOR COMMISSION

ITEM 186

To Labor Commission - Labor Commission Operations
From General Fund - 192,000
From General Fund, One-time - 25,900
From Federal Funds - 113,800
From Federal Funds, One-time - 15,900
From Dedicated Credits Revenue - 1,600
From Dedicated Credits Revenue, One-time - 500
From Employers' Reinsurance Fund - 1,000
From Employers' Reinsurance Fund, One-time - 300
From General Fund Restricted - Industrial Accident Account - 98,400
From General Fund Restricted - Industrial Accident Account, One-time - 15,000
From General Fund Restricted - Workplace Safety Account - 10,400
From General Fund Restricted - Workplace Safety Account, One-time - 3,000
Schedule of Programs:
Adjudication - 51,500
Administration - 47,800
Antidiscrimination and Labor - 92,200
Boiler, Elevator and Coal Mine Safety Division - 66,200
Industrial Accidents - 63,500
Utah Occupational Safety and Health - 151,500
Workplace Safety - 5,100

PUBLIC SERVICE COMMISSION

ITEM 187

To Public Service Commission - Public Service Commission Operations
From General Fund Restricted - Public Utility Restricted Acct. - 73,500
From General Fund Restricted - Public Utility Restricted Acct., One-time - 10,100
From Revenue Transfers - 300
Schedule of Programs:
Administration - 83,900

UTAH STATE TAX COMMISSION

ITEM 188

To Utah State Tax Commission - Tax Administration
From General Fund - 777,800
From General Fund, One-time - 113,000
From Income Tax Fund - 622,900
From Income Tax Fund, One-time - 89,800
From Federal Funds - 21,600
From Federal Funds, One-time - 3,200
From Dedicated Credits Revenue - 185,200
From Dedicated Credits Revenue, One-time - 27,800
From General Fund Restricted - License Plate Restricted Account - 20,200
From General Fund Restricted - License Plate Restricted Account, One-time - 4,200
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account - - 2,800

From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account, One-time - - -

ITEM 193

To Department of Government Operations - Administrative Rules
From General Fund - 25,400
From General Fund, One-time - 4,000
Schedule of Programs:
DAR Administration - 29,400

ITEM 194

To Department of Government Operations - DGO Administration
From General Fund - 61,800
From General Fund, One-time - 7,200
From Dedicated Credits Revenue - 24,000
From Dedicated Credits Revenue, One-time - 4,600
Schedule of Programs:
xecutive Director's Office - 50,700
Finance Office - 8,500
Office of Internal Audit - 31,600
Office of Resource Stewardship - 6,600
Privacy and Security Office - 200

ITEM 195

To Department of Government Operations - Finance - Mandated
From General Fund - -(18,057,800)
From General Fund, One-time - 3,406,900
From Income Tax Fund - (393,400)
From Income Tax Fund, One-time - 701,400
Schedule of Programs:
State Employee Benefits - -(14,342,900)

Under provisions of Section 63A-17-805, Utah Code Annotated, the employer defined contribution match for the fiscal year beginning July 1, 2025 and ending June 30, 2026 shall be $26 per pay period.

ITEM 196

To Department of Government Operations - Division of Finance
From General Fund - 219,100
From General Fund, One-time - 31,900
From Dedicated Credits Revenue - 42,600
From Dedicated Credits Revenue, One-time - 6,000
From Gen. Fund Rest. - Internal Service Fund Overhead - 17,900
From Gen. Fund Rest. - Internal Service Fund Overhead, One-time - 2,500
Schedule of Programs:
Finance Director's Office - 34,200
Financial Information Systems - 99,300
Financial Reporting - 86,500
Payables/Disbursing - 63,900
Payroll - 36,100

ITEM 197

To Department of Government Operations - Inspector General of Medicaid Services
From General Fund - 39,100
From General Fund, One-time - 5,700
From Federal Funds - 900
From Federal Funds, One-time - 200
From Medicaid ACA Fund - 800
From Medicaid ACA Fund, One-time - 100
From Revenue Transfers - 57,000
From Revenue Transfers, One-time - 9,700
Schedule of Programs:
Inspector General of Medicaid Services - 113,500

ITEM 198

To Department of Government Operations - Judicial Conduct Commission
From General Fund - 14,200
From General Fund, One-time - 700
Schedule of Programs:
Judicial Conduct Commission - 14,900

ITEM 199

To Department of Government Operations - State Archives
From General Fund - 87,200
From General Fund, One-time - 13,000
From Federal Funds - 1,300
From Federal Funds, One-time - 100
From Dedicated Credits Revenue - 2,500
From Dedicated Credits Revenue, One-time - 600
Schedule of Programs:
Archives Administration - 33,700
Patron Services - 29,500
Preservation Services - 13,900
Records Analysis - 27,600

ITEM 200

To Department of Government Operations - Chief Information Officer
From General Fund - 126,500
From General Fund, One-time - 18,800
From Federal Funds - 26,500
From Dedicated Credits Revenue - 8,100
From Dedicated Credits Revenue, One-time - 2,000
Schedule of Programs:
Administration - 129,900
Innovation Projects - 52,000

ITEM 201

To Department of Government Operations - Integrated Technology
From General Fund - 36,200
From General Fund, One-time - 5,300
From Federal Funds - 3,800
From Federal Funds, One-time - 300
From Dedicated Credits Revenue - 16,400
From Dedicated Credits Revenue, One-time - 1,400
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct. - 5,700
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct., One-time - 900
Schedule of Programs:
Utah Geospatial Resource Center - 70,000

ITEM 202

To Department of Government Operations - Office of Data Privacy
From General Fund - 19,000
From General Fund, One-time - 4,000
Schedule of Programs:
Office of Data Privacy - 23,000

HIGHER EDUCATION

UNIVERSITY OF UTAH

ITEM 203

To University of Utah - Education and General
From General Fund - 6,078,000
From Income Tax Fund - 7,709,100
From Dedicated Credits Revenue - 4,595,800
Schedule of Programs:
Operations and Maintenance - 1,302,800
Instruction - 9,030,400
Research - 1,776,800
Public Service - 90,300
Academic Support - 2,660,300
Student Services - 1,122,400
Institutional Support - 2,399,900

ITEM 204

To University of Utah - School of Medicine
From Income Tax Fund - 1,333,100

From Dedicated Credits Revenue - - -

From Dedicated Credits Revenue - - -

Operations and Maintenance - - -

SALT LAKE COMMUNITY COLLEGE

ITEM 224

To Salt Lake Community College - Education and General
From General Fund - - -

DAVIS TECHNICAL COLLEGE

ITEM 231

To Davis Technical College - Education and General
From Income Tax Fund - - -

Schedule of Programs:
Instruction - - -

To Department of Agriculture and Food - Animal Industry
From General Fund - 92,400
From General Fund, One-time - 15,600
From Income Tax Fund - 2,100
From Income Tax Fund, One-time - 800
From Federal Funds - 50,600
From Federal Funds, One-time - 8,100
From Dedicated Credits Revenue - 2,400
From Dedicated Credits Revenue, One-time - 300
From General Fund Restricted - Livestock Brand - 44,300
From General Fund Restricted - Livestock Brand, One-time - 5,700
From Revenue Transfers - 100
Schedule of Programs:
Animal Health - 51,600
Brand Inspection - 74,500
Meat Inspection - 96,300

ITEM 244

To Department of Agriculture and Food - Invasive Species Mitigation
From General Fund - 11,600
From General Fund, One-time - 1,700
From Federal Funds - 1,100
From Federal Funds, One-time - 300
Schedule of Programs:
Invasive Species Mitigation - 14,700

ITEM 245

To Department of Agriculture and Food - Marketing and Development
From General Fund - 15,100
From General Fund, One-time - 1,900
From Federal Funds - 13,300
From Federal Funds, One-time - 4,000
From Dedicated Credits Revenue - 600
From Dedicated Credits Revenue, One-time - 100
Schedule of Programs:
Marketing and Development - 35,000

ITEM 246

To Department of Agriculture and Food - Plant Industry
From General Fund - 4,300
From General Fund, One-time - 700
From Federal Funds - 42,800
From Federal Funds, One-time - 8,300
From Dedicated Credits Revenue - 123,200
From Dedicated Credits Revenue, One-time - 25,400
From Revenue Transfers - 900
From Revenue Transfers, One-time - 200
Schedule of Programs:
Plant Industry Administration - 21,300
Grain Lab - 6,800
Insect, Phyto, and Nursery - 48,700
Pesticide - 44,400
Feed, Fertilizer, and Seed - 53,100
Organics - 31,500

ITEM 247

To Department of Agriculture and Food - Predatory Animal Control
From General Fund - 38,200
From General Fund, One-time - 6,400
From Revenue Transfers - 16,100
From Revenue Transfers, One-time - 2,900
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention - 8,200
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention, One-time - 2,800
Schedule of Programs:
Predatory Animal Control - 74,600

ITEM 248

To Department of Agriculture and Food - Rangeland Improvement
From General Fund - 29,800
From General Fund, One-time - 5,100
From Gen. Fund Rest. - Rangeland Improvement Account - 14,100
From Gen. Fund Rest. - Rangeland Improvement Account, One-time - 3,400
From Revenue Transfers - 4,000
From Revenue Transfers, One-time - 1,500
Schedule of Programs:
Rangeland Improvement Projects - 16,600
Grazing Improvement Program Administration - 41,300

ITEM 249

To Department of Agriculture and Food - Regulatory Services
From General Fund - 27,300
From General Fund, One-time - 7,100
From Federal Funds - 29,200
From Federal Funds, One-time - 5,700
From Dedicated Credits Revenue - 125,100
From Dedicated Credits Revenue, One-time - 22,800
Schedule of Programs:
Regulatory Services Administration - 9,500
Bedding & Upholstered - 15,100
Weights & Measures - 61,200
Food Inspection - 103,400
Dairy Inspection - 28,000

ITEM 250

To Department of Agriculture and Food - Resource Conservation
From General Fund - 83,900
From General Fund, One-time - 20,000
From Federal Funds - 18,000
From Federal Funds, One-time - 2,800
From Dedicated Credits Revenue - 300
From Dedicated Credits Revenue, One-time - 100
From Revenue Transfers - 9,000
From Revenue Transfers, One-time - 700
Schedule of Programs:
Conservation Administration - 14,800
Conservation Districts - 47,200
Water Quantity - 46,000
Water Quality - 3,400
Soil Health - 14,500
Salinity - 3,700
Easements and Loan Projects - 5,200

ITEM 251

To Department of Agriculture and Food - Industrial Hemp
From Dedicated Credits Revenue - 37,400
From Dedicated Credits Revenue, One-time - 6,900
From General Fund Restricted - Cannabinoid Proceeds Restricted Account - 14,200
From General Fund Restricted - Cannabinoid Proceeds Restricted Account, One-time - 6,500
Schedule of Programs:
Industrial Hemp - 65,000

ITEM 252

To Department of Agriculture and Food - Analytical Laboratory
From General Fund - 18,600
From General Fund, One-time - 4,800
From Federal Funds - 1,000
From Federal Funds, One-time - 300
From Dedicated Credits Revenue - 8,100
From Dedicated Credits Revenue, One-time - 2,100
From Revenue Transfers - 300
From Revenue Transfers, One-time - 200

Schedule of Programs:
Analytical Laboratory - - -

From Waste Tire Recycling Fund - - -

Executive Director - - -

From Dedicated Credits Revenue, One-time - - -

From General Fund Restricted - Predator Control Account - 10,000
From General Fund Restricted - Predator Control Account, One-time - 1,800
From Revenue Transfers - 1,400
From Revenue Transfers, One-time - 300
From General Fund Restricted - Wildlife Conservation Easement Account - 300
From General Fund Restricted - Wildlife Habitat - 15,100
From General Fund Restricted - Wildlife Habitat, One-time - 700
From General Fund Restricted - Wildlife Resources - 905,200
From General Fund Restricted - Wildlife Resources, One-time - 125,100
Schedule of Programs:
Administrative Services - 173,000
Aquatic Section - 432,900
Conservation Outreach - 172,100
Director's Office - 82,600
Habitat Council - 15,800
Habitat Section - 285,400
Law Enforcement - 450,500
Wildlife Section - 323,400

ITEM 270

To Department of Natural Resources - Public Lands Policy Coordinating Office
From General Fund - 56,500
From General Fund, One-time - 6,000
From Dedicated Credits Revenue - 300
From General Fund Restricted - Constitutional Defense - 31,700
From General Fund Restricted - Constitutional Defense, One-time - 4,800
Schedule of Programs:
Administration - 99,300

ITEM 271

To Department of Natural Resources - State Parks
From General Fund - 78,500
From General Fund, One-time - 10,200
From Federal Funds - 3,700
From Federal Funds, One-time - 400
From Dedicated Credits Revenue - 25,000
From Expendable Receipts - 2,800
From Dedicated Credits Revenue, One-time - 2,900
From Expendable Receipts, One-time - 300
From General Fund Restricted - State Park Fees - 807,000
From General Fund Restricted - State Park Fees, One-time - 97,500
From Revenue Transfers - 2,800
From Revenue Transfers, One-time - 400
Schedule of Programs:
Executive Management - 27,300
Support Services - 64,300
Recreational Parks - 930,600
Heritage Parks - 9,300

ITEM 272

To Department of Natural Resources - State Parks - Capital
From Federal Funds - 11,700
From Federal Funds, One-time - 4,800
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account - - - - - - - - - - - - - - - 49,700
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, One-time - - - - - - - - - - 7,600
From General Fund Restricted - State Park Fees - 3,700
From General Fund Restricted - State Park Fees, One-time - 400
Schedule of Programs:
Renovation and Development - 77,900

ITEM 273

To Department of Natural Resources - Division of Outdoor Recreation
From General Fund - 7,800
From General Fund, One-time - 1,500
From Federal Funds - 16,600
From Federal Funds, One-time - 1,100

From Dedicated Credits Revenue - - -

From Land Grant Management Fund - - -

State Safety and Support Program - - -

From Dedicated Credits Revenue, One-time - - -

Ancillary Services - - -

From Revenue Transfers - - -

Proceeds Restricted Account, One-time - - -

From General Fund - - -

From Dedicated Credits Revenue, One-time - - -

Region 2 - - -

Schedule of Programs:
Heritage and Arts Foundation Fund - - -

From Dedicated Credits Revenue, One-time - - -

UTAH DEPARTMENT OF CORRECTIONS

ITEM 328

To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits Revenue - - -

To Colorado River Authority of Utah Restricted Account
From General Fund - - -

CHAPTER 167
H. B. 10
Passed March 5, 2025
Approved March 25, 2025
Effective July 1, 2025

FUND AND ACCOUNT MODIFICATIONS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill modifies provisions related to state funds.

Highlighted Provisions:

This bill:

- ► modifies the amount that the Division of Finance annually transfers from the Liquor Control Fund to the General Fund;
- ► changes the Opioid Litigation Proceeds Restricted Account from a restricted account to a permanent fund called the Opioid Litigation Proceeds Fund;
- ► provides for the investment of the Opioid Litigation Proceeds Fund's principal;
- ► authorizes spending from the Opioid Litigation Proceeds Fund only from earnings derived from the fund's principal and for specified purposes;
- ► establishes the State Treasurer Investment Management Account and provides for the account's uses and funding; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-5-211, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapter 271
32B-2-301, (Effective 05/07/25) as last amended by Laws of Utah 2022, Chapter 447
51-7-2, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapters 418, 492 and 510
51-9-801, (Effective 07/01/25) as last amended by Laws of Utah 2023, Chapter 319

ENACTS:

67-4-20, (Effective 07/01/25) Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-5-211 is amended to read:

26B-5-211 (Effective 07/01/25). Administration of opioid litigation proceeds -- Requirements for governmental entities receiving opioid funds -- Reporting.

(1) As used in this section:

(a) "Fund" means the Opioid Litigation Proceeds Fund created in Section 51-9-801.

(b) "Office" means the Office of Substance Use and Mental Health within the department.

[~~(b)~~](c) "Opioid funds" means money received by the state or a political subdivision of the state as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids.

[~~(c) "Restricted account" means the Opioid Litigation Proceeds Restricted Account created in Section 51-9-801.~~]

(2) Opioid funds may not be used to:

(a) reimburse expenditures that were incurred before the opioid funds were received by the governmental entity; or

(b) supplant or take the place of any funds that would otherwise have been expended for that purpose.

(3) The office shall serve as the reporting entity to receive, compile, and submit any reports related to opioid funds that are required by law, contract, or other agreement.

(4) The requirement described in Subsection (5) applies to:

(a) a recipient of opioid funds from the [~~restricted account~~]fund, in any year that opioid funds are received; and

(b) a political subdivision that received opioid funds.

(5) A person described in Subsection (4) shall provide an annual report to the office, in a form and by a date established by the office, that includes:

(a) an accounting of all opioid funds that were received by the person in the year;

(b) the number of individuals served through programs funded by the opioid funds, including the individuals' age, gender, and other demographic factors reported in a de-identified manner;

(c) the measures that were used to determine whether the program funded by the opioid funds achieved the intended outcomes;

(d) if applicable, any information required to be submitted to the reporting entity under applicable law, contract, or other agreement; and

(e) the percentage of total funds received by the person in the year that the person used to promote the items under Subsections (6)(d)(i) through (vi).

(6) On or before October 1 of each year, the office shall provide a written report that includes:

(a) the opening and closing balance of the [~~restricted account~~]fund for the previous fiscal year;

(b) the name of and amount received by each recipient of funds from the [~~restricted account~~]fund;

(c) a description of the intended use of each award, including the specific program, service, or resource funded, population served, and measures that the recipient used or will use to assess the impact of the award;

(d) the amount of funds expended to address each of the following items and the degree to which the department administered the program or subcontracted with a private entity:

(i) treatment services;

(ii) recovery support services;

(iii) prevention;

(iv) criminal justice;

(v) harm reduction; and

(vi) expanding any of the following services:

(A) housing;

(B) legal support;

(C) education; and

(D) job training;

(e) a description of any finding or concern as to whether all opioid funds disbursed from the [~~restricted account~~]fund violated the prohibitions in Subsection (2) and, if applicable, complied with the requirements of a settlement agreement;

(f) the performance indicators and progress toward improving outcomes and reducing mortality and other harms related to substance use disorders; and

(g) administrative costs including indirect rates and direct service costs.

(7) The office shall provide the information that is received, compiled, and submitted under this section:

(a) to the Health and Human Services Interim Committee;

(b) to the Social Services Appropriations Subcommittee;

(c) if required under the terms of a settlement agreement under which opioid funds are received, to the administrator of the settlement agreement in accordance with the terms of the settlement agreement; and

(d) in a publicly accessible location on the department's website.

(8) The office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 2. Section 32B-2-301 is amended to read:

32B-2-301 (Effective 05/07/25). State property -- Liquor Control Fund -- Money to be retained by department -- Department building process.

(1) As used in this section, "base budget" means the same as that term is defined in legislative rule.

(2) The following are property of the state:

(a) the money received in the administration of this title, except as otherwise provided; and

(b) property acquired, administered, possessed, or received by the department.

(3) (a) There is created an enterprise fund known as the "Liquor Control Fund."

(b) Except as provided in Sections 32B-2-304, 32B-2-305, and 32B-2-306, the department shall deposit the following into the Liquor Control Fund:

(i) money received in the administration of this title; and

(ii) money received from the markup described in Section 32B-2-304.

(c) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided by statute.

(d) The net position of the Liquor Control Fund may not fall below zero.

(4) (a) Notwithstanding Subsection (3)(c), the department may draw by warrant from the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by the department:

(i) to purchase an alcoholic product;

(ii) to transport an alcoholic product from the supplier to a warehouse of the department; or

(iii) for variances related to an alcoholic product, including breakage or theft.

(b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the department draws against the Liquor Control Fund, to the extent necessary to cover the warrant, the cash resources of the General Fund may be used.

(5) The department's base budget shall include as an appropriation from the Liquor Control Fund:

(a) credit card related fees paid by the department;

(b) package agency compensation;

(c) the department's costs of shipping and warehousing alcoholic products; and

(d) the amount needed, as the Division of Human Resource Management determines, to make the median department salary in the previous fiscal year equal the median market salary in the previous fiscal year for the following positions:

(i) state store manager or equivalent;

(ii) state store assistant manager or equivalent;

(iii) full-time sales clerk at a state store or equivalent;

(iv) part-time sales clerk at a state store or equivalent;

(v) department warehouse manager or equivalent;

(vi) department warehouse assistant manager or equivalent;

(vii) full-time department warehouse worker or equivalent; and

(viii) part-time department warehouse worker or equivalent.

(6) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection (6), adjusted for amounts needed for cash operations.

(b) After each fiscal year, the Division of Finance shall [~~calculate the amount for the transfer on or before September 1 and the Division of Finance shall make the transfer~~]transfer the amount calculated under Subsection (6)(a) on or before September 30.

(c) The Division of Finance may make year-end closing entries in the Liquor Control Fund to comply with Subsection 51-5-6(2).

(7) (a) By the end of each day, the department shall:

(i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

(ii) report the deposit to the state treasurer.

(b) A commissioner or department employee is not personally liable for a loss caused by the default or failure of a qualified depository.

(c) Money deposited in a qualified depository is entitled to the same priority of payment as other public funds of the state.

(8) Before the Division of Finance makes the transfer described in Subsection (6), the department may retain each fiscal year from the Liquor Control Fund $1,000,000 that the department may use for:

(a) capital equipment purchases;

(b) salary increases for department employees;

(c) performance awards for department employees; or

(d) information technology enhancements because of changes or trends in technology.

Section 3. Section 51-7-2 is amended to read:

51-7-2 (Effective 07/01/25). Exemptions from chapter.

(1) Except as provided in Subsection (2), the following funds are exempt from this chapter:

(a) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(b) funds of the Utah State Retirement Board;

(c) funds of the Utah Housing Corporation;

(d) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section 53B-7-802;

(e) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(f) the State Post-Retirement Benefits Trust Fund;

(g) the funds of the Utah Educational Savings Plan;

(h) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(i) the funds in the Navajo Trust Fund;

(j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(k) the funds in the Employers' Reinsurance Fund;

(l) the funds in the Uninsured Employers' Fund;

(m) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 26B-1-331;

(n) the funds in the Risk Management Fund created in Section 63A-4-201;

(o) the Utah fund of funds created in Section 63N-6-401;

(p) the funds deposited into the Utah Homes Investment Program from the Transportation Infrastructure General Fund Support Subfund created in Section 72-2-134; [~~and~~]

(q) subject to Subsection 67-4-19(2), the portion of the funds in the following accounts invested by the state treasurer in precious metals:

(i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;

(ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;

(iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and

(iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in Section [~~63J-1-315.~~]63J-1-315; and

(r) the funds in the Opioid Litigation Proceeds Fund, created in Section 51-9-801.

(2) Except for the funds of the Utah State Retirement Board and the Utah Educational Savings Plan, the funds described in Subsection (1) are not exempt from Subsections 51-7-14(2) and (3).

(3) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, a public body that administers a fund described in Subsection (1) may hold a closed meeting to discuss the sale or purchase of identifiable securities, investment funds, or investment contracts.

(4) A paper, electronic, or other depiction or record of information relating to investment activities of a fund described in Subsection (1) is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Section 4. Section 51-9-801 is amended to read:

PART 8. Opioid Litigation Proceeds Fund

51-9-801 (Effective 07/01/25). Opioid Litigation Proceeds Fund.

(1) As used in this section:

(a) "Fund" means the Opioid Litigation Proceeds Fund created in this section.

(b) (i) "Principal" means money deposited into the fund in accordance with this section.

(ii) "Principal" does not include:

(A) earnings credited to the fund, including interest and dividends; or

(B) up to $21 million of money described in Subsection (4) that the Legislature allocated through July 1, 2026, to be spent for various purposes through June 30, 2027.

(2) There is created [~~within the General Fund a restricted account known as~~]the Opioid Litigation Proceeds [~~Restricted Account~~]Fund.

[~~(2)~~](3) The [~~account~~]fund consists of:

(a) any money deposited into the [~~account~~]fund in accordance with Subsection [~~(3)~~](4);

(b) interest and dividends earned on money in the [~~account~~]fund; and

(c) money appropriated to the [~~account~~]fund by the Legislature.

[~~(3)~~](4) Notwithstanding Sections 13-2-8 and 76-10-3114, after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in Subsection [~~(3)(a) or (b)~~](4)(a) or (b), the following shall be deposited into the [~~account~~]fund:

(a) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids from a case designated as an opioid case by the attorney general in a legal services contract; and

(b) all money received by the attorney general or the Department of Commerce as a result of any multistate judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids.

(5) The state treasurer shall:

(a) invest the money in the fund:

(i) for the benefit of the people of the state in perpetuity; and

(ii) with the following goals, in order of priority:

(A) providing for growth of the principal; and

(B) fund stability; and

(b) invest and manage fund money as a prudent investor would by:

(i) considering the purpose, terms, distribution requirements, and other circumstances of the fund; and

(ii) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.

(6) The state treasurer may deduct any administrative costs incurred by managing the fund from earnings generated by investments in the fund.

[~~(4)~~](7) (a) The Legislature may not appropriate principal from the fund.

(b) Subject to appropriation by the Legislature, money in the account other than principal shall be used:

[~~(a)~~](i) to address the effects of alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids; or

[~~(b)~~](ii) if applicable, in accordance with the terms of a settlement agreement described in Subsection [~~(3)(a) or (b)~~](4)(a) or (b) entered into by the state.

Section 5. Section 67-4-20 is enacted to read:

67-4-20 (Effective 07/01/25). State Treasurer Investment Management Account.

(1) As used in this section, "account" means the State Treasurer Investment Management Account created in this section.

(2) There is created within the General Fund a restricted account known as the State Treasurer Investment Management Account.

(3) Money in the account is solely to pay for the state treasurer's costs of managing the state's and local governments' investments.

(4) (a) Subject to Subsection (4)(b), the account shall consist of a portion of investment earnings on:

(i) the funds listed in Subsection 51-7-2(1) and managed by the state treasurer; and

(ii) the Public Treasurers' Investment Fund created in Section 51-7-3.

(b) The total annual amount deposited into the account for a given fiscal year may not exceed the amount appropriated from the account for that fiscal year.

(5) The state treasurer shall deposit investment earnings into the account quarterly, based on the annually appropriated amount described in Subsection (4)(b).

(6) Appropriations from the account reduce General Fund revenue and Income Tax Fund revenue proportional to those funds' share of total investments.

(7) Beginning in 2026, after July 1 and before December 1 each calendar year, the state treasurer shall report to the Executive Appropriations Committee the portion of the deposits into the account during the previous fiscal year that was General Fund revenue and the portion that was Income Tax Fund revenue.

(8) The Division of Finance shall lapse any balances in the account at the close of a fiscal year to the General Fund and Income Tax Fund proportional to those funds' share of total deposits.

Section 6. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect July 1, 2025.

(2) The actions affecting Section 32B-2-301 (Effective 05/07/25) take effect on May 7, 2025.

CHAPTER 168
S. B. 2
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

NEW FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS ACT

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

Highlighted Provisions:

This bill:

- ► provides budget increases and decreases for the use and support of certain state agencies;
- ► provides budget increases and decreases for the use and support of certain institutions of higher education;
- ► provides budget increases and decreases for other purposes as described;
- ► authorizes full time employment levels for certain internal service funds; and
- ► provides intent language.

Money Appropriated in this Bill:

This bill appropriates $1,793,351,100 in operating and capital budgets for fiscal year 2026, including:

- $19,831,600 from General Fund; and
- $61,081,300 from Income Tax Fund; and
- $1,712,438,200 from various sources as detailed in this bill.

This bill appropriates $164,720,300 in expendable funds and accounts for fiscal year 2026, including:

- $22,000,000 from General Fund; and
- $142,720,300 from various sources as detailed in this bill.

This bill appropriates $101,333,800 in business-like activities for fiscal year 2026, including:

- $259,800 from Income Tax Fund; and
- $101,074,000 from various sources as detailed in this bill.

This bill appropriates $14,967,700 in restricted fund and account transfers for fiscal year 2026, including:

- ($1,399,200) from General Fund; and
- ($1,830,700) from Income Tax Fund; and
- $18,197,600 from various sources as detailed in this bill.

This bill appropriates ($429,380,200) in capital project funds for fiscal year 2026, including:

- $14,952,200 from General Fund; and
- ($6,500,000) from Income Tax Fund; and
- ($437,832,400) from various sources as detailed in this bill.

This bill reflects $62,435,100 in higher education budget reporting for fiscal year 2026.

Other Special Clauses:

This bill takes effect on July 1, 2025.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 1(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CRIMINAL JUSTICE

GOVERNOR'S OFFICE

ITEM 1

To Governor's Office - CCJJ - Jail Reimbursement
From General Fund - (1,000,000)
Schedule of Programs:
Jail Reimbursement - (1,000,000)

ITEM 2

To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund - (249,900)
From Federal Funds - (7,046,500)
From Crime Victim Reparations Fund - 855,000
Schedule of Programs:
Substance Use and Mental Health Advisory Council - (249,900)
Utah Office for Victims of Crime - (6,311,500)
Utah Victim Services Commission - 120,000

The Legislature intends that CCJJ report on extradition expenditures and process during the 2025 interim. This should include usage by county, any extradition usage outliers and options to minimize costs.

ITEM 3

To Governor's Office - Indigent Defense Commission
From Expendable Receipts - 460,700
From General Fund Restricted - Indigent Defense Resources, One-time - 700,000
From Revenue Transfers - (9,000)
Schedule of Programs:
Office of Indigent Defense Services - 1,160,700
Child Welfare Parental Defense Program - (9,000)

The Legislature intends that the Indigent Defense Commission report to the Criminal Justice Appropriations Subcommittee during the 2025 interim on proposed standards of indigent attorneys including timeliness of communication with defendants, meeting with clients, what evidentiary motions to consider, and how to prepare for trial, in addition to any other standards identified by the Commission.

The Legislature intends that the Indigent Defense Commission report on the indigent defense contract process and expenditures during the 2025 interim. This should include the vetting process to determine indigent eligibility and options/recommendations to improve overall process.

OFFICE OF THE ATTORNEY GENERAL

ITEM 4

To Office of the Attorney General - Attorney General
From General Fund - 2,555,000
From General Fund, One-time - 2,000,000
From Federal Funds - 780,000
From Revenue Transfers - 155,000
Schedule of Programs:
Administration - 2,000,000
Criminal Prosecution - 1,195,000
Solicitor General - 2,295,000

ITEM 5

To Office of the Attorney General - Contract Attorneys
From General Fund Restricted - Federal Overreach Restricted Account, One-time - 675,000
From Beginning Nonlapsing Balances - (1,000,000)
From Closing Nonlapsing Balances - 1,000,000
Schedule of Programs:
Contract Attorneys - 675,000

UTAH DEPARTMENT OF CORRECTIONS

ITEM 6

To Utah Department of Corrections - Administration
From General Fund, One-time - 4,500,000
Schedule of Programs:
Prison Operations Utah State Correctional Facility - 4,500,000

ITEM 7

To Utah Department of Corrections - Jail Contracting
From General Fund - (34,000)
Schedule of Programs:

Jail Contracting - - -

To Department of Public Safety - Programs & Operations
From General Fund - 1,688,100
From General Fund, One-time - 4,628,900
From Dedicated Credits Revenue - (250,000)
From Department of Public Safety Restricted Account - 100,000
From General Fund Restricted - Fire Prevention Support - 350,000
From General Fund Restricted - Opioid Litigation Proceeds Restricted Account - 834,800
From General Fund Restricted - Opioid Litigation Proceeds Restricted Account, One-time - 950,000
Schedule of Programs:
Aero Bureau - 1,775,000
Fire Marshal - Fire Operations - 350,000
Highway Patrol - Field Operations - 6,076,800
Highway Patrol - Technology Services - 100,000

The Legislature intends that the Fire Marshal's office is authorized to purchase up to 2 additional vehicles for a new fire marshal and a mobile drone vehicle, school safety up to 1 additional vehicle for a lieutenant position, and Emergency Medical Services up to 3 vehicles for rural liaisons.

The Legislature intends that any proceeds from the sale of a helicopter or salvaged helicopter parts and any insurance reimbursements for helicopter repair are to be used by the department for its Aero Bureau operations.

The Legislature intends that the Department of Public Safety or other recipients of funding via Fentanyl Interdiction Personnel and Equipment report to the Social Services Appropriations Subcommittee by January 1, 2028 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

ITEM 18

To Department of Public Safety - Bureau of Criminal Identification
From Revenue Transfers - 500,000
Schedule of Programs:
Non-Government/Other Services - 500,000

ECONOMIC AND COMMUNITY DEVELOPMENT

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

ITEM 19

To Department of Alcoholic Beverage Services - DABS Operations
From Liquor Control Fund - (1,892,500)
Schedule of Programs:
Executive Director - (14,700)
Stores and Agencies - (1,733,900)
Warehouse and Distribution - (143,900)

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

ITEM 20

To Governor's Office of Economic Opportunity - Administration
From General Fund - 28,800
Schedule of Programs:
Administration - 28,800

ITEM 21

To Governor's Office of Economic Opportunity - Economic Prosperity
From General Fund, One-time - 2,500,000
From Federal Funds, One-time - 10,000,000
Schedule of Programs:
Incentives and Grants - 10,000,000
Strategic Initiatives - 2,500,000

ITEM 22

To Governor's Office of Economic Opportunity - Office of Tourism
From General Fund - (28,800)
From Dedicated Credits Revenue - 400,000
From General Fund Restricted - Industrial Assistance Account, One-time - 3,500,000
From General Fund Restricted - Tourism Marketing Performance - (1,350,000)
Schedule of Programs:
Film Commission - 3,500,000
Marketing and Advertising - (1,350,000)
Tourism - 371,200

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Governor's Office of Economic Opportunity (GOEO) provide a direct award grant of $3,500,000 to the Sundance Institute for the Sundance Film Festival. The Legislature further intends that GOEO shall not disburse the grant until after the Sundance Institute has announced its host city for the 2027 film festival. If the Sundance Institute chooses to leave the state of Utah, GOEO shall not disburse the funds provided for this purpose and shall allow them to lapse.

Notwithstanding the performance measure intent language found in H.B. 4 - Item 61 and in accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report on the following Office of Tourism line item performance measure for FY 2026: Revenue Growth Over 3% or Consumer Price Index - Whichever Baseline Is Higher (Target = 3%).

ITEM 23

To Governor's Office of Economic Opportunity - Pass-Through

From General Fund - - -

Schedule of Programs:
One Utah Service Fellowship Program - - -

From Federal Funds, One-time - - -

Other Assistance - - -

Schedule of Programs:
Adjudication - - -

ITEM 49

To Legislature - Office of Legislative Services
From General Fund - - -

LABOR COMMISSION

ITEM 56

To Labor Commission - Labor Commission Operations
From General Fund Restricted - Workplace Safety Account - (3,600)
Schedule of Programs:
Workplace Safety - (3,600)

PUBLIC SERVICE COMMISSION

ITEM 57

To Public Service Commission - Public Service Commission Operations
From General Fund Restricted - Public Utility Restricted Acct. - 150,000
From General Fund Restricted - Public Utility Restricted Acct., One-time - 35,000
Schedule of Programs:
Administration - 185,000

UTAH STATE TAX COMMISSION

ITEM 58

To Utah State Tax Commission - License Plates Production
From General Fund Restricted - License Plate Restricted Account - 1,000,000
Schedule of Programs:
License Plates Production - 1,000,000

ITEM 59

To Utah State Tax Commission - Tax Administration
From Dedicated Credits Revenue - 800
From General Fund Restricted - Electronic Payment Fee Rest. Acct - 250,000
From General Fund Rest. - State Tax Commission Administrative Charge Account - - - - - - - - - - - - - - - - 278,600
Schedule of Programs:
Operations - 279,400
Customer Service - 200,000
Enforcement - 50,000

GOVERNOR'S OFFICE

ITEM 60

To Governor's Office - Governor's Office Operations
From General Fund, One-time - 1,418,600
Schedule of Programs:
Lt. Governor's Office - 1,418,600

OFFICE OF THE STATE AUDITOR

ITEM 61

To Office of the State Auditor - State Auditor
From Dedicated Credits Revenue - 554,200
Schedule of Programs:
State Auditor - 554,200

DEPARTMENT OF GOVERNMENT OPERATIONS

ITEM 62

To Department of Government Operations - Finance - Elected Official Post-Retirement Benefits Contribution
From General Fund - (500,000)
Schedule of Programs:
Elected Official Post-Retirement Trust Fund - (500,000)

ITEM 63

To Department of Government Operations - DGO Administration
From General Fund - (145,800)
From Dedicated Credits Revenue - 1,436,000
From Revenue Transfers - (521,800)
Schedule of Programs:
Executive Director's Office - 768,400

ITEM 64

To Department of Government Operations - Division of Finance
From General Fund, One-time - - -

The Legislature intends that the $28,000 one-time appropriation from the Income Tax Fund be used by the Kem C. Gardner Policy Institute to conduct an Educational Achievement and Workforce Development study.

ITEM 72

To University of Utah - School of Medicine
From Income Tax Fund, One-time - - -

ITEM 79

To Weber State University - Education and General
From Income Tax Fund - 1,326,500
From Income Tax Fund, One-time (733,600)
From Dedicated Credits Revenue 4,173,800
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 703,900
Schedule of Programs:
Operations and Maintenance 407,900
Instruction 2,871,800
Research 4,600
Public Service 12,600
Academic Support 505,400
Student Services 416,900
Institutional Support 1,205,500
Scholarships and Fellowships 45,900

SOUTHERN UTAH UNIVERSITY

ITEM 80

To Southern Utah University - Education and General
From Income Tax Fund, One-time 953,900
From Dedicated Credits Revenue 4,837,300
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 744,600
Schedule of Programs:
Operations and Maintenance 445,200
Instruction 3,167,100
Public Service 25,900
Academic Support 653,900
Student Services 771,400
Institutional Support 1,133,800
Scholarships and Fellowships 338,500

UTAH VALLEY UNIVERSITY

ITEM 81

To Utah Valley University - Education and General
From Income Tax Fund 1,154,800
From Income Tax Fund, One-time (329,600)
From Dedicated Credits Revenue 8,901,500
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 984,300
Schedule of Programs:
Operations and Maintenance 1,018,800
Instruction 5,210,800
Public Service 24,600
Academic Support 1,221,700
Student Services 935,500
Institutional Support 2,231,300
Scholarships and Fellowships 68,300

SNOW COLLEGE

ITEM 82

To Snow College - Education and General
From Income Tax Fund 199,100
From Income Tax Fund, One-time (504,200)
From Dedicated Credits Revenue (640,000)
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 201,600
Schedule of Programs:
Operations and Maintenance (545,700)
Instruction (25,000)
Public Service (3,600)
Academic Support (39,400)
Student Services (38,400)
Institutional Support (91,400)

ITEM 83

To Snow College - Career and Technical Education
From Dedicated Credits Revenue - - -

Schedule of Programs:
Pass Through Funding - - -

Student Services - - -

From Dedicated Credits Revenue - - -

Grazing Improvement Program Administration - (383,500)

ITEM 104

To Department of Agriculture and Food - Regulatory Services
From Federal Funds - (368,000)
From Dedicated Credits Revenue - 435,900
Schedule of Programs:
Regulatory Services Administration - (341,100)
Bedding & Upholstered - 70,000
Weights & Measures - 610,000
Food Inspection - (126,000)
Dairy Inspection - (145,000)

ITEM 105

To Department of Agriculture and Food - Resource Conservation
From Dedicated Credits Revenue - 22,000
Schedule of Programs:
Conservation Districts - 10,000
Soil Health - (13,000)
Easements and Loan Projects - 25,000

ITEM 106

To Department of Agriculture and Food - Industrial Hemp
From Dedicated Credits Revenue - (578,600)
Schedule of Programs:
Industrial Hemp - (578,600)

ITEM 107

To Department of Agriculture and Food - Analytical Laboratory
From Federal Funds - (36,900)
From Dedicated Credits Revenue - (375,700)
From Revenue Transfers - 17,600
Schedule of Programs:
Analytical Laboratory - (395,000)

The Legislature intends that the Analytical Laboratory maintain a fleet of no more than three vehicles for the Medical Cannabis program for sample collection.

DEPARTMENT OF ENVIRONMENTAL QUALITY

ITEM 108

To Department of Environmental Quality - Drinking Water
From Federal Funds, One-time - 8,000,000
From Revenue Transfers - (107,900)
Schedule of Programs:
Safe Drinking Water Act - (35,800)
System Assistance - 2,954,300
State Revolving Fund - 4,973,600

ITEM 109

To Department of Environmental Quality - Environmental Response and Remediation
From Dedicated Credits Revenue - (244,700)
From Revenue Transfers - 29,800
Schedule of Programs:
Voluntary Cleanup - (3,000)
CERCLA - (93,200)
Petroleum Storage Tank Cleanup - 4,500
Petroleum Storage Tank Compliance - (123,200)

ITEM 110

To Department of Environmental Quality - Executive Director's Office
From Dedicated Credits Revenue - (4,300)
From Revenue Transfers - 192,800
Schedule of Programs:
Executive Director Office Administration - 188,700
Radon - (200)

ITEM 111

To Department of Environmental Quality - Waste Management and Radiation Control
From Federal Funds - 1,800
From Federal Funds, One-time - 229,800
From Dedicated Credits Revenue (400,000)
From General Fund Restricted - Environmental Quality - 152,100
From Revenue Transfers (91,200)
Schedule of Programs:
Hazardous Waste (325,800)
Solid Waste - 216,300
Radiation - 102,100
Low Level Radioactive Waste (100,000)
WIPP - 500
Used Oil (500)
X-Ray (100)

ITEM 112

To Department of Environmental Quality - Water Quality
From Federal Funds, One-time - 1,470,100
From Revenue Transfers (58,200)
Schedule of Programs:
Water Quality Protection - 1,118,300
Water Quality Permits - 293,600

ITEM 113

To Department of Environmental Quality - Air Quality
From Federal Funds - 160,400
From Federal Funds, One-time - 92,724,200
From Expendable Receipts - 13,000
From Revenue Transfers - 67,000
From Revenue Transfers, One-time - 1,000,000
Schedule of Programs:
Air Quality Administration - 37,800
Planning - 93,929,600
Compliance (90,500)
Permitting - 87,700

OFFICE OF THE GOVERNOR

ITEM 114

To Office of the Governor - Colorado River Authority of Utah
From Federal Funds - 310,000
From Revenue Transfers - 40,000
Schedule of Programs:
Colorado River Authority of Utah - 350,000

In accordance with UCA 63J-1-903, the Legislature intends that the Office of the Governor report on the following Colorado River Authority of Utah line item performance measures for FY 2026: 1. Acre-feet Enrolled in a Demand Management Program (Target = 5,000); 2. Percent of Major Watersheds in Utah Included in the Utah Colorado River Accounting and Forecasting Model (Target = 25%); and 3. Percent of Targeted Watersheds Equipped to Measure and Report All Water Diversions (Target = 15%).

DEPARTMENT OF NATURAL RESOURCES

ITEM 115

To Department of Natural Resources - Cooperative Agreements
From Federal Funds - 6,351,700
Schedule of Programs:
Federal Agreements - 6,351,700

ITEM 116

To Department of Natural Resources - DNR Pass Through

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Natural Resources provide a direct award grant of $972,000 in FY 2026 to the Hogle Zoo and $36,400 in FY 2026 to Zootah.

ITEM 117

To Department of Natural Resources - Forestry, Fire, and State Lands
From Dedicated Credits Revenue - 2,000,000
From General Fund Restricted - Sovereign Lands Management - 820,000
From General Fund Restricted - Sovereign Lands Management, One-time - 3,035,000

Schedule of Programs:
Fire Management - - -

Quagga Mussel treatment tanks at Deer Creek Reservoir and at Bull Frog Marina.

ITEM 124

To Department of Natural Resources - Public Lands Policy Coordinating Office
From General Fund Restricted - Federal Overreach Restricted Account, One-time - - - - - - - - - - - - - - - - - 1,000,000
Schedule of Programs:
Administration - 1,000,000

The Legislature intends that the Public Lands Policy Coordinating Office use ongoing appropriations to identify ten priority outdoor recreation infrastructure projects for possible further study, planning, or development in consultation with the Division of Outdoor Recreation, the Division of State Parks, and the Utah Office of Tourism, and report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by December 1, 2025.

ITEM 125

To Department of Natural Resources - State Parks
From General Fund Restricted - State Park Fees - 2,010,800
Schedule of Programs:
Recreational Parks - 1,000,000
Golf Courses - 1,010,800

The Legislature intends that the Division of State Parks use the $1,010,800 appropriation from the State Park Fees Restricted Account for the maintenance and improvement of the state golf courses.

The Legislature intends that the General Fund appropriation for the State Parks operations line item shall be used primarily for the operations and maintenance of the division's heritage parks, museums, and This Is the Place Heritage Park. Upon request, the division shall provide detailed documentation as to how the division's General Fund appropriation was spent.

ITEM 126

To Department of Natural Resources - State Parks - Capital
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account - - - - - - - - - - - - - - - - 703,100
From General Fund Restricted - State Park Fees - (500,000)
Schedule of Programs:
Major Renovation - (500,000)
Renovation and Development - 703,100

ITEM 127

To Department of Natural Resources - Division of Outdoor Recreation
From General Fund Restricted - Boating - (700,000)
Schedule of Programs:
Boating - (700,000)

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Natural Resources use $840,000 from the Off-Highway Vehicle Restricted Account to provide a direct award grant to Garfield County in Fiscal Year 2026 for trail development and other infrastructure improvements benefitting off-highway vehicles in proximity to the Butch Cassidy State Monument.

ITEM 128

To Department of Natural Resources - Outdoor Recreation - Capital
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account - - - - - - - - - - - - - - - 3,515,400
From General Fund Restricted - Boating - 700,000
From General Fund Restricted - Boating, One-time - 1,000,000
From General Fund Restricted - Off-highway Vehicle, One-time - 6,500,000
Schedule of Programs:
Infrastructure - 9,984,200
Trails Program - 1,031,200
Capital - 700,000

ITEM 129

To Department of Natural Resources - Office of Energy Development
From General Fund - 200,000
From General Fund, One-time - 3,750,000
From Income Tax Fund - (259,800)
From Federal Funds, One-time - 105,467,100
From Beginning Nonlapsing Balances - (1,000,000)
Schedule of Programs:
Office of Energy Development - 108,157,300

ITEM 130

To Department of Natural Resources - Office of the Great Salt Lake Commissioner
From General Fund, One-time - 1,000,000
From Federal Funds - 30,000,000
Schedule of Programs:

GSL Commissioner Administration - - -

From Federal Funds - - -

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2026 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Medicaid ACA Fund 2252 for FY 2026 regardless of the amount appropriated.

The Legislature intends that the Department of Health and Human Services report by June 1, 2026 to the Social Services Appropriations Subcommittee on the status of implementing edits to identify payment of provider preventable conditions in fee-for-service and managed care as per the recommendations by the Utah Office of the Inspector General in its audit entitled "Provider Preventable Conditions Reporting Accountable Care Organizations."

The Legislature intends that the $500,000 in beginning nonlapsing provided to the Department of Health and Human Services' Health Care Administration line item for state match to improve existing application-level security and provide redundancy for core Medicaid applications is dependent upon up to $500,000 funds not otherwise designated as nonlapsing to the Department of Health and Human Services' Integrated Health Care Services line item or Health Care Administration line item or a combination from both line items not to exceed $500,000 being retained as nonlapsing in Fiscal Year 2025.

ITEM 138

To Department of Health and Human Services - Integrated Health Care Services

From General Fund	-(12,642,000)
From General Fund, One-time	-(19,900,800)
From Federal Funds	40,724,700
From Federal Funds, One-time	17,496,600
From Expendable Receipts	19,523,000
From Expendable Receipts, One-time	-(34,302,800)
From General Fund Restricted - Statewide Behavioral Health Crisis Response Account	(782,700)
From Ambulance Service Provider Assess Exp Rev Fund	2,655,500
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account	(5,200)
From Hospital Provider Assessment Fund	79,243,200
From Hospital Provider Assessment Fund, One-time	-(19,600,000)
From General Fund Restricted - Medicaid Budget Stabilization Restricted Account, One-time	80,700,000
From Medicaid ACA Fund	(2,885,100)
From Medicaid ACA Fund, One-time	2,292,600
From Nursing Care Facilities Provider Assessment Fund	3,740,200
From General Fund Restricted - Opioid Litigation Proceeds Restricted Account	778,200
From General Fund Restricted - Tobacco Settlement Account	-(22,500)
From Revenue Transfers	5,847,600
From Beginning Nonlapsing Balances	500,000

Schedule of Programs:

Children's Health Insurance Program Services	34,973,700
Medicaid Accountable Care Organizations	52,257,900
Medicaid Behavioral Health Services	7,862,500
Medicaid Hospital Services	57,913,200
Medicaid Pharmacy Services	9,248,000
Medicaid Long Term Care Services	69,700
Medicaid Other Services	3,506,500
Expansion Accountable Care Organizations	(5,000,000)
Expansion Other Services	-(68,000)
Expansion Pharmacy Services	(380,000)
Non-Medicaid Behavioral Health Treatment and Crisis Response	(1,047,800)
State Hospital	4,024,800

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2026 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2026 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2026 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Medicaid ACA Fund 2252 for FY 2026 regardless of the amount appropriated.

The Legislature intends that the Department of Health and Human Services issue grants effective July 1, 2025 in the amount of $40,000 ongoing to the University of Utah Department of Pediatrics and $20,000 ongoing to the Prader-Willi Utah Association annually to pay for care management services for all individuals affected by Prader-Willi Syndrome. Funds should only be used for direct and not indirect costs. Funds will come from the existing budget of the Integrated Health Care Services line item.

The Legislature intends the Department of Health and Human Services (DHHS) pursue implementation of a cost-based outlier payment coupled with an All-Patient Refined Diagnosis Related Groups (APR-DRG) inpatient hospital reimbursement methodology for urban areas, including appropriate policy adjusters (as defined by DHHS and in consultation with the industry), with an effective date of July 1, 2028. The hospital assessment and related intergovernmental transfers from the University of Utah Hospitals and Clinics will increase in the exact amount of the General Fund budget reduction effective July 1, 2026. DHHS will use the hospital assessment increase that begins

in FY 2027 to keep the Medicaid inpatient hospital base payments (DRG base and outliers) effectively at the same payment level as in SFY 2026. DHHS will not use the increase to change the amount of directed payments. Until July 1, 2028, DHHS will continue to rebase base payments annually to offset for chargemaster growth.

Notwithstanding the intent language passed on lines 467 to 472 in the S.B. 7 Social Services Base Budget from the 2025 General Session, the Legislature rescinds the following language: "The Legislature intends that the Department of Health and Human Services implement a pharmacy carve-out as recommended in the report entitled, "Evaluation of Pharmacy Delivery Models for the Utah Medicaid Managed Care Program" for Medicaid drugs effective July 2026 for FY 2027."

The Legislature intends that the Department of Health and Human Services (Department) establish a unified Medicaid preferred drug list for identified drug classes for Accountable Care Organizations (ACOs) and Utah Medicaid Integrated Care plans (UMICs) that contract with the Department. The Department will select the identified drug classes based on their potential savings to the State. The Department's contracts with the ACOs and UMICs shall require the ACOs and UMICs to align coverage with the unified preferred drug list for select classes, including brand or generic preferred status no later than January 1, 2026. The Department's contracts with the ACOs and UMICs shall require the ACOs and UMICs to align utilization management, prior authorization and clinical criteria for the unified preferred drug list for select classes no later than January 1, 2026. The Department's contracts with the ACOs and UMICs shall require the ACOs and UMICs to reimburse Medicaid pharmacy providers at the same reimbursement rates and using the same methodologies approved in the Medicaid State Plan for all pharmacy point-of-sale claims no later than January 1, 2026. The Department shall work with its contracted actuaries to adjust the ACOs' and UMICs' premiums to reflect the estimated impact of these changes on the ACOs' and UMICs' expenditures.

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $13,969,600 General Fund provided in this line item for the Department of Health and Human Services' Integrated Health Care Services line item shall not lapse at the close of Fiscal Year 2026. The use of any nonlapsing funds is limited to delaying the implementation of the funding item entitled Shift Medicaid Dental All to University of Utah.

The Legislature intends that funding for Nursing Home & ICF/ID Medicaid Rate Increase be used to provide rate increases to nursing homes and Intermediate Care Facilities for Individuals with Intellectual Disabilities.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via USARA Recovery Community Centers report to the Social Services Appropriations Subcommittee by January 1, 2027 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that all projects funded via the Opioid Settlement Restricted Account in the 2022, 2023, 2024 and 2025 General Sessions shall be included in the Fiscal Note and Budget Item Follow-Up report to the Executive Appropriations Committee required under 63J-1-903.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via PROUD: Pathway to Recovery from Opiate Use Disorder report to the Social Services Appropriations Subcommittee by January 1, 2027 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Substance Use Disorder Recovery and Animal Companions report to the Social Services Appropriations Subcommittee by January 1, 2027 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Expanding Care for Pregnant Patients with Substance Use Disorder report to the Social Services Appropriations Subcommittee by January 1, 2027 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Spy Hop Youth Prevention Services report to the Social Services Appropriations Subcommittee by January 1, 2027 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Matching Funds for Counties Using Opioid Funds in County Jails or Receiving Centers report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Emergency Department/ Urgent Care Induction to Medications for Opioid Use Disorder report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via State Opioid Settlement Appropriation - Shifting Efforts Upstream report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Health and Wellness Recovery Community Centers report to the Social Services Appropriations Subcommittee by January 1, 2028 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Outreach, Connections, and Recovery Soap2Hope report to the Social Services Appropriations Subcommittee by January 1, 2028 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

ITEM 139

To Department of Health and Human Services - Long-Term Services & Support

From General Fund	15,937,600
From General Fund, One-time	658,400
From Federal Funds	(55,700)
From Dedicated Credits Revenue	154,300
From Revenue Transfers	36,858,400
From Revenue Transfers, One-time	(1,858,400)

Schedule of Programs:

Aging & Adult Services	1,694,300
Adult Protective Services	11,600
Office of Public Guardian	2,300
Aging Waiver Services	76,900

Services for People with Disabilities - - -

Children in Care Collections - - -

UVU Student Athlete Building - - -

Federal Construction - - -

Schedule of Programs:
Transportation Investment Fund Capacity Program - 698,186,600

ITEM 162

To Transportation - Pass-Through
From General Fund, One-time - 4,500,000
Schedule of Programs:
Pass-Through - 4,500,000

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Transportation provide a direct award grant of $4,500,000 from the General Fund in fiscal year 2026 to Provo City for funding to remodel and expand the International Terminal and Customs spaces at Provo Airport.

Subsection 1(b). Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

CRIMINAL JUSTICE

GOVERNOR'S OFFICE

ITEM 163

To Governor's Office - Crime Victim Reparations Fund
From Federal Funds - 1,490,000
Schedule of Programs:
Crime Victim Reparations Fund - 1,490,000

ECONOMIC AND COMMUNITY DEVELOPMENT

DEPARTMENT OF WORKFORCE SERVICES

ITEM 164

To Department of Workforce Services - Navajo Revitalization Fund
From Interest Income - (1,000,000)
From Other Financing Sources - 1,000,000

ITEM 165

To Department of Workforce Services - Olene Walker Low Income Housing
From General Fund, One-time - 22,000,000
Schedule of Programs:
Olene Walker Low Income Housing - 22,000,000

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

ITEM 166

To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds - 4,900,500
From Federal Funds, One-time - 32,666,200
Schedule of Programs:
Veterans Nursing Home Fund - 37,566,700

GENERAL GOVERNMENT

PUBLIC SERVICE COMMISSION

ITEM 167

To Public Service Commission - Universal Public Telecom Service
From Dedicated Credits Revenue - 27,474,300
Schedule of Programs:
Universal Public Telecommunications Service Support - 27,474,300

Notwithstanding the performance measure intent language found in H.B. 5 - Item 106 and in accordance with UCA 63J-1-903, the Legislature intends that the Public Service Commission report on the following Universal Public Telecom Service line item performance measures for FY 2026: 1. Number of Months Within a Fiscal Year During Which the Fund Did Not Maintain a Balance Equal to at Least Three Times the Average Monthly Fund Payments for the Previous Calendar Year (Target = 0); 2. Number of Times a Change to the Fund Surcharge Occurred More Than Once Every Fiscal Year (Target = 0); and 3. Total adoption and usage of telecommunications relay service and caption telephone service within a fiscal year (Target = 30,000).

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ITEM 168

To Department of Health and Human Services - Brain and Spinal Cord Injury Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following Brain and Spinal Cord Injury Fund line item performance measure for FY 2026: Percentage of Participants Who Had an Increase in Functional Activity (Target = 70%).

TRANSPORTATION AND INFRASTRUCTURE

TRANSPORTATION

ITEM 169

To Transportation - County of the First Class Highway Projects Fund

From Licenses/Fees	132,100
From Restricted Revenue	46,000,000
From Revenue Transfers	-(43,790,200)
From Beginning Fund Balance	-(11,850,800)
From Closing Fund Balance	33,898,200

Schedule of Programs:

County of the First Class Highway Projects Fund	24,389,300

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Transportation provide a direct award grant of $12,000,000 from the County of the First Class Highway Projects Fund in fiscal year 2026 to the City of Bluffdale for construction and improvements to 14600 South in Bluffdale.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Transportation provide a direct award grant of $3,200,000 from the County of the First Class Highway Projects Fund in fiscal year 2026 to the City of Kearns for the 6200 South Sidewalk and Wall Project.

ITEM 170

To Transportation - Marda Dillree Corridor Preservation Fund

From Transportation Investment Fund of 2005	20,000,000
From Dedicated Credits Revenue	900,000
From Interest Income	4,000,000
From Restricted Revenue	11,000,000
From Other Financing Sources	25,000,000
From Beginning Fund Balance	9,200,000
From Closing Fund Balance	-(18,400,000)

Schedule of Programs:

Marda Dillree Corridor Preservation Fund	51,700,000

ITEM 171

To Transportation - Rural Transportation Infrastructure Fund

From Licenses/Fees	11,400,000
From Beginning Fund Balance	11,400,000
From Closing Fund Balance	-(22,800,000)

ITEM 172

To Transportation - Office of Rail Safety Account

From Beginning Fund Balance	(100,000)
From Closing Fund Balance	200,000

Schedule of Programs:

Office of Rail Safety Account	100,000

Subsection 1(c). Business-like Activities

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ECONOMIC AND COMMUNITY DEVELOPMENT

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

ITEM 173

To Governor's Office of Economic Opportunity - State Small Business Credit Initiative Program Fund

From Federal Funds, One-time	23,000,000

From Dedicated Credits Revenue - - -

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ITEM 182

To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits Revenue - - -

GENERAL GOVERNMENT

ITEM 190

To State Mandated Insurer Payments Restricted
From General Fund, One-time - - -

Transportation & Infrastructure Appropriations Subcommittee and the Higher Education Appropriations Subcommittee on the status and cost of the project, and that DFCM and the institution shall seek feedback from the committees before committing funds for demolition or construction.

ITEM 197

To Capital Budget - Technical Colleges Capital Projects Fund
From Income Tax Fund - - -

Subsection 1(f). Higher Education Budget Reporting

The Legislature has reviewed proposed revenues and expenditures for the following institutions of higher education. These figures are for reporting purposes only and include appropriations made to the operating and capital budgets of these institutions.

HIGHER EDUCATION

UNIVERSITY OF UTAH

ITEM 204

To University of Utah - Education and General
From State Appropriations 1,590,300
From State Appropriations, One-time (2,169,000)
From Tuition and Fees 27,233,900
Schedule of Programs:
Instruction 14,292,900
Research 2,512,500
Public Service 739,100
Academic Support 1,983,100
Student Services 1,615,900
Institutional Support 4,023,100
Operations and Maintenance 1,480,800
Scholarships and Fellowships 7,800

ITEM 205

To University of Utah - Cancer Research and Treatment
From State Appropriations, One-time 1,063,400
Schedule of Programs:
Research 1,063,400

ITEM 206

To University of Utah - Schools of Medicine and Dentistry
From State Appropriations, One-time 5,500,000
From Tuition and Fees 3,179,000
Schedule of Programs:
Instruction 3,179,000
Institutional Support 5,500,000

UTAH STATE UNIVERSITY

ITEM 207

To Utah State University - Education and General
From State Appropriations 2,026,400
From Tuition and Fees (6,053,000)
Schedule of Programs:
Instruction (2,301,400)
Research (57,500)
Academic Support (394,400)
Student Services (280,300)
Institutional Support (517,400)
Scholarships and Fellowships (24,000)
Operations and Maintenance (484,000)
Public Service 32,400

ITEM 208

To Utah State University - Veterinary Medicine
From Tuition and Fees 104,100
Schedule of Programs:
Instruction 22,400
Academic Support 81,500
Operations and Maintenance 200

ITEM 209

To Utah State University - Career and Technical Education
From State Appropriations 114,000
From Tuition and Fees 320,000
Schedule of Programs:

Instruction - - -

Institutional Support - - -

Student Services - - -

SOUTHWEST TECHNICAL COLLEGE

ITEM 223

To Southwest Technical College - Education and General
From State Appropriations - - -

CHAPTER 169
S. B. 8
Passed March 5, 2025
Approved March 25, 2025
Effective July 1, 2025

STATE AGENCY FEES AND INTERNAL SERVICE FUND RATE AUTHORIZATION AND APPROPRIATIONS

Chief Sponsor: Scott D. Sandall
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

Highlighted Provisions:

This bill:

- ► provides budget increases and decreases for the use and support of certain state agencies and institutions of higher education;
- ► authorizes certain state agency fees;
- ► authorizes internal service fund rates;
- ► adjusts funding for the impact of Internal Service Fund rate changes; and,
- ► provides budget increases and decreases for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates $11,644,200 in operating and capital budgets for fiscal year 2026, including:

- $7,328,800 from General Fund; and
- ($1,501,600) from Income Tax Fund; and
- $5,817,000 from various sources as detailed in this bill.

This bill appropriates $27,400 in expendable funds and accounts for fiscal year 2026, including:

- $100 from General Fund; and
- $27,300 from various sources as detailed in this bill.

This bill appropriates $25,800 in business-like activities for fiscal year 2026, all of which is from the various sources as detailed in this bill.

This bill appropriates $8,200 in restricted fund and account transfers for fiscal year 2026, all of which is from the General Fund.

This bill appropriates $33,900 in fiduciary funds for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 1(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CRIMINAL JUSTICE

GOVERNOR'S OFFICE

ITEM 1

To Governor's Office - Commission on Criminal and Juvenile Justice

From General Fund	29,800
From Federal Funds	86,700
From Dedicated Credits Revenue	800
From General Fund Restricted - Victim Services Restricted Account	17,200
From Crime Victim Reparations Fund	5,100

Schedule of Programs:

CCJJ Commission	31,600
Extraditions	6,800

Judicial Performance Evaluation Commission - - -

Schedule of Programs:
Administration - - -

DEPARTMENT OF PUBLIC SAFETY

ITEM 15

To Department of Public Safety - Driver License
From Dedicated Credits Revenue - 200
From Department of Public Safety Restricted Account - 278,300
From Pass-through - 300
Schedule of Programs:
Driver License Administration - 10,000
Driver Records - 130,000
Driver Services - 138,800

ITEM 16

To Department of Public Safety - Emergency Management
From General Fund - 1,800
From Federal Funds - 62,900
From Dedicated Credits Revenue - 400
From General Fund Restricted - State Disaster Recovery Restr Acct - 400
Schedule of Programs:
Emergency Management - 65,500

ITEM 17

To Department of Public Safety - Highway Safety
From Federal Funds - 5,100
From Department of Public Safety Restricted Account - 800
From Revenue Transfers - 600
Schedule of Programs:
Highway Safety - 6,500

ITEM 18

To Department of Public Safety - Peace Officers' Standards and Training
From General Fund - 20,200
From Dedicated Credits Revenue - 200
From Uninsured Motorist Identification Restricted Account - 5,000
Schedule of Programs:
Basic Training - 8,400
POST Administration - 13,400
Regional/Inservice Training - 3,600

ITEM 19

To Department of Public Safety - Programs & Operations
From General Fund - 668,800
From Income Tax Fund - 2,300
From Federal Funds - 4,500
From Dedicated Credits Revenue - 38,000
From Expendable Receipts - 500
From General Fund Restricted - Road Rage Awareness and Prevention Restricted Account - 200
From General Fund Restricted - Victim Services Restricted Account - 9,900
From Department of Public Safety Restricted Account - 28,100
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account - (1,200)
From General Fund Restricted - Fire Academy Support - 500
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct. - 13,600
From Revenue Transfers - 3,500
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau - 400
Schedule of Programs:
Aero Bureau - 4,400
CITS Administration - 2,900
CITS Communications - 21,100
CITS State Bureau of Investigation - (14,500)
CITS State Crime Labs - 21,100
Department Commissioner's Office - 572,600
Department Fleet Management - 27,400
Department Grants - 8,500
Department Intelligence Center - 7,900
Fire Marshal - Fire Fighter Training - (1,700)
Fire Marshal - Fire Operations - 2,400

Highway Patrol - Administration - - -

From Dedicated Credits Revenue - - -

Bookmobile - - -

From Dedicated Credits Revenue - - -

From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account - - - - - - - - - - - - - - - - - 500
Schedule of Programs:
Homeless Services - 1,600

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

ITEM 44

To Capitol Preservation Board - Operations
From General Fund - 1,139,900
From Dedicated Credits Revenue - 102,000
From Expendable Receipts - 1,800
Schedule of Programs:
Capitol Preservation Board - 1,243,700

LEGISLATURE

ITEM 45

To Legislature - Senate
From General Fund - 12,100
Schedule of Programs:
Administration - 12,100

ITEM 46

To Legislature - House of Representatives
From General Fund - 14,700
Schedule of Programs:
Administration - 14,700

ITEM 47

To Legislature - Office of Legislative Research and General Counsel
From General Fund - 13,800
Schedule of Programs:
Administration - 13,800

ITEM 48

To Legislature - Office of the Legislative Fiscal Analyst
From General Fund - 2,600
Schedule of Programs:
Administration and Research - 2,600

ITEM 49

To Legislature - Office of the Legislative Auditor General
From General Fund - 10,200
Schedule of Programs:
Administration - 10,200

ITEM 50

To Legislature - Office of Legislative Services
From General Fund - 15,400
From Dedicated Credits Revenue - 100
Schedule of Programs:
Administration - 6,400
Information Technology - 9,100

UTAH NATIONAL GUARD

ITEM 51

To Utah National Guard - Utah National Guard Operations
From General Fund - (117,800)
From Dedicated Credits Revenue - (100)
Schedule of Programs:
Administration - 3,900
Operations and Maintenance - (121,800)

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

ITEM 52

To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund - (45,000)
From Federal Funds 3,300
From Dedicated Credits Revenue 800
Schedule of Programs:
Administration (51,400)
Cemetery 5,600
State Approving Agency 500
Outreach Services 4,000
Military Affairs 400

GENERAL GOVERNMENT

DEPARTMENT OF COMMERCE

ITEM 53

To Department of Commerce - Commerce General Regulation
From General Fund 1,000
From Federal Funds 1,200
From Dedicated Credits Revenue 13,600
From General Fund Restricted - Commerce Electronic Payment Fee Restricted Account 8,300
From General Fund Restricted - Commerce Service Account 334,700
From General Fund Restricted - Factory Built Housing Fees 1,100
From Gen. Fund Rest. - Geologist Education and Enforcement 100
From Gen. Fund Rest. - Nurse Education & Enforcement Acct. 500
From General Fund Restricted - Pawnbroker Operations 500
From General Fund Restricted - Public Utility Restricted Acct. 20,800
From Revenue Transfers 9,500
From Pass-through 500
Schedule of Programs:
Administration 96,800
Building Operations and Maintenance 84,200
Consumer Protection 16,300
Corporations and Commercial Code 1,800
Occupational and Professional Licensing 153,500
Office of Consumer Services 3,600
Public Utilities 15,800
Real Estate 9,200
Securities 10,600

ITEM 54

To Department of Commerce - Public Utilities Professional and Technical Services
From General Fund Restricted - Public Utility Restricted Acct. 200
Schedule of Programs:
Professional and Technical Services 200

FINANCIAL INSTITUTIONS

ITEM 55

To Financial Institutions - Financial Institutions Administration
From General Fund Restricted - Financial Institutions 22,700
Schedule of Programs:
Administration 22,700

INSURANCE DEPARTMENT

ITEM 56

To Insurance Department - Insurance Department Administration
From General Fund Restricted - Captive Insurance 1,900
From General Fund Restricted - Insurance Department Acct. 68,300
From General Fund Rest. - Insurance Fraud Investigation Acct. 15,900
From General Fund Restricted - Technology Development 11,000
Schedule of Programs:
Administration 68,300

Captive Insurers - - -

From General Fund - - -

Schedule of Programs:
Inspector General of Medicaid Services - - -

From Dedicated Credits Revenue - - -

From Income Tax Fund - - -

To Department of Agriculture and Food - Animal Industry
From General Fund - - -

Schedule of Programs:
Regulatory Services Administration - - -

Petroleum Storage Tank Compliance - - -

ITEM 108

To Department of Natural Resources - Administration
From General Fund - 1,646,000
Schedule of Programs:
Administrative Services - 1,582,400
Executive Director - 62,000
Law Enforcement - 800
Public Information Office - 800

ITEM 109

To Department of Natural Resources - Building Operations
From General Fund - 60,400
Schedule of Programs:
Building Operations - 60,400

ITEM 110

To Department of Natural Resources - Cooperative Agreements
From Federal Funds - 1,000
Schedule of Programs:
Federal Agreements - 1,000

ITEM 111

To Department of Natural Resources - Forestry, Fire, and State Lands
From General Fund - 48,500
From Federal Funds - 11,800
From Dedicated Credits Revenue - 17,600
From General Fund Restricted - Sovereign Lands Management - 3,300
From Revenue Transfers - 31,400
Schedule of Programs:
Division Administration - 43,100
Fire Management - 5,400
Fire Suppression Emergencies - 35,900
Forest Management - 1,800
Lands Management - 2,800
Lone Peak Center - 8,700
Program Delivery - 14,700
Project Management - 200

ITEM 112

To Department of Natural Resources - Oil, Gas, and Mining
From Federal Funds - 13,700
From Dedicated Credits Revenue - 300
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining - 5,100
From Gen. Fund Rest. - Oil & Gas Conservation Account - 23,900
Schedule of Programs:
Abandoned Mine - 600
Administration - 31,200
Coal Program - 1,500
Minerals Reclamation - 600
Oil and Gas Program - 9,100

ITEM 113

To Department of Natural Resources - Species Protection
From General Fund Restricted - Species Protection - 200
Schedule of Programs:
Species Protection - 200

ITEM 114

To Department of Natural Resources - Utah Geological Survey
From General Fund - 16,400
From Federal Funds - 400
From Dedicated Credits Revenue - 1,600
From General Fund Restricted - Utah Geological Survey Restricted Account - 3,000
From Revenue Transfers - 700
Schedule of Programs:
Administration - 400

Energy and Minerals - - -

Data Management - - -

Administration - - -

Schedule of Programs:
State Charter School Board & Administration - - -

State Laboratory - - -

From General Fund - - -

Schedule of Programs:
Correctional Health Services - - -

Environmental - - -

Alcoholic Beverage Control Act Enforcement Fund - - -

To Public Service Commission - Universal Public Telecom Service
From Dedicated Credits Revenue - - -

Schedule of Programs:
Uninsured Employers Fund - - -

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Operations - Department of Health and Human Services

All the fees in this section apply for the entire Department of Health and Human Services

Conference Registrations - - -

All Payer Claims Data Standard Research Data Series

Fee Discounts - All Payer Claims Data Standard Research Data Series - Note

Notes: The following discounts apply: Utah State agencies and Local Health Departments; components of the Indian health system serving Utah residents i.e. Indian Tribes, Indian Health Service, tribally owned and operated health systems, the Urban Indian Organization, and Tribal Epidemiology Centers (100%); Student (75% for any standard data set); Contributing Carrier (50% for standard limited use data sets); Geographic Subset (discount proportional to percent of records required from limited use data set, in addition to custom data services fee).

Single Year - 20,000.00

Two Years - 30,000.00

Three Years - 40,000.00

This fee is for an all-payer claims database identifiable data set that includes three years specified by the requester. The data set contains the 18 Safe Harbor identifiers related to medical, pharmacy, and dental claims as well as insurance enrollment and health care provider data. These data sets require review and approval by both an Institutional Review Board and the Health Data Committee. The data set includes sensitive and detailed patient data.

Additional Years - 10,000.00

Behavioral Risk Factor Surveillance System

Standard Annual Limited Data Set - 300.00

The Behavioral Risk Factor Surveillance System dataset provides surveillance data on health-related risk behaviors, chronic health conditions, and use of preventive services of the Utah population.

Healthcare Facilities Data Series

Fee Discounts - Healthcare Facilities Data Series - Note

Notes: (1) The Following Discounts Apply: Utah State agencies and Local Health Departments; and components of the Indian health system serving Utah residents i.e. Indian Tribes, Indian Health Service, tribally owned and operated health systems, the Urban Indian Organization, and Tribal Epidemiology Centers (100%); Student (75% for any standard data set); Utah Healthcare Facility with <35,000 discharges (50% for Standard Limited Data Set); Prior Years (25% for any data set); University or Not for Profit Entity (50% for any standard data series); Geographic Subset (discount proportional to percent of records required from limited use data set, including custom data services fee).

Standard Annual Limited Data Set -3,600.00

This fee allows a user to obtain a single year of inpatient or ambulatory surgery or emergency department encounter limited data set. It contains 16 out of the 18 safe harbor identifiers related to information about patient, diagnoses, provider, payers, charges and more. These data sets require review and approval by both an Institutional Review Board and the Health Data Committee prior to distribution of data to the user.

Standard Annual Research Data set -6,000.00

Quarterly Preliminary Feeds -4,500.00

Federal Annual Database -4,500.00

Database for agreements conducted under Federal government entities.

Other Data Series and Licenses (Fee Discounts Apply)

Fee Discounts - Other Data Series and Licenses - Note

Notes: The following discounts apply: Non-Contributing Carrier (50% for CAHPS Data Set); Contributing Carrier (75% for CAHPS Data Set); Prior Year (20% for HEDIS & CAHPS Data Set); Years before Current and Prior Year (35% for HEDIS & CAHPS Data Set); Student (75% for HEDIS & CAHPS Data Set or Survey Responses); University or Not for Profit Entity (35% for HEDIS & CAHPS Data Set or Survey Responses).

Institutional License - 150,000.00

This fee is for a multi-use, multi-user license to access all data series included within this fee schedule. The license covers use for a 12-month period starting with the data specified in the licensing agreement and ending 365 days later. A 15% discount will be given if the license is renewed prior to the license termination date.

Single Data Series Institutional License - 75,000.00

12-month multi-use, multi-user license to access one data series [Healthcare Facilities or All Payer Claims] included within this fee schedule. Note: 15% discount for on-time renewal.

Healthcare Effectiveness Data and Information Set Data Set -1,575.00

Consumer Assessment of Healthcare Providers and Systems Data Set -1,575.00

Consumer Assessment of Healthcare Providers and Systems Survey Responses -2,000.00

Death Certificate

Initial Copy - 30.00

Fees cover the cost of producing the certificate of death. They also fund the registration of deaths and may cover a portion of the maintenance of the data applications used to register deaths. The Legislature intends that for every initial copy of a Utah Death Certificate sold, $12 shall be remitted to the Office of the Medical Examiner.
Burial Transit Permit - - -

External Examination - - -

(PCR) test. The Hepatitis C Nucleic Acid Test (NAT) test is part of the CDC recommended algorithm for Hepatitis C virus antibody positive patients.

Respiratory Syncytial Virus-Flu-COVID detection by PCR - 100.00
Test to detect RSV, Influenza A and B, and SARS-CoV-2 virus from one swab.

Mycoplasma Genitalium Detection by Nucleic Acid Testing - 31.00
This fee covers testing costs in assessing if an individual has a Mycoplasma genitalium infection. Mycoplasma genitalium is a sexually transmitted organism affecting the health of both men and women and screening for it is vital for good health.

All

Laboratory Testing of Public Health Significance - Actual costs up to $200
The emergence of diseases and subsequent testing methods are unpredictable. This fee allows Utah Public Health Laboratory to offer a test that is vital to protecting the public as the need arises to help diagnosis and prevent illness.

Chemistry

Administration

Chain of Custody Request Fee - 20.00
Rush Fee - 50.00

Inorganics

Alkalinity (Total) Standard Method 2320B - 25.00
Bromate Environmental Protection Agency 300.1- 30.25
Chlorate Environmental Protection Agency 300.1- 30.25
Chlorite Environmental Protection Agency 300.1 - 30.25
Chloride Environmental Protection Agency 300.0 - 25.00
Lab test for chloride in water sources.

Environmental Protection Agency 300.0 Fluoride- 20.35
Lab test to identify fluoride in water sources

Environmental Protection Agency 300.1 Sulfate - 25.00
Lab test to identify sulfate in water sources

Cyanide, Total 335.4 - 55.00
Environmental Protection Agency 353.2 Nitrate + Nitrite - 20.00
This fee covers the cost for the analysis of Nitrate + Nitrite found in samples. This is a major component of Hazardous Algae Blooms.

Environmental Protection Agency 537.1 - Per-and Polyfluoroalkyl Substances - - - - - - - - - - - - - - - - - - - 290.00
pH (Test of acidity or alkalinity) 150.1 - 12.00
Environmental Protection Agency 375.2 Sulfate - 25.00
Environmental Protection Agency 180.1 Turbidity - 12.00
Odor, Environmental Protection Agency 140.1 - 30.25
Carboxylic Acids (Oxalate, Formate, Acetate) - 46.20
Organic Carbon, Total Standard Method 5310B - 30.00
Environmental Protection Agency 300.1 Bromide - 30.25

Metals

Organic Contaminants

Environmental Protection Agency 524.2 Trihalomethanes- 89.93
Haloacetic Acids Method 6251B- 179.30
Environmental Protection Agency 524.2 - 228.80
Trihalomethanes, Maximum Potential

Environmental Protection Agency 544

Microcystin RR: Microcystin Arginine (R) - 300.00
Microcystin YR Tyrosine (Y). Arginine (R) - 300.00
Microcystin LR Leucine (L) Arginine (R) - 300.00

Standard Metals

Environmental Protection Agency 200.8 Copper and Lead - 26.40
Standard Method 2330B Langelier Index- 6.05
Environmental Protection Agency 353.2 Nitrite- 17.60
This fee covers the cost for the analysis of Nitrate + Nitrite found in samples. This is a major component of Hazardous Algae Blooms.

Environmental Protection Agency 353.2 Nitrate - 17.60

This fee covers the cost for the analysis of Nitrate + Nitrite found in samples. This is a major component of Hazardous Algae Blooms.

Environmental Protection Agency 200.8 - Magnesium - - -

This fee covers the cost of analyzing and preparing total phosphorus found in samples. This is a major component of Hazardous Algae Blooms.
Silica 370.1 - - -

Bacterial Sequencing Analysis - - -

A normal fee will be charged if repeat testing is required due to poor quality sample.
Community Health Worker Certification Renewal Fee - 25.00
Community Health Worker Certification - 50.00
For Community Health Worker seeking to become a state certified Community Health Worker.
Community Health Worker Certification Penalty Fee - 100.00

Department Oversight - Department of Health and Human Services

Late Fee - 50.00
This fee is assessed 1-30 days after expiration of a license.

Annual License

Abortion Clinics -1,800.00
Health Facilities base - 371.92
A base fee for health facilities plus the appropriate fee as indicated below applies to any new or renewal license.
Child Care Facility Base- 62.00
Assessed for services rendered providers seeking initial licensure or a change of ownership, covers cost of application processing, compliance history in the State licensing system, staff consultation, review of facility policies, initial inspection.
Change in license or certificate during the license period more than twice a year - 44.34
Child Care Center Facilities -1.75
Assessed for services rendered providers seeking initial licensure or a change of ownership, covers cost of application processing, compliance history in the State licensing system, staff consultation, review of facility policies, initial inspection.
Child Care Late Fee -Variable
Within 1 - 30 days after expiration of license facility will be assessed 50% of scheduled fee.
For centers, $31 plus $0.75 per child in the requested capacity. For homes, $31.

Application Termination or Delay

If a health care facility application is terminated or delayed during the application process, then a fee based on services rendered will be retained as follows:

On-site inspections - 90% of total fee

Conditional Monitoring Inspections

Center-based providers - 253.00
Charge is per each visit required due to non-compliance when a Facility is on a conditional license.
Child Care Home Conditional Monitoring Fee - 245.00
Charge is per each visit required due to non-compliance when a Facility is on a conditional license.
Human Services Conditional Monitoring Fee - 393.37
Visits required due to non-compliance. Facility is on a conditional license. Excludes state operated facilities.

Direct Access Clearance System

Contractor Access- 100.00

Late Fee

Late fee within 1 to 14 days after expiration of license - 50% of scheduled fee
Late fee within 15 to 30 days after expiration of license - 75% of scheduled fee

Licensing

Online Background Check Application- 20.00
Fee assessed to process an initial or annual renewal background check application.

Adult Day Care

Initial License Fee

Adult Day Care Initial License Fee 0-50 Consumers per Program - 990.00
Initial Licensing Fee, charged to applicants seeking to serve 0-50 Consumers.
Adult Day Care Initial License Fee More than 50 Consumers per Program - 990.00

Renewal Fee

Adult Day Care Renewal Fee 0-50 Consumers per Program - 330.00
Adult Day Care Renewal Fee More than 50 Consumers per Program - 660.00
Adult Day Care Renewal Fee Per Licensed Capacity -9.90
This is the fee assessed per capacity to license an Adult Day Care Program.

Child Placing Adoption

Child Placing Adoption Initial License Fee - - -

This is the fee assessed to license a Therapeutic School Program.
Therapeutic School Program Renewal Fee - - -

of the review time involved and the standard hourly review rate.

Nursing Care Facilities and Small Health Care Facilities

Number of Beds

Nursing Care Facilities & Small Health Care Facilities # of Beds Up to 5 -1,118.00
Nursing Care Facilities & Small Health Care Facilities # of Beds 6 to 16- -1,716.00
Nursing Care Facilities & Small Health Care Facilities # of Beds 17 to 50 -3,900.00
This fee is assessed for architectural plan reviews for nursing care facilities and small health care facilities with 17-50 beds.
Nursing Care Facilities & Small Health Care Facilities # of Beds 51 to 100 -6,890.00
This fee is assessed for architectural plan reviews for nursing care facilities and small health care facilities with 51-100 beds.
Nursing Care Facilities & Small Health Care Facilities # of Beds 101 to 200 -8,580.00
This fee is assessed for architectural plan reviews for nursing care facilities and small health care facilities with 101-200 beds.

Other Plan Review Fee Policies

Other Plan Review Fee Policies Plan Review Onsite Inspection - See Notes
If an existing facility has obtained an exemption from the requirement to submit preliminary and working drawings, or other info regarding compliance with applicable construction rules, then the Department may conduct a detailed on-site inspection in lieu of the plan review. The fee for this will be $559.00 per inspection, plus mileage reimbursement at the approved state rate.
Other Plan Review Fee Policies Previously Reviewed or Approved Plan - - - - - - - - - - - - - - - - - - 60% of sched. fee
A facility that uses plans and specifications previously reviewed and approved by the Department. Cost: 60% of the scheduled plan review fee.
Other Plan Review Fee Policies Special Equipment Facility Addition or Remodel -0.52
A facility making additions or remodels that house special equipment such as CAT (Computer Assisted Tomography) scanner or linear accelerator.

Terminated or Delayed Plan Review

Other Plan Review Fee Policies Terminated or Delayed Plan Review Preliminary Drawing Review - - 25% of scheduled fee
If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 25% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.
Other Plan Review Fee Policies Terminated or Delayed Plan Review Working Drawings and Specifications Review- 80% of scheduled fee
If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 80% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, then the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.

Remodels of Licensed Facilities

Remodels of Licensed Facilities Hospitals, Freestanding Surgery Facilities -0.29
Assessed for services rendered providers seeking initial licensure or a change of ownership, covers cost of application processing, compliance history for providers in the State licensing system, staff consultation, review of facility policies.
Remodels of Licensed Facilities - All others excluding Home Health Agencies- -0.25
Remodels of Licensed Facilities - Each additional required on-site inspection - - - - - - - - - - - - - - - - - - - 559.00

These fees apply for the entire Department of Health and Human Services

Background Screening Fee - Public Safety - 32.00
This fee should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change for the Department of Health and Human Services. Fees collected by the Division of Licensing and Background Checks are passed through to Public Safety.
Background checks initial or annual renewal (not in Direct Access Clearance System) - - - - - - - - - - - - - - - - - 20.00
This fee will be assessed at the Division level for background checks not completed through the Direct Access Clearance System. This fee will be assessed for initial or annual renewal.
Fingerprint Clone Fee - 10.00
If an applicant has previously been fingerprinted and is changing the program they are associated with, then the Department of Public Safety can transfer the prints instead of the applicant being reprinted.

Direct Access Clearance System

Facility Initial or Change of Ownership - 100.00
Initial Clearance - 20.00
Facility Renewal - 200.00

Assessed for services rendered providers seeking initial licensure or a change of ownership, covers cost of application processing, compliance history for providers in the State licensing system, staff consultation, review of facility policies.

Other

Inspection fee for non-compliant facility follow-up inspection - 35.76
The charge per extra follow-up visit begins with the second additional visit required due to non-compliance.

These fees apply for the entire Division of Licensing and Background Checks

Credit and Debit Card Fee - Not to exceed 3%
To determine the amount charged, a percentage will be calculated using the total of credit card fees incurred by the Division, divided by the total credit card revenues. Convenience Fee (for debit or credit card payment)
Online Processing Fee - - - - - - - - - - - - - - - - - - -

Provider Enrollment

Medicaid application fee for prospective or re-enrolling - 750.00
This fee is set by the federal government (Centers for Medicare and Medicaid Services) and is effective on January 1 of each year.

Integrated Health Care Services - Department of Health and Human Services

Alcoholic Beverage Server

On Premise and Off Premise Sales -3.50
To cover the cost of administering the alcohol sales and server training for Utah.

Use of Utah State Hospital Facilities

Photo Shoots - 20.00
Fee for use of the Utah State Hospitals (USH) outdoor facilities for photographing. USH charges this minimal amount to cover additional traffic and facility use.
Groups Up To 50 People - 75.00
Fee for use of the castle or other group gathering area as the Utah State Hospital (USH). This fee will be used for groups of 50 or less. USH charges this minimal amount to cover scheduling, additional traffic and facility use.
Groups Over 50 People - 150.00
Fee for use of the castle or other group gathering area as the Utah State Hospital (USH). This fee will be used for groups of 50 or less. USH charges this minimal amount to cover scheduling, additional traffic and facility use.

Long-Term Services & Support - Department of Health and Human Services

Graduated -1,300.00
Critical support services for people with disabilities who are non-Medicaid matched. The fee ranges between 1 percent and 3 percent of gross family income.

Public Health, Prevention, and Epidemiology - Department of Health and Human Services

Utah Statewide Immunization Information System

Non-Financial Contributing Partners

Match on Immunization Records in Database - 12.00
File Format Conversion - 30.00

Equipment Delivery

Strike Team BLU-MED Mobile Field Response Tent Support -6,000.00

Children, Youth, & Families - Department of Health and Human Services

DCFS - Interstate Compact on the Placement of Children (ICPC) - 40.00
Interstate Compact on the Placement of Children (ICPC) Administrative Fee. This fee does not apply to adoption ICPC requests.
Live Scan Testing - 10.00
DCFS charges a nominal fee to cover a portion of the costs needed to process the electronic fingerprint scanning fee for prospective foster and adoption parents of children in state custody and other adults in the home.

Baby Watch Early Intervention Monthly Participation Fee

Household income 101% to 186% of Federal Poverty Level - 10.00
Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.
Household income 187% to 200% of Federal Poverty Level - 20.00
Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.
Household income 201% to 250% of Federal Poverty Level - 30.00
Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.
Household income 251% to 300% of Federal Poverty Level - 40.00
Baby Watch Early Intervention family fees are assessed to families who receive early

intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.
Household income 301% to 400% of Federal Poverty Level - 50.00
Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.
Household income 401% to 500% of Federal Poverty Level - 60.00
Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.
Household income 501% to 600% of Federal Poverty Level - 80.00
Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.
Household income 601% to 700% of Federal Poverty Level - 100.00
Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.
Household income 701% to 800% of Federal Poverty Level - 120.00
Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.
Household income 801% to 900% of Federal Poverty Level - 140.00
Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.
Household income 901% to 1000% of Federal Poverty Level - 160.00
Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.
Household income 1001% to 1100% of Federal Poverty Level - 180.00
Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.
Household income above 1100% of Federal Poverty Level - 200.00
Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.

Office of Recovery Services - Department of Health and Human Services

Automated Credit Card Convenience- -2.00
Fee for self-serve payments made online or through the automated phone system (interactive voice response)
Collections Processing - 12.00
6% of each payment amount not to exceed $12 per month. Done automatically through ORSIS.
Assisted Credit Card Convenience -6.00
Fee for phone payments made with the assistance of an accounting worker
Federal Offset - 25.00
This fee of up to $25.00 is charged when a federal tax intercept or other administrative offset is intercepted to pay child support. This fee helps to offset the costs of the intercept process.
Annual Collection- 35.00
Annual fee of $35 charged after $550 collected on a "never-assistance" case. Done automatically through ORSIS.

Qualified Patient Enterprise Fund - Department of Health and Human Services

Qualified Patient Enterprise Fund

Qualified Medical Provider Proxy Registration (Initial) - - -

have access to medical cannabis products on behalf of qualified patients.
Caregiver Registration and Card (Renewal) - - -

Administrative Hearing Fee - - -

Concessionaire - - -

Nursery

Agent - - -

Legumes - - -

Weighing and measuring devices/individual service person - 50.00
Metrology services - 75.00
Fuel Dispenser Retail Motor Fuel - 20.00
Based on the number of devices inspected
Fuel Dispenser Inspection High Volume dispensers - 75.00
Based on the number of devices inspected
Citations, maximum per violation - 500.00

Base Weights and Measures

Meter Inspection, including LPG/CNG - 100.00
Small Scale Inspection - 50.00
Large Scale Inspection - 200.00
Check Registers/Scanners - 25.00

Special Scale Inspections

Large Capacity Truck (Man Hour) - 25.00
Large Capacity Truck (Per Mile)- -2.00
Large Capacity Truck (Equipment Hour) - 25.00
Pickup Truck (Man Hour) - 25.00
Pickup Truck (Per Mile)- -1.00
Pickup Truck (Equipment Hour) - 20.00
Equipment use
Overnight Trip -Variable
Includes the State's per diem rate plus the cost of lodging.

Base Inspection by Establishment Type

Cottage / Very Small - 100.00
Farmer's Markets, mobile vendor (food trucks), cottage food production, etc.
Small- 250.00
Less than 1,000 sq. ft. / 4 or fewer employees
Medium - 500.00
1,000-5,000 sq. ft., with limited food processing
Large- 750.00
Food processor over 1,000 sq. ft. / Grocery store 1,000-50,000 sq. ft. and two or fewer food processing areas / Warehouse 1,000-50,000 sq. ft.
Super- -1,000.00
Food processor over 20,000 sq. ft. / Grocery store over 50,000 sq. ft. and more than two food processing areas / Warehouse over 50,000 sq. ft.

Certificates of Free Sale

Certificate of Free Sale - 30.00
Certificate of Free Sale Expedite Fee- 70.00

Plan Review Fees

Follow Up - 300.00
Plan Review Cottage - 100.00
Plan Review Small - 250.00
Plan Review Medium - 500.00
Plan Review Large - 750.00
Plan Review Super -1,000.00

Special Inspection

Food and Dairy Inspection

Per hour - 55.00
Overtime rate - 80.00
Sampling Permit - 35.00

Dairy

Test Milk for Payment - 100.00
Operate Milk Manufacturing Plant -1,000.00
Make Butter - 100.00
Haul Farm Bulk Milk - 100.00
Make Cheese - 100.00
Operate a Pasteurizer - 100.00

Dairy Products Distributor- - - -

Industrial Hemp Laboratory Testing

Cannabinoid Testing - High Volume	77.00
Cannabinoid Testing - Low Volume	138.00
Pesticide Testing	176.00
Foreign Matter Testing	17.00
Heavy Metal Testing	121.00
Mycotoxin Testing	143.00
Microbial Life Testing (w/PCR)	132.00
Microbial Life Testing (w/o PCR)	99.00
Residual Solvent Testing	121.00
Terpenes Testing	121.00
Moisture Content Testing	28.00
Water Activity	22.00

License Fees

Industrial Hemp Processor Licensing Fee Tier 1	-2,500.00
Industrial Hemp Processor Licensing Fee Tier 2	-2,000.00
Industrial Hemp Processor Licensing Fee Tier 3	-1,000.00
Industrial Hemp Lab Licensing Fee	-2,500.00

Other Industrial Hemp Program Fees

Background Check Fee	51.50
Late Fee for Industrial Hemp Program Licensees	50.00

Registration and Permit Fees

Hemp Retail Establishment Permit Fee	100.00

Kratom

Kratom Establishment Registration	100.00
Kratom Product Registration	475.00
Kratom Alkaloid Testing	120.00

Analytical Laboratory - Department of Agriculture and Food

Analytical Laboratory

Expedited (Rush) Testing - Any Test	60.00
General Laboratory Test Fee	Actual Cost

All tests not listed in the fee schedule. Amount charged per test is calculated as actual labor and material expenses.

Chemistry

Alcohol Content Testing	25.00
Anatoxin-a ELISA Test - First Sample	141.00
Anatoxin-a ELISA Test - Additional Samples	50.00
Microcystin ELISA Test - First Sample	137.00
Microcystin ELISA Test - Additional Samples	50.00
Cylindrospermopsin ELISA Test - First Sample	137.00
Cylindrospermopsin ELISA Test- Additional Samples	50.00
Saxitoxin ELISA Test - First Sample	137.00
Saxitoxin ELISA Test - Additional Sample	50.00
Fat	60.00
Fiber, Crude	60.00
Proximate analysis (moisture, protein, fat, fiber, ash)	90.00
Proximate analysis (moisture, protein, fiber)	60.00
Protein	40.00
NPN (Non-Protein Nitrogen)	50.00
Ash	20.00
Nitrogen	40.00
Available Phosphorous	120.00
Potash	120.00
Nutritive Metals, First Analyte	60.00
Nutritive Metals, Additional Analytes	25.00
pH	20.00
Soil/Plants - Single Test	305.00
Soil/Plants - Multi-residue Test	400.00

Microbiology

Appendix N Splits <2 Analysts, per sample - - -

Show and Seasonal Permits

Horse - - -

Any level
Examination: paper - - -

Enforceable Written Assurance Letters or Similar Letters
Flat fee for up to 8 hours to complete letter - - -

Construction permits and sales and use tax exemptions - 125.00
Except projects of political subdivisions funded by the Division of Water Quality.
Annual Non-discharging Municipal and Commercial Treatment Facilities - 350.00
UIC Class V Inventory Review Fee - 250.00
Technical Review of and assistance given - 125.00
401 Certification; permit appeals; and sales and use tax exemptions; waste-load analysis; Great Salt Lake Certifications

All Other Permits
UPDES, Ground Water, and Underground Injection Control Permits- 125.00
For permits not otherwise listed. Including permit renewals and modifications.
Complex facilities where the anticipated permit issuance costs will exceed the above categorical fees by 25% - - - - 125.00
Permittee to be notified upon receipt of application

Annual Utah Pollutant Discharge Elimination System (UPDES) Permits, Surface Water
Concentrated Animal Feeding Operations (CAFO) General Permit - 152.00
Construction Dewatering/Hydrostatic Testing General Permit - 208.00
Fish Hatcheries General Permit - 167.00
Hazardous Waste Clean-up Sites- -3,607.00
Groundwater Remediation Treatment Plant- -7,590.00

Annual UPDES Pesticide Applicator Fee
Small Applicator - 276.00
Medium Applicator - 690.00
Large Applicator -2,278.00

Annual UPDES Publicly Owned Treatment Works (POTW)
Large >10 million gallons per day (mgd) flow design - 12,144.00
Medium >3 mgd but <10 mgd flow design -7,590.00
Small <3mgd but >1 mgd -1,518.00
Very Small <1 mgd - 760.00

Biosolids Annual Fee (Domestic Sludge)
Small Systems - 532.00
1-4,000 connections
Medium Systems -1,542.00
4,001 to 15,000 connections
Large Systems -2,239.00
greater than 15,000 connections

Cement Manufacturing
Major -1,202.00
Minor - 301.00

Coal Mining and Preparation
General Permit - 601.00
Individual Major -1,804.00
Individual Minor -1,202.00

Dairy Products
Major -1,202.00
Minor - 601.00

Electric
Major -1,502.00
Minor - 601.00

Food and Kindred Products
Major -1,502.00
Minor - 601.00

Geothermal
Major -1,202.00
Minor - 601.00

Inorganic Chemicals

Major - - -

Major - - -

or dispose of the material (Annual fee). Includes repackaging. License type (4)(b).
Licenses authorizing receipt of prepackaged waste radioactive material from others - - - - - - - - - - - - - - - -7,700.00
The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material (annual fee). License type (4)(c).
Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development - - - - - - - - - - - - - - -

systems, including X-ray fluorescence analyzers and neutron generators, possession and use of less than 15 grams in unsealed form for research and development -4,440.00
License Type (1)(b).
Use as Calibration and Reference Sources -1,440.00
License Type (1)(d).

Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)
Annual - 2,363,100.00

New Application
Siting application - Actual costs up to $250,000
License application - Actual costs up to $1,000,000
Renewal - Actual costs up to $1,000,000
Pre-licensing, operations review, and consultation on commercial low-level radioactive waste facilities - - - - - - - - 125.00

Solid Waste Facility Fee
Treatment and Disposal facilities - Greater of $125 or $0.21/ton Quarterly
Treatment (thermal, physical, or chemical) and Disposal facilities including: Land Application, Land Treatment, Composting, Waste to Energy, Landfill, Incineration. The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.
Transfer facilities - Greater of $125 or $0.11/ton Quarterly
The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.

Source Material
Uranium mills in operational or standby status - - - - - - - - - - - - - - - - - - -

Asbestos and Lead-Based Paint (LBP) Abatement

Course Accreditation Fee - - -

Name Changes	150.00
Small Sources Exemptions and Soil Remediation, Source Determination Letter	350.00
New non-Prevention of Significant Deterioration (PSD) sources, minor & major modifications to existing sources, Administrative Amendments	750.00
Any unpermitted sources at an existing facility	-2,250.00
New major prevention of significant deterioration (PSD) sources	-7,500.00

General Fund Rest. - Used Oil Collection Administration Account - Department of Environmental Quality

Used Oil Collection Administration Account

Used Oil

Used Oil Collection Center Registration	-No Charge
Permit Application Fee for Transporter, Transfer Facility, Processor/Re-refiner, and Off-Specification Burner, including Permit Modifications and Plan Reviews	100.00
Annual Used Oil Handler Certification for Transporter, Transfer Facility, Processor/Re-refiner, Off-Specification Burner,	100.00
Marketer Application Fee	50.00
Annual Used Oil Handlers Certificate for Marketer	50.00

Environmental Voluntary Cleanup Restricted Account - Department of Environmental Quality

Environmental Voluntary Cleanup Restricted Account

Voluntary Environmental Cleanup Program Application Fee	-2,500.00
Review/Oversight/Participation in Voluntary Agreements	125.00

Underground Wastewater Disposal System Restricted Acct - Department of Environmental Quality

Underground Wastewater Disposal System Restricted Acct

Underground Wastewater Disposal Systems

New Systems Fee	40.00
Certificate Issuance	25.00

Drinking Water Origination Fee Subaccount - Department of Environmental Quality

Drinking Water Origination Fee Subaccount

Drinking Water Loan Origination (State)	1.0% of Loan Amount

Drinking Water Origination Fee-Federal - Department of Environmental Quality

Drinking Water Origination Fee-Federal

Drinking Water Loan Origination (Federal)	1.0% of Loan Amount

Water Quality Origination Fee Sub Account - Department of Environmental Quality

Water Quality Origination Fee Sub Account

Water Quality Loan Origination (State)	1.0% of Loan Amount

Water Quality Origination Fee-Federal - Department of Environmental Quality

Water Quality Origination Fee-Federal

Water Quality Loan Origination (Federal)	1.0% of Loan Amount

DEPARTMENT OF NATURAL RESOURCES

Forestry, Fire, and State Lands - Department of Natural Resources

Grazing Non-use	-10%
Special Use Lease Agreement (SULA) Non-Use	-10%
ROE, Easement, Grazing Amendment	50.00
SULA, General Permit, Mineral Lease, Materials Permit Amendment	125.00
Reinstatement	150.00
Surface leases and permits, per reinstatement and per lease or permit.	
Bioprospecting - Registration	50.00
Oral Auction Administration	Actual cost

Affidavit of Lost Document	25.00
Certified Document	10.00
Research on Leases or Title Records	50.00
Change on Name of Division Records	20.00
Fax copy	1.00
Send only	
Late Fee	6% or $30
Returned check charge	30.00

Administrative

Application

Mineral Lease	40.00
Special Lease Agreement	40.00
Mineral Unit/Communitization Agreement	40.00
Special Use Lease Agreement (SULA)	300.00
Grazing Permit	50.00
Materials Permit	200.00
Easement	150.00
Right of Entry	50.00
Exchange of Land	1,000.00

Sovereign Land General Permit

Private	50.00
Public	0.00

Assignment

Special Use Lease Agreement (SULA)	50.00
Grazing Permit per AUM (Animal Unit Month)	2.00
Grazing Sublease per AUM (Animal Unit Month)	2.00
Materials Permits	50.00
Easement	50.00
Right of Entry (ROE)	50.00
Sovereign Land General Permit	50.00

Mineral Lease

Total Assignment	50.00
Interest Assignment	50.00
Operating Right Assignment	50.00
Overriding Royalty Assignment	50.00
Partial Assignment	50.00
Collateral Assignment	50.00

Data Processing

Production Time	55.00
Programming Time	75.00

Geographic Information System

Processing Time	55.00
Personnel Time	50.00

Reproduction of Records

Self-Service	0.10
By Staff	0.40

Sovereign Lands

Grazing Permits	3.00
Annual rate per AUM (Animal Unit Month)	
Special Use Lease Agreements	Market rate

Easements

Minimum Easement	225.00

Canal

Existing

<=33' wide - - -

Surface Vibrators - - -

Small Set	10.00
Average Size Set	25.00
Large Set	35.00

Water Rights - Department of Natural Resources

Applications

For Each Certification of Copies	10.00
Charge for Preparing Copies of a Document	Actual Cost
Application to Segregate a Water Right	50.00
Groundwater Recovery Permit	-2,500.00
Fee Changed from Recharge to Recovery	
Notification for the use of Sewage Effluent or to Change the Point of Discharge	750.00
Diligence Claim Investigation	500.00
Report of Water Right Conveyance Submission	150.00
$85 for up to 15 pages. $2 per additional page, up a maximum of $150.	
Protest Filings	15.00
Livestock Watering Certificate	150.00

Appropriation

Type of Application	-Variable see below
For any application that proposes to appropriate or recharge by both direct flow and storage, there shall be charged the fee for quantity, by cubic feet per second (cfs), or volume, by acre-feet (af), whichever is greater, but not both:	

Flow - cubic feet per second (cfs)

More than 0, not to exceed 0.1	150.00
More than 0.1, not to exceed 0.5	200.00
More than 0.5, not to exceed 1.0	250.00
More than 1.0, not to exceed 2.0	300.00
More than 2.0, not to exceed 3.0	350.00
More than 3.0, not to exceed 4.0	400.00
More than 4.0, not to exceed 5.0	430.00
More than 5.0, not to exceed 6.0	460.00
More than 6.0, not to exceed 7.0	490.00
More than 7.0, not to exceed 8.0	520.00
More than 8.0, not to exceed 9.0	550.00
More than 9.0, not to exceed 10.0	580.00
More than 10.0, not to exceed 11.0	610.00
More than 11.0, not to exceed 12.0	640.00
More than 12.0, not to exceed 13.0	670.00
More than 13.0, not to exceed 14.0	700.00
More than 14.0, not to exceed 15.0	730.00
More than 15.0, not to exceed 16.0	760.00
More than 16.0, not to exceed 17.0	790.00
More than 17.0, not to exceed 18.0	820.00
More than 18.0, not to exceed 19.0	850.00
More than 19.0, not to exceed 20.0	880.00
More than 20.0, not to exceed 21.0	910.00
More than 21.0, not to exceed 22.0	940.00
More than 22.0, not to exceed 23.0	970.00
More than 23.0	-1,000.00

Volume - acre-feet (af)

More than 0, not to exceed 20	150.00
More than 20, not to exceed 100	200.00
More than 100, not to exceed 500	250.00
More than 500, not to exceed 1,000	300.00
More than 1,000, not to exceed 1,500	350.00
More than 1,500, not to exceed 2,000	400.00
More than 2,000, not to exceed 2,500	430.00
More than 2,500, not to exceed 3,000	460.00
More than 3,000, not to exceed 3,500	490.00
More than 3,500, not to exceed 4,000	520.00
More than 4,000, not to exceed 4,500	550.00

More than 4,500, not to exceed 5,000 - - -

7-Day (Any Age) - - -

Antlerless Deer - - -

Includes season fishing license

Cougar/Bear

Cougar or Bear Damage - - -

Limited Entry Bull - - -

Co-Operative Wildlife Management Unit (CWMU)/Landowner

Buck - - -

Wildlife Management Area Access (Without a Valid License)- 10.00
Division Programs Participation Fee -Variable
Fees shall be determined by the division using the estimated costs of materials and supplies needed for participation in the event.
Shooting Center RV Camping -$10.00 to $50.00
Return check charge - 20.00
Assignments: Easements, Grazing Permits, Right-of-entry, Special Use - 250.00

Certificates of Registration

Initial - Personal Use - 75.00
Initial - Commercial- 150.00
Amendment - 10.00
Certificate of Registration (COR) Handling - 10.00
Renewal - 30.00
Late Fee for Failure to Renew Certificates of Registration When Due: Greater of $10 or 20% of Fee - - - - - - - - -Variable
Required Inspections - 100.00
Failure to Submit Required Annual Activity Report When Due - 10.00
Request for Species Reclassification - 200.00
Request for Variance - 200.00

Big Game Cooperative Wildlife Management Unit

New Application - 250.00
Annual - 150.00

Commercial Fishing and Dealing Commercially in Aquatic Wildlife

Dealer in Live/Dead Bait - 75.00
Helper Cards - Live/Dead Bait- 15.00
Commercial Seiner -1,000.00
Helper Cards - Commercial Seiner- 100.00
Commercial Brine Shrimper- 15,000.00
Helper Cards - Commercial Brine Shrimper -1,500.00

Commercial Hunting Areas

New Application - 150.00
Renewal Application - 150.00

Falconry

Three Year - 45.00
Five Year- 75.00

TYPE I

Certificate of Registration (COR) Fishing Contest

Small, Under 50 - 20.00
Medium, 50 to 100 - 100.00
Large, over 200 - 250.00

Upland Game Cooperative Wildlife Management Units

New Application - 250.00
Annual - 150.00

Duplicate Licenses, Permits and Tags

Hunter Education Cards - 10.00
Furharvester Education Cards - 10.00
Duplicate Vouchers CWMU/Conservation/Mitigation - 25.00

Easement and Leases Schedule

Application for Leases

Leases - 250.00
Nonrefundable
Easements Oil and Gas Pipelines - 250.00
Amendment to Lease, Easement, Right-of-Way - 400.00
Nonrefundable
Amendment to Right of Entry - 50.00
Certified Document -5.00

Nonrefundable
Research on Leases or Title Records - - -

License Agency

Application - - -

>300' Renewal - - -

Boat Livery Registration Fee - 25 vessels or less - - -

Application - - -

RTC Special Education Program Monitoring Fee: Distance Over 2 Hours -1,545.00
This fee is collected from eligible Residential Treatment Centers (RTCs) to cover the personnel travel for their onsite monitoring visits every 2 years.
RTC Special Education Program Monitoring Fee: Distance Up to 2 Hours - 490.00
This fee is collected from eligible Residential Treatment Centers (RTCs) to cover the personnel travel for their onsite monitoring visits every 2 years.

Utah Schools for the Deaf and the Blind - State Board of Education

USDB Audiologist Fee - 100.40
This fee covers the salary and benefit costs of an audiologist utilized by LEA and Charter schools.
Study Abroad Fee- 500.00
This fee is a commitment fee charged to students that sign up to participate in USDB's study abroad. The fee is returned to the student days before the trip and is used by the student for spending money. This teaches the student commitment, and budgeting and use of the funds during the trip.

Support Services

Adult Lunch Tickets -4.50
This fee is charged to any USDB employee or parent that purchases a school lunch. The purpose of this fee is to recoup the cost of the lunch provided to the employee or parent.

Conference Attendance

Educator - Conference Attendance Fee- 100.00
This fee is for when USDB creates a conference and charges up to $100 for educators to attend to assist in recouping the conference costs.
Parent - Conference Attendance Fee - 25.00
This nominal fee of $25 is charged to parents of deaf or hard of hearing, blind or low-vision, or deaf-blind students. The fee assists USDB in creating and presenting the conference.

Copy and Fax Machine

Copy Machine

Color- -0.20
This fee reimburses USDB for personal color copies made by staff.
Black/White -0.10
This fee reimburses USDB for black and white copies made by USDB personnel.

Room Rental

Conference - 100.00
This fee offsets the cost for support services to set up the meeting room, costs of utilities, and to clean the room after it has been used.
USIMAC Book Processing Fee - 150.00
This fee covers the cost of printing a textbook in braille or large print for an out of state student.
USIMAC Book Shipping Fee - 15.00
This fee covers the cost for USIMAC to ship a textbook to an out of state student.

Instruction

Educator - 94.22
This fee recovers the actual cost of providing an educator of the deaf, blind and O &M to LEAs and Charter schools.
After-School Program- 30.00
This fee covers the cost of any after-school program(s) that a student may participate in.
Pre-School Monthly Tuition- 100.00
This nominal monthly fee helps offset some of the costs of running the USDB preschool.
Out-of-State Tuition- 50,600.00
This fee is imposed on out of state school districts for sending one of their students to attend USDB. This fee offsets the costs of the educator, aide and other staff involved in the child's education.
Educational Interpreter - 53.40
This fee covers the cost to provide an interpreter for our deaf students to LEAs and Charter schools.

Support Services

Athletic - 100.00
This $100 fee is charged to USDB students that participate in any given sport. The fee is charged per sport that the student participates in.

Room Rental

Multipurpose - 200.00

This fee covers the cost of setting up, taking down and cleaning the multipurpose room. The fee also includes utilities costs.

Instruction

Student Education Services Aide (ESA) - - -

Paralegal - Co-located Rate - - -

ELEC STORAGE MEDIUM (electronic copy of audio or video record of court proceeding) per half day - - - - - - - - 15.00
Reporter Text - $25 per half day
Personnel time after 15 min - Cost of Employee Time
Mailings - Actual cost
Preprinted Forms - Cost based on number and size
State Court Administrator
Copies - - - - - - - - - - - - - - - - - - -

Provider

Original	100.00
Annual renewal	100.00
Duplicate	10.00
Branch office inspection	30.00
Branch office annual inspection	30.00

Provider

Reinstatement	75.00
Installer	75.00

Verification

Driver address record verification	3.00
Validate service	0.75
Online services	3.00
Utah Interactive Convenience Fee	

Commercial Driver License third party testing

License

Original tester	100.00
Annual tester renewal	100.00
Duplicate tester	10.00
Original examiner	30.00
Annual examiner renewal	20.00
Duplicate examiner	6.00
Examiner reinstatement	75.00
Tester reinstatement	75.00

Emergency Management - Department of Public Safety

PIO Conference registration fees	225.00
PIO Conference late registration fee	250.00
PIO Conference half registration fee	100.00
PIO Conference guest fee	200.00
Mobile Command Vehicle	65.00
Mobile command operator	40.00
Utah Expo registration fee	5.00
Utah Certified Emergency Manager	100.00

Peace Officers' Standards and Training - Department of Public Safety

Satellite academy technology fee	25.00
Dorm room	10.00
K-9 training (out of state agencies)	2,175.00
Duplicate POST certification	5.00
Duplicate certificate, wallet card	5.00
Duplicate radar or intox card	2.00
Law enforcement officials and judges firearms course	1,000.00

Cadet Application

Online application processing fee	35.00

Peace Officers' Standards and Training (POST)

Reactivation/waiver	75.00
Supervisor class	50.00

Rental

Pursuit interventions technique training vehicles	100.00
Firing range	300.00
Shoot house	150.00
Camp William firing range	200.00

Programs & Operations - Department of Public Safety

Additional DNA casework per sample - full analysis	894.00
DNA casework per sample - quantitation only	459.00
Drugs - controlled substances per item of evidence	355.00

Fingerprints per item of evidence	345.00
Serology/Biology per item of evidence	335.00
Training course materials reimbursement	250.00

Department Sponsored Conferences

Registration	275.00
Late registration	300.00
Vendor fee	700.00

Fees Applicable to All Divisions In Department of Public Safety

Courier delivery	Actual cost
Fax	1.00
Audio/Video/Photos	25.00
Developed photo negatives	1.00
Printed digital photos	2.00
1, 2, or 4 photos per sheet (8x11) based on request	
Miscellaneous computer processing	Cost of Employee Time
Bulk/e-data transaction	0.10

Copies

Mailing	Actual cost
Color	1.00
Over 50 pages	0.50
1-10 pages	5.00
11-50 pages	25.00
Fire and life safety review	Greater of $75/plan review or $.022/sq. ft.
Annual license for display operator, special effects operator, or flame effects operator	40.00
Annual license for importer and wholesaler of pyrotechnic devices	250.00

Automatic Fire Sprinkler Inspection and Testing

Certificate of registration	30.00
Examination	20.00
Re-examination	20.00
Three year extension	20.00

Fire Alarm Inspection and Testing

Certificate of registration	40.00
Examination	30.00
Re-examination	30.00
Three year extension	30.00

Inspection For Fire Clearance

Re-Inspection Fee	250.00

Liquid Petroleum Gas

Five year examination	30.00
Certificate	40.00
Dispenser Operator B	20.00

License

Class I	450.00
Class II	450.00
Class III	105.00
Class IV	150.00
Branch office	338.00
Duplicate	30.00
Examination	30.00
Re-examination	30.00

Plan Reviews

More than 5000 gallons	150.00
5000 water gallons or less	75.00
Special inspections	50.00
Re-inspection	250.00
3rd inspection or more	

Private Container Inspection

More than one container - - -

Pre-hospital

Non-profits Users - - -

Contested- - - -

Permit

Emergency Medical Technician Quality Assurance Review - - -

Certificate of eligibility - - -

Governors Office of Planning and Budget - Governor's Office

Conference Registration - - -

Copy Microfilm - Paper by Staff, Limit 25 - - -

Collection Penalty - - -

Additional Management

Services: Research & Complaints	50.00
Operator Negligence and Vehicle Abuse	Varies
Vehicle Service Center	8.00
Vehicle Feature and Miscellaneous Equipment Upgrade	Actual cost
Vehicle Detail Cleaning Service	Actual cost

Accounts receivable late fee

Past 30-days	5% of balance
Past 60-days	10% of balance
Past 90-days	15% of balance

Statutory Maintenance Non-Compliance

10 Days Late	100.00
20 Days Late	200.00
30+ Days Late	300.00
Transactions Rate	65.00

Division of Purchasing and General Services - Department of Government Operations

Priority Meter/Seal	0.05

State Mail (All rates and fees charged by the Department of Government Operations' Internal Service Funds may not exceed, but may be less than, the amounts stated in the fee schedule.)

Courier

Courier - Zone 1	2.26
Courier - Zone 2	3.88
Courier - Zone 3	8.04
Courier - Zone 4	9.70
Courier - Zone 5	14.35
Courier - Zone 6	17.79
Courier - Zone 7	21.73
Courier - Zone 8	26.42
Courier - Zone 9	28.49
Courier - Zone 10	33.22
Courier - Zone 11	36.02
Courier - Zone 12	39.87

Production

Incoming Optical Character Recognition Sort	0.10
Business Reply/Postage Due	0.54
Special Handling/Labor	85.00
Auto Fold	0.02
Label Generate	0.08
Generation of mailing labels for State processed mail.	
Label Apply	0.06
Application of mailing labels to outgoing state mail	
Auto Tab	0.10
Fee charged to apply closure stickers to outgoing mail that is not sent in envelopes - postcards.	
Meter/Seal	0.04
Meter/Seal rates are the cost of processing mail through the postage machines.	
Optical Character Reader	0.03
Additional Insert	0.01
Accountable Mail	1.45
Intelligent Inserting	0.03
Cooperative Contracts Administrative	Up to 1.0%

Accounts receivable late fees

Past 30 days	5% of balance
Past 60 days	10% of balance

Surplus

Federal Shipping and handling charges	See formula
Not to exceed 20% of federal acquisition cost plus freight/shipping charges	
Contract Management	0.01

Disposal Rate - - -

Cyber Liability

HE-00036 UCAT-Tooele ATC	-4,723.00
HE-00042 Salt Lake Community College	75,380.00
HE-00051 Snow College	12,581.00
HE-00058 Southern Utah University	97,258.00
HE-00059 UCAT-Southwest ATC	-7,258.00
HE-00082 UCAT-Bridgerland ATC	11,844.00
HE-00113 UCAT-Uintah Basin ATC	-8,201.00
HE-00115 University of Utah	1,503,301.00
HE-00121 Utah State University	133,748.00
HE-00122 Utah Valley University	93,092.00
HE-00158 UCAT-Ogden Weber Technical College	21,945.00
HE-00170 UCAT-Davis ATC	28,488.00
HE-00174 UCAT-Dixie ATC	-5,182.00
HE-00175 Utah Tech University	68,373.00
HE-00213 UCAT-Mountainland Technical College	16,905.00
HE-00248 Weber State University	63,219.00

Workers Compensation Premiums

Aviation Crews	1.46
Aviation Pilots	3.06
Helicopter Pilots	1.46
Road Construction Crews	1.37
State Employees	0.45

ADP Auto Property Damage Premium Methodology

APD Premiums	See below
Standard Deductible	-1,500.00

APD Premiums: Charter Schools

CS-00016 Fast Forward Charter School	580.00
CS-00029 Gateway Preparatory Academy	-2,040.00
CS-00046 Salt Lake School for the Performing Arts	-2,040.00
CS-00053 Soldier Hollow Charter School	510.00
CS-00062 Success Academy - Iron County	290.00
CS-00074 American Leadership Academy	-2,910.00
CS-00085 Pinnacle Canyon Academy	-9,900.00
CS-00087 Providence Hall Charter School	-3,860.00
CS-00094 C S Lewis Academy Charter School	-1,670.00
CS-00104 Canyon Grove Academy	-1,160.00
CS-00119 Utah County Academy of Sciences	440.00
CS-00127 Itineris Early College High School	290.00
CS-00134 Karl G Maeser Preparatory Academy	-1,820.00
CS-00154 Northern Utah Academy for Math, Engr &Science	-1,090.00
CS-00191 East Hollywood High School	-1,160.00
CS-00196 Merit College Preparatory Academy	-2,330.00
CS-00202 Guadalupe Charter School	-2,180.00
CS-00237 Valley Academy	-5,240.00
CS-00241 Vista at Entrada School for Performing Arts and Technology	-1,160.00
CS-00242 Walden School of Liberal Arts	290.00
CS-00279 St. George Academy	510.00
CS-00282 Mana Academy Charter School	510.00
CS-00283 Real Salt Lake Academy	-3,060.00
CS-00284 Vanguard Charter School	-1,530.00
CS-00302 Utah Military Academy	-7,290.00
CS-00304 Franklin Discovery Academy	-1,530.00
CS-00349 American Academy of Innovation	150.00

APD Premiums: Higher Education

HE-00036 Tooele Technical College	-3,100.00
HE-00042 Salt Lake Community College	47,770.00
HE-00051 Snow College	11,020.00
HE-00058 Southern Utah University	61,440.00
HE-00059 Southwest Technical College	-6,720.00
HE-00082 Bridgerland Technical College	-7,200.00

HE-00113 Uintah Basin Technical College - - -

SG-00014 Environmental Quality Department - - -

CS-00085 Pinnacle Canyon Academy - - -

HE-00248 Weber State University - - -

Course of Construction Premiums

Builder's Risk (Course of Construction) Premium - - -

CS-00302 Utah Military Academy - - -

SD-00197 Millard School District - - -

SG-00208 DHHS - Juvenile Justice Center - - -

Network Services

Network Connection - Internet of Things - - -

All Divisions

Booklets	Actual Cost
Administrative Expungement Application	200.00
Electronic Payment (Base sub-total under $100)	Not to Exceed $3.00
Electronic Payment Fee (Base sub-total over $100)	Not to Exceed 3%
Priority Processing	75.00
List of Licensees/Business Entities	25.00
Photocopies	0.30
Verification of Licensure/Custodian of Record	20.00
Returned Check Charge	20.00
FBI Fingerprint File Search	10.00
BCI Fingerprint File Search	20.00
Fingerprint Processing for non-department	10.00
GRAMA Staff Time	Actual Amount
GRAMA Electronic Record	Actual Cost

Property Rights Ombudsman

Filing Request for Advisory Opinion	150.00
Land Use Seminar Continuing Education	25.00

Books

Citizens Guide to Land Use

Single copy	15.00
Six or more copies	9.00
Case of 22 books	132.00

Business Opportunity Disclosure Register

Exempt	100.00
Approved	200.00

Charitable Solicitation Act

Charity	75.00
Professional Fund Raiser	250.00

Credit Services Organization

Annual Fee	250.00
Debt Management Services Organizations	250.00

Health Spa

Registration / Renewal	100.00

Immigration Consultants

Initial Registration Fee	200.00
License Renewal Fee	200.00

Maintenance Funding Provider

Registrations New Application/Renewal	300.00

Miscellaneous

Transcript / Diploma Request	30.00
Residential vocational and life skills registration	500.00
Microcassette Copying	Actual Cost

Miscellaneous Fees

Late Renewal	25.00

Pawnshop Registry

Pawnbroker Late Fee	50.00
Out-of-State Pawnshop Database Request	900.00
Pawnshop/Secondhand Store Registration	300.00
Law Enforcement Registration	3.00

Postsecondary Schools

Initial Application	850.00

Renewal Application - - -

Annual Registration Fee	300.00
Lien Search	
Search	12.00
Limited Liability Company	
Articles of Organization/Qualification	54.00
Reinstate	54.00
Limited Partnership	
Certificate/Qualification	70.00
Reinstate	54.00
Other	
Statement Authority	15.00
Late Renewal	10.00
Out of State Motorist Summons	12.00
Collection Agency Bond	32.00
Unregistered Foreign Business	12.00
Foreign Name Registration	22.00
Statement of Certification	12.00
Name Reservation	22.00
Telecopier Transmittal	5.00
Telecopier Transmittal	1.00
Partnerships	
Limited Liability	27.00
General	27.00
Limited Liability Partnership Articles of Incorporation	70.00
Reinstatement	
Profit	54.00
Requalification/Reinstatement	
Nonprofit	30.00
Single Sign-On	
Single Sign-On-Portal Fee	5.00
Trademark/Electronic Trademark	
Initial Application and 1st Class Code	50.00
Each Additional Class Code	25.00
Renewals	50.00
Assignments	25.00
Transactions Through Civix	
Registered Principal Search	3.00
Business Entity Search Principals	1.00
Certificate of Good Standing	12.00
Subscription	75.00
UCC Searches	12.00
List Compilation Customized	$5.00 + $0.03 per record
One Stop Business Registration	$5.00 + $0.05 per record
Unincorporated Cooperative Association	
Articles of Incorporation/Qualification	22.00
Annual Report	7.00
School Psychological Practitioner Initial	200.00
Eyelash and Eyebrow Technology School	110.00
Eyelash and Eyebrow Technology School Renewal	110.00
Social Work Compact Renewal	88.00
Limited Supervised Training Permit Initial Renewal	50.00
Certified Prescribing Psychologist Renewal	138.00
School Psychological Practitioner Renewal	138.00
Certified Prescribing Psychologist Initial	200.00

Eyelash and Eyebrow Technician Renewal - - -

License Renewal - - -

Examiner Administrator Application - - -

Master License Renewal	68.00
School New Application Filing	110.00
School License Renewal	110.00

Factory Built Housing

Dealer New Application Filing	30.00
Dealer License Renewal	30.00
On-site Plant Inspection	$50 per hour plus expenses
Education and Enforcement	25.00

Funeral Services

Director New Application Filing	160.00
Director License Renewal	88.00
Intern New Application Filing	85.00
Establishment New Application Filing	250.00
Establishment License Renewal	250.00

Genetic Counselor

New Application Filing	150.00
License Renewal	138.00

Geologist

New Application Filing	150.00
License Renewal	123.00
Education and Enforcement Fund	15.00

Hair Design

New Application Filing	60.00
License Renewal	52.00
Instructor Certificate	60.00
School New Application Filing and Renewal	110.00
License Apprenticeship	20.00

Handyman Affirmation

Handyman Exemption Registration/Renewal	45.00

Health Facility Administrator

New Application Filing	120.00
License Renewals	83.00

Hearing Instrument Specialist

New Application Filing	150.00
License Renewal	103.00
Intern New Application Filing	35.00
Hearing Instrument Intern Renewal	20.00

Hunting Guide

New Application Filing	75.00
License Renewal	50.00

Land Surveyor

New Application Filing	110.00
License Renewals	63.00
Education and Enforcement Surcharge	10.00

Landscape Architect

New Application Filing	110.00
License Renewal	63.00
Examination Record	30.00
Education and Enforcement Fund	10.00

Marriage and Family Therapist

Therapist New Application Filing	120.00
Therapist License Renewal	103.00
Associate New Application Filing	85.00

Externship New Application Filling - - -

New Application Filing	200.00
License Renewals	193.00

Other

Pre-License Conviction Administrative Review	50.00
Inactive/Reactivation/Emeritus License	50.00
Temporary License	50.00
Late Renewal	20.00
License/Registration Reinstatement	50.00
Duplicate License	10.00
Disciplinary File Search	12.00
Change Qualifier	50.00
UBC Seminar	Actual Cost
UBC Building Permit surcharge	1% of Building Cost
DOPL Licensed Profession Data Request First 200 Records	5.00
DOPL Licensed Profession Data Request Each Additional Request	0.03
DOPL Licensed Profession Data Request Full List	0.01

Outfitter

New License Filing	150.00
License Renewal	50.00

Pharmacy

Licensed Dispensing Practice- New Application	110.00
Licensed Dispensing Practice- Renewal	73.00
Dispensing Medical Practitioner New Application Filing	110.00
Dispensing Medical Practitioner License Renewal	73.00
Dispensing Medical Practitioner Clinic New Application	200.00
Dispensing Medical Practitioner Clinic License Renewal	113.00
Technician Trainee New / Renewal	50.00
Pharmacist New Application Filing	110.00
Pharmacist License Renewal	73.00
Intern New Application Filing	100.00
Technician New Application Filing	60.00
Technician License Renewal	57.00
Class A New Application Filing	200.00
Class A License Renewal	103.00
Class B New Application	200.00
Class B License Renewal	103.00
Class C New Application	200.00
Class C License Renewal	103.00
Class D New Application	200.00
Class D License Renewal	103.00
Class E New Application	200.00
Class E License Renewal	103.00

Physical Therapy

Compact New / Renewal	47.00
Assistant Compact New/Renewal	47.00
Dry Needle Registration	50.00
New Application Filing	70.00
License Renewal	47.00

Physical Therapy Assistant

New Application Filing	60.00
License Renewal	47.00

Physician Assistant

Physician Assistant Compact	Actual Cost
Physician Assistant Utah Compact Fee	180.00
New Application Filing	180.00
License Renewals	133.00

Physician Educator

I new application	200.00

I renewal	193.00
II new application	200.00
II renewal	193.00

Physician and Surgeon

Restricted Associate Physician New Application Filing	210.00
Restricted Associate Physician Renewal	123.00
Qualified Medical Provider Cannabis Fee	100.00
Physician Compact Interstate Commission Service Fee	Actual Cost
Compact Existing Licensee Fee	40.00
Interstate Compact New License Application Filing	200.00
Interstate Compact License Renewal	193.00

Physician/Surgeon

New Application Filing	200.00
License Renewal	193.00

Plumber

General Plumbing Contractor New Application Filing	175.00
General Plumbing Contractor Renewal	128.00
Residential Plumbing Contractor New Application Filing	175.00
Residential Plumbing Contractor Renewal	128.00
Contractor Surcharge Education Fund	5.00
CE Course Approval	40.00
CE Course Attendee Tracking / per hour	1.00
Apprentice CE Attendance Tracking/ per hour	0.24
New Application Filing	110.00
License Renewals	63.00

Podiatric Physician

New Application Filing	200.00
License Renewal	113.00

Pre-Need Funeral Arrangement

Sales Agent New Application Filing	85.00
Sales Agent License Renewal	73.00

Private Probation Provider

New Application Filing	85.00
License Renewal	63.00

Psychologist

Behavioral Analyst New Application Filing	120.00
Behavioral Analyst License Renewal	103.00
Assistant Behavioral Analyst New Application Filing	120.00
Assistant Behavioral Analyst License Renewal	103.00
Behavioral Specialist License Renewal	78.00
Assistant Behavioral Specialist License Renewal	78.00
New Application Filing	200.00
License Renewal	138.00
Certified Psychology Resident New App Filing	85.00

Radiologist Assistant

New Application Filing	70.00
License Renewal	47.00

Radiology

Technologist New Application Filing	70.00
Technologist License Renewal	47.00
Practical Technologist New Application Filing	70.00
Practical Technologist License Renewal	47.00

Recreation Therapy

Master Therapeutic Recreational Specialist New Application Filing	70.00
Master Therapeutic Recreational Specialist License Renewal	47.00

Therapeutic Recreational Specialist New Application Filing - - -

Appended Notice of Commencement - Online - - -

Home Owner Associations

Homeowners Association Officers Search	0.05
Appraisal National Registry Fee	80.00
Mortgage Branch Renewal	25.00

Appraisal Management Company

AMC Registration	350.00
Renewal	350.00
Late	50.00

Appraisers

AMC National Registry Fee	25.00
Appraisal Education Special Event Provider Fee	250.00
Appraisal Education Special Event (per day)	150.00
National Register	80.00
Appraiser CE Course Application/Renewal	75.00
Appraiser Temporary Permit Extension	100.00
Temporary Permit	100.00
Appraiser Trainee Registration	100.00
Appraiser Expert Witness	200.00
Appraiser Trainee Renewal	100.00
Appraiser Pre-License School Application	100.00
Appraiser Pre-License Instructor Application	75.00

Licensed and Certified

Application	250.00
Renewal	350.00

Broker

New Application	100.00
Renewal	48.00

Broker/Sales Agent

Property Management Sales Agent Designation	50.00
Activation	15.00
New Company	200.00
Company Broker Change	50.00
Company Name Change	100.00
Verification	20.00

Certifications

Real Estate Prelicense School Certification	100.00
Real Estate Prelicense Instructor Certification	75.00
Real Estate Branch Schools	100.00
Appraiser Prelicense Course Certification	70.00
Appraiser CE Instructor Application/Renewal	75.00

Education

Real Estate Broker	18.00
Continuing Registration	10.00
Real Estate Agent	12.00

General Division

Duplicate License	10.00
Certifications/Computer Histories	20.00
Late Renewal	50.00
Reinstatement	100.00
Branch Office	200.00
No Action Letter	120.00
Trust Account Seminar	5.00
Continuing Education Instructor/Course Late	25.00

Mortgage Broker

Mortgage Loan Originator New Application	100.00
Mortgage Loan Originator Renewal	30.00

Mortgage DBA - - -

Investment Companies - - -

Continuing Care Provider - Renewal - - -

Other Organization

Other Organization - Initial Application - - -

Electronic Commerce Restricted

Electronic Commerce Restricted - Agency License - 10.00
Electronic Commerce Restricted - Captive Insurer - 250.00
Electronic Commerce Restricted - Continuing Education Provider - 20.00
Electronic Commerce Restricted - Database Access per Transaction -3.00
Electronic Commerce Restricted - Individual License -5.00
Electronic Commerce Restricted - Paper Filing -5.00
Electronic Commerce Restricted - Paper Application - 25.00
Electronic Commerce Restricted - Insurer, Surplus Lines Insurer, and Accredited/Certified/Trusteed Reinsurer - - - - 75.00
Electronic Commerce Restricted - Life Settlement Provider, Professional Employer Organization, Continuing Care Provider, Pharmacy Benefit Manager and Other Organization Fee- - - - - - - - - - 50.00

GAP Waiver Restricted Revenue

GAP Waiver Restricted Revenue - Annual Registration -1,000.00
GAP Waiver Restricted Revenue - Late Annual Registration -1,050.00
GAP Waiver Restricted Revenue - Retailer Assessment - 50.00
GAP Waiver Restricted Revenue - Late Retailer Assessment - 100.00
GAP Waiver Restricted Revenue - Late Retailer Assessment

Fraud Program Restricted Revenue

Investigation Recovery

Fraud Program Restricted Revenue - Investigative Recovery -Variable

Premium Assessment

Fraud Program Restricted Revenue - Premium Assessment Late Fee- 50.00

Title Insurance Program - Insurance Department

Title

Title Insurance Recovery, Education, and Research Fund

Title - Title Insurance Recovery, Education and Research Fund - Individual Initial or Renewal Assessment - - - - - - 15.00
Title - Title Insurance Recovery, Education and Research Fund - Agency Initial License Assessment - - - - - - - -1,000.00
Title - Title Insurance Recovery, Education and Research Fund - Agency Renewal Assessment Band A $0 up to $1M written premium volume- 125.00
Title - Title Insurance Recovery, Education and Research Fund - Agency Renewal Assessment Band B $1 up to $10M written premium volume - 250.00
Title - Title Insurance Recovery, Education and Research Fund - Agency Renewal Assessment Band C $10M up to $20M written premium volume - 375.00
Title - Title Insurance Recovery, Education and Research Fund - Agency Renewal Assessment Band D or more than $20M written premium volume - 500.00

Title Licensee Enforcement Restricted Account

Regulation Assessment -As Appropriated
The cost of one full-time equivalent position limited to the amount appropriated by the legislature for the fiscal year.

LABOR COMMISSION

Labor Commission Operations - Labor Commission

Electric 11-20 Stops - Routine - 153.00
Electric 11-20 stops - new -1,117.20
Electric 11-20 stops - remodel - 798.00
Electric 21-30 stops - Routine - 204.00
Electric 21-30 stops - new -1,394.40
Electric 21-30 stops - remodel - 996.00
Electric 31 stops and over - Routine - 255.00
Electric 31 stops and over - new -1,671.60
Electric 31 stops and over - remodel -1,194.00

Boiler, Elevator and Coal Mine Safety Division

Boiler and Pressure Vessel Inspections

Certificate of Competency

Original Exam	30.00
Renewal	24.00

Owner

User Inspection Agency Certification	300.00

Coal Mine Certification

Mine Foreman	50.00
Temporary Mine Foreman	35.00
Fire Boss	50.00
Surface Foreman	50.00
Temporary Surface Foreman	35.00
Hoistman	50.00

Certification Retest

Per section	20.00
Maximum fee charge	50.00

Electrician

Underground	50.00
Surface	50.00

Elevator Inspections Existing Elevators

Hydraulic	102.00
Electric	102.00
Handicapped	102.00
Other Elevators	102.00

Elevator Inspections New Elevators

Hydraulic - New	360.00
Electric - New	840.00
Handicapped - New	240.00
Other Elevators - New	240.00
Consultation and Review	72.00
Escalators/Moving Walks - New	840.00
Remodeled Electric	600.00
Roped Hydraulic - New	600.00

Hydrocarbon Mine Certifications

Hoistman	50.00

Certification Retest

Per section	20.00
Maximum fee charge	50.00

Gilsonite

Mine Examiner	50.00
Shot Firer	50.00

Mine Foreman

Certificate	50.00
Temporary	35.00

Jacketed Kettles and Hot Water Supply

Boilers

Existing

< 250,000 BTU	36.00
> or = to 250,000 BTU but < or = to 4,000,000 BTU	72.00
> 4,000,001 BTU but < or = 20,000,000 BTU	180.00
> 20,000,000 BTU	360.00

New

< 250,000 BTU - New Boiler	54.00

> or = 250,000 BTU but < or = 4,000,000 BTU - New Boiler - 108.00
> 4,000,001 BTU but < or = 20,000,000 BTU - New Boiler - 270.00
> 20,000,000 BTU - New Boiler - 540.00

Consultation

Witness special inspection - 72.00

Pressure Vessel

Existing - Existing Pressure Vessel - 36.00
New - Pressure Vessel- 54.00

Pressure Vessel Inspection by Owner-user

25 or less on single statement - vessels -6.00
26 through 100 on single statement - vessels - 120.00
101 through 500 on single statement - vessels - 240.00
over 500 on single statement - vessels - 480.00

Industrial Accidents Division

Workers Compensation

Coverage Waiver - 50.00
Seminar Fee (alternate years) -Not to exceed 500.00

Certificate to Self-Insured

New Self-Insured Certificate -1,200.00
Self-Insured Certificate Renewal- 650.00

Premium Assessment

Workplace Safety Fund -0.25%
Employers Reinsurance Fund - 0%
Uninsured Employers Fund - 0.5%
Industrial Accidents Restricted Account -0.50%

Photocopies, Search, Printing

Black and White no special handling -0.25
Research, redacting, unstapling, restapling - 15.00
More than 1 hour - 20.00
Color Printing -0.50
Certified Copies -2.00
Electronic documents CD or DVD -2.00
Fax plus telephone costs- -0.50

UTAH STATE TAX COMMISSION

License Plates Production - Utah State Tax Commission

License Plates Production

Reflectorized Plate - Up to $20
Plate Mailing Charge - Up to $10
Decal Replacement -1.00

Tax Administration - Utah State Tax Commission

Administration

Liquor Profit Distribution -6.00

All Divisions

Certified Document -5.00
Faxed Document Processing- -1.00
Record Research -6.50
Photocopies, over 10 copies -0.10
Research, special requests - 20.00

Administration

Lien Subordination -Not to exceed 300.00

Sample License Plates- - - -

Dismantler - - -

$96 Yearly
Compliance Licensee Lists - - -

state's businesses excel in job creation, innovation, entrepreneurship, and global trade; to develop a quality workforce; to have a stable and sustainable business friendly environment; promote Utah as a premier vacation destination; and foster a film culture. From $1,001 to $5,000 fee applies for the entire Department

Sponsorship - Level 4 - - -

CommunityGrants App
CommunityGrants App User - State of Utah Executive Branch Agencies- 72.00
CommunityGrants App User - State of Utah Executive Branch Agencies (per User)
CommunityGrants App User - Tier 1- 480.00
CommunityGrants App User - Tier 1 (per User)
CommunityGrants App User - Tier 2- 420.00
CommunityGrants App User - Tier 2 (per User)
CommunityGrants App User - Tier 3- 360.00
CommunityGrants App User - Tier 3 (per User)
CommunityGrants App User - Tier 4- 300.00
CommunityGrants App User - Tier 4 (per User)
CommunityGrants App User - Tier 5- 240.00
CommunityGrants App User - Tier 5 (per User)
CommunityGrants Customer Portal - 100 Members- -3,000.00
CommunityGrants Customer Portal - 100 Members (per 100)
CommunityGrants Customer Community - Min. 100 Members - 900.00
CommunityGrants Customer Community - Minimum - 100 Members (per 100 Members)
CommunityGrants Customer Community - Min. 500 Members -2,000.00
CommunityGrants Customer Community - Minimum - 500 Members (per 100)
CommunityGrants Customer Community-Wholesale-100 Members -1,200.00
CommunityGrants Customer Community - Wholesale - 100 Members (per 100)
CommunityGrants Customer Community-Wholesale-500 Members -2,400.00
CommunityGrants Customer Community - Wholesale - 500 Members (per 100)
CommunityGrants Customer Community - Retail - 100 Members -1,800.00
CommunityGrants Customer Community - Retail - 100 Members (per 100)
CommunityGrants Customer Community - Retail - 500 Members -3,720.00
CommunityGrants Customer Community - Retail - 500 Members (per 100)

Office of Tourism - Governor's Office of Economic Opportunity

Hotel Convention Center -1,000.00
This covers administrative fees where post-opening claims will be paid by withholding that amount from the amount paid to the hotel owner in connection with each post-opening claim.
Hotel Convention Center Monthly -2,500.00
This covers administrative fees where pre-opened claims will be paid by withholding that amount from the amount paid to the hotel owner in connection with each pre-opening claim.
Tourism/Film Participation Fees - Actual cost up to $70,000
Participation fees for Sales Missions and Trade Missions, also co-op marketing costs for in-country ad campaigns set up by the international trade reps. This fee covers participation in international events, trade shows, sales missions, and marketing campaigns.
Gift Store Fee- 3% of Net Revenue
The gift shop will pay 3% of Net Revenue earned from gift shop.

Commissions
Tourism promotional items re-seller commission -12%
This licensing fee is 12% of product sales.
UDOT Signage Commissions - 63,124.75
According to the payment contract, we are to receive $63,124.75 quarterly from Utah Logos.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Utah Stem Foundation Fund - Department of Cultural and Community Engagement

Utah STEM Foundation Fund

Innovation Hub Camp- 200.00
Innovation Hub Equipment Use - 10.00
Innovation Hub General Use- -5.00
Innovation Hub General Use (monthly) - 25.00
Innovation Hub Premium PLA Filament Use -0.02
Innovation Hub Space Rental - 50.00
Innovation Hub Standard PLA Filament Use -0.01
Makerspace Class - 100.00

Administration - Department of Cultural and Community Engagement

Conference Level 4 - Vendor/Display Table - registration not included - 300.00
Conference Level 5 - Vendor/Display Table - registration not included - 500.00

Conference Sponsorship

Conference Sponsorship Level 1 - - -

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.
General Training/Workshop Participation - Level 7 - 50.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.
General Training/Workshop Participation - Level 8 - 60.00
General Training/Workshop Participation - Level 9 - 125.00
General Training/Workshop Participation - Level 10 - 300.00
General Training/Workshop Materials Fee - 15.00
Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

Government Records Access and Management Act
Photocopies (per page) -0.25
GRAMA fees apply for the entire Department of Cultural and Community Engagement.

Division of Arts and Museums - Department of Cultural and Community Engagement
Art Consultation Fee Level 1 - 2 Hour Minimum
2 Hour Minimum - consultation, site visits, and curation
Art Consultation Fee Level 2 - 60.00
2 Hour Minimum - condition inspection, reporting, documentation, and pulling from and
returning to the vault at (this charge would also be incurred for yearly site inspections without change to loan)
Art Consultation Fee Level 3 - 45.00
3 Hour Minimum - packing, shipping, and installation
Change Leader Conference - 55.00
This is the fee that will be charged for the annual change leader conference.
Change Leader Institute Level 5 - 500.00

Community Outreach
Traveling Exhibit Fees - 125.00
Traveling Exhibit Fees Title I Schools - 100.00

Community/State Partnership Change Leader Registration
Change Leader Institute Level 1 - 100.00
Change Leader Institute Level 2 - 200.00
Change Leader Institute Level 3 - 300.00
Change Leader Institute Level 4 - 400.00
Museum Environmental Monitoring Kit Rental/Shipping - 40.00
Museum Environmental Monitoring Kit Deposit - 150.00

State Historical Society - Department of Cultural and Community Engagement
Business/Corporate/Family - 80.00
Utah Historical Society Annual Membership
History Conference - Member - 50.00
Annual History Conference Registration fee for Utah State Historical Society Members
History Conference - Nonmember - 100.00
Annual History Conference Registration for non historical society members
History Conference - Vendor/Exhibitor Table - 50.00
Annual History Conference
University of Illinois Press -9,600.00
Utah Historical Society Annual Membership: UIP manages the institutional subscription
agency memberships and sends the money to the State of Utah.
Utah Historical Quarterly - 13.00
Cost of a single issue of Utah Historical Quarterly (in addition to mailing costs, when applicable)
Publication Royalties -1.00

Utah Historical Society Annual Membership
Student/Adjunct/Senior - 40.00
Individual - 50.00
Sustaining/Business/Corporate- 250.00
Patron/Institution/Subscription Agencies/UIP- 100.00
Sponsor - 300.00
Lifetime -1,000.00

Historical Society - Department of Cultural and Community Engagement
Anthropological Remains Recovery -2,500.00
Fee is for recovery or analysis and reporting services.
GIS Search - Staff Performed - 15.00

GIS Data Cut and Transfer - - -

Online Cultural Resources Viewer - - -

Out-of-State Interpreter Certification

Utah Novice Level Certificate	300.00
Utah Professional Level Certificate	300.00
Knowledge Exam	120.00

Unemployment Insurance - Department of Workforce Services

Debt Collection Information Disclosure Fee	15.00

Fee for employment information research and report for creditors providing a court order for employment information of a specific debtor.

Refugee Services Fund - Department of Workforce Services

Refugee Services Fund

World Refugee Day Shared Partner Booth	75.00
World Refugee Day Full Partner Booth	150.00
World Refugee Day Global Market Booth	75.00
World Refugee Day Food Vendor Booth	150.00
World Refugee Day Soccer	50.00

Office of Homeless Services - Department of Workforce Services

State Community Services Office Homelessness Conference	50.00

TRANSPORTATION AND INFRASTRUCTURE

OFFICE OF THE STATE TREASURER

State Treasurer - Office of the State Treasurer

Government Records Access and Management Act (GRAMA) Fees for the Entire Treasurer's Office	Actual Cost

Staff Time to Search, Compile, and Otherwise Prepare Record and Mailing

TRANSPORTATION

Aeronautics - Transportation

Convenience Fee (for Credit or Debit Card Payment)	3%

Aircraft Rental

Cessna	195.00
King Air C90B	935.00
King Air B200	1,200.00
King Air 260	1,200.00

DOT Non-Budgetary - Transportation

GRAMA Requests	40.00
Non-sufficient Check Collection	20.00
Non-sufficient Check Service Charge	20.00
Conference Registration	Up to $2,000.00
Conference Exhibitor Booth	Up to $6,000.00
Training and Certification	Up to $1,000.00
Event Coordination, Inspection and Monitoring (Regular Hours)	110.00
Event Coordination, Inspection and Monitoring (Non-regular Hours)	150.00
Special Event Application Review (Single Region)	450.00
Special Event Application Review (Multi-region)	900.00
Expedited Review Fee	1,100.00

Outdoor Advertising

New Permit	950.00
Permit Renewal and Administrative Services Fee	90.00
Permit Renewal Late Fee	300.00
Sign Alteration Permit	950.00
Transfer of Ownership Permit	250.00
Retroactive Permit Fee Penalty	250.00
Impound and Storage Fees	25.00

Utah Small Wireless Facilities Deployment (5G)

New Collocation Fee	100.00

Annual Collocation Fee - - -

Utility Permits

Low Impact	60.00
Medium Impact	250.00
High Impact	550.00
Excess Impact	900.00

Amusement Ride Safety - Transportation

Citations - Operation of an Amusement Ride without a Current Permit 1st Offense (per Violation, per Ride, per Day)	500.00
Citations - Operation of an Amusement Ride without a Current Permit 2nd Offense (per Violation, per Ride, per Day)	-1,000.00
Citations - Failure to Notify Director of Intent to Operate within the State 1st Offense	500.00
Citations - Failure to Notify Director of Intent to Operate within the State 2nd Offense	-1,000.00
Citations - Operation of an Amusement Ride without Proper Liability Insurance 1st Offense (per Violation, per Ride, per Day)	500.00
Citations - Operation of an Amusement Ride without Proper Liability Insurance 2nd Offense (per Violation, per Ride, per Day)	-1,000.00
Citations - Operation of an Amusement Ride without Current Safety Inspection Report 1st Offense (per Violation, per Ride, per Day)	500.00
Citations - Operation of an Amusement Ride without Current Safety Inspection Report 2nd Offense (per Violation, per Ride, per Day)	-1,000.00
Citations - Operation of an Amusement Ride in Violation of a Cease and Desist Order 1st Offense (per Violation, per Ride, per Day)	-1,000.00
Citations - Operation of an Amusement Ride in Violation of a Cease and Desist Order 2nd Offense (per Violation, per Ride, per Day)	-2,500.00
Citations - Failure to Report a Reportable Injury to the Director within Eight Hours after the Owner-operator Learns of the Reportable Serious Injury 1st Offense (per Violation, per Ride, per Day)	-1,000.00
Citations - Failure to Report a Reportable Injury to the Director within Eight Hours after the Owner-operator Learns of the Reportable Serious Injury 2nd Offense (per Violation, per Ride, per Day)	-1,500.00
Citations - Operation of an Amusement Ride by an Unqualified Person 1st Offense (per Violation, per Ride, per Day)	500.00
Citations - Operation of an Amusement Ride by an Unqualified Person 2nd Offense (per Violation, per Ride, per Day)	-1,000.00
Citations - Failure to Maintain Proper Records for an Amusement Ride 1st Offense	500.00
Citations - Failure to Maintain Proper Records for an Amusement Ride 2nd Offense	-1,000.00
Citations - Failure to Report a Serious Physical Injury to Fair, Show, Landlord, or Owner of the Property 1st Offense (per Violation, per Ride, per Day)	500.00
Citations - Failure to Report a Serious Physical Injury to Fair, Show, Landlord, or Owner of the Property 2nd Offense (per Violation, per Ride, per Day)	750.00
Citations - Failure to Update Locations of Operation with Director Prior to Operation 1st Offense (per Violation, per Ride, per Day)	250.00
Citations - Failure to Update Locations of Operation with Director Prior to Operation 2nd Offense (per Violation, per Ride, per Day)	500.00
Citations - Falsifying an Application to the Director 1st Offense	-1,000.00
Citations - Falsifying an Application to the Director 2nd Offense	-1,500.00
Citations - Denying Access to the Director 1st Offense	-1,000.00
Citations - Denying Access to the Director 2nd Offense	-1,500.00
Citations - Other Violations to the Statute or Rules not Listed 2nd Offense	250.00

Annual Amusement Ride Permit

Kiddie Ride	100.00
Non-kiddie Ride	100.00

Annual Inspector Registration

Application Fee	50.00
Renewal Fee (Every Two Years)	40.00

Multi-ride Annual Amusement Ride Permit (for all amusement rides located at an amusement park that employs more than 1,000 individuals in a calendar year)

Permit Fee per Ride

Kiddie Ride	100.00
Non-kiddie Ride	100.00

DEPARTMENT OF GOVERNMENT OPERATIONS - DFCM

DFCM - Department of Government Operations - DFCM

Program Management

Non-state Funded Project Fees

Projects < $99,999 - - -

Price Public Safety	90,897.00
Ogden Juvenile Courts	502,940.00
Garage-Mechanic	70.00
Juab County Court	76,798.00
Archives Building	166,335.00
Department of Government Operations Surplus Property	88,350.00
Capitol Hill Complex	4,302,052.07
Garage-Journey Boiler Operator	108.00
Cedar City Courts	217,777.00
Dixie Drivers License	72,928.00
Fairpark Driver's License Division	61,571.00
Garage-Support Specialist	84.00
Garage-Administrative Staff	85.00
Rio Grande Depot	244,431.35
Brigham City Courts	464,409.00
Heber M. Wells Building	1,391,559.00
Garage-Journey Carpenter	62.96
Garage-Temp Groundskeeper	40.00
Garage-Apprentice Maintenance	84.00
Ogden Radio Shop	16,434.00
Tooele Courts	354,051.00
Vernal Division of Services for People with Disabilities	31,330.00
Taylorsville Center for the Deaf	310,681.60
Unified Lab	977,445.00
State Library	221,121.80
State Library Visually Impaired	137,538.65
State Library State Mail	162,341.55
St. George Tax Commission	64,224.00
Salt Lake Regional Center - 1950 West	250,492.00
Salt Lake Government Building #1	972,934.00
Richfield Courts	183,176.68
Public Safety Depot Ogden	34,822.00
Provo Regional Center	839,011.10
Provo Juvenile Work Crew	96,932.77
Richfield Regional Center	127,720.00
Ogden Courts	644,688.00
Ogden Juvenile Probation	211,134.00
Navajo Trust Fund Administration	194,041.00
Office of Rehabilitation Services	237,416.00
Layton Courts	165,896.00
Moab Regional Center	142,533.00
Logan 1st District Court	491,267.00
Glendinning Fine Arts Center	43,691.00
Division of Services for the Blind and Visually Impaired Training Housing	58,225.00
Farmington 2nd District Courts	631,796.00
Driver License West Valley	107,076.00
Cedar City Regional Center	132,008.00
Adult Probation and Parole Freemont Office Building	269,358.00
Salt Lake Courts Complex	2,478,876.00
Natural Resources Complex	805,458.00
Governor's Mansion	315,712.00
Highland Dr Regional Center	706,126.40
DNR Price	132,625.00
Richfield Dept. of Technology Services Center	52,887.00
St. George Courts	743,938.00
Orem Region Three Department of Transportation	213,420.00
Ogden Regional Center	979,265.27
Murray Highway Patrol	276,738.00
Ogden Public Safety	111,964.00
Orem Public Safety	130,640.00
DCFS - Orem	145,792.00
Natural Resources Richfield (Forestry)	136,508.14
St. George DPS	87,572.00

Department of Public Safety

DPS Crime Lab - - -

Nonprofit, Gov't Nonofficial Business, K-12, and Higher Ed

Kletting Room - - -

Capitol Hill Grounds

Commercial Production Grounds - - -

Armory Rental

Armory Rental Fee - - -

CHAPTER 170
H. B. 16
Passed January 30, 2025
Approved March 25, 2025
Effective May 7, 2025

HEALTH FACILITY ADMINISTRATOR ACT AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill extends the sunset repeal date of the Health Facility Administrator Act.

Highlighted Provisions:

This bill:

► extends the sunset repeal date of the Health Facility Administrator Act to July 1, 2035.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-258, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-258 is amended to read:
63I-1-258. Repeal dates: Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.
(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, [~~2025~~]2035.
(3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.
(4) Section 58-37-3.5, Drugs for behavioral health treatment, is repealed July 1, 2027.
(5) Subsection 58-37-6(7)(f)(iii), regarding a seven-day opiate supply restriction, is repealed July 1, 2032.
(6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2033.
(7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.
(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2033.
(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2034.
(10) Subsection 58-55-201(2), regarding the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.
(11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 171
H. B. 19
Passed February 20, 2025
Approved March 25, 2025
Effective May 7, 2025

CHILD LABOR AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill amends provisions relating to the employment of minors.

Highlighted Provisions:

This bill:

- ► classifies child-labor related acts as different crimes;
- ► requires that the Labor Commission report a suspected criminal act to the State Bureau of Investigation under certain circumstances;
- ► permits the State Bureau of Investigation to investigate or forward a suspected criminal act to law enforcement or a state agency with jurisdiction over the reported criminal act;
- ► allows the commission to share information with law enforcement under certain circumstances; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34-23-402, as last amended by Laws of Utah 2009, Chapter 347

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-23-402 is amended to read:
34-23-402. Violation -- Criminal penalty.

(1) (a) The commission may prosecute a misdemeanor criminal action in the name of the state.

(b) The county attorney, district attorney, or attorney general shall provide assistance in prosecutions under this section at the request of the commission.

(2) [~~It is a class B misdemeanor for a person~~]A person, whether individually or as an officer, agent, or employee of any person, firm, or corporation [~~to~~], violates this section by:

(a) knowingly [~~employ~~]employing a minor or [~~permit~~]permitting a minor to work in a repeated violation of this chapter;

(b) [~~refuse~~]refusing or knowingly [~~neglect~~]neglecting to furnish to the commission, any information requested by the commission under this chapter;

(c) [~~refuse~~]refusing access to that person's place of business or employment to the commission or [~~its~~]the commission's authorized representative when access has been requested in conjunction with an investigation related to this section;

(d) [~~hinder~~]hindering the commission or [~~its~~]the commission's authorized representative in the securing of any information authorized by this section;

(e) [~~refuse~~]refusing or knowingly [~~omit~~]omitting or [~~neglect~~]neglecting to keep any of the records required by this chapter;

(f) knowingly [~~make any~~]making a false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter;

(g) [~~discharge~~]discharging an employee or [~~threaten~~]threatening to or [~~retaliate~~]retaliating against an employee because:

(i) the employee has testified;

(ii) is about to testify; or

(iii) the employer believes that the employee may testify in [~~any~~]an investigation or [~~proceedings~~]proceeding relative to the enforcement of this chapter; [~~and~~]or

(h) willfully [~~violate any~~]violating an order issued under this chapter.

(3) (a) Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a class A misdemeanor if the person has previously been convicted of a violation of Subsection (2).

(c) A violation of Subsection (2) is a third degree felony if the person has previously been convicted of a violation of Subsection (2) two or more times.

(4) (a) If the commission has reasonable suspicion that a person under investigation for a violation of this section may have committed other criminal acts, the commission shall report the commission's observations to the State Bureau of Investigation.

(b) The State Bureau of Investigation may:

(i) investigate a reported violation described in Subsection (4)(a); or

(ii) forward a reported violation described in Subsection (4)(a) to a law enforcement or a state agency with jurisdiction over the reported violation.

(c) The commission shall share any information relating to an offense described in this section with law enforcement.

[~~(3)~~](5) This section does not apply to [~~violations~~]a violation of Section 34-23-301.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 172
H. B. 20
Passed March 5, 2025
Approved March 25, 2025
Effective January 1, 2026

PROPERTY TAX CODE RECODIFICATION

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill recodifies provisions related to relief granted through property tax.

Highlighted Provisions:

This bill:

- ► recodifies:
  - • Title 59, Chapter 2, Part 12, Property Tax Relief;
  - • Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; and
  - • Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- ► creates a General Provisions part that clarifies the procedures and rights available for each type of tax relief; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-109.1, as enacted by Laws of Utah 2024, Chapter 263
59-2-1004.1, as enacted by Laws of Utah 2024, Chapter 263
59-2-1006, as last amended by Laws of Utah 2020, Chapter 86
59-2-1330, as last amended by Laws of Utah 2024, Chapter 258
59-2-1331, as last amended by Laws of Utah 2024, Chapter 263
59-2-1343, as last amended by Laws of Utah 2024, Chapter 263
63G-2-302, as last amended by Laws of Utah 2024, Chapter 234
63J-1-602.2, as last amended by Laws of Utah 2024, Chapters 241, 285, 425, and 467

ENACTS:

59-2a-111, Utah Code Annotated 1953
59-2a-201, Utah Code Annotated 1953
59-2a-302, Utah Code Annotated 1953
59-2a-601, Utah Code Annotated 1953
59-2a-702, Utah Code Annotated 1953
59-2a-802, Utah Code Annotated 1953
59-2a-902, Utah Code Annotated 1953
59-2a-903, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

59-2a-101, (Renumbered from 59-2-1202, as last amended by Laws of Utah 2024, Chapter 279)
59-2a-102, (Renumbered from 59-2-1203, as last amended by Laws of Utah 2021, Chapter 391)
59-2a-103, (Renumbered from 59-2-1211, as last amended by Laws of Utah 2001, Chapters 221, 310)
59-2a-104, (Renumbered from 59-2-1214, as last amended by Laws of Utah 2001, Chapters 221, 310)
59-2a-105, (Renumbered from 59-2-1215, as last amended by Laws of Utah 2001, Chapters 221, 310)
59-2a-106, (Renumbered from 59-2-1217, as renumbered and amended by Laws of Utah 1987, Chapter 4)
59-2a-107, (Renumbered from 59-2-1219, as last amended by Laws of Utah 2001, Chapters 221, 310)
59-2a-108, (Renumbered from 59-2-1220, as last amended by Laws of Utah 2024, Chapter 279)
59-2a-109, (Renumbered from 59-2-1805, as enacted by Laws of Utah 2019, Chapter 453)
59-2a-110, (Renumbered from 59-2-1807, as enacted by Laws of Utah 2023, Chapter 471)
59-2a-202, (Renumbered from 59-2-1204, as last amended by Laws of Utah 1998, Chapter 309)
59-2a-203, (Renumbered from 59-2-1205, as renumbered and amended by Laws of Utah 1987, Chapter 4)
59-2a-204, (Renumbered from 59-2-1213, as renumbered and amended by Laws of Utah 1987, Chapter 4)
59-2a-205, (Renumbered from 59-2-1209, as last amended by Laws of Utah 2024, Chapter 272)
59-2a-206, (Renumbered from 59-2-1216, as last amended by Laws of Utah 1998, Chapter 309)

59-2a-301, (Renumbered from 59-2-1201, as renumbered and amended by Laws of Utah 1987, Chapter 4)
59-2a-303, (Renumbered from 59-2-1206, as last amended by Laws of Utah 2021, Chapter 391)
59-2a-304, (Renumbered from 59-2-1207, as last amended by Laws of Utah 2001, Chapters 221, 310)
59-2a-305, (Renumbered from 59-2-1208, as last amended by Laws of Utah 2021, Chapter 391)
59-2a-401, (Renumbered from 59-2-1803, as last amended by Laws of Utah 2023, Chapter 471)
59-2a-402, (Renumbered from 59-2-1804, as last amended by Laws of Utah 2023, Chapter 354)
59-2a-501, (Renumbered from 59-2-1903, as last amended by Laws of Utah 2023, Chapter 44)
59-2a-502, (Renumbered from 59-2-1904, as last amended by Laws of Utah 2023, Chapter 483)
59-2a-602, (Renumbered from 59-2-1902, as enacted by Laws of Utah 2019, Chapter 453)
59-2a-701, (Renumbered from 59-2-1802, as last amended by Laws of Utah 2024, Chapter 241)
59-2a-801, (Renumbered from 59-2-1802.1, as enacted by Laws of Utah 2024, Chapter 263)
59-2a-901, (Renumbered from 59-2-1802.5, as last amended by Laws of Utah 2024, Chapter 241)

REPEALS:

59-2-1801, as last amended by Laws of Utah 2024, Chapters 241, 263
59-2-1806, as enacted by Laws of Utah 2023, Chapter 354
59-2-1901, as last amended by Laws of Utah 2023, Chapters 329, 461
59-2-1905, as last amended by Laws of Utah 2020, Chapter 354
59-2-1906, as enacted by Laws of Utah 2023, Chapter 471

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-109.1 is amended to read:

59-2-109.1. Burden of proof for an appeal involving property eligible for deferral for 2023.

(1) This section applies to an appeal to the county board of equalization or the commission involving the valuation or equalization of real property that is eligible for a deferral under Section [~~59-2-1802.1~~]59-2a-801 for the calendar year that begins on January 1, 2023.

(2) (a) The party carrying the burden of proof shall demonstrate:

(i) except as provided in Subsection (2)(b), substantial error in:

(A) the adjusted value set by the county assessor in accordance with Section 59-2-303.3 in an appeal to the county board of equalization; or

(B) the value set by the county board of equalization in an appeal to the commission; and

(ii) a sound evidentiary basis to support the value the party requests.

(b) The party carrying the burden of proof does not have to show substantial error as required by Subsection (2)(a)(i) if the party is requesting:

(i) the adjusted value in an appeal to the county board of equalization; or

(ii) the value set by the county board of equalization in an appeal to the commission.

(3) The following shall carry the burden of proof:

(a) the county assessor or the county board of equalization that is a party to the appeal has the burden of proof to support the value the county assessor or the county board of equalization requests; and

(b) the taxpayer that is a party to the appeal has the burden of proof to support the value the taxpayer requests.

Section 2. Section 59-2-1004.1 is amended to read:

59-2-1004.1. Appeals of valuation or equalization of property eligible for deferral for 2023.

(1) (a) Subject to Subsections (2) through (4) and for the calendar year that begins on January 1, 2023, a taxpayer may file an appeal to the commission of the valuation or equalization of real property that is eligible for a deferral under Section [~~59-2-1802.1~~]59-2a-801 for the calendar year that begins on January 1, 2023, if:

(i) the taxpayer filed an appeal of the valuation or equalization of the property with the county board of equalization for the calendar year that begins on January 1, 2023;

(ii) the county board of equalization has issued a decision in accordance with Section 59-2-1004;

(iii) the parties have not entered a stipulation regarding the value of the property; and

(iv) the county board of equalization does not make an adjustment in accordance with Subsection 59-2-303.3.

(b) A taxpayer shall file an appeal to the commission on or before June 30, 2025.

(c) This Subsection (1) does not allow more than one formal adjudicative proceeding by the commission for the calendar year beginning on January 1, 2023.

(2) (a) For the calendar year that begins on January 1, 2023, a taxpayer may file an appeal of the valuation or equalization of real property for which a county assessor makes an adjustment under [~~Subsection~~]Subsection 59-2-303.3(3) for the calendar year that begins on January 1, 2023, in accordance with this Subsection (2).

(b) A taxpayer shall make an appeal under this Subsection (2):

(i) to the county board of equalization; and

(ii) on or before June 30, 2025.

(c) If a taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as described in Section 59-2-1006.

(d) A taxpayer may file an appeal of the valuation or equalization of property under this Subsection (2) regardless of whether:

(i) the taxpayer previously filed an appeal of the valuation or equalization of the property for the calendar year that begins on January 1, 2023;

(ii) the county board of equalization has issued a decision on the appeal in accordance with Section 59-2-1004;

(iii) the commission has issued a decision on the appeal in accordance with Section 59-2-1006;

(iv) the parties have entered a stipulation regarding the value of the property; or

(v) any appeal of the valuation or equalization of the property for the calendar year that begins on January 1, 2023, has been closed.

(3) Except as specifically provided in this section:

(a) an appeal to the county board of equalization shall be filed in accordance with Section 59-2-1004; and

(b) an appeal to the commission shall be filed in accordance with Section 59-2-1006.

(4) For each property eligible to receive a deferral under Section [~~59-2-1802.1~~]59-2a-801, this section may not be interpreted to require a taxpayer to refile:

(a) an application to appeal in accordance with Section 59-2-1004 if an appeal before the county board of equalization is pending for the calendar year that begins on January 1, 2023; or

(b) a notice of appeal in accordance with Section 59-2-1006 if an appeal before the commission is pending for the calendar year that begins on January 1, 2023.

Section 3. Section 59-2-1006 is amended to read:

59-2-1006. Appeal to commission -- Duties of auditor -- Decision by commission.

(1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, or a tax relief decision made under designated decision-making authority as described in Section 59-2-1101 or Chapter 2a, Tax Relief Through Property Tax, may appeal that decision to the commission by:

(a) filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board or entity with designated decision-making authority described in Section 59-2-1101 or Chapter 2a, Tax Relief Through Property Tax; and

(b) if the county assessor valued the property in accordance with Section 59-2-301.8 and the taxpayer intends to contest the value of personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8, submitting a signed statement of the personal property with the notice of appeal.

(2) The auditor shall:

(a) file one notice with the commission;

(b) certify and transmit to the commission:

(i) the minutes of the proceedings of the county board of equalization or entity with designated decision-making authority for the matter appealed;

(ii) all documentary evidence received in that proceeding; and

(iii) a transcript of any testimony taken at that proceeding that was preserved;

(c) if the appeal is from a hearing where an exemption was granted or denied, certify and transmit to the commission the written decision of:

(i) the board of equalization as required by Section 59-2-1102; or

(ii) the entity with designated decision-making authority; and

(d) any signed statement submitted in accordance with Subsection (1)(b).

(3) In reviewing a decision described in Subsection (1), the commission may:

(a) admit additional evidence;

(b) issue orders that it considers to be just and proper; and

(c) make any correction or change in the assessment or order of the county board of equalization or entity with decision-making authority.

(4) In reviewing evidence submitted to the commission to decide an appeal under this section, the commission shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(5) In reviewing a decision described in Subsection (1), the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if:

(a) the issue of equalization of property values is raised; and

(b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.

(6) The commission shall decide all appeals taken pursuant to this section not later than March 1 of the following year for real property and within 90 days for personal property, and shall report its decision, order, or assessment to the county auditor, who shall make all changes necessary to comply with the decision, order, or assessment.

Section 4. Section 59-2-1330 is amended to read:

59-2-1330. Payment of property taxes -- Payments to taxpayer by state or taxing entity -- Refund of penalties paid by taxpayer -- Refund of interest paid by taxpayer -- Payment of interest to taxpayer -- Judgment levy -- Objections to assessments by the commission -- Time periods for making payments to taxpayer.

(1) Unless otherwise specifically provided by statute, property taxes shall be paid directly to the county treasurer:

(a) on the date that the property taxes are due; and

(b) as provided in this chapter.

(2) (a) The county treasurer shall apply a payment that is insufficient to cover both a tax or tax notice charge that is deferred in accordance with [~~Part 18, Tax Deferral and Tax Abatement,~~]Chapter 2a, Part 7, Discretionary Deferral, Chapter 2a, Part 8, Nondiscretionary Deferral for Property with Qualifying Increase, or Chapter 2a, Part 9, Nondiscretionary Deferral for Elderly Property

Owners, and a current year property tax or tax notice charge to the current tax year property tax or tax notice charge first.

(b) The county treasurer shall send notice to the property owner:

(i) that the payment was insufficient;

(ii) that the county applied the payment to the tax or tax notice charges for the current tax year; and

(iii) of the amount of tax and tax notice charge that is outstanding.

(3) A taxpayer shall receive payment as provided in this section if a reduction in the amount of any tax levied against any property for which the taxpayer paid a tax or any portion of a tax under this chapter for a calendar year is required by a final and unappealable judgment or order described in Subsection (4) issued by:

(a) a county board of equalization;

(b) the commission; or

(c) a court of competent jurisdiction.

(4) (a) For purposes of Subsection (3), the state or any taxing entity that has received property taxes or any portion of property taxes from a taxpayer described in Subsection (2) shall pay the taxpayer if:

(i) the taxes the taxpayer paid in accordance with Subsection (3) are collected by an authorized officer of the:

(A) county; or

(B) state; and

(ii) the taxpayer obtains a final and unappealable judgment or order:

(A) from a county board of equalization, the commission, or a court of competent jurisdiction;

(B) against:

(I) the taxing entity or an authorized officer of the taxing entity; or

(II) the state or an authorized officer of the state; and

(C) ordering a reduction in the amount of any tax levied against any property for which a taxpayer paid a tax or any portion of a tax under this chapter for the calendar year.

(b) The amount that the state or a taxing entity shall pay a taxpayer shall be determined in accordance with Subsections (5) through (8).

(5) For purposes of Subsections (3) and (4), the amount the state shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection (5)(a) is greater than $0, the difference between:

(i) the tax the taxpayer paid to the state in accordance with Subsection (3); and

(ii) the amount of the taxpayer's tax liability to the state after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (4);

(b) if the difference described in this Subsection (5)(b) is greater than $0, the difference between:

(i) any penalties the taxpayer paid to the state in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the state in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (4);

(c) as provided in Subsection (7)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections (5)(a) and (5)(b); and

(d) as provided in Subsection (7)(b), interest on the sum of the amounts described in Subsections (5)(a), (5)(b), and (5)(c).

(6) For purposes of Subsections (3) and (4), the amount a taxing entity shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection (6)(a) is greater than $0, the difference between:

(i) the tax the taxpayer paid to the taxing entity in accordance with Subsection (3); and

(ii) the amount of the taxpayer's tax liability to the taxing entity after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (4);

(b) if the difference described in this Subsection (6)(b) is greater than $0, the difference between:

(i) any penalties the taxpayer paid to the taxing entity in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the taxing entity in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (4);

(c) as provided in Subsection (7)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections (6)(a) and (6)(b); and

(d) as provided in Subsection (7)(b), interest on the sum of the amounts described in Subsections (6)(a), (6)(b), and (6)(c).

(7) Except as provided in Subsection (8):

(a) interest shall be refunded to a taxpayer on the amount described in Subsection (5)(c) or (6)(c) in an amount equal to the amount of interest the taxpayer paid in accordance with Section 59-2-1331; and

(b) interest shall be paid to a taxpayer on the amount described in Subsection (5)(d) or (6)(d):

(i) beginning on the later of:

(A) the day on which the taxpayer paid the tax in accordance with Subsection (3); or

(B) January 1 of the calendar year immediately following the calendar year for which the tax was due;

(ii) ending on the day on which the state or a taxing entity pays to the taxpayer the amount required by Subsection (5) or (6); and

(iii) at the interest rate earned by the state treasurer on public funds transferred to the Public Treasurers' Investment Fund as defined in Section 51-7-3.

(8) (a) The state may not pay or refund interest to a taxpayer under Subsection (7) on any tax the taxpayer paid in accordance with Subsection (3) that exceeds the amount of tax levied by the state for that calendar year as stated on the notice required by Section 59-2-1317.

(b) A taxing entity may not pay or refund interest to a taxpayer under Subsection (7) on any tax the taxpayer paid in accordance with Subsection (3) that exceeds the amount of tax levied by the taxing entity for that calendar year as stated on the notice required by Section 59-2-1317.

(9) (a) Each taxing entity may levy a tax to pay the taxing entity's share of the final and unappealable judgment or order described in Subsection (4) if:

(i) the final and unappealable judgment or order is issued no later than 15 days prior to the date the certified tax rate is set under Section 59-2-924;

(ii) the following information is included on the notice under Section 59-2-919.1:

(A) the amount of the judgment levy; and

(B) the term of the judgment levy; and

(iii) the final and unappealable judgment or order is an eligible judgment, as defined in Section 59-2-102.

(b) The levy under Subsection (9)(a) is in addition to, and exempt from, the maximum levy established for the taxing entity.

(c) A taxing entity may divide a judgment levy under this Subsection (9) and impose the judgment levy in more than one subsequent tax year.

(10) (a) A taxpayer that objects to the assessment of property assessed by the commission shall pay, on or before the property tax due date established under Subsection 59-2-1331(1) or Section 59-2-1332, the full amount of taxes stated on the notice required by Section 59-2-1317 if:

(i) the taxpayer has applied to the commission for a hearing in accordance with Section 59-2-1007 on the objection to the assessment; and

(ii) the commission has not issued a written decision on the objection to the assessment in accordance with Section 59-2-1007.

(b) A taxpayer that pays the full amount of taxes due under Subsection (10)(a) is not required to pay penalties or interest on an assessment described in Subsection (10)(a) unless:

(i) a final and unappealable judgment or order establishing that the property described in Subsection (10)(a) has a value greater than the value stated on the notice required by Section 59-2-1317 is issued by:

(A) the commission; or

(B) a court of competent jurisdiction; and

(ii) the taxpayer fails to pay the additional tax liability resulting from the final and unappealable judgment or order described in Subsection (10)(b)(i) within a 45-day period after the county bills the taxpayer for the additional tax liability.

(11) (a) Except as provided in Subsection (11)(b), a payment that is required by this section shall be paid to a taxpayer:

(i) within 120 days after the day on which the final and unappealable judgment or order is issued in accordance with Subsection (4); or

(ii) if a judgment levy is imposed in accordance with Subsection (9):

(A) if the payment to the taxpayer required by this section is $15,000 or more, no later than December 31 of the first year in which the judgment levy is imposed; and

(B) if the payment to the taxpayer required by this section is less than $15,000, within 120 days after the date the final and unappealable judgment or order is issued in accordance with Subsection (4).

(b) A taxpayer may enter into an agreement:

(i) that establishes a time period other than a time period described in Subsection (11)(a) for making a payment to the taxpayer that is required by this section; and

(ii) with:

(A) an authorized officer of a taxing entity for a tax imposed by a taxing entity; or

(B) an authorized officer of the state for a tax imposed by the state.

Section 5. Section 59-2-1331 is amended to read:

59-2-1331. Property tax due date -- Date tax is delinquent -- Penalty -- Interest -- Payments -- Refund of prepayment.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsections (1)(c) and (d), all property taxes, unless otherwise specifically provided for under Section 59-2-1332, or other law, and any tax notice charges, are due on November 30 of each year following the date of levy.

(b) If November 30 falls on a Saturday, Sunday, or holiday:

(i) the date of the next following day that is not a Saturday, Sunday, or holiday shall be substituted in Subsection (1)(a) and Subsection 59-2-1332(1) for November 30; and

(ii) the date of the day occurring 30 days after the date under Subsection (1)(b)(i) shall be substituted in Subsection 59-2-1332(1) for December 30.

(c) If a property tax is paid or postmarked after the due date described in this Subsection (1) the property tax is delinquent.

(d) A county treasurer or other public official, public entity, or public employee may not require the payment of a property tax before the due date described in this Subsection (1).

(2) (a) Except as provided in Subsections (2)(e), (f), and (g)(i), for each parcel, all delinquent taxes and tax notice charges on each separately assessed parcel are subject to a penalty of 2.5% of the amount of the delinquent taxes and tax notice charges or $10, whichever is greater.

(b) Unless the delinquent taxes and tax notice charges, together with the penalty, are paid on or before January 31, the amount of taxes and tax notice charges and penalty shall bear interest on a per annum basis from the January 1 immediately following the delinquency date.

(c) Except as provided in Subsection (2)(d), for purposes of Subsection (2)(b), the interest rate is equal to the sum of:

(i) 6%; and

(ii) the federal funds rate target:

(A) established by the Federal Open [~~Markets~~]Market Committee; and

(B) that exists on the January 1 immediately following the date of delinquency.

(d) The interest rate described in Subsection (2)(c) may not be:

(i) less than 7%; or

(ii) more than 10%.

(e) The penalty described in Subsection (2)(a) is 1% of the amount of the delinquent taxes and tax notice charges or $10, whichever

is greater, if all delinquent taxes, all tax notice charges, and the penalty are paid on or before the January 31 immediately following the delinquency date.

(f) This section does not apply to the costs, charges, and interest rate accruing on any tax notice charge related to an assessment assessed in accordance with:

(i) Title 11, Chapter 42, Assessment Area Act; or

(ii) Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

(g) (i) The county shall waive any penalty or interest for a property granted a deferral in accordance with Section [~~59-2-1802.1~~]59-2a-801 from the day of the delinquency through the end of the deferral period.

(ii) Penalties and interest accrue in accordance with this Subsection (2) on any tax or tax notice charge that is delinquent after the deferral period ends.

(3) (a) If the delinquency exceeds one year, the amount of taxes, tax notice charges, and penalties for that year and all succeeding years shall bear interest until settled in full through redemption or tax sale.

(b) The interest rate to be applied shall be calculated for each year as established under Subsection (2) and shall apply on each individual year's delinquency until paid.

(4) The county treasurer may accept and credit on account against taxes and tax notice charges becoming due during the current year, at any time before or after the tax rates are adopted, but not subsequent to the date of delinquency, either:

(a) payments in amounts of not less than $10; or

(b) the full amount of the unpaid tax and tax notice charges.

(5) (a) At any time before the county treasurer provides the tax notice described in Section 59-2-1317, the county treasurer may refund amounts accepted and credited on account against taxes and tax notice charges becoming due during the current year.

(b) Upon recommendation by the county treasurer, the county legislative body shall adopt rules or ordinances to implement the provisions of this Subsection (5).

Section 6. Section 59-2-1343 is amended to read:

59-2-1343. Tax sale listing.

(1) (a) If any property is not redeemed by March 15 following the lapse of four years from the date when any item in Subsection (1)(b) became delinquent, the county treasurer shall immediately file a listing with the county auditor of all properties whose redemption period is expiring in the nearest forthcoming tax sale to pay all outstanding property taxes and tax notice charges.

(b) Except as provided in Subsection (1)(c), a delinquency of any of the following triggers the tax sale process described in Subsection (1)(a):

(i) property tax; or

(ii) a tax notice charge.

(c) A property tax or a tax notice charge that is deferred in accordance with Section [~~59-2-1802.1~~]59-2a-801 is delinquent only if full payment of the property tax and any tax notice charges is not made before the end of the five-year deferral period.

(2) The listing is known as the "tax sale listing."

Section 7. Section 59-2a-101, which is renumbered from Section 59-2-1202 is renumbered and amended to read:

CHAPTER 2a. TAX RELIEF THROUGH PROPERTY TAX

PART 1. General Provisions

[~~59-2-1202~~]59-2a-101. Definitions.

As used in this [~~part~~]chapter:

(1) "Active component of the United States Armed Forces" means the same as that term is defined in Section 59-10-1027.

(2) "Active duty claimant" means a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who:

(a) performed qualifying active duty military service; and

(b) applies for an exemption described in Part 6, Active Duty Armed Forces Exemption.

(3) "Adjusted taxable value limit" means:

(a) for the calendar year that begins on January 1, 2023, $479,504; or

(b) for each calendar year after the calendar year that begins on January 1, 2023, the amount of the adjusted taxable value limit for the previous year plus an amount calculated by multiplying the amount of the adjusted taxable value limit for the previous year by the actual percent change in the consumer price index during the previous calendar year.

(4) "Claim" means:

(a) a claim for tax abatement described in Subsection (21)(a) or a credit under Part 2, Renter's Credit, or Part 3, Homeowner's Credit;

(b) an exemption under Part 5, Veteran Armed Forces Exemption, or Part 6, Active Duty Armed Forces Exemption; or

(c) an application for an abatement under Part 4, Abatement for Indigent Individuals, or a deferral under Part 7, Discretionary Deferral, Part 8, Nondiscretionary Deferral for Property with Qualifying Increase, or Part 9, Nondiscretionary Deferral for Elderly Property Owners.

[~~(1)~~](5) (a) "Claimant" means a homeowner or renter who:

(i) files a claim under [~~this part~~]Part 2, Renter's Credit, or Part 3, Homeowner's Credit, for a residence;

(ii) is domiciled in this state for the entire calendar year for which a claim for relief is filed [~~under this part~~]; and

(iii) on or before December 31 of the year for which a claim for relief is filed [~~under this part~~], is:

(A) 66 years old or older if the individual was born on or before December 31, 1959; or

(B) 67 years old or older if the individual was born on or after January 1, 1960.

(b) Notwithstanding Subsection [~~(1)(a)~~](5)(a), "claimant" includes a surviving spouse:

(i) regardless of:

(A) the age of the surviving spouse; or

(B) the age of the deceased spouse at the time of death;

(ii) if the surviving spouse meets:

(A) the requirements [~~of this part except for the age requirement;~~]described in Subsections (5)(a)(i) and (5)(a)(ii); and

(B) the income requirements described in Part 2, Renter's Credit, if the surviving spouse is filing a claim for a renter's credit, or Part 3, Homeowner's Credit, if the surviving spouse is filing a claim for a homeowner's credit;

(iii) if the surviving spouse is part of the same household of the deceased spouse at the time of death of the deceased spouse; and

(iv) if the surviving spouse is unmarried at the time the surviving spouse files the claim.

(c) If two or more individuals of a household are able to meet the qualifications for a claimant, [~~they~~]the individuals may determine among them as to who the claimant shall be, but if [~~they~~]the individuals are unable to agree, the matter shall be referred to the county legislative body for a determination of the claimant of an owned residence and to the commission for a determination of the claimant of a rented residence.

[~~(2)~~](6) "Consumer price index [~~housing~~]" means:

(a) for Part 2, Renter's Credit, and Part 3, Homeowner's Credit, the Consumer Price Index - All Urban Consumers, Housing United States Cities Average, published by the Bureau of Labor Statistics of the United States Department of Labor [~~.~~]; and

(b) for the other parts of this chapter, the same as that term is described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(7) "Deceased veteran with a disability" means a deceased individual who was a veteran with a disability at the time the individual died.

(8) "Deferral" means a postponement of a tax due date or a tax notice charge granted in accordance with Section 59-2a-701, 59-2a-801, or 59-2a-901.

(9) "Eligible owner" means an owner of an attached or a detached single-family residence:

(a) (i) who is 75 years old or older on or before December 31 of the year in which the individual applies for a deferral under Part 9, Nondiscretionary Deferral for Elderly Property Owners;

(ii) whose household income does not exceed 200% of the maximum household income certified to a homeowner's credit described in Section 59-2a-305; and

(iii) whose household liquid resources do not exceed 20 times the amount of property taxes levied on the owner's residence for the preceding calendar year; or

(b) that is a trust described in Section 59-2a-109 if the grantor of the trust is an individual described in Subsection (9)(a).

(10) "Eligible property" means property owned by a veteran claimant that is:

(a) the veteran claimant's primary residence, including a residence that the veteran claimant does not reside in because the veteran claimant is admitted as an inpatient at a health care facility as defined in Section 26B-4-501; or

(b) tangible personal property that:

(i) is held exclusively for personal use; and

(ii) is not used in a trade or business.

[~~(3)~~](11) (a) "Gross rent" means rent actually paid in cash or [~~its~~]the cash equivalent solely for the right of occupancy, at [~~arm's-length~~]arm's length, of a residence, exclusive of charges for any utilities, services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the rental agreement.

(b) If a claimant occupies two or more residences in the year, "gross rent" means the total rent paid for the residences during the one-year period for which the renter files a claim under this part.

[~~(4)~~](12) (a) "Homeowner" means:

(i) an individual whose name is listed on the deed of a residence; or

(ii) if a residence is owned in a qualifying trust, an individual who is a grantor, trustor, or settlor or holds another similar role in the trust.

(b) "Homeowner" does not include:

(i) if a residence is owned by any type of entity other than a qualifying trust, an individual who holds an ownership interest in that entity; or

(ii) an individual who is listed on a deed of a residence along with an entity other than a qualifying trust.

[~~(5)~~](13) "Homeowner's credit" means a credit against a claimant's property tax liability.

[~~(6)~~](14) "Household" means the association of individuals who live in the same dwelling, sharing the dwelling's furnishings, facilities, accommodations, and expenses.

[~~(7)~~](15) (a) [~~Except as provided in Subsection (7)(b), "household~~]"Household income" means all income received by all members of a claimant's household in:

(i) for a claimant who owns a residence, the calendar year preceding the calendar year in which property taxes are due; or

(ii) for a claimant who rents a residence, the year for which a claim is filed.

(b) "Household income" does not include income received by a member of a claimant's household who is:

(i) under [~~the age of~~]18 years old; or

(ii) a parent or a grandparent, through blood, marriage, or adoption, of the claimant or the claimant's spouse.

(16) "Household liquid resources" means the following resources that are not included in an individual's household income and held by one or more members of the individual's household:

(a) cash on hand;

(b) money in a checking or savings account;

(c) savings certificates; and

(d) stocks or bonds.

[~~(8)~~](17) "Income" means the sum of:

(a) federal adjusted gross income as defined in Section 62, Internal Revenue Code; and

(b) nontaxable income.

(18) "Indigent individual" means a poor individual as described in Utah Constitution, Article XIII, Section 3, Subsection (4), who:

(a) (i) is 65 years old or older; or

(ii) is less than 65 years old and:

(A) the county finds that extreme hardship would prevail on the individual if the county does not defer or abate the individual's taxes; or

(B) the individual has a disability;

(b) has a total household income of less than the maximum household income certified to a homeowner's credit described in Section 59-2a-305;

(c) resides for at least 10 months of the year in the residence that would be subject to the requested abatement; and

(d) cannot pay the tax assessed on the individual's residence when the tax becomes due.

(19) "Military entity" means:

(a) the United States Department of Veterans Affairs;

(b) an active component of the United States Armed Forces; or

(c) a reserve component of the United States Armed Forces.

[~~(9)~~](20) (a) "Nontaxable income" means amounts excluded from adjusted gross income under the Internal Revenue Code, including:

(i) capital gains;

(ii) loss carry forwards claimed during the taxable year in which a claimant files for relief under this [~~part or Part 18, Tax Deferral and Tax Abatement;~~]chapter;

(iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the residence for which the claimant files for relief under this [~~part or Part 18, Tax Deferral and Tax Abatement;~~]chapter;

(iv) support money received;

(v) nontaxable strike benefits;

(vi) the gross amount of a pension or annuity, including benefits under the Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;

(vii) except for payments described in Subsection [~~(9)(b)(vi)~~](20)(b)(vi), payments received under the Social Security Act;

(viii) state unemployment insurance amounts;

(ix) nontaxable interest received from any source;

(x) workers' compensation;

(xi) the gross amount of "loss of time" insurance; and

(xii) voluntary contributions to a tax-deferred retirement plan.

(b) "Nontaxable income" does not include:

(i) public assistance;

(ii) aid, assistance, or contributions from a tax-exempt nongovernmental source;

(iii) surplus foods;

(iv) relief in kind supplied by a public or private agency;

(v) relief provided under this [~~part or Part 18, Tax Deferral and Tax Abatement;~~]chapter;

(vi) Social Security Disability Income payments received under the Social Security Act;

(vii) federal tax refunds;

(viii) federal child tax credits received under 26 U.S.C. Sec. 24;

(ix) federal earned income tax credits received under 26 U.S.C. Sec. 32;

(x) payments received under a reverse mortgage;

(xi) payments or reimbursements to senior program volunteers under 42 U.S.C. Sec. 5058; or

(xii) gifts or bequests.

[~~(10)~~](21) (a) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest, and charges for service, levied on 35% of the fair market value, as reflected on the assessment roll, of a claimant's residence in this state.

(b) For a mobile home, "property taxes accrued" includes taxes imposed on both the land upon which the home is situated and on the structure of the home itself, whether classified as real property or personal property taxes.

(c) The relief described in Subsection [~~(10)(a)~~](21)(a) constitutes:

(i) a tax abatement for the poor in accordance with Utah Constitution, Article XIII, Section 3; and

(ii) the residential exemption provided for in Section 59-2-103.

(d) For purposes of this Subsection [~~(10)~~](21), property taxes accrued are levied on the lien date.

(e) When a household owns and occupies two or more different residences in this state in the same calendar year, and neither residence is acquired or sold during the calendar year for which relief is claimed under this part, property taxes accrued shall relate only to the residence occupied on the lien date by the household as the household's principal place of residence.

(f) (i) If a residence is an integral part of a large unit such as a farm or a multipurpose or multidwelling building, property taxes accrued shall be calculated on the percentage that the value of the residence is of the total value of the unit.

(ii) For purposes of this Subsection [~~(10)(f)~~](21)(f), "unit" refers to the parcel of property covered by a single tax statement of which the residence is a part.

(22) "Property taxes due" means:

(a) for a claimant:

(i) the taxes due for which the county or the commission grants a tax abatement for the poor described in Subsection (21) or a credit; and

(ii) for the calendar year for which the tax abatement for the poor or credit is granted;

(b) for an indigent individual:

(i) the taxes due for which a county granted an abatement under Section 59-2a-401; and

(ii) for the calendar year for which the county grants the abatement;

(c) for an active duty claimant:

(i) the taxes due for which the county or the commission grants an exemption; and

(ii) for the calendar year for which the exemption is granted; or

(d) for a veteran claimant:

(i) (A) the taxes due for which the county or the commission grants an exemption; and

(B) for the calendar year for which the exemption is granted; and

(ii) a uniform fee on tangible personal property described in Section 59-2-405 that is:

(A) owned by the veteran claimant; and

(B) assessed for the calendar year for which the county grants an exemption.

(23) "Property taxes paid" means an amount equal to the sum of:

(a) the amount of property taxes, and for a veteran claimant, uniform fee, paid for the taxable year for which the individual applied for relief described in this chapter; and

(b) the amount of the relief the county grants under this chapter.

[~~(11)~~](24) "Public assistance" means:

(a) medical assistance provided under Title 26B, Chapter 3, Health Care - Administration and Assistance;

(b) SNAP benefits as defined in Section 35A-1-102;

(c) services or benefits provided under Title 35A, Chapter 3, Employment Support Act; and

(d) foster care maintenance payments provided from the General Fund or under Title IV-E of the Social Security Act.

(25) "Qualifying active duty military service" means at least 200 days, regardless of whether consecutive, in any continuous 365-day period of active duty military service outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, if the days of active duty military service:

(a) were completed in the year before an individual applies for an exemption described in Section 59-2a-601; and

(b) have not previously been counted as qualifying active duty military service for purposes of qualifying for an exemption described in Section 59-2a-601 or applying for the exemption as described in Section 59-2a-602.

(26) "Qualifying disabled veteran claimant" means a veteran claimant who has a 100% service-connected disability rating by the Veterans Benefits Administration that is permanent and total.

(27) "Qualifying increase" means a valuation that is equal to or more than 150% higher than the previous year's valuation for property that:

(a) is county assessed; and

(b) on or after January 1 of the previous year and before January 1 of the current year has not had:

(i) a physical improvement if the fair market value of the physical improvement increases enough to result in the valuation increase solely as a result of the physical improvement;

(ii) a zoning change if the fair market value of the real property increases enough to result in the valuation increase solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases enough to result in the valuation increase solely as a result of the change in the legal description of the real property.

[~~(12)~~](28) "Qualifying trust" means a trust holding title to real or tangible personal property for which an individual:

(a) makes a claim under this part;

(b) proves to the satisfaction of the county that title to the portion of the trust will revest in the individual upon the exercise of a power:

(i) by:

(A) the individual as grantor, trustor, settlor, or in another similar role of the trust;

(B) a nonadverse party; or

(C) both the individual and a nonadverse party; and

(ii) regardless of whether the power is a power:

(A) to revoke;

(B) to terminate;

(C) to alter;

(D) to amend; or

(E) to appoint; and

(c) is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the individual makes the claim.

(29) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or a spouse of any of these individuals.

[~~(13)~~](30) [~~(a)~~] "Rental assistance payment" means any payment that:

[~~(i)~~](a) is made by a:

[~~(A)~~](i) governmental entity;

[~~(B)~~](ii) charitable organization; or

[~~(C)~~](iii) religious organization; and

[~~(ii)~~](b) is specifically designated for the payment of rent of a claimant:

[~~(A)~~](i) for the calendar year for which the claimant seeks a renter's credit under this part; and

[~~(B)~~](ii) regardless of whether the payment is made to the claimant or the landlord.

[~~(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the terms:~~]

[~~(i) "governmental entity";~~]

[~~(ii) "charitable organization"; or~~]

[~~(iii) "religious organization."~~]

(31) "Reserve component of the United States Armed Forces" means the same as that term is defined in Section 59-10-1027.

[~~(14)~~](32) (a) (i) "Residence" means [~~the~~]a dwelling in this state, whether owned or rented, and so much of the land surrounding the dwelling, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home.

(ii) "Residence" includes a dwelling that is:

(A) a part of a multidwelling or multipurpose building and a part of the land upon which the multidwelling or multipurpose building is built; and

(B) a mobile home, manufactured home, or houseboat.

(b) "Residence" does not include personal property such as furniture, furnishings, or appliances.

(c) For purposes of this Subsection [~~(14)~~](32), "owned" includes a vendee in possession under a land contract or one or more joint tenants or tenants in common.

(33) "Statement of disability" means a document:

(a) issued by a military entity; and

(b) that lists the percentage of disability for the veteran with a disability or deceased veteran with a disability.

(34) "Tax notice charge" means the same as that term is defined in Section 59-2-1301.5.

(35) "Veteran claimant" means one of the following individuals who applies for an exemption described in Section 59-2a-501:

(a) a veteran with a disability;

(b) the unmarried surviving spouse of:

(i) a deceased veteran with a disability; or

(ii) a veteran who was killed in action or died in the line of duty; or

(c) a minor orphan of:

(i) a deceased veteran with a disability; or

(ii) a veteran who was killed in action or died in the line of duty.

(36) "Veteran who was killed in action or died in the line of duty" means an individual who was killed in action or died in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, regardless of whether that individual had a disability at the time that individual was killed in action or died in the line of duty.

(37) "Veteran with a disability" means an individual with a disability who, during military training or a military conflict, acquired a disability in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, as determined by a military entity.

Section 8. Section 59-2a-102, which is renumbered from Section 59-2-1203 is renumbered and amended to read:

[~~59-2-1203~~]59-2a-102. Right to file claim -- Death of claimant.

(1) (a) The right to file a claim under this [~~part~~]chapter is personal to the [~~claimant~~]individual eligible to file the claim.

(b) The right to file a claim does not survive the [~~claimant's~~]death of the individual eligible to file the claim.

(c) The right to file a claim may be exercised on behalf of [~~a claimant~~]an individual eligible to file the claim by:

(i) a legal guardian [~~of the claimant~~]; or

(ii) an attorney-in-fact [~~of the claimant~~].

(2) (a) If [~~a claimant~~]an individual dies after having filed a timely claim, the county or the commission shall disburse the amount of the claim [~~shall be disbursed~~]to another member of the household as determined by the commission by rule.

(b) If the [~~claimant~~]individual described in Subsection (2)(a) was the only member of the household, the county or the commission may pay the claim [~~may be paid~~]to the executor or administrator, except that if neither an executor or administrator is appointed and qualified within two years of the filing of the claim, the amount of the claim [~~shall escheat~~]escheats to the state.

(3) If the [~~claimant~~]individual is the grantor, trustor, or settlor of or holds another similar role in a qualifying trust and the [~~claimant~~]individual meets the requirements of [~~this part~~]one or more parts of this chapter, the [~~claimant~~]individual may claim the portion of the credit and be treated as the owner of that portion of the property held in trust.

(4) The relief described in Subsection [~~59-2-1202(10)(a)~~]59-2a-101(21)(a) is in addition to any other exemption or reduction for which a homeowner may be eligible, including the homeowner's credit provided for in Section [~~59-2-1206~~]59-2a-305.

Section 9. Section 59-2a-103, which is renumbered from Section 59-2-1211 is renumbered and amended to read:

[~~59-2-1211~~]59-2a-103. Forms and instructions -- County legislative body authority to adopt rules or ordinances.

(1) The commission shall [~~prescribe and~~]make available suitable forms and instructions for:

(a) [~~claimants~~]individuals filing claims; and

(b) counties.

(2) A county is not required to use the forms and instructions [~~prescribed~~]made available by the commission under Subsection (1) if the county prepares suitable forms and instructions for [~~a claimant~~]an individual filing a claim consistent with:

(a) this chapter; and

(b) rules adopted by the commission.

(3) The county legislative body may adopt rules or ordinances to:

(a) effectuate the property tax relief under this [~~part~~]chapter; and

(b) designate one or more persons to perform the functions given the county under this [~~part~~]chapter.

Section 10. Section 59-2a-104, which is renumbered from Section 59-2-1214 is renumbered and amended to read:

[~~59-2-1214~~]59-2a-104. Redetermination of claim by commission or county.

(1) If, on the audit of any claim filed under this [~~part~~]chapter, the commission or the county determines the amount has been incorrectly determined, the commission or the county shall:

(a) redetermine the claim; and

(b) notify the [~~claimant~~]individual filing the claim of the redetermination and [~~its~~]the reason for the redetermination.

(2) The redetermination provided in Subsection (1)(a) [~~shall be~~]is final unless appealed within 30 days after the day on which the commission or the county provides the notice required by Subsection (1)(b).

Section 11. Section 59-2a-105, which is renumbered from Section 59-2-1215 is renumbered and amended to read:

[~~59-2-1215~~]59-2a-105. Fraudulently or negligently prepared claim -- Penalties and interest.

(1) (a) If the commission or the county determines that a claim is excessive and was filed with fraudulent intent, the commission or the county shall:

(i) disallow the claim [~~shall be disallowed~~]in full;

(ii) cancel the credit [~~shall be cancelled~~]; and

(iii) recover the amount paid or claimed [~~shall be recovered~~]by assessment [~~; and~~]with interest:

[~~(iv) the assessment provided for in Subsection (1)(a)(iii) shall bear interest:~~]

(A) from the date of the claim [~~;~~]until the claim is refunded or repaid; and

[~~(B) until refunded or paid; and~~]

[~~(C)~~](B) at the rate of 1% per month.

[~~(b) The claimant, and any person who assists in the preparation or filing of an excessive claim or supplies information upon which an excessive claim was prepared, with fraudulent intent, is guilty of a class A misdemeanor.~~]

(b) (i) An individual who files an excessive claim, with fraudulent intent, is guilty of a class A misdemeanor.

(ii) An individual who assists in the preparation or filing of an excessive claim or supplies information upon which an excessive claim was prepared, with fraudulent intent, is guilty of a class A misdemeanor.

(2) If the commission or the county determines that a claim is excessive and negligently prepared, the commission or the county shall:

(a) disallow 10% of the corrected claim [~~shall be disallowed~~]; and

(b) recover the proper portion of any amount paid [~~shall be similarly recovered~~]by assessment [~~; and~~]with interest:

(i) from the date of the claim until the claim is refunded or repaid; and

(ii) at the rate of 1% per month.

[~~(c) the assessment provided for in Subsection (2)(b) shall bear interest at 1% per month from the date of payment until refunded or paid.~~]

Section 12. Section 59-2a-106, which is renumbered from Section 59-2-1217 is renumbered and amended to read:

[~~59-2-1217~~]59-2a-106. Denial of relief -- Appeal.

Any person aggrieved by the denial in whole or in part of relief claimed under this [~~part~~]chapter, except when the denial is based upon late filing of claim for relief, may appeal the denial to the commission by filing a [~~petition within 30 days after the denial~~]notice of appeal in accordance with Section 59-2-1006.

Section 13. Section 59-2a-107, which is renumbered from Section 59-2-1219 is renumbered and amended to read:

[~~59-2-1219~~]59-2a-107. Claim disallowed if residence obtained for purpose of receiving benefits.

A claim shall be disallowed if the commission or county finds that the claimant received title to a residence primarily for the purpose of receiving benefits under this [~~part~~]chapter.

Section 14. Section 59-2a-108, which is renumbered from Section 59-2-1220 is renumbered and amended to read:

[~~59-2-1220~~]59-2a-108. Extension of time for filing application -- Rulemaking authority -- County authority to make refunds.

(1) (a) The commission or a county may extend the time for filing an application until December 31 of the year the application is required to be filed if, subject to any rules made by the commission under Subsection (1)(b), the commission or county finds that good cause exists to extend the deadline.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to establish the circumstances under which the commission or a county may, for good cause, extend the deadline for filing an application under Subsection (1)(a).

[~~(2) (a) For purposes of this Subsection (2):~~]

[~~(i) "Abatement" means the amount of property taxes accrued that constitutes a tax abatement for the poor in accordance with Subsection 59-2-1202(10).~~]

[~~(ii) "Credit" means a homeowner's credit or renter's credit authorized by this part.~~]

[~~(iii) "Property taxes due" means the taxes due on a claimant's property:~~]

[~~(A) for which the county or the commission grants an abatement or a credit; and~~]

[~~(B) for the calendar year for which the abatement or credit is granted.~~]

[~~(iv) "Property taxes paid" is an amount equal to the sum of:~~]

[~~(A) the amount of the property taxes paid for the taxable year for which the claimant is applying for the abatement or credit; and~~]

[~~(B) the amount of the abatement or credit the county or the commission grants.~~]

[~~(b) A county or the commission granting an abatement or a credit to a claimant~~]

(2) A county granting an abatement described in Subsection 59-2a-101(21) or to an indigent individual, a homeowner's credit, or an exemption described in Part 5, Veteran Armed Forces Exemption, or Part 6, Active Duty Armed Forces Exemption, shall refund to [~~that~~

~~claimant~~]the recipient of the abatement, homeowner's credit, or exemption an amount equal to the amount by which the [~~claimant's~~]property taxes paid exceed the [~~claimant's~~]property taxes due, if that amount is $1 or more.

Section 15. Section 59-2a-109, which is renumbered from Section 59-2-1805 is renumbered and amended to read:

[~~59-2-1805~~]59-2a-109. Treatment of trusts.

If an applicant for a homeowner's credit, a deferral, or an abatement is the grantor of a trust holding title to real or tangible personal property for which a homeowner's credit, a deferral, or an abatement is claimed, a county may allow the applicant to claim a portion of the homeowner's credit, deferral, or abatement and be treated as the owner of that portion of the property held in trust, if the applicant proves to the satisfaction of the county that:

(1) title to the portion of the trust will revest in the applicant upon the exercise of a power by:

(a) the claimant as grantor of the trust;

(b) a nonadverse party; or

(c) both the claimant and a nonadverse party;

(2) title will revest as described in Subsection (1), regardless of whether the power described in Subsection (1) is a power to revoke, terminate, alter, amend, or appoint;

(3) the applicant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the homeowner's credit, deferral, or abatement; and

(4) the claimant satisfies the requirements described in this [~~part~~]chapter for homeowner's credit, deferral, or abatement.

Section 16. Section 59-2a-110, which is renumbered from Section 59-2-1807 is renumbered and amended to read:

[~~59-2-1807~~]59-2a-110. County legislative body authority to adopt rules or ordinances.

A county legislative body may adopt rules or ordinances to:

(1) effectuate [~~an abatement or exemption~~]a claim under this chapter, other than a claim under Part 2, Renter's Credit; or

(2) designate one or more persons to perform the functions given to the county under this [~~part~~]chapter.

Section 17. Section 59-2a-111 is enacted to read:

59-2a-111. Application of Chapter 2, Property Tax Act.

(1) Unless otherwise provided by this chapter, the relief authorized under this chapter shall be administered, enforced, and interpreted in accordance with Chapter 2, Property Tax Act.

(2) If relief is granted, the county shall collect the tax due in accordance with the collection procedures of Chapter 2, Property Tax Act.

Section 18. Section 59-2a-201 is enacted to read:

PART 2. Renter's Credit

59-2a-201. Purpose.

(1) The purpose of this part is to provide general tax relief for certain persons who rent their places of residence through a system of tax credits, refunds, and appropriations from the General Fund.

(2) The relief is to offset in part the general tax burden, a significant portion of which, directly or indirectly, is represented by property tax.

(3) (a) Accordingly, the tax relief provided by this part is determined in part by reference to the property tax assessment and collection mechanisms, but is not limited to property tax relief nor is the tax relief formulated upon the Legislature's power to relieve property taxes.

(b) The tax relief is for the general relief of all taxes.

Section 19. Section 59-2a-202, which is renumbered from Section 59-2-1204 is renumbered and amended to read:

[~~59-2-1204~~]59-2a-202. Renter's credit authorized -- No interest allowed.

(1) [~~If a claimant who owns a residence files an application for a homeowner's credit under Section 59-2-1206 and meets the requirements of this part, the claimant's property tax liability for the calendar year is equal to property taxes accrued.~~]A claimant who rents a residence and meets the requirements of this part may receive a renter's credit.

(2) [~~(a)~~] A claimant [~~meeting~~]who meets the requirements of this part and Part 3, Homeowner's Credit, may claim in any year [~~either~~]a renter's credit under Section [~~59-2-1209~~]59-2a-205, a homeowner's credit as provided under [~~Section 59-2-1208~~]Part 3, Homeowner's Credit, or both.

[~~(b) If a claimant who owns a residence claims a credit under Subsection (2)(a), the credit shall be applied against the claimant's property taxes accrued.~~]

(3) Interest is not allowed on any payment made to a [~~renter's or homeowner's credit~~]claimant under this part.

Section 20. Section 59-2a-203, which is renumbered from Section 59-2-1205 is renumbered and amended to read:

[~~59-2-1205~~]59-2a-203. Time for filing claim for renter's credit -- One claimant per household per year.

(1) [~~No claim with respect to a renter's credit may be paid or allowed~~]The commission may not allow or pay a renter's credit unless the claim is actually filed with, and in the possession of, the commission on or before December 31 of each calendar year.

(2) Only one claimant per household per calendar year is entitled to payment under this part.

Section 21. Section 59-2a-204, which is renumbered from Section 59-2-1213 is renumbered and amended to read:

[~~59-2-1213~~]59-2a-204. Statement required of renter claimant.

Every [~~renter claimant under this part~~]claimant shall supply to the commission, in support of the claim, a statement showing reasonable proof of rent paid, the name and address of the owner or managing agent of the property rented, and any changes of residence.

Section 22. Section 59-2a-205, which is renumbered from Section 59-2-1209 is renumbered and amended to read:

[~~59-2-1209~~]59-2a-205. Amount of renter's credit -- Cost-of-living adjustment -- Prohibition on credit for rental assistance payment -- Calculation of credit when rent includes utilities -- Limitation -- General Fund as source of credit -- Maximum credit.

(1) (a) Subject to Subsections (2) and (3), for a calendar year beginning on or after January 1, [~~2021~~]2024, a claimant may claim a renter's credit for the previous calendar year that does not exceed the following amounts:

If household income is	Percentage of gross rent allowed as a credit
$0 -- [~~$11,785~~]$13,884	9.5%
[~~$11,786 -- $15,716~~]$13,885 -- $18,515	8.5%
[~~$15,717 -- $19,643~~]$18,516 -- $23,141	7.0%
[~~$19,644 -- $23,572~~]$23,142 -- $27,770	5.5%
[~~$23,573 -- $27,503~~]$27,771 -- $32,401	4.0%
[~~$27,504 -- $31,198~~]$32,402 -- $36,754	3.0%
[~~$31,199 -- $34,666~~]$36,755 -- $40,840	2.5%

(b) For a calendar year beginning on or after January 1, [~~2022~~]2025, the commission shall increase or decrease the household income eligibility amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the [~~Consumer Price Index housing~~]consumer price index for the preceding calendar year and the [~~Consumer Price Index housing~~]consumer price index for calendar year [~~2020~~]2023.

(2) (a) A claimant may claim a renter's credit under this part only for gross rent that does not constitute a rental assistance payment.

(b) For purposes of determining whether a claimant receives a rental assistance payment and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the terms:

(i) "governmental entity";

(ii) "charitable organization"; or

(iii) "religious organization."

(3) For purposes of calculating gross rent when a claimant's rent includes electricity or natural gas and the utility amount is not itemized in the statement provided in accordance with Section [~~59-2-1213~~]59-2a-204, the commission shall deduct from rent:

(a) 7% of rent if the rent includes electricity or natural gas but not both; or

(b) 13% of rent if the rent includes both electricity and natural gas.

(4) An individual may not receive the renter's credit under this section if the individual is:

(a) claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section; or

(b) a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section.

(5) A payment for a renter's credit allowed by this section, and [~~provided for in Section 59-2-1204~~]authorized by Section 59-2a-202, shall be paid from the General Fund.

(6) A credit under this section may not exceed the maximum amount allowed as a homeowner's credit for each income bracket under Section [~~59-2-1208~~]59-2a-305.

Section 23. Section 59-2a-206, which is renumbered from Section 59-2-1216 is renumbered and amended to read:

[~~59-2-1216~~]59-2a-206. Determination of rent when not arm's-length transaction.

If a homestead is rented by a person from another person under circumstances deemed by the commission to be not at [~~arm's-length~~]arm's length, the commission may determine rent as at [~~arm's-length~~]arm's length, and the determination [~~shall be~~]is final unless appealed within 30 days after the day on which the commission determines the rent at arm's length.

Section 24. Section 59-2a-301, which is renumbered from Section 59-2-1201 is renumbered and amended to read:

PART 3. Homeowner's Credit

[~~59-2-1201~~]59-2a-301. Purpose of part.

(1) The purpose of this part is to provide general property tax relief for certain persons who own [~~or rent~~]their places of residence through a system of tax credits, refunds, and appropriations from the General Fund.

(2) The relief is to offset in part the general tax burden, a significant portion of which, directly or indirectly, is represented by property tax.

(3) (a) Accordingly, the tax relief provided by this part is determined in part by reference to the property tax assessment and collection mechanisms, but [~~, however,~~] is not limited to property tax relief nor is [~~it~~]the tax relief formulated upon the Legislature's power to relieve [~~those~~]property taxes.

(b) [~~It~~]The tax relief is for the general relief of all taxes.

Section 25. Section 59-2a-302 is enacted to read:

59-2a-302. Homeowner's credit authorized -- No interest allowed.

(1) If a claimant who owns a residence meets the requirements of this part, the claimant's property tax liability for the calendar year is equal to property taxes accrued.

(2) (a) A claimant meeting the requirements of this part and Part 2, Renter's Credit, may claim in any year a renter's credit under Part 2, Renter's Credit, a homeowner's credit as provided under Section 59-2a-305, or both.

(b) If a claimant who owns a residence claims a credit under Subsection (2)(a), the county shall apply the credit against the claimant's property taxes accrued.

(3) Interest is not allowed on any payment made to a claimant under this part.

Section 26. Section 59-2a-303, which is renumbered from Section 59-2-1206 is renumbered and amended to read:
[~~59-2-1206~~]59-2a-303. Application for homeowner's credit -- Time for filing -- Obtaining payment from General Fund.

(1) (a) A claimant [~~applying for a homeowner's credit~~]shall file annually an application for the credit with the county in which the residence for which the claimant is seeking a homeowner's credit is located before September 1.

(b) The application under this section shall:

(i) be on forms provided by the county that meet the requirements of [~~Section 59-2-1211~~]Subsection 59-2a-103(3); and

(ii) include a household income statement signed by the claimant stating that:

(A) the income statement is correct; and

(B) the claimant qualifies for the credit.

(c) (i) Subject to Subsection (1)(c)(ii), a county shall apply the credit in accordance with this section and Section [~~59-2-1207~~]59-2a-304 for the year in which the claimant applies for a homeowner's credit if the claimant meets the criteria for obtaining a homeowner's credit as provided in this part.

(ii) A homeowner's credit under this part may not exceed the claimant's property tax liability for the residence for the year in which the claimant applies for a homeowner's credit under this part.

(d) A claimant may qualify for a homeowner's credit under this part regardless of whether the claimant owes delinquent property taxes.

(2) (a) (i) The county shall compile a list of claimants and the homeowner's credits granted to the claimants for purposes of obtaining payment from the General Fund for the amount of credits granted.

(ii) A county may not obtain payment from the General Fund for the amount described in Subsection [~~59-2-1202(10)~~]59-2a-101(21).

(b) Upon certification by the commission the payment for the credits under this Subsection (2) shall be made to the county on or before January 1 if the list of claimants and the credits granted are received by the commission on or before November 30 of the year in which the credits under this part are granted.

(c) If the commission does not receive the list under this Subsection (2) on or before November 30, payment shall be made within 30 days of receipt of the list of claimants and credits from the county.

Section 27. Section 59-2a-304, which is renumbered from Section 59-2-1207 is renumbered and amended to read:
[~~59-2-1207~~]59-2a-304. Claim applied against tax liability -- One claimant per household per year.

(1) A county shall apply as provided in Subsection [~~59-2-1206(1)(c)~~]59-2a-303 the amount of a credit under this part against:

(a) a claimant's property tax liability; or

(b) the property tax liability of a spouse who was a member of the claimant's household in the year in which the claimant applies for a homeowner's credit under this part.

(2) Only one claimant per household per year is entitled to payment under this part.

Section 28. Section 59-2a-305, which is renumbered from Section 59-2-1208 is renumbered and amended to read:
[~~59-2-1208~~]59-2a-305. Amount of homeowner's credit -- Cost-of-living adjustment -- Limitation -- General Fund as source of credit.

(1) (a) Subject to [~~Subsections (2) and (4)~~]Subsection (2), for a calendar year beginning on or after January 1, [~~2021~~]2024, a claimant may claim a homeowner's credit that does not exceed the following amounts:

If household income is	Homeowner's credit
$0 -- [~~$11,785~~]$13,884	[~~$1,027~~]$1,259
[~~$11,786 -- $15,716~~]$13,885 -- $18,515	[~~$896~~]$1,105
[~~$15,717 -- $19,643~~]$18,516 -- $23,141	[~~$768~~]$954
[~~$19,644 -- $23,572~~]$23,142 -- $27,770	[~~$575~~]$726
[~~$23,573 -- $27,503~~]$27,771 -- $32,401	[~~$448~~]$577
[~~$27,504 -- $31,198~~]$32,402 -- $36,754	[~~$256~~]$351
[~~$31,199 -- $34,666~~]$36,755 -- $40,840	[~~$126~~]$197

(b) For a calendar year beginning on or after January 1, [~~2022~~]2025, the commission shall increase or decrease the household income eligibility amounts and the credits under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index [~~housing~~]for the preceding calendar year and the consumer price index [~~housing~~]for calendar year [~~2020~~]2023.

(2) (a) An individual may not receive the homeowner's credit under this section or the [~~tax relief~~]abatement described in Subsection [~~59-2-1202(10)(a)~~]59-2a-101(21) on 20% of the fair market value of the residence if:

(i) the individual is claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the homeowner's credit under this section;

(ii) the individual is a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the homeowner's credit under this section; or

(iii) the individual did not own the residence for the entire calendar year for which the individual claims the homeowner's credit.

(b) For a calendar year in which a residence is sold, the amount received as a homeowner's credit under this section or as [~~tax relief~~]an abatement described in Subsection [~~59-2-1202(10)(a)~~]59-2a-101(21) on 20% of the fair market value of the residence shall be repaid to the county on or before the day on which the sale of the residence closes.

(3) A payment for a homeowner's credit allowed by this section, and [~~provided for in Section 59-2-1204~~]authorized by Section 59-2a-302, shall be paid from the General Fund.

(4) [~~For a calendar year that begins on or after January 1, 2018, after~~]After the commission has adjusted the homeowner credit amount under Subsection (1)(b), the commission shall increase each homeowner credit amount under Subsection (1) by [~~the following amounts:~~]$49.

[~~(a) for a calendar year that begins on January 1, 2018, $14;~~]

[~~(b) for a calendar year that begins on January 1, 2019, $22;~~]

[~~(c) for a calendar year that begins on January 1, 2020, $31;~~]

[~~(d) for a calendar year that begins on January 1, 2021, $40; and~~]

[~~(e) for a calendar year that begins on or after January 1, 2022, $49.~~]

Section 29. Section 59-2a-401, which is renumbered from Section 59-2-1803 is renumbered and amended to read:

PART 4. Abatement for Indigent Individuals

[~~59-2-1803~~]59-2a-401. Tax abatement for indigent individuals -- Maximum amount.

[~~(1)~~] In accordance with this part, a county may remit or abate the taxes of an indigent individual:

[~~(a)~~](1) if the indigent individual owned the property as of January 1 of the year for which the county remits or abates the taxes; and

[~~(b)~~](2) in an amount not more than the lesser of:

[~~(i)~~](a) the amount provided as a homeowner's credit for the lowest household income bracket as described in Section [~~59-2-1208~~]59-2a-305; or

[~~(ii)~~](b) 50% of the total tax levied for the indigent individual for the current year.

[~~(2) A county that grants an abatement to an indigent individual shall refund to the indigent individual an amount that is equal to the amount by which the indigent individual's property taxes paid exceed the indigent individual's property taxes due, if the amount is at least $1.~~]

Section 30. Section 59-2a-402, which is renumbered from Section 59-2-1804 is renumbered and amended to read:

[~~59-2-1804~~]59-2a-402. Application -- Rulemaking.

(1) (a) Except as provided in Section 59-2a-108 or Subsection [~~(1)(b) or~~](2), an applicant for [~~deferral or~~]abatement for the current tax year shall annually file an application on or before September 1 with the county in which the applicant's property is located.

[~~(b) If a county finds good cause exists, the county may extend until December 31 the deadline described in Subsection (1)(a).~~]

[~~(c)~~](b) An indigent individual may apply and potentially qualify for deferral under Part 7, Discretionary Deferral, Part 8, Nondiscretionary Deferral for Property with Qualifying Increase, or Part 9, Nondiscretionary Abatement for Elderly Property Owners, abatement, or both.

(2) [~~(a)~~] A county shall extend the [~~default~~]September 1 application deadline by one additional year if [~~the applicant had been approved for a deferral under this part in the prior year; or~~]the county determines that:

[~~(b) the county determines that:~~]

[~~(i)~~](a) the applicant or a member of the applicant's immediate family had an illness or injury that prevented the applicant from filing the application on or before the [~~default~~]September 1 application deadline;

[~~(ii)~~](b) a member of the applicant's immediate family died during the calendar year of the [~~default~~]September 1 application deadline;

[~~(iii)~~](c) the failure of the applicant to file the application on or before the [~~default~~]September 1 application deadline was beyond the reasonable control of the applicant; or

[~~(iv)~~](d) denial of an application would be unjust or unreasonable.

(3) [~~(a)~~] An applicant shall include in an application a signed statement that describes the eligibility of the applicant for [~~deferral or~~]abatement.

[~~(b) For an application for a deferral under Section 59-2-1802.5, the requirements described in Subsection (3)(a) include:~~]

[~~(i) proof that the applicant resides at the single-family residence for which the applicant seeks the deferral;~~]

[~~(ii) proof of age; and~~]

[~~(iii) proof of household income.~~]

(4) Both spouses shall sign an application if the application seeks [~~a deferral or~~]an abatement on a residence:

(a) in which both spouses reside; and

(b) that the spouses own as joint tenants.

[~~(5) If an applicant is dissatisfied with a county's decision on the applicant's application for deferral or abatement, the applicant may appeal the decision to the commission in accordance with Section 59-2-1006.~~]

[~~(6)~~](5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 31. Section 59-2a-501, which is renumbered from Section 59-2-1903 is renumbered and amended to read:

PART 5. Veteran Armed Forces Exemption

[~~59-2-1903~~]59-2a-501. Veteran armed forces exemption amount.

[~~(1) As used in this section, "eligible property" means property owned by a veteran claimant that is:~~]

[~~(a) the veteran claimant's primary residence; or~~]

[~~(b) tangible personal property that:~~]

[~~(i) is held exclusively for personal use; and~~]

[~~(ii) is not used in a trade or business.~~]

[~~(2)~~](1) In accordance with this part, the amount of taxable value of eligible property described in Subsection [~~(3) or (4)~~](2) or (3) is exempt from taxation if the eligible property is owned by a veteran claimant.

[~~(3)~~](2) (a) Except as provided in Subsection [~~(4) and in accordance with this Subsection (3)~~](3), the amount of taxable value of eligible property that is exempt under Subsection [~~(2)~~](1) is equal to the percentage of disability described in the statement of disability multiplied by the adjusted taxable value limit.

(b) The amount of an exemption calculated under Subsection [~~(3)(a)~~](2)(a) may not exceed the taxable value of the eligible property.

(c) A county shall consider a veteran with a disability to have a 100% disability, regardless of the percentage of disability described on the statement of disability, if the United States Department of Veterans Affairs certifies the veteran in the classification of individual unemployability.

(d) A county may not allow an exemption claimed under this section if the percentage of disability listed on the statement of disability is less than 10%.

[~~(4)~~](3) The amount of taxable value of eligible property that is exempt under Subsection [~~(2)~~](1) is equal to the total taxable value of the veteran claimant's eligible property if the property is owned by:

(a) the unmarried surviving spouse of a veteran who was killed in action or died in the line of duty;

(b) a minor orphan of a veteran who was killed in action or died in the line of duty; or

(c) the unmarried surviving spouse or minor orphan of a deceased veteran with a disability:

(i) who served in the military service of the United States or the state prior to January 1, 1921; and

(ii) whose percentage of disability described in the statement of disability is 10% or more.

[~~(5)~~](4) For purposes of this section and Section [~~59-2-1904~~]59-2a-502, an individual who received an honorable or general discharge from military service of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces:

(a) is presumed to be a citizen of the United States; and

(b) may not be required to provide additional proof of citizenship to establish that the individual is a citizen of the United States.

[~~(6)~~](5) The Department of Veterans and Military Affairs created in Section 71A-1-201shall, through an informal hearing held in accordance with Title 63G, Chapter 4, Administrative Procedures Act, resolve each dispute arising under this section concerning an individual's status as a veteran with a disability.

Section 32. Section 59-2a-502, which is renumbered from Section 59-2-1904 is renumbered and amended to read:

[~~59-2-1904~~]59-2a-502. Application -- Rulemaking authority.

[~~(1) As used in this section:~~]

[~~(a) "Default application deadline" means the application deadline described in Subsection (3)(a).~~]

[~~(b) "Qualifying disabled veteran claimant" means a veteran claimant who has a 100% service-connected disability rating by the Veterans Benefits Administration that is permanent and total.~~]

[~~(2)~~](1) A veteran claimant may claim an exemption in accordance with Section [~~59-2-1903~~]59-2a-501 and this section if the veteran claimant owns the property eligible for the exemption at any time during the calendar year for which the veteran claimant claims the exemption.

[~~(3)~~](2) (a) Except as provided in Section 59-2a-108 or Subsection [~~(4), (5), or (7)~~](3) or (5), a veteran claimant shall file, on or before September 1 of the calendar year for which the veteran claimant is applying for the exemption, an application for an exemption described in Section [~~59-2-1903~~]59-2a-501 with the county in which the veteran claimant resides on September 1 of that calendar year.

(b) An application described in Subsection [~~(3)(a)~~](2)(a) shall include:

(i) a copy of the veteran's certificate of discharge from military service or other satisfactory evidence of eligible military service; and

(ii) for an application submitted under the circumstances described in Subsection [~~(5)(a)~~](4)(a), a statement, issued by a military entity, that gives the date on which the written decision described in Subsection [~~(5)(a)~~](4)(a) takes effect.

(c) A veteran claimant who is claiming an exemption for a veteran with a disability or a deceased veteran with a disability [~~:~~] shall ensure that, as part of the application described in this Subsection [~~(3)~~](2), the county has on file, for the veteran related to the exemption, a statement of disability [~~:~~].

[~~(i) issued by a military entity; and~~]

[~~(ii) that lists the percentage of disability for the veteran with a disability or deceased veteran with a disability.~~]

(d) If a veteran claimant is in compliance with Subsection [~~(3)(c)~~](2)(c), a county may not require the veteran claimant to file another statement of disability, except under the following circumstances:

(i) the percentage of disability has changed for the veteran with a disability or the deceased veteran with a disability; or

(ii) the veteran claimant is not the same individual who filed an application for the exemption for the calendar year immediately preceding the current calendar year.

(e) A county that receives an application described in Subsection [~~(3)(a)~~](2)(a) shall, within 30 days after the day on which the county received the application, provide the veteran claimant with a receipt that states that the county received the veteran claimant's application.

[~~(4) A county may extend the default application deadline for an initial or amended application until December 31 of the year for which the veteran claimant is applying for the exemption if the county finds that good cause exists to extend the default application deadline.~~]

[~~(5)~~](3) A county shall extend the [~~default~~]September 1 application deadline by one additional year if, on or after January 4, 2004:

(a) a military entity issues a written decision that:

(i) (A) for a potential claimant who is a living veteran, determines the veteran is a veteran with a disability; or

(B) for a potential claimant who is the unmarried surviving spouse or minor orphan of a deceased veteran, determines the deceased veteran was a deceased veteran with a disability at the time the deceased veteran with a disability died; and

(ii) takes effect in a year before the current calendar year; or

(b) the county legislative body determines that:

(i) the veteran claimant or a member of the veteran claimant's immediate family had an illness or injury that prevented the veteran claimant from filing the application on or before the [~~default~~]September 1 application deadline;

(ii) a member of the veteran claimant's immediate family died during the calendar year of the [~~default~~]September 1 application deadline;

(iii) the veteran claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year of the [~~default~~]September 1 application deadline; or

(iv) the failure of the veteran claimant to file the application on or before the [~~default~~]September 1 application deadline:

(A) would be against equity or good conscience; and

(B) was beyond the reasonable control of the veteran claimant.

[~~(6)~~](4) (a) A county shall allow a veteran claimant to amend an application described in Subsection [~~(3)(a)~~](2)(b) after the [~~default~~]application deadline if, on or after January 4, 2004, a military entity issues a written decision:

(i) that the percentage of disability has changed:

(A) for a veteran with a disability, if the veteran with a disability is the veteran claimant; or

(B) for a deceased veteran with a disability, if the claimant is the unmarried surviving spouse or minor orphan of a deceased veteran with a disability; and

(ii) that takes effect in a year before the current calendar year.

(b) A veteran claimant who files an amended application under Subsection [~~(6)(a)~~](4)(a)shall include a statement, issued by a military entity, that gives the date on which the written decision described in Subsection [~~(6)(a)~~](4)(a) takes effect.

[~~(7)~~](5) (a) A qualifying disabled veteran claimant may submit an application described in Subsection [~~(3)(b)~~](2)(b) before the qualifying disabled veteran claimant owns a residence if the qualifying disabled veteran claimant:

(i) intends to purchase the residence as evidenced by a real estate purchase contract or similar documentation;

(ii) files the application in the county where the residence that the qualifying disabled veteran claimant intends to purchase is located; and

(iii) intends to use the residence as the qualifying disabled veteran claimant's primary residence.

(b) (i) The county shall process the application and send the qualifying disabled veteran claimant a receipt, which shall also include documentation that:

(A) the application is preliminarily approved or denied; and

(B) if the application is preliminarily approved, the amount of the qualifying disabled veteran claimant's tax exemption calculated in accordance with Section [~~59-2-1903~~]59-2a-501.

(ii) The county shall provide the receipt within 15 business days after the day on which the county received the application.

[~~(8)~~](6) After issuing the receipt described in Subsection [~~(3)(c) or (7)(b)~~](2)(e) or (5)(b), a county may not require a veteran claimant to file another application under Subsection [~~(3)(a) or (7)(a)~~](2) or (5), except under the following circumstances relating to the veteran claimant:

(a) the veteran claimant applies all or a portion of an exemption to tangible personal property;

(b) the percentage of disability changes for a veteran with a disability or a deceased veteran with a disability;

(c) the veteran with a disability dies;

(d) a change in the veteran claimant's ownership of the veteran claimant's primary residence;

(e) a change in the veteran claimant's occupancy of the primary residence for which the veteran claimant claims an exemption under this section; or

(f) for an exemption relating to a deceased veteran with a disability or a veteran who was killed in action or died in the line of duty, the veteran claimant is not the same individual who filed an application for the exemption for the calendar year immediately preceding the current calendar year.

[~~(9) If a veteran claimant is the grantor of a trust holding title to real or tangible personal property for which an exemption described in Section 59-2-1903 is claimed, a county may allow the veteran claimant to claim a portion of the exemption and be treated as the owner of that portion of the property held in trust, if the veteran claimant proves to the satisfaction of the county that:~~]

[~~(a) title to the portion of the trust will revest in the veteran claimant upon the exercise of a power by:~~]

[~~(i) the veteran claimant as grantor of the trust;~~]

[~~(ii) a nonadverse party; or~~]

[~~(iii) both the veteran claimant and a nonadverse party;~~]

[~~(b) title will revest as described in Subsection (9)(a), regardless of whether the power described in Subsection (9)(a) is a power to revoke, terminate, alter, amend, or appoint; and~~]

[~~(c) the veteran claimant satisfies the requirements described in this part for the exemption described in Section 59-2-1903.~~]

[~~(10)~~](7) A county may verify that real property for which a veteran claimant applies for an exemption is the veteran claimant's primary residence.

[~~(11)~~](8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, by rule:

(a) establish procedures and requirements for amending an application described in Subsection [~~(3)(a)~~](2);

(b) for purposes of Subsection [~~(5)(b)~~](3)(b), define the terms:

(i) "immediate family"; or

(ii) "physically present";

(c) for purposes of Subsection [~~(5)(b)~~](3)(b), provide the circumstances under which the failure of a veteran claimant to file an application on or before the [~~default~~]September 1 application deadline:

(i) would be against equity or good conscience; and

(ii) is beyond the reasonable control of a veteran claimant; or

(d) for purposes of Subsection [~~(7)(a)~~](5)(a), establish the type of documentation that is evidence of intent to purchase.

Section 33. Section 59-2a-601 is enacted to read:

PART 6. Active Duty Armed Forces Exemption

59-2a-601. Active duty armed forces exemption amount.

(1) The total taxable value of an active duty claimant's primary residence is exempt from taxation for the calendar year after the year in which the active duty claimant completed qualifying military service.

(2) An active duty claimant may claim an exemption in accordance with this section if the active duty claimant owns the property

eligible for the exemption at any time during the calendar year for which the active duty claimant claims the exemption.

Section 34. Section 59-2a-602, which is renumbered from Section 59-2-1902 is renumbered and amended to read:
[~~59-2-1902~~]59-2a-602. Application -- Rulemaking authority.

[~~(1) As used in this section, "default application deadline" means the application deadline described in Subsection (4)(a).~~]

[~~(2) (a) The total taxable value of an active duty claimant's primary residence is exempt from taxation for the calendar year after the year in which the active duty claimant completed qualifying military service.~~]

[~~(b) An active duty claimant may claim an exemption in accordance with this section if the active duty claimant owns the property eligible for the exemption at any time during the calendar year for which the active duty claimant claims the exemption.~~]

[~~(3)~~](1) An active duty claimant shall:

(a) file an application as described in Subsection [~~(4)~~](2) in the year after the year during which the active duty claimant completes the qualifying active duty military service; and

(b) if the active duty claimant meets the requirements of this section, claim one exemption only in the year the active duty claimant files the application.

[~~(4)~~](2) (a) Except as provided in Section 59-2a-108 or Subsection [~~(5) or (6)~~](3), an active duty claimant shall, on or before September 1 of the calendar year for which the active duty claimant is applying for the exemption, file an application for an exemption with the county in which the active duty claimant resides on September 1 of that calendar year.

(b) An application described in Subsection [~~(4)(a)~~](2)(a) shall include:

(i) a completed travel voucher or other satisfactory evidence of eligible military service; and

(ii) a statement that lists the dates on which the 200 days of qualifying active duty military service began and ended.

(c) A county that receives an application described in Subsection [~~(4)(a)~~](2)(a) shall, within 30 days after the day on which the county received the application, provide the active duty claimant with a receipt that states that the county received the active duty claimant's application.

[~~(5) A county may extend the default application deadline for an application described in Subsection (4)(a) until December 31 of the year for which the active duty claimant is applying for the exemption if the county finds that good cause exists to extend the default application deadline.~~]

[~~(6)~~](3) A county shall extend the [~~default~~]September 1 application deadline by one additional year if the county legislative body determines that:

(a) the active duty claimant or a member of the active duty claimant's immediate family had an illness or injury that prevented the active duty claimant from filing the application on or before the [~~default~~]September 1 application deadline;

(b) a member of the active duty claimant's immediate family died during the calendar year of the [~~default~~]September 1 application deadline;

(c) the active duty claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year of the [~~default~~]September 1 application deadline; or

(d) the failure of the active duty claimant to file the application on or before the [~~default~~]September 1 application deadline:

(i) would be against equity or good conscience; and

(ii) was beyond the reasonable control of the active duty claimant.

[~~(7)~~](4) After issuing the receipt described in Subsection [~~(4)(c)~~](2)(c), a county may not require an active duty claimant to file another application under Subsection [~~(4)(a)~~](2)(a), except under the following circumstances:

(a) a change in the active duty claimant's ownership of the active duty claimant's primary residence; or

(b) a change in the active duty claimant's occupancy of the primary residence for which the active duty claimant claims an exemption under this section.

[~~(8)~~](5) A county may verify that real property for which an active duty claimant applies for an exemption is the active duty claimant's primary residence.

[~~(9)~~](6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(a) establish procedures and requirements for amending an application described in Subsection [~~(4)~~](2);

(b) for purposes of Subsection [~~(6)~~](3), define the terms:

(i) "immediate family"; or

(ii) "physically present"; or

(c) for purposes of Subsection [~~(6)(d)~~](3)(d), prescribe the circumstances under which the failure of an active duty claimant to file an application on or before the [~~default~~]September 1 application deadline:

(i) would be against equity or good conscience; and

(ii) is beyond the reasonable control of an active duty claimant.

Section 35. Section 59-2a-701, which is renumbered from Section 59-2-1802 is renumbered and amended to read:

PART 7. Discretionary Deferral

[~~59-2-1802~~]59-2a-701. Tax and tax notice charge deferral.

(1) (a) In accordance with this part and after receiving an application and giving notice to the taxpayer, a county may grant a deferral on residential property.

(b) In determining whether to grant an application for a deferral under this section, a county shall consider an asset transferred to a relative by an applicant for deferral, if the transfer took place during the three years before the day on which the applicant applied for deferral.

(2) A county may grant a deferral described in Subsection (1) at any time:

(a) after the holder of each mortgage or trust deed outstanding on the property gives written approval of the application; and

(b) if the applicant is not the owner of income-producing assets that could be liquidated to pay the tax.

(3) (a) Taxes and tax notice charges deferred under this part accumulate with interest and applicable recording fees as a lien against the residential property.

(b) A lien described in this Subsection (3) has the same legal status as a lien described in Section 59-2-1325.

(c) To release the lien described in this Subsection (3), an owner shall pay the total amount subject to the lien:

(i) upon the owner selling or otherwise disposing of the residential property; or

(ii) when the residential property is no longer the owner's primary residence.

(d) (i) Notwithstanding Subsection (3)(c), an owner that receives a deferral does not have to pay the deferred taxes, deferred tax notice charges, or applicable recording fees when the residential property transfers:

(A) to the owner's surviving spouse as a result of the owner's death; or

(B) between the owner and a trust described in Section [~~59-2-1805~~]59-2a-109 for which the owner is the grantor.

(ii) After the residential property transfers to the owner's surviving spouse, the deferred taxes, deferred tax notice charges, and applicable recording fees are due:

(A) upon the surviving spouse selling or otherwise disposing of the residential property; or

(B) when the residential property is no longer the surviving spouse's primary residence.

(e) When the deferral period ends:

(i) the lien becomes due and subject to the collection procedures described in Section 59-2-1331; and

(ii) the date of levy is the date that the deferral period ends.

(4) (a) If a county grants an owner more than one deferral for the same single-family residence, the county is not required to submit for recording more than one lien.

(b) Each subsequent deferral relates back to the date of the initial lien filing.

(5) (a) For each residential property for which the county grants a deferral, the county treasurer shall maintain a record that is an itemized account of the total amount of deferred property taxes and deferred tax notice charges subject to the lien.

(b) The record described in this Subsection (5) is the official record of the amount of the lien.

(6) Taxes and tax notice charges deferred under this part bear interest at a rate equal to 50% of the rate described in Subsections 59-2-1331(2)(c) and (d).

Section 36. Section 59-2a-702 is enacted to read:

59-2a-702. Application -- Rulemaking authority.

(1) (a) Except as provided in Section 59-2a-108 or Subsection (2), an applicant for deferral for the current tax year shall annually file an application on or before September 1 with the county in which the applicant's property is located.

(b) An indigent individual may apply and potentially qualify for deferral under this part, Part 8, Nondiscretionary Deferral for Property with Qualifying Increase, or Part 9, Nondiscretionary Deferral for Elderly Property Owners, an abatement, or both.

(2) A county shall extend the September 1 application deadline by one additional year if:

(a) the applicant had been approved for a deferral under this part in the prior year; or

(b) the county determines that:

(i) the applicant or a member of the applicant's immediate family had an illness or injury that prevented the applicant from filing the application on or before the September 1 application deadline;

(ii) a member of the applicant's immediate family died during the calendar year of the September 1 application deadline;

(iii) the failure of the applicant to file the application on or before the September 1 application deadline was beyond the reasonable control of the applicant; or

(iv) denial of an application would be unjust or unreasonable.

(3) An applicant shall include in an application a signed statement that describes the eligibility of the applicant for deferral.

(4) Both spouses shall sign an application if the application seeks a deferral or abatement on a residence:

(a) in which both spouses reside; and

(b) that the spouses own as joint tenants.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 37. Section 59-2a-801, which is renumbered from Section 59-2-1802.1 is renumbered and amended to read:

PART 8. Nondiscretionary Deferral for Property with Qualifying Increase

[~~59-2-1802.1~~]59-2a-801. Nondiscretionary property tax and tax notice charge deferral for property with qualifying increase.

(1) [~~(a)~~] A county shall grant a deferral for any real property if an owner of the property:

[~~(i)~~](a) applies for a property tax deferral on or before the date provided in [~~Subsection (1)(b)~~]Section 59-2a-802; and

[~~(ii)~~](b) has a qualifying increase for the calendar year that begins on January 1, 2023, or January 1, 2024.

[~~(b) The owner of the property shall apply for a deferral on or before the later of:~~]

[~~(i) June 30, 2025; or~~]

[~~(ii) if an appeal of valuation or equalization of a property described in Subsection (1)(a) is filed with a county board of equalization, the commission, or a court of competent jurisdiction, 30 days after the day on which the county board of equalization, the commission, or a court of competent jurisdiction issues a final, unappealable judgment or order.~~]

(2) (a) The period of deferral is five years.

(b) The property owner shall pay 20% of the taxes and tax notice charges due during each year of the five-year deferral period.

(c) A county shall grant a separate five-year deferral period if an owner has a qualifying increase for both the calendar year that begins on January 1, 2023, and the calendar year that begins on January 1, 2024.

(3) (a) Taxes and tax notice charges deferred under this part accumulate as a lien against the [~~residential~~]real property.

(b) A lien described in this Subsection (3) has the same legal status as a lien described in Section 59-2-1325.

(c) To release the lien described in this Subsection (3), an owner shall pay the total amount subject to the lien on or before the earlier of:

(i) the day on which the five-year deferral period ends; or

(ii) the day the owner sells or otherwise disposes of the real property.

(d) When the deferral period ends:

(i) the lien becomes due and subject to the collection procedures described in Section 59-2-1331; and

(ii) the date of levy is the date that the deferral period ends.

(4) (a) Notwithstanding Section 59-2-1331, a county may not impose a penalty or interest during the period of deferral.

(b) If the property owner does not make all deferred payments before the day on which the five-year deferral period ends, the county may assess a penalty or interest in accordance with Section 59-2-1331 on the unpaid amount.

(5) (a) If a county grants an owner more than one deferral for the same property, the county is not required to submit for recording more than one lien.

(b) Each subsequent deferral relates back to the date of the initial lien filing.

(6) (a) For each property for which the county grants a deferral, the county treasurer shall maintain a record that is an itemized account of the total amount of deferred property taxes and deferred tax notice charges subject to the lien.

(b) The record described in this Subsection (6) is the official record of the amount of the lien.

(7) For a property that has a qualifying increase for the calendar year that begins on January 1, 2023, or January 1, 2024, a county assessor shall include with the notice provided in accordance with Section 59-2-919.1 for the calendar year that begins on January 1, 2024, a notice informing the owner of record of:

(a) (i) for a property that has a qualifying increase for the calendar year that begins on January 1, 2023, the option to file an appeal under the extended period described in Section 59-2-1004.1; or

(ii) for a property that has a qualifying increase for the calendar year that begins on January 1, 2024, the option to file an appeal under Section 59-2-1004;

(b) instructions for filing an appeal;

(c) the option to apply for a deferral in accordance with this section; and

(d) the ability of the county to waive any penalty or interest assessed in accordance with Section 59-2-1331.

Section 38. Section 59-2a-802 is enacted to read:

59-2a-802. Application -- Rulemaking authority.

(1) The owner of the property shall apply for a deferral on or before the later of:

(a) June 30, 2025; or

(b) if an appeal of valuation or equalization of a property described in Subsection 59-2a-801(1) is filed with a county board of equalization, the commission, or a court of competent jurisdiction, 30 days after the day on which the county board of equalization, the commission, or a court of competent jurisdiction issues a final, unappealable judgment or order.

(2) An indigent individual may apply and potentially qualify for deferral under this part, Part 7, Discretionary Deferral, or Part 9, Nondiscretionary Deferral for Elderly Property Owners, an abatement, or both.

(3) An applicant shall include in an application a signed statement that describes the eligibility of the applicant for deferral.

(4) Both spouses shall sign an application if the application seeks a deferral or abatement on a residence:

(a) in which both spouses reside; and

(b) that the spouses own as joint tenants.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 39. Section 59-2a-901, which is renumbered from Section 59-2-1802.5 is renumbered and amended to read:

PART 9. Nondiscretionary Deferral for Elderly Property Owners

[~~59-2-1802.5~~]59-2a-901. Nondiscretionary tax and tax notice charge deferral for elderly property owners.

(1) An eligible owner may apply for a deferral under this section if:

(a) the eligible owner uses the single-family residence as the eligible owner's primary residence as of January 1 of the year for which the eligible owner applies for the deferral;

(b) with respect to the single-family residence, there are no:

(i) delinquent property taxes;

(ii) delinquent tax notice charges; or

(iii) outstanding penalties, interest, or administrative costs related to a delinquent property tax or a delinquent tax notice charge;

(c) (i) the value of the single-family residence for which the eligible owner applies for the deferral is no greater than the median property value of:

(A) attached single-family residences within the county, if the single-family residence is an attached single-family residence; or

(B) detached single-family residences within the county, if the single-family residence is a detached single-family residence; or

(ii) the eligible owner has owned the single-family residence for a continuous 20-year period as of January 1 of the year for which the eligible owner applies for the deferral; and

(d) the holder of each mortgage or trust deed outstanding on the single-family residence gives written approval of the deferral.

(2) If the conditions in Subsection (1) are satisfied and the applicant complies with the other applicable provisions of this part, a county shall defer the property tax [] and tax notice charges on an attached single-family residence or a detached single-family residence [~~for an application of deferral made on or after January 1, 2024~~].

(3) The values described in Subsection (1)(c) are based on the county assessment roll for the county in which the single-family residence is located.

(4) For purposes of Subsection (1)(c)(ii), ownership is considered continuous regardless of whether the single-family residence is transferred between an eligible owner who is an individual and an eligible owner that is a trust.

[~~(5) (a) Upon application from a county in a form prescribed by the commission, the commission shall reimburse the county for the amount of any tax or tax notice charge that the county defers in accordance with this section.~~]

[~~(b) The commission may not reimburse a county:~~]

[~~(i) before the county approves the deferral; or~~]

[~~(ii) for a tax or tax notice charge assessed after December 31, 2026.~~]

[~~(c) A county that receives money in accordance with this Subsection (5) shall:~~]

[~~(i) distribute the money to the taxing entities in the same proportion the county would have distributed the revenue from the deferred tax and deferred tax notice charge; and~~]

[~~(ii) repay the money no later than 30 days after the day on which the deferral lien is satisfied.~~]

[~~(d) The commission shall deposit money received under Subsection (5)(c)(ii) into the General Fund.~~]

Section 40. Section 59-2a-902 is enacted to read:

59-2a-902. Application -- Rulemaking authority.

(1) (a) Except as provided in Section 59-2a-108 or Subsection (2), an applicant for deferral for the current tax year shall annually file an application on or before September 1 with the county in which the applicant's property is located.

(b) An indigent individual may apply and potentially qualify for deferral under Part 7, Discretionary Deferral, or Part 8, Nondiscretionary Deferral for Property with Qualifying Increase, an abatement, or both.

(2) A county shall extend the September 1 application deadline by one additional year if:

(a) the applicant had been approved for a deferral under this part in the prior year; or

(b) the county determines that:

(i) the applicant or a member of the applicant's immediate family had an illness or injury that prevented the applicant from filing the application on or before the September 1 application deadline;

(ii) a member of the applicant's immediate family died during the calendar year of the September 1 application deadline;

(iii) the failure of the applicant to file the application on or before the September 1 application deadline was beyond the reasonable control of the applicant; or

(iv) denial of an application would be unjust or unreasonable.

(3) (a) An applicant shall include in an application a signed statement that describes the eligibility of the applicant for deferral.

(b) The requirements described in Subsection (3)(a) include:

(i) proof that the applicant resides at the single-family residence for which the applicant seeks the deferral;

(ii) proof of age; and

(iii) proof of household income.

(4) Both spouses shall sign an application if the application seeks a deferral on a residence:

(a) in which both spouses reside; and

(b) that the spouses own as joint tenants.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 41. Section 59-2a-903 is enacted to read:

59-2a-903. Reimbursement to counties.

(1) Upon application from a county in a form approved by the commission, the commission shall reimburse the county for the amount of any tax or tax notice charge that the county defers in accordance with this part.

(2) The commission may not reimburse a county:

(a) before the county approves the deferral; or

(b) for a tax or tax notice charge assessed after December 31, 2026.

(3) A county that receives money in accordance with this section shall:

(a) distribute the money to the taxing entities in the same proportion the county would have distributed the revenue from the deferred tax and deferred tax notice charge; and

(b) repay the money no later than 30 days after the day on which the deferral lien is satisfied.

(4) The commission shall deposit money received under Subsection (3)(b) into the General Fund.

Section 42. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under

legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions; or

[~~(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;~~]

[~~(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or~~]

[~~(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;~~]

(ii) Title 59, Chapter 2a, Tax Relief Through Property Tax;

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);

(cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3); [~~and~~]

(dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004;

(ee) a record relating to a request by a state elected official or state employee who has been threatened to the Division of Technology Services to remove personal identifying information from the open web under Section 63A-16-109; and

(ff) a record including confidential information as that term is defined in Section 67-27-105.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 43. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The primary care grant program created in Section 26B-4-310.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(12) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(16) The Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program created in Section 26B-7-122.

(17) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(18) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(19) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

(20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(21) The Emergency Medical Services Grant Program in Section 53-2d-207.

(22) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(23) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(24) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(25) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The State Capitol Preservation Board created by Section 63O-2-201.

(28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) County correctional facility reimbursement program for state probationary inmates and state parole inmates as described in Section 64-13e-104.

(34) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(35) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(36) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(37) The Traffic Noise Abatement Program created in Section 72-6-112.

(38) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(39) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(40) A state rehabilitative employment program, as provided in Section 78A-6-210.

(41) The Utah Geological Survey, as provided in Section 79-3-401.

(42) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(43) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(44) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(45) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(46) The State Tax Commission for reimbursing counties for deferrals in accordance with Section [~~59-2-1802.5~~]59-2a-901.

(47) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 44. Repealer.

This bill repeals:

Section 59-2-1801, Definitions.

Section 59-2-1806, Fraudulent or negligent representation -- Penalties and interest.

Section 59-2-1901, Definitions.

Section 59-2-1905, Refund.

Section 59-2-1906, County legislative body authority to adopt rules or ordinances.

Section 45. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 173
H. B. 21
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

CRIMINAL CODE RECODIFICATION AND CROSS REFERENCES

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill modifies criminal provisions in Title 76, Utah Criminal Code, by redrafting offense statutes into a new structure, reorganizing criminal statutes into a new format, and clarifying existing law.

Highlighted Provisions:

This bill:

- ► reorders language into a standardized format and clarifies existing law, including the offenses in Title 76, Chapter 9, Offenses Against Public Order and Decency, and Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals;
- ► reorganizes Title 76, Chapters 9 and 10 into a new organization to better align with the contents of the statutes;
- ► reorganizes offenses to enact an embedded offense as a stand-alone statute or statutes, including offenses concerning:
  - • emergency reporting, interference, and false reports;
  - • prohibited use of a party line or public pay telephone;
  - • commercial obstruction;
  - • electronic communication harassment and disclosure of personal information;
  - • cruelty to animals, dog fighting, and police service canines, including aligning exemptions and defenses based on the elements of each offense;
  - • voyeurism;
  - • abuse or desecration of a dead human body;
  - • criminal street gang activities;
  - • tobacco sales and related offenses;
  - • gambling and related offenses;
  - • bus hijacking and related offenses;
  - • money laundering and related offenses;
  - • the use of a laser pointer;
  - • unlawful littering and related offenses;
  - • unlawful possession, use, or control of a vehicle with a contraband compartment;
  - • unlawful tattooing or piercing of a minor;
  - • labeling of explosives and related offenses;
  - • weapons offenses and related statutes;
  - • corporate fraud and related offenses, including unlawful acts by a director, officer, or agent;
  - • nuisances;
  - • pornography and related offenses, including placing the definition of pornography in the relevant definition section;
  - • prostitution, sexual solicitation, and related offenses; and
  - • kickbacks and related offenses;
- ► for clarity, places contents of Title 76, Chapter 9, Part 5, Libel, into Title 45, Chapter 2, Libel;
- ► for clarity, places certain contents of Title 76, Chapter 10, Part 5, Weapons, into Title 53, Public Safety Code;
- ► for clarity, places certain law enforcement requirements concerning gang loitering from Title 76, Chapter 10, Part 9, Prohibition of Gang Activity, into Title 53, Chapter 25, Law Enforcement Requirements;
- ► for clarity, defines a minor as an individual younger than 21 years old for the offense concerning public intoxication;
- ► for clarity, provides a more detailed description of an actor for purposes of offenses involving providing a weapon to a minor;
- ► for clarity, technically revises language concerning vicious animal offense;
- ► for clarity, removes definition of image in offense concerning failure to report child sexual abuse material by a computer technician;
- ► adds penalty provisions to offenses concerning high explosives that had been inadvertently omitted;
- ► repeals certain statutes concerning the Utah Trade Commission, which entity no longer exists;
- ► for clarity, provides which prostitution-related offenses do not apply to a minor;
- ► makes technical corrections to certain statutes resulting from inadvertent omissions in the 2024 criminal code recodification, including:
  - • reinserting a provision guaranteeing Native American rights in the statute concerning establishment of a prohibited item policy in a correctional or mental health facility;
  - • reinserting the penalty to the offense of alteration of proposed legislative bill or resolution; and
  - • providing clarifying language regarding the identity of the actor in the offense concerning trafficking in warrants; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-903, as enacted by Laws of Utah 2024, Chapter 82
4-25-303, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-41a-102, as last amended by Laws of Utah 2024, Chapters 217, 238 and 240
4-44-202, as enacted by Laws of Utah 2019, Chapter 81
9-7-215, as last amended by Laws of Utah 2023, Chapters 160, 231 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 160
9-8a-304, as renumbered and amended by Laws of Utah 2023, Chapter 160
9-8a-309, as renumbered and amended by Laws of Utah 2023, Chapter 160
9-9-403, as last amended by Laws of Utah 2023, Chapter 160
9-23-306, as renumbered and amended by Laws of Utah 2022, Chapter 362
10-8-41.5, as last amended by Laws of Utah 2019, Chapter 303
10-8-41.6, as last amended by Laws of Utah 2024, Chapter 470
10-8-47, as last amended by Laws of Utah 2020, Chapters 302, 347
10-18-103, as last amended by Laws of Utah 2013, Chapter 187
11-46-303, as enacted by Laws of Utah 2011, Chapter 130
13-39-202, as last amended by Laws of Utah 2019, Chapter 356
13-40-102, as repealed and reenacted by Laws of Utah 2010, Chapter 200
13-44-301, as last amended by Laws of Utah 2024, Chapter 158
13-45-401, as last amended by Laws of Utah 2024, Chapter 158
13-74-101, as enacted by Laws of Utah 2024, Chapter 203
16-6a-1414, as last amended by Laws of Utah 2024, Chapter 331
17-41-403, as last amended by Laws of Utah 2019, Chapters 81, 227
17-50-333, as last amended by Laws of Utah 2024, Chapter 470
19-2-114, as last amended by Laws of Utah 2024, Chapter 92
19-6-429, as enacted by Laws of Utah 1997, Chapter 172
23A-4-1106, as last amended by Laws of Utah 2023, Chapter 345 and renumbered and amended by Laws of Utah 2023, Chapter 103
23A-13-303, as renumbered and amended by Laws of Utah 2023, Chapter 103
26B-2-120, as last amended by Laws of Utah 2024, Chapter 234
26B-4-501, as last amended by Laws of Utah 2024, Chapter 257
26B-7-205, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-501, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-505, as last amended by Laws of Utah 2024, Chapter 470
26B-7-508, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-511, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-514, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-516, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-517, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-521, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-8-208, as renumbered and amended by Laws of Utah 2023, Chapter 306
31A-21-501, as last amended by Laws of Utah 2022, Chapters 185, 430
32B-3-303, as last amended by Laws of Utah 2020, Chapter 291
32B-4-423, as enacted by Laws of Utah 2013, Chapter 169
32B-5-301, as last amended by Laws of Utah 2020, Chapters 219, 291
32B-7-202, as last amended by Laws of Utah 2024, Chapter 94
32B-9-204, as last amended by Laws of Utah 2020, Chapter 291
34-45-102, as enacted by Laws of Utah 2009, Chapter 379
34-45-107, as last amended by Laws of Utah 2016, Chapter 348
34-52-201, as last amended by Laws of Utah 2023, Chapters 115, 344 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 344
34A-5-114, as enacted by Laws of Utah 2024, Chapter 95
41-1a-1008, as last amended by Laws of Utah 2020, Chapter 354
41-3-413, as enacted by Laws of Utah 1993, Chapter 163
47-3-305, as last amended by Laws of Utah 2021, Chapter 246
51-9-203, as last amended by Laws of Utah 2023, Chapter 328
51-9-801, as last amended by Laws of Utah 2023, Chapter 319
53-2a-214, as renumbered and amended by Laws of Utah 2013, Chapter 295
53-3-219, as last amended by Laws of Utah 2022, Chapter 259
53-3-220, as last amended by Laws of Utah 2024, Chapter 319
53-3-229, as last amended by Laws of Utah 2020, Chapters 302, 347
53-3-810, as last amended by Laws of Utah 2020, Chapters 302, 347

53-5-702, as last amended by Laws of Utah 2024, Chapter 22
53-5-704, as last amended by Laws of Utah 2024, Chapter 195
53-5-705, as last amended by Laws of Utah 2010, Chapter 62
53-5-710, as last amended by Laws of Utah 2021, Chapter 141
53-5-711, as last amended by Laws of Utah 2019, Chapter 39
53-5a-102, as last amended by Laws of Utah 2022, Chapter 428
53-5a-202, as last amended by Laws of Utah 2024, Chapter 438
53-5c-201, as last amended by Laws of Utah 2023, Chapters 138, 448
53-5c-301, as last amended by Laws of Utah 2024, Chapter 204
53-5c-302, as last amended by Laws of Utah 2024, Chapter 204
53-5d-102, as enacted by Laws of Utah 2016, Chapter 155
53-10-202, as last amended by Laws of Utah 2023, Chapter 328
53-10-208.1, as last amended by Laws of Utah 2023, Chapters 184, 328 and 397
53-10-403, as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256
53-10-801, as last amended by Laws of Utah 2022, Chapter 255 and renumbered and amended by Laws of Utah 2022, Chapter 430
53-10-803, as renumbered and amended by Laws of Utah 2022, Chapter 430
53-13-116, as enacted by Laws of Utah 2021, Chapter 164
53-22-105, as enacted by Laws of Utah 2024, Chapter 21
53-22-107, as enacted by Laws of Utah 2024, Chapter 117
53-25-103, as enacted by Laws of Utah 2024, Chapter 332
53-25-202, as renumbered and amended by Laws of Utah 2024, Chapter 111
53-25-501, as enacted by Laws of Utah 2024, Chapter 111
53B-16-601, as enacted by Laws of Utah 2024, Chapter 49
53G-1-103, as last amended by Laws of Utah 2020, Chapter 161 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 161
53G-4-402, as last amended by Laws of Utah 2024, Chapters 67, 476
53G-6-204, as last amended by Laws of Utah 2024, Chapters 113, 386
53G-8-201, as last amended by Laws of Utah 2024, Chapter 75
53G-8-205, as last amended by Laws of Utah 2024, Chapter 75
53G-8-209, as last amended by Laws of Utah 2020, Chapters 161, 302 and 347
53G-8-211, as last amended by Laws of Utah 2024, Chapters 240, 301
53G-8-701.8, as enacted by Laws of Utah 2024, Chapter 21
53G-10-103, as last amended by Laws of Utah 2024, Chapter 318
57-22-5.1, as last amended by Laws of Utah 2023, Chapter 166
58-37-8, as last amended by Laws of Utah 2024, Chapter 105
58-63-307, as last amended by Laws of Utah 2008, Chapter 246
59-14-102, as last amended by Laws of Utah 2022, Chapter 199
59-14-507, as renumbered and amended by Laws of Utah 1987, Chapter 2
59-14-807, as last amended by Laws of Utah 2024, Chapter 470
59-14-810, as enacted by Laws of Utah 2024, Chapter 470
59-27-105, as last amended by Laws of Utah 2013, Chapter 400
63G-6a-2505, as enacted by Laws of Utah 2024, Chapter 291
63G-7-301, as last amended by Laws of Utah 2024, Chapter 234
63G-12-102, as last amended by Laws of Utah 2023, Chapter 16
63G-12-106, as enacted by Laws of Utah 2011, Chapter 18
63G-31-302, as enacted by Laws of Utah 2024, Chapter 2
63G-31-304, as enacted by Laws of Utah 2024, Chapter 2
63I-1-276, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-276, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63M-7-502, as last amended by Laws of Utah 2024, Chapter 506
64-13-41, as last amended by Laws of Utah 2008, Chapter 382
67-5-22.7, as last amended by Laws of Utah 2011, Chapter 18
72-10-901, as renumbered and amended by Laws of Utah 2023, Chapter 216
73-2-27, as last amended by Laws of Utah 2023, Chapters 111, 179
73-29-102, as last amended by Laws of Utah 2023, Chapter 34
76-1-301, as last amended by Laws of Utah 2024, Chapter 96
76-2-304.5, as last amended by Laws of Utah 2024, Chapter 140
76-2-306, as last amended by Laws of Utah 2017, Chapter 322
76-3-203.1, as last amended by Laws of Utah 2024, Chapter 96
76-3-203.3, as last amended by Laws of Utah 2024, Chapters 96, 381
76-3-203.5, as last amended by Laws of Utah 2024, Chapters 96, 179
76-3-203.12, as enacted by Laws of Utah 2017, Chapter 449
76-3-209, as last amended by Laws of Utah 2023, Chapters 123, 214
76-3-402, as last amended by Laws of Utah 2024, Chapter 234
76-3-407, as last amended by Laws of Utah 2023, Chapter 457
76-4-102, as last amended by Laws of Utah 2013, Chapter 93

76-4-202, as last amended by Laws of Utah 1996, Chapter 40
76-4-203, as last amended by Laws of Utah 2024, Chapter 301
76-5-102.8, as last amended by Laws of Utah 2022, Chapter 181
76-5-104, as last amended by Laws of Utah 2022, Chapter 181
76-5-106.5, as last amended by Laws of Utah 2024, Chapter 179
76-5-107, as last amended by Laws of Utah 2024, Chapter 126
76-5-107.1, as last amended by Laws of Utah 2024, Chapter 27
76-5-107.3, as last amended by Laws of Utah 2022, Chapter 181
76-5-109.3, as last amended by Laws of Utah 2024, Chapter 225
76-5-202, as last amended by Laws of Utah 2022, Chapter 181
76-5-203, as last amended by Laws of Utah 2024, Chapters 96, 187
76-5-302, as last amended by Laws of Utah 2022, Chapter 181
76-5-415, as last amended by Laws of Utah 2018, Chapter 415
76-5b-201, as last amended by Laws of Utah 2024, Chapter 142
76-5b-203, as last amended by Laws of Utah 2024, Chapter 127
76-5b-205, as last amended by Laws of Utah 2024, Chapters 127, 146
76-6-105, as last amended by Laws of Utah 2023, Chapter 111
76-6-206, as last amended by Laws of Utah 2024, Chapter 2
76-6-414, as enacted by Laws of Utah 2024, Chapter 230
76-6-703.3, as enacted by Laws of Utah 2023, Chapter 111
76-6-703.7, as enacted by Laws of Utah 2023, Chapter 111
76-6-705, as last amended by Laws of Utah 2023, Chapter 111
76-6-1202, as enacted by Laws of Utah 2008, Chapter 370
76-7-101, as last amended by Laws of Utah 2022, Chapter 181
76-8-107, as last amended by Laws of Utah 2024, Chapter 96
76-8-311.1, as last amended by Laws of Utah 2024, Chapter 96
76-8-311.2, as enacted by Laws of Utah 2024, Chapter 96
76-8-311.3, as last amended by Laws of Utah 2024, Chapters 96, 99
76-8-311.4, as enacted by Laws of Utah 2024, Chapter 96
76-8-311.7, as enacted by Laws of Utah 2024, Chapter 96
76-8-411, as last amended by Laws of Utah 2024, Chapter 96
76-9-101, as last amended by Laws of Utah 2022, Chapter 181
76-9-102, as last amended by Laws of Utah 2020, Chapter 394
76-9-103, as enacted by Laws of Utah 1973, Chapter 196
76-9-104, as enacted by Laws of Utah 1973, Chapter 196
76-9-105, as last amended by Laws of Utah 2017, Chapter 462
76-9-106, as enacted by Laws of Utah 1992, Chapter 163
76-9-107, as enacted by Laws of Utah 2003, Chapter 186
76-9-108, as enacted by Laws of Utah 2007, Chapter 46
76-9-109, as enacted by Laws of Utah 2021, Chapter 174
76-9-601, as enacted by Laws of Utah 1973, Chapter 196
76-9-802, as last amended by Laws of Utah 2024, Chapter 96
76-9-803, as enacted by Laws of Utah 2008, Chapter 15
76-9-804, as last amended by Laws of Utah 2022, Chapter 181
77-2-9, as last amended by Laws of Utah 2021, Chapter 262
77-7a-104, as last amended by Laws of Utah 2020, Chapter 404
77-11a-402, as last amended by Laws of Utah 2024, Chapter 332
77-11b-102, as last amended by Laws of Utah 2023, Chapters 415, 422 and renumbered and amended by Laws of Utah 2023, Chapter 448
77-11d-101, as last amended by Laws of Utah 2024, Chapter 332
77-11d-105, as last amended by Laws of Utah 2024, Chapters 332, 517
77-20-203, as last amended by Laws of Utah 2024, Chapter 16
77-20-204, as last amended by Laws of Utah 2024, Chapter 16
77-22-2.5, as last amended by Laws of Utah 2022, Chapter 185
77-23a-8, as last amended by Laws of Utah 2024, Chapters 96, 301
77-36-1, as last amended by Laws of Utah 2024, Chapter 366
77-36-2.1, as last amended by Laws of Utah 2024, Chapter 434
77-37-2, as last amended by Laws of Utah 2024, Chapter 164
77-38-3, as last amended by Laws of Utah 2024, Chapter 240
77-38-601, as last amended by Laws of Utah 2023, Chapters 16, 237
77-39-101, as last amended by Laws of Utah 2024, Chapter 35
77-40a-101, as last amended by Laws of Utah 2024, Chapter 180
77-40a-205, as enacted by Laws of Utah 2024, Chapter 180
77-40a-403, as last amended by Laws of Utah 2024, Chapter 180
77-41-102, as last amended by Laws of Utah 2024, Chapter 234
77-41-106, as last amended by Laws of Utah 2024, Chapter 234

77-41-112, as last amended by Laws of Utah 2024, Chapters 116, 234
77-41-113, as last amended by Laws of Utah 2024, Chapter 234
77-42-105, as last amended by Laws of Utah 2023, Chapter 111
78A-2-203, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-5a-103, as last amended by Laws of Utah 2024, Chapters 158, 366
78B-4-511, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-5-505, as last amended by Laws of Utah 2021, Chapter 260
78B-6-111, as last amended by Laws of Utah 2015, Chapter 194
78B-6-1101, as last amended by Laws of Utah 2021, Chapter 207
78B-6-1103, as last amended by Laws of Utah 2011, Chapter 185
78B-6-1107, as last amended by Laws of Utah 2021, Chapter 207
78B-6-1701, as enacted by Laws of Utah 2010, Chapter 143
78B-6-2102, as last amended by Laws of Utah 2024, Chapter 168
78B-6-2105, as last amended by Laws of Utah 2024, Chapter 168
78B-6-2301, as last amended by Laws of Utah 2024, Chapter 438
78B-7-502, as last amended by Laws of Utah 2022, Chapter 430
78B-7-801, as last amended by Laws of Utah 2023, Chapter 114
78B-8-503, as last amended by Laws of Utah 2013, Chapter 187
78B-9-104, as last amended by Laws of Utah 2023, Chapters 111, 448
80-1-102, as last amended by Laws of Utah 2024, Chapter 256
80-2-301, as last amended by Laws of Utah 2024, Chapters 240, 307
80-4-302, as last amended by Laws of Utah 2023, Chapter 330
80-6-103, as last amended by Laws of Utah 2024, Chapter 532
80-6-104, as last amended by Laws of Utah 2024, Chapter 20
80-6-302, as last amended by Laws of Utah 2023, Chapter 161
80-6-303.5, as last amended by Laws of Utah 2024, Chapter 301
80-6-304, as last amended by Laws of Utah 2023, Chapter 161
80-6-305, as last amended by Laws of Utah 2023, Chapter 161
80-6-503, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-605, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-608, as last amended by Laws of Utah 2024, Chapter 256
80-6-707, as last amended by Laws of Utah 2022, Chapters 116, 334
80-6-712, as last amended by Laws of Utah 2024, Chapter 153
80-6-804, as last amended by Laws of Utah 2024, Chapter 153
80-6-1002, as last amended by Laws of Utah 2023, Chapter 115
80-6-1004.1, as enacted by Laws of Utah 2023, Chapter 115
80-6-1004.5, as last amended by Laws of Utah 2024, Chapter 301
81-9-202, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-204, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-208, as renumbered and amended by Laws of Utah 2024, Chapter 366

ENACTS:

53-5a-102.1, Utah Code Annotated 1953
53-5a-301, Utah Code Annotated 1953
53-25-601, Utah Code Annotated 1953
59-14-501.5, Utah Code Annotated 1953
76-5-801, Utah Code Annotated 1953
76-5-803, Utah Code Annotated 1953
76-5c-201, Utah Code Annotated 1953
76-5c-203, Utah Code Annotated 1953
76-5c-206, Utah Code Annotated 1953
76-5c-212, Utah Code Annotated 1953
76-5c-213, Utah Code Annotated 1953
76-5c-307, Utah Code Annotated 1953
76-5d-201, Utah Code Annotated 1953
76-5d-204, Utah Code Annotated 1953
76-5d-205, Utah Code Annotated 1953
76-5d-210, Utah Code Annotated 1953
76-9-105.6, Utah Code Annotated 1953
76-9-114, Utah Code Annotated 1953
76-9-803.5, Utah Code Annotated 1953
76-9-803.6, Utah Code Annotated 1953
76-9-1108, Utah Code Annotated 1953
76-9-1115, Utah Code Annotated 1953
76-9-1118, Utah Code Annotated 1953

76-9-1201, Utah Code Annotated 1953
76-9-1302, Utah Code Annotated 1953
76-9-1403, Utah Code Annotated 1953
76-9-1404, Utah Code Annotated 1953
76-9-1503, Utah Code Annotated 1953
76-9-1507, Utah Code Annotated 1953
76-9-1603, Utah Code Annotated 1953
76-9-1701, Utah Code Annotated 1953
76-9-1703, Utah Code Annotated 1953
76-9-1704, Utah Code Annotated 1953
76-9-1801, Utah Code Annotated 1953
76-9-1803, Utah Code Annotated 1953
76-9-1804, Utah Code Annotated 1953
76-9-1805, Utah Code Annotated 1953
76-9-1806, Utah Code Annotated 1953
76-9-1901, Utah Code Annotated 1953
76-9-1903, Utah Code Annotated 1953
76-9-2001, Utah Code Annotated 1953
76-9-2003, Utah Code Annotated 1953
76-11-201, Utah Code Annotated 1953
76-11-301, Utah Code Annotated 1953
76-12-101, Utah Code Annotated 1953
76-12-201, Utah Code Annotated 1953
76-12-203, Utah Code Annotated 1953
76-12-204, Utah Code Annotated 1953
76-12-306, Utah Code Annotated 1953
76-12-308, Utah Code Annotated 1953
76-13-101, Utah Code Annotated 1953
76-13-201, Utah Code Annotated 1953
76-13-203, Utah Code Annotated 1953
76-13-204, Utah Code Annotated 1953
76-13-206, Utah Code Annotated 1953
76-13-210, Utah Code Annotated 1953
76-14-101, Utah Code Annotated 1953
76-15-101, Utah Code Annotated 1953
76-15-201, Utah Code Annotated 1953
76-15-207, Utah Code Annotated 1953
76-15-208, Utah Code Annotated 1953
76-15-211, Utah Code Annotated 1953
76-16-101, Utah Code Annotated 1953
76-16-210, Utah Code Annotated 1953
76-16-211, Utah Code Annotated 1953
76-16-212, Utah Code Annotated 1953
76-16-213, Utah Code Annotated 1953
76-16-214, Utah Code Annotated 1953
76-16-401, Utah Code Annotated 1953
76-17-101, Utah Code Annotated 1953
76-17-201, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

11-48-104, (Renumbered from 76-9-905, as enacted by Laws of Utah 2009, Chapter 86)
45-2-11, (Renumbered from 76-9-504, as enacted by Laws of Utah 1973, Chapter 196)
45-2-12, (Renumbered from 76-9-506, as enacted by Laws of Utah 1973, Chapter 196)
45-2-13, (Renumbered from 76-9-509, as enacted by Laws of Utah 1973, Chapter 196)
53-5a-102.3, (Renumbered from 76-10-511, as last amended by Laws of Utah 2009, Chapter 362)
53-5a-105, (Renumbered from 76-10-520, as last amended by Laws of Utah 1993, Chapter 234)
53-5a-106, (Renumbered from 76-10-522, as last amended by Laws of Utah 1993, Chapter 234)
53-5a-107, (Renumbered from 76-10-523.5, as last amended by Laws of Utah 2008, Chapter 3)
53-5a-108, (Renumbered from 76-10-523, as last amended by Laws of Utah 2021, Chapter 12)
53-5a-302, (Renumbered from 76-10-526, as last amended by Laws of Utah 2023, Chapters 330, 397)
53-5a-303, (Renumbered from 76-10-526.1, as enacted by Laws of Utah 2023, Chapter 398)
53-5a-304, (Renumbered from 76-10-527, as last amended by Laws of Utah 2009, Chapter 20)
53-5a-305, (Renumbered from 76-10-524, as last amended by Laws of Utah 2004, Chapter 360)
53-25-602, (Renumbered from 76-9-903, as enacted by Laws of Utah 2009, Chapter 86)
58-37-8.1, (Renumbered from 76-10-2204, as last amended by Laws of Utah 2023, Chapter 330)

58-37-8.2, (Renumbered from 76-10-2203, as enacted by Laws of Utah 2019, Chapter 97)
67-5-40, (Renumbered from 76-10-3114, as last amended by Laws of Utah 2019, Chapter 348)
76-5-115, (Renumbered from 76-10-2202, as enacted by Laws of Utah 2011, Chapter 204)
76-5-417, (Renumbered from 76-4-401, as last amended by Laws of Utah 2023, Chapter 457)
76-5-418, (Renumbered from 76-9-702.1, as last amended by Laws of Utah 2024, Chapter 234)
76-5-419, (Renumbered from 76-9-702, as last amended by Laws of Utah 2024, Chapter 234)
76-5-420, (Renumbered from 76-9-702.5, as last amended by Laws of Utah 2024, Chapter 205)
76-5-802, (Renumbered from 76-9-704, as last amended by Laws of Utah 2023, Chapters 160, 330)
76-5b-206, (Renumbered from 76-10-1204.5, as last amended by Laws of Utah 2023, Chapter 231)
76-5c-101, (Renumbered from 76-10-1201, as last amended by Laws of Utah 2013, Chapter 278)
76-5c-102, (Renumbered from 76-10-1203, as last amended by Laws of Utah 1977, Chapter 92)
76-5c-103, (Renumbered from 76-10-1210, as last amended by Laws of Utah 2007, Chapter 123)
76-5c-104, (Renumbered from 76-10-1209, as last amended by Laws of Utah 2010, Chapter 43)
76-5c-105, (Renumbered from 76-10-1207, as enacted by Laws of Utah 1977, Chapter 92)
76-5c-106, (Renumbered from 76-10-1213, as last amended by Laws of Utah 2000, Chapter 53)
76-5c-107, (Renumbered from 76-10-1212, as last amended by Laws of Utah 2000, Chapter 53)
76-5c-108, (Renumbered from 76-10-1215, as last amended by Laws of Utah 1993, Chapter 38)
76-5c-109, (Renumbered from 76-10-1208, as last amended by Laws of Utah 2007, Chapter 123)
76-5c-110, (Renumbered from 76-10-1207.5, as enacted by Laws of Utah 1990, Chapter 138)
76-5c-111, (Renumbered from 76-10-1211, as last amended by Laws of Utah 1995, Chapter 20)
76-5c-202, (Renumbered from 76-10-1204, as last amended by Laws of Utah 2021, Chapter 260)
76-5c-204, (Renumbered from 76-10-1205, as last amended by Laws of Utah 2021, Chapter 260)
76-5c-205, (Renumbered from 76-10-1206, as last amended by Laws of Utah 2021, Chapter 260)
76-5c-207, (Renumbered from 76-10-1228, as last amended by Laws of Utah 2021, Chapter 260)
76-5c-208, (Renumbered from 76-10-1235, as enacted by Laws of Utah 2007, Chapter 79)
76-5c-209, (Renumbered from 76-10-1236, as enacted by Laws of Utah 2023, Chapter 118)
76-5c-210, (Renumbered from 76-10-1237, as enacted by Laws of Utah 2023, Chapter 118)
76-5c-211, (Renumbered from 76-10-1238, as enacted by Laws of Utah 2024, Chapter 166)
76-5c-214, (Renumbered from 76-10-1214, as last amended by Laws of Utah 2021, Chapter 260)
76-5c-301, (Renumbered from 76-10-1216, as enacted by Laws of Utah 1977, Chapter 92)
76-5c-302, (Renumbered from 76-10-1217, as enacted by Laws of Utah 1977, Chapter 93)
76-5c-303, (Renumbered from 76-10-1219, as last amended by Laws of Utah 2010, Chapters 43, 324)
76-5c-304, (Renumbered from 76-10-1220, as last amended by Laws of Utah 2010, Chapter 43)
76-5c-305, (Renumbered from 76-10-1222, as enacted by Laws of Utah 1977, Chapter 93)
76-5c-306, (Renumbered from 76-10-1223, as enacted by Laws of Utah 1977, Chapter 93)
76-5c-401, (Renumbered from 76-10-1230, as last amended by Laws of Utah 2018, Chapter 164)
76-5c-402, (Renumbered from 76-10-1231, as last amended by Laws of Utah 2019, Chapter 180)
76-5c-403, (Renumbered from 76-10-1233, as last amended by Laws of Utah 2008, Chapter 297)
76-5d-101, (Renumbered from 76-10-1301, as last amended by Laws of Utah 2022, Chapter 124)
76-5d-102, (Renumbered from 76-10-1307, as enacted by Laws of Utah 1991, Chapter 107)
76-5d-103, (Renumbered from 76-10-1311, as last amended by Laws of Utah 2023, Chapters 184, 330)
76-5d-104, (Renumbered from 76-10-1312, as last amended by Laws of Utah 2023, Chapter 330)
76-5d-105, (Renumbered from 76-10-1314, as enacted by Laws of Utah 1993, Chapter 179)
76-5d-106, (Renumbered from 76-10-1315, as last amended by Laws of Utah 2022, Chapters 124, 181 and 335)
76-5d-202, (Renumbered from 76-10-1302, as last amended by Laws of Utah 2023, Chapter 111)
76-5d-203, (Renumbered from 76-10-1303, as last amended by Laws of Utah 2024, Chapter 140)
76-5d-206, (Renumbered from 76-10-1304, as last amended by Laws of Utah 2018, Chapter 308)
76-5d-207, (Renumbered from 76-10-1305, as last amended by Laws of Utah 2018, Chapter 308)
76-5d-208, (Renumbered from 76-10-1306, as last amended by Laws of Utah 2022, Chapter 181)
76-5d-209, (Renumbered from 76-10-1313, as last amended by Laws of Utah 2022, Chapters 124, 181 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 124)
76-5d-211, (Renumbered from 76-10-1309, as last amended by Laws of Utah 2011, Chapter 70)
76-6-207, (Renumbered from 76-10-2002, as enacted by Laws of Utah 1989, Chapter 179)
76-6-525, (Renumbered from 76-10-1801, as last amended by Laws of Utah 2010, Chapter 193)
76-9-105.5, (Renumbered from 76-9-202, as last amended by Laws of Utah 2024, Chapter 27)
76-9-110, (Renumbered from 76-9-701, as last amended by Laws of Utah 2021, Chapter 262)
76-9-111, (Renumbered from 76-9-702.3, as last amended by Laws of Utah 2016, Chapter 303)
76-9-112, (Renumbered from 76-9-705, as enacted by Laws of Utah 1997, Chapter 83)
76-9-113, (Renumbered from 76-10-2402, as last amended by Laws of Utah 2010, Chapter 334)
76-9-602, (Renumbered from 76-9-706, as last amended by Laws of Utah 2016, Chapter 303)
76-9-805, (Renumbered from 76-9-904, as enacted by Laws of Utah 2009, Chapter 86)
76-9-1101, (Renumbered from 76-10-101, as last amended by Laws of Utah 2024, Chapter 470)
76-9-1102, (Renumbered from 76-10-102, as last amended by Laws of Utah 1986, Chapter 66)
76-9-1103, (Renumbered from 76-10-103, as last amended by Laws of Utah 2020, Chapters 302, 347)
76-9-1104, (Renumbered from 76-10-104, as last amended by Laws of Utah 2020, Chapters 302, 347)

76-9-1105, (Renumbered from 76-10-104.1, as last amended by Laws of Utah 2020, Chapters 302, 347)
76-9-1106, (Renumbered from 76-10-105, as last amended by Laws of Utah 2021, Chapter 262)
76-9-1107, (Renumbered from 76-10-105.1, as last amended by Laws of Utah 2021, Chapter 348)
76-9-1109, (Renumbered from 76-10-105.3, as enacted by Laws of Utah 1986, Chapter 188)
76-9-1110, (Renumbered from 76-10-107, as last amended by Laws of Utah 2002, Chapter 23)
76-9-1111, (Renumbered from 76-10-107.5, as enacted by Laws of Utah 2002, Chapter 23)
76-9-1112, (Renumbered from 76-10-111, as last amended by Laws of Utah 2020, Chapters 302, 347)
76-9-1113, (Renumbered from 76-10-112, as last amended by Laws of Utah 2020, Chapter 302)
76-9-1114, (Renumbered from 76-10-113, as last amended by Laws of Utah 2024, Chapter 470)
76-9-1116, (Renumbered from 76-10-114, as last amended by Laws of Utah 2021, First Special Session, Chapter 12)
76-9-1117, (Renumbered from 76-10-115, as last amended by Laws of Utah 2021, First Special Session, Chapter 12)
76-9-1119, (Renumbered from 76-10-116, as enacted by Laws of Utah 2020, Chapter 302)
76-9-1202, (Renumbered from 76-10-201, as last amended by Laws of Utah 2005, Chapter 215)
76-9-1203, (Renumbered from 76-10-202, as last amended by Laws of Utah 2005, Chapter 215)
76-9-1204, (Renumbered from 76-10-203, as last amended by Laws of Utah 2005, Chapter 215)
76-9-1205, (Renumbered from 76-10-204, as last amended by Laws of Utah 2023, Chapters 111, 179)
76-9-1206, (Renumbered from 76-10-2601, as enacted by Laws of Utah 2002, Chapter 166)
76-9-1301, (Renumbered from 76-10-801, as enacted by Laws of Utah 1973, Chapter 196)
76-9-1303, (Renumbered from 76-10-802, as enacted by Laws of Utah 1973, Chapter 196)
76-9-1304, (Renumbered from 76-10-805, as enacted by Laws of Utah 1973, Chapter 196)
76-9-1305, (Renumbered from 76-10-804, as enacted by Laws of Utah 1973, Chapter 196)
76-9-1306, (Renumbered from 76-10-806, as last amended by Laws of Utah 1993, Chapter 227)
76-9-1307, (Renumbered from 76-10-808, as last amended by Laws of Utah 2015, Chapter 258)
76-9-1308, (Renumbered from 76-10-807, as enacted by Laws of Utah 2010, Chapter 99)
76-9-1401, (Renumbered from 76-10-1101, as last amended by Laws of Utah 2020, Chapter 291)
76-9-1402, (Renumbered from 76-10-1102, as last amended by Laws of Utah 2020, Chapter 291)
76-9-1405, (Renumbered from 76-10-1104, as last amended by Laws of Utah 2020, Chapter 291)
76-9-1406, (Renumbered from 76-10-1103, as last amended by Laws of Utah 2019, Chapter 185)
76-9-1407, (Renumbered from 76-10-1105, as last amended by Laws of Utah 2020, Chapter 291)
76-9-1408, (Renumbered from 76-10-1110, as enacted by Laws of Utah 2020, Chapter 291)
76-9-1409, (Renumbered from 76-10-1104.5, as enacted by Laws of Utah 2001, Chapter 182)
76-9-1410, (Renumbered from 76-10-1109, as enacted by Laws of Utah 1973, Chapter 196)
76-9-1411, (Renumbered from 76-10-1112, as last amended by Laws of Utah 2023, Chapter 448)
76-9-1412, (Renumbered from 76-10-1113, as enacted by Laws of Utah 2020, Chapter 291)
76-9-1501, (Renumbered from 76-10-1503, as last amended by Laws of Utah 2007, Chapter 329)
76-9-1502, (Renumbered from 76-10-1504, as last amended by Laws of Utah 2022, Chapter 181)
76-9-1504, (Renumbered from 76-10-1505, as last amended by Laws of Utah 1999, Chapter 97)
76-9-1505, (Renumbered from 76-10-1506, as last amended by Laws of Utah 2010, Chapter 276)
76-9-1506, (Renumbered from 76-10-1507, as last amended by Laws of Utah 2016, Chapter 399)
76-9-1508, (Renumbered from 76-10-1508, as enacted by Laws of Utah 1979, Chapter 72)
76-9-1509, (Renumbered from 76-10-1509, as enacted by Laws of Utah 1979, Chapter 72)
76-9-1510, (Renumbered from 76-10-1510, as last amended by Laws of Utah 2007, Chapter 229)
76-9-1601, (Renumbered from 76-10-1902, as last amended by Laws of Utah 2013, Chapter 73)
76-9-1602, (Renumbered from 76-10-1903, as last amended by Laws of Utah 2009, Chapter 74)
76-9-1604, (Renumbered from 76-10-1906, as last amended by Laws of Utah 2008, Chapter 268)
76-9-1702, (Renumbered from 76-10-2501, as last amended by Laws of Utah 2024, Chapter 461)
76-9-1802, (Renumbered from 76-10-2701, as enacted by Laws of Utah 2008, Chapter 22)
76-9-1807, (Renumbered from 76-10-2101, as last amended by Laws of Utah 2010, Chapter 324)
76-9-1902, (Renumbered from 76-10-2801, as enacted by Laws of Utah 2008, Chapter 298)
76-9-2002, (Renumbered from 76-10-2201, as last amended by Laws of Utah 2013, Chapter 329)
76-11-101, (Renumbered from 76-10-501, as last amended by Laws of Utah 2023, Chapters 161, 397 and 425)
76-11-102, (Renumbered from 76-10-502, as last amended by Laws of Utah 1990, Chapter 328)
76-11-202, (Renumbered from 76-10-504, as last amended by Laws of Utah 2023, Chapter 34)
76-11-203, (Renumbered from 76-10-505, as last amended by Laws of Utah 2021, Chapter 12)
76-11-204, (Renumbered from 76-10-505.5, as last amended by Laws of Utah 2024, Chapters 21, 117 and 301)
76-11-205, (Renumbered from 76-10-506, as last amended by Laws of Utah 2019, Chapters 39, 201)
76-11-206, (Renumbered from 76-10-507, as last amended by Laws of Utah 2015, Chapter 406)
76-11-207, (Renumbered from 76-10-508, as last amended by Laws of Utah 2023, Chapter 34)
76-11-208, (Renumbered from 76-10-508.1, as last amended by Laws of Utah 2023, Chapter 34)
76-11-209, (Renumbered from 76-10-509.4, as last amended by Laws of Utah 2024, Chapter 301)
76-11-210, (Renumbered from 76-10-509.5, as last amended by Laws of Utah 2013, Chapter 301)
76-11-211, (Renumbered from 76-10-509.6, as last amended by Laws of Utah 2000, Chapter 303)
76-11-212, (Renumbered from 76-10-509.7, as last amended by Laws of Utah 2024, Chapter 301)
76-11-213, (Renumbered from 76-10-509.9, as enacted by Laws of Utah 1993, Second Special Session, Chapter 13)
76-11-214, (Renumbered from 76-10-528, as last amended by Laws of Utah 2023, Chapters 330, 386)

76-11-215, (Renumbered from 76-10-529, as last amended by Laws of Utah 2024, Chapter 332)
76-11-216, (Renumbered from 76-10-530, as last amended by Laws of Utah 2009, Chapter 388)
76-11-302, (Renumbered from 76-10-503, as last amended by Laws of Utah 2023, First Special Session, Chapter 2)
76-11-309, (Renumbered from 76-10-503.1, as last amended by Laws of Utah 2023, Chapter 203)
76-11-310, (Renumbered from 76-10-532, as last amended by Laws of Utah 2023, Chapter 425)
76-12-202, (Renumbered from 76-9-201, as last amended by Laws of Utah 2024, Chapter 224)
76-12-205, (Renumbered from 76-6-703.1, as enacted by Laws of Utah 2023, Chapter 111)
76-12-206, (Renumbered from 76-9-203, as enacted by Laws of Utah 2021, Chapter 152)
76-12-207, (Renumbered from 76-10-1802, as enacted by Laws of Utah 2015, Chapter 151)
76-12-301, (Renumbered from 76-9-401, as enacted by Laws of Utah 1973, Chapter 196)
76-12-302, (Renumbered from 76-9-402, as last amended by Laws of Utah 2023, Chapter 510)
76-12-303, (Renumbered from 76-9-403, as enacted by Laws of Utah 1973, Chapter 196)
76-12-304, (Renumbered from 76-9-407, as enacted by Laws of Utah 1999, Chapter 146)
76-12-305, (Renumbered from 76-9-408, as enacted by Laws of Utah 2019, Chapter 372)
76-12-307, (Renumbered from 76-9-702.7, as last amended by Laws of Utah 2024, Chapter 2)
76-12-309, (Renumbered from 76-9-702.8, as enacted by Laws of Utah 2024, Chapter 2)
76-12-401, (Renumbered from 76-10-601, as enacted by Laws of Utah 1973, Chapter 196)
76-12-402, (Renumbered from 76-10-602, as enacted by Laws of Utah 1973, Chapter 196)
76-12-403, (Renumbered from 76-10-603, as last amended by Laws of Utah 1995, Chapter 20)
76-13-102, (Renumbered from 76-9-305, as last amended by Laws of Utah 1977, Chapter 87)
76-13-103, (Renumbered from 76-9-301.6, as last amended by Laws of Utah 2008, Chapter 292)
76-13-104, (Renumbered from 76-9-301.7, as last amended by Laws of Utah 2008, Chapter 292)
76-13-202, (Renumbered from 76-9-301, as last amended by Laws of Utah 2023, Chapter 34)
76-13-205, (Renumbered from 76-9-301.1, as last amended by Laws of Utah 2010, Chapter 324)
76-13-207, (Renumbered from 76-9-301.3, as enacted by Laws of Utah 2015, Chapter 329)
76-13-208, (Renumbered from 76-9-301.5, as last amended by Laws of Utah 2008, Chapter 292)
76-13-209, (Renumbered from 76-9-306, as last amended by Laws of Utah 2018, Chapter 264)
76-13-211, (Renumbered from 76-9-307, as last amended by Laws of Utah 2023, Chapter 330)
76-13-212, (Renumbered from 76-9-304, as last amended by Laws of Utah 1977, Chapter 87)
76-13-213, (Renumbered from 76-9-301.8, as last amended by Laws of Utah 1999, Chapter 302)
76-13-214, (Renumbered from 76-9-308, as last amended by Laws of Utah 2023, Chapter 216)
76-13-215, (Renumbered from 76-9-301.9, as enacted by Laws of Utah 2024, Chapter 82)
76-14-201, (Renumbered from 76-9-1002, as enacted by Laws of Utah 2011, Chapter 21)
76-14-202, (Renumbered from 76-9-1003, as last amended by Laws of Utah 2022, Chapter 181)
76-14-203, (Renumbered from 76-9-1004, as enacted by Laws of Utah 2011, Chapter 21 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 20)
76-14-204, (Renumbered from 76-9-1005, as enacted by Laws of Utah 2011, Chapter 21)
76-14-205, (Renumbered from 76-9-1006, as enacted by Laws of Utah 2011, Chapter 21)
76-14-206, (Renumbered from 76-9-1007, as last amended by Laws of Utah 2018, Third Special Session, Chapter 2)
76-14-207, (Renumbered from 76-9-1008, as last amended by Laws of Utah 2024, Chapter 96)
76-14-208, (Renumbered from 76-9-1009, as enacted by Laws of Utah 2011, Chapter 21)
76-14-209, (Renumbered from 76-10-2901, as last amended by Laws of Utah 2011, Chapters 18, 21 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 20)
76-15-202, (Renumbered from 76-10-308, as repealed and reenacted by Laws of Utah 1993, Chapter 75)
76-15-203, (Renumbered from 76-10-302, as enacted by Laws of Utah 1973, Chapter 196)
76-15-204, (Renumbered from 76-10-303, as enacted by Laws of Utah 1973, Chapter 196)
76-15-205, (Renumbered from 76-10-304, as enacted by Laws of Utah 1973, Chapter 196)
76-15-206, (Renumbered from 76-10-305, as enacted by Laws of Utah 1973, Chapter 196)
76-15-209, (Renumbered from 76-10-307, as last amended by Laws of Utah 1999, Chapter 97)
76-15-210, (Renumbered from 76-10-306, as last amended by Laws of Utah 2024, Chapter 343)
76-15-301, (Renumbered from 76-10-401, as repealed and reenacted by Laws of Utah 2002, Chapter 166)
76-15-302, (Renumbered from 76-10-402, as enacted by Laws of Utah 2002, Chapter 166)
76-15-303, (Renumbered from 76-10-403, as enacted by Laws of Utah 2002, Chapter 166)
76-16-201, (Renumbered from 76-10-701, as enacted by Laws of Utah 1973, Chapter 196)
76-16-202, (Renumbered from 76-10-709, as last amended by Laws of Utah 1995, Chapter 20)
76-16-203, (Renumbered from 76-10-710, as enacted by Laws of Utah 1973, Chapter 196)
76-16-204, (Renumbered from 76-10-711, as last amended by Laws of Utah 1995, Chapter 20)
76-16-205, (Renumbered from 76-10-702, as enacted by Laws of Utah 1973, Chapter 196)
76-16-206, (Renumbered from 76-10-703, as enacted by Laws of Utah 1973, Chapter 196)
76-16-207, (Renumbered from 76-10-704, as enacted by Laws of Utah 1973, Chapter 196)
76-16-208, (Renumbered from 76-10-705, as last amended by Laws of Utah 1992, Third Special Session, Chapter 6)
76-16-209, (Renumbered from 76-10-706, as enacted by Laws of Utah 1973, Chapter 196)
76-16-215, (Renumbered from 76-10-707, as enacted by Laws of Utah 1973, Chapter 196)
76-16-216, (Renumbered from 76-10-708, as enacted by Laws of Utah 1973, Chapter 196)
76-16-301, (Renumbered from 76-10-1001, as last amended by Laws of Utah 1984, Chapter 66)

76-16-302, (Renumbered from 76-10-1002, as last amended by Laws of Utah 1984, Chapter 66)
76-16-303, (Renumbered from 76-10-1003, as last amended by Laws of Utah 1984, Chapter 66)
76-16-304, (Renumbered from 76-10-1004, as enacted by Laws of Utah 1973, Chapter 196)
76-16-305, (Renumbered from 76-10-1005, as last amended by Laws of Utah 1995, Chapter 20)
76-16-306, (Renumbered from 76-10-1006, as enacted by Laws of Utah 1973, Chapter 196)
76-16-307, (Renumbered from 76-10-1007, as enacted by Laws of Utah 1973, Chapter 196)
76-16-402, (Renumbered from 76-10-3002, as renumbered and amended by Laws of Utah 2013, Chapter 187)
76-16-403, (Renumbered from 76-10-3001, as renumbered and amended by Laws of Utah 2013, Chapter 187)
76-16-404, (Renumbered from 76-10-3005, as renumbered and amended by Laws of Utah 2013, Chapter 187)
76-16-501, (Renumbered from 76-10-3103, as last amended by Laws of Utah 2015, Chapter 140)
76-16-502, (Renumbered from 76-10-3102, as renumbered and amended by Laws of Utah 2013, Chapter 187)
76-16-503, (Renumbered from 76-10-3117, as renumbered and amended by Laws of Utah 2013, Chapter 187)
76-16-504, (Renumbered from 76-10-3105, as last amended by Laws of Utah 2024, Chapter 147)
76-16-505, (Renumbered from 76-10-3106, as renumbered and amended by Laws of Utah 2013, Chapter 187)
76-16-506, (Renumbered from 76-10-3107, as last amended by Laws of Utah 2015, Chapter 140)
76-16-507, (Renumbered from 76-10-3116, as renumbered and amended by Laws of Utah 2013, Chapter 187)
76-16-508, (Renumbered from 76-10-3115, as renumbered and amended by Laws of Utah 2013, Chapter 187)
76-16-509, (Renumbered from 76-10-3108, as last amended by Laws of Utah 2019, Chapter 348)
76-16-510, (Renumbered from 76-10-3104, as renumbered and amended by Laws of Utah 2013, Chapter 187)
76-16-511, (Renumbered from 76-10-3109, as last amended by Laws of Utah 2019, Chapter 348)
76-16-512, (Renumbered from 76-10-3112, as last amended by Laws of Utah 2013, Chapter 285 and renumbered and amended by Laws of Utah 2013, Chapter 187)
76-17-202, (Renumbered from 76-10-3201, as last amended by Laws of Utah 2023, Chapters 515, 536)
76-17-301, (Renumbered from 76-6a-101, as renumbered and amended by Laws of Utah 2023, Chapter 111)
76-17-302, (Renumbered from 76-6a-104, as renumbered and amended by Laws of Utah 2023, Chapter 111)
76-17-303, (Renumbered from 76-6a-102, as enacted by Laws of Utah 2023, Chapter 111)
76-17-304, (Renumbered from 76-6a-103, as enacted by Laws of Utah 2023, Chapter 111)
76-17-401, (Renumbered from 76-10-1602, as last amended by Laws of Utah 2024, Chapter 96)
76-17-402, (Renumbered from 76-10-1604, as enacted by Laws of Utah 1981, Chapter 94)
76-17-403, (Renumbered from 76-10-1605, as last amended by Laws of Utah 2024, Chapter 158)
76-17-404, (Renumbered from 76-10-1607, as enacted by Laws of Utah 1981, Chapter 94)
76-17-405, (Renumbered from 76-10-1609, as enacted by Laws of Utah 1987, Chapter 238)
76-17-406, (Renumbered from 76-10-1608, as last amended by Laws of Utah 1987, Chapter 238)
76-17-407, (Renumbered from 76-10-1603, as repealed and reenacted by Laws of Utah 1987, Chapter 238)

REPEALS:

76-5b-101, as enacted by Laws of Utah 2011, Chapter 320
76-9-406, as enacted by Laws of Utah 1973, Chapter 196
76-9-505, as enacted by Laws of Utah 1973, Chapter 196
76-9-801, as enacted by Laws of Utah 2008, Chapter 15
76-9-901, as enacted by Laws of Utah 2009, Chapter 86
76-9-902, as last amended by Laws of Utah 2024, Chapter 96
76-9-906, as enacted by Laws of Utah 2009, Chapter 86
76-9-907, as last amended by Laws of Utah 2018, Chapter 200
76-9-1001, as enacted by Laws of Utah 2011, Chapter 21
76-10-404, as enacted by Laws of Utah 2002, Chapter 166
76-10-405, as enacted by Laws of Utah 2002, Chapter 166
76-10-500, as last amended by Laws of Utah 2022, Chapter 428
76-10-512, as last amended by Laws of Utah 2024, Chapter 301
76-10-521, as last amended by Laws of Utah 1993, Chapter 234
76-10-604, as last amended by Laws of Utah 1995, Chapter 20
76-10-803, as last amended by Laws of Utah 2019, Chapters 81, 227
76-10-1008, as last amended by Laws of Utah 1995, Chapter 20
76-10-1009, as enacted by Laws of Utah 1973, Chapter 196
76-10-1010, as enacted by Laws of Utah 1973, Chapter 196
76-10-1101.5, as enacted by Laws of Utah 2020, Chapter 291
76-10-1106, as last amended by Laws of Utah 1990, Chapter 118
76-10-1108, as last amended by Laws of Utah 2023, Chapter 448
76-10-1218, as enacted by Laws of Utah 1977, Chapter 93
76-10-1221, as last amended by Laws of Utah 2010, Chapter 43
76-10-1224, as enacted by Laws of Utah 1977, Chapter 93
76-10-1225, as last amended by Laws of Utah 1993, Chapter 38
76-10-1226, as last amended by Laws of Utah 1990, Chapter 138
76-10-1227, as last amended by Laws of Utah 2007, Chapter 123
76-10-1229.5, as enacted by Laws of Utah 1995, Chapter 131

76-10-1234, as last amended by Laws of Utah 2008, Chapter 382
76-10-1308, as enacted by Laws of Utah 1991, Chapter 107
76-10-1310, as last amended by Laws of Utah 2011, Chapter 70
76-10-1501, as enacted by Laws of Utah 1979, Chapter 72
76-10-1502, as enacted by Laws of Utah 1979, Chapter 72
76-10-1511, as enacted by Laws of Utah 1979, Chapter 72
76-10-1601, as last amended by Laws of Utah 1987, Chapter 238
76-10-1603.5, as last amended by Laws of Utah 2013, Chapter 394
76-10-1901, as enacted by Laws of Utah 1989, Chapter 241
76-10-1904, as last amended by Laws of Utah 1996, Chapter 17
76-10-1907, as enacted by Laws of Utah 1989, Chapter 241
76-10-2001, as enacted by Laws of Utah 1989, Chapter 179
76-10-2401, as last amended by Laws of Utah 2002, Chapter 31
76-10-2702, as enacted by Laws of Utah 2008, Chapter 22
76-10-3003, as renumbered and amended by Laws of Utah 2013, Chapter 187
76-10-3004, as renumbered and amended by Laws of Utah 2013, Chapter 187
76-10-3101, as renumbered and amended by Laws of Utah 2013, Chapter 187
76-10-3113, as renumbered and amended by Laws of Utah 2013, Chapter 187
76-10-3118, as renumbered and amended by Laws of Utah 2013, Chapter 187

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-2-903 is amended to read:
4-2-903. Animal care violations.

(1) "Animal care facility" means the same as that term is defined in Section [~~76-9-301.9~~]76-13-215.

(2) The department may, in accordance with this section and as resources allow, respond to a complaint that an animal care facility has violated Subsection [~~76-9-301(2)(a)~~]76-13-202(2)(a) or Section [~~76-9-301.9~~]76-13-215.

(3) If the department determines that a person has violated Subsection [~~76-9-301(2)(a)~~]76-13-202(2)(a) or Section [~~76-9-301.9~~]76-13-215, the department may:

(a) impose a civil fine of up to $500 per violation;

(b) seek a temporary restraining order;

(c) seek an injunction;

(d) seek an order of seizure or condemnation for an animal that is the subject of the violation, if the department has identified a suitable animal care facility that accepts custody of the animal; or

(e) report the circumstances to law enforcement or a prosecutor.

(4) An action by the department under Subsection (3) may precede and does not preclude a criminal penalty or criminal prosecution under Section [~~76-9-301 or 76-9-301.9~~]76-13-202, 76-13-203, 76-13-204, or 76-13-215.

(5) The department shall deposit a fine imposed under Subsection (3) into the General Fund as a dedicated credit to be used by the department for enforcement of this section.

Section 2. Section 4-25-303 is amended to read:
4-25-303. Feral swine detrimental to state's interests -- Seizure, capture, or destruction of feral swine.

(1) Feral swine are detrimental to the state's interests in agriculture and wildlife.

(2) Feral swine may be seized, captured, or destroyed at any time, in any place, and in any manner by:

(a) the department and the department's authorized agents;

(b) the Division of Wildlife Resources and the Division of Wildlife Resources' authorized agents; or

(c) a certified peace officer.

(3) (a) Notwithstanding [~~Section 76-9-301~~]Section 76-13-202, 76-13-203, or 76-13-204, and subject to the requirements of this section, an individual may kill a feral swine roaming on private or public land.

(b) An individual shall obtain the consent of the landowner before killing a feral swine on private land.

(c) Feral swine may be killed:

(i) year-round;

(ii) in any number; and

(iii) with a firearm, bow and arrow, or crossbow.

(4) Feral swine may not be hunted or killed under Subsection (3)(c):

(a) with the use of artificial light or night vision equipment, except as authorized by county ordinance; or

(b) from or with any airborne vehicle or device, except as provided in Section 4-23-106.

(5) An individual may not receive compensation, or attempt to receive compensation, from hunting feral swine.

(6) An authorized individual who kills a swine under this section is not liable to the owner for the loss of the swine, unless:

(a) the swine is conspicuously identified by an ear tag or other form of visual identification; and

(b) the individual who killed the swine knew the swine was identified by an ear tag or other form of usual identification.

Section 3. Section 4-41a-102 is amended to read:
4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoid;

(f) toxins; or

(g) foreign matter.

(2) "Advertise" or "advertising" means information provided by a person in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

(3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(4) (a) "Anticompetitive business practice" means any practice that reduces the amount of competition in the medical cannabis market that would be considered an attempt to monopolize, as defined in Section [~~76-10-3103~~]76-16-501.

(b) "Anticompetitive business practice" may include:

(i) agreements that may be considered unreasonable when competitors interact to the extent that they are:

(A) no longer acting independently; or

(B) when collaborating are able to wield market power together;

(ii) monopolizing or attempting to monopolize trade by:

(A) acting to maintain or acquire a dominant position in the market; or

(B) preventing new entry into the market; or

(iii) other conduct outlined in rule.

(5) (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(6) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(7) "Cannabis" means the same as that term is defined in Section 26B-4-201.

(8) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural cannabinoid or artificially derived cannabinoid in an artificially derived cannabinoid's purified state.

(9) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

(10) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

(11) "Cannabis cultivation facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.

(12) "Cannabis derivative product" means a product made using cannabis concentrate.

(13) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

(14) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

(15) "Cannabis processing facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

(16) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

(17) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(18) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(19) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(20) "Closed-door medical cannabis pharmacy" means a facility operated by a home delivery medical cannabis pharmacy for delivering cannabis or a medical cannabis product.

(21) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(22) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

(23) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility:

(i) the medical cannabis cardholder's home address; or

(ii) an address designated by the medical cannabis cardholder that:

(A) is the medical cannabis cardholder's workplace; and

(B) is not a community location; or

(b) for a medical cannabis cardholder that is a facility, the facility's address.

(24) "Department" means the Department of Agriculture and Food.

(25) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(26) "Government issued photo identification" means the same as that term is defined in Section 26B-4-201, including expired identification in accordance with Section 26B-4-244.

(27) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.

(28) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

(29) "Independent cannabis testing laboratory agent" means an individual who holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.

(30) "Inventory control system" means a system described in Section 4-41a-103.

(31) "Licensing board" or "board" means the Cannabis Production Establishment and Pharmacy Licensing Advisory Board created in Section 4-41a-201.1.

(32) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.

(33) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.

(34) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 4-41a-1201; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

(35) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

(36) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

(37) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.

(38) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

(39) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

(40) "Medical cannabis shipment" means a shipment of medical cannabis that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

(41) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.

(42) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

(43) "Pharmacy ownership limit" means an amount equal to 30% of the total number of medical cannabis pharmacy licenses issued by the department rounded down to the nearest whole number.

(44) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.

(45) "Qualified medical provider" means the same as that term is defined in Section 26B-4-201.

(46) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

(47) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

(48) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

(49) "State electronic verification system" means the system described in Section 26B-4-202.

(50) "Targeted marketing" means the promotion of a cannabis product, medical cannabis brand, or a medical cannabis device using

any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

(b) an in-person marketing event that is:

(i) held inside a medical cannabis pharmacy; and

(ii) in an area where only a medical cannabis cardholder may access the event;

(c) other marketing material that is physically available or digitally displayed in a medical cannabis pharmacy; or

(d) a leaflet a medical cannabis pharmacy places in the opaque package or box that is provided to an individual when obtaining medical cannabis:

(i) in the medical cannabis pharmacy;

(ii) at the medical cannabis pharmacy's drive-through pick up window; or

(iii) in a medical cannabis shipment.

(51) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

(52) "THC analog" means the same as that term is defined in Section 4-41-102.

(53) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

(54) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 4. Section 4-44-202 is amended to read:

4-44-202. Application of other statutes -- Ordinances.

(1) (a) In a civil action for nuisance or a criminal action for public nuisance under Section [~~76-10-803~~]76-9-1301, it is a defense if the action involves agricultural operations and those agricultural operations are conducted in the normal and ordinary course of agricultural operations or conducted in accordance with sound agricultural practices.

(b) Agricultural operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound agricultural practices.

(2) If the agricultural operations occur in an agricultural protection area, as defined in Section 17-41-101, Section 17-41-403 governs the action for nuisance.

(3) (a) An ordinance of a political subdivision that would make the operation of an agricultural operation or appurtenances to an agricultural operation a nuisance or that provide for abatement of the agricultural operation as a nuisance does not apply to an agricultural operation that is conducted in the normal and ordinary course of agricultural operations or conducted in accordance with sound agricultural practices.

(b) An agricultural operation undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound agricultural practices.

Section 5. Section 9-7-215 is amended to read:

9-7-215. Internet and online access policy required.

(1) As used in this section:

(a) "Child sexual abuse material" means the same as that term is defined in Section 76-5b-103.

(b) "Harmful to minors" means the same as that term is defined in Section [~~76-10-1201~~]76-5c-101.

(c) "Obscene" means the same as that term is defined in 20 U.S.C. Sec. 9101.

(d) "Technology protection measure" means a technology that blocks or filters Internet access to visual depictions.

(2) State funds may not be provided to any public library that provides public access to the Internet unless the library:

(a) (i) has in place a policy of Internet safety for minors, including the operation of a technology protection measure:

(A) with respect to any computer or other device while connected to the Internet through a network provided by the library, including a wireless network; and

(B) that protects against access to visual depictions that are child sexual abuse materials, harmful to minors, or obscene; and

(ii) is enforcing the operation of the technology protection measure described in Subsection (2)(a)(i) during any use by a minor of a computer or other device that is connected to the Internet through a network provided by the library, including a wireless network; and

(b) (i) has in place a policy of Internet safety, including the operation of a technology protection measure:

(A) with respect to any computer or other device while connected to the Internet through a network provided by the library, including a wireless network; and

(B) that protects against access to visual depictions that are child sexual abuse materials, harmful to minors, or obscene; and

(ii) is enforcing the operation of the technology protection measure described in Subsection (2)(b)(i) during any use of a computer or other device that is connected to the Internet through a network provided by the library, including a wireless network.

(3) This section does not prohibit a public library from limiting Internet access or otherwise protecting against materials other than the materials specified in this section.

(4) An administrator, supervisor, or other representative of a public library may disable a technology protection measure described in Subsection (2):

(a) at the request of a library patron who is not a minor; and

(b) to enable access for research or other lawful purposes.

Section 6. Section 9-8a-304 is amended to read:

9-8a-304. Antiquities Section created -- Duties.

(1) There is created within the office the Antiquities Section.

(2) The Antiquities Section shall:

(a) promote research, study, and activities in the field of antiquities;

(b) assist with the marking, protection, and preservation of sites;

(c) assist with the collection, preservation, and administration of specimens until the specimens are placed in a repository or curation facility;

(d) provide advice on the protection and orderly development of archaeological resources, and in doing so confer with the Public Lands Policy Coordinating Office if requested;

(e) assist with the excavation, retrieval, and proper care of ancient human remains discovered on nonfederal lands in accordance with:

(i) Section 9-8a-309;

(ii) Section 9-9-403;

(iii) [~~Subsection 76-9-704(3)~~]Subsection 76-5-802(4);

(iv) Subsection 76-5-803(4); and

[~~(iv)~~](v) federal law;

(f) collect and administer site survey and excavation records;

(g) edit and publish antiquities records;

(h) inform the officer in writing about any request for advice or consultation from an agency or an agency's agent; and

(i) employ an archaeologist meeting the requirements of 36 C.F.R. 61.4.

(3) The Antiquities Section shall cooperate with local, state, and federal agencies and all interested persons to achieve the purposes of this part and Part 4, Historic Sites.

(4) Before performing the duties specified in Subsections (2)(a) through (e), the Antiquities Section shall obtain permission from the landowner.

Section 7. Section 9-8a-309 is amended to read:

9-8a-309. Ancient human remains on nonfederal lands that are not state lands.

(1) If a person knows or has reason to know that the person discovered ancient human remains on nonfederal land that is not state land:

(a) the person shall:

(i) cease activity in the area of the discovery until activity may be resumed in accordance with Subsection (1)(e);

(ii) notify a local law enforcement agency in accordance with Section [~~76-9-704~~]76-5-803; and

(iii) notify the person who owns or controls the nonfederal land, if that person is different than the person who discovers the ancient human remains; and

(b) the person who owns or controls the nonfederal land shall:

(i) require that activity in the area of the discovery cease until activity may be resumed in accordance with Subsection (1)(e); and

(ii) make a reasonable effort to protect the discovered ancient human remains before activity may be resumed in accordance with Subsection (1)(e).

(c) (i) If the local law enforcement agency believes after being notified under this Subsection (1) that a person may have discovered ancient human remains, the local law enforcement agency shall contact the Antiquities Section.

(ii) The Antiquities Section shall:

(A) within two business days of the day on which the Antiquities Section is notified by local law enforcement, notify the landowner that the Antiquities Section may excavate and retrieve the human remains with the landowner's permission; and

(B) if the landowner gives the landowner's permission, excavate the human remains by no later than:

(I) five business days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1); or

(II) if extraordinary circumstances exist as provided in Subsection (1)(d), within the time period designated by the director not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1).

(d) (i) The director may grant the Antiquities Section an extension of time for excavation and retrieval of ancient human remains not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1), if the director determines that extraordinary circumstances exist on the basis of objective criteria such as:

(A) the unusual scope of the ancient human remains;

(B) the complexity or difficulty of excavation or retrieval of the ancient human remains; or

(C) the landowner's concerns related to the excavation or retrieval of the ancient human remains.

(ii) If the landowner objects to the time period designated by the director, the landowner may appeal the decision to the executive director of the department in writing.

(iii) If the executive director receives an appeal from the landowner under this Subsection (1)(d), the executive director shall:

(A) decide on the appeal within two business days; and

(B) (I) uphold the decision of the director; or

(II) designate a shorter time period than the director designated for the excavation and retrieval of the ancient human remains.

(iv) An appeal under this Subsection (1)(d) may not be the cause for the delay of the excavation and retrieval of the ancient human remains.

(v) A decision and appeal under this Subsection (1)(d) is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(e) A person that owns or controls nonfederal land that is not state land may engage in or permit others to engage in activities in the area of the discovery without violating this part or [~~Section 76-9-704~~]Sections 76-5-802 and 76-5-803 if once notified of the discovery of ancient human remains on the nonfederal land, the person:

(i) consents to the Antiquities Section excavating and retrieving the ancient human remains; and

(ii) engages in or permits others to engage in activities in the area of the discovery only after:

(A) the day on which the Antiquities Section removes the ancient human remains from the nonfederal land; or

(B) the time period described in Subsection (1)(c)(ii)(B).

(2) A person that owns or controls nonfederal land that is not state land may not be required to pay any costs incurred by the state associated with the ancient human remains, including costs associated with the costs of the:

(a) discovery of ancient human remains;

(b) excavation or retrieval of ancient human remains; or

(c) determination of ownership or disposition of ancient human remains.

(3) For nonfederal land that is not state land, nothing in this section limits or prohibits the Antiquities Section and a person who owns or controls the nonfederal land from entering into an agreement addressing the ancient human remains that allows for different terms than those provided in this section.

(4) The ownership and control of ancient human remains that are the ancient human remains of a Native American shall be determined in accordance with Chapter 9, Part 4, Native American Grave Protection and Repatriation Act:

(a) if the ancient human remains are in possession of the state;

(b) if the ancient human remains are not known to have been discovered on lands owned, controlled, or held in trust by the federal government; and

(c) regardless of when the ancient human remains are discovered.

(5) This section:

(a) does not apply to ancient human remains that are subject to the provisions and procedures of:

(i) federal law; or

(ii) Part 4, Historic Sites; and

(b) does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of the ancient human remains.

(6) The office, Antiquities Section, or Division of Indian Affairs may not make rules that impose any requirement on a person who discovers ancient human remains or who owns or controls nonfederal land that is not state land on which ancient human remains are discovered that is not expressly provided for in this section.

Section 8. Section 9-9-403 is amended to read:

9-9-403. Ownership and disposition of Native American remains.

(1) If Native American remains are discovered on nonfederal lands on or after April 30, 2007, the ownership or control of the Native American remains shall be determined in the following priority:

(a) first, in the lineal descendants of the Native American;

(b) second, if the lineal descendants cannot be ascertained, in the Indian tribe that:

(i) has the closest cultural affiliation with the Native American remains; and

(ii) states a claim for the Native American remains; or

(c) third:

(i) in the Indian tribe that is recognized as aboriginally occupying the area in which the Native American remains are discovered, if:

(A) cultural affiliation of the Native American remains cannot be reasonably ascertained;

(B) the land is recognized either by a final judgment of the Indian Claims Commission or through other evidence as the exclusive or joint aboriginal land of some Indian tribe; and

(C) that tribe states a claim for the Native American remains; or

(ii) in a different tribe if:

(A) it can be shown by a preponderance of the evidence that that different tribe has a stronger genetic or cultural relationship with the Native American remains; and

(B) that different tribe states a claim for the Native American remains.

(2) Subject to Subsection (7), Native American remains discovered on nonfederal lands that are not claimed under Subsection (1) shall be disposed of in accordance with rules made by the division:

(a) consistent with Chapter 8a, Part 3, Antiquities; and

(b) in consultation with Native American groups, representatives of repositories, and the review committee established under Section 9-9-405.

(3) The intentional removal or excavation of Native American remains from state lands may be permitted only if:

(a) the Native American remains are excavated or removed pursuant to a permit issued under Section 9-8a-305;

(b) the Native American remains are excavated or removed after consultation with and written consent of the owner of the state land; and

(c) the ownership or right of control of the disposition of the Native American remains is determined as provided in Subsections (1) and (2).

(4) (a) A person who knows or has reason to know that the person has discovered Native American remains on state lands after March 17, 1992, shall notify, in writing, the appropriate state agency having primary management authority over the lands as provided in Chapter 8a, Part 3, Antiquities.

(b) If the discovery occurs in connection with construction, mining, logging, agriculture, or a related activity, the person shall:

(i) cease the activity in the area of the discovery;

(ii) make a reasonable effort to protect the Native American remains discovered before resuming the activity; and

(iii) provide notice of discovery to the appropriate state agency under Subsection (4)(a).

(c) Following notification under Subsections (4)(a) and (b) and upon certification by the head of the appropriate state agency that notification is received, the activity may resume after compliance with [~~Section 76-9-704~~]Sections 76-5-802 and 76-5-803.

(5) (a) Scientific study of Native American remains may be carried out only with approval of the owner of the Native American remains as established in Subsections (1) and (2).

(b) (i) If ownership is unknown, study before identifying ownership is restricted to those sufficient to identify ownership.

(ii) Study to identify ownership shall be approved only in accordance with rules made by the division in consultation with the review committee.

(c) The Native American remains may not be retained longer than 90 days after the date of establishing ownership.

(6) (a) Ownership of Native American remains shall be determined in accordance with this Subsection (6) if:

(i) there are multiple claims of ownership under Subsection (1) of Native American remains; and

(ii) the division cannot clearly determine which claimant is the most appropriate claimant.

(b) If the conditions of Subsection (6)(a) are met, the appropriate state agency having primary authority over the lands as provided in Chapter 8a, Part 3, Antiquities, may retain the remains until:

(i) the multiple claimants for the Native American remains enter into an agreement concerning the disposition of the Native American remains;

(ii) the dispute is resolved through an administrative process:

(A) established by rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) that is exempt from Title 63G, Chapter 4, Administrative Procedures Act; or

(iii) after the administrative process described in Subsection (6)(b)(ii) is complete, the dispute is resolved by a court of competent jurisdiction.

(7) The division may not make rules that impose any requirement on a person who discovers Native American remains or owns or controls nonfederal land that is not state land on which Native American remains are discovered that is not expressly provided for in Section 9-8a-309.

(8) For purposes of this part, if Native American remains are discovered on nonfederal land that is not state land, the Antiquities Section is considered the state agency having primary authority over the nonfederal land.

(9) This part does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of Native American remains.

Section 9. Section 9-23-306 is amended to read:

9-23-306. Club fighting prohibited.

(1) Club fighting is prohibited.

(2) Any person who publicizes, promotes, conducts, or engages in a club fighting match is:

(a) guilty of a class A misdemeanor as provided in Section [~~76-9-705~~]76-9-112; and

(b) subject to license revocation under this chapter.

Section 10. Section 10-8-41.5 is amended to read:

10-8-41.5. Regulation of sexually oriented business.

(1) As used in this section:

(a) "Adult service" means dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted by a nude or partially denuded individual for compensation.

(b) "Compensation" means:

(i) a salary;

(ii) a fee;

(iii) a commission;

(iv) employment;

(v) a profit; or

(vi) other pecuniary gain.

(c) (i) "Escort" means a person who, for compensation, dates, socializes with, visits, consorts with, or accompanies another, or offers to date, consort with, socialize with, visit, or accompany another:

(A) to a social affair, entertainment, or a place of amusement; or

(B) within a place of public or private resort, a business or commercial establishment, or a private quarter.

(ii) "Escort" does not mean a person who provides business or personal services, including:

(A) a licensed private nurse;

(B) an aide for the elderly or a person with a disability;

(C) a social secretary or similar service personnel whose relationship with a patron is characterized by a contractual relationship having a duration of 12 hours or more and who provides a service not principally characterized as dating or socializing; or

(D) a person who provides services such as singing telegrams, birthday greetings, or similar activities that are characterized by an appearance in a public place, contracted for by a party other than the person for whom the service is being performed, and of a duration not to exceed one hour.

(d) "Escort service" means any person who furnishes or arranges for an escort to accompany another individual for compensation.

(e) "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:

(i) genitals;

(ii) the pubic region; or

(iii) a female breast below a point immediately above the top of the areola.

(f) (i) "Sexually oriented business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually oriented business or an independent contractor, performs any service for compensation.

(ii) "Sexually oriented business" includes:

(A) an escort service; or

(B) an adult service.

(2) A person employed in a sexually oriented business may not work in a municipality if:

(a) the municipality requires that a person employed in a sexually oriented business obtain an individual license; and

(b) the person has not obtained an individual license from the municipality.

(3) A business entity that conducts a sexually oriented business may not conduct business in a municipality if:

(a) the municipality requires that a sexually oriented business obtain a license; and

(b) the business entity has not obtained a license from the municipality.

(4) (a) A violation of this section by an individual who is at least 18 years old is a class A misdemeanor.

(b) A person charged under this section may not also be charged under Section [~~76-10-1302~~]76-5d-202.

Section 11. Section 10-8-41.6 is amended to read:

10-8-41.6. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(c) "Electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(d) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(e) "Local health department" means the same as that term is defined in Section 26A-1-102.

(f) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(g) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business; or

(v) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(h) "Self-service display" means the same as that term is defined in Section [~~76-10-105.1~~]76-9-1107.

(i) "Tobacco product" means:

(i) a tobacco product as defined in Section [~~76-10-101~~]76-9-1101; or

(ii) tobacco paraphernalia as defined in Section [~~76-10-101~~]76-9-1101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by delegation of the state's police powers to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a municipality unless the person obtains a license from the municipality in which the retail tobacco specialty business is located.

(b) A municipality may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a municipality may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A municipality may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the municipality with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; and

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a municipality to issue a retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under [~~Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act~~]Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

(iv) under any other provision of state law or local ordinance.

(7) (a) A retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Section 26B-7-503;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Section 26B-7-503;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 12. Section 10-8-47 is amended to read:

10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, tobacco products, electronic cigarette products, or nicotine

products to minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or drug addicts.

(1) A municipal legislative body may:

(a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights, bullfights, and all disorderly conduct and provide against and punish the offenses of assault and battery and petit larceny;

(b) restrain riots, routs, noises, disturbances, or disorderly assemblies in any street, house, or place in the city;

(c) regulate and prevent the discharge of firearms, rockets, powder, fireworks in accordance with Section 53-7-225, or any other dangerous or combustible material;

(d) provide against and prevent the offense of obtaining money or property under false pretenses and the offense of embezzling money or property in the cases when the money or property embezzled or obtained under false pretenses does not exceed in value the sum of $500;

(e) prohibit the sale, giving away, or furnishing of narcotics or alcoholic beverages to an individual younger than 21 years old; or

(f) prohibit the sale, giving away, or furnishing of a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section [~~76-10-101~~]76-9-1101 to an individual younger than 21 years old.

(2) A city may:

(a) by ordinance, prohibit the possession of controlled substances as defined in the Utah Controlled Substances Act or any other endangering or impairing substance, provided the conduct is not a class A misdemeanor or felony; and

(b) provide for treatment of alcoholics, narcotic addicts, and other individuals who are addicted to the use of drugs or intoxicants such that an individual substantially lacks the capacity to control the individual's use of the drugs or intoxicants, and judicial supervision may be imposed as a means of effecting the individual's rehabilitation.

Section 13. Section 10-18-103 is amended to read:

10-18-103. Antitrust immunity.

(1) When a municipality is offering or providing a cable television service or public telecommunications service, the immunity from antitrust liability afforded to political subdivisions of the state under Section [~~76-10-3109~~]76-16-511 does not apply to the municipality providing those services.

(2) A municipality that provides a cable television service or a public telecommunications service is subject to applicable antitrust liabilities under the federal Local Government Antitrust Act of 1984, 15 U.S.C. Secs. 34 to 36.

Section 14. Section 11-46-303 is amended to read:

11-46-303. Community cats.

(1) A cat received by a shelter under the provisions of Section 11-46-103 may be released prior to the five-day holding period to a sponsor that operates a community cat program.

(2) A community cat is:

(a) exempt from licensing requirements and feeding bans; and

(b) eligible for release from an animal shelter prior to the mandatory five-day hold period in Section 11-46-103.

(3) Community cat sponsors or caretakers do not have custody, as defined in Section [~~76-9-301~~]76-13-202, of any cat in a community cat colony. Cats in a colony that are obviously owned, as evidenced by a collar, tags, microchip, or other discernable owner identification, are not exempt from the provisions of [~~Title 76, Chapter 9, Part 3, Cruelty to Animals~~]Title 76, Chapter 13, Offenses Involving Cruelty to Animals.

(4) Sterilization and vaccination records shall be maintained for a minimum of three years and be available to an animal control officer upon request.

Section 15. Section 11-48-104, which is renumbered from Section 76-9-905 is renumbered and amended to read:

CHAPTER 48. EMERGENCY RESPONSE AND PREVENTION

[~~76-9-905~~]11-48-104. Designation of public places where orders to disperse are authorized and gang loitering is prohibited.

(1) As used in this section:

(a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(b) "Gang loitering" means the same as that term is defined in Section 76-9-802.

(c) "Public place" means the same as that term is defined in Section 76-9-802.

[~~(1) Municipal and county legislative bodies shall, within their respective jurisdictions, designate the areas within their jurisdictions that they have determined are~~]

(2) A municipal or county legislative body shall designate public places within the municipal or county jurisdiction as areas where gang loitering is prohibited and subject to [~~the~~]enforcement [~~of~~]by law enforcement officers as described in Section [~~76-9-903because~~]53-25-602 and to criminal penalties under Section 76-9-805 if criminal street gangs have been able to, or are attempting to:

(a) establish control over [~~these identifiable~~]the areas;

(b) intimidate [~~others~~]other individuals from entering [~~those~~]the areas; or

(c) conceal illegal activities conducted in [~~those~~]the areas.

[~~(2)~~](3) (a) [~~Prior to designating areas subject to enforcement under Section 76-9-903, the~~]Before a legislative body designates a public place as an area where gang loitering is prohibited, the legislative body shall consult, as appropriate, with [~~persons~~]individuals who are knowledgeable about the effects of gang activity in [~~areas where Section 76-9-903 may be enforced~~]the area.

(b) [~~Persons~~]Individuals consulted under Subsection [~~(2)(a)~~](3)(a) may include:

(i) members of local law enforcement agencies who have training or experience related to criminal street gangs;

(ii) other agency personnel with particular knowledge of gang activities in the proposed designated area;

(iii) elected and appointed officials of the area where the proposed designated area is located; and

(iv) representatives of community-based organizations.

[~~(3)~~](4) The municipal or county legislative body shall develop and implement procedures for periodic review and update of area

designations [~~it makes~~]made under Subsection [~~(1)~~](2).

(5) This section does not affect or limit an individual's constitutional right to engage in collective advocacy activities that are protected by the constitution or laws of this state or by the constitution or laws of the United States.

Section 16. Section 13-39-202 is amended to read:

13-39-202. Prohibition of sending certain materials to a registered contact point -- Exception for consent.

(1) A person may not send, cause to be sent, or conspire with a third party to send a communication to a contact point or domain that has been registered for more than 30 calendar days with the unit under Section 13-39-201 if the communication:

(a) has the primary purpose of advertising or promoting a product or service that a minor is prohibited by law from purchasing; or

(b) contains or has the primary purpose of advertising or promoting material that is harmful to minors, as defined in Section [~~76-10-1201~~]76-5c-101.

(2) Except as provided in Subsection (4), consent of a minor is not a defense to a violation of this section.

(3) An Internet service provider does not violate this section for solely transmitting a message across the network of the Internet service provider.

(4) (a) Notwithstanding Subsection (1), a person may send a communication to a contact point if, before sending the communication, the person sending the communication receives consent from an adult who controls the contact point.

(b) Any person who proposes to send a communication under Subsection (4)(a) shall:

(i) verify the age of the adult who controls the contact point by inspecting the adult's government-issued identification card in a face-to-face transaction;

(ii) obtain a written record indicating the adult's consent that is signed by the adult;

(iii) include in each communication:

(A) a notice that the adult may rescind the consent; and

(B) information that allows the adult to opt out of receiving future communications; and

(iv) notify the unit that the person intends to send communications under this Subsection (4).

(c) The unit shall implement rules to verify that a person providing notification under Subsection (4)(b)(iv) complies with this Subsection (4).

Section 17. Section 13-40-102 is amended to read:

13-40-102. Definitions.

As used in this chapter:

(1) (a) "Cause to be copied" means to distribute or transfer computer software, or any component of computer software.

(b) "Cause to be copied" does not include providing:

(i) transmission, routing, intermediate temporary storage, or caching of software;

(ii) a storage or hosting medium, such as a compact disk, website, or computer server through which the software was distributed by a third party; or

(iii) an information location tool, such as a directory, index, reference, pointer, or hypertext link, through which the user of the computer located the software.

(2) (a) "Computer software" means a sequence of instructions written in any programming language that is executed on a computer.

(b) "Computer software" does not include a data component of a webpage that is not executable independently of the webpage.

(3) "Computer virus" means a computer program or other set of instructions that is designed to degrade the performance of or disable a computer or computer network and is designed to have the ability to replicate itself on another computer or computer network without the authorization of the owner of the other computer or computer network.

(4) "Damage" means any significant impairment to the:

(a) performance of a computer; or

(b) integrity or availability of data, software, a system, or information.

(5) "Execute," when used with respect to computer software, means the performance of the functions or the carrying out of the instructions of the computer software.

(6) "False pretenses" means the representation of a fact or circumstance that is not true and is calculated to mislead.

(7) (a) "Identifying information" means any information that can be used to access a person's financial accounts or to obtain goods and services, including the person's:

(i) address;

(ii) birth date;

(iii) Social Security number;

(iv) driver license number;

(v) non-driver governmental identification number;

(vi) telephone number;

(vii) bank account number;

(viii) student identification number;

(ix) credit or debit card number;

(x) personal identification number;

(xi) unique biometric data;

(xii) employee or payroll number;

(xiii) automated or electronic signature;

(xiv) computer image file;

(xv) photograph; or

(xvi) computer screen name or password.

(b) "Identifying information" does not include information that is lawfully obtained from publicly available information, or from federal, state, or local government records lawfully made available to the general public.

(8) "Intentionally deceptive" means any of the following:

(a) an intentionally and materially false or fraudulent statement;

(b) a statement or description that intentionally omits or misrepresents material information in order to deceive an owner or operator of a computer; or

(c) an intentional and material failure to provide a notice to an owner or operator concerning the installation or execution of computer software, for the purpose of deceiving the owner or operator.

(9) "Internet" means the global information system that is logically linked together by a globally unique address space based on the Internet protocol (IP), or its subsequent extensions, and that is able to support communications using the transmission control protocol/Internet protocol (TCP/IP) suite, or its subsequent extensions, or other IP-compatible protocols, and that provides, uses, or makes accessible, either publicly or privately, high-level services layered on communications and related infrastructure.

(10) "Internet service provider" means:

(a) an Internet service provider, as defined in Section [~~76-10-1230~~]76-5c-401; or

(b) a hosting company, as defined in Section [~~76-10-1230~~]76-5c-401.

(11) "Message" means a graphical or text communication presented to an authorized user of a computer.

(12) (a) "Owner or operator" means the owner or lessee of a computer, or a person using a computer with the owner's or lessee's authorization.

(b) "Owner or operator" does not include a person who owned a computer before the first retail sale of the computer.

(13) "Person" means any individual, partnership, corporation, limited liability company, or other organization, or any combination thereof.

(14) "Personally identifiable information" means any of the following information if it allows the entity holding the information to identify the owner or operator of a computer:

(a) the first name or first initial in combination with the last name and a home or other physical address including street name;

(b) a personal identification code in conjunction with a password required to access an identified account, other than a password, personal identification number, or other identification number transmitted by an authorized user to the issuer of the account or its agent;

(c) a Social Security number, tax identification number, driver license number, passport number, or any other government-issued identification number; or

(d) an account balance, overdraft history, or payment history that personally identifies an owner or operator of a computer.

(15) "Webpage" means a location that has a single uniform resource locator (URL) with respect to the World Wide Web or another location that can be accessed on the Internet.

Section 18. Section 13-44-301 is amended to read:

13-44-301. Enforcement -- Confidentiality agreement -- Penalties.

(1) The attorney general may enforce this chapter's provisions.

(2) (a) Nothing in this chapter creates a private right of action.

(b) Nothing in this chapter affects any private right of action existing under other law, including contract or tort.

(3) A person who violates this chapter's provisions is subject to a civil penalty of:

(a) no greater than $2,500 for a violation or series of violations concerning a specific consumer; and

(b) no greater than $100,000 in the aggregate for related violations concerning more than one consumer, unless:

(i) the violations concern:

(A) 10,000 or more consumers who are residents of the state; and

(B) 10,000 or more consumers who are residents of other states; or

(ii) the person agrees to settle for a greater amount.

(4) (a) In addition to the penalties provided in Subsection (3), the attorney general may seek, in an action brought under this chapter:

(i) injunctive relief to prevent future violations of this chapter; and

(ii) attorney fees and costs.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney general brings an action under this chapter in the district court, the attorney general shall bring the action in:

(i) Salt Lake City; or

(ii) the county in which resides a consumer who is affected by the violation.

(5) The attorney general shall deposit any amount received under Subsection (3), (4), or (10) into the Attorney General Litigation Fund created in Section [~~76-10-3114~~]67-5-40.

(6) In enforcing this chapter, the attorney general may:

(a) investigate the actions of any person alleged to violate Section 13-44-201 or 13-44-202;

(b) subpoena a witness;

(c) subpoena a document or other evidence;

(d) require the production of books, papers, contracts, records, or other information relevant to an investigation;

(e) conduct an adjudication in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to enforce a civil provision under this chapter; and

(f) enter into a confidentiality agreement in accordance with Subsection (7).

(7) (a) If the attorney general has reasonable cause to believe that an individual is in possession, custody, or control of information that

is relevant to enforcing this chapter, the attorney general may enter into a confidentiality agreement with the individual.

(b) In a civil action brought under this chapter, a court may issue a confidentiality order that incorporates the confidentiality agreement described in Subsection (7)(a).

(c) A confidentiality agreement entered into under Subsection (7)(a) or a confidentiality order issued under Subsection (7)(b) may:

(i) address a procedure;

(ii) address testimony taken, a document produced, or material produced under this section;

(iii) provide whom may access testimony taken, a document produced, or material produced under this section;

(iv) provide for safeguarding testimony taken, a document produced, or material produced under this section; or

(v) require that the attorney general:

(A) return a document or material to an individual; or

(B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance with Section 63G-2-604, destroy the document or material at a designated time.

(8) A subpoena issued under Subsection (6) may be served by certified mail.

(9) A person's failure to respond to a request or subpoena from the attorney general under Subsection (6)(b), (c), or (d) is a violation of this chapter.

(10) (a) The attorney general may inspect and copy all records related to the business conducted by the person alleged to have violated this chapter, including records located outside the state.

(b) For records located outside of the state, the person who is found to have violated this chapter shall pay the attorney general's expenses to inspect the records, including travel costs.

(c) Upon notification from the attorney general of the attorney general's intent to inspect records located outside of the state, the person who is found to have violated this chapter shall pay the attorney general $500, or a higher amount if $500 is estimated to be insufficient, to cover the attorney general's expenses to inspect the records.

(d) To the extent an amount paid to the attorney general by a person who is found to have violated this chapter is not expended by the attorney general, the amount shall be refunded to the person who is found to have violated this chapter.

(e) The Division of Corporations and Commercial Code or any other relevant entity shall revoke any authorization to do business in this state of a person who fails to pay any amount required under this Subsection (10).

(11) (a) Subject to Subsection (11)(c), the attorney general shall keep confidential a procedure agreed to, testimony taken, a document produced, or material produced under this section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the individual who agreed to the procedure, provided testimony, produced the document, or produced material waives confidentiality in writing.

(b) Subject to Subsections (11)(c) and (11)(d), the attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section to the extent the use is not restricted or prohibited by a confidentiality agreement or a confidentiality order.

(c) The attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section that is restricted or prohibited from use by a confidentiality agreement or a confidentiality order if the individual who provided testimony or produced the document or material waives the restriction or prohibition in writing.

(d) The attorney general may disclose testimony taken, a document produced, or material produced under this section, without consent of the individual who provided the testimony or produced the document or material, or the consent of an individual being investigated, to:

(i) a grand jury; or

(ii) a federal or state law enforcement officer, if the person from whom the information was obtained is notified 20 days or greater before the day on which the information is disclosed, and the federal or state law enforcement officer certifies that the federal or state law enforcement officer will:

(A) maintain the confidentiality of the testimony, document, or material; and

(B) use the testimony, document, or material solely for an official law enforcement purpose.

(12) (a) An administrative action filed under this chapter shall be commenced no later than 10 years after the day on which the alleged breach of system security last occurred.

(b) A civil action under this chapter shall be commenced no later than five years after the day on which the alleged breach of system security last occurred.

Section 19. Section 13-45-401 is amended to read:

13-45-401. Enforcement -- Confidentiality agreement -- Penalties.

(1) The attorney general may enforce the provisions of this chapter.

(2) A person who violates a provision of this chapter is subject to a civil fine of:

(a) no greater than $2,500 for a violation or series of violations concerning a specific consumer; and

(b) no greater than $100,000 in the aggregate for related violations concerning more than one consumer, unless:

(i) the violations concern:

(A) 10,000 or more consumers who are residents of the state; and

(B) 10,000 or more consumers who are residents of other states; or

(ii) the person agrees to settle for a greater amount.

(3) (a) In addition to the penalties provided in Subsection (2), the attorney general may seek, in an action brought under this chapter:

(i) injunctive relief to prevent future violations of this chapter; and

(ii) attorney fees and costs.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney general brings an action under this chapter in the district court, the attorney general shall bring the action in:

(i) Salt Lake City; or

(ii) the county in which resides a consumer who is the subject of a credit report on which a violation occurs.

(4) The attorney general shall deposit any amount received under Subsection (2) or (3) into the Attorney General Litigation Fund created in Section [~~76-10-3114~~]67-5-40.

(5) (a) If the attorney general has reasonable cause to believe that an individual is in possession, custody, or control of information that is relevant to enforcing this chapter, the attorney general may enter into a confidentiality agreement with the individual.

(b) In a civil action brought under this chapter, a court may issue a confidentiality order that incorporates the confidentiality agreement described in Subsection (5)(a).

(c) A confidentiality agreement entered into under Subsection (5)(a) or a confidentiality order issued under Subsection (5)(b) may:

(i) address a procedure;

(ii) address testimony taken, a document produced, or material produced under this section;

(iii) provide whom may access testimony taken, a document produced, or material produced under this section;

(iv) provide for safeguarding testimony taken, a document produced, or material produced under this section; or

(v) require that the attorney general:

(A) return a document or material to an individual; or

(B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance with Section 63G-2-604, destroy the document or material at a designated time.

(6) (a) Subject to Subsection (6)(c), the attorney general shall keep confidential a procedure agreed to, testimony taken, a document produced, or material produced under this section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the individual who agreed to the procedure, provided testimony, or produced the document or material waives confidentiality in writing.

(b) Subject to Subsections (6)(c) and (6)(d), the attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section to the extent the use is not restricted or prohibited by a confidentiality agreement or a confidentiality order.

(c) The attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section that is restricted or prohibited from use by a confidentiality agreement or a confidentiality order if the individual who provided testimony, produced the document, or produced the material waives the restriction or prohibition in writing.

(d) The attorney general may disclose testimony taken, a document produced, or material produced under this section, without consent of the individual who provided the testimony, produced the document, or produced the material, or without the consent of an individual being investigated, to:

(i) a grand jury; or

(ii) a federal or state law enforcement officer, if the person from whom the information was obtained is notified 20 days or greater before the day on which the information is disclosed, and the federal or state law enforcement officer certifies that the federal or state law enforcement officer will:

(A) maintain the confidentiality of the testimony, document, or material; and

(B) use the testimony, document, or material solely for an official law enforcement purpose.

(7) A civil action filed under this chapter shall be commenced no later than five years after the day on which the alleged violation last occurred.

Section 20. Section 13-74-101 is amended to read:

13-74-101. Definitions.

(1) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in a firearm.

(2) "Customer" means an individual who presents a payment card to a merchant for the purchase of a good or service.

(3) "Financial entity" means any person involved in facilitating or processing a payment card transaction, including:

(a) a payment card network;

(b) a merchant acquirer; or

(c) a payment facilitator.

(4) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(5) (a) "Firearm accessory or component" means a device specifically adapted to:

(i) enable the wearing or carrying about one's person or the storage or mounting in or on any conveyance of a firearm; or

(ii) be inserted into or affixed to a firearm to enable, alter, or improve the functioning or capabilities of the firearm.

(b) "Firearm accessory or component" includes a telescopic or laser sight, magazine, flash or sound suppressor, folding or aftermarket stock or grip, speedloader, brace, ammunition carrier, or light for target illumination.

(6) "Firearms code" means the merchant category code 5723, approved in September 2022 by the International Organization for Standardization, for firearms retailers.

(7) "Firearms retailer" means a merchant engaged in the lawful business of selling or trading firearms, firearm accessories or components, or ammunition.

(8) "Merchant" means a person physically located in the state who accepts a payment card from a customer for the purchase of a good or service.

(9) "Payment card" means a card, code, or other means by which a person may debit a deposit account or use a line of credit to purchase a good or service.

(10) "Reloading supplies" means any equipment, component, or material designed for the reloading of ammunition, including reloading presses, shell holders, powder measures, priming tools, reloading manuals, casings, and gunpowder.

Section 21. Section 16-6a-1414 is amended to read:

16-6a-1414. Grounds and procedure for judicial dissolution.

(1) The attorney general or the division director may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a nonprofit corporation if it is established that:

(a) the nonprofit corporation obtained the nonprofit corporation's articles of incorporation through fraud; or

(b) the nonprofit corporation has continued to exceed or abuse the authority conferred upon the nonprofit corporation by law.

(2) A member or director of a nonprofit corporation may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve the nonprofit corporation if it is established that:

(a) (i) the directors are deadlocked in the management of the corporate affairs;

(ii) the members, if any, are unable to break the deadlock; and

(iii) irreparable injury to the nonprofit corporation is threatened or being suffered;

(b) the directors or those in control of the nonprofit corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) the members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or

(d) the corporate assets are being misapplied or wasted.

(3) A creditor may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a nonprofit corporation if it is established that:

(a) (i) the creditor's claim has been reduced to judgment;

(ii) the execution on the judgment has been returned unsatisfied; and

(iii) the nonprofit corporation is insolvent; or

(b) (i) the nonprofit corporation is insolvent; and

(ii) the nonprofit corporation has admitted in writing that the creditor's claim is due and owing.

(4) (a) As used in this Subsection (4):

(i) (A) "Misconduct claim" means:

[~~(A)~~](I) a claim for wrongful death, fraud, breach of public trust, or an intentional tort; or

[~~(B)~~](II) a claim regarding criminal conduct by a director, member, or employee of the nonprofit corporation that is a felony offense or an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, Title 76, Chapter 5b, Sexual Exploitation Act, or Section 76-7-102[~~, Section 76-9-702, or Section 76-9-702.1~~].

(B) "Misconduct claim" does not include a claim regarding criminal conduct by a director, member, or employee of the nonprofit corporation that is an offense described in Section 76-5-417 or 76-5-420.

(ii) "Nonprofit corporation" does not include a bona fide church or religious organization.

(b) If a person brings a misconduct claim in an action against a nonprofit corporation, the person may also bring an action to dissolve the nonprofit corporation.

(c) If a person brings a dissolution action under Subsection (4)(b), the court may only dissolve the nonprofit corporation if the court finds the nonprofit corporation is liable for the misconduct claim.

(d) Upon a motion by the plaintiff in a dissolution action described in Subsection (4)(b), the court may:

(i) issue an injunction preventing the nonprofit corporation from selling or disposing of any assets held by the nonprofit corporation; and

(ii) require the nonprofit corporation to deposit funds, or post a bond, with the court for the amount of damages pleaded in the complaint.

(e) The court may void a transaction that is made by the nonprofit corporation within 12 months before the day on which the action was filed with the court if the court finds that the transaction is voidable under Section 25-6-202.

(5) If an action is brought under this section, it is not necessary to make directors or members parties to the action to dissolve the nonprofit corporation unless relief is sought against the members individually.

(6) In an action under this section, the court may:

(a) issue injunctions;

(b) appoint a receiver or a custodian pendente lite with all powers and duties the court directs; or

(c) take other action required to preserve the nonprofit corporation's assets wherever located and carry on the business of the nonprofit corporation until a full hearing can be held.

(7) If a nonprofit corporation has been dissolved by voluntary or another action taken under this part:

(a) the nonprofit corporation may bring a proceeding to wind up and liquidate its business and affairs under judicial supervision in accordance with Section 16-6a-1405; and

(b) the attorney general, a director, a member, a creditor, or a plaintiff under Subsection (4) may bring a proceeding to wind up and liquidate the affairs of the nonprofit corporation under judicial supervision in accordance with Section 16-6a-1405, upon establishing the grounds set forth in Subsections (1) through (4).

Section 22. Section 17-41-403 is amended to read:

17-41-403. Nuisances.

(1) A political subdivision shall ensure that any of the political subdivision's laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition:

(a) for an agriculture protection area, any agricultural activity or operation within an agriculture protection area conducted using sound agricultural practices unless that activity or operation bears a direct relationship to public health or safety;

(b) for an industrial protection area, any industrial use of the land within the industrial protection area that is consistent with sound practices applicable to the industrial use, unless that use bears a direct relationship to public health or safety; or

(c) for a critical infrastructure materials protection area, any critical infrastructure materials operations on the land within the critical infrastructure materials protection area that is consistent with sound practices applicable to the critical infrastructure materials operations, unless that use bears a direct relationship to public health or safety.

(2) In a civil action for nuisance or a criminal action for public nuisance under Section [~~76-10-803~~]76-9-1301, it is a complete defense if the action involves agricultural activities and:

(a) those agricultural activities were:

(i) conducted within an agriculture protection area; and

(ii) not in violation of any federal, state, or local law or regulation relating to the alleged nuisance or were conducted according to sound agricultural practices; or

(b) a defense under Section 4-44-201 applies.

(3) (a) A vested mining use undertaken in conformity with applicable federal and state law and regulations is presumed to be operating within sound mining practices.

(b) A vested mining use that is consistent with sound mining practices:

(i) is presumed to be reasonable; and

(ii) may not constitute a private or public nuisance under Section [~~76-10-803~~]76-9-1301.

(c) A vested mining use in operation for more than three years may not be considered to have become a private or public nuisance because of a subsequent change in the condition of land within the vicinity of the vested mining use.

(4) (a) For any new subdivision development located in whole or in part within 300 feet of the boundary of an agriculture protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Agriculture Protection Area

This property is located in the vicinity of an established agriculture protection area in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future be conducted on property included in the agriculture protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."

(b) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of an industrial protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Industrial Protection Area

This property is located in the vicinity of an established industrial protection area in which normal industrial uses and activities have been afforded the highest priority use status. It can be anticipated that such industrial uses and activities may now or in the future be conducted on property included in the industrial protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal industrial uses and activities."

(c) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a critical infrastructure materials protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Critical Infrastructure Materials Protection Area

This property is located in the vicinity of an established critical infrastructure materials protection area in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal critical infrastructure materials operations."

(d) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a mining protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"This property is located within the vicinity of an established mining protection area in which normal mining uses and activities have been afforded the highest priority use status. It can be anticipated that the mining uses and activities may now or in the future be conducted on property included in the mining protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from the normal mining uses and activities."

Section 23. Section 17-50-333 is amended to read:

17-50-333. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(c) "Electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(d) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(e) "Local health department" means the same as that term is defined in Section 26A-1-102.

(f) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(g) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business; or

(v) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(h) "Self-service display" means the same as that term is defined in Section [~~76-10-105.1~~]76-9-1107.

(i) "Tobacco product" means:

(i) the same as that term is defined in Section [~~76-10-101~~]76-9-1101; or

(ii) tobacco paraphernalia as defined in Section [~~76-10-101~~]76-9-1101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by the delegation of the state's police power to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a county may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; or

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a county to issue a retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under [~~Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act~~]Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

(iv) under any other provision of state law or local ordinance.

(7) (a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 24. Section 19-2-114 is amended to read:

19-2-114. Activities not in violation of chapter or rules.

(1) As used in this section, "attainment area" means an area that meets the national primary and secondary ambient air quality standard for pollution.

(2) The following are not a violation of this chapter or of a rule made under this chapter:

(a) burning incident to horticultural or agricultural operations of:

(i) prunings from trees, bushes, and plants; or

(ii) dead or diseased trees, bushes, and plants, including stubble;

(b) burning of weed growth along ditch banks incident to clearing these ditches for irrigation purposes;

(c) controlled heating of orchards or other crops to lessen the chances of their being frozen so long as the emissions from this heating do not violate minimum standards set by the board; and

(d) the controlled burning of not more than two structures per year by an organized and operating fire department for the purpose of training fire service personnel when the United States Weather Service clearing index for the area where the burn is to occur is above 500.

(3) (a) The board or division may not prohibit a burn during the time period beginning November 1 and ending March 31 if the burn:

(i) occurs in an attainment area;

(ii) occurs on private property within an incorporated portion of a county;

(iii) occurs when the United States Weather Service clearing index for the area in which the burn is to occur is above 250;

(iv) is the open burning of clippings, bushes, plants, prunings from trees, or dead or diseased trees, bushes, and plants, that are:

(A) incident to property and residential clean-up activities; and

(B) thoroughly dry;

(v) does not include trash, rubbish, tires, or oil in the material to be burned, used to start the burn, or used to keep a fire burning; and

(vi) does not create a nuisance as defined in Section [~~76-10-803~~]76-9-1301.

(b) Notwithstanding Subsection (3)(a), the board by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may establish the process for issuing a burn permit under this chapter.

Section 25. Section 19-6-429 is amended to read:

19-6-429. False information and claims.

(1) Any person who presents or causes to be presented any oral or written statement, knowing the statement contains false information, in order to obtain a certificate of compliance is guilty of a class B misdemeanor.

(2) (a) Any person who presents or causes to be presented any claim for payment from the fund, knowing the claim contains materially false information or knowing the claim is not eligible for payment from the fund, is subject to the criminal penalties under Section [~~76-10-1801~~]76-6-525 regarding fraud.

(b) The level of criminal penalty shall be determined by the value involved, in the same manner as in Section [~~76-10-1801~~]76-6-525.

Section 26. Section 23A-4-1106 is amended to read:

23A-4-1106. Suspension of license or permit privileges -- Suspension of certificates of registration.

(1) As used in this section:

(a) "License or permit privileges" means the privilege of applying for, purchasing, and exercising the benefits conferred by a license or permit issued by the division.

(b) "Livestock guardian dog" means the same as that term is defined in Section 76-6-111.

(2) A hearing officer, appointed by the division, may suspend a person's license or permit privileges if:

(a) in a court of law, the person:

(i) is convicted of:

(A) violating this title or a rule of the Wildlife Board;

(B) killing or injuring domestic livestock or a livestock guardian dog while engaged in an activity regulated under this title;

(C) violating Section 76-6-111; or

(D) violating Section [~~76-10-508~~]76-11-207 while engaged in an activity regulated under this title;

(ii) enters into a plea in abeyance agreement, in which the person pleads guilty or no contest to an offense listed in Subsection (2)(a)(i), and the plea is held in abeyance; or

(iii) is charged with committing an offense listed in Subsection (2)(a)(i), and the person enters into a diversion agreement which suspends the prosecution of the offense; and

(b) the hearing officer determines the person committed the offense intentionally, knowingly, or recklessly, as defined in Section 76-2-103.

(3) (a) The Wildlife Board shall make rules establishing guidelines that a hearing officer shall consider in determining:

(i) the type of license or permit privileges to suspend; and

(ii) the duration of the suspension.

(b) The Wildlife Board shall ensure that the guidelines established under Subsection (3)(a) are consistent with Subsections (4), (5), and (6).

(4) Except as provided in Subsections (5) and (6), a hearing officer may suspend a person's license or permit privileges according to Subsection (2) for a period of time not to exceed:

(a) seven years for:

(i) a felony conviction;

(ii) a plea of guilty or no contest to an offense punishable as a felony, which plea is held in abeyance pursuant to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a felony, the prosecution of which is suspended pursuant to a diversion agreement;

(b) five years for:

(i) a class A misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class A misdemeanor, which plea is held in abeyance pursuant to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class A misdemeanor, the prosecution of which is suspended pursuant to a diversion agreement;

(c) three years for:

(i) a class B misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class B misdemeanor when the plea is held in abeyance according to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class B misdemeanor, the prosecution of which is suspended pursuant to a diversion agreement; and

(d) one year for:

(i) a class C misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class C misdemeanor, when the plea is held in abeyance according to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class C misdemeanor, the prosecution of which is suspended according to a diversion agreement.

(5) The hearing officer may double a suspension period established in Subsection (4) for offenses:

(a) committed in violation of an existing suspension or revocation order issued by the courts, division, or Wildlife Board; or

(b) involving the unlawful taking of a trophy animal, as defined in Section 23A-1-101.

(6) (a) A hearing officer may suspend, according to Subsection (2), a person's license or permit privileges for a particular license or permit only once for each single criminal episode, as defined in Section 76-1-401.

(b) If a hearing officer addresses two or more single criminal episodes in a hearing, the suspension periods of license or permit privileges of the same type suspended, according to Subsection (2), may run consecutively.

(c) If a hearing officer suspends, according to Subsection (2), license or permit privileges of the type that have been previously suspended by a court, a hearing officer, or the Wildlife Board and the suspension period has not expired, the suspension periods may run consecutively.

(7) (a) A hearing officer, appointed by the division, may suspend a person's privilege of applying for, purchasing, and exercising the benefits conferred by a certificate of registration if:

(i) the hearing officer determines the person intentionally, knowingly, or recklessly, as defined in Section 76-2-103, violated:

(A) this title;

(B) a rule or order of the Wildlife Board;

(C) the terms of a certificate of registration; or

(D) the terms of a certificate of registration application or agreement; or

(ii) the person, in a court of law:

(A) is convicted of an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration;

(B) pleads guilty or no contest to an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and the plea is held in abeyance in accordance with a plea in abeyance agreement; or

(C) is charged with an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and prosecution of the offense is suspended in accordance with a diversion agreement.

(b) A hearing officer shall suspend a certificate of registration for the harvesting of brine shrimp eggs, as defined in Section 59-23-3, if the hearing officer determines the holder of the certificate of registration has violated Section 59-23-5.

(8) (a) The director shall appoint a qualified person as a hearing officer to perform the adjudicative functions provided in this section.

(b) The director may not appoint a division employee who investigates or enforces wildlife violations.

(9) (a) The courts may suspend, in criminal sentencing, a person's privilege to apply for, purchase, or exercise the benefits conferred by a license, permit, or certificate of registration.

(b) The courts shall promptly notify the division of suspension orders or recommendations entered.

(c) The division, upon receiving notification of suspension from the courts, shall prohibit the person from applying for, purchasing, or exercising the benefits conferred by a license, permit, or certification of registration for the duration and of the type specified in the court order.

(d) The hearing officer shall consider a recommendation made by a sentencing court concerning suspension before issuing a suspension order.

(10) Before suspension under this section, the division shall give a person:

(a) written notice of action the division intends to take; and

(b) an opportunity for a hearing.

(11) (a) A person may file an appeal of a hearing officer's decision with the Wildlife Board.

(b) The Wildlife Board shall review the hearing officer's findings and conclusions and any written documentation submitted at the hearing.

(c) The Wildlife Board may:

(i) take no action;

(ii) vacate or remand the decision; or

(iii) amend the period or type of suspension.

(12) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry privileges consistent with Chapter 2, Part 5, Wildlife Violator Compact.

(13) Within 30 days after the day on which an individual's privilege to hunt or fish is suspended under this title, the division shall report to the Division of Professional Licensing the:

(a) identifying information for the individual; and

(b) time period of the suspension.

(14) The Wildlife Board may make rules to implement this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 27. Section 23A-13-303 is amended to read:

23A-13-303. Nuisances.

(1) (a) A county shall exclude the activities described in Subsection (1)(b) from the definition of public nuisance in a county law or ordinance regulating a public nuisance.

(b) An activity or occurrence normally associated with a migratory bird production area is not a nuisance, including:

(i) hunting;

(ii) discharging a firearm;

(iii) improving habitat;

(iv) trapping;

(v) eradicating weeds;

(vi) discing;

(vii) planting;

(viii) impounding water;

(ix) raising a bird or other domestic animal;

(x) grazing;

(xi) an activity conducted in the normal course of an agricultural operation as defined in Section 4-44-102; and

(xii) an odor.

(2) In a civil action for nuisance or a criminal action for public nuisance under Section [~~76-10-803~~]76-9-1301, it is a complete defense

if the action is:

(a) normally associated with a migratory bird production area;

(b) conducted within a migratory bird production area; and

(c) not in violation of federal or state law.

(3) An owner of a new development located in whole or in part within 1,000 feet of a migratory bird production area shall provide the following notice on a plat filed with the county recorder:

"Migratory Bird Production Area

This property is located in the vicinity of an established migratory bird production area in which hunting and activities related to the management and operation of land for the benefit of migratory birds have been afforded the highest priority use status. It can be anticipated that these uses and activities may now or in the future be conducted on land within the migratory bird production area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from activities normally associated with a migratory bird production area."

Section 28. Section 26B-2-120 is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the department under this part and has direct access, including:

(A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in accordance with Section 78B-6-128;

(B) a foster parent or prospective foster parent;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) an individual who transports a child for a youth transportation company;

(E) an individual who provides certified peer support, as defined in Section 26B-5-610;

(F) an individual who provides peer supports, has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder;

(G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;

(H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;

(I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the division;

(J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access;

(K) a foster home licensee that submits an application for an annual background screening as required by Subsection 26B-2-105(4)(d)(iii); or

(L) a short-term relief care provider.

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services;

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services;

(C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or

(D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.

(b) "Application" means a background check application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Criminal finding" means a record of:

(i) an arrest for a criminal offense;

(ii) a warrant for a criminal arrest;

(iii) charges for a criminal offense; or

(iv) a criminal conviction.

(e) "Direct access" means that an individual has, or likely will have:

(i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or

(ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.

(f) (i) "Direct access qualified" means that the applicant has an eligible determination by the office within the license and renewal time period; and

(ii) no more than 180 days have passed since the date on which the applicant's association with a certification, contract, or licensee with the department expires.

(g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(h) "Licensee" means an individual or a human services program licensed by the division.

(i) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) juvenile court arrest, adjudication, and disposition records;

(v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or

(vi) a state child abuse or neglect registry.

(j) "Office" means the Office of Background Processing within the department.

(k) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504;

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon association with a certification, contract, or licensee with the department;

(ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification, contract, or licensee with the department for 180 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(c) and (4);

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories; and

(e) an application showing an applicant's association with a certification, contract, or a licensee with the department, for the purpose of the office tracking the direct access qualified status of the applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18 years old or older;

(v) if the applicant is associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;

(e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;

(f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and

(h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that an individual who has direct access qualified status will no longer be associated with a certification, contract, or licensee with the department, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation or prostitution;

(D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

[~~(E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;~~]

[~~(F)~~](E) an offense included in Title 76, Chapter 5, [~~Offenses Against the Individual~~]Part 1, 2, 3, 4, or 7;

[~~(G)~~](F) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act, other than Section 76-5b-206;

[~~(H)~~](G) an offense included in Title 76, Chapter 7, Offenses Against the Family;

[~~(I)~~](H) an offense included in [~~Title 76, Chapter 9, Part 4, Offenses Against Privacy~~]Title 76, Chapter 12, Part 3, Privacy Offenses;

[~~(J)~~](I) an offense included in [~~Title 76, Chapter 10, Part 4, Weapons of Mass Destruction~~]Title 76, Chapter 15, Part 3, Weapons of Mass Destruction;

[~~(K)~~](J) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

[~~(L)~~](K) aggravated arson, as described in Section 76-6-103;

[~~(M)~~](L) aggravated burglary, as described in Section 76-6-203;

[~~(N)~~](M) aggravated exploitation of prostitution, as described in Section [~~76-10-1306~~]76-5d-208;

[~~(O)~~](N) aggravated robbery, as described in Section 76-6-302;

[~~(P)~~](O) endangering persons in a human services program, as described in Section 26B-2-113;

[~~(Q)~~](P) failure to report, as described in Section 80-2-609;

[~~(R)~~](Q) identity fraud crime, as described in Section 76-6-1102;

[~~(S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;~~]

[~~(T)~~](R) riot, as described in Section 76-9-101; or

[~~(U) sexual battery, as described in Section 76-9-702.1; or~~]

[~~(V)~~](S) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section [~~76-10-506~~]76-11-205; or

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider or a mental health professional, if the applicant provides services in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (7).

(c) The office shall deny direct access qualified status to an applicant if the office finds that a court order prohibits the applicant from

having direct access to a child or vulnerable adult.

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);

(b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;

(d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);

(e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;

(f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

(h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);

(i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;

(j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(k) has a pending charge for an offense described in Subsection (5)(a);

(l) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section;

(m) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;

(n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;

(p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

(7) (a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.

(b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status to an applicant if the office finds the approval would likely create a risk of harm to a child or vulnerable adult.

(8) The office shall grant direct access qualified status to an applicant who is not denied under this section.

(9) (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice, without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice, without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall grant or deny direct access qualified status to the applicant in accordance with this section.

(10) (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.

(b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

(i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(c) Notwithstanding any other provision of this section, an applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office grants direct access qualified status to the applicant through a subsequent application in accordance with this section.

(11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.

(12) (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.

(b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.

(c) The office shall conduct a comprehensive review for an applicant if:

(i) the applicant is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal finding.

(13) (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

(b) As federally required, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(c) The requirements described in Subsection (13)(b) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).

(d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;

(E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(F) aggravated murder, as described in Section 76-5-202;

(G) murder, as described in Section 76-5-203;

(H) manslaughter, as described in Section 76-5-205;

(I) child abuse homicide, as described in Section 76-5-208;

(J) homicide by assault, as described in Section 76-5-209;

(K) kidnapping, as described in Section 76-5-301;

(L) child kidnapping, as described in Section 76-5-301.1;

(M) aggravated kidnapping, as described in Section 76-5-302;

(N) human trafficking of a child, as described in Section 76-5-308.5;

(O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, or 76-5-419;

(P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

(Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(R) aggravated arson, as described in Section 76-6-103;

(S) aggravated burglary, as described in Section 76-6-203;

(T) aggravated robbery, as described in Section 76-6-302;

[~~(U) lewdness involving a child, as described in Section 76-9-702.5;~~]

[~~(V)~~](U) incest, as described in Section 76-7-102; or

[~~(W)~~](V) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).

(e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(f) In addition to the circumstances described in Subsection (6), the office shall conduct a comprehensive review of an applicant's background check under this section if the applicant:

(i) has an offense described in Subsection (5)(a);

(ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;

(iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-2-210;

(v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6), (7), and (13); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services for purposes of granting or denying direct access qualified status to an applicant.

Section 29. Section 26B-4-501 is amended to read:

26B-4-501. Definitions.

As used in this part:

(1) "Controlled substance" means the same as that term is defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) "Critical access hospital" means a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998).

(3) "Designated facility" means:

(a) a freestanding urgent care center;

(b) a general acute hospital; or

(c) a critical access hospital.

(4) "Dispense" means the same as that term is defined in Section 58-17b-102.

(5) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(6) "Emergency contraception" means the use of a substance, approved by the United States Food and Drug Administration, to prevent pregnancy after sexual intercourse.

(7) "Freestanding urgent care center" means the same as that term is defined in Section 59-12-801.

(8) "General acute hospital" means the same as that term is defined in Section 26B-2-201.

(9) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(10) "Health care provider" means:

(a) a physician, as defined in Section 58-67-102;

(b) an advanced practice registered nurse, as defined in Section 58-31b-102;

(c) a physician assistant, as defined in Section 58-70a-102; or

(d) an individual licensed to engage in the practice of dentistry, as defined in Section 58-69-102.

(11) "Increased risk" means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.

(12) "Opiate" means the same as that term is defined in Section 58-37-2.

(13) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the diagnosis or treatment of an opiate-related drug overdose.

(14) "Opiate-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

(15) "Overdose outreach provider" means:

(a) a law enforcement agency;

(b) a fire department;

(c) an emergency medical service provider, as defined in Section 26B-4-101;

(d) emergency medical service personnel, as defined in Section 26B-4-101;

(e) an organization providing treatment or recovery services for drug or alcohol use;

(f) an organization providing support services for an individual, or a family of an individual, with a substance use disorder;

(g) a certified peer support specialist, as defined in Section 26B-5-610;

(h) an organization providing substance use or mental health services under contract with a local substance abuse authority, as defined in Section 26B-5-101, or a local mental health authority, as defined in Section 26B-5-101;

(i) an organization providing services to the homeless;

(j) a local health department;

(k) an individual licensed to practice under:

(i) Title 58, Chapter 17b, Pharmacy Practice Act;

(ii) Title 58, Chapter 60, Part 2, Social Worker Licensing Act; or

(iii) Title 58, Chapter 60, Part 5, Substance Use Disorder Counselor Act; or

(l) an individual.

(16) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

(17) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(18) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

(19) "Physician" means the same as that term is defined in Section 58-67-102.

(20) "Practitioner" means:

(a) a physician; or

(b) any other person who is permitted by law to prescribe emergency contraception.

(21) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(22) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(23) (a) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses, that may result in a pregnancy.

(b) "Sexual assault" does not include criminal conduct described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-418, sexual battery;

(iii) Section 76-5-419, lewdness; or

(iv) Section 76-5-420, lewdness involving a child.

(24) "Victim of sexual assault" means any person who presents to receive, or receives, medical care in consequence of being subjected to sexual assault.

Section 30. Section 26B-7-205 is amended to read:

26B-7-205. Willful introduction of communicable disease a misdemeanor.

Any person who willfully or knowingly introduces any communicable or infectious disease into any county, municipality, or community is guilty of a class A misdemeanor, except as provided in Section [~~76-10-1309~~]76-5d-211.

Section 31. Section 26B-7-501 is amended to read:

26B-7-501. Definitions.

As used in this part:

(1) "Community location" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

(2) "Electronic cigarette" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(3) "Electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(4) "Electronic cigarette substance" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(5) "Employee" means an employee of a tobacco retailer.

(6) "Enforcing agency" means the department, or any local health department enforcing the provisions of this part.

(7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.

(8) "Local health department" means the same as that term is defined in Section 26A-1-102.

(9) "Manufacture" includes:

(a) to cast, construct, or make electronic cigarettes; or

(b) to blend, make, process, or prepare an electronic cigarette substance.

(10) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance that is sold in a container that:

(a) is prefilled by the electronic cigarette substance manufacturer; and

(b) the electronic cigarette manufacturer does not intend for a consumer to open.

(11) "Manufacturer sealed electronic cigarette product" means:

(a) an electronic cigarette substance or container that the electronic cigarette manufacturer does not intend for a consumer to open or refill; or

(b) a prefilled electronic cigarette as that term is defined in Section [~~76-10-101~~]76-9-1101.

(12) "Nicotine" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(13) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(14) "Non-tobacco shisha" means any product that:

(a) does not contain tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

(15) "Owner" means a person holding a 20% ownership interest in the business that is required to obtain a permit under this part.

(16) "Permit" means a tobacco retail permit issued under Section 26B-7-507.

(17) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:

(a) buildings, offices, shops, elevators, or restrooms;

(b) means of transportation or common carrier waiting rooms;

(c) restaurants, cafes, or cafeterias;

(d) taverns as defined in Section 32B-1-102, or cabarets;

(e) shopping malls, retail stores, grocery stores, or arcades;

(f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;

(g) barber shops, hair salons, or laundromats;

(h) sports or fitness facilities;

(i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;

(j) (i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and

(ii) any child care, other than child care as defined in Section 26B-2-401, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;

(k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;

(l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or the members' guests or families;

(m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;

(n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;

(o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and

(p) a holder of a bar establishment license, as defined in Section 32B-1-102.

(18) (a) "Proof of age" means:

(i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(ii) a valid identification that:

(A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;

(iv) a valid United States military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section 53-3-207.

(19) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

(20) "Retail tobacco specialty business" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

(21) "Shisha" means any product that:

(a) contains tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

(22) "Smoking" means:

(a) the possession of any lighted or heated tobacco product in any form;

(b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains:

(i) tobacco or any plant product intended for inhalation;

(ii) shisha or non-tobacco shisha;

(iii) nicotine;

(iv) a natural or synthetic tobacco substitute; or

(v) a natural or synthetic flavored tobacco product;

(c) using an electronic cigarette; or

(d) using an oral smoking device intended to circumvent the prohibition of smoking in this part.

(23) "Tax commission license" means a license issued by the State Tax Commission under:

(a) Section 59-14-201 to sell a cigarette at retail;

(b) Section 59-14-301 to sell a tobacco product at retail; or

(c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(24) "Tobacco product" means:

(a) a tobacco product as defined in Section [~~76-10-101~~]76-9-1101; or

(b) tobacco paraphernalia as defined in Section [~~76-10-101~~]76-9-1101.

(25) "Tobacco retailer" means a person that is required to obtain a tax commission license.

Section 32. Section 26B-7-505 is amended to read:

26B-7-505. Electronic cigarette products -- Labeling -- Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.

(1) The department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance regarding:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(2) On or before January 1, 2021, the department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell a manufacturer sealed electronic cigarette product regarding:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(3) (a) A person may not sell an electronic cigarette substance unless the electronic cigarette substance complies with the requirements established by the department under Subsection (1).

(b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic cigarette product unless the manufacturer sealed electronic cigarette product complies with the requirements established by the department under Subsection (2).

(c) Notwithstanding Subsections (3)(a) and (3)(b), beginning on January 1, 2025, a person may not sell an electronic cigarette product that is not a premarket authorized or pending electronic cigarette product as that term is defined in Section [~~76-10-101~~]76-9-1101.

(4) (a) A local health department may not enact a rule or regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or product quality that is not identical to the requirements established by the department under Subsections (1) and (2).

(b) Except as provided in Subsection (4)(c), a local health department may enact a rule or regulation regarding electronic cigarette substance manufacturing.

(c) A local health department may not enact a rule or regulation regarding a manufacturer sealed electronic cigarette product.

(5) A person may not advertise an electronic cigarette product as a tobacco cessation device.

(6) (a) Any nicotine product shall contain the statement described in Subsection (6)(b) if the nicotine product:

(i) (A) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal regulations; or

(B) is not otherwise required under federal or state law to contain a nicotine warning; and

(ii) contains nicotine.

(b) A statement shall appear on the exterior packaging of a nicotine product described in Subsection (6)(a) as follows:

"This product contains nicotine."

Section 33. Section 26B-7-508 is amended to read:

26B-7-508. Permit application.

(1) A local health department shall issue a permit for a tobacco retailer if the local health department determines that the applicant:

(a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4); and

(b) meets all requirements for a permit under this part.

(2) An applicant for a permit shall:

(a) submit an application described in Subsection (3) to the local health department with jurisdiction over the area where the tobacco retailer is located; and

(b) pay all applicable fees described in Section 26B-7-509.

(3) The application for a permit shall include:

(a) the name, address, and telephone number of each proprietor;

(b) the name and mailing address of each proprietor authorized to receive permit-related communication and notices;

(c) the business name, address, and telephone number of the single, fixed location for which a permit is sought;

(d) evidence that the location for which a permit is sought has a valid tax commission license;

(e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated:

(i) a provision of this part;

(ii) Section 26B-7-503;

(iii) Title 76, Chapter 9, Part 11, Cigarettes, Tobacco, and Psychotoxic Chemical Solvents;

(iv) Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;

[~~(iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;~~]

[~~(iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~]

(v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

(vi) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product; and

(f) the dates of all violations disclosed under this Subsection (3).

(4) (a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty business permit shall include evidence showing whether the business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet of property used or zoned for agricultural or residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) The department or a local health department may not deny a permit to a retail tobacco specialty business under Subsection (4) if the retail tobacco specialty business meets the requirements described in Subsection 10-8-41.6(7) or 17-50-333(7).

(6) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments in accordance with this part.

(b) The permit process established by the department under Subsection (6)(a) may not require any information in an application that is not required by this section.

Section 34. Section 26B-7-511 is amended to read:

26B-7-511. Permit requirements for a retail tobacco specialty business.

(1) A retail tobacco specialty business shall:

(a) electronically verify proof of age for any individual that enters the premises of the business in accordance with Section 26B-7-521;

(b) except as provided in [~~Subsection 76-10-105.1(4)~~]Section 76-9-1108, prohibit any individual from entering the business if the individual is under 21 years old; and

(c) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates:

(i) the prohibition on the presence of an individual under 21 years old in a retail tobacco specialty business in [~~Subsection 76-10-105.1(4)~~]Section 76-9-1108; and

(ii) the prohibition on the sale of tobacco products and electronic cigarette products to an individual under 21 years old as described in Sections [~~76-10-104~~]76-9-1104, [~~76-10-104.1~~]76-9-1105, [~~76-10-105.1~~]76-9-1108, and [~~76-10-114~~]76-9-1116.

(2) A retail tobacco specialty business may not:

(a) employ an individual under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product; or

(b) permit an employee under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product.

Section 35. Section 26B-7-514 is amended to read:

26B-7-514. Permit violation.

A person is in violation of the permit issued under this part if the person violates:

(1) a provision of this part;

(2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;

(3) a provision of [~~Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents~~]Title 76, Chapter 9, Part 11, Cigarettes, Tobacco, and Psychotoxic Chemical Solvents;

(4) a provision of [~~Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act~~]Title 76, Chapter 17, Part 4, Offenses Concerning

a Pattern of Unlawful Activity;

(5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

(6) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product.

Section 36. Section 26B-7-516 is amended to read:

26B-7-516. Inspection of retail tobacco businesses.

The department or a local health department may inspect a tobacco retailer to determine whether the tobacco retailer:

(1) continues to meet the qualifications for the permit issued under this part;

(2) if applicable, continues to meet the requirements for a retail tobacco specialty business license issued under Section 10-8-41.6 or Section 17-50-333;

(3) engaged in a pattern of unlawful activity under [~~Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act~~]Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;

(4) violated any of the regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

(5) has violated any other provision of state law or local ordinance.

Section 37. Section 26B-7-517 is amended to read:

26B-7-517. Hearing -- Evidence of criminal conviction.

(1) At a civil hearing conducted under Section 26B-7-515, evidence of the final criminal conviction of a tobacco retailer for violation of Section [~~76-10-114~~]76-9-1116 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this part for sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old is prima facie evidence of a violation of this part.

(2) If the tobacco retailer is convicted of violating Section [~~76-10-114~~]76-9-1116, the enforcing agency:

(a) shall assess an additional monetary penalty under this part for the same offense for which the conviction was obtained; and

(b) shall revoke or suspend a permit in accordance with Section 26B-7-518.

Section 38. Section 26B-7-521 is amended to read:

26B-7-521. Verification of proof of age.

(1) As used in this section:

(a) "Employee" means an employee of a retail tobacco specialty business.

(b) "Electronic verification program" means a technology used by a retail tobacco specialty business to confirm proof of age for an individual.

(2) A retail tobacco specialty business shall require that an employee verify proof of age as provided in this section.

(3) To comply with Subsection (2), an employee shall:

(a) request the individual present proof of age; and

(b) verify the validity of the proof of age electronically in accordance with Subsection (4).

(4) A retail tobacco specialty business shall use an electronic verification program to assist the business in complying with the requirements of this section.

(5) (a) A retail tobacco specialty business may not disclose information obtained under this section except as provided under this part.

(b) Information obtained under this section:

(i) shall be kept for at least 180 days; and

(ii) is subject to inspection upon request by a peace officer or the representative of an enforcing agency.

(6) (a) If an employee does not verify proof of age under this section, the employee may not permit an individual to:

(i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or

(ii) purchase a tobacco product or an electronic cigarette product.

(b) In accordance with [~~Subsection 76-10-105.1(4)~~]Section 76-9-1108, an individual who is under 21 years old may be permitted to enter a retail tobacco specialty business if the individual is:

(i) accompanied by a parent or legal guardian who provides proof of age; or

(ii) (A) present at the retail tobacco specialty business solely for the purpose of providing a commercial service to the retail tobacco specialty business, including making a commercial delivery;

(B) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and

(C) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (6)(b)(ii)(A).

(7) To determine whether the individual described in Subsection (2) is 21 years old or older, the following may request an individual described in Subsection (2) to present proof of age:

(a) an employee;

(b) a peace officer; or

(c) a representative of an enforcing agency.

Section 39. Section 26B-8-208 is amended to read:

26B-8-208. Rendering a dead body unavailable for postmortem investigation.

(1) As used in this section:

(a) "Medical examiner" means the same as that term is defined in Section 26B-8-201.

(b) "Unavailable for postmortem investigation" means the same as that term is defined in Section 26B-8-201.

(2) It is unlawful for a person to engage in any conduct that makes a dead body unavailable for postmortem investigation, unless, before engaging in that conduct, the person obtains a permit from the medical examiner to render the dead body unavailable for postmortem investigation, under Section 26B-8-230, if the person intends to make the body unavailable for postmortem investigation.

(3) A person who violates Subsection (2) is guilty of a third degree felony.

(4) If a person engages in conduct that constitutes both a violation of this section and a violation of Section [~~76-9-704~~]76-5-802 or 76-5-803, the provisions and penalties of Section [~~76-9-704~~]76-5-802 or 76-5-803 supersede the provisions and penalties of this section.

Section 40. Section 31A-21-501 is amended to read:

31A-21-501. Definitions.

For purposes of this part:

(1) "Applicant" means:

(a) in the case of an individual life or accident and health policy, the person who seeks to contract for insurance benefits; or

(b) in the case of a group life or accident and health policy, the proposed certificate holder.

(2) "Cohabitant" means an emancipated individual pursuant to Section 15-2-1 or an individual who is 16 years old or older who:

(a) is or was a spouse of the other party;

(b) is or was living as if a spouse of the other party;

(c) is related by blood or marriage to the other party;

(d) has one or more children in common with the other party; or

(e) resides or has resided in the same residence as the other party.

(3) (a) "Child abuse" means the commission or attempt to commit against a child a criminal offense described in:

[~~(a)~~](i) Title 76, Chapter 5, Part 1, Assault and Related Offenses; or

[~~(b)~~](ii) Title 76, Chapter 5, Part 4, Sexual Offenses[~~:~~].

[~~(c) Section 76-9-702, Lewdness;~~]

[~~(d) Section 76-9-702.1, Sexual battery; or~~]

[~~(e) Section 76-9-702.5, Lewdness involving a child.~~]

(b) "Child abuse" does not include the criminal offense of enticing a minor, as described in Section 76-5-417.

(4) (a) "Domestic violence" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another and includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

[~~(a)~~](i) aggravated assault, as described in Section 76-5-103;

[~~(b)~~](ii) assault, as described in Section 76-5-102;

[~~(c)~~](iii) criminal homicide, as described in Section 76-5-201;

[~~(d)~~](iv) harassment, as described in Section 76-5-106;

[~~(e)~~](v) electronic communication harassment, as described in [~~Section 76-9-201~~]Section 76-12-202, 76-12-203, or 76-12-204;

[~~(f)~~](vi) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

[~~(g)~~](vii) mayhem, as described in Section 76-5-105;

[~~(h)~~](viii) sexual offenses, as described in Sections 76-5b-201 and 76-5b-201.1 and in Title 76, Chapter 5, Part 4, Sexual Offenses[~~, and Sections 76-5b-201 and 76-5b-201.1~~];

[~~(i)~~](ix) stalking, as described in Section 76-5-106.5;

[~~(j)~~](x) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

[~~(k)~~](xi) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

[~~(l)~~](xii) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;

[~~(m)~~](xiii) possession of a deadly weapon with intent to assault, as described in Section [~~76-10-507~~]76-11-206; or

[~~(n)~~](xiv) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section [~~76-10-508~~]76-11-207.

(b) "Domestic violence" does not include the criminal offense of:

(i) enticing a minor, as described in Section 76-5-417;

(ii) sexual battery, as described in Section 76-5-418;

(iii) lewdness, as described in Section 76-5-419; or

(iv) lewdness involving a child, as described in Section 76-5-420.

(5) "Subject of domestic abuse" means an individual who is, has been, may currently be, or may have been subject to domestic violence or child abuse.

Section 41. Section 32B-3-303 is amended to read:

32B-3-303. Acts making a person subject to this part.

(1) One or more of the following acts constitute a nuisance activity:

(a) a single felony conviction within the last two years of:

(i) a retail licensee; or

(ii) supervisory or managerial level staff of the retail licensee;

(b) a single conviction under Title 58, Chapter 37, Utah Controlled Substances Act:

(i) (A) of a retail licensee; or

(B) staff of the retail licensee;

(ii) within the last two years; and

(iii) made on the basis of an act that occurs on the licensed premises;

(c) three or more convictions of patrons of a retail licensee under Title 58, Chapter 37, Utah Controlled Substances Act, if:

(i) the convictions are made on the basis of an act that occurs on the licensed premises; and

(ii) there is evidence that the retail licensee knew or should have known of the illegal activity;

(d) a single conviction within the last two years of a retail licensee or staff of the retail licensee that is made on the basis of:

(i) pornographic and harmful materials:

(A) that violate [~~Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and Performances~~]Title 76, Chapter 5c, Pornographic and Harmful Materials and Performances; and

(B) if the violation occurs on the licensed premises;

(ii) prostitution;

(iii) engaging in or permitting gambling, as defined and proscribed in [~~Title 76, Chapter 10, Part 11, Gambling~~]Title 76, Chapter 9, Part 14, Gambling, on the licensed premises;

(iv) having any fringe gaming device, video gaming device, or gambling device or record as defined in Section [~~76-10-1101~~]76-9-1401 on the licensed premises;

(v) on the licensed premises engaging in or permitting a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value;

(vi) a disturbance of the peace that occurs on the licensed premises; or

(vii) disorderly conduct that occurs on the licensed premises; or

(e) three or more adjudicated violations of this title within the last two years by a retail licensee or by staff of the retail licensee that result in a criminal citation or an administrative referral to the department relating to:

(i) the sale, offer for sale, or furnishing of an alcoholic product to a minor;

(ii) the sale, offer for sale, or furnishing of an alcoholic product to a person actually, apparently, or obviously intoxicated;

(iii) the sale, offer for sale, or furnishing of an alcoholic product after the lawful hours for the sale or furnishing; or

(iv) acts or conduct on the licensed premises contrary to the public welfare and morals involving lewd acts or lewd entertainment prohibited by this title.

(2) For purposes of Subsection (1), in the case of a retail licensee that is a partnership, corporation, or limited liability company, a conviction under Subsection (1)(c) includes a conviction of any of the following for an offense described in Subsection (1)(c):

(a) a partner;

(b) a managing agent;

(c) a manager;

(d) an officer;

(e) a director;

(f) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporate retail licensee; or

(g) a member who owns at least 20% of a limited liability company retail licensee.

Section 42. Section 32B-4-423 is amended to read:

32B-4-423. Immunity regarding alcohol consumption offenses when seeking emergency aid for another person.

(1) A law enforcement officer may not cite or arrest a person solely because of a person's violation of a provision under Subsection (2) if the officer came into contact with the person because:

(a) the person had requested or acted in concert with another person to request emergency medical assistance for a third party who reasonably appeared to be in need of medical care due to the consumption of alcohol;

(b) the officer was responding to the request for emergency medical assistance;

(c) the person provided to the officer the person's name and identifying information as requested by the officer;

(d) the person remained at the location where the third party was located until emergency medical response personnel arrived at the location; and

(e) the person cooperated with the emergency medical assistance personnel and law enforcement officers at the location.

(2) Offenses referred to in Subsection (1) are violations of:

(a) Section 32B-4-403 regarding the unlawful sale, offer for sale, or furnishing of alcohol to a minor;

(b) Subsection 32B-4-409(1) regarding the unlawful purchase, possession, or consumption of alcohol by a minor; and

(c) Subsection [~~76-9-701(1)~~]76-9-110(2) regarding intoxication when the offense involves consumption of alcohol.

(3) An officer who declines to cite or arrest a person while acting in good faith under Subsection (1) is not civilly liable.

Section 43. Section 32B-5-301 is amended to read:

32B-5-301. General operational requirements.

(1) (a) A retail licensee and staff of a retail licensee shall comply with this title and the rules of the commission, including the relevant chapter or part for the specific type of retail license.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a retail licensee;

(ii) individual staff of a retail licensee; or

(iii) both a retail licensee and staff of the retail licensee.

(2) (a) If there is a conflict between this part and the relevant chapter or part for the specific type of retail license, the relevant chapter or part for the specific type of retail license governs.

(b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail licensee may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product specifically authorized by the relevant chapter or part for the retail licensee's specific type of retail license.

(c) Notwithstanding that this part or the relevant chapter or part for a specific retail licensee refers to "retail licensee," staff of the retail licensee is subject to the same requirement or prohibition.

(3) (a) A retail licensee shall display in a prominent place in the licensed premises the retail license that is issued by the department.

(b) A retail licensee shall display in a prominent place a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health and Human Services at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health and Human Services shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A retail licensee may not on the licensed premises:

(a) engage in or permit any form of gambling, as defined in Section [~~76-10-1101~~]76-9-1401, or fringe gambling, as defined in Section [~~76-10-1101~~]76-9-1401;

(b) have any fringe gaming device, video gaming device, or gambling device or record as defined in Section [~~76-10-1101~~]76-9-1401; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(5) A retail licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section 58-37a-3.

(6) Upon the presentation of credentials, at any time during which a retail licensee is open for the transaction of business, the retail licensee shall immediately:

(a) admit a commissioner, authorized department employee, or law enforcement officer to the retail licensee's premises; and

(b) permit, without hindrance or delay, the person described in Subsection (6)(a) to inspect completely:

(i) the entire premises of the retail licensee; and

(ii) the records of the retail licensee.

(7) An individual may not consume an alcoholic product on the licensed premises of a retail licensee on any day during the period:

(a) beginning one hour after the time of day that the period during which a retail licensee may not sell, offer for sale, or furnish an alcoholic product on the licensed premises begins; and

(b) ending at the time specified in the relevant chapter or part for the retail licensee's specific type of retail license when the retail licensee may first sell, offer for sale, or furnish an alcoholic product on the licensed premises on that day.

(8) An employee of a retail licensee who sells, offers for sale, or furnishes an alcoholic product to a patron shall wear an identification badge.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(a) related to the requirement described in Subsection (8); and

(b) for dispensing systems and dispensing areas of restaurant licensees, bar licensees, and taverns, establishing standards:

(i) in accordance with the provisions of this title; and

(ii) prohibiting a dispensing system to remain at a patron's table.

Section 44. Section 32B-7-202 is amended to read:

32B-7-202. General operational requirements for off-premise beer retailer.

(1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply with the provisions of this title and any applicable rules made by the commission.

(b) Failure to comply with this section may result in a suspension or revocation of a local license and, on or after July 1, 2018, disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act.

(2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) A violation of Subsection (2)(a) is a class A misdemeanor.

(b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area

in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

(ii) A violation of Subsection (2)(b) is a class B misdemeanor.

(3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a container larger than two liters.

(4) (a) Staff of an off-premise beer retailer, while on duty, may not:

(i) consume an alcoholic product; or

(ii) be intoxicated.

(b) A minor may not sell beer on the licensed premises of an off-premise beer retailer unless:

(i) the sale is done under the supervision of a person 21 years old or older who is on the licensed premises; and

(ii) the minor is at least 16 years old.

(5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(6) (a) Subject to the other provisions of this Subsection (6), an off-premise beer retailer shall:

(i) display all beer accessible by and visible to a patron in no more than two locations on the retail sales floor, each of which is:

(A) a display cabinet, cooler, aisle, floor display, or room where beer is the only beverage displayed; and

(B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler with a door from which the nonalcoholic beverages are not accessible, or the beer is separated from the display of nonalcoholic beverages by a display of one or more nonbeverage products or another physical divider; and

(ii) display a sign in the area described in Subsection (6)(a)(i) that:

(A) is prominent;

(B) is easily readable by a consumer;

(C) meets the requirements for format established by the commission by rule; and

(D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain alcohol. Please read the label carefully."

(b) Notwithstanding Subsection (6)(a), a nonalcoholic beer may be displayed with beer if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

(c) The requirements of this Subsection (6) apply to beer notwithstanding that it is labeled, packaged, or advertised as:

(i) a malt cooler; or

(ii) a beverage that may provide energy.

(d) A violation of this Subsection (6) is an infraction.

(e) (i) Except as provided in Subsection (6)(e)(ii), the provisions of Subsection (6)(a)(i) apply on and after May 9, 2017.

(ii) For a beer retailer that operates two or more off-premise beer retailers, the provisions of Subsection (6)(a)(i) apply on and after August 1, 2017.

(7) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or who sells beer to a patron for consumption off the premises of the off-premise beer retailer shall wear a unique identification badge:

(i) on the front of the staff's clothing;

(ii) visible above the waist;

(iii) bearing the staff's:

(A) first or last name;

(B) initials; or

(C) unique identification in letters or numbers; and

(iv) with the number or letters on the unique identification badge being sufficiently large to be clearly visible and identifiable while engaging in or directly supervising the retail sale of beer.

(b) An off-premise beer retailer shall make and maintain a record of each current staff's unique identification badge assigned by the off-premise beer retailer that includes the staff's:

(i) full name;

(ii) address; and

(iii) (A) driver license number; or

(B) similar identification number.

(c) An off-premise beer retailer shall make available a record required to be made or maintained under this Subsection (7) for immediate inspection by:

(i) a peace officer;

(ii) a representative of the local authority that issues the off-premise beer retailer license; or

(iii) for an off-premise beer retailer state license, a representative of the commission or department.

(d) A local authority may impose a fine of up to $250 against an off-premise beer retailer that does not comply or require its staff to comply with this Subsection (7).

(8) (a) An off-premise beer retailer may sell, offer for sale, or furnish beer through a drive through window.

(b) Subsection (8)(a) does not modify the display limitations and requirements described in Subsection (6).

(9) An off-premise beer retailer may not on the licensed premises:

(a) engage in or permit any form of:

(i) gambling, as defined in Section [~~76-10-1101~~]76-9-1401; or

(ii) fringe gambling, as defined in Section [~~76-10-1101~~]76-9-1401;

(b) have any fringe gaming device, video gaming device, or gambling device or record as defined in Section [~~76-10-1101~~]76-9-1401; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(10) An off-premise beer retailer may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess, with the intent to deliver, drug paraphernalia, as defined in Section 58-37a-3.

(11) An off-premise beer retailer may not sell, offer for sale, or furnish a beer that is intended to be frozen and consumed in a manner other than as a beverage, including beer in the form of a freeze pop, popsicle, ice cream, or sorbet.

Section 45. Section 32B-9-204 is amended to read:

32B-9-204. General operational requirements for an event permit.

(1) (a) An event permittee and a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at an event for which an event permit is issued, shall comply with this title and rules of the commission.

(b) Failure to comply as provided in Subsection (1)(a):

(i) may result in:

(A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(I) an event permittee;

(II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the event; or

(III) any combination of the persons listed in this Subsection (1)(b);

(B) immediate revocation of the event permit;

(C) forfeiture of a bond; or

(D) immediate seizure of an alcoholic product present at the event; and

(ii) if the event permit is revoked, disqualifies the event permittee from applying for an event permit for a period of three years from the date of revocation of the event permit.

(c) An alcoholic product seized under this Subsection (1) shall be returned to the event permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.

(2) (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit held by the special use permittee, the relevant part governs.

(b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the relevant part under this chapter for the type of event permit that is held by the event permittee.

(c) Notwithstanding that this part or the relevant part under this chapter for the type of event permit held by an event permittee refers to "event permittee," a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the event permit is issued is subject to the same requirement or prohibition.

(3) An event permittee shall display a copy of the event permit in a prominent place in the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.

(4) An event permittee may not on the premises of the event:

(a) engage in or allow any form of gambling, as defined in Section [~~76-10-1101~~]76-9-1401, or fringe gambling, as defined in Section [~~76-10-1101~~]76-9-1401;

(b) have any fringe gaming device, video gaming device, or gambling device or record as defined in Section [~~76-10-1101~~]76-9-1401; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(5) An event permittee may not knowingly allow a person at an event to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section 58-37a-3.

(6) An event permittee may not sell, offer for sale, or furnish beer except beer purchases from:

(a) a beer wholesaler licensee;

(b) a beer retailer; or

(c) a small brewer.

(7) An event permittee may not store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product purchased for an event in a location other than that described in the application and designated on the event permit unless the event permittee first applies for and receives approval from the director, with the approval of the Compliance, Licensing, and Enforcement Subcommittee, for a change of location.

(8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or furnish beer for on-premise consumption:

(i) in an open original container; and

(ii) in a container on draft.

(b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to Subsection (8)(a):

(i) in a size of container that exceeds two liters; or

(ii) to an individual patron in a size of container that exceeds one liter.

(9) (a) An event permittee may not sell or offer for sale an alcoholic product at less than the cost of the alcoholic product to the event permittee.

(b) An event permittee may not sell an alcoholic product at a discount price on any date or at any time.

(c) An event permittee may not sell or offer for sale an alcoholic product at a price that encourages overconsumption or intoxication.

(d) An event permittee may not sell or offer for sale an alcoholic product at a special or reduced price for only certain hours of the day of an event.

(e) An event permittee may not sell, offer for sale, or furnish more than one alcoholic product at the price of a single alcoholic product.

(f) An event permittee, or a person operating, selling, offering, or furnishing an alcoholic product under an event permit, may not sell, offer for sale, or furnish an indefinite or unlimited number of alcoholic products during a set period for a fixed price, unless:

(i) the alcoholic product is served to a patron at a seated event;

(ii) food is available whenever the alcoholic product is sold, offered for sale, or furnished; and

(iii) no person advertises that at the event a person may be sold or furnished an indefinite or unlimited number of alcoholic products during a set period for a fixed price.

(g) An event permittee may not engage in a public promotion involving or offering a free alcoholic product to the general public.

(10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(11) (a) An alcoholic product is considered under the control of the event permittee during an event.

(b) A patron at an event may not bring an alcoholic product onto the premises of the event.

(12) An event permittee may not permit a patron to carry from the premises an open container that:

(a) is used primarily for drinking purposes; and

(b) contains an alcoholic product.

(13) (a) A person involved in the storage, sale, or furnishing of an alcoholic product at an event is considered under the supervision and direction of the event permittee.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at an event may not, while on duty:

(i) consume an alcoholic product; or

(ii) be intoxicated.

(14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an event.

(15) The location specified in an event permit may not be changed without prior written approval of the commission.

(16) An event permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the event permit to another person whether for monetary gain or not.

(17) (a) An event permittee may not sell, offer for sale, furnish, or allow the consumption of an alcoholic product during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) This Subsection (17) does not preclude a local authority from being more restrictive with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic product at an event.

(18) A patron may have no more than one alcoholic product of any kind at a time before the patron.

(19) (a) An event permittee shall display, in a prominent place, a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health and Human Services at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(b) (i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (19)(a)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (19)(a) shall be in the same font size.

(c) The Department of Health and Human Services shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

Section 46. Section 34-45-102 is amended to read:

34-45-102. Definitions.

As used in this chapter:

(1) "Firearm" has the same meaning as provided in Section [~~76-10-501~~]76-11-101.

(2) "Motor vehicle" has the same meaning as provided in Section 41-1a-102.

(3) "Person" means an individual, property owner, landlord, tenant, employer, business entity, or other legal entity.

Section 47. Section 34-45-107 is amended to read:

34-45-107. Exemptions -- Limitations on chapter -- School premises -- Government entities -- Religious organizations -- Single family detached residential units.

(1) (a) School premises, as defined in Subsection 76-3-203.2(1), are exempt from the provisions of this chapter.

(b) Possession of a firearm on or about school premises is subject to the provisions of Section [~~76-10-505.5~~]76-11-204.

(2) Government entities, including a local authority or state entity, are subject to the requirements of Title 53, Chapter 5a, Firearm Laws, but are otherwise exempt from the provisions of this chapter.

(3) Religious organizations, including religious organizations acting as an employer, are exempt from, and are not subject to the provisions of this chapter.

(4) Owner-occupied single family detached residential units and tenant-occupied single family detached residential units are exempt from the provisions of this chapter.

(5) A person who is subject to federal law that specifically forbids the presence of a firearm on property designated for motor vehicle parking, or a person who is subject to Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that section, is exempt from Section 34-45-103 if:

(a) providing alternative parking or a storage location under Subsection 34-45-103(2)(a) would pose an undue burden on the person; and

(b) the person files a statement with the attorney general citing the federal law that forbids the presence of a firearm and detailing the reasons why providing alternative parking or a storage location poses an undue burden.

(6) A person who is subject to Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that section is exempt from this chapter if:

(a) the person has attempted to provide alternative parking or a storage location in accordance with Subsection 34-45-103(2)(a);

(b) the secretary of the federal Department of Homeland Security notifies the person that the provision of alternative parking or a storage location causes the person to be out of compliance with Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that section and the person may be subject to punitive measures; and

(c) the person files a detailed statement with the attorney general notifying the attorney general of the facts under Subsections (6)(a) and (b).

Section 48. Section 34-52-201 is amended to read:

34-52-201. Public employer requirements.

(1) Except as provided in Subsections (3) and (6), a public employer may not:

(a) exclude an applicant from an initial interview because of:

(i) a past criminal conviction or juvenile adjudication; or

(ii) if the applicant is a mental health professional applicant, an arrest for an offense that occurred before the applicant was 18 years old;

(b) make an inquiry related to an applicant's expunged criminal or juvenile delinquency history;

(c) when making a hiring decision regarding a mental health professional applicant, consider:

(i) an arrest for an offense that occurred before the mental health professional applicant was 18 years old;

(ii) an arrest not followed by a criminal conviction or juvenile adjudication;

(iii) a juvenile adjudication; or

(iv) a past criminal conviction if:

(A) the sentence for the criminal conviction is terminated; and

(B) the mental health professional applicant was not incarcerated for the past criminal conviction or the mental health professional applicant's incarceration for the past criminal conviction ended at least three years before the day on which the mental health professional applicant applied for employment; or

(d) deny a mental health professional applicant employment based on a past criminal conviction that does not bear a direct relationship to the mental health professional applicant's ability to safely or competently perform the duties of employment.

(2) A public employer excludes an applicant from an initial interview under Subsection (1)if the public employer:

(a) requires an applicant to disclose a criminal conviction or juvenile adjudication:

(i) on an employment application;

(ii) before an initial interview; or

(iii) if no interview is conducted, before making a conditional offer of employment; or

(b) requires an applicant who is a mental health professional applicant to disclose an arrest for an offense that occurred before the applicant was 18 years old:

(i) on an employment application;

(ii) before an initial interview; or

(iii) if no interview is conducted, before making a conditional offer of employment.

(3) A public employer may not deny a mental health professional applicant employment that requires the mental health professional applicant to provide substance use treatment based on:

(a) the mental health professional applicant's participation in substance use treatment; or

(b) a past criminal conviction for a nonviolent drug offense if:

(i) the sentence for the criminal conviction is terminated; and

(ii) (A) the mental health professional applicant was not incarcerated for the past criminal conviction; or

(B) the mental health professional applicant's incarceration for the past criminal conviction ended at least three years before the day on which the mental health professional applicant applied for employment.

(4) An applicant seeking employment from a public employer may answer a question related to an expunged criminal or juvenile delinquency record as though the action underlying the expunged criminal or juvenile delinquency record never occurred.

(5) Except as provided in Subsections (1) through (3), this section does not prevent a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction or juvenile delinquency history during an initial interview or after an initial interview; or

(b) considering an applicant's criminal conviction or juvenile delinquency history when making a hiring decision.

(6) (a) Subsections (1) through (4) do not apply:

(i) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction or juvenile delinquency history;

(ii) to a public employer that is a law enforcement agency;

(iii) to a public employer that is part of the criminal or juvenile justice system;

(iv) to a public employer seeking a nonemployee volunteer;

(v) to a public employer that works with children or vulnerable adults;

(vi) to the Department of Alcoholic Beverage Services created in Section 32B-2-203;

(vii) to the State Tax Commission;

(viii) to a public employer whose primary purpose is performing financial or fiduciary functions; or

(ix) to a public transit district hiring or promoting an individual for a safety sensitive position described in Section 17B-2a-825.

(b) Subsections (1)(c)(iv) and (1)(d) do not apply to a criminal conviction for:

(i) a violent felony as defined in Section 76-3-203.5; or

(ii) a felony related to a criminal sexual act under:

(A) Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-419, or 76-5-420; or

(B) Title 76, Chapter 5b, Sexual Exploitation Act.

(c) Subsections (1)(a)(ii), (1)(c), (1)(d), and (3) apply to a person under contract with a public employer.

Section 49. Section 34A-5-114 is amended to read:

34A-5-114. Limitations on enforceability of nondisclosure and non-disparagement clauses -- Retaliation prohibited.

(1) As used in this section:

(a) "Confidentiality clause" means a nondisclosure clause or a non-disparagement clause.

(b) "Employee" means a current or a former employee.

(c) "Nondisclosure clause" means an agreement between an employee and employer that:

(i) prevents, or has the effect of preventing, an employee from disclosing or discussing:

(A) sexual assault;

(B) allegations of sexual assault;

(C) sexual harassment; or

(D) allegations of sexual harassment.

(d) "Non-disparagement clause" means an agreement between an employee and employer that prohibits, or has the effect of prohibiting, an employee from making a negative statement that is:

(i) about the employer; and

(ii) related to:

(A) a claim of sexual assault or sexual harassment;

(B) a sexual assault dispute; or

(C) a sexual harassment dispute.

(e) "Post-employment restrictive covenant" means the same as that term is defined in Section 34-51-102.

(f) "Proprietary information" means an employer's business plan or customer information.

(g) "Retaliate" means taking an adverse action against an employee because the employee made an allegation of sexual harassment or assault, including:

(i) discharge;

(ii) suspension;

(iii) demotion; or

(iv) discrimination in the terms, conditions, or privileges of employment.

(h) (i) "Sexual assault" means:

[~~(i)~~](A) conduct that would constitute a violation of 18 U.S.C. Secs. 2241 through 2244; or

[~~(ii)~~](B) criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(ii) "Sexual assault" does not include criminal conduct described in:

(A) Section 76-5-417, enticing a minor;

(B) Section 76-5-418, sexual battery;

(C) Section 76-5-419, lewdness; or

(D) Section 76-5-420, lewdness involving a child.

(i) "Sexual assault dispute" means a dispute between an employer and the employer's employee relating to alleged sexual assault.

(j) "Sexual harassment" means conduct that is a violation of:

(i) Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et seq.; or

(ii) Subsection 34A-5-106(1)(a)(i) prohibiting harassment on the basis of sex, sexual orientation, or gender.

(k) "Sexual harassment dispute" means a dispute between an employer and the employer's employee relating to alleged sexual harassment.

(2) (a) A confidentiality clause regarding sexual misconduct, as a condition of employment, is against public policy and is void and unenforceable.

(b) After an employee makes an allegation of sexual harassment or sexual assault, an employer of any sized business, regardless of Subsection 34-5-102(1)(i)(D):

(i) may not retaliate against the employee because the employee made an allegation of sexual harassment or assault; or

(ii) may not retaliate based on an employee's refusal to enter into a confidentiality clause or an employment contract that, as a condition of employment, contains a confidentiality clause.

(c) An employee may, within three business days after the day on which the employee agrees to a settlement agreement that includes a confidentiality clause regarding sexual misconduct, withdraw from the settlement agreement.

(3) An employer who attempts to enforce a confidentiality clause in violation of this section:

(a) is liable for all costs, including reasonable attorney fees, resulting from legal action to enforce the confidentiality clause; and

(b) is not entitled to monetary damages resulting from a breach of a confidentiality clause.

(4) This section does not:

(a) prohibit an agreement between an employee who alleges sexual assault or sexual harassment and an employer from containing a nondisclosure clause, a non-disparagement clause, or any other clause prohibiting disclosure of:

(i) the amount of a monetary settlement; or

(ii) at the request of the employee, facts that could reasonably lead to the identification of the employee;

(b) prohibit an employer from requiring an employee to:

(i) sign a post-employment restrictive covenant; or

(ii) agree not to disclose an employer's non-public trade secrets, proprietary information, or confidential information that does not involve illegal acts;

(c) authorize an employee to:

(i) disclose data otherwise protected by law or legal privilege; or

(ii) knowingly make statements or disclosures that are false or made with reckless disregard of the truth;

(d) prohibit an employee from discussing sexual misconduct or allegations of sexual misconduct in a civil or criminal case when subpoenaed if the sexual misconduct or allegations of sexual misconduct are against the individual whom the employee alleged engaged in sexual misconduct;

(e) permit a disclosure that would violate state or federal law; or

(f) limit other grounds that may exist at law or in equity for the unenforceability of a confidentiality clause.

Section 50. Section 41-1a-1008 is amended to read:

41-1a-1008. Criminal penalty for violation.

(1) Except as provided in Subsection (2) or unless otherwise provided, it is a class A misdemeanor to knowingly violate Sections 41-1a-1001 through 41-1a-1006.

(2) Any owner, who is not a manufacturer, dealer, motor vehicle auction, or consignor to a motor vehicle auction not licensed under Section 41-3-201, who knowingly or intentionally conceals, removes, destroys, or alters a disclosure statement or a certificate of title branded under Section 41-3-201 or Sections 41-1a-1004 through 41-1a-1005.3 is guilty of a:

(a) class A misdemeanor; or

(b) third degree felony if the person has previously been convicted two or more times of knowingly or intentionally concealing, removing, destroying, or altering a disclosure statement or a certificate of title branded under Section 41-3-201 or Sections 41-1a-1004 through 41-1a-1005.3.

(3) Criminal penalties under this chapter are not exclusive, but are in addition to those under Section [~~76-10-1801~~]76-6-525.

(4) Each vehicle sold, offered for sale, or displayed for sale in violation of Section 41-1a-1005.3 shall be a separate offense.

Section 51. Section 41-3-413 is amended to read:

41-3-413. Criminal penalties -- Nonexclusive.

(1) Knowing or intentional concealment, removal, destruction, or alteration of a disclosure statement or of a certificate of title branded under Section 41-1a-522 is a second degree felony.

(2) Criminal penalties under this chapter are not exclusive, but are in addition to those under Section [~~76-10-1801~~]76-6-525.

(3) The remedies provided in Sections 41-3-410 through this section are not exclusive but are in addition to any other remedies provided by law.

Section 52. Section 45-2-11, which is renumbered from Section 76-9-504 is renumbered and amended to read:

[~~76-9-504~~]45-2-11. Fair reporting privilege of newspaper or broadcasting station personnel as to public official proceedings -- Privilege as to defamatory matter not subject to censorship.

[~~No reporter, editor, or proprietor of any newspaper, and no owner, licensee, or operator of a visual or sound radio broadcasting station, or network of stations, nor the agents or employees of a newspaper or broadcasting station, is liable to any prosecution for a fair and true report or broadcast of any judicial, legislative, or other public official proceedings, or of any statement, speech, argument, or debate in course of the same, except upon proof of malice in making the report, which shall not be implied from the mere fact of publication. In no event shall any owner, licensee, or operator of a visual or sound radio broadcasting station or network of stations, or the agents or employees thereof, be liable for prosecution for any defamatory matter or statement published or uttered in such radio or television broadcast where the publication cannot be censored by reason of the provisions of federal statute or the regulations of the federal communications commission.~~]

(1) Except as provided in Subsection (2), the following persons may not be prosecuted for a fair and true report or broadcast of a judicial, legislative, or other public official proceeding, or of a statement, speech, argument, or debate related to the judicial, legislative, or other public official proceeding:

(a) a reporter, editor, or proprietor of a newspaper;

(b) an owner, a licensee, or an operator of a visual sound radio broadcasting station or network of stations; or

(c) an agent or employee of a newspaper or broadcasting station.

(2) Notwithstanding Subsection (1), a person listed in Subsection (1)(a), (b), or (c) may be prosecuted for making a report described in Subsection (1) if there is proof the person acted with malice in making the report, which may not be implied from the mere fact of publication.

(3) An owner, licensee, or operator of a visual or sound radio broadcasting station or network of stations, or an agent or employee of a sound radio broadcasting station or network of stations, may not be prosecuted for a defamatory matter or statement published or uttered in a radio or television broadcast if the publication cannot be censored by reason of the provisions of a federal statute or a regulation issued by the Federal Communications Commission.

Section 53. Section 45-2-12, which is renumbered from Section 76-9-506 is renumbered and amended to read:

[~~76-9-506~~]45-2-12. Privilege as to communications between interested persons.

(1) A communication made to a person interested in the communication by one who is also interested, or who stands in a relation to the former as to afford a reasonable ground for supposing his motive innocent, is not presumed to be malicious, and is a privileged communication.

(2) Libelous remarks or comments connected with a matter privileged by Subsection (1) receive no privilege by reason of the libelous remarks or comments being so connected.

Section 54. Section 45-2-13, which is renumbered from Section 76-9-509 is renumbered and amended to read:

[~~76-9-509~~]45-2-13. Conveying false or libelous material to newspaper or broadcasting stations.

[~~Any~~]A person who willfully states, conveys, delivers, or transmits, by any means [~~whatsoever~~], to the manager, editor, publisher, reporter, or agent of any radio station, television station, newspaper, magazine, periodical, or serial for publication [~~therein~~], any false or libelous statement concerning any person, and thereby secures actual publication [~~of the same~~], is guilty of a class B misdemeanor.

Section 55. Section 47-3-305 is amended to read:

47-3-305. Exceptions and prohibitions.

(1) This part does not apply to:

(a) shooting ranges that are otherwise open to the public;

(b) shooting ranges that are operated as a public shooting range staffed by and operated by Division of Wildlife Resources;

(c) the Utah National Guard ranges located at Camp Williams and the Salt Lake International Airport;

(d) Department of Corrections ranges; and

(e) ranges owned, operated, or currently leased as of March 26, 2013, by a state or local public safety agency.

(2) Firearms may not be allowed in a school building, except under the provision of Section [~~76-10-505.5~~]76-11-204, unless there is an outdoor entrance to the shooting range and the most direct access to the range is used. An outdoor entrance to a shooting range may not be blocked by fences, structures, or gates for the purpose of blocking the outdoor entrance.

(3) Only air guns may be used in public ranges where the ventilation systems do not meet current OSHA standards as applied to the duration of exposure of the participants. For the purposes of this part, an air gun does not include larger caliber pneumatic weapons, paintball guns, or air shotguns.

(4) Group range use is a lawful, approved activity under Subsection [~~76-10-505.5(4)(a)~~]76-11-204(4)(d).

Section 56. Section 51-9-203 is amended to read:

51-9-203. Requirements for tobacco and electronic cigarette programs.

(1) To be eligible to receive funding under this part for a tobacco prevention, reduction, cessation, or control program, an organization, whether private, governmental, or quasi-governmental, shall:

(a) submit a request to the Department of Health and Human Services containing the following information:

(i) for media campaigns to prevent or reduce smoking, the request shall demonstrate sound management and periodic evaluation of the campaign's relevance to the intended audience, particularly in campaigns directed toward youth, including audience awareness of the campaign and recollection of the main message;

(ii) for school-based education programs to prevent and reduce youth smoking, the request shall describe how the program will be effective in preventing and reducing youth smoking;

(iii) for community-based programs to prevent and reduce smoking, the request shall demonstrate that the proposed program:

(A) has a comprehensive strategy with a clear mission and goals;

(B) provides for committed, caring, and professional leadership; and

(C) if directed toward youth:

(I) offers youth-centered activities in youth accessible facilities;

(II) is culturally sensitive, inclusive, and diverse;

(III) involves youth in the planning, delivery, and evaluation of services that affect them; and

(IV) offers a positive focus that is inclusive of all youth; and

(iv) for enforcement, control, and compliance program, the request shall demonstrate that the proposed program can reasonably be expected to reduce the extent to which tobacco products and electronic cigarette products, as those terms are defined in Section [~~76-10-101~~]76-9-1101, are available to individuals under 21 years old;

(b) agree, by contract, to file an annual written report with the Department of Health and Human Services that contains the following:

(i) the amount funded;

(ii) the amount expended;

(iii) a description of the program or campaign and the number of adults and youth who participated;

(iv) specific elements of the program or campaign meeting the applicable criteria set forth in Subsection (1)(a); and

(v) a statement concerning the success and effectiveness of the program or campaign;

(c) agree, by contract, to not use any funds received under this part directly or indirectly, to:

(i) engage in any lobbying or political activity, including the support of, or opposition to, candidates, ballot questions, referenda, or similar activities; or

(ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to enforce:

(A) the provisions of the Master Settlement Agreement;

(B) Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products;

(C) Sections 26B-7-514 through 26B-7-520; and

(D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and

(d) agree, by contract, to repay the funds provided under this part if the organization:

(i) fails to file a timely report as required by Subsection (1)(b); or

(ii) uses any portion of the funds in violation of Subsection (1)(c).

(2) The Department of Health and Human Services shall review and evaluate the success and effectiveness of any program or campaign that receives funding pursuant to a request submitted under Subsection (1). The review and evaluation:

(a) shall include a comparison of annual smoking trends;

(b) may be conducted by an independent evaluator; and

(c) may be paid for by funds appropriated from the account for that purpose.

(3) An organization that fails to comply with the contract requirements set forth in Subsection (1) shall:

(a) repay the state as provided in Subsection (1)(d); and

(b) be disqualified from receiving funds under this part in any subsequent fiscal year.

(4) The attorney general shall be responsible for recovering funds that are required to be repaid to the state under this section.

(5) Nothing in this section may be construed as applying to funds that are not appropriated under this part.

Section 57. Section 51-9-801 is amended to read:

51-9-801. Opioid Litigation Proceeds Restricted Account.

(1) There is created within the General Fund a restricted account known as the Opioid Litigation Proceeds Restricted Account.

(2) The account consists of:

(a) any money deposited into the account in accordance with Subsection (3);

(b) interest earned on money in the account; and

(c) money appropriated to the account by the Legislature.

(3) Notwithstanding Sections 13-2-8 and [~~76-10-3114~~]67-5-40, after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in Subsection (3)(a) or (b), the following shall be deposited into the account:

(a) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids from a case designated as an opioid case by the attorney general in a legal services contract; and

(b) all money received by the attorney general or the Department of Commerce as a result of any multistate judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids.

(4) Subject to appropriation by the Legislature, money in the account shall be used:

(a) to address the effects of alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids; or

(b) if applicable, in accordance with the terms of a settlement agreement described in Subsection (3)(a) or (b) entered into by the state.

Section 58. Section 53-2a-214 is amended to read:

53-2a-214. Prohibition of restrictions on and confiscation of a firearm or ammunition during an emergency.

(1) As used in this section:

(a) (i) "Confiscate" means for an individual in Utah to intentionally deprive another of a privately owned firearm.

(ii) "Confiscate" does not include the taking of a firearm from an individual:

(A) in self-defense;

(B) possessing a firearm while the individual is committing a felony or misdemeanor; or

(C) who may not, under state or federal law, possess the firearm.

(b) "Firearm" has the same meaning as defined in Section [~~76-10-501~~]76-11-101.

(2) During a declared state of emergency or local emergency under this part:

(a) neither the governor nor an agency of a governmental entity or political subdivision of the state may impose restrictions, which were not in force before the declared state of emergency, on the lawful possession, transfer, sale, transport, storage, display, or use of a firearm or ammunition; and

(b) an individual, while acting or purporting to act on behalf of the state or a political subdivision of the state, may not confiscate a privately owned firearm of another individual.

(3) A law or regulation passed during a declared state of emergency that does not relate specifically to the lawful possession or use of a firearm and that has attached criminal penalties may not be used to justify the confiscation of a firearm from an individual acting in defense of self, property, or others when on:

(a) the individual's private property; or

(b) the private property of another as an invitee.

(4) (a) An individual who has a firearm confiscated in violation of Subsection (2) may bring a civil action in a court having the appropriate jurisdiction:

(i) for damages, in the maximum amount of $10,000, against a person who violates Subsection (2);

(ii) for a civil penalty, in the amount of $5,000 per violation, against a person who violates Subsection (2); and

(iii) for return of the confiscated firearm.

(b) As used in this Subsection (4), "person" means an individual, the governmental entity on whose behalf the individual is acting or

purporting to act, or both the individual and the governmental entity.

(5) (a) A law enforcement officer is not subject to disciplinary action for refusing to confiscate a firearm under this section if:

(i) ordered or directed to do so by a superior officer; and

(ii) by obeying the order or direction, the law enforcement officer would be committing a violation of this section.

(b) For purposes of this Subsection (5), disciplinary action might include:

(i) dismissal, suspension, or demotion;

(ii) loss of or decrease in benefits, pay, privileges or conditions of employment; and

(iii) any type of written or electronic indication, permanent or temporary, on the officer's personnel record of the officer's refusal to obey the unlawful order.

(6) (a) If a law enforcement officer commits a violation of this section, the officer's liability in an action brought under Subsection (4)(a) is limited to 5% of the damages and civil penalty allowed under Subsection (4)(a) if the officer can show by clear and convincing evidence that the officer was obeying a direct and unlawful order from a superior officer or authority.

(b) The court shall assess the balance of the damages and civil penalty, the remaining 95%, against the superior officer or authority who ordered or directed the confiscation in violation of this section.

Section 59. Section 53-3-219 is amended to read:

53-3-219. Suspension of minor's driving privileges.

(1) The division shall immediately suspend all driving privileges of any person upon receipt of an order suspending driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection [~~76-9-701(1)~~]76-9-110(6)(a), or Section 80-6-707.

(2) (a) (i) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection [~~76-9-701(1)~~]76-9-110(6)(a), or Section 80-6-707, the division shall:

(A) impose a suspension for a period of one year;

(B) if the person has not been issued an operator license, deny the person's application for a license or learner's permit for a period of one year; or

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for one year beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the first order suspending a person's driving privileges under this section, the division shall reduce the suspension period under Subsection (2)(a)(i)(A), (B), or (C) if ordered by the court in accordance with Subsection 32B-4-409(5)(b), 32B-4-410(4)(b), [~~76-9-701(4)(b)~~]76-9-110(6)(b), or 80-6-707(3)(a).

(b) (i) Upon receipt of a second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection [~~76-9-701(1)~~]76-9-110(6)(a), or Subsection 80-6-707(3)(b), the division shall:

(A) impose a suspension for a period of two years;

(B) if the person has not been issued an operator license or is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit for a period of two years; or

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for two years beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection [~~76-9-701(1)~~]76-9-110(6)(a), or Section 80-6-707, the division shall reduce the suspension period if ordered by the court in accordance with Subsection 32B-4-409(5)(c), 32B-4-410(4)(c), [~~76-9-701(4)(c)~~]76-9-110(6)(c), or 80-6-707(3)(b).

(3) The Driver License Division shall subtract from any suspension or revocation period for a conviction of a violation of Section 32B-4-409 the number of days for which a license was previously suspended under Section 53-3-231, if the previous sanction was based on the same occurrence upon which the record of conviction is based.

(4) After reinstatement of the license described in Subsection (1), a report authorized under Section 53-3-104 may not contain evidence of the suspension of a minor's license under this section if the minor has not been convicted of any other offense for which the suspension under Subsection (1) may be extended.

Section 60. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, automobile homicide under Section 76-5-207, or automobile homicide involving using a handheld wireless communication device while driving under Section 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section [~~76-10-508 or 76-10-508.1~~]76-11-207 or 76-11-208 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection [~~76-10-306(4)(b)~~]76-15-210(2)(b)(ii);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2;

(xvii) refusal of a chemical test under Subsection 41-6a-520.1(1); or

(xviii) two or more offenses that:

(A) are committed within a period of one year;

(B) are enhanced under Section 76-3-203.17; and

(C) arose from separate incidents.

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Section 80-6-701 for:

(i) a felony violation of Section [~~76-10-508 or 76-10-508.1~~]76-11-207 or 76-11-208 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection [~~76-10-306(4)(b)~~]76-15-210(2)(b)(ii).

(c) (i) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of violating any one of the following offenses while the person was an operator of a motor vehicle, and the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(F) any criminal offense that prohibits possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).

(ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate a person's driving privilege before completion of the suspension period imposed under Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

(iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

(iv) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

(v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Section 80-6-701 for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and

continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(f) The division shall immediately suspend a person's driver license for the conviction of an offense that is enhanced under Section 76-3-203.17 if the division receives:

(i) an order from the sentencing court requiring the person's driver license to be suspended; and

(ii) a record of the conviction.

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c)(i); and

(ii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician or physician assistant that:

(I) to the physician's or physician assistant's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician or physician assistant is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(ii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 61. Section 53-3-229 is amended to read:

53-3-229. Prohibited uses of license certificate -- Penalty.

(1) It is a class C misdemeanor for an individual to:

(a) lend or knowingly permit the use of a license certificate issued to the individual, by another individual not entitled to the license certificate;

(b) display or represent as the individual's own license certificate a license certificate not issued to the individual;

(c) refuse to surrender to the division or a peace officer upon demand any license certificate issued by the division;

(d) use a false name or give a false address in any application for a license or any renewal or duplicate of the license certificate, or to knowingly make a false statement, or to knowingly conceal a material fact or otherwise commit a fraud in the application;

(e) display a canceled, denied, revoked, suspended, or disqualified driver license certificate as a valid driver license certificate;

(f) knowingly acquire, use, display, or transfer an item that purports to be an authentic driver license certificate issued by a governmental entity if the item is not an authentic driver license certificate issued by that governmental entity; or

(g) alter any information on an authentic driver license certificate so that it no longer represents the information originally displayed.

(2) The provisions of Subsection (1)(e) do not prohibit the use of an individual's driver license certificate as a means of personal identification.

(3) It is a class A misdemeanor to knowingly:

(a) issue a driver license certificate with false or fraudulent information;

(b) issue a driver license certificate to an individual who is younger than 21 years old if the driver license certificate is not distinguished as required for an individual who is younger than 21 years old under Section 53-3-207; or

(c) acquire, use, display, or transfer a false or altered driver license certificate to procure a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section [~~76-10-101~~]76-9-1101.

(4) An individual may not use, display, or transfer a false or altered driver license certificate to procure alcoholic beverages, gain admittance to a place where alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a minor in violation of Section 32B-1-403.

(5) It is a third degree felony if an individual's acquisition, use, display, or transfer of a false or altered driver license certificate:

(a) aids or furthers the individual's efforts to fraudulently obtain goods or services; or

(b) aids or furthers the individual's efforts to commit a violent felony.

Section 62. Section 53-3-810 is amended to read:

53-3-810. Prohibited uses of identification card -- Penalties.

(1) It is a class C misdemeanor to:

(a) lend or knowingly permit the use of an identification card issued to the individual, by an individual not entitled to the identification card;

(b) display or to represent as the individual's own identification card an identification card not issued to the individual;

(c) refuse to surrender to the division or a peace officer upon demand any identification card issued by the division;

(d) use a false name or give a false address in any application for an identification card or any renewal or duplicate of the identification card, or to knowingly make a false statement, or to knowingly conceal a material fact in the application;

(e) display a revoked identification card as a valid identification card;

(f) knowingly acquire, use, display, or transfer an item that purports to be an authentic identification card issued by a governmental entity if the item is not an authentic identification card issued by that governmental entity; or

(g) alter any information contained on an authentic identification card so that it no longer represents the information originally displayed.

(2) It is a class A misdemeanor to knowingly:

(a) issue an identification card with false or fraudulent information;

(b) issue an identification card to an individual who is younger than 21 years old if the identification card is not distinguished as required for an individual who is younger than 21 years old under Section 53-3-806; or

(c) acquire, use, display, or transfer a false or altered identification card to procure a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section [~~76-10-101~~]76-9-1101.

(3) An individual may not knowingly use, display, or transfer a false or altered identification card to procure alcoholic beverages, gain admittance to a place where alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a minor in violation of Section 32B-1-403.

(4) It is a third degree felony if an individual's acquisition, use, display, or transfer of a false or altered identification card:

(a) aids or furthers the individual's efforts to fraudulently obtain goods or services; or

(b) aids or furthers the individual's efforts to commit a violent felony.

Section 63. Section 53-5-702 is amended to read:

53-5-702. Definitions.

In addition to the definitions in Section [~~76-10-501~~]76-11-101, as used in this part:

(1) "Active duty service member" means a person on active military duty with the United States military and includes full time military active duty, military reserve active duty, and national guard military active duty service members stationed in Utah.

(2) "Active duty service member spouse" means a person recognized by the military as the spouse of an active duty service member and who resides with the active duty service member in Utah.

(3) "Board" means the Concealed Firearm Review Board created in Section 53-5-703.

(4) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(5) "Commissioner" means the commissioner of the Department of Public Safety.

(6) "Conviction" means criminal conduct where the filing of a criminal charge has resulted in:

(a) a finding of guilt based on evidence presented to a judge or jury;

(b) a guilty plea;

(c) a plea of nolo contendere;

(d) a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation;

(e) a pending diversion agreement; or

(f) a conviction which has been reduced in accordance with Section 76-3-402.

(7) (a) "School employee" means an employee of a public school district, charter school, or private school whose duties, responsibilities, or assignments require the employee to be physically present on a school's campus at least half of the days on which school is held during a school year.

(b) "School employee" also means a substitute teacher, as defined in Section 53E-6-901.

(8) "School year" means the period of time designated by a local school board, charter school governing board, or private school as the school year for high school, middle school, or elementary school students.

Section 64. Section 53-5-704 is amended to read:

53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.

(1) (a) Except as provided in Subsection (1)(b), the bureau shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years old or older within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(b) (i) Within 90 days before the day on which a provisional permit holder under Section 53-5-704.5 reaches 21 years old, the provisional permit holder may apply under this section for a permit to carry a concealed firearm for lawful self defense.

(ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(iii) A permit issued under this Subsection (1)(b):

(A) is not valid until an applicant is 21 years old; and

(B) requires a $10 application fee.

(iv) A person who applies for a permit under this Subsection (1)(b) is not required to retake the firearms training described in Subsection 53-5-704(8).

(c) The permit is valid throughout the state for five years, without restriction, except as otherwise provided by Section 53-5-710.

(d) The provisions of Subsections [~~76-10-504(1) and (2)~~]76-11-202(2), (3)(a), and (3)(b), and Section [~~76-10-505~~]76-11-203 do not apply to an individual issued a permit under Subsection (1)(a) or (b).

(e) Subsection (4)(a) does not apply to a nonresident:

(i) active duty service member, who presents to the bureau orders requiring the active duty service member to report for duty in this state; or

(ii) active duty service member's spouse, stationed with the active duty service member, who presents to the bureau the active duty service member's orders requiring the service member to report for duty in this state.

(2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder:

(i) has been or is convicted of a felony;

(ii) has been or is convicted of a crime of violence;

(iii) has been or is convicted of an offense involving the use of alcohol;

(iv) has been or is convicted of an offense involving the unlawful use of narcotics or other controlled substances;

(v) has been or is convicted of an offense involving moral turpitude;

(vi) has been or is convicted of an offense involving domestic violence;

(vii) has been or is adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and

(viii) is not qualified to purchase and possess a firearm pursuant to Section [~~76-10-503~~]76-11-302 and federal law.

(b) In determining whether an applicant or permit holder is qualified to hold a permit under Subsection (2)(a), the bureau shall consider mitigating circumstances.

(3) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has reasonable cause to believe that the applicant or permit holder has been or is a danger to self or others as demonstrated by evidence, including:

(i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

(ii) past participation in incidents involving unlawful violence or threats of unlawful violence; or

(iii) conviction of an offense in violation of [~~Title 76, Chapter 10, Part 5, Weapons~~]Title 76, Chapter 11, Weapons.

(b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction of an infraction violation of [~~Title 76, Chapter 10, Part 5, Weapons~~]Title 76, Chapter 11, Weapons.

(c) In determining whether the applicant or permit holder has been or is a danger to self or others, the bureau may inspect:

(i) expunged records of arrests and convictions of adults as provided in Section 77-40a-403; and

(ii) juvenile court records as provided in Section 78A-6-209.

(d) (i) The bureau shall suspend a concealed firearm permit if a permit holder becomes a temporarily restricted person in accordance with Section 53-5c-301.

(ii) Upon removal from the temporary restricted list, the permit holder's permit shall be reinstated unless:

(A) the permit has been revoked, been suspended for a reason other than the restriction described in Subsection (3)(d)(i), or expired; or

(B) the permit holder has become a restricted person under Section [~~76-10-503~~]76-11-302.

(4) (a) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law shall:

(i) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and

(ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

(b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit for a period of 10 years.

(c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm permit that are received by the bureau after May 10, 2011.

(d) Beginning January 1, 2012, Subsection (4)(a) also applies to an application for renewal of a concealed firearm permit by a nonresident.

(5) The bureau shall issue a concealed firearm permit to a former peace officer who departs full-time employment as a peace officer, in an honorable manner, within five years of that departure if the officer meets the requirements of this section.

(6) Except as provided in Subsection (7), the bureau shall also require the applicant to provide:

(a) the address of the applicant's permanent residence;

(b) one recent dated photograph;

(c) one set of fingerprints; and

(d) evidence of general familiarity with the types of firearms to be concealed as defined in Subsection (8).

(7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (6)(d).

(8) (a) General familiarity with the types of firearms to be concealed includes training in:

(i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.

(b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by one of the following:

(i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the bureau;

(ii) certification of general familiarity by an individual who has been certified by the bureau, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

(iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.

(c) Instruction taken by a student under this Subsection (8) shall be in person and not through electronic means.

(d) A person applying for a renewal permit is not required to retake the firearms training described in this Subsection 53-5-704(8) if the person:

(i) has an unexpired permit; or

(ii) has a permit that expired less than one year before the date on which the renewal application was submitted.

(9) (a) An applicant for certification as a Utah concealed firearms instructor shall:

(i) be at least 21 years old;

(ii) be currently eligible to possess a firearm under Section [~~76-10-503~~]76-11-302;

(iii) have:

(A) completed a firearm instruction training course from the National Rifle Association or another nationally recognized firearm training organization that customarily offers firearm safety and firearm law instructor training or the Department of Public Safety, Division of Peace Officer Safety Standards and Training; or

(B) received training equivalent to one of the courses referred to in Subsection (9)(a)(iii)(A) as determined by the bureau;

(iv) have taken a course of instruction and passed a certification test as described in Subsection (9)(c); and

(v) possess a Utah concealed firearm permit.

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the bureau.

(c) (i) In order to obtain initial certification or renew a certification, an instructor shall attend an instructional course and pass a test under the direction of the bureau.

(ii) (A) The bureau shall provide or contract to provide the course referred to in Subsection (9)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of $50.00 at the time of application for initial certification.

(ii) The renewal fee for the certificate is $25.

(iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (9).

(10) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the bureau.

(11) (a) (i) A concealed firearms instructor shall provide a signed certificate to an individual successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the bureau under Subsection (9).

(iii) (A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other individual.

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (9).

(C) The bureau shall determine the design and content of the seal to include at least the following:

(I) the instructor's name as it appears on the instructor's certification;

(II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and

(III) the instructor's business or residence address.

(D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.

(b) The applicant shall provide the certificate to the bureau in compliance with Subsection (6)(d).

(12) The bureau may deny, suspend, or revoke the certification of an applicant or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:

(a) become ineligible to possess a firearm under Section [~~76-10-503~~]76-11-302 or federal law; or

(b) knowingly and willfully provided false information to the bureau.

(13) An applicant for certification or a concealed firearms instructor has the same appeal rights as described in Subsection (16).

(14) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the bureau are not vicariously liable for damages caused by the permit holder.

(15) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(16) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or permit holder may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant or permit holder by certified mail, return receipt requested.

(b) The bureau's denial of a permit shall be in writing and shall include the general reasons for the action.

(c) If an applicant or permit holder appeals the denial to the review board, the applicant or permit holder may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the bureau has the burden of proof by a preponderance of the evidence.

(e) (i) Upon a ruling by the board on the appeal of a denial, the board shall issue a final order within 30 days stating the board's decision.

(ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

(iii) The final order is final bureau action for purposes of judicial review under Section 63G-4-402.

(17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Section 65. Section 53-5-705 is amended to read:

53-5-705. Temporary permit to carry concealed firearm -- Denial, suspension, or revocation -- Appeal.

(1) The bureau or its designated agent may issue a temporary permit to carry a concealed firearm to a person who:

(a) has applied for a permit under Section 53-5-704;

(b) has applied for a temporary permit under this section; and

(c) meets the criteria required in Subsections (2) and (3).

(2) To receive a temporary permit under this section, the applicant shall demonstrate in writing to the satisfaction of the bureau extenuating circumstances that would justify issuing a temporary permit.

(3) A temporary permit may not be issued under this section until preliminary record checks regarding the applicant have been made with the National Crime Information Center and the bureau to determine any criminal history.

(4) (a) A temporary permit is valid only for a maximum of 90 days or any lesser period specified by the bureau, or until a permit under Section 53-5-704 is issued to the holder of the temporary permit, whichever period is shorter.

(b) The provisions of Subsections [~~76-10-504(1) and (2)~~]76-11-202(2), (3)(a), and (3)(b) and Section [~~76-10-505~~]76-11-203 do not apply to a person issued a temporary permit under this section during the time period for which the temporary permit is valid.

(5) The bureau may deny, suspend, or revoke a temporary permit prior to expiration if the commissioner determines:

(a) the circumstances justifying the temporary permit no longer exist; or

(b) the holder of the temporary permit does not meet the requirements for a permit under Section 53-5-704.

(6) (a) The denial, suspension, or revocation of a temporary permit shall be in writing and shall include the reasons for the action.

(b) The bureau's decision to deny, suspend, or revoke a temporary permit may not be appealed to the board.

(c) Denial, suspension, or revocation under this subsection is final action for purposes of judicial review under Section 63G-4-402.

Section 66. Section 53-5-710 is amended to read:

53-5-710. Cross-references to concealed firearm permit restrictions.

(1) A person with a permit of any kind to carry a concealed firearm may not carry a concealed firearm in the following locations:

(a) any secure area prescribed in Section [~~76-10-523.5~~]53-5a-107 in which firearms are prohibited and notice of the prohibition posted;

(b) any airport secure area as provided in Section [~~76-10-529~~]76-11-215; or

(c) any house of worship or in any private residence where dangerous weapons are prohibited as provided in Section [~~76-10-530~~]76-11-216.

(2) Notwithstanding Subsection [~~76-10-505.5(4)~~]76-11-204(4), a person under the age of 21 with a permit of any kind to carry a concealed firearm may not carry a concealed firearm on or about school premises, as defined in Subsection [~~76-10-505.5(1)(a)~~]76-11-204(1)(a)(i).

Section 67. Section 53-5-711 is amended to read:

53-5-711. Law enforcement officials, judges, and court commissioners exempt -- Training requirements -- Qualification -- Revocation.

(1) As used in this section and Section [~~76-10-523~~]53-5a-108:

(a) "Court commissioner" means an individual appointed under Section 78A-5-107.

(b) (i) "Judge" means a judge or justice of a court of record or a court not of record.

(ii) "Judge" does not include a judge pro tem or senior judge.

(c) "Law enforcement official" means:

(i) a member of the Board of Pardons and Parole;

(ii) a district attorney, deputy district attorney, county attorney or deputy county attorney of a county not in a prosecution district;

(iii) the attorney general;

(iv) an assistant attorney general designated as a criminal prosecutor; or

(v) a city attorney or a deputy city attorney designated as a criminal prosecutor.

(2) To qualify for an exemption in Section [~~76-10-523~~]53-5a-108, a law enforcement official, judge, or court commissioner shall complete the following training requirements:

(a) meet the requirements of Sections 53-5-704, 53-5-706, and 53-5-707; and

(b) successfully complete an additional course of training as established by the commissioner of public safety designed to assist them while carrying out their official law enforcement, judicial, or court commissioner duties as agents for the state or its political subdivisions.

(3) Annual requalification requirements for law enforcement officials, judges, or court commissioners shall be established by the

commissioner of public safety. Additional requalification requirements may be established by the:

(a) Board of Pardons and Parole by rule for its members;

(b) Judicial Council by rule for judges and court commissioners; and

(c) the district attorney, county attorney in a county not in a prosecution district, the attorney general, or city attorney by policy for prosecutors under their jurisdiction.

(4) The bureau may:

(a) issue a certificate of qualification to a judge, law enforcement official, or court commissioner who has completed the requirements of Subsection (2), which certificate of qualification is valid until revoked;

(b) revoke the certificate of qualification of a judge, law enforcement official, or court commissioner who:

(i) fails to meet the annual requalification criteria established pursuant to Subsection (3);

(ii) would be subject to revocation of a concealed firearm permit under Subsection 53-5-704(2)(a); or

(iii) is no longer employed as a judge, law enforcement official, or court commissioner as defined in Subsection (1); and

(c) certify instructors for the training requirements of this section.

Section 68. Section 53-5a-102 is amended to read:

CHAPTER 5a. FIREARM LAWS

PART 1. General Firearm Laws

53-5a-102. Uniform firearm laws.

[~~(1) As used in this section:~~]

[~~(a) "Ammunition" means the same as that term is defined in Section 53-5d-102.~~]

[~~(b) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.~~]

[~~(c) "Firearm" means:~~]

[~~(i) a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive;~~]

[~~(ii) ammunition; and~~]

[~~(iii) a firearm accessory.~~]

[~~(d) "Firearm accessory" means the same as that term is defined in Section 53-5b-103.~~]

[~~(e) "Local or state governmental entity" means the same as that term is defined in Section 78B-6-2301.~~]

[~~(f) "Short barreled shotgun" or "short barreled rifle" means the same as that term is defined in Section 76-10-501.~~]

[~~(g) "Shotgun" means the same as that term is defined in Section 76-10-501.~~]

[~~(2)~~](1) The individual right to keep and bear arms being a constitutionally protected right under Article I, Section 6 of the Utah Constitution and the Second Amendment to the United States Constitution, the Legislature finds the need to provide uniform civil and criminal firearm laws throughout the state and declares that the Legislature occupies the whole field of state regulation of firearms.

[~~(3)~~](2) Except as specifically provided by state law, a local or state governmental entity may not:

(a) prohibit an individual from owning, possessing, purchasing, selling, transferring, transporting, or keeping a firearm, ammunition, or a firearm accessory at the individual's place of residence, property, business, or in any vehicle lawfully in the individual's possession or lawfully under the individual's control; or

(b) require an individual to have a permit or license to purchase, own, possess, transport, or keep a firearm, ammunition, or a firearm accessory.

[~~(4)~~](3) [~~In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is~~]This part and Title 76, Chapter 11, Weapons, are uniformly applicable throughout [~~this~~]the state and in all the [~~state's~~]political subdivisions of the state.

[~~(5)~~](4) Authority to regulate firearms is reserved to the state except where the Legislature specifically delegates responsibility to local or state governmental entities.

[~~(6)~~](5) Unless specifically authorized by the Legislature by statute, a local or state governmental entity may not enact, establish, or enforce [~~any ordinance, regulation, rule, or policy~~]a directive pertaining to firearms, ammunition, or firearm accessories that in any way inhibits or restricts the possession, ownership, purchase, sale, transfer, transport, or use of firearms, ammunition, or firearm accessories on either public or private property.

[~~(7)~~](6) This section does not restrict or expand private property rights.

[~~(8)~~](7) A violation of this section is subject to Title 78B, Chapter 6, Part 23, Firearm Preemption Enforcement Act.

Section 69. Section 53-5a-102.1 is enacted to read:

53-5a-102.1. Definitions.

As used in this part:

(1) "Ammunition" means the same as that term is defined in Section 53-5d-102.

(2) (a) "Antique firearm" means:

(i) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

(ii) a firearm that is a replica of a firearm described in this Subsection (2)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is no longer manufactured in the United States and is not readily available in ordinary channels of commercial trade; or

(iii) a firearm that:

(A) is a muzzle-loading rifle, shotgun, or pistol;

(B) is designed to use black powder, or a black powder substitute; and

(C) cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle-loading weapon; or

(iii) a muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (2)(b)(iii)(A), (B), or (C).

(3) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the department.

(4) (a) "Concealed firearm" means a firearm that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of the firearm's presence; and

(ii) readily accessible for immediate use.

(b) "Concealed firearm" does not include a firearm that is unloaded and securely encased.

(5) "Court commissioner" means an individual appointed under Section 78A-5-107.

(6) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

(7) "Directive" means the same as that term is defined in Section 78B-6-2301.

(8) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(9) "Firearm accessory" means the same as that term is defined in Section 53-5b-103.

(10) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(11) "Judge" means the same as that term is defined in Section 53-5-711.

(12) "Local or state governmental entity" means the same as that term is defined in Section 78B-6-2301.

(13) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that the weapon can be retrieved and used as readily as if carried on the person.

(14) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

(15) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

(16) "Short barreled rifle" means the same as that term is defined in Section 53-5a-301.

(17) "Short barreled shotgun" means the same as that term is defined in Section 53-5a-301.

(18) "Shotgun" means the same as that term is defined in Section 53-5a-301.

(19) "Slug" means the same as that term is defined in Section 53-5a-301.

Section 70. Section 53-5a-102.3, which is renumbered from Section 76-10-511 is renumbered and amended to read:

[~~76-10-511~~]53-5a-102.3. Possession of a loaded firearm at a residence or on real property authorized.

Except for persons described in Section [~~76-10-503~~]76-11-302 and 18 U.S.C. Sec. 922(g) and as otherwise prescribed in this part, [~~a person~~]an individual may have a loaded firearm:

(1) at the [~~person's~~]individual's place of residence, including any temporary residence or camp; or

(2) on the [~~person's~~]individual's real property.

Section 71. Section 53-5a-105, which is renumbered from Section 76-10-520 is renumbered and amended to read:

[~~76-10-520~~]53-5a-105. Number or mark assigned to a handgun by the department.

(1) The [~~Department of Public Safety~~]department upon request may assign a distinguishing number or mark of identification to [~~any pistol or revolver~~]a handgun whenever it is without a manufacturer's number, or other mark of identification or whenever the manufacturer's number or other mark of identification or the distinguishing number or mark assigned by the [~~Department of Public Safety~~]department has been destroyed or obliterated.

(2) Except as provided in Subsection (3), an individual who places or stamps a number on a handgun except one assigned to the handgun by the department is guilty of a class A misdemeanor.

(3) This section does not:

(a) prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when the restoration is authorized by the department;

(b) prohibit a manufacturer from placing in the ordinary course of business the name of the make, model, manufacturer's number, or other mark of identification upon a new handgun; or

(c) apply to a handgun that is an antique firearm.

Section 72. Section 53-5a-106, which is renumbered from Section 76-10-522 is renumbered and amended to read:

[~~76-10-522~~]53-5a-106. Alteration of number or mark on a handgun.

(1) [~~Any person who changes, alters, removes, or obliterates~~]An individual may not change, alter, remove, or obliterate the name of the maker, the model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the [~~Department of Public Safety~~]department, on [~~any pistol or revolver~~]a handgun, without first having secured written permission from the [~~Department of Public Safety~~]department to make the change, alteration, [~~or~~]removal, [~~is guilty of a class A misdemeanor~~]or obliteration.

(2) Except as provided in Subsection (3), a violation of Subsection (1) is a class A misdemeanor.

(3) This section does not apply to a handgun that is an antique firearm.

Section 73. Section 53-5a-107, which is renumbered from Section 76-10-523.5 is renumbered and amended to read:

[~~76-10-523.5~~]53-5a-107. Compliance with rules for secure facilities.

[~~Any person~~]An individual, including [~~a person~~]an individual licensed to carry a concealed firearm under Title 53, Chapter 5, Part 7, Concealed Firearm Act, shall comply with any rule established [~~for secure facilities~~]by a secure facility pursuant to Sections 53B-3-103, 76-8-311.1, 76-8-311.3, and 78A-2-203 and [~~shall be~~]is subject to any penalty provided in those sections.

Section 74. Section 53-5a-108, which is renumbered from Section 76-10-523 is renumbered and amended to read:

[~~76-10-523~~]53-5a-108. Persons exempt from weapons laws.

(1) Except for Sections [~~76-10-506, 76-10-508, and 76-10-508.1, this part~~]76-11-205, 76-11-207, and 76-11-208, this part, Title 76, Chapter 11, Weapons, and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to any of the following:

(a) a United States marshal;

(b) a federal official required to carry a firearm;

(c) a peace officer of this or any other jurisdiction;

(d) a law enforcement official as defined and qualified under Section 53-5-711;

(e) a judge as defined and qualified under Section 53-5-711;

(f) a court commissioner as defined and qualified under Section 53-5-711; or

(g) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise.

(2) Notwithstanding Subsection (1), the provisions of Section [~~76-10-528~~]76-11-214 apply to any individual listed in Subsection (1) who is not employed by a state or federal agency or political subdivision that has adopted a policy or rule regarding the use of dangerous weapons.

(3) Subsections [~~76-10-504(1) and (2), and Section 76-10-505~~]76-11-202(2), (3)(a), and (3)(b), and Section 76-11-203do not apply to:

(a) an individual to whom a permit to carry a concealed firearm has been issued:

(i) pursuant to Section 53-5-704; or

(ii) by another state or county; or

(b) [~~a person~~]an individual who is issued a protective order under Subsection 78B-7-603(1)(b) or 78B-7-404(1)(b), unless the [~~person~~]individual is a restricted person as described in Subsection [~~76-10-503(1)~~]76-11-302(1), for a period of 120 days after the day on which the [~~person~~]individual is issued the protective order.

(4) Except for Sections [~~76-10-503, 76-10-506, 76-10-508, and 76-10-508.1~~]76-11-205, 76-11-207, 76-11-208, and 76-11-302, this part, Title 76, Chapter 11, Weapons, and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in or though the state, provided that any firearm is:

(a) unloaded; and

(b) securely encased [~~as defined in Section 76-10-501~~].

(5) Subsections [~~76-10-504(1) and (2), and 76-10-505(1)(b)~~]76-11-202(2), (3)(a), and (3)(b), and 76-11-203(2)(b) do not apply to [~~a person~~]an individual 21 years old or older who may otherwise lawfully possess a firearm.

Section 75. Section 53-5a-202 is amended to read:

53-5a-202. Definitions.

As used in this part:

(1) (a) "Federal regulation" means a federal executive order, rule, or regulation that infringes upon, prohibits, restricts, or requires individual licensure for, or registration of, the purchase, ownership, possession, transfer, or use of a firearm, ammunition, or firearm accessory.

(b) "Federal regulation" does not include:

(i) a federal firearm statute; or

(ii) a federal executive order, rule, or regulation that is incorporated into the Utah Code by reference.

(2) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(3) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(4) "Political subdivision" means a city, town, county, special district, or water conservancy district.

Section 76. Section 53-5a-301 is enacted to read:

PART 3. Sale and Purchase of a Firearm

53-5a-301. Definitions.

As used in this part:

(1) "Antique firearm" means the same as that term is defined in Section 53-5a-102.1.

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201within the department.

(3) "Criminal history background check" means a criminal background check conducted through the bureau or a local law enforcement agency.

(4) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

(5) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

(6) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(7) "Federal Firearms Licensee" means a person who:

(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

(b) is engaged in the activities authorized by the specific category of license held by the person.

(8) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) "Firearm" does not include an antique firearm.

(9) (a) "Short barreled rifle" means a rifle that has a barrel or barrels of fewer than 16 inches in length.

(b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

(10) (a) "Short barreled shotgun" means a shotgun that has a barrel or barrels of fewer than 18 inches in length.

(b) "Short barreled shotgun" includes a dangerous weapon made from a shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

(11) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

(12) "Slug" means a single projectile discharged from a shotgun shell.

Section 77. Section 53-5a-302, which is renumbered from Section 76-10-526 is renumbered and amended to read:

[~~76-10-526~~]53-5a-302. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.

[~~(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.~~]

[~~(2)~~](1) (a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.

(b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection [~~(2)~~](1).

[~~(3)~~](2) (a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

(b) Subsection [~~(3)(a)~~](2)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

[~~(4)~~](3) (a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the bureau.

(b) The form shall contain the following information:

(i) the dealer identification number;

(ii) the name and address of the individual receiving the firearm;

(iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm; and

(iv) the social security number or any other identification number of the individual receiving the firearm.

[~~(5)~~](4) (a) The dealer shall send the information required by Subsection [~~(4)~~](3) to the bureau immediately upon its receipt by the dealer.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection [~~(4)~~](3) and has received approval from the bureau under Subsection [~~(7)~~](6).

[~~(6)~~](5) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.

[~~(7)~~](6) When the dealer calls for or requests a criminal history background check, the bureau shall:

(a) review the criminal history files, including juvenile court records, and the temporary restricted file created under Section 53-5c-301, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the individual is prohibited; or

(ii) the individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background check, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

[~~(8)~~](7) (a) The bureau may not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request, if the bureau determines that the individual receiving the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

[~~(9)~~](8) (a) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the bureau shall:

(i) within 24 hours after determining that the purchaser is prohibited from purchasing, possessing, or transferring a firearm, notify the law enforcement agency in the jurisdiction where the dealer is located; and

(ii) inform the law enforcement agency in the jurisdiction where the individual resides.

(b) Subsection [~~(9)(a)~~](8)(a) does not apply to an individual prohibited from purchasing a firearm solely due to placement on the temporary restricted list under Section 53-5c-301.

(c) A law enforcement agency that receives information from the bureau under Subsection [~~(9)(a)~~](8)(a) shall provide a report before August 1 of each year to the bureau that includes:

(i) based on the information the bureau provides to the law enforcement agency under Subsection [~~(9)(a)~~](8)(a), the number of cases that involve an individual who is prohibited from purchasing, possessing, or transferring a firearm as a result of a conviction for an offense involving domestic violence; and

(ii) of the cases described in Subsection [~~(9)(c)(i)~~](8)(c)(i):

(A) the number of cases the law enforcement agency investigates; and

(B) the number of cases the law enforcement agency investigates that result in a criminal charge.

(d) The bureau shall:

(i) compile the information from the reports described in Subsection [~~(9)(c)~~](8)(c);

(ii) omit or redact any identifying information in the compilation; and

(iii) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

[~~(10)~~](9) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

[~~(11)~~](10) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

[~~(12)~~](11) (a) A dealer shall collect a criminal history background check fee for the sale of a firearm under this section.

(b) The fee described under Subsection [~~(12)(a)~~](11)(a) remains in effect until changed by the bureau through the process described in Section 63J-1-504.

(c) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

[~~(13)~~](12) (a) An individual with a concealed firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

[~~(a)~~](i) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

[~~(b)~~](ii) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

(b) An individual with a temporary permit to carry a concealed firearm issued under Section 53-5-705 is not exempt from a background check and the corresponding fee required in this section for the purchase of a firearm.

[~~(14)~~](13) (a) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification.

(b) Subsection [~~(14)(a)~~](13)(a) may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

[~~(15)~~](14) A dealer engaged in the business of selling, leasing, or otherwise transferring a firearm shall:

(a) make the firearm safety brochure described in Subsection [~~26B-5-211(3)~~]26B-5-102(3) available to a customer free of charge; and

(b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under Subsection [~~26B-5-211(3)~~]26B-5-102(3) to a customer purchasing a shotgun, short barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does not require be accompanied by a gun lock at the time of purchase.

Section 78. Section 53-5a-303, which is renumbered from Section 76-10-526.1 is renumbered and amended to read:

[~~76-10-526.1~~]53-5a-303. Information check before private sale of firearm.

(1) As used in this section:

(a) "Governmental entity" means the state and the state's political subdivisions.

(b) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(c) "Personally identifiable information" means the same as that term is defined in Section 63D-2-102.

(2) Subject to Subsections (3) and (4), the bureau shall create an online process that allows an individual who is selling or purchasing a firearm to voluntarily determine:

(a) if the other individual involved in the sale of the firearm has a valid concealed carry permit; or

(b) based on the serial number of the firearm, if the firearm is reported as stolen.

(3) Subsection (2) does not apply to a federal firearms licensee or dealer.

(4) The bureau may not:

(a) provide information related to a request under Subsection (2) to a law enforcement agency; or

(b) collect a user's personally identifiable information under Subsection (2).

(5) A governmental entity may not require an individual who is selling or purchasing a firearm to use the process under Subsection (2).

(6) If an individual uses the process under Subsection (2), the individual is not required, based on the information the individual receives from the bureau, to make a report to a law enforcement agency.

(7) After responding to a request under Subsection (2), the bureau shall immediately dispose of all information related to the request.

(8) (a) This section does not create a civil cause of action arising from the sale or purchase of a firearm under this section.

(b) An individual's failure to use the process under Subsection (2) is not evidence of the individual's negligence in a civil cause of action.

Section 79. Section 53-5a-304, which is renumbered from Section 76-10-527 is renumbered and amended to read:

[~~76-10-527~~]53-5a-304. Penalties.

(1) A dealer is guilty of a class A misdemeanor [~~who~~]if the dealer willfully and intentionally:

(a) requests, obtains, or seeks to obtain criminal history background information under false pretenses;

(b) disseminates criminal history background information; or

(c) violates Section [~~76-10-526~~]53-5a-302.

(2) [~~A person~~]An individual who purchases or transfers a firearm is guilty of a third degree felony [~~of the third degree if the person~~]if the individual willfully and intentionally makes a false statement of the information required for a criminal background check in Section [~~76-10-526~~]53-5a-302.

(3) Except as otherwise provided in Subsection (1), a dealer is guilty of a [~~felony of the~~]third degree felony if the dealer willfully and intentionally sells or transfers a firearm in violation of this part or Title 76, Chapter 11, Part 1, Weapons.

(4) [~~A person~~]An individual is guilty of a [~~felony of the~~]third degree felony if the [~~person~~]individual purchases a firearm with the intent to:

(a) resell or otherwise provide a firearm to [~~a person~~]an individual who is ineligible to purchase or receive a firearm from a dealer; or

(b) transport a firearm out of this state to be resold to an [~~ineligible person~~]individual who is ineligible to purchase or receive a firearm from a dealer.

Section 80. Section 53-5a-305, which is renumbered from Section 76-10-524 is renumbered and amended to read:

[~~76-10-524~~]53-5a-305. Purchase of firearms pursuant to federal law.

This part [~~will allow purchases~~]allows the purchase of firearms and ammunition pursuant to U.S.C. Title 18 Chapter 44 Sec. 922b(3).

Section 81. Section 53-5c-201 is amended to read:

53-5c-201. Voluntary commitment of a firearm by cohabitant -- Law enforcement to hold firearm.

(1) (a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law enforcement agency or request that a law enforcement officer receive a firearm for safekeeping if the owner cohabitant or cohabitant believes that the owner cohabitant or another cohabitant with access to the firearm is an immediate threat to:

(i) a cohabitant;

(ii) the owner cohabitant; or

(iii) another individual.

(b) Except as provided in Subsection (2), if the owner of a firearm requests return of the firearm in person at the law enforcement agency's office, the law enforcement agency:

(i) may not hold the firearm under this section; and

(ii) shall return the firearm to the owner.

(2) A law enforcement agency may not return a firearm to an owner under Subsection (1)(b)if the owner of the firearm:

(a) is a restricted person under Section [~~76-10-503~~]76-11-302; or

(b) (i) has been arrested and booked into a county jail on a class A misdemeanor or felony domestic violence offense;

(ii) has had a court:

(A) review the probable cause statement detailing the incident leading to the owner's arrest; and

(B) determine that probable cause existed for the arrest; and

(iii) is subject to a jail release agreement or a jail release court order arising out of the domestic violence offense.

(3) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency that receives a firearm in accordance with this chapter shall:

(a) record:

(i) the owner cohabitant's name, address, and phone number;

(ii) the firearm serial number and the make and model of each firearm committed; and

(iii) the date that the firearm was voluntarily committed;

(b) require the cohabitant to sign a document attesting that the cohabitant resides in the home;

(c) hold the firearm in safe custody:

(i) for 60 days after the day on which the firearm is voluntarily committed; or

(ii) (A) for an owner described in Subsection (2)(b), during the time the jail release agreement or jail release court order is in effect; and

(B) for 60 days after the day on which the jail release agreement or jail release court order expires; and

(d) upon proof of identification, return the firearm to:

(i) (A) the owner cohabitant after the expiration of the 60-day period; or

(B) if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or

(ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.

(4) The law enforcement agency shall hold the firearm for an additional 60 days:

(a) if the initial 60-day period expires; and

(b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.

(5) A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.

(6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection (3), Subsection 53-5c-202(3)(b)(iii), or any other record created in the application of this chapter immediately, if practicable, but no later than five days after immediately upon the:

(a) return of a firearm in accordance with Subsection (3)(d); or

(b) disposal of the firearm in accordance with Section 53-5c-202.

(7) Unless otherwise provided, the provisions of Title 77, Chapter 11d, Lost or Mislaid Property, do not apply to a firearm received by a law enforcement agency in accordance with this chapter.

(8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this chapter.

(9) The department shall create a pamphlet to be distributed by a law enforcement officer under Section 77-36-2.1 that includes information about a cohabitant's or owner cohabitant's ability to have the owner cohabitant's firearm committed to a law enforcement agency for safekeeping in accordance with this section.

Section 82. Section 53-5c-301 is amended to read:

53-5c-301. Voluntary restrictions on firearm purchase and possession.

(1) An individual who is not a restricted person under Section [~~76-10-503~~]76-11-302 may voluntarily request to be restricted from the purchase or possession of firearms.

(2) An individual requesting to be restricted under Subsection (1) may request placement on one of the following restricted lists:

(a) a restricted list that:

(i) restricts the individual from purchasing or possessing a firearm for 180 days with automatic removal of the individual from the restricted list at the end of the 180 days; and

(ii) allows the individual to request removal 30 days after the day on which the individual is added to the restricted list; or

(b) a restricted list that:

(i) restricts the individual from purchasing or possessing a firearm indefinitely; and

(ii) allows the individual to request removal 90 days after the day on which the individual is added to the restricted list.

(3) (a) Subject to Subsections (8) and (9), the bureau shall develop a process and forms for inclusion on, and removal from, a restricted list as described in Subsection (2) to be maintained by the bureau.

(b) The bureau shall make the forms for inclusion and removal available by download through the bureau's website and require, at a minimum, the following information for the individual described in Subsection (1):

(i) name;

(ii) address;

(iii) date of birth;

(iv) contact information;

(v) signature; and

(vi) (A) if the individual is entered on the restricted list as described in Subsection (2)(a), an acknowledgment of the statement in Subsection (8)(a); or

(B) if the individual is entered on the restricted list as described in Subsection (2)(b), an acknowledgment of the statement in Subsection (8)(b).

(4) (a) An individual requesting inclusion on a restricted list under Subsection (2) shall:

(i) deliver the completed form in person to a law enforcement agency; or

(ii) direct the individual's health care provider under Section 53-5c-302 to electronically deliver the individual's request to the bureau.

(b) The law enforcement agency described in Subsection (4)(a)(i):

(i) shall verify the individual's identity before accepting the form;

(ii) may not accept a form from someone other than the individual named on the form; and

(iii) shall transmit the form electronically to the bureau through the Utah Criminal Justice Information System.

(5) Upon receipt of a verified form provided under this section or Section 53-5c-302requesting inclusion on a restricted list, the bureau shall, within 24 hours, add the individual's name to the restricted list.

(6) (a) For an individual added to the restricted list described in Subsection (2)(a):

(i) the individual may not request removal from the restricted list unless the individual has been on the restricted list for at least 30 days;

(ii) the bureau shall remove the individual from the restricted list 180 days after the day on which the individual was added to the restricted list, unless the individual:

(A) requests to be removed from the restricted list after 30 days;

(B) requests to remain on the restricted list; or

(C) directs the individual's health care provider to request that the individual remain on the restricted list;

(iii) a request for an extension shall be made in the same manner as the original request; and

(iv) the individual may continue to request, or direct the individual's health care provider to continue to request, extensions every 180 days.

(b) For an individual added to a restricted list under Subsection (2)(b), the individual:

(i) may not request removal from the restricted list unless the individual has been on the restricted list for at least 90 days; and

(ii) shall remain on the restricted list, unless the bureau receives a request from the individual to have the individual's name removed from the restricted list.

(7) If an individual restricted under this section is a concealed firearm permit holder, the individual's permit shall be:

(a) suspended upon entry on the restricted list; and

(b) reinstated upon removal from the restricted list, unless:

(i) the permit has been revoked, been suspended for a reason other than under this section, or has expired; or

(ii) the individual has become a restricted person under Section [~~76-10-503~~]76-11-302.

(8) (a) The form for an individual seeking to be placed on the restricted list described in Subsection (2)(a) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

By presenting this completed form to a law enforcement agency, I understand that I am requesting that my name be placed on a restricted list that restricts my ability to purchase or possess firearms for a minimum of 30 days, and up to 6 months. I understand that by voluntarily making myself a temporarily restricted person, I may not have a firearm in my possession and any attempt to purchase a firearm while I am on the restricted list will be declined. I also understand that any time after 30 days, I may request removal from the restricted list and all previous rights will be restored. In addition, if I am in possession of a valid concealed firearm permit, my permit will be suspended during the time I am on the restricted list, but will be reinstated upon my removal, unless the permit has expired, been revoked, been suspended for another reason, or I become ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or attempt

to purchase a firearm while outside Utah, I will be subject to the law of that location regarding restricted persons."

(b) The form for an individual seeking to be placed on the restricted list described in Subsection (2)(b) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

By presenting this completed form to a law enforcement agency, I understand that I am requesting that my name be placed on a restricted list that restricts my ability to purchase or possess firearms indefinitely. I understand that by voluntarily making myself a temporarily restricted person, I may not have a firearm in my possession and any attempt to purchase a firearm while I am on the restricted list will be declined. I also understand that any time after 90 days, I may request removal from the restricted list and all previous rights will be restored. In addition, if I am in possession of a valid concealed firearm permit, my permit will be suspended during the time I am on the restricted list, but will be reinstated upon my removal, unless the permit has expired, been revoked, been suspended for another reason, or I become ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while outside Utah, I will be subject to the law of that location regarding restricted persons."

(9) (a) An individual requesting removal from a restricted list shall deliver a completed removal form in person to:

(i) the law enforcement agency that processed the inclusion form if the individual was placed on the restricted list under Subsection (4)(a)(i); or

(ii) the individual's local law enforcement agency if the individual was placed on the restricted list under Subsection (4)(a)(ii).

(b) The law enforcement agency described in Subsection (9)(a):

(i) shall verify the individual's identity before accepting the form;

(ii) may not accept a removal form from someone other than the individual named on the form; and

(iii) shall transmit the removal form electronically to the bureau through the Utah Criminal Justice Information System.

(10) Upon receipt of a verified removal form, the bureau shall, after three business days, remove the individual from the restricted list and remove the information from the National Instant Criminal Background Check System.

(11) For an individual added to the restricted list under Subsection (2)(a), within 30 days before the 180-day removal deadline, the bureau shall notify the individual at the address listed on the inclusion form described in Subsection (4) and, if applicable, the law enforcement agency that processed the inclusion form, that the individual is due to be removed from the restricted list, and the date on which the removal will occur, unless the individual requests an extension of up to 180 days.

(12) (a) A law enforcement agency that receives a request for inclusion under Subsection (4)(a)(i) shall:

(i) maintain the completed form and all subsequent completed forms in a separate file; and

(ii) for an individual added to the restricted list under Subsection (2)(a), destroy the entire file within five days after the date indicated in the notification if the individual does not request an extension after notification in accordance with Subsection (11).

(b) A law enforcement agency that receives a removal request under Subsection (9) shall destroy the entire file associated with the individual within five days after the day on which the information is transmitted to the bureau.

(c) Upon removal of an individual from a restricted list, the bureau shall destroy all records related to the inclusion and removal of the individual within five days after the day on which the individual was removed.

(d) All forms and records created in accordance with this section are classified as private records in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(13) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

Section 83. Section 53-5c-302 is amended to read:

53-5c-302. Assistance from a health care provider -- Restricted list.

(1) An individual who is not a restricted person under Section [~~76-10-503~~]76-11-302 and is seeking inclusion on a restricted list under Section 53-5c-301 may direct the individual's health care provider to electronically deliver the individual's inclusion request described in Section 53-5c-301 to the bureau.

(2) In addition to the inclusion form described in Section 53-5c-301, the bureau shall create a form, available by download through the bureau's website, for:

(a) an individual who is directing a health care provider to electronically deliver the individual's inclusion request and require, at a minimum, the following information:

(i) the individual's signature;

(ii) the name of the individual's health care provider; and

(iii) the individual's acknowledgment of the statement in Subsection (4)(a); and

(b) a health care provider who is delivering an individual's inclusion request and require, at a minimum, the following information for the health care provider:

(i) the health care provider's name;

(ii) the name of the health care provider's organization;

(iii) the health care provider's license or certification, including the license or certification number;

(iv) the health care provider's signature; and

(v) the health care provider's acknowledgment of the statement in Subsection (4)(b).

(3) (a) An individual who is directing a health care provider to electronically deliver the individual's request to be included on a restricted list shall, in the presence of the health care provider, complete the forms described in Section 53-5c-301 and Subsection (2)(a).

(b) The health care provider:

(i) shall verify the individual's identity before accepting the forms;

(ii) may not accept forms from someone other than the individual named on the forms;

(iii) shall complete the form described in Subsection (2)(b); and

(iv) shall deliver the request to the bureau electronically and maintain a copy of the completed request in the individual's health record.

(4) (a) The form described in Subsection (2)(a) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

By presenting this completed form to my health care provider, I understand that I am requesting that my health care provider present my name to the Bureau of Criminal Identification to be placed on a restricted list that restricts my ability to purchase or possess firearms."

(b) The form described in Subsection (2)(b) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

By presenting this completed form to the Bureau of Criminal Identification, I understand that I am acknowledging that I have verified the identity of [name of individual seeking inclusion on a restricted list] and have witnessed [name of individual] sign the form requesting that [name of individual] be placed on a restricted list that restricts [name of individual's ability to purchase or possess firearms. I affirm that [name of individual] is currently my patient, and I am a licensed health care provider acting within the scope of my license, certification, practice, education, or training."

(5) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

Section 84. Section 53-5d-102 is amended to read:

53-5d-102. Definitions.

As used in this chapter:

(1) "Ammunition" means a bullet, a cartridge case, primer, propellant powder, or other ammunition designed for use in any firearm, either as an individual component part or in a completely assembled cartridge.

(2) "Manufacturer" means, with respect to a qualified product, a person who is engaged in the business of manufacturing a qualified product and who is licensed to engage in business as a manufacturer under 18 U.S.C. Chapter 44.

(3) "Negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(4) "Person" means the same as that term is defined in Section 68-3-12.5.

(5) (a) "Qualified civil liability action" means a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party.

(b) "Qualified civil liability action" does not include:

(i) an action brought against a transferor convicted under 18 U.S.C. Sec. 924(h) or Section [~~76-10-503~~]76-11-302 by a party directly harmed by the conduct of which the transferee was convicted;

(ii) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly violated a state or federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought, including:

(A) any incident in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required to be kept under federal or state law with respect to the qualified product, or aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

(B) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing, or having reasonable cause to believe, that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under 18 U.S.C. Sec. 922(g) or (n) or Section [~~76-10-503~~]76-11-302;

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries, or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense, then the act shall be considered the sole proximate cause of any resulting death, personal injuries, or property damage; or

(vi) an action or proceeding commenced to enforce the provisions of 18 U.S.C. Chapter 44, 26 U.S.C. Chapter 53, or [~~Title 76, Chapter 10, Part 5, Weapons~~]Title 76, Chapter 11, Weapons.

(6) "Qualified product" means a firearm or antique firearm, as defined in Section [~~76-10-501~~]76-11-101, ammunition, or a component part of a firearm or ammunition.

(7) "Seller" means, with respect to a qualified product, a federal firearms licensee, as defined in Section [~~76-10-501~~]53-5a-301.

(8) "Trade association" means:

(a) any corporation, unincorporated association, federation, business league, or professional or business organization not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(b) an organization described in 26 U.S.C. Sec. 501(c)(6) and exempt from tax under 26 U.S.C. Sec. 501(a); and

(c) an organization, two or more members of which are manufacturers or sellers of a qualified product.

(9) "Unlawful misuse" means conduct that violates a statute, ordinance, or regulation as it relates to the use of a qualified product.

Section 85. Section 53-10-202 is amended to read:

53-10-202. Criminal identification -- Duties of bureau.

The bureau shall:

(1) procure and file information relating to identification and activities of persons who:

(a) are fugitives from justice;

(b) are wanted or missing;

(c) have been arrested for or convicted of a crime under the laws of any state or nation; and

(d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

(2) establish a statewide uniform crime reporting system that shall include:

(a) statistics concerning general categories of criminal activities;

(b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate;

(c) statistics concerning the use of force by law enforcement officers in accordance with the Federal Bureau of Investigation's standards; and

(d) other statistics required by the Federal Bureau of Investigation;

(3) make a complete and systematic record and index of the information obtained under this part;

(4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;

(5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;

(6) establish a statewide central register for the identification and location of missing persons, which may include:

(a) identifying data including fingerprints of each missing person;

(b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;

(c) dates and circumstances of any persons requesting or receiving information from the register; and

(d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;

(7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons as provided in Sections 26B-8-130 and 53G-6-602, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section [~~76-10-520~~]53-5a-105;

(14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;

(15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security when new entries are made in accordance with the requirements of Section 53-3-205.5;

(16) review and approve or disapprove applications for license renewal that meet the requirements for renewal; and

(17) forward to the board those applications for renewal under Subsection (16) that do not meet the requirements for renewal.

Section 86. Section 53-10-208.1 is amended to read:

53-10-208.1. Magistrates and court clerks to supply information.

(1) Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days after the day of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

(a) all dispositions of criminal matters, including:

(i) guilty pleas;

(ii) convictions;

(iii) dismissals;

(iv) acquittals;

(v) pleas in abeyance;

(vi) judgments of not guilty by reason of insanity;

(vii) judgments of guilty with a mental condition;

(viii) finding of mental incompetence to stand trial; and

(ix) probations granted;

(b) orders of civil commitment under the terms of Section 26B-5-332;

(c) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and

(d) protective orders issued after notice and hearing, pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

(iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;

(iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or

(v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(2) When transmitting information on a criminal matter under Subsection (1)(a)(i), (ii), (v), or (vii) for a conviction of misdemeanor assault under Section 76-5-102, the magistrate or clerk of a court shall include available information regarding whether the conviction for assault resulted from an assault against an individual:

(a) who is included in at least one of the relationship categories described in Subsection [~~76-10-503(1)(b)(xii)~~]76-11-302(1)(b)(xii); or

(b) with whom none of the relationships described in Subsection [~~76-10-503(1)(b)(xii)~~]76-11-302(1)(b)(xii) apply.

(3) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

(a) adjudicated as a mental defective; or

(b) involuntarily committed to a mental institution in accordance with Subsection 26B-5-332(16).

(4) The record described in Subsection (3) shall include:

(a) an agency record identifier;

(b) the individual's name, sex, race, and date of birth; and

(c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

Section 87. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:

(a) a person who has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) a person who has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) a person who has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) a person who has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) a minor:

(i) (A) who is adjudicated by the juvenile court for an offense described in Subsection (2) that is within the jurisdiction of the juvenile court on or after July 1, 2002; or

(B) who is adjudicated by the juvenile court for an offense described in Subsection (2) and is in the legal custody of the Division of Juvenile Justice Services for the offense on or after July 1, 2002; and

(ii) who is 14 years old or older at the time of the commission of the offense described in Subsection (2).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26B-8-315;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor, Section [~~76-4-401~~]76-5-417;

(vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

(vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) automobile homicide, Subsection 76-5-207(2)(b);

(ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;

(x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xiii) sale of a child, Section 76-7-203;

(xiv) aggravated escape, Section 76-8-309.3;

(xv) a felony violation of threatened or attempted assault on an elected official, Section 76-8-313;

(xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;

(xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.2;

(xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.4;

(xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.6;

(xx) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xxii) a felony violation of sexual battery, Section [~~76-9-702.1~~]76-5-418;

(xxiii) a felony violation of lewdness involving a child, Section [~~76-9-702.5~~]76-5-420;

(xxiv) a felony violation of abuse or desecration of a dead human body, Section [~~76-9-704~~]76-5-802;

(xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section [~~76-10-402~~]76-15-302;

(xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section [~~76-10-403~~]76-15-303;

(xxvii) possession of a concealed firearm in the commission of a violent felony, Subsection [~~76-10-504(4)~~]76-11-202(3)(c)(ii);

(xxviii) assault with the intent to commit bus hijacking with a dangerous weapon [~~, Subsection 76-10-1504(3)~~]as described in Subsection 76-9-1503(3)(b);

(xxix) aggravated commercial obstruction, [~~Subsection 76-10-2402(2)~~]Section 76-9-114;

(xxx) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or

(xxxii) violation of condition for release after arrest under Section 78B-7-802.

Section 88. Section 53-10-801 is amended to read:

53-10-801. Definitions.

For purposes of this part:

(1) "Alleged sexual offender" means an individual or a minor regarding whom an indictment, petition, or an information has been filed or an arrest has been made alleging the commission of a sexual offense or an attempted sexual offense [~~under Title 76, Chapter 5, Part 4, Sexual Offenses,~~]and regarding which:

(a) a judge has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and

(b) the judge has found probable cause to believe that the alleged victim has been exposed to conduct or activities that may result in an HIV infection as a result of the alleged offense.

(2) "Department of Health and Human Services" means the Department of Health and Human Services created in Section 26B-1-201.

(3) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:

(a) presence of antibodies to HIV, verified by a positive "confirmatory" test, such as Western blot or other method approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors;

(b) presence of HIV antigen;

(c) isolation of HIV; or

(d) demonstration of HIV proviral DNA.

(4) "HIV positive individual" means an individual who is HIV positive as determined by the State Health Laboratory.

(5) "Local department of health" means a local health department as defined in Section 26A-1-102.

(6) "Minor" means an individual younger than 18 years old.

(7) "Positive" means an indication of the HIV infection as defined in Subsection (3).

(8) (a) "Sexual offense" means a violation of any offense under Title 76, Chapter 5, Part 4, Sexual Offenses.

(b) "Sexual offense" does not include a violation of Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

(9) "Test" or "testing" means a test or tests for HIV infection conducted by and in accordance with standards recommended by the Department of Health and Human Services.

Section 89. Section 53-10-803 is amended to read:

53-10-803. Voluntary testing -- Victim to request -- Costs paid by Utah Office for Victims of Crime.

(1) A victim or minor victim of a sexual offense [~~as provided under Title 76, Chapter 5, Part 4, Sexual Offenses,~~]may request a test for the HIV infection.

(2) (a) The local health department shall obtain the blood specimen from the victim and forward the specimen to the Department of Health and Human Services.

(b) The Department of Health and Human Services shall analyze the specimen of the victim.

(3) The testing shall consist of a base-line test of the victim at the time immediately or as soon as possible after the alleged occurrence of the sexual offense. If the base-line test result is not positive, follow-up testing shall occur at three months and six months after the alleged occurrence of the sexual offense.

(4) The Crime Victim Reparations Fund shall pay for the costs of the victim testing if the victim provides a substantiated claim of the sexual offense, does not test HIV positive at the base-line testing phase, and complies with eligibility criteria established by the Utah Office for Victims of Crime.

Section 90. Section 53-13-116 is amended to read:

53-13-116. Report required after pointing a firearm at an individual.

(1) As used in this section:

(a) "Conductive energy device" means a weapon that uses electrical current to disrupt voluntary control of muscles.

(b) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(c) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(d) "Officer-involved critical incident" means the same as that term is defined in Section 76-2-408.

(2) A law enforcement officer shall file a report described in Subsection (3) if, during the performance of the officer's duties:

(a) the officer points a firearm at an individual; or

(b) the officer aims a conductive energy device at an individual and displays the electrical current.

(3) (a) A report described in Subsection (2) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the law enforcement agency.

(b) A law enforcement officer shall submit a report required under Subsection (2) to the officer's law enforcement agency within 48 hours after the incident.

(4) A supervisory law enforcement officer shall review a report submitted under Subsection (3)(b).

(5) This section does not apply to:

(a) law enforcement training exercises; or

(b) an officer who, as part of an officer-involved critical incident, engaged in conduct described under Subsection (2)(a) or (2)(b).

Section 91. Section 53-22-105 is amended to read:

53-22-105. School guardian program.

(1) As used in this section:

(a) "Annual training" means an annual four-hour training that:

(i) a county security chief or a designee administers;

(ii) the state security chief approves;

(iii) can be tailored to local needs;

(iv) allows an individual to practice and demonstrate firearms proficiency at a firearms range using the firearm the individual carries for self defense and defense of others;

(v) includes the following components:

(A) firearm safety, including safe storage of a firearm;

(B) de-escalation tactics;

(C) the role of mental health in incidents; and

(D) disability awareness and interactions; and

(vi) contains other training needs as determined by the state security chief.

(b) "Biannual training" means a twice-yearly training that:

(i) is at least four hours, unless otherwise approved by the state security chief;

(ii) a county security chief or a designee administers;

(iii) the state security chief approves;

(iv) can be tailored to local needs; and

(v) through which a school guardian at a school or simulated school environment:

(A) receives training on the specifics of the building or buildings of the school, including the location of emergency supplies and security infrastructure; and

(B) participates in a live-action practice plan with school administrators in responding to active threats at the school; and

(vi) shall be taken with at least three months in between the two trainings.

(c) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(d) "Initial training" means an in-person training that:

(i) a county security chief or a designee administers;

(ii) the state security chief approves;

(iii) can be tailored to local needs; and

(iv) provides:

(A) training on general familiarity with the types of firearms that can be concealed for self-defense and defense of others;

(B) training on the safe loading, unloading, storage, and carrying of firearms in a school setting;

(C) training at a firearms range with instruction regarding firearms fundamentals, marksmanship, the demonstration and explanation of the difference between sight picture, sight alignment, and trigger control, and a recognized pistol course;

(D) current laws dealing with the lawful use of a firearm by a private citizen, including laws on self-defense, defense of others, transportation of firearms, and concealment of firearms;

(E) coordination with law enforcement officers in the event of an active threat;

(F) basic trauma first aid;

(G) the appropriate use of force, emphasizing the de-escalation of force and alternatives to using force;

(H) situational response evaluations, including:

(I) protecting and securing a crime or accident scene;

(II) notifying law enforcement;

(III) controlling information; and

(IV) other training that the county sheriff, designee, or department deems appropriate.

(e) "Program" means the school guardian program created in this section.

(f) (i) "School employee" means an employee of a school whose duties and responsibilities require the employee to be physically present at a school's campus while school is in session.

(ii) "School employee" does not include a principal, teacher, or individual whose primary responsibilities require the employee to be primarily present in a classroom to teach, care for, or interact with students, unless:

(A) the principal, teacher, or individual is employed at a school with 100 or fewer students;

(B) the principal, teacher, or individual is employed at a school with adjacent campuses as determined by the state security chief; or

(C) as provided in Subsection 53G-8-701.5(3).

(g) "School guardian" means a school employee who meets the requirements of Subsection (3).

(2) (a) (i) There is created within the department the school guardian program;

(ii) the state security chief shall oversee the school guardian program;

(iii) the applicable county security chief shall administer the school guardian program in each county.

(b) The state security chief shall ensure that the school guardian program includes:

(i) initial training;

(ii) biannual training; and

(iii) annual training.

(c) A county sheriff may partner or contract with:

(i) another county sheriff to support the respective county security chiefs in jointly administering the school guardian program in the relevant counties; and

(ii) a local law enforcement agency of relevant jurisdiction to provide the:

(A) initial training;

(B) biannual training; and

(C) annual training.

(3) (a) A school employee that volunteers to participate is eligible to join the program as a school guardian if:

(i) the school administrator approves the volunteer school employee to be designated as a school guardian;

(ii) the school employee satisfactorily completes initial training within six months before the day on which the school employee joins the program;

(iii) the school employee holds a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act;

(iv) the school employee certifies to the sheriff of the county where the school is located that the school employee has undergone the training in accordance with Subsection (3)(a)(ii) and intends to serve as a school guardian; and

(v) the school employee successfully completes a mental health screening selected by the state security chief in collaboration with the Office of Substance Abuse and Mental Health established in Section 26B-5-102.

(b) After joining the program a school guardian shall complete annual training and biannual training to retain the designation of a school guardian in the program.

(4) The state security chief shall:

(a) for each school that participates in the program, track each school guardian at the school by collecting the photograph and the name and contact information for each guardian;

(b) make the information described in Subsection (4)(a) readily available to each law enforcement agency in the state categorized by school; and

(c) provide each school guardian with a one-time stipend of $500.

(5) A school guardian:

(a) may store the school guardian's firearm on the grounds of a school only if:

(i) the firearm is stored in a biometric gun safe;

(ii) the biometric gun safe is located in the school guardian's office; and

(iii) the school guardian is physically present on the grounds of the school while the firearm is stored in the safe;

(b) shall carry the school guardian's firearm in a concealed manner; and

(c) may not, unless during an active threat, display or open carry a firearm while on school grounds.

(6) Except as provided in Subsection (5)(c), this section does not prohibit an individual who has a valid concealed carry permit but is not participating in the program from carrying a firearm on the grounds of a public school or charter school under Subsection [~~76-10-505.5(4)~~]76-11-204(4).

(7) A school guardian:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the school where the school guardian is employed:

(i) take actions necessary to prevent or abate an active threat; and

(ii) temporarily detain an individual when the school guardian has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402.

(8) A school may designate a single volunteer or multiple volunteers to participate in the school guardian program to satisfy the school safety personnel requirements of Section 53G-8-701.5.

(9) The department may adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules to administer this section.

(10) A school guardian who has active status in the guardian program is not liable for any civil damages or penalties if the school guardian:

(a) when carrying or storing a firearm:

(i) is acting in good faith; and

(ii) is not grossly negligent; or

(b) threatens, draws, or otherwise uses a firearm reasonably believing the action to be necessary in compliance with Section 76-2-402.

(11) A school guardian shall file a report described in Subsection (12) if, during the performance of the school guardian's duties, the school guardian points a firearm at an individual.

(12) (a) A report described in Subsection (11) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the state security chief.

(b) A school guardian shall submit a report required under Subsection (11) to the school administrator, school safety and security director, and the state security chief within 48 hours after the incident.

(c) The school administrator, school safety and security director, and the state security chief shall consult and review the report submitted under Subsection (12)(b).

(13) The requirements of Subsections (11) and (12) do not apply to a training exercise.

(14) A school guardian may have the designation of school guardian revoked at any time by the school principal, county sheriff, or state security chief.

(15) (a) Any information or record created detailing a school guardian's participation in the program is:

(i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) available only to:

(A) the state security chief;

(B) administrators at the school guardian's school;

(C) if applicable, other school safety personnel described in Section 53G-8-701.5;

(D) a local law enforcement agency that would respond to the school in case of an emergency; and

(E) the individual designated by the county sheriff in accordance with Section 53-22-103 of the county of the school where the school guardian in the program is located.

(b) The information or record described in Subsection (15)(a) includes information related to the school guardian's identity and activity within the program as described in this section and any personal identifying information of a school guardian participating in the program collected or obtained during initial training, annual training, and biannual training.

(c) An individual who intentionally or knowingly provides the information described in Subsection (15)(a) to an individual or entity not listed in Subsection (15)(a)(ii) is guilty of a class B misdemeanor.

Section 92. Section 53-22-107 is amended to read:

53-22-107. Educator-Protector Program.

(1) As used in this section:

(a) "Annual classroom response training" means a training for a teacher:

(i) that is held at least once a year and is administered, at no cost to a teacher, by the individual identified by the county sheriff as described in Section 53-22-103; and

(ii) where the teacher is trained:

(A) on how to defend a classroom against active threats emphasizing the teacher's role in stationary defense; and

(B) on the safe loading, unloading, storage, and carrying of firearms in a school setting.

(b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(c) "Local education agency" means the same as that term is defined in Section 53E-1-102.

(d) "Program" means the Educator-Protector Program created under this section.

(e) "Teacher" means an individual employed by a local education agency who has an assignment to teach in a classroom.

(2) There is created the Educator-Protector Program to incentivize a teacher to responsibly secure or carry a firearm on the grounds of the school where the teacher is employed.

(3) (a) To participate in the program, a teacher shall:

(i) have completed an annual classroom response training within six months before the day on which the teacher joins the program;

(ii) have a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act; and

(iii) certify to the department that:

(A) the teacher satisfies the requirements described in Subsections (3)(a)(i) and (3)(a)(ii); and

(B) if applicable, intends to securely store or carry a firearm on the grounds of a school where the teacher is employed.

(b) After joining the program, to retain the teacher's active status in the program, a teacher shall:

(i) participate in annual classroom response training; and

(ii) comply with any rules established by the department in accordance with Subsection (10).

(4) (a) The state security chief shall:

(i) track each teacher that participates in the program by collecting a photograph, name, and contact information for each teacher;

(ii) make the information described in Subsection (4)(a) readily available to each law enforcement agency in the state; and

(iii) provide reasonable reimbursement, using funds appropriated by the Legislature, to a county sheriff for providing a teacher with annual classroom response training.

(b) The state security chief shall categorize the information described in Subsection (4)(a)(i) by school.

(5) A teacher participating in the program:

(a) may store the teacher's firearm on the grounds of a school only if:

(i) the firearm is stored in a biometric gun safe;

(ii) the biometric gun safe is located in the teacher's classroom or office; and

(iii) the teacher is physically present on the grounds of the school while the firearm is stored in the biometric gun safe; and

(b) shall carry the teacher's firearm in a concealed manner unless during an active threat.

(6) This section does not prohibit an individual who has a valid concealed carry permit but is not participating in the program from carrying firearms on the grounds of a school as described in Subsection [~~76-10-505.5(4)~~]76-11-204(4).

(7) (a) A teacher who has active status in the program is not liable for any civil damages or penalties if the teacher:

(i) when carrying or storing a firearm:

(A) is acting in good faith; and

(B) is not grossly negligent; or

(ii) threatens, draws, or otherwise uses a firearm reasonably believing the action to be necessary in compliance with Section 76-2-402.

(b) A local education agency is not liable for civil damages or penalties resulting from a teacher who is participating in the program carrying, using, or storing a firearm at a school.

(8) A local education agency may not prevent a teacher from participating in the program under this section.

(9) (a) Any information or record created detailing a teacher's participation in the program is:

(i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) available only to:

(A) the state security chief;

(B) a local law enforcement agency that would respond to the school in case of an emergency; and

(C) the individual identified by the county sheriff as described in Section 53-22-103.

(b) The information or record described in Subsection (9)(a) includes the information described in Subsection (4)(a)(i) and any personal identifying information of a teacher participating in the program collected or obtained during annual classroom response training.

(c) An individual who intentionally or knowingly provides the information described in Subsection (9)(a) to an individual or entity not listed in Subsection (9)(a)(ii) is guilty of a class A misdemeanor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may adopt rules to administer this section.

Section 93. Section 53-25-103 is amended to read:

53-25-103. Airport dangerous weapon possession reporting requirements.

(1) As used in this section, "commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) Beginning on January 1, 2026, a law enforcement agency having law enforcement jurisdiction over an airport shall annually, on or before April 30, submit a report to the commission detailing:

(a) for an offense described in Subsection [~~76-10-529(2)(a)(i)~~]76-11-215(2)(a):

(i) the number of issued written warnings;

(ii) the number of issued citations;

(iii) the number of referrals to a detective; and

(iv) the number of referrals to a prosecutor; and

(b) for an offense described in Subsection [~~76-10-529(2)(a)(ii)~~]76-11-215(2)(b):

(i) the number of issued written warnings; and

(ii) if applicable, the number of issued citations, including the number of individuals who have received more than one citation for the offense.

(3) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

Section 94. Section 53-25-202 is amended to read:

53-25-202. Sexual assault offense reporting requirements for law enforcement agencies.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Sexual assault offense" means:

(i) rape, Section 76-5-402;

(ii) rape of a child, Section 76-5-402.1;

(iii) object rape, Section 76-5-402.2;

(iv) object rape of a child, Section 76-5-402.3;

(v) forcible sodomy, Section 76-5-403;

(vi) sodomy on a child, Section 76-5-403.1;

(vii) forcible sexual abuse, Section 76-5-404;

(viii) sexual abuse of a child, Section 76-5-404.1;

(ix) aggravated sexual abuse of a child, Section 76-5-404.3;

(x) aggravated sexual assault, Section 76-5-405; or

(xi) sexual battery, Section [~~76-9-702.1~~]76-5-418.

(2) (a) Beginning January 1, 2025, a law enforcement agency shall:

(i) annually, on or before April 30, submit a report to the commission for the previous calendar year containing the number of each type of sexual assault offense that:

(A) was reported to the law enforcement agency;

(B) was investigated by a detective; and

(C) was referred to a prosecutor for prosecution; and

(ii) submit a report to the commission on whether the law enforcement agency has created and publicly posted on the law enforcement agency's website:

(A) the policy described in Subsection 53-24-101(1)(a); and

(B) the guide described in Subsection 53-24-101(2)(a).

(b) A law enforcement agency shall:

(i) compile the report described in Subsection (2)(a)(i) for each calendar year in the standardized format developed by the commission under Subsection (3); and

(ii) publicly post the information reported in Subsection (2)(a)(i) on the law enforcement agency's website.

(3) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

Section 95. Section 53-25-501 is amended to read:

53-25-501. Reporting requirements for seized firearms.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(c) "Restricted person" means a Category I or Category II restricted person as defined in Section [~~76-10-503~~]76-11-302.

(2) Beginning on July 1, 2026, a law enforcement agency, not including the Department of Corrections, shall annually on or before April 30 report to the commission the following data for the previous calendar year:

(a) the number of firearms the law enforcement agency lawfully seized from restricted persons;

(b) the types of firearms the law enforcement agency lawfully seized from restricted persons;

(c) information on where the restricted persons obtained the firearms seized by the law enforcement agency if the information is known or discoverable by the law enforcement agency; and

(d) the reasons under Subsection [~~76-10-503(1)(a)~~]76-11-302(1)(a) or (b) that made the individuals who had weapons seized restricted persons.

Section 96. Section 53-25-601 is enacted to read:

PART 6. Requirements Related to Criminal Street Gangs

53-25-601. Definitions.

As used in this part:

(1) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(2) "Gang loitering" means the same as that term is defined in Section 76-9-802.

(3) "Public place" means the same as that term is defined in Section 76-9-802.

Section 97. Section 53-25-602, which is renumbered from Section 76-9-903 is renumbered and amended to read:

[~~76-9-903~~]53-25-602. Law enforcement officer responsibilities for gang loitering.

(1) [~~When~~]If a law enforcement officer observes [~~a person~~]an individual whom the law enforcement officer reasonably believes to be a member of a criminal street gang engaging in gang loitering in the presence of one or more other [~~persons~~]individuals in [~~any~~]a public place that is designated by a municipal or county legislative body as an area where gang loitering is prohibited under Section [~~76-9-905~~]11-48-104 and subject to the penalties under Section 76-9-805, the [~~police~~]law enforcement officer shall:

(a) inform [~~all the persons that they are within an~~]the individual and all other individuals engaging in gang loitering with the individual in a group that the area in which the group is loitering by a group containing one or more criminal street gang members is prohibited;

(b) order [~~all the persons in the group~~]the individual to disperse and remove [~~themselves~~]the individual from within sight and hearing of the location where the officer issues the order to disperse; and

(c) inform the [~~persons~~]individuals that any [~~person~~]individual in the group will be subject to being charged with a criminal offense and will also be subject to arrest if the [~~person~~]individual fails to promptly obey the order to disperse.

(2) The law enforcement officer under Subsection (1) shall also advise the [~~persons~~]individuals the law enforcement officer is directing to disperse that each of the [~~persons~~]individuals directed to disperse is subject to being charged with a criminal offense and will also be subject to arrest if the [~~person~~]individual is again, within eight hours after the current order to disperse is made:

(a) present in a public place with a group that includes one or more [~~persons~~]individuals a [~~peace~~]law enforcement officer reasonably believes to be a member of a criminal street gang; and

(b) within sight or hearing of the location where the law enforcement officer is currently issuing the order to disperse.

(3) This section does not affect or limit an individual's constitutional right to engage in collective advocacy activities that are protected by the constitution or laws of this state or by the constitution or laws of the United States.

(4) A sheriff or chief of police implementing this section shall:

(a) issue a written directive to all agency employees that provides information on preventing the enforcement of this section against individuals who are engaged in constitutionally protected collective advocacy activities;

(b) ensure that all law enforcement officers charged with enforcing this section successfully complete appropriate training on identification of gang members and criminal street gangs; and

(c) ensure that any training described in this section complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 98. Section 53B-16-601 is amended to read:

53B-16-601. Definitions.

As used in this part:

(1) "Institution" means:

(a) an institution of higher education described in Section 53B-1-102; or

(b) a private, nonprofit institution of higher education.

(2) "Intercollegiate athletics program" means an institution-sponsored athletic program or sporting activity in which a student athlete represents the student athlete's institution in competition against another institution.

(3) "Prohibited endorsement provision" means a provision that requires or permits the use of a student athlete's name, image, or likeness to promote:

(a) a tobacco product or [~~e-cigarettes~~]electronic cigarette, as those terms are defined in Section [~~76-10-101~~]76-9-1101, including vaping;

(b) an alcoholic product, as that term is defined in Section 32B-1-102;

(c) a seller or dispenser of a controlled substance, including steroids, antibiotics, and marijuana;

(d) gambling or betting;

(e) a sexually oriented business, as that term is defined in Section 17-50-331; or

(f) a firearm that the student athlete cannot legally purchase.

(4) (a) "Student athlete" means an individual who:

(i) is enrolled in an institution; and

(ii) participates as an athlete for the institution in an intercollegiate athletics program.

(b) "Student athlete" includes an agent or other representative of a student athlete.

(5) "Student athlete agreement" means a proposed or executed contract:

(a) between a student athlete and a third party that is not an institution; and

(b) in which the student athlete and third party agree that the student athlete's name, image, or likeness may be used to promote a business, product, service, or individual in exchange for the student athlete receiving financial compensation or other benefits.

Section 99. Section 53G-1-103 is amended to read:

53G-1-103. Definitions.

As used in this title, "electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

Section 100. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the special districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every student achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment, and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the school board members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by students residing within the district and students residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) A local school board may enter into cooperative agreements with other local school boards to provide educational services that best utilize resources for the overall operation of the school districts, including shared transportation services.

(7) A local school board shall ensure that an agreement under Subsection (6):

(a) is signed by the president of the local school board of each participating district;

(b) specifies the resource being shared;

(c) includes a mutually agreed upon pro rata cost;

(d) includes the duration of the agreement; and

(e) is filed with the state board.

(8) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years old before September 2 of the year in which admission is sought.

(9) A local school board:

(a) may establish and support school libraries; and

(b) shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any material the parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the LEA uses or through a separate platform; and

(ii) (A) for a school district with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a school district with fewer than 1,000 enrolled students, no later than August 1, 2026.

(10) A local school board may collect damages for the loss, injury, or destruction of school property.

(11) A local school board may authorize guidance and counseling services for students and the student's parents before, during, or following school enrollment.

(12) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(13) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents, or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(14) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) The contributions made under Subsection (14)(a) are not subject to appropriation by the Legislature.

(15) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection [~~76-10-105(2)(b)~~]76-9-1106(3)(c).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(16) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(17) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(18) A local school board may hold school on legal holidays other than Sundays.

(19) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (19).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others, and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) in consultation with the Utah Safety Council and the Division of Family Health Services, provide training to all students in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection (19)(c).

(20) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on school vehicles, and in connection with school-related activities or events.

(b) The local school board shall ensure that the plan:

(i) includes prevention, intervention, and response components;

(ii) is consistent with the school discipline and conduct policies required for school districts under Chapter 8, Part 2, School Discipline and Conduct Plans;

(iii) requires professional learning for all district and school building staff on the staff's roles in the emergency response plan;

(iv) provides for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (20)(a); and

(v) includes procedures to notify a student who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (20)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and the student's parents and local law enforcement and public safety representatives.

(21) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (21)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (21).

(22) (a) A local school board shall approve an LEA's policies and procedures that an LEA develops to ensure that students have non-electronic notification of and access to:

(i) school activities and events, including:

(A) schedule changes;

(B) extracurricular activities; and

(C) sporting events; and

(ii) the emergency response plans described in Subsections (20) and (21).

(b) Notwithstanding Subsection (22)(a), an LEA may provide electronic notification of and access to school activities and events as described in Subsections (22)(a)(i) and (ii) if:

(i) (A) the school provides each student with an electronic device; and

(B) the electronic device is capable of receiving electronic notification of and access to school activities and events as described in Subsections (22)(a)(i) and (ii); or

(ii) an emergency, unforeseen circumstance, or other incident arises and an LEA cannot reasonably provide timely non-electronic notification.

(c) An LEA may not require the use of a privately owned electronic device to complete course work.

(23) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(24) (a) As used in this subsection, "special enrollment program" means a full-day academic program in which a parent opts to enroll the parent's student and that is offered at a specifically designated school within an LEA, including:

(i) gifted or advanced learning programs; or

(ii) dual language immersion programs.

(b) Before closing a school, changing the boundaries of a school, or changing or closing the location of a special enrollment program, a local school board shall:

(i) at a local school board meeting, make and approve a motion to initiate the notification required under Subsections (24)(b)(ii) through (iv);

(ii) on or before 90 days before the day on which the local school board approves the school closure or at least 30 days before the day on which the local school board approves a school boundary change, provide notice that the local school board is considering the closure or boundary change to:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents and also by mail, using the United States Postal Service, to the parents at each known address;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents and also by mail, using the United States Postal Service, to the parents at each known address; and

(C) the governing council and the mayor of the municipality in which the school is located;

(iii) provide an opportunity for public comment on the proposed school closure during at least two public local school board meetings;

(iv) provide an opportunity for public comment on the proposed school boundary change during one public local school board meeting; and

(v) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing in accordance with Subsection (24)(c).

(c) A local school board shall:

(i) ensure that the notice of a public hearing required under Subsection (24)(b)(v) indicates the:

(A) name of the school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) if feasible, hold the public hearing at the location of the school that is under consideration for closure;

(iii) for at least 10 days before the day on which the public hearing occurs, publish the notice of public hearing occurs, publish the notice of the public hearing for the school district in which the school is located, as a class A notice under Section 63G-30-102; and

(iv) at least 30 days before the day on which the public hearing occurs, provide notice of the public hearing in the same manner as the notice of consideration under Subsection (24)(b)(ii).

(d) A motion made under Subsection (24)(b) shall name each school under consideration for closure in a separate motion.

(e) For a school closure, a local school board shall complete the process described in this Subsection (24) on or before December 31 of the calendar year preceding the beginning of the school year in which a school closure takes effect.

(f) (i) For a school boundary change, a local school board shall complete the process described in this Subsection (24) no more than 60 days after the day on which the local school board votes to approve a school closure.

(ii) Parents of students enrolled in a school affected by a boundary change shall have at least 30 days after the day on which the local school board votes to approve a school boundary change to request an out of area enrollment request in accordance with Chapter 6, Part 4, School District Enrollment.

(25) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(26) A local school board may establish or partner with a certified youth court in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

(27) (a) As used in this Subsection (27):

(i) "Learning material" means any learning material or resource used to deliver or support a student's learning, including textbooks, reading materials, videos, digital materials, websites, and other online applications.

(ii) (A) "Instructional material" means learning material that a local school board adopts and approves for use within the LEA.

(B) "Instructional material" does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class or another class with required instructional material that is not subject to selection by the local school board.

(iii) "Supplemental material" means learning material that:

(A) an educator selects for classroom use; and

(B) a local school board has not considered and adopted, approved, or prohibited for classroom use within the LEA.

(b) A local school board shall:

(i) make instructional material that the school district uses readily accessible and available for a parent to view;

(ii) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection (27)(b)(i); and

(iii) include on the school district's website information about how to access the information described in Subsection (27)(b)(i).

(c) In selecting and approving instructional materials for use in the classroom, a local school board shall:

(i) establish an open process, involving educators and parents of students enrolled in the LEA, to review and recommend instructional materials for board approval; and

(ii) ensure that under the process described in Subsection (27)(c)(i), the board:

(A) before the meetings described in Subsection (27)(c)(ii)(B), posts the recommended learning material online to allow for public review or, for copyrighted material, makes the recommended learning material available at the LEA for public review;

(B) before adopting or approving the recommended instructional materials, holds at least two public meetings on the recommendation that provides an opportunity for educators whom the LEA employs and parents of students enrolled in the LEA to express views and opinions on the recommendation; and

(C) adopts or approves the recommended instructional materials in an open and regular board meeting.

(d) A local school board shall adopt a supplemental materials policy that provides flexible guidance to educators on the selection of supplemental materials or resources that an educator reviews and selects for classroom use using the educator's professional judgment, including whether any process or permission is required before classroom use of the materials or resources.

(e) If an LEA contracts with another party to provide online or digital materials, the LEA shall include in the contract a requirement that the provider give notice to the LEA any time that the provider makes a material change to the content of the online or digital materials, excluding regular informational updates on current events.

(f) Nothing in this Subsection (27) requires a local school board to review all learning materials used within the LEA.

Section 101. Section 53G-6-204 is amended to read:

53G-6-204. School-age children exempt from school attendance.

(1) (a) A local school board or charter school governing board may excuse a school-age child from attendance for any of the following reasons:

(i) a school-age child over 16 years old may receive a partial release from school to enter employment, or attend a trade school, if the school-age child has completed grade 8; or

(ii) on an annual basis, a school-age child may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age child has already completed the work required for graduation from high school;

(B) the school-age child is in a physical or mental condition, certified by a competent physician or physician assistant if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age child's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age child over 16 years old is unable to

profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age child from attendance as provided by this Subsection (1) shall issue a certificate that the child is excused from attendance during the time specified on the certificate.

(2) (a) (i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or attempted felony offense of which an individual is convicted, or to which an individual pleads guilty or no contest, for conduct that constitutes any of the following:

(A) child abuse under Section 76-5-109;

(B) aggravated child abuse under Section 76-5-109.2;

(C) child abandonment under Section 76-5-109.3;

(D) commission of domestic violence in the presence of a child under Section 76-5-114;

(E) child abuse homicide under Section 76-5-208;

(F) child kidnapping under Section 76-5-301.1;

(G) human trafficking of a child under Section 76-5-308.5;

(H) an offense described in:

(I) Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or

(II) in Title 76, Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;

(I) sexual exploitation of a minor under Section 76-5b-201;

(J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or

(K) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (2)(a)(i).

(ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a school-age child from attendance, if the school-age child's parent or legal guardian files a signed affidavit with the school-age child's school district of residence, as defined in Section 53G-6-302, that:

(A) the school-age child will attend a home school; and

(B) the parent or legal guardian assumes sole responsibility for the education of the school-age child, except to the extent the school-age child is dual enrolled in a public school as provided in Section 53G-6-702.

(iii) If a parent or legal guardian has been convicted of child abuse or if a court of competent jurisdiction has made a substantiated finding of child abuse against the parent or legal guardian:

(A) the parent or legal guardian may not assume responsibility for the education of a school-age child under Subsection (2)(a)(ii); and

(B) the local school board may not accept the affidavit described in Subsection (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to home school the child.

(iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit described in Subsection (2)(a)(ii).

(b) A signed affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age child attends a home school;

(ii) the school district where the affidavit was filed remains the school-age child's district of residence; and

(iii) the parent or legal guardian who filed the signed affidavit has not been convicted of child abuse or been the subject of a substantiated finding of child abuse by a court of competent jurisdiction.

(c) A parent or legal guardian of a school-age child who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent or legal guardian of a school-age child who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent or legal guardian, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent or legal guardian in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age child from attendance under this Subsection (2) shall annually issue a certificate stating that the school-age child is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age child from attendance:

(i) within 30 days after receipt of a signed affidavit filed by the school-age child's parent or legal guardian under this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age child enrolls in a school within the school district;

(B) the school-age child's parent or legal guardian notifies the school district that the school-age child no longer attends a home school; or

(C) the school-age child's parent or legal guardian notifies the school district that the school-age child's school district of residence has changed.

(3) A parent or legal guardian who is eligible to file and files a signed affidavit under Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

(4) (a) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or legal guardian of a child attending a home school.

(b) The exemptions in this section apply regardless of whether:

(i) a parent or legal guardian provides education instruction to the parent's or legal guardian's child alone or in cooperation with other parents or legal guardians similarly exempted under this section; or

(ii) the parent or legal guardian makes payment for educational services the parent's or legal guardian's child receives.

Section 102. Section 53G-8-201 is amended to read:

53G-8-201. Definitions.

As used in this part:

(1) (a) "Sexual crime" or "sexual misconduct" means any conduct described in:

[~~(a)~~](i) Title 76, Chapter 5, Part 4, Sexual Offenses;

[~~(b)~~](ii) Title 76, Chapter 5b, Sexual Exploitation Act; or

[~~(c)~~](iii) Section 76-7-102, incest [~~;~~].

[~~(d) Section 76-9-702, lewdness; and~~]

[~~(e) Section 76-9-702.1, sexual battery.~~]

(b) "Sexual crime" or "sexual misconduct" does not include conduct described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-420, lewdness involving a child; or

(iii) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.

(2) "Serious offense" means the same as that term is defined in Section 80-6-103.

Section 103. Section 53G-8-205 is amended to read:

53G-8-205. Grounds for suspension or expulsion from a public school.

(1) A student may be suspended or expelled from a public school for the following reasons:

(a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;

(b) willful destruction or defacing of school property;

(c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;

(d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;

(e) behavior proscribed under Subsection (2) which threatens harm or does harm to the school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs; or

(f) possession or use of pornographic material on school property.

(2) (a) A student shall be suspended or expelled from a public school for the following reasons:

(i) a serious violation affecting another student or a staff member, or a serious violation occurring in a school building, in or on school property, or in conjunction with a school activity, including:

(A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;

(B) the actual use of violence or sexual misconduct;

(C) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or

(D) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3;

(ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor; or

(iii) making a false report of an emergency at a school under Subsection [~~76-9-202(2)(d)~~]76-9-105.5(2)(b).

(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(i) within 45 days after the expulsion the student shall appear before the student's superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent; and

(ii) the superintendent, chief administrator, or designee shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school, including any provided for in the policies described in Section 53G-8-203;

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

(C) if it would be in the best interest of both the LEA, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local governing board and giving highest priority to providing a safe school environment for all students.

(3) A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months.

(4) A suspension or expulsion under this section is not subject to the age limitations under Subsection 53G-6-204(1).

(5) A local governing board shall prepare an annual report for the state board on:

(a) each violation committed under this section; and

(b) each action taken by the LEA against a student who committed the violation.

Section 104. Section 53G-8-209 is amended to read:

53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of violations -- Limitation of liability.

(1) The Legislature recognizes that:

(a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;

(b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;

(c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those activities, become role models for others in the school and community;

(d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded the school; and

(e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and standards of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.

(2) (a) The state board may, and local school boards and charter school governing boards shall, adopt rules or policies implementing this section that apply to both students and staff.

(b) The rules or policies described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i) through (iv):

(i) the use of foul, abusive, or profane language while engaged in school related activities;

(ii) the illicit use, possession, or distribution of:

(A) a controlled substance or drug paraphernalia;

(B) a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section [~~76-10-101~~]76-9-1101; or

(C) an alcoholic beverage; and

(iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under state law.

(3) (a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

(4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

Section 105. Section 53G-8-211 is amended to read:

53G-8-211. Responses to school-based behavior.

(1) As used in this section:

(a) "Evidence-based" means a program or practice that:

(i) has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) has been rated as effective by a standardized program evaluation tool; or

(iii) is created and developed by a school or school district and has been approved by the state board.

(b) "Habitual truant" means a school-age child who:

(i) is in grade 7 or above, unless the school-age child is under 12 years old;

(ii) is subject to the requirements of Section 53G-6-202; and

(iii) (A) is truant at least 20 days during one school year; or

(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

(c) "Minor" means the same as that term is defined in Section 80-1-102.

(i) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

(d) "Prosecuting attorney" means the same as that term is defined in Subsections 80-1-102(65)(b) and (c).

(e) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

(i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and

(ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

(f) "School administrator" means a principal of a school.

(g) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(h) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(i) "School-age child" means the same as that term is defined in Section 53G-6-201.

(j) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency's or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(k) (i) "Status offense" means an offense that would not be an offense but for the age of the offender.

(ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.

(2) This section applies to:

(a) a minor who is alleged to be a habitual truant; and

(b) a minor enrolled in school who is alleged to have committed an offense on school property where the student is enrolled:

(i) when school is in session; or

(ii) during a school-sponsored activity.

(3) If a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, or a minor is alleged to be a habitual truant, the school administrator, the school administrator's designee, or a school resource officer shall refer the minor:

(a) to an evidence-based alternative intervention, including:

(i) a mobile crisis outreach team;

(ii) a youth services center, as defined in Section 80-5-102;

(iii) a certified youth court, as defined in Section 80-6-901, or comparable restorative justice program;

(iv) an evidence-based alternative intervention created and developed by the school or school district;

(v) an evidence-based alternative intervention that is jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health and Human Services;

(vi) a tobacco cessation or education program if the offense is a violation of Section [~~76-10-105~~]76-9-1106; or

(vii) truancy mediation; or

(b) for prevention and early intervention youth services, as described in Section 80-5-201, by the Division of Juvenile Justice and Youth Services if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(a).

(4) Except as provided in Subsection (6), if a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, a school administrator, the school administrator's designee, or a school resource officer may refer a minor to a law enforcement officer or agency or a court only if:

(a) the minor allegedly committed an offense on school property on a previous occasion; and

(b) the minor was referred to an evidence-based alternative intervention, or to prevention or early intervention youth services, as described in Subsection (3) for the previous offense.

(5) If a minor is alleged to be a habitual truant, a school administrator, the school administrator's designee, or a school resource officer may only refer the minor to a law enforcement officer or agency or a court if:

(a) the minor was previously alleged of being a habitual truant at least twice during the same school year; and

(b) the minor was referred to an evidence-based alternative intervention, or for prevention and early intervention youth services, as described in Subsection (3) for at least two of the previous habitual truancies.

(6) If a minor is alleged to have committed a traffic offense that is an infraction, a school administrator, the school administrator's designee, or a school resource officer may refer the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for the traffic offense.

(7) Notwithstanding Subsections (4) and (5), a school resource officer may:

(a) investigate possible criminal offenses and conduct, including conducting probable cause searches;

(b) consult with school administration about the conduct of a minor enrolled in a school;

(c) transport a minor enrolled in a school to a location if the location is permitted by law;

(d) take temporary custody of a minor in accordance with Section 80-6-201; or

(e) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

(8) (a) If a minor is referred to a court or a law enforcement officer or agency under Subsection (4) or (5), the school or the school district shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(b) A school representative appointed under Subsection (8)(a) may not be a school resource officer.

(c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family;

(iv) if the minor was referred to prevention or early intervention youth services under Subsection (3)(b), a report from the Division of Juvenile Justice and Youth Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection (3)(b); and

(v) any other information that the school district or school considers relevant.

(d) A minor referred to a court under Subsection (4) or (5) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353:

(i) when the underlying offense is a status offense or infraction; or

(ii) for being a habitual truant.

(e) If a minor is referred to a court under Subsection (4) or (5), the court may use, when available, the resources of the Division of Juvenile Justice and Youth Services or the Office of Substance Use and Mental Health to address the minor.

(9) If a minor is alleged to have committed an offense on school property that is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a court or to the evidence-based alternative interventions in Subsection (3)(a).

(10) A school administrator, a school administrator's designee, and a school resource officer retain the discretion described under this section in relation to Title 63G, Chapter 31, Distinctions on the Basis of Sex.

Section 106. Section 53G-8-701.8 is amended to read:

53G-8-701.8. School safety and security director.

(1) Except as provided in Subsection 53G-8-701.5(3), an LEA shall designate a school safety and security director as the LEA point of contact for the county security chief, local law enforcement, and the state security chief.

(2) A school safety and security director shall:

(a) participate in and satisfy the training requirements, including the annual and biannual requirements, described in:

(i) Section 53-22-105 for school guardians;

(ii) Section 53G-8-702 for school resource officers; and

(iii) Section 53G-8-704 for armed school security guards;

(b) have a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act;

(c) if the designee is an employee of an LEA, participate on the multidisciplinary team the LEA establishes;

(d) coordinate security responses among, if applicable, the following individuals in the LEA that employs the school safety and security director:

(i) school safety and security specialists;

(ii) school resource officers;

(iii) armed school security guards; and

(iv) school guardians; and

(e) collaborate and maintain effective communications with local law enforcement, a county security chief, the LEA, and school-based behavioral and mental health professionals to ensure adherence with all policies, procedures, protocols, rules, and regulations relating to school safety and security.

(3) A school safety and security director:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the LEA that employs the director:

(i) take actions necessary to prevent or abate an active threat;

(ii) temporarily detain an individual when the school safety and security director has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402;

(4) Notwithstanding Subsection [~~76-10-505.5(4)~~]76-11-204(4), if a school safety and security director is carrying a firearm, the school safety and security director shall carry the school safety and security director's firearm in a concealed manner and may not, unless during an active threat, display or open carry a firearm while on school grounds.

(5) A school may use the services of the school safety and security director on a temporary basis to satisfy the school safety personnel requirement of Subsection 53G-8-701.5(2).

(6) The state security chief shall:

(a) for each school safety and security director, track each school safety and security director by collecting the photograph and the name and contact information for each school safety and security director; and

(b) make the information described in Subsection (6)(a) readily available to each law enforcement agency in the state categorized by LEA.

Section 107. Section 53G-10-103 is amended to read:

53G-10-103. Sensitive instructional materials.

(1) As used in this section:

(a) (i) "Instructional material" means a material, regardless of format, used:

(A) as or in place of textbooks to deliver curriculum within the state curriculum framework for courses of study by students; or

(B) to support a student's learning in any school setting.

(ii) "Instructional material" includes reading materials, handouts, videos, digital materials, websites, online applications, and live presentations.

(iii) "Instructional material" does not mean exclusively library materials.

(b) "LEA governing board" means:

(i) for a school district, the local school board;

(ii) for a charter school, the charter school governing board; or

(iii) for the Utah Schools for the Deaf and the Blind, the state board.

(c) "Material" means the same as that term is defined in Section [~~76-10-1201~~]76-5c-101.

(d) "Minor" means any person less than 18 years old.

(e) "Objective sensitive material" means an instructional material that constitutes pornographic or indecent material, as that term is defined in Section [~~76-10-1235~~]76-5c-208, under the non-discretionary standards described in [~~Subsection 76-10-1227(1)(a)(i), (ii), or (iii)~~]Subsections 76-5c-207(1)(a)(i)(A), (B), or (C).

(f) "Public school" means:

(i) a district school;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(g) (i) "School setting" means, for a public school:

(A) in a classroom;

(B) in a school library; or

(C) on school property.

(ii) "School setting" includes the following activities that an organization or individual or organization outside of a public school conducts, if a public school or an LEA sponsors or requires the activity:

(A) an assembly;

(B) a guest lecture;

(C) a live presentation; or

(D) an event.

(h) (i) "Sensitive material" means an instructional material that constitutes objective sensitive material or subjective sensitive material.

(ii) "Sensitive material" does not include an instructional material:

(A) that an LEA selects under Section 53G-10-402;

(B) for a concurrent enrollment course that contains sensitive material and for which a parent receives notice from the course provider of the material before enrollment of the parent's child and gives the parent's consent by enrolling the parent's child;

(C) for medical courses;

(D) for family and consumer science courses; or

(E) for another course the state board exempts in state board rule.

(iii) "Subjective sensitive material" means an instructional material that constitutes pornographic or indecent material, as that term is defined in Section [~~76-10-1235~~]76-5c-208, under the following factor-balancing standards:

(A) material that is harmful to minors under Section [~~76-10-1201~~]76-5c-101;

(B) material that is pornographic under Section [~~76-10-1203~~]76-5c-101; or

(C) material that includes certain fondling or other erotic touching under Subsection [~~76-10-1227(1)(a)(iv)~~]76-5c-207(1)(a)(i)(D).

(2) (a) Sensitive materials are prohibited in the school setting.

(b) A public school or an LEA may not:

(i) adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive materials; or

(ii) permit a speaker or presenter in the school setting to display or distribute sensitive materials.

(c) In evaluating, selecting, or otherwise considering action related to a given instructional material under this section, each public school and each LEA shall prioritize protecting children from the harmful effects of illicit pornography over other considerations in evaluating instructional material.

(d) If an instructional material constitutes objective sensitive material:

(i) a public school or an LEA is not required to engage in a review under a subjective sensitive material standard; and

(ii) the outcome of a subjective sensitive material evaluation has no bearing on the non-discretionary objective sensitive material conclusion.

(3) (a) Except as provided in Subsection (3)(b), the following individuals may initiate a sensitive material review under this section:

(i) an employee of the relevant LEA;

(ii) a student who is enrolled in the relevant LEA;

(iii) a parent of a child who is enrolled in the relevant LEA; or

(iv) a member of the relevant LEA governing board.

(b) (i) As used in this Subsection (3)(b), "unsuccessful challenge" means an allegation that a given instructional material constitutes sensitive material that the LEA concludes to be erroneous, either on direct review or on appeal to the LEA governing board, resulting in the retention of the given instructional material.

(ii) Notwithstanding Subsection (3)(a), after an individual makes three unsuccessful challenges during a given academic year, the individual may not trigger a sensitive material review under this section during the remainder of the given academic year.

(4) Upon receipt of an allegation from an individual described in Subsection (3)(a), an LEA shall:

(a) (i) make an initial determination as to whether the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material, including whether the allegation includes excerpts and other evidence to support the allegation; and

(ii) if the LEA determines that the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material under Subsection (4)(a)(i), immediately remove the challenged material from any school setting that provides student access to the challenged material until the LEA completes the LEA's full review of the challenged material under this section;

(b) (i) engage in a review of the allegations and the challenged instructional material using the objective sensitive material standards; and

(ii) if the LEA makes a determination that the challenged instructional material constitutes objective sensitive material, ensure that the material remains inaccessible to students in any school setting;

(c) only if the LEA makes a determination that the challenged instructional material does not constitute objective sensitive material:

(i) review the allegations and the challenged instructional material under the subjective material standards, ensuring that the review includes parents who are reflective of the members of the school's community when determining if an instructional material is subjective sensitive material;

(ii) allow student access to the challenged instructional material during the LEA's subjective sensitive material review if the student's parent gives consent regarding the specific challenged instructional material; and

(iii) if the LEA makes a determination that the challenged instructional material constitutes subjective sensitive material, ensure that the material is inaccessible to students in any school setting, including the termination of the parent consent option described in Subsection (4)(c)(ii); and

(d) communicate to the state board the allegation and the LEA's final determination regarding the allegation and the challenged instructional material.

(5) (a) An individual described in Subsection (3)(a) may appeal an LEA's decision regarding a sensitive material review, regardless of whether the LEA removed or retained the challenged instructional material, to the LEA governing board.

(b) An LEA governing board shall vote in a public board meeting to decide the outcome of a sensitive material review appeal, clearly identifying:

(i) the board's rationale for the decision; and

(ii) the board's determination on each component of the statutory and any additional policy standards the board uses to reach the board's conclusions.

(6) An LEA governing board may not enact rules or policies that prevent the LEA governing board from:

(a) revisiting a previous decision;

(b) reviewing a recommendation of LEA personnel or a parent-related committee regarding a challenged instructional material; or

(c) reconsidering a challenged instructional material if the LEA governing board receives additional information regarding the material.

(7) (a) Except as provided in Subsection (7)(d), if the threshold described in Subsection (7)(b) is met, each LEA statewide shall remove the relevant instructional material from student access.

(b) The requirement described in Subsection (7)(a) to remove a given material from student access applies if the following number of LEAs makes a determination that a given instructional material constitutes objective sensitive material:

(i) at least three school districts; or

(ii) at least two school districts and five charter schools.

(c) The state board shall:

(i) aggregate allegations and LEA determinations described in Subsection (4)(d); and

(ii) no later than 10 school days after the day on which the condition described in Subsection (7)(b) occurs, communicate to all LEAs the application of the requirement described in Subsection (7)(a) to remove the material from student access.

(d) (i) When the threshold described in Subsection (7)(b) is met for a given instructional material, in addition to making the communication described in Subsection (7)(c), the state board may:

(A) place the material on the agenda of a public board meeting within 60 days after the day on which the state board makes the communication to LEAs under Subsection (7)(c); and

(B) at the specified state board meeting, vote to overturn the application of the requirement described in Subsection (7)(a) to remove a given material from student access statewide.

(ii) If the state board votes to overturn the application of the statewide removal requirement described in Subsection (7)(a) under Subsection (7)(d)(i):

(A) the statewide removal requirement described in Subsection (7)(a) no longer applies;

(B) an LEA may choose to return the given material to student access; and

(C) nothing affects the findings of an LEA governing board regarding removal of the given material within the board's LEA.

(e) This Subsection (7) applies to sensitive materials that LEAs remove from student access, regardless of whether:

(i) the sensitive material determinations occur in the same academic year; or

(ii) a sensitive material determination occurred before July 1, 2024.

(8) The state board shall:

(a) in consultation with the Office of the Attorney General, provide guidance and training to support public schools in identifying instructional materials that meet the definition of sensitive materials under this section;

(b) establish a process through which an individual described in Subsection (3)(a) may report to the state board an allegation that an LEA is out of compliance with this section; and

(c) annually report to the Education Interim Committee, at or before the November interim meeting, on implementation and compliance with this section, including:

(i) any policy the state board or an LEA adopts to implement or comply with this section;

(ii) any rule the state board makes to implement or comply with this section; and

(iii) any complaints an LEA or the state board receives regarding a violation of this section, including:

(A) action taken in response to a complaint described in this Subsection (8)(c)(iii);

(B) if an LEA retains an instructional material for which the LEA or the state board receives a complaint, the LEA's rationale for retaining the instructional material; and

(C) compliance failures that the state board identifies through the reporting process described in Subsection (8)(b) and other investigations or research.

(9) The state shall defend, indemnify, and hold harmless a person acting under color of state law to enforce this section for any claims or damages, including court costs and attorney fees, that:

(a) a person brings or incurs as a result of this section; and

(b) is not covered by the person's insurance policies or any coverage agreement that the State Risk Management Fund issues.

(10) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General shall:

(a) conduct an audit of each school district's compliance with this section, ensuring the completion of all school district audits before November 2028; and

(b) annually report to the Education Interim Committee regarding completed sensitive material audits under this Subsection (10).

Section 108. Section 57-22-5.1 is amended to read:

57-22-5.1. Crime victim's right to new locks -- Domestic violence victim's right to terminate rental agreement -- Limits an owner relating to assistance from public safety agency.

(1) As used in this section:

(a) (i) "Court order" means, except as provided in Subsection (1)(a)(ii):

(A) a civil protective order, as defined in Section 78B-7-102;

(B) a civil stalking injunction, as defined in Section 78B-7-102;

(C) a criminal protective order, as defined in Section 78B-7-102; or

(D) a criminal stalking injunction, as defined in Section 78B-7-102.

(ii) "Court order" does not include:

(A) an ex parte civil protective order, as defined in Section 78B-7-102; or

(B) an ex parte civil stalking injunction, as defined in Section 78B-7-102, for which a hearing is requested.

(b) (i) "Crime victim" means a victim of:

[~~(i)~~](A) domestic violence, as defined in Section 77-36-1;

[~~(ii)~~](B) stalking, as defined in Section 76-5-106.5;

[~~(iii)~~](C) [~~a crime~~]an offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

[~~(iv)~~](D) burglary or aggravated burglary under Section 76-6-202 or 76-6-203; or

[~~(v)~~](E) dating violence, as defined in Section 78B-7-102.

(ii) "Crime victim" does not include a victim of an offense of:

(A) enticing a minor under Section 76-5-417;

(B) sexual battery under Section 76-5-418;

(C) lewdness under Section 76-5-419; or

(D) lewdness involving a child under Section 76-5-420.

(c) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(d) "Financial obligation" means any rent, fees, damages, or other costs owed by a renter.

(e) (i) "Future obligations" means a renter's obligations under the rental agreement after the date on which the renter vacates the residential rental unit in accordance with Subsection (6).

(ii) "Future obligations" includes:

(A) the payment of rent and fees for the residential rental unit; and

(B) the right to occupy the residential rental unit.

(f) "Public safety agency" means a governmental entity that provides fire protection, law enforcement, ambulance, medical, or similar service.

(g) "Victim of domestic violence" means the same as the term "victim" in Section 77-36-1.

(h) "Termination fee" means the equivalent of one month of rent under the rental agreement.

(2) An acceptable form of documentation of an act listed in Subsection (1) is:

(a) a protective order protecting the renter issued pursuant to Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, subsequent to a hearing of which the petitioner and respondent have been given notice under Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or

(b) a copy of a police report documenting an act listed in Subsection (1).

(3) (a) A renter who is a crime victim may require the renter's owner to install a new lock to the renter's residential rental unit if the renter:

(i) provides the owner with an acceptable form of documentation of an act listed in Subsection (1); and

(ii) pays for the cost of installing the new lock.

(b) An owner may comply with Subsection (3)(a) by:

(i) rekeying the lock if the lock is in good working condition; or

(ii) changing the entire locking mechanism with a locking mechanism of equal or greater quality than the lock being replaced.

(c) An owner who installs a new lock under Subsection (3)(a) may retain a copy of the key that opens the new lock.

(d) Notwithstanding any rental agreement, an owner who installs a new lock under Subsection (3)(a) shall refuse to provide a copy of the key that opens the new lock to the perpetrator of the act listed in Subsection (1).

(e) Notwithstanding Section 78B-6-814, if an owner refuses to provide a copy of the key under Subsection (3)(d) to a perpetrator who is not barred from the residential rental unit by a protective order but is a renter on the rental agreement, the perpetrator may file a petition with a court of competent jurisdiction within 30 days to:

(i) establish whether the perpetrator should be given a key and allowed access to the residential rental unit; or

(ii) whether the perpetrator should be relieved of further liability under the rental agreement because of the owner's exclusion of the perpetrator from the residential rental unit.

(f) Notwithstanding Subsection (3)(e)(ii), a perpetrator may not be relieved of further liability under the rental agreement if the perpetrator is found by the court to have committed the act upon which the landlord's exclusion of the perpetrator is based.

(4) A renter who is a victim of domestic violence may terminate all of the renter's future obligations under a rental agreement if the renter:

(a) except as provided in Subsection (5), is in compliance with all obligations under the rental agreement, including the requirements of Section 57-22-5;

(b) provides the owner with:

(i) a court order protecting the renter from a domestic violence perpetrator; or

(ii) a copy of a police report documenting that the renter is a victim of domestic violence and is not the predominant aggressor under Subsection 77-36-2.2(3);

(c) provides the owner with a written notice of termination that includes the date on which the renter intends to vacate the renter's residential rental unit; and

(d) pays the owner a termination fee on the later of the day on which:

(i) the renter provides the owner with a written notice of termination; or

(ii) the renter vacates the renter's residential rental unit.

(5) A renter may terminate all of the renter's future obligations under a rental agreement under Subsection (4) when the renter is not in compliance with the requirements of Subsection 57-22-5(1)(g) or (2) if:

(a) the renter provides evidence to the owner with the written notice of termination under Subsection (4)(c) establishing that:

(i) the noncompliance with Subsection 57-22-5(1)(g) or (2) occurred less than 30 days before the day on which the renter provided the written notice of termination to the owner; and

(ii) the noncompliance with Subsection 57-22-5(1)(g) or (2) is due to domestic violence;

(b) the renter is in compliance with all obligations of the rental agreement, except for the noncompliance described in Subsection (5)(a); and

(c) the renter complies with Subsections (4)(b), (c), and (d).

(6) If a renter provides an owner with a written notice of termination under Subsection (4)(c), the renter shall:

(a) vacate the renter's residential rental unit within 15 days after the day on which the written notice of termination is provided to the owner; and

(b) pay rent for any occupation of the residential rental unit during that 15-day time period.

(7) A renter may not terminate all of the renter's future obligations under a rental agreement under Subsection (4) after a notice of eviction is served on the renter.

(8) A renter who terminates all of the renter's future obligations under a rental agreement under Subsection (4) is liable for any financial obligation owed by the renter:

(a) before the renter provided the owner with the written notice of termination under Subsection (4)(c);

(b) for any noncompliance with Subsection 57-22-5(1)(g) or (2) as described in Subsection (5); and

(c) for any occupancy of the residential rental unit by the renter during the 15-day time period described in Subsection (6).

(9) The termination of a renter's future obligations under a rental agreement does not terminate the rental agreement for any other person entitled under the rental agreement to occupy the residential rental unit.

(10) An owner may not:

(a) impose a restriction on a renter's ability to request assistance from a public safety agency; or

(b) penalize or evict a renter because the renter makes reasonable requests for assistance from a public safety agency.

Section 109. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) (i) Except as provided in Subsection (1)(c)(ii), a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as described in Subsection (1)(b) and Title 76, Chapter 3, Punishments.

(ii) The court shall impose an indeterminate prison term for a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation, the person intentionally or knowingly:

(A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section [~~76-10-501~~]76-11-101, that is not a firearm, in an angry, threatening, intimidating, or coercive manner;

(B) used a firearm, as that term is defined in Section 76-11-101, or had a firearm readily accessible for immediate use, as [~~those terms are~~]that term is defined in Section [~~76-10-501~~]76-11-201; or

(C) distributed a firearm, as that term is defined in Section [~~76-10-501~~]76-11-101, or possessed a firearm with intent to distribute the firearm.

(iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate prison term for a person convicted under Subsection (1)(c)(ii) if the court:

(A) details on the record the reasons why it is in the interests of justice not to impose the indeterminate prison term;

(B) makes a finding on the record that the person does not pose a significant safety risk to the public; and

(C) orders the person to complete the terms and conditions of supervised probation provided by the Department of Corrections.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section [~~76-10-501~~]76-11-201;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i) through (vi);

(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research;

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment; or

(c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled or counterfeit substance to conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 110. Section 58-37-8.1, which is renumbered from Section 76-10-2204 is renumbered and amended to read:

[~~76-10-2204~~]58-37-8.1. Duty to report drug diversion.

(1) As used in this section:

(a) "Diversion" means a practitioner's transfer of a significant amount of drugs to another individual for an unlawful purpose.

(b) "Drug" means a Schedule II or Schedule III controlled substance, as defined in Section 58-37-4, that is an opiate.

(c) "HIPAA" means the same as that term is defined in Section 26B-3-126.

(d) "Opiate" means the same as that term is defined in Section 58-37-2.

(e) "Practitioner" means an individual:

(i) licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of professional practice; or

(ii) employed by a person who is licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of professional practice or standard operations.

(f) "Significant amount" means an aggregate amount equal to, or more than, 500 morphine milligram equivalents calculated in accordance with guidelines developed by the Centers for Disease Control and Prevention [~~(CDC)~~].

(2) An individual is guilty of a class B misdemeanor if the individual:

(a) knows that a practitioner is involved in diversion; and

(b) knowingly fails to report the diversion to a peace officer or law enforcement agency.

(3) Subsection (2) does not apply to the extent that an individual is prohibited from reporting by 42 C.F.R. Part 2 or HIPAA.

Section 111. Section 58-37-8.2, which is renumbered from Section 76-10-2203 is renumbered and amended to read:
[~~76-10-2203~~]58-37-8.2. Possession, sale, or use of an adulterant or synthetic urine.

(1) As used in this section, "adulterant" means a substance that may be added to human urine or another human bodily fluid to change, dilute, or interfere with the composition, chemical properties, physical appearance, or physical properties of the urine or other bodily fluid.

(2) Under circumstances not amounting to a violation of Section 76-8-510.5, [~~it is unlawful for a person to~~]Tampering with evidence, a person commits possession, sale or use of an adulterant or synthetic urine if the person:

(a) [~~distribute, possess, or sell~~]distributes, possesses, or sells synthetic urine;

(b) [~~distribute or sell~~]distributes or sells an adulterant with:

(i) intent that the adulterant be used to defeat or defraud an alcohol or drug screening test; or

(ii) knowledge that the recipient of the adulterant intends to use the adulterant to defeat or defraud an alcohol or drug screening test;

(c) [~~possess~~]possesses an adulterant with intent to use the adulterant to defeat or defraud an alcohol or drug screening test; or

(d) intentionally [~~use~~]uses:

(i) an adulterant to defeat or defraud an alcohol or drug screening test;

(ii) the person's urine or bodily fluid to defeat or defraud an alcohol or drug screening test if the urine or bodily fluid was expelled or withdrawn before the time at which the urine or bodily fluid is collected for the test; or

(iii) the urine or bodily fluid of another person to defeat or defraud an alcohol or drug screening test.

(3) [~~A person who violates this section is guilty of~~]A violation of this section is an infraction.

(4) A person [~~is not guilty of a violation of this section for~~]does not commit a violation of Subsection (2) if the person is engaging in conduct described in this section for the sole purpose of education or medical or scientific research.

(5) This section does not apply to persons currently under:

(a) court-ordered supervision; or

(b) the supervision of the Board of Pardons and Parole.

(6) An entity that collects specimens for the purpose of testing and screening, and reports the results back to an employer, shall report to the employer and the Department of Public Safety if a report is received that indicates that adulterated or synthetic urine was submitted for an alcohol or drug screening test.

Section 112. Section 58-63-307 is amended to read:
58-63-307. Use of firearms.

(1) An individual licensed as an armored car security officer or an armed private security officer may carry a firearm only while acting as an armored car security officer or an armed private security officer in accordance with this chapter and rules made under this chapter.

(2) An individual licensed as an armored car security officer or an armed private security officer is exempt from the provisions of Section [~~76-10-505~~]76-11-203 and Title 53, Chapter 5, Part 7, Concealed Firearm Act, while acting as an armored car security officer or an armed private security officer in accordance with this chapter and rules made under this chapter.

Section 113. Section 59-14-102 is amended to read:
59-14-102. Definitions.

As used in this chapter:

(1) "Alternative nicotine product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(2) "Cigarette" means a roll made wholly or in part of tobacco:

(a) regardless of:

(i) the size of the roll;

(ii) the shape of the roll;

(iii) whether the tobacco is flavored, adulterated, or mixed with any other ingredient; or

(iv) whether the tobacco is heated or burned; and

(b) if the roll has a wrapper or cover that is made of paper or any other substance or material except tobacco.

(3) "Cigarette rolling machine" means a device or machine that has the capability to produce at least 150 cigarettes in less than 30 minutes.

(4) "Cigarette rolling machine operator" means a person who:

(a) (i) controls, leases, owns, possesses, or otherwise has available for use a cigarette rolling machine; and

(ii) makes the cigarette rolling machine available for use by another person to produce a cigarette; or

(b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.

(5) "Consumer" means a person that is not required:

(a) under Section 59-14-201 to obtain a license under Section 59-14-202;

(b) under Section 59-14-301 to obtain a license under Section 59-14-202; or

(c) to obtain a license under Section 59-14-803.

(6) "Counterfeit cigarette" means:

(a) a cigarette that has a false manufacturing label; or

(b) a package of cigarettes bearing a counterfeit tax stamp.

(7) (a) "Electronic cigarette" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(b) "Electronic cigarette" does not include a cigarette or a tobacco product.

(8) "Electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(9) "Electronic cigarette substance" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(10) "Importer" means a person that imports into the United States, either directly or indirectly, a finished cigarette for sale or distribution.

(11) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or any other person doing business as a distributor or retailer of cigarettes on tribal lands located in the state.

(12) "Little cigar" means a roll for smoking that:

(a) is made wholly or in part of tobacco;

(b) uses an integrated cellulose acetate filter or other similar filter; and

(c) is wrapped in a substance:

(i) containing tobacco; and

(ii) that is not exclusively natural leaf tobacco.

(13) (a) Except as provided in Subsection (13)(b), "manufacturer" means a person that:

(i) manufactures, fabricates, assembles, processes, or labels a finished cigarette; or

(ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels, repackages, relabels, or imports an electronic cigarette product or a nicotine product.

(b) "Manufacturer" does not include a cigarette rolling machine operator.

(14) "Moist snuff" means tobacco that:

(a) is finely cut, ground, or powdered;

(b) has at least 45% moisture content, as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) is not intended to be:

(i) smoked; or

(ii) placed in the nasal cavity; and

(d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or distributed in single-use units, including:

(i) tablets;

(ii) lozenges;

(iii) strips;

(iv) sticks; or

(v) packages containing multiple single-use units.

(15) "Nicotine" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(16) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(17) "Nontherapeutic nicotine device" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(18) "Nontherapeutic nicotine device substance" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(19) "Nontherapeutic nicotine product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(20) "Prefilled electronic cigarette" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(21) "Prefilled nontherapeutic nicotine device" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(22) "Retailer" means a person that:

(a) sells or distributes a cigarette, an electronic cigarette product, or a nicotine product to a consumer in the state; or

(b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine product to a consumer in the state.

(23) "Stamp" means the indicia required to be placed on a cigarette package that evidences payment of the tax on cigarettes required by Section 59-14-205.

(24) (a) "Tobacco product" means a product made of, or containing, tobacco.

(b) "Tobacco product" includes:

(i) a cigarette produced from a cigarette rolling machine;

(ii) a little cigar; or

(iii) moist snuff.

(c) "Tobacco product" does not include a cigarette.

(25) "Tribal lands" means land held by the United States in trust for a federally recognized Indian tribe.

Section 114. Section 59-14-501.5 is enacted to read:

59-14-501.5. Advertising warning label requirements.

(1) For purposes of this section, "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in an oral cavity or nasal passage.

(2) (a) An advertisement for smokeless tobacco placed in a newspaper, magazine, or periodical published in this state must bear a warning that states: "Use of smokeless tobacco may cause oral cancer and other mouth disorders and is addictive."

(b) The warning described in Subsection (2)(a) shall be placed in a conspicuous location and in conspicuous and legible type, in contrast with the typography, layout, and color of all other printed material in the advertisement.

Section 115. Section 59-14-507 is amended to read:

59-14-507. Penalty for violation.

[~~Violation of this part~~]A violation of any of the following sections is a class B misdemeanor:

(1) Section 59-14-501, Warning labels required;

(2) Section 59-14-502, Requirements for placement of warning labels;

(3) Section 59-14-504, Responsibility for placement of warning labels; or

(4) Section 59-14-509, Restrictions on mail order or Internet sales.

Section 116. Section 59-14-807 is amended to read:

59-14-807. Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account."

(2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account consists of:

(a) revenue collected from the tax imposed by Section 59-14-804;

(b) fees and penalties collected under Section 59-14-810;

(c) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of electronic cigarette products, as defined in Section [~~76-10-101~~]76-9-1101:

(i) if the total amount of the judgment, settlement, or compromise received by the state exceeds $1,000,000; and

(ii) after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in Subsection (2)(c); and

(d) amounts appropriated by the Legislature.

(3) (a) For each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:

(i) $2,000,000, which shall be allocated to the local health departments by the Department of Health and Human Services using the formula created in accordance with Section 26A-1-116;

(ii) $2,000,000 to the Department of Health and Human Services for statewide cessation programs and prevention education;

(iii) $1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;

(iv) $3,000,000, which shall be allocated to the local health departments by the Department of Health and Human Services using the formula created in accordance with Section 26A-1-116;

(v) $5,084,200 to the State Board of Education for school-based prevention programs;

(vi) $2,000,000 to the Department of Health and Human Services for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television; and

(vii) of the money deposited under Section 59-14-810:

(A) to the commission, in an amount equal to the amount necessary to create and maintain the registry described in Section 59-14-810;

(B) to the Department of Health and Human Services, in an amount necessary for completing duties described in Section 59-14-810; and

(C) to the Department of Health and Human Services, the remainder to be divided among the local health departments for inspection and enforcement described in Sections 26A-1-131 and 59-14-810.

(b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the distribution amounts shall be adjusted proportionately.

(4) (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26B-7-505;

(ii) the labeling requirement described in Section 26B-7-505; and

(iii) the penalty provisions described in Section 26B-7-518.

(b) The Department of Health and Human Services shall use the money received in accordance with Subsection (3)(a)(ii) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26B-1-428.

(c) The local health departments shall use the money received in accordance with Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(d) The State Board of Education shall use the money received in accordance with Subsection (3)(a)(v) to distribute to local education agencies to pay for:

(i) (A) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);

(B) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

(C) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b); or

(ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.

(5) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account after the distribution described in Subsection (3) may only be used for:

(a) funding commission personnel to enforce compliance with the tax collection requirements of this part; and

(b) programs and activities related to the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

Section 117. Section 59-14-810 is amended to read:

59-14-810. Electronic cigarette product registry.

(1) Beginning on August 1, 2024, every manufacturer of an electronic cigarette product that is sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, shall certify under penalty of perjury on a form and in the manner prescribed by the commission, that:

(a) the manufacturer agrees to comply with this section; and

(b) the electronic cigarette product is a premarket authorized or pending electronic cigarette product as defined in Section [~~76-10-101~~]76-9-1101 and will not be illegal to be sold in the state as of January 1, 2025.

(2) When submitting the certification a manufacturer shall submit a form that separately lists each electronic cigarette product that is sold in this state.

(3) (a) Each certification form shall include:

(i) the name of the electronic cigarette product, nicotine content level by percentage, and any flavors contained in the product;

(ii) (A) a copy of the order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or

(B) evidence that the premarket tobacco product application for the electronic cigarette product or nicotine product was submitted to the United States Food and Drug Administration before September 9, 2020, and a final authorization or order has not yet taken effect;

(iii) a nonrefundable $1,000 fee for an electronic cigarette product that is being added to the registry in the first instance; and

(iv) information described in Subsection (10) if applicable.

(b) The commission shall make the materials submitted under Subsection (3)(a) available to the Department of Health and Human Services for review and approval.

(c) A manufacturer required to submit a certification form under this section shall notify the commission and the Department of Health and Human Services in a manner prescribed by the commission within 30 days of any material change making the certification form no longer accurate, including:

(i) the issuance or denial of a marketing authorization or other order by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j; or

(ii) any other order or action by the United States Food and Drug Administration or any court that affects the ability of the electronic cigarette product to be introduced or delivered into interstate commerce for commercial distribution in the United States.

(d) On or before January 31 of each year and in a manner prescribed by the commission, a manufacturer shall:

(i) recertify that the information contained in the certification is correct and accurate;

(ii) correct or amend information if necessary; and

(iii) pay a $250 nonrefundable fee for each electronic cigarette product on the registry that is manufactured by the manufacturer.

(e) A manufacturer may amend a certification, including to add additional electronic cigarette products to the registry, if all requirements of this section are met.

(f) The commission shall:

(i) provide an electronic notification to a manufacturer that has not submitted a recertification under Subsection (3)(d); and

(ii) remove a manufacturer or an electronic cigarette product that is not recertified from the registry by March 15.

(4) (a) The Department of Health and Human Services shall review materials described in Subsection (3)(a) and notify the commission regarding whether an electronic cigarette product should be included in the registry.

(b) On or before October 1, 2024, the commission shall make publicly available on the commission's website a registry that lists each electronic cigarette product manufacturer and each electronic cigarette product for which certification forms have been approved by the Department of Health and Human Services.

(c) An electronic cigarette product may not be listed on the registry unless the Department of Health and Human Services determines the requirements of Subsection (3)(a) are met.

(5) (a) If the Department of Health and Human Services obtains information that an electronic cigarette product should not be listed in the registry, the Department of Health and Human Services shall provide the manufacturer notice and an opportunity to cure deficiencies before notifying the commission to remove the manufacturer or products from the registry.

(b) Except as provided in Subsection (5)(c), the Department of Health and Human Services shall comply with Title 63G, Chapter 4, Administrative Procedures Act, before notifying the commission to remove an electronic cigarette product or manufacturer from the registry.

(c) Subsection (5)(b) does not apply to a manufacturer failing:

(i) to decertify an electronic cigarette product;

(ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or

(iii) to comply with Subsection (10).

(6) (a) If a product is removed from the registry, each retailer, distributor, and wholesaler shall have 30 days from the day on which the product is removed from the registry to remove the product from any inventory and return the product to the manufacturer for disposal.

(b) After the period described in Subsection (6)(a), any electronic cigarette product of a manufacturer identified in the notice of removal are contraband and are subject to penalties under Subsection (8) and seizure, forfeiture, and destruction under Section 26A-1-131.

(7) (a) Beginning on January 1, 2025, a person may not sell or offer for retail sale an electronic cigarette product in this state that is not included in the registry.

(b) A manufacturer may not sell, either directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, an electronic cigarette product in this state that is not included in the registry.

(8) (a) A wholesaler, distributor, or retailer who sells or offers for retail sale an electronic cigarette product in this state that is not included in the registry shall be subject to a civil penalty of:

(i) $1,000 for each product offered for sale in violation of this section; and

(ii) $100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.

(b) The commission shall suspend the person's license issued under Section 59-14-803 for a violation of Subsection (8)(a) as follows:

(i) for a second violation within a 12-month period, at least 14 days;

(ii) for a third violation within a 12-month period, at least 60 days; or

(iii) for a fourth violation within a 12-month period, at least one year.

(c) A manufacturer whose electronic cigarette products are not listed in the registry and are sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, is subject to a civil penalty of:

(i) $1,000 for each product offered for retail sale in violation of this section; and

(ii) $100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.

(d) A manufacturer that falsely represents any information required by a certification form described in this section shall be guilty of

a class C misdemeanor for each false representation.

(e) A repeated violation of this section shall constitute a deceptive act or practice as provided in Sections 13-11-4 and 13-11a-3 and shall be subject to any remedies or penalties available for a violation of those sections.

(9) (a) To assist in ensuring compliance and enforcement of this section and Section 26A-1-131, the commission shall disclose to the following entities, upon request, any information obtained under this section:

(i) the Department of Health and Human Services;

(ii) a local health department; or

(iii) the attorney general.

(b) The commission and attorney general shall share with each other information received under this section, or corresponding laws of other states.

(10) (a) (i) The commission may not list a nonresident manufacturer of an electronic cigarette product in the registry unless:

(A) the nonresident manufacturer has registered to do business in the state as a foreign corporation or business entity; or

(B) the nonresident manufacturer appoints and maintains without interruption the services of an agent in this state to receive any service of process on behalf of the manufacturer.

(b) The nonresident manufacturer shall provide the name, address, and telephone number of the agent to the commission.

(c) (i) A nonresident manufacturer shall provide notice to the commission 30 days before the termination of the authority of an agent and shall further provide proof to the satisfaction of the commission of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment.

(ii) In the event an agent terminates an agency appointment, the manufacturer shall notify the commission of the termination within five calendar days and shall include proof to the satisfaction of the commission of the appointment of a new agent.

(11) Before May 31 of each year, the commission and the Department of Health and Human Services shall provide a report to the Revenue and Taxation Interim Committee and the Health and Human Services Interim Committee regarding:

(a) the status of the registry;

(b) manufacturers and products included in the registry;

(c) revenue and expenditures related to administration of this section; and

(d) enforcement activities undertaken under this section and Section 26A-1-131.

(12) All fees and penalties collected under this section shall be used for administration and enforcement of this section and Section 26A-1-131.

(13) The commission, in consultation with the Department of Health and Human Services, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 118. Section 59-27-105 is amended to read:

59-27-105. Sexually Explicit Business and Escort Service Fund -- Administrative charge.

(1) There is created an expendable special revenue fund called the "Sexually Explicit Business and Escort Service Fund."

(2) (a) Except as provided in Subsection (3), the fund consists of all amounts collected by the commission under this chapter.

(b) (i) The money in the fund shall be invested by the state treasurer pursuant to Title 51, Chapter 7, State Money Management Act.

(ii) All interest or other earnings derived from the fund money shall be deposited in the fund.

(3) Notwithstanding any other provision of this chapter, the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this chapter.

(4) (a) Fund money shall be used as provided in this Subsection (4).

(b) The Department of Corrections shall use 60% of the money in the fund, in addition to existing budgets, to provide treatment services to nonworking or indigent adults who:

(i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; and

(ii) are not currently confined or incarcerated in a jail or prison.

(c) The Adult Probation and Parole section of the Department of Corrections shall use 15% of the money in the fund to provide outpatient treatment services to individuals who:

(i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; and

(ii) are not currently confined or incarcerated in a jail or prison.

(d) The Department of Corrections shall use 10% of the money in the fund, in addition to existing budgets, to implement treatment programs for juveniles who have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

(e) The attorney general shall use 15% of the money in the fund to provide funding for any task force:

(i) administered through the Office of the Attorney General; and

(ii) that investigates and prosecutes individuals who use the Internet to commit crimes against children.

Section 119. Section 63G-6a-2505 is amended to read:

63G-6a-2505. Debarment or suspension from consideration for award of contracts.

(1) The executive director may:

(a) debar or suspend a person from consideration for an award of a contract for a human services procurement item for any amount of time in accordance with the process described in Subsection 63G-6a-904(1); and

(b) obtain the recommendation of the council before debarring or suspending the person.

(2) The council shall recommend that the executive director debar or suspend a person for an award of a contract for a human services procurement item if the person:

(a) is convicted of a criminal offense:

(i) for actions taken to obtain or perform under a public or private contract;

(ii) for embezzlement, fraud, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property; or

(iii) under [~~Title 76, Chapter 10, Part 31, Utah Antitrust Act~~]Title 76, Chapter 16, Part 5, Antitrust Offenses, or another antitrust law;

(b) fails, without good cause, to perform in accordance with the terms of a contract with the department;

(c) commits two or more violations of department rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) violates this chapter;

(e) poses a significant risk of harm to department clients or the department;

(f) is barred or suspended from providing services to another governmental agency; or

(g) takes another action that the council determines is fraudulent or substantially affects the person's ability to perform under a contract with the department for a human services procurement item.

Section 120. Section 63G-7-301 is amended to read:

63G-7-301. Waivers of immunity.

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Section 63G-7-302, as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;

(j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section [~~76-9-702.1~~]76-5-418, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, kidnap offender, or child abuse offender as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex offender, kidnap offender, or child abuse offender would have been revealed in a background check under Section 53G-11-402;

(k) as to any action brought under Section 78B-6-2303; and

(l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student Legal Representation.

(3) (a) As used in this Subsection (3):

(i) "Code of conduct" means a code of conduct that:

(A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section [~~76-9-702.1~~]76-5-418, considering the term "child" in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the code of conduct to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

(4) (a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section [~~76-9-702.1~~]76-5-418.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 121. Section 63G-12-102 is amended to read:

63G-12-102. Definitions.

As used in this chapter:

(1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a federally qualified high deductible health plan.

(2) "Department" means the Department of Public Safety created in Section 53-1-103.

(3) "Employee" means an individual employed by an employer under a contract for hire.

(4) "Employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(5) "E-verify program" means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a, known as the e-verify program.

(6) "Family member" means for an undocumented individual:

(a) a member of the undocumented individual's immediate family;

(b) the undocumented individual's grandparent;

(c) the undocumented individual's sibling;

(d) the undocumented individual's grandchild;

(e) the undocumented individual's nephew;

(f) the undocumented individual's niece;

(g) a spouse of an individual described in this Subsection (6); or

(h) an individual who is similar to one listed in this Subsection (6).

(7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security or an equivalent program designated by the Department of Homeland Security.

(8) "Guest worker" means an undocumented individual who holds a guest worker permit.

(9) "Guest worker permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-205.

(10) "Immediate family" means for an undocumented individual:

(a) the undocumented individual's spouse; or

(b) a child of the undocumented individual if the child is:

(i) under 21 years old; and

(ii) unmarried.

(11) "Immediate family permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-206.

(12) "Permit" means a permit issued under Part 2, Guest Worker Program, and includes:

(a) a guest worker permit; and

(b) an immediate family permit.

(13) "Permit holder" means an undocumented individual who holds a permit.

(14) "Private employer" means an employer who is not the federal government or a public employer.

(15) "Program" means the Guest Worker Program described in Section 63G-12-201.

(16) "Program start date" means the day on which the department is required to implement the program under Subsection 63G-12-202(3).

(17) "Public employer" means an employer that is:

(a) the state of Utah or any administrative subunit of the state;

(b) a state institution of higher education, as defined in Section 53B-3-102;

(c) a political subdivision of the state including a county, city, town, school district, special district, or special service district; or

(d) an administrative subunit of a political subdivision.

(18) "Relevant contact information" means the following for an undocumented individual:

(a) the undocumented individual's name;

(b) the undocumented individual's residential address;

(c) the undocumented individual's residential telephone number;

(d) the undocumented individual's personal email address;

(e) the name of the person with whom the undocumented individual has a contract for hire;

(f) the name of the contact person for the person listed in Subsection (18)(e);

(g) the address of the person listed in Subsection (18)(e);

(h) the telephone number for the person listed in Subsection (18)(e);

(i) the names of the undocumented individual's immediate family members;

(j) the names of the family members who reside with the undocumented individual; and

(k) any other information required by the department by rule made in accordance with Chapter 3, Utah Administrative Rulemaking Act.

(19) "Restricted account" means the Immigration Act Restricted Account created in Section 63G-12-103.

(20) "Serious felony" means a felony under:

(a) Section 53-5a-304;

(b) Title 76, Chapter 5, Offenses Against the Individual;

[~~(b)~~](c) Title 76, Chapter 5b, Sexual Exploitation Act;

(d) Title 76, Chapter 5c, Pornographic and Harmful Materials and Performances;

(e) Title 76, Chapter 5d, Prostitution;

[~~(c)~~](f) Title 76, Chapter 6, Offenses Against Property;

[~~(d)~~](g) Title 76, Chapter 7, Offenses Against the Family;

[~~(e)~~](h) Title 76, Chapter 8, Offenses Against the Administration of Government;

(i) Title 76, Chapter 9, Offenses Against Public Order, Health, and Safety;

(j) Title 76, Chapter 11, Weapons;

(k) Title 76, Chapter 12, Offenses Related to Privacy, Information, and Communication;

(l) Title 76, Chapter 13, Offenses Involving Cruelty to Animals;

(m) Title 76, Chapter 14, Offenses Related to Immigration Status;

(n) Title 76, Chapter 15, Explosives and Weapons of Mass Destruction;

(o) Title 76, Chapter 16, Offenses Concerning Business Practices; and

(p) Title 76, Chapter 17, Offenses Concerning Kickbacks, Pyramid Schemes, and Patterns of Unlawful Activity.

[~~(f) Title 76, Chapter 9, Offenses Against Public Order and Decency; and~~]

[~~(g) Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals.~~]

(21) (a) "Status verification system" means an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision for a purpose authorized under this section.

(b) "Status verification system" includes:

(i) the e-verify program;

(ii) an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986;

(iii) the Social Security Number Verification Service or similar online verification process implemented by the United States Social

Security Administration; or

(iv) an independent third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).

(22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).

(23) "Undocumented individual" means an individual who:

(a) lives or works in the state; and

(b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101 et seq. with regard to presence in the United States.

(24) "U-verify program" means the verification procedure developed by the department in accordance with Section 63G-12-210.

Section 122. Section 63G-12-106 is amended to read:

63G-12-106. Severability.

(1) If a provision of Part 2, Guest Worker Program, or the application of a provision to a person or circumstance is held invalid, the remainder of this chapter may not be given effect without the invalid provision or application so that the provisions of this chapter are not severable.

(2) The following provisions are severable from this chapter:

(a) [~~Title 76, Chapter 9, Part 10, The Illegal Immigration Enforcement Act~~]Title 76, Chapter 14, Offenses Related to Immigration Status; and

[~~(b) Section 76-10-2901; and~~]

[~~(c)~~](b) Section 77-7-2.

Section 123. Section 63G-31-302 is amended to read:

63G-31-302. Sex-designated changing rooms in publicly owned facilities open to the general public.

(1) (a) Except as provided in Subsection (1)(b), to preserve the individual privacy of males and females, an individual may only access an operational sex-designated changing room in a government entity's facility that is open to the general public if:

(i) the individual's sex corresponds with the sex designation of the changing room; or

(ii) the individual has:

(A) legally amended the individual's birth certificate to correspond with the sex designation of the changing room, which may be supported with a review of any amendment history obtained under Section 26B-8-125; and

(B) undergone a primary sex characteristic surgical procedure as defined in Section 58-67-102 to correspond with the sex designation of the changing room.

(b) Subsection (1)(a) does not apply to:

(i) a minor child who requires assistance to access or use the changing room that corresponds with the sex of the minor's parent, guardian, or relative;

(ii) a dependent minor, as defined in Section 76-5-110, or a dependent adult, as defined in Section 76-5-111 who requires assistance to access or use the changing room that corresponds with the sex of a caretaker;

(iii) an individual providing public safety services, including law enforcement, emergency medical services as defined in Section 26B-4-101, and fire protection;

(iv) an employee of a health care facility, as defined in Section 26B-2-201, to provide health care services to a patient of the health care facility; or

(v) an individual whose employment duties include the maintenance or cleaning of the changing room.

(2) An individual in a changing room has a reasonable expectation of privacy, satisfying the privacy element of the [~~offense of voyeurism in Section 76-9-702.7.~~]following offenses:

(a) voyeurism, as described in Section 76-12-306; and

(b) recorded or photographed voyeurism, as described in Section 76-12-307.

(3) An individual who knowingly enters a changing room in violation of Subsection (1) commits the offense of criminal trespass under Section 76-6-206 if the individual enters or remains in the changing room under circumstances which a reasonable person would expect to likely cause affront or alarm to, on, or in the presence of another individual.

(4) The surgical provision described in Subsection (1)(a)(ii) does not shield an individual from the offense of lewdness related to genitalia under Subsection [~~76-9-702(3)~~]76-5-419(6) or [~~76-9-702.5(4)~~]76-5-420(5).

(5) An individual may use the following evidence as a defense against an allegation that the individual is not eligible to access and use a sex-designated changing room under Subsection (1):

(a) for an individual whose birth sex corresponds with the sex designation of the changing room:

(i) an individual's unamended birth certificate that corresponds with the sex designation of the changing room, which may be supported with a review of any amendment history obtained under Section 26B-8-125; or

(ii) documentation of a medical treatment or procedure that is consistent only with the sex designation of the changing room; or

(b) for an individual whose birth sex does not correspond with the sex designation of the changing room:

(i) the individual's amended birth certificate, which may be supported with a review of any amendment history obtained under Section 26B-8-125; and

(ii) documentation that demonstrates that the individual has undergone a primary sex characteristic surgical procedure as defined in Section 58-67-102.

(6) Subsection (1) does not apply to:

(a) a unisex or single-occupant facility;

(b) a changing room that is not open to the general public; or

(c) an intersex individual.

Section 124. Section 63G-31-304 is amended to read:

63G-31-304. Government entity facility compliance.

(1) Except as provided under Section 53G-8-211, a government entity shall contact law enforcement if the entity receives a complaint or allegation regarding the following within a privacy space in a facility that is open to the general public:

(a) an offense of lewdness [~~under~~]as described in Section [~~76-9-702~~]76-5-419;

(b) an offense of lewdness involving a child [~~under~~]as described in Section [~~76-9-702.5~~]76-5-420;

(c) voyeurism [~~under~~]as described in Section [~~76-9-702.7~~]76-12-306;

(d) recorded or photographed voyeurism as described in Section 76-12-307;

(e) distribution of images obtained through voyeurism as described in Section 76-12-308;

[~~(d)~~](f) loitering in a privacy space [~~under~~]as described in Section [~~76-9-702.8~~]76-12-309; or

[~~(e)~~](g) for a changing room described in Section 63G-31-302, an offense of criminal trespass under Subsection 63G-31-302(2).

(2) To preserve the individual privacy of males and females in privacy spaces:

(a) a government entity shall adopt a privacy compliance plan to address compliance with the government entity's duties under this chapter;

(b) for construction of a new facility, a government entity shall ensure that the new construction includes a single-occupant facility; and

(c) for existing privacy spaces, a government entity:

(i) shall consider the feasibility of retrofitting or remodeling to include:

(A) floor-to-ceiling walls and doors or similar privacy protections;

(B) curtains; or

(C) other methods of improving individual privacy within the facility that are comparable to the methods described in Subsections (2)(a)(i) and (ii); and

(ii) may reduce the number of fixtures that state law requires by up to 20% to provide adequate space for the retrofitting or remodeling described in Subsection (2)(a).

(3) A government entity shall ensure sufficient sex-designated privacy spaces through compliance with Sections 15A-3-112 and 15A-3-304 regarding unisex facilities.

Section 125. Section 63I-1-276 is amended to read:

63I-1-276. Repeal dates: Title 76.

(1) Subsection 76-7-313(6), regarding a report provided by the Department of Health and Human Services, is repealed July 1, 2027.

(2) Section [~~76-10-526.1~~]53-5a-303, Information check before private sale of firearm, is repealed July 1, 2025.

Section 126. Section 63I-2-276 is amended to read:

63I-2-276. Repeal dates: Title 76.

(1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an employee of a health facility, is repealed January 1, 2027.

(2) Subsection [~~76-10-529(9)~~]76-11-215(10), regarding data collection requirements for a law enforcement agency that issues a written warning, citation, or referral, is repealed December 31, 2031.

Section 127. Section 63M-7-502 is amended to read:

63M-7-502. Definitions.

As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(4) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

(5) "Child" means an unemancipated individual who is under 18 years old.

(6) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the claimant has received, or that is readily available to the claimant from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers' compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the claimant for the loss the claimant sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran's benefits, including veteran's hospitalization benefits.

(7) (a) "Confidential record" means a record in the custody of the office that relates to a claimant's eligibility for a reparations award.

(b) "Confidential record" includes:

(i) a reparations claim;

(ii) any correspondence regarding:

(A) the approval or denial of a reparations claim; or

(B) the payment of a reparations award;

(iii) a document submitted to the office in support of a reparations award;

(iv) a medical or mental health treatment plan; and

(v) an investigative report provided to the office by a law enforcement agency.

(8) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

(9) (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is:

(A) intended to cause bodily injury or death;

(B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or

(C) chargeable as an offense for driving under the influence of alcohol or drugs.

(b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

(10) (a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

(b) "Dependent" includes a child of the victim born after the victim's death.

(11) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

(12) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

(13) "Director" means the director of the office.

(14) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

(15) (a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

(b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

(c) "Economic loss" does not include noneconomic detriment.

(16) "Elderly victim" means an individual who is 60 years old or older and who is a victim.

(17) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

(18) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(19) (a) "Interpersonal violence" means an act involving violence, physical harm, or a threat of violence or physical harm, that is committed by an individual who is or has been in a domestic, dating, sexual, or intimate relationship with the victim.

(b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act described in Subsection (19)(a).

(20) "Law enforcement agency" means a public or private agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision of this state.

(21) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(22) (a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.

(b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

(23) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(24) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(25) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

(26) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

(27) "Nonpublic restitution record" means a restitution record that contains a claimant's medical or mental health information

(28) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

(29) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

(30) "Offense" means a violation of Title 76, Utah Criminal Code.

(31) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

(32) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

(33) "Public restitution record" means a restitution record that does not contain a claimant's medical or mental health information.

(34) (a) "Rape crisis and services center" means a nonprofit entity that assists victims of sexual assault and victims' families by offering sexual assault crisis intervention and counseling through a sexual assault counselor.

(b) "Rape crisis and services center" does not include a qualified institutional victim services provider as defined in Section 53B-28-201.

(35) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

(36) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

(37) (a) "Reparations officer" means an individual employed by the office to investigate a claimant's request for reparations and award reparations under this part.

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

(38) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

(39) (a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

(b) "Representative" does not include a service provider or collateral source.

(40) "Restitution" means the same as that term is defined in Section 77-38b-102.

(41) (a) "Restitution record" means a record documenting payments made to, or on behalf of, a claimant by the office that the office relies on to support a restitution request made in accordance with Section 77-38b-205.

(b) "Restitution record" includes:

(i) a notice of restitution;

(ii) an itemized list of payments;

(iii) an invoice, receipt, or bill submitted to the office for reimbursement; and

(iv) any documentation that the office relies on to establish a nexus between an offender's criminally injurious conduct and a reparations award made by the office.

(42) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(43) "Service provider" means an individual or agency who provides a service to a claimant for a monetary fee, except attorneys as provided in Section 63M-7-524.

(44) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

(45) (a) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(b) "Sexual assault" does not include criminal conduct described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-418, sexual battery;

(iii) Section 76-5-419, lewdness; or

(iv) Section 76-5-420, lewdness involving a child.

(46) "Sexual assault counselor" means an individual who:

(a) is employed by or volunteers at a rape crisis and services center;

(b) has a minimum of 40 hours of training in counseling and assisting victims of sexual assault; and

(c) is under the supervision of the director of a rape crisis and services center or the director's designee.

(47) "Strangulation" means any act involving the use of unlawful force or violence that:

(a) impedes breathing or the circulation of blood; and

(b) is likely to produce a loss of consciousness by:

(i) applying pressure to the neck or throat of an individual; or

(ii) obstructing the nose, mouth, or airway of an individual.

(48) "Substantial bodily injury" means the same as that term is defined in Section 76-1-101.5.

(49) (a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

(ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(50) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 128. Section 64-13-41 is amended to read:

64-13-41. Limitations on offender access to sexually explicit material.

(1) As used in this section:

(a) (i) "Commercially published information or material" means any book, booklet, pamphlet, magazine, periodical, newsletter, or similar document, including stationery and greeting cards, and video and audio tapes, disks, or other recording, that is distributed or made available through any means or media for a commercial purpose.

(ii) "Commercially published information or material" includes an extraction, photocopy, clipping, or electronically created copy made from any of the items under Subsection (1)(a)(i).

(b) (i) "Features nudity" means the information or material:

(A) that, in the case of a one-time publication or issue, promotes itself based upon depictions of nudity or sexually explicit conduct; or

(B) that, in the case of information or material other than under Subsection (1)(b)(i)(A), contains depictions of nudity or sexually explicit conduct on a routine or regular basis.

(ii) The department may by rule, pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exclude from the definition in Subsection (1)(b)(i) information or material containing nudity that is illustrative of medical, educational, or anthropological content.

(c) "Nudity" means a pictorial depiction where genitalia or female breasts are exposed.

(d) "Offender" means any person who has been convicted of a crime and is housed in a prison, jail, youth detention facility, or community correctional center.

(e) "Sexually explicit" means a pictorial depiction of actual or simulated sexual acts, including sexual intercourse, sodomy, or masturbation.

(f) "State funds" means state or local funding provided to the department, and includes legislative appropriations to the department, dedicated credits, grants, and money for jail reimbursement to county correctional facilities under Title 64, Chapter 13, Department of Corrections - State Prison, private providers, and contractors.

(2) State funds may not be used to distribute or make available any commercially published information or material to an offender when the state employee, contractor, or private provider who has the authority to expend the funds knows that the commercially published information or material is sexually explicit or features nudity.

(3) (a) When the department rejects commercially published information or material for distribution to an offender under this section, the department shall advise the publisher or sender that it may request reconsideration by the department of the decision to reject the material. However, the department need advise the publisher or sender only once in the case of information or material that on a routine or regular basis either depicts sexually explicit material or features nudity.

(b) The department shall make rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish an administrative reconsideration process.

(c) For purposes of extraordinary relief under Rule 65B, Utah Rules of Civil Procedure, this administrative reconsideration process is a plain, speedy, and adequate legal remedy that must be exhausted before extraordinary relief is available.

(d) There is no right to judicial review of the department's decision under this section to reject material for distribution.

(4) This section does not apply to sexually explicit material used under [~~Section 76-10-1207.5~~]Subsection 76-5c-110(1) for the assessment or treatment of an offender.

Section 129. Section 67-5-22.7 is amended to read:

67-5-22.7. Multi-agency strike force to combat violent and other major felony crimes associated with illegal immigration and human trafficking -- Fraudulent Documents Identification Unit.

(1) The Office of the Attorney General is authorized to administer and coordinate the operation of a multi-agency strike force to combat violent and other major felony crimes committed within the state that are associated with illegal immigration and human trafficking.

(2) The office shall invite officers of the U.S. Immigration and Customs Enforcement and state and local law enforcement personnel to participate in this mutually supportive, multi-agency strike force to more effectively utilize their combined skills, expertise, and resources.

(3) The strike force shall focus its efforts on detecting, investigating, deterring, and eradicating violent and other major felony criminal activity related to illegal immigration and human trafficking.

(4) In conjunction with the strike force and subject to available funding, the Office of the Attorney General shall establish a Fraudulent Documents Identification Unit:

(a) for the primary purpose of investigating, apprehending, and prosecuting individuals or entities that participate in the sale or distribution of fraudulent documents used for identification purposes;

(b) to specialize in fraudulent identification documents created and prepared for individuals who are unlawfully residing within the state; and

(c) to administer the Identity Theft Victims Restricted Account created under Subsection (5).

(5) (a) There is created a restricted account in the General Fund known as the "Identity Theft Victims Restricted Account."

(b) The Identity Theft Victims Restricted Account shall consist of money appropriated to the Identity Theft Victims Restricted Account by the Legislature.

(c) Subject to appropriations from the Legislature, beginning on the program start date, as defined in Section 63G-12-102, the Fraudulent Documents Identification Unit may expend the money in the Identity Theft Victims Restricted Account to pay a claim as provided in this Subsection (5) to a person who is a victim of identity theft prosecuted under Section 76-11-215 or76-6-1102[~~or 76-10-1801~~].

(d) To obtain payment from the Identity Theft Victims Restricted Account, a person shall file a claim with the Fraudulent Documents Identification Unit by no later than one year after the day on which an individual is convicted, pleads guilty to, pleads no contest to, pleads guilty in a similar manner to, or resolved by diversion or its equivalent an offense under Section 76-11-215 or 76-6-1102 [~~or 76-10-1801~~]for the theft of the identity of the person filing the claim.

(e) A claim filed under this Subsection (5) shall include evidence satisfactory to the Fraudulent Documents Identification Unit:

(i) that the person is the victim of identity theft described in Subsection (5)(d); and

(ii) of the actual damages experienced by the person as a result of the identity theft that are not recovered from a public or private source.

(f) The Fraudulent Documents Identification Unit shall pay a claim from the Identity Theft Victims Restricted Account:

(i) if the Fraudulent Documents Identification Unit determines that the person has provided sufficient evidence to meet the requirements of Subsection (5)(e);

(ii) in the order that claims are filed with the Fraudulent Documents Identification Unit; and

(iii) to the extent that it there is money in the Identity Theft Victims Restricted Account.

(g) If there is insufficient money in the Identity Theft Victims Restrict Account when a claim is filed under this Subsection (5) to pay the claim in full, the Fraudulent Documents Identification Unit may pay a claim when there is sufficient money in the account to pay the claim in the order that the claims are filed.

(6) The strike force shall make an annual report on its activities to the governor and the Legislature's Law Enforcement and Criminal Justice Interim Committee by December 1, together with any proposed recommendations for modifications to this section.

Section 130. Section 67-5-40, which is renumbered from Section 76-10-3114 is renumbered and amended to read:

[~~76-10-3114~~]67-5-40. Attorney General Litigation Fund.

(1) (a) There is created an expendable special revenue fund known as the Attorney General Litigation Fund for the purpose of providing funds to pay for:

(i) [~~any~~]costs and expenses incurred by the state attorney general in relation to actions under state or federal antitrust, criminal laws, or civil proceedings under Title 13, Chapter 44, Protection of Personal Information Act; and

(ii) citizen education and outreach related to any item described in Subsection (1)(a)(i).

(b) The funds described in Subsection (1)(a) are in addition to other funds as may be appropriated by the Legislature to the attorney general for the administration and enforcement of the laws of this state.

(c) At the close of any fiscal year, any balance in the fund in excess of $4,000,000 shall be transferred to the General Fund.

(d) The attorney general may expend money from the Attorney General Litigation Fund for the purposes in Subsection (1)(a).

(2) (a) All money received by the state or [~~its~~]the state's agencies by reason of [~~any~~]a judgment, settlement, or compromise as the result of [~~any~~]an action commenced, investigated, or prosecuted by the attorney general, after payment of any fines, restitution, payments, costs, or fees allocated by the court, shall be deposited [~~in~~]into the Attorney General Litigation Fund, except as provided in Subsection (2)(b).

(b) (i) Any expenses advanced by the attorney general in any of the actions under Subsection (1)(a) shall be credited to the Attorney General Litigation Fund.

(ii) Any money recovered by the attorney general on behalf of [~~any~~]a private person or public body other than the state shall be paid to those persons or bodies from funds remaining after payment of expenses under Subsection (2)(b)(i).

Section 131. Section 72-10-901 is amended to read:

72-10-901. Definitions.

As used in this part, "weapon" means:

(1) a firearm as that term is defined in Section [~~76-10-501~~]76-11-101; or

(2) an object that in the manner of the object's use or intended use is capable of causing death, bodily injury, or damage to property, as determined according to the following factors:

(a) the location and circumstances in which the object is used or possessed;

(b) the primary purpose for which the object is made;

(c) the character of the damage, if any, the object is likely to cause;

(d) the manner in which the object is used;

(e) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(f) the lawful purposes for which the object may be used.

Section 132. Section 73-2-27 is amended to read:

73-2-27. Criminal penalties.

(1) This section applies to offenses committed under:

(a) Section 73-1-14;

(b) Section 73-1-15;

(c) Section 73-2-20;

(d) Section 73-3-3;

(e) Section 73-3-26;

(f) Section 73-3-29;

(g) Section 73-5-9;

(h) Section [~~76-10-201~~]76-9-1202;

(i) Section [~~76-10-202~~]76-9-1203; and

(j) Section [~~76-10-203~~]76-9-1204.

(2) Under circumstances not amounting to an offense with a greater penalty under Subsection 76-6-106(2)(a)(ii), Section 76-6-106.3, or Section 76-6-404, violation of a provision listed in Subsection (1) is punishable:

(a) as a felony of the third degree if:

(i) the value of the water diverted or property damaged or taken is $2,500 or greater; and

(ii) the person violating the provision has previously been convicted of violating the same provision;

(b) as a class A misdemeanor if:

(i) the value of the water diverted or property damaged or taken is $2,500 or greater; or

(ii) the person violating the provision has previously been convicted of violating the same provision; or

(c) as a class B misdemeanor if Subsection (2)(a) or (b) does not apply.

Section 133. Section 73-29-102 is amended to read:

73-29-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Wildlife Resources.

(2) "Floating access" means the right to access public water flowing over private property for floating and fishing while floating upon the water.

(3) "Impounded wetlands" means a wetland or wetland pond that is formed or the level of which is controlled by a dike, berm, or headgate that retains or manages the flow or depth of water, including connecting channels.

(4) "Navigable water" means a water course that in its natural state without the aid of artificial means is useful for commerce and has a useful capacity as a public highway of transportation.

(5) "Private property to which access is restricted" means privately owned real property:

(a) that is cultivated land, as defined in Section 23A-5-317;

(b) that is:

(i) properly posted, as defined in Section 23A-5-317;

(ii) posted as described in Subsection 76-6-206(2)(b)(iii); or

(iii) posted as described in Subsection 76-6-206.3(2)(c);

(c) that is fenced or enclosed as described in:

(i) Subsection 76-6-206(2)(b)(ii); or

(ii) Subsection 76-6-206.3(2)(b); or

(d) that the owner or a person authorized to act on the owner's behalf has requested a person to leave as provided by:

(i) Section 23A-5-317;

(ii) Subsection 76-6-206(2)(b)(i); or

(iii) Subsection 76-6-206.3(2)(a).

(6) "Public access area" means the limited part of privately owned property that:

(a) lies beneath or within three feet of a public water or that is the most direct, least invasive, and closest means of portage around an obstruction in a public water; and

(b) is open to public recreational access under Section 73-29-203; and

(c) can be accessed from an adjoining public assess area or public right-of-way.

(7) "Public recreational access" means the right to engage in recreational access established in accordance with Section 73-29-203.

(8) (a) "Public water" means water:

(i) described in Section 73-1-1; and

(ii) flowing or collecting on the surface:

(A) within a natural or realigned channel; or

(B) in a natural lake, pond, or reservoir on a natural or realigned channel.

(b) "Public water" does not include water flowing or collecting:

(i) on impounded wetland;

(ii) on a migratory bird production area, as defined in Section 23A-13-101;

(iii) on private property in a manmade:

(A) irrigation canal;

(B) irrigation ditch; or

(C) impoundment or reservoir constructed outside of a natural or realigned channel; or

(iv) on a jurisdictional wetland described in 33 C.F.R. 328.3.

(9) (a) "Recreational access" means to use a public water and to touch a public access area incidental to the use of the public water for:

(i) floating;

(ii) fishing; or

(iii) waterfowl hunting conducted:

(A) in compliance with applicable law or rule, including Sections 23A-5-314, 73-29-203, and [~~76-10-508~~]76-11-207; and

(B) so that the individual who engages in the waterfowl hunting shoots a firearm only while within a public access area and no closer than 600 feet of any dwelling.

(b) "Recreational access" does not include:

(i) hunting, except as provided in Subsection (9)(a)(iii);

(ii) wading without engaging in activity described in Subsection (9)(a); or

(iii) any other activity.

Section 134. Section 76-1-301 is amended to read:

76-1-301. Offenses for which prosecution may be commenced at any time.

(1) As used in this section:

(a) "Aggravating offense" means any offense incident to which a homicide was committed as described in Subsection 76-5-202(2)(a)(iv) or (v) or Subsection 76-5-202(2)(b).

(b) "Predicate offense" means an offense described in Subsection 76-5-203(1)(a) if a person other than a party as defined in Section 76-2-202 was killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of the offense.

(2) Notwithstanding any other provisions of this code, prosecution for the following offenses may be commenced at any time:

(a) an offense classified as a capital felony under Section 76-3-103;

(b) aggravated murder under Section 76-5-202;

(c) murder under Section 76-5-203;

(d) manslaughter under Section 76-5-205;

(e) child abuse homicide under Section 76-5-208;

(f) aggravated kidnapping under Section 76-5-302;

(g) child kidnapping under Section 76-5-301.1;

(h) rape under Section 76-5-402;

(i) rape of a child under Section 76-5-402.1;

(j) object rape under Section 76-5-402.2;

(k) object rape of a child under Section 76-5-402.3;

(l) forcible sodomy under Section 76-5-403;

(m) sodomy on a child under Section 76-5-403.1;

(n) sexual abuse of a child under Section 76-5-404.1;

(o) aggravated sexual abuse of a child under Section 76-5-404.3;

(p) aggravated sexual assault under Section 76-5-405;

(q) any predicate offense to a murder or aggravating offense to an aggravated murder;

(r) aggravated human trafficking under Section 76-5-310;

(s) aggravated human smuggling under Section 76-5-310.1;

[~~(t) aggravated exploitation of prostitution involving a child under Section 76-10-1306; or~~]

[~~(u)~~](t) human trafficking of a child under Section 76-5-308.5[~~.~~]; or

(u) aggravated exploitation of prostitution involving a child under Section 76-5d-208.

Section 135. Section 76-2-304.5 is amended to read:

76-2-304.5. Mistake as to victim's age not a defense.

(1) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 14 years old or older at the time of the alleged offense or was unaware of the victim's true age:

(a) child kidnapping, Section 76-5-301.1;

(b) rape of a child, Section 76-5-402.1;

(c) object rape of a child, Section 76-5-402.3;

(d) sodomy on a child, Section 76-5-403.1;

(e) sexual abuse of a child, Section 76-5-404.1;

(f) aggravated sexual abuse of a child, Section 76-5-404.3;

(g) unlawful kissing of a child, Section 76-5-416.2; or

(h) an attempt to commit an offense listed in Subsections (1)(a) through (1)(g).

(2) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 16 years old or older at the time of the alleged offense or was unaware of the victim's true age:

(a) unlawful sexual activity with a minor, Section 76-5-401;

(b) sexual abuse of a minor, Section 76-5-401.1; or

(c) an attempt to commit an offense listed in Subsection (2)(a) or (2)(b).

(3) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 18 years old or older at the time of the alleged offense or was unaware of the victim's true age:

(a) human trafficking of a child, Section 76-5-308.5;

(b) aggravated human trafficking, Section 76-5-310;

(c) aggravated human smuggling, Section 76-5-310.1;

(d) unlawful sexual conduct with a minor, Subsection 76-5-401.2(2)(a)(ii);

(e) patronizing a [~~prostitute~~]child involved in prostitution, Section [~~76-10-1303~~]76-5d-204;

(f) aggravated exploitation of prostitution, Section [~~76-10-1306~~]76-5d-208; or

(g) sexual solicitation of a child, Section [~~76-10-1313~~]76-5d-210.

Section 136. Section 76-2-306 is amended to read:

76-2-306. Voluntary intoxication.

(1) Voluntary intoxication is not a defense to a criminal charge unless such intoxication negates the existence of the mental state which is an element of the offense. If recklessness or criminal negligence establishes an element of an offense and the actor is unaware of the risk because of voluntary intoxication, his unawareness is immaterial in a prosecution for that offense.

(2) Voluntary intoxication is not a defense to sexual offenses, as [~~defined~~]described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

Section 137. Section 76-3-203.1 is amended to read:

76-3-203.1. Offenses committed in concert with three or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.

(1) As used in this section:

(a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(b) "In concert with three or more persons" means:

(i) the defendant was aided or encouraged by at least three other persons in committing the offense and was aware of this aid or encouragement; and

(ii) each of the other persons:

(A) was physically present; and

(B) participated as a party to any offense listed in Subsection (4), (5), or (6).

(c) "In concert with three or more persons" means, regarding intent:

(i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(2) A person who commits any offense in accordance with this section is subject to an enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a reasonable doubt that the person acted:

(a) in concert with three or more persons;

(b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802.

(3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor; and

(ii) for a class A misdemeanor, as a third degree felony.

(b) The following offenses are subject to Subsection (4)(a):

(i) criminal mischief as described in Section 76-6-106;

(ii) property damage or destruction as described in Section 76-6-106.1; and

(iii) defacement by graffiti as described in Section 76-6-107.

(5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony; and

(iii) for a third degree felony, as a second degree felony.

(b) The following offenses are subject to Subsection (5)(a):

(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);

(ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(iii) tampering with a witness under Section 76-8-508;

(iv) retaliation against a witness, victim, or informant, or other violation of Section 76-8-508.3;

(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(vi) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;

(vii) any weapons offense under [~~Chapter 10, Part 5, Weapons~~]Chapter 11, Weapons; and

(viii) any violation of [~~Chapter 10, Part 16, Pattern of Unlawful Activity Act~~]Chapter 17, Part 4, Offenses Concerning Patterns of Unlawful Activity.

(6) (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony;

(iii) for a third degree felony, as a second degree felony; and

(iv) for a second degree felony, as a first degree felony.

(b) The following offenses are subject to Subsection (6)(a):

(i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;

(ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;

(iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses, other than enticing a minor under Section 76-5-417, lewdness under Section 76-5-419, or lewdness involving a child under Section 76-5-420;

(v) sexual exploitation of a minor as defined in Section 76-5b-201;

(vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;

(vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and

(viii) aggravated exploitation of prostitution under Section [~~76-10-1306~~]76-5d-208.

(7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed on probation for the higher level of offense.

(8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

Section 138. Section 76-3-203.3 is amended to read:

76-3-203.3. Penalty for hate crimes -- Civil rights violation.

As used in this section:

(1) "Primary offense" means those offenses provided in Subsection (4).

(2) (a) A person who commits any primary offense with the intent to intimidate or terrorize another person or with reason to believe that his action would intimidate or terrorize that person is subject to Subsection (2)(b).

(b) (i) A class C misdemeanor primary offense is a class B misdemeanor; and

(ii) a class B misdemeanor primary offense is a class A misdemeanor.

(3) "Intimidate or terrorize" means an act which causes the person to fear for his physical safety or damages the property of that person or another. The act must be accompanied with the intent to cause or has the effect of causing a person to reasonably fear to freely exercise or enjoy any right secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

(4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

(a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107, and 76-5-108;

(b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104, and Subsection 76-6-106(2)(a);

(c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

(d) any misdemeanor theft offense under Chapter 6, Offenses Against Property;

(e) any offense of obstructing government operations under Sections 76-8-301, 76-8-301.2, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, 76-8-309.2, and 76-8-313;

(f) any offense of interfering or intending to interfere with activities of colleges and universities under Title 76, Chapter 8, Part 7, Colleges and Universities;

(g) any misdemeanor offense against public order and decency as defined in Title 76, Chapter 9, Part 1, Breaches of the Peace and Related Offenses, other than Section 76-9-105.5, 76-9-105.6, 76-9-110, 76-9-111, 76-9-112, 76-9-113, or 76-9-114;

(h) any telephone abuse offense under [~~Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse~~]Sections 76-12-202, 76-12-203, 76-12-204, and 76-12-206;

(i) any cruelty to animals offense under [~~Section 76-9-301~~]Sections 76-13-202, 76-13-203, and 76-13-204;

(j) any weapons offense under Section [~~76-10-506~~]76-11-205; or

(k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

(5) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

Section 139. Section 76-3-203.5 is amended to read:

76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:

(A) arson as described in Section 76-6-102;

(B) causing a catastrophe as described in Subsection 76-6-105(3)(a) or (3)(b);

(C) criminal mischief as described in Section 76-6-106;

(D) aggravated arson as described in Section 76-6-103;

(E) assault by prisoner as described in Section 76-5-102.5;

(F) disarming a police officer as described in Section 76-5-102.8;

(G) aggravated assault as described in Section 76-5-103;

(H) aggravated assault by prisoner as described in Section 76-5-103.5;

(I) mayhem as described in Section 76-5-105;

(J) stalking as described in Subsection 76-5-106.5(2);

(K) threat of terrorism as described in Section 76-5-107.3;

(L) aggravated child abuse as described in Subsection 76-5-109.2(3)(a) or (b);

(M) commission of domestic violence in the presence of a child as described in Section 76-5-114;

(N) abuse or neglect of a child with a disability as described in Section 76-5-110;

(O) abuse or exploitation of a vulnerable adult as described in Section 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;

(P) endangerment of a child or vulnerable adult as described in Section 76-5-112.5;

(Q) an offense described in Chapter 5, Part 2, Criminal Homicide;

(R) kidnapping as described in Section 76-5-301;

(S) child kidnapping as described in Section 76-5-301.1;

(T) aggravated kidnapping as described in Section 76-5-302;

(U) rape as described in Section 76-5-402;

(V) rape of a child as described in Section 76-5-402.1;

(W) object rape as described in Section 76-5-402.2;

(X) object rape of a child as described in Section 76-5-402.3;

(Y) forcible sodomy as described in Section 76-5-403;

(Z) sodomy on a child as described in Section 76-5-403.1;

(AA) forcible sexual abuse as described in Section 76-5-404;

(BB) sexual abuse of a child as described in Section 76-5-404.1;

(CC) aggravated sexual abuse of a child as described in Section 76-5-404.3;

(DD) aggravated sexual assault as described in Section 76-5-405;

(EE) sexual exploitation of a minor as described in Section 76-5b-201;

(FF) aggravated sexual exploitation of a minor as described in Section 76-5b-201.1;

(GG) sexual exploitation of a vulnerable adult as described in Section 76-5b-202;

(HH) aggravated exploitation of prostitution as described in Subsection 76-5d-208(2)(a);

[~~(HH)~~](II) burglary as described in Subsection 76-6-202(3)(b);

[~~(II)~~](JJ) aggravated burglary as described in Section 76-6-203;

[~~(JJ)~~](KK) robbery as described in Section 76-6-301;

[~~(KK)~~](LL) aggravated robbery as described in Section 76-6-302;

[~~(LL)~~](MM) theft by extortion as described in Subsection 76-6-406(1)(a)(i) or (1)(a)(ii);

[~~(MM)~~](NN) tampering with a witness as described in Section 76-8-508;

[~~(NN)~~](OO) retaliation against a witness, victim, or informant as described in Section 76-8-508.3;

[~~(OO)~~](PP) tampering or retaliating against a juror as described in Subsection 76-8-508.5(2)(a)(iii);

[~~(PP)~~](QQ) extortion to dismiss a criminal proceeding as described in Subsection 76-6-406(1)(a)(i), (ii), or (ix);

[~~(QQ) possession, use, or removal of explosive, chemical, or incendiary devices as described in Subsections 76-10-306(3) through (6);~~]

(RR) bus hijacking as described in Section 76-9-1502;

(SS) assault with intent to commit bus hijacking as described in Section 76-9-1503;

(TT) purchase or possession of a dangerous weapon or handgun by a restricted person as described in Section 76-11-302;

[~~(RR)~~](UU) unlawful delivery of explosive, chemical, or incendiary devices as described in Section [~~76-10-307~~]76-15-209;

(VV) unlawful conduct involving an explosive, chemical, or incendiary device as described in Section 76-15-210;

(WW) unlawful conduct involving an explosive, chemical, or incendiary part as described in Section 76-15-211; and

[~~(SS) purchase or possession of a dangerous weapon or handgun by a restricted person as described in Section 76-10-503;~~]

[~~(TT) aggravated exploitation of prostitution as described in Subsection 76-10-1306(1)(a);~~]

[~~(UU) bus hijacking as described in Section 76-10-1504; and~~]

[~~(VV)~~](XX) [~~discharging firearms and hurling missiles~~]unlawful discharge of a firearm or hurling of a missile into a bus or terminal as described in Section [~~76-10-1505~~]76-9-1504; or

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c) (i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) (i) Notwithstanding Subsection (5)(a) [~~,~~]and except as provided in Subsection (5)(b)(ii), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(ii) The "violent felony" offense defined in Subsection (1)(c) does not include any felony sexual offense violation of:

(A) enticing a minor, Section 76-5-417;

(B) lewdness, Section 76-5-419; or

(C) lewdness involving a child, Section 76-5-420.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 140. Section 76-3-203.12 is amended to read:

76-3-203.12. Enhanced penalty for sexual offenses committed by a person with human immunodeficiency virus, acquired immunodeficiency virus, hepatitis B, or hepatitis C.

(1) As used in this section:

(a) "Sexual offense" means an offense described in Chapter 5, Part 4, Sexual Offenses.

(b) "Sexual offense" does not include:

(i) enticing a minor, as described in Section 76-5-417;

(ii) sexual battery, as described in Section 76-5-418;

(iii) lewdness, as described in Section 76-5-419; or

(iv) lewdness involving a child, as described in Section 76-5-420.

[~~(1)~~](2) A person convicted of a sexual offense [~~described in Chapter 5, Part 4, Sexual Offenses,~~]is subject to an enhanced penalty if at the time of the sexual offense the person was infected with [~~Human Immunodeficiency Virus, Acquired Immunodeficiency Virus~~]human immunodeficiency virus, acquired immunodeficiency virus, hepatitis B, or hepatitis C and the person knew of the infection.

[~~(2)~~](3) (a) Except as provided in Subsection [~~(2)(b)~~](3)(b), the enhancement of a penalty described in Subsection [~~(1)~~](2) shall be an enhancement of one classification higher than the root offense for which the person was convicted.

(b) A felony of the first degree is not enhanced under this section.

Section 141. Section 76-3-209 is amended to read:

76-3-209. Limitation on sentencing for crimes committed by juveniles.

[~~(1) As used in this section, "qualifying sexual offense" means:~~]

[~~(a) an offense described in Chapter 5, Part 4, Sexual Offenses;~~]

[~~(b) Section 76-9-702, lewdness;~~]

[~~(c) Section 76-9-702.1, sexual battery; or~~]

[~~(d) Section 76-9-702.5, lewdness involving a child.~~]

(1) As used in this section:

(a) "Qualifying sexual offense" means an offense described in Chapter 5, Part 4, Sexual Offenses.

(b) "Qualifying sexual offense" does not include enticing a minor as described in Section 76-5-417.

(2) (a) This Subsection (2) only applies prospectively to an individual sentenced on or after May 10, 2016.

(b) Notwithstanding any provision of law, an individual may not be sentenced to life without parole if:

(i) the individual is convicted of a crime punishable by life without parole; and

(ii) at the time the individual committed the crime, the individual was under 18 years old.

(c) The maximum punishment that may be imposed on an individual described in Subsection (2)(b) is an indeterminate prison term of not less than 25 years and that may be for life.

(3) Except as provided in Subsection (4), if an individual is convicted in district court of a qualifying sexual offense and, at the time of the offense, the individual was at least 14 years old, but under 18 years old:

(a) the district court shall impose a sentence consistent with the disposition that would have been made in juvenile court; and

(b) the district court may not impose incarceration unless the court enters specific written findings that incarceration is warranted based on a totality of the circumstances, taking into account:

(i) the time that elapsed after the individual committed the offense;

(ii) the age of the individual at the time of the offense;

(iii) the age of the victim at the time of the offense;

(iv) the criminal history of the individual after the individual committed the offense;

(v) any treatment assessments or validated risk tools; and

(vi) public safety concerns.

(4) Subsection (3) does not apply if:

(a) before the individual described in Subsection (3) is convicted of the qualifying sexual offense, the individual is convicted of a qualifying sexual offense that the individual committed when the individual was 18 years old or older;

(b) the individual is convicted in district court, before the victim is 18 years old, of a violation of Section 76-5-405, aggravated sexual assault; or

(c) the conviction occurred in district court after the individual was:

(i) charged by criminal information in the juvenile court for the qualifying sexual offense in accordance with Section 80-6-503; and

(ii) bound over to the district court for the qualifying sexual offense in accordance with Section 80-6-504.

(5) If the district court imposes incarceration under Subsection (3)(b), the term of incarceration may not exceed:

(a) seven years for a violation of Section 76-5-405, aggravated sexual assault;

(b) except as provided in Subsection (5)(a), four years for a felony violation of Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-419, or 76-5-420; or

(c) the maximum sentence described in Section 76-3-204 for [~~:~~]

[~~(i)~~] a misdemeanor violation of Chapter 5, Part 4, Sexual Offenses[~~;~~], other than Section 76-5-417.

[~~(ii) a violation of Section 76-9-702, lewdness;~~]

[~~(iii) a violation of Section 76-9-702.1, sexual battery; or~~]

[~~(iv) a violation of Section 76-9-702.5, lewdness involving a child.~~]

Section 142. Section 76-3-402 is amended to read:

76-3-402. Conviction of lower degree of offense -- Procedure and limitations.

(1) As used in this section:

(a) "Lower degree of offense" includes an offense for which:

(i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

(ii) the court removes the statutory enhancement in accordance with this section.

(b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

(c) (i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

(ii) "Rehabilitation program" includes:

(A) a domestic violence treatment program, as that term is defined in Section 26B-2-101;

(B) a residential, vocational, and life skills program, as that term is defined in Section 13-53-102;

(C) a substance abuse treatment program, as that term is defined in Section 26B-2-101;

(D) a substance use disorder treatment program, as that term is defined in Section 26B-2-101;

(E) a youth program, as that term is defined in Section 26B-2-101;

(F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;

(G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or

(H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).

(d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.

(e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

(f) (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.

(ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:

[~~(A) the possession, use, or removal of explosive, chemical, or incendiary devices under Subsection 76-10-306(3), (5), or (6); or~~]

[~~(B)~~](A) the purchase or possession of a dangerous weapon or handgun by a restricted person under Section [~~76-10-503.~~]76-11-302;

(B) unlawful conduct involving an explosive, chemical, or incendiary device under Subsection 76-15-210(2)(a); or

(C) unlawful conduct involving an explosive, chemical, or incendiary part under Section 76-15-211.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

(3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:

(a) after the defendant is successfully discharged from probation or parole for the conviction; and

(b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;

(b) (i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or

(ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (4)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;

(b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (5)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;

(b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);

(c) there are no criminal proceedings pending against the defendant;

(d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(f) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):

(a) the court shall consider:

(i) the nature, circumstances, and severity of the offense for which a reduction is sought;

(ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and

(iii) any input from a victim of the offense; and

(b) the court may consider:

(i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;

(ii) the defendant's criminal history;

(iii) the defendant's employment and community service history;

(iv) whether the defendant participated in a rehabilitative program and successfully completed the program;

(v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;

(vi) whether the level of the offense has been reduced by law after the defendant's conviction;

(vii) any potential impact that the reduction would have on public safety; or

(viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.

(8) (a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) after:

(i) notice is provided to the other party;

(ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

(iii) a hearing is held if a hearing is requested by either party.

(b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).

(c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.

(d) If a defendant files a motion under this section, the prosecuting attorney shall respond to the motion within 35 days after the day on which the motion is filed with the court.

(9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.

(10) (a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) An offense may not be reduced under this section by more than two degrees.

(11) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with Title 44, Chapter 40A, Expungement of Criminal Records.

(12) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:

(a) the reduction is specifically precluded by law; or

(b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.

(13) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

(14) (a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender, kidnap offender, or child abuse offender until the registration requirements under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, have expired.

(b) An individual required to register as a sex offender, kidnap offender, or child abuse offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to

register as a sex offender, kidnap offender, or child abuse offender.

Section 143. Section 76-3-407 is amended to read:

76-3-407. Repeat and habitual sex offenders -- Additional prison term for prior felony convictions.

(1) As used in this section:

(a) (i) "Prior sexual offense" means:

[~~(i)~~](A) a felony offense described in Chapter 5, Part 4, Sexual Offenses;

[~~(ii)~~](B) sexual exploitation of a minor, Section 76-5b-201;

[~~(iii)~~](C) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

[~~(iv) a felony offense of enticing a minor, Section 76-4-401;~~]

[~~(v)~~](D) a felony attempt to commit an offense described in Subsections [~~(1)(a)(i)through (iv)~~](1)(a)(i)(A) through (C); or

[~~(vi)~~](E) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections [~~(1)(a)(i) through (v)~~](1)(a)(i)(A) through (D).

(ii) "Prior sexual offense" does not include:

(A) lewdness, as described in Section 76-5-419; or

(B) lewdness involving a child, as described in Section 76-5-420.

(b) (i) "Sexual offense" means:

[~~(i)~~](A) an offense that is a felony of the second or third degree, or an attempted offense, which attempt is a felony of the second or third degree, described in Chapter 5, Part 4, Sexual Offenses;

[~~(ii)~~](B) sexual exploitation of a minor, Section 76-5b-201;

[~~(iii)~~](C) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

[~~(iv) a felony offense of enticing a minor, Section 76-4-401;~~]

[~~(v)~~](D) a felony attempt to commit an offense described in Subsections [~~(1)(b)(ii)through (iv);~~](1)(b)(i)(B) and (C); or

[~~(vi)~~](E) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections [~~(1)(b)(i) through (v).~~](1)(b)(i)(A) through (D).

(ii) "Sexual offense" does not include:

(A) lewdness, as described in Section 76-5-419; or

(B) lewdness involving a child, as described in Section 76-5-420.

(2) Notwithstanding any other provision of law, the maximum penalty for a sexual offense is increased by five years for each conviction of the defendant for a prior sexual offense that arose from a separate criminal episode, if the trier of fact finds that:

(a) the defendant was convicted of a prior sexual offense; and

(b) the defendant was convicted of the prior sexual offense described in Subsection (2)(a)before the defendant was convicted of the sexual offense for which the defendant is being sentenced.

(3) The increased maximum term described in Subsection (2) shall be in addition to, and consecutive to, any other prison term served by the defendant.

Section 144. Section 76-4-102 is amended to read:

76-4-102. Attempt -- Classification of offenses.

(1) Criminal attempt to commit:

(a) (i) a capital felony, or a felony punishable by imprisonment for life without parole, is a first degree felony;

(ii) except as provided in Subsection (2), an attempt to commit aggravated murder, Section 76-5-202, which results in serious bodily injury, is punishable by imprisonment for an indeterminate term of not fewer than 15 years and which may be for life;

(b) except as provided in Subsection (1)(c) or (d), a first degree felony is a second degree felony;

(c) any of the following offenses is a first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life:

(i) murder, Subsection 76-5-203(2)(a);

(ii) child kidnapping, Section 76-5-301.1; or

(iii) except as provided in Subsection (1)(d), any of the felonies described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, that are first degree felonies;

(d) except as provided in Subsection (3), any of the following offenses is a first degree felony, punishable by a term of imprisonment of not less than 15 years and which may be for life:

(i) rape of a child, Section 76-5-402.1;

(ii) object rape of a child, Section 76-5-402.3; or

(iii) sodomy on a child, Section 76-5-403.1;

(e) a second degree felony is a third degree felony;

(f) a third degree felony is a class A misdemeanor;

(g) a class A misdemeanor is a class B misdemeanor;

(h) a class B misdemeanor is a class C misdemeanor; and

(i) a class C misdemeanor is punishable by a penalty not exceeding one half the penalty for a class C misdemeanor.

(2) If, when imposing a sentence under Subsection (1)(a)(ii), a court finds that a lesser term than the term described in Subsection (1)(a)(ii) is in the interests of justice and the court states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life; or

(b) six years and which may be for life.

(3) If, when imposing a sentence under Subsection (1)(d), a court finds that a lesser term than the term described in Subsection (1)(d) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life;

(b) six years and which may be for life; or

(c) three years and which may be for life.

Section 145. Section 76-4-202 is amended to read:

76-4-202. Conspiracy -- Classification of offenses.

Conspiracy to commit:

(1) a capital felony is a first degree felony;

(2) a first degree felony is a second degree felony [~~;~~], except that conspiracy to commit child kidnaping, in violation of Section 76-5-301.1 or to commit any of those felonies described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, which are first degree felonies, is a first degree felony punishable by imprisonment for an indeterminate term of not less than three years and which may be for life;

(3) a second degree felony is a third degree felony;

(4) a third degree felony is a class A misdemeanor;

(5) a class A misdemeanor is a class B misdemeanor;

(6) a class B misdemeanor is a class C misdemeanor;

(7) A class C misdemeanor is punishable by a penalty not exceeding one half the penalty for a class C misdemeanor.

Section 146. Section 76-4-203 is amended to read:

76-4-203. Criminal solicitation of an adult.

(1) (a) As used in this section:

(i) "Adult" means an individual who is 18 years old or older.

(ii) "Solicit" means to ask, command, encourage, importune, offer to hire, or request.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits criminal solicitation of an adult if, with the intent that a felony offense be committed, the actor solicits an adult to engage in specific conduct that, under the circumstances as the actor believes the circumstances to be, would be a felony offense or would cause the adult to be a party to the commission of a felony offense.

(3) A violation of Subsection (2) where the actor solicits the adult to commit:

(a) a capital felony, or a felony punishable by imprisonment for life without parole, is a first degree felony;

(b) except as provided in Subsection (3)(c) or (d), a first degree felony is a second degree felony;

(c) any of the following felony offenses is a first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life:

(i) murder, as described in Subsection 76-5-203(2)(a);

(ii) child kidnapping, as described in Section 76-5-301.1; or

(iii) except as provided in Subsection (3)(d), an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, that is a first degree felony;

(d) except as provided in Subsection (4), any of the following felony offenses is a first degree felony punishable by a term of imprisonment of not less than 15 years and which may be for life:

(i) rape of a child, Section 76-5-402.1;

(ii) object rape of a child, Section 76-5-402.3; or

(iii) sodomy on a child, Section 76-5-403.1;

(e) a second degree felony is a third degree felony; and

(f) a third degree felony is a class A misdemeanor.

(4) If a court finds that a lesser term than the term described in Subsection (3)(d) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life;

(b) six years and which may be for life; or

(c) three years and which may be for life.

(5) An actor may be convicted under this section only if the solicitation is made under circumstances strongly corroborative of the actor's intent that the offense be committed.

(6) It is not a defense to a violation of this section that:

(a) the adult solicited by the actor:

(i) does not agree to act upon the solicitation;

(ii) does not commit an overt act;

(iii) does not engage in conduct constituting a substantial step toward the commission of any offense;

(iv) is not criminally responsible for the felony offense solicited;

(v) was acquitted, was not prosecuted or convicted, or was convicted of a different offense or of a different type or degree of offense; or

(vi) is immune from prosecution; or

(b) the actor:

(i) belongs to a class of persons that by definition is legally incapable of committing the offense in an individual capacity; or

(ii) fails to communicate with the adult that the actor solicits to commit an offense if the intent of the actor's conduct was to effect the communication.

(7) Nothing in this section prevents an actor who otherwise solicits an adult to engage, or intentionally aids an adult in engaging, in conduct that constitutes an offense from being prosecuted and convicted as a party to the offense under Section 76-2-202 if the adult actually commits the offense.

Section 147. Section 76-5-102.8 is amended to read:

76-5-102.8. Disarming a peace officer -- Penalties.

(1) (a) As used in this section:

(i) "Conductive energy device" means a weapon that uses electrical current to disrupt voluntary control of muscles.

(ii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits disarming a peace officer if the actor intentionally takes or removes, or attempts to take or remove a firearm or a conductive energy device from an individual or immediate presence of an individual who the actor knows is a peace officer:

(a) without the consent of the peace officer; and

(b) while the peace officer is acting within the scope of the peace officer's authority as a peace officer.

(3) (a) A violation of Subsection (2) regarding a firearm is a first degree felony.

(b) A violation of Subsection (2) regarding a conductive energy device is a third degree felony.

Section 148. Section 76-5-104 is amended to read:

76-5-104. Consensual altercation.

(1) As used in this section, "ultimate fighting match" means the same as that term is defined in Section [~~76-9-705~~]76-9-112.

(2) In any prosecution for criminal homicide under Part 2, Criminal Homicide, or assault as that offense is described in Section 76-5-102, it is no defense to the prosecution that the defendant was a party to any duel, mutual combat, or other consensual altercation if during the course of the duel, combat, or altercation:

(a) any dangerous weapon was used; or

(b) the defendant was engaged in an ultimate fighting match.

Section 149. Section 76-5-106.5 is amended to read:

76-5-106.5. Stalking -- Definitions -- Injunction -- Penalties -- Duties of law enforcement officer.

(1) (a) As used in this section:

(i) "Course of conduct" means two or more acts directed at or toward a specific individual, including:

(A) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property:

(I) directly, indirectly, or through any third party; and

(II) by any action, method, device, or means; or

(B) when the actor engages in any of the following acts or causes someone else to engage in any of these acts:

(I) approaches or confronts an individual;

(II) appears at the individual's workplace or contacts the individual's employer or coworker;

(III) appears at an individual's residence or contacts an individual's neighbor, or enters property owned, leased, or occupied by an individual;

(IV) sends material by any means to the individual or for the purpose of obtaining or disseminating information about or communicating with the individual to a member of the individual's family or household, employer, coworker, friend, or associate of the individual;

(V) places an object on or delivers an object to property owned, leased, or occupied by an individual, or to the individual's place of employment with the intent that the object be delivered to the individual; or

(VI) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.

(ii) (A) "Emotional distress" means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required.

(B) "Emotional distress" includes significant mental or psychological suffering resulting from harm to an animal.

(iii) "Immediate family" means a spouse, parent, child, sibling, or any other individual who regularly resides in the household or who regularly resided in the household within the prior six months.

(iv) "Private investigator" means the same as that term is defined in Section [~~76-9-408~~]76-12-305.

(v) "Reasonable person" means a reasonable person in the victim's circumstances.

(vi) "Stalking" means an offense as described in Subsection (2).

(vii) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone or computer to another individual's telephone or computer by addressing the communication to the recipient's telephone number.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits stalking if the actor intentionally or knowingly:

(a) engages in a course of conduct directed at a specific individual and knows or is reckless as to whether the course of conduct would cause a reasonable person:

(i) to fear for the individual's own safety or the safety of a third individual; or

(ii) to suffer other emotional distress; or

(b) violates:

(i) a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions; or

(ii) a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

(3) (a) A violation of Subsection (2) is a class A misdemeanor:

(i) upon the actor's first violation of Subsection (2); or

(ii) if the actor violated a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor:

(i) has been previously convicted of an offense of stalking;

(ii) has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;

(iii) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking offense or a member of the victim's immediate family was also a victim of the previous felony offense;

(iv) violated a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions; or

(v) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the victim.

(c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second degree felony if the actor:

(i) used a dangerous weapon or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;

(ii) has been previously convicted two or more times of the offense of stalking;

(iii) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;

(iv) has been convicted two or more times, in any combination, of offenses under Subsection (3)(b)(i), (ii), or (iii);

(v) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses; or

(vi) has been previously convicted of an offense under Subsection (3)(b)(iv) or (v).

(4) In a prosecution under this section, it is not a defense that the actor:

(a) was not given actual notice that the course of conduct was unwanted; or

(b) did not intend to cause the victim fear or other emotional distress.

(5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.

(6) (a) Except as provided in Subsection (6)(b), an actor does not violate this section if the actor is acting:

(i) in the actor's official capacity as a law enforcement officer, governmental investigator, or private investigator; and

(ii) for a legitimate official or business purpose.

(b) A private investigator is not exempt from this section if the private investigator engages in conduct that would constitute a ground for disciplinary action under Section 53-9-118.

(7) (a) A permanent criminal stalking injunction limiting the contact between the actor and victim may be filed in accordance with Section 78B-7-902.

(b) This section does not preclude the filing of criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

(8) (a) A law enforcement officer who responds to an allegation of stalking shall use all reasonable means to protect the victim and prevent further violence, including:

(i) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(ii) confiscating the weapon or weapons involved in the alleged stalking;

(iii) making arrangements for the victim and any child to obtain emergency housing or shelter;

(iv) providing protection while the victim removes essential personal effects;

(v) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(vi) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of stalking, in accordance with Subsection (8)(b).

(b) (i) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this section and Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(ii) The written notice shall also include:

(A) a statement that the forms needed in order to obtain a stalking injunction are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(B) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

(c) If a weapon is confiscated under this Subsection (8), the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a stalking injunction is not issued or once the stalking injunction is terminated.

Section 150. Section 76-5-107 is amended to read:

76-5-107. Threat of violence.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits a threat of violence if the actor:

(a) (i) threatens to commit an offense:

(A) under Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or

(B) involving bodily injury, death, or substantial property damage; and

(ii) acts with intent to place an individual in fear:

(A) that the actor will imminently commit an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, against the individual; or

(B) of imminent serious bodily injury, substantial bodily injury, or death; or

(b) makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to an individual.

(3) (a) A violation of Subsection (2) is a class B misdemeanor.

(b) An actor who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.

(4) It is not a defense under this section that the actor did not attempt to or was incapable of carrying out the threat.

(5) A threat under Subsection (2) may be express or implied.

Section 151. Section 76-5-107.1 is amended to read:

76-5-107.1. Threats against schools.

(1) (a) As used in this section:

(i) "Hoax weapon of mass destruction" means the same as that term is defined in Section [~~76-10-401~~]76-15-301.

(ii) "School" means a preschool or a public or private elementary or secondary school.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor is guilty of making a threat against a school if the actor threatens, with real intent or as an intentional hoax, to commit an offense involving bodily injury, death, or substantial property damage and the actor:

(a) threatens the use of a firearm or weapon or hoax weapon of mass destruction;

(b) acts with intent to:

(i) disrupt the regular schedule of the school or influence or affect the conduct of students, employees, or the general public at the school;

(ii) prevent or interrupt the occupancy of the school or a portion of the school, or a facility or vehicle used by the school; or

(iii) intimidate or coerce students or employees of the school; or

(c) causes an official or volunteer agency organized to deal with emergencies to take action due to the risk to the school or general public.

(3) (a) (i) A violation of Subsection (2)(a), (b)(i), or (b)(iii) is a third degree felony.

(ii) A violation of Subsection (2)(b)(ii) is a class A misdemeanor.

(iii) A violation of Subsection (2)(c) is a class B misdemeanor.

(b) (i) In addition to another penalty authorized by law, a court shall order an actor convicted under this section to pay restitution to a federal, state, or local unit of government, or a private business, organization, individual, or entity for expenses and losses incurred in responding to the threat, unless the court states on the record the reasons why the reimbursement would be inappropriate.

(ii) Restitution ordered in the case of a minor adjudicated for a violation of this section shall be determined in accordance with Section 80-6-710.

(4) It is not a defense to this section that the actor did not attempt to carry out the threat or was incapable of carrying out the threat.

(5) A violation of this section shall be reported to the local law enforcement agency.

(6) Counseling for a minor alleged to have violated this section and the minor's family may be made available through state and local health department programs.

Section 152. Section 76-5-107.3 is amended to read:

76-5-107.3. Threat of terrorism -- Penalty.

(1) (a) As used in this section:

(i) "Hoax weapon of mass destruction" means the same as that term is defined in Section [~~76-10-401~~]76-15-301.

(ii) "Weapon of mass destruction" means the same as that term is defined in Section [~~76-10-401~~]76-15-301.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits a threat of terrorism if the actor threatens to commit an offense involving bodily injury, death, or substantial property damage and the actor:

(i) (A) threatens the use of a weapon of mass destruction; or

(B) threatens the use of a hoax weapon of mass destruction; or

(ii) acts with intent to:

(A) intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government;

(B) prevent or interrupt the occupation of a building or a portion of the building, a place to which the public has access, or a facility or vehicle of public transportation operated by a common carrier; or

(C) cause an official or volunteer agency organized to deal with emergencies to take action due to the actor's conduct posing a serious and substantial risk to the general public.

(b) A threat under this section may be express or implied.

(3) (a) (i) A violation of Subsection (2)(a)(i) or (2)(a)(ii)(A) is a second degree felony.

(ii) A violation of Subsection (2)(a)(ii)(B) is a third degree felony.

(iii) A violation of Subsection (2)(a)(ii)(C) is a class B misdemeanor.

(b) An actor who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.

(c) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

(4) It is not a defense under this section that the actor did not attempt to carry out or was incapable of carrying out the threat.

Section 153. Section 76-5-109.3 is amended to read:

76-5-109.3. Child abandonment.

(1) (a) As used in this section:

(i) "Child" means the same as that term is defined in Section 76-5-109.

(ii) "Enterprise" means the same as that term is defined in Section [~~76-10-1602~~]76-17-401.

(iii) "Serious physical injury" means the same as that term is defined in Section 76-5-109.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Except as provided in Subsection (4), an actor commits child abandonment if the actor:

(i) is a parent or legal guardian of a child, and:

(A) intentionally ceases to maintain physical custody of the child;

(B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and

(C) (I) intentionally fails to provide the child with food, shelter, or clothing;

(II) manifests an intent to permanently not resume physical custody of the child; or

(III) for a period of at least 30 days, intentionally fails to resume physical custody of the child and fails to manifest a genuine intent to resume physical custody of the child; or

(ii) encourages or causes the parent or legal guardian of a child to violate Subsection (2)(a)(i).

(b) Except as provided in Subsection (4), an enterprise commits child abandonment if the enterprise encourages, commands, induces by misrepresentation, or causes another to violate Subsection (2)(a).

(3) (a) (i) A violation of Subsection (2) is a third degree felony.

(ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second degree felony if, as a result of the child abandonment:

(A) the child suffers a serious physical injury; or

(B) the actor or enterprise receives, directly or indirectly, any benefit.

(b) (i) In addition to the penalty described in Subsection (3)(a)(ii), the court may order the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (3)(b)(ii).

(ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is subject to criminal or civil forfeiture pursuant to Title 77, Chapter 11b, Forfeiture of Seized Property.

(4) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to have committed an offense under this section.

(b) An actor is not guilty of an offense under this section for conduct that constitutes:

(i) the safe relinquishment of a child pursuant to the provisions of Section 80-4-502;

(ii) giving legal consent to a court order for termination of parental rights:

(A) in a legal adoption proceeding; or

(B) in a case in which a petition for the termination of parental rights, or the termination of a guardianship, has been filed;

(iii) reasonable discipline or management of a child, including withholding privileges; or

(iv) conduct described in Section 76-2-401.

(c) It is a defense to prosecution under Subsection (2)(a)(i) that the actor committed child abandonment due to:

(i) intimidation;

(ii) isolation;

(iii) harassment;

(iv) coercion;

(v) the actor's reasonable fear of bodily harm; or

(vi) the reasonable actions of the actor to protect the safety and welfare of the actor or another individual.

Section 154. Section 76-5-115, which is renumbered from Section 76-10-2202 is renumbered and amended to read:

[~~76-10-2202~~]76-5-115. Leaving a child unattended in a motor vehicle.

(1) (a) As used in this section:

[~~(a)~~](i) "Child" means [~~a person~~]an individual who is younger than nine years old.

[~~(b)~~](ii) "Enclosed compartment" means any enclosed area of a motor vehicle, including the passenger compartment, regardless of whether a door, window, or hatch is left open.

[~~(c)~~](iii) "Motor vehicle" means an automobile, truck, truck tractor, bus, or any other self-propelled vehicle.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person who is responsible for a child is guilty of a class C misdemeanor if~~]An actor commits leaving a child unattended in a motor vehicle if:

(a) the [~~person~~]actor intentionally [~~, recklessly~~], knowingly, recklessly, or with criminal negligence leaves [~~the~~]a child in an enclosed compartment of a motor vehicle;

(b) the motor vehicle is on:

(i) public property; or

(ii) private property that is open to the general public;

(c) the child is not supervised by [~~a person~~]an individual who is at least nine years old; and

(d) the conditions present a risk to the child of:

(i) hyperthermia;

(ii) hypothermia; or

(iii) dehydration.

(3) A violation of Subsection (2) is a class C misdemeanor.

(4) This section does not apply if the [~~person's~~]actor's conduct that constitutes a violation of this section is subject to a greater penalty under another provision of state law.

[~~(4)~~](5) This section preempts enforcement of a local law or ordinance that makes it an infraction or a criminal offense to engage in the conduct that constitutes a misdemeanor under this section.

[~~(5)~~](6) Notwithstanding any provision of state law to the contrary, a conviction under this section may not be used by a state or local government entity as grounds for revoking, refusing to grant, or refusing to renew, a license or permit, including a license or permit relating to the provision of day care or child care.

Section 155. Section 76-5-202 is amended to read:

76-5-202. Aggravated murder -- Penalties -- Affirmative defense and special mitigation -- Separate offense.

(1) (a) As used in this section:

(i) "Correctional officer" means the same as that term is defined in Section 53-13-104.

(ii) "Emergency responder" means the same as that term is defined in Section 53-2b-102.

(iii) "Federal officer" means the same as that term is defined in Section 53-13-106.

(iv) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(v) "Peace officer" means:

(A) a correctional officer, federal officer, law enforcement officer, or special function officer; or

(B) any other person who may exercise peace officer authority in accordance with Title 53, Chapter 13, Peace Officer Classifications.

(vi) "Special function officer" means the same as that term is defined in Section 53-13-105.

(vii) "Target a law enforcement officer" means an act:

(A) involving the unlawful use of force and violence against a law enforcement officer;

(B) that causes serious bodily injury or death; and

(C) that is in furtherance of political or social objectives in order to intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government.

(viii) "Weapon of mass destruction" means the same as that term is defined in Section [~~76-10-401~~]76-15-301.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits aggravated murder if the actor intentionally or knowingly causes the death of another individual under any of the following circumstances:

(i) the actor committed homicide while confined in a jail or other correctional institution;

(ii) (A) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which two or more individuals other than the actor were killed; or

(B) the actor, during commission of the homicide, attempted to kill one or more other individuals in addition to the deceased individual;

(iii) the actor knowingly created a great risk of death to another individual other than the deceased individual and the actor;

(iv) the actor committed homicide incident to an act, scheme, course of conduct, or criminal episode during which the actor committed or attempted to commit aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse of a child, aggravated sexual abuse of a child, aggravated child abuse as described in Subsection 76-5-109.2(3)(a), or aggravated sexual assault, aggravated arson, arson, aggravated burglary, burglary, aggravated kidnapping, or kidnapping, or child kidnapping;

(v) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which the actor committed the crime of abuse or desecration of a dead human body as described in Subsection [~~76-9-704(2)(c)~~]76-5-802(2)(d);

(vi) the actor committed homicide for the purpose of avoiding or preventing an arrest of the actor or another individual by a peace officer acting under color of legal authority or for the purpose of effecting the actor's or another individual's escape from lawful custody;

(vii) the actor committed homicide for pecuniary gain;

(viii) the actor committed, engaged, or employed another person to commit the homicide subject to an agreement or contract for remuneration or the promise of remuneration for commission of the homicide;

(ix) the actor previously committed or was convicted of:

(A) aggravated murder under this section;

(B) attempted aggravated murder under this section;

(C) murder, under Section 76-5-203;

(D) attempted murder, under Section 76-5-203; or

(E) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (2)(a)(ix);

(x) the actor was previously convicted of:

(A) aggravated assault, under Section 76-5-103;

(B) mayhem, under Section 76-5-105;

(C) kidnapping, under Section 76-5-301;

(D) child kidnapping, under Section 76-5-301.1;

(E) aggravated kidnapping, under Section 76-5-302;

(F) rape, under Section 76-5-402;

(G) rape of a child, under Section 76-5-402.1;

(H) object rape, under Section 76-5-402.2;

(I) object rape of a child, under Section 76-5-402.3;

(J) forcible sodomy, under Section 76-5-403;

(K) sodomy on a child, under Section 76-5-403.1;

(L) aggravated sexual abuse of a child, under Section 76-5-404.3;

(M) aggravated sexual assault, under Section 76-5-405;

(N) aggravated arson, under Section 76-6-103;

(O) aggravated burglary, under Section 76-6-203;

(P) aggravated robbery, under Section 76-6-302;

(Q) felony discharge of a firearm, under Section [~~76-10-508.1~~]76-11-208; or

(R) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (2)(a)(x);

(xi) the actor committed homicide for the purpose of:

(A) preventing a witness from testifying;

(B) preventing a person from providing evidence or participating in any legal proceedings or official investigation;

(C) retaliating against a person for testifying, providing evidence, or participating in any legal proceedings or official investigation; or

(D) disrupting or hindering any lawful governmental function or enforcement of laws;

(xii) the deceased individual was a local, state, or federal public official, or a candidate for public office, and the homicide is based on, is caused by, or is related to that official position, act, capacity, or candidacy;

(xiii) the deceased individual was on duty in a verified position or the homicide is based on, is caused by, or is related to the deceased individual's position, and the actor knew, or reasonably should have known, that the deceased individual holds or has held the position of:

(A) a peace officer;

(B) an executive officer, prosecuting officer, jailer, or prison official;

(C) a firefighter, search and rescue personnel, emergency medical personnel, ambulance personnel, or any other emergency responder;

(D) a judge or other court official, juror, probation officer, or parole officer; or

(E) a security officer contracted to secure, guard, or otherwise protect tangible personal property, real property, or the life and well-being of human or animal life in the area of the offense;

(xiv) the actor committed homicide:

(A) by means of a destructive device, bomb, explosive, incendiary device, or similar device which was planted, hidden, or concealed in any place, area, dwelling, building, or structure, or was mailed or delivered;

(B) by means of any weapon of mass destruction; or

(C) to target a law enforcement officer;

(xv) the actor committed homicide during the act of unlawfully assuming control of an aircraft, train, or other public conveyance by use of threats or force with intent to:

(A) obtain any valuable consideration for the release of the public conveyance or any passenger, crew member, or any other person aboard;

(B) direct the route or movement of the public conveyance; or

(C) otherwise exert control over the public conveyance;

(xvi) the actor committed homicide by means of the administration of a poison or of any lethal substance or of any substance administered in a lethal amount, dosage, or quantity;

(xvii) the deceased individual was held or otherwise detained as a shield, hostage, or for ransom;

(xviii) the actor committed homicide in an especially heinous, atrocious, cruel, or exceptionally depraved manner, any of which must be demonstrated by physical torture, serious physical abuse, or serious bodily injury of the deceased individual before death;

(xix) the actor dismembers, mutilates, or disfigures the deceased individual's body, whether before or after death, in a manner demonstrating the actor's depravity of mind; or

(xx) the deceased individual, at the time of the death of the deceased individual:

(A) was younger than 14 years old; and

(B) was not an unborn child.

(b) An actor commits aggravated murder if the actor, with reckless indifference to human life, causes the death of another individual incident to an act, scheme, course of conduct, or criminal episode during which the actor is a major participant in the commission or attempted commission of:

(i) aggravated child abuse, punishable as a felony of the second degree under Subsection 76-5-109.2(3)(a);

(ii) child kidnapping, under Section 76-5-301.1;

(iii) rape of a child, under Section 76-5-402.1;

(iv) object rape of a child, under Section 76-5-402.3;

(v) sodomy on a child, under Section 76-5-403.1; or

(vi) sexual abuse or aggravated sexual abuse of a child, under Section 76-5-404.1.

(3) (a) If a notice of intent to seek the death penalty has been filed, a violation of Subsection (2) is a capital felony.

(b) If a notice of intent to seek the death penalty has not been filed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

(c) (i) Within 60 days after arraignment of the defendant, the prosecutor may file notice of intent to seek the death penalty.

(ii) The notice shall be served on the defendant or defense counsel and filed with the court.

(iii) Notice of intent to seek the death penalty may be served and filed more than 60 days after the arraignment upon written stipulation of the parties or upon a finding by the court of good cause.

(d) Without the consent of the prosecutor, the court may not accept a plea of guilty to noncapital first degree felony aggravated murder during the period in which the prosecutor may file a notice of intent to seek the death penalty under Subsection (3)(c)(i).

(e) If the defendant was younger than 18 years old at the time the offense was committed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

(f) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or

(ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.

(4) (a) It is an affirmative defense to a charge of aggravated murder or attempted aggravated murder that the actor caused the death of another or attempted to cause the death of another under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or

(ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.

(5) (a) Any aggravating circumstance described in Subsection (2) that constitutes a separate offense does not merge with the crime of aggravated murder.

(b) An actor who is convicted of aggravated murder, based on an aggravating circumstance described in Subsection (2) that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 156. Section 76-5-203 is amended to read:

76-5-203. Murder -- Penalties-- Affirmative defense and special mitigation -- Separate offenses.

(1) (a) As used in this section, "predicate offense" means:

(i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;

(ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused individual is younger than 18 years old;

(iii) kidnapping under Section 76-5-301;

(iv) child kidnapping under Section 76-5-301.1;

(v) aggravated kidnapping under Section 76-5-302;

(vi) rape under Section 76-5-402;

(vii) rape of a child under Section 76-5-402.1;

(viii) object rape under Section 76-5-402.2;

(ix) object rape of a child under Section 76-5-402.3;

(x) forcible sodomy under Section 76-5-403;

(xi) sodomy upon a child under Section 76-5-403.1;

(xii) forcible sexual abuse under Section 76-5-404;

(xiii) sexual abuse of a child under Section 76-5-404.1;

(xiv) aggravated sexual abuse of a child under Section 76-5-404.3;

(xv) aggravated sexual assault under Section 76-5-405;

(xvi) arson under Section 76-6-102;

(xvii) aggravated arson under Section 76-6-103;

(xviii) burglary under Section 76-6-202;

(xix) aggravated burglary under Section 76-6-203;

(xx) robbery under Section 76-6-301;

(xxi) aggravated robbery under Section 76-6-302;

(xxii) escape under Section 76-8-309;

(xxiii) aggravated escape under Section 76-8-309.3; or

(xxiv) a felony violation of Section [~~76-10-508 or 76-10-508.1~~]76-11-207 or 76-11-208 regarding discharge of a firearm or dangerous weapon.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits murder if:

(a) the actor intentionally or knowingly causes the death of another individual;

(b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of the other individual;

(c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct that creates a grave risk of death to another individual and thereby causes the death of the other individual;

(d) (i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;

(ii) an individual other than a party described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and

(iii) the actor acted with the intent required as an element of the predicate offense;

(e) the actor recklessly causes the death of a peace officer or military service member in uniform while in the commission or attempted commission of:

(i) an assault against a peace officer under Section 76-5-102.4;

(ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against the peace officer; or

(iii) an assault against a military service member in uniform under Section 76-5-102.4; or

(f) the actor commits a homicide that would be aggravated murder, but the offense is reduced in accordance with Subsection 76-5-202(4).

(3) (a) (i) A violation of Subsection (2) is a first degree felony.

(ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.

(b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment of conviction for attempted manslaughter.

(4) (a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.

(5) (a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.

(b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 157. Section 76-5-302 is amended to read:

76-5-302. Aggravated kidnapping.

(1) (a) As used in this section, "in the course of committing unlawful detention or kidnapping" means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:

(i) Section 76-5-301, kidnapping; or

(ii) Section 76-5-304, unlawful detention.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated kidnapping if the actor, in the course of committing unlawful detention or kidnapping:

(a) uses or threatens to use a dangerous weapon; or

(b) acts with the intent to:

(i) hold the victim for ransom or reward, as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;

(ii) facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;

(iii) hinder or delay the discovery of or reporting of a felony;

(iv) inflict bodily injury on or to terrorize the victim or another individual;

(v) interfere with the performance of any governmental or political function; or

(vi) commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

(3) (a) A violation of Subsection (2) in the course of committing unlawful detention is a third degree felony.

(b) A violation of Subsection (2) in the course of committing kidnapping is a first degree felony.

(4) An actor convicted of a violation of Subsection (3)(b) shall be sentenced to imprisonment of:

(a) except as provided in Subsection (4)(b), (4)(c), or (5), not less than 15 years and which may be for life;

(b) except as provided in Subsection (4)(c) or (5), life without parole, if the trier of fact finds that during the course of the commission of the aggravated kidnapping the defendant caused serious bodily injury to the victim or another individual; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.

(5) If, when imposing a sentence under Subsection (4)(a) or (b), a court finds that a lesser term than the term described in Subsection (4)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (4)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (4)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(6) The provisions of Subsection (5) do not apply when a defendant is sentenced under Subsection (4)(c).

(7) Subsections (4)(b) and (c) do not apply if the actor was younger than 18 years old at the time of the offense.

(8) Imprisonment under Subsection (4) is mandatory in accordance with Section 76-3-406.

Section 158. Section 76-5-415 is amended to read:

76-5-415. Educator's license subject to action for violation of this part.

Commission of any offense under this Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, by an educator as defined in Section 53E-6-102, is grounds under Section 53E-6-604 for disciplinary action against the educator, including revocation of the educator's license.

Section 159. Section 76-5-417, which is renumbered from Section 76-4-401 is renumbered and amended to read:

[~~76-4-401~~]76-5-417. Enticing a minor to engage in sexual activity.

(1) (a) As used in this section:

(i) "Minor" means an individual who is under 18 years old.

(ii) "Electronic communication" means the same as that term is defined in Section [~~76-9-201~~]76-12-201.

(iii) "Electronic communication device" means the same as that term is defined in Section [~~76-9-201~~]76-12-201.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits [~~enticement of~~]enticing a minor to engage in sexual activity if the actor knowingly:

(a) uses an electronic communication or an electronic communication device to:

(i) solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or entice a minor, or another person that the actor believes to be a minor, to engage in sexual activity that is a violation of state criminal law; or

(ii) (A) initiate contact with a minor or a person the actor believes to be a minor; and

(B) subsequent to the action described in Subsection (2)(a)(ii)(A), by any electronic or written means, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the minor or a person the actor believes to be the minor to engage in sexual activity that is a violation of state criminal law; or

(b) develops a relationship of trust with the minor or the minor's parent or guardian with the intent to solicit, seduce, lure, or entice, or attempt to solicit, seduce, lure, or entice the minor to engage in sexual activity that is a violation of state criminal law.

[~~(3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt to commit this offense, that a law enforcement officer or an undercover operative who is employed by a law enforcement agency was involved in the detection or investigation of the offense.~~]

[~~(4)~~](3) [~~Enticement of a minor under~~]A violation of Subsection (2) is punishable as follows:

(a) enticement to engage in sexual activity that would be a first degree felony for the actor is a:

(i) second degree felony upon the first conviction for violation of this Subsection [~~(4)(a)~~](3)(a); and

(ii) first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life, upon a second or any subsequent conviction for a violation of this Subsection [~~(4)(a)~~](3)(a);

(b) enticement to engage in sexual activity that would be a second degree felony for the actor is a third degree felony;

(c) enticement to engage in sexual activity that would be a third degree felony for the actor is a class A misdemeanor;

(d) enticement to engage in sexual activity that would be a class A misdemeanor for the actor is a class B misdemeanor; and

(e) enticement to engage in sexual activity that would be a class B misdemeanor for the actor is a class C misdemeanor.

(4) It is not a defense to a violation, or attempted violation, of Subsection (2) that a law enforcement officer or an undercover operative who is employed by a law enforcement agency was involved in the detection or investigation of the offense.

(5) (a) When an actor who commits a felony violation of this section has [~~been~~]previously been convicted of an offense [~~under~~]described in Subsection (5)(b), the court may not in any way shorten the prison sentence, and the court may not:

(i) grant probation;

(ii) suspend the execution or imposition of the sentence;

(iii) enter a judgment for a lower category of offense; or

(iv) order hospitalization.

(b) The sections referred to in Subsection (5)(a) are:

[~~(i) Section 76-4-401, enticing a minor;~~]

[~~(ii)~~](i) [~~Section 76-5-301.1,~~]child kidnapping as described in Section 76-5-301.1;

(ii) human trafficking of a child as described in Section 76-5-308.5;

(iii) [~~Section 76-5-402,~~]rape as described in Section 76-5-402;

(iv) [~~Section 76-5-402.1,~~]rape of a child as described in Section 76-5-402.1;

(v) [~~Section 76-5-402.2,~~]object rape as described in Section 76-5-402.2;

(vi) [~~Section 76-5-402.3,~~]object rape of a child as described in Section 76-5-402.3;

(vii) [~~Section 76-5-403,~~]forcible sodomy as described in Section 76-5-403;

(viii) [~~Section 76-5-403.1,~~]sodomy on a child as described in Section 76-5-403.1;

(ix) [~~Section 76-5-404,~~]forcible sexual abuse as described in Section 76-5-404;

(x) [~~Section 76-5-404.1,~~]sexual abuse of a child as described in Section 76-5-404.1;

(xi) [~~and Section 76-5-404.3,~~]aggravated sexual abuse of a child as described in Section 76-5-404.3;

[~~(xi)~~](xii) [~~Section 76-5-405,~~]aggravated sexual assault as described in Section 76-5-405;

[~~(xii) Section 76-5-308.5, human trafficking of a child;~~]

(xiii) enticing a minor to engage in sexual activity as described in Section 76-5-417;

[~~(xiii)~~](xiv) any offense in any other state or federal jurisdiction that constitutes or would constitute a crime in Subsections (5)(b)(i) through [~~(xii)~~](xiii); or

[~~(xiv)~~](xv) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through [~~(xiii)~~](xiv).

Section 160. Section 76-5-418, which is renumbered from Section 76-9-702.1 is renumbered and amended to read:

[~~76-9-702.1~~]76-5-418. Sexual battery.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor [~~is guilty of~~]commits sexual battery if [~~the actor~~], under circumstances not amounting to an offense [~~under~~]described in Subsection [~~(2),~~](4), the actor:

(a) intentionally touches, whether or not through clothing [~~,~~];

(i) the anus, buttocks, or any part of the genitals of another individual [~~,~~];

(ii) or the breast of a female individual [~~,~~]; and

(iii) the actor's conduct is under circumstances that the actor knows or should know will likely cause affront or alarm to the individual touched.

[~~(2)~~](3) A violation of Subsection (2) is a class A misdemeanor.

(4) [~~Offenses~~]The offenses referred to in Subsection [~~(1)~~](2) are:

(a) rape under Section 76-5-402;

(b) rape of a child under Section 76-5-402.1;

(c) object rape under Section 76-5-402.2;

(d) object rape of a child under Section 76-5-402.3;

(e) forcible sodomy under Subsection 76-5-403(2);

(f) sodomy on a child under Section 76-5-403.1;

(g) forcible sexual abuse under Section 76-5-404;

(h) sexual abuse of a child under Section 76-5-404.1;

(i) aggravated sexual abuse of a child under Section 76-5-404.3;

(j) aggravated sexual assault under Section 76-5-405; and

(k) an attempt to commit an offense under this Subsection (2).

[~~(3) Sexual battery is a class A misdemeanor.~~]

[~~(4)~~](5) (a) For purposes of Subsection 77-41-102(19) only, a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(b) This Subsection [~~(4)~~](5) also applies if the charge under this section has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Section 161. Section 76-5-419, which is renumbered from Section 76-9-702 is renumbered and amended to read:

[~~76-9-702~~]76-5-419. Lewdness.

(1) (a) As used in this section:

(i) "Common area of a privacy space" means any area of a privacy space other than:

(A) a toilet stall with a closed door;

(B) immediately in front of a urinal during use; or

(C) a shower stall with a closed door or other closed covering.

(ii) "Privacy space" means the same as that term is defined in Section 76-12-309.

(iii) "Sex-designated" means the same as that term is defined in Section 76-12-309.

(b) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person is guilty of~~]

(2) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits lewdness if [~~the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2, custodial sexual relations with youth receiving state services under Section 76-5-413, custodial sexual misconduct with youth receiving state services under Section 76-5-413.2, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another individual who is 14 years old or older~~]:

(a) the actor performs:

(i) an act of sexual intercourse or sodomy;

[~~(b) exposes his or her~~]

(ii) an act exposing the actor's:

(A) genitals [~~,~~];

(B) [~~the~~]female breast below the top of the areola [~~,~~]if the actor is female;

(C) [~~the~~]buttocks, [~~the~~]anus, or [~~the~~]pubic area;

[~~(c)~~](iii) masturbates; or

[~~(d)~~](iv) any other act of lewdness [~~,~~]; and

(b) an action described in Subsection (2)(a) is undertaken:

(i) in a public place; or

(ii) under circumstances which the actor should know will likely cause affront or alarm to, on, or in the presence of another individual who is 14 years old or older.

[~~(2)~~](3) (a) [~~A person convicted the first or second time of a~~]Except as provided in Subsection (3)(b), a violation of Subsection [~~(1)~~](2) is [~~guilty of~~]a class B misdemeanor [~~, except under Subsection (2)(b)~~].

(b) [~~A person convicted of a~~]A violation of Subsection [~~(1)~~](2) is [~~guilty of~~]a third degree felony if at the time of the violation:

(i) the [~~person~~]actor is a sex offender as defined in Section 77-27-21.7;

(ii) the [~~person~~]actor has [~~been~~]previously been convicted two or more times of [~~violating~~]a violation of Subsection [~~(1);~~](2);

(iii) the [~~person~~]actor has previously been convicted of:

(A) a violation of Subsection [~~(1)~~](2); and

(B) [~~has also previously been convicted of~~]a violation of Section [~~76-9-702.5~~]76-5-420;

(iv) the [~~person commits the offense of lewdness while~~]actor also [~~committing~~]commits the offense of:

(A) criminal trespass [~~in a~~]resulting from unlawfully entering a sex-designated changing room [~~under~~]as described in Subsection 76-6-206(2)(d);

(B) lewdness involving a child [~~under~~]as described in Section [~~76-9-702.5~~]76-5-420;

(C) voyeurism [~~under~~]as described in Section [~~76-9-702.7~~]76-12-306;

(D) recorded or photographed voyeurism as described in Section 76-12-307;

(E) distribution of images obtained through voyeurism as described in Section 76-12-308; or

[~~(D)~~](F) loitering in a privacy space [~~under~~]as described in Section [~~76-9-702.8~~]76-12-309; or

(v) the [~~person commits the offense of lewdness~~]actor is in a sex-designated privacy space, [~~as defined in Section 76-9-702.8,~~] that is not designated for individuals of the actor's sex.

[~~(c) (i) For purposes of this Subsection (2) and Subsection 77-41-102(19), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.~~]

[~~(ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.~~]

(4) The offenses referred to in Subsection (2) are:

(a) unlawful sexual conduct with a 16 or 17 year old as described in Section 76-5-401.2;

(b) rape as described in Section 76-5-402;

(c) object rape as described in Section 76-5-402.2;

(d) forcible sodomy as described in Section 76-5-403;

(e) forcible sexual abuse as described in Section 76-5-404;

(f) sexual abuse of a child as described in Section 76-5-404.1;

(g) aggravated sexual assault as described in Section 76-5-405;

(h) custodial sexual relations as described in Section 76-5-412;

(i) custodial sexual misconduct as described in Section 76-5-412.2;

(j) custodial sexual relations with youth receiving state services as described in Section 76-5-413;

(k) custodial sexual misconduct with youth receiving state services as described in Section 76-5-413.2; or

(l) an attempt to commit an offense described in Subsection (4)(a) through (k).

(5) (a) For purposes of Subsection (3) and Subsection 77-41-102(19), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(b) Subsection (5)(a) also applies if the charge under Subsection (3) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

[~~(3) (a) As used in this Subsection (3):~~]

[~~(i) "Common area of a privacy space" means any area of a privacy space other than:~~]

[~~(A) a toilet stall with a closed door;~~]

[~~(B) immediately in front of a urinal during use; or~~]

[~~(C) a shower stall with a closed door or other closed covering.~~]

[~~(ii) "Privacy space" means the same as that term is defined in Section 76-9-702.8.~~]

[~~(b)~~](6) (a) The common area of a privacy space constitutes a public place or circumstance described in Subsection [~~(1)~~](2)where an act or an attempted act described in Subsection [~~(1)~~](2)constitutes lewdness.

[~~(c)~~](b) Within the common area of a dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection [~~(1)~~](2) that constitutes lewdness.

[~~(4)~~](7) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Section 162. Section 76-5-420, which is renumbered from Section 76-9-702.5 is renumbered and amended to read:

[~~76-9-702.5~~]76-5-420. Lewdness involving a child.

(1) (a) As used in this section:

[~~(a) "In the presence of" includes within visual contact through an electronic device.~~]

[~~(b)~~](i) "Child" means an individual younger than 14 years old.

(ii) "Common area of a privacy space" means the same as that term is defined in Section [~~76-9-702~~]76-5-419.

(iii) "In the presence of" includes within visual contact through an electronic device.

[~~(c)~~](iv) "Privacy space" means the same as that term is defined in Section [~~76-9-702.8~~]76-12-309.

(v) "Sex-designated" means the same as that term is defined in Section 76-12-309.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits lewdness involving a child if:

(a) the actor, under circumstances not amounting to [~~rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses~~]an offense listed in Subsection (4), intentionally or knowingly does any of the following in the presence of a child [~~who is under 14 years old~~]:

(i) performs an act of sexual intercourse or sodomy;

(ii) exposes the actor's genitals, female breast below the top of the areola, buttocks, anus, or pubic area:

(A) in a public place; or

(B) in a private place under circumstances the actor should know will likely cause affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the child; or

(iii) masturbates;

(b) the actor is 18 years old or older and, under circumstances not amounting to [~~rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses~~]an offense listed in Subsection (4), intentionally or knowingly does any of the following in the presence of a child [~~who is under 14 years old~~] with the intent to cause affront or alarm to the child or with the intent to arouse or gratify the sexual desire of the actor or the child:

(i) simulates masturbation;

(ii) performs an act of simulated intercourse or sodomy;

(iii) displays the actor's male genitals or prosthetic male genitals in a discernibly turgid state, even if completely and opaquely covered;

(iv) engages in erotic touching of the actor's nude breast, regardless of the actor's sex or how the breast was developed or created; or

(v) involves a child in an act that would lead a reasonable person to conclude that the child is engaging in an act of:

(A) simulated intercourse or sodomy; or

(B) simulated masturbation;

(c) the actor, under circumstances not amounting to sexual exploitation of a [~~child~~]minor under Section 76-5b-201 or aggravated sexual exploitation of a [~~child~~]minor under Section 76-5b-201.1, intentionally or knowingly causes a child [~~under 14 years old~~]to expose the child's genitals, anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child; or

(d) the actor performs any other act of lewdness.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if at the time of the violation, the actor:

(i) is a sex offender as defined in Section 77-27-21.7;

(ii) previously has been convicted of a violation of this section;

(iii) commits the violation of Subsection (2) while also committing the offense of:

(A) lewdness as described in Section 76-5-419;

(B) criminal trespass [~~in a~~]resulting from unlawfully entering a sex-designated changing room [~~under~~]as described in Subsection 76-6-206(2)(d);

[~~(B) lewdness under Section 76-9-702;~~]

(C) voyeurism [~~under Section 76-9-702.7~~]as described in Section 76-12-306;

(D) recorded or photographed voyeurism as described in Section 76-12-307;

(E) distribution of images obtained through voyeurism as described in Section 76-12-308; or

[~~(D)~~](F) loitering in a privacy space [~~under Section 76-9-702.8~~]as described in Section 76-12-309; or

(iv) [~~commits the violation of Subsection (2)~~]is in a sex-designated privacy space [~~, as defined in Section 76-9-702.8~~], that is not designated for individuals of the actor's sex.

(4) The offenses referred to in Subsection (2) are:

(a) rape of a child as described in Section 76-5-402.1;

(b) object rape of a child as described in Section 76-5-402.3;

(c) sodomy on a child as described in Section 76-5-403.1;

(d) sexual abuse of a child as described in Section 76-5-404.1;

(e) aggravated sexual abuse of a child as described in Section 76-5-404.3; or

(f) an attempt to commit an offense described in Subsections (4)(a) through (e).

[~~(4)~~](5) (a) The common area of a privacy space constitutes a public place or circumstance described in Subsection (2) where an act or an attempted act described in Subsection (2) constitutes [~~lewdness involving a child~~]a violation of Subsection (2).

(b) Within the common area of a government entity's dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (2) that constitutes lewdness involving a child.

Section 163. Section 76-5-801 is enacted to read:

PART 8. Offenses Committed Against the Deceased

76-5-801. Definitions.

As used in this part, "ancient human remains" means the same as that term is defined in Section 9-8a-302.

Section 164. Section 76-5-802, which is renumbered from Section 76-9-704 is renumbered and amended to read:

[~~76-9-704~~]76-5-802. Abuse or desecration of a dead human body.

[~~(1) For purposes of this section, "dead human body" includes any part of a human body in any stage of decomposition, including ancient human remains as defined in Section 9-8a-302.~~]

(1) (a) As used in this section, "sexual penetration" means the penetration, however slight, of the genital or anal opening by any object, substance, instrument, or device, including a part of the human body, or penetration involving the genitals of the actor and the mouth of a dead human body.

(b) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.

(2) [~~A person is guilty of~~]An actor commits abuse or desecration of a dead human body if the [~~person~~]actor intentionally and unlawfully:

[~~(a) fails to report the finding of a dead human body to a local law enforcement agency;~~]

[~~(b)~~](a) disturbs, moves, removes, conceals, or destroys a dead human body or any part of [~~it~~]the dead human body;

[~~(c)~~](b) disinters a buried or otherwise interred dead human body, without authority of a court order;

[~~(d)~~](c) dismembers a dead human body to any extent, or damages or detaches any part or portion of a dead human body; or

[~~(c)~~](d) [~~(i)~~] commits or attempts to commit upon any dead human body any act of sexual penetration, regardless of the sex of the actor and of the dead human body [~~; and~~].

[~~(ii) as used in Subsection (2)(c)(i), "sexual penetration" means penetration, however slight, of the genital or anal opening by any object, substance, instrument, or device, including a part of the human body, or penetration involving the genitals of the actor and the mouth of the dead human body.~~]

(3) A violation of Subsection (2) is a third degree felony.

[~~(3)~~](4) [~~A person~~]An actor does not violate this section if when [~~that person~~]the actor directs or carries out procedures regarding a dead human body, [~~that person~~]the actor complies with:

(a) Title 9, Chapter 8a, Part 3, Antiquities;

(b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;

(c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

(d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;

(e) Title 58, Chapter 9, Funeral Services Licensing Act; or

(f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.

[~~(4) (a) Failure to report the finding of a dead human body as required under Subsection (2)(a) is a class B misdemeanor.~~]

[~~(b) Abuse or desecration of a dead human body as described in Subsections (2)(b)through (c) is a third degree felony.~~]

(5) For purposes of this section, a dead human body includes any part of a human body in any stage of decomposition, including ancient human remains.

Section 165. Section 76-5-803 is enacted to read:

76-5-803. Failure to report the finding of a dead human body.

(1) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.

(2) An actor commits failure to report the finding of a dead human body if the actor:

(a) finds a dead human body; and

(b) intentionally fails to report the finding of the dead human body to a local law enforcement agency.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) An actor does not violate this section if when the actor directs or carries out procedures regarding a dead human body, the actor complies with:

(a) Title 9, Chapter 8a, Part 3, Antiquities;

(b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;

(c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

(d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;

(e) Title 58, Chapter 9, Funeral Services Licensing Act; or

(f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.

(5) For purposes of this section, a dead human body includes any part of a human body in any stage of decomposition, including ancient human remains.

Section 166. Section 76-5b-201 is amended to read:

76-5b-201. Sexual exploitation of a minor -- Offenses.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits sexual exploitation of a minor when the actor knowingly possesses or intentionally views child sexual abuse material.

(3) (a) A violation of Subsection (2) is a second degree felony.

(b) It is a separate offense under this section:

(i) for each minor depicted in the child sexual abuse material; and

(ii) for each time the same minor is depicted in different child sexual abuse material.

(4) For a charge of violating this section, it is an affirmative defense that:

(a) the defendant:

(i) did not solicit the child sexual abuse material from the minor depicted in the child sexual abuse material;

(ii) is not more than two years older than the minor depicted in the child sexual abuse material; and

(iii) upon request of a law enforcement agent or the minor depicted in the child sexual abuse material, removes from an electronic device or destroys the child sexual abuse material and all copies of the child sexual abuse material in the defendant's possession; and

(b) the child sexual abuse material does not depict an offense under Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) The following are not criminally or civilly liable under this section when acting in good faith compliance with Section 77-4-201:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child sexual abuse material on tangible or intangible property, or of detecting and reporting the presence of child sexual abuse material on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child sexual abuse material during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child sexual abuse material during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child sexual abuse material during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Health and Human Services who is required to view child sexual abuse material within the scope of the employee's employment; or

(g) an attorney who is required to view child sexual abuse material within the scope of the attorney's responsibility to represent the Department of Health and Human Services, including the divisions and offices within the Department of Health and Human Services.

Section 167. Section 76-5b-203 is amended to read:

76-5b-203. Distribution of an intimate image -- Penalty.

(1) (a) As used in this section:

(i) "Intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image, picture, or video, whether made or produced by electronic, mechanical, or other means, that depicts:

(A) exposed human male or female genitals or pubic area, with less than an opaque covering;

(B) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(C) the individual engaged in any sexually explicit conduct.

(ii) "Sexually explicit conduct" means actual or simulated:

(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between individuals of the same or opposite sex;

(B) masturbation;

(C) bestiality;

(D) sadistic or masochistic activities;

(E) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

(F) visual depiction of nudity or partial nudity;

(G) fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(H) explicit representation of the defecation or urination functions.

(iii) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(iv) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits the offense of distribution of an intimate image if:

(i) the actor knowingly or intentionally distributes to a third party, or knowingly duplicates or copies an intimate image of an individual who is 18 years old or older and knows or should know that the distribution, duplication or copying would cause a reasonable person to suffer emotional distress or harm;

(ii) the actor has not received consent from the individual depicted in the image to distribute the intimate image;

(iii) the intimate image was created by or provided to the actor under circumstances in which the individual depicted in the image has a reasonable expectation of privacy; and

(iv) except as provided in Subsection (2)(b), actual emotional distress or harm is caused to the individual depicted in the image as a result of the distribution.

(b) Subsection (2)(a)(iv) is not an element of the offense described in Subsection (2)(a) if:

(i) the individual depicted in the intimate image was the victim of a crime;

(ii) the intimate image was provided to law enforcement as part of an investigation or prosecution of a crime committed against the victim;

(iii) the intimate image was distributed without a legitimate law enforcement or investigative purpose by an individual who had access to the intimate image due to the individual's association with the investigation or prosecution described in Subsection (2)(b)(ii); and

(iv) the victim is incapacitated or deceased.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(4) This section does not apply to:

(a) except as provided in Section 76-5b-203.5:

(i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) an intimate image if the individual portrayed in the image voluntarily allows public exposure of the image;

(c) an intimate image that is portrayed in a lawful commercial setting; or

(d) an intimate image that is related to a matter of public concern or interest.

(5) (a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of an intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the intimate image.

(b) This section does not apply to a hosting company, as defined in Section [~~76-10-1230~~]76-5c-401, if:

(i) the distribution of an intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the intimate image; and

(iii) the hosting company does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the intimate image.

(c) A service provider, as defined in Section [~~76-10-1230~~]76-5c-401, is not negligent under this section if it complies with Section [~~76-10-1231~~]76-5c-402.

Section 168. Section 76-5b-205 is amended to read:

76-5b-205. Unlawful distribution of a counterfeit intimate image -- Penalty.

(1) (a) As used in this section:

(i) "Child" means an individual under 18 years old.

(ii) "Counterfeit intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image, picture, or video, whether made or produced by electronic, mechanical, or other means, that has been edited, manipulated, generated, or altered to depict the likeness of an identifiable individual and purports to, or is made to appear to, depict that individual's:

(A) exposed human male or female genitals or pubic area, with less than an opaque covering;

(B) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(C) the individual engaged in any sexually explicit conduct or simulated sexually explicit conduct.

(iii) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(iv) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(v) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits the offense of unlawful distribution of a counterfeit intimate image if the actor knowingly or intentionally distributes a counterfeit intimate image that the actor knows or should reasonably know would cause a reasonable person to suffer emotional or physical distress or harm, if:

(i) the actor has not received consent from the depicted individual to distribute the counterfeit intimate image; and

(ii) the counterfeit intimate image was created or provided by the actor without the knowledge and consent of the depicted individual.

(b) An actor who is 18 years old or older commits aggravated unlawful distribution of a counterfeit intimate image if, in committing the offense described in Subsection (2)(a), the individual depicted in the counterfeit intimate image is a child.

(3) (a) (i) A violation of Subsection (2)(a) that is knowing or intentional is a class A misdemeanor.

(ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2)(a) that is knowing or intentional is a third degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(b) (i) A violation of Subsection (2)(b) that is knowing or intentional is a third degree felony.

(ii) Notwithstanding Subsection (3)(b)(i), a violation of Subsection (2)(b) that is knowing or intentional is a second degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(c) This section does not apply to an actor who engages in conduct that constitutes a violation of this section to the extent that the actor is chargeable, for the same conduct, under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor.

(4) This section does not apply to:

(a) (i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) a counterfeit intimate image if the individual depicted in the image voluntarily allows public exposure of the image;

(c) a counterfeit intimate image that is portrayed in a lawful commercial setting; or

(d) a counterfeit intimate image that is related to a matter of public concern or interest or protected by the First Amendment to the United States Constitution or Article I, Sections 1 and 15 of the Utah Constitution.

(5) (a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of a counterfeit intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the counterfeit intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the counterfeit intimate image.

(b) This section does not apply to a hosting company, as defined in Section [~~76-10-1230~~]76-5c-401, if:

(i) the distribution of a counterfeit intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the counterfeit intimate image;

(iii) the hosting company does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the counterfeit intimate image; and

(iv) the hosting company immediately removes the counterfeit intimate image upon notice from a law enforcement agency, prosecutorial agency, or the individual purportedly depicted in the counterfeit intimate image.

(c) A service provider, as defined in Section [~~76-10-1230~~]76-5c-401, is not negligent under this section if it complies with Section [~~76-10-1231~~]76-5c-402.

Section 169. Section 76-5b-206, which is renumbered from Section 76-10-1204.5 is renumbered and amended to read:

[~~76-10-1204.5~~]76-5b-206. Failure to report child sexual abuse material by a computer technician.

[~~(1) As used in this section:~~]

[~~(a) "Child sexual abuse material" means the same as that term is defined in Section 76-5b-103.~~]

[~~(b) "Computer technician" or "technician" means an individual who in the course and scope of the individual's employment for compensation installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.~~]

[~~(c) "Image" means an image of child sexual abuse material or an image that a computer technician reasonably believes is child sexual abuse material.~~]

[~~(2) (a) A computer technician who in the course of employment for compensation views an image on a computer or other electronic device that is or appears to be child sexual abuse material shall immediately report the finding of the image to:~~]

[~~(i) a state or local law enforcement agency, or the Cyber Tip Line at the National Center for Missing and Exploited Children; or~~]

[~~(ii) an employee designated by the employer of the computer technician in accordance with Subsection (3).~~]

[~~(b) A computer technician who willfully does not report an image as required under Subsection (2)(a) is guilty of a class B misdemeanor.~~]

[~~(c) The identity of the computer technician who reports an image shall be confidential, except as necessary for the criminal investigation and the judicial process.~~]

[~~(d) (i) If the computer technician makes or does not make a report under this section in good faith, the technician is immune from any criminal or civil liability related to reporting or not reporting the image.~~]

[~~(ii) In this Subsection (2)(d), good faith may be presumed from an employee's or employer's previous course of conduct when the employee or employer has made appropriate reports.~~]

[~~(e) It is a defense to prosecution under this section that the computer technician did not report the image because the technician reasonably believed the image did not depict a person younger than 18 years old.~~]

(1) (a) As used in this section, "computer technician" means an individual who in the course and scope of the individual's employment for compensation installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.

(b) Terms defined in Sections 76-1-101.5 and 76-5b-103 apply to this section.

(2) An actor commits failure to report child sexual abuse material by a computer technician if:

(a) the actor is a computer technician;

(b) in the actor's course of employment for compensation the actor views an image on a computer or other electronic device that:

(i) is child sexual abuse material;

(ii) appears to be child sexual abuse material; or

(iii) the actor reasonably believes is child sexual abuse material; and

(c) the actor willfully fails to immediately report the finding of the image to:

(i) a state or local law enforcement agency;

(ii) the Cyber Tip Line at the National Center for Missing and Exploited Children; or

(iii) an employee designated by the employer of the computer technician in accordance with Subsection (7).

(3) A violation of Subsection (2) a class B misdemeanor.

(4) The identity of the computer technician who reports an image that is or appears to be child sexual abuse material shall be confidential, except as necessary for the criminal investigation and the judicial process.

(5) (a) If a computer technician makes or does not make a report under this section and is acting in good faith, the technician is immune from any criminal or civil liability related to reporting or not reporting the image.

(b) Good faith described in Subsection (5)(a) may be presumed from a computer technician's previous course of conduct when the computer technician has made appropriate reports.

(6) It is a defense to prosecution under this section that the computer technician did not report the image because the computer technician reasonably believed the image did not depict an individual younger than 18 years old.

[~~(3)~~](7) (a) An employer of a computer technician may implement a procedure that requires:

(i) the computer technician report an image as is required under Subsection [~~(2)(a)~~](2)to an employee designated by the employer to receive the report of the image; and

(ii) the designated employee to immediately forward the report provided by the computer technician to an agency [~~under Subsection (2)(a)(i)~~]described in Subsection (2)(c)(i).

(b) Compliance by the computer technician and the designated employee with the reporting process under Subsection [~~(3)(a)~~](7)(a) is compliance with the reporting requirement of [~~this section~~]Subsection (2)(c) and establishes immunity under Subsection [~~(2)(d)~~](5)(a).

[~~(4)~~](8) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if the provider reports the image in compliance with 18 U.S.C. 2258A or a successor federal statute that requires reporting by a provider of an image of child sexual abuse material.

Section 170. Section 76-5c-101, which is renumbered from Section 76-10-1201 is renumbered and amended to read:

CHAPTER 5c. PORNOGRAPHIC AND HARMFUL MATERIALS AND PERFORMANCES

PART 1. General Provisions

[~~76-10-1201~~]76-5c-101. Definitions.

[~~For the purpose of~~]As used in this [~~part~~]chapter:

(1) "Blinder rack" means an opaque cover that covers the lower 2/3 of a material so that the lower 2/3 of the material is concealed from view.

(2) "Constructive awareness" means that:

(a) a reasonable inspection or observation by an individual under the circumstances would have disclosed the nature of the subject matter; and

(b) a failure to inspect or observe by the individual is either for the purpose of avoiding the disclosure or the individual is criminally negligent.

[~~(2)~~](3) "Contemporary community standards" means those current standards in the vicinage where an offense alleged under this part has occurred, is occurring, or will occur.

(4) "Criminally negligent" means the same as that term is defined in Section 76-2-103.

[~~(3)~~](5) "Distribute" means to transfer possession of [~~materials whether~~]a material with or without consideration.

[~~(4)~~](6) "Exhibit" means to show.

[~~(5)~~](7) (a) "Harmful to minors" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:

(i) taken as a whole, appeals to the prurient interest in sex of minors;

(ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(iii) taken as a whole, does not have serious value for minors.

(b) Serious value includes only serious literary, artistic, political, or scientific value for minors.

[~~(6)~~](8) [~~(a)~~] "Knowingly," regarding material or a performance, means an awareness, whether actual awareness or constructive awareness, of the character of the material or performance.

[~~(b) As used in this Subsection (6), a person has constructive knowledge if a reasonable inspection or observation under the circumstances would have disclosed the nature of the subject matter and if a failure to inspect or observe is either for the purpose of avoiding the disclosure or is criminally negligent as described in Section 76-2-103.~~]

[~~(7)~~](9) (a) "Material" means anything printed or written or any picture, drawing, photograph, motion picture, or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or anything which is or may be used as a means of communication.

(b) "Material " includes undeveloped photographs, molds, printing plates, and other latent representational objects.

[~~(8)~~](10) "Minor" means [~~any person less~~]an individual younger than 18 years [~~of age~~]old.

[~~(9)~~](11) "Negligently" means simple negligence, the failure to exercise that degree of care that a reasonable and prudent person would exercise under like or similar circumstances.

[~~(10)~~](12) "Nudity" means:

(a) the showing of the human male or female genitals, pubic area, or buttocks, with less than an opaque covering;

(b) the showing of a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(c) the depiction of covered male genitals in a discernibly turgid state.

[~~(11)~~](13) "Performance" means any physical human bodily activity, whether engaged in alone or with other [~~persons~~]individuals, including singing, speaking, dancing, acting, simulating, or pantomiming.

(14) "Pornographic" means:

(a) the average individual, applying contemporary community standards, finds that, taken as a whole, the material or performance appeals to prurient interest in sex;

(b) the material or performance is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement,

sadomasochistic abuse, or excretion; and

(c) taken as a whole the material or performance does not have serious literary, artistic, political, or scientific value.

[~~(12)~~](15) "Public place" includes a place to which admission is gained by payment of a membership or admission fee, however designated, notwithstanding its being designated a private club or by words of like import.

[~~(13)~~](16) "Sadomasochistic abuse" means:

(a) flagellation or torture by or upon a person who is nude or clad in undergarments, a mask, or in a revealing or bizarre costume; or

(b) the condition of being fettered, bound, or otherwise physically restrained on the part of [~~a person~~]an individual clothed as described in Subsection [~~(13)(a).~~](14)(a).

[~~(14)~~](17) "Sexual conduct" means acts of masturbation, sexual intercourse, or any touching of [~~a person's~~]an individual's clothed or unclothed genitals, pubic area, buttocks, or, if the [~~person~~]individual is a female, breast, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.

[~~(15)~~](18) "Sexual excitement" means a condition of human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Section 171. Section 76-5c-102, which is renumbered from Section 76-10-1203 is renumbered and amended to read:

[~~76-10-1203~~]76-5c-102. Evidence related to a material's or performance's literary, artistic, political, or scientific value.

[~~(1) Any material or performance is pornographic if:~~]

[~~(a) The average person, applying contemporary community standards, finds that, taken as a whole, it appeals to prurient interest in sex;~~]

[~~(b) It is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and~~]

[~~(c) Taken as a whole it does not have serious literary, artistic, political or scientific value.~~]

[~~(2)~~](1) In [~~prosecutions~~]a prosecution under this [~~part~~]chapter, where circumstances of production, presentation, sale, dissemination, distribution, exhibition, or publicity indicate that the matter is being commercially exploited by the [~~defendant~~]actor for the sake of [~~its~~]the matter's prurient appeal, this evidence is probative with respect to the nature of the matter and can justify the conclusion that, in the context in which [~~it~~]the matter is used, the matter has no serious literary, artistic, political, or scientific value.

[~~(3)~~](2) [~~Neither the prosecution nor the defense shall be~~]In a prosecution under this chapter neither the prosecution or the defense is required to introduce expert witness testimony to testify as to whether [~~the~~]a material or performance is or is not harmful to adults or minors or is or is not pornographic, or as to any element of the definition of pornographic, including contemporary community standards.

Section 172. Section 76-5c-103, which is renumbered from Section 76-10-1210 is renumbered and amended to read:

[~~76-10-1210~~]76-5c-103. Relation to other state and local laws.

(1) [~~(a) It is not the intent of this part to prescribe or limit the regulation of pornographic materials or materials harmful to minors, and counties, cities, and other political subdivisions are specifically given the right to further regulate the materials.~~]

[~~(b)~~](a) A county, city, or other political subdivision has the right to regulate pornographic materials or materials harmful to minors as this chapter does not proscribe or limit the regulation of pornographic materials or materials harmful to minors by a county, city, or other political subdivision.

(b) Without limitation, a political subdivision may further regulate pornographic materials or materials harmful to minors by ordinances relating to:

(i) zoning;

(ii) licensing;

(iii) public nuisances;

(iv) a specific type of business such as adult bookstores or drive-in movies; or

(v) use of blinder racks.

(2) [~~It is not the intent of this part to~~]This chapter does not preclude the application of other laws of this state to pornographic materials or materials harmful to minors [~~. Specifically~~]and, without limitation, this [~~part~~]chapter is not in derogation of [~~Sections 76-10-803~~]Subsection 76-9-1301(2) and [~~76-10-806~~]Section 76-9-1306.

(3) (a) The commission of a crime under this [~~part shall be considered to offend~~]chapter offends public decency under [~~Section 76-10-803~~]Subsection 76-9-1301(2).

(b) It is the intent of this [~~part~~]chapter to give the broadest meaning permissible under the [~~federal and state constitutions~~]United States Constitution and the Utah Constitution to the words "offends public decency" in [~~Section 76-10-803~~]Subsection 76-9-1301(2).

Section 173. Section 76-5c-104, which is renumbered from Section 76-10-1209 is renumbered and amended to read:

[~~76-10-1209~~]76-5c-104. Injunctive relief -- Jurisdiction -- Consent to be sued.

(1) (a) [~~The district courts of this state shall have~~]Subject to Subsections (1)(b), (c), (d), and (e), a district court has full power, authority, and jurisdiction, upon application by any county attorney or city attorney within [~~their~~]the county attorney's or city attorney's respective jurisdictions or the attorney general, to issue any and all proper restraining orders, preliminary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce the provisions of this [~~part~~]chapter.

(b) No restraining order or injunction, however, shall issue except upon notice to the person sought to be enjoined.

(c) [~~That~~]The person [~~shall be~~]sought to be enjoined is entitled to a trial of the issues commencing within three days after [~~filing of an~~]the day on which the answer to the complaint is filed and a decision [~~shall be rendered by the court~~]by the court is required to be rendered within two days after the conclusion of the trial.

(d) If a final order or judgment of injunction is entered against the person sought to be enjoined, this final order or judgment shall contain a provision directing the person to surrender to the sheriff of the county in which the action was brought any pornographic material in the person's possession which is subject to the injunction [~~; and the~~].

(e) The sheriff receiving the material described in Subsection (1)(d) shall be directed to seize and destroy [~~this~~]the material.

(2) Any person not qualified to do business in the state who sends or brings any pornographic material into the state with the intent to distribute or exhibit [~~it~~]the pornographic material to others in this state consents that the person may be sued in any proceedings commenced under this section.

Section 174. Section 76-5c-105, which is renumbered from Section 76-10-1207 is renumbered and amended to read:

[~~76-10-1207~~]76-5c-105. Lease void if property used for conduct prohibited by chapter.

(1) If a tenant or occupant of real property uses [~~this~~]the real property for an activity for which [~~he or his~~]the tenant or occupant or tenant's or occupant's employee is convicted under any provision of this [~~part~~]chapter, the conviction makes void the lease or other title under which [~~he~~]the tenant or occupant holds at the option of the fee owner or any intermediate lessor [~~;~~].

(2) [~~and 10~~]Subject to Subsection (3), ten days after the day on which the fee owner or [~~any~~]intermediate lessor gives notice in writing to the tenant or occupant that [~~he~~]the fee owner or intermediate lessor is exercising the option to void the lease or other title as described in Subsection (1), the right of possession to the property reverts [~~in~~]to the [~~person~~]fee owner or intermediate lessor exercising the option.

(3) [~~This~~]The fee owner's or intermediate lessor's option described in Subsection (2) does not arise until all avenues of direct appeal from the conviction have been exhausted or abandoned by the tenant or occupant, or [~~his~~]the tenant's or occupant's employee.

[~~(2) It shall be unlawful for a fee owner or intermediate lessor of real property to knowingly allow this property to be used for the purpose of distributing or exhibiting pornographic materials, or for pornographic performances, by a tenant or occupant if the tenant or occupant, or his employee, has been convicted under any provision of this part of an offense occurring on the same property and all avenues of direct appeal from the conviction have been exhausted or abandoned.~~]

[~~(a) "Allow" under this subsection (2) means a failure to exercise the option arising under subsection (1) within 10 days after the fee owner or lessor receives notice in writing from the county attorney of the county where the property is situated, or if situated in a city of the first or second class, from the city attorney of that city, that the property is being used for a purpose prohibited by this subsection (2).~~]

[~~(b) A willful violation of this subsection (2) is a class A misdemeanor and any fine assessed, if not paid within 30 days after judgment, shall become a lien upon the property.~~]

[~~(3) Any tenant or occupant who receives a notice in writing that the fee owner or intermediate lessor is exercising the option provided by subsection (1) and who does not quit the premises within 10 days after the giving of that notice is guilty of a class A misdemeanor.~~]

Section 175. Section 76-5c-106, which is renumbered from Section 76-10-1213 is renumbered and amended to read:

[~~76-10-1213~~]76-5c-106. Corporate defendants -- Summons -- Subpoena duces tecum.

(1) (a) The attendance in court [~~of~~]by a corporation for purposes of commencing or prosecuting a criminal action against [~~it~~]the corporation under this [~~part~~]chapter may be accomplished by the issuance and service of a summons [~~. A summons shall be~~]issued by a magistrate if [~~he~~]the magistrate finds probable cause that material in the possession of the corporation [~~against which the summons is sought~~]is pornographic or harmful to minors, which finding shall be upon affidavit describing with specificity the material alleged to be pornographic or harmful to minors or by another manner or means the magistrate finds necessary.

(b) Where practical, the material alleged to be pornographic or harmful to minors shall be attached to the affidavit [~~so as~~]described in Subsection (1)(a) to [~~afford~~]provide the magistrate with the opportunity to examine [~~this~~]the material.

(c) The summons must be served upon the corporation by delivery of [~~it~~]the summons to an officer, director, managing or general agent, or cashier, or assistant cashier of the corporation.

(2) The production of material alleged to be pornographic or harmful to minors in any proceedings under this [~~part~~]chapter against a corporation may be compelled by the issuance and service of a subpoena duces tecum.

(3) This section does not prohibit or limit the use of a subpoena duces tecum in proceedings against [~~natural persons~~]individuals under this [~~part~~]chapter.

Section 176. Section 76-5c-107, which is renumbered from Section 76-10-1212 is renumbered and amended to read:

[~~76-10-1212~~]76-5c-107. Search and seizure -- Affidavit -- Issuance of warrant -- Hearing upon claim that material seized not pornographic or harmful to minors -- Procedures cumulative.

(1) (a) An affidavit for a search warrant shall be filed with [~~the~~]a magistrate describing with specificity the material sought to be seized.

(b) Where practical, the material alleged to be pornographic or harmful to minors shall be attached to the affidavit for a search warrant described in Subsection (1)(a) to [~~afford~~]provide the magistrate with the opportunity to examine [~~this~~]the material.

(2) (a) Upon the filing of an affidavit for a search warrant under Subsection (1), the magistrate shall determine, by examination of the material sought to be seized if attached, by examination of the affidavit describing the material, or by [~~other~~]another manner or means that [~~he~~]the magistrate finds necessary, whether probable cause exists to believe that the material is pornographic or harmful to minors and whether probable cause exists for the immediate issuance of a search warrant.

(b) Upon making [~~this~~]the determination [~~, he~~]that probable cause exists under Subsection (2)(a), the magistrate shall issue a search warrant ordering the seizure of the material described in the affidavit for a search warrant according to the provisions of the Utah Rules of Criminal Procedure.

(3) (a) If a search warrant is issued under Subsection (2) and the material alleged to be pornographic or harmful to minors is seized under the provisions of this section, any person claiming to be in possession of this material or claiming ownership of [~~it~~]the material at the time of [~~its~~]the material's seizure may file a notice in writing with the magistrate within 10 days after the [~~date of the seizure, alleging~~]day on which the material was seized, to assert that the material is not pornographic or harmful to minors.

(b) The magistrate shall set a hearing within seven days after the filing of [~~this notice~~]the notice described in Subsection (3)(a), or at another time [~~to which~~]with the consent of the claimant [~~might agree. At this hearing~~], at which evidence may be presented [~~as to~~]regarding whether there is probable cause to believe that the material seized is pornographic or harmful to minors [~~, and at the conclusion of the hearing the magistrate shall make a further determination of whether probable cause exists to believe that the material is pornographic or harmful to minors~~].

(c) (i) [~~A~~]At the conclusion of the hearing described in Subsection (3)(b), the magistrate shall make a further determination of whether probable cause exists to believe that the material is pornographic or harmful to minors.

(ii) [~~decision as to whether there is probable cause to believe the seized material is pornographic or harmful to minors~~]The magistrate's determination described in Subsection (3)(c)(i) shall be rendered by the court within two days after [~~the conclusion of the hearing~~]the day on which the hearing described in Subsection (3)(b) concludes.

(d) If at the hearing described in Subsection (3)(b) the magistrate finds that no probable cause exists to believe that the material is pornographic or harmful to minors, [~~then~~]the material shall be returned to the person [~~or persons~~] from whom it was seized.

(e) If the material seized is a film, and the claimant demonstrates that no other copy of the film is available to [~~him~~]the claimant, the court shall allow the film to be copied at the claimant's expense pending the hearing described in Subsection (3)(b).

(4) If a motion to suppress the evidence is granted on the grounds of an unlawful seizure, the property shall be restored unless it is subject to confiscation as contraband, in which case [~~it~~]the property may not be returned.

(5) (a) Procedures under this section for the seizure of allegedly pornographic material or material harmful to minors are cumulative of all other lawful means of obtaining evidence as provided by the laws of this state.

(b) This section does not prevent the obtaining of allegedly pornographic material or material harmful to minors by purchase, subpoena duces tecum, or under injunction proceedings as authorized by this act or by any other provision of law of the state.

Section 177. Section 76-5c-108, which is renumbered from Section 76-10-1215 is renumbered and amended to read:

[~~76-10-1215~~]76-5c-108. Prosecution by county, district, or city attorney.

(1) [~~Prosecution~~]Subject to Subsection (2), a prosecution for a violation [~~of any section of~~]of this [~~part~~]chapter, including for a felony violation, shall be brought by the county attorney or, if within a prosecution district, the district attorney of the county where the violation occurs.

(2) If [~~the~~]a violation occurs [~~, however,~~] in a city of the first or second class, a prosecution may be brought by [~~either~~]the county attorney, district attorney, or city attorney, notwithstanding any provision of law limiting the powers of a city [~~attorneys.~~]attorney.

(3) []All fines imposed for [~~the~~]a violation of this [~~part~~]chapter shall be paid to the county or city [~~of~~]where the prosecuting attorney [~~, as the case may be~~]is located.

Section 178. Section 76-5c-109, which is renumbered from Section 76-10-1208 is renumbered and amended to read:

[~~76-10-1208~~]76-5c-109. Affirmative defenses.

(1) It is an affirmative defense to a prosecution under this [~~part~~]chapter that the distribution of pornographic material is restricted to institutions or persons having scientific, educational, governmental, or other similar justification for possessing pornographic material.

(2) It is not a defense to a prosecution under this [~~part~~]chapter that the actor is a motion picture projectionist, usher, ticket-taker, bookstore employee, or otherwise is required to violate this [~~part~~]chapter incident to the [~~person's~~]actor's employment.

[~~(3) It is an affirmative defense to prosecution under Section 76-10-1206, 76-10-1227, or 76-10-1228 for displaying or exhibiting an outer portion of material, that the material is:~~]

[~~(a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the lower 2/3 of the material is concealed from view;~~]

[~~(b) placed behind a blinder rack; or~~]

[~~(c) displayed in an area from which a minor is physically excluded if the material cannot be viewed by the minor from an area in which a minor is allowed.~~]

Section 179. Section 76-5c-110, which is renumbered from Section 76-10-1207.5 is renumbered and amended to read:

[~~76-10-1207.5~~]76-5c-110. Exemptions to chapter.

(1) This [~~part~~]chapter does not apply to the Department of Corrections or any treatment program by or under contract with the [~~department~~]Department of Corrections when the use of [~~sexually explicit~~]material that is pornographic is limited to the assessment or treatment of an offender as defined [~~under~~]in Section 64-13-1.

(2) A woman breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a violation of this chapter, irrespective of whether the woman's breast is covered during or incidental to feeding.

Section 180. Section 76-5c-111, which is renumbered from Section 76-10-1211 is renumbered and amended to read:

[~~76-10-1211~~]76-5c-111. Severability clause.

[~~If any clause, sentence, paragraph, or part of this part or its application to any person or circumstance shall for any reason be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder of this part or its application to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph, persons, or circumstances, or part thereof directly involved in the controversy in which the judgment shall have been rendered.~~]

(1) If any provision, part, section, or subsection of this chapter or the application of any provision, part, section, or subsection to any person or circumstance is held invalid by a final decision of a court, the remainder of this chapter shall be given effect without the invalid provision, part, section, or subsection or application.

(2) The provisions of this chapter are severable.

Section 181. Section 76-5c-201 is enacted to read:

PART 2. General Offenses

76-5c-201. Definitions.

As used in this part:

(1) "Hosting company" means the same as that term is defined in Section 76-5c-401.

(2) "Internet service provider" means the same as that term is defined in Section 76-5c-401.

Section 182. Section 76-5c-202, which is renumbered from Section 76-10-1204 is renumbered and amended to read:

[~~76-10-1204~~]76-5c-202. Distributing pornographic material.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

[~~(1)~~](2) [~~A person is guilty of~~]An actor commits distributing pornographic material [~~when the person~~]if the actor knowingly:

(a) sends or brings [~~any~~]pornographic material into the state with intent to distribute or exhibit [~~it~~]the pornographic material to [~~others~~]another individual;

(b) prepares, publishes, prints, or possesses [~~any~~]pornographic material with intent to distribute or exhibit [~~it~~]the pornographic material to [~~others~~]another individual;

(c) distributes or offers to distribute, or exhibits or offers to exhibit, [~~any~~]pornographic material to [~~others~~]another individual;

(d) writes, creates, or solicits the publication or advertising of pornographic material;

(e) promotes the distribution or exhibition of material the [~~person~~]actor represents to be pornographic; or

(f) presents or directs a pornographic performance in [~~any~~]a public place or [~~any~~]a place exposed to public view or participates in that portion of the performance which makes [~~it~~]the performance pornographic.

[~~(2) Each distributing of pornographic material as defined in Subsection (1) is a separate offense.~~]

[~~(3) It is a separate offense under this section for:~~]

[~~(a) each day's exhibition of any pornographic motion picture film; and~~]

[~~(b) each day in which any pornographic publication is displayed or exhibited in a public place with intent to distribute or exhibit it to others.~~]

[~~(4)~~](3) (a) [~~An offense under this section committed by a person~~]Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a third degree felony if the actor is 18 years old or older [~~is a third degree felony punishable by~~]and is subject to:

(i) a minimum mandatory fine of not less than $1,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) [~~An offense under this section committed by a person~~]Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A misdemeanor if the actor is 16 or 17 years old [~~is a class A misdemeanor~~].

(c) [~~An offense under this section committed by a person~~]A violation of Subsection (2) is a class B misdemeanor if the actor is younger than 16 years old [~~is a class B misdemeanor~~].

[~~(d) Subsection (4)(a) supersedes Section 77-18-105.~~]

[~~(5) A person 18 years old or older who knowingly solicits, requests, commands, encourages, or intentionally aids another person younger than 18 years old to engage in conduct prohibited under Subsection (1), (2), or (3) is guilty of a third degree felony and is subject to the penalties under Subsection (4)(a).~~]

(4) It is a separate offense under this section for:

(a) each day's exhibition of a pornographic motion picture film;

(b) each day in which a pornographic publication is displayed or exhibited in a public place with intent to distribute or exhibit the publication to another individual; or

(c) each act of distributing of pornographic material described in Subsection (2).

[~~(6)~~](5) (a) This section does not apply to an Internet service provider [~~, as defined in Section 76-10-1230,~~] if:

(i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the Internet service provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the Internet service provider does not intentionally aid or abet in the distribution of the pornographic material; and

(iii) the Internet service provider does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute the pornographic material.

(b) This section does not apply to a hosting company [~~, as defined in Section 76-10-1230,~~]if:

(i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(iii) the hosting company does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute, store, or cache the pornographic material.

(6) Subsection (3)(a) supersedes Section 77-18-105.

Section 183. Section 76-5c-203 is enacted to read:

76-5c-203. Aiding or abetting a minor in distributing pornographic material.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits aiding or abetting a minor in distributing pornographic material if the actor:

(a) is 18 years old or older; and

(b) knowingly solicits, requests, commands, encourages, or intentionally aids a minor in:

(i) sending or bringing pornographic material into the state with intent to distribute or exhibit the pornographic material to another individual;

(ii) preparing, publishing, printing, or possessing pornographic material with intent to distribute or exhibit the pornographic material to another individual;

(iii) distributing or offering to distribute, or exhibiting or offering to exhibit, pornographic material to another individual;

(iv) writing, creating, or soliciting the publication or advertising of pornographic material;

(v) promoting the distribution or exhibition of material the minor represents to be pornographic; or

(vi) presenting or directing a pornographic performance in a public place or a place exposed to public view or participates in that portion of the performance which makes the performance pornographic.

(3) A violation of Subsection (2) is a third degree felony subject to:

(a) a minimum mandatory fine of not less than $1,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(b) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(4) (a) Each act of distributing pornographic material described in Subsection (2) is a separate offense.

(b) It is a separate offense under this section for:

(i) each day's exhibition of any pornographic motion picture film; and

(ii) each day in which any pornographic publication is displayed or exhibited in a public place with intent to distribute or exhibit the publication to another individual.

(5) (a) This section does not apply to an Internet service provider if:

(i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the Internet service provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the Internet service provider does not intentionally aid or abet in the distribution of the pornographic material; and

(iii) the Internet service provider does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute the pornographic material.

(b) This section does not apply to a hosting company if:

(i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(iii) the hosting company does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute, store, or cache the pornographic material.

(6) Subsection (3) supersedes Section 77-18-105.

Section 184. Section 76-5c-204, which is renumbered from Section 76-10-1205 is renumbered and amended to read:

[~~76-10-1205~~]76-5c-204. Inducing acceptance of pornographic material.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

[~~(1)~~](2) [~~A person is guilty of~~]An actor commits inducing acceptance of pornographic material [~~when he~~]if the actor knowingly:

(a) requires or demands as a condition to a sale, allocation, consignment, or delivery for resale of any newspaper, magazine, periodical, book, publication, or other merchandise that the purchaser or consignee receive any pornographic material or material reasonably believed by the purchaser or consignee to be pornographic; or

(b) denies, revokes, or threatens to deny or revoke a franchise, or to impose any penalty, financial or otherwise, because of the failure or refusal to accept pornographic material or material reasonably believed by the purchaser or consignee to be pornographic.

[~~(2)~~](3) [~~(a) An offense under this section~~]A violation of Subsection (2) is a third degree felony [~~punishable by~~]subject to:

[~~(i)~~](a) a minimum mandatory fine of not less than $1,000 plus $10 for each article exhibited up to the maximum allowed by law; and

[~~(ii)~~](b) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

[~~(b) This Subsection (2) supersedes Section 77-18-105.~~]

[~~(3)~~](4) (a) This section does not apply to an Internet service provider [~~, as defined in Section 76-10-1230,~~] if:

(i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the Internet service provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the Internet service provider does not intentionally aid or abet in the distribution of the pornographic material; and

(iii) the Internet service provider does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute the pornographic material.

(b) This section does not apply to a hosting company [~~, as defined in Section 76-10-1230,~~]if:

(i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(iii) the hosting company does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute, store, or cache the pornographic material.

(5) Subsection (3) supersedes Section 77-18-105.

Section 185. Section 76-5c-205, which is renumbered from Section 76-10-1206 is renumbered and amended to read:

[~~76-10-1206~~]76-5c-205. Distributing material harmful to minors.

[~~(1) A person is guilty of dealing in material harmful to minors when, knowing or believing that an individual is a minor, or having negligently failed to determine the proper age of a minor, the person intentionally:~~]

[~~(a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or an individual whom the person believes to be a minor, any material harmful to minors;~~]

[~~(b) produces, performs, or directs any performance, before a minor or an individual whom the person believes to be a minor, that is harmful to minors; or~~]

[~~(c) participates in any performance, before a minor or an individual whom the person believes to be a minor, that is harmful to minors.~~]

[~~(2) (a) Except as provided in Subsection (2)(b), each separate offense under this section committed by a person 18 years old or older is a third degree felony punishable by:~~]

[~~(i) a minimum mandatory fine of not less than $1,000, plus $10 for each article exhibited up to the maximum allowed by law; and~~]

[~~(ii) incarceration, without suspension of sentence, for a term of not less than 14 days.~~]

[~~(b) Each separate offense under this section committed by a person 18 years old or older against a minor 16 years old or older, but younger than 18 years old, is a class A misdemeanor if the person is less than seven years older than the minor at the time of the offense.~~]

[~~(c) Each separate offense under this section committed by a person 16 or 17 years old is a class A misdemeanor.~~]

[~~(d) Each separate offense under this section committed by a person younger than 16 years old is a class B misdemeanor.~~]

[~~(e) Subsection (2)(a) supersedes Section 77-18-105.~~]

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits distributing material harmful to minors if the actor:

(a) (i) intentionally distributes or offers to distribute, or exhibits or offers to exhibit, material harmful to minors to an individual;

(ii) intentionally produces, performs, or directs any performance, before an individual that is harmful to minors; or

(iii) intentionally participates in a performance before an individual that is harmful to minors; and

(b) (i) knows or believes the individual described in Subsection (2)(a) is a minor; or

(ii) negligently fails to determine if the individual described in Subsection (2)(a) is a minor and the individual is a minor.

(3) (a) Except as provided in Subsection (3)(b), (c), (d), or (e), a violation of Subsection (2) is a second degree felony if the actor is 18 years old or older and has previously been convicted or adjudicated of a violation of Subsection (2) and is subject to:

(i) a minimum mandatory fine of not less than $5,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence, for a term of not less than one year.

(b) Except as provided in Subsection (3)(c), (d), or (e), a violation of Subsection (2) is a third degree felony if:

(i) the actor is 18 years old or older and is subject to:

(A) a minimum mandatory fine of not less than $1,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(B) incarceration, without suspension of sentence, for a term of not less than 14 days; or

(ii) the actor is younger than 18 years old and has previously been convicted of a violation of Subsection (2).

(c) Except as provided in Subsection (3)(d) or (e), a violation of Subsection (2) is a class A misdemeanor if the actor is 18 years old or older and the minor described in Subsection (2) is 16 years old or older, but younger than 18 years old, and the actor is less than seven years older than the minor at the time of the offense.

(d) Except as provided in Subsection (3)(e), a violation of Subsection (2) is a class A misdemeanor if the actor is 16 years old or 17 years old.

(e) A violation of Subsection (2) is a class B misdemeanor if the actor is younger than 16 years old.

[~~(3) (a) Except for a defendant described in Subsection (2)(b), if a defendant 18 years old or older has been previously convicted or adjudicated by the juvenile court under this section, each separate subsequent offense is a second degree felony punishable by:~~]

[~~(i) a minimum mandatory fine of not less than $5,000, plus $10 for each article exhibited up to the maximum allowed by law; and~~]

[~~(ii) incarceration, without suspension of sentence, for a term of not less than one year.~~]

[~~(b) If a defendant described in Subsection (2)(b) or a defendant younger than 18 years old has been previously convicted or adjudicated by the juvenile court under this section, each separate subsequent offense is a third degree felony.~~]

[~~(c) Subsection (3)(a) supersedes Section 77-18-105.~~]

[~~(d)~~ ~~(i)~~]

(4) (a) This section does not apply to an Internet service provider [~~, as defined in Section 76-10-1230~~], a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

[~~(A)~~](i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the provider's function of:

[~~(I)~~](A) transmitting or routing data from one person to another person; or

[~~(II)~~](B) providing a connection between one person and another person;

[~~(B)~~](ii) the provider does not intentionally aid or abet in the distribution of the pornographic material; and

[~~(C)~~](iii) the provider does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the pornographic material.

[~~(ii)~~](b) This section does not apply to a hosting company [~~, as defined in Section 76-10-1230,~~] if:

[~~(A)~~](i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

[~~(B)~~](ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

[~~(C)~~](iii) the hosting company does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the pornographic material.

[~~(4) A service provider, as defined in Section 76-10-1230,~~]

(5) An Internet service provider is not negligent under this section if the Internet service provider complies with Section [~~76-10-1231~~]76-5c-402.

[~~(5) A person 18 years old or older who knowingly solicits, requests, commands, encourages, or intentionally aids another person younger than 18 years old to engage in conduct in violation of Subsection (1) is guilty of a third degree felony and is subject to the penalties under Subsection (2)(a).~~]

(6) It is an affirmative defense to a prosecution for a violation of this section if the violation arises from displaying or exhibiting an outer portion of material that the material is:

(a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the lower 2/3 of the material is concealed from view;

(b) placed behind a blinder rack; or

(c) (i) displayed in an area from which a minor is physically excluded; and

(ii) the material cannot be viewed by the minor from an area where the minor is allowed.

(7) Subsections (3)(a) and (3)(b)(i) supersede Section 77-18-105.

Section 186. Section 76-5c-206 is enacted to read:

76-5c-206. Aiding or abetting a minor in distributing material harmful to minors.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits aiding or abetting a minor in distributing material harmful to minors if:

(a) the actor is 18 years old or older; and

(b) the actor knowingly solicits, requests, commands, encourages, or intentionally aids a minor to:

(i) intentionally distribute or offer to distribute, or exhibit or offer to exhibit, material harmful to minors to an individual;

(ii) intentionally produce, perform, or direct any performance, before an individual that is harmful to minors; or

(iii) intentionally participate in any performance, before an individual that is harmful to minors; and

(c) (i) the minor described in Subsection (2)(b) knows or believes the individual described in Subsections (2)(b)(i) through (iii) is a minor; or

(ii) the minor described in Subsection (2)(b) negligently fails to determine if the individual described in Subsections (2)(b)(i) through (iii) is a minor and the individual is a minor.

(3) A violation of Subsection (2) is a third degree felony subject to:

(a) a minimum mandatory fine of not less than $5,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(b) incarceration, without suspension of sentence, for a term of not less than one year.

(4) (a) This section does not apply to an Internet service provider, a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the pornographic material; and

(iii) the provider does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the pornographic material.

(b) This section does not apply to a hosting company if:

(i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(iii) the hosting company does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the pornographic material.

(5) An Internet service provider is not negligent under this section if the Internet service provider complies with Section 76-5c-402.

(6) It is an affirmative defense to prosecution for a violation of this section if the violation arises from displaying or exhibiting an outer portion of material that the material is:

(a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the lower 2/3 of the material is concealed from view;

(b) placed behind a blinder rack; or

(c) (i) displayed in an area from which a minor is physically excluded; and

(ii) the material cannot be viewed by the minor from an area where the minor is allowed.

(7) Subsection (3) supersedes Section 77-18-105.

Section 187. Section 76-5c-207, which is renumbered from Section 76-10-1228 is renumbered and amended to read:

[~~76-10-1228~~]76-5c-207. Indecent public display in the presence of a minor.

(1) (a) As used in this section:

(i) "Description or depiction of illicit sex or sexual immorality" means:

(A) human genitals in a state of sexual stimulation or arousal;

(B) acts of human masturbation, sexual intercourse, or sodomy;

(C) fondling or other erotic touching of human genitals or pubic region; or

(D) fondling or other erotic touching of the human buttock or female breast.

(ii) "Serious value" means having serious literary, artistic, political, or scientific value for minors, taking into consideration the ages of all minors who could be exposed to the material.

(iii) "Nude or partially denuded figure" means:

(A) less than completely and opaquely covering human:

(I) genitals;

(II) pubic regions;

(III) buttocks; or

(IV) female breasts below a point immediately above the top of the areola; or

(B) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

[~~(1) Subject to the affirmative defense in Subsection 76-10-1208(3), a person is guilty of a class A misdemeanor who~~]

(2) An actor commits indecent public display in the presence of a minor if the actor willfully or knowingly:

(a) engages in the business of selling, lending, giving away, showing, advertising for sale, or distributing to a minor or has in the [~~person's~~]actor's possession with intent to engage in that business or to otherwise offer for sale or commercial distribution to a minor any material with:

(i) a description or depiction of illicit sex or sexual immorality; or

(ii) a nude or partially denuded figure; or

(b) publicly displays at [~~newsstands~~]a newsstand or [~~any other~~]another establishment frequented by minors, or where the minors are or may be invited as a part of the general public [~~,~~]:

(i) (A) [~~any~~]a motion picture [~~, or~~];

(B) [~~any~~]a live, taped, or recorded performance [~~, or~~];

(C) [~~any~~]a still picture or photograph [~~,~~]; or

(D) [~~any~~]a book, pocket book, pamphlet, or magazine [~~the cover or content of which:~~]; and

[~~(i)~~](ii) the cover or content of the items described in Subsection (2)(b)(i):

(A) exploits, is devoted to, or is principally made up of [~~one or more descriptions or depictions~~]a description or depiction of illicit sex or sexual immorality; or

[~~(ii)~~](B) consists of [~~one or more pictures~~]a picture of nude or partially denuded figures.

[~~(2)~~](3) [~~(a)~~] A violation of this section is [~~punishable by~~]a class A misdemeanor subject to:

[~~(i)~~](a) a minimum mandatory fine of not less than $500; and

[~~(ii)~~](b) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

[~~(b) This section supersedes Section 77-18-105.~~]

(4) It is an affirmative defense to prosecution for a violation of this section if the violation arises from displaying or exhibiting an outer portion of material that the material is:

(a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the lower 2/3 of the material is concealed from view;

(b) placed behind a blinder rack; or

(c) (i) displayed in an area from which a minor is physically excluded; and

(ii) the material cannot be viewed by the minor from an area where the minor is allowed.

(5) This section does not apply to any material which, when taken as a whole, has serious value for minors, however, a description or depiction of illicit sex or sexual immorality has no serious value for minors.

(6) This section supersedes Section 77-18-105.

Section 188. Section 76-5c-208, which is renumbered from Section 76-10-1235 is renumbered and amended to read:

[~~76-10-1235~~]76-5c-208. Creating, viewing, or accessing pornographic or indecent material on school property.

(1) (a) As used in this section:

(i) "Description or depiction of illicit sex or sexual immorality" means the same as that term is defined in Section 76-5c-207.

(ii) "Nude or partially denuded figure" means the same as that term is defined in Section 76-5c-207.

[~~(a)~~](iii) "Pornographic or indecent material" means any material that:

[~~(i)~~](A) [~~defined as~~]is harmful to minors [~~in Section 76-10-1201~~];

[~~(ii)~~](B) [~~described as~~]is pornographic [~~in Section 76-10-1203; or~~];

[~~(iii) described in Section 76-10-1227~~]

(C) is a description of or depiction of illicit sex or sexual immorality; or

(D) contains a nude or partially denuded figure.

[~~(b)~~](iv) "School property" means property, including land and improvements, that a school district or charter school owns, leases, or occupies.

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) [~~Except as provided in Subsection (3), a person is guilty of~~]Under circumstances not amounting to an offense listed in Subsection (4), an actor commits creating, viewing, or accessing pornographic or indecent material on school property [~~when~~]if the [~~person~~]actor willfully or knowingly creates, views, or otherwise gains access to pornographic or indecent material while present on school property [~~, under circumstances not amounting to an attempted or actual violation of:~~].

[~~(a) distributing pornographic material as specified in Section 76-10-1204;~~]

[~~(b) inducing acceptance of pornographic material as specified in Section 76-10-1205;~~]

[~~(c) dealing in material harmful to a minor as specified in Section 76-10-1206; or~~]

[~~(d) indecent public displays as specified in Section 76-10-1228.~~]

[~~(3) This section does not apply to school or law enforcement personnel when the access to pornographic or indecent material on school property is limited to:~~]

[~~(a) investigation of a violation of this section; or~~]

[~~(b) enforcement of this section.~~]

[~~(4) Each separate offense under this section is:~~]

[~~(a) a class A misdemeanor if the person is 18 years of age or older; and~~]

[~~(b) a class B misdemeanor if the person is under 18 years of age.~~]

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor if the actor is 18 years old or older.

(b) A violation of Subsection (2) is a class B misdemeanor if the actor is younger than 18 years old.

(4) The offenses referred to in Subsection (2) are:

(a) distributing pornographic material as described in Section 76-5c-202;

(b) aiding or abetting a minor in distributing pornographic material as described in Section 76-5c-203;

(c) inducing acceptance of pornographic material as described in Section 76-5c-204;

(d) distributing material harmful to minors as described in Section 76-5c-205;

(e) aiding or abetting a minor in distributing material harmful to minors as described in Section 76-5c-206; or

(f) indecent public display in the presence of a minor as described in Section 76-5c-207.

(5) This section does not:

(a) prohibit disciplinary action for actions that violate this section [~~.~~]; or

(b) apply to school or law enforcement personnel when the school or law enforcement personnel views or otherwise gains access to

pornographic or indecent material while on school property for the limited purpose of:

(i) investigating a violation of this section; or

(ii) enforcing this section.

Section 189. Section 76-5c-209, which is renumbered from Section 76-10-1236 is renumbered and amended to read:
[~~76-10-1236~~]76-5c-209. Possession of a child sex doll.

(1) (a) As used in this section, "child sex doll" means a doll, mannequin, or robot:

[~~(a)~~](i) [~~an~~]that is anatomically correct [~~doll, mannequin, or robot~~], with the features of, or with features that resemble those of, a minor; and

[~~(b)~~](ii) that is intended for use in sexual acts.

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits [~~the offense of~~]possession of a child sex doll if the actor knowingly or intentionally possesses a child sex doll.

(3) A violation of Subsection (2) is a class A misdemeanor, with a mandatory fine of not less than $2,500.

Section 190. Section 76-5c-210, which is renumbered from Section 76-10-1237 is renumbered and amended to read:
[~~76-10-1237~~]76-5c-210. Distributing or purchasing a child sex doll.

(1) (a) As used in this section:

[~~(a)~~](i) "Child sex doll" means the same as that term is defined in Section [~~76-10-1236~~]76-5c-209.

[~~(b)~~](ii) "Distribute" means to sell, or with or without consideration, offer to sell, advertise, provide, ship, deliver for shipment, offer to deliver for shipment, or transfer.

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits [~~the offense of~~]distributing or purchasing a child sex doll if the actor knowingly, intentionally, or recklessly distributes, purchases, or offers to purchase a child sex doll.

(3) A violation of Subsection (2) is a third degree felony, with a mandatory fine of not less than $10,000.

Section 191. Section 76-5c-211, which is renumbered from Section 76-10-1238 is renumbered and amended to read:
[~~76-10-1238~~]76-5c-211. Deactivation of a pornography device filter on a minor's device.

[~~(1) (a) An adult individual, other than the parent or legal guardian of the minor in possession of a device, who intentionally disables the filter required under Section 78B-6-2602 on a device in possession of a minor for the purpose of disseminating pornography to the minor, commits a class A misdemeanor.~~]

[~~(b) For each offense of Subsection (1)(a), the violator is subject to a fine in an amount not to exceed $2,500.~~]

[~~(2) A person who has a prior conviction under this section, who commits a subsequent violation of Subsection (1)(a), is guilty of a third degree felony and shall, for each separate offense, be fined in an amount not to exceed $5,000 and may be imprisoned for zero to five years.~~]

(1) (a) As used in this section, "device" means the same as that term is defined in 78B-6-2601.

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits deactivation of a pornography device filter on a minor's device if the actor:

(a) is 18 years old or older;

(b) intentionally disables the filter required under Section 78B-6-2602 that is on a device in the possession of a minor;

(c) disabled the filter for the purpose of disseminating pornography to the minor described in Subsection (2)(b); and

(d) is not the parent or legal guardian of the minor described in Subsection (2)(b).

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor subject to a fine of not more than $2,500.

(b) A violation of Subsection (2) is a third degree felony subject to a fine of not more than $5,000 if the actor has previously been convicted of a violation of Subsection (2).

Section 192. Section 76-5c-212 is enacted to read:
76-5c-212. Fee owner or intermediate lessor allowing real property to be used for illicit pornographic purposes.

(1) (a) As used in this section, "allow" means a failure to exercise the option to void the lease or other title described in Section 76-5c-105 within 10 days after the day on which the fee owner or lessor receives notice in writing from the county attorney of the county where the property is situated, or if situated in a city of the first or second class, from the city attorney of that city, that the property is being used for a purpose prohibited under this chapter.

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits fee owner or intermediate lessor allowing real property to be used for pornographic purposes if:

(a) the actor is a fee owner or intermediate lessor of real property;

(b) the actor knowingly allows the real property described in Subsection (2)(a) to be used by a tenant or occupant, or a tenant's or occupant's employee, for the purpose of distributing or exhibiting pornographic materials, or for pornographic performances; and

(c) the tenant or occupant, or the tenant's or occupant's employee, has been convicted of a violation of this chapter for an offense that occurred on the property and all avenues of direct appeal from the conviction have been exhausted or abandoned.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) Any fine assessed for a conviction under this section becomes a lien upon the real property described in Subsection (2)(a), if the fine is not paid within 30 days after the day on which the judgment is entered.

Section 193. Section 76-5c-213 is enacted to read:
76-5c-213. Tenant or occupant failing to exit real property after using the property for pornographic purposes.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits tenant or occupant failing to exit real property after using the property for pornographic purposes if the actor:

(a) is a tenant or occupant of real property;

(b) received notice in writing that the fee owner or intermediate lessor of the real property is exercising the option to void the lease or other title described in Section 76-5c-105; and

(c) does not permanently exit the premises within 10 days after the day on which the actor received the notice described in Subsection (2)(b).

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 194. Section 76-5c-214, which is renumbered from Section 76-10-1214 is renumbered and amended to read:

[~~76-10-1214~~]76-5c-214. Conspiracy to commit a pornographic or harmful materials violation.

[~~(1) (a) A conspiracy of two or more persons to commit any offense proscribed by this part is a third degree felony punishable for each separate offense by a minimum mandatory fine of not less than $1,000 and by imprisonment, without suspension of sentence in any way, for a term of not less than 60 days.~~]

[~~(b) This subsection supersedes Section 77-18-105.~~]

[~~(2) (a) If a defendant has already been convicted once under this section, each separate further offense is a second degree felony punishable by a minimum mandatory fine of not less than $5,000 and by imprisonment, without suspension of sentence in any way, for a term of not less than one year.~~]

[~~(b) This subsection supersedes Section 77-18-105.~~]

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits conspiracy to commit a pornographic or harmful materials violation if the actor conspires with two or more persons to commit a violation of this chapter.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony subject to:

(i) a minimum mandatory fine of not less than $1,000; and

(ii) incarceration, without suspension of the sentence in any way, for a term of not less than 60 days.

(b) A violation of Subsection (2) is a second degree felony if the actor has previously been convicted of a violation of Subsection (2) and is subject to:

(i) a minimum mandatory fine of not less than $5,000; and

(ii) incarceration, without suspension of the sentence in any way, for a term of not less than one year.

(4) Subsection (3) supersedes Section 77-18-105.

Section 195. Section 76-5c-301, which is renumbered from Section 76-10-1216 is renumbered and amended to read:

PART 3. Distribution and Exhibition of Motion Picture Films

[~~76-10-1216~~]76-5c-301. Definitions.

As used in this [~~act~~]part:

(1) "Exhibit" means to show in a public place or in a place where the public is admitted, whether or not an admission fee is charged.

(2) (a) "Distributor" means [~~any~~]a person from which a film is acquired by sale, lease, loan, or any other means, directly or indirectly, for the purpose of exhibiting [~~it~~]the film in this state or elsewhere.

(b) [~~but shall~~]"Distributor" does not include [~~any~~]a person whose function with respect to [~~any~~]a film is limited to the transportation or storage [~~thereof~~]of the film.

(3) "Film" means what is usually known as a motion picture film and [~~which~~]that is intended to be shown commercially for profit by devices of any kind whatsoever.

(4) "Person" includes [~~a natural person~~]an individual, firm, association, partnership, or corporation.

(5) "Public place" includes [~~any~~]a place [~~to which~~]that admission is gained by payment of a membership or admission fee, however designated, notwithstanding it is designated as a private club or by words of like import.

Section 196. Section 76-5c-302, which is renumbered from Section 76-10-1217 is renumbered and amended to read:

[~~76-10-1217~~]76-5c-302. Intent of part -- Exemptions from part.

(1) It is the intent of this [~~act~~]part to prevent the commercial distribution and exhibition of films in this state which are pornographic.

(2) [~~There~~]The Legislature finds that there is substantial evidence that elements of organized crime have engaged to an increasing degree in the production and distribution of [~~such~~]pornographic films and, therefore, it is the further intent of this [~~act~~]part to facilitate the criminal prosecution of distributors of pornographic films.

[~~(2)~~](3) It is not the intent of this [~~act~~]part to:

(a) []limit the regulation of films by counties, cities, towns, and other political subdivisions [~~within~~]of the state, [~~and these~~]as these political subdivisions are specifically given the right by this [~~act~~]part to further regulate films [~~. Nor is it the intent of this act to~~]; or

(b) limit or abridge the power to otherwise prosecute violations of any other provisions of law including [~~, but not limited to,~~] those provisions of [~~Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and Performances~~]this chapter.

(4) This part does not apply to a film:

(a) distributed to or exhibited by any accredited university, college, school, library, or other educational institution, church, or museum, if there is scientific, religious, or educational justification for the exhibition of the film; or

(b) exhibited by the Department of Corrections or exhibited as part of any treatment program operated by or under contract with the department if the exhibition of the film is solely for the assessment or treatment of an offender as defined under Section 64-13-1.

Section 197. Section 76-5c-303, which is renumbered from Section 76-10-1219 is renumbered and amended to read:

[~~76-10-1219~~]76-5c-303. Qualification for distribution of films.

(1) A distributor [~~which~~]that is a corporation shall be qualified to distribute films within this state if:

(a) [~~it~~]the corporation is a domestic corporation in good standing or a foreign corporation authorized to transact business in this state; and

(b) [~~it~~]the corporation submits [~~itself~~]the corporation to the jurisdiction and laws of this state relating to being a distributor in this state.

(2) A distributor which is not a corporation shall be qualified to distribute films within this state if:

(a) [~~it~~]the distributor has and continuously maintains a registered office in this state; and

(b) [~~it~~]the distributor has a registered agent whose business address is at that registered office and which is either an individual residing and domiciled in this state, a domestic corporation in good standing, or a foreign corporation authorized to transact business in this state.

(3) This section [~~shall~~]does not affect the right to serve [~~any~~]process, a notice, or a demand, required or permitted by law to be served upon a distributor, in any other manner provided by law.

Section 198. Section 76-5c-304, which is renumbered from Section 76-10-1220 is renumbered and amended to read:

[~~76-10-1220~~]76-5c-304. Change of registered office or agent by film distributor -- Service of process, notice, or demand on registered agent.

(1) A distributor qualified to distribute films in this state may change [~~its~~]the distributor's registered office or registered agent in accordance with Title 16, Chapter 17, Model Registered Agents Act.

(2) Any process, notice, or demand required or permitted by law to be served upon the distributor may be served upon the registered agent of that distributor.

Section 199. Section 76-5c-305, which is renumbered from Section 76-10-1222 is renumbered and amended to read:

[~~76-10-1222~~]76-5c-305. Distribution of a pornographic film for exhibition.

[~~(1) Any person who knowingly or by criminal negligence distributes for exhibition within this state a film which is pornographic as that term is defined in the Utah criminal code shall be guilty of a class A misdemeanor and shall, for each separate offense, be fined not less than $1,000 and imprisoned, without suspension of sentence in any way, for a term of not less than 60 days.~~]

[~~(2) Any person convicted of a violation of this section who has been convicted before of a violation of this section, shall be guilty of a felony of the third degree and shall, for each separate offense, be fined not less than $5,000 and imprisoned, without suspension of sentence in any way, for a term of not less than six months.~~]

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-301 apply to this section.

(2) An actor commits distribution of a pornographic film for exhibition if the actor knowingly or with criminal negligence distributes a film for exhibition that is pornographic.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor subject to:

(i) a fine not less than $1,000; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 60 days.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted of a violation of Subsection (2) and is subject to:

(i) a fine not less than $5,000; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than six months.

(4) It is an affirmative defense to a prosecution under this section that the distribution or exhibition of a film is exempt from the restrictions of this part described in Section 76-5c-302.

(5) It is not a defense to a prosecution under this section that the actor was a motion picture projectionist or was otherwise required by the actor's employment to commit the violation.

[~~(3)~~](6) Each copy of a pornographic film distributed for exhibition [~~within this state~~]in violation of this section [~~shall constitute~~]is a separate offense.

Section 200. Section 76-5c-306, which is renumbered from Section 76-10-1223 is renumbered and amended to read:

[~~76-10-1223~~]76-5c-306. Distributing a film without being qualified.

[~~(1) Any person who knowingly distributes any film for exhibition within this state without being qualified to do so, or who knowingly exhibits a film in this state which has not been acquired from a distributor qualified to distribute films in this state is guilty of a class B misdemeanor and shall, for each separate offense, be fined not less than $299 and imprisoned, without suspension of sentence in any way, for a term of not less than 30 days.~~]

[~~(2) Any person convicted of a violation of this section, who has been convicted before of a violation of this section, shall be guilty of a class A misdemeanor and shall, for each separate offense, be fined not less than $1,000 and imprisoned, without suspension of sentence in any way, for a term of not less than 60 days.~~]

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-301 apply to this section.

(2) An actor commits distributing a film without being qualified if the actor knowingly:

(a) distributes a film for exhibition; and

(b) is not qualified to distribute a film for exhibition.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor subject to:

(i) a fine not less than $299; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of a violation of Subsection (2) and is subject to:

(i) a fine not less than $1,000; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 60 days.

(4) It is an affirmative defense to a prosecution under this section that the distribution of a film is exempt from the restrictions of this part described in Section 76-5c-302.

(5) It is not a defense to a prosecution under this section that the actor was a motion picture projectionist or was otherwise required by the actor's employment to commit the violation.

[~~(3)~~](6) Each day's exhibition of [~~such~~]a film, and each copy of a film distributed for exhibition [~~within this state, shall constitute~~]in violation of this section is a separate offense.

Section 201. Section 76-5c-307 is enacted to read:

76-5c-307. Improperly exhibiting a film.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-301 apply to this section.

(2) An actor commits improperly exhibiting a film if the actor knowingly:

(a) exhibits a film; and

(b) did not acquire the film from a distributor qualified to distribute a film.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor subject to:

(i) a fine not less than $299; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of a violation of Subsection (2) and is subject to:

(i) a fine not less than $1,000; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 60 days.

(4) It is an affirmative defense to a prosecution under this section that the distribution or exhibition of a film is exempt from the restrictions of this part described in Section 76-5c-302.

(5) It is not a defense to a prosecution under this section that the actor was a motion picture projectionist or was otherwise required by the actor's employment to commit the violation.

(6) Each day's exhibition of a film exhibited in violation of this section is a separate offense.

Section 202. Section 76-5c-401, which is renumbered from Section 76-10-1230 is renumbered and amended to read:

PART 4. Requirements and Penalties for Content and Internet Providers

[~~76-10-1230~~]76-5c-401. Definitions.

As used in [~~Sections 76-10-1231 and 76-10-1233~~]this part:

(1) "Consumer" means an individual residing in this state who subscribes to a service provided by a service provider for personal or residential use.

(2) "Content provider" means a person domiciled in Utah or that generates or hosts content in Utah, and that creates, collects, acquires, or organizes electronic data for electronic delivery to a consumer with the intent of making a profit.

(3) (a) "Hosting company" means a person that provides services or facilities for storing or distributing content over the Internet without editorial or creative alteration of the content.

(b) A hosting company may have policies concerning acceptable use without becoming a content provider under Subsection (2).

(4) "Internet service provider" means a person engaged in the business of providing broadband Internet access service, with the intent of making a profit, to consumers in Utah.

(5) "Properly rated" means content using a labeling system to label material harmful to minors provided by the content provider in a way that:

(a) accurately apprises a consumer of the presence of material harmful to minors; and

(b) allows the consumer the ability to control access to material harmful to minors based on the material's rating by use of reasonably priced commercially available software, including software in the public domain.

(6) "Restrict" means to limit access to material harmful to minors by:

(a) properly rating content; or

(b) any other reasonable measures feasible under available technology.

(7) (a) [~~Except as provided in Subsection (7)(b), "service provider"~~]"Service provider" means an Internet service provider.

(b) "Service provider" does not include a person who does not terminate a service in this state, but merely transmits data through:

(i) a wire;

(ii) a cable; or

(iii) an antenna.

(c) "Service provider," notwithstanding Subsection (7)(b), includes a person who [~~meets the requirements of Subsection (7)(a) and~~]leases or rents a wire or cable for the transmission of data.

Section 203. Section 76-5c-402, which is renumbered from Section 76-10-1231 is renumbered and amended to read:

[~~76-10-1231~~]76-5c-402. Data service providers -- Internet content harmful to minors.

(1) (a) Upon request by a consumer, a service provider shall filter content to prevent the transmission of material harmful to minors to the consumer.

(b) A service provider complies with Subsection (1)(a) if the service provider makes a good faith effort to apply a generally accepted and commercially reasonable method of filtering.

(c) At the time of a consumer's subscription to a service provider's service, the service provider shall notify the consumer in a conspicuous manner that the consumer may request to have material harmful to minors blocked under Subsection (1)(a).

(2) The Division of Consumer Protection within the Department of Commerce shall:

(a) every other year request from each service provider information on how the service provider complies with Subsection (1)(a);

(b) publish on the division's website a compilation of the information the division receives under Subsection (2)(a); and

(c) update the compilation described in Subsection (2)(b) every other year.

(3) (a) A service provider may comply with Subsection (1)(a) by providing in-network filtering to prevent the receipt of material harmful to minors, provided that the filtering does not affect or interfere with access to Internet content for consumers who do not request filtering under Subsection (1)(a).

(b) A service provider may comply with Subsection (1)(a) by engaging a third party to provide or referring a consumer to a third party that provides a commercially reasonable method of filtering to block the receipt of material harmful to minors.

(c) A service provider may charge a consumer a commercially reasonable fee for providing filtering under this Subsection (3).

(4) If the attorney general determines that a service provider violates Subsection (1), the attorney general shall:

(a) notify the service provider that the service provider is in violation of Subsection (1); and

(b) notify the service provider that the service provider has 90 days to comply with the provision being violated or be subject to the civil penalties described in Subsection (5).

(5) (a) A service provider that intentionally or knowingly violates Subsection (1)(a) is subject to a civil fine of $2,500 for each separate violation of Subsection (1)(a), up to $15,000 per day.

(b) A service provider that intentionally or knowingly violates Subsection (1)(c) is subject to a civil fine up to $10,000.

(6) A proceeding to impose a civil fine under Subsection (5) may only be brought by the attorney general [~~in a court of competent jurisdiction~~].

Section 204. Section 76-5c-403, which is renumbered from Section 76-10-1233 is renumbered and amended to read:

[~~76-10-1233~~]76-5c-403. Content providers -- Material harmful to minors.

(1) A content provider that is domiciled in Utah, or generates or hosts content in Utah, shall restrict access to material harmful to minors.

(2) If the attorney general determines that a content provider violates Subsection (1), the attorney general shall:

(a) notify the content provider that the content provider is in violation of Subsection (1); and

(b) notify the content provider that the content provider has 30 days to comply with Subsection (1) or be subject to the civil penalties described in Subsection (3).

(3) (a) If a content provider intentionally or knowingly violates this section more than 30 days after receiving the notice provided under Subsection (2), the content provider is subject to a civil fine of $2,500 for each separate violation of Subsection (1), up to $10,000 per day.

(b) A proceeding to impose the civil fine under this section may be brought only by the [~~state~~]attorney general [~~and shall be brought in a court of competent jurisdiction~~].

(4) The Division of Consumer Protection shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish acceptable rating methods to be implemented by a content provider under Subsection (1).

Section 205. Section 76-5d-101, which is renumbered from Section 76-10-1301 is renumbered and amended to read:

CHAPTER 5d. PROSTITUTION

PART 1. General Provisions

[~~76-10-1301~~]76-5d-101. Definitions.

As used in this [~~part~~]chapter:

(1) "Child" is an individual younger than 18 years old.

(2) "HIV infection" means an indication of a Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:

(a) presence of antibodies to HIV, verified by a positive confirmatory test, such as Western blot with an interpretation based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors or another confirmatory test approved by the Utah State Health Laboratory;

(b) presence of HIV antigen;

(c) isolation of HIV; or

(d) demonstration of HIV proviral DNA.

(3) "HIV positive individual" means an individual who has an HIV infection.

(4) "Local law enforcement agency" means the agency responsible for investigation of the violations of Sections 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, and 76-5d-210, the filing of charges which may lead to conviction, and the conducting of or obtaining the results of tests for HIV infection.

[~~(2) "Place of prostitution" means a place or business where prostitution or promotion of prostitution is arranged, regularly carried on, or attempted by one or more individuals under the control, management, or supervision of another.~~]

(5) "Positive" means an indication of the HIV infection.

[~~(3) "Prostitute" or "prostituted individual" means an individual engaged in an activity described in Subsection 76-10-1302(1) or 76-10-1313(1)(a), (c), (d), or (f).~~]

[~~(4)~~](6) "Public place" means a place to which the public or any substantial group of the public has access.

[~~(5)~~](7) "Sexual activity" means, regardless of the gender of either participant:

(a) an act of masturbation, sexual intercourse, or any sexual act involving the genitals of one individual and the mouth or anus of another individual; or

(b) the touching of the genitals, female breast, or anus of one individual with any other body part of another individual with the intent to sexually arouse or gratify either individual.

(8) "Test" means a test for HIV infection in accordance with standards recommended by the Department of Health and Human Services.

Section 206. Section 76-5d-102, which is renumbered from Section 76-10-1307 is renumbered and amended to read:

[~~76-10-1307~~]76-5d-102. Local ordinance consistent with code provisions.

An ordinance adopted by a local authority governing prostitution or aiding prostitution [~~shall~~]that addresses the matters covered by this chapter is required to be consistent with the provisions of this [~~part~~]chapter which govern [~~those matters~~]prostitution or aiding prostitution.

Section 207. Section 76-5d-103, which is renumbered from Section 76-10-1311 is renumbered and amended to read:

[~~76-10-1311~~]76-5d-103. Mandatory testing -- Retention of offender medical file -- Civil liability.

(1) [~~A person~~]An individual who has entered a plea of guilty, a plea of no contest, a plea of guilty with a mental condition, or been found guilty for violation of Section [~~76-10-1302, 76-10-1303, or 76-10-1313 shall be~~]76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210 is required to submit to a mandatory test conducted before sentencing to determine if the [~~offender~~]individual is an HIV positive individual. [~~The mandatory test shall be required and conducted prior to sentencing.~~]

(2) If the mandatory test described in Subsection (1) has not been conducted [~~prior to~~]before sentencing, and the convicted [~~offender~~]actor is already confined in a county jail or state prison, [~~such person shall~~]the individual is required to be tested while in confinement.

(3) [~~The~~]For an individual described in Subsection (1) who is confined in a county jail the local law enforcement agency shall cause the blood specimen of the offender [~~as defined in Subsection (1) confined in county jail~~]to be taken and tested.

(4) [~~The~~]For an individual described in Subsection (1) who is confined in a state prison the Department of Corrections shall cause the blood specimen of the offender [~~defined in Subsection (1) confined in any state prison~~]to be taken and tested.

(5) The local law enforcement agency shall collect and retain in the [~~offender's~~]individual's medical file the following data:

(a) the HIV infection test results;

(b) a copy of the written notice as provided in Section [~~76-10-1312~~]76-5d-104;

(c) photographic identification; and

(d) fingerprint identification.

(6) The local law enforcement agency shall classify the medical file as a private record pursuant to Subsection 63G-2-302(1)(b) or a controlled record pursuant to Section 63G-2-304.

(7) (a) [~~The person tested shall be~~]An individual required to be tested under this section is responsible for the costs of testing, unless the [~~person~~]individual is indigent.

(b) [~~The costs will then~~]If an individual is indigent the costs for the testing will be paid by the local law enforcement agency or the Department of Corrections from the General Fund.

(8) (a) The laboratory performing testing shall report test results to only designated officials in the Department of Corrections, the Department of Health and Human Services, and the local law enforcement agency submitting the blood specimen.

(b) Each department or agency shall designate those officials by written policy.

(c) Designated officials may release information identifying an [~~offender~~]individual under Section [~~76-10-1302, 76-10-1303, or 76-10-1313~~]76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210 who has tested HIV positive as provided under Subsection 63G-2-202(1) and for purposes of prosecution pursuant to Section [~~76-10-1309~~]76-5d-211.

(9) (a) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services who discloses the HIV test results under this section is not civilly liable except when disclosure constitutes fraud or willful misconduct [~~as provided in~~]under Section 63G-7-202.

(b) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services who discloses the HIV test results under this section is not civilly or criminally liable, except when disclosure constitutes a knowing violation of Section 63G-2-801.

(10) When [~~the~~]a medical file is released as provided in Section 63G-2-803, the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services or [~~its officers or employees~~]an officer or employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services are not liable for damages for release of the medical file.

Section 208. Section 76-5d-104, which is renumbered from Section 76-10-1312 is renumbered and amended to read:

[~~76-10-1312~~]76-5d-104. Notice to a convicted individual of HIV positive test results.

(1) [~~A person~~]An individual convicted under Section [~~76-10-1302, 76-10-1303, or 76-10-1313~~]76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210 who has tested positive for the HIV infection shall be notified of the test results in person by:

(a) the local law enforcement agency;

(b) the Department of Corrections, for offenders confined in [~~any~~]a state prison;

(c) the [~~state~~]Department of Health and Human Services; or

(d) an authorized representative of [~~any of the agencies~~]an agency listed in [~~this Subsection (1)~~]Subsections (1)(a) through (c).

(2) The notice [~~under~~]described in Subsection (1) shall contain the signature of the HIV positive [~~person~~]individual, indicating the [~~person's~~]individual's receipt of the notice, the name and signature of the [~~person~~]individual providing the notice, and:

(a) the date of the test;

(b) the positive test results;

(c) the name of the HIV positive individual; and

(d) the following language:

[~~"A person~~]"An individual who has been convicted of prostitution under Section [~~76-10-1302~~]76-5d-202, patronizing a [~~prostitute~~]prostituted individual under Section [~~76-10-1303, or~~]76-5d-203, patronizing a child involved in prostitution under Section 76-5d-204, entering or remaining in a place of prostitution under Section 76-5d-205, sexual solicitation under Section [~~76-10-1313~~]76-5d-209, or sexual solicitation of a child under Section 76-5d-210 after being tested and diagnosed as an HIV positive individual and either had actual knowledge that the [~~person~~]individual is an HIV positive individual or the [~~person~~]individual has previously been convicted of any of the criminal offenses listed above is guilty of a third degree felony under Section [~~76-10-1309~~]76-5d-211."

(3) Failure to provide [~~this notice~~]the notice described in Subsection (1), or to provide the notice in the manner or form prescribed under this section, does not:

(a) []create any civil liability [~~and does not~~]; or

(b) []create a defense to any prosecution under this [~~part~~]chapter.

(4) Upon conviction under Section [~~76-10-1309~~]76-5d-211, and as a condition of probation, the [~~offender~~]actor shall receive treatment and counseling for HIV infection and drug abuse as provided in Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Section 209. Section 76-5d-105, which is renumbered from Section 76-10-1314 is renumbered and amended to read:

[~~76-10-1314~~]76-5d-105. Examination of testing procedures and results in legal proceedings.

(1) Employees of [~~the~~]a laboratory who conduct laboratory analysis of blood samples for presence of antibody to HIV provided pursuant to a request by a law enforcement agency or the Department of Corrections under Section [~~76-10-1311~~]76-5d-103, may be examined in a legal proceeding of any kind or character as to:

(a) the nature of the testing;

(b) the validity of the testing;

(c) the results of the test;

(d) the HIV positivity or negativity of the [~~person~~]individual tested;

(e) the evidentiary chain of custody; and

(f) other factors relevant to the prosecution, subject to the court's ruling.

(2) This section applies only to the criminal investigation and prosecution under Section [~~76-10-1309~~]76-5d-211 which permits enhanced penalties upon a subsequent conviction for:

(a) prostitution [~~,~~]as described in Section [~~76-10-1302~~]76-5d-202;

(b) patronizing a [~~prostitute,~~]prostituted individual as described in Section [~~76-10-1303~~]76-5d-203; [~~or~~]

(c) patronizing a child involved in prostitution as described in Section 76-5d-204;

(d) entering or remaining in a place of prostitution as described in Section 76-5d-205;

[~~(c)~~](e) sexual solicitation [~~,~~]as described in Section [~~76-10-1313~~]76-5d-209; or

(f) sexual solicitation of a child as described in Section 76-5d-210.

Section 210. Section 76-5d-106, which is renumbered from Section 76-10-1315 is renumbered and amended to read:

[~~76-10-1315~~]76-5d-106. Safe harbor for children as victims in commercial sex or sexual solicitation.

(1) As used in this section:

(a) "Child engaged in commercial sex" means a child who:

(i) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(ii) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(iii) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(b) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee, or the functional equivalent of a fee, under Subsection [~~76-10-1313(1)(a)~~]76-5d-209(2)(a), (c), (d), or (f).

(c) "Division" means the Division of Child and Family Services created in Section 80-2-201.

(d) "Juvenile receiving center" means the same as that term is defined in Section 80-1-102.

(2) Upon encountering a child engaged in commercial sex or a child engaged in sexual solicitation, a law enforcement officer shall:

(a) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308, 76-5-308.1, and 76-5-308.5;

(b) refer the child to the division;

(c) bring the child to a juvenile receiving center, if available; and

(d) contact the child's parent or guardian, if practicable.

(3) When law enforcement refers a child to the division under Subsection (2)(b) the division shall provide services to the child under Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.

[~~(4) A child may not be subjected to delinquency proceedings for prostitution under Section 76-10-1302, or sexual solicitation under Section 76-10-1313.~~]

Section 211. Section 76-5d-201 is enacted to read:

PART 2. General Offenses

76-5d-201. Definitions.

As used in this part:

(1) "Place of prostitution" means a place or business where prostitution or promotion of prostitution is arranged, regularly carried on, or attempted by one or more individuals under the control, management, or supervision of another individual.

(2) "Prostituted individual" means an individual engaged in a prohibited activity described in Section 76-5d-202 or Subsection 76-5d-209(2)(b)(i), (iii), (iv), or (vi).

Section 212. Section 76-5d-202, which is renumbered from Section 76-10-1302 is renumbered and amended to read:

[~~76-10-1302~~]76-5d-202. Prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~](2) An actor [~~, except for a child under Section 76-10-1315, is guilty of~~]commits prostitution if the actor:

(a) is 18 years old or older; and

(b) engages in sexual activity with another individual for a fee, or the functional equivalent of a fee.

[~~(2)~~](3) (a) Except as provided in Subsection [~~(2)(b) and Section 76-10-1309~~](3)(b), a violation of Subsection [~~(1)~~](2) is a class B misdemeanor.

(b) [~~Except as provided in Section 76-10-1309, an actor who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or~~]A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of:

(i) a violation of Subsection (2); or

(ii) [~~under~~]a local ordinance adopted [~~under~~]in accordance with Section [~~76-10-1307, is guilty of a class A misdemeanor~~]76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

[~~(3)~~](4) A prosecutor may not prosecute an actor for a violation of Subsection [~~(1)~~](2) if the actor engages in a violation of Subsection [~~(1)~~](2) at or near the time the actor witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the actor reports the offense or attempt to law enforcement in good faith:

(a) assault [~~,~~]as described in Section 76-5-102;

(b) aggravated assault [~~,~~]as described in Section 76-5-103;

(c) mayhem [~~,~~]as described in Section 76-5-105;

(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault [~~under~~]as described in Chapter 5, Part 2, Criminal Homicide;

(e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child [~~under~~]as described in Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(f) rape [~~,~~]as described in Section 76-5-402;

(g) rape of a child [~~,~~]as described in Section 76-5-402.1;

(h) object rape [~~,~~]as described in Section 76-5-402.2;

(i) object rape of a child [~~,~~]as described in Section 76-5-402.3;

(j) forcible sodomy [~~,~~]as described in Section 76-5-403;

(k) sodomy on a child [~~,~~]as described in Section 76-5-403.1;

(l) forcible sexual abuse [~~,~~]as described in Section 76-5-404;

(m) sexual abuse of a child [~~,~~]as described in Section 76-5-404.1, or aggravated sexual abuse of a child, Section 76-5-404.3;

(n) aggravated sexual assault [~~,~~]as described in Section 76-5-405;

(o) sexual exploitation of a minor [~~,~~]as described in Section 76-5b-201;

(p) aggravated sexual exploitation of a minor [~~,~~]as described in Section 76-5b-201.1;

(q) sexual exploitation of a vulnerable adult [~~,~~]as described in Section 76-5b-202;

(r) [~~aggravated burglary or~~]burglary of a dwelling [~~under Chapter 6, Part 2, Burglary and Criminal Trespass~~]as described in Subsection 76-6-202(3)(b);

(s) aggravated burglary as described in Section 76-6-203;

[~~(s)~~](t) [~~aggravated robbery or~~]robbery [~~under Chapter 6, Part 3, Robbery~~]as described in Section 76-6-301;

(u) aggravated robbery as described in Section 76-6-302; or

[~~(t)~~](v) theft by extortion [~~under~~]as described in Section 76-6-406 under the circumstances described in Subsection 76-6-406(1)(a)(i) or (ii).

(5) A violation under this section that is a class A misdemeanor may be prosecuted by an attorney of a city or a town as well as by prosecutors authorized in the code to prosecute a violation under this section.

Section 213. Section 76-5d-203, which is renumbered from Section 76-10-1303 is renumbered and amended to read:

[~~76-10-1303~~]76-5d-203. Patronizing a prostituted individual.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~](2) An actor [~~is guilty of~~]commits patronizing a [~~prostitute if the actor~~]prostituted individual if:

(a) the actor pays [~~or~~], offers to pay, or agrees to pay a [~~prostituted individual~~]prostituted individual, or an individual the actor believes to be a [~~prostituted individual~~]prostituted individual, a fee, or the functional equivalent of a fee [~~,~~]; and

(b) the payment, offer of payment, or agreement for payment described in Subsection (2)(a) is for the purpose of engaging in an act of sexual activity [~~; or~~].

[~~(b) enters or remains in a place of prostitution for the purpose of engaging in sexual activity.~~]

[~~(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3), (4), or (5) or Section 76-10-1309.~~]

[~~(3) A violation of this section that is preceded by a conviction under this section or a conviction under a local ordinance adopted under Section 76-10-1307 is a class A misdemeanor.~~]

[~~(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307is a third degree felony.~~]

[~~(5) (a) Except as provided in Subsection (5)(d), if the patronizing of a prostitute under Subsection (1)(a) involves a child as the other individual, a violation of Subsection (1)(a) is a second degree felony.~~]

[~~(b) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under Subsection (5)(a) that the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age.~~]

[~~(c) An actor's belief that the individual was under 18 years old at the time of the offense, even if the individual was 18 years old or older, is a violation of Subsection (5)(a).~~]

[~~(d) If the act committed under Subsection (5)(a) amounts to an offense that is subject to a greater penalty under another provision of state law than is provided under Subsection (5)(a), this Subsection (5) does not prohibit prosecution and sentencing for the more serious offense.~~]

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted two or more times of:

(i) a violation of Subsection (2); or

(ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

[~~(6)~~](4) Upon a conviction for a violation of this section, the court shall order:

(a) the maximum fine amount and may not waive or suspend the fine; and

(b) the [~~defendant~~]actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 214. Section 76-5d-204 is enacted to read:

76-5d-204. Patronizing a child involved in prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) An actor commits patronizing a child involved in prostitution if:

(a) the actor pays, offers to pay, or agrees to pay a prostituted individual, or an individual the actor believes to be a prostituted individual, a fee, or the functional equivalent of a fee;

(b) the payment, offer of payment, or agreement for payment described in Subsection (2)(a) is for the purpose of engaging in an act of sexual activity; and

(c) the prostituted individual, or the individual the actor believes to be a prostituted individual, described in Subsection (2)(a) is:

(i) a child; or

(ii) believed by the actor to be a child.

(3) A violation of Subsection (2) is a second degree felony.

(4) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this section that the actor mistakenly believed the individual described in Subsection (2) to be 18 years old or older at the time of the offense or was unaware of the individual's true age.

(5) If the act committed under Subsection (2) amounts to an offense that is subject to a greater penalty under another provision of law this section does not prohibit prosecution and sentencing for the more serious offense.

(6) Upon a conviction for a violation of this section, the court shall order:

(a) the maximum fine amount and may not waive or suspend the fine; and

(b) the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 215. Section 76-5d-205 is enacted to read:

76-5d-205. Entering or remaining in a place of prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) An actor commits entering or remaining in a place of prostitution if the actor enters or remains in a place of prostitution for the purpose of engaging in sexual activity.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted two or more times of:

(i) a violation of Subsection (2); or

(ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

(4) Upon a conviction for a violation of this section, the court shall order:

(a) the maximum fine amount and may not waive or suspend the fine; and

(b) the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 216. Section 76-5d-206, which is renumbered from Section 76-10-1304 is renumbered and amended to read:

[~~76-10-1304~~]76-5d-206. Aiding prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~](2) An [~~individual is guilty of~~]actor commits aiding prostitution if the [~~individual~~]actor:

(a) (i) solicits an individual to patronize a [~~prostitute~~]prostituted individual, or to patronize an individual the actor believes to be a [~~prostitute~~]prostituted individual;

(ii) procures or attempts to procure a [~~prostitute~~]prostituted individual, or an individual the actor believes to be a [~~prostitute~~]prostituted individual, for a patron;

(iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in association with another individual, to be used for prostitution or the promotion of prostitution; or

(iv) provides [~~any~~]a service or commits [~~any~~]an act that enables another individual to commit a violation of [~~this Subsection (1)(a)~~]this Subsection (2) or facilitates another individual's ability to commit [~~any~~]a violation of [~~this Subsection (1)(a)~~]this Subsection (2); or

(b) solicits, receives, or agrees to receive [~~any~~]a benefit for committing any of the acts prohibited by Subsection [~~(1)(a)~~](2)(a).

[~~(2) Aiding prostitution is a class A misdemeanor, except as provided in Subsection (3).~~]

[~~(3) An individual who is convicted a second time, and on all subsequent convictions, under this section or under a local ordinance adopted in compliance with Section 76-10-1307is guilty of a third degree felony.~~]

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted of:

(i) a violation of Subsection (2); or

(ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

(4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

(5) A violation under this section that is a class A misdemeanor may be prosecuted by an attorney of a city or a town as well as by prosecutors authorized in the code to prosecute a violation under this section.

Section 217. Section 76-5d-207, which is renumbered from Section 76-10-1305 is renumbered and amended to read:

[~~76-10-1305~~]76-5d-207. Exploitation of prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~](2) An [~~individual is guilty of exploiting~~]actor commits exploitation of prostitution if the [~~individual~~]actor:

(a) procures an individual for a place of prostitution;

(b) encourages, induces, or otherwise purposely causes another individual to become or remain a [~~prostitute~~]prostituted individual;

(c) transports an individual into or within this state with [~~a~~]the purpose to promote [~~that~~]the individual's [~~engaging~~]engagement in prostitution;

(d) [~~or procuring or paying for~~]procures or pays for an individual's transportation with [~~that~~]the purpose of promoting the individual's engagement in prostitution;

[~~(d)~~](e) not being a child or legal dependent of a [~~prostitute~~]prostituted individual, shares the proceeds of prostitution with a [~~prostitute~~]prostituted individual, or an individual the actor believes to be a [~~prostitute~~]prostituted individual, pursuant to [~~their~~]the actor's and the prostituted individual's understanding that the actor is to share [~~therein~~]in the proceeds of the prostitution; or

[~~(e)~~](f) owns, controls, manages, supervises, or otherwise keeps, alone or in association with another individual, a place of prostitution or a business where prostitution occurs or is arranged, encouraged, supported, or promoted.

[~~(2)~~](3) [~~Exploiting prostitution is a felony of the~~]A violation of Subsection (2) is a third degree felony.

[~~(3)~~](4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

Section 218. Section 76-5d-208, which is renumbered from Section 76-10-1306 is renumbered and amended to read:

[~~76-10-1306~~]76-5d-208. Aggravated exploitation of prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~](2) [~~A person is guilty of~~]An actor commits aggravated exploitation of prostitution if:

(a) in committing an act of [~~exploiting~~]exploitation of prostitution [~~, as defined in~~]as described in Section [~~76-10-1305~~]76-5d-207, the [~~person~~]actor uses any force, threat, or fear against any [~~person~~]individual;

(b) the [~~person~~]individual whom the actor procured, transported, or persuaded, or with whom the [~~person~~]actor shares the proceeds of prostitution, is a child or is the spouse of the actor; or

(c) in the course of committing an act of exploitation of prostitution [~~, a violation of Section 76-10-1305~~]as described in Section 76-5d-207, the [~~person~~]actor commits human trafficking or human smuggling [~~, a~~]in violation of Section 76-5-308, 76-5-308.1, 76-5-308.3, or 76-5-308.5.

[~~(2)~~](3) (a) [~~Aggravated exploitation of prostitution~~]Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony [~~, except under Subsection (3)~~].

[~~(3)~~](b) [~~Aggravated exploitation of prostitution involving a child~~]A violation of Subsection (2) is a first degree felony if the violation involves a child.

(4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

Section 219. Section 76-5d-209, which is renumbered from Section 76-10-1313 is renumbered and amended to read:

[~~76-10-1313~~]76-5d-209. Sexual solicitation.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~](2) An [~~individual except for a child under Section 76-10-1315 is guilty of~~]actor commits sexual solicitation if the [~~individual~~]actor:

(a) is 18 years old or older; and

[~~(a)~~](b) (i) offers or agrees to commit any sexual activity with another individual for a fee, or the functional equivalent of a fee;

[~~(b)~~](ii) pays [~~or~~], offers to pay, or agrees to pay a fee, or the functional equivalent of a fee, to another individual to commit any sexual activity;

[~~(c)~~](iii) (A) takes steps to arrange a meeting with another individual through any form of advertising or agreement to meet [~~, and~~];

(B) []meets the individual at an arranged place; and

(C) []arranged and met the individual for the purpose of being hired to engage in sexual activity in exchange for a fee, or the functional equivalent of a fee;

[~~(d)~~](iv) loiters in, or within view of, a public place for the purpose of being hired to engage in sexual activity in exchange for a fee, or the functional equivalent of a fee;

[~~(e)~~](v) with intent to pay another individual to commit any sexual activity for a fee, or the functional equivalent of a fee, requests or directs the [~~other~~]individual to engage in any of the following acts:

[~~(i)~~](A) exposure of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

[~~(ii)~~](B) masturbation;

[~~(iii)~~](C) touching of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast; or

[~~(iv)~~](D) any act of lewdness; or

[~~(f)~~](vi) with intent to engage in sexual activity for a fee, or the functional equivalent of a fee, engages in, or offers or agrees to engage in, an act described in [~~Subsection (1)(e)(i)~~]Subsections (2)(b)(v)(A) through [~~(iv)~~](D).

[~~(2) An intent to engage in sexual activity for a fee may be inferred from an individual's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1)(e) or (f) under the totality of the existing circumstances.~~]

(3) (a) [~~Except as provided in Section 76-10-1309 and Subsections (4) and (5), a~~]A violation of Subsection [~~(1)(a)~~](2)(a), (c), (d), or (f) or under a local ordinance adopted in compliance with Section [~~76-10-1307~~]76-5d-102 is:

[~~(a)~~](i) a class B misdemeanor on a first or second violation; [~~and~~]or

[~~(b)~~](ii) a class A misdemeanor on a third or subsequent violation.

[~~(4)~~](b) [~~Except as provided in Section 76-10-1309 and Subsections (5) and (8), a~~]A violation of Subsection [~~(1)(b)~~](2)(b) or (e) or a local ordinance adopted under Section [~~76-10-1307~~]76-5d-102 is:

[~~(a)~~](i) a class A misdemeanor on the first or second violation; [~~and~~]or

[~~(b)~~](ii) a third degree felony on a third or subsequent violation.

[~~(5) If an individual commits an act of sexual solicitation in violation of Subsection (1) and the individual solicited is a child, the offense is a second degree felony if the solicitation does not amount to a violation of:~~]

[~~(a) Section 76-5-308, 76-5-308.1, or 76-5-308.5, human trafficking or Section 76-5-308.3, human smuggling; or~~]

[~~(b) Section 76-5-310, aggravated human trafficking or Section 76-5-310.1, aggravated human smuggling.~~]

(4) An intent to engage in sexual activity for a fee may be inferred from an actor engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (2)(e) or (f) under the totality of the existing circumstances.

[~~(6)~~](5) (a) Upon encountering a child engaged in commercial sex or a child engaged in sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection [~~76-10-1315(2)~~]76-5d-106(2).

(b) A child engaged in commercial sex or a child engaged in sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

[~~(7)~~](6) A prosecutor may not prosecute an [~~individual~~]actor for a violation of Subsection [~~(1)~~](2) if the [~~individual~~]actor engages in a violation of Subsection [~~(1)~~](2) at or near the time the [~~individual~~]actor witnesses or is a victim of any of the offenses, or an attempt to commit any of the offenses, described in Subsection [~~76-10-1302(3)~~]76-5d-202(4), and the individual reports the offense or attempt to law enforcement in good faith.

[~~(8)~~](7) (a) As part of a sentence imposed under Subsection [~~(3)~~](3)(a), the court may lower, waive, or suspend a fine if the [~~defendant~~]actor completes a court-approved program that provides information or services intended to help an individual no longer engage in prostitution.

(b) As part of a sentence imposed under Subsection [~~(4)~~](3)(b), the court shall order the [~~defendant~~]actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 220. Section 76-5d-210 is enacted to read:

76-5d-210. Sexual solicitation of a child.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) Under circumstances not amounting to an offense described in Subsection (4), an actor commits sexual solicitation of a child if the actor:

(a) is 18 years old or older; and

(b) (i) offers or agrees to commit any sexual activity with a child for a fee, or the functional equivalent of a fee;

(ii) pays, offers to pay, or agrees to pay a fee, or the functional equivalent of a fee, to a child to commit any sexual activity;

(iii) (A) takes steps to arrange a meeting with a child through any form of advertising or agreement to meet;

(B) meets the child at an arranged place; and

(C) arranged and met the child for the purpose of being hired to engage in sexual activity in exchange for a fee, or the functional equivalent of a fee;

(iv) loiters in, or within view of, a public place for the purpose of being hired to engage in sexual activity with a child in exchange for a fee, or the functional equivalent of a fee;

(v) with intent to pay a child to commit any sexual activity for a fee, or the functional equivalent of a fee, requests or directs the child to engage in any of the following acts:

(A) exposure of the child's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(B) masturbation;

(C) touching of the child's genitals, the buttocks, the anus, the pubic area, or the female breast; or

(D) any act of lewdness; or

(vi) with intent to engage in sexual activity with a child for a fee, or the functional equivalent of a fee, engages in, or offers or agrees to engage in, an act described in Subsections (2)(b)(v)(A) through (D).

(3) A violation of Subsection (2) is a second degree felony.

(4) The offenses referred to in Subsection (2) are:

(a) human trafficking for labor as described in Section 76-5-308;

(b) human trafficking for sexual exploitation as described in Section 76-5-308.1;

(c) human smuggling as described in Section 76-5-308.3;

(d) human trafficking of a child as described in Section 76-5-308.5;

(e) aggravated human trafficking as described in Section 76-5-310; and

(f) aggravated human smuggling as described in Section 76-5-310.1.

(5) (a) Upon encountering a child engaged in commercial sex or a child engaged in sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection 76-5d-106(2).

(b) A child engaged in commercial sex or a child engaged in sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

(6) A prosecutor may not prosecute an actor for a violation of Subsection (2) if the actor engages in a violation of Subsection (2) at or near the time the actor witnesses or is a victim of any of the offenses, or an attempt to commit any of the offenses, described in Subsection 76-5d-202(4), and the individual reports the offense or attempt to law enforcement in good faith.

(7) This section does not apply to a child under Section 76-5d-106.

Section 221. Section 76-5d-211, which is renumbered from Section 76-10-1309 is renumbered and amended to read:

[~~76-10-1309~~]76-5d-211. Enhanced penalties for HIV positive actor.

[~~A person~~]An actor who is convicted of prostitution [~~under~~]as described in Section [~~76-10-1302~~]76-5d-202, patronizing a [~~prostitute under~~]prostituted individual as described in Section [~~76-10-1303~~]76-5d-203, patronizing a child involved in prostitution as described in Section 76-5d-204, entering or remaining in a place of prostitution as described in Section 76-5d-205, or sexual solicitation [~~under~~]as described in Section [~~76-10-1313~~]76-5d-209 or 76-5d-210 is guilty of a third degree felony if at the time of the offense the [~~person~~]actor is an HIV positive individual, and the [~~person~~]actor:

(1) has actual knowledge [~~of the fact~~]that the actor is an HIV positive individual; or

(2) has previously been convicted under Section [~~76-10-1302, 76-10-1303, or 76-10-1313~~]76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210.

Section 222. Section 76-6-105 is amended to read:

76-6-105. Causing a catastrophe -- Penalties.

(1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor commits causing a catastrophe if the actor causes widespread injury or damage to persons or property by:

(a) use of a weapon of mass destruction as defined in Section [~~76-10-401~~]76-15-301; or

(b) explosion, fire, flood, avalanche, collapse of a building, or other harmful or destructive force or substance that is not a weapon of mass destruction.

(3) A violation of Subsection (2) is:

(a) a first degree felony if the actor causes the catastrophe knowingly and by the use of a weapon of mass destruction;

(b) a second degree felony if the actor causes the catastrophe knowingly and by a means other than a weapon of mass destruction; and

(c) a class A misdemeanor if the actor causes the catastrophe recklessly.

(4) In addition to any other penalty authorized by law, a court shall order an actor convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

Section 223. Section 76-6-206 is amended to read:

76-6-206. Criminal trespass.

(1) (a) As used in this section:

(i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.

(ii) "Graffiti" means the same as that term is defined in Section 76-6-101.

(iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means remaining on or over private property when:

(A) the private property or any portion of the private property is not open to the public; and

(B) the person operating the unmanned aircraft is not otherwise authorized to fly the unmanned aircraft over the private property or any portion of the private property.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) An actor commits criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section [~~76-10-2402~~]76-9-113 regarding commercial obstruction or Section 76-9-114 regarding aggravated commercial obstruction:

(a) the actor enters or remains unlawfully on or causes an unmanned aircraft to enter and remain unlawfully over property and:

(i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti;

(ii) intends to commit any crime, other than theft or a felony; or

(iii) is reckless as to whether the actor's or unmanned aircraft's presence will cause fear for the safety of another;

(b) knowing the actor's or unmanned aircraft's entry or presence is unlawful, the actor enters or remains on or causes an unmanned aircraft to enter or remain unlawfully over property to which notice against entering is given by:

(i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;

(ii) fencing or other enclosure obviously designed to exclude intruders; or

(iii) posting of signs reasonably likely to come to the attention of intruders;

(c) the actor enters a condominium unit in violation of Section 57-8-7(8); or

(d) the actor enters a sex-designated changing room in violation of Subsection 63G-31-302(3).

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2)(a), (b), or (d) is a class B misdemeanor.

(b) The following is a class A misdemeanor:

(i) if a violation of Subsection (2)(a) or (b) is committed in a dwelling;

(ii) if a violation of Subsection (2)(d) is committed while also committing the offense of:

(A) lewdness under Section [~~76-9-702~~]76-5-419;

(B) lewdness involving a child under Section [~~76-9-702.5~~]76-5-420;

(C) voyeurism under Section [~~76-9-702.7~~]76-12-306;

(D) recorded or photographed voyeurism under Section 76-12-307;

(E) distribution of images obtained through voyeurism under Section 76-12-308;or

[~~(D)~~](F) loitering in a privacy space under Section [~~76-9-702.8~~]76-12-309; or

(iii) if a violation of Subsection (2)(d) is committed in a sex-designated privacy space, as defined in Section [~~76-9-702.8~~]76-12-309, that is not designated for individuals of the actor's sex.

(c) A violation of Subsection (2)(c) is an infraction.

(4) It is a defense to prosecution under this section that:

(a) the property was at the time open to the public; and

(b) the defendant complied with all lawful conditions imposed on access to or remaining on the property.

(5) In addition to an order for restitution under Section 77-38b-205, an actor who commits a violation of Subsection (2) may also be liable for:

(a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or $500, whichever is greater; and

(b) reasonable attorney fees not to exceed $250, and court costs.

(6) Civil damages under Subsection (5) may be collected in a separate action by the property owner or the owner's assignee.

Section 224. Section 76-6-207, which is renumbered from Section 76-10-2002 is renumbered and amended to read:

[~~76-10-2002~~]76-6-207. Burglary of a research facility -- Penalties.

(1) (a) As used in this section:

(i) "Building," in addition to its commonly-accepted meaning, means any watercraft, aircraft, trailer, sleeping car, or other structure or vehicle adapted for overnight accommodations of individuals or for carrying on business and includes:

(A) each separately secured or occupied portion of the building or vehicle; and

(B) each structure appurtenant or connected to the building or vehicle.

(ii) "Enter" means:

(A) an intrusion of any part of the body; or

(B) the intrusion of any physical object, sound wave, light ray, electronic signal, or other means of intrusion under the control of the actor.

(iii) "Research" means studious and serious inquiry, examination, investigation, or experimentation aimed at the discovery, examination, or accumulation of facts, data, devices, theories, technologies, or applications done for any public, governmental, proprietorial, or teaching purpose.

(iv) "Research facility" means a building, or separately secured yard, pad, pond, laboratory, pasture, pen, or corral which is not open to the public, the major use of which is to conduct research, to house research subjects, to store supplies, equipment, samples, specimens, records, data, prototypes, or other property used in or generated from research.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

[~~(1)~~](2) [~~A person is guilty of~~]An actor commits burglary of a research facility if [~~he~~]the actor enters or remains unlawfully in a research facility with the intent to:

(a) obtain unauthorized control over any property, sample, specimen, record, data, test result, or proprietary information in the facility;

(b) alter or eradicate any sample, specimen, record, data, test result, or proprietary information in the facility;

(c) damage, deface, or destroy any property in the facility;

(d) release from confinement or remove any animal or biological vector in the facility regardless of whether or not that animal or vector is dangerous;

(e) commit an assault on [~~any person~~]an individual;

(f) commit any other felony; or

(g) interfere with the personnel or operations of a research facility through [~~any~~]conduct that does not constitute an assault.

[~~(2) A person who violates Subsection (1)(g) is guilty of a class A misdemeanor. A person who violates any other provision in this section is guilty of a felony of the second degree.~~]

(3) (a) A violation of Subsection (2)(g) is a class A misdemeanor.

(b) A violation of Subsection (2)(a), (b), (c), (d), (e), or (f) is a second degree felony.

Section 225. Section 76-6-414 is amended to read:

76-6-414. Theft resulting in economic interruption.

(1) (a) As used in this section:

(i) "Business" means the same as that term is defined in Section 76-6-113.

(ii) "Governmental entity" means the same as that term is defined in Section 76-6-113.

(iii) "Economic interruption" means the same as that term is defined in Section 76-6-113.

(b) Terms defined in Sections 76-1-101.5 and 76-6-401 apply to this section.

(2) An actor commits theft resulting in economic interruption if:

(a) the actor intentionally, knowingly, recklessly, or negligently obtains or exercises unauthorized control over a business's or governmental entity's property with the intent to deprive the business or governmental entity of the property; and

(b) the actor's actions under Subsection (2)(a) cause an economic interruption for the business or governmental entity.

[~~(3) A violation of Subsection (2) is a class A misdemeanor.~~]

(3) (a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a class A misdemeanor.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third degree felony if the actor has two prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2).

(c) A violation of Subsection (2) is a second degree felony if the actor has at least three prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2).

(4) It is not a defense under this section that the actor did not know that the victim is a business or governmental entity.

[~~(5) If the trier of facts finds that the actor committed a violation of Subsection (2), the actor is guilty of:~~]

[~~(a) a third degree felony if the actor has two prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2); and~~]

[~~(b) a second degree felony if the actor has at least three prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2).~~]

[~~(6)~~](5) A prior conviction used for a penalty enhancement under Subsection [~~(5)~~](3)(b) or (c) is a conviction that is from a separate criminal episode than:

(a) the most recent violation of Subsection (2); and

(b) any other prior conviction that is used to enhance the penalty for the most recent violation of Subsection (2).

[~~(7)~~](6) The prosecuting attorney, or the grand jury if an indictment is returned, shall include notice in the information or indictment that the offense is subject to an enhancement under Subsection [~~(5)~~](3)(b) or (c).

Section 226. Section 76-6-525, which is renumbered from Section 76-10-1801 is renumbered and amended to read:

[~~76-10-1801~~]76-6-525. Communications fraud.

(1) (a) As used in this section, "sensitive personal identifying information" means information regarding an individual's:

(i) social security number;

(ii) driver license number or other government-issued identification number;

(iii) financial account number or credit or debit card number;

(iv) password or personal identification number or other identification required to gain access to a financial account or a secure website;

(v) automated or electronic signature;

(vi) unique biometric data; or

(vii) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~Any person who~~]An actor commits communications fraud if the actor has devised any scheme or artifice to defraud another or to obtain from another money, property, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions, and who communicates directly or indirectly with any person by any means for the purpose of executing or concealing the scheme or artifice.

(3) [~~is guilty of~~]A violation of Subsection (2) is:

(a) a class B misdemeanor when the value of the property, money, or thing obtained or sought to be obtained is less than $500;

(b) a class A misdemeanor when the value of the property, money, or thing obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(c) a third degree felony when the value of the property, money, or thing obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000;

(d) a second degree felony when the value of the property, money, or thing obtained or sought to be obtained is or exceeds $5,000; and

(e) a second degree felony when the object or purpose of the scheme or artifice to defraud is the obtaining of sensitive personal identifying information, regardless of the value.

[~~(2)~~](4) The determination of the degree of [~~any~~]an offense under Subsection [~~(1) shall be~~](2) is measured by the total value of all property, money, or things obtained or sought to be obtained by the scheme or artifice described in Subsection [~~(1)~~](2) except as provided in Subsection [~~(1)(c)~~](3)(e).

[~~(3)~~](5) (a) Reliance on the part of any person is not a necessary element of the offense described in Subsection [~~(1)~~](2).

[~~(4)~~](b) An intent on the part of the [~~perpetrator~~]actor of any offense described in Subsection [~~(1)~~](2) to permanently deprive any person of property, money, or thing of value is not a necessary element of the offense.

[~~(5)~~](c) Each separate communication made for the purpose of executing or concealing a scheme or artifice described in Subsection [~~(1)~~](2) is a separate act and offense of communication fraud.

(6) (a) To communicate as described in Subsection [~~(1)~~](2) means to:

(i) bestow, convey, make known, recount, or impart;

(ii) give by way of information;

(iii) talk over; or

(iv) transmit information.

(b) Means of communication include use of the mail, telephone, telegraph, radio, television, newspaper, computer, and spoken and written communication.

(7) [~~A person~~]An actor may not be convicted under this section unless the pretenses, representations, promises, or material omissions made or omitted were made or omitted intentionally, knowingly, or with a reckless disregard for the truth.

[~~(8) As used in this section, "sensitive personal identifying information" means information regarding an individual's:~~]

[~~(a) Social Security number;~~]

[~~(b) driver's license number or other government issued identification number;~~]

[~~(c) financial account number or credit or debit card number;~~]

[~~(d) password or personal identification number or other identification required to gain access to a financial account or a secure website;~~]

[~~(e) automated or electronic signature;~~]

[~~(f) unique biometric data; or~~]

[~~(g) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.~~]

Section 227. Section 76-6-703.3 is amended to read:

76-6-703.3. Unlawful use of technology to defraud.

(1) (a) As used in this section, "sensitive personal identifying information" means the same as that term is defined in Section [~~76-10-1801~~]76-6-525.

(b) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

(2) An actor commits unlawful use of technology to defraud if the actor uses or knowingly allows another person to use a computer, computer network, computer property, or computer system, program, or software to devise or execute any artifice or scheme to defraud or to obtain money, property, a service, or other thing of value by a false pretense, promise, or representation.

(3) A violation of Subsection (2) is:

(a) a class B misdemeanor if the value of the money, property, service, or thing obtained or sought to be obtained is less than $500;

(b) a class A misdemeanor if the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(c) a third degree felony if the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000; or

(d) a second degree felony if:

(i) the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds $5,000; or

(ii) the object or purpose of the artifice or scheme to defraud is the obtaining of sensitive personal identifying information, regardless

of the value.

(4) (a) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.

(b) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.

(5) (a) An interactive computer service is not guilty of violating this section if a person violates this section using the interactive computer service and the interactive computer service did not knowingly assist the person to commit the violation.

(b) A service provider is not guilty of violating this section for:

(i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or

(ii) action taken, including scanning and removing computer software, to detect or prevent the following:

(A) unauthorized or fraudulent use of a network, service, or computer software;

(B) illegal activity; or

(C) infringement of intellectual property rights.

Section 228. Section 76-6-703.7 is amended to read:

76-6-703.7. Unlawful computer access.

(1) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

(2) An actor commits unlawful computer access if:

(a) the actor intentionally or knowingly, and without authorization, gains or attempts to gain access to a computer, computer network, computer property, or computer system; and

(b) the circumstances of the violation of Subsection (2)(a) do not constitute an offense under Section 76-6-703, [~~76-6-703.1,~~]76-6-703.3, [~~or~~]76-6-703.5, or 76-12-205.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) (a) Notwithstanding Subsection (2), a retailer that uses an electronic product identification or tracking system, or other technology, to identify, track, or price goods is not guilty of a violation of this section if the equipment designed to read the electronic product identification or tracking system data and used by the retailer to identify, track, or price goods is located within the retailer's location.

(b) It is an affirmative defense to a violation under this section that the actor obtained access or attempted to obtain access:

(i) in response to, and for the purpose of protecting against or investigating, a prior attempted or successful breach of security of computer technology whose security the actor is authorized or entitled to protect, and the access attempted or obtained was no greater than reasonably necessary for that purpose; or

(ii) pursuant to a search warrant or a lawful exception to the requirement to obtain a search warrant.

(c) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.

(d) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.

(5) (a) An interactive computer service is not guilty of violating this section if an actor violates this section using the interactive computer service and the interactive computer service did not knowingly assist the actor to commit the violation.

(b) A service provider is not guilty of violating this section for:

(i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or

(ii) action taken, including scanning and removing computer software, to detect or prevent the following:

(A) unauthorized or fraudulent use of a network, service, or computer software;

(B) illegal activity; or

(C) infringement of intellectual property rights.

Section 229. Section 76-6-705 is amended to read:

76-6-705. Reporting violations.

(1) Each person who has reason to believe that a provision of Section 76-6-703, [~~76-6-703.1,~~]76-6-703.3, 76-6-703.5, [~~or~~]76-6-703.7, or 76-12-205 is being or has been violated shall report the suspected violation to:

(a) the attorney general, or county attorney, or, if within a prosecution district, the district attorney of the county or prosecution district in which part or all of the violation occurred; or

(b) a state or local law enforcement agency.

(2) Subsection (1) does not apply to the extent that the person is prohibited from reporting by a statutory or common law privilege.

Section 230. Section 76-6-1202 is amended to read:

76-6-1202. Definitions.

As used in this part:

(1) "Mortgage lending process" means the process through which a person seeks or obtains a mortgage loan, including solicitation, application, or origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan.

(2) "Mortgage loan":

(a) means a loan or agreement made to extend credit to a person when the loan is secured by a deed, security deed, mortgage, security interest, deed of trust, or other document representing a security interest or lien upon any interest in one-to-four family residential property; and

(b) includes the renewal or refinancing of any loan.

(3) "Pattern of unlawful activity" [~~has the same definition as~~]means the same as that term is defined in Section [~~76-10-1602~~]76-17-401.

(4) "Sensitive personal identifying information" includes:

(a) the following information regarding an individual's:

(i) Social Security number;

(ii) driver license number or other government issued identification number;

(iii) financial account number or credit or debit card number;

(iv) password or personal identification number or other identification required to gain access to a financial account or a secure website;

(v) automated or electronic signature; and

(vi) unique biometric data; and

(b) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.

(5) "Value" means the value of the property, money, or thing obtained or sought to be obtained.

Section 231. Section 76-7-101 is amended to read:

76-7-101. Bigamy.

(1) An individual is guilty of bigamy if:

(a) the individual purports to marry another individual; and

(b) knows or reasonably should know that one or both of the individuals described in Subsection (1)(a) are legally married to another individual.

(2) An individual who violates Subsection (1) is guilty of an infraction.

(3) An individual is guilty of a third degree felony if the individual induces bigamy:

(a) under fraudulent or false pretenses; or

(b) by threat or coercion.

(4) An individual is guilty of a second degree felony if the individual:

(a) cohabitates with another individual with whom the individual is engaged in bigamy as described in Subsection (1); and

(b) in furtherance of the conduct described in Subsection (4)(a), commits a felony offense, or for Subsection (4)(b)(xiii), a misdemeanor offense, in violation of one or more of the following:

(i) Section 76-5-109, child abuse;

(ii) Section 76-5-109.2, aggravated child abuse;

(iii) Section 76-5-109.3, child abandonment;

(iv) Section 76-5-111, abuse of a vulnerable adult;

(v) Section 76-5-111.2, aggravated abuse of a vulnerable adult;

(vi) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;

(vii) Section 76-5-111.4, financial exploitation of a vulnerable adult;

(viii) Chapter 5, Part 2, Criminal Homicide;

(ix) Section 76-5-208, child abuse homicide;

(x) Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(xi) Chapter 5, Part 4, Sexual Offenses, other than:

(A) Section 76-5-417, enticing a minor;

(B) Section 76-5-419, lewdness; or

(C) Section 76-5-420, lewdness involving a child;

(xii) Section 76-7-201, criminal nonsupport;

[~~(xiii) Section 76-9-702.1, sexual battery;~~]

[~~(xiv)~~](xiii) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or

[~~(xv)~~](xiv) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(5) It is a defense to prosecution under Subsection (2) that:

(a) the individual ceased the practice of bigamy as described in Subsection (1) under reasonable fear of coercion or bodily harm;

(b) the individual entered the practice of bigamy, as described in Subsection (1), as a minor and ceased the practice of bigamy at any time after the individual entered the practice of bigamy; or

(c) law enforcement discovers that the individual practices bigamy, as described in Subsection (1), as a result of the individual's efforts to protect the safety and welfare of another individual.

Section 232. Section 76-8-107 is amended to read:

76-8-107. Alteration of proposed legislative bill or resolution.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits alteration of proposed legislative bill or resolution if the actor fraudulently alters the draft of a bill or resolution that has been presented to either of the houses composing the Legislature to be passed or adopted, with intent to procure the proposed legislative bill or resolution being passed or adopted by either house, or certified by the presiding officer of either house in language different from that intended by either house.

(3) A violation of Subsection (2) is a third degree felony.

Section 233. Section 76-8-311.1 is amended to read:

76-8-311.1. Establishment of secure areas -- Items prohibited -- References to penalty provisions.

(1) (a) As used in this section:

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(iii) "Explosive" means the same as the term "explosive, chemical, or incendiary device" defined in Section [~~76-10-306~~]76-15-210.

(iv) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(v) "Law enforcement facility" means a facility that is owned, leased, or operated by a law enforcement agency.

(vi) "Mental health facility" means the same as that term is defined in Section 26B-5-301.

(vii) (A) "Secure area" means an area created under this section into which certain persons are restricted from transporting a firearm or other dangerous weapon, ammunition, or explosive.

(B) A "secure area" may not include any area normally accessible to the public.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) (a) The State Tax Commission or a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm or other dangerous weapon, ammunition, or explosive.

(b) Subsections (2)(a), (3), (4), and (5) apply to a higher education secure area hearing room referred to in Subsections 53B-3-103(2)(a)(ii) and (b).

(3) An entity that creates a secure area under this section shall ensure that at least one notice is prominently displayed at each entrance to the secure area in which a firearm, ammunition, dangerous weapon, or explosive is restricted.

(4) (a) An entity that creates a secure area under this section shall provide a secure weapons storage area so that an individual entering the secure area may store the individual's weapon before entering the secure area.

(b) The entity operating the facility shall be responsible for a weapon while the weapon is stored in the storage area described in Subsection (4)(a).

(5) (a) An actor who transports a firearm or other dangerous weapon or ammunition into a secure area created under this section or a higher education secure area hearing room created under this section may be punished under Section 76-8-311.2.

(b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a secure area or a higher education secure area hearing room created under this section may be punished under Section [~~76-10-306~~]76-15-210.

(c) It is a defense to a prosecution related to this section that the actor acted in conformity with the facility's rule or policy established pursuant to this section.

Section 234. Section 76-8-311.2 is amended to read:

76-8-311.2. Prohibited dangerous weapon or ammunition in a secure area.

(1) (a) As used in this section:

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(iii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(iv) "Higher education secure area" means a higher education secure area hearing room created under Section 76-8-311.1.

(v) "Law enforcement facility" means the same as that term is defined in Section 76-8-311.1.

(vi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited dangerous weapon or ammunition in a secure area if the actor knowingly or intentionally transports a firearm or other dangerous weapon or ammunition into:

(a) a correctional facility;

(b) a secure area created by the State Tax Commission;

(c) a secure area in a law enforcement facility or a mental health facility; or

(d) a higher education secure area.

(3) Except as provided in Section 76-8-311.4, 76-8-311.6, or 76-8-311.7, a violation of Subsection (2) is a third degree felony.

(4) It is a defense to a prosecution under this section that the actor acted in conformity with the facility's rule or policy established under Section 76-8-311.1.

Section 235. Section 76-8-311.3 is amended to read:

76-8-311.3. Establishment of prohibited item policy in a correctional or mental health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.

(1) (a) As used in this section:

(i) "Communication device" means a device designed to receive or transmit an image, text message, email, video, location information, or voice communication, or another device that can be used to communicate electronically.

(ii) "Controlled substance" means a substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(iii) "Correctional facility" means:

(A) a facility operated by or contracting with the Department of Corrections to house an offender in either a secure or nonsecure setting;

(B) a facility operated by a municipality or a county to house or detain an offender;

(C) a juvenile detention facility; or

(D) a building or grounds appurtenant to a facility or land granted to the state, municipality, or county for use as a correctional facility.

(iv) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(v) "Electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(vi) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(vii) "Medicine" means a prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include a controlled substance as defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(viii) "Mental health facility" means the same as that term is defined in Section 26B-5-301.

(ix) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(x) "Offender" means an individual in custody at a correctional facility.

(xi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(xii) "Tobacco product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) (a) Notwithstanding Section [~~76-10-500~~]53-5a-102, a correctional facility or mental health facility may prohibit a firearm, ammunition, a dangerous weapon, an implement of escape, an explosive, a controlled substance, spirituous or fermented liquor, medicine, or poison from being:

(i) transported to or within a correctional facility or mental health facility;

(ii) sold or given away to an offender at a correctional facility or mental health facility; or

(iii) possessed by an offender or another individual at a correctional facility or mental health facility.

(b) A correctional facility may prohibit a communication device from being:

(i) transported within the correctional facility for the purpose of being sold to an offender in the correctional facility;

(ii) sold or given away to an offender in the correctional facility; or

(iii) possessed by an offender or another individual at the correctional facility.

(3) It is a defense to a prosecution related to this section that the actor, in committing the act made criminal by this section with respect to:

(a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;

(b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;

(c) a correctional facility operated by a county, acted in conformity with the policy of the county; or

(d) a mental health facility, acted in conformity with the policy of the mental health facility.

(4) (a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under Section 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, 76-8-311.9, 76-8-311.10, or 76-8-311.11 for a violation of a policy or rule created under this section.

(b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a correctional facility or a mental health facility may be punished under Section [~~76-10-306~~]76-15-210 or 76-15-211.

(c) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be charged under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Exemptions to a policy or rule created under this section may be granted for worship of Native American inmates in accordance with Section 64-13-40.

Section 236. Section 76-8-311.4 is amended to read:

76-8-311.4. Prohibited item in correctional or mental health facility for use by offender or detainee.

(1) (a) As used in this section:

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited item in correctional or mental health facility for use by offender or detainee if the actor:

(a) transports a dangerous weapon, ammunition, or implement of escape to or within a correctional facility, or into a secure area of a mental health facility, with the intent to provide or sell to an offender or detainee the dangerous weapon, ammunition, or implement of escape; or

(b) provides or sells a dangerous weapon, ammunition, or implement of escape to:

(i) an offender at a correctional facility; or

(ii) a detainee at a secure area of a mental health facility.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 237. Section 76-8-311.7 is amended to read:

76-8-311.7. Possession of prohibited item in correctional facility or secure area of mental health facility.

(1) (a) As used in this section:

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits possession of prohibited item in correctional facility or secure area of mental health facility if the actor, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses a dangerous weapon, ammunition, or implement of escape at a correctional facility or in a secure area of a mental health facility.

(3) Except as provided in Section 76-8-311.6 or Subsection (4), a violation of Subsection (2) is a third degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 238. Section 76-8-411 is amended to read:

76-8-411. Trafficking in warrants.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits trafficking in warrants if the actor:

(a) is [~~a~~]an officer of the state, a county, a city, a town, or a district [~~officer~~]; and

(b) directly or indirectly contracts for or purchases a warrant or order issued by the state, county, city, town, or district of which the actor is an officer, at any discount whatever upon the sum due on the warrant or order.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 239. Section 76-9-101 is amended to read:

CHAPTER 9. OFFENSES AGAINST PUBLIC ORDER, HEALTH, AND SAFETY

PART 1. Breaches of the Peace and Related Offenses

76-9-101. Riot.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~An individual is guilty of~~]An actor commits riot if the [~~individual~~]actor:

(a) simultaneously with two or more other individuals engages in violent conduct, knowingly or recklessly creating a substantial risk of causing public alarm;

(b) assembles with two or more other individuals with the purpose of engaging, soon thereafter, in violent conduct, knowing, that two or more other individuals in the assembly have the same purpose; [~~or~~]

(c) assembles with two or more other individuals with the purpose of committing an offense against a person, or the property of another person who the [~~individual~~]actor supposes to be guilty of a violation of law, believing that two or more other individuals in the assembly have the same purpose [~~.~~]; or

[~~(2)~~](d) [~~Any individual who~~]refuses to comply with a lawful order to withdraw prior to, during, or immediately following a violation of [~~Subsection (1) is guilty of riot.It is no defense to a prosecution under this Subsection (2) that withdrawal must take place over private property; provided, however, that an individual who withdraws in compliance with an order to withdraw may not incur criminal or civil liability by virtue of acts reasonably necessary to accomplish the withdrawal.~~]Subsection (2)(a), (b), or (c).

(3) (a) Except as provided in Subsection [~~(4), riot~~](3)(b), a violation of Subsection (2) is a class B misdemeanor.

[~~(4)~~](b) [~~Riot~~]A violation of Subsection (2) is a third degree felony if, in the course of the [~~conduct~~]violation:

[~~(a)~~](i) the [~~individual~~]actor causes substantial or serious bodily injury;

[~~(b)~~](ii) the [~~individual~~]actor causes substantial property damage or commits arson; or

[~~(c)~~](iii) the [~~individual~~]actor was in possession of a dangerous weapon [~~as defined in Section 76-1-101.5~~].

(4) It is not a defense to a prosecution under Subsection (2)(d) that in order for an actor to comply with an order to withdraw the actor must enter or cross over private property.

(5) An actor is not criminally or civilly liable for actions that the actor takes that are reasonably necessary to comply with an order to withdraw under Subsection (2)(d).

[~~(5)~~](6) An [~~individual~~]actor arrested for a violation of Subsection [~~(4)~~](2) may not be released from custody before the [~~individual~~]actor appears before a magistrate or a judge.

[~~(6) The court shall order a defendant convicted under Subsection (4) to pay restitution in accordance with Section 77-38b-205.~~]

Section 240. Section 76-9-102 is amended to read:

76-9-102. Disorderly conduct.

(1) (a) As used in this section:

[~~(a)~~](i) "Official meeting" means:

[~~(i)~~](A) a meeting, as defined in Section 52-4-103;

[~~(ii)~~](B) a meeting of the Legislature, the Utah Senate, the Utah House of Representatives, a legislative caucus, or any committee, task force, working group, or other organization in the state legislative branch; or

[~~(iii)~~](C) a meeting of an entity created by the Utah Constitution, Utah Code, Utah administrative rule, legislative rule, or a written rule or policy of the Legislative Management Committee.

[~~(b)~~](ii) "Public place" means a place to which the public or a substantial group of the public has access, including:

[~~(i)~~](A) streets or highways; and

[~~(ii)~~](B) the common areas of schools, hospitals, apartment houses, office buildings, public buildings, public facilities, transport facilities, and shops.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An [~~individual is guilty of~~]actor commits disorderly conduct if:

(a) the [~~individual~~]actor refuses to comply with the lawful order of a law enforcement officer to move from a public place or an official meeting, or knowingly creates a hazardous or physically offensive condition [~~,~~] by any act that serves no legitimate purpose; or

(b) intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk of public inconvenience, annoyance, or alarm, the [~~person~~]actor:

(i) engages in fighting or in violent, tumultuous, or threatening behavior;

(ii) makes unreasonable noises in a public place or an official meeting;

(iii) makes unreasonable noises in a private place [~~which~~]that can be heard in a public place or an official meeting; or

(iv) obstructs vehicular or pedestrian traffic in a public place or an official meeting.

[~~(3) The mere carrying or possession of a holstered or encased firearm, whether visible or concealed, without additional behavior or circumstances that would cause a reasonable person to believe the holstered or encased firearm was carried or possessed with criminal intent, does not constitute a violation of this section. Nothing in this Subsection (3) may limit or prohibit a law enforcement officer from approaching or engaging any person in a voluntary conversation.~~]

[~~(4)~~](3) (a) [~~An individual who violates this section is guilty of:~~]Except as provided in Subsection (3)(b), (c), or (d), a violation of Subsection (2) is an infraction.

[~~(a) except as provided in Subsection (4)(b), (c), or (d), an infraction;~~]

(b) [~~except~~]Except as provided in Subsection [~~(4)(c) or (d),~~](3)(c) or (d), a violation of Subsection (2) is a class C misdemeanor [~~;~~] if the violation occurs after the [~~individual~~]actor has been asked to cease conduct prohibited under this section [~~;~~].

(c) [~~except~~]Except as provided in Subsection [~~(4)(d)~~](3)(d), a violation of Subsection (2)isa class B misdemeanor [~~;~~] if:

(i) the violation occurs after the [~~individual~~]actor has been asked to cease conduct prohibited under this section; and

(ii) within five years before the day on which the [~~individual~~]actor violates this section, the [~~individual~~]actor was previously convicted of a violation of this section [~~; or~~].

(d) A violation of Subsection (2) is a class A misdemeanor [~~;~~] if:

(i) the violation occurs after the [~~individual~~]actor has been asked to cease conduct prohibited under this section; and

(ii) within five years before the day on which the [~~individual~~]actor violates this section, the [~~individual~~]actor was previously convicted of two or more violations of this section.

(4) (a) The mere carrying or possession of a holstered or encased firearm, whether visible or concealed, without additional behavior or circumstances that would cause a reasonable person to believe the holstered or encased firearm was carried or possessed with criminal intent, does not constitute a violation of this section.

(b) Subsection (4)(a) does not limit or prohibit a law enforcement officer from approaching or engaging an individual in a voluntary conversation.

Section 241. Section 76-9-103 is amended to read:

76-9-103. Disrupting a meeting or procession.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of~~]An actor commits disrupting a meeting or procession if [~~, intending to prevent or disrupt a lawful meeting, procession, or gathering,~~]the actor:

(a) [~~he~~]obstructs or interferes with [~~the~~]a lawful meeting, procession, or gathering by physical action, verbal utterance, or any other means; and

(b) intends the obstruction or disruption described in Subsection (2)(a) to prevent or disrupt the meeting, procession, or gathering.

[~~(2)~~](3) [~~Disrupting a meeting or procession~~]A violation of Subsection (2) is a class B misdemeanor.

Section 242. Section 76-9-104 is amended to read:

76-9-104. Failure to disperse.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of~~]An actor commits failure to disperse if the actor:

(a) [~~when he remains~~]is at the scene of a riot, disorderly conduct, or an unlawful assembly; and

(b) []remains at the scene of the riot, disorderly conduct, or unlawful assembly after having been ordered to disperse by a peace officer.

[~~(2) This section shall not apply to a person who attempted to but was unable to leave the scene of the riot or unlawful assembly.~~]

(3) [~~Failure to disperse~~]A violation of Subsection (2) is a class C misdemeanor.

(4) This section does not apply to an actor who attempts to leave the scene of a riot, disorderly conduct, or unlawful assembly but is unsuccessful in leaving the scene.

Section 243. Section 76-9-105 is amended to read:

76-9-105. Making a false alarm.

(1) (a) As used in this section, "weapon of mass destruction" means the same as that term is defined in Section 76-15-301.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of~~]An actor commits making a false alarm if [~~he~~]the actor:

(a) initiates or circulates a report or warning of [~~any~~]a fire, impending bombing, or other crime or catastrophe [~~;~~]; and

(b) [~~knowing~~]knows that that the report or warning described in Subsection (2)(a) is:

(i) false or baseless [~~and~~];

(ii) is likely to cause the evacuation of [~~any~~]a building, place of assembly, or facility of public transport [~~;~~]; and

(iii) [~~to~~]likely to cause public inconvenience or alarm or action of any sort [~~by any~~]by an official or volunteer agency organized to deal with emergencies.

[~~(2) (a) A person is guilty of a second degree felony if the person makes a false alarm relating to a weapon of mass destruction as defined in Section 76-10-401.~~]

[~~(b) A person is guilty of a third degree felony if:~~]

[~~(i) the person makes a false alarm alleging on ongoing act or event, or an imminent threat; and~~]

[~~(ii) the false alarm causes or threatens to cause bodily harm, serious bodily injury, or death to another person.~~]

[~~(c) Making a false alarm other than under Subsection (2)(a) or (b) is a class B misdemeanor.~~]

(3) (a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a class B misdemeanor.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third degree felony if:

(i) the actor makes a false alarm alleging an ongoing act or event, or an imminent threat; and

(ii) the false alarm causes or threatens to cause bodily harm, serious bodily injury, or death to another individual.

(c) A violation of Subsection (2) is a second degree felony if the false alarm is regarding a weapon of mass destruction.

(4) In addition to any other penalty authorized by law, a court shall order [~~any person~~]an actor convicted of a felony violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the court finds the reimbursement would be inappropriate.

Section 244. Section 76-9-105.5, which is renumbered from Section 76-9-202 is renumbered and amended to read:

[~~76-9-202~~]76-9-105.5. Emergency reporting abuse.

(1) (a) As used in this section:

(i) "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential to the preservation of human life or property.

(ii) "Party line" means a subscriber's line or telephone circuit:

(A) that consists of two or more connected main telephone stations; and

(B) where each telephone station has a distinctive ring or telephone number.

(iii) "Weapon of mass destruction" means the same as that term is defined in Section 76-15-301.

(b) Terms defined in Sections 76-1-101.5 apply to this section.

(2) An actor [~~is guilty of~~]commits emergency reporting abuse if the actor:

[~~(a) intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another individual upon being informed that the telephone is needed to report a fire or summon police, medical, or other aid in case of emergency, unless the telephone is likewise being used for an emergency call;~~]

[~~(b) asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists;~~]

[~~(c)~~](a) [~~except as provided in Subsection (2)(d),~~]reports an emergency or causes an emergency to be reported, through any means, to a public, private, or volunteer entity whose purpose is to respond to fire, police, or medical emergencies, when the actor knows the reported emergency does not exist;

[~~(d)~~](b) makes a false report, or intentionally aids, abets, or causes another person to make a false report, through any means to an emergency response service, including a law enforcement dispatcher or a 911 emergency response service, if the false report claims that:

(i) an emergency exists or will exist;

(ii) the emergency described in Subsection [~~(2)(d)(i)~~](2)(b)(i) involves an imminent or future threat of serious bodily injury, serious physical injury, or death; and

(iii) the emergency described in Subsection [~~(2)(d)(i)~~](2)(b)(i) is occurring, or will occur, at a specified location; or

[~~(e)~~](c) makes a false report after having previously made a false report, or intentionally aides, abets, or causes a third party to make a false report, to an emergency response service, including a law enforcement dispatcher or a 911 emergency response service, alleging a violation of Section 63G-31-302 regarding a sex-designated changing room.

[~~(3) (a) A violation of Subsection (2)(a) or (b) is a class C misdemeanor.~~]

[~~(b)~~](3) (a) [~~A~~]Except as provided in Subsection (3)(b), a violation of Subsection [~~(2)(c)~~](2)(a) is a class B misdemeanor [~~, except as provided under Subsection (3)(c)~~].

[~~(c)~~](b) A violation of Subsection [~~(2)(c)~~](2)(a) is a second degree felony if the report is regarding a weapon of mass destruction [~~, as defined in Section 76-10-401~~].

[~~(d)~~](c) A violation of Subsection [~~(2)(d)~~](2)(b)is a second degree felony.

[~~(e)~~](d) A violation of Subsection [~~(2)(e)~~](2)(c) is a class B misdemeanor.

(4) (a) In addition to another penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse a federal, state, or local unit of government, or a private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation.

(b) The court may order that the [~~defendant~~]actor pay less than the full amount of the costs described in Subsection (4)(a) only if the court states on the record the reasons why the reimbursement would be inappropriate.

Section 245. Section 76-9-105.6 is enacted to read:

76-9-105.6. Prohibited use of a party line or public pay telephone in an emergency.

(1) (a) As used in this section:

(i) "Emergency" means the same as that term is defined in Section 76-9-105.5.

(ii) "Party line" means the same as that term is defined in Section 76-9-105.5.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits prohibited use of a party line or public pay telephone in an emergency if the actor:

(a) intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another individual upon being informed that the party line or public pay telephone is needed to report a fire or summon police, medical, or other aid in case of an emergency; or

(b) asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists.

(3) A violation of Subsection (2) is a class C misdemeanor.

(4) Subsection (2)(a) does not apply if the actor refuses to yield or surrender the use of the party line or public pay telephone because the actor is using the party line or public pay telephone to report an emergency.

(5) (a) In addition to another penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse a federal, state, or local unit of government, or a private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation.

(b) The court may order that the actor pay less than the full amount of the costs described in Subsection (5)(a) only if the court states on the record the reasons why the full reimbursement would be inappropriate.

Section 246. Section 76-9-106 is amended to read:

76-9-106. Disrupting the operation of a school.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of~~]An actor commits disrupting the operation of a school if the [~~person,~~]actor:

(a) [~~after being asked to leave by a school official, remains~~]is on [~~school~~]the property of a private or public school, including property being used by the school for a school function;

(b) [~~for~~]has the purpose of encouraging or creating an unreasonable and substantial disruption or risk of disruption of a class, activity, program, or other function of [~~a public or private school~~]the school; and

(c) remains on the property after being requested to leave by a school official.

[~~(2) For purposes of this section, "school property" includes property being used by a public or private school for a school function.~~]

(3) [~~Disrupting the operation of a school~~]A violation of Subsection (2) is a class B misdemeanor.

Section 247. Section 76-9-107 is amended to read:

76-9-107. Unauthorized entry onto a school bus.

(1) (a) As used in this section:

[~~(a)~~](i) "Driver" means the driver of [~~the~~]a school bus.

[~~(b)~~](ii) "School bus" means [~~every~~]a publicly or privately owned motor vehicle designed for transporting 10 or more passengers and operated for the transportation of children to or from school or school activities.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of a class B misdemeanor if the person~~]An actor commits unauthorized entry onto a school bus if the actor:

(a) enters a school bus with the intent to commit a criminal offense;

(b) enters a school bus and disrupts or interferes with the driver; or

(c) enters a school bus and refuses to leave the school bus after being ordered to leave by the driver and the [~~person~~]actor:

[~~(i) is not a peace officer acting within the scope of his or her authority as a peace officer;~~]

[~~(ii) is not authorized by the school district to board the bus as a student or as an individual employed by the school district or volunteering as a participant in a school activity;~~]

[~~(iii)~~](i) causes or attempts to cause a disruption or an annoyance to any passenger on the school bus; or

[~~(iv)~~](ii) is reckless as to whether the [~~person's~~]actor's presence or behavior will cause fear [~~on the part of any~~]to a passenger on the school bus.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) Subsection (2)(c) does not apply:

(a) if the actor is a peace officer acting within the scope of the peace officer's authority; or

(b) the actor is authorized by the school district to board the school bus as:

(i) a student;

(ii) an individual employed by the school district; or

(iii) a volunteer participant in a school activity.

[~~(3)~~](5) Each school district shall ensure that clearly legible signs [~~be~~]warning that unauthorized entry onto a school bus is a violation of the law are placed on each school bus [~~,~~]and next to each entrance to the bus [~~, warning that unauthorized entry of a school bus is a violation of state law~~].

Section 248. Section 76-9-108 is amended to read:

76-9-108. Disrupting a funeral or memorial service.

(1) (a) As used in this section:

[~~(a)~~](i) "Funeral procession" means a procession of two or more motor vehicles where:

[~~(i)~~](A) the operators of the vehicles identify themselves as being part of the procession by having the lamps or lights of the vehicle on and by keeping in close formation with the other vehicles in the procession;

[~~(ii)~~](B) at least one vehicle contains the body or remains of a deceased person being memorialized; and

[~~(iii)~~](C) the vehicles are going to or from a memorial service.

[~~(b)~~](ii) "Memorial service" means a wake, funeral, graveside service, burial, or other ceremony or rite held in connection with the burial or cremation of an individual.

[~~(c)~~](iii) "Memorial site" means a church, synagogue, mosque, funeral home, mortuary, cemetery, grave site, mausoleum, or other place at which a memorial service is conducted.

[~~(d)~~](iv) "Disruptive activity" means:

[~~(i)~~](A) a loud or disruptive oration or speech that is not part of the memorial service;

[~~(ii)~~](B) the display of a placard, banner, poster, flag, or other item that is not part of the memorial service; or

[~~(iii)~~](C) the distribution of any handbill, pamphlet, leaflet, or other written material or other item that is not part of the memorial service.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of a class B misdemeanor if the person,~~]An actor commits disrupting a funeral or memorial service if the actor:

(a) [~~with intent~~]intends to disrupt [~~the~~]a memorial service [~~,~~]; and

(b) does any of the following during the period beginning 60 minutes immediately before the scheduled commencement of [~~a~~]the memorial service and ending 60 minutes after the conclusion of [~~a~~]the memorial service:

[~~(a)~~](i) obstructs, hinders, impedes, or blocks another [~~person's~~]individual's entry to or exit from the memorial site;

[~~(b)~~](ii) obstructs, hinders, impedes, or blocks a funeral procession;

[~~(c)~~](iii) makes unreasonable noise; or

[~~(d)~~](iv) engages in a disruptive activity within 200 feet of the memorial service.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 249. Section 76-9-109 is amended to read:

76-9-109. Targeted residential picketing.

(1) (a) As used in this section:

[~~(a)~~](i) "Picketing" means the stationing or posting of one or more individuals to apprise the public, vocally or by standing or marching with signs, banners, sound amplification devices, or other means, of an opinion or a message.

[~~(b)~~](ii) "Residence" means any single-family, duplex, or multi-family dwelling unit that is not being used as a targeted occupant's sole place of business or as a place of public meeting.

[~~(c) "Targeted residential picketing" means picketing, with or without signs, that is specifically directed or focused toward a residence, or one or more occupants of the residence, and that takes place:~~]

[~~(i) on that portion of a sidewalk or street in front of the residence, in front of an adjoining residence, or on either side of the targeted residence; or~~]

[~~(ii) within 100 feet of the property line of the targeted residence.~~]

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~It is unlawful to engage in~~]An actor commits targeted residential picketing [~~:~~]if:

(a) (i) the actor engages in picketing, with or without signs, specifically directed or focused toward a residence, or one or more occupants of the residence; and

(ii) the actor's conduct described in Subsection (2)(a)(i) takes place:

(A) on a portion of a sidewalk or street in front of the residence, in front of an adjoining residence, or on either side of the targeted residence; or

(B) within 100 feet of the property line of the targeted residence; or

(b) (i) the actor publishes, posts, disseminates, or discloses another individual's residential address, or other information identifying the specific location of the individual's residence; and

(ii) the actor intends to cause another individual to engage in the conduct described in Subsection (2)(a) directed or focused toward the individual's residence.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(3)~~](4) This section does not apply to:

(a) an [~~individual~~]actor picketing at the [~~individual's~~]actor's own residence;

(b) the picketing of a meeting place or assembly area commonly used to discuss subjects of general public interest; or

(c) general picketing that proceeds through residential neighborhoods or that proceeds past residences.

[~~(4) It is unlawful to publish, post, disseminate, or disclose an individual's residential address, or other information identifying the specific location of an individual's residence, with the intent to cause another individual to engage in targeted residential picketing.~~]

[~~(5) Targeted residential picketing is a class B misdemeanor.~~]

[~~(6) A violation of Subsection (4) is a class B misdemeanor.~~]

Section 250. Section 76-9-110, which is renumbered from Section 76-9-701 is renumbered and amended to read:

[~~76-9-701~~]76-9-110. Public intoxication.

(1) (a) As used in this section, "minor" means an individual who is younger than 21 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of~~]An actor commits public intoxication if the [~~person~~]actor:

(a) (i) is in a public place; or

(ii) in a private place where the actor could unreasonably disturb other individuals;

(b) is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors [~~,~~]; and

(c) [~~to a degree that the person~~]is under the influence to a degree that it may endanger the [~~person~~]actor or another [~~, in a public place or in a private place where the person unreasonably disturbs other persons~~]individual.

(3) A violation of Subsection (2) is a class C misdemeanor.

[~~(2)~~](4) (a) A peace officer or a magistrate may release an actor from custody [~~a person~~]arrested under this section if the peace officer or magistrate believes [~~imprisonment~~]incarceration is unnecessary for the protection of the [~~person~~]actor or another individual.

(b) A peace officer may take the [~~arrested person~~]actor to a detoxification center or other special facility as an alternative to incarceration or release from custody.

[~~(3)~~](5) (a) If a minor is found by a court to have [~~violated this section~~]committed a violation of Subsection (2) and the violation is the minor's first violation of [~~this section~~]Subsection (2), the court may:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501or substance use disorder treatment as indicated by an assessment.

(b) If a minor is found by a court to have violated [~~this section~~]Subsection (2) and the violation is the minor's second or subsequent violation of [~~this section~~]Subsection (2), the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501or substance use disorder treatment as indicated by an assessment.

[~~(4)~~](6) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated [~~this section~~]Subsection (2), the court [~~hearing the case~~]shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the requirement in Subsection [~~(4)(a)~~](6)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of [~~this section~~]Subsection (2); and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) Notwithstanding the requirement in Subsection [~~(4)(a)~~](6)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of [~~this section~~]Subsection (2);

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the [~~person~~]minor is 18 years old or older and provides a sworn statement to the court that the [~~person~~]minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection [~~(4)(a)~~](6)(a); or

(B) the [~~person~~]minor is under 18 years old and has the [~~person's~~]minor's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the [~~person~~]minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection [~~(4)(a)~~](6)(a).

[~~(5)~~](7) When a [~~person~~]minor who is younger than 18 years old is found by a court to have violated [~~this section~~]Subsection (2), the provisions regarding suspension of the driver's license under Section 80-6-707 apply to the violation.

[~~(6)~~](8) Notwithstanding Subsections [~~(3)(a)~~](5)(a) and (b), if a minor is adjudicated under Section 80-6-701, the court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention based on the results of a validated assessment.

[~~(7)~~](9) When the court issues an order suspending [~~a person's~~]an actor's driving privileges for a violation of [~~this section~~]Subsection (2), the [~~person's~~]actor's driver license shall be suspended under Section 53-3-219.

[~~(8) An offense under this section is a class C misdemeanor.~~]

Section 251. Section 76-9-111, which is renumbered from Section 76-9-702.3 is renumbered and amended to read:

[~~76-9-702.3~~]76-9-111. Public urination.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of~~]An actor commits public urination if the [~~person~~]actor urinates or defecates:

(a) in a public place, other than a public rest room; and

(b) under circumstances which the [~~person~~]actor should know will likely cause affront or alarm to another individual.

[~~(2)~~](3) [~~Public urination~~]A violation of Subsection (2) is an infraction.

Section 252. Section 76-9-112, which is renumbered from Section 76-9-705 is renumbered and amended to read:

[~~76-9-705~~]76-9-112. Participation in an ultimate fighting match.

[~~(1) For purposes of this section, "ultimate fighting match" means a live match in which:~~]

[~~(a) an admission fee is charged;~~]

[~~(b) match rules permit professional contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative, contact techniques; and~~]

[~~(c) match rules do not:~~]

[~~(i) incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;~~]

[~~(ii) divide a match into two or more equal and specified time periods for a match total of no more than 50 minutes; or~~]

[~~(iii) prohibit contestants from:~~]

[~~(A) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;~~]

[~~(B) striking a person who demonstrates an inability to protect himself from the advances of an opponent;~~]

[~~(C) biting; or~~]

[~~(D) direct, intentional, and forceful strikes to the eyes, groin area, adam's apple area of the neck, and temple area of the head.~~]

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~Any person who~~]An actor commits participation in an ultimate fighting match if the actor publicizes, promotes, conducts, or engages in [~~an ultimate fighting~~]a live fighting match in which:

(a) an admission fee is charged;

(b) match rules permit professional contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative, contact techniques; and

(c) match rules do not:

(i) incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;

(ii) divide a match into two or more equal and specified time periods for a match total of no more than 50 minutes; or

(iii) prohibit contestants from:

(A) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an

opponent through direct contact or the expulsion of a projectile;

(B) striking an individual who demonstrates an inability to protect the individual's self from the advances of an opponent;

(C) biting; or

(D) using direct, intentional, and forceful strikes to the eyes, groin area, adam's apple area of the neck, or temple area of the head.

(3) [~~is guilty of~~]A violation of Subsection (2) is a class A misdemeanor.

Section 253. Section 76-9-113, which is renumbered from Section 76-10-2402 is renumbered and amended to read:
[~~76-10-2402~~]76-9-113. Commercial obstruction.

(1) (a) As used in this section:

(i) (A) "Building" means a watercraft, aircraft, trailer, sleeping car, or other structure or vehicle adapted for overnight accommodations of individuals or for carrying on business and includes:

(I) each separately secured or occupied portion of the building or vehicle; and

(II) each structure appurtenant or connected to the building or vehicle.

(B) "Building" includes the commonly accepted meaning of building.

(ii) "Business" means a retail business dealing in tangible personal property.

(iii) "Enter" means:

(A) an intrusion of any part of the body; or

(B) the intrusion of any physical object under the control of the actor.

(b) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) (a) A person is guilty of a misdemeanor if the person~~]

(2) An actor commits commercial obstruction if the actor:

(a) enters or remains unlawfully on the premises of or in a building of any business; and

(b) [~~with the intent~~]intends to interfere with the employees, customers, personnel, or operations of [~~a~~]the business [~~through any conduct that does not constitute an offense listed under Subsection (2)~~].

[~~(b)~~](3) A violation of Subsection [~~(1)(a)~~](2) is a class A misdemeanor.

[~~(2) A person is guilty of felony commercial obstruction if the person enters or remains unlawfully on the premises or in a building of any business with the intent to interfere with the employees, customers, personnel, or operations of a business and also with the intent to:~~]

[~~(a) obtain unauthorized control over any merchandise, property, records, data, or proprietary information of the business;~~]

[~~(b) alter, eradicate, or remove any merchandise, records, data, or proprietary information of the business;~~]

[~~(c) damage, deface, or destroy any property on the premises of the business;~~]

[~~(d) commit an assault on any person; or~~]

[~~(e) commit any other felony.~~]

[~~(3) A person who violates any provision in Subsection (2) is guilty of a second degree felony.~~]

(4) This section does not apply to:

(a) an action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.; or

[~~(5) This section does not apply to a person's~~]

(b) an individual's exercise of the rights under the First Amendment to the Constitution of the United States or under [~~Article I, Sec. 15 of the~~]Utah Constitution, Article I, Section 15.

Section 254. Section 76-9-114 is enacted to read:
76-9-114. Aggravated commercial obstruction.

(1) (a) As used in this section:

(i) "Building" means the same as that term is defined in Section 76-9-113.

(ii) "Business" means the same as that term is defined in Section 76-9-113.

(iii) "Enter" means the same as that term is defined in Section 76-9-113.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated commercial obstruction if the actor:

(a) enters or remains unlawfully on the premises or in a building of any business;

(b) intends to interfere with the employees, customers, personnel, or operations of the business; and

(c) intends to:

(i) obtain unauthorized control over any merchandise, property, records, data, or proprietary information of the business;

(ii) alter, eradicate, or remove any merchandise, records, data, or proprietary information of the business;

(iii) damage, deface, or destroy any property on the premises of the business;

(iv) commit an assault on any person; or

(v) commit any other felony.

(3) A violation of Subsection (2) is a second degree felony.

(4) This section does not apply to:

(a) an action protected by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Sec. 151 et seq; or

(b) an individual's exercise of the rights under the First Amendment to the Constitution of the United States or under Utah Constitution, Article I, Section 15.

Section 255. Section 76-9-601 is amended to read:

PART 6. Offenses Concerning the Military and the Flag

76-9-601. Abuse of a flag.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person is guilty of~~]

(2) An actor commits abuse of a flag if [~~he~~]the actor:

(a) [~~Intentionally~~]intentionally places any unauthorized inscription or other thing upon [~~any~~]a flag of the United States or of [~~any~~]a state of the United States; [~~or~~]

(b) [~~Knowingly~~]knowingly exhibits [~~any such~~]a flag of the United States or of a state of the United States with an unauthorized inscription or other thing, knowing the inscription or other thing [~~to be~~]is unauthorized; [~~or~~]

(c) [~~For purposes of advertising a product or service for sale or for distribution,~~]affixes a representation of the flag of the United States or of a state of the United States to [~~the~~]a product or on [~~any~~]a display whereon the product or service is advertised for the purpose of advertising a product or service for sale or for distribution; or

(d) [~~Knowingly~~]knowingly casts contempt upon the flag of the United States or of any state of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon [~~it~~]the flag.

[~~(2) Abuse of a flag~~]

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 256. Section 76-9-602, which is renumbered from Section 76-9-706 is renumbered and amended to read:

[~~76-9-706~~]76-9-602. False representation of the military.

(1) (a) As used in this section:

[~~(a)~~](i) "Military related organization" means a public or private society, order, or organization that:

[~~(i)~~](A) only accepts as a member, [~~a person~~]an individual, or the relative of [~~a person~~]an individual, who is:

[~~(A)~~](I) a member of the military; or

[~~(B)~~](II) an honorably discharged member of the military; and

[~~(ii)~~](B) is organized for the purpose of:

[~~(A)~~](I) recognizing or honoring [~~a person~~]an individual for military service;

[~~(B)~~](II) assisting [~~a person~~]an individual described in Subsection (1)(a)(i) to lawfully associate with, or provide service with, other [~~people~~]individuals described in Subsection (1)(a)(i); or

[~~(C)~~](III) provide support for, or assistance to, [~~a person~~]an individual described in Subsection (1)(a)(i).

[~~(b)~~](ii) "Service medal" means:

[~~(i)~~](A) a congressional medal of honor, as defined in 18 U.S.C. 704(c)(2);

[~~(ii)~~](B) a distinguished service cross, as defined in 10 U.S.C 3742;

[~~(iii)~~](C) a Navy cross, as defined in 10 U.S.C. 6242;

[~~(iv)~~](D) an Air Force cross, as defined in 10 U.S.C. 8742;

[~~(v)~~](E) a silver star, as defined in 10 U.S.C. 3746, 6244, or 8746;

[~~(vi)~~](F) a bronze star, as defined in 10 U.S.C. 1133;

[~~(vii)~~](G) a purple heart, as defined in 10 U.S.C. 1129;

[~~(viii)~~](H) any decoration or medal authorized by the Congress of the United States for the armed forces of the United States;

[~~(ix)~~](I) any service medal or badge awarded to members of the armed forces of the United States;

[~~(x)~~](J) any of the following Utah National Guard medals or ribbons:

[~~(A)~~](I) medal of valor;

[~~(B)~~](II) Utah cross;

[~~(C)~~](III) joint medal of merit;

[~~(D)~~](IV) Utah medal of merit;

[~~(E)~~](V) joint commendation medal;

[~~(F)~~](VI) commendation medal;

[~~(G)~~](VII) achievement ribbon;

[~~(H)~~](VIII) joint staff service ribbon;

[~~(I)~~](IX) state partnership service ribbon;

[~~(J)~~](X) service ribbon;

[~~(K)~~](XI) military funeral honors service ribbon;

[~~(L)~~](XII) emergency service ribbon; or

[~~(M)~~](XIII) recruiting ribbon;

[~~(xi)~~](K) any ribbon, button, or rosette for a decoration, medal, or badge described in Subsections [~~(1)(b)(i) through (x)~~](1)(a)(ii)(A) through (J); or

[~~(xii)~~](L) an imitation of a decoration, medal, badge, ribbon, button, or rosette described in Subsections [~~(1)(b)(i) through (xi)~~](1)(a)(ii)(A) through (K).

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~Any person who~~]An actor commits false representation of the military if the actor:

(a) intentionally makes a false representation, verbally or in writing, that the [~~person~~]actor has been awarded a service medal [~~is guilty~~

~~of an infraction.~~];

[~~(3)~~](b) (i) [~~Any person who wears,~~]purchases, attempts to purchase, solicits for purchase, mails, ships, imports, exports, produces blank certificates of receipt for, manufactures, sells, attempts to sell, advertises for sale, trades, barters, or exchanges for anything of value a service medal, or [~~any~~]a colorable imitation [~~thereof, except when authorized by federal law, or under regulations made pursuant to federal law,~~]of a service medal; and

(ii) [~~with the intent~~]intends to defraud [~~,~~]another individual or [~~with the intent~~]to falsely represent that the [~~person~~]actor or another [~~person~~]individual has been awarded a service medal [~~, is guilty of an infraction.~~];

[~~(4)~~](c) [~~A person is guilty of an infraction if the person~~]wears or uses a service medal of a military related organization:

[~~(a)~~](i) that the [~~person~~]actor is not entitled to wear or use; and

[~~(b) with the intent to~~]

(ii) with the intention to defraud another individual or [~~with the intent~~]to falsely represent that the [~~person~~]actor or another [~~person~~]individual has been awarded the service medal [~~.~~]; or

[~~(5)~~](d) [~~A person is guilty of an infraction if the person~~]uses the name, an officer title, an insignia, a ritual, or a ceremony of a military related organization:

[~~(a)~~](i) that the [~~person~~]actor is not entitled to use; and

[~~(b)~~](ii) [~~with the intent~~]with the intention to defraud [~~,~~] or [~~with the intent to~~]falsely represent that the [~~person~~]actor or another [~~person~~]individual was or is a member, representative, or officer of the military related organization.

(3) A violation of Subsection (2) is an infraction.

(4) Subsection (2)(b) does not apply if the actor is authorized under a federal law or a federal regulation to undertake the conduct described.

Section 257. Section 76-9-802 is amended to read:

PART 8. Criminal Gang Related Offenses

76-9-802. Definitions.

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more [~~persons~~]individuals, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of [~~its~~]the organization's, association's, or group's primary activities the commission of one or more predicate gang crimes;

(c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

[~~(2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.~~]

(2) "Gang loitering" means an individual remains in one place under circumstances that would cause a reasonable person to believe that the purpose or effect of that behavior is to enable or facilitate a criminal street gang to:

(a) establish control over one or more identifiable areas;

(b) intimidate other individuals from entering those areas; or

(c) conceal illegal activities.

(3) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.

[~~(3)~~](4) "Minor" means [~~a person~~]an individual younger than 18 years old.

[~~(4)~~](5) "Pattern of criminal gang activity" means:

(a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years;

(b) the predicate gang crimes are:

(i) committed by two or more persons; or

(ii) committed by an individual at the direction of, or in association with, a criminal street gang; and

(c) the criminal activity was committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.

[~~(5)~~](6) (a) "Predicate gang crime" means any of the following offenses:

(i) Title 41, Chapter 1a, Motor Vehicle Act:

(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;

(B) Section 41-1a-1315, regarding false evidence of title and registration;

(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an identification number; or

(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;

(ii) any criminal violation of the following provisions:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(iii) [~~Sections~~]assault as described in Section 76-5-102[~~through~~];

(iv) aggravated assault by prisoner as described in Section 76-5-103.5[~~, which address assault offenses~~];

[~~(iv) Title 76,~~]

(v) an offense described in Chapter 5, Part 2, Criminal Homicide;

[~~(v) Sections~~]

(vi) kidnapping as described in Section 76-5-301[~~through 76-5-304, which address kidnapping and related offenses~~];

(vii) child kidnapping as described in Section 76-5-301.1;

(viii) parental kidnapping as described in Section 76-5-301.2;

(ix) aggravated kidnapping as described in Section 76-5-302;

(x) custodial interference as described in Section 76-5-303;

(xi) unlawful detention and unlawful detention of a minor as described in Section 76-5-304;

[~~(vi)~~](xii) a felony offense [~~under Title 76,~~]described in Chapter 5, Part 4, Sexual Offenses, except Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420;

[~~(vii)~~](xiii) [~~Title 76,~~]an offense described in Chapter 6, Part 1, Property Destruction;

[~~(viii)~~](xiv) [~~Title 76,~~]an offense described in Chapter 6, Part 2, Burglary and Criminal Trespass;

[~~(ix)~~](xv) [~~Title 76,~~]an offense described in Chapter 6, Part 3, Robbery;

[~~(x)~~](xvi) a felony offense [~~under Title 76,~~]described in Chapter 6, Part 4, Theft, or under Title 76, Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

[~~(xi)~~](xvii) [~~Title 76,~~]an offense described in Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

[~~(xii)~~](xviii) [~~Title 76,~~]an offense described in Chapter 6, Part 11, Identity Fraud Act;

[~~(xiii)~~](xix) [~~Title 76,~~]an offense described in Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

[~~(xiv)~~](xx) tampering with a witness [~~under~~]as described in Section 76-8-508;

[~~(xv)~~](xxi) retaliation against a witness, victim, or informant [~~under~~]as described in Section 76-8-509.3;

[~~(xvi)~~](xxii) receiving or soliciting a bribe as a witness [~~under~~]as described in Section 76-8-508.7;

[~~(xvii)~~](xxiii) extortion or bribery to dismiss a criminal proceeding [~~under~~]as described in Section 76-8-509;

[~~(xviii)~~](xxiv) a misdemeanor violation of disorderly conduct [~~under~~]as described in Section 76-9-102, if the violation occurs at an official meeting;

(xxv) an offense described in Chapter 9, Part 15, Criminal Offenses Relating to Bus Passenger Safety;

(xxvi) an offense described in Chapter 9, Part 16, Money Laundering and Currency Transaction Reporting;

(xxvii) an offense described in Chapter 11, Weapons;

(xxviii) an offense described in Chapter 15, Part 2, Explosives; or

(xxix) an offense described in Chapter 17, Part 4, Offenses Concerning Patterns of Unlawful Activity.

[~~(xix) Title 76, Chapter 10, Part 3, Explosives;~~]

[~~(xx) Title 76, Chapter 10, Part 5, Weapons;~~]

[~~(xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;~~]

[~~(xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~]

[~~(xxiii) communications fraud under Section 76-10-1801;~~]

[~~(xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act; or~~]

[~~(xxv) burglary of a research facility under Section 76-10-2002.~~]

(b) "Predicate gang crime" [~~also~~]includes:

(i) [~~any~~]a state or federal criminal offense that by [~~its~~]the offense's nature involves a substantial risk that physical force may be used against another individual in the course of committing the offense; and

(ii) [~~any~~]a felony violation of a criminal statute of [~~any other~~]another state, the United States, or [~~any~~]a district, possession, or territory of the United States which would constitute a violation of any offense in Subsection [~~(4)(a)~~](6)(a)if committed in this state.

(7) (a) "Public place" means any location or structure that the public or a substantial group of the public has access to.

(b) "Public place" includes:

(i) a sidewalk, street, or highway;

(ii) a public park, public recreation facility, or any other area open to the public;

(iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or playhouse;

(iv) a parking lot or structure adjacent to a shopping mall, sports facility, stadium, arena, theater, movie house, or playhouse;

(v) a common area of a school, hospital, apartment building, office building, transport facility, or a business; and

(vi) a lobby, hallway, elevator, restaurant or other dining area, or restroom of a location or structure described in Subsections (7)(b)(i) through (v).

Section 258. Section 76-9-803 is amended to read:

76-9-803. Soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang.

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

[~~(1)~~](2) [~~It is a class B misdemeanor to~~]An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang if the actor:

(a) [~~solicit, recruit, entice, or intimidate~~]solicits, recruits, entices, or intimidates a minor to join a criminal street gang [~~, whether or not~~

~~the minor actually joins the criminal street gang~~];

(b) [~~conspire~~]conspires to commit [~~any~~]an act [~~under~~]described in Subsection [~~(1)(a)~~](2)(a) with the intent to cause a minor to join a criminal street gang; or

(c) [~~use~~]uses intimidation to prevent, or attempt to prevent, a minor from leaving a criminal street gang or ending the minor's affiliation with a criminal street gang.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(2) It is a class A misdemeanor for any person who is a member of or actively involved with a criminal street gang to:~~]

[~~(a) intimidate or otherwise cause a minor to commit or attempt to commit any misdemeanor criminal offense; or~~]

[~~(b) commit a violation of Subsection (1)(a):~~]

[~~(i) more than once;~~]

[~~(ii) regarding the same minor; and~~]

[~~(iii) within a period of 180 days.~~]

[~~(3) Prosecution for any offense under this section does not prohibit prosecution for any other criminal offense.~~]

(4) It is not a defense to a prosecution under Subsection (2)(a) that the minor did not join the criminal street gang.

Section 259. Section 76-9-803.5 is enacted to read:

76-9-803.5. Soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang by a gang member.

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang by a gang member if the actor:

(a) is a member of, or actively involved with, a criminal street gang; and

(b) solicits, recruits, entices, or intimidates a specific minor to join a criminal street gang more than once within a period of 180 days.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) It is not a defense to a prosecution under this section that the minor described in Subsection (2) did not join a criminal street gang.

Section 260. Section 76-9-803.6 is enacted to read:

76-9-803.6. Intimidating or causing a minor to commit a misdemeanor by a gang member.

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits intimidating or causing a minor to commit a misdemeanor by a gang member if the actor:

(a) is a member of, or actively involved with, a criminal street gang; and

(b) intimidates or otherwise causes a minor to commit or attempt to commit a misdemeanor criminal offense.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 261. Section 76-9-804 is amended to read:

76-9-804. Possession of a dangerous weapon by a convicted criminal gang offender.

(1) (a) As used in this section, "dangerous weapon" means the same as that term is defined in Sections 76-1-101.5 and 76-11-101.

(b) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

[~~(1) A person who has been convicted of a crime for which the penalty was enhanced under Section 76-3-203.1 may not, except where a greater penalty is applicable under this title,~~]

(2) An actor commits possession of a dangerous weapon by a convicted criminal gang offender if:

(a) the actor, possess a dangerous weapon [~~as defined in either Section 76-1-101.5 or 76-10-501~~], ammunition, or a facsimile of a firearm; and

(b) the actor's possession described in Subsection (2)(a) occurs within five years [~~after the conviction~~]after the day on which the actor was convicted of an offense that was enhanced under Section 76-3-203.1.

[~~(2)~~](3) A violation of Subsection [~~(1)~~](2) is a class A misdemeanor.

Section 262. Section 76-9-805, which is renumbered from Section 76-9-904 is renumbered and amended to read:

[~~76-9-904~~]76-9-805. Failure to disperse.

[~~(1) (a) Failure to comply with an order issued under Subsection 76-9-903(1)(b) to disperse is a class B misdemeanor of failure to disperse.~~]

[~~(b) Any second and subsequent violation of Subsection (1)(a) is a class B misdemeanor of failure to disperse and is subject to a fine of not less than $100, unless the court finds mitigating circumstances justifying a lesser punishment and makes that finding a part of the court record.~~]

[~~(2) (a) A person is guilty of a class B misdemeanor of subsequent failure to disperse who:~~]

[~~(i) is present in a public place with or as part of a group of two or more persons, and that group includes one or more persons a peace officer reasonably believes to be a member of a criminal street gang; and~~]

[~~(ii) is within sight or hearing of a location where a law enforcement officer issued an order to the person to disperse under Section 76-9-903 within the prior eight hours.~~]

[~~(b) A violation of Subsection (2)(a) is subject to a fine of not less than $100, unless the court finds mitigating circumstances justifying a lesser punishment and makes that finding a part of the court record.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits failure to disperse if the actor:

(a) is in a place designated as an area where gang loitering is prohibited under Section 11-48-104;

(b) is ordered by a law enforcement officer under Section 53-25-602 to disperse from within sight and hearing of the location described in Subsection (2)(a); and

(c) (i) fails to disperse as ordered in Subsection (2)(b); or

(ii) disperses and then returns to the location within the next eight hours after receiving the order to disperse under Subsection (2)(b).

(3) (a) Subject to Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) In addition to the punishment described in Subsection (3)(a), a subsequent violation of Subsection (2) is subject to a fine of not less than $100.

(4) A court may sentence an actor under Subsection (3)(b) with a lesser punishment if the court, on the record, finds that mitigating circumstances justify the lesser punishment.

(5) This section does not affect or limit an actor's constitutional right to engage in collective advocacy activities that are protected by the constitution or laws of this state or by the constitution or laws of the United States.

Section 263. Section 76-9-1101, which is renumbered from Section 76-10-101 is renumbered and amended to read:

PART 11. Cigarettes, Tobacco, and Psychotoxic Chemical Solvents

[~~76-10-101~~]76-9-1101. Definitions.

As used in this part:

(1) (a) "Alternative nicotine product" means a product, other than a cigarette, a counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a tobacco product, that:

(i) contains nicotine;

(ii) is intended for human consumption;

(iii) is not purchased with a prescription from a licensed physician; and

(iv) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(b) "Alternative nicotine product" includes:

(i) pure nicotine;

(ii) snortable nicotine;

(iii) dissolvable salts, orbs, pellets, sticks, or strips; and

(iv) nicotine-laced food and beverage.

(c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that contains naturally occurring nicotine.

(2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette.

(3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned under ordinary conditions of use, and consists of:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (3)(a).

(4) (a) "Electronic cigarette" means:

(i) [~~any~~]an electronic oral device:

(A) that provides an aerosol or a vapor of nicotine or other substance; and

(B) [~~which~~]that simulates smoking through the use or inhalation of the device;

(ii) a component of the device described in Subsection (4)(a)(i); or

(iii) an accessory sold in the same package as the device described in Subsection (4)(a)(i).

(b) "Electronic cigarette" includes an oral device that is:

(i) composed of a heating element, battery, or electronic circuit; and

(ii) marketed, manufactured, distributed, or sold as:

(A) an e-cigarette;

(B) an e-cigar;

(C) an e-pipe; or

(D) any other product name or descriptor, if the function of the product meets the definition of Subsection (4)(a).

(c) "Electronic cigarette" does not mean a medical cannabis device, as that term is defined in Section 26B-4-201.

(5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.

(6) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.

(7) (a) "Flavored electronic cigarette product" means an electronic cigarette product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette product.

(b) "Flavored electronic cigarette product" includes an electronic cigarette product that is labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, spice, or mint.

(c) "Flavored electronic cigarette product" does not include an electronic cigarette product that has a taste or smell of only tobacco or menthol.

(8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically or derived from tobacco or other plants.

(9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.

(10) (a) "Nontherapeutic nicotine device" means a device that:

(i) has a pressurized canister that is used to administer nicotine to the user through inhalation or intranasally;

(ii) is not purchased with a prescription from a licensed physician; and

(iii) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a nontherapeutic nicotine nasal spray.

(11) "Nontherapeutic nicotine device substance" means a substance that:

(a) contains nicotine;

(b) is sold in a cartridge for use in a nontherapeutic nicotine device;

(c) is not purchased with a prescription from a licensed physician; and

(d) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.

(13) "Place of business" includes:

(a) a shop;

(b) a store;

(c) a factory;

(d) a public garage;

(e) an office;

(f) a theater;

(g) a recreation hall;

(h) a dance hall;

(i) a poolroom;

(j) a cafe;

(k) a cafeteria;

(l) a cabaret;

(m) a restaurant;

(n) a hotel;

(o) a lodging house;

(p) a streetcar;

(q) a bus;

(r) an interurban or railway passenger coach;

(s) a waiting room; and

(t) any other place of business.

(14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with an electronic cigarette substance.

(15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that is sold prefilled with a nontherapeutic nicotine device substance.

(16) "Premarket authorized or pending electronic cigarette product" means an electronic cigarette product that:

(a) (i) has been approved by an order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or

(ii) (A) was marketed in the United States on or before August 8, 2016;

(B) the manufacturer submitted a premarket tobacco product application for the electronic cigarette product to the United States Food and Drug Administration under 21 U.S.C. Sec. 387j on or before September 9, 2020; and

(C) has an application described in Subsection (16)(a)(ii) that either remains under review by the United States Food and Drug Administration or a final decision on the application has not taken effect; and

(b) does not exceed:

(i) 4.0% nicotine by weight per container; or

(ii) a nicotine concentration of 40 milligrams per milliliter.

(17) "Retail tobacco specialty business" means the same as that term is defined in Section 26B-7-501.

(18) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

(19) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette substance, or a nontherapeutic nicotine device substance into the human body.

(b) "Tobacco paraphernalia" includes:

(i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) water pipes;

(iii) carburetion tubes and devices;

(iv) smoking and carburetion masks;

(v) roach clips, meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;

(vi) chamber pipes;

(vii) carburetor pipes;

(viii) electric pipes;

(ix) air-driven pipes;

(x) chillums;

(xi) bongs; and

(xii) ice pipes or chillers.

(c) "Tobacco paraphernalia" does not include matches or lighters.

(20) "Tobacco product" means:

(a) a cigar;

(b) a cigarette; or

(c) tobacco in any form, including:

(i) chewing tobacco; and

(ii) any substitute for tobacco, including flavoring or additives to tobacco.

(21) "Tobacco retailer" means:

(a) a general tobacco retailer, as that term is defined in Section 26B-7-501; or

(b) a retail tobacco specialty business.

Section 264. Section 76-9-1102, which is renumbered from Section 76-10-102 is renumbered and amended to read:

[~~76-10-102~~]76-9-1102. Cigarette or tobacco advertising violation.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~It is a class B misdemeanor for any person to display~~]Except as provided in Subsection (4), an actor commits cigarette or tobacco advertising violation if the actor displays on [~~any~~]a billboard, streetcar sign, streetcar, bus, placard, or on any other object or place of display, [~~any~~]an advertisement of cigarettes, cigarette papers, cigars, chewing tobacco, or smoking tobacco or any disguise or substitute of [~~either, except that a dealer in cigarettes, cigarette papers, tobacco or cigars, or their substitutes, may have a sign on the front of his place of business stating that he is a dealer in the articles; provided that nothing herein shall be construed to prohibit the advertising of cigarettes, cigarette papers, chewing tobacco or smoking tobacco, or any substitute of either, in any newspaper, magazine or periodical printed or circulating in this state.~~]cigarettes, cigarette papers, tobacco, or cigars.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) (a) A dealer of cigarettes, cigarette papers, tobacco, cigars, or a substitute for cigarettes, cigarette papers, tobacco, or cigars may have a sign on the front of the dealer's place of business stating that the dealer is a dealer of cigarettes, cigarette papers, tobacco, cigars, or a substitute for cigarettes, cigarette papers, tobacco, or cigars.

(b) This section does not prohibit the advertisement of an item listed in Subsection (4)(a)in a newspaper, magazine or periodical printed or circulating in this state.

[~~(2) Any advertisement for smokeless tobacco placed in a newspaper, magazine, or periodical published in this state must bear a warning which states: "Use of smokeless tobacco may cause oral cancer and other mouth disorders and is addictive." This warning must be in a conspicuous location and in conspicuous and legible type, in contrast with the typography, layout, and color of all other printed material in the advertisement. For purposes of this subsection, "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity or nasal passage. In the event the United States Congress passes legislation which requires warnings in advertisements of smokeless tobacco, the specific language required to be placed in advertisements by that legislation shall take precedence over this subsection.~~]

Section 265. Section 76-9-1103, which is renumbered from Section 76-10-103 is renumbered and amended to read:

[~~76-10-103~~]76-9-1103. Permitting a minor to use a tobacco product, electronic cigarette product, or nicotine product in a place of business.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) An actor commits permitting a minor to use a tobacco product, electronic cigarette product, or nicotine product in a place of business if the actor:

(a) is a proprietor of a place of business; and

(b) [~~It is a class C misdemeanor for the proprietor of any place of business to knowingly permit~~]knowingly permits an individual under 21 years old to frequent [~~a~~]the actor's place of business while the individual is using a tobacco product, an electronic cigarette product, or a nicotine product.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 266. Section 76-9-1104, which is renumbered from Section 76-10-104 is renumbered and amended to read:

[~~76-10-104~~]76-9-1104. Providing a cigar, a cigarette, an electronic cigarette product, a nicotine product, or tobacco to a minor.

(1) (a) As used in this section, "provides":

[~~(a)~~](i) includes selling, giving, furnishing, sending, or causing to be sent; and

[~~(b)~~](ii) does not include the acts:

(A) of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others [~~or the acts~~]; or

(B) of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~An individual who~~]Except as provided in Subsection (4), an actor commits providing a cigar, cigarette, electronic cigarette product, nicotine product, or tobacco to a minor if the actor knowingly, intentionally, recklessly, or with criminal negligence provides a tobacco product, an electronic cigarette product, or a nicotine product to an individual who is under 21 years old [~~, is guilty of:~~].

[~~(a) a class C misdemeanor on the first offense;~~]

[~~(b) a class B misdemeanor on the second offense; and~~]

[~~(c) a class A misdemeanor on any subsequent offense.~~]

(3) A violation of Subsection (2) is:

(a) a class C misdemeanor on the first offense;

(b) a class B misdemeanor on the second offense; or

(c) a class A misdemeanor on the third or subsequent offense.

[~~(3)~~](4) This section does not apply to conduct of an employee of a tobacco retailer that is a violation of Section [~~76-10-114~~]76-9-1116.

Section 267. Section 76-9-1105, which is renumbered from Section 76-10-104.1 is renumbered and amended to read:

[~~76-10-104.1~~]76-9-1105. Providing tobacco paraphernalia to a minor.

(1) (a) As used in this section, "provides" [~~:~~]means the same as that term is defined in Section 76-9-1104.

[~~(a) includes selling, giving, furnishing, sending, or causing to be sent; and~~]

[~~(b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.~~]

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~(a) It is unlawful for an individual to~~]An actor commits providing tobacco paraphernalia to a minor if the actor knowingly, intentionally, recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under 21 years old.

[~~(b) An individual who violates this section is guilty of:~~]

(3) A violation of Subsection (2) is:

[~~(i)~~](a) a class C misdemeanor on the first offense; [~~and~~]or

[~~(ii)~~](b) a class B misdemeanor on [~~any~~]a subsequent offense.

Section 268. Section 76-9-1106, which is renumbered from Section 76-10-105 is renumbered and amended to read:

[~~76-10-105~~]76-9-1106. Buying or possessing a tobacco product or an electronic cigarette product by a minor.

(1) [~~An individual who is 18 years old or older, but~~]Terms defined in Sections 76-1-101.5and 76-9-1101 apply to this section.

(2) An actor commits buying or possessing a tobacco product or an electronic cigarette product by a minor if the actor:

(a) is younger than 21 years old [~~, and who~~]; and

(b) buys or attempts to buy, accepts, or has in the [~~individual's~~]actor's possession a tobacco product, an electronic cigarette product, or a nicotine product [~~is:~~].

[~~(a) guilty of an infraction; and~~]

[~~(b) subject to:~~]

[~~(i) a minimum fine or penalty of $60; and~~]

[~~(ii) participation in a court-approved tobacco education or cessation program, which may include a participation fee.~~]

[~~(2)~~](3) (a) If the actor is 18 years old or older but younger than 21 years old, a violation of Subsection (2) is:

(i) an infraction; and

(ii) subject to:

(A) a minimum fine or penalty of $60; and

(B) participation in a court-approved tobacco education or cessation program, which may include a participation fee.

(b) [~~An individual who is under 18 years old and who buys or attempts to buy, accepts, or has in the individual's possession a tobacco product, an electronic cigarette product, or a nicotine product is subject to~~]If the actor is under 18 years old, a violation of Subsection (2) is a citation under Section 80-6-302, unless the violation is committed on school property under Section 53G-8-211.

[~~(b)~~](c) If a violation under this section is adjudicated under Section 80-6-701, the minor may be subject to the following:

(i) a fine or penalty, in accordance with Section 80-6-709; and

(ii) participation in a court-approved tobacco education program, which may include a participation fee.

[~~(3)~~](4) (a) A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property.

(b) A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.

Section 269. Section 76-9-1107, which is renumbered from Section 76-10-105.1 is renumbered and amended to read:

[~~76-10-105.1~~]76-9-1107. Illegal indirect sale of a tobacco product, an electronic cigarette product, or a nicotine product.

(1) (a) As used in this section:

[~~(a)~~](i) [~~(i)~~](A) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.

[~~(ii)~~](B) "Face-to-face exchange" does not include a sale through a [~~:~~]vending machine or a self-service display.

[~~(A) vending machine; or~~]

[~~(B) self-service display.~~]

[~~(b)~~](ii) "Retailer" means a person who:

[~~(i)~~](A) sells a tobacco product, an electronic cigarette product, or a nicotine product to an individual for personal consumption; or

[~~(ii)~~](B) operates a facility with a vending machine that sells a tobacco product, an electronic cigarette product, or a nicotine product.

[~~(c)~~](iii) "Self-service display" means a display of a tobacco product, an electronic cigarette product, or a nicotine product to which the public has access without the intervention of a retailer or retailer's employee.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) Except as provided in Subsection [~~(3), a retailer may sell~~](4), an actor commits illegal indirect sale of a tobacco product, an electronic cigarette product, or a nicotine product if the actor:

(a) is a retailer; and

(b) sells a tobacco product, an electronic cigarette product, or a nicotine product [~~only~~]in a manner that does not include a face-to-face exchange.

(3) A violation of Subsection (2) is:

(a) a class C misdemeanor on the first offense;

(b) a class B misdemeanor on the second offense; or

(c) a class A misdemeanor on the third or subsequent offense.

[~~(3)~~](4) The face-to-face sale requirement in Subsection (2) does not apply to:

(a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;

(b) a sale from a vending machine or self-service display that is located in an area of a retailer's facility:

(i) that is distinct and separate from the rest of the facility; and

(ii) where the retailer only allows an individual [~~who complies with Subsection (4) to be present~~]who is under 21 years old to be present if the individual:

(A) is accompanied by the actor's parent or legal guardian; or

(B) (I) is present solely for the purpose of providing a service to the business, including making a delivery;

(II) is monitored by the proprietor business or an employee of the business; and

(III) is not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (4)(b)(ii)(B)(II); or

(c) a sale at a retail tobacco specialty business.

[~~(4) An individual who is under 21 years old may not enter or be present at a retail tobacco specialty business unless the individual is:~~]

[~~(a) accompanied by a parent or legal guardian; or~~]

[~~(b) (i) present at the retail tobacco specialty business solely for the purpose of providing a service to the retail tobacco specialty business, including making a delivery;~~]

[~~(ii) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and~~]

[~~(iii) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (4)(b)(i).~~]

(5) (a) [~~A~~]An individual's parent or legal guardian who accompanies [~~, under Subsection (4)(a),~~] an individual into an area described in Subsection [~~(3)(b) or into a retail tobacco specialty business~~](4)(b)(ii)(A) may not allow the individual to purchase a tobacco product, an electronic cigarette product, or a nicotine product.

(b) A violation of Subsection (5)(a) is an offense under Section 76-9-1104.

[~~(6) A violation of Subsection (2) or (4) is a:~~]

[~~(a) class C misdemeanor on the first offense;~~]

[~~(b) class B misdemeanor on the second offense; and~~]

[~~(c) class A misdemeanor on any subsequent offenses.~~]

[~~(7) An individual who violates Subsection (5) is guilty of an offense under Section 76-10-104.~~]

Section 270. Section 76-9-1108 is enacted to read:

76-9-1108. Illegal presence of a minor inside a tobacco specialty business.

(1) (a) As used in this section, "self-service display" means the same as that term is defined in Section 76-9-1107.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) Except as provided in Subsection (4), an actor commits illegal presence of a minor inside a tobacco specialty business if the actor:

(a) is under 21 years old; and

(b) enters or is present inside a retail tobacco specialty business.

(3) A violation of Subsection (2) is:

(a) a class C misdemeanor on the first offense;

(b) a class B misdemeanor on the second offense; or

(c) a class A misdemeanor on the third or subsequent offense.

(4) An actor under 21 years old may enter or be present inside a tobacco specialty business if the actor is:

(a) accompanied by the actor's parent or legal guardian; or

(b) (i) present at the retail tobacco specialty business solely for the purpose of providing a service to the tobacco retail specialty business, including making a delivery;

(ii) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and

(iii) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (4)(b)(i).

(5) (a) An individual's parent or legal guardian who accompanies an individual under Subsection (4)(a) inside a tobacco specialty business may not allow the individual to purchase a tobacco product, an electronic cigarette product, or a nicotine product.

(b) A violation of Subsection (5)(a) is an offense under Section 76-9-1104.

Section 271. Section 76-9-1109, which is renumbered from Section 76-10-105.3 is renumbered and amended to read:

[~~76-10-105.3~~]76-9-1109. Illegal sale or gift of clove cigarette.

(1) (a) As used in this section, "clove cigarette" means a cigarette that contains more than 10%, by weight, of raw eugenia caryophyllata or caryophyllus, commonly known as clove.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~It is unlawful for any person to knowingly sell, offer for sale, give or furnish any clove cigarette in this state. For purposes of this section "clove cigarette" means any cigarette which contains more than 10%, by weight, of raw eugenia caryophyllata or caryophyllus, commonly known as clove. Any person who violates this section is guilty of~~]An actor commits illegal sale or gift of clove cigarette if the actor knowingly sells, offers for sale, gives, or furnishes a clove cigarette in this state.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 272. Section 76-9-1110, which is renumbered from Section 76-10-107 is renumbered and amended to read:

[~~76-10-107~~]76-9-1110. Abuse of psychotoxic chemical solvent.

(1) (a) As used in this section, "psychotoxic chemical solvent" includes any glue, cement, or other substance containing one or more of the following chemical compounds:

(i) acetone and acetate;

(ii) amyl nitrite or amyl nitrate or their isomers;

(iii) benzene, butyl alcohol, butyl nitrite, butyl nitrate, or their isomers;

(iv) ethyl alcohol, ethyl nitrite, or ethyl nitrate;

(v) ethylene dichloride;

(vi) isobutyl alcohol;

(vii) methyl alcohol;

(viii) methyl ethyl ketone;

(ix) n-propyl alcohol;

(x) pentachlorophenol;

(xi) petroleum ether;

(xii) propyl nitrite or propyl nitrate or their isomers;

(xiii) toluene;

(xiv) xylene; or

(xv) another chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~A person is guilty of~~]Except as provided in Subsection (4), an actor commits abuse of psychotoxic chemical [~~solvents if~~]solvent if:

(a) for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of [~~his~~]the actor's brain or nervous system, [~~he~~]the actor intentionally:

(i) smells or inhales the fumes of [~~any~~]a psychotoxic chemical solvent; or

(ii) possesses, purchases, or attempts to possess or purchase [~~any~~]a psychotoxic chemical solvent; or

(b) the [~~person~~]actor offers, sells, or provides a psychotoxic chemical solvent to another person, knowing that other person or a third party intends to possess or use that psychotoxic chemical solvent in violation of Subsection [~~(1)(a).~~](2)(a).

[~~(2) This section does not apply to the prescribed use, distribution, or sale of those substances for medical or dental purposes.~~]

(3) [~~Abuse of psychotoxic chemical solvents~~]A violation of Subsection (2) is a class B misdemeanor.

[~~(4) As used in this section, psychotoxic chemical solvent includes any glue, cement, or other substance containing one or more of the following chemical compounds: acetone and acetate, amyl nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite, butyl nitrate, or their isomers, ethyl alcohol, ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol, methyl alcohol, methyl ethyl ketone, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl nitrite or propyl nitrate or their isomers, toluene or xylene, or other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance.~~]

(4) This section does not apply to:

(a) the prescribed use, distribution, or sale of a psychotoxic chemical solvent for a medical or dental purpose; or

(b) [~~Nothing in this section shall be construed to include any~~]a controlled substance regulated by the provisions of Title 58, Chapter 37, Utah Controlled Substances Act.

Section 273. Section 76-9-1111, which is renumbered from Section 76-10-107.5 is renumbered and amended to read:

[~~76-10-107.5~~]76-9-1111. Abuse of nitrous oxide.

(1) (a) As used in this section, "nitrous oxide" means:

[~~(a)~~](i) N2O, a colorless gas or liquid that is also referred to as dinitrogen monoxide, nitrogen oxide, or laughing gas; [~~and~~]or

[~~(b)~~](ii) any substance containing nitrous oxide.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~A person is guilty of~~]Except as provided in Subsection (4), an actor commits abuse of nitrous oxide [~~who~~]if the actor:

(a) possesses nitrous oxide with the intent to breathe, inhale, or ingest [~~it~~]the nitrous oxide for the purpose of:

(i) causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses; or

(ii) in any manner changing, distorting, or disturbing the audio, visual, or mental processes;

(b) knowingly [~~and~~]or intentionally is under the influence of nitrous oxide; or

(c) offers, sells, or provides nitrous oxide to another person, knowing that other person or a third party intends to possess or use the nitrous oxide in violation of Subsection (2)(a) or (b).

(3) A violation of Subsection (2) is a class A misdemeanor.

[~~(3)~~](4) (a) Subsection (2)(b) does not apply to any person who is under the influence of nitrous oxide pursuant to an administration for the purpose of medical, surgical, or dental care by a person holding a license under state law that authorizes the administration of nitrous oxide.

[~~(4)~~](b) Subsection (2)(c) does not apply to any person who:

(i) []administers nitrous oxide for the purpose of medical, surgical, or dental care; and

(ii) [~~who~~]holds a license under state law that authorizes the administration of nitrous oxide.

[~~(5) A violation of this section is a class A misdemeanor.~~]

Section 274. Section 76-9-1112, which is renumbered from Section 76-10-111 is renumbered and amended to read:

[~~76-10-111~~]76-9-1112. Illegal provision of smokeless tobacco or electronic cigarette product -- Exceptions.

[~~(1) The Legislature finds that:~~]

[~~(a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who use those products because research indicates that they may cause mouth or oral cancers;~~]

[~~(b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;~~]

[~~(c) the use of electronic cigarette products may lead to unhealthy behavior such as the use of tobacco products; and~~]

[~~(d) it is necessary to restrict the gift of the products described in this Subsection (1) in the interest of the health of the citizens of this state.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~(a)~~] Except as provided in Subsection [~~(3), it is unlawful for~~](4), an actor commits illegal provision of smokeless tobacco or electronic cigarette product if the actor:

(a) is a manufacturer, wholesaler, and retailer [~~to:~~]; and

(b) (i) [~~give or distribute~~]gives or distributes without charge [~~any~~]smokeless tobacco, chewing tobacco, or an electronic cigarette product in this state;

(ii) [~~sell, offer for sale, or furnish any~~]sells, offers for sale, or furnishes an electronic cigarette product at less than the cost, including the amount of any applicable tax, of the product to the manufacturer, wholesaler, or retailer; or

(iii) [~~give, distribute, sell, offer for sale, or furnish any~~]gives, distributes, sells, offers for sale, or furnishes an electronic cigarette product for free or at a lower price because the recipient of the electronic cigarette product makes another purchase.

[~~(c) Any individual who violates this section is guilty of:~~]

[~~(i) a class C misdemeanor for the first offense; and~~]

[~~(ii) a class B misdemeanor for any subsequent offense.~~]

(3) A violation of Subsection (2) is:

(a) a class C misdemeanor on the first offense; or

(b) a class B misdemeanor on a subsequent offense.

[~~(b)~~](4) (a) The price that a manufacturer, wholesaler, or retailer may charge under Subsection [~~(2)(a)(ii)~~](2)(b)(ii) does not include a discount for:

(i) a physical manufacturer coupon:

(A) that is surrendered to the wholesaler or retailer at the time of sale; and

(B) for which the manufacturer will reimburse the wholesaler or the retailer for the full amount of the discount described in the manufacturer coupon and provided to the purchaser;

(ii) a rebate that will be paid to the manufacturer, the wholesaler, or the retailer for the full amount of the rebate provided to the purchaser; or

(iii) a promotional fund that will be paid to the manufacturer, the wholesaler, or the retailer for the full amount of the promotional fund provided to the purchaser.

[~~(3)~~](b) Smokeless tobacco, chewing tobacco, or an electronic cigarette product may be distributed to adults without charge at professional conventions where the general public is excluded.

(5) The Legislature finds that:

(a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who use those products because research indicates that they may cause mouth or oral cancers;

(b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;

(c) the use of electronic cigarette products may lead to unhealthy behavior such as the use of tobacco products; and

(d) it is necessary to restrict the gift of the products described in this section in the interest of the health of the citizens of this state.

Section 275. Section 76-9-1113, which is renumbered from Section 76-10-112 is renumbered and amended to read:

[~~76-10-112~~]76-9-1113. Illegal distribution of a tobacco product -- Exceptions.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) Except as provided in Subsection [~~(3), it is unlawful for~~](4), an actor commits illegal distribution of a tobacco product if the actor:

(a) is a manufacturer, wholesaler, or retailer; and

(b) [~~to give or distribute~~]gives or distributes a tobacco product in this state without charge.

[~~(2) An individual who violates this subsection is guilty of~~]

(3) A violation of Subsection (2) is:

(a) a class C misdemeanor [~~for~~]on the first offense; [~~and~~]or

(b) a class B misdemeanor [~~for any~~]on a subsequent offense.

[~~(3)~~](4) (a) A tobacco product may be distributed to an adult without charge at a professional convention where the general public is excluded.

[~~(4)~~](b) The prohibition described in Subsection [~~(1)~~](2) does not apply to a tobacco retailer, a manufacturer, or a distributor that gives a tobacco product to an individual who is 21 years old or older upon the individual's purchase of a tobacco product.

Section 276. Section 76-9-1114, which is renumbered from Section 76-10-113 is renumbered and amended to read:

[~~76-10-113~~]76-9-1114. Illegal distribution of a flavored electronic cigarette product.

(1) [~~Subject to Subsection (2), it is unlawful for a tobacco retailer that is not a retail tobacco specialty business to give, distribute, sell, offer for sale, or furnish a flavored electronic cigarette product to any person.~~]Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~Notwithstanding Subsection (1), and beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer for sale, or furnish~~]An actor commits illegal distribution of a flavored electronic cigarette product if the actor gives, distributes, sells, offers for sale, or furnishes to any person a flavored electronic cigarette product.

[~~(4) An individual who violates this section is guilty of~~]

[~~(3) Beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer for sale, or furnish to any person an electronic cigarette product that is not a premarket authorized or pending electronic cigarette product.~~]

(3) A violation of Subsection (2) is:

(a) a class C misdemeanor [~~for~~]on the first offense; [~~and~~]or

(b) a class B misdemeanor [~~for any~~]on a subsequent offense.

Section 277. Section 76-9-1115 is enacted to read:

76-9-1115. Illegal distribution of an electronic cigarette product without federal authorization.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) An actor commits illegal distribution of an electronic cigarette product without federal authorization if the actor gives, distributes, sells, offers for sale, or furnishes to any person an electronic cigarette product that is not a premarket authorized or pending electronic cigarette product.

(3) A violation of Subsection (2) is:

(a) a class C misdemeanor on the first offense; or

(b) a class B misdemeanor on a subsequent offense.

Section 278. Section 76-9-1116, which is renumbered from Section 76-10-114 is renumbered and amended to read:

[~~76-10-114~~]76-9-1116. Unlawful sale of a tobacco product, electronic cigarette product, or nicotine product.

(1) (a) As used in this section:

[~~(a)~~](i) "Compensatory service" means service or unpaid work performed by an employee, in lieu of the payment of a fine or imprisonment.

[~~(b)~~](ii) "Employee" means an employee or an owner of a tobacco retailer.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~It is unlawful for an employee to knowingly or intentionally sell or give~~]An actor commits unlawful sale of a tobacco product, electronic cigarette product, or nicotine product if the actor:

(a) is an employee; and

(b) intentionally or knowingly sells or gives a tobacco product, an electronic cigarette product, or a nicotine product in the course of business to an individual [~~who is under~~]younger than 21 years old.

(3) [~~An employee who violates this section~~]A violation of Subsection (2) is:

(a) on a first violation:

(i) [~~guilty of~~]an infraction; and

(ii) subject to:

(A) a fine not exceeding $1,000; or

(B) compensatory service; or

(b) on [~~any~~]a subsequent violation:

(i) [~~guilty of~~]a class C misdemeanor; and

(ii) subject to:

(A) a fine not exceeding $2,000; or

(B) compensatory service.

Section 279. Section 76-9-1117, which is renumbered from Section 76-10-115 is renumbered and amended to read:

[~~76-10-115~~]76-9-1117. Unlawful transfer of proof of age.

(1) (a) As used in this section:

[~~(a)~~](i) "Proof of age" means:

[~~(i)~~](A) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

[~~(ii)~~](B) a valid identification that:

[~~(A)~~](I) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

[~~(B)~~](II) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

[~~(C)~~](III) includes date of birth; and

[~~(D)~~](IV) has a picture affixed;

[~~(iii)~~](C) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;

[~~(iv)~~](D) a valid United States military identification card that:

[~~(A)~~](I) includes date of birth; and

[~~(B)~~](II) has a picture affixed; or

[~~(v)~~](E) a valid passport.

[~~(b)~~](ii) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~An individual is guilty of a class B misdemeanor if the individual knowingly and intentionally transfers that individual's~~]Except as provided in Subsection (4), an actor commits unlawful transfer of proof of age if the actor intentionally or knowingly transfers the actor's proof of age to another individual to aid that individual in:

(a) purchasing a tobacco product, an electronic cigarette product, or a nicotine product; or

(b) gaining admittance to any part of the premises of a retail tobacco specialty business.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(3) An individual is guilty of a class A misdemeanor if the individual knowingly and intentionally uses proof of age containing false information with the intent to:~~]

[~~(a) purchase a tobacco product, an electronic cigarette product, or a nicotine product; or~~]

[~~(b) gain admittance to any part of the premises of a retail tobacco specialty business.~~]

(4) [~~Subsections (2) and (3) do~~]Subsection (2) does not apply to an individual who uses a false identification in accordance with Subsection 77-39-101(4) at the request of a peace officer.

Section 280. Section 76-9-1118 is enacted to read:

76-9-1118. Unlawful use of proof of age containing false information.

(1) (a) As used in this section, "proof of age" means the same as that term is defined in Section 76-9-1117.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) An actor commits unlawful use of proof of age containing false information if the actor intentionally or knowingly uses proof of age containing false information with the intent to:

(a) purchase a tobacco product, an electronic cigarette product, or a nicotine product; or

(b) gain admittance to any part of the premises of a retail tobacco specialty business.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) Subsection (2) does not apply to an individual who uses a false identification in accordance with Subsection 77-39-101(4) at the request of a peace officer.

Section 281. Section 76-9-1119, which is renumbered from Section 76-10-116 is renumbered and amended to read:

[~~76-10-116~~]76-9-1119. Ordinances, rules, and regulations.

(1) Except as provided in Subsection (2) or (3), an ordinance, rule, or regulation adopted by a governing body of a political subdivision of the state or a state agency is superseded if:

(a) the ordinance, rule, or regulation affects:

(i) the minimum age of sale for a tobacco product, an electronic cigarette product, or tobacco paraphernalia;

(ii) the provision or sale of a tobacco product, an electronic cigarette product, or tobacco paraphernalia;

(iii) the flavoring of a tobacco product or an electronic cigarette product;

(iv) the purchase or possession of a tobacco product, an electronic cigarette product, or tobacco paraphernalia; or

(v) the placement or display of a tobacco product or an electronic cigarette product; and

(b) the ordinance, rule, or regulation is not essentially identical to [~~any~~]a state statute relating to the applicable subject described in Subsection (1)(a).

(2) A governing body of a political subdivision of the state or a state agency may adopt an ordinance, rule, or regulation on a subject described in Subsections (1)(a)(i) through (v) if the governing body of a political subdivision of the state or a state agency is authorized by statute to adopt the ordinance, rule, or regulation.

(3) Subsection (1) does not apply to the adoption or enforcement of a land use ordinance by a municipal or county government.

Section 282. Section 76-9-1201 is enacted to read:

PART 12. Offenses Concerning Water, Shafts, and Wells

76-9-1201. Definitions.

Reserved.

Section 283. Section 76-9-1202, which is renumbered from Section 76-10-201 is renumbered and amended to read:

[~~76-10-201~~]76-9-1202. Unlawful interference with water flow.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

(2) [~~Every person who knowingly or~~]An actor commits unlawful interference with water flow if the actor intentionally or knowingly interferes with or alters the flow of water in any stream, ditch, or lateral while under the control or management of any water commissioner [~~is guilty of a crime punishable under Section 73-2-27~~].

(3) A violation of Subsection (2) is subject to the penalty provisions in Section 73-2-27.

Section 284. Section 76-9-1203, which is renumbered from Section 76-10-202 is renumbered and amended to read:

[~~76-10-202~~]76-9-1203. Unlawful taking of water or damaging a water facility.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

(2) [~~No person may, in~~]An actor commits unlawful taking of water or damaging a water facility if the actor, in violation of [~~any~~]a right of [~~any other~~]another person [~~knowingly or~~], intentionally or knowingly:

(a) [~~turn or use~~]turns on or uses the water, or [~~any~~]a part thereof, of [~~any~~]a canal, ditch, pipeline, or reservoir, except at a time when the use of the water has been duly distributed to the [~~person~~]actor;

(b) [~~use any~~]uses a greater quantity of the water than has been duly distributed to [~~him~~]the actor;

(c) in any way [~~change~~]changes the flow of water when lawfully distributed for irrigation or other useful purposes, except when duly authorized to make the change; or

(d) [~~break or injure any~~]breaks or injures a dam, canal, pipeline, watergate, ditch, or other means of diverting or conveying water for irrigation or other useful purposes.

(3) A violation of Subsection (2) is subject to the penalty provisions in Section 73-2-27.

[~~(2)~~](4) Subsection [~~(1)~~](2) applies to violations of [~~any~~]a right to the use of water, including:

(a) a water right; or

(b) authorization of a person's use of water by:

(i) a water company, as defined in Subsection 73-3-3.5(1)(b); or

(ii) an entity having a valid water right under Utah law.

[~~(3) Any person who violates this section is guilty of a crime punishable under Section 73-2-27.~~]

Section 285. Section 76-9-1204, which is renumbered from Section 76-10-203 is renumbered and amended to read:

[~~76-10-203~~]76-9-1204. Unlawful obstruction of watergates.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

(2) [~~Every person who~~]An actor commits unlawful obstruction of watergates if the actor:

(a) rafts or floats logs, timber, or wood down any river or stream; and

(b) allows the logs, timber, or wood described in Subsection (2)(a) to accumulate at or obstruct the watergates owned by [~~any~~]a person or irrigation company taking or diverting the water of the river or stream for irrigation or manufacturing purposes [~~is guilty of a crime punishable under Section 73-2-27~~].

(3) A violation of Subsection (2) is subject to the penalty provisions in Section 73-2-27.

Section 286. Section 76-9-1205, which is renumbered from Section 76-10-204 is renumbered and amended to read:

[~~76-10-204~~]76-9-1205. Unlawful damage to a bridge, dam, canal, or other water-related structure.

[~~(1) A person is guilty of a third degree felony who intentionally, knowingly, or recklessly commits an offense under Subsection (2) that does not amount to a violation of Subsection 76-6-106(2)(a)(ii) or Section 76-6-106.3.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

(2) Except as provided in Subsection (4), an actor commits unlawful damage to a bridge, dam, canal, or other water-related structure if the actor intentionally, knowingly, or recklessly:

[~~(2) Offenses referred to in Subsection (1) are when a person:~~]

(a) cuts, breaks, damages, or destroys [~~any~~]a bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected:

(i) to create hydraulic power [~~,~~];

(ii) to drain or reclaim [~~any swamp and overflowed~~]a swamp, overflowed land, or marsh land [~~,~~]; or

(iii) to conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town;

(b) makes or causes to be made [~~any~~]an aperture in [~~any~~]a dam, canal, flume, aqueduct, reservoir, embankment, levee, or similar structure with intent to injure or destroy [~~it~~]the dam, canal, flume, aqueduct, reservoir, embankment, levee, or similar structure; or

(c) draws up, cuts, or injures [~~any piles~~]a pile fixed in the ground and used for securing [~~any~~]a lake or river bank or [~~walls~~]wall or [~~any~~]a dock, quay, jetty, or lock.

(3) A violation of Subsection (2) is a third degree felony.

(4) Subsection (2) applies to conduct that does not amount to a violation of Subsection 76-6-106(2)(a)(ii) or Section 76-6-106.3.

Section 287. Section 76-9-1206, which is renumbered from Section 76-10-2601 is renumbered and amended to read:

[~~76-10-2601~~]76-9-1206. Unlawful failure to fence a shaft or well.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

(2) [~~Any person who~~]An actor commits unlawful failure to fence a shaft or well if the actor:

(a) has sunk or sinks a shaft or well on the public domain for any purpose [~~shall enclose it with a substantial curb or fence, which shall be at least 4-1/2 feet high.~~]; and

(b) fails to enclose the shaft or well with a substantial curb or fence that is at least 4.5 feet high.

[~~(2)~~](3) [~~Any person violating this section is guilty of~~]A violation of Subsection (2) is a class B misdemeanor.

Section 288. Section 76-9-1301, which is renumbered from Section 76-10-801 is renumbered and amended to read:

PART 13. Criminal Nuisance

[~~76-10-801~~]76-9-1301. Definitions.

[~~(1) A nuisance is any~~]As used in this part:

(1) "Nuisance" means an item, thing, manner, or condition [~~whatsoever~~]that:

(a) is dangerous to human life or health; or

(b) renders soil, air, water, or food impure or unwholesome.

(2) (a) "Public nuisance" means unlawfully committing an act or omitting to perform a duty, which act or duty:

(i) annoys, injures, or endangers the comfort, repose, health, or safety of three or more persons, regardless of the extent to which the annoyance, injury, or endangerment inflicted on the persons is unequal;

(ii) offends public decency;

(iii) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, a lake, stream, canal, or basin, or a public park, square, street, or highway;

(iv) is a nuisance as described in Section 78B-6-1107, Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction; or

(v) renders three or more persons insecure in life or the use of property, regardless of the extent to which the effect inflicted on the persons is unequal.

(b) "Public nuisance" is presumed to not include:

(i) activities conducted in the normal and ordinary course of agricultural operations, as defined in Section 4-44-102, and conducted in accordance with sound agricultural practices, with the presumption that agricultural operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are operating within sound agricultural practices; or

(ii) activities conducted in the normal and ordinary course of critical infrastructure materials operations, as defined in Section 78B-6-1101, and conducted in accordance with sound critical infrastructure materials practices, with the presumption that critical infrastructure materials operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are

operating within sound critical infrastructure materials operations.

[~~(2) Any person, whether as owner, agent, or occupant who creates, aids in creating, or contributes to a nuisance, or who supports, continues, or retains a nuisance, is guilty of a class B misdemeanor.~~]

Section 289. Section 76-9-1302 is enacted to read:

76-9-1302. Creating, supporting, or retaining a nuisance.

(1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

(2) An actor commits creating, supporting, or retaining a nuisance if the actor:

(a) is an owner, agent, or occupant; and

(b) (i) creates, aids in creating, or contributes to a nuisance; or

(ii) supports, continues, or retains a nuisance.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 290. Section 76-9-1303, which is renumbered from Section 76-10-802 is renumbered and amended to read:

[~~76-10-802~~]76-9-1303. Befouling waters.

[~~A person is guilty of a class B misdemeanor if he:~~]

(1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

(2) An actor commits the offense of befouling waters if the actor:

(a) [~~Constructs~~]constructs or maintains a corral, sheep pen, goat pen, stable, pigpen, chicken coop, or other offensive yard or outhouse [~~where~~]from which the waste or drainage [~~therefrom shall flow~~]will flow directly into the waters of any stream, well, or spring of water used for domestic purposes; [~~or~~]

[~~(2)~~](b) [~~Deposits~~]deposits, piles, unloads, or leaves [~~any~~]a manure heap, offensive rubbish, or the carcass of [~~any~~]a dead animal [~~where~~]from which the waste or drainage [~~therefrom~~]will flow directly into the waters of any stream, well, or spring of water used for domestic purposes; [~~or~~]

[~~(3)~~](c) [~~Dips~~]dips or washes sheep in [~~any~~]a stream, or constructs, maintains, or uses [~~any~~]a pool or dipping vat for dipping or washing sheep in such close proximity to [~~any~~]a stream used for domestic purposes by the inhabitants of any city or town [~~for domestic purposes~~]so as to make the waters [~~thereof~~]of the stream impure or unwholesome; [~~or~~]

[~~(4)~~](d) [~~Constructs~~]constructs or maintains [~~any~~]a corral, yard, or vat to be used for the purpose of shearing or dipping sheep within 12 miles of any city or town, [~~where~~]from which the refuse or filth from the corral or yard would naturally find its way into any stream of water used for domestic purposes by the inhabitants of any city or town [~~for domestic purposes~~]; or

[~~(5)~~](e) [~~Establishes~~]establishes and maintains [~~any~~]a corral, camp, or bedding place for the purpose of herding, holding, or keeping [~~any~~]cattle, horses, sheep, goats, or hogs within seven miles of any city or town, [~~where~~]from which the refuse or filth from the corral, camp, or bedding place will naturally find its way into any stream of water used for domestic purposes by the inhabitants of any city or town [~~for domestic purposes~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 291. Section 76-9-1304, which is renumbered from Section 76-10-805 is renumbered and amended to read:

[~~76-10-805~~]76-9-1304. Unlawful disposal of carcass or offal.

(1) [~~Every person who~~]Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

(2) An actor commits unlawful disposal of carcass or offal if the actor:

(a) puts the carcass of [~~any~~]a dead animal, or the offal from [~~any~~]a slaughter pen, corral, or butcher shop, into [~~any~~]a river, creek, pond, street, alley, or public highway, or road in common use [~~, or who attempts to destroy it by fire, within one-fourth of a mile of any city or town is guilty of a class B misdemeanor.~~]; or

(b) attempts to destroy by fire the carcass of a dead animal, or the offal from a slaughter pen, corral, or butcher shop, within one-fourth of a mile of a city or town.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 292. Section 76-9-1305, which is renumbered from Section 76-10-804 is renumbered and amended to read:

[~~76-10-804~~]76-9-1305. Maintaining, committing, or failing to remove a public nuisance.

(1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

(2) [~~Every person who~~]An actor commits maintaining, committing, or failing to remove a public nuisance if the actor:

(a) maintains or commits [~~any~~]a public nuisance, the punishment for which is not otherwise prescribed [~~, or who~~]; or

(b) willfully omits to perform [~~any~~]a legal duty relating to the removal of a public nuisance [~~, is guilty of~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 293. Section 76-9-1306, which is renumbered from Section 76-10-806 is renumbered and amended to read:

[~~76-10-806~~]76-9-1306. Action for abatement of public nuisance.

(1) (a) As used in this section:

(i) "Distribute" means the same as that term is defined in Section 76-5c-101.

(ii) "Exhibit" means the same as that term is defined in Section 76-5c-101.

(iii) "Material" means the same as that term is defined in Section 76-5c-101.

(b) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

(2) The county attorney of the county [~~where~~]in which the public nuisance exists, upon direction of the county executive, or city attorney of the city [~~where~~]in which the public nuisance exists, upon direction of the board of city commissioners, or attorney general, upon direction of the governor, or any of the above attorneys without the necessity of direction, is empowered to institute an action in the name of the county, city, or state, as the case may be, to abate a public nuisance.

(3) The action shall be brought in the [~~district~~] court of the district [~~where~~]in which the public nuisance exists and shall be in the form

prescribed by the Rules of Civil Procedure of the State of Utah for injunctions, but none of the above attorneys shall be required to execute a bond with respect to the action.

(4) If the action is instituted, however, to abate the distribution or exhibition of material alleged to offend public decency, the action shall be in the form prescribed by the Rules of Civil Procedure of Utah for injunctions, but no restraining order or injunction shall issue except upon notice to the person sought to be enjoined; and that person shall be entitled to a trial of the issues commencing within three days after filing of an answer to the complaint and a decision shall be rendered by the court within two days after the conclusion of the trial. [~~As used in this part, "distribute," "exhibit," and "material" mean the same as provided in Section 76-10-1201.~~]

Section 294. Section 76-9-1307, which is renumbered from Section 76-10-808 is renumbered and amended to read:

[~~76-10-808~~]76-9-1307. Relief granted for a public nuisance that offends public decency.

If the existence of a public nuisance [~~as defined by Subsection 76-10-803(1)(b)~~]that offends public decency is admitted or established, either in a civil or criminal proceeding, a judgment shall be entered [~~which~~]that shall:

(1) permanently enjoin each defendant and any other person from further maintaining the public nuisance at the place complained of and each defendant from maintaining such public nuisance elsewhere;

(2) direct the person enjoined to surrender to the sheriff of the county in which the action was brought any material in [~~his~~]the defendant's possession [~~which~~]that is subject to the injunction, and the sheriff shall seize and destroy this material; and

(3) without proof of special injury, direct that an accounting be had and all money and other consideration paid as admission to view any motion picture film determined to constitute a public nuisance, or paid for any publication determined to constitute a public nuisance, in either case without deduction for expenses, be forfeited and paid into the general fund of the county [~~where the~~]in which the public nuisance was maintained.

Section 295. Section 76-9-1308, which is renumbered from Section 76-10-807 is renumbered and amended to read:

[~~76-10-807~~]76-9-1308. Criminal violation of an order enjoining a public nuisance.

(1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

(2) [~~A person who~~]An actor commits criminal violation of an order enjoining a public nuisance if the actor knowingly violates [~~any~~]a judgment or order abating or otherwise enjoining a public nuisance [~~as defined under Section 76-10-803 is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 296. Section 76-9-1401, which is renumbered from Section 76-10-1101 is renumbered and amended to read:

PART 14. Gambling

[~~76-10-1101~~]76-9-1401. Definitions.

As used in this part:

(1) (a) "Amusement device" means a game that:

(i) is activated by a coin, token, or other object of consideration or value; and

(ii) does not provide the opportunity to:

(A) enter into a sweepstakes, lottery, or other gambling event; or

(B) receive any form of consideration or value, except an appropriate reward.

(b) "Amusement device" includes:

(i) a video game;

(ii) a driving simulator;

(iii) an electronic game;

(iv) a claw machine;

(v) a bowling game;

(vi) a shuffleboard game;

(vii) a skee-ball game;

(viii) a pool table;

(ix) a pinball machine;

(x) a target machine; and

(xi) a baseball machine.

(2) "Amusement facility" means a facility that:

(a) is operated primarily for the purpose of providing amusement or entertainment to customers;

(b) is located on property that is open to customers for the purpose of providing customers with an opportunity to use an amusement device;

(c) receives a substantial amount of the facility's revenue from the operation of amusement devices; and

(d) does not provide an opportunity for, or a machine or device that enables, gambling or fringe gambling.

(3) (a) "Appropriate reward" means a reward that:

(i) an individual receives as a result of the individual's participation in or use of an amusement device; and

(ii) provides:

(A) full and adequate return for money, a token, or other consideration or value invested into the amusement device;

(B) an immediate and unrecorded ability to replay a game featured on an amusement device that is not exchangeable for value;

(C) a toy, novelty, or other non-monetary prize with a value of less than $100 as a reward for playing; or

(D) tickets or credits that are redeemable for a toy, novelty, or non-monetary prize at an amusement facility, or at any franchise or chain of the amusement facility, where the amusement device is located.

(b) "Appropriate reward" does not include money, a gift certificate, a gift card, credit to be used in a retail store, or other form of monetary compensation or reward.

(4) "Consumer" means the same as that term is defined in Section [~~76-10-1230~~]76-5c-401.

(5) "Enter or entry" means an act or process by which an individual becomes eligible to receive a prize offered for participation in any form of sweepstakes, game, or contest.

(6) (a) "Fringe gambling" means any de facto form of gambling, lottery, fringe gaming device, or video gaming device that is given, conducted, or offered for use or sale by a business in exchange for anything of value or incident to the purchase of another good or service.

(b) "Fringe gambling" does not include:

(i) a promotional activity that is clearly ancillary to the primary activity of a business; or

(ii) use of an amusement device or vending machine.

(7) (a) "Fringe gaming device" means a mechanically, electrically, or electronically operated machine or device that:

(i) is not an amusement device or a vending machine;

(ii) is capable of displaying or otherwise presenting information on a screen or through any other mechanism; and

(iii) provides the user with a card, token, credit, gift certificate, product, or opportunity to participate in a contest, game, gaming scheme, or sweepstakes with a potential return of money or other prize.

(b) "Fringe gaming device" includes a machine or device similar to a machine or device described in Subsection (7)(a) that seeks to avoid application or circumvent this part or Utah Constitution, Article VI, Section 27 [~~, of the Utah Constitution~~].

(8) (a) "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome:

(i) is based on an element of chance, regardless of:

(A) the existence of a preview or pre-reveal feature in the device, contest, or game; or

(B) whether the preview or pre-reveal feature described in Subsection (8)(a)(i)(A) allows users to see individual or successive outcomes; and

(ii) is in accord with an agreement or understanding that someone will receive anything of value in the event of a certain outcome.

(b) "Gambling" includes a lottery.

(c) "Gambling" does not include:

(i) a lawful business transaction; or

(ii) use of an amusement device.

(9) "Gambling bet" means money, checks, credit, or any other representation of value.

(10) "Gambling device or record" means anything specifically designed for use in gambling or fringe gambling or used primarily for gambling or fringe gambling.

(11) "Gambling proceeds" means anything of value used in gambling or fringe gambling.

[~~(12) "Internet gambling" or "online gambling" means gambling, fringe gambling, or gaming by use of:~~]

[~~(a) the Internet; or~~]

[~~(b) any mobile electronic device that allows access to data and information.~~]

[~~(13)~~](12) "Internet service provider" means a person engaged in the business of providing Internet access service, with the intent of making a profit, to consumers in Utah.

[~~(14)~~](13) "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property, or portion of it, or for any share or any interest in property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it is known.

(14) "Online gambling" means gambling, fringe gambling, or gaming by use of:

(a) the Internet; or

(b) any mobile electronic device that allows access to data and information.

(15) "Prize" means a gift, award, gratuity, good, service, credit, or anything else of value that may be or is transferred to an individual or placed on an account or other record with the intent to be transferred to an individual.

(16) "Promotional activity that is clearly ancillary to the primary activity of a business" means a promotional activity that:

(a) continues for a limited period of time;

(b) is related to a good or service ordinarily provided by a business or the marketing or advertisement of a good or service ordinarily provided by the business;

(c) does not require [~~a person~~]an individual to purchase a good or service from the business in consideration for participation or an advantage in the promotional activity or any other contest, game, gaming scheme, sweepstakes, or promotional activity;

(d) promotes a good or service described in Subsection (16)(b) on terms that are commercially reasonable; and

(e) does not, through use of a machine or device:

(i) simulate a gambling environment;

(ii) require the purchase of something of value to participate in the promotional activity that is not regularly used, purchased, or redeemed by users of the machine or device;

(iii) provide a good or service described in Subsection (16)(b):

(A) in a manner in which the person acquiring the good or service is unable to immediately acquire, redeem, or otherwise use the good or service after the time of purchase; or

(B) at a value less than the full value of the good or service;

(iv) appear or operate in a manner similar to a machine or device that is normally found in a casino for the purpose of gambling;

(v) provide an entertaining display, designed to appeal to an individual's senses, that promotes actual or simulated game play that is similar in appearance or function to gambling, including:

(A) a video playing card game, including a video poker game;

(B) a video bingo game;

(C) a video craps game;

(D) a video keno game;

(E) a video lotto game;

(F) an 8-liner machine;

(G) a Pot O' Gold game;

(H) a video game involving a random or chance matching of pictures, words, numbers, or symbols; or

(I) a video game that reveals a prize as the game is played; or

(vi) otherwise create a pretextual transaction to facilitate a contest, game, gaming scheme, or sweepstakes in an attempt to circumvent the requirements of this part or Article VI, Section 27, of the Utah Constitution.

(17) "Skill-based game" means a game, played on a machine or device, the outcome of which is based, in whole or in part, on the skill of the player, regardless of whether a degree of chance is involved.

(18) "Sweepstakes" means a game, advertising scheme, marketing scheme, or other promotion:

(a) that an individual may enter with or without payment of any consideration;

(b) that qualifies the person to win a prize; and

(c) the result of which is based on chance.

(19) "Vending machine" means a device:

(a) that dispenses merchandise in exchange for money or any other item of value;

(b) that provides full and adequate return of the value deposited;

(c) through which the return of value is not conditioned on an element of chance or skill; and

(d) (i) does not include a promotional activity; or

(ii) includes a promotional activity that is clearly ancillary to the primary activity of a business.

(20) "Video gaming device" means a device that includes all of the following:

(a) a video display and computer mechanism for playing a game;

(b) the length of play of any single game is not substantially affected by the skill, knowledge, or dexterity of the player;

(c) a meter, tracking, or recording mechanism that records or tracks any money, tokens, games, or credits accumulated or remaining;

(d) a play option that permits a player to spend or risk varying amounts of money, tokens, or credits during a single game, in which the spending or risking of a greater amount of money, tokens, or credits:

(i) does not significantly extend the length of play time of any single game; and

(ii) provides for a chance of greater return of credits, games, or money; and

(e) an operating mechanism that, in order to function, requires inserting money, tokens, or other valuable consideration other than entering the user's name, birthdate, or contact information.

Section 297. Section 76-9-1402, which is renumbered from Section 76-10-1102 is renumbered and amended to read:

[~~76-10-1102~~]76-9-1402. Participating in gambling.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

(2) [~~A person is guilty of~~]An actor commits participating in gambling if the [~~person:~~]

[~~(a)~~] actor participates in:

(a) gambling [~~or~~];

(b) fringe gambling [~~, including any Internet or~~]; or

(c) online gambling [~~:~~].

[~~(b) knowingly permits gambling or fringe gambling to be played, conducted, or dealt upon or in any real or personal property owned, rented, or under the control of the actor, whether in whole or in part; or~~]

[~~(c) knowingly allows the use of any video gaming device that is:~~]

[~~(i) in any business establishment or public place; and~~]

[~~(ii) accessible for use by any person within the establishment or public place.~~]

[~~(2) Gambling is a class B misdemeanor, except that any person who is convicted two or more times under this section is guilty of a class A misdemeanor.~~]

[~~(3) (a) A person is guilty of a third degree felony who intentionally provides or offers to provide any form of Internet or online gambling to any person in this state.~~]

[~~(b) Subsection (3)(a) does not apply to an Internet service provider, a hosting company as defined in Section 76-10-1230, a provider of public telecommunications services as defined in Section 54-8b-2, or an Internet advertising service by reason of the fact that the Internet service provider, hosting company, Internet advertising service, or provider of public telecommunications services:~~]

[~~(i) transmits, routes, or provides connections for material without selecting the material; or~~]

[~~(ii) stores or delivers the material at the direction of a user.~~]

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of a violation of Subsection (2).

(4) If [~~any~~]federal law authorizes [~~Internet~~]online gambling in the states of the United States and [~~that federal law~~]provides that individual states may opt out of [~~Internet~~]online gambling, this state shall opt out of [~~Internet~~]online gambling in the manner provided by federal law and within the time frame provided by that law.

(5) Regardless of whether a federal law is enacted that authorizes [~~Internet~~]online gambling in the states of the United States, this section [~~acts~~]and Section 76-9-1404 act as this state's prohibition of [~~any~~]gambling, [~~including Internet~~]fringe gambling, or online gambling, in this state.

Section 298. Section 76-9-1403 is enacted to read:

76-9-1403. Permitting gambling.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

(2) An actor commits permitting gambling if the actor knowingly:

(a) permits gambling or fringe gambling to be played, conducted, or dealt upon or in real or personal property owned, rented, or under the control of the actor, whether in whole or in part; or

(b) allows the use of a video gaming device that is:

(i) in a business establishment or public place; and

(ii) accessible for use by an individual within the establishment or public place.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of a violation of Subsection (2).

Section 299. Section 76-9-1404 is enacted to read:

76-9-1404. Online gambling promotion.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

(2) An actor commits online gambling promotion if the actor intentionally provides or offers to provide a form of online gambling to an individual in this state.

(3) A violation of Subsection (2) is a third degree felony.

(4) This section does not apply to an Internet service provider, a hosting company as defined in Section 76-5c-401, a provider of public telecommunications services as defined in Section 54-8b-2, or an Internet advertising service that:

(a) transmits, routes, or provides connections for material without selecting the material; or

(b) stores or delivers the material at the direction of a user.

Section 300. Section 76-9-1405, which is renumbered from Section 76-10-1104 is renumbered and amended to read:

[~~76-10-1104~~]76-9-1405. General gambling promotion.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

[~~(1)~~](2) [~~A person is guilty of~~]An actor commits general gambling promotion if the [~~person~~]actor:

(a) derives, or intends to derive, an economic benefit other than personal winnings from gambling or fringe gambling; and [~~:~~]

[~~(a)~~](b) (i) [~~the person~~]induces or aids another individual to engage in gambling or fringe gambling; or

[~~(b)~~](ii) [~~the person~~]knowingly invests in, finances, owns, controls, supervises, manages, or participates in [~~any~~]gambling or fringe gambling.

[~~(2)~~](3) (a) [~~Gambling promotion~~]Except as provided in Subsection (3)(b), a violation of Subsection (2)is a class A misdemeanor [~~,~~].

(b) [~~except that any person who is twice convicted under this section is guilty of~~]A violation of Subsection (2) is a third degree felony if the actor has previously been convicted of a violation of Subsection (2).

Section 301. Section 76-9-1406, which is renumbered from Section 76-10-1103 is renumbered and amended to read:

[~~76-10-1103~~]76-9-1406. Gambling fraud.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

[~~(1)~~](2) [~~A person is guilty of~~]An actor commits gambling fraud if the [~~person~~]actor:

(a) participates in gambling or fringe gambling;

(b) [~~and~~]wins or acquires [~~to himself or herself or~~]gambling proceeds for the actor or another [~~any gambling proceeds~~]individual; and

(c) [~~when the person~~]knows the [~~person~~]actor has a lesser risk of losing or greater chance of winning than one or more of the other participants, and the risk is not known to all the other participants.

[~~(2) A person convicted of gambling fraud is punished as in the case of theft of property of like value.~~]

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of what the actor wins or acquires for the actor or another individual is or exceeds $5,000;

(b) a third degree felony if the value of what the actor wins or acquires for the actor or another individual is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value of what the actor wins or acquires for the actor or another individual is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value of what the actor wins or acquires for the actor or another individual is less than $500.

Section 302. Section 76-9-1407, which is renumbered from Section 76-10-1105 is renumbered and amended to read:

[~~76-10-1105~~]76-9-1407. Possessing a gambling device or record.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

(2) [~~A person is guilty of~~]An actor commits possessing a gambling device or record if the [~~person~~]actor:

(a) knowingly possesses [~~the~~]a gambling device or record; and

(b) [~~with intent~~]intends to use the gambling device or record in gambling or fringe gambling.

[~~(2)~~](3) (a) [~~Possession of a gambling device or record~~]Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor [~~,~~].

(b) [~~except that any person who is convicted two or more times under this section is guilty of~~]A violation of Subsection (2) is a third degree felony if the actor has previously been convicted of a violation of Subsection (2).

Section 303. Section 76-9-1408, which is renumbered from Section 76-10-1110 is renumbered and amended to read:

[~~76-10-1110~~]76-9-1408. Deriving a benefit from a fringe gaming device.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

[~~(1)~~](2) [~~Notwithstanding any other provision in Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals, it is unlawful for any person to derive or intend to derive an economic benefit from a fringe gaming device by~~]An actor commits deriving a benefit from a fringe gaming device if the actor:

(a) [~~permitting~~]permits a fringe gaming device to be located on or in [~~any~~]real or personal property owned, rented, or under the control of the [~~person~~]actor;

(b) [~~allowing~~]allows individual or public access or use of a fringe gaming device as part of [~~any~~]a business owned or operated by the [~~person~~]actor;

(c) [~~inducing or aiding a person~~]induces or aids an individual to use a fringe gaming device;

(d) [~~investing in, financing, owning, controlling, or otherwise managing~~]invests in, finances, owns, controls, or otherwise manages a fringe gaming device; or

(e) [~~possessing~~]possesses a fringe gaming device with the intent to use or allow another individual to use the fringe gaming device.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted of a violation of Subsection (2).

[~~(2)~~](4) [~~Subsection (1)~~]This section applies regardless of whether the fringe gaming device:

(a) is server-based;

(b) uses a simulated game terminal as a representation of a prize associated with the results of a sweepstakes entry;

(c) uses a simulated game to influence or determine the result of the simulated game or the value of a prize;

(d) selects the winner of a prize from a predetermined or finite pool of entries;

(e) includes a pre-reveal feature;

(f) predetermines a prize and reveals the prize at the time a sweepstakes entry result is revealed;

(g) requires deposit of any money, coin, token, or gift certificate, or the use of a credit card, debit card, prepaid card, or any other method of payment to activate the device;

(h) requires direct payment into the machine or device or remote activation of the device;

(i) requires a purchase of a related product regardless of whether the product has legitimate value;

(j) reveals the prize incrementally, regardless of whether a prize is awarded; or

(k) includes a skill-based game.

[~~(3) Each violation of this section is a separate offense.~~]

[~~(4) A person who violates this section is guilty of:~~]

[~~(a) a class A misdemeanor for the first offense; or~~]

[~~(b) a third degree felony for a subsequent offense.~~]

Section 304. Section 76-9-1409, which is renumbered from Section 76-10-1104.5 is renumbered and amended to read:

[~~76-10-1104.5~~]76-9-1409. Advertising or soliciting participation in a lottery.

(1) (a) [~~For purposes of~~]As used in this section [~~:~~].

[~~(a) "Conspicuously~~]"conspicuously printed" means printed in either larger or bolder type size than the adjacent and surrounding material so as to be clearly legible to [~~any person~~]an individual viewing the print.

[~~(b) "Lottery" means the same as defined in Section 76-10-1101.~~]

(b) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

(2) [~~It is unlawful for any person to distribute or disseminate any~~]An actor commits advertising or soliciting participation in a lottery if the actor distributes or disseminates an advertisement or other written or printed material containing an advertisement or solicitation for participation in [~~any~~]a lottery [~~unless the advertisement or solicitation contains or includes the words "Void in Utah" conspicuously printed~~].

(3) (a) [~~Any person who is convicted of violating~~]Except as provided in Subsection (3)(b), a violation of Subsection (2)[~~shall be fined the sum~~]is subject to a fine of $2,500.

(b) [~~Any person who is twice or more convicted under this section shall be fined the sum of~~]A violation of Subsection (2) is subject to a fine of $10,000 if the actor has previously been convicted of a violation of Subsection (2).

(4) This section does not apply if the advertisement or solicitation contains or includes the words "Void in Utah" conspicuously printed in the advertisement or solicitation.

Section 305. Section 76-9-1410, which is renumbered from Section 76-10-1109 is renumbered and amended to read:

[~~76-10-1109~~]76-9-1410. Obtaining a benefit from a confidence game.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

[~~(1)~~](2) [~~Any person who~~]An actor commits obtaining a benefit from a confidence game if the actor knowingly obtains or attempts to obtain from [~~any other person any~~]another individual money or property by any means, instrument, or device commonly [~~called~~]referred to as a confidence game [~~shall be punished as in the case of theft of property of like value~~].

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of what the actor obtains is or exceeds $5,000;

(b) a third degree felony if the value of what the actor obtains is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value of what the actor obtains is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value of what the actor obtains is less than $500.

[~~(2)~~](4) [~~In every~~]An indictment, information, or complaint under this section [~~, it~~] shall be deemed and held to contain a sufficient description of the offense [~~to charge that the accused did, on, _____ (insert the date) unlawfully and knowingly obtain or attempt to obtain (as the case may be) from _____, (insert the name of the person or persons defrauded or attempted to be defrauded) his money or property (as the case may be) by means and by use of a confidence game~~]if the indictment, information, or complaint contains:

(a) the date that the actor is accused of unlawfully and knowingly obtaining money or property from another individual;

(b) the name of the individual from whom the actor is accused of obtaining money or property;

(c) a description of the money or property obtained by the actor from the individual; and

(d) a description of the confidence game the actor used to obtain the money or property from the individual.

Section 306. Section 76-9-1411, which is renumbered from Section 76-10-1112 is renumbered and amended to read:

[~~76-10-1112~~]76-9-1411. Local control -- Seizure and disposition of gambling debts or proceeds.

(1) [~~Nothing in this part preempts~~]This part does not preempt or otherwise [~~limits the authority of~~]limit a county or municipality [~~to enact~~]from enacting a local ordinance related to gambling or fringe gambling.

[~~(2) In accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, a county or municipality may seize gambling debts, gambling proceeds, or fringe gaming devices that are reasonably identifiable as being obtained or provided in violation of this part or a local ordinance.~~]

(2) The following that are reasonably identifiable as having been used or obtained in violation of this part or a local ordinance may be seized and are subject to forfeiture proceedings in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, or Title 77, Chapter 11b, Forfeiture of Seized Property:

(a) gambling bets;

(b) gambling proceeds;

(c) gambling debts; and

(d) fringe gaming devices.

Section 307. Section 76-9-1412, which is renumbered from Section 76-10-1113 is renumbered and amended to read:

[~~76-10-1113~~]76-9-1412. Cause of action.

(1) An individual who suffers an economic loss as a result of a fringe gaming device, video gaming device, or gambling device or record may bring a cause of action against a person who operates or receives revenue from the fringe gaming device, video gaming device, or gambling device or record to recover damages, costs, and attorney fees.

(2) An individual who brings suit under Subsection (1) may recover twice the amount of the economic loss described in Subsection (1).

Section 308. Section 76-9-1501, which is renumbered from Section 76-10-1503 is renumbered and amended to read:

PART 15. Criminal Offenses Relating to Bus Passenger Safety

[~~76-10-1503~~]76-9-1501. Definitions.

As used in this [~~act~~]part:

(1) (a) "Bus" means [~~any~~]a passenger bus or coach or other motor vehicle having a seating capacity of 15 or more passengers operated by a bus company for the purpose of carrying passengers or cargo for hire.

(b) [~~and~~]"Bus" includes a transit vehicle, as defined in Section 17B-2a-802, of a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(2) (a) "Bus company" or "company" means [~~any~~]a person, group of persons, or corporation providing for-hire transportation to passengers or cargo by bus upon the highways in the state, including passengers and cargo in interstate or intrastate travel. [~~These terms also include~~]

(b) "Bus company" or "company" includes local public bodies, public transit districts, municipalities, public corporations, boards, and commissions established under the laws of the state providing transportation to passengers or cargo by bus upon the highways in the state, whether or not for hire.

(3) "Charter" means a group of persons, pursuant to a common purpose and under a single contract, and at a fixed charge in accordance with a bus company's tariff, which has acquired the exclusive use of a bus to travel together to a specified destination or destinations.

(4) "Passenger" means [~~any~~]a person transported or served by a bus company, including persons accompanying or meeting another being transported, any person shipping or receiving cargo, and any person purchasing a ticket or receiving a pass.

(5) (a) "Terminal" means a bus station or depot or any other facility operated or leased by or operated on behalf of a bus company.

(b) [~~and~~]"Terminal" includes:

(i) a transit facility, as defined in Section 17B-2a-802, of a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act[~~. This term includes~~]; and

(ii) a reasonable area immediately adjacent to:

(A) [~~any~~]a designated stop along the route traveled by [~~any~~]a bus operated by a bus company [~~and~~]; or

(B) [~~parking lots or areas adjacent to terminals~~]a parking lot or an area adjacent to a terminal.

Section 309. Section 76-9-1502, which is renumbered from Section 76-10-1504 is renumbered and amended to read:

[~~76-10-1504~~]76-9-1502. Bus hijacking.

[~~(1) (a)~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) [~~A person is guilty of~~]An actor commits bus hijacking if the [~~person~~]actor seizes or exercises control, by force or violence or threat of force or violence, of a bus within the state.

[~~(b)~~](3) [~~Bus hijacking~~]A violation of Subsection (2) is a first degree felony.

[~~(2) (a) A person is guilty of assault with the intent to commit bus hijacking if the person intimidates, threatens, or commits assault or battery toward a driver, attendant, guard, or any other person in control of a bus so as to interfere with the performance of duties by the person.~~]

[~~(b) Assault with the intent to commit bus hijacking is a second degree felony.~~]

[~~(3) A person who, in the commission of assault with intent to commit bus hijacking, uses a dangerous weapon, as defined in Section 76-1-101.5, is guilty of a first degree felony.~~]

Section 310. Section 76-9-1503 is enacted to read:

76-9-1503. Assault with intent to commit bus hijacking.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) An actor commits assault with intent to commit bus hijacking if the actor intimidates, threatens, or commits assault or battery toward a driver, attendant, guard, or any other person in control of a bus so as to interfere with the performance of duties by the person.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony.

(b) A violation of Subsection (2) is a first degree felony if the actor used a dangerous weapon during the violation.

Section 311. Section 76-9-1504, which is renumbered from Section 76-10-1505 is renumbered and amended to read:

[~~76-10-1505~~]76-9-1504. Unlawful discharge of a firearm or hurling of a missile into a bus or terminal.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) [~~Any person who~~]Except as provided in Subsection (4), an actor commits unlawful discharge of a firearm or hurling of a missile into a bus or terminal if the actor discharges a firearm or hurls a missile at or into [~~any~~]a bus or terminal [~~shall be guilty of a third degree felony~~].

(3) A violation of Subsection (2) is a third degree felony.

[~~(2)~~](4) [~~The prohibition of this~~]This section does not apply to elected or appointed peace officers or commercial security personnel who discharge firearms or hurl missiles in the course and scope of [~~their~~]the peace officer's or commercial security personnel's employment.

Section 312. Section 76-9-1505, which is renumbered from Section 76-10-1506 is renumbered and amended to read:

[~~76-10-1506~~]76-9-1505. Unlawful conduct while on a bus.

(1) (a) As used in this section, "controlled substance" means the same as that term is defined in Section 58-37-2.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) [~~A person is guilty of a class C misdemeanor, if the person~~]An actor commits unlawful conduct while on a bus if the actor:

(a) threatens a breach of the peace, is disorderly, or uses obscene, profane, or vulgar language on a bus;

(b) is in or upon any bus while unlawfully under the influence of a controlled substance [~~as defined in Section 58-37-2~~];

(c) fails to obey a reasonable request or order of a bus driver, bus company representative, a nondrinking designee other than the driver as provided in Subsection 32B-4-415(4)(c)(ii), or other person in charge or control of a bus or terminal;

(d) ingests [~~any~~]a controlled substance, unless prescribed by a physician or a medical facility, in or upon any bus, or drinks intoxicating liquor in or upon [~~any~~]a bus, except a chartered bus as defined and provided in Sections 32B-1-102 and 41-6a-526; or

(e) smokes tobacco or other products in or upon [~~any~~]a bus, except a chartered bus.

[~~(2)~~](3) A violation of Subsection (2) is a class C misdemeanor.

(4) (a) If [~~any person violates Subsection (1)~~]an actor violates Subsection (2), the driver of the bus or [~~person~~]individual in charge thereof may stop at the place where the offense is committed or at the next regular or convenient stopping place and remove [~~such person~~]the actor, using only such force as may be necessary to accomplish the removal, and the driver or [~~person~~]individual in charge may request the assistance of passengers to assist in [~~the removal~~]removing the actor.

[~~(3)~~](b) The driver or [~~person~~]individual in charge may cause the [~~person so removed~~]removed actor to be detained and delivered to the proper authorities.

Section 313. Section 76-9-1506, which is renumbered from Section 76-10-1507 is renumbered and amended to read:

[~~76-10-1507~~]76-9-1506. Unlawful refusal to leave a terminal -- Detention of violators -- Private security personnel.

[~~(1) (a) In order to provide for the safety, welfare and comfort of passengers, a bus company may refuse admission to terminals to a person not having bona fide business within the terminal.~~]

[~~(b) The refusal may not be inconsistent or contrary to state or federal laws or regulations, or to an ordinance of the political subdivision in which the terminal is located.~~]

[~~(c) An authorized bus company representative may require a person in a terminal to identify himself and state his business.~~]

[~~(d) Failure to comply with a request under Subsection (1)(c) or to state an acceptable business purpose is grounds for the representative to request that the person depart the terminal.~~]

[~~(e) A person who refuses to comply with a request made under Subsection (1)(d) is guilty of a class C misdemeanor.~~]

[~~(2) (a) A person who carries any highly flammable or hazardous material or device into a terminal or aboard a bus is guilty of a third degree felony.~~]

[~~(b) The bus company may employ reasonable means, including mechanical, electronic or x-ray devices to detect the items concealed in baggage or upon the person of a passenger.~~]

[~~(c) Upon the discovery of an item referred to in Subsection (2)(a), the company may obtain possession and retain custody of the item until it is transferred to a peace officer.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) An actor commits unlawful refusal to leave a terminal if:

(a) an authorized bus company representative asks the actor to identify the actor's self and state the ground for the actor's business in the terminal;

(b) the actor:

(i) fails to comply with the request described in Subsection (2)(a); or

(ii) fails to state an acceptable business purpose;

(c) the authorized bus company representative requests that the actor depart the terminal;

(d) the request for departure described in Subsection (2)(c) is:

(i) within the bus company's ability to refuse admission to a terminal to individuals who do not have a bona fide business within the terminal as part of the bus company's provision of safety, welfare, and comfort of passengers; and

(ii) not inconsistent with or contrary to state or federal laws or regulations, or to an ordinance of the political subdivision in which the terminal is located; and

(e) the actor refuses to comply with the request described in Subsection (2)(c) to depart the terminal.

(3) A violation of Subsection (2) is a class C misdemeanor.

[~~(3)~~](4) (a) An authorized bus company representative may detain within a terminal or bus [~~any person violating~~]an actor who violates the provisions of this section for a reasonable time until law enforcement authorities arrive.

(b) The detention described in Subsection (4)(a) does not constitute unlawful imprisonment and neither the bus company nor the representative is civilly or criminally liable upon grounds of unlawful imprisonment or assault, provided that only reasonable and necessary force is exercised against the detained [~~person~~]actor.

[~~(4)~~](5) (a) A bus company may employ or contract for private security personnel.

(b) The private security personnel may:

(i) detain within a terminal or bus [~~a person violating~~]an actor who violates this section for a reasonable time until law enforcement authorities arrive; and

(ii) use reasonable and necessary force in subduing or detaining the [~~person~~]actor.

Section 314. Section 76-9-1507 is enacted to read:

76-9-1507. Unlawful material or device in a bus or a terminal -- Detention of violators -- Private security personnel.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) An actor commits unlawful material or device in a bus or a terminal if the actor carries a highly flammable or hazardous material or device into a terminal or aboard a bus.

(3) A violation of Subsection (2) is a third degree felony.

(4) (a) A bus company may employ reasonable means, including mechanical, electronic or x-ray devices, to detect the items concealed in baggage or upon the person of a passenger.

(b) Upon discovery of a highly flammable or hazardous material or device, the bus company may obtain possession and retain custody of the material or device until the material or device is transferred to a peace officer.

(5) (a) An authorized bus company representative may detain within a terminal or bus an actor who violates the provisions of this section for a reasonable time until law enforcement authorities arrive.

(b) The detention does not constitute unlawful imprisonment and neither the bus company nor the representative is civilly or criminally liable upon grounds of unlawful imprisonment or assault, provided that only reasonable and necessary force is exercised against the detained actor.

(6) (a) A bus company may employ or contract for private security personnel.

(b) The private security personnel may:

(i) detain within a terminal or bus an actor who violates this section for a reasonable time until law enforcement authorities arrive; and

(ii) use reasonable and necessary force in subduing or detaining the actor.

Section 315. Section 76-9-1508, which is renumbered from Section 76-10-1508 is renumbered and amended to read:

[~~76-10-1508~~]76-9-1508. Theft of baggage or cargo.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) [~~Any person who~~]An actor commits theft of baggage or cargo if the actor removes any baggage, cargo or other item transported upon a bus or stored in a terminal without the consent of:

(a) the owner of the property; or

(b) the bus company [~~,~~] or [~~its~~]the bus company's duly authorized representative [~~is guilty of theft and shall be punished pursuant to section 76-6-404~~].

(3) A violation of Subsection (2) is punishable under Section 76-6-404.

Section 316. Section 76-9-1509, which is renumbered from Section 76-10-1509 is renumbered and amended to read:

[~~76-10-1509~~]76-9-1509. Obstructing the operation of a bus.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) [~~Any person who~~]An actor commits obstructing the operation of a bus if the actor unlawfully obstructs or impedes by force or violence, or any means of intimidation, the regular operation of a bus [~~is guilty of a class C misdemeanor~~].

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 317. Section 76-9-1510, which is renumbered from Section 76-10-1510 is renumbered and amended to read:

[~~76-10-1510~~]76-9-1510. Conspiracy to obstruct the operation of a bus.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) [~~Two or more persons who~~]An actor commits conspiracy to obstruct the operation of a bus if the actor willfully [~~combine or conspire~~]combines or conspires with another individual to violate Section [~~76-10-1509 shall each be guilty of a class C misdemeanor~~]76-9-1509, Obstructing the operation of a bus.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 318. Section 76-9-1601, which is renumbered from Section 76-10-1902 is renumbered and amended to read:

PART 16. Money Laundering and Currency Transaction Reporting

[~~76-10-1902~~]76-9-1601. Definitions.

As used in this part:

(1) "Bank" means an agent, agency, or office in this state of a person doing business in [~~any~~]one of the following capacities:

(a) a commercial bank or trust company organized under the laws of this state or of the United States;

(b) a private bank;

(c) a savings and loan association or a building and loan association organized under the laws of the United States;

(d) an insured institution as defined in Section 401 of the National Housing Act;

(e) a savings bank, industrial bank, or other thrift institution;

(f) a credit union organized under the laws of this state or of the United States; or

(g) any other organization chartered under Title 7, Financial Institutions Act, and subject to the supervisory authority set forth in that title.

(2) "Conducts" includes initiating, concluding, or participating in initiating or concluding a transaction.

(3) (a) "Currency" means the coin and paper money of the United States or of another country that is designated as legal tender, that circulates, and is customarily used and accepted as a medium of exchange in the country of issuance.

(b) "Currency" includes United States silver certificates, United States notes, Federal Reserve notes, and foreign bank notes customarily used and accepted as a medium of exchange in a foreign country.

(4) "Financial institution" means an agent, agency, branch, or office within this state of a person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the following capacities:

(a) a bank, except bank credit card systems;

(b) a broker or dealer in securities;

(c) a currency dealer or exchanger, including a person engaged in the business of check cashing;

(d) an issuer, seller, or redeemer of travelers checks or money orders, except as a selling agent exclusively who does not sell more than $150,000 of the instruments within any 30-day period;

(e) a licensed transmitter of funds or other person engaged in the business of transmitting funds;

(f) a telegraph company;

(g) a person subject to supervision by a state or federal supervisory authority; or

(h) the United States Postal Service regarding the sale of money orders.

(5) "Financial transaction" means a transaction:

(a) involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects commerce; or

(b) involving the use of a financial institution that is engaged in, or its activities affect commerce in any way or degree.

[~~(6) The phrase "knows that the property involved represents the proceeds of some form of unlawful activity" means that the person knows or it was represented to the person that the property involved represents proceeds from a form of activity, although the person does not necessarily know which form of activity, that constitutes a crime under state or federal law, regardless of whether or not the activity is specified in Subsection (12).~~]

[~~(7)~~](6) "Monetary instruments" means coins or currency of the United States or of another country, travelers checks, personal checks, bank checks, money orders, and investment securities or negotiable instruments in bearer form or in other form so that title passes upon delivery.

[~~(8)~~](7) "Person" means an individual, corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, and all other entities cognizable as legal personalities.

[~~(9)~~](8) "Proceeds" means property acquired or derived directly or indirectly from, produced through, realized through, or caused by an act or omission and includes property of any kind.

[~~(10)~~](9) "Property" means anything of value, and includes an interest in property, including a benefit, privilege, land, or right with respect to anything of value, whether real or personal, tangible or intangible.

[~~(11)~~](10) "Prosecuting agency" means the office of the attorney general or the office of the county attorney, including an attorney on the staff whether acting in a civil or criminal capacity.

[~~(12) "Specified unlawful activity" means an unlawful activity defined as an unlawful activity in Section 76-10-1602, except an illegal act under Title 18, Section 1961(1)(B), (C), and (D), United States Code, and includes activity committed outside this state which, if committed within this state, would be unlawful activity.~~]

[~~(13)~~](11) "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition. With respect to a financial institution, "transaction" includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of a stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

[~~(14)~~](12) "Transaction in currency" means a transaction involving the physical transfer of currency from one person to another. A transaction that is a transfer of funds by means of bank check, bank draft, wire transfer, or other written order that does not include the physical transfer of currency is not a transaction in currency under this chapter.

(13) (a) "Unlawful activity" means the same as that term is defined in Section 76-17-401.

(b) "Unlawful activity" includes activity committed outside this state which, if committed within this state, would be unlawful activity.

(c) "Unlawful activity" does not include an illegal act under 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 319. Section 76-9-1602, which is renumbered from Section 76-10-1903 is renumbered and amended to read:

[~~76-10-1903~~]76-9-1602. Money laundering.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1601 apply to this section.

(2) [~~A person~~]An actor commits [~~the offense of~~]money laundering [~~who~~]if the actor:

(a) (i) transports, receives, or acquires [~~the~~]property [~~which~~]that is [~~in fact~~]the proceeds of [~~the specified~~]unlawful activity [~~,~~]; and

(ii) [~~knowing~~]knows that the property [~~involved~~]represents the proceeds of [~~some form of~~]unlawful activity;

(b) (i) makes proceeds of unlawful activity available to another person by transaction, transportation, or other means [~~,~~]; and

(ii) [~~knowing~~]knows that the proceeds are intended to be used for the purpose of continuing or furthering the commission of [~~specified~~] unlawful activity; or

(c) (i) conducts a transaction involving property;

(ii) [~~knowing~~]knows that the property [~~involved in the transaction~~]represents the proceeds of [~~some form of~~]unlawful activity; and

(iii) conducts the transaction with the intent:

[~~(i)~~](A) to promote the unlawful activity;

[~~(ii)~~](B) to conceal or disguise the nature, location, source, ownership, or control of the property; or

[~~(iii)~~](C) to avoid a transaction reporting requirement under this [~~chapter~~]part or under federal law [~~; or~~].

[~~(d) knowingly accepts or receives property which is represented to be proceeds of unlawful activity.~~]

[~~(2) Under Subsection (1)(d), knowledge that the property represents the proceeds of unlawful activity may be established by proof that a law enforcement officer or an individual acting at the request of a law enforcement officer made the representations and the person's subsequent statements or actions indicate that the person believed those representations to be true.~~]

(3) A violation of Subsection (2) is a second degree felony.

(4) Each act committed in violation of Subsection (2) that involves the movement of funds in excess of $10,000 is a separate violation under this section.

(5) Under Subsection (2)(a)(ii), the phrase "knows that the property involved represents the proceeds of unlawful activity" means that the actor knows, or it was represented to the actor, that the property involved represents proceeds from a form of unlawful activity, although the actor does not necessarily know which form of activity, that constitutes a crime under state or federal law, regardless of whether or not the activity is specified in the definition of unlawful activity.

Section 320. Section 76-9-1603 is enacted to read:

76-9-1603. Accepting the proceeds of unlawful activity.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1601 apply to this section.

(2) An actor commits accepting the proceeds of unlawful activity if the actor knowingly accepts or receives property that is represented to the actor to be the proceeds of unlawful activity.

(3) A violation of Subsection (2) is a third degree felony.

(4) Each act committed in violation of Subsection (2) that involves the movement of funds in excess of $10,000 is a separate violation under this section.

(5) Under Subsection (2), knowledge that the property represents the proceeds of unlawful activity may be established by proof that a law enforcement officer or an individual acting at the request of a law enforcement officer made the representations and the actor's subsequent statements or actions indicate that the actor believed those representations to be true.

Section 321. Section 76-9-1604, which is renumbered from Section 76-10-1906 is renumbered and amended to read:

[~~76-10-1906~~]76-9-1604. Failure to report a financial transaction of more than $10,000.

[~~(1) (a) A person engaged in a trade or business, except a financial institution, who receives more than $10,000 as described in Subsection (1)(b) shall complete and file with the State Bureau of Investigation the information required by 26 U.S.C. Sec. 6050I, concerning returns relating to currency received in trade or business.~~]

[~~(b) Subsection (1)(a) applies if the person described in Subsection (1) receives more than $10,000 in domestic or foreign currency:~~]

[~~(i) in one transaction; or~~]

[~~(ii) through two or more related transactions during one business day.~~]

[~~(c) A person who knowingly and intentionally fails to comply with the reporting requirements of this Subsection (1) is:~~]

[~~(i) on a first conviction, guilty of a class C misdemeanor; and~~]

[~~(ii) on a second or subsequent conviction, guilty of a class A misdemeanor.~~]

[~~(d) A person is guilty of a third degree felony who knowingly and intentionally violates this Subsection (1) and the violation is committed either:~~]

[~~(i) in furtherance of the commission of any other violation of state law; or~~]

[~~(ii) as part of a pattern of illegal activity involving transactions exceeding $100,000 in any 12-month period.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1601 apply to this section.

(2) An actor commits failure to report a financial transaction of more than $10,000 if the actor:

(a) is engaged in a trade or business;

(b) receives more than $10,000 in domestic or foreign currency:

(i) in one transaction; or

(ii) through two or more related transactions during one business day; and

(c) intentionally or knowingly fails to complete and file with the State Bureau of Investigation the information required by 26 U.S.C. Sec. 6050I, concerning returns relating to currency received in trade or business.

(3) (a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a class C misdemeanor.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of violating this section.

(c) A violation of Subsection (2) is a third degree felony if the violation is committed:

(i) in furtherance of the commission of any other violation of state law; or

(ii) as part of a pattern of illegal activity involving transactions exceeding $100,000 in any 12-month period.

[~~(2)~~](4) (a) The State Bureau of Investigation and the Office of the Attorney General:

(i) shall enforce compliance with Subsection [~~(1)~~](2); and

(ii) are custodians of and have access to all information and documents filed under Subsection [~~(1)~~](2).

(b) [~~The information~~]Information filed by a trade or business in compliance with this section is confidential, except a law enforcement agency, county attorney, or district attorney, when establishing a clear need for the information for investigative purposes, shall have access to the information and shall maintain the information in a confidential manner except as otherwise provided by the Utah Rules of Criminal Procedure.

(5) Under this section, each failure by an actor to file a report required under Subsection (2) is a separate violation.

(6) This section does not apply to a financial institution.

Section 322. Section 76-9-1701 is enacted to read:

PART 17. Unlawful Use of a Laser Pointer

76-9-1701. Definitions.

As used in this part:

(1) "Aircraft" means the same as that term is defined in Section 72-10-102.

(2) "Laser light" means light that is amplified by stimulated emission of radiation.

(3) "Laser pointer" means any portable device that emits a visible beam of laser light that may be directed at an individual.

(4) "Law enforcement officer" means an officer under Section 53-13-103.

Section 323. Section 76-9-1702, which is renumbered from Section 76-10-2501 is renumbered and amended to read:
[~~76-10-2501~~]76-9-1702. Unlawful use of a laser pointer against a motor vehicle.

[~~(1) As used in this section:~~]

[~~(a) "Aircraft" means the same as that term is defined in Section 72-10-102.~~]

[~~(b) "Laser light" means light that is amplified by stimulated emission of radiation.~~]

[~~(c) "Laser pointer" means any portable device that emits a visible beam of laser light that may be directed at an individual.~~]

[~~(d) "Law enforcement officer" means an officer under Section 53-13-103.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1701 apply to this section.

(2) An actor commits unlawful use of a laser pointer against a motor vehicle if the actor directs a beam of laser light from a laser pointer at [~~:~~]a moving motor vehicle or the occupants of a moving motor vehicle.

[~~(a) a moving motor vehicle or the occupants of a moving motor vehicle;~~]

[~~(b) one whom the actor knows or has reason to know is a law enforcement officer; or~~]

[~~(c) an aircraft or the occupants of an aircraft.~~]

[~~(3) It is an affirmative defense to a charge under Subsection (2)(b) that:~~]

[~~(a) the law enforcement officer was:~~]

[~~(i) not in uniform;~~]

[~~(ii) not traveling in a vehicle identified as a law enforcement vehicle; and~~]

[~~(iii) not otherwise engaged in an activity that would give the actor reason to know the law enforcement officer to be a law enforcement officer; and~~]

[~~(b) the law enforcement officer was not otherwise known by the actor to be a law enforcement officer.~~]

[~~(4) (a) A violation of Subsection (2)(a) is an infraction.~~]

[~~(b) A violation of Subsection (2)(b) is a class C misdemeanor.~~]

[~~(c) (i) Except as provided in Subsection (4)(c)(ii) or (4)(c)(iii), a violation of Subsection (2)(c) is a class B misdemeanor.~~]

[~~(ii) Except as provided in Subsection (4)(c)(iii), a violation of Subsection (2)(c) is a class A misdemeanor if the actor previously has been convicted of a violation of Subsection (2)(c).~~]

[~~(iii) A violation of Subsection (2)(c) is a third degree felony if the actor's conduct causes an aircraft to crash or perform an emergency landing.~~]

(3) A violation of Subsection (2) is an infraction.

[~~(5)~~](4) If the violation of this section constitutes an offense subject to a greater penalty under another provision of this title than is provided under this section, this section does not prohibit the prosecution and sentencing for the offense subject to a greater penalty.

Section 324. Section 76-9-1703 is enacted to read:
76-9-1703. Unlawful use of a laser pointer against an aircraft.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1701 apply to this section.

(2) An actor commits unlawful use of a laser pointer against an aircraft if the actor directs a beam of laser light from a laser pointer at an aircraft or the occupants of an aircraft.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A misdemeanor if the actor previously has been convicted of a violation of Subsection (2).

(c) A violation of Subsection (2) is a third degree felony if the actor's conduct causes an aircraft to crash or perform an emergency landing.

(4) If the violation of this section constitutes an offense subject to a greater penalty under another provision of this title than is provided under this section, this section does not prohibit the prosecution and sentencing for the offense subject to a greater penalty.

Section 325. Section 76-9-1704 is enacted to read:
76-9-1704. Unlawful use of a laser pointer against a law enforcement officer.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1701 apply to this section.

(2) An actor commits unlawful use of a laser pointer against a law enforcement officer if the actor directs a beam of laser light from a laser pointer at an individual who the actor knows or has reason to know is a law enforcement officer.

(3) A violation of Subsection (2) is a class C misdemeanor.

(4) It is an affirmative defense to a charge under Subsection (2) that:

(a) the law enforcement officer was:

(i) not in uniform;

(ii) not traveling in a vehicle identified as a law enforcement vehicle; and

(iii) not otherwise engaged in an activity that would give the actor reason to know the law enforcement officer to be a law enforcement officer; and

(b) the law enforcement officer was not otherwise known by the actor to be a law enforcement officer.

(5) If the violation of this section constitutes an offense subject to a greater penalty under another provision of this title than is provided under this section, this section does not prohibit the prosecution and sentencing for the offense subject to a greater penalty.

Section 326. Section 76-9-1801 is enacted to read:

PART 18. Litter and Recycling Violations

76-9-1801. Definitions.

Reserved.

Section 327. Section 76-9-1802, which is renumbered from Section 76-10-2701 is renumbered and amended to read:

[~~76-10-2701~~]76-9-1802. Unlawful littering on land or waterway.

(1) (a) As used in this section, "litter" includes a glass bottle, glass, a nail, tack, wire, can, barbed wire, board, trash or garbage, paper or paper products, or any other substance that would or could mar or impair the scenic aspect or beauty of the land.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

(2) [~~A person may not throw, deposit, or discard, or permit to be dropped, thrown, deposited, or discarded on any~~]An actor commits unlawful littering on land or waterway if the actor drops, throws, deposits, or discards, or permits to be dropped, thrown, deposited, or discarded, litter in a park, recreation area, or other public or private land, or waterway, [~~any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage, paper or paper products, or any other substance which would or could mar or impair the scenic aspect or beauty of the land in the state whether under private, state, county, municipal, or federal ownership~~] without the permission of the owner or person having control or custody of the land or waterway.

(3) (a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum fine of $100 for each violation.

(b) The court may require the actor to participate in at least four hours of cleaning up:

(i) litter caused by the actor's offense; and

(ii) existing litter from a safe area designated by the court.

[~~(2) A person who drops, throws, deposits, or discards, or permits to be dropped, thrown, deposited, or discarded, on any park, recreation area, or other public or private land or waterway any destructive, injurious, or unsightly material shall:~~]

[~~(a) immediately remove the material or cause it to be removed; and~~]

[~~(b) deposit the material in a receptacle designed to receive the material.~~]

[~~(3) A person distributing commercial handbills, leaflets, or other advertising shall take whatever measures are reasonably necessary to keep the material from littering public or private property.~~]

[~~(4) A person removing a wrecked or damaged vehicle from a park, recreation area, or other public or private land shall remove any glass or other injurious substance dropped from the vehicle in the park, recreation area, or other public or private land.~~]

[~~(5) A person in charge of a construction or demolition site shall take reasonable steps to prevent the accumulation of litter at the construction or demolition site.~~]

[~~(6) A law enforcement officer as defined in Section 53-13-103, within the law enforcement officer's jurisdiction:~~]

[~~(a) shall enforce the provisions of this section;~~]

[~~(b) may issue citations to a person who violates any of the provisions of this section; and~~]

[~~(c) may serve and execute all warrants, citations, and other processes issued by any court in enforcing this section.~~]

[~~(7) An operator of a park, campground, trailer park, drive-in restaurant, gasoline service station, shopping center, grocery store parking lot, tavern parking lot, parking lots of industrial firms, marina, boat launching area, boat moorage and fueling station, public and private pier, beach, and bathing area shall maintain sufficient litter receptacles on the premises to accommodate the litter that accumulates.~~]

[~~(8)~~](4) A municipality within [~~its~~]the municipality's corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Section 328. Section 76-9-1803 is enacted to read:

76-9-1803. Unlawful failure to prevent advertising materials from becoming litter.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

(2) An actor commits unlawful failure to prevent advertising materials from becoming litter if the actor:

(a) distributes commercial handbills, leaflets, or other advertising materials; and

(b) fails to take measures that are reasonably necessary to keep the commercial handbills, leaflets, or other advertising materials from littering public or private property.

(3) (a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum fine of $100 for each violation.

(b) The court may require the actor to participate in at least four hours of cleaning up:

(i) litter caused by the actor's offense; and

(ii) existing litter from a safe area designated by the court.

(4) A municipality within the municipality's corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Section 329. Section 76-9-1804 is enacted to read:

76-9-1804. Unlawful failure to remove injurious substance while removing a vehicle.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

(2) An actor commits unlawful failure to remove injurious substance while removing a vehicle if the actor:

(a) removes a wrecked or damaged vehicle from a park, recreation area, or other public or private land; and

(b) fails to remove glass or other injurious substance dropped from the vehicle in the park, recreation area, or other private or public land.

(3) (a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum fine of $100 for each violation.

(b) The court may require the actor to participate in at least four hours of cleaning up:

(i) the glass or other injurious substance dropped from the vehicle; and

(ii) existing litter from a safe area designated by the court.

(4) A municipality within the municipality's corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Section 330. Section 76-9-1805 is enacted to read:

76-9-1805. Unlawful failure to prevent accumulation of litter at a construction or demolition site.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

(2) An actor commits unlawful failure to prevent accumulation of litter at a construction or demolition site if the actor:

(a) is in charge of a construction or demolition site; and

(b) fails to take reasonable steps to prevent the accumulation of litter at the construction or demolition site.

(3) (a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum fine of $100 for each violation.

(b) The court may require the actor to participate in at least four hours of cleaning up:

(i) the litter caused by the actor's offense; and

(ii) existing litter from a safe area designated by the court.

(4) A municipality within the municipality's corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Section 331. Section 76-9-1806 is enacted to read:

76-9-1806. Unlawful failure to provide sufficient litter receptacles.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

(2) An actor commits unlawful failure to provide sufficient litter receptacles if the actor:

(a) is an operator of a park, campground, trailer park, drive-in restaurant, gasoline service station, shopping center, grocery store parking lot, tavern parking lot, parking lot of an industrial firm, marina, boat launching area, boat moorage and fueling station, public or private pier, beach, or bathing area; and

(b) fails to maintain sufficient litter receptacles on the premises to accommodate the litter that accumulates on the premises.

(3) (a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum fine of $100 for each violation.

(b) The court may require the actor to participate in at least four hours of cleaning up:

(i) the litter caused by the actor's offense; and

(ii) existing litter from a safe area designated by the court.

(4) A municipality within the municipality's corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Section 332. Section 76-9-1807, which is renumbered from Section 76-10-2101 is renumbered and amended to read:

[~~76-10-2101~~]76-9-1807. Unlawful misuse of a recycling bin.

(1) (a) As used in this section:

[~~(a)~~](i) "Recycling" means the process of collecting materials diverted from the waste stream for reuse.

[~~(b)~~](ii) "Recycling bin" means any receptacle made available to the public by a governmental entity or private business for the collection of any source-separated item for recycling purposes.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

(2) [~~It is an infraction to place any~~]An actor commits unlawful misuse of a recycling bin if:

(a) the actor places a prohibited item or substance in a recycling bin; and

(b) [~~if the~~]the recycling bin is posted with the following information printed legibly in basic English:

[~~(a)~~](i) a descriptive list of the items that may be deposited in the recycling bin, entitled in boldface capital letters: "ITEMS YOU MAY DEPOSIT IN THIS RECYCLING BIN:";

[~~(b)~~](ii) at the end of the list in Subsection [~~(2)(a),~~](2)(b)(i), the following statement in boldface capital letters: "REMOVING FROM THIS BIN ANY ITEM THAT IS LISTED ABOVE AND THAT YOU DID NOT PLACE IN THE CONTAINER IS THE CRIMINAL OFFENSE OF THEFT, PUNISHABLE BY LAW.";

[~~(c)~~](iii) the following statement in boldface capital letters: "DEPOSIT OF ANY OTHER ITEM IN THIS RECYCLING BIN IS AGAINST THE LAW.";

[~~(d)~~](iv) the following statement in boldface capital letters, posted on the recycling collection container in close proximity to the other notices required under [~~Subsections (2)(a), (b), and (c)~~]Subsection (2)(b): "PLACING ANY ITEM OR SUBSTANCE IN THIS RECYCLING BIN OTHER THAN THOSE ALLOWED IN THE LIST POSTED ON THIS BIN IS AN INFRACTION, PUNISHABLE BY A MAXIMUM FINE OF $750."; and

[~~(e)~~](v) the name and telephone number of the entity that owns the recycling bin or is responsible for its placement and maintenance.

(3) A violation of Subsection (2) is an infraction.

Section 333. Section 76-9-1901 is enacted to read:

PART 19. Unlawful Contraband Compartment in a Vehicle

76-9-1901. Definitions.

As used in this part:

(1) (a) "Compartment" means any box, container, space, or enclosure:

(i) that is intended or designed to conceal, hide, or otherwise prevent the discovery of contraband; and

(ii) that is within a vehicle or attached to a vehicle.

(b) "Compartment" includes:

(i) false, altered, or modified fuel tanks;

(ii) original factory equipment of a vehicle that is modified, altered, or changed to accommodate or contain contraband; and

(iii) a box, container, space, or enclosure that is fabricated, made, created from, or added to the existing structure of a vehicle.

(2) (a) "Contraband" means any property, item, or substance that is unlawful to produce or possess under state or federal law.

(b) "Contraband" includes any cash or monetary instrument that is the proceeds of an unlawful activity under Subsection 76-17-401(4).

(3) "Motor vehicle" means the same as that term is defined in Section 41-6a-102.

(4) "Semitrailer" means the same as that term is defined in Section 41-6a-102.

(5) "Trailer" means the same as that term is defined in Section 41-1a-102.

(6) "Vehicle" means a motor vehicle, a trailer, or a semitrailer.

Section 334. Section 76-9-1902, which is renumbered from Section 76-10-2801 is renumbered and amended to read:
[~~76-10-2801~~]76-9-1902. Vehicle compartment for contraband -- Penalties.

[~~(1) As used in this section:~~]

[~~(a) (i) "Compartment" means any box, container, space, or enclosure:~~]

[~~(A) that is intended or designed to conceal, hide, or otherwise prevent the discovery of contraband; and~~]

[~~(B) that is within a vehicle or attached to a vehicle.~~]

[~~(ii) "Compartment" includes:~~]

[~~(A) false, altered, or modified fuel tanks;~~]

[~~(B) original factory equipment of a vehicle that is modified, altered, or changed to accommodate or contain contraband; and~~]

[~~(C) a box, container, space, or enclosure that is fabricated, made, created from, or added to the existing structure of a vehicle.~~]

[~~(b) (i) "Contraband" means any property, item, or substance which is unlawful to produce or possess under state or federal law.~~]

[~~(ii) "Contraband" includes any cash or monetary instrument that is the proceeds of an unlawful activity under Subsection 76-10-1602(4).~~]

[~~(c) "Motor vehicle" has the same meaning as in Section 41-6a-102.~~]

[~~(d) "Semitrailer" has the same meaning as in Section 41-6a-102.~~]

[~~(e) "Trailer" has the same meaning as in Section 41-1a-102.~~]

[~~(f) "Vehicle" means a motor vehicle, a trailer, and a semitrailer.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1901 apply to this section.

(2) [~~It is a class A misdemeanor for a person to~~]An actor commits unlawful possession, use, or control of a vehicle with a contraband compartment if the actor knowingly [~~possess, use, or control~~]possesses, uses, or controls a vehicle [~~which~~]that has a compartment with the intent to store, conceal, or transport contraband in the compartment.

[~~(3) It is a third degree felony for a person to facilitate the storage, concealment, or transportation of contraband by:~~]

[~~(a) designing, constructing, building, altering, or fabricating a compartment for a vehicle;~~]

[~~(b) installing or creating a compartment in a vehicle; or~~]

[~~(c) attaching a compartment to a vehicle.~~]

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) The trier of fact may infer that [~~a person~~]an actor intended to store, conceal, or transport contraband if:

(a) the [~~person~~]actor possesses, uses, or controls a vehicle that has a compartment [~~;~~]; and

(b) the compartment contains:

[~~(a)~~](i) contraband; or

[~~(b)~~](ii) evidence of prior storage, concealment, or transportation of contraband.

Section 335. Section 76-9-1903 is enacted to read:
76-9-1903. Unlawful creation, installation, or attachment of a contraband compartment.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1901 apply to this section.

(2) An actor commits unlawful creation, installation, or attachment of a contraband compartment if the actor facilitates the storage, concealment, or transportation of contraband by:

(a) designing, constructing, building, altering, or fabricating a compartment for a vehicle;

(b) installing or creating a compartment in a vehicle; or

(c) attaching a compartment to a vehicle.

(3) A violation of Subsection (2) is a third degree felony.

(4) The trier of fact may infer that an actor intends to store, conceal, or transport contraband if:

(a) the actor possesses, uses, or controls a vehicle that has a compartment; and

(b) the compartment contains:

(i) contraband; or

(ii) evidence of prior storage, concealment, or transportation of contraband.

Section 336. Section 76-9-2001 is enacted to read:

PART 20. Unlawful Tattooing or Body Piercing of a Minor

76-9-2001. Definitions.

As used in this part:

(1) "Body piercing" means the creation of an opening in the body, excluding the ear, for the purpose of inserting jewelry or other decoration.

(2) "Consent of a minor's parent or legal guardian" means the presence of a parent or legal guardian during the performance of tattooing or body piercing upon the minor after the parent or legal guardian has provided:

(a) reasonable proof of personal identity and familial relationship; and

(b) written permission signed by the parent or legal guardian authorizing the performance of tattooing or body piercing upon the minor.

(3) "Minor" means a person younger than 18 years old who:

(a) is not married; and

(b) has not been declared emancipated by a court of law.

(4) "Tattoo" means to fix an indelible mark or figure upon the body by inserting a pigment under the skin or by producing scars.

Section 337. Section 76-9-2002, which is renumbered from Section 76-10-2201 is renumbered and amended to read:
[~~76-10-2201~~]76-9-2002. Unlawful tattooing of a minor.

[~~(1) As used in this section:~~]

[~~(a) "Body piercing" means the creation of an opening in the body, excluding the ear, for the purpose of inserting jewelry or other decoration.~~]

[~~(b) "Consent of a minor's parent or legal guardian" means the presence of a parent or legal guardian during the performance of body piercing or tattooing upon the minor after the parent or legal guardian has provided:~~]

[~~(i) reasonable proof of personal identity and familial relationship; and~~]

[~~(ii) written permission signed by the parent or legal guardian authorizing the performance of body piercing or tattooing upon the minor.~~]

[~~(c) "Minor" means a person younger than 18 years of age who:~~]

[~~(i) is not married; and~~]

[~~(ii) has not been declared emancipated by a court of law.~~]

[~~(d) "Tattoo" means to fix an indelible mark or figure upon the body by inserting a pigment under the skin or by producing scars.~~]

[~~(2) A person is guilty of unlawful body piercing of a minor if the person performs or offers to perform a body piercing:~~]

[~~(a) upon a minor;~~]

[~~(b) without receiving the consent of the minor's parent or legal guardian; and~~]

[~~(c) for remuneration or in the course of a business or profession.~~]

[~~(3)~~](1) Terms defined in Sections 76-1-101.5 and 76-9-2001 apply to this section.

(2) [~~A person is guilty of~~]Except as provided in Subsection (5), an actor commits unlawful tattooing of a minor if the [~~person~~]actor performs or offers to perform a tattooing:

(a) upon a minor;

(b) without receiving the consent of the minor's parent or legal guardian; and

(c) for remuneration or in the course of a business or profession.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) The owner or operator of a business in which a violation of Subsection (2) occurs is subject to a civil penalty of $1,000 for each violation.

[~~(4)~~](5) [~~A person~~]An actor is not guilty of violating Subsection (2) [~~or (3),~~]if the [~~person~~]actor:

(a) has no actual knowledge of the minor's age; and

(b) reviews, photocopies, and retains the photocopy of an apparently valid driver license or other government-issued picture identification for the minor that expressly purports that the minor is 18 years [~~of age~~]old or older before the [~~person~~]actor performs the [~~body piercing or~~]tattooing.

[~~(5) (a) A person who violates Subsection (2) or (3) is guilty of a class B misdemeanor.~~]

[~~(b) The owner or operator of a business in which a violation of Subsection (2) or (3)occurs is subject to a civil penalty of $1,000 for each violation.~~]

Section 338. Section 76-9-2003 is enacted to read:
76-9-2003. Unlawful body piercing of a minor.

(1) Terms defined in Sections 76-1-101.5 and 76-9-2001 apply to this section.

(2) Except as provided in Subsection (5), an actor commits unlawful body piercing of a minor if the actor performs or offers to perform a body piercing:

(a) upon a minor;

(b) without receiving the consent of the minor's parent or legal guardian; and

(c) for renumeration or in the course of a business or profession.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) The owner or operator of a business in which a violation of Subsection (2) occurs is subject to a civil penalty of $1,000 for each violation.

(5) An actor is not guilty of violating Subsection (2) if the actor:

(a) has no actual knowledge of the minor's age; and

(b) reviews, photocopies, and retains the photocopy of an apparently valid driver license or other government-issued picture identification for the minor that expressly purports that the minor is 18 years old or older before the actor performs the body piercing.

Section 339. Section 76-11-101, which is renumbered from Section 76-10-501 is renumbered and amended to read:

CHAPTER 11. WEAPONS

PART 1. General Provisions

[~~76-10-501~~]76-11-101. Definitions.

As used in this [~~part~~]chapter:

(1) (a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(3) (a) "Concealed firearm" means a firearm that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and

(ii) readily accessible for immediate use.

(b) A firearm that is unloaded and securely encased is not a concealed firearm for the purposes of this part.

[~~(4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.~~]

[~~(5)~~](4) "Curio or relic firearm" means a firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

(i) sporting use;

(ii) use as an offensive weapon; or

(iii) use as a defensive weapon;

(b) (i) was manufactured at least 50 years before the current date; and

(ii) is not a replica of a firearm described in Subsection [~~(5)(b)(i)~~](4)(b)(i);

(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;

(d) derives a substantial part of its monetary value:

(i) from the fact that the firearm is:

(A) novel;

(B) rare; or

(C) bizarre; or

(ii) because of the firearm's association with an historical:

(A) figure;

(B) period; or

(C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

[~~(6)~~](5) (a) "Dangerous weapon" means:

(i) a firearm; or

(ii) an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(b) The following factors are used in determining whether any object, other than a firearm, is a dangerous weapon:

(i) the location and circumstances in which the object was used or possessed;

(ii) the primary purpose for which the object was made;

(iii) the character of the wound, if any, produced by the object's unlawful use;

(iv) the manner in which the object was unlawfully used;

(v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(vi) the lawful purposes for which the object may be used.

(c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section [~~76-10-306~~]76-15-210.

[~~(7) (a) "Dating relationship" means a romantic or intimate relationship between individuals.~~]

[~~(b) "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.~~]

[~~(8) "Dealer" means a person who is:~~]

[~~(a) licensed under 18 U.S.C. Sec. 923; and~~]

[~~(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.~~]

[~~(9) "Domestic violence" means the same as that term is defined in Section 77-36-1.~~]

[~~(10) "Enter" means intrusion of the entire body.~~]

[~~(11) "Federal Firearms Licensee" means a person who:~~]

[~~(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and~~]

[~~(b) is engaged in the activities authorized by the specific category of license held.~~]

[~~(12)~~](6) [~~(a)~~] "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

[~~(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.~~]

[~~(13) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.~~]

[~~(14) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.~~]

[~~(15)~~](7) [~~(a)~~] "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

[~~(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.~~]

[~~(16) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.~~]

[~~(17) "Machinegun firearm attachment" means any part or combination of parts added to a semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.~~]

[~~(18)~~](8) "Prohibited area" means a place where it is unlawful to discharge a firearm.

[~~(19) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.~~]

[~~(20)~~](9) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

[~~(21) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.~~]

(10) (a) "Short barreled rifle" means a rifle that has a barrel or barrels of fewer than 16 inches in length.

(b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

[~~(22)~~](11) (a) "Short barreled shotgun" [~~or "short barreled rifle"~~]means a shotgun [~~having~~]that has a barrel or barrels of fewer than 18 inches in length [~~, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length,~~].

(b) [~~or~~]"Short barreled shotgun" includes a dangerous weapon made from a [~~rifle or~~]shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

[~~(23)~~](12) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

[~~(24) "Shoulder arm" means a firearm that is designed to be fired while braced against the shoulder.~~]

[~~(25) "Single criminal episode" means the same as that term is defined in Section 76-1-401.~~]

[~~(26)~~](13) "Slug" means a single projectile discharged from a shotgun shell.

[~~(27) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.~~]

[~~(28)~~](14) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

Section 340. Section 76-11-102, which is renumbered from Section 76-10-502 is renumbered and amended to read:

[~~76-10-502~~]76-11-102. When a weapon is deemed to be loaded.

(1) For the purpose of this chapter, [~~any pistol, revolver, shotgun, rifle, or other weapon described in this part shall be deemed to be~~]a firearm is considered to be loaded when there is an unexpended cartridge, shell, or projectile in the firing position.

(2) [~~Pistols and revolvers shall also be deemed to be~~]Handguns are also considered to be loaded when an unexpended cartridge, shell, or projectile is in a position whereby the manual operation of any mechanism once would cause the unexpended cartridge, shell, or projectile to be fired.

(3) A muzzle loading firearm [~~shall be deemed to be~~]is considered loaded when [~~it~~]the muzzle loading firearm is capped or primed and has a powder charge and ball or shot in the barrel or cylinders.

Section 341. Section 76-11-201 is enacted to read:

PART 2. General Weapons Violations

76-11-201. Definitions.

As used in this part:

(1) "Enter" means intrusion of the entire body.

(2) "Fully automatic weapon" means a firearm that fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

(3) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.

(4) "Machinegun firearm attachment" means any part or combination of parts added to a semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.

(5) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

(6) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

Section 342. Section 76-11-202, which is renumbered from Section 76-10-504 is renumbered and amended to read:

[~~76-10-504~~]76-11-202. Carrying a concealed firearm.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

[~~(1)~~](2) [~~Except as provided in Sections 76-10-503 and 76-10-523 and in Subsections (2), (3), and (4), a person who~~]An actor commits carrying a concealed firearm if the actor:

(a) (i) carries a concealed loaded or unloaded firearm [~~, as defined in Section 76-10-501, including an unloaded firearm on his or her~~]on the actor's person; or [~~one~~]

(ii) has a loaded or unloaded firearm that is readily accessible for immediate use which is not securely encased [~~, as defined in this part,~~]; and

(b) is in or on a place other than the [~~person's~~]actor's residence, property, a vehicle in the [~~person's~~]actor's lawful possession, or a vehicle, with the consent of the individual who is lawfully in possession of the vehicle, or business under the [~~person's~~]actor's control [~~is guilty of a class B misdemeanor~~].

[~~(2)~~](3) (a) Except as provided in Subsections (3)(b) and (c), a violation of Subsection (2)is a class B misdemeanor.

(b) [~~A person who carries a~~]Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A misdemeanor if the concealed firearm [~~that~~]is [~~a~~] loaded [~~firearm in~~]at the time of the violation [~~of Subsection (1) is guilty of a class A misdemeanor~~].

[~~(3)~~](c) [~~A person who carries concealed an~~]A violation of Subsection (2) is a second degree felony if:

(i) the concealed firearm is an unlawfully possessed short barreled shotgun or a short barreled rifle [~~is guilty of a second degree felony.~~]; or

[~~(4)~~](ii) [~~If the concealed~~]the firearm that is concealed is used in the commission of a violent felony [~~as defined in Section 76-3-203.5~~], and the [~~person~~]actor is a party to the offense [~~, the person is guilty of a second degree felony~~].

[~~(5)~~](4) [~~Nothing in Subsection (1) or (2) prohibits~~]This section does not:

(a) [~~a person~~]prohibit an individual engaged in the lawful taking of protected or unprotected wildlife as defined in Title 23A, Wildlife Resources Act, from carrying a concealed firearm [~~as long as~~]if the taking of wildlife does not occur:

[~~(a)~~](i) within the limits of a municipality in violation of that municipality's ordinances; or

[~~(b)~~](ii) upon the highways of the state as defined in Section 41-6a-102[~~.~~]; or

(b) apply to an individual who is a restricted person under Section 76-11-302 and may not possess a firearm in any manner or location and is subject to the penalties described in Part 3, Persons Restricted Regarding Dangerous Weapons.

Section 343. Section 76-11-203, which is renumbered from Section 76-10-505 is renumbered and amended to read:

[~~76-10-505~~]76-11-203. Carrying a loaded firearm in a vehicle or on a street.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

[~~(1)~~](2) [~~Unless otherwise authorized by law, a person may not carry a loaded firearm~~]An actor commits carrying a loaded firearm in a vehicle or on a street if the actor carries a loaded firearm:

(a) in or on a vehicle, unless:

(i) the vehicle is in the person's lawful possession; or

(ii) the [~~person~~]actor is carrying the loaded firearm in a vehicle with the consent of the [~~person~~]individual lawfully in possession of the vehicle;

(b) on a public street; or

(c) in a posted prohibited area.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(2)~~](4) Subsection [~~(1)(a)~~](2)(a) does not apply to a minor under 18 years [~~of age~~]old, since a minor under 18 years [~~of age~~]old may not carry a loaded firearm in or on a vehicle.

[~~(3)~~](5) Notwithstanding Subsections [~~(1)(a)(i) and (ii)~~](2)(a)(i) and (ii), and Subsection [~~76-10-523(5), a person~~]53-5a-108(5), an actor may not possess a loaded rifle, shotgun, or muzzle-loading rifle in a vehicle.

[~~(4) A violation of this section is a class B misdemeanor.~~]

Section 344. Section 76-11-204, which is renumbered from Section 76-10-505.5 is renumbered and amended to read:

[~~76-10-505.5~~]76-11-204. Possession of a dangerous weapon on or about school premises.

(1) (a) As used in this section, "on or about school premises" means:

[~~(a)~~](i) [~~(i)~~](A) in a public or private elementary or secondary school; or

[~~(ii)~~](B) on the grounds of any of those schools;

[~~(b)~~](ii) [~~(i)~~](A) in a public or private institution of higher education; or

[~~(ii)~~](B) on the grounds of a public or private institution of higher education; or

[~~(c)~~](iii) [~~(i)~~](A) inside the building where a preschool or child care is being held, if the entire building is being used for the operation of the preschool or child care; or

[~~(ii)~~](B) if only a portion of a building is being used to operate a preschool or child care, in that room or rooms where the preschool

or child care operation is being held.

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor [~~who~~]commits possession of a dangerous weapon on or about school premises if the actor:

(a) is 18 years old or older; and

(b) [~~may not possess~~]possesses a dangerous weapon [~~, firearm, or short barreled shotgun~~]at a place that the actor knows, or has reasonable cause to believe, is on or about school premises.

(3) (a) [~~Possession of a dangerous weapon on or about school premises~~]Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) [~~Possession of a firearm or short barreled shotgun on or about school premises~~]A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon possessed by the actor is a firearm.

(4) This section does not apply if:

(a) the actor is authorized to possess a firearm as described in Section 53-5-704, 53-5-705, [~~76-10-511~~]53-5a-102.3, or [~~76-10-523~~]53-5a-108, or as otherwise authorized by law;

(b) the actor is authorized to possess a firearm as described in Section 53-5-704.5, unless the actor is in a location where the actor is prohibited from carrying a firearm under Subsection 53-5-710(2);

(c) the possession is approved by the responsible school administrator;

(d) the item is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the actor responsible for the item's possession or use;

(e) the actor is an armed school security guard as described in Section 53G-8-704; or

(f) the possession is:

(i) at the actor's place of residence or on the actor's property; or

(ii) in any vehicle lawfully under the actor's control, other than a vehicle owned by the school or used by the school to transport students.

(5) This section does not:

(a) prohibit prosecution of a more serious weapons offense that may occur on or about school premises;

(b) prevent an actor from securely storing a firearm on the grounds of a school if the actor:

(i) participates in:

(A) the school guardian program created in Section 53-22-105; [~~and~~]or

(B) the Educator-Protector Program created in Section 53-22-107; and

(ii) complies with the requirements for securely storing the firearm described in Subsection 53-22-107(5)(a); or

(c) prohibit the prosecution of possession of a dangerous weapon by a minor, as described in Section [~~76-10-509.4~~]76-11-209, that occurs on or about school premises.

Section 345. Section 76-11-205, which is renumbered from Section 76-10-506 is renumbered and amended to read:

[~~76-10-506~~]76-11-205. Threatening with or using a dangerous weapon in a fight or a quarrel.

(1) (a) As used in this section:

[~~(a)~~](i) "Dangerous weapon" means an item that in the manner of its use or intended use is capable of causing death or serious bodily injury. The following factors shall be used in determining whether an item, object, or thing is a dangerous weapon:

[~~(i)~~](A) the character of the instrument, object, or thing;

[~~(ii)~~](B) the character of the wound produced, if any; and

[~~(iii)~~](C) the manner in which the instrument, object, or thing was exhibited or used.

[~~(b)~~](ii) "Threatening manner" does not include:

[~~(i)~~](A) the possession of a dangerous weapon, whether visible or concealed, without additional behavior which is threatening; or

[~~(ii)~~](B) informing another of the actor's possession of a deadly weapon to prevent what the actor reasonably perceives as a possible use of unlawful force by the other and the actor is not engaged in any activity described in Subsection 76-2-402(3)(a).

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~Except as otherwise provided in Section 76-2-402 and for an individual described in Section 76-10-503, an individual who, in the presence of two or more individuals, and not amounting to a violation of Section 76-5-103,~~]An actor commits threatening with or using a dangerous weapon in a fight or a quarrel if the actor:

(a) draws or exhibits a dangerous weapon in an angry and threatening manner; or

(b) unlawfully uses a dangerous weapon in a fight or quarrel [~~is guilty of a class A misdemeanor~~].

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) This section does not apply to:

(a) an individual who, reasonably believing the action to be necessary in compliance with Section 76-2-402, with purpose to prevent another's use of unlawful force:

[~~(a)~~](i) threatens the use of a dangerous weapon; or

[~~(b)~~](ii) draws or exhibits a dangerous weapon [~~.~~];

[~~(4) This section does not apply to~~]

(b) an individual listed in Subsections [~~76-10-523(1)(a) through (f)~~]53-5a-108(1)(a) through (f) in performance of the individual's duties; or

(c) an individual who is a restricted person under Section 76-11-302 and may not possess a firearm in any manner or location and is subject to the penalties described in Part 3, Persons Restricted Regarding Dangerous Weapons.

Section 346. Section 76-11-206, which is renumbered from Section 76-10-507 is renumbered and amended to read:

[~~76-10-507~~]76-11-206. Possession of a dangerous weapon with criminal intent.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~Every person having upon his person any~~]An actor commits possession of a dangerous weapon with criminal intent if the actor possesses a dangerous weapon with the intent to use [~~it~~]the dangerous weapon to commit a criminal offense.

(3) [~~is guilty of~~]A violation of Subsection (2) is a class A misdemeanor.

Section 347. Section 76-11-207, which is renumbered from Section 76-10-508 is renumbered and amended to read:

[~~76-10-508~~]76-11-207. Improper discharging of a dangerous weapon.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits improper discharging of a dangerous weapon if the actor discharges a dangerous weapon:

[~~(a) An individual may not discharge a dangerous weapon or firearm:~~]

[~~(i)~~](a) from [~~an automobile or other~~]a vehicle;

[~~(ii)~~](b) from, upon, or across a highway;

[~~(iii)~~](c) at a road sign placed [~~upon a highway of the~~]on a state highway;

[~~(iv)~~](d) at communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;

[~~(v)~~](e) at railroad equipment or facilities including a sign or signal;

[~~(vi)~~](f) within a Utah State Park building, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or

[~~(vii)~~](g) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:

[~~(A)~~](i) a house, dwelling, or [~~any~~]other building; or

[~~(B)~~](ii) [~~any~~]a structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.

[~~(b) It is a defense to any charge for violating this section that the individual being accused had actual permission of the owner or person in charge of the property at the time in question.~~]

[~~(2)~~](3) A violation of [~~any provision~~]of Subsection [~~(1)~~](2) is a class B misdemeanor.

[~~(3)~~](4) In addition to any other penalties, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

[~~(4)~~](5) This section does not apply to an [~~individual~~]actor who:

(a) discharges a firearm [~~when that individual is~~]in the lawful defense of [~~self~~]the actor or [~~others~~]other individuals;

(b) is performing official duties as provided in Section 23A-5-202 and Subsections [~~76-10-523(1)(a)~~]53-5a-108(1)(a) through (f) and as otherwise provided by law; or

(c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection [~~(4)(c)(i);~~](5)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

(v) the discharge is not made in violation of Subsection [~~(1)~~](2).

(d) It is a defense to a charge for violating this section that the actor had actual permission of the person in charge of the property at the time the actor discharged the dangerous weapon as described in Subsection (2).

Section 348. Section 76-11-208, which is renumbered from Section 76-10-508.1 is renumbered and amended to read:

[~~76-10-508.1~~]76-11-208. Felony discharge of a firearm.

(1) (a) As used in this section, "habitable structure" means the same as that term is defined in Section 76-6-101.

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

[~~(1)~~](2) [~~Except as provided under Subsection (2) or (3), an individual who discharges a firearm is guilty of a third degree felony punishable by imprisonment for a term of not less than three years nor more than five years~~]An actor commits felony discharge of a firearm if:

(a) the actor discharges a firearm in the direction of [~~one or more individuals~~]an individual, knowing or having reason to believe that [~~any~~]an individual may be endangered by the discharge of the firearm;

(b) the actor, with intent to intimidate or harass another individual or with intent to damage a habitable structure [~~as defined in Section 76-6-101~~], discharges a firearm in the direction of [~~any~~]an individual or habitable structure; or

(c) the actor, with intent to intimidate or harass another individual, discharges a firearm in the direction of [~~any~~]a vehicle.

[~~(2) A violation of Subsection (1) that causes bodily injury to any individual is a second degree felony punishable by imprisonment for a term of not less than three years nor more than 15 years.~~]

[~~(3) A violation of Subsection (1) that causes serious bodily injury to any individual is a first degree felony.~~]

(3) (a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a third degree felony punishable by a term of imprisonment of not less than three years nor more than five years.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) that causes bodily injury to any individual is a second degree felony punishable by imprisonment for a term of not less than three years nor more than 15 years.

(c) A violation of Subsection (2) that causes serious bodily injury to an individual is a first degree felony.

(4) In addition to any other penalties for a violation of this section, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(5) This section does not apply to an [~~individual~~]actor:

(a) who discharges a firearm [~~when that individual is~~]in the lawful defense of [~~self~~]the actor or [~~others~~]another individual;

(b) who is performing official duties as provided in Section 23A-5-202 or Subsections [~~76-10-523(1)(a) through (f)~~]53-5a-108(1)(a) through (f) or as otherwise authorized by law; or

(c) who discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (5)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

(v) the discharge is not made in violation of Subsection [~~(1)~~](2).

Section 349. Section 76-11-209, which is renumbered from Section 76-10-509.4 is renumbered and amended to read:

[~~76-10-509.4~~]76-11-209. Possession of a dangerous weapon by a minor.

(1) (a) As used in this section, "responsible adult" means an individual:

[~~(a)~~](i) who is 18 years old or older; and

[~~(b)~~](ii) who may lawfully possess a dangerous weapon.

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor [~~who is under 18 years old may not possess a dangerous weapon.~~]commits possession of a dangerous weapon by a minor if the actor:

(a) is under 18 years old; and

(b) possesses a dangerous weapon.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is:

(i) a class B misdemeanor for a first offense; and

(ii) a class A misdemeanor for each subsequent offense.

(b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is:

(i) a handgun;

(ii) a short barreled rifle;

(iii) a short barreled shotgun;

(iv) a fully automatic weapon; or

(v) a machinegun firearm attachment.

(4) For an actor who is younger than 14 years old, this section does not apply if the actor:

(a) possesses a dangerous weapon;

(b) has permission from the actor's parent or guardian to possess the dangerous weapon;

(c) is accompanied by the actor's parent or guardian, or a responsible adult, while the actor has the dangerous weapon in the actor's possession; and

(d) does not use the dangerous weapon in the commission of a crime.

(5) For an actor who is 14 years old or older but younger than 18 years old, this section does not apply if the actor:

(a) possesses a dangerous weapon;

(b) has permission from the actor's parent or guardian to possess the dangerous weapon; and

(c) does not use the dangerous weapon in the commission of a crime.

(6) This section does not apply to the following minors who are otherwise complying with Subsection (4) or (5):

(a) a minor who is a patron at an amusement park, pier, or similar location and is possessing a firearm to participate in lawfully operated target concessions if the firearm to be used is firmly chained or affixed to the counters;

(b) a minor attending a hunter's safety course or a firearms safety course and possessing a weapon as part of the course;

(c) a minor using a firearm at an established range or other area where the discharge of a firearm is not prohibited by state or local law;

(d) a minor participating in an organized competition involving the use of a firearm, or practicing for the competition;

(e) a minor who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of law;

(f) a minor who has a valid hunting license and is possessing a firearm to lawfully engage in hunting; or

(g) a minor traveling to or from an activity described in Subsections (6)(a) through (f) with an unloaded firearm in the minor's possession.

Section 350. Section 76-11-210, which is renumbered from Section 76-10-509.5 is renumbered and amended to read:

[~~76-10-509.5~~]76-11-210. Providing an illegal weapon to a minor.

[~~(1) Any person who provides a handgun to a minor when the possession of the handgun by the minor is a violation of Section 76-10-509.4 is guilty of:~~]

[~~(a) a class B misdemeanor upon the first offense; and~~]

[~~(b) a class A misdemeanor for each subsequent offense.~~]

[~~(2) Any person who transfers in violation of applicable state or federal law a short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor is guilty of a third degree felony.~~]

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits providing an illegal weapon to a minor if:

(a) the actor provides a handgun to a minor and the minor's possession of the handgun would be a violation of Section 76-11-209, Possession of a dangerous weapon by a minor; or

(b) the actor transfers or provides, in violation of applicable state or federal law, a short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor.

(3) (a) A violation of Subsection (2)(a) is:

(i) a class B misdemeanor upon the first offense; and

(ii) a class A misdemeanor for each subsequent offense.

(b) A violation of Subsection (2)(b) is a third degree felony.

Section 351. Section 76-11-211, which is renumbered from Section 76-10-509.6 is renumbered and amended to read:
[~~76-10-509.6~~]76-11-211. Parent or guardian providing a firearm to a violent minor.

[~~(1) A parent or guardian may not intentionally or knowingly provide a firearm to, or permit the possession of a firearm by, any minor who has been convicted of a violent felony as defined in Section 76-3-203.5 or any minor who has been adjudicated in juvenile court for an offense which would constitute a violent felony if the minor were an adult.~~]

[~~(2) Any person who violates this section is guilty of:~~]

[~~(a) a class A misdemeanor upon the first offense; and~~]

[~~(b) a third degree felony for each subsequent offense.~~]

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits the offense of a parent or guardian providing a firearm to a violent minor if:

(a) the actor intentionally or knowingly provides a firearm to, or permits the possession of a firearm by, a minor;

(b) the minor is the actor's biological or adopted child or the actor is the legal guardian of the minor; and

(c) the minor has previously been:

(i) convicted of a violent felony; or

(ii) adjudicated in juvenile court for an offense which would constitute a violent felony if the minor were an adult.

(3) A violation of Subsection (2) is:

(a) a class A misdemeanor upon the first offense; and

(b) a third degree felony for each subsequent offense.

Section 352. Section 76-11-212, which is renumbered from Section 76-10-509.7 is renumbered and amended to read:
[~~76-10-509.7~~]76-11-212. Parent or guardian knowing a minor is in possession of a dangerous weapon.

[~~Any parent or guardian of a minor who knows that the minor is in possession of a dangerous weapon in violation of Section 76-10-509.4 and fails to make reasonable efforts to remove the dangerous weapon from the minor's possession is guilty of a class B misdemeanor.~~]

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits the offense of a parent or guardian knowing a minor is in possession of a dangerous weapon if:

(a) the actor knows a minor is in possession of a deadly weapon in violation of Section 76-11-209, Possession of a dangerous weapon by a minor;

(b) the minor is the actor's biological or adopted child or the actor is the legal guardian of the minor; and

(c) the actor fails to make reasonable efforts to remove the dangerous weapon from the minor's possession.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 353. Section 76-11-213, which is renumbered from Section 76-10-509.9 is renumbered and amended to read:
[~~76-10-509.9~~]76-11-213. Selling a firearm to a minor.

[~~(1) A person may not sell any firearm to a minor under 18 years of age unless the minor is accompanied by a parent or guardian.~~]

[~~(2) Any person who violates this section is guilty of a third degree felony.~~]

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits selling a firearm to a minor if:

(a) the actor sells a firearm to a minor; and

(b) at the time the actor sells the weapon to the minor, the minor is not accompanied by a parent of the minor or a legal guardian of the minor.

(3) A violation of Subsection (2) is a third degree felony.

Section 354. Section 76-11-214, which is renumbered from Section 76-10-528 is renumbered and amended to read:
[~~76-10-528~~]76-11-214. Carrying a dangerous weapon while under influence of alcohol or drugs.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~It is a class B misdemeanor for an actor to carry~~]An actor commits carrying a dangerous weapon while under the influence of alcohol or drugs if the actor:

(a) carries a dangerous weapon; and

(b) is under the influence of:

[~~(a)~~](i) alcohol as determined by the actor's blood or breath alcohol concentration in accordance with Subsections 41-6a-502(1)(a) through (c); or

[~~(b)~~](ii) a controlled substance as defined in Section 58-37-2.

[~~(2)~~](3) A violation of Subsection (2) is a class B misdemeanor.

(4) This section does not apply to:

(a) an actor carrying a dangerous weapon that is either securely encased, as defined in this part, or not within such close proximity and in such a manner that [~~it~~]the dangerous weapon can be retrieved and used as readily as if carried on the person;

(b) an actor who uses or threatens to use force in compliance with Section 76-2-402;

(c) an actor carrying a dangerous weapon in the actor's residence or the residence of another individual with the consent of the individual who is lawfully in possession of the residence;

(d) an actor under the influence of cannabis or a cannabis product, as those terms are defined in Section 26B-4-201, if the actor's use of the cannabis or cannabis product complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(e) an actor who:

(i) has a valid prescription for a controlled substance;

(ii) takes the controlled substance described in Subsection [~~(2)(e)(i)~~](4)(e)(i)as prescribed; and

(iii) after taking the controlled substance, the actor:

(A) is not a danger to the actor or another individual; or

(B) is capable of safely handling a dangerous weapon.

[~~(3)~~](5) It is not a defense to prosecution under this section that the actor:

(a) is licensed in the pursuit of wildlife of any kind; or

(b) has a valid permit to carry a concealed firearm.

Section 355. Section 76-11-215, which is renumbered from Section 76-10-529 is renumbered and amended to read:

[~~76-10-529~~]76-11-215. Possession of a dangerous weapon in an airport secure area -- Reporting requirements.

(1) (a) As used in this section:

(i) "Airport authority" has the same meaning as defined in Section 72-10-102.

(ii) "Explosive" is the same as defined for "explosive, chemical, or incendiary device" in Section [~~76-10-306~~]76-15-210.

(iii) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(b) Terms defined in Sections [~~76-1-101.5 and 76-10-501~~]76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

[~~(2) (a) Within a secure area of an airport established pursuant to this section, an actor, including an actor licensed to carry a concealed firearm under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is guilty of:~~]

[~~(i) a class A misdemeanor if the actor knowingly or intentionally possesses a firearm or other dangerous weapon;~~]

[~~(ii) subject to Subsection (5), an infraction if the actor recklessly or with criminal negligence possesses a firearm or other dangerous weapon; or~~]

[~~(iii) a violation of Section 76-10-306 if the actor transports, possesses, distributes, or sells an explosive, chemical, or incendiary device.~~]

[~~(b) Subsection (2)(a) does not apply to:~~]

[~~(i) individuals exempted under Section 76-10-523; and~~]

[~~(ii) a member of the state or federal military forces while engaged in the performance of the member's official duties.~~]

[~~(3)~~](2) Except as provided in Subsection (4), an actor commits possession of a dangerous weapon in an airport secure area if the actor, including an actor who has a concealed firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act:

(a) knowingly or intentionally possesses a dangerous weapon within the secure area of an airport established under Subsection (5); or

(b) recklessly or with criminal negligence possesses a dangerous weapon within the secure area of an airport established under Subsection (5).

(3) (a) A violation of Subsection (2)(a) is a class A misdemeanor.

(b) Subject to Subsection (6), a violation of Subsection (2)(b) is an infraction.

(4) Subsection (2) does not apply to:

(a) an individual exempted from certain weapons laws as described in Section 53-5a-108; or

(b) a member of the state or federal military forces while engaged in the performance of the member's official duties.

(5) An airport authority, county, municipality, or other entity regulating an airport may:

(a) establish a secure area located beyond the main area where the public generally buys tickets, checks and retrieves luggage; and

(b) use reasonable means, including mechanical, electronic, x-ray, or another device, to detect firearms, other dangerous weapons, or explosives concealed in baggage or upon the person of an individual attempting to enter the secure area.

[~~(4)~~](6) At least one notice shall be prominently displayed at each entrance to a secure area in which a firearm, other dangerous weapon, or explosive is restricted.

(7) An actor who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device within the secure area of an airport commits a violation of Section 76-15-210.

[~~(5)~~](8) (a) An actor who violates Subsection [~~(2)(a)(ii)~~](2)(b) on a first offense may receive a written warning for the offense and may not receive a citation or any other form of punishment.

(b) An actor who violates Subsection [~~(2)(a)(ii)~~](2)(b) on a second or subsequent offense may receive a written warning or a citation.

[~~(6)~~](9) (a) Except as provided in Subsection [~~(6)(d)~~](9)(d), if a law enforcement officer issues a citation to an actor for an infraction as a result of the actor's conduct described in Subsection [~~(2)(a)(ii)~~](2)(b), or provides an oral or written warning for that conduct, the law enforcement officer shall:

(i) if the law enforcement officer is able to confirm that the actor may lawfully possess the [~~firearm or other~~]dangerous weapon, allow the actor, at the actor's option, to:

(A) temporarily surrender custody of the [~~firearm or other~~] dangerous weapon into the custody of the law enforcement agency so that the [~~firearm or other~~]dangerous weapon may be retrieved by the actor at a later date; or

(B) exit the secure area of the airport with the [~~firearm or other~~] dangerous weapon; or

(ii) if the law enforcement officer is unable to confirm that the actor may lawfully possess the [~~firearm or other~~] dangerous weapon, or the airport authority under Subsection [~~(6)(d)~~](9)(d) prohibits the procedure described in Subsection [~~(6)(a)(i)~~](9)(a)(i), take temporary custody of the [~~firearm or other~~] dangerous weapon so that the [~~firearm or other~~] dangerous weapon may be retrieved by the actor at a later date if legally permitted to do so.

(b) If a law enforcement officer takes temporary custody of a [~~firearm or other~~]dangerous weapon under Subsection [~~(6)(a)~~](9)(a):

(i) at the time the [~~firearm or other~~] dangerous weapon is obtained from the actor, the law enforcement officer, or another law enforcement officer, or an employee who works in the secure area of the airport, shall provide the actor with written instructions on how, when, and where the actor may retrieve the actor's [~~firearm or other~~]dangerous weapon; and

(ii) within three business days from the time when the law enforcement officer receives the [~~firearm or other~~] dangerous weapon, the law enforcement agency shall determine whether the actor is legally permitted to possess the [~~firearm or other~~] dangerous weapon, and if so, ensure that the [~~firearm or other~~]dangerous weapon is available for the actor to retrieve.

(c) An unclaimed [~~firearm or other~~] dangerous weapon that is surrendered into the custody of a law enforcement agency under this Subsection [~~(6)~~](9) may be disposed of pursuant to Section 77-11d-105, disposition of unclaimed property.

(d) An airport authority may implement a policy that prohibits the law enforcement agency with jurisdiction over the airport from utilizing the procedure described in Subsection [~~(6)(a)(i)~~](9)(a)(i).

[~~(7)~~](10) (a) An actor's firearm that is confiscated based on a violation of Subsection [~~(2)(a)(i)~~](2)(a) shall be returned to the actor in accordance with Subsection 77-11a-402(1)(b).

(b) In accordance with Subsection 77-11b-102(5), a firearm seized under Subsection [~~(2)(a)(i)~~](2)(a) is not subject to forfeiture if the actor may lawfully possess the firearm.

(c) In a prosecution brought under this section, a prosecutor may not condition a plea on the forfeiture of a firearm.

[~~(8)~~](11) An airport authority, county, municipality, or other entity regulating an airport or with local jurisdiction over an airport may not:

(a) charge, cite, or prosecute an actor with a different offense under the Utah Code, local ordinance, or another state or local law or regulation for conduct described in Subsection [~~(2)(a)(ii)~~](2)(b);

(b) assess a civil penalty for conduct described in Subsection [~~(2)(a)(i) or (ii)~~](2); or

(c) enact a regulation, ordinance, or law covering conduct described in Subsection (2).

[~~(9)~~](12) A law enforcement agency that issues a written warning, citation, or referral for prosecution under this section shall record and report the information as required under Section 53-25-103.

Section 356. Section 76-11-216, which is renumbered from Section 76-10-530 is renumbered and amended to read:

[~~76-10-530~~]76-11-216. Trespass with a firearm in a house of worship or a private residence.

(1) [~~A person, including a person licensed to carry a concealed firearm pursuant to Title 53, Chapter 5, Part 7, Concealed Firearm Act, after notice has been given as provided in Subsection (2) that firearms are prohibited, may not knowingly and intentionally:~~]

[~~(a) transport a firearm into:~~]

[~~(i) a house of worship; or~~]

[~~(ii) a private residence; or~~]

[~~(b) while in possession of a firearm, enter or remain in:~~]

[~~(i) a house of worship; or~~]

[~~(ii) a private residence.~~]

Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor, including an actor licensed to carry a concealed firearm pursuant to Title 53, Chapter 5, Part 7, Concealed Firearm Act, commits trespass with a firearm in a house of worship or a private residence if the actor:

(a) has been given notice as described in Subsection (4) that firearms are prohibited in a house of worship or a private residence; and

(b) knowingly and intentionally:

(i) transports a firearm into the house of worship or private residence; or

(ii) while in possession of a firearm, enters or remains in the house of worship or private residence.

(3) A violation of Subsection (2) is an infraction.

[~~(2)~~](4) Notice that firearms are prohibited may be given by:

(a) personal communication to the actor by:

(i) the church or organization operating the house of worship;

(ii) the owner, lessee, or person with lawful right of possession of the private residence; or

(iii) a person with authority to act for the person or entity in Subsections [~~(2)(a)(i)~~](4)(a)(i) and (ii);

(b) posting of signs reasonably likely to come to the attention of persons entering the house of worship or private residence;

(c) announcement, by a person with authority to act for the church or organization operating the house of worship, in a regular congregational meeting in the house of worship;

(d) publication in a bulletin, newsletter, worship program, or similar document generally circulated or available to the members of the congregation regularly meeting in the house of worship; or

(e) publication:

(i) in a newspaper of general circulation in the county in which the house of worship is located or the church or organization operating the house of worship has its principal office in this state; and

(ii) as required in Section 45-1-101.

[~~(3)~~](5) A church or organization operating a house of worship and giving notice that firearms are prohibited may:

(a) revoke the notice, with or without supersedure, by giving further notice in any manner provided in Subsection [~~(2)~~](4); and

(b) provide or allow exceptions to the prohibition as the church or organization considers advisable.

[~~(4)~~](6) (a) (i) Within 30 days of giving or revoking any notice pursuant to Subsection [~~(2)(c)~~](4)(c), (d), or (e), a church or organization operating a house of worship shall notify the division on a form and in a manner as the division shall prescribe.

(ii) The division shall post on [~~its~~]the division's website a list of the churches and organizations operating houses of worship who have given notice under Subsection [~~(4)(a)(i)~~](6)(a)(i).

(b) Any notice given pursuant to Subsection [~~(2)(c)~~](4)(c), (d), or (e) shall remain in effect until revoked or for a period of one year from the date the notice was originally given, whichever occurs first.

[~~(5)~~](7) [~~Nothing in this section permits~~]This section does not permit an owner who has granted the lawful right of possession to a renter or lessee to restrict the renter or lessee from lawfully possessing a firearm in the residence.

[~~(6) A violation of this section is an infraction.~~]

Section 357. Section 76-11-301 is enacted to read:

PART 3. Persons Restricted Regarding Dangerous Weapons

76-11-301. Definitions.

As used in this part:

(1) "Adjudicated" means a judgment has been entered against a minor for an offense by a juvenile court under Section 80-6-701.

(2) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(3) (a) "Dating relationship" means a romantic or intimate relationship between individuals.

(b) "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.

(4) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a firearm, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

(5) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(6) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

Section 358. Section 76-11-302, which is renumbered from Section 76-10-503 is renumbered and amended to read:

[~~76-10-503~~]76-11-302. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons -- Exceptions.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of a violent felony;

(ii) is on probation or parole for a felony;

(iii) is on parole from secure care, as defined in Section 80-1-102;

(iv) within the last 10 years has been adjudicated [~~under Section 80-6-701~~]for an offense which if committed by an adult would have been a violent felony [~~as defined in Section 76-3-203.5~~];

(v) is an alien who is illegally or unlawfully in the United States; or

(vi) is on probation for a conviction of possessing:

(A) a [~~substance classified in Section 58-37-4 as a~~]Schedule I or II controlled substance;

(B) a controlled substance analog; or

(C) a substance listed in Section 58-37-4.2.

(b) A Category II restricted person is a person who:

(i) has been convicted of:

(A) a domestic violence offense that is a felony;

(B) a felony that is not a domestic violence offense or a violent felony and within seven years after completing the sentence for the conviction, has been convicted of or charged with another felony or class A misdemeanor;

(C) multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies and within seven years after completing the sentence for the convictions, has been convicted of or charged with another felony or class A misdemeanor; or

(D) multiple felonies that are not part of a single criminal episode;

(ii) (A) within the last seven years has completed a sentence for:

(I) a conviction for a felony that is not a domestic violence offense or a violent felony; or

(II) convictions for multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies; and

(B) within the last seven years and after the completion of a sentence for a conviction described in Subsection (1)(b)(ii)(A), has not been convicted of or charged with another felony or class A misdemeanor;

(iii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iv) is an unlawful user of a controlled substance [~~as defined in Section 58-37-2~~];

(v) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance [~~as defined in Section 58-37-2~~];

(vi) has been found not guilty by reason of insanity for a felony offense;

(vii) has been found mentally incompetent to stand trial for a felony offense;

(viii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(ix) has been dishonorably discharged from the armed forces;

(x) has renounced the individual's citizenship after having been a citizen of the United States;

(xi) is a respondent or defendant subject to a protective order or child protective order that is issued after a hearing for which the

respondent or defendant received actual notice and at which the respondent or defendant has an opportunity to participate, that restrains the respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate partner, and that:

(A) includes a finding that the respondent or defendant represents a credible threat to the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C. Sec. 921 or the child of the individual; or

(B) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner; or

(xii) except as provided in Subsection (1)(d), has been convicted of the commission or attempted commission of misdemeanor assault under Section 76-5-102 or aggravated assault under Section 76-5-103 against an individual:

(A) who is a current or former spouse, parent, or guardian;

(B) with whom the restricted person shares a child in common;

(C) who is cohabitating or has cohabitated with the restricted person as a spouse, parent, or guardian;

(D) involved in a dating relationship with the restricted person within the last five years; or

(E) similarly situated to a spouse, parent, or guardian of the restricted person.

(c) (i) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:

(A) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or

(B) a conviction or an adjudication under Section 80-6-701 which, in accordance with the law of the jurisdiction in which the conviction or adjudication occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(ii) As used in this section, a conviction for misdemeanor assault under Subsection (1)(b)(xii), does not include a conviction which, in accordance with the law of the jurisdiction in which the conviction occurred, has been expunged, set aside, reduced to an infraction by court order, pardoned, or regarding which the person's civil rights have been restored, unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(iii) It is the burden of the defendant in a criminal case to provide evidence that a conviction or an adjudication under Section 80-6-701 is subject to an exception provided in this Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt that the conviction or the adjudication is not subject to that exception.

(d) A person is not a restricted person for a conviction under Subsection (1)(b)(xii)(D) if:

(i) five years have elapsed from the later of:

(A) the day on which the conviction is entered;

(B) the day on which the person is released from incarceration following the conviction; or

(C) the day on which the person's probation for the conviction is successfully terminated;

(ii) the person only has a single conviction for misdemeanor assault as described in Subsection (1)(b)(xii)(D); and

(iii) the person is not otherwise a restricted person under Subsection (1)(a) or (b).

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) a firearm is guilty of a second degree felony; or

(b) a dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) a firearm is guilty of a third degree felony; or

(b) a dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) A Category I or Category II restricted person may not use an antique firearm for an activity regulated under Title 23A, Wildlife Resources Act.

(6) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control a dangerous weapon, the penalties of that section control.

(7) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(v) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

(8) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section Title 77, Chapter 11a, Part 4, Disposal of Seized Property and Contraband;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection (8)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(9) (a) A person may not sell, transfer, or otherwise dispose of a firearm or dangerous weapon to a person, knowing that the recipient

is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (9)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves a dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves a dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for an unlawful purpose, is guilty of a class A misdemeanor.

(10) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person information that the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (10) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

(11) (a) It is not a violation of Subsection (2) or (3) for an actor who is a restricted person to own, possess, or have under the actor's custody or control, archery equipment, including crossbows, for the purpose of lawful hunting and lawful target shooting.

(b) Notwithstanding Subsection (11)(a), this section applies if the owning, possessing, or having under the actor's custody or control of archery equipment, including crossbows, is prohibited by:

(i) a court, as a condition of pre-trial release or probation; or

(ii) the Board of Pardons and Parole, as a condition of parole.

Section 359. Section 76-11-309, which is renumbered from Section 76-10-503.1 is renumbered and amended to read:
[~~76-10-503.1~~]76-11-309. Firearm restriction notification requirement for restricted persons.

(1) As used in this section:

(a) "Peace officer" means an officer described Section 53-13-102.

(b) "Possess" means actual physical possession, actual or purported ownership, or exercising control of an item.

(c) "Restricted person" means an individual who is restricted from possessing, purchasing, transferring, or owning a firearm under Section [~~76-10-503~~]76-11-302.

(2) A defendant intending to plead guilty or no contest to a criminal charge that will, upon conviction, cause the defendant to become a restricted person shall, before entering a plea before a court, sign an acknowledgment that states:

(a) the defendant's attorney or the prosecuting attorney has informed the defendant:

(i) that conviction of the charge will classify the defendant as a restricted person;

(ii) that a restricted person may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the same category the defendant will become upon entering a plea for the criminal charge; and

(b) the defendant acknowledges and understands that, by pleading guilty or no contest to the criminal charge, the defendant:

(i) will be a restricted person;

(ii) upon conviction, shall forfeit possession of each firearm currently possessed by the defendant; and

(iii) will be in violation of federal and state law if the defendant possesses a firearm.

(3) The prosecuting attorney or the defendant's attorney shall provide the acknowledgment described in Subsection (2) to the court before the defendant's entry of a plea, if the defendant pleads guilty or no contest.

(4) A defendant who is convicted by trial of a criminal charge resulting in the defendant becoming a restricted person shall, at the time of sentencing:

(a) be verbally informed by the court, prosecuting attorney, or defendant's attorney:

(i) that the defendant is a restricted person;

(ii) that, as a restricted person, the defendant may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the defendant's category; and

(b) sign an acknowledgment in the presence of the court attesting that the defendant acknowledges and understands that the defendant:

(i) is a restricted person;

(ii) shall forfeit possession of each firearm; and

(iii) will be in violation of federal and state law if the defendant possesses a firearm.

(5) The prosecuting attorney and the defendant's attorney shall inform the court at the preliminary hearing if a charge filed against the defendant would qualify the defendant as a restricted person if the defendant is convicted of the charge.

(6) The failure to inform or obtain a signed acknowledgment from the defendant may not render the plea invalid, form the basis for withdrawal of the plea, or create a basis to challenge a conviction or sentence.

(7) An individual who becomes a restricted person as a result of being served with a pretrial protective order in accordance with Section 78B-7-803, a sentencing protective order in accordance with Section 77-36-5, or a continuous protective order in accordance with Section 77-36-5, shall, at the time of service of the protective order:

(a) be verbally informed by the court, prosecuting attorney, defendant's attorney, or, if a peace officer is serving the protective order, the peace officer:

(i) that the individual is a restricted person;

(ii) that, as a restricted person, the individual may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the individual's category; and

(b) sign, in the presence of the court or, if a peace officer serves the protective order, in the presence of the peace officer, an acknowledgment contained within the protective order document attesting that the individual acknowledges and understands that the individual:

(i) is a restricted person;

(ii) is required to relinquish possession of each firearm;

(iii) will be in violation of federal and state law if the individual possesses a firearm; and

(iv) may be eligible for an affirmative defense to a state-law prosecution for possession of a firearm under Section [~~76-10-503~~]76-11-302 if the individual lawfully transfers the individual's firearms within 10 days of becoming a restricted person.

Section 360. Section 76-11-310, which is renumbered from Section 76-10-532 is renumbered and amended to read:

[~~76-10-532~~]76-11-310. Removal from National Instant Check System database for certain restricted persons.

(1) A person who is subject to the restrictions in Subsection [~~76-10-503(1)(b)(vi), (vii), or (viii)~~]76-11-302(1)(b)(vi), (vii), or (viii), or 18 U.S.C. 922(d)(4) and (g)(4) based on a commitment, finding, or adjudication that occurred in this state may petition the district court in the county in which the commitment, finding, or adjudication occurred to remove the disability imposed.

(2) The petition shall be filed in the district court in the county where the commitment, finding, or adjudication occurred. The petition shall include:

(a) a listing of facilities, with their addresses, where the petitioner has ever received mental health treatment;

(b) a release signed by the petitioner to allow the prosecutor or county attorney to obtain the petitioner's mental health records;

(c) a verified report of a mental health evaluation conducted by a licensed psychiatrist occurring within 30 days prior to the filing of the petition, which shall include a statement regarding:

(i) the nature of the commitment, finding, or adjudication that resulted in the restriction on the petitioner's ability to purchase or possess a dangerous weapon;

(ii) the petitioner's previous and current mental health treatment;

(iii) the petitioner's previous violent behavior, if any;

(iv) the petitioner's current mental health medications and medication management;

(v) the length of time the petitioner has been stable;

(vi) external factors that may influence the petitioner's stability;

(vii) the ability of the petitioner to maintain stability with or without medication; and

(viii) whether the petitioner is dangerous to public safety; and

(d) a copy of the petitioner's state and federal criminal history record.

(3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the case or, if the disability is not based on a criminal case, on the county or district attorney's office having jurisdiction where the petition was filed and the individual who filed the original action which resulted in the disability.

(4) (a) The court shall schedule a hearing as soon as practicable [~~. The~~]in which the petitioner may present evidence and subpoena witnesses to appear at the hearing.

(b) The prosecuting, county attorney, or the individual who filed the original action which resulted in the disability may object to the petition and present evidence in support of the objection.

(5) The court shall consider the following evidence:

(a) the facts and circumstances that resulted in the commitment, finding, or adjudication;

(b) the [~~person's~~]petitioner's mental health and criminal history records; and

(c) the [~~person's~~]petitioner's reputation, including the testimony of character witnesses.

(6) The court shall grant the relief if the court finds by clear and convincing evidence that:

(a) the [~~person~~]petitioner is not a danger to the [~~person~~]petitioner or to [~~others~~]another individual;

(b) the [~~person~~]petitioner is not likely to act in a manner dangerous to public safety; and

(c) the requested relief would not be contrary to the public interest.

(7) The court shall issue an order with its findings and send a copy to the bureau.

(8) (a) The bureau, upon receipt of a court order removing a [~~person's~~]petitioner's disability under Subsection [~~76-10-503(1)(b)(viii)~~]76-11-302(1)(b)(viii), shall send a copy of the court order to the National Instant Check System requesting removal of the [~~person's~~]petitioner's name from the database.

(b) In addition to the action described in Subsection (8)(a), if the [~~person~~]petitioner is listed in a state database utilized by the bureau to determine eligibility for the purchase or possession of a firearm or to obtain a concealed firearm permit, the bureau shall remove the petitioner's name or send a copy of the court's order to the agency responsible for the database for removal of the petitioner's name.

(9) If the court denies the petition, the petitioner may not petition again for relief until at least two years after the date of the court's final order.

(10) The petitioner may appeal a denial of the requested relief [~~. The~~]and the review on appeal shall be de novo.

Section 361. Section 76-12-101 is enacted to read:

CHAPTER 12. OFFENSES RELATED TO PRIVACY, INFORMATION, AND COMMUNICATION

PART 1. General Provisions

76-12-101. Definitions.

Reserved.

Section 362. Section 76-12-201 is enacted to read:

PART 2. Electronic Communication Abuse

76-12-201. Definitions.

As used in this part:

(1) (a) "Adult" means an individual 18 years old or older.

(b) "Adult" does not include an individual who is 18 years old and enrolled in high school.

(2) (a) "Electronic communication" means a communication by electronic, electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text.

(b) "Electronic communication" does not include a broadcast transmission or a similar communication that is not targeted at a specific individual.

(3) "Electronic communication device" includes a telephone, a facsimile machine, electronic mail, a pager, a computer, or another device or medium that can be used to communicate electronically.

(4) (a) "Minor" means an individual who is younger than 18 years old.

(b) "Minor" includes an individual who is 18 years old and enrolled in high school.

Section 363. Section 76-12-202, which is renumbered from Section 76-9-201 is renumbered and amended to read:

[~~76-9-201~~]76-12-202. Electronic communication harassment.

(1) [~~As used in this section:~~]

[~~(a) (i) "Adult" means an individual 18 years old or older.~~]

[~~(ii) "Adult" does not include an individual who is 18 years old and enrolled in high school.~~]

[~~(b) "Electronic communication" means a communication by electronic, electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text but does not include broadcast transmissions or similar communications that are not targeted at a specific individual.~~]

[~~(c) "Electronic communication device" includes a telephone, a facsimile machine, electronic mail, a pager, a computer, or another device or medium that can be used to communicate electronically.~~]

[~~(d) (i) "Minor" means an individual who is younger than 18 years old.~~]

[~~(ii) "Minor" includes an individual who is 18 years old and enrolled in high school.~~]

[~~(e) "Minor victim" means a minor who is a victim of a violation of Subsection (4).~~]

[~~(f) "Personal identifying information" means the same as that term is defined in Section 76-6-1101.~~]Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this section

(2) Except to the extent [~~the person's~~]an actor's conduct constitutes an offense under Section [~~76-9-203, a person is guilty of~~]76-12-206, an actor commits electronic communication harassment [~~and subject to prosecution in the jurisdiction where the communication originated or was received~~]if, with intent to intimidate, abuse, threaten, harass, frighten, or disrupt the electronic communications of another, the [~~person~~]actor:

(a) (i) makes repeated contact by means of electronic communications, regardless of whether a conversation ensues; or

(ii) after the recipient has requested or informed the [~~person~~]actor not to contact the recipient, and the [~~person~~]actor repeatedly or continuously:

(A) contacts the electronic communication device of the recipient; or

(B) causes an electronic communication device of the recipient to ring or to receive other notification of attempted contact by means of electronic communication;

(b) makes contact by means of electronic communication and insults, taunts, or challenges the recipient of the communication or any person at the receiving location in a manner likely to provoke a violent or disorderly response;

(c) makes contact by means of electronic communication and threatens to inflict injury, physical harm, or damage to any person or the property of any person; or

(d) causes disruption, jamming, or overload of an electronic communication system through excessive message traffic or other means utilizing an electronic communication device.

[~~(3) A person is guilty of electronic communication harassment if the person:~~]

[~~(a) electronically publishes, posts, or otherwise discloses personal identifying information of another individual in a public online site or forum with the intent to abuse, threaten, or disrupt the other individual's electronic communication and without the other individual's permission; or~~]

[~~(b) sends a communication by electronic mail, instant message, or other similar means, if:~~]

[~~(i) the communication references personal identifying information of another individual;~~]

[~~(ii) the person sends the communication:~~]

[~~(A) without the individual's consent; and~~]

[~~(B) with the intent to cause a recipient of the communication to reasonably believe that the individual authorized or sent the communication; and~~]

[~~(iii) with the intent to:~~]

[~~(A) cause an individual physical, emotional, or economic injury or damage; or~~]

[~~(B) defraud an individual.~~]

[~~(4) A person is guilty of electronic communication harassment if:~~]

[~~(a) the person:~~]

[~~(i) is an adult;~~]

[~~(ii) electronically publishes, posts, or otherwise discloses in a public online site or forum personal identifying information of a minor who is unrelated by blood, marriage, or adoption to the person; and~~]

[~~(iii) knows of, but consciously disregards, a substantial and unjustifiable risk that performing the action described in Subsection (4)(a)(ii) will result in the minor being the victim of an offense described in Title 76, Chapter 5, Offenses Against the Individual; and~~]

[~~(b) the minor described in Subsection (4)(a)(ii) is aware of the person's action described in Subsection (4)(a)(ii).~~]

[~~(5)~~](3) (a) Except as provided in Subsection [~~(5)(b)~~](3)(b), a violation of Subsection (2) [~~or (3)~~]is a class B misdemeanor.

(b) A second or subsequent violation of Subsection (2) [~~or (3)~~] is a class A misdemeanor.

[~~(c) A violation of Subsection (4) is a class A misdemeanor.~~]

[~~(6)~~](4) (a) Except as provided [~~under~~]in Subsection [~~(6)(b)~~](4)(b), a criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of an offense under this section.

(b) This section does not create a civil cause of action based on electronic communications made for a legitimate business [~~purposes~~]purpose.

[~~(7) (a) A minor victim has a civil right of action against an actor who violates Subsection (4).~~]

[~~(b) A minor victim who brings a successful civil action under Subsection (7)(a) is entitled to recover from the actor:~~]

[~~(i) damages resulting from the violation of Subsection (4);~~]

[~~(ii) reasonable attorney fees; and~~]

[~~(iii) court costs.~~]

(5) A violation of this section is subject to prosecution in the jurisdiction in which the electronic communication originated or was received.

Section 364. Section 76-12-203 is enacted to read:

76-12-203. Unlawful electronic disclosure of personal identifying information.

(1) (a) As used in this section, "personal identifying information" means the same as that term is defined in Section 76-6-1101.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this section.

(2) An actor commits unlawful electronic disclosure of personal identifying information if the actor:

(a) (i) electronically publishes, posts, or otherwise discloses personal identifying information of another individual in a public online site or forum without the permission of the other individual; and

(ii) undertakes the action described in Subsection (2)(a)(i) with the intent to abuse, threaten, or disrupt the other individual's electronic communication; or

(b) sends a communication by electronic mail, instant message, or other similar means, if:

(i) the communication references personal identifying information of another individual;

(ii) the actor sends the communication:

(A) without the individual's consent; and

(B) with the intent to cause a recipient of the communication to reasonably believe that the individual authorized or sent the communication; and

(iii) with the intent to:

(A) cause an individual physical, emotional, or economic injury or damage; or

(B) defraud an individual.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A second or subsequent violation of Subsection (2) is a class A misdemeanor.

(4) (a) Except as provided in Subsection (4)(b), a criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of an offense under this section.

(b) This section does not create a civil cause of action based on an electronic communication made for a legitimate business purpose.

Section 365. Section 76-12-204 is enacted to read:

76-12-204. Unlawful electronic disclosure of a minor's personal information.

(1) (a) As used in this section:

(i) "Minor victim" means a minor who is a victim of a violation of Subsection (2).

(ii) "Personal identifying information" means the same as that term is defined in Section 76-6-1101.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this section.

(2) An actor commits unlawful electronic disclosure of a minor's personal information if:

(a) the actor:

(i) is an adult;

(ii) electronically publishes, posts, or otherwise discloses in a public online site or forum personal identifying information of a minor who is unrelated by blood, marriage, or adoption to the actor; and

(iii) knows of, but consciously disregards, a substantial and unjustifiable risk that performing the action described in Subsection (2)(a)(ii) will result in the minor being the victim of an offense described in Title 76, Chapter 5, Offenses Against the Individual; and

(b) the minor described in Subsection (2)(a)(ii) is aware of the actor's action described in Subsection (2)(a)(ii).

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) (a) Except as provided in Subsection (4)(b), a criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of an offense under this section.

(b) This section does not create a civil cause of action based on an electronic communication made for a legitimate business purpose.

(5) (a) A minor victim has a civil right of action against an actor who violates Subsection (2).

(b) A minor victim who brings a successful civil action under Subsection (5)(a) is entitled to recover from the actor:

(i) damages resulting from the violation of Subsection (2);

(ii) reasonable attorney fees; and

(iii) court costs.

Section 366. Section 76-12-205, which is renumbered from Section 76-6-703.1 is renumbered and amended to read:

[~~76-6-703.1~~]76-12-205. Disclosure of personal information with intent to cause electronic communication harassment.

(1) (a) As used in this section [~~, "electronic~~]:

(i) "Adult" means an individual 18 years old or older.

(ii) "Computer" means the same as that term is defined in Section 76-6-702.

(iii) "Electronic communication harassment" means an offense under Section [~~76-9-201~~]76-12-202, 76-12-203, or 76-12-204.

(iv) "Identifying information" means the same as that term is defined in Section 76-6-702.

(v) "Interactive computer service" means the same as that term is defined in Section 76-6-702.

(vi) "Minor" means an individual who is younger than 18 years old.

(vii) "Service provider" means the same as that term is defined in Section 76-6-702.

(viii) "Software" means the same as that term is defined in Section 76-6-702.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and [~~76-6-702~~]76-12-201 apply to this section.

(2) An actor commits [~~unlawful~~]disclosure of personal information with intent to cause electronic communication harassment if:

(a) with intent that electronic communication harassment occur, the actor discloses or disseminates another person's identifying information with the expectation that others will further disseminate or use the person's identifying information; and

(b) the disclosure or dissemination of the other person's identifying information results in electronic communication harassment.

(3) (a) If the [~~person~~]individual whose identifying information is disseminated is an adult, a violation of Subsection (2) is:

(i) a class B misdemeanor on the first offense;

(ii) a class A misdemeanor on the second offense; or

(iii) a third degree felony on a third or subsequent offense.

(b) If the [~~person~~]individual whose identifying information is disseminated is a minor, a violation of Subsection (2) is:

(i) a class A misdemeanor on the first offense; or

(ii) a third degree felony on the second or subsequent offense.

(4) (a) This section does not apply to an actor who provides information in conjunction with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, or Title 67, Chapter 21, Utah Protection of Public Employees Act.

(b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and [~~nothing in this section may be construed to~~]does not impose liability or culpability on, an interactive computer service for content provided by another person.

(c) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.

(5) (a) An interactive computer service [~~is not guilty of violating this section~~]does not commit a violation of Subsection (2) if an actor violates [~~this section~~]Subsection (2) using the interactive computer service and the interactive computer service did not knowingly assist the actor to commit the violation.

(b) A service provider [~~is not guilty of violating this section~~]does not commit a violation of Subsection (2) for:

(i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or

(ii) action taken, including scanning and removing computer software, to detect or prevent the following:

(A) unauthorized or fraudulent use of a network, service, or computer software;

(B) illegal activity; or

(C) infringement of intellectual property rights.

Section 367. Section 76-12-206, which is renumbered from Section 76-9-203 is renumbered and amended to read:

[~~76-9-203~~]76-12-206. Unlawful online impersonation.

(1) (a) As used in this section:

[~~(a)~~](i) "Commercial social networking website" means a person who operates a website that allows a person to register as a user for the purpose of:

[~~(i)~~](A) establishing a personal relationship with one or more other users through direct or real time communication with the other user; or

[~~(ii)~~](B) the creation of [~~web pages or profiles~~]a web page or a profile available to the public or to other users.

[~~(b)~~](ii) "Commercial social networking website" does not include an electronic mail program or a message board program.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this section.

(2) [~~It is a criminal offense for a person to use~~]An actor commits unlawful online impersonation if the actor uses the name or persona of an individual:

(a) without the individual's consent;

(b) (i) to create a web page on a commercial social networking website or other website; or

(ii) to post or send a message on or through a commercial social networking website or other website, other than on or through an electronic mail program or message board program;

(c) with the intent to cause an individual to reasonably believe that the individual whose name or persona is used authorized or performed the applicable action described in Subsection (2)(b); and

(d) with the intent to harm, defraud, intimidate, or threaten any individual.

(3) (a) [~~An offense under this section is~~]Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A second or subsequent offense [~~under this section~~]of Subsection (2) is a third degree felony.

(4) It is a defense to prosecution under this section that the [~~person~~]actor is one of the following entities or that the [~~person's~~]actor's conduct consisted solely of action taken as an employee of one of the following entities:

(a) a commercial social networking website;

(b) an Internet service provider;

(c) an interactive computer service, as defined in 47 U.S.C. Sec. 230;

(d) a telecommunications provider, as defined in Section 10-1-402;

(e) a cable television service;

(f) an entity that provides cable television service, as defined in Section 10-18-102; or

(g) a law enforcement agency engaged in lawful practices.

Section 368. Section 76-12-207, which is renumbered from Section 76-10-1802 is renumbered and amended to read:

[~~76-10-1802~~]76-12-207. Misrepresentation of a call or text communication identification.

(1) (a) As used in this section:

[~~(a)~~](i) "Caller or text message identification information" means information provided by a caller identification service or text message service regarding the telephone number or other information regarding the origination of a call or text message made using a telecommunications service or VoIP voice service.

[~~(b)~~](ii) "Caller or text message identification service" means [~~any~~]a service or device designed to provide the user of the service or device with the telephone number of, or other information regarding, the origination of a call or text message made using a telecommunications service or VoIP voice service, including automatic number identification services.

[~~(c)~~](iii) "Text message":

[~~(i)~~](A) means a real-time or near real-time message consisting of text, images, sounds, or other information transmitted from or received by a device identified by a telephone number; and

[~~(ii)~~](B) does not include a real-time, two-way voice or video communication.

[~~(d)~~](iv) "VoIP" means a technology that allows telephone calls to be made over computer networks, including the Internet.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this section.

(2) [~~It is unlawful for any person or individual~~]An actor commits misrepresentation of a call or text communication identification if the actor, in connection with [~~any~~]a telecommunications service or VoIP voice service, [~~to~~]knowingly [~~cause any~~]causes a caller identification service or text message service to transmit false, misleading, or inaccurate caller or text message identification information:

(a) with the intent to harm the recipient of the call or text message; or

(b) to a public safety answering point when reporting an emergency.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.

(b) A violation of Subsection (2) is a class B misdemeanor on a second or subsequent violation.

(c) Each separate call or text message is a violation of this section.

[~~(3)~~](4) This section does not prevent or restrict [~~any person or individual~~]a person from blocking the capability of [~~any~~]a caller or text message identification service to transmit caller or text message identification information.

[~~(4)~~](5) The following are exempt from this section:

(a) the lawful investigative, protective, or intelligence activity of a law enforcement agency; and

(b) a court order that specifically authorizes the use of caller or text message identification manipulation.

[~~(5) Each separate call or text message transmitted in violation of this section is:~~]

[~~(a) for a first violation, a class C misdemeanor; and~~]

[~~(b) for a second or subsequent violation, a class B misdemeanor.~~]

(6) [~~Violations~~]A violation of this section may be enforced in a civil action initiated by the recipient of a call, message, or text message made in violation of this section, a criminal action initiated by a prosecuting attorney, or both.

(7) This section does not apply to an Internet service provider or hosting company, a provider of public telecommunications services, or a text message service by reason of the fact that the Internet service provider, hosting company, text message service, or provider of public telecommunications services:

(a) transmits, routes, or provides connections for material without selecting the material;

(b) stores or delivers the material at the direction of a user; or

(c) provides a caller or text message identification service.

Section 369. Section 76-12-301, which is renumbered from Section 76-9-401 is renumbered and amended to read:

PART 3. Privacy Offenses

[~~76-9-401~~]76-12-301. Definitions.

For purposes of this part:

(1) "Eavesdrop" means to overhear, record, amplify, or transmit any part of a wire or oral communication of another without the consent of at least one party thereto by means of an electronic, mechanical, or other device.

(2) "Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance.

[~~(2) "Eavesdrop" means to overhear, record, amplify, or transmit any part of a wire or oral communication of otherswithout the consent of at least one party thereto by means of any electronic, mechanical, or other device.~~]

(3) "Public" includes any professional or social group of which the victim of a defamation is a member.

Section 370. Section 76-12-302, which is renumbered from Section 76-9-402 is renumbered and amended to read:

[~~76-9-402~~]76-12-302. Unlawful privacy violation.

(1) (a) [~~A property owner has an~~]For purposes of this section, "expectation of privacy" means a property owner's expectation of privacy [~~regarding characteristics, data, or information pertaining to the owner's property that:~~]described in Subsection (6).

[~~(i) is not immediately apparent through routine visual observation of the property; and~~]

[~~(ii) requires ground-penetrating technology to detect, observe, measure, map, or otherwise capture information or data about the property or characteristics of the property.~~]

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) [~~A person is guilty of~~]An actor commits unlawful privacy violation if, except as authorized by law, the [~~person~~]actor:

(a) trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place;

(b) installs, or uses after unauthorized installation in a private place, without the consent of the person or persons entitled to privacy in the private place, [~~any~~]a device for observing, photographing, hearing, recording, amplifying, or broadcasting sounds or events in the private place;

(c) installs or uses outside of a private place a device for observing, photographing, hearing, recording, amplifying, or broadcasting sounds or events originating in the private place [~~which~~]that would not ordinarily be audible, visible, or comprehensible outside the private place, without the consent of the person or persons entitled to privacy in the private place; or

(d) uses ground-penetrating technology, without the consent of the property owner, to detect, observe, measure, map, or otherwise capture information or data about the property or characteristics of the property of another for which the property owner has an expectation of privacy [~~as described in Subsection (1)~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) A court may order an actor who commits a violation of Subsection (2) to remove or destroy any data collected by the actor in the commission of the violation of Subsection (2).

(5) [~~A person~~]An actor is not guilty of a violation of this section if:

(a) the device used is an unmanned aircraft;

(b) the [~~person~~]actor is operating the unmanned aircraft for legitimate commercial or educational purposes in a manner consistent with applicable Federal Aviation Administration rules, exemptions, or other authorizations; and

(c) any conduct described in Subsection (2) that occurs via the unmanned aircraft is solely incidental to the lawful commercial or educational use of the unmanned aircraft.

[~~(4) For a person who commits a violation of Subsection (2), a court may order the person to remove and destroy any data collected by the person in the commission of the violation of Subsection (2).~~]

[~~(5) Privacy violation is a class B misdemeanor.~~]

(6) A property owner has an expectation of property privacy regarding characteristics, data, or information pertaining to the owner's property that:

(a) is not immediately apparent through routine visual observation of the property; and

(b) requires ground-penetrating technology to detect, observe, measure, map, or otherwise capture information or data about the property or characteristics of the property.

[~~(6)~~](7) (a) This section does not apply to lawful practices of:

(i) a law enforcement agency; or

(ii) another government entity.

(b) Subsection (2)(d) does not apply to a land surveyor if:

(i) the land surveyor is performing a survey service in good faith pursuant to a bona fide contract; and

(ii) for any data pertaining to property not owned by a party to the contract described in Subsection [~~(6)(b)(i)~~](7)(b)(i) that is captured incidentally by the land surveyor, the land surveyor:

(A) does not share, publish, sell, or distribute any incidentally captured data pertaining to property that is not relevant to the contract described in Subsection [~~(6)(b)(i)~~](7)(b)(i); and

(B) upon completion of the contract, deletes or destroys any data pertaining to property that is not the subject of the contract.

(8) (a) A person, or the heirs of a deceased person, who has been injured by a violation of this section may bring an action against the actor who committed the violation.

(b) If in the action described in Subsection (8)(a) the court finds the defendant is violating or has violated any of the provisions of this section, the court shall enjoin the defendant from a continued violation.

(c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if damages are alleged and proved, the plaintiff in the action is entitled to recover from the defendant the actual damages sustained, if any, in addition to injunctive relief.

(d) A finding that the defendant is in violation of this section entitles the plaintiff to an award of reasonable attorney fees.

(e) Exemplary damages may be awarded when the violation is found to be malicious.

Section 371. Section 76-12-303, which is renumbered from Section 76-9-403 is renumbered and amended to read:

[~~76-9-403~~]76-12-303. Unlawful interception or disclosure of a private communication.

(1) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) [~~A person commits communication abuse if, except as authorized by law, he~~]An actor commits unlawful interception or disclosure of a private communication if, except as authorized by law, the actor:

(a) [~~Intercepts~~]intercepts, without the consent of the sender or receiver, a message by telephone, telegraph, letter, or other means of communicating privately; [~~this paragraph does not extend to:~~]or

[~~(i) Overhearing of messages through a regularly installed instrument on a telephone party line or on an extension; or~~]

[~~(ii) Interception by the telephone company or subscriber incident to enforcement of regulations limiting use of the facilities or to other normal operation and use; or~~]

(b) [~~Divulges~~]divulges, without consent of the sender or receiver, the existence or contents of [~~any such~~]a message described in Subsection (2)(a), if the actor:

(i) knows that the message described in Subsection (2)(a) was illegally intercepted; or

(ii) [~~if he~~]learned of the message described in Subsection (2)(a) in the course of employment with an agency engaged in [~~transmitting it~~]the transmission of the message.

[~~(2)~~](3) [~~Communication abuse~~]A violation of Subsection (2) is a class B misdemeanor.

(4) Subsection (2)(a) does not apply to:

(a) overhearing a message through a regularly installed instrument on a telephone party line or on an extension; or

(b) intercepting a message by a telephone company or subscriber incident to enforcement of regulations limiting use of the facilities or to other normal operation and use.

(5) (a) A person, or the heirs of a deceased person, who has been injured by a violation of this section may bring an action against the actor who committed the violation.

(b) If in the action described in Subsection (5)(a) the court finds the defendant is violating or has violated any of the provisions of this section, the court shall enjoin the defendant from a continued violation.

(c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if damages are alleged and proved, the plaintiff in the action is entitled to recover from the defendant the actual damages sustained, if any, in addition to injunctive relief.

(d) A finding that the defendant is in violation of this section entitles the plaintiff to an award of reasonable attorney fees.

(e) Exemplary damages may be awarded when the violation is found to be malicious.

Section 372. Section 76-12-304, which is renumbered from Section 76-9-407 is renumbered and amended to read:

[~~76-9-407~~]76-12-304. Unlawful use of another's personal identity in an advertisement.

(1) [~~The definitions in Section~~]Terms defined in Sections 45-3-2, 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) [~~Any person is guilty of a class B misdemeanor who~~]An actor commits unlawful use of another's personal identity in an advertisement if the actor knowingly or intentionally causes the publication of an advertisement in which the personal identity of an individual is used in a manner [~~which~~]that expresses or implies that the individual approves, endorses, has endorsed, or will endorse the specific subject matter of the advertisement without the consent for such use by the individual.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(3)~~](4) It is an affirmative defense that the [~~person causing~~]actor who caused the publication of the advertisement reasonably believed that the [~~person~~]individual whose personal identity was to be used had consented to [~~its~~]the use of the individual's personal identity.

[~~(4)~~](5) (a) Upon conviction of an offense under this section, unless waived by the victim, the court shall order that, within 30 days of the conviction, the [~~person~~]actor convicted shall issue a public apology or retraction to whomever received the advertisement.

(b) The apology or retraction described in Subsection (5)(a) shall be of similar size and placement as the original advertisement.

[~~(5)~~](6) Nothing in this section prohibits a civil action under Title 45, Chapter 3, Abuse of Personal Identity Act.

(7) (a) A person, or the heirs of a deceased person, who has been injured by a violation of this section may bring an action against the actor who committed the violation.

(b) If in the action described in Subsection (7)(a) the court finds the defendant is violating or has violated any of the provisions of this section, the court shall enjoin the defendant from a continued violation.

(c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if damages are alleged and proved, the plaintiff in the action is entitled to recover from the defendant the actual damages sustained, if any, in addition to injunctive relief.

(d) A finding that the defendant is in violation of this section entitles the plaintiff to an award of reasonable attorney fees.

(e) Exemplary damages may be awarded when the violation is found to be malicious.

Section 373. Section 76-12-305, which is renumbered from Section 76-9-408 is renumbered and amended to read:

[~~76-9-408~~]76-12-305. Unlawful installation of a tracking device.

(1) (a) As used in this section:

[~~(a)~~](i) "Motor vehicle" means the same as that term is defined in Subsection 41-12a-103(4).

[~~(b)~~](ii) "Private investigator" means an individual who is:

[~~(i)~~](A) licensed as a private investigator under Title 53, Chapter 9, Private Investigator Regulation Act; and

[~~(ii)~~](B) acting in the capacity of a private investigator.

[~~(c)~~](iii) "Protective order" means a protective order, stalking injunction, or restraining order issued by a court of any jurisdiction.

[~~(d)~~](iv) [~~(i)~~](A) "Tracking device" means a device used for the primary purpose of revealing the device's location or movement by the transmission or recording of an electronic signal.

[~~(ii)~~](B) "Tracking device" does not include location technology installed on a vehicle by the vehicle manufacturer or a commercial vehicle dealer that transmits electronic signals for the purpose of data collection, if the data collection is anonymized.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) Except as provided in Subsection [~~(3), a person is guilty of~~](4), an actor commits unlawful installation of a tracking device if the [~~person~~]actor knowingly installs, or directs another to install, a tracking device on a motor vehicle owned or leased by another person, without the permission of the owner or lessee of the vehicle.

(3) A violation of Subsection (2) is a class A misdemeanor.

[~~(3)~~](4) [~~A person is not guilty of unlawful installation of a tracking device~~]An actor does not commit a violation of Subsection (2) if the [~~person~~]actor:

(a) (i) is a licensed private investigator installing the tracking device for a legitimate business purpose; and

(ii) installs the tracking device on a motor vehicle that is not:

(A) owned or leased by an individual under the protection of a protective order; or

(B) operated by an individual under the protection of a protective order who resides with, or is an immediate family member of, the owner or lessee of the motor vehicle; or

(b) installs the tracking device pursuant to a court order.

[~~(4) Unlawful installation of a tracking device is a class A misdemeanor.~~]

(5) This section does not apply to a peace officer, acting in the peace officer's official capacity, who installs a tracking device on a motor vehicle in the course of a criminal investigation or pursuant to a court order.

(6) Before installing a tracking device on a motor vehicle under Subsection [~~(3)~~](4), a private investigator shall request confirmation

from a state entity with access to updated protective order records, that:

(a) the owner or lessee of the vehicle is not under the protection of a protective order; and

(b) an individual who resides with, or is an immediate family member of, the owner or lessee of the motor vehicle is not under the protection of a protective order.

(7) On request from a licensed private investigator, a state entity, including a law enforcement agency, with access to protective order records shall confirm or deny the existence of a protective order, disclosing only whether an individual named by the private investigator is under the protection of a protective order issued in any jurisdiction.

(8) A private investigator may not disclose the information obtained under Subsection (7) to any person, except as permitted by law.

(9) On request from the Bureau of Criminal Identification, a private investigator who installs a tracking device on a motor vehicle shall disclose the purpose of the tracking device to the Bureau of Criminal Identification.

(10) (a) A person, or the heirs of a deceased person, who has been injured by a violation of this section may bring an action against the actor who committed the violation.

(b) If in the action described in Subsection (10)(a) the court finds the defendant is violating or has violated any of the provisions of this section, the court shall enjoin the defendant from a continued violation.

(c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if damages are alleged and proved, the plaintiff in the action is entitled to recover from the defendant the actual damages sustained, if any, in addition to injunctive relief.

(d) A finding that the defendant is in violation of this section entitles the plaintiff to an award of reasonable attorney fees.

(e) Exemplary damages may be awarded when the violation is found to be malicious.

Section 374. Section 76-12-306 is enacted to read:

76-12-306. Voyeurism.

(1) (a) As used in this section, "sex-designated privacy space" means the same as that term is defined in Section 76-12-309.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) An actor commits voyeurism if:

(a) the actor views, or attempts to view, an individual, with or without the use of an instrumentality:

(i) with the intent of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(ii) without the knowledge or consent of the individual; and

(iii) under circumstances in which the individual has a reasonable expectation of privacy; and

(b) the actor's conduct described in Subsection (2)(a) does not amount to a violation of Section 76-12-307, Recorded or photographed voyeurism.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a class A misdemeanor if the violation is committed:

(i) against a child under 14 years old;

(ii) in a sex-designated privacy space that is not designated for individuals of the actor's sex; or

(iii) while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness under Section 76-5-419;

(C) lewdness involving a child under Section 76-5-420; or

(D) loitering in a privacy space under Section 76-12-309.

(4) For purposes of this section, an individual has a reasonable expectation of privacy within a public restroom.

Section 375. Section 76-12-307, which is renumbered from Section 76-9-702.7 is renumbered and amended to read:

[~~76-9-702.7~~]76-12-307. Recorded or photographed voyeurism.

(1) (a) As used in this section, "sex-designated privacy space" means the same as that term is defined in Section 76-12-309.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) [~~A person is guilty of voyeurism who~~]An actor commits recorded or photographed voyeurism if the actor intentionally uses any type of technology to secretly or surreptitiously record, by video, photograph, or other means, an individual:

(a) for the purpose of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(b) without the knowledge or consent of the individual; and

(c) under circumstances in which the individual has a reasonable expectation of privacy.

[~~(2)~~](3) (a) Except as provided in Subsection [~~(2)(b)~~](3)(b), a violation of Subsection [~~(1)~~](2) is a class A misdemeanor.

(b) [~~The following is a third degree felony~~]A violation of Subsection (2) is a third degree felony if the violation is committed:

(i) [~~a violation of Subsection (1) committed~~]against a child under 14 years [~~of age~~]old;

(ii) in a sex-designated privacy space that is not designed for individuals of the actor's sex; or

[~~(ii)~~](iii) [~~a violation of Subsection (1) committed~~]while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness under Section [~~76-9-702~~]76-5-419;

(C) lewdness involving a child under Section [~~76-9-702.5~~]76-5-420; or

(D) loitering in a privacy space under Section [~~76-9-702.8; or~~]76-12-309.

[~~(iii) a violation of Subsection (1) in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.~~]

[~~(3) Distribution or sale of any images, including in print, electronic, magnetic, or digital format, obtained under Subsection (1) by transmission, display, or dissemination is a third degree felony, except that if the violation of this Subsection (3) includes images of a child under 14 years of age, the violation is a second degree felony.~~]

[~~(4) A person is guilty of voyeurism who, under circumstances not amounting to a violation of Subsection (1), views or attempts to view an individual, with or without the use of any instrumentality:~~]

[~~(a) with the intent of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;~~]

[~~(b) without the knowledge or consent of the individual; and~~]

[~~(c) under circumstances in which the individual has a reasonable expectation of privacy.~~]

[~~(5) (a) Except as provided in Subsection (5)(b), a violation of Subsection (4) is a class B misdemeanor.~~]

[~~(b) The following is a class A misdemeanor:~~]

[~~(i) a violation of Subsection (4) committed against a child under 14 years of age is a class A misdemeanor;~~]

[~~(ii) a violation of Subsection (4) committed while also committing the offense of:~~]

[~~(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);~~]

[~~(B) lewdness under Section 76-9-702;~~]

[~~(C) lewdness involving a child under Section 76-9-702.5; or~~]

[~~(D) loitering in a privacy space under Section 76-9-702.8; or~~]

[~~(iii) a violation of Subsection (4) committed in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.~~]

[~~(6)~~](4) For purposes of this section, an individual has a reasonable expectation of privacy within a public restroom.

Section 376. Section 76-12-308 is enacted to read:

76-12-308. Distribution of images obtained through voyeurism.

(1) (a) As used in this section, "image" includes print, electronic, magnetic, or digital format.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) An actor commits distribution of images obtained through voyeurism if the actor distributes or sells an image obtained by conduct in violation of Section 76-12-207, Recorded or photographed voyeurism, by transmission, display, or dissemination.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.

(b) A violation of Subsection (2) is a second degree felony if the image is of a child under 14 years old.

Section 377. Section 76-12-309, which is renumbered from Section 76-9-702.8 is renumbered and amended to read:

[~~76-9-702.8~~]76-12-309. Loitering in a privacy space.

(1) (a) As used in this section:

[~~(a)~~](i) "Privacy space" means the following in which an individual has a reasonable expectation of privacy:

[~~(i)~~](A) a restroom or any other space that includes a toilet;

[~~(ii)~~](B) a dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space; or

[~~(iii)~~](C) any room or space that includes a shower.

[~~(b)~~](ii) "Sex-designated" means that a facility, program, or event is designated specifically for males or females and not the opposite sex.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) An actor commits the offense [~~of unlawfully~~]loitering in a privacy space if the actor intentionally or knowingly remains unlawfully in a privacy space.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection [~~(4)~~](2) is a class A misdemeanor if the actor commits the offense:

(i) while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness under Section [~~76-9-702~~]76-5-419;

(C) lewdness involving a child under Section [~~76-9-702.5~~]76-5-420; or

(D) voyeurism under Section [~~76-9-702.7; or~~]76-12-306;

(E) recorded or photographed voyeurism under Section 76-12-307; or

(F) distribution of images obtained through voyeurism under Section 76-12-308; or

(ii) in a sex-designated privacy space that is not designated for individuals of the actor's sex.

Section 378. Section 76-12-401, which is renumbered from Section 76-10-601 is renumbered and amended to read:

PART 4. Offenses Involving Charitable Solicitations

[~~76-10-601~~]76-12-401. Definitions.

As used in this part:

(1) "Person" means [~~any~~]an individual, organization, group, association, partnership, corporation, or any combination of [~~them;~~]an individual, organization, group, association, partnership, or corporation.

(2) (a) "Professional fund raiser" means [~~any~~]a person:

(i) []who, for compensation or any other consideration, plans, conducts, or manages in this state, the solicitation of contributions for or on behalf of [~~any~~]a charitable organization or any other person [~~;~~];or

(ii) []who engages in the business of, or holds [~~himself~~]the person's self out to persons in this state as, independently engaged in the

business of soliciting contributions for such purpose [~~, but shall not include a bona fide officer or employee of a charitable organization;~~].

(b) "Professional fund raiser" does not include a bona fide officer or employee of a charitable organization.

(3) "Professional solicitor" means [~~any~~]a person who is employed or retained for compensation by a professional fund raiser to solicit contributions in this state for charitable purposes [~~;~~].

(4) "Charitable organization" means [~~any~~]an organization that is benevolent, philanthropic, patriotic, or eleemosynary or one purporting to be [~~such;~~]benevolent, philanthropic, patriotic, or eleemosynary.

(5) "Contribution" means the promise or grant of [~~any~~]money or property of any kind or value.

Section 379. Section 76-12-402, which is renumbered from Section 76-10-602 is renumbered and amended to read:

[~~76-10-602~~]76-12-402. Unlawful use of a person's name for soliciting contributions.

(1) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-401 apply to this section.

(2) An actor commits unlawful use of a person's name for soliciting contributions if the actor:

(a) [~~No~~]is a charitable organization, professional fund raiser, or professional solicitor, seeking to raise funds for a charitable [~~purposes,~~]purpose; and

(b) [~~shall use~~]uses the name of any other person for the purpose of soliciting [~~contributions,~~]a charitable contribution in this state [~~;~~] without the written consent of the person [~~; provided that this section shall not apply to religious corporations or organizations, charities, agencies, and organizations operated, supervised, or controlled by or in connection with a religious corporation or organization~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) This section does not apply to:

(a) a religious corporation, organization, charity, or agency; or

(b) an organization operated, supervised, or controlled by or in connection with a religious corporation or organization.

Section 380. Section 76-12-403, which is renumbered from Section 76-10-603 is renumbered and amended to read:

[~~76-10-603~~]76-12-403. Unlawful use of a person's name as a solicitation endorsement.

(1) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-401 apply to this section.

(2) [~~It is a violation of this part to use~~]An actor commits unlawful use of a person's name as a solicitation endorsement if, without written consent [~~;~~]:

(a) the actor uses the name of a person [~~for the purpose of soliciting contributions if the person's name is listed~~]on any stationery, advertisement, brochure, or correspondence of a charitable organization [~~;~~]for the purpose of soliciting contributions; or

(b) [~~his name is listed or referred to~~]the actor lists or refers to the person's name as [~~one~~]a person who has contributed to, sponsored, or endorsed the charitable organization or [~~its~~]the charitable organization's activities.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 381. Section 76-13-101 is enacted to read:

CHAPTER 13. OFFENSES INVOLVING CRUELTY TO ANIMALS

PART 1. General Provisions

76-13-101. Definitions.

Reserved.

Section 382. Section 76-13-102, which is renumbered from Section 76-9-305 is renumbered and amended to read:

[~~76-9-305~~]76-13-102. Officer's authority to take possession of an animal -- Lien for care -- Humane destruction.

(1) [~~Any~~]Terms defined in Sections 76-1-101.5 and 76-13-101 apply to this section.

(2) A law enforcement officer may take possession of [~~any animals~~]an animal being treated cruelly and, after reasonable efforts to notify the owner, may provide shelter and care for [~~them~~]the animal or, upon permission from the owner, may destroy [~~them~~]the animal.

[~~(2) Officers caring for animals pursuant to~~]

(3) (a) An officer caring for an animal under this section [~~have~~]has a lien for the reasonable value of the care [~~and/or destruction~~]provided to the animal and, if applicable, the reasonable value for the destruction of the animal.

(b) [~~Any~~]A court, upon proof that the owner has been notified at least five days earlier of the lien and amount due, [~~at least five days prior,~~]shall order the animal sold at public auction or destroyed.

[~~(3)~~](4) (a) [~~Any~~]A law enforcement officer may humanely destroy [~~any~~]an animal found suffering past recovery for any useful purpose.

(b) Before destroying the animal under Subsection (4)(a), the officer shall obtain:

(i) []the judgment [~~to the effect~~]of a veterinarian [~~;~~] or of two reputable citizens called by [~~him~~]the officer to view the animal in [~~his~~]the officer's presence, of the animal's nonrecoverable condition; or

(ii) [~~shall obtain~~]consent to the destruction from the owner of the animal.

Section 383. Section 76-13-103, which is renumbered from Section 76-9-301.6 is renumbered and amended to read:

[~~76-9-301.6~~]76-13-103. Officer's authority at a dog fighting exhibition -- Authority to arrest and take possession of dogs and property.

(1) Terms defined in Sections 76-1-101.5 and 76-13-101 apply to this section.

(2) A peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications, may enter any place, building, or tenement where an exhibition of dog fighting is occurring, or where preparations are being made for such an exhibition and, without a warrant, arrest all persons present.

[~~(2)~~](3) (a) Notwithstanding the provisions of Section [~~76-9-305~~]76-13-102, Officer's authority to take possession of an animal, any authorized officer who makes an arrest under [~~Subsection (1)~~]Subsection (2) may lawfully take possession of all dogs, paraphernalia, implements, or other property or things used or employed, or to be employed, in an exhibition of dog fighting prohibited by Subsection [~~76-9-301(2)(e)~~]76-13-202(2)(e) or Section [~~76-9-301.1~~]76-13-205, Dog fighting.

(b) The officer, at the time of the taking of property pursuant to Subsection [~~(2)(a)~~](3)(a), shall state [~~his~~]the officer's name and provide other identifying information to the person in charge of the dogs or property taken.

[~~(3)~~](4) (a) After taking possession of dogs, paraphernalia, implements, or other property or things under Subsection [~~(2)~~](3), the officer shall file an affidavit with the judge or magistrate before whom a complaint has been made against any person arrested under this section.

(b) The affidavit shall include:

(i) the name of the person charged in the complaint;

(ii) a description of all property taken;

(iii) the time and place of the taking of the property;

(iv) the name of the person from whom the property was taken;

(v) the name of the person who claims to own the property, if known; and

(vi) a statement that the officer has reason to believe and believes that the property taken was used or employed, or was to be used or employed, in violation of Section [~~76-9-301 or 76-9-301.1~~]76-13-202, 76-13-203, 76-13-204, or 76-13-205, and the grounds for the belief.

[~~(4)~~](5) (a) The officer shall deliver the confiscated property to the judge or magistrate who shall, by order, place the property in the custody of the officer or any other person designated in the order, and that person shall keep the property until conviction or final discharge of the person against whom the complaint was made.

(b) The person designated in Subsection [~~(4)(a)~~](5)(a) shall assume immediate custody of the property, and retain the property until further order of the court.

(c) Upon conviction of the person charged, all confiscated property shall be forfeited and destroyed or otherwise disposed of, as the court may order.

(d) If the person charged is acquitted or discharged without conviction, the court shall, on demand, order the property to be returned to its owner.

Section 384. Section 76-13-104, which is renumbered from Section 76-9-301.7 is renumbered and amended to read:

[~~76-9-301.7~~]76-13-104. Enhanced penalties for cruelty to animal offenses.

(1) (a) As used in this section, "conviction" means a conviction by plea or by verdict, including a plea of guilty or no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) Terms defined in Sections 76-1-101.5 and 76-13-101 apply to this section.

(2) Except as provided in Subsection (4), [~~a person~~]an actor who commits [~~any~~]a violation of Section [~~76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4)~~]76-13-202, 76-13-203, 76-13-206, or 76-13-208 within the state and on at least one previous occasion has been convicted of violating Section [~~76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4)~~]76-13-202, 76-13-203, 76-13-206, or 76-13-208 shall be subject to an enhanced penalty as provided in Subsection (3).

(3) The enhanced degree of offense for offenses committed under this section are:

(a) if the offense is a class C misdemeanor, it is a class B misdemeanor; and

(b) if the offense is a class B misdemeanor, it is a class A misdemeanor.

(4) The penalty enhancements described in this section do not apply to a conviction for the offense described in [~~Subsection 76-9-301(6)~~]Section 76-13-204, Torturing a companion animal.

Section 385. Section 76-13-201 is enacted to read:

PART 2. Cruelty to Animal Offenses

76-13-201. Definitions.

Reserved.

Section 386. Section 76-13-202, which is renumbered from Section 76-9-301 is renumbered and amended to read:

[~~76-9-301~~]76-13-202. Cruelty to an animal.

(1) (a) As used in this section:

[~~(a)~~](i) [~~(i)~~](A) "Abandon" means to intentionally deposit, leave, or drop off any live animal:

[~~(A)~~](I) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

[~~(B)~~](II) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

[~~(ii)~~](B) "Abandon" does not include returning wildlife to its natural habitat.

[~~(b)~~](ii) [~~(i)~~](A) "Animal" means, except as provided in Subsection [~~(1)(b)(ii)~~](1)(a)(ii)(B), a live, nonhuman vertebrate creature.

[~~(ii)~~](B) "Animal" does not include:

[~~(A)~~](I) a live, nonhuman vertebrate creature, if:

[~~(I)~~](Aa) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

[~~(II)~~](Bb) the creature is:

[~~(Aa)~~](Ii) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

[~~(Bb)~~](IIii) kept, owned, or used for the purpose of training hunting dogs or raptors; or

[~~(Cc)~~](IIIiii) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. Sec. 2133;

[~~(B)~~](II) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

[~~(C)~~](III) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

[~~(D)~~](IV) wildlife, as defined in Section 23A-1-101, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

[~~(c) "Companion animal" means an animal that is a domestic dog or a domestic cat.~~]

[~~(d)~~](iii) "Custody" means ownership, possession, or control over an animal.

[~~(e)~~](iv) "Legal privilege" means an act that:

[~~(i)~~](A) is authorized by state law, including rules under Title 23A, Wildlife Resources Act; and

[~~(ii)~~](B) is not in violation of a local ordinance.

[~~(f)~~](v) "Livestock" means:

[~~(i)~~](A) domesticated:

[~~(A)~~](I) cattle;

[~~(B)~~](II) sheep;

[~~(C)~~](III) goats;

[~~(D)~~](IV) turkeys;

[~~(E)~~](V) swine;

[~~(F)~~](VI) equines;

[~~(G)~~](VII) camelidae;

[~~(H)~~](VIII) ratites; or

[~~(I)~~](IX) bison;

[~~(ii)~~](B) domesticated elk, as defined in Section 4-39-102;

[~~(iii)~~](C) a livestock guardian dog, as defined in Section 76-6-111; or

[~~(iv)~~](D) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

[~~(g)~~](vi) "Necessary food, water, care, or shelter" means the following, taking into account the species, age, and physical condition of the animal:

[~~(i)~~](A) appropriate and essential food and water;

[~~(ii)~~](B) adequate protection, including appropriate shelter, against extreme weather conditions; and

[~~(iii)~~](C) other essential care.

[~~(h)~~](vii) "Torture" means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) Except as provided in Subsection [~~(4) or (6), a person is guilty of~~](4), an actor commits cruelty to an animal if the [~~person~~]actor, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

(a) fails to provide necessary food, water, care, or shelter for an animal in the [~~person's~~]actor's custody;

(b) abandons an animal in the [~~person's~~]actor's custody;

(c) injures an animal;

(d) causes [~~any~~]an animal, not including a dog or game fowl, to fight with another animal of like kind for amusement or gain; or

(e) causes [~~any~~]an animal, including a dog or game fowl, to fight with a different kind of animal or creature for amusement or gain.

(3) [~~Except as provided in Section 76-9-301.7, a~~]A violation of Subsection (2) is:

(a) a class B misdemeanor if committed intentionally or knowingly; [~~and~~]or

(b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) [~~A person is guilty of aggravated cruelty to an animal if the person:~~]If an actor's conduct in violation of this section also constitutes a violation of Section 76-13-203, Aggravated cruelty to an animal, or Section 76-13-204, Torturing a companion animal, the actor's conduct shall be prosecuted under either Section 76-13-203 or 76-13-204 as applicable.

[~~(a) tortures an animal;~~]

[~~(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or~~]

[~~(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.~~]

[~~(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:~~]

[~~(a) a class A misdemeanor if committed intentionally or knowingly;~~]

[~~(b) a class B misdemeanor if committed recklessly; and~~]

[~~(c) a class C misdemeanor if committed with criminal negligence.~~]

[~~(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.~~]

[~~(7)~~](5) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by [~~a person~~]an actor who humanely destroys [~~any~~]an animal found suffering past recovery for any useful purpose; or

(e) by [~~a person~~]an actor who humanely destroys [~~any~~]an apparently abandoned animal found on the [~~person's~~]actor's property.

[~~(8)~~](6) For purposes of Subsection [~~(7)(d)~~](5)(d), before destroying the suffering animal, the [~~person~~]actor who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the [~~person~~]actor to view the unrecoverable condition of the animal in the [~~person's~~]actor's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the [~~person's~~]actor's own observation, if the [~~person~~]actor is in a location or circumstance where the [~~person~~]actor is unable to contact another person.

[~~(9)~~](7) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or

(c) the lawful hunting of, fishing for, or trapping of, wildlife.

[~~(10)~~](8) County and municipal governments may not prohibit the use of an electronic locating or training collar.

[~~(11)~~](9) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county or municipal animal control agency or an animal welfare agency registered with the state to be sold at public auction or humanely destroyed.

[~~(12)~~](10) This section does not prohibit the use of animals in lawful training.

[~~(13)~~](11) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

Section 387. Section 76-13-203 is enacted to read:

76-13-203. Aggravated cruelty to an animal.

(1) (a) As used in this section:

(i) "Animal" means the same as that term is defined in Section 76-13-202.

(ii) "Custody" means the same as that term is defined in Section 76-13-202.

(iii) "Legal privilege" means the same as that term is defined in Section 76-13-202.

(iv) "Torture" means the same as that term is defined in Section 76-13-202.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) Except as provided in Subsection (4), an actor commits aggravated cruelty to an animal if the actor:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(3) A violation of Subsection (2) is:

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; or

(c) a class C misdemeanor if committed with criminal negligence.

(4) If an actor's conduct in violation of this section also constitutes a violation of Section 76-13-204, Torturing a companion animal, the actor's conduct shall be prosecuted under Section 76-13-204.

(5) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) performed by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) performed by an actor who humanely destroys an animal found suffering past recovery for any useful purpose; or

(e) performed by an actor who humanely destroys an apparently abandoned animal found on the actor's property.

(6) For purposes of Subsection (5)(d), before destroying the suffering animal, an actor who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other individuals called by the actor to view the unrecoverable condition of the animal in the actor's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the actor's own observation, if the actor is in a location or circumstance where the actor is unable to contact another individual.

(7) Upon conviction under this section, the court may in the court's discretion, in addition to other penalties:

(a) order the actor to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the actor to forfeit any rights the actor has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person in caring for each animal subjected to violation of this section;

(c) order the actor to no longer possess or retain custody of any animal, as specified by the court, during the period of the actor's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county or municipal animal control agency or an animal welfare agency registered with the state to be sold at public auction or humanely destroyed.

(8) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

Section 388. Section 76-13-204 is enacted to read:

76-13-204. Torturing a companion animal.

(1) (a) As used in this section:

(i) "Animal" means the same as that term is defined in Section 76-13-202.

(ii) "Companion animal" means an animal that is a domestic dog or a domestic cat.

(iii) "Custody" means the same as that term is defined in Section 76-13-202.

(iv) "Torture" means the same as that term is defined in Section 76-13-202.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) An actor commits torturing a companion animal if the actor intentionally or knowingly tortures a companion animal.

(3) A violation of Subsection (2) is a third degree felony.

(4) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) performed by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved; or

(c) permitted under Section 18-1-3.

(5) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the actor to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the actor to forfeit any rights the actor has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person in caring for each animal subjected to violation of this section;

(c) order the actor to no longer possess or retain custody of any animal, as specified by the court, during the period of the actor's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county or municipal animal control agency or an animal welfare agency registered with the state to be sold at public auction or humanely destroyed.

(6) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

Section 389. Section 76-13-205, which is renumbered from Section 76-9-301.1 is renumbered and amended to read:

[~~76-9-301.1~~]76-13-205. Dog fighting.

(1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) [~~It is unlawful for any person to~~]An actor commits dog fighting if the actor:

(a) [~~own, possess, keep, or train~~]owns, possesses, keeps, or trains a dog with the intent to engage [~~it~~]the dog in an exhibition of fighting with another dog;

(b) [~~cause~~]causes a dog to fight with another dog or [~~cause~~]causes a dog to injure another dog for amusement or gain;

(c) [~~tie, attach, or fasten~~]ties, attaches, or fastens any live animal to a machine or device propelled by any power, for the purpose of causing the animal to be pursued by a dog; [~~or~~]

(d) [~~permit or allow any act which~~]permits or allows any act that violates Subsection [~~(1)(a), (b), or (c)~~](2)(a), (b), or (c) on any premises under [~~his~~]the actor's charge; or

(e) [~~to control, aid, or abet any such act~~]controls, aids, or abets any act that violates Subsection (2)(a), (b), or (c).

[~~(2)~~](3) (a) A violation of Subsection (2) is a third degree felony.

(b) A fine imposed for a violation of Subsection (2) may not exceed $25,000.

(4) Possession of [~~any~~]a breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia, together with evidence that the paraphernalia is being used or is intended for use in the unlawful training of a dog to fight with another dog, together with the possession of any such dog, is prima facie evidence of violation of [~~Subsections (1)(b) and (c)~~]Subsection (2)(b) or (c).

[~~(3) A person who violates Subsection (1) is guilty of a third degree felony, and any fine imposed may not exceed $25,000.~~]

[~~(4) It is unlawful for a person to knowingly and intentionally be present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of dog fighting, or to knowingly and intentionally be present at a dog fighting exhibition or any other occurrence of fighting or injury described in this section. A person who violates this subsection is guilty of a class B misdemeanor.~~]

(5) Nothing in this section prohibits any of the following:

(a) the use of dogs for management of livestock by the owner, [~~his~~]the owner's employees or agents, or any other person in the lawful custody of livestock;

(b) the use of dogs for hunting; or

(c) the training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.

Section 390. Section 76-13-206 is enacted to read:

76-13-206. Attending a dog fight or related activity.

(1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) An actor commits attending a dog fight or related activity if the actor knowingly or intentionally is:

(a) present as a spectator at a place, building, or tenement where preparations are being made for an exhibition of dog fighting;

(b) present at a dog fighting exhibition; or

(c) present for any other conduct that would be in violation of Section 76-13-205, Dog fighting.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 391. Section 76-13-207, which is renumbered from Section 76-9-301.3 is renumbered and amended to read:

[~~76-9-301.3~~]76-13-207. Game fowl fighting.

(1) (a) As used in this section:

[~~(a)~~](i) "Game fowl" means a fowl reared or used for fighting other fowl.

[~~(b)~~](ii) "Promote" means to engage in promoting, producing, or staging events or activities that involve game fowl fighting.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) [~~It is unlawful for a person to~~]An actor commits game fowl fighting if the actor:

(a) intentionally [~~cause~~]causes a game fowl to fight with or attack another game fowl for the purpose of entertainment, sport, or contest; or

(b) [~~promote~~]promotes any activity that involves game fowl fighting, including promoting an activity that is a violation of Subsection (2)(a).

(3) [~~A person who violates~~]A violation of Subsection (2) is [~~, upon conviction, guilty of~~]:

(a) a class B misdemeanor for the first violation;

(b) a class A misdemeanor for the second violation; or

(c) a third degree felony for a third or subsequent violation.

(4) This section does not prohibit the lawful use of livestock by the livestock owner, an employee or agent of the livestock owner, or a person in the lawful custody of livestock.

Section 392. Section 76-13-208, which is renumbered from Section 76-9-301.5 is renumbered and amended to read:

[~~76-9-301.5~~]76-13-208. Attending an organized animal fighting exhibition.

(1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) [~~It is unlawful for a person to~~]An actor commits attending an organized animal fighting exhibition if the actor is knowingly [~~be~~]present:

(a) as a spectator at any place, building, or tenement where preparations are being made for an exhibition of the fighting of animals, as prohibited by [~~Subsections 76-9-301(2)(d) and (e),~~]Subsection 76-13-202(2)(d) or (e); or

(b) [~~to be present~~]at [~~such~~]an exhibition prohibited by Subsection 76-13-202(2)(d) or (e), regardless of whether [~~any~~]an entrance fee has been charged.

(3) [~~A person who violates this section is guilty of~~]A violation of Subsection (2) is a class B misdemeanor.

Section 393. Section 76-13-209, which is renumbered from Section 76-9-306 is renumbered and amended to read:

[~~76-9-306~~]76-13-209. Endangering, injuring, or killing a police service canine.

(1) (a) As used in this section:

[~~(a)~~](i) "Handler" means a law enforcement officer who is specially trained, and uses a police service canine during the course of the performance of [~~his~~]the law enforcement officer's law enforcement duties.

[~~(b)~~](ii) "Police service canine" means:

(A) any dog used by a law enforcement agency [~~, which~~]that is specially trained for law enforcement work [~~, or~~]; or

(B) any animal contracted to assist a law enforcement agency in the performance of law enforcement duties.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) [~~It is a second degree felony for a person to intentionally or knowingly cause~~]An actor commits endangering, injuring, or killing a police service canine if the actor intentionally or knowingly:

(a) causes the death [~~to~~]of a police service canine [~~:~~];

(b) causes bodily injury to a police service canine;

(c) engages in conduct likely to cause bodily injury or death to a police service canine; or

(d) lays out, places, or administers any poison, trap, substance, or object that is likely to produce bodily injury or death to a police service canine.

(3) (a) A violation of Subsection (2)(a) is a second degree felony.

(b) A violation of Subsection (2)(b), (c), or (d) is a third degree felony.

[~~(3) It is a third degree felony for a person to intentionally or knowingly:~~]

[~~(a) cause bodily injury to a police service canine;~~]

[~~(b) engage in conduct likely to cause bodily injury or death to a police service canine; or~~]

[~~(c) lay out, place, or administer any poison, trap, substance, or object which is likely to produce bodily injury or death to a police service canine.~~]

[~~(4) It is a class A misdemeanor for a person to intentionally or knowingly:~~]

[~~(a) taunt, torment, strike, or otherwise assault a police service canine;~~]

[~~(b) throw any object or substance at, or in the path of, a police service canine;~~]

[~~(c) interfere with or obstruct a police service canine, or attempt to, or interfere with the handler of the canine in a manner that inhibits, restricts, or deprives the handler of control of the canine;~~]

[~~(d) release a police service canine from its area of control, such as a vehicle, kennel, or pen, or trespass in that area; or~~]

[~~(e) place any food, object, or substance into a police service canine's area of control without the permission of the handler.~~]

[~~(5)~~](4) (a) A police service canine is exempt from quarantine or other animal control ordinances if [~~it~~]the police service canine bites any [~~person~~]individual while under proper police supervision or routine veterinary care.

(b) The law enforcement agency and the [~~canine's~~]police service canine's handler shall make the [~~canine~~]police service canine available for examination at [~~any~~]a reasonable time and shall notify the local health officer if the police service canine exhibits any

abnormal behavior.

[~~(6)~~](5) In addition to any other penalty, [~~a person~~]an actor convicted of a violation of this section is liable for restitution to the owning or employing law enforcement agency or individual owner of the police service canine for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

Section 394. Section 76-13-210 is enacted to read:

76-13-210. Interference with a police service canine.

(1) (a) As used in this section:

(i) "Handler" means the same as that term is defined in Section 76-13-209.

(ii) "Police service canine" means the same as that term is defined in Section 76-13-209.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) An actor commits interference with a police service canine if the actor intentionally or knowingly:

(a) taunts, torments, strikes, or otherwise assaults a police service canine;

(b) throws any object or substance at, or in the path of, a police service canine;

(c) interferes with or obstructs a police service canine, or attempts to, or interferes with the handler of the police service canine in a manner that inhibits, restricts, or deprives the handler of control of the police service canine;

(d) releases a police service canine from the police service canine's area of control, such as a vehicle, kennel, or pen, or trespasses in that area; or

(e) places any food, object, or substance into a police service canine's area of control without the permission of the handler.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) In addition to any other penalty, an actor convicted of a violation of this section is liable for restitution to the owning or employing law enforcement agency or individual owner of the police service canine for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

Section 395. Section 76-13-211, which is renumbered from Section 76-9-307 is renumbered and amended to read:

[~~76-9-307~~]76-13-211. Injuring, harassing, or endangering a service animal.

(1) (a) As used in this section:

[~~(a)~~](i) "Disability" [~~has the same meaning as~~]means the same as that term is defined in Section 26B-6-801.

[~~(b)~~](ii) "Search and rescue dog" means a dog:

[~~(i)~~](A) with documented training to locate [~~persons~~]individuals who are:

[~~(A)~~](I) lost, missing, or injured; or

[~~(B)~~](II) trapped under debris as the result of a natural or man-made event; and

[~~(ii)~~](B) affiliated with an established search and rescue dog organization.

[~~(c)~~](iii) "Service animal" means:

[~~(i)~~](A) a service animal as that term is defined in Section 26B-6-801; or

[~~(ii)~~](B) a search and rescue dog.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) An actor commits injuring, harassing, or endangering a service animal if the actor:

(a) [~~It is a class A misdemeanor for a person to~~]knowingly, intentionally, or recklessly [~~cause~~]causes substantial bodily injury or death to a service animal [~~.~~];

[~~(3)~~](b) [~~It is a class A misdemeanor for a person who~~]owns, keeps, harbors, or exercises control over an animal [~~to~~]and knowingly, intentionally, or recklessly [~~fail~~]fails to exercise sufficient control over the animal to prevent [~~it~~]the animal from [~~causing~~]:

[~~(a)~~](i) [~~any~~]causing substantial bodily injury to or the death of a service animal; [~~or~~]

[~~(b)~~](ii) [~~the~~]causing a service animal's subsequent inability to function as a service animal as a result of the animal's attacking, chasing, or harassing the service animal [~~.~~]; or

(iii) chasing or harassing a service animal while the service animal is carrying out the service animal's functions as a service animal, to the extent that the animal temporarily interferes with the service animal's ability to carry out the service animal's functions; or

[~~(4)~~](c) [~~It is a class B misdemeanor for a person to chase or harass~~]chases or harasses a service animal.

(3) (a) A violation of Subsection (2)(a), (2)(b)(i), or (2)(b)(ii) is a class A misdemeanor.

(b) A violation of Subsection (2)(b)(iii) or (2)(c) is a class B misdemeanor.

[~~(5) It is a class B misdemeanor for a person who owns, keeps, harbors, or exercises control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient control over the animal to prevent it from chasing or harassing a service animal while it is carrying out its functions as a service animal, to the extent that the animal temporarily interferes with the service animal's ability to carry out its functions.~~]

[~~(6)~~](4) (a) A service animal is exempt from quarantine or other animal control ordinances if [~~it~~]the service animal bites [~~any person~~]an individual while [~~it~~]the service animal is subject to an offense under Subsection (2)[~~, (3), (4), or (5)~~].

(b) The owner of the service animal or the [~~person~~]individual with a disability whom the service animal serves shall make the service animal available for examination at [~~any~~]a reasonable time and shall notify the local health officer if the service animal exhibits any abnormal behavior.

[~~(7)~~](5) In addition to any other penalty, [~~a person~~]an actor convicted of [~~any~~]a violation of this section is liable for restitution to the owner of the service animal or the [~~person~~]individual with a disability whom the service animal serves for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

[~~(8)~~](6) If the act committed under this section amounts to an offense subject to a greater penalty under another provision of Title 76, Utah Criminal Code, than is provided under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Section 396. Section 76-13-212, which is renumbered from Section 76-9-304 is renumbered and amended to read:

[~~76-9-304~~]76-13-212. Allowing a vicious animal to go at large.

(1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) [~~Any~~]An actor commits allowing a vicious animal to go at large if:

(a) the actor is an owner of a vicious animal, knowing [~~its~~]the animal's propensities, and:

(i) [~~who~~]willfully allows [~~it~~]the animal to go at large; or

(ii) [~~who~~]keeps [~~it~~]the animal without ordinary care [~~, and~~]; and

(b) [~~any~~]the animal, while at large, or while not kept with ordinary care, causes injury to or the death of another animal or [~~to any~~]a human being who has taken reasonable [~~precaution which the circumstances permitted~~]precautions under the circumstances.

(3) (a) [~~, is guilty of~~]Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) [~~unless~~]A violation of Subsection (2) is a third degree felony if the animal causes the death of a human being [~~, whereupon the owner is guilty of a felony of the third degree~~].

Section 397. Section 76-13-213, which is renumbered from Section 76-9-301.8 is renumbered and amended to read:

[~~76-9-301.8~~]76-13-213. Bestiality.

[~~(1) A person commits the crime of bestiality if the actor engages in any sexual activity with an animal with the intent of sexual gratification of the actor.~~]

[~~(2)~~](1) (a) For purposes of this section [~~only~~]:

[~~(a)~~](i) "Animal" means any live, nonhuman vertebrate creature, including fowl.

[~~(b)~~](ii) "Sexual activity" means physical sexual contact:

[~~(i)~~](A) between the actor and the animal involving the genitals of the actor and the genitals of the animal;

[~~(ii)~~](B) the genitals of the actor or the animal and the mouth or anus of the actor or the animal; or

[~~(iii)~~](C) through the actor's use of an object in contact with the genitals or anus of the animal.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) An actor commits bestiality if the actor engages in sexual activity with an animal with the intent to sexually gratify the actor.

(3) A [~~crime of bestiality~~]violation of Subsection (2) is a class B misdemeanor.

Section 398. Section 76-13-214, which is renumbered from Section 76-9-308 is renumbered and amended to read:

[~~76-9-308~~]76-13-214. Harassment of livestock.

(1) (a) As used in this section:

[~~(a)~~](i) "Livestock" [~~has the same meaning~~]means the same as that term is defined in [~~Subsection 76-9-301(1)~~]Section 76-13-202.

[~~(b)~~](ii) "Unmanned aircraft system" means the same as that term is defined in Section 72-10-102.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) Except as provided in Subsection [~~(3), a person is guilty of~~](4), an actor commits harassment of livestock if the [~~person~~]actor intentionally, knowingly, or recklessly chases, with the intent of causing distress, or harms livestock through the use of:

(a) a motorized vehicle or all-terrain vehicle;

(b) a dog; or

(c) an unmanned aircraft system.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor if:

(i) no livestock is seriously injured or killed as a result of the actor's actions; or

(ii) the actor's actions cause the livestock to be displaced onto property where the livestock is not legally entitled to be.

(b) A violation of Subsection (2) is a class A misdemeanor if:

(i) the offense is the actor's second or subsequent offense;

(ii) livestock is seriously injured or killed as a result of the actor's actions; or

(iii) livestock or property suffered damage in excess of $1,000, including money spent in recovering the livestock, as a result of the actor's actions.

[~~(3)~~](4) [~~A person is not guilty of harassment of livestock~~]An actor does not commit a violation of Subsection (2) if:

(a) the [~~person~~]actor is:

(i) the owner of the livestock;

(ii) an employee or agent of the owner, or otherwise acting under the owner's general direction or with the owner's permission;

(iii) acting in an emergency situation to prevent damage to the livestock or property; or

(iv) an employee or agent of the state or a political subdivision and acting in the employee or agent's official capacity; or

(b) the action is in line with generally accepted animal husbandry practices.

[~~(4) A person who violates this section is guilty of:~~]

[~~(a) a class B misdemeanor if the violation is a first offense and:~~]

[~~(i) no livestock is seriously injured or killed as a result of the person's actions; or~~]

[~~(ii) the person's actions cause the livestock to be displaced onto property where the livestock is not legally entitled to be; and~~]

[~~(b) a class A misdemeanor if:~~]

[~~(i) the person has previously been convicted of harassment of livestock under this section;~~]

[~~(ii) livestock is seriously injured or killed as a result of the person's actions; or~~]

[~~(iii) livestock or property suffered damage in excess of $1,000, including money spent in recovering the livestock, as a result of the person's actions.~~]

Section 399. Section 76-13-215, which is renumbered from Section 76-9-301.9 is renumbered and amended to read:

[~~76-9-301.9~~]76-13-215. Failure of an animal care facility to maintain required standards.

(1) (a) As used in this section:

[~~(a)~~](i) "Animal care facility" means an animal rescue, animal sanctuary, or animal shelter.

[~~(b)~~](ii) "Animal rescue" means a person that:

[~~(i)~~](A) accepts companion animals for the purpose of finding a permanent home for each companion animal;

[~~(ii)~~](B) does not maintain a central facility for keeping companion animals; and

[~~(iii)~~](C) uses a system of temporarily fostering the companion animals in a private residence or boarding facility.

[~~(c)~~](iii) "Animal sanctuary" means a nonprofit entity, other than a government entity, that:

[~~(i)~~](A) harbors companion animals; and

[~~(ii)~~](B) is used exclusively for the purpose of indefinitely caring for, rehabilitating, or housing companion animals.

[~~(d)~~](iv) [~~(i)~~](A) "Animal shelter" means the same as that term is defined in Section 11-46-102.

[~~(ii)~~](B) "Animal shelter" does not include an animal rescue.

[~~(e)~~](v) "Boarding facility" means a facility where a companion animal is kept for the purpose of caring for the companion animal.

[~~(f)~~](vi) "Companion animal" means an animal that is a domestic dog or a domestic cat.

[~~(g)~~](vii) "Facility" means a location other than a private residence.

(2) An actor commits failure of an animal care facility to maintain required standards if the actor:

(a) is an animal care facility; and

(b) [~~For a dog in an animal care facility's possession, the animal care facility shall~~]fails to:

(i) ensure that:

[~~(a)~~](A) a female dog does not produce more than one litter in any twelve-month period, unless a licensed veterinarian has examined the female dog and has determined that it is safe for the dog to produce more than one litter in a twelve-month period; [~~and~~]or

[~~(b)~~](B) a dog under eight weeks [~~of age~~]old or a dog not properly weaned is not sold [~~.~~]; or

[~~(3)~~](ii) [~~An animal care facility shall~~]keep records:

[~~(a)~~](A) identifying, to the best of the animal care facility's knowledge, an animal's owner at the time the animal care facility acquires the animal; [~~and~~]or

[~~(b)~~](B) documenting dangerous behaviors, if any, heath conditions, and medical care for an animal in the animal care facility's possession.

[~~(4)~~](3) [~~(a) An animal care facility's violation of a requirement described in this section~~]A violation of Subsection (2) is an infraction subject to a fine of $750.

[~~(b)~~](4) A prosecution under this section does not preclude a prosecution for any other criminal offense.

(5) It is a defense to [~~the penalty imposed~~]a prosecution under this section that the conduct of the actor toward the animal was:

(a) performed by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) performed by a person who humanely destroys [~~any~~]an animal found suffering past recovery for any useful purpose; or

(e) performed by a person who humanely destroys [~~any~~]an apparently abandoned animal found on the person's property.

(6) This section does not prohibit the use of animals in lawful training.

(7) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement or the Department of Agriculture and Food in accordance with Section 4-2-903 may not be held civilly liable for making the report.

Section 400. Section 76-14-101 is enacted to read:

CHAPTER 14. OFFENSES RELATED TO IMMIGRATION STATUS

PART 1. General Provisions

76-14-101. Definitions.

Reserved.

Section 401. Section 76-14-201, which is renumbered from Section 76-9-1002 is renumbered and amended to read:

PART 2. Offenses Related to Immigration Status

[~~76-9-1002~~]76-14-201. Definitions.

As used in this part:

(1) "Alien" means [~~a person~~]an individual who is not a citizen or national of the United States.

(2) "ICE" means the federal Immigration and Customs Enforcement agency of the United States Department of Homeland Security.

(3) "Law enforcement officer" has the same meaning as in Section 53-13-103.

(4) "SAVE program" means the federal Systematic Alien Verification for Entitlements program operated by the federal Department of Homeland Security.

(5) "State or local governmental agency" includes [~~any~~]a private contractor or vendor that contracts with the agency to provide the agency's functions or services.

(6) "Verify immigration status" or "verification of immigration status" means the determination of [~~a person's~~]an individual's immigration status by:

(a) a law enforcement officer who is authorized by a federal agency to determine an alien's immigration status; or

(b) the United States Department of Homeland Security, ICE, or other federal agency authorized to provide immigration status as provided by 8 U.S.C. Sec. 1373(c).

Section 402. Section 76-14-202, which is renumbered from Section 76-9-1003 is renumbered and amended to read:

[~~76-9-1003~~]76-14-202. Detention or arrest -- Determination of immigration status.

(1) (a) Except as provided in Subsection (1)(b), (c), or (d), [~~any~~]a law enforcement officer who, acting in the enforcement of [~~any~~]a state law or local ordinance, conducts [~~any~~]a lawful stop, detention, or arrest of [~~a person~~]an individual as specified in Subsection (1)(a)(i) or (ii), and the [~~person~~]individual is unable to provide to the law enforcement officer a document listed in Subsection [~~76-9-1004(1)~~]76-14-203(1) and the law enforcement officer is otherwise unable to verify the identity of the [~~person~~]individual, the law enforcement officer:

(i) shall request verification of the citizenship or the immigration status of the [~~person~~]individual under 8 U.S.C. Sec. 1373(c), except as allowed under Subsection (1)(b), (c), or (d), if the [~~person~~]individual is arrested for an alleged offense that is a class A misdemeanor or a felony; and

(ii) may attempt to verify the immigration status of the [~~person~~]individual, except as exempted under Subsection (1)(b), (c), or (d), if the alleged offense is a class B or C misdemeanor, except that if the [~~person~~]individual is arrested and booked for a class B or C misdemeanor, the arresting law enforcement officer or the law enforcement agency booking the [~~person~~]individual shall attempt to verify the immigration status of the [~~person~~]individual.

(b) In individual cases, the law enforcement officer may forego the verification of immigration status under Subsection (1)(a) if the determination could hinder or obstruct a criminal investigation.

(c) Subsection (1)(a) does not apply to a law enforcement officer who is acting as a school resource officer for [~~any~~]an elementary or secondary school.

(d) Subsection (1)(a) does not apply to a county or municipality when it has only one law enforcement officer on duty and response support from another law enforcement agency is not available.

(2) When a law enforcement officer makes a lawful stop, detention, or arrest under Subsection (1) of the operator of a vehicle, and while investigating or processing the primary offense, the law enforcement officer makes observations that give the law enforcement officer reasonable suspicion that the operator or any of the passengers in the vehicle are violating Section 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-310, 76-5-310.1, or [~~76-10-2901~~]76-14-209, which concern smuggling, human trafficking, [~~and~~]or transporting illegal aliens, the law enforcement officer shall, to the extent possible within a reasonable period of time:

(a) detain the occupants of the vehicle to investigate the suspected violations; and

(b) inquire regarding the immigration status of the occupants of the vehicle.

(3) When [~~a person~~]an individual under Subsection (1) is arrested or booked into a jail, juvenile detention facility, or correctional facility, the arresting officer or the booking officer shall ensure that a request for verification of immigration status of the arrested or booked [~~person~~]individual is submitted as promptly as is reasonably possible.

(4) The law enforcement agency that has custody of [~~a person~~]an individual verified to be an illegal alien shall request that the United States Department of Homeland Security issue a detainer requesting transfer of the illegal alien into federal custody.

(5) A law enforcement officer may not consider race, color, or national origin in implementing this section, except to the extent permitted by the constitutions of the United States and this state.

Section 403. Section 76-14-203, which is renumbered from Section 76-9-1004 is renumbered and amended to read:

[~~76-9-1004~~]76-14-203. Grounds for presumption of lawful presence in United States -- Statement to officer.

(1) [~~A person~~]An individual is presumed to be lawfully present in the United States for the purposes of this [~~part~~]chapter if the [~~person~~]individual provides one of the following documents to the law enforcement officer, unless the law enforcement officer has a reasonable suspicion that the document is false or identifies [~~a person~~]an individual other than the [~~person~~]individual providing the document:

(a) a valid Utah driver license issued on or after January 1, 2010;

(b) a valid Utah identification card issued under Section 53-3-804 and issued on or after January 1, 2010;

(c) a valid tribal enrollment card or other valid form of tribal membership identification that includes photo identification;

(d) a valid identification document that:

(i) includes a photo or biometric identifier of the holder of the document; and

(ii) is issued by a federal, state, or local governmental agency that requires proof or verification of legal presence in the United States as a condition of issuance of the document; or

(e) a valid resident immigrant permit issued under Section 63G-14-204.

(2) [~~A person~~]An individual is presumed to be a citizen or national of the United States for purposes of this part if the [~~person~~]individual makes a statement or affirmation to the law enforcement officer that the [~~person~~]individual is a United States citizen or national, unless the officer has a reasonable suspicion that the statement or affirmation is false.

Section 404. Section 76-14-204, which is renumbered from Section 76-9-1005 is renumbered and amended to read:

[~~76-9-1005~~]76-14-204. Illegal alien -- Notification of federal government -- Transportation to federal facility.

A state or local law enforcement agency may securely transport an alien who is in the agency's custody and whom the agency has verified is unlawfully present in the United States to:

(1) a federal detention facility in this state [~~or,~~];or

(2) with the concurrence of the receiving federal agency, to a federal facility or other point of transfer to federal custody that is outside this state.

Section 405. Section 76-14-205, which is renumbered from Section 76-9-1006 is renumbered and amended to read:

[~~76-9-1006~~]76-14-205. Enforcement of federal immigration laws.

A state or local governmental agency of this state, or [~~any~~]a representative of the agency, may not:

(1) limit or restrict by ordinance, regulation, or policy the authority of [~~any~~]a law enforcement agency or other governmental agency to assist the federal government in the enforcement of any federal law or regulation governing immigration; or

(2) limit or restrict by ordinance, regulation, or policy the authority of [~~any~~]a law enforcement agency to investigate or enforce [~~any~~]a

violation of the federal misdemeanor offenses of willful failure to register as an alien or willful failure to personally possess an alien registration document as required by 8 U.S.C. Sec. 1304(e) or 1306(a).

Section 406. Section 76-14-206, which is renumbered from Section 76-9-1007 is renumbered and amended to read:

[~~76-9-1007~~]76-14-206. Determining an alien's immigration status -- Transfer or maintenance of information.

Except as limited by federal law, [~~any~~]a state or local governmental agency is not restricted or prohibited in any way from sending, receiving, or maintaining information related to the lawful or unlawful immigration status of [~~any person~~]an individual by communicating with [~~any~~]a federal, state, or local governmental entity for [~~any~~]a lawful purpose, including:

(1) determining [~~a person's~~]an individual's eligibility for [~~any~~]a public benefit, service, or license provided by [~~any~~]a federal agency, by this state, or by [~~any~~]a political subdivision of this state;

(2) confirming [~~a person's~~]an individual's claim of residence or domicile if determination is required by state law or a judicial order issued pursuant to a civil or criminal proceeding in this state;

(3) if the [~~person~~]individual is an alien, determining if the [~~person~~]individual is in compliance with the federal registration laws of Title II, Part 7, Immigration and Nationality Act; or

(4) a valid request for verification of the citizenship or immigration status of [~~any person~~]an individual pursuant to 8 U.S.C. Sec. 1373.

Section 407. Section 76-14-207, which is renumbered from Section 76-9-1008 is renumbered and amended to read:

[~~76-9-1008~~]76-14-207. Proof of immigration status required to receive public benefits.

(1) (a) An agency that provides state or local public benefits as defined in 8 U.S.C. Sec. 1621 shall comply with Section 63G-12-402 and shall also comply with this section, except:

(i) as provided in Subsection 63G-12-402(3)(g) or (k); or

(ii) when compliance is exempted by federal law or when compliance could reasonably be expected to be grounds for the federal government to withhold federal Medicaid funding.

(b) The agency shall verify [~~a person's~~]an individual's lawful presence in the United States by requiring that the applicant under this section sign a certificate under penalty of perjury, stating that the applicant:

(i) is a United States citizen; or

(ii) is a qualified alien as defined by 8 U.S.C. Sec. 1641.

(c) The certificate under Subsection (1)(b) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(d) The signature under this Subsection (1) may be executed in person or electronically.

(e) When an applicant who is a qualified alien has executed the certificate under this section, the applicant's eligibility for benefits shall be verified by the agency through the federal SAVE program or an equivalent program designated by the United States Department of Homeland Security.

(2) [~~Any person~~]An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement of representation in a certificate executed under this section is guilty of public assistance fraud by an applicant for public assistance under Section 76-8-1203.1.

(3) If the certificate constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency requiring the certificate shall file a complaint with the United States Attorney for the applicable federal judicial district based upon the venue in which the certificate was executed.

(4) Agencies may, with the concurrence of the Utah Attorney General, adopt variations to the requirements of the provisions of this section that provide for adjudication of unique individual circumstances [~~where~~]in which the verification procedures in this section would impose unusual hardship on a legal resident of this state.

(5) If an agency under Subsection (1) receives verification that [~~a person~~]an individual making an application for [~~any~~]a benefit, service, or license is not a qualified alien, the agency shall provide the information to the local law enforcement agency for enforcement of public assistance fraud by an applicant for public assistance under Section 76-8-1203.1 unless prohibited by federal mandate.

Section 408. Section 76-14-208, which is renumbered from Section 76-9-1009 is renumbered and amended to read:

[~~76-9-1009~~]76-14-208. Implementation to be consistent with federal law and civil rights.

All state and local agencies shall implement this part in a manner that is consistent with federal laws that regulate immigration, protect the civil rights of all [~~persons~~]individuals, and establish the privileges and immunities of United States citizens.

Section 409. Section 76-14-209, which is renumbered from Section 76-10-2901 is renumbered and amended to read:

[~~76-10-2901~~]76-14-209. Transporting or harboring an alien.

(1) (a) As used in this [~~part~~]section:

[~~(a)~~](i) Except as provided in Subsection [~~(1)(b)~~](1)(a)(ii), "alien" means an individual who is illegally present in the United States.

[~~(b)~~](ii) On or after the program start date, as defined in Section 63G-12-102, "alien" does not include an individual who holds a valid permit, as defined in Section 63G-12-102.

(b) Terms defined in Sections 76-1-101.5, 76-14-101, and 76-14-201 apply to this section.

(2) [~~It is unlawful for a person to~~]An actor commits transporting or harboring an alien if the actor:

(a) [~~transport, move, or attempt~~]transports, moves, or attempts to transport into this state or within the state an alien for commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien is in the United States in violation of federal law, in furtherance of the illegal presence of the alien in the United States;

(b) knowingly, with the intent to violate federal immigration law, [~~conceal, harbor, or shelter~~]conceals, harbors, or shelters from detection an alien in a place within this state, including a building or means of transportation for commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien is in the United States in violation of federal law;

(c) [~~encourage or induce~~]encourages or induces an alien to come to, enter, or reside in this state, knowing or in reckless disregard of the fact that the alien's coming to, entry, or residence is or will be in violation of law; or

(d) [~~engage~~]engages in a conspiracy, for commercial advantage or private financial gain, to commit any of the offenses listed in [~~this~~]Subsection (2)(a), (b), or (c).

(3) (a) [~~A person who violates~~]A violation of Subsection (2)(a), (c), or (d) is [~~guilty of~~]a third degree felony.

(b) [~~A person who violates~~]A violation of Subsection (2)(b) is [~~guilty of~~]a class A misdemeanor.

(4) Nothing in this [~~part~~]section prohibits or restricts the provision of:

(a) a state or local public benefit described in 8 U.S.C. Sec. 1621(b); or

(b) charitable or humanitarian assistance, including medical care, housing, counseling, food, victim assistance, religious services and sacraments, [~~and~~]or transportation to and from a location where the assistance is provided, by a charitable, educational, or religious organization or [~~its~~]the employees, agents, or volunteers of a charitable, educational, or religious organization, using private funds.

(5) (a) It is not a violation of this [~~part~~]section for a religious denomination or organization or an agent, officer, or member of a religious denomination or organization to encourage, invite, call, allow, or enable an alien to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses.

(b) Subsection (5)(a) applies only to an alien who has been a member of the religious denomination or organization for at least one year.

(6) An individual's participation in Title 63G, Chapter 14, Utah Pilot Sponsored Resident Immigrant Program Act, either as a sponsor or resident alien, does not constitute encouraging or inducing an alien to come to, enter, or reside in this state in violation of Subsection (2)(c).

Section 410. Section 76-15-101 is enacted to read:

CHAPTER 15. EXPLOSIVES AND WEAPONS OF MASS DESTRUCTION

PART 1. General Provisions

76-15-101. Definitions.

Reserved.

Section 411. Section 76-15-201 is enacted to read:

PART 2. Explosives

76-15-201. Definitions.

Reserved.

Section 412. Section 76-15-202, which is renumbered from Section 76-10-308 is renumbered and amended to read:

[~~76-10-308~~]76-15-202. Venue of prosecution for delivering for transmission an explosive, chemical, or incendiary device.

[~~Any person~~]An actor who knowingly, intentionally, or recklessly delivers [~~any~~]an explosive, chemical, or incendiary device to any person for transmission without the consent or direction of the lawful possessor may be prosecuted:

(1) in the county in which [~~he~~]the actor delivers [~~it~~]the explosive, chemical, or incendiary device; or

(2) in the county to which [~~it~~]the explosive, chemical, or incendiary device is transmitted.

Section 413. Section 76-15-203, which is renumbered from Section 76-10-302 is renumbered and amended to read:

[~~76-10-302~~]76-15-203. Unlawful failure to mark a container of explosives before transportation or storage.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) [~~Every person who~~]An actor commits unlawful failure to mark a container of explosives before transportation or storage if the actor knowingly leaves with or delivers to another, or to [~~any~~]an express or railway company or other common carrier, or to [~~any~~]a warehouse or storehouse, [~~any~~]a package containing nitroglycerin, dynamite, guncotton, gunpowder, or other highly explosive compound, or any benzine, gasoline, phosphorus, or other highly inflammable substance, or any vitriol, sulphuric, nitric, carbolic, muriatic, or other dangerous acid, chemical or compound, to be handled, stored, shipped, or transported, without plainly marking and indicating on [~~such~~]the package the name and nature of the contents [~~thereof, is guilty of~~]inside the package.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 414. Section 76-15-204, which is renumbered from Section 76-10-303 is renumbered and amended to read:

[~~76-10-303~~]76-15-204. Unlawful construction or use of a powder house.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) [~~Every person who~~]An actor commits unlawful construction or use of a powder house if the actor builds, constructs, or uses within 300 feet of [~~any~~]a residence or traveled county road [~~any~~]a powder house, magazine, or building in which powder, dynamite, or other explosive is kept in quantities exceeding 500 pounds [~~is guilty of a class B misdemeanor; provided that this section shall not apply to any magazine maintained at any mine or stone quarry~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) This section does not apply to a magazine maintained at a mine or stone quarry.

Section 415. Section 76-15-205, which is renumbered from Section 76-10-304 is renumbered and amended to read:

[~~76-10-304~~]76-15-205. Unlawful failure to mark a container of a high explosive held for sale or use.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) [~~It shall be a class A misdemeanor to sell or offer~~]An actor commits unlawful failure to mark a container of a high explosive for sale or use if the actor:

(a) sells or offers for sale, or [~~take or solicit~~]takes or solicits orders of sale, or [~~purchase or use, or have~~]purchases or uses, or has on hand or in store for the purpose of sale or use, [~~any~~]a giant, hercules, atlas, venture or any other high explosive containing nitroglycerin; and

(b) [~~, unless~~]fails to plainly stamp or print on each box or package and wrapper containing [~~any such~~]the high explosive:

(i) [~~there shall be plainly stamped or printed~~]the name and place of business of the person, partnership, or corporation by whom or by which [~~it~~]the high explosive was manufactured [~~, and~~];

(ii) the exact and true date of [~~its~~]the high explosive's manufacture [~~,~~]; and

(iii) the percentage of nitroglycerin or other high explosive contained [~~therein~~]within the box or package.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 416. Section 76-15-206, which is renumbered from Section 76-10-305 is renumbered and amended to read:

[~~76-10-305~~]76-15-206. Unlawful combination of dates in a box or package of high explosives.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) [~~It shall be unlawful for any person or persons, partnership, or corporation to have~~]An actor commits unlawful combination of dates in a box or package of high explosives if the actor puts two or more different dates on [~~any~~]a box or package containing a giant, hercules, atlas, or venture, or any other high explosive containing nitroglycerin. [~~It shall further be unlawful to use any box, package, or wrapper formerly used by any other person or persons, partnership, or corporation in the packing of such giant, hercules, atlas, venture, or other high explosive containing nitroglycerin, and the name and date on the box or package shall be the same as on the wrapper containing the giant, hercules, atlas, venture, or other explosive containing nitroglycerin.~~]

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 417. Section 76-15-207 is enacted to read:

76-15-207. Unlawful reuse of a high explosive box, package, or wrapper.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) An actor commits unlawful reuse of a high explosive box, package, or wrapper if the actor uses a box, package, or wrapper that was formerly used by another person in the packing of a giant, hercules, atlas, venture, or other high explosive containing nitroglycerin.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 418. Section 76-15-208 is enacted to read:

76-15-208. Unlawful failure to have a high explosive box or package match an enclosed high explosive wrapper.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) An actor commits unlawful failure to have a high explosive box or package match an enclosed high explosive wrapper if:

(a) the actor puts a giant, hercules, atlas, venture, or other explosive containing nitroglycerin inside a box or package; and

(b) the name and date on the box or package do not match the name and date on the wrapper containing the high explosive.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 419. Section 76-15-209, which is renumbered from Section 76-10-307 is renumbered and amended to read:

[~~76-10-307~~]76-15-209. Unlawful delivery or mailing of an explosive, chemical, or incendiary device.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) An actor commits unlawful delivery or mailing of an explosive, chemical, or incendiary device if the actor:

(a) [~~Any person is guilty of a felony of the second degree who~~]delivers or causes to be delivered to [~~any~~]an express or railway company or other common carrier, or to any person, [~~any~~]an explosive, chemical, or incendiary device [~~, knowing it~~];

(b) knows the explosive, chemical, or incendiary device to be [~~the~~]an explosive, chemical, or incendiary device [~~, without informing~~]; and

(c) (i) fails to inform the common carrier or person [~~of its nature~~]that the item is an explosive, chemical, or incendiary device; or

(ii) sends [~~it~~]the explosive, chemical, or incendiary device through the mail.

(3) A violation of Subsection (2) is a second degree felony.

Section 420. Section 76-15-210, which is renumbered from Section 76-10-306 is renumbered and amended to read:

[~~76-10-306~~]76-15-210. Unlawful conduct involving an explosive, chemical, or incendiary device.

(1) (a) As used in this section:

[~~(a)~~](i) (A) "Explosive, chemical, or incendiary device" means:

[~~(i)~~](I) dynamite and all other forms of high explosives, including water gel, slurry, military C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate, ammonium nitrate, fuel oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting caps, exploding cords commonly called detonating cord, detcord, or primacord, picric acid explosives, T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin mixtures, or any other chemical mixture intended to explode with fire or force;

[~~(ii)~~](II) any explosive bomb, grenade, missile, or similar device; [~~and~~]or

[~~(iii)~~](III) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device, including any device, except kerosene lamps, if criminal intent has not been established, which consists of or includes a breakable container including a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting the flammable liquid or compound or any breakable container which consists of, or includes a chemical mixture that explodes with fire or force and can be carried, thrown, or placed.

[~~(b)~~](ii) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or shotgun ammunition, reloading components, or muzzleloading equipment.

[~~(c) "Explosive, chemical, or incendiary parts" means any substances or materials or combinations which have been prepared or altered for use in the creation of an explosive, chemical, or incendiary device. These substances or materials include:~~]

[~~(i) timing device, clock, or watch which has been altered in such a manner as to be used as the arming device in an explosive;~~]

[~~(ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and~~]

[~~(iii) mechanical timers, mechanical triggers, chemical time delays, electronic time delays, or commercially made or improvised items which, when used singly or in combination, may be used in the construction of a timing delay mechanism, booby trap, or activating mechanism for any explosive, chemical, or incendiary device.~~]

[~~(d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or shotgun ammunition, or any signaling device customarily used in operation of railroad equipment.~~]

(b) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) An actor commits unlawful conduct involving an explosive, chemical, or incendiary device if, under circumstances not amounting to a violation of Part 2, Weapons of Mass Destruction, the actor:

(a) intentionally, knowingly, or recklessly:

(i) possesses or controls an explosive, chemical, or incendiary device; or

(ii) removes or causes to be removed or carries away an explosive, chemical, or incendiary device from the premises where the explosive, chemical, or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer, without the consent or direction of the lawful possessor; or

(b) intentionally or knowingly:

(i) uses or causes to be used an explosive, chemical, or incendiary device in the commission of or an attempt to commit a felony;

(ii) injures another or attempts to injure another person or another person's property through the use of an explosive, chemical, or incendiary device; or

(iii) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-11-215, or 78A-2-203.

(3) (a) A violation of Subsection (2)(a) is a second degree felony.

(b) A violation of Subsection (2)(b) is a first degree felony.

[~~(2)~~](4) The provisions in [~~Subsections (3) and (6)~~]Subsection (2)(a)(i) do not apply to:

(a) [~~any~~]a public safety officer while acting in an official capacity transporting or otherwise handling [~~explosives, chemical, or incendiary devices~~]an explosive, chemical, or incendiary device;

(b) [~~any~~]a member of the armed forces of the United States or Utah National Guard while acting in an official capacity;

(c) [~~any~~]a person possessing a valid permit issued under the provisions of the International Fire Code, Section 105 and Chapter 56, or [~~any~~]an employee of the permittee acting within the scope of employment;

(d) [~~any~~]a person possessing a valid license as an importer, wholesaler, display operator, special effects operator, or flame effects operator under the provisions of Sections 11-3-3.5 and 53-7-223; [~~and~~]or

(e) [~~any~~]a person or entity possessing or controlling an explosive, chemical, or incendiary device as part of [~~its~~]the person's or entity's lawful business operations.

[~~(3) Any person is guilty of a second degree felony who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses or controls an explosive, chemical, or incendiary device.~~]

[~~(4) Any person is guilty of a first degree felony who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly or intentionally:~~]

[~~(a) uses or causes to be used an explosive, chemical, or incendiary device in the commission of or an attempt to commit a felony;~~]

[~~(b) injures another or attempts to injure another person or another person's property through the use of an explosive, chemical, or incendiary device; or~~]

[~~(c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-10-529, or 78A-2-203.~~]

[~~(5) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly removes or causes to be removed or carries away any explosive, chemical, or incendiary device from the premises where the explosive, chemical, or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer without the consent or direction of the lawful possessor is guilty of a second degree felony.~~]

[~~(6) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses any explosive, chemical, or incendiary parts is guilty of a third degree felony.~~]

Section 421. Section 76-15-211 is enacted to read:

76-15-211. Unlawful conduct involving an explosive, chemical, or incendiary part.

(1) (a) As used in this section:

(i) "Explosive, chemical, or incendiary device" means the same as that term is defined in Section 76-15-210.

(ii) (A) "Explosive, chemical, or incendiary part" means an explosive, chemical, or incendiary part substance or material, or combination of explosive, chemical, or incendiary part substances or materials, that has been prepared or altered for use in the creation of an explosive, chemical, or incendiary device.

(B) "Explosive, chemical, or incendiary part" does not include rifle, pistol, or shotgun ammunition, or any signaling device customarily used in operation of railroad equipment.

(iii) "Explosive, chemical, or incendiary part substance or material" includes:

(A) a timing device, clock, or watch that has been altered in such a manner as to be used as the arming device in an explosive;

(B) a pipe, end cap, or metal tubing that has been prepared for a pipe bomb; and

(C) a mechanical timer, mechanical trigger, chemical time delay, electronic time delay, or commercially made or improvised items that, when used singly or in combination, may be used in the construction of a timing delay mechanism, booby trap, or activating mechanism for an explosive, chemical, or incendiary device.

(b) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) An actor commits unlawful conduct involving an explosive, chemical, or incendiary part if, under circumstances not amounting to a violation of Part 3, Weapons of Mass Destruction, the actor intentionally, knowingly, or recklessly possesses an explosive, chemical, or incendiary part.

(3) A violation of Subsection (2) is a third degree felony.

(4) The provisions in Subsection (2) do not apply to:

(a) a public safety officer while acting in an official capacity transporting or otherwise handling an explosive, chemical, or incendiary device;

(b) a member of the armed forces of the United States or Utah National Guard while acting in an official capacity;

(c) a person possessing a valid permit issued under the provisions of the International Fire Code, Section 105 and Chapter 56, or an employee of the permittee acting within the scope of employment;

(d) a person possessing a valid license as an importer, wholesaler, display operator, special effects operator, or flame effects operator under the provisions of Sections 11-3-3.5 and 53-7-223; or

(e) a person or entity possessing or controlling an explosive, chemical, or incendiary device as part of the person's or entity's lawful business operations.

Section 422. Section 76-15-301, which is renumbered from Section 76-10-401 is renumbered and amended to read:

PART 3. Weapons of Mass Destruction

[~~76-10-401~~]76-15-301. Definitions.

As used in this part:

(1) "Biological agent" means [~~any~~]a microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or [~~any~~]a naturally occurring or bioengineered component of [~~any~~]a microorganism, virus, infectious substance, or biological product, that is capable of causing:

(a) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(b) deterioration of food, water, equipment, supplies, or material of any kind; or

(c) deleterious alteration of the environment.

(2) "Delivery system" means:

(a) [~~any~~]an apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

(b) [~~any~~]a vector.

(3) "Hoax weapon of mass destruction" means [~~any~~]a device or object that by [~~its~~]the device's or object's design, construction, content, or characteristics appears to be or to contain, or is represented to be, constitute, or contain, a weapon of mass destruction as defined in this section, but which is, in fact, an inoperative facsimile, imitation, counterfeit, or representation of a weapon of mass destruction [~~which~~]that does not:

(a) meet the definition of a weapon of mass destruction; or

(b) actually contain or constitute a weapon, biological agent, toxin, vector, or delivery system prohibited by this section.

(4) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:

(a) [~~any~~]a poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or

(b) [~~any~~]a poisonous isomer or biological product, homolog, or derivative of the substance under Subsection (4)(a).

(5) "Vector" means a living organism, or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host.

(6) (a) "Weapon of mass destruction" means:

(i) [~~any~~]an item or instrumentality that is designed or intended to cause widespread death or serious bodily injury to multiple victims;

(ii) [~~any~~]an item or instrumentality that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or [~~their~~]the precursors of toxic or poisonous chemicals;

(iii) [~~any~~]a disease organism, including [~~any~~]a biological agent, toxin, or vector [~~which~~]that is used or intended to be used as a weapon;

(iv) [~~any~~]an item or instrumentality that is designed to release radiation or radioactivity at a level dangerous to human life and that is used or intended to be used as a weapon; or

(v) [~~any~~]a substance or material or combination [~~which~~]that has been prepared or altered for use in the creation of a weapon described in Subsections (6)(a)(i) through (iv).

(b) "Weapon of mass destruction" does not include [~~firearms~~]a firearm or rifle, pistol, or shotgun ammunition, reloading components, or muzzleloading equipment.

Section 423. Section 76-15-302, which is renumbered from Section 76-10-402 is renumbered and amended to read:

[~~76-10-402~~]76-15-302. Unlawful manufacture, possession, sale, use, or attempted use of a weapon of mass destruction.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-301 apply to this section.

(2) [~~A person who~~]An actor commits unlawful manufacture, possession, sale, use, or attempted use of a weapon of mass destruction if the actor, without lawful authority, intentionally or knowingly manufactures, possesses, sells, delivers, displays, uses, attempts to use, solicits the use of, or conspires to use a weapon of mass destruction or a delivery system for a weapon of mass destruction, including any biological agent, toxin, vector, or delivery system [~~as those terms are defined in this section, is guilty of a first degree felony~~].

(3) A violation of Subsection (2) is a first degree felony.

(4) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity, for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

(5) This section does not apply to a member or employee of the armed forces of the United States, allied armed forces personnel, a federal or state governmental agency, or a private entity, who is engaged in lawful activity within the scope of the actor's employment, if the actor is authorized or licensed to manufacture, possess, sell, deliver, display, or otherwise engage in activity relative to this section, and if the actor is in compliance with applicable federal and state law.

Section 424. Section 76-15-303, which is renumbered from Section 76-10-403 is renumbered and amended to read:

[~~76-10-403~~]76-15-303. Unlawful manufacture, possession, sale, use, or attempted use of a hoax weapon of mass destruction.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-301 apply to this section.

(2) [~~Any person who~~]An actor commits unlawful manufacture, possession, sale, use, or attempted use of a hoax weapon of mass destruction if the actor, without lawful authority, intentionally or knowingly manufactures, possesses, sells, delivers, displays, uses, attempts to use, solicits the use of, or conspires to use a hoax weapon of mass destruction with the intent to deceive or otherwise mislead another person into believing that the hoax weapon of mass destruction is a weapon of mass destruction [~~is guilty of a second degree felony~~].

(3) A violation of Subsection (2) is a second degree felony.

(4) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity, for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

(5) This section does not apply to a member or employee of the armed forces of the United States, allied armed forces personnel, a

federal or state governmental agency, or a private entity, who is engaged in lawful activity within the scope of the actor's employment, if the actor is authorized or licensed to manufacture, possess, sell, deliver, display, or otherwise engage in activity relative to this section, and if the actor is in compliance with applicable federal and state law.

Section 425. Section 76-16-101 is enacted to read:

CHAPTER 16. OFFENSES CONCERNING BUSINESS PRACTICES

PART 1. General Provisions

76-16-101. Definitions.

Reserved.

Section 426. Section 76-16-201, which is renumbered from Section 76-10-701 is renumbered and amended to read:

PART 2. Corporation and Association Offenses

[~~76-10-701~~]76-16-201. Definitions.

As used in this part:

(1) "Bona fide stockholder of record" means a stockholder of record who has acquired stock in good faith and is acting for a proper purpose reasonably related to [~~his~~]the stockholder's interests as a stockholder.

(2) "Director" means [~~any of the persons~~]a person having by law the direction or management of the affairs of a corporation, by whatever name the [~~persons are~~]person is described in [~~its~~]the corporation's charter or is known by law.

Section 427. Section 76-16-202, which is renumbered from Section 76-10-709 is renumbered and amended to read:

[~~76-10-709~~]76-16-202. Presumption of director's knowledge of affairs.

[~~Every~~]A director of a corporation or joint stock association is deemed to possess a knowledge of the affairs of [~~his~~]the corporation or association so as to enable [~~him~~]the director to determine whether [~~any~~]an act, proceeding, or omission of [~~its~~]the corporation's or association's directors is a violation of this part.

Section 428. Section 76-16-203, which is renumbered from Section 76-10-710 is renumbered and amended to read:

[~~76-10-710~~]76-16-203. Presumption of director's concurrence in action if present at meeting -- Exception.

[~~Every~~]

(1) Except as provided in Subsection (2), a director of a corporation or joint stock association who is present at a meeting of the directors at which [~~any~~]an act, proceeding, or omission of the directors in violation of this part occurs is deemed to have concurred [~~therein, unless he~~]in the act, proceeding, or omission.

(2) A director is not deemed to have concurred in an act, proceeding, or omission of the directors if, at the time of the act, proceeding, or omission, the director:

(a) causes, or in writing requires, [~~his~~]the director's dissent [~~therefrom~~]from the act, proceeding, or omission to be entered in the minutes of the directors; or

(b) forwards [~~his~~]the director's dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting.

Section 429. Section 76-16-204, which is renumbered from Section 76-10-711 is renumbered and amended to read:

[~~76-10-711~~]76-16-204. Foreign corporations subject to Utah laws.

It is no defense to a prosecution for a violation of [~~any of the provisions of~~]this part that the corporation was [~~one~~]created by the laws of another state, government, or country if [~~it was one~~]the corporation is carrying on business or keeping an office [~~therefor~~]within this state.

Section 430. Section 76-16-205, which is renumbered from Section 76-10-702 is renumbered and amended to read:

[~~76-10-702~~]76-16-205. Fraudulent signing of a stock subscription or agreement.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) [~~Every person who~~]An actor commits fraudulent signing of a stock subscription or agreement if the actor:

(a) signs the name of a fictitious person to [~~any~~]a subscription for, or agreement to take, stock in [~~any~~]a proposed or existing corporation [~~existing or proposed, and every person who~~]; or

(b) signs [~~to any subscription or agreement~~]the name of any person to a subscription for, or agreement to take, stock in a proposed or existing corporation, knowing that the person has no means or does not intend in good faith to comply with all the terms [~~thereof~~]of the subscription or agreement, or under any understanding or agreement that the terms of the subscription or agreement are not to be complied with or enforced [~~, is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 431. Section 76-16-206, which is renumbered from Section 76-10-703 is renumbered and amended to read:

[~~76-10-703~~]76-16-206. Exhibition of a fraudulent document relating to a corporation or an increase of capital stock.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits exhibition of a fraudulent document relating to a corporation or an increase of capital stock if the actor:

(a) [~~Every~~]is:

(i) an officer, agent, or clerk of [~~any~~]a corporation [~~, or any~~]; or

(ii) a person proposing to organize a corporation [~~,~~] or to increase the capital stock of [~~any~~]a corporation [~~, who~~]; and

(b) knowingly exhibits [~~any~~]a false, forged, or altered book, paper, voucher, security, or other instrument of evidence to [~~any~~]a public officer or board authorized by law to examine the organization of the corporation, or to investigate [~~its~~]the corporation's affairs, or to allow an increase of [~~its~~]the corporation's capital, with the intent to deceive the officer or board [~~in respect thereto, shall be guilty of a felony of the third degree~~]with respect to the examination, investigation, or increase of capital.

(3) A violation of Subsection (2) is a third degree felony.

Section 432. Section 76-16-207, which is renumbered from Section 76-10-704 is renumbered and amended to read:
[~~76-10-704~~]76-16-207. Misrepresentation of a person as an officer, agent, member, or promoter.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) [~~Every person who,~~]An actor commits misrepresentation of a person as an officer, agent, member, or promoter if the actor, without being authorized [~~so~~]to do so, subscribes the name of another person to, or inserts the name of another person in, [~~any~~]a prospectus, circular, or other advertisement or announcement of [~~any~~]an existing corporation or joint stock association, existing or intended to be formed, with the intent to permit [~~it~~]the prospectus, circular, or other advertisement or announcement to be published, and thereby to lead persons to believe that the person whose name is [~~so subscribed~~]included in the prospectus, circular, or other advertisement or announcement is an officer, agent, member, or promoter of [~~such~~]the corporation or association [~~, is guilty of~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 433. Section 76-16-208, which is renumbered from Section 76-10-705 is renumbered and amended to read:
[~~76-10-705~~]76-16-208. Illegal concurrence by a director in a dividend or division of capital.

(1) (a) For purposes of this section, "director" does not include a director of:

(i) a savings and loan association; or

(ii) a building and loan association.

(b) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits illegal concurrence by a director in a dividend or division of capital if the actor:

(a) [~~Every director of any~~]is a director of a stock corporation [~~except savings and loan or building and loan associations who~~]; and

(b) concurs in [~~any~~]a vote or act of [~~the~~]one or more directors of the corporation [~~or any of them, by~~],which [~~it~~]vote or act is intended to either:

[~~(1)~~](i) [~~to make any~~]make a dividend except as permitted by Title 16, Chapter 10a, Utah Revised Business Corporation Act; or

[~~(2)~~](ii) [~~to~~]divide, withdraw, or in any manner pay to [~~the~~]one or more stockholders [~~, or any of them,~~] any part of the stated capital of the corporation except as permitted by Title 16, Chapter 10a, Utah Revised Business Corporation Act.

(3) [~~,~~]A violation of Subsection (2) is [~~guilty of~~]a class B misdemeanor.

Section 434. Section 76-16-209, which is renumbered from Section 76-10-706 is renumbered and amended to read:
[~~76-10-706~~]76-16-209. Unlawful omission or entry in a corporate or association record with the intent to defraud.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits unlawful omission or entry in a corporate or association record with the intent to defraud if the actor:

(a) [~~Every~~]is:

(i) a director, officer, or agent of [~~any~~]a corporation or association; or

(ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

(b) [~~who~~]knowingly receives or possesses [~~himself of any~~]for the actor's self property of [~~such~~]the corporation or association, otherwise than in payment of a just demand [~~, and who,~~]; and

(c) with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry [~~thereof~~]of the property described in Subsection (2)(b) in the books or accounts of the corporation or association [~~; and every director, officer, agent, or member of any corporation or association who embezzles, abstracts, or willfully misapplies any of the money, funds, or credits of the corporation or association; or who, without authority from the directors, issues or puts in circulation any of the notes of the corporation or association; or who, without the authority, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of the corporation or association; or who issues any fraudulent, fictitious, or illegal stock in any such corporation or association, with intent in either case to injure or defraud the corporation or association, or any other company, body politic, or corporate, or any individual person, or to deceive any officer of the corporation or association, or any agent appointed to examine the affairs of any such corporation or association; and every person who, with like intent, aids or abets any officer, clerk, or agent in any violation of this section is guilty of a felony of the third degree~~].

(3) A violation of Subsection (2) is a third degree felony.

Section 435. Section 76-16-210 is enacted to read:
76-16-210. Embezzlement, abstraction, or misapplication of corporate or association funds.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits unlawful embezzlement, abstraction, or misapplication of corporate or association funds if the actor:

(a) is:

(i) a director, officer, agent, or member of a corporation or association; or

(ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

(b) embezzles, abstracts, or willfully misapplies money, funds, or credits of the corporation or association.

(3) A violation of Subsection (2) is a third degree felony.

Section 436. Section 76-16-211 is enacted to read:
76-16-211. Unlawful circulation of a corporate or association note.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits unlawful circulation of a corporation or association note if the actor:

(a) is:

(i) a director, officer, agent, or member of a corporation or association; or

(ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

(b) without the authority from a corporation's or association's directors, issues or puts in circulation a note of the corporation or association.

(3) A violation of Subsection (2) is a third degree felony.

Section 437. Section 76-16-212 is enacted to read:

76-16-212. Unauthorized corporate or association action.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits unauthorized corporate or association action if the actor:

(a) is:

(i) a director, officer, agent, or member of a corporation or association; or

(ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

(b) without having the authority to do so:

(i) issues or puts forth a certificate of deposit;

(ii) draws an order or bill of exchange;

(iii) makes an acceptance; or

(iv) assigns a note, bond, draft, bill of exchange, mortgage, judgment, or decree.

(3) A violation of Subsection (2) is a third degree felony.

Section 438. Section 76-16-213 is enacted to read:

76-16-213. False entry in a corporate or association book, report, or statement.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits false entry in a corporate or association book, report, or statement if the actor:

(a) is:

(i) a director, officer, agent, or member of a corporation or association; or

(ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

(b) makes a false entry in a corporate or association book, report, or statement, with the intent:

(i) to injure or defraud:

(A) the corporation or association;

(B) any other company;

(C) a body politic; or

(D) an individual person; or

(ii) to deceive:

(A) an officer of the corporation or association; or

(B) an agent appointed to examine the affairs of the corporation or association.

(3) A violation of Subsection (2) is a third degree felony.

Section 439. Section 76-16-214 is enacted to read:

76-16-214. Unlawful stock issuance.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits unlawful stock issuance if the actor:

(a) is:

(i) a director, officer, agent, or member of a corporation or association; or

(ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

(b) issues fraudulent, fictitious, or illegal stock in the corporation or association, with the intent:

(i) to injure or defraud:

(A) the corporation or association;

(B) any other company;

(C) a body politic; or

(D) an individual person; or

(ii) to deceive:

(A) an officer of the corporation or association; or

(B) an agent appointed to examine the affairs of the corporation or association.

(3) A violation of Subsection (2) is a third degree felony.

Section 440. Section 76-16-215, which is renumbered from Section 76-10-707 is renumbered and amended to read:

[~~76-10-707~~]76-16-215. Making or publishing a report containing a false material statement.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) [~~Every~~]An actor commits making or publishing a report containing a false material statement if the actor:

(a) is a director, officer, or agent of [~~any~~]a corporation or joint stock association; and

(b) [~~who~~]knowingly makes or concurs in making or publishing [~~any~~]a written report, exhibit, or statement of [~~its~~]the corporation's or association's affairs or pecuniary condition [~~, containing any~~]that contains a false material statement [~~which is false is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 441. Section 76-16-216, which is renumbered from Section 76-10-708 is renumbered and amended to read:

[~~76-10-708~~]76-16-216. Prohibited refusal of inspection or copying of corporate books.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) [~~Every~~]An actor commits prohibited refusal of inspection or copying of corporate books if the actor:

(a) is an officer or agent of [~~any~~]a corporation having or keeping an office within this state [~~, who~~];

(b) has in [~~his~~]the actor's custody or control the books of [~~such~~]the corporation [~~, and who~~]; and

(c) refuses to give to a bona fide stockholder of record or member of the corporation, lawfully [~~demanding~~]demanded during office hours, the right to inspect or take a copy of [~~it or of any part thereof, is guilty of a class B misdemeanor~~]all or part of the corporation's books.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 442. Section 76-16-301, which is renumbered from Section 76-10-1001 is renumbered and amended to read:

PART 3. Offenses Concerning Trademarks, Trade Names, and Devices

[~~76-10-1001~~]76-16-301. Definitions.

[~~For the purpose of~~]As used in this part:

(1) "Forged trademark," "forged trade name," "forged trade device," and "counterfeited trademark," "counterfeited trade name," "counterfeited trade device," or their equivalents [~~, as used in this part,~~] include every alteration or imitation of [~~any~~]a trademark, trade name, or trade device [~~so resembling~~]that resembles the original so as to be likely to deceive.

(2) "Trademark" or "trade name" or ["~~trade device," as used in this part,~~]"trade device" includes every trademark registrable with the Division of Corporations and Commercial Code.

Section 443. Section 76-16-302, which is renumbered from Section 76-10-1002 is renumbered and amended to read:

[~~76-10-1002~~]76-16-302. Forging or counterfeiting a trademark, trade name, or trade device.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

(2) [~~Every person who~~]An actor commits forging or counterfeiting a trademark, trade name, or trade device if the actor:

(a) willfully forges or counterfeits, or procures to be forged or counterfeited, [~~any~~]a trademark, trade name, or trade device, that:

(i) is usually affixed by [~~any~~]a person to the person's goods, or by [~~any~~]an association or union of [~~workingmen, to his or its~~]working people to the association's or union's goods [~~,~~]; and

(ii) [~~which~~]has been filed with the Division of Corporations and Commercial Code [~~,~~]; and

(b) performs the action described in Subsection (2)(a) with the intent to pass off any goods to which the forged or counterfeited trademark, trade name, or trade device is affixed, or intended to be affixed, as the goods of the person or association or union of [~~workingmen, is guilty of a class B misdemeanor~~]working people.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 444. Section 76-16-303, which is renumbered from Section 76-10-1003 is renumbered and amended to read:

[~~76-10-1003~~]76-16-303. Selling goods under a counterfeited trademark, trade name, or trade device.

(1) [~~Every person who~~]Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301apply to this section.

(2) An actor commits selling goods under a counterfeited trademark, trade name, or trade device if the actor:

(a) sells or keeps for sale any goods upon or to which any counterfeited trademark, trade name, or trade device has been affixed, after [~~it~~]the trademark, trade name, or trade device has been filed with the Division of Corporations and Commercial Code [~~, intending~~];

(b) intends to represent the goods as the genuine goods of another [~~, knowing it to be~~]person; and

(c) knows the goods are counterfeited.

(3) [~~, is guilty of a class B misdemeanor.~~]A violation of Subsection (2) is a class B misdemeanor.

Section 445. Section 76-16-304, which is renumbered from Section 76-10-1004 is renumbered and amended to read:

[~~76-10-1004~~]76-16-304. Sale in a container bearing a registered trademark of a substituted article.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

(2) [~~Every person who~~]An actor commits sale in a container bearing a registered trademark of a substituted article if the actor:

(a) has or uses [~~any~~]a container or similar article [~~bearing or having~~]that bears or is in any way connected with [~~it~~]the registered trademark of another person; and

(b) has or uses the container or article described in Subsection (2)(a) for the purpose of disposing, with intent to deceive or defraud, of [~~any~~]an article or substance other than that which the container or similar article originally contained or was connected with by the owner of [~~such~~]the trademark [~~is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 446. Section 76-16-305, which is renumbered from Section 76-10-1005 is renumbered and amended to read:

[~~76-10-1005~~]76-16-305. Using, destroying, concealing, or possessing an article with a registered trademark or service mark to deprive the owner of use or possession.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

(2) [~~Every person who~~]An actor commits using, destroying, concealing, or possessing an article with a registered trademark or service mark to deprive the owner of use or possession if the actor, without the consent of the owner of an article bearing the owner's validly registered trademark or service mark, and with the intent to deprive the owner of the use or possession of the article:

(a) uses, destroys, conceals, or possesses the article; or [~~who~~]

(b) defaces or otherwise conceals the trademark or service mark [~~upon~~]on the article [~~with intent to deprive the owner of the use or possession of the article~~].

(3) [~~is guilty of~~]A violation of Subsection (2) is a class B misdemeanor.

(4) [~~; provided, however, that nothing contained in this part shall be construed to apply to or restrict~~]This section does not apply to the transfer or use of a wooden [~~boxes~~]box or the re-use of a burlap or cotton [~~bags or sacks~~]bag or sack when [~~those bags or sacks have~~]the bag or sack has been reversed inside out or the markings [~~thereon~~]on the box, bag, or sack have been concealed or obliterated to effectively demonstrate that the [~~products~~]product contained [~~therein do~~]in the box, bag, or sack does not purport to be the [~~products~~]product of the owner of the registered trademark or service mark [~~theretofore put upon those bags~~]that appeared on the box, bag, or sack.

Section 447. Section 76-16-306, which is renumbered from Section 76-10-1006 is renumbered and amended to read:

[~~76-10-1006~~]76-16-306. Selling, trafficking, or withholding an article bearing a registered trademark or service mark with intent to defraud.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

(2) [~~Every person who~~]An actor commits selling, trafficking, or withholding an article bearing a registered trademark or service mark with intent to defraud if the actor, without the consent of the owner of an article [~~bearing~~]that bears the owner's validly registered trademark or service mark, and with the intent to defraud the owner of the article, knowingly:

(a) []sells or traffics [~~in the articles~~]the article; or

(b) [~~who~~]withholds the [~~articles~~]article from the article's owner [~~thereof with intent to defraud the owner thereof is guilty of~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 448. Section 76-16-307, which is renumbered from Section 76-10-1007 is renumbered and amended to read:

[~~76-10-1007~~]76-16-307. Use of a registered trademark without consent.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

(2) [~~Every person who~~]An actor commits use of a registered trademark without consent if the actor adopts or in any way uses [~~the~~]a registered trademark [~~of~~]owned by another person without the person's consent [~~of the owner thereof, is guilty of~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 449. Section 76-16-401 is enacted to read:

PART 4. Offenses Concerning Unfair Market Discrimination

76-16-401. Definitions.

Reserved.

Section 450. Section 76-16-402, which is renumbered from Section 76-10-3002 is renumbered and amended to read:

[~~76-10-3002~~]76-16-402. Unfair discrimination in competitive practices.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-401 apply to this section.

(2) [~~Every~~]An actor commits unfair discrimination in competitive prices if the actor:

(a) is a person engaged in the production, manufacture, or distribution of [~~any~~]a commodity in general use [~~who~~]; and

(b) intentionally, for the purpose of destroying the competition of [~~any~~]a regular, established dealer in [~~such~~]the commodity, or to prevent the competition of [~~any~~]a person who in good faith intends and attempts to become a dealer, discriminates between different sections, communities, or cities of this state by selling the commodity at a lower rate in one section, community, or city, or any portion [~~thereof~~]of the section, community, or city, than the [~~person~~]actor charges for the commodity in another section, community, or city, after equalizing the distance from the point of production, manufacture, or distribution and freight rates [~~therefrom, is guilty of unfair discrimination~~].

(3) A violation of this section is subject to:

(a) a fine of not less than $500 and no more than $4,000 for each offense; and

(b) sanctions described in Subsection (4).

(4) (a) If a complaint is made to the attorney general that a corporation has violated this section, the attorney general shall investigate the complaint, and for that purpose, may subpoena witnesses, administer oaths, take testimony, and require the production of books or other documents.

(b) If in the attorney general's opinion, sufficient grounds exist for a prosecution after an investigation under Subsection (4)(a), the attorney general may prosecute an action in the name of the state to annul the charter or revoke the license of the corporation, and to permanently enjoin the corporation from doing business in this state.

(c) If, in an action described in Subsection (4)(b), the court finds that the corporation is guilty of unfair discrimination under this section, the court shall annul the charter or revoke the license of the corporation and may permanently enjoin the corporation from transacting business in this state.

Section 451. Section 76-16-403, which is renumbered from Section 76-10-3001 is renumbered and amended to read:

[~~76-10-3001~~]76-16-403. Fraudulent practice to affect market price.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-401 apply to this section.

(2) [~~Every person who~~]An actor commits fraudulent practice to affect market price if the actor willfully makes or publishes [~~any~~]a false statement, spreads [~~any~~]a false rumor, or employs any other false or fraudulent means or device, with the intent to affect the market price of any kind of property [~~, is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is:

(a) a class B misdemeanor; and

(b) subject to a fine of not less than $500 and no more than $4,000 for each offense.

Section 452. Section 76-16-404, which is renumbered from Section 76-10-3005 is renumbered and amended to read:

[~~76-10-3005~~]76-16-404. Unfair discrimination by a buyer of milk, cream, or butterfat.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-401 apply to this section.

(2) [~~Any~~]An actor commits unfair discrimination by a buyer of milk, cream, or butterfat if the actor:

(a) is:

(i) a person doing business in this state [~~and~~]that is engaged in the business of buying milk, cream, or butterfat for the purpose of sale

or storage [~~, who,~~]; or

(ii) an officer or agent of a person described in Subsection (2)(a)(i); and

(b) for the purpose of creating a monopoly or destroying the business of a competitor, discriminates between different sections, communities, localities, cities, or towns of this state by purchasing [~~the commodity or commodities~~]milk, cream, or butterfat at a higher price or rate in one section, community, location, city, or town than is paid for the same [~~commodity~~]milk, cream, or butterfat by the [~~person~~]actor in another section, community, locality, city, or town, after making due allowance for the difference, if any, in the grade or quality, and in the actual cost of transportation from the point of purchase to the point of manufacture, sale, or storage [~~, is guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful; and any person, firm, company, association, or corporation, or any officer, agent, receiver, or member of such firm, company, association, or corporation, found guilty of unfair discrimination as herein defined shall be guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is:

(a) a class B misdemeanor; and

(b) subject to a fine of not less than $500 and no more than $4,000 for each offense.

Section 453. Section 76-16-501, which is renumbered from Section 76-10-3103 is renumbered and amended to read:

PART 5. Antitrust Offenses

[~~76-10-3103~~]76-16-501. Definitions.

As used in this part:

(1) "Attempt to monopolize" means action taken without a legitimate business purpose and with a specific intent of destroying competition or controlling prices to substantially lessen competition, or creating a monopoly, where there is a dangerous probability of creating a monopoly.

(2) "Attorney general" means the attorney general of the state or one of the attorney general's assistants.

(3) "Commodity" includes [~~any~~]a product of the soil, [~~any~~]an article of merchandise or trade or commerce, and any other kind of real or personal property.

(4) "Manufacturer" means the producer or originator of [~~any~~]a commodity or service.

(5) "Service" includes [~~any~~]an activity that is performed in whole or in part for the purpose of financial gain including, but not limited to, personal service, professional service, rental, leasing or licensing for use.

(6) "Trade or commerce" includes all economic activity involving, or relating to, [~~any~~]a commodity, service, or business activity, including the cost of exchange or transportation.

Section 454. Section 76-16-502, which is renumbered from Section 76-10-3102 is renumbered and amended to read:

[~~76-10-3102~~]76-16-502. Legislative findings -- Interpretation of part.

(1) (a) The Legislature finds and determines that competition is fundamental to the free market system and that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic, political and social institutions.

(b) The purpose of this [~~act is, therefore, to~~]part is to encourage free and open competition in the interest of the general welfare and economy of this state by prohibiting monopolistic and unfair trade practices, combinations and conspiracies in restraint of trade or commerce and by providing adequate penalties for the enforcement of [~~its~~]the part's provisions.

(2) The Legislature intends that the courts, in construing this part, will be guided by interpretations given by the federal courts to comparable federal antitrust statutes and by other state courts to comparable state antitrust statutes.

Section 455. Section 76-16-503, which is renumbered from Section 76-10-3117 is renumbered and amended to read:

[~~76-10-3117~~]76-16-503. Statute of limitations.

(1) [~~Any~~]An action brought by the attorney general pursuant to this [~~act~~]part is barred if [~~it~~]the action is not commenced within four years after the cause of action accrues.

(2) Any other action pursuant to this [~~act~~]part is barred if [~~it~~]the action is not commenced within four years after the cause of action accrues, or within one year after the conclusion of an action brought by the state pursuant to this act based in whole or in part on any matter complained of in the subsequent action, whichever is the latter.

Section 456. Section 76-16-504, which is renumbered from Section 76-10-3105 is renumbered and amended to read:

[~~76-10-3105~~]76-16-504. Exempt activities.

(1) This act may not be construed to prohibit:

(a) the activities of [~~any~~]a public utility to the extent that those activities are subject to regulation by the public service commission, the state or federal department of transportation, the federal energy regulatory commission, the federal communications commission, the interstate commerce commission, or successor agencies;

(b) the activities of [~~any~~]an insurer, insurance producer, independent insurance adjuster, or rating organization including, but not limited to, making or participating in joint underwriting or reinsurance arrangements, to the extent that those activities are subject to regulation by the commissioner of insurance;

(c) the activities of securities dealers, issuers, or agents, to the extent that those activities are subject to regulation under the laws of either this state or the United States;

(d) the activities of [~~any~~]a state or national banking institution, to the extent that the activities are regulated or supervised by state government officers or agencies under the banking laws of this state or by federal government officers or agencies under the banking laws of the United States;

(e) the activities of [~~any~~]a state or federal savings and loan association to the extent that those activities are regulated or supervised by state government officers or agencies under the banking laws of this state or federal government officers or agencies under the banking laws of the United States;

(f) the activities of a political subdivision to the extent authorized or directed by state law, consistent with the state action doctrine of federal antitrust law; or

(g) the activities of an emergency medical service provider licensed under Title 53, Chapter 2d, Emergency Medical Services Act, to the extent that those activities are regulated by state government officers or agencies under that act.

(2) (a) The labor of a human being is not a commodity or article of commerce.

(b) Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purpose of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of these organizations from lawfully carrying out [~~their~~]the organizations' legitimate objects; nor may these organizations or membership in them be held to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

(3) (a) As used in this section, an entity is also a [~~municipality~~]political subdivision if the entity was formed under Title 11, Chapter 13, Interlocal Cooperation Act, prior to January 1, 1981, and the entity is:

(i) a project entity as defined in Section 11-13-103;

(ii) an electric interlocal entity as defined in Section 11-13-103; or

(iii) an energy services interlocal entity as defined in Section 11-13-103.

(b) The activities of the entities under Subsection (3)(a) are authorized or directed by state law.

Section 457. Section 76-16-505, which is renumbered from Section 76-10-3106 is renumbered and amended to read:

[~~76-10-3106~~]76-16-505. Attorney general's powers -- Investigations -- Institution of actions -- Cooperation.

(1) The attorney general may investigate a suspected [~~violations~~]violation of this [~~act~~]part and institute an appropriate [~~actions~~]action regarding [~~those~~]the suspected [~~violations~~]violation as provided in this [~~act~~]part.

(2) (a) [~~Any violations of this act which come~~]A violation of this part that comes to the attention of [~~any~~]a state government officer or agency shall be reported to the attorney general.

(b) All state government officers and agencies shall cooperate with, and assist in, [~~any~~]a prosecution for violation of this [~~act~~]part.

(3) The attorney general may proceed under any antitrust laws in the state or federal courts on behalf of this state, any of [~~its~~]the state's political subdivisions or agencies, or as parens patriae on behalf of natural persons in this state.

Section 458. Section 76-16-506, which is renumbered from Section 76-10-3107 is renumbered and amended to read:

[~~76-10-3107~~]76-16-506. Civil antitrust investigations -- Demand for production of documents and responses to written interrogatories -- Oral examination -- Judicial order for compliance -- Confidentiality -- Subpoenas precluded.

(1) When the attorney general has reasonable cause to believe that [~~any~~]a person may be in possession, custody, or control of any information, including [~~any~~]a document, material, or testimony, relevant to a civil antitrust investigation, the attorney general may, [~~prior to~~]before the commencement of a civil action, issue and cause to be served upon that person a written civil investigative demand requesting that person to:

(a) produce any document or material for inspection, copying, or reproduction by the state where the document or material is located or produced;

(b) give oral testimony under oath, concerning the subject of the investigation;

(c) respond to written interrogatories; or

(d) furnish any combination of these.

(2) (a) Each demand shall state:

(i) the nature of the activities under investigation, constituting the alleged antitrust violation, which may result in a violation of this part and the applicable provision of law;

(ii) that the recipient is entitled to counsel;

(iii) that the information received in response to the demand may be used in a civil or criminal proceeding;

(iv) that if the recipient does not comply with the demand, the attorney general may compel compliance by appearance, upon reasonable notice to the recipient, before the [~~district~~]court in the judicial district where the recipient resides or does business and only upon a showing before that [~~district~~]court that the requirements of Subsection (7) have been met;

(v) that the recipient has the right at any time before the return date of the demand, or within 30 days, whichever period is shorter, to seek a court order determining the validity of the demand; and

(vi) that at any time during the proceeding the person may assert any applicable privilege.

(b) If the demand is for production of [~~any~~]a document or material, the demand shall also:

(i) describe the document or material to be produced with sufficient definiteness and certainty as to permit the document or material to be fairly identified;

(ii) prescribe return dates that provide a reasonable period of time within which the document or material demanded may be assembled and made available for inspection and reproduction; and

(iii) identify the individual at the Office of the Attorney General to whom the document or material shall be made available.

(c) If the demand is for the giving of oral testimony, the demand shall also:

(i) prescribe the date, time, and place at which oral testimony shall be commenced;

(ii) state that an employee of the Office of the Attorney General shall conduct the examination; and

(iii) state that the recording or the transcript of the examination shall be submitted to and maintained by the Office of the Attorney General.

(d) If the demand is for responses to written interrogatories, the demand shall also:

(i) state that each interrogatory shall be answered separately and fully in writing and under oath, unless the person objects to the interrogatory, in which event the reasons for objection shall be stated in lieu of an answer;

(ii) state that the answers are to be signed by the person making them, and the objections are to be signed by the attorney making them;

(iii) identify by name and address the individual at the Office of the Attorney General on whom answers and objections provided under this Subsection (2)(d) are to be served; and

(iv) prescribe the date on or before which these answers and objections are to be served on the identified individual.

(3) The civil investigative demand may be served upon any person who is subject to the jurisdiction of any Utah court and shall be served upon the person in the manner provided for service of a subpoena.

(4) (a) [~~Any~~]A document or material submitted in response to a demand served under this section shall be accompanied by an affidavit, in the form the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person having knowledge of the facts and circumstances relating to the production.

(b) The affidavit shall state that every document or material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has in good faith been produced and made available to the Office of the Attorney General.

(c) The affidavit shall identify any demanded document or material that is not produced and state the reason why each item was not produced.

(5) (a) (i) An examination of [~~any~~]a person pursuant to a demand for oral testimony served under this section may only be taken before an officer authorized to administer oaths or affirmations by the laws of the United States or of the place where the examination is held.

(ii) The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness.

(iii) If the testimony is taken stenographically, [~~it~~]the testimony shall be transcribed and the officer before whom the testimony is taken shall promptly transmit the transcript of the testimony to the Office of the Attorney General.

(b) When taking oral testimony, all persons other than personnel from the Office of the Attorney General, the witness, counsel for the witness, and the officer before whom the testimony is to be taken shall be excluded from the place where the examination is held.

(c) The oral testimony of [~~any~~]a person taken pursuant to a demand served under this section shall be taken in the county where the person resides or transacts business or in any other place agreed upon by the attorney general and the person.

(d) (i) When testimony is fully transcribed, the transcript shall be certified by the officer before whom the testimony was taken and submitted to the witness for examination and signing, in accordance with Rule 30(e) of the Utah Rules of Civil Procedure [~~, Rule 30(e)~~].

(ii) A copy of the deposition shall be furnished free of charge to a witness upon the witness's request.

(e) [~~Any~~]A change in testimony recorded by nonstenographic means shall be made in the manner provided in Rule 30 of the Utah Rules of Civil Procedure [~~, Rule 30,~~] for changing deposition testimony recorded by nonstenographic means.

(f) (i) [~~Any~~]A person compelled to appear under a demand for oral testimony under this section may be accompanied, represented, and advised by counsel.

(ii) Counsel may advise the person, in confidence, either upon the request of the person or upon counsel's own initiative, with respect to any question asked of the person.

(iii) The person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection.

(iv) An objection may properly be made, received, and entered upon the record when it is claimed that the person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination.

(v) If the person refuses to answer any question, the attorney general may petition the district court for an order compelling the person to answer the question.

(g) If [~~any~~]a person compelled to appear under a demand for oral testimony or other information pursuant to this section refuses to answer any questions or produce information on grounds of the privilege against self-incrimination, the testimony of that person may be compelled as in criminal cases.

(h) (i) [~~Any~~]A person appearing for oral examination pursuant to a demand served under this section is entitled to the same fees and mileage [~~which~~]that are paid to witnesses in the district courts of the state of Utah.

(ii) Witness fees and expenses shall be tendered and paid as in any civil action.

(6) The providing of [~~any~~]information in response to a civil investigative demand issued pursuant to the provisions of this part shall be considered part of an official proceeding as defined in Section 76-8-501.

(7) (a) (i) If a person fails to comply with the demand served upon [~~him~~]the person under this section, the attorney general may file in the district court of the county in which the person resides, is found, or does business, a petition for an order compelling compliance with the demand.

(ii) Notice of hearing of the petition and a copy of the petition shall be served upon the person, who may appear in opposition to the petition.

(iii) If the court finds that the demand is proper, that there is reasonable cause to believe there has been a violation of this part, and that the information sought is relevant to the violation, [~~it~~]the court shall order the person to comply with the demand, subject to modifications the court may prescribe.

(b) (i) (A) At any time before the return date specified in a demand or within 30 days after the demand has been served, whichever period is shorter, the person who has been served may file a petition for an order modifying or setting aside the demand.

(B) This petition shall be filed in the [~~district~~]court in the county of the person's residence, principal office, or place of business, or in the [~~district~~]court in Salt Lake County.

(C) The petition shall specify each ground upon which the petitioner relies in seeking the relief sought.

(D) The petition may be based upon [~~any~~]a failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the petitioner.

(E) The petitioner shall serve notice of hearing of the petition and a copy of the petition upon the attorney general.

(F) The attorney general may submit an answer to the petition within 30 days after receipt of the petition.

(ii) (A) After a hearing on the petition described in Subsection (7)(b)(i), and for good cause shown, the court may make any further order in the proceedings that justice requires to protect the person from unreasonable annoyance, embarrassment, oppression, burden, or expense.

(B) At [~~any~~]a hearing pursuant to this section it is the attorney general's burden to establish that the demand is proper, that there is reasonable cause to believe that there has been a violation of this part, and that the information sought is relevant to the violation.

(8) (a) The attorney general may enter into a confidentiality agreement in lieu of, or in addition to, issuing a civil investigative demand, when the attorney general has reasonable cause to believe that [~~any~~]a person may be in possession, custody, or control of [~~any~~]information relevant to a civil antitrust investigation or civil antitrust action.

(b) In [~~any~~]a civil antitrust action, the court may issue a confidentiality order, which may incorporate a confidentiality agreement.

(c) (i) The confidentiality agreement or confidentiality order may address any procedure, testimony taken, or document or material produced under this section.

(ii) The agreement or order may define to whom access will be given, the conditions and the restrictions to the access, and how the

testimony, document, or material will be safeguarded.

(iii) The agreement or order may require that documentation of testimony and any other document or material:

[~~(i)~~](A) be returned to the designated person; or

[~~(ii)~~](B) notwithstanding the provisions of Section 63A-12-105 and any retention schedule promulgated pursuant to Section 63G-2-604, be destroyed by the attorney general at a designated time, in which case this requirement is binding upon the attorney general.

(9) (a) Any procedure, testimony taken, or document or material produced under this section, whether produced pursuant to a civil investigative demand, confidentiality agreement, or confidentiality order, shall be kept confidential by the attorney general unless confidentiality is waived in writing by the person who has testified, or produced a document or material.

(b) Any testimony taken or document or material produced under this section may be used in a civil antitrust action, provided that the use is not restricted or prohibited under a confidentiality agreement or confidentiality order, unless that restriction or prohibition is waived by the person from whom the information was obtained.

(c) Notwithstanding any other provision of this section, the attorney general may disclose testimony taken or a document or material obtained under this section, without either the consent of the person from whom it was received or the person being investigated, to:

(i) [~~any~~]a grand jury; and

(ii) officers and employees of federal or state law enforcement agencies, provided the person from whom the information was obtained is notified 20 days prior to disclosure, and the federal or state law enforcement agency certifies that the information will be:

(A) maintained in confidence, as required by Subsection (9)(a); and

(B) used only for official law enforcement purposes.

(10) Use of a civil investigative demand under this action precludes the invocation by the attorney general of Section 77-22-2.

Section 459. Section 76-16-507, which is renumbered from Section 76-10-3116 is renumbered and amended to read:

[~~76-10-3116~~]76-16-507. Venue of an action brought by the state -- Transfer.

[~~Any~~]An action brought by the state pursuant to this [~~act~~]part shall be brought in any county [~~wherein~~]in which the defendant resides or does business, or at the option of the defendant, [~~such~~]the action shall be transferred, upon motion made within 30 days after commencement of the action, to Salt Lake County.

Section 460. Section 76-16-508, which is renumbered from Section 76-10-3115 is renumbered and amended to read:

[~~76-10-3115~~]76-16-508. Attorney general to advocate for the policy of competition.

The attorney general [~~shall have~~]has the authority and responsibility to advocate for the policy of competition before all political subdivisions of this state and all public agencies whose actions may affect the interests of persons in this state.

Section 461. Section 76-16-509, which is renumbered from Section 76-10-3108 is renumbered and amended to read:

[~~76-10-3108~~]76-16-509. Attorney general may bring action for injunctive relief, damages, and civil penalty.

(1) The attorney general may bring an action for appropriate injunctive relief, a civil penalty, and damages in the name of the state, any of [~~its~~]the state's political subdivisions or agencies, or as parens patriae on behalf of natural persons in this state, for a violation of this [~~act~~]part.

(2) Actions may be brought under this [~~section~~]part regardless of whether the plaintiff dealt directly or indirectly with the defendant.

(3) This remedy is an additional remedy to any other remedies provided by law [~~. It~~]and may not diminish or offset any other remedy.

[~~(2)~~](4) [~~Any~~]An individual who violates this act is subject to a civil penalty of not more than $100,000 for each violation.

(5) [~~Any~~]A person, other than an individual, who violates this act is subject to a civil penalty of not more than $500,000 for each violation.

Section 462. Section 76-16-510, which is renumbered from Section 76-10-3104 is renumbered and amended to read:

[~~76-10-3104~~]76-16-510. Illegal anticompetitive activities.

(1) Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is declared to be illegal.

(2) It [~~shall be~~]is unlawful for any person to monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, any part of trade or commerce.

Section 463. Section 76-16-511, which is renumbered from Section 76-10-3109 is renumbered and amended to read:

[~~76-10-3109~~]76-16-511. Person may bring action for injunctive relief and damages -- Treble damages -- Recovery of actual damages or civil penalty by state or political subdivisions -- Immunity of political subdivisions from damages, costs, or attorney fees -- Conviction as prima facie evidence.

(1) (a) (i) A person who is a citizen of this state or a resident of this state and who is injured or is threatened with injury in [~~his~~]the person's business or property by a violation of [~~the Utah Antitrust Act~~]this part may bring an action for injunctive relief and damages, regardless of whether the person dealt directly or indirectly with the defendant.

(ii) This remedy is in addition to any other remedies provided by law [~~. It~~]and may not diminish or offset any other remedy.

(b) Subject to the provisions of Subsections (3), (4), and (5), the court shall award three times the amount of damages sustained, plus the cost of suit and a reasonable attorney fees, in addition to granting any appropriate temporary, preliminary, or permanent injunctive relief.

(2) (a) If the court determines that a judgment in the amount of three times the damages awarded plus attorney fees and costs will directly cause the insolvency of the defendant, the court shall reduce the amount of judgment to the highest sum that would not cause the defendant's insolvency.

(b) The court may not reduce a judgment to an amount less than the amount of damages sustained plus the costs of suit and reasonable attorney fees.

(3) The state or any of its political subdivisions may recover three times the amount of damages it sustains and the civil penalty provided by [~~the Utah Antitrust Act~~]this part, in addition to injunctive relief, costs of suit, and reasonable attorney fees.

(4) No damages, costs, or attorney fees may be recovered under this section:

(a) from any political subdivision;

(b) from the official or employee of any political subdivision acting in an official capacity; or

(c) against any person based on any official action directed by a political subdivision or [~~its~~]the political subdivision's official or

employee acting in an official capacity.

(5) Subsection (4) does not apply to cases filed before April 27, 1987, unless the defendant establishes and the court determines that in light of all the circumstances, including the posture of litigation and the availability of alternative relief, it would be inequitable not to apply Subsection (4) to a pending case.

(6) (a) When a defendant has been sued in one or more actions by both direct and indirect purchasers, whether in state court or federal court, a defendant shall be entitled to prove as a partial or complete defense to a claim for damages that the damages incurred by the plaintiff or plaintiffs have been passed on to others who are entitled to recover so as to avoid duplication of recovery of damages.

(b) In an action by indirect purchasers, any damages or settlement amounts paid to direct purchasers for the same alleged antitrust violations shall constitute a defense in the amount paid on a claim by indirect purchasers under this [~~chapter~~]part so as to avoid duplication of recovery of damages.

(7) (a) It shall be presumed, in the absence of proof to the contrary, that the injured persons who dealt directly with the defendant incurred at least 1/3 of the damages, and shall, therefore, recover at least 1/3 of the awarded damages.

(b) It shall also be presumed, in the absence of proof to the contrary, that the injured persons who dealt indirectly with the defendant incurred at least 1/3 of the damages, and shall, therefore, recover at least 1/3 of the awarded damages.

(c) The final 1/3 of the damages shall be awarded by the court to those injured persons determined by the court as most likely to have absorbed the damages.

(8) (a) There is a presumption, in the absence of proof to the contrary and subject to Subsection (7), that each level in a product's or service's distribution chain passed on any and all increments in its cost due to an increase in the cost of an ingredient or a component product or service that was caused by a violation of this [~~chapter~~]part.

(b) [~~This~~]The amount described in Subsection (8)(a) will be presumed, in the absence of evidence to the contrary, to be equal to the change in the cost, in dollars and cents, of the ingredient, component product, or service to its first purchaser.

(9) (a) The attorney general shall be notified by the plaintiff about the filing of [~~any~~]a class action involving antitrust violations that includes plaintiffs from this state.

(b) The attorney general shall receive a copy of each filing described in Subsection (9)(a) from each plaintiff.

(c) The attorney general may, in his or her discretion, intervene or file amicus briefs in the case, and may be heard on the question of the fairness or appropriateness of any proposed settlement agreement.

(10) If, in a class action or parens patriae action filed under this [~~chapter~~]part, including the settlement of [~~any~~]an action, it is not feasible to return any part of the recovery to the injured plaintiffs, the court shall order the residual funds be applied to benefit the specific class of injured plaintiffs, to improve antitrust enforcement generally by depositing the residual funds into the Attorney General Litigation Fund created by Section [~~76-10-3114~~]67-5-40, or both.

(11) In [~~any~~]an action brought under this [~~chapter~~]part, the court shall approve all attorney fees and arrangements for the payment of attorney fees, including contingency fee agreements.

(12) (a) Except as provided in Subsection (12)(b), in an action brought by the state, a final judgment or decree determining that a person has criminally violated this part is prima facie evidence against that person in an action brought under this section as to all matters with respect to which the judgment or decree would be an estoppel between the parties to the judgment or decree.

(b) Subsection (12)(a) does not apply to a judgment entered under a no contest plea or a decree entered before any testimony has been taken.

Section 464. Section 76-16-512, which is renumbered from Section 76-10-3112 is renumbered and amended to read:

[~~76-10-3112~~]76-16-512. Fine for violation -- Certain vertical agreements excluded -- Nolo contendere.

(1) (a) Any person who violates Section [~~76-10-3104~~]76-16-510 by price fixing, bid rigging, agreeing among competitors to divide customers or territories, or by engaging in a group boycott with specific intent of eliminating competition is guilty of a third degree felony and, notwithstanding Sections 76-3-301 and 76-3-302, is subject to:

(i) if an individual, a fine not to exceed $100,000; or

(ii) if by a person other than an individual, a fine not to exceed $500,000.

(b) Subsection (1)(a) may not be construed to include vertical agreements between a manufacturer, its distributors, or their subdistributors dividing customers and territories solely involving the manufacturer's commodity or service where the manufacturer distributes its commodity or service both directly and through distributors or subdistributors in competition with itself.

(2) A defendant may plead nolo contendere to a charge brought under this title but only with the consent of the court.

(3) The court may accept the plea only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

Section 465. Section 76-17-101 is enacted to read:

CHAPTER 17. OFFENSES CONCERNING KICKBACKS, PYRAMID SCHEMES, AND PATTERNS OF UNLAWFUL ACTIVITY

PART 1. General Provisions

76-17-101. Definitions.

Reserved.

Section 466. Section 76-17-201 is enacted to read:

PART 2. Offenses Concerning Kickbacks

76-17-201. Definitions.

As used in this part:

(1) "Kickback or bribe" means a rebate, compensation, or any other form of remuneration, that is:

(a) direct or indirect;

(b) overt or covert; or

(c) in cash or in kind.

(2) "Kickback or bribe" does not include:

(a) a fee that is:

(i) shared between two or more individuals, each of whom is licensed to practice law; and

(ii) charged for services provided in the individual's capacity as a licensee described in Subsection (2)(a)(i); or

(b) payment for medical services rendered.

Section 467. Section 76-17-202, which is renumbered from Section 76-10-3201 is renumbered and amended to read:

[~~76-10-3201~~]76-17-202. Unlawful conduct concerning a kickback or bribe.

[~~(1) As used in this section:~~]

[~~(a) "Kickback or bribe" means a rebate, compensation, or any other form of remuneration, that is:~~]

[~~(i) direct or indirect;~~]

[~~(ii) overt or covert; or~~]

[~~(iii) in cash or in kind.~~]

[~~(b) "Kickback or bribe" does not include:~~]

[~~(i) a fee that is:~~]

[~~(A) shared between two or more individuals, each of whom is licensed to practice law; and~~]

[~~(B) charged for services provided in the individual's capacity as a licensee described in Subsection (1)(b)(i)(A); or~~]

[~~(ii) payment for medical services rendered.~~]

[~~(2)~~](1) Terms defined in Sections 76-1-101.5, 76-17-101, and 76-17-201 apply to this section.

(2) [~~(a)~~] An actor commits unlawful conduct concerning a kickback or bribe if the actor:

(a) [~~may not solicit or receive~~]solicits or receives a kickback or bribe in return for the referral of a person to another person for the furnishing of [~~any~~]a good or service that relates to [~~any~~]an insurance claim or a claim for damages [~~.~~]; or

(b) [~~An actor may not offer or pay~~]offers or pays a kickback or bribe to induce the referral of a person to another person for the furnishing of [~~any~~]a good or service that relates to [~~any~~]an insurance claim or a claim for damages.

(3) A violation of Subsection (2) is a third degree felony.

(4) (a) This section does not apply to an individual licensed to practice law or a medical provider when referring a client for medical treatment or evaluation, if the referral is made without compensation.

[~~(5)~~](b) This section does not apply to an individual licensed to practice law when:

[~~(a)~~](i) paying a lien, contractual reimbursement, or medical bill on behalf of a client from proceeds of a settlement or judgment; or

[~~(b)~~](ii) marketing to, or engaging in client development activities with, an individual licensed to provide medical treatment or evaluation, if the marketing or client development activities are not for the purpose of inducing the individual licensed to provide medical treatment or evaluation to refer a particular person to the individual licensed to practice law.

Section 468. Section 76-17-301, which is renumbered from Section 76-6a-101 is renumbered and amended to read:

PART 3. Offenses Concerning Pyramid Schemes

[~~76-6a-101~~]76-17-301. Definitions.

As used in this [~~chapter~~]part:

(1) (a) [~~(i)~~] "Compensation" means money, money bonuses, overrides, prizes, or other real or personal property, tangible or intangible.

[~~(ii)~~](b) "Compensation" does not include payment based on the sale of goods or services to anyone purchasing the goods or services for actual personal use or consumption.

[~~(b)~~](2) "Consideration" does not include:

[~~(i)~~](a) payment for sales demonstration equipment or materials furnished at cost for use in making sales and not for resale; or

[~~(ii)~~](b) time or effort spent in selling or recruiting activities.

[~~(c)~~](3) "Person" includes a business trust, estate, trust, joint venture, or any other legal or commercial entity.

[~~(d)~~](4) "Pyramid scheme" means [~~any~~]a sales device or plan under which a person gives consideration to another person in exchange for compensation or the right to receive compensation that is derived primarily from the introduction of other persons into the sales device or plan rather than from the sale of goods, services, or other property.

[~~(2) Terms defined in Section 76-1-101.5 apply to this part.~~]

Section 469. Section 76-17-302, which is renumbered from Section 76-6a-104 is renumbered and amended to read:

[~~76-6a-104~~]76-17-302. Rights of person giving consideration in pyramid scheme.

(1) Terms defined in Sections 76-1-101.5, 76-17-101, and 76-17-301 apply to this section.

(2) (a) [~~Any~~]A person giving consideration in connection with a pyramid scheme may, notwithstanding any agreement to the contrary, declare the person's giving of consideration and the related sale or contract for sale void, and may bring a court action to recover the consideration.

(b) In an action brought under Subsection [~~(1)(a)~~](2)(a), the court shall, in addition to any judgment awarded to the plaintiff, require the defendant to pay to the plaintiff interest as provided in Section 15-1-4, reasonable [~~attorneys'~~]attorney fees, and the costs of the action reduced by any compensation paid by the defendant to the plaintiff in connection with the pyramid scheme.

[~~(2)~~](3) (a) The rights, remedies, and penalties provided in this [~~chapter~~]part are independent of and supplemental to each other and to any other right, remedy or penalty available in law or equity.

(b) Nothing contained in this [~~chapter~~]part shall be construed to diminish or abrogate any other right, remedy or penalty.

Section 470. Section 76-17-303, which is renumbered from Section 76-6a-102 is renumbered and amended to read:

[~~76-6a-102~~]76-17-303. Conducting a pyramid scheme.

(1) Terms defined in [~~Section~~]Sections 76-1-101.5, 76-17-101, and 76-17-301 apply to this section.

(2) An actor commits [~~the offense of~~]conducting a pyramid scheme if the actor knowingly organizes, establishes, promotes, or administers a pyramid scheme.

(3) A violation of Subsection (2) is a third degree felony.

(4) It is not a defense to an action brought under this section that:

(a) the sales device or plan limits the number of persons who may be introduced into the sales device or plan;

(b) the sales device or plan includes additional conditions affecting eligibility for introduction into the sales device or plan or when compensation may be received from the sales device or plan; or

(c) a person receives property or services in addition to the compensation or right to receive compensation in connection with a pyramid scheme.

(5) The appropriate county attorney or district attorney has primary responsibility for investigating and prosecuting a criminal violation of this section.

(6) (a) A violation under this section constitutes a violation of Section 13-11-4.

(b) A criminal conviction under this section is prima facie evidence of a violation of Section 13-11-4.

(c) In addition to prosecution under this section, a violation of this section shall be civilly investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah Consumer Sales Practices Act.

Section 471. Section 76-17-304, which is renumbered from Section 76-6a-103 is renumbered and amended to read:

[~~76-6a-103~~]76-17-304. Participating in a pyramid scheme.

(1) Terms defined in [~~Section~~]Sections 76-1-101.5, 76-17-101, and 76-17-301 apply to this section.

(2) An actor commits [~~the offense of~~] participating in a pyramid scheme if the actor participates in a pyramid scheme only by receiving compensation for the introduction of another person into the pyramid scheme rather than from the sale of goods, services, or other property.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) It is not a defense to an action brought under this section that:

(a) the sales device or plan limits the number of persons who may be introduced into the sales device or plan;

(b) the sales device or plan includes additional conditions affecting eligibility for introduction into the sales device or plan or when compensation may be received from the sales device or plan; or

(c) a person receives property or services in addition to the compensation or right to receive compensation in connection with a pyramid scheme.

(5) The appropriate county attorney or district attorney has primary responsibility for investigating and prosecuting a criminal violation of this section.

(6) (a) A violation under this section constitutes a violation of Section 13-11-4.

(b) A criminal conviction under this section is prima facie evidence of a violation of Section 13-11-4.

(c) In addition to prosecution under this section, a violation of this section shall be civilly investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah Consumer Sales Practices Act.

Section 472. Section 76-17-401, which is renumbered from Section 76-10-1602 is renumbered and amended to read:

PART 4. Offenses Concerning Patterns of Unlawful Activity

[~~76-10-1602~~]76-17-401. Definitions.

As used in this part:

(1) (a) "Enterprise" means [~~any~~]an individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and [~~any~~]a union or group of individuals associated in fact although not a legal entity [~~, and~~].

(b) "Enterprise" includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct [~~which~~]that constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes [~~any~~]an individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct [~~which~~]that would constitute [~~any~~]an offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act [~~which~~]that would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by [~~any~~]an authority or is classified as a misdemeanor or a felony:

(a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) an act prohibited by the criminal provisions under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or Section 23A-5-311;

(d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

(e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;

(i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah Procurement Code;
(j) assault under Section 76-5-102;
(k) aggravated assault under Section 76-5-103;
(l) a threat of terrorism under Section 76-5-107.3;
(m) a criminal homicide offense under Section 76-5-201;
(n) kidnapping under Section 76-5-301;
(o) aggravated kidnapping under Section 76-5-302;
(p) human trafficking for labor under Section 76-5-308;
(q) human trafficking for sexual exploitation under Section 76-5-308.1;
(r) human smuggling under Section 76-5-308.3;
(s) human trafficking of a child under Section 76-5-308.5;
(t) benefiting from trafficking and human smuggling under Section 76-5-309;
(u) aggravated human trafficking under Section 76-5-310;
(v) sexual exploitation of a minor under Section 76-5b-201;
(w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
(x) arson under Section 76-6-102;
(y) aggravated arson under Section 76-6-103;
(z) causing a catastrophe under Section 76-6-105;
(aa) burglary under Section 76-6-202;
(bb) aggravated burglary under Section 76-6-203;
(cc) burglary of a vehicle under Section 76-6-204;
(dd) manufacture or possession of an instrument for burglary or theft under Section 76-6-205;
(ee) robbery under Section 76-6-301;
(ff) aggravated robbery under Section 76-6-302;
(gg) theft under Section 76-6-404;
(hh) theft by deception under Section 76-6-405;
(ii) theft by extortion under Section 76-6-406;
(jj) receiving stolen property under Section 76-6-408;
(kk) theft of services under Section 76-6-409;
(ll) forgery under Section 76-6-501;
(mm) unlawful use of financial transaction card under Section 76-6-506.2;
(nn) unlawful acquisition, possession, or transfer of financial transaction card under Section 76-6-506.3;
(oo) financial transaction card offenses under Section 76-6-506.6;
(pp) deceptive business practices under Section 76-6-507;
(qq) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods under Section 76-6-508;
(rr) bribery of a labor official under Section 76-6-509;
(ss) defrauding creditors under Section 76-6-511;
(tt) acceptance of deposit by insolvent financial institution under Section 76-6-512;
(uu) unlawful dealing with property by fiduciary under Section 76-6-513;
(vv) [~~bribery or threat to influence~~]unlawful influence of a contest under Section 76-6-514;
(ww) making a false credit report under Section 76-6-517;
(xx) criminal simulation under Section 76-6-518;
(yy) criminal usury under Section 76-6-520;
(zz) insurance fraud under Section 76-6-521;
(aaa) retail theft under Section 76-6-602;
(bbb) computer crimes under Section 76-6-703;
(ccc) identity fraud under Section 76-6-1102;
(ddd) mortgage fraud under Section 76-6-1203;
(eee) sale of a child under Section 76-7-203;
(fff) bribery [~~to influence official or political actions~~]or offering a bribe under Section 76-8-103;
(ggg) threat to influence official or political action under Section 76-8-104;
(hhh) receiving bribe or bribery by public servant under Section 76-8-105;
(iii) receiving bribe for endorsement of person as a public servant under Section 76-8-106;
(jjj) bribery for endorsement of person as public servant under Section 76-8-106.1;
(kkk) official misconduct based on unauthorized act or failure of duty under Section 76-8-201;
(lll) official misconduct concerning inside information under Section 76-8-202;
(mmm) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;
(nnn) acceptance of bribe or bribery to prevent criminal prosecution under Section 76-8-308;
(ooo) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;

(ppp) making a false or inconsistent material statement under Section 76-8-502;

(qqq) making a false or inconsistent statement under Section 76-8-503;

(rrr) making a written false statement under Section 76-8-504;

(sss) tampering with a witness under Section 76-8-508;

(ttt) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(uuu) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(vvv) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

(www) tampering with evidence under Section 76-8-510.5;

(xxx) falsification or alteration of a government record under Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;

(yyy) public assistance fraud by an applicant for public assistance under Section 76-8-1203.1;

(zzz) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;

(aaaa) public assistance fraud by a provider under Section 76-8-1203.5;

(bbbb) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;

(cccc) false statement to obtain or increase unemployment compensation under Section 76-8-1301;

(dddd) false statement to prevent or reduce unemployment compensation or liability under Section 76-8-1302;

(eeee) unlawful failure to comply with Employment Security Act requirements under Section 76-8-1303;

(ffff) unlawful use or disclosure of employment information under Section 76-8-1304;

(gggg) intentionally or knowingly causing one animal to fight with another under Subsection [~~76-9-301(2)(d) or (e), or Section 76-9-301.1~~]76-13-202(2)(d) or (3), or Section 76-13-205 or 76-13-206 concerning dog fighting;

(hhhh) [~~possession, use, or removal of explosives, chemical, or incendiary devices or parts~~]unlawful conduct involving an explosive, chemical, or incendiary device under Section [~~76-10-306~~]76-15-210;

(iiii) unlawful conduct involving an explosive, chemical, or incendiary part under Section 76-15-211;

[~~(iiii)~~](jjjj) [~~delivery to common carrier, mailing, or placement on premises of an~~]unlawful delivery or mailing of an explosive, chemical, or incendiary device under Section [~~76-10-307~~]76-15-209;

[~~(jjjj)~~](kkkk) possession of a [~~deadly~~]dangerous weapon with criminal intent [~~to assault~~]under Section [~~76-10-507~~]76-11-206;

[~~(kkkk)~~](llll) unlawful marking of [~~pistol or revolver~~]a handgun under Section [~~76-10-521~~]53-5a-105;

[~~(llll)~~](mmmm) alteration of number or mark on [~~pistol or revolver~~]a handgun under Section [~~76-10-522~~]53-5a-106;

[~~(mmmm)~~](nnnn) forging or counterfeiting trademarks, trade name, or trade device under Section [~~76-10-1002~~]76-16-302;

[~~(nnnn)~~](oooo) selling goods under counterfeited trademark, trade name, or trade devices under Section [~~76-10-1003~~]76-16-303;

[~~(oooo)~~](pppp) sales in containers bearing registered trademark of substituted articles under Section [~~76-10-1004~~]76-16-304;

[~~(pppp)~~](qqqq) selling or dealing with article bearing registered trademark or service mark with intent to defraud under Section [~~76-10-1006~~]76-16-306;

[~~(qqqq)~~](rrrr) participating in gambling under Section [~~76-10-1102~~]76-9-1402;

(ssss) permitting gambling under Section 76-9-1403;

(tttt) online gambling prohibition under Section 76-9-1404;

(uuuu) gambling promotion under Section 76-9-1405;

[~~(rrrr)~~](vvvv) gambling fraud under Section [~~76-10-1103~~]76-9-1406;

[~~(ssss) gambling promotion under Section 76-10-1104;~~]

[~~(tttt)~~](wwww) possessing a gambling device or record under Section [~~76-10-1105~~]76-9-1407;

[~~(uuuu)~~](xxxx) obtaining a benefit from a confidence game under Section [~~76-10-1109~~]76-9-1410;

[~~(vvvv)~~](yyyy) distributing pornographic material under Section [~~76-10-1204~~]76-5c-202;

(zzzz) aiding or abetting a minor in distributing pornographic material under Section 76-5c-203;

[~~(wwww)~~](aaaaa) inducing acceptance of pornographic material under Section [~~76-10-1205~~]76-5c-204;

[~~(xxxx)~~](bbbbb) [~~dealing in harmful material to a minor~~]distributing material harmful to minors under Section [~~76-10-1206~~]76-5c-205;

(ccccc) aiding or abetting a minor in distributing material harmful to minors under Section 76-5c-206;

[~~(yyyy)~~](ddddd) distribution of [~~pornographic films~~]a pornographic file for exhibition under Section [~~76-10-1222~~]76-5c-305;

[~~(zzzz)~~](eeeee) indecent public [~~displays~~]display in the presence of a minor under Section [~~76-10-1228~~]76-5c-207;

[~~(aaaaa)~~](fffff) prostitution under Section [~~76-10-1302~~]77-5d-202;

[~~(bbbbb)~~](ggggg) aiding prostitution under Section [~~76-10-1304~~]76-5d-206;

[~~(eeeee)~~](hhhhh) exploiting prostitution under Section [~~76-10-1305~~]76-5d-207;

[~~(ddddd)~~](iiiii) aggravated exploitation of prostitution under Section [~~76-10-1306~~]76-5d-208;

[~~(eeeee)~~](jjjjj) communications fraud under Section [~~76-10-1801~~]76-6-525;

[~~(fffff)~~](kkkkk) an act prohibited by the criminal provisions of [~~Part 19, Money Laundering and Currency Transaction Reporting Act~~]Chapter 9, Part 16, Money Laundering and Currency Transaction Reporting;

[~~(ggggg)~~](lllll) vehicle compartment for contraband under Section [~~76-10-2801~~]76-9-1902 or 76-9-1903;

[~~(hhhhh)~~](mmmmm) an act prohibited by the criminal provisions of the laws governing taxation in this state; or

[~~(iiiii)~~](nnnnn) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 473. Section 76-17-402, which is renumbered from Section 76-10-1604 is renumbered and amended to read:

[~~76-10-1604~~]76-17-402. Enforcement authority of peace officers.

Notwithstanding any law to the contrary, peace officers in [~~the state of Utah shall~~]this state have the authority to enforce the criminal provisions of this [~~act~~]part by initiating investigations, assisting grand juries, obtaining indictments, filing informations, and assisting in the prosecution of criminal cases through the attorney general or county attorneys' offices.

Section 474. Section 76-17-403, which is renumbered from Section 76-10-1605 is renumbered and amended to read:

[~~76-10-1605~~]76-17-403. Remedies of person injured by a pattern of unlawful activity -- Double damages -- Costs, including attorney fees -- Arbitration -- Agency -- Burden of proof -- Actions by attorney general or county attorney -- Dismissal -- Statute of limitations -- Authorized orders of a court.

(1) (a) A person injured in [~~his~~]the person's person, business, or property by a person engaged in conduct forbidden by [~~any provision of Section 76-10-1603~~]Section 76-17-407 may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover twice the damages that the person sustains, regardless of whether:

[~~(a)~~](i) the injury is separate or distinct from the injury suffered as a result of the acts or conduct constituting the pattern of unlawful conduct alleged as part of the cause of action; or

[~~(b)~~](ii) the conduct has been adjudged criminal by [~~any~~]a court of the state or of the United States.

(2) A party who prevails on a cause of action brought under this section recovers the cost of the suit, including reasonable attorney fees.

(3) All actions arising under this section [~~which~~]that are grounded in fraud are subject to arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(4) (a) In all actions under this section, a principal is liable for actual damages for harm caused by an agent acting within the scope of either [~~his~~]the agent's employment or apparent authority.

(b) A principal is liable for double damages only if the pattern of unlawful activity alleged and proven as part of the cause of action was authorized, solicited, requested, commanded, undertaken, performed, or recklessly tolerated by the board of directors or a high managerial agent acting within the scope of [~~his~~]the agent's employment.

(5) In all actions arising under this section, the burden of proof is clear and convincing evidence.

(6) The attorney general, county attorney, or, if within a prosecution district, the district attorney may maintain [~~actions~~]an action under this section on behalf of the state, the county, or any person injured by a person engaged in conduct forbidden by [~~any provision of Section 76-10-1603~~]Section 76-17-407, to prevent, restrain, or remedy injury as defined in this section and may recover the damages and costs allowed by this section.

(7) In all actions under this section, the elements of each claim or cause of action shall be stated with particularity against each defendant.

(8) If an action, claim, or counterclaim brought or asserted by a private party under this section is dismissed [~~prior to~~]before trial or disposed of on summary judgment, or if it is determined at trial that there is no liability, the prevailing party shall recover from the party who brought the action or asserted the claim or counterclaim the amount of [~~its~~]the prevailing party's reasonable expenses incurred because of the defense against the action, claim, or counterclaim, including a reasonable [~~attorney's~~]attorney fee.

(9) (a) An action or proceeding brought under this section shall be commenced within three years after the conduct prohibited by Section [~~76-10-1603~~]76-17-407 terminates or the cause of action accrues, whichever is later.

(b) [~~This provision~~]Subsection (9)(a) supersedes any limitation to the contrary.

(10) (a) In any action brought under this section, the court may prevent, restrain, or remedy injury as defined by this section by issuing appropriate orders after making provisions for the rights of innocent persons.

(b) Before liability is determined in any action brought under this section, the court may:

(i) issue restraining orders and injunctions;

(ii) require satisfactory performance bonds or any other bond [~~it~~]the court considers appropriate and necessary in connection with any property or [~~any~~]requirement imposed upon a party by the court; and

(iii) enter any other order the court considers necessary and proper.

(c) After a determination of liability, the court may, in addition to granting the relief allowed in Subsection (1), do any one or all of the following:

(i) order [~~any~~]a person to divest [~~himself~~]the person's self of any interest in or any control, direct or indirect, of [~~any~~]an enterprise;

(ii) impose reasonable restrictions on the future activities or investments of [~~any~~]a person, including prohibiting [~~any~~]a person from engaging in the same type of endeavor as the enterprise engaged in, to the extent the Utah Constitution and the Constitution of the United States permit; or

(iii) order the dissolution or reorganization of [~~any~~]an enterprise.

(d) (i) However, if an action is brought to obtain any relief provided by this section, and if the conduct prohibited by [~~Section 76-10-1603~~]Section 76-17-407 has for its pattern of unlawful activity acts or conduct illegal under Section [~~76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222,~~]76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305, the court may not enter [~~any~~]an order that would amount to a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States, or Article I, Sec. 15 of the Utah Constitution.

(ii) The court shall, upon the request of [~~any~~]an affected party, and upon the notice to all parties, [~~prior to~~]before the issuance of [~~any~~]an order provided for in this subsection, and at any later time, hold hearings as necessary to determine whether any materials at issue are obscene or pornographic and to determine if there is probable cause to believe that any act or conduct alleged violates Section [~~76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222~~]76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305.

(iii) In making [~~its~~]the court's findings, the court shall be guided by the same considerations required of a court making similar findings in criminal cases brought under Section [~~76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222~~]76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305, including, but not limited to, the definitions in Sections [~~76-10-1201, 76-10-1203, and 76-10-1216~~]76-5c-101 and 76-5c-301, and the exemptions in Section [~~76-10-1226~~]76-5c-302.

Section 475. Section 76-17-404, which is renumbered from Section 76-10-1607 is renumbered and amended to read:

[~~76-10-1607~~]76-17-404. Evidentiary value of a criminal judgment in a civil proceeding.

A final judgment or decree rendered in favor of the state or a county in [~~any~~]a criminal proceeding brought by this state or a county shall preclude the defendant from denying the essential allegations of the criminal offense in [~~any~~]a subsequent civil proceeding.

Section 476. Section 76-17-405, which is renumbered from Section 76-10-1609 is renumbered and amended to read:

[~~76-10-1609~~]76-17-405. Prospective application.

(1) [~~The amendments to the Utah Pattern of Unlawful Activity Act~~]Except as provided in Subsection (2), amendments to this part are prospective in nature and apply only to civil causes of action accruing after [~~the effective date of this act~~]April 27, 1987.

(2) [~~However, crimes committed prior to the effective date of this act~~]A crime committed before April 27, 1987, may comprise part of a pattern of unlawful activity if at least one of the criminal episodes comprising that pattern occurs after [~~the effective date of this act~~]April 27, 1987, and the pattern otherwise meets the definition of pattern of unlawful activity as defined in Section [~~76-10-1602~~]76-17-401.

Section 477. Section 76-17-406, which is renumbered from Section 76-10-1608 is renumbered and amended to read:

[~~76-10-1608~~]76-17-406. Severability clause.

If any part or application of [~~the Utah Pattern of Unlawful Activity Act~~]this part is held invalid, the remainder of this part, or [~~its~~]the part's application to other situations or persons, is not affected.

Section 478. Section 76-17-407, which is renumbered from Section 76-10-1603 is renumbered and amended to read:

[~~76-10-1603~~]76-17-407. Prohibited conduct concerning a pattern of unlawful activity.

(1) (a) As used in this section, "net proceeds" of a violation of this section means property acquired as a result of the violation minus the direct costs of acquiring the property.

(b) Terms defined in Sections 76-1-101.5, 76-17-101, and 76-17-401 apply to this section.

(2) An actor commits prohibited conduct concerning a pattern of unlawful activity if the actor:

(a) [~~It is unlawful for any person who~~]

(i) has received [~~any~~]proceeds derived, whether directly or indirectly, from a pattern of unlawful activity in which the [~~person~~]actor has participated as a principal [~~, to use or invest,~~]; and

(ii) uses or invests, directly or indirectly, any part of [~~that~~]the income described in Subsection (2)(a)(i), or the proceeds of the income, or the proceeds derived from the investment or use of those proceeds, in the acquisition of [~~any~~]an interest in, or the establishment or operation of, [~~any~~]an enterprise [~~.~~];

[~~(2)~~](b) [~~It is unlawful for any person through a pattern of unlawful activity to acquire or maintain~~]acquires or maintains, directly or indirectly, [~~any~~]through a pattern of unlawful activity, an interest in or control of [~~any~~]an enterprise [~~.~~];

[~~(3)~~](c) (i) [~~It is unlawful for any person~~]is employed by or associated with [~~any~~]an enterprise; and

(ii) [~~to conduct or participate~~]conducts or participates, whether directly or indirectly, in the conduct of [~~that~~]the enterprise's affairs through a pattern of unlawful activity [~~.~~]; or

[~~(4)~~](d) [~~It is unlawful for any person to conspire to violate any provision of Subsection (1), (2), or (3)~~]conspires to violate Subsection (2)(a), (b), or (c).

(3) A violation of Subsection (2) is a second degree felony.

(4) In addition to penalties prescribed by law, the court may order an actor to pay to the state, if the attorney general brought the action, or to the county, if the county attorney or district attorney brought the action, the costs of investigating and prosecuting the offense and the costs of securing the forfeitures provided for in this section.

(5) In lieu of a fine otherwise authorized by law for a violation of this section, an actor who derives net proceeds from a conduct prohibited by this section may be fined not more than twice the amount of the net proceeds.

(6) Upon a conviction for a violation of this section, and in addition to a penalty prescribed by law, the court may do any or all of the following:

(a) order restitution to any victim or rightful owner of property obtained, directly or indirectly, from:

(i) the conduct constituting the pattern of unlawful activity; or

(ii) any act or conduct constituting the pattern of unlawful activity that is proven as part of the violation of this section;

(b) order the actor to divest the actor of any interest in or any control, direct or indirect, of an enterprise;

(c) impose reasonable restrictions on the future activities or investments of any person, including prohibiting the person from engaging in the same type of endeavor as the enterprise engaged in, to the extent the Utah Constitution and the Constitution of the United States permit; or

(d) order the dissolution or reorganization of an enterprise.

(7) If a violation of this section is based on a pattern of unlawful activity consisting of acts or conduct in violation of Section 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305, the court may not enter an order that would amount to a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

Section 479. Section 77-2-9 is amended to read:

77-2-9. Offenses ineligible for diversion.

(1) A magistrate may not grant a diversion for:

(a) a capital felony;

(b) a felony in the first degree;

(c) any case involving a sexual offense against a victim who is under 14 years old;

(d) any motor vehicle related offense involving alcohol or drugs;

(e) any case involving using a motor vehicle in the commission of a felony;

(f) driving a motor vehicle or commercial motor vehicle on a revoked or suspended license;

(g) any case involving operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of:

(i) manslaughter under Section 76-5-205; or

(ii) negligent homicide under Section 76-5-206; or

(h) a crime of domestic violence as defined in Section 77-36-1.

(2) When an individual is alleged to have committed any violation of Title 76, Chapter 5, Part 4, Sexual Offenses, other than a violation of Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, while the individual is under 16 years old, the court may enter a diversion in the matter if the court enters on the record the court's findings that:

(a) the offenses could have been adjudicated in juvenile court but for the delayed reporting or delayed filing of the information in the district court, unless the offenses are before the court in accordance with Section 80-6-502 or 80-6-504;

(b) the individual did not use coercion or force;

(c) there is no more than three years' difference between the ages of the participants; and

(d) it would be in the best interest of the person to grant diversion.

Section 480. Section 77-7a-104 is amended to read:

77-7a-104. Activation and use of body-worn cameras.

(1) An officer using a body-worn camera shall verify that the equipment is properly functioning as is reasonably within the officer's ability.

(2) An officer shall report any malfunctioning equipment to the officer's supervisor if:

(a) the body-worn camera issued to the officer is not functioning properly upon initial inspection; or

(b) an officer determines that the officer's body-worn camera is not functioning properly at any time while the officer is on duty.

(3) An officer shall wear the body-worn camera so that it is clearly visible to the person being recorded.

(4) An officer shall activate the body-worn camera prior to any law enforcement encounter, or as soon as reasonably possible.

(5) An officer shall record in an uninterrupted manner until after the conclusion of a law enforcement encounter, except as an interruption of a recording is allowed under this section.

(6) When going on duty and off duty, an officer who is issued a body-worn camera shall record the officer's name, identification number, and the current time and date, unless the information is already available due to the functionality of the body-worn camera.

(7) If a body-worn camera was present during a law enforcement encounter, the officer shall document the presence of the body-worn camera in any report or other official record of a contact.

(8) When a body-worn camera has been activated, the officer may not deactivate the body-worn camera until the officer's direct participation in the law enforcement encounter is complete, except as provided in Subsection (9).

(9) An officer may deactivate a body-worn camera:

(a) to consult with a supervisor or another officer;

(b) during a significant period of inactivity;

(c) during a conversation with a sensitive victim of crime, a witness of a crime, or an individual who wishes to report or discuss criminal activity if:

(i) the individual who is the subject of the recording requests that the officer deactivate the officer's body-worn camera; and

(ii) the officer believes that the value of the information outweighs the value of the potential recording and records the request by the individual to deactivate the body-worn camera; or

(d) during a conversation with a victim of a domestic violence offense as defined in Section 77-36-1, or a sexual offense, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, [~~or domestic violence, as defined in Section 77-36-1,~~]other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420if:

(i) the officer is conducting an evidence-based lethality assessment;

(ii) the victim or the officer believes that deactivating the body-worn camera recording:

(A) will encourage complete and accurate information sharing by the victim; or

(B) is necessary to protect the safety or identity of the victim; and

(iii) the officer's body-worn camera is reactivated as soon as reasonably possible after the evidence-based lethality assessment is complete.

(10) If an officer deactivates or fails to activate a body-worn camera in violation of this section, the officer shall document the reason for deactivating or for failing to activate a body-worn camera in a written report.

(11) (a) For purposes of this Subsection (11):

(i) "Health care facility" means the same as that term is defined in Section 78B-3-403.

(ii) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(iii) "Hospital" means the same as that term is defined in Section 78B-3-403.

(iv) "Human service program" means the same as that term is defined in Section 26B-2-101.

(b) An officer may not activate a body-worn camera in a hospital, health care facility, human service program, or the clinic of a health care provider, except during a law enforcement encounter, and with notice under Section 77-7a-105.

(12) A violation of this section may not serve as the sole basis to dismiss a criminal case or charge.

(13) Nothing in this section precludes a law enforcement agency from establishing internal agency policies for an officer's failure to comply with the requirements of this section.

Section 481. Section 77-11a-402 is amended to read:

77-11a-402. Disposition of seized property and contraband -- Return of seized property.

(1) (a) Except as provided in Subsection (1)(b), if a prosecuting attorney determines that seized property no longer needs to be retained as evidence under Chapter 11c, Retention of Evidence, the prosecuting attorney may:

(i) petition the court to apply the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;

(ii) petition the court for an order transferring ownership of weapons to the agency with custody for the agency's use and disposal in accordance with Section 77-11a-403 if the owner:

(A) is the individual who committed the offense for which the weapon was seized; or

(B) may not lawfully possess the weapon; or

(iii) notify the agency with custody of the property or contraband that:

(A) the property may be returned to the owner in accordance with Section 77-11a-301 if the owner may lawfully possess the property; or

(B) the contraband may be disposed of or destroyed.

(b) If a prosecuting attorney determines that a firearm seized from an individual as a result of an offense committed under Subsection [~~76-10-529(2)(a)(i)~~]76-11-215(2)(a) no longer needs to be retained for court proceedings, the prosecuting attorney shall notify the agency with custody of the firearm that the property shall be returned to the individual if the individual may lawfully possess the firearm.

(2) Before returning a firearm to an individual, the agency returning the firearm shall confirm, through the Bureau of Criminal Identification, that the individual is eligible to lawfully possess and receive firearms.

(3) (a) Except as provided in Subsection (3)(b), if the agency is unable to locate the owner of the property or the owner is not entitled to lawfully possess the property, the agency may:

(i) apply the property to a public interest use;

(ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(iii) destroy the property if the property is unfit for a public interest use or for sale.

(b) If the property described in Subsection (3)(a) is a firearm, the agency shall dispose of the firearm in accordance with Section 77-11a-403.

(4) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:

(a) permission to apply the property or the proceeds to public interest use; and

(b) the designation and approval of the public interest use of the property or the proceeds.

(5) If a peace officer seizes property that at the time of seizure is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

Section 482. Section 77-11b-102 is amended to read:

77-11b-102. Property subject to forfeiture.

(1) (a) Except as provided in Subsection (2), (3), (4), or (5), an agency may seek to forfeit:

(i) seized property that was used to facilitate the commission of an offense that is a violation of federal or state law; or

(ii) seized proceeds.

(b) An agency, or the prosecuting attorney, may not forfeit the seized property of an innocent owner or an interest holder.

(2) If seized property is used to facilitate an offense that is a violation of Section [~~76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222~~]76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305, an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

(3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the motor vehicle, unless:

(a) the operator of the vehicle has previously been convicted of an offense committed after May 12, 2009, that is:

(i) a felony driving under the influence violation under Section 41-6a-502 or Subsection 76-5-102.1(2)(a);

(ii) a felony violation under Subsection 76-5-102.1(2)(b);

(iii) a violation under Section 76-5-207; or

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

(b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license and:

(i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii) was imposed because of a violation under:

(A) Section 41-6a-502;

(B) Section 41-6a-517;

(C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

(D) Section 41-6a-520.1;

(E) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(F) Section 76-5-102.1;

(G) Section 76-5-207; or

(H) a criminal prohibition as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through (G); or

(ii) the denial, suspension, revocation, or disqualification described in Subsection (3)(b)(i):

(A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension, revocation, or disqualification; and

(B) the original denial, suspension, revocation, or disqualification was imposed because of a violation described in Subsection (3)(b)(i).

(4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 58-37-8(2)(b)(i), an agency may not seek to forfeit the property that was seized in accordance with the arrest.

(5) If a peace officer seizes an individual's firearm as the result of an offense under Section [~~76-10-529~~]76-11-215, an agency may not seek to forfeit the individual's firearm if the individual may lawfully possess the firearm.

Section 483. Section 77-11d-101 is amended to read:

77-11d-101. Definitions.

As used in this chapter:

(1) "Interest holder" means the same as that term is defined in Section 77-11a-101.

(2) (a) "Lost or mislaid property":

(i) means any property that comes into the possession of a peace officer or law enforcement agency:

(A) that is not claimed by anyone who is identified as the owner of the property; or

(B) for which no owner or interest holder can be found after a reasonable and diligent search;

(ii) includes any property received by a peace officer or law enforcement agency from a person claiming to have found the property; and

(iii) does not include property seized by a peace officer in accordance with Chapter 11a, Seizure of Property and Contraband.

(b) "Lost or mislaid property" includes a firearm or other dangerous weapon received by a law enforcement agency at an airport under Subsection [~~76-10-529(6)~~]76-11-215(7).

(3) "Owner" means the same as that term is defined in Section 77-11a-101.

(4) "Public interest use" means:

(a) use by a governmental agency as determined by the agency's legislative body; or

(b) donation to a nonprofit charity registered with the state.

Section 484. Section 77-11d-105 is amended to read:

77-11d-105. Disposition of unclaimed property.

(1) (a) Except as provided in Subsection (6), if the owner of any lost or mislaid property cannot be determined or notified, or if the owner of the property is determined and notified, and fails to appear and claim the property after three months of the property's receipt by the local law enforcement agency, the agency shall:

(i) publish notice of the intent to dispose of the unclaimed property on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b);

(ii) post a similar notice on the public website of the political subdivision within which the law enforcement agency is located; and

(iii) post a similar notice in a public place designated for notice within the law enforcement agency.

(b) The notice shall:

(i) give a general description of the item; and

(ii) the date of intended disposition.

(c) The agency may not dispose of the lost or mislaid property until at least eight days after the date of publication and posting.

(2) (a) If no claim is made for the lost or mislaid property within nine days of publication and posting, the agency shall notify the person who turned the property over to the local law enforcement agency, if it was turned over by a person under Section 77-11d-103.

(b) Except as provided in Subsection (4), if that person has complied with the provisions of this chapter, the person may take the lost or mislaid property if the person:

(i) pays the costs incurred for advertising and storage; and

(ii) signs a receipt for the item.

(3) If the person who found the lost or mislaid property fails to take the property under the provisions of this chapter, the agency shall:

(a) apply the property to a public interest use as provided in Subsection (4);

(b) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(c) destroy the property if it is unfit for a public interest use or sale.

(4) (a) Before applying the lost or mislaid property to a public interest use, the agency having possession of the property shall obtain from the agency's legislative body:

(i) permission to apply the property to a public interest use; and

(ii) the designation and approval of the public interest use of the property.

(b) If the agency is a private law enforcement agency as defined in Subsection 53-19-102(4), the agency may apply the lost or mislaid property to a public interest use as provided in Subsection (4)(a) after obtaining the permission, designation, and approval of the legislative body of the municipality in which the agency is located.

(5) Any person employed by a law enforcement agency who finds property may not claim or receive property under this section.

(6) (a) If the lost or mislaid property is a firearm or other dangerous weapon received by a law enforcement agency under Subsection [~~76-10-529(6)~~]76-11-215(7), the law enforcement agency may dispose of the firearm or other dangerous weapon three months after the property's receipt by the law enforcement agency if the owner of the firearm or other dangerous weapon, or the owner's agent:

(i) fails to retrieve the firearm or other dangerous weapon; or

(ii) is legally prohibited from possessing the firearm or other dangerous weapon.

(b) A law enforcement agency may dispose of a firearm under Subsection (6)(a) by following the procedures described in Section 77-11a-403, disposition of firearms no longer needed as evidence.

Section 485. Section 77-20-203 is amended to read:

77-20-203. County sheriff authority to release an individual from jail on own recognizance.

(1) As used in this section:

(a) (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

(b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

(c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) Except as provided in Subsection (3), a county jail official may release an individual from a jail facility on the individual's own recognizance if:

(a) the individual was arrested without a warrant;

(b) the individual was not arrested for:

(i) a violent felony;

(ii) a qualifying offense;

(iii) the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in

death or serious bodily injury to an individual; or

(iv) an offense described in Subsection [~~76-9-101(4)~~]76-9-101(3)(b);

(c) law enforcement has not submitted a probable cause statement to a court or magistrate;

(d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(e) the individual qualifies for release under the written policy described in Subsection (4) for the county.

(3) A county jail official may not release an individual from a jail facility if the individual is subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Section 64-13-29.

(4) (a) A county sheriff shall create and approve a written policy for the county that governs the release of an individual on the individual's own recognizance.

(b) The written policy shall describe the criteria an individual shall meet to be released on the individual's own recognizance.

(c) A county sheriff may include in the written policy the criteria for release relating to:

(i) criminal history;

(ii) prior instances of failing to appear for a mandatory court appearance;

(iii) current employment;

(iv) residency;

(v) ties to the community;

(vi) an offense for which the individual was arrested;

(vii) any potential criminal charges that have not yet been filed;

(viii) the individual's health condition;

(ix) any potential risks to a victim, a witness, or the public; and

(x) any other similar factor a sheriff determines is relevant.

(5) (a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual for up to 24 hours from booking if:

(i) the individual is on supervised probation or parole and that information is reasonably available; and

(ii) the individual was arrested for:

(A) a violent felony; or

(B) a qualifying domestic violence offense.

(b) The jail facility shall:

(i) notify the entity supervising the individual's probation or parole that the individual is being detained; and

(ii) release the individual:

(A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or

(B) if a court or magistrate orders release.

(c) This Subsection (5) does not prohibit a jail facility from holding the individual in accordance with this chapter for a new criminal offense.

(6) This section does not prohibit a court and a county from entering into an agreement regarding release.

Section 486. Section 77-20-204 is amended to read:

77-20-204. County jail authority to release an individual from jail on monetary bail.

(1) As used in this section, "eligible felony offense" means a third degree felony violation under:

(a) Section 23A-4-501 or 23A-4-502;

(b) Section 23A-5-311;

(c) Section 23A-5-313;

(d) Title 76, Chapter 6, Part 4, Theft;

(e) Title 76, Chapter 6, Part 5, Fraud;

(f) Title 76, Chapter 6, Part 6, Retail Theft;

(g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

(h) Title 76, Chapter 6, Part 8, Library Theft;

(i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

(j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

(k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

(m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

(n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

[~~(o) Title 76, Chapter 6a, Pyramid Scheme Act;~~]

[~~(p)~~](o) Title 76, Chapter 7, Offenses Against the Family;

[~~(q)~~](p) Title 76, Chapter 7a, Abortion Prohibition;

(q) Title 76, Chapter 12, Part 2, Electronic Communication Abuse;

(r) Title 76, Chapter 12, Part 3, Privacy Offenses;

(s) Title 76, Chapter 13, Offenses Involving Cruelty to Animals; or

(t) Title 76, Chapter 17, Part 3, Offenses Concerning Pyramid Schemes.

[~~(r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;~~]

[~~(s) Title 76, Chapter 9, Part 3, Cruelty to Animals;~~]

[~~(t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;~~]

[~~(u) Title 76, Chapter 9, Part 5, Libel; or~~]

[~~(v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.~~]

(2) Except as provided in Subsection (7)(a), a county jail official may fix a financial condition for an individual if:

(a) (i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;

(ii) the individual is arrested for, or charged with:

(A) a misdemeanor offense under state law; or

(B) a violation of a city or county ordinance that is classified as a class B or C misdemeanor offense;

(iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(iv) law enforcement has not submitted a probable cause statement to a magistrate; or

(b) (i) the individual is arrested for, or charged with, an eligible felony offense;

(ii) the individual is not on pretrial release for a separate criminal offense;

(iii) the individual is not on probation or parole;

(iv) the primary risk posed by the individual is the risk of failure to appear;

(v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(vi) law enforcement has not submitted a probable cause statement to a magistrate.

(3) A county jail official may not fix a financial condition at a monetary amount that exceeds:

(a) $5,000 for an eligible felony offense;

(b) $1,950 for a class A misdemeanor offense;

(c) $680 for a class B misdemeanor offense;

(d) $340 for a class C misdemeanor offense;

(e) $150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or

(f) $80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.

(4) If an individual is arrested for more than one offense, and the county jail official fixes a financial condition for release:

(a) the county jail official shall fix the financial condition at a single monetary amount; and

(b) the single monetary amount may not exceed the monetary amount under Subsection (3) for the highest level of offense for which the individual is arrested.

(5) Except as provided in Subsection (7)(b), an individual shall be released if the individual posts a financial condition fixed by a county jail official in accordance with this section.

(6) If a county jail official fixes a financial condition for an individual, law enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of Criminal Procedure after the county jail official fixes the financial condition.

(7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah Rules of Criminal Procedure:

(a) a county jail official may not fix or modify a financial condition for an individual; and

(b) if a county jail official fixed a financial condition for the individual before the magistrate's review, the individual may no longer be released on the financial condition.

(8) A jail facility may not release an individual subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Section 64-13-29.

(9) This section does not prohibit a court and a county from entering into an agreement regarding release.

Section 487. Section 77-22-2.5 is amended to read:

77-22-2.5. Court orders for criminal investigations for records concerning an electronic communications system or service or remote computing service -- Content -- Fee for providing information.

(1) As used in this section:

(a) (i) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

(ii) "Electronic communication" does not include:

(A) a wire or oral communication;

(B) a communication made through a tone-only paging device;

(C) a communication from a tracking device; or

(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

(b) "Electronic communications service" means a service which provides for users the ability to send or receive wire or electronic communications.

(c) "Electronic communications system" means a wire, radio, electromagnetic, photooptical, or photoelectronic facilities for the transmission of wire or electronic communications, and a computer facilities or related electronic equipment for the electronic storage of the communication.

(d) "Internet service provider" means the same as that term is defined in Section [~~76-10-1230~~]76-5c-401.

(e) "Prosecutor" means the same as that term is defined in Section 77-22-4.5.

(f) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communications system.

(g) (i) "Sexual offense against a minor" means:

[~~(i)~~](A) sexual exploitation of a minor or attempted sexual exploitation of a minor in violation of Section 76-5b-201;

[~~(ii)~~](B) aggravated sexual exploitation of a minor or attempted aggravated sexual exploitation of a minor in violation of Section 76-5b-201.1;

[~~(iii)~~](C) a sexual offense or attempted sexual offense committed against a minor in violation of Title 76, Chapter 5, Part 4, Sexual Offenses;

[~~(iv)~~](D) dealing in or attempting to deal in material harmful to a minor in violation of [~~Section 76-10-1206~~]Section 76-5c-205 or 76-5c-206;

[~~(v) enticement of a minor or attempted enticement of a minor in violation of Section 76-4-401;~~]

[~~(vi)~~](E) human trafficking of a child in violation of Section 76-5-308.5; or

[~~(vii)~~](F) aggravated sexual extortion of a child in violation of Section 76-5b-204.

(ii) "Sexual offense against a minor" does not include an offense described in Section 76-5-418, 76-5-419, or 76-5-420.

(2) When a law enforcement agency is investigating a sexual offense against a minor, an offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under Section 76-5-301.1, and has reasonable suspicion that an electronic communications system or service or remote computing service has been used in the commission of a criminal offense, a law enforcement agent shall:

(a) articulate specific facts showing reasonable grounds to believe that the records or other information sought, as designated in Subsections (2)(c)(i) through (v), are relevant and material to an ongoing investigation;

(b) present the request to a prosecutor for review and authorization to proceed; and

(c) submit the request to a magistrate for a court order, consistent with 18 U.S.C. Sec. 2703 and 18 U.S.C. Sec. 2702, to the electronic communications system or service or remote computing service provider that owns or controls the Internet protocol address, websites, email address, or service to a specific telephone number, requiring the production of the following information, if available, upon providing in the court order the Internet protocol address, email address, telephone number, or other identifier, and the dates and times the address, telephone number, or other identifier is suspected of being used in the commission of the offense:

(i) names of subscribers, service customers, and users;

(ii) addresses of subscribers, service customers, and users;

(iii) records of session times and durations;

(iv) length of service, including the start date and types of service utilized; and

(v) telephone or other instrument subscriber numbers or other subscriber identifiers, including a temporarily assigned network address.

(3) A court order issued under this section shall state that the electronic communications system or service or remote computing service provider shall produce a record under Subsections (2)(c)(i) through (v) that is reasonably relevant to the investigation of the suspected criminal activity or offense as described in the court order.

(4) (a) An electronic communications system or service or remote computing service provider that provides information in response to a court order issued under this section may charge a fee, not to exceed the actual cost, for providing the information.

(b) The law enforcement agency conducting the investigation shall pay the fee.

(5) The electronic communications system or service or remote computing service provider served with or responding to the court order may not disclose the court order to the account holder identified pursuant to the court order for a period of 90 days.

(6) If the electronic communications system or service or remote computing service provider served with the court order does not own or control the Internet protocol address, websites, or email address, or provide service for the telephone number that is the subject of the court order, the provider shall notify the investigating law enforcement agency that the provider does not have the information.

(7) There is no cause of action against a provider or wire or electronic communication service, or the provider or service's officers, employees, agents, or other specified persons, for providing information, facilities, or assistance in accordance with the terms of the court order issued under this section or statutory authorization.

(8) (a) A court order issued under this section is subject to the provisions of Title 77, Chapter 23b, Access to Electronic Communications.

(b) Rights and remedies for providers and subscribers under Title 77, Chapter 23b, Access to Electronic Communications, apply to providers and subscribers subject to a court order issued under this section.

(9) A prosecutorial agency shall annually on or before February 15 report to the Commission on Criminal and Juvenile Justice:

(a) the number of requests for court orders authorized by the prosecutorial agency;

(b) the number of orders issued by the court and the criminal offense, pursuant to Subsection (2), each order was used to investigate; and

(c) if the court order led to criminal charges being filed, the type and number of offenses charged.

Section 488. Section 77-23a-8 is amended to read:

77-23a-8. Court order to authorize or approve interception -- Procedure.

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

(a) an act:

(i) prohibited by the criminal provisions of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) punishable by a term of imprisonment of more than one year;

(b) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

(c) an offense:

(i) of:

(A) attempt under Section 76-4-101;

(B) conspiracy under Section 76-4-201;

(C) criminal solicitation of an adult, Section 76-4-203; or

(D) criminal solicitation of a minor, Section 76-4-205; and

(ii) punishable by a term of imprisonment of more than one year;

(d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year under Section 76-5-107.3;

(e) (i) aggravated murder under Section 76-5-202;

(ii) murder under Section 76-5-203; or

(iii) manslaughter under Section 76-5-205;

(f) (i) kidnapping under Section 76-5-301;

(ii) child kidnapping under Section 76-5-301.1;

(iii) aggravated kidnapping under Section 76-5-302;

(iv) human trafficking for labor under Section 76-5-308;

(v) human trafficking for sexual exploitation under Section 76-5-308.1;

(vi) human trafficking of a child under Section 76-5-308.5;

(vii) human smuggling under Section 76-5-308.3;

(viii) aggravated human trafficking under Section 76-5-310; or

(ix) aggravated human smuggling under Section 76-5-310.1;

(g) (i) arson under Section 76-6-102; or

(ii) aggravated arson under Section 76-6-103;

(h) (i) burglary under Section 76-6-202; or

(ii) aggravated burglary under Section 76-6-203;

(i) (i) robbery under Section 76-6-301; or

(ii) aggravated robbery under Section 76-6-302;

(j) an offense:

(i) of:

(A) theft under Section 76-6-404;

(B) theft by deception under Section 76-6-405; or

(C) theft by extortion under Section 76-6-406; and

(ii) punishable by a maximum term of imprisonment of more than one year;

(k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year under Section 76-6-408;

(l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year under Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;

(m) bribery of a labor official under Section 76-6-509;

(n) bribery or threat to influence a publicly exhibited contest under Section 76-6-514;

(o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year under Section 76-6-518;

(p) criminal usury under Section 76-6-520;

(q) insurance fraud punishable by a maximum term of imprisonment of more than one year under Section 76-6-521;

(r) a violation under Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year under Section 76-6-703;

(s) bribery to influence official or political actions under Section 76-8-103;

(t) misusing public money or public property under Section 76-8-402;

(u) tampering with a witness under Section 76-8-508;

(v) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(w) tampering or retaliating against a juror under Section 76-8-508.5;

(x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(y) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

(z) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;

(aa) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;

(bb) destruction of property to interfere with preparations for defense or war under Section 76-8-802;

(cc) an attempt to commit crimes of sabotage under Section 76-8-804;

(dd) conspiracy to commit crimes of sabotage under Section 76-8-805;

(ee) advocating criminal syndicalism or sabotage under Section 76-8-902;

(ff) assembling for advocating criminal syndicalism or sabotage under Section 76-8-903;

(gg) riot punishable by a maximum term of imprisonment of more than one year under Section 76-9-101;

(hh) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year under Section [~~76-9-301.1~~]76-13-205;

[~~(ii) possession, use, or removal of an explosive, chemical, or incendiary device and parts under Section 76-10-306;~~]

[~~(jj)~~](ii) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device under Section [~~76-10-307~~]76-15-209;

(jj) unlawful conduct involving an explosive, chemical, or incendiary device under Section 76-15-210;

(kk) unlawful conduct involving an explosive, chemical, or incendiary part under Section 76-15-211;

[~~(kk)~~](ll) exploiting prostitution under Section [~~76-10-1305~~]76-5d-207;

[~~(ll)~~](mm) aggravated exploitation of prostitution under Section [~~76-10-1306~~]76-5d-208;

[~~(mm)~~](nn) bus hijacking [~~or assault with intent to commit hijacking~~] under Section [~~76-10-1504~~]76-9-1502;

(oo) assault with intent to commit bus hijacking under Section 76-9-1503;

[~~(nn)~~](pp) [~~discharging firearms and hurling missiles~~]unlawful discharge of a firearm or hurling of a missile into a bus or terminal under Section [~~76-10-1505~~]76-9-1504;

[~~(oo)~~](qq) violations under [~~Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act~~]Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity, and the offenses listed under the definition of unlawful activity in the act, including the offenses not punishable by a maximum term of imprisonment of more than one year when those offenses are investigated as predicates for the offenses prohibited by the act under Section [~~76-10-1602~~]76-17-401;

[~~(pp)~~](rr) communications fraud under Section [~~76-10-1801~~]76-6-525;

[~~(qq)~~](ss) money laundering under Sections [~~76-10-1903 and 76-10-1904~~]76-9-1602 and 76-9-1603; or

[~~(rr)~~](tt) reporting by a person engaged in a trade or business when the offense is punishable by a maximum term of imprisonment of more than one year under Section [~~76-10-1906~~]76-9-1604.

Section 489. Section 77-36-1 is amended to read:

77-36-1. Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 81, Chapter 4, Part 4, Divorce.

(4) (a) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another.

(b) "Domestic violence" or "domestic violence offense" includes the commission of or attempt to commit, any of the following offenses by one cohabitant against another:

(i) aggravated assault under Section 76-5-103;

(ii) aggravated cruelty to an animal under [~~Subsection 76-9-301(4)~~]Section 76-13-203, with the intent to harass or threaten the other cohabitant;

(iii) assault under Section 76-5-102;

(iv) criminal homicide under Section 76-5-201;

(v) harassment under Section 76-5-106;

(vi) electronic communication harassment under [~~Section 76-9-201~~]Sections 76-12-202, 76-12-203, and 76-12-204;

(vii) kidnapping, child kidnapping, or aggravated kidnapping under Sections 76-5-301, 76-5-301.1, and 76-5-302;

(viii) mayhem under Section 76-5-105;

(ix) propelling a bodily substance or material, as described in Section 76-5-102.9;

(x) sexual offenses under Title 76, Chapter 5, Part 4, Sexual Offenses, and sexual exploitation of a minor and aggravated sexual exploitation of a minor, as described in Sections 76-5b-201 and 76-5b-201.1;

(xi) stalking under Section 76-5-106.5;

(xii) unlawful detention and unlawful detention of a minor under Section 76-5-304;

(xiii) violation of a protective order or ex parte protective order under Section 76-5-108;

(xiv) an offense against property under Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(xv) possession of a deadly weapon with criminal intent under Section [~~76-10-507~~]76-11-206;

(xvi) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle under Section [~~76-10-508~~]76-11-207;

(xvii) disorderly conduct under Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

(xviii) child abuse under Section 76-5-114;

(xix) threatening use of a dangerous weapon under Section [~~76-10-506~~]76-11-205;

(xx) threatening violence under Section 76-5-107;

(xxi) tampering with a witness under Section 76-8-508;

(xxii) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(xxiii) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(xxiv) unlawful distribution of an intimate image under Section 76-5b-203;

(xxv) unlawful distribution of a counterfeit intimate image under Section 76-5b-205;

[~~(xxvi) sexual battery under Section 76-9-702.1;~~]

[~~(xxvii)~~](xxvi) voyeurism under Section [~~76-9-702.7~~]76-12-306;

(xxvii) recorded or photographed voyeurism under Section 76-12-307;

(xxviii) distribution of images obtained through voyeurism under Section 76-12-308;

[~~(xxviii)~~](xxix) damage to or interruption of a communication device under Section 76-6-108; or

[~~(xxix)~~](xxx) an offense under Subsection 78B-7-806(1).

(c) "Domestic violence" or "domestic violence offense" does not include:

(i) enticing a minor under Section 76-5-417;

(ii) lewdness under in Section 76-5-419; or

(iii) lewdness involving a child under Section 76-5-420.

(5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 81-2-305 or 81-2-407 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 81-2-305 or 81-2-407 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 490. Section 77-36-2.1 is amended to read:

77-36-2.1. Duties of law enforcement officers -- Notice to victims -- Lethality assessments.

(1) As used in this section: [~~)~~]

(a) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

(b) (i) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.

(ii) "Dating relationship" does not include casual fraternization in a business, educational, or social context.

(c) "Intimate partner" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:

(i) is or was a spouse of the other party;

(ii) is or was living as if a spouse of the other party;

(iii) has or had one or more children in common with the other party;

(iv) is the biological parent of the other party's unborn child;

(v) is or was in a consensual sexual relationship with the other party; or

(vi) is or was in a dating relationship with the other party.

(d) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

(e) "Primary purpose domestic violence organization" means a contract provider of domestic violence services as described in Section 80-2-301.

(2) A law enforcement officer who responds to an allegation of domestic violence shall:

(a) use all reasonable means to protect the victim and prevent further violence, including:

(i) taking the action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(ii) confiscating the weapon or weapons involved in the alleged domestic violence;

(iii) making arrangements for the victim and any child to obtain emergency housing or shelter;

(iv) providing protection while the victim removes essential personal effects;

(v) arrange, facilitate, or provide for the victim and any child to obtain medical treatment;

(vi) arrange, facilitate, or provide the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence, in accordance with Subsection (3); and

(vii) providing the pamphlet created by the department under Section 53-5c-201 to the victim if the allegation of domestic violence:

(A) includes a threat of violence as described in Section 76-5-107;

(B) results, or would result, in the owner cohabitant becoming a restricted person under Section [~~76-10-503~~]76-11-302; or

(C) is accompanied by a completed lethality assessment that demonstrates the cohabitant is at high risk of being further victimized; and

(b) if the allegation of domestic violence is against an intimate partner, complete the lethality assessment protocols described in this section.

(3) (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective Orders.

(b) The written notice shall include:

(i) a statement that the forms needed in order to obtain an order for protection are available from the court clerk's office in the judicial

district where the victim resides or is temporarily domiciled;

(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance; and

(iii) the information required to be provided to both parties in accordance with Subsections 78B-7-802(8) and (9).

(4) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a domestic violence protective order is not issued or once the domestic violence protective order is terminated.

(5) A law enforcement officer shall complete a lethality assessment form by asking the victim:

(a) if the aggressor has ever used a weapon against the victim or threatened the victim with a weapon;

(b) if the aggressor has ever threatened to kill the victim or the victim's children;

(c) if the victim believes the aggressor will try to kill the victim;

(d) if the aggressor has ever tried to choke the victim;

(e) if the aggressor has a gun or could easily get a gun;

(f) if the aggressor is violently or constantly jealous, or controls most of the daily activities of the victim;

(g) if the victim left or separated from the aggressor after they were living together or married;

(h) if the aggressor is unemployed;

(i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;

(j) if the victim has a child that the aggressor believes is not the aggressor's biological child;

(k) if the aggressor follows or spies on the victim, or leaves threatening messages for the victim; and

(l) if there is anything else that worries the victim about the victim's safety and, if so, what worries the victim.

(6) A law enforcement officer shall comply with Subsection (7) if:

(a) the victim answers affirmatively to any of the questions in Subsections (5)(a) through (d);

(b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but affirmatively to at least four of the questions in Subsections (5)(e) through (k); or

(c) as a result of the victim's response to the question in Subsection (5)(l), the law enforcement officer believes the victim is in a potentially lethal situation.

(7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer shall:

(a) advise the victim of the results of the assessment;

(b) refer the victim to a nongovernment organization victim advocate at a primary purpose domestic violence organization; and

(c) refer the victim to a criminal justice system victim advocate if the responding law enforcement agency has a criminal justice system victim advocate available.

(8) If a victim does not or is unable to provide information to a law enforcement officer sufficient to allow the law enforcement officer to complete a lethality assessment form, or does not speak or is unable to speak with a nongovernment organization victim advocate, the law enforcement officer shall document this information on the lethality assessment form and submit the information to the Department of Public Safety under Subsection (9).

(9) (a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety while on scene.

(b) If a law enforcement officer is not reasonably able to submit the results of a lethality assessment while on scene, the law enforcement officer shall submit the results of the lethality assessment to the Department of Public Safety as soon as practicable.

(c) (i) Before the reporting mechanism described in Subsection (10)(a) is developed, a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety using means prescribed by the Department of Public Safety.

(ii) After the reporting mechanism described in Subsection (10)(a) is developed, a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety using that reporting mechanism.

(10) The Department of Public Safety shall:

(a) as soon as practicable, develop and maintain a reporting mechanism by which a law enforcement officer will submit the results of a lethality assessment as required by Subsection (9);

(b) provide prompt analytical support to a law enforcement officer who submits the results of a lethality assessment using the reporting mechanism described in Subsection (10)(a); and

(c) create and maintain a database of lethality assessment data provided under this section.

(11) (a) Subject to Subsection (11)(b), a law enforcement officer shall include the results of a lethality assessment and any related, relevant analysis provided by the Department of Public Safety under Subsection (10), with:

(i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules of Criminal Procedure; and

(ii) an incident report prepared in accordance with Section 77-36-2.2.

(b) In a probable cause statement or incident report, a law enforcement officer may not include information about how or where a victim was referred under Subsection (7)(b).

Section 491. Section 77-37-2 is amended to read:

77-37-2. Definitions.

As used in this chapter:

(1) "Alleged sexual offender" means the same as that term is defined in Section 53-10-801.

(2) "Child" means a person who is younger than 18 years old, unless otherwise specified in statute. The rights to information as extended in this chapter also apply to the parents, custodian, or legal guardians of children.

(3) "Family member" means spouse, child, sibling, parent, grandparent, or legal guardian.

(4) "HIV infection" means the same as that term is defined in Section 53-10-801.

(5) "Sexual assault kit" means the same as that term is defined in Section 53-10-902.

(6) (a) "Sexual offense" means any conduct described in:

[~~(a)~~](i) Title 76, Chapter 5, Part 4, Sexual Offenses;

[~~(b)~~](ii) Title 76, Chapter 5b, Sexual Exploitation Act; or

[~~(c)~~](iii) Section 76-7-102, incest [~~;~~].

[~~(d) Section 76-9-702, lewdness; or~~]

[~~(e) Section 76-9-702.1, sexual battery.~~]

(b) "Sexual offense" does not include conduct described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-420, lewdness involving a child; or

(iii) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.

(7) "Victim" means an individual, including a minor, against whom an offense has been allegedly committed.

(8) "Witness" means any person who has been subpoenaed or is expected to be summoned to testify for the prosecution or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether any action or proceeding has commenced.

Section 492. Section 77-38-3 is amended to read:

77-38-3. Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact order.

(1) Within seven days after the day on which felony criminal charges are filed against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.

(2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (g) and rights under this chapter.

(3) The prosecuting agency shall provide notice to a victim of a crime:

(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (g), which the victim has requested; and

(b) for a restitution request to be submitted in accordance with Section 77-38b-202.

(4) (a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(b) In the event of an unforeseen important criminal justice hearing, described in Subsections 77-38-2(5)(a) through (g) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.

(5) (a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through (g) permit an opportunity for victims of crimes to be notified.

(b) The court shall consider whether any notification system that the court might use to provide notice of judicial proceedings to defendants could be used to provide notice of judicial proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through (g) in advance of any requested court hearing or action so that the prosecuting agency may comply with the prosecuting agency's notification obligation.

(7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (g) only where the victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of restitution hearings shall provide the court with the victim's current address and telephone number.

(10) (a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice the prosecuting agency has received from a victim to the Board of Pardons and Parole.

(11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.

(12) (a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice and Youth Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under Subsection 63G-2-305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

(i) a law enforcement agency, including the prosecuting agency;

(ii) a victims' right committee as provided in Section 77-37-5;

(iii) a governmentally sponsored victim or witness program;

(iv) the Department of Corrections;

(v) the Utah Office for Victims of Crime;

(vi) the Commission on Criminal and Juvenile Justice;

(vii) the Utah State Courts; and

(viii) the Board of Pardons and Parole.

(13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

(14) (a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section [~~76-10-1306~~]76-5d-208 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

(i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;

(ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and

(iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.

(b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.

(c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.

(ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.

(15) (a) When a case involving a victim may resolve before trial with a plea deal, the prosecutor shall notify the victim of that possibility as soon as practicable.

(b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall explain the available details of an anticipated plea deal.

Section 493. Section 77-38-601 is amended to read:

77-38-601. Definitions.

As used in this part:

(1) "Abuse" means any of the following:

(a) "abuse" as that term is defined in Section 76-5-111 or 80-1-102; or

(b) "child abuse" as that term is defined in Section 76-5-109.

(2) "Actual address" means the residential street address of the program participant that is stated in a program participant's application for enrollment or on a notice of a change of address under Section 77-38-610.

(3) "Assailant" means an individual who commits or threatens to commit abuse, human trafficking, domestic violence, stalking, or a sexual offense against an applicant for the program or a minor or incapacitated individual residing with an applicant for the program.

(4) "Assigned address" means an address designated by the commission and assigned to a program participant.

(5) "Authorization card" means a card issued by the commission that identifies a program participant as enrolled in the program with the program participant's assigned address and the date on which the program participant will no longer be enrolled in the program.

(6) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(7) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(8) "Human trafficking" means a human trafficking offense under Section 76-5-308.

(9) "Incapacitated individual" means an individual who is incapacitated, as defined in Section 75-1-201.

(10) (a) "Mail" means first class letters or flats delivered by the United States Postal Service, including priority, express, and certified mail.

(b) "Mail" does not include a package, parcel, periodical, or catalogue, unless the package, parcel, periodical, or catalogue is clearly identifiable as:

(i) being sent by a federal, state, or local agency or another government entity; or

(ii) a pharmaceutical or medical item.

(11) "Minor" means an individual who is younger than 18 years old.

(12) "Notification form" means a form issued by the commission that a program participant may send to a person demonstrating that the program participant is enrolled in the program.

(13) "Program" means the Safe at Home Program created in Section 77-38-602.

(14) "Program assistant" means an individual designated by the commission under Section 77-38-604 to assist an applicant or program participant.

(15) "Program participant" means an individual who is enrolled under Section 77-38-606 by the commission to participate in the program.

(16) "Record" means the same as that term is defined in Section 63G-2-103.

(17) (a) "Sexual offense" means:

[~~(a)~~](i) a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses; or

[~~(b)~~](ii) a sexual exploitation offense under Title 76, Chapter 5b, Part 2, Sexual Exploitation.

(b) "Sexual offense" does not include an offense under:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-418, sexual battery;

(iii) Section 76-5-419, lewdness;

(iv) Section 76-5-420, lewdness involving a child; or

(v) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.

(18) "Stalking" means the same as that term is defined in Section 76-5-106.5.

(19) "State or local government entity" means a county, municipality, higher education institution, special district, special service

district, or any other political subdivision of the state or an administrative subunit of the executive, legislative, or judicial branch of this state, including:

(a) a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission; or

(b) an individual acting or purporting to act for or on behalf of a state or local entity, including an elected or appointed public official.

(20) "Victim" means a victim of abuse, domestic violence, human trafficking, stalking, or sexual assault.

Section 494. Section 77-39-101 is amended to read:

77-39-101. Investigation of sales of alcohol, tobacco products, electronic cigarette products, nicotine products, and cannabinoid products to underage individuals.

(1) As used in this section:

(a) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

(b) "Electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(c) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(d) "Peace officer" means the same as the term is described in Section 53-13-109.

(e) "Tobacco product" means the same as that term is defined in Section [~~76-10-101~~]76-9-1101.

(2) (a) A peace officer may investigate the possible violation of:

(i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase of alcohol from a retail establishment;

(ii) Section [~~76-10-114~~]76-9-1116 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase from a retail establishment of:

(A) a tobacco product;

(B) an electronic cigarette product; or

(C) a nicotine product; or

(iii) Subsection 4-41-105(2)(d) by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase of a cannabinoid product that contains THC or a THC analog from a retail establishment.

(b) A peace officer who is present at the site of a proposed purchase shall direct, supervise, and monitor the individual requested to make the purchase.

(c) Immediately following a purchase or attempted purchase or as soon as practical the supervising peace officer shall inform the cashier and the proprietor or manager of the retail establishment that the attempted purchaser was under the legal age to purchase:

(i) alcohol;

(ii) (A) a tobacco product;

(B) an electronic cigarette product; or

(C) a nicotine product; or

(iii) a cannabinoid product that contains THC or a THC analog.

(d) If a citation or information is issued, the citation or information shall be issued within seven days after the day on which the purchase occurs.

(3) (a) If an individual under 18 years old is requested to attempt a purchase, a written consent of that individual's parent or guardian shall be obtained before the individual participates in any attempted purchase.

(b) An individual requested by the peace officer to attempt a purchase may:

(i) be a trained volunteer; or

(ii) receive payment, but may not be paid based on the number of successful purchases of alcohol, tobacco products, electronic cigarette products, nicotine products, or cannabinoid products that contain THC or a THC analog.

(4) The individual requested by the peace officer to attempt a purchase and anyone accompanying the individual attempting a purchase may use false identification in attempting the purchase if:

(a) the Department of Public Safety created in Section 53-1-103 provides the false identification;

(b) the false identification:

(i) accurately represents the individual's age; and

(ii) displays a current photo of the individual; and

(c) the peace officer maintains possession of the false identification at all times outside the attempt to purchase.

(5) An individual requested to attempt to purchase or make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for the purchase of, attempted purchase of, or possession of alcohol, a tobacco product, an electronic cigarette product, a nicotine product, or a cannabinoid product that contains THC or a THC analog if a peace officer directs, supervises, and monitors the individual.

(6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section shall be conducted within a 12-month period:

(i) on a random basis at any one retail establishment location, not more often than four times for the attempted purchase of alcohol;

(ii) a minimum of two times at a retail establishment that sells tobacco products, electronic cigarette products, or nicotine products for the attempted purchase of a tobacco product, an electronic cigarette product, or a nicotine product; and

(iii) a minimum of one time at a retail establishment that sells a cannabinoid product that contains THC or a THC analog.

(b) This section does not prohibit an investigation or an attempt to purchase alcohol, a tobacco product, an electronic cigarette product, or a nicotine product under this section if:

(i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a tobacco product, an electronic cigarette product, a nicotine product, or a cannabinoid product that contains THC or a THC analog to an individual under the age established by Section 32B-4-403, Section [~~76-10-114~~]76-9-1116, or Subsection 4-41-105(2)(d); and

(ii) the supervising peace officer makes a written record of the grounds for the reasonable suspicion.

(7) (a) The peace officer exercising direction, supervision, and monitoring of the attempted purchase shall make a report of the

attempted purchase, whether or not a purchase was made.

(b) The report required by this Subsection (7) shall include:

(i) the name of the supervising peace officer;

(ii) the name of the individual attempting the purchase;

(iii) a photograph of the individual attempting the purchase showing how that individual appeared at the time of the attempted purchase;

(iv) the name and description of the cashier or proprietor from whom the individual attempted the purchase;

(v) the name and address of the retail establishment; and

(vi) the date and time of the attempted purchase.

Section 495. Section 77-40a-101 is amended to read:

77-40a-101. Definitions.

As used in this chapter:

(1) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(2) "Automatic expungement" means the expungement of records of an investigation, arrest, detention, or conviction of an offense without the filing of a petition.

(3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(5) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(6) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(7) "Clean slate eligible case" means a case that is eligible for automatic expungement under Section 77-40a-205.

(8) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(9) "Court" means a district court or a justice court.

(10) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(11) "Criminal protective order" means the same as that term is defined in Section 78B-7-102.

(12) "Criminal stalking injunction" means the same as that term is defined in Section 78B-7-102.

(13) "Department" means the Department of Public Safety established in Section 53-1-103.

(14) "Drug possession offense" means:

(a) an offense described in Subsection 58-37-8(2), except for:

(i) an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana;

(ii) an offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility; or

(iii) an offense for driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(b) an offense described in Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) an offense described in Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection (14).

(15) (a) "Expunge" means to remove a record from public inspection by:

(i) sealing the record; or

(ii) restricting or denying access to the record.

(b) "Expunge" does not include the destruction of a record.

(16) "Indigent" means a financial status that results from a court finding that a petitioner is financially unable to pay the fee to file a petition for expungement under Section 78A-2-302.

(17) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(18) (a) "Minor regulatory offense" means, except as provided in Subsection (18)(c), a class B or C misdemeanor offense or a local ordinance.

(b) "Minor regulatory offense" includes an offense under Section [~~76-9-701~~]76-9-110 or [~~76-10-105~~]76-9-1106.

(c) "Minor regulatory offense" does not include:

(i) any drug possession offense;

(ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iii) an offense under Sections 73-18-13 through 73-18-13.6;

(iv) except as provided in Subsection (18)(b), an offense under Title 76, Utah Criminal Code; or

(v) any local ordinance that is substantially similar to an offense listed in Subsections (18)(c)(i) through (iv).

(19) "Petitioner" means an individual applying for expungement under this chapter.

(20) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.

(21) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material, regardless of physical form or characteristics, that:

(a) is contained in the agency's file regarding the arrest, detention, investigation, conviction, sentence, incarceration, probation, or parole of an individual; and

(b) is prepared, owned, received, or retained by an agency, including a court.

(22) "Special certificate" means a document issued as described in Subsection 77-40a-304(1)(c) by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with the case that is the subject of a petition for expungement is eligible for expungment.

(23) (a) "Traffic offense" means, except as provided in Subsection (23)(b):

(i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 41, Chapter 6a, Traffic Code;

(ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 73, Chapter 18, State Boating Act; and

(iv) all local ordinances that are substantially similar to an offense listed in Subsections (23)(a)(i) through (iii).

(b) "Traffic offense" does not mean:

(i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) an offense under Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to an offense listed in Subsection (23)(b)(i) or (ii).

(24) "Traffic offense case" means that each offense in the case is a traffic offense.

Section 496. Section 77-40a-205 is amended to read:

77-40a-205. Automatic expungement of state records for a clean slate case.

(1) A court shall issue an order of expungement, without the filing of a petition, for all records of the case that are held by the court and the bureau if:

(a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a form requesting expungement of a case as described in Section 77-40a-204;

(b) the case is eligible for expungement under this section; and

(c) the prosecuting agency does not object to the expungement of the case as described in Subsection (6).

(2) Except as otherwise provided in Subsection (3), a case is eligible for expungement under this section if:

(a) (i) each conviction within the case is a conviction for:

(A) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(ii) the following time periods have passed after the day on which the individual is adjudicated:

(A) at least five years for the conviction of a class C misdemeanor offense or an infraction;

(B) at least six years for the conviction of a class B misdemeanor offense; or

(C) at least seven years for the conviction of a class A misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i); or

(b) (i) the case is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;

(ii) each charge within the case is:

(A) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(iii) the following time periods have passed after the day on which the case is dismissed:

(A) at least five years for a charge in the case for a class C misdemeanor offense or an infraction;

(B) at least six years for a charge in the case for a class B misdemeanor offense; or

(C) at least seven years for a charge in the case for a class A misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(3) A case is not eligible for expungement under this section if:

(a) the individual has a total number of convictions in courts of this state that exceed the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:

(i) the exception in Subsection 77-40a-303(7); or

(ii) any infraction, traffic offense, or minor regulatory offense;

(b) there is a criminal proceeding for a misdemeanor or felony offense pending in a court of this state against the individual, unless the proceeding is for a traffic offense;

(c) for an individual seeking an automatic expungement on and after January 1, 2025, the individual is incarcerated in the state prison or on probation or parole that is supervised by the Department of Corrections;

(d) the case resulted in the individual being found not guilty by reason of insanity;

(e) the case establishes a criminal accounts receivable that:

(i) has been entered as a civil accounts receivable or a civil judgment of restitution and transferred to the Office of State Debt Collection under Section 77-18-114; or

(ii) has not been satisfied according to court records; or

(f) the case resulted in a plea held in abeyance or a conviction for the following offenses:

(i) any of the offenses listed in Subsection 77-40a-303(2)(a);

(ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Individual;

(iii) a weapons offense in violation of [~~Title 76, Chapter 10, Part 5, Weapons~~]Title 76, Chapter 11, Weapons;

(iv) sexual battery in violation of Section [~~76-9-702.1~~]76-5-418;

(v) an act of lewdness in violation of Section [~~76-9-702~~]76-5-419 or [~~76-9-702.5~~]76-5-420;

(vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(vii) damage to or interruption of a communication device in violation of Section 76-6-108;

(viii) a domestic violence offense as defined in Section 77-36-1; or

(ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that appears to be eligible for automatic expungement under this section.

(5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic expungement for any of the following reasons:

(a) the prosecuting agency believes that the case is not eligible for expungement under this section after reviewing the agency record;

(b) the individual has not paid restitution to the victim as ordered by the court; or

(c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual involved in the case is continuing to engage in criminal activity within or outside of the state.

(6) If a prosecuting agency provides written notice of an objection for a reason described in Subsection (5) within 35 days after the day on which the notice under Subsection (4) is sent, the court may not proceed with automatic expungement of the case.

(7) If 35 days pass after the day on which the notice described in Subsection (4) is sent without the prosecuting agency providing written notice of an objection under Subsection (5), the court shall proceed with automatic expungement of the case.

(8) If a court issues an order of expungement under Subsection (1), the court shall:

(a) expunge all records of the case held by the court in accordance with Section 77-40a-401; and

(b) notify the bureau and the prosecuting agency identified in the case, based on information available to the court, of the order of expungement.

Section 497. Section 77-40a-403 is amended to read:

77-40a-403. Release and use of expunged records -- Agencies.

(1) (a) An agency with an expunged record, or any employee of an agency with an expunged record, may not knowingly or intentionally divulge any information contained in the expunged record to any person, or another agency, without a court order unless:

(i) specifically authorized by Subsection (4) or Section 77-40a-404; or

(ii) subject to Subsection (1)(b), the information in an expunged record is being shared with another agency through a records management system that both agencies use for the purpose of record management.

(b) An agency with a records management system may not disclose any information in an expunged record to another agency or person, or allow another agency or person access to an expunged record, if that agency or person does not use the records management system for the purpose of record management.

(2) The following entities or agencies may receive information contained in expunged records upon specific request:

(a) the Board of Pardons and Parole;

(b) Peace Officer Standards and Training;

(c) federal authorities if required by federal law;

(d) the State Board of Education;

(e) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office; and

(f) a research institution or an agency engaged in research regarding the criminal justice system if:

(i) the research institution or agency provides a legitimate research purpose for gathering information from the expunged records;

(ii) the research institution or agency enters into a data sharing agreement with the court or agency with custody of the expunged records that protects the confidentiality of any identifying information in the expunged records;

(iii) any research using expunged records does not include any individual's name or identifying information in any product of that research; and

(iv) any product resulting from research using expunged records includes a disclosure that expunged records were used for research purposes.

(3) Except as otherwise provided by this section or by court order, a person, an agency, or an entity authorized by this section to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the specific request, including distribution on a public website.

(4) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance agreement, for:

(a) stalking as described in Section 76-5-106.5;

(b) a domestic violence offense as defined in Section 77-36-1;

(c) an offense that would require the individual to register as a sex offender, kidnap offender, or child abuse offender as defined in Section 77-41-102; or

(d) a weapons offense under [~~Title 76, Chapter 10, Part 5, Weapons~~]Title 76, Chapter 11, Weapons.

(5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction.

(6) The bureau may also use the information in the bureau's index as provided in Section 53-5-704.

(7) If an individual is charged with a felony, or an offense eligible for enhancement based on a prior conviction, after obtaining an

order of expungement, the prosecuting attorney may petition the court in which the individual is charged to open the expunged records upon a showing of good cause.

(8) (a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

(b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

(c) At the end of the action or proceeding, the court shall order the records expunged again.

(d) Any person authorized by this Subsection (8) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

(9) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

Section 498. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

(1) "Child abuse offender" means an individual:

(a) who has been convicted in this state of a violation of:

(i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b); or

(ii) attempting, soliciting, or conspiring to commit aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

(b) (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offense listed in Subsection (1)(a); and

(ii) (A) who is a Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a child abuse offender in another jurisdiction of original conviction;

(B) who is required to register as a child abuse offender by a state, a federal, or a military court; or

(C) who would be required to register as a child abuse offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of the offense listed in Subsection (1)(a) or a substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (1)(a);

(e) who is found not guilty by reason of insanity in this state or in another jurisdiction of the offense listed in Subsection (1)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for the offense listed in Subsection (1)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(2) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(3) "Business day" means a day on which state offices are open for regular business.

(4) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(5) (a) "Convicted" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental illness; or

(iii) no contest.

(b) "Convicted" includes, unless otherwise specified, the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

(c) "Convicted" does not include:

(i) a withdrawn or dismissed plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(6) "Department" means the Department of Public Safety.

(7) "Division" means the Division of Juvenile Justice and Youth Services.

(8) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(9) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(10) "Jurisdiction" means any state, Indian Country, United States Territory, or property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(11) "Kidnap offender" means an individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) kidnapping under Subsection 76-5-301(2)(c) or (d);

(ii) child kidnapping under Section 76-5-301.1;

(iii) aggravated kidnapping under Section 76-5-302;

(iv) human trafficking for labor under Section 76-5-308;

(v) human smuggling under Section 76-5-308.3;

(vi) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);

(vii) aggravated human trafficking under Section 76-5-310;

(viii) aggravated human smuggling under Section 76-5-310.1;

(ix) human trafficking of a vulnerable adult for labor under Section 76-5-311; or

(x) attempting, soliciting, or conspiring to commit a felony offense listed in Subsections (11)(a)(i) through (ix);

(b) (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection (11)(a); and

(ii) (A) who is a Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a kidnap offender in another jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by a state, federal, or military court; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (11)(a) or any substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (11)(a);

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (11)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (11)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(12) "Natural parent" means a minor's biological or adoptive parent, including the minor's noncustodial parent.

(13) "Offender" means a child abuse offender, kidnap offender, or sex offender.

(14) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(15) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at a future date.

(16) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(17) "Registration website" means the Sex, Kidnap, and Child Abuse Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(18) "Secondary residence" means real property that the offender owns or has a financial interest in, or a location where the offender stays overnight a total of 10 or more nights in a 12-month period when not staying at the offender's primary residence.

(19) "Sex offender" means an individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of enticing a minor under Section [~~76-4-401~~]76-5-417;

(ii) sexual exploitation of a vulnerable adult under Section 76-5b-202;

(iii) human trafficking for sexual exploitation under Section 76-5-308.1;

(iv) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);

(v) aggravated human trafficking for sexual exploitation under Section 76-5-310;

(vi) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

(vii) unlawful sexual activity with a minor under Section 76-5-401, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) sexual abuse of a minor under Section 76-5-401.1, except as provided in Subsection 76-5-401.1(3);

(ix) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

(x) rape under Section 76-5-402;

(xi) rape of a child under Section 76-5-402.1;

(xii) object rape under Section 76-5-402.2;

(xiii) object rape of a child under Section 76-5-402.3;

(xiv) a felony violation of forcible sodomy under Section 76-5-403;

(xv) sodomy on a child under Section 76-5-403.1;

(xvi) forcible sexual abuse under Section 76-5-404;

(xvii) sexual abuse of a child under Section 76-5-404.1;

(xviii) aggravated sexual abuse of a child under Section 76-5-404.3;

(xix) aggravated sexual assault under Section 76-5-405;

(xx) custodial sexual relations under Section 76-5-412, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;

(xxi) sexual exploitation of a minor under Section 76-5b-201;

(xxii) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(xxiii) sexual extortion or aggravated sexual extortion under Section 76-5b-204;

(xxiv) incest under Section 76-7-102;

(xxv) lewdness under Section [~~76-9-702~~]76-5-419, if the individual has been convicted of the offense four or more times;

(xxvi) sexual battery under Section [~~76-9-702.1~~]76-5-418, if the individual has been convicted of the offense four or more times;

(xxvii) any combination of convictions of lewdness under Section [~~76-9-702~~]76-5-419, and of sexual battery under Section [~~76-9-702.1~~]76-5-418, that total four or more convictions;

(xxviii) lewdness involving a child under Section [~~76-9-702.5~~]76-5-420;

(xxix) a felony or class A misdemeanor violation of:

(A) []voyeurism under Section [~~76-9-702.7~~]76-12-306;

(B) recorded or photographed voyeurism under Section 76-12-307; or

(C) distribution of images obtained through voyeurism under Section 76-12-308;

(xxx) aggravated exploitation of prostitution under Section [~~76-10-1306~~]76-5d-208; or

(xxxi) attempting, soliciting, or conspiring to commit a felony offense listed in this Subsection (19)(a);

(b) (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection (19)(a); and

(ii) (A) who is a Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a sex offender in another jurisdiction of original conviction;

(B) who is required to register as a sex offender by a state, federal, or military court; or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (19)(a) or a substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's jurisdiction of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (19)(a);

(e) who is found not guilty by reason of insanity in this state, or in another jurisdiction of one or more offenses listed in Subsection (19)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (19)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(20) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(21) "Vehicle" means a motor vehicle, an aircraft, or a watercraft subject to registration in any jurisdiction.

Section 499. Section 77-41-106 is amended to read:

77-41-106. Offenses requiring lifetime registration.

Offenses referred to in Subsection 77-41-105(3)(c)(i) requiring lifetime registration are:

(1) an offense listed in Subsection 77-41-102(1), (11), or (19) if, at the time of the conviction for the offense, the offender has previously been convicted of an offense listed in Subsection 77-41-102(1), (11), or (19) or has previously been required to register as a sex offender, kidnap offender, or child abuse offender for an offense committed as a juvenile;

(2) a conviction for a following offense, including attempting, soliciting, or conspiring to commit a felony of:

(a) child kidnapping under Section 76-5-301.1, except if the offender is a natural parent of the victim;

(b) rape under Section 76-5-402;

(c) rape of a child under Section 76-5-402.1;

(d) object rape under Section 76-5-402.2;

(e) object rape of a child under Section 76-5-402.3;

(f) sodomy on a child under Section 76-5-403.1;

(g) aggravated sexual abuse of a child under Section 76-5-404.3; or

(h) aggravated sexual assault under Section 76-5-405;

(3) human trafficking for sexual exploitation under Section 76-5-308.1;

(4) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);

(5) aggravated human trafficking for sexual exploitation under Section 76-5-310;

(6) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

(7) aggravated kidnapping under Section 76-5-302, except if the offender is a natural parent of the victim;

(8) forcible sodomy under Section 76-5-403;

(9) sexual abuse of a child under Section 76-5-404.1;

(10) sexual exploitation of a minor under Section 76-5b-201;

(11) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(12) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or

(13) aggravated exploitation of prostitution under Section [~~76-10-1306~~]76-5d-208, on or after May 10, 2011; or

(14) a felony violation of enticing a minor under Section [~~76-4-401~~]76-5-417 if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (2) through (13).

Section 500. Section 77-41-112 is amended to read:

77-41-112. Removal from registry -- Requirements -- Procedure.

(1) An offender who is required to register with the Sex, Kidnap, and Child Abuse Offender Registry may petition the court for an order removing the offender from the Sex, Kidnap, and Child Abuse Offender Registry if:

(a) (i) the offender was convicted of an offense described in Subsection (2);

(ii) at least five years have passed after the day on which the offender's sentence for the offense terminated;

(iii) the offense is the only offense for which the offender was required to register;

(iv) the offender has not been convicted of another offense, excluding a traffic offense, since the day on which the offender was convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

(v) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense;

(b) (i) the offender is required to register in accordance with Subsection 77-41-105(3)(a);

(ii) at least 10 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; or

(c) (i) the offender is required to register in accordance with Subsection 77-41-105(3)(c);

(ii) at least 20 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 20-year period after the date described in Subsection (1)(c)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender submits to an evidence-based risk assessment to the court, with the offender's petition, that:

(A) meets the standards for the current risk assessment, score, and risk level required by the Board of Pardons and Parole for parole termination requests;

(B) is completed within the six months before the date on which the petition is filed; and

(C) describes the evidence-based risk assessment of the current level of risk to the safety of the public posed by the offender.

(2) The offenses referred to in Subsection (1)(a)(i) are:

(a) enticing a minor under Section [~~76-4-401~~]76-5-417, if the offense is a class A misdemeanor;

(b) kidnapping under Section 76-5-301;

(c) unlawful detention under Section 76-5-304, if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;

(d) unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(f) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, and at the time of the offense, the offender is not more than 15 years older than the victim;

(g) voyeurism under Section [~~76-9-702.7~~]76-12-306 or recorded or photographed voyeurism under Section 76-12-307, if the offense is a class A misdemeanor; or

(h) an offense for which an individual is required to register under Subsection 77-41-102(1)(c), (11)(c), or (19)(c), if the offense is not substantially equivalent to an offense described in Subsection 77-41-102(1)(a), (11)(a), or (19)(a).

(3) (a) (i) An offender seeking removal from the Sex, Kidnap, and Child Abuse Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to an offender who provides false information on an application.

(b) (i) The bureau shall:

(A) perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility; and

(B) determine whether the offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), (c)(ii), (c)(iv), or (c)(v).

(ii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c), the bureau shall issue a certificate of eligibility to the offender, which is valid for a period of 90 days after the day on which the bureau issues the certificate.

(4) (a) (i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the offender will be charged an additional fee for the issuance of a certificate of eligibility.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(5) (a) The offender shall file the petition, including original information, the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition to the office of the prosecutor.

(b) Upon receipt of a petition for removal from the Sex, Kidnap, and Child Abuse Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the parent or guardian of the victim.

(c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

(d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after the day on which the office receives the petition:

(i) presentencing report;

(ii) an evaluation done as part of sentencing; and

(iii) other information the office of the prosecutor determines the court should consider.

(e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years old, may respond to the petition by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.

(6) (a) The court shall:

(i) review the petition and all documents submitted with the petition; and

(ii) hold a hearing if requested by the prosecutor or the victim.

(b) (i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the petition and order removal of the offender from the registry if the court determines that the offender has met the requirements described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public.

(ii) When considering a petition filed under Subsection (1)(c), the court shall determine whether the offender has demonstrated, by clear and convincing evidence, that the offender is rehabilitated and does not pose a threat to the safety of the public.

(iii) In making the determination described in Subsection (6)(b)(ii), the court may consider:

(A) the nature and degree of violence involved in the offense that requires registration;

(B) the age and number of victims of the offense that requires registration;

(C) the age of the offender at the time of the offense that requires registration;

(D) the offender's performance while on supervision for the offense that requires registration;

(E) the offender's stability in employment and housing;

(F) the offender's community and personal support system;

(G) other criminal and relevant noncriminal behavior of the offender both before and after the offense that requires registration;

(H) the level of risk posed by the offender as evidenced by the evidence-based risk assessment described in Subsection (1)(c)(vi); and

(I) any other relevant factors.

(c) In determining whether removal is contrary to the interests of the public, the court may not consider removal unless the offender has substantially complied with all registration requirements under this chapter at all times.

(d) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

(e) (i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the offender may not submit another petition for three years.

(ii) If the offender files a petition under Subsection (1)(c) and the court denies the petition, the offender may not submit another petition for eight years.

(7) The court shall notify the victim and the Sex, Kidnap, and Child Abuse Offender Registry office in the department of the court's decision within three days after the day on which the court issues the court's decision in the same manner described in Subsection (5).

(8) Except as provided in Subsection (9), an offender required to register under Subsection 77-41-105(3)(b) may petition for early removal from the registry under Subsection (1)(b) if the offender:

(a) meets the requirements of Subsections (1)(b)(ii) through (v);

(b) has resided in this state for at least 183 days in a year for two consecutive years; and

(c) intends to primarily reside in this state.

(9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition for early removal from the registry under Subsection (1)(c) if:

(a) the offense requiring the offender to register is substantially equivalent to an offense listed in Section 77-41-106;

(b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);

(c) the offender has resided in this state for at least 183 days in a year for two consecutive years; and

(d) the offender intends to primarily reside in this state.

Section 501. Section 77-41-113 is amended to read:

77-41-113. Removal for offenses or convictions for which registration is no longer required.

(1) The department shall automatically remove an individual who is currently on the Sex, Kidnap, and Child Abuse Offender Registry because of a conviction if:

(a) the only offense or offenses for which the individual is on the registry are listed in Subsection (2); or

(b) the department receives a formal notification or order from the court or the Board of Pardons and Parole that the conviction for the offense or offenses for which the individual is on the registry have been reversed, vacated, or pardoned.

(2) The offenses described in Subsection (1)(a) are:

(a) a class B or class C misdemeanor for enticing a minor under Section [~~76-4-401~~]76-5-417;

(b) kidnapping under Subsection 76-5-301(2)(a) or (b);

(c) child kidnapping under Section 76-5-301.1, if the offender was the natural parent of the child victim;

(d) unlawful detention under Section 76-5-304;

(e) a third degree felony for unlawful sexual intercourse before 1986, or a class B misdemeanor for unlawful sexual intercourse, under Section 76-5-401; or

(f) sodomy, but not forcible sodomy, under Section 76-5-403.

(3) (a) The department shall notify an individual who has been removed from the registry in accordance with Subsection (1).

(b) The notice described in Subsection (3)(a) shall include a statement that the individual is no longer required to register as a sex offender or kidnap offender.

(4) An individual who is currently on the Sex, Kidnap, and Child Abuse Offender Registry may submit a request to the department to be removed from the registry if the individual believes that the individual qualifies for removal under this section.

(5) The department, upon receipt of a request for removal from the registry shall:

(a) check the registry for the individual's current status;

(b) determine whether the individual qualifies for removal based upon this section; and

(c) notify the individual in writing of the department's determination and whether the individual:

(i) qualifies for removal from the registry; or

(ii) does not qualify for removal.

(6) If the department determines that the individual qualifies for removal from the registry, the department shall remove the offender from the registry.

(7) If the department determines that the individual does not qualify for removal from the registry, the department shall provide an explanation in writing for the department's determination. The department's determination is final and not subject to administrative review.

(8) Neither the department nor an employee of the department may be civilly liable for a determination made in good faith in accordance with this section.

(9) (a) The department shall provide a response to a request for removal within 30 days of receipt of the request.

(b) If the response under Subsection (9)(a) cannot be provided within 30 days, the department shall notify the individual that the response may be delayed up to 30 additional days.

Section 502. Section 77-42-105 is amended to read:

77-42-105. Registerable offenses.

A person shall be required to register with the Office of the Attorney General for a conviction of any of the following offenses as a second degree felony:

(1) Section 61-1-1 or Section 61-1-2, securities fraud;

(2) Section 76-6-405, theft by deception;

(3) Section 76-6-513, unlawful dealing of property by fiduciary;

(4) Section 76-6-521, insurance fraud;

(5) Section 76-6-1203, mortgage fraud;

(6) Section [~~76-10-1801~~]76-6-525, communications fraud;

(7) Section [~~76-10-1903~~]76-9-1602, money laundering;

(8) Section 76-9-1603, accepting the proceeds of unlawful activity; and

[~~(8)~~](9) Section [~~76-10-1603,~~]76-17-407, prohibited conduct concerning a pattern of unlawful activity, if at least one of the unlawful activities used to establish the pattern of unlawful activity is an offense listed in Subsections (1) through (7).

Section 503. Section 78A-2-203 is amended to read:

78A-2-203. Rules -- Right to make -- Limitation -- Security.

(1) Every court of record may make rules, not inconsistent with law, for its own government and the government of its officers; but such rules must neither impose any tax or charge upon any legal proceeding nor give any allowance to any officer for service.

(2) (a) The judicial council may provide, through the rules of judicial administration, for security in or about a courthouse or courtroom, or establish a secure area as prescribed in Section 76-8-311.1.

(b) (i) If the council establishes a secure area under Subsection (2)(a), it shall provide a secure firearms storage area on site so that persons with lawfully carried firearms may store them while they are in the secure area.

(ii) The entity operating the facility with the secure area shall be responsible for the firearms while they are stored in the storage area referred to in Subsection (2)(b)(i).

(iii) The entity may not charge a fee to individuals for storage of their firearms under Subsection (2)(b)(i).

(3) (a) Unless authorized by the rules of judicial administration, any person who knowingly or intentionally possesses a firearm, ammunition, or dangerous weapon within a secure area established by the judicial council under this section is guilty of a third degree felony.

(b) Any person is guilty of violating Section [~~76-10-306~~]76-15-210 who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device, as defined by Section [~~76-10-306~~]76-15-210, within a secure area, established by the Judicial Council under this section.

Section 504. Section 78A-5a-103 is amended to read:

78A-5a-103. Concurrent jurisdiction of the Business and Chancery Court -- Exceptions.

(1) The Business and Chancery Court has jurisdiction, concurrent with the district court, over an action:

(a) seeking monetary damages of at least $300,000 or seeking solely equitable relief; and

(b) (i) with a claim arising from:

(A) a breach of a contract;

(B) a breach of a fiduciary duty;

(C) a dispute over the internal affairs or governance of a business organization;

(D) the sale, merger, or dissolution of a business organization;

(E) the sale of substantially all of the assets of a business organization;

(F) the receivership or liquidation of a business organization;

(G) a dispute over liability or indemnity between or among owners of the same business organization;

(H) a dispute over liability or indemnity of an officer or owner of a business organization;

(I) a tortious or unlawful act committed against a business organization, including an act of unfair competition, tortious interference, or misrepresentation or fraud;

(J) a dispute between a business organization and an insurer regarding a commercial insurance policy;

(K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

(L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade Secrets Act;

(M) the misappropriation of intellectual property;

(N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or confidentiality agreement, regardless of whether the agreement is oral or written;

(O) a relationship between a franchisor and a franchisee;

(P) the purchase or sale of a security or an allegation of security fraud;

(Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous organization;

(R) a violation of [~~Title 76, Chapter 10, Part 31, Utah Antitrust Act~~]Title 76, Chapter 16, Part 5, Antitrust Offenses; or

(S) a contract with a forum selection clause for a chancery, business, or commercial court of this state or any other state;

(ii) with a malpractice claim concerning services that a professional provided to a business organization;

(iii) that is a shareholder derivative action; or

(iv) seeking a declaratory judgment as described in Title 78B, Chapter 6, Part 4, Declaratory Judgments.

(2) Except as provided in Subsection (3), the Business and Chancery Court may exercise supplemental jurisdiction over any claim in an action that is within the jurisdiction of the Business and Chancery Court under Subsection (1) if the claim arises from the same set of

facts or circumstances as the action.

(3) The Business and Chancery Court may not exercise supplemental jurisdiction over:

(a) any claim arising from:

(i) a consumer contract;

(ii) a personal injury, including a personal injury relating to or arising out of health care rendered or which should have been rendered by the health care provider;

(iii) a violation of Title 13, Chapter 7, Civil Rights;

(iv) Title 20A, Election Code;

(v) Title 63G, Chapter 4, Administrative Procedures Act;

(vi) Title 78B, Chapter 6, Part 1, Utah Adoption Act;

(vii) Title 78B, Chapter 6, Part 5, Eminent Domain;

(viii) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, unless the claim is brought against a commercial tenant;

(ix) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(x) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

(xi) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;

(xii) Title 78B, Chapter 15, Utah Uniform Parentage Act;

(xiii) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act;

(xiv) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act;

(xv) Title 81, Utah Domestic Relations Code; or

(b) any action in which a governmental entity is a party; or

(c) any criminal matter, unless the criminal matter is an act or omission of contempt that occurs in an action before the Business and Chancery Court.

(4) Notwithstanding Subsection (3), the Business and Chancery Court may exercise supplemental jurisdiction over a claim that is barred under Subsection (3):

(a) if the claim is a compulsory counterclaim;

(b) if there would be a material risk of inconsistent outcomes if the claim were tried in a separate action; or

(c) solely to resolve a request for a provisional remedy related to the claim before the Business and Chancery Court transfers the claim as described in Subsection (5).

(5) If an action contains a claim for which the Business and Chancery Court may not exercise supplemental jurisdiction under this section, the Business and Chancery Court shall bifurcate the action and transfer any claim for which the Business and Chancery Court does not have jurisdiction to a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(6) Before the Business and Chancery Court transfers a claim as described in Subsection (5), the Business and Chancery Court may resolve:

(a) all claims for which the Business and Chancery Court has jurisdiction; and

(b) any request for a provisional remedy related to a claim that is being transferred.

Section 505. Section 78B-4-511 is amended to read:

78B-4-511. Regulation of firearms reserved to state -- Lawsuits prohibited.

(1) As prescribed by Section [~~76-10-500~~]53-5a-102, all authority to regulate firearms is reserved to the state through the Legislature.

(2) A person who lawfully designs, manufactures, markets, advertises, transports, or sells firearms or ammunition to the public may not be sued by the state or any of its political subdivisions for the subsequent use, whether lawfully or unlawfully, of the firearm or ammunition, unless the suit is based on the breach of a contract or warranty for a firearm or ammunition purchased by the state or political subdivision.

Section 506. Section 78B-5-505 is amended to read:

78B-5-505. Property exempt from execution.

(1) (a) An individual is entitled to exemption of the following property:

(i) a burial plot for the individual and the individual's family;

(ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain health;

(iii) benefits that the individual or the individual's dependent have received or are entitled to receive from any source because of:

(A) disability;

(B) illness; or

(C) unemployment;

(iv) benefits paid or payable for medical, surgical, or hospital care to the extent that the benefits are used by an individual or the individual's dependent to pay for that care;

(v) veterans benefits;

(vi) money or property received, and rights to receive money or property for child support;

(vii) money or property received, and rights to receive money or property for alimony or separate maintenance, to the extent reasonably necessary for the support of the individual and the individual's dependents;

(viii) (A) one:

(I) clothes washer and dryer;

(II) refrigerator;

(III) freezer;

(IV) stove;

(V) microwave oven; and

(VI) sewing machine;

(B) all carpets in use;

(C) provisions sufficient for 12 months actually provided for individual or family use;

(D) all wearing apparel of every individual and dependent, not including jewelry or furs; and

(E) all beds and bedding for every individual or dependent;

(ix) except for works of art held by the debtor as part of a trade or business, works of art:

(A) depicting the debtor or the debtor and the debtor's resident family; or

(B) produced by the debtor or the debtor and the debtor's resident family;

(x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;

(xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or children of the debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired period of one year;

(xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the death of the debtor, provided that the contract or policy has been in existence for a continuous unexpired period of one year;

(xiii) proceeds and avails of any unmatured life insurance contracts owned by the debtor or any revocable grantor trust created by the debtor, excluding any payments made on the contract during the one year immediately preceding a creditor's levy or execution;

(xiv) except as provided in Subsection (1)(b), and except for a judgment described in Subsection 75-7-503(2)(c), any money or other assets held for or payable to the individual as an owner, participant, or beneficiary from or an interest of the individual as an owner, participant, or beneficiary in a fund or account, including an inherited fund or account, in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or otherwise;

(xv) the interest of or any money or other assets payable to an alternate payee under a qualified domestic relations order as those terms are defined in Section 414(p), Internal Revenue Code;

(xvi) unpaid earnings of the household of the filing individual due as of the date of the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for the household size of the filing individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of the Utah State annual median family income for the household size of the individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers;

(xvii) except for curio or relic firearms, as defined in Section [~~76-10-501~~]76-11-101, any three of the following:

(A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

(B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

(C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds; and

(xviii) money, not exceeding $200,000, in the aggregate, that an individual deposits, more than 18 months before the day on which the individual files a petition for bankruptcy or an action is filed by a creditor against the individual, as applicable, in all tax-advantaged accounts for saving for higher education costs on behalf of a particular individual that meets the requirements of Section 529, Internal Revenue Code.

(b) (i) Any money, asset, or other interest in a fund or account that is exempt from a claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does not cease to be exempt after the owner's, participant's, or beneficiary's death by reason of a direct transfer or eligible rollover to an inherited individual retirement account as defined in Section 408(d)(3), Internal Revenue Code.

(ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement accounts without regard to the date on which the account was created.

(c) (i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

(A) an alternate payee under a qualified domestic relations order, as those terms are defined in Section 414(p), Internal Revenue Code; or

(B) amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy, except amounts directly rolled over from other funds that are exempt from attachment under this section.

(ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the secured creditor's interest in proceeds and avails of any matured or unmatured life insurance contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

(2) (a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a victim who is a child if the person receiving the benefits has been convicted of a felony sex offense against the victim and ordered by the sentencing court to pay restitution to the victim.

(b) The exemption from execution under this Subsection (2) shall be reinstated upon payment of the restitution in full.

(3) The exemptions under this section do not limit items that may be claimed as exempt under Section 78B-5-506.

(4) (a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii), (xiii), (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil judgment of restitution for an individual who is found in contempt under Section 78B-6-317.

(b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if the individual's dependent received, or is entitled to receive, the benefits.

Section 507. Section 78B-6-111 is amended to read:

78B-6-111. Criminal sexual offenses.

(1) As used in this section:

(a) "Sexual offense" means:

(i) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses; or

(ii) an offense under the laws of the state where the child was conceived that is substantially similar to an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(b) "Sexual offense" does not include:

(i) an offense described in Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or

(ii) an offense under the laws of the state where the child was conceived that is substantially similar to an offense described in Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

(2) An unmarried biological father is not entitled to notice of an adoption proceeding, nor is the consent of an unmarried biological father required in connection with an adoption proceeding, in cases where it is shown that the child who is the subject of the proceeding was conceived as a result of conduct that constitutes a sexual offense [~~under Title 76, Chapter 5, Part 4, Sexual Offenses, or under the laws of the state where the child was conceived~~], regardless of whether the unmarried biological father is formally charged with or convicted of [~~a criminal offense~~]the sexual offense.

Section 508. Section 78B-6-1101 is amended to read:

78B-6-1101. Definitions -- Nuisance -- Right of action -- Agriculture operations.

(1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action.

(2) A nuisance may include the following:

(a) drug houses and drug dealing as provided in Section 78B-6-1107;

(b) gambling as provided in [~~Title 76, Chapter 10, Part 11, Gambling~~]Title 76, Chapter 9, Part 14, Gambling;

(c) criminal activity committed in concert with three or more persons as provided in Section 76-3-203.1;

(d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) party houses that frequently create conditions defined in Subsection (1); and

(g) prostitution as provided in [~~Title 76, Chapter 10, Part 13, Prostitution~~]Title 76, Chapter 5d, Prostitution.

(3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

(a) drifts in more than once in each of two or more consecutive seven-day periods; and

(b) creates any of the conditions under Subsection (1).

(4) Subsection (3) does not apply to:

(a) a residential rental unit available for temporary rental, such as for a vacation, or available for only 30 or fewer days at a time; or

(b) a hotel or motel room.

(5) Subsection (3) does not apply to a unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.

(6) An action may be brought by a person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.

(7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.

(8) "Critical infrastructure materials operations" means the same as that term is defined in Section 10-9a-901.

(9) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

Section 509. Section 78B-6-1103 is amended to read:

78B-6-1103. Manufacturing facility in operation over three years -- Limited application of restrictions.

(1) Notwithstanding Sections [~~76-10-803~~]76-9-1301 and 78B-6-1101, a manufacturing facility or operation may not be considered a nuisance, private or public, by virtue of any changed circumstance in land uses near the facility after it has been in operation for more than three years if the manufacturing facility or operation was not a nuisance at the time it began operation. The manufacturing facility may not increase the condition asserted to be a nuisance. The provisions of this Subsection (1) do not apply if a nuisance results from the negligent or improper operation of a manufacturing facility.

(2) The provisions of Subsection (1) may not affect or defeat the right of any person to recover damages for any injuries or damage sustained because of any pollution of, or change in the condition of, the waters of any stream or the overflow of the lands of any person.

(3) Any and all ordinances now or in the future adopted by any county or municipal corporation in which a manufacturing facility is located and which makes its operation a nuisance or providing for an abatement as a nuisance in the circumstances set forth in this section are null and void. The provisions of this Subsection (3) may not apply whenever a nuisance results from the negligent or improper operation of a manufacturing facility.

Section 510. Section 78B-6-1107 is amended to read:

78B-6-1107. Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.

(1) Every building or place is a nuisance where:

(a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition occurs of any controlled substance, precursor, or analog specified in Title 58, Chapter 37, Utah Controlled Substances Act;

(b) gambling is permitted to be played, conducted, or dealt upon as prohibited in [~~Title 76, Chapter 10, Part 11, Gambling~~]Title 76, Chapter 9, Part 14, Gambling, which creates the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

(c) criminal activity is committed in concert with three or more persons as provided in Section 76-3-203.1;

(d) criminal activity is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) parties occur frequently which create the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

(g) prostitution or promotion of prostitution is regularly carried on by one or more persons as provided in [~~Title 76, Chapter 10, Part 13, Prostitution~~]Title 76, Chapter 5d, Prostitution; and

(h) a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~]Title 76, Chapter 11, Weapons, occurs on the premises.

(2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the defendant is lawfully entitled to possession of a controlled substance.

(3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the nuisance as defined in Subsection (1).

Section 511. Section 78B-6-1701 is amended to read:

78B-6-1701. Cause of action for identity theft.

(1) A petitioner who has been injured by a violation of Section 76-6-1102, Identity Fraud, or Section [~~76-10-1801~~]76-6-525, Communications Fraud, may recover from the perpetrator:

(a) compensatory damages in the amount of $1,000 or up to three times the amount of actual damages, whichever is greater;

(b) attorney fees; and

(c) court costs.

(2) Actual damages may include:

(a) replacement or reissuance costs for checks and any personal identification documents;

(b) the value of the petitioner's time spent:

(i) repairing their credit history or rating; and

(ii) attending civil or administrative hearings necessary to resolve any debt, lien, or other obligation arising from the offense;

(c) lost wages; and

(d) any other verifiable costs the court may choose to include.

(3) The court may award punitive damages in addition to compensatory damages.

(4) A perpetrator who is not tried or found not guilty of a violation of Section 76-6-1102, Identity Fraud, or Section [~~76-10-1801~~]76-6-525, Communications Fraud, may be found liable under this section if the court finds by a preponderance of the evidence that the perpetrator participated in a violation and the petitioner was injured as a result.

(5) (a) A perpetrator who is found guilty of a violation of Section 76-6-1102, Identity Fraud, or Section [~~76-10-1801~~]76-6-525, Communications Fraud, shall be found liable under this section.

(b) If restitution was ordered in the criminal action, the amount ordered shall be deducted from any damages awarded under this section.

Section 512. Section 78B-6-2102 is amended to read:

78B-6-2102. Exemptions.

(1) If the conditions of Subsection (2) are met, this part does not apply to:

(a) the following, as defined in the Communications Act of 1934, as amended:

(i) an interactive computer service;

(ii) a telecommunications service, information service, or mobile service, including a commercial mobile service; or

(iii) a multichannel video programming distributor;

(b) an Internet service provider;

(c) a provider of an electronic communications service;

(d) a distributor of Internet-based video services;

(e) a [~~host~~]hosting company as defined in Section [~~76-10-1230~~]76-5c-401; or

(f) a distributor of electronic or computerized game software that users manipulate through interactive devices.

(2) This part does not apply to an entity described in Subsection (1) if:

(a) the distribution of pornographic material by the entity occurs only incidentally through the entity's function of:

(i) transmitting or routing data from one person to another person;

(ii) providing a connection between one person and another person; or

(iii) providing data storage space or data caching to a person; and

(b) the entity does not intentionally aid or abet in the distribution of the pornographic material.

Section 513. Section 78B-6-2105 is amended to read:

78B-6-2105. Civil action for enforcement -- Penalties.

(1) A person who distributes or otherwise provides pornographic material to consumers may not distribute any obscene material or performance as defined in Section [~~76-10-1203~~]76-5c-101 without first giving a clear and reasonable warning of the harmful impact of exposing minors to the material or performance.

(2) The warning of the harm shall be prominently displayed in the following form:

STATE OF UTAH WARNING

Exposing minors to obscene material may damage or negatively impact minors.

(3) (a) For print publications created after May 12, 2020, the warning in Subsection (2) shall be placed in clear, readable type on the cover of each publication which includes material as defined in Section [~~76-10-1201~~]76-5c-101.

(b) For digital publications:

(i) the warning in Subsection (2) shall be displayed in searchable text format and for at least five seconds prior to the display of any video or each image which includes material as defined in Section [~~76-10-1201~~]76-5c-101; or

(ii) if the website complies with Subsection 78B-6-2103(3), it is not required to display the warning in Subsection (2) prior to each video or image contained on the website.

(4) A person who violates this section shall be liable for a civil penalty not to exceed $2,500 per violation, plus filing fees and attorney fees, in addition to any other penalty established by law, and enjoined from further violations.

(5) The civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.

(6) Each of the following violations shall create a separate liability per violation:

(a) the sale or display of potentially harmful content without the warning required in Subsection (2), in accordance with Subsection (3); or

(b) the absence of the following searchable text within the website's metadata - utahobscenitywarning.

(7) The determination by a court as to whether a person is distributing material the state considers to be obscene material or performance as defined in Section 78B-6-1203 shall be proven by clear and convincing evidence. All other elements of proof shall be proven by a preponderance of the evidence.

(8) The court, in ordering payment, shall specify each amount for the civil penalty, filing fees, and attorney fees.

(9) In assessing the amount of a civil penalty for a violation of this chapter, the court shall consider all of the following:

(a) the nature and extent of the violation;

(b) the number and severity of the violations;

(c) the economic effect of the penalty on the violator;

(d) whether the violator took good faith measures to comply with this chapter and when those measures were taken;

(e) the willfulness of the violator's misconduct;

(f) the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole; and

(g) any other factor that the court determines justice requires.

(10) Actions pursuant to this section may be brought by the attorney general's office in the name of the people of the state or by a private person in accordance with Subsection (11).

(11) A private person may bring an action in the public interest pursuant to this section if:

(a) the person has served notice of an alleged violation of Section 78B-6-2103 on the alleged violator and the attorney general's office;

(b) the attorney general's office has not provided a letter to the noticing party within 60 days of receipt of the notice of an alleged violation indicating that:

(i) an action is currently being pursued or will be pursued by the attorney general's office regarding the violation; or

(ii) the attorney general believes that there is no merit to the action; and

(c) the alleged violator has not responded to the notice of alleged violation or returned the proof of compliance form provided in Subsection (17).

(12) If a lawsuit is commenced, the plaintiff may include additional violations in the claim that are discovered through the discovery process.

(13) Notice of the alleged violation shall be executed by the attorney for the noticing party, or by the noticing party, if the noticing party is not represented by an attorney, and include a notice of alleged violation. The notice of alleged violation shall:

(a) state that the person executing the notice believes that there is a violation; and

(b) provide factual information sufficient to establish the basis for the alleged violation.

(14) A person who serves a notice of alleged violation identified in Subsection (13) shall complete and provide to the alleged violator at the time the notice of alleged violation is served, a notice of special compliance procedure and proof of compliance form pursuant to Subsection (17). The person may file an action against the alleged violator, or recover from the alleged violator if:

(a) the notice of alleged violation alleges that the alleged violator failed to provide a clear and reasonable warning as required under Subsection (1); and

(b) within 14 days after receipt of the notice of alleged violation, the alleged violator has not:

(i) corrected the alleged violation and all similar violations known to the alleged violator;

(ii) agreed to pay a penalty for the alleged violation in the amount of $500 per violation; and

(iii) notified, in writing, the noticing party that the violation has been corrected.

(15) The written notice required in Subsection (14)(b)(iii) shall be the notice of special compliance procedure and proof of compliance form specified in Subsection (17). The alleged violator shall deliver the civil penalty to the noticing party within 30 days of receipt of the notice of alleged violation.

(16) The attorney general shall review the notice of alleged violation and may confer with the noticing party. If the attorney general believes there is no merit to the action, the attorney general shall, within 45 days of receipt of the notice of alleged violation, provide a letter to the noticing party and the alleged violator stating that the attorney general believes there is no merit to the action.

(17) The notice required to be provided to an alleged violator pursuant to Subsection (14) shall be presented as follows:

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

SPECIAL COMPLIANCE PROCEDURE

PROOF OF COMPLIANCE

You are receiving this form because the Noticing Party listed above has alleged that you are in violation of Utah Code Section 78B-6-2103.

The Noticing Party may bring legal proceedings against you for the alleged violation checked below if:

(1) you have not actually taken the corrective steps that you have certified in this form;

(2) the Noticing Party has not received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice; and

(3) the Noticing Party does not receive the required $500 penalty payment for each violation alleged from you at the address shown above postmarked within 30 days of your receiving this notice.

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

This notice of alleged violation is for failure to warn against an exposure to minors of materials considered harmful to minors. (provide complete description of violation, including when and where observed)

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate that you are now in compliance with Utah Code Section 78B-6-2103, for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of receipt of this notice, a penalty of $500 for each violation alleged to the Noticing Party only and certify that I have complied with by (check only one of the following):

Posting a warning or warnings, and attaching a copy of that warning and a photograph accurately showing its placement on the print or digital publication.

Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

CERTIFICATION

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under Utah Code [~~Section 76-10-1206~~]Sections 76-5c-205 and 76-5c-206.

Signature of alleged violator or authorized representative:

Date:

Name and title of signatory:

(18) An alleged violator may satisfy the conditions set forth in Subsection (17) only one time for a specific violation.

(19) Notwithstanding Subsection (17), the attorney general may file an action pursuant to Subsection (10) against an alleged violator. In any action, the amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator to a private person in accordance with Subsection (17) for the same alleged violation.

(20) Payments shall be made in accordance with this section.

(a) A civil penalty ordered by the court shall be paid to the plaintiff as directed by the court.

(b) A penalty paid in accordance with the special compliance procedure in Subsection (17) shall be made directly to the noticing party.

(21) The Utah Office for Victims of Crime shall receive 50% of any penalty paid in accordance with this section. Funds received shall be deposited into the Crime Victim Reparations Fund created in Section 63M-7-526. The penalty amount upon which the 50% is calculated may not include attorney fees or costs awarded by the court.

(a) If the penalty is paid to a noticing party in accordance with Subsection (17), the noticing party shall remit the required amount along with a copy of the Special Compliance Procedure document.

(b) If a civil penalty is ordered by the court, the plaintiff shall remit the required amount along with a copy of the court order.

(22) The attorney general's office shall provide to the Utah Office for Victims of Crime a copy of all notices of alleged violations to which the attorney general's office did not respond with a letter of no merit in accordance with Subsection (16).

(23) The court shall provide to the Utah Office for Victims of Crime a copy of the court's order for payment.

(24) The Utah Office for Victims of Crime shall:

(a) maintain a record of documents and payments submitted pursuant to Subsections (21), (22), and (23);

(b) create and provide to the Legislature in odd-numbered years beginning November 2021, a report containing the following for the previous two years:

(i) the number of notices of alleged violations received from the attorney general's office;

(ii) the number of court orders received; and

(iii) the total amount received and deposited into the Crime Victim Reparations Fund.

(25) This section does not apply to:

(a) a person portrayed in obscene or pornographic material that is created, duplicated, or distributed without the person's knowledge or consent; or

(b) a person who is coerced or blackmailed into distributing obscene or pornographic material.

(26) Beginning May 1, 2025, and at each five-year interval, the dollar amount of the civil penalty provided in Subsection (4) shall be adjusted by the Judicial Council based on the change in the annual Consumer Price Index for the most recent five-year period ending on December 31 of the previous year, and rounded to the nearest five dollars. The attorney general shall publish the dollar amount of the civil penalty together with the date of the next scheduled adjustment.

Section 514. Section 78B-6-2301 is amended to read:

78B-6-2301. Definitions.

As used in this part:

(1) "Directive" means an ordinance, regulation, measure, rule, enactment, order, or policy issued, enacted, or required by a local or state governmental entity.

(2) "Firearm" means the same as that term is defined in Section [~~53-5a-102~~]53-5a-102.1.

(3) "Legislative firearm preemption" means the preemption provided for in [~~Sections 53-5a-102 and 76-10-500~~]Section 53-5a-102.

(4) "Local or state governmental entity" means:

(a) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state, including the Utah Board of Higher Education, each institution of higher education, and the boards of trustees of each higher education institution; or

(b) a county, city, town, special district, local education agency, public school, school district, charter school, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

Section 515. Section 78B-7-502 is amended to read:

78B-7-502. Definitions.

As used in this part:

(1) "Ex parte sexual violence protective order" means an order issued without notice to the respondent under this part.

(2) "Protective order" means:

(a) a sexual violence protective order; or

(b) an ex parte sexual violence protective order.

(3) (a) "Sexual violence" means the commission or the attempt to commit:

[~~(a)~~](i) any sexual offense described in:

(A) Title 76, Chapter 5, Part 4, Sexual Offenses[~~;~~]; or

(B) Title 76, Chapter 5b, Part 2, Sexual Exploitation;

[~~(b)~~](ii) human trafficking for sexual exploitation under Section 76-5-308.1; or

[~~(c)~~](iii) aggravated human trafficking for forced sexual exploitation under Section 76-5-310.

(b) "Sexual violence" does not include an offense described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-418, sexual battery;

(iii) Section 76-5-419, lewdness;

(iv) Section 76-5-420, lewdness involving a child; or

(v) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.

(4) "Sexual violence protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

Section 516. Section 78B-7-801 is amended to read:

78B-7-801. Definitions.

As used in this part:

(1) (a) "Jail release agreement" means a written agreement that is entered into by an individual who is arrested or issued a citation, regardless of whether the individual is booked into jail:

(i) under which the arrested or cited individual agrees to not engage in any of the following:

(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(B) threatening or harassing the alleged victim; or

(C) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim, unless, after a law enforcement officer or the law enforcement officer's employing agency notifies or attempts to notify the alleged victim, the individual enters the premises while accompanied by a law enforcement officer for the purpose of retrieving the individual's personal belongings; and

(ii) that specifies other conditions of release from jail or arrest.

(b) "Jail release agreement" includes a written agreement that includes the conditions described in Section (1)(a) entered into by a minor who is taken into custody or placed in detention or a shelter facility under Section 80-6-201.

(2) "Jail release court order" means a written court order that:

(a) orders an arrested or cited individual not to engage in any of the following:

(i) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(ii) threatening or harassing the alleged victim; or

(iii) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim, unless, after a law enforcement officer or the law enforcement officer's employing agency notifies or attempts to notify the alleged victim, the individual enters the premises while accompanied by a law enforcement officer for the purpose of retrieving the individual's personal belongings; and

(b) specifies other conditions of release from jail.

(3) "Minor" means the same as that term is defined in Section 80-1-102.

(4) "Offense against a child or vulnerable adult" means the commission or attempted commission of an offense described in:

(a) Section 76-5-109, child abuse;

(b) Section 76-5-109.2, aggravated child abuse;

(c) Section 76-5-109.3, child abandonment;

(d) Section 76-5-110, abuse or neglect of a child with a disability;

(e) Section 76-5-111, abuse of a vulnerable adult;

(f) Section 76-5-111.2, aggravated abuse of a vulnerable adult;

(g) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;

(h) Section 76-5-111.4, financial exploitation of a vulnerable adult;

(i) Section 76-5-114, commission of domestic violence in the presence of a child; or

(j) Section [~~76-9-702.1~~]76-5-418, sexual battery.

(5) (a) "Qualifying offense" means:

[~~(a)~~](i) domestic violence;

[~~(b)~~](ii) an offense against a child or vulnerable adult; or

[~~(c)~~](iii) the commission or attempted commission of an offense described in Section [~~76-9-702.1~~]76-5-418, sexual battery, or Title 76, Chapter 5, Part 4, Sexual Offenses.

(b) "Qualifying offense" does not include an offense described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-419, lewdness; or

(iii) Section 76-5-420, lewdness involving a child.

Section 517. Section 78B-8-503 is amended to read:

78B-8-503. Definitions.

As used in this part:

(1) "Prevail" means to obtain favorable final judgment, the right to all appeals having been exhausted, on the merits, on substantially all counts or charges in the action and with respect to the most significant issue or set of issues presented, but does not include the settlement of any action, either by stipulation, consent decree or otherwise, whether or not settlement occurs before or after any hearing or trial.

(2) "Reasonable litigation expenses" means court costs, administrative hearing costs, attorney fees, and witness fees of all necessary witnesses, not in excess of $25,000 which a court finds were reasonably incurred in opposing action covered under this part.

(3) "Small business" means a commercial or business entity, including a sole proprietorship, which does not have more than 250 employees, but does not include an entity which is a subsidiary or affiliate of another entity which is not a small business.

(4) "State" means any department, board, institution, hospital, college, or university of the state of Utah or any political subdivision thereof, except with respect to actions brought under [~~Title 76, Chapter 10, Part 31, Utah Antitrust Act~~]Title 76, Chapter 16, Part 5, Antitrust Offenses.

Section 518. Section 78B-9-104 is amended to read:

78B-9-104. Grounds for relief -- Retroactivity of rule.

(1) Unless precluded by Section 78B-9-106 or 78B-9-107, an individual who has been convicted and sentenced for a criminal offense may file an action in the district court of original jurisdiction for postconviction relief to vacate or modify the conviction or sentence upon the following grounds:

(a) the conviction was obtained or the sentence was imposed in violation of the United States Constitution or Utah Constitution;

(b) the conviction was obtained or the sentence was imposed under a statute that is in violation of the United States Constitution or Utah Constitution, or the conduct for which the petitioner was prosecuted is constitutionally protected;

(c) the sentence was imposed or probation was revoked in violation of the controlling statutory provisions;

(d) the petitioner had ineffective assistance of counsel in violation of the United States Constitution or Utah Constitution;

(e) newly discovered material evidence exists that requires the court to vacate the conviction or sentence, because:

(i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction proceeding, and the evidence could not have been discovered through the exercise of reasonable diligence;

(ii) the material evidence is not merely cumulative of evidence that was known;

(iii) the material evidence is not merely impeachment evidence; and

(iv) viewed with all the other evidence, the newly discovered material evidence demonstrates that no reasonable trier of fact could have found the petitioner guilty of the offense or subject to the sentence received;

(f) the petitioner can prove that:

(i) biological evidence, as that term is defined in Section 77-11c-101, relevant to the petitioner's conviction was not preserved in accordance with Title 77, Chapter 11c, Part 4, Preservation of Biological Evidence for Violent Felony Offenses;

(ii) (A) the biological evidence described in Subsection (1)(f)(i) was not tested previously; or

(B) if the biological evidence described in Subsection (1)(f)(i) was tested previously, there is a material change in circumstance, including a scientific or technological advance, that would make it plausible that a test of the biological evidence described in Subsection

(1)(f)(i) would produce a favorable test result for the petitioner; and

(iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for purposes of the petitioner's action under this section, when viewed with all the other evidence, demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

(g) the petitioner can prove entitlement to relief under a rule announced by the United States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction and sentence became final on direct appeal, and that:

(i) the rule was dictated by precedent existing at the time the petitioner's conviction or sentence became final; or

(ii) the rule decriminalizes the conduct that comprises the elements of the crime for which the petitioner was convicted; or

(h) the petitioner committed any of the following offenses while subject to force, fraud, or coercion, as defined in Section 76-5-308:

(i) Section 58-37-8, possession of a controlled substance;

(ii) Section [~~76-10-1304~~]76-5d-206, aiding prostitution;

(iii) Section 76-6-206, criminal trespass;

(iv) Section 76-6-413, theft;

(v) Section 76-6-502, possession of forged writing or device for writing;

(vi) any offense in Title 76, Chapter 6, Part 6, Retail Theft;

(vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification document;

(viii) Section [~~76-9-702~~]76-5-419, lewdness;

(ix) Section [~~76-10-1302~~]76-5d-202, prostitution; [~~or~~]

(x) Section [~~76-10-1313~~]76-5d-209, sexual solicitation; or

(xi) Section 76-5d-210, sexual solicitation of a child.

(2) The court may not grant relief from a conviction or sentence unless in light of the facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at trial or during sentencing:

(a) the petitioner establishes that there would be a reasonable likelihood of a more favorable outcome; or

(b) if the petitioner challenges the conviction or the sentence on grounds that the prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner establishes that the false testimony, in any reasonable likelihood, could have affected the judgment of the fact finder.

(3) (a) The court may not grant relief from a conviction based on a claim that the petitioner is innocent of the crime for which convicted except as provided in Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

(b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence, of this chapter may not be filed as part of a petition under this part, but shall be filed separately and in conformity with the provisions of Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Section 519. Section 80-1-102 is amended to read:

80-1-102. Juvenile Code definitions.

Except as provided in Section 80-6-1103, as used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means, except as provided in Subsection (3)(b):

(i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:

(A) a finding by the juvenile court that the facts alleged in a delinquency petition or criminal information alleging that a minor committed an offense have been proved;

(B) an admission by a minor in the juvenile court as described in Section 80-6-306; or

(C) a plea of no contest by minor in the juvenile court; or

(ii) for all other proceedings under this title, a finding by the juvenile court that the facts alleged in the petition have been proved.

(b) "Adjudication" does not include:

(i) an admission by a minor described in Section 80-6-306 until the juvenile court enters the minor's admission; or

(ii) a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 80-3-307.

(9) "Child placing" means the same as that term is defined in Section 26B-2-101.

(10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.

(11) "Child protection team" means a team consisting of:

(a) the child welfare caseworker assigned to the case;

(b) if applicable, the child welfare caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) if applicable, the law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12) (a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(13) (a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(15) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.

(17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth Services in accordance with Section 80-5-501, for minors held in detention.

(25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(29) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(30) "Emancipated" means the same as that term is defined in Section 80-7-102.

(31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(34) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(37) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(38) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.

(39) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(45) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(46) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(47) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(50) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(51) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

(52) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

(53) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

(iii) (A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

(55) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

(56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.

(57) (a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(58) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated child custody transfer under Section 78B-24-203; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection [~~76-10-2202(2)~~]76-5-115(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(59) "Neglected child" means a child who has been subjected to neglect.

(60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, guardian, or custodian.

(61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(62) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.

(63) "Physical abuse" means abuse that results in physical injury or damage to a child.

(64) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(65) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(66) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(67) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

(68) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(69) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(70) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(71) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(72) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.

(73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(74) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(75) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

(76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(78) (a) "Severe type of child abuse or neglect" means, except as provided in Subsection (78)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

(B) sexual behavior with or upon another child that indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with Subsection 53G-8-302(2) or Section 76-2-401;

(ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

(iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

(79) (a) "Sexual abuse" means:

[~~(a)~~](i) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

[~~(b)~~](ii) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

[~~(i)~~](A) there is an indication of force or coercion;

[~~(ii)~~](B) the children are related, as described in Subsection (39), including siblings by marriage while the marriage exists or by adoption;

[~~(iii)~~](C) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

[~~(iv)~~](D) there is a disparity in chronological age of four or more years between the two children;

[~~(c)~~](iii) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

[~~(i)~~](A) Title 76, Chapter 5, Part 4, Sexual Offenses [~~, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor~~];

[~~(ii)~~](B) child bigamy, Section 76-7-101.5;

[~~(iii)~~](C) incest, Section 76-7-102;

[~~(iv) lewdness, Section 76-9-702;~~]

[~~(v) sexual battery, Section 76-9-702.1;~~]

[~~(vi) lewdness involving a child, Section 76-9-702.5; or~~]

[~~(vii)~~](D) voyeurism, Section [~~76-9-702.7~~]76-12-306;

(E) recorded or photographed voyeurism, Section 76-12-307; or

(F) distribution of images obtained through voyeurism, Section 76-12-308; or

[~~(d)~~](iv) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(b) "Sexual abuse" does not include engaging in any conduct with a child that would constitute an offense described in:

(i) Section 76-5-401, unlawful sexual activity with a minor, if the alleged perpetrator of the offense is a minor; or

(ii) Section 76-5-417, enticing a minor.

(80) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

(83) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

(f) family risk factors; and

(g) other related considerations.

(84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(85) "Status offense" means an offense that would not be an offense but for the age of the offender.

(86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

(87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred.

(88) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or

(c) the licensing and supervision of a substitute care facility.

(89) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

(90) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(91) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (93)(a) and (b).

(94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(95) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(96) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(97) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

(98) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

Section 520. Section 80-2-301 is amended to read:

80-2-301. Division responsibilities.

(1) The division is the child, youth, and family services authority of the state.

(2) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director of the department may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services in accordance with Section 80-2-306, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence and the victims' children, in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, and neglected children;

(ix) services for minors who are victims of human trafficking or human smuggling, as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or sexual solicitation, as defined in Sections [~~76-10-1302~~]76-5d-202 and [~~76-10-1313~~]76-5d-210; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (2)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 80-2-405;

(ii) approve facilities that meet the standards established under Subsection (2)(c) to provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and

(iii) approve an individual to provide short-term relief care to a foster parent if the individual:

(A) provides the relief care for less than six consecutive nights;

(B) provides the relief care in the short-term relief care provider's home;

(C) is direct access qualified, as that term is defined in Section 26B-2-120; and

(D) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) in accordance with Subsection (5)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, or dependent children, in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is expressly vested in another division or department of the state;

(g) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(h) compile relevant information, statistics, and reports on child and family service matters in the state;

(i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 80-2-1102 and 80-2-1103;

(j) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(k) enter into contracts for programs designed to reduce the occurrence or recurrence of abuse and neglect in accordance with Section 80-2-503;

(l) seek reimbursement of funds the division expends on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parent or guardian in accordance with an order for child support under Section 78A-6-356;

(m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, under Section 80-3-409, and promote adoption of the children;

(n) subject to Subsections (5) and (7), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

(o) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (2)(o)(i);

(p) when a division child welfare caseworker identifies a safety concern with the foster home, cooperate with the Office of Licensing and make a recommendation to the Office of Licensing concerning whether the foster home's license should be placed on conditions, suspended, or revoked; and

(q) perform other duties and functions required by law.

(3) (a) The division may provide, directly or through contract, services that include the following:

(i) adoptions;

(ii) day-care services;

(iii) out-of-home placements for minors;

(iv) health-related services;

(v) homemaking services;

(vi) home management services;

(vii) protective services for minors;

(viii) transportation services; or

(ix) domestic violence services.

(b) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.

(ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

(4) (a) The division may:

(i) receive gifts, grants, devises, and donations;

(ii) encourage merchants and service providers to:

(A) donate goods or services; or

(B) provide goods or services at a nominal price or below cost;

(iii) distribute goods to applicants or consumers of division services free or for a nominal charge and tax free; and

(iv) appeal to the public for funds to meet needs of applicants or consumers of division services that are not otherwise provided by law, including Sub-for-Santa programs, recreational programs for minors, and requests for household appliances and home repairs.

(b) If requested by the donor and subject to state and federal law, the division shall use a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the purpose requested by the donor.

(5) (a) In carrying out the requirements of Subsection (2)(f), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice and Youth Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in Subsection (5)(a)(ii), within the division's budget.

(b) If an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (2)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is an indigent individual.

(6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic violence in the presence of a child, as described in Section 76-5-114.

(7) (a) Except as provided in Subsection (7)(b), the division may not:

(i) require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo; or

(ii) refer an individual who is receiving services from the division for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.

(b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is receiving services from the division for drug testing by means of a saliva test if:

(i) the individual consents to drug testing by means of a saliva test; or

(ii) the court, based on a finding that a saliva test is necessary in the circumstances, orders the individual to complete drug testing by means of a saliva test.

Section 521. Section 80-4-302 is amended to read:

80-4-302. Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Section 80-4-203.

(2) In determining whether a parent or parents are unfit or have neglected a child the juvenile court shall consider:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;

(f) a history of violent behavior;

(g) whether the parent has intentionally exposed the child to:

(i) pornography; or

(ii) material harmful to a minor, as defined in Section [~~76-10-1201~~]76-5c-101; or

(h) any other circumstance, conduct, or condition that the court considers relevant in the determination of whether a parent or parents are unfit or have neglected the child.

(3) Notwithstanding Subsection (2)(c), the juvenile court may not discriminate against a parent because of or otherwise consider the parent's lawful possession or consumption of cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in Section 26B-4-201 or a medical cannabis device, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(4) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

(5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care

decision is not reasonable and informed.

(b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

(6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

(7) The following circumstances are prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 522. Section 80-6-103 is amended to read:

80-6-103. Notification to a school -- Civil and criminal liability.

(1) As used in this section:

(a) "School" means a school in a local education agency.

(b) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(c) "School official" means the superintendent of a school district or the director of a charter school or designee in which the minor resides or attends school.

(d) "Serious offense" means:

(i) a violent felony as defined in Section 76-3-203.5;

(ii) an offense that is a violation of Title 76, Chapter 6, Part 4, Theft, and the property stolen is a firearm; or

(iii) an offense that is a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~]Title 76, Chapter 11, Weapons.

(e) "Transferee school official" means the superintendent of a school district or the director of a charter school or designee in which the minor resides or attends school if the minor is admitted to home detention.

(2) A notification under this section is provided for a minor's supervision and student safety.

(3) (a) If a minor is taken into temporary custody under Section 80-6-201 for a serious offense, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official within five days after the day on which the minor is taken into temporary custody.

(b) A notification under this Subsection (3) shall only disclose:

(i) the name of the minor;

(ii) the offense for which the minor was taken into temporary custody or admitted to detention; and

(iii) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.

(4) After a detention hearing for a minor who is alleged to have committed a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency of the juvenile court's decision, including any disposition, order, or no-contact order.

(5) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency that the minor has been admitted to home detention.

(6) (a) If the juvenile court adjudicates a minor for a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, of the adjudication.

(b) A notification under this Subsection (6) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.

(c) A notification under this section shall include:

(i) the name of the minor;

(ii) the offense for which the minor was adjudicated; and

(iii) if available, the name of the victim if the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(7) If the juvenile court orders formal probation under Section 80-6-702, the juvenile court shall order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official of the juvenile court's order for formal probation.

(8) (a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:

(i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

(9) (a) A notification under this section shall be classified as a protected record under Section 63G-2-305.

(b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Section 523. Section 80-6-104 is amended to read:

80-6-104. Data collection on offenses committed by minors -- Reporting requirement.

(1) As used in this section:

(a) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(b) "Firearm-related offense" means a criminal offense involving a firearm.

(c) "School is in session" means the same as that term is defined in Section 53E-3-516.

(d) "School-sponsored activity" means the same as that term is defined in Section 53E-3-516.

(2) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data to the State Commission on Criminal and Juvenile Justice, broken down by judicial district, for the preceding calendar year:

(a) the number of referrals to the juvenile court;

(b) the number of minors diverted to a nonjudicial adjustment;

(c) the number of minors that satisfy the conditions of a nonjudicial adjustment;

(d) the number of minors for whom a petition for an offense is filed in the juvenile court;

(e) the number of minors for whom an information is filed in the juvenile court;

(f) the number of minors bound over to the district court by the juvenile court;

(g) the number of petitions for offenses committed by minors that were dismissed by the juvenile court;

(h) the number of adjudications in the juvenile court for offenses committed by minors;

(i) the number of guilty pleas entered into by minors in the juvenile court;

(j) the number of dispositions resulting in secure care, community-based placement, formal probation, and intake probation; and

(k) for each minor charged in the juvenile court with a firearm-related offense:

(i) the minor's age at the time the offense was committed or allegedly committed;

(ii) the minor's zip code at the time that the offense was referred to the juvenile court;

(iii) whether the minor is a restricted person under Subsection [~~76-10-503(1)(a)(iv) or (1)(b)(iii)~~]76-11-302(1)(a)(iv) or (1)(b)(iii);

(iv) the type of offense for which the minor is charged;

(v) the outcome of the minor's case in juvenile court, including whether the minor was bound over to the district court or adjudicated by the juvenile court; and

(vi) if a disposition was entered by the juvenile court, whether the disposition resulted in secure care, community-based placement, formal probation, or intake probation.

(3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a case resulting from a firearm-related offense committed, or allegedly committed, by a minor when the minor is found in possession of a firearm while school is in session or during a school-sponsored activity.

(4) In collaboration with the Administrative Office of the Courts, the division, and other agencies, the State Commission on Criminal and Juvenile Justice shall collect data for the preceding calendar year on:

(a) the length of time that minors spend in the juvenile justice system, including the total amount of time minors spend under juvenile court jurisdiction, on community supervision, and in each out-of-home placement;

(b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for whom dispositions are ordered by the juvenile court, including tracking minors into the adult corrections system;

(c) changes in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and

(d) dosages of programming.

(5) On and before October 1 of each year, the State Commission on Criminal and Juvenile Justice shall prepare and submit a written report to the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee that includes:

(a) data collected by the State Commission on Criminal and Juvenile Justice under this section;

(b) data collected by the State Board of Education under Section 53E-3-516; and

(c) recommendations for legislative action with respect to the data described in this Subsection (5).

(6) After submitting the written report described in Subsection (5), the State Commission on Criminal and Juvenile Justice may supplement the report at a later time with updated data and information the State Board of Education collects under Section 53E-3-516.

(7) Nothing in this section shall be construed to require the disclosure of information or data that is classified as controlled, private, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 524. Section 80-6-302 is amended to read:

80-6-302. Citation -- Procedure -- Time limits -- Failure to appear.

(1) A petition is not required to commence a proceeding against a minor for an adjudication of an alleged offense if a citation is issued for an offense for which the juvenile court has jurisdiction over and the offense listed in the citation is for:

(a) a violation of a wildlife law;

(b) a violation of a boating law;

(c) a class B or C misdemeanor or an infraction other than a misdemeanor or infraction:

(i) for a traffic violation; or

(ii) designated as a citable offense by general order of the Board of Juvenile Court Judges;

(d) a class B misdemeanor or infraction for a traffic violation where the individual is 15 years old or younger at the time the offense was alleged to have occurred;

(e) an infraction or misdemeanor designated as a citable offense by a general order of the Board of Juvenile Court Judges; or

(f) a violation of Subsection [~~76-10-105(2)~~]76-9-1106(3)(b).

(2) Except as provided in Subsection (6) and Section 80-6-301, a citation for an offense listed in Subsection (1) shall be submitted to the juvenile court within five days of issuance to a minor.

(3) A copy of the citation shall contain:

(a) the name and address of the juvenile court before which the minor may be required to appear;

(b) the name of the minor cited;

(c) the statute or local ordinance that the minor is alleged to have violated;

(d) a brief description of the offense charged;

(e) the date, time, and location at which the offense is alleged to have occurred;

(f) the date the citation was issued;

(g) the name and badge or identification number of the peace officer or public official who issued the citation;

(h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the minor into temporary custody as provided in Section 80-6-201;

(i) a statement that the minor and the minor's parent or guardian are to appear when notified by the juvenile court; and

(j) the signature of the minor and the minor's parent or guardian, if present, agreeing to appear at the juvenile court when notified by the court.

(4) A copy of the citation shall contain space for the following information to be entered if known:

(a) the minor's address;

(b) the minor's date of birth;

(c) the name and address of the child's custodial parent or guardian, if different from the child; and

(d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information shall be removed from the documents the minor receives.

(5) A citation received by the juvenile court beyond the time designated in Subsection (2)shall include a written explanation for the delay.

(6) An offense alleged to have been committed by an enrolled child on school property, or related to school attendance, may only be referred to the prosecuting attorney or the juvenile court in accordance with Section 53G-8-211.

(7) If a juvenile court receives a citation described in Subsection (1), a juvenile probation officer shall make a preliminary inquiry as to whether the minor is eligible for a nonjudicial adjustment in accordance with Subsection 80-6-303.5(4).

(8) (a) Except as provided in Subsection (8)(b), if a citation is issued to a minor, a prosecuting attorney may commence a proceeding against a minor, without filing a petition, for an adjudication of the offense in the citation only if:

(i) the minor is not eligible for, or does not complete, a nonjudicial adjustment; and

(ii) the prosecuting attorney conducts an inquiry under Subsection (9).

(b) Except as provided in Subsection 80-6-305(2), a prosecuting attorney may not commence a proceeding against an individual for any offense listed in a citation alleged to have occurred before the individual was 12 years old.

(9) The prosecuting attorney shall conduct an inquiry to determine, upon reasonable belief, that:

(a) the charge listed in the citation is supported by probable cause;

(b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(c) the decision to charge is in the interests of justice.

(10) If a proceeding is commenced against a minor under Subsection (8)(a), the minor shall appear at the juvenile court at a date and time established by the juvenile court.

(11) If a minor willfully fails to appear before the juvenile court for a proceeding under Subsection (8)(a), the juvenile court may:

(a) find the minor in contempt of court; and

(b) proceed against the minor as provided in Section 78A-6-353.

(12) If a proceeding is commenced under this section, the minor may remit a fine without a personal appearance before the juvenile court with the consent of:

(a) the juvenile court; and

(b) if the minor is a child, the parent or guardian of the child cited.

Section 525. Section 80-6-303.5 is amended to read:

80-6-303.5. Preliminary inquiry by juvenile probation officer -- Eligibility for nonjudicial adjustment.

(1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, or for the minor being a habitual truant, a juvenile probation officer shall make a preliminary inquiry in accordance with this section to determine whether the minor is eligible to enter into a nonjudicial adjustment.

(2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.

(3) (a) The juvenile probation officer may:

(i) conduct a validated risk and needs assessment; and

(ii) request that a prosecuting attorney review a referral in accordance with Section 80-6-304.5 if:

(A) the results of the validated risk and needs assessment indicate the minor is high risk; or

(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Sections 76-9-112, 76-12-306, 76-12-307, 76-12-309, or Title 76, Chapter 5, Offenses Against the Individual [~~, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions~~].

(b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor shall:

(i) undergo a drug and alcohol screening;

(ii) if found appropriate by the screening, participate in an assessment; and

(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.

(4) Except for an offense that is not eligible under Subsection (8), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if:

(a) the minor:

(i) is referred for an offense that is a misdemeanor, infraction, or status offense;

(ii) has no more than two prior adjudications; and

(iii) has no more than two prior unsuccessful nonjudicial adjustment attempts;

(b) the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old; or

(c) the minor is referred for being a habitual truant.

(5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

(6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.

(7) Except for a referral that involves an offense described in Subsection (8), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria described in Subsection (4)(a).

(8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the referral involves:

(a) an offense alleged to have occurred when the minor was 12 years old or older that is:

(i) a felony offense; or

(ii) a misdemeanor violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-107, threat of violence;

(C) Section 76-5-107.1, threats against schools;

(D) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(E) Section 76-5-206, negligent homicide;

(F) Section [~~76-9-702.1~~]76-5-418, sexual battery;

(G) Section [~~76-10-505.5~~]76-11-204, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;

(H) Section [~~76-10-506~~]76-11-205, threatening with or using a dangerous weapon in fight or quarrel;

(I) Section [~~76-10-507~~]76-11-206, possession of a deadly weapon with criminal intent; or

(J) Section [~~76-10-509.4~~]76-11-209, possession of a dangerous weapon by a minor; or

(b) an offense alleged to have occurred before the minor is 12 years old that is a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section [~~76-10-508.1~~]76-11-208, felony discharge of a firearm.

(9) The juvenile probation officer shall request that a prosecuting attorney review a referral if:

(a) the referral involves an offense described in Subsection (8); or

(b) the minor has a current suspended order for custody under Section 80-6-711.

Section 526. Section 80-6-304 is amended to read:

80-6-304. Nonjudicial adjustments.

(1) For a nonjudicial adjustment, the juvenile probation officer may require a minor to:

(a) pay a financial penalty of no more than $250 to the juvenile court, subject to the terms established under Subsection (4);

(b) pay restitution to any victim;

(c) complete community or compensatory service;

(d) attend counseling or treatment with an appropriate provider;

(e) attend substance abuse treatment or counseling;

(f) comply with specified restrictions on activities or associations;

(g) attend victim-offender mediation if requested by the victim; and

(h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.

(2) (a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with Section 80-6-303.5, the juvenile probation officer shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(b) The victim shall be responsible to provide to the juvenile probation officer upon request:

(i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;

(ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

(iii) proof of identification, including home and work address and telephone numbers.

(c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the juvenile probation officer determining restitution based on the best information available.

(3) The juvenile probation officer may not predicate acceptance of an offer of a nonjudicial adjustment on an admission of guilt.

(4) (a) The juvenile probation officer may not deny a minor an offer of a nonjudicial adjustment due to a minor's inability to pay a financial penalty under Subsection (1).

(b) The juvenile probation officer shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection (1) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208.

(5) (a) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

(b) A juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection (5)(a):

(i) for a minor who is:

(A) offered a nonjudicial adjustment for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old, other than an offense under Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or

(B) referred to a prosecuting attorney for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old, other than an offense under Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; and

(ii) the judge determines that:

(A) the nonjudicial adjustment requires specific treatment for the sexual offense;

(B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and

(C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.

(c) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection (5)(b), the judge may extend the nonjudicial adjustment until the minor completes the specific treatment, but the judge may only grant each extension for 90 days at a time.

(6) If a minor violates Section [~~76-10-105~~]76-9-1106, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

Section 527. Section 80-6-305 is amended to read:

80-6-305. Petition for a delinquency proceeding -- Amending a petition -- Continuance.

(1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an alleged offense, except as provided in:

(a) Subsection (2);

(b) Section 80-6-302;

(c) Section 80-6-502; and

(d) Section 80-6-503.

(2) A prosecuting attorney may not file a petition under Subsection (1) against an individual for an offense alleged to have occurred before the individual was 12 years old, unless:

(a) the individual is alleged to have committed a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section [~~76-10-508.1~~]76-11-208, felony discharge of a firearm; or

(b) an offer for a nonjudicial adjustment is made under Section 80-6-303.5 and the minor:

(i) declines to accept the offer for the nonjudicial adjustment; or

(ii) fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment.

(3) A juvenile court may dismiss a petition under this section at any stage of the proceedings.

(4) (a) When evidence is presented during any proceeding in a minor's case that points to material facts not alleged in the petition, the juvenile court may consider the additional or different material facts raised by the evidence if the parties consent.

(b) The juvenile court, on a motion from any interested party or on the court's own motion, shall direct that the petition be amended to conform to the evidence.

(c) If an amended petition under Subsection (4)(b) results in a substantial departure from the material facts originally alleged, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

Section 528. Section 80-6-503 is amended to read:

80-6-503. Criminal information for a minor in juvenile court -- Extending juvenile court jurisdiction.

(1) If a prosecuting attorney charges a minor with a felony, the prosecuting attorney may file a criminal information in the juvenile court if the minor was a principal actor in an offense and the information alleges:

(a) (i) the minor was 16 or 17 years old at the time of the offense; and

(ii) the offense for which the minor is being charged is a felony violation of:

(A) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(B) Section 76-5-202, attempted aggravated murder;

(C) Section 76-5-203, attempted murder;

(D) Section 76-5-302, aggravated kidnapping;

(E) Section 76-5-405, aggravated sexual assault;

(F) Section 76-6-103, aggravated arson;

(G) Section 76-6-203, aggravated burglary;

(H) Section 76-6-302, aggravated robbery;

(I) Section [~~76-10-508.1~~]76-11-208, felony discharge of a firearm; or

(J) an offense other than an offense listed in Subsections (1)(a)(ii)(A) through (I) involving the use of a dangerous weapon if the offense would be a felony had an adult committed the offense, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult; or

(b) (i) the minor was 14 or 15 years old at the time of the offense; and

(ii) the offense for which the minor is being charged is a felony violation of:

(A) Section 76-5-202, aggravated murder or attempted aggravated murder; or

(B) Section 76-5-203, murder or attempted murder.

(2) At the time that a prosecuting attorney files an information under this section, a party may file a motion to extend the juvenile court's continuing jurisdiction in accordance with Section 80-6-605.

Section 529. Section 80-6-605 is amended to read:

80-6-605. Extension of juvenile court jurisdiction -- Procedure.

(1) At the time that a prosecuting attorney files a petition under Section 80-6-305, or a criminal information under Section 80-6-503, for a felony offense alleged to have been committed by a minor who is 14 years old or older, either party may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old if:

(a) the minor was the principal actor in the offense; and

(b) the petition or information alleges a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery;

(ix) Section [~~76-10-508.1~~]76-11-208, felony discharge of a firearm; or

(x) (A) an offense other than the offenses listed in Subsections (1)(b)(i) through (ix) involving the use of a dangerous weapon that would be a felony if committed by an adult; and

(B) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult.

(2) (a) Notwithstanding Subsection (1), either party may file a motion to extend the juvenile court's continuing jurisdiction after a determination by the juvenile court that the minor will not be bound over to the district court under Section 80-6-504.

(3) The juvenile court shall make a determination on a motion under Subsection (1) or (2)at the time of disposition.

(4) The juvenile court shall extend the continuing jurisdiction over the minor's case until the minor is 25 years old if the juvenile court finds, by a preponderance of the evidence, that extending continuing jurisdiction is in the best interest of the minor and the public.

(5) In considering whether it is in the best interest of the minor and the public for the court to extend jurisdiction over the minor's case until the minor is 25 years old, the juvenile court shall consider and base the juvenile court's decision on:

(a) whether the protection of the community requires an extension of jurisdiction beyond the age of 21;

(b) the extent to which the minor's actions in the offense were committed in an aggressive, violent, premeditated, or willful manner;

(c) the minor's mental, physical, educational, trauma, and social history; and

(d) the criminal record and previous history of the minor.

(6) The amount of weight that each factor in Subsection (5) is given is in the juvenile court's discretion.

(7) (a) The juvenile court may consider written reports and other materials relating to the minor's mental, physical, educational, trauma, and social history.

(b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report or other material to appear and be subject to both direct and cross-examination.

(8) A minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (5).

Section 530. Section 80-6-608 is amended to read:

80-6-608. When photographs, fingerprints, or HIV infection tests may be taken -- Distribution -- DNA collection -- Reimbursement.

(1) The division shall take a photograph and fingerprints of a minor who is:

(a) 14 years old or older at the time of the alleged commission of an offense that would be a felony if the minor were 18 years old or older; and

(b) admitted to a detention facility for the alleged commission of the offense.

(2) The juvenile court shall order a minor who is 14 years old or older at the time that the minor is alleged to have committed an offense described in Subsection (2)(a) or (b) to have the minor's fingerprints taken at a detention facility or a local law enforcement agency if the minor is:

(a) adjudicated for an offense that would be a class A misdemeanor if the minor were 18 years old or older; or

(b) adjudicated for an offense that would be a felony if the minor were 18 years old or older and the minor was not admitted to a detention facility.

(3) The juvenile court shall take a photograph of a minor who is:

(a) 14 years old or older at the time the minor was alleged to have committed an offense that would be a felony or a class A misdemeanor if the minor were 18 years old or older; and

(b) adjudicated for the offense described in Subsection (3)(a).

(4) If a minor's fingerprints are taken under this section, the minor's fingerprints shall be forwarded to the Bureau of Criminal Identification and may be stored by electronic medium.

(5) Except for an offense under Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, HIV testing shall be conducted on a minor who is taken into custody after having been adjudicated for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon the request of:

(a) the victim;

(b) the parent or guardian of a victim who is younger than 14 years old; or

(c) the guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 26B-6-201.

(6) Except for an offense under Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, HIV testing shall be conducted on a minor against whom a petition has been filed or a pickup order has been issued for the commission of any offense under Title 76, Chapter 5, Part 4, Sexual Offenses:

(a) upon the request of:

(i) the victim;

(ii) the parent or guardian of a victim who is younger than 14 years old; or

(iii) the guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 26B-6-201; and

(b) in which:

(i) the juvenile court has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and

(ii) the juvenile court has found probable cause to believe that the alleged victim has been exposed to HIV infection as a result of the alleged offense.

(7) HIV tests, photographs, and fingerprints may not be taken of a child who is younger than 14 years old without the consent of the juvenile court.

(8) (a) Photographs taken under this section may be distributed or disbursed to:

(i) state and local law enforcement agencies;

(ii) the judiciary; and

(iii) the division.

(b) Fingerprints may be distributed or disbursed to:

(i) state and local law enforcement agencies;

(ii) the judiciary;

(iii) the division; and

(iv) agencies participating in the Western Identification Network.

(9) (a) A DNA specimen shall be obtained from a minor who is adjudicated by the juvenile court as described in Subsection 53-10-403(1)(e).

(b) The DNA specimen shall be obtained, in accordance with Subsection 53-10-404(4), by:

(i) designated employees of the juvenile court; or

(ii) if the minor is committed to the division, designated employees of the division.

(c) The responsible agency under Subsection (9)(b) shall ensure that an employee designated to collect the saliva DNA specimens receives appropriate training and that the specimens are obtained in accordance with accepted protocol.

(d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(e) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under Section 80-6-710 and for treatment ordered under Section 80-3-403.

Section 531. Section 80-6-707 is amended to read:

80-6-707. Suspension of driving privileges.

(1) This section applies to a minor who:

(a) at the time that the minor is adjudicated under Section 80-6-701, is at least the age eligible for a driver license under Section 53-3-204; and

(b) is found by the juvenile court to be in actual physical control of a motor vehicle during the commission of the offense for which the minor is adjudicated.

(2) (a) Except as otherwise provided by this section, if a minor is adjudicated for a violation of a traffic law by the juvenile court under Section 80-6-701, the juvenile court may:

(i) suspend the minor's driving privileges; and

(ii) take possession of the minor's driver license.

(b) The juvenile court may order any other eligible disposition under Subsection (1), except for a disposition under Section 80-6-703 or 80-6-705.

(c) If a juvenile court suspends a minor's driving privileges under Subsection (2)(a):

(i) the juvenile court shall prepare and send the order to the Driver License Division of the Department of Public Safety; and

(ii) the minor's license shall be suspended under Section 53-3-219.

(3) The juvenile court may reduce a suspension period imposed under Section 53-3-219 if:

(a) (i) the violation is the minor's first violation of:

(A) Section 32B-4-409;

(B) Section 32B-4-410;

(C) Section 58-37-8;

(D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(E) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(F) Subsection 76-5-102.1(2)(b);

(G) Subsection 76-5-207(2)(b); or

(H) Subsection [~~76-9-701(1)~~]76-9-110(2); and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment; or

(b) (i) the violation is the minor's second or subsequent violation of:

(A) Section 32B-4-409;

(B) Section 32B-4-410;

(C) Section 58-37-8;

(D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(E) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(F) Subsection 76-5-102.1(2)(b);

(G) Subsection 76-5-207(2)(b); or

(H) Subsection [~~76-9-701(1)~~]76-9-110(2);

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the minor is 18 years old or older and provides a sworn statement to the juvenile court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219; or

(B) the minor is under 18 years old and the minor's parent or guardian provides an affidavit or sworn statement to the juvenile court certifying that to the parent or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219.

(4) (a) If a minor is adjudicated under Section 80-6-701 for a proof of age violation, as defined in Section 32B-4-411:

(i) the juvenile court may forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and

(ii) the minor's driving privileges will be suspended:

(A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or

(B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.

(b) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(A) if:

(i) the violation is the minor's first violation of Section 32B-4-411; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(B) if:

(i) the violation is the minor's second or subsequent violation of Section 32B-4-411;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the minor is 18 years old or older and provides a sworn statement to the court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B); or

(B) the minor is under 18 years old and has the minor's parent or guardian provide an affidavit or sworn statement to the court certifying that to the parent's or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B).

(5) When the Department of Public Safety receives the arrest or conviction record of a minor for a driving offense committed while the minor's license is suspended under this section, the Department of Public Safety shall extend the suspension for a like period of time.

Section 532. Section 80-6-712 is amended to read:

80-6-712. Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.

(1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:

(a) if the minor is placed on intake probation, no more than three months; or

(b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.

(2) (a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

(i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and

(ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.

(b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):

(i) in the home of a qualifying relative or guardian;

(ii) at an independent living program contracted or operated by the division; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

(3) If the juvenile court orders a minor to secure care, the authority shall:

(a) have jurisdiction over the minor's case; and

(b) apply the provisions of Part 8, Commitment and Parole.

(4) (a) The juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation or Subsection (2) for commitment to the division, unless:

(i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) the minor has not completed community or compensatory service hours;

(iv) there is an outstanding fine; or

(v) the minor has not paid restitution in full.

(b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the minor's record in the treatment program; and

(iii) the minor's completion of the goals of the treatment program.

(5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.

(6) If the juvenile court extends supervision solely on the ground that the minor has not yet completed community or compensatory service hours under Subsection (4)(a)(iii), the juvenile court may only extend supervision:

(a) one time for no more than three months; and

(b) as intake probation.

(7) (a) If the juvenile court extends jurisdiction solely on the ground that the minor has not paid restitution in full as described in Subsection (4)(a)(v):

(i) the juvenile court may only:

(A) extend jurisdiction up to four times for no more than three months at a time;

(B) consider the efforts of the minor to pay restitution in full when determining whether to extend jurisdiction under Subsection (7)(a)(i); and

(C) make orders concerning the payment of restitution during the period for which jurisdiction is extended;

(ii) the juvenile court shall terminate any intake probation or formal probation of the minor; and

(iii) a designated staff member of the juvenile court shall submit a report to the juvenile court every three months regarding the minor's efforts to pay restitution.

(b) If the juvenile court finds that a minor is not making an effort to pay restitution, the juvenile court shall:

(i) terminate jurisdiction over the minor's case; and

(ii) record the amount of unpaid restitution as a civil judgment in accordance with Subsection 80-6-709(8).

(8) If the juvenile court extends supervision or jurisdiction under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.

(9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.

(10) This section does not apply to any minor adjudicated under this chapter for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section [~~76-10-508.1~~]76-11-208, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (10)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

(q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.

Section 533. Section 80-6-804 is amended to read:

80-6-804. Review and termination of secure care.

(1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.

(2) (a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of secure care for the juvenile offender from three to six months, but the presumptive term may not exceed six months.

(b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may immediately release the juvenile offender on parole if there is a treatment program available for the juvenile offender in a community-based setting.

(c) Except as provided in Subsection (2)(h), the authority shall release the juvenile offender on parole at the end of the presumptive term of secure care unless:

(i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) Except as provided in Subsection (2)(h), the authority may extend the length of secure care and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(c) exists.

(f) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(g) Records under Subsection (2)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may not:

(i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a) that would result in a term of secure care that exceeds a term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense; or

(ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e) if the extension would result in a term of secure care that exceeds the term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense.

(3) (a) If a juvenile offender is ordered to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole:

(i) in the home of a qualifying relative or guardian;

(ii) at an independent living program contracted or operated by the division; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

(c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:

(i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (3)(c)(i) by considering:

(i) the recommendations of the licensed service provider;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section [~~76-10-508.1~~]76-11-208, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or

(q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously ordered to secure care.

Section 534. Section 80-6-1002 is amended to read:

80-6-1002. Vacatur of an adjudication.

(1) (a) An individual who has been adjudicated for an offense by the juvenile court may petition the juvenile court for vacatur of the adjudication if the adjudication was for a violation of:

(i) Section 76-5-308, human trafficking for labor if the petitioner engaged in the human trafficking for labor while subject to force, fraud, or coercion;

(ii) Section [~~76-10-1302~~]76-5d-202, prostitution; or

(iii) Section [~~76-10-1304~~]76-5d-206, aiding prostitution [~~; or~~].

[~~(iv) Section 76-10-1313, sexual solicitation.~~]

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any records related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the prosecuting attorney.

(2) (a) Upon the filing of a petition, the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the juvenile record:

(A) that a petition has been filed; and

(B) of the date of the hearing.

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for vacatur.

(ii) At least 30 days before the day on which the hearing is scheduled, a victim shall receive notice of a petition for vacatur if, before the entry of vacatur, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered.

(iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(c) At the hearing, the petitioner, the prosecuting attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

(3) (a) In deciding whether to grant a petition for vacatur of an adjudication of an offense for human trafficking of labor described in Subsection (1)(a)(i), the juvenile court shall consider whether the petitioner acted subject to force, fraud, or coercion at the time of the conduct giving rise to the adjudication.

(b) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion at the time of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur of the adjudication.

(c) If the juvenile court does not find sufficient evidence, the juvenile court shall deny vacatur of the adjudication.

(4) If the petition seeks to vacate an adjudication of an offense described in Subsection (1)(a)(ii) through (iv), the juvenile court shall presumptively grant vacatur of the adjudication unless the petitioner acted as a purchaser of any sexual activity.

(5) (a) Except as provided in Subsection (5)(b), if the juvenile court grants a vacatur of an adjudication for an offense described in Subsection (1)(a), the juvenile court shall order expungement of all records in the petitioner's juvenile record pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System and the Licensing Information System.

(b) The juvenile court may not order expungement of any record in the petitioner's juvenile record that contains an adjudication for a violation of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

(6) (a) The petitioner shall be responsible for service of the vacatur and expungement order to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or expungement of the records in whole or in part, the agency or entity receiving the vacatur and expungement order shall only expunge all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.

(7) (a) Upon entry of a vacatur and expungement order under this section:

(i) the proceedings in the incident identified in the petition are considered never to have occurred; and

(ii) the petitioner may reply to an inquiry on the matter as though the proceedings never occurred.

(b) Upon petition, any record expunged under this section may only be released to or viewed by:

(i) the individual who is the subject of the record; or

(ii) a person named in the petition of vacatur.

Section 535. Section 80-6-1004.1 is amended to read:

80-6-1004.1. Petition to expunge adjudication -- Hearing and notice -- Waiver -- Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual was adjudicated for an offense in the juvenile court;

(b) the individual has reached 18 years old; and

(c) at least one year has passed from the day on which:

(i) the juvenile court's continuing jurisdiction was terminated; or

(ii) if the individual was committed to secure care, the individual was unconditionally released from the custody of the division.

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive:

(a) the age requirement under Subsection (1)(b) for a petition; or

(b) the one-year requirement under Subsection (1)(c) for a petition.

(4) (a) Upon the filing of a petition described in Subsection (1)(a), the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the petitioner's juvenile record:

(A) that the petition has been filed; and

(B) of the date of the hearing.

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition described in Subsection (1).

(ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice of the petition at least 30 days before the day on which the hearing is scheduled if, before the day on which an expungement order is made, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the juvenile court in the judicial district in which the offense occurred or judgment is entered.

(iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition and any statutes and rules applicable to the petition.

(c) At the hearing, the prosecuting attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.

(d) The juvenile court may waive the hearing for the petition if:

(i) (A) there is no victim; or

(B) if there is a victim, the victim agrees to the waiver; and

(ii) the prosecuting attorney agrees to the waiver.

(5) (a) Except as provided in Subsection (6), the juvenile court may grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if the juvenile court finds that the petitioner is rehabilitated to the satisfaction of the court in accordance with Subsection (5)(b).

(b) In deciding whether to grant a petition described in Subsection (1), the juvenile court shall consider:

(i) whether expungement of the petitioner's juvenile record is in the best interest of the petitioner;

(ii) the petitioner's response to programs and treatment;

(iii) the nature and seriousness of the conduct for which the petitioner was adjudicated;

(iv) the petitioner's behavior subsequent to adjudication;

(v) the petitioner's reason for seeking expungement of the petitioner's juvenile record; and

(vi) if the petitioner is a restricted person under Subsection [~~76-10-503(1)(a)(iv) or (b)(iii)~~]76-11-302(1)(a)(iv) or (1)(b)(iii):

(A) whether the offense for which the petitioner is a restricted person was committed with a weapon;

(B) whether expungement of the petitioner's juvenile record poses an unreasonable risk to public safety; and

(C) the amount of time that has passed since the adjudication of the offense for which the petitioner is a restricted person.

(6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:

(a) the petitioner has been convicted of a violent felony within five years before the day on which the petition for expungement is filed;

(b) there are delinquency or criminal proceedings pending against the petitioner;

(c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court for an adjudication in the petitioner's juvenile record;

(d) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record; or

(e) the petitioner's juvenile record contains an adjudication for a violation of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

Section 536. Section 80-6-1004.5 is amended to read:

80-6-1004.5. Automatic expungement of successful nonjudicial adjustment -- Effect of successful nonjudicial adjustment.

(1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition, an order to expunge an individual's juvenile record if:

(a) the individual has reached 18 years old;

(b) the individual's juvenile record consists solely of nonjudicial adjustments;

(c) the individual has successfully completed each nonjudicial adjustment; and

(d) all nonjudicial adjustments were completed on or after October 1, 2023.

(2) An individual's juvenile record is not eligible for expungement under Subsection (1) if the individual's juvenile record contains a nonjudicial adjustment for a violation of:

(a) Section 41-6a-502, driving under the influence;

(b) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(c) Section 76-5-206, negligent homicide;

(d) Section [~~76-9-702.1~~]76-5-418, sexual battery;

(e) Section [~~76-10-505.5~~]76-11-204, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or

(f) Section [~~76-10-509.4~~]76-11-209, possession of a dangerous weapon by a minor.

(3) If an individual's juvenile record consists solely of nonjudicial adjustments that were completed before October 1, 2023:

(a) any nonjudicial adjustment in the individual's juvenile record is considered to never have occurred if:

(i) the individual has reached 18 years old;

(ii) the individual has satisfied restitution that was a condition of any nonjudicial adjustment in the individual's juvenile record; and

(iii) the nonjudicial adjustment was for an offense that is not an offense described in Subsection (2); and

(b) the individual may reply to any inquiry about the nonjudicial adjustment as though there never was a nonjudicial adjustment.

Section 537. Section 81-9-202 is amended to read:

81-9-202. Advisory guidelines for a custody and parent-time arrangement.

(1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304, the following advisory guidelines are suggested to govern a custody and parent-time arrangement between parents.

(2) A parent-time schedule mutually agreed upon by both parents is preferable to a court-imposed solution.

(3) A parent-time schedule shall be used to maximize the continuity and stability of the minor child's life.

(4) Each parent shall give special consideration to make the minor child available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the minor child or in the life of either parent which may inadvertently conflict with the parent-time schedule.

(5) (a) The court shall determine the responsibility for the pick up, delivery, and return of the minor child when the parent-time order is entered.

(b) The court may change the responsibility described in Subsection (5)(a) at any time a subsequent modification is made to the parent-time order.

(c) If the noncustodial parent will be providing transportation, the custodial parent shall:

(i) have the minor child ready for parent-time at the time the minor child is to be picked up; and

(ii) be present at the custodial home or make reasonable alternate arrangements to receive the minor child at the time the minor child is returned.

(d) If the custodial parent will be transporting the minor child, the noncustodial parent shall:

(i) be at the appointed place at the time the noncustodial parent is to receive the minor child; and

(ii) have the minor child ready to be picked up at the appointed time and place or have made reasonable alternate arrangements for the custodial parent to pick up the minor child.

(6) A parent may not interrupt regular school hours for a school-age minor child for the exercise of parent-time.

(7) The court may:

(a) make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents; and

(b) increase the parent-time allowed to the noncustodial parent but may not diminish the standardized parent-time provided in Sections 81-9-302 and 81-9-304.

(8) The court may make alterations in the parent-time schedule to reasonably accommodate the distance between the parties and the expense of exercising parent-time.

(9) A parent may not withhold parent-time or child support due to the other parent's failure to comply with a court-ordered parent-time schedule.

(10) (a) The custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school, social, sports, and community functions in which the minor child is participating or being honored.

(b) The noncustodial parent is entitled to attend and participate fully in the functions described in Subsection (10)(a).

(c) The noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records.

(d) A parent shall immediately notify the other parent in the event of a medical emergency.

(11) Each parent shall provide the other with the parent's current address and telephone number, email address, and other virtual parent-time access information within 24 hours of any change.

(12) (a) Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the minor child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available.

(b) If the parents cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available by taking into consideration:

(i) the best interests of the minor child;

(ii) each parent's ability to handle any additional expenses for virtual parent-time; and

(iii) any other factors the court considers material.

(13) (a) Parental care is presumed to be better care for the minor child than surrogate care.

(b) The court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able to transport the minor child, to provide the child care.

(c) Child care arrangements existing during the marriage are preferred as are child care arrangements with nominal or no charge.

(14) Each parent shall:

(a) provide all surrogate care providers with the name, current address, and telephone number of the other parent; and

(b) provide the noncustodial parent with the name, current address, and telephone number of all surrogate care providers unless the court for good cause orders otherwise.

(15) (a) Each parent is entitled to an equal division of major religious holidays celebrated by the parents.

(b) The parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the minor child on the religious holiday.

(16) If the minor child is on a different parent-time schedule than a sibling, based on Sections 81-9-302 and 81-9-304, the parents should consider if an upward deviation for parent-time with all the minor children so that parent-time is uniform between school aged and nonschool aged children, is appropriate.

(17) (a) When one or both parents are servicemembers or contemplating joining a uniformed service, the parents should resolve issues of custodial responsibility in the event of deployment as soon as practicable through reaching a voluntary agreement pursuant to Section 78B-20-201 or through court order obtained pursuant to this part.

(b) Service members shall ensure their family care plan reflects orders and agreements entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act.

(18) A parent shall immediately notify the other parent if:

(a) the parent resides with an individual or provides an individual with access to the minor child; and

(b) the parent knows that the individual:

(i) is required to register as a sex offender or a kidnap offender for an offense against a minor child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or

(iii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses, other than an offense under Section 76-5-417, 76-5-418, or 76-5-419;

(C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections (18)(b)(iii)(A) through (D).

(19) (a) For emergency purposes, whenever the minor child travels with a parent, the parent shall provide the following information to the other parent:

(i) an itinerary of travel dates;

(ii) destinations;

(iii) places where the minor child or traveling parent can be reached; and

(iv) the name and telephone number of an available third person who would be knowledgeable of the minor child's location.

(b) Unchaperoned travel of a minor child under the age of five years is not recommended.

Section 538. Section 81-9-204 is amended to read:

81-9-204. Custody and parent-time of a minor child -- Custody factors -- Preferences.

(1) In a proceeding between parents in which the custody and parent-time of a minor child is at issue, the court shall consider the best interests of the minor child in determining any form of custody and parent-time.

(2) The court shall determine whether an order for custody or parent-time is in the best interests of the minor child by a preponderance of the evidence.

(3) In determining any form of custody and parent-time under Subsection (1), the court shall consider:

(a) for each parent, and in accordance with Section 81-9-104, evidence of domestic violence, physical abuse, or sexual abuse involving the minor child, the parent, or a household member of the parent;

(b) whether the parent has intentionally exposed the minor child to:

(i) pornography; or

(ii) material harmful to minors, as "material" and "harmful to minors" are defined in Section [~~76-10-1201~~]76-5c-101; and

(c) whether custody and parent-time would endanger the minor child's health or physical or psychological safety.

(4) In determining the form of custody and parent-time that is in the best interests of the minor child, the court may consider, among other factors the court finds relevant, the following for each parent:

(a) evidence of psychological maltreatment;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the minor child, including the minor child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the minor child and the other parent, except that, if the court determines that the parent is acting to protect the minor child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) the past conduct and demonstrated moral character of the parent as described in Subsection (9);

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) the parent's reason for having relinquished custody or parent-time in the past;

(h) duration and depth of desire for custody or parent-time;

(i) the parent's religious compatibility with the minor child;

(j) the parent's financial responsibility;

(k) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the minor child's best interests;

(l) who has been the primary caretaker of the minor child;

(m) previous parenting arrangements in which the minor child has been happy and well-adjusted in the home, school, and community;

(n) the relative benefit of keeping siblings together;

(o) the stated wishes and concerns of the minor child, taking into consideration the minor child's cognitive ability and emotional maturity;

(p) the relative strength of the minor child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the minor child; and

(q) any other factor the court finds relevant.

(5) (a) A minor child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the minor child be heard and there is no other reasonable method to present the minor child's testimony.

(b) (i) The court may inquire and take into consideration the minor child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the minor child's custody or parent-time otherwise.

(ii) The desires of a minor child who is 14 years old or older shall be given added weight, but is not the single controlling factor.

(c) (i) If an interview with a minor child is conducted by the court in accordance with Subsection (5)(b), the interview shall be conducted by the court in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a minor child is the only method to ascertain the minor child's desires regarding custody.

(6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the minor child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the minor child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish:

(a) a preference for either parent solely because of the gender of the parent; or

(b) a preference for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the minor child.

(8) When an issue before the court involves custodial responsibility in the event of a deployment of a parent who is a service member and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(9) In considering the past conduct and demonstrated moral standards of each party under Subsection (4)(d) or any other factor a court finds relevant, the court may not:

(a) (i) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or

(ii) discriminate against a parent because of the parent's status as a:

(A) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;

(C) medical cannabis courier agent, as that term is defined in Section 26B-4-201; or

(D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(b) discriminate against a parent based upon the parent's agreement or disagreement with a minor child of the couple's:

(i) assertion that the minor child's gender identity is different from the minor child's biological sex; or

(ii) practice of having or expressing a different gender identity than the minor child's biological sex.

(10) (a) The court shall consider evidence of domestic violence if evidence of domestic violence is presented.

(b) The court shall consider as primary, the safety and well-being of the minor child and the parent who experiences domestic violence.

(c) A court shall consider an order issued by a court in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or substantiated potential harm to the minor child.

(d) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section 81-9-209.

(11) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the minor child:

(a) it is in the best interest of the minor child to have frequent, meaningful, and continuing access to each parent following separation or divorce;

(b) each parent is entitled to and responsible for frequent, meaningful, and continuing access with the parent's minor child consistent with the minor child's best interests; and

(c) it is in the best interest of the minor child to have both parents actively involved in parenting the minor child.

(12) Notwithstanding any other provision of this chapter, the court may not grant custody or parent-time of a minor child to a parent convicted of a sexual offense, as defined in Section 77-37-2, that resulted in the conception of the minor child unless:

(a) the nonconvicted biological parent, or the legal guardian of the minor child, consents to custody or parent-time and the court determines it is in the best interest of the minor child to award custody or parent-time to the convicted parent; or

(b) after the date of the conviction, the convicted parent and the nonconvicted parent cohabit and establish a mutual custodial environment for the minor child.

(13) A denial of custody or parent-time under Subsection (12) does not:

(a) terminate the parental rights of the parent denied parent-time or custody; or

(b) affect the obligation of the convicted parent to financially support the minor child.

Section 539. Section 81-9-208 is amended to read:

81-9-208. Modification or termination of a custody or parent-time order -- Noncompliance with a parent-time order.

(1) The court has continuing jurisdiction to make subsequent changes to modify:

(a) custody of a minor child if there is a showing of a substantial and material change in circumstances since the entry of the order; and

(b) parent-time for a minor child if there is a showing that there is a change in circumstances since the entry of the order.

(2) A substantial and material change in circumstances under Subsection (1)(a) includes a showing by a parent that the other parent:

(a) resides with an individual or provides an individual with access to the minor child; and

(b) knows that the individual:

(i) is required to register as a sex offender or a kidnap offender for an offense against a minor child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or

(iii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses, other than an offense under Section 76-5-417, 76-5-418, or 76-5-419;

(C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections (2)(b)(iii)(A) through (D).

(3) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal custody or joint physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that there has been a substantial and material change in the circumstances of the minor child or one or both parents or joint legal or physical custodians since the entry of the order to be modified;

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child; and

(c) (i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 81-9-205(8); or

(ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 81-9-205(13) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.

(4) (a) In determining whether the best interest of a minor child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors described in Sections 81-9-204 and 81-9-205.

(b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:

(i) a substantial and material change of circumstance has occurred; and

(ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child.

(c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the minor child is thriving, happy, and well-adjusted.

(5) The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Section 81-9-204.

(6) The court may modify the terms and conditions of the existing order in accordance with this chapter and may order the parents to file a parenting plan in accordance with Section 81-9-203.

(7) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 81-9-203.

(8) If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are service members, and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(9) If the court finds that an action to modify custody or parent-time is filed or answered frivolously and, in a manner, designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

(10) If a petition to modify custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action if the court determines that the petition was without merit and not asserted or defended against in good faith.

(11) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court:

(a) may award to the prevailing party:

(i) actual attorney fees incurred;

(ii) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, including:

(A) court costs;

(B) child care expenses;

(C) transportation expenses actually incurred;

(D) lost wages, if ascertainable; or

(E) counseling for a parent or a minor child if ordered or approved by the court; or

(iii) any other appropriate equitable remedy; and

(b) shall award reasonable make-up parent-time to the prevailing party, unless make-up parent-time is not in the best interest of the minor child.

Section 540. Repealer.

This bill repeals:

Section 76-5b-101, Title.

Section 76-9-406, Injunctive relief against privacy offenses -- Damages.

Section 76-9-505, Libelous matter not privileged.

Section 76-9-801, Title.

Section 76-9-901, Title.

Section 76-9-902, Definitions.

Section 76-9-906, Protection of constitutional rights.

Section 76-9-907, Training for participating law enforcement officers.

Section 76-9-1001, Title.

Section 76-10-404, Exemptions.

Section 76-10-405, Reimbursement of government response expenses.

Section 76-10-500, Uniform law.

Section 76-10-512, Target concessions, shooting ranges, competitions, and hunting excepted from prohibitions.

Section 76-10-521, Unlawful marking of pistol or revolver.

Section 76-10-604, Violations -- Classification of offense.

Section 76-10-803, "Public nuisance" defined -- Agricultural operations -- Critical infrastructure materials operations.

Section 76-10-1008, Inspections by trade commission.

Section 76-10-1009, Violation as unfair trade practice and unfair competition -- Investigation and enforcement proceedings by trade commission.

Section 76-10-1010, Action by law enforcement agencies on complaints.

Section 76-10-1101.5, General culpability requirement applicable.

Section 76-10-1106, Duty of prosecuting attorney or law enforcement officer to prosecute offenses.

Section 76-10-1108, Seizure and disposition of gambling debts or proceeds.

Section 76-10-1218, Qualification for exhibition and distribution of films required.

Section 76-10-1221, Service of process, notice, or demand on registered agent of film distributor.

Section 76-10-1224, Defense to prosecution for distribution or exhibition of pornographic film -- Status as projectionist or other employee no defense.

Section 76-10-1225, Prosecution of pornographic film violations by county attorney, district attorney, or city attorney.

Section 76-10-1226, Exemptions from application of film distribution act.

Section 76-10-1227, Indecent public displays -- Definitions.

Section 76-10-1229.5, Breast feeding is not violation of this part.

Section 76-10-1234, Rulemaking authority.

Section 76-10-1308, Prosecution.

Section 76-10-1310, Definitions.

Section 76-10-1501, Short title.

Section 76-10-1502, Legislative findings.

Section 76-10-1511, Cumulative and supplemental nature of act.

Section 76-10-1601, Short title.

Section 76-10-1603.5, Violation a felony -- Costs -- Fines -- Divestiture -- Restrictions -- Dissolution or reorganization -- Prior restraint.

Section 76-10-1901, Short title.
Section 76-10-1904, Money laundering -- Penalty.
Section 76-10-1907, Separate offenses.
Section 76-10-2001, Definitions.
Section 76-10-2401, Definitions.
Section 76-10-2702, Penalty for littering on a park, recreation area, waterway, or other public or private land.
Section 76-10-3003, Corporation guilty of unfair discrimination -- Action by attorney general.
Section 76-10-3004, Penalty for violation.
Section 76-10-3101, Title.
Section 76-10-3113, Conviction as prima facie evidence in action for injunctive relief or damages.
Section 76-10-3118, Interpretation of act.

Section 541. Effective Date.

This bill takes effect on May 7, 2025.

LAWS

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CHAPTER 174
H. B. 22
Passed February 10, 2025
Approved March 25, 2025
Effective May 7, 2025

PROSTITUTION OFFENSE AMENDMENTS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill reorganizes and amends provisions concerning prostitution and related offenses.

Highlighted Provisions:

This bill:

- ► adds and modifies definitions;
- ► reorganizes provisions concerning prostitution and related offenses;
- ► for clarity, revises names of certain prostitution-related offenses;
- ► for clarity, provides that a child may not be prosecuted for engaging in sexual solicitation or prostitution;
- ► separates existing prostitution-related offenses into separate offenses based on the ages of the individuals involved;
- ► provides new penalties for child offenders of certain prostitution-related offenses that are based on the age of the child offender;
- ► for clarity, revises the offense of engaging in prostitution or sexual solicitation as an HIV positive offender;
- ► adds several prostitution-related offenses to the list of offenses for which a minor may not receive a nonjudicial adjustment;
- ► includes a coordination clause to explain that amendments to certain sections in this bill will supersede amendments to those sections in H.B. 21, Criminal Code Recodification and Cross References, if both bills pass and become law; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

10-8-41.5, as last amended by Laws of Utah 2019, Chapter 303
26B-2-120, as last amended by Laws of Utah 2024, Chapter 234
26B-7-205, as renumbered and amended by Laws of Utah 2023, Chapter 308
76-1-301, as last amended by Laws of Utah 2024, Chapter 96
76-2-304.5, as last amended by Laws of Utah 2024, Chapter 140
76-3-203.1, as last amended by Laws of Utah 2024, Chapter 96
76-3-203.5, as last amended by Laws of Utah 2024, Chapters 96, 179
76-10-1602, as last amended by Laws of Utah 2024, Chapter 96
77-23a-8, as last amended by Laws of Utah 2024, Chapters 96, 301
77-38-3, as last amended by Laws of Utah 2024, Chapter 240
77-41-102, as last amended by Laws of Utah 2024, Chapter 234
77-41-106, as last amended by Laws of Utah 2024, Chapter 234
78B-6-1101, as last amended by Laws of Utah 2021, Chapter 207
78B-6-1107, as last amended by Laws of Utah 2021, Chapter 207
78B-9-104, as last amended by Laws of Utah 2023, Chapters 111, 448
80-2-301, as last amended by Laws of Utah 2024, Chapters 240, 307
80-6-303.5, as last amended by Laws of Utah 2024, Chapter 301
80-6-1002, as last amended by Laws of Utah 2023, Chapter 115

ENACTS:

76-5d-201, Utah Code Annotated 1953
76-5d-204, Utah Code Annotated 1953
76-5d-205, Utah Code Annotated 1953
76-5d-210, Utah Code Annotated 1953
76-5d-211, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

76-5d-101, (Renumbered from 76-10-1301, as last amended by Laws of Utah 2022, Chapter 124)
76-5d-102, (Renumbered from 76-10-1307, as enacted by Laws of Utah 1991, Chapter 107)
76-5d-103, (Renumbered from 76-10-1311, as last amended by Laws of Utah 2023, Chapters 184, 330)

76-5d-104, (Renumbered from 76-10-1312, as last amended by Laws of Utah 2023, Chapter 330)
76-5d-105, (Renumbered from 76-10-1314, as enacted by Laws of Utah 1993, Chapter 179)
76-5d-106, (Renumbered from 76-10-1315, as last amended by Laws of Utah 2022, Chapters 124, 181 and 335)
76-5d-202, (Renumbered from 76-10-1302, as last amended by Laws of Utah 2023, Chapter 111)
76-5d-203, (Renumbered from 76-10-1303, as last amended by Laws of Utah 2024, Chapter 140)
76-5d-206, (Renumbered from 76-10-1304, as last amended by Laws of Utah 2018, Chapter 308)
76-5d-207, (Renumbered from 76-10-1305, as last amended by Laws of Utah 2018, Chapter 308)
76-5d-208, (Renumbered from 76-10-1306, as last amended by Laws of Utah 2022, Chapter 181)
76-5d-209, (Renumbered from 76-10-1313, as last amended by Laws of Utah 2022, Chapters 124, 181 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 124)
76-5d-212, (Renumbered from 76-10-1309, as last amended by Laws of Utah 2011, Chapter 70)

REPEALS:

76-10-1308, as enacted by Laws of Utah 1991, Chapter 107
76-10-1310, as last amended by Laws of Utah 2011, Chapter 70

Utah Code Sections Affected by Coordination Clause:

AMENDS:

26B-7-205, as renumbered and amended by Laws of Utah 2023, Chapter 308
76-2-304.5, as last amended by Laws of Utah 2024, Chapter 140
76-5d-201, Utah Code Annotated 1953
76-5d-204, Utah Code Annotated 1953
76-5d-210, Utah Code Annotated 1953
76-10-1301, (Renumbered from 76-10-1301, as last amended by Laws of Utah 2022, Chapter 124)
76-10-1307, (Renumbered from 76-10-1307, as enacted by Laws of Utah 1991, Chapter 107)
76-10-1309, (Renumbered from 76-10-1309, as last amended by Laws of Utah 2011, Chapter 70)
76-10-1311, (Renumbered from 76-10-1311, as last amended by Laws of Utah 2023, Chapters 184, 330)
76-10-1312, (Renumbered from 76-10-1312, as last amended by Laws of Utah 2023, Chapter 330)
76-10-1313, (Renumbered from 76-10-1313, as last amended by Laws of Utah 2022, Chapters 124, 181 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 124)
76-10-1314, (Renumbered from 76-10-1314, as enacted by Laws of Utah 1993, Chapter 179)
80-2-301, as last amended by Laws of Utah 2024, Chapters 240, 307
80-6-1002, as last amended by Laws of Utah 2023, Chapter 115

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-41.5 is amended to read:
10-8-41.5. Regulation of sexually oriented business.

(1) As used in this section:

(a) "Adult service" means dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted by a nude or partially denuded individual for compensation.

(b) "Compensation" means:

(i) a salary;

(ii) a fee;

(iii) a commission;

(iv) employment;

(v) a profit; or

(vi) other pecuniary gain.

(c) (i) "Escort" means a person who, for compensation, dates, socializes with, visits, consorts with, or accompanies another, or offers to date, consort with, socialize with, visit, or accompany another:

(A) to a social affair, entertainment, or a place of amusement; or

(B) within a place of public or private resort, a business or commercial establishment, or a private quarter.

(ii) "Escort" does not mean a person who provides business or personal services, including:

(A) a licensed private nurse;

(B) an aide for the elderly or a person with a disability;

(C) a social secretary or similar service personnel whose relationship with a patron is characterized by a contractual relationship having a duration of 12 hours or more and who provides a service not principally characterized as dating or socializing; or

(D) a person who provides services such as singing telegrams, birthday greetings, or similar activities that are characterized by an appearance in a public place, contracted for by a party other than the person for whom the service is being performed, and of a duration not to exceed one hour.

(d) "Escort service" means any person who furnishes or arranges for an escort to accompany another individual for compensation.

(e) "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:

(i) genitals;

(ii) the pubic region; or

(iii) a female breast below a point immediately above the top of the areola.

(f) (i) "Sexually oriented business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually oriented business or an independent contractor, performs any service for compensation.

(ii) "Sexually oriented business" includes:

(A) an escort service; or

(B) an adult service.

(2) A person employed in a sexually oriented business may not work in a municipality if:

(a) the municipality requires that a person employed in a sexually oriented business obtain an individual license; and

(b) the person has not obtained an individual license from the municipality.

(3) A business entity that conducts a sexually oriented business may not conduct business in a municipality if:

(a) the municipality requires that a sexually oriented business obtain a license; and

(b) the business entity has not obtained a license from the municipality.

(4) (a) A violation of this section by an individual who is at least 18 years old is a class A misdemeanor.

(b) A person charged under this section may not also be charged under Section [~~76-10-1302~~]76-5d-202, Engaging in prostitution.

Section 2. Section 26B-2-120 is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the department under this part and has direct access, including:

(A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in accordance with Section 78B-6-128;

(B) a foster parent or prospective foster parent;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) an individual who transports a child for a youth transportation company;

(E) an individual who provides certified peer support, as defined in Section 26B-5-610;

(F) an individual who provides peer supports, has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder;

(G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;

(H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;

(I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the division;

(J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access;

(K) a foster home licensee that submits an application for an annual background screening as required by Subsection 26B-2-105(4)(d)(iii); or

(L) a short-term relief care provider.

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services;

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services;

(C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or

(D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.

(b) "Application" means a background check application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Criminal finding" means a record of:

(i) an arrest for a criminal offense;

(ii) a warrant for a criminal arrest;

(iii) charges for a criminal offense; or

(iv) a criminal conviction.

(e) "Direct access" means that an individual has, or likely will have:

(i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or

(ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.

(f) (i) "Direct access qualified" means that the applicant has an eligible determination by the office within the license and renewal time period; and

(ii) no more than 180 days have passed since the date on which the applicant's association with a certification, contract, or licensee with the department expires.

(g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(h) "Licensee" means an individual or a human services program licensed by the division.

(i) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) juvenile court arrest, adjudication, and disposition records;

(v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or

(vi) a state child abuse or neglect registry.

(j) "Office" means the Office of Background Processing within the department.

(k) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504;

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon association with a certification, contract, or licensee with the department;

(ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification, contract, or licensee with the department for 180 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(c) and (4);

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories; and

(e) an application showing an applicant's association with a certification, contract, or a licensee with the department, for the purpose of the office tracking the direct access qualified status of the applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18 years old or older;

(v) if the applicant is associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;

(e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;

(f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing

and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and

(h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The [~~Bureau~~]bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that an individual who has direct access qualified status will no longer be associated with a certification, contract, or licensee with the department, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation or prostitution;

(D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

(E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

(F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

(G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;

(H) an offense included in Title 76, Chapter 7, Offenses Against the Family;

(I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;

(K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(L) aggravated arson, as described in Section 76-6-103;

(M) aggravated burglary, as described in Section 76-6-203;

(N) aggravated exploitation of prostitution, as described in Section [~~76-10-1306~~]76-5d-208;

(O) aggravated robbery, as described in Section 76-6-302;

(P) endangering persons in a human services program, as described in Section 26B-2-113;

(Q) failure to report, as described in Section 80-2-609;

(R) identity fraud crime, as described in Section 76-6-1102;

(S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;

(T) riot, as described in Section 76-9-101;

(U) sexual battery, as described in Section 76-9-702.1; or

(V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section 76-10-506; or

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider or a mental health professional, if the applicant provides services in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (7).

(c) The office shall deny direct access qualified status to an applicant if the office finds that a court order prohibits the applicant from having direct access to a child or vulnerable adult.

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);

(b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;

(d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);

(e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;

(f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

(h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);

(i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;

(j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(k) has a pending charge for an offense described in Subsection (5)(a);

(l) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section;

(m) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;

(n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;

(p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

(7) (a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.

(b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status to an applicant if the office finds the approval would likely create a risk of harm to a child or vulnerable adult.

(8) The office shall grant direct access qualified status to an applicant who is not denied under this section.

(9) (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice, without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice, without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall grant or deny direct access qualified status to the applicant in accordance with this section.

(10) (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.

(b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

(i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(c) Notwithstanding any other provision of this section, an applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office grants direct access qualified status to the applicant through a subsequent application in accordance with this section.

(11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.

(12) (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.

(b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.

(c) The office shall conduct a comprehensive review for an applicant if:

(i) the applicant is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal finding.

(13) (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

(b) As federally required, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(c) The requirements described in Subsection (13)(b) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).

(d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;

(E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(F) aggravated murder, as described in Section 76-5-202;

(G) murder, as described in Section 76-5-203;

(H) manslaughter, as described in Section 76-5-205;

(I) child abuse homicide, as described in Section 76-5-208;

(J) homicide by assault, as described in Section 76-5-209;

(K) kidnapping, as described in Section 76-5-301;

(L) child kidnapping, as described in Section 76-5-301.1;

(M) aggravated kidnapping, as described in Section 76-5-302;

(N) human trafficking of a child, as described in Section 76-5-308.5;

(O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

(Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(R) aggravated arson, as described in Section 76-6-103;

(S) aggravated burglary, as described in Section 76-6-203;

(T) aggravated robbery, as described in Section 76-6-302;

(U) lewdness involving a child, as described in Section 76-9-702.5;

(V) incest, as described in Section 76-7-102; or

(W) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).

(e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(f) In addition to the circumstances described in Subsection (6), the office shall conduct a comprehensive review of an applicant's background check under this section if the applicant:

(i) has an offense described in Subsection (5)(a);

(ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;

(iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-2-210;

(v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6), (7), and (13); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services for purposes of granting or denying direct access qualified status to an applicant.

Section 3. Section 26B-7-205 is amended to read:

26B-7-205. Willful introduction of communicable disease a misdemeanor.

Any person who willfully or knowingly introduces any communicable or infectious disease into any county, municipality, or community is guilty of a class A misdemeanor, except as provided in Section [~~76-10-1309~~]76-5d-212.

Section 4. Section 76-1-301 is amended to read:

76-1-301. Offenses for which prosecution may be commenced at any time.

(1) As used in this section:

(a) "Aggravating offense" means any offense incident to which a homicide was committed as described in Subsection 76-5-202(2)(a)(iv) or (v) or Subsection 76-5-202(2)(b).

(b) "Predicate offense" means an offense described in Subsection 76-5-203(1)(a) if a person other than a party as defined in Section 76-2-202 was killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of the offense.

(2) Notwithstanding any other provisions of this code, prosecution for the following offenses may be commenced at any time:

(a) an offense classified as a capital felony under Section 76-3-103;

(b) aggravated murder under Section 76-5-202;

(c) murder under Section 76-5-203;

(d) manslaughter under Section 76-5-205;

(e) child abuse homicide under Section 76-5-208;

(f) aggravated kidnapping under Section 76-5-302;

(g) child kidnapping under Section 76-5-301.1;

(h) rape under Section 76-5-402;

(i) rape of a child under Section 76-5-402.1;

(j) object rape under Section 76-5-402.2;

(k) object rape of a child under Section 76-5-402.3;

(l) forcible sodomy under Section 76-5-403;

(m) sodomy on a child under Section 76-5-403.1;

(n) sexual abuse of a child under Section 76-5-404.1;

(o) aggravated sexual abuse of a child under Section 76-5-404.3;

(p) aggravated sexual assault under Section 76-5-405;

(q) any predicate offense to a murder or aggravating offense to an aggravated murder;

(r) aggravated human trafficking under Section 76-5-310;

(s) aggravated human smuggling under Section 76-5-310.1;

(t) aggravated exploitation of prostitution involving a child under Section [~~76-10-1306~~]76-5d-208; or

(u) human trafficking of a child under Section 76-5-308.5.

Section 5. Section 76-2-304.5 is amended to read:

76-2-304.5. Mistake as to victim's age not a defense.

(1) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 14 years old or older at the time of the alleged offense or was unaware of the victim's true age:

(a) child kidnapping, Section 76-5-301.1;

(b) rape of a child, Section 76-5-402.1;

(c) object rape of a child, Section 76-5-402.3;

(d) sodomy on a child, Section 76-5-403.1;

(e) sexual abuse of a child, Section 76-5-404.1;

(f) aggravated sexual abuse of a child, Section 76-5-404.3;

(g) unlawful kissing of a child, Section 76-5-416.2; or

(h) an attempt to commit an offense listed in Subsections (1)(a) through (1)(g).

(2) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 16 years old or older at the time of the alleged offense or was unaware of the victim's true age:

(a) unlawful sexual activity with a minor, Section 76-5-401;

(b) sexual abuse of a minor, Section 76-5-401.1; or

(c) an attempt to commit an offense listed in Subsection (2)(a) or (2)(b).

(3) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 18 years old or older at the time of the alleged offense or was unaware of the victim's true age:

(a) human trafficking of a child, Section 76-5-308.5;

(b) aggravated human trafficking, Section 76-5-310;

(c) aggravated human smuggling, Section 76-5-310.1;

(d) unlawful sexual conduct with a minor, Subsection 76-5-401.2(2)(a)(ii);

(e) patronizing [~~a prostitute, Section 76-10-1303~~]a prostituted individual who is a child, Section 76-5d-204;

(f) aggravated exploitation of prostitution, Section [~~76-10-1306~~]76-5d-208; or

(g) sexual solicitation [~~, Section 76-10-1313~~]by an actor offering compensation to a child in exchange for sexual activity, Section 76-5d-211.

Section 6. Section 76-3-203.1 is amended to read:

76-3-203.1. Offenses committed in concert with three or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.

(1) As used in this section:

(a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(b) "In concert with three or more persons" means:

(i) the defendant was aided or encouraged by at least three other persons in committing the offense and was aware of this aid or encouragement; and

(ii) each of the other persons:

(A) was physically present; and

(B) participated as a party to any offense listed in Subsection (4), (5), or (6).

(c) "In concert with three or more persons" means, regarding intent:

(i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(2) A person who commits any offense in accordance with this section is subject to an enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a reasonable doubt that the person acted:

(a) in concert with three or more persons;

(b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802.

(3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor; and

(ii) for a class A misdemeanor, as a third degree felony.

(b) The following offenses are subject to Subsection (4)(a):

(i) criminal mischief as described in Section 76-6-106;

(ii) property damage or destruction as described in Section 76-6-106.1; and

(iii) defacement by graffiti as described in Section 76-6-107.

(5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony; and

(iii) for a third degree felony, as a second degree felony.

(b) The following offenses are subject to Subsection (5)(a):

(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);

(ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(iii) tampering with a witness under Section 76-8-508;

(iv) retaliation against a witness, victim, or informant, or other violation of Section 76-8-508.3;

(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(vi) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;

(vii) any weapons offense under Chapter 10, Part 5, Weapons; and

(viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.

(6) (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony;

(iii) for a third degree felony, as a second degree felony; and

(iv) for a second degree felony, as a first degree felony.

(b) The following offenses are subject to Subsection (6)(a):

(i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;

(ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;

(iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;

(v) sexual exploitation of a minor as defined in Section 76-5b-201;

(vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;

(vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and

(viii) aggravated exploitation of prostitution under Section [~~76-10-1306~~]76-5d-208.

(7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed on probation for the higher level of offense.

(8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

Section 7. Section 76-3-203.5 is amended to read:

76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:

(A) arson as described in Section 76-6-102;

(B) causing a catastrophe as described in Subsection 76-6-105(3)(a) or (3)(b);

(C) criminal mischief as described in Section 76-6-106;

(D) aggravated arson as described in Section 76-6-103;

(E) assault by prisoner as described in Section 76-5-102.5;

(F) disarming a police officer as described in Section 76-5-102.8;

(G) aggravated assault as described in Section 76-5-103;

(H) aggravated assault by prisoner as described in Section 76-5-103.5;

(I) mayhem as described in Section 76-5-105;

(J) stalking as described in Subsection 76-5-106.5(2);

(K) threat of terrorism as described in Section 76-5-107.3;

(L) aggravated child abuse as described in Subsection 76-5-109.2(3)(a) or (b);

(M) commission of domestic violence in the presence of a child as described in Section 76-5-114;

(N) abuse or neglect of a child with a disability as described in Section 76-5-110;

(O) abuse or exploitation of a vulnerable adult as described in Section 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;

(P) endangerment of a child or vulnerable adult as described in Section 76-5-112.5;

(Q) an offense described in Chapter 5, Part 2, Criminal Homicide;

(R) kidnapping as described in Section 76-5-301;

(S) child kidnapping as described in Section 76-5-301.1;

(T) aggravated kidnapping as described in Section 76-5-302;

(U) rape as described in Section 76-5-402;

(V) rape of a child as described in Section 76-5-402.1;

(W) object rape as described in Section 76-5-402.2;

(X) object rape of a child as described in Section 76-5-402.3;

(Y) forcible sodomy as described in Section 76-5-403;

(Z) sodomy on a child as described in Section 76-5-403.1;

(AA) forcible sexual abuse as described in Section 76-5-404;

(BB) sexual abuse of a child as described in Section 76-5-404.1;

(CC) aggravated sexual abuse of a child as described in Section 76-5-404.3;

(DD) aggravated sexual assault as described in Section 76-5-405;

(EE) sexual exploitation of a minor as described in Section 76-5b-201;

(FF) aggravated sexual exploitation of a minor as described in Section 76-5b-201.1;

(GG) sexual exploitation of a vulnerable adult as described in Section 76-5b-202;

(HH) burglary as described in Subsection 76-6-202(3)(b);

(II) aggravated burglary as described in Section 76-6-203;

(JJ) robbery as described in Section 76-6-301;

(KK) aggravated robbery as described in Section 76-6-302;

(LL) theft by extortion as described in Subsection 76-6-406(1)(a)(i) or (1)(a)(ii);

(MM) tampering with a witness as described in Section 76-8-508;

(NN) retaliation against a witness, victim, or informant as described in Section 76-8-508.3;

(OO) tampering or retaliating against a juror as described in Subsection 76-8-508.5(2)(a)(iii);

(PP) extortion to dismiss a criminal proceeding as described in Subsection 76-6-406(1)(a)(i), (ii), or (ix);

(QQ) possession, use, or removal of explosive, chemical, or incendiary devices as described in Subsections 76-10-306(3) through (6);

(RR) unlawful delivery of explosive, chemical, or incendiary devices as described in Section 76-10-307;

(SS) purchase or possession of a dangerous weapon or handgun by a restricted person as described in Section 76-10-503;

(TT) aggravated exploitation of prostitution as described in Subsection [~~76-10-1306(1)(a)~~]76-5d-208(2)(a);

(UU) bus hijacking as described in Section 76-10-1504; and

(VV) discharging firearms and hurling missiles as described in Section 76-10-1505; or

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c) (i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the

evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 8. Section 76-5d-101, which is renumbered from Section 76-10-1301 is renumbered and amended to read:

CHAPTER 5d. PROSTITUTION

PART 1. General Provisions

[~~76-10-1301~~]76-5d-101. Definitions.

As used in this [~~part~~]chapter:

(1) "Adult" is an individual who is 18 years old or older.

(2) "Child" is an individual younger than 18 years old.

[~~(2) "Place of prostitution" means a place or business where prostitution or promotion of prostitution is arranged, regularly carried on, or attempted by one or more individuals under the control, management, or supervision of another.~~]

(3) "HIV infection" means an indication of a Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:

(a) presence of antibodies to HIV, verified by a positive confirmatory test, such as Western blot with an interpretation based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors or another confirmatory test approved by the Utah State Health Laboratory;

(b) presence of HIV antigen;

(c) isolation of HIV; or

(d) demonstration of HIV proviral DNA.

(4) "HIV positive individual" means an individual who has an HIV infection.

(5) "Local law enforcement agency" means an agency responsible for investigating violations of offenses in Part 2, General Offenses, the filing of charges that may lead to convictions, and the conducting of, or obtaining the results of, tests for HIV infection.

(6) "Positive" means an indication of HIV infection.

(7) [~~"Prostitute" or "prostituted"~~]"Prostituted individual" means an individual engaged in [~~an activity described in Subsection 76-10-1302(1) or 76-10-1313(1)(a), (c), (d), or (f)~~]prostitution or sexual solicitation.

(8) "Prostitution" means engaging in sexual activity with another individual in exchange for a fee or the functional equivalent of a fee.

[~~(4)~~](9) "Public place" means a place to which the public or any substantial group of the public has access.

[~~(5)~~](10) "Sexual activity" means, regardless of the gender of either participant:

(a) an act of masturbation, sexual intercourse, or any sexual act involving the genitals of one individual and the mouth or anus of another individual; or

(b) the touching of the genitals, female breast, or anus of one individual with any other body part of another individual with the intent to sexually arouse or gratify either individual.

(11) "Sexual solicitation" means the conduct described in Section 76-5d-209, sexual solicitation by an actor offering to engage in sexual activity for compensation.

(12) "Test" means a test for HIV infection in accordance with standards recommended by the Department of Health and Human Services.

Section 9. Section 76-5d-102, which is renumbered from Section 76-10-1307 is renumbered and amended to read:

[~~76-10-1307~~]76-5d-102. Local ordinance consistent with code provisions.

An ordinance adopted by a local authority governing [~~prostitution or aiding prostitution shall~~]the matters covered by this chapter is required to be consistent with the provisions of this [~~part which govern those matters~~]chapter.

Section 10. Section 76-5d-103, which is renumbered from Section 76-10-1311 is renumbered and amended to read:

[~~76-10-1311~~]76-5d-103. Mandatory testing -- Retention of medical file -- Civil liability.

(1) [~~A person~~]An individual who has entered a plea of guilty, a plea of no contest, a plea of guilty with a mental condition, or been found guilty [~~for~~]of a violation of Section [~~76-10-1302, 76-10-1303, or 76-10-1313 shall be~~]76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, 76-5d-210, or 76-5d-211 is required to submit before sentencing to a mandatory test to determine if the [~~offender~~]individual is an HIV positive individual. [~~The mandatory test shall be required and conducted prior to sentencing.~~]

(2) (a) If the mandatory test described in Subsection (1) has not been conducted [~~prior to~~]before sentencing, and the convicted [~~offender~~]individual is already confined in a county jail or state prison, [~~such person shall~~]the individual is required to be tested while in confinement.

[~~(3) The~~]

(b) For an individual described in Subsection (1) who is confined in a county jail, the local law enforcement agency shall cause the individual's blood specimen [~~of the offender as defined in Subsection (1) confined in county jail~~]to be taken and tested.

[~~(4) The~~]

(c) For an individual described in Subsection (1) who is confined in a state prison, the Department of Corrections shall cause the individual's blood specimen [~~of the offender defined in Subsection (1) confined in any state prison~~]to be taken and tested.

[~~(5)~~](3) (a) The local law enforcement agency shall collect and retain in the [~~offender's~~]individual's medical file the following data:

[~~(a)~~](i) the HIV infection test results;

[~~(b)~~](ii) a copy of the written notice as provided in Section [~~76-10-1312~~]76-5d-104;

[~~(c)~~](iii) photographic identification; and

[~~(d)~~](iv) fingerprint identification.

[~~(6)~~](b) The local law enforcement agency shall classify the medical file described in Subsection (3)(a) as a private record pursuant to Subsection 63G-2-302(1)(b) or a controlled record pursuant to Section 63G-2-304.

[~~(7) The person tested shall be~~]

(4) (a) An individual required to be tested under this section is responsible for the costs of testing, unless the [~~person~~]individual is indigent.

(b) [~~The costs will then~~]If an individual is indigent, the costs for the testing will be paid by the local law enforcement agency or the Department of Corrections from the General Fund.

[~~(8)~~](5) (a) The laboratory performing testing shall report test results to only designated officials in the Department of Corrections, the Department of Health and Human Services, and the local law enforcement agency submitting the blood specimen.

(b) Each department or agency shall designate [~~those~~]the officials described in Subsection (5)(a) by written policy.

(c) Designated officials may release information identifying an [~~offender~~]individual under Section [~~76-10-1302, 76-10-1303, or 76-10-1313~~]76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, 76-5d-210, or 76-5d-211 who has tested HIV positive as provided under Subsection 63G-2-202(1) and for purposes of prosecution pursuant to Section [~~76-10-1309~~]76-5d-212.

[~~(9)~~](6) (a) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services who discloses the HIV test results under this section is not civilly liable except when disclosure constitutes fraud or willful misconduct [~~as provided in~~]under Section 63G-7-202.

(b) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services who discloses the HIV test results under this section is not civilly or criminally liable, except when disclosure constitutes a knowing violation of Section 63G-2-801.

[~~(10)~~](7) When [~~the~~]a medical file is released as provided in Section 63G-2-803, the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services, or [~~its officers or employees are~~]an officer or employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services, is not liable for damages for release of the medical file.

Section 11. Section 76-5d-104, which is renumbered from Section 76-10-1312 is renumbered and amended to read:

[~~76-10-1312~~]76-5d-104. Notice to a convicted individual of HIV positive test results.

(1) [~~A person~~]An individual convicted under Section [~~76-10-1302, 76-10-1303, or 76-10-1313~~]76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, 76-5d-210, or 76-5d-211 who has tested positive for the HIV infection shall be notified of the test results in person by:

(a) the local law enforcement agency;

(b) the Department of Corrections, for [~~offenders~~]an individual confined in [~~any~~]a state prison;

(c) the [~~state~~]Department of Health and Human Services; or

(d) an authorized representative of [~~any of the agencies~~]an agency listed in [~~this Subsection (1)~~]Subsections (1)(a) through (c).

(2) The notice [~~under~~]described in Subsection (1) shall contain the signature of the HIV positive [~~person~~]individual, indicating the [~~person's~~]individual's receipt of the notice, the name and signature of the [~~person~~]individual providing the notice, and:

(a) the date of the test;

(b) the positive test results;

(c) the name of the HIV positive individual; and

(d) the following language:

[~~"A person~~]"An individual who has been convicted of engaging in prostitution under Section [~~76-10-1302~~]76-5d-202, patronizing a [~~prostitute~~]prostituted individual who is an adult under Section [~~76-10-1303, or~~]76-5d-203, patronizing a prostituted individual who is a child under Section 76-5d-204, entering or remaining in a place of prostitution under Section 76-5d-205, sexual solicitation by an actor offering to engage in sexual activity for compensation under Section [~~76-10-1313~~]76-5d-209, sexual solicitation by an actor offering compensation to an adult in exchange for sexual activity under Section 76-5d-210, or sexual solicitation by an actor offering compensation to a child in exchange for sexual activity under Section 76-5d-211, after being tested and diagnosed as an HIV positive individual and either had actual knowledge that the [~~person~~]individual is an HIV positive individual or the [~~person~~]individual has previously been convicted of any of the criminal offenses listed above is guilty of a third degree felony under Section [~~76-10-1309~~]76-5d-212."

(3) Failure to provide [~~this notice~~]the notice described in Subsection (1), or to provide the notice in the manner or form prescribed under this section, does not:

(a) []create any civil liability [~~and does not~~]; or

(b) []create a defense to [~~any~~]a prosecution under this [~~part~~]chapter.

[~~(4) Upon conviction under Section 76-10-1309, and as a condition of probation, the offender shall receive treatment and counseling for HIV infection and drug abuse as provided in Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.~~]

Section 12. Section 76-5d-105, which is renumbered from Section 76-10-1314 is renumbered and amended to read:

[~~76-10-1314~~]76-5d-105. Examination of testing procedures and results in legal proceedings.

(1) Employees of [~~the~~]a laboratory who conduct laboratory analysis of blood samples for presence of antibody to HIV provided pursuant to a request by a law enforcement agency or the Department of Corrections under Section [~~76-10-1311~~]76-5d-103, may be

examined in a legal proceeding of any kind or character as to:

(a) the nature of the testing;

(b) the validity of the testing;

(c) the results of the test;

(d) the HIV positivity or negativity of the [~~person~~]individual tested;

(e) the evidentiary chain of custody; and

(f) other factors relevant to the prosecution, subject to the court's ruling.

(2) This section applies only to the criminal investigation and prosecution under Section [~~76-10-1309 which permits enhanced penalties upon a subsequent conviction for:~~]76-5d-212, engaging in prostitution or sexual solicitation as an HIV positive offender.

[~~(a) prostitution, Section 76-10-1302;~~]

[~~(b) patronizing a prostitute, Section 76-10-1303; or~~]

[~~(c) sexual solicitation, Section 76-10-1313.~~]

Section 13. Section 76-5d-106, which is renumbered from Section 76-10-1315 is renumbered and amended to read:

[~~76-10-1315~~]76-5d-106. Safe harbor for children as victims in commercial sex or sexual solicitation.

(1) As used in this section:

(a) "Child engaged in commercial sex or sexual solicitation" means a child who:

(i) engages, offers, or agrees to engage in any sexual activity with another individual in exchange for receiving a fee, or the functional equivalent of a fee;

(ii) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for receiving a fee or the functional equivalent of a fee; [~~or~~]

(iii) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity [~~,~~]; or

(iv) engages in sexual solicitation.

[~~(b) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee, or the functional equivalent of a fee, under Subsection 76-10-1313(1)(a), (c), (d), or (f).~~]

[~~(c)~~](b) "Division" means the Division of Child and Family Services created in Section 80-2-201.

[~~(d)~~](c) "Juvenile receiving center" means the same as that term is defined in Section 80-1-102.

(2) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:

(a) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308, 76-5-308.1, and 76-5-308.5;

(b) refer the child to the division;

(c) bring the child to a juvenile receiving center, if available; and

(d) contact the child's parent or guardian, if practicable.

(3) When law enforcement refers a child to the division under Subsection (2)(b), the division shall provide services to the child under Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.

[~~(4) A child may not be subjected to delinquency proceedings for prostitution under Section 76-10-1302, or sexual solicitation under Section 76-10-1313.~~]

Section 14. Section 76-5d-201 is enacted to read:

PART 2. General Offenses

76-5d-201. Definitions.

As used in this part, "place of prostitution" means a place or business where prostitution or promotion of prostitution is arranged, regularly carried on, or attempted by one or more individuals under the control, management, or supervision of another individual.

Section 15. Section 76-5d-202, which is renumbered from Section 76-10-1302 is renumbered and amended to read:

[~~76-10-1302~~]76-5d-202. Engaging in prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~](2) An actor [~~, except for a child under Section 76-10-1315, is guilty of~~]commits the offense of engaging in prostitution if the actor:

(a) []is 18 years old or older; and

(b) engages in sexual activity with another individual in exchange for receiving a fee, or the functional equivalent of a fee.

[~~(2)~~](3) (a) Except as provided in Subsection [~~(2)(b) and Section 76-10-1309~~](3)(b), a violation of Subsection [~~(1)~~](2) is a class B misdemeanor.

(b) [~~Except as provided in Section 76-10-1309, an actor who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or~~]A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of:

(i) a violation of Subsection (2); or

(ii) [~~under~~]a local ordinance adopted [~~under~~]in accordance with Section [~~76-10-1307, is guilty of a class A misdemeanor~~]76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

[~~(3)~~](4) A prosecutor may not prosecute an actor for a violation of Subsection [~~(1)~~](2) if the actor engages in a violation of Subsection [~~(1)~~](2) at or near the time the actor witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the actor reports the offense or attempt to law enforcement in good faith:

(a) assault [~~,~~]as described in Section 76-5-102;

(b) aggravated assault [~~,~~]as described in Section 76-5-103;

(c) mayhem [~~,~~]as described in Section 76-5-105;

(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault [~~under~~]as described in Chapter 5, Part 2, Criminal Homicide;

(e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child [~~under~~]as described in Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(f) rape [~~,~~]as described in Section 76-5-402;

(g) rape of a child [~~,~~]as described in Section 76-5-402.1;

(h) object rape [~~,~~]as described in Section 76-5-402.2;

(i) object rape of a child [~~,~~]as described in Section 76-5-402.3;

(j) forcible sodomy [~~,~~]as described in Section 76-5-403;

(k) sodomy on a child [~~,~~]as described in Section 76-5-403.1;

(l) forcible sexual abuse [~~,~~]as described in Section 76-5-404;

(m) sexual abuse of a child [~~,~~]as described in Section 76-5-404.1, or aggravated sexual abuse of a child, Section 76-5-404.3;

(n) aggravated sexual assault [~~,~~]as described in Section 76-5-405;

(o) sexual exploitation of a minor [~~,~~]as described in Section 76-5b-201;

(p) aggravated sexual exploitation of a minor [~~,~~]as described in Section 76-5b-201.1;

(q) sexual exploitation of a vulnerable adult [~~,~~]as described in Section 76-5b-202;

(r) [~~aggravated burglary or~~]burglary of a dwelling [~~under Chapter 6, Part 2, Burglary and Criminal Trespass~~]as described in Subsection 76-6-202(3)(b);

(s) aggravated burglary as described in Section 76-6-203;

[~~(s) aggravated robbery or~~]

(t) robbery [~~under Chapter 6, Part 3, Robbery~~]as described in Section 76-6-301;

(u) aggravated robbery as described in Section 76-6-302; or

[~~(t)~~](v) theft by extortion [~~under~~]as described in Section 76-6-406 under the circumstances described in Subsection 76-6-406(1)(a)(i) or (ii).

(5) A violation under this section that is a class A misdemeanor may be prosecuted by an attorney of a city or a town as well as by prosecutors authorized in the code to prosecute a violation under this section.

Section 16. Section 76-5d-203, which is renumbered from Section 76-10-1303 is renumbered and amended to read:

[~~76-10-1303~~]76-5d-203. Patronizing a prostituted individual who is an adult.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~](2) An actor [~~is guilty of~~]commits the offense of patronizing [~~a prostitute if the actor~~]a prostituted individual who is an adult if:

(a) the actor pays [~~or~~], offers to pay, or agrees to pay [~~a~~]an adult prostituted individual, or an adult individual the actor believes to be a prostituted individual, a fee, or the functional equivalent of a fee [~~,~~]; and

(b) the payment, offer of payment, or agreement for payment described in Subsection (2)(a) is for the purpose of engaging in an act of sexual activity [~~; or~~].

[~~(b) enters or remains in a place of prostitution for the purpose of engaging in sexual activity.~~]

[~~(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3), (4), or (5) or Section 76-10-1309.~~]

[~~(3) A violation of this section that is preceded by a conviction under this section or a conviction under a local ordinance adopted under Section 76-10-1307 is a class A misdemeanor.~~]

[~~(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307is a third degree felony.~~]

[~~(5) (a) Except as provided in Subsection (5)(d), if the patronizing of a prostitute under Subsection (1)(a) involves a child as the other individual, a violation of Subsection (1)(a) is a second degree felony.~~]

[~~(b) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under Subsection (5)(a) that the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age.~~]

[~~(c) An actor's belief that the individual was under 18 years old at the time of the offense, even if the individual was 18 years old or older, is a violation of Subsection (5)(a).~~]

[~~(d) If the act committed under Subsection (5)(a) amounts to an offense that is subject to a greater penalty under another provision of state law than is provided under Subsection (5)(a), this Subsection (5) does not prohibit prosecution and sentencing for the more serious offense.~~]

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted two or more times of:

(i) a violation of Subsection (2); or

(ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

[~~(6)~~](4) Upon a conviction for a violation of this section, the court shall order:

(a) the maximum fine amount and may not waive or suspend the fine; and

(b) the [~~defendant~~]actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 17. Section 76-5d-204 is enacted to read:

76-5d-204. Patronizing a prostituted individual who is a child.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) An actor commits patronizing a prostituted individual who is a child if:

(a) the actor is 12 years old or older;

(b) the actor pays, offers to pay, or agrees to pay a prostituted individual, or an individual the actor believes to be a prostituted individual, a fee, or the functional equivalent of a fee;

(c) the payment, offer of payment, or agreement for payment described in Subsection (2)(b) is for the purpose of engaging in an act of sexual activity; and

(d) the prostituted individual, or the individual the actor believes to be a prostituted individual, described in Subsection (2)(b) is:

(i) a child; or

(ii) believed by the actor to be a child.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony.

(b) If the actor is under 18 years old at the time of the offense, a violation of Subsection (2) is:

(i) a third degree felony if:

(A) the actor is 17 years old and the prostituted individual is 13 years old or younger; or

(B) the actor is 16 years old and the prostituted individual is 12 years old or younger;

(ii) a class A misdemeanor if:

(A) the actor is 17 years old and the prostituted individual is 14 years old;

(B) the actor is 16 years old and the prostituted individual is 13 years old;

(C) the actor is 15 years old and the prostituted individual is 12 years old or younger; or

(D) the actor is 14 years old and the prostituted individual is 11 years old or younger;

(iii) a class B misdemeanor if:

(A) the actor is 17 years old and the prostituted individual is 15 years old;

(B) the actor is 16 years old and the prostituted individual is 14 years old;

(C) the actor is 15 years old and the prostituted individual is 13 years old;

(D) the actor is 14 years old and the prostituted individual is 12 years old;

(E) the actor is 13 years old and the prostituted individual is 11 years old or younger; or

(F) the actor is 12 years old and the prostituted individual is 10 years old or younger; or

(iv) a class C misdemeanor if:

(A) the actor is 17 years old and the prostituted individual is 16 or 17 years old;

(B) the actor is 16 years old and the prostituted individual is 15 years old or older;

(C) the actor is 15 years old and the prostituted individual is 14 years old or older;

(D) the actor is 14 years old and the prostituted individual is 13 years old or older;

(E) the actor is 13 years old and the prostituted individual is 12 years old or older; or

(F) the actor is 12 years old and the prostituted individual is 11 years old or older.

(4) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this section that the actor mistakenly believed the individual described in Subsection (2) to be 18 years old or older at the time of the offense or was unaware of the individual's true age.

(5) If the violation of Subsection (2) amounts to an offense that is subject to a greater penalty under another provision of law, this section does not prohibit prosecution and sentencing for the more serious offense.

(6) Upon a conviction for a violation of this section, the court shall order:

(a) the maximum fine amount and may not waive or suspend the fine; and

(b) the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 18. Section 76-5d-205 is enacted to read:

76-5d-205. Entering or remaining in a place of prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) An actor commits entering or remaining in a place of prostitution if the actor enters or remains in a place of prostitution for the purpose of engaging in sexual activity.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted two or more times of:

(i) a violation of Subsection (2); or

(ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

(4) Upon a conviction for a violation of this section, the court shall order:

(a) the maximum fine amount and may not waive or suspend the fine; and

(b) the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 19. Section 76-5d-206, which is renumbered from Section 76-10-1304 is renumbered and amended to read:

[~~76-10-1304~~]76-5d-206. Aiding prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~](2) An [~~individual is guilty of~~]actor commits aiding prostitution if the [~~individual~~]actor:

(a) (i) solicits an individual to patronize a [~~prostitute~~]prostituted individual, or to patronize an individual the actor believes to be a [~~prostitute~~]prostituted individual;

(ii) procures or attempts to procure a [~~prostitute~~]prostituted individual, or an individual the actor believes to be a [~~prostitute~~]prostituted individual, for a patron;

(iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in association with another individual, to be used for prostitution or the promotion of prostitution; or

(iv) provides [~~any~~]a service or commits [~~any~~]an act that enables another individual to commit a violation of [~~this Subsection (1)(a)~~]this Subsection (2) or facilitates another individual's ability to commit [~~any~~]a violation of [~~this Subsection (1)(a)~~]this Subsection (2); or

(b) solicits, receives, or agrees to receive [~~any~~]a benefit for committing any of the acts prohibited by Subsection [~~(1)(a)~~](2)(a).

[~~(2) Aiding prostitution is a class A misdemeanor, except as provided in Subsection (3).~~]

[~~(3) An individual who is convicted a second time, and on all subsequent convictions, under this section or under a local ordinance adopted in compliance with Section 76-10-1307is guilty of a third degree felony.~~]

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted of:

(i) a violation of Subsection (2); or

(ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

(4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

(5) A violation under this section that is a class A misdemeanor may be prosecuted by an attorney of a city or a town as well as by a prosecutor authorized in the code to prosecute a violation under this section.

Section 20. Section 76-5d-207, which is renumbered from Section 76-10-1305 is renumbered and amended to read:

[~~76-10-1305~~]76-5d-207. Exploitation of prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~](2) An [~~individual is guilty of exploiting~~]actor commits exploitation of prostitution if the [~~individual~~]actor:

(a) procures an individual for a place of prostitution;

(b) encourages, induces, or otherwise purposely causes another individual to become or remain a [~~prostitute~~]prostituted individual;

(c) transports an individual into or within this state with [~~a~~]the purpose to promote [~~that~~]the individual's [~~engaging~~]engagement in prostitution;

(d) [~~or procuring or paying for~~]procures or pays for an individual's transportation with [~~that~~]the purpose of promoting the individual's engagement in prostitution;

[~~(d)~~](e) not being a child or legal dependent of a [~~prostitute~~]prostituted individual, shares the proceeds of prostitution with a [~~prostitute~~]prostituted individual, or an individual the actor believes to be a [~~prostitute~~]prostituted individual, pursuant to [~~their~~]the actor's and prostituted individual's understanding that the actor is to share [~~therein~~]in the proceeds of the prostitution; or

[~~(e)~~](f) owns, controls, manages, supervises, or otherwise keeps, alone or in association with another individual, a place of prostitution or a business where prostitution occurs or is arranged, encouraged, supported, or promoted.

[~~(2)~~](3) [~~Exploiting prostitution is a felony of the~~]A violation of Subsection (2) is a third degree felony.

[~~(3)~~](4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

Section 21. Section 76-5d-208, which is renumbered from Section 76-10-1306 is renumbered and amended to read:

[~~76-10-1306~~]76-5d-208. Aggravated exploitation of prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~](2) [~~A person is guilty of~~]An actor commits aggravated exploitation of prostitution if:

(a) in committing an act of [~~exploiting~~]exploitation of prostitution [~~, as defined in~~]as described in Section [~~76-10-1305~~]76-5d-207, the [~~person~~]actor uses any force, threat, or fear against any [~~person~~]individual;

(b) the [~~person~~]individual whom the actor procured, transported, or persuaded or with whom the [~~person~~]actor shares the proceeds of prostitution is a child or is the spouse of the actor; or

(c) in the course of committing an act of exploitation of prostitution [~~, a violation of Section 76-10-1305~~]as described in Section 76-5d-207, the [~~person~~]actor commits human trafficking or human smuggling [~~, a~~]in violation of Section 76-5-308, 76-5-308.1, 76-5-308.3, or 76-5-308.5.

[~~(2)~~](3) (a) [~~Aggravated exploitation of prostitution~~]Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony [~~, except under Subsection (3)~~].

[~~(3)~~](b) [~~Aggravated exploitation of prostitution involving a child~~]A violation of Subsection (2) is a first degree felony if the violation involves a child.

(4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

Section 22. Section 76-5d-209, which is renumbered from Section 76-10-1313 is renumbered and amended to read:

[~~76-10-1313~~]76-5d-209. Sexual solicitation by an actor offering to engage in sexual activity for compensation.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~](2) An [~~individual except for a child under Section 76-10-1315 is guilty of~~]actor commits the offense of sexual solicitation by an actor offering to engage in sexual activity for compensation if the [~~individual~~]actor:

(a) is 18 years old or older; and

[~~(a)~~](b) (i) offers or agrees to commit any sexual activity with another individual [~~for~~]in exchange for receiving a fee, or the functional equivalent of a fee;

[~~(c)~~](ii) (A) takes steps to arrange a meeting with another individual through any form of advertising or agreement to meet [~~, and~~];

(B) []meets the individual at an arranged place; and

(C) []arranged and met the individual for the purpose of being hired to engage in sexual activity in exchange for receiving a fee, or the functional equivalent of a fee;

[~~(d)~~](iii) loiters in, or within view of, a public place for the purpose of being hired to engage in sexual activity in exchange for receiving

a fee, or the functional equivalent of a fee; or

[~~(f)~~](iv) with intent to be hired to engage in sexual activity in exchange for receiving a fee, or the functional equivalent of a fee, engages in, or offers or agrees to engage in [~~an act described in Subsection (1)(e)(i) through (iv).~~], any of the following acts:

(A) exposure or touching of an individual's genitals, buttocks, anus, pubic area, or female breast below the top of the areola;

(B) masturbation; or

(C) any act of lewdness.

[~~(b) pays or offers or agrees to pay a fee or the functional equivalent of a fee to another individual to commit any sexual activity;~~]

[~~(c) with intent to pay another individual to commit any sexual activity for a fee or the functional equivalent of a fee, requests or directs the other individual to engage in any of the following acts:~~]

[~~(i) exposure of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;~~]

[~~(ii) masturbation;~~]

[~~(iii) touching of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast; or~~]

[~~(iv) any act of lewdness; or~~]

[~~(2) An intent to engage in sexual activity for a fee may be inferred from an individual's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1) (e) or (f) under the totality of the existing circumstances.~~]

(3) [~~Except as provided in Section 76-10-1309 and Subsections (4) and (5), a~~]A violation of Subsection [~~(1)(a), (c), (d), or (f)~~](2) or under a local ordinance adopted in compliance with Section [~~76-10-1307~~]76-5d-102 is:

(a) a class B misdemeanor on a first or second violation; [~~and~~]or

(b) a class A misdemeanor on a third or subsequent violation.

[~~(4) Except as provided in Section 76-10-1309 and Subsections (5) and (8), a violation of Subsection (1)(b) or (c) or a local ordinance adopted under Section 76-10-1307 is:~~]

[~~(a) a class A misdemeanor on the first or second violation; and~~]

[~~(b) a third degree felony on a third or subsequent violation.~~]

[~~(5) If an individual commits an act of sexual solicitation in violation of Subsection (1) and the individual solicited is a child, the offense is a second degree felony if the solicitation does not amount to a violation of:~~]

[~~(a) Section 76-5-308, 76-5-308.1, or 76-5-308.5, human trafficking or Section 76-5-308.3, human smuggling; or~~]

[~~(b) Section 76-5-310, aggravated human trafficking or Section 76-5-310.1, aggravated human smuggling.~~]

(4) An intent to be hired to engage in sexual activity for a fee may be inferred from an actor engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (2)(b)(iv) under the totality of the existing circumstances.

[~~(6)~~](5) (a) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection [~~76-10-1315(2)~~]76-5d-106(2).

(b) A child engaged in commercial sex or sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

[~~(7)~~](6) A prosecutor may not prosecute an [~~individual~~]actor for a violation of Subsection [~~(1)~~](2) if the [~~individual~~]actor engages in a violation of Subsection [~~(1)~~](2) at or near the time the [~~individual~~]actor witnesses or is a victim of any of the offenses, or an attempt to commit any of the offenses, described in Subsection [~~76-10-1302(3)~~]76-5d-202(4), and the [~~individual~~]actor reports the offense or attempt to law enforcement in good faith.

[~~(8)~~](7) [~~(a)~~] As part of a sentence imposed under Subsection (3), the court may lower, waive, or suspend a fine if the [~~defendant~~]actor completes a court-approved program that provides information or services intended to help an individual no longer engage in prostitution.

[~~(b) As part of a sentence imposed under Subsection (4), the court shall order the defendant to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.~~]

Section 23. Section 76-5d-210 is enacted to read:

76-5d-210. Sexual solicitation by an actor offering compensation to an adult in exchange for sexual activity.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) An actor commits the offense of sexual solicitation by an actor offering compensation in exchange for sexual activity if the actor:

(a) pays, offers to pay, or agrees to pay a fee or the functional equivalent of a fee to an adult to hire the adult to commit any sexual activity; or

(b) with intent to pay an adult to be hired to commit any sexual activity for a fee or the functional equivalent of a fee, requests or directs the adult to engage in any of the following acts:

(i) exposure or touching of an adult's genitals, buttocks, anus, pubic area, or female breast below the top of the areola;

(ii) masturbation; or

(iii) any act of lewdness.

(3) A violation of Subsection (2) or under a local ordinance adopted in compliance with Section 76-5d-102 is:

(a) a class A misdemeanor on a first or second violation; or

(b) a third degree felony on a third or subsequent violation.

(4) As part of a sentence imposed under Subsection (3), the court shall order the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

(5) The actor's intent to hire an adult to engage in sexual activity for a fee may be inferred from an actor engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (2)(b) under the totality of the existing circumstances.

(6) A prosecutor may not prosecute an actor for a violation of Subsection (2) if the actor engages in a violation of Subsection (2) at or near the time the actor witnesses or is a victim of any of the offenses, or an attempt to commit any of the offenses, described in Subsection 76-5d-202(4), and the actor reports the offense or attempt to law enforcement in good faith.

Section 24. Section 76-5d-211 is enacted to read:

76-5d-211. Sexual solicitation by an actor offering compensation to a child in exchange for sexual activity.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) Under circumstances not amounting to an offense described in Subsection (4), an actor commits the offense of sexual solicitation by an actor offering compensation to a child in exchange for sexual activity if the actor:

(a) is 12 years old or older; and

(b) (i) pays, offers to pay, or agrees to pay a fee, or the functional equivalent of a fee, to a child to hire the child to commit any sexual activity; or

(ii) with intent to pay a child to be hired to commit any sexual activity for a fee, or the functional equivalent of a fee, requests or directs the child to engage in any of the following acts:

(A) exposure or touching of the child's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(B) masturbation; or

(C) any act of lewdness.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony.

(b) If the actor is under 18 years old at the time of the offense, a violation of Subsection (2) is:

(i) a third degree felony if:

(A) the actor is 17 years old and the child is 13 years old or younger; or

(B) the actor is 16 years old and the child is 12 years old or younger;

(ii) a class A misdemeanor if:

(A) the actor is 17 years old and the child is 14 years old;

(B) the actor is 16 years old and the child is 13 years old;

(C) the actor is 15 years old and the child is 12 years old or younger; or

(D) the actor is 14 years old and the child is 11 years old or younger;

(iii) a class B misdemeanor if:

(A) the actor is 17 years old and the child is 15 years old;

(B) the actor is 16 years old and the child is 14 years old;

(C) the actor is 15 years old and the child is 13 years old;

(D) the actor is 14 years old and the child is 12 years old;

(E) the actor is 13 years old and the child is 11 years old or younger; or

(F) the actor is 12 years old and the child is 10 years old or younger; or

(iv) a class C misdemeanor if:

(A) the actor is 17 years old and the child is 16 or 17 years old;

(B) the actor is 16 years old and the child is 15 years old or older;

(C) the actor is 15 years old and the child is 14 years old or older;

(D) the actor is 14 years old and the child is 13 years old or older;

(E) the actor is 13 years old and the child is 12 years old or older; or

(F) the actor is 12 years old and the child is 11 years old or older.

(4) The offenses referred to in Subsection (2) are:

(a) human trafficking for labor as described in Section 76-5-308;

(b) human trafficking for sexual exploitation as described in Section 76-5-308.1;

(c) human smuggling as described in Section 76-5-308.3;

(d) human trafficking of a child as described in Section 76-5-308.5;

(e) aggravated human trafficking as described in Section 76-5-310; and

(f) aggravated human smuggling as described in Section 76-5-310.1.

(5) The actor's intent to hire a child to engage in sexual activity for a fee may be inferred from an actor engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (2)(b) under the totality of the existing circumstances.

(6) A prosecutor may not prosecute an actor for a violation of Subsection (2) if the actor engages in a violation of Subsection (2) at or near the time the actor witnesses or is a victim of any of the offenses, or an attempt to commit any of the offenses, described in Subsection 76-5d-202(4), and the actor reports the offense or attempt to law enforcement in good faith.

(7) (a) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection 76-5d-106(2).

(b) A child engaged in commercial sex or sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

Section 25. Section 76-5d-212, which is renumbered from Section 76-10-1309 is renumbered and amended to read:

[~~76-10-1309~~]76-5d-212. Engaging in prostitution or sexual solicitation as an HIV positive offender.

[~~A person~~]

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) [~~who is convicted of prostitution under~~]An actor commits engaging in prostitution or sexual solicitation as an HIV positive offender if the actor:

(a) is an HIV positive individual;

(b) is convicted of:

(i) engaging in prostitution under Section [~~76-10-1302,~~]76-5d-202;

(ii) patronizing a [~~prostitute under~~]prostituted individual who is an adult under Section [~~76-10-1303, or~~]76-5d-203;

(iii) patronizing a prostituted individual who is a child under Section 76-5d-204;

(iv) entering or remaining in a place of prostitution under Section 76-5d-205;

(v) sexual solicitation [~~under~~]by an actor offering to engage in sexual activity for compensation under Section [~~76-10-1313~~]76-5d-209;

(vi) [~~is guilty of a third degree felony if at the time of the offense the person is an HIV positive individual, and the person:~~]sexual solicitation by an actor offering compensation to an adult in exchange for sexual activity under Section 76-5d-210; or

(vii) sexual solicitation by an actor offering compensation to a child in exchange for sexual activity under Section 76-5d-211; and

[~~(1)~~](c) (i) has actual knowledge [~~of the fact~~]that the actor is an HIV positive individual; or

[~~(2)~~](ii) has previously been convicted [~~under Section 76-10-1302, 76-10-1303, or 76-10-1313~~]of a violation of Section 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, 76-5d-210, or 76-5d-211.

(3) A violation of Subsection (2) is a third degree felony.

(4) Upon conviction under this section, and as a condition of probation, the actor shall receive treatment and counseling for HIV infection and drug abuse as provided in Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Section 26. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) an act prohibited by the criminal provisions under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or Section 23A-5-311;

(d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

(e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;

(i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault under Section 76-5-102;

(k) aggravated assault under Section 76-5-103;

(l) a threat of terrorism under Section 76-5-107.3;

(m) a criminal homicide offense under Section 76-5-201;

(n) kidnapping under Section 76-5-301;

(o) aggravated kidnapping under Section 76-5-302;

(p) human trafficking for labor under Section 76-5-308;

(q) human trafficking for sexual exploitation under Section 76-5-308.1;

(r) human smuggling under Section 76-5-308.3;

(s) human trafficking of a child under Section 76-5-308.5;

(t) benefiting from trafficking and human smuggling under Section 76-5-309;

(u) aggravated human trafficking under Section 76-5-310;

(v) sexual exploitation of a minor under Section 76-5b-201;

(w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(x) arson under Section 76-6-102;

(y) aggravated arson under Section 76-6-103;

(z) causing a catastrophe under Section 76-6-105;

(aa) burglary under Section 76-6-202;

(bb) aggravated burglary under Section 76-6-203;
(cc) burglary of a vehicle under Section 76-6-204;
(dd) manufacture or possession of an instrument for burglary or theft under Section 76-6-205;
(ee) robbery under Section 76-6-301;
(ff) aggravated robbery under Section 76-6-302;
(gg) theft under Section 76-6-404;
(hh) theft by deception under Section 76-6-405;
(ii) theft by extortion under Section 76-6-406;
(jj) receiving stolen property under Section 76-6-408;
(kk) theft of services under Section 76-6-409;
(ll) forgery under Section 76-6-501;
(mm) unlawful use of financial transaction card under Section 76-6-506.2;
(nn) unlawful acquisition, possession, or transfer of financial transaction card under Section 76-6-506.3;
(oo) financial transaction card offenses under Section 76-6-506.6;
(pp) deceptive business practices under Section 76-6-507;
(qq) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods under Section 76-6-508;
(rr) bribery of a labor official under Section 76-6-509;
(ss) defrauding creditors under Section 76-6-511;
(tt) acceptance of deposit by insolvent financial institution under Section 76-6-512;
(uu) unlawful dealing with property by fiduciary under Section 76-6-513;
(vv) bribery or threat to influence contest under Section 76-6-514;
(ww) making a false credit report under Section 76-6-517;
(xx) criminal simulation under Section 76-6-518;
(yy) criminal usury under Section 76-6-520;
(zz) insurance fraud under Section 76-6-521;
(aaa) retail theft under Section 76-6-602;
(bbb) computer crimes under Section 76-6-703;
(ccc) identity fraud under Section 76-6-1102;
(ddd) mortgage fraud under Section 76-6-1203;
(eee) sale of a child under Section 76-7-203;
(fff) bribery to influence official or political actions under Section 76-8-103;
(ggg) threat to influence official or political action under Section 76-8-104;
(hhh) receiving bribe or bribery by public servant under Section 76-8-105;
(iii) receiving bribe for endorsement of person as a public servant under Section 76-8-106;
(jjj) bribery for endorsement of person as public servant under Section 76-8-106.1;
(kkk) official misconduct based on unauthorized act or failure of duty under Section 76-8-201;
(lll) official misconduct concerning inside information under Section 76-8-202;
(mmm) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;
(nnn) acceptance of bribe or bribery to prevent criminal prosecution under Section 76-8-308;
(ooo) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;
(ppp) making a false or inconsistent material statement under Section 76-8-502;
(qqq) making a false or inconsistent statement under Section 76-8-503;
(rrr) making a written false statement under Section 76-8-504;
(sss) tampering with a witness under Section 76-8-508;
(ttt) retaliation against a witness, victim, or informant under Section 76-8-508.3;
(uuu) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
(vvv) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
(www) tampering with evidence under Section 76-8-510.5;
(xxx) falsification or alteration of a government record under Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;
(yyy) public assistance fraud by an applicant for public assistance under Section 76-8-1203.1;
(zzz) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;
(aaaa) public assistance fraud by a provider under Section 76-8-1203.5;
(bbbb) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;
(cccc) false statement to obtain or increase unemployment compensation under Section 76-8-1301;
(dddd) false statement to prevent or reduce unemployment compensation or liability under Section 76-8-1302;
(eeee) unlawful failure to comply with Employment Security Act requirements under Section 76-8-1303;
(ffff) unlawful use or disclosure of employment information under Section 76-8-1304;
(gggg) intentionally or knowingly causing one animal to fight with another under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

(hhhh) possession, use, or removal of explosives, chemical, or incendiary devices or parts under Section 76-10-306;

(iiii) delivery to common carrier, mailing, or placement on premises of an incendiary device under Section 76-10-307;

(jjjj) possession of a deadly weapon with intent to assault under Section 76-10-507;

(kkkk) unlawful marking of pistol or revolver under Section 76-10-521;

(llll) alteration of number or mark on pistol or revolver under Section 76-10-522;

(mmmm) forging or counterfeiting trademarks, trade name, or trade device under Section 76-10-1002;

(nnnn) selling goods under counterfeited trademark, trade name, or trade devices under Section 76-10-1003;

(oooo) sales in containers bearing registered trademark of substituted articles under Section 76-10-1004;

(pppp) selling or dealing with article bearing registered trademark or service mark with intent to defraud under Section 76-10-1006;

(qqqq) gambling under Section 76-10-1102;

(rrrr) gambling fraud under Section 76-10-1103;

(ssss) gambling promotion under Section 76-10-1104;

(tttt) possessing a gambling device or record under Section 76-10-1105;

(uuuu) confidence game under Section 76-10-1109;

(vvvv) distributing pornographic material under Section 76-10-1204;

(wwww) inducing acceptance of pornographic material under Section 76-10-1205;

(xxxx) dealing in harmful material to a minor under Section 76-10-1206;

(yyyy) distribution of pornographic films under Section 76-10-1222;

(zzzz) indecent public displays under Section 76-10-1228;

(aaaaa) engaging in prostitution under Section [~~76-10-1302~~]76-5d-202;

(bbbbb) aiding prostitution under Section [~~76-10-1304~~]76-5d-206;

(ccccc) exploiting prostitution under Section [~~76-10-1305~~]76-5d-207;

(ddddd) aggravated exploitation of prostitution under Section [~~76-10-1306~~]76-5d-208;

(eeeee) communications fraud under Section 76-10-1801;

(fffff) an act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(ggggg) vehicle compartment for contraband under Section 76-10-2801;

(hhhhh) an act prohibited by the criminal provisions of the laws governing taxation in this state; or

(iiiii) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 27. Section 77-23a-8 is amended to read:

77-23a-8. Court order to authorize or approve interception -- Procedure.

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

(a) an act:

(i) prohibited by the criminal provisions of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) punishable by a term of imprisonment of more than one year;

(b) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

(c) an offense:

(i) of:

(A) attempt under Section 76-4-101;

(B) conspiracy under Section 76-4-201;

(C) criminal solicitation of an adult, Section 76-4-203; or

(D) criminal solicitation of a minor, Section 76-4-205; and

(ii) punishable by a term of imprisonment of more than one year;

(d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year under Section 76-5-107.3;

(e) (i) aggravated murder under Section 76-5-202;

(ii) murder under Section 76-5-203; or

(iii) manslaughter under Section 76-5-205;

(f) (i) kidnapping under Section 76-5-301;

(ii) child kidnapping under Section 76-5-301.1;

(iii) aggravated kidnapping under Section 76-5-302;

(iv) human trafficking for labor under Section 76-5-308;

(v) human trafficking for sexual exploitation under Section 76-5-308.1;

(vi) human trafficking of a child under Section 76-5-308.5;

(vii) human smuggling under Section 76-5-308.3;

(viii) aggravated human trafficking under Section 76-5-310; or

(ix) aggravated human smuggling under Section 76-5-310.1;

(g) (i) arson under Section 76-6-102; or

(ii) aggravated arson under Section 76-6-103;

(h) (i) burglary under Section 76-6-202; or

(ii) aggravated burglary under Section 76-6-203;

(i) (i) robbery under Section 76-6-301; or

(ii) aggravated robbery under Section 76-6-302;

(j) an offense:

(i) of:

(A) theft under Section 76-6-404;

(B) theft by deception under Section 76-6-405; or

(C) theft by extortion under Section 76-6-406; and

(ii) punishable by a maximum term of imprisonment of more than one year;

(k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year under Section 76-6-408;

(l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year under Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;

(m) bribery of a labor official under Section 76-6-509;

(n) bribery or threat to influence a publicly exhibited contest under Section 76-6-514;

(o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year under Section 76-6-518;

(p) criminal usury under Section 76-6-520;

(q) insurance fraud punishable by a maximum term of imprisonment of more than one year under Section 76-6-521;

(r) a violation under Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year under Section 76-6-703;

(s) bribery to influence official or political actions under Section 76-8-103;

(t) misusing public money or public property under Section 76-8-402;

(u) tampering with a witness under Section 76-8-508;

(v) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(w) tampering or retaliating against a juror under Section 76-8-508.5;

(x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(y) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

(z) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;

(aa) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;

(bb) destruction of property to interfere with preparations for defense or war under Section 76-8-802;

(cc) an attempt to commit crimes of sabotage under Section 76-8-804;

(dd) conspiracy to commit crimes of sabotage under Section 76-8-805;

(ee) advocating criminal syndicalism or sabotage under Section 76-8-902;

(ff) assembling for advocating criminal syndicalism or sabotage under Section 76-8-903;

(gg) riot punishable by a maximum term of imprisonment of more than one year under Section 76-9-101;

(hh) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year under Section 76-9-301.1;

(ii) possession, use, or removal of an explosive, chemical, or incendiary device and parts under Section 76-10-306;

(jj) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device under Section 76-10-307;

(kk) exploiting prostitution under Section [~~76-10-1305~~]76-5d-207;

(ll) aggravated exploitation of prostitution under Section [~~76-10-1306~~]76-5d-208;

(mm) bus hijacking or assault with intent to commit hijacking under Section 76-10-1504;

(nn) discharging firearms and hurling missiles under Section 76-10-1505;

(oo) violations under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and the offenses listed under the definition of unlawful activity in the act, including the offenses not punishable by a maximum term of imprisonment of more than one year when those offenses are investigated as predicates for the offenses prohibited by the act under Section 76-10-1602;

(pp) communications fraud under Section 76-10-1801;

(qq) money laundering under Sections 76-10-1903 and 76-10-1904; or

(rr) reporting by a person engaged in a trade or business when the offense is punishable by a maximum term of imprisonment of more than one year under Section 76-10-1906.

Section 28. Section 77-38-3 is amended to read:

77-38-3. Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact order.

(1) Within seven days after the day on which felony criminal charges are filed against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.

(2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (g) and rights under this chapter.

(3) The prosecuting agency shall provide notice to a victim of a crime:

(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (g), which the victim has requested; and

(b) for a restitution request to be submitted in accordance with Section 77-38b-202.

(4) (a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(b) In the event of an unforeseen important criminal justice hearing, described in Subsections 77-38-2(5)(a) through (g) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.

(5) (a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through (g) permit an opportunity for victims of crimes to be notified.

(b) The court shall consider whether any notification system that the court might use to provide notice of judicial proceedings to defendants could be used to provide notice of judicial proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through (g) in advance of any requested court hearing or action so that the prosecuting agency may comply with the prosecuting agency's notification obligation.

(7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (g) only where the victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of restitution hearings shall provide the court with the victim's current address and telephone number.

(10) (a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice the prosecuting agency has received from a victim to the Board of Pardons and Parole.

(11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.

(12) (a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice and Youth Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under Subsection 63G-2-305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

(i) a law enforcement agency, including the prosecuting agency;

(ii) a victims' right committee as provided in Section 77-37-5;

(iii) a governmentally sponsored victim or witness program;

(iv) the Department of Corrections;

(v) the Utah Office for Victims of Crime;

(vi) the Commission on Criminal and Juvenile Justice;

(vii) the Utah State Courts; and

(viii) the Board of Pardons and Parole.

(13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

(14) (a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section [~~76-10-1306~~]76-5d-208 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

(i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;

(ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and

(iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.

(b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.

(c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.

(ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.

(15) (a) When a case involving a victim may resolve before trial with a plea deal, the prosecutor shall notify the victim of that

possibility as soon as practicable.

(b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall explain the available details of an anticipated plea deal.

Section 29. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

(1) "Child abuse offender" means an individual:

(a) who has been convicted in this state of a violation of:

(i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b); or

(ii) attempting, soliciting, or conspiring to commit aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

(b) (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offense listed in Subsection (1)(a); and

(ii) (A) who is a Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a child abuse offender in another jurisdiction of original conviction;

(B) who is required to register as a child abuse offender by a state, a federal, or a military court; or

(C) who would be required to register as a child abuse offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of the offense listed in Subsection (1)(a) or a substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (1)(a);

(e) who is found not guilty by reason of insanity in this state or in another jurisdiction of the offense listed in Subsection (1)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for the offense listed in Subsection (1)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(2) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in [~~section~~]Section 53-10-201.

(3) "Business day" means a day on which state offices are open for regular business.

(4) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(5) (a) "Convicted" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental illness; or

(iii) no contest.

(b) "Convicted" includes, unless otherwise specified, the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

(c) "Convicted" does not include:

(i) a withdrawn or dismissed plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(6) "Department" means the Department of Public Safety.

(7) "Division" means the Division of Juvenile Justice and Youth Services.

(8) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(9) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(10) "Jurisdiction" means any state, Indian Country, United States Territory, or property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(11) "Kidnap offender" means an individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) kidnapping under Subsection 76-5-301(2)(c) or (d);

(ii) child kidnapping under Section 76-5-301.1;

(iii) aggravated kidnapping under Section 76-5-302;

(iv) human trafficking for labor under Section 76-5-308;

(v) human smuggling under Section 76-5-308.3;

(vi) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);

(vii) aggravated human trafficking under Section 76-5-310;

(viii) aggravated human smuggling under Section 76-5-310.1;

(ix) human trafficking of a vulnerable adult for labor under Section 76-5-311; or

(x) attempting, soliciting, or conspiring to commit a felony offense listed in Subsections (11)(a)(i) through (ix);

(b) (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection (11)(a); and

(ii) (A) who is a Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a kidnap offender in another jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by a state, federal, or military court; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (11)(a) or any substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (11)(a);

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (11)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (11)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(12) "Natural parent" means a minor's biological or adoptive parent, including the minor's noncustodial parent.

(13) "Offender" means a child abuse offender, kidnap offender, or sex offender.

(14) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(15) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at a future date.

(16) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(17) "Registration website" means the Sex, Kidnap, and Child Abuse Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(18) "Secondary residence" means real property that the offender owns or has a financial interest in, or a location where the offender stays overnight a total of 10 or more nights in a 12-month period when not staying at the offender's primary residence.

(19) "Sex offender" means an individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of enticing a minor under Section 76-4-401;

(ii) sexual exploitation of a vulnerable adult under Section 76-5b-202;

(iii) human trafficking for sexual exploitation under Section 76-5-308.1;

(iv) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);

(v) aggravated human trafficking for sexual exploitation under Section 76-5-310;

(vi) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

(vii) unlawful sexual activity with a minor under Section 76-5-401, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) sexual abuse of a minor under Section 76-5-401.1, except as provided in Subsection 76-5-401.1(3);

(ix) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

(x) rape under Section 76-5-402;

(xi) rape of a child under Section 76-5-402.1;

(xii) object rape under Section 76-5-402.2;

(xiii) object rape of a child under Section 76-5-402.3;

(xiv) a felony violation of forcible sodomy under Section 76-5-403;

(xv) sodomy on a child under Section 76-5-403.1;

(xvi) forcible sexual abuse under Section 76-5-404;

(xvii) sexual abuse of a child under Section 76-5-404.1;

(xviii) aggravated sexual abuse of a child under Section 76-5-404.3;

(xix) aggravated sexual assault under Section 76-5-405;

(xx) custodial sexual relations under Section 76-5-412, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;

(xxi) sexual exploitation of a minor under Section 76-5b-201;

(xxii) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(xxiii) sexual extortion or aggravated sexual extortion under Section 76-5b-204;

(xxiv) incest under Section 76-7-102;

(xxv) lewdness under Section 76-9-702, if the individual has been convicted of the offense four or more times;

(xxvi) sexual battery under Section 76-9-702.1, if the individual has been convicted of the offense four or more times;

(xxvii) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under Section 76-9-702.1, that total four or more convictions;

(xxviii) lewdness involving a child under Section 76-9-702.5;

(xxix) a felony or class A misdemeanor violation of voyeurism under Section 76-9-702.7;

(xxx) aggravated exploitation of prostitution under Section [~~76-10-1306~~]76-5d-208; or

(xxxi) attempting, soliciting, or conspiring to commit a felony offense listed in this Subsection (19)(a);

(b) (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection (19)(a); and

(ii) (A) who is a Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a sex offender in another jurisdiction of original conviction;

(B) who is required to register as a sex offender by a state, federal, or military court; or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (19)(a) or a substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's jurisdiction of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (19)(a);

(e) who is found not guilty by reason of insanity in this state, or in another jurisdiction of one or more offenses listed in Subsection (19)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (19)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(20) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(21) "Vehicle" means a motor vehicle, an aircraft, or a watercraft subject to registration in any jurisdiction.

Section 30. Section 77-41-106 is amended to read:

77-41-106. Offenses requiring lifetime registration.

Offenses referred to in Subsection 77-41-105(3)(c)(i) requiring lifetime registration are:

(1) an offense listed in Subsection 77-41-102(1), (11), or (19) if, at the time of the conviction for the offense, the offender has previously been convicted of an offense listed in Subsection 77-41-102(1), (11), or (19) or has previously been required to register as a sex offender, kidnap offender, or child abuse offender for an offense committed as a juvenile;

(2) a conviction for a following offense, including attempting, soliciting, or conspiring to commit a felony of:

(a) child kidnapping under Section 76-5-301.1, except if the offender is a natural parent of the victim;

(b) rape under Section 76-5-402;

(c) rape of a child under Section 76-5-402.1;

(d) object rape under Section 76-5-402.2;

(e) object rape of a child under Section 76-5-402.3;

(f) sodomy on a child under Section 76-5-403.1;

(g) aggravated sexual abuse of a child under Section 76-5-404.3; or

(h) aggravated sexual assault under Section 76-5-405;

(3) human trafficking for sexual exploitation under Section 76-5-308.1;

(4) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);

(5) aggravated human trafficking for sexual exploitation under Section 76-5-310;

(6) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

(7) aggravated kidnapping under Section 76-5-302, except if the offender is a natural parent of the victim;

(8) forcible sodomy under Section 76-5-403;

(9) sexual abuse of a child under Section 76-5-404.1;

(10) sexual exploitation of a minor under Section 76-5b-201;

(11) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(12) aggravated sexual extortion under Subsection 76-5b-204(2)(b); [~~or~~]

(13) aggravated exploitation of prostitution under Section [~~76-10-1306~~]76-5d-208, on or after May 10, 2011; or

(14) a felony violation of enticing a minor under Section 76-4-401 if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (2) through (13).

Section 31. Section 78B-6-1101 is amended to read:

78B-6-1101. Definitions -- Nuisance -- Right of action -- Agriculture operations.

(1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action.

(2) A nuisance may include the following:

(a) drug houses and drug dealing as provided in Section 78B-6-1107;

(b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;

(c) criminal activity committed in concert with three or more persons as provided in Section 76-3-203.1;

(d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) party houses that frequently create conditions defined in Subsection (1); and

(g) prostitution as provided in [~~Title 76, Chapter 10, Part 13, Prostitution~~]Title 76, Chapter 5d, Prostitution.

(3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

(a) drifts in more than once in each of two or more consecutive seven-day periods; and

(b) creates any of the conditions under Subsection (1).

(4) Subsection (3) does not apply to:

(a) a residential rental unit available for temporary rental, such as for a vacation, or available for only 30 or fewer days at a time; or

(b) a hotel or motel room.

(5) Subsection (3) does not apply to a unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.

(6) An action may be brought by a person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.

(7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.

(8) "Critical infrastructure materials operations" means the same as that term is defined in Section 10-9a-901.

(9) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

Section 32. Section 78B-6-1107 is amended to read:

78B-6-1107. Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.

(1) Every building or place is a nuisance where:

(a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition occurs of any controlled substance, precursor, or analog specified in Title 58, Chapter 37, Utah Controlled Substances Act;

(b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

(c) criminal activity is committed in concert with three or more persons as provided in Section 76-3-203.1;

(d) criminal activity is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) parties occur frequently which create the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

(g) prostitution or promotion of prostitution is regularly carried on by one or more persons as provided in [~~Title 76, Chapter 10, Part 13, Prostitution~~]Title 76, Chapter 5d, Prostitution; and

(h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.

(2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the defendant is lawfully entitled to possession of a controlled substance.

(3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the nuisance as defined in Subsection (1).

Section 33. Section 78B-9-104 is amended to read:

78B-9-104. Grounds for relief -- Retroactivity of rule.

(1) Unless precluded by Section 78B-9-106 or 78B-9-107, an individual who has been convicted and sentenced for a criminal offense may file an action in the district court of original jurisdiction for postconviction relief to vacate or modify the conviction or sentence upon the following grounds:

(a) the conviction was obtained or the sentence was imposed in violation of the United States Constitution or Utah Constitution;

(b) the conviction was obtained or the sentence was imposed under a statute that is in violation of the United States Constitution or Utah Constitution, or the conduct for which the petitioner was prosecuted is constitutionally protected;

(c) the sentence was imposed or probation was revoked in violation of the controlling statutory provisions;

(d) the petitioner had ineffective assistance of counsel in violation of the United States Constitution or Utah Constitution;

(e) newly discovered material evidence exists that requires the court to vacate the conviction or sentence, because:

(i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction proceeding, and the evidence could not have been discovered through the exercise of reasonable diligence;

(ii) the material evidence is not merely cumulative of evidence that was known;

(iii) the material evidence is not merely impeachment evidence; and

(iv) viewed with all the other evidence, the newly discovered material evidence demonstrates that no reasonable trier of fact could have found the petitioner guilty of the offense or subject to the sentence received;

(f) the petitioner can prove that:

(i) biological evidence, as that term is defined in Section 77-11c-101, relevant to the petitioner's conviction was not preserved in accordance with Title 77, Chapter 11c, Part 4, Preservation of Biological Evidence for Violent Felony Offenses;

(ii) (A) the biological evidence described in Subsection (1)(f)(i) was not tested previously; or

(B) if the biological evidence described in Subsection (1)(f)(i) was tested previously, there is a material change in circumstance, including a scientific or technological advance, that would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i) would produce a favorable test result for the petitioner; and

(iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for purposes of the petitioner's action under this section, when viewed with all the other evidence, demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

(g) the petitioner can prove entitlement to relief under a rule announced by the United States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction and sentence became final on direct appeal, and that:

(i) the rule was dictated by precedent existing at the time the petitioner's conviction or sentence became final; or

(ii) the rule decriminalizes the conduct that comprises the elements of the crime for which the petitioner was convicted; or

(h) the petitioner committed any of the following offenses while subject to force, fraud, or coercion, as defined in Section 76-5-308:

(i) Section 58-37-8, possession of a controlled substance;

(ii) Section [~~76-10-1304~~]76-5d-206, aiding prostitution;

(iii) Section 76-6-206, criminal trespass;

(iv) Section 76-6-413, theft;

(v) Section 76-6-502, possession of forged writing or device for writing;

(vi) any offense in Title 76, Chapter 6, Part 6, Retail Theft;

(vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification document;

(viii) Section 76-9-702, lewdness;

(ix) Section [~~76-10-1302,~~]76-5d-202, engaging in prostitution; or

(x) Section [~~76-10-1313~~]76-5d-209, sexual solicitation by an actor offering to engage in sexual activity for compensation.

(2) The court may not grant relief from a conviction or sentence unless in light of the facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at trial or during sentencing:

(a) the petitioner establishes that there would be a reasonable likelihood of a more favorable outcome; or

(b) if the petitioner challenges the conviction or the sentence on grounds that the prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner establishes that the false testimony, in any reasonable likelihood, could have affected the judgment of the fact finder.

(3) (a) The court may not grant relief from a conviction based on a claim that the petitioner is innocent of the crime for which convicted except as provided in Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

(b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence, of this chapter may not be filed as part of a petition under this part, but shall be filed separately and in conformity with the provisions of Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Section 34. Section 80-2-301 is amended to read:

80-2-301. Division responsibilities.

(1) The division is the child, youth, and family services authority of the state.

(2) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director of the department may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services in accordance with Section 80-2-306, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence and the victims' children, in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, and neglected children;

(ix) services for minors who are victims of human trafficking or human smuggling, as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or sexual solicitation, as defined in Sections [~~76-10-1302~~]76-5d-202 and [~~76-10-1313~~]76-5d-209; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (2)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 80-2-405;

(ii) approve facilities that meet the standards established under Subsection (2)(c) to provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and

(iii) approve an individual to provide short-term relief care to a foster parent if the individual:

(A) provides the relief care for less than six consecutive nights;

(B) provides the relief care in the short-term relief care provider's home;

(C) is direct access qualified, as that term is defined in Section 26B-2-120; and

(D) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) in accordance with Subsection (5)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, or dependent children, in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is expressly vested in another division or department of the state;

(g) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(h) compile relevant information, statistics, and reports on child and family service matters in the state;

(i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 80-2-1102 and 80-2-1103;

(j) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(k) enter into contracts for programs designed to reduce the occurrence or recurrence of abuse and neglect in accordance with Section 80-2-503;

(l) seek reimbursement of funds the division expends on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parent or guardian in accordance with an order for child support under Section 78A-6-356;

(m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, under Section 80-3-409, and promote adoption of the children;

(n) subject to Subsections (5) and (7), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

(o) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (2)(o)(i);

(p) when a division child welfare caseworker identifies a safety concern with the foster home, cooperate with the Office of Licensing and make a recommendation to the Office of Licensing concerning whether the foster home's license should be placed on conditions, suspended, or revoked; and

(q) perform other duties and functions required by law.

(3) (a) The division may provide, directly or through contract, services that include the following:

(i) adoptions;

(ii) day-care services;

(iii) out-of-home placements for minors;

(iv) health-related services;

(v) homemaking services;

(vi) home management services;

(vii) protective services for minors;

(viii) transportation services; or

(ix) domestic violence services.

(b) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.

(ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

(4) (a) The division may:

(i) receive gifts, grants, devises, and donations;

(ii) encourage merchants and service providers to:

(A) donate goods or services; or

(B) provide goods or services at a nominal price or below cost;

(iii) distribute goods to applicants or consumers of division services free or for a nominal charge and tax free; and

(iv) appeal to the public for funds to meet needs of applicants or consumers of division services that are not otherwise provided by law, including Sub-for-Santa programs, recreational programs for minors, and requests for household appliances and home repairs.

(b) If requested by the donor and subject to state and federal law, the division shall use a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the purpose requested by the donor.

(5) (a) In carrying out the requirements of Subsection (2)(f), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice and Youth Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in Subsection (5)(a)(ii), within the division's budget.

(b) If an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (2)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is an indigent individual.

(6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic violence in the presence of a child, as described in Section 76-5-114.

(7) (a) Except as provided in Subsection (7)(b), the division may not:

(i) require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo; or

(ii) refer an individual who is receiving services from the division for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.

(b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is receiving services from the division for drug testing by means of a saliva test if:

(i) the individual consents to drug testing by means of a saliva test; or

(ii) the court, based on a finding that a saliva test is necessary in the circumstances, orders the individual to complete drug testing by means of a saliva test.

Section 35. Section 80-6-303.5 is amended to read:

80-6-303.5. Preliminary inquiry by juvenile probation officer -- Eligibility for nonjudicial adjustment.

(1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, or for the minor being a habitual truant, a juvenile probation officer shall make a preliminary inquiry in accordance with this section to determine whether the minor is eligible to enter into a nonjudicial adjustment.

(2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.

(3) (a) The juvenile probation officer may:

(i) conduct a validated risk and needs assessment; and

(ii) request that a prosecuting attorney review a referral in accordance with Section 80-6-304.5 if:

(A) the results of the validated risk and needs assessment indicate the minor is high risk; or

(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor shall:

(i) undergo a drug and alcohol screening;

(ii) if found appropriate by the screening, participate in an assessment; and

(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.

(4) Except for an offense that is not eligible under Subsection (8), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if:

(a) the minor:

(i) is referred for an offense that is a misdemeanor, infraction, or status offense;

(ii) has no more than two prior adjudications; and

(iii) has no more than two prior unsuccessful nonjudicial adjustment attempts;

(b) the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old; or

(c) the minor is referred for being a habitual truant.

(5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

(6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.

(7) Except for a referral that involves an offense described in Subsection (8), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria described in Subsection (4)(a).

(8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the referral involves:

(a) an offense alleged to have occurred when the minor was 12 years old or older that is:

(i) a felony offense; or

(ii) a misdemeanor violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-107, threat of violence;

(C) Section 76-5-107.1, threats against schools;

(D) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(E) Section 76-5-206, negligent homicide;

(F) Section 76-5d-204, patronizing a prostituted individual who is a child;

(G) Section 76-5d-211, sexual solicitation by an actor offering compensation to a child in exchange for sexual activity;

[~~(F)~~](H) Section 76-9-702.1, sexual battery;

[~~(G)~~](I) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;

[~~(H)~~](J) Section 76-10-506, threatening with or using a dangerous weapon in fight or quarrel;

[~~(I)~~](K) Section 76-10-507, possession of a deadly weapon with criminal intent; or

[~~(J)~~](L) Section 76-10-509.4, possession of a dangerous weapon by a minor; or

(b) an offense alleged to have occurred before the minor is 12 years old that is a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm.

(9) The juvenile probation officer shall request that a prosecuting attorney review a referral if:

(a) the referral involves an offense described in Subsection (8); or

(b) the minor has a current suspended order for custody under Section 80-6-711.

Section 36. Section 80-6-1002 is amended to read:

80-6-1002. Vacatur of an adjudication.

(1) (a) An individual who has been adjudicated for an offense by the juvenile court may petition the juvenile court for vacatur of the adjudication if the adjudication was for a violation of:

(i) Section 76-5-308, human trafficking for labor if the petitioner engaged in the human trafficking for labor while subject to force, fraud, or coercion;

(ii) Section [~~76-10-1302,~~]76-5d-202, engaging in prostitution;

(iii) Section [~~76-10-1304~~]76-5d-206, aiding prostitution; or

(iv) Section [~~76-10-1313~~]76-5d-209, sexual solicitation by an actor offering to engage in sexual activity for compensation.

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any records related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the prosecuting attorney.

(2) (a) Upon the filing of a petition, the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the juvenile record:

(A) that a petition has been filed; and

(B) of the date of the hearing.

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for vacatur.

(ii) At least 30 days before the day on which the hearing is scheduled, a victim shall receive notice of a petition for vacatur if, before the entry of vacatur, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered.

(iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(c) At the hearing, the petitioner, the prosecuting attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

(3) (a) In deciding whether to grant a petition for vacatur of an adjudication of an offense for human trafficking of labor described in Subsection (1)(a)(i), the juvenile court shall consider whether the petitioner acted subject to force, fraud, or coercion at the time of the conduct giving rise to the adjudication.

(b) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion at the time of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur of the adjudication.

(c) If the juvenile court does not find sufficient evidence, the juvenile court shall deny vacatur of the adjudication.

(4) If the petition seeks to vacate an adjudication of an offense described in [~~Subsection~~]Subsections (1)(a)(ii) through (iv), the juvenile court shall presumptively grant vacatur of the adjudication unless the petitioner acted as a purchaser of any sexual activity.

(5) (a) Except as provided in Subsection (5)(b), if the juvenile court grants a vacatur of an adjudication for an offense described in Subsection (1)(a), the juvenile court shall order expungement of all records in the petitioner's juvenile record pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System and the Licensing Information System.

(b) The juvenile court may not order expungement of any record in the petitioner's juvenile record that contains an adjudication for a violation of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

(6) (a) The petitioner shall be responsible for service of the vacatur and expungement order to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or expungement of the records in whole or in part, the agency or entity receiving the vacatur and expungement order shall only expunge all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.

(7) (a) Upon entry of a vacatur and expungement order under this section:

(i) the proceedings in the incident identified in the petition are considered never to have occurred; and

(ii) the petitioner may reply to an inquiry on the matter as though the proceedings never occurred.

(b) Upon petition, any record expunged under this section may only be released to or viewed by:

(i) the individual who is the subject of the record; or

(ii) a person named in the petition of vacatur.

Section 37. Repealer.

This bill repeals:

Section 76-10-1308, Prosecution.

Section 76-10-1310, Definitions.

Section 38. Effective Date.

This bill takes effect on May 7, 2025.

Section 39. Coordinating H.B. 22 with H.B. 21.

If H.B. 22, Prostitution Offense Amendments, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) the amendments to the following sections in H.B. 22 supersede the amendments to those sections in H.B. 21:

(a) Section 26B-7-205;

(b) Section 76-2-304.5;

(c) Section 76-5d-101 (renumbered from Section 76-10-1301);

(d) Section 76-5d-102 (renumbered from Section 76-10-1307);

(e) Section 76-5d-103 (renumbered from Section 76-10-1311);

(f) Section 76-5d-104 (renumbered from Section 76-10-1312);

(g) Section 76-5d-105 (renumbered from Section 76-10-1314);

(h) Section 76-5d-201;

(i) Section 76-5d-204;

(j) Section 76-5d-209 (renumbered from Section 76-10-1313);

(k) Section 76-5d-210;

(l) Section 80-2-301; and

(m) Section 80-6-1002; and

(2) Section 76-10-1309 be renumbered to Section 76-5d-212 and the amendments in H.B. 22 supersede the amendments to H.B. 21 in renumbered Section 76-10-1309.

CHAPTER 175
H. B. 23
Passed February 28, 2025
Approved March 25, 2025
Effective May 7, 2025

INSURANCE MODIFICATIONS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions relating to insurance.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► clarifies the circumstances under which a public agency insurance mutual or a reserve fund is exempt from the Insurance Code;
- ► amends provisions related to dual licensing;
- ► amends provisions relating to money appropriated from the Captive Insurance Restricted Account;
- ► clarifies that an insurer does not need to file a certification that a non-English policy is in compliance with relevant laws;
- ► aligns state law with federal rules relating to preexisting condition limitations;
- ► limits the scope by which the Insurance Department can issue a waiver for a license;
- ► clarifies that the commissioner may take an action against a licensee if the licensee fails to pay a final judgment within 60 days;
- ► adds additional reporting requirements for a licensee against whom a judgment has been entered;
- ► changes the reporting period for agency title insurance producers;
- ► amends provisions relating to captive insurance companies;
- ► reduces the minimum capital requirement for an association captive insurance company;
- ► allows a captive insurance company to be formed as a not-for-profit organization;
- ► clarifies that officers of a captive insurance company must be separate individuals;
- ► amends provisions relating to insurance investments;
- ► amends requirements relating to a sponsored captive insurance company's business;
- ► amends the grounds under which the commissioner may revoke the certificate of authority of a captive insurance company;
- ► modifies the requirements for a small employer stop-loss insurance contract;
- ► regulates with which small employers a stop-loss insurer or reinsurer may enter stop-loss insurance contracts;
- ► provides a transition period for existing small employer stop-loss insurance contracts; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

31A-1-103, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 120
31A-2-201, (Effective 05/07/25) as last amended by Laws of Utah 2018, Chapter 200
31A-2-402, (Effective 05/07/25) as last amended by Laws of Utah 2015, Chapter 330
31A-2-404, (Effective 05/07/25) as last amended by Laws of Utah 2016, Chapter 193
31A-3-304, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapter 194
31A-21-112, (Effective 05/07/25) as enacted by Laws of Utah 2013, Chapter 443
31A-21-303, (Effective 05/07/25) as last amended by Laws of Utah 2022, Chapter 198
31A-22-407, (Effective 05/07/25) as enacted by Laws of Utah 1985, Chapter 242
31A-22-509, (Effective 05/07/25) as enacted by Laws of Utah 1985, Chapter 242
31A-22-511, (Effective 05/07/25) as enacted by Laws of Utah 1985, Chapter 242
31A-22-512, (Effective 05/07/25) as enacted by Laws of Utah 1985, Chapter 242
31A-22-514, (Effective 05/07/25) as enacted by Laws of Utah 1985, Chapter 242
31A-22-614, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 120
31A-22-701, (Effective 05/07/25) as last amended by Laws of Utah 2021, Chapter 252
31A-23a-105, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 120
31A-23a-109, (Effective 05/07/25) as last amended by Laws of Utah 2018, Chapter 319
31A-23a-111, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 120
31A-23a-119, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 120
31A-23a-415, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapter 194

31A-26-202, (Effective 05/07/25) as last amended by Laws of Utah 2018, Chapter 462
31A-37-102, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapter 194
31A-37-104, (Effective 05/07/25) as last amended by Laws of Utah 2008, Chapter 302
31A-37-201, (Effective 05/07/25) as last amended by Laws of Utah 2019, Chapter 193
31A-37-202, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 120
31A-37-204, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 120
31A-37-301, (Effective 05/07/25) as last amended by Laws of Utah 2019, Chapter 193
31A-37-302, (Effective 05/07/25) as last amended by Laws of Utah 2015, Chapter 244
31A-37-303, (Effective 05/07/25) as last amended by Laws of Utah 2021, Chapter 252
31A-37-401, (Effective 05/07/25) as last amended by Laws of Utah 2019, Chapter 193
31A-37-402, (Effective 05/07/25) as last amended by Laws of Utah 2015, Chapter 244
31A-37-403, (Effective 05/07/25) as last amended by Laws of Utah 2015, Chapter 244
31A-37-404, (Effective 05/07/25) as last amended by Laws of Utah 2015, Chapter 244
31A-37-501, (Effective 05/07/25) as last amended by Laws of Utah 2019, Chapter 193
31A-37-505, (Effective 05/07/25) as last amended by Laws of Utah 2015, Chapter 244
31A-37-701, (Effective 05/07/25) as last amended by Laws of Utah 2021, Chapter 252
31A-37a-205, (Effective 05/07/25) as last amended by Laws of Utah 2011, Chapter 297
31A-43-301, (Effective 07/01/25) as last amended by Laws of Utah 2015, Chapter 244
61-2g-502, (Effective 05/07/25) as last amended by Laws of Utah 2020, Chapter 72

REPEALS AND REENACTS:

31A-2-405, (Effective 05/07/25) as enacted by Laws of Utah 2007, Chapter 325

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-1-103 is amended to read:

31A-1-103 (Effective 05/07/25). Scope and applicability of title.

(1) This title does not apply to:

(a) a retainer contract made by an attorney-at-law:

(i) with an individual client; and

(ii) under which fees are based on estimates of the nature and amount of services to be provided to the specific client;

(b) a contract similar to a contract described in Subsection (1)(a) made with a group of clients involved in the same or closely related legal matters;

(c) an arrangement for providing benefits that do not exceed a limited amount of consultations, advice on simple legal matters, either alone or in combination with referral services, or the promise of fee discounts for handling other legal matters;

(d) limited legal assistance on an informal basis involving neither an express contractual obligation nor reasonable expectations, in the context of an employment, membership, educational, or similar relationship;

(e) legal assistance by employee organizations to their members in matters relating to employment;

(f) death, accident, health, or disability benefits provided to [~~a person~~]an individual by an organization or [~~its~~]the organization's affiliate if:

(i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue Code and has had [~~its~~]the organization's principal place of business in Utah for at least five years;

(ii) the [~~person~~]individual is not an employee of the organization; and

(iii) (A) substantially all the [~~person's~~]individual's time in the organization is spent providing voluntary services:

(I) in furtherance of the organization's purposes;

(II) for a designated period of time; and

(III) for which no compensation, other than expenses, is paid; or

(B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more than 18 months; or

(g) a prepaid contract of limited duration that provides for scheduled maintenance only.

(2) (a) This title restricts otherwise legitimate business activity.

(b) What this title does not prohibit is permitted unless contrary to other provisions of Utah law.

(3) Except as otherwise expressly provided, this title does not apply to:

(a) those activities of an insurer where state jurisdiction is preempted by Section 514 of the federal Employee Retirement Income Security Act of 1974, as amended;

(b) ocean marine insurance;

(c) death, accident, health, or disability benefits provided by an organization that:

(i) has as the organization's principal purpose to achieve charitable, educational, social, or religious objectives rather than to provide death, accident, health, or disability benefits;

(ii) does not incur a legal obligation to pay a specified amount;

(iii) does not create reasonable expectations of receiving a specified amount on the part of an insured person; and

(iv) is not a health care sharing ministry that provides that a participant make a contribution to pay another participant's qualified expenses with no assumption of risk or promise to pay.

(d) other business specified in rules adopted by the commissioner on a finding that:

(i) the transaction of the business in this state does not require regulation for the protection of the interests of the residents of this state; or

(ii) it would be impracticable to require compliance with this title;

(e) except as provided in Subsection (4), a transaction independently procured through negotiations under Section 31A-15-104;

(f) self-insurance;

(g) reinsurance;

(h) subject to Subsection (5), an employee or labor union group insurance policy covering risks in this state or an employee or labor union blanket insurance policy covering risks in this state, if:

(i) the policyholder exists primarily for purposes other than to procure insurance;

(ii) the policyholder:

(A) is not a resident of this state;

(B) is not a domestic corporation; or

(C) does not have the policyholder's principal office in this state;

(iii) no more than 25% of the certificate holders or insureds are residents of this state;

(iv) on request of the commissioner, the insurer files with the department a copy of the policy and a copy of each form or certificate; and

(v) (A) the insurer agrees to pay premium taxes on the Utah portion of the insurer's business, as if the insurer were authorized to do business in this state; and

(B) the insurer provides the commissioner with the security the commissioner considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers;

(i) to the extent provided in Subsection (6):

(i) a manufacturer's or seller's warranty; and

(ii) a manufacturer's or seller's service contract;

(j) except to the extent provided in Subsection (7), a public agency insurance mutual;

(k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a guaranteed asset protection waiver; or

(l) a health care sharing ministry, if the health care sharing ministry:

(i) provides to each participant upon enrollment and annually thereafter a written statement of nationwide data from the preceding calendar year that lists the total dollar amount of contributions provided to participants toward qualified expenses; and

(ii) includes a written disclaimer, titled "Notice", on or with each application and all guideline materials that states:

(A) the health care sharing ministry is not an insurance company;

(B) nothing the health care sharing ministry offers or provides is an insurance policy, including the health care sharing ministry's guidelines or plan of operations;

(C) participation in the health care sharing ministry is entirely voluntary and no participant is compelled by law to contribute to another participant's expenses;

(D) participation in the health care sharing ministry or subscription to any of the health care sharing ministry's services is not insurance; and

(E) each participant is always personally responsible for the participant's expenses regardless of whether the participant receives payment for the expenses through the health care sharing ministry or whether this health care sharing ministry continues to operate.

(4) A transaction described in Subsection (3)(e) is subject to taxation under Section 31A-3-301.

(5) (a) After a hearing, the commissioner may order an insurer of certain group insurance policies or blanket insurance policies to transfer the Utah portion of the business otherwise exempted under Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized insurer.

(b) If the commissioner finds that the conditions required for the exemption of a group or blanket insurer are not satisfied or that adequate protection to residents of this state is not provided, the commissioner may require:

(i) the insurer to be authorized to do business in this state; or

(ii) that any of the insurer's transactions be subject to this title.

(c) Subsection (3)(h) does not apply to a blanket insurance policy offering accident and health insurance.

(6) (a) As used in Subsection (3)(i) and this Subsection (6):

(i) [~~"manufacturer's~~]"Manufacturer's or seller's service contract" means a service contract:

(A) made available by:

(I) a manufacturer of a product;

(II) a seller of a product; or

(III) an affiliate of a manufacturer or seller of a product;

(B) made available:

(I) on one or more specific products; or

(II) on products that are components of a system; and

(C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to be provided under the service contract including, if the manufacturer's or seller's service contract designates, providing parts and labor [~~;~~].

(ii) [~~"manufacturer's~~]"Manufacturer's or seller's warranty" means the guaranty of:

(A) (I) the manufacturer of a product;

(II) a seller of a product; or

(III) an affiliate of a manufacturer or seller of a product;

(B) (I) on one or more specific products; or

(II) on products that are components of a system; and

(C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services to be provided under the warranty, including, if the manufacturer's or seller's warranty designates, providing parts and labor [~~; and~~].

(iii) [~~"service~~]"Service contract" means the same as that term is defined in Section 31A-6a-101.

(b) A manufacturer's or seller's warranty may be designated as:

(i) a warranty;

(ii) a guaranty; or

(iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).

(c) This title does not apply to:

(i) a manufacturer's or seller's warranty;

(ii) a manufacturer's or seller's service contract paid for with consideration that is in addition to the consideration paid for the product itself; and

(iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's or seller's service contract if:

(A) the service contract is paid for with consideration that is in addition to the consideration paid for the product itself;

(B) the service contract is for the repair or maintenance of goods;

(C) the purchase price of the product is $3,700 or less;

(D) the product is not a motor vehicle; and

(E) the product is not the subject of a home warranty service contract.

(d) This title does not apply to a manufacturer's or seller's warranty or service contract paid for with consideration that is in addition to the consideration paid for the product itself regardless of whether the manufacturer's or seller's warranty or service contract is sold:

(i) at the time of the purchase of the product; or

(ii) at a time other than the time of the purchase of the product.

(7) (a) For purposes of this Subsection (7) [~~,~~]:

(i) [~~"public"~~]"Public agency insurance mutual" means an entity:

(A) formed by two or more political subdivisions or public agencies of the state [~~:~~]

[~~(i)~~] under Title 11, Chapter 13, Interlocal Cooperation Act; and

[~~(ii) for the purpose of providing for the political subdivisions or public agencies:~~]

[~~(A) subject to Subsection (7)(b), insurance coverage; or~~]

[~~(B) risk management.~~]

(B) that issues an insurance policy, subject to Subsection (7)(b), or provides risk management, to a political subdivision or public agency in the state under Title 11, Chapter 13, Interlocal Cooperation Act.

(ii) "Reserve fund" means a fund established:

(A) to fund a loss to a political subdivision's assets; and

(B) by one or more political subdivisions for a purpose identified in Section 63G-7-703.

(b) [~~Notwithstanding Subsection (7)(a)(ii)(A), a~~]A public agency insurance mutual or reserve fund may not provide health insurance unless the public agency insurance mutual provides the health insurance using:

(i) a third party administrator licensed under Chapter 25, Third Party Administrators;

(ii) an admitted insurer; or

(iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

(c) [~~Except for this Subsection (7), a~~]A public agency insurance mutual or a reserve fund is exempt from this title [~~.~~]except as provided in the provisions in Sections 31A-3-301and 31A-3-303 describing the surplus lines tax that are applicable to a policyholder.

(d) A public agency insurance mutual or reserve fund is considered [~~to be~~] a governmental entity and political subdivision of the state with all of the rights, privileges, and immunities of a governmental entity or political subdivision of the state including all the rights and benefits of Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Section 2. Section 31A-2-201 is amended to read:

31A-2-201 (Effective 05/07/25). General duties and powers.

(1) The commissioner shall administer and enforce this title.

(2) The commissioner has all powers specifically granted, and all further powers that are reasonable and necessary to enable the commissioner to perform the duties imposed by this title.

(3) [~~(a)~~] The commissioner may make rules to implement the provisions of this title according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(b) In addition to the notice requirements of Section 63G-3-301, the commissioner shall provide notice under Section 31A-2-303 of hearings concerning insurance department rules.~~]

(4) (a) (i) The commissioner shall issue prohibitory, mandatory, and other orders as necessary to secure compliance with this title.

(ii) An order by the commissioner is not effective unless the order:

[~~(i)~~](A) is in writing; and

[~~(ii)~~](B) is signed by the commissioner or under the commissioner's authority.

(b) On request of any person [~~who~~]that would be affected by an order under Subsection (4)(a), the commissioner may issue a declaratory order to clarify the person's rights or duties.

(5) (a) The commissioner may hold informal adjudicative proceedings and public meetings, for the purpose of:

(i) investigation;

(ii) ascertainment of public sentiment; or

(iii) informing the public.

(b) An effective rule or order may not result from informal hearings and meetings unless the requirement of a hearing under this section is satisfied.

(6) The commissioner shall inquire into violations of this title and may conduct any examinations and investigations of insurance

matters, in addition to examinations and investigations expressly authorized, that the commissioner considers proper to determine:

(a) whether or not any person has violated any provision of this title; or

(b) to secure information useful in the lawful administration of this title.

(7) The commissioner shall ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department.

Section 3. Section 31A-2-402 is amended to read:

31A-2-402 (Effective 05/07/25). Definitions.

As used in this part:

(1) "Commission" means the Title and Escrow Commission created in Section 31A-2-403.

(2) "Concurrence" means the entities given a concurring role must jointly agree for the action to be taken.

[~~(3) "Dual licensed title licensee" means a title licensee who holds:~~]

[~~(a) an individual title insurance producer license as a title licensee; and~~]

[~~(b) a license or certificate under:~~]

[~~(i) Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;~~]

[~~(ii) Title 61, Chapter 2f, Real Estate Licensing and Practices Act; or~~]

[~~(iii) Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.~~]

[~~(4)~~](3) "Real Estate Commission" means the Real Estate Commission created in Section 61-2f-103.

[~~(5)~~](4) "Title insurance matter" means a matter related to:

(a) title insurance;

(b) an escrow conducted by an individual title insurance producer or agency title insurance producer;

(c) licensing, examination, and continuing education of an applicant to be a title licensee; or

(d) conduct of a title licensee.

[~~(6)~~](5) "Title licensee" means a person licensed under this title as:

(a) an agency title insurance producer with a title insurance line of authority;

(b) an individual title insurance producer with:

(i) a general title insurance line of authority; or

(ii) a specific category of authority for title insurance; or

(c) a title insurance adjuster.

Section 4. Section 31A-2-404 is amended to read:

31A-2-404 (Effective 05/07/25). Duties of the commissioner and Title and Escrow Commission.

(1) (a) Notwithstanding the other provisions of this chapter, to the extent provided in this part, the commissioner shall administer and enforce the provisions in this title related to a title insurance matter.

(b) (i) The commissioner may impose a penalty:

(A) under this title related to a title insurance matter;

(B) after investigation by the commissioner in accordance with Part 3, Procedures and Enforcement; and

(C) that is enforced by the commissioner.

(ii) The commissioner shall consult with and seek concurrence of the commission in a meeting subject to Title 52, Chapter 4, Open and Public Meetings Act, regarding the imposition of a penalty, and if concurrence cannot be reached, the commissioner has final authority.

(c) (i) Unless a provision of this title grants specific authority to the commission, the commissioner has authority over the implementation of this title related to a title insurance matter.

(ii) When a provision requires concurrence between the commission and commissioner, and concurrence cannot be reached, the commissioner has final authority.

(d) Except as provided in Subsection (1)(e), when this title requires concurrence between the commissioner and commission related to a title insurance matter:

(i) the commissioner shall report to and update the commission on a regular basis related to that title insurance matter; and

(ii) the commission shall review the report submitted by the commissioner under this Subsection (1)(d); and

(A) concur with the report [~~,~~]; or [~~:~~]

[~~(A)~~](B) provide a reason for not concurring with the report [~~:~~] and

[~~(B)~~] provide recommendations to the commissioner.

(e) When this title requires concurrence between the commissioner and commission under Subsection (2), (3), or (4):

(i) the commission shall report to and update the commissioner on a regular basis related to that title insurance matter; and

(ii) the commissioner shall review a report submitted by the commission under this Subsection (1)(e) and concur with the report or:

(A) provide a reason for not concurring with the report; and

(B) provide recommendations to the commission.

(2) The commission shall:

(a) subject to Subsection (4), make rules for the administration of the provisions in this title related to title insurance matters including

rules related to:

(i) rating standards and rating methods for a title licensee, as provided in Section 31A-19a-209;

(ii) the licensing for a title licensee, including the licensing requirements of Section 31A-23a-204;

(iii) continuing education requirements of Section 31A-23a-202; and

(iv) standards of conduct for a title licensee;

(b) concur in the issuance and renewal of a license in accordance with Section 31A-23a-105 or 31A-26-203;

[~~(c) in accordance with Section 31A-3-103, establish, with the concurrence of the commissioner, the fees imposed by this title on a title licensee;~~]

[~~(d) in accordance with Section 31A-23a-415 determine, after consulting with the commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;~~]

[~~(e)~~](c) with the concurrence of the commissioner, approve a continuing education program required by Section 31A-23a-202;

[~~(f)~~](d) on a regular basis advise the commissioner of the most critical matters affecting the title insurance industry and request the commissioner to direct the department's investigative resources to investigate and enforce those matters;

[~~(g)~~](e) in accordance with Section 31A-23a-204, participate in the annual license testing evaluation conducted by the commissioner's test administrator;

[~~(h)~~](f) advise the commissioner on matters affecting the commissioner's budget related to title insurance; and

[~~(i)~~](g) perform other duties as provided in this title.

(3) The commission may make rules establishing an examination for a license that will satisfy Section 31A-23a-204:

(a) after consultation with the commissioner's test administrator; and

(b) subject to Subsection (4).

(4) (a) The commission may make a rule under this title only:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) with the concurrence of the commissioner, except that if concurrence cannot be reached, the commissioner has final authority; and

(iii) if at the time the commission files [~~its~~]the commission's proposed rule and rule analysis with the Office of Administrative Rules in accordance with Section 63G-3-301, the commission provides the Real Estate Commission that same information.

(b) The commission may not make a rule regarding adjudicative procedures.

(c) In accordance with Section 31A-2-201, the commissioner may make rules regarding adjudicative procedures.

(5) (a) The commissioner shall annually report the information described in Subsection (5)(b) in writing to the commission.

(b) The information required to be reported under this Subsection (5):

(i) may not identify a person; and

(ii) shall include:

(A) the number of complaints the commissioner receives with regard to transactions involving title insurance or a title licensee during the calendar year immediately proceeding the report;

(B) the type of complaints described in Subsection (5)(b)(ii)(A); and

(C) for each complaint described in Subsection (5)(b)(ii)(A):

(I) any action taken by the commissioner with regard to the complaint; and

(II) the time-period beginning the day on which a complaint is made and ending the day on which the commissioner determines it will take no further action with regard to the complaint.

Section 5. Section 31A-2-405 is repealed and re-enacted to read:

31A-2-405 (Effective 05/07/25). Dual licensing.

An individual title licensee may not conduct the business of title insurance while conducting business as a holder of a license or certificate under:

(1) Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

(2) Title 61, Chapter 2f, Real Estate Licensing and Practices Act; or

(3) Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

Section 6. Section 31A-3-304 is amended to read:

31A-3-304 (Effective 05/07/25). Annual fees -- Other taxes or fees prohibited -- Captive Insurance Restricted Account.

(1) (a) A captive insurance company shall pay an annual fee imposed under this section to obtain or renew a certificate of authority.

(b) The commissioner shall:

(i) determine the annual fee [~~pursuant to~~]in accordance with Section 31A-3-103; and

(ii) consider whether the annual fee is competitive with fees imposed by other states on captive insurance companies.

(2) A captive insurance company that fails to pay the fee required by this section is subject to the relevant sanctions of this title.

(3) (a) A captive insurance company that pays one of the following fees is exempt from Title 59, Chapter 7, Corporate Franchise and Income Taxes, and Title 59, Chapter 9, Taxation of Admitted Insurers:

(i) a fee under this section;

(ii) a fee under Chapter 37, Captive Insurance Companies Act; or

(iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company Act.

(b) The state or a county, city, or town within the state may not levy or collect an occupation tax or other fee or charge not described in Subsections (3)(a)(i) through (iii) against a captive insurance company.

(c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115 against a captive insurance company.

(4) A captive insurance company shall pay the fee imposed by this section to the commissioner by June 1 of each year.

(5) (a) [~~Money received pursuant to~~]The commissioner shall deposit money received from a fee described in Subsection (3)(a)[~~shall be deposited~~]into the Captive Insurance Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Captive Insurance Restricted Account."

(c) The Captive Insurance Restricted Account shall consist of the fees described in Subsection (3)(a).

(d) The commissioner shall administer the Captive Insurance Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Captive Insurance Restricted Account to:

(i) administer and enforce:

(A) Chapter 37, Captive Insurance Companies Act; and

(B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and

(ii) promote the captive insurance industry in Utah.

(e) An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money received by the commissioner in excess of [~~the following~~]the legislative appropriation for the fiscal year that just ended shall be treated as free revenue in the General Fund:

[~~(i) for fiscal year 2018-2019 and subsequent fiscal years, in excess of $1,600,000;~~]

[~~(ii) for fiscal year 2019-2020 and subsequent fiscal years, in excess of $1,450,000; and~~]

[~~(iii)~~](i) for fiscal year [~~2023-2024 and subsequent fiscal years,~~]2025, in excess of $1,650,000 [~~.~~]; and

(ii) for fiscal year 2026 and subsequent fiscal years, in excess of $1,668,500.

Section 7. Section 31A-21-112 is amended to read:

31A-21-112 (Effective 05/07/25). Language other than English.

(1) An insurer may conduct a transaction in a language other than English through an employee or agent acting as interpreter or through an interpreter provided by the customer.

(2) (a) An insurer may provide a customer an insurance policy, endorsement, rider, or explanatory or advertising material in a language other than English.

(b) If there is a dispute or complaint regarding the insurance policy, endorsement, rider, or explanatory or advertising material, the English language version of the insurance coverage shall control the resolution of the dispute or complaint.

(3) (a) A non-English language policy delivered or issued for delivery in this state is [~~considered to be~~]in compliance with this title if the insurer certifies that the policy is translated from an English language policy that complies with this title.

(b) An insurer is not required to file with the commissioner the certification described in Subsection (3)(a).

(4) If an insurance policy, endorsement, or rider is provided in a language other than English, [~~it~~]the insurance policy, endorsement, or rider shall be accompanied by:

(a) the corresponding English language version; and

(b) a disclaimer in both English and the other language that states that the foreign language version is provided only as an accommodation or courtesy to the customer and the English language version shall control the resolution of any dispute or complaint.

(5) An insurer is not required to file with the commissioner a form in a language other than English.

Section 8. Section 31A-21-303 is amended to read:

31A-21-303 (Effective 05/07/25). Cancellation, issuance, and renewal.

(1) (a) Except as otherwise provided in this section, other statutes, or by rule under Subsection (1)(c), this section applies to all policies of insurance:

(i) except for:

(A) life insurance;

(B) accident and health insurance; and

(C) annuities; and

(ii) if the policies of insurance are issued on forms that are subject to filing under Subsection 31A-21-201(1).

(b) A policy may provide terms more favorable to insureds than this section requires.

(c) The commissioner may by rule totally or partially exempt from this section classes of insurance policies in which the insureds do not need protection against arbitrary or unannounced termination.

(d) The rights provided by this section are in addition to and do not prejudice any other rights the insureds may have at common law or under other statutes.

(2) (a) As used in this Subsection (2), "grounds" means:

(i) material misrepresentation;

(ii) substantial change in the risk assumed, unless the insurer should reasonably have foreseen the change or contemplated the risk when entering into the contract;

(iii) substantial breaches of contractual duties, conditions, or warranties; or

[~~(iv) attainment of the age specified as the terminal age for coverage, in which case the insurer may cancel by notice under Subsection (2)(e), accompanied by a tender of proportional return of premium; or~~]

[~~(v)~~](iv) in the case of motor vehicle insurance, revocation or suspension of the driver's license of:

(A) the named insured; or

(B) any other [~~person~~]individual who customarily drives the motor vehicle.

(b) (i) Except as provided in Subsection (2)(e) or unless the conditions of Subsection (2)(b)(ii) are met, an insurer may not cancel an insurance policy [~~may not be canceled by the insurer~~]before the earlier of:

(A) the expiration of the agreed term; or

(B) one year from the effective date of the policy or renewal.

(ii) Notwithstanding Subsection (2)(b)(i), an insurer may cancel an insurance policy [~~may be canceled by the insurer~~]for:

(A) nonpayment of a premium when due; or

(B) [~~on~~]grounds [~~defined in Subsection (2)(a)~~].

(c) (i) The cancellation provided by Subsection (2)(b), except cancellation for nonpayment of premium, is effective no sooner than 30 days after the delivery or first-class mailing of a written notice to the policyholder.

(ii) Cancellation for nonpayment of premium of a personal lines policy is effective no sooner than 10 days after delivery or first-class mailing of a written notice to the policyholder.

(iii) Cancellation for nonpayment of premium of a commercial lines policy is effective no sooner than 10 days after delivery or first-class mailing of a written notice to:

(A) the policyholder;

(B) each assignee of the policyholder, if the assignee is named in the policy; and

(C) each loss payee or mortgagee or lienholder under property insurance of the policyholder, if the loss payee, mortgagee, or lienholder is named in the policy.

(iv) An insurer shall deliver or send by first-class mail a copy of the notice of cancellation for nonpayment of premium described in Subsection (2)(c)(iii) to an agent of record of the policyholder on or before the day on which the insurer provides the notice to the policyholder.

(d) (i) Notice of cancellation for nonpayment of premium shall include a statement of the reason for cancellation.

(ii) Subsection (7) applies to the notice required for grounds of cancellation other than nonpayment of premium.

(e) (i) Subsections (2)(a) through (d) do not apply to any insurance contract that has not been previously renewed if the contract has been in effect less than 60 days on the day on which the written notice of cancellation is mailed or delivered.

(ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10 days after the day on which a written notice of cancellation is delivered to the insured.

(iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage prepaid, to the insured at the insured's last-known address, delivery is considered accomplished after the passing, since the mailing date, of the mailing time specified in the Utah Rules of Civil Procedure.

(iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the procedures described in Subsection (7).

(3) A policy may be issued for a term longer than one year or for an indefinite term if the policy includes a clause providing for cancellation by the insurer by giving notice as provided in Subsection (4)(b)(i) 30 days before an anniversary date.

(4) (a) Subject to Subsections (2), (3), and (4)(b), a policyholder has a right to have the policy renewed:

(i) on the terms then being applied by the insurer to similar risks; and

(ii) (A) for an additional period of time equivalent to the expiring term if the agreed term is one year or less; or

(B) for one year if the agreed term is longer than one year.

(b) Except as provided in Subsections (4)(c) and (5), the right to renewal under Subsection (4)(a) is extinguished if:

(i) at least 30 days before the day on which the policy expires or completes an anniversary, the insurer delivers or sends by first-class mail a notice of intention not to renew the policy beyond the agreed expiration or anniversary date to the policyholder at the policyholder's last-known address;

(ii) [~~not~~]no more than 45 [~~nor~~]but no less than 14 days before the day on which the renewal premium is due, the insurer delivers or sends by first-class mail a notice to the policyholder at the policyholder's last-known address, clearly stating:

(A) the renewal premium;

(B) how the renewal premium may be paid, including the due date for payment of the renewal premium;

(C) that failure to pay the renewal premium extinguishes the policyholder's right to renewal; and

(D) subject to Subsection (4)(e), that the extinguishment of the right to renew for nonpayment of premium is effective no sooner than at least 10 days after delivery or first-class mailing of a written notice to the policyholder that the policyholder has failed to pay the premium when due;

(iii) the policyholder has:

(A) accepted replacement coverage; or

(B) requested or agreed to nonrenewal; or

(iv) the policy is expressly designated as nonrenewable.

(c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail to renew an insurance policy as a result of a telephone call or other inquiry that:

(i) references a policy coverage; and

(ii) does not result in the insured requesting payment of a claim.

(d) Failure to renew under this Subsection (4) is subject to Subsection (5).

(e) (i) (A) If the policy is a personal lines policy, during the period that begins when an insurer delivers or sends by first-class mail the notice described in Subsection (4)(b)(ii)(D) and ends when the premium is paid, coverage exists and premiums are due.

(B) If the policy is a commercial lines policy, during the period that begins when an insurer delivers or sends by first-class mail the notice described in Subsection (2)(c)(iii) and ends when the premium is paid, coverage exists and premiums are due.

(ii) (A) If after receiving the notice required by Subsection (4)(b)(ii)(D) a personal lines policyholder fails to pay the renewal premium, the coverage is extinguished as of the date the renewal premium is originally due.

(B) If after receiving the notice required under Subsection (2)(c)(iii), a commercial lines policyholder fails to pay the renewal premium within the 10 days before the day on which cancellation for nonpayment is effective, the coverage is extinguished as of the day on which the renewal premium is originally due.

(iii) Delivery of the notice required by Subsection (2)(c)(iii), (2)(c)(iv), or (4)(b)(ii)(D) includes electronic delivery in accordance with Section 31A-21-316.

(iv) An insurer is not subject to Subsection (4)(b)(ii)(D) if:

(A) the insurer provides notice of the extinguishment of the right to renew for failure to pay premium at least 15 days, but no longer

than 45 days, before the day on which the renewal payment is due; and

(B) the policy is a personal lines policy.

(v) Subsection (4)(b)(ii)(D) does not apply to a policy that provides coverage for 30 days or less.

(5) Notwithstanding Subsection (4), an insurer may not fail to renew the following personal lines insurance policies solely on the basis of:

(a) in the case of a motor vehicle insurance policy:

(i) a claim from the insured that:

(A) results from an accident in which:

(I) the insured is not at fault; and

(II) the driver of the motor vehicle that is covered by the motor vehicle insurance policy is 21 years [~~of age~~]old or older; and

(B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a 36-month period;

(ii) a single traffic violation by an insured that:

(A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;

(B) is not in excess of 10 miles per hour over the speed limit;

(C) is not a traffic violation under [~~:~~]

[~~(I)~~] Section 41-6a-601, 41-6a-604, or 41-6a-605;

[~~(II) Section 41-6a-604; or~~]

[~~(III) Section 41-6a-605;~~]

(D) is not a violation by an insured driver who is younger than 21 years [~~of age~~]old; and

(E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A)through (D) within a 36-month period; or

(iii) a claim for damage that:

(A) results solely from [~~:~~]wind, hail, lightning, or an earthquake;

[~~(I) wind;~~]

[~~(II) hail;~~]

[~~(III) lightning; or~~]

[~~(IV) an earthquake;~~]

(B) is not preventable by the exercise of reasonable care; and

(C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B) within a 36-month period; [~~and~~]or

(b) in the case of a homeowner's insurance policy, a claim by the insured that is for damage that:

(i) results solely from [~~:~~]wind, hail, or lightning;

[~~(A) wind;~~]

[~~(B) hail; or~~]

[~~(C) lightning;~~]

(ii) is not preventable by the exercise of reasonable care; and

(iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a 36-month period.

(6) (a) (i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the policy, but on less favorable terms or at higher rates, the new terms or rates take effect on the renewal date if the insurer delivered or sent by first-class mail to the policyholder notice of the new terms or rates at least 30 days before the day on which the previous policy expires.

(ii) If the insurer did not give the prior notification described in Subsection (6)(a)(i) to the policyholder, the new terms or rates do not take effect until 30 days after the day on which the insurer delivers or sends by first-class mail the notice, in which case the policyholder may elect to cancel the renewal policy at any time during the 30-day period.

(iii) Return premiums or additional premium charges shall be calculated proportionately on the basis that the old rates apply.

(b) Except as provided in Subsection (6)(c), Subsection (6)(a) does not apply if the only change in terms that is adverse to the policyholder is:

(i) a rate increase generally applicable to the class of business to which the policy belongs;

(ii) a rate increase resulting from a classification change based on the altered nature or extent of the risk insured against; or

(iii) a policy form change made to make the form consistent with Utah law.

(c) Subsections (6)(b)(i) and (ii) do not apply to a rate increase of 25% or more on a commercial policy.

(7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state with reasonable precision the facts on which the insurer's decision is based, the insurer shall send by first-class mail or deliver that information within 10 working days [~~after receipt of~~]after the day on which the insurer receives a written request by the policyholder.

(b) A notice under Subsection (2)(c) is not effective unless [~~it~~]the notice contains information about the policyholder's right to make the request.

(8) (a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a motor vehicle insurance policy issued in accordance with the requirements of Chapter 22, Part 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide notice of nonrenewal or cancellation to a lienholder if the insurer has been provided the name and mailing address of the lienholder.

(b) An insurer shall provide the notice described in Subsection (8)(a) to the lienholder by first-class mail or, if agreed by the parties, any electronic means of communication.

(c) A lienholder shall provide a current physical address of notification or an electronic address of notification to an insurer that is required to make a notification under Subsection (8)(a).

(9) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage provided by the insurance being cancelled or nonrenewed, a notice of cancellation or nonrenewal required under Subsection (2)(c) or (4)(b)(i) may not be effective unless the notice contains instructions to the policyholder for applying for insurance through the available risk-sharing plan.

(10) There is no liability on the part of, and no cause of action against, any insurer, [~~its~~]the insurer's authorized representatives, agents,

employees, or any other person furnishing to the insurer information relating to the reasons for cancellation or nonrenewal or for any statement made or information given [~~by them~~]by an insurer, the insurer's authorized representative, agent, employee, or any other person in complying or enabling the insurer to comply with this section unless actual malice is proved by clear and convincing evidence.

(11) This section does not alter any common law right of contract rescission for material misrepresentation.

(12) If a person is required to pay a premium in accordance with this section:

(a) the person may make the payment using:

(i) the United States Postal Service;

(ii) a delivery service the commissioner describes or designates by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iii) electronic means; and

(b) the payment is [~~considered to be~~]made:

(i) for a payment that is mailed using the method described in Subsection (12)(a)(i), on the date on which the payment is postmarked;

(ii) for a payment that is delivered using the method described in Subsection (12)(a)(ii), on the date on which the delivery service records or marks the payment as having been received by the delivery service; or

(iii) for a payment that is made using the method described in Subsection (12)(a)(iii), on the date on which the payment is made electronically.

Section 9. Section 31A-22-407 is amended to read:

31A-22-407 (Effective 05/07/25). Reinstatement.

(1) (a) Except as provided under Subsection (2), [~~life insurance policies, other than group policies,~~]an individual life insurance policy shall be reinstated upon written application made within three years, or within two years in the case of [~~policies with face amounts~~]an individual life insurance policy with a face amount under $5,000, from the date of premium default.

(b) [~~The~~]An applicant described in Subsection (1)(a) shall

(i) produce evidence of insurability satisfactory to the insurer [~~,~~];

(ii) pay all premiums in arrears [~~,~~]; and

(iii) pay or reinstate any other indebtedness to the insurer upon the policy, all with interest [~~,~~]:

(A) compounded annually, at a rate not exceeding the rate set by the policy for policy loans compounded annually [~~,~~]; or

(B) [~~If~~]if no rate is set in the policy, the commissioner shall adopt a rule [~~which~~]that sets the rate the same as under Section 31A-22-402.

(2) Subsection (1) does not apply if any of these conditions exist:

(a) [~~The~~]the policy has been surrendered for its cash surrender value [~~,~~];

(b) [~~The~~]the policy's cash surrender value has been exhausted [~~,~~]; or

(c) [~~The~~]the paid-up term insurance, if any, has expired.

Section 10. Section 31A-22-509 is amended to read:

31A-22-509 (Effective 05/07/25). Commissioner's authority to approve other groups.

(1) A policy may be issued to a group other than those specified under Sections [~~31A-22-502~~]31A-22-501 through 31A-22-508, if specifically authorized by the commissioner and if granting the permission is not contrary to public policy.

(2) (a) The commissioner may not grant permission to issue these types of policies unless the insurer demonstrates to the commissioner's satisfaction that the proposed group [~~would~~]will:

(i) be actuarially sound [~~,~~];

(ii) [~~would~~]result in economies of acquisition and administration [~~which~~]that justify a group rate [~~,~~]; and [~~would~~]

(iii) not present hazards of adverse selection.

(b) The policyholders shall pay the premiums for the policy [~~shall be paid by the policyholder, either from the policyholder's funds or~~]from funds contributed by:

(i) the policyholder;

(ii) [~~by~~]the covered [~~persons, or from both.~~]person; or

(iii) both the policyholder and the covered person.

(c) Premiums for the policy and any contributions by or on behalf of the insured persons shall be reasonable in relation to the benefits provided.

Section 11. Section 31A-22-511 is amended to read:

31A-22-511 (Effective 05/07/25). Dependents' coverage.

(1) [~~Any~~]A group life policy issued under Sections 31A-22-502 through 31A-22-505or Section 31A-22-509 may insure [~~the employees or members against loss due to the death of their spouses and dependent children, or any classes of the employees or members~~]any class of employee or member and the spouse and dependent children of an employee or member against loss due to death.

(2) The policyholder shall pay the premiums for the insurance [~~shall be paid by the policyholder~~]from funds contributed by [~~the person to whom the policy has been issued, from funds contributed by the covered persons, or from both.~~]:

(a) the policyholder;

(b) the covered person; or

(c) both the policyholder and the covered person.

(3) Except as provided under Section 31A-22-512, a policy on which no part of the premium for the [~~dependent's~~]dependent coverage is contributed by the covered [~~persons~~]person shall insure [~~all insured persons~~]each eligible person, including [~~their spouses~~]the covered person's spouse and dependent or minor children.

Section 12. Section 31A-22-512 is amended to read:

31A-22-512 (Effective 05/07/25). Individual insurability.

(1) An insurer may exclude or limit the coverage under a group life insurance policy on any person, including a group member's dependent, as to whom the evidence of individual insurability is not satisfactory to the insurer.

(2) The group life insurance policy shall contain a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish satisfactory evidence to the insurer of the individual insurability as a condition to part or all of [~~his~~]the person's coverage.

Section 13. Section 31A-22-514 is amended to read:

31A-22-514 (Effective 05/07/25). Incontestability.

(1) [~~The~~]A group life insurance policy shall contain a provision that the validity of the policy may not be contested, except for nonpayment of premiums, after [~~it~~]the policy has been in force for two years from its date of issue.

(2) [~~This~~]The provision described in Subsection (1) shall [~~also~~]state that no statement made by [~~any~~]a person insured under the policy relating to [~~his~~]the person's insurability may be used:

(a) in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force, prior to the contest, for a period of two years during the person's lifetime [~~, nor may the statement be used~~]; or

(b) unless [~~it~~]the statement is [~~contained in a written instrument signed by him.~~]in writing and signed by the person.

(3) [~~This type of provision does not preclude~~]Nothing in this section precludes the assertion of defenses based upon provisions in the policy which relate to eligibility for coverage.

Section 14. Section 31A-22-614 is amended to read:

31A-22-614 (Effective 05/07/25). Claims under accident and health policies.

(1) Section 31A-21-312 applies generally to claims under accident and health policies.

(2) (a) Subject to Subsection (1), an accident and health insurance policy may not contain a claim notice requirement less favorable to the insured, or an insured's network provider, than one which requires written notice of the claim within 20 days after the occurrence or commencement of any loss covered by the policy. The policy shall specify to whom claim notices may be given.

(b) If a loss of time benefit under a policy may be paid for a period of at least two years, an insurer may require periodic notices that the insured continues to have a disability, unless the insured is legally incapacitated. The insured's, or the insured's network provider's, delay in giving that notice does not impair the insured's, the insured's network provider's, or beneficiary's right to any indemnity which would otherwise have accrued during the six months preceding the date on which that notice is actually given.

(3) An accident and health insurance policy may not contain a time limit on proof of loss which is more restrictive to the insured, or the insured's network provider, than a provision requiring written proof of loss, delivered to the insurer, within the following time:

(a) for a claim where periodic payments are contingent upon continuing loss, within [~~120~~]180 days after the termination of the period for which the insurer is liable; or

(b) for any other claim, within [~~120~~]180 days after the date of the loss.

(4) (a) (i) Section 31A-26-301 applies generally to the payment of claims.

(ii) Indemnity for loss of life is paid in accordance with the beneficiary designation effective at the time of payment. If no valid beneficiary designation exists, the indemnity is paid to the insured's estate. Any other accrued indemnities unpaid at the insured's death are paid to the insured's estate.

(b) Reasonable facility of payment clauses, specified by the commissioner by rule or in approving the policy form, are permitted. Payment made in good faith and in accordance with those clauses discharges the insurer's obligation to pay those claims.

(c) All or a portion of any indemnities provided under an accident and health policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering the services.

Section 15. Section 31A-22-701 is amended to read:

31A-22-701 (Effective 05/07/25). Groups eligible for group or blanket insurance.

(1) A group insurance policy offering accident and health insurance may be issued to:

(a) a group:

(i) to which a group life insurance policy may be issued under Section 31A-22-502, 31A-22-503, 31A-22-504, 31A-22-505, 31A-22-506, [~~or~~]31A-22-507, 31A-22-508, or 31A-22-509; and

(ii) that is formed and maintained in good faith for a purpose other than obtaining insurance;

(b) a group specifically authorized by the commissioner, upon a finding that:

(i) authorization is not contrary to the public interest;

(ii) the group is actuarially sound;

(iii) formation of the proposed group may result in economies of scale in acquisition, administrative, marketing, and brokerage costs;

(iv) the insurance policy, insurance certificate, or other indicia of coverage that will be offered to the proposed group is substantially equivalent to insurance policies that are otherwise available to similar groups;

(v) the group would not present hazards of adverse selection;

(vi) the premiums for the insurance policy and any contributions by or on behalf of the insured persons are reasonable in relation to the benefits provided; and

(vii) the group is formed and maintained in good faith for a purpose other than obtaining insurance; or

(c) a postsecondary educational institution covering students, upon a finding that:

(i) the policy provides standards for financial soundness;

(ii) the policy protects the students covered;

(iii) the policy provides for the establishment of a financially viable alternative to traditional health care plans;

(iv) authorization is not contrary to the public interest;

(v) the policy would not present hazards of adverse selection; and

(vi) the premiums for the policy and any contributions by or on behalf of the insured persons are reasonable in relation to the benefits provided.

(2) A blanket insurance policy offering accident and health insurance:

(a) covers a defined class of persons;

(b) may not be offered or underwritten on an individual basis;

(c) shall cover only a group that is:

(i) actuarially sound; and

(ii) formed and maintained in good faith for a purpose other than obtaining insurance; and

(d) may be issued only to:

(i) a common carrier or an operator, owner, or lessee of a means of transportation, as policyholder, covering persons who may become passengers as defined by reference to the person's travel status;

(ii) an employer, as policyholder, covering any group of employees, dependents, or guests, as defined by reference to specified hazards incident to any activities of the policyholder;

(iii) an institution of learning, including a school district, a school jurisdictional unit, or the head, principal, or governing board of a school jurisdictional unit, as policyholder, covering students, teachers, or employees;

(iv) a religious, charitable, recreational, educational, or civic organization, or branch of one of those organizations, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities sponsored or supervised by the policyholder;

(v) a sports team, camp, or sponsor of a sports team or camp, as policyholder, covering members, campers, employees, officials, or supervisors;

(vi) a volunteer fire department, first aid, civil defense, or other similar volunteer organization, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to activities sponsored, supervised, or participated in by the policyholder;

(vii) a newspaper or other publisher, as policyholder, covering [~~its~~]a newspaper's or publisher's carriers;

(viii) a labor union, as a policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities or operations sponsored or supervised by the policyholder;

(ix) an association that has a constitution and bylaws covering a group of members or participants as defined by reference to specified hazards incident to the activities or operations sponsored or supervised by the policyholder; or

(x) any other class of risks that, in the judgment of the commissioner, may be properly eligible for a blanket insurance policy offering accident and health insurance.

(3) The judgment of the commissioner may be exercised on the basis of:

(a) individual risks;

(b) a class of risks; or

(c) both risks described in Subsections (3)(a) and (b).

(4) A group insurance policy offering accident and health insurance issued to a group authorized under Subsection 31A-22-504(1)(b)(ii) is subject to the provisions of Section 31A-22-602.

Section 16. Section 31A-23a-105 is amended to read:

31A-23a-105 (Effective 05/07/25). General requirements for individual and agency license issuance and renewal.

(1) (a) The commissioner shall issue or renew a license to a person described in Subsection (1)(b) to act as:

(i) a producer;

(ii) a surplus lines producer;

(iii) a limited line producer;

(iv) a consultant;

(v) a managing general agent; or

(vi) a reinsurance intermediary.

(b) The commissioner shall issue or renew a license [~~under~~]described in Subsection (1)(a) to a person who, as to the license type and line of authority classification applied for under Section 31A-23a-106:

(i) satisfies the application requirements under Section 31A-23a-104;

(ii) satisfies the character requirements under Section 31A-23a-107;

(iii) satisfies applicable continuing education requirements under Section 31A-23a-202;

(iv) satisfies applicable examination requirements under Section 31A-23a-108;

(v) satisfies applicable training period requirements under Section 31A-23a-203;

(vi) if an applicant for a resident individual producer license, certifies that, to the extent applicable, the applicant:

(A) is in compliance with Section 31A-23a-203.5; and

(B) will maintain compliance with Section 31A-23a-203.5 during the period for which the license is issued or renewed;

(vii) has not committed an act that is a ground for denial, suspension, or revocation as provided in Section 31A-23a-111;

(viii) if a nonresident:

(A) complies with Section 31A-23a-109; and

(B) holds an active similar license in that person's home state;

(ix) if an applicant for an individual title insurance producer or agency title insurance producer license, satisfies the requirements of Section 31A-23a-204;

(x) if an applicant for a license to act as a life settlement provider or life settlement producer, satisfies the requirements of Section 31A-23a-117; and

(xi) pays the applicable fees under Section 31A-3-103.

(2) (a) This Subsection (2) applies to the following persons:

(i) an applicant for a pending:

(A) individual or agency producer license;

(B) surplus lines producer license;

(C) limited line producer license;

(D) consultant license;

(E) managing general agent license; or

(F) reinsurance intermediary license; or

(ii) a licensed:

(A) individual or agency producer;

(B) surplus lines producer;

(C) limited line producer;

(D) consultant;

(E) managing general agent; or

(F) reinsurance intermediary.

(b) A person described in Subsection (2)(a) shall report to the commissioner:

(i) an administrative action taken against the person, including a denial of a new or renewal license application:

(A) in another jurisdiction; or

(B) by another regulatory agency in this state;

(ii) a criminal prosecution taken against the person in any jurisdiction; and

(iii) a civil action filed against the person in any jurisdiction if the action involves conduct related to a professional or occupational license, certification, authorization, or registration, regardless of whether the person held the license, certification, authorization, or registration.

(c) The report required by Subsection (2)(b) shall:

(i) be filed:

(A) at the time the person files the application for an individual or agency license; and

(B) for an action or prosecution that occurs on or after the day on which the person files the application:

(I) for an administrative action, within 30 days of the final disposition of the administrative action; or

(II) for a criminal prosecution or civil action, within 30 days of the initial appearance before a court; and

(ii) include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (2)(b).

(3) (a) The department may require [~~a person~~]an individual applying for a license or for consent to engage in the business of insurance to submit to a criminal background check as a condition of receiving a license or consent.

(b) A person, if required to submit to a criminal background check under Subsection (3)(a), shall:

(i) submit a fingerprint card in a form acceptable to the department; and

(ii) consent to a fingerprint background check by:

(A) the Utah Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) For [~~a person~~]an individual who submits a fingerprint card and consents to a fingerprint background check under Subsection (3)(b), the department may request:

(i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

(ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.

(d) [~~Information~~]The department shall use information obtained by the department from the review of criminal history records received under this Subsection (3) [~~shall be used by the department~~]for the purposes of:

(i) determining if [~~a person~~]an individual satisfies the character requirements under Section 31A-23a-107 for issuance or renewal of a license;

(ii) determining if [~~a person~~]an individual has failed to maintain the character requirements under Section 31A-23a-107; and

(iii) preventing [~~a person~~]an individual who violates the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of insurance in the state.

(e) If the department requests the criminal background information, the department shall:

(i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(c)(i);

(ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(c)(ii); and

(iii) charge the [~~person~~]individual applying for a license or for consent to engage in the business of insurance a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).

(4) To become a resident licensee in accordance with Section 31A-23a-104 and this section, a person licensed as one of the following in another state who moves to this state shall apply within 90 days of establishing legal residence in this state:

(a) insurance producer;

(b) surplus lines producer;

(c) limited line producer;

(d) consultant;

(e) managing general agent; or

(f) reinsurance intermediary.

(5) (a) The commissioner may deny a license application for a license listed in Subsection (5)(b) if the person applying for the license, as to the license type and line of authority classification applied for under Section 31A-23a-106:

(i) fails to satisfy the requirements as set forth in this section; or

(ii) commits an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23a-111.

(b) This Subsection (5) applies to the following licenses:

(i) producer;

(ii) surplus lines producer;

(iii) limited line producer;

(iv) consultant;

(v) managing general agent; or

(vi) reinsurance intermediary.

[~~(6) Notwithstanding the other provisions of this section, the commissioner may:~~]

[~~(a) issue a license to an applicant for a license for a title insurance line of authority only with the concurrence of the Title and Escrow Commission; and~~]

[~~(b) renew a license for a title insurance line of authority only with the concurrence of the Title and Escrow Commission.~~]

Section 17. Section 31A-23a-109 is amended to read:

31A-23a-109 (Effective 05/07/25). Nonresident jurisdictional agreement.

(1) (a) If a nonresident license applicant has a valid producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary license from the nonresident license applicant's home state or designated home state and the conditions of Subsection (1)(b) are met, the commissioner shall:

(i) waive the license requirements for a license under this [~~chapter~~]section; and

(ii) issue the nonresident license applicant a nonresident license.

(b) Subsection (1)(a) applies if:

(i) the nonresident license applicant:

(A) is licensed in the nonresident license applicant's home state or designated home state at the time the nonresident license applicant applies for a nonresident producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary license;

(B) has submitted the proper request for licensure;

(C) has submitted to the commissioner:

(I) the application for licensure that the nonresident license applicant submitted to the applicant's home state or designated home state; or

(II) a completed uniform application; and

(D) has paid the applicable fees under Section 31A-3-103; and

(ii) the nonresident license applicant's license in the applicant's home state or designated home state is in good standing.

(2) A nonresident applicant applying under Subsection (1) shall in addition to complying with all license requirements for a license under this chapter execute, in a form acceptable to the commissioner, an agreement to be subject to the jurisdiction of the Utah commissioner and courts on any matter related to the applicant's insurance activities in this state, on the basis of:

(a) service of process under Sections 31A-2-309 and 31A-2-310; or

(b) service authorized:

(i) in the Utah Rules of Civil Procedure; or

(ii) under Section 78B-3-206.

(3) The commissioner may verify a producer's licensing status through the producer database maintained by:

(a) the National Association of Insurance Commissioners; or

(b) an affiliate or subsidiary of the National Association of Insurance Commissioners.

(4) The commissioner may not assess a greater fee for an insurance license or related service to a person not residing in this state solely on the fact that the person does not reside in this state.

Section 18. Section 31A-23a-111 is amended to read:

31A-23a-111 (Effective 05/07/25). Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (5);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-23a-113; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A line of authority issued under this chapter remains in force until:

(a) the qualifications pertaining to a line of authority are no longer met by the licensee;

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5);

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(iii) lapses under Section 31A-23a-113; or

(iv) is voluntarily surrendered; or

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors.

(5) (a) If the commissioner makes a finding under Subsection (5)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a line of authority;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a line of authority;

(iii) limit in whole or in part:

(A) a license; or

(B) a line of authority;

(iv) deny a license application;

(v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

(vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v).

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee or license applicant:

(i) is unqualified for a license or line of authority under Section 31A-23a-104, 31A-23a-105, or 31A-23a-107;

(ii) violates:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) is more than 60 days past due on [~~an enforceable~~]a final judgment;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance producer that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce [~~its~~]the licensee's or license applicant's accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance producer's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) violates an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(xi) obtains or attempts to obtain a license through misrepresentation or fraud;

(xii) improperly withholds, misappropriates, or converts money or properties received in the course of doing insurance business;

(xiii) intentionally misrepresents the terms of an actual or proposed:

(A) insurance contract;

(B) application for insurance; or

(C) life settlement;

(xiv) has been convicted of, or has entered a plea in abeyance as defined in Section 77-2a-1 to:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xv) admits or is found to have committed an [~~insurance~~]unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere:

(A) uses fraudulent, coercive, or dishonest practices; or

(B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or other professional or occupational license, or an equivalent to an insurance license or registration, or other professional or occupational license or registration:

(A) denied;

(B) suspended;

(C) revoked; or

(D) surrendered to resolve an administrative action;

(xviii) forges another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) improperly uses notes or another reference material to complete an examination for an insurance license;

(xx) knowingly accepts insurance business from an individual who is not licensed;

(xxi) fails to comply with an administrative or court order imposing a child support obligation;

(xxii) fails to [~~:~~]

[~~(A) pay state income tax; or~~]

[~~(B)~~] comply with an administrative or court order directing payment of state income tax;

(xxiii) has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033;

(xxiv) engages in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public; or

(xxv) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; [~~or~~]

(iv) a violation of an insurance law or rule [~~.~~]; or

(v) payment of money.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in an order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval by the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if [~~so~~] ordered by a court.

(10) The commissioner shall [~~by rule prescribe~~]provide the license renewal and reinstatement procedures by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 19. Section 31A-23a-119 is amended to read:

31A-23a-119 (Effective 05/07/25). Special requirements for agency title insurance producers.

(1) As used in this section:

(a) "Applicable percentage" means:

(i) on [~~February~~]January 1, 2024, through [~~January~~]December 31, [~~2025~~]2024, 2.5%;

(ii) on [~~February~~]January 1, 2025, through [~~January~~]December 31, [~~2026~~]2025, 3%;

(iii) on [~~February~~]January 1, 2026, through [~~January~~]December 31, [~~2027~~]2026, 3.5%;

(iv) on [~~February~~]January 1, 2027, through [~~January~~]December 31, [~~2028~~]2027, 4%; and

(v) on [~~February~~]January 1, 2028, through [~~January~~]December 31, [~~2029~~]2028, 4.5%.

(b) "Sufficient capital and net worth" means:

(i) for a new title entity:

(A) $100,000 for the first five years after becoming a new agency title insurance producer; or

(B) after the first five years after becoming a new agency title insurance producer, the greater of $50,000, or on [~~February~~]January 1 of each year, an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to $150,000; or

(ii) for a title entity licensed before May 14, 2019:

(A) for the time period beginning on [~~February~~]January 1, 2020, and ending on [~~January~~]December 31, 2029, the lesser of an amount equal to the applicable percentage of the title entity's average annual gross revenue over the two calendar years immediately preceding the [~~February~~]January 1 on which the applicable percentage applies or $150,000; and

(B) beginning on [~~February~~]January 1, 2029, the greater of $50,000 or an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to $150,000.

(2) Before May 1 of each year, each agency title insurance producer shall submit a report to the commissioner containing proof satisfactory to the commissioner that the agency title insurance producer had sufficient capital and net worth for the preceding calendar year.

Section 20. Section 31A-23a-415 is amended to read:

31A-23a-415 (Effective 05/07/25). Assessment on agency title insurance producers or title insurers -- Account created.

(1) For purposes of this section:

(a) "Premium" is as described in Subsection 59-9-101(3).

(b) "Title insurer" means a person:

(i) making any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety;

(ii) proposing to make any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety; or

(iii) transacting or proposing to transact any phase of title insurance, including:

(A) soliciting;

(B) negotiating preliminary to execution;

(C) executing of a contract of title insurance;

(D) insuring; and

(E) transacting matters subsequent to the execution of the contract and arising out of the contract.

(c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or personal property located in Utah, an owner of real or personal property, the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of:

(i) liens or encumbrances upon, defects in, or the unmarketability of the title to the property; or

(ii) invalidity or unenforceability of any liens or encumbrances on the property.

(2) (a) The commissioner may assess each title insurer, each individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer, and each agency title insurance producer an annual assessment:

[~~(i) determined by the Title and Escrow Commission:~~]

[~~(A) after consultation with the commissioner; and~~]

[~~(B)~~](i) in accordance with this Subsection (2); and

(ii) to be used for the purposes described in Subsection (3).

(b) An agency title insurance producer and individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall be assessed up to:

(i) $250 for the first office in each county in which the agency title insurance producer or individual title insurance producer maintains an office; and

(ii) $150 for each additional office the agency title insurance producer or individual title insurance producer maintains in the county described in Subsection (2)(b)(i).

(c) A title insurer shall be assessed up to:

(i) $250 for the first office in each county in which the title insurer maintains an office;

(ii) $150 for each additional office the title insurer maintains in the county described in Subsection (2)(c)(i); and

(iii) an amount calculated by:

(A) aggregating the assessments imposed on:

(I) agency title insurance producers and individual title insurance producers under Subsection (2)(b); and

(II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);

(B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total costs and expenses determined under Subsection (2)(d); and

(C) multiplying:

(I) the amount calculated under Subsection (2)(c)(iii)(B); and

(II) the percentage of total premiums for title insurance on Utah risk that are premiums of the title insurer.

(d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, during the first quarter of each fiscal year the Title and Escrow Commission shall approve the amount of costs and expenses described under Subsection (3) for the prior fiscal year that will be covered by the assessment.

(e) (i) An individual licensed to practice law in Utah is exempt from the requirements of this Subsection (2) if that person issues 12 or less policies during a 12-month period.

(ii) In determining the number of policies issued by an individual licensed to practice law in Utah for purposes of Subsection (2)(e)(i), if the individual issues a policy to more than one party to the same closing, the individual is considered to have issued only one policy.

(3) (a) Money received by the state under this section shall be deposited into the Title Licensee Enforcement Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Title Licensee Enforcement Restricted Account."

(c) The Title Licensee Enforcement Restricted Account shall consist of the money received by the state under this section.

(d) The commissioner shall administer the Title Licensee Enforcement Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or expense incurred by the department in the administration, investigation, and enforcement of laws governing individual title insurance producers, agency title insurance producers, or title insurers.

(e) An appropriation from the Title Licensee Enforcement Restricted Account is nonlapsing.

(4) The assessment imposed by this section shall be in addition to any premium assessment imposed under Subsection 59-9-101(3).

Section 21. Section 31A-26-202 is amended to read:

31A-26-202 (Effective 05/07/25). Application for license.

(1) (a) The application for a license as an independent adjuster or public adjuster shall be:

(i) made to the commissioner on forms and in a manner the commissioner [~~prescribes~~]requires; and

(ii) except as provided in Subsection (4), accompanied by the applicable fee, which is not refunded if the application is denied.

(b) The application shall provide:

(i) information about the applicant's identity, including:

(A) the applicant's:

(I) Social Security number; or

(II) federal employer identification number;

(B) the applicant's personal history, experience, education, and business record;

(C) if the applicant is a natural person, whether the applicant is 18 years [~~of age~~]old or older; and

(D) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section [~~31A-25-208~~]31A-26-213; and

(ii) any other information as the commissioner reasonably requires.

(2) The commissioner may require documents reasonably necessary to verify the information contained in the application.

(3) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.

(4) The following individuals are exempt from paying a license fee:

(a) an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(i) the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the individual is in good standing in the state or jurisdiction of licensure; and

(b) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 22. Section 31A-37-102 is amended to read:

31A-37-102 (Effective 05/07/25). Definitions.

As used in this chapter:

(1) (a) "Affiliated company" means a business entity that because of common ownership, control, operation, or management is in the same corporate or limited liability company system as:

(i) a parent;

(ii) an industrial insured; or

(iii) a member organization.

(b) "Affiliated company" does not include a business entity for which the commissioner issues an order finding that the business entity is not an affiliated company.

(2) "Agency captive" means a captive insurer that:

(a) is owned by one or more business entities that are licensed in any state as insurance producers or managing general agents; and

(b) only insures risks on policies placed through the captive insurer's owners.

[~~(2)~~](3) "Alien captive insurance company" means an insurer:

(a) formed to write insurance business for a parent or affiliate of the insurer; and

(b) licensed pursuant to the laws of an alien or foreign jurisdiction that imposes statutory or regulatory standards:

(i) on a business entity transacting the business of insurance in the alien or foreign jurisdiction; and

(ii) in a form acceptable to the commissioner.

[~~(3)~~](4) "Applicant captive insurance company" means an entity that has submitted an application for a certificate of authority for a captive insurance company, unless the application has been denied or withdrawn.

[~~(4)~~](5) "Association" means a legal association of two or more persons that meets the following requirements:

(a) the persons are exposed to similar or related liability because of related, similar, or common business trade, products, services, premises, or operations; and

(b) (i) the association or the association's member organizations:

(A) own, control, or hold [~~with~~]power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer;

(B) have complete voting control over an association captive insurance company incorporated as a mutual insurer; or

(C) have complete voting control over an association captive insurance company formed as a limited liability company; or

(ii) the association's member organizations collectively constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer.

[~~(5)~~](6) "Association captive insurance company" means a business entity that insures risks of:

(a) a member organization of the association;

(b) an affiliate of a member organization of the association; and

(c) the association.

[~~(6)~~](7) "Branch business" means an insurance business transacted by a branch captive insurance company in this state.

[~~(7)~~](8) "Branch captive insurance company" means an alien captive insurance company that has a certificate of authority from the commissioner to transact the business of insurance in this state through a captive insurance company that is domiciled outside of this state.

[~~(8)~~](9) "Branch operation" means a business operation of a branch captive insurance company in this state.

[~~(9)~~](10) (a) "Captive insurance company" means the same as that term is defined in Section 31A-1-301.

(b) "Captive insurance company" includes any of the following formed or holding a certificate of authority under this chapter:

(i) an agency captive insurance company;

[~~(i)~~](ii) a branch captive insurance company;

(iii) a pooling captive insurance company;

[~~(ii)~~](iv) a pure captive insurance company;

[~~(iii)~~](v) an association captive insurance company;

[~~(iv)~~](vi) a sponsored captive insurance company;

[~~(v)~~](vii) an industrial insured captive insurance company, including an industrial insured captive insurance company formed as a risk retention group captive in this state pursuant to the provisions of the Federal Liability Risk Retention Act of 1986;

[~~(vi)~~](viii) a special purpose captive insurance company; or

[~~(vii)~~](ix) a special purpose financial captive insurance company.

(11) (a) "Cell" means a separate account for one or more participants formed and operating under the authority of a sponsored captive insurance company to write insurance coverage as described in this title.

(b) "Cell" includes an account formed as either:

(i) an incorporated cell; or

(ii) a protected cell.

[~~(10)~~](12) "Commissioner" means Utah's Insurance Commissioner or the commissioner's designee.

[~~(11)~~](13) "Common ownership and control" means that two or more captive insurance companies are owned or controlled by the same person or group of persons as follows:

(a) in the case of a captive insurance company that is a stock corporation, the direct or indirect ownership of 80% or more of the outstanding voting stock of the stock corporation;

(b) in the case of a captive insurance company that is a mutual corporation, the direct or indirect ownership of 80% or more of the surplus and the voting power of the mutual corporation;

(c) in the case of a captive insurance company that is a limited liability company, the direct or indirect ownership by the same member or members of 80% or more of the membership interests in the limited liability company; or

(d) in the case of a sponsored captive insurance company, a [~~protected~~]cell is a separate captive insurance company owned and controlled by the [~~protected~~]cell's participant, only if:

(i) the participant is the only participant with respect to the [~~protected~~]cell; and

(ii) the participant is the sponsor or is affiliated with the sponsor of the sponsored captive insurance company through common ownership and control.

[~~(12)~~](14) "Consolidated debt to total capital ratio" means the ratio of Subsection [~~(12)(a)~~](14)(a) to (b).

(a) This Subsection [~~(12)(a)~~](14)(a) is an amount equal to the sum of all debts and hybrid capital instruments including:

(i) all borrowings from depository institutions;

(ii) all senior debt;

(iii) all subordinated debts;

(iv) all trust preferred shares; and

(v) all other hybrid capital instruments that are not included in the determination of consolidated GAAP net worth issued and outstanding.

(b) This Subsection [~~(12)(b)~~](14)(b) is an amount equal to the sum of:

(i) total capital consisting of all debts and hybrid capital instruments as described in Subsection [~~(12)(a)~~](14)(a); and

(ii) shareholders' equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.

[~~(13)~~](15) "Consolidated GAAP net worth" means the consolidated shareholders' or members' equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.

[~~(14)~~](16) "Controlled unaffiliated business" means a business entity:

(a) (i) in the case of a pure captive insurance company, that is not in the corporate or limited liability company system of a parent or the parent's affiliate; or

(ii) in the case of an industrial insured captive insurance company, that is not in the corporate or limited liability company system of an industrial insured or an affiliated company of the industrial insured;

(b) (i) in the case of a pure captive insurance company, that has a contractual relationship with a parent or affiliate; or

(ii) in the case of an industrial insured captive insurance company, that has a contractual relationship with an industrial insured or an affiliated company of the industrial insured; and

(c) whose risks that are or will be insured by a pure captive insurance company, an industrial insured captive insurance company, or both, are managed in accordance with Subsection 31A-37-106(1)(j) by:

(i) (A) a pure captive insurance company; or

(B) an industrial insured captive insurance company; or

(ii) a parent or affiliate of:

(A) a pure captive insurance company; or

(B) an industrial insured captive insurance company.

[~~(15)~~](17) "Criminal act" means an act for which a person receives a verdict or finding of guilt after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.

[~~(16)~~](18) "Establisher" means a person who establishes a business entity or a trust.

[~~(17)~~](19) "Governing body" means the persons who hold the ultimate authority to direct and manage the affairs of an entity.

(20) "Incorporated cell" means a separate account:

(a) established and maintained by a sponsored captive insurance company for a participant; and

(b) that has been organized as a corporation, a limited liability company, or a not-for-profit organization.

[~~(18)~~](21) "Industrial insured" means an insured:

(a) that produces insurance:

(i) by the services of a full-time employee acting as a risk manager or insurance manager; or

(ii) using the services of a regularly and continuously qualified insurance consultant;

(b) whose aggregate annual premiums for insurance on all risks total at least $25,000; and

(c) that has at least 25 full-time employees.

[~~(19)~~](22) "Industrial insured captive insurance company" means a business entity that:

(a) insures risks of the industrial insureds that comprise the industrial insured group; and

(b) may insure the risks of:

(i) an affiliated company of an industrial insured; or

(ii) a controlled unaffiliated business of:

(A) an industrial insured; or

(B) an affiliated company of an industrial insured.

[~~(20)~~](23) "Industrial insured group" means:

(a) a group of industrial insureds that collectively:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated or organized as a limited liability company as a stock insurer; or

(ii) have complete voting control over an industrial insured captive insurance company incorporated or organized as a limited liability company as a mutual insurer;

(b) a group that is:

(i) created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. Sec. 3901 et seq., as amended, as a corporation or other limited liability association; and

(ii) taxable under this title as a:

(A) stock corporation; or

(B) mutual insurer; or

(c) a group that has complete voting control over an industrial captive insurance company formed as a limited liability company.

[~~(21)~~](24) "Member organization" means a person that belongs to an association.

[~~(22)~~](25) "Parent" means a person that directly or indirectly owns, controls, or holds with power to vote more than 50% of the outstanding securities of an organization.

[~~(23)~~](26) "Participant" means an entity that is insured by a sponsored captive insurance company:

(a) if the losses of the participant are limited through a participant contract to the assets of a protected cell; and

(b) (i) the entity is permitted to be a participant under Section 31A-37-403; or

(ii) the entity is an affiliate of an entity permitted to be a participant under Section 31A-37-403.

[~~(24)~~](27) "Participant contract" means a contract by which a sponsored captive insurance company:

(a) insures the risks of a participant; and

(b) limits the losses of the participant to the assets of a protected cell.

(28) "Pooling captive" means a captive insurer organized for the purpose of establishing a risk-sharing arrangement between other captive insurers.

[~~(25)~~](29) "Protected cell" means a separate account:

(a) established and maintained by a sponsored captive insurance company for [~~one~~]a participant [~~.~~]; and

(b) that has not been organized as an entity including a corporation, a limited liability company, or a not-for-profit organization.

[~~(26)~~](30) "Pure captive insurance company" means a business entity that insures risks of a parent [~~or affiliate~~], affiliate, or controlled unaffiliated business of the business entity.

[~~(27)~~](31) "Special purpose financial captive insurance company" means the same as that term is defined in Section 31A-37a-102.

[~~(28)~~](32) "Sponsor" means an entity that:

(a) meets the requirements of Section 31A-37-402; and

(b) is approved by the commissioner to:

(i) provide all or part of the capital and surplus in an amount:

(A) required by [~~applicable law in an amount of not less than $350,000, which amount the commissioner may increase by order if the commissioner considers it necessary~~]Section 31A-37-204; or

(B) greater than the amount required by Section 31A-37-204, if, by order, the commissioner deems the increase necessary; and

(ii) organize and operate a sponsored captive insurance company.

[~~(29)~~](33) "Sponsored captive insurance company" means a captive insurance company:

(a) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors or participants;

(b) that is formed or holding a certificate of authority under this chapter;

(c) that insures the risks of a separate participant through the contract; and

(d) that segregates each participant's liability through one or more [~~protected~~] cells.

[~~(30)~~](34) "Treasury rates" means the United States Treasury strip asked yield as published in the Wall Street Journal as of a balance sheet date.

Section 23. Section 31A-37-104 is amended to read:

31A-37-104 (Effective 05/07/25). Applicability of reorganization, receivership, and injunction authority.

(1) Except as provided in Chapter 37a, Special Purpose Financial Captive Insurance Company Act, and Subsection (2), Chapter 27a, Insurer Receivership Act, applies to a captive insurance company formed or holding a certificate of authority under this chapter.

(2) In the case of a sponsored captive insurance company:

(a) the assets of a [~~protected~~]cell may not be used to pay an expense or claim other than one attributable to the [~~protected~~]cell; and

(b) the capital and surplus of the sponsored captive insurance company:

(i) shall at all times be available to pay:

(A) an expense of the sponsored captive insurance company; or

(B) a claim against the sponsored captive insurance company; and

(ii) may not be used to pay an expense or claim attributable to a [~~protected~~] cell.

Section 24. Section 31A-37-201 is amended to read:

31A-37-201 (Effective 05/07/25). Certificate of authority.

(1) The commissioner may issue a certificate of authority to act as an insurer in this state to a captive insurance company that meets the requirements of this chapter.

(2) To conduct insurance business in this state, a captive insurance company shall:

(a) obtain from the commissioner a certificate of authority authorizing [~~it~~]the captive insurance company to conduct insurance business in this state;

[~~(b) hold at least once each year in the state a meeting of the governing body;~~]

(b) (i) hold a meeting of the governing body:

(A) at least once each year;

(B) at which a quorum is present;

(C) in the state; and

(D) at which at least one out-of-state individual is physically present; or

(ii) become a member of the Utah Captive Insurance Association at the highest level of membership;

(c) maintain in this state:

(i) the principal place of business of the captive insurance company; or

(ii) in the case of a branch captive insurance company, the principal place of business for the branch operations of the branch captive insurance company; and

(d) except as provided in Subsection (3), appoint a resident registered agent to accept service of process and to otherwise act on behalf

of the captive insurance company in the state.

(3) In the case of a captive insurance company formed as a corporation, if the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the commissioner is the agent of the captive insurance company upon whom process, notice, or demand may be served.

(4) (a) Before receiving a certificate of authority, an applicant captive insurance company shall file with the commissioner:

(i) a certified copy of the captive insurance company's organizational charter;

(ii) a statement under oath of the captive insurance company's president and secretary or their equivalents showing the captive insurance company's financial condition; and

(iii) any other statement or document required by the commissioner under Section 31A-37-106.

(b) In addition to the information required under Subsection (4)(a), an applicant captive insurance company shall file with the commissioner evidence of:

(i) the amount and liquidity of the assets of the applicant captive insurance company relative to the risks to be assumed by the applicant captive insurance company;

(ii) the adequacy of the expertise, experience, and character of the person who will manage the applicant captive insurance company;

(iii) the overall soundness of the plan of operation of the applicant captive insurance company;

(iv) the adequacy of the loss prevention programs for the prospective insureds of the applicant captive insurance company as the commissioner deems necessary; and

(v) any other factor the commissioner:

(A) adopts by rule under Section 31A-37-106; and

(B) considers relevant in ascertaining whether the applicant captive insurance company will be able to meet the policy obligations of the applicant captive insurance company.

(c) In addition to the information required by Subsections (4)(a) and (b), an applicant sponsored captive insurance company shall file with the commissioner:

(i) a business plan at the level of detail required by the commissioner under Section 31A-37-106 demonstrating:

(A) the manner in which the applicant sponsored captive insurance company will account for the losses and expenses of each [~~protected~~]cell; and

(B) the manner in which the applicant sponsored captive insurance company will report to the commissioner the financial history, including losses and expenses, of each [~~protected~~]cell;

(ii) a statement acknowledging that the applicant sponsored captive insurance company will make all financial records of the applicant sponsored captive insurance company, including records pertaining to a [~~protected~~]cell, available for inspection or examination by the commissioner;

(iii) a contract or sample contract between the applicant sponsored captive insurance company and a participant; and

(iv) evidence that expenses will be allocated to each [~~protected~~]cell in an equitable manner.

(5) (a) Information submitted [~~pursuant to~~]in accordance with this section is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the commissioner may disclose information submitted [~~pursuant to~~]in accordance with this section to a public official having jurisdiction over the regulation of insurance in another state if:

(i) the public official receiving the information agrees in writing to maintain the confidentiality of the information; and

(ii) the laws of the state in which the public official serves require the information to be confidential.

(c) This Subsection (5) does not apply to information provided by an industrial insured captive insurance company insuring the risks of an industrial insured group.

(6) (a) A captive insurance company shall pay to the department the following nonrefundable fees established by the department under Sections 31A-3-103, 31A-3-304, and 63J-1-504:

(i) a fee for examining, investigating, and processing, by a department employee, of an application for a certificate of authority made by an applicant captive insurance company;

(ii) a fee for obtaining a certificate of authority for the year the captive insurance company is issued a certificate of authority by the department; and

(iii) a certificate of authority renewal fee, assessed annually.

(b) The commissioner may:

(i) assign a department employee or retain legal, financial, or examination services from outside the department to perform the services described in:

(A) Subsection (6)(a); and

(B) Section 31A-37-502; and

(ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the applicant captive insurance company.

(7) If the commissioner is satisfied that the documents and statements filed by the applicant captive insurance company comply with this chapter, the commissioner may grant a certificate of authority authorizing the company to do insurance business in this state.

(8) A certificate of authority granted under this section expires annually and shall be renewed by July 1 of each year.

Section 25. Section 31A-37-202 is amended to read:

31A-37-202 (Effective 05/07/25). Permissive areas of insurance.

(1) Except as provided in Subsections (2) and (3), a captive insurance company may not directly insure a risk other than the risk of the captive insurance company's parent or affiliated company.

(2) In addition to the risks described in Subsection (1), an association captive insurance company may insure the risk of:

(a) a member organization of the association captive insurance company's association; or

(b) an affiliate of a member organization of the association captive insurance company's association.

(3) The following may insure a risk of a controlled unaffiliated business:

(a) an industrial insured captive insurance company;

(b) [~~a protected cell~~]an association captive insurance company;

(c) a pure captive insurance company; or

(d) a sponsored captive insurance company and the sponsored captive insurance company's cells.

(4) To the extent allowed by a captive insurance company's organizational charter, a captive insurance company may provide any type of insurance described in this title, except:

(a) workers' compensation insurance;

(b) personal motor vehicle insurance;

(c) homeowners' insurance; and

(d) any component of the types of insurance described in Subsections (4)(a) through (c).

(5) A captive insurance company may not provide coverage for:

(a) a wager or gaming risk;

(b) loss of an election; or

(c) the [~~penal~~]punitive consequences of a crime.

(6) Unless the punitive damages award arises out of a criminal act of an insured, a captive insurance company may provide coverage for punitive damages awarded, including through adjudication or compromise, against the captive insurance company's:

(a) parent; or

(b) affiliated company.

(7) Notwithstanding Subsection (4), if approved by the commissioner:

(a) a captive insurance company may insure as a reimbursement a limited layer or deductible of workers' compensation coverage; and

(b) an association captive insurance company that satisfies the requirements of this chapter may provide homeowners' insurance.

Section 26. Section 31A-37-204 is amended to read:

31A-37-204 (Effective 05/07/25). Paid-in capital -- Other capital.

(1) For purposes of this section, "marketable securities" means:

(a) a bond or other evidence of indebtedness of a governmental unit in the United States or Canada or any instrumentality of the United States or Canada; or

(b) securities:

(i) traded on one or more of the following exchanges in the United States:

(A) New York;

(B) American; or

(C) NASDAQ;

(ii) when no particular security, or a substantially related security, applied toward the required minimum capital and surplus requirement of Subsection (2) represents more than 50% of the minimum capital and surplus requirement; and

(iii) when no group of up to four particular securities, consolidating substantially related securities, applied toward the required minimum capital and surplus requirement of Subsection (2) represents more than 90% of the minimum capital and surplus requirement.

[~~(1)~~](2) (a) The commissioner may not issue a certificate of authority to a company described in Subsection [~~(1)(c)~~](2)(c) unless the company possesses and [~~thereafter~~]maintains unimpaired paid-in capital and unimpaired paid-in surplus of:

(i) in the case of a pure captive insurance company:

(A) except as provided in Subsection [~~(1)(a)(i)(B)~~](2)(a)(i)(B), not less than $250,000; or

(B) if the pure captive insurance company is not acting as a pool that facilitates risk distribution for other captive insurers, an amount that is the greater of:

(I) not less than 20% of the company's total aggregate risk; or

(II) $50,000;

(ii) in the case of an association captive insurance company, not less than [~~$750,000~~]$500,000;

(iii) in the case of an industrial insured captive insurance company incorporated as a stock insurer, not less than $700,000;

(iv) in the case of a sponsored captive insurance company, not less than $250,000 of which a minimum of $50,000 is provided by the sponsor; or

(v) in the case of a special purpose captive insurance company, an amount determined by the commissioner after giving due consideration to the company's business plan, feasibility study, and pro-formas, including the nature of the risks to be insured.

(b) The paid-in capital and surplus required under this Subsection [~~(1)~~](2) may be in the form of:

(i) (A) cash; or

(B) cash equivalent;

(ii) an irrevocable letter of credit:

(A) issued by:

(I) a bank chartered by this state;

(II) a member bank of the Federal Reserve System; or

(III) a member bank of the Federal Deposit Insurance Corporation;

(B) approved by the commissioner;

(iii) marketable securities as determined by Subsection [~~(5)~~](1); or

(iv) some other thing of value approved by the commissioner, for a period not to exceed 45 days, to facilitate the formation of a captive insurance company in this state pursuant to an approved plan of liquidation and reorganization of another captive insurance company or alien captive insurance company in another jurisdiction.

(c) This Subsection [~~(1)~~](2) applies to:

(i) a pure captive insurance company;

(ii) a sponsored captive insurance company;

(iii) a special purpose captive insurance company;

(iv) an association captive insurance company; or

(v) an industrial insured captive insurance company.

[~~(2)~~](3) (a) The commissioner may, under Section 31A-37-106, prescribe additional capital based on the type, volume, and nature of insurance business transacted.

(b) The capital prescribed by the commissioner under this Subsection [~~(2)~~](3) may be in the form of:

(i) cash;

(ii) an irrevocable letter of credit issued by:

(A) a bank chartered by this state; or

(B) a member bank of the Federal Reserve System; or

(iii) marketable securities as determined by Subsection [~~(5)~~](1).

[~~(3)~~](4) (a) Except as provided in Subsection [~~(3)(c)~~](4)(c), a branch captive insurance company, as security for the payment of liabilities attributable to branch operations, shall, through [~~its~~]the branch captive insurance company's branch operations, establish and maintain a trust fund:

(i) funded by an irrevocable letter of credit or other acceptable asset; and

(ii) in the United States for the benefit of:

(A) United States policyholders; and

(B) United States ceding insurers under:

(I) insurance policies issued; or

(II) reinsurance contracts issued or assumed.

(b) The amount of the security required under this Subsection [~~(3)~~](4) shall be no less than:

(i) the capital and surplus required by this chapter; and

(ii) the reserves on the insurance policies or reinsurance contracts, including:

(A) reserves for losses;

(B) allocated loss adjustment expenses;

(C) incurred but not reported losses; and

(D) unearned premiums with regard to business written through branch operations.

(c) Notwithstanding the other provisions of this Subsection [~~(3)~~](4):

(i) the commissioner may permit a branch captive insurance company that is required to post security for loss reserves on branch business by [~~its~~]the branch captive insurance company's reinsurer to reduce the funds in the trust account required by this section by the same amount as the security posted if the security remains posted with the reinsurer; and

(ii) a branch captive insurance company that is the result of the licensure of an alien captive insurance company that is not formed in an alien jurisdiction is not subject to the requirements of this Subsection [~~(3)~~](4).

[~~(4)~~](5) (a) A captive insurance company may not pay the following without the prior approval of the commissioner:

(i) a dividend out of capital or surplus [~~in excess of the limits under Section 16-10a-640~~]; or

(ii) a distribution with respect to capital or surplus [~~in excess of the limits under Section 16-10a-640~~].

(b) The commissioner shall condition approval of an ongoing plan for the payment of dividends or other distributions on the retention, at the time of each payment, of capital or surplus [~~in excess of:~~].

[~~(i) amounts specified by the commissioner under Section 31A-37-106; or~~]

[~~(ii) determined in accordance with formulas approved by the commissioner under Section 31A-37-106.~~]

[~~(5) For purposes of this section, marketable securities means:~~]

[~~(a) a bond or other evidence of indebtedness of a governmental unit in the United States or Canada or any instrumentality of the United States or Canada; or~~]

[~~(b) securities:~~]

[~~(i) traded on one or more of the following exchanges in the United States:~~]

[~~(A) New York;~~]

[~~(B) American; or~~]

[~~(C) NASDAQ;~~]

[~~(ii) when no particular security, or a substantially related security, applied toward the required minimum capital and surplus requirement of Subsection (1) represents more than 50% of the minimum capital and surplus requirement; and~~]

[~~(iii) when no group of up to four particular securities, consolidating substantially related securities, applied toward the required minimum capital and surplus requirement of Subsection (1) represents more than 90% of the minimum capital and surplus requirement.~~]

(6) Notwithstanding Subsection [~~(5)~~](1), to protect the solvency and liquidity of a captive insurance company, the commissioner may reject the application of specific assets or amounts of specific assets to satisfying the requirement of Subsection [~~(1)~~](2).

Section 27. Section 31A-37-301 is amended to read:

31A-37-301 (Effective 05/07/25). Formation.

(1) A captive insurance company, other than a branch captive insurance company, may [~~be formed~~]form as a corporation [~~or~~], a limited liability company [~~.~~], or a not-for-profit organization.

(2) The capital of a captive insurance company shall be held by:

(a) the interest holders of the captive insurance company; or

(b) a governing body elected by:

(i) the insureds;

(ii) one or more affiliates; or

(iii) a combination of the persons described in Subsections (2)(b)(i) and (ii).

(3) A captive insurance company formed in this state shall have at least one establisher who is an individual and a resident of the state.

(4) (a) An applicant captive insurance company's establishers shall obtain a certificate of public good from the commissioner before filing [~~its~~]the applicant captive insurance company's governing documents with the Division of Corporations and Commercial Code.

(b) In considering a request for a certificate under Subsection (4)(a), the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the establishers;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the principal officers or members of the governing body;

(iii) any information in:

(A) the application for a certificate of authority; or

(B) the department's files; and

(iv) other aspects that the commissioner considers advisable.

(5) (a) Except as otherwise provided in this title, the governing body of a captive insurance company shall consist of at least three individuals as members, at least one of whom is a resident of the state.

(b) One-third of the members of the governing body of a captive insurance company constitutes a quorum of the governing body.

(6) A captive insurance company shall have at least three separate individuals as principal officers with duties comparable to those of president, treasurer, and secretary.

(7) (a) (i) A captive insurance company formed as a corporation is subject to the provisions of Title 16, Chapter 10a, Utah Revised Business Corporation Act, and this chapter.

(ii) If a conflict exists between a provision of Title 16, Chapter 10a, Utah Revised Business Corporation Act, and a provision of this chapter, this chapter controls.

(b) A captive insurance company formed as a limited liability company is subject to the provisions of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, and this chapter. If a conflict exists between a provision of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, and a provision of this chapter, this chapter controls.

(c) Except as provided in Subsection (7)(d), the provisions of this title that govern a merger, consolidation, conversion, mutualization, and redomestication apply to a captive insurance company in carrying out any of the transactions described in those provisions.

(d) Notwithstanding Subsection (7)(c), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.

(e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.

Section 28. Section 31A-37-302 is amended to read:

31A-37-302 (Effective 05/07/25). Investment requirements.

(1) (a) Except as provided in Subsection (1)(b), [~~an association~~]a captive insurance company [~~, a sponsored captive insurance company,~~] and an industrial insured [~~group~~]captive insurance company shall comply with the investment requirements contained in this title.

(b) Notwithstanding Subsection (1)(a) and any other provision of this title, the commissioner may approve the use of alternative reliable methods of valuation and rating under Section 31A-37-106 for [~~:~~]

[~~(i) an association captive insurance company;~~]

[~~(ii) a sponsored captive insurance company; or~~]

[~~(iii) an industrial insured group~~]a captive insurance company or an industrial insured captive insurance company.

(2) (a) Except as provided in Subsection (2)(b), a pure captive insurance company or industrial insured captive insurance company is not subject to any restrictions on allowable investments [~~contained in this title~~]described in Section 31A-18-108.

(b) [~~Notwithstanding Subsection (2)(a), the commissioner may, under Section 31A-37-106,~~]Under Section 31A-37-106, the commissioner may prohibit or limit an investment that threatens the solvency or liquidity of [~~:~~]

[~~(i) a pure captive insurance company; or~~]

[~~(ii) an industrial insured captive insurance company~~]a captive insurance company or industrial insured captive insurance company.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), a captive insurance company may not make loans to:

(A) the parent company of the captive insurance company; or

(B) an affiliate of the captive insurance company.

(ii) [~~Notwithstanding Subsection (3)(a)(i), a~~]A pure captive insurance company and an incorporated cell of a sponsored captive insurance company may make loans to:

(A) the parent company of the pure captive insurance company or incorporated cell of a sponsored captive insurance company; or

(B) an affiliate of the pure captive insurance company or incorporated cell of a sponsored captive insurance company.

(b) A loan under Subsection (3)(a):

(i) may be made only on the prior written approval of the commissioner and, when applicable, the sponsor for an incorporated cell; and

(ii) shall be evidenced by a note in a form approved by the commissioner and, when applicable, the sponsor for an incorporated cell.

(c) A pure captive insurance company may not make a loan from the paid-in capital required under Subsection [~~31A-37-204(1)~~]31A-37-204(2).

(4) If a captive insurer has excess surplus above the minimum capital required by Section 31A-37-204, the captive insurer may invest the captive insurer's excess surplus in a manner inconsistent with the authorized classes of investments described in Section 31A-18-110.

(5) Nothing in this section empowers a captive insurer to make an investment that is illegal or otherwise prohibited by this title.

Section 29. Section 31A-37-303 is amended to read:

31A-37-303 (Effective 05/07/25). Reinsurance.

(1) (a) A captive insurance company may cede risks to any insurance company approved by the commissioner.

(b) Except as provided in Subsection (1)(c), a captive insurance company may provide reinsurance on risks ceded by any other insurer with prior approval of the commissioner.

(c) A captive insurance company may not provide reinsurance on a punitive damages risk ceded by an insurer, unless the punitive damages risk is the risk of the captive insurance company's:

(i) parent;

(ii) affiliated company; or

(iii) controlled unaffiliated business.

(2) To facilitate the risk distribution of captive insurance companies participating in a pooling arrangement, a captive insurance company licensed to operate as a pooling captive insurance company may directly insure a risk that any pooling participant's captive insurance company could otherwise directly insure in accordance with Section 31A-37-202.

[~~(2)~~](3) (a) A captive insurance company may take credit for reserves on risks or portions of risks ceded to reinsurers if the captive insurance company complies with:

(i) Section 31A-17-404, 31A-17-404.1, 31A-17-404.3, or 31A-17-404.4; or

(ii) other requirements as the commissioner may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) Unless the reinsurer is in compliance with Section 31A-17-404, 31A-17-404.1, 31A-17-404.3, or 31A-17-404.4 or a rule adopted under Subsection [~~(2)(a)(ii)~~](3)(a)(ii), a captive insurance company may not take credit for:

(i) reserves on risks ceded to a reinsurer; or

(ii) portions of risks ceded to a reinsurer.

Section 30. Section 31A-37-401 is amended to read:

31A-37-401 (Effective 05/07/25). Sponsored captive insurance companies -- Formation.

(1) One or more sponsors may form a sponsored captive insurance company under this chapter.

(2) A sponsored captive insurance company formed under this chapter may establish and maintain [~~a protected cell~~], with prior approval of the commissioner, a combination of incorporated cells and protected cells to insure risks of a participant if:

(a) the interest holders of a sponsored captive insurance company are limited to:

(i) the participants of the sponsored captive insurance company; and

(ii) the sponsors of the sponsored captive insurance company;

(b) each [~~protected~~]cell is accounted for separately on the books and records of the sponsored cell captive insurance company to reflect:

(i) the financial condition of each [~~individual protected~~]cell;

(ii) the results of operations of each [~~individual protected~~]cell;

(iii) the net income or loss of each [~~individual protected~~]cell;

(iv) the dividends or other distributions to participants of each [~~individual protected~~]cell; and

(v) other factors that may be:

(A) provided in the participant contract; or

(B) required by the commissioner;

(c) the assets of a [~~protected~~]cell are not chargeable with liabilities arising out of any other insurance business the sponsored captive insurance company may conduct;

(d) a sale, exchange, or other transfer of assets is not made by the sponsored captive insurance company between or among any of the [~~protected~~]cells of the sponsored captive insurance company without the consent of the [~~protected~~]cells;

(e) a sale, exchange, transfer of assets, dividend, or distribution is not made from a [~~protected~~]cell to a sponsor or participant without the commissioner's approval, which may not be given if the sale, exchange, transfer, dividend, or distribution would result in insolvency or impairment with respect to a [~~protected~~]cell;

(f) a sponsored captive insurance company annually files with the commissioner financial reports the commissioner requires under Section 31A-37-106, including accounting statements detailing the financial experience of each [~~protected~~]cell;

(g) a sponsored captive insurance company notifies the commissioner in writing within 10 business days of a [~~protected~~]cell that is insolvent or otherwise unable to meet the claim or expense obligations of the [~~protected~~]cell;

(h) a participant contract does not take effect without the commissioner's prior written approval; and

(i) the addition of each new [~~protected~~]cell and withdrawal of a participant of any existing [~~protected~~]cell does not take effect without the commissioner's prior written approval [~~; and~~].

[~~(j)~~](3) [~~(i) a protected~~]A cell of a sponsored captive insurance company shall pay to the department the following nonrefundable fees established by the department under Sections 31A-3-103, 31A-3-304, and 63J-1-504:

[~~(A)~~](a) a fee for examining, investigating, and processing [~~by a department employee of~~]an application [~~for a certificate of authority~~]made by a [~~protected~~]cell to insure risks under the certificate of authority of a sponsored captive insurance company;

[~~(B)~~](b) a fee for obtaining a certificate to insure risks under the certificate of authority of a sponsored captive insurance company for the year the [~~protected~~]cell of the sponsored captive insurance company is issued a certificate [~~of authority~~] by the department; and

[~~(C)~~](c) a certificate of authority renewal fee [~~; and~~].

[~~(ii)~~](4) [~~a protected~~]A sponsor may create a cell [~~may be created by the sponsor~~]or [~~the sponsor may create~~]a pooling insurance

arrangement for the sponsor's cell participants to provide for pooling of risks to allow for risk distribution upon written approval from every [~~protected~~] cell under the sponsor and written approval of the commissioner.

Section 31. Section 31A-37-402 is amended to read:

31A-37-402 (Effective 05/07/25). Sponsored captive insurance companies -- Certificate of authority mandatory.

(1) A sponsor of a sponsored captive insurance company shall be:

(a) an insurer authorized or approved under the laws of a state;

(b) a reinsurer authorized or approved under the laws of a state;

(c) a captive insurance company holding a certificate of authority under this chapter;

(d) an insurance holding company that:

(i) controls an insurer licensed pursuant to the laws of a state; and

(ii) is subject to registration pursuant to the holding company system of laws of the state of domicile of the insurer described in Subsection (1)(d)(i);

(e) an approved captive management firm in Utah or its affiliates; or

(f) another person approved by the commissioner after finding that the approval of the person as a sponsor is not inconsistent with the purposes of this chapter.

(2) (a) The business written by a sponsored captive insurance company with respect to a protected cell shall be fronted by the [~~sponsor~~]sponsored captive insurance company through a controlled unaffiliated contract or an insurer that is:

(i) authorized or approved:

(A) under the laws of a state; or

(B) under any jurisdiction if the insurance company is a wholly owned subsidiary of an insurance company licensed pursuant to the laws of a state;

(ii) reinsured by a reinsurer authorized or approved by this state; or

(iii) subject to Subsection (2)(b), secured by a trust fund:

(A) in the United States;

(B) for the benefit of policyholders and claimants;

(C) funded by an irrevocable letter of credit or other asset acceptable to the commissioner; and

(D) held by the sponsor as provided in Subsection 31A-17-404(1).

(b) (i) The amount of security provided by the trust fund described in Subsection (2)(a)(iii) may not be less than the reserves associated with the liabilities of the trust fund, including:

(A) reserves for losses;

(B) allocated loss adjustment expenses;

(C) incurred but unreported losses; and

(D) unearned premiums for business written through the participant's protected cell.

(ii) The commissioner may require the sponsored captive insurance company to increase the funding of a trust established pursuant to this Subsection (2).

(iii) If the form of security in the trust described in Subsection (2)(a)(iii) is a letter of credit, the letter of credit shall be established, issued, or confirmed by a bank that is:

(A) chartered in this state;

(B) a member of the federal reserve system; or

(C) chartered by another state if that state-chartered bank is acceptable to the commissioner.

(iv) A trust and trust instrument maintained pursuant to this Subsection (2) shall be in a form and upon terms approved by the commissioner.

(3) The business written by a sponsored captive insurance company with respect to an incorporated cell may be:

(a) fronted by the sponsored captive insurance company in accordance with Subsection (2)(a); or

(b) with prior approval of the sponsored captive insurance company, written directly by the incorporated cell.

[~~(3)~~](4) A risk retention group may not be either a sponsor or a participant of a sponsored captive insurance company.

Section 32. Section 31A-37-403 is amended to read:

31A-37-403 (Effective 05/07/25). Participants in sponsored captive insurance companies.

(1) Any of the following may be a participant in a sponsored captive insurance company holding a certificate of authority under this chapter:

(a) an association;

(b) a corporation that is for profit or nonprofit;

(c) a limited liability company;

(d) a partnership;

(e) a trust; or

(f) any other business entity.

(2) A sponsor may be a participant in a sponsored captive insurance company.

(3) A participant need not be:

(a) a shareholder of the sponsored captive insurance company; or

(b) an affiliate of the sponsored captive insurance company.

[~~(4) A participant shall insure only the participant's own risks through a sponsored captive insurance company unless otherwise approved by the commissioner.~~]

Section 33. Section 31A-37-404 is amended to read:

31A-37-404 (Effective 05/07/25). Sponsored captive insurance companies -- Reserves opinion and discounting.

(1) A sponsored captive insurance company may discount [~~its~~]the sponsored captive insurance company's loss and loss adjustment expense reserves at treasury rates applied to the applicable payments projected through the use of the expected payment pattern associated with the reserves.

(2) (a) A sponsored captive insurance company shall annually file with the department an actuarial opinion provided by an independent actuary on loss and loss adjustment expense reserves.

(b) The independent actuary described in Subsection (2)(a) may not be an employee of:

(i) the company filing the actuarial opinion; or

(ii) an affiliate of the company filing the actuarial opinion.

(3) The commissioner may disallow the discounting of reserves by a sponsored captive insurance company if the sponsored captive insurance company violates this title.

Section 34. Section 31A-37-501 is amended to read:

31A-37-501 (Effective 05/07/25). Reports to commissioner.

(1) A captive insurance company is not required to make a report except those provided in this chapter.

(2) (a) Before March 1 of each year, a captive insurance company shall submit to the commissioner a report of the financial condition of the captive insurance company, verified by oath of at least two individuals who are executive officers of the captive insurance company.

(b) Except as provided in Section 31A-37-204, a captive insurance company shall report:

(i) using generally accepted accounting principles, except to the extent that the commissioner requires, approves, or accepts the use of a statutory accounting principle;

(ii) using a useful or necessary modification or adaptation to an accounting principle that is required, approved, or accepted by the commissioner for the type of insurance and kind of insurer to be reported upon; and

(iii) supplemental or additional information required by the commissioner.

(c) Except as otherwise provided:

(i) a licensed captive insurance company shall file the report required by Section 31A-4-113; and

(ii) an industrial insured group shall comply with Section 31A-4-113.5.

(3) (a) A pure captive insurance company may make written application to file the required report on a fiscal year end that is consistent with the fiscal year of the parent company of the pure captive insurance company.

(b) If the commissioner grants an alternative reporting date for a pure captive insurance company requested under Subsection (3)(a), the annual report is due 60 days after the fiscal year end.

(4) (a) Sixty days after the fiscal year end, a branch captive insurance company shall file with the commissioner a copy of the reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath by two of the alien captive insurance company's executive officers.

(b) If the commissioner is satisfied that the annual report filed by the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed provides adequate information concerning the financial condition of the alien captive insurance company, the commissioner may waive the requirement for completion of the annual statement required for a captive insurance company under this section with respect to business written in the alien or foreign jurisdiction.

(c) A waiver by the commissioner under Subsection (4)(b):

(i) shall be in writing; and

(ii) is subject to public inspection.

(5) Before March 1 of each year, a sponsored [~~cell~~]captive insurance company shall submit to the commissioner a consolidated report of the financial condition of each [~~individual protected~~]cell, including a financial statement for each [~~protected~~] cell.

(6) (a) A captive insurance company shall notify the commissioner in writing if there is:

(i) a material change to the captive insurance company's most recently filed report of financial condition; or

(ii) an adverse material change in the financial condition of a captive insurance company since the captive insurance company's most recently filed report of financial condition.

(b) A captive insurance company shall submit a notification described in this subsection within 20 days after the day on which the captive insurance company learns of the material change.

Section 35. Section 31A-37-505 is amended to read:

31A-37-505 (Effective 05/07/25). Suspension or revocation -- Grounds.

(1) The commissioner may suspend or revoke the certificate of authority of a captive insurance company to conduct an insurance business in this state for:

(a) insolvency or impairment of capital or surplus;

(b) failure to meet the requirements of Section 31A-37-204;

(c) refusal or failure to submit:

(i) an annual report required by Section 31A-37-501; or

(ii) any other report or statement required by law or by lawful order of the commissioner;

(d) failure to comply with the charter, bylaws, or other organizational document of the captive insurance company;

(e) failure to submit to:

(i) an examination under Section 31A-37-502; or

(ii) any legal obligation relative to an examination under Section 31A-37-502;

(f) refusal or failure to pay [~~the cost of examination under Section 31A-37-502;~~]:

(i) an annual fee described in Section 31A-3-304;

(ii) the cost of examination described in Section 31A-37-502; or

(iii) any other fee prescribed by this title;

(g) use of methods that, although not otherwise specifically prohibited by law, render:

(i) the operation of the captive insurance company detrimental to the public or the policyholders of the captive insurance company; or

(ii) the condition of the captive insurance company unsound with respect to the public or to the policyholders of the captive insurance company; or

(h) failure otherwise to comply with laws of this state.

(2) Notwithstanding any other provision of this title, if the commissioner finds, upon examination, hearing, or other evidence, that a captive insurance company has committed any of the acts specified in Subsection (1), the commissioner may suspend or revoke the certificate of authority of the captive insurance company if the commissioner considers it in the best interest of the public and the policyholders of the captive insurance company to revoke the certificate of authority.

Section 36. Section 31A-37-701 is amended to read:

31A-37-701 (Effective 05/07/25). Certificate of dormancy.

(1) In accordance with the provisions of this section, a captive insurance company, other than a risk retention group, may apply, without fee, to the commissioner for a certificate of dormancy.

(2) (a) A captive insurance company, other than [~~a risk retention group~~]an industrial insured captive insurance company or a cell of a sponsored captive insurance company, is eligible for a certificate of dormancy if the [~~captive insurance~~] company:

(i) has ceased transacting the business of insurance, including the issuance of insurance policies; and

(ii) has no remaining insurance liabilities or obligations associated with insurance business transactions or insurance policies.

(b) For purposes of Subsection (2)(a)(ii), the commissioner may disregard liabilities or obligations for which the captive insurance company has withheld sufficient funds or that are otherwise sufficiently secured.

(3) Except as provided in Subsection (4), a captive insurance company that holds a certificate of dormancy is subject to all requirements of this chapter.

(4) A captive insurance company that holds a certificate of dormancy:

(a) shall possess and maintain unimpaired paid-in capital and unimpaired paid-in surplus of:

(i) in the case of a pure captive insurance company or a special purpose captive insurance company, not less than $25,000;

(ii) in the case of an association captive insurance company, not less than $75,000; or

(iii) in the case of a sponsored captive insurance company, not less than $50,000, of which the sponsor provides at least $20,000; and

(b) is not required to:

(i) subject to Subsection (5), submit an annual audit or statement of actuarial opinion;

(ii) maintain an active agreement with an independent auditor or actuary; or

(iii) hold an annual meeting of the captive insurance company in the state.

(5) The commissioner may require a captive insurance company that holds a certificate of dormancy to submit an annual audit if the commissioner determines that there are concerns regarding the captive insurance company's solvency or liquidity.

(6) To maintain a certificate of dormancy and in lieu of a certificate of authority renewal fee, no later than July 1 of each year, a captive insurance company shall pay an annual dormancy renewal fee that is equal to 50% of the captive insurance's company's certificate of authority renewal fee.

[~~(7) A captive insurance company may consecutively renew a certificate of dormancy no more than five times.~~]

Section 37. Section 31A-37a-205 is amended to read:

31A-37a-205 (Effective 05/07/25). Sponsored captives.

(1) In addition to the other provisions of this chapter, this section applies to a sponsored captive insurance company under Chapter 37, Captive Insurance Companies Act, that has a certificate of authority as a special purpose financial captive insurance company [~~pursuant to~~]in accordance with this chapter.

[~~(1)~~](2) A sponsored captive insurance company may have a certificate of authority as a special purpose financial captive insurance company under this chapter.

[~~(2)~~](3) (a) For purposes of a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company, "general account" means the assets and liabilities of the sponsored captive insurance company not attributable to a [~~protected~~]cell.

(b) For purposes of applying Chapter 27a, Insurer Receivership Act, to a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company, the definition of "insolvency" and "insolvent" in Section 31A-37a-102 shall be applied separately to:

(i) each [~~protected~~]cell; and

(ii) the special purpose financial captive insurance company's general account.

[~~(3)~~](4) (a) A participant in a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall be a ceding insurer, unless approved by the commissioner before a person becomes a participant.

(b) A change in a participant in a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company is subject to prior approval by the commissioner.

[~~(4)~~](5) Notwithstanding Section 31A-37-401, a special purpose financial captive insurance company that is a sponsored captive insurance company may issue a security to a person not described in Section 31A-37-401 if the issuance to that person is approved by the commissioner before the issuance of the security.

[~~(5)~~](6) Notwithstanding Section 31A-37a-302, a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall:

(a) at the time of initial application for a certificate of authority as a special purpose financial captive insurance company, possess unimpaired paid-in capital and surplus of not less than $500,000; and

(b) maintain at least $500,000 of unimpaired paid-in capital and surplus of not less than $500,000 during the time that it holds a

certificate of authority under this chapter.

[~~(6)~~](7) (a) For purposes of a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company, this Subsection [~~(6)~~](7) applies to:

(i) a security issued by the special purpose financial captive insurance company with respect to a [~~protected~~]cell; or

(ii) a contract or obligation of the special purpose financial captive insurance company with respect to a [~~protected~~]cell.

(b) A sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall include with a security, contract, or obligation described in Subsection [~~(6)(a)~~](7)(a):

(i) the designation of the [~~protected~~]cell; and

(ii) a disclosure in a form and content satisfactory to the commissioner to the effect that the holder of the security or a counterparty to the contract or obligation has no right or recourse against the special purpose financial captive insurance company and its assets other than against an asset properly attributable to the [~~protected~~]cell.

(c) Notwithstanding the requirements of this Subsection [~~(6)~~](7) and subject to other statutes or rules including this chapter and Chapter 37, Captive Insurance Companies Act, a creditor, ceding insurer, or another person may not use a failure to include a disclosure described in Subsection [~~(6)(b)~~](7)(b), in whole or part, as the sole basis to have recourse against:

(i) the general account of the special purpose financial captive insurance company; or

(ii) the assets of another [~~protected~~]cell of the special financial captive insurance company.

[~~(7)~~](8) In addition to Section 31A-37-401, a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company is subject to the following with respect to a [~~protected~~]cell:

(a) (i) A sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall establish a [~~protected~~]cell only for the purpose of insuring or reinsuring risks of one or more reinsurance contracts with a ceding insurer with the intent of facilitating an insurance securitization.

(ii) Subject to Subsection [~~(7)(a)(iii)~~](8)(a)(iii), a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall establish a separate [~~protected~~]cell with respect to a ceding insurer described in Subsection [~~(7)(a)(i)~~](8)(a).

(iii) A sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall establish a separate [~~protected~~]cell with respect to each reinsurance contract that is funded in whole or in part by a separate insurance securitization transaction.

(b) A sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company may not sale, exchange, or transfer an asset by, between, or among any of [~~its protected~~]the sponsored captive insurance company's cells without the prior approval of the commissioner.

[~~(8)~~](9) (a) A sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall attribute an asset or liability to a [~~protected~~]cell and to the general account in accordance with the plan of operation approved by the commissioner.

(b) Except as provided by Subsection [~~(8)(a)~~](9)(a), a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company may not attribute an asset or liability between:

(i) [~~its~~]the sponsored captive insurance company's general account and a [~~protected~~]cell; or

(ii) [~~its protected~~]the sponsored captive insurance company's cells.

(c) A sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall attribute:

(i) an insurance obligation, asset, or liability relating to a reinsurance contract entered into with respect to a [~~protected~~]cell; and

(ii) an insurance securitization transaction related to the obligation, asset, or liability described in Subsection [~~(8)(c)(i)~~](9)(c)(i), including a security issued by the special purpose financial captive insurance company as part of the insurance securitization, to the [~~protected~~]cell.

(d) The following shall reflect an insurance obligation, asset, or liability relating to a reinsurance contract and the insurance securitization transaction that are attributed to a [~~protected~~]cell:

(i) a right, benefit, obligation, or a liability of a security attributable to a [~~protected~~]cell described in Subsection [~~(8)(c)~~](9)(c);

(ii) the performance under a reinsurance contract and the related insurance securitization transaction; and

(iii) a tax benefit, loss, refund, or credit allocated pursuant to a tax allocation agreement to which the special purpose financial captive insurance company is a party, including a payment made by or due to be made to the special purpose financial captive insurance company pursuant to the terms of the tax allocation agreement.

[~~(9)~~](10) In addition to Section 31A-37a-502:

(a) Chapter 27a, Insurer Receivership Act, applies to each [~~protected~~]cell of a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company.

(b) A proceeding or action taken by the commissioner pursuant to Chapter 27a, Insurer Receivership Act, with respect to a [~~protected~~]cell of a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company may not be the sole basis for a proceeding pursuant to Chapter 27a, Insurer Receivership Act, with respect to:

(i) another [~~protected~~]cell of the special purpose financial captive insurance company; or

(ii) the special purpose financial captive insurance company's general account.

(c) (i) Except as provided in Subsection [~~(9)(c)(ii)~~](10)(c)(ii), the receiver of a special purpose financial captive insurance company shall ensure that the assets attributable to one [~~protected~~]cell are not applied to the liabilities attributable to:

(A) another [~~protected~~]cell; or

(B) the special purpose financial captive insurance company's general account.

(ii) Notwithstanding Subsection [~~(9)(c)(i)~~](10)(c)(i), if an asset or liability is attributable to more than one [~~protected~~]cell, the receiver shall deal with the asset or liability in accordance with the terms of a relevant governing instrument or contract.

(d) The insolvency of a [~~protected~~]cell of a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company may not be the sole basis for the commissioner to prohibit:

(i) a payment by the special purpose financial captive insurance company made pursuant to a special purpose financial captive

insurance company security or reinsurance contract with respect to another [~~protected~~]cell; or

(ii) an action required to make a payment described in Subsection [~~(9)(d)(i)~~](10)(d)(i).

Section 38. Section 31A-43-301 is amended to read:

31A-43-301 (Effective 07/01/25). Stop-loss insurance standards.

(1) A small employer stop-loss insurance contract shall:

(a) be issued to the small employer to provide insurance to the group health benefit plan, not the employees of the small employer;

(b) have a contract term with guaranteed rates for at least 12 months, without adjustment, unless there is a change in the benefits provided under the small employer's health plan during the contract period;

(c) include both a specific attachment point and an aggregate attachment point in a contract;

(d) align stop-loss plan benefit limitations and exclusions with a small employer's health plan benefit limitations and exclusions, including any annual or lifetime limits in the employer's health plan;

(e) subject to Subsection (4):

(i) have an annual specific attachment point that is at least [~~$10,000~~]$25,000; and

[~~(f)~~](ii) have an annual aggregate attachment point that may not be less than [~~85%~~]90% of expected claims;

[~~(g)~~](f) pay stop-loss claims:

(i) incurred during the contract period; and

(ii) paid within 12 months after the expiration date of the contract; and

[~~(h)~~](g) include provisions to cover incurred and unpaid stop-loss claims when the small employer's stop-loss plan terminates.

(2) A small employer stop-loss insurance contract [~~shall~~]may not:

(a) include lasering; and

(b) pay claims directly to an individual employee, member, or participant.

(3) A stop-loss insurer or reinsurer:

(a) may enter into a small employer stop-loss insurance contract with a small employer with 10 or more enrolled employees; and

(b) may not enter into a small employer stop-loss insurance contract with a small employer with less than 10 enrolled employees.

(4) The provisions of this section do not apply to a small employer stop-loss insurance contract entered into before July 1, 2025, unless the insurance provider changes under the small employer's health plan during the contract period.

Section 39. Section 61-2g-502 is amended to read:

61-2g-502 (Effective 05/07/25). Disciplinary action -- Grounds.

(1) (a) The board may order disciplinary action, with the concurrence of the division, against a person:

(i) registered, licensed, or certified under this chapter; or

(ii) required to be registered, licensed, or certified under this chapter.

(b) On the basis of a ground listed in Subsection (2) for disciplinary action, board action may include:

(i) revoking, suspending, or placing a person's registration, license, or certification on probation;

(ii) denying a person's original registration, license, or certification;

(iii) denying a person's renewal license, certification, or registration;

(iv) in the case of denial or revocation of a registration, license, or certification, setting a waiting period for an applicant to apply for a registration, license, or certification under this chapter;

(v) ordering remedial education;

(vi) imposing a civil penalty upon a person not to exceed the greater of:

(A) $5,000 for each violation; or

(B) the amount of any gain or economic benefit from a violation;

(vii) issuing a cease and desist order;

(viii) modifying an action described in Subsections (1)(b)(i) through (vii) if the board, with the concurrence of the division, finds that the person complies with court ordered restitution; or

(ix) doing any combination of Subsections (1)(b)(i) through (viii).

(c) (i) If the board or division issues an order that orders a fine or educational requirements as part of the disciplinary action against a person, including a stipulation and order, the board or division shall state in the order the deadline by which the person shall comply with the fine or educational requirements.

(ii) If a person fails to comply with a stated deadline:

(A) the person's license, certificate, or registration is automatically suspended:

(I) beginning on the day specified in the order as the deadline for compliance; and

(II) ending the day on which the person complies in full with the order; and

(B) if the person fails to pay a fine required by an order, the division may begin a collection process:

(I) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(2) The following are grounds for disciplinary action under this section:

(a) procuring or attempting to procure a registration, license, or certification under this chapter:

(i) by fraud; or

(ii) by making a false statement, submitting false information, or making a material misrepresentation in an application filed with the division;

(b) paying money or attempting to pay money other than a fee provided for by this chapter to a member or employee of the division to procure a registration, license, or certification under this chapter;

(c) an act or omission in the practice of real estate appraising that constitutes dishonesty, fraud, or misrepresentation;

(d) entry of a judgment against a registrant, licensee, or certificate holder on grounds of fraud, misrepresentation, or deceit in the making of an appraisal of real estate;

(e) regardless of whether the crime is related to the appraisal business, to:

(i) be convicted of a felony;

(ii) be convicted of any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor:

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(iii) plead guilty or nolo contendere to a felony;

(iv) plead guilty or nolo contendere to any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor:

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(v) enter into a plea in abeyance agreement involving a felony; or

(vi) enter into a plea in abeyance agreement involving any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor:

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(f) engaging in the business of real estate appraising under an assumed or fictitious name not properly registered in this state;

(g) paying a finder's fee or a referral fee to a person not licensed or certified under this chapter in connection with an appraisal of real estate or real property in this state;

(h) making a false or misleading statement in:

(i) that portion of a written appraisal report that deals with professional qualifications; or

(ii) testimony concerning professional qualifications;

(i) violating or disregarding:

(i) this chapter;

(ii) an order of:

(A) the board; or

(B) the division, in a case when the board delegates to the division the authority to make a decision on behalf of the board; or

(iii) a rule issued under this chapter;

(j) violating the confidential nature of governmental records to which a person registered, licensed, or certified under this chapter gained access through employment or engagement as an appraiser by a governmental agency;

(k) accepting a contingent fee for performing an appraisal if in fact the fee is or was contingent upon:

(i) the appraiser reporting a predetermined analysis, opinion, or conclusion;

(ii) the analysis, opinion, conclusion, or valuation reached; or

(iii) the consequences resulting from the appraisal assignment;

(l) unprofessional conduct as defined by statute or rule; or

[~~(m) in the case of a dual licensed title licensee as defined in Section 31A-2-402:~~]

[~~(i) providing a title insurance product or service without the approval required by Section 31A-2-405; or~~]

[~~(ii) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2); or~~]

[~~(n)~~](m) other conduct that constitutes dishonest dealing.

(3) A person previously licensed, certified, or registered under this chapter remains responsible for, and is subject to disciplinary action for, an act that the person committed, while the person was licensed, certified, or registered, in violation of this chapter or an administrative rule in effect at the time that the person committed the act, regardless of whether the person is currently licensed, certified, or registered.

Section 40. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect May 7, 2025.

(2) The actions affecting Section 31A-43-301 (Effective 07/01/25) take effect on July 1, 2025.

CHAPTER 176
H. B. 28
Passed February 20, 2025
Approved March 25, 2025
Effective May 7, 2025

ON PREMISE SIGN INSTALLATION AMENDMENTS

Chief Sponsor: Carol S. Moss
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill amends provisions of licensure for on premise sign installation contractors.

Highlighted Provisions:

This bill:

► defines terms;
► amends provisions of licensure for on premise sign installation contractors; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-55-102, as last amended by Laws of Utah 2024, Chapter 507
58-55-305, as last amended by Laws of Utah 2024, Chapter 226

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-55-102 is amended to read:
58-55-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Alarm business" or "alarm company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business" or "alarm company" does not include:

(i) a person engaged in the manufacture or sale of alarm systems unless:

(A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;

(B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or

(C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent":

(a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

(b) does not include an individual who:

(i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

(3) "Alarm company officer" means:

(a) a governing person, as defined in Section 48-3a-102, of an alarm company;

(b) an individual appointed as an officer of an alarm company that is a corporation in accordance with Section 16-10a-830;

(c) a general partner, as defined in Section 48-2e-102, of an alarm company; or

(d) a partner, as defined in Section 48-1d-102, of an alarm company.

(4) "Alarm company owner" means:

(a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the outstanding shares of an alarm company that:

(i) is a corporation; and

(ii) is not publicly listed or traded; or

(b) an individual who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the equity of an alarm company that is not a corporation.

(5) "Alarm company proprietor" means the sole proprietor of an alarm company that is registered as a sole proprietorship with the Division of Corporations and Commercial Code.

(6) "Alarm company trustee" means an individual with control of or power of administration over property held in trust.

(7) (a) "Alarm system" means equipment and devices assembled for the purpose of:

(i) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(ii) signaling a robbery or attempted robbery on protected premises.

(b) "Alarm system" includes a battery-charged suspended-wire system or fence that is part of and interfaces with an alarm system for the purposes of detecting and deterring unauthorized intrusion or entry into or onto certain premises.

(8) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(9) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

(10) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

(11) (a) "Approved prelicensure course provider" means a provider that is the Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and Contractors, or the Utah Home Builders Association, and that meets the requirements established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).

(b) "Approved prelicensure course provider" may only include a provider that, in addition to any other locations, offers the 25-hour course described in Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake County, Utah County, Davis County, or Weber County.

(12) "Board" means the Alarm System Security and Licensing Board or Electricians and Plumbers Licensing Board created in Section 58-55-201.

(13) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

(14) "Commission" means the Construction Services Commission created under Section 58-55-103.

(15) "Construction trade" means any trade or occupation involving:

(a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

(16) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

(17) (a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person's own property for the purpose of sale or who builds any structure intended for public use on the person's own property;

(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection (17) by advertising on a website or social media, or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of "construction trade";

(iv) any person engaged in, or offering to engage in, any construction trade for which licensure is required under this chapter; or

(v) a construction manager, construction consultant, construction assistant, or any other person who, for a fee:

(A) performs or offers to perform construction consulting;

(B) performs or offers to perform management of construction subcontractors;

(C) provides or offers to provide a list of subcontractors or suppliers; or

(D) provides or offers to provide management or counseling services on a construction project.

(b) "Contractor" does not include:

(i) an alarm company or alarm company agent; or

(ii) a material supplier who provides consulting to customers regarding the design and installation of the material supplier's products.

(18) (a) "Electrical trade" means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring;

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities;

(iv) work involving cable-type wiring that does not pose a shock or fire-initiation hazard; [~~or~~]

(v) work involving class two or class three power-limited circuits as defined in the National Electrical Code [~~.~~]; or

(vi) minor electrical work incidental to a mechanical or service installation when wiring is extended to no more than 10 feet from an existing outlet or disconnect and does not exceed 120 volts and 20 amperes.

(19) "Elevator" means the same as that term is defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

(20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

(21) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

(22) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

(23) "Engage in a construction trade" means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.

(24) (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

(25) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(26) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

(27) (a) "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses electrical energy.

(b) The scope of work of a general electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(28) (a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform or superintend construction of fixed works or components of fixed works requiring specialized engineering knowledge and skill in any of the following:

(i) irrigation;

(ii) drainage;

(iii) water power;

(iv) water supply;

(v) flood control;

(vi) an inland waterway;

(vii) a harbor;

(viii) a railroad;

(ix) a highway;

(x) a tunnel;

(xi) an airport;

(xii) an airport runway;

(xiii) a sewer;

(xiv) a bridge;

(xv) a refinery;

(xvi) a pipeline;

(xvii) a chemical plant;

(xviii) an industrial plant;

(xix) a pier;

(xx) a foundation;

(xxi) a power plant;

(xxii) a utility plant or installation; or

(xxiii) an underground electric utility conduit.

(b) A general engineering contractor may not perform or superintend:

(i) construction of a structure built primarily for the support, shelter, and enclosure of persons, animals, and chattels; or

(ii) performance of:

(A) plumbing work;

(B) electrical work beyond underground electric utility conduit; or

(C) mechanical work.

(29) (a) "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a general plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(30) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

(a) as the division specifies in rule;

(b) by, as applicable, a qualified electrician or plumber;

(c) as part of a planned program of training; and

(d) to ensure that the end result complies with applicable standards.

(31) "Individual" means a natural person.

(32) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

(33) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

(34) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

(35) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

(36) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(37) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

(i) delivery of the water supply;

(ii) discharge of liquid and water carried waste;

(iii) building drainage system within the walls of the building; and

(iv) delivery of gases for lighting, heating, and industrial purposes.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the safe and adequate supply of gases, together with their devices, appurtenances, and connections where installed within the outside walls of the building.

(38) "Ratio of apprentices" means the number of licensed plumber apprentices or licensed electrician apprentices that are allowed to be under the immediate supervision of a licensed supervisor as established by the provisions of this chapter and by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(39) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(40) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

(41) (a) "Residential electrical contractor" means a person licensed under this chapter as a residential electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances, and fixtures in a residential unit.

(b) The scope of work of a residential electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(42) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

(43) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

(44) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

(45) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

(46) (a) "Residential plumbing contractor" means a person licensed under this chapter as a residential plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in residential buildings by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and residential purposes.

(b) The scope of work of a residential plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(47) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

(48) "Responsible management personnel" means:

(a) a qualifying agent;

(b) an operations manager; or

(c) a site manager.

(49) "Sensitive alarm system information" means:

(a) a pass code or other code used in the operation of an alarm system;

(b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;

(c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and

(d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

(50) (a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.

(51) "Unincorporated entity" means an entity that is not:

(a) an individual;

(b) a corporation; or

(c) publicly traded.

(52) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-501.

(53) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501and 58-55-502 and as may be further defined by rule.

(54) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Section 2. Section 58-55-305 is amended to read:

58-55-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an authorized representative of the United States government or an authorized employee of the state or any of its political subdivisions when working on construction work of the state or the subdivision, and when acting within the terms of the person's trust, office, or employment;

(b) a person engaged in construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction sites, and lumbering;

(c) public utilities operating under the rules of the Public Service Commission on work incidental to their own business;

(d) a sole owner of property engaged in building:

(i) no more than one residential structure per year on the sole owner's property and no more than three residential structures per five years on the sole owner's property for the sole owner's noncommercial, nonpublic use, except that a person other than the property owner or a person described in Subsection (1)(e), who engages in building a residential structure must be licensed under this chapter if the person is otherwise required to be licensed under this chapter; or

(ii) structures on the sole owner's property for the sole owner's noncommercial, nonpublic use that are incidental to a residential structure on the property, including a shed, carport, or detached garage;

(e) (i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:

(A) works without compensation other than token compensation that is not considered salary or wages; and

(B) works under the direction of the property owner who engages in building the structure; and

(ii) as used in this Subsection (1)(e), "token compensation" means compensation paid by a sole owner of property exempted from licensure under Subsection (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:

(A) minimal in value when compared with the fair market value of the services provided by the person;

(B) not related to the fair market value of the services provided by the person; and

(C) is incidental to the providing of services by the person including paying for or providing meals or refreshment while services are being provided, or paying reasonable transportation costs incurred by the person in travel to the site of construction;

(f) a person engaged in the sale or merchandising of personal property that by its design or manufacture may be attached, installed, or otherwise affixed to real property who has contracted with a person, firm, or corporation licensed under this chapter to install, affix, or attach that property;

(g) a contractor submitting a bid on a federal aid highway project, if, before undertaking construction under that bid, the contractor is licensed under this chapter;

(h) (i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a person engaged in the alteration, repair, remodeling, or addition to or improvement of a building with a contracted or agreed value of less than $7,000, including both labor and materials, and including all changes or additions to the contracted or agreed upon work; and

(ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this section:

(A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within any six month period of time:

(I) shall be performed by a licensed electrical or plumbing contractor, if the project involves an electrical or plumbing system; and

(II) may be performed by a licensed journeyman electrician or plumber or an individual referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system such as a faucet, toilet, fixture, device, outlet, or electrical switch;

(B) installation, repair, or replacement of a residential or commercial gas appliance or a combustion system on a Subsection (1)(h)(i) project shall be performed by a person who has received certification under Subsection 58-55-308(2) except as otherwise provided in Subsection 58-55-308(2)(d) or 58-55-308(3);

(C) installation, repair, or replacement of water-based fire protection systems on a Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems contractor or a licensed journeyman plumber;

(D) work as an alarm business or company or as an alarm company agent shall be performed by a licensed alarm business or company or a licensed alarm company agent, except as otherwise provided in this chapter;

(E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i) project must be performed by a licensed alarm business or company or a licensed alarm company agent;

(F) installation, repair, or replacement of a heating, ventilation, or air conditioning system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor licensed by the division;

(G) installation, repair, or replacement of a radon mitigation system or a soil depressurization system must be performed by a licensed contractor; and

(H) if the total value of the project is greater than $3,000, the person shall file with the division a one-time affirmation, subject to periodic reaffirmation as established by division rule, that the person has:

(I) public liability insurance in coverage amounts and form established by division rule; and

(II) if applicable, workers compensation insurance which would cover an employee of the person if that employee worked on the construction project;

(i) a person practicing a specialty contractor classification or construction trade which the director does not classify by administrative rule as significantly impacting the public's health, safety, and welfare;

(j) owners and lessees of property and persons regularly employed for wages by owners or lessees of property or their agents for the purpose of maintaining the property, are exempt from this chapter when doing work upon the property;

(k) (i) a person engaged in minor plumbing work that is incidental, as defined by the division by rule, to the repair of a fixture or an appliance in a residential or small commercial building, or structure used for agricultural use, as defined in Section 15A-1-202, provided that no modification is made to:

(A) existing culinary water, soil, waste, or vent piping; or

(B) a gas appliance or combustion system; and

(ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or an appliance is not included in the exemption provided under Subsection (1)(k)(i);

(l) a person who ordinarily would be subject to the plumber licensure requirements under this chapter when installing or repairing a water conditioner or other water treatment apparatus if the conditioner or apparatus:

(i) meets the appropriate state construction codes or local plumbing standards; and

(ii) is installed or repaired under the direction of a person authorized to do the work under an appropriate specialty contractor license;

(m) a person who ordinarily would be subject to the electrician licensure requirements under this chapter when employed by:

(i) railroad corporations, telephone corporations or their corporate affiliates, elevator contractors or constructors, or street railway systems; or

(ii) public service corporations, rural electrification associations, or municipal utilities who generate, distribute, or sell electrical energy for light, heat, or power;

(n) a person involved in minor electrical work incidental to a mechanical or service installation, including the outdoor installation of:

(i) an above-ground, prebuilt hot tub; or

(ii) the installation, maintenance, or repair of on-premise signs;

(o) a person who ordinarily would be subject to the electrician licensure requirements under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty contractor license for the electrical work associated with the installation, repair, or maintenance of solar energy panels, may continue the limited electrical work for solar energy panels under a specialty contractor license;

(p) a student participating in construction trade education and training programs approved by the commission with the concurrence of the director under the condition that:

(i) all work intended as a part of a finished product on which there would normally be an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed building inspector; and

(ii) a licensed contractor obtains the necessary building permits;

(q) a delivery person when replacing any of the following existing equipment with a new gas appliance, provided there is an existing gas shutoff valve at the appliance:

(i) gas range;

(ii) gas dryer;

(iii) outdoor gas barbeque; or

(iv) outdoor gas patio heater;

(r) a person performing maintenance on an elevator as defined in Section 58-55-102, if the maintenance is not related to the operating integrity of the elevator; and

(s) an apprentice or helper of an elevator mechanic licensed under this chapter when working under the general direction of the licensed elevator mechanic.

(2) A compliance agency as defined in Section 15A-1-202 that issues a building permit to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of the permit.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 177
H. B. 36
Passed February 6, 2025
Approved March 25, 2025
Effective May 7, 2025

PROVO CANYON RESOURCE MANAGEMENT PLAN AMENDMENTS

Chief Sponsor: Gay Lynn Bennion
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill addresses the Provo Canyon resource management plan.

Highlighted Provisions:

This bill:

► extends the sunset date for the section related to the Provo Canyon resource management plan.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2024, Third Special Session, Chapter 4

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:
63I-1-263. Repeal dates: Titles 63A to 63O.

(1) Subsection 63A-5b-405(5), regarding prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(3) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(4) Title 63C, Chapter 18, Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(5) Title 63C, Chapter 23, Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

(6) Title 63C, Chapter 25, State Finance Review Commission, is repealed July 1, 2027.

(7) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(8) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(9) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed July 1, 2028.

(10) Section 63G-6a-805, Purchase from community rehabilitation programs, is repealed July 1, 2026.

(11) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(12) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2029.

(13) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(14) Subsection 63J-1-602.2(16), related to the Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program, is repealed July 1, 2029.

(15) Subsection 63J-1-602.2(26), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

(16) Section 63L-11-204, Canyon resource management plan, is repealed July 1, [~~2025~~]2027.

(17) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(18) Title 63M, Chapter 7, Part 7, Domestic Violence Offender Treatment Board, is repealed July 1, 2027.

(19) Section 63M-7-902, Creation -- Membership -- Terms -- Vacancies -- Expenses, is repealed July 1, 2029.

(20) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(21) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2030.

(22) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(23) Subsection 63N-2-511(1)(b), regarding the Board of Tourism Development, is repealed July 1, 2025.

(24) Section 63N-2-512, Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(25) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

(26) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

(27) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2028.

(28) Section 63N-4-804, which creates the Rural Opportunity Advisory Committee, is repealed July 1, 2027.

(29) Subsection 63N-4-805(5)(b), regarding the Rural Employment Expansion Program, is repealed July 1, 2028.

(30) Subsection 63N-7-101(1), regarding the Board of Tourism Development, is repealed July 1, 2025.

(31) Subsection 63N-7-102(3)(c), regarding a requirement for the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed July 1, 2025.

(32) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed July 1, 2025.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 178
H. B. 38
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

CRIMINAL OFFENSES MODIFICATIONS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Calvin R. Musselman

Cosponsor:	Matthew H. Gwynn	Candice B. Pierucci
Melissa G. Ballard	Katy Hall	Andrew Stoddard
Jefferson S. Burton	Jason B. Kyle	Mark A. Strong
Tyler Clancy	Trevor Lee	

LONG TITLE

General Description:

This bill addresses changes related to certain criminal offenses and enhancements.

Highlighted Provisions:

This bill:

- ► amends the enhancement for offenses committed in concert with three or more persons or in relation to a criminal street gang;
- ► amends certain theft, retail theft, and prostitution sentencing enhancements to include prior convictions in other state, federal, or military courts;
- ► clarifies that in sentencing for an offense related to retail theft, the value of the stolen item is determined by the item's retail value;
- ► amends the offense of sexual extortion;
- ► amends the definition of "financial transaction card" in Section 76-6-506;
- ► adds offenses that may be charged as part of a pattern of unlawful activity;
- ► increases the fine for an individual who is convicted of the offense of patronizing a prostitute;
- ► increases penalties for an individual who:
  - • acts to bring a minor into a criminal street gang in certain circumstances; and
  - • acts to intimidate a minor into remaining in a criminal street gang in certain circumstances;
- ► includes coordination clauses to coordinate changes between this bill, H.B. 21, Criminal Code Recodification and Cross References, and H.B. 22, Prostitution Offense Amendments; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

76-3-203.1, as last amended by Laws of Utah 2024, Chapter 96
76-5b-204, as last amended by Laws of Utah 2024, Chapter 127
76-6-404, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-404.5, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-404.7, as last amended by Laws of Utah 2023, Chapter 111
76-6-405, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-406, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-407, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-408, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-409, as last amended by Laws of Utah 2023, Chapter 111
76-6-409.3, as last amended by Laws of Utah 2023, Chapter 111
76-6-410, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-506, as last amended by Laws of Utah 2023, Chapter 111
76-6-602, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-608, as last amended by Laws of Utah 2023, Chapter 111
76-9-802, as last amended by Laws of Utah 2024, Chapter 96
76-9-803, as enacted by Laws of Utah 2008, Chapter 15
76-10-1302, as last amended by Laws of Utah 2023, Chapter 111

76-10-1303, as last amended by Laws of Utah 2024, Chapter 140
76-10-1304, as last amended by Laws of Utah 2018, Chapter 308
76-10-1602, as last amended by Laws of Utah 2024, Chapter 96
78B-6-1101, as last amended by Laws of Utah 2021, Chapter 207
78B-6-1107, as last amended by Laws of Utah 2021, Chapter 207

ENACTS:

76-9-803.1, Utah Code Annotated 1953
76-9-803.2, Utah Code Annotated 1953
76-9-803.3, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-203.1 is amended to read:

76-3-203.1. Enhanced penalty for offenses committed in or for a certain group.

(1) As used in this section:

(a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(b) "In concert with [~~three~~]two or more [~~persons~~]individuals" means:

(i) the [~~defendant~~]actor was aided or encouraged by [~~at least three other persons~~]at least two other individuals in committing [~~the~~]an offense and was aware of this aid or encouragement; and

(ii) [~~each of the other persons~~]each of the other individuals:

(A) was physically present; and

(B) participated as a party to [~~any~~]an offense listed in Subsection [~~(4), (5), or (6)~~](6) or (7).

(c) "In concert with [~~three~~]two or more [~~persons~~]individuals" means, regarding intent:

(i) any other [~~persons~~]individual participating as [~~parties~~]a party need not have the intent to engage in the same offense or degree of offense as the [~~defendant~~]actor; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(d) "Organized criminal group" means a group of three or more individuals, whether operating formally or informally, that:

(i) has as one of the group's purposes the commission of criminal offenses; and

(ii) whose members collectively engage in committing criminal offenses for the financial or other material benefit of the members or group.

(e) "Principal place of residence" means the single location where an individual's habitation is fixed and to which, whenever the individual is absent, the individual has the intention of returning, as evidenced by:

(i) the intent expressed by the individual; and

(ii) acts of the individual that are consistent or inconsistent with the intent expressed by the individual.

(2) [~~A person~~]An actor who commits [~~any offense in accordance with this section~~]an offense listed in Subsection (6) is subject to an enhanced penalty for the offense as provided in Subsection [~~(4), (5), or (6)~~](5) if the trier of fact finds beyond a reasonable doubt that the [~~person~~]actor acted:

(a) in concert with [~~three~~]two or more [~~persons~~]individuals;

(b) for the benefit of, at the direction of, or in association with [~~any~~]a criminal street gang [~~as defined in Section 76-9-802~~]or other organized criminal group; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal street gang [~~as defined in Section 76-9-802~~]or other organized criminal group.

(3) An actor who commits an offense listed in Subsection (7) is subject to an enhanced penalty for the offense as provided in Subsection (5) if the trier of fact finds beyond a reasonable doubt that the actor:

(a) (i) acted in concert with two or more individuals; and

(ii) (A) traveled more than 50 miles from the actor's principal place of residence for the purpose of the actor committing an offense listed in Subsection (7); or

(B) had previously been convicted of an offense listed in Subsection (7), or an offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (7);

(b) acted for the benefit of, at the direction of, or in association with a criminal street gang or other organized criminal group; or

(c) acted to gain recognition, acceptance, membership, or increased status with a criminal street gang or other organized criminal group.

[~~(3)~~](4) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the [~~defendant~~]actor is subject to the enhanced penalties provided under this section.

[~~(4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:~~]

[~~(i) for a class B misdemeanor, as a class A misdemeanor; and~~]

[~~(ii) for a class A misdemeanor, as a third degree felony.~~]

[~~(b) The following offenses are subject to Subsection (4)(a):~~]

[~~(i) criminal mischief as described in Section 76-6-106;~~]

[~~(ii) property damage or destruction as described in Section 76-6-106.1; and~~]

[~~(iii) defacement by graffiti as described in Section 76-6-107.~~]

[~~(5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:~~]

[~~(i) for a class B misdemeanor, as a class A misdemeanor;~~]

[~~(ii) for a class A misdemeanor, as a third degree felony; and~~]

[~~(iii) for a third degree felony, as a second degree felony.~~]

[~~(b) The following offenses are subject to Subsection (5)(a):~~]

[~~(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);~~]

[~~(ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;~~]

[~~(iii) tampering with a witness under Section 76-8-508;~~]

[~~(iv) retaliation against a witness, victim, or informant, or other violation of Section 76-8-508.3;~~]

[~~(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;~~]

[~~(vi) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;~~]

[~~(vii) any weapons offense under Chapter 10, Part 5, Weapons; and~~]

[~~(viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.~~]

[~~(6)~~](5) [~~(a)~~] For an offense listed in Subsection [~~(6)(b), a person~~](6) or (7), an actor may be charged as follows:

[~~(i)~~](a) for a class B misdemeanor, as a class A misdemeanor;

[~~(ii)~~](b) for a class A misdemeanor, as a third degree felony;

[~~(iii)~~](c) for a third degree felony, as a second degree felony; and

[~~(iv)~~](d) for a second degree felony, as a first degree felony.

[~~(b)~~](6) The [~~following offenses are subject to Subsection (6)(a)~~]offenses referred to in Subsection (2) are:

[~~(i)~~](a) [~~assault and related offenses under~~]an offense described in Chapter 5, Part 1, Assault and Related Offenses;

[~~(ii)~~](b) [~~any criminal homicide offense under~~]an offense described in Chapter 5, Part 2, Criminal Homicide;

[~~(iii)~~](c) [~~kidnapping and related offenses under~~]a felony offense described in Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

[~~(iv)~~](d) [~~any felony sexual offense under~~]a felony offense described in Chapter 5, Part 4, Sexual Offenses;

[~~(v) sexual exploitation of a minor as defined in Section 76-5b-201;~~]

[~~(vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;~~]

[~~(vii)~~](e) robbery [~~and~~]as described in Section 76-6-202;

(f) aggravated robbery [~~under Chapter 6, Part 3, Robbery; and~~]as described in Section 76-6-203;

(g) burglary as described in Subsection 76-6-202(3)(b);

(h) aggravated burglary as described in Section 76-6-203;

(i) an offense described in Chapter 10, Part 5, Weapons;

(j) a felony violation of aiding prostitution as described in Section 76-10-1304;

(k) exploiting prostitution as described in Section 76-10-1305;

[~~(viii)~~](l) aggravated exploitation of prostitution under Section 76-10-1306[~~.~~];

(m) burglary of a research facility as described in Section 76-10-2002; and

(n) transporting or harboring aliens as described in Section 76-10-2901.

(7) The offenses referred to in Subsection (3) are:

(a) criminal solicitation of a minor as described in Section 76-4-205;

(b) an offense described in Chapter 6, Part 1, Property Destruction;

(c) an offense described in Chapter 6, Part 4, Theft;

(d) an offense described in Chapter 6, Part 6, Retail Theft;

(e) an offense described in Chapter 6, Part 11, Identity Fraud Act;

(f) communications fraud as described in Section 76-10-1801; and

(g) an offense described in Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act.

[~~(7)~~](8) [~~The~~]A court may, if not otherwise prohibited from doing so by another section of the code, suspend a sentence imposed under [~~Subsection (4), (5), or (6) may be suspended~~]this section and place the [~~individual placed~~]actor on probation [~~for the higher level of offense~~].

[~~(8)~~](9) It is not a bar to imposing the enhanced penalties under this section that the [~~persons~~]individuals with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those [~~persons~~]individuals are charged with or convicted of a different or lesser offense.

Section 2. Section 76-5b-204 is amended to read:

76-5b-204. Sexual extortion -- Penalties.

(1) (a) As used in this section:

(i) "Adult" means an individual 18 years old or older.

(ii) "Child" means any individual under the age of 18.

(iii) "Intimate image" means the same as that term is defined in Section 76-5b-203.

(iv) "Position of special trust" means the same as that term is defined in Section 76-5-404.1.

(v) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(vi) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits the offense of sexual extortion if the actor:

(i) with an intent to coerce a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute an image, video, or other recording of any individual naked or engaged in sexually explicit conduct, communicates by any means a threat:

(A) to the victim's person, property, or reputation; or

(B) to distribute an intimate image or video of the victim;

(ii) knowingly causes a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute any image, video, or other recording of any individual naked or engaged in sexually explicit conduct by means of a threat:

(A) to the victim's person, property, or reputation; or

(B) to distribute an intimate image or video of the victim; or

(iii) with intent to obtain a thing of value from a victim communicates, by any means, a threat to distribute an intimate image or video of the victim.

(b) An actor commits aggravated sexual extortion when, in conjunction with the offense described in Subsection (2)(a), any of the following circumstances have been charged and admitted or found true in the action for the offense:

(i) the victim is a child or vulnerable adult;

(ii) the offense was committed by the use of a dangerous weapon or by violence, intimidation, menace, fraud, or threat of physical harm, or was committed during the course of a kidnapping;

(iii) [~~the actor caused~~]the victim suffered bodily injury or severe psychological injury [~~to the victim~~]during, or as a result of, the offense;

(iv) the actor was a stranger to the victim, or became a friend of the victim, for the purpose of committing the offense;

(v) the actor, before sentencing for the offense, was previously convicted of any sexual offense;

(vi) the actor occupied a position of special trust in relation to the victim;

(vii) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling; or

(viii) the actor caused the penetration, however slight, of the genital or anal opening of the victim by any part or parts of the human body, or by any other object.

(3) (a) If the actor is an adult:

(i) [~~A~~]a violation of Subsection (2)(a) is a third degree felony.

(ii) [~~A~~]a violation of Subsection [~~(2)(b)~~](2)(b)(i), (ii), (iv), (v), (vi), (vii), or (viii) in which the victim is an adult is a second degree felony.

(iii) a violation of Subsection (2)(b)(iii) in which the victim is an adult is a first degree felony.

[~~(iii)~~](iv) [~~A~~]a violation of Subsection (2)(b) in which the victim is a child or a vulnerable adult is a first degree felony.

(b) If the actor is a child:

(i) [~~A~~]a violation of Subsection (2)(a) is a class A misdemeanor.

(ii) [~~A~~]a violation of Subsection (2)(b) is a third degree felony if there is more than a two-year age gap between the actor and the victim.

(c) An actor commits a separate offense under this section:

(i) for each victim the actor subjects to the offense outlined in Subsection (2)(a); and

(ii) for each separate time the actor subjects a victim to the offense outlined Subsection (2)(a).

(d) This section does not preclude an actor from being charged and convicted of a separate criminal act if the actor commits the separate criminal act while the individual violates or attempts to violate this section.

(4) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to liability under this section related to content provided by a user of the interactive computer service.

Section 3. Section 76-6-404 is amended to read:

76-6-404. Theft -- Elements.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft if the actor obtains or exercises unauthorized control over another person's property with a purpose to deprive the person of the person's property.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; [~~or~~]

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

(D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);

(iv) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 4. Section 76-6-404.5 is amended to read:

76-6-404.5. Unauthorized possession of property.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits unauthorized possession of property if the actor obtains or exercises unauthorized control over another person's property, without the consent of the property's owner or legal custodian, and with the intent to temporarily appropriate, possess, or use the property or to temporarily deprive the property's owner or legal custodian of possession of the property.

(3) A violation of Subsection (2) is:

(a) a third degree felony if:

(i) the value of the property is or exceeds $5,000;

(ii) the property is a firearm or an operable motor vehicle; or

(iii) the property is taken from the person of another;

(b) a class A misdemeanor if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item is defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; [~~or~~]

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

(D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);

(iv) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the unauthorized possession of property occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class B misdemeanor if:

(i) the value of the property is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the unauthorized possession of property occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class C misdemeanor if the value of the property is less than $500 and the unauthorized possession of property is not an offense under Subsection (3)(c).

(4) Unauthorized possession of property is a lesser included offense of the offense of theft under Section 76-6-404.

(5) The consent of the owner or legal custodian of the property to the property's control by the actor is not presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the property by any person.

Section 5. Section 76-6-404.7 is amended to read:

76-6-404.7. Theft of motor vehicle fuel.

(1) (a) As used in this section, "motor vehicle fuel" means any combustible gas, liquid, matter, or substance that is used in an internal combustion engine for the generation of power.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft of motor vehicle fuel if the actor:

(a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for retail sale when motor fuel has been dispensed into:

(i) the fuel tank of the motor vehicle; or

(ii) any other container that is then removed from the premises by means of the motor vehicle; and

(b) commits the act under Subsection (2)(a) with the intent to deprive the owner or operator of the premises of the motor vehicle fuel without making full payment for the fuel.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of the motor vehicle fuel is or exceeds $5,000;

(b) a third degree felony if:

(i) the value of the motor vehicle fuel is or exceeds $1,500 but is less than $5,000; [~~or~~]

(ii) the value of the motor vehicle fuel is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; [~~or~~]

(C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or

(D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);

(iii) (A) the value of the motor vehicle fuel is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~](D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the motor vehicle fuel is or exceeds $500 but is less than $1,500;

(ii) (A) the value of the motor vehicle fuel is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~](D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the motor vehicle fuel is less than $500 and the theft is not an offense under Subsection (3)(c).

(4) (a) In addition to the penalties described in Subsection (3), the sentencing court may order the suspension of the driver license of an actor convicted of theft of motor vehicle fuel.

(b) The suspension described in Subsection (4)(a) may not be for more than 90 days as provided in Section 53-3-220.

Section 6. Section 76-6-405 is amended to read:

76-6-405. Theft by deception.

(1) (a) As used in this section, "puffing" means an exaggerated commendation of wares or worth in a communication addressed to an individual, group, or the public.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits theft by deception if the actor obtains or exercises control over property of another person:

(i) by deception; and

(ii) with a purpose to deprive the other person of property.

(b) The deception described in Subsection (2)(a)(i) and the deprivation described in Subsection (2)(a)(ii) may occur at separate times.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000; or

(ii) property stolen is a firearm or an operable motor vehicle;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property:

(A) is a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; [~~or~~]

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

(D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);

(iv) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

(4) Theft by deception does not occur when there is only:

(a) falsity as to matters having no pecuniary significance; or

(b) puffing by statements unlikely to deceive an ordinary person in the group addressed.

Section 7. Section 76-6-406 is amended to read:

76-6-406. Theft by extortion.

(1) (a) As used in this section, extortion occurs when an actor threatens to:

(i) cause physical harm in the future to the person threatened, to any other person, or to property at any time;

(ii) subject the person threatened or any other person to physical confinement or restraint;

(iii) engage in other conduct constituting a crime;

(iv) accuse any person of a crime or expose any person to hatred, contempt, or ridicule;

(v) reveal any information sought to be concealed by the person threatened;

(vi) testify, provide information, or withhold testimony or information with respect to a person's legal claim or defense;

(vii) take action as an official against anyone or anything, or withhold official action, or cause such action or withholding;

(viii) bring about or continue a strike, boycott, or other similar collective action to obtain property that is not demanded or received for the benefit of the group that the actor purports to represent; or

(ix) do any other act which would not in itself substantially benefit the actor but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft by extortion if the actor obtains or exercises control over the property of another person by extortion and with a purpose to deprive the person of the person's property.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; [~~or~~]

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

(D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);

(iv) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

(4) (a) A person who is adversely impacted by the conduct prohibited in Subsection (2)may bring a civil action for equitable relief and damages.

(b) In accordance with Section 78B-2-305, a person who brings an action under Subsection (4)(a) shall commence the action within three years after the day on which the cause of action arises.

Section 8. Section 76-6-407 is amended to read:

76-6-407. Theft of lost, mislaid, or mistakenly delivered property.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft of lost, mislaid, or mistakenly delivered property if the actor:

(a) obtains another person's property and knows the property to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, without taking reasonable measures to return the property to the owner; and

(b) has the purpose to deprive the owner of the property when the actor obtains the property or at any time before taking the measures described in Subsection (2)(a).

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; [~~or~~]

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

(D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);

(iv) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 9. Section 76-6-408 is amended to read:

76-6-408. Theft by receiving stolen property -- Duties of pawnbrokers, secondhand businesses, coin dealers, and catalytic converter purchasers.

(1) (a) As used in this section:

(i) "Catalytic converter purchaser" means the same as that term is defined in Section 13-32a-102.

(ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.

(iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(iv) "Receives" means acquiring possession, control, title, or lending on the security of the property.

(v) "Scrap metal processor" means the same as that term is defined in Section 76-6-1402.

(vi) "Secondhand actor" means:

(A) a pawnbroker;

(B) a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property; or

(C) an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains property.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft by receiving stolen property if the actor receives, retains, or disposes of the property of another knowing that the property is stolen, or believing that the property is probably stolen, or who conceals, sells, withholds, or aids in concealing, selling, or withholding the property from the owner, knowing or believing the property to be stolen, intending to deprive the owner of the property.

(3) A violation of Subsection (2) is:

(a) a second degree felony if:

(i) the value of the property is or exceeds $5,000; or

(ii) the property is a firearm or an operable motor vehicle;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less the $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; [~~or~~]

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

(D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C); or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property is or exceeds $500 but is less than $1,500; or

(ii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property is less than $500 and the theft is not an offense under Subsection (3)(c).

(4) Except as provided in Subsection (5), the knowledge or belief required under Subsection (2) is presumed in the case of an actor who:

(a) is found in possession or control of other property stolen on a separate occasion; or

(b) has received other stolen property within the year preceding the receiving offense charged.

(5) (a) The knowledge or belief required under Subsection (2) may only be presumed of a secondhand actor if the secondhand actor does not substantially comply with the material requirements of Section 13-32a-104.

(b) The knowledge or belief required under Subsection (2) may only be presumed of a coin dealer or an employee of a coin dealer if the coin dealer or the employee of the coin dealer does not substantially comply with the requirements of Section 13-32a-104.5.

(c) The knowledge or belief required under Subsection (2) may only be presumed of a catalytic converter purchaser if the catalytic converter purchaser does not substantially comply with the material requirements of Section 13-32a-104.7.

(6) Unless acting as a catalytic converter purchaser, Subsection (5)(c) does not apply to a scrap metal processor.

(7) This section does not preclude the admission of evidence in accordance with the Utah Rules of Evidence.

(8) An actor who violates Subsection (2) is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Section 10. Section 76-6-409 is amended to read:

76-6-409. Theft of service.

(1) (a) As used in this section, "service" includes:

(i) labor, professional service, a public utility or transportation service, restaurant, hotel, motel, tourist cabin, rooming house, and like

accommodations, the supplying of equipment, a tool, a vehicle, or a trailer for temporary use, telegraph service, steam, admission to entertainment, an exhibition, a sporting event, or other event for which a charge is made;

(ii) gas, electricity, water, sewer, or cable television service, only if the service is obtained by threat, force, or a form of deception not described in Section 76-6-409.3; and

(iii) telephone service, only if the service is obtained by threat, force, or a form of deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or 76-6-409.9.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft of service if:

(a) the actor, by deception, threat, force, or another means designed to avoid due payment, obtains a service that the actor knows is available only for compensation; or

(b) the actor:

(i) has control over the disposition of another person's service; and

(ii) (A) diverts the other person's service to the benefit of the actor, knowing that the actor is not entitled to the service; or

(B) diverts the other person's service to the benefit of a third person, knowing that the third person is not entitled to the service.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of the service is or exceeds $5,000;

(b) a third degree felony if:

(i) the value of the service is or exceeds $1,500 but is less than $5,000;

(ii) the value of the service is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; [~~or~~]

(C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or

(D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(ii)(A), (B), or (C);

(iii) (A) the value of the service is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~](D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the service stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of the service is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~](D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the service is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 11. Section 76-6-409.3 is amended to read:

76-6-409.3. Theft of utility or cable television services -- Restitution -- Civil action for damages.

(1) (a) As used in this section:

(i) "Cable television service" means an audio, video, or data service provided for payment by a cable television company over the cable company's cable system facilities, but does not include the use of a satellite dish or antenna.

(ii) "Occupant" includes a person, including the owner, who occupies the whole or part of a building, whether alone or with others.

(iii) "Owner" includes a partial owner, joint owner, tenant in common, joint tenant, or tenant by the entirety of the whole or a part of a building and the property on which the building is located.

(iv) "Person" means an individual, firm, partnership, corporation, company, association, or other legal entity.

(v) "Tenant" includes a person, including the owner, who occupies the whole or part of any building, whether alone or with others.

(vi) "Utility" means any public utility, municipally owned utility, or cooperative utility that provides electricity, gas, water, or sewer, or any combination of electricity, gas, water, or sewer, for sale to consumers.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft of a utility or cable television service if, with intent to avoid due payment to the utility or cable television company, the actor makes gas, electricity, water, sewer, or cable television available to a tenant or occupant, including to the actor, by committing any of the following acts:

(a) connecting a tube, pipe, wire, cable, or other instrument with any meter, device, or other instrument used for conducting gas, electricity, water, sewer, or cable television in a manner as permits the use of the gas, electricity, water, sewer, or cable television without the gas, electricity, water, sewer, or cable television passing through a meter or other instrument recording the usage for billing;

(b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other instrument used for measuring quantities of gas, electricity, water, or sewer service, or making or maintaining any modification or alteration to any device installed with the

authorization of a cable television company for the purpose of intercepting or receiving any program or other service carried by the company that the actor is not authorized by the company to receive;

(c) reconnecting a gas, electricity, water, sewer, or cable television connection or otherwise restoring service when one or more of those utilities or cable service has been lawfully disconnected or turned off by the provider of the utility or cable service;

(d) intentionally breaking, defacing, or causing to be broken or defaced a seal, locking device, or other part of a metering device for recording usage of gas, electricity, water, or sewer service, or a security system for the recording device, or a cable television control device;

(e) removing a metering device designed to measure quantities of gas, electricity, water, or sewer service;

(f) transferring from one location to another location a metering device for measuring quantities of public utility services of gas, electricity, water, or sewer service;

(g) changing the indicated consumption, jamming the measuring device, bypassing the meter or measuring device with a jumper so that it does not indicate use or registers use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from the utility without the gas, electricity, water, or sewer service passing through a metering device for measuring quantities of consumption for billing purposes;

(h) using a metering device belonging to the utility that has not been assigned to the location and installed by the utility;

(i) fabricating or using a device to pick or otherwise tamper with the locks used to deter utility service diversion, meter tampering, meter thefts, and unauthorized cable television service;

(j) assisting or instructing a person in obtaining or attempting to obtain any cable television service without payment of all lawful compensation to the company providing the service;

(k) making or maintaining a connection or connections, whether physical, electrical, mechanical, acoustical, or by other means, with a cable, wire, component, or other device used for the distribution of cable television services without authority from the cable television company; or

(l) possessing without authority any device or printed circuit board designed in whole or in part to receive any cable television programming or service offered for sale over a cable television system, unless the device or printed circuit board includes the use of a satellite dish or antenna, with the intent that the device or printed circuit be used for the reception of the cable television company's services without payment.

(3) (a) A violation of Subsection (2), if the violation is a theft of a utility service, is:

(i) a second degree felony if:

(A) the value of the gas, electricity, water, or sewer service is or exceeds $5,000; or

(B) if the actor previously has been convicted of a violation of this section;

(ii) a third degree felony if the value of the gas, electricity, water, or sewer service is or exceeds $1,500 but is not more than $5,000;

(iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service is or exceeds $500 but is not more than $1,500; or

(iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service is less than $500.

(b) A violation of Subsection (2), if the violation is a theft of a cable television service, is:

(i) a second degree felony if the value of the service is or exceeds $5,000;

(ii) a third degree felony if:

(A) the value of the service is or exceeds $1,500 but is less than $5,000;

(B) the value of the service is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(I) any theft, any robbery, or any burglary with intent to commit theft;

(II) any offense under Part 5, Fraud; [~~or~~]

(III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II); or

(IV) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(ii)(B)(I), (II), or (III); or

(C) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(III),~~](IV), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(iii) a class A misdemeanor if:

(A) the value of the service stolen is or exceeds $500 but is less than $1,500; or

(B) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(III),~~](IV), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(iv) a class B misdemeanor if the value of the service is less than $500 and the theft is not an offense under Subsection (3)(b)(iii).

(c) (i) An actor who violates this section shall make restitution to the utility or cable television company for the value of the gas, electricity, water, sewer, or cable television service consumed in violation of this section plus all reasonable expenses and costs incurred on account of the violation of this section.

(ii) Reasonable expenses and costs include expenses and costs for investigation, disconnection, reconnection, service calls, employee time, and equipment use.

(4) (a) The presence on property in the possession of an actor of a device or alteration that permits the diversion or use of utility or cable service to avoid the registration of the use by or on a meter installed by the utility or to otherwise avoid the recording of use of the service for payment or otherwise avoid payment gives rise to an inference that the actor in possession of the property installed the device or caused the alteration if:

(i) the presence of the device or alteration can be attributed only to a deliberate act in furtherance of an intent to avoid payment for utility or cable television service; and

(ii) the actor charged has received the direct benefit of the reduction of the cost of the utility or cable television service.

(b) An actor who aids or abets in a prohibited act is a party to the offense under Section 76-2-202.

(5) (a) Criminal prosecution under this section does not affect the right of a utility or cable television company to bring a civil action for redress for damages suffered as a result of the commission of any of the acts prohibited by this section.

(b) This section does not abridge or alter any other right, action, or remedy otherwise available to a utility or cable television company.

Section 12. Section 76-6-410 is amended to read:

76-6-410. Theft by custodian of property pursuant to repair or rental agreement.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft by custodian of property pursuant to repair or rental agreement if:

(a) (i) the actor has custody of property pursuant to an agreement between the actor or another person and the property's owner;

(ii) the actor or another person is to perform for compensation a specific service for the property's owner involving the maintenance, repair, or use of the owner's property; and

(iii) the actor intentionally uses or operates the owner's property, without the consent of the owner, for the actor's own purposes in a manner constituting a gross deviation from the agreed purpose; or

(b) (i) the actor has custody of any property pursuant to a rental or lease agreement in which the property is to be returned in a specified manner or at a specified time; and

(ii) the actor intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000; or

(ii) property stolen is a firearm or an operable motor vehicle;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; [~~or~~]

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

(D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C); or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500; or

(ii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 13. Section 76-6-506 is amended to read:

76-6-506. Financial transaction card offenses -- Definitions.

As used in Sections 76-6-506.2, 76-6-506.3, 76-6-506.6, 76-6-506.8, and 76-6-506.9:

(1) "Authorized credit card merchant" means a person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a financial transaction card by a card holder and to present valid credit card sales drafts to the issuer for payment.

(2) "Automated banking device" means any machine which, when properly activated by a financial transaction card or a personal identification code, may be used for any of the purposes for which a financial transaction card may be used.

(3) "Card holder" means any person or organization named on the face of a financial transaction card to whom or for whose benefit a financial transaction card is issued.

(4) "Credit card sales draft" means any sales slip, draft, or other written or electronic record of a sale of money, goods, services, or anything else of value made or purported to be made to or at the request of a card holder with a financial transaction card, financial transaction card credit number, or personal identification code, whether the record of the sale or purported sale is evidenced by a sales draft, voucher, or other similar document in writing or electronically recorded and transmitted.

(5) "Financial transaction card" means:

(a) any credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card, or any other card, issued by an issuer for the use of the card holder in obtaining money, goods, services, or anything else of value on credit, or in certifying or guaranteeing to a person or business the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of the person or business; [~~or~~]

(b) any instrument or device used in providing the card holder access to a demand or time deposit account for the purpose of making deposits of money or checks in the account, or withdrawing funds from the account in the form of money, money orders, travelers' checks, or other form representing value, or transferring funds from any demand or time deposit account to any credit card account in full or partial

satisfaction of any outstanding balance existing in the credit card account [~~.~~]; or

(c) a card, code, or device that is:

(i) issued to a consumer on a prepaid basis in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment;

(ii) activated or inactivated; and

(iii) redeemable upon presentation:

(A) by a consumer at a single merchant or group of affiliated merchants; or

(B) at multiple unaffiliated merchants for goods or services within the payment card network.

(6) "Issuer" means a business organization or financial institution or its agent that issues a financial transaction card.

(7) "Personal identification code" means any numerical or alphabetical code assigned to a card holder by the issuer to permit the authorized electronic use of the holder's financial transaction card.

Section 14. Section 76-6-602 is amended to read:

76-6-602. Retail theft.

(1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.

(2) An actor commits retail theft if the actor knowingly:

(a) takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment with the intention of:

(i) retaining the merchandise; or

(ii) depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of the merchandise;

(b) (i) alters, transfers, or removes any label, price tag, marking, indicia of value, or any other markings which aid in determining value of any merchandise displayed, held, stored, or offered for sale, in a retail mercantile establishment; and

(ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of the merchandise;

(c) transfers any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment from the container in or on which the merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of the merchandise;

(d) under-rings with the intention of depriving the merchant of the retail value of the merchandise; or

(e) removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use, or benefit of the shopping cart.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) retail value of the merchandise or shopping cart is or exceeds $5,000;

(ii) merchandise stolen is a firearm or an operable motor vehicle; [~~or~~]

(b) a third degree felony if:

(i) the retail value of the merchandise is or exceeds $1,500 but is less than $5,000;

(ii) the merchandise is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the retail value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;

(iii) the retail value of the merchandise or shopping cart is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; [~~or~~]

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

(D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);

(iv) (A) the retail value of merchandise or shopping cart is or exceeds $500 but is less than $1,500;

(B) the theft occurs in a retail mercantile establishment or on the premises of a retail mercantile establishment where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the retail value of the merchandise or shopping cart stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the retail value of merchandise or shopping cart is less than $500;

(B) the theft occurs in a retail mercantile establishment or premises of a retail mercantile establishment where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~](D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current

conviction is based; or

(d) a class B misdemeanor if the retail value of the merchandise or shopping cart stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 15. Section 76-6-608 is amended to read:

76-6-608. Theft detection shielding devices prohibited.

(1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.

(2) An actor commits the unlawful shielding of a theft detection device if the actor knowingly:

(a) makes or possesses any container or device used for, intended for use for, or represented as having the purpose of shielding merchandise from any electronic or magnetic theft alarm sensor, with the intent to commit a theft of merchandise;

(b) sells, offers to sell, advertises, gives, transports, or otherwise transfers to another any container or device intended for use for or represented as having the purpose of shielding merchandise from any electronic or magnetic theft alarm sensor;

(c) possesses any tool or instrument designed to remove any theft detection device from any merchandise, with the intent to use the tool or instrument to remove any theft detection device from any merchandise without the permission of the merchant or the person owning or in possession of the merchandise; or

(d) intentionally removes a theft detection device from merchandise prior to purchase and without the permission of the merchant.

(3) (a) A violation of Subsection (2)(a), (b), or (c) is a class A misdemeanor.

(b) A violation of Subsection (2)(d) is a:

(i) class B misdemeanor if the retail value of the merchandise from which the theft detection device is removed is less than $500; or

(ii) class A misdemeanor if the retail value of the merchandise from which the theft detection device is removed is or exceeds $500.

(4) A violation of Subsection (2) is a separate offense from any offense listed in Part 4, Theft, or Part 6, Retail Theft.

(5) Criminal prosecutions under this section do not affect any person's right of civil action for redress for damages suffered as a result of any violation of this section.

Section 16. Section 76-9-802 is amended to read:

76-9-802. Definitions.

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more [~~persons~~]individuals, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of its primary activities the commission of [~~one or more predicate gang crimes~~]a criminal offense;

(c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

(2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.

(3) "Minor" means [~~a person~~]an individual younger than 18 years old.

(4) "Pattern of criminal gang activity" means:

(a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more [~~predicate gang crimes~~]criminal offenses within five years;

(b) the [~~predicate gang crimes~~]criminal offenses are:

(i) committed by two or more [~~persons~~]individuals; or

(ii) committed by an individual at the direction of, or in association with a criminal street gang; and

(c) the criminal [~~activity was~~]offenses were committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.

[~~(5) (a) "Predicate gang crime" means any of the following offenses:~~]

[~~(i) Title 41, Chapter 1a, Motor Vehicle Act:~~]

[~~(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;~~]

[~~(B) Section 41-1a-1315, regarding false evidence of title and registration;~~]

[~~(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;~~]

[~~(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an identification number; or~~]

[~~(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;~~]

[~~(ii) any criminal violation of the following provisions:~~]

[~~(A) Title 58, Chapter 37, Utah Controlled Substances Act;~~]

[~~(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;~~]

[~~(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or~~]

[~~(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;~~]

[~~(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;~~]

[~~(iv) Title 76, Chapter 5, Part 2, Criminal Homicide;~~]

[~~(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;~~]

[~~(vi) a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;~~]

[~~(vii) Title 76, Chapter 6, Part 1, Property Destruction;~~]

[~~(viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;~~]

[~~(ix) Title 76, Chapter 6, Part 3, Robbery;~~]

[~~(x) a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76, Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;~~]

[~~(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;~~]

[~~(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;~~]

[~~(xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;~~]

[~~(xiv) tampering with a witness under Section 76-8-508;~~]

[~~(xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;~~]

[~~(xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;~~]

[~~(xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;~~]

[~~(xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the violation occurs at an official meeting;~~]

[~~(xix) Title 76, Chapter 10, Part 3, Explosives;~~]

[~~(xx) Title 76, Chapter 10, Part 5, Weapons;~~]

[~~(xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;~~]

[~~(xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~]

[~~(xxiii) communications fraud under Section 76-10-1801;~~]

[~~(xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act; or~~]

[~~(xxv) burglary of a research facility under Section 76-10-2002.~~]

[~~(b) "Predicate gang crime" also includes:~~]

[~~(i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and~~]

[~~(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of any offense in Subsection (4)(a) if committed in this state.~~]

Section 17. Section 76-9-803 is amended to read:

76-9-803. Soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang.

[~~(1) It is a class B misdemeanor to:~~]

[~~(a) solicit, recruit, entice, or intimidate a minor to join a criminal street gang, whether or not the minor actually joins the criminal street gang;~~]

[~~(b) conspire to commit any act under Subsection (1)(a) with the intent to cause a minor to join a criminal street gang; or~~]

[~~(c) use intimidation to prevent or attempt to prevent a minor from leaving a criminal street gang or ending the minor's affiliation with a criminal street gang.~~]

[~~(2) It is a class A misdemeanor for any person who is a member of or actively involved with a criminal street gang to:~~]

[~~(a) intimidate or otherwise cause a minor to commit or attempt to commit any misdemeanor criminal offense; or~~]

[~~(b) commit a violation of Subsection (1)(a):~~]

[~~(i) more than once;~~]

[~~(ii) regarding the same minor; and~~]

[~~(iii) within a period of 180 days.~~]

[~~(3) Prosecution for any offense under this section does not prohibit prosecution for any other criminal offense.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang if the actor:

(a) solicits, recruits, entices, or intimidates a minor to join a criminal street gang; or

(b) conspires to commit an act described in Subsection (2)(a) with the intent to cause a minor to join a criminal street gang.

(3) A violation of Subsection (2) is:

(a) a class A misdemeanor if the actor is a minor; or

(b) a third degree felony if the actor is 18 years old or older.

(4) It is not a defense to a prosecution under this section that the minor did not join the criminal street gang.

Section 18. Section 76-9-803.1 is enacted to read:

76-9-803.1. Aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang.

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang if, in the course of committing an offense under Section 76-9-803, the offense:

(a) involves the use of a dangerous weapon;

(b) results in serious bodily injury to any individual; or

(c) results in serious emotional distress to any individual.

(3) A violation of Subsection (2) is:

(a) a third degree felony if the actor is a minor; or

(b) a second degree felony if the actor is 18 years old or older.

(4) It is not a defense to a prosecution under this section that the minor did not join the criminal street gang.

Section 19. Section 76-9-803.2 is enacted to read:

76-9-803.2. Intimidating a minor to remain in a criminal street gang.

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits intimidating a minor to remain in a criminal street gang if the actor intimidates a minor to prevent the minor from leaving a criminal street gang or ending the minor's affiliation with a criminal street gang.

(3) A violation of Subsection (2) is:

(a) a class A misdemeanor if the actor is a minor; or

(b) a third degree felony if the actor is 18 years old or older.

(4) It is not a defense to a prosecution under this section that the minor described in Subsection (2) left or ended the minor's affiliation with a criminal street gang.

Section 20. Section 76-9-803.3 is enacted to read:

76-9-803.3. Aggravated intimidating a minor to remain in a criminal street gang.

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits aggravated intimidating a minor to remain in a criminal street gang if, in the course of committing an offense under Section 76-9-803.2, the offense:

(a) involves the use of a dangerous weapon;

(b) results in serious bodily injury to any individual; or

(c) results in serious emotional distress to any individual.

(3) A violation of Subsection (2) is:

(a) a third degree felony if the actor is a minor; or

(b) a second degree felony if the actor is 18 years old or older.

(4) It is not a defense to a prosecution under this section that the minor described in Subsection (2) left or ended the minor's affiliation with a criminal street gang.

Section 21. Section 76-10-1302 is amended to read:

76-10-1302. Prostitution.

(1) An actor, except for a child under Section 76-10-1315, is guilty of prostitution if the actor engages in sexual activity with another individual for a fee, or the functional equivalent of a fee.

(2) (a) Except as provided in Subsection (2)(b) and Section 76-10-1309, a violation of Subsection (1) is a class B misdemeanor.

(b) [~~Except as provided in Section 76-10-1309, an actor who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or~~]A violation of Subsection (1) is a class A misdemeanor if the actor has previously been convicted of:

(i) a violation of Subsection (1);

(ii) [~~under~~]a local ordinance adopted [~~under~~]in accordance with Section 76-10-1307[~~, is guilty of a class A misdemeanor~~]addressing the same or similar type of violation to the violation described in Subsection (1); or

(iii) a criminal violation in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the violation described in Subsection (1).

(3) A prosecutor may not prosecute an actor for a violation of Subsection (1) if the actor engages in a violation of Subsection (1) at or near the time the actor witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the actor reports the offense or attempt to law enforcement in good faith:

(a) assault, Section 76-5-102;

(b) aggravated assault, Section 76-5-103;

(c) mayhem, Section 76-5-105;

(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault under Chapter 5, Part 2, Criminal Homicide;

(e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(f) rape, Section 76-5-402;

(g) rape of a child, Section 76-5-402.1;

(h) object rape, Section 76-5-402.2;

(i) object rape of a child, Section 76-5-402.3;

(j) forcible sodomy, Section 76-5-403;

(k) sodomy on a child, Section 76-5-403.1;

(l) forcible sexual abuse, Section 76-5-404;

(m) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child, Section 76-5-404.3;

(n) aggravated sexual assault, Section 76-5-405;

(o) sexual exploitation of a minor, Section 76-5b-201;

(p) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

(q) sexual exploitation of a vulnerable adult, Section 76-5b-202;

(r) aggravated burglary or burglary of a dwelling under Chapter 6, Part 2, Burglary and Criminal Trespass;

(s) aggravated robbery or robbery under Chapter 6, Part 3, Robbery; or

(t) theft by extortion under Section 76-6-406 under the circumstances described in Subsection 76-6-406(1)(a)(i) or (ii).

Section 22. Section 76-10-1303 is amended to read:

76-10-1303. Patronizing a prostitute.

(1) An actor is guilty of patronizing a prostitute if the actor:

(a) pays or offers or agrees to pay a prostituted individual, or an individual the actor believes to be a prostituted individual, a fee, or the functional equivalent of a fee, for the purpose of engaging in an act of sexual activity; or

(b) enters or remains in a place of prostitution for the purpose of engaging in sexual activity.

[~~(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3), (4), or (5) or Section 76-10-1309.~~]

[~~(3) A violation of this section that is preceded by a conviction under this section or a conviction under a local ordinance adopted under Section 76-10-1307 is a class A misdemeanor.~~]

[~~(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307is a third degree felony.~~]

(2) (a) Except as provided in Subsection (2)(b), (3), or Section 76-10-1309, a violation of Subsection (1) is a class A misdemeanor with a mandatory fine of not less than $5,000.

(b) A violation of Subsection (1) is a third degree felony, with a mandatory fine of not less than $10,000, if the actor has previously been convicted two or more times of:

(i) a violation of Subsection (1);

(ii) a local ordinance adopted in accordance with Section 76-10-1307 addressing the same or similar type of violation to the violation described in Subsection (1); or

(iii) a criminal violation in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the violation described in Subsection (1).

[~~(5)~~](3) (a) Except as provided in Subsection [~~(5)(d)~~](3)(d), if the patronizing of a prostitute under Subsection (1)(a) involves a child as the other individual, a violation of Subsection (1)(a) is a second degree felony with a mandatory fine of not less than $20,000.

(b) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under Subsection [~~(5)(a)~~](3)(a) that the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age.

(c) An actor's belief that the individual was under 18 years old at the time of the offense, even if the individual was 18 years old or older, is a violation of Subsection [~~(5)(a)~~](3)(a).

(d) If the act committed under Subsection [~~(5)(a)~~](3)(a) amounts to an offense that is subject to a greater penalty under another provision of state law than is provided under Subsection [~~(5)(a)~~](3)(a), this Subsection [~~(5)~~](3) does not prohibit prosecution and sentencing for the more serious offense.

[~~(6)~~](4) Upon a conviction for a violation of this section, the court shall order:

(a) the maximum fine amount and may not waive or suspend the fine; and

(b) the defendant to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 23. Section 76-10-1304 is amended to read:

76-10-1304. Aiding prostitution.

(1) An individual is guilty of aiding prostitution if the individual:

(a) (i) solicits an individual to patronize a prostitute, or to patronize an individual the actor believes to be a prostitute;

(ii) procures or attempts to procure a prostitute, or an individual the actor believes to be a prostitute, for a patron;

(iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in association with another, to be used for prostitution or the promotion of prostitution; or

(iv) provides any service or commits any act that enables another individual to commit a violation of this Subsection (1)(a) or facilitates another individual's ability to commit any violation of this Subsection (1)(a); or

(b) solicits, receives, or agrees to receive any benefit for committing any of the acts prohibited by Subsection (1)(a).

[~~(2) Aiding prostitution is a class A misdemeanor, except as provided in Subsection (3).~~]

[~~(3) An individual who is convicted a second time, and on all subsequent convictions, under this section or under a local ordinance adopted in compliance with Section 76-10-1307is guilty of a third degree felony.~~]

(2) (a) Except as provided in Subsection (2)(b), a violation of Subsection (1) is a class A misdemeanor.

(b) A violation of Subsection (1) is a third degree felony if the actor has previously been convicted of:

(i) a violation of Subsection (1);

(ii) a local ordinance adopted in accordance with Section 76-10-1307 addressing the same or similar type of violation to the violation described in Subsection (1); or

(iii) a criminal violation in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the violation described in Subsection (1).

[~~(4)~~](3) Upon a conviction for a violation of this section, the court shall order [~~the maximum fine amount~~]a fine of not less than $10,000 and may not waive or suspend the fine.

Section 24. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have

occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) an act prohibited by the criminal provisions under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or Section 23A-5-311;

(d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

(e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;

(i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault under Section 76-5-102;

(k) aggravated assault under Section 76-5-103;

(l) a threat of terrorism under Section 76-5-107.3;

(m) a criminal homicide offense under Section 76-5-201;

(n) kidnapping under Section 76-5-301;

(o) aggravated kidnapping under Section 76-5-302;

(p) human trafficking for labor under Section 76-5-308;

(q) human trafficking for sexual exploitation under Section 76-5-308.1;

(r) human smuggling under Section 76-5-308.3;

(s) human trafficking of a child under Section 76-5-308.5;

(t) benefiting from trafficking and human smuggling under Section 76-5-309;

(u) aggravated human trafficking under Section 76-5-310;

(v) sexual exploitation of a minor under Section 76-5b-201;

(w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(x) sexual extortion under Section 76-5b-204;

[~~(x)~~](y) arson under Section 76-6-102;

[~~(y)~~](z) aggravated arson under Section 76-6-103;

[~~(z)~~](aa) causing a catastrophe under Section 76-6-105;

[~~(aa)~~](bb) burglary under Section 76-6-202;

[~~(bb)~~](cc) aggravated burglary under Section 76-6-203;

[~~(cc)~~](dd) burglary of a vehicle under Section 76-6-204;

[~~(dd)~~](ee) manufacture or possession of an instrument for burglary or theft under Section 76-6-205;

[~~(ee)~~](ff) robbery under Section 76-6-301;

[~~(ff)~~](gg) aggravated robbery under Section 76-6-302;

[~~(gg)~~](hh) theft under Section 76-6-404;

[~~(hh)~~](ii) theft by deception under Section 76-6-405;

[~~(ii)~~](jj) theft by extortion under Section 76-6-406;

[~~(jj)~~](kk) receiving stolen property under Section 76-6-408;

[~~(kk)~~](ll) theft of services under Section 76-6-409;

[~~(ll)~~](mm) forgery under Section 76-6-501;

[~~(mm)~~](nn) unlawful use of financial transaction card under Section 76-6-506.2;

[~~(nn)~~](oo) unlawful acquisition, possession, or transfer of financial transaction card under Section 76-6-506.3;

[~~(oo)~~](pp) financial transaction card offenses under Section 76-6-506.6;

[~~(pp)~~](qq) deceptive business practices under Section 76-6-507;

[~~(qq)~~](rr) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods under Section 76-6-508;

[~~(rr)~~](ss) bribery of a labor official under Section 76-6-509;

[~~(ss)~~](tt) defrauding creditors under Section 76-6-511;

[~~(tt)~~](uu) acceptance of deposit by insolvent financial institution under Section 76-6-512;

[~~(uu)~~](vv) unlawful dealing with property by fiduciary under Section 76-6-513;

[~~(vv)~~](ww) bribery or threat to influence contest under Section 76-6-514;

[~~(ww)~~](xx) making a false credit report under Section 76-6-517;

[~~(xx)~~](yy) criminal simulation under Section 76-6-518;

[~~(yy)~~](zz) criminal usury under Section 76-6-520;

[~~(zz)~~](aaa) insurance fraud under Section 76-6-521;

[~~(aaa)~~](bbb) retail theft under Section 76-6-602;

[~~(bbb)~~](ccc) computer crimes under Section 76-6-703;

[~~(ccc)~~](ddd) identity fraud under Section 76-6-1102;

[~~(ddd)~~](eee) mortgage fraud under Section 76-6-1203;

[~~(eee)~~](fff) sale of a child under Section 76-7-203;

[~~(fff)~~](ggg) bribery to influence official or political actions under Section 76-8-103;

[~~(ggg)~~](hhh) threat to influence official or political action under Section 76-8-104;

[~~(hhh)~~](iii) receiving bribe or bribery by public servant under Section 76-8-105;

[~~(iii)~~](jjj) receiving bribe for endorsement of person as a public servant under Section 76-8-106;

[~~(jjj)~~](kkk) bribery for endorsement of person as public servant under Section 76-8-106.1;

[~~(kkk)~~](lll) official misconduct based on unauthorized act or failure of duty under Section 76-8-201;

[~~(lll)~~](mmm) official misconduct concerning inside information under Section 76-8-202;

[~~(mmm)~~](nnn) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;

[~~(nnn)~~](ooo) acceptance of bribe or bribery to prevent criminal prosecution under Section 76-8-308;

[~~(ooo)~~](ppp) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;

[~~(ppp)~~](qqq) making a false or inconsistent material statement under Section 76-8-502;

[~~(qqq)~~](rrr) making a false or inconsistent statement under Section 76-8-503;

[~~(rrr)~~](sss) making a written false statement under Section 76-8-504;

[~~(sss)~~](ttt) tampering with a witness under Section 76-8-508;

[~~(ttt)~~](uuu) retaliation against a witness, victim, or informant under Section 76-8-508.3;

[~~(uuu)~~](vvv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(vvv)~~](www) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

[~~(www)~~](xxx) tampering with evidence under Section 76-8-510.5;

[~~(xxx)~~](yyy) falsification or alteration of a government record under Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;

[~~(yyy)~~](zzz) public assistance fraud by an applicant for public assistance under Section 76-8-1203.1;

[~~(zzz)~~](aaaa) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;

[~~(aaaa)~~](bbbb) public assistance fraud by a provider under Section 76-8-1203.5;

[~~(bbbb)~~](cccc) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;

[~~(cccc)~~](dddd) false statement to obtain or increase unemployment compensation under Section 76-8-1301;

[~~(dddd)~~](eeee) false statement to prevent or reduce unemployment compensation or liability under Section 76-8-1302;

[~~(eeee)~~](ffff) unlawful failure to comply with Employment Security Act requirements under Section 76-8-1303;

[~~(ffff)~~](gggg) unlawful use or disclosure of employment information under Section 76-8-1304;

[~~(gggg)~~](hhhh) intentionally or knowingly causing one animal to fight with another under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

(iiii) soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang under Section 76-9-803;

(jjjj) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang under Section 76-9-803.1;

(kkkk) intimidating a minor to remain in a criminal street gang under Section 76-9-803.2;

(llll) aggravated intimidating a minor to remain in a criminal street gang under Section 76-9-803.3;

[~~(hhhh)~~](mmmm) possession, use, or removal of explosives, chemical, or incendiary devices or parts under Section 76-10-306;

[~~(iiii)~~](nnnn) delivery to common carrier, mailing, or placement on premises of an incendiary device under Section 76-10-307;

[~~(jjjj)~~](oooo) possession of a deadly weapon with intent to assault under Section 76-10-507;

[~~(kkkk)~~](pppp) unlawful marking of pistol or revolver under Section 76-10-521;

[~~(llll)~~](qqqq) alteration of number or mark on pistol or revolver under Section 76-10-522;

[~~(mmmm)~~](rrrr) forging or counterfeiting trademarks, trade name, or trade device under Section 76-10-1002;

[~~(nnnn)~~](ssss) selling goods under counterfeited trademark, trade name, or trade devices under Section 76-10-1003;

[~~(oooo)~~](tttt) sales in containers bearing registered trademark of substituted articles under Section 76-10-1004;

[~~(pppp)~~](uuuu) selling or dealing with article bearing registered trademark or service mark with intent to defraud under Section 76-10-1006;

[~~(qqqq)~~](vvvv) gambling under Section 76-10-1102;

[~~(rrrr)~~](wwww) gambling fraud under Section 76-10-1103;

[~~(ssss)~~](xxxx) gambling promotion under Section 76-10-1104;

[~~(tttt)~~](yyyy) possessing a gambling device or record under Section 76-10-1105;

[~~(uuuu)~~](zzzz) confidence game under Section 76-10-1109;

[~~(vvvv)~~](aaaaa) distributing pornographic material under Section 76-10-1204;

[~~(wwww)~~](bbbbb) inducing acceptance of pornographic material under Section 76-10-1205;

[~~(xxxx)~~](ccccc) dealing in harmful material to a minor under Section 76-10-1206;

[~~(yyyy)~~](ddddd) distribution of pornographic films under Section 76-10-1222;

[~~(zzzz)~~](eeeee) indecent public displays under Section 76-10-1228;

[~~(aaaaa)~~](fffff) prostitution under Section 76-10-1302;

[~~(bbbbb)~~](ggggg) aiding prostitution under Section 76-10-1304;

[~~(ccccc)~~](hhhhh) exploiting prostitution under Section 76-10-1305;

[~~(ddddd)~~](iiiii) aggravated exploitation of prostitution under Section 76-10-1306;

[~~(eeeee)~~](jjjjj) communications fraud under Section 76-10-1801;

[~~(fffff)~~](kkkkk) an act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

[~~(ggggg)~~](lllll) vehicle compartment for contraband under Section 76-10-2801;

[~~(hhhhh)~~](mmmmm) an act prohibited by the criminal provisions of the laws governing taxation in this state; or

[~~(iiiii)~~](nnnnn) an act illegal under the laws of the United States and enumerated in 18 U.S.C. [~~Sec.~~]Secs. 1961(1)(B), (C), and (D).

Section 25. Section 78B-6-1101 is amended to read:

78B-6-1101. Definitions -- Nuisance -- Right of action -- Agriculture operations.

(1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action.

(2) A nuisance may include the following:

(a) drug houses and drug dealing as provided in Section 78B-6-1107;

(b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;

(c) criminal activity committed in concert with [~~three~~]two or more [~~persons~~]individuals as provided in Section 76-3-203.1;

(d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) party houses that frequently create conditions defined in Subsection (1); and

(g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.

(3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

(a) drifts in more than once in each of two or more consecutive seven-day periods; and

(b) creates any of the conditions under Subsection (1).

(4) Subsection (3) does not apply to:

(a) a residential rental unit available for temporary rental, such as for a vacation, or available for only 30 or fewer days at a time; or

(b) a hotel or motel room.

(5) Subsection (3) does not apply to a unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.

(6) An action may be brought by a person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.

(7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.

(8) "Critical infrastructure materials operations" means the same as that term is defined in Section 10-9a-901.

(9) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

Section 26. Section 78B-6-1107 is amended to read:

78B-6-1107. Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.

(1) Every building or place is a nuisance where:

(a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition occurs of any controlled substance, precursor, or analog specified in Title 58, Chapter 37, Utah Controlled Substances Act;

(b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

(c) criminal activity is committed in concert with [~~three~~]two or more [~~persons~~]individuals as provided in Section 76-3-203.1;

(d) criminal activity is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) parties occur frequently which create the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

(g) prostitution or promotion of prostitution is regularly carried on by one or more persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and

(h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.

(2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the defendant is lawfully entitled to possession of a controlled substance.

(3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the nuisance as defined in Subsection (1).

Section 27. Effective Date.

This bill takes effect on May 7, 2025.

Section 29. Coordinating H.B. 38 with H.B. 22 and H.B. 21 if all pass and become law.

If H.B. 38, Criminal Offenses Modifications, H.B. 22, Prostitution Offense Amendments, and H.B. 21, Criminal Code Recodification and Cross References, all pass and become law, the Legislature intends that, on May 7, 2025:

(1) the changes to Section 76-10-1303 in H.B. 38 not be made;

(2) Subsection 76-5d-203(3) in H.B. 21 and H.B. 22 be amended to read:

"(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted two or more times of:

(i) a violation of Subsection (2);

(ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2); or

(iii) a criminal violation in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the violation described in Subsection (2).";

(3) Section 76-5d-204, enacted in H.B. 22, supersede Section 76-5d-204, enacted in H.B. 21; and

(4) Subsection 76-5d-204(3)(a), enacted in H.B. 22 and H.B. 21, be amended to read:

"(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony with a mandatory fine of not less than $20,000.".

Section 30. Coordinating H.B. 38 with H.B. 21.

If H.B. 38, Criminal Offenses Modifications, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025, the amendments to Section 76-9-803 in H.B. 38 supersede the amendments to that section in H.B. 21.

CHAPTER 179
H. B. 43
Passed February 4, 2025
Approved March 25, 2025
Effective May 7, 2025

EDUCATION PROGRAM SUNSET AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill extends certain sunset dates.

Highlighted Provisions:

This bill:

► extends sunset dates related to public education programs; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.

(2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

(5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

(6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.

(7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

(8) Section 53-5-703, Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

(9) Section 53-11-104, Board, is repealed July 1, 2029.

(10) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(11) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

(12) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

(13) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.

(14) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(15) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(16) Section 53B-17-1203, SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.

(17) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(18) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

(19) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.

(20) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

(21) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(22) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

(23) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

(24) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.

(25) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

(26) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

(27) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

(28) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(29) Subsection 53E-7-207(7), regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

(30) Section 53F-2-420, Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(31) Section 53F-5-214, Grant for professional learning, is repealed July 1, [~~2025~~]2028.

(32) Section 53F-5-215, Elementary teacher preparation assessment grant, is repealed July 1, [~~2025~~]2028.

(33) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is repealed July 1, [~~2025~~]2026.

(34) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

(35) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

(36) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

(37) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 180
H. B. 49
Passed February 20, 2025
Approved March 25, 2025
Effective May 7, 2025

JUROR ELIGIBILITY AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses juror eligibility.

Highlighted Provisions:

This bill:

► addresses juror eligibility of an individual who has been convicted of a felony; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-1-105, as renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-1-105 is amended to read:

78B-1-105. Jurors -- Competency to serve -- Individuals not competent to serve as jurors -- Court to determine disqualification.

(1) [~~A person~~]An individual is competent to serve as a juror if the [~~person~~]individual is:

(a) a citizen of the United States;

(b) 18 years [~~of age~~]old or older;

(c) a resident of the county; and

(d) able to read, speak, and understand the English language.

[~~(2) A person who has been convicted of a felony which has not been expunged is not competent to serve as a juror.~~]

(2) An individual who has been convicted of a felony in a state or federal court of the United States is not competent to serve as a juror unless the felony conviction has been expunged or reduced to a misdemeanor.

(3) The court, on [~~its~~]the court's own initiative or when requested by a prospective juror, shall determine whether the prospective juror is disqualified from jury service.

(4) The court shall base [~~its~~]the court's decision on:

(a) information provided on the juror qualification form;

(b) an interview with the prospective juror; or

(c) other competent evidence.

[~~(4)~~](5) The clerk shall enter the court's determination in the records of the court.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 181
H. B. 57
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

RESIDENTIAL SOLAR PANEL CONSUMER PROTECTION AMENDMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill establishes additional protections for residential solar panel customers.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates additional disclosure language;
- ► mandates that a solar retailer's good faith estimate of energy production be within a specified percentage of the actual energy production;
- ► requires the solar retailer repair the solar panels if the actual energy production is not within a specified percentage of the good faith estimate of energy production;
- ► creates a registration and security requirement for a solar retailer to do business in Utah;
- ► provides an exception to the background check for a publicly traded corporation registered with the Securities and Exchange Commission;
- ► requires a solar retailer sales representative be employed by the solar retailer as a W-2 employee;
- ► delays a customer's financial obligation on a residential solar energy system until the system is active and producing usable energy; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2024, Chapter 132
13-52-102, as enacted by Laws of Utah 2018, Chapter 290
13-52-202, as last amended by Laws of Utah 2024, Chapter 136
13-52-206, as enacted by Laws of Utah 2018, Chapter 290

ENACTS:

13-52-302, Utah Code Annotated 1953
13-52-401, Utah Code Annotated 1953
13-52-501, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 is amended to read:
13-2-1. Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.
(2) The division shall administer and enforce the following:
(a) Chapter 10a, Music Licensing Practices Act;
(b) Chapter 11, Utah Consumer Sales Practices Act;
(c) Chapter 15, Business Opportunity Disclosure Act;
(d) Chapter 20, New Motor Vehicle Warranties Act;
(e) Chapter 21, Credit Services Organizations Act;
(f) Chapter 22, Charitable Solicitations Act;
(g) Chapter 23, Health Spa Services Protection Act;
(h) Chapter 25a, Telephone and Facsimile Solicitation Act;
(i) Chapter 26, Telephone Fraud Prevention Act;
(j) Chapter 28, Prize Notices Regulation Act;
(k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
(l) Chapter 34, Utah Postsecondary School and State Authorization Act;
(m) Chapter 41, Price Controls During Emergencies Act;

(n) Chapter 42, Uniform Debt-Management Services Act;

(o) Chapter 49, Immigration Consultants Registration Act;

(p) Chapter 51, Transportation Network Company Registration Act;

(q) Chapter 52, Residential Solar Energy [~~Disclosure~~]Consumer Protection Act;

(r) Chapter 53, Residential, Vocational and Life Skills Program Act;

(s) Chapter 54, Ticket Website Sales Act;

(t) Chapter 56, Ticket Transferability Act;

(u) Chapter 57, Maintenance Funding Practices Act;

(v) Chapter 61, Utah Consumer Privacy Act;

(w) Chapter 63, Utah Social Media Regulation Act;

(x) Chapter 64, Vehicle Value Protection Agreement Act;

(y) Chapter 65, Utah Commercial Email Act;

(z) Chapter 67, Online Dating Safety Act;

(aa) Chapter 68, Lawyer Referral Consultants Registration Act;

(bb) Chapter 70, Automatic Renewal Contracts Act; and

(cc) Chapter 71, Utah Minor Protection in Social Media Act.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to establish:

(a) a public list that identifies a person who:

(i) violates a chapter described in Subsection (2);

(ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal process issued by:

(A) the division; or

(B) a court of competent jurisdiction; or

(iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar instrument signed by the person and the division; and

(b) a process by which a person may be removed from the list the division establishes as described in Subsection (3)(a).

Section 2. Section 13-52-102 is amended to read:

CHAPTER 52. RESIDENTIAL SOLAR ENERGY CONSUMER PROTECTION ACT

13-52-102. Definitions.

As used in this chapter:

(1) "Actual energy production" means the average kilowatt-hours produced and measured by the residential solar energy system during the 12 consecutive months immediately following the residential solar energy system's activation.

(2) "Customer" means a person who, for primarily personal, family, or household purposes:

(a) purchases a residential solar energy system under a system purchase agreement;

(b) leases a residential solar energy system under a system lease agreement; or

(c) purchases electricity under a power purchase agreement.

[~~(2)~~](3) "Division" means the Division of Consumer Protection, established in Section 13-2-1.

(4) (a) "Employee" means an individual whose compensation for federal income tax purposes is reported, or is required to be reported, on a W-2 form the employer issues.

(b) "Employee" does not include an independent contractor whose manner and means of work performance are not subject to direction, supervision, or instruction from the person who employed the independent contractor.

(5) "Estimated energy production" means the solar retailer's estimate, measured by kilowatt-hour, of how much energy the residential solar energy system will produce.

(6) "Nameplate capacity" means the sum of the maximum rated outputs of all electrical generating equipment under specific conditions designated by the manufacturer, as indicated on the nameplate physically attached to the equipment.

(7) "Participant" means an owner, officer, director, member or manager of a limited liability company, principal, trustee, general or limited partner, sole proprietor, or an individual, with a controlling interest in an entity.

[~~(3)~~](8) "Power purchase agreement" means an agreement:

(a) between a customer and a solar retailer;

(b) for the customer's purchase of electricity generated by a residential solar energy system owned by the solar retailer; and

(c) that provides for the customer to make payments over a term of at least five years.

[~~(4)~~](9) (a) "Residential solar energy system" [~~:~~]means a solar energy system that:

[~~(a) means a solar energy system that:~~]

(i) is installed in the state;

(ii) generates electricity primarily for on-site consumption for personal, family, or household purposes;

(iii) is situated on no more than four units of residential real property; and

(iv) has an electricity delivery capacity that exceeds one kilowatt [~~; and~~].

(b) "Residential solar energy system" does not include a generator that:

(i) produces electricity; and

(ii) is intended for occasional use.

(10) "Sales representative" means an individual who:

(a) (i) enters into a business relationship with a solar retailer to sell or attempt to sell a residential solar energy system through direct contact with customers and potential customers; and

(ii) as part of the business relationship described in Subsection (10)(a), is compensated, in whole or in part, by commission; or

(b) sets appointments or discusses the benefits of solar energy with a potential customer on behalf of a solar retailer.

[~~(5)~~](11) "Solar agreement" means a system purchase agreement, a system lease agreement, or a power purchase agreement.

[~~(6)~~](12) "Solar energy system" means a system or configuration of solar energy devices that collects and uses solar energy to generate electricity.

[~~(7)~~](13) "Solar retailer" means a person who:

(a) sells or proposes to sell a residential solar energy system to a customer under a system purchase agreement;

(b) owns the residential solar energy system that is the subject of a system lease agreement or proposed system lease agreement; or

(c) sells or proposes to sell electricity to a customer under a power purchase agreement.

[~~(8)~~](14) "System lease agreement" means an agreement:

(a) under which a customer leases a residential solar energy system from a solar retailer; and

(b) that provides for the customer to make payments over a term of at least five years for the lease of the residential solar energy system.

[~~(9)~~](15) "System purchase agreement" means an agreement under which a customer purchases a residential solar energy system from a solar retailer.

Section 3. Section 13-52-202 is amended to read:

13-52-202. Contents of disclosure statement for any solar agreement.

If a solar retailer is proposing to enter any solar agreement with a potential customer, the disclosure statement required in Subsection 13-52-201(1) shall include:

(1) a statement indicating that operations or maintenance services are not included as part of the solar agreement, if those services are not included as part of the solar agreement;

(2) if the solar retailer provides any written estimate of the savings the potential customer is projected to realize from the residential solar energy system:

(a) (i) the estimated projected savings over the life of the solar agreement; and

(ii) at the discretion of the solar retailer, the estimated projected savings over any longer period not to exceed the anticipated 20-year useful life of the residential solar energy system;

(b) any material assumptions used to calculate estimated projected savings and the source of those assumptions, including:

(i) if an annual electricity rate increase is assumed, the rate of the [~~increase~~]assumed increase, which may not be greater than 3%, and the solar retailer's basis for the assumption of the rate increase;

(ii) the potential customer's eligibility for or receipt of tax credits or other governmental or utility incentives;

(iii) residential solar energy system production data, including production degradation;

(iv) the residential solar energy system's eligibility for interconnection under any net metering or similar program;

(v) electrical usage and the residential solar energy system's designed offset of the electrical usage;

(vi) historical utility costs paid by the potential customer;

(vii) any rate escalation affecting a payment between the potential customer and the solar retailer; and

(viii) the costs associated with replacing equipment making up part of the residential solar energy system or, if those costs are not assumed, a statement indicating that those costs are not assumed; and

(c) [~~two~~]three separate statements in capital letters in close proximity to any written estimate of projected savings, with substantially the following form and content:

(i) "THIS IS AN ESTIMATE. UTILITY RATES MAY GO UP OR DOWN AND ACTUAL SAVINGS, IF ANY, MAY VARY. HISTORICAL DATA ARE NOT NECESSARILY REPRESENTATIVE OF FUTURE RESULTS. FOR FURTHER INFORMATION REGARDING RATES, CONTACT YOUR LOCAL UTILITY OR THE STATE PUBLIC SERVICE COMMISSION."; [~~and~~]

(ii) "ESTIMATES OF ENERGY PRODUCTION GENERATED BY A RESIDENTIAL SOLAR ENERGY SYSTEM MAY VARY. THE RESIDENTIAL SOLAR ENERGY SYSTEM MAY PRODUCE MORE OR LESS THAN THE ESTIMATED ENERGY PRODUCTION."; and

[~~(ii)~~](iii) "TAX AND OTHER FEDERAL, STATE, AND LOCAL INCENTIVES VARY AS TO REFUNDABILITY AND ARE SUBJECT TO CHANGE OR TERMINATION BY LEGISLATIVE OR REGULATORY ACTION, WHICH MAY IMPACT SAVINGS ESTIMATES. CONSULT A TAX PROFESSIONAL FOR MORE INFORMATION.";

(3) [~~a notice with substantially the following form and content: "Legislative or regulatory action may affect or eliminate your ability to sell or get credit for any excess power generated by the system, and may affect the price or value of that power.";~~]a notice stating: "Legislative or regulatory action may affect or eliminate your ability to sell or get credit for any excess power generated by the solar energy system, and may affect the price or value of that power.";

(4) [~~a notice describing any right a customer has under Section 13-52-207, and any other applicable law to cancel or rescind a solar agreement;~~]the notice described in Subsection 13-11-4(2)(m) or Subsection 13-26-5(2)(a), if applicable;

(5) a statement describing the solar energy system and indicating the solar energy system design assumptions, including the make and model of the solar panels and inverters, solar energy system size, positioning of the panels on the customer's property, estimated first-year energy production, and estimated annual energy production degradation, including the overall percentage degradation over the term of the solar agreement or, at the solar retailer's option, over the estimated useful life of the solar energy system;

(6) a description of any warranty, representation, or guarantee of energy production of the solar energy system;

(7) the approximate start and completion dates for the installation of the solar energy system;

(8) [~~a statement that the solar retailer may not begin installation of the system until at least four business days after the day on which the solar retailer and customer enter into a contract;~~]the statement: "The solar retailer may not begin installation of the system until at least four business days after the day on which the solar retailer and customer enter into a contract.";

(9) (a) [~~a statement indicating whether any warranty or maintenance obligations related to the system may be transferred by the solar retailer to a third party and, if so, a statement with substantially the following form and content~~]a statement indicating whether the solar retailer may transfer any warranty or maintenance obligations related to the solar energy system to a third party; and

(b) if the solar retailer may transfer any warranty or maintenance obligations related to the solar energy system, the statement: "The maintenance and repair obligations under your contract may be assigned or transferred without your consent to a third party who will be bound to all the terms of the contract. If a transfer occurs, you will be notified of any change to the address, email address, or phone number to use for questions or payments or to request solar energy system maintenance or repair.";

(10) if the solar retailer will not obtain customer approval to connect the solar energy system to the customer's utility, a statement to that effect and a description of what the customer must do to interconnect the solar energy system to the utility;

(11) a description of any roof penetration warranty or other warranty that the solar retailer provides the customer or a statement, in bold capital letters, that the solar retailer does not provide any warranty;

(12) a statement indicating whether the solar retailer will make a fixture filing or other notice in the county real property records covering the solar energy system, including a Notice of Independently Owned Solar Energy System, and any fees or other costs associated with the filing that [~~may be charged to~~]the solar retailer may charge the customer;

(13) a statement in capital letters with [~~substantially~~]the following form and content: "NO EMPLOYEE OR REPRESENTATIVE OF [name of solar retailer] IS AUTHORIZED TO MAKE ANY PROMISE TO YOU THAT IS NOT CONTAINED IN THIS DISCLOSURE STATEMENT CONCERNING COST SAVINGS, TAX BENEFITS, OR GOVERNMENT OR UTILITY INCENTIVES. YOU SHOULD NOT RELY UPON ANY PROMISE OR ESTIMATE THAT IS NOT INCLUDED IN THIS DISCLOSURE STATEMENT.";

(14) a statement in capital letters with substantially the following form and content: "[name of solar retailer] IS NOT AFFILIATED WITH ANY UTILITY COMPANY OR GOVERNMENT AGENCY. NO EMPLOYEE OR REPRESENTATIVE OF [name of solar retailer] IS AUTHORIZED TO CLAIM AFFILIATION WITH A UTILITY COMPANY OR GOVERNMENT AGENCY."; [~~and~~]

(15) a statement with the name and contact information of the person that will perform the installation;

(16) a notice that the solar retailer may not sell the contract to another solar company without express customer approval;

(17) a conspicuous list of:

(a) finance fees, including those not charged directly to the customer; and

(b) solar energy system operation and maintenance that the customer is obligated to perform to comply with the terms of the guarantee of the minimum energy production; and

[~~(15)~~](18) any additional information, statement, or disclosure the solar retailer considers appropriate, as long as the additional information, statement, or disclosure does not have the purpose or effect of obscuring the disclosures required under this part.

Section 4. Section 13-52-206 is amended to read:

13-52-206. Good faith estimate -- Obligation to repair.

(1) A solar retailer that does not have, at the time of providing a disclosure statement required [~~in~~]by Subsection 13-52-201(1), [~~have~~]information required under Section 13-52-202, 13-52-203, 13-52-204, or 13-52-205 to be included in the disclosure statement may make a good faith estimate of that information to the customer, if the solar retailer clearly indicates that the information is an estimate and provides the basis for the estimate.

(2) For 18 months after the day on which a residential solar energy system begins producing usable power, a customer may notify the solar retailer that the residential solar energy system is producing less than 80% of the solar retailer's good faith estimate of energy production.

(3) (a) A solar retailer that receives a notification described in Subsection (2) shall repair or improve a residential solar energy system's performance so that the residential solar energy system produces 90% or more of the original estimated energy production.

(b) A solar retailer shall make the repairs or improvements described in Subsection (3)(a) within six months after the day on which the solar retailer receives notification from a customer.

(4) (a) A customer that notifies the solar retailer in accordance with Subsection (2) may pursue any other available remedies or rights authorized under the laws of this state.

(b) A solar retailer may offer warranty terms that exceed the protection offered by this section.

Section 5. Section 13-52-302 is enacted to read:

13-52-302. Registration and security required.

(1) (a) On or after July 1, 2026, a solar retailer may not operate in this state without being registered with the division.

(b) The registration is valid for one year except as provided in Subsection (1)(c).

(c) The division may extend the period for which a solar retailer's registration is effective by up to six months so that expiration dates are staggered throughout the year.

(2) (a) A solar retailer shall submit an application for registration to the division in a manner the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:

(i) the solar retailer's sales representative communicates with customers or potential customers in the state; or

(ii) the solar retailer, or the solar retailer's sales representative, conducts any business operations in the state.

(b) The application for registration shall designate an agent residing in this state who is authorized by the solar retailer to receive service of process in any action this state or a resident of this state brings to the court.

(c) If a solar retailer fails to designate an agent to receive service or fails to appoint a successor to the agent, the division shall deny the solar retailer's application for registration.

(d) For purposes of this section only, the registered agent of a solar retailer shall provide the division the registered agent's proof of residency in the state in the form of:

(i) a valid Utah driver license;

(ii) a valid governmental photo identification issued to a resident of this state; or

(iii) other verifiable identification indicating residency in this state.

(e) As a part of the registration, each solar retailer shall submit proof of obtaining and maintaining the following security in a form approved by the division:

(i) a performance bond issued by a surety authorized to transact surety business in this state; or

(ii) a certificate of deposit in a financial institution authorized under the laws of this state or the United States to accept deposits from the public.

(3) (a) The division shall impose an annual registration fee set in accordance with Section 63J-1-504 that shall include the cost of the criminal background check described in this Subsection (3).

(b) To register as a solar retailer, the solar retailer and the solar retailer's participants:

(i) may not have been convicted of a felony or misdemeanor involving theft, fraud, or dishonesty, in the 10-year period immediately before the day on which the solar retailer files the application; and

(ii) shall submit to the division:

(A) the participant's fingerprints, in a form acceptable to the division, for purposes of a criminal background check;

(B) consent to a criminal background check by the Bureau of Criminal Identification created in Section 53-10-201; and

(C) payment for the cost of the fingerprint card and criminal background check described by Subsections (3)(b)(ii)(A) and (B).

(c) A solar retailer shall update registration information within 30 days after the day on which information provided on the application becomes incorrect or incomplete.

(d) A solar retailer that is a publicly traded corporation registered with the Securities and Exchange Commission is exempt from the requirements described in Subsection (3)(b).

(4) (a) (i) The division may claim a solar retailer's bond or certificate of deposit for the benefit of any customer who incurs damages as the result of the solar retailer's failure to comply with this chapter.

(ii) For purposes of this section, damages incurred by a customer include:

(A) labor and materials necessary to complete the installation of a residential solar energy system that is partially installed; and

(B) damage to a customer's home caused during installation or repair of the residential solar energy system.

(b) After the customer recovers full damages, the division may recover from the bond or certificate of deposit any administrative fines, civil penalties, investigative costs, attorney fees, and other costs of collecting and distributing funds under this section.

(c) The solar retailer shall post a bond or certificate of deposit in the amount of:

(i) $100,000 if:

(A) the solar retailer or any affiliated person has not violated a chapter enforced by the division, as described in Section 13-2-1, the three-year period immediately before the day on which the solar retailer files the application;

(B) the solar retailer has fewer than ten employees; and

(C) the solar retailer sells fewer than 500 kilowatts nameplate capacity annually;

(ii) $200,000 if:

(A) the solar retailer or any affiliated person has not violated a chapter enforced by the division, as described in Section 13-2-1, the three-year period immediately before the day on which the solar retailer files the application;

(B) the solar retailer has ten or more employees; or

(C) the solar retailer sells more than 500 kilowatts nameplate capacity annually; or

(iii) $300,000 if the solar retailer or any affiliated person has violated a chapter enforced by the division, as described in Section 13-2-1, the three-year period immediately before the day on which the solar retailer files the application.

(d) Beginning July 1, 2026, a solar retailer that operates in this state violates this chapter each time the solar retailer sells a residential solar energy system without first registering with the division.

(5) The division director may deny, suspend, or revoke a solar retailer's registration if:

(a) a solar retailer or a solar retailer's participant:

(i) violated a statute enforced by the division within the preceding five years; or

(ii) fails to pay a fine or comply with a term of settlement with the division;

(b) the division claims the solar retailer's bond or certificate of deposit; or

(c) the division receives ten or more complaints from consumers about the solar retailer related to the solar energy system's energy production and finds substantial evidence that the solar retailer has provided good faith estimates for residential solar energy systems that do not produce 80% or more of the solar retailer's estimated energy production.

Section 6. Section 13-52-401 is enacted to read:

PART 4. Sales Representative

13-52-401. Sales representative relationship.

A sales representative shall be an employee of the solar retailer.

Section 7. Section 13-52-501 is enacted to read:

PART 5. Financial Obligations

13-52-501. Customer financial obligations.

(1) A customer shall pay, on the date provided in the solar agreement, the costs of the solar energy system's:

(a) design, not to exceed the greater of $1,500 or 3% of the total cost of the solar agreement;

(b) equipment procurement, not to exceed 25% of the total cost of the solar agreement; and

(c) installation, not to exceed 80% of the total cost of the solar agreement inclusive of payments due in accordance with Subsections (1)(a) and (1)(b).

(d) A solar retailer may not collect the remaining balance of the solar agreement from a customer until the residential solar energy system is producing usable energy.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 182
H. B. 60
Passed March 5, 2025
Approved March 25, 2025
Effective January 1, 2026

STATE TAX AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions relating to the tax code.

Highlighted Provisions:

This bill:

- ► repeals obsolete language;
- ► provides the scope of the State Tax Commission's authority to share income tax return information with the Department of Workforce Services to determine eligibility for public assistance;
- ► provides the circumstances under which there is an annual limit on the total amount of interest that the commission pays;
- ► requires a payment settlement entity, such as a marketplace facilitator, to file certain federal forms for a participating payee with an address in the state with the State Tax Commission;
- ► clarifies what is a commercial unit for purposes of claiming a commercial energy system tax credit;
- ► updates the circumstances under which an individual is exempt from individual income tax;
- ► creates a deduction for individuals who have to repay social security that is subject to income tax;
- ► provides for the repeal of the enterprise zone tax credit, which, by statute, automatically expired;
- ► extends the carry forward period for a tax credit available to a pass-through entity taxpayer who receives income from a pass-through entity that paid the income tax on the income;
- ► provides the circumstances for the automatic removal of refundable individual income tax credits from the income tax return; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

19-12-203, (Effective 01/01/26) as enacted by Laws of Utah 2014, Chapter 24
31A-32a-103, (Effective 05/07/25) as last amended by Laws of Utah 2008, Chapter 389
35A-3-105, (Effective 05/07/25) as last amended by Laws of Utah 2015, Chapter 221
59-1-402, (Effective 01/01/26) as last amended by Laws of Utah 2024, Chapter 290
59-1-403, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 25, 35
59-7-614, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2024, Chapter 53
59-7-614.10, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2021, Chapter 282
59-10-104.1, (Effective 01/01/26) as last amended by Laws of Utah 2008, Chapter 389
59-10-114, (Effective 01/01/26) as last amended by Laws of Utah 2023, Chapter 470
59-10-510, (Effective 01/01/26) as last amended by Laws of Utah 2009, Chapter 212
59-10-1037, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2021, Chapter 282
59-10-1042, (Effective 01/01/26) as last amended by Laws of Utah 2023, Chapter 459
59-10-1045, (Effective 01/01/26) (Applies beginning 01/01/25) as last amended by Laws of Utah 2023, Chapter 470
63I-2-259, (Effective 05/07/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-263, (Effective 05/07/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

59-1-1801, (Effective 01/01/26) Utah Code Annotated 1953
59-1-1802, (Effective 01/01/26) Utah Code Annotated 1953
59-10-1102.2, (Effective 05/07/25) (Applies beginning 01/01/25) Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-12-203 is amended to read:
19-12-203 (Effective 01/01/26). Refunds -- Interest.

(1) A person [~~who~~]that pays a tax under Title 59, Chapter 12, Sales and Use Tax Act, on a purchase or lease that would otherwise be

exempt under Section 19-12-201, except that the director has not issued a certification under Section 19-12-303, may obtain a refund of the tax if:

(a) the director subsequently issues a certification under Section 19-12-303; and

(b) the person files a claim for the refund with the State Tax Commission on or before the earlier of:

(i) three years after the date the director issues the certification under Section 19-12-303; or

(ii) six years after the date the person pays the tax under Title 59, Chapter 12, Sales and Use Tax Act.

(2) A person [~~who~~]that pays a tax under Title 59, Chapter 12, Sales and Use Tax Act, on a purchase or lease that is exempt under Section 19-12-201, may obtain a refund of the tax if the person files a claim for the refund with the State Tax Commission within three years after the date the person pays the tax under Title 59, Chapter 12, Sales and Use Tax Act.

(3) (a) If a person files a claim for a refund of taxes under Subsection (1) within 180 days after the date the director issues a certification under Section 19-12-303, interest shall be added to the amount of the refund the State Tax Commission grants:

(i) at the interest rate [~~prescribed~~]and, except as provided in Subsection (3)(a)(ii), in the manner provided in Section 59-1-402; and

(ii) beginning on the date the person pays the tax under Title 59, Chapter 12, Sales and Use Tax Act, for which the person is claiming the refund.

(b) If a person files a claim for a refund of taxes under Subsection (1) more than 180 days after the date the director issues a certification under Section 19-12-303, interest shall be added to the amount of the refund the State Tax Commission grants:

(i) at the interest rate [~~prescribed~~]and, except as provided in Subsection (3)(b)(ii), in the manner provided in Section 59-1-402; and

(ii) beginning 30 days after the date the person files the claim for a refund.

(4) If a person files a claim for a refund of taxes under Subsection (2), interest shall be added to the amount of the refund the State Tax Commission grants:

(a) at the interest rate [~~prescribed~~]and, except as provided in Subsection (4)(b), in the manner provided in Section 59-1-402; and

(b) beginning 30 days after the date the person files the claim for the refund.

Section 2. Section 31A-32a-103 is amended to read:

31A-32a-103 (Effective 05/07/25). Establishing medical care savings accounts.

[~~(1) For a taxable year beginning on or after January 1, 1995:~~]

[~~(a)~~](1) (a) [~~an~~]An employer, except as otherwise provided by contract or a collective bargaining agreement, may offer a medical care savings account program to the employer's employees [~~; or~~].

(b) [~~a~~]A resident individual may establish a medical care savings account program for the individual or for the individual's dependents.

(2) (a) A contribution into an account made by an employer on behalf of an employee, or made by an individual account holder, may not exceed the greater of:

(i) $2,000 in any taxable year; or

(ii) an amount of money equal to the sum of all eligible medical expenses paid by the employee or account holder for that taxable year on behalf of the employee, account holder, or the employee's or account holder's spouse or dependents.

(b) For purposes of Subsection (2)(a)(ii), eligible medical expenses are limited to expenses in the taxable year that an insurance carrier has applied to the employee's or account holder's deductible.

(3) An employer that offers a medical care savings account program shall, before making any contributions:

(a) inform all employees in writing of the fact that these contributions may not be deductible under the federal tax laws; and

(b) obtain from the employee a written election to participate in the medical care savings account program.

[~~(4) Except as provided in Sections 31A-32a-105 and 59-10-114, principal contributed to and interest earned on a medical care savings account and money reimbursed to an employee or account holder for eligible medical expenses are exempt from taxation.~~]

[~~(5)~~](4) (a) An employer may select a single account administrator for all of the employer's employee's medical care savings accounts.

(b) If a single account administrator is not selected, an employer may contribute directly to the account holder's individual medical care savings account.

Section 3. Section 35A-3-105 is amended to read:

35A-3-105 (Effective 05/07/25). Determination of eligibility and responsibility -- Information from State Tax Commission.

(1) [~~The~~]Except as prohibited by federal law, the department may have access to relevant information contained in the income tax returns of an applicant, a recipient, or a person who has a duty to support an applicant or recipient, in determining:

(a) eligibility for public assistance;

(b) payment responsibilities for institutional care; or

(c) any other administrative purpose consistent with this chapter.

(2) The information requested by the department shall be:

(a) provided by the State Tax Commission, to the extent authorized by federal law, on forms [~~furnished~~]provided by the department; and

(b) treated by the department as a private record under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 4. Section 59-1-402 is amended to read:

59-1-402 (Effective 01/01/26). Definitions -- Interest.

(1) As used in this section:

(a) "Final judicial decision" means a final ruling by a court of this state or the United States for which the time for any further review or proceeding has expired.

(b) "Retroactive application of a judicial decision" means the application of a final judicial decision that:

(i) invalidates a state or federal taxation statute; and

(ii) requires the state to provide a refund for an overpayment that was made:

(A) [~~prior to~~]before the final judicial decision; or

(B) during the 180-day period after the final judicial decision.

(c) (i) [~~Except as provided in Subsection (1)(c)(ii), "tax"~~]"Tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 34A-2-202;

(VIII) Section 40-6-14; or

(IX) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(B) another amount that by statute is subject to interest imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act;

(E) Chapter 4, Privilege Tax; or

(F) Chapter 13, Part 5, Interstate Agreements.

(2) Except as otherwise provided for by law, the commission shall calculate the interest rate for a calendar year for a tax, fee, or charge [~~administered by the commission shall be calculated~~]the commission administers based on the federal short-term rate determined by the Secretary of the Treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter.

(3) The interest rate calculation shall be as follows:

(a) except as provided in Subsection (7), in the case of an overpayment or refund, the commission shall calculate simple interest [~~shall be calculated~~]at the rate of two percentage points above the federal short-term rate; or

(b) in the case of an underpayment, deficiency, or delinquency, the commission shall calculate simple interest [~~shall be calculated~~]at the rate of two percentage points above the federal short-term rate.

(4) Notwithstanding Subsection (2) or (3), the commission shall determine the interest rate applicable to certain installment sales for purposes of a tax under Chapter 7, Corporate Franchise and Income Taxes, [~~shall be determined~~]in accordance with Section 453A, Internal Revenue Code, as provided in Section 59-7-112.

(5) (a) Except as provided in Subsection (5)(c), the commission may not pay interest [~~may not be allowed~~]on an overpayment of a tax, fee, or charge if the overpayment of the tax, fee, or charge is refunded within:

(i) 45 days after the last date [~~prescribed~~]provided for filing the return:

(A) with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act [~~,~~]; and

(B) if the return is filed electronically; or

(ii) 90 days after the last date [~~prescribed~~]provided for filing the return:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(b) Except as provided in Subsection (5)(c), if [~~the return is filed after the last date prescribed~~]a person files a return after the last date provided for filing the return, interest [~~may not be~~]is not allowed on the overpayment if the overpayment is refunded within:

(i) 45 days after the date the return is filed:

(A) with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; and

(B) if the return is filed electronically; or

(ii) 90 days after the date the return is filed:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(c) (i) Subject to Subsection [~~(5)(d)~~](5)(c)(ii), for an amended return, the commission shall pay interest on an overpayment [~~is allowed~~]for a time period:

(A) that begins on the later of [~~:~~]

[~~(I)~~] the date the original return was filed [~~;~~] or

[~~(II)~~] the due date for filing the original return not including any extensions for filing the original return; and

(B) that ends on the date the commission receives the amended return.

(ii) (A) For interest that accrues on or after January 1, 2026, the maximum amount of interest authorized by Subsection (5)(c)(i) is $100 per calendar year.

(B) Subsection (5)(c)(ii)(A) does not apply to an overpayment provided to a federally recognized tribe or an overpayment resulting from commission error.

[~~(ii)~~](iii) For an amended return filed electronically with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, the commission shall pay interest on an overpayment [~~is allowed~~]if the commission does not process a refund of the overpayment within a 45-day period after the date the commission receives the amended return, for a time period:

(A) that begins 46 days after the commission receives the amended return; and

(B) that ends on the date that the commission completes processing the refund of the overpayment.

[~~(iii)~~](iv) For an amended return not filed electronically or with respect to any tax, fee, or charge not described in Subsection [~~(5)(c)(ii)~~](5)(c)(iii), the commission shall pay interest on an overpayment [~~is allowed~~]if the commission does not process a refund of the overpayment within a 90-day period after the date the commission receives the amended return, for a time period:

(A) that begins 91 days after the commission receives the amended return; and

(B) that ends on the date that the commission completes processing the refund of the overpayment.

[~~(d) (i) This Subsection (5)(d) applies to interest on an overpayment under Subsection (5)(c)(i) in which:~~]

[~~(A) the amount of interest accruing on the overpayment on or after January 1, 2025, exceeds $200 in any calendar year during the time period described in Subsection (5)(c)(i); and~~]

[~~(B) the amount of the overpayment exceeds 30% of the taxpayer's total tax liability as originally reported for the tax, fee, or charge to which the overpayment applies during the time period described in Subsection (5)(c)(i).~~]

[~~(ii) This Subsection (5)(d) does not apply to:~~]

[~~(A) an overpayment provided to a federally-recognized tribe; or~~]

[~~(B) an overpayment resulting from commission error.~~]

[~~(iii) The annual interest rate imposed on an overpayment described in Subsection (5)(d)(i) shall be calculated at the rate of two percentage points below the federal short-term rate.~~]

[~~(iv) Notwithstanding Subsection (5)(d)(iii), for an overpayment described in Subsection (5)(d)(i):~~]

[~~(A) the interest rate imposed on the overpayment shall be a rate of no less than 0% and no more than 3%; and~~]

[~~(B) the amount of interest accruing in a calendar year for an overpayment may not be less than $200, unless the amount of interest that would have accrued during the calendar year is less than $200 when calculated using the interest rate described in Subsection (3).~~]

(6) [~~Interest on any underpayment, deficiency, or delinquency of a tax, fee, or charge shall be computed~~]The commission shall compute interest on any underpayment, deficiency, or delinquency of a tax, fee, or charge from the time the original return is due, excluding any filing or payment extensions, to the date the payment is received.

(7) [~~Interest on a refund relating to a tax, fee, or charge may not be paid on any overpayment~~]The commission may not pay interest on a refund relating to an overpayment of a tax, fee, or charge that arises from a statute that is determined to be invalid under state or federal law or declared unconstitutional under the constitution of the United States or Utah if the basis for the refund is the retroactive application of a judicial decision upholding the claim of unconstitutionality or the invalidation of a statute.

Section 5. Section 59-1-403 is amended to read:

59-1-403 (Effective 05/07/25). Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, or town;

(ii) the military installation development authority created in Section 63H-1-201; or

(iii) the Utah Inland Port Authority created in Section 11-58-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of [~~revenues~~]revenue collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

(A) "GOEO" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of GOEO provide to GOEO all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), GOEO may not request and the commission may not provide to GOEO a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to GOEO, the commission shall in all instances protect the privacy of a person as required by

Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of GOEO provide to GOEO other tax information.

(B) Before providing other tax information to GOEO, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) GOEO may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from GOEO under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if GOEO received the tax information from the commission in accordance with this Subsection (4)(n).

(B) GOEO may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information GOEO provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26B-3-106 and 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable, whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(bb) (i) As used in this Subsection (4)(bb), "unclaimed property administrator" means the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii) (A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection (4)(bb)(ii)(A) only for the purpose of returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection (4)(bb).

(cc) Notwithstanding Subsection (2), the commission may, upon request, disclose a taxpayer's state individual income tax information to a program manager of the Utah Fits All Scholarship Program under Section 53F-6-402 if:

(i) the taxpayer consents in writing to the disclosure;

(ii) the taxpayer's written consent includes the taxpayer's name, social security number, and any other information the commission requests that is necessary to verify the identity of the taxpayer; and

(iii) the program manager provides the taxpayer's written consent to the commission.

(dd) Notwithstanding Subsection (2), the commission may provide to the Division of Finance within the Department of Government Operations any information necessary to facilitate a payment from the commission to a taxpayer, including:

(i) the name of the taxpayer entitled to the payment or any other person legally authorized to receive the payment;

(ii) the taxpayer identification number of the taxpayer entitled to the payment;

(iii) the payment identification number and amount of the payment;

(iv) the tax year to which the payment applies and date on which the payment is due;

(v) a mailing address to which the payment may be directed; and

(vi) information regarding an account at a depository institution to which the payment may be directed, including the name of the depository institution, the type of account, the account number, and the routing number for the account.

(ee) Notwithstanding Subsection (2), the commission shall provide the total amount of [~~revenues~~]revenue collected by the commission under Subsection 59-5-202(5):

(i) at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, to the committee or office for the time period specified by the committee or office; and

(ii) to the Division of Finance for purposes of the Division of Finance administering Subsection 59-5-202(5).

(ff) Notwithstanding Subsection (2), the commission may provide the Department of Agriculture and Food with information from a return filed in accordance with Chapter 31, Cannabinoid Licensing and Tax Act.

(gg) Notwithstanding Subsection (2), the commission shall provide the Department of Workforce Services with the information described in Section 35A-3-105.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), GOEO, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization, an individual described in Subsection (2):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 6. Section 59-1-1801 is enacted to read:

PART 18. Reportable Transactions by Persons Other than Taxpayers

59-1-1801 (Effective 01/01/26). Definitions.

As used in this part:

(1) "Participating payee" means the same as that term is defined in 26 U.S.C. Sec. 6050W.

(2) "Payment settlement entity" means the same as that term is defined in 26 U.S.C. Sec. 6050W.

Section 7. Section 59-1-1802 is enacted to read:

59-1-1802 (Effective 01/01/26). Reporting by payment settlement entity.

A payment settlement entity that is required to file a return in accordance with 26 U.S.C. Sec. 6050W shall file a return containing the same information with the commission for each participating payee with an address in Utah:

(1) electronically;

(2) in a format approved by the commission; and

(3) within 30 days after the day on which the payment settlement entity is required to file a return with the Internal Revenue Service.

Section 8. Section 59-7-614 is amended to read:

59-7-614 (Effective 05/07/25) (Applies beginning 01/01/25). Clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Clean energy source" means the same as that term is defined in Section 54-17-601.

(d) "Commercial energy system" means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

(e) "Commercial enterprise" means an entity, the purpose of which is to produce:

(i) electrical, mechanical, or thermal energy for sale from a commercial energy system; or

(ii) hydrogen for sale from a hydrogen production system.

(f) (i) "Commercial unit" means a building or structure, other than a residence, that an entity uses to transact business.

(ii) Notwithstanding Subsection (1)(f)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

(g) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(h) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(i) "Geothermal energy" means energy generated by heat that is contained in the earth.

(j) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(k) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(l) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that uses:

(i) electricity from a clean energy source to create hydrogen gas from water, regardless of whether the clean energy source is at a separate facility or the same facility as the system of apparatus and equipment; or

(ii) uses renewable natural gas to produce hydrogen gas.

(m) "Office" means the Office of Energy Development created in Section 79-6-401.

(n) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and the structure's operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(o) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(p) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(q) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(r) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(s) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit; and

(ii) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed $2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(v) for a system installed on or after January 1, 2024, $0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (4); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (4)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (5); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (6); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (6)(b)(ii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7) if:

(i) the taxpayer owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4), (5), or (6) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this Subsection (7); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(8) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system, the commercial energy system, or the hydrogen production system with respect to which the taxpayer

seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from clean resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system, the commercial energy system, or the hydrogen production system uses the state's clean and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system, a commercial energy system, or a hydrogen production system meets the requirements of Subsection (8)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the clean energy system was installed.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(10) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(11) A taxpayer may not claim or carry forward a tax credit described in this section in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-7-614.7.

Section 9. Section 59-7-614.10 is amended to read:

59-7-614.10 (Effective 05/07/25) (Applies beginning 01/01/25). Nonrefundable enterprise zone tax credit.

(1) As used in this section:

(a) "Business entity" means a corporation that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(2) Subject to the provisions of this section, for a taxable year beginning before January 1, 2025, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide by electronic means the following information for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

(B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(C) the amount of tax credits awarded for rehabilitating a building in each development zone;

(D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(E) the information related to the tax credit contained in the office's latest report under Section 63N-1a-301; and

(F) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 10. Section 59-10-104.1 is amended to read:

59-10-104.1 (Effective 01/01/26). Exemption from taxation.

(1) For purposes of this section:

(a) "Modified adjusted gross income" means the amount calculated by:

(i) adding the individual's adjusted gross income on the individual's federal individual income tax return for the taxable year and any additions required by Section 59-10-114 for the taxable year; and

(ii) subtracting from the amount calculated in accordance with Subsection (1)(a)(i), any subtractions required by Section 59-10-114

for the taxable year.

(b) "Personal exemptions" means the total exemption amount an individual is allowed to claim for the taxable year under Section 151, Internal Revenue Code, for:

(i) the individual;

(ii) the individual's spouse; and

(iii) the individual's dependents.

[~~(b)~~](c) "Standard deduction":

(i) means the standard deduction an individual is allowed to claim for the taxable year under Section 63, Internal Revenue Code; and

(ii) notwithstanding Subsection [~~(1)(b)(i)~~](1)(c)(i), does not include an additional amount allowed under Section 63(f), Internal Revenue Code, for an individual or an individual's spouse who is:

(A) blind; or

(B) 65 years of age or older.

(2) [~~For taxable years beginning on or after January 1, 2002, an~~]An individual is exempt from a tax imposed by Section 59-10-104 or 59-10-116 if the individual's [~~adjusted gross income on the individual's federal individual income tax return for the taxable year~~]modified adjusted gross income is less than or equal to the sum of the individual's:

(a) personal exemptions for that taxable year; and

(b) standard deduction for that taxable year.

Section 11. Section 59-10-114 is amended to read:

59-10-114 (Effective 01/01/26). Additions to and subtractions from adjusted gross income of an individual.

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(b) the amount of a child's income calculated under Subsection (4) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

(C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102.5; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

(II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;

(e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

(i) issued by one or more of the following entities:

(A) a state other than this state;

(B) the District of Columbia;

(C) a political subdivision of a state other than this state; or

(D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)through (C); and

(ii) to the extent the interest is not included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

(g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income;

(h) any adoption expense:

(i) for which a resident or nonresident individual receives reimbursement from another person; and

(ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:

(A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) from federal taxable income on a federal individual income tax return;

(i) the amount of tax paid on income attributed to the individual in accordance with Subsection 59-10-1403.2(2) that is not included in adjusted gross income; and

(j) the amount of tax paid:

(i) on income attributed to the individual and taxable in this state, that is not included in adjusted gross income;

(ii) to another state; and

(iii) that the commission determines is substantially similar to the tax imposed under Subsection 59-10-1403.2(2).

(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:

(a) the difference between:

(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:

(A) included in adjusted gross income for federal income tax purposes for the taxable year; and

(B) exempt from state income taxes under the laws of the United States; and

(ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);

(b) if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:

(i) if that amount or distribution constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;

(d) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year;

(e) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction;

(f) an amount received:

(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;

(ii) by a resident or nonresident individual;

(iii) for the taxable year; and

(iv) to the extent the amount is included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(g) the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member if:

(i) both the nonmilitary spouse and the active duty military member are nonresident individuals;

(ii) the active duty military member is stationed in Utah;

(iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec. 4001(a)(2); and

(iv) the income is included in adjusted gross income for federal income tax purposes for the taxable year;

[~~(h) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:~~]

[~~(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus~~]

[~~(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year;~~]

[~~(i)~~](h) [~~for a taxable year beginning on or after January 1, 2020,~~]the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; [~~and~~]

[~~(j)~~](i) an amount of a distribution from a qualified retirement plan under Section 401(a), Internal Revenue Code, if:

(i) the amount of the distribution is included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(ii) for the taxable year when the amount of the distribution was contributed to the qualified retirement plan, the amount of the distribution:

(A) was not included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(B) was taxed by another state of the United States, the District of Columbia, or a possession of the United States [~~.~~]; and

(j) the amount of any repayment in the current taxable year of social security income received in a previous taxable year if:

(i) the individual claimed a credit for the repayment on the individual's federal individual income tax return for the current taxable year; and

(ii) the individual did not claim a tax credit under Section 59-10-1042 for the taxable year in which the individual received the social security income.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).

(b) The agreement described in Subsection (3)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(b);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4) (a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Section 12. Section 59-10-510 is amended to read:

59-10-510 (Effective 01/01/26). Return of electing small business corporation.

An electing small business corporation, as defined in Section [~~1371(a)(2)~~]1362, Internal Revenue Code, shall make a return for each taxable year, stating specifically:

(1) the items of the electing small business corporation's gross income and the deductions allowable by Subtitle A, Internal Revenue Code;

(2) the names and addresses of all persons owning stock in the electing small business corporation at any time during the taxable year;

(3) the number of shares of stock owned by each shareholder at all times during the taxable year to each shareholder;

(4) the date of each distribution to a shareholder; and

(5) other information as the commission may prescribe by:

(a) form; or

(b) administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 13. Section 59-10-1037 is amended to read:

59-10-1037 (Effective 05/07/25) (Applies beginning 01/01/25). Nonrefundable enterprise zone tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(2) Subject to the provisions of this section, for a taxable year beginning before January 1, 2025, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide by electronic means the following information, if available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

(B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(C) the amount of tax credits awarded for rehabilitating a building in each development zone;

(D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(E) the information related to the tax credit contained in the office's latest report under Section 63N-1a-306; and

(F) other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 14. Section 59-10-1042 is amended to read:

59-10-1042 (Effective 01/01/26). Nonrefundable tax credit for social security benefits.

(1) As used in this section:

(a) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) "Modified adjusted gross income" means the sum of the following for a claimant or, if the claimant's return under this chapter is allowed a joint filing status, the claimant and the claimant's spouse:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(f) "Social security benefit" means an amount received by a claimant as a monthly benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

(2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each claimant on a return that receives a social security benefit may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:

(a) the percentage listed in Subsection 59-10-104(2); and

(b) the claimant's social security benefit that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.

(3) A claimant may not:

(a) carry forward or carry back the amount of a tax credit under this section that exceeds the claimant's tax liability for the taxable year; or

(b) claim a tax credit under this section for a taxable year if a tax credit under Section 59-10-1019 is claimed on the claimant's return for the same taxable year.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by $.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a [~~federal individual income tax~~]return filed under this chapter that is allowed a married filing separately status, $37,500;

(b) for a [~~federal individual income tax~~]return filed under this chapter that is allowed a single filing status, $45,000;

(c) for a [~~federal individual income tax~~]return filed under this chapter that is allowed a head of household filing status, $75,000; or

(d) for a return filed under this chapter that is allowed a joint filing status, $75,000.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for claiming the tax credit described in this section.

Section 15. Section 59-10-1045 is amended to read:

59-10-1045 (Effective 01/01/26) (Applies beginning 01/01/25). Nonrefundable tax credit for taxes paid by pass-through entity.

(1) As used in this section, "taxed pass-through entity taxpayer" means a resident or nonresident individual who:

(a) has income attributed to the individual by a pass-through entity;

(b) receives the income described in Subsection (1)(a) after the pass-through entity pays the tax described in Subsection 59-10-1403.2(2); and

(c) adds the amount of tax paid on the income described in Subsection (1)(a) to adjusted gross income in accordance with Subsection 59-10-114(1)(i).

(2) (a) A taxed pass-through entity taxpayer may claim a nonrefundable tax credit for the taxes imposed under Subsection 59-10-1403.2(2).

(b) The tax credit is equal to the amount of the tax paid under Subsection 59-10-1403.2(2) by the pass-through entity on the income attributed to the taxed pass-through entity taxpayer.

(3) (a) A taxed pass-through entity taxpayer may carry forward the amount of the tax credit that exceeds the taxed pass-through entity taxpayer's tax liability for a period that does not exceed the next [~~five~~]ten taxable years.

(b) A taxed pass-through entity taxpayer may not carry back the amount of the tax credit that exceeds the taxed pass-through entity taxpayer's tax liability for the taxable year.

Section 16. Section 59-10-1102.2 is enacted to read:

59-10-1102.2 (Effective 05/07/25) (Applies beginning 01/01/25). Removal of tax credit from tax return and prohibition on claiming a tax credit -- Conditions for removal and prohibition on claiming a tax credit -- Commission publishing requirements.

(1) As used in this section, "tax return" means a tax return filed in accordance with this chapter.

(2) Beginning two taxable years after the requirements of Subsection (3) are met:

(a) the commission shall remove a tax credit allowed under this part from each tax return on which the tax credit appears; and

(b) a claimant, estate, or trust filing a tax return may not claim the tax credit.

(3) The commission shall remove a tax credit allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may not claim the tax credit as provided in Subsection (2) if:

(a) the total amount of the tax credit claimed by all claimants, estates, or trusts filing tax returns is less than $10,000 per year for three consecutive taxable years beginning on or after January 1, 2025; and

(b) fewer than 10 claimants, estates, and trusts per year for the three consecutive taxable years described in Subsection (3)(a), file a tax return claiming the tax credit.

(4) On or before the November interim meeting of the year after the taxable year in which the requirements of Subsection (3) are met, the commission shall report to the Revenue and Taxation Interim Committee by electronic means that in accordance with this section:

(a) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and

(b) a claimant, estate, or trust filing a tax return may not claim the tax credit.

(5) (a) Within a 30-day period after the day on which the commission makes the report required by Subsection (4), the commission shall publish a list in accordance with Subsection (5)(b) stating each tax credit that the commission will remove from a return on which the tax credit appears.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that:

(A) the commission is required to remove the tax credit from each return on which the tax credit appears; and

(B) the tax credit may not be claimed on a return;

(iii) state the taxable year for which the removal described in Subsection (5)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (5).

Section 17. Section 63I-2-259 is amended to read:

63I-2-259 (Effective 05/07/25). Repeal dates: Title 59.

(1) Subsection 59-7-159(3)(b)(iii), referencing Section 59-7-614.10, is repealed December 31, 2026.

[~~(1)~~](2) Subsection 59-7-610(8), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(3) Section 59-7-614.10, Nonrefundable enterprise zone tax credit, is repealed December 31, 2026.

[~~(2)~~](4) Subsection 59-7-614.10(5), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(3)~~](5) Section 59-7-624, Targeted business income tax credit, is repealed December 31, 2024.

(6) Subsection 59-10-137(3)(b)(viii), referencing Section 59-10-1037, is repealed December 31, 2026.

[~~(4)~~](7) Subsection 59-10-210(2)(b)(vi), regarding Section 59-10-1112, is repealed December 31, 2024.

[~~(5)~~](8) Subsection 59-10-1007(8), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(9) Section 59-10-1037, Nonrefundable enterprise zone tax credit, is repealed December 31, 2026.

[~~(6)~~](10) Subsection 59-10-1037(5), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(7)~~](11) Section 59-10-1112, Targeted business income tax credit, is repealed December 31, 2024.

Section 18. Section 63I-2-263 is amended to read:

63I-2-263 (Effective 05/07/25). Repeal dates: Titles 63A through 63O.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-806, Definitions -- Infant at Work Pilot Program -- Administration -- Report, is repealed June 30, 2026.

(3) Section 63C-1-103, Appointment and terms of boards, committees, councils, and commissions transitioning on October 1, 2024, or December 31, 2024, is repealed July 1, 2025.

(4) Section 63C-1-104, Appointment and terms of boards transitioning on October 1, 2024, is repealed January 1, 2025.

(5) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed October 1, 2024.

(6) Subsection 63G-6a-802(1)(e), regarding a procurement for a presidential debate, is repealed January 1, 2025.

(7) Subsection 63G-6a-802(3)(b)(iii), regarding a procurement for a presidential debate, is repealed January 1, 2025.

(8) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

(9) Subsection 63J-1-602.2(3), regarding funding the Enterprise Zone Act, is repealed December 31, 2026.

[~~(9)~~](10) Subsection 63J-1-602.2(47), regarding appropriations to the State Tax Commission for deferral reimbursements, is repealed July 1, 2027.

[~~(10)~~](11) Section 63M-7-221, Expungement working group, is repealed April 30, 2025.

[~~(11)~~](12) Section 63M-7-504, Crime Victim Reparations and Assistance Board -- Members, is repealed December 31, 2024.

[~~(12)~~](13) Section 63M-7-505, Board and office within Commission on Criminal and Juvenile Justice, is repealed December 31, 2024.

[~~(13)~~](14) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed December 31, 2024.

[~~(14)~~](15) Subsection 63N-2-213(12)(a), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(16) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed December 31, 2026.

[~~(15)~~](17) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 19. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect on May 7, 2025.

(2) The actions affecting the following sections take effect for a taxable year beginning on or after January 1, 2026:

(a) Section 19-12-203 (Effective 01/01/26);

(b) Section 59-1-402 (Effective 01/01/26);

(c) Section 59-1-1801 (Effective 01/01/26);

(d) Section 59-1-1802 (Effective 01/01/26);

(e) Section 59-10-104.1 (Effective 01/01/26);

(f) Section 59-10-114 (Effective 01/01/26);

(g) Section 59-10-510 (Effective 01/01/26); and

(h) Section 59-10-1042 (Effective 01/01/26).

Section 20. Retrospective operation.

The following sections have retrospective operation for a taxable year beginning on or after January 1, 2025:

(1) Section 59-7-614;

(2) Section 59-7-614.10;

(3) Section 59-10-1037;

(4) Section 59-10-1045; and

(5) Section 59-10-1102.2.

CHAPTER 183
H. B. 62
Passed February 14, 2025
Approved March 25, 2025
Effective May 7, 2025

PROPERTY TAX ACT MODIFICATIONS

Chief Sponsor: Steve Eliason
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions in the Property Tax Act.

Highlighted Provisions:

This bill:

- ► establishes an application deadline for the residential property tax exemption;
- ► modifies the contents of the residential property declaration signed by an owner of residential property;
- ► clarifies the circumstances under which land that is less than five acres in area may qualify for agricultural property tax assessment;
- ► clarifies a taxpayer's ability to appeal decisions related to tax deferral and tax abatement to the State Tax Commission;
- ► requires the State Tax Commission to report to the Legislature if certain rules are promulgated; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-103.5, (Effective 05/07/25) (Retrospective 01/01/25) as last amended by Laws of Utah 2024, Chapter 253
59-2-503, (Effective 05/07/25) (Retrospective 01/01/25) as last amended by Laws of Utah 2024, Chapter 89
59-2-507, (Effective 05/07/25) (Retrospective 01/01/25) as last amended by Laws of Utah 2015, Chapter 129
59-2-924, (Effective 05/07/25) (Retrospective 01/01/25) as last amended by Laws of Utah 2024, Chapter 258
59-2-1006, (Effective 05/07/25) (Retrospective 01/01/25) as last amended by Laws of Utah 2020, Chapter 86

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-103.5 is amended to read:

59-2-103.5 (Effective 05/07/25) (Retrospective 01/01/25). Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption.

(1) Subject to Subsections (4), (5), [~~and (10)~~](6), and (11), for residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before the county applies a residential exemption authorized under Section 59-2-103 to the value of the residential property if:

(a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential exemption applied to the value of the residential property;

(b) an ownership interest in the residential property changes; or

(c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.

(2) (a) The application described in Subsection (1):

(i) shall be on a form the commission provides by rule and makes available to the counties;

(ii) shall be signed by the owner of the residential property; and

(iii) may not request the sales price of the residential property.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing the contents of the form described in Subsection (2)(a).

(c) For purposes of the application described in Subsection (1), a county may not request information from an owner of a residential property beyond the information in the form provided by the commission under this Subsection (2).

(3) (a) Regardless of whether a county legislative body adopts an ordinance described in Subsection (1), before a county may apply a residential exemption to the value of part-year residential property, an owner of the property shall:

(i) subject to Subsection (6), file the application described in Subsection (2)(a) with the county board of equalization; and

(ii) include as part of the application described in Subsection (2)(a) a statement that certifies:

(A) the date the part-year residential property became residential property;

(B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and

(C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.

(b) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee not to exceed $50.

(4) Before a county allows residential property described in Subsection 59-2-102(34)(b)(ii) a residential exemption authorized under Section 59-2-103, an owner of the residential property shall file with the county assessor a written declaration that:

(a) states under penalty of perjury that, to the best of each owner's knowledge, upon completion of construction or occupancy of the residential property, the residential property will be used for residential purposes as a primary residence;

(b) is signed by each owner of the residential property; and

(c) is on a form approved by the commission.

(5) (a) Before a county allows residential property described in Subsection 59-2-103(6)(b) a residential exemption authorized under Section 59-2-103, an owner of the residential property shall file with the county assessor a written declaration that:

(i) states under penalty of perjury that, to the best of each owner's knowledge, the residential property will be used for residential purposes as a primary residence of a tenant;

(ii) is signed by each owner of the residential property; and

(iii) is on a form approved by the commission.

(b) (i) (A) In addition to the declaration, a county assessor may request from an owner a current lease agreement signed by the tenant.

(B) If the lease agreement is insufficient for a county assessor to make a determination about eligibility for a residential exemption, a county assessor may request a copy of the real estate insurance policy for the property.

(C) If the real estate insurance policy is insufficient for a county assessor to make a determination about eligibility for a residential exemption, a county assessor may request a copy of a filing from the most recent federal tax return showing that the owner had profit or loss from the residential property as a rental.

(ii) A county assessor may not request information from an owner's tenant.

(6) (a) Except as provided in Subsection (6)(b), the county board of equalization may not accept from a property owner an application to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence that is filed after the later of:

(i) September 15 of the calendar year for which the property owner seeks to receive the residential exemption; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing for circumstances under which the county board of equalization is required to accept a property owner's application for a residential exemption authorized under Section 59-2-103 that is filed after the time period described in Subsection (6)(a).

(ii) The commission shall report to the Revenue and Taxation Interim Committee on any rules promulgated under this Subsection (6)(b).

[~~(6)~~](7) Except as provided in Subsection [~~(7)~~](8), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, the property owner shall:

(a) file a written statement with the county board of equalization of the county in which the property is located:

(i) on a form provided by the county board of equalization; and

(ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and

(b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence.

[~~(7)~~](8) A property owner is not required to file a written statement or make the declaration described in Subsection [~~(6)~~](7) if the property owner:

(a) changes primary residences;

(b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and

(c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.

[~~(8)~~](9) Subsections (2) through [~~(7)~~](8) do not apply to qualifying exempt primary residential rental personal property.

[~~(9)~~](10) (a) Subject to Subsection [~~(10)~~](11), for the first calendar year in which a property owner qualifies to receive a residential exemption under Section 59-2-103, a county assessor may require the property owner to file a signed statement described in Section 59-2-306.

(b) Subject to Subsection [~~(10)~~](11) and notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection [~~(9)(a)~~](10)(a) in which a property owner qualifies for an exemption authorized under Section 59-2-1115 for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the property owner to certify, under penalty of perjury, that the property owner qualifies for the exemption authorized under Section 59-2-1115.

[~~(10)~~](11) (a) After an ownership interest in residential property changes, the county assessor shall:

(i) notify the owner of the residential property that the owner is required to submit a written declaration described in Subsection [~~(10)(d)~~](11)(d) within 90 days after the day on which the county assessor mails the notice under this Subsection [~~(10)(a)~~](11)(a); and

(ii) provide the owner of the residential property with the form described in Subsection [~~(10)(c)~~](11)(e) to make the written declaration described in Subsection [~~(10)(d)~~](11)(d).

(b) A county assessor is not required to provide a notice to an owner of residential property under Subsection [~~(10)(a)~~](11)(a) if the situs address of the residential property is the same as any one of the following:

(i) the mailing address of the residential property owner or the tenant of the residential property;

(ii) the address listed on the:

(A) residential property owner's driver license; or

(B) tenant of the residential property's driver license; or

(iii) the address listed on the:

(A) residential property owner's voter registration; or

(B) tenant of the residential property's voter registration.

(c) A county assessor is not required to provide a notice to an owner of residential property under Subsection [~~(10)(a)~~](11)(a) if:

(i) the owner is using a post office box or rural route box located in the county where the residential property is located; and

(ii) the residential property is located in a county of the fourth, fifth, or sixth class.

(d) An owner of residential property that receives a notice described in Subsection [~~(10)(a)~~](11)(a) shall submit a written declaration to the county assessor under penalty of perjury certifying the information contained in the form described in Subsection [~~(10)(c)~~](11)(e).

(e) The written declaration required by Subsection [~~(10)(d)~~](11)(d) shall be:

(i) signed by the owner of the residential property; and

(ii) in substantially the following form:

"Residential Property Declaration

This form must be submitted to the County Assessor's office where your new residential property is located within 90 days of receipt. Failure to do so will result in the county assessor taking action that could result in the withdrawal of the primary residential exemption from your residential property.

Residential Property Owner Information

Name(s):_____

Home Phone:_____

Work Phone:_____

Mailing Address:_____

Residential Property Information

Physical Address:_____

Certification

1. Is this property used as a primary residential property or part-year residential property for you or another person?

"Part-year residential property" means owned property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

Yes No

2. Will this primary residential property or part-year residential property be occupied for 183 or more consecutive calendar days by the owner or another person?

A part-year residential property occupied for 183 or more consecutive calendar days in a calendar year by the owner(s) or a tenant is eligible for the exemption.

Yes No

If a property owner or a property owner's spouse claims a residential exemption under Utah Code Ann. & 59-2-103 for property in this state that is the primary residence of the property owner or the property owner's spouse, that claim of a residential exemption [~~creates a rebuttable presumption that~~]shall be considered in determining whether the property owner and the property owner's spouse have domicile in Utah for income tax purposes. [~~The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner's spouse.~~]

Signature

Under penalties of perjury, I declare to the best of my knowledge and belief, this declaration and accompanying pages are true, correct, and complete.

_____(Owner signature) _____Date (mm/dd/yyyy)

_____(Owner printed name)

(f) For purposes of a written declaration described in this Subsection [~~(10)~~](11), a county may not request information from a property owner beyond the information described in the form provided in Subsection [~~(10)(e)~~](11)(e).

(g) (i) If, after receiving a written declaration filed under Subsection [~~(10)(d)~~](11)(d), the county determines that the property has been incorrectly qualified or disqualified to receive a residential exemption, the county shall:

(A) redetermine the property's qualification to receive a residential exemption; and

(B) notify the claimant of the redetermination and the county's reason for the redetermination.

(ii) The redetermination provided in Subsection [~~(10)(g)(i)(A)~~](11)(g)(i)(A) is final unless:

(A) except as provided in Subsection [~~(10)(g)(iii)~~](11)(g)(iii), the property owner appeals the redetermination to the board of equalization in accordance with Subsection 59-2-1004(2); or

(B) the county determines that the property is eligible to receive a primary residential exemption as part-year residential property.

(iii) The board of equalization may not accept an appeal that is filed after the later of:

(A) September 15 of the current calendar year; or

(B) the last day of the 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(h) (i) If a residential property owner fails to file a written declaration required by Subsection [~~(10)(d)~~](11)(d), the county assessor shall mail to the owner of the residential property a notice that:

(A) the property owner failed to file a written declaration as required by Subsection [~~(10)(d)~~](11)(d); and

(B) the property owner will no longer qualify to receive the residential exemption authorized under Section 59-2-103 for the property that is the subject of the written declaration if the property owner does not file the written declaration required by Subsection [~~(10)(d)~~](11)(d) within 30 days after the day on which the county assessor mails the notice under this Subsection [~~(10)(h)(i)~~](11)(h)(i).

(ii) If a property owner fails to file a written declaration required by Subsection [~~(10)(d)~~](11)(d) after receiving the notice described in Subsection [~~(10)(h)(i)~~](11)(h)(i), the property owner no longer qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar year for the property that is the subject of the written declaration unless:

(A) except as provided in Subsection [~~(10)(h)(iii)~~](11)(h)(iii), the property owner appeals the redetermination to the board of equalization in accordance with Subsection 59-2-1004(2); or

(B) the county determines that the property is eligible to receive a primary residential exemption as part-year residential property.

(iii) The board of equalization may not accept an appeal that is filed after the later of:

(A) September 15 of the current calendar year; or

(B) the last day of the 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(iv) A property owner that is disqualified to receive the residential exemption under Subsection [~~(10)(h)(ii)~~](11)(h)(ii) may file an application described in Subsection (1) to determine whether the owner is eligible to receive the residential exemption.

(i) The requirements of this Subsection [~~(10)~~](11) do not apply to a county assessor in a county that [~~has, for the five calendar years prior to 2019, had in place and enforced~~]adopts and enforces an ordinance described in Subsection (1).

Section 2. Section 59-2-503 is amended to read:

59-2-503 (Effective 05/07/25) (Retrospective 01/01/25). Qualifications for agricultural use assessment.

(1) [~~For~~]Subject to Subsections (2) through (10), for general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

(a) is not less than five contiguous acres in area [~~, except that land may be assessed on the basis of the value that the land has for agricultural use:~~];

[~~(i) if:~~]

[~~(A) the land is devoted to agricultural use in conjunction with other eligible acreage; and~~]

[~~(B) the land and the other eligible acreage described in Subsection (1)(a)(i)(A) have identical legal ownership; or~~]

[~~(ii) as provided under Subsections (4) and (5); and~~]

[~~(b) except as provided in Subsection (6) or (7):~~]

[~~(i)~~](b) is actively devoted to agricultural use; and

[~~(ii)~~](c) has been actively devoted to agricultural use for at least two successive years immediately preceding the tax year for which the land is being assessed under this part.

(2) In determining whether land is actively devoted to agricultural use, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

(a) production levels reported in the current publication of the Utah Agricultural Statistics;

(b) current crop budgets developed and published by Utah State University; and

(c) other acceptable standards of agricultural production designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) Notwithstanding Subsection (1)(a) and except as provided in Subsection (3)(b), land that is less than five contiguous acres in area may be assessed on the basis of the value that the land has for agricultural use if:

(i) the land is devoted to agricultural use in conjunction with other eligible acreage; and

(ii) the land and the other eligible acreage described in Subsection (3)(a)(i) have identical legal ownership.

(b) (i) Land on which a residence is located may not be assessed on the basis of the value that the land has for agricultural use under Subsection (3)(a) unless the land significantly contributes to overall agricultural operations.

(ii) Land devoted to agricultural use in conjunction with land on which a residence is located is excluded from any determination under Subsection (3)(b)(i) as to whether the land on which a residence is located significantly contributes to overall agricultural operations.

(iii) (A) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the circumstances under which land on which a residence is located significantly contributes to overall agricultural operations under Subsection (3)(b)(i).

(B) The commission shall report to the Revenue and Taxation Interim Committee on any rules promulgated under this Subsection (3)(b)(iii).

[~~(3)~~](4) Land may be assessed on the basis of the land's agricultural value if the land:

(a) is subject to the privilege tax imposed by Section 59-4-101;

(b) is owned by the state or any of the state's political subdivisions; and

(c) meets the requirements of Subsection (1).

[~~(4)~~](5) Notwithstanding Subsection (1)(a), the commission or a county board of equalization may grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that 80% or more of the owner's, purchaser's, or lessee's income is derived from agricultural products produced on the property in question.

[~~(5)~~](6) Notwithstanding Subsection (1)(a), the commission or a county board of equalization shall grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that:

(i) the failure to meet the acreage requirement arose solely as a result of an acquisition by a public utility or a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding; and

(ii) the land is actively devoted to agricultural use.

[~~(6)~~](7) (a) The commission or a county board of equalization may grant a waiver of the requirement that the land is actively devoted to agricultural use for the tax year for which the land is being assessed under this part upon:

(i) appeal by the owner; and

(ii) submission of proof that:

(A) the land was assessed on the basis of agricultural use for at least two years immediately preceding that tax year; and

(B) the failure to meet the agricultural production requirements for that tax year was due to no fault or act of the owner, purchaser, or lessee.

(b) As used in Subsection [~~(6)(a)~~](7)(a), "fault" does not include:

(i) intentional planting of crops or trees which, because of the maturation period, do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use; or

(ii) implementation of a bona fide range improvement program, crop rotation program, or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use.

[~~(7)~~](8) Land that otherwise qualifies for assessment under this part qualifies for assessment under this part in the first year the land resumes being actively devoted to agricultural use if:

(a) the land becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral; and

(b) the land qualified for assessment under this part in the year immediately preceding the year the land became ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral.

[~~(8)~~](9) Land that otherwise qualifies under Subsection (1) to be assessed on the basis of the value that the land has for agricultural use does not lose that qualification by becoming subject to a forest stewardship plan developed under Section 65A-8a-106 under which the land is subject to a temporary period of limited use or nonuse.

[~~(9)~~](10) (a) Notwithstanding Subsection (1) and except as provided in Subsection [~~(9)(d)~~](10)(d), land in agricultural use that is intentionally allowed to lay fallow for one or more growing seasons qualifies for assessment under this part if the fallowing is conducted:

(i) during periods of limited water supply;

(ii) as part of a prudent farm management practice, including crop rotation, rotational grazing, or soil water management; or

(iii) to facilitate voluntary participation in a water management or agricultural water optimization program.

(b) If the owner of land assessed under this part fallows the land during any period in a calendar year, the owner may, on or before December 31 of the year in which the land is fallowed, provide to the county assessor written notice that:

(i) identifies the land that was fallowed during any period of the year in which the notice is provided, including the acreage of the fallowed land;

(ii) demonstrates how the land qualifies under Subsection [~~(9)(a)~~](10)(a); and

(iii) specifies whether the owner intends to fallow the land during any period in the following calendar year, and, if so, the intended duration of the fallowing period.

(c) (i) If the written notice under Subsection [~~(9)(b)~~](10)(b) indicates that the owner intends to fallow the land during any period in the following calendar year, the county assessor may, within 45 days of receiving the written notice, require the owner to submit to the county assessor a land management plan in a form prescribed by the county assessor that:

(A) identifies the owner's objectives in fallowing the land for the intended duration of the fallowing period;

(B) provides adequate assurances to the county assessor that the fallowed land will become actively devoted to agricultural use upon the expiration of the intended fallowing period; and

(C) includes any other information required by the county assessor.

(ii) If the owner submits to the county assessor a land management plan for fallowed land that meets the requirements of Subsection [~~(9)(c)(i)~~](10)(c)(i), the county assessor may not require the owner to submit a new or additional land management plan for the same land within three years from the day on which the owner submitted the plan.

(d) Fallowed land is withdrawn from this part if:

(i) the county assessor determines that the land does not qualify under Subsection [~~(9)(a)~~](10)(a);

(ii) the owner fails to return the fallowed land to active agricultural use upon the expiration of the intended fallowing period as specified in the written notice; or

(iii) the owner fails to comply with the requirements of Subsection [~~(9)(c)~~](10)(c), if a land management plan is required.

Section 3. Section 59-2-507 is amended to read:

59-2-507 (Effective 05/07/25) (Retrospective 01/01/25). Land included as agricultural -- Site of residence excluded -- Taxation of structures and site of residence.

(1) (a) Land under barns, sheds, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, and irrigation ditches and like facilities is included in determining the total area of land actively devoted to agricultural use.

(b) Land that is under a [~~farmhouse~~]residence and land used in connection with a [~~farmhouse~~]residence is excluded from the determination described in Subsection (1)(a).

(2) The following shall be valued, assessed, and taxed using the same standards, methods, and procedures that apply to other taxable structures and other land in the county:

(a) a structure, except as provided in Subsection (3), that is located on land in agricultural use;

(b) a [~~farmhouse~~]residence and the land on which the [~~farmhouse~~]residence is located; and

(c) land used in connection with a [~~farmhouse~~]residence.

(3) A high tunnel, as defined in Section 10-9a-525, is exempt from assessment for taxation purposes.

Section 4. Section 59-2-924 is amended to read:

59-2-924 (Effective 05/07/25) (Retrospective 01/01/25). Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(v) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

(vi) for a host local government, the same as that term is defined in Section 63N-2-502;

(vii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-602;

(viii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 10-9a-1001 or Section 17-27a-1201; or

(ix) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-1601.

(e) "Centrally assessed benchmark value" means an amount equal to the average year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous three calendar years, adjusted for taxable value

attributable to:

(i) an annexation to a taxing entity;

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the amount calculated by multiplying:

(A) the difference between the taxable value for the current year and the base taxable value of the property that is located within a project area; and

(B) the number that represents the percentage of enhanced property tax revenue, as defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(v) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority;

(vi) for a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone;

(vii) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government;

(viii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a home ownership promotion zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the home ownership promotion zone; or

(ix) for a first home investment zone created pursuant to Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount

calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a first home investment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the first home investment zone.

(o) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, an amount equal to the incremental value that is no longer provided to the Utah Fairpark Area Investment and Restoration District;

(iv) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment;

(v) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation;

(vi) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone as tax increment;

(vii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, an amount equal to the incremental value that is no longer provided to a home ownership promotion zone as tax increment; or

(viii) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount equal to the incremental value that is no longer provided to a first home investment zone as tax increment.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

[~~(u) "Qualifying exempt revenue" means revenue received:~~]

[~~(i) for the previous calendar year;~~]

[~~(ii) by a taxing entity;~~]

[~~(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and~~]

[~~(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.~~]

[~~(v)~~](u) "Tax increment" means:

(i) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(ii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602;

(iii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, the same as that term is defined in Section 10-9a-1001 or Section 17-27a-1201; or

(iv) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, the same as that term is defined in Section 63N-3-1601.

(2) Before June 1 of each year, [~~the county assessor of~~] each county assessor shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year [~~minus the qualifying exempt revenue~~] by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A taxing entity may impose a judgment levy [~~imposed~~] under Section 59-2-1328 or 59-2-1330[~~may be imposed~~] at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30 of each year, a taxing entity shall [~~annually~~] adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and

personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 5. Section 59-2-1006 is amended to read:

59-2-1006 (Effective 05/07/25) (Retrospective 01/01/25). Appeal to commission -- Duties of auditor -- Decision by commission.

(1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, or a tax relief decision made under designated decision-making authority as described in Section 59-2-1101 or Part 18, Tax Deferral and Tax Abatement, may appeal that decision to the commission by:

(a) filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board or entity with designated decision-making authority described in Section 59-2-1101 or Part 18, Tax Deferral and Tax Abatement; and

(b) if the county assessor valued the property in accordance with Section 59-2-301.8 and the taxpayer intends to contest the value of personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8, submitting a signed statement of the personal property with the notice of appeal.

(2) The auditor shall:

(a) file one notice with the commission;

(b) certify and transmit to the commission:

(i) the minutes of the proceedings of the county board of equalization or entity with designated decision-making authority for the matter appealed;

(ii) all documentary evidence received in that proceeding; and

(iii) a transcript of any testimony taken at that proceeding that was preserved;

(c) if the appeal is from a hearing where an exemption was granted or denied, certify and transmit to the commission the written decision of:

(i) the board of equalization as required by Section 59-2-1102; or

(ii) the entity with designated decision-making authority; and

(d) any signed statement submitted in accordance with Subsection (1)(b).

(3) In reviewing a decision described in Subsection (1), the commission may:

(a) admit additional evidence;

(b) issue orders that it considers to be just and proper; and

(c) make any correction or change in the assessment or order of the county board of equalization or entity with decision-making authority.

(4) In reviewing evidence submitted to the commission to decide an appeal under this section, the commission shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(5) In reviewing a decision described in Subsection (1), the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if:

(a) the issue of equalization of property values is raised; and

(b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.

(6) The commission shall decide all appeals taken pursuant to this section not later than March 1 of the following year for real property and within 90 days for personal property, and shall report its decision, order, or assessment to the county auditor, who shall make all changes necessary to comply with the decision, order, or assessment.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

Section 7. Retrospective operation.

This bill has retrospective operation to January 1, 2025.

CHAPTER 184
H. B. 65
Passed March 5, 2025
Approved March 25, 2025
Effective July 1, 2025

FIREFIGHTER CANCER AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

Cosponsor:	Ken Ivory	Angela Romero
Carl R. Albrecht	Jason B. Kyle	Jake Sawyer
Stewart E. Barlow	Trevor Lee	David Shallenberger
Bridger Bolinder	Karianne Lisonbee	Troy Shelley
Jefferson S. Burton	A. Cory Maloy	Lisa Shepherd
Kay J. Christofferson	Ashlee Matthews	Rex P. Shipp
Paul A. Cutler	Verona Mauga	Andrew Stoddard
Jennifer Dailey-Provost	Tracy J. Miller	Jordan D. Teuscher
Ariel Defay	Carol S. Moss	Jason E. Thompson
Rosalba Dominguez	Jefferson Moss	R. Neil Walter
Joseph Elison	Clinton D. Okerlund	Christine F. Watkins
Doug Fiefia	Doug Owens	Douglas R. Welton
Stephanie Gricius	Nicholeen P. Peck	Stephen L. Whyte
Katy Hall	Michael J. Petersen	Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies the Utah Occupational Disease Act by expanding the rebuttable presumption for a firefighter diagnosed with cancer.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► expands the list of cancers that presumptively arise from service as a firefighter;
- ► establishes requirements for the rebuttable presumption;
- ► excludes respiratory cancers related to the use of cigarettes, electronic cigarettes, tobacco products, or marijuana from the rebuttable presumption;
- ► provides a cancer screening to the firefighter;
- ► requires the fire department where a firefighter is working to cover the out-of-pocket cost of the cancer screening; and
- ► provides for the management of the cancer screening program.

Money Appropriated in this Bill:

This bill appropriates $3,700,000 in operating and capital budgets for fiscal year 2026, all of which is from the General Fund.

This bill appropriates ($3,700,000) in restricted fund and account transfers for fiscal year 2026, all of which is from the General Fund.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

34A-3-101, as renumbered and amended by Laws of Utah 1997, Chapter 375
34A-3-105, as renumbered and amended by Laws of Utah 1997, Chapter 375
34A-3-113, as last amended by Laws of Utah 2023, Chapters 25, 364
53B-29-202, as last amended by Laws of Utah 2024, Chapter 169

ENACTS:

34A-3-114, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-3-101 is amended to read:
34A-3-101. Title -- Definitions.

(1) This chapter is known as the "Utah Occupational Disease Act."

(2) For purposes of this chapter [~~,~~]:

(a) [~~"division"~~]"Division" means the Division of Industrial Accidents.

(b) "Fire and rescue training program" means the program described in Section 53B-29-202.

(c) (i) "Firefighter" means a member of a public fire department or other public firefighting organization that provides fire suppression and other fire-related service who is responsible for or serves in a capacity that includes responsibility for the extinguishment of fires.

(ii) "Firefighter" includes:

(A) an individual who is a designated personal protective equipment technician; or

(B) a volunteer safety officer as described in Subsection 67-20-2(10)(b)(ii).

(iii) (A) "Firefighter" does not include any other individual whose job description, duties, or responsibilities do not include direct involvement in fire suppression; or

(B) individuals who provide private suppression or other private fire-related protection services.

(d) "Presumptive cancer" means one or more of the following cancers:

(i) bladder;

(ii) brain;

(iii) colorectal;

(iv) esophageal;

(v) kidney;

(vi) leukemias;

(vii) lung;

(viii) lymphomas;

(ix) melanomas;

(x) mesotheliomas;

(xi) oropharynx;

(xii) ovarian;

(xiii) prostate;

(xiv) testicular; and

(xv) thyroid.

(e) "Rocky Mountain Center for Occupational and Environmental Health" means the center described in Section 53B-30-203.

Section 2. Section 34A-3-105 is amended to read:
34A-3-105. Last employer liable -- Exception.

(1) [~~To~~]Except as provided in Subsection 34A-3-113(5), the extent compensation is payable under this chapter for an occupational disease which arises out of and in the course of an employee's employment for more than one employer, the only employer liable shall be the employer in whose employment the employee was last injuriously exposed to the hazards of the disease if:

(a) the employee's exposure in the course of employment with that employer was a substantial contributing medical cause of the alleged occupational disease; and

(b) the employee was employed by that employer for at least 12 consecutive months.

(2) Should the conditions of Subsection (1) not be met, liability for disability, death, and medical benefits shall be apportioned between employers based on the involved employers' causal contribution to the occupational disease.

Section 3. Section 34A-3-113 is amended to read:
34A-3-113. Presumption of workers' compensation benefits for firefighters -- Study.

[~~(1) As used in this section:~~]

[~~(a) (i) "Firefighter" means a member, including a volunteer member, as described in Subsection 67-20-2(10)(b)(ii), or a member paid on call, of a fire department or other organization that provides fire suppression and other fire-related service who is responsible for or is in a capacity that includes responsibility for the extinguishment of fires.~~]

[~~(ii) "Firefighter" does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.~~]

[~~(b) "Presumptive cancer" means one or more of the following cancers:~~]

[~~(i) pharynx;~~]

[~~(ii) esophagus;~~]

[~~(iii) lung; and~~]

[~~(iv) mesothelioma.~~]

[~~(2)~~](1) If a firefighter who [~~contracts a~~]is diagnosed with a presumptive cancer meets the requirements of Subsection (3), there is a rebuttable presumption that [~~:~~]

[~~(a)~~] the presumptive cancer was contracted arising out of and in the course of employment [~~; and~~]as a firefighter if the firefighter demonstrates exposure to a known carcinogen as defined by the International Agency for Research on Cancer while serving as a firefighter.

[~~(b) the presumptive cancer was not contracted by a willful act of the firefighter.~~]

(2) The following individuals may assert the rebuttable presumption described in Subsection (1):

(a) a firefighter currently in service; and

(b) a former firefighter after termination of service as a firefighter for a period:

(i) of three calendar months for each full year of service as a firefighter; and

(ii) not to exceed 120 months.

(3) (a) To be entitled to the rebuttable presumption described in Subsection [~~(2)~~](1), the firefighter shall submit to the fire and rescue training program a record of:

[~~(a)~~](i) [~~during the time of employment as a firefighter, undergo annual physical examinations;~~]service as a firefighter for at least eight years;

(ii) a physical examination:

(A) completed before serving as a firefighter that shows no evidence of cancer;

(B) completed every two years during the time of service as a firefighter; and

(C) that is reasonably aligned with the National Fire Protection Association standards on the comprehensive occupational medical program for fire departments;

(iii) after seven years of service as a firefighter, a cancer screening conducted by the Rocky Mountain Center for Occupational and Environmental Health at the intervals described in Section 34A-3-114 during the time of service as a firefighter;

(iv) reporting the presumptive cancer to the fire and rescue training program and, in accordance with Section 34A-2-407, to the employer; and

[~~(b) have been employed as a firefighter for eight years or more and regularly responded to firefighting or emergency calls within the eight-year period; and~~]

[~~(c)~~](v) [~~if the firefighter has used tobacco, provide documentation from a~~]a physician statement stating that [~~indicates that~~] the firefighter has not used [~~tobacco~~]tobacco products or smoked cigarettes, electronic cigarettes, or marijuana for [~~the eight~~]at least eight years [~~preceding~~]immediately before reporting the presumptive cancer to the [~~employer or division~~]employer and the fire and rescue training program.

(b) A firefighter is entitled to the rebuttable presumption without completing the requirements described in Subsections (3)(a)(ii)(B) and (C) or Subsection (3)(a)(iii) for years of service as a firefighter completed before July 1, 2026.

(4) (a) (i) A presumption established under this section may be rebutted by a preponderance of the evidence.

(ii) The rebuttable presumption does not apply to cancers of the respiratory tract if there is evidence that the firefighter's use of tobacco products or the firefighter's smoking of cigarettes, electronic cigarettes, or marijuana is a substantial contributing cause to the development of the cancer.

(b) A firefighter may seek compensation in accordance with Chapter 2, Workers' Compensation Act, regardless of compliance with Subsection (3).

[~~(5) If a firefighter who contracts a presumptive cancer is employed as a firefighter by more than one employer and qualifies for the presumption under Subsection (2), and that presumption has not been rebutted, the employer and insurer at the time of the last substantial exposure to risk of the presumptive cancer are liable under this chapter under Section 34A-3-105.~~]

(5) The fire department or firefighting organization and insurer at the time of the last substantial exposure to a known carcinogen is liable when:

(a) a firefighter who contracts a presumptive cancer has served as a firefighter with more than one fire department or firefighting organization;

(b) the firefighter qualifies for the rebuttable presumption; and

(c) the presumption has not been rebutted.

(6) A cause of action subject to the rebuttable presumption [~~under this section~~]is considered to arise on the date that [~~the employee~~]a firefighter:

(a) suffers disability from the occupational disease;

(b) knows, or in the exercise of reasonable diligence should have known, that the occupational disease is caused by [~~employment~~]service as a firefighter; and

(c) files a claim as provided in Section 34A-3-108.

(7) (a) The division shall conduct a five-year study to determine whether:

(i) a cancer that is not a presumptive cancer is commonly contracted through service as a firefighter; and

(ii) a cancer that is a presumptive cancer is not commonly contracted through service as a firefighter.

(b) In conducting the study, the division shall:

(i) consider cancer latency periods; and

(ii) consult with:

(A) the fire and rescue training program; and

(B) the Rocky Mountain Center for Occupational and Environmental Health.

(c) Before September 30, 2029, the division shall file a report to the Business and Labor Interim Committee summarizing the results of the study described in Subsection (7)(a) and any recommendations for legislation.

Section 4. Section 34A-3-114 is enacted to read:

34A-3-114. Cancer screening for public firefighters.

(1) (a) The Rocky Mountain Center for Occupational and Environmental Health shall offer a firefighter working for a public fire department, or a public firefighting organization, a cancer screening after seven years but before eight years of active service as a firefighter, continuous or combined:

(i) every five years for firefighters 49 years old or younger; and

(ii) every three years for firefighters 50 years old and older until the firefighter reaches the social security retirement qualifying age.

(b) The screening shall include applicable screening for presumptive cancer.

(2) (a) Rocky Mountain Center for Occupational and Environmental Health shall begin offering cancer screenings through the fire and rescue training program no later than January 1, 2026.

(b) Beginning January 1, 2029, and for each plan year that follows, a public fire department or public firefighting organization shall provide health care benefits, including cancer screening, consistent with the requirement of this section for the public fire department or public firefighting organization's employed or contracted firefighters.

(3) (a) The public fire department or public firefighting organization shall provide reimbursement to employed or contracted firefighters for co-payment, deductible, coinsurance, or other out-of-pocket expenses employed or contracted firefighters pay to the Rocky Mountain Center for Occupational and Environmental Health.

(b) An employed or contracted firefighter shall submit adequate documentation of the copayment, deductible, coinsurance, or other out-of-pocket expense to the public fire department or public firefighting organization for which the employed or contracted firefighter is associated for reimbursement in accordance with Subsection (3)(a).

Section 5. Section 53B-29-202 is amended to read:

53B-29-202. Fire prevention, education, and training program.

(1) With technical advice and support from the fire board, Utah Valley University shall operate a statewide fire and rescue [~~service~~] training program that:

(a) provides instruction, training, and testing for:

(i) Utah Valley University students; and

(ii) firefighters and emergency rescue personnel throughout the state, whether paid or volunteer;

(b) explores new methods of firefighting, fire training, and fire prevention;

(c) provides training for fire and arson detection and investigation;

(d) provides training to students, firefighters, and emergency rescue personnel on how to conduct public education programs to promote fire safety;

(e) provides aircraft rescue firefighting training;

(f) provides for certification of firefighters, pump operators, instructors, officers, and rescue personnel; and

(g) provides facilities and props for teaching firefighting and emergency rescue skills.

(2) Utah Valley University shall ensure that the curriculum, training, and facilities offered in the fire and rescue training program are sufficient to allow individuals who successfully complete the program to receive applicable certification as a firefighter or emergency rescue professional.

(3) Utah Valley University and the fire board shall consult together regarding:

(a) the development and content of the curriculum and training of the fire and rescue training program;

(b) the identification of individuals who [~~will be permitted to~~]may participate in the fire and rescue training program without cost; and

(c) the establishment of certification standards and requirements.

(4) Utah Valley University shall allow individuals designated by the fire board to participate in and complete the fire and rescue training program without cost and to receive applicable certification.

(5) Utah Valley University and the fire board shall by contract establish terms to:

(a) define the scope and content of the fire and rescue training program;

(b) identify the fire and rescue personnel throughout the state who will be permitted to participate in the fire and rescue training program without cost; and

(c) define other aspects of the relationship between Utah Valley University and the fire board relating to the fire and rescue training program that are mutually beneficial.

(6) In accordance with Section 34A-3-114, the fire and rescue training program shall:

(a) facilitate cancer screenings conducted by the Rocky Mountain Center for Occupational and Environmental Health; and

(b) track cancer screenings for a firefighter.

Section 6. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 6(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah Valley University - Special Projects

From General Fund - - -

To Firefighters Retirement Trust & Agency Fund
From General Fund - - -

CHAPTER 185
H. B. 66
Passed February 14, 2025
Approved March 25, 2025
Effective May 7, 2025

RITUAL ABUSE AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill addresses ritual abuse.

Highlighted Provisions:

This bill:

- ► requires current sexual assault and sexual abuse training for law enforcement officers to include training on sexual assault committed during a ritual and the impact of that conduct on the victim;
- ► creates an aggravating factor for certain offenses committed against an individual under 18 years old if the offense was committed as part of a ritual;
- ► contains a coordination clause to coordinate a substantive change between this bill and S.B. 24, Child Abuse and Torture Amendments, by adding the crime of child torture, which is newly created in S.B. 24, to the list of offenses that qualify for the aggravating factor created in this bill; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53-10-908, as last amended by Laws of Utah 2023, Chapter 158

ENACTS:

76-3-203.19, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

AMENDS:

76-3-203.19, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-10-908 is amended to read:

53-10-908. Law enforcement -- Training -- Sexual assault, sexual abuse, and human trafficking.

(1) The department and the Utah Prosecution Council shall develop training in trauma-informed responses and investigations of sexual assault and sexual abuse, which include, but are not limited to, the following:

(a) recognizing the symptoms of trauma;

(b) understanding the impact of trauma on a victim;

(c) responding to the needs and concerns of a victim of sexual assault or sexual abuse;

(d) delivering services to victims of sexual assault or sexual abuse in a compassionate, sensitive, and nonjudgmental manner;

(e) understanding cultural perceptions and common myths of sexual assault and sexual abuse; and

(f) techniques of writing reports in accordance with Subsection (5).

(2) (a) In accordance with Section 53-6-202, the department and the Utah Prosecution Council shall offer the training in Subsection (1) to all certified law enforcement officers in the state.

(b) The training for all law enforcement officers may be offered through an online course, developed by the department and the Utah Prosecution Council.

(3) The training listed in Subsection (1) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer.

(4) (a) The department and the Utah Prosecution Council shall develop and offer an advanced training course for officers who investigate cases of sexual assault or sexual abuse.

(b) The advanced training course shall include:

(i) all criteria listed in Subsection (1);

(ii) identifying indicators of a ritual, as that term is defined in Section 76-3-203.19, in cases of sexual assault; and

[~~(ii)~~](iii) interviewing techniques in accordance with the curriculum standards in Subsection (5).

(5) The department shall consult with the Utah Prosecution Council to develop the specific training requirements of this section, including curriculum standards for report writing and response to sexual assault and sexual abuse, including trauma-informed and victim-centered interview techniques, which have been demonstrated to minimize retraumatizing victims.

(6) The Office of the Attorney General shall develop and offer training for law enforcement officers in investigating human trafficking offenses.

[~~(7) The training described in Subsection (6) shall be offered to all law enforcement officers in the state by July 1, 2020.~~]

[~~(8)~~](7) The training described in Subsection (6) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer, in conjunction with the training described in Subsection (1)[~~, beginning July 1, 2021~~].

[~~(9)~~](8) The Office of the Attorney General, the department, and the Utah Prosecution Council shall consult with one another to provide the training described in Subsection (6)jointly with the training described in Subsection (1) as reasonably practicable.

Section 2. Section 76-3-203.19 is enacted to read:

76-3-203.19. Aggravating factor for an offense committed against a child or minor as part of a ritual.

(1) As used in this section:

(a) "Offense against a child or minor" means an offense that is:

(i) child abuse as described in Section 76-5-109;

(ii) aggravated child abuse as described in Section 76-5-109.2;

(iii) abuse or neglect of a child with a disability as described in Section 76-5-110;

(iv) child abuse homicide as described in Section 76-5-208;

(v) kidnapping as described in Section 76-5-301, if committed against an individual under 18 years old;

(vi) child kidnapping as described in Section 76-5-301.1;

(vii) aggravated kidnapping as described in Section 76-5-302, if committed against an individual under 18 years old;

(viii) human trafficking of a child as described in Section 76-5-308.5;

(ix) unlawful sexual activity with a minor as described in Section 76-5-401;

(x) sexual abuse of a minor as described in Section 76-5-401.1;

(xi) rape as described in Section 76-5-402, if committed against an individual under 18 years old;

(xii) rape of a child as described in Section 76-5-402.1;

(xiii) object rape as described in Section 76-5-404.2, if committed against an individual under 18 years old;

(xiv) object rape of a child as described in Section 76-5-402.3;

(xv) forcible sodomy as described in Section 76-5-403, if committed against an individual under 18 years old;

(xvi) sodomy on a child as described in Section 76-5-403.1;

(xvii) forcible sexual abuse as described in Section 76-5-404, if committed against an individual under 18 years old;

(xviii) sexual abuse of a child as described in Section 76-5-404.1;

(xix) aggravated sexual abuse of a child as described in Section 76-5-404.3;

(xx) aggravated sexual assault as described in Section 76-5-405, if committed against an individual under 18 years old;

(xxi) unlawful kissing of a child as described in Section 76-5-416.2; or

(xxii) unlawful kissing of a minor as described in Section 76-5-416.4.

(b) "Ritual" means an event or act, or a series of events or acts:

(i) marked by specific actions, specific gestures, ceremonial objects, ceremonial clothing, religious texts, or specific words; and

(ii) designed to commemorate, celebrate, or solemnize a particular occasion or significance in a religious, cultural, social, institutional, or other context.

(2) For a defendant convicted of an offense against a child or minor, it is an aggravating factor if the sentencing court finds that the defendant committed the offense as part of, or to facilitate, a ritual or a training or practice to perform a ritual.

(3) When sentencing a defendant convicted of an offense against a child or minor subject to the aggravating factor described in Subsection (2), the sentencing court shall consider the aggravating factor and include the aggravating factor in the judgment of commitment.

(4) In determining the length of imprisonment for a defendant imprisoned for a conviction of an offense against a child or minor subject to the aggravating factor described in Subsection (2), the Board of Pardons and Parole shall consider the aggravating factor.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

Section 4. Coordinating H.B. 66 with S.B. 24.

If H.B. 66, Ritual Abuse Amendments, and S.B. 24, Child Abuse and Torture Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 76-3-203.19(1), enacted in H.B. 66, be amended to read:

"(1) As used in this section:

(a) "Offense against a child or minor" means an offense that is:

(i) child abuse as described in Section 76-5-109;

(ii) child torture, as described in Section 76-5-109.4;

(iii) aggravated child abuse as described in Section 76-5-109.2;

(iv) abuse or neglect of a child with a disability as described in Section 76-5-110;

(v) child abuse homicide as described in Section 76-5-208;

(vi) kidnapping as described in Section 76-5-301, if committed against an individual under 18 years old;

(vii) child kidnapping as described in Section 76-5-301.1;

(viii) aggravated kidnapping as described in Section 76-5-302, if committed against an individual under 18 years old;

(ix) human trafficking of a child as described in Section 76-5-308.5;

(x) unlawful sexual activity with a minor as described in Section 76-5-401;

(xi) sexual abuse of a minor as described in Section 76-5-401.1;

(xii) rape as described in Section 76-5-402, if committed against an individual under 18 years old;

(xiii) rape of a child as described in Section 76-5-402.1;

(xiv) object rape as described in Section 76-5-404.2, if committed against an individual under 18 years old;

(xv) object rape of a child as described in Section 76-5-402.3;

(xvi) forcible sodomy as described in Section 76-5-403, if committed against an individual under 18 years old;

(xvii) sodomy on a child as described in Section 76-5-403.1;

(xviii) forcible sexual abuse as described in Section 76-5-404, if committed against an individual under 18 years old;

(xix) sexual abuse of a child as described in Section 76-5-404.1;

(xx) aggravated sexual abuse of a child as described in Section 76-5-404.3;

(xxi) aggravated sexual assault as described in Section 76-5-405, if committed against an individual under 18 years old;

(xxii) unlawful kissing of a child as described in Section 76-5-416.2; or

(xxiii) unlawful kissing of a minor as described in Section 76-5-416.4.

(b) "Ritual" means an event or act, or a series of events or acts:

(i) marked by specific actions, specific gestures, ceremonial objects, ceremonial clothing, religious texts, or specific words; and

(ii) designed to commemorate, celebrate, or solemnize a particular occasion or significance in a religious, cultural, social, institutional, or other context.".

CHAPTER 186
H. B. 67
Passed March 3, 2025
Approved March 25, 2025
Effective May 7, 2025

PRECIOUS METALS INVESTMENT AND ADMINISTRATION AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill allows the state treasurer to deduct administrative costs for investing in precious metals from earnings generated by the investments in certain funds.

Highlighted Provisions:

This bill:

- ► allows the state treasurer to deduct administrative costs for investing in precious metals from earnings generated by the investments in certain funds; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-4-19, as enacted by Laws of Utah 2024, Chapter 492

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-4-19 is amended to read:

67-4-19. Investments of public funds in precious metals by state treasurer -- Precious metals study and report to Legislature.

(1) As used in this section, "precious metal" means the same as that term is defined in Section 61-1-13.

(2) (a) Subject to Subsection (2)(b), the state treasurer may invest a portion of public funds in the following accounts in precious metals:

(i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;

(ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;

(iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and

(iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in Section 63J-1-315.

(b) (i) The amount of public funds that the state treasurer may invest in precious metals in an account described in Subsection (2)(a) may not, at the time the investment is made, exceed 10% of the total amount of public funds in that account.

(ii) The requirements of Subsections 51-7-14(2) and (3) apply to the state treasurer's investments in precious metals under Subsection (2)(a).

(iii) Any public funds in an account described in Subsection (2)(a) not invested by the state treasurer in precious metals under this Subsection (2) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

(3) The state treasurer may deduct any administrative costs incurred by investing in precious metals under Subsection (2)(a), including delivery and vaulting costs, from earnings generated by the investments in the funds described in Subsections (2)(a)(i) through (iv).

[~~(3) The state treasurer shall:~~]

[~~(a) conduct a study analyzing the role of precious metals in augmenting, stabilizing, and ensuring the economic security and prosperity of the state, the families and residents of the state, and businesses in the state; and~~]

[~~(b) submit to the Revenue and Taxation Interim Committee on or before the committee's 2024 October interim committee meeting any recommendations for legislation resulting from the outcome of the study conducted under Subsection (3)(a).~~]

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 187
H. B. 68
Passed March 3, 2025
Approved March 25, 2025
Effective May 7, 2025

INSURANCE FUNDS AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to insurance funds.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► clarifies the circumstances under which a public agency insurance mutual or a reserve fund is exempt from the Insurance Code;
- ► exempts a public agency insurance mutual from the State Money Management Act;
- ► authorizes a public agency insurance mutual or reserve fund to create one or more captive insurance companies;
- ► establishes requirements for the state treasurer handling a public agency insurance mutual's or reserve fund's investments;
- ► provides that the state treasurer shall invest the funds of a reserve fund; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-13-103, as last amended by Laws of Utah 2023, Chapter 16
11-13-502, as last amended by Laws of Utah 2016, Chapter 382
31A-1-103, as last amended by Laws of Utah 2024, Chapter 120
51-7-2, as last amended by Laws of Utah 2024, Chapters 418, 492 and 510
51-7-11, as last amended by Laws of Utah 2019, Chapter 56

ENACTS:

11-13-533, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-103 is amended to read:

11-13-103. Definitions.

As used in this chapter:

(1) (a) "Additional project capacity" means electric generating capacity provided by a generating unit that first produces electricity on or after May 6, 2002, and that is constructed or installed at or adjacent to the site of a project that first produced electricity before May 6, 2002, regardless of whether:

(i) the owners of the new generating unit are the same as or different from the owner of the project; and

(ii) the purchasers of electricity from the new generating unit are the same as or different from the purchasers of electricity from the project.

(b) "Additional project capacity" does not mean or include replacement project capacity.

(2) "Board" means the Permanent Community Impact Fund Board created by Section 35A-8-304, and its successors.

(3) "Candidate" means one or more of:

(a) the state;

(b) a county, municipality, school district, special district, special service district, or other political subdivision of the state; and

(c) a prosecution district.

(4) "Commercial project entity" means a project entity, defined in Subsection (18), that:

(a) has no taxing authority; and

(b) is not supported in whole or in part by and does not expend or disburse tax revenues.

(5) "Direct impacts" means an increase in the need for public facilities or services that is attributable to the project or facilities providing additional project capacity, except impacts resulting from the construction or operation of a facility that is:

(a) owned by an owner other than the owner of the project or of the facilities providing additional project capacity; and

(b) used to furnish fuel, construction, or operation materials for use in the project.

(6) "Electric interlocal entity" means an interlocal entity described in Subsection 11-13-203(3).

(7) "Energy services interlocal entity" means an interlocal entity that is described in Subsection 11-13-203(4).

(8) (a) "Estimated electric requirements," when used with respect to a qualified energy services interlocal entity, includes any of the following that meets the requirements of Subsection (8)(b):

(i) generation capacity;

(ii) generation output; or

(iii) an electric energy production facility.

(b) An item listed in Subsection (8)(a) is included in "estimated electric requirements" if it is needed by the qualified energy services interlocal entity to perform the qualified energy services interlocal entity's contractual or legal obligations to any of its members.

(9) (a) "Facilities providing replacement project capacity" means facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed to provide replacement project capacity.

(b) "Facilities providing replacement project capacity" includes facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed:

(i) to support and facilitate the construction, reconstruction, conversion, repowering, installation, financing, operation, management, or use of replacement project capacity; or

(ii) for the distribution of power generated from existing capacity or replacement project capacity to facilities located on real property in which the project entity that owns the project has an ownership, leasehold, right-of-way, or permitted interest.

(10) "Governing authority" means a governing board or joint administrator.

(11) (a) "Governing board" means the body established in reliance on the authority provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.

(b) "Governing board" includes a board of directors described in an agreement, as amended, that creates a project entity.

(c) "Governing board" does not include a board as defined in Subsection (2).

(12) "Interlocal entity" means:

(a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal entity; or

(b) a separate legal or administrative entity created under Section 11-13-205.

(13) "Joint administrator" means an administrator or joint board described in Section 11-13-207 to administer a joint or cooperative undertaking.

(14) "Joint or cooperative undertaking" means an undertaking described in Section 11-13-207 that is not conducted by an interlocal entity.

(15) "Member" means a public agency that, with another public agency, creates an interlocal entity under Section 11-13-203.

(16) "Out-of-state public agency" means a public agency as defined in Subsection (19)(c), (d), or (e).

(17) (a) "Project":

(i) means an electric generation and transmission facility owned by a Utah interlocal entity or an electric interlocal entity; and

(ii) includes fuel facilities, fuel production facilities, fuel transportation facilities, energy storage facilities, or water facilities that are:

(A) owned by that Utah interlocal entity or electric interlocal entity; and

(B) required for the generation and transmission facility.

(b) "Project" includes a project entity's ownership interest in:

(i) facilities that provide additional project capacity;

(ii) facilities providing replacement project capacity;

(iii) additional generating, transmission, fuel, fuel transportation, water, or other facilities added to a project; and

(iv) a Utah interlocal energy hub, as defined in Section 11-13-602.

(18) "Project entity" means a Utah interlocal entity or an electric interlocal entity that owns a project as defined in this section.

(19) "Public agency" means:

(a) a city, town, county, school district, special district, special service district, an interlocal entity, or other political subdivision of the state;

(b) the state or any department, division, or agency of the state;

(c) any agency of the United States;

(d) any political subdivision or agency of another state or the District of Columbia including any interlocal cooperation or joint powers agency formed under the authority of the law of the other state or the District of Columbia; or

(e) any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(20) "Public agency insurance mutual" means the same as that term is defined in Subsection 31A-1-103(7).

[~~(20)~~](21) "Qualified energy services interlocal entity" means an energy services interlocal entity that at the time that the energy services interlocal entity acquires its interest in facilities providing additional project capacity has at least five members that are Utah public agencies.

[~~(21)~~](22) "Replacement project capacity" means electric generating capacity or transmission capacity that:

(a) replaces all or a portion of the existing electric generating or transmission capacity of a project; and

(b) is provided by a facility that is on, adjacent to, in proximity to, or interconnected with the site of a project, regardless of whether:

(i) the capacity replacing existing capacity is less than or exceeds the generating or transmission capacity of the project existing before installation of the capacity replacing existing capacity;

(ii) the capacity replacing existing capacity is owned by the project entity that is the owner of the project, a segment established by the project entity, or a person with whom the project entity or a segment established by the project entity has contracted; or

(iii) the facility that provides the capacity replacing existing capacity is constructed, reconstructed, converted, repowered, acquired, leased, used, or installed before or after any actual or anticipated reduction or modification to existing capacity of the project.

(23) "Reserve fund" means the same as that term is defined in Subsection 31A-1-103(7).

[~~(22)~~](24) "Transportation reinvestment zone" means an area created by two or more public agencies by interlocal agreement to capture increased property or sales tax revenue generated by a transportation infrastructure project as described in Section 11-13-227.

[~~(23)~~](25) "Utah interlocal entity":

(a) means an interlocal entity described in Subsection 11-13-203(2); and

(b) includes a separate legal or administrative entity created under Laws of Utah 1977, Chapter 47, Section 3, as amended.

[~~(24)~~](26) "Utah public agency" means a public agency under Subsection (19)(a) or (b).

Section 2. Section 11-13-502 is amended to read:

11-13-502. Application -- Conflicts with federal law -- Other applicable law.

(1) This part does not apply to a taxed interlocal entity as defined in Section 11-13-602.

(2) Except as provided in Subsection (1), and notwithstanding any other provision of law, this part governs an interlocal entity's fiscal procedures but only to the extent that the provision does not conflict with or cause an interlocal entity to be noncompliant with federal law.

(3) [~~An~~]Except as provided in Subsection (4), an interlocal entity is subject to Title 51, Chapter 7, State Money Management Act.

(4) A public agency insurance mutual is not subject to Title 51, Chapter 7, State Money Management Act.

Section 3. Section 11-13-533 is enacted to read:

11-13-533. Public agency insurance mutuals and reserve funds -- Investment standard for public agency insurance mutuals.

(1) A public agency insurance mutual or reserve fund may form one or more captive insurance companies in accordance with Title 31A, Chapter 37, Captive Insurance Companies Act.

(2) The state treasurer shall invest the public agency insurance mutual's assets with the primary goal of providing for the stability, income, and growth of the principal.

(3) Nothing in this section requires a specific outcome from investing.

(4) The state treasurer may employ professional asset managers to assist in the investment of the public agency insurance mutual's assets.

(5) (a) To accomplish the primary goal described in Subsection (2), the state treasurer shall invest and manage the public agency insurance mutual's assets as a prudent investor would by:

(i) considering the purposes, terms, distribution requirements, and other circumstances of the investments; and

(ii) exercising reasonable care, skill, and caution to meet the standard of care of a prudent investor.

(b) In determining whether the state treasurer has met the standard of care of a prudent investor, a court shall:

(i) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action; and

(ii) evaluate the state treasurer's investment and management decisions respecting individual assets:

(A) not in isolation, but in the context of an investment portfolio as a whole; and

(B) as part of an overall investment strategy that has risk and return objectives that are reasonably suited to the investments.

Section 4. Section 31A-1-103 is amended to read:

31A-1-103. Scope and applicability of title.

(1) This title does not apply to:

(a) a retainer contract made by an attorney-at-law:

(i) with an individual client; and

(ii) under which fees are based on estimates of the nature and amount of services to be provided to the specific client;

(b) a contract similar to a contract described in Subsection (1)(a) made with a group of clients involved in the same or closely related legal matters;

(c) an arrangement for providing benefits that do not exceed a limited amount of consultations, advice on simple legal matters, either alone or in combination with referral services, or the promise of fee discounts for handling other legal matters;

(d) limited legal assistance on an informal basis involving neither an express contractual obligation nor reasonable expectations, in the context of an employment, membership, educational, or similar relationship;

(e) legal assistance by employee organizations to their members in matters relating to employment;

(f) death, accident, health, or disability benefits provided to [~~a person~~]an individual by an organization or [~~its~~]the organization's affiliate if:

(i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue Code and has had [~~its~~]the organization's principal place of business in Utah for at least five years;

(ii) the [~~person~~]individual is not an employee of the organization; and

(iii) (A) substantially all the [~~person's~~]individual's time in the organization is spent providing voluntary services:

(I) in furtherance of the organization's purposes;

(II) for a designated period of time; and

(III) for which no compensation, other than expenses, is paid; or

(B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more than 18 months; or

(g) a prepaid contract of limited duration that provides for scheduled maintenance only.

(2) (a) This title restricts otherwise legitimate business activity.

(b) What this title does not prohibit is permitted unless contrary to other provisions of Utah law.

(3) Except as otherwise expressly provided, this title does not apply to:

(a) those activities of an insurer where state jurisdiction is preempted by Section 514 of the federal Employee Retirement Income Security Act of 1974, as amended;

(b) ocean marine insurance;

(c) death, accident, health, or disability benefits provided by an organization that:

(i) has as the organization's principal purpose to achieve charitable, educational, social, or religious objectives rather than to provide death, accident, health, or disability benefits;

(ii) does not incur a legal obligation to pay a specified amount;

(iii) does not create reasonable expectations of receiving a specified amount on the part of an insured person; and

(iv) is not a health care sharing ministry that provides that a participant make a contribution to pay another participant's qualified expenses with no assumption of risk or promise to pay.

(d) other business specified in rules adopted by the commissioner on a finding that:

(i) the transaction of the business in this state does not require regulation for the protection of the interests of the residents of this state; or

(ii) it would be impracticable to require compliance with this title;

(e) except as provided in Subsection (4), a transaction independently procured through negotiations under Section 31A-15-104;

(f) self-insurance;

(g) reinsurance;

(h) subject to Subsection (5), an employee or labor union group insurance policy covering risks in this state or an employee or labor union blanket insurance policy covering risks in this state, if:

(i) the policyholder exists primarily for purposes other than to procure insurance;

(ii) the policyholder:

(A) is not a resident of this state;

(B) is not a domestic corporation; or

(C) does not have the policyholder's principal office in this state;

(iii) no more than 25% of the certificate holders or insureds are residents of this state;

(iv) on request of the commissioner, the insurer files with the department a copy of the policy and a copy of each form or certificate; and

(v) (A) the insurer agrees to pay premium taxes on the Utah portion of the insurer's business, as if the insurer were authorized to do business in this state; and

(B) the insurer provides the commissioner with the security the commissioner considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers;

(i) to the extent provided in Subsection (6):

(i) a manufacturer's or seller's warranty; and

(ii) a manufacturer's or seller's service contract;

(j) except to the extent provided in Subsection (7), a public agency insurance mutual;

(k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a guaranteed asset protection waiver; or

(l) a health care sharing ministry, if the health care sharing ministry:

(i) provides to each participant upon enrollment and annually thereafter a written statement of nationwide data from the preceding calendar year that lists the total dollar amount of contributions provided to participants toward qualified expenses; and

(ii) includes a written disclaimer, titled "Notice", on or with each application and all guideline materials that states:

(A) the health care sharing ministry is not an insurance company;

(B) nothing the health care sharing ministry offers or provides is an insurance policy, including the health care sharing ministry's guidelines or plan of operations;

(C) participation in the health care sharing ministry is entirely voluntary and no participant is compelled by law to contribute to another participant's expenses;

(D) participation in the health care sharing ministry or subscription to any of the health care sharing ministry's services is not insurance; and

(E) each participant is always personally responsible for the participant's expenses regardless of whether the participant receives payment for the expenses through the health care sharing ministry or whether this health care sharing ministry continues to operate.

(4) A transaction described in Subsection (3)(e) is subject to taxation under Section 31A-3-301.

(5) (a) After a hearing, the commissioner may order an insurer of certain group insurance policies or blanket insurance policies to transfer the Utah portion of the business otherwise exempted under Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized insurer.

(b) If the commissioner finds that the conditions required for the exemption of a group or blanket insurer are not satisfied or that adequate protection to residents of this state is not provided, the commissioner may require:

(i) the insurer to be authorized to do business in this state; or

(ii) that any of the insurer's transactions be subject to this title.

(c) Subsection (3)(h) does not apply to a blanket insurance policy offering accident and health insurance.

(6) (a) As used in Subsection (3)(i) and this Subsection (6):

(i) [~~"manufacturer's~~]"Manufacturer's or seller's service contract" means a service contract:

(A) made available by:

(I) a manufacturer of a product;

(II) a seller of a product; or

(III) an affiliate of a manufacturer or seller of a product;

(B) made available:

(I) on one or more specific products; or

(II) on products that are components of a system; and

(C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to be provided under the service contract including, if the manufacturer's or seller's service contract designates, providing parts and labor;

(ii) ["~~"manufacturer's~~]"Manufacturer's or seller's warranty" means the guaranty of:

(A) (I) the manufacturer of a product;

(II) a seller of a product; or

(III) an affiliate of a manufacturer or seller of a product;

(B) (I) on one or more specific products; or

(II) on products that are components of a system; and

(C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services to be provided under the warranty, including, if the manufacturer's or seller's warranty designates, providing parts and labor [~~; and~~].

(iii) ["~~service~~]"Service contract" means the same as that term is defined in Section 31A-6a-101.

(b) A manufacturer's or seller's warranty may be designated as:

(i) a warranty;

(ii) a guaranty; or

(iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).

(c) This title does not apply to:

(i) a manufacturer's or seller's warranty;

(ii) a manufacturer's or seller's service contract paid for with consideration that is in addition to the consideration paid for the product itself; and

(iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's or seller's service contract if:

(A) the service contract is paid for with consideration that is in addition to the consideration paid for the product itself;

(B) the service contract is for the repair or maintenance of goods;

(C) the purchase price of the product is $3,700 or less;

(D) the product is not a motor vehicle; and

(E) the product is not the subject of a home warranty service contract.

(d) This title does not apply to a manufacturer's or seller's warranty or service contract paid for with consideration that is in addition to the consideration paid for the product itself regardless of whether the manufacturer's or seller's warranty or service contract is sold:

(i) at the time of the purchase of the product; or

(ii) at a time other than the time of the purchase of the product.

(7) (a) For purposes of this Subsection (7) [~~,~~]:

(i) ["~~public~~]"Public agency insurance mutual" means an entity:

(A) formed by two or more political subdivisions or public agencies of the state [~~:~~]

[~~(i)~~] under Title 11, Chapter 13, Interlocal Cooperation Act; and

[~~(ii) for the purpose of providing for the political subdivisions or public agencies:~~]

[~~(A) subject to Subsection (7)(b), insurance coverage; or~~]

[~~(B) risk management.~~]

(B) that issues an insurance policy, subject to Subsection (7)(b), or provides risk management, to a political subdivision or public agency in the state under Title 11, Chapter 13, Interlocal Cooperation Act.

(ii) "Reserve fund" means a fund established:

(A) to fund a loss to a political subdivision's assets; and

(B) by one or more political subdivisions for a purpose identified in Section 63G-7-703.

(b) [~~Notwithstanding Subsection (7)(a)(ii)(A), a~~]A public agency insurance mutual or reserve fund may not provide health insurance unless the public agency insurance mutual provides the health insurance using:

(i) a third party administrator licensed under Chapter 25, Third Party Administrators;

(ii) an admitted insurer; or

(iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

(c) [~~Except for this Subsection (7), a~~]A public agency insurance mutual or reserve fund is exempt from this title except as provided in the provisions in Sections 31A-3-301 and 31A-3-303 describing the surplus lines tax that are applicable to a policyholder.

(d) A public agency insurance mutual is considered to be a governmental entity and political subdivision of the state with all of the rights, privileges, and immunities of a governmental entity or political subdivision of the state including all the rights and benefits of Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Section 5. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

(1) Except as provided in Subsection (2), the following funds are exempt from this chapter:

(a) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(b) funds of the Utah State Retirement Board;

(c) funds of the Utah Housing Corporation;

(d) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section 53B-7-802;

(e) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(f) the State Post-Retirement Benefits Trust Fund;

(g) the funds of the Utah Educational Savings Plan;

(h) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(i) the funds in the Navajo Trust Fund;

(j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(k) the funds in the Employers' Reinsurance Fund;

(l) the funds in the Uninsured Employers' Fund;

(m) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 26B-1-331;

(n) the funds in the Risk Management Fund created in Section 63A-4-201;

(o) the Utah fund of funds created in Section 63N-6-401;

(p) the funds deposited into the Utah Homes Investment Program from the Transportation Infrastructure General Fund Support Subfund created in Section 72-2-134; [~~and~~]

(q) subject to Subsection 67-4-19(2), the portion of the funds in the following accounts invested by the state treasurer in precious metals:

(i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;

(ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;

(iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and

(iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in Section 63J-1-315[~~.~~]; and

(r) except as provided in Section 11-13-533, the funds of a public agency insurance mutual as that term is defined in Subsection 31A-1-103(7)(a).

(2) Except for the funds of the Utah State Retirement Board and the Utah Educational Savings Plan, the funds described in Subsection (1) are not exempt from Subsections 51-7-14(2) and (3).

(3) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, a public body that administers a fund described in Subsection (1) may hold a closed meeting to discuss the sale or purchase of identifiable securities, investment funds, or investment contracts.

(4) A paper, electronic, or other depiction or record of information relating to investment activities of a fund described in Subsection (1) is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Section 6. Section 51-7-11 is amended to read:

51-7-11. Authorized deposits or investments of public funds.

(1) (a) Except as provided in Subsections (1)(b) through (1)(d), a public treasurer shall conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities.

(b) A public treasurer may designate a certified investment adviser to make trades on behalf of the public treasurer.

(c) A public treasurer may make a deposit in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.

(d) The state treasurer is exempt from the requirement to conduct investment transactions through a certified dealer under Subsection (1)(a).

(2) The remaining term to maturity of the investment may not exceed the period of availability of the funds to be invested.

(3) Except as provided in Subsection (4), all public funds shall be deposited or invested in the following assets that meet the criteria of Section 51-7-17:

(a) negotiable or nonnegotiable deposits of qualified depositories;

(b) qualifying or nonqualifying repurchase agreements and reverse repurchase agreements with qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools;

(v) Federal Agriculture Mortgage Corporation pools; or

(vi) other investments authorized by this section;

(c) qualifying repurchase agreements and reverse repurchase agreements with certified dealers, permitted depositories, or qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools; or

(v) other investments authorized by this section;

(d) commercial paper that is classified as "first tier" by two nationally recognized statistical rating organizations, which has a remaining term to maturity of:

(i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or

(ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);

(e) bankers' acceptances that:

(i) are eligible for discount at a Federal Reserve bank; and

(ii) have a remaining term to maturity of 270 days or fewer;

(f) fixed rate negotiable deposits issued by a permitted depository that have a remaining term to maturity of 365 days or fewer;

(g) obligations of the United States Treasury, including United States Treasury bills, United States Treasury notes, and United States Treasury bonds that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining

term to final maturity of:

(i) five years or less;

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a [~~public agency insurance mutual~~]reserve fund, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(h) obligations other than mortgage pools and other mortgage derivative products that:

(i) are issued by, or fully guaranteed as to principal and interest by, the following agencies or instrumentalities of the United States in which a market is made by a primary reporting government securities dealer, unless the agency or instrumentality has become private and is no longer considered to be a government entity:

(A) Federal Farm Credit banks;

(B) Federal Home Loan banks;

(C) Federal National Mortgage Association;

(D) Federal Home Loan Mortgage Corporation;

(E) Federal Agriculture Mortgage Corporation; and

(F) Tennessee Valley Authority; and

(ii) unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(A) five years or less;

(B) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(C) if the funds are invested by a [~~public agency insurance mutual~~]reserve fund, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(i) fixed rate corporate obligations that:

(i) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(iii) are publicly traded; and

(iv) have a remaining term to final maturity of 15 months or less or are subject to a hard put at par value or better, within 365 days;

(j) tax anticipation notes and general obligation bonds of the state or a county, incorporated city or town, school district, or other political subdivision of the state, including bonds offered on a when-issued basis without regard to the limitations described in Subsection (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less;

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a [~~public agency insurance mutual~~]reserve fund, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or town, school district, or other political subdivision of the state that are payable from assessments or from revenues or earnings specifically pledged for payment of the principal and interest on these obligations, including bonds offered on a when-issued basis without regard to the limitations described in Subsection (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less;

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a [~~public agency insurance mutual~~]reserve fund, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(l) shares or certificates in a money market mutual fund;

(m) variable rate negotiable deposits that:

(i) are issued by a qualified depository or a permitted depository;

(ii) are repriced at least semiannually; and

(iii) have a remaining term to final maturity not to exceed three years;

(n) variable rate securities that:

(i) (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(B) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(C) are publicly traded;

(D) are repriced at least semiannually; and

(E) have a remaining term to final maturity not to exceed three years or are subject to a hard put at par value or better, within 365 days;

(ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a security making unscheduled periodic principal payments other than optional redemptions;

(o) reciprocal deposits made in accordance with Subsection 51-7-17(4); and

(p) negotiable brokered certificates of deposit made in accordance with Subsection 51-7-17(4).

(4) The following public funds are exempt from the requirements of Subsection (3):

(a) a local government other post-employment benefits trust fund under Section 51-7-12.2; and

(b) a nonnegotiable deposit made in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.

(5) If any of the deposits authorized by Subsection (3)(a) are negotiable or nonnegotiable large time deposits issued in amounts of $100,000 or more, the interest shall be calculated on the basis of the actual number of days divided by 360 days.

(6) A public treasurer may maintain fully insured deposits in demand accounts in a federally insured nonqualified depository only if

a qualified depository is not reasonably convenient to the entity's geographic location.

(7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall ensure that all purchases and sales of securities are settled within:

(a) 15 days of the trade date for outstanding issues; and

(b) 30 days for new issues.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 188
H. B. 69
Passed February 19, 2025
Approved March 25, 2025
Effective May 7, 2025

GOVERNMENT RECORDS AND INFORMATION AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill amends provisions relating to government records and information.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► amends provisions regarding the disclosure of voter history information;
- ► classifies as private a record or information regarding whether a voter returned a ballot with postage attached;
- ► prohibits a government officer from accessing or using government records or information in a manner that is not related to a duty of the government officer;
- ► prohibits a government officer from accessing or using government records or information for a primarily personal purpose, unless the government officer gains access to the records or information in the same manner as a member of the public;
- ► makes it a crime to intentionally violate the provisions described in the preceding paragraph;
- ► modifies provisions relating to the award of attorney fees; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-5-410, as last amended by Laws of Utah 2022, Chapter 248
63G-2-202, as last amended by Laws of Utah 2024, Chapter 288
63G-2-209, as enacted by Laws of Utah 2023, Chapter 516
63G-2-301, as last amended by Laws of Utah 2020, Chapters 255, 399
63G-2-302, as last amended by Laws of Utah 2024, Chapter 234
63G-2-405, as last amended by Laws of Utah 2022, Chapter 388
63G-2-801, as last amended by Laws of Utah 2019, Chapter 254
63G-2-802, as last amended by Laws of Utah 2024, Chapter 18

ENACTS:

63G-2-210, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-5-410 is amended to read:

20A-5-410. Election officer to provide voting history information and status -- Restrictions.

(1) As used in this section, "voting history record" means the following information [~~about the existence and status of absentee ballot requests required by this section.~~]relating to a registered voter:

(a) the information in the voter's voter registration record, other than the information classified as private under Subsection 63G-2-302(1)(j);

(b) the voter's privacy status;

(c) the voter's status as active or inactive;

(d) the voter's voter identification number;

(e) the voter's federal information processing system code;

(f) the voter's precinct;

(g) each political district in which the voter is a resident;

(h) a list of elections in which the voter voted;

(i) whether the voter voted in person on election day;

(j) whether the voter voted in person before election day;

(k) whether the voter returned a mailed ballot;

(l) whether the voter's ballot was mailed to an alternate address; and

(m) the date on which the voter voted or on which the voter returned a mailed ballot.

(2) (a) Each election officer shall maintain, in the election officer's office, a voting history record of those voters registered to vote in the election officer's jurisdiction.

(b) [~~Except as it relates to a voter whose voter registration record is classified as private under Subsection 63G-2-302(1)(k), the~~]The voting history record is a public record under Title 63G, Chapter 2, Government Records Access and Management Act[~~.~~], except:

(i) as it relates to a voter whose voter registration record is classified as private under Subsection 63G-2-302(1)(k) or (l); or

(ii) a record or information described in Subsection 63G-2-302(1)(n).

(3) (a) When an election officer reports voting history for an election, the election officer shall, for each voter whose voter registration is classified as private under Subsection 20A-2-104(4)(h), report the following, for that election only, without disclosing the identity of the voter:

(i) for voting by mail, the information described in Subsection (4)(a);

(ii) for early voting, the date the individual voted; and

(iii) for voting on election day, the date the individual voted.

(b) In relation to the information of a voter whose voter registration is classified as private under Subsection 20A-2-104(4)(h), a report described in Subsection (3)(a)may not disclose, by itself or in conjunction with any other public information, the identity or any other personal identifying information of the voter.

(4) [~~The~~]Subject to Subsection (5), the election officer shall ensure that the voting history record kept by the election officer for each voting precinct contains:

(a) for voting by mail:

(i) the date that the manual ballot was mailed to the voter; and

(ii) the date that the voted manual ballot was received by the election officer;

(b) for early voting:

(i) the name and address of each individual who participated in early voting; and

(ii) the date the individual voted; and

(c) for voting on election day, the name and address of each individual who voted on election day.

(5) Subsection (4) does not authorize the disclosure of the information described in Subsection (4) beyond the extent expressly provided in Subsections (2) and (3).

[~~(5)~~](6) (a) Notwithstanding the time limits for response to a request for records under Section 63G-2-204 or the time limits for a request for records established in any ordinance, the election officer shall ensure that the information required [~~by~~]to be disclosed under this section is recorded and made available to the public no later than one business day after [~~its receipt in the election officer's office~~]the day on which the election officer receives the information.

(b) Notwithstanding the fee requirements of Section 63G-2-203 or the fee requirements established in any ordinance, the election officer shall make copies of the voting history record available to the public, in accordance with this section, for the actual cost of production or copying.

Section 2. Section 63G-2-202 is amended to read:

63G-2-202. Access to private, controlled, and protected documents.

(1) Except as provided in Subsection (11)(a), a governmental entity:

(a) shall, upon request, disclose a private record to:

(i) the subject of the record;

(ii) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(iii) the legal guardian of a legally incapacitated individual who is the subject of the record;

(iv) any other individual who:

(A) has a power of attorney from the subject of the record;

(B) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

(C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26B-8-501, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(v) any person to whom the record must be provided pursuant to:

(A) court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; and

(b) may disclose a private record described in Subsections 63G-2-302(1)(j) through [~~(m)~~](n), without complying with Section 63G-2-206, to another governmental entity for a purpose related to:

(i) voter registration; or

(ii) the administration of an election.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, physician assistant, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (11)(b), a governmental entity shall disclose a protected record to:

(a) the person that submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection [~~63G-2-302(1)(w)~~]63G-2-302(1)(x).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are private under Section 63G-2-302,

controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10) (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(a)(v).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 26B-6-212.

(11) (a) A private, protected, or controlled record described in Section 26B-1-506 shall be disclosed as required under:

(i) Subsections 26B-1-506(1)(b)and (2); and

(ii) Subsections 26B-1-507(1) and (6).

(b) A record disclosed under Subsection (11)(a) shall retain its character as private, protected, or controlled.

Section 3. Section 63G-2-209 is amended to read:

63G-2-209. Vexatious requester.

(1) As used in this section:

(a) "Committee" means the State Records Committee created in Section 63G-2-501.

(b) "Executive secretary" means an individual appointed as executive secretary under Subsection 63G-2-502(3).

(c) "Respondent" means a person that a governmental entity claims is a vexatious requester under this section.

(2) (a) A governmental entity may file a petition with the committee to request relief from a person that the governmental entity claims is a vexatious requester.

(b) A petition under Subsection (2)(a) shall:

(i) be filed with the committee by submitting the petition to the executive secretary; and

(ii) contain:

(A) the name, phone number, mailing address, and email address that the respondent submitted to the governmental entity;

(B) a description of the conduct that the governmental entity claims demonstrates that the respondent is a vexatious requester;

(C) a statement of the relief the governmental entity seeks; and

(D) a sworn declaration or an unsworn declaration, as those terms are defined in Section 78B-18a-102.

(c) On the day the governmental entity files a petition under Subsection (2)(a), the governmental entity shall send a copy of the petition to the respondent.

(3) (a) Except as provided in Subsection (3)(c), no later than seven business days after receiving the petition the executive secretary shall schedule a hearing for the committee to consider the petition, to be held:

(i) (A) at the next regularly scheduled committee meeting falling at least 16 calendar days after the date the petition is filed but no later than 64 calendar days after the date the petition is filed; or

(B) at a regularly scheduled committee meeting that is later than the period described in Subsection (3)(a)(i)(A) if the later committee meeting is the first regularly scheduled committee meeting at which there are fewer than 10 appeals scheduled to be heard; or

(ii) at a date sooner than a period described in Subsection (3)(a)(i) if the governmental entity:

(A) requests an expedited hearing; and

(B) shows good cause for the expedited hearing.

(b) If the executive secretary schedules a hearing under Subsection (3)(a), the executive secretary shall:

(i) send a copy of the petition to each member of the committee;

(ii) send a copy of the notice of hearing to the governmental entity, the respondent, and each member of the committee; and

(iii) if applicable, send a copy of the respondent's statement under Subsection (3)(c)(ii) to the governmental entity and each member of the committee.

(c) (i) The executive secretary may decline to schedule a hearing if:

(A) the executive secretary recommends that the committee deny the petition without a hearing because the petition does not warrant a hearing;

(B) the executive secretary consults with the chair of the committee and at least one other member of the committee; and

(C) the chair of the committee and all committee members with whom the executive secretary consults under this Subsection (3)(c)(i) agree with the executive secretary's recommendation to deny the petition without a hearing.

(ii) The executive secretary may, in making the determination described in Subsection (3)(c)(i)(A), request that the respondent submit a written response to the petition.

(d) If the executive secretary declines to schedule a hearing in accordance with Subsection (3)(c):

(i) the executive secretary shall send a notice to the governmental entity and the respondent indicating that the request for a hearing has been denied and the reasons for the denial; and

(ii) the committee shall:

(A) vote at the committee's next regular meeting to accept or reject the recommendation to deny the petition without a hearing;

(B) issue an order that includes the reasons for the committee's decision to accept or reject the recommendation; and

(C) if the committee rejects the recommendation to deny the petition without a hearing, direct the executive secretary to schedule a hearing as provided in Subsection (3)(a).

(4) (a) No later than five business days before the hearing, the respondent may submit to the executive secretary and the governmental entity a written statement in response to the governmental entity's petition.

(b) The written statement described in Subsection (4)(a) may be the same document as the respondent's written response described in Subsection (3)(c)(ii).

(5) No later than 10 business days before a hearing under this section, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention with the committee as provided in Subsection 63G-2-403(6).

(6) If a respondent fails to submit a written statement under Subsection (4) or fails to appear at the hearing, the committee shall:

(a) cancel the hearing; or

(b) hold the hearing in accordance with Subsection (7).

(7) (a) If the committee holds a hearing scheduled under Subsection (3), the committee shall:

(i) allow the governmental entity to testify, present evidence, and comment on the issues; and

(ii) allow the respondent to testify, present evidence, and comment on the issues if the respondent appears at the hearing.

(b) At the hearing, the committee may allow another interested person to comment on the issues.

(c) (i) Discovery is prohibited, but the committee may issue subpoenas or other orders to compel production of necessary testimony or evidence.

(ii) If the subject of a committee subpoena disobeys or fails to comply with the subpoena, the committee may file a motion with the district court for an order to compel obedience to the subpoena.

(8) (a) No later than seven business days after a hearing is held as scheduled under Subsection (3) or the date on which a hearing cancelled under Subsection (6) was scheduled to be held, the committee shall:

(i) determine, in accordance with Subsection (9), whether the governmental entity has demonstrated that the respondent is a vexatious requester; and

(ii) issue a signed order that grants or denies the petition in whole or in part.

(b) Upon granting the petition in whole or in part, the committee may order that the governmental entity is not required to fulfill requests from the respondent or a person that submits a request on the respondent's behalf for a period of time that may not exceed one year.

(c) The committee's order shall contain:

(i) a statement of the reasons for the committee's decision;

(ii) if the petition is granted in whole or in part, a specific description of the conduct the committee determines demonstrates that the respondent is a vexatious requester, including any conduct the committee finds to constitute an abuse of the right of access to information under this chapter or a substantial interference with the operations of the governmental entity;

(iii) a statement that the respondent or governmental entity may seek judicial review of the committee's decision in district court as provided in Section 63G-2-404; and

(iv) a brief summary of the judicial review process, the time limits for seeking judicial review, and a notice that, in order to protect applicable rights in connection with the judicial review, the person seeking judicial review of the committee's decision may wish to seek advice from an attorney.

(9) In determining whether a governmental entity has demonstrated that the respondent is a vexatious requester, the committee shall consider:

(a) the interests described in Section 63G-2-102;

(b) as applicable:

(i) the number of requests the respondent has submitted to the governmental entity, including the number of pending record requests;

(ii) the scope, nature, content, language, and subject matter of record requests the respondent has submitted to the governmental entity;

(iii) the nature, content, language, and subject matter of any communications to the governmental entity related to a record request of the respondent; and

(iv) any pattern of conduct that the committee determines to constitute:

(A) an abuse of the right of access to information under this chapter; or

(B) substantial interference with the operations of the governmental entity; and

(c) any other factor the committee considers relevant.

(10) (a) A governmental entity or respondent aggrieved by the committee's decision under this section may seek judicial review of the decision as provided in Section 63G-2-404.

(b) In a judicial review under Subsection (10)(a), the court may award reasonable attorney fees to a respondent if:

(i) the respondent substantially prevails; and

(ii) the court determines that:

(A) the petition filed by the governmental entity under Subsection (2) is without merit; [~~and~~]

(B) the governmental entity's actions in filing the petition lack a reasonable basis in fact or law [~~.~~]; and

(C) the governmental entity filed the petition in bad faith.

(c) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees under this Subsection (10) is not subject to Chapter 7, Governmental Immunity Act of Utah.

(11) Notwithstanding any other provision of this chapter, a records request that a governmental entity is not required to fulfill in accordance with an order issued under this section may not be the subject of an appeal under Part 4, Appeals.

(12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee shall make rules to implement this section.

Section 4. Section 63G-2-210 is enacted to read:

63G-2-210. Access to and use of voter or election information by a government officer.

(1) As used in this section, "government officer" means:

(a) an elected official; or

(b) an officer, employee, volunteer, or agent of a governmental entity.

(2) A government officer may not:

(a) disclose, or attempt to discover, any information from a ballot cast by an identifiable voter;

(b) except as provided in Subsection (3), disclose in relation to an identifiable voter:

(i) the method by which the voter voted or returned a ballot;

(ii) when or where the voter voted;

(iii) how or when the voter's ballot was received;

(iv) whether a ballot was mailed to the voter;

(v) whether the voter placed postage on a return envelope; or

(vi) any information from the return envelope of a voter.

(3) Subsection (2) does not prohibit the disclosure, in mass, of the information included in a voting history record, in accordance with Section 20A-5-410.

(4) Except as provided in Subsection (5), a government officer who, due to the government officer's position as a government officer, has access to election records, may not access, use, copy, or release the information except to the extent that the access, use, copying, or release:

(a) is reasonably related to a duty of the government officer;

(b) is in accordance with the requirements of law; and

(c) is not done for a primarily personal purpose, including:

(i) a political purpose;

(ii) furthering the government officer's personal agenda; or

(iii) a purpose relating to the government officer's private business, hobbies, or personal interests.

(5) Subsection (4) does not prevent a government officer from accessing, using, copying, or releasing government information in the same manner available to a member of the general public, including by filing a record request under Section 63G-2-204.

Section 5. Section 63G-2-301 is amended to read:

63G-2-301. Public records.

(1) As used in this section:

(a) "Business address" means a single address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(b) "Business email address" means a single email address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(c) "Business telephone number" means a single telephone number of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(d) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(2) The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 63G-2-201(3)(b) and (6)(a):

(a) laws;

(b) the name, gender, gross compensation, job title, job description, business address, business email address, business telephone number, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of a current or former employee or officer of the governmental entity, excluding:

(i) undercover law enforcement personnel; and

(ii) investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;

(c) final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, controlled, or protected;

(d) final interpretations of statutes or rules by a governmental entity unless classified as protected as provided in Subsection 63G-2-305(17) or (18);

(e) information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public Meetings Act, including the records of all votes of each member of the governmental entity;

(f) judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;

(g) unless otherwise classified as private under Section 63G-2-303, records or parts of records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or other governmental entities that give public notice of:

(i) titles or encumbrances to real property;

(ii) restrictions on the use of real property;

(iii) the capacity of persons to take or convey title to real property; or

(iv) tax status for real and personal property;

(h) records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;

(i) data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public;

(j) documentation of the compensation that a governmental entity pays to a contractor or private provider;

(k) summary data;

(l) voter registration records, including an individual's voting history, except for a voter registration record or those parts of a voter registration record that are classified as private under Subsections 63G-2-302(1)(j) through [~~(m)~~](n) or withheld under Subsection 20A-2-104(7);

(m) for an elected official, as defined in Section 11-47-102, a telephone number, if available, and email address, if available, where that elected official may be reached as required in Title 11, Chapter 47, Access to Elected Officials;

(n) for a school community council member, a telephone number, if available, and email address, if available, where that elected official may be reached directly as required in Section 53G-7-1203;

(o) annual audited financial statements of the Utah Educational Savings Plan described in Section 53B-8a-111; and

(p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as defined in Section 20A-7-101, after the packet is submitted to a county clerk.

(3) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305:

(a) administrative staff manuals, instructions to staff, and statements of policy;

(b) records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;

(c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the governmental entity;

(d) contracts entered into by a governmental entity;

(e) any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;

(f) records relating to government assistance or incentives publicly disclosed, contracted for, or given by a governmental entity, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63G-2-305(35);

(g) chronological logs and initial contact reports;

(h) correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;

(i) empirical data contained in drafts if:

(i) the empirical data is not reasonably available to the requester elsewhere in similar form; and

(ii) the governmental entity is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;

(j) drafts that are circulated to anyone other than:

(i) a governmental entity;

(ii) a political subdivision;

(iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;

(iv) a government-managed corporation; or

(v) a contractor or private provider;

(k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;

(l) original data in a computer program if the governmental entity chooses not to disclose the program;

(m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;

(n) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;

(o) records that would disclose information relating to formal charges or disciplinary actions against a past or present governmental entity employee if:

(i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and

(ii) the charges on which the disciplinary action was based were sustained;

(p) records maintained by the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that evidence mineral production on government lands;

(q) final audit reports;

(r) occupational and professional licenses;

(s) business licenses;

(t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by a governmental entity, but not including records that initiate employee discipline; and

(u) (i) records that disclose a standard, regulation, policy, guideline, or rule regarding the operation of a correctional facility or the care and control of inmates committed to the custody of a correctional facility; and

(ii) records that disclose the results of an audit or other inspection assessing a correctional facility's compliance with a standard, regulation, policy, guideline, or rule described in Subsection (3)(u)(i).

(4) The list of public records in this section is not exhaustive and should not be used to limit access to records.

Section 6. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record or information regarding whether a voter returned a ballot with postage attached;

[~~(n)~~](o) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

[~~(o)~~](p) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

[~~(p)~~](q) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

[~~(q)~~](r) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4);

[~~(r)~~](s) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

[~~(s)~~](t) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

[~~(t)~~](u) an email address provided by a military or overseas voter under Section 20A-16-501;

[~~(u)~~](v) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

[~~(v)~~](w) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

[~~(w)~~](x) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

[~~(x)~~](y) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

[~~(y)~~](z) a record described in Subsection 53-5a-104(7);

[~~(z)~~](aa) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

[~~(aa)~~](bb) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;

[~~(bb)~~](cc) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);

[~~(cc)~~](dd) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3); [~~and~~]

[~~(dd)~~](ee) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004;

[~~(ee)~~](ff) a record relating to a request by a state elected official or state employee who has been threatened to the Division of Technology Services to remove personal identifying information from the open web under Section 63A-16-109; and

[~~(ff)~~](gg) a record including confidential information as that term is defined in Section 67-27-105.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 7. Section 63G-2-405 is amended to read:

63G-2-405. Confidential treatment of records for which no exemption applies.

(1) A court may, on appeal or in a declaratory or other action, order the confidential treatment of records for which no exemption from disclosure applies if:

(a) there are compelling interests favoring restriction of access to the record; and

(b) the interests favoring restriction of access clearly are greater than or equal to the interests favoring access.

(2) If a governmental entity requests a court to restrict access to a record under this section, the court shall require the governmental entity to pay the reasonable attorney fees and costs incurred by the lead party in opposing the governmental entity's request, if:

(a) the court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question; [~~and~~]

(b) the court denies confidential treatment under this section [~~.~~]; and

(c) the court finds that the governmental entity made the request in bad faith.

(3) This section does not apply to records that are specifically required to be public under statutory provisions outside of this chapter or under Section 63G-2-301, except as provided in Subsection (4).

(4) (a) Access to drafts and empirical data in drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the deliberative nature of the record.

(b) Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program.

(5) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees or costs under this section is not subject to Chapter 7, Governmental Immunity Act of Utah.

Section 8. Section 63G-2-801 is amended to read:

63G-2-801. Criminal penalties.

(1) (a) A public employee or other person who has lawful access to any private, controlled, or protected record under this chapter, and who intentionally discloses, provides a copy of, or improperly uses a private, controlled, or protected record knowing that the disclosure or use is prohibited under this chapter, is, except as provided in Subsection 53-5-708(1)(c), guilty of a class B misdemeanor.

(b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released private, controlled, or protected information in the reasonable belief that the use or disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.

(c) It is a defense to prosecution under Subsection (1)(a) that the record could have lawfully been released to the recipient if it had been properly classified.

(d) It is a defense to prosecution under Subsection (1)(a) that the public employee or other person disclosed, provided, or used the record based on a good faith belief that the disclosure, provision, or use was in accordance with the law.

(2) (a) A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which the person is not legally entitled is guilty of a class B misdemeanor.

(b) No person shall be guilty under Subsection (2)(a) who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.

(3) (a) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by law, is guilty of a class B misdemeanor.

(b) It is a defense to prosecution under Subsection (3)(a) that the public employee's failure to release the record was based on a good faith belief that the public employee was acting in accordance with the requirements of law.

(c) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by a final unappealed order from a government entity, the State Records Committee, or a court is guilty of a class B misdemeanor.

(4) A person who intentionally violates Section 63G-2-210 is guilty of a class B misdemeanor.

Section 9. Section 63G-2-802 is amended to read:

63G-2-802. Injunction -- Attorney fees and costs.

(1) As used in this section, "defending party" means:

(a) a governmental entity or political subdivision:

(i) whose access denial is the subject of a petition for judicial review under Section 63G-2-404; and

(ii) that defends the access denial in an action for judicial review under Section 63G-2-404; or

(b) a person, other than the governmental entity or political subdivision described in Subsection (1)(a), that is party to the action for judicial review in opposition to disclosure of the record that is the subject of judicial review.

(2) A district court in this state may enjoin any governmental entity or political subdivision that violates or proposes to violate the provisions of this chapter.

(3) (a) [~~A~~]Subject to Subsection (6), a district court may assess against a defending party reasonable attorney fees and costs reasonably incurred in connection with a judicial appeal to determine whether a requester is entitled [~~to~~]access to records under a records request, if:

(i) the requester substantially prevails [~~.~~]; and

(ii) the court finds that the defending party acted in bad faith.

(b) [~~In~~]Subject to Subsection (6), in determining whether to award attorney fees or costs to a requester under this section, the court shall consider:

(i) the public benefit derived from the case;

(ii) the nature of the requester's interest in the records; and

(iii) whether the defending party's actions had a reasonable basis.

(c) [~~Attorney fees and costs shall not ordinarily be awarded~~]A court may not award attorney fees or costs to a requester under this section if the purpose of the litigation is primarily to benefit the requester's financial or commercial interest.

(4) Neither attorney fees nor costs may be awarded for fees or costs incurred during administrative proceedings.

(5) A district court may assess against a requester reasonable attorney fees and costs reasonably incurred in connection with a judicial appeal to determine whether the requester is entitled to access to records under a records request, if:

(a) the defending party substantially prevails; and

(b) the court finds that the requester acted in bad faith.

[~~(5)~~](6) [~~Notwithstanding Subsection (3), a~~]A court may award to a requester attorney fees and costs incurred in connection with appeals to district courts under Subsection 63G-2-404(2) only if the attorney fees and costs were incurred 20 or more days after the day on which the requester provided [~~:~~]to the governmental entity, political subdivision, or other person against which the requester seeks an award of attorney fees and costs,

[~~(a)~~] an adequate explanation in writing of the basis for the requester's position, regardless of whether the explanation is a part of or outside an administrative or court proceeding [~~; and~~].

[~~(b) to the governmental entity, political subdivision, or other person against which the requester seeks an award of attorney fees and costs.~~]

[~~(6)~~](7) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees or costs as provided in this section is not subject to Chapter 7, Governmental Immunity Act of Utah.

Section 10. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 189
H. B. 71
Passed February 6, 2025
Approved March 25, 2025
Effective May 7, 2025

COMMITTEE OF CONSUMER SERVICES SUNSET AMENDMENTS

Chief Sponsor: Doug Owens
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies provisions related to the Committee of Consumer Services and extends the committee's sunset date.

Highlighted Provisions:

This bill:

► extends the sunset date for the Committee of Consumer Services from July 1, 2025, to July 1, 2035.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-254, as last amended by Laws of Utah 2024, Chapter 385

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-254 is amended to read:

63I-1-254. Repeal dates: Title 54.

(1) Section 54-10a-202, Committee of Consumer Services, is repealed July 1, [~~2025~~]2035.

(2) Title 54, Chapter 15, Net Metering of Electricity, is repealed January 1, 2036.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 190
H. B. 73
Passed February 28, 2025
Approved March 25, 2025
Effective May 7, 2025

ADMINISTRATIVE PROCEDURES ACT AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies provisions of the Administrative Procedures Act.

Highlighted Provisions:

This bill:

► provides cross references;
► describes when an order or decree constitutes a final agency action; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-1-301.5, as last amended by Laws of Utah 2018, Chapter 281
59-1-205, as last amended by Laws of Utah 2003, Chapter 80
63G-4-302, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-4-401, as last amended by Laws of Utah 2023, Chapter 433
63G-4-403, as last amended by Laws of Utah 2024, Chapter 158
78A-3-102, as last amended by Laws of Utah 2009, Chapter 344
78A-4-103, as last amended by Laws of Utah 2023, Chapter 516

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-1-301.5 is amended to read:

19-1-301.5. Permit review adjudicative proceedings.

(1) As used in this section:

(a) "Dispositive action" means a final agency action that:

(i) the executive director takes as part of a special adjudicative proceeding; and

(ii) is subject to judicial review, in accordance with Subsection (16).

(b) "Dispositive motion" means a motion that is equivalent to:

(i) a motion to dismiss under Utah Rules of Civil Procedure, Rule 12(b)(6);

(ii) a motion for judgment on the pleadings under Utah Rules of Civil Procedure, Rule 12(c); or

(iii) a motion for summary judgment under Utah Rules of Civil Procedure, Rule 56.

(c) "Financial assurance determination" means a decision on whether a facility, site, plan, party, broker, owner, operator, generator, or permittee has met financial assurance or financial responsibility requirements as determined by the director of the Division of Waste Management and Radiation Control.

(d) "Party" means:

(i) the director who issued the permit order or financial assurance determination that is being challenged in the special adjudicative proceeding under this section;

(ii) the permittee;

(iii) the person who applied for the permit, if the permit was denied;

(iv) the person who is subject to a financial assurance determination; or

(v) a person granted intervention by the administrative law judge.

(e) "Permit" means any of the following issued under this title:

(i) a permit;

(ii) a plan;

(iii) a license;

(iv) an approval order; or

(v) another administrative authorization made by a director.

(f) (i) "Permit order" means an order issued by a director that:

(A) approves a permit;

(B) renews a permit;

(C) denies a permit;

(D) modifies or amends a permit; or

(E) revokes and reissues a permit.

(ii) "Permit order" does not include an order terminating a permit.

(g) "Special adjudicative proceeding" means a proceeding under this section to resolve a challenge to a:

(i) permit order; or

(ii) financial assurance determination.

(2) This section governs special adjudicative proceedings.

(3) Except as expressly provided in this section, the provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to a special adjudicative proceeding under this section.

(4) If a public comment period was provided during the permit application process or the financial assurance determination process, a person who challenges an order or determination may only raise an issue or argument during the special adjudicative proceeding that:

(a) the person raised during the public comment period; and

(b) was supported with information or documentation that is cited with reasonable specificity and sufficiently enables the director to fully consider the substance and significance of the issue.

(5) (a) Upon request by a party, the executive director shall issue a notice of appointment appointing an administrative law judge, in accordance with Subsections 19-1-301(5) and (6), to conduct a special adjudicative proceeding under this section.

(b) The executive director shall issue a notice of appointment within 30 days after the day on which a party files a request.

(c) A notice of appointment shall include:

(i) the agency's file number or other reference number assigned to the special adjudicative proceeding;

(ii) the name of the special adjudicative proceeding; and

(iii) the administrative law judge's name, title, mailing address, email address, and telephone number.

(6) (a) Only the following may file a petition for review of a permit order or financial assurance determination:

(i) a party; or

(ii) a person who is seeking to intervene under Subsection (7).

(b) A person who files a petition for review of a permit order or a financial assurance determination shall file the petition for review within 30 days after the day on which the permit order or the financial assurance determination is issued.

(c) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (6)(b).

(d) A petition for review shall:

(i) be served in accordance with department rule;

(ii) include the name and address of each person to whom a copy of the petition for review is sent;

(iii) if known, include the agency's file number or other reference number assigned to the special adjudicative proceeding;

(iv) state the date on which the petition for review is served;

(v) include a statement of the petitioner's position, including, as applicable:

(A) the legal authority under which the petition for review is requested;

(B) the legal authority under which the agency has jurisdiction to review the petition for review;

(C) each of the petitioner's arguments in support of the petitioner's requested relief;

(D) an explanation of how each argument described in Subsection (6)(d)(v)(C) was preserved;

(E) a detailed description of any permit condition to which the petitioner is objecting;

(F) any modification or addition to a permit that the petitioner is requesting;

(G) a demonstration that the agency's permit decision is based on a finding of fact or conclusion of law that is clearly erroneous;

(H) if the agency director addressed a finding of fact or conclusion of law described in Subsection (6)(d)(v)(G) in a response to public comment, a citation to the comment and response that relates to the finding of fact or conclusion of law and an explanation of why the director's response was clearly erroneous or otherwise warrants review; and

(I) a claim for relief.

(e) A person may not raise an issue or argument in a petition for review unless the issue or argument:

(i) was preserved in accordance with Subsection (4); or

(ii) was not reasonably ascertainable before or during the public comment period.

(f) To demonstrate that an issue or argument was preserved in accordance with Subsection (4), a petitioner shall include the following in the petitioner's petition for review:

(i) a citation to where the petitioner raised the issue or argument during the public comment period; and

(ii) for each document upon which the petitioner relies in support of an issue or argument, a description that:

(A) states why the document is part of the administrative record; and

(B) demonstrates that the petitioner cited the document with reasonable specificity in accordance with Subsection (4)(b).

(7) (a) A person who is not a party may not participate in a special adjudicative proceeding under this section unless the person is granted the right to intervene under this Subsection (7).

(b) A person who seeks to intervene in a special adjudicative proceeding under this section shall, within 30 days after the day on which the permit order or the financial assurance determination being challenged was issued, file:

(i) a petition to intervene that:

(A) meets the requirements of Subsection 63G-4-207(1); and

(B) demonstrates that the person is entitled to intervention under Subsection (7)(d)(ii); and

(ii) a timely petition for review.

(c) In a special adjudicative proceeding to review a permit order, the permittee is a party to the special adjudicative proceeding regardless of who files the petition for review and does not need to file a petition to intervene under Subsection (7)(b).

(d) An administrative law judge shall grant a petition to intervene in a special adjudicative proceeding, if:

(i) the petition to intervene is timely filed; and

(ii) the petitioner:

(A) demonstrates that the petitioner's legal interests may be substantially affected by the special adjudicative proceeding;

(B) demonstrates that the interests of justice and the orderly and prompt conduct of the special adjudicative proceeding will not be materially impaired by allowing the intervention; and

(C) in the petitioner's petition for review, raises issues or arguments that are preserved in accordance with Subsection (4).

(e) An administrative law judge:

(i) shall issue an order granting or denying a petition to intervene in accordance with Subsection 63G-4-207(3)(a); and

(ii) may impose conditions on intervenors as described in Subsections 63G-4-207(3)(b) and (c).

(f) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (7)(b).

(8) (a) Unless the parties otherwise agree, or the administrative law judge otherwise orders, a special adjudicative proceeding shall be conducted as follows:

(i) the director shall file and serve the administrative record within 40 days after the day on which the executive director issues a notice of appointment, unless otherwise ordered by the administrative law judge;

(ii) any dispositive motion shall be filed and served within 15 days after the day on which the administrative record is filed and served;

(iii) the petitioner shall file and serve an opening brief of no more than 30 pages:

(A) within 30 days after the day on which the director files and serves the administrative record; or

(B) if a party files and serves a dispositive motion, within 30 days after the day on which the administrative law judge issues a decision on the dispositive motion, including a decision to defer the motion;

(iv) each responding party shall file and serve a response brief of no more than 30 pages within 15 days after the day on which the petitioner files and serves the opening brief;

(v) the petitioner may file and serve a reply brief of not more than 15 pages within 15 days after the day on which the response brief is filed and served; and

(vi) if the petitioner files and serves a reply brief, each responding party may file and serve a surreply brief of no more than 15 pages within five business days after the day on which the petitioner files and serves the reply brief.

(b) (i) A reply brief may not raise an issue that was not raised in the response brief.

(ii) A surreply brief may not raise an issue that was not raised in the reply brief.

(9) (a) An administrative law judge shall conduct a special adjudicative proceeding based only on the administrative record and not as a trial de novo.

(b) To the extent relative to the issues and arguments raised in the petition for review, the administrative record consists of the following items, if they exist:

(i) (A) for review of a permit order, the permit application, draft permit, and final permit; or

(B) for review of a financial assurance determination, the proposed financial assurance determination from the owner or operator of the facility, the draft financial assurance determination, and the final financial assurance determination;

(ii) each statement of basis, fact sheet, engineering review, or other substantive explanation designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(iii) the notice and record of each public comment period;

(iv) the notice and record of each public hearing, including oral comments made during the public hearing;

(v) written comments submitted during the public comment period;

(vi) responses to comments that are designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(vii) any information that is:

(A) requested by and submitted to the director; and

(B) designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(viii) any additional information specified by rule;

(ix) any additional documents agreed to by the parties; and

(x) information supplementing the record under Subsection (9)(c).

(c) (i) There is a rebuttable presumption against supplementing the record.

(ii) A party may move to supplement the record described in Subsection (9)(b) with technical or factual information.

(iii) The administrative law judge may grant a motion to supplement the record described in Subsection (9)(b) with technical or factual information if the moving party proves that:

(A) good cause exists for supplementing the record;

(B) supplementing the record is in the interest of justice; and

(C) supplementing the record is necessary for resolution of the issues.

(iv) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules permitting further supplementation of the record.

(10) (a) Except as otherwise provided by this section, the administrative law judge shall review and respond to a petition for review in accordance with Subsections 63G-4-201(3)(d) and (e), following the relevant procedures for formal adjudicative proceedings.

(b) The administrative law judge shall require the parties to file responsive briefs in accordance with Subsection (8).

(c) If an administrative law judge enters an order of default against a party, the administrative law judge shall enter the order of default in accordance with Section 63G-4-209.

(d) The administrative law judge, in conducting a special adjudicative proceeding:

(i) may not participate in an ex parte communication with a party to the special adjudicative proceeding regarding the merits of the special adjudicative proceeding unless notice and an opportunity to be heard are afforded to all parties; and

(ii) shall, upon receiving an ex parte communication, place the communication in the public record of the proceeding and afford all parties an opportunity to comment on the information.

(e) In conducting a special adjudicative proceeding, the administrative law judge may take judicial notice of matters not in the administrative record, in accordance with Utah Rules of Evidence, Rule 201.

(f) An administrative law judge may take any action in a special adjudicative proceeding that is not a dispositive action.

(11) (a) A person who files a petition for review has the burden of demonstrating that an issue or argument raised in the petition for review has been preserved in accordance with Subsection (4).

(b) The administrative law judge shall dismiss, with prejudice, any issue or argument raised in a petition for review that has not been preserved in accordance with Subsection (4).

(12) In response to a dispositive motion, within 45 days after the day on which oral argument takes place, or, if there is no oral argument, within 45 days after the day on which the reply brief on the dispositive motion is due, the administrative law judge shall:

(a) submit a proposed dispositive action to the executive director recommending full or partial resolution of the special adjudicative proceeding, that includes:

(i) written findings of fact;

(ii) written conclusions of law; and

(iii) a recommended order; or

(b) if the administrative law judge determines that a full or partial resolution of the special adjudicative proceeding is not appropriate, issue an order that explains the basis for the administrative law judge's determination.

(13) For each issue or argument that is not dismissed or otherwise resolved under Subsection (11)(b) or (12), the administrative law judge shall:

(a) provide the parties an opportunity for briefing and oral argument in accordance with this section;

(b) conduct a review of the director's order or determination, based on the record described in Subsections (9)(b), (9)(c), and (10)(e); and

(c) within 60 days after the day on which the reply brief on the dispositive motion is due, submit to the executive director a proposed dispositive action, that includes:

(i) written findings of fact;

(ii) written conclusions of law; and

(iii) a recommended order.

(14) (a) When the administrative law judge submits a proposed dispositive action to the executive director, the executive director may:

(i) adopt, adopt with modifications, or reject the proposed dispositive action; or

(ii) return the proposed dispositive action to the administrative law judge for further action as directed.

(b) On review of a proposed dispositive action, the executive director shall uphold all factual, technical, and scientific agency determinations that are not clearly erroneous based on the petitioner's marshaling of the evidence.

(c) In reviewing a proposed dispositive action during a special adjudicative proceeding, the executive director may take judicial notice of matters not in the record, in accordance with Utah Rules of Evidence, Rule 201.

(d) The executive director may use the executive director's technical expertise in making a determination.

(15) (a) Except as provided in Subsection (15)(b), the executive director may not participate in an ex parte communication with a party to a special adjudicative proceeding regarding the merits of the special adjudicative proceeding, unless notice and opportunity to be heard are afforded to all parties involved in the proceeding.

(b) The executive director may discuss ongoing operational matters that require the involvement of a division director without violating Subsection (15)(a).

(c) Upon receiving an ex parte communication from a party to a proceeding, the executive director shall place the communication in the public record of the proceeding and afford all parties to the proceeding with an opportunity to comment on the communication.

(16) (a) A party may seek judicial review in the Utah Court of Appeals of a dispositive action in a special adjudicative proceeding, in accordance with Sections 63G-4-401, 63G-4-403, and 63G-4-405.

(b) An appellate court shall limit its review of a dispositive action of a special adjudicative proceeding under this section to:

(i) the record described in Subsections (9)(b), (9)(c), (10)(e), and (14)(c); and

(ii) the record made by the administrative law judge and the executive director during the special adjudicative proceeding.

(c) During judicial review of a dispositive action, the appellate court shall:

(i) review all agency determinations in accordance with Subsection [~~63G-4-403(4)~~]63G-4-403(5), recognizing that the agency has been granted substantial discretion to interpret its governing statutes and rules; and

(ii) uphold all factual, technical, and scientific agency determinations that are not clearly erroneous based upon the petitioner's marshaling of the evidence.

(17) (a) The filing of a petition for review does not:

(i) stay a permit order or a financial assurance determination; or

(ii) delay the effective date of a permit order or a portion of a financial assurance determination.

(b) A permit order or a financial assurance determination may not be stayed or delayed unless a stay is granted under this Subsection (17).

(c) The administrative law judge shall:

(i) consider a party's motion to stay a permit order or a financial assurance determination during a special adjudicative proceeding; and

(ii) within 45 days after the day on which the reply brief on the motion to stay is due, submit a proposed determination on the stay to the executive director.

(d) The administrative law judge may not recommend to the executive director a stay of a permit order or a financial assurance determination, or a portion of a permit order or a portion of a financial assurance determination, unless:

(i) all parties agree to the stay; or

(ii) the party seeking the stay demonstrates that:

(A) the party seeking the stay will suffer irreparable harm unless the stay is issued;

(B) the threatened injury to the party seeking the stay outweighs whatever damage the proposed stay is likely to cause the party restrained or enjoined;

(C) the stay, if issued, would not be adverse to the public interest; and

(D) there is a substantial likelihood that the party seeking the stay will prevail on the merits of the underlying claim, or the case presents serious issues on the merits, which should be the subject of further adjudication.

(e) A party may appeal the executive director's decision regarding a stay of a permit order or a financial assurance determination to the Utah Court of Appeals, in accordance with Section 78A-4-103.

(18) (a) Subject to Subsection (18)(c), the administrative law judge shall issue a written response to a non-dispositive motion within 45 days after the day on which the reply brief on the non-dispositive motion is due or, if the administrative law judge grants oral argument on the non-dispositive motion, within 45 days after the day on which oral argument takes place.

(b) If the administrative law judge determines that the administrative law judge needs more time to issue a response to a non-dispositive motion, the administrative law judge may issue a response after the deadline described in Subsection (18)(a) if, before the deadline expires, the administrative law judge gives notice to the parties that includes:

(i) the amount of additional time that the administrative law judge requires; and

(ii) the reason the administrative law judge needs the additional time.

(c) If the administrative law judge grants oral argument on a non-dispositive motion, the administrative law judge shall hold the oral argument within 30 days after the day on which the reply brief on the non-dispositive motion is due.

Section 2. Section 59-1-205 is amended to read:

59-1-205. Chairman -- Quorum -- Voting -- Sessions.

(1) The governor shall designate one of the members of the commission as chairperson.

(2) (a) Three members of the commission constitute a quorum for the transaction of business.

(b) A quorum of the commission must participate in any order that constitutes a final agency action, as described in Section 63G-4-403, on:

(i) a formal adjudicative proceeding over which the commission has jurisdiction;

(ii) an informal adjudicative proceeding over which the commission has jurisdiction; or

(iii) an initial hearing conducted pursuant to Section 59-1-502.5.

(c) If a commission vote results in a tie vote on any matter described in Subsection (2)(b), the position of the taxpayer is considered to have prevailed.

(3) The commission shall be in session and open for the transaction of business during ordinary business hours each day.

(4) The commission may hold sessions or conduct investigations at any place in the state to facilitate the performance of its duties.

Section 3. Section 63G-4-302 is amended to read:

63G-4-302. Agency review -- Reconsideration.

(1) (a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63G-4-301 is unavailable, and if the order would otherwise constitute final agency action as described in Section 63G-4-403, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be mailed to each party by the person making the request.

(3) (a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

Section 4. Section 63G-4-401 is amended to read:

63G-4-401. Judicial review -- Exhaustion of administrative remedies -- Petition for judicial review.

(1) A party aggrieved may obtain judicial review of final agency action, as described in Section 63G-4-403, except in actions where judicial review is expressly prohibited by statute.

(2) A party may seek judicial review only after exhausting all administrative remedies available, except that:

(a) a party seeking judicial review need not exhaust administrative remedies if this chapter or any other statute states that exhaustion is not required;

(b) the court may relieve a party seeking judicial review of the requirement to exhaust any or all administrative remedies if:

(i) the administrative remedies are inadequate; or

(ii) exhaustion of remedies would result in irreparable harm disproportionate to the public benefit derived from requiring exhaustion.

(3) (a) Except as provided in Subsection (3)(c), a party shall file a petition for judicial review of final agency action within 30 days after the day on which the order:

(i) constituting the final agency action is issued; or

(ii) is considered to have been issued under Subsection 63G-4-302(3)(b).

(b) The petition shall:

(i) name the agency and all other appropriate parties as respondents; and

(ii) meet the form requirements specified in this chapter.

(c) If a party files a petition for judicial review of a final agency action resulting from a formal adjudicative proceeding within the 30-day time period described in Subsection (3)(a), any other party to the action may file a petition for judicial review if the petition is filed within the time period permitted for a cross petition under Rule 14 of the Utah Rules of Appellate Procedure.

Section 5. Section 63G-4-403 is amended to read:

63G-4-403. Judicial review -- Formal adjudicative proceedings -- Final agency action.

(1) As provided by statute, the Supreme Court or the Court of Appeals has jurisdiction to review [~~all~~]a final agency action resulting from a formal adjudicative [~~proceedings as~~]proceeding originating from an entity described in Sections 78A-3-102 and 78A-4-103.

(2) An order or decree from a formal adjudicative proceeding is a final agency action if:

(a) the administrative decision-making has reached a stage where judicial review will not disrupt the orderly process of adjudication;

(b) rights or obligations have been determined by, or legal consequences flow from, the order or decree; and

(c) the order or decree, in whole or in part, is not preliminary, preparatory, procedural, or intermediate with regard to subsequent agency action.

[~~(2)~~](3) (a) To seek judicial review of final agency action resulting from formal adjudicative proceedings, the petitioner shall file a petition for review of agency action with the appropriate appellate court in the form required by the appellate rules of the appropriate appellate court.

(b) The appellate rules of the appropriate appellate court shall govern all additional filings and proceedings in the appellate court.

[~~(3)~~](4) The contents, transmittal, and filing of the agency's record for judicial review of formal adjudicative proceedings are governed by the Utah Rules of Appellate Procedure, except that:

(a) all parties to the review proceedings may stipulate to shorten, summarize, or organize the record; and

(b) the appellate court may tax the cost of preparing transcripts and copies for the record:

(i) against a party who unreasonably refuses to stipulate to shorten, summarize, or organize the record; or

(ii) according to any other provision of law.

[~~(4)~~](5) The appellate court shall grant relief only if, on the basis of the agency's record, it determines that a person seeking judicial review has been substantially prejudiced by any of the following:

(a) the agency action, or the statute or rule on which the agency action is based, is unconstitutional on its face or as applied;

(b) the agency has acted beyond the jurisdiction conferred by any statute;

(c) the agency has not decided all of the issues requiring resolution;

(d) the agency has erroneously interpreted or applied the law;

(e) the agency has engaged in an unlawful procedure or decision-making process, or has failed to follow prescribed procedure;

(f) the persons taking the agency action were illegally constituted as a decision-making body or were subject to disqualification;

(g) the agency action is based upon a determination of fact, made or implied by the agency, that is not supported by substantial evidence when viewed in light of the whole record before the court; or

(h) the agency action is:

(i) an abuse of the discretion delegated to the agency by statute;

(ii) contrary to a rule of the agency;

(iii) contrary to the agency's prior practice, unless the agency justifies the inconsistency by giving facts and reasons that demonstrate a fair and rational basis for the inconsistency; or

(iv) otherwise arbitrary or capricious.

Section 6. Section 78A-3-102 is amended to read:

78A-3-102. Supreme Court jurisdiction.

(1) The Supreme Court has original jurisdiction to answer questions of state law certified by a court of the United States.

(2) The Supreme Court has original jurisdiction to issue all extraordinary writs and authority to issue all writs and process necessary to carry into effect its orders, judgments, and decrees or in aid of its jurisdiction.

(3) The Supreme Court has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) a judgment of the Court of Appeals;

(b) cases certified to the Supreme Court by the Court of Appeals prior to final judgment by the Court of Appeals;

(c) discipline of lawyers;

(d) final orders of the Judicial Conduct Commission;

(e) [~~final orders and decrees in formal adjudicative proceedings~~]a final agency action, as described in Section 63G-4-403, in a formal adjudicative proceeding originating [~~with~~]from:

(i) the Public Service Commission;

(ii) the State Tax Commission;

(iii) the School and Institutional Trust Lands Board of Trustees;

(iv) the Board of Oil, Gas, and Mining;

(v) the state engineer; or

(vi) the executive director of the Department of Natural Resources reviewing actions of the Division of Forestry, Fire, and State Lands;

(f) final orders and decrees of the district court review of informal adjudicative proceedings of agencies under Subsection (3)(e);

(g) a final judgment or decree of any court of record holding a statute of the United States or this state unconstitutional on its face under the Constitution of the United States or the Utah Constitution;

(h) interlocutory appeals from any court of record involving a charge of a first degree or capital felony;

(i) appeals from the district court involving a conviction or charge of a first degree felony or capital felony;

(j) orders, judgments, and decrees of any court of record over which the Court of Appeals does not have original appellate jurisdiction; and

(k) appeals from the district court of orders, judgments, or decrees ruling on legislative subpoenas.

(4) The Supreme Court may transfer to the Court of Appeals any of the matters over which the Supreme Court has original appellate jurisdiction, except:

(a) capital felony convictions or an appeal of an interlocutory order of a court of record involving a charge of a capital felony;

(b) election and voting contests;

(c) reapportionment of election districts;

(d) retention or removal of public officers;

(e) matters involving legislative subpoenas; and

(f) those matters described in Subsections (3)(a) through (d).

(5) The Supreme Court has sole discretion in granting or denying a petition for writ of certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall review those cases certified to it by the Court of Appeals under Subsection (3)(b).

(6) The Supreme Court shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.

Section 7. Section 78A-4-103 is amended to read:

78A-4-103. Court of Appeals jurisdiction.

(1) As used in this section, "adjudicative proceeding" does not include a proceeding under Title 63G, Chapter 2, Part 4, Appeals, that precedes judicial review under Section 63G-2-404.

(2) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:

(a) to carry into effect its judgments, orders, and decrees; or

(b) in aid of its jurisdiction.

(3) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) (i) a final [~~order or decree resulting from~~]agency action, as described in Section 63G-4-403, originating from:

(A) a formal adjudicative proceeding of a state agency;

(B) a special adjudicative proceeding, as described in Section 19-1-301.5; or

(C) a hearing before a local school board or the State Board of Education as described in Section 53G-11-515; or

(ii) an appeal from the district court review of an informal adjudicative proceeding of an agency other than the following:

(A) the Public Service Commission;

(B) the State Tax Commission;

(C) the School and Institutional Trust Lands Board of Trustees;

(D) the Division of Forestry, Fire, and State Lands, for an action reviewed by the executive director of the Department of Natural Resources;

(E) the Board of Oil, Gas, and Mining; or

(F) the state engineer;

(b) appeals from the district court review of:

(i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and

(ii) a challenge to agency action under Section 63G-3-602;

(c) appeals from the juvenile courts;

(d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;

(e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;

(f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except petitions constituting a challenge to a conviction of or the sentence for a first degree or capital felony;

(g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;

(h) appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, parent-time, visitation, adoption, and paternity;

(i) appeals from the Utah Military Court; and

(j) cases transferred to the Court of Appeals from the Supreme Court.

(4) The Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.

(5) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 191
H. B. 74
Passed February 20, 2025
Approved March 25, 2025
Effective May 7, 2025

FOREIGN JUDGMENT AMENDMENTS

Chief Sponsor: Tiara Auxier
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies provisions in the Utah Foreign Judgment Act.

Highlighted Provisions:

This bill:

► provides that the postjudgment interest rate for foreign judgments filed in the state shall be set at the rate established under Utah law.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-5-302, as renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-5-302 is amended to read:

78B-5-302. Definition -- Filing of foreign judgments -- Postjudgment interest rate -- Status of foreign judgments.

(1) As used in this part, "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court whose acts are entitled to full faith and credit in this state.

(2) A copy of a foreign judgment authenticated in accordance with an appropriate act of Congress or an appropriate act of Utah may be filed with the clerk of any district court in Utah. The clerk of the district court shall treat the foreign judgment in all respects as a judgment of a district court of Utah.

(3) Except as otherwise provided by law or by contract, a foreign judgment filed under this part on or after May 7, 2025, shall bear interest at the postjudgment interest rate established under Section 15-1-4 as of the date of domestication of the foreign judgment.

[~~(3)~~](4) A foreign judgment filed under this part has the same effect and is subject to the same procedures, defenses, enforcement, satisfaction, and proceedings for reopening, vacating, setting aside, or staying as a judgment of a district court of this state.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 192
H. B. 75
Passed March 6, 2025
Approved March 25, 2025
Effective May 1, 2025

REAUTHORIZATION OF ADMINISTRATIVE RULES

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill reauthorizes administrative rules.

Highlighted Provisions:

This bill:

► reauthorizes administrative rules.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Rules reauthorization.

All rules of Utah state agencies are reauthorized.

Section 2. Effective Date.

This bill takes effect:
(1) except as provided in Subsection (2), May 7, 2025; or
(2) if approved by two-thirds of all the members elected to each house, the later of:
(a) May 1, 2025; or
(b) (i) upon approval by the governor;
(ii) without the governor's approval, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or
(iii) with the governor's veto and a vote of the Legislature to override the veto, the date of veto override.

CHAPTER 193
H. B. 78
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

CRIMINAL OFFENSES AMENDMENTS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill addresses sentencing and criminal procedures for certain criminal offenses.

Highlighted Provisions:

This bill:

- ► requires a prosecutor, when reducing the level of certain crimes in an information or as part of plea deal, to explain on the record why the prosecutor is seeking the reduction;
- ► requires an indeterminate prison term to be imposed, with exceptions, for certain attempt convictions;
- ► increases penalties for the crime of aggravated child abuse; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-109.2, as enacted by Laws of Utah 2022, Chapter 181
76-5-406.5, as last amended by Laws of Utah 2022, Chapter 181
77-2-2.3, as last amended by Laws of Utah 2024, Chapter 234
77-18-107, as enacted by Laws of Utah 2021, Chapter 260

REPEALS AND REENACTS:

76-3-406, as last amended by Laws of Utah 2024, Chapter 96

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-406 is repealed and re-enacted to read:

76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

(1) As used in this section, "attempted child sexual offense" means an attempt to commit a felony that is:

(a) rape of a child as described in Section 76-5-402.1;

(b) object rape of a child as described in Section 76-5-402.3;

(c) sodomy on a child as described in Section 76-5-403.1; or

(d) aggravated sexual abuse of a child as described in Section 76-5-404.3.

(2) Except as provided in Subsection (3), a court may not grant probation, suspend the execution or imposition of a sentence, enter a judgment for a lower category of offense, or order hospitalization, if the effect of which would in any way shorten the prison sentence for an actor who commits a capital felony or a first degree felony, or attempts to commit a capital felony or a first degree felony, that is:

(a) aggravated child abuse as described in Section 76-5-109.2;

(b) aggravated murder as described in Section 76-5-202;

(c) murder as described in Section 76-5-203;

(d) child kidnapping as described in Section 76-5-301.1;

(e) aggravated kidnapping as described in Subsection 76-5-302(3)(b);

(f) rape as described in Subsection 76-5-402(3)(b), (3)(c), or (4);

(g) rape of a child as described in Section 76-5-402.1;

(h) object rape as described in Subsection 76-5-402.2(3)(b), (3)(c), or (4);

(i) object rape of a child as described in Section 76-5-402.3;

(j) forcible sodomy as described in Subsection 76-5-403(3)(b), (3)(c), or (4);

(k) sodomy on a child as described in Section 76-5-403.1;

(l) forcible sexual abuse as described in Subsection 76-5-404(3)(b)(i) or (ii);

(m) aggravated sexual abuse of a child as described in Section 76-5-404.3; or

(n) aggravated sexual assault as described in Section 76-5-405.

(3) (a) Except as provided in Subsection (3)(b), a court may suspend the execution or imposition of a prison sentence for an actor who is convicted of an attempt to commit a felony described in Subsection (2) if the court:

(i) makes a finding on the record that:

(A) details why it is in the interests of justice not to execute or impose the prison sentence; and

(B) the actor does not pose a significant safety risk to the victim of the attempted crime or the general public; and

(ii) orders the actor to complete the terms and conditions of probation that is supervised by the Department of Corrections.

(b) If a court suspends a sentence for an attempted child sexual offense the court shall follow the provisions described in Section 76-5-406.5.

(4) Except for an offense before the district court in accordance with Section 80-6-502 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the actor:

(a) was under 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

(5) Except as provided in Subsection 77-16a-103(6) or (7), a court may not grant probation, suspend the execution or imposition of a sentence, enter a judgment for a lower category of offense under Section 76-3-402, or order hospitalization under Section 76-3-201 or 77-18-105 or Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, if the court is prohibited from doing so by this section.

Section 2. Section 76-5-109.2 is amended to read:

76-5-109.2. Aggravated child abuse.

(1) (a) As used in this section:

(i) "Child" means the same as that term is defined in Section 76-5-109.

(ii) "Serious physical injury" means the same as that term is defined in Section 76-5-109.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated child abuse if the actor:

(a) inflicts upon a child serious physical injury; or

(b) having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child.

(3) (a) A violation of Subsection (2) is a [~~second~~]first degree felony if done intentionally or knowingly.

(b) A violation of Subsection (2) is a third degree felony if done recklessly.

(c) A violation of Subsection (2) is a class A misdemeanor if done with criminal negligence.

(4) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to have committed an offense under this section.

(b) A parent or guardian of a child does not violate this section by selecting a treatment option for the medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.

(c) An actor is not guilty of an offense under this section for conduct that constitutes:

(i) conduct described in Section 76-2-401; or

(ii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (4)(c)(ii)(A) through (C).

Section 3. Section 76-5-406.5 is amended to read:

76-5-406.5. Circumstances required for probation or suspension of sentence for certain sex offenses against a child.

(1) In a case involving a conviction for [~~a~~]an attempted violation of Section 76-5-402.1, rape of a child [~~;~~], Section 76-5-402.3, object rape of a child [~~;~~], Section 76-5-403.1, sodomy on a child [~~; or any attempt to commit a felony under those sections or a conviction for a violation of~~], or Section 76-5-404.3, aggravated sexual abuse of a child, the court may suspend the execution of the sentence and consider probation to a residential sexual abuse treatment center only if all of the following circumstances are found by the court to be present and the court in [~~its~~]the court's discretion, considering the circumstances of the offense, including the nature, frequency, and duration of the conduct, and considering the best interests of the public and the child victim, finds probation to a residential sexual abuse treatment center to be proper:

(a) the defendant did not use a weapon, force, violence, substantial duress or menace, or threat of harm, in committing the offense or before or after committing the offense, in an attempt to frighten the child victim or keep the child victim from reporting the offense;

(b) the defendant did not cause bodily injury to the child victim during or as a result of the offense and did not cause the child victim severe psychological harm;

(c) the defendant, prior to the offense, had not been convicted of any public offense in Utah or elsewhere involving sexual misconduct in the commission of the offense;

(d) the defendant did not commit an offense described in this Part 4, Sexual Offenses, against more than one child victim or victim, at the same time, or during the same course of conduct, or previous to or subsequent to the instant offense;

(e) the defendant did not use, show, or display pornography or create sexually-related photographs or tape recordings in the course of the offense;

(f) the defendant did not act in concert with another offender during the offense or knowingly commit the offense in the presence of a person other than the victim or with lewd intent to reveal the offense to another;

(g) the defendant did not encourage, aid, allow, or benefit from any act of prostitution or sexual act by the child victim with any other person or sexual performance by the child victim before any other person;

(h) the defendant admits the offense of which he has been convicted and has been accepted for mental health treatment in a residential

sexual abuse treatment center that has been approved by the Department of Corrections under Subsection (3);

(i) rehabilitation of the defendant through treatment is probable, based upon evidence provided by a treatment professional who has been approved by the Department of Corrections under Subsection (3) and who has accepted the defendant for treatment;

(j) prior to being sentenced, the defendant has undergone a complete psychological evaluation conducted by a professional approved by the Department of Corrections and:

(i) the professional's opinion is that the defendant is not an exclusive pedophile and does not present an immediate and present danger to the community if released on probation and placed in a residential sexual abuse treatment center; and

(ii) the court accepts the opinion of the professional;

(k) if the offense is committed by a parent, stepparent, adoptive parent, or legal guardian of the child victim, the defendant shall, in addition to establishing all other conditions of this section, establish it is in the child victim's best interest that the defendant not be imprisoned, by presenting evidence provided by a treatment professional who:

(i) is treating the child victim and understands he will be treating the family as a whole; or

(ii) has assessed the child victim for purposes of treatment as ordered by the court based on a showing of good cause; and

(l) if probation is imposed, the defendant, as a condition of probation, may not reside in a home where children younger than 18 years old reside for at least one year beginning with the commencement of treatment, and may not again take up residency in a home where children younger than 18 years old reside during the period of probation until allowed to do so by order of the court.

(2) A term of incarceration of at least 90 days is to be served prior to treatment and continue until the time when bed space is available at a residential sexual abuse treatment center as provided under Subsection (3) and probation is to be imposed for up to a maximum of 10 years.

(3) (a) The Department of Corrections shall develop qualification criteria for the approval of the sexual abuse treatment programs and professionals under this section. The criteria shall include the screening criteria employed by the department for sexual offenders.

(b) The sexual abuse treatment program shall be at least one year in duration, shall be residential, and shall specifically address the sexual conduct for which the defendant was convicted.

(4) Establishment by the defendant of all the criteria of this section does not mandate the granting under this section of probation or modification of the sentence that would otherwise be imposed by Section 76-3-406 regarding sexual offenses against children. The court has discretion to deny the request based upon its consideration of the circumstances of the offense, including:

(a) the nature, frequency, and duration of the conduct;

(b) the effects of the conduct on any child victim involved;

(c) the best interest of the public and any child victim; and

(d) the characteristics of the defendant, including any risk the defendant presents to the public and specifically to children.

(5) The defendant has the burden to establish by a preponderance of evidence eligibility under all of the criteria of this section.

(6) If the court finds a defendant granted probation under this section fails to cooperate or succeed in treatment or violates probation to any substantial degree, the sentence previously imposed for the offense shall be immediately executed.

(7) The court shall enter written findings of fact regarding the conditions established by the defendant that justify the granting of probation under this section.

(8) In cases involving conviction of any sexual offense against a child other than those offenses provided in Subsection (1), the court shall consider the circumstances described in Subsection (1) as advisory in determining whether or not execution of sentence should be suspended and probation granted. The defendant is not required to satisfy all of those circumstances for eligibility pursuant to this Subsection (8).

Section 4. Section 77-2-2.3 is amended to read:

77-2-2.3. Reducing the level of an offense.

(1) [~~Notwithstanding~~]Subject to Subsection (2) and notwithstanding any other provision of law, [~~a~~]if a prosecuting attorney determines that it is in the interests of justice, the prosecuting attorney may:

(a) present and file an information charging an individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104with a classification of the offense at one degree lower than the classification that is provided in [~~statute if the prosecuting attorney believes that the sentence would be disproportionate to the offense because there are special circumstances relating to the offense~~]the applicable section; or

(b) subject to the approval of the court, amend an information, as part of a plea agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one degree lower than the classification that is provided in [~~statute~~]the applicable section.

(2) If the offense the prosecuting attorney is seeking to lower by one degree, either by information or plea agreement under Subsection (1)(a) or (b), is an offense listed in Subsection 76-3-406(2), the prosecuting attorney shall, on the record, state that it is in the interests of justice to lower the offense by one degree.

[~~(2)~~](3) A court may:

(a) enter a judgment of conviction for an offense filed under Subsection (1) at one degree lower than classified in [~~statute~~]the applicable section; and

(b) impose a sentence for the offense filed under Subsection (1) at one degree lower than classified in [~~statute~~]the applicable section.

[~~(3)~~](4) A conviction of an offense at one degree lower than classified in [~~statute~~]the applicable section under Subsection [~~(2)~~](3) does not affect the requirements for registration of the offense under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, if the elements of the offense for which the defendant is convicted are the same as the elements of an offense described in Section 77-41-102.

[~~(4)~~](5) This section does not preclude an individual from obtaining and being granted an expungement for the individual's record in accordance with Title 77, Chapter 40a, Expungement of Criminal Records.

Section 5. Section 77-18-107 is amended to read:

77-18-107. Home confinement -- Electronic monitoring for home confinement.

(1) The court may order home confinement as a condition of probation under the supervision of the department, except as provided in [~~Sections 76-3-406 and 76-5-406.5~~]Sections 76-3-406 and 76-5-406.5.

(2) The department shall establish procedures and standards for home confinement for all defendants supervised by the department for

home confinement.

(3) If the court places the defendant on probation and orders the defendant to participate in home confinement under Subsection (1), the court may order the defendant to participate in home confinement through the use of electronic monitoring until further order of the court.

(4) The electronic monitoring of a defendant shall alert the department and the appropriate law enforcement agency of the defendant's whereabouts.

(5) An electronic monitoring device shall be used under conditions that require:

(a) the defendant to wear an electronic monitoring device at all times; and

(b) the device be placed in the home of the defendant to monitor the defendant's compliance with the court's order.

(6) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under Subsection (3), the court shall:

(a) place the defendant on probation under the supervision of the department;

(b) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(c) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(7) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.

(8) The department may provide the electronic monitoring described in this section directly or by contract with a private provider.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 194
H. B. 79
Passed March 5, 2025
Approved March 25, 2025
Effective October 1, 2025

ADAPTIVE DRIVING EQUIPMENT AMENDMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill enacts sales and use tax exemptions for purchases of adaptive driving equipment for motor vehicles.

Highlighted Provisions:

This bill:

► creates sales and use tax exemptions for sales of adaptive driving equipment installed in a motor vehicle.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-102, as last amended by Laws of Utah 2024, Chapter 274
59-12-104, as last amended by Laws of Utah 2024, Chapter 35

ENACTS:

59-12-104.11, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-102 is amended to read:
59-12-102. Definitions.

As used in this chapter:
(1) "800 service" means a telecommunications service that:
(a) allows a caller to dial a toll-free number without incurring a charge for the call; and
(b) is typically marketed:
(i) under the name 800 toll-free calling;
(ii) under the name 855 toll-free calling;
(iii) under the name 866 toll-free calling;
(iv) under the name 877 toll-free calling;
(v) under the name 888 toll-free calling; or
(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.
(2) (a) "900 service" means an inbound toll telecommunications service that:
(i) a subscriber purchases;
(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:
(A) prerecorded announcement; or
(B) live service; and
(iii) is typically marketed:
(A) under the name 900 service; or
(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.
(b) "900 service" does not include a charge for:
(i) a collection service a seller of a telecommunications service provides to a subscriber; or
(ii) the following a subscriber sells to the subscriber's customer:
(A) a product; or
(B) a service.
(3) (a) "Adaptive driving equipment" means mobility enhancing equipment:
(i) to be installed in a motor vehicle; and
(ii) regardless of who provides the equipment or parts.
(b) "Adaptive driving equipment" includes:

(i) a wheelchair or scooter lift;

(ii) equipment to secure a wheelchair;

(iii) a swivel seat;

(iv) a hand or foot control; and

(v) a steering aid.

[~~(3)~~](4) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

[~~(4)~~](5) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

[~~(5)~~](6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

[~~(6)~~](7) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection [~~(7)~~](8); and

(b) that are imposed within a local taxing jurisdiction.

[~~(7)~~](8) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d);

(e) Subsection 59-12-103(2)(e)(i)(A)(I);

(f) Section 59-12-204;

(g) Section 59-12-401;

(h) Section 59-12-402;

(i) Section 59-12-402.1;

(j) Section 59-12-703;

(k) Section 59-12-802;

(l) Section 59-12-804;

(m) Section 59-12-1102;

(n) Section 59-12-1302;

(o) Section 59-12-1402;

(p) Section 59-12-1802;

(q) Section 59-12-2003;

(r) Section 59-12-2103;

(s) Section 59-12-2213;

(t) Section 59-12-2214;

(u) Section 59-12-2215;

(v) Section 59-12-2216;

(w) Section 59-12-2217;

(x) Section 59-12-2218;

(y) Section 59-12-2219; or

(z) Section 59-12-2220.

[~~(8)~~](9) "Aircraft" means the same as that term is defined in Section 72-10-102.

[~~(9)~~](10) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

[~~(10)~~](11) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

[~~(11)~~](12) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

[~~(12)~~](13) (a) Subject to Subsection [~~(12)(b)~~](13)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

[~~(13)~~](14) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

[~~(14)~~](15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

[~~(15)~~](16) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

[~~(16)~~](17) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

[~~(17)~~](18) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

[~~(18)~~](19) (a) "Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion

of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

[~~(19)~~](20) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection [~~(19)(f)~~](20)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection [~~(19)(a)(i)~~](20)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection [~~(19)(c)(i)(B)~~](20)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection [~~(19)(a)(ii)~~](20)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection [~~(19)(d)(i)~~](20)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection [~~(19)(b)(vi)~~](20)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection [~~(19)(b)(vi)~~](20)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection [~~(19)(b)(vi)~~](20)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection [~~(19)(b)(vii)(B)~~](20)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

[~~(20)~~](21) "Car sharing" means the same as that term is defined in Section 13-48a-101.

[~~(21)~~](22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

[~~(22)~~](23) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection [~~(22)(a)(i)~~](23)(a)(i).

[~~(23)~~](24) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

[~~(24)~~](25) (a) Subject to Subsection [~~(24)(b)~~](25)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

[~~(25)~~](26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

[~~(26)~~](27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection [~~(60)~~](61) or residential use under Subsection [~~(115)~~](116).

[~~(27)~~](28) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection [~~(27)(b)(i)~~](28)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

[~~(28)~~](29) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

[~~(29)~~](30) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

[~~(30)~~](31) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

[~~(31)~~](32) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections [~~(31)(a)~~](32)(a) and (b).

[~~(32)~~](33) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection [~~(32)(a)~~](33)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection [~~(32)(a)~~](33)(a).

[~~(33)~~](34) "Construction materials" means any tangible personal property that will be converted into real property.

[~~(34)~~](35) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

[~~(35)~~](36) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection [~~(35)(a)(i)~~](36)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

[~~(36)~~](37) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

[~~(37)~~](38) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections [~~(37)(b)(i)~~](38)(b)(i) through (v);

(c) (i) except as provided in Subsection [~~(37)(c)(ii)~~](38)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections [~~(37)(c)(i)(A)~~](38)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

[~~(38)~~](39) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

[~~(39)~~](40) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

[~~(40)~~](41) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

[~~(41)~~](42) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

[~~(42)~~](43) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

[~~(43)~~](44) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26B-2-201;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection [~~(43)(a)(ii)(B)~~](44)(a)(ii)(B); or

(D) a person similar to a person described in Subsections [~~(43)(a)(ii)(A)~~](44)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

[~~(44)~~](45) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

[~~(45)~~](46) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections [~~(45)(a)(i)(A)~~](46)(a)(i)(A)through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

[~~(46)~~](47) (a) "Durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection [~~(46)(a)~~](47)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

[~~(47)~~](48) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections [~~(47)(b)(i)~~](48)(b)(i) through (vi).

[~~(48)~~](49) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

[~~(49)~~](50) "Employee" means the same as that term is defined in Section 59-10-401.

[~~(50)~~](51) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

[~~(51)~~](52) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

[~~(52)~~](53) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

[~~(53)~~](54) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection [~~(99)(b)(iii)~~](100)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

[~~(54)~~](55) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection [~~(54)(a)(iii)~~](55)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or school district.

[~~(55)~~](56) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

[~~(56)~~](57) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

[~~(57)~~](58) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

[~~(58)~~](59) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

[~~(59)~~](60) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

[~~(60)~~](61) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection [~~(60)(d)(i)~~](61)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

[~~(61)~~](62) (a) "Installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

[~~(62)~~](63) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

[~~(63)~~](64) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes:

(i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code; and

(ii) car sharing.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection [~~(63)~~](64)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

[~~(64)~~](65) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

[~~(65)~~](66) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

[~~(66)~~](67) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

[~~(67)~~](68) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

[~~(68)~~](69) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

[~~(69)~~](70) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

[~~(70)~~](71) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection [~~(70)(b)(i)~~](71)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

[~~(71)~~](72) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

[~~(72)~~](73) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates,

or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection [~~(72)(a)(i)~~](73)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection [~~(72)(a)~~](73)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

[~~(73)~~](74) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

[~~(74)~~](75) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections [~~(74)(a)~~](75)(a) through (g); or

(j) person similar to a person described in Subsections [~~(74)(a)~~](75)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(75)~~](76) "Mobile home" means the same as that term is defined in Section 15A-1-302.

[~~(76)~~](77) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[~~(77)~~](78) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection [~~(77)(a)(i)~~](78)(a)(i) and the termination point described in Subsection [~~(77)(a)(ii)~~](78)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

[~~(78)~~](79) (a) "Mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection [~~(78)(a)~~](79)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

[~~(79)~~](80) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

[~~(80)~~](81) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection [~~(80)(b)~~](81)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

[~~(81)~~](82) (a) Subject to Subsection [~~(81)(b)~~](82)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenue of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection [~~(81)(a)~~](82)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

[~~(82)~~](83) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

[~~(83)~~](84) "Modular home" means a modular unit as defined in Section 15A-1-302.

[~~(84)~~](85) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

[~~(85)~~](86) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

[~~(86)~~](87) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

[~~(87)~~](88) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

[~~(88)~~](89) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

[~~(89)~~](90) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection [~~(89)(a)~~](90)(a), the transmission of a coded radio signal includes a transmission by message or sound.

[~~(90)~~](91) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

[~~(91)~~](92) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

[~~(92)~~](93) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is

performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection [~~(92)(c)(iii)~~](93)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection [~~(92)(b)(ii)~~](93)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections [~~(92)(c)(iii)(A)~~](93)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection [~~(137)(c)~~](138)(c).

[~~(93)~~](94) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

[~~(94)~~](95) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[~~(95)~~](96) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

[~~(96)~~](97) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

[~~(97)~~](98) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

[~~(98)~~](99) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

[~~(99)~~](100) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection [~~(99)(c)~~](100)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes;

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections [~~(99)(b)(ii)(A)(I)~~](100)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection [~~(99)(b)(ii)(A)~~](100)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

[~~(100)~~](101) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

[~~(101)~~](102) (a) "Prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection [~~(101)(c)~~](102)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection [~~(101)(b)(iii)(A)~~](102)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection [~~(101)(b)(iii)~~](102)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

[~~(102)~~](103) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

[~~(103)~~](104) (a) "Product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

[~~(104)~~](105) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

[~~(105)~~](106) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

[~~(106)~~](107) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

[~~(107)~~](108) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection [~~(107)(b)(iv)(A)(I)~~](108)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

[~~(108)~~](109) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

[~~(109)~~](110) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

[~~(110)~~](111) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

[~~(111)~~](112) "Rental" means the same as that term is defined in Subsection [~~(63)~~](64).

[~~(112)~~](113) (a) "Repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

[~~(113)~~](114) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

[~~(114)~~](115) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection [~~(114)(a)(i)~~](115)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

[~~(115)~~](116) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

[~~(116)~~](117) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

[~~(117)~~](118) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

[~~(118)~~](119) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

[~~(119)~~](120) "Sale at retail" means the same as that term is defined in Subsection [~~(116)~~](117).

[~~(120)~~](121) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

[~~(121)~~](122) "Sales price" means the same as that term is defined in Subsection [~~(107)~~](108).

[~~(122)~~](123) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenue generated by the sales is deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection [~~(122)(a)(i)(B)~~](123)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

[~~(123)~~](124) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

[~~(124)~~](125) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

[~~(125)~~](126) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection [~~(125)(a)~~](126)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

[~~(126)~~](127) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.

[~~(127)~~](128) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

[~~(128)~~](129) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

[~~(129)~~](130) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

[~~(130)~~](131) (a) Subject to Subsections [~~(130)(b)~~](131)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections [~~(130)(b)(i)~~](131)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

[~~(131)~~](132) (a) "Short-term rental" means a lease or rental for less than 30 consecutive days.

(b) "Short-term rental" does not include car sharing.

[~~(132)~~](133) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

[~~(133)~~](134) "Solar energy" means the sun used as the sole source of energy for producing electricity.

[~~(134)~~](135) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

[~~(135)~~](136) "State" means the state of Utah, its departments, and agencies.

[~~(136)~~](137) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

[~~(137)~~](138) (a) "Tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections [~~(137)(c)(i)~~](138)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

[~~(138)~~](139) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection [~~(138)(b)~~](139)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection [~~(138)(a)~~](139)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(138)(b)(i)~~](139)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection [~~(138)(c)~~](139)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(138)(b)(i)~~](139)(b)(i) through (vi).

[~~(139)~~](140) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

[~~(140)~~](141) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

[~~(141)~~](142) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

[~~(142)~~](143) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection [~~(142)(a)(i)~~](143)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection [~~(142)(a)~~](143)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

[~~(143)~~](144) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection [~~(143)(b)~~](144)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(143)(a)~~](144)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(143)(b)(i)~~](144)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection [~~(143)(c)~~](144)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(143)(b)(i)~~](144)(b)(i) through (ix).

[~~(144)~~](145) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection [~~(144)(b)~~](145)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(144)(a)~~](145)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(144)(b)(i)~~](145)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection [~~(144)(c)~~](145)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(144)(b)(i)~~](145)(b)(i) through (xxv).

[~~(145)~~](146) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

[~~(146)~~](147) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

[~~(147)~~](148) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

[~~(148)~~](149) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

[~~(149)~~](150) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

[~~(150)~~](151) (a) Subject to Subsection [~~(150)(b)~~](151)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection [~~(150)(a)~~](151)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

[~~(151)~~](152) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection [~~(150)~~](151).

[~~(152)~~](153) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

[~~(153)~~](154) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

[~~(154)~~](155) (a) "Waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

[~~(155)~~](156) "Watercraft" means a vessel as defined in Section 73-18-2.

[~~(156)~~](157) "Wind energy" means wind used as the sole source of energy to produce electricity.

[~~(157)~~](158) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 2. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if:

(a) the sale is not from the vehicle's lessor to the vehicle's lessee;

(b) the vehicle is not registered in this state; and

(c) (i) the vehicle is not used in this state; or

(ii) the vehicle is used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale, lease agreement, or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale, lease agreement, or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed

if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal

property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment;

(89) amounts paid or charged for an item exempt under Section 59-12-104.10;

(90) sales of a note, leaf, foil, or film, if the item:

(a) is used as currency;

(b) does not constitute legal tender of a state, the United States, or a foreign nation; and

(c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any transparent polymer holder, coating, or encasement;

(91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, if a trained instructor:

(a) is present with the participant, in person or by video, for the duration of the activity; and

(b) actively instructs the participant, including providing observation or feedback;

(92) amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by or constructed for:

(a) a distribution electrical cooperative, as defined in Section 54-2-1; or

(b) a wholesale electrical cooperative, as defined in Section 54-2-1;

(93) amounts paid by the service provider for tangible personal property, other than machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

(a) is consumed in the performance of a service that is subject to tax under Subsection 59-12-103(1)(b), (f), (g), (h), (i), or (j);

(b) has to be consumed for the service provider to provide the service described in Subsection (93)(a); and

(c) will be consumed in the performance of the service described in Subsection (93)(a), to one or more customers, to the point that the tangible personal property disappears or cannot be used for any other purpose;

(94) sales of rail rolling stock manufactured in Utah;

(95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or construction materials between establishments, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:

(a) the establishments are related directly or indirectly through 100% common ownership or control; and

(b) each establishment is described in one of the following subsectors of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or

(ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing;

(96) sales of construction materials used for the construction of a qualified stadium, as defined in Section 11-70-101; [~~and~~]

(97) amounts paid or charged for sales of a cannabinoid product as that term is defined in Section 4-41-102[~~.~~];

(98) amounts paid or charged for sales of adaptive driving equipment if the adaptive driving equipment is not yet installed in a motor vehicle; and

(99) amounts paid or charged for sales of adaptive driving equipment if the adaptive driving equipment is installed in a motor vehicle by a previous owner and the requirements of Section 59-12-104.11 are met.

Section 3. Section 59-12-104.11 is enacted to read:

59-12-104.11. Sales tax due for motor vehicle with adaptive driving equipment.

(1) An owner of a motor vehicle with adaptive driving equipment installed may claim the sales tax exemption described in Subsection 59-12-104(99) at the time of purchase if the owner purchases the motor vehicle from a vehicle dealer.

(2) A vehicle dealer shall collect sales tax required by this chapter on the purchase price of the vehicle after subtracting the amount of the purchase price attributed to the adaptive driving equipment.

(3) (a) A vehicle dealer shall state the purchase price attributed to the adaptive driving equipment on the contract of sale.

(b) The vehicle dealer shall retain the contract of sale described in Subsection (3)(a) for the same period of time a vehicle dealer is required to keep books and records under Section 59-1-1406.

Section 4. Effective date.

This bill takes effect on October 1, 2025.

CHAPTER 195
H. B. 80
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

DISORDERLY CONDUCT AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill addresses disorderly conduct.

Highlighted Provisions:

This bill:

► creates the criminal offense aggravated disorderly conduct on a street or highway.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-9-102.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-9-102.1 is enacted to read:

76-9-102.1. Aggravated disorderly conduct on a street or highway.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated disorderly conduct on a street or highway if the actor:

(a) intentionally, knowingly, or recklessly obstructs vehicular or pedestrian traffic on a street or highway with:

(i) a speed limit of 40 miles per hour or more; or

(ii) at least two lanes in the same direction of travel; and

(b) refuses to comply with the lawful order of a law enforcement officer to move from the street or highway.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a class A misdemeanor if within one year before the day on which the actor violates this section, the actor was previously convicted of a violation of Subsection (2).

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 196
H. B. 82
Passed February 27, 2025
Approved March 25, 2025
Effective May 7, 2025

LAW ENFORCEMENT MODIFICATIONS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses due process rights for peace officers in certain circumstances.

Highlighted Provisions:

This bill:

- ► addresses the procedures a prosecution agency is required to follow when the prosecution agency creates a system for tracking past peace officer misconduct that the agency has to disclose to a defendant in certain circumstances; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-253, as last amended by Laws of Utah 2024, Third Special Session, Chapters 5, 5

ENACTS:

53-25-601, Utah Code Annotated 1953
53-25-602, Utah Code Annotated 1953
53-25-603, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-25-601 is enacted to read:

PART 6. Requirements Related to Brady Material

53-25-601. Definitions.

As used in this part:

(1) "Brady identification system" means any type of system used by a prosecution agency to assist in tracking and disclosing Brady material to defendants being prosecuted by the prosecution agency.

(2) "Brady material" means potential impeachment information that a prosecutor has disclosed or may disclose to a defendant being prosecuted for a criminal offense relating to conduct of a peace officer who was involved in the arrest or investigation of the defendant.

(3) "Law enforcement agency" means a public agency having general police power and charged with making arrests in connection with enforcement of the criminal laws, statutes, or ordinances of this state or political subdivisions of this state.

(4) (a) "Peace officer" means any officer certified in accordance with Chapter 13, Peace Officer Classifications.

(b) "Peace officer" includes any employee of a law enforcement agency whose job duties include providing courtroom testimony in support of the enforcement of criminal laws, statutes, or ordinances.

(5) "POST" means the Peace Officer Standards and Training Division created in Section 53-6-103.

(6) "Prosecution agency" means a city attorney, county attorney, district attorney, the attorney general, or other prosecution agency.

Section 2. Section 53-25-602 is enacted to read:

53-25-602. Prosecution agency's requirements related to Brady material.

(1) (a) A prosecution agency may use a Brady identification system to fulfill the prosecution agency's discovery obligations regarding Brady material under federal law, state law, court order, or court rule.

(b) A prosecution agency is not required to maintain a Brady identification system and may determine that the prosecution agency's discovery obligations regarding Brady material can be met through another procedure.

(2) A prosecution agency that uses a Brady identification system may make disclosures of Brady material to a defendant in a prosecution even if the prosecution agency has not made a final decision regarding whether the peace officer who is the subject of the Brady material will be placed onto the prosecution agency's Brady identification system.

(3) (a) Except as provided in Subsection (3)(b), before a prosecution agency may initially place a peace officer on the prosecution agency's Brady identification system, or add additional information to the prosecution agency's Brady identification system regarding a peace officer already on the prosecution agency's Brady identification system for a reason unrelated to the initial placement, the prosecution agency shall:

(i) provide the peace officer with written notice that the prosecution agency intends to:

(A) place the peace officer onto the prosecution agency's Brady identification system; or

(B) if the peace officer is already on the prosecution agency's Brady identification system, add additional information about the peace officer onto the prosecution agency's Brady identification system;

(ii) provide the peace officer with copies of any documents, records, and other evidence relied upon by the prosecution agency that is seeking to place the peace officer, or add additional information regarding the peace officer, onto the Brady identification system; and

(iii) provide the peace officer with an opportunity to dispute the peace officer's placement, or addition of information regarding the peace officer, onto the Brady identification system.

(b) A prosecution agency is not required to provide the procedures described in Subsection (3)(a) if the Brady material underlying the peace officer's placement onto the Brady identification system relates to a criminal conviction.

(4) (a) If a peace officer is employed by a law enforcement agency and is placed onto a prosecution agency's Brady identification system in accordance with this section, the prosecution agency shall notify the peace officer's employer regarding the placement.

(b) A peace officer who is placed onto a prosecution agency's Brady identification system before May 7, 2025, may request within 180 calendar days after May 7, 2025, a review by the prosecution agency regarding the peace officer's placement and, if the prosecution agency receives the request, the prosecution agency shall undertake the review.

(5) A prosecution agency that uses a Brady identification system shall adopt a policy, accessible to any peace officer in the prosecution agency's jurisdiction, that includes:

(a) the criteria used by the prosecution agency to place an officer on the prosecution agency's Brady identification system including:

(i) a description of what conduct qualifies as Brady material; and

(ii) a description of other conduct not defined in this part that the prosecution agency determines will get a peace officer placed on the prosecution agency's Brady identification system; and

(b) the rights, procedures, and limitations described in Subsection (3).

(6) If a peace officer is placed onto a prosecution agency's Brady identification system and then is placed on another prosecution agency's Brady identification system, the other prosecution agency:

(a) does not have to provide the peace officer with the rights and procedures described in Subsection (3)(a), if the peace officer's placement is based on the same conduct that led to the peace officer being placed on the initial prosecution agency's Brady identification system and the peace officer was provided the rights and procedures described in Subsection (3)(a) by the initial prosecution agency; and

(b) shall:

(i) provide the peace officer with written notice that the prosecution agency has added the peace officer to the prosecution agency's Brady identification system;

(ii) provide the peace officer with an opportunity to respond in writing to the peace officer's placement on the prosecution agency's Brady identification system; and

(iii) review the peace officer's response described in Subsection (6)(b)(ii).

(7) A peace officer may not seek judicial review of a prosecution agency's determination to place an officer on a Brady identification system in accordance with this section.

(8) Any information or record maintained by a prosecution agency in a Brady identification system is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) This section does not:

(a) create a private cause of action by a peace officer or by a law enforcement agency against a prosecution agency or the prosecution agency's employees for the procedures and determination related to the placement of a peace officer onto a Brady identification system; or

(b) restrict or limit a prosecution agency from fulfilling the prosecution agency's discovery obligations.

Section 3. Section 53-25-603 is enacted to read:

53-25-603. Peace officer and employing law enforcement agency requirements related to Brady material.

(1) (a) If a peace officer has been placed onto a prosecution agency's Brady identification system after being provided the rights and procedures described in Subsection 53-25-603(3) and the peace officer is subpoenaed by a different prosecution agency to testify in court, the peace officer shall disclose that placement to the prosecution agency that issued the subpoena as soon as practicable after receiving the subpoena.

(b) If a peace officer fails to disclose the peace officer's placement on a Brady identification system as described in Subsection (1)(a), the peace officer's employing law enforcement agency may take disciplinary action against the peace officer.

(2) (a) A law enforcement agency may not use the placement of a peace officer onto a Brady identification system as described in Section 53-25-603 as the sole reason for taking or denying any of the following employment actions against the peace officer:

(i) demotion;

(ii) suspension;

(iii) termination; or

(iv) any other disciplinary action.

(b) Notwithstanding Subsection (2)(a), a law enforcement agency may use the underlying facts of the Brady material that were the basis for the peace officer's placement onto a Brady identification system for taking a disciplinary action against the peace officer in accordance with the law enforcement agency's adopted policies and procedures and governing law.

(3) A chief, sheriff, or administrative officer of a law enforcement agency who knows of an allegation against a peace officer employed by the chief's, sheriff's, or administrative officer's law enforcement agency involving Brady material shall conduct an administrative or internal investigation into the allegation and, if after the law enforcement agency's adopted policies and procedures are followed and the allegation is substantiated, report the findings of the investigation to:

(a) if the law enforcement agency is a private law enforcement agency or a city, county, or other local law enforcement agency, the county attorney of the jurisdiction where the law enforcement agency is located; or

(b) if the law enforcement agency is a state law enforcement agency, to the attorney general.

Section 4. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118, Public Safety Honoring Heroes Restricted Account -- Creation -- Funding -- Distribution of funds by the commissioner, is repealed July 1, 2024.

(3) Section 53-1-120, Utah Law Enforcement Memorial Support Restricted Account -- Creation -- Funding -- Distribution of funds by the commissioner, is repealed July 1, 2024.

(4) Section 53-2a-303, Statewide mutual aid committee, is repealed October 1, 2024.

(5) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed July 1, 2026.

(6) Section 53-2d-101.1, Contracting authority -- Rulemaking authority, is repealed July 1, 2024.

(7) Section 53-2d-107, Air Ambulance Committee -- Membership -- Duties, is repealed July 1, 2024.

(8) Section 53-2d-302, Trauma system advisory committee, is repealed October 1, 2024.

(9) Section 53-7-109, Firefighter Support Restricted Account, is repealed July 1, 2024.

(10) Section 53-9-104, Board -- Creation-- Qualifications -- Appointments -- Terms -- Immunity, is repealed October 1, 2024.

(11) Section 53-9-105, Powers and duties of the board, is repealed October 1, 2024.

(12) Section 53-9-106, Meetings -- Hearings, is repealed October 1, 2024.

(13) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(14) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

(15) Section 53-25-103, Airport dangerous weapon possession reporting requirements, is repealed December 31, 2031.

(16) Subsection 53-25-602(4)(b), regarding the rights of a peace officer placed onto a prosecution agency's Brady identification system before May 7, 2025, is repealed December 1, 2025.

[~~(16)~~](17) Section 53B-8-114, Continuation of previously authorized scholarships, is repealed July 1, 2024.

[~~(17)~~](18) Section 53B-10-101, Terrel H. Bell Teaching Incentive Loans program -- Eligible students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet requirements -- Duration of incentive loans, is repealed July 1, 2027.

[~~(18)~~](19) Subsection 53F-2-504(6), regarding a report on the Salary Supplement for Highly Needed Educators, is repealed July 1, 2026.

[~~(19)~~](20) Section 53F-2-524, Teacher bonuses for extra assignments, is repealed July 1, 2024.

[~~(20)~~](21) Section 53F-5-221, Management of energy and water use pilot program, is repealed July 1, 2028.

[~~(21)~~](22) Section 53F-5-222, Mentoring and Supporting Teacher Excellence and Refinement Pilot Program, is repealed July 1, 2028.

[~~(22)~~](23) Section 53F-5-223, Stipends for Future Educators Grant Program, is repealed July 1, 2028.

[~~(23)~~](24) Section 53F-9-401, Autism Awareness Restricted Account, is repealed July 1, 2024.

[~~(24)~~](25) Section 53F-9-403, Kiwanis Education Support Fund, is repealed July 1, 2024.

[~~(25)~~](26) Subsection 53G-11-502(1), regarding implementation of the educator evaluation process, is repealed July 1, 2029.

[~~(26)~~](27) Section 53G-11-506, Establishment of educator evaluation program -- Joint committee, is repealed July 1, 2029.

[~~(27)~~](28) Section 53G-11-507, Components of educator evaluation program, is repealed July 1, 2029.

[~~(28)~~](29) Section 53G-11-508, Summative evaluation timelines -- Review of summative evaluations, is repealed July 1, 2029.

[~~(29)~~](30) Section 53G-11-509, Mentor for provisional educator, is repealed July 1, 2029.

[~~(30)~~](31) Section 53G-11-510, State board to describe a framework for the evaluation of educators, is repealed July 1, 2029.

[~~(31)~~](32) Section 53G-11-511, Rulemaking for privacy protection, is repealed July 1, 2029.

[~~(32)~~](33) Subsection 53G-11-520(1), regarding optional alternative educator evaluation processes, is repealed July 1, 2029.

[~~(33)~~](34) Subsection 53G-11-520(2), regarding an exception from educator evaluation process requirements, is repealed July 1, 2029.

Section 5. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 197
H. B. 86
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

HOMEOWNERS' ASSOCIATION REQUIREMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends provisions relating to homeowners' associations.

Highlighted Provisions:

This bill:

- ► increases the monetary amount a unit or lot owner may request if an association fails to properly make records available for examination;
- ► prohibits a declarant from using association funds in a legal action brought by a homeowner against the declarant before the end of the period of administrative control;
- ► defines "development right";
- ► amends the conditions for the termination of a period of administrative control for an association of lot owners;
- ► provides requirements for a declarant of an association of lot owners during the period of administrative control; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8-17, as last amended by Laws of Utah 2022, Chapter 439
57-8-58, as enacted by Laws of Utah 2017, Chapter 284
57-8a-102, as last amended by Laws of Utah 2024, Chapter 519
57-8a-227, as last amended by Laws of Utah 2022, Chapter 439
57-8a-229, as enacted by Laws of Utah 2017, Chapter 284
57-8a-502, as last amended by Laws of Utah 2016, Chapter 210

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-8-17 is amended to read:
57-8-17. Records -- Availability for examination.

(1) (a) Subject to Subsection (1)(b) and regardless of whether the association of unit owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an association of unit owners shall keep and make available to unit owners:

(i) each record identified in Subsections 16-6a-1601(1) through (5), [~~in accordance with~~]in the manner described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610; and

(ii) a copy of the association's:

(A) governing documents;

(B) most recent approved minutes;

(C) most recent budget and financial statement;

(D) most recent reserve analysis; and

(E) certificate of insurance for each insurance policy the association of unit owners holds.

(b) An association of unit owners may redact the following information from any document the association of unit owners produces for inspection or copying:

(i) a Social Security number;

(ii) a bank account number; or

(iii) any communication subject to attorney-client privilege.

(2) (a) In addition to the requirements described in Subsection (1), an association of unit owners shall:

(i) make documents available to unit owners in accordance with the association of unit owners' governing documents; and

(ii) (A) if the association of unit owners has an active website, make the documents described in Subsections (1)(a)(ii)(A) through (C) available to unit owners, free of charge, through the website; or

(B) if the association of unit owners does not have an active website, make physical copies of the documents described in Subsections (1)(a)(ii)(A) through (C) available to unit owners during regular business hours at the association of unit owners' address registered with the Department of Commerce under Section 57-8-13.1.

(b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.

(c) If a provision of an association of unit owners' governing documents conflicts with a provision of this section, the provision of this section governs.

(3) In a written request to inspect or copy documents:

(a) a unit owner shall include:

(i) the association of unit owners' name;

(ii) the unit owner's name;

(iii) the unit owner's property address;

(iv) the unit owner's email address;

(v) a description of the documents requested; and

(vi) any election or request described in Subsection (3)(b); and

(b) a unit owner may:

(i) elect whether to inspect or copy the documents;

(ii) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or

(iii) subject to Subsection (4), request that:

(A) the association of unit owners make the copies or electronic scans of the requested documents;

(B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;

(C) the unit owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or

(D) the association of unit owners email the requested documents to an email address provided in the request.

(4) (a) An association of unit owners shall comply with a request described in Subsection (3).

(b) If an association of unit owners produces the copies or electronic scans:

(i) the copies or electronic scans shall be legible and accurate; and

(ii) the unit owner shall pay the association of unit owners the reasonable cost of the copies or electronic scans and for time spent meeting with the unit owner, which may not exceed:

(A) the actual cost that the association of unit owners paid to a recognized third party duplicating service to make the copies or electronic scans; or

(B) 10 cents per page and [~~$15~~]$20 per hour for the employee's, manager's, or other agent's time making the copies or electronic scans.

(c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:

(i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and

(ii) the unit owner shall pay the duplicating service directly.

(d) Subject to Subsection (9), if a unit owner requests to bring imaging equipment to the inspection, the association of unit owners shall provide the necessary space, light, and power for the imaging equipment.

(5) If, in response to a unit owner's request to inspect or copy documents, an association of unit owners fails to comply with a provision of this section, the association of unit owners shall pay:

(a) the reasonable costs of inspecting and copying the requested documents;

(b) for items described in Subsections (1)(a)(ii)(A) through (C), $25 to the unit owner who made the request for each day the request continues unfulfilled, beginning the sixth day after the day on which the unit owner made the request; and

(c) reasonable attorney fees and costs incurred by the unit owner in obtaining the inspection and copies of the requested documents.

(6) (a) In addition to any remedy in the association of unit owners' governing documents or as otherwise provided by law, a unit owner may file an action in court under this section if:

(i) subject to Subsection (9), an association of unit owners fails to make documents available to the unit owner in accordance with this section, the association of unit owners' governing documents, or as otherwise provided by law; and

(ii) the association of unit owners fails to timely comply with a notice described in Subsection (6)(d).

(b) In an action described in Subsection (6)(a):

(i) the unit owner may request:

(A) injunctive relief requiring the association of unit owners to comply with the provisions of this section;

(B) [~~$500~~]$1,000or actual damage, whichever is greater; or

(C) any other relief provided by law; and

(ii) the court [~~shall~~]may award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

(c) (i) In an action described in Subsection (6)(a), upon motion by the unit owner made in accordance with Subsection (6)(b), notice to the association of unit owners, and a hearing in which the court finds a likelihood that the association of unit owners failed to comply with a provision of this section, the court shall order the association of unit owners to immediately comply with the provision.

(ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the unit owner files the motion.

(d) At least 10 days before the day on which a unit owner files an action described in Subsection (6)(a), the unit owner shall deliver a written notice to the association of unit owners that states:

(i) the unit owner's name, address, telephone number, and email address;

(ii) each requirement of this section with which the association of unit owners has failed to comply;

(iii) a demand that the association of unit owners comply with each requirement with which the association of unit owners has failed to comply; and

(iv) a date by which the association of unit owners shall remedy the association of unit owners' noncompliance that is at least 10 days after the day on which the unit owner delivers the notice to the association of unit owners.

(7) (a) The provisions of Section 16-6a-1604 do not apply to an association of unit owners.

(b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that the unit owner has under this section.

(9) An association of unit owners is not liable for identifying or providing a document in error, if the association of unit owners identified or provided the erroneous document in good faith.

Section 2. Section 57-8-58 is amended to read:

57-8-58. Liability of declarant or management committee -- Period of declarant control.

(1) An association may not, after the period of declarant control, bring a legal action against a declarant, a management committee, or an employee, an independent contractor, or an agent of the declarant or the management committee related to the period of declarant control unless:

(a) the legal action is approved in advance at a meeting where owners of at least 51% in aggregate in interest of the undivided ownership of the common areas and facilities are:

(i) present; or

(ii) represented by a proxy specifically assigned for the purpose of voting to approve or deny the legal action at the meeting;

(b) the legal action is approved by vote in person or by proxy of owners of the lesser of:

(i) more than 75% in aggregate in interest of the total aggregate interest of the undivided ownership of the common areas and facilities represented by those owners present at the meeting or represented by a proxy as described in Subsection (1)(a); or

(ii) more than 51% in aggregate in interest of the undivided ownership of the common areas and facilities;

(c) the association provides each unit owner with the items described in Subsection (2);

(d) the association establishes the trust described in Subsection (3); and

(e) the association first:

(i) notifies the person subject to the proposed action of the action and the basis of the association's claim; and

(ii) gives the person subject to the proposed action a reasonable opportunity to resolve the dispute that is the basis of the action.

(2) Before unit owners in an association may vote to approve an action described in Subsection (1), the association shall provide each unit owner:

(a) a written notice that the association is contemplating legal action; and

(b) after the association consults with an attorney licensed to practice in the state, a written assessment of:

(i) the likelihood that the legal action will succeed;

(ii) the likely amount in controversy in the legal action;

(iii) the likely cost of resolving the legal action to the association's satisfaction; and

(iv) the likely effect the legal action will have on a unit owner's or prospective unit buyer's ability to obtain financing for a unit while the legal action is pending.

(3) Before the association commences a legal action described in Subsection (1), the association shall:

(a) allocate an amount equal to 10% of the cost estimated to resolve the legal action, not including attorney fees; and

(b) place the amount described in Subsection (3)(a) in a trust that the association may only use to pay the costs to resolve the legal action.

(4) This section does not apply to an association that brings a legal action that has an amount in controversy of less than $75,000.

(5) In a legal action brought by one or more unit owners solely against the declarant before the end of the period of declarant control, a declarant may not use any funds paid by a unit owner to the association to pay for costs of the declarant's legal defense.

Section 3. Section 57-8a-102 is amended to read:

57-8a-102. Definitions.

As used in this chapter:

(1) (a) "Assessment" means a charge imposed or levied:

(i) by the association;

(ii) on or against a lot or a lot owner; and

(iii) pursuant to a governing document recorded with the county recorder.

(b) "Assessment" includes:

(i) a common expense; and

(ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

(2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:

(i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and

(ii) by virtue of membership or ownership of a residential lot is obligated to pay:

(A) real property taxes;

(B) insurance premiums;

(C) maintenance costs; or

(D) for improvement of real property not owned by the member.

(b) "Association" or "homeowner association" does not include an association created under Chapter 8, Condominium Ownership Act.

(3) "Board meeting" means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.

(4) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.

(5) "Common areas" means property that the association:

(a) owns;

(b) maintains;

(c) repairs; or

(d) administers.

(6) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.

(7) "Declarant":

(a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and

(b) includes the person's successor and assign.

(8) "Development right" means any right or combination of rights a declarant reserves in the declaration to:

(a) add real estate to an association;

(b) create lots, common elements, or limited common elements within an association;

(c) subdivide lots or convert lots into common elements; or

(d) withdraw real estate from an association.

[~~(8)~~](9) "Director" means a member of the board of directors.

[~~(9)~~](10) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

[~~(10)~~](11) "Gas corporation" means the same as that term is defined in Section 54-2-1.

[~~(11)~~](12) (a) "Governing documents" means a written instrument by which the association may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.

(b) "Governing documents" includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association.

[~~(12)~~](13) "Independent third party" means a person that:

(a) is not related to the owner of the residential lot;

(b) shares no pecuniary interests with the owner of the residential lot; and

(c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.

[~~(13)~~](14) "Judicial foreclosure" means a foreclosure of a lot:

(a) for the nonpayment of an assessment;

(b) in the manner provided by law for the foreclosure of a mortgage on real property; and

(c) as provided in Part 3, Collection of Assessments.

[~~(14)~~](15) "Lease" or "leasing" means regular, exclusive occupancy of a lot:

(a) by a person or persons other than the owner; and

(b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

[~~(15)~~](16) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

[~~(16)~~](17) "Lot" means:

(a) a lot, parcel, plot, or other division of land:

(i) designated for separate ownership or occupancy; and

(ii) (A) shown on a recorded subdivision plat; or

(B) the boundaries of which are described in a recorded governing document; or

(b) (i) a unit in a condominium association if the condominium association is a part of a development; or

(ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.

[~~(17)~~](18) (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.

(b) "Means of electronic communication" includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

[~~(18)~~](19) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.

[~~(19)~~](20) "Nonjudicial foreclosure" means the sale of a lot:

(a) for the nonpayment of an assessment;

(b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(c) as provided in Part 3, Collection of Assessments.

[~~(20)~~](21) "Period of administrative control" means the period during which the person who filed the association's governing documents or the person's successor in interest retains authority to:

(a) appoint or remove members of the association's board of directors; or

(b) exercise power or authority assigned to the association under the association's governing documents.

[~~(21)~~](22) "Political sign" means any sign or document that advocates:

(a) the election or defeat of a candidate for public office; or

(b) the approval or defeat of a ballot proposition.

[~~(22)~~](23) "Protected area" means the same as that term is defined in Section 77-27-21.7.

[~~(23)~~](24) "Rentals" or "rental lot" means:

(a) a lot that:

(i) is not owned by an entity or trust; and

(ii) is occupied by an individual while the lot owner is not occupying the lot as the lot owner's primary residence;

(b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or

(c) an internal accessory dwelling unit as defined in Section 10-9a-530 or 17-27a-526.

[~~(24)~~](25) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.

[~~(25)~~](26) (a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association that:

(i) is not set forth in a contract, easement, article of incorporation, bylaw, or declaration; and

(ii) governs:

(A) the conduct of persons; or

(B) the use, quality, type, design, or appearance of real property or personal property.

(b) "Rule" does not include the internal business operating procedures of a board.

[~~(26)~~](27) "Sex offender" means the same as that term is defined in Section 77-27-21.7.

[~~(27)~~](28) "Solar energy system" means:

(a) a system that is used to produce electric energy from sunlight; and

(b) the components of the system described in Subsection [~~(27)(a)~~](28)(a).

Section 4. Section 57-8a-227 is amended to read:

57-8a-227. Records -- Availability for examination.

(1) (a) Subject to Subsection (1)(b) and regardless of whether the association is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an association shall keep and make available to lot owners:

(i) each record identified in Subsections 16-6a-1601(1) through (5), [~~in accordance with~~]in the manner described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610; and

(ii) a copy of the association's:

(A) governing documents;

(B) most recent approved minutes;

(C) most recent budget and financial statement;

(D) most recent reserve analysis; and

(E) certificate of insurance for each insurance policy the association holds.

(b) An association may redact the following information from any document the association produces for inspection or copying:

(i) a Social Security number;

(ii) a bank account number; or

(iii) any communication subject to attorney-client privilege.

(2) (a) In addition to the requirements described in Subsection (1), an association shall:

(i) make documents available to lot owners in accordance with the association's governing documents; and

(ii) (A) if the association has an active website, make the documents described in Subsections (1)(a)(ii)(A) through (C) available to lot owners, free of charge, through the website; or

(B) if the association does not have an active website, make physical copies of the documents described in Subsections (1)(a)(ii)(A) through (C) available to lot owners during regular business hours at the association's address registered with the Department of Commerce under Section 57-8a-105.

(b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.

(c) If a provision of an association's governing documents conflicts with a provision of this section, the provision of this section governs.

(3) In a written request to inspect or copy documents:

(a) a lot owner shall include:

(i) the association's name;

(ii) the lot owner's name;

(iii) the lot owner's property address;

(iv) the lot owner's email address;

(v) a description of the documents requested; and

(vi) any election or request described in Subsection (3)(b); and

(b) a lot owner may:

(i) elect whether to inspect or copy the documents;

(ii) if the lot owner elects to copy the documents, request hard copies or electronic scans of the documents; or

(iii) subject to Subsection (4), request that:

(A) the association make the copies or electronic scans of the requested documents;

(B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;

(C) the lot owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or

(D) the association email the requested documents to an email address provided in the request.

(4) (a) An association shall comply with a request described in Subsection (3).

(b) If an association produces the copies or electronic scans:

(i) the copies or electronic scans shall be legible and accurate; and

(ii) the lot owner shall pay the association the reasonable cost of the copies or electronic scans and for time spent meeting with the lot owner, which may not exceed:

(A) the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans; or

(B) 10 cents per page and [~~$15~~]$20 per hour for the employee's, manager's, or other agent's time.

(c) If a lot owner requests a recognized third party duplicating service make the copies or electronic scans:

(i) the association shall arrange for the delivery and pick up of the original documents; and

(ii) the lot owner shall pay the duplicating service directly.

(d) If a lot owner requests to bring imaging equipment to the inspection, the association shall provide the necessary space, light, and power for the imaging equipment.

(5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy documents, an association fails to comply with a provision of this section, the association shall pay:

(a) the reasonable costs of inspecting and copying the requested documents;

(b) for items described in Subsections (1)(a)(ii)(A) through (C), $25 to the lot owner who made the request for each day the request continues unfulfilled, beginning the sixth day after the day on which the lot owner made the request; and

(c) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies of the requested documents.

(6) (a) In addition to any remedy in the association's governing documents or otherwise provided by law, a lot owner may file an action in court against the association under this section if:

(i) subject to Subsection (9), an association fails to make documents available to the lot owner in accordance with this section, the association's governing documents, or as otherwise provided by law; and

(ii) the association fails to timely comply with a notice described in Subsection (6)(d).

(b) In an action described in Subsection (6)(a):

(i) the lot owner may request:

(A) injunctive relief requiring the association to comply with the provisions of this section;

(B) [~~$500~~]$1,000 or actual damage, whichever is greater; or

(C) any other relief provided by law; and

(ii) the court [~~shall~~]may award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

(c) (i) In an action described in Subsection (6)(a), upon motion by the lot owner made in accordance with Subsection (6)(b), notice to the association, and a hearing in which the court finds a likelihood that the association failed to comply with a provision of this section, the court shall order the association to immediately comply with the provision.

(ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the lot owner files the motion.

(d) At least 10 days before the day on which a lot owner files an action described in Subsection (6)(a), the lot owner shall deliver a written notice to the association that states:

(i) the lot owner's name, address, telephone number, and email address;

(ii) each requirement of this section with which the association has failed to comply;

(iii) a demand that the association comply with each requirement with which the association has failed to comply; and

(iv) a date by which the association shall remedy the association's noncompliance that is at least 10 days after the day on which the lot owner delivers the notice to the association.

(7) (a) The provisions of Section 16-6a-1604 do not apply to an association.

(b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the lot owner has under this section.

(9) An association is not liable for identifying or providing a document in error, if the association identified or provided the erroneous document in good faith.

Section 5. Section 57-8a-229 is amended to read:

57-8a-229. Liability of declarant or board of directors -- Period of administrative control.

(1) An association may not, after the period of administrative control, bring a legal action against a declarant, a board of directors, or an employee, an independent contractor, or the agent of the declarant or the previous board of directors related to the period of administrative control unless:

(a) the legal action is approved in advance at a meeting where owners of at least 51% of the allocated voting interests of the lot owners in the association are:

(i) present; or

(ii) represented by a proxy specifically assigned for the purpose of voting to approve or deny the legal action at the meeting;

(b) the legal action is approved by vote in person or by proxy of owners of the lesser of:

(i) more than 75% of the allocated voting interests of the lot owners present at the meeting or represented by a proxy as described in

Subsection (1)(a); or

(ii) more than 51% of the allocated voting interests of the lot owners in the association;

(c) the association provides each lot owner with the items described in Subsection (2);

(d) the association establishes the trust described in Subsection (3); and

(e) the association first:

(i) notifies the person subject to the proposed legal action of the legal action and basis of the association's claim; and

(ii) gives the person subject to the claim a reasonable opportunity to resolve the dispute that is the basis of the proposed legal action.

(2) Before lot owners in an association may vote to approve an action described in Subsection (1), the association shall provide each lot owner:

(a) a written notice that the association is contemplating legal action; and

(b) after the association consults with an attorney licensed to practice in the state, a written assessment of:

(i) the likelihood that the legal action will succeed;

(ii) the likely amount in controversy in the legal action;

(iii) the likely cost of resolving the legal action to the association's satisfaction; and

(iv) the likely effect the legal action will have on a lot owner's or prospective lot buyer's ability to obtain financing for a lot while the legal action is pending.

(3) Before the association commences a legal action described in Subsection (1), the association shall:

(a) allocate an amount equal to 10% of the cost estimated to resolve the legal action, not including attorney fees; and

(b) place the amount described in Subsection (3)(a) in a trust that the association may only use to pay the costs to resolve the legal action.

(4) This section does not apply to an association that brings a legal action that has an amount in controversy of less than $75,000.

(5) In a legal action brought by one or more lot owners solely against the declarant before the end of the period of declarant control, a declarant may not use any funds paid by a lot owner to the association to pay for costs of the declarant's legal defense.

Section 6. Section 57-8a-502 is amended to read:

57-8a-502. Period of administrative control.

(1) Unless otherwise provided for in a declaration and subject to Subsection (2), a period of administrative control terminates [~~on the first to occur of the following:~~]60 days after the day on which 80% of the lots that may be created in the association are conveyed to lot owners other than a declarant.

[~~(a) 60 days after 75% of the lots that may be created are conveyed to lot owners other than a declarant;~~]

[~~(b) seven years after all declarants have ceased to offer lots for sale in the ordinary course of business; or~~]

[~~(c) the day the declarant, after giving written notice to the lot owners, records an instrument voluntarily surrendering all rights to control activities of the association.~~]

(2) Notwithstanding Subsection (1), the period of administrative control terminates no later than the earlier of:

(a) the day on which the declarant no longer owns any lot and no longer possesses any development right; or

(b) seven years after the day on which a declarant has ceased to offer lots, including lots that may be created, for sale in the ordinary course of business.

[~~(2)~~](3) (a) A declarant may voluntarily surrender the right to appoint and remove a member of the board before the period of administrative control terminates under Subsection (1).

(b) Subject to Subsection [~~(2)(a)~~](3)(a), the declarant may require, for the duration of the period of administrative control, that actions of the association or board, as specified in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

(c) During a period of administrative control, except as provided in Subsection [~~(2)(a)~~](3)(a), a declarant may appoint the declarant's officers, employees, or agents as members of the board.

[~~(3)~~](4) (a) Upon termination of the period of administrative control, the lot owners shall elect a board consisting of an odd number of at least three members, a majority of whom shall be lot owners.

(b) Unless the declaration provides for the election of officers by the lot owners, the board shall elect officers of the association.

(c) The board members and officers shall take office upon election or appointment.

(5) During the period of administrative control, the declarant shall:

(a) use reasonable care and prudence in managing and maintaining the common areas;

(b) establish a sound fiscal basis for the association by imposing and collecting assessments and establishing reserves for the maintenance and replacement of common areas;

(c) for a service that the association is or will be obligated to provide, disclose to the lot owners the amount of money the declarant provides for or subsidizes for that service;

(d) maintain records and account for the financial affairs of the association from the association's inception;

(e) comply with and enforce the terms of the declaration, including design controls, land-use restrictions, and the payment of assessments; and

(f) disclose to the lot owners all material facts and circumstances affecting:

(i) the condition of the property that the association is responsible for maintaining; and

(ii) the financial condition of the association, including the interest of the declarant and the declarant's affiliates in any contract, lease, or other agreement entered into by the association.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 198
H. B. 87
Passed March 4, 2025
Approved March 25, 2025
Effective May 7, 2025

DRUG TRAFFICKING AMENDMENTS

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Senate Sponsor: Brady Brammer

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LONG TITLE

General Description:

This bill addresses the trafficking of certain controlled substances.

Highlighted Provisions:

This bill:

- ► creates a criminal offense of trafficking of fentanyl or a fentanyl-related substance; and
- ► makes conforming and technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37-8, as last amended by Laws of Utah 2024, Chapter 105

ENACTS:

58-37-8.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, and under circumstances not amounting to an offense described in Section 58-37-8.1, trafficking of fentanyl or a fentanyl-related substance, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) (i) Except as provided in Subsection (1)(c)(ii), a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as described in Subsection (1)(b) and Title 76, Chapter 3, Punishments.

(ii) The court shall impose an indeterminate prison term for a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation, the person intentionally or knowingly:

(A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section 76-10-501, that is not a firearm, in an angry, threatening, intimidating, or coercive manner;

(B) used a firearm or had a firearm readily accessible for immediate use, as those terms are defined in Section 76-10-501; or

(C) distributed a firearm, as that term is defined in Section 76-10-501, or possessed a firearm with intent to distribute the firearm.

(iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate prison term for a person convicted under Subsection (1)(c)(ii) if the court:

(A) details on the record the reasons why it is in the interests of justice not to impose the indeterminate prison term;

(B) makes a finding on the record that the person does not pose a significant safety risk to the public; and

(C) orders the person to complete the terms and conditions of supervised probation provided by the Department of Corrections.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second

conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i) through (vi);

(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally

sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research;

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment; or

(c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled or counterfeit substance to conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 2. Section 58-37-8.1 is enacted to read:

58-37-8.1. Trafficking of fentanyl or a fentanyl-related substance.

(1) As used in this section:

(a) "Fentanyl-related substance" means a derivative or analog of fentanyl including:

(i) carfentanil;

(ii) sufentanil;

(iii) alfentanil; or

(iv) a fentanyl-related substance that is a controlled substance as described in Section 58-37-3.

(b) "Trafficking amount of fentanyl or a fentanyl-related substance" means 100 grams or more of any composition or mixture, including pills, that contains any quantity of fentanyl or a fentanyl-related substance.

(2) A person commits trafficking of fentanyl or a fentanyl-related substance if the person intentionally:

(a) produces, manufactures, or dispenses a trafficking amount of fentanyl or a fentanyl-related substance;

(b) distributes a trafficking amount of fentanyl or a fentanyl-related substance;

(c) agrees, consents, offers, or arranges to distribute a trafficking amount of fentanyl or a fentanyl-related substance; or

(d) possesses a trafficking amount of fentanyl or a fentanyl-related substance with the intent to distribute the fentanyl or fentanyl-related substance.

(3) A violation of Subsection (2) is a first degree felony.

(4) Except as provided in Subsection (5) or (6), a court may not grant probation, suspend the execution or imposition of the sentence, order hospitalization, or enter a judgment for a lower category of offense under Section 76-3-402, if the effect of which would in any way shorten the person's required indeterminate prison sentence, when:

(a) sentencing a person for a violation described in Subsection (3);

(b) sentencing a person for a conviction of an attempt to commit trafficking of fentanyl or a fentanyl-related substance in accordance with Section 76-4-102; or

(c) sentencing a person who has had the first degree felony classified in Subsection (3)reduced one degree by a prosecuting attorney in accordance with Section 77-2-2.3.

(5) A court may suspend the execution or imposition of a prison sentence under Subsection (4) if the court:

(a) makes a finding on the record that:

(i) details why it is in the interests of justice not to execute or impose the prison sentence; and

(ii) the actor does not pose a significant safety risk to the general public; and

(b) orders the actor to complete the terms and conditions of probation that is supervised by the Division of Adult Probation and Parole.

(6) Subsection (4) does not apply if the sentencing court finds that the person:

(a) was under 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 199
H. B. 92
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

PRIVATE INDIVIDUAL FORCE AND DETENTION AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill concerns the ability of a private individual to use force or detain another individual.

Highlighted Provisions:

This bill:

- ► amends the circumstances under which a private individual may use force in defense of personal property;
- ► amends the circumstances under which a private individual may lawfully detain another individual, including removing the use of the term "arrest";
- ► provides a limitation on civil and criminal liability for a private individual who temporarily detains another individual under certain circumstances;
- ► amends the force in arrest statute to provide that the statute applies to law enforcement officers and creates a new statute for when force can be used by a private individual when making a temporary detention;
- ► amends procedures that govern the subsequent arrest and transportation of an individual who has been temporarily detained by another private individual;
- ► adds a coordination clause between this bill and S.B. 79, Technical Code Amendments, to provide that the changes to Section 77-7-3 will supersede the changes to that section in S.B. 79; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-2-403, as enacted by Laws of Utah 1973, Chapter 196
76-2-406, as last amended by Laws of Utah 2024, Chapter 189
77-7-3, as enacted by Laws of Utah 1980, Chapter 15
77-7-7, as enacted by Laws of Utah 1980, Chapter 15
77-7-23, as last amended by Laws of Utah 2018, Chapter 140
78B-6-1605, as enacted by Laws of Utah 2009, Chapter 187
80-6-201, as last amended by Laws of Utah 2024, Chapter 301

ENACTS:

77-7-7.1, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

AMENDS:

77-7-3, as enacted by Laws of Utah 1980, Chapter 15

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-2-403 is amended to read:

76-2-403. Force in arrest or temporary detention.

[~~Any person~~]A person is justified in using any force, except deadly force, which [~~he~~]the person reasonably believes to be necessary to effect an arrest or temporary detention or to defend [~~himself~~]the person's self or another from bodily harm while making an arrest or temporary detention.

Section 2. Section 76-2-406 is amended to read:

76-2-406. Force in defense of property -- Affirmative defense.

(1) Except as provided in Section 76-2-405, an actor is justified in using force, other than deadly force, against another individual when and to the extent that the actor reasonably believes that force is necessary to prevent or terminate the individual's criminal interference with [~~real property or personal property~~]:

(a) real or personal property lawfully in the actor's possession;

(b) real or personal property lawfully in the possession of a member of the actor's immediate family; [~~or~~]

(c) real or personal property belonging to an individual whose property the actor has a legal duty to protect [~~.~~]; or

(d) personal property that the actor reasonably believes belongs to another person and that individual's criminal interference is meant to deprive the other person of the person's personal property.

(2) In determining reasonableness under Subsection (1), the trier of fact shall, in addition to any other factors, consider the following factors:

(a) the apparent or perceived extent of the damage to the property;

(b) property damage previously caused by the other individual;

(c) threats of personal injury or damage to property that have been made previously by the other individual; and

(d) any patterns of abuse or violence between the actor and the individual.

Section 3. Section 77-7-3 is amended to read:

77-7-3. Temporary detention made by a private individual.

(1) A private [~~person~~]individual may [~~arrest~~]temporarily detain another individual:

[~~(1)~~](a) [~~For~~]for a public offense committed or attempted in [~~his~~]the private individual's presence; or

[~~(2)~~](b) [~~When~~]when a felony has been committed and [~~he~~]the private individual has reasonable cause to believe the [~~person arrested~~]individual who the private individual seeks to temporarily detain has committed [~~it~~]the felony.

(2) (a) A temporary detention under Subsection (1) is lawful only if:

(i) the private individual immediately contacts law enforcement to notify law enforcement of the situation and the temporary detention; and

(ii) the temporary detention lasts only until a law enforcement officer arrives.

(b) A private individual is not required to immediately contact law enforcement as described in Subsection (2)(a)(i) if the private individual knows that another individual has already contacted law enforcement to notify law enforcement of the situation and the temporary detention.

(3) A private individual who in good faith conducts a lawful temporary detention under this section is:

(a) not liable for civil damages or penalties as a result of an act or omission by the private individual in performing the temporary detention unless the private individual was grossly negligent; and

(b) not subject to criminal prosecution for an act or omission by the private individual in performing the temporary detention unless the private individual was criminally negligent.

(4) A private individual may use force while temporarily detaining another individual under this section as described in Section 77-7-7.1.

Section 4. Section 77-7-7 is amended to read:

77-7-7. Use of force in making an arrest by a law enforcement officer.

(1) If a person is being arrested and flees or forcibly resists after being informed of the intention to make the arrest, the [~~person arresting~~]law enforcement officer making the arrest may use reasonable force to effect the arrest.

(2) Deadly force in making an arrest may be used only as provided in Section 76-2-404.

Section 5. Section 77-7-7.1 is enacted to read:

77-7-7.1. Use of force in making a temporary detention by a private individual.

(1) If a private individual temporarily detains another individual under Section 77-7-3, the private individual may use reasonable force to effect the temporary detention of the other individual if:

(a) the other individual who is being temporarily detained flees or forcibly resists after being informed of the private individual's intention to make the temporary detention; and

(b) the private individual's temporary detention of the other individual is lawful.

(2) Deadly force in making a temporary detention may only be used if the situation justifies the use of deadly force under Section 76-2-402, 76-2-405, or 76-2-407.

Section 6. Section 77-7-23 is amended to read:

77-7-23. Delivery of an individual arrested without a warrant to a magistrate -- Transfer to a court with jurisdiction -- Transfer of duties -- Violation as misdemeanor.

(1) (a) (i) (A) [~~When~~]If an arrest is made without a warrant by a peace officer [~~or private person~~], the [~~person arrested~~]individual who has been arrested shall be taken by a peace officer without unnecessary delay to the magistrate in the district court, the precinct of the county, or the municipality in which the offense occurred, except under Subsection (2).

(B) An information stating the charge against the [~~person~~]arrested individual shall be made before the magistrate.

(ii) If a private individual temporarily detains another individual under Section 77-7-3, a peace officer shall determine whether to release or arrest the individual who has been detained, and if the peace officer arrests the individual who has been detained, the peace officer shall follow the procedures described in Subsection (1)(a)(i).

(b) If the justice court judge of the precinct or municipality or the district court judge is not available, the arrested [~~person~~]individual shall be taken before the magistrate within the same county who is nearest to the scene of the alleged offense or nearest to the jail under Subsection (2), who may act as committing magistrate for arraigning the accused individual, setting bail, or issuing warrants.

(2) (a) If the arrested [~~person~~]individual under Subsection (1) must be transported from jail to a magistrate, the [~~person~~]individual may be taken before the magistrate nearest to the jail rather than the magistrate specified in Subsection (1) for arraignment, setting bail, or issuing warrants.

(b) The case shall then be transferred to the court having jurisdiction.

(3) If a jail accepts custody of [~~a person~~]an individual arrested under Subsection (1), the duties under this section of the peace officer [~~or private person~~]who makes the arrest are transferred to the jail and the jail's personnel.

(4) This section does not confer jurisdiction upon a court unless otherwise provided by law.

(5) [~~Any officer or person violating this section is guilty of~~]A violation of this section is a class B misdemeanor.

Section 7. Section 78B-6-1605 is amended to read:

78B-6-1605. Reservation of legal options -- Ordinances.

(1) (a) This part may not be construed as a waiver by a local entity of a right to seek reimbursement for actual costs of response services through another legal remedy or procedure.

(b) The procedure provided for in this part is in addition to any other civil or criminal statute.

(c) This part does not limit the authority of a law enforcement officer to make an arrest, or a private [~~citizen to make an arrest~~]individual to make a lawful temporary detention under Section 77-7-3, for a criminal offense arising out of conduct regulated by this part.

(2) A local entity may impose by ordinance a stricter provision related to the conduct of an underage drinking gathering, including the imposition of a different civil penalty amount, except that the ordinance shall provide that a civil penalty for an underage drinking gathering may only be imposed by a local entity for which an emergency response provider provides services at the underage drinking gathering.

Section 8. Section 80-6-201 is amended to read:

80-6-201. Minor taken into temporary custody by peace officer, private individual, or probation officer -- Grounds -- Protective custody.

(1) A minor may be taken into temporary custody by a peace officer without a court order, or a warrant under Section 80-6-202, if the peace officer has probable cause to believe that:

(a) the minor has committed an offense under municipal, state, or federal law;

(b) the minor seriously endangers the minor's own welfare or the welfare of others and taking the minor into temporary custody appears to be necessary for the protection of the minor or others;

(c) the minor has run away or escaped from the minor's parents, guardian, or custodian; or

(d) the minor is:

(i) subject to the state's compulsory education law; and

(ii) subject to Sections 53G-6-208 and 53G-8-211, absent from school without legitimate or valid excuse.

(2) A private [~~citizen~~]individual may take a minor into temporary custody if under the circumstances the private [~~citizen could make a citizen's arrest~~]individual would be lawfully able to effect a temporary detention under Section 77-7-3 if the minor was an adult.

(3) A juvenile probation officer may take a minor into temporary custody:

(a) under the same circumstances as a peace officer in Subsection (1); or

(b) if the juvenile probation officer has a reasonable suspicion that the minor has violated the conditions of the minor's probation.

(4) (a) Nothing in this part shall be construed to prevent a peace officer or the Division of Child and Family Services from taking a minor into protective custody under Section 80-2a-202 or 80-3-204.

(b) If a peace officer or the Division of Child and Family Services takes a minor into protective custody, the provisions of Chapter 2, Child Welfare Services, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings shall govern.

Section 9. Effective Date.

This bill takes effect on May 7, 2025.

Section 10. Coordinating H.B. 92 with S.B. 79.

If H.B. 92, Private Individual Force and Detention Amendments, and S.B. 79, Technical Code Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, the amendments to Section 77-7-3 in H.B. 92 supersede the amendments to Section 77-7-3 in S.B. 79.

CHAPTER 200
H. B. 94
Passed February 20, 2025
Approved March 25, 2025
Effective May 7, 2025

EXEMPTIONS FROM DANGEROUS WEAPONS PROVISIONS

Chief Sponsor: Calvin Roberts
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill addresses the discharge of a dangerous weapon.

Highlighted Provisions:

This bill:

- ► exempts certain individuals performing official duties;
- ► exempts farm custom slaughter licensees when acting pursuant to statute; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-508, as last amended by Laws of Utah 2023, Chapter 34
76-10-508.1, as last amended by Laws of Utah 2023, Chapter 34

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-508 is amended to read:
76-10-508. Discharge of dangerous weapon from a vehicle, near a highway, or in direction of specified items -- Penalties.

(1) (a) An individual may not discharge a dangerous weapon or firearm:

(i) from an automobile or other vehicle;

(ii) from, upon, or across a highway;

(iii) at a road sign placed upon a highway of the state;

(iv) at communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;

(v) at railroad equipment or facilities including a sign or signal;

(vi) within a Utah State Park building, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or

(vii) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:

(A) a house, dwelling, or any other building; or

(B) any structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.

(b) It is a defense to any charge for violating this section that the individual being accused had actual permission of the owner or person in charge of the property at the time in question.

(2) A violation of any provision of Subsection (1) is a class B misdemeanor.

(3) In addition to any other penalties, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(4) This section does not apply to an individual who:

(a) discharges a firearm when that individual is in lawful defense of self or others;

(b) is performing official duties as provided in Section [~~23A-5-202 and~~]23A-2-207 or 79-2-704 or Subsections 76-10-523(1)(a) through (f) and as otherwise provided by law; [~~or~~]

(c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (4)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

(v) the discharge is not made in violation of Subsection (1)[~~.~~]; or

(d) acting under a farm custom slaughter license, discharges a firearm or other dangerous weapon in accordance with Subsection 4-32-108(3).

Section 2. Section 76-10-508.1 is amended to read:

76-10-508.1. Felony discharge of a firearm -- Penalties.

(1) Except as provided under Subsection (2) or (3), an individual who discharges a firearm is guilty of a third degree felony punishable by imprisonment for a term of not less than three years nor more than five years if:

(a) the actor discharges a firearm in the direction of one or more individuals, knowing or having reason to believe that any individual may be endangered by the discharge of the firearm;

(b) the actor, with intent to intimidate or harass another or with intent to damage a habitable structure as defined in Section 76-6-101, discharges a firearm in the direction of any individual or habitable structure; or

(c) the actor, with intent to intimidate or harass another, discharges a firearm in the direction of any vehicle.

(2) A violation of Subsection (1) that causes bodily injury to any individual is a second degree felony punishable by imprisonment for a term of not less than three years nor more than 15 years.

(3) A violation of Subsection (1) that causes serious bodily injury to any individual is a first degree felony.

(4) In addition to any other penalties for a violation of this section, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(5) This section does not apply to an individual:

(a) who discharges a firearm when that individual is in lawful defense of self or others;

(b) who is performing official duties as provided in Section [~~23A-5-202~~]23A-2-207 or 79-2-704 or Subsections 76-10-523(1)(a) through (f) or as otherwise authorized by law; [~~or~~]

(c) who discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (5)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

(v) the discharge is not made in violation of Subsection (1)[~~.~~]; or

(d) acting under a farm custom slaughter license, discharges a firearm or other dangerous weapon in accordance with Subsection 4-32-108(3).

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 201
H. B. 96
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

FRAUD AMENDMENTS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill addresses the criminal offense of defrauding of creditors.

Highlighted Provisions:

This bill:

► amends the criminal offense of defrauding of creditors to increase the penalty for the offense based on the value of the fraud; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-511, as last amended by Laws of Utah 2023, Chapter 111

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-6-511 is amended to read:

76-6-511. Defrauding of creditors.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits defrauding of creditors if the actor:

(a) destroys, removes, conceals, encumbers, transfers, or otherwise deals with property subject to a security interest with a purpose to:

(i) []hinder enforcement of [~~that~~]the security interest; and

(ii) deprive the secured party of lawful possession of the property; or

(b) knowing that proceedings have been or are about to be instituted for the appointment of a person entitled to administer property for the benefit of creditors:

(i) destroys, removes, conceals, encumbers, transfers, or otherwise deals with any property with a purpose to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors; or

(ii) presents to any creditor or to an assignee for the benefit of creditors, orally or in writing, any statement relating to the debtor's estate, knowing that a material part of such statement is false.

(3) (a) A violation of Subsection [~~(2)~~](2)(a) or (2)(b)(i) is:

(i) []a class A misdemeanor [~~.~~]if the unpaid balance owed to the creditor on the property at the time of the act described in Subsection (2) is less than $10,000; or

(ii) a third degree felony if the unpaid balance owed to the creditor on the property at the time of the act described in Subsection (2) is or exceeds $10,000; or

(b) A violation of Subsection (2)(b)(ii) is a class A misdemeanor.

(4) This section [~~may not be construed to~~]does not impose criminal or civil liability on [~~any~~]a law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 202
H. B. 99
Passed February 28, 2025
Approved March 25, 2025
Effective May 7, 2025

RESIDENTIAL MORTGAGE LOAN AMENDMENTS

Chief Sponsor: Gay Lynn Bennion
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies the Utah Residential Mortgage Practices and Licensing Act.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► provides the Division of Real Estate authority to issue a citation to a person transacting residential mortgage loans that violates trigger lead standards;
- ► provides conditions where the use of information derived from a consumer report to solicit a consumer is prohibited; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

61-2-203, as last amended by Laws of Utah 2023, Chapter 401
61-2c-301, as last amended by Laws of Utah 2024, Chapter 218

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 61-2-203 is amended to read:
61-2-203. Adjudicative proceedings -- Citation authority.

(1) The division shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding under a chapter the division administers.

(2) The division may initiate an adjudicative proceeding through:

(a) a notice of agency action; or

(b) a notice of formal or informal proceeding.

(3) The provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to the issuance of a citation under Subsection (4), unless a licensee or another person authorized by law to contest the validity or correctness of a citation commences an adjudicative proceeding contesting the citation.

(4) In addition to any other statutory penalty for a violation related to an occupation or profession regulated under this title, the division may issue a citation to a person who, upon inspection or investigation, the division concludes to have violated:

(a) Subsection 61-2c-201(1)[~~, which requires licensure~~];

(b) Subsection 61-2c-201(4)[~~, which requires licensure~~];

(c) Subsection 61-2c-205(3)[~~, which requires notification of a change in specified information regarding a licensee~~];

(d) Subsection 61-2c-205(4)[~~, which requires notification of a specified legal action~~];

(e) Subsection [~~61-2c-301(1)(g), which prohibits failing to respond to the division within the required time period~~]61-2c-301(2)(g);

(f) Subsection [~~61-2c-301(1)(h), which prohibits making a false representation to the division~~]61-2c-301(2)(h);

(g) Subsection [~~61-2c-301(1)(i), which prohibits taking a dual role in a transaction~~]61-2c-301(2)(i);

(h) Subsection [~~61-2c-301(1)(l), which prohibits engaging in false or misleading advertising~~]61-2c-301(2)(l);

(i) Subsection [~~61-2c-301(1)(t), which prohibits advertising the ability to do licensed work if unlicensed~~]61-2c-301(2)(t);

(j) Subsection 61-2c-301(2)(y);

[~~(j)~~](k) Subsection 61-2c-302(5)[~~, which requires a mortgage entity to create and file a quarterly report of condition~~];

[~~(k)~~](l) Subsection 61-2e-201(1)[~~, which requires registration~~];

[~~(l)~~](m) Subsection 61-2e-203(4)[~~, which requires a notification of a change in ownership~~];

[~~(m)~~](n) Subsection 61-2e-307(1)(c)[~~, which prohibits use of an unregistered fictitious name~~];

[~~(n)~~](o) Subsection 61-2e-401(1)(c)[~~, which prohibits failure to respond to a division request~~];

[~~(o)~~](p) Subsection 61-2f-201(1)[~~, which requires licensure~~];

[~~(p)~~](q) Subsection 61-2f-206(1)[~~, which requires registration~~];

[~~(q)~~](r) Subsection 61-2f-301(1)[~~, which requires notification of a specified legal action~~];

[~~(r)~~](s) Subsection 61-2f-401(1)(a)[~~, which prohibits making a substantial misrepresentation~~];

[~~(s)~~](t) Subsection 61-2f-401(3)[~~, which prohibits undertaking real estate while not affiliated with a principal broker~~];

[~~(t)~~](u) Subsection 61-2f-401(9)[~~, which prohibits failing to keep specified records and prohibits failing to make the specified records available for division inspection~~];

[~~(u)~~](v) Subsection 61-2f-401(12)[~~, which prohibits false, misleading, or deceptive advertising~~];

[~~(v)~~](w) Subsection 61-2f-401(18)[~~, which prohibits failing to respond to a division request~~];

[~~(w)~~](x) Subsection 61-2g-301(1)[~~, which requires licensure~~];

[~~(x)~~](y) Subsection 61-2g-405(3)[~~, which requires making records required to be maintained available to the division~~];

[~~(y)~~](z) Subsection 61-2g-501(2)(c)[~~, which requires a person to respond to a division request in an investigation within 10 days after the day on which the request is served~~];

[~~(z)~~](aa) Subsection 61-2g-502(2)(f)[~~, which prohibits using a nonregistered fictitious name~~];

[~~(aa)~~](bb) a rule made [~~pursuant to any Subsection~~]in accordance with any subsection listed in this Subsection (4);

[~~(bb)~~](cc) an order of the division; or

[~~(cc)~~](dd) an order of the commission or board that oversees the person's profession.

(5) (a) In accordance with Subsection (10), the division may assess a fine against a person for a violation of a provision listed in Subsection (4), as evidenced by:

(i) an uncontested citation;

(ii) a stipulated settlement; or

(iii) a finding of a violation in an adjudicative proceeding.

(b) The division may, in addition to or in lieu of a fine under Subsection (5)(a), order the person to cease and desist from an activity that violates a provision listed in Subsection (4).

(6) Except as provided in Subsection (8)(d), the division may not use a citation to effect a license:

(a) denial;

(b) probation;

(c) suspension; or

(d) revocation.

(7) (a) A citation issued by the division shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the statute, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days after the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time period specified in the citation.

(b) The division may issue a notice in lieu of a citation.

(8) (a) A citation becomes final:

(i) if within 20 calendar days after the day on which the citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation; or

(ii) if the director or the director's designee conducts a hearing pursuant to a timely request for a hearing and issues an order finding that a violation has occurred.

(b) The division may extend, for cause, the 20-day period to contest a citation.

(c) A citation that becomes the final order of the division due to a person's failure to timely request a hearing is not subject to further agency review.

(d) (i) The division may refuse to issue, refuse to renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(ii) The failure of a license applicant to comply with a citation after the citation becomes final is a ground for denial of the license application.

(9) (a) The division may not issue a citation under this section after the expiration of one year after the day on which the violation occurs.

(b) The division may issue a notice to address a violation that is outside of the one-year citation period.

(10) The director or the director's designee shall assess a fine with a citation in an amount that is no more than:

(a) for a first offense, $1,000;

(b) for a second offense, $2,000; and

(c) for each offense subsequent to a second offense, $2,000 for each day of continued offense.

(11) (a) An action for a first or second offense for which the division has not issued a final order does not preclude the division from initiating a subsequent action for a second or subsequent offense while the preceding action is pending.

(b) The final order on a subsequent action is considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(12) (a) If a person does not pay a penalty, the director may collect the unpaid penalty by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) A county attorney or the attorney general of the state shall provide legal services to the director in an action to collect the penalty.

(c) A court may award reasonable attorney fees and costs to the division in an action the division brings to enforce the provisions of this section.

Section 2. Section 61-2c-301 is amended to read:

61-2c-301. Prohibited conduct -- Violations of the chapter.

(1) As used in this section:

(a) "Prescreened trigger lead information" means information derived from a consumer report that is given to a third party that is not affiliated with the consumer.

(b) (i) "Solicitation" means contacting a consumer to market mortgage loan services.

(ii) "Solicitation" includes:

(A) accepting or offering to accept a mortgage loan application;

(B) helping or offering to help process a mortgage loan application;

(C) soliciting or offering to solicit a mortgage loan for a third party; or

(D) negotiating or offering to negotiate the terms of a mortgage loan with a lender for a third party.

(2) A person, when transacting the business of residential mortgage loans in this state, may not:

(a) violate Section 8 of RESPA;

(b) charge a fee in connection with a residential mortgage loan transaction:

(i) that is excessive; or

(ii) without providing to the loan applicant a written statement signed by the loan applicant:

(A) stating whether [~~or not~~]the fee or deposit is refundable; and

(B) describing the conditions, if any, under which all or a portion of the fee or deposit will be refunded to the loan applicant;

(c) act incompetently in the transaction of the business of residential mortgage loans [~~such that the person fails~~]resulting in the person failing to:

(i) safeguard the interests of the public; or

(ii) conform to acceptable standards of the residential mortgage loan industry;

(d) do any of the following as part of a residential mortgage loan transaction, regardless of whether the residential mortgage loan closes:

(i) make a false statement or representation;

(ii) cause false documents to be generated; or

(iii) knowingly permit false information to be submitted by any party;

(e) give or receive compensation or anything of value, or withhold or threaten to withhold payment of an appraiser fee, to influence the independent judgment of an appraiser in reaching a value conclusion in a residential mortgage loan transaction, except that it is not a violation of this section for a licensee to withhold payment because of a bona fide dispute regarding a failure of the appraiser to comply with the licensing law or the Uniform Standards of Professional Appraisal Practice;

(f) violate or not comply with:

(i) this chapter;

(ii) an order of the commission or division; or

(iii) a rule made by the division;

(g) fail to respond within the required time period to:

(i) a notice or complaint of the division; or

(ii) a request for information from the division;

(h) make false representations to the division, including in a licensure statement;

(i) engage in the business of residential mortgage loans with respect to the transaction if the person also acts in any of the following capacities with respect to the same residential mortgage loan transaction:

(i) appraiser;

(ii) escrow agent;

(iii) real estate agent;

(iv) general contractor; or

(v) title insurance producer;

(j) engage in unprofessional conduct as defined by rule;

(k) engage in an act or omission in transacting the business of residential mortgage loans that constitutes dishonesty, fraud, or misrepresentation;

(l) engage in false or misleading advertising;

(m) (i) fail to account for money received in connection with a residential mortgage loan;

(ii) use money for a different purpose from the purpose for which the money is received; or

(iii) except as provided in Subsection [~~(4),~~](5), retain money paid for services if the services are not performed;

(n) fail to provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling in accordance with Subsection [~~(5);~~](6);

(o) engage in an act that is performed to:

(i) evade this chapter; or

(ii) assist another person to evade this chapter;

(p) recommend or encourage default, delinquency, or continuation of an existing default or delinquency, by a mortgage applicant on an existing indebtedness before the closing of a residential mortgage loan that will refinance all or part of the indebtedness;

(q) in the case of the lending manager of an entity or a branch office of an entity, fail to exercise reasonable supervision over the activities of:

(i) unlicensed staff; or

(ii) a mortgage loan originator who is affiliated with the lending manager;

(r) pay or offer to pay an individual who does not hold a license under this chapter for work that requires the individual to hold a license under this chapter;

(s) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(i) provide a title insurance product or service without the approval required by Section 31A-2-405; or

(ii) knowingly provide false or misleading information in the statement required by Subsection 31A-2-405(2);

(t) represent to the public that the person can or will perform any act of a mortgage loan originator if that person is not licensed under this chapter because the person is exempt under Subsection 61-2c-105(4), including through:

(i) advertising;

(ii) a business card;

(iii) stationery;

(iv) a brochure;

(v) a sign;

(vi) a rate list; or

(vii) other promotional item;

(u) (i) engage in an act of loan modification assistance without being licensed under this chapter;

(ii) engage in an act of foreclosure rescue that requires licensure as a real estate agent or real estate broker under Chapter 2, Division of Real Estate, without being licensed under that chapter;

(iii) engage in an act of loan modification assistance without entering into a written agreement specifying which one or more acts of loan modification assistance will be completed;

(iv) request or require a person to pay a fee before obtaining:

(A) a written offer for a loan modification from the person's lender or servicer; and

(B) the person's written acceptance of the offer from the lender or servicer;

(v) induce a person seeking a loan modification to hire the licensee to engage in an act of loan modification assistance by:

(A) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(B) falsely representing or advertising that the licensee is acting on behalf of:

(I) a government agency;

(II) the person's lender or loan servicer; or

(III) a nonprofit or charitable institution;

(vi) recommend or participate in a loan modification that requires a person to:

(A) transfer title to real property to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(B) make a mortgage payment to a person other than the person's loan servicer; or

(C) refrain from contacting the person's:

(I) lender;

(II) loan servicer;

(III) attorney;

(IV) credit counselor; or

(V) housing counselor; or

(vii) for an agreement for loan modification assistance entered into on or after May 11, 2010, engage in an act of loan modification assistance without offering in writing to the person entering into the agreement for loan modification assistance a right to cancel the agreement within three business days after the day on which the person enters the agreement;

(v) sign or initial a document on behalf of another person, except for in a circumstance allowed by the division by rule, with the concurrence of the commission, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(w) violate or fail to comply with a provision of Title 57, Chapter 28, Utah Reverse Mortgage Act; [~~or~~]

(x) engage in any act or practice that violates appraisal independence as defined in 15 U.S.C. Sec. 1639e or in the policies and procedures of:

(i) the Federal Home Loan Mortgage Corporation; or

(ii) the Federal National Mortgage Association [~~.~~]; or

(y) use prescreened trigger lead information to solicit a consumer who has applied for a mortgage loan with another financial institution, if the person:

(i) fails to state in the initial solicitation that the person is not affiliated with the mortgage loan company or mortgage loan broker with which the consumer initially applied;

(ii) fails in the initial solicitation to conform to state and federal law relating to solicitations using consumer reports, including the requirement to make a firm offer of credit to the consumer; or

(iii) solicits a consumer with an offer of certain rates, terms, and costs with the knowledge that the person will subsequently change the rates, terms, or costs to the detriment of the consumer.

[~~(2)~~](3) Regardless of whether the crime is related to the business of residential mortgage loans, it is a violation of this chapter for a licensee or a person who is a certified education provider to:

(a) be convicted of:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(b) plead guilty or nolo contendere to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor; or

(c) enter into a plea in abeyance agreement in relation to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor.

[~~(3)~~](4) A lending manager does not violate Subsection [~~(1)(q)~~](2)(q) if:

(a) in contravention of the lending manager's written policies and instructions, an affiliated licensee of the lending manager violates:

(i) this chapter; or

(ii) rules made by the division under this chapter;

(b) the lending manager established and followed reasonable procedures to ensure that affiliated licensees receive adequate supervision;

(c) upon learning of a violation by an affiliated licensee, the lending manager attempted to prevent or mitigate the damage;

(d) the lending manager did not participate in or ratify the violation by an affiliated licensee; and

(e) the lending manager did not attempt to avoid learning of the violation.

[~~(4)~~](5) Notwithstanding Subsection [~~(1)(m)(iii)~~](2)(m)(iii), a licensee may, upon compliance with Section 70D-2-305, charge a reasonable cancellation fee for work done originating a mortgage if the mortgage is not closed.

[~~(5)~~](6) (a) Except as provided in Subsection [~~(5)(b)~~](6)(b), a person transacting the business of residential mortgage loans in this state shall provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling on or before the earlier of:

(i) as soon as reasonably possible after the appraisal or other valuation is complete; or

(ii) three business days before the day of the settlement.

(b) Subject to Subsection [~~(5)(c)~~](6)(c), unless otherwise prohibited by law, a prospective borrower may waive the timing requirement described in Subsection [~~(5)(a)~~](6)(a) and agree to receive each appraisal and any other written valuation:

(i) less than three business days before the day of the settlement; or

(ii) at the settlement.

(c) (i) Except as provided in Subsection [~~(5)(c)(ii)~~](6)(c)(ii), a prospective borrower shall submit a waiver described in Subsection [~~(5)(b)~~](6)(b) at least three business days before the day of the settlement.

(ii) Subsection [~~(5)(b)~~](6)(b) does not apply if the waiver only pertains to a copy of an appraisal or other written valuation that contains only clerical changes from a previous version of the appraisal or other written valuation and the prospective borrower received a copy of the original appraisal or other written valuation at least three business days before the day of the settlement.

(d) If a prospective borrower submits a waiver described in Subsection [~~(5)(b)~~](6)(b) and the transaction never completes, the person transacting the business of residential mortgage loans shall provide a copy of each appraisal or any other written valuation to the applicant no later than 30 days after the day on which the person knows the transaction will not complete.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 203
H. B. 100
Passed March 6, 2025
Approved March 25, 2025
Effective July 1, 2025

FOOD SECURITY AMENDMENTS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill establishes a program to provide lunch at no cost to an eligible student.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► provides certain students access to lunch at no charge;
- ► requires the State Board of Education to reimburse each local education agency (LEA) for certain reduced price lunches;
- ► prohibits an LEA from stigmatizing students who cannot afford meals;
- ► encourages an LEA to reduce food waste; and
- ► requires communications regarding a student's meal debt to be directed only to the student's parent.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53F-2-422, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-422 is enacted to read:

53F-2-422. School meal program.

(1) As used in this section:

(a) "Education model health and wellness policy on nutrition" means state board policy emphasizing that an LEA promote efficient meal scheduling, provide adequate time for eating, and implement practices that help reduce food waste.

(b) "Eligible student" means a student enrolled in kindergarten through grade 12 who qualifies for reduced-price meals based on household size and income levels under the National School Lunch Program.

(c) "National School Lunch Program" means the same as that term is defined in 7 C.F.R. Sec. 210.2.

(d) "Share table program" means a system in a school where a student may return unopened, uneaten food or beverages to a designated location for redistribution to other students.

(2) An LEA participating in the National School Lunch Program shall provide lunch to an eligible student on a school day at no charge.

(3) The state board:

(a) shall:

(i) subject to legislative appropriations, reimburse an LEA for each reimbursable lunch provided under this section in an amount equal to the difference between the federal reimbursement rates for a meal and a reduced-price meal, as determined annually by the United States Department of Agriculture;

(ii) establish a reimbursement system where the board provides a monthly reimbursement to an LEA that provides a meal under Subsection (2); and

(iii) accept private donations and grants for the purpose of funding the school meal program described in this section; and

(b) may provide guidance and support to a school implementing the food waste prevention strategies described in Subsection (6).

(4) An LEA may not:

(a) publicly identify or stigmatize a student unable to pay for a meal; or

(b) require a student to perform chores to pay for a meal unless the requirement applies equally to all students regardless of whether the student pays for the meal.

(5) An LEA shall direct communications regarding a student's meal debt only to the student's parent.

(6) An LEA participating in the National School Lunch Program shall consider, where feasible, reducing food waste by:

(a) following the education model health and wellness policy on nutrition; and

(b) establishing a share table program.

(7) (a) Notwithstanding Subsection (3)(a)(i), if appropriations are insufficient to fully reimburse each LEA for the cost of a

reimbursable lunch described in this section, the state board shall distribute the available funds in the fourth quarter of the fiscal year to each LEA on a pro rata basis, not exceeding the available funds.

(b) An LEA may ask the parent of an eligible student to cover the remaining cost of a subsidized lunch under this section.

Section 2. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 204
H. B. 105
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

CRIMINAL CODE MODIFICATIONS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill makes changes to criminal offenses in Title 76, Utah Criminal Code.

Highlighted Provisions:

This bill:

- ► amends the penalty for attempted murder;
- ► amends the crime of interference with a public servant;
- ► makes it a crime for an individual occupying a position of special trust in a high school to engage in certain sexual conduct with an adult high school student;
- ► makes it a crime for an individual to remove the clothing of another individual without the individual's consent in certain circumstances;
- ► repeals Title 76, Chapter 8, Part 8, Sabotage Prevention;
- ► contains a coordination clause to coordinate technical changes between this bill and H.B. 21, Criminal Code Recodification and Cross References; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-4-102, as last amended by Laws of Utah 2013, Chapter 93
76-5-203, as last amended by Laws of Utah 2024, Chapters 96, 187
76-8-301.2, as enacted by Laws of Utah 2024, Chapter 96

ENACTS:

76-5-417, Utah Code Annotated 1953
76-9-702.9, Utah Code Annotated 1953

REPEALS:

76-8-802, as last amended by Laws of Utah 2024, Chapter 96
76-8-803, as last amended by Laws of Utah 2024, Chapter 96
76-8-804, as last amended by Laws of Utah 2024, Chapter 96
76-8-805, as last amended by Laws of Utah 2024, Chapter 96
76-8-807, as last amended by Laws of Utah 2024, Chapter 96
76-8-810, as last amended by Laws of Utah 2024, Chapter 96
76-8-811, as last amended by Laws of Utah 2024, Chapter 96

Utah Code Sections Affected by Coordination Clause:

AMENDS:

76-9-702.9, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-4-102 is amended to read:
76-4-102. Attempt -- Classification of offenses.

(1) [~~Criminal attempt~~]A violation of Section 76-4-101 where the actor attempts to commit:

(a) (i) a capital felony, or a felony punishable by imprisonment for life without parole, is a first degree felony;

(ii) except as provided in Subsection (2), [~~an attempt to commit~~]aggravated murder [~~,~~]under Section 76-5-202, which results in serious bodily injury, is punishable by imprisonment for an indeterminate term of not fewer than 15 years and which may be for life;

(b) except as provided in Subsection (1)(c)[~~or~~],(d), or (e), a first degree felony is a second degree felony;

(c) murder under Subsection 76-5-203(2)(a) is a first degree felony punishable by imprisonment for an indeterminate term of not fewer than five years and which may be for life;

[~~(c)~~](d) [~~any of~~]one of the the following offenses is a first degree felony that is punishable by imprisonment for an indeterminate term

of not fewer than three years and which may be for life:

[~~(i) murder, Subsection 76-5-203(2)(a);~~]

[~~(ii)~~](i) child kidnapping [~~,~~]under Section 76-5-301.1; or

[~~(iii)~~](ii) except as provided in Subsection [~~(1)(d), any of the felonies~~](1)(e), a felony described in Title 76, Chapter 5, Part 4, Sexual Offenses, that [~~are first degree felonies~~]is a first degree felony;

[~~(d)~~](e) except as provided in Subsection (3), [~~any~~]one of the following offenses is a first degree felony [~~,~~]that is punishable by [~~a term of~~] imprisonment for an indeterminate term of not [~~less~~]fewer than 15 years and which may be for life:

(i) rape of a child [~~,~~]under Section 76-5-402.1;

(ii) object rape of a child [~~,~~]under Section 76-5-402.3; or

(iii) sodomy on a child [~~,~~]under Section 76-5-403.1;

[~~(e)~~](f) a second degree felony is a third degree felony;

[~~(f)~~](g) a third degree felony is a class A misdemeanor;

[~~(g)~~](h) a class A misdemeanor is a class B misdemeanor;

[~~(h)~~](i) a class B misdemeanor is a class C misdemeanor; and

[~~(i)~~](j) a class C misdemeanor is punishable by a penalty not exceeding one half the penalty for a class C misdemeanor.

(2) If, when imposing a sentence under Subsection (1)(a)(ii), a court finds that a lesser term than the term described in Subsection (1)(a)(ii) is in the interests of justice and the court states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life; or

(b) six years and which may be for life.

(3) If, when imposing a sentence under Subsection [~~(1)(d),~~](1)(e), a court finds that a lesser term than the term described in Subsection [~~(1)(d)~~](1)(e) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life;

(b) six years and which may be for life; or

(c) three years and which may be for life.

Section 2. Section 76-5-203 is amended to read:

76-5-203. Murder -- Penalties -- Affirmative defense and special mitigation -- Separate offenses.

(1) (a) As used in this section, "predicate offense" means:

(i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;

(ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused individual is younger than 18 years old;

(iii) kidnapping under Section 76-5-301;

(iv) child kidnapping under Section 76-5-301.1;

(v) aggravated kidnapping under Section 76-5-302;

(vi) rape under Section 76-5-402;

(vii) rape of a child under Section 76-5-402.1;

(viii) object rape under Section 76-5-402.2;

(ix) object rape of a child under Section 76-5-402.3;

(x) forcible sodomy under Section 76-5-403;

(xi) sodomy upon a child under Section 76-5-403.1;

(xii) forcible sexual abuse under Section 76-5-404;

(xiii) sexual abuse of a child under Section 76-5-404.1;

(xiv) aggravated sexual abuse of a child under Section 76-5-404.3;

(xv) aggravated sexual assault under Section 76-5-405;

(xvi) arson under Section 76-6-102;

(xvii) aggravated arson under Section 76-6-103;

(xviii) burglary under Section 76-6-202;

(xix) aggravated burglary under Section 76-6-203;

(xx) robbery under Section 76-6-301;

(xxi) aggravated robbery under Section 76-6-302;

(xxii) escape under Section 76-8-309;

(xxiii) aggravated escape under Section 76-8-309.3; or

(xxiv) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of a firearm or dangerous weapon.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits murder if:

(a) the actor intentionally or knowingly causes the death of another individual;

(b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of the other individual;

(c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct that creates a grave risk of death to another individual and thereby causes the death of the other individual;

(d) (i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted

commission of any predicate offense, or is a party to the predicate offense;

(ii) an individual other than a party described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and

(iii) the actor acted with the intent required as an element of the predicate offense;

(e) the actor recklessly causes the death of a peace officer or military service member in uniform while in the commission or attempted commission of:

(i) an assault against a peace officer under Section 76-5-102.4;

(ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against the peace officer; or

(iii) an assault against a military service member in uniform under Section 76-5-102.4; or

(f) the actor commits a homicide that would be aggravated murder, but the offense is reduced in accordance with Subsection 76-5-202(4).

(3) (a) (i) A violation of Subsection (2) is a first degree felony.

(ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.

(b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or [~~76-4-102(1)(c)(i)~~]76-4-102(1)(c), enter a judgment of conviction for attempted manslaughter.

(4) (a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.

(5) (a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.

(b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 3. Section 76-5-417 is enacted to read:

76-5-417. Sexual relations with an adult high school student.

(1) (a) As used in this section:

(i) "Actor" means an individual who is 21 years old or older.

(ii) "Adult high school student" means an individual who is 18 to 21 years old and enrolled at a high school.

(iii) "High school" means a district, charter, or private school that is comprised of grade 9, 10, 11, or 12.

(iv) "Position of special trust" means the following positions in a high school:

(A) a teacher;

(B) an administrator;

(C) a coach;

(D) a counselor; or

(E) an individual other than an individual listed in Subsections (1)(a)(iv)(A) through (1)(a)(iv)(D) who occupies a position of authority that enables the individual to exercise undue influence over an adult high school student.

(v) "Sexual intercourse" means any penetration, however slight, of:

(A) the genitals or anus of an individual by another individual using any body part, object, or substance; or

(B) the mouth of an individual by another individual's genitals.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits sexual relations with an adult high school student if the actor:

(a) (i) has sexual intercourse with an adult high school student; or

(ii) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of an adult high school student;

(B) touches the breast of a female adult high school student; or

(C) otherwise takes indecent liberties with an adult high school student;

(b) occupies a position of special trust in relation to the adult high school student described in Subsection (2)(a); and

(c) knows or should have known that the individual with which the actor committed the acts described in Subsection (2)(a) was an adult high school student.

(3) A violation of Subsection (2) is a third degree felony.

(4) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a)(ii).

(5) Consent of an adult high school student to an act described in Subsection (2) is not a defense to prosecution under this section.

Section 4. Section 76-8-301.2 is amended to read:

76-8-301.2. Denial of public servant's use of public property.

(1) (a) As used in this section, "public servant" does not include a juror.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits denial of public servant's use of public property if, under circumstances not amounting to unlawful detention and unlawful detention of a minor as described in Section 76-5-304, the actor, on property that is owned, operated, or controlled by the state or a political subdivision of the state, willfully denies to a public servant lawful:

(a) freedom of movement;

(b) use of the property or facility; or

(c) entry into or exit from the facility.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 5. Section 76-9-702.9 is enacted to read:

76-9-702.9. Indecent exposure of another individual.

(1) (a) As used in this section:

(i) "First responder" means the same as that term is defined in Section 34A-2-102.

(ii) "Health care professional" means the same as that term is defined in Section 53-3-207.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits indecent exposure of another individual if the actor exposes in a public place, without the individual's consent, the individual's:

(a) undergarments intended to cover the individual's genitals, breasts if the individual is female, buttocks, anus, or pubic area; or

(b) genitals, breast below the top of the areola if the individual is female, buttocks, anus, or pubic area.

(3) (a) A violation of Subsection (2)(a) is a class C misdemeanor.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2)(b) is a class B misdemeanor.

(c) A violation of Subsection (2)(b) is a class A misdemeanor if the actor committed the violation in the presence of an individual who is younger than 14 years old.

(4) An actor under the age of 18 years old may not be referred to the juvenile court or prosecuting attorney under this section unless the actor has previously received a written warning from a law enforcement officer for conduct described in Subsection (2).

(5) This section does not apply to a first responder or health care professional who removes the clothing of another individual during an emergency to provide medical care to that individual resulting in the exposure of that individual described in Subsection (2).

Section 6. Repealer.

This bill repeals:

Section 76-8-802, Destruction of property to interfere with preparations for defense or war.

Section 76-8-803, Causing or omitting to note defects in articles used in preparation for defense or war.

Section 76-8-804, Attempts to commit crimes of sabotage.

Section 76-8-805, Conspiracy to commit crimes of sabotage.

Section 76-8-807, Trespassing at a war or defense facility.

Section 76-8-810, Violation of an order closing or restricting a highway.

Section 76-8-811, Bargaining rights of employees not impaired by sabotage prevention laws.

Section 7. Effective date.

This bill takes effect on May 7, 2025.

Section 8. Coordinating H.B. 105 with H.B. 21.

If H.B. 105, Criminal Code Modifications, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025, Section 76-9-702.9, enacted in H.B. 105, be renumbered to Section 76-5-421.

CHAPTER 206
H. B. 114
Passed February 27, 2025
Approved March 25, 2025
Effective May 7, 2025

ARCHITECTS LICENSING ACT AMENDMENTS

Chief Sponsor: Trevor Lee
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill modifies the Architects Licensing Act.

Highlighted Provisions:

This bill:

- ► narrows the scope of unlawful conduct for individuals engaging in architecture; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-3a-501, as enacted by Laws of Utah 1996, Chapter 260

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-3a-501 is amended to read:

58-3a-501. Unlawful conduct.

"Unlawful conduct" includes:

(1) except as provided in Subsection 58-3a-304(1), using the title "architect" or any other words, letters, or abbreviations indicating that the person using them is an architect if the person has not been licensed under this chapter, except as provided in Subsection 58-3a-304(1); or

(2) engaging in or representing itself as engaging in the practice of architecture as a corporation, proprietorship, partnership, or limited liability company unless exempted from licensure under Section 58-1-307 or 58-3a-304.

(3) Using derivations of the word architecture is not a violation when describing services or work within the practice of architecture as defined by Section 58-3a-102 and as authorized in Section 58-3a-304.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 207
H. B. 119
Passed March 4, 2025
Approved March 25, 2025
Effective May 7, 2025

SOLAR PANEL RESTRICTIONS IN HOMEOWNERS ASSOCIATIONS AMENDMENTS

Chief Sponsor: Doug Owens
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies the Utah Community Association Act.

Highlighted Provisions:

This bill:

► stops a homeowners association from prohibiting solar panel installation; and
► authorizes a homeowners association to restrict solar panel installation.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8a-701, as last amended by Laws of Utah 2023, Chapter 503

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-8a-701 is amended to read:

57-8a-701. Solar energy system -- Restriction in declaration or association rule.

(1) As used in this section, "detached dwelling" means a detached dwelling for which the association does not have an ownership interest in the detached dwelling's roof.

(2) (a) [~~A~~]No governing document, other than a declaration, may [~~not~~]prohibit an owner of a lot with:

(i) a detached dwelling from installing a solar energy system; or

(ii) a dwelling attached to other dwellings from installing a solar energy system, if:

(A) the association does not have an ownership interest in the dwelling's roof or building exterior;

(B) the association does not have a maintenance, repair, or replacement obligation in the dwelling's roof or building exterior; and

(C) all lot owners with attached dwellings in the building agree to the installation of the solar energy system.

(b) [~~A governing document other than a~~]Except as provided in Subsection (4), solar energy system restrictions on the owner of a lot described in Subsection (2)(a) shall be by declaration or [~~an~~]association rule [~~may not restrict an owner of a lot with:~~].

[~~(i) a detached dwelling from installing a solar energy system on the owner's lot; or~~]

[~~(ii) a dwelling attached to other dwellings from installing a solar energy system on the roof of the dwelling's building, if:~~]

[~~(A) the association does not have an ownership interest in the dwelling's roof or building exterior;~~]

[~~(B) the association does not have a maintenance, repair, or replacement obligation in the dwelling's roof or building exterior; and~~]

[~~(C) all lot owners with attached dwellings in the building agree to the installation of the solar energy system.~~]

[~~(3) A declaration may, for a lot with a detached dwelling:~~]

[~~(a) prohibit a lot owner from installing a solar energy system; or~~]

[~~(b) impose a restriction other than a prohibition on a solar energy system's size, location, or manner of placement if the restriction:~~]

[~~(i) decreases the solar energy system's production by 5% or less;~~]

[~~(ii) increases the solar energy system's cost of installation by 5% or less; and~~]

[~~(iii) complies with Subsection (6).~~]

[~~(4)~~](3) (a) [~~If a declaration does not expressly prohibit the installation of a solar energy system on a lot with a detached dwelling, an~~]An association may not amend the declaration to impose a prohibition on the installation of a solar energy system unless the association approves the prohibition by a vote of [~~greater than~~]at least 67% of the allocated voting interests of the lot owners in the association.

(b) An association may amend an existing provision in a declaration that prohibits the installation of a solar energy system on a lot with a detached dwelling if the association approves the amendment by a vote of [~~greater than 67%~~]at least 51% of the allocated voting interests of the lot owners in the association.

[~~(5) An association may, by association rule, for a lot with a detached dwelling, impose a restriction other than a prohibition on a lot owner's installation of a solar energy system if the restriction:~~]

[~~(a) complies with Subsection (6);~~]

[~~(b) decreases the solar energy system's production by 5% or less; and~~]

[~~(c) increases the solar energy system's cost of installation by 5% or less.~~]

[~~(6)~~](4) A declaration or an association rule may require an owner of a dwelling that installs a solar energy system on the owner's lot:

(a) [~~to~~]install a solar energy system that, or install the solar energy system in a manner that:

(i) complies with applicable health, safety, and building requirements established by the state or a political subdivision of the state;

(ii) if the solar energy system is used to heat water, is certified by:

(A) the Solar Rating and Certification Corporation; or

(B) a nationally recognized solar certification entity;

(iii) if the solar energy system is used to produce electricity, complies with applicable safety and performance standards established by:

(A) the National Electric Code;

(B) the Institute of Electrical and Electronics Engineers;

(C) Underwriters Laboratories;

(D) an accredited electrical testing laboratory; or

(E) the state or a political subdivision of the state;

(iv) if the solar energy system is mounted on a roof:

(A) does not extend above the roof line; or

(B) has panel frame, support bracket, or visible piping or wiring that has a color or texture that is similar to the roof material; or

(v) if the solar energy system is mounted on the ground, is not visible from the street that a lot fronts;

(b) [~~to~~]pay any reasonable cost or expense incurred by the association to review an application to install a solar energy system;

(c) be responsible, jointly and severally with any subsequent owner of the lot while the violation of the rule or requirement occurs, for any cost or expense incurred by the association to enforce a declaration requirement or association rule; [~~or~~]

(d) as a condition of installing a solar energy system, to record a deed restriction against the owner's lot that runs with the land that requires the current owner of the lot to indemnify or reimburse the association or a member of the association for any loss or damage caused by the installation, maintenance, or use of the solar energy system, including costs and reasonable attorney fees incurred by the association or a member of the association [~~.~~]; or

(e) follow restrictions on a solar energy system's size, location, or manner of placement if the restriction:

(i) decreases the solar energy system's production by 5% or less than the solar production without the restriction; and

(ii) increases the solar energy system's cost of installation by 5% or less than the cost of the installation without the restriction.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 208
H. B. 128
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

DANGEROUS WEAPONS RECODIFICATION AND CROSS REFERENCES

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies provisions in the Utah Code addressing dangerous weapons by redrafting statutes into a new structure, reorganizing applicable criminal statutes into a new standardized format, and clarifying existing law.

Highlighted Provisions:

This bill:

- ► restructures and makes technical changes to sections in the Utah Code dealing with dangerous weapons to bring the sections into a standardized format;
- ► enacts provisions detailing the current law surrounding the carrying of firearms;
- ► for clarity, places certain contents of Title 76, Chapter 10, Part 5, Weapons, into Title 53, Public Safety Code;
- ► clarifies criminal provisions regarding who is required to have a concealed carry permit in certain circumstances;
- ► includes coordination clauses coordinating technical changes between this bill and H.B. 183, Noncitizen Restricted Person Amendments, H.B. 21, Criminal Code Recodification and Cross References, and S.B. 14, Private Sale of a Firearm Sunset Review Amendments; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

13-74-101, as enacted by Laws of Utah 2024, Chapter 203
23A-4-1106, as last amended by Laws of Utah 2023, Chapter 345 and renumbered and amended by Laws of Utah 2023, Chapter 103
26B-1-326, as last amended by Laws of Utah 2024, Chapter 250
26B-2-120, as last amended by Laws of Utah 2024, Chapter 234
26B-5-102, as last amended by Laws of Utah 2024, Chapters 250, 420
31A-21-501, as last amended by Laws of Utah 2022, Chapters 185, 430
34-45-102, as enacted by Laws of Utah 2009, Chapter 379
34-45-107, as last amended by Laws of Utah 2016, Chapter 348
36-29-111, as last amended by Laws of Utah 2024, Chapter 506
47-3-305, as last amended by Laws of Utah 2021, Chapter 246
53-1-104, as last amended by Laws of Utah 2024, Chapter 506
53-2a-214, as renumbered and amended by Laws of Utah 2013, Chapter 295
53-3-220, as last amended by Laws of Utah 2024, Chapter 319
53-5a-102, as last amended by Laws of Utah 2022, Chapter 428
53-5a-103, as last amended by Laws of Utah 2023, Chapter 392
53-5a-202, as last amended by Laws of Utah 2024, Chapter 438
53-5d-102, as enacted by Laws of Utah 2016, Chapter 155
53-10-202, as last amended by Laws of Utah 2023, Chapter 328
53-10-202.5, as last amended by Laws of Utah 2022, Chapters 250, 384
53-10-208.1, as last amended by Laws of Utah 2023, Chapters 184, 328 and 397
53-10-403, as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256
53-11-108, as last amended by Laws of Utah 1999, Chapter 21
53-13-116, as enacted by Laws of Utah 2021, Chapter 164
53-22-105, as enacted by Laws of Utah 2024, Chapter 21
53-22-107, as enacted by Laws of Utah 2024, Chapter 117
53-25-103, as enacted by Laws of Utah 2024, Chapter 332
53-25-501, as enacted by Laws of Utah 2024, Chapter 111
53B-3-103, as last amended by Laws of Utah 2024, Chapter 378
53G-8-701.8, as enacted by Laws of Utah 2024, Chapter 21
53G-8-704, as enacted by Laws of Utah 2024, Chapter 21
58-37-8, as last amended by Laws of Utah 2024, Chapter 105

58-63-307, as last amended by Laws of Utah 2008, Chapter 246
63G-2-303, as last amended by Laws of Utah 2024, Chapter 465
63G-2-801, as last amended by Laws of Utah 2019, Chapter 254
63I-1-253, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-1-276, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-276, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63M-7-220, as enacted by Laws of Utah 2024, Chapter 506
72-10-901, as renumbered and amended by Laws of Utah 2023, Chapter 216
73-29-102, as last amended by Laws of Utah 2023, Chapter 34
76-3-203.1, as last amended by Laws of Utah 2024, Chapter 96
76-3-203.3, as last amended by Laws of Utah 2024, Chapters 96, 381
76-3-203.5, as last amended by Laws of Utah 2024, Chapters 96, 179
76-3-402, as last amended by Laws of Utah 2024, Chapter 234
76-5-102.8, as last amended by Laws of Utah 2022, Chapter 181
76-5-202, as last amended by Laws of Utah 2022, Chapter 181
76-5-203, as last amended by Laws of Utah 2024, Chapters 96, 187
76-8-311.1, as last amended by Laws of Utah 2024, Chapter 96
76-8-311.2, as enacted by Laws of Utah 2024, Chapter 96
76-8-311.3, as last amended by Laws of Utah 2024, Chapters 96, 99
76-8-311.4, as enacted by Laws of Utah 2024, Chapter 96
76-8-311.6, as enacted by Laws of Utah 2024, Chapter 96
76-8-311.7, as enacted by Laws of Utah 2024, Chapter 96
76-9-802, as last amended by Laws of Utah 2024, Chapter 96
76-9-804, as last amended by Laws of Utah 2022, Chapter 181
76-9-902, as last amended by Laws of Utah 2024, Chapter 96
76-10-306, as last amended by Laws of Utah 2024, Chapter 343
76-10-1602, as last amended by Laws of Utah 2024, Chapter 96
77-11a-402, as last amended by Laws of Utah 2024, Chapter 332
77-11a-403, as renumbered and amended by Laws of Utah 2023, Chapter 448
77-11b-102, as last amended by Laws of Utah 2023, Chapters 415, 422 and renumbered and amended by Laws of Utah 2023, Chapter 448
77-11d-101, as last amended by Laws of Utah 2024, Chapter 332
77-11d-105, as last amended by Laws of Utah 2024, Chapters 332, 517
77-36-1, as last amended by Laws of Utah 2024, Chapter 366
77-36-2.1, as last amended by Laws of Utah 2024, Chapter 434
77-40a-205, as enacted by Laws of Utah 2024, Chapter 180
77-40a-403, as last amended by Laws of Utah 2024, Chapter 180
78A-6-209, as last amended by Laws of Utah 2024, Chapter 235
78B-4-511, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-5-502, as last amended by Laws of Utah 2021, Chapter 260
78B-5-505, as last amended by Laws of Utah 2021, Chapter 260
78B-6-1107, as last amended by Laws of Utah 2021, Chapter 207
78B-6-2301, as last amended by Laws of Utah 2024, Chapter 438
80-6-103, as last amended by Laws of Utah 2024, Chapter 532
80-6-104, as last amended by Laws of Utah 2024, Chapter 20
80-6-303.5, as last amended by Laws of Utah 2024, Chapter 301
80-6-305, as last amended by Laws of Utah 2023, Chapter 161
80-6-503, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-605, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-712, as last amended by Laws of Utah 2024, Chapter 153
80-6-804, as last amended by Laws of Utah 2024, Chapter 153
80-6-1004.1, as enacted by Laws of Utah 2023, Chapter 115
80-6-1004.5, as last amended by Laws of Utah 2024, Chapter 301

ENACTS:

53-5a-101.5, Utah Code Annotated 1953
53-5a-102.1, Utah Code Annotated 1953
53-5a-102.2, Utah Code Annotated 1953
53-5a-601, Utah Code Annotated 1953
76-11-201, Utah Code Annotated 1953
76-11-203, Utah Code Annotated 1953
76-11-205.5, Utah Code Annotated 1953
76-11-206, Utah Code Annotated 1953
76-11-216, Utah Code Annotated 1953
76-11-220, Utah Code Annotated 1953
76-11-301, Utah Code Annotated 1953

76-11-302, Utah Code Annotated 1953
76-11-303, Utah Code Annotated 1953
76-11-304, Utah Code Annotated 1953
76-11-305, Utah Code Annotated 1953
76-11-306, Utah Code Annotated 1953
76-11-307, Utah Code Annotated 1953
76-11-308, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53-5a-102.3, (Renumbered from 76-10-511, as last amended by Laws of Utah 2009, Chapter 362)
53-5a-105, (Renumbered from 76-10-520, as last amended by Laws of Utah 1993, Chapter 234)
53-5a-106, (Renumbered from 76-10-522, as last amended by Laws of Utah 1993, Chapter 234)
53-5a-107, (Renumbered from 76-10-523.5, as last amended by Laws of Utah 2008, Chapter 3)
53-5a-108, (Renumbered from 76-10-523, as last amended by Laws of Utah 2021, Chapter 12)
53-5a-301, (Renumbered from 53-5-702, as last amended by Laws of Utah 2024, Chapter 22)
53-5a-302, (Renumbered from 53-5-703, as last amended by Laws of Utah 2010, Chapters 62, 286 and 324)
53-5a-303, (Renumbered from 53-5-704, as last amended by Laws of Utah 2024, Chapter 195)
53-5a-304, (Renumbered from 53-5-704.5, as enacted by Laws of Utah 2017, Chapter 286)
53-5a-305, (Renumbered from 53-5-705, as last amended by Laws of Utah 2010, Chapter 62)
53-5a-306, (Renumbered from 53-5-706, as last amended by Laws of Utah 2018, Chapter 417)
53-5a-307, (Renumbered from 53-5-707, as last amended by Laws of Utah 2023, Chapters 328, 387)
53-5a-308, (Renumbered from 53-5-707.5, as last amended by Laws of Utah 2018, Chapter 417)
53-5a-309, (Renumbered from 53-5-707.6, as last amended by Laws of Utah 2022, Chapter 255)
53-5a-310, (Renumbered from 53-5-708, as last amended by Laws of Utah 2023, Chapter 16)
53-5a-311, (Renumbered from 53-5-711, as last amended by Laws of Utah 2019, Chapter 39)
53-5a-312, (Renumbered from 53-5-712, as enacted by Laws of Utah 2014, Chapter 147)
53-5a-401, (Renumbered from 53-5b-103, as enacted by Laws of Utah 2010, Chapter 5)
53-5a-402, (Renumbered from 53-5b-102, as enacted by Laws of Utah 2010, Chapter 5)
53-5a-403, (Renumbered from 53-5b-201, as enacted by Laws of Utah 2010, Chapter 5)
53-5a-404, (Renumbered from 53-5b-202, as enacted by Laws of Utah 2010, Chapter 5)
53-5a-501, (Renumbered from 53-5c-102, as last amended by Laws of Utah 2023, Chapters 138, 405)
53-5a-502, (Renumbered from 53-5c-201, as last amended by Laws of Utah 2023, Chapters 138, 448)
53-5a-503, (Renumbered from 53-5c-202, as last amended by Laws of Utah 2023, Chapter 448)
53-5a-504, (Renumbered from 53-5c-301, as last amended by Laws of Utah 2024, Chapter 204)
53-5a-505, (Renumbered from 53-5c-302, as last amended by Laws of Utah 2024, Chapter 204)
53-5a-602, (Renumbered from 76-10-526, as last amended by Laws of Utah 2023, Chapters 330, 397)
53-5a-603, (Renumbered from 76-10-526.1, as enacted by Laws of Utah 2023, Chapter 398)
53-5a-604, (Renumbered from 76-10-527, as last amended by Laws of Utah 2009, Chapter 20)
53-5a-605, (Renumbered from 76-10-524, as last amended by Laws of Utah 2004, Chapter 360)
76-11-101, (Renumbered from 76-10-501, as last amended by Laws of Utah 2023, Chapters 161, 397 and 425)
76-11-102, (Renumbered from 76-10-502, as last amended by Laws of Utah 1990, Chapter 328)
76-11-202, (Renumbered from 76-10-504, as last amended by Laws of Utah 2023, Chapter 34)
76-11-204, (Renumbered from 76-10-505, as last amended by Laws of Utah 2021, Chapter 12)
76-11-205, (Renumbered from 76-10-505.5, as last amended by Laws of Utah 2024, Chapters 21, 117 and 301)
76-11-207, (Renumbered from 76-10-506, as last amended by Laws of Utah 2019, Chapters 39, 201)
76-11-208, (Renumbered from 76-10-507, as last amended by Laws of Utah 2015, Chapter 406)
76-11-209, (Renumbered from 76-10-508, as last amended by Laws of Utah 2023, Chapter 34)
76-11-210, (Renumbered from 76-10-508.1, as last amended by Laws of Utah 2023, Chapter 34)
76-11-211, (Renumbered from 76-10-509.4, as last amended by Laws of Utah 2024, Chapter 301)
76-11-212, (Renumbered from 76-10-509.5, as last amended by Laws of Utah 2013, Chapter 301)
76-11-213, (Renumbered from 76-10-509.6, as last amended by Laws of Utah 2000, Chapter 303)
76-11-214, (Renumbered from 76-10-509.7, as last amended by Laws of Utah 2024, Chapter 301)
76-11-215, (Renumbered from 76-10-509.9, as enacted by Laws of Utah 1993, Second Special Session, Chapters 13, 13)
76-11-217, (Renumbered from 76-10-528, as last amended by Laws of Utah 2023, Chapters 330, 386)
76-11-218, (Renumbered from 76-10-529, as last amended by Laws of Utah 2024, Chapter 332)
76-11-219, (Renumbered from 76-10-530, as last amended by Laws of Utah 2009, Chapter 388)
76-11-309, (Renumbered from 76-10-503.1, as last amended by Laws of Utah 2023, Chapter 203)
76-11-310, (Renumbered from 76-10-532, as last amended by Laws of Utah 2023, Chapter 425)

REPEALS:

53-5-701, as last amended by Laws of Utah 2010, Chapter 62
53-5-710, as last amended by Laws of Utah 2021, Chapter 141
53-5b-101, as enacted by Laws of Utah 2010, Chapter 5
76-10-500, as last amended by Laws of Utah 2022, Chapter 428
76-10-503, as last amended by Laws of Utah 2023, First Special Session, Chapter 2
76-10-512, as last amended by Laws of Utah 2024, Chapter 301

76-10-521, as last amended by Laws of Utah 1993, Chapter 234

Utah Code Sections Affected by Coordination Clause:

AMENDS:

76-10-503, as last amended by Laws of Utah 2023, First Special Session, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-74-101 is amended to read:

13-74-101. Definitions.

(1) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in a firearm.

(2) "Customer" means an individual who presents a payment card to a merchant for the purchase of a good or service.

(3) "Financial entity" means any person involved in facilitating or processing a payment card transaction, including:

(a) a payment card network;

(b) a merchant acquirer; or

(c) a payment facilitator.

(4) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(5) (a) "Firearm accessory or component" means a device specifically adapted to:

(i) enable the wearing or carrying about one's person or the storage or mounting in or on any conveyance of a firearm; or

(ii) be inserted into or affixed to a firearm to enable, alter, or improve the functioning or capabilities of the firearm.

(b) "Firearm accessory or component" includes a telescopic or laser sight, magazine, flash or sound suppressor, folding or aftermarket stock or grip, speedloader, brace, ammunition carrier, or light for target illumination.

(6) "Firearms code" means the merchant category code 5723, approved in September 2022 by the International Organization for Standardization, for firearms retailers.

(7) "Firearms retailer" means a merchant engaged in the lawful business of selling or trading firearms, firearm accessories or components, or ammunition.

(8) "Merchant" means a person physically located in the state who accepts a payment card from a customer for the purchase of a good or service.

(9) "Payment card" means a card, code, or other means by which a person may debit a deposit account or use a line of credit to purchase a good or service.

(10) "Reloading supplies" means any equipment, component, or material designed for the reloading of ammunition, including reloading presses, shell holders, powder measures, priming tools, reloading manuals, casings, and gunpowder.

Section 2. Section 23A-4-1106 is amended to read:

23A-4-1106. Suspension of license or permit privileges -- Suspension of certificates of registration.

(1) As used in this section:

(a) "License or permit privileges" means the privilege of applying for, purchasing, and exercising the benefits conferred by a license or permit issued by the division.

(b) "Livestock guardian dog" means the same as that term is defined in Section 76-6-111.

(2) A hearing officer, appointed by the division, may suspend a person's license or permit privileges if:

(a) in a court of law, the person:

(i) is convicted of:

(A) violating this title or a rule of the Wildlife Board;

(B) killing or injuring domestic livestock or a livestock guardian dog while engaged in an activity regulated under this title;

(C) violating Section 76-6-111; or

(D) violating Section [~~76-10-508~~]76-11-209 while engaged in an activity regulated under this title;

(ii) enters into a plea in abeyance agreement, in which the person pleads guilty or no contest to an offense listed in Subsection (2)(a)(i), and the plea is held in abeyance; or

(iii) is charged with committing an offense listed in Subsection (2)(a)(i), and the person enters into a diversion agreement which suspends the prosecution of the offense; and

(b) the hearing officer determines the person committed the offense intentionally, knowingly, or recklessly, as defined in Section 76-2-103.

(3) (a) The Wildlife Board shall make rules establishing guidelines that a hearing officer shall consider in determining:

(i) the type of license or permit privileges to suspend; and

(ii) the duration of the suspension.

(b) The Wildlife Board shall ensure that the guidelines established under Subsection (3)(a) are consistent with Subsections (4), (5), and (6).

(4) Except as provided in Subsections (5) and (6), a hearing officer may suspend a person's license or permit privileges according to Subsection (2) for a period of time not to exceed:

(a) seven years for:

(i) a felony conviction;

(ii) a plea of guilty or no contest to an offense punishable as a felony, which plea is held in abeyance pursuant to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a felony, the prosecution of which is suspended pursuant to a diversion agreement;

(b) five years for:

(i) a class A misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class A misdemeanor, which plea is held in abeyance pursuant to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class A misdemeanor, the prosecution of which is suspended pursuant to a diversion agreement;

(c) three years for:

(i) a class B misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class B misdemeanor when the plea is held in abeyance according to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class B misdemeanor, the prosecution of which is suspended pursuant to a diversion agreement; and

(d) one year for:

(i) a class C misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class C misdemeanor, when the plea is held in abeyance according to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class C misdemeanor, the prosecution of which is suspended according to a diversion agreement.

(5) The hearing officer may double a suspension period established in Subsection (4) for offenses:

(a) committed in violation of an existing suspension or revocation order issued by the courts, division, or Wildlife Board; or

(b) involving the unlawful taking of a trophy animal, as defined in Section 23A-1-101.

(6) (a) A hearing officer may suspend, according to Subsection (2), a person's license or permit privileges for a particular license or permit only once for each single criminal episode, as defined in Section 76-1-401.

(b) If a hearing officer addresses two or more single criminal episodes in a hearing, the suspension periods of license or permit privileges of the same type suspended, according to Subsection (2), may run consecutively.

(c) If a hearing officer suspends, according to Subsection (2), license or permit privileges of the type that have been previously suspended by a court, a hearing officer, or the Wildlife Board and the suspension period has not expired, the suspension periods may run consecutively.

(7) (a) A hearing officer, appointed by the division, may suspend a person's privilege of applying for, purchasing, and exercising the benefits conferred by a certificate of registration if:

(i) the hearing officer determines the person intentionally, knowingly, or recklessly, as defined in Section 76-2-103, violated:

(A) this title;

(B) a rule or order of the Wildlife Board;

(C) the terms of a certificate of registration; or

(D) the terms of a certificate of registration application or agreement; or

(ii) the person, in a court of law:

(A) is convicted of an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration;

(B) pleads guilty or no contest to an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and the plea is held in abeyance in accordance with a plea in abeyance agreement; or

(C) is charged with an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and prosecution of the offense is suspended in accordance with a diversion agreement.

(b) A hearing officer shall suspend a certificate of registration for the harvesting of brine shrimp eggs, as defined in Section 59-23-3, if the hearing officer determines the holder of the certificate of registration has violated Section 59-23-5.

(8) (a) The director shall appoint a qualified person as a hearing officer to perform the adjudicative functions provided in this section.

(b) The director may not appoint a division employee who investigates or enforces wildlife violations.

(9) (a) The courts may suspend, in criminal sentencing, a person's privilege to apply for, purchase, or exercise the benefits conferred by a license, permit, or certificate of registration.

(b) The courts shall promptly notify the division of suspension orders or recommendations entered.

(c) The division, upon receiving notification of suspension from the courts, shall prohibit the person from applying for, purchasing, or exercising the benefits conferred by a license, permit, or certification of registration for the duration and of the type specified in the court order.

(d) The hearing officer shall consider a recommendation made by a sentencing court concerning suspension before issuing a suspension order.

(10) Before suspension under this section, the division shall give a person:

(a) written notice of action the division intends to take; and

(b) an opportunity for a hearing.

(11) (a) A person may file an appeal of a hearing officer's decision with the Wildlife Board.

(b) The Wildlife Board shall review the hearing officer's findings and conclusions and any written documentation submitted at the hearing.

(c) The Wildlife Board may:

(i) take no action;

(ii) vacate or remand the decision; or

(iii) amend the period or type of suspension.

(12) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry privileges consistent with Chapter 2, Part 5, Wildlife Violator Compact.

(13) Within 30 days after the day on which an individual's privilege to hunt or fish is suspended under this title, the division shall report to the Division of Professional Licensing the:

(a) identifying information for the individual; and

(b) time period of the suspension.

(14) The Wildlife Board may make rules to implement this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 26B-1-326 is amended to read:

26B-1-326. Suicide Prevention and Education Fund.

(1) There is created an expendable special revenue fund known as the Suicide Prevention and Education Fund.

(2) The fund shall consist of funds transferred from the Concealed Weapons Account in accordance with [~~Subsection 53-5-707(5)(d)~~]Section 53-5a-307.

(3) Money in the fund shall be used for suicide prevention efforts that include a focus on firearm safety as related to suicide prevention.

(4) The Office of Substance Use and Mental Health shall establish a process by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expenditure of money from the fund.

Section 4. Section 26B-2-120 is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the department under this part and has direct access, including:

(A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in accordance with Section 78B-6-128;

(B) a foster parent or prospective foster parent;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) an individual who transports a child for a youth transportation company;

(E) an individual who provides certified peer support, as defined in Section 26B-5-610;

(F) an individual who provides peer supports, has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder;

(G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;

(H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;

(I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the division;

(J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access;

(K) a foster home licensee that submits an application for an annual background screening as required by Subsection 26B-2-105(4)(d)(iii); or

(L) a short-term relief care provider.

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services;

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services;

(C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or

(D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.

(b) "Application" means a background check application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Criminal finding" means a record of:

(i) an arrest for a criminal offense;

(ii) a warrant for a criminal arrest;

(iii) charges for a criminal offense; or

(iv) a criminal conviction.

(e) "Direct access" means that an individual has, or likely will have:

(i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or

(ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.

(f) (i) "Direct access qualified" means that the applicant has an eligible determination by the office within the license and renewal time period; and

(ii) no more than 180 days have passed since the date on which the applicant's association with a certification, contract, or licensee with the department expires.

(g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(h) "Licensee" means an individual or a human services program licensed by the division.

(i) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) juvenile court arrest, adjudication, and disposition records;

(v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or

(vi) a state child abuse or neglect registry.

(j) "Office" means the Office of Background Processing within the department.

(k) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504;

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon association with a certification, contract, or licensee with the department;

(ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification, contract, or licensee with the department for 180 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(c) and (4);

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories; and

(e) an application showing an applicant's association with a certification, contract, or a licensee with the department, for the purpose of the office tracking the direct access qualified status of the applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18 years old or older;

(v) if the applicant is associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;

(e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;

(f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing

and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and

(h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The [~~Bureau~~]bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that an individual who has direct access qualified status will no longer be associated with a certification, contract, or licensee with the department, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation or prostitution;

(D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

(E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

(F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

(G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;

(H) an offense included in Title 76, Chapter 7, Offenses Against the Family;

(I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;

(K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(L) aggravated arson, as described in Section 76-6-103;

(M) aggravated burglary, as described in Section 76-6-203;

(N) aggravated exploitation of prostitution, as described in Section 76-10-1306;

(O) aggravated robbery, as described in Section 76-6-302;

(P) endangering persons in a human services program, as described in Section 26B-2-113;

(Q) failure to report, as described in Section 80-2-609;

(R) identity fraud crime, as described in Section 76-6-1102;

(S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;

(T) riot, as described in Section 76-9-101;

(U) sexual battery, as described in Section 76-9-702.1; or

(V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section [~~76-10-506~~]76-11-207; or

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider or a mental health professional, if the applicant provides services in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (7).

(c) The office shall deny direct access qualified status to an applicant if the office finds that a court order prohibits the applicant from having direct access to a child or vulnerable adult.

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);

(b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;

(d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);

(e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;

(f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

(h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);

(i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;

(j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(k) has a pending charge for an offense described in Subsection (5)(a);

(l) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(m) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;

(n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;

(p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

(7) (a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.

(b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status to an applicant if the office finds the approval would likely create a risk of harm to a child or vulnerable adult.

(8) The office shall grant direct access qualified status to an applicant who is not denied under this section.

(9) (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice, without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice, without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall grant or deny direct access qualified status to the applicant in accordance with this section.

(10) (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.

(b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

(i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(c) Notwithstanding any other provision of this section, an applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office grants direct access qualified status to the applicant through a subsequent application in accordance with this section.

(11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.

(12) (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.

(b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.

(c) The office shall conduct a comprehensive review for an applicant if:

(i) the applicant is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal finding.

(13) (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

(b) As federally required, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(c) The requirements described in Subsection (13)(b) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).

(d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;

(E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(F) aggravated murder, as described in Section 76-5-202;

(G) murder, as described in Section 76-5-203;

(H) manslaughter, as described in Section 76-5-205;

(I) child abuse homicide, as described in Section 76-5-208;

(J) homicide by assault, as described in Section 76-5-209;

(K) kidnapping, as described in Section 76-5-301;

(L) child kidnapping, as described in Section 76-5-301.1;

(M) aggravated kidnapping, as described in Section 76-5-302;

(N) human trafficking of a child, as described in Section 76-5-308.5;

(O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

(Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(R) aggravated arson, as described in Section 76-6-103;

(S) aggravated burglary, as described in Section 76-6-203;

(T) aggravated robbery, as described in Section 76-6-302;

(U) lewdness involving a child, as described in Section 76-9-702.5;

(V) incest, as described in Section 76-7-102; or

(W) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).

(e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(f) In addition to the circumstances described in Subsection (6), the office shall conduct a comprehensive review of an applicant's background check under this section if the applicant:

(i) has an offense described in Subsection (5)(a);

(ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;

(iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-2-210;

(v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6), (7), and (13); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services for purposes of granting or denying direct access qualified status to an applicant.

Section 5. Section 26B-5-102 is amended to read:

26B-5-102. Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.

(1) (a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(c) There is created the Office of Substance Use and Mental Health within the division.

(d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance use by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance use;

(iii) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance use disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance use, mental health, and physical health;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;

(vii) evaluate the effectiveness of programs described in this Subsection (2);

(viii) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination

of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member;

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 26B-5-313; and

(v) to the extent authorized and in accordance with statute, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) create a certification for targeted case management;

(B) establish training and certification requirements;

(C) specify the types of services each certificate holder is qualified to provide;

(D) specify the type of supervision under which a certificate holder is required to operate; and

(E) specify continuing education and other requirements for maintaining or renewing certification;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance use and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance use and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance use services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(h); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

(k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);

(l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism in accordance with the metrics and requirements described in Section 63M-7-102;

(m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division to provide treatment;

(n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);

(o) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; and

(p) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section [~~76-10-526~~]53-5a-602;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 6. Section 31A-21-501 is amended to read:

31A-21-501. Definitions.

For purposes of this part:

(1) "Applicant" means:

(a) in the case of an individual life or accident and health policy, the person who seeks to contract for insurance benefits; or

(b) in the case of a group life or accident and health policy, the proposed certificate holder.

(2) "Cohabitant" means an emancipated individual pursuant to Section 15-2-1 or an individual who is 16 years old or older who:

(a) is or was a spouse of the other party;

(b) is or was living as if a spouse of the other party;

(c) is related by blood or marriage to the other party;

(d) has one or more children in common with the other party; or

(e) resides or has resided in the same residence as the other party.

(3) "Child abuse" means the commission or attempt to commit against a child a criminal offense described in:

(a) Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(b) Title 76, Chapter 5, Part 4, Sexual Offenses;

(c) Section 76-9-702, Lewdness;

(d) Section 76-9-702.1, Sexual battery; or

(e) Section 76-9-702.5, Lewdness involving a child.

(4) "Domestic violence" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another and includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) assault, as described in Section 76-5-102;

(c) criminal homicide, as described in Section 76-5-201;

(d) harassment, as described in Section 76-5-106;

(e) electronic communication harassment, as described in Section 76-9-201;

(f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(g) mayhem, as described in Section 76-5-105;

(h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Sections 76-5b-201 and 76-5b-201.1;

(i) stalking, as described in Section 76-5-106.5;

(j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(k) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(l) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;

(m) possession of a [~~deadly~~]dangerous weapon with [~~intent to assault~~]criminal intent, as described in Section [~~76-10-507~~]76-11-208; or

(n) discharge of a firearm from a vehicle, near a highway, or in the direction of any [~~person~~]individual, building, or vehicle, as described in Section [~~76-10-508~~]76-11-209.

(5) "Subject of domestic abuse" means an individual who is, has been, may currently be, or may have been subject to domestic violence or child abuse.

Section 7. Section 34-45-102 is amended to read:

34-45-102. Definitions.

As used in this chapter:

(1) "Firearm" has the same meaning as provided in Section [~~76-10-501~~]76-11-101.

(2) "Motor vehicle" has the same meaning as provided in Section 41-1a-102.

(3) "Person" means an individual, property owner, landlord, tenant, employer, business entity, or other legal entity.

Section 8. Section 34-45-107 is amended to read:

34-45-107. Exemptions -- Limitations on chapter -- School premises -- Government entities -- Religious organizations -- Single family detached residential units.

(1) (a) School premises, as defined in Subsection 76-3-203.2(1), are exempt from the provisions of this chapter.

(b) [~~Possession of a firearm on or about school premises~~]Carrying a dangerous weapon at an elementary school or secondary school is subject to the provisions of Section [~~76-10-505.5~~]76-11-205.

(2) Government entities, including a local authority or state entity, are subject to the requirements of [~~Title 53, Chapter 5a, Firearm Laws~~]Title 53, Chapter 5a, Firearms Laws, but are otherwise exempt from the provisions of this chapter.

(3) Religious organizations, including religious organizations acting as an employer, are exempt from, and are not subject to the provisions of this chapter.

(4) Owner-occupied single family detached residential units and tenant-occupied single family detached residential units are exempt from the provisions of this chapter.

(5) A person who is subject to federal law that specifically forbids the presence of a firearm on property designated for motor vehicle parking, or a person who is subject to Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that section, is exempt from Section 34-45-103 if:

(a) providing alternative parking or a storage location under Subsection 34-45-103(2)(a) would pose an undue burden on the person; and

(b) the person files a statement with the attorney general citing the federal law that forbids the presence of a firearm and detailing the reasons why providing alternative parking or a storage location poses an undue burden.

(6) A person who is subject to Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that section is exempt from this chapter if:

(a) the person has attempted to provide alternative parking or a storage location in accordance with Subsection 34-45-103(2)(a);

(b) the secretary of the federal Department of Homeland Security notifies the person that the provision of alternative parking or a storage location causes the person to be out of compliance with Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that section and the person may be subject to punitive measures; and

(c) the person files a detailed statement with the attorney general notifying the attorney general of the facts under Subsections (6)(a) and (b).

Section 9. Section 36-29-111 is amended to read:

36-29-111. Public Safety Data Management Task Force.

(1) As used in this section:

(a) "Cohabitant abuse protective order" means an order issued with or without notice to the respondent in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.

(b) "Lethality assessment" means an evidence-based assessment that is intended to identify a victim of domestic violence who is at a high risk of being killed by the perpetrator.

(c) "Task force" means the Public Safety Data Management Task Force created in this section.

(d) "Victim" means an individual who is a victim of domestic violence, as defined in Section 77-36-1.

(2) There is created the Public Safety Data Management Task Force consisting of the following members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; and

(c) representatives from the following organizations as requested by the executive director of the State Commission on Criminal and Juvenile Justice:

(i) the State Commission on Criminal and Juvenile Justice;

(ii) the Judicial Council;

(iii) the Statewide Association of Prosecutors;

(iv) the Department of Corrections;

(v) the Department of Public Safety;

(vi) the Utah Association of Counties;

(vii) the Utah Chiefs of Police Association;

(viii) the Utah Sheriffs Association;

(ix) the Board of Pardons and Parole;

(x) the Department of Health and Human Services;

(xi) the Utah Division of Indian Affairs; and

(xii) any other organizations or groups as recommended by the executive director of the Commission on Criminal and Juvenile Justice.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) A majority of the members of the task force present at a meeting constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with the task force; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The State Commission on Criminal and Juvenile Justice shall provide staff support to the task force.

(7) The task force shall review the state's current criminal justice data collection requirements and make recommendations regarding:

(a) possible ways to connect the various records systems used throughout the state so that data can be shared between criminal justice agencies and with policymakers;

(b) ways to automate the collection, storage, and dissemination of the data;

(c) standardizing the format of data collection and retention;

(d) the collection of domestic violence data in the state; and

(e) the collection of data not already required related to criminal justice.

(8) On or before November 30 of each year, the task force shall provide a report to the Law Enforcement and Criminal Justice Interim Committee and the Legislative Management Committee that includes:

(a) recommendations in accordance with Subsection (7)(a);

(b) information on:

(i) lethality assessments conducted in the state, including:

(A) the type of lethality assessments used by law enforcement agencies and other organizations that provide domestic violence services; and

(B) training and protocols implemented by law enforcement agencies and the organizations described in Subsection (8)(b)(i)(A) regarding the use of lethality assessments;

(ii) the data collection efforts implemented by law enforcement agencies and the organizations described in Subsection (8)(b)(i)(A);

(iii) the number of cohabitant abuse protective orders that, in the immediately preceding calendar year, were:

(A) issued;

(B) amended or dismissed before the date of expiration; or

(C) dismissed under Section 78B-7-605; and

(iv) the prevalence of domestic violence in the state and the prevalence of the following in domestic violence cases:

(A) stalking;

(B) strangulation;

(C) violence in the presence of a child; and

(D) threats of suicide or homicide;

(c) a review of and feedback on:

(i) lethality assessment training and protocols implemented by law enforcement agencies and the organizations described in Subsection (8)(b)(i)(A); and

(ii) the collection of domestic violence data in the state, including:

(A) the coordination between state, local, and not-for-profit agencies to collect data from lethality assessments and on the prevalence of domestic violence, including the number of voluntary commitments of firearms under Section [~~53-5e-201~~]53-5a-502;

(B) efforts to standardize the format for collecting domestic violence and lethality assessment data from state, local, and not-for-profit

agencies within federal confidentiality requirements; and

(C) the need for any additional data collection requirements or efforts; and

(d) any proposed legislation.

Section 10. Section 47-3-305 is amended to read:

47-3-305. Exceptions and prohibitions.

(1) This part does not apply to:

(a) shooting ranges that are otherwise open to the public;

(b) shooting ranges that are operated as a public shooting range staffed by and operated by Division of Wildlife Resources;

(c) the Utah National Guard ranges located at Camp Williams and the Salt Lake International Airport;

(d) Department of Corrections ranges; and

(e) ranges owned, operated, or currently leased as of March 26, 2013, by a state or local public safety agency.

(2) Firearms may not be allowed in a school building, except under the provision of Section [~~76-10-505.5~~]76-11-205 or 76-11-205.5, unless there is an outdoor entrance to the shooting range and the most direct access to the range is used. An outdoor entrance to a shooting range may not be blocked by fences, structures, or gates for the purpose of blocking the outdoor entrance.

(3) Only air guns may be used in public ranges where the ventilation systems do not meet current OSHA standards as applied to the duration of exposure of the participants. For the purposes of this part, an air gun does not include larger caliber pneumatic weapons, paintball guns, or air shotguns.

(4) Group range use is a lawful, approved activity under Subsection [~~76-10-505.5(4)(a)~~]76-11-205(4)(f) or 76-11-205.5(4)(g).

Section 11. Section 53-1-104 is amended to read:

53-1-104. Boards, bureaus, councils, divisions, and offices.

(1) The following are the policymaking boards and committees within the department:

(a) the Trauma System and Emergency Medical Services Committee created in Section 53-2d-104;

(b) the Air Ambulance Committee created in Section 53-2d-107;

(c) the Driver License Medical Advisory Board, created in Section 53-3-303;

(d) the Concealed Firearm Review Board, created in Section [~~53-5-703~~]53-5a-302;

(e) the Utah Fire Prevention Board, created in Section 53-7-203;

(f) the Liquified Petroleum Gas Board, created in Section 53-7-304; and

(g) the Bail Bond Recovery and Private Investigator Licensure Board created in Section 53-11-104.

(2) The Peace Officer Standards and Training Council, created in Section 53-6-106, is within the department.

(3) The following are the divisions within the department:

(a) the Administrative Services Division, created in Section 53-1-203;

(b) the Management Information Services Division, created in Section 53-1-303;

(c) the Division of Emergency Management, created in Section 53-2a-103;

(d) the Driver License Division, created in Section 53-3-103;

(e) the Criminal Investigations and Technical Services Division, created in Section 53-10-103;

(f) the Peace Officer Standards and Training Division, created in Section 53-6-103;

(g) the State Fire Marshal Division, created in Section 53-7-103; and

(h) the Utah Highway Patrol Division, created in Section 53-8-103.

(4) The Office of Executive Protection is created in Section 53-1-112.

(5) The following are the bureaus within the department:

(a) the Bureau of Emergency Medical Services, created in Section 53-2d-102;

(b) the Bureau of Criminal Identification, created in Section 53-10-201;

(c) the State Bureau of Investigation, created in Section 53-10-301;

(d) the Bureau of Forensic Services, created in Section 53-10-401; and

(e) the Bureau of Communications, created in Section 53-10-501.

Section 12. Section 53-2a-214 is amended to read:

53-2a-214. Prohibition of restrictions on and confiscation of a firearm or ammunition during an emergency.

(1) As used in this section:

(a) (i) "Confiscate" means for an individual in Utah to intentionally deprive another of a privately owned firearm.

(ii) "Confiscate" does not include the taking of a firearm from an individual:

(A) in self-defense;

(B) possessing a firearm while the individual is committing a felony or misdemeanor; or

(C) who may not, under state or federal law, possess the firearm.

(b) "Firearm" has the same meaning as defined in Section [~~76-10-501~~]76-11-101.

(2) During a declared state of emergency or local emergency under this part:

(a) neither the governor nor an agency of a governmental entity or political subdivision of the state may impose restrictions, which were not in force before the declared state of emergency, on the lawful possession, transfer, sale, transport, storage, display, or use of a firearm or ammunition; and

(b) an individual, while acting or purporting to act on behalf of the state or a political subdivision of the state, may not confiscate a privately owned firearm of another individual.

(3) A law or regulation passed during a declared state of emergency that does not relate specifically to the lawful possession or use of a firearm and that has attached criminal penalties may not be used to justify the confiscation of a firearm from an individual acting in defense of self, property, or others when on:

(a) the individual's private property; or

(b) the private property of another as an invitee.

(4) (a) An individual who has a firearm confiscated in violation of Subsection (2) may bring a civil action in a court having the appropriate jurisdiction:

(i) for damages, in the maximum amount of $10,000, against a person who violates Subsection (2);

(ii) for a civil penalty, in the amount of $5,000 per violation, against a person who violates Subsection (2); and

(iii) for return of the confiscated firearm.

(b) As used in this Subsection (4), "person" means an individual, the governmental entity on whose behalf the individual is acting or purporting to act, or both the individual and the governmental entity.

(5) (a) A law enforcement officer is not subject to disciplinary action for refusing to confiscate a firearm under this section if:

(i) ordered or directed to do so by a superior officer; and

(ii) by obeying the order or direction, the law enforcement officer would be committing a violation of this section.

(b) For purposes of this Subsection (5), disciplinary action might include:

(i) dismissal, suspension, or demotion;

(ii) loss of or decrease in benefits, pay, privileges or conditions of employment; and

(iii) any type of written or electronic indication, permanent or temporary, on the officer's personnel record of the officer's refusal to obey the unlawful order.

(6) (a) If a law enforcement officer commits a violation of this section, the officer's liability in an action brought under Subsection (4)(a) is limited to 5% of the damages and civil penalty allowed under Subsection (4)(a) if the officer can show by clear and convincing evidence that the officer was obeying a direct and unlawful order from a superior officer or authority.

(b) The court shall assess the balance of the damages and civil penalty, the remaining 95%, against the superior officer or authority who ordered or directed the confiscation in violation of this section.

Section 13. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, automobile homicide under Section 76-5-207, or automobile homicide involving using a handheld wireless communication device while driving under Section 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a [~~felony~~]violation of Section [~~76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle~~]76-11-209 involving the discharging or allowing the discharging of a firearm from a vehicle or a violation of Section 76-11-210;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2;

(xvii) refusal of a chemical test under Subsection 41-6a-520.1(1); or

(xviii) two or more offenses that:

(A) are committed within a period of one year;

(B) are enhanced under Section 76-3-203.17; and

(C) arose from separate incidents.

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Section 80-6-701 for:

(i) a [~~felony~~]violation of Section [~~76-10-508 or 76-10-508.1~~]76-11-209 involving the discharging or allowing the discharging of a firearm from a vehicle or a violation of Section 76-11-210 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) (i) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of violating any one of the following offenses while the person was an operator of a motor vehicle, and the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(F) any criminal offense that prohibits possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).

(ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate a person's driving privilege before completion of the suspension period imposed under Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

(iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

(iv) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

(v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Section 80-6-701 for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(f) The division shall immediately suspend a person's driver license for the conviction of an offense that is enhanced under Section 76-3-203.17 if the division receives:

(i) an order from the sentencing court requiring the person's driver license to be suspended; and

(ii) a record of the conviction.

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c)(i); and

(ii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician or physician assistant that:

(I) to the physician's or physician assistant's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician or physician assistant is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(ii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 14. Section 53-5a-101.5 is enacted to read:

CHAPTER 5a. FIREARM LAWS

PART 1. General Firearm Laws

53-5a-101.5. Definitions.

As used in this part:

(1) "Ammunition" means the same as that term is defined in Section 53-5d-102.

(2) (a) "Antique firearm" means:

(i) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

(ii) a firearm that is a replica of a firearm described in this Subsection (2)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is no longer manufactured in the United States and is not readily available in ordinary channels of commercial trade; or

(iii) a firearm that:

(A) is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (2)(b)(iii)(A), (B), or (C).

(3) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the department.

(4) (a) "Concealed firearm" means a firearm that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of the firearm's presence; and

(ii) readily accessible for immediate use.

(b) "Concealed firearm" does not include a firearm that is unloaded and securely encased.

(5) "Court commissioner" means an individual appointed under Section 78A-5-107.

(6) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

(7) "Directive" means the same as that term is defined in Section 78B-6-2301.

(8) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(9) "Firearm accessory" means the same as that term is defined in Section 53-5a-401.

(10) "Handgun" means a pistol, revolver, or other firearm of any description, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(11) "Judge" means the same as that term is defined in Section 53-5a-311.

(12) "Law enforcement official" means the same as that term is defined in Section 53-5a-311.

(13) "Local or state governmental entity" means the same as that term is defined in Section 78B-6-2301.

(14) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that the weapon can be retrieved and used as readily as if carried on the person.

(15) "Securely encased firearm" means the same as that term is defined in Section 76-11-201.

(16) "Short barreled rifle" means the same as that term is defined in Section 53-5a-601.

(17) "Short barreled shotgun" means the same as that term is defined in Section 53-5a-601.

(18) "Shotgun" means the same as that term is defined in Section 53-5a-601.

(19) "Slug" means the same as that term is defined in Section 53-5a-601.

Section 15. Section 53-5a-102 is amended to read:

53-5a-102. Uniform firearms laws.

[~~(1) As used in this section:~~]

[~~(a) "Ammunition" means the same as that term is defined in Section 53-5d-102.~~]

[~~(b) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.~~]

[~~(c) "Firearm" means:~~]

[~~(i) a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive;~~]

[~~(ii) ammunition; and~~]

[~~(iii) a firearm accessory.~~]

[~~(d) "Firearm accessory" means the same as that term is defined in Section 53-5b-103.~~]

[~~(e) "Local or state governmental entity" means the same as that term is defined in Section 78B-6-2301.~~]

[~~(f) "Short barreled shotgun" or "short barreled rifle" means the same as that term is defined in Section 76-10-501.~~]

[~~(g) "Shotgun" means the same as that term is defined in Section 76-10-501.~~]

[~~(2)~~](1) The individual right to keep and bear arms being a constitutionally protected right under Utah Constitution, Article I, Section 6 [~~of the Utah Constitution~~], and the Second Amendment to the United States Constitution, the Legislature finds the need to provide uniform civil and criminal firearm laws throughout the state and declares that the Legislature occupies the whole field of state regulation of firearms.

[~~(3)~~](2) Except as specifically provided by state law, a local or state governmental entity may not:

(a) prohibit an individual from owning, possessing, purchasing, selling, transferring, transporting, or keeping a firearm, ammunition, or a firearm accessory at the individual's place of residence, property, business, or in any vehicle [~~lawfully in the individual's possession or lawfully under the individual's control~~]in which the individual is lawfully present; or

(b) require an individual to have a permit or license to purchase, own, possess, transport, or keep a firearm, ammunition, or a firearm accessory.

[~~(4)~~](3) [~~In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is~~]This part and Title 76, Chapter 11, Weapons, are uniformly applicable throughout [~~this~~]the state and in all the [~~state's~~]political subdivisions of the state.

[~~(5)~~](4) Authority to regulate firearms, ammunition, and firearm accessories is reserved to the state except where the Legislature specifically delegates responsibility to local or state governmental entities.

[~~(6)~~](5) Unless specifically authorized by the Legislature by statute, a local or state governmental entity may not enact, establish, or enforce [~~any ordinance, regulation, rule, or policy~~]a directive pertaining to firearms, ammunition, or firearm accessories that in any way inhibits or restricts the possession, ownership, purchase, sale, transfer, transport, or use of firearms, ammunition, or firearm accessories on either public or private property.

[~~(7)~~](6) This section does not restrict or expand private property rights.

[~~(8)~~](7) A violation of this section is subject to Title 78B, Chapter 6, Part 23, Firearm Preemption Enforcement Act.

Section 16. Section 53-5a-102.1 is enacted to read:

53-5a-102.1. When a firearm is considered to be loaded.

For the purpose of this chapter, a firearm is considered to be loaded if the firearm meets the conditions described in Subsection 76-11-102(1).

Section 17. Section 53-5a-102.2 is enacted to read:

53-5a-102.2. Open and concealed carry of a firearm outside of an individual's residence.

(1) To effectuate the Second Amendment to the United States Constitution and Utah Constitution, Article I, Section 6, that prohibit the infringement of the right of the people of Utah to keep and bear arms for security and defense of self, family, others, property, or the state, as well as for other lawful purposes, and consistent with the Legislature's ability to define the lawful use of arms:

(a) subject to Subsections (2)(a) and (b), an individual 18 years old or older but younger than 21 years old without a provisional carry permit issued under Section 53-5a-305 may only carry in an open manner:

(i) an unloaded rifle, shotgun, or muzzle-loading rifle in a vehicle in which the individual is lawfully present;

(ii) an unloaded or loaded handgun in a vehicle in which the individual is lawfully present; and

(iii) an unloaded firearm that the individual may otherwise lawfully carry, on a public street;

(b) subject to Subsections (2)(a) and (b), an individual 21 years old or older may open or conceal carry, without a conceal carry permit:

(i) an unloaded or loaded firearm:

(A) on a public street; or

(B) in any other place not prohibited by, or pursuant to, state statute or federal law;

(ii) an unloaded or loaded handgun in a vehicle in which the individual is lawfully present; and

(iii) an unloaded rifle, shotgun, or muzzle-loading rifle in a vehicle in which the individual is lawfully present; and

(c) subject to Subsections (2)(c) and (d), an individual 18 years old or older with a concealed carry permit issued under Section 53-5a-303, a temporary concealed carry permit issued under Section 53-5a-304, a provisional concealed carry permit issued under Section 53-5a-305, or a concealed carry permit lawfully issued by or in another state, may open or conceal carry a loaded or unloaded firearm:

(i) in a vehicle in which the individual is lawfully present;

(ii) on a public street; or

(iii) in any other place not prohibited by, or pursuant to, state statute or federal law.

(2) (a) An individual openly carrying a firearm under Subsection (1)(a) or (b) without a concealed carry permit may not carry the firearm:

(i) in a secure area established in accordance with Section 76-8-311.1 in which dangerous weapons are prohibited and notice of the prohibition is posted;

(ii) on or about the premises of a public or private elementary school or secondary school as described in Section 76-11-205;

(iii) on or about the premises of an institution of higher education as described in Section 76-11-205.5;

(iv) on or about the premises of a daycare as described in Section 76-11-206;

(v) in an airport secure area as described in Section 76-11-218;

(vi) in a house of worship or in any private residence where dangerous weapons are prohibited as described in Section 76-11-219; or

(vii) in any other place prohibited by, or pursuant to, another state statute or federal law.

(b) An individual 21 years old or older concealing a firearm without a concealed carry permit under Subsection (1)(b) may not carry the firearm:

(i) in a secure area established in accordance with Section 76-8-311.1 in which dangerous weapons are prohibited and notice of the prohibition is posted;

(ii) on or about the school premises of a public or private elementary school or secondary school as described in Section 76-11-205;

(iii) on or about the premises of an institution of higher education as described in Section 76-11-205.5;

(iv) on or about a daycare premises as described in Section 76-11-206;

(v) in an airport secure area as described in Section 76-11-218;

(vi) in a house of worship or in any private residence where dangerous weapons are prohibited as described in Section 76-11-219; or

(vii) in any other place prohibited by, or pursuant to, another state statute or federal law.

(c) Subject to Subsection (2)(d), an individual with a concealed carry permit under Subsection (1)(c) may not carry the firearm in any manner:

(i) in a secure area established in accordance with Section 76-8-311.1 in which dangerous weapons are prohibited and notice of the prohibition posted;

(ii) in an airport secure area as described in Section 76-11-218;

(iii) in a house of worship or in any private residence where dangerous weapons are prohibited as described in Section 76-11-219; or

(iv) in any other place prohibited by, or pursuant to, another state statute or federal law.

(d) In addition to the locations described in Subsection (2)(c):

(i) an individual 18 years old but younger than 21 years old with a provisional concealed carry permit under Section 53-5a-304 may not carry the firearm in any manner on or about the premises of a public or private elementary school or secondary school as described in Section 76-11-205; and

(ii) an individual concealing a firearm only with a concealed carry permit lawfully issued by or in another state may not carry the firearm in any manner:

(A) on or about the premises of a public or private elementary school or secondary school as described in Section 76-11-205;

(B) on or about the premises of an institution of higher education as described in Section 76-11-205.5; or

(C) on or about the premises of a daycare as described in Section 76-11-206.

(3) This section does not prohibit:

(a) the owner or lawful possessor of a vehicle from prohibiting another individual from carrying a firearm in the owner or lawful possessor's vehicle; or

(b) except as provided in Section 53-5a-102.3, the owner or lawful lessee of private real property from prohibiting another individual from possessing a firearm on the property.

(4) An individual is lawfully present in a vehicle while carrying a firearm under this section if:

(a) the vehicle is in the lawful possession of the individual; or

(b) the individual has the consent of the person lawfully in possession of the vehicle to carry the firearm in the vehicle.

Section 18. Section 53-5a-102.3, which is renumbered from Section 76-10-511 is renumbered and amended to read:

[~~76-10-511~~]53-5a-102.3. Possession of a firearm at a residence or on real property.

(1) Except for [~~persons described in Section 76-10-503 and~~]an individual categorized as a restricted person under Section 76-11-302, Section 76-11-303, or 18 U.S.C. Sec. 922(g) [~~and as~~], or an individual otherwise [~~prescribed in this part, a person~~]prohibited by law, an individual 18 years old or older may have, and cannot be restricted from having, a loaded or unloaded firearm:

[~~(1)~~](a) at the [~~person's~~]individual's place of residence [~~, including any temporary residence or camp~~]; or

[~~(2)~~](b) on the [~~person's~~]individual's real property.

(2) An individual's place of residence described in Subsection (1)(a) includes:

(a) a temporary residence or camp; or

(b) a residence that the individual has been granted the lawful right of possession to rent or lease.

Section 19. Section 53-5a-103 is amended to read:

53-5a-103. Discharge of a firearm on private property -- Liability.

(1) As used in this section:

(a) "Firearm possessor" means an individual who may lawfully possess a firearm.

(b) "Property occupant" means:

(i) a private property owner; or

(ii) [~~a person~~]an individual who has the right to occupy a private property under an agreement.

(2) Except as provided under Subsection (3), a property occupant, who knowingly allows a firearm possessor to lawfully bring a firearm onto the property occupant's property, is not civilly or criminally liable for any damage or harm resulting from the discharge of the firearm by the firearm possessor while on the property occupant's property.

(3) Subsection (2) does not apply if the property occupant solicits, requests, commands, encourages, or intentionally aids the firearm possessor in discharging the firearm while on the property occupant's property for a purpose other than the lawful defense of an individual on the property.

(4) This section does not alter the responsibilities a tenant owes to a landlord under the terms of the lease agreement entered into between the tenant and landlord.

Section 20. Section 53-5a-105, which is renumbered from Section 76-10-520 is renumbered and amended to read:

[~~76-10-520~~]53-5a-105. Number or mark assigned to a handgun by the department.

(1) The [~~Department of Public Safety~~]department, upon request, may assign a distinguishing number or mark of identification to [~~any pistol or revolver~~]a handgun whenever it is without a manufacturer's number, or other mark of identification or whenever the manufacturer's number or other mark of identification or the distinguishing number or mark assigned by the [~~Department of Public Safety~~]department has been destroyed or obliterated.

(2) Except as provided in Subsection (3), an individual who places or stamps a mark of identification or distinguishing number on a handgun except one assigned to the handgun by the department is guilty of a class A misdemeanor.

(3) This section does not:

(a) prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when the restoration is authorized by the department;

(b) prohibit a manufacturer from placing in the ordinary course of business the name of the make, model, manufacturer's number, or other mark of identification upon a new handgun; or

(c) apply to a handgun that is an antique firearm.

Section 21. Section 53-5a-106, which is renumbered from Section 76-10-522 is renumbered and amended to read:

[~~76-10-522~~]53-5a-106. Alteration of number or mark on a handgun.

(1) [~~Any person who changes, alters, removes, or obliterates~~]An individual may not change, alter, remove, or obliterate the name of the maker, the model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the [~~Department of Public Safety~~]department, on [~~any pistol or revolver~~]a handgun, without first having secured written permission from the [~~Department of Public Safety~~]department to make the change, alteration, [~~or~~] removal, [~~is guilty of a class A misdemeanor~~]or obliteration.

(2) Except as provided in Subsection (3), a violation of Subsection (1) is a class A misdemeanor.

(3) This section does not apply to a handgun that is an antique firearm.

Section 22. Section 53-5a-107, which is renumbered from Section 76-10-523.5 is renumbered and amended to read:

[~~76-10-523.5~~]53-5a-107. Compliance with firearms prohibitions in secure facilities.

[~~Any person~~]An individual, including [~~a person licensed to carry~~]an individual with a concealed firearm permit issued under [~~Title 53, Chapter 5, Part 7, Concealed Firearm Act~~]Part 3, Concealed Firearm Permits, or possessing a concealed firearm without a permit in accordance with Section 53-5a-102.2, shall comply with any rule established for [~~secure facilities~~]a secure facility pursuant to [~~Sections 53B-3-103,~~]Section76-8-311.1[~~, 76-8-311.3, and 78A-2-203~~] and [~~shall be~~]is subject to any penalty provided [~~in those sections~~]for violating the established rule.

Section 23. Section 53-5a-108, which is renumbered from Section 76-10-523 is renumbered and amended to read:

[~~76-10-523~~]53-5a-108. Individuals who are exempt from certain weapons laws.

(1) Except [~~for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act,~~]as provided in Subsections (2) and (3), this part, Part 3, Concealed Firearm Permits, and Title 76, Chapter 11, Weapons, do not apply to any of the following:

(a) a United States marshal;

(b) a federal official required to carry a firearm;

(c) a peace officer of [~~this or~~] any [~~other~~]jurisdiction;

(d) a law enforcement official [~~as defined and qualified under Section 53-5-711~~]with a certificate issued under Section 53-5a-311(4);

(e) a judge [~~as defined and qualified under Section 53-5-711~~]with a certificate issued under Section 53-5a-311(4);

(f) a court commissioner [~~as defined and qualified under Section 53-5-711~~]with a certificate issued under Section 53-5a-311(4); or

(g) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise.

(2) Subsection (1) does not apply to Section 76-11-207, 76-11-209, or 76-11-210.

[~~(2)~~](3) Notwithstanding Subsection (1), the provisions of Section [~~76-10-528~~]76-11-217 apply to any individual listed in Subsection (1) who is not employed by a state or federal agency or political subdivision that has adopted a policy or rule regarding the use of dangerous weapons.

[~~(3) Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to:~~]

[~~(a) an individual to whom a permit to carry a concealed firearm has been issued:~~]

[~~(i) pursuant to Section 53-5-704; or~~]

[~~(ii) by another state or county; or~~]

[~~(b) a person who is issued a protective order under Subsection 78B-7-603(1)(b) or 78B-7-404(1)(b), unless the person is a restricted person as described in Subsection 76-10-503(1), for a period of 120 days after the day on which the person is issued the protective order.~~]

[~~(4) Except for Sections 76-10-503, 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in or though the state, provided that any firearm is:~~]

[~~(a) unloaded; and~~]

[~~(b) securely encased as defined in Section 76-10-501.~~]

[~~(5) Subsections 76-10-504(1) and (2), and 76-10-505(1)(b) do not apply to a person 21 years old or older who may otherwise lawfully possess a firearm.~~]

Section 24. Section 53-5a-202 is amended to read:

53-5a-202. Definitions.

As used in this part:

(1) (a) "Federal regulation" means a federal executive order, rule, or regulation that infringes upon, prohibits, restricts, or requires individual licensure for, or registration of, the purchase, ownership, possession, transfer, or use of a firearm, ammunition, or firearm accessory.

(b) "Federal regulation" does not include:

(i) a federal firearm statute; or

(ii) a federal executive order, rule, or regulation that is incorporated into the Utah Code by reference.

(2) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(3) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(4) "Political subdivision" means a city, town, county, special district, or water conservancy district.

Section 25. Section 53-5a-301, which is renumbered from Section 53-5-702 is renumbered and amended to read:

PART 3. Concealed Firearm Permits

[~~53-5-702~~]53-5a-301. Definitions.

[~~In addition to the definitions in Section 76-10-501, as~~]As used in this part:

(1) "Active duty service member" means [~~a person~~]an individual on active military duty with the United States military and includes full time military active duty, military reserve active duty, and national guard military active duty service members stationed in Utah.

(2) "Active duty service member spouse" means [~~a person~~]an individual recognized by the military as the spouse of an active duty service member and who resides with the active duty service member in Utah.

(3) "Board" means the Concealed Firearm Review Board created in Section [~~53-5-703~~]53-5a-302.

(4) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201within the [~~Department of Public Safety~~]department.

(5) "Concealed firearm" means the same as that term is defined in Section 53-5a-101.5.

[~~(5) "Commissioner" means the commissioner of the Department of Public Safety.~~]

(6) "Conviction" means criminal conduct [~~where~~]in which the filing of a criminal charge has resulted in:

(a) a finding of guilt based on evidence presented to a judge or jury;

(b) a guilty plea;

(c) a plea of nolo contendere;

(d) a plea of guilty or nolo contendere [~~which~~]that is held in abeyance pending the successful completion of probation;

(e) a pending diversion agreement; or

(f) a conviction [~~which~~]that has been reduced in accordance with Section 76-3-402.

(7) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

(8) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(9) "Firearm" means the same as that term is defined in Section 53-5a-101.5.

[~~(7)~~](10) (a) "School employee" means an employee of a public school district, charter school, or private school whose duties, responsibilities, or assignments require the employee to be physically present on a school's campus at least half of the days on which school is held during a school year.

(b) "School employee" also means a substitute teacher, as defined in Section 53E-6-901.

[~~(8)~~](11) "School year" means the period of time designated by a local school board, charter school governing board, or private school as the school year for high school, middle school, or elementary school students.

Section 26. Section 53-5a-302, which is renumbered from Section 53-5-703 is renumbered and amended to read:

[~~53-5-703~~]53-5a-302. Concealed Firearm Review Board -- Membership -- Compensation -- Terms -- Duties.

(1) There is created within the bureau the Concealed Firearm Review Board.

(2) (a) The board is comprised of not more than five members appointed by the commissioner on a bipartisan basis.

(b) The board shall include a member representing law enforcement and at least two citizens, one of whom represents sporting interests.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the commissioner shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The board shall meet at least quarterly, unless the board has no business to conduct during that quarter.

(7) The board, upon receiving a timely filed petition for review, shall review within a reasonable time the denial, suspension, or revocation of a permit or a temporary permit to carry a concealed firearm.

Section 27. Section 53-5a-303, which is renumbered from Section 53-5-704 is renumbered and amended to read:

[~~53-5-704~~]53-5a-303. Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.

(1) (a) Except as provided in Subsection (1)(b), the bureau shall issue a concealed carry permit [~~to carry~~]allowing the carrying of a concealed firearm for lawful self defense to an applicant who is 21 years old or older within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(b) (i) Within 90 days before the day on which a provisional permit holder under Section [~~53-5-704.5~~]53-5a-304 reaches 21 years old, the provisional permit holder may apply under this section for a permit to carry a concealed firearm for lawful self defense.

(ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(iii) A permit issued under this Subsection (1)(b):

(A) is not valid until an applicant is 21 years old; and

(B) requires a $10 application fee.

(iv) [~~A person~~]An individual who applies for a permit under this Subsection (1)(b) is not required to retake the firearms training described in Subsection [~~53-5-704(8)~~]53-5a-303(8).

(c) [~~The~~]A concealed firearm permit issued in accordance with this section is valid throughout the state for five years, without restriction, except as otherwise provided by Section [~~53-5-710~~]53-5a-102.2.

[~~(d) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to an individual issued a permit under Subsection (1)(a) or (b).~~]

[~~(c)~~](d) Subsection (4)(a) does not apply to a nonresident:

(i) active duty service member, who presents to the bureau orders requiring the active duty service member to report for duty in this state; or

(ii) active duty service member's spouse, stationed with the active duty service member, who presents to the bureau the active duty service member's orders requiring the service member to report for duty in this state.

(2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder:

(i) has been or is convicted of a felony;

(ii) has been or is convicted of a crime of violence;

(iii) has been or is convicted of an offense involving the use of alcohol;

(iv) has been or is convicted of an offense involving the unlawful use of narcotics or other controlled substances;

(v) has been or is convicted of an offense involving moral turpitude;

(vi) has been or is convicted of an offense involving domestic violence;

(vii) has been or is adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; [~~and~~]or

(viii) is not qualified to purchase and possess a firearm pursuant [~~to Section 76-10-503 and~~]to Title 76, Chapter 11, Part 3, Persons Restricted Regarding Dangerous Weapons, or federal law.

(b) In determining whether an applicant or permit holder is qualified to hold a concealed firearm permit under Subsection (2)(a), the bureau shall consider mitigating circumstances.

(3) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if [~~it~~]the bureau has reasonable cause to believe that the applicant or concealed firearm permit holder has been or is a danger to self or others as demonstrated by evidence, including:

(i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

(ii) past participation in incidents involving unlawful violence or threats of unlawful violence; or

(iii) conviction of an offense in [~~violation of Title 76, Chapter 10, Part 5, Weapons~~]Title 76, Chapter 11, Weapons.

(b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction of an infraction violation of [~~Title 76, Chapter 10, Part 5, Weapons~~]an offense in Title 76, Chapter 11, Weapons.

(c) In determining whether the applicant or concealed firearm permit holder has been or is a danger to self or others, the bureau may inspect:

(i) expunged records of arrests and convictions of adults as provided in Section 77-40a-403; and

(ii) juvenile court records as provided in Section 78A-6-209.

(d) (i) The bureau shall suspend a concealed firearm permit if [~~a~~]the permit holder becomes a temporarily restricted person in accordance with Section [~~53-5e-301~~]53-5a-504.

(ii) Upon removal from the temporary restricted list described in Section 53-5a-504, the concealed firearm permit holder's permit shall be reinstated unless:

(A) the concealed firearm permit has been revoked, been suspended for a reason other than the restriction described in Subsection (3)(d)(i), or expired; or

(B) the concealed firearm permit holder has become a restricted person under Section [~~76-10-503~~]76-11-302 or 76-11-303.

(4) (a) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law shall:

(i) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and

(ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

(b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit for a period of 10 years.

(c) Subsection (4)(a) applies to:

(i) all applications for the issuance of a concealed firearm permit [~~that are~~]received by the bureau [~~after May 10, 2011.~~]; and

[~~(d) Beginning January 1, 2012, Subsection (4)(a) also applies to~~]

(ii) an application for renewal of a concealed firearm permit by a nonresident.

(5) The bureau shall issue a concealed firearm permit to a former peace officer who departs full-time employment as a peace officer, in an honorable manner, within five years of that departure if the officer meets the requirements of this section.

(6) Except as provided in Subsection (7), the bureau shall also require the applicant to provide:

(a) the address of the applicant's permanent residence;

(b) one recent dated photograph;

(c) one set of fingerprints; and

(d) evidence of general familiarity with the types of firearms to be concealed as defined in Subsection (8).

(7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (6)(d).

(8) (a) General familiarity with the types of firearms to be concealed includes training in:

(i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.

(b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by one of the following:

(i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the bureau;

(ii) certification of general familiarity by an individual who has been certified by the bureau, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

(iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.

(c) Instruction taken by a student under this Subsection (8) shall be in person and not through electronic means.

(d) [~~A person~~]An individual applying for a renewal permit is not required to retake the firearms training described in this Subsection [~~53-5-704~~(8)](8) if the [~~person~~]individual:

(i) has an unexpired permit; or

(ii) has a permit that expired less than one year before the date on which the renewal application was submitted.

(9) (a) An applicant for certification as a Utah concealed firearms instructor shall:

(i) be at least 21 years old;

(ii) be currently eligible to possess a firearm under Section [~~76-10-503~~]76-11-302 or 76-11-303;

(iii) have:

(A) completed a firearm instruction training course from the National Rifle Association or another nationally recognized firearm training organization that customarily offers firearm safety and firearm law instructor training or the Department of Public Safety, Division of Peace Officer Safety Standards and Training; or

(B) received training equivalent to one of the courses referred to in Subsection (9)(a)(iii)(A) as determined by the bureau;

(iv) have taken a course of instruction and passed a certification test as described in Subsection (9)(c); and

(v) possess a Utah concealed firearm permit.

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the bureau.

(c) (i) In order to obtain initial certification or renew a certification, an instructor shall attend an instructional course and pass a test under the direction of the bureau.

(ii) (A) The bureau shall provide or contract to provide the course referred to in Subsection (9)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of $50.00 at the time of application for initial certification.

(ii) The renewal fee for the certificate is $25.

(iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (9).

(10) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the bureau.

(11) (a) (i) A concealed firearms instructor shall provide a signed certificate to an individual successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the bureau under Subsection (9).

(iii) (A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other individual.

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (9).

(C) The bureau shall determine the design and content of the seal to include at least the following:

(I) the instructor's name as it appears on the instructor's certification;

(II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and

(III) the instructor's business or residence address.

(D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.

(b) The applicant shall provide the certificate to the bureau in compliance with Subsection (6)(d).

(12) The bureau may deny, suspend, or revoke the certification of an applicant or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:

(a) become ineligible to possess a firearm under Section [~~76-10-503~~]76-11-302 or 76-11-303, or federal law; or

(b) knowingly and willfully provided false information to the bureau.

(13) An applicant for certification or a concealed firearms instructor has the same appeal rights as described in Subsection (16).

(14) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the bureau are not vicariously liable for damages caused by the permit holder.

(15) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(16) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or permit holder may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant or permit holder by certified mail, return receipt requested.

(b) The bureau's denial of a permit shall be in writing and shall include the general reasons for the action.

(c) If an applicant or permit holder appeals the denial to the review board, the applicant or permit holder may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the bureau has the burden of proof by a preponderance of the evidence.

(e) (i) Upon a ruling by the board on the appeal of a denial, the board shall issue a final order within 30 days stating the board's decision.

(ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

(iii) The final order is final bureau action for purposes of judicial review under Section 63G-4-402.

(17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Section 28. Section 53-5a-304, which is renumbered from Section 53-5-704.5 is renumbered and amended to read:

[~~53-5-704.5~~]53-5a-304. Provisional permit to carry concealed firearm.

(1) (a) The bureau shall issue a provisional permit to carry a concealed firearm for lawful self-defense to an applicant who is 18 years [~~of age, but is no older than 20 years of age~~]old but younger than 21 years old, within 60 days after receiving an application, unless the bureau finds proof that the applicant does not meet the qualifications set forth in Subsection [~~53-5-704(2)~~]53-5a-303(2).

(b) [~~The~~]Except as provided in Subsection (2), a provisional concealed carry permit is valid throughout the state until the applicant reaches the age of 21, without restriction, except as otherwise provided by Section [~~53-5-710~~]53-5a-102.2.

(2) The bureau may deny, suspend, or revoke a provisional concealed carry permit issued under this section as [~~set forth~~]described in Subsections [~~53-5-704(2) and (3)~~]53-5a-303(2) and (3).

(3) (a) In addition to meeting the other qualifications for the issuance of a provisional concealed carry permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah provisional concealed carry permit or has reciprocity with Utah's provisional concealed firearm permit law shall:

(i) hold a current applicable concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and

(ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (3)(a)(i).

(b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (3)(a) is prohibited from holding a Utah concealed firearm permit of any kind for a period of 10 years.

(4) The bureau shall also require the applicant to provide:

(a) the address of the applicant's permanent residence;

(b) one recent dated photograph;

(c) one set of fingerprints; and

(d) evidence of general familiarity with the types of firearms to be concealed as defined in [~~Subsection 53-5-704(8)~~]Section 53-5-303.

(5) In the event of a decision to deny, suspend, or revoke a provisional concealed firearm permit, the applicant or permit holder under this section may appeal the decision through the same process set forth in Subsection [~~53-5-704(16)~~]53-5a-303(16).

(6) The applicant or permit holder of the provisional concealed firearm permit under this section must meet the eligibility requirements of another state, including age requirements, to carry a concealed firearm in that state.

Section 29. Section 53-5a-305, which is renumbered from Section 53-5-705 is renumbered and amended to read:

[~~53-5-705~~]53-5a-305. Temporary permit to carry concealed firearm -- Denial, suspension, or revocation -- Appeal.

(1) The bureau or [~~its~~]the bureau's designated agent may issue a temporary permit to carry a concealed firearm to [~~a person~~]an

individual who:

(a) has applied for a permit under Section [~~53-5-704~~]53-5a-303;

(b) has applied for a temporary permit under this section; and

(c) meets the criteria required in Subsections (2) and (3).

(2) To receive a temporary permit under this section, the applicant shall demonstrate in writing to the satisfaction of the bureau extenuating circumstances that would justify issuing a temporary permit.

(3) A temporary permit may not be issued under this section until preliminary record checks regarding the applicant have been made with the National Crime Information Center and the bureau to determine any criminal history.

(4) [~~(a)~~] A temporary permit is valid only for a maximum of 90 days or any lesser period specified by the bureau, or until a permit under Section 53-5-704 is issued to the holder of the temporary permit, whichever period is shorter.

[~~(b) The provisions of Subsections 76-10-504(1) and (2) and Section 76-10-505 do not apply to a person issued a temporary permit under this section during the time period for which the temporary permit is valid.~~]

(5) The bureau may deny, suspend, or revoke a temporary permit prior to expiration if the commissioner determines:

(a) the circumstances justifying the temporary permit no longer exist; or

(b) the holder of the temporary permit does not meet the requirements for a permit under Section [~~53-5-704~~]53-5a-303.

(6) (a) The denial, suspension, or revocation of a temporary permit shall be in writing and shall include the reasons for the action.

(b) The bureau's decision to deny, suspend, or revoke a temporary permit may not be appealed to the board.

(c) Denial, suspension, or revocation under this subsection is final action for purposes of judicial review under Section 63G-4-402.

Section 30. Section 53-5a-306, which is renumbered from Section 53-5-706 is renumbered and amended to read:

[~~53-5-706~~]53-5a-306. Permit -- Fingerprints transmitted to bureau -- Report from bureau.

(1) (a) Except as provided in Subsection (2), the fingerprints of each applicant for a permit under Section [~~53-5-707~~]53-5a-307 or [~~53-5-707.5~~]53-5a-308 shall be taken on a form prescribed by the bureau.

(b) Upon receipt of the fingerprints, the applicant fingerprint card fee prescribed in Section 53-10-108, and the fee prescribed in Section [~~53-5-707~~]53-5a-307 or [~~53-5-707.5~~]53-5a-308, the bureau shall conduct a search of [~~its~~]the bureau's files for criminal history information pertaining to the applicant, and shall request the Federal Bureau of Investigation to conduct a similar search through [~~its~~]the Federal Bureau of Investigation's files.

(c) If the fingerprints are insufficient for the Federal Bureau of Investigation to conduct a search of [~~its~~]the Federal Bureau of Investigation's files for criminal history information, the application or concealed firearm permit may be denied, suspended, or revoked until sufficient fingerprints are submitted by the applicant.

(2) (a) If the permit applicant has previously applied to the bureau for a permit to carry concealed firearms, the bureau shall note the previous identification numbers and other data [~~which~~]that would provide positive identification in the files of the bureau on the copy of any subsequent permit submitted to the bureau in accordance with this section.

(b) No additional application form, fingerprints, or fee are required under this Subsection (2).

Section 31. Section 53-5a-307, which is renumbered from Section 53-5-707 is renumbered and amended to read:

[~~53-5-707~~]53-5a-307. Concealed firearm permit -- Fees -- Concealed Weapons Account.

(1) (a) An applicant for a concealed firearm permit shall pay a fee of $25 at the time of filing an application.

(b) A nonresident applicant shall pay an additional $10 for the additional cost of processing a nonresident application.

(c) The bureau shall waive the initial fee for an applicant who is:

(i) a law enforcement officer under Section 53-13-103;

(ii) an active duty service member;

(iii) the spouse of an active duty service member; or

(iv) a school employee.

(2) (a) The renewal fee for the permit is $20.

(b) A nonresident shall pay an additional $5 for the additional cost of processing a nonresidential renewal.

(3) The replacement fee for the permit is $10.

(4) (a) The late fee for the renewal permit is $7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5) (a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."

(b) The account shall be funded from fees collected under this section and Section [~~53-5-707.5~~]53-5a-308.

(c) Funds in the account may only be used to cover costs relating to:

(i) the issuance of concealed firearm permits under this part; or

(ii) the programs described in Subsection 26B-5-102(3) and Section 26B-5-611.

(d) No later than 90 days after the end of the fiscal year, 50% of the fund balance shall be transferred to the Suicide Prevention and Education Fund, created in Section 26B-1-326.

(6) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section and Section 53-5-707.5.

Section 32. Section 53-5a-308, which is renumbered from Section 53-5-707.5 is renumbered and amended to read:

[~~53-5-707.5~~]53-5a-308. Provisional concealed firearm permit -- Fees -- Disposition of fees.

(1) (a) An applicant for a provisional concealed firearm permit, as described in Section [~~53-5-704.5~~]53-5a-304, shall pay a fee of $25 at the time of filing an application.

(b) A nonresident applicant shall pay an additional $10 for the additional cost of processing a nonresident application.

(2) The replacement fee for the permit is $10.

(3) Fees collected under this section shall be remitted to the Concealed Weapons Account, as described in [~~Subsection 53-5-707(5)~~]Section 53-5a-307.

(4) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau shall promptly forward any fees collected under Subsection (4)(a) to the appropriate agency.

Section 33. Section 53-5a-309, which is renumbered from Section 53-5-707.6 is renumbered and amended to read:

[~~53-5-707.6~~]53-5a-309. Concealed firearm permit renewal -- Firearm safety and suicide prevention video.

(1) The bureau, in conjunction with the Division of Integrated Healthcare created in Section 26B-1-204, shall create a firearm safety and suicide prevention video that:

(a) is [~~web-accessible~~]Internet-accessible;

(b) is no longer than 10 minutes in length; and

(c) includes information about:

(i) safe handling, storage, and use of firearms in a home environment;

(ii) at-risk individuals and individuals who are legally prohibited from possessing firearms; and

(iii) suicide prevention awareness.

(2) Before renewing a firearm permit, an individual shall view the firearm safety and suicide prevention video and submit proof in the form required by the bureau.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the bureau shall make rules that establish procedures for:

(a) producing and distributing the firearm safety and suicide prevention video; and

(b) providing access to the video to an applicant seeking renewal of a firearm permit.

Section 34. Section 53-5a-310, which is renumbered from Section 53-5-708 is renumbered and amended to read:

[~~53-5-708~~]53-5a-310. Permit -- Names private.

(1) (a) The bureau shall maintain a record in [~~its~~]the bureau's office of any permit issued under this part.

(b) Notwithstanding the requirements of Subsection 63G-2-301(2)(b), the names, addresses, telephone numbers, dates of birth, and [~~Social Security~~]social security numbers of [~~persons~~]individuals receiving permits are protected records under Subsection 63G-2-305(11).

(c) Notwithstanding Section 63G-2-206, [~~a person~~]an individual may not share any of the information listed in Subsection (1)(b) with any office, department, division, or other agency of the federal government unless:

(i) the disclosure is necessary to conduct a criminal background check on the individual who is the subject of the information;

(ii) the disclosure of information is made pursuant to a court order directly associated with an active investigation or prosecution of the individual who is the subject of the information;

(iii) the disclosure is made to a criminal justice agency in a criminal investigation or prosecution;

(iv) the disclosure is made by a law enforcement agency within the state to another law enforcement agency in the state or in another state in connection with an investigation, including a preliminary investigation, or a prosecution of the individual who is the subject of the information;

(v) the disclosure is made by a law enforcement agency within the state to an employee of a federal law enforcement agency in the course of a combined law enforcement effort involving the law enforcement agency within the state and the federal law enforcement agency; or

(vi) the disclosure is made in response to a routine request that a federal law enforcement officer makes to obtain information on an individual whom the federal law enforcement officer detains, including for a traffic stop, or questions because of the individual's suspected violation of state law.

(d) [~~A person~~]An individual is guilty of a class A misdemeanor if the [~~person~~]individual knowingly:

(i) discloses information listed in Subsection (1)(b) in violation of the provisions under Title 63G, Chapter 2, Government Records Access and Management Act, applicable to protected records; or

(ii) shares information in violation of Subsection (1)(c).

(e) (i) As used in this Subsection (1)(e), "governmental agency" means:

(A) the state or any department, division, agency, or other instrumentality of the state; or

(B) a political subdivision of the state, including a county, city, town, school district, special district, and special service district.

(ii) A governmental agency may not compel or attempt to compel an individual who has been issued a concealed firearm permit to divulge whether the individual:

(A) has been issued a concealed firearm permit; or

(B) is carrying a concealed firearm.

(iii) Subsection (1)(e)(ii) does not apply to a law enforcement officer.

(2) The bureau shall immediately file a copy of each permit [~~it~~]the bureau issues under this part.

Section 35. Section 53-5a-311, which is renumbered from Section 53-5-711 is renumbered and amended to read:

[~~53-5-711~~]53-5a-311. Law enforcement officials, judges, and court commissioners exempt -- Training requirements -- Qualification -- Revocation.

(1) As used in this section [~~and Section 76-10-523~~]:

(a) "Court commissioner" means an individual appointed under Section 78A-5-107.

(b) (i) "Judge" means a judge or justice of a court of record or a court not of record.

(ii) "Judge" does not include a judge pro tem or senior judge.

(c) "Law enforcement official" means:

(i) a member of the Board of Pardons and Parole;

(ii) a district attorney, deputy district attorney, county attorney or deputy county attorney of a county not in a prosecution district;

(iii) the attorney general;

(iv) an assistant attorney general designated as a criminal prosecutor; or

(v) a city attorney or a deputy city attorney designated as a criminal prosecutor.

(2) To qualify for an exemption in Section [~~76-10-523~~]53-5a-108, a law enforcement official, judge, or court commissioner shall complete the following training requirements:

(a) meet the requirements of Sections [~~53-5-704, 53-5-706, and 53-5-707~~]53-5a-303, 53-5a-306, and 53-5a-307; and

(b) successfully complete an additional course of training as established by the commissioner [~~of public safety~~]designed to assist [~~them while~~]with carrying out [~~their~~]official law enforcement, judicial, or court commissioner duties as agents for the state or [~~its~~]the state's political subdivisions.

(3) Annual requalification requirements for law enforcement officials, judges, or court commissioners shall be established by the commissioner [~~of public safety. Additional requalification requirements~~]and may be established by the:

(a) Board of Pardons and Parole by rule for [~~its~~]the Board of Pardons and Parole's members;

(b) Judicial Council by rule for judges and court commissioners; and

(c) the district attorney, county attorney in a county not in a prosecution district, the attorney general, or city attorney by policy for prosecutors under their jurisdiction.

(4) The bureau may:

(a) issue a certificate of qualification to a judge, law enforcement official, or court commissioner who has completed the requirements of Subsection (2), which certificate of qualification is valid until revoked;

(b) revoke the certificate of qualification of a judge, law enforcement official, or court commissioner who:

(i) fails to meet the annual requalification criteria established pursuant to Subsection (3);

(ii) would be subject to revocation of a concealed firearm permit under Subsection [~~53-5-704(2)(a)~~]53-5a-303(2)(a); or

(iii) is no longer employed as a judge, law enforcement official, or court commissioner as defined in Subsection (1); and

(c) certify instructors for the training requirements of this section.

Section 36. Section 53-5a-312, which is renumbered from Section 53-5-712 is renumbered and amended to read:

[~~53-5-712~~]53-5a-312. Armed Forces -- Permit requirements -- Exemptions.

An active duty servicemember of the United States Armed Forces who possesses a Utah concealed firearm permit is exempt from the requirement in Subsection [~~53-5-704(4)(a)~~]53-5a-303(4)(a) when renewing a Utah concealed firearm permit.

Section 37. Section 53-5a-401, which is renumbered from Section 53-5b-103 is renumbered and amended to read:

PART 4. Utah State-Made Firearms Protections

[~~53-5b-103~~]53-5a-401. Definitions.

As used in this [~~chapter~~]part:

(1) "Firearm" means a device from which is expelled a projectile by action of an explosive.

(2) "Firearm accessory" means an item that is used in conjunction with or mounted upon a firearm, firearm action, or firearm receiver but is not essential to the basic function of a firearm, including:

(a) a telescopic or laser sight;

(b) a magazine;

(c) a flash or sound suppressor;

(d) a folding or aftermarket stock or grip;

(e) a speed-loader;

(f) an ammunition carrier; and

(g) a light for target illumination.

(3) "Generic and insignificant parts:"

(a) means parts that have other manufacturing or consumer product applications; and

(b) includes:

(i) springs;

(ii) screws;

(iii) nuts; and

(iv) pins.

(4) "Manufactured" means creating a firearm, a firearm action or receiver, a firearm accessory, or ammunition from basic materials for functional usefulness, including:

(a) forging;

(b) casting;

(c) machining; and

(d) another process for working materials.

Section 38. Section 53-5a-402, which is renumbered from Section 53-5b-102 is renumbered and amended to read:

[~~53-5b-102~~]53-5a-402. Legal considerations.

In reviewing any matter covered by this [~~chapter~~]part, a court shall consider the following:

(1) The Tenth Amendment to the United States Constitution guarantees to the state and its people all powers not granted to the federal government elsewhere in the Constitution and reserves to the state and people of Utah certain powers as they were understood at the time that Utah was admitted to statehood.

(2) The guarantee of powers to the state and its people under the Tenth Amendment is a matter of contract between the state and people of Utah and the United States as of the time of statehood.

(3) The Ninth Amendment to the United States Constitution guarantees to the people rights not granted in the Constitution and reserves to the people of Utah certain rights as they were understood at the time that Utah was admitted to statehood.

(4) The guarantee of rights to the people under the Ninth Amendment is a matter of contract between the state and people of Utah and the United States as of the time of statehood.

(5) The regulation of intrastate commerce is vested in the state under the Ninth and Tenth Amendments to the United States Constitution.

(6) The Second Amendment to the United States Constitution reserves to the people the right to keep and bear arms as that right was understood at the time that Utah was admitted to statehood, and the guarantee of the right is a matter of contract between the state and people of Utah and the United States as of the time of statehood.

(7) The Utah Constitution clearly secures to Utah citizens, and prohibits government interference with, the right of individual Utah citizens to keep and bear arms.

(8) A personal firearm, a firearm action or receiver, a firearm accessory, or ammunition that is manufactured commercially or privately in the state to be used or sold within the state is not subject to federal law or federal regulation, including registration, under the authority of congress to regulate interstate commerce.

(9) The Legislature declares that a firearm, a firearm action or receiver, a firearm accessory, and ammunition described in Subsection (8) does not travel in interstate commerce.

(10) The importation into the state of generic and insignificant parts and those parts' incorporation into a firearm, a firearm action or receiver, a firearm accessory, or ammunition manufactured in the state does not subject the firearm, firearm accessory, firearm action or receiver, or ammunition to federal law or regulation.

(11) Basic materials, including unmachined steel and unshaped wood, are not firearms, firearm actions or receivers, firearms accessories, or ammunition.

(12) Trade in basic materials is not subject to congressional authority to regulate firearms, firearm actions or receivers, firearms accessories, and ammunition as if the basic materials were actually firearms, firearm actions or receivers, firearms accessories, or ammunition.

(13) Congress's authority to regulate interstate commerce in basic materials does not include authority to regulate firearms, firearm actions or receivers, firearms accessories, and ammunition made in the state from basic materials.

(14) The attachment or use of firearms accessories in conjunction with a firearm manufactured in the state does not subject the firearm to federal regulation under Congress's power to regulate interstate commerce, without regard to whether the firearms accessories are themselves subject to federal regulation.

Section 39. Section 53-5a-403, which is renumbered from Section 53-5b-201 is renumbered and amended to read:

[~~53-5b-201~~]53-5a-403. Intrastate firearm manufacturing.

(1) This chapter applies to a firearm, a firearm action or receiver, a firearm accessory, or ammunition that is manufactured in the state to remain in the state from basic materials that can be manufactured without the inclusion of any significant parts imported into the state.

(2) This chapter does not apply to:

(a) a firearm that cannot be carried and used by one [~~person~~]individual;

(b) a firearm that has a bore diameter greater than 1-1/2 inches and that uses smokeless powder, not black powder, as a propellant;

(c) a firearm that discharges two or more projectiles with one activation of the trigger or other firing device, other than a shotgun; or

(d) ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm.

Section 40. Section 53-5a-404, which is renumbered from Section 53-5b-202 is renumbered and amended to read:

[~~53-5b-202~~]53-5a-404. Required markings.

A firearm, firearm action, or firearm receiver manufactured or sold in Utah under this [~~chapter~~]part must have the words "Made in Utah" or "Made in UT" clearly stamped on a central metallic part, such as the receiver or frame.

Section 41. Section 53-5a-501, which is renumbered from Section 53-5c-102 is renumbered and amended to read:

PART 5. Firearms Safe Harbor

[~~53-5c-102~~]53-5a-501. Definitions.

As used in this [~~chapter~~]part:

(1) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) "Cohabitant" means an individual who:

(a) is 18 years old or older;

(b) resides in the same home with another individual; and

(c) (i) is living as if a spouse of the individual;

(ii) is related by blood or marriage to the individual;

(iii) has one or more children in common with the individual; or

(iv) has an interest in the safety and well-being of the individual.

(3) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(4) "Firearm" means a pistol, revolver, shotgun, short barrel shotgun, rifle or short barrel rifle, or a device that could be used as a

dangerous weapon from which is expelled a projectile by action of an explosive.

(5) "Health care provider" means a person:

(a) who provides health care or professional services related to health care; and

(b) is acting within the scope of the person's license, certification, practice, education, or training.

(6) "Illegal firearm" means a firearm the ownership or possession of which is prohibited under state or federal law.

(7) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(8) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(9) "Law enforcement agency" means a municipal or county police agency or an officer of that agency.

(10) "Owner cohabitant" means a cohabitant who:

(a) is 18 years old or older; and

(b) owns a firearm.

Section 42. Section 53-5a-502, which is renumbered from Section 53-5c-201 is renumbered and amended to read:

[~~53-5c-201~~]53-5a-502. Voluntary commitment of a firearm by cohabitant -- Law enforcement to hold firearm.

(1) (a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law enforcement agency or request that a law enforcement officer receive a firearm for safekeeping if the owner cohabitant or cohabitant believes that the owner cohabitant or another cohabitant with access to the firearm is an immediate threat to:

(i) a cohabitant;

(ii) the owner cohabitant; or

(iii) another individual.

(b) Except as provided in Subsection (2), if the owner of a firearm requests return of the firearm in person at the law enforcement agency's office, the law enforcement agency:

(i) may not hold the firearm under this section; and

(ii) shall return the firearm to the owner.

(2) A law enforcement agency may not return a firearm to an owner under Subsection (1)(b)if the owner of the firearm:

(a) is a restricted person under Section [~~76-10-503~~]76-11-302 or 76-11-303; or

(b) (i) has been arrested and booked into a county jail on a class A misdemeanor or felony domestic violence offense;

(ii) has had a court:

(A) review the probable cause statement detailing the incident leading to the owner's arrest; and

(B) determine that probable cause existed for the arrest; and

(iii) is subject to a jail release agreement or a jail release court order arising out of the domestic violence offense.

(3) Unless a firearm is an illegal firearm subject to Section [~~53-5c-202~~]53-5a-503, a law enforcement agency that receives a firearm in accordance with this chapter shall:

(a) record:

(i) the owner cohabitant's name, address, and phone number;

(ii) the firearm serial number and the make and model of each firearm committed; and

(iii) the date that the firearm was voluntarily committed;

(b) require the cohabitant to sign a document attesting that the cohabitant resides in the home;

(c) hold the firearm in safe custody:

(i) for 60 days after the day on which the firearm is voluntarily committed; or

(ii) (A) for an owner described in Subsection (2)(b), during the time the jail release agreement or jail release court order is in effect; and

(B) for 60 days after the day on which the jail release agreement or jail release court order expires; and

(d) upon proof of identification, return the firearm to:

(i) (A) the owner cohabitant after the expiration of the 60-day period; or

(B) if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or

(ii) an owner other than the owner cohabitant in accordance with Section [~~53-5c-202~~]53-5a-503.

(4) The law enforcement agency shall hold the firearm for an additional 60 days:

(a) if the initial 60-day period expires; and

(b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.

(5) A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.

(6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection (3), Subsection [~~53-5c-202(3)(b)(iii)~~]53-5a-503(3)(b)(iii), or any other record created in the application of this chapter immediately, if practicable, but no later than five days after immediately upon the:

(a) return of a firearm in accordance with Subsection (3)(d); or

(b) disposal of the firearm in accordance with Section [~~53-5c-202~~]53-5a-503.

(7) Unless otherwise provided, the provisions of Title 77, Chapter 11d, Lost or Mislaid Property, do not apply to a firearm received by a law enforcement agency in accordance with this [~~chapter~~]part.

(8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this [~~chapter~~]part.

(9) The department shall create a pamphlet to be distributed by a law enforcement officer under Section 77-36-2.1 that includes information about a cohabitant's or owner cohabitant's ability to have the owner cohabitant's firearm committed to a law enforcement agency for safekeeping in accordance with this section.

Section 43. Section 53-5a-503, which is renumbered from Section 53-5c-202 is renumbered and amended to read:

[~~53-5c-202~~]53-5a-503. Illegal firearms confiscated -- Disposition of unclaimed firearm.

(1) If a law enforcement agency receives a firearm in accordance with Section 53-5c-201, and the firearm is an illegal firearm, the law enforcement agency shall:

(a) notify the owner cohabitant attempting to voluntarily commit the firearm that the firearm is an illegal firearm; and

(b) confiscate the firearm and dispose of the firearm in accordance with Section 77-11a-403.

(2) (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner cohabitant to return a firearm in accordance with Section [~~53-5c-201~~]53-5a-502, the law enforcement agency shall dispose of the firearm in accordance with Section 77-11a-403.

(b) A law enforcement agency may not dispose of a firearm under Subsection (2)(a)before one year after the day on which the cohabitant initially voluntarily committed the firearm in accordance with Section [~~53-5c-201~~]53-5a-502.

(3) (a) If [~~a person~~]an individual other than an owner cohabitant claims ownership of the firearm, the [~~person~~]individual may:

(i) request that the law enforcement agency return the firearm in accordance with Subsection (3)(b); or

(ii) petition the court for the firearm's return in accordance with Subsection (3)(c).

(b) Except as provided in Section [~~53-5c-201~~]53-5a-502, the law enforcement agency shall return a firearm to [~~a person~~]an individual other than an owner cohabitant who claims ownership of the firearm if:

(i) the 60-day period described in Section [~~53-5c-201~~]53-5a-502 has expired;

(ii) the [~~person~~]individual provides identification; and

(iii) the [~~person~~]individual signs a document attesting that the [~~person~~]individual has an ownership interest in the firearm.

(c) After sufficient notice is given to the prosecutor, the court may order that the firearm be:

(i) returned to the rightful owner as determined by the court; or

(ii) disposed of in accordance with Section 77-11a-403.

(d) A law enforcement agency shall return a firearm ordered returned to the rightful owner as expeditiously as possible after a court determination.

Section 44. Section 53-5a-504, which is renumbered from Section 53-5c-301 is renumbered and amended to read:

[~~53-5c-301~~]53-5a-504. Voluntary restrictions on firearm purchase and possession.

(1) An individual who is not a restricted person under Section [~~76-10-503~~]76-11-302 or 76-11-303 may voluntarily request to be restricted from the purchase or possession of firearms.

(2) An individual requesting to be restricted under Subsection (1) may request placement on one of the following restricted lists:

(a) a restricted list that:

(i) restricts the individual from purchasing or possessing a firearm for 180 days with automatic removal of the individual from the restricted list at the end of the 180 days; and

(ii) allows the individual to request removal 30 days after the day on which the individual is added to the restricted list; or

(b) a restricted list that:

(i) restricts the individual from purchasing or possessing a firearm indefinitely; and

(ii) allows the individual to request removal 90 days after the day on which the individual is added to the restricted list.

(3) (a) Subject to Subsections (8) and (9), the bureau shall develop a process and forms for inclusion on, and removal from, a restricted list as described in Subsection (2) to be maintained by the bureau.

(b) The bureau shall make the forms for inclusion and removal available by download through the bureau's website and require, at a minimum, the following information for the individual described in Subsection (1):

(i) name;

(ii) address;

(iii) date of birth;

(iv) contact information;

(v) signature; and

(vi) (A) if the individual is entered on the restricted list as described in Subsection (2)(a), an acknowledgment of the statement in Subsection (8)(a); or

(B) if the individual is entered on the restricted list as described in Subsection (2)(b), an acknowledgment of the statement in Subsection (8)(b).

(4) (a) An individual requesting inclusion on a restricted list under Subsection (2) shall:

(i) deliver the completed form in person to a law enforcement agency; or

(ii) direct the individual's health care provider under Section [~~53-5c-302~~]53-5a-505 to electronically deliver the individual's request to the bureau.

(b) The law enforcement agency described in Subsection (4)(a)(i):

(i) shall verify the individual's identity before accepting the form;

(ii) may not accept a form from someone other than the individual named on the form; and

(iii) shall transmit the form electronically to the bureau through the Utah Criminal Justice Information System.

(5) Upon receipt of a verified form provided under this section or Section [~~53-5c-302~~]53-5a-505 requesting inclusion on a restricted list, the bureau shall, within 24 hours, add the individual's name to the restricted list.

(6) (a) For an individual added to the restricted list described in Subsection (2)(a):

(i) the individual may not request removal from the restricted list unless the individual has been on the restricted list for at least 30 days;

(ii) the bureau shall remove the individual from the restricted list 180 days after the day on which the individual was added to the restricted list, unless the individual:

(A) requests to be removed from the restricted list after 30 days;

(B) requests to remain on the restricted list; or

(C) directs the individual's health care provider to request that the individual remain on the restricted list;

(iii) a request for an extension shall be made in the same manner as the original request; and

(iv) the individual may continue to request, or direct the individual's health care provider to continue to request, extensions every 180 days.

(b) For an individual added to a restricted list under Subsection (2)(b), the individual:

(i) may not request removal from the restricted list unless the individual has been on the restricted list for at least 90 days; and

(ii) shall remain on the restricted list, unless the bureau receives a request from the individual to have the individual's name removed from the restricted list.

(7) If an individual restricted under this section is a concealed firearm permit holder, the individual's permit shall be:

(a) suspended upon entry on the restricted list; and

(b) reinstated upon removal from the restricted list, unless:

(i) the permit has been revoked, been suspended for a reason other than under this section, or has expired; or

(ii) the individual has become a restricted person under Section [~~76-10-503~~]76-11-302 or 76-11-303.

(8) (a) The form for an individual seeking to be placed on the restricted list described in Subsection (2)(a) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

By presenting this completed form to a law enforcement agency, I understand that I am requesting that my name be placed on a restricted list that restricts my ability to purchase or possess firearms for a minimum of 30 days, and up to 6 months. I understand that by voluntarily making myself a temporarily restricted person, I may not have a firearm in my possession and any attempt to purchase a firearm while I am on the restricted list will be declined. I also understand that any time after 30 days, I may request removal from the restricted list and all previous rights will be restored. In addition, if I am in possession of a valid concealed firearm permit, my permit will be suspended during the time I am on the restricted list, but will be reinstated upon my removal, unless the permit has expired, been revoked, been suspended for another reason, or I become ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while outside Utah, I will be subject to the law of that location regarding restricted persons."

(b) The form for an individual seeking to be placed on the restricted list described in Subsection (2)(b) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

By presenting this completed form to a law enforcement agency, I understand that I am requesting that my name be placed on a restricted list that restricts my ability to purchase or possess firearms indefinitely. I understand that by voluntarily making myself a temporarily restricted person, I may not have a firearm in my possession and any attempt to purchase a firearm while I am on the restricted list will be declined. I also understand that any time after 90 days, I may request removal from the restricted list and all previous rights will be restored. In addition, if I am in possession of a valid concealed firearm permit, my permit will be suspended during the time I am on the restricted list, but will be reinstated upon my removal, unless the permit has expired, been revoked, been suspended for another reason, or I become ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while outside Utah, I will be subject to the law of that location regarding restricted persons."

(9) (a) An individual requesting removal from a restricted list shall deliver a completed removal form in person to:

(i) the law enforcement agency that processed the inclusion form if the individual was placed on the restricted list under Subsection (4)(a)(i); or

(ii) the individual's local law enforcement agency if the individual was placed on the restricted list under Subsection (4)(a)(ii).

(b) The law enforcement agency described in Subsection (9)(a):

(i) shall verify the individual's identity before accepting the form;

(ii) may not accept a removal form from someone other than the individual named on the form; and

(iii) shall transmit the removal form electronically to the bureau through the Utah Criminal Justice Information System.

(10) Upon receipt of a verified removal form, the bureau shall, after three business days, remove the individual from the restricted list and remove the information from the National Instant Criminal Background Check System.

(11) For an individual added to the restricted list under Subsection (2)(a), within 30 days before the 180-day removal deadline, the bureau shall notify the individual at the address listed on the inclusion form described in Subsection (4) and, if applicable, the law enforcement agency that processed the inclusion form, that the individual is due to be removed from the restricted list, and the date on which the removal will occur, unless the individual requests an extension of up to 180 days.

(12) (a) A law enforcement agency that receives a request for inclusion under Subsection (4)(a)(i) shall:

(i) maintain the completed form and all subsequent completed forms in a separate file; and

(ii) for an individual added to the restricted list under Subsection (2)(a), destroy the entire file within five days after the date indicated in the notification if the individual does not request an extension after notification in accordance with Subsection (11).

(b) A law enforcement agency that receives a removal request under Subsection (9) shall destroy the entire file associated with the individual within five days after the day on which the information is transmitted to the bureau.

(c) Upon removal of an individual from a restricted list, the bureau shall destroy all records related to the inclusion and removal of the individual within five days after the day on which the individual was removed.

(d) All forms and records created in accordance with this section are classified as private records in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(13) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

Section 45. Section 53-5a-505, which is renumbered from Section 53-5c-302 is renumbered and amended to read:

[~~53-5c-302~~]53-5a-505. Assistance from a health care provider -- Restricted list.

(1) An individual who is not a restricted person under Section [~~76-10-503~~]76-11-302 or 76-11-303 and is seeking inclusion on a restricted list under Section [~~53-5c-301~~]53-5a-504 may direct the individual's health care provider to electronically deliver the individual's inclusion request described in Section [~~53-5c-301~~]53-5a-504 to the bureau.

(2) In addition to the inclusion form described in Section [~~53-5c-301~~]53-5a-504, the bureau shall create a form, available by download through the bureau's website, for:

(a) an individual who is directing a health care provider to electronically deliver the individual's inclusion request and require, at a minimum, the following information:

(i) the individual's signature;

(ii) the name of the individual's health care provider; and

(iii) the individual's acknowledgment of the statement in Subsection (4)(a); and

(b) a health care provider who is delivering an individual's inclusion request and require, at a minimum, the following information for the health care provider:

(i) the health care provider's name;

(ii) the name of the health care provider's organization;

(iii) the health care provider's license or certification, including the license or certification number;

(iv) the health care provider's signature; and

(v) the health care provider's acknowledgment of the statement in Subsection (4)(b).

(3) (a) An individual who is directing a health care provider to electronically deliver the individual's request to be included on a restricted list shall, in the presence of the health care provider, complete the forms described in Section [~~53-5c-301~~]53-5a-504 and Subsection (2)(a).

(b) The health care provider:

(i) shall verify the individual's identity before accepting the forms;

(ii) may not accept forms from someone other than the individual named on the forms;

(iii) shall complete the form described in Subsection (2)(b); and

(iv) shall deliver the request to the bureau electronically and maintain a copy of the completed request in the individual's health record.

(4) (a) The form described in Subsection (2)(a) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

By presenting this completed form to my health care provider, I understand that I am requesting that my health care provider present my name to the Bureau of Criminal Identification to be placed on a restricted list that restricts my ability to purchase or possess firearms."

(b) The form described in Subsection (2)(b) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

By presenting this completed form to the Bureau of Criminal Identification, I understand that I am acknowledging that I have verified the identity of [name of individual seeking inclusion on a restricted list] and have witnessed [name of individual] sign the form requesting that [name of individual] be placed on a restricted list that restricts [name of individual]'s ability to purchase or possess firearms. I affirm that [name of individual] is currently my patient, and I am a licensed health care provider acting within the scope of my license, certification, practice, education, or training."

(5) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

Section 46. Section 53-5a-601 is enacted to read:

PART 6. Sale and Purchase of a Firearm

53-5a-601. Definitions.

As used in this part:

(1) "Antique firearm" means the same as that term is defined in Section 53-5a-101.5.

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201within the department.

(3) "Criminal history background check" means a criminal background check conducted through the bureau or a local law enforcement agency.

(4) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

(5) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a firearm, whether the person is a retail or wholesale dealer, pawnbroker, or other type of merchant or seller.

(6) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(7) "Federal firearms licensee" means a person who:

(a) holds a valid federal firearms license issued under 18 U.S.C. Sec. 923; and

(b) is engaged in the activities authorized by the specific category of license held.

(8) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) "Firearm" does not include an antique firearm.

(9) (a) "Short barreled rifle" means a rifle having a barrel or barrels of fewer than 16 inches in length.

(b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

(10) (a) "Short barreled shotgun" means a shotgun having a barrel or barrels of fewer than 18 inches in length.

(b) "Short barreled shotgun" includes a dangerous weapon made from a shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

(11) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

(12) "Slug" means a single projectile discharged from a shotgun shell.

Section 47. Section 53-5a-602, which is renumbered from Section 76-10-526 is renumbered and amended to read:

[~~76-10-526~~]53-5a-602. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.

[~~(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.~~]

[~~(2)~~](1) (a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.

(b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection [~~(2)~~](1).

[~~(3)~~](2) (a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

(b) Subsection [~~(3)(a)~~](2)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

[~~(4)~~](3) (a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the bureau.

(b) The form shall contain the following information:

(i) the dealer identification number;

(ii) the name and address of the individual receiving the firearm;

(iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm; and

(iv) the social security number or any other identification number of the individual receiving the firearm.

[~~(5)~~](4) (a) The dealer shall send the information required by Subsection [~~(4)~~](3) to the bureau immediately upon its receipt by the dealer.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection [~~(4)~~](3) and has received approval from the bureau under Subsection [~~(7)~~](6).

[~~(6)~~](5) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.

[~~(7)~~](6) When the dealer calls for or requests a criminal history background check, the bureau shall:

(a) review the criminal history files, including juvenile court records, and the temporary restricted file created under Section [~~53-5c-301~~]53-5a-504, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the individual is prohibited; or

(ii) the individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background check, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

[~~(8)~~](7) (a) The bureau may not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request, if the bureau determines that the individual receiving the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

[~~(9)~~](8) (a) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the bureau shall:

(i) within 24 hours after determining that the purchaser is prohibited from purchasing, possessing, or transferring a firearm, notify the law enforcement agency in the jurisdiction where the dealer is located; and

(ii) inform the law enforcement agency in the jurisdiction where the individual resides.

(b) Subsection [~~(9)(a)~~](8)(a) does not apply to an individual prohibited from purchasing a firearm solely due to placement on the temporary restricted list under Section [~~53-5c-301~~]53-5a-504.

(c) A law enforcement agency that receives information from the bureau under Subsection [~~(9)(a)~~](8)(a) shall provide a report before August 1 of each year to the bureau that includes:

(i) based on the information the bureau provides to the law enforcement agency under Subsection [~~(9)(a)~~](8)(a), the number of cases that involve an individual who is prohibited from purchasing, possessing, or transferring a firearm as a result of a conviction for an offense

involving domestic violence; and

(ii) of the cases described in Subsection [~~(9)(c)(i)~~](8)(c)(i):

(A) the number of cases the law enforcement agency investigates; and

(B) the number of cases the law enforcement agency investigates that result in a criminal charge.

(d) The bureau shall:

(i) compile the information from the reports described in Subsection [~~(9)(c)~~](8)(c);

(ii) omit or redact any identifying information in the compilation; and

(iii) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

[~~(10)~~](9) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

[~~(11)~~](10) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

[~~(12)~~](11) (a) A dealer shall collect a criminal history background check fee for the sale of a firearm under this section.

(b) The fee described under Subsection [~~(12)(a)~~](11)(a) remains in effect until changed by the bureau through the process described in Section 63J-1-504.

(c) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

[~~(13)~~](12) (a) An individual with a concealed firearm permit issued under Section 53-5a-303 or a provisional concealed firearm permit issued under [~~Title 53, Chapter 5, Part 7, Concealed Firearm Act,~~]Section 53-5a-304 is exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

[~~(a)~~](i) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

[~~(b)~~](ii) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

(b) An individual with a temporary permit to carry a concealed firearm issued under Section 53-5a-305 is not exempt from a background check and the corresponding fee required in this section for the purchase of a firearm.

[~~(14)~~](13) (a) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification.

(b) Subsection [~~(14)(a)~~](13)(a) may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

[~~(15)~~](14) A dealer engaged in the business of selling, leasing, or otherwise transferring a firearm shall:

(a) make the firearm safety brochure described in Subsection 26B-5-211(3) available to a customer free of charge; and

(b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under Subsection 26B-5-211(3) to a customer purchasing a shotgun, short barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does not require be accompanied by a gun lock at the time of purchase.

Section 48. Section 53-5a-603, which is renumbered from Section 76-10-526.1 is renumbered and amended to read:

[~~76-10-526.1~~]53-5a-603. Information check before private sale of firearm.

(1) As used in this section:

(a) "Governmental entity" means the state and the state's political subdivisions.

(b) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(c) "Personally identifiable information" means the same as that term is defined in Section 63D-2-102.

(2) Subject to Subsections (3) and (4), the bureau shall create an online process that allows an individual who is selling or purchasing a firearm to voluntarily determine:

(a) if the other individual involved in the sale of the firearm has a valid concealed carry permit issued under Section 53-5a-303, a provisional concealed carry permit issued under Section 53-5a-304, or a temporary concealed carry permit issued under Section 53-5a-305; or

(b) based on the serial number of the firearm, if the firearm is reported as stolen.

(3) Subsection (2) does not apply to a federal firearms licensee or dealer.

(4) The bureau may not:

(a) provide information related to a request under Subsection (2) to a law enforcement agency; or

(b) collect a user's personally identifiable information under Subsection (2).

(5) A governmental entity may not require an individual who is selling or purchasing a firearm to use the process under Subsection (2).

(6) If an individual uses the process under Subsection (2), the individual is not required, based on the information the individual receives from the bureau, to make a report to a law enforcement agency.

(7) After responding to a request under Subsection (2), the bureau shall immediately dispose of all information related to the request.

(8) (a) This section does not create a civil cause of action arising from the sale or purchase of a firearm under this section.

(b) An individual's failure to use the process under Subsection (2) is not evidence of the individual's negligence in a civil cause of action.

Section 49. Section 53-5a-604, which is renumbered from Section 76-10-527 is renumbered and amended to read:

[~~76-10-527~~]53-5a-604. Penalties.

(1) A dealer is guilty of a class A misdemeanor [~~who~~]if the dealer willfully and intentionally:

(a) requests, obtains, or seeks to obtain criminal history background information under false pretenses;

(b) disseminates criminal history background information; or

(c) violates Section [~~76-10-526~~]53-5a-602.

(2) [~~A person~~]An individual who purchases or transfers a firearm is guilty of a [~~felony of the~~]third degree felony if the [~~person~~]individual willfully and intentionally makes a false statement of the information required for a criminal background check in Section [~~76-10-526~~]53-5a-602.

(3) Except as otherwise provided in Subsection (1), a dealer is guilty of a [~~felony of the~~]third degree felony if the dealer willfully and intentionally sells or transfers a firearm in violation of this part or Title 76, Chapter 11, Weapons.

(4) [~~A person~~]An individual is guilty of a [~~felony of the~~]third degree felony if the [~~person~~]individual purchases a firearm with the intent to:

(a) resell or otherwise provide a firearm to [~~a person~~]an individual who is ineligible to purchase or receive a firearm from a dealer; or

(b) transport a firearm out of this state to be resold to an ineligible [~~person~~]individual.

Section 50. Section 53-5a-605, which is renumbered from Section 76-10-524 is renumbered and amended to read:

[~~76-10-524~~]53-5a-605. Purchase of firearms pursuant to federal law.

This part [~~will allow purchases~~]allows the purchase of firearms and ammunition pursuant to U.S.C. Title 18 Chapter 44 Sec. 922b(3).

Section 51. Section 53-5d-102 is amended to read:

53-5d-102. Definitions.

As used in this chapter:

(1) "Ammunition" means a bullet, a cartridge case, primer, propellant powder, or other ammunition designed for use in any firearm, either as an individual component part or in a completely assembled cartridge.

(2) "Manufacturer" means, with respect to a qualified product, a person who is engaged in the business of manufacturing a qualified product and who is licensed to engage in business as a manufacturer under 18 U.S.C. Chapter 44.

(3) "Negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(4) "Person" means the same as that term is defined in Section 68-3-12.5.

(5) (a) "Qualified civil liability action" means a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party.

(b) "Qualified civil liability action" does not include:

(i) an action brought against a transferor convicted under 18 U.S.C. Sec. 924(h) or Section 76-10-503 by a party directly harmed by the conduct of which the transferee was convicted;

(ii) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly violated a state or federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought, including:

(A) any incident in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required to be kept under federal or state law with respect to the qualified product, or aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

(B) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing, or having reasonable cause to believe, that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under 18 U.S.C. Sec. 922(g) or (n) or [~~Section 76-10-503~~]Title 76, Chapter 11, Part 3, Persons Restricted Regarding Dangerous Weapons;

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries, or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense, then the act shall be considered the sole proximate cause of any resulting death, personal injuries, or property damage; or

(vi) an action or proceeding commenced to enforce the provisions of 18 U.S.C. Chapter 44, 26 U.S.C. Chapter 53, or [~~Title 76, Chapter 10, Part 5, Weapons~~]Title 76, Chapter 11, Weapons.

(6) "Qualified product" means a firearm or antique firearm, as defined in Section [~~76-10-501~~]76-11-101, ammunition, or a component part of a firearm or ammunition.

(7) "Seller" means, with respect to a qualified product, a federal firearms licensee, as defined in Section [~~76-10-501~~]53-5a-601.

(8) "Trade association" means:

(a) any corporation, unincorporated association, federation, business league, or professional or business organization not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(b) an organization described in 26 U.S.C. Sec. 501(c)(6) and exempt from tax under 26 U.S.C. Sec. 501(a); and

(c) an organization, two or more members of which are manufacturers or sellers of a qualified product.

(9) "Unlawful misuse" means conduct that violates a statute, ordinance, or regulation as it relates to the use of a qualified product.

Section 52. Section 53-10-202 is amended to read:

53-10-202. Criminal identification -- Duties of bureau.

The bureau shall:

(1) procure and file information relating to identification and activities of persons who:

(a) are fugitives from justice;

(b) are wanted or missing;

(c) have been arrested for or convicted of a crime under the laws of any state or nation; and

(d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

(2) establish a statewide uniform crime reporting system that shall include:

(a) statistics concerning general categories of criminal activities;

(b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate;

(c) statistics concerning the use of force by law enforcement officers in accordance with the Federal Bureau of Investigation's standards; and

(d) other statistics required by the Federal Bureau of Investigation;

(3) make a complete and systematic record and index of the information obtained under this part;

(4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;

(5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;

(6) establish a statewide central register for the identification and location of missing persons, which may include:

(a) identifying data including fingerprints of each missing person;

(b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;

(c) dates and circumstances of any persons requesting or receiving information from the register; and

(d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;

(7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons as provided in Sections 26B-8-130 and 53G-6-602, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section [~~76-10-520~~]53-5a-105;

(14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;

(15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security when new entries are made in accordance with the requirements of Section 53-3-205.5;

(16) review and approve or disapprove applications for license renewal that meet the requirements for renewal; and

(17) forward to the board those applications for renewal under Subsection (16) that do not meet the requirements for renewal.

Section 53. Section 53-10-202.5 is amended to read:

53-10-202.5. Bureau services -- Fees.

The bureau shall collect fees for the following services:

(1) applicant fingerprint card as determined by Section 53-10-108;

(2) bail enforcement licensing as determined by Section 53-11-115;

(3) concealed firearm permit as determined by Section [~~53-5-707~~]53-5a-307;

(4) provisional concealed firearm permit as determined by Section [~~53-5-707.5~~]53-5a-308;

(5) a certificate of eligibility for expungement as described in Section 77-40a-304;

(6) firearm purchase background check as determined by Section [~~76-10-526~~]53-5a-602;

(7) name check as determined by Section 53-10-108;

(8) private investigator licensing as determined by Section 53-9-111; and

(9) right of access as determined by Section 53-10-108.

Section 54. Section 53-10-208.1 is amended to read:

53-10-208.1. Magistrates and court clerks to supply information.

(1) Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days after the day of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

(a) all dispositions of criminal matters, including:

(i) guilty pleas;

(ii) convictions;

(iii) dismissals;

(iv) acquittals;

(v) pleas in abeyance;

(vi) judgments of not guilty by reason of insanity;

(vii) judgments of guilty with a mental condition;

(viii) finding of mental incompetence to stand trial; and

(ix) probations granted;

(b) orders of civil commitment under the terms of Section 26B-5-332;

(c) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and

(d) protective orders issued after notice and hearing, pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

(iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;

(iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or

(v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(2) When transmitting information on a criminal matter under Subsection (1)(a)(i), (ii), (v), or (vii) for a conviction of misdemeanor assault under Section 76-5-102, the magistrate or clerk of a court shall include available information regarding whether the conviction for assault resulted from an assault against an individual:

(a) who is included in at least one of the relationship categories described in Subsection [~~76-10-503(1)(b)(xii)~~]76-11-303(13); or

(b) with whom none of the relationships described in Subsection [~~76-10-503(1)(b)(xii)~~]76-11-303(13) apply.

(3) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

(a) adjudicated as a mental defective; or

(b) involuntarily committed to a mental institution in accordance with Subsection 26B-5-332(16).

(4) The record described in Subsection (3) shall include:

(a) an agency record identifier;

(b) the individual's name, sex, race, and date of birth; and

(c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

Section 55. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:

(a) a person who has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) a person who has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) a person who has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) a person who has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) a minor:

(i) (A) who is adjudicated by the juvenile court for an offense described in Subsection (2) that is within the jurisdiction of the juvenile court on or after July 1, 2002; or

(B) who is adjudicated by the juvenile court for an offense described in Subsection (2) and is in the legal custody of the Division of Juvenile Justice and Youth Services for the offense on or after July 1, 2002; and

(ii) who is 14 years old or older at the time of the commission of the offense described in Subsection (2).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26B-8-315;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor, Section 76-4-401;

(vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

(vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) automobile homicide, Subsection 76-5-207(2)(b);

(ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;

(x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xiii) sale of a child, Section 76-7-203;

(xiv) aggravated escape, Section 76-8-309.3;

(xv) a felony violation of threatened or attempted assault on an elected official, Section 76-8-313;

(xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;

(xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.2;

(xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.4;

(xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.6;

(xx) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xxii) a felony violation of sexual battery, Section 76-9-702.1;

(xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xxiv) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxvii) possession of a concealed firearm in the commission of a violent felony, Subsection [~~76-10-504(4)~~]76-11-202(3)(c);

(xxviii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxix) commercial obstruction, Subsection 76-10-2402(2);

(xxx) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or

(xxxii) violation of condition for release after arrest under Section 78B-7-802.

Section 56. Section 53-11-108 is amended to read:

53-11-108. Licensure -- Basic qualifications.

An applicant for licensure under this chapter shall meet the following qualifications:

(1) An applicant shall be:

(a) at least 21 years of age;

(b) a citizen or legal resident of the United States; and

(c) of good moral character.

(2) An applicant may not:

(a) have been convicted of:

(i) a felony;

(ii) any act involving illegally using, carrying, or possessing a dangerous weapon;

(iii) any act of personal violence or force on any person or convicted of threatening to commit any act of personal violence or force against another person;

(iv) any act constituting dishonesty or fraud;

(v) impersonating a peace officer; or

(vi) any act involving moral turpitude;

(b) be on probation, parole, community supervision, or named in an outstanding arrest warrant; or

(c) be employed as a peace officer.

(3) If previously or currently licensed in another state or jurisdiction, the applicant shall be in good standing within that state or jurisdiction.

(4) (a) The applicant shall also have completed a training program of not less than 16 hours that is approved by the board and includes:

(i) instruction on the duties and responsibilities of a licensee under this chapter, including:

(A) search, seizure, and arrest procedure;

(B) pursuit, arrest, detainment, and transportation of a bail bond suspect; and

(C) specific duties and responsibilities regarding entering an occupied structure to carry out functions under this chapter;

(ii) the laws and rules relating to the bail bond business;

(iii) the rights of the accused; and

(iv) ethics.

(b) The program may be completed after the licensure application is submitted, but shall be completed before a license may be issued under this chapter.

(5) If the applicant desires to carry a firearm as a licensee, the applicant shall:

(a) successfully complete a course regarding the specified types of weapons he plans to carry. The course shall:

(i) be not less than 16 hours;

(ii) be conducted by any national, state, or local firearms training organization approved by the Criminal Investigations and Technical Services Division created in Section 53-10-103; and

(iii) provide training regarding general familiarity with the types of firearms to be carried, including:

(A) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(B) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of deadly force, transportation, and concealment; and

(b) shall hold a valid license to carry a concealed weapon, issued under Section [~~53-5-704~~]53-5a-303.

Section 57. Section 53-13-116 is amended to read:

53-13-116. Report required after pointing a firearm at an individual.

(1) As used in this section:

(a) "Conductive energy device" means a weapon that uses electrical current to disrupt voluntary control of muscles.

(b) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(c) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(d) "Officer-involved critical incident" means the same as that term is defined in Section 76-2-408.

(2) A law enforcement officer shall file a report described in Subsection (3) if, during the performance of the officer's duties:

(a) the officer points a firearm at an individual; or

(b) the officer aims a conductive energy device at an individual and displays the electrical current.

(3) (a) A report described in Subsection (2) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the law enforcement agency.

(b) A law enforcement officer shall submit a report required under Subsection (2) to the officer's law enforcement agency within 48 hours after the incident.

(4) A supervisory law enforcement officer shall review a report submitted under Subsection (3)(b).

(5) This section does not apply to:

(a) law enforcement training exercises; or

(b) an officer who, as part of an officer-involved critical incident, engaged in conduct described under Subsection (2)(a) or (2)(b).

Section 58. Section 53-22-105 is amended to read:

53-22-105. School guardian program.

(1) As used in this section:

(a) "Annual training" means an annual four-hour training that:

(i) a county security chief or a designee administers;

(ii) the state security chief approves;

(iii) can be tailored to local needs;

(iv) allows an individual to practice and demonstrate firearms proficiency at a firearms range using the firearm the individual carries for self defense and defense of others;

(v) includes the following components:

(A) firearm safety, including safe storage of a firearm;

(B) de-escalation tactics;

(C) the role of mental health in incidents; and

(D) disability awareness and interactions; and

(vi) contains other training needs as determined by the state security chief.

(b) "Biannual training" means a twice-yearly training that:

(i) is at least four hours, unless otherwise approved by the state security chief;

(ii) a county security chief or a designee administers;

(iii) the state security chief approves;

(iv) can be tailored to local needs; and

(v) through which a school guardian at a school or simulated school environment:

(A) receives training on the specifics of the building or buildings of the school, including the location of emergency supplies and security infrastructure; and

(B) participates in a live-action practice plan with school administrators in responding to active threats at the school; and

(vi) shall be taken with at least three months in between the two trainings.

(c) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(d) "Initial training" means an in-person training that:

(i) a county security chief or a designee administers;

(ii) the state security chief approves;

(iii) can be tailored to local needs; and

(iv) provides:

(A) training on general familiarity with the types of firearms that can be concealed for self-defense and defense of others;

(B) training on the safe loading, unloading, storage, and carrying of firearms in a school setting;

(C) training at a firearms range with instruction regarding firearms fundamentals, marksmanship, the demonstration and explanation of the difference between sight picture, sight alignment, and trigger control, and a recognized pistol course;

(D) current laws dealing with the lawful use of a firearm by a private citizen, including laws on self-defense, defense of others, transportation of firearms, and concealment of firearms;

(E) coordination with law enforcement officers in the event of an active threat;

(F) basic trauma first aid;

(G) the appropriate use of force, emphasizing the de-escalation of force and alternatives to using force; and

(H) situational response evaluations, including:

(I) protecting and securing a crime or accident scene;

(II) notifying law enforcement;

(III) controlling information; and

(IV) other training that the county sheriff, designee, or department deems appropriate.

(e) "Program" means the school guardian program created in this section.

(f) (i) "School employee" means an employee of a school whose duties and responsibilities require the employee to be physically present at a school's campus while school is in session.

(ii) "School employee" does not include a principal, teacher, or individual whose primary responsibilities require the employee to be primarily present in a classroom to teach, care for, or interact with students, unless:

(A) the principal, teacher, or individual is employed at a school with 100 or fewer students;

(B) the principal, teacher, or individual is employed at a school with adjacent campuses as determined by the state security chief; or

(C) as provided in Subsection 53G-8-701.5(3).

(g) "School guardian" means a school employee who meets the requirements of Subsection (3).

(2) (a) (i) There is created within the department the school guardian program [~~;~~].

(ii) [~~the~~]The state security chief shall oversee the school guardian program [~~;~~].

(iii) [~~the~~]The applicable county security chief shall administer the school guardian program in each county.

(b) The state security chief shall ensure that the school guardian program includes:

(i) initial training;

(ii) biannual training; and

(iii) annual training.

(c) A county sheriff may partner or contract with:

(i) another county sheriff to support the respective county security chiefs in jointly administering the school guardian program in the relevant counties; and

(ii) a local law enforcement agency of relevant jurisdiction to provide the:

(A) initial training;

(B) biannual training; and

(C) annual training.

(3) (a) A school employee that volunteers to participate is eligible to join the program as a school guardian if:

(i) the school administrator approves the volunteer school employee to be designated as a school guardian;

(ii) the school employee satisfactorily completes initial training within six months before the day on which the school employee joins the program;

(iii) the school employee holds a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7, Concealed Firearm Act~~]Title 53, Chapter 5a, Part 3, Concealed Firearm Permits;

(iv) the school employee certifies to the sheriff of the county where the school is located that the school employee has undergone the training in accordance with Subsection (3)(a)(ii) and intends to serve as a school guardian; and

(v) the school employee successfully completes a mental health screening selected by the state security chief in collaboration with the Office of Substance Abuse and Mental Health established in Section 26B-5-102.

(b) After joining the program a school guardian shall complete annual training and biannual training to retain the designation of a school guardian in the program.

(4) The state security chief shall:

(a) for each school that participates in the program, track each school guardian at the school by collecting the photograph and the name and contact information for each guardian;

(b) make the information described in Subsection (4)(a) readily available to each law enforcement agency in the state categorized by school; and

(c) provide each school guardian with a one-time stipend of $500.

(5) A school guardian:

(a) may store the school guardian's firearm on the grounds of a school only if:

(i) the firearm is stored in a biometric gun safe;

(ii) the biometric gun safe is located in the school guardian's office; and

(iii) the school guardian is physically present on the grounds of the school while the firearm is stored in the safe;

(b) shall carry the school guardian's firearm in a concealed manner; and

(c) may not, unless during an active threat, display or open carry a firearm while on school grounds.

(6) Except as provided in Subsection (5)(c), this section does not prohibit an individual who has a valid concealed carry permit but is not participating in the program from carrying a firearm on the grounds of a public school or charter school under Subsection [~~76-10-505.5(4)~~]76-11-205(4).

(7) A school guardian:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the school where the school guardian is employed:

(i) take actions necessary to prevent or abate an active threat; and

(ii) temporarily detain an individual when the school guardian has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402.

(8) A school may designate a single volunteer or multiple volunteers to participate in the school guardian program to satisfy the school safety personnel requirements of Section 53G-8-701.5.

(9) The department may adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules to administer this section.

(10) A school guardian who has active status in the guardian program is not liable for any civil damages or penalties if the school guardian:

(a) when carrying or storing a firearm:

(i) is acting in good faith; and

(ii) is not grossly negligent; or

(b) threatens, draws, or otherwise uses a firearm reasonably believing the action to be

necessary in compliance with Section 76-2-402.

(11) A school guardian shall file a report described in Subsection (12) if, during the performance of the school guardian's duties, the school guardian points a firearm at an individual.

(12) (a) A report described in Subsection (11) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the state security chief.

(b) A school guardian shall submit a report required under Subsection (11) to the school administrator, school safety and security director, and the state security chief within 48 hours after the incident.

(c) The school administrator, school safety and security director, and the state security chief shall consult and review the report submitted under Subsection (12)(b).

(13) The requirements of Subsections (11) and (12) do not apply to a training exercise.

(14) A school guardian may have the designation of school guardian revoked at any time by the school principal, county sheriff, or state security chief.

(15) (a) Any information or record created detailing a school guardian's participation in the program is:

(i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) available only to:

(A) the state security chief;

(B) administrators at the school guardian's school;

(C) if applicable, other school safety personnel described in Section 53G-8-701.5;

(D) a local law enforcement agency that would respond to the school in case of an emergency; and

(E) the individual designated by the county sheriff in accordance with Section 53-22-103 of the county of the school where the school guardian in the program is located.

(b) The information or record described in Subsection (15)(a) includes information related to the school guardian's identity and activity within the program as described in this section and any personal identifying information of a school guardian participating in the program collected or obtained during initial training, annual training, and biannual training.

(c) An individual who intentionally or knowingly provides the information described in Subsection (15)(a) to an individual or entity not listed in Subsection (15)(a)(ii) is guilty of a class B misdemeanor.

Section 59. Section 53-22-107 is amended to read:

53-22-107. Educator-Protector Program.

(1) As used in this section:

(a) "Annual classroom response training" means a training for a teacher:

(i) that is held at least once a year and is administered, at no cost to a teacher, by the individual identified by the county sheriff as described in Section 53-22-103; and

(ii) where the teacher is trained:

(A) on how to defend a classroom against active threats emphasizing the teacher's role in stationary defense; and

(B) on the safe loading, unloading, storage, and carrying of firearms in a school setting.

(b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(c) "Local education agency" means the same as that term is defined in Section 53E-1-102.

(d) "Program" means the Educator-Protector Program created under this section.

(e) "Teacher" means an individual employed by a local education agency who has an assignment to teach in a classroom.

(2) There is created the Educator-Protector Program to incentivize a teacher to responsibly secure or carry a firearm on the grounds of the school where the teacher is employed.

(3) (a) To participate in the program, a teacher shall:

(i) have completed an annual classroom response training within six months before the day on which the teacher joins the program;

(ii) have a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7, Concealed Firearm Act~~]Title 53, Chapter 5a, Part 3, Concealed Firearm Permits; and

(iii) certify to the department that:

(A) the teacher satisfies the requirements described in Subsections (3)(a)(i) and (3)(a)(ii); and

(B) if applicable, intends to securely store or carry a firearm on the grounds of a school where the teacher is employed.

(b) After joining the program, to retain the teacher's active status in the program, a teacher shall:

(i) participate in annual classroom response training; and

(ii) comply with any rules established by the department in accordance with Subsection (10).

(4) (a) The state security chief shall:

(i) track each teacher that participates in the program by collecting a photograph, name, and contact information for each teacher;

(ii) make the information described in Subsection (4)(a) readily available to each law enforcement agency in the state; and

(iii) provide reasonable reimbursement, using funds appropriated by the Legislature, to a county sheriff for providing a teacher with annual classroom response training.

(b) The state security chief shall categorize the information described in Subsection (4)(a)(i) by school.

(5) A teacher participating in the program:

(a) may store the teacher's firearm on the grounds of a school only if:

(i) the firearm is stored in a biometric gun safe;

(ii) the biometric gun safe is located in the teacher's classroom or office; and

(iii) the teacher is physically present on the grounds of the school while the firearm is stored in the biometric gun safe; and

(b) shall carry the teacher's firearm in a concealed manner unless during an active threat.

(6) This section does not prohibit an individual who has a valid concealed carry permit but is not participating in the program from carrying firearms on the grounds of a school as described in Subsection [~~76-10-505.5(4)~~]76-11-205(4).

(7) (a) A teacher who has active status in the program is not liable for any civil damages or penalties if the teacher:

(i) when carrying or storing a firearm:

(A) is acting in good faith; and

(B) is not grossly negligent; or

(ii) threatens, draws, or otherwise uses a firearm reasonably believing the action to be necessary in compliance with Section 76-2-402.

(b) A local education agency is not liable for civil damages or penalties resulting from a teacher who is participating in the program carrying, using, or storing a firearm at a school.

(8) A local education agency may not prevent a teacher from participating in the program under this section.

(9) (a) Any information or record created detailing a teacher's participation in the program is:

(i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) available only to:

(A) the state security chief;

(B) a local law enforcement agency that would respond to the school in case of an emergency; and

(C) the individual identified by the county sheriff as described in Section 53-22-103.

(b) The information or record described in Subsection (9)(a) includes the information described in Subsection (4)(a)(i) and any personal identifying information of a teacher participating in the program collected or obtained during annual classroom response training.

(c) An individual who intentionally or knowingly provides the information described in Subsection (9)(a) to an individual or entity not listed in Subsection (9)(a)(ii) is guilty of a class A misdemeanor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may adopt rules to administer this section.

Section 60. Section 53-25-103 is amended to read:

53-25-103. Airport dangerous weapon possession reporting requirements.

(1) As used in this section, "commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) Beginning on January 1, 2026, a law enforcement agency having law enforcement jurisdiction over an airport shall annually, on or before April 30, submit a report to the commission detailing:

(a) for an offense described in Subsection [~~76-10-529(2)(a)(i)~~]76-11-218(2)(a):

(i) the number of issued written warnings;

(ii) the number of issued citations;

(iii) the number of referrals to a detective; and

(iv) the number of referrals to a prosecutor; and

(b) for an offense described in Subsection [~~76-10-529(2)(a)(ii)~~]76-11-218(2)(b):

(i) the number of issued written warnings; and

(ii) if applicable, the number of issued citations, including the number of individuals who have received more than one citation for the offense.

(3) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

Section 61. Section 53-25-501 is amended to read:

53-25-501. Reporting requirements for seized firearms.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(c) "Restricted person" means a Category I or Category II restricted person [~~as defined in Section 76-10-503~~]under Section 76-11-302 or 76-11-303.

(2) Beginning on July 1, 2026, a law enforcement agency, not including the Department of Corrections, shall annually on or before April 30 report to the commission the following data for the previous calendar year:

(a) the number of firearms the law enforcement agency lawfully seized from restricted persons;

(b) the types of firearms the law enforcement agency lawfully seized from restricted persons;

(c) information on where the restricted persons obtained the firearms seized by the law enforcement agency if the information is known or discoverable by the law enforcement agency; and

(d) the reasons under Subsection 76-10-503(1)(a) or (b) that made the individuals who had weapons seized restricted persons.

Section 62. Section 53B-3-103 is amended to read:

53B-3-103. Power of board and institutions to adopt rules and enact regulations.

(1) As used in this section [~~,~~]:

(a) "Face covering" means the same as that term is defined in Section 53G-9-210.

(b) [~~"institution"~~]"Institution" means an institution listed in Section 53B-1-102.

(2) (a) The board may enact regulations governing the conduct of university and college students, faculty, and employees.

(b) A president in consultation with the board of trustees, may enact policies governing the conduct of university and college students, faculty, and employees.

(3) (a) An institution may enact traffic, parking, and related policies governing all individuals on campus and facilities owned or controlled by the institution.

(b) (i) The board and an institution may not require proof of vaccination as a condition for enrollment or attendance within the system of higher education unless the board or an institution allows for the following exemptions:

(A) a medical exemption if the student provides to the institution a statement that the claimed exemption is for a medical reason; and

(B) a personal exemption if the student provides to the institution a statement that the claimed exemption is for a personal or religious belief.

(ii) An institution that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection [~~(2)(b)(i)~~](3)(b)(i) to participate in an in-person learning option based upon the student's vaccination status.

(iii) Subsections [~~(2)(b)(i)~~](3)(b)(i) and (ii) do not apply to a student studying in a medical setting at an institution of higher education.

(iv) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

[~~(c) (i) For purposes of this Subsection (2)(c), "face covering" means the same as that term is defined in Section 53G-9-210.~~]

[~~(ii)~~](c) (i) The board or an institution may not require an individual to wear a face covering as a condition of attendance for in-person instruction, institution-sponsored athletics, institution-sponsored extracurricular activities, in dormitories, or in any other place on a campus of an institution within the system of higher education at any time after the end of the spring semester in 2021.

[~~(iii)~~](ii) Subsection [~~(2)(c)(ii)~~](3)(c)(i) does not apply to an individual in a medical setting at an institution of higher education.

(4) The board shall enact regulations that require all testimony be given under oath during an employee grievance hearing for a non-faculty employee of an institution of higher education if the grievance hearing relates to the non-faculty employee's:

(a) demotion; or

(b) termination.

(5) Acknowledging that the Legislature has the authority to regulate, by law, firearms at higher education institutions, the board may:

(a) authorize higher education institutions to establish no more than one secure area at each institution as a hearing room in accordance with Section 76-8-311.1, but not otherwise restrict the lawful possession or carrying of firearms; and

(b) authorize a higher education institution to make a policy that allows a resident of a dormitory located at the institution to request only roommates who are not licensed to carry a concealed firearm under [~~Section 53-5-704 or 53-5-705~~]Section 53-5a-303 or Section 53-5a-305.

(6) In addition to the requirements and penalty prescribed in Sections 76-8-311.1 and 76-8-311.2, the board shall make rules to ensure:

(a) the use of reasonable means such as mechanical, electronic, x-ray, or similar devices, to detect firearms, ammunition, or dangerous weapons contained in the personal property of or on the person of any individual attempting to enter a secure area hearing room;

(b) that an individual required or requested to attend a hearing in a secure area hearing room is notified in writing of the requirements related to entering a secure area hearing room under this Subsection (6)(b) and Section 76-8-311.1;

(c) that the restriction of firearms, ammunition, or dangerous weapons in the secure area hearing room is in effect only during the time the secure area hearing room is in use for hearings and for a reasonable time before and after the hearing; and

(d) the application of reasonable space limitations to the secure area hearing room as the number of individuals involved in a typical hearing warrants.

(7) The board and institutions may enforce the rules, regulations, and policies described in this section in any reasonable manner, including the assessment of fees, fines, and forfeitures, through:

(a) withholding from money owed the violator;

(b) the imposition of probation, suspension, or expulsion from the institution;

(c) the revocation of privileges;

(d) the refusal to issue certificates, degrees, and diplomas;

(e) judicial process; or

(f) any reasonable combination of the alternatives described in this Subsection (7).

Section 63. Section 53G-8-701.8 is amended to read:

53G-8-701.8. School safety and security director.

(1) Except as provided in Subsection 53G-8-701.5(3), an LEA shall designate a school safety and security director as the LEA point of contact for the county security chief, local law enforcement, and the state security chief.

(2) A school safety and security director shall:

(a) participate in and satisfy the training requirements, including the annual and biannual requirements, described in:

(i) Section 53-22-105 for school guardians;

(ii) Section 53G-8-702 for school resource officers; and

(iii) Section 53G-8-704 for armed school security guards;

(b) have a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7, Concealed Firearm Act~~]Title 53, Chapter 5a, Part 3, Concealed Firearm Permits;

(c) if the designee is an employee of an LEA, participate on the multidisciplinary team the LEA establishes;

(d) coordinate security responses among, if applicable, the following individuals in the LEA that employs the school safety and security director:

(i) school safety and security specialists;

(ii) school resource officers;

(iii) armed school security guards; and

(iv) school guardians; and

(e) collaborate and maintain effective communications with local law enforcement, a county security chief, the LEA, and school-based behavioral and mental health professionals to ensure adherence with all policies, procedures, protocols, rules, and regulations relating to school safety and security.

(3) A school safety and security director:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the LEA that employs the director:

(i) take actions necessary to prevent or abate an active threat; and

(ii) temporarily detain an individual when the school safety and security director has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402[~~;~~].

(4) Notwithstanding Subsection [~~76-10-505.5(4)~~]76-11-205(4), if a school safety and security director is carrying a firearm, the school safety and security director shall carry the school safety and security director's firearm in a concealed manner and may not, unless during an active threat, display or open carry a firearm while on school grounds.

(5) A school may use the services of the school safety and security director on a temporary basis to satisfy the school safety personnel requirement of Subsection 53G-8-701.5(2).

(6) The state security chief shall:

(a) for each school safety and security director, track each school safety and security director by collecting the photograph and the name and contact information for each school safety and security director; and

(b) make the information described in Subsection (6)(a) readily available to each law enforcement agency in the state categorized by LEA.

Section 64. Section 53G-8-704 is amended to read:

53G-8-704. Contracts between an LEA and a contract security company for armed school security guards.

(1) As used in this section:

(a) "Armed private security officer" means the same as that term is defined in Section 58-63-102.

(b) "Armed school security guard" means an armed private security officer who is:

(i) licensed as an armed private security officer under Title 58, Chapter 63, Security Personnel Licensing Act; and

(ii) has met the requirements described in Subsection (4)(a).

(c) "Contract security company" means the same as that term is defined in Section 58-63-102.

(d) "State security chief" means the same as that term is defined in Section 53-22-102.

(2) (a) An LEA may use an armed school security guard to satisfy the school safety personnel requirements of Section 53G-8-701.5.

(b) An LEA that uses an armed school security guard under Subsection (2)(a) shall contract with a contract security company to provide armed school security guards at each school within the LEA.

(3) The contract described in Subsection (2)(b) shall include a detailed description of:

(a) the rights of a student under state and federal law with regard to:

(i) searches;

(ii) questioning;

(iii) arrests; and

(iv) information privacy;

(b) job assignment and duties of an armed school security guard, including:

(i) the school to which an armed school security guard will be assigned;

(ii) the hours an armed school security guard is present at the school;

(iii) the point of contact at the school that an armed school security guard will contact in case of an emergency;

(iv) specific responsibilities for providing and receiving information;

(v) types of records to be kept, and by whom; and

(vi) training requirements; and

(c) other expectations of the contract security company in relation to school security at the LEA.

(4) (a) In addition to the requirements for licensure under Title 58, Chapter 63, Security Personnel Licensing Act, an armed private security officer may only serve as an armed school security guard under a contract described in Subsection (2)(b) if the armed private security officer:

(i) has a valid concealed carry permit issued under [~~Title 53, Chapter 5, Part 7, Concealed Firearm Act~~]Title 53, Chapter 5a, Part 3, Concealed Firearm Permits; and

(ii) has undergone training from a county security chief regarding:

(A) the safe loading, unloading, storage, and carrying of firearms in a school setting;

(B) the role of armed security guards in a school setting; and

(C) coordination with law enforcement and school officials during an active threat.

(b) An armed school security guard that meets the requirements of Subsection (4)(a) shall, in order to remain eligible to be assigned as an armed school security guard at any school under a contract described in Subsection (2)(b), participate in and satisfy the training requirements of the initial, annual, and biannual trainings as defined in Section 53-22-105.

(5) An armed school security guard may conceal or openly carry a firearm at the school at which the armed school security guard is employed under the contract described in Subsection (2)(b).

(6) An LEA that enters a contract under this section shall inform the state security chief and the relevant county security chief of the contract and provide the contact information of the contract security company employing the armed security guard for use during an emergency.

(7) The state security chief shall:

(a) for each LEA that contracts with a contract security company under this section, track each contract security company providing armed school security guards by name and the contact information for use in case of an emergency; and

(b) make the information described in Subsection (7)(a) readily available to each law enforcement agency in the state by school.

(8) An armed school security guard shall file a report described in Subsection (9) if, during the performance of the armed school security guard's duties, the armed school security guard:

(a) points a firearm at an individual; or

(b) aims a conductive energy device at an individual and displays the electrical current.

(9) (a) A report described in Subsection (8) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the state security chief.

(b) An armed school security guard shall submit a report required under Subsection (8) to the school administrator, school safety and security director, and the state security chief within 48 hours after the incident.

(c) The school administrator, school safety and security director, and the state security chief shall consult and review the report submitted under Subsection (9)(b).

Section 65. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) (i) Except as provided in Subsection (1)(c)(ii), a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as described in Subsection (1)(b) and Title 76, Chapter 3, Punishments.

(ii) The court shall impose an indeterminate prison term for a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation, the person intentionally or knowingly:

(A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section [~~76-10-501~~]76-11-101, that is not a firearm, in an angry, threatening, intimidating, or coercive manner;

(B) used a firearm, as that term is defined in Section 76-11-101, or had a firearm readily accessible for immediate use, as [~~those terms are~~]that term is defined in Section [~~76-10-501~~]76-11-201; or

(C) distributed a firearm, as that term is defined in Section [~~76-10-501~~]76-11-101, or possessed a firearm with intent to distribute the firearm.

(iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate prison term for a person convicted under Subsection (1)(c)(ii) if the court:

(A) details on the record the reasons why it is in the interests of justice not to impose the indeterminate prison term;

(B) makes a finding on the record that the person does not pose a significant safety risk to the public; and

(C) orders the person to complete the terms and conditions of supervised probation provided by the Department of Corrections.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an

indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section [~~76-10-501~~]76-11-201;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i) through (vi);

(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research;

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment; or

(c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled or counterfeit substance to conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly

prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 66. Section 58-63-307 is amended to read:

58-63-307. Use of firearms.

(1) An individual licensed as an armored car security officer or an armed private security officer may carry a firearm only while acting as an armored car security officer or an armed private security officer in accordance with this chapter and rules made under this chapter.

(2) An individual licensed as an armored car security officer or an armed private security officer is exempt from the provisions of [~~Section 76-10-505 and Title 53, Chapter 5, Part 7, Concealed Firearm Act~~]Title 53, Chapter 5a, Part 3, Concealed Firearm Permits, while acting as an armored car security officer or an armed private security officer in accordance with this chapter and rules made under this chapter.

Section 67. Section 63G-2-303 is amended to read:

63G-2-303. Private information concerning certain government employees.

(1) As used in this section:

(a) "At-risk government employee" means a current or former:

(i) peace officer as specified in Section 53-13-102;

(ii) state or federal judge of an appellate, district, justice, or juvenile court, or court commissioner;

(iii) judge authorized by Title 39A, Chapter 5, Utah Code of Military Justice;

(iv) judge authorized by Armed Forces, Title 10, United States Code;

(v) federal prosecutor;

(vi) prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;

(vii) law enforcement official as defined in Section [~~53-5-711~~]53-5a-311;

(viii) prosecutor authorized by Title 39A, Chapter 5, Utah Code of Military Justice; or

(ix) state or local government employee who, because of the unique nature of the employee's regular work assignments or because of

one or more recent credible threats directed to or against the employee, would be at immediate and substantial risk of physical harm if the employee's personal information is disclosed.

(b) "Family member" means the spouse, child, sibling, parent, or grandparent of an at-risk government employee who is living with the employee.

(c) "Personal information" means the employee's or the employee's family member's home address, home telephone number, personal mobile telephone number, personal pager number, personal email address, social security number, insurance coverage, marital status, or payroll deductions.

(2) (a) Pursuant to Subsection 63G-2-302(1)(h), an at-risk government employee may file a written application that:

(i) gives notice of the employee's status as an at-risk government employee to each agency of a government entity holding a record or a part of a record that would disclose the employee's personal information; and

(ii) requests that the government agency classify those records or parts of records as private.

(b) An at-risk government employee desiring to file an application under this section may request assistance from the government agency to identify the individual records containing personal information.

(c) Each government agency shall develop a form that:

(i) requires the at-risk government employee to designate each specific record or part of a record containing the employee's personal information that the applicant desires to be classified as private;

(ii) affirmatively requests that the government entity holding those records classify them as private;

(iii) informs the employee that by submitting a completed form the employee may not receive official announcements affecting the employee's property, including notices about proposed municipal annexations, incorporations, or zoning modifications; and

(iv) contains a place for the signature required under Subsection (2)(d).

(d) A form submitted by an employee under Subsection (2)(c) shall be signed by the highest ranking elected or appointed official in the employee's chain of command certifying that the employee submitting the form is an at-risk government employee.

(3) A county recorder, county treasurer, county auditor, or a county tax assessor may fully satisfy the requirements of this section by:

(a) providing a method for the assessment roll and index and the tax roll and index that will block public access to the home address, home telephone number, situs address, and Social Security number; and

(b) providing the at-risk government employee requesting the classification with a disclaimer informing the employee that the employee may not receive official announcements affecting the employee's property, including notices about proposed annexations, incorporations, or zoning modifications.

(4) A government agency holding records of an at-risk government employee classified as private under this section may release the record or part of the record if:

(a) the employee or former employee gives written consent;

(b) a court orders release of the records;

(c) the government agency receives a certified death certificate for the employee or former employee; or

(d) as it relates to the employee's voter registration record:

(i) the person to whom the record or part of the record is released is a qualified person under Subsection 20A-2-104(4)(n); and

(ii) the government agency's release of the record or part of the record complies with the requirements of Subsection 20A-2-104(4)(o).

(5) (a) If the government agency holding the private record receives a subpoena for the records, the government agency shall attempt to notify the at-risk government employee or former employee by mailing a copy of the subpoena to the employee's last-known mailing address together with a request that the employee either:

(i) authorize release of the record; or

(ii) within 10 days of the date that the copy and request are mailed, deliver to the government agency holding the private record a copy of a motion to quash filed with the court who issued the subpoena.

(b) The government agency shall comply with the subpoena if the government agency has:

(i) received permission from the at-risk government employee or former employee to comply with the subpoena;

(ii) not received a copy of a motion to quash within 10 days of the date that the copy of the subpoena was mailed; or

(iii) received a court order requiring release of the records.

(6) (a) Except as provided in Subsection (6)(b), a form submitted under this section remains in effect until the earlier of:

(i) four years after the date the employee signs the form, whether or not the employee's employment terminates before the end of the four-year period; and

(ii) one year after the government agency receives official notice of the death of the employee.

(b) A form submitted under this section may be rescinded at any time by:

(i) the at-risk government employee who submitted the form; or

(ii) if the at-risk government employee is deceased, a member of the employee's immediate family.

Section 68. Section 63G-2-801 is amended to read:

63G-2-801. Criminal penalties.

(1) (a) A public employee or other person who has lawful access to any private, controlled, or protected record under this chapter, and who intentionally discloses, provides a copy of, or improperly uses a private, controlled, or protected record knowing that the disclosure or use is prohibited under this chapter, is, except as provided in Subsection [~~53-5-708(1)(c)~~]53-5a-310(1)(c), guilty of a class B misdemeanor.

(b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released private, controlled, or protected information in the reasonable belief that the use or disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.

(c) It is a defense to prosecution under Subsection (1)(a) that the record could have lawfully been released to the recipient if it had been properly classified.

(d) It is a defense to prosecution under Subsection (1)(a) that the public employee or other person disclosed, provided, or used the record based on a good faith belief that the disclosure, provision, or use was in accordance with the law.

(2) (a) A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which the person is not legally entitled is guilty of a class B misdemeanor.

(b) No person shall be guilty under Subsection (2)(a) who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.

(3) (a) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by law, is guilty of a class B misdemeanor.

(b) It is a defense to prosecution under Subsection (3)(a) that the public employee's failure to release the record was based on a good faith belief that the public employee was acting in accordance with the requirements of law.

(c) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by a final unappealed order from a government entity, the State Records Committee, or a court is guilty of a class B misdemeanor.

Section 69. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.

(2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

(5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

(6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.

(7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

(8) Section [~~53-5-703~~]53-5a-302, Concealed Firearm Review Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

(9) Section 53-5a-603, Information check before private sale of firearm, is repealed July 1, 2025.

[~~(9)~~](10) Section 53-11-104, Board, is repealed July 1, 2029.

[~~(10)~~](11) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

[~~(11)~~](12) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

[~~(12)~~](13) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(13)~~](14) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.

[~~(14)~~](15) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(15)~~](16) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(16)~~](17) Section 53B-17-1203, SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.

[~~(17)~~](18) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(18)~~](19) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

[~~(19)~~](20) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.

[~~(20)~~](21) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(21)~~](22) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(22)~~](23) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(23)~~](24) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(24)~~](25) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(25)~~](26) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(26)~~](27) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

[~~(27)~~](28) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

[~~(28)~~](29) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(29)~~](30) Subsection 53E-7-207(7), regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(30)~~](31) Section 53F-2-420, Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(31)~~](32) Section 53F-5-214, Grant for professional learning, is repealed July 1, 2025.

[~~(32)~~](33) Section 53F-5-215, Elementary teacher preparation grant, is repealed July 1, 2025.

[~~(33)~~](34) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is repealed July 1, 2025.

[~~(34)~~](35) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(35)~~](36) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(36)~~](37) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(37)~~](38) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

Section 70. Section 63I-1-276 is amended to read:

63I-1-276. Repeal dates: Title 76.

[~~(1)~~] Subsection 76-7-313(6), regarding a report provided by the Department of Health and Human Services, is repealed July 1, 2027.

[~~(2) Section 76-10-526.1, Information check before private sale of firearm, is repealed July 1, 2025.~~]

Section 71. Section 63I-2-276 is amended to read:

63I-2-276. Repeal dates: Title 76.

(1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an employee of a health facility, is repealed January 1, 2027.

(2) Subsection [~~76-10-529(9)~~]76-11-218(10), regarding data collection requirements for a law enforcement agency that issues a written warning, citation, or referral, is repealed December 31, 2031.

Section 72. Section 63M-7-220 is amended to read:

63M-7-220. Domestic violence data collection.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Cohabitant abuse protective order" means an order issued with or without notice to the respondent in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.

(c) "Lethality assessment" means an evidence-based assessment that is intended to identify a victim of domestic violence who is at a high risk of being killed by the perpetrator.

(d) "Victim" means the same as that term is defined in Section 77-36-1.

(2) Beginning July 1, 2025, each law enforcement agency and other organizations that provide domestic violence services within the state shall submit the following data to the commission for compilation and analysis in collaboration with the data collected by the Department of Public Safety in accordance with Section 77-36-2.1 and the Administrative Office of the Courts:

(a) lethality assessments conducted in the state, including:

(i) the type of lethality assessments used by law enforcement agencies and other organizations that provide domestic violence services; and

(ii) training and protocols implemented by law enforcement agencies and the organizations described in Subsection (2)(a)(i) regarding the use of lethality assessments;

(b) the data collection efforts implemented by law enforcement agencies and the organizations described in Subsection (2)(a)(i);

(c) the number of cohabitant abuse protective orders that, in the immediately preceding calendar year, were:

(i) issued;

(ii) amended or dismissed before the date of expiration; and

(iii) dismissed under Section 78B-7-605; and

(d) the prevalence of domestic violence in the state and the prevalence of the following in domestic violence cases:

(i) stalking;

(ii) strangulation;

(iii) violence in the presence of children; and

(iv) threats of suicide or homicide.

(3) The commission, in collaboration with domestic violence organizations and other related stakeholders, shall conduct a review of and provide feedback on:

(a) lethality assessment training and protocols implemented by law enforcement agencies and the organizations described in Subsection (2)(a)(i); and

(b) the collection of domestic violence data in the state, including:

(i) coordination between state, local, and not-for-profit agencies to collect data from lethality assessments and on the prevalence of domestic violence, including the number of voluntary commitments of firearms under Section [~~53-5c-201~~]53-5a-502;

(ii) efforts to standardize the format for collecting domestic violence and lethality assessment data from state, local, and not-for-profit agencies subject to federal confidentiality requirements; and

(iii) the need for any additional data collection requirements or efforts.

(4) On or before November 30 of each year, the commission shall provide a written report to the Law Enforcement and Criminal Justice Interim Committee describing:

(a) the information gathered under Subsections (2) and (3); or

(b) the progress and assessment of available data under Subsections (2) and (3).

Section 73. Section 72-10-901 is amended to read:

72-10-901. Definitions.

As used in this part, "weapon" means:

(1) a firearm as that term is defined in Section [~~76-10-501~~]76-11-101; or

(2) an object that in the manner of the object's use or intended use is capable of causing death, bodily injury, or damage to property, as determined according to the following factors:

(a) the location and circumstances in which the object is used or possessed;

(b) the primary purpose for which the object is made;

(c) the character of the damage, if any, the object is likely to cause;

(d) the manner in which the object is used;

(e) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(f) the lawful purposes for which the object may be used.

Section 74. Section 73-29-102 is amended to read:

73-29-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Wildlife Resources.

(2) "Floating access" means the right to access public water flowing over private property for floating and fishing while floating upon

the water.

(3) "Impounded wetlands" means a wetland or wetland pond that is formed or the level of which is controlled by a dike, berm, or headgate that retains or manages the flow or depth of water, including connecting channels.

(4) "Navigable water" means a water course that in its natural state without the aid of artificial means is useful for commerce and has a useful capacity as a public highway of transportation.

(5) "Private property to which access is restricted" means privately owned real property:

(a) that is cultivated land, as defined in Section 23A-5-317;

(b) that is:

(i) properly posted, as defined in Section 23A-5-317;

(ii) posted as described in Subsection 76-6-206(2)(b)(iii); or

(iii) posted as described in Subsection 76-6-206.3(2)(c);

(c) that is fenced or enclosed as described in:

(i) Subsection 76-6-206(2)(b)(ii); or

(ii) Subsection 76-6-206.3(2)(b); or

(d) that the owner or a person authorized to act on the owner's behalf has requested a person to leave as provided by:

(i) Section 23A-5-317;

(ii) Subsection 76-6-206(2)(b)(i); or

(iii) Subsection 76-6-206.3(2)(a).

(6) "Public access area" means the limited part of privately owned property that:

(a) lies beneath or within three feet of a public water or that is the most direct, least invasive, and closest means of portage around an obstruction in a public water; and

(b) is open to public recreational access under Section 73-29-203; and

(c) can be accessed from an adjoining public assess area or public right-of-way.

(7) "Public recreational access" means the right to engage in recreational access established in accordance with Section 73-29-203.

(8) (a) "Public water" means water:

(i) described in Section 73-1-1; and

(ii) flowing or collecting on the surface:

(A) within a natural or realigned channel; or

(B) in a natural lake, pond, or reservoir on a natural or realigned channel.

(b) "Public water" does not include water flowing or collecting:

(i) on impounded wetland;

(ii) on a migratory bird production area, as defined in Section 23A-13-101;

(iii) on private property in a manmade:

(A) irrigation canal;

(B) irrigation ditch; or

(C) impoundment or reservoir constructed outside of a natural or realigned channel; or

(iv) on a jurisdictional wetland described in 33 C.F.R. 328.3.

(9) (a) "Recreational access" means to use a public water and to touch a public access area incidental to the use of the public water for:

(i) floating;

(ii) fishing; or

(iii) waterfowl hunting conducted:

(A) in compliance with applicable law or rule, including Sections 23A-5-314, 73-29-203, and [~~76-10-508~~]76-11-209; and

(B) so that the individual who engages in the waterfowl hunting shoots a firearm only while within a public access area and no closer than 600 feet of any dwelling.

(b) "Recreational access" does not include:

(i) hunting, except as provided in Subsection (9)(a)(iii);

(ii) wading without engaging in activity described in Subsection (9)(a); or

(iii) any other activity.

Section 75. Section 76-3-203.1 is amended to read:

76-3-203.1. Offenses committed in concert with three or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.

(1) As used in this section:

(a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(b) "In concert with three or more persons" means:

(i) the defendant was aided or encouraged by at least three other persons in committing the offense and was aware of this aid or encouragement; and

(ii) each of the other persons:

(A) was physically present; and

(B) participated as a party to any offense listed in Subsection (4), (5), or (6).

(c) "In concert with three or more persons" means, regarding intent:

(i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(2) A person who commits any offense in accordance with this section is subject to an enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a reasonable doubt that the person acted:

(a) in concert with three or more persons;

(b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802.

(3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor; and

(ii) for a class A misdemeanor, as a third degree felony.

(b) The following offenses are subject to Subsection (4)(a):

(i) criminal mischief as described in Section 76-6-106;

(ii) property damage or destruction as described in Section 76-6-106.1; and

(iii) defacement by graffiti as described in Section 76-6-107.

(5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony; and

(iii) for a third degree felony, as a second degree felony.

(b) The following offenses are subject to Subsection (5)(a):

(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);

(ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(iii) tampering with a witness under Section 76-8-508;

(iv) retaliation against a witness, victim, or informant, or other violation of Section 76-8-508.3;

(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(vi) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;

[~~(vii) any weapons offense under Chapter 10, Part 5, Weapons; and~~]

[~~(viii)~~](vii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act; and

(viii) any weapons offense under Title 76, Chapter 11, Weapons.

(6) (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony;

(iii) for a third degree felony, as a second degree felony; and

(iv) for a second degree felony, as a first degree felony.

(b) The following offenses are subject to Subsection (6)(a):

(i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;

(ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;

(iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;

(v) sexual exploitation of a minor as defined in Section 76-5b-201;

(vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;

(vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and

(viii) aggravated exploitation of prostitution under Section 76-10-1306.

(7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed on probation for the higher level of offense.

(8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

Section 76. Section 76-3-203.3 is amended to read:

76-3-203.3. Penalty for hate crimes -- Civil rights violation.

As used in this section:

(1) "Primary offense" means those offenses provided in Subsection (4).

(2) (a) A person who commits any primary offense with the intent to intimidate or terrorize another person or with reason to believe that his action would intimidate or terrorize that person is subject to Subsection (2)(b).

(b) (i) A class C misdemeanor primary offense is a class B misdemeanor; and

(ii) a class B misdemeanor primary offense is a class A misdemeanor.

(3) "Intimidate or terrorize" means an act which causes the person to fear for his physical safety or damages the property of that person or another. The act must be accompanied with the intent to cause or has the effect of causing a person to reasonably fear to freely exercise or enjoy any right secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

(4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

(a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107, and 76-5-108;

(b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104, and Subsection 76-6-106(2)(a);

(c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

(d) any misdemeanor theft offense under Chapter 6, Offenses Against Property;

(e) any offense of obstructing government operations under Sections 76-8-301, 76-8-301.2, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, 76-8-309.2, and 76-8-313;

(f) any offense of interfering or intending to interfere with activities of colleges and universities under [~~Title 76,~~]Chapter 8, Part 7, Colleges and Universities;

(g) any misdemeanor offense against public order and decency as defined in [~~Title 76,~~]Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

(h) any telephone abuse offense under [~~Title 76,~~]Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

(i) any cruelty to animals offense under Section 76-9-301;

(j) any weapons offense under Section [~~76-10-506~~]76-11-207; or

(k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

(5) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

Section 77. Section 76-3-203.5 is amended to read:

76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:

(A) arson as described in Section 76-6-102;

(B) causing a catastrophe as described in Subsection 76-6-105(3)(a) or (3)(b);

(C) criminal mischief as described in Section 76-6-106;

(D) aggravated arson as described in Section 76-6-103;

(E) assault by prisoner as described in Section 76-5-102.5;

(F) disarming a police officer as described in Section 76-5-102.8;

(G) aggravated assault as described in Section 76-5-103;

(H) aggravated assault by prisoner as described in Section 76-5-103.5;

(I) mayhem as described in Section 76-5-105;

(J) stalking as described in Subsection 76-5-106.5(2);

(K) threat of terrorism as described in Section 76-5-107.3;

(L) aggravated child abuse as described in Subsection 76-5-109.2(3)(a) or (b);

(M) commission of domestic violence in the presence of a child as described in Section 76-5-114;

(N) abuse or neglect of a child with a disability as described in Section 76-5-110;

(O) abuse or exploitation of a vulnerable adult as described in Section 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;

(P) endangerment of a child or vulnerable adult as described in Section 76-5-112.5;

(Q) an offense described in Chapter 5, Part 2, Criminal Homicide;

(R) kidnapping as described in Section 76-5-301;

(S) child kidnapping as described in Section 76-5-301.1;

(T) aggravated kidnapping as described in Section 76-5-302;

(U) rape as described in Section 76-5-402;

(V) rape of a child as described in Section 76-5-402.1;

(W) object rape as described in Section 76-5-402.2;

(X) object rape of a child as described in Section 76-5-402.3;

(Y) forcible sodomy as described in Section 76-5-403;

(Z) sodomy on a child as described in Section 76-5-403.1;

(AA) forcible sexual abuse as described in Section 76-5-404;

(BB) sexual abuse of a child as described in Section 76-5-404.1;

(CC) aggravated sexual abuse of a child as described in Section 76-5-404.3;

(DD) aggravated sexual assault as described in Section 76-5-405;

(EE) sexual exploitation of a minor as described in Section 76-5b-201;

(FF) aggravated sexual exploitation of a minor as described in Section 76-5b-201.1;

(GG) sexual exploitation of a vulnerable adult as described in Section 76-5b-202;

(HH) burglary as described in Subsection 76-6-202(3)(b);

(II) aggravated burglary as described in Section 76-6-203;

(JJ) robbery as described in Section 76-6-301;

(KK) aggravated robbery as described in Section 76-6-302;

(LL) theft by extortion as described in Subsection 76-6-406(1)(a)(i) or (1)(a)(ii);

(MM) tampering with a witness as described in Section 76-8-508;

(NN) retaliation against a witness, victim, or informant as described in Section 76-8-508.3;

(OO) tampering or retaliating against a juror as described in Subsection 76-8-508.5(2)(a)(iii);

(PP) extortion to dismiss a criminal proceeding as described in Subsection 76-6-406(1)(a)(i), (ii), or (ix);

(QQ) possession, use, or removal of explosive, chemical, or incendiary devices as described in Subsections 76-10-306(3) through (6);

(RR) unlawful delivery of explosive, chemical, or incendiary devices as described in Section 76-10-307;

(SS) purchase or possession of a dangerous weapon or handgun by a restricted person as described in Section 76-10-503;

(TT) aggravated exploitation of prostitution as described in Subsection 76-10-1306(1)(a);

(UU) bus hijacking as described in Section 76-10-1504; [~~and~~]

(VV) discharging firearms and hurling missiles as described in Section 76-10-1505; [~~or~~]and

(WW) felony discharge of a firearm as described in Section 76-11-210.

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c) (i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 78. Section 76-3-402 is amended to read:

76-3-402. Conviction of lower degree of offense -- Procedure and limitations.

(1) As used in this section:

(a) "Lower degree of offense" includes an offense for which:

(i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

(ii) the court removes the statutory enhancement in accordance with this section.

(b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

(c) (i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

(ii) "Rehabilitation program" includes:

(A) a domestic violence treatment program, as that term is defined in Section 26B-2-101;

(B) a residential, vocational, and life skills program, as that term is defined in Section 13-53-102;

(C) a substance abuse treatment program, as that term is defined in Section 26B-2-101;

(D) a substance use disorder treatment program, as that term is defined in Section 26B-2-101;

(E) a youth program, as that term is defined in Section 26B-2-101;

(F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;

(G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or

(H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).

(d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.

(e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

(f) (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.

(ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:

(A) the possession, use, or removal of explosive, chemical, or incendiary devices under Subsection 76-10-306(3), (5), or (6); or

(B) the purchase or possession of a dangerous weapon or [~~handgun~~]firearm by a restricted person under [~~Section 76-10-503~~]Section 76-11-305 or 76-11-306.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

(3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:

(a) after the defendant is successfully discharged from probation or parole for the conviction; and

(b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;

(b) (i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or

(ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (4)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;

(b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (5)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;

(b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);

(c) there are no criminal proceedings pending against the defendant;

(d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(f) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):

(a) the court shall consider:

(i) the nature, circumstances, and severity of the offense for which a reduction is sought;

(ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and

(iii) any input from a victim of the offense; and

(b) the court may consider:

(i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;

(ii) the defendant's criminal history;

(iii) the defendant's employment and community service history;

(iv) whether the defendant participated in a rehabilitative program and successfully completed the program;

(v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;

(vi) whether the level of the offense has been reduced by law after the defendant's conviction;

(vii) any potential impact that the reduction would have on public safety; or

(viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.

(8) (a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) after:

(i) notice is provided to the other party;

(ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

(iii) a hearing is held if a hearing is requested by either party.

(b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).

(c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.

(d) If a defendant files a motion under this section, the prosecuting attorney shall respond to the motion within 35 days after the day on which the motion is filed with the court.

(9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.

(10) (a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) An offense may not be reduced under this section by more than two degrees.

(11) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with [~~Title 44, Chapter 40A, Expungement of Criminal Records~~]Title 77, Chapter 40a, Expungement of Criminal Records.

(12) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:

(a) the reduction is specifically precluded by law; or

(b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.

(13) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

(14) (a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender, kidnap offender, or child abuse offender until the registration requirements under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, have expired.

(b) An individual required to register as a sex offender, kidnap offender, or child abuse offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender, kidnap offender, or child abuse offender.

Section 79. Section 76-5-102.8 is amended to read:

76-5-102.8. Disarming a peace officer -- Penalties.

(1) (a) As used in this section:

(i) "Conductive energy device" means a weapon that uses electrical current to disrupt voluntary control of muscles.

(ii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits disarming a peace officer if the actor intentionally takes or removes, or attempts to take or remove a firearm or a conductive energy device from an individual or immediate presence of an individual who the actor knows is a peace officer:

(a) without the consent of the peace officer; and

(b) while the peace officer is acting within the scope of the peace officer's authority as a peace officer.

(3) (a) A violation of Subsection (2) regarding a firearm is a first degree felony.

(b) A violation of Subsection (2) regarding a conductive energy device is a third degree felony.

Section 80. Section 76-5-202 is amended to read:

76-5-202. Aggravated murder -- Penalties -- Affirmative defense and special mitigation -- Separate offense.

(1) (a) As used in this section:

(i) "Correctional officer" means the same as that term is defined in Section 53-13-104.

(ii) "Emergency responder" means the same as that term is defined in Section 53-2b-102.

(iii) "Federal officer" means the same as that term is defined in Section 53-13-106.

(iv) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(v) "Peace officer" means:

(A) a correctional officer, federal officer, law enforcement officer, or special function officer; or

(B) any other person who may exercise peace officer authority in accordance with Title 53, Chapter 13, Peace Officer Classifications.

(vi) "Special function officer" means the same as that term is defined in Section 53-13-105.

(vii) "Target a law enforcement officer" means an act:

(A) involving the unlawful use of force and violence against a law enforcement officer;

(B) that causes serious bodily injury or death; and

(C) that is in furtherance of political or social objectives in order to intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government.

(viii) "Weapon of mass destruction" means the same as that term is defined in Section 76-10-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits aggravated murder if the actor intentionally or knowingly causes the death of another individual under any of the following circumstances:

(i) the actor committed homicide while confined in a jail or other correctional institution;

(ii) (A) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which two or more individuals other than the actor were killed; or

(B) the actor, during commission of the homicide, attempted to kill one or more other individuals in addition to the deceased individual;

(iii) the actor knowingly created a great risk of death to another individual other than the deceased individual and the actor;

(iv) the actor committed homicide incident to an act, scheme, course of conduct, or criminal episode during which the actor committed or attempted to commit aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse of a child, aggravated sexual abuse of a child, aggravated child abuse as described in Subsection 76-5-109.2(3)(a), or aggravated sexual assault, aggravated arson, arson, aggravated burglary, burglary, aggravated kidnapping, or kidnapping, or child kidnapping;

(v) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which the actor committed the crime of abuse or desecration of a dead human body as described in Subsection 76-9-704(2)(e);

(vi) the actor committed homicide for the purpose of avoiding or preventing an arrest of the actor or another individual by a peace officer acting under color of legal authority or for the purpose of effecting the actor's or another individual's escape from lawful custody;

(vii) the actor committed homicide for pecuniary gain;

(viii) the actor committed, engaged, or employed another person to commit the homicide subject to an agreement or contract for remuneration or the promise of remuneration for commission of the homicide;

(ix) the actor previously committed or was convicted of:

(A) aggravated murder under this section;

(B) attempted aggravated murder under this section;

(C) murder, under Section 76-5-203;

(D) attempted murder, under Section 76-5-203; or

(E) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (2)(a)(ix);

(x) the actor was previously convicted of:

(A) aggravated assault, under Section 76-5-103;

(B) mayhem, under Section 76-5-105;

(C) kidnapping, under Section 76-5-301;

(D) child kidnapping, under Section 76-5-301.1;

(E) aggravated kidnapping, under Section 76-5-302;

(F) rape, under Section 76-5-402;

(G) rape of a child, under Section 76-5-402.1;

(H) object rape, under Section 76-5-402.2;

(I) object rape of a child, under Section 76-5-402.3;

(J) forcible sodomy, under Section 76-5-403;

(K) sodomy on a child, under Section 76-5-403.1;

(L) aggravated sexual abuse of a child, under Section 76-5-404.3;

(M) aggravated sexual assault, under Section 76-5-405;

(N) aggravated arson, under Section 76-6-103;

(O) aggravated burglary, under Section 76-6-203;

(P) aggravated robbery, under Section 76-6-302;

(Q) felony discharge of a firearm, under Section [~~76-10-508.1~~]76-11-210; or

(R) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (2)(a)(x);

(xi) the actor committed homicide for the purpose of:

(A) preventing a witness from testifying;

(B) preventing a person from providing evidence or participating in any legal proceedings or official investigation;

(C) retaliating against a person for testifying, providing evidence, or participating in any legal proceedings or official investigation; or

(D) disrupting or hindering any lawful governmental function or enforcement of laws;

(xii) the deceased individual was a local, state, or federal public official, or a candidate for public office, and the homicide is based on, is caused by, or is related to that official position, act, capacity, or candidacy;

(xiii) the deceased individual was on duty in a verified position or the homicide is based on, is caused by, or is related to the deceased individual's position, and the actor knew, or reasonably should have known, that the deceased individual holds or has held the position of:

(A) a peace officer;

(B) an executive officer, prosecuting officer, jailer, or prison official;

(C) a firefighter, search and rescue personnel, emergency medical personnel, ambulance personnel, or any other emergency responder;

(D) a judge or other court official, juror, probation officer, or parole officer; or

(E) a security officer contracted to secure, guard, or otherwise protect tangible personal property, real property, or the life and well-being of human or animal life in the area of the offense;

(xiv) the actor committed homicide:

(A) by means of a destructive device, bomb, explosive, incendiary device, or similar device which was planted, hidden, or concealed in any place, area, dwelling, building, or structure, or was mailed or delivered;

(B) by means of any weapon of mass destruction; or

(C) to target a law enforcement officer;

(xv) the actor committed homicide during the act of unlawfully assuming control of an aircraft, train, or other public conveyance by use of threats or force with intent to:

(A) obtain any valuable consideration for the release of the public conveyance or any passenger, crew member, or any other person aboard;

(B) direct the route or movement of the public conveyance; or

(C) otherwise exert control over the public conveyance;

(xvi) the actor committed homicide by means of the administration of a poison or of any lethal substance or of any substance administered in a lethal amount, dosage, or quantity;

(xvii) the deceased individual was held or otherwise detained as a shield, hostage, or for ransom;

(xviii) the actor committed homicide in an especially heinous, atrocious, cruel, or exceptionally depraved manner, any of which must be demonstrated by physical torture, serious physical abuse, or serious bodily injury of the deceased individual before death;

(xix) the actor dismembers, mutilates, or disfigures the deceased individual's body, whether before or after death, in a manner demonstrating the actor's depravity of mind; or

(xx) the deceased individual, at the time of the death of the deceased individual:

(A) was younger than 14 years old; and

(B) was not an unborn child.

(b) An actor commits aggravated murder if the actor, with reckless indifference to human life, causes the death of another individual incident to an act, scheme, course of conduct, or criminal episode during which the actor is a major participant in the commission or attempted commission of:

(i) aggravated child abuse, punishable as a felony of the second degree under Subsection 76-5-109.2(3)(a);

(ii) child kidnapping, under Section 76-5-301.1;

(iii) rape of a child, under Section 76-5-402.1;

(iv) object rape of a child, under Section 76-5-402.3;

(v) sodomy on a child, under Section 76-5-403.1; or

(vi) sexual abuse or aggravated sexual abuse of a child, under Section 76-5-404.1.

(3) (a) If a notice of intent to seek the death penalty has been filed, a violation of Subsection (2) is a capital felony.

(b) If a notice of intent to seek the death penalty has not been filed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

(c) (i) Within 60 days after arraignment of the defendant, the prosecutor may file notice of intent to seek the death penalty.

(ii) The notice shall be served on the defendant or defense counsel and filed with the court.

(iii) Notice of intent to seek the death penalty may be served and filed more than 60 days after the arraignment upon written stipulation of the parties or upon a finding by the court of good cause.

(d) Without the consent of the prosecutor, the court may not accept a plea of guilty to noncapital first degree felony aggravated murder during the period in which the prosecutor may file a notice of intent to seek the death penalty under Subsection (3)(c)(i).

(e) If the defendant was younger than 18 years old at the time the offense was committed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

(f) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds that the existence of special mitigation

is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or

(ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.

(4) (a) It is an affirmative defense to a charge of aggravated murder or attempted aggravated murder that the actor caused the death of another or attempted to cause the death of another under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or

(ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.

(5) (a) Any aggravating circumstance described in Subsection (2) that constitutes a separate offense does not merge with the crime of aggravated murder.

(b) An actor who is convicted of aggravated murder, based on an aggravating circumstance described in Subsection (2) that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 81. Section 76-5-203 is amended to read:

76-5-203. Murder -- Penalties-- Affirmative defense and special mitigation -- Separate offenses.

(1) (a) As used in this section, "predicate offense" means:

(i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;

(ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused individual is younger than 18 years old;

(iii) kidnapping under Section 76-5-301;

(iv) child kidnapping under Section 76-5-301.1;

(v) aggravated kidnapping under Section 76-5-302;

(vi) rape under Section 76-5-402;

(vii) rape of a child under Section 76-5-402.1;

(viii) object rape under Section 76-5-402.2;

(ix) object rape of a child under Section 76-5-402.3;

(x) forcible sodomy under Section 76-5-403;

(xi) sodomy upon a child under Section 76-5-403.1;

(xii) forcible sexual abuse under Section 76-5-404;

(xiii) sexual abuse of a child under Section 76-5-404.1;

(xiv) aggravated sexual abuse of a child under Section 76-5-404.3;

(xv) aggravated sexual assault under Section 76-5-405;

(xvi) arson under Section 76-6-102;

(xvii) aggravated arson under Section 76-6-103;

(xviii) burglary under Section 76-6-202;

(xix) aggravated burglary under Section 76-6-203;

(xx) robbery under Section 76-6-301;

(xxi) aggravated robbery under Section 76-6-302;

(xxii) escape under Section 76-8-309;

(xxiii) aggravated escape under Section 76-8-309.3; or

(xxiv) a [~~felony~~]violation of Section [~~76-10-508~~]76-11-209 or [~~76-10-508.1~~]76-11-210 regarding discharge of a firearm or dangerous weapon.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits murder if:

(a) the actor intentionally or knowingly causes the death of another individual;

(b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of the other individual;

(c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct that creates a grave risk of death to another individual and thereby causes the death of the other individual;

(d) (i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;

(ii) an individual other than a party described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and

(iii) the actor acted with the intent required as an element of the predicate offense;

(e) the actor recklessly causes the death of a peace officer or military service member in uniform while in the commission or attempted commission of:

(i) an assault against a peace officer under Section 76-5-102.4;

(ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against the peace officer; or

(iii) an assault against a military service member in uniform under Section 76-5-102.4; or

(f) the actor commits a homicide that would be aggravated murder, but the offense is reduced in accordance with Subsection 76-5-202(4).

(3) (a) (i) A violation of Subsection (2) is a first degree felony.

(ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.

(b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment of conviction for attempted manslaughter.

(4) (a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.

(5) (a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.

(b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 82. Section 76-8-311.1 is amended to read:

76-8-311.1. Establishment of secure areas -- Items prohibited -- References to penalty provisions.

(1) (a) As used in this section:

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(iii) "Explosive" means the same as the term "explosive, chemical, or incendiary device" defined in Section 76-10-306.

(iv) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(v) "Law enforcement facility" means a facility that is owned, leased, or operated by a law enforcement agency.

(vi) "Mental health facility" means the same as that term is defined in Section 26B-5-301.

(vii) (A) "Secure area" means an area created under this section into which certain [~~persons~~]individuals are restricted from transporting a firearm or other dangerous weapon, ammunition, or explosive.

(B) [~~A "secure area" may~~]"Secure area" does not include any area normally accessible to the public.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) (a) The State Tax Commission or a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm or other dangerous weapon, ammunition, or explosive.

(b) [~~Subsections (2)(a), (3), (4), and (5) apply~~]This section applies to:

(i) []a higher education secure area hearing room [~~referred to in Subsections 53B-3-103(2)(a)(ii) and (b)~~]established in accordance with Section 53B-3-103; and

(ii) a secure area established by the Judicial Council in accordance with Section 78A-2-203.

(3) An entity that creates a secure area under this section shall ensure that at least one notice is prominently displayed at each entrance to the secure area in which a firearm, ammunition, dangerous weapon, or explosive is restricted.

(4) (a) An entity that creates a secure area under this section shall provide a secure weapons storage area so that an individual entering the secure area may store the individual's weapon before entering the secure area.

(b) The entity operating the facility shall be responsible for a weapon while the weapon is stored in the storage area described in Subsection (4)(a).

(5) (a) An actor who transports a firearm or other dangerous weapon or ammunition into a secure area created under this section or a higher education secure area hearing room created under this section may be punished under Section 76-8-311.2.

(b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a secure area or a higher education secure area hearing room created under this section may be punished under Section 76-10-306.

(c) It is a defense to a prosecution related to this section that the actor acted in conformity with the facility's rule or policy established pursuant to this section.

Section 83. Section 76-8-311.2 is amended to read:

76-8-311.2. Prohibited dangerous weapon or ammunition in a secure area.

(1) (a) As used in this section:

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(iii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(iv) "Higher education secure area" means a higher education secure area hearing room created under Section 76-8-311.1.

(v) "Law enforcement facility" means the same as that term is defined in Section 76-8-311.1.

(vi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited dangerous weapon or ammunition in a secure area if the actor knowingly or intentionally transports a firearm or other dangerous weapon or ammunition into:

(a) a correctional facility;

(b) a secure area created by the State Tax Commission;

(c) a secure area in a law enforcement facility or a mental health facility; or

(d) a higher education secure area.

(3) Except as provided in Section 76-8-311.4, 76-8-311.6, or 76-8-311.7, a violation of Subsection (2) is a third degree felony.

(4) It is a defense to a prosecution under this section that the actor acted in conformity with the facility's rule or policy established under Section 76-8-311.1.

Section 84. Section 76-8-311.3 is amended to read:

76-8-311.3. Establishment of prohibited item policy in a correctional or mental health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.

(1) (a) As used in this section:

(i) "Communication device" means a device designed to receive or transmit an image, text message, email, video, location information, or voice communication, or another device that can be used to communicate electronically.

(ii) "Controlled substance" means a substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(iii) "Correctional facility" means:

(A) a facility operated by or contracting with the Department of Corrections to house an offender in either a secure or nonsecure setting;

(B) a facility operated by a municipality or a county to house or detain an offender;

(C) a juvenile detention facility; or

(D) a building or grounds appurtenant to a facility or land granted to the state, municipality, or county for use as a correctional facility.

(iv) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(v) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(vi) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(vii) "Medicine" means a prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include a controlled substance as defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(viii) "Mental health facility" means the same as that term is defined in Section 26B-5-301.

(ix) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(x) "Offender" means an individual in custody at a correctional facility.

(xi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(xii) "Tobacco product" means the same as that term is defined in Section 76-10-101.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) (a) Notwithstanding Section [~~76-10-500~~]53-5a-102, a correctional facility or mental health facility may prohibit a firearm, ammunition, a dangerous weapon, an implement of escape, an explosive, a controlled substance, spirituous or fermented liquor, medicine, or poison from being:

(i) transported to or within a correctional facility or mental health facility;

(ii) sold or given away to an offender at a correctional facility or mental health facility; or

(iii) possessed by an offender or another individual at a correctional facility or mental health facility.

(b) A correctional facility may prohibit a communication device from being:

(i) transported within the correctional facility for the purpose of being sold to an offender in the correctional facility;

(ii) sold or given away to an offender in the correctional facility; or

(iii) possessed by an offender or another individual at the correctional facility.

(3) It is a defense to a prosecution related to this section that the actor, in committing the act made criminal by this section with respect to:

(a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;

(b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;

(c) a correctional facility operated by a county, acted in conformity with the policy of the county; or

(d) a mental health facility, acted in conformity with the policy of the mental health facility.

(4) (a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under Section 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, 76-8-311.9, 76-8-311.10, or 76-8-311.11 for a violation of a policy or rule created under this section.

(b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a correctional facility or a mental health facility may be punished under Section 76-10-306.

(c) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be charged under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 85. Section 76-8-311.4 is amended to read:

76-8-311.4. Prohibited item in correctional or mental health facility for use by offender or detainee.

(1) (a) As used in this section:

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited item in correctional or mental health facility for use by offender or detainee if the actor:

(a) transports a dangerous weapon, ammunition, or implement of escape to or within a correctional facility, or into a secure area of a mental health facility, with the intent to provide or sell to an offender or detainee the dangerous weapon, ammunition, or implement of escape; or

(b) provides or sells a dangerous weapon, ammunition, or implement of escape to:

(i) an offender at a correctional facility; or

(ii) a detainee at a secure area of a mental health facility.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 86. Section 76-8-311.6 is amended to read:

76-8-311.6. Possession of prohibited item by offender or detainee in correctional or mental health facility.

(1) (a) As used in this section:

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits possession of prohibited item by offender or detainee in correctional or mental health facility if the actor:

(a) (i) is an offender at a correctional facility; or

(ii) is a detainee at a mental health facility; and

(b) possesses a dangerous weapon, ammunition, or an implement of escape.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 87. Section 76-8-311.7 is amended to read:

76-8-311.7. Possession of prohibited item in correctional facility or secure area of mental health facility.

(1) (a) As used in this section:

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits possession of prohibited item in correctional facility or secure area of mental health facility if the actor, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses a dangerous weapon, ammunition, or implement of escape at a correctional facility or in a secure area of a mental health facility.

(3) Except as provided in Section 76-8-311.6 or Subsection (4), a violation of Subsection (2) is a third degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 88. Section 76-9-802 is amended to read:

76-9-802. Definitions.

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of its primary activities the commission of one or more predicate gang crimes;

(c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

(2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.

(3) "Minor" means a person younger than 18 years old.

(4) "Pattern of criminal gang activity" means:

(a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years;

(b) the predicate gang crimes are:

(i) committed by two or more persons; or

(ii) committed by an individual at the direction of, or in association with a criminal street gang; and

(c) the criminal activity was committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.

(5) (a) "Predicate gang crime" means any of the following offenses:

(i) Title 41, Chapter 1a, Motor Vehicle Act:

(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;

(B) Section 41-1a-1315, regarding false evidence of title and registration;

(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an identification number; or

(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;

(ii) any criminal violation of the following provisions:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

(iv) [~~Title 76,~~]Chapter 5, Part 2, Criminal Homicide;

(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;

(vi) a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(vii) [~~Title 76,~~]Chapter 6, Part 1, Property Destruction;

(viii) [~~Title 76,~~]Chapter 6, Part 2, Burglary and Criminal Trespass;

(ix) [~~Title 76,~~]Chapter 6, Part 3, Robbery;

(x) a felony offense under [~~Title 76,~~]Chapter 6, Part 4, Theft, or under [~~Title 76,~~]Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

(xi) [~~Title 76,~~]Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

(xii) [~~Title 76,~~]Chapter 6, Part 11, Identity Fraud Act;

(xiii) [~~Title 76,~~]Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(xiv) tampering with a witness under Section 76-8-508;

(xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;

(xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

(xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the violation occurs at an official meeting;

(xix) [~~Title 76,~~]Chapter 10, Part 3, Explosives;

[~~(xx) Title 76, Chapter 10, Part 5, Weapons;~~]

[~~(xxi)~~](xx) [~~Title 76,~~]Chapter 10, Part 15, Bus Passenger Safety Act;

[~~(xxii)~~](xxi) [~~Title 76,~~]Chapter 10, Part 16, Pattern of Unlawful Activity Act;

[~~(xxiii)~~](xxii) communications fraud under Section 76-10-1801;

[~~(xxiv)~~](xxiii) [~~Title 76,~~]Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act; [~~or~~]

[~~(xxv)~~](xxiv) burglary of a research facility under Section 76-10-2002; or

(xxv) Chapter 11, Weapons.

(b) "Predicate gang crime" also includes:

(i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of any offense in Subsection (4)(a) if committed in this state.

Section 89. Section 76-9-804 is amended to read:

76-9-804. Convicted criminal gang offender -- Prohibition.

(1) A person who has been convicted of a crime for which the penalty was enhanced under Section 76-3-203.1 may not, except where a greater penalty is applicable under this title, possess a dangerous weapon as defined in either Section 76-1-101.5 or [~~76-10-501~~]76-11-101, ammunition, or a facsimile of a firearm within five years after the conviction.

(2) A violation of Subsection (1) is a class A misdemeanor.

Section 90. Section 76-9-902 is amended to read:

76-9-902. Definitions.

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of its substantial activities the commission of one or more predicate gang crimes;

(c) that has, as a group, an identifying name or an identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

(2) "Gang loitering" means a person remains in one place under circumstances that would cause a reasonable person to believe that the purpose or effect of that behavior is to enable or facilitate a criminal street gang to:

(a) establish control over one or more identifiable areas;

(b) intimidate others from entering those areas; or

(c) conceal illegal activities.

(3) "Pattern of criminal gang activity" means committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years, if the predicate gang crimes are committed:

(a) (i) by two or more persons; or

(ii) by an individual at the direction of or in association with a criminal street gang; and

(b) with the specific intent to promote, further, or assist in any criminal conduct by members of a criminal street gang.

(4) (a) "Predicate gang crime" means any of the following offenses:

(i) a criminal violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(ii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

(iii) [~~Title 76,~~]Chapter 5, Part 2, Criminal Homicide;

(iv) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;

(v) a felony offense under [~~Title 76,~~]Chapter 5, Part 4, Sexual Offenses;

(vi) [~~Title 76,~~]Chapter 6, Part 1, Property Destruction;

(vii) [~~Title 76,~~]Chapter 6, Part 2, Burglary and Criminal Trespass;

(viii) [~~Title 76,~~]Chapter 6, Part 3, Robbery;

(ix) a felony offense under [~~Title 76,~~]Chapter 6, Part 4, Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

(x) [~~Title 76,~~]Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

(xi) [~~Title 76,~~]Chapter 6, Part 11, Identity Fraud Act;

(xii) [~~Title 76,~~]Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(xiii) tampering with a witness under Section 76-8-508;

(xiv) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(xv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(xvi) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

(xvii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the violation occurs at an official meeting;

(xviii) [~~Title 76,~~]Chapter 10, Part 3, Explosives;

[~~(xix) Title 76, Chapter 10, Part 5, Weapons;~~]

[~~(xx)~~](xix) [~~Title 76,~~]Chapter 10, Part 15, Bus Passenger Safety Act;

[~~(xxi)~~](xx) [~~Title 76,~~]Chapter 10, Part 16, Pattern of Unlawful Activity Act;

[~~(xxii)~~](xxi) communications fraud under Section 76-10-1801;

[~~(xxiii)~~](xxii) [~~Title 76,~~]Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;

[~~(xxiv)~~](xxiii) burglary of a research facility under Section 76-10-2002;

(xxiv) Chapter 11, Weapons; or

(xxv) Title 41, Chapter 1a, Motor Vehicle Act:

(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;

(B) Section 41-1a-1315, regarding false evidence of title and registration;

(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

(D) Section 41-1a-1317, regarding selling or buying a vehicle without an identification number; and

(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number.

(b) "Predicate gang crime" also includes:

(i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute any offense in Subsection (4)(a) if committed in this state.

(5) (a) "Public place" means any location or structure to which the public or a substantial group of the public has access, and includes:

(i) a sidewalk, street, or highway;

(ii) a public park, public recreation facility, or any other area open to the public;

(iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or playhouse, or the parking lot or structure adjacent to any of these; and

(iv) the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and businesses.

(b) "Public place" includes the lobbies, hallways, elevators, restaurants and other dining areas, and restrooms of any of the locations or structures under Subsection (5)(a).

Section 91. Section 76-10-306 is amended to read:

76-10-306. Explosive, chemical, or incendiary device and parts -- Definitions -- Persons exempted -- Penalties.

(1) As used in this section:

(a) "Explosive, chemical, or incendiary device" means:

(i) dynamite and all other forms of high explosives, including water gel, slurry, military C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate, ammonium nitrate, fuel oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting caps, exploding cords commonly called detonating cord, detcord, or primacord, picric acid explosives, T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin mixtures, or any other chemical mixture intended to explode with fire or force;

(ii) any explosive bomb, grenade, missile, or similar device; and

(iii) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device, including any device, except kerosene lamps, if criminal intent has not been established, which consists of or includes a breakable container including a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting the flammable liquid or compound or any breakable container which consists of, or includes a chemical mixture that explodes with fire or force and can be carried, thrown, or placed.

(b) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or shotgun ammunition, reloading components, or muzzleloading equipment.

(c) "Explosive, chemical, or incendiary parts" means any substances or materials or combinations which have been prepared or altered for use in the creation of an explosive, chemical, or incendiary device. These substances or materials include:

(i) timing device, clock, or watch which has been altered in such a manner as to be used as the arming device in an explosive;

(ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and

(iii) mechanical timers, mechanical triggers, chemical time delays, electronic time delays, or commercially made or improvised items which, when used singly or in combination, may be used in the construction of a timing delay mechanism, booby trap, or activating mechanism for any explosive, chemical, or incendiary device.

(d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or shotgun ammunition, or any signaling device customarily used in operation of railroad equipment.

(2) The provisions in Subsections (3) and (6) do not apply to:

(a) any public safety officer while acting in an official capacity transporting or otherwise handling explosives, chemical, or incendiary devices;

(b) any member of the armed forces of the United States or Utah National Guard while acting in an official capacity;

(c) any person possessing a valid permit issued under the provisions of the International Fire Code, Section 105 and Chapter 56, or any employee of the permittee acting within the scope of employment;

(d) any person possessing a valid license as an importer, wholesaler, display operator, special effects operator, or flame effects operator under the provisions of Sections 11-3-3.5 and 53-7-223; and

(e) any person or entity possessing or controlling an explosive, chemical, or incendiary device as part of its lawful business operations.

(3) Any person is guilty of a second degree felony who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses or controls an explosive, chemical, or incendiary device.

(4) Any person is guilty of a first degree felony who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly or intentionally:

(a) uses or causes to be used an explosive, chemical, or incendiary device in the commission of or an attempt to commit a felony;

(b) injures another or attempts to injure another person or another person's property through the use of an explosive, chemical, or incendiary device; or

(c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, [~~76-10-529~~]76-11-218, or 78A-2-203.

(5) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly removes or causes to be removed or carries away any explosive, chemical, or incendiary device from the premises where the explosive, chemical, or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer without the consent or direction of the lawful possessor is guilty of a second degree felony.

(6) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses any explosive, chemical, or incendiary parts is guilty of a third degree felony.

Section 92. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by

any authority or is classified as a misdemeanor or a felony:

(a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) an act prohibited by the criminal provisions under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or Section 23A-5-311;

(d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

(e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) unlawful marking of pistol or revolver under Section 53-5a-105;

(g) alteration of number or mark on pistol or revolver under Section 53-5a-106;

[~~(f)~~](h) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

[~~(g)~~](i) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

[~~(h)~~](j) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;

[~~(i)~~](k) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah Procurement Code;

[~~(j)~~](l) assault under Section 76-5-102;

[~~(k)~~](m) aggravated assault under Section 76-5-103;

[~~(l)~~](n) a threat of terrorism under Section 76-5-107.3;

[~~(m)~~](o) a criminal homicide offense under Section 76-5-201;

[~~(n)~~](p) kidnapping under Section 76-5-301;

[~~(o)~~](q) aggravated kidnapping under Section 76-5-302;

[~~(p)~~](r) human trafficking for labor under Section 76-5-308;

[~~(q)~~](s) human trafficking for sexual exploitation under Section 76-5-308.1;

[~~(r)~~](t) human smuggling under Section 76-5-308.3;

[~~(s)~~](u) human trafficking of a child under Section 76-5-308.5;

[~~(t)~~](v) benefiting from trafficking and human smuggling under Section 76-5-309;

[~~(u)~~](w) aggravated human trafficking under Section 76-5-310;

[~~(v)~~](x) sexual exploitation of a minor under Section 76-5b-201;

[~~(w)~~](y) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

[~~(x)~~](z) arson under Section 76-6-102;

[~~(y)~~](aa) aggravated arson under Section 76-6-103;

[~~(z)~~](bb) causing a catastrophe under Section 76-6-105;

[~~(aa)~~](cc) burglary under Section 76-6-202;

[~~(bb)~~](dd) aggravated burglary under Section 76-6-203;

[~~(cc)~~](ee) burglary of a vehicle under Section 76-6-204;

[~~(dd)~~](ff) manufacture or possession of an instrument for burglary or theft under Section 76-6-205;

[~~(ee)~~](gg) robbery under Section 76-6-301;

[~~(ff)~~](hh) aggravated robbery under Section 76-6-302;

[~~(gg)~~](ii) theft under Section 76-6-404;

[~~(hh)~~](jj) theft by deception under Section 76-6-405;

[~~(ii)~~](kk) theft by extortion under Section 76-6-406;

[~~(jj)~~](ll) receiving stolen property under Section 76-6-408;

[~~(kk)~~](mm) theft of services under Section 76-6-409;

[~~(ll)~~](nn) forgery under Section 76-6-501;

[~~(mm)~~](oo) unlawful use of financial transaction card under Section 76-6-506.2;

[~~(nn)~~](pp) unlawful acquisition, possession, or transfer of financial transaction card under Section 76-6-506.3;

[~~(oo)~~](qq) financial transaction card offenses under Section 76-6-506.6;

[~~(pp)~~](rr) deceptive business practices under Section 76-6-507;

[~~(qq)~~](ss) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods under Section 76-6-508;

[~~(rr)~~](tt) bribery of a labor official under Section 76-6-509;

[~~(ss)~~](uu) defrauding creditors under Section 76-6-511;

[~~(tt)~~](vv) acceptance of deposit by insolvent financial institution under Section 76-6-512;

[~~(uu)~~](ww) unlawful dealing with property by fiduciary under Section 76-6-513;

[~~(vv)~~](xx) bribery or threat to influence contest under Section 76-6-514;

[~~(ww)~~](yy) making a false credit report under Section 76-6-517;

[~~(xx)~~](zz) criminal simulation under Section 76-6-518;

[~~(yy)~~](aaa) criminal usury under Section 76-6-520;

[~~(zz)~~](bbb) insurance fraud under Section 76-6-521;

[~~(aaa)~~](ccc) retail theft under Section 76-6-602;

[~~(bbb)~~](ddd) computer crimes under Section 76-6-703;

[~~(ccc)~~](eee) identity fraud under Section 76-6-1102;

[~~(ddd)~~](fff) mortgage fraud under Section 76-6-1203;

[~~(eee)~~](ggg) sale of a child under Section 76-7-203;

[~~(fff)~~](hhh) bribery to influence official or political actions under Section 76-8-103;

[~~(ggg)~~](iii) threat to influence official or political action under Section 76-8-104;

[~~(hhh)~~](jjj) receiving bribe or bribery by public servant under Section 76-8-105;

[~~(iii)~~](kkk) receiving bribe for endorsement of person as a public servant under Section 76-8-106;

[~~(jjj)~~](lll) bribery for endorsement of person as public servant under Section 76-8-106.1;

[~~(kkk)~~](mmm) official misconduct based on unauthorized act or failure of duty under Section 76-8-201;

[~~(lll)~~](nnn) official misconduct concerning inside information under Section 76-8-202;

[~~(mmm)~~](ooo) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;

[~~(nnn)~~](ppp) acceptance of bribe or bribery to prevent criminal prosecution under Section 76-8-308;

[~~(ooo)~~](qqq) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;

[~~(ppp)~~](rrr) making a false or inconsistent material statement under Section 76-8-502;

[~~(qqq)~~](sss) making a false or inconsistent statement under Section 76-8-503;

[~~(rrr)~~](ttt) making a written false statement under Section 76-8-504;

[~~(sss)~~](uuu) tampering with a witness under Section 76-8-508;

[~~(ttt)~~](vvv) retaliation against a witness, victim, or informant under Section 76-8-508.3;

[~~(uuu)~~](www) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(vvv)~~](xxx) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

[~~(www)~~](yyy) tampering with evidence under Section 76-8-510.5;

[~~(xxx)~~](zzz) falsification or alteration of a government record under Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;

[~~(yyy)~~](aaaa) public assistance fraud by an applicant for public assistance under Section 76-8-1203.1;

[~~(zzz)~~](bbbb) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;

[~~(aaaa)~~](cccc) public assistance fraud by a provider under Section 76-8-1203.5;

[~~(bbbb)~~](dddd) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;

[~~(cccc)~~](eeee) false statement to obtain or increase unemployment compensation under Section 76-8-1301;

[~~(dddd)~~](ffff) false statement to prevent or reduce unemployment compensation or liability under Section 76-8-1302;

[~~(eeee)~~](gggg) unlawful failure to comply with Employment Security Act requirements under Section 76-8-1303;

[~~(ffff)~~](hhhh) unlawful use or disclosure of employment information under Section 76-8-1304;

[~~(gggg)~~](iiii) intentionally or knowingly causing one animal to fight with another under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

[~~(hhhh)~~](jjjj) possession, use, or removal of explosives, chemical, or incendiary devices or parts under Section 76-10-306;

[~~(iiii)~~](kkkk) delivery to common carrier, mailing, or placement on premises of an incendiary device under Section 76-10-307;

[~~(jjjj) possession of a deadly weapon with intent to assault under Section 76-10-507;~~]

[~~(kkkk) unlawful marking of pistol or revolver under Section 76-10-521;~~]

[~~(llll) alteration of number or mark on pistol or revolver under Section 76-10-522;~~]

[~~(mmmm)~~](llll) forging or counterfeiting trademarks, trade name, or trade device under Section 76-10-1002;

[~~(nnnn)~~](mmmm) selling goods under counterfeited trademark, trade name, or trade devices under Section 76-10-1003;

[~~(oooo)~~](nnnn) sales in containers bearing registered trademark of substituted articles under Section 76-10-1004;

[~~(pppp)~~](oooo) selling or dealing with article bearing registered trademark or service mark with intent to defraud under Section 76-10-1006;

[~~(qqqq)~~](pppp) gambling under Section 76-10-1102;

[~~(rrrr)~~](qqqq) gambling fraud under Section 76-10-1103;

[~~(ssss)~~](rrrr) gambling promotion under Section 76-10-1104;

[~~(tttt)~~](ssss) possessing a gambling device or record under Section 76-10-1105;

[~~(uuuu)~~](tttt) confidence game under Section 76-10-1109;

[~~(vvvv)~~](uuuu) distributing pornographic material under Section 76-10-1204;

[~~(wwww)~~](vvvv) inducing acceptance of pornographic material under Section 76-10-1205;

[~~(xxxx)~~](wwww) dealing in harmful material to a minor under Section 76-10-1206;

[~~(yyyy)~~](xxxx) distribution of pornographic films under Section 76-10-1222;

[~~(zzzz)~~](yyyy) indecent public displays under Section 76-10-1228;

[~~(aaaaa)~~](zzzz) prostitution under Section 76-10-1302;

[~~(bbbbb)~~](aaaaa) aiding prostitution under Section 76-10-1304;

[~~(ccccc)~~](bbbbb) exploiting prostitution under Section 76-10-1305;

[~~(ddddd)~~](ccccc) aggravated exploitation of prostitution under Section 76-10-1306;

[~~(eeeee)~~](ddddd) communications fraud under Section 76-10-1801;

(eeeee) possession of a dangerous weapon with criminal intent under Section 76-11-208;

(fffff) an act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(ggggg) vehicle compartment for contraband under Section 76-10-2801;

(hhhhh) an act prohibited by the criminal provisions of the laws governing taxation in this state; or

(iiiii) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 93. Section 76-11-101, which is renumbered from Section 76-10-501 is renumbered and amended to read:

CHAPTER 11. WEAPONS

PART 1. General Provisions

[~~76-10-501~~]76-11-101. Definitions.

As used in this [~~part~~]chapter:

(1) (a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition [~~which is:~~]that is

[~~(I)~~] no longer manufactured in the United States [~~;~~] and

[~~(II)~~] is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

[~~(3) (a) "Concealed firearm" means a firearm that is:~~]

[~~(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and~~]

[~~(ii) readily accessible for immediate use.~~]

[~~(b) A firearm that is unloaded and securely encased is not a concealed firearm for the purposes of this part.~~]

[~~(4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.~~]

[~~(5) "Curio or relic firearm" means a firearm that:~~]

[~~(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:~~]

[~~(i) sporting use;~~]

[~~(ii) use as an offensive weapon; or~~]

[~~(iii) use as a defensive weapon;~~]

[~~(b) (i) was manufactured at least 50 years before the current date; and~~]

[~~(ii) is not a replica of a firearm described in Subsection (5)(b)(i);~~]

[~~(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;~~]

[~~(d) derives a substantial part of its monetary value:~~]

[~~(i) from the fact that the firearm is:~~]

[~~(A) novel;~~]

[~~(B) rare; or~~]

[~~(C) bizarre; or~~]

[~~(ii) because of the firearm's association with an historical:~~]

[~~(A) figure;~~]

[~~(B) period; or~~]

[~~(C) event; and~~]

[~~(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.~~]

[~~(6)~~](3) (a) "Dangerous weapon" means:

(i) a firearm; or

(ii) an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(b) The following factors are used in determining whether any object, other than a firearm, is a dangerous weapon:

(i) the location and circumstances in which the object was used or possessed;

(ii) the primary purpose for which the object was made;

(iii) the character of the wound, if any, produced by the object's unlawful use;

(iv) the manner in which the object was unlawfully used;

(v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(vi) the lawful purposes for which the object may be used.

(c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section 76-10-306.

[~~(7) (a) "Dating relationship" means a romantic or intimate relationship between individuals.~~]

[~~(b) "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.~~]

[~~(8) "Dealer" means a person who is:~~]

[~~(a) licensed under 18 U.S.C. Sec. 923; and~~]

[~~(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.~~]

[~~(9) "Domestic violence" means the same as that term is defined in Section 77-36-1.~~]

[~~(10) "Enter" means intrusion of the entire body.~~]

[~~(11) "Federal Firearms Licensee" means a person who:~~]

[~~(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and~~]

[~~(b) is engaged in the activities authorized by the specific category of license held.~~]

[~~(12)~~](4) [~~(a)~~] "Firearm" means:

(a) []a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle [~~,~~]; or

(b) []a device that could be used as a dangerous weapon from which a projectile is expelled [~~a projectile~~]by an explosive action [~~of an explosive~~].

[~~(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.~~]

[~~(13) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.~~]

[~~(14) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.~~]

[~~(15)~~](5) [~~(a)~~] "Handgun" means a pistol, revolver, or other firearm of any description, [~~loaded or unloaded,~~]from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

[~~(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.~~]

[~~(16) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.~~]

[~~(17) "Machinegun firearm attachment" means any part or combination of parts added to a semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.~~]

[~~(18) "Prohibited area" means a place where it is unlawful to discharge a firearm.~~]

[~~(19) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.~~]

[~~(20) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.~~]

[~~(21) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.~~]

[~~(22)~~](6) "Minor" means an individual under 18 years old.

(7) (a) "Short barreled rifle" means a rifle having a barrel or barrels of fewer than 16 inches in length.

(b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

(8) (a) "Short barreled shotgun" [~~or "short barreled rifle"~~]means a shotgun having a barrel or barrels of fewer than 18 inches in length [~~, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.~~].

(b) "Short barreled shotgun" includes a dangerous weapon made from a shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

[~~(23)~~](9) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

[~~(24) "Shoulder arm" means a firearm that is designed to be fired while braced against the shoulder.~~]

[~~(25) "Single criminal episode" means the same as that term is defined in Section 76-1-401.~~]

[~~(26)~~](10) "Slug" means a single projectile discharged from a shotgun shell.

[~~(27) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.~~]

[~~(28)~~](11) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

Section 94. Section 76-11-102, which is renumbered from Section 76-10-502 is renumbered and amended to read:

[~~76-10-502~~]76-11-102. When a firearm is considered to be loaded.

(1) For the purpose of this chapter [~~, any pistol, revolver, shotgun, rifle, or other weapon described in this part shall be deemed to be~~]:

(a) a firearm is considered to be loaded when there is an unexpended cartridge, shell, or projectile in the firing position [~~.~~];

[~~(2)~~](b) [~~Pistols and revolvers shall also be deemed to be~~]handguns are also considered to be loaded when an unexpended cartridge, shell, or projectile is in a position whereby the manual operation of any mechanism once would cause the unexpended cartridge, shell, or

projectile to be fired [~~.~~]; and

[~~(3)~~](c) [~~A~~]a muzzle loading firearm [~~shall be deemed to be~~]is considered loaded when [~~it~~]the muzzle loading firearm is capped or primed and has a powder charge and ball or shot in the barrel or cylinders.

(2) If a provision of this chapter does not specify that the firearm in the prohibited or allowed conduct is loaded or unloaded, the prohibited or allowed conduct includes if the firearm is either loaded or unloaded.

Section 95. Section 76-11-201 is enacted to read:

PART 2. General Weapons Violations

76-11-201. Definitions.

As used in this part:

(1) "Enter" means intrusion of the entire body.

(2) "Fully automatic weapon" means a firearm that fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

(3) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with the building's primary purpose.

(4) "Machinegun firearm attachment" means any part or combination of parts added to a semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.

(5) (a) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on an individual's person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the individual's person.

(b) "Readily accessible for immediate use" does not include a securely encased firearm.

(6) (a) "Securely encased firearm" means a firearm that is not readily accessible for immediate use.

(b) "Securely encased firearm" includes a loaded or unloaded firearm located in a gun rack, in a closed locked or unlocked case or container, or in a trunk or other storage area of a motor vehicle.

(c) "Securely encased firearm" does not include a firearm in a glove box or console box unless the firearm is also in a holster or other case which covers the trigger mechanism.

Section 96. Section 76-11-202, which is renumbered from Section 76-10-504 is renumbered and amended to read:

[~~76-10-504~~]76-11-202. Unlawful carrying of a concealed firearm by an individual under 21 years old.

[~~(1) Except as provided in Sections 76-10-503 and 76-10-523 and in Subsections (2), (3), and (4), a person who carries a concealed firearm, as defined in Section 76-10-501, including an unloaded firearm on his or her person or one that is readily accessible for immediate use which is not securely encased, as defined in this part, in or on a place other than the person's residence, property, a vehicle in the person's lawful possession, or a vehicle, with the consent of the individual who is lawfully in possession of the vehicle, or business under the person's control is guilty of a class B misdemeanor.~~]

[~~(2) A person who carries a concealed firearm that is a loaded firearm in violation of Subsection (1) is guilty of a class A misdemeanor.~~]

[~~(3) A person who carries concealed an unlawfully possessed short barreled shotgun or a short barreled rifle is guilty of a second degree felony.~~]

[~~(4) If the concealed firearm is used in the commission of a violent felony as defined in Section 76-3-203.5, and the person is a party to the offense, the person is guilty of a second degree felony.~~]

[~~(5) Nothing in Subsection (1) or (2) prohibits a person engaged in the lawful taking of protected or unprotected wildlife as defined in Title 23A, Wildlife Resources Act, from carrying a concealed firearm as long as the taking of wildlife does not occur:~~]

[~~(a) within the limits of a municipality in violation of that municipality's ordinances; or~~]

[~~(b) upon the highways of the state as defined in Section 41-6a-102.~~]

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits unlawful carrying of a concealed firearm by an individual under 21 years old if:

(a) the actor is younger than 21 years old;

(b) the actor does not have a provisional concealed carry permit issued in accordance with Section 53-5a-304 or a concealed carry permit lawfully issued by or in another state;

(c) the actor conceals a firearm in a covered, hidden, or secreted manner that the public would not be aware of the firearm's presence;

(d) the firearm described in Subsection (2)(c) is readily accessible for immediate use by the actor; and

(e) the actor is in a location that is not:

(i) the actor's residence;

(ii) the actor's real property;

(iii) a vehicle that the actor is lawfully present in; or

(iv) a business under the actor's control.

(3) (a) Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection (2) is a class B misdemeanor.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A misdemeanor if the firearm was loaded at the time of the violation.

(c) A violation of Subsection (2) is a second degree felony if the firearm was used in the commission of a violent felony and the actor was a party to the offense.

(4) This section does not:

(a) apply to an individual who is categorized as a restricted person under Section 76-11-302 or 76-11-303 and may not possess a firearm in any manner or location and is subject to the penalties described in Part 3, Persons Restricted Regarding Dangerous Weapons;

(b) prohibit an individual engaged in the lawful taking of protected or unprotected wildlife as defined in Title 23A, Wildlife Resources Act, from carrying a concealed firearm while performing an act to take the wildlife if the taking of wildlife does not occur:

(i) within the limits of a municipality in violation of that municipality's ordinances; or

(ii) upon the highways of the state as defined in Section 41-6a-102;

(c) apply to an individual who is not a restricted person as described in Section 76-11-302 or 76-11-303 or 18 U.S.C. Sec. 922(g) and is issued a protective order under Subsection 78B-7-404(1)(b) or 78B-7-603(1)(b), for a period of 120 days after the day on which the individual is issued the protective order; or

(d) prohibit the owner or lawful possessor of a vehicle from prohibiting another individual from carrying a firearm in the owner's or lawful possessor's vehicle.

(5) An actor is lawfully present in a vehicle while carrying a firearm under this section if:

(a) the vehicle is in the lawful possession of the actor; or

(b) the actor has the consent of the person lawfully in possession of the vehicle to carry the firearm in the vehicle.

Section 97. Section 76-11-203 is enacted to read:

76-11-203. Concealing an unlawfully possessed short barreled shotgun or short barreled rifle.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits concealing an unlawfully possessed short barreled shotgun or short barreled rifle if:

(a) the actor unlawfully possesses a short barreled shotgun or short barreled rifle;

(b) the actor conceals the unlawfully possessed short barreled shotgun or short barreled rifle in a covered, hidden, or secreted manner that the public would not be aware of the short barreled shotgun's or short barreled rifle's presence; and

(c) the short barreled shotgun or short barreled rifle is readily accessible for immediate use by the actor.

(3) A violation of Subsection (2) is a second degree felony.

Section 98. Section 76-11-204, which is renumbered from Section 76-10-505 is renumbered and amended to read:

[~~76-10-505~~]76-11-204. Unlawfully carrying a firearm in a vehicle.

[~~(1) Unless otherwise authorized by law, a person may not carry a loaded firearm:~~]

[~~(a) in or on a vehicle, unless:~~]

[~~(i) the vehicle is in the person's lawful possession; or~~]

[~~(ii) the person is carrying the loaded firearm in a vehicle with the consent of the person lawfully in possession of the vehicle;~~]

[~~(b) on a public street; or~~]

[~~(c) in a posted prohibited area.~~]

[~~(2) Subsection (1)(a) does not apply to a minor under 18 years of age, since a minor under 18 years of age may not carry a loaded firearm in or on a vehicle.~~]

[~~(3) Notwithstanding Subsections (1)(a)(i) and (ii), and Subsection 76-10-523(5), a person may not possess a loaded rifle, shotgun, or muzzle-loading rifle in a vehicle.~~]

[~~(4)~~](1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits unlawfully carrying a firearm in a vehicle if the actor:

(a) is 18 years old or older; and

(b) (i) (A) is carrying a firearm that is readily accessible by the actor for immediate use; and

(B) is in a vehicle in which the actor is not lawfully present; or

(ii) is carrying a loaded rifle, shotgun, or muzzle-loading rifle in any vehicle.

(3) A violation of [~~this section~~]Subsection (2) is a class B misdemeanor.

(4) This section does not prohibit the owner or lawful possessor of a vehicle from prohibiting another individual who may otherwise lawfully carry a firearm from carrying a firearm in the owner's or lawful possessor's vehicle.

(5) An actor is lawfully present in a vehicle while carrying a firearm under this section if:

(a) the vehicle is in the lawful possession of the actor; or

(b) the actor has the consent of the person lawfully in possession of the vehicle to carry the firearm in the vehicle.

(6) This section does not apply if the actor has a concealed carry permit issued under Section 53-5a-303, a temporary concealed carry permit issued under Section 53-5a-304, a provisional concealed carry permit issued under Section 53-5a-305, or a concealed carry permit lawfully issued by or in another state.

Section 99. Section 76-11-205, which is renumbered from Section 76-10-505.5 is renumbered and amended to read:

[~~76-10-505.5~~]76-11-205. Carrying a dangerous weapon at an elementary school or secondary school.

(1) (a) As used in this section, "on or about school premises" means:

[~~(a)~~](i) [~~(i)~~] in a public or private elementary school or secondary school; or

(ii) on the grounds of [~~any of those schools;~~]a private elementary school or secondary school.

[~~(b) (i) in a public or private institution of higher education; or~~]

[~~(ii) on the grounds of a public or private institution of higher education; or~~]

[~~(c) (i) inside the building where a preschool or child care is being held, if the entire building is being used for the operation of the preschool or child care; or~~]

[~~(ii) if only a portion of a building is being used to operate a preschool or child care, in that room or rooms where the preschool or child care operation is being held.~~]

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~An actor who is 18 years old or older may not possess a dangerous weapon, firearm, or short barreled shotgun at a place that the actor knows, or has reasonable cause to believe, is on or about school premises~~]An actor commits carrying a dangerous weapon at an elementary school or secondary school if the actor:

(a) is not an individual listed in Subsection (4);

(b) carries a dangerous weapon on or about school premises; and

(c) knows or reasonably believes that the actor is on or about school premises at the time the actor carries the dangerous weapon.

(3) (a) [~~Possession of a dangerous weapon on or about school premises is a class B misdemeanor.~~]A violation of Subsection (2) is a class B misdemeanor if the dangerous weapon carried by the actor is not a firearm.

(b) [~~Possession of a firearm or short barreled shotgun on or about school premises is a class A misdemeanor.~~]A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon carried by the actor is a firearm.

(4) This section does not apply if:

(a) the actor is [~~authorized to possess a firearm as described in Section 53-5-704, 53-5-705, 76-10-511, or 76-10-523, or as otherwise authorized by law~~]an individual exempt from certain weapons laws as described in Section 53-5a-108;

(b) the actor is 21 years old or older and has a concealed carry permit as described in Section 53-5a-303;

[~~(b) the actor is authorized to possess a firearm as described in Section 53-5-704.5, unless the actor is in a location where the actor is prohibited from carrying a firearm under Subsection 53-5-710(2);~~]

(c) the actor is 21 years old or older and has a temporary concealed carry permit issued under Section 53-5a-305;

(d) the actor is carrying the dangerous weapon at the actor's place of residence or on the actor's real property;

[~~(c)~~](e) the possession of the dangerous weapon is approved by the responsible school administrator;

[~~(d)~~](f) the [~~item~~]dangerous weapon is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the actor responsible for the [~~item's~~]dangerous weapon's possession or use;

[~~(e)~~](g) the actor is an armed school security guard as described in Section 53G-8-704; or

[~~(f)~~](h) the [~~possession is:~~]actor is carrying the dangerous weapon

[~~(i) at the actor's place of residence or on the actor's property; or~~]

[~~(ii)~~] in [~~any~~]a vehicle lawfully under the actor's control, [~~other than~~]not including a vehicle owned by the school or used by the school to transport students.

(5) This section does not:

(a) prohibit prosecution of [~~a more serious weapons~~]another criminal offense that may occur on or about school premises; or

(b) prevent an actor from securely storing a firearm on the grounds of a school if the actor:

(i) participates in:

(A) the school guardian program created in Section 53-22-105; [~~and~~]or

(B) the Educator-Protector Program created in Section 53-22-107; and

(ii) complies with the requirements for securely storing the firearm described in Subsection 53-22-107(5)(a)[~~; or~~].

[~~(c) prohibit the prosecution of possession of a dangerous weapon by a minor, as described in Section 76-10-509.4, that occurs on or about school premises.~~]

Section 100. Section 76-11-205.5 is enacted to read:

76-11-205.5. Carrying a dangerous weapon at an institution of higher education.

(1) As used in this section, "on or about school premises" means:

(a) in a public or private institution of higher education; or

(b) on the grounds of a public or private institution of higher education.

(2) An actor commits carrying a dangerous weapon at an institution of higher education if the actor:

(a) is not an individual listed in Subsection (4);

(b) carries a dangerous weapon on or about school premises; and

(c) knows or reasonably believes that the actor is on or about school premises at the time the actor carries the dangerous weapon.

(3) (a) A violation of Subsection (2) is a class B misdemeanor if the dangerous weapon carried by the actor is not a firearm.

(b) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon carried by the actor is a firearm.

(4) This section does not apply if:

(a) the actor is an individual exempt from certain weapons laws as described in Section 53-5a-108;

(b) the actor has a concealed carry permit as described in Section 53-5a-303;

(c) the actor has a provisional concealed carry permit as described in Section 53-5a-304;

(d) the actor has a temporary concealed carry permit issued under Section 53-5a-305;

(e) the actor is carrying the dangerous weapon at the actor's place of residence or on the actor's real property;

(f) the possession of the dangerous weapon is approved by the responsible school administrator;

(g) the dangerous weapon is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the actor responsible for the dangerous weapon's possession or use; or

(h) the actor is carrying the dangerous weapon in a vehicle lawfully under the actor's control, not including a vehicle owned by the school or used by the school to transport students.

(5) This section does not prohibit prosecution of another criminal offense that may occur on or about school premises.

Section 101. Section 76-11-206 is enacted to read:

76-11-206. Carrying a dangerous weapon at a daycare.

(1) (a) As used in this section:

(i) "Daycare" means a preschool or child care center.

(ii) "On or about daycare premises" means:

(A) inside the building where a daycare is being held, if the entire building is being used for the operation of the daycare; or

(B) if only a portion of a building is being used to operate a daycare, in the room or rooms where the daycare operation is being held.

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits carrying a dangerous weapon at a daycare if the actor:

(a) is not an individual listed in Subsection (4);

(b) carries a dangerous weapon on or about daycare premises; and

(c) has reasonable cause to believe that the actor is on or about daycare premises at the time the actor carried the dangerous weapon.

(3) (a) A violation of Subsection (2) is a class B misdemeanor if the dangerous weapon carried by the actor is not a firearm.

(b) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon carried by the actor is a firearm.

(4) This section does not apply if:

(a) the actor is an individual exempted from certain weapons laws as described in Section 53-5a-108;

(b) the actor has a concealed carry permit as described in Section 53-5a-303;

(c) the actor has a provisional concealed carry permit as described in Section 53-5a-304;

(d) the actor has a temporary concealed carry permit issued under Section 53-5a-305;

(e) the actor is carrying the dangerous weapon at the actor's place of residence or on the actor's real property;

(f) the actor's carrying of the dangerous weapon is approved by the responsible daycare administrator;

(g) the dangerous weapon is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the actor responsible for the dangerous weapon's possession or use; or

(h) the actor is carrying the dangerous weapon in a vehicle lawfully under the actor's control, not including a vehicle owned by the daycare or used by the daycare to transport minors enrolled in the daycare.

(5) This section does not prohibit the prosecution of another criminal offense that may occur on or about daycare premises.

Section 102. Section 76-11-207, which is renumbered from Section 76-10-506 is renumbered and amended to read:

[~~76-10-506~~]76-11-207. Threatening with or using a dangerous weapon in a fight or quarrel.

[~~(1) As used in this section:~~]

[~~(a) "Dangerous weapon" means an item that in the manner of its use or intended use is capable of causing death or serious bodily injury. The following factors shall be used in determining whether an item, object, or thing is a dangerous weapon:~~]

[~~(i) the character of the instrument, object, or thing;~~]

[~~(ii) the character of the wound produced, if any; and~~]

[~~(iii) the manner in which the instrument, object, or thing was exhibited or used.~~]

[~~(b) "Threatening manner" does not include:~~]

[~~(i) the possession of a dangerous weapon, whether visible or concealed, without additional behavior which is threatening; or~~]

[~~(ii) informing another of the actor's possession of a deadly weapon to prevent what the actor reasonably perceives as a possible use of unlawful force by the other and the actor is not engaged in any activity described in Subsection 76-2-402(3)(a).~~]

[~~(2) Except as otherwise provided in Section 76-2-402 and for an individual described in Section 76-10-503, an individual who, in the presence of two or more individuals, and not amounting to a violation of Section 76-5-103,~~]

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits threatening with or using a dangerous weapon in a fight or quarrel if the actor, in the presence of two or more individuals:

(a) unlawfully draws or exhibits a dangerous weapon in an angry and threatening manner; or

(b) unlawfully uses a dangerous weapon in a fight or quarrel [~~is guilty of a class A misdemeanor~~].

(3) A violation of Subsection (2) is a class A misdemeanor.

[~~(3)~~](4) This section does not apply to:

(a) an individual who, reasonably believing the action to be necessary in compliance with Section 76-2-402, with purpose to prevent another's use of unlawful force:

[~~(a)~~](i) threatens the use of a dangerous weapon; or

[~~(b)~~](ii) draws or exhibits a dangerous weapon [~~.~~]; or

[~~(4)~~](b) [~~This section does not apply to an individual listed in Subsections 76-10-523(1)(a) through (f)~~]an individual exempted from certain weapons laws as described in Subsections 53-5a-108(1)(a) through (f) acting in performance of the individual's duties.

(5) For purposes of this section, the following conduct by an actor does not constitute drawing or exhibiting a dangerous weapon in an angry and threatening manner as described in Subsection (2):

(a) possession of a dangerous weapon, whether visible or concealed, without additional threatening behavior; or

(b) (i) informing another individual of the actor's possession of a dangerous weapon to prevent what the actor reasonably perceives as a possible use of unlawful force by the individual; and

(ii) the actor is not engaged in any activity described in Subsection 76-2-402(3)(a).

Section 103. Section 76-11-208, which is renumbered from Section 76-10-507 is renumbered and amended to read:

[~~76-10-507~~]76-11-208. Possession of a dangerous weapon with criminal intent.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~Every person having upon his person any~~]An actor commits possession of a dangerous weapon with criminal intent if the actor possesses a dangerous weapon with the intent to use [~~it~~]the dangerous weapon to commit a criminal offense.

(3) A violation of Subsection (2) is [~~guilty of~~]a class A misdemeanor.

Section 104. Section 76-11-209, which is renumbered from Section 76-10-508 is renumbered and amended to read:

[~~76-10-508~~]76-11-209. Improper discharging of a dangerous weapon.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

[~~(1)~~](2) [~~(a) An individual may not discharge~~]An actor commits improper discharging of a dangerous weapon [~~or firearm~~]if the actor discharges a dangerous weapon:

[~~(i)~~](a) from [~~an automobile or other~~]a vehicle;

[~~(ii)~~](b) from, upon, or across a highway;

[~~(iii)~~](c) at a road sign placed [~~upon a highway of the~~]on a state highway;

[~~(iv)~~](d) at communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;

[~~(v)~~](e) at railroad equipment or facilities including a sign or signal;

[~~(vi)~~](f) within a Utah State Park building, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or

[~~(vii)~~](g) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:

[~~(A)~~](i) a house, dwelling, or [~~any~~] other building; or

[~~(B)~~](ii) [~~any~~]a structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.

[~~(b) It is a defense to any charge for violating this section that the individual being accused had actual permission of the owner or person in charge of the property at the time in question.~~]

[~~(2)~~](3) A violation of [~~any provision of~~]Subsection [~~(1)~~](2) is a class B misdemeanor.

[~~(3)~~](4) In addition to any other penalties, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

[~~(4)~~](5) This section does not apply to an [~~individual~~]actor who:

(a) discharges a [~~firearm when that individual is~~]dangerous weapon in the lawful defense of [~~self or others~~]the actor or another individual;

(b) is an individual listed in Subsections 53-5a-108(1)(a) through (f) and is performing official duties as provided in Section 23A-5-202[~~and Subsections 76-10-523(1)(a)through (f) and~~]or as otherwise provided by law; or

(c) discharges a dangerous weapon [~~or firearm~~] from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection [~~(4)(c)(i)~~](5)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

(v) the discharge is not made in violation of Subsection [~~(1)~~](2).

(6) It is a defense to a charge for violating this section that the actor had actual permission of the person in charge of the property at the time the actor discharged the dangerous weapon as described in Subsection (2).

Section 105. Section 76-11-210, which is renumbered from Section 76-10-508.1 is renumbered and amended to read:

[~~76-10-508.1~~]76-11-210. Felony discharge of a firearm.

(1) (a) As used in this section, "habitable structure" means the same as that term is defined in Section 76-6-101.

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~Except as provided under Subsection (2) or (3), an individual who discharges a firearm is guilty of a third degree felony punishable by imprisonment for a term of not less than three years nor more than five years~~]An actor commits felony discharge of a firearm if:

(a) the actor discharges a firearm in the direction of [~~one or more individuals~~]an individual, knowing or having reason to believe that [~~any~~]an individual may be endangered by the discharge of the firearm;

(b) the actor, with intent to intimidate or harass another individual or with intent to damage a habitable structure [~~as defined in Section 76-6-101~~], discharges a firearm in the direction of [~~any~~]an individual or a habitable structure; or

(c) the actor, with intent to intimidate or harass another individual, discharges a firearm in the direction of [~~any~~]a vehicle.

[~~(2)~~](3) (a) [~~A~~]Except as provided in Subsection (3)(b) or (3)(c), a violation of Subsection [~~(1)~~](2) is a third degree felony punishable by a term of imprisonment of not less than three years nor more than five years.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) that causes bodily injury to any individual is a second degree felony punishable by imprisonment for a term of not less than three years nor more than 15 years.

[~~(3)~~](c) A violation of Subsection [~~(1)~~](2) that causes serious bodily injury to [~~any~~]an individual is a first degree felony.

(4) In addition to any other penalties for a violation of this section, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(5) This section does not apply to an [~~individual~~]actor:

(a) who discharges a firearm [~~when that individual is~~]in the lawful defense of [~~self~~]the actor or [~~others~~]another individual;

(b) who is an individual listed in Subsections 53-5a-108(1)(a) through (f) and is performing official duties as provided in Section 23A-5-202[~~or Subsections 76-10-523(1)(a) through (f)~~], or as otherwise authorized by law; or

(c) who discharges a dangerous weapon [~~or firearm~~] from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries

of the firing range or training ground described in Subsection (5)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

(v) the discharge is not made in violation of Subsection [~~(1)~~](2).

Section 106. Section 76-11-211, which is renumbered from Section 76-10-509.4 is renumbered and amended to read:

[~~76-10-509.4~~]76-11-211. Possession of a dangerous weapon by a minor.

(1) (a) As used in this section, "responsible adult" means an individual:

[~~(a)~~](i) who is 18 years old or older; and

[~~(b)~~](ii) who may lawfully possess a dangerous weapon.

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor [~~who is under 18 years old may not possess a dangerous weapon~~]commits possession of a dangerous weapon by a minor if the actor:

(a) is a minor; and

(b) possesses a dangerous weapon.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is:

(i) a class B misdemeanor for a first offense; and

(ii) a class A misdemeanor for each subsequent offense.

(b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is:

(i) a handgun;

(ii) a short barreled rifle;

(iii) a short barreled shotgun;

(iv) a fully automatic weapon; or

(v) a machinegun firearm attachment.

(4) For an actor who is younger than 14 years old, this section does not apply if the actor:

(a) possesses a dangerous weapon;

(b) has permission from the actor's parent or guardian to possess the dangerous weapon;

(c) is accompanied by the actor's parent or guardian, or a responsible adult, while the actor has the dangerous weapon in the actor's possession; and

(d) does not use the dangerous weapon in the commission of a crime.

(5) For an actor who is 14 years old or older but younger than 18 years old, this section does not apply if the actor:

(a) possesses a dangerous weapon;

(b) has permission from the actor's parent or guardian to possess the dangerous weapon; and

(c) does not use the dangerous weapon in the commission of a crime.

(6) This section does not apply to the following minors who are otherwise complying with Subsection (4) or (5):

(a) a minor who is a patron at an amusement park, pier, or similar location and is possessing a firearm to participate in lawfully operated target concessions if the firearm to be used is firmly chained or affixed to the counters;

(b) a minor attending a hunter's safety course or a firearms safety course and possessing a weapon as part of the course;

(c) a minor using a firearm at an established range or other area where the discharge of a firearm is not prohibited by state or local law;

(d) a minor participating in an organized competition involving the use of a firearm, or practicing for the competition;

(e) a minor who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee of the property to possess a firearm not otherwise in violation of law;

(f) a minor who has a valid hunting license and is possessing a firearm to lawfully engage in hunting; or

(g) a minor traveling to or from an activity described in Subsections (6)(a) through (f) with an unloaded firearm in the minor's possession.

Section 107. Section 76-11-212, which is renumbered from Section 76-10-509.5 is renumbered and amended to read:

[~~76-10-509.5~~]76-11-212. Transferring a handgun, short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor.

[~~(1) Any person who provides a handgun to a minor when the possession of the handgun by the minor is a violation of Section 76-10-509.4 is guilty of:~~]

[~~(a) a class B misdemeanor upon the first offense; and~~]

[~~(b) a class A misdemeanor for each subsequent offense.~~]

[~~(2) Any person who transfers in violation of applicable state or federal law a short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor is guilty of a third degree felony.~~]

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor is guilty of transferring a handgun, short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor if:

(a) the actor transfers:

(i) a handgun to a minor; or

(ii) a short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor; and

(b) the transferring of the firearm described in Subsection (2)(a):

(i) would result in the minor committing a violation of Section 76-11-211, Possession of a dangerous weapon by a minor; or

(ii) is in violation of any other applicable state or federal law.

(3) A violation of Subsection (2)(a) is:

(a) if the violation is the result of transferring a handgun:

(i) a class B misdemeanor upon the first offense; and

(ii) a class A misdemeanor for each subsequent offense; or

(b) a third degree felony if the violation is the result of transferring a short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor.

Section 108. Section 76-11-213, which is renumbered from Section 76-10-509.6 is renumbered and amended to read:

[~~76-10-509.6~~]76-11-213. Parent or guardian providing a firearm to a violent minor.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~A parent or guardian may not~~]An actor is guilty of a parent or guardian providing a firearm to a violent minor if:

(a) the actor intentionally or knowingly [~~provide~~]provides a firearm to, or [~~permit~~]permits the possession of a firearm by, [~~any~~]a minor;

(b) the minor is the actor's biological or adopted child or the actor is the legal guardian of the minor; and

(c) [~~who~~]the minor has previously been:

(i) convicted of a violent felony [~~as defined in Section 76-3-203.5~~]; or

(ii) [~~any minor who has been~~]adjudicated in juvenile court for an offense which would constitute a violent felony if the minor were an adult.

[~~(2)~~](3) [~~Any person who violates this section is guilty of~~]A violation of Subsection (2) is:

(a) a class A misdemeanor upon the first offense; and

(b) a third degree felony for each subsequent offense.

Section 109. Section 76-11-214, which is renumbered from Section 76-10-509.7 is renumbered and amended to read:

[~~76-10-509.7~~]76-11-214. Parent or guardian knowing a minor is in possession of a dangerous weapon.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~Any parent or guardian of a minor who knows that the minor is in~~]An actor is guilty of parent or guardian knowing a minor is in possession of a dangerous weapon if:

(a) the actor knows a minor is in possession of a dangerous weapon in violation of Section [~~76-10-509.4~~]76-11-211, Possession of a dangerous weapon by a minor;

(b) the minor is the actor's biological or adopted child or the actor is the legal guardian of the minor; and

(c) the actor fails to make reasonable efforts to remove the dangerous weapon from the minor's possession.

(3) [~~is guilty of~~]A violation of Subsection (2) is a class B misdemeanor.

Section 110. Section 76-11-215, which is renumbered from Section 76-10-509.9 is renumbered and amended to read:

[~~76-10-509.9~~]76-11-215. Selling a firearm to a minor.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~A person may not sell any~~]An actor commits selling a firearm to a minor [~~under 18 years of age unless~~]if:

(a) the actor sells a firearm to a minor; and

(b) at the time the actor sells the weapon to a minor, the minor is not accompanied by a parent of the minor or a legal guardian of the minor.

[~~(2)~~](3) [~~Any person who violates this section is guilty of~~]A violation of Subsection (2) is a third degree felony.

Section 111. Section 76-11-216 is enacted to read:

76-11-216. Prohibited conduct in the sale of a dangerous weapon.

(1) (a) As used in this section, "materially false information" means information that portrays an illegal dangerous weapon transaction as legal or a legal dangerous weapon transaction as illegal.

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits prohibited conduct in the sale of a dangerous weapon if the actor:

(a) (i) knowingly solicits, persuades, encourages, or entices a person to sell, transfer, or otherwise provide a dangerous weapon to the actor or another individual; and

(ii) knows that the sale, transfer, or providing of the dangerous weapon to the actor or other individual would be a violation of state or federal law; or

(b) (i) provides information that the actor knows is materially false information to a person; and

(ii) knowingly provides the materially false information to the person with intent to deceive the person about the lawfulness of a sale, transfer, or providing of a dangerous weapon to the actor or another individual.

(3) (a) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon sold, transferred, or provided is not a firearm.

(b) A violation of Subsection (2) is a third degree felony if the dangerous weapon sold, transferred, or provided is a firearm.

Section 112. Section 76-11-217, which is renumbered from Section 76-10-528 is renumbered and amended to read:

[~~76-10-528~~]76-11-217. Carrying a dangerous weapon while under the influence of alcohol or drugs.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~It is a class B misdemeanor for an actor to carry~~]An actor commits carrying a dangerous weapon while under the influence of alcohol or drugs if the actor:

(a) carries a dangerous weapon that is readily accessible by the actor for immediate use; and

(b) is under the influence of:

[~~(a)~~] (i) alcohol as determined by the actor's blood or breath alcohol concentration in accordance with Subsections 41-6a-502(1)(a) through (c); or

[~~(b)~~](ii) a controlled substance as defined in Section 58-37-2.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(2)~~](4) This section does not apply to:

[~~(a) an actor carrying a dangerous weapon that is either securely encased, as defined in this part, or not within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person;~~]

[~~(b)~~](a) an actor who uses or threatens to use force in compliance with Section 76-2-402;

[~~(c)~~](b) an actor carrying a dangerous weapon in the actor's residence or the residence of another individual with the consent of the individual who is lawfully in possession of the residence;

[~~(d)~~](c) an actor under the influence of cannabis or a cannabis product, as those terms are defined in Section 26B-4-201, if the actor's use of the cannabis or cannabis product complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

[~~(e)~~](d) an actor who:

(i) has a valid prescription for a controlled substance;

(ii) takes the controlled substance described in Subsection [~~(2)(e)(i)~~](4)(d)(i) as prescribed; and

(iii) after taking the controlled substance, the actor:

(A) is not a danger to the actor or another individual; or

(B) is capable of safely handling a dangerous weapon.

[~~(3)~~](5) It is not a defense to prosecution under this section that the actor:

(a) is licensed in the pursuit of wildlife of any kind; [~~or~~]

(b) has a [~~valid~~]concealed carry permit [~~to carry a concealed firearm.~~]as described in Section 53-5a-303;

(c) has a provisional concealed carry permit as described in Section 53-5a-304;

(d) has a temporary concealed carry permit issued under Section 53-5a-305;

(e) has a concealed carry permit lawfully issued by or in another state; or

(f) is 21 years old or older and may otherwise lawfully possess a concealed loaded firearm without a concealed carry permit as described in Section 53-5a-101.5.

Section 113. Section 76-11-218, which is renumbered from Section 76-10-529 is renumbered and amended to read:

[~~76-10-529~~]76-11-218. Possession of a dangerous weapon in an airport secure area -- Reporting requirements.

(1) (a) As used in this section:

(i) "Airport authority" has the same meaning as defined in Section 72-10-102.

(ii) "Explosive" is the same as defined for "explosive, chemical, or incendiary device" in Section 76-10-306.

(iii) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(b) [~~Terms defined in Sections 76-1-101.5 and 76-10-501 apply to this section~~]Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~(a) Within a secure area of an airport established pursuant to this section, an actor,~~]Except as provided in Subsection (4), an actor commits possession of a dangerous weapon in an airport secure area if the actor, including an actor [~~licensed to carry a~~]with a concealed firearm permit issued under [~~Title 53, Chapter 5, Part 7, Concealed Firearm Act, is guilty of~~]Title 53, Chapter 5a, Part 3, Concealed Firearm Permits:

(a) intentionally or knowingly possesses a dangerous weapon within the secure area of an airport established under Subsection (5); or

(b) recklessly or with criminal negligence possesses a dangerous weapon within the secure area of an airport established under Subsection (5).

[~~(i) a class A misdemeanor if the actor knowingly or intentionally possesses a firearm or other dangerous weapon;~~]

[~~(ii) subject to Subsection (5), an infraction if the actor recklessly or with criminal negligence possesses a firearm or other dangerous weapon; or~~]

[~~(iii) a violation of Section 76-10-306 if the actor transports, possesses, distributes, or sells an explosive, chemical, or incendiary device.~~]

[~~(b) Subsection (2)(a) does not apply to:~~]

[~~(i) individuals exempted under Section 76-10-523; and~~]

[~~(ii) a member of the state or federal military forces while engaged in the performance of the member's official duties.~~]

(3) (a) A violation of Subsection (2)(a) is a class A misdemeanor.

(b) Subject to Subsection (6), a violation of Subsection (2)(b) is an infraction.

(4) Subsection (2) does not apply to:

(a) an individual exempted from certain weapons laws as described in Section 53-5a-108; or

(b) a member of the state or federal military forces while engaged in the performance of the member's official duties.

[~~(3)~~](5) (a) An airport authority, county, municipality, or other entity regulating an airport may:

[~~(a)~~](i) establish a secure area located beyond the main area where the public generally buys tickets, checks and retrieves luggage; and

[~~(b)~~](ii) use reasonable means, including mechanical, electronic, x-ray, or another device, to detect firearms, other dangerous weapons, or explosives concealed in baggage or upon the person of an individual attempting to enter the secure area.

[~~(4)~~](b) At least one notice shall be prominently displayed at each entrance to a secure area in which a firearm, other dangerous weapon, or explosive is restricted.

(c) An actor who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device within the secure area of an airport commits a violation of Section 76-10-306.

[~~(5)~~](6) (a) An actor who violates Subsection [~~(2)(a)(ii)~~](2)(b)on a first offense may receive a written warning for the offense and may not receive a citation or any other form of punishment.

(b) An actor who violates Subsection [~~(2)(a)(ii)~~](2)(b)on a second or subsequent offense may receive a written warning or a citation.

[~~(6)~~](7) (a) Except as provided in Subsection [~~(6)(d)~~](7)(d), if a law enforcement officer issues a citation to an actor for an infraction as a result of the actor's conduct described in Subsection [~~(2)(a)(ii)~~](2)(b), or provides an oral or written warning for that conduct, the law enforcement officer shall:

(i) if the law enforcement officer is able to confirm that the actor may lawfully possess the [~~firearm or other~~]dangerous weapon, allow the actor, at the actor's option, to:

(A) temporarily surrender custody of the [~~firearm or other~~]dangerous weapon into the custody of the law enforcement agency so that the [~~firearm or other~~]dangerous weapon may be retrieved by the actor at a later date; or

(B) exit the secure area of the airport with the [~~firearm or other~~]dangerous weapon; or

(ii) if the law enforcement officer is unable to confirm that the actor may lawfully possess the [~~firearm or other~~]dangerous weapon, or the airport authority under Subsection [~~(6)(d)~~](7)(d)prohibits the procedure described in Subsection [~~(6)(a)(i)~~](7)(a)(i), take temporary custody of the [~~firearm or other~~]dangerous weapon so that the [~~firearm or other~~]dangerous weapon may be retrieved by the actor at a later date if legally permitted to do so.

(b) If a law enforcement officer takes temporary custody of a [~~firearm or other~~]dangerous weapon under Subsection [~~(6)(a)~~](7)(a):

(i) at the time the [~~firearm or other~~]dangerous weapon is obtained from the actor, the law enforcement officer, or another law enforcement officer, or an employee who works in the secure area of the airport, shall provide the actor with written instructions on how, when, and where the actor may retrieve the actor's [~~firearm or other~~]dangerous weapon; and

(ii) within three business days from the time when the law enforcement officer receives the [~~firearm or other~~]dangerous weapon, the law enforcement agency shall determine whether the actor is legally permitted to possess the [~~firearm or other~~] dangerous weapon, and if so, ensure that the [~~firearm or other~~]dangerous weapon is available for the actor to retrieve.

(c) An unclaimed [~~firearm or other~~]dangerous weapon that is surrendered into the custody of a law enforcement agency under this Subsection [~~(6)~~](7)may be disposed of pursuant to Section 77-11d-105, disposition of unclaimed property.

(d) An airport authority may implement a policy that prohibits the law enforcement agency with jurisdiction over the airport from utilizing the procedure described in Subsection [~~(6)(a)(i)~~](7)(a)(i).

[~~(7)~~](8) (a) An actor's firearm that is confiscated based on a violation of Subsection [~~(2)(a)(i)~~](2)(a) shall be returned to the actor in accordance with Subsection 77-11a-402(1)(b).

(b) In accordance with Subsection 77-11b-102(5), a firearm seized under Subsection [~~(2)(a)(i)~~](2)(a) is not subject to forfeiture if the actor may lawfully possess the firearm.

(c) In a prosecution brought under this section, a prosecutor may not condition a plea on the forfeiture of a firearm.

[~~(8)~~](9) An airport authority, county, municipality, or other entity regulating an airport or with local jurisdiction over an airport may not:

(a) charge, cite, or prosecute an actor with a different offense under the Utah Code, local ordinance, or another state or local law or regulation for conduct described in Subsection [~~(2)(a)(ii)~~](2)(b);

(b) assess a civil penalty for conduct described in Subsection [~~(2)(a)(i) or (ii)~~](2); or

(c) enact a regulation, ordinance, or law covering conduct described in Subsection (2).

[~~(9)~~](10) A law enforcement agency that issues a written warning, citation, or referral for prosecution under this section shall record and report the information as required under Section 53-25-103.

Section 114. Section 76-11-219, which is renumbered from Section 76-10-530 is renumbered and amended to read:

[~~76-10-530~~]76-11-219. Trespass with a firearm in a house of worship or a private residence.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

[~~(1)~~](2) [~~A person, including a person licensed to carry a concealed firearm pursuant to Title 53, Chapter 5, Part 7, Concealed Firearm Act,~~]An actor is guilty of trespass with a firearm in a house of worship or a private residence if the actor:

(a) [~~after notice~~]has been given notice as [~~provided~~]described in Subsection [~~(2)~~](4)that firearms are prohibited [~~;~~]in the house of worship or the private residence; and

(b) [~~may not~~]knowingly and intentionally:

[~~(a)~~](i) [~~transport~~]transports a firearm into [~~:~~]the house of worship or private residence; or

[~~(i) a house of worship; or~~]

[~~(ii) a private residence; or~~]

[~~(b)~~](ii) while in possession of a firearm, [~~enter or remain in:~~]enters or remains in the house of worship or private residence.

[~~(i) a house of worship; or~~]

[~~(ii) a private residence.~~]

(3) A violation of Subsection (2) is an infraction.

[~~(2)~~](4) Notice that firearms are prohibited may be given by:

(a) personal communication to the actor by:

(i) the church or organization operating the house of worship;

(ii) the owner, lessee, or person with lawful right of possession of the private residence; or

(iii) a person with authority to act for the person or entity in Subsections [~~(2)(a)(i)~~](4)(a)(i) and (ii);

(b) posting of signs reasonably likely to come to the attention of persons entering the house of worship or private residence;

(c) announcement, by a person with authority to act for the church or organization operating the house of worship, in a regular congregational meeting in the house of worship;

(d) publication in a bulletin, newsletter, worship program, or similar document generally circulated or available to the members of the congregation regularly meeting in the house of worship; or

(e) publication:

(i) in a newspaper of general circulation in the county in which the house of worship is located or the church or organization operating the house of worship has its principal office in this state; and

(ii) as required in Section 45-1-101.

[~~(3)~~](5) A church or organization operating a house of worship and giving notice that firearms are prohibited may:

(a) revoke the notice, with or without supersedure, by giving further notice in any manner provided in Subsection [~~(2)~~](4); and

(b) provide or allow exceptions to the prohibition as the church or organization considers advisable.

[~~(4)~~](6) (a) (i) Within 30 days of giving or revoking any notice pursuant to Subsection [~~(2)(c)~~](4)(c), (d), or (e), a church or organization operating a house of worship shall notify the division on a form and in a manner as the division shall prescribe.

(ii) The division shall post on its website a list of the churches and organizations operating houses of worship who have given notice under Subsection [~~(4)(a)(i).~~](6)(a)(i).

(b) Any notice given pursuant to Subsection [~~(2)(c)~~](4)(c), (d), or (e) shall remain in effect until revoked or for a period of one year from the date the notice was originally given, whichever occurs first.

[~~(5)~~](7) [~~Nothing in this section permits~~]This section does not permit an owner who has granted the lawful right of possession to a renter or lessee to restrict the renter or lessee from lawfully possessing a firearm in the residence.

[~~(6) A violation of this section is an infraction.~~]

Section 115. Section 76-11-220 is enacted to read:

76-11-220. Carrying a loaded firearm on a public street by an 18 to 20 year old.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits carrying a loaded firearm on a public street by an 18 to 20 year old if the actor:

(a) is 18 years old or older but younger than 21 years old; and

(b) carries a loaded firearm on a public street.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) This section does not apply if the actor has a provisional concealed carry permit issued under Section 53-5a-305.

Section 116. Section 76-11-301 is enacted to read:

PART 3. Persons Restricted Regarding Dangerous Weapons

76-11-301. Definitions.

As used in this part:

(1) "Adjudicated" means a judgment has been entered against a minor for an offense by a juvenile court under Section 80-6-701.

(2) "Category I restricted person" means an individual described in Section 76-11-302.

(3) "Category II restricted person" means an individual described in Section 76-11-303.

(4) "Carry" means for an individual to have an item under the individual's custody or control.

(5) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(6) (a) "Dating relationship" means a romantic or intimate relationship between individuals.

(b) "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.

(7) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a firearm, whether the person is a retail or wholesale dealer, pawnbroker, or other type of merchant or seller.

(8) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(9) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

(10) "Schedule I controlled substance" means a substance listed as a schedule I controlled substance in Section 58-37-4.

(11) "Schedule II controlled substance" means a substance listed as a schedule II controlled substance in Section 58-37-4.

(12) "Secure care" means the same as that term is defined in Section 80-1-102.

(13) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

Section 117. Section 76-11-302 is enacted to read:

76-11-302. Category I restricted person established.

Except as provided in Section 76-11-304, Exceptions, limitations, and exclusions to restricted person categories, an individual is categorized as a category I restricted person and subject to the restrictions and penalties described in Section 76-11-305:

(1) if the individual has been convicted of a violent felony;

(2) if the individual is on probation or parole for a felony;

(3) if the individual is on parole from secure care;

(4) for 10 years after the day on which the individual was adjudicated for an offense which if committed by an adult would have been a violent felony;

(5) if the individual is an alien who is illegally or unlawfully in the United States; or

(6) if the individual is on probation for a conviction of possessing:

(a) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;

(b) a controlled substance analog; or

(c) a substance listed in Section 58-37-4.2.

Section 118. Section 76-11-303 is enacted to read:

76-11-303. Category II restricted person established.

Except as provided in Section 76-11-304, Exceptions, limitations, and exclusions to restricted person categories, an individual is categorized as a category II restricted person and subject to the restrictions and penalties described in Section 76-11-306:

(1) if the individual has been convicted of:

(a) a domestic violence offense that is a felony; or

(b) multiple felonies that are not part of a single criminal episode;

(2) if the individual has:

(a) been convicted of:

(i) a felony that is not a domestic violence offense or a violent felony; or

(ii) multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies; and

(b) within seven years after completing the sentence for the conviction described in Subsection (2)(a), been convicted of, or charged with, another felony or class A misdemeanor;

(3) for seven years after the day on which the individual completes a sentence for:

(a) a conviction for a felony that is not a domestic violence offense or a violent felony; or

(b) convictions for multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies;

(4) for seven years after the day on which the individual was an adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(5) if the individual is an unlawful user of a controlled substance;

(6) if the individual is in possession of a dangerous weapon while knowingly and intentionally being in unlawful possession of a schedule I controlled substance or a schedule II controlled substance;

(7) if the individual has been found not guilty by reason of insanity for a felony offense;

(8) if the individual has been found mentally incompetent to stand trial for a felony offense;

(9) if the individual has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or having been committed to a mental institution;

(10) if the individual has been dishonorably discharged from the armed forces;

(11) if the individual has renounced the individual's citizenship after having been a citizen of the United States;

(12) if the individual is a respondent or defendant subject to a protective order or child protective order that:

(a) is issued after a hearing for which the individual received actual notice and at which the individual had an opportunity to participate;

(b) restrains the individual from harassing, stalking, threatening, or engaging in other conduct that would place an intimate partner, or a child of the intimate partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate partner; and

(c) (i) includes a finding that the individual represents a credible threat to the physical safety of an intimate partner or the child of the intimate partner; or

(ii) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner; or

(13) except as provided in Subsection 76-11-304(2), if the individual has been convicted of the commission or attempted commission of misdemeanor assault under Section 76-5-102, or aggravated assault under Section 76-5-103, against a victim:

(a) who is a current or former spouse, parent, or guardian of the individual;

(b) with whom the individual shares a child in common;

(c) who is cohabitating or has cohabitated with the individual as a spouse, parent, or guardian;

(d) involved in a dating relationship with the individual within the last five years; or

(e) similarly situated to a spouse, parent, or guardian of the individual.

Section 119. Section 76-11-304 is enacted to read:

76-11-304. Exceptions, limitations, and exclusions to restricted person categories -- Burden on defendant to prove exception.

(1) (a) Subject to Subsection (1)(c), an individual convicted of a felony, or adjudicated for an offense which would be a felony if committed by an adult, is not a category I restricted person, or a category II restricted person, if:

(i) the felony or adjudication has, in accordance with the law of the jurisdiction in which the conviction or adjudication occurred, been:

(A) expunged;

(B) set aside;

(C) reduced to a misdemeanor by court order; or

(D) pardoned;

(ii) the individual has had the individual's civil rights that had been limited by the conviction or adjudication restored in accordance with the law of the jurisdiction in which the conviction or adjudication occurred; or

(iii) the felony or adjudication is an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud.

(b) Subject to Subsection (1)(c), an individual convicted of a misdemeanor assault under Subsection 76-11-303(13) that qualifies to make the individual a category II restricted person is otherwise not a category II restricted person, if, in accordance with the law of the jurisdiction in which the conviction occurred:

(i) the misdemeanor has been:

(A) expunged;

(B) set aside;

(C) reduced to an infraction by court order; or

(D) pardoned; or

(ii) the individual has had the individual's civil rights that had been limited by the conviction restored.

(c) An individual who has received a pardon, reduction, expungement, setting aside, or restoration of civil rights as described in Subsection (1)(a) or (b) remains a category I or category II restricted person that corresponds with the individual's conviction if the pardon,

reduction, expungement, setting aside, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(2) An individual is not a category II restricted person resulting from a conviction for a misdemeanor assault committed against an individual involved in a dating relationship as described in Subsection 76-11-303(13)(d) if:

(a) five years have elapsed from the later of:

(i) the day on which the conviction is entered;

(ii) the day on which the individual is released from incarceration following the conviction; or

(iii) the day on which the individual's probation for the conviction is successfully terminated;

(b) the individual only has a single conviction for misdemeanor assault as described in Subsection 76-11-303(12)(d); and

(c) the individual is not otherwise a category I restricted person or a category II restricted person.

(3) (a) In a criminal case brought against the defendant in which the question of whether the defendant meets an exception, limitation, or exclusion under this section arises and therefore makes the defendant not a category I or category II restricted person, the defendant has the burden to provide evidence that an exception, limitation, or exclusion described in Subsection (1) or (2) applies.

(b) If the defendant satisfies the defendant's burden to provide evidence described in Subsection (3)(a), the burden shifts to the state to prove beyond a reasonable doubt that the defendant's conviction or adjudication is not subject to an exception, limitation, or exclusion described in Subsection (1) or (2).

Section 120. Section 76-11-305 is enacted to read:

76-11-305. Category I restricted person participating in prohibited dangerous weapon conduct.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.

(2) An actor commits category I restricted person participating in prohibited dangerous weapon conduct if the actor:

(a) is a category I restricted person; and

(b) intentionally or knowingly:

(i) agrees, consents, offers, or arranges to:

(A) purchase a dangerous weapon;

(B) transfer a dangerous weapon;

(C) use a dangerous weapon; or

(D) carry or otherwise possess a dangerous weapon; or

(ii) purchases, transfers, uses, carries, or otherwise possesses a dangerous weapon.

(3) (a) A violation of Subsection (2) is a third degree felony if the dangerous weapon is not a firearm.

(b) A violation of Subsection (2) is a second degree felony if the dangerous weapon is a firearm.

(4) For purposes of this section, using a dangerous weapon includes using an antique firearm for an activity regulated under Title 23A, Wildlife Resources Act.

(5) It is an affirmative defense to a prosecution for transferring a dangerous weapon by an actor under Subsection (2) that the dangerous weapon:

(a) was possessed by the actor or was under the actor's custody or control before the actor became a restricted person;

(b) was not used in or possessed during the commission of a crime or subject to disposition under Title 77, Chapter 11a, Part 4, Disposal of Seized Property and Contraband;

(c) is not being held as evidence by a court or law enforcement agency;

(d) was transferred to an individual not legally prohibited from possessing the weapon; and

(e) unless a different time is ordered by the court, was transferred within 10 days after the day on which the actor became a restricted person.

(6) (a) It is not a violation of this section for an actor who is a category I restricted person to own, carry, or otherwise possess, archery equipment, including crossbows, for the purpose of lawful hunting and lawful target shooting.

(b) Notwithstanding Subsection (6)(a), this section applies if the owning, carrying, or otherwise possessing archery equipment, including crossbows, is prohibited by:

(i) a court, as a condition of pre-trial release or probation; or

(ii) the Board of Pardons and Parole, as a condition of parole.

Section 121. Section 76-11-306 is enacted to read:

76-11-306. Category II restricted person participating in prohibited dangerous weapon conduct.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.

(2) An actor commits category II restricted person participating in prohibited dangerous weapon conduct if the actor:

(a) is a category II restricted person; and

(b) intentionally or knowingly:

(i) purchases a dangerous weapon;

(ii) transfers a dangerous weapon;

(iii) uses a dangerous weapon; or

(iv) carries or otherwise possesses a dangerous weapon.

(3) (a) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon is not a firearm.

(b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is a firearm.

(4) For purposes of this section using a dangerous weapon includes using an antique firearm for an activity regulated under Title 23A, Wildlife Resources Act.

(5) It is an affirmative defense to:

(a) a prosecution under this section that is based on proving that an actor is a category II restricted person as a result of being in possession of a dangerous weapon while knowingly and intentionally being in unlawful possession of a schedule I controlled substance or a schedule II controlled substance as described in Subsection 76-11-303(6) that the actor was:

(i) in possession of the controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(ii) otherwise authorized by law to possess the controlled substance; and

(b) a prosecution for transferring a dangerous weapon by an actor under Subsection (2) that the dangerous weapon:

(i) was possessed by the actor or was under the actor's custody or control before the actor became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Title 77, Chapter 11a, Part 4, Disposal of Seized Property and Contraband;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to an individual not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days after the day on which the actor became a restricted person.

(6) (a) It is not a violation of this section for an actor who is a category II restricted person to own, carry, or otherwise possess, archery equipment, including crossbows, for the purpose of lawful hunting and lawful target shooting.

(b) Notwithstanding Subsection (6)(a), this section applies if the owning, carrying, or otherwise possessing of archery equipment, including crossbows, is prohibited by:

(i) a court, as a condition of pre-trial release or probation; or

(ii) the Board of Pardons and Parole, as a condition of parole.

Section 122. Section 76-11-307 is enacted to read:

76-11-307. Selling a dangerous weapon to a category I restricted person.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.

(2) An actor commits selling a dangerous weapon to a category I restricted person if the actor:

(a) sells, transfers, or otherwise provides a dangerous weapon to an individual who is a category I restricted person; and

(b) knows the individual that the actor has sold, transferred, or provided the dangerous weapon to is a category I restricted person.

(3) (a) A violation of Subsection (2) is a second degree felony if the dangerous weapon sold, transferred, or provided is a firearm.

(b) A violation of Subsection (2) is a third degree felony if the dangerous weapon sold, transferred, or provided is not a firearm and the actor knew that the recipient intended to use the dangerous weapon for an unlawful purpose.

Section 123. Section 76-11-308 is enacted to read:

76-11-308. Selling a dangerous weapon to a category II restricted person.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-301 apply to this section.

(2) An actor commits selling a dangerous weapon to a category II restricted person if the actor:

(a) sells, transfers, or otherwise provides a dangerous weapon to an individual who is a category II restricted person; and

(b) knows the individual that the actor has sold, transferred, or provided the dangerous weapon to is a category II restricted person.

(3) (a) A violation of Subsection (2) is a third degree felony if the dangerous weapon sold, transferred, or provided is a firearm.

(b) A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon sold, transferred, or provided is not a firearm and the actor knew that the recipient intended to use the dangerous weapon for an unlawful purpose.

Section 124. Section 76-11-309, which is renumbered from Section 76-10-503.1 is renumbered and amended to read:

[~~76-10-503.1~~]76-11-309. Firearm restriction notification requirement for restricted persons.

(1) As used in this section:

(a) "Peace officer" means an officer described Section 53-13-102.

[~~(b) "Possess" means actual physical possession, actual or purported ownership, or exercising control of an item.~~]

[~~(c)~~](b) "Restricted person" means an individual who is restricted from [~~possessing,~~]purchasing, transferring, [~~or owning~~]using, or otherwise possessing a firearm under Section [~~76-10-503~~]76-11-302 or 76-11-303 or federal law.

(2) A defendant intending to plead guilty or no contest to a criminal charge that will, upon conviction, cause the defendant to become a restricted person shall, before entering a plea before a court, sign an acknowledgment that states:

(a) the defendant's attorney or the prosecuting attorney has informed the defendant:

(i) that conviction of the charge will classify the defendant as a restricted person;

(ii) that a restricted person may not [~~possess~~]purchase, transfer, use, or otherwise possess a firearm; and

(iii) of the criminal penalties associated with [~~possession of~~]purchasing, transferring, using, or otherwise possessing a firearm by a restricted person of the same category the defendant will become upon entering a plea for the criminal charge; and

(b) the defendant acknowledges and understands that, by pleading guilty or no contest to the criminal charge, the defendant:

(i) will be a restricted person;

(ii) upon conviction, shall forfeit possession of each firearm currently [~~possessed by the defendant~~]in the defendant's possession; and

(iii) will be in violation of federal and state law if the defendant purchases, transfers, uses, or otherwise possesses a firearm.

(3) The prosecuting attorney or the defendant's attorney shall provide the acknowledgment described in Subsection (2) to the court before the defendant's entry of a plea, if the defendant pleads guilty or no contest.

(4) A defendant who is convicted by trial of a criminal charge resulting in the defendant becoming a restricted person shall, at the time of sentencing:

(a) be verbally informed by the court, prosecuting attorney, or defendant's attorney:

(i) that the defendant is a restricted person;

(ii) that, as a restricted person, the defendant may not purchase, transfer, use, or otherwise possess a firearm; and

(iii) of the criminal penalties associated with [~~possession of~~]purchasing, transferring, using, or otherwise possessing a firearm by a restricted person of the defendant's category; and

(b) sign an acknowledgment in the presence of the court attesting that the defendant acknowledges and understands that the defendant:

(i) is a restricted person;

(ii) shall forfeit possession of each firearm; and

(iii) will be in violation of federal and state law if the defendant purchases, transfers, uses, or otherwise possesses a firearm.

(5) The prosecuting attorney and the defendant's attorney shall inform the court at the preliminary hearing if a charge filed against the defendant would qualify the defendant as a restricted person if the defendant is convicted of the charge.

(6) The failure to inform or obtain a signed acknowledgment from the defendant may not render the plea invalid, form the basis for withdrawal of the plea, or create a basis to challenge a conviction or sentence.

(7) An individual who becomes a restricted person as a result of being served with a pretrial protective order in accordance with Section 78B-7-803, a sentencing protective order in accordance with Section 77-36-5, or a continuous protective order in accordance with Section 77-36-5, shall, at the time of service of the protective order:

(a) be verbally informed by the court, prosecuting attorney, defendant's attorney, or, if a peace officer is serving the protective order, the peace officer:

(i) that the individual is a restricted person;

(ii) that, as a restricted person, the individual may not purchase, transfer, use, or otherwise possess a firearm; and

(iii) of the criminal penalties associated with [~~possession of~~]purchasing, transferring, using, or otherwise possessing a firearm by a restricted person of the individual's category; and

(b) sign, in the presence of the court or, if a peace officer serves the protective order, in the presence of the peace officer, an acknowledgment contained within the protective order document attesting that the individual acknowledges and understands that the individual:

(i) is a restricted person;

(ii) is required to relinquish possession of each firearm in the individual's possession;

(iii) will be in violation of federal and state law if the individual purchases, transfers, uses, or otherwise possesses a firearm; and

(iv) may be eligible for an affirmative defense to a state-law prosecution for [~~possession of~~]transferring a firearm under Section [~~76-10-503~~]76-11-305 or 76-11-306 if the individual lawfully transfers the individual's firearms within 10 days [~~of becoming~~]after the day on which the individual became a restricted person.

Section 125. Section 76-11-310, which is renumbered from Section 76-10-532 is renumbered and amended to read:

[~~76-10-532~~]76-11-310. Removal from National Instant Check System database for certain category II restricted persons.

(1) [~~A person~~]An individual who is subject to the restrictions in Subsection [~~76-10-503(1)(b)(vi), (vii), or (viii)~~]76-11-303(7), (8), or (9), or 18 U.S.C. 922(d)(4) and (g)(4) based on a commitment, finding, or adjudication that occurred in this state may petition the district court in the county in which the commitment, finding, or adjudication occurred to remove the disability imposed.

(2) The petition shall be filed in the district court in the county where the commitment, finding, or adjudication occurred [~~. The petition~~]and shall include:

(a) a listing of facilities, with their addresses, where the petitioner has ever received mental health treatment;

(b) a release signed by the petitioner to allow the prosecutor or county attorney to obtain the petitioner's mental health records;

(c) a verified report of a mental health evaluation conducted by a licensed psychiatrist occurring within 30 days prior to the filing of the petition, which shall include a statement regarding:

(i) the nature of the commitment, finding, or adjudication that resulted in the restriction on the petitioner's ability to purchase or possess a dangerous weapon;

(ii) the petitioner's previous and current mental health treatment;

(iii) the petitioner's previous violent behavior, if any;

(iv) the petitioner's current mental health medications and medication management;

(v) the length of time the petitioner has been stable;

(vi) external factors that may influence the petitioner's stability;

(vii) the ability of the petitioner to maintain stability with or without medication; and

(viii) whether the petitioner is dangerous to public safety; and

(d) a copy of the petitioner's state and federal criminal history record.

(3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the case or, if the disability is not based on a criminal case, on the county or district attorney's office having jurisdiction where the petition was filed and the individual who filed the original action which resulted in the disability.

(4) (a) The court shall schedule a hearing as soon as practicable [~~. The~~]in which the petitioner may present evidence and subpoena witnesses to appear at the hearing.

(b) The prosecuting, county attorney, or the individual who filed the original action which resulted in the disability may object to the petition and present evidence in support of the objection.

(5) The court shall consider the following evidence:

(a) the facts and circumstances that resulted in the commitment, finding, or adjudication;

(b) the [~~person's~~]petitioner's mental health and criminal history records; and

(c) the [~~person's~~]petitioner's reputation, including the testimony of character witnesses.

(6) The court shall grant the relief if the court finds by clear and convincing evidence that:

(a) the [~~person~~]petitioner is not a danger to the [~~person~~]petitioner or to [~~others~~]another individual;

(b) the [~~person~~]petitioner is not likely to act in a manner dangerous to public safety; and

(c) the requested relief would not be contrary to the public interest.

(7) The court shall issue an order with its findings and send a copy to the bureau.

(8) (a) The bureau, upon receipt of a court order removing [~~a person's~~]a petitioner's disability under Subsection [~~76-10-503(1)(b)(viii),~~]76-11-303(9), shall send a copy of the court order to the National Instant Check System requesting removal of the [~~person's~~]petitioner's name from the database.

(b) In addition to the action described in Subsection (8)(a), if the [~~person~~]petitioner is listed in a state database utilized by the bureau to determine eligibility for the purchase or possession of a firearm or to obtain a concealed firearm permit under Title 53, Chapter 5a, Part 3, Concealed Firearm Permits, the bureau shall remove the petitioner's name or send a copy of the court's order to the agency responsible for the database for removal of the petitioner's name.

(9) If the court denies the petition, the petitioner may not petition again for relief until at least two years after the date of the court's final order.

(10) The petitioner may appeal a denial of the requested relief [~~. The~~]and the review on appeal shall be de novo.

Section 126. Section 77-11a-402 is amended to read:

77-11a-402. Disposition of seized property and contraband -- Return of seized property.

(1) (a) Except as provided in Subsection (1)(b), if a prosecuting attorney determines that seized property no longer needs to be retained as evidence under Chapter 11c, Retention of Evidence, the prosecuting attorney may:

(i) petition the court to apply the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;

(ii) petition the court for an order transferring ownership of weapons to the agency with custody for the agency's use and disposal in accordance with Section 77-11a-403 if the owner:

(A) is the individual who committed the offense for which the weapon was seized; or

(B) may not lawfully possess the weapon; or

(iii) notify the agency with custody of the property or contraband that:

(A) the property may be returned to the owner in accordance with Section 77-11a-301 if the owner may lawfully possess the property; or

(B) the contraband may be disposed of or destroyed.

(b) If a prosecuting attorney determines that a firearm seized from an individual as a result of an offense committed under Subsection [~~76-10-529(2)(a)(i)~~]76-11-218(2)(a) no longer needs to be retained for court proceedings, the prosecuting attorney shall notify the agency with custody of the firearm that the property shall be returned to the individual if the individual may lawfully possess the firearm.

(2) Before returning a firearm to an individual, the agency returning the firearm shall confirm, through the Bureau of Criminal Identification, that the individual is eligible to lawfully possess and receive firearms.

(3) (a) Except as provided in Subsection (3)(b), if the agency is unable to locate the owner of the property or the owner is not entitled to lawfully possess the property, the agency may:

(i) apply the property to a public interest use;

(ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(iii) destroy the property if the property is unfit for a public interest use or for sale.

(b) If the property described in Subsection (3)(a) is a firearm, the agency shall dispose of the firearm in accordance with Section 77-11a-403.

(4) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:

(a) permission to apply the property or the proceeds to public interest use; and

(b) the designation and approval of the public interest use of the property or the proceeds.

(5) If a peace officer seizes property that at the time of seizure is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

Section 127. Section 77-11a-403 is amended to read:

77-11a-403. Disposition of firearms no longer needed as evidence.

(1) As used in this section:

(a) "Confiscated or unclaimed firearm" means a firearm that is subject to disposal by an agency under Section [~~53-5c-202~~]53-5a-503 or 77-11a-402.

(b) "Department" means the Department of Public Safety created in Section 53-1-103.

(c) "Federally licensed firearms dealer" means a person:

(i) licensed as a dealer under 18 U.S.C. Sec. 923; and

(ii) engaged in the business of selling firearms.

(d) "State-approved dealer" means the federally licensed firearms dealer that contracts with the department under Subsection (4).

(2) An agency shall dispose of a confiscated or unclaimed firearm by:

(a) selling or destroying the confiscated or unclaimed firearm in accordance with Subsection (3);

(b) giving the confiscated or unclaimed firearm to the state-approved dealer to sell or destroy in accordance with Subsection (4) and the agreement between the state-approved dealer and the department; or

(c) after the agency obtains approval from the legislative body of the agency's jurisdiction, transferring the confiscated or unclaimed firearm to the Bureau of Forensic Services, created in Section 53-10-401, or another public forensic laboratory for testing.

(3) (a) An agency that elects to dispose of a confiscated or unclaimed firearm under Subsection (2)(a) shall:

(i) sell the confiscated or unclaimed firearm to a federally licensed firearms dealer and apply the proceeds from the sale to a public interest use; or

(ii) destroy the firearm, if the agency determines that:

(A) the condition of a confiscated or unclaimed firearm makes the firearm unfit for sale; or

(B) the confiscated or unclaimed firearm is associated with a notorious crime.

(b) Before an agency applies the proceeds of a sale of a confiscated or unclaimed firearm to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:

(i) permission to apply the proceeds of the sale to a public interest use; and

(ii) the designation and approval of the public interest use to which the agency applies the proceeds.

(4) (a) (i) The department shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with a federally licensed firearms dealer to sell or destroy all confiscated or unclaimed firearms in the state.

(ii) The term of an agreement executed in accordance with this Subsection (4) may not exceed five years.

(iii) Nothing in this Subsection (4) prevents the department from contracting with the same federally licensed firearms dealer more than once.

(b) An agreement executed in accordance with Subsection (4)(a) shall:

(i) address the amount of money that the federally licensed firearms dealer is entitled to retain from the sale of each confiscated or unclaimed firearm as compensation for the federally licensed firearms dealer's performance under the agreement;

(ii) require the federally licensed firearms dealer to donate, on behalf of the state, all proceeds from the sale of a confiscated or unclaimed firearm, except the amount described in Subsection (4)(b)(i), to an organization that:

(A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code;

(B) complies with any applicable licensing or registration requirements in the state;

(C) primarily helps the families of law enforcement officers in the state who die in the line of duty;

(D) gives financial assistance to the families of law enforcement officers in the state who die in the line of duty; and

(E) provides other assistance to children of active law enforcement officers, including scholarships;

(iii) state that if the federally licensed firearms dealer determines that the condition of a confiscated or unclaimed firearm makes the firearm unfit for sale, the federally licensed firearms dealer shall destroy the firearm; and

(iv) provide a procedure by which the department can ensure that the federally licensed firearms dealer complies with the provisions of the agreement and applicable law.

Section 128. Section 77-11b-102 is amended to read:

77-11b-102. Property subject to forfeiture.

(1) (a) Except as provided in Subsection (2), (3), (4), or (5), an agency may seek to forfeit:

(i) seized property that was used to facilitate the commission of an offense that is a violation of federal or state law; or

(ii) seized proceeds.

(b) An agency, or the prosecuting attorney, may not forfeit the seized property of an innocent owner or an interest holder.

(2) If seized property is used to facilitate an offense that is a violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

(3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the motor vehicle, unless:

(a) the operator of the vehicle has previously been convicted of an offense committed after May 12, 2009, that is:

(i) a felony driving under the influence violation under Section 41-6a-502 or Subsection 76-5-102.1(2)(a);

(ii) a felony violation under Subsection 76-5-102.1(2)(b);

(iii) a violation under Section 76-5-207; or

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

(b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license and:

(i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)was imposed because of a violation under:

(A) Section 41-6a-502;

(B) Section 41-6a-517;

(C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

(D) Section 41-6a-520.1;

(E) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(F) Section 76-5-102.1;

(G) Section 76-5-207; or

(H) a criminal prohibition as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through (G); or

(ii) the denial, suspension, revocation, or disqualification described in Subsection (3)(b)(i):

(A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension, revocation, or disqualification; and

(B) the original denial, suspension, revocation, or disqualification was imposed because of a violation described in Subsection (3)(b)(i).

(4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 58-37-8(2)(b)(i), an agency may not seek to forfeit the property that was seized in accordance with the arrest.

(5) If a peace officer seizes an individual's firearm as the result of an offense under Section [~~76-10-529~~]76-11-218, an agency may not seek to forfeit the individual's firearm if the individual may lawfully possess the firearm.

Section 129. Section 77-11d-101 is amended to read:

77-11d-101. Definitions.

As used in this chapter:

(1) "Interest holder" means the same as that term is defined in Section 77-11a-101.

(2) (a) "Lost or mislaid property":

(i) means any property that comes into the possession of a peace officer or law enforcement agency:

(A) that is not claimed by anyone who is identified as the owner of the property; or

(B) for which no owner or interest holder can be found after a reasonable and diligent search;

(ii) includes any property received by a peace officer or law enforcement agency from a person claiming to have found the property; and

(iii) does not include property seized by a peace officer in accordance with Chapter 11a, Seizure of Property and Contraband.

(b) "Lost or mislaid property" includes a firearm or other dangerous weapon received by a law enforcement agency at an airport under Subsection [~~76-10-529(6)~~]76-11-218(7).

(3) "Owner" means the same as that term is defined in Section 77-11a-101.

(4) "Public interest use" means:

(a) use by a governmental agency as determined by the agency's legislative body; or

(b) donation to a nonprofit charity registered with the state.

Section 130. Section 77-11d-105 is amended to read:

77-11d-105. Disposition of unclaimed property.

(1) (a) Except as provided in Subsection (6), if the owner of any lost or mislaid property cannot be determined or notified, or if the owner of the property is determined and notified, and fails to appear and claim the property after three months of the property's receipt by the local law enforcement agency, the agency shall:

(i) publish notice of the intent to dispose of the unclaimed property on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b);

(ii) post a similar notice on the public website of the political subdivision within which the law enforcement agency is located; and

(iii) post a similar notice in a public place designated for notice within the law enforcement agency.

(b) The notice shall:

(i) give a general description of the item; and

(ii) the date of intended disposition.

(c) The agency may not dispose of the lost or mislaid property until at least eight days after the date of publication and posting.

(2) (a) If no claim is made for the lost or mislaid property within nine days of publication and posting, the agency shall notify the person who turned the property over to the local law enforcement agency, if it was turned over by a person under Section 77-11d-103.

(b) Except as provided in Subsection (4), if that person has complied with the provisions of this chapter, the person may take the lost or mislaid property if the person:

(i) pays the costs incurred for advertising and storage; and

(ii) signs a receipt for the item.

(3) If the person who found the lost or mislaid property fails to take the property under the provisions of this chapter, the agency shall:

(a) apply the property to a public interest use as provided in Subsection (4);

(b) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(c) destroy the property if it is unfit for a public interest use or sale.

(4) (a) Before applying the lost or mislaid property to a public interest use, the agency having possession of the property shall obtain from the agency's legislative body:

(i) permission to apply the property to a public interest use; and

(ii) the designation and approval of the public interest use of the property.

(b) If the agency is a private law enforcement agency as defined in Subsection 53-19-102(4), the agency may apply the lost or mislaid property to a public interest use as provided in Subsection (4)(a) after obtaining the permission, designation, and approval of the legislative body of the municipality in which the agency is located.

(5) Any person employed by a law enforcement agency who finds property may not claim or receive property under this section.

(6) (a) If the lost or mislaid property is a firearm or other dangerous weapon received by a law enforcement agency under Subsection [~~76-10-529(6)~~]76-11-218(7), the law enforcement agency may dispose of the firearm or other dangerous weapon three months after the property's receipt by the law enforcement agency if the owner of the firearm or other dangerous weapon, or the owner's agent:

(i) fails to retrieve the firearm or other dangerous weapon; or

(ii) is legally prohibited from possessing the firearm or other dangerous weapon.

(b) A law enforcement agency may dispose of a firearm under Subsection (6)(a) by following the procedures described in Section 77-11a-403, disposition of firearms no longer needed as evidence.

Section 131. Section 77-36-1 is amended to read:

77-36-1. Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 81, Chapter 4, Part 4, Divorce.

(4) (a) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat

of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another.

(b) "Domestic violence" or "domestic violence offense" includes the commission of or attempt to commit, any of the following offenses by one cohabitant against another:

(i) aggravated assault under Section 76-5-103;

(ii) aggravated cruelty to an animal under Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

(iii) assault under Section 76-5-102;

(iv) criminal homicide under Section 76-5-201;

(v) harassment under Section 76-5-106;

(vi) electronic communication harassment under Section 76-9-201;

(vii) kidnapping, child kidnapping, or aggravated kidnapping under Sections 76-5-301, 76-5-301.1, and 76-5-302;

(viii) mayhem under Section 76-5-105;

(ix) propelling a bodily substance or material, as described in Section 76-5-102.9

(x) sexual offenses under Title 76, Chapter 5, Part 4, Sexual Offenses, and sexual exploitation of a minor and aggravated sexual exploitation of a minor, as described in Sections 76-5b-201 and 76-5b-201.1;

(xi) stalking under Section 76-5-106.5;

(xii) unlawful detention and unlawful detention of a minor under Section 76-5-304;

(xiii) violation of a protective order or ex parte protective order under Section 76-5-108;

(xiv) an offense against property under Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

[~~(xv) possession of a deadly weapon with criminal intent under Section 76-10-507;~~]

[~~(xvi) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle under Section 76-10-508;~~]

[~~(xvii)~~](xv) disorderly conduct under Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection [~~(4)(p)~~](4)(b)(xv), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

[~~(xviii)~~](xvi) child abuse under Section 76-5-114;

[~~(xix) threatening use of a dangerous weapon under Section 76-10-506;~~]

[~~(xx)~~](xvii) threatening violence under Section 76-5-107;

[~~(xxi)~~](xviii) tampering with a witness under Section 76-8-508;

[~~(xxii)~~](xix) retaliation against a witness, victim, or informant under Section 76-8-508.3;

[~~(xxiii)~~](xx) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(xxiv)~~](xxi) unlawful distribution of an intimate image under Section 76-5b-203;

[~~(xxv)~~](xxii) unlawful distribution of a counterfeit intimate image under Section 76-5b-205;

[~~(xxvi)~~](xxiii) sexual battery under Section 76-9-702.1;

[~~(xxvii)~~](xxiv) voyeurism under Section 76-9-702.7;

[~~(xxviii)~~](xxv) damage to or interruption of a communication device under Section 76-6-108; [~~or~~]

(xxvi) threatening with or using a dangerous weapon in a fight or quarrel under Section 76-11-207;

(xxvii) possession of a dangerous weapon with criminal intent under Section 76-11-208;

(xxviii) improper discharging of a dangerous weapon under Section 76-11-209; or

(xxix) an offense under Subsection 78B-7-806(1).

(5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 81-2-305 or 81-2-407 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 81-2-305 or 81-2-407 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 132. Section 77-36-2.1 is amended to read:

77-36-2.1. Duties of law enforcement officers -- Notice to victims -- Lethality assessments.

(1) As used in this section: [~~)~~]

(a) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

(b) (i) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.

(ii) "Dating relationship" does not include casual fraternization in a business, educational, or social context.

(c) "Intimate partner" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:

(i) is or was a spouse of the other party;

(ii) is or was living as if a spouse of the other party;

(iii) has or had one or more children in common with the other party;

(iv) is the biological parent of the other party's unborn child;

(v) is or was in a consensual sexual relationship with the other party; or

(vi) is or was in a dating relationship with the other party.

(d) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

(e) "Primary purpose domestic violence organization" means a contract provider of domestic violence services as described in Section 80-2-301.

(2) A law enforcement officer who responds to an allegation of domestic violence shall:

(a) use all reasonable means to protect the victim and prevent further violence, including:

(i) taking the action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(ii) confiscating the weapon or weapons involved in the alleged domestic violence;

(iii) making arrangements for the victim and any child to obtain emergency housing or shelter;

(iv) providing protection while the victim removes essential personal effects;

(v) arrange, facilitate, or provide for the victim and any child to obtain medical treatment;

(vi) arrange, facilitate, or provide the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence, in accordance with Subsection (3); and

(vii) providing the pamphlet created by the department under Section [~~53-5c-201~~]53-5a-502 to the victim if the allegation of domestic violence:

(A) includes a threat of violence as described in Section 76-5-107;

(B) results, or would result, in the owner cohabitant becoming a restricted person under Section [~~76-10-503~~]76-11-302 or 76-11-303; or

(C) is accompanied by a completed lethality assessment that demonstrates the cohabitant is at high risk of being further victimized; and

(b) if the allegation of domestic violence is against an intimate partner, complete the lethality assessment protocols described in this section.

(3) (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective Orders.

(b) The written notice shall include:

(i) a statement that the forms needed in order to obtain an order for protection are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled;

(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance; and

(iii) the information required to be provided to both parties in accordance with Subsections 78B-7-802(8) and (9).

(4) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a domestic violence protective order is not issued or once the domestic violence protective order is terminated.

(5) A law enforcement officer shall complete a lethality assessment form by asking the victim:

(a) if the aggressor has ever used a weapon against the victim or threatened the victim with a weapon;

(b) if the aggressor has ever threatened to kill the victim or the victim's children;

(c) if the victim believes the aggressor will try to kill the victim;

(d) if the aggressor has ever tried to choke the victim;

(e) if the aggressor has a gun or could easily get a gun;

(f) if the aggressor is violently or constantly jealous, or controls most of the daily activities of the victim;

(g) if the victim left or separated from the aggressor after they were living together or married;

(h) if the aggressor is unemployed;

(i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;

(j) if the victim has a child that the aggressor believes is not the aggressor's biological child;

(k) if the aggressor follows or spies on the victim, or leaves threatening messages for the victim; and

(l) if there is anything else that worries the victim about the victim's safety and, if so, what worries the victim.

(6) A law enforcement officer shall comply with Subsection (7) if:

(a) the victim answers affirmatively to any of the questions in Subsections (5)(a) through (d);

(b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but affirmatively to at least four of the questions in Subsections (5)(e) through (k); or

(c) as a result of the victim's response to the question in Subsection (5)(l), the law enforcement officer believes the victim is in a potentially lethal situation.

(7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer shall:

(a) advise the victim of the results of the assessment;

(b) refer the victim to a nongovernment organization victim advocate at a primary purpose domestic violence organization; and

(c) refer the victim to a criminal justice system victim advocate if the responding law enforcement agency has a criminal justice system victim advocate available.

(8) If a victim does not or is unable to provide information to a law enforcement officer sufficient to allow the law enforcement officer to complete a lethality assessment form, or does not speak or is unable to speak with a nongovernment organization victim advocate, the law enforcement officer shall document this information on the lethality assessment form and submit the information to the Department of Public Safety under Subsection (9).

(9) (a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety while on scene.

(b) If a law enforcement officer is not reasonably able to submit the results of a lethality assessment while on scene, the law enforcement officer shall submit the results of the lethality assessment to the Department of Public Safety as soon as practicable.

(c) (i) Before the reporting mechanism described in Subsection (10)(a) is developed, a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety using means prescribed by the Department of Public Safety.

(ii) After the reporting mechanism described in Subsection (10)(a) is developed, a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety using that reporting mechanism.

(10) The Department of Public Safety shall:

(a) as soon as practicable, develop and maintain a reporting mechanism by which a law enforcement officer will submit the results of a lethality assessment as required by Subsection (9);

(b) provide prompt analytical support to a law enforcement officer who submits the results of a lethality assessment using the reporting mechanism described in Subsection (10)(a); and

(c) create and maintain a database of lethality assessment data provided under this section.

(11) (a) Subject to Subsection (11)(b), a law enforcement officer shall include the results of a lethality assessment and any related, relevant analysis provided by the Department of Public Safety under Subsection (10), with:

(i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules of Criminal Procedure; and

(ii) an incident report prepared in accordance with Section 77-36-2.2.

(b) In a probable cause statement or incident report, a law enforcement officer may not include information about how or where a victim was referred under Subsection (7)(b).

Section 133. Section 77-40a-205 is amended to read:

77-40a-205. Automatic expungement of state records for a clean slate case.

(1) A court shall issue an order of expungement, without the filing of a petition, for all records of the case that are held by the court and the bureau if:

(a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a form requesting expungement of a case as described in Section 77-40a-204;

(b) the case is eligible for expungement under this section; and

(c) the prosecuting agency does not object to the expungement of the case as described in Subsection (6).

(2) Except as otherwise provided in Subsection (3), a case is eligible for expungement under this section if:

(a) (i) each conviction within the case is a conviction for:

(A) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(ii) the following time periods have passed after the day on which the individual is adjudicated:

(A) at least five years for the conviction of a class C misdemeanor offense or an infraction;

(B) at least six years for the conviction of a class B misdemeanor offense; or

(C) at least seven years for the conviction of a class A misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i); or

(b) (i) the case is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;

(ii) each charge within the case is:

(A) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(iii) the following time periods have passed after the day on which the case is dismissed:

(A) at least five years for a charge in the case for a class C misdemeanor offense or an infraction;

(B) at least six years for a charge in the case for a class B misdemeanor offense; or

(C) at least seven years for a charge in the case for a class A misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(3) A case is not eligible for expungement under this section if:

(a) the individual has a total number of convictions in courts of this state that exceed the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:

(i) the exception in Subsection 77-40a-303(7); or

(ii) any infraction, traffic offense, or minor regulatory offense;

(b) there is a criminal proceeding for a misdemeanor or felony offense pending in a court of this state against the individual, unless the proceeding is for a traffic offense;

(c) for an individual seeking an automatic expungement on and after January 1, 2025, the individual is incarcerated in the state prison or on probation or parole that is supervised by the Department of Corrections;

(d) the case resulted in the individual being found not guilty by reason of insanity;

(e) the case establishes a criminal accounts receivable that:

(i) has been entered as a civil accounts receivable or a civil judgment of restitution and transferred to the Office of State Debt Collection under Section 77-18-114; or

(ii) has not been satisfied according to court records; or

(f) the case resulted in a plea held in abeyance or a conviction for the following offenses:

(i) any of the offenses listed in Subsection 77-40a-303(2)(a);

(ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Individual;

(iii) a weapons offense in violation of [~~Title 76, Chapter 10, Part 5, Weapons~~]Title 76, Chapter 11, Weapons;

(iv) sexual battery in violation of Section 76-9-702.1;

(v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(vii) damage to or interruption of a communication device in violation of Section 76-6-108;

(viii) a domestic violence offense as defined in Section 77-36-1; or

(ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that appears to be eligible for automatic expungement under this section.

(5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic expungement for any of the following reasons:

(a) the prosecuting agency believes that the case is not eligible for expungement under this section after reviewing the agency record;

(b) the individual has not paid restitution to the victim as ordered by the court; or

(c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual involved in the case is continuing to engage in criminal activity within or outside of the state.

(6) If a prosecuting agency provides written notice of an objection for a reason described in Subsection (5) within 35 days after the day on which the notice under Subsection (4) is sent, the court may not proceed with automatic expungement of the case.

(7) If 35 days pass after the day on which the notice described in Subsection (4) is sent without the prosecuting agency providing written notice of an objection under Subsection (5), the court shall proceed with automatic expungement of the case.

(8) If a court issues an order of expungement under Subsection (1), the court shall:

(a) expunge all records of the case held by the court in accordance with Section 77-40a-401; and

(b) notify the bureau and the prosecuting agency identified in the case, based on information available to the court, of the order of expungement.

Section 134. Section 77-40a-403 is amended to read:

77-40a-403. Release and use of expunged records -- Agencies.

(1) (a) An agency with an expunged record, or any employee of an agency with an expunged record, may not knowingly or intentionally divulge any information contained in the expunged record to any person, or another agency, without a court order unless:

(i) specifically authorized by Subsection (4) or Section 77-40a-404; or

(ii) subject to Subsection (1)(b), the information in an expunged record is being shared with another agency through a records management system that both agencies use for the purpose of record management.

(b) An agency with a records management system may not disclose any information in an expunged record to another agency or person, or allow another agency or person access to an expunged record, if that agency or person does not use the records management system for the purpose of record management.

(2) The following entities or agencies may receive information contained in expunged records upon specific request:

(a) the Board of Pardons and Parole;

(b) Peace Officer Standards and Training;

(c) federal authorities if required by federal law;

(d) the State Board of Education;

(e) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office; and

(f) a research institution or an agency engaged in research regarding the criminal justice system if:

(i) the research institution or agency provides a legitimate research purpose for gathering information from the expunged records;

(ii) the research institution or agency enters into a data sharing agreement with the court or agency with custody of the expunged records that protects the confidentiality of any identifying information in the expunged records;

(iii) any research using expunged records does not include any individual's name or identifying information in any product of that research; and

(iv) any product resulting from research using expunged records includes a disclosure that expunged records were used for research purposes.

(3) Except as otherwise provided by this section or by court order, a person, an agency, or an entity authorized by this section to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the specific request, including distribution on a public website.

(4) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance agreement, for:

(a) stalking as described in Section 76-5-106.5;

(b) a domestic violence offense as defined in Section 77-36-1;

(c) an offense that would require the individual to register as a sex offender, kidnap offender, or child abuse offender as defined in Section 77-41-102; or

(d) a weapons offense under [~~Title 76, Chapter 10, Part 5, Weapons~~]Title 76, Chapter 11, Weapons.

(5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction.

(6) The bureau may also use the information in the bureau's index as provided in Section [~~53-5-704~~]53-5a-303.

(7) If an individual is charged with a felony, or an offense eligible for enhancement based on a prior conviction, after obtaining an order of expungement, the prosecuting attorney may petition the court in which the individual is charged to open the expunged records upon a showing of good cause.

(8) (a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

(b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

(c) At the end of the action or proceeding, the court shall order the records expunged again.

(d) Any person authorized by this Subsection (8) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

(9) Records released under this chapter are classified as protected under Section 63G-2-305and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

Section 135. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

(2) A court record shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section [~~53-5-704~~]53-5a-303;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and administrative hearings in accordance with Section 80-2-707;

(e) the Division of Licensing and Background Checks for the purpose of conducting a background check in accordance with Section 26B-2-120;

(f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health and Human Services for the purpose of evaluating under the provisions of Subsection 26B-2-406(3) whether a person should be permitted to operate a residential child care without a license or a certificate or to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health and Human Services' inspection of records before the Department of Health and Human Services makes a decision concerning licensure;

(g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health and Human Services to determine whether an individual meets the background screening requirements of Sections 26B-2-238 through 26B-2-241, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health and Human Services' inspection of records before the Department of Health and Human Services makes a decision under that part; and

(h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Bureau of Emergency Medical Services to determine whether to grant, deny, or revoke background clearance under Section 53-2d-410 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 53-2d-402, with the understanding that the Bureau of Emergency Medical Services must provide the individual who committed the offense an opportunity to respond to any information gathered from the inspection of records before the Bureau of Emergency Medical Services makes a determination.

(3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) (a) Except as provided in Subsection (4)(b), if a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary for the minor.

(b) A juvenile court may close the records described in Subsection (4)(a) to the public if the juvenile court finds, on the record, that the records are closed for good cause.

(5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.

(6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 136. Section 78B-4-511 is amended to read:

78B-4-511. Regulation of firearms reserved to state -- Lawsuits prohibited.

(1) As prescribed by Section [~~76-10-500~~]53-5a-102, all authority to regulate firearms is reserved to the state through the Legislature.

(2) A person who lawfully designs, manufactures, markets, advertises, transports, or sells firearms or ammunition to the public may not be sued by the state or any of its political subdivisions for the subsequent use, whether lawfully or unlawfully, of the firearm or ammunition, unless the suit is based on the breach of a contract or warranty for a firearm or ammunition purchased by the state or political subdivision.

Section 137. Section 78B-5-502 is amended to read:

78B-5-502. Definitions.

As used in this part:

(1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(3) "Curio or relic firearm" means a firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

(i) sporting use;

(ii) use as an offensive weapon; or

(iii) use as a defensive weapon;

(b) (i) was manufactured at least 50 years before the current date; and

(ii) is not a replica of a firearm described in Subsection (3)(b)(i);

(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;

(d) derives a substantial part of the firearm's monetary value:

(i) from the fact that the firearm is:

(A) novel;

(B) rare; or

(C) bizarre; or

(ii) because of the firearm's association with a historical:

(A) figure;

(B) period; or

(C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

[~~(3)~~](4) "Debt" means a legally enforceable monetary obligation or liability of an individual, whether arising out of contract, tort, or otherwise.

[~~(4)~~](5) "Dependent" means the spouse of an individual, and the grandchild or the natural or adoptive child of an individual who derives support primarily from that individual.

[~~(5)~~](6) "Exempt" means protected, and "exemption" means protection from subjection to a judicial process to collect an unsecured debt.

(7) "Firearm" means the same as that term is defined in Section 76-11-101.

[~~(6)~~](8) "Judicial lien" means a lien on property obtained by judgment or other legal process instituted for the purpose of collecting an unsecured debt.

[~~(7)~~](9) "Levy" means the seizure of property pursuant to any legal process issued for the purpose of collecting an unsecured debt.

[~~(8)~~](10) "Lien" means a judicial, or statutory lien, in property securing payment of a debt or performance of an obligation.

[~~(9)~~](11) "Liquid assets" means deposits, securities, notes, drafts, unpaid earnings not otherwise exempt, accrued vacation pay, refunds, prepayments, and other receivables.

[~~(10)~~](12) "Security interest" means an interest in property created by contract to secure payment or performance of an obligation.

[~~(11)~~](13) "Statutory lien" means a lien arising by force of a statute, but does not include a security interest or a judicial lien.

[~~(12)~~](14) "Value" means fair market value of an individual's interest in property, exclusive of valid liens.

Section 138. Section 78B-5-505 is amended to read:

78B-5-505. Property exempt from execution.

(1) (a) An individual is entitled to exemption of the following property:

(i) a burial plot for the individual and the individual's family;

(ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain health;

(iii) benefits that the individual or the individual's dependent have received or are entitled to receive from any source because of:

(A) disability;

(B) illness; or

(C) unemployment;

(iv) benefits paid or payable for medical, surgical, or hospital care to the extent that the benefits are used by an individual or the individual's dependent to pay for that care;

(v) veterans benefits;

(vi) money or property received, and rights to receive money or property for child support;

(vii) money or property received, and rights to receive money or property for alimony or separate maintenance, to the extent reasonably necessary for the support of the individual and the individual's dependents;

(viii) (A) one:

(I) clothes washer and dryer;

(II) refrigerator;

(III) freezer;

(IV) stove;

(V) microwave oven; and

(VI) sewing machine;

(B) all carpets in use;

(C) provisions sufficient for 12 months actually provided for individual or family use;

(D) all wearing apparel of every individual and dependent, not including jewelry or furs; and

(E) all beds and bedding for every individual or dependent;

(ix) except for works of art held by the debtor as part of a trade or business, works of art:

(A) depicting the debtor or the debtor and the debtor's resident family; or

(B) produced by the debtor or the debtor and the debtor's resident family;

(x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;

(xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or children of the debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired period of one year;

(xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the death of the debtor, provided that the contract or policy has been in existence for a continuous unexpired period of one year;

(xiii) proceeds and avails of any unmatured life insurance contracts owned by the debtor or any revocable grantor trust created by the debtor, excluding any payments made on the contract during the one year immediately preceding a creditor's levy or execution;

(xiv) except as provided in Subsection (1)(b), and except for a judgment described in Subsection 75-7-503(2)(c), any money or other assets held for or payable to the individual as an owner, participant, or beneficiary from or an interest of the individual as an owner, participant, or beneficiary in a fund or account, including an inherited fund or account, in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or otherwise;

(xv) the interest of or any money or other assets payable to an alternate payee under a qualified domestic relations order as those terms are defined in Section 414(p), Internal Revenue Code;

(xvi) unpaid earnings of the household of the filing individual due as of the date of the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for the household size of the filing individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of the Utah State annual median family income for the household size of the individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers;

(xvii) except for curio or relic firearms [~~, as defined in Section 76-10-501,~~] any three of the following:

(A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

(B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

(C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds; and

(xviii) money, not exceeding $200,000, in the aggregate, that an individual deposits, more than 18 months before the day on which the individual files a petition for bankruptcy or an action is filed by a creditor against the individual, as applicable, in all tax-advantaged accounts for saving for higher education costs on behalf of a particular individual that meets the requirements of Section 529, Internal Revenue Code.

(b) (i) Any money, asset, or other interest in a fund or account that is exempt from a claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does not cease to be exempt after the owner's, participant's, or beneficiary's death by reason of a direct transfer or eligible rollover to an inherited individual retirement account as defined in Section 408(d)(3), Internal Revenue Code.

(ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement accounts without regard to the date on which the account was created.

(c) (i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

(A) an alternate payee under a qualified domestic relations order, as those terms are defined in Section 414(p), Internal Revenue Code; or

(B) amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy, except amounts directly rolled over from other funds that are exempt from attachment under this section.

(ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the secured creditor's interest in proceeds and avails of any matured or unmatured life insurance contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

(2) (a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a victim who is a child if the person receiving the benefits has been convicted of a felony sex offense against the victim and ordered by the sentencing court to pay restitution to the victim.

(b) The exemption from execution under this Subsection (2) shall be reinstated upon payment of the restitution in full.

(3) The exemptions under this section do not limit items that may be claimed as exempt under Section 78B-5-506.

(4) (a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii), (xiii), (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil judgment of restitution for an individual who is found in contempt under Section 78B-6-317.

(b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if the individual's dependent received, or is entitled to receive, the benefits.

Section 139. Section 78B-6-1107 is amended to read:

78B-6-1107. Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.

(1) Every building or place is a nuisance where:

(a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition occurs of any controlled substance, precursor, or analog specified in Title 58, Chapter 37, Utah Controlled Substances Act;

(b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

(c) criminal activity is committed in concert with three or more persons as provided in Section 76-3-203.1;

(d) criminal activity is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) parties occur frequently which create the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

(g) prostitution or promotion of prostitution is regularly carried on by one or more persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and

(h) a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~]an offense under Title 76, Chapter 11, Weapons, occurs on the premises.

(2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the defendant is lawfully entitled to possession of a controlled substance.

(3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the nuisance as defined in Subsection (1).

Section 140. Section 78B-6-2301 is amended to read:

78B-6-2301. Definitions.

As used in this part:

(1) "Directive" means an ordinance, regulation, measure, rule, enactment, order, or policy issued, enacted, or required by a local or state governmental entity.

(2) "Firearm" means the same as that term is defined in Section 53-5a-102.

(3) "Legislative firearm preemption" means the preemption provided for in [~~Sections~~]Section53-5a-102[~~and 76-10-500~~].

(4) "Local or state governmental entity" means:

(a) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state, including the Utah Board of Higher Education, each institution of higher education, and the boards of trustees of each higher education institution; or

(b) a county, city, town, special district, local education agency, public school, school district, charter school, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

Section 141. Section 80-6-103 is amended to read:

80-6-103. Notification to a school -- Civil and criminal liability.

(1) As used in this section:

(a) "School" means a school in a local education agency.

(b) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(c) "School official" means the superintendent of a school district or the director of a charter school or designee in which the minor resides or attends school.

(d) "Serious offense" means:

(i) a violent felony as defined in Section 76-3-203.5;

(ii) an offense that is a violation of an offense underTitle 76, Chapter 6, Part 4, Theft, and the property stolen is a firearm; or

(iii) an offense that is a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~]an offense under Title 76, Chapter 11, Weapons.

(e) "Transferee school official" means the superintendent of a school district or the director of a charter school or designee in which the minor resides or attends school if the minor is admitted to home detention.

(2) A notification under this section is provided for a minor's supervision and student safety.

(3) (a) If a minor is taken into temporary custody under Section 80-6-201 for a serious offense, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official within five days after the day on which the minor is taken into temporary custody.

(b) A notification under this Subsection (3) shall only disclose:

(i) the name of the minor;

(ii) the offense for which the minor was taken into temporary custody or admitted to detention; and

(iii) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.

(4) After a detention hearing for a minor who is alleged to have committed a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency of the juvenile court's decision, including any disposition, order, or no-contact order.

(5) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency that the minor has been admitted to home detention.

(6) (a) If the juvenile court adjudicates a minor for a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, of the adjudication.

(b) A notification under this Subsection (6) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.

(c) A notification under this section shall include:

(i) the name of the minor;

(ii) the offense for which the minor was adjudicated; and

(iii) if available, the name of the victim if the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(7) If the juvenile court orders formal probation under Section 80-6-702, the juvenile court shall order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official of the juvenile court's order for formal probation.

(8) (a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:

(i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

(9) (a) A notification under this section shall be classified as a protected record under Section 63G-2-305.

(b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Section 142. Section 80-6-104 is amended to read:

80-6-104. Data collection on offenses committed by minors -- Reporting requirement.

(1) As used in this section:

(a) "Firearm" means the same as that term is defined in Section [~~76-10-501~~]76-11-101.

(b) "Firearm-related offense" means a criminal offense involving a firearm.

(c) "School is in session" means the same as that term is defined in Section 53E-3-516.

(d) "School-sponsored activity" means the same as that term is defined in Section 53E-3-516.

(2) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data to the State Commission on Criminal and Juvenile Justice, broken down by judicial district, for the preceding calendar year:

(a) the number of referrals to the juvenile court;

(b) the number of minors diverted to a nonjudicial adjustment;

(c) the number of minors that satisfy the conditions of a nonjudicial adjustment;

(d) the number of minors for whom a petition for an offense is filed in the juvenile court;

(e) the number of minors for whom an information is filed in the juvenile court;

(f) the number of minors bound over to the district court by the juvenile court;

(g) the number of petitions for offenses committed by minors that were dismissed by the juvenile court;

(h) the number of adjudications in the juvenile court for offenses committed by minors;

(i) the number of guilty pleas entered into by minors in the juvenile court;

(j) the number of dispositions resulting in secure care, community-based placement, formal probation, and intake probation; and

(k) for each minor charged in the juvenile court with a firearm-related offense:

(i) the minor's age at the time the offense was committed or allegedly committed;

(ii) the minor's zip code at the time that the offense was referred to the juvenile court;

(iii) whether the minor is a restricted person under [~~Subsection 76-10-503(1)(a)(iv) or (1)(b)(iii)~~]Subsection 76-11-302(4) or 76-11-303(4);

(iv) the type of offense for which the minor is charged;

(v) the outcome of the minor's case in juvenile court, including whether the minor was bound over to the district court or adjudicated by the juvenile court; and

(vi) if a disposition was entered by the juvenile court, whether the disposition resulted in secure care, community-based placement, formal probation, or intake probation.

(3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a case resulting from a firearm-related offense committed, or allegedly committed, by a minor when the minor is found in possession of a firearm while school is in session or during a school-sponsored activity.

(4) In collaboration with the Administrative Office of the Courts, the division, and other agencies, the State Commission on Criminal and Juvenile Justice shall collect data for the preceding calendar year on:

(a) the length of time that minors spend in the juvenile justice system, including the total amount of time minors spend under juvenile court jurisdiction, on community supervision, and in each out-of-home placement;

(b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for whom dispositions are ordered by the juvenile court, including tracking minors into the adult corrections system;

(c) changes in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and

(d) dosages of programming.

(5) On and before October 1 of each year, the State Commission on Criminal and Juvenile Justice shall prepare and submit a written report to the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee that includes:

(a) data collected by the State Commission on Criminal and Juvenile Justice under this section;

(b) data collected by the State Board of Education under Section 53E-3-516; and

(c) recommendations for legislative action with respect to the data described in this Subsection (5).

(6) After submitting the written report described in Subsection (5), the State Commission on Criminal and Juvenile Justice may supplement the report at a later time with updated data and information the State Board of Education collects under Section 53E-3-516.

(7) Nothing in this section shall be construed to require the disclosure of information or data that is classified as controlled, private, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 143. Section 80-6-303.5 is amended to read:

80-6-303.5. Preliminary inquiry by juvenile probation officer -- Eligibility for nonjudicial adjustment.

(1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, or for the minor being a habitual truant, a juvenile probation officer shall make a preliminary inquiry in accordance with this section to determine whether the minor is eligible to enter into a nonjudicial adjustment.

(2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.

(3) (a) The juvenile probation officer may:

(i) conduct a validated risk and needs assessment; and

(ii) request that a prosecuting attorney review a referral in accordance with Section 80-6-304.5 if:

(A) the results of the validated risk and needs assessment indicate the minor is high risk; or

(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor shall:

(i) undergo a drug and alcohol screening;

(ii) if found appropriate by the screening, participate in an assessment; and

(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.

(4) Except for an offense that is not eligible under Subsection (8), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if:

(a) the minor:

(i) is referred for an offense that is a misdemeanor, infraction, or status offense;

(ii) has no more than two prior adjudications; and

(iii) has no more than two prior unsuccessful nonjudicial adjustment attempts;

(b) the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old; or

(c) the minor is referred for being a habitual truant.

(5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

(6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.

(7) Except for a referral that involves an offense described in Subsection (8), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria described in Subsection (4)(a).

(8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the referral involves:

(a) an offense alleged to have occurred when the minor was 12 years old or older that is:

(i) a felony offense; or

(ii) a misdemeanor violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-107, threat of violence;

(C) Section 76-5-107.1, threats against schools;

(D) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(E) Section 76-5-206, negligent homicide;

(F) Section 76-9-702.1, sexual battery;

[~~(G) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;~~]

[~~(H) Section 76-10-506, threatening with or using a dangerous weapon in fight or quarrel;~~]

[~~(I) Section 76-10-507, possession of a deadly weapon with criminal intent; or~~]

[~~(J) Section 76-10-509.4, possession of a dangerous weapon by a minor;~~]

(G) Section 76-11-205, carrying a dangerous weapon at an elementary school or secondary school;

(H) Section 76-11-206, carrying a dangerous weapon at a daycare;

(I) Section 76-11-207, threatening with or using a dangerous weapon in a fight or quarrel;

(J) Section 76-11-208, possession of a dangerous weapon with criminal intent; or

(K) Section 76-11-211, possession of a dangerous weapon by a minor; or

(b) an offense alleged to have occurred before the minor is 12 years old that is a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section [~~76-10-508.1~~]76-11-210, felony discharge of a firearm.

(9) The juvenile probation officer shall request that a prosecuting attorney review a referral if:

(a) the referral involves an offense described in Subsection (8); or

(b) the minor has a current suspended order for custody under Section 80-6-711.

Section 144. Section 80-6-305 is amended to read:

80-6-305. Petition for a delinquency proceeding -- Amending a petition -- Continuance.

(1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an alleged offense, except as provided in:

(a) Subsection (2);

(b) Section 80-6-302;

(c) Section 80-6-502; and

(d) Section 80-6-503.

(2) A prosecuting attorney may not file a petition under Subsection (1) against an individual for an offense alleged to have occurred before the individual was 12 years old, unless:

(a) the individual is alleged to have committed a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section [~~76-10-508.1~~]76-11-210, felony discharge of a firearm; or

(b) an offer for a nonjudicial adjustment is made under Section 80-6-303.5 and the minor:

(i) declines to accept the offer for the nonjudicial adjustment; or

(ii) fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment.

(3) A juvenile court may dismiss a petition under this section at any stage of the proceedings.

(4) (a) When evidence is presented during any proceeding in a minor's case that points to material facts not alleged in the petition, the juvenile court may consider the additional or different material facts raised by the evidence if the parties consent.

(b) The juvenile court, on a motion from any interested party or on the court's own motion, shall direct that the petition be amended to conform to the evidence.

(c) If an amended petition under Subsection (4)(b) results in a substantial departure from the material facts originally alleged, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

Section 145. Section 80-6-503 is amended to read:

80-6-503. Criminal information for a minor in juvenile court -- Extending juvenile court jurisdiction.

(1) If a prosecuting attorney charges a minor with a felony, the prosecuting attorney may file a criminal information in the juvenile court if the minor was a principal actor in an offense and the information alleges:

(a) (i) the minor was 16 or 17 years old at the time of the offense; and

(ii) the offense for which the minor is being charged is a felony violation of:

(A) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(B) Section 76-5-202, attempted aggravated murder;

(C) Section 76-5-203, attempted murder;

(D) Section 76-5-302, aggravated kidnapping;

(E) Section 76-5-405, aggravated sexual assault;

(F) Section 76-6-103, aggravated arson;

(G) Section 76-6-203, aggravated burglary;

(H) Section 76-6-302, aggravated robbery;

(I) Section [~~76-10-508.1~~]76-11-210, felony discharge of a firearm; or

(J) an offense other than an offense listed in Subsections (1)(a)(ii)(A) through (I) involving the use of a dangerous weapon if the offense would be a felony had an adult committed the offense, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult; or

(b) (i) the minor was 14 or 15 years old at the time of the offense; and

(ii) the offense for which the minor is being charged is a felony violation of:

(A) Section 76-5-202, aggravated murder or attempted aggravated murder; or

(B) Section 76-5-203, murder or attempted murder.

(2) At the time that a prosecuting attorney files an information under this section, a party may file a motion to extend the juvenile court's continuing jurisdiction in accordance with Section 80-6-605.

Section 146. Section 80-6-605 is amended to read:

80-6-605. Extension of juvenile court jurisdiction -- Procedure.

(1) At the time that a prosecuting attorney files a petition under Section 80-6-305, or a criminal information under Section 80-6-503, for a felony offense alleged to have been committed by a minor who is 14 years old or older, either party may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old if:

(a) the minor was the principal actor in the offense; and

(b) the petition or information alleges a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery;

(ix) Section [~~76-10-508.1~~]76-11-210, felony discharge of a firearm; or

(x) (A) an offense other than the offenses listed in Subsections (1)(b)(i) through (ix) involving the use of a dangerous weapon that would be a felony if committed by an adult; and

(B) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult.

(2) (a) Notwithstanding Subsection (1), either party may file a motion to extend the juvenile court's continuing jurisdiction after a determination by the juvenile court that the minor will not be bound over to the district court under Section 80-6-504.

(3) The juvenile court shall make a determination on a motion under Subsection (1) or (2)at the time of disposition.

(4) The juvenile court shall extend the continuing jurisdiction over the minor's case until the minor is 25 years old if the juvenile court finds, by a preponderance of the evidence, that extending continuing jurisdiction is in the best interest of the minor and the public.

(5) In considering whether it is in the best interest of the minor and the public for the court to extend jurisdiction over the minor's case until the minor is 25 years old, the juvenile court shall consider and base the juvenile court's decision on:

(a) whether the protection of the community requires an extension of jurisdiction beyond the age of 21;

(b) the extent to which the minor's actions in the offense were committed in an aggressive, violent, premeditated, or willful manner;

(c) the minor's mental, physical, educational, trauma, and social history; and

(d) the criminal record and previous history of the minor.

(6) The amount of weight that each factor in Subsection (5) is given is in the juvenile []court's discretion.

(7) (a) The juvenile court may consider written reports and other materials relating to the minor's mental, physical, educational, trauma, and social history.

(b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report or other material to appear and be subject to both direct and cross-examination.

(8) A minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (5).

Section 147. Section 80-6-712 is amended to read:

80-6-712. Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.

(1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:

(a) if the minor is placed on intake probation, no more than three months; or

(b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.

(2) (a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

(i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and

(ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.

(b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):

(i) in the home of a qualifying relative or guardian;

(ii) at an independent living program contracted or operated by the division; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

(3) If the juvenile court orders a minor to secure care, the authority shall:

(a) have jurisdiction over the minor's case; and

(b) apply the provisions of Part 8, Commitment and Parole.

(4) (a) The juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation or Subsection (2) for commitment to the division, unless:

(i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) the minor has not completed community or compensatory service hours;

(iv) there is an outstanding fine; or

(v) the minor has not paid restitution in full.

(b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the minor's record in the treatment program; and

(iii) the minor's completion of the goals of the treatment program.

(5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.

(6) If the juvenile court extends supervision solely on the ground that the minor has not yet completed community or compensatory service hours under Subsection (4)(a)(iii), the juvenile court may only extend supervision:

(a) one time for no more than three months; and

(b) as intake probation.

(7) (a) If the juvenile court extends jurisdiction solely on the ground that the minor has not paid restitution in full as described in Subsection (4)(a)(v):

(i) the juvenile court may only:

(A) extend jurisdiction up to four times for no more than three months at a time;

(B) consider the efforts of the minor to pay restitution in full when determining whether to extend jurisdiction under Subsection (7)(a)(i); and

(C) make orders concerning the payment of restitution during the period for which jurisdiction is extended;

(ii) the juvenile court shall terminate any intake probation or formal probation of the minor; and

(iii) a designated staff member of the juvenile court shall submit a report to the juvenile court every three months regarding the minor's efforts to pay restitution.

(b) If the juvenile court finds that a minor is not making an effort to pay restitution, the juvenile court shall:

(i) terminate jurisdiction over the minor's case; and

(ii) record the amount of unpaid restitution as a civil judgment in accordance with Subsection 80-6-709(8).

(8) If the juvenile court extends supervision or jurisdiction under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.

(9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.

(10) This section does not apply to any minor adjudicated under this chapter for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section [~~76-10-508.1~~]76-11-210, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (10)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

(q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.

Section 148. Section 80-6-804 is amended to read:

80-6-804. Review and termination of secure care.

(1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.

(2) (a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of secure care for the juvenile offender from three to six months, but the presumptive term may not exceed six months.

(b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may immediately release the juvenile offender on parole if there is a treatment program available for the juvenile offender in a community-based setting.

(c) Except as provided in Subsection (2)(h), the authority shall release the juvenile offender on parole at the end of the presumptive term of secure care unless:

(i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) Except as provided in Subsection (2)(h), the authority may extend the length of secure care and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(c) exists.

(f) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(g) Records under Subsection (2)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may not:

(i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a) that would result in a term of secure care that exceeds a term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense; or

(ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e) if the extension would result in a term of secure care that exceeds the term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense.

(3) (a) If a juvenile offender is ordered to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole:

(i) in the home of a qualifying relative or guardian;

(ii) at an independent living program contracted or operated by the division; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

(c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:

(i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (3)(c)(i) by considering:

(i) the recommendations of the licensed service provider;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section [~~76-10-508.1~~]76-11-210, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or

(q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously ordered to secure care.

Section 149. Section 80-6-1004.1 is amended to read:

80-6-1004.1. Petition to expunge adjudication -- Hearing and notice -- Waiver -- Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual was adjudicated for an offense in the juvenile court;

(b) the individual has reached 18 years old; and

(c) at least one year has passed from the day on which:

(i) the juvenile court's continuing jurisdiction was terminated; or

(ii) if the individual was committed to secure care, the individual was unconditionally released from the custody of the division.

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive:

(a) the age requirement under Subsection (1)(b) for a petition; or

(b) the one-year requirement under Subsection (1)(c) for a petition.

(4) (a) Upon the filing of a petition described in Subsection [~~(1)(a)~~](1), the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the petitioner's juvenile record:

(A) that the petition has been filed; and

(B) of the date of the hearing.

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition described in Subsection (1).

(ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice of the petition at least 30 days before the day on which the hearing is scheduled if, before the day on which an expungement order is made, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the juvenile court in the judicial district in which the offense occurred or judgment is entered.

(iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition and any statutes and rules applicable to the petition.

(c) At the hearing, the prosecuting attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.

(d) The juvenile court may waive the hearing for the petition if:

(i) (A) there is no victim; or

(B) if there is a victim, the victim agrees to the waiver; and

(ii) the prosecuting attorney agrees to the waiver.

(5) (a) Except as provided in Subsection (6), the juvenile court may grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if the juvenile court finds that the petitioner is rehabilitated to the satisfaction of the court in accordance with Subsection (5)(b).

(b) In deciding whether to grant a petition described in Subsection (1), the juvenile court shall consider:

(i) whether expungement of the petitioner's juvenile record is in the best interest of the petitioner;

(ii) the petitioner's response to programs and treatment;

(iii) the nature and seriousness of the conduct for which the petitioner was adjudicated;

(iv) the petitioner's behavior subsequent to adjudication;

(v) the petitioner's reason for seeking expungement of the petitioner's juvenile record; and

(vi) if the petitioner is a restricted person under Subsection [~~76-10-503(1)(a)(iv) or (b)(iii)~~]76-11-302(4) or 76-11-303(4):

(A) whether the offense for which the petitioner is a restricted person was committed with a weapon;

(B) whether expungement of the petitioner's juvenile record poses an unreasonable risk to public safety; and

(C) the amount of time that has passed since the adjudication of the offense for which the petitioner is a restricted person.

(6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:

(a) the petitioner has been convicted of a violent felony within five years before the day on which the petition for expungement is filed;

(b) there are delinquency or criminal proceedings pending against the petitioner;

(c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court for an adjudication in the petitioner's juvenile record;

(d) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record; or

(e) the petitioner's juvenile record contains an adjudication for a violation of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

Section 150. Section 80-6-1004.5 is amended to read:

80-6-1004.5. Automatic expungement of successful nonjudicial adjustment -- Effect of successful nonjudicial adjustment.

(1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition, an order to expunge an individual's juvenile record if:

(a) the individual has reached 18 years old;

(b) the individual's juvenile record consists solely of nonjudicial adjustments;

(c) the individual has successfully completed each nonjudicial adjustment; and

(d) all nonjudicial adjustments were completed on or after October 1, 2023.

(2) An individual's juvenile record is not eligible for expungement under Subsection (1) if the individual's juvenile record contains a nonjudicial adjustment for a violation of:

(a) Section 41-6a-502, driving under the influence;

(b) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(c) Section 76-5-206, negligent homicide;

(d) Section 76-9-702.1, sexual battery;

(e) Section [~~76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises~~]76-11-205, carrying a dangerous weapon at an elementary school or secondary school;

(f) Section 76-11-206, carrying a dangerous weapon at a daycare; or

[~~(f)~~](g) Section [~~76-10-509.4~~]76-11-211, possession of a dangerous weapon by a minor.

(3) If an individual's juvenile record consists solely of nonjudicial adjustments that were completed before October 1, 2023:

(a) any nonjudicial adjustment in the individual's juvenile record is considered to never have occurred if:

(i) the individual has reached 18 years old;

(ii) the individual has satisfied restitution that was a condition of any nonjudicial adjustment in the individual's juvenile record; and

(iii) the nonjudicial adjustment was for an offense that is not an offense described in Subsection (2); and

(b) the individual may reply to any inquiry about the nonjudicial adjustment as though there never was a nonjudicial adjustment.

Section 151. Repealer.

This bill repeals:

Section 53-5-701, Title.

Section 53-5-710, Cross-references to concealed firearm permit restrictions.

Section 53-5b-101, Title.

Section 76-10-500, Uniform law.

Section 76-10-503, Restrictions on possession, purchase, transfer, and ownership of

Section 76-10-512, Target concessions, shooting ranges, competitions, and hunting

Section 76-10-521, Unlawful marking of pistol or revolver.

Section 152. Effective Date.

This bill takes effect on May 7, 2025.

Section 153. Coordinating H.B. 128 with H.B. 183.

If H.B. 128, Dangerous Weapons Recodification and Cross References, and H.B. 183, Noncitizen Restricted Person Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 76-11-302(5), enacted in H.B. 128, be amended to read:

"(5) if the individual is an alien who is illegally or unlawfully in the United States, including an alien who has:

(a) submitted an asylum application in accordance with 8 U.S.C. Sec. 1158 and is waiting for a disposition on the application; or

(b) submitted a temporary protected status application in accordance with 8 U.S.C. Sec. 1254a and is waiting for a disposition on the application; or".

Section 154. Coordinating H.B. 128 with H.B. 21.

If H.B. 128, Dangerous Weapons Recodification and Cross References, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) the amendments to the following sections or subsections in H.B. 128 supersede the amendments to those sections or subsections in H.B. 21:

(a) Section 23A-4-1106;

(b) Subsection 26B-2-120(5)(a)(i)(V);

(c) Subsections 31A-21-501(4)(m) and (4)(n);

(d) Subsection 34-45-107(1);

(e) Section 47-3-305;

(f) Subsections 53-3-220(1)(a)(xi) and (1)(b)(i);

(g) Subsections 53-5d-102(5)(b)(iii) and (7);

(h) Section 53-10-208.1;

(i) Subsection 53-10-403(2)(c)(xxvii);

(j) Subsection 53-22-105(6);

(k) Subsection 53-22-107(6);

(l) Subsection 53-25-103(2);

(m) Subsection 53G-8-701.8(4);

(n) Section 58-63-307;

(o) Section 63I-2-276;

(p) Section 73-29-102;

(q) Subsection 76-3-203.3(4)(j);

(r) Subsection 76-3-402(1)(f)(ii)(B);

(s) Subsection 76-5-202(2)(a)(x)(Q);

(t) Section 76-5-203;

(u) Section 76-11-101 (renumbered from Section 76-10-501);

(v) Section 76-11-309 (renumbered from Section 76-10-503.1);

(w) Section 76-11-310 (renumbered from Section 76-10-532);

(x) subject to the coordination clause in H.B. 195, Firearm Retention Amendments, which coordinates H.B. 195 with H.B. 128 and H.B. 21, Section 77-11a-402;

(y) Subsection 77-11b-102(5);

(z) Section 77-11d-101;

(aa) Section 77-11d-105;

(bb) Section 78B-5-505;

(cc) Section 80-6-104;

(dd) Section 80-6-305;

(ee) Section 80-6-503;

(ff) Section 80-6-605;

(gg) Section 80-6-712;

(hh) Section 80-6-804;

(ii) Section 80-6-1004.1;

(jj) Subsections 80-6-1004.5(2)(e) and (2)(f); and

(kk) Section 53-5a-108 (renumbered from Section 76-10-523).

(2) Subsection 76-3-203.5(1)(c)(i)(TT) enacted in H.B. 21 be amended to read:

"(TT) purchase or possession of a dangerous weapon or firearm by a restricted person as described in Section 76-11-305 or 76-11-306;";

(3) Section 76-11-204 (renumbered from Section 76-10-505) in H.B. 128 supersede the amendments to Section 76-10-505 in H.B. 21;

(4) Section 76-11-205 (renumbered from Section 76-10-505.5) in H.B. 128 supersede the amendments to Section 76-10-505.5 in H.B. 21;

(5) Section 76-11-207 (renumbered from Section 76-10-506) in H.B. 128 supersede the amendments to Section 76-10-506 in H.B. 21;

(6) Section 76-11-208 (renumbered from Section 76-10-507) in H.B. 128 supersede the amendments to Section 76-10-507 in H.B. 21;

(7) Section 76-11-209 (renumbered from Section 76-10-508) in H.B. 128 supersede the amendments to Section 76-10-508 in H.B. 21;

(8) Section 76-11-210 (renumbered from Section 76-10-508.1) in H.B. 128 supersede the amendments to Section 76-10-508.1 in H.B. 21;

(9) Section 76-11-211 (renumbered from Section 76-10-509.4) in H.B. 128 supersede the amendments to Section 76-10-509.4 in H.B. 21;

(10) Section 76-11-212 (renumbered from Section 76-10-509.5) in H.B. 128 supersede the amendments to Section 76-10-509.5 in H.B. 21;

(11) Section 76-11-213 (renumbered from Section 76-10-509.6) in H.B. 128 supersede the amendments to Section 76-10-509.6 in H.B. 21;

(12) Section 76-11-214 (renumbered from Section 76-10-509.7) in H.B. 128 supersede the amendments to Section 76-10-509.7 in H.B. 21;

(13) Section 76-11-215 (renumbered from Section 76-10-509.9) in H.B. 128 supersede the amendments to Section 76-10-509.9 in H.B. 21;

(14) Section 53-5a-605 (renumbered from Section 76-10-524) in H.B. 128 supersede the amendments to Section 76-10-524 in H.B. 21;

(15) Section 53-5a-602 (renumbered from Section 76-10-526) in H.B. 128 supersede the amendments to Section 76-10-526 in H.B. 21;

(16) Section 53-5a-603 (renumbered from Section 76-10-526.1) in H.B. 128 supersede the amendments to Section 76-10-526.1 in H.B. 21;

(17) Section 53-5a-604 (renumbered from Section 76-10-527) in H.B. 128 supersede the amendments to Section 76-10-527 in H.B. 21;

(18) Section 76-11-217 (renumbered from Section 76-10-528) in H.B. 128 supersede the amendments to Section 76-10-528 in H.B. 21;

(19) (a) Section 76-11-218 (renumbered from Section 76-10-529) in H.B. 128 supersede the amendments to Section 76-10-529 in H.B. 21;

(b) Subsection 76-11-218(1)(a)(ii) in H.B. 128 be amended to read:

"(ii) "Explosive is the same as defined for "explosive, chemical, or incendiary device" in Section [~~76-10-306~~]76-15-210. "; and

(c) Subsection 76-11-218(5)(c) enacted in H.B. 128 be amended to read:

"(c) An actor who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device within the secure area of an airport commits a violation of Section 76-15-210.";

(20) Section 76-11-219 (renumbered from Section 76-10-530) in H.B. 128 supersede the amendments to Section 76-10-530 in H.B. 21;

(21) (a) Section 76-15-210 (renumbered from Section 76-10-306) in H.B. 21 supersede the amendments to Section 76-10-306 in H.B. 128; and

(b) Subsection 76-15-210(2)(b)(iii) in H.B. 21 be amended to read:

"(iii) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-11-218, or 78A-2-203.";

(22) the amendments to Section 76-11-201 enacted in H.B. 128 supersede the amendments to Section 76-11-201 enacted in H.B. 21;

(23) the amendments to Section 76-11-301 enacted in H.B. 128 supersede the amendments to Section 76-11-301 enacted in H.B. 21; and

(24) the amendments to Section 53-5a-102.1 enacted in H.B. 128 supersede the amendments to Section 53-5a-102.1 enacted in H.B. 21.

Section 155. Coordinating H.B. 128 with S.B. 14.

If H.B. 128, Dangerous Weapons Recodification and Cross References, and S.B. 14, Private Sale of a Firearm Sunset Review Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 63I-1-253(9) enacted by H.B. 128 be deleted and the remaining subsections renumbered accordingly.

CHAPTER 209
H. B. 139
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

GOVERNMENTAL ACCOUNTING AMENDMENTS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill addresses a political subdivision's annual financial report.

Highlighted Provisions:

This bill:

- ► requires the state auditor to develop a form;
- ► requires a political subdivision's chief financial officer and chief administrative officer to include the state auditor's form with the political subdivision's annual financial report; and
- ► makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-50-201, as enacted by Laws of Utah 2013, Chapter 367

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-50-201 is amended to read:

11-50-201. State auditor to develop financial certification form -- Certification by chief administrative officer and chief financial officer required.

(1) The state auditor shall, in consultation with stakeholders that represent the interests of local government and in accordance with accounting industry best practices, develop a financial certification form.

(2) For an annual financial report of a political subdivision to be [~~considered complete on and after July 1, 2013, the following certifications shall be included with the annual financial report:~~]complete, the chief administrative officer and chief financial officer shall ensure that the annual financial report includes the financial certification form developed by the state auditor under Subsection (1).

[~~(1) Under penalty of perjury, I, [officer's name] certify that the [annual financial report] of [political subdivision] for the year ended [date] fairly presents in all material respects the financial condition and results of operations of [political subdivision].~~

~~[signature], Chief Administrative Officer.~~]

[~~(2) Under penalty of perjury, I, [officer's name] certify that the [annual financial report] of [political subdivision] for the year ended [date] fairly presents in all material respects the financial condition and results of operations of [political subdivision].~~

~~[signature], Chief Financial Officer.~~]

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 210
H. B. 150
Passed February 28, 2025
Approved March 25, 2025
Effective May 7, 2025

EMERGENCY COMMUNICATIONS MODIFICATIONS

Chief Sponsor: David Shallenberger
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions related to public safety answering point qualifications for proportionate share funding.

Highlighted Provisions:

This bill:

- ► prohibits nonvoting board members from attending closed portions of board meetings;
- ► changes the comprehensive strategic plan review cycle from annual to every three years;
- ► requires periodic review and updates of the statewide CAD-to-CAD protocol;
- ► removes the requirement that all public safety answering points in a county must qualify for a proportionate share of remaining funds for any public safety answering point in that county to receive funds; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63H-7a-203, as last amended by Laws of Utah 2024, Chapter 357
63H-7a-206, as last amended by Laws of Utah 2024, Chapter 357
63H-7a-208, as last amended by Laws of Utah 2024, Chapter 21
63H-7a-304.5, as last amended by Laws of Utah 2024, Chapter 357

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63H-7a-203 is amended to read:
63H-7a-203. Board established -- Terms -- Vacancies.

(1) There is created the Utah Communications Authority Board.

(2) The board shall consist of nine voting board members and two nonvoting board members as follows:

(a) as voting members:

(i) three individuals appointed by the governor with the advice and consent of the Senate;

(ii) one individual who is not a legislator appointed by the speaker of the House of Representatives;

(iii) one individual who is not a legislator appointed by the president of the Senate;

(iv) two individuals nominated by an association that represents cities and towns in the state and appointed by the governor with the advice and consent of the Senate; and

(v) two individuals nominated by an association that represents counties in the state and appointed by the governor with the advice and consent of the Senate; and

(b) as nonvoting members, the chairs of the public safety advisory committee created in Section 63H-7a-207 and the PSAP advisory committee created in Section 63H-7a-208.

(3) Subject to this section, an individual is eligible for appointment under Subsection (2) if the individual has knowledge of at least one of the following:

(a) law enforcement;

(b) public safety;

(c) fire service;

(d) telecommunications;

(e) finance;

(f) management; and

(g) government.

(4) An individual may not serve as a voting board member if the individual is a current public safety communications network:

(a) user; or

(b) vendor.

(5) (a) (i) Five of the board members appointed under Subsection (2)(a) shall serve an initial term of two years and four of the board members appointed under Subsection (2)(a) shall serve an initial term of four years.

(ii) Successor board members shall each serve a term of four years.

(b) (i) The governor may remove a board member with cause.

(ii) If the governor removes a board member the entity that appointed the board member under Subsection (2)(a) shall appoint a replacement board member in the same manner as described in Subsection (2)(a).

(6) (a) The governor shall, after consultation with the board, appoint a voting board member as chair of the board.

(b) The chair shall serve a two-year term.

(7) The board shall meet on an as-needed basis and as provided in the bylaws.

(8) (a) The board shall elect one of the board members to serve as vice chair.

(b) (i) The board may elect a secretary and treasurer who are not members of the board.

(ii) If the board elects a secretary or treasurer who is not a member of the board, the secretary or treasurer does not have voting power.

(c) A separate individual shall hold the offices of chair, vice chair, secretary, and treasurer.

(9) Except for the nonvoting members described in Subsection (2)(b), each board member, including the chair, has one vote.

(10) A nonvoting member described in Subsection (2)(b) may not attend closed portions of board meetings.

[~~(10)~~](11) A vote of a majority of the board members is necessary to take action on behalf of the board.

[~~(11)~~](12) A board member may not receive compensation for the member's service on the board, but may, in accordance with rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:

(a) a per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

Section 2. Section 63H-7a-206 is amended to read:

63H-7a-206. Required annual reporting and strategic plan.

(1) The authority shall create, maintain, and review [~~annually~~]a statewide, comprehensive multiyear strategic plan, in consultation with state and local stakeholders, the PSAP advisory committee, and the public safety advisory committee, that:

(a) coordinates the authority's activities and duties in the:

(i) 911 Division;

(ii) Radio Network Division;

(iii) Interoperability Division; and

(iv) Administrative Services Division; and

(b) includes:

(i) a plan for maintaining, upgrading, and expanding the public safety communications network, including microwave and fiber optics based systems;

(ii) a plan for statewide interoperability;

(iii) a plan for statewide coordination;

(iv) radio network coverage maps; and

(v) FirstNet standards.

(2) The executive director shall update the strategic plan described in Subsection (1) every three years before July 1 [~~of each year~~]beginning July 1, 2025.

(3) The executive director shall, before December 1 of each year, report on the strategic plan described in Subsection (1) to:

(a) the board;

(b) the Executive Offices and Criminal Justice Appropriations Subcommittee;

(c) the Legislative Management Committee; and

(d) the Retirement and Independent Entities Interim Committee.

(4) Each report described in Subsection (3) shall include a description of the authority's goals for implementation of the strategic plan and a progress report of accomplishments and updates to the strategic plan.

(5) The authority shall consider the strategic plan described in Subsection (1) before spending funds in the restricted accounts created by this chapter.

(6) (a) Following the close of each fiscal year, the executive director shall submit and make available to the public an annual report of the authority's activities for the preceding year to the governor, the board, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Retirement and Independent Entities Interim Committee.

(b) Each report described in Subsection (6)(a) shall include:

(i) the agency's complete operating and financial statement for the preceding fiscal year;

(ii) the total aggregate surcharge collected by the state in the last fiscal year under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;

(iii) the amount of each disbursement from the restricted accounts described in:

(A) Section 63H-7a-304; and

(B) Section 63H-7a-403;

(iv) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;

(v) any conditions the authority placed on the disbursements from a restricted account;

(vi) the anticipated expenditures from the restricted accounts described in this chapter for the next fiscal year;

(vii) the amount of any unexpended funds carried forward; and

(viii) other relevant justification for ongoing support from the restricted accounts created by:

(A) Section 63H-7a-304; and

(B) Section 63H-7a-403.

Section 3. Section 63H-7a-208 is amended to read:

63H-7a-208. PSAP advisory committee.

(1) There is established a PSAP advisory committee composed of nine members appointed by the board as follows:

(a) one representative from a PSAP managed by a city;

(b) one representative from a PSAP managed by a county;

(c) one representative from a PSAP managed by a special service district;

(d) one representative from a PSAP managed by the Department of Public Safety;

(e) one representative from a PSAP from a county of the first class;

(f) one representative from a PSAP from a county of the second class;

(g) one representative from a PSAP from a county of the third or fourth class;

(h) one representative from a PSAP from a county of the fifth or sixth class; and

(i) one member from the telecommunications industry.

(2) (a) Except as provided in Subsection (2)(b), each member shall be appointed to a four-year term beginning July 1, 2019.

(b) Notwithstanding Subsection (2)(a), the board shall:

(i) at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that the terms of approximately half of the committee end every two years; and

(ii) not reappoint a member for more than two consecutive terms.

(3) If a vacancy occurs in the membership for any reason, the replacement shall be appointed by the board for the unexpired term.

(4) (a) Each January, the committee shall organize and select one of its members as chair and one member as vice chair.

(b) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(5) (a) The chair shall convene a minimum of four meetings per year.

(b) The chair may call special meetings.

(c) The chair shall call a meeting upon request of five or more members of the committee.

(6) Five members of the committee constitute a quorum for the transaction of business, and the action of a majority of the members present is the action of the committee.

(7) A member may not receive compensation or benefits for the member's service.

(8) The PSAP advisory committee shall, on behalf of stakeholders, make recommendations to the director and the board regarding:

(a) the authority operations and policies;

(b) the 911 division and interoperability division strategic plans;

(c) the operation, maintenance, and capital development of the public safety communications network;

(d) the authority's administrative rules relative to the 911 division and the interoperability division; and

(e) the development of minimum standards and best practices as described in Subsection 63H-7a-302(1)(a).

(9) [~~No later than September 30, 2020, the~~]The PSAP advisory committee shall [~~propose to the board a statewide CAD-to-CAD call handling and 911 call transfer protocol.~~]:

(a) review and propose updates to the board regarding the statewide CAD-to-CAD call handling and 911 call transfer protocol at least every three years; and

(b) propose updates to the protocol as needed to address technological changes or operational needs.

(10) The chair of the PSAP advisory committee is a nonvoting member of the board.

(11) (a) The committee is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

(b) The committee shall:

(i) at least 24 hours before a committee meeting, post a notice of the meeting, with a meeting agenda, on the authority's website;

(ii) within 10 days after a committee meeting, post to the authority's website the audio and draft minutes of the meeting; and

(iii) within three days after the committee approves minutes of a committee meeting, post the approved minutes to the authority's website.

(c) The committee's vice chair is responsible for preparing minutes of committee meetings.

(12) On or before December 31, 2024, the PSAP advisory committee shall coordinate with the State Bureau of Investigation to use the intelligence system described in Subsections 53-10-302(7) and (8) to:

(a) establish the information a PSAP is required to submit to the intelligence system; and

(b) create a format for submitting information.

Section 4. Section 63H-7a-304.5 is amended to read:

63H-7a-304.5. Distributions from 911 account to qualifying PSAPs.

(1) As used in this section:

(a) "Certified statement" means a statement signed by a PSAP's director or other authorized administrator certifying the PSAP's compliance with the requirements of Subsection (2)(a).

(b) "Fiscal year" means the period from July 1 of one year to June 30 of the following year.

(c) "Proportionate share" means a percentage derived by dividing a PSAP's average 911 call volume, as reported to the State Tax Commission under Section 69-2-302, for the preceding three years by the total of the average 911 call volume for the same three-year

period for all PSAPs that have submitted a certified statement seeking a distribution of the applicable remaining funds.

(d) "Qualifying PSAP" means a PSAP that:

(i) meets the requirements of Subsection (2)(a) for the period for which remaining funds are sought; and

(ii) submits a timely certified statement to the authority.

(e) "Remaining funds" means the money remaining in the 911 account after deducting:

(i) disbursements under Subsections 63H-7a-304(2)(a), (3), and (4);

(ii) authority expenditures or disbursements in accordance with the authority's strategic plan, including expenditures or disbursements to pay for:

(A) implementing, maintaining, or upgrading the public safety communications network or statewide 911 phone system; and

(B) authority overhead for managing the 911 portion of the public safety communications network; and

(iii) money that the board determines should remain in the 911 account for future use.

(f) "Required transfer rate" [~~means~~]means a transfer rate of no more than 2%.

(g) "Transfer rate" means the same as that term is defined in Section 69-2-204.

(2) (a) To qualify for a proportionate share of remaining funds, a PSAP shall, for the period for which remaining funds are sought:

(i) have answered:

(A) 90% of all 911 calls arriving at the PSAP within 15 seconds; and

(B) 95% of all 911 calls arriving at the PSAP within 20 seconds;

(ii) have adopted and be using the statewide CAD-to-CAD call handling and 911 call transfer protocol adopted by the board under Subsection 63H-7a-204(17);

(iii) have participated in the authority's annual interoperability exercise;

(iv) have complied with the required transfer rate; and

(v) be designated as an emergency medical service dispatch center according to Section [~~26B-4-117~~]53-2d-403.

(b) A PSAP that seeks a proportionate share of remaining funds shall submit a certified statement to the authority no later than July 31 following the end of the fiscal year for which remaining funds are sought.

(c) Notwithstanding Subsection (2)(a) [~~:~~],

[~~(i) a qualifying PSAP in a county with multiple PSAPs does not qualify for a proportionate share of remaining funds for a period beginning after June 30, 2023, unless every PSAP in that county is a qualifying PSAP; and~~]

[~~(ii)~~] a PSAP described in Subsection 69-2-203(5) does not qualify for remaining funds.

(3) (a) Subject to Subsection (3)(b), for PSAPs that have become qualifying PSAPs for the previous fiscal year the authority shall distribute to each qualifying PSAP that PSAP's proportionate share of the remaining funds.

(b) The authority may not distribute more than 20% of remaining funds to any single PSAP.

(4) All money that a PSAP receives under this section is subject to Section 69-2-301.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 211
H. B. 154
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

PUNITIVE DAMAGES AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill modifies provisions related to punitive damages.

Highlighted Provisions:

This bill:

- ► modifies provisions of the Victim Services Restricted Account; and
- ► requires, after a set date, that the state's portion of punitive damage payments that is received in certain driving under the influence cases are deposited into the Victims Services Restricted Account.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-219, as enacted by Laws of Utah 2023, Chapter 150
78B-8-201, as last amended by Laws of Utah 2011, Chapter 79

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-7-219 is amended to read:

63M-7-219. Victim Services Restricted Account -- Funding -- Uses.

(1) There is created in the General Fund a restricted account known as the "Victim Services Restricted Account."

(2) The Victim Services Restricted Account is funded by:

(a) money appropriated to the account by the Legislature;

(b) money deposited from a judgment in favor of the state pursuant to the requirements of Section 78B-8-201;

[~~(b)~~](c) gifts, donations, or grants from private entities or individuals; and

[~~(c)~~](d) interest earned on money in the account.

(3) Subject to appropriation, the Legislature shall use the funds in the Victim Services Restricted Account to fund services for victims, including using funds for:

(a) services provided by Children's Justice Centers;

(b) services for sexual assault and domestic violence victims;

(c) services recommended by the Utah Victim Services Commission under Section 63M-7-804; or

(d) any administrative costs associated with implementing victim services.

Section 2. Section 78B-8-201 is amended to read:

78B-8-201. Basis for punitive damages awards -- Section inapplicable to DUI cases or providing illegal controlled substances -- Division of award with state -- Deposit of state judgment payments.

(1) (a) Except as otherwise provided by statute, punitive damages may be awarded only if compensatory or general damages are awarded and it is established by clear and convincing evidence that the acts or omissions of the tortfeasor are the result of willful and malicious or intentionally fraudulent conduct, or conduct that manifests a knowing and reckless indifference toward, and a disregard of, the rights of others.

(b) The limitations, standards of evidence, and standards of conduct of Subsection (1)(a) do not apply to any claim for punitive damages arising out of the tortfeasor's:

(i) operation of a motor vehicle or motorboat while voluntarily intoxicated or under the influence of any drug or combination of alcohol and drugs as prohibited by Section 41-6a-502;

(ii) causing death of another person by providing or administering an illegal controlled substance to the person under Section 78B-3-801; or

(iii) providing an illegal controlled substance to any person in the chain of transfer that connects directly to a person who subsequently provided or administered the substance to a person whose death was caused in whole or in part by the substance.

(c) The award of a penalty under Section 78B-3-108 regarding shoplifting is not subject to the prior award of compensatory or general damages under Subsection (1)(a) whether or not restitution has been paid to the merchant prior to or as a part of a civil action under Section 78B-3-108.

(2) Evidence of a party's wealth or financial condition shall be admissible only after a finding of liability for punitive damages has been made.

(a) Discovery concerning a party's wealth or financial condition may only be allowed after the party seeking punitive damages has established a prima facie case on the record that an award of punitive damages is reasonably likely against the party about whom discovery is sought and, if disputed, the court is satisfied that the discovery is not sought for the purpose of harassment.

(b) Subsection (2)(a) does not apply to any claim for punitive damages arising out of the tortfeasor's:

(i) operation of a motor vehicle or motorboat while voluntarily intoxicated or under the influence of any drug or combination of alcohol and drugs as prohibited by Section 41-6a-502;

(ii) causing death of another person or causing a person to be addicted by providing or administering an illegal controlled substance to the person under Section 78B-3-801; or

(iii) providing an illegal controlled substance to any person in the chain of transfer that connects directly to a person who subsequently provided or administered the substance to a person whose death was caused in whole or in part by the substance.

(3) (a) In any case where punitive damages are awarded, the court shall enter judgment as follows:

(i) for the first $50,000, judgment shall be in favor of the injured party; and

(ii) any amount in excess of $50,000 shall be divided equally between the state and the injured party, and judgment to each entered accordingly.

(b) (i) The actual and bona fide attorney fees and costs incurred in obtaining and collecting the judgment for punitive damages shall be considered to have been incurred by the state and the injured party in proportion to the judgment entered in each party's behalf.

(A) The state and injured party shall be responsible for each one's proportionate share only.

(B) The state is liable to pay its proportionate share only to the extent it receives payment toward its judgment.

(ii) If the court awards attorney fees and costs to the injured party as a direct result of the punitive damage award, the state shall have a corresponding credit in a proportionate amount based on the amounts of the party's respective punitive damage judgments. This credit may be applied as an offset against the amount of attorney fees and costs charged to the state for obtaining the punitive damage judgment.

(c) The state shall have all rights due a judgment creditor to collect the full amounts of both punitive damage judgments until the judgments are fully satisfied.

(i) Neither party is required to pursue collection.

(ii) In pursuing collection, the state may exercise any of its collection rights under Section 63A-3-301 et seq., Section 63A-3-502 et seq., and any other statutory provisions. Any amounts collected on these judgments by either party shall be held in trust and distributed as set forth in Subsection (3)(e).

(d) Unless all affected parties, including the state, expressly agree otherwise, collection on the punitive damages judgment shall be deferred until all other judgments have been fully paid. Any payment by or on behalf of any judgment debtor, whether voluntary, by execution, or otherwise, shall be distributed and applied in the following order:

(i) to the judgment for compensatory damage and any applicable judgment for attorney fees and costs;

(ii) to the initial $50,000 of the punitive damage judgment;

(iii) to any judgment for attorney fees and costs awarded as a direct result of the punitive damages; and

(iv) to the remaining judgments for punitive damages.

(e) Any partial payments shall be distributed equally between the state and injured party.

(f) After the payment of attorney fees and costs, all amounts paid on the state's judgment shall be remitted:

(i) for an amount received on or before May 11, 2025, to the state treasurer to be deposited into the General Fund [-]; and

(ii) for an amount received after May 11, 2025, to the state treasurer to be deposited into the Victims Services Restricted Fund established in Section 63M-7-219.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 212
H. B. 159
Passed February 20, 2025
Approved March 25, 2025
Effective May 7, 2025

PROTECTION ORDER AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill enacts the Uniform Recognition of Canadian Domestic Violence Protection Orders Act.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► enacts the Uniform Recognition of Canadian Domestic Violence Protection Orders Act;
- ► provides a severability clause; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-7-102, as last amended by Laws of Utah 2023, Chapter 170
78B-7-116, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

78B-7-1201, Utah Code Annotated 1953
78B-7-1202, Utah Code Annotated 1953
78B-7-1203, Utah Code Annotated 1953
78B-7-1204, Utah Code Annotated 1953
78B-7-1205, Utah Code Annotated 1953
78B-7-1206, Utah Code Annotated 1953
78B-7-1207, Utah Code Annotated 1953
78B-7-1208, Utah Code Annotated 1953
78B-7-1209, Utah Code Annotated 1953
78B-7-1210, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-7-102 is amended to read:
78B-7-102. Definitions.

As used in this chapter:

(1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly causing or attempting to cause another individual physical harm or intentionally or knowingly placing another individual in reasonable fear of imminent physical harm.

(2) "Affinity" means the same as that term is defined in Section 76-1-101.5.

(3) "Canadian domestic violence protection order" means the same as that term is defined in Section 78B-7-1201.

[~~(3)~~](4) "Civil protective order" means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders;

(d) Part 6, Cohabitant Abuse Protective Orders; or

(e) Part 11, Workplace Violence Protective Orders.

[~~(4)~~](5) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil Stalking Injunctions.

[~~(5)~~](6) (a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:

(i) is or was a spouse of the other party;

(ii) is or was living as if a spouse of the other party;

(iii) is related by blood or marriage to the other party as the individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;

(iv) has or had one or more children in common with the other party;

(v) is the biological parent of the other party's unborn child;

(vi) resides or has resided in the same residence as the other party; or

(vii) is or was in a consensual sexual relationship with the other party.

(b) "Cohabitant" does not include:

(i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or

(ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.

[~~(6)~~](7) "Consanguinity" means the same as that term is defined in Section 76-1-101.5.

[~~(7)~~](8) "Criminal protective order" means an order issued under Part 8, Criminal Protective Orders.

[~~(8)~~](9) "Criminal stalking injunction" means a stalking injunction issued under Part 9, Criminal Stalking Injunctions.

[~~(9)~~](10) "Court clerk" means a district court clerk.

[~~(10)~~](11) (a) "Dating partner" means an individual who:

(i) (A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7, Emancipation; or

(B) is 18 years old or older; and

(ii) is, or has been, in a dating relationship with the other party.

(b) "Dating partner" does not include an intimate partner.

[~~(11)~~](12) (a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.

(b) "Dating relationship" does not include casual fraternization in a business, educational, or social context.

(c) In determining, based on a totality of the circumstances, whether a dating relationship exists:

(i) all relevant factors shall be considered, including:

(A) whether the parties developed interpersonal bonding above a mere casual fraternization;

(B) the length of the parties' relationship;

(C) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship;

(D) the ongoing expectations of the parties, individual or jointly, with respect to the relationship;

(E) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and

(F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and

(ii) it is not necessary that all, or a particular number, of the factors described in Subsection [~~(11)(c)(i)~~](12)(c)(i) are found to support the existence of a dating relationship.

[~~(12)~~](13) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(13)~~](14) "Ex parte civil protective order" means an order issued without notice to the respondent under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders;

(d) Part 6, Cohabitant Abuse Protective Orders; or

(e) Part 11, Workplace Violence Protective Orders.

[~~(14)~~](15) "Ex parte civil stalking injunction" means a stalking injunction issued without notice to the respondent under Part 7, Civil Stalking Injunctions.

[~~(15)~~](16) "Foreign protection order" means:

(a) the same as that term is defined in Section 78B-7-302[~~,~~]; or

(b) a Canadian domestic violence protection order.

[~~(16)~~](17) "Household animal" means an animal that is tamed and kept as a pet.

[~~(17)~~](18) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

[~~(18)~~](19) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.

[~~(19)~~](20) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace Officer Classifications.

[~~(20)~~](21) "Qualifying domestic violence offense" means the same as that term is defined in Section 77-36-1.1.

[~~(21)~~](22) "Respondent" means the individual against whom enforcement of a protective order is sought.

[~~(22)~~](23) "Stalking" means the same as that term is defined in Section 76-5-106.5.

Section 2. Section 78B-7-116 is amended to read:

78B-7-116. Full faith and credit for foreign protection orders.

(1) A foreign protection order is enforceable in this state as provided in Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, and Title 78B, Chapter 7, Part 12, Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act.

(2) (a) A person entitled to protection under a foreign protection order may file the order in any district court by filing with the court a certified copy of the order. A filing fee may not be required.

(b) The person filing the foreign protection order shall swear under oath in an affidavit, that to the best of the person's knowledge the order is presently in effect as written and the respondent was personally served with a copy of the order.

(c) The affidavit described in Subsection (2)(b) shall be in the form adopted by the Administrative Office of the Courts, consistent with its responsibilities to develop and adopt forms under Section 78B-7-105.

(d) The court where a foreign protection order is filed shall transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113.

(e) Upon inquiry by a law enforcement agency, the clerk of the district court shall make a copy of the foreign protection order available.

(f) After a foreign protection order is filed, the district court shall furnish a certified copy of the order to the person who filed the order.

(g) A filed foreign protection order that is inaccurate or is not currently in effect shall be corrected or removed from the statewide domestic violence network described in Section 78B-7-113.

(3) Law enforcement personnel may:

(a) rely upon a certified copy of any foreign protection order which has been provided to the peace officer by any source;

(b) rely on the statement of the person protected by the order that the order is in effect and the respondent was personally served with a copy of the order; or

(c) consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.

(4) A violation in Utah of a foreign protection order is subject to the same penalties as the violation of a protective order issued in Utah.

Section 3. Section 78B-7-1201 is enacted to read:

PART 12. Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act

78B-7-1201. Definitions.

As used in this part:

(1) "Canadian domestic violence protection order" means a judgment or part of a judgment or order issued in a civil proceeding by a court of Canada under law of the issuing jurisdiction which relates to domestic violence and prohibits a respondent from:

(a) being in physical proximity to a protected individual or following a protected individual;

(b) directly or indirectly contacting or communicating with a protected individual or other individual described in the order;

(c) being within a certain distance of a specified place or location associated with a protected individual; or

(d) molesting, annoying, harassing, or engaging in threatening conduct directed at a protected individual.

(2) "Domestic protection order" means an injunction or other order issued by a tribunal which relates to domestic or family violence laws to prevent an individual from engaging in violent or threatening acts against, harassment of, direct or indirect contact or communication with, or being in physical proximity to another individual.

(3) "Issuing court" means the court that issues a Canadian domestic violence protection order.

(4) "Law enforcement officer" means an individual authorized by the law of this state other than this part to enforce a domestic protection order.

(5) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(6) "Protected individual" means an individual protected by a Canadian domestic violence protection order.

(7) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(8) "Respondent" means an individual against whom a Canadian domestic violence protection order is issued.

(9) (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(b) "State" includes a federally recognized Indian tribe.

(10) "Tribunal" means a court, agency, or other entity authorized by law of this state other than this part to establish, enforce, or modify a domestic protection order.

Section 4. Section 78B-7-1202 is enacted to read:

78B-7-1202. Enforcement of Canadian domestic violence protection order by law enforcement officer.

(1) If a law enforcement officer determines under Subsection (3) or (4) that there is probable cause to believe a valid Canadian domestic violence protection order exists and the order has been violated, the officer shall enforce the terms of the Canadian domestic violence protection order as if the terms were in an order of a tribunal.

(2) Presentation to a law enforcement officer of a certified copy of a Canadian domestic violence protection order is not required for enforcement.

(3) Presentation to a law enforcement officer of a record of a Canadian domestic violence protection order that identifies both a protected individual and a respondent, and on its face is in effect, constitutes probable cause to believe that a valid order exists.

(4) If a record of a Canadian domestic violence protection order is not presented as provided in Subsection (3), a law enforcement officer may consider other information in determining whether there is probable cause to believe that a valid Canadian domestic violence protection order exists.

(5) If a law enforcement officer determines that an otherwise valid Canadian domestic violence protection order cannot be enforced because the respondent has not been notified of or served with the order, the officer shall notify the protected individual that the officer will make reasonable efforts to contact the respondent, consistent with the safety of the protected individual.

(6) After notice to the protected individual and consistent with the safety of the individual, the officer shall make a reasonable effort to inform the respondent of the order, notify the respondent of the terms of the order, provide a record of the order, if available, to the respondent, and allow the respondent a reasonable opportunity to comply with the order before the officer enforces the order.

(7) If a law enforcement officer determines that an individual is a protected individual, the officer shall inform the individual of available local victim services.

Section 5. Section 78B-7-1203 is enacted to read:

78B-7-1203. Enforcement of Canadian domestic violence protection order by tribunal.

(1) A tribunal may issue an order enforcing or refusing to enforce a Canadian domestic violence protection order on application of:

(a) a person authorized by the law of this state other than this part to seek enforcement of a domestic protection order; or

(b) a respondent.

(2) In a proceeding under Subsection (1), the tribunal shall follow the procedures of this state for enforcement of a domestic protection order.

(3) An order entered under this section is limited to the enforcement of the terms of the Canadian domestic violence protection order as described in Section 78B-7-1201.

(4) A Canadian domestic violence protection order is enforceable under this section if:

(a) the order identifies a protected individual and a respondent;

(b) the order is valid and in effect;

(c) the issuing court had jurisdiction over the parties and the subject matter under law applicable in the issuing court; and

(d) the order was issued after:

(i) the respondent was given reasonable notice and had an opportunity to be heard before the court issued the order; or

(ii) in the case of an ex parte order, the respondent was given reasonable notice and had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the right of the respondent to due process.

(5) A Canadian domestic violence protection order valid on its face is prima facie evidence of the order's enforceability under this section.

(6) A claim that a Canadian domestic violence protection order does not comply with Subsection (4) is an affirmative defense in a proceeding seeking enforcement of the order.

(7) If a tribunal determines that a Canadian domestic violence protection order is not enforceable, the tribunal shall issue an order that the Canadian domestic violence protection order is not enforceable under this section and Section 78B-7-1202, and may not be registered under Section 78B-7-1204.

(8) This section applies to enforcement of a provision of a Canadian domestic violence protection order against a party to the order in which each party is a protected individual and respondent only if:

(a) the party seeking enforcement of the order filed a pleading requesting the order from the issuing court; and

(b) the court made specific findings that entitled the party to the enforcement sought.

Section 6. Section 78B-7-1204 is enacted to read:

78B-7-1204. Registration of Canadian domestic violence protection order.

(1) An individual may register a Canadian domestic violence protection order in this state.

(2) To register the order, the individual must file a certified copy of the order in accordance with Section 78B-7-116.

(3) Registration in this state or filing under the law of this state other than this part of a Canadian domestic violence protection order is not required for enforcement of the order under this part.

Section 7. Section 78B-7-1205 is enacted to read:

78B-7-1205. Immunity.

The state, state agency, local governmental agency, law enforcement officer, prosecuting attorney, clerk of court, and state or local governmental official acting in an official capacity are immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a Canadian domestic violence protection order or the detention or arrest of an alleged violator of a Canadian domestic violence protection order if the act or omission was a good faith effort to comply with this part.

Section 8. Section 78B-7-1206 is enacted to read:

78B-7-1206. Other remedies.

An individual who seeks a remedy under this part may seek other legal or equitable remedies.

Section 9. Section 78B-7-1207 is enacted to read:

78B-7-1207. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 10. Section 78B-7-1208 is enacted to read:

78B-7-1208. Relation to Electronic Signatures in Global and National Commerce Act.

This part modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 11. Section 78B-7-1209 is enacted to read:

78B-7-1209. Application.

(1) This part applies to a Canadian domestic violence protection order issued before, on, or after May 7, 2025, and to a continuing action for enforcement of a Canadian domestic violence protection order commenced before, on, or after May 7, 2025.

(2) A request for enforcement of a Canadian domestic violence protection order made on or after May 7, 2025, for a violation of the order occurring before, on, or after May 7, 2025, is governed by this part.

Section 12. Section 78B-7-1210 is enacted to read:

78B-7-1210. Severability.

If any provision of this part or its application to any person or circumstance is held invalid, the remainder of this part shall be given effect without the invalid provision or application. The provisions of this part are severable.

Section 13. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 213
H. B. 160
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

PROFESSIONAL LICENSE DEGREE AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill modifies licensure requirements.

Highlighted Provisions:

This bill:

- ► requires the board to maintain multiple pathways to licensure for architects;
- ► amends certain processes and procedures related to licensing requirements for:
  - • architects;
  - • environmental health scientists;
  - • land surveyors;
  - • substance use disorder counselors; and
  - • geologists; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-3a-201, as last amended by Laws of Utah 2024, Chapter 507
58-3a-302, as last amended by Laws of Utah 2022, Chapter 415
58-20b-302, as last amended by Laws of Utah 2020, Chapter 339
58-22-302, as last amended by Laws of Utah 2020, Chapters 339, 365
58-60-506, as last amended by Laws of Utah 2024, Chapter 420
58-76-302, as last amended by Laws of Utah 2020, Chapter 339

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-3a-201 is amended to read:
58-3a-201. Board.

(1) There is created the Architects and Landscape Architects Licensing Board consisting of:

(a) four architects;

(b) two landscape architects; and

(c) one member of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203 with respect to this chapter and Chapter 53, Landscape Architects Licensing Act.

(4) The board shall designate one of [~~its~~]the board's members on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the conduct of an individual licensed under this chapter or Chapter 53, Landscape Architects Licensing Act; [~~and~~]

(b) advise the division in [~~its~~]the division's investigation of these complaints [~~.~~]; and

(c) assist the division to maintain multiple methods to obtain licensure by rule.

(5) A board member who has, under Subsection (4), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

(6) The board shall maintain at least two pathways for licensure.

Section 2. Section 58-3a-302 is amended to read:
58-3a-302. Qualifications for licensure.

(1) Except as provided in Subsection (2), each applicant for licensure as an architect shall:

(a) submit an application in a form [~~prescribed~~]approved by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) [~~have graduated and received an earned bachelors or masters~~]hold, at a minimum, a bachelor's degree from an architecture program meeting criteria established by rule by the division in collaboration with the board;

(d) have successfully completed a program of diversified practical experience established by rule by the division in collaboration with the board;

(e) have successfully passed examinations established by rule by the division in collaboration with the board; and

(f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

(2) Each applicant for licensure as an architect by endorsement shall:

(a) submit an application in a form [~~prescribed~~]approved by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) submit satisfactory evidence of:

(i) (A) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board; and

(B) current certification from the National Council of Architectural Registration Boards; or

(ii) (A) current license in good standing in a jurisdiction recognized by rule by the division in collaboration with the board; and

(B) full-time employment as a licensed architect as a principal for at least five of the last seven years immediately preceding the date of the application;

(d) have successfully passed an examination established by rule by the division in collaboration with the board; and

(e) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

Section 3. Section 58-20b-302 is amended to read:

58-20b-302. Qualifications for licensure.

(1) Except as provided in Subsection (2), an applicant for licensure as an environmental health scientist shall:

(a) submit an application in a form [~~prescribed~~]approved by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) hold, at a minimum, a bachelor's degree [~~from an accredited program in a university or college, which degree includes completion of specific course work as defined by rule~~];

(d) pass an examination as determined by division rule in collaboration with the board; and

(e) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division.

(2) An applicant for licensure as an environmental health scientist-in-training shall:

(a) submit an application in a form [~~prescribed~~]approved by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) hold, at a minimum, a bachelor's degree [~~from an accredited program in a university or college, which degree includes completion of specific course work as defined by rule~~];

(d) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division; and

(e) present evidence acceptable to the division and the board that the applicant, when licensed under this Subsection (2), will practice as an environmental health scientist-in-training only under the general supervision of a supervising environmental health scientist licensed under this chapter.

Section 4. Section 58-22-302 is amended to read:

58-22-302. Qualifications for licensure.

(1) Each applicant for licensure as a professional engineer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) (i) have graduated and received a bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board; or

(ii) have completed the Transportation Engineering Technology and Fundamental Engineering College Program before July 1, 1998, under the direction of the Utah Department of Transportation and as certified by the Utah Department of Transportation;

(d) have successfully completed a program of qualifying experience established by rule by the division in collaboration with the board;

(e) have successfully passed examinations established by rule by the division in collaboration with the board; and

(f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(2) Each applicant for licensure as a professional structural engineer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have graduated and received an earned bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board;

(d) have successfully completed three years of licensed professional engineering experience established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating that the applicant is currently engaged in the practice of structural engineering;

(e) have successfully passed examinations established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating that the applicant is currently engaged in the practice of structural engineering; and

(f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(3) Each applicant for licensure as a professional land surveyor shall:

(a) submit an application in a form [~~prescribed~~]approved by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) (i) [~~have graduated and received~~]hold, at a minimum, an associates [~~, bachelors, or masters~~] degree from a land surveying program, or an equivalent land surveying program, such as a program offered by a technical college described in Section 53B-2a-105, [~~as approved by the Utah Board of Higher Education,~~]established by rule by the division in collaboration with the board, and have successfully completed a program of qualifying experience in land surveying established by rule by the division in collaboration with the board; or

(ii) have successfully completed a program of qualifying experience in land surveying prior to January 1, 2007, in accordance with rules established by the division in collaboration with the board;

(d) have successfully passed examinations established by rule by the division in collaboration with the board; and

(e) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(4) Each applicant for licensure by endorsement shall:

(a) submit an application in a form [~~prescribed~~]approved by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) submit satisfactory evidence of:

(i) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board;

(ii) having successfully passed an examination established by rule by the division in collaboration with the board; and

(iii) full-time employment as a principal for at least five of the last seven years immediately preceding the date of the application as a:

(A) licensed professional engineer for licensure as a professional engineer;

(B) licensed professional structural engineer for licensure as a structural engineer; or

(C) licensed professional land surveyor for licensure as a professional land surveyor; and

(d) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

(5) The rules made to implement this section shall be in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 5. Section 58-60-506 is amended to read:

58-60-506. Qualifications for licensure.

(1) Subject to Subsection (2), an applicant for licensure as master addiction counselor based on education, training, and experience shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(d) via a course that the division designates as approved;

(d) produce a certified transcript from an accredited institution of higher education that meets standards established by division rule under Section 58-1-203, verifying the satisfactory completion of:

(i) a doctoral or master's degree in:

(A) substance use disorders or addiction counseling and treatment; or

(B) a counseling subject approved by the division in collaboration with the board, which may include social work, mental health counseling, marriage and family therapy, psychology, or medicine;

(ii) an associate's degree or higher, or 18 credit hours, in substance use disorder or addiction counseling and treatment from a regionally accredited institution of higher education;

(e) if required under federal law for any licensee as a master addiction counselor to qualify as an eligible professional under CMS rules for Medicare payment, document completion of:

(i) not less than 3,000 hours of clinical supervision, which includes hours accrued under Subsection (1)(g); or

(ii) not less than two years of clinical supervision;

(f) document successful completion of not less than 1,200 direct client care hours:

(i) obtained after completion of the education requirements under Subsection (1)(d)(ii);

(ii) subject to Subsection (1)(f)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor;

(iii) not less than 25 of which are direct observation hours; and

(iv) not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;

(g) if the applicant for licensure produces a transcript described in Subsection (1)(d)(ii), evidence completion of an additional 200 hours of direct client care hours in substance use disorder or addiction treatment;

(h) (i) pass the examination requirement established by division rule under Section 58-1-203; or

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

(B) document successful completion of not less than 500 additional direct client care hours, not less than 25 of which are direct clinical supervision hours, and not less than five of which are direct observation hours by a clinical supervisor;

(C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

(D) submit to the division a recommendation letter from another licensed mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor; and

(i) consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) In lieu of the requirements under Subsections (1)(d) through (i), an applicant for licensure as master addiction counselor may document current certification in good standing as:

(a) a master addiction counselor by the National Certification Commission for Addiction Professionals;

(b) a master addiction counselor by the National Board for Certified Counselors; or

(c) an equivalent certification as under Subsections (2)(a) and (b), as determined in rule made by the division in collaboration with the board.

(3) An applicant for licensure as an associate master addiction counselor shall satisfy the requirements under Subsections (1)(a) through (c) and (i).

(4) Subject to Subsection (5), an applicant for licensure as an advanced substance use disorder counselor shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) (i) produce certified transcripts verifying satisfactory completion of:

(A) a bachelor's degree or higher, from a regionally accredited institution of higher learning, in substance use disorders, addiction, or related counseling subjects, including social work, mental health counseling, marriage and family counseling, or psychology; or

(B) two academic years of study in a master's of addiction counseling curriculum and practicum approved by the National Addictions Studies Accreditation Commission;

(ii) document completion of at least 500 hours of supervised experience while licensed as a substance use disorder counselor under this section, which the applicant may complete while completing the education requirements under Subsection (1)(c)(i); and

(iii) satisfy examination requirements established by the division in rule.

(5) The requirements of Subsection (4)(c) may be satisfied by providing official verification of current certification in good standing:

(a) (i) as a National Certified Addiction Counselor Level II (NCAC II) from the National Certification Commission for Addiction Professionals (NCC AP); or

(ii) as an Advanced Alcohol & Drug Counselor (AADC), from the International Certification and Reciprocity Consortium; or

(b) of substantive equivalence to the certifications under Subsection (5)(a), as determined by division rule made in consultation with the board.

(6) In accordance with division rules, an applicant for licensure as a substance use disorder counselor shall produce:

(a) certified transcripts from an accredited institution that:

(i) meet division standards; and

[~~(ii) verify satisfactory completion of an associate's degree or equivalent as defined by the division in rule; and~~]

[~~(iii)~~](ii) verify the completion of prerequisite courses established by division rules; and

(b) documentation of the applicant's completion of a substance use disorder education program that includes:

(i) completion of at least 200 hours of substance use disorder related education;

(ii) included in the 200 hours described in Subsection (6)(b)(i), a minimum of two hours of training in suicide prevention via a course that the division designates as approved; and

(iii) completion of a supervised practicum of at least 200 hours [~~; and~~].

[~~(c) documentation of the applicant's completion of at least 2,000 hours of supervised experience in substance use disorder treatment that:~~]

[~~(i) meets division standards; and~~]

[~~(ii) is performed within a two-year period after the applicant's completion of the substance use disorder education program described in Subsection (6)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.~~]

Section 6. Section 58-76-302 is amended to read:

58-76-302. Qualifications for licensure.

Each applicant for licensure as a professional geologist shall:

(1) submit an application in a form as [~~prescribed~~]approved by the division;

(2) pay a fee as determined by the department under Section 63J-1-504;

(3) provide satisfactory evidence of:

(a) [~~a bachelors or graduate~~]at a minimum, a bachelor's degree in the geosciences [~~granted through an institution of higher education that is accredited by a regional or national accrediting agency~~]with a minimum of 30 semester or 45 quarter hours of course work in the geosciences; or

(b) completion of other equivalent educational requirements as determined by the division in collaboration with the board;

(4) provide satisfactory evidence of:

(a) with a [~~bachelors~~]bachelor's degree, a specific record of five years of active professional practice in geological work of a character satisfactory to the division, indicating the applicant is competent to be placed in a responsible charge of the work;

(b) with a masters degree, a specific record of three years of active professional practice in geological work of a character satisfactory to the division, indicating the applicant is competent to be placed in a responsible charge of the work; or

(c) with a doctorate degree, a specific record of one year of active professional practice in geological work of a character satisfactory to the division, indicating the applicant is competent to be placed in a responsible charge of the work; and

(5) [~~after January 1, 2004, meet~~]meet the examination requirement established by rule by the division in collaboration with the board.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 214
H. B. 163
Passed February 20, 2025
Approved March 25, 2025
Effective May 7, 2025

ADULT PROBATION AND PAROLE AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill amends provisions related to the Division of Adult Probation and Parole within the Department of Corrections.

Highlighted Provisions:

This bill:

- ► establishes the Division of Adult Probation and Parole in the code;
- ► amends provisions throughout the code regarding the responsibility of the Department of Corrections to supervise individuals on probation or parole; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-53-106, as enacted by Laws of Utah 2018, Chapter 252
17-55-201, as last amended by Laws of Utah 2024, Chapter 187
41-6a-507, as last amended by Laws of Utah 2021, Chapter 342
53-10-209, as renumbered and amended by Laws of Utah 1998, Chapter 263
53-10-404, as last amended by Laws of Utah 2024, Chapter 234
53-13-103, as last amended by Laws of Utah 2024, Chapter 80
53B-35-202, as last amended by Laws of Utah 2024, Chapter 144
58-37f-301, as last amended by Laws of Utah 2023, Chapter 329
58-50-10, as last amended by Laws of Utah 2021, Chapter 260
59-27-105, as last amended by Laws of Utah 2013, Chapter 400
63A-16-1002, as last amended by Laws of Utah 2024, Chapter 467
63A-17-512, as last amended by Laws of Utah 2024, Chapter 80
63B-12-301, as last amended by Laws of Utah 2023, Chapter 369
63M-7-404.3, as enacted by Laws of Utah 2024, Chapter 197
63M-7-1002, as enacted by Laws of Utah 2024, Chapter 160
64-13-6, as last amended by Laws of Utah 2024, Chapters 144, 208
64-13-14.5, as last amended by Laws of Utah 2024, Chapters 96, 187 and 208
64-13-26, as last amended by Laws of Utah 2022, Chapter 187
64-13e-102, as last amended by Laws of Utah 2024, Chapter 467
76-3-202, as last amended by Laws of Utah 2024, Chapter 208
76-3-409, as last amended by Laws of Utah 1985, Chapter 212
77-2a-2, as last amended by Laws of Utah 2024, Chapter 208
77-2a-3, as last amended by Laws of Utah 2024, Chapter 180
77-16a-103, as last amended by Laws of Utah 2024, Chapter 177
77-16a-205, as last amended by Laws of Utah 2023, Chapter 184
77-18-102, as last amended by Laws of Utah 2024, Chapters 245, 434
77-18-105, as last amended by Laws of Utah 2024, Chapters 187, 208
77-18-107, as enacted by Laws of Utah 2021, Chapter 260
77-18-108, as last amended by Laws of Utah 2024, Chapter 208
77-18-109, as enacted by Laws of Utah 2021, Chapter 260
77-20-203, as last amended by Laws of Utah 2024, Chapter 16
77-20-204, as last amended by Laws of Utah 2024, Chapter 16
77-27-10, as last amended by Laws of Utah 2024, Chapter 208
77-27-10.5, as last amended by Laws of Utah 2023, Chapter 184
77-27-11, as last amended by Laws of Utah 2024, Chapter 208
77-32b-102, as last amended by Laws of Utah 2024, Chapter 389

77-36-5.1, as last amended by Laws of Utah 2021, Chapter 159
77-38-3, as last amended by Laws of Utah 2024, Chapter 240
77-38-611, as last amended by Laws of Utah 2023, Chapter 237
77-38b-102, as last amended by Laws of Utah 2024, Chapter 330
77-38b-304, as last amended by Laws of Utah 2023, Chapter 113
77-38b-401, as renumbered and amended by Laws of Utah 2021, Chapter 260
77-40a-205, as enacted by Laws of Utah 2024, Chapter 180
77-40a-305, as last amended by Laws of Utah 2024, Chapter 180
77-41-104, as last amended by Laws of Utah 2023, Chapter 128
77-41-105, as last amended by Laws of Utah 2024, Chapter 234
78B-7-807, as enacted by Laws of Utah 2020, Chapter 142

ENACTS:

64-14-101, Utah Code Annotated 1953
64-14-201, Utah Code Annotated 1953
64-14-202, Utah Code Annotated 1953
64-14-203, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

64-14-204, (Renumbered from 64-13-21, as last amended by Laws of Utah 2024, Chapters 208, 434)
64-14-205, (Renumbered from 64-13-29, as last amended by Laws of Utah 2024, Chapter 16)
64-14-301, (Renumbered from 64-13g-101, as enacted by Laws of Utah 2022, Chapter 393)
64-14-302, (Renumbered from 64-13g-102, as last amended by Laws of Utah 2024, Chapter 208)
64-14-303, (Renumbered from 64-13g-103, as enacted by Laws of Utah 2022, Chapter 393)

REPEALS:

64-13-21.2, as last amended by Laws of Utah 2010, Chapter 391

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-53-106 is amended to read:
13-53-106. Disclosure to participants.

(1) Before accepting a participant, a residential, vocational and life skills program shall provide to the prospective participant a written disclosure.

(2) The written disclosure shall include:

(a) a statement that the program is a registered residential, vocational and life skills program, but that the residential, vocational and life skills program is not endorsed by the state or the division;

(b) a statement that the prospective participant's continuation in the program is voluntary and that a participant may leave at any time;

(c) the conditions under which a participant is removed from the residential, vocational and life skills program or required to leave a program facility;

(d) a statement that the residential, vocational and life skills program will contact the Division of Adult Probation and Parole created in Section 64-14-202, if required by law; and

(e) a description of:

(i) the lodging, food, clothing, and other resources that are available to a participant;

(ii) the nature and scope of the residential, vocational and life skills program, including any activities or work that a participant is required to perform;

(iii) the scope and substance of peer-led activities;

(iv) the types of vocational training available to a participant, including the limitations on availability;

(v) the nature and extent of possible exposure to profanity, accusation, confrontation, nonphysical threats, or nonphysical corrective interaction;

(vi) the terms of any prohibition from contact with a participant's family, friends, or associates; and

(vii) any crimes committed within the previous two years at the residential, vocational and life skills program facility or at a vocational training entity affiliated with the residential, vocational and life skills program.

Section 2. Section 17-55-201 is amended to read:
17-55-201. Criminal justice coordinating councils -- Creation -- Strategic plan -- Reporting requirements.

(1) (a) Beginning January 1, 2023, a county shall:

(i) create a criminal justice coordinating council; or

(ii) jointly with another county or counties, create a criminal justice coordinating council.

(b) The purpose of a council is to coordinate and improve components of the criminal justice system in the county or counties.

(2) (a) A council shall include:

(i) one county commissioner or county council member;

(ii) the county sheriff or the sheriff's designee;

(iii) one chief of police of a municipality within the county or the chief's designee;

(iv) the county attorney or the attorney's designee;

(v) one public defender or attorney who provides public defense within the county;

(vi) one district court judge;

(vii) one justice court judge;

(viii) one representative from the Division of Adult Probation and Parole [~~within the Department of Corrections~~]created in Section 64-14-202;

(ix) one representative from the local mental health authority within the county; and

(x) one individual who is:

(A) a crime victim; or

(B) a victim advocate, as defined in Section 77-38-403.

(b) A council may include:

(i) an individual representing:

(A) local government;

(B) human services programs;

(C) higher education;

(D) peer support services;

(E) workforce services;

(F) local housing services;

(G) mental health or substance use disorder providers;

(H) a health care organization within the county;

(I) a local homeless council;

(J) family counseling and support groups; or

(K) organizations that work with families of incarcerated individuals; or

(ii) an individual with lived experiences in the criminal justice system.

(3) (a) A member who is an elected county official shall serve as chair of the council.

(b) The council shall elect the member to serve as chair under Subsection (3)(a).

(4) (a) A council shall develop and implement a strategic plan for the county's or counties' criminal justice system that includes:

(i) mapping of all systems, resources, assets, and services within the county's or counties' criminal justice system;

(ii) a plan for data sharing across the county's or counties' criminal justice system;

(iii) recidivism reduction objectives; and

(iv) community reintegration goals.

(b) The commission may assist a council in the development of a strategic plan.

(5) As part of the council's duties described in Subsection (4)(a)(i), the council shall prepare a list of private probation providers for a court to provide to defendants as described in Section 77-18-105.

(6) Before November 30 of each year, a council shall provide a written report to the commission regarding:

(a) the implementation of a strategic plan described in Subsection (4); and

(b) any data on the impact of the council on the criminal justice system in the county or counties.

Section 3. Section 41-6a-507 is amended to read:

41-6a-507. Supervised probation for certain driving under the influence violations.

(1) If supervised probation is ordered under Section 41-6a-505 or 41-6a-517:

(a) the court shall specify the period of the probation;

(b) the person shall pay all of the costs of the probation; and

(c) the court may order any other conditions of the probation.

(2) (a) Subject to Subsection (2)(b), the court shall provide the probation described in this section by contract with a probation monitoring agency or a private probation provider.

(b) If a court determines that a person is subject to supervised probation provided by the Division of Adult Probation and Parole created in Section 64-14-202 for an offense other than the offense for which probation is ordered under Section 41-6a-505 or 41-6a-517, the court may order supervised probation to be provided by the Division of Adult Probation and Parole.

(3) The probation provider described in Subsection (2) shall monitor the person's compliance with all conditions of the person's sentence, conditions of probation, and court orders received under this part and shall notify the court of any failure to comply with or complete that sentence or those conditions or orders.

(4) (a) The court may waive all or part of the costs associated with probation if the person is determined to be indigent by the court.

(b) The probation provider described in Subsection (2) shall cover the costs of waivers by the court under Subsection (4)(a).

Section 4. Section 53-10-209 is amended to read:

53-10-209. Penal institutions and state hospital to supply information.

(1) The warden of the state prison, keeper of any jail or correctional institution, and superintendent of the state hospital shall forward to the division:

(a) the fingerprints and recent photographs of all persons confined in each institution under criminal commitment;

(b) information relating to the parole, termination or expiration of sentence, or any other release of each person from confinement during the preceding month; and

(c) a photograph taken near the time of release.

(2) The [~~adult probation and parole section of the Department of Corrections~~]Division of Adult Probation and Parole created in Section 64-14-202 shall furnish to the division:

(a) information relating to the revocation or termination of probation or parole; and

(b) upon request, the names, fingerprints, photographs, and other data.

(3) The chair of the Board of Pardons and Parole shall provide to the division information regarding the issuance, recall, cancellation, or modification of any warrant issued by members of the Board of Pardons and Parole, under Section 77-27-11, within one day of issuance.

(4) Information provided to the division under this section shall be on forms designated by the division.

Section 5. Section 53-10-404 is amended to read:

53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.

(1) As used in this section, "person" means a person or minor described in Section 53-10-403.

(2) (a) A person under Section 53-10-403 or any person required to register as a sex offender, kidnap offender, or child abuse offender under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen $150 for the cost of obtaining the DNA specimen unless:

(i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or

(ii) the agency determines the person lacks the ability to pay.

(b) (i) (A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.

(B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.

(ii) An agency's guidelines and procedures may provide for the assessment of $150 on the inmate's county trust fund account and may allow a negative balance in the account until the $150 is paid in full.

(3) (a) (i) All fees collected under Subsection (2) shall be deposited into the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than $25 per individual specimen for the costs of obtaining the saliva DNA specimen.

(ii) The agency collecting the $150 fee may not retain from each separate fee more than $25, and no amount of the $150 fee may be credited to any other fee or agency obligation.

(b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.

(c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.

(d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.

(e) (i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.

(ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.

(iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.

(f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.

(4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:

(i) after a conviction or an adjudication by the juvenile court;

(ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c); and

(iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).

(b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).

(c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:

(i) obtain and transmit an additional DNA specimen; or

(ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.

(d) Each agency that is responsible for collecting DNA specimens under this section shall establish:

(i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and

(ii) a procedure to account for the management of all fees it collects under this section.

(5) (a) The Department of Corrections is the responsible agency whenever the person is committed to the custody of or is under the supervision of the [~~Department of Corrections~~]Division of Adult Probation and Parole created in Section 64-14-202.

(b) If a minor described in Subsection 53-10-403(3) is not committed to the legal custody of the Division of Juvenile Justice and Youth Services upon an adjudication, the juvenile court is the responsible agency regarding the collection of a DNA specimen from the minor.

(c) If a minor described in Subsection 53-10-403(3) is committed to the legal custody of the Division of Juvenile Justice and Youth Services upon an adjudication, the Division of Juvenile Justice and Youth Services is the responsible agency regarding the collection of a DNA specimen from the minor.

(d) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:

(i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of the Department of Corrections or are not under the supervision of the [~~Department of Corrections~~]Division of Adult Probation and Parole created in Section 64-14-202;

(ii) are incarcerated in the county jail:

(A) as a condition of probation for a felony offense; or

(B) for a misdemeanor offense for which collection of a DNA specimen is required;

(iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c); and

(iv) are booked at the county jail:

(A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or

(B) on or after January 1, 2015, for any felony offense.

(e) Each agency required to collect a DNA specimen under this section shall:

(i) designate employees to obtain the saliva DNA specimens required under this section; and

(ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.

(6) (a) As used in this Subsection (6), "department" means the Department of Corrections.

(b) Priority of obtaining DNA specimens by the department is:

(i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004; and

(ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.

(c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:

(i) first, persons on probation;

(ii) second, persons on parole; and

(iii) third, incarcerated persons.

(d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.

(7) (a) As used in this Subsection (7):

(i) "Court" means the juvenile court.

(ii) "Division" means the Division of Juvenile Justice and Youth Services.

(b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 whose cases are under the jurisdiction of the court but who are not in the legal custody of the division shall be:

(i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under the court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and

(ii) second, to obtain specimens from minors whose cases are under the jurisdiction of the court after July 1, 2002, within 120 days of the minor's case being found to be within the court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's case terminates.

(c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, before termination of the division's legal custody of these minors; and

(ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but no later than before the termination of the court's jurisdiction over the minor's case.

(8) (a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice and Youth Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.

(b) (i) The department may designate correctional officers, including those employed by the [~~adult probation and parole section of the department~~]Division of Adult Probation and Parole created in Section 64-14-202, to obtain the saliva DNA specimens required under this section.

(ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

Section 6. Section 53-13-103 is amended to read:

53-13-103. Law enforcement officer.

(1) (a) "Law enforcement officer" means a sworn and certified peace officer:

(i) who is an employee of a law enforcement agency; and

(ii) whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) "Law enforcement officer" includes the following:

(i) a sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;

(ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(iii) all individuals specified in Section 79-2-704;

(iv) a police officer employed by a state institution of higher education;

(v) investigators for the Motor Vehicle Enforcement Division;

(vi) investigators for the Department of Insurance, Fraud Division;

(vii) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

(viii) employees of the Department of Natural Resources designated as peace officers by law;

(ix) school district police officers as designated by the board of education for the school district;

(x) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

(xi) correctional enforcement, investigative, or [~~adult probation and parole~~]Division of Adult Probation and Parole officers employed by the Department of Corrections serving on or before July 1, 1993;

(xii) members of a law enforcement agency established by a private college or university if the agency is certified by the commissioner under [~~Title 53,~~]Chapter 19, Certification of Private Law Enforcement Agency;

(xiii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

(xiv) transit police officers designated under Section 17B-2a-822.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority:

(a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

(ii) have met the waiver requirements in Section 53-6-206; and

(b) have satisfactorily completed annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 7. Section 53B-35-202 is amended to read:

53B-35-202. Council duties -- Reporting.

(1) The council shall:

(a) coordinate, facilitate, and support higher education delivered in the state's correctional facilities, including the county jails under contract with the Department of Corrections to house inmates, to prepare incarcerated individuals for integration and productive employment upon release;

(b) explore and provide recommendations to the board and the Department of Corrections for the efficient and effective delivery of higher education programs to incarcerated individuals, including:

(i) evidence-based practices and technologies;

(ii) methods of maximizing and facilitating incarcerated individuals' access to educational programs;

(iii) methods of supporting and facilitating timely completion of courses, certificates, and degrees;

(iv) methods of emphasizing educational programs that:

(A) align with current and future workforce demands of the state;

(B) lead to occupations that are accessible to released incarcerated individuals;

(C) provide sustainable wages following release; and

(D) maximize accessibility and timely completion during incarceration;

(v) use of cross-institutional application of coursework toward certificates and degrees;

(vi) use of coursework that encourages personal and civic development; and

(vii) methods of leveraging innovative course delivery, including technology resources;

(c) explore methods and make recommendations for the collection and analysis of critical data regarding:

(i) enrollment and completion of postsecondary education courses, certificate programs, credentials, and degree programs;

(ii) federal and state student aid awarded to incarcerated individuals;

(iii) costs of postsecondary education in prison, including any recommendations for continued improvement; and

(iv) outcomes of formerly incarcerated individuals who participated in postsecondary programming during incarceration if the individual is under the supervision of the [~~Department of Corrections~~]Division of Adult Probation and Parole created in Section 64-14-202, including recidivism, employment, and post-release postsecondary education engagement; and

(d) recommend requests for legislative appropriations to the board to support the purposes and objectives of the council.

(2) The council shall annually report regarding the council's plans and programs, the number of enrollees served, and the number of enrollees receiving degrees and certificates to:

(a) the board;

(b) before the committee's November interim committee meeting, the Education Interim Committee; and

(c) at least 30 days before the beginning of the annual legislative session, the Higher Education Appropriations Subcommittee.

Section 8. Section 58-37f-301 is amended to read:

58-37f-301. Access to database.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) (i) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division; and

(ii) the following law enforcement officers, but the division may only provide nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a controlled substance has been prescribed or to whom a controlled substance has been dispensed:

(A) a law enforcement agency officer who is engaged in a joint investigation with the division; and

(B) a law enforcement agency officer to whom the division has referred a suspected criminal violation of controlled substance laws;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) a board member if:

(i) the board member is assigned to monitor a licensee on probation; and

(ii) the board member is limited to obtaining information from the database regarding the specific licensee on probation;

(d) a person the division authorizes to obtain that information on behalf of the Utah Professionals Health Program established in Subsection 58-4a-103(1) if:

(i) the person the division authorizes is limited to obtaining information from the database regarding the person whose conduct is the subject of the division's consideration; and

(ii) the conduct that is the subject of the division's consideration includes a violation or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant violation or potential violation under this title;

(e) in accordance with a written agreement entered into with the department, employees of the Department of Health and Human Services:

(i) whom the director of the Department of Health and Human Services assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies;

(ii) when the information is requested by the Department of Health and Human Services in relation to a person or provider whom the Department of Health and Human Services suspects may be improperly obtaining or providing a controlled substance; or

(iii) in the medical examiner's office;

(f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health and Human Services, who is not an employee of the Department of Health and Human Services, whom the director of the Department of Health and Human Services assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health and Human Services, if:

(i) the designee provides explicit information to the Department of Health and Human Services regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health and Human Services for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services;

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of Health and Human Services; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, and not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(g) in accordance with a written agreement entered into with the department and the Department of Health and Human Services, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health and Human Services under the provisions of Section 26B-3-202 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health and Human Services to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

(h) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii) (A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(i); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(7) with respect to the employee;

(j) an employee of the same business that employs a licensed practitioner under Subsection (2)(h) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(7) with respect to the employee;

(k) a licensed pharmacist having authority to dispense a controlled substance, or a licensed pharmacy intern or pharmacy technician working under the general supervision of a licensed pharmacist, to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance;

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacy, practitioner, or health care facility; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacy, practitioner, or health care facility;

(iii) reporting to the controlled substance database; or

(iv) verifying the accuracy of the data submitted to the controlled substance database on behalf of a pharmacy where the licensed pharmacist, pharmacy intern, or pharmacy technician is employed;

(l) pursuant to a valid search warrant, federal, state, and local law enforcement officers and state and local prosecutors who are engaged in an investigation related to:

(i) one or more controlled substances; and

(ii) a specific person who is a subject of the investigation;

(m) subject to Subsection (7), a probation or parole officer, employed by the [~~Department of Corrections~~]Division of Adult Probation and Parole created in Section 64-14-202 or by a political subdivision, to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;

(n) employees of the Office of Internal Audit within the Department of Health and Human Services who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26B-3-104;

(o) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(o), from the database;

(p) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(q) an individual under Subsection (2)(p) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

(r) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers;

(s) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601;

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

(iii) a physician offering a second opinion regarding treatment;

(t) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing a specific fatality due to opioid use and recommending policies to reduce the frequency of opioid use fatalities;

(u) a licensed pharmacist who is authorized by a managed care organization as defined in Section 31A-1-301 to access the information on behalf of the managed care organization, if:

(i) the managed care organization believes that an enrollee of the managed care organization has obtained or provided a controlled substance in violation of a medication management program contract between the enrollee and the managed care organization; and

(ii) the managed care organization included a description of the medication management program in the enrollee's outline of coverage described in Subsection 31A-22-605(7); and

(v) the Utah Medicaid Fraud Control Unit of the attorney general's office for the purpose of investigating active cases, in exercising the unit's authority to investigate and prosecute Medicaid fraud, abuse, neglect, or exploitation under 42 U.S.C. Sec. 1396b(q).

(3) (a) A practitioner described in Subsection (2)(h) may designate one or more employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database;

(ii) establish the information to be provided by an emergency department employee under Subsection (4); and

(iii) facilitate providing controlled substance prescription information to a third party under Subsection (5).

(c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency department of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed or privileged to work in the emergency department;

(ii) is treating an emergency department patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency department and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency department employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency department under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the hospital as an individual authorized to access the information on behalf of the emergency department practitioner;

(ii) the hospital operating the emergency department provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.

(ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third party and that notice of the individual's direction to discontinue will be provided to the third party.

(b) The information the division shall provide under Subsection (5)(a) is:

(i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and

(ii) the date the controlled substance was dispensed.

(c) (i) An individual who has made a request under Subsection (5)(a) may direct that the division discontinue providing information to the third party.

(ii) The division shall:

(A) notify the third party that the individual has directed the division to no longer provide information to the third party; and

(B) discontinue providing information to the third party.

(6) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

(7) A probation or parole officer is not required to obtain a search warrant to access the database in accordance with Subsection (2)(m).

(8) The division shall review and adjust the database programming which automatically logs off an individual who is granted access to the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

(a) to protect patient privacy;

(b) to reduce inappropriate access; and

(c) to make the database more useful and helpful to a person accessing the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c),

especially in high usage locations such as an emergency department.

(9) Any person who knowingly and intentionally accesses the database without express authorization under this section is guilty of a class A misdemeanor.

Section 9. Section 58-50-10 is amended to read:

58-50-10. Exceptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in probation supervision services subject to the stated circumstances and limitations without being licensed under this chapter:

(1) [~~employees~~]an employee of the [~~Department of Corrections~~]Division of Adult Probation and Parole created in Section 64-14-202 while the employee is performing probation services as part of [~~their~~]the employee's normal duties and responsibilities;

(2) [~~members~~]a member of the armed forces and [~~employees, agents~~]an employee, agent, or [~~representatives~~]representative of the federal government while acting in [~~their~~]the member's, employee's, agent's, or representative's official capacity; and

[~~(3) agencies of local government in accordance with Section 77-18-105.~~]

(3) an agency of a local government in accordance with Section 77-18-105.

Section 10. Section 59-27-105 is amended to read:

59-27-105. Sexually Explicit Business and Escort Service Fund -- Administrative charge.

(1) There is created an expendable special revenue fund called the "Sexually Explicit Business and Escort Service Fund."

(2) (a) Except as provided in Subsection (3), the fund consists of all amounts collected by the commission under this chapter.

(b) (i) The money in the fund shall be invested by the state treasurer pursuant to Title 51, Chapter 7, State Money Management Act.

(ii) All interest or other earnings derived from the fund money shall be deposited in the fund.

(3) Notwithstanding any other provision of this chapter, the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this chapter.

(4) (a) Fund money shall be used as provided in this Subsection (4).

(b) The Department of Corrections shall use 60% of the money in the fund, in addition to existing budgets, to provide treatment services to nonworking or indigent adults who:

(i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses; and

(ii) are not currently confined or incarcerated in a jail or prison.

(c) The Division of Adult Probation and Parole [~~section of the Department of Corrections~~]created in Section 64-14-202 shall use 15% of the money in the fund to provide outpatient treatment services to individuals who:

(i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses; and

(ii) are not currently confined or incarcerated in a jail or prison.

(d) The Department of Corrections shall use 10% of the money in the fund, in addition to existing budgets, to implement treatment programs for juveniles who have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses.

(e) The attorney general shall use 15% of the money in the fund to provide funding for any task force:

(i) administered through the Office of the Attorney General; and

(ii) that investigates and prosecutes individuals who use the Internet to commit crimes against children.

Section 11. Section 63A-16-1002 is amended to read:

63A-16-1002. Public safety portal.

(1) The commission shall oversee the creation and management of a public safety portal for information and data required to be reported to the commission and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the public safety portal.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the public safety portal;

(b) a gateway, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information from the public safety portal;

(d) a protocol for accessing information in the public safety portal that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed from the public safety portal by participating data source, data use entities, and regulators.

(4) The public safety portal shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 26B-1-427, Alcohol Abuse Tracking Committee;

(e) Section 41-6a-511, courts to collect and maintain data;

(f) Section 53-25-301, reporting requirements for reverse-location warrants;

(g) Section 53-25-202, sexual assault offense reporting requirements for law enforcement agencies;

(h) Section 53E-3-516, school disciplinary and law enforcement action report;

(i) Section 53-25-501, reporting requirements for seized firearms;

(j) Section 63M-7-214, law enforcement agency grant reporting;

(k) Section 63M-7-216, prosecutorial data collection;

(l) Section 63M-7-220, domestic violence data collection;

(m) Section [~~64-13-21~~]64-14-204, supervision of sentenced offenders placed in community;

(n) Section 64-13-25, standards for programs;

(o) Section 64-13-45, department reporting requirements;

(p) Section 64-13e-104, county correctional facility reimbursement program for state probationary inmates and state parole inmates;

(q) Section 77-7-8.5, use of tactical groups;

(r) Section 77-11b-404, forfeiture reporting requirements;

(s) Section 77-20-103, release data requirements;

(t) Section 77-22-2.5, court orders for criminal investigations;

(u) Section 78A-2-109.5, court data collection on criminal cases;

(v) Section 80-6-104, data collection on offenses committed by minors; and

(w) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(5) Before October 1, 2025, the commission shall [~~reportall~~]report all data collected to the Law Enforcement and Criminal Justice Interim Committee.

(6) The commission may:

(a) enter into contracts with private or governmental entities to assist entities in complying with the data reporting requirements of Subsection (4); and

(b) adopt, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules to administer this section, including establishing requirements and procedures for collecting the data described in Subsection (4).

Section 12. Section 63A-17-512 is amended to read:

63A-17-512. Leave of absence with pay for employees with a disability who are covered under other civil service systems.

(1) As used in this section:

(a) "Eligible officer" means a person who qualifies for a benefit under this section.

(b) (i) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes of this state.

(ii) "Law enforcement officer" specifically includes the following:

(A) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(B) investigators for the Motor Vehicle Enforcement Division;

(C) special agents or investigators employed by the attorney general;

(D) employees of the Department of Natural Resources designated as peace officers by law;

(E) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division; and

(F) correctional enforcement, investigative, or [~~adult probation and parole officers~~]Division of Adult Probation and Parole officers employed by the Department of Corrections serving on or before July 1, 1993.

(c) "State correctional officer" means a correctional officer as defined in Section 53-13-104 who is employed by the Department of Corrections.

(2) (a) A law enforcement officer or state correctional officer who is injured in the course of employment shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits during the period the employee has a temporary disability.

(b) The benefit provided under Subsection (2)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(3) (a) A law enforcement officer or state correctional officer who has a total disability as defined in Section 49-21-102, shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits until the officer is eligible for an unreduced retirement under Title 49, Utah State Retirement and Insurance Benefit Act, or reaches the retirement age of 62 years, whichever occurs first, if:

(i) the disability is a result of an injury sustained while in the lawful discharge of the officer's duties; and

(ii) the injury is the result of:

(A) a criminal act upon the officer; or

(B) an aircraft, vehicle, or vessel accident and the officer was not negligent in causing the accident.

(b) The benefit provided under Subsection (3)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(4) (a) The agency shall reduce or require the reimbursement of the monthly benefit provided under this section by any amount received by, or payable to, the eligible officer for the same period of time during which the eligible officer is entitled to receive a monthly disability benefit under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing policies and procedures for the reductions required under Subsection (4)(a).

Section 13. Section 63B-12-301 is amended to read:

63B-12-301. Other capital facilities authorizations.

(1) It is the intent of the Legislature that:

(a) Utah State University use institutional funds to plan, design, and construct an addition to the Laboratory Research Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(2) It is the intent of the Legislature that:

(a) Utah State University use institutional funds to plan, design, and construct an addition to the Biology/Natural Resources Building under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(3) It is the intent of the Legislature that:

(a) Snow College use grants and loans from the Community Impact Board together with other institutional funds to plan, design, and construct an addition to the Activities Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project;

(c) before proceeding with the project, the Board of Regents and the Division of Facilities Construction and Management review and approve the scope and funding of the project; and

(d) the college may request state funds for operations and maintenance to the extent that the college is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(4) (a) It is the intent of the Legislature that the Division of Facilities Construction and Management sell the state's interest in the Iron County Correction Facility to Iron County for $2,000,000 according to the terms specified in this Subsection (4).

(b) Iron County will pay the state $1,550,000 in cash.

(c) To pay the $450,000 balance of the purchase price, Iron County will:

(i) provide office space for the Department [~~of Corrections' Adult Probation and Parole~~]of Corrections in the Iron County Correction Facility for 10 years at no cost to the state of Utah, at an estimated value of $45,000 per year for a total 10-year value of $450,000; and

(ii) contract with the Department of Corrections to house 15 state prisoners in the Iron County Correctional Facility for at least five years.

(d) (i) The Department of Corrections shall select the 15 prisoners to house at the Iron County Correctional Facility from beds currently under contract in other counties.

(ii) Nothing in this section may be construed to authorize or require the Department of Corrections to increase the number of prisoners currently housed in county correctional facilities on state contract.

(e) If the [~~Department of Corrections'~~]Division of Adult Probation and Parole created in Section 64-14-202 chooses [~~, for whatever reason,~~]not to use the office space offered by Iron County, Iron County is not liable for, and need not pay, the state the value of that estimated rent.

Section 14. Section 63M-7-404.3 is amended to read:

63M-7-404.3. Adult sentencing and supervision length guidelines.

(1) The sentencing commission shall establish and maintain adult sentencing and supervision length guidelines regarding:

(a) the sentencing and release of offenders in order to:

(i) accept public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in sentencing;

(iv) better define responsibility in sentencing; and

(v) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole;

(b) the length of supervision of offenders on probation or parole in order to:

(i) accept public comment;

(ii) increase equity in criminal supervision lengths;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole; and

(c) appropriate, evidence-based probation and parole supervision policies and services that assist offenders in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an offender's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet the needs of an offender; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2) (a) Before July 1, 2024, the sentencing commission shall revise and review the adult sentencing and supervision length guidelines to reflect appropriate penalties for the following offenses:

(i) an interlock restricted driver operating a vehicle without an ignition interlock system, Section 41-6a-518.2[~~:~~];

(ii) negligently operating a vehicle resulting in injury, Section 76-5-102.1; and

(iii) negligently operating a vehicle resulting in death, Section 76-5-207.

(b) The guidelines under Subsection (2)(a) shall consider the following:

(i) the current sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both as identified in Section 41-6a-505 when injury or death do not result;

(ii) the degree of injury and the number of victims suffering injury or death as a result of the offense;

(iii) the offender's number of previous convictions for driving under the influence related offenses as defined in Subsection 41-6a-501(2)(a); and

(iv) whether the offense amounts to extreme DUI, as that term is defined in Section 41-6a-501.

(3) On or before October 31, 2024, the sentencing commission shall review and revise the supervision tools in the adult sentencing and supervision length guidelines to:

(a) recommend appropriate sanctions for an individual who violates probation or parole by:

(i) committing a felony offense, a misdemeanor offense described in Title 76, Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the influence described in Section 41-6a-502;

(ii) possessing a dangerous weapon; or

(iii) willfully refusing to participate in treatment ordered by the court or the Board of Pardons and Parole; and

(b) recommend appropriate incentives for an individual on probation or parole that:

(i) completes all conditions of probation or parole; or

(ii) maintains eligible employment as defined in Section [~~64-13g-101~~]64-14-301.

(4) The sentencing commission shall establish guidelines in the adult sentencing and supervision length guidelines that recommend an enhanced sentence that a court or the Board of Pardons and Parole should consider when determining the period in which a habitual offender, as defined in Section 77-18-102, will be incarcerated.

(5) The sentencing commission shall modify:

(a) the adult sentencing and supervision length guidelines to reduce recidivism for the purposes of protecting the public and ensuring efficient use of state funds; and

(b) the criminal history score in the adult sentencing and supervision length guidelines to reduce recidivism, including factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

Section 15. Section 63M-7-1002 is amended to read:

63M-7-1002. Victim rights committee for each judicial district -- Members -- Terms.

(1) There is created a victim rights committee in each judicial district of this state.

(2) The Victim Services Commission shall appoint a chair to serve on each committee.

(3) The chair shall appoint, with the Victim Services Commission's consent, the following individuals to serve on each committee:

(a) a county or district attorney within the judicial district, or the county or district attorney's designee;

(b) a municipal attorney within the judicial district, or the municipal attorney's designee;

(c) a sheriff within the judicial district, or the sheriff's designee;

(d) a chief of police within the judicial district, or the chief of police's designee;

(e) a representative of the Division of Adult Probation and Parole [~~within the Department of Corrections~~]created in Section 64-14-202;

(f) a victim advocate; and

(g) any other representative as appropriate.

(4) A member is:

(a) appointed to serve a four-year term; and

(b) eligible for reappointment.

(5) When a vacancy occurs in the membership of a committee for any reason, the replacement shall be appointed for the remainder of the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but a member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 16. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

(f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(h) manage programs that take into account the needs and interests of victims, where reasonable;

(i) through the Division of Adult Probation and Parole created in Section 64-14-202,supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(j) subject to Subsection [~~(3)~~](2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i) (A) if an offender is to be supervised in the community, the department shall establish a case action plan for the offender no later than 60 days after the day on which the department's community supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan for the offender no later than 90 days after the day on which the offender is committed to the custody of the department;

(ii) each case action plan shall:

(A) integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements; and

(B) require that a case manager will:

(I) ensure that an assessment of the education level, occupational interests, and aptitudes of the inmate has been completed;

(II) refer the inmate to a higher education student advisor at an institution offering programs consistent with the inmate's interests and aptitudes for advisement on educational preferences and plans;

(III) incorporate the inmate's interests, aptitudes, and student advisement into an education plan consistent with the guidance provided by the Higher Education and Corrections Council created in Section 53B-35-201; and

(IV) refer the inmate to the student advisor at the institution called for in the case action plan for guidance and assistance with the education process;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change;

(n) ensure that an inmate has reasonable access to legal research;

(o) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(p) when reporting on statewide recidivism, include the metrics and requirements described in Section 63M-7-102;

(q) create a reentry division that focuses on the successful reentry of inmates into the community;

(r) coordinate with the Board of Pardons and Parole regarding inmate records that are necessary for the Board of Pardons and Parole to make necessary determinations regarding an inmate; and

(s) ensure that inmate records regarding discipline, programs, and other relevant metrics are:

(i) complete and updated in a timely manner; and

(ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.

[~~(2) The department may in the course of supervising probationers and parolees:~~]

[~~(a) respond to an individual's violation of one or more terms of the probation or parole in accordance with the graduated and evidence-based processes established by the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1; and~~]

[~~(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.~~]

[~~(3)~~](2) (a) By following the procedures in Subsection [~~(3)(b)~~](2)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Before investigating any occurrence specified in Subsection [~~(3)(a)~~](2)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection [~~(3)(a)~~](2)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection [~~(3)(a)~~](2)(a).

[~~(4)~~](3) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

[~~(5)~~](4) (a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding:

(i) the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time; and

(ii) the progress of the department's implementation of the inmate program requirements described in Section 64-13-50.

[~~(6)~~](5) (a) As used in this Subsection [~~(6)~~](5):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section [~~64-13-21~~]64-14-204, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection [~~(6)(c)~~](5)(c); and

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection [~~(6)~~](5) only applies to offenders sentenced before July 1, 2021.

Section 17. Section 64-13-14.5 is amended to read:

64-13-14.5. Limits of confinement place -- Release status -- Work release.

(1) The department may extend the limits of the place of confinement of an inmate when, as established by department policies and procedures, there is cause to believe the inmate will honor the trust, by authorizing the inmate under prescribed conditions:

(a) to leave temporarily for purposes specified by department policies and procedures to visit specifically designated places for a period not to exceed 30 days;

(b) to participate in a voluntary training program in the community while housed at a correctional facility or to work at paid employment;

(c) to be housed in a nonsecure community correctional center operated by the department; or

(d) to be housed in any other facility under contract with the department.

(2) (a) The department shall establish rules governing offenders on release status.

(b) A copy of the rules established under Subsection (2)(a) shall be furnished to the offender and to any employer or other person participating in the offender's release program.

(c) Any employer or other participating person shall agree in writing to abide by the rules established under Subsection (2)(a) and to notify the department of the offender's discharge or other release from a release program activity, or of any violation of the rules governing release status.

(3) The willful failure of an inmate to remain within the extended limits of his confinement or to return within the time prescribed to an institution or facility designated by the department is an escape from custody.

(4) If an offender is arrested for the commission of a crime, the arresting authority shall immediately notify the department of the arrest.

(5) The department may impose appropriate sanctions pursuant to Section [~~64-13-21~~]64-14-204 upon offenders who violate the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, including prosecution for escape under Section 76-8-309 or 76-8-309.3 and for [~~unauthorized absence~~]absconding from supervision.

(6) An inmate who is housed at a nonsecure correctional facility and on work release may not be required to work for less than the current federally established minimum wage, or under substandard working conditions.

Section 18. Section 64-13-26 is amended to read:

64-13-26. Private providers of services.

(1) Subject to Subsection [~~64-13-21(1)(b)~~]64-14-204(1)(b), the department may contract with a private provider or another agency for the provision of care, treatment, and supervision of an offender committed to the care and custody of the department.

(2) (a) The department shall:

(i) establish standards for the operation of the programs;

(ii) establish standards under Section 64-13-25 regarding program standards; and

(iii) annually review the programs for compliance.

(b) The reviews described in Subsection (2)(a) shall be classified as confidential internal working papers.

(c) Access to records regarding the reviews is available upon the discretion of the executive director or the governor, or upon court order.

Section 19. Section 64-13e-102 is amended to read:

64-13e-102. Definitions.

As used in this chapter:

(1) "Alternative treatment program" means:

(a) an evidence-based cognitive behavioral therapy program; or

(b) a certificate-based program provided by:

(i) an institution of higher education described in Subsection 53B-1-102(1)(b); or

(ii) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.

(2) "Board" means the Board of Pardons and Parole.

(3) "Commission" means the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

(4) (a) "Condition of probation day" means a day spent by a state probationary inmate in a county correctional facility as a condition of probation.

(b) "Condition of probation day" includes a day spent by a state probationary inmate in a county correctional facility:

(i) after the date of sentencing;

(ii) before the date of sentencing, if a court orders that the state probationary inmate shall receive credit for time served in a county correctional facility before the date of sentencing;

(iii) as a condition of an original order of probation; and

(iv) as a condition of a new order of probation after a prior revocation of probation.

(c) "Condition of probation day" does not include a day spent by a state probationary inmate in a county correctional facility:

(i) as a probation sanction day;

(ii) after the state probationary inmate has spent 365 consecutive days in a county correctional facility for a single order of probation;

(iii) as a condition of a plea in abeyance agreement if a conviction has not been entered;

(iv) on a hold instituted by the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security; or

(v) after the termination of probation if the state probationary inmate is:

(A) sentenced to prison; or

(B) eligible for release.

(5) "Department" means the Department of Corrections, created in Section 64-13-2.

(6) "Division" means the Division of Finance, created in Section 63A-3-101.

(7) (a) "Eligible bed day" means a day spent by a state probationary inmate or a state parole inmate in a county correctional facility that is eligible for reimbursement under Section 64-13e-104.

(b) "Eligible bed day" includes:

(i) a condition of probation day;

(ii) a parole hold day;

(iii) a parole sanction day; and

(iv) a probation sanction day.

(8) (a) "Parole hold day" means a day spent in a county correctional facility by a state parole inmate under Subsection 64-13-29(3) based on a suspected violation of the state parole inmate's terms of parole.

(b) "Parole hold day" does not include a day spent in a county correctional facility by a state parole inmate:

(i) after the state parole inmate has spent 72 hours, excluding weekends and holidays, for a single suspected violation of the state parole inmate's terms of parole; or

(ii) as a parole sanction day.

(9) (a) "Parole sanction day" means a day spent in a county correctional facility by a state parole inmate as a sanction under Subsection 64-13-6(2) for a violation of the state parole inmate's terms of parole.

(b) "Parole sanction day" includes not more than three consecutive days and not more than a total of [~~five~~]six days within a period of 30 days for each sanction.

(c) "Parole sanction day" does not include a parole hold day.

(10) (a) "Probation sanction day" means a day spent in a county correctional facility by a state probationary inmate as a sanction under Subsection 64-13-6(2) based on a violation of the state probationary inmate's terms of probation.

(b) "Probation sanction day" includes not more than three consecutive days and not more than a total of [~~five~~]six days within a period of 30 days for each sanction.

(c) "Probation sanction day" does not include:

(i) a condition of probation day; or

(ii) a day spent in a county correctional facility by a state probationary inmate under Subsection [~~64-13-29(3)~~]64-14-205(3) based on a suspected violation of the state probationary inmate's terms of probation.

(11) "State daily incarceration rate" means the average daily incarceration rate, calculated by the department based on the previous three fiscal years, that reflects the following expenses incurred by the department for housing an inmate:

(a) executive overhead;

(b) administrative overhead;

(c) transportation overhead;

(d) division overhead; and

(e) motor pool expenses.

(12) "State inmate" means an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.

(13) "State parole inmate" means an individual who is:

(a) on parole, as defined in Section 77-27-1; and

(b) housed in a county correctional facility for a reason related to the individual's parole.

(14) "State probationary inmate" means a felony probationer sentenced to time in a county correctional facility under Subsection 77-18-105(6).

(15) "Treatment program" means:

(a) an alcohol treatment program;

(b) a substance abuse treatment program;

(c) a sex offender treatment program; or

(d) an alternative treatment program.

Section 20. Section 64-14-101 is enacted to read:

CHAPTER 14. ADULT PROBATION AND PAROLE

PART 1. General Provisions

64-14-101. Definitions.

As used in this chapter:

(1) "Department" means the same as that term is defined in Section 64-13-1.

(2) "Division" means the Division of Adult Probation and Parole created in Section 64-14-202.

(3) "Executive director" means the same as that term is defined in Section 64-13-1.

(4) "Inmate" means the same as that term is defined in Section 64-13-1.

(5) "Offender" means the same as that term is defined in Section 64-13-1.

(6) "Recidivism" means the same as that term is defined in Section 64-13-1.

Section 21. Section 64-14-201 is enacted to read:

PART 2. Division of Adult Probation and Parole

64-14-201. Definitions.

Reserved.

Section 22. Section 64-14-202 is enacted to read:

64-14-202. Creation of division -- Appointment of director.

(1) There is created within the department the Division of Adult Probation and Parole.

(2) The executive director shall appoint a director of the Division of Adult Probation and Parole who shall manage, direct, and supervise the Division of Adult Probation and Parole.

Section 23. Section 64-14-203 is enacted to read:

64-14-203. Duties of division.

(1) The division shall:

(a) assist the department in fulfilling the department's duty to supervise, as described in Subsection 64-13-6(1)(i), probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(b) comply with the requirements described in this part;

(c) supply the information described in Section 53-10-209 that is required to be submitted to the Criminal Investigations and Technical Services Division created in Subsection 53-10-103(2);

(d) comply with the use of funds requirement for outpatient treatment services for those convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, as described in Subsection 59-27-105(4)(c);

(e) monitor the status of an offender with a mental condition who has been placed on parole as described in Subsection 77-16a-205(4);

(f) comply with the requirements described in Title 77, Chapter 18, The Judgment;

(g) in accordance with the adult sentencing and supervision length guidelines described in Section 63M-7-404.3, notify the Board of Pardons and Parole of parole violations;

(h) for an individual who is on probation for a domestic violence offense that the division is supervising, report to the court and notify the victim of the domestic violence offense if the individual fails to comply with any condition imposed by the court or commits a violation of a sentencing protective order as required by Subsection 77-36-5.1(4);

(i) comply with the notice requirement to a prosecuting agency described in Subsection 77-38-3(6) if the division is the moving party on a motion for modification of any determination made at any of the criminal justice hearings provided in Subsections 77-38-2(5)(a) through (g);

(j) collect restitution information in preparing a presentence investigation report as described in Section 77-38b-203;

(k) for an individual under supervision by the division who violates a sentencing protective order issued under Title 78B, Chapter 7, Part 8, Criminal Protective Orders, report the violation to the court and notify the victim protected by the order of the violation as required by Section 78B-7-807; and

(l) comply with any other requirement established by applicable statute or regulation or a directive from the executive director.

(2) The division may, in the course of supervising individuals on probation and parole:

(a) respond to an individual's violation of one or more terms of the probation or parole in accordance with the graduated and evidence-based processes established by the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of six days within a period of 30 days.

Section 24. Section 64-14-204, which is renumbered from Section 64-13-21 is renumbered and amended to read:

[~~64-13-21~~]64-14-204. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.

(1) (a) The [~~department~~]division, except as otherwise provided by law, shall supervise a sentenced offender placed in the community if the offender:

(i) (A) is placed on probation by a court;

(B) is released on parole by the Board of Pardons and Parole; or

(C) is accepted for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers; and

(ii) has been convicted of:

(A) a felony;

(B) a class A misdemeanor when an element of the offense is the use or attempted use of physical force against an individual or property; or

(C) notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the [~~department~~]division is ordered by a court to supervise the offender under Section 77-18-105.

(b) If a sentenced offender participates in substance use treatment or a residential, vocational and life skills program, as defined in Section 13-53-102, while under supervision on probation or parole, the [~~department~~]division shall monitor the offender's compliance with

and completion of the treatment or program.

(c) The department shall establish standards for:

(i) the supervision of offenders in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, giving priority, based on available resources, to felony offenders and offenders sentenced under Subsection 58-37-8 (2)(b)(ii); and

(ii) the monitoring described in Subsection (1)(b).

(2) The [~~department~~]division shall apply the graduated and evidence-based responses established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of six days within a period of 30 days.

(3) The [~~department~~]division shall implement a program of graduated incentives as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1 to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4) (a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.

(b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the [~~department~~]division who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision by the division;

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

(6) (a) (i) A monthly supervision fee of $30 shall be collected from each offender on probation or parole.

(ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the [~~department~~]division upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the [~~department~~]division shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(c) The division shall deposit money received from the monthly supervision fee established in this Subsection (6) into the General Fund as a parole and probation dedicated credit to be used to cover costs incurred in the collection of the fee and in the development of offender supervision programs.

(7) (a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the [~~department~~]division shall establish a program allowing an offender to earn a reduction credit of 30 days from the offender's period of probation or parole for each month the offender complies with the terms of the offender's probation or parole agreement, including the case action plan.

(b) (i) For offenders placed on probation under Section 77-18-105 or parole under Section 76-3-202 on or after July 1, 2026, the [~~department~~]division shall establish a program, consistent with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to provide incentives for an offender that maintains eligible employment, as defined in Section 64-13g-101.

(ii) The program under Subsection (7)(b)(i) may include a credit towards the reduction of the length of supervision for an offender at a rate of up to 30 days for each month that the offender maintains eligible employment, as defined in Section 64-13g-101.

(iii) A court, or the Board of Pardons and Parole, is not required to grant a request for termination of supervision under the program described in this Subsection (7)(b) if the court, or the Board of Pardons and Parole, finds that:

(A) the offender presents a substantial risk to public safety;

(B) termination would prevent the offender from completing risk reduction programming or treatment; or

(C) the eligibility criteria for termination of supervision, as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, have not been met.

(iv) This Subsection (7)(b) does not prohibit the [~~department~~]division, or another supervision services provider, from requesting termination of supervision based on the eligibility criteria in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.

(c) The [~~department~~]division shall:

(i) maintain a record of credits earned by an offender under this Subsection (7); and

(ii) request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the [~~department~~]division from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.

(f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

Section 25. Section 64-14-205, which is renumbered from Section 64-13-29 is renumbered and amended to read:

[~~64-13-29~~]64-14-205. Violation of parole or probation -- Detention -- Hearing.

(1) As used in this section:

(a) "72-hour hold" means a directive from the department:

(i) prohibiting the release of a parolee or probationer from correctional custody who has entered correctional custody due to a violation of a condition of parole or probation; and

(ii) lasting for a maximum of 72 hours, excluding weekends or holidays, from the time the parolee or probationer entered correctional custody.

(b) "Correctional custody" means when a parolee or probationer is physically detained in a county jail or a correctional facility operated by the department.

(c) "Parolee" means an individual on parole under the supervision of the [~~department~~]division.

(d) "Probationer" means an individual on probation under the supervision of the [~~department~~]division.

(e) (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

(f) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) The [~~department~~]division shall ensure that the court is notified of violations of the terms and conditions of probation in the case of probationers under the supervision of the [~~department~~]division or the Board of Pardons and Parole in the case of parolees under the [~~department's~~]division's supervision when:

(a) incarceration is [~~recommendedas~~]recommended as a sanction;

(b) the [~~department~~]division determines that a graduated and evidence-based response is not an appropriate response to the violation and recommends revocation of probation or parole; or

(c) there is probable cause that the conduct that led to a violation of parole or probation is:

(i) a violent felony; or

(ii) a qualifying domestic violence offense.

(3) The [~~department~~]division:

(a) may place a 72-hour hold on a parolee or probationer if there is probable cause to believe that the parolee or probationer has committed a violation other than a violent felony or qualifying domestic violence offense; and

(b) shall place a 72-hour hold on a parolee or probationer if there is probable cause to believe that the parolee or probationer has committed a violent felony or qualifying domestic violence offense.

(4) (a) The [~~department~~]division may not detain, or have a county jail detain, a probationer or parolee for longer than 72 hours without a warrant or order issued by the court or Board of Pardons and Parole.

(b) To obtain a warrant or order to detain a probationer or parolee for longer than 72 hours, the [~~department~~]division shall seek the warrant or order from the court for a probationer or the Board of Pardons and Parole for a parolee.

(c) The [~~department~~]division may decline to seek a warrant or order under Subsection (4)(b) for a probationer or parolee subject to a 72-hour hold and remove the 72-hour hold.

(5) This section does not require the [~~department~~]division to release a probationer or parolee who is being held for something other than a probation or parole violation, including a warrant issued for new criminal conduct or a new conviction where the [~~individual~~]probationer or parolee is sentenced to incarceration.

(6) The department may make rules as necessary, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the division to implement this section [~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~].

Section 26. Section 64-14-301, which is renumbered from Section 64-13g-101 is renumbered and amended to read:

PART 3. Adult Probation and Parole Employment Incentive Program

[~~64-13g-101~~]64-14-301. Definitions.

As used in this [~~chapter~~]part:

(1) "Average daily population" means the average daily number of individuals on parole or felony probation in the region during the applicable fiscal year.

(2) "Baseline parole employment rate" means the average of the parole employment rates for fiscal years 2023, 2024, and 2025.

(3) "Baseline probation employment rate" means the average of the probation employment rates for fiscal years 2023, 2024, and 2025.

[~~(4) "Department" means the Department of Corrections.~~]

[~~(5)~~](4) "Eligible employment" means an occupation, or combined occupations, that:

(a) consist of at least 130 hours in a 30-day period; and

(b) are verified via paystubs, employment letters, contracts, or other reliable methods, as determined by the department.

[~~(6)~~](5) "Evidence-based" means a supervision policy, procedure, program, or practice demonstrated by scientific research to reduce recidivism of individuals on parole or felony probation.

[~~(7)~~](6) "Marginal cost of incarceration" means the total costs of incarceration, per inmate, that fluctuate based on inmate population.

[~~(8)~~](7) "Office" means the Governor's Office of Planning and Budget.

[~~(9)~~](8) "Parole employment rate" means the percentage of individuals on parole who held eligible employment for at least nine months in a one-year period, if at least a portion of the nine-months was during the preceding fiscal year.

[~~(10)~~](9) "Probation employment rate" means the percentage of individuals on felony probation who held eligible employment for at least nine months in a one-year period, if at least a portion of the nine-months was during the preceding fiscal year.

[~~(11)~~](10) "Program" means the Adult Probation and Parole Employment Incentive Program, created in Section [~~64-13g-102~~]64-14-302.

[~~(12)~~](11) "Region" means one of the geographic regions into which the [~~Department of Corrections~~]department has divided the state for purposes of supervising adult probation and parole.

[~~(13)~~](12) "Restricted account" means the Employment Incentive Restricted Account created in Section [~~64-13g-103~~]64-14-303.

Section 27. Section 64-14-302, which is renumbered from Section 64-13g-102 is renumbered and amended to read:

[~~64-13g-102~~]64-14-302. Adult Probation and Parole Employment Incentive Program.

(1) There is created the Adult Probation and Parole Employment Incentive Program.

(2) The department and the office shall implement the program in accordance with the requirements of this chapter.

(3) Beginning July 2026, and each July after 2026, the department shall calculate and report to the office, for the preceding fiscal year, for each region and statewide:

(a) the parole employment rate and the average length of employment of individuals on parole;

(b) the probation employment rate and average length of employment of individuals on felony probation;

(c) the recidivism percentage, using applicable recidivism metrics described in Subsections 63M-7-102(1) and (3);

(d) the number and percentage of individuals who successfully complete parole or felony probation;

(e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage described in Subsection (3)(c) relates, the estimated costs of incarceration savings to the state, based on the marginal cost of incarceration;

(f) the number of individuals who successfully complete parole and, during the entire six months before the day on which the individuals' parole ends, held eligible employment; and

(g) the number of individuals who successfully complete felony probation and, during the entire six months before the day on which the individuals' parole ended, held eligible employment.

(4) In addition to the information described in Subsection (3), the department shall report, for each region, the number and types of parole or probation programs that were created, replaced, or discontinued during the preceding fiscal year.

(5) After receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region:

(a) add the region's baseline parole employment rate and the region's baseline probation employment rate;

(b) add the region's parole employment rate and the region's probation employment rate;

(c) subtract the sum described in Subsection (5)(a) from the sum described in Subsection (5)(b); and

(d) (i) if the rate difference described in Subsection (5)(c) is zero or less than zero, assign an employment incentive payment of zero to the region; or

(ii) except as provided in Subsection (7), if the rate difference described in Subsection (5)(c) is greater than zero, assign an employment incentive payment to the region by:

(A) multiplying the rate difference by the average daily population for that region; and

(B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A) by $2,500.

(6) In addition to the employment incentive payment described in Subsection (5), after receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region, multiply the sum of the numbers described in Subsections (3)(f) and (g) for the region by $2,500 to determine the end-of-supervision employment incentive payment for the region.

(7) The employment incentive payment, or end-of-supervision employment supervision payment, for a region is zero if the recidivism percentage for the region, described in Subsection (3)(c), represents an increase in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage for the region, described in Subsection (3)(c), relates.

(8) Upon determining an employment incentive payment for a region in accordance with Subsections (5)(d)(ii), (6), and (7), the office shall authorize distribution, from the restricted account, of the incentive payment as follows:

(a) 15% of the payment may be used by the department for expenses related to administering the program; and

(b) 85% of the payment shall be used by the region to improve and expand supervision and rehabilitative services to individuals on parole or adult probation, including by:

(i) implementing and expanding evidence-based practices for risk and needs assessments for individuals;

(ii) implementing and expanding intermediate sanctions, including mandatory community service, home detention, day reporting, restorative justice programs, and furlough programs;

(iii) expanding the availability of evidence-based practices for rehabilitation programs, including drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs, and job training and other employment services;

(iv) hiring additional officers, contractors, or other personnel to implement evidence-based practices for rehabilitative and vocational programing;

(v) purchasing and adopting new technologies or equipment that are relevant to, and enhance, supervision, rehabilitation, or vocational training; or

(vi) evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.

(9) (a) The report described in Subsections (3) and (4) is a public record.

(b) The department shall maintain a complete and accurate accounting of the payment and use of funds under this section.

(c) If the money in the restricted account is insufficient to make the full employment incentive payments or the full end-of-supervision employment incentive payments, the office shall authorize the payments on a prorated basis.

Section 28. Section 64-14-303, which is renumbered from Section 64-13g-103 is renumbered and amended to read:

[~~64-13g-103~~]64-14-303. Employment Incentive Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Employment Incentive Restricted Account."

(2) The account consists of appropriations made by the Legislature.

(3) The office shall authorize expenditures from the account in accordance with Section [~~64-13g-102~~]64-14-302.

(4) Subject to legislative appropriations, the department and each region shall expend money from the restricted account only in accordance with Subsection [~~64-13g-102(8)~~]64-14-302(8).

Section 29. Section 76-3-202 is amended to read:

76-3-202. Paroled individuals -- Termination or discharge from sentence -- Time served on parole -- Discretion of Board of Pardons and Parole.

(1) As described in Subsection 77-27-5(7), every individual committed to the state prison to serve an indeterminate term and, after December 31, 2018, released on parole shall complete a term of parole that extends through the expiration of the individual's maximum sentence unless the parole is earlier terminated by the Board of Pardons and Parole in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.

(2) (a) Except as provided in Subsection (2)(b), an individual committed to the state prison to serve an indeterminate term and released on parole on or after October 1, 2015, but before January 1, 2019, shall, upon completion of three years on parole outside of confinement and without violation, be terminated from the individual's sentence unless the parole is earlier terminated by the Board of Pardons and Parole or is terminated pursuant to Section [~~64-13-21~~]64-14-204.

(b) An individual committed to the state prison to serve an indeterminate term and later released on parole on or after July 1, 2008, but before January 1, 2019, and who was convicted of a felony offense under Chapter 5, Offenses Against the Individual, or an attempt, conspiracy, or solicitation to commit the offense, shall complete a term of parole that extends through the expiration of the individual's maximum sentence, unless the parole is earlier terminated by the Board of Pardons and Parole.

(3) An individual convicted of a second degree felony for violating Section 76-5-404, forcible sexual abuse; Section 76-5-404.1, sexual abuse of a child; or Section 76-5-404.3, aggravated sexual abuse of a child; or attempting, conspiring, or soliciting the commission of a violation of any of those sections, and who is paroled before July 1, 2008, shall, upon completion of 10 years parole outside of confinement and without violation, be terminated from the sentence unless the individual is earlier terminated by the Board of Pardons and Parole.

(4) An individual who violates the terms of parole, while serving parole, for any offense under Subsection (1), (2), or (3), shall at the discretion of the Board of Pardons and Parole be recommitted to prison to serve the portion of the balance of the term as determined by the Board of Pardons and Parole, but not to exceed the maximum term.

(5) An individual paroled following a former parole revocation may not be discharged from the individual's sentence until:

(a) the individual has served the applicable period of parole under this section outside of confinement;

(b) the individual's maximum sentence has expired; or

(c) the Board of Pardons and Parole orders the individual to be discharged from the sentence.

(6) (a) All time served on parole, outside of confinement and without violation, constitutes service toward the total sentence.

(b) Any time an individual spends outside of confinement after commission of a parole violation does not constitute service toward the total sentence unless the individual is exonerated at a parole revocation hearing.

(c) (i) Any time an individual spends in confinement awaiting a hearing before the Board of Pardons and Parole or a decision by the board concerning revocation of parole constitutes service toward the total sentence.

(ii) In the case of exoneration by the board, the time spent is included in computing the total parole term.

(7) When a parolee causes the parolee's absence from the state without authority from the Board of Pardons and Parole or avoids or evades parole supervision, the period of absence, avoidance, or evasion tolls the parole period.

(8) (a) While on parole, time spent in confinement outside the state may not be credited toward the service of any Utah sentence.

(b) Time in confinement outside the state or in the custody of any tribal authority or the United States government for a conviction obtained in another jurisdiction tolls the expiration of the Utah sentence.

(9) This section does not preclude the Board of Pardons and Parole from paroling or discharging an inmate at any time within the discretion of the Board of Pardons and Parole unless otherwise specifically provided by law.

(10) A parolee sentenced to lifetime parole may petition the Board of Pardons and Parole for termination of lifetime parole.

Section 30. Section 76-3-409 is amended to read:

76-3-409. Child abuse or sex offense against child -- Treatment of offender or victim -- Payment of costs.

(1) Any person convicted in the district court of child abuse, or a sexual offense if the victim is under 18 years [~~of age~~]old, may be ordered to participate in treatment or therapy under the supervision of the [~~adult probation and parole section of the Department of Corrections~~]Division of Adult Probation and Parole created in Section 64-14-202, in cooperation with the division of children, youth, and families until the court is satisfied that such treatment or therapy has been successful or that no further benefit to the convicted offender would result if such treatment or therapy were continued. The court may also order treatment of the victim if it believes the same would be beneficial under the circumstances. Nothing in this section shall preclude the court from imposing any additional sentence as provided by law.

(2) The convicted offender shall be ordered to pay, to the extent that he or she is able, the costs of his or her treatment, together with treatment costs incurred by the victim and any administrative costs incurred by the appropriate state agency in the supervision of such treatment. If the convicted offender is unable to pay all or part of the costs of treatment, the court may order the appropriate state agency to pay such costs to the extent funding is provided by the Legislature for such purpose and shall order the convicted offender to perform public service work as compensation for the cost of treatment.

Section 31. Section 77-2a-2 is amended to read:

77-2a-2. Plea in abeyance agreement -- Negotiation -- Contents -- Terms of agreement -- Waiver of time for sentencing.

(1) At any time after acceptance of a plea of guilty or no contest but before entry of judgment of conviction and imposition of sentence, the court may, upon motion of both the prosecuting attorney and the defendant, hold the plea in abeyance and not enter judgment of conviction against the defendant nor impose sentence upon the defendant within the time periods contained in Rule 22(a), Utah Rules of Criminal Procedure.

(2) A defendant shall be represented by counsel during negotiations for a plea in abeyance and at the time of acknowledgment and affirmation of any plea in abeyance agreement unless the defendant knowingly and intelligently waives the defendant's right to counsel.

(3) A defendant has the right to be represented by counsel at any court hearing relating to a plea in abeyance agreement.

(4) (a) Any plea in abeyance agreement entered into between the prosecution and the defendant and approved by the court shall include a full, detailed recitation of the requirements and conditions agreed to by the defendant and the reason for requesting the court to hold the plea in abeyance.

(b) If the plea is to a felony or any combination of misdemeanors and felonies, the agreement shall be in writing and shall, before acceptance by the court, be executed by the prosecuting attorney, the defendant, and the defendant's counsel in the presence of the court.

(5) (a) Except as provided in Subsection (5)(b), a plea may not be held in abeyance for a period longer than 18 months if the plea is to any class of misdemeanor or longer than three years if the plea is to any degree of felony or to any combination of misdemeanors and felonies.

(b) (i) For a plea in abeyance agreement that the [~~Department of Corrections~~]Division of Adult Probation and Parole created in Section 64-14-202 supervises, the plea may not be held in abeyance for a period longer than the initial term of probation required under the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, if the initial term of probation is shorter than the period required under Subsection (5)(a).

(ii) Subsection (5)(b)(i) does not:

(A) apply to a plea that is held in abeyance in a drug court created under Title 78A, Chapter 5, Part 2, Drug Court, or a problem solving court approved by the Judicial Council; or

(B) prohibit court supervision of a plea in abeyance agreement after the day on which the [~~Department of Corrections~~]Division of Adult Probation and Parole supervision described in Subsection (5)(b)(i) ends and before the day on which the plea in abeyance agreement ends.

(6) Notwithstanding Subsection (5), a plea may be held in abeyance for up to two years if the plea is to any class of misdemeanor and the plea in abeyance agreement includes a condition that the defendant participate in a problem solving court approved by the Judicial Council.

(7) A plea in abeyance agreement may not be approved unless the defendant, before the court, and any written agreement, knowingly and intelligently waives time for sentencing as designated in Rule 22(a), Utah Rules of Criminal Procedure.

Section 32. Section 77-2a-3 is amended to read:

77-2a-3. Manner of entry of plea -- Powers of court -- Expungement.

(1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.

(b) In cases charging offenses for which bail may be forfeited, a plea in abeyance agreement may be entered into without a personal appearance before a magistrate.

(2) A plea in abeyance agreement may provide that the court may, upon finding that the defendant has successfully completed the terms of the agreement:

(a) reduce the degree of the offense, enter a judgment of conviction for the lower degree of the offense, and impose a sentence for the lower degree of the offense;

(b) allow withdrawal of the defendant's plea and order the dismissal of the case; or

(c) issue an order of expungement for all records of the offense if:

(i) the defendant successfully completes a problem solving court program that is certified by the Judicial Council; and

(ii) the court allows the withdrawal of the defendant's plea and orders the dismissal of the case.

(3) (a) Upon finding that a defendant has successfully completed the terms of a plea in abeyance agreement and only as provided in the plea in abeyance agreement or as agreed to by all parties, the court may:

(i) reduce the degree of the offense, enter a judgment of conviction for the lower degree of the offense, and impose a sentence for the lower degree of the offense;

(ii) allow withdrawal of the defendant's plea and order the dismissal of the case; or

(iii) issue an order of expungement for all records of the offense if:

(A) the defendant successfully completes a problem solving court program that is certified by the Judicial Council; and

(B) the court allows the withdrawal of the defendant's plea and orders the dismissal of the case.

(b) Upon sentencing a defendant for any lesser offense in accordance with a plea in abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of the offense.

(4) The court may require the [~~Department of Corrections~~]Division of Adult Probation and Parole created in Section 64-14-202 to assist in the administration of the plea in abeyance agreement as if the defendant [~~were on probation to the court~~]were placed on probation under Section 77-18-105.

(5) The terms of a plea in abeyance agreement may include:

(a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and which may not exceed in amount the maximum fine and surcharge which could have been imposed upon conviction and sentencing for the same offense;

(b) an order that the defendant pay the costs of any remedial or rehabilitative program required by the terms of the agreement; and

(c) an order that the defendant comply with any other conditions that could have been imposed as conditions of probation upon conviction and sentencing for the same offense.

(6) (a) The terms of a plea in abeyance shall include:

(i) a specific amount of restitution that the defendant will pay, as agreed to by the defendant and the prosecuting attorney;

(ii) a certification from the prosecuting attorney that:

(A) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and

(B) all victims, including the Utah Office for Victims of Crime, are not seeking restitution; or

(iii) an agreement between the parties that restitution will be determined by the court at a subsequent hearing in accordance with Section 77-38b-205.

(b) At a subsequent hearing described in Subsection (6)(a)(iii), the court shall order the defendant, as a modified term of the plea in abeyance, to pay restitution to all victims for the entire amount of pecuniary damages that are proximately caused by the criminal conduct of the defendant.

(c) The court shall collect, receive, process, and distribute payments for restitution to the victim, unless otherwise provided by law or by the plea in abeyance agreement.

(d) If the defendant does not successfully complete the terms of the plea in abeyance, the court shall enter an order for restitution, in accordance with Chapter 38b, Crime Victims Restitution Act, upon entering a sentence for the defendant.

(7) (a) A court may not hold a plea in abeyance without the consent of both the prosecuting attorney and the defendant.

(b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

(8) No plea may be held in abeyance in any case involving:

(a) a sexual offense against an individual who is under 14 years old; or

(b) a driving under the influence violation under Section 41-6a-502, 41-6a-502.5, 41-6a-517, 41-6a-520, 41-6a-520.1, 41-6a-521.1, 76-5-102.1, or 76-5-207.

(9) (a) If the terms of a plea in abeyance agreement allow a court to issue an order of expungement as described in Subsection (2)(c), the prosecuting attorney shall make a reasonable effort to provide notice to any victim of the offense of the terms of the plea in abeyance agreement.

(b) The notice under Subsection (9)(a) shall:

(i) state that the victim has a right to object to the expungement; and

(ii) provide instructions for registering an objection with the court.

(c) If there is a victim of the offense, the victim may file an objection with the court before the court makes a finding as to whether the defendant successfully completed the terms of the plea in abeyance agreement as described in Subsection (3).

(d) The defendant may respond, in writing, to any objection filed by the victim within 14 days after the day on which the objection is received by the court.

(10) If the court issues an order of expungement under Subsection (3)(a)(iii), the court shall:

(a) expunge all records of the case as described in Section 77-40a-401; and

(b) notify the Bureau of Criminal Identification of the order of expungement.

(11) (a) Upon receiving notice from the court of an expungement order as described in Subsection (10), the Bureau of Criminal Identification shall notify any agency, as defined in Section 77-40a-101, affected by the expungement order.

(b) For purposes of Subsection (11)(a), the Bureau of Criminal Identification may not notify the Board of Pardons and Parole of an expungement order if the individual has never been:

(i) sentenced to prison in this state; or

(ii) under the jurisdiction of the Board of Pardons and Parole.

(c) The Bureau of Criminal Identification shall forward a copy of the expungement order to the Federal Bureau of Investigation.

(12) The defendant may deliver copies of the expungement to any agency, as defined in Section 77-40a-101, affected by the order of expungement.

(13) If an agency receives an expungement order under this part, the agency shall expunge all records for the case in accordance with Section 77-40a-401.

Section 33. Section 77-16a-103 is amended to read:

77-16a-103. Plea of guilty with a mental condition-- Procedures -- Sentencing -- Reduction -- Costs.

(1) (a) (i) If a defendant wishes to enter a plea of guilty with a mental condition, the parties may stipulate as to:

(A) whether the defendant had a mental condition at the time of the commission of the offense; and

(B) whether the defendant could benefit from supervision or treatment.

(ii) If the parties stipulate as described in Subsection (1)(a)(i), the court shall enter findings consistent with the parties' stipulation if the stipulation is supported by sufficient evidence.

(b) If the parties do not stipulate to Subsection (1)(a)(i), the court shall hold a hearing and determine, by clear and convincing evidence:

(i) whether the defendant had a mental condition at the time of the commission of the offense; and

(ii) whether the defendant could benefit from supervision or treatment.

(c) After reviewing the stipulation described in Subsection (1)(a)(i) or conducting a hearing under Subsection (1)(b):

(i) if the court finds that the defendant had a mental condition at the time of the offense, the court shall accept the defendant's plea of guilty with a mental condition; or

(ii) if the court finds that the defendant did not have a mental condition at the time of the offense, the court may not accept the defendant's plea of guilty with a mental condition.

(2) (a) If a defendant wishes to enter a plea of guilty with a mental condition for a felony offense and the parties do not stipulate to Subsection (1)(a)(i), before holding the hearing described in Subsection (1)(b), the court may order the defendant to submit to an examination, which may be conducted only by a forensic evaluator appointed by the department, to determine:

(i) whether the defendant had a mental condition at the time of the commission of the offense;

(ii) whether the defendant could benefit from supervision or treatment; or

(iii) whether the defendant currently is competent to enter a plea.

(b) (i) If a defendant wishes to enter a plea of guilty with a mental condition for a misdemeanor offense and the parties do not stipulate to Subsection (1)(a)(i), before holding the hearing described in Subsection (1)(b), the court may order the defendant to submit to an examination by a forensic evaluator.

(ii) The examination shall determine:

(A) whether the defendant had a mental condition at the time of the commission of the offense;

(B) whether the defendant could benefit from supervision or treatment; or

(C) whether the defendant currently is competent to enter a plea.

(c) Before an examination is conducted pursuant to Subsection (1)(b) or this Subsection (2):

(i) the petitioner or other party, as directed by the court or requested by the department, shall provide to the forensic evaluation provider nonmedical information and materials relevant to a treatment assessment, including the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments; and

(ii) for purposes of a guilty with a mental condition evaluation, a custodian of mental health records pertaining to the defendant, including the defendant's prior mental health evaluations or records relating to the defendant's substance use disorder, may provide the records to:

(A) with the defendant's consent, a forensic evaluation provider or the department on the department's request; or

(B) pursuant to an order of the court, a forensic evaluation provider.

(3) (a) If a defendant relies on a private mental health evaluation in support of the defendant's plea of guilty with a mental condition and the parties do not stipulate to Subsection (1)(a)(i), upon the request of the prosecutor before the hearing described in Subsection (1)(b), the court shall order the defendant to submit to an examination by:

(i) the department if the offense is a felony; or

(ii) the department or a forensic evaluator if the offense is a misdemeanor.

(b) The petitioner or other party, as directed by the court or requested by the department, shall provide to the private mental health evaluation provider nonmedical information and materials relevant to a treatment assessment, including the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(c) For purposes of a guilty with a mental condition evaluation, a custodian of mental health records pertaining to the defendant, including the defendant's prior mental health evaluations or records relating to the defendant's substance use disorder, may provide the records to:

(i) with the defendant's consent, a private mental health evaluation provider or the department on the department's request; or

(ii) pursuant to an order of the court, a private mental health evaluation provider.

(4) If a court finds that a defendant was guilty with a mental condition at the time of the offense in accordance with Subsection (1)(c)(i) but would not benefit from available supervision or treatment, the court shall hold a sentencing hearing within 45 days of the entry of the defendant's plea of guilty with a mental condition.

(5) (a) If a court finds that a defendant had a mental condition at the time of the commission of the offense, the defendant could benefit from supervision or treatment, and has entered a plea of guilty with a mental condition in accordance with Subsection (1)(c)(i), the court:

(i) shall order:

(A) the department to provide a treatment assessment of the defendant and to submit to the court treatment recommendations for the defendant; or

(B) the defendant to arrange for a treatment assessment of the defendant with a private provider and for the private provider to submit to the court treatment recommendations for the defendant;

(ii) shall schedule a treatment review hearing within 30 days after the day on which the court entered the plea of guilty with a mental condition; and

(iii) may defer sentencing for up to one year in accordance with Subsection (6), if the defendant consents to a deferred sentence.

(b) The petitioner or other party, as directed by the court or requested by the department, shall provide to the treatment assessment provider nonmedical information and materials relevant to a treatment assessment, including the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(c) For purposes of a guilty with a mental condition treatment assessment, a custodian of mental health records pertaining to the defendant, including the defendant's prior mental health evaluations or records relating to the defendant's substance use disorder, may provide the records to:

(i) with the defendant's consent, a treatment assessment provider or the department on the department's request; or

(ii) pursuant to an order of the court, a treatment assessment provider.

(d) At the treatment review hearing described in Subsection (5)(a)(ii), the court shall:

(i) consider all available diagnosis, treatment, and supervision recommendations;

(ii) if a party does not agree with treatment recommendations issued by the department under Subsection (5)(a)(i)(A), hold a hearing on the issue of the department's recommendations and make appropriate modifications to the recommendations if necessary; and

(iii) order the defendant to comply with all treatment and supervision recommendations that are in the best interest of the defendant and public safety.

(e) (i) In determining treatment and supervision recommendations under Subsection (5)(d), the court may order the defendant to be placed in a secure setting as described in Subsections (5)(e)(ii) and (iii) if the court finds that the placement would be in the best interest of the defendant, a victim of the defendant, or public safety.

(ii) (A) If the offense is a class C misdemeanor, the court may not place the defendant in a secure setting for more than 90 days.

(B) If the offense is a class B misdemeanor, the court may not place the defendant in a secure setting for more than six months.

(C) If the offense is a class A misdemeanor or a felony, the court may place the defendant in a secure setting for up to one year.

(iii) The court shall, before making a determination as to a secure setting placement, notify the executive director of the proposed placement and provide the department with an opportunity to:

(A) evaluate the defendant; and

(B) make a recommendation regarding placement to the court.

(f) If the court determines that the defendant is eligible for supervised release as part of the defendant's treatment and supervision recommendations under Subsection (5)(d), except as provided in Section 76-3-406, the court may order:

(i) if the offense is a felony:

(A) supervision by the Division of Adult Probation and Parole created in Section 64-14-202, or a third party that is approved by the Division of Adult Probation and Parole, for a period of up to one year in accordance with the applicable supervision provisions described in Title 64, Chapter 13, Department of Corrections - State Prison, and Title 64, Chapter 14, Adult Probation and Parole; and

(B) mental health supervision by:

(I) the department or a local mental health authority; or

(II) if the court determines that it is appropriate, a public or private entity that provides mental or behavioral health services and is approved by the; or

(ii) if the offense is a misdemeanor, mental health supervision by:

(A) a local mental health authority; or

(B) if the court determines that it is appropriate, a public or private entity that provides mental or behavioral health services and is approved by the department.

(g) (i) After the initial review hearing described in Subsection (5)(a), the court shall hold periodic review hearings approximately every 90 days, the frequency of which may be modified by the court.

(ii) At a review hearing described in Subsection (5)(g)(i):

(A) the department or the department's designee shall report on the progress of the defendant, provide recommendations for the defendant's future care, treatment, and secure or unsecure placement, and advise the court on the medical necessity of treatments for the defendant;

(B) the court shall review the status of the defendant and determine whether any changes are needed to the defendant's supervision or treatment plan; and

(C) a party may request, if the party has a good faith basis, that the court review or change the defendant's placement within a secure or non-secure setting.

(h) If a defendant is willfully non-compliant with the treatment or supervision ordered by the court under this Subsection (5), the court shall hold an order to show cause hearing to determine whether the court should:

(i) proceed with sentencing under Subsection (6);

(ii) change the defendant's placement to a secure setting;

(iii) impose another sanction; or

(iv) take no action.

(6) (a) The court shall defer sentencing for a defendant who has pleaded guilty with a mental condition as described in Subsection (5) until:

(i) the court determines, after an order to show cause hearing or a review hearing as described in Subsection (5), that:

(A) the defendant is willfully non-compliant with treatment or supervision and is unlikely to become compliant with further ordered treatment or supervision; or

(B) the defendant has reached the maximum benefit of treatment and supervision; or

(ii) one year has elapsed after the day on which the court entered the defendant's plea of guilty with a mental condition.

(b) At the sentencing hearing, the court shall:

(i) consider all treatment and supervision that has occurred before the sentencing hearing in the defendant's case;

(ii) credit any time the defendant has spent in a mental health facility or other residential treatment facility or a secure facility against the defendant's sentence;

(iii) consider victim input;

(iv) consider the best interests of the defendant, including which sentence will help prevent the defendant:

(A) from losing the defendant's ability to control the defendant's state of mental health; and

(B) from committing additional criminal conduct related to the defendant's mental condition;

(v) consider the best interest of public safety; and

(vi) consider any other relevant factor or circumstance.

(7) (a) Except as provided in Subsection (7)(b), after a defendant who has been sentenced under Subsection (6) has completed the defendant's sentence and any probation or parole:

(i) notwithstanding the contrary provisions in Subsection 76-3-402(4) or 76-3-406(1), the court has jurisdiction to enter a judgment of conviction and shall reduce the judgment of conviction for the offense by two degrees from the original offense; and

(ii) notwithstanding the contrary provisions in Subsection 76-3-402(4) or 76-3-406(1), if the prosecuting attorney specifically agrees in writing or on the court record at any time, the court has jurisdiction to consider and enter a judgment of conviction and may enter a judgment of conviction for the offense that is reduced by up to three degrees from the original offense.

(b) If a defendant's probation is revoked and any suspended sentence is imposed, the defendant may not receive a reduction under this Subsection (7).

(8) (a) (i) Except as provided in Subsection (8)(a)(iv), when the offense is a state offense, expenses of examination, observation, and treatment for the defendant shall be paid by the department when not paid for by the defendant's insurance.

(ii) Travel expenses shall be paid by the county where prosecution is commenced.

(iii) Expenses of examination for a defendant charged with a violation of a municipal or county ordinance shall be paid by the municipality or county that commenced the prosecution.

(iv) The department is not responsible for payment for an evaluation described in Subsection (3)(a)(ii) that is conducted by a forensic evaluator who is privately retained by a party.

(b) (i) Provisions in this part for the support at public expense of a defendant with a mental condition do not release an insurer of a defendant with a mental condition from liability for the care or treatment of the defendant with a mental condition.

(ii) The department is authorized to collect amounts spent on a defendant with a mental condition from an insurer of the defendant with a mental condition.

(iii) A health insurance company may not deny coverage for court-ordered treatment or supervision of a defendant with a mental condition solely based on the fact that the treatment or supervision is ordered by a court if the treatment or supervision is medically necessary and would otherwise be a covered benefit under the defendant's insurance plan.

(9) A guilty with a mental condition evaluation conducted under this section is also subject to the procedural requirements of Subsections 77-15-5(8) through (11) and 77-15-6(4)(a).

Section 34. Section 77-16a-205 is amended to read:

77-16a-205. Parole.

(1) When an offender with a mental condition who has been committed to the department becomes eligible to be considered for parole, the board shall request a recommendation from the executive director and from UDC before placing the offender on parole.

(2) Before setting a parole date, the board shall request that its mental health adviser prepare a report regarding the offender with a mental condition, including:

(a) all available clinical facts;

(b) the diagnosis;

(c) the course of treatment received at the mental health facility;

(d) the prognosis for remission of symptoms;

(e) potential for recidivism;

(f) an estimation of the dangerousness of the offender with a mental condition either to self or others; and

(g) recommendations for future treatment.

(3) Based on the report described in Subsection (2), the board may place the offender with a mental condition on parole. The board may require mental health treatment as a condition of parole. If treatment is ordered, failure to continue treatment, except by agreement with the treatment provider, and the board, is a basis for initiation of parole violation hearings by the board.

(4) (a) [~~UDC, through Adult Probation and Parole,~~]The Division of Adult Probation and Parole created in Section 64-14-202 shall monitor the status of an offender with a mental condition who has been placed on parole.

(b) UDC may provide treatment by contracting with the department, a local mental health authority, any other public or private provider, or in-house staff.

(5) The board may not subsequently reduce the period of parole without considering an updated report on the offender's current mental condition.

Section 35. Section 77-18-102 is amended to read:

77-18-102. Definitions.

As used in this chapter:

(1) "Assessment" means the same as the term "risk and needs assessment" in Section 77-1-3.

(2) "Board" means the Board of Pardons and Parole.

(3) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(5) "Convicted" means the same as that term is defined in Section 76-3-201.

(6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(7) "Default" means the same as that term is defined in Section 77-32b-102.

(8) "Delinquent" means the same as that term is defined in Section 77-32b-102.

(9) "Department" means the Department of Corrections created in Section 64-13-2.

(10) "Division" means the Division of Adult Probation and Parole created in Section 64-14-202.

[~~(10)~~](11) "Habitual offender" means an individual who has been convicted in:

(a) at least six cases for one or more felony offenses in each case; and

(b) each case described in Subsection [~~(10)(a)~~](11)(a) within five years before the day on which the defendant is convicted of the felony offense before the court.

[~~(11)~~](12) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

[~~(12)~~](13) "Restitution" means the same as that term is defined in Section 77-38b-102.

[~~(13)~~](14) "Screening" means a tool or questionnaire that is designed to determine whether an individual needs further assessment or any additional resource or referral for treatment.

[~~(14)~~](15) "Substance use disorder treatment" means treatment obtained through a substance use disorder program that is licensed by the Office of Licensing within the Department of Health and Human Services.

Section 36. Section 77-18-105 is amended to read:

77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

(1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:

(a) in accordance with Chapter 2a, Pleas in Abeyance; and

(b) under the terms of the plea in abeyance agreement.

(2) If a defendant is convicted, the court:

(a) shall impose a sentence in accordance with Section 76-3-201; and

(b) subject to Subsection (5), may suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the [~~department~~]division;

(ii) on probation under the supervision of an agency of a local government or a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(3) (a) The legal custody of all probationers under the supervision of the [~~department~~]division is with the department.

(b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(c) The court has continuing jurisdiction over all probationers.

(4) (a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.

(b) Supervised probation services provided by the [~~department~~]division, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.

(c) If a court orders supervised probation and determines that a public probation provider is unavailable or inappropriate to supervise the defendant, the court shall make available to the defendant the list of private probation providers prepared by a criminal justice coordinating council under Section 17-55-201.

(5) (a) Before ordering supervised probation, the court shall consider the supervision costs to the defendant for each entity that can supervise the defendant.

(b) (i) A court may order an agency of a local government to supervise the probation for an individual convicted of any crime if:

(A) the agency has the capacity to supervise the individual; and

(B) the individual's supervision needs will be met by the agency.

(ii) A court may only order:

(A) the [~~department~~]division to supervise the probation for an individual convicted of a class A misdemeanor or any felony; or

(B) a private organization to supervise the probation for an individual convicted of a class A, B, or C misdemeanor or an infraction.

(c) A court may not order a specific private organization to supervise an individual unless there is only one private organization that can provide the specific supervision services required to meet the individual's supervision needs.

(6) (a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

(i) to provide for the support of persons for whose support the defendant is legally liable;

(ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

(iii) be voluntarily admitted to the custody of the Division of Substance [~~Abuse~~]Use and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

(iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(v) to serve a term of home confinement in accordance with Section 77-18-107;

(vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-3-410;

(vii) to pay for the costs of investigation, probation, or treatment services;

(viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime Victims Restitution Act; or

(ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.

(ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(b)(ii).

(7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:

(i) may not exceed the individual's maximum sentence;

(ii) shall be for a period of time that is in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law; and

(iii) shall be terminated in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.

(b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.

(c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.

(d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

(b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.

(c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.

(d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.

(ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(9) When making any decision regarding probation:

(a) the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements; and

(b) the court may not rely solely on an algorithm or a risk assessment tool score.

Section 37. Section 77-18-107 is amended to read:

77-18-107. Home confinement -- Electronic monitoring for home confinement.

(1) The court may order home confinement as a condition of probation under the supervision of the [~~department~~]division, except as provided in Sections 76-3-406 and 76-5-406.5.

(2) The department shall establish procedures and standards for home confinement for all defendants supervised by the [~~department~~]division for home confinement.

(3) If the court places the defendant on probation and orders the defendant to participate in home confinement under Subsection (1), the court may order the defendant to participate in home confinement through the use of electronic monitoring until further order of the court.

(4) The electronic monitoring of a defendant shall alert the [~~department~~]division and the appropriate law enforcement agency of the defendant's whereabouts.

(5) An electronic monitoring device shall be used under conditions that require:

(a) the defendant to wear an electronic monitoring device at all times; and

(b) the device be placed in the home of the defendant to monitor the defendant's compliance with the court's order.

(6) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under Subsection (3), the court shall:

(a) place the defendant on probation under the supervision of the [~~department~~]division;

(b) order the [~~department~~]division to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(c) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(7) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.

(8) The department may provide the electronic monitoring described in this section directly or by contract with a private provider.

Section 38. Section 77-18-108 is amended to read:

77-18-108. Termination, revocation, modification, or extension of probation -- Violation of probation -- Hearing on violation.

(1) (a) The [~~department~~]division shall send a written notice to the court:

(i) when the [~~department~~]division is recommending termination of supervision for a defendant; or

(ii) before a defendant's supervision will be terminated by law.

(b) The written notice under this Subsection (1) shall include:

(i) a probation progress report; and

(ii) if the department is responsible for the collection of the defendant's criminal accounts receivable, a summary of the criminal accounts receivable, including the amount of restitution ordered and the amount of restitution that has been paid.

(c) (i) Upon receipt of the written notice under Subsection (1)(a), the court shall:

(A) file the written notice on the docket; and

(B) provide notice to all parties in the criminal case.

(ii) A party shall have a reasonable opportunity to respond to the written notice under Subsection (1)(a).

(d) If a defendant's probation is being terminated, and the defendant's criminal accounts receivable has an unpaid balance or there is any outstanding debt with the department, the department shall send a written notice to the Office of State Debt Collection with a summary of the defendant's criminal accounts receivable, including the amount of restitution ordered and the amount of restitution that has been paid.

(2) (a) The court may modify the defendant's probation in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.

(b) The court may not:

(i) extend the length of a defendant's probation, except upon:

(A) waiver of a hearing by the defendant; or

(B) a hearing and a finding by the court that the defendant has violated the terms of probation;

(ii) revoke a defendant's probation, except upon a hearing and a finding by the court that the terms of probation have been violated; or

(iii) terminate a defendant's probation before expiration of the probation period until the court:

(A) reviews the docket to determine whether the defendant owes a balance on the defendant's criminal accounts receivable; and

(B) enters a finding of whether the defendant owes restitution under Section 77-38b-205.

(c) The court may find under Subsection (2)(b)(iii)(B) that the defendant does not owe restitution if no request for restitution has been filed with the court.

(3) (a) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, alleging with particularity facts asserted to constitute violation of the terms of a defendant's probation, the court shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of the defendant's probation is justified.

(b) (i) If the court determines there is probable cause, the court shall order that the defendant be served with:

(A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration; and

(B) an order to show cause as to why the defendant's probation should not be revoked, modified, or extended.

(ii) The order under Subsection (3)(b)(i)(B) shall:

(A) be served upon the defendant at least five days before the day on which the hearing is held;

(B) specify the time and place of the hearing; and

(C) inform the defendant of the right to be represented by counsel at the hearing, the right to have counsel appointed if the defendant

is indigent, and the right to present evidence at the hearing.

(iii) The defendant shall show good cause for a continuance of the hearing.

(c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(d) (i) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(ii) If the affidavit, or unsworn written declaration, alleges that a defendant is delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall present evidence to establish, by a preponderance of the evidence, that the defendant:

(A) was aware of the defendant's obligation to pay the balance of the criminal accounts receivable;

(B) failed to pay on the balance of the criminal accounts receivable as ordered by the court; and

(C) had the ability to make a payment on the balance of the criminal accounts receivable if the defendant opposes an order to show cause, in writing, and presents evidence that the defendant was unable to make a payment on the balance of the criminal accounts receivable.

(e) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant, unless the court for good cause otherwise orders.

(f) At the hearing, the defendant may:

(i) call witnesses;

(ii) appear and speak in the defendant's own behalf; and

(iii) present evidence.

(g) (i) After the hearing, the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the terms of the defendant's probation, the court may order the defendant's probation terminated, revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(4) (a) (i) Except as provided in Subsection 77-18-105(7), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation that the defendant serves, in relation to the same sentence, may not exceed the defendant's maximum sentence.

(b) If the court orders a sanction for a defendant who violated terms of probation, the court may:

(i) order a period of incarceration that is consistent with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;

(ii) order a period of incarceration that deviates from the guidelines with an explanation for the deviation on the record;

(iii) order treatment services that are immediately available in the community for a defendant that needs substance abuse or mental health treatment, as determined by a screening and assessment;

(iv) execute the sentence previously imposed; or

(v) order any other appropriate sanction.

(c) If the defendant had, before the imposition of a term of incarceration or the execution of the previously imposed sentence under this section, served time in jail as a term of probation or due to a violation of probation, the time that the defendant served in jail constitutes service of time toward the sentence previously imposed.

(5) (a) Any time served by a defendant:

(i) outside of confinement after having been charged with a probation violation, and before a hearing to revoke probation, does not constitute service of time toward the total probation term, unless the defendant is exonerated at a hearing to revoke the defendant's probation;

(ii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation does not constitute service of time toward the total probation term, unless the defendant is exonerated at the hearing to revoke probation; or

(iii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated and evidence-based response imposed under the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.

(b) The running of the probation period is tolled upon:

(i) the filing of a report with the court alleging a violation of the terms of the defendant's probation; or

(ii) the issuance of an order or a warrant under Subsection (3).

Section 39. Section 77-18-109 is amended to read:

77-18-109. Standards for supervision and presentence investigation.

(1) The department shall establish supervision and presentence investigation standards for all individuals referred to the [~~department~~]division based on:

(a) the type of offense;

(b) the results of a screening and an assessment;

(c) the demand for services;

(d) the availability of agency resources;

(e) public safety; and

(f) other criteria established by the department to determine what level of services shall be provided.

(2) The department shall submit proposed supervision and presentence investigation standards annually to the Judicial Council and the board for review and comment before the department adopts the standards.

(3) The Judicial Council and the department shall establish procedures for the division to implement the supervision and presentence investigation standards.

(4) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (1) and other criteria as the Judicial Council and the department consider appropriate.

(5) The Judicial Council and the department shall:

(a) annually prepare an impact report; and

(b) submit the impact report to the appropriate legislative appropriations subcommittee.

Section 40. Section 77-20-203 is amended to read:

77-20-203. County sheriff authority to release an individual from jail on own recognizance.

(1) As used in this section:

(a) "Division" means the Division of Adult Probation and Parole created in Section 64-14-202.

[~~(a)~~](b) (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

[~~(b)~~](c) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

[~~(c)~~](d) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) Except as provided in Subsection (3), a county jail official may release an individual from a jail facility on the individual's own recognizance if:

(a) the individual was arrested without a warrant;

(b) the individual was not arrested for:

(i) a violent felony;

(ii) a qualifying offense;

(iii) the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in death or serious bodily injury to an individual; or

(iv) an offense described in Subsection 76-9-101(4);

(c) law enforcement has not submitted a probable cause statement to a court or magistrate;

(d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(e) the individual qualifies for release under the written policy described in Subsection (4) for the county.

(3) A county jail official may not release an individual from a jail facility if the individual is subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Section [~~64-13-29~~]64-14-205.

(4) (a) A county sheriff shall create and approve a written policy for the county that governs the release of an individual on the individual's own recognizance.

(b) The written policy shall describe the criteria an individual shall meet to be released on the individual's own recognizance.

(c) A county sheriff may include in the written policy the criteria for release relating to:

(i) criminal history;

(ii) prior instances of failing to appear for a mandatory court appearance;

(iii) current employment;

(iv) residency;

(v) ties to the community;

(vi) an offense for which the individual was arrested;

(vii) any potential criminal charges that have not yet been filed;

(viii) the individual's health condition;

(ix) any potential risks to a victim, a witness, or the public; and

(x) any other similar factor a sheriff determines is relevant.

(5) (a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual for up to 24 hours from booking if:

(i) the individual is on supervised probation or parole and that information is reasonably available; and

(ii) the individual was arrested for:

(A) a violent felony; or

(B) a qualifying domestic violence offense.

(b) The jail facility shall:

(i) notify the entity supervising the individual's probation or parole that the individual is being detained; and

(ii) release the individual:

(A) to the [~~Department of Corrections if the Department of Corrections~~]division if the division supervises the individual and requests the individual's release; or

(B) if a court or magistrate orders release.

(c) This Subsection (5) does not prohibit a jail facility from holding the individual in accordance with this chapter for a new criminal offense.

(6) This section does not prohibit a court and a county from entering into an agreement regarding release.

Section 41. Section 77-20-204 is amended to read:

77-20-204. County jail authority to release an individual from jail on monetary bail.

(1) As used in this section, "eligible felony offense" means a third degree felony violation under:

(a) Section 23A-4-501 or 23A-4-502;

(b) Section 23A-5-311;

(c) Section 23A-5-313;

(d) Title 76, Chapter 6, Part 4, Theft;

(e) Title 76, Chapter 6, Part 5, Fraud;

(f) Title 76, Chapter 6, Part 6, Retail Theft;

(g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

(h) Title 76, Chapter 6, Part 8, Library Theft;

(i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

(j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

(k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

(m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

(n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

(o) Title 76, Chapter 6a, Pyramid Scheme Act;

(p) Title 76, Chapter 7, Offenses Against the Family;

(q) Title 76, Chapter 7a, Abortion Prohibition;

(r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

(s) Title 76, Chapter 9, Part 3, Cruelty to Animals;

(t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(u) Title 76, Chapter 9, Part 5, Libel; or

(v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.

(2) Except as provided in Subsection (7)(a), a county jail official may fix a financial condition for an individual if:

(a) (i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;

(ii) the individual is arrested for, or charged with:

(A) a misdemeanor offense under state law; or

(B) a violation of a city or county ordinance that is classified as a class B or C misdemeanor offense;

(iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(iv) law enforcement has not submitted a probable cause statement to a magistrate; or

(b) (i) the individual is arrested for, or charged with, an eligible felony offense;

(ii) the individual is not on pretrial release for a separate criminal offense;

(iii) the individual is not on probation or parole;

(iv) the primary risk posed by the individual is the risk of failure to appear;

(v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(vi) law enforcement has not submitted a probable cause statement to a magistrate.

(3) A county jail official may not fix a financial condition at a monetary amount that exceeds:

(a) $5,000 for an eligible felony offense;

(b) $1,950 for a class A misdemeanor offense;

(c) $680 for a class B misdemeanor offense;

(d) $340 for a class C misdemeanor offense;

(e) $150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or

(f) $80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.

(4) If an individual is arrested for more than one offense, and the county jail official fixes a financial condition for release:

(a) the county jail official shall fix the financial condition at a single monetary amount; and

(b) the single monetary amount may not exceed the monetary amount under Subsection (3) for the highest level of offense for which the individual is arrested.

(5) Except as provided in Subsection (7)(b), an individual shall be released if the individual posts a financial condition fixed by a county jail official in accordance with this section.

(6) If a county jail official fixes a financial condition for an individual, law enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of Criminal Procedure after the county jail official fixes the financial condition.

(7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah Rules of Criminal Procedure:

(a) a county jail official may not fix or modify a financial condition for an individual; and

(b) if a county jail official fixed a financial condition for the individual before the magistrate's review, the individual may no longer be released on the financial condition.

(8) A jail facility may not release an individual subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Section [~~64-13-29~~]64-14-205.

(9) This section does not prohibit a court and a county from entering into an agreement regarding release.

Section 42. Section 77-27-10 is amended to read:

77-27-10. Conditions of parole -- Inmate agreement to warrant -- Rulemaking -- Intensive early release parole program.

(1) (a) When the Board of Pardons and Parole releases an offender on parole, it shall, in accordance with Section [~~64-13-21~~]64-14-204, issue to the parolee a certificate setting forth the conditions of parole, including the graduated and evidence-based responses to a violation of a condition of parole established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, which the offender shall accept and agree to as evidenced by the offender's signature affixed to the agreement.

(b) The parole agreement shall require that the inmate agree in writing that the board may issue a warrant and conduct a parole revocation hearing if:

(i) the board determines after the grant of parole that the inmate willfully provided to the board false or inaccurate information that the board finds was significant in the board's determination to grant parole; or

(ii) (A) the inmate has engaged in criminal conduct prior to the granting of parole; and

(B) the board did not have information regarding the conduct at the time parole was granted.

(c) (i) A copy of the agreement shall be delivered to the Department of Corrections and a copy shall be given to the parolee.

(ii) The original agreement shall remain with the board's file.

(2) (a) If an offender convicted of violating or attempting to violate Section 76-5-301.1, 76-5-302, 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, 76-5-404.3, or 76-5-405, is released on parole, the board shall order outpatient mental health counseling and treatment as a condition of parole.

(b) The board shall develop standards and conditions of parole under this Subsection (2) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) This Subsection (2) does not apply to intensive early release parole.

(3) (a) (i) In addition to the conditions set out in Subsection (1), the board may place offenders in an intensive early release parole program.

(ii) The board shall determine the conditions of parole which are reasonably necessary to protect the community as well as to protect the interests of the offender and to assist the offender to lead a law-abiding life.

(b) The offender is eligible for this program only if the offender:

(i) has not been convicted of a sexual offense; or

(ii) has not been sentenced pursuant to Section 76-3-406.

(c) The department shall:

(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for operation of the program;

(ii) adopt and implement internal management policies for operation of the program;

(iii) determine whether or not to refer an offender into this program within 120 days from the date the offender is committed to prison by the sentencing court; and

(iv) make the final recommendation to the board regarding the placement of an offender into the program.

(d) The department may not consider credit for time served in a county jail awaiting trial or sentencing when calculating the 120-day period.

(e) The prosecuting attorney or sentencing court may refer an offender for consideration by the department for participation in the program.

(f) The board shall determine whether or not to place an offender into this program within 30 days of receiving the department's recommendation.

(4) This program shall be implemented by the department within the existing budget.

(5) During the time the offender is on parole, the department shall collect from the offender the monthly supervision fee authorized by Section [~~64-13-21~~]64-14-204.

(6) When a parolee commits a violation of the parole agreement, the department may:

(a) respond in accordance with the graduated and evidence-based responses established in accordance with Section [~~64-13-21~~]64-14-204; or

(b) when the graduated and evidence-based responses established in accordance with Section [~~64-13-21~~]64-14-204 indicate, refer the parolee to the Board of Pardons and Parole for revocation of parole.

Section 43. Section 77-27-10.5 is amended to read:

77-27-10.5. Special condition of parole -- Penalty.

(1) In accordance with Section 77-27-5, the Board of Pardons and Parole may release the defendant on parole and as a condition of parole, the board may order the defendant to be prohibited from directly or indirectly engaging in any profit or benefit generating activity relating to the publication of facts or circumstances pertaining to the defendant's involvement in the criminal act for which the defendant is convicted.

(2) The order may prohibit the defendant from contracting with any person, firm, corporation, partnership, association, or other legal entity with respect to the commission and reenactment of the defendant's criminal conduct, by way of a movie, book, magazine article, tape recording, phonograph record, radio, or television presentations, live entertainment of any kind, or from the expression of the defendant's thoughts, feelings, opinions, or emotions regarding the criminal conduct.

(3) The board may order that the prohibition includes any event undertaken and experienced by the defendant while avoiding apprehension from the authorities or while facing criminal charges.

(4) The board may order that any action taken by the defendant by way of execution of power of attorney, creation of corporate entities, or other action to avoid compliance with the board's order shall be grounds for revocation of parole as provided in Section 77-27-11.

(5) The Division of Adult Probation and Parole created in Section 64-14-202 shall notify the board of any alleged violation of the board's order under this section.

(6) The violation of the board's order shall be considered a violation of parole.

(7) For purposes of this section:

(a) "convicted" means a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental condition, no contest, and conviction of any crime or offense; and

(b) "defendant" means the convicted defendant, the defendant's assignees, and representatives acting on the defendant's authority.

Section 44. Section 77-27-11 is amended to read:

77-27-11. Revocation of parole.

(1) The board may revoke the parole of any individual who is found to have violated any condition of the individual's parole.

(2) (a) If a parolee is confined by the department or any law enforcement official for a suspected violation of parole, the department:

(i) shall immediately report the alleged violation to the board, by means of an incident report; and

(ii) make any recommendation regarding the incident.

(b) A parolee may not be held for a period longer than 72 hours, excluding weekends and holidays, without first obtaining a warrant.

(c) The board shall expeditiously consider warrant requests from the department under Section [~~64-13-29~~]64-14-205.

(3) Any member of the board may:

(a) issue a warrant based upon a certified warrant request to a peace officer or other persons authorized to arrest, detain, and return to actual custody a parolee; and

(b) upon arrest of the parolee, determine, or direct the department to determine, if there is probable cause to believe that the parolee has violated the conditions of the parolee's parole.

(4) Upon a finding of probable cause, a parolee may be further detained or imprisoned again pending a hearing by the board or the board's appointed examiner.

(5) (a) The board or the board's appointed examiner shall conduct a hearing on the alleged violation, and the parolee shall have written notice of the time and location of the hearing, the alleged violation of parole, and a statement of the evidence against the parolee.

(b) The board or the board's appointed examiner shall provide the parolee the opportunity:

(i) to be present;

(ii) to be heard;

(iii) to present witnesses and documentary evidence;

(iv) to confront and cross-examine adverse witnesses, absent a showing of good cause for not allowing the confrontation; and

(v) to be represented by counsel when the parolee is mentally incompetent or pleading not guilty.

(c) (i) If heard by an appointed examiner, the examiner shall make a written decision which shall include a statement of the facts relied upon by the examiner in determining the guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the alleged violation occurred.

(ii) The appointed examiner shall then refer the case to the board for disposition.

(d) (i) A final decision shall be reached by a majority vote of the sitting members of the board.

(ii) A parolee shall be promptly notified in writing of the board's findings and decision.

(6) (a) If a parolee is found to have violated the terms of parole, the board, at the board's discretion, may:

(i) return the parolee to parole;

(ii) modify the payment schedule for the parolee's criminal accounts receivable in accordance with Section 77-32b-105;

(iii) order the parolee to pay pecuniary damages that are proximately caused by a defendant's violation of the terms of the defendant's parole;

(iv) order the parolee to be imprisoned, but not to exceed the maximum term of imprisonment for the parolee's sentence; or

(v) order any other conditions for the parolee.

(b) If the board returns the parolee to parole, the length of parole may not be for a period of time that exceeds the length of the parolee's maximum sentence.

(c) If the board revokes parole for a violation and orders incarceration, the board may impose a period of incarceration:

(i) consistent with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1; or

(ii) subject to Subsection (6)(a)(iv), impose a period of incarceration that differs from the guidelines.

(d) The following periods of time constitute service of time toward the period of incarceration imposed under Subsection (6)(c):

(i) time served in jail by a parolee awaiting a hearing or decision concerning revocation of parole; and

(ii) time served in jail by a parolee due to a violation of parole under Subsection 64-13-6(2).

Section 45. Section 77-32b-102 is amended to read:

77-32b-102. Definitions.

As used in this chapter:

(1) "Board" means the Board of Pardons and Parole.

(2) (a) "Civil accounts receivable" means any amount of the criminal accounts receivable that is owed by the defendant that has not been paid on or before the day on which:

(i) the defendant's sentence is terminated; or

(ii) the court enters an order for a civil accounts receivable under Subsection 77-18-114(1) or (2).

(b) "Civil accounts receivable" does not include any amount of the criminal accounts receivable that is owed by the defendant for restitution.

(3) "Civil judgment of restitution" means any amount of the criminal accounts receivable that is owed by the defendant for restitution that has not been paid on or before the day on which the defendant's sentence is terminated.

(4) (a) "Criminal accounts receivable" means any amount owed by a defendant that arises from a criminal judgment until:

(i) the defendant's sentence terminates;

(ii) the court enters an order for a civil accounts receivable under Subsection 77-18-114(1) or (2); or

(iii) if the court requires the defendant, upon termination of the probation period for the defendant, to continue to make payments on the criminal accounts as described in Subsection 77-18-105(8), the defendant's sentence expires.

(b) "Criminal accounts receivable" includes any unpaid:

(i) fee, including the monthly supervision fee described in Subsection [~~64-13-21(6)~~]64-14-204(6);

(ii) forfeiture;

(iii) surcharge;

(iv) cost;

(v) interest;

(vi) penalty;

(vii) restitution;

(viii) third party claim;

(ix) reimbursement of a reward; and

(x) damages.

(5) "Default" means a civil accounts receivable, a civil judgment of restitution, or a criminal accounts receivable that is overdue by at least 90 days.

(6) "Delinquent" means a civil accounts receivable, a civil judgment of restitution, or a criminal account receivable that is overdue by more than 28 days but less than 90 days.

(7) "Payment schedule" means the amount that is be paid by a defendant in installments, or by a certain date, to satisfy a criminal accounts receivable for the defendant.

(8) "Remit" or "remission" means to forgive or to excuse, in whole or in part, any unpaid amount of a criminal accounts receivable.

(9) "Restitution" means the same as that term is defined in Section 77-38b-102.

Section 46. Section 77-36-5.1 is amended to read:

77-36-5.1. Conditions of probation for domestic violence offense.

(1) Before a perpetrator who is convicted or adjudicated of a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with one or more orders of the court, which may include:

(a) a sentencing protective order issued under Section 78B-7-804;

(b) prohibiting the perpetrator from possessing or consuming alcohol or controlled substances;

(c) prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(d) directing the perpetrator to surrender any weapons the perpetrator owns or possesses;

(e) directing the perpetrator to participate in and complete, to the satisfaction of the court, a program of intervention for perpetrators, treatment for alcohol or substance abuse, or psychiatric or psychological treatment;

(f) directing the perpetrator to pay restitution to the victim, enforcement of which shall be in accordance with Chapter 38b, Crime Victims Restitution Act; and

(g) imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) The perpetrator is responsible for the costs of any condition of probation, according to the perpetrator's ability to pay.

(4) (a) The Division of Adult Probation and Parole created in Section 64-14-202, or other provider, shall immediately report to the court and notify the victim of any offense involving domestic violence committed by the perpetrator, the perpetrator's failure to comply with any condition imposed by the court, and any violation of a sentencing protective order issued by the court under Section 78B-7-804.

(b) Notification of the victim under Subsection (4)(a) shall consist of a good faith reasonable effort to provide prompt notification, including mailing a copy of the notification to the last-known address of the victim.

(5) In addition to a protective order issued under this section, the court may issue a separate order relating to the transfer of a wireless telephone number in accordance with Section 78B-7-117.

Section 47. Section 77-38-3 is amended to read:

77-38-3. Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact order.

(1) Within seven days after the day on which felony criminal charges are filed against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.

(2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (g) and rights under this chapter.

(3) The prosecuting agency shall provide notice to a victim of a crime:

(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (g), which the victim has requested; and

(b) for a restitution request to be submitted in accordance with Section 77-38b-202.

(4) (a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(b) In the event of an unforeseen important criminal justice hearing, described in Subsections 77-38-2(5)(a) through (g) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.

(5) (a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through (g) permit an opportunity for victims of crimes to be notified.

(b) The court shall consider whether any notification system that the court might use to provide notice of judicial proceedings to defendants could be used to provide notice of judicial proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole created in Section 64-14-202, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through (g) in advance of any requested court hearing or action so that the prosecuting agency may comply with the prosecuting agency's notification obligation.

(7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (g) only where the victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of restitution hearings shall provide the court with the victim's current address and telephone number.

(10) (a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice the prosecuting agency has received from a victim to the Board of Pardons and Parole.

(11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.

(12) (a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice and Youth Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under Subsection 63G-2-305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

(i) a law enforcement agency, including the prosecuting agency;

(ii) a victims' right committee as provided in Section 77-37-5;

(iii) a governmentally sponsored victim or witness program;

(iv) the Department of Corrections;

(v) the Utah Office for Victims of Crime;

(vi) the Commission on Criminal and Juvenile Justice;

(vii) the Utah State Courts; and

(viii) the Board of Pardons and Parole.

(13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

(14) (a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section 76-10-1306 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

(i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;

(ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and

(iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.

(b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.

(c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.

(ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.

(15) (a) When a case involving a victim may resolve before trial with a plea deal, the prosecutor shall notify the victim of that possibility as soon as practicable.

(b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall explain the available details of an anticipated plea deal.

Section 48. Section 77-38-611 is amended to read:

77-38-611. Address use by state or local government entities.

(1) Except as otherwise provided in Subsection (7), a program participant is responsible for requesting that a state or local government entity use the program participant's assigned address as the program participant's residential address.

(2) Except as otherwise provided in this part, if a program participant submits a valid authorization card, or a notification form, to a state or local government entity, the state or local government entity shall accept the assigned address listed on the authorization card or notification form as the program participant's address to be used as the program participant's residential address when creating a record.

(3) The program participant's assigned address shall be listed as the last known address if any last known address requirement is needed by the state or local government entity.

(4) The state or local government entity may photocopy a program participant's authorization card for a record for the state or local government entity, but the state or local government entity shall immediately return the authorization card to the program participant.

(5) (a) An election official, as defined in Section 20A-1-102, shall:

(i) use a program participant's actual address for precinct designation and all official election-related purposes;

(ii) classify the program participant's actual address as concealed; and

(iii) keep the program participant's actual address confidential from the public.

(b) A program participant may not use the program participant's assigned address for voter registration.

(c) An election official shall use the assigned address for all correspondence and mail for the program participant placed in the United States mail.

(d) A state or local government entity's access to a program participant's voter registration is subject to the request for disclosure process under Section 77-38-612.

(e) This Subsection (5) applies only to a program participant who submits a valid authorization card or a notification form when registering to vote.

(6) (a) A state or local government entity may not use a program participant's assigned address for the purposes of listing, or appraising a property, or assessing property taxes.

(b) Except as provided by Subsection (6)(c), all property assessments and tax notices, property tax collection notices, and all property related correspondence placed in the United States mail for the program participant shall be addressed to the assigned address.

(c) The State Tax Commission shall use the actual address of a program participant, unless the commission provides the following information to the State Tax Commission:

(i) the full name of the program participant; and

(ii) the program participant's social security number, federal employee identification number, and any other identification number related to a tax, fee, charge, or license administered by the State Tax Commission.

(7) (a) A state or local government entity may not use a program participant's assigned address for purposes of assessing any taxes or fees on a motor vehicle or a watercraft for titling or registering a motor vehicle or a watercraft.

(b) Except as provided by Subsection (7)(c), all motor vehicle and watercraft assessments and tax notices, title registration notices, and all related correspondence placed in the United States mail for the program participant is required to be addressed to the assigned address.

(c) The Motor Vehicle Division shall use the actual address of a program participant, unless the commission provides the following information to the Motor Vehicle Division:

(i) the full name of the program participant;

(ii) the assigned address of the program participant;

(iii) the motor vehicle or hull identification number for each motor vehicle or watercraft that is owned or leased by the program participant;

(iv) the license plate or registration number for each motor vehicle or watercraft that is owned or leased by the program participant; and

(v) the physical address where each motor vehicle or watercraft that is owned or leased by the program participant.

(d) Notwithstanding any other provision of this part, the Motor Vehicle Division may disclose to another state or local government entity all information that is necessary for the state or local government entity to distribute any taxes or fees collected for titling or registering a motor vehicle or a watercraft.

(e) Notwithstanding Section 41-1a-116 or any other provision of this part, the Motor Vehicle Division may not disclose the actual address of a program participant described in Subsection 77-38-605(3)(m)(ii) to:

(i) the Utah Criminal Justice Information System; or

(ii) the title, lien, and registration system that is provided to the Motor Vehicle Division by a third party contractor and is accessed in accordance with Subsection 41-1a-116(4).

(8) (a) [~~The Department of Corrections~~]The Division of Adult Probation and Parole created in Section 64-14-202, or any other entity responsible for supervising a program participant who is on probation or parole as a result of a criminal conviction or an adjudication, may not use the program participant's assigned address if the program participant's actual address is necessary for supervising the program participant.

(b) All written communication delivered through the United States mail to the program participant by the Department of Corrections, or the other entity described in Subsection (8)(a), shall be addressed to the program participant's assigned address.

(9) If a program participant is required by law to swear or affirm to the program participant's address, the program participant may use the program participant's assigned address.

(10) (a) A school district shall:

(i) accept the assigned address as the address of record; and

(ii) verify student enrollment eligibility with the commission.

(b) The commission shall help facilitate the transfer of student records as needed.

(11) (a) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a record containing a program participant's address is confidential and, regardless of the record's classification under Title 63G, Chapter 2, Part 3, Classification, may not be disclosed by a state or local government entity, unless otherwise provided under this part.

(b) A program participant's actual address may not be disclosed to a third party by a state or local government entity, except:

(i) in a record created more than 90 days before the date on which the program participant applied for enrollment in the program; or

(ii) if a program participant voluntarily requests, in writing, that the program participant's actual address be disclosed to the third party.

(c) For a record created within 90 days before the date that a program participant applied for enrollment in the program, a state or local government entity shall redact the actual address from the record or change the actual address to the assigned address in the public record if the program participant presents a valid authorization card or a notification form and requests that the state or local government entity use the assigned address instead of the actual address on the record.

Section 49. Section 77-38b-102 is amended to read:

77-38b-102. Definitions.

As used in this chapter:

(1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(3) (a) "Conviction" means:

(i) a plea of:

(A) guilty;

(B) guilty with a mental condition; or

(C) no contest; or

(ii) a judgment of:

(A) guilty; or

(B) guilty with a mental condition.

(b) "Conviction" does not include:

(i) a plea in abeyance until a conviction is entered for the plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(4) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(5) "Criminal conduct" means:

(a) any misdemeanor or felony offense of which the defendant is convicted; or

(b) any other criminal behavior for which the defendant admits responsibility to the court with or without an admission of committing the criminal behavior.

(6) "Deceased victim" means an individual whose death is proximately caused by the criminal conduct of the defendant.

(7) (a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, criminal conduct.

(b) "Defendant" does not include a minor, as defined in Section 80-1-102, who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 80, Chapter 6, Juvenile Justice.

(8) "Department" means the Department of Corrections.

(9) (a) "Dependent" means an individual for whom a deceased victim, or a permanently impaired victim, had a legal obligation to provide dependent support at the time of the criminal conduct by the defendant.

(b) "Dependent" includes:

(i) a child:

(A) who is younger than 18 years old; and

(B) for whom a deceased victim, or a permanently impaired victim, is the adoptive or biological parent or legal guardian;

(ii) an unborn child who has a parent-child relationship with a deceased victim, or a permanently impaired victim, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act; or

(iii) an incapacitated individual for whom a deceased victim, or a permanently impaired victim, is the adoptive or biological parent or the legal guardian.

(10) "Dependent support" means the financial obligation of an individual to provide for the routine needs of a dependent, including food, clothing, health care, safety, or shelter.

(11) "Diversion agreement" means an agreement entered into by the prosecuting attorney and the defendant that suspends criminal proceedings before conviction on the condition that a defendant agree to participate in a rehabilitation program, pay restitution to the victim, or fulfill some other condition.

(12) "Division" means the Division of Adult Probation and Parole created in Section 64-14-202.

[~~(12)~~](13) "Incapacitated" or "incapacitation" means the individual is:

(a) mentally or physically impaired to the extent that the individual is permanently unable to gain employment and provide basic necessities, including food, clothing, health care, safety, or shelter; and

(b) reliant on a parent, legal guardian, or other relative or person to provide basic necessities for the individual.

[~~(13)~~](14) "Incapacitated individual" means an individual who is incapacitated.

[~~(14)~~](15) "Legal guardian" means an individual appointed by a court to make decisions regarding a child or an incapacitated individual.

[~~(15)~~](16) "Life expectancy" means the number of months an individual is or was expected to live considering medical records and experiential data for the individual.

[~~(16)~~](17) "Office" means the Office of State Debt Collection created in Section 63A-3-502.

[~~(17)~~](18) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

[~~(18)~~](19) (a) "Pecuniary damages" means all demonstrable economic injury, losses, and expenses regardless of whether the economic injury, losses, and expenses have yet been incurred.

(b) "Pecuniary damages" does not include punitive damages or pain and suffering damages.

[~~(19)~~](20) "Permanently impaired victim" means an incapacitated individual whose incapacitation is proximately caused by the criminal conduct of the defendant.

[~~(20)~~](21) "Plea agreement" means an agreement entered between the prosecuting attorney and the defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

[~~(21)~~](22) "Plea disposition" means an agreement entered into between the prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.

[~~(22)~~](23) "Plea in abeyance" means an order by a court, upon motion of the prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against the defendant nor imposing sentence upon the defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement.

[~~(23)~~](24) "Plea in abeyance agreement" means an agreement entered into between the prosecuting attorney and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

[~~(24)~~](25) "Restitution" means the payment of pecuniary damages to a victim.

[~~(25)~~](26) "Unborn child" means a human fetus or embryo in any stage of gestation from fertilization until birth.

[~~(26)~~](27) (a) "Victim" means any person who has suffered pecuniary damages that are proximately caused by the criminal conduct of the defendant.

(b) "Victim" includes:

(i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes a payment to, or on behalf of, a victim under Section 63M-7-519;

(ii) the estate of a deceased victim;

(iii) a dependent; or

(iv) a parent, spouse, intimate partner as defined in 18 U.S.C. Sec. 921, child, or sibling of a victim.

(c) "Victim" does not include a codefendant or accomplice.

Section 50. Section 77-38b-304 is amended to read:

77-38b-304. Priority of payment disbursement.

(1) The court, or the office, shall disburse a payment for restitution within 60 days after the day on which the payment is received from the defendant if:

(a) the victim has complied with Subsection 77-38b-203(2);

(b) if the defendant has tendered a negotiable instrument, funds from the financial institution are actually received;

(c) the payment to the victim is at least $25, unless the payment is the final payment; and

(d) there is no pending legal issue that would affect an order for restitution or the distribution of restitution.

(2) The court shall disburse money collected from a defendant for a criminal accounts receivable in the following order of priority:

(a) first, and except as provided in Subsection (4)(b), to restitution owed by the defendant in accordance with Subsection (4);

(b) second, to the cost of obtaining a DNA specimen from the defendant as described in Subsection (4)(b);

(c) third, to any criminal fine or surcharge owed by the defendant;

(d) fourth, to the cost owed by the defendant for a reward described in Section 77-32b-104;

(e) fifth, to the cost owed by the defendant for medical care, treatment, hospitalization, and related transportation paid by a county correctional facility under Section 17-50-319; and

(f) sixth, to any other amount owed by the defendant.

(3) When the office collects money from a defendant for a criminal accounts receivable, a civil accounts receivable, or a civil judgment of restitution, the office shall disburse the money in the following order of priority:

(a) first, to any past due amount owed to the department for the monthly supervision fee under Subsection [~~64-13-21(6)(a)~~]64-14-204(6);

(b) second, and except as provided in Subsection (4)(b), to restitution owed by the defendant in accordance with Subsection (4);

(c) third, to the cost of obtaining a DNA specimen from the defendant in accordance with Subsection (4)(b);

(d) fourth, to any criminal fine or surcharge owed by the defendant;

(e) fifth, to the cost owed by the defendant for a reward described in Section 77-32b-104;

(f) sixth, to the cost owed by the defendant for medical care, treatment, hospitalization and related transportation paid by a county correctional facility under Section 17-50-319; and

(g) seventh, to any other amount owed by the defendant.

(4) (a) If a defendant owes restitution to more than one person or government agency at the same time, the court, or the office, shall disburse a payment for restitution in the following order of priority:

(i) first, to the victim of the offense;

(ii) second, to the Utah Office for Victims of Crime;

(iii) third, any other government agency that has provided reimbursement to the victim as a result of the defendant's criminal conduct; and

(iv) fourth, any insurance company that has provided reimbursement to the victim as a result of the defendant's criminal conduct.

(b) If a defendant is required under Section 53-10-404 to reimburse the department for the cost of obtaining the defendant's DNA specimen, the reimbursement for the cost of obtaining the defendant's DNA specimen is the next priority after restitution to the victim of the offense under Subsection (4)(a)(i).

(c) If a defendant is required to pay restitution to more than one victim, the court or the office shall disburse a payment for restitution proportionally to each victim.

(5) Notwithstanding the requirements for the disbursement of a payment under Subsection (3) or (4), the office shall disburse money collected from a defendant to a debt that is a part of a civil accounts receivable or civil judgment of restitution if:

(a) a defendant has provided a written request to the office to apply the payment to the debt; and

(b) (i) the payment will eliminate the entire balance of the debt, including any interest; or

(ii) after reaching a settlement, the payment amount will eliminate the entire agreed upon balance of the debt, including any interest.

(6) For a criminal accounts receivable, the department shall collect the current and past due amount owed by a defendant for the monthly supervision fee under Subsection [~~64-13-21(6)(a)~~]64-14-204(6)(a) until the court enters a civil accounts receivable on the civil judgment docket under Section 77-18-114.

(7) Notwithstanding any other provision of this section:

(a) the office may collect a fee, as described in Subsection 63A-3-502(4), from each payment for a criminal accounts receivable, a civil accounts receivable, or a civil judgment of restitution before disbursing the payment as described in this section; and

(b) the office shall apply any payment collected through garnishment to the case for which the garnishment was issued.

Section 51. Section 77-38b-401 is amended to read:

77-38b-401. Collection from inmate offenders.

Upon written request of the prosecuting attorney, the victim, or [~~the parole or probation~~]a division agent [~~for~~]supervising the defendant, the department shall collect restitution from offender funds held by the department under Section 64-13-23.

Section 52. Section 77-40a-205 is amended to read:

77-40a-205. Automatic expungement of state records for a clean slate case.

(1) A court shall issue an order of expungement, without the filing of a petition, for all records of the case that are held by the court and the bureau if:

(a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a form requesting expungement of a case as described in Section 77-40a-204;

(b) the case is eligible for expungement under this section; and

(c) the prosecuting agency does not object to the expungement of the case as described in Subsection (6).

(2) Except as otherwise provided in Subsection (3), a case is eligible for expungement under this section if:

(a) (i) each conviction within the case is a conviction for:

(A) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(ii) the following time periods have passed after the day on which the individual is adjudicated:

(A) at least five years for the conviction of a class C misdemeanor offense or an infraction;

(B) at least six years for the conviction of a class B misdemeanor offense; or

(C) at least seven years for the conviction of a class A misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i); or

(b) (i) the case is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;

(ii) each charge within the case is:

(A) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(iii) the following time periods have passed after the day on which the case is dismissed:

(A) at least five years for a charge in the case for a class C misdemeanor offense or an infraction;

(B) at least six years for a charge in the case for a class B misdemeanor offense; or

(C) at least seven years for a charge in the case for a class A misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(3) A case is not eligible for expungement under this section if:

(a) the individual has a total number of convictions in courts of this state that exceed the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:

(i) the exception in Subsection 77-40a-303(7); or

(ii) any infraction, traffic offense, or minor regulatory offense;

(b) there is a criminal proceeding for a misdemeanor or felony offense pending in a court of this state against the individual, unless the proceeding is for a traffic offense;

(c) for an individual seeking an automatic expungement on and after January 1, 2025, the individual is incarcerated in the state prison or on probation or parole that is supervised by the [~~Department of Corrections~~]Division of Adult Probation and Parole created in Section 64-14-202;

(d) the case resulted in the individual being found not guilty by reason of insanity;

(e) the case establishes a criminal accounts receivable that:

(i) has been entered as a civil accounts receivable or a civil judgment of restitution and transferred to the Office of State Debt Collection under Section 77-18-114; or

(ii) has not been satisfied according to court records; or

(f) the case resulted in a plea held in abeyance or a conviction for the following offenses:

(i) any of the offenses listed in Subsection 77-40a-303(2)(a);

(ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Individual;

(iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

(iv) sexual battery in violation of Section 76-9-702.1;

(v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(vii) damage to or interruption of a communication device in violation of Section 76-6-108;

(viii) a domestic violence offense as defined in Section 77-36-1; or

(ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that appears to be eligible for automatic expungement under this section.

(5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic expungement for any of the following reasons:

(a) the prosecuting agency believes that the case is not eligible for expungement under this section after reviewing the agency record;

(b) the individual has not paid restitution to the victim as ordered by the court; or

(c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual involved in the case is continuing to engage in criminal activity within or outside of the state.

(6) If a prosecuting agency provides written notice of an objection for a reason described in Subsection (5) within 35 days after the day on which the notice under Subsection (4) is sent, the court may not proceed with automatic expungement of the case.

(7) If 35 days pass after the day on which the notice described in Subsection (4) is sent without the prosecuting agency providing written notice of an objection under Subsection (5), the court shall proceed with automatic expungement of the case.

(8) If a court issues an order of expungement under Subsection (1), the court shall:

(a) expunge all records of the case held by the court in accordance with Section 77-40a-401; and

(b) notify the bureau and the prosecuting agency identified in the case, based on information available to the court, of the order of

expungement.

Section 53. Section 77-40a-305 is amended to read:

77-40a-305. Petition for expungement -- Prosecutorial responsibility -- Hearing.

(1) (a) The petitioner shall file a petition for expungement in accordance with Rule 42 of the Utah Rules of Criminal Procedure.

(b) A petitioner shall include the identification number for the certificate of eligibility or special certificate described in Subsection 77-40a-304(2)(b)(ii) in the petition for expungement, unless the petitioner is not required to obtain a certificate of eligibility under Subsection (3) or (4).

(c) Information on a certificate of eligibility is incorporated into a petition by reference to the identification number for the certificate of eligibility.

(d) A petitioner shall bring a petition for expungement:

(i) in the court where the criminal case was filed; or

(ii) if charges were never filed, in the district court in the county in which the arrest occurred or the citation is issued.

(2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall obtain a certificate of eligibility or special certificate from the bureau.

(b) A court may not accept a petition for expungement if the certificate of eligibility or special certificate is no longer valid as described in Subsection 77-40a-304(2)(b)(i).

(3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement of a traffic offense case without obtaining a certificate of eligibility if:

(a) (i) for a traffic offense case with a class C misdemeanor or infraction, at least three years have passed after the day on which the case was adjudicated or dismissed; or

(ii) for a traffic offense case with a class B misdemeanor, at least four years have passed after the day on which the case was adjudicated or dismissed;

(b) there is no traffic offense case pending against the petitioner;

(c) there is no plea in abeyance for a traffic offense case pending against the petitioner; and

(d) the petitioner is not currently on probation for a traffic offense case.

(4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a record for a conviction related to cannabis possession without a certificate of eligibility if the petition demonstrates that:

(a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and

(b) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (4)(a).

(5) (a) The court shall provide notice of a filing of a petition and certificate of eligibility or special certificate to the prosecutorial office that handled the court proceedings within three days after the day on which the petitioner's filing fee is paid or waived.

(b) If there were no court proceedings, the court shall provide notice of a filing of a petition and certificate of eligibility or special certificate to the county attorney's office in the jurisdiction where the arrest occurred.

(c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where the arrest occurred shall immediately notify the city attorney's office that the county attorney's office has received a notice of a filing of a petition for expungement.

(6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall make a reasonable effort to provide notice to any victim of the conviction or charge.

(b) The notice under Subsection (6)(a) shall:

(i) include a copy of the petition, certificate of eligibility or special certificate, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(7) (a) The prosecuting attorney may respond to the petition by filing a recommendation or objection with the court within 35 days after the day on which the notice of the filing of the petition is sent by the court to the prosecuting attorney.

(b) If there is a victim of the offense for which expungement is sought, the victim may respond to the petition by filing a recommendation or objection with the court within 60 days after the day on which the petition for expungement was filed with the court.

(8) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole [~~within the Department of Corrections~~]created in Section 64-14-202.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(9) The petitioner may respond in writing to any objections filed by the prosecuting attorney or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after the day on which the objection or response is received.

(10) (a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing.

(b) The prosecuting attorney shall notify the victim of the date set for the hearing.

(c) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

(d) The court shall review the petition, the certificate of eligibility or special certificate, and any written responses submitted regarding the petition.

(11) If no objection is received within 60 days from the day on which the petition for expungement is filed with the court, the expungement may be granted without a hearing.

(12) (a) If the petitioner seeks a waiver of the fee required for a petition for expungement in accordance with Section 78A-2-302, the court shall consider the total number of cases for which the petitioner has received a certificate of eligibility and is seeking expungement in determining whether the petitioner is indigent under Subsection 78A-2-302(3)(e) even if the court does not have jurisdiction over a case for which the petitioner is seeking expungement.

(b) If a court grants a waiver of the fee required for a petition for expungement in accordance with Section 78A-2-302, and only upon a request from the petitioner, a subsequent court shall grant a waiver of a fee for a petition for expungement if the prior court waived the fee for a petition for expungement within 180 days before the day on which the petitioner filed the petition for expungement with the subsequent court.

Section 54. Section 77-41-104 is amended to read:

77-41-104. Registration of offenders -- Department and agency requirements.

(1) The Department of Corrections shall register an offender in the custody of the Department of Corrections as required under this chapter upon:

(a) placement on probation;

(b) commitment to a secure correctional facility operated by or under contract to the Department of Corrections;

(c) release from confinement to parole status, termination or expiration of sentence, or escape;

(d) entrance to and release from any community-based residential program operated by or under contract to the Department of Corrections; or

(e) termination of probation or parole.

(2) The sheriff of the county in which an offender is confined shall register an offender with the department, as required under this chapter, if the offender is not in the custody of the Department of Corrections and is confined in a correctional facility not operated by or under contract to the Department of Corrections upon:

(a) commitment to the correctional facility; and

(b) release from confinement.

(3) The division shall register an offender in the custody of the division with the department, as required under this chapter, before the offender's release from custody of the division.

(4) A state mental hospital shall register an offender committed to the state mental hospital with the department, as required under this chapter, upon the offender's admission and upon the offender's discharge.

(5) (a) (i) A municipal or county law enforcement agency shall register an offender who resides within the agency's jurisdiction and is not under the supervision of the Division of Adult Probation and Parole [~~within the Department of Corrections~~]created in Section 64-14-202.

(ii) In order to conduct offender registration under this chapter, the agency shall ensure the agency staff responsible for registration:

(A) has received initial training by the department and has been certified by the department as qualified and authorized to conduct registrations and enter offender registration information into the registry database; and

(B) certify annually with the department.

(b) (i) When the department receives offender registration information regarding a change of an offender's primary residence location, the department shall within five days after the day on which the department receives the information electronically notify the law enforcement agencies that have jurisdiction over the area where:

(A) the residence that the offender is leaving is located; and

(B) the residence to which the offender is moving is located.

(ii) The department shall provide notification under this Subsection (5)(b) if the offender's change of address is between law enforcement agency jurisdictions, or is within one jurisdiction.

(c) The department shall make available to offenders required to register under this chapter the name of the agency, whether the agency is a local law enforcement agency or the department, that the offender should contact to register, the location for registering, and the requirements of registration.

(6) An agency in the state that registers an offender on probation, an offender who has been released from confinement to parole status or termination, or an offender whose sentence has expired shall inform the offender of the duty to comply with the continuing registration requirements of this chapter during the period of registration required in Subsection 77-41-105(3), including:

(a) notification to the state agencies in the states where the registrant presently resides and plans to reside when moving across state lines;

(b) verification of address at least every 60 days pursuant to a parole agreement for lifetime parolees; and

(c) notification to the out-of-state agency where the offender is living, regardless of whether the offender is a resident of that state.

(7) The department may make administrative rules necessary to implement this chapter, including:

(a) the method for dissemination of the information; and

(b) instructions to the public regarding the use of the information.

(8) The department shall redact information regarding the identity or location of a victim from information provided under Subsections 77-41-103(4) and 77-41-105(7).

(9) This chapter does not create or impose any duty on any person to request or obtain information regarding any offender from the department.

Section 55. Section 77-41-105 is amended to read:

77-41-105. Registration of offenders -- Offender responsibilities.

(1) (a) An offender who enters this state from another jurisdiction is required to register under Subsection (3) and Subsection 77-41-102(1), (11), or (19).

(b) The offender shall register with the department within 10 days after the day on which the offender enters the state, regardless of the offender's length of stay.

(2) (a) An offender required to register under Subsection 77-41-102(1), (11), or (19) who is under supervision by the [~~department~~]Division of Adult Probation and Parole created in Section 64-14-202 shall register in person with the Division of Adult Probation and Parole.

(b) An offender required to register under Subsection 77-41-102(1), (11), or (19) who is no longer under supervision by the [~~department~~]Division of Adult Probation and Parole created in Section 64-14-202 shall register in person with the police department or sheriff's office that has jurisdiction over the area where the offender resides.

(3) (a) Except as provided in Subsections (3)(b), (3)(c), and (4), an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register each year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(b) Except as provided in Subsections (3)(c)(iii), (4), and (5), an offender who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(1), (11), or (19), a substantially similar offense, another offense that requires registration in the jurisdiction of conviction, or an offender who is ordered by a court of another jurisdiction to register as an offender shall register for the time period required by the jurisdiction where the offender was convicted or ordered to register.

(c) (i) An offender convicted as an adult of an offense listed in Section 77-41-106shall, for the offender's lifetime, register each year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(ii) Except as provided in Subsection (3)(c)(iii), the registration requirement described in Subsection (3)(c)(i) is not subject to exemptions and may not be terminated or altered during the offender's lifetime, unless a petition is granted under Section 77-41-112.

(iii) (A) If the sentencing court at any time after conviction determines that the offense does not involve force or coercion, lifetime registration under Subsection (3)(c)(i) does not apply to an offender who commits the offense when the offender is under 21 years old.

(B) For an offense listed in Section 77-41-106, an offender who commits the offense when the offender is under 21 years old shall register for the registration period required under Subsection (3)(a), unless a petition is granted under Section 77-41-112.

(d) For the purpose of establishing venue for a violation of this Subsection (3), the violation is considered to be committed:

(i) at the most recent registered primary residence of the offender or at the location of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.

(5) (a) Except as provided in Subsection (5)(b), in the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of Subsection (3).

(b) If the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the registration website.

(6) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a child while required to register under this chapter shall register for an additional five years subsequent to the registration period otherwise required under this chapter.

(7) An offender shall provide the department or the registering entity with the following information:

(a) all names and aliases by which the offender is or has been known;

(b) the addresses of the offender's primary and secondary residences;

(c) a physical description, including the offender's date of birth, height, weight, eye and hair color;

(d) the make, model, color, year, plate number, and vehicle identification number of a vehicle or vehicles the offender owns or drives more than 12 times per year;

(e) a current photograph of the offender;

(f) a set of fingerprints, if one has not already been provided;

(g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;

(h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;

(i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;

(j) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;

(k) a copy of the offender's passport, if a passport has been issued to the offender;

(l) if the offender is an alien, all documents establishing the offender's immigration status;

(m) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;

(n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and a change of enrollment or employment status of the offender at an educational institution;

(o) the name, the telephone number, and the address of a place where the offender is employed or will be employed;

(p) the name, the telephone number, and the address of a place where the offender works as a volunteer or will work as a volunteer; and

(q) the offender's social security number.

(8) (a) An offender may change the offender's name in accordance with Title 42, Chapter 1, Change of Name, if the name change is not contrary to the interests of the public.

(b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department at least 30 days before the day on which the hearing for the name change is held.

(c) The court shall provide a copy of the order granting the offender's name change to the department within 10 days after the day on which the court issues the order.

(d) If the court orders an offender's name changed, the department shall publish on the registration website the offender's former name, and the offender's changed name as an alias.

(9) Notwithstanding Subsections (7)(i) and (j) and 77-41-103(1)(c), an offender is not required to provide the department with:

(a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or

(b) online identifiers for the offender's financial accounts, including a bank, retirement, or investment account.

Section 56. Section 78B-7-807 is amended to read:

78B-7-807. Notice to victims.

(1) (a) The court shall provide the victim with a certified copy of any pretrial protective order that has been issued if the victim can be located with reasonable effort.

(b) If the court is unable to locate the victim, the court shall provide the victim's certified copy to the prosecutor.

(c) A sentencing protective order or continuous protective order issued under this part shall be in writing, and the prosecutor shall provide a certified copy of that order to the victim.

(2) (a) The Division of Adult Probation and Parole created in Section 64-14-202, or another provider, shall immediately report to the court and notify the victim of any violation of any sentencing protective order issued under this part.

(b) Notification of the victim under Subsection (2)(a) shall consist of a good faith reasonable effort to provide prompt notification, including mailing a copy of the notification to the last-known address of the victim.

(3) (a) Before release of an individual who is subject to a continuous protective order issued under this part, the victim shall receive notice of the imminent release by the law enforcement agency that is releasing the individual who is subject to the continuous protective order:

(i) if the victim has provided the law enforcement agency contact information; and

(ii) in accordance with Section 64-13-14.7, if applicable.

(b) Before release, the law enforcement agency shall notify in writing the individual being released that a violation of the continuous protective order issued at the time of conviction or sentencing continues to apply, and that a violation of the continuous protective order is punishable as described in Section 78B-7-806.

(4) The court shall transmit a dismissal, termination, and expiration of a pretrial protective order, sentencing protective order, or a continuous protective order to the statewide domestic violence network described in Section 78B-7-113.

Section 57. Repealer.

This bill repeals:

Section 64-13-21.2, Offender supervision dedicated credits.

Section 58. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 215
H. B. 166
Passed February 21, 2025
Approved March 25, 2025
Effective January 1, 2026

TRAILER REGISTRATION AND UNIFORM FEE AMENDMENTS

Chief Sponsor: Scott H. Chew
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill allows the owner of certain types of trailers to obtain a lifetime registration and pay a one-time uniform fee in lieu of ad valorem tax.

Highlighted Provisions:

This bill:

- ► allows an owner of certain types of trailers to register a trailer for the life of the trailer and pay a one-time uniform fee in lieu of ad valorem tax or a uniform statewide fee; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-228, (Effective 01/01/26) as last amended by Laws of Utah 1997, Chapter 360
41-1a-1206, (Effective 01/01/26) as last amended by Laws of Utah 2024, Chapter 483
59-2-405, (Effective 01/01/26) as last amended by Laws of Utah 2008, Chapter 210

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-228 is amended to read:

41-1a-228 (Effective 01/01/26). Special lifetime trailer registration -- Property tax or in lieu fees.

(1) (a) The owner of a trailer or semitrailer used as a commercial vehicle may obtain an alternative special registration and license plate valid for the life of the trailer while the trailer is possessed by the registrant.

(b) The owner of a trailer that is used as an intrastate commercial trailer that is not a travel trailer may obtain an alternative special registration and license plate valid for the life of the trailer while the trailer is possessed by the registrant.

(2) (a) [~~The owner must file,~~]Except as provided in Subsection (3), the owner shall file, on or before January 31 of each year after the year of issuance of the special registration and license plate, a certificate from the assessing authority to the effect that any property tax or in lieu fee due for the current year has been paid.

[~~(3)~~](b) If property tax or the in lieu fee is not paid, registration is suspended or revoked.

(3) The owner of a trailer described in Subsection (1)(b) may elect to pay a one-time in lieu fee for the life of the trailer while the trailer is possessed by the registrant as provided in Section 59-2-405.

Section 2. Section 41-1a-1206 is amended to read:

41-1a-1206 (Effective 01/01/26). Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) $46.00 for each motorcycle;

(b) $44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) $31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) $28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) $53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) $69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(f) (i) $69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(g) $45 for each vintage vehicle that has a model year of 1983 or newer;

(h) in addition to the fee described in Subsection (1)(b):

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) Each motor vehicle not described in this Subsection (1)(h) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $21.75 for each hybrid electric motor vehicle; and

(iii) $56.50 for each plug-in hybrid electric motor vehicle;

(i) in addition to the fee described in Subsection (1)(g), for a vintage vehicle that has a model year of 1983 or newer, 50 cents; and

(j) $28.50 for each roadable aircraft.

(2) (a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(i) $34.50 for each motorcycle; and

(ii) $33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) each motor vehicle not described in this Subsection (2)(b) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $16.50 for each hybrid electric motor vehicle; and

(iii) $43.50 for each plug-in hybrid electric motor vehicle.

(3) (a) Beginning on January 1, 2024, at the time of registration:

(i) in addition to the amounts described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (1)(h), (4)(a), and (7), the individual shall also pay an additional $7 as part of the registration fee; and

(ii) in addition to the amounts described in Subsection (2)(a), the individual shall also pay an additional $5 as part of the registration fee.

(b) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (1)(j), (2)(a), (3)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2024, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(ii) and (iii) and (2)(b)(ii) and (iii) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(c) The amounts calculated as described in Subsection (3)(b) shall be rounded up to the nearest 25 cents.

(4) (a) The initial registration fee for a vintage vehicle that has a model year of 1982 or older is $40.

(b) A vintage vehicle that has a model year of 1982 or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued on or before December 31, 2023, or issued in accordance with Part 16, Sponsored Special Group License Plates, is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a [~~commercial trailer or commercial semitrailer~~]trailer described in Section 41-1a-228 may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate, as provided in Section 41-1a-228, for a fee of $130.

(8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(9) A violation of Subsection (8) is an infraction that shall be punished by a fine of not less than $200.

(10) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 3. Section 59-2-405 is amended to read:

59-2-405 (Effective 01/01/26). Uniform fee on tangible personal property required to be registered with the state -- Distribution of revenues -- Appeals.

(1) The property described in Subsection (2), except Subsection (2)(b)(ii), is exempt from ad valorem property taxes pursuant to Utah Constitution, Article XIII, Section 2, Subsection (6).

(2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this part a statewide uniform fee in lieu of the ad valorem tax on:

(i) motor vehicles required to be registered with the state that weigh 12,001 pounds or more;

(ii) motorcycles as defined in Section 41-1a-102 that are required to be registered with the state;

(iii) watercraft required to be registered with the state;

(iv) recreational vehicles required to be registered with the state; and

(v) all other tangible personal property required to be registered with the state before it is used on a public highway, on a public waterway, on public land, or in the air.

(b) The following tangible personal property is exempt from the statewide uniform fee imposed by this section:

(i) aircraft;

(ii) state-assessed commercial vehicles;

(iii) tangible personal property subject to a uniform fee imposed by:

(A) Section 59-2-405.1;

(B) Section 59-2-405.2; or

(C) Section 59-2-405.3; and

(iv) personal property that is exempt from state or county ad valorem property taxes under the laws of this state or of the federal government.

(3) (a) [~~Beginning on January 1, 1999,~~]Except as provided in Subsection (3)(b), the uniform fee is 1.5% of the fair market value of the personal property, as established by the commission.

(b) An owner of a trailer registered under Subsection 41-1a-228(1)(b) may elect to pay a one-time uniform fee in lieu of the ad valorem tax, which is $150.

(4) Notwithstanding Section 59-2-407, property subject to the uniform fee that is brought into the state and is required to be registered in Utah shall, as a condition of registration, be subject to the uniform fee unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(5) (a) The revenues collected in each county from the uniform fee shall be distributed by the county to each taxing entity in which the property described in Subsection (2) is located in the same proportion in which revenue collected from ad valorem real property tax is distributed.

(b) Each taxing entity shall distribute the revenues received under Subsection (5)(a) in the same proportion in which revenue collected from ad valorem real property tax is distributed.

(6) An appeal relating to the uniform fee imposed on the tangible personal property described in Subsection (2) shall be filed pursuant to Section 59-2-1005.

Section 4. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 216
H. B. 173
Passed February 27, 2025
Approved March 25, 2025
Effective May 7, 2025

CONTROLLED SUBSTANCES ACT AMENDMENTS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill adds substances to the list of controlled substances.

Highlighted Provisions:

This bill:

► adds tianeptine and phenibut to Schedule I of the list of controlled substances; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37-4, as last amended by Laws of Utah 2024, Chapter 298

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-37-4 is amended to read:

58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings required -- Specific substances included in schedules.

(1) There are established five schedules of controlled substances known as Schedules I, II, III, IV, and V which consist of substances listed in this section.

(2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by the official name, common or usual name, chemical name, or brand name designated:

(a) Schedule I:

(i) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation:

(A) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

(C) Acetylmethadol;

(D) Acryl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylacrylamide);

(E) Allylprodine;

(F) Alphacetylmethadol, except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(G) Alphameprodine;

(H) Alphamethadol;

(I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4- piperidinyl]-N-phenylpropanamide);

(K) Benzylpiperazine;

(L) Benzethidine;

(M) Betacetylmethadol;

(N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4- piperidinyl]-N-phenylpropanamide);

(O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2- phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(P) Betameprodine;

(Q) Betamethadol;

(R) Betaprodine;

(S) Butyryl fentanyl (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);

(T) Clonitazene;

(U) Cyclopropyl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);

(V) Dextromoramide;

(W) Diampromide;

(X) Diethylthiambutene;

(Y) Difenoxin;

(Z) Dimenoxadol;

(AA) Dimepheptanol;

(BB) Dimethylthiambutene;

(CC) Dioxaphetyl butyrate;

(DD) Dipipanone;

(EE) Ethylmethylthiambutene;

(FF) Etizolam (1-Methyl-6-o-chlorophenyl-8-ethyl-4H-s-triazolo[3,4-c]thieno[2,3-e]1,4-diazepine);

(GG) Etonitazene;

(HH) Etoxeridine;

(II) Furanyl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl] furan-2-carboxamide);

(JJ) Furethidine;

(KK) Hydroxypethidine;

(LL) Ketobemidone;

(MM) Levomoramide;

(NN) Levophenacylmorphan;

(OO) Methoxyacetyl fentanyl (2-Methoxy-N-(1-phenylethylpiperidinyl-4-yl)-N-acetamide);

(PP) Morpheridine;

(QQ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(RR) Noracymethadol;

(SS) Norlevorphanol;

(TT) Normethadone;

(UU) Norpipanone;

(VV) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4- piperidinyl] propanamide);

(WW) Para-fluoroisobutyryl fentanyl (N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);

(XX) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(YY) Phenadoxone;

(ZZ) Phenampromide;

(AAA) Phenibut;

[~~(AAA)~~](BBB) Phenomorphan;

[~~(BBB)~~](CCC) Phenoperidine;

[~~(CCC)~~](DDD) Piritramide;

[~~(DDD)~~](EEE) Proheptazine;

[~~(EEE)~~](FFF) Properidine;

[~~(FFF)~~](GGG) Propiram;

[~~(GGG)~~](HHH) Racemoramide;

[~~(HHH)~~](III) Tetrahydrofuran fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);

[~~(III)~~](JJJ) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;

(KKK) Tianeptine;

[~~(JJJ)~~](LLL) Tilidine;

[~~(KKK)~~](MMM) Trimeperidine;

[~~(LLL)~~](NNN) 3-methylfentanyl, including the optical and geometric isomers (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide);

[~~(MMM)~~](OOO) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

[~~(NNN)~~](PPP) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide also known as U-47700; and

[~~(OOO)~~](QQQ) 4-cyano CUMYL-BUTINACA.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Acetorphine;

(B) Acetyldihydrocodeine;

(C) Benzylmorphine;

(D) Codeine methylbromide;

(E) Codeine-N-Oxide;

(F) Cyprenorphine;

(G) Desomorphine;

(H) Dihydromorphine;

(I) Drotebanol;

(J) Etorphine (except hydrochloride salt);

(K) Heroin;

(L) Hydromorphinol;

(M) Methyldesorphine;

(N) Methylhydromorphine;

(O) Morphine methylbromide;

(P) Morphine methylsulfonate;

(Q) Morphine-N-Oxide;

(R) Myrophine;

(S) Nicocodeine;

(T) Nicomorphine;

(U) Normorphine;

(V) Pholcodine; and

(W) Thebacon.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position, and geometric isomers:

(A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase; -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; -ET; and AET;

(B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names: 4-bromo-2,5-dimethoxy- -methylphenethylamine; 4-bromo-2,5-DMA;

(C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;

(D) 2,5-dimethoxyamphetamine, some trade or other names: 2,5-dimethoxy- -methylphenethylamine; 2,5-DMA;

(E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;

(F) 4-methoxyamphetamine, some trade or other names: 4-methoxy- -methylphenethylamine; paramethoxyamphetamine, PMA;

(G) 5-methoxy-3,4-methylenedioxyamphetamine;

(H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names: 4-methyl-2,5-dimethoxy- -methylphenethylamine; "DOM"; and "STP";

(I) 3,4-methylenedioxy amphetamine;

(J) 3,4-methylenedioxymethamphetamine (MDMA);

(K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl- alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;

(M) 3,4,5-trimethoxy amphetamine;

(N) Bufotenine, some trade and other names: 3-(-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;

(P) Dimethyltryptamine, some trade or other names: DMT;

(Q) Ibogaine, some trade and other names: 7-Ethyl-6,6 ,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino [5,4-b] indole; Tabernanthe iboga;

(R) Lysergic acid diethylamide;

(S) Marijuana;

(T) Mescaline;

(U) Parahexyl, some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;

(V) Peyote, meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));

(W) N-ethyl-3-piperidyl benzilate;

(X) N-methyl-3-piperidyl benzilate;

(Y) Psilocybin;

(Z) Psilocyn;

(AA) Tetrahydrocannabinols, naturally contained in a plant of the genus Cannabis (cannabis plant), except for marijuana as defined in Subsection 58-37-2(1)(aa)(i)(E), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: 1 cis or trans tetrahydrocannabinol, and their optical isomers 6 cis or trans tetrahydrocannabinol, and their optical isomers 3,4 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered;

(BB) Ethylamine analog of phencyclidine, some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(CC) Pyrrolidine analog of phencyclidine, some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(DD) Thiophene analog of phencyclidine, some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP; and

(EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

(iv) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Mecloqualone; and

(B) Methaqualone.

(v) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;

(C) Fenethylline;

(D) Methcathinone, some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(E) ( )cis-4-methylaminorex (( )cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(F) N-ethylamphetamine; and

(G) N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(vi) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their optical isomers, salts, and salts of isomers, subject to temporary emergency scheduling:

(A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and

(B) N-[1- (2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).

(vii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

(b) Schedule II:

(i) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including:

(I) Raw opium;

(II) Opium extracts;

(III) Opium fluid;

(IV) Powdered opium;

(V) Granulated opium;

(VI) Tincture of opium;

(VII) Codeine;

(VIII) Ethylmorphine;

(IX) Etorphine hydrochloride;

(X) Hydrocodone;

(XI) Hydromorphone;

(XII) Metopon;

(XIII) Morphine;

(XIV) Oxycodone;

(XV) Oxymorphone; and

(XVI) Thebaine;

(B) Any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these substances may not include the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives, whether derived from the coca plant or synthetically produced, except the substances may not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and

(E) Concentrate of poppy straw, which means the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation, except dextrorphan and levopropoxyphene:

(A) Alfentanil;

(B) Alphaprodine;

(C) Anileridine;

(D) Bezitramide;

(E) Bulk dextropropoxyphene (nondosage forms);

(F) Carfentanil;

(G) Dihydrocodeine;

(H) Diphenoxylate;

(I) Fentanyl;

(J) Isomethadone;

(K) Levo-alphacetylmethadol, some other names: levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(L) Levomethorphan;

(M) Levorphanol;

(N) Metazocine;

(O) Methadone;

(P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

(Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;

(R) Pethidine (meperidine);

(S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

(T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

(U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(V) Phenazocine;

(W) Piminodine;

(X) Racemethorphan;

(Y) Racemorphan;

(Z) Remifentanil; and

(AA) Sufentanil.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(B) Methamphetamine, its salts, isomers, and salts of its isomers;

(C) Phenmetrazine and its salts; and

(D) Methylphenidate.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Amobarbital;

(B) Glutethimide;

(C) Pentobarbital;

(D) Phencyclidine;

(E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile (PCC); and

(F) Secobarbital.

(v) (A) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of Phenylacetone.

(B) Some of these substances may be known by trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.

(vi) Nabilone, another name for nabilone: ( )-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

(vii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(c) Schedule III:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitive composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine; and

(E) Phendimetrazine.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug Administration for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt of any of them;

(D) Chlorhexadol;

(E) Buprenorphine;

(F) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under the federal Food, Drug, and Cosmetic Act, Section 505;

(G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(H) Lysergic acid;

(I) Lysergic acid amide;

(J) Methyprylon;

(K) Sulfondiethylmethane;

(L) Sulfonethylmethane;

(M) Sulfonmethane; and

(N) Tiletamine and zolazepam or any of their salts, some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrazapon.

(iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product, some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(iv) Nalorphine.

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

(A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts; and

(H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids including any of the following or any isomer, ester, salt, or derivative of the following that promotes muscle growth:

(A) Boldenone;

(B) Chlorotestosterone (4-chlortestosterone);

(C) Clostebol;

(D) Dehydrochlormethyltestosterone;

(E) Dihydrotestosterone (4-dihydrotestosterone);

(F) Drostanolone;

(G) Ethylestrenol;

(H) Fluoxymesterone;

(I) Formebulone (formebolone);

(J) Mesterolone;

(K) Methandienone;

(L) Methandranone;

(M) Methandriol;

(N) Methandrostenolone;

(O) Methenolone;

(P) Methyltestosterone;

(Q) Mibolerone;

(R) Nandrolone;

(S) Norethandrolone;

(T) Oxandrolone;

(U) Oxymesterone;

(V) Oxymetholone;

(W) Stanolone;

(X) Stanozolol;

(Y) Testolactone;

(Z) Testosterone; and

(AA) Trenbolone.

(vii) Anabolic steroids expressly intended for administration through implants to cattle or other nonhuman species, and approved by the Secretary of Health and Human Services for use, may not be classified as a controlled substance.

(viii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule III of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ix) Nabiximols.

(d) Schedule IV:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Alprazolam;

(B) Barbital;

(C) Bromazepam;

(D) Butorphanol;

(E) Camazepam;

(F) Carisoprodol;

(G) Chloral betaine;

(H) Chloral hydrate;

(I) Chlordiazepoxide;

(J) Clobazam;

(K) Clonazepam;

(L) Clorazepate;

(M) Clotiazepam;

(N) Cloxazolam;

(O) Delorazepam;

(P) Diazepam;

(Q) Dichloralphenazone;

(R) Estazolam;

(S) Ethchlorvynol;

(T) Ethinamate;

(U) Ethyl loflazepate;

(V) Fludiazepam;

(W) Flunitrazepam;

(X) Flurazepam;

(Y) Halazepam;

(Z) Haloxazolam;

(AA) Ketazolam;

(BB) Loprazolam;

(CC) Lorazepam;

(DD) Lormetazepam;

(EE) Mebutamate;

(FF) Medazepam;

(GG) Meprobamate;

(HH) Methohexital;

(II) Methylphenobarbital (mephobarbital);

(JJ) Midazolam;

(KK) Nimetazepam;

(LL) Nitrazepam;

(MM) Nordiazepam;

(NN) Oxazepam;

(OO) Oxazolam;

(PP) Paraldehyde;

(QQ) Pentazocine;

(RR) Petrichloral;

(SS) Phenobarbital;

(TT) Pinazepam;

(UU) Prazepam;

(VV) Quazepam;

(WW) Temazepam;

(XX) Tetrazepam;

(YY) Tramadol;

(ZZ) Triazolam;

(AAA) Zaleplon; and

(BBB) Zolpidem.

(iii) Any material, compound, mixture, or preparation of fenfluramine which contains any quantity of the following substances, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric isomers, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Cathine ((+)-norpseudoephedrine);

(B) Diethylpropion;

(C) Fencamfamine;

(D) Fenproprex;

(E) Mazindol;

(F) Mefenorex;

(G) Modafinil;

(H) Pemoline, including organometallic complexes and chelates thereof;

(I) Phentermine;

(J) Pipradrol;

(K) Sibutramine; and

(L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

(vi) A drug product or preparation that contains any component of marijuana and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule IV of the federal Controlled Substances Act, Title II, P.L. 91-513.

(e) Schedule V:

(i) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and

(G) unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers.

(ii) A drug product or preparation that contains any component of marijuana, including cannabidiol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule V of the federal Controlled Substances Act, Title II, P.L. 91-513.

(iii) Gabapentin.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 217
H. B. 176
Passed March 6, 2025
Approved March 25, 2025
Effective July 1, 2025

COUNTY CLASSIFICATION AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies the population requirements for county classification.

Highlighted Provisions:

This bill:

- ► modifies definitions;
- ► modifies the population requirements for county classification;
- ► modifies a sales and use tax exemption applicable to airports in certain counties; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-50-501, as last amended by Laws of Utah 2021, Chapter 24
35A-16-102, as last amended by Laws of Utah 2024, Chapter 338
59-12-104, as last amended by Laws of Utah 2024, Chapter 35
63N-4-801, as last amended by Laws of Utah 2024, Chapters 438, 513
72-2-133, as enacted by Laws of Utah 2023, Chapter 372
78B-22-102, as last amended by Laws of Utah 2024, Chapter 193
78B-22-406, as last amended by Laws of Utah 2022, Chapter 281
78B-22-452, as last amended by Laws of Utah 2024, Chapter 193
78B-22-903, as last amended by Laws of Utah 2023, Chapter 229
78B-22-904, as last amended by Laws of Utah 2022, Chapter 295

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-50-501 is amended to read:
17-50-501. Classification of counties.

(1) Each county shall be classified according to its population.

(2) (a) A county with a population of [~~1,000,000~~]1,150,000 or more is a county of the first class.

(b) A county with a population of [~~175,000~~]260,000 or more but less than [~~1,000,000~~]1,150,000 is a county of the second class.

(c) A county with a population of 40,000 or more but less than [~~175,000~~]260,000 is a county of the third class.

(d) A county with a population of [~~11,000~~]12,000 or more but less than 40,000 is a county of the fourth class.

(e) A county with a population of [~~4,000~~]5,000 or more but less than [~~11,000~~]12,000 is a county of the fifth class.

(f) A county with a population less than [~~4,000~~]5,000 is a county of the sixth class.

Section 2. Section 35A-16-102 is amended to read:
35A-16-102. Definitions.

As used in this chapter:

(1) "Board" means the Utah Homeless Services Board created in Section 35A-16-204.

(2) "Client" means an individual who is experiencing homelessness or an individual at risk of becoming homeless.

(3) "Chief executive officer" means the same as that term is defined in Section 11-51-102.

(4) "Collaborative applicant" means the entity designated by a continuum of care to collect and submit data and apply for funds on behalf of the continuum of care, as required by the United States Department of Housing and Urban Development.

(5) "Continuum of care" means a regional or local planning body designated by the United States Department of Housing and Urban Development to coordinate services for individuals experiencing homelessness within an area of the state.

(6) "Coordinator" means the state homelessness coordinator appointed under Section 63J-4-202.

(7) "Executive committee" means the executive committee of the board.

(8) "Exit destination" means:

(a) a homeless situation;

(b) an institutional situation;

(c) a temporary housing situation;

(d) a permanent housing situation; or

(e) other.

(9) "First-tier eligible municipality" means a municipality that:

(a) is located within:

(i) a county of the first or second class, as classified in Section 17-50-501; or

(ii) a county of the third class, as classified in Section 17-50-501, if the municipality has a population of 100,000 or more;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a first-tier eligible municipality in accordance with Section 35A-16-404.

(10) "Homeless Management Information System" or "HMIS" means an information technology system that:

(a) is used to collect client-level data and data on the provision of housing and services to homeless individuals and individuals at risk of homelessness in the state; and

(b) meets the requirements of the United States Department of Housing and Urban Development.

(11) "Homeless services budget" means the comprehensive annual budget and overview of all homeless services available in the state described in Subsection 35A-16-203(1)(b).

(12) "Local homeless council" means a local planning body designated by the steering committee to coordinate services for individuals experiencing homelessness within an area of the state.

(13) "Office" means the Office of Homeless Services.

(14) "Second-tier eligible municipality" means a municipality that:

(a) is located within:

(i) a county of the [~~third,~~]fourth, fifth, or sixth class; or

(ii) a county of the third class, if the municipality has a population of less than 100,000;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a second-tier eligible municipality in accordance with Section 35A-16-404.

(15) (a) "Service provider" means a state agency, a local government, or a private organization that provides services to clients.

(b) "Service provider" includes a correctional facility and the Administrative Office of the Courts.

(16) "Steering committee" means the Utah Homeless Network Steering Committee created in Section 35A-16-206.

(17) "Strategic plan" means the statewide strategic plan to minimize homelessness in the state described in Subsection 35A-16-203(1)(c).

(18) "Type of homelessness" means:

(a) chronic homelessness;

(b) episodic homelessness;

(c) situational homelessness; or

(d) family homelessness.

Section 3. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if:

(a) the sale is not from the vehicle's lessor to the vehicle's lessee;

(b) the vehicle is not registered in this state; and

(c) (i) the vehicle is not used in this state; or

(ii) the vehicle is used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically

by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale, lease agreement, or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale, lease agreement, or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of

the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second or third class, as classified in Section 17-50-501; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance,

repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment;

(89) amounts paid or charged for an item exempt under Section 59-12-104.10;

(90) sales of a note, leaf, foil, or film, if the item:

(a) is used as currency;

(b) does not constitute legal tender of a state, the United States, or a foreign nation; and

(c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any transparent polymer holder, coating, or encasement;

(91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, if a trained instructor:

(a) is present with the participant, in person or by video, for the duration of the activity; and

(b) actively instructs the participant, including providing observation or feedback;

(92) amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by or constructed for:

(a) a distribution electrical cooperative, as defined in Section 54-2-1; or

(b) a wholesale electrical cooperative, as defined in Section 54-2-1;

(93) amounts paid by the service provider for tangible personal property, other than machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

(a) is consumed in the performance of a service that is subject to tax under Subsection 59-12-103(1)(b), (f), (g), (h), (i), or (j);

(b) has to be consumed for the service provider to provide the service described in Subsection (93)(a); and

(c) will be consumed in the performance of the service described in Subsection (93)(a), to one or more customers, to the point that the tangible personal property disappears or cannot be used for any other purpose;

(94) sales of rail rolling stock manufactured in Utah;

(95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or construction materials between establishments, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:

(a) the establishments are related directly or indirectly through 100% common ownership or control; and

(b) each establishment is described in one of the following subsectors of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or

(ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing;

(96) sales of construction materials used for the construction of a qualified stadium, as defined in Section 11-70-101; and

(97) amounts paid or charged for sales of a cannabinoid product as that term is defined in Section 4-41-102.

Section 4. Section 63N-4-801 is amended to read:

63N-4-801. Definitions.

As used in this part:

(1) "Advisory committee" means the Rural Opportunity Advisory Committee created in Section 63N-4-804.

(2) "Association of governments" means an association of political subdivisions of the state, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(3) (a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(b) "Business entity" does not include a business primarily engaged in the following:

(i) construction;

(ii) staffing;

(iii) retail trade; or

(iv) public utility activities.

(4) "CEO board" means a County Economic Opportunity Advisory Board as described in Section 63N-4-803.

(5) "Fund" means the Rural Opportunity Fund created in Section 63N-4-805.

(6) "Qualified asset" means a physical asset that provides or supports an essential public service.

(7) " Qualified project" means a project to build or improve one or more qualified assets for a rural community, including:

(a) telecom and high-speed Internet infrastructure;

(b) power and energy infrastructure;

(c) water and sewerage infrastructure;

(d) healthcare infrastructure; or

(e) other infrastructure as defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) "Rural community" means a rural county or rural municipality.

(9) "Rural county" means:

(a) a county of the [~~third,~~]fourth, fifth, or sixth class [~~.~~], as classified in Section 17-50-501; or

(b) a county of the third class, as classified in Section 17-50-501, if the county of the third class has no municipality with a population of 100,000 or more.

(10) "Rural health care special district" means a special service district created to provide health care under Subsection 17D-1-201(6) that is located in a rural county or rural municipality.

(11) "Rural municipality" means a city or town located within the boundaries of:

(a) a county of the third, fourth, fifth, or sixth class; or

(b) a county of the second class, if the municipality has a population of 10,000 or less.

(12) "Rural Opportunity Program" or "program" means the Rural Opportunity Program created in Section 63N-4-802.

Section 5. Section 72-2-133 is amended to read:

72-2-133. Rural Transportation Infrastructure Fund -- Creation -- Uses.

(1) As used in this section:

(a) "Graveled road" means the same as that term is defined in Section 72-2-108.

(b) "Paved road" means the same as that term is defined in Section 72-2-108.

(c) (i) "Qualifying county" means a county that:

[~~(i)~~](A) is a county of the third through sixth class, as classified in Section 17-50-501, except as provided in Subsection (1)(c)(ii);

[~~(ii)~~](B) has imposed a local option sales and use tax pursuant to:

[~~(A)~~](I) Section 59-12-2217;

[~~(B)~~](II) Section 59-12-2218; or

[~~(C)~~](III) Section 59-12-2219; and

[~~(iii)~~](C) has not imposed a local option sales and use tax pursuant to Section 59-12-2220 on or before January 1, 2023.

(ii) "Qualifying county" does not include a county of the third class, as classified in Section 17-50-501, with an airport facilitating commercial flights to three or more airports outside of the state.

(d) "Qualifying municipality" means a municipality located within a qualifying county.

(e) "Qualifying recipient" means qualifying county or a qualifying municipality.

(f) "Road mile" means the same as that term is defined in Section 72-2-108.

(g) "Weighted mileage" means the same as that term is defined in Section 72-2-108.

(2) There is created in the Transportation Fund an expendable special revenue fund called the Rural Transportation Infrastructure Fund.

(3) The Rural Transportation Infrastructure Fund shall be funded by:

(a) deposits into the fund as described in Subsection 41-1a-1201(10);

(b) appropriations by the Legislature; and

(c) other deposits into the fund.

(4) The department shall administer the fund.

(5) Beginning on January 1, 2024, the department shall annually distribute revenue in the fund among qualifying recipients in the following manner:

(a) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

(b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Census Bureau estimate, whichever is most recent, except that if population estimates are not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Committee.

(6) A qualifying recipient may only use funds distributed as described in this section in the same manner as class B and class C road funds distributed in accordance with Section 72-2-108.

(7) (a) (i) Before October 1 of each year, the department shall inform the State Tax Commission which counties, if any, have an airport described in Subsection (1)(c)(ii).

(ii) Before November 1 of each year, the State Tax Commission shall notify the department and indicate which counties are qualifying counties.

(b) After receiving the notification described in Subsection (7)(a)(ii), the department shall distribute funds for the following year to the municipalities and counties that were identified as qualifying recipients in the notification described in Subsection (7)(a).

Section 6. Section 78B-22-102 is amended to read:

78B-22-102. Definitions.

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

(2) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

(3) "Child welfare case" means a proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(4) "Eligible county" means:

(a) a county of the fourth, fifth, and sixth class, as classified in Section 17-50-501; and

(b) a county of the third class, as classified in Section 17-50-501, if the county of the third class has no municipality with a population of 100,000 or more.

[~~(4)~~](5) "Executive [~~Director~~]director" means the executive director of the Office of Indigent Defense Services, created in Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.

[~~(5)~~](6) "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual.

[~~(6)~~](7) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual through:

(a) a contract with an indigent defense system to provide indigent defense services;

(b) an order issued by the court under Subsection 78B-22-203(2)(a); or

(c) direct employment with an indigent defense system.

[~~(7)~~](8) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider; and

(b) the provision of indigent defense resources for an indigent individual.

[~~(8)~~](9) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services;

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, and the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

[~~(9)~~](10) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection [~~(9)(a)~~](10)(a), who is appealing an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

[~~(10)~~](11) "Minor" means the same as that term is defined in Section 80-1-102.

[~~(11)~~](12) "Office" means the Office of Indigent Defense Services created in Section 78B-22-451.

[~~(12)~~](13) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Fund as provided in Sections 78B-22-702 and 78B-22-703.

Section 7. Section 78B-22-406 is amended to read:

78B-22-406. Indigent defense services grant program.

(1) The commission may award grants:

(a) to supplement local spending by an indigent defense system for indigent defense services; and

(b) for contracts to provide indigent defense services for appeals from juvenile court proceedings in [~~a county of the third, fourth, fifth, or sixth class~~]an eligible county.

(2) The commission may use grant money:

(a) to assist an indigent defense system to provide indigent defense services that meet the commission's core principles for the effective representation of indigent individuals;

(b) to establish and maintain local indigent defense data collection systems;

(c) to provide indigent defense services in addition to indigent defense services that are currently being provided by an indigent defense system;

(d) to provide training and continuing legal education for indigent defense service providers;

(e) to assist indigent defense systems with appeals from juvenile court proceedings;

(f) to pay for indigent defense resources and costs and expenses for parental representation attorneys as described in Subsection 78B-22-804(2); and

(g) to reimburse an indigent defense system for the cost of providing indigent defense services in an action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, if the indigent defense system has complied with the commission's policies and procedures for reimbursement.

(3) To receive a grant from the commission, an indigent defense system shall demonstrate to the commission's satisfaction that:

(a) the indigent defense system has incurred or reasonably anticipates incurring expenses for indigent defense services that are in addition to the indigent defense system's average annual spending on indigent defense services in the three fiscal years immediately preceding the grant application; and

(b) (i) a grant from the commission is necessary for the indigent defense system to meet the commission's core principles for the effective representation of indigent individuals; or

(ii) the indigent defense system shall use the grant in an innovative manner that meets the commission's core principles for the effective representation of indigent individuals.

(4) The commission may revoke a grant if an indigent defense system fails to meet requirements of the grant or any of the commission's core principles for the effective representation of indigent individuals.

Section 8. Section 78B-22-452 is amended to read:

78B-22-452. Duties of the office.

(1) The office shall:

(a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;

(b) assist the commission in performing the commission's statutory duties described in this chapter;

(c) identify and collect data that is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's core principles for effective representation of indigent individuals;

(e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;

(g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent defense inmate who:

(i) is incarcerated in a state prison located in [~~a county of the third, fourth, fifth, or sixth class as classified in Section 17-50-501~~]an eligible county;

(ii) is charged with having committed a crime within that state prison; and

(iii) has been appointed counsel in accordance with Section 78B-22-203;

(h) assist the commission in developing and reviewing advisory caseload guidelines and procedures;

(i) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals;

(j) administer the Child Welfare Parental Representation Program in accordance with Part 8, Child Welfare Parental Representation Program;

(k) administer the Indigent Aggravated Murder Defense Fund in accordance with Part 7, Indigent Aggravated Murder Defense Fund;

(l) assign an indigent defense service provider to represent an individual prosecuted for aggravated murder in accordance with Part 7, Indigent Aggravated Murder Defense Fund;

(m) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state; and

(iii) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;

(n) submit recommendations to the commission for improving indigent defense services in the state;

(o) publish an annual report on the commission's website; and

(p) perform all other duties assigned by the commission related to indigent defense services.

(2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.

(3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404.

Section 9. Section 78B-22-903 is amended to read:

78B-22-903. Powers and duties of the division.

(1) The division shall:

(a) provide appellate defense services:

(i) for an appeal under Section 77-18a-1, in [~~counties of the third, fourth, fifth, and sixth class~~]eligible counties;

(ii) for an action or an appeal for postconviction relief under Chapter 9, Postconviction Remedies Act, if the court appoints the division to represent the indigent individual; and

(iii) for an appeal of right from an action for the termination or restoration of parental rights under Chapter 6, Part 1, Utah Adoption Act, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights; and

(b) provide appellate defense services in accordance with the core principles adopted by the commission under Section 78B-22-404 and any other state and federal standards for appellate defense services.

(2) Upon consultation with the executive director and the commission, the division shall:

(a) adopt a budget for the division;

(b) adopt and publish on the commission's website:

(i) appellate performance standards;

(ii) case weighting standards; and

(iii) any other relevant measures or information to assist with appellate defense services; and

(c) if requested by the commission, provide a report to the commission on:

(i) the provision of appellate defense services by the division;

(ii) the caseloads of appellate attorneys; and

(iii) any other information relevant to appellate defense services in the state.

(3) If the division provides appellate defense services to an indigent individual in an indigent defense system, the division shall provide notice to the district court and the indigent defense system that the division intends to be appointed as counsel for the indigent individual.

(4) The office shall assist with providing training and continual legal education on appellate defense to indigent defense service providers in [~~counties of the third, fourth, fifth, and sixth class~~]eligible counties.

Section 10. Section 78B-22-904 is amended to read:

78B-22-904. Chief appellate officer -- Qualifications -- Staff -- Duties.

(1) (a) After consulting with the commission, the executive director shall appoint a chief appellate officer.

(b) When appointing the chief appellate officer, the executive director shall give preference to an individual with experience in adult criminal appellate defense representation.

(2) The chief appellate officer shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the chief appellate officer.

(3) The chief appellate officer shall carry out the duties of the division described in Section 78B-22-903.

(4) The chief appellate officer shall:

(a) provide appellate defense services in [~~a county of the third, fourth, fifth, or sixth class~~]an eligible county;

(b) hire staff as necessary to carry out the duties of the division described in Section 78B-22-903; and

(c) perform all other duties that are necessary for the division to carry out the division's statutory duties.

(5) The chief appellate officer may provide appellate defense services in an action or an appeal for postconviction relief under [~~Title 78B, Chapter 9, Postconviction Remedies Act~~]Chapter 9, Postconviction Remedies Act, if the court appoints the division to represent the indigent individual.

Section 11. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 218
H. B. 183
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

NONCITIZEN RESTRICTED PERSON AMENDMENTS

Chief Sponsor: Trevor Lee
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill clarifies when a non-citizen is a restricted person.

Highlighted Provisions:

This bill:

- ► clarifies that aliens who have applications pending for asylum or temporary protected status are restricted persons not allowed to possess, purchase, transfer, or own dangerous weapons; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-503, as last amended by Laws of Utah 2023, First Special Session, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-503 is amended to read:

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons -- Exceptions.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of a violent felony;

(ii) is on probation or parole for a felony;

(iii) is on parole from secure care, as defined in Section 80-1-102;

(iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5;

(v) is an alien who is illegally or unlawfully in the United States, including an alien who has:

(A) submitted an asylum application in accordance with 8 U.S.C. Sec. 1158 and is waiting for a disposition on the application; or

(B) submitted a temporary protected status application in accordance with 8 U.S.C. Sec. 1254a and is waiting for a disposition on the application; or

(vi) is on probation for a conviction of possessing:

(A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;

(B) a controlled substance analog; or

(C) a substance listed in Section 58-37-4.2.

(b) A Category II restricted person is a person who:

(i) has been convicted of:

(A) a domestic violence offense that is a felony;

(B) a felony that is not a domestic violence offense or a violent felony and within seven years after completing the sentence for the conviction, has been convicted of or charged with another felony or class A misdemeanor;

(C) multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies and within seven years after completing the sentence for the convictions, has been convicted of or charged with another felony or class A misdemeanor; or

(D) multiple felonies that are not part of a single criminal episode;

(ii) (A) within the last seven years has completed a sentence for:

(I) a conviction for a felony that is not a domestic violence offense or a violent felony; or

(II) convictions for multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies; and

(B) within the last seven years and after the completion of a sentence for a conviction described in Subsection (1)(b)(ii)(A), has not been convicted of or charged with another felony or class A misdemeanor;

(iii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iv) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(v) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

(vi) has been found not guilty by reason of insanity for a felony offense;

(vii) has been found mentally incompetent to stand trial for a felony offense;

(viii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(ix) has been dishonorably discharged from the armed forces;

(x) has renounced the individual's citizenship after having been a citizen of the United States;

(xi) is a respondent or defendant subject to a protective order or child protective order that is issued after a hearing for which the respondent or defendant received actual notice and at which the respondent or defendant has an opportunity to participate, that restrains the respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate partner, and that:

(A) includes a finding that the respondent or defendant represents a credible threat to the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C. Sec. 921 or the child of the individual; or

(B) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner; or

(xii) except as provided in Subsection (1)(d), has been convicted of the commission or attempted commission of misdemeanor assault under Section 76-5-102 or aggravated assault under Section 76-5-103 against an individual:

(A) who is a current or former spouse, parent, or guardian;

(B) with whom the restricted person shares a child in common;

(C) who is cohabitating or has cohabitated with the restricted person as a spouse, parent, or guardian;

(D) involved in a dating relationship with the restricted person within the last five years; or

(E) similarly situated to a spouse, parent, or guardian of the restricted person.

(c) (i) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:

(A) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or

(B) a conviction or an adjudication under Section 80-6-701 which, in accordance with the law of the jurisdiction in which the conviction or adjudication occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(ii) As used in this section, a conviction for misdemeanor assault under Subsection (1)(b)(xii), does not include a conviction which, in accordance with the law of the jurisdiction in which the conviction occurred, has been expunged, set aside, reduced to an infraction by court order, pardoned, or regarding which the person's civil rights have been restored, unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(iii) It is the burden of the defendant in a criminal case to provide evidence that a conviction or an adjudication under Section 80-6-701 is subject to an exception provided in this Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt that the conviction or the adjudication is not subject to that exception.

(d) A person is not a restricted person for a conviction under Subsection (1)(b)(xii)(D) if:

(i) five years have elapsed from the later of:

(A) the day on which the conviction is entered;

(B) the day on which the person is released from incarceration following the conviction; or

(C) the day on which the person's probation for the conviction is successfully terminated;

(ii) the person only has a single conviction for misdemeanor assault as described in Subsection (1)(b)(xii)(D); and

(iii) the person is not otherwise a restricted person under Subsection (1)(a) or (b).

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) a firearm is guilty of a second degree felony; or

(b) a dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) a firearm is guilty of a third degree felony; or

(b) a dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) A Category I or Category II restricted person may not use an antique firearm for an activity regulated under Title 23A, Wildlife Resources Act.

(6) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control a dangerous weapon, the penalties of that section control.

(7) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(v)that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

(8) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or

(3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section Title 77, Chapter 11a, Part 4, Disposal of Seized Property and Contraband;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection (8)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(9) (a) A person may not sell, transfer, or otherwise dispose of a firearm or dangerous weapon to a person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (9)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves a dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves a dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for an unlawful purpose, is guilty of a class A misdemeanor.

(10) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person information that the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (10) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 219
H. B. 188
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

DRY NEEDLING AMENDMENTS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill provides requirements for dry needling by a physical therapist or an occupational therapist.

Highlighted Provisions:

This bill:

- ► moves the registration requirement for a physical therapist using dry needling from an exception to unlawful and unprofessional conduct to a requirement for licensing;
- ► expands the definition of both physical therapy and occupational therapy to include dry needling;
- ► clarifies that no referral is needed for physical therapy or occupational therapy;
- ► creates a registration requirement for an occupational therapist to engage in dry needling;
- ► allows occupational therapists to assist with mental wellness; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-24b-102, as last amended by Laws of Utah 2024, Chapter 507
58-42a-102, as last amended by Laws of Utah 2024, Chapter 507
58-42a-301, as enacted by Laws of Utah 1994, Chapter 240

ENACTS:

58-24b-306, Utah Code Annotated 1953
58-24b-307, Utah Code Annotated 1953
58-42a-307, Utah Code Annotated 1953
58-42a-308, Utah Code Annotated 1953

REPEALS:

58-24b-505, as enacted by Laws of Utah 2014, Chapter 354

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-24b-102 is amended to read:
58-24b-102. Definitions.

As used in this chapter:

(1) "Animal physical therapy" means practicing physical therapy or physiotherapy on an animal.

(2) "Board" means the Physical Therapies Licensing Board, created in Section 58-24b-201.

(3) "Consultation by telecommunication" means the provision of expert or professional advice by a physical therapist who is licensed outside of Utah to a licensed physical therapist or a health care provider by telecommunication or electronic communication.

(4) "General supervision" means supervision and oversight of [~~a person~~]an individual by a licensed physical therapist when the licensed physical therapist is immediately available in person, by telephone, or by electronic communication to assist the [~~person~~]individual.

(5) "Licensed physical therapist" means [~~a person~~]an individual licensed under this chapter to engage in the practice of physical therapy.

(6) "Licensed physical therapist assistant" means [~~a person~~]an individual licensed under this chapter to engage in the practice of physical therapy, subject to the provisions of Subsection 58-24b-401(2)(a).

(7) "Licensing examination" means a nationally recognized physical therapy examination that is approved by the division, in consultation with the board.

(8) "On-site supervision" means supervision and oversight of [~~a person~~]an individual by a licensed physical therapist or a licensed physical therapist assistant when the licensed physical therapist or licensed physical therapist assistant is:

(a) continuously present at the facility where the [~~person~~]individual is providing services;

(b) immediately available to assist the [~~person~~]individual; and

(c) regularly involved in the services being provided by the [~~person~~]individual.

(9) "Physical impairment" means:

(a) a mechanical impairment;

(b) a physiological impairment;

(c) a developmental impairment;

(d) a functional limitation;

(e) a disability;

(f) a mobility impairment; or

(g) a bodily malfunction.

(10) (a) "Physical therapy" or "physiotherapy" means:

(i) examining, evaluating, and testing an individual who has a physical impairment or injury;

(ii) identifying or labeling a physical impairment or injury;

(iii) formulating a therapeutic intervention plan for the treatment of a physical impairment, injury, or pain;

(iv) assessing the ongoing effects of therapeutic intervention for the treatment of a physical impairment or injury;

(v) treating or alleviating a physical impairment by designing, modifying, or implementing a therapeutic intervention;

(vi) reducing the risk of an injury or physical impairment;

(vii) providing instruction on the use of physical measures, activities, or devices for preventative and therapeutic purposes;

(viii) promoting and maintaining health and fitness;

(ix) the administration of a prescription drug pursuant to Section 58-24b-403;

(x) subject to Subsection 58-28-307(12)(b), engaging in the functions described in Subsections (10)(a)(i) through (ix) in relation to an animal, in accordance with the requirements of Section 58-24b-405; [~~and~~]

(xi) engaging in administration, consultation, education, and research relating to the practices described in this Subsection (10)(a) [~~.~~]; or

(xii) applying dry needling to enhance an individual's physical performance if the physical therapy practitioner has received the necessary training as determined by division rule in collaboration with the board.

(b) "Physical therapy" or "physiotherapy" does not include:

(i) diagnosing disease;

(ii) performing surgery;

(iii) performing acupuncture;

(iv) taking x-rays; or

(v) prescribing or dispensing a drug, as defined in Section 58-37-2.

(11) "Physical therapy aide" means [~~a person~~]an individual who:

(a) is trained, on-the-job, by a licensed physical therapist; and

(b) provides routine assistance to a licensed physical therapist or licensed physical therapist assistant, while the licensed physical therapist or licensed physical therapist assistant practices physical therapy, within the scope of the licensed physical therapist's or licensed physical therapist assistant's license.

(12) "Recognized accreditation agency" means an accreditation agency that:

(a) grants accreditation, nationally, in the United States of America; and

(b) is approved by the division, in consultation with the board.

(13) (a) "Testing" means a standard method or technique used to gather data regarding a patient that is generally and nationally accepted by physical therapists for the practice of physical therapy.

(b) "Testing" includes measurement or evaluation of:

(i) muscle strength, force, endurance, or tone;

(ii) cardiovascular fitness;

(iii) physical work capacity;

(iv) joint motion, mobility, or stability;

(v) reflexes or autonomic reactions;

(vi) movement skill or accuracy;

(vii) sensation;

(viii) perception;

(ix) peripheral nerve integrity;

(x) locomotor skills, stability, and endurance;

(xi) the fit, function, and comfort of prosthetic, orthotic, or other assistive devices;

(xii) posture;

(xiii) body mechanics;

(xiv) limb length, circumference, and volume;

(xv) thoracic excursion and breathing patterns;

(xvi) activities of daily living related to physical movement and mobility;

(xvii) functioning in the physical environment at home or work, as it relates to physical movement and mobility; and

(xviii) neural muscular responses.

(14) (a) "Trigger point dry needling" means the stimulation of a trigger point using a dry needle to treat neuromuscular pain and functional movement deficits.

(b) "Trigger point dry needling" does not include the stimulation of auricular or distal points.

(15) "Therapeutic intervention" includes:

(a) therapeutic exercise, with or without the use of a device;

(b) functional training in self-care, as it relates to physical movement and mobility;

(c) community or work integration, as it relates to physical movement and mobility;

(d) manual therapy, including:

(i) soft tissue mobilization;

(ii) therapeutic massage; or

(iii) joint mobilization, as defined by the division, by rule;

(e) prescribing, applying, or fabricating an assistive, adaptive, orthotic, prosthetic, protective, or supportive device;

(f) airway clearance techniques, including postural drainage;

(g) integumentary protection and repair techniques;

(h) wound debridement, cleansing, and dressing;

(i) the application of a physical agent, including:

(i) light;

(ii) heat;

(iii) cold;

(iv) water;

(v) air;

(vi) sound;

(vii) compression;

(viii) electricity; and

(ix) electromagnetic radiation;

(j) mechanical or electrotherapeutic modalities;

(k) positioning;

(l) instructing or training a patient in locomotion or other functional activities, with or without an assistive device;

(m) manual or mechanical traction;

(n) correction of posture, body mechanics, or gait; and

(o) trigger point dry needling, under the conditions described in Section 58-24b-505.

Section 2. Section 58-24b-306 is enacted to read:

58-24b-306. Trigger point dry needling -- Experience required -- Registration.

(1) A physical therapist may practice trigger point dry needling if the physical therapist:

(a) has a valid license to practice physical therapy under this chapter;

(b) has successfully completed a course in trigger point dry needling that is:

(i) approved by the division; and

(ii) at least 304 total course hours, including at a minimum of:

(A) 54 hours of in-person instruction; and

(B) 250 supervised patient treatment hours;

(c) files a certificate of completion of the course described in Subsection (1)(b) with the division;

(d) registers with the division as a trigger point dry needling practitioner; and

(e) meets any other requirement to practice trigger point dry needling established by the division.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(a) the criteria for approving a course described in Subsection (1)(b); and

(b) the requirements described in Subsection (1)(e).

(3) The division may charge, in accordance with Section 63J-1-504, a fee for the registration described in Subsection (1)(d).

Section 3. Section 58-24b-307 is enacted to read:

58-24b-307. No referral required for physical therapy.

A physical therapist may evaluate, initiate, and provide physical therapy treatment for a client without a referral from another health service provider.

Section 4. Section 58-42a-102 is amended to read:

58-42a-102. Definitions.

[~~In addition to the definitions in Section 58-1-102, as~~]As used in this chapter:

(1) "Board" means the Physical Therapies Licensing Board created in Section 58-24b-201.

(2) (a) "Individual treatment plan" means a written record composed for each client by [~~a person~~]the individual licensed under this chapter to engage in the practice of occupational therapy.

(b) "Individual treatment plan" includes:

(i) planning and directing specific exercises and programs to improve sensory integration and motor functioning at the level of performance neurologically appropriate for the individual's stage of development;

(ii) establishing a program of instruction to teach a client skills, behaviors, and attitudes necessary for the client's independent productive, emotional, and social functioning;

(iii) analyzing, selecting, and adapting functional exercises to achieve and maintain the client's optimal functioning in activities of daily living and to prevent further disability; and

(iv) planning and directing specific programs to evaluate and enhance perceptual, motor, and cognitive skills.

(3) "Occupational therapist" means [~~a person~~]an individual licensed under this chapter to practice occupational therapy.

(4) "Occupational therapy aide" means [~~a person~~]an individual who is not licensed under this chapter but who provides supportive services under the supervision of an occupational therapist or occupational therapy assistant.

(5) "Occupational therapy assistant" means [~~a person~~]an individual licensed under this chapter to practice occupational therapy under the supervision of an occupational therapist as described in Sections 58-42a-305 and 58-42a-306.

(6) (a) "Practice of occupational therapy" means the therapeutic use of everyday life activities with an individual:

(i) that has or is at risk of developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction; and

(ii) to develop or restore the individual's ability to engage in everyday life activities by addressing physical, cognitive, mental wellness, psychosocial, sensory, or other aspects of the individual's performance.

(b) "Practice of occupational therapy" includes:

(i) establishing, remediating, or restoring an undeveloped or impaired skill or ability of an individual;

(ii) modifying or adapting an activity or environment to enhance an individual's performance;

(iii) maintaining and improving an individual's capabilities to avoid declining performance in everyday life activities;

(iv) promoting health and wellness to develop or improve an individual's performance in everyday life activities;

(v) performance-barrier prevention for an individual, including disability prevention;

(vi) evaluating factors that affect an individual's activities of daily living in educational, work, play, leisure, and social situations, including:

(A) body functions and structures;

(B) habits, routines, roles, and behavioral patterns;

(C) cultural, physical, environmental, social, virtual, and spiritual contexts and activity demands that affect performance; and

(D) motor, process, communication, interaction, and other performance skills;

(vii) providing interventions and procedures to promote or enhance an individual's safety and performance in activities of daily living in educational, work, and social situations, including:

(A) the therapeutic use of occupations and exercises;

(B) training in self-care, self-management, home-management, and community and work reintegration;

(C) the development, remediation, or compensation of behavioral skills and physical, cognitive, neuromuscular, and sensory functions;

(D) the education and training of an individual's family members and caregivers;

(E) care coordination, case management, and transition services;

(F) providing consulting services to groups, programs, organizations, or communities,

(G) modifying the environment and adapting processes, including the application of ergonomic principles;

(H) assessing, designing, fabricating, applying, fitting, and providing training in assistive technology, adaptive devices, orthotic devices, and prosthetic devices;

(I) assessing, recommending, and training an individual in techniques to enhance functional mobility, including wheelchair management;

(J) driver rehabilitation and community mobility;

(K) enhancing eating and feeding performance; [~~and~~]

(L) applying physical agent modalities, managing wound care, dry needling, and using manual therapy techniques to enhance an individual's performance skills, if the occupational therapist has received the necessary training as determined by division rule in collaboration with the board [~~.~~]; or

(M) applying dry needling to enhance an individual's occupational performance if the occupational therapy practitioner has received the necessary training as determined by division rule in collaboration with the board.

(7) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-42a-501.

(8) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-42a-502.

Section 5. Section 58-42a-301 is amended to read:

58-42a-301. Licensure required -- License classification.

(1) A license is required to engage in the practice of occupational therapy, except as specifically provided in Section 58-1-307 or 58-42a-304.

(2) The division shall issue to [~~a person~~]an individual who qualifies under this chapter a license in the classification of:

(a) occupational therapist; or

(b) occupational therapy assistant.

(3) Nothing in this chapter shall permit an individual licensed under this chapter to engage in the practice of mental health therapy as defined in Section 58-60-102.

[~~(3) Nothing in this chapter shall permit an individual licensed under this chapter to engage in the practice of mental health therapy.~~]

Section 6. Section 58-42a-307 is enacted to read:

58-42a-307. Trigger point dry needling -- Experience required -- Registration.

(1) An occupational therapist may practice trigger point dry needling if the occupational therapist:

(a) has a valid license to practice occupational therapy under this chapter;

(b) has successfully completed a course in trigger point dry needling that is:

(i) approved by the division; and

(ii) at least 304 total course hours, including a minimum of:

(A) 54 hours of in-person instruction; and

(B) 250 supervised patient treatment hours;

(c) files a certificate of completion of the course described in Subsection (1)(b) with the division;

(d) registers with the division as a trigger point dry needling practitioner; and

(e) meets any other requirement to practice trigger point dry needling established by the division.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(a) the criteria for approving a course described in Subsection (1)(b); and

(b) the requirements described in Subsection (1)(e).

(3) The division may charge, in accordance with Section 63J-1-504, a fee for the registration described in Subsection (1)(d).

Section 7. Section 58-42a-308 is enacted to read:

58-42a-308. No referral required for occupational therapy.

An occupational therapist may evaluate, initiate, and provide occupational therapy treatment for a client without a referral from another health service provider.

Section 8. Repealer.

This bill repeals:

Section 58-24b-505, Trigger point dry needling -- Experience required -- Registration.

Section 9. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 220
H. B. 190
Passed March 3, 2025
Approved March 25, 2025
Effective January 1, 2026

MOTORCYCLE AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill defines terms and prohibits certain maneuvers related to the operation of a motorcycle.

Highlighted Provisions:

This bill:

- ► provides requirements for location and visibility of a license plate on a motorcycle;
- ► defines terms related to a motorcycle;
- ► prohibits lane splitting;
- ► prohibits the performance of a wheelie by a motorcycle operator on a highway;
- ► requires the Driver License Division to suspend an individual's motorcycle endorsement or driver license for certain violations; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-1101, as last amended by Laws of Utah 2024, Chapter 319
41-6a-102, as last amended by Laws of Utah 2024, Chapter 236
53-3-220, as last amended by Laws of Utah 2024, Chapter 319

ENACTS:

41-1a-404.1, Utah Code Annotated 1953
41-6a-606.1, Utah Code Annotated 1953
41-6a-704.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-404.1 is enacted to read:
41-1a-404.1. Location and position of plate on a motorcycle -- Visibility of plate -- Penalties.

(1) The owner or operator of a motorcycle shall ensure that the license plate is attached to the rear of the vehicle as described in this section.

(2) A license plate shall at all times be:

(a) securely fastened:

(i) to the vehicle for which it is issued;

(ii) at a height of not less than 12 inches from the ground, measuring from the bottom of the plate; and

(iii) in a place and position to be clearly visible; and

(b) maintained:

(i) free from foreign materials or a tinted or translucent license plate cover; and

(ii) in a condition to be clearly legible.

(3) A motorcycle license plate may not be attached in any manner that is not clearly visible.

(4) The provisions of Subsections (2)(a)(iii) and (2)(b) do not apply to a license plate that is obscured exclusively by one or more of the following devices or by the cargo the motorcycle is carrying, if the device is installed according to manufacturer specifications or generally accepted installation practices:

(a) a trailer hitch; or

(b) a luggage rack or similar cargo carrying device.

(5) (a) A person who violates this section is guilty of an infraction.

(b) If an individual is convicted of a violation of this section, the Driver License Division shall:

(i) suspend the individual's motorcycle endorsement for a period of 90 days; or

(ii) if the individual does not have a valid motorcycle endorsement, suspend the individual's driver license for a period of 90 days.

(c) If an individual with a motorcycle endorsement is convicted of a second violation of this section, the Driver License Division shall

suspend the individual's motorcycle endorsement for a period of 180 days.

(d) If an individual with a motorcycle endorsement is convicted of a third or subsequent violation of this section, the Driver License Division shall revoke the individual's motorcycle endorsement.

(e) The court shall forward the report of a conviction under this section to the Driver License Division in accordance with Section 53-3-218.

Section 2. Section 41-1a-1101 is amended to read:

41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.

(1) As used in this section:

(a) (i) "Criminal offense" means a class B misdemeanor offense, a class A misdemeanor offense, or a felony offense.

(ii) "Criminal offense" includes:

(A) a class B misdemeanor offense, a class A misdemeanor offense, or a felony offense described in Chapter 6a, Traffic Code, Title 53, Chapter 3, Part 2, Driver Licensing Act, Title 73, Chapter 18, State Boating Act, or Title 76, Utah Criminal Code; and

(B) a local ordinance that is a class B misdemeanor and is substantially similar to an offense listed in Subsection (1)(a)(ii)(A).

(b) "Operator" means the same as that term is defined in Section 41-6a-102.

(c) "Road rage event" means the commission of a criminal offense:

(i) by an operator of a vehicle;

(ii) in response to an incident that occurs or escalates upon a roadway; and

(iii) with the intent to endanger or intimidate an individual in another vehicle.

(d) "Roadway" means:

(i) a highway; or

(ii) a private road or driveway as defined in Section 41-6a-102.

(2) The division or any peace officer, without a warrant, may seize and take possession of any vehicle, vessel, or outboard motor:

(a) that the division or the peace officer has probable cause to believe has been stolen;

(b) on which any identification number has been defaced, altered, or obliterated;

(c) that has been abandoned in accordance with Section 41-6a-1408;

(d) for which the applicant has written a check for registration or title fees that has not been honored by the applicant's bank and that is not paid within 30 days;

(e) that is placed on the water with improper registration;

(f) that is being operated on a highway:

(i) with registration that has been expired for more than three months;

(ii) having never been properly registered by the current owner; or

(iii) with registration that is suspended or revoked; [~~or~~]

(g) (i) that the division or the peace officer has probable cause to believe has been involved in an accident described in Section 41-6a-401, 41-6a-401.3, or 41-6a-401.5; and

(ii) whose operator did not remain at the scene of the accident until the operator fulfilled the requirements described in Section 41-6a-401 or 41-6a-401.7[~~.~~]; or

(h) if the division or peace officer has probable cause to believe that the operator:

(i) failed to properly display the license plate on a motorcycle as described in Section 41-1a-404.1; or

(ii) used the motorcycle:

(A) to perform a wheelie in violation of Section 41-6a-606.1; or

(B) to engage in lane splitting in violation of Section 41-6a-704.1.

(3) (a) The division or a peace officer shall seize and take possession of a vehicle, without a warrant, when:

(i) the division or the peace officer has probable cause to believe that an operator of the vehicle engaged in a road rage event; and

(ii) the operator of the vehicle has been arrested in conjunction with the road rage event.

(b) A peace officer may release a vehicle seized and possessed under Subsection (3)(a) to the registered owner of the vehicle if the registered owner is not the individual subject to arrest under Subsection (3)(a) and is immediately available, at the location of the arrest, to take possession of the vehicle.

(4) (a) Subject to the restriction in Subsection (4)(b), the division or any peace officer, without a warrant:

(i) shall seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301 and the vehicle was involved in an accident; or

(ii) may seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301 after the division or any peace officer makes a reasonable determination whether the vehicle would:

(A) present a public safety concern to the operator or any of the occupants in the vehicle; or

(B) prevent the division or the peace officer from addressing other public safety considerations.

(b) The division or any peace officer may not seize and take possession of a vehicle under Subsection (4)(a):

(i) if the operator of the vehicle is not carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle unless the division or peace officer verifies that owner's or operator's security is not in effect for the vehicle through the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803; or

(ii) if the operator of the vehicle is carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle and the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803 indicates that the owner's or operator's security is not in effect for the vehicle, unless the division or a peace officer makes a reasonable attempt to independently verify that owner's or operator's security is not in effect for the vehicle.

(5) If necessary for the transportation of a seized vessel, the vessel's trailer may be seized to transport and store the vessel.

(6) Any peace officer seizing or taking possession of a vehicle, vessel, or outboard motor under this section shall comply with the provisions of Section 41-6a-1406.

(7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules setting standards for public garages, impound lots, and impound yards that may be used by peace officers and the division.

(b) The standards shall be equitable, reasonable, and unrestrictive as to the number of public garages, impound lots, or impound yards per geographical area.

(c) A crusher, dismantler, or salvage dealer may not operate as a state impound yard unless the crusher, dismantler, or salvage dealer meets all of the requirements for a state impound yard set forth in this section and rules made in accordance with Subsection (7)(a).

(d) (i) Rules made by the commission shall include a requirement that a state impound yard have opaque fencing on any side of the state impound yard that has frontage with a highway.

(ii) The opaque fencing described in Subsection (7)(d)(i) may be opaque chain link fencing.

(8) (a) Except as provided under Subsection (8)(b), a person may not operate or allow to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated under this part without prior written permission of the owner of the vehicle.

(b) Incidental and necessary operation of a vehicle to move the vehicle from one parking space to another within the facility and that is necessary for the normal management of the facility is not prohibited under Subsection (8)(a).

(9) A person who violates the provisions of Subsection (8) is guilty of a class C misdemeanor.

(10) The division or the peace officer who seizes a vehicle shall record the mileage shown on the vehicle's odometer at the time of seizure, if:

(a) the vehicle is equipped with an odometer; and

(b) the odometer reading is accessible to the division or the peace officer.

Section 3. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(5) "Authorized emergency vehicle" includes:

(a) a fire department vehicle;

(b) a police vehicle;

(c) an ambulance; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(6) "Autocycle" means the same as that term is defined in Section 53-3-102.

(7) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(8) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(9) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(10) "Class 1 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) provides assistance only when the rider is pedaling; and

(b) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(11) "Class 2 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) may be used exclusively to propel the bicycle; and

(b) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

(12) "Class 3 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) provides assistance only when the rider is pedaling;

(b) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(c) is equipped with a speedometer.

(13) "Commissioner" means the commissioner of the Department of Public Safety.

(14) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(15) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(16) "Department" means the Department of Public Safety.

(17) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(18) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(19) "Echelon formation" means the operation of two or more snowplows arranged side-by-side or diagonally across multiple lanes of traffic of a multi-lane highway to clear snow from two or more lanes at once.

(20) (a) "Electric assisted bicycle" means a bicycle with an electric motor that:

(i) has a power output of not more than 750 watts;

(ii) has fully operable pedals;

(iii) has permanently affixed cranks that were installed at the time of the original manufacture;

(iv) is fully operable as a bicycle without the use of the electric motor; and

(v) is one of the following:

(A) a class 1 electric assisted bicycle;

(B) a class 2 electric assisted bicycle;

(C) a class 3 electric assisted bicycle; or

(D) a programmable electric assisted bicycle.

(b) "Electric assisted bicycle" does not include:

(i) a moped;

(ii) a motor assisted scooter;

(iii) a motorcycle;

(iv) a motor-driven cycle; or

(v) any other vehicle with less than four wheels that is designed, manufactured, intended, or advertised by the seller to have any of the following capabilities or features, or that is modifiable or is modified to have any of the following capabilities or features:

(A) has the ability to attain the speed of 20 miles per hour or greater on motor power alone;

(B) is equipped with a continuous rated motor power of 750 watts or greater;

(C) is equipped with foot pegs for the operator at the time of manufacture, or requires installation of a pedal kit to have operable pedals; or

(D) if equipped with multiple operating modes and a throttle, has one or more modes that exceed 20 miles per hour on motor power alone.

(21) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(22) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(24) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a Tagliabue or equivalent closed-cup test device.

(25) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(26) (a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(27) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(28) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(29) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

(30) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(31) "Highway authority" means the same as that term is defined in Section 72-1-102.

(32) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(33) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(34) (a) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

(b) "Lane filtering" does not include lane splitting.

(35) (a) "Lane splitting" means, when operating a motorcycle other than an autocycle, the act of riding a motorcycle between clearly marked lanes for traffic traveling in the same direction of travel while traffic is in motion.

(b) "Lane splitting" does not include lane filtering.

[~~(35)~~](36) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

[~~(36)~~](37) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[~~(37)~~](38) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

[~~(38)~~](39) (a) "Low-speed vehicle" means a four wheeled motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

[~~(39)~~](40) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

[~~(40)~~](41) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

[~~(41)~~](42) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection [~~(41)(a)~~](42)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

[~~(42)~~](43) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an object, caused by a neuro-muscular, orthopedic, or other condition.

[~~(43)~~](44) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

[~~(44)~~](45) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

[~~(45)~~](46) (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(46)~~](47) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

[~~(47)~~](48) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

[~~(48)~~](49) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

[~~(49)~~](50) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

[~~(50)~~](51) "Operate" means the same as that term is defined in Section 41-1a-102.

[~~(51)~~](52) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

[~~(52)~~](53) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

[~~(53)~~](54) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

[~~(54)~~](55) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

[~~(55)~~](56) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

[~~(56)~~](57) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

[~~(57)~~](58) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

[~~(58)~~](59) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[~~(59)~~](60) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[~~(60)~~](61) "Programmable electric assisted bicycle" means an electric assisted bicycle with capability to switch or be programmed to function as a class 1 electric assisted bicycle, class 2 electric assisted bicycle, or class 3 electric assisted bicycle, provided that the electric assisted bicycle fully conforms with the respective requirements of each class of electric assisted bicycle when operated in that mode.

[~~(61)~~](62) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[~~(62)~~](63) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[~~(63)~~](64) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[~~(64)~~](65) "Restored-modified vehicle" means the same as the term defined in Section 41-1a-102.

[~~(65)~~](66) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[~~(66)~~](67) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[~~(67)~~](68) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[~~(68)~~](69) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[~~(69)~~](70) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[~~(70)~~](71) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[~~(71)~~](72) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[~~(72)~~](73) (a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

[~~(73)~~](74) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[~~(74)~~](75) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[~~(75)~~](76) "Stop" when required means complete cessation from movement.

[~~(76)~~](77) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[~~(77)~~](78) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(78)~~](79) "Street-legal novel vehicle" means a vehicle registered as a novel vehicle under Section 41-27-201 that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with [~~with~~]Section 41-6a-1509.

[~~(79)~~](80) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(80)~~](81) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(81)~~](82) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(82)~~](83) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(83)~~](84) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(84)~~](85) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(85)~~](86) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(86)~~](87) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(87)~~](88) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(88)~~](89) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(89)~~](90) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(90)~~](91) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

(92) "Wheelie" means a maneuver performed while operating a motorcycle whereby the front wheel of the motorcycle is raised off of the ground.

Section 4. Section 41-6a-606.1 is enacted to read:

41-6a-606.1. Prohibition on performing wheelie -- Penalty.

(1) An individual operating a motorcycle on a highway may not perform a wheelie.

(2) (a) A person who violates Subsection (1) is guilty of an infraction.

(b) If an individual is convicted of a violation of Subsection (1), the Driver License Division shall:

(i) suspend the individual's motorcycle endorsement for a period of 90 days; or

(ii) if the individual does not have a valid motorcycle endorsement, suspend the individual's driver license for a period of 90 days.

(c) If an individual with a motorcycle endorsement is convicted of a second violation of Subsection (1), the Driver License Division shall suspend the individual's motorcycle endorsement for a period of 180 days.

(d) If an individual with a motorcycle endorsement is convicted of a third or subsequent violation of Subsection (1), the Driver License Division shall revoke the individual's motorcycle endorsement.

(3) The court shall forward the report of a conviction for a violation of Subsection (1) to the Driver License Division in accordance with Section 53-3-218.

(4) A law enforcement officer may impound a vehicle of a person who violates Subsection (1).

Section 5. Section 41-6a-704.1 is enacted to read:

41-6a-704.1. Prohibition on lane splitting -- Penalty.

(1) An individual may not engage in lane splitting.

(2) A violation of Subsection (1) is an infraction.

(3) If an individual is convicted of a violation of Subsection (1), the Driver License Division shall:

(a) suspend the individual's motorcycle endorsement for a period of 90 days; or

(b) if the individual does not have a valid motorcycle endorsement, suspend the individual's driver license for a period of 90 days.

(4) If an individual with a motorcycle endorsement is convicted of a second violation of Subsection (1), the Driver License Division shall suspend the individual's motorcycle endorsement for a period of 180 days.

(5) If an individual with a motorcycle endorsement is convicted of a third or subsequent violation of Subsection (1), the Driver License Division shall revoke the individual's motorcycle endorsement.

(6) The court shall forward the report of a conviction for a violation of Subsection (1) to the Driver License Division in accordance with Section 53-3-218.

(7) A law enforcement officer may impound a vehicle of a person who violates Subsection (1).

Section 6. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 1a, Motor Vehicle Act, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license or endorsement of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, automobile homicide under Section 76-5-207, or automobile homicide involving using a handheld wireless communication device while driving under Section 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2;

(xvii) refusal of a chemical test under Subsection 41-6a-520.1(1); [~~or~~]

(xviii) failure to properly display a license plate on a motorcycle under Section 41-1a-404.1;

(xix) performing a wheelie on a highway under Section 41-6a-606.1;

(xx) engaging in lane splitting under Section 41-6a-704.1; or

[~~(xviii)~~](xxi) two or more offenses that:

(A) are committed within a period of one year;

(B) are enhanced under Section 76-3-203.17; and

(C) arose from separate incidents.

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Section 80-6-701 for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) (i) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of violating any one of the following offenses while the person was an operator of a motor vehicle, and the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(F) any criminal offense that prohibits possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).

(ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate a person's driving privilege before completion of the suspension period imposed under Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

(iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

(iv) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

(v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Section 80-6-701 for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(f) The division shall immediately suspend a person's driver license for the conviction of an offense that is enhanced under Section 76-3-203.17 if the division receives:

(i) an order from the sentencing court requiring the person's driver license to be suspended; and

(ii) a record of the conviction.

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c)(i); and

(ii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician or physician assistant that:

(I) to the physician's or physician assistant's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician or physician assistant is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(ii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 7. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 221
H. B. 197
Passed February 20, 2025
Approved March 25, 2025
Effective May 7, 2025

CRIMINAL CONDUCT AMENDMENTS

Chief Sponsor: Ariel Defay
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill amends the crime of enticing a minor and provisions related to the Sex, Kidnap, and Child Abuse Offender Registry.

Highlighted Provisions:

This bill:

- ► amends the crime of enticing a minor;
- ► adds factors that a sentencing court must consider in making a determination regarding whether an individual under 21 years old used force or coercion when committing a registrable offense for purposes of determining registration length on the Sex, Kidnap, and Child Abuse Offender Registry;
- ► clarifies which prosecuting agency is required to receive a petition from an offender petitioning to be removed from the Sex, Kidnap, and Child Abuse Offender Registry and the responsibilities of that agency in notifying the victim regarding the petition;
- ► requires an offender on the Sex, Kidnap, and Child Abuse Offender Registry who is required to register on the registry because of an offense committed in another jurisdiction to be removed from the other jurisdiction's registry in order to be removed from the Sex, Kidnap, and Child Abuse Offender Registry;
- ► contains a coordination clause to coordinate technical changes between this bill and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-4-401, as last amended by Laws of Utah 2023, Chapter 457
77-41-105, as last amended by Laws of Utah 2024, Chapter 234
77-41-112, as last amended by Laws of Utah 2024, Chapters 116, 234

Utah Code Sections Affected by Coordination Clause:

AMENDS:

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-4-401 is amended to read:
76-4-401. Enticing a minor -- Elements -- Penalties.

(1) (a) As used in this section:

(i) "Minor" means an individual who is under 18 years old.

(ii) "Electronic communication" means the same as that term is defined in Section 76-9-201.

(iii) "Electronic communication device" means the same as that term is defined in Section 76-9-201.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits enticement of a minor if the actor knowingly:

(a) uses an electronic communication or an electronic communication device to:

(i) solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or entice a minor, or another person [~~that~~]who the actor believes to be a minor, to engage in sexual activity that is a violation of state criminal law; [~~or~~]

(ii) communicate with any individual with the intent to solicit, seduce, lure, or entice a minor, or attempt to solicit, seduce, lure, or entice a minor, to engage in sexual activity that is a violation of state criminal law; or

[~~(ii)~~](iii) (A) initiate contact with a minor or a person the actor believes to be a minor; and

(B) subsequent to the action described in Subsection [~~(2)(a)(ii)(A)~~](2)(a)(iii)(A), by any electronic or written means, solicits, seduces, lures, or entices the minor, or attempts to solicit, seduce, lure, or entice the minor, or a person the actor believes to be the minor, to engage in sexual activity that is a violation of state criminal law; or

(b) develops a relationship of trust with [~~the~~]a minor or the minor's parent or guardian with the intent to solicit, seduce, lure, or entice the minor, or attempt to solicit, seduce, lure, or entice the minor, to engage in sexual activity that is a violation of state criminal law.

(3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt to commit this offense, that a law enforcement

officer or an undercover operative who is employed by a law enforcement agency was involved in the detection or investigation of the offense.

(4) Enticement of a minor under Subsection (2) is punishable as follows:

(a) enticement to engage in sexual activity that would be a first degree felony for the actor is a:

(i) second degree felony upon the first conviction for violation of this Subsection (4)(a); and

(ii) first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life, upon a second or any subsequent conviction for a violation of this Subsection (4)(a);

(b) enticement to engage in sexual activity that would be a second degree felony for the actor is a third degree felony;

(c) enticement to engage in sexual activity that would be a third degree felony for the actor is a class A misdemeanor;

(d) enticement to engage in sexual activity that would be a class A misdemeanor for the actor is a class B misdemeanor; and

(e) enticement to engage in sexual activity that would be a class B misdemeanor for the actor is a class C misdemeanor.

(5) (a) When an actor who commits a felony violation of this section has been previously convicted of an offense under Subsection (5)(b), the court may not in any way shorten the prison sentence, and the court may not:

(i) grant probation;

(ii) suspend the execution or imposition of the sentence;

(iii) enter a judgment for a lower category of offense; or

(iv) order hospitalization.

(b) The sections referred to in Subsection (5)(a) are:

(i) Section 76-4-401, enticing a minor;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-402, rape;

(iv) Section 76-5-402.1, rape of a child;

(v) Section 76-5-402.2, object rape;

(vi) Section 76-5-402.3, object rape of a child;

(vii) Section 76-5-403, forcible sodomy;

(viii) Section 76-5-403.1, sodomy on a child;

(ix) Section 76-5-404, forcible sexual abuse;

(x) Section 76-5-404.1, sexual abuse of a child and Section 76-5-404.3, aggravated sexual abuse of a child;

(xi) Section 76-5-405, aggravated sexual assault;

(xii) Section 76-5-308.5, human trafficking of a child;

(xiii) any offense in any other state or federal jurisdiction that constitutes or would constitute a crime in Subsections (5)(b)(i) through (xii); or

(xiv) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through (xiii).

Section 2. Section 77-41-105 is amended to read:

77-41-105. Registration of offenders -- Offender responsibilities.

(1) (a) An offender who enters this state from another jurisdiction is required to register under Subsection (3) and Subsection 77-41-102(1), (11), or (19).

(b) The offender shall register with the department within 10 days after the day on which the offender enters the state, regardless of the offender's length of stay.

(2) (a) An offender required to register under Subsection 77-41-102(1), (11), or (19) who is under supervision by the department shall register in person with the Division of Adult Probation and Parole.

(b) An offender required to register under Subsection 77-41-102(1), (11), or (19) who is no longer under supervision by the department shall register in person with the police department or sheriff's office that has jurisdiction over the area where the offender resides.

(3) (a) Except as provided in Subsections (3)(b), (3)(c), and (4), an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register each year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(b) Except as provided in Subsections (3)(c)(iii), (4), and (5), an offender who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(1), (11), or (19), a substantially similar offense, another offense that requires registration in the jurisdiction of conviction, or an offender who is ordered by a court of another jurisdiction to register as an offender shall register for the time period required by the jurisdiction where the offender was convicted or ordered to register.

(c) (i) An offender convicted as an adult of an offense listed in Section 77-41-106 shall, for the offender's lifetime, register each year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(ii) Except as provided in Subsection (3)(c)(iii), the registration requirement described in Subsection (3)(c)(i) is not subject to exemptions and may not be terminated or altered during the offender's lifetime, unless a petition is granted under Section 77-41-112.

(iii) (A) If the sentencing court at any time after conviction determines, after considering the factors described in Subsection (3)(c)(iv) and any other factor the sentencing court determines is relevant, that the offense does not involve force or coercion, lifetime registration under Subsection (3)(c)(i) does not apply to an offender who commits the offense when the offender is under 21 years old.

(B) For an offense listed in Section 77-41-106, an offender who commits the offense when the offender is under 21 years old shall register for the registration period required under Subsection (3)(a), unless a petition is granted under Section 77-41-112.

(iv) In determining whether an offense committed by an offender involves force or coercion under Subsection (3)(c)(iii)(A), the sentencing court shall consider:

(A) the age of the victim;

(B) the vulnerability of the victim;

(C) the physical, mental, psychological, or emotional harm the victim suffered from the offense;

(D) whether the offender used fraud or deception to commit the offense; and

(E) if any child sexual abuse material, as that term is defined in Section 76-5b-103, was:

(I) distributed to the victim by the offender; or

(II) distributed, produced, or possessed by the offender at the time of the offense that involved force or coercion against a victim depicted in the child sexual abuse material.

(d) For the purpose of establishing venue for a violation of this Subsection (3), the violation is considered to be committed:

(i) at the most recent registered primary residence of the offender or at the location of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.

(5) (a) Except as provided in Subsection (5)(b), in the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of Subsection (3).

(b) If the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the registration website.

(6) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a child while required to register under this chapter shall register for an additional five years subsequent to the registration period otherwise required under this chapter.

(7) An offender shall provide the department or the registering entity with the following information:

(a) all names and aliases by which the offender is or has been known;

(b) the addresses of the offender's primary and secondary residences;

(c) a physical description, including the offender's date of birth, height, weight, eye and hair color;

(d) the make, model, color, year, plate number, and vehicle identification number of a vehicle or vehicles the offender owns or drives more than 12 times per year;

(e) a current photograph of the offender;

(f) a set of fingerprints, if one has not already been provided;

(g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;

(h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;

(i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;

(j) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;

(k) a copy of the offender's passport, if a passport has been issued to the offender;

(l) if the offender is an alien, all documents establishing the offender's immigration status;

(m) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;

(n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and a change of enrollment or employment status of the offender at an educational institution;

(o) the name, the telephone number, and the address of a place where the offender is employed or will be employed;

(p) the name, the telephone number, and the address of a place where the offender works as a volunteer or will work as a volunteer; and

(q) the offender's social security number.

(8) (a) An offender may change the offender's name in accordance with Title 42, Chapter 1, Change of Name, if the name change is not contrary to the interests of the public.

(b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department at least 30 days before the day on which the hearing for the name change is held.

(c) The court shall provide a copy of the order granting the offender's name change to the department within 10 days after the day on which the court issues the order.

(d) If the court orders an offender's name changed, the department shall publish on the registration website the offender's former name, and the offender's changed name as an alias.

(9) Notwithstanding Subsections (7)(i) and (j) and 77-41-103(1)(c), an offender is not required to provide the department with:

(a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or

(b) online identifiers for the offender's financial accounts, including a bank, retirement, or investment account.

Section 3. Section 77-41-112 is amended to read:

77-41-112. Removal from registry -- Requirements -- Procedure.

(1) [~~An~~]Subject to Subsections (8) and (9), an offender who is required to register with the Sex, Kidnap, and Child Abuse Offender Registry may petition the court for an order removing the offender from the Sex, Kidnap, and Child Abuse Offender Registry if:

(a) (i) the offender was convicted of an offense described in Subsection (2);

(ii) at least five years have passed after the day on which the offender's sentence for the offense terminated;

(iii) the offense is the only offense for which the offender was required to register;

(iv) the offender has not been convicted of another offense, excluding a traffic offense, since the day on which the offender was convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

(v) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense;

(b) (i) the offender is required to register in accordance with Subsection 77-41-105(3)(a);

(ii) at least 10 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; or

(c) (i) the offender is required to register in accordance with Subsection 77-41-105(3)(c);

(ii) at least 20 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 20-year period after the date described in Subsection (1)(c)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender submits to an evidence-based risk assessment to the court, with the offender's petition, that:

(A) meets the standards for the current risk assessment, score, and risk level required by the Board of Pardons and Parole for parole termination requests;

(B) is completed within the six months before the date on which the petition is filed; and

(C) describes the evidence-based risk assessment of the current level of risk to the safety of the public posed by the offender.

(2) The offenses referred to in Subsection (1)(a)(i) are:

(a) enticing a minor under Section 76-4-401, if the offense is a class A misdemeanor;

(b) kidnapping under Section 76-5-301;

(c) unlawful detention under Section 76-5-304, if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;

(d) unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(f) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, and at the time of the offense, the offender is not more than 15 years older than the victim;

(g) voyeurism under Section 76-9-702.7, if the offense is a class A misdemeanor; or

(h) an offense for which an individual is required to register under Subsection 77-41-102(1)(c), (11)(c), or (19)(c), if the offense is not substantially equivalent to an offense described in Subsection 77-41-102(1)(a), (11)(a), or (19)(a).

(3) (a) (i) An offender seeking removal from the Sex, Kidnap, and Child Abuse Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to an offender who provides false information on an application.

(b) (i) The bureau shall:

(A) perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility; and

(B) determine whether the offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), (c)(ii), (c)(iv), or (c)(v).

(ii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c), the bureau shall issue a certificate of eligibility to the offender, which is valid for a period of 90 days after the day on which the bureau issues the certificate.

(4) (a) (i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the offender will be charged an additional fee for the issuance of a certificate of eligibility.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(5) (a) The offender shall file the petition, including original information, the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection [~~(3)(b)(iv)~~](3)(b)(ii) with the court, and deliver a copy of the petition to:

(i) []if the offender is required to register on the Sex, Kidnap, and Child Abuse Offender Registry for a conviction of an offense committed in this state, the office of the prosecutor [.]that prosecuted the offender for the offense; or

(ii) if the offender is required to register on the Sex, Kidnap, and Child Abuse Offender Registry for a conviction of an offense committed in another jurisdiction, the attorney general's office.

(b) Upon receipt of a petition for removal from the Sex, Kidnap, and Child Abuse Offender Registry [,]under Subsection (5)(a):

(i) []the office of the prosecutor shall provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the most recent address of record on file for the victim's parent or guardian [~~of the victim~~]; or

(ii) the attorney general's office shall, if reasonably practicable, provide notice of the petition by first-class mail to the most recent address of record for the victim or, if the victim is still a minor under 18 years old, to the most recent address of record for the victim's parent or guardian.

(c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

(d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after the day on which the office receives the petition:

(i) presentencing report;

(ii) an evaluation done as part of sentencing; and

(iii) other information the office of the prosecutor determines the court should consider.

(e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years old, may respond to the petition by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.

(6) (a) The court shall:

(i) review the petition and all documents submitted with the petition; and

(ii) hold a hearing if requested by the prosecutor or the victim.

(b) (i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the petition and order removal of the offender from the registry if the court determines that the offender has met the requirements described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public.

(ii) When considering a petition filed under Subsection (1)(c), the court shall determine whether the offender has demonstrated, by clear and convincing evidence, that the offender is rehabilitated and does not pose a threat to the safety of the public.

(iii) In making the determination described in Subsection (6)(b)(ii), the court may consider:

(A) the nature and degree of violence involved in the offense that requires registration;

(B) the age and number of victims of the offense that requires registration;

(C) the age of the offender at the time of the offense that requires registration;

(D) the offender's performance while on supervision for the offense that requires registration;

(E) the offender's stability in employment and housing;

(F) the offender's community and personal support system;

(G) other criminal and relevant noncriminal behavior of the offender both before and after the offense that requires registration;

(H) the level of risk posed by the offender as evidenced by the evidence-based risk assessment described in Subsection (1)(c)(vi); and

(I) any other relevant factors.

(c) In determining whether removal is contrary to the interests of the public, the court may not consider removal unless the offender has substantially complied with all registration requirements under this chapter at all times.

(d) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

(e) (i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the offender may not submit another petition for three years.

(ii) If the offender files a petition under Subsection (1)(c) and the court denies the petition, the offender may not submit another petition for eight years.

(7) The court shall notify the victim and the Sex, Kidnap, and Child Abuse Offender Registry office in the department of the court's decision within three days after the day on which the court issues the court's decision in the same manner described in Subsection (5).

(8) Except as provided in Subsection (9), an offender required to register under Subsection 77-41-105(3)(b) may petition for early removal from [~~the registry~~]the Sex, Kidnap, and Child Abuse Offender Registry under Subsection [~~(1)(b) if the offender:~~](1)(a) or (b) if the offender:

(a) meets the applicable requirements of Subsections (1)(a) or (1)(b)(ii) through (v);

(b) has resided in this state for at least 183 days in a year for two consecutive years; [~~and~~]

(c) intends to primarily reside in this state [.]; and

(d) has received an order from a court in the external jurisdiction where the offender was initially required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, that authorizes the offender to be removed from the Sex, Kidnap, and Child Abuse Offender Registry.

(9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition for early removal from [~~the registry~~]the Sex, Kidnap, and Child Abuse Offender Registry under Subsection (1)(c) if:

(a) the offense requiring the offender to register is substantially equivalent to an offense listed in Section 77-41-106;

(b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);

(c) the offender has resided in this state for at least 183 days in a year for two consecutive years; [~~and~~]

(d) the offender intends to primarily reside in this state [~~.~~]; and

(e) the offender has received an order from a court in the external jurisdiction where the offender was initially required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, that authorizes the offender to be removed from the Sex, Kidnap, and Child Abuse Offender Registry.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

Section 5. Coordinating H.B. 197 with S.B. 41.

If H.B. 197, Criminal Conduct Amendments, and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) Subsection 53-29-203(3), enacted in S.B. 41, be amended to read:

"(3) (a) If the sentencing court at any time after an offender is convicted of an offense requiring lifetime registration described in Subsection (1)(b), and after considering the factors described in Subsection (3)(b), determines that the offender was under 21 years old at the time the offense was committed and the offense did not involve force or coercion, the requirement that the offender register for the offender's lifetime does not apply and the offender shall register for 10 years after the day on which the offender's sentence for the offense has been terminated.

(b) In determining whether an offense committed by an offender involves force or coercion under Subsection (3)(a), the sentencing court shall consider:

(i) the age of the victim;

(ii) the vulnerability of the victim;

(iii) the physical, mental, psychological, or emotional harm the victim suffered from the offense;

(iv) whether the offender used fraud or deception to commit the offense;

(v) if any child sexual abuse material, as that term is defined in Section 76-5b-103, was:

(A) distributed to the victim by the offender; or

(B) distributed, produced, or possessed by the offender at the time of the offense, that involved force or coercion against a victim depicted in the child sexual abuse material; and

(vi) any other factor the sentencing court determines is relevant.";

(2) Subsection 53-29-205(4), enacted in S.B. 41, be amended to read:

"(4) An individual who is as an offender under Section 53-29-202 based on a conviction in an external jurisdiction for a registrable offense, or a substantially equivalent offense, and is required to register on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry, may petition for removal from the registry in accordance with the requirements of this section if the individual:

(a) does not have a lifetime registration requirement on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry;

(b) meets the requirements described in Subsections (1)(a) through (c);

(c) has resided in this state for at least 183 days in a year for two consecutive years;

(d) intends to primarily reside in this state; and

(e) has received an order from a court in the external jurisdiction where the offender was initially required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, that authorizes the offender to be removed from the Sex, Kidnap, and Child Abuse Offender Registry.";

(3) Subsection 53-29-206(3), enacted in S.B. 41, be amended to read:

"(3) An individual who is as an offender under Section 53-29-202 based on a conviction in an external jurisdiction for a registrable offense or a substantially equivalent offense, and is required to register on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry, may petition for removal from the registry in accordance with the requirements of this section if the individual:

(a) is required to register on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry, for the individual's lifetime;

(b) meets the requirements described in Subsections (1)(a) through (d);

(c) has resided in this state for at least 183 days in a year for two consecutive years;

(d) intends to primarily reside in this state; and

(e) the offender has received an order from a court in the external jurisdiction where the offender was initially required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, that authorizes the offender to be removed from the Sex, Kidnap, and Child Abuse Offender Registry.";

(4) Subsection 53-29-207(3)(b), enacted in S.B. 41, be amended to read:

"(b) An offender who files a petition with the court as described in Subsection (3)(a) shall provide a copy of the petition to:

(i) if the offender is required to register on the Sex, Kidnap, and Child Abuse Offender Registry for a conviction of an offense committed in this state, the office of the prosecutor that prosecuted the offender for the offense; or

(ii) if the offender is required to register on the Sex, Kidnap, and Child Abuse Offender Registry for a conviction of an offense committed in another jurisdiction, the attorney general's office."; and

(5) Subsection 53-29-207(4), enacted in S.B. 41, be amended to read:

"(4)(a) Subject to Subsections (4)(c) and (d), a prosecutor, upon receipt of a petition described in Subsection (3)(b)(i), shall provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the most recent address of record on file for the victim's parent or guardian.

(b) Subject to Subsections (4)(c) and (d), the attorney general, upon receipt of a petition described in Subsection (3)(b)(ii), shall, if reasonably practicable, provide notice of the petition by first-class mail to the most recent address of record for the victim or, if the victim is still a minor under 18 years old, to the most recent address of record for the victim's parent or guardian.

(c) The notice described in Subsection (4)(a) or (b) shall include:

(i) a copy of the petition;

(ii) an explanation that the victim has a right to object to the removal of the offender from the registry or make other recommendations to the court; and

(iii) instructions for how the victim can file an objection or recommendation with the court.

(d) A prosecutor or the attorney general shall provide the following, if available, to the court within 30 days after the day on which the prosecutor or attorney general receives the petition:

(i) the presentencing report created for the offender based on the registrable offense committed by the offender;

(ii) any evaluation done as part of sentencing for the registrable offense; and

(iii) other information the prosecutor determines the court should consider.".

CHAPTER 222
H. B. 201
Passed February 21, 2025
Approved March 25, 2025
Effective May 7, 2025

ENERGY RESOURCE AMENDMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill modifies provisions related to the evaluation of integrated resource plans by the Public Service Commission.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires full cost attribution for supplemental resources in integrated resource plans;
- ► establishes requirements for calculating generation capacity;
- ► requires an affected electrical utility to include certain designations in the utility's action plan;
- ► prohibits certain involuntary demand management programs; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-17-301, as last amended by Laws of Utah 2008, Chapter 382

ENACTS:

54-17-305, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-17-301 is amended to read:

54-17-301. Review of integrated resource plan action plans.

(1) As used in this part:

(a) "Baseload capacity" means the amount of baseload power that electricity generation resources can reliably produce through continuous or nearly continuous operation.

(b) "Baseload electricity resource" means an electricity generation resource that operates continuously or nearly continuously to maintain a stable power supply at the electricity generation resource's rated capacity.

(c) "Baseload power" means the minimum amount of electric power continuously needed to meet basic system demand.

(d) "Demand management program" means any incentive or technology designed to modify the timing or amount of customer electricity consumption.

(e) "Expected deliverable energy" means the amount of electrical energy that a resource can reliably deliver to the grid based on historical performance data and operational constraints.

(f) "Firming capacity" means the amount of electric power that electricity generation resources can produce, at the system operator's discretion, to reliably meet peak load and balance fluctuations in electrical demand or supply.

(g) "Plant factor" means the same as that term is defined in Section 79-6-303.

(h) "Resource adequacy program" means a program that establishes capacity contribution values for generation resources based on historical performance data.

(i) (i) "Supplemental resource" means a utility asset or operational control required to maintain reliable power delivery when a variable energy resource is not operating at full capacity.

(ii) "Supplemental resource" includes:

(A) generation resources;

(B) transmission resources;

(C) energy balancing measures; and

(D) market purchases.

(j) "Variable capacity" means the amount of electric power that electricity generation resources can produce when operating on a variable basis due to elements outside of operator control.

(k) "Variable energy resource" means an electricity generation facility that cannot consistently deliver power at the facility's rated

capacity due to elements outside of the operator's control.

(l) "Voluntary conservation program" means a program that:

(i) provides customers financial incentives or cost-saving opportunities to reduce energy consumption;

(ii) maintains the customer's control over the customer's energy usage decisions; and

(iii) allows customers to opt out of any offered programs without restrictive penalties or length commitments.

(2) An affected electrical utility shall file with the commission any action plan developed as part of the affected electrical utility's integrated resource plan to enable the commission to review and provide guidance to the affected electrical utility.

(3) An affected electrical utility's action plan shall:

(a) report baseload energy resources as baseload capacity, specifying the expected deliverable energy;

(b) report variable energy resources as variable capacity, specifying the expected deliverable energy;

(c) report energy storage systems, including batteries and other storage devices, as firming capacity;

(d) report variable energy resources paired with energy storage as firming capacity, subject to the energy storage system requirements in Subsection (3)(g)(ii);

(e) separately report any expected curtailment of baseload and variable energy resources resulting from regulations, costs, or demand constraints; and

(f) attribute relevant costs of supplemental resources to the variable energy resources that necessitate the use of supplemental resources;

(g) for generation capacity calculations:

(i) exclude energy conservation measures and demand reduction programs;

(ii) reflect actual delivery capability for energy storage systems, accounting for:

(A) charging requirements;

(B) duration limitations; and

(C) seasonal performance variations in capacity and duration; and

(iii) for variable energy resources, use:

(A) capacity assumptions for long-term planning; and

(B) capacity and plant factor values established by a resource adequacy program in which the affected electrical utility's resource adequacy participates.

[~~(2)~~](4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing a process for its review of an action plan.

(b) The rules required under Subsection [~~(2)(a)~~](4)(a) shall provide sufficient flexibility to permit changes in an action plan between the periodic filings of the affected electrical utility's integrated resource plan.

Section 2. Section 54-17-305 is enacted to read:

54-17-305. Demand management programs.

(1) An affected electrical utility may not:

(a) implement a demand management program unless:

(i) the consumer voluntarily participates; and

(ii) the consumer provides written or electronic consent; or

(b) count anticipated demand reductions from any demand management program as equivalent to generation capacity in an integrated resource plan.

(2) Notwithstanding Subsection (1), an integrated resource plan may account for load decrease from a demand management program if:

(a) the affected electrical utility demonstrates the load decrease is:

(i) within the utility's sole control; or

(ii) otherwise reliable; and

(b) the load decrease will not result in a supply shortage during the period for which the decrease is anticipated.

(3) This section does not prohibit an affected electrical utility from:

(a) offering voluntary conservation programs that provide customers direct financial benefits; or

(b) implementing emergency procedures necessary to maintain system reliability.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 223
H. B. 207
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

SEXUAL OFFENSE REVISIONS

Chief Sponsor: Stephen L. Whyte
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill changes certain sexual offenses and sentencing for sexual offenses.

Highlighted Provisions:

This bill:

- ► amends sentencing provisions concerning repeat and habitual sex offenders, including requiring mandatory imprisonment;
- ► provides a definition of a female breast for purposes of certain sexual and sexual exploitation offenses that includes a breast that is undeveloped or partially developed;
- ► expands the definition of "child sexual abuse material" to include a minor observing or being used for sexually explicit conduct;
- ► modifies the definition of "sexual explicit conduct" concerning certain bodily functions;
- ► changes the mental state necessary to commit the offense of sexual exploitation of a minor;
- ► expands the offense of sexual exploitation of a minor to include when an actor accesses child sexual abuse material with the intent to view;
- ► provides a safe harbor provision for certain employees and independent contractors who are required to access or view child sexual abuse material within the scope of employment;
- ► changes the mental state necessary to commit the offense of aggravated sexual exploitation of a minor;
- ► amends the offense of aggravated sexual exploitation of a minor to remove a lesser penalty for circumstances when the child sexual abuse material depicts an individual who is 14 years old or older and pubescent;
- ► includes a coordination clause to merge the changes to Section 76-3-406 if both this bill and H.B. 78, Criminal Offenses Amendments, both pass and become law; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-3-203.13, as last amended by Laws of Utah 2022, Chapter 181
76-3-406, as last amended by Laws of Utah 2024, Chapter 96
76-3-407, as last amended by Laws of Utah 2023, Chapter 457
76-5-401.1, as last amended by Laws of Utah 2024, Chapter 234
76-5-401.2, as last amended by Laws of Utah 2022, Chapter 181
76-5-404, as last amended by Laws of Utah 2022, Chapter 181
76-5-404.1, as last amended by Laws of Utah 2024, Chapters 96, 97
76-5-412.2, as enacted by Laws of Utah 2022, Chapter 181
76-5-413.2, as enacted by Laws of Utah 2022, Chapter 181
76-5b-103, as last amended by Laws of Utah 2024, Chapters 127, 142
76-5b-201, as last amended by Laws of Utah 2024, Chapter 142
76-5b-201.1, as last amended by Laws of Utah 2024, Chapter 142

Utah Code Sections Affected by Coordination Clause:

AMENDS:

76-3-406, as last amended by Laws of Utah 2024, Chapter 96

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-203.13 is amended to read:

76-3-203.13. Enhanced penalty for unlawful sexual contact with a student.

(1) A person convicted of a sexual offense described in Section 76-5-401.1 or 76-5-401.2 may be subject to an enhanced penalty if, at the time of the commission of the sexual offense, the actor:

(a) was 18 years old or older;

(b) held a position of special trust as a teacher, employee, or volunteer at a school, as that position is defined in Subsection [~~76-5-404.1(1)(a)(iv)(S)~~]76-5-404.1(1)(a)(v)(S); and

(c) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.

(2) The enhancement of a penalty described in Subsection (1) shall be an enhancement of one classification higher than the offense of which the person was convicted.

Section 2. Section 76-3-406 is amended to read:

76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

(1) Notwithstanding Sections 76-3-201 and 77-18-105 and Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, except as provided in Section 76-5-406.5 or Subsection 77-16a-103(6) or (7), probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for:

(a) []an individual who commits a capital felony or a first degree felony involving:

[~~(a)~~](i) aggravated murder as described in Section 76-5-202;

[~~(b)~~](ii) murder as described in Section 76-5-203;

[~~(c)~~](iii) child kidnapping as described in Section 76-5-301.1;

[~~(d)~~](iv) aggravated kidnapping as described in Subsection 76-5-302(3)(b);

[~~(e)~~](v) rape as described in Subsection 76-5-402(3)(b), (3)(c), or (4);

[~~(f)~~](vi) rape of a child as described in Section 76-5-402.1;

[~~(g)~~](vii) object rape as described in Subsection 76-5-402.2(3)(b), (3)(c), or (4);

[~~(h)~~](viii) object rape of a child as described in Section 76-5-402.3;

[~~(i)~~](ix) forcible sodomy as described in Subsection 76-5-403(3)(b), (3)(c), or (4);

[~~(j)~~](x) sodomy on a child as described in Section 76-5-403.1;

[~~(k)~~](xi) forcible sexual abuse as described in Subsection 76-5-404(3)(b)(i) or (ii);

[~~(l)~~](xii) aggravated sexual abuse of a child as described in Section 76-5-404.3;

[~~(m)~~](xiii) aggravated sexual assault as described in Section 76-5-405; or

[~~(n)~~](xiv) any attempt to commit a felony listed in Subsection [~~(1)(f), (h), or (j).~~](1)(a)(vi), (viii), or (x); or

(b) an offense for which the penalty has been increased under Section 76-3-407, Repeat and habitual sex offenders.

(2) Except for an offense before the district court in accordance with Section 80-6-502 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the defendant:

(a) was under 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

Section 3. Section 76-3-407 is amended to read:

76-3-407. Repeat and habitual sex offenders -- Additional prison term for prior felony convictions -- Mandatory imprisonment for entire term of imprisonment.

(1) As used in this section:

(a) "Prior sexual offense" means:

(i) a felony offense described in Chapter 5, Part 4, Sexual Offenses;

(ii) sexual exploitation of a minor, Section 76-5b-201;

(iii) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

(iv) a felony offense of enticing a minor, Section 76-4-401;

(v) a felony attempt to commit an offense described in Subsections (1)(a)(i) through (iv); or

(vi) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (1)(a)(i)through (v).

(b) "Sexual offense" means:

(i) an offense that is a second or third degree felony [~~of the second or third degree~~], or an attempted offense, which attempt is a second or third degree felony [~~of the second or third degree~~], described in Chapter 5, Part 4, Sexual Offenses;

(ii) sexual exploitation of a minor, Section 76-5b-201;

(iii) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

(iv) a felony offense of enticing a minor, Section 76-4-401;

(v) a felony attempt to commit an offense described in Subsections (1)(b)(ii) through (iv); or

(vi) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (1)(b)(i) through (v).

(2) Notwithstanding any other provision of law, the minimum and maximum penalty for a sexual offense is increased by five years for each conviction of the defendant for a prior sexual offense that arose from a separate criminal episode, if the trier of fact finds that:

(a) the defendant was convicted of a prior sexual offense; and

(b) the defendant was convicted of the prior sexual offense described in Subsection (2)(a) before the defendant [~~was convicted of~~]committed the sexual offense for which the defendant is being sentenced.

(3) The increased [~~maximum~~]term described in Subsection (2) shall be in addition to, and consecutive to, any other prison term served by the defendant.

(4) If a defendant's conviction is increased under this section, the defendant's entire sentence for the conviction is subject to mandatory imprisonment under Section 76-3-406.

Section 4. Section 76-5-401.1 is amended to read:

76-5-401.1. Sexual abuse of a minor -- Penalties -- Limitations.

(1) (a) As used in this section:

(i) "Female breast" means the undeveloped, partially developed, or developed breast of a female individual.

(ii) "Indecent liberties" means:

(A) the actor touching another individual's genitals, anus, buttocks, pubic area, or female breast;

(B) causing any part of an individual's body to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;

(C) simulating or pretending to engage in sexual intercourse with another individual, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or

(D) causing an individual to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.

[~~(ii)~~](iii) "Minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a minor if the actor:

(i) is four years or more older than the minor; and

(ii) with the intent to cause substantial emotional or bodily pain to any individual, or with the intent to arouse or gratify the sexual desire of any individual:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;

(B) touches the female breast of a [~~female~~]minor; or

(C) otherwise takes indecent liberties with the minor.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2)(a) is:

(a) a class A misdemeanor; and

(b) not subject to registration under Subsection 77-41-102(19)(a)(viii) on a first offense if the offender was younger than 21 years old at the time of the offense.

(4) The offenses referred to in Subsection (2)(a) are:

(a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

(b) rape, in violation of Section 76-5-402;

(c) object rape, in violation of Section 76-5-402.2;

(d) forcible sodomy, in violation of Section 76-5-403;

(e) aggravated sexual assault, in violation of Section 76-5-405; or

(f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Section 5. Section 76-5-401.2 is amended to read:

76-5-401.2. Unlawful sexual conduct with a 16- or 17-year-old -- Penalties -- Limitations.

(1) (a) As used in this section:

(i) "Female breast" means the same as that term is defined in Section 76-5-401.1.

(ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

[~~(ii)~~](iii) "Minor" means an individual who is 16 years old or older, but younger than 18 years old, at the time the sexual conduct described in Subsection (2) occurred.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits unlawful sexual conduct with a minor if the actor:

(i) (A) is seven or more years older but less than 10 years older than the minor at the time of the sexual conduct;

(B) engages in any conduct listed in Subsection (2)(b); and

(C) knew or reasonably should have known the age of the minor; or

(ii) (A) is 10 or more years older than the minor at the time of the sexual conduct; and

(B) engages in any conduct listed in Subsection (2)(b).

(b) As used in Subsection (2)(a), "sexual conduct" refers to when the actor:

(i) has sexual intercourse with the minor;

(ii) engages in any sexual act with the minor involving the genitals of one individual and the mouth or anus of another individual;

(iii) (A) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body; and

(B) causes the penetration with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual; or

(iv) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;

(B) touches the female breast of a [~~female~~]minor; or

(C) otherwise takes indecent liberties with the minor.

(c) (i) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(ii) Any penetration, however slight, is sufficient to constitute the relevant element under Subsection (2)(b)(i).

(iii) Any touching, however slight, is sufficient to constitute the relevant element under Subsection (2)(b)(ii).

(3) (a) A violation of Subsection (2)(b)(i), (ii), or (iii) is a third degree felony.

(b) A violation of Subsection (2)(b)(iv) is a class A misdemeanor.

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape, in violation of Section 76-5-402;

(b) object rape, in violation of Section 76-5-402.2;

(c) forcible sodomy, in violation of Section 76-5-403;

(d) forcible sexual abuse, in violation of Section 76-5-404;

(e) aggravated sexual assault, in violation of Section 76-5-405; or

(f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Section 6. Section 76-5-404 is amended to read:

76-5-404. Forcible sexual abuse -- Penalties -- Limitations.

(1) (a) As used in this section [~~, "indecent~~]:

(i) "Female breast" means the same as that term is defined in Section 76-5-401.1.

(ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits forcible sexual abuse if:

(i) without the consent of the individual, the actor:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of another individual;

(B) touches the female breast of another individual [~~who is female~~]; or

(C) otherwise takes indecent liberties with another individual;

(ii) the actor intends to:

(A) cause substantial emotional or bodily pain to any individual; or

(B) arouse or gratify the sexual desire of any individual; and

(iii) the individual described in Subsection (2)(a)(i)(A), (B), or (C) is 14 years old or older.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) (a) A violation of Subsection (2) is a second degree felony [~~of the second degree~~], punishable by a term of imprisonment of not less than one year nor more than 15 years.

(b) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection (3)(b)(ii), a violation of Subsection (2) is a first degree felony [~~of the first degree~~], punishable by a term of imprisonment for 15 years and which may be for life, if the trier of fact finds that during the course of the commission of the forcible sexual abuse the [~~defendant~~]actor caused serious bodily injury to the victim.

(ii) If, when imposing a sentence under Subsection (3)(b)(i), a court finds that a lesser term than the term described in Subsection (3)(b)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(A) 10 years and which may be for life; or

(B) six years and which may be for life.

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape, in violation of Section 76-5-402;

(b) object rape, in violation of Section 76-5-402.2;

(c) forcible sodomy, in violation of Section 76-5-403; or

(d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).

(5) Imprisonment under Subsection (3)(b) or (4) is mandatory in accordance with Section 76-3-406.

Section 7. Section 76-5-404.1 is amended to read:

76-5-404.1. Sexual abuse of a child -- Penalties -- Limitations.

(1) (a) As used in this section:

(i) "Adult" means an individual 18 years old or older.

(ii) "Child" means an individual younger than 14 years old.

(iii) "Female breast" means the same as that term is defined in Section 76-5-401.1.

[~~(iii)~~](iv) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

[~~(iv)~~](v) "Position of special trust" means:

(A) an adoptive parent;

(B) an athletic manager who is an adult;

(C) an aunt;

(D) a babysitter;

(E) a coach;

(F) a cohabitant of a parent if the cohabitant is an adult;

(G) a counselor;

(H) a doctor or physician;

(I) an employer;

(J) a foster parent;

(K) a grandparent;

(L) a legal guardian;

(M) a natural parent;

(N) a recreational leader who is an adult;

(O) a religious leader;

(P) a sibling or a step sibling who is an adult;

(Q) a scout leader who is an adult;

(R) a stepparent;

(S) a teacher or any other individual employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years old or older;

(T) an instructor, professor, or teaching assistant at a public or private institution of higher education;

(U) an uncle;

(V) a youth leader who is an adult; or

(W) any individual in a position of authority, other than those individuals listed in Subsections [~~(1)(a)(iv)(A)~~](1)(a)(v)(A) through (V), which enables the individual to exercise undue influence over the child.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a child if the actor:

(i) (A) touches, whether over or under the clothing, the buttocks or pubic area of a child;

(B) touches, whether over or under the clothing, the female breast of a [~~female~~]child;

(C) touches the anus or genitals of a child over the clothing; or

(D) otherwise takes indecent liberties with a child whether over or under the clothing; and

(ii) the actor's conduct is with intent to:

(A) cause substantial emotional or bodily pain to any individual; or

(B) arouse or gratify the sexual desire of any individual.

(b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2) is a second degree felony.

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape of a child, in violation of Section 76-5-402.1;

(b) object rape of a child, in violation of Section 76-5-402.3;

(c) sodomy on a child, in violation of Section 76-5-403.1; or

(d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).

Section 8. Section 76-5-412.2 is amended to read:

76-5-412.2. Custodial sexual misconduct -- Penalties -- Defenses.

(1) (a) As used in this section:

(i) "Actor" means the same as that term is defined in Section 76-5-412.

(ii) "Female breast" means the same as that term is defined in Section 76-5-401.1.

[~~(ii)~~](iii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

[~~(iii)~~](iv) "Person in custody" means the same as that term is defined in Section 76-5-412.

[~~(iv)~~](v) "Private provider or contractor" means the same as that term is defined in Section 76-5-412.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits custodial sexual misconduct if:

(i) the actor commits any of the acts under Subsection (2)(b) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection 76-5-412(4); and

(ii) (A) the actor knows that the individual is a person in custody; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.

(b) Acts referred to in Subsection (2)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to another individual or with the intent to arouse or gratify the sexual desire of any individual:

(i) touching the anus, buttocks, pubic area, or any part of the genitals of a person in custody;

(ii) touching the female breast of a [~~female~~]person in custody; or

(iii) otherwise taking indecent liberties with a person in custody.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18 years old, a violation of Subsection (2) is a third degree felony.

(c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.

(4) (a) It is not a defense to the commission of, or attempt to commit, the offense described in Subsection (2) if the person in custody is younger than 18 years old, that the actor:

(i) mistakenly believed the person in custody to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the person in custody.

(b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2).

(5) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 9. Section 76-5-413.2 is amended to read:

76-5-413.2. Custodial sexual misconduct with a youth receiving state services -- Penalties -- Defenses and limitations.

(1) (a) As used in this section:

(i) "Actor" means the same as that term is defined in Section 76-5-413.

(ii) "Department" means the same as that term is defined in Section 76-5-413.

(iii) "Female breast" means the same as that term is defined in Section 76-5-401.1.

[~~(iii)~~](iv) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

[~~(iv)~~](v) "Juvenile court" means the same as that term is defined in Section 76-5-413.

[~~(v)~~](vi) "Private provider or contractor" means the same as that term is defined in Section 76-5-413.

[~~(vi)~~](vii) "Youth receiving state services" means the same as that term is defined in Section 76-5-413.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits custodial sexual misconduct with a youth receiving state services if:

(i) the actor commits any of the acts described in Subsection (2)(b); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) Acts referred to in Subsection (2)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:

(i) touching the anus, buttocks, pubic area, or any part of the genitals of a youth receiving state services;

(ii) touching the female breast of a [~~female~~]youth receiving state services; or

(iii) otherwise taking indecent liberties with a youth receiving state services.

(c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger than 18 years old, a violation of Subsection (2) is a third degree felony.

(c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.

(4) The offenses referred to in Subsection (2) are:

(a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

(b) rape, in violation of Section 76-5-402;

(c) rape of a child, in violation of Section 76-5-402.1;

(d) object rape, in violation of Section 76-5-402.2;

(e) object rape of a child, in violation of Section 76-5-402.3;

(f) forcible sodomy, in violation of Section 76-5-403;

(g) sodomy on a child, in violation of Section 76-5-403.1;

(h) forcible sexual abuse, in violation of Section 76-5-404;

(i) sexual abuse of a child, in violation of Section 76-5-404.1;

(j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;

(k) aggravated sexual assault, in violation of Section 76-5-405; or

(l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).

(5) (a) It is not a defense to the commission of, or an attempt to commit, the offense described in Subsection (2) if the youth receiving state services is younger than 18 years old, that the actor:

(i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the youth receiving state services.

(b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2).

(6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 10. Section 76-5b-103 is amended to read:

76-5b-103. Definitions.

As used in this chapter:

(1) "Child sexual abuse material" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image, picture, or video, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a minor engaging in, observing, or being used for sexually explicit conduct;

(b) the visual depiction is:

(i) of a minor engaging in, observing, or being used for sexually explicit conduct; or

(ii) artificially generated and depicts an individual with substantial characteristics of a minor engaging in, observing, or being used for sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in, observing, or being used for sexually explicit conduct.

(2) "Children's Justice Center" means a facility or satellite office established under the Children's Justice Center Program described in Section 67-5b-102.

(3) "Distribute" means, with or without consideration, to sell, exhibit, display, provide, give, grant admission to, provide access to, or otherwise transfer.

(4) "Female breast" means the undeveloped, partially developed, or developed breast of a female individual.

[~~(3)~~](5) "Identifiable minor" means an individual:

(a) (i) who was a minor at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual individual by the individual's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

[~~(4)~~](6) "Identifiable vulnerable adult" means an individual:

(a) (i) who was a vulnerable adult at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a vulnerable adult was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual individual by the individual's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

[~~(5)~~](7) "Lacks capacity to consent" means the same as that term is defined in Section 76-5-111.4.

[~~(6)~~](8) "Live performance" means any act, play, dance, pantomime, song, or other activity performed by live actors in person.

[~~(7)~~](9) "Minor" means an individual who is younger than 18 years old.

[~~(8)~~](10) "Nudity or partial nudity" means any state of dress or undress in which the human genitals, pubic region, buttocks, or the female breast, at a point below the top of the areola, is less than completely and opaquely covered.

[~~(9)~~](11) "Produce" means:

(a) the photographing, filming, taping, directing, producing, creating, designing, or composing of child sexual abuse material or vulnerable adult sexual abuse material; or

(b) the securing or hiring of individuals to engage in the photographing, filming, taping, directing, producing, creating, designing, or composing of child sexual abuse material or vulnerable adult sexual abuse material.

[~~(10)~~](12) "Sexually explicit conduct" means actual or simulated:

(a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between individuals of the same or opposite sex;

(b) masturbation;

(c) bestiality;

(d) sadistic or masochistic activities;

(e) lascivious exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

(f) the visual depiction of nudity or partial nudity for the purpose of causing sexual arousal of any individual;

(g) the fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(h) the [~~explicit representation~~]visual depiction of [~~the~~]defecation or urination [~~functions~~]for the purpose of causing sexual arousal of any individual.

[~~(11)~~](13) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct which duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

[~~(12)~~](14) "Vulnerable adult" means the same as that term is defined in Subsection 76-5-111(1).

[~~(13)~~](15) "Vulnerable adult sexual abuse material" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a vulnerable adult engaging in sexually explicit conduct;

(b) the visual depiction is of a vulnerable adult engaging in sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable vulnerable adult is engaging in sexually explicit conduct.

Section 11. Section 76-5b-201 is amended to read:

76-5b-201. Sexual exploitation of a minor -- Offenses.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits sexual exploitation of a minor when the actor knowingly possesses [~~or intentionally~~], views, accesses with the intent to view, or maintains access with the intent to view, child sexual abuse material.

(3) (a) A violation of Subsection (2) is a second degree felony.

(b) It is a separate offense under this section:

(i) for each minor depicted in the child sexual abuse material; and

(ii) for each time the same minor is depicted in different child sexual abuse material.

(4) For a charge of violating this section, it is an affirmative defense that:

(a) the defendant:

(i) did not solicit the child sexual abuse material from the minor depicted in the child sexual abuse material;

(ii) is not more than two years older than the minor depicted in the child sexual abuse material; and

(iii) upon request of a law enforcement agent or the minor depicted in the child sexual abuse material, removes from an electronic device or destroys the child sexual abuse material and all copies of the child sexual abuse material in the defendant's possession; and

(b) the child sexual abuse material does not depict an offense under Chapter 5, Part 4, Sexual Offenses.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) The following are not criminally or civilly liable under this section when acting in good faith compliance with Section 77-4-201:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child sexual abuse material on tangible or intangible property, or of detecting and reporting the presence of child sexual abuse material on the property;

(b) a law enforcement officer, a civilian employee of a law enforcement agency, or an independent contractor who is contracted with a law enforcement agency, acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child sexual abuse material during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child sexual abuse material during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child sexual abuse material during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Health and Human Services who is required to view child sexual abuse material within the scope of the employee's employment;

(g) an employee, independent contractor, or designated interviewer of a Children's Justice Center, who is required to view child sexual abuse material within the scope of the employee's, independent contractor's, or designated interviewer's scope of employment or assignment; or

[~~(g)~~](h) an attorney who is required to view child sexual abuse material within the scope of the attorney's responsibility to represent the Department of Health and Human Services, including the divisions and offices within the Department of Health and Human Services.

Section 12. Section 76-5b-201.1 is amended to read:

76-5b-201.1. Aggravated sexual exploitation of a minor.

[~~(1) As used in this section:~~]

[~~(a) "Physical abuse" or "physically abused" means the same as the term "physical abuse" is defined in Section 80-1-102.~~]

[~~(b)~~](1) [~~The terms~~]Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated sexual exploitation of a minor if the actor:

(a) [~~intentionally~~]knowingly distributes or produces child sexual abuse material; or

[~~(b) knowingly produces child sexual abuse material; or~~]

[~~(c)~~](b) is the minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (2)(a) [~~or (b)~~]or Section 76-5b-201.

(3) (a) Except as provided in Subsection (3)(b) [~~or (c)~~], a violation of Subsection (2) is a first degree felony.

(b) If an actor is under 18 years old at the time of the offense, a violation of Subsection (2) is a second degree felony.

[~~(c) A violation of Subsection (2)(a) is a second degree felony if the child sexual abuse material depicts an individual who is:~~]

[~~(i) 14 years old or older; or~~]

[~~(ii) pubescent.~~]

(4) It is a separate offense under this section:

(a) for each minor depicted in the child sexual abuse material; and

(b) for each time the same minor is depicted in different child sexual abuse material.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) The following are not criminally or civilly liable under this section when acting in good faith compliance with Section 77-4-201:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child sexual abuse material on tangible or intangible property, or of detecting and reporting the presence of child sexual abuse material on the property;

(b) a law enforcement officer, a civilian employee of a law enforcement agency, or an independent contractor who is contracted with a law enforcement agency, acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child sexual abuse material during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child sexual abuse material during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child sexual abuse material during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Health and Human Services who is required to view child sexual abuse material within the scope of the employee's employment;

(g) an employee, independent contractor, or designated interviewer of a Children's Justice Center, who is required to view child sexual abuse material within the scope of the employee's, independent contractor's, or designated interviewer's scope of employment or assignment; or

[~~(g)~~](h) an attorney who is required to view child sexual abuse material within the scope of the attorney's responsibility to represent the Department of Health and Human Services, including the divisions and offices within the Department of Health and Human Services.

Section 13. Effective Date.

This bill takes effect on May 7, 2025.

Section 14. Coordinating H.B. 207 with H.B. 78.

If H.B. 207, Sexual Offense Revisions, and H.B. 78, Criminal Offenses Amendments, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) Subsection 76-3-406(2) in H.B. 78 be amended to read:

"(2) Except as provided in Subsection (3), a court may not grant probation, suspend the execution or imposition of a sentence, enter a judgment for a lower category of offense, or order hospitalization, if the effect of which would in any way shorten the prison sentence for:

(a) an actor who commits a capital felony or a first degree felony, or attempts to commit a capital felony or a first degree felony, that is:

(i) aggravated child abuse as described in Section 76-5-109.2;

(ii) aggravated murder as described in Section 76-5-202;

(iii) murder as described in Section 76-5-203;

(iv) child kidnapping as described in Section 76-5-301.1;

(v) aggravated kidnapping as described in Subsection 76-5-302(3)(b);

(vi) rape as described in Subsection 76-5-402(3)(b), (3)(c), or (4);

(vii) rape of a child as described in Section 76-5-402.1;

(viii) object rape as described in Subsection 76-5-402.2(3)(b), (3)(c), or (4);

(ix) object rape of a child as described in Section 76-5-402.3;

(x) forcible sodomy as described in Subsection 76-5-403(3)(b), (3)(c), or (4);

(xi) sodomy on a child as described in Section 76-5-403.1;

(xii) forcible sexual abuse as described in Subsection 76-5-404(3)(b)(i) or (ii);

(xiii) aggravated sexual abuse of a child as described in Section 76-5-404.3; or

(xiv) aggravated sexual assault as described in Section 76-5-405; or

(b) an offense for which the penalty has been increased under Section 76-3-407, Repeat and habitual sex offenders."; and

(2) change the reference "Subsection (2)" to "Subsection (2)(a)" in Subsection 76-3-406(3)in H.B. 78.

CHAPTER 224
H. B. 212
Passed February 21, 2025
Approved March 25, 2025
Effective May 7, 2025

ADVANCED TRANSMISSION TECHNOLOGIES

Chief Sponsor: Christine F. Watkins
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill makes changes to the Energy Resource Procurement Act.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► outlines cost-effectiveness analyses and approval procedures when a large-scale electric utility (utility) proposes advanced transmission technology deployment; and
- ► provides that a utility may recover approved costs.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

54-17-1101, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-17-1101 is enacted to read:

PART 11. Advanced Transmission Technologies

54-17-1101. Advanced transmission technologies.

(1) As used in this section:

(a) "Advanced transmission technology" means a technology that increases the capacity, efficiency, or reliability of electric transmission infrastructure.

(b) "Advanced transmission technology" includes:

(i) technology that dynamically adjusts the rated capacity of transmission lines based on real-time conditions;

(ii) advanced power flow controls used to actively control the flow of electricity across transmission lines to optimize usage and relieve congestion;

(iii) software and hardware used to identify optimal transmission grid configurations and enable routing power flows around congestion points;

(iv) advanced transmission line conductors that increase the power transfer capacity of transmission lines; and

(v) energy storage technologies that facilitate energy storage during times of excess generation and discharge of stored energy during times of high demand to support transmission system operation.

(2) In an integrated resource plan filing, a general rate case, or other proceeding in which a large-scale electric utility proposes additions or expansions to the transmission system, the large-scale electric utility shall:

(a) analyze:

(i) the cost effectiveness and timetable for deployment of advanced transmission technologies as an alternative strategy to meet electric system needs; and

(ii) whether the technologies would:

(A) increase transmission capacity;

(B) increase transmission efficiency;

(C) reduce transmission system congestion;

(D) reduce curtailment of energy generation resources;

(E) increase reliability;

(F) reduce the risk of igniting wildfire;

(G) increase resiliency; and

(H) increase capacity to connect new energy resources; and

(b) include the analysis described in Subsection (2)(a) in the filing to the commission.

(3) (a) The commission shall encourage the large-scale electric utility to include deployment of advanced transmission technologies in an integrated resource plan.

(b) A large-scale electric utility shall include a summary of its existing and planned advanced transmission technologies in each integrated resource plan filed with the commission.

(4) If the commission determines, based on the analysis provided by the large-scale electric utility under Subsection (2)(a), that the deployment of advanced transmission technologies is cost effective, the commission shall approve the large-scale utility's recovery of the prudently incurred costs of the advanced transmission technologies.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 225
H. B. 216
Passed March 3, 2025
Approved March 25, 2025
Effective July 1, 2025

INCOME TAX REVENUE AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions relating to state income tax revenue.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the State Tax Commission, the Office of the Legislative Fiscal Analyst, and the Governor's Office of Planning and Budget to annually determine by consensus whether federal tax law changes will likely result in a material increase in state income tax revenue;
- ► requires the State Tax Commission to submit a report to the Revenue and Taxation Interim Committee if a determination is made by consensus that federal tax law changes will likely result in a material increase in state income tax revenue;
- ► authorizes the Revenue and Taxation Interim Committee, upon receiving a report, to recommend legislative action for the next general session to negate the material increase in state income tax revenue;
- ► requires the State Tax Commission to submit a report to the Division of Finance following the general session if a determination is made by consensus that a material increase in state income tax revenue is still expected;
- ► creates the Income Tax Surplus Restricted Account (account);
- ► specifies purposes for which revenue deposited into the account may be used; and
- ► requires the Division of Finance, upon receiving a report, to deposit the estimated amount of the material increase in state income tax revenue into the account.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

59-1-103, Utah Code Annotated 1953
59-1-214, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-1-103 is enacted to read:
59-1-103. Income Tax Surplus Restricted Account.

(1) As used in this section:

(a) "Account" means the Income Tax Surplus Restricted Account created in Subsection (2).

(b) "Material increase in state income tax revenue" means the same as that term is defined in Section 59-1-214.

(2) There is created within the Income Tax Fund a restricted account known as the "Income Tax Surplus Restricted Account."

(3) The account shall be funded by the revenue deposited into the account in accordance with Subsection (5).

(4) (a) The account shall earn interest.

(b) The interest described in Subsection (4)(a) shall be deposited into the account.

(5) After receiving from the commission an electronic report under Subsection 59-1-214(6)(b) indicating the likelihood of a material increase in state income tax revenue, the Division of Finance shall, at the end of the fiscal year for which the material increase in state income tax revenue is expected, deposit into the account an amount of income tax revenue that is equal to the estimate of the amount of the material increase in state income tax revenue specified in the report.

(6) Upon appropriation, the money in the account may be used for the purposes specified by the Legislature in accordance with Utah Constitution, Article X, Section 1.

Section 2. Section 59-1-214 is enacted to read:
59-1-214. Reporting on federal tax law changes expected to result in a material increase in state income tax revenue.

(1) As used in this section:

(a) "Federal tax law change" means any modification to the Internal Revenue Code approved by Congress.

(b) "Material increase in state income tax revenue" means a net increase in revenue the state is expected to receive from the income taxes imposed under this title for a fiscal year, as compared to the latest consensus revenue estimates adopted by the Executive Appropriations Committee, that is equal to or greater than .5% of the revenue the state received from the income taxes imposed under this

title for the preceding fiscal year.

(c) "Specified entities" means the commission, the Office of the Legislative Fiscal Analyst, and the Governor's Office of Planning and Budget.

(2) The specified entities shall annually determine by consensus whether federal tax law changes will likely result in a material increase in state income tax revenue for:

(a) the next fiscal year; and

(b) the first taxable year in which the federal tax law change takes effect.

(3) In determining whether federal tax law changes will likely result in a material increase in state income tax revenue under Subsection (2), the specified entities may consider:

(a) federal tax law changes enacted in any taxable year;

(b) legislative action to increase or offset increases in state income tax revenue; and

(c) any other factors the specified entities determine to be relevant.

(4) (a) The commission shall submit to the Revenue and Taxation Interim Committee an electronic report on or before October 1 of each year in which the specified entities predict a material increase in state income tax revenue by consensus under Subsection (2).

(b) The report described in Subsection (4)(a) shall include:

(i) a description of each federal tax law change expected to result in a material increase in state income tax revenue for the next fiscal year; and

(ii) an estimate of the amount of the material increase in state income tax revenue that the state is expected to receive for the next fiscal year as a result of the federal tax law changes described under Subsection (4)(b)(i), based on consensus between the specified entities.

(5) Upon receiving the report described in Subsection (4)(a), the Revenue and Taxation Interim Committee shall:

(a) review the information provided in the report; and

(b) if the Revenue and Taxation Interim Committee decides to recommend legislative action to the Legislature in order to negate the material increase in state income tax revenue predicted for the next fiscal year, prepare legislation for consideration in the next annual general session.

(6) (a) If the commission submits a report under Subsection (4), the specified entities shall, following the Legislature's next annual general session, determine by consensus whether legislative action taken during the annual general session negates the specified entities' initial prediction of a material increase in state income tax revenue for the next fiscal year.

(b) (i) If the specified entities determine by consensus under Subsection (6)(a) that legislative action taken during the annual general session does not negate the specified entities' initial prediction of a material increase in state income tax revenue for the next fiscal year, the commission shall submit to the Division of Finance an electronic report on or before the June 1 following the annual general session.

(ii) The report described in this Subsection (6)(b) shall include the information required by Subsection (4)(b)(ii).

Section 3. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 226
H. B. 217
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

HOMEOWNERS' ASSOCIATION AMENDMENTS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends provisions relating to homeowners' associations.

Highlighted Provisions:

This bill:

- defines terms;
- establishes the Office of the Homeowners' Association Ombudsman;
- establishes the duties, jurisdiction, and functions of the Office of the Homeowners' Association Ombudsman;
- requires that Office of the Homeowners' Association Ombudsman issue an advisory opinion under certain circumstances;
- provides the circumstances under which an advisory opinion of the Office of the Homeowners' Association Ombudsman is admissible in a subsequent proceeding;
- makes void and unenforceable a homeowners' association transfer fee under certain conditions;
- provides the requirements that a homeowners' association shall meet before imposing a fee or charge;
- establishes requirements for a homeowners' association to impose a reinvestment fee;
- requires that a homeowners' association notify an owner in writing of a denied unit or lot plan;
- restricts a homeowners' association from making certain rules;
- authorizes the Department of Commerce to set and impose an annual registration fee on a homeowners' association;
- requires a homeowners' association to renew the homeowners' association's registration with the Department of Commerce annually;
- sets limits on the amount a homeowners' association may charge as a late fee;
- requires that a homeowners' association provide, upon request, certain documents;
- increases the monetary amount a homeowners' association may charge an owner when producing certain documents;
- prohibits a declarant from selling a part of a common area during the period of administrative control under certain circumstances;
- provides new requirements to amend a homeowners' association's governing documents;
- prohibits a declarant from using association funds in a legal action brought by a homeowner against the declarant before the end of the period of administrative control;
- prohibits a homeowners' association from restricting, denying, or delaying a plan due to the plan's inclusion of a fire-resistant material in an area with a heightened risk of wildfire;
- prohibits a homeowners' association from charging any costs associated with the electronic transmission of certain documents;
- increases the monetary amount an owner may request from a homeowners' association if the homeowners' association fails to make documents available to the owner under certain conditions;
- amends the conditions for the termination of a period of administrative control for an association of lot owners;
- provides requirements for a declarant of an association of lot owners during the period of administrative control; and
- provides a repeal date for the Office of the Homeowners' Association Ombudsman and requires legislative review before the repeal.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-1-46, as last amended by Laws of Utah 2024, Chapter 431
57-8-6.7, as enacted by Laws of Utah 2013, Chapter 152
57-8-8.1, as last amended by Laws of Utah 2024, Chapters 115, 519
57-8-13.1, as last amended by Laws of Utah 2020, Chapter 75
57-8-17, as last amended by Laws of Utah 2022, Chapter 439
57-8-32, as last amended by Laws of Utah 2024, Chapter 519
57-8-39, as last amended by Laws of Utah 2017, Chapter 324
57-8-58, as enacted by Laws of Utah 2017, Chapter 284
57-8a-102, as last amended by Laws of Utah 2024, Chapter 519
57-8a-104, as last amended by Laws of Utah 2015, Chapters 34, 325 and 387
57-8a-105, as last amended by Laws of Utah 2023, Chapter 503
57-8a-109, as enacted by Laws of Utah 2013, Chapter 152

57-8a-201, as enacted by Laws of Utah 2004, Chapter 153
57-8a-218, as last amended by Laws of Utah 2024, Chapters 115, 519
57-8a-227, as last amended by Laws of Utah 2022, Chapter 439
57-8a-229, as enacted by Laws of Utah 2017, Chapter 284
57-8a-231, as last amended by Laws of Utah 2024, Chapters 56, 519
57-8a-232, as enacted by Laws of Utah 2024, Chapter 519
57-8a-502, as last amended by Laws of Utah 2016, Chapter 210
63I-1-213, as last amended by Laws of Utah 2024, Chapters 385, 507

ENACTS:

13-75-101, Utah Code Annotated 1953
13-75-102, Utah Code Annotated 1953
13-75-103, Utah Code Annotated 1953
13-75-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-75-101 is enacted to read:

CHAPTER 75. Office of the Homeowners' Association Ombudsman

PART 1. Office of the Homeowners' Association Ombudsman

13-75-101. Definitions.

As used in this part:

(1) "Association of lot owners" means an association as that term is defined in Section 57-8a-102.

(2) "Association of unit owners" means the same as that term is defined in Section 57-8-3.

(3) "Department" means the Department of Commerce created in Section 13-1-2.

(4) "Governing documents of an association of lot owners" means the same as governing documents as that term is defined in Section 57-8a-102.

(5) "Governing documents of an association of unit owners" means the same as governing documents as that term is defined in Section 57-8-3.

(6) "Lot owner" means the same as that term is defined in Section 57-8a-102.

(7) "Office" means the Office of the Homeowners' Association Ombudsman created in Section 13-75-102.

(8) "Unit owner" means the same as that term is defined in Section 57-8-3.

Section 2. Section 13-75-102 is enacted to read:

13-75-102. Creation of Office of the Homeowners' Association Ombudsman.

(1) There is created an Office of the Homeowners' Association Ombudsman in the department.

(2) The executive director of the department shall appoint attorneys with background or expertise in community association law to fill legal positions within the office in the department.

(3) An individual appointed under this section is an exempt employee.

Section 3. Section 13-75-103 is enacted to read:

13-75-103. Duties and jurisdiction of office.

(1) The attorneys of the office shall:

(a) develop and maintain expertise in and understanding of issues and statutes impacting unit owners, lot owners, associations of lot owners, and associations of unit owners; and

(b) upon request:

(i) analyze a complaint from a lot owner, a unit owner, an association of lot owners, or an association of unit owners regarding the conduct of a lot owner, a unit owner, an association of lot owners, or an association of unit owners; and

(ii) provide an advisory opinion as described in Section 13-75-104.

(2) (a) Neither the office nor the office's attorneys may represent private parties, state agencies, local governments, or any other individual or entity in a legal action that arises from or relates to a matter addressed in this chapter.

(b) No attorney of the office may be compelled to testify in a civil action filed concerning the subject matter of any review or advisory opinion arranged through the office.

(3) Except as provided in Section 13-75-105, evidence of a review by the office and the opinions, writings, findings, and determinations of the office are not admissible as evidence in a judicial action or arbitration.

(4) The office:

(a) shall analyze a complaint and issue an advisory opinion only for issues relating to a violation of a state statute; and

(b) may not provide any service that requires interpreting the governing documents of an association of lot owners or the governing documents of an association of unit owners, including determining whether a provision of the governing documents is reasonable.

Section 4. Section 13-75-104 is enacted to read:

13-75-104. Advisory opinion -- Process of advisory opinions.

(1) A lot owner, a unit owner, an association of lot owners, or an association of unit owners may request a written advisory opinion:

(a) from the office to determine compliance with:

(i) Title 57, Chapter 8, Condominium Ownership Act, and Title 57, Chapter 8a, Community Association Act; or

(ii) other applicable statutes of this state; and

(b) at any time before the commencement of:

(i) an action in a court with jurisdiction; or

(ii) binding arbitration.

(2) (a) A person making a request for an advisory opinion described in Subsection (1) shall:

(i) file the request with the office;

(ii) pay a filing fee of $150; and

(iii) (A) file the request no later than one year after the day on which the person making the request knew or should have known about the alleged act that is the subject of the advisory opinion; and

(B) include in the request facts that demonstrate that the person submits the request no later than a year after the day on which the person making the request knew or should have known about the alleged act that is the subject of the advisory opinion.

(b) A person making a request under this Subsection (2) may allege actual damages as a result of the alleged act that is the subject of the advisory opinion.

(3) The office may establish policies providing for partial fee waivers for a person who is financially unable to pay the entire fee described in Subsection (2)(a)(ii).

(4) (a) The office may not issue an advisory opinion unless the person requesting an advisory opinion exhausts all existing procedures provided in:

(i) the governing documents of an association of lot owners, if the dispute involves a lot owner; or

(ii) the governing documents of an association of unit owners, if the dispute involves a unit owner.

(b) A person requesting an advisory opinion shall include in the person's complaint a description of how that person exhausted all existing procedures provided in the applicable governing documents.

(5) Upon receipt of a request for an advisory opinion, the office shall:

(a) inquire of all parties if there are other necessary parties to the dispute;

(b) determine whether the person bringing the request has exhausted all existing procedures provided in the applicable governing documents; and

(c) deliver notice of the request to the opposing parties indicated in the request and any other necessary party identified in accordance with Subsection (5)(a).

(6) Subject to Subsection (7), after analyzing a complaint, the office shall:

(a) issue a written advisory opinion addressing the issues described in the request for an advisory opinion;

(b) include in the advisory opinion a statement of the facts and law supporting the opinion's conclusions; and

(c) deliver copies of the advisory opinion to all necessary parties identified in accordance with Subsection (5)(a).

(7) (a) The office shall issue a written statement declining to issue an advisory opinion when, in the opinion of the office:

(i) the issues are not ripe for review;

(ii) the person bringing the request has not exhausted all existing procedures provided in the applicable governing documents; or

(iii) the issues raised are beyond the scope of the office's statutory duty to review.

(b) Notwithstanding Subsection (7)(a), the office shall issue a written statement declining to review a request, if the request deals solely with a contractual dispute.

(8) (a) (i) If in the process of issuing an advisory opinion, the office determines that a person knowingly filed a false or fraudulent request for an advisory opinion, the office shall prohibit that person from filing a complaint with the office for two years after the day on which the office makes the determination.

(ii) The office may impose a civil penalty of up to $1,000 against a person if the office determines under this Subsection (8)(a) that the person filed a false or fraudulent request for an advisory opinion.

(b) (i) The office may designate a person as a vexatious filer if the person has filed a request for three or more advisory opinions and for each request the office:

(A) determines that the person requesting the advisory opinion has not exhausted all existing procedures, as described in Subsection (4)(a);

(B) declines to issue an advisory opinion, as described in Subsection (7)(a); or

(C) determines that the request deals solely with a contractual dispute, as described in Subsection (7)(b).

(ii) If the office designates a person as a vexatious filer under this Subsection (8)(b), the office may not accept a request by the person unless:

(A) the person submits a written copy of the request to the executive director of the department; and

(B) the executive director of the department authorizes the person to file the request for the advisory opinion with the office.

(9) The party that requests the advisory opinion shall pay the filing fee described in Subsection (2)(a)(ii), unless the office issues an advisory opinion in favor of the party that requests the advisory opinion, in which case all necessary parties shall share the cost of the filing fee equally.

(10) An advisory opinion issued under this section is neither binding on any party to, nor admissible as evidence in, a dispute involving an association of lot owners or an association of unit owners, except as provided in Subsection (11).

(11) (a) As used in this Subsection (11), "qualifying conditions" means:

(i) the office issues an advisory opinion described in this section;

(ii) the same issue that is the subject of the advisory opinion is subsequently litigated in court; and

(iii) the court rules in favor of the same party as the advisory opinion in a final judgment.

(b) If the qualifying conditions are met, the court may award the substantially prevailing party:

(i) reasonable attorney fees and court costs relating to the development of the cause of action from the date the office delivers the advisory opinion to the date of the court's resolution; and

(ii) if the court finds that the opposing party knowingly and intentionally violated the law governing the cause of action, a civil penalty of $250 for each day described in Subsection (12).

(12) The civil penalty described in Subsection (11)(b):

(a) begins to accrue on the later of:

(i) 30 days after the day on which the office delivers the advisory opinion; or

(ii) the day on which the substantially prevailing party or opposing party filed the action in court; and

(b) ends the day on which the court enters a final judgment.

Section 5. Section 57-1-46 is amended to read:

57-1-46. Transfer fee and reinvestment fee covenants.

(1) As used in this section:

(a) "Association expenses" means expenses incurred by a common interest association for:

[~~(i) the administration of the common interest association;~~]

[~~(ii)~~](i) the purchase, ownership, leasing, construction, operation, use, administration, maintenance, improvement, repair, or replacement of association facilities, including expenses for taxes, insurance, operating reserves, capital reserves, and emergency funds;

[~~(iii)~~](ii) providing, establishing, creating, or managing a facility, activity, service, or program for the benefit of property owners, tenants, common areas, the burdened property, or property governed by the common interest association; or

[~~(iv)~~](iii) other facilities, activities, services, or programs that are required or permitted under the common interest association's organizational documents.

(b) "Association facilities" means any real property, improvements on real property, or personal property owned, leased, constructed, developed, managed, or used by a common interest association, including common areas.

(c) "Association transfer fee" means a fee, charge, or payment that is:

(i) related to the sale of real property; and

(ii) as a result of a transfer of the real property, is imposed on a buyer or seller by:

(A) a common interest association; or

(B) a person acting on behalf of the common interest association.

[~~(c)~~](d) "Burdened property" means the real property that is subject to a reinvestment fee covenant or transfer fee covenant.

[~~(d)~~](e) "Common areas" means areas described within:

(i) the definition of "common areas and facilities" under Section 57-8-3; and

(ii) the definition of "common areas" under Section 57-8a-102.

[~~(e)~~](f) (i) "Common interest association" means:

[~~(i) means:~~]

(A) an association, as defined in Section 57-8a-102;

(B) an association of unit owners, as defined in Section 57-8-3; or

(C) a nonprofit association [~~; and~~].

(ii) "Common interest association" includes a person authorized by an association, association of unit owners, or nonprofit association [~~, as the case may be~~].

[~~(f)~~](g) "Large master planned development" means an approved development:

(i) of at least 500 acres or 500 units; and

(ii) that includes a commitment to fund, construct, develop, or maintain:

(A) common infrastructure;

(B) association facilities;

(C) community programming;

(D) resort facilities;

(E) open space; or

(F) recreation amenities.

[~~(g)~~](h) "Nonprofit association" means a nonprofit corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve, govern, manage, or maintain burdened property.

[~~(h)~~](i) "Organizational documents" means:

(i) for an association, as defined in Section 57-8a-102, [~~means~~]governing documents as defined in Section 57-8a-102;

(ii) for an association of unit owners, as defined in Section 57-8-3, [~~means~~]a declaration as defined in Section 57-8-3; and

(iii) for a nonprofit association:

(A) [~~means~~]a written instrument by which the nonprofit association exercises powers or manages, maintains, or otherwise affects the property under the jurisdiction of the nonprofit association; and

(B) [~~includes~~]articles of incorporation, bylaws, plats, charters, the nonprofit association's rules, and declarations of covenants, conditions, and restrictions.

(j) "Reinvestment fee" means a fee imposed, directly or indirectly, by a common interest association:

(i) upon a buyer or seller of real property;

(ii) upon and as a result of a transfer of the real property; and

(iii) that is dedicated to benefiting the common areas, including payment for:

(A) common planning, facilities, and infrastructure;

(B) obligations arising from an environmental covenant;

(C) community programming;

(D) resort facilities;

(E) open space;

(F) recreation amenities;

(G) charitable purposes; or

(H) association expenses.

[~~(i)~~](k) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:

(i) affects real property; and

(ii) obligates a future buyer or seller of the real property to pay to a common interest association, upon and as a result of a transfer of the real property, a fee that is dedicated to benefitting the burdened property, including payment for:

(A) common planning, facilities, and infrastructure;

(B) obligations arising from an environmental covenant;

(C) community programming;

(D) resort facilities;

(E) open space;

(F) recreation amenities;

(G) charitable purposes; or

(H) association expenses.

[~~(j)~~](l) "Transfer fee covenant":

(i) means an obligation, however denominated, expressed in a covenant, restriction, agreement, or other instrument or document:

(A) that affects real property;

(B) that is imposed on a future buyer or seller of real property, other than a person who is a party to the covenant, restriction, agreement, or other instrument or document; and

(C) to pay a fee upon and as a result of a transfer of the real property; and

(ii) does not include:

(A) an obligation imposed by a court judgment, order, or decree;

(B) an obligation imposed by the federal government or a state or local government entity; or

(C) a reinvestment fee covenant.

(2) A transfer fee covenant recorded on or after March 16, 2010, is void and unenforceable.

(3) (a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a common interest association that was formed to benefit the burdened property.

(b) A common interest association may assign or pledge to a lender the right to receive payment under a reinvestment fee covenant if:

(i) the assignment or pledge is as collateral for a credit facility; and

(ii) the lender releases the collateral interest upon payment in full of all amounts that the common interest association owes to the lender under the credit facility.

(4) A reinvestment fee covenant recorded on or after March 16, 2010, is not enforceable if the reinvestment fee covenant is intended to affect property that is the subject of a previously recorded transfer fee covenant or reinvestment fee covenant.

(5) A reinvestment fee covenant recorded on or after March 16, 2010, may not obligate the payment of a fee that exceeds .5% of the value of the burdened property, unless the burdened property is part of a large master planned development.

(6) (a) A reinvestment fee covenant recorded on or after March 16, 2010, is void and unenforceable unless a notice of reinvestment fee covenant, separate from the reinvestment fee covenant, is recorded in the office of the recorder of each county in which any of the burdened property is located.

(b) A notice under Subsection (6)(a) shall:

(i) state the name and address of the common interest association to which the fee under the reinvestment fee covenant is required to be paid;

(ii) include the notarized signature of the common interest association's authorized representative;

(iii) state that the burden of the reinvestment fee covenant is intended to run with the land and to bind successors in interest and assigns;

(iv) state that the existence of the reinvestment fee covenant precludes the imposition of an additional reinvestment fee covenant on the burdened property;

(v) state the duration of the reinvestment fee covenant;

(vi) state the purpose of the fee required to be paid under the reinvestment fee covenant; and

(vii) state that the fee required to be paid under the reinvestment fee covenant is required to benefit the burdened property.

(c) A recorded notice of reinvestment fee covenant that substantially complies with the requirements of Subsection (6)(b) is valid and effective.

(7) (a) A reinvestment fee covenant or transfer fee covenant recorded before March 16, 2010, is not enforceable after May 31, 2010, unless:

(i) a notice that is consistent with the notice described in Subsection (6) is recorded in the office of the recorder of each county in which any of the burdened property is located; or

(ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in Subsection (7)(b), is recorded in the office of the recorder of each county in which any of the burdened property is located.

(b) A notice under Subsection (7)(a)(ii) shall:

(i) include the notarized signature of the beneficiary of the reinvestment fee covenant or transfer fee covenant, or the beneficiary's authorized representative;

(ii) state the name and current address of the beneficiary under the reinvestment fee covenant or transfer fee covenant;

(iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is intended to run with the land and to bind successors in interest and assigns; and

(iv) state the duration of the reinvestment fee covenant or transfer fee covenant.

(c) A recorded notice of reinvestment fee covenant or transfer fee covenant that substantially complies with the requirements of Subsection (7)(b) is valid and effective.

(d) A notice under Subsection (7)(b):

(i) that is recorded after May 31, 2010, is not enforceable; and

(ii) shall comply with the requirements of Section 57-1-47.

(e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010, seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is not an enforceable amendment.

(8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced upon:

(a) an involuntary transfer;

(b) a transfer that results from a court order;

(c) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity;

(d) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or

(e) the transfer of burdened property by a financial institution, except to the extent that the reinvestment fee covenant requires the payment of a common interest association's costs directly related to the transfer of the burdened property, not to exceed $250.

(9) An association transfer fee imposed on or after May 7, 2025, is void and unenforceable unless the association uses the fee only to pay expenses related to the transfer.

(10) On or after May 7, 2025, an association may not impose a reinvestment fee unless:

(a) imposing the reinvestment fee is authorized in the declaration or a reinvestment fee covenant; and

(b) a majority of voting interests in the association, or a higher percentage if required in the organizational documents, approves the reinvestment fee.

(11) After a vote approving the reinvestment fee described in Subsection (10)(b), an association may set the amount of a reinvestment fee only:

(a) in accordance with the terms of the declaration or a reinvestment fee covenant; and

(b) upon providing notice in accordance with Section 57-8a-214.

(12) Members of the association may remove or amend a reinvestment fee by holding a vote at a special meeting:

(a) called by the members for the purpose of removing or amending the reinvestment fee; and

(b) at which:

(i) at least 51% of the voting interests attend and vote; and

(ii) a majority of the voting interests that attend vote to remove or amend the reinvestment fee.

Section 6. Section 57-8-6.7 is amended to read:

57-8-6.7. Approval of plans.

(1) As used in this section:

(a) "Plan fee" means a fee that an association of unit owners charges for review and approval of unit plans.

(b) "Unit plans" means plans:

(i) for the construction or improvement of a unit; and

(ii) that are required to be approved by the association of unit owners before the unit construction or improvement may occur.

(2) An association of unit owners may not charge a plan fee that exceeds the actual cost of reviewing and approving the unit plans.

(3) If the association denies a unit plan, the association shall provide written notice to the unit owner specifying:

(a) each governing document provision on which the association relied when denying the plan; and

(b) the specific aspect of the proposed plan that does not conform to the specified governing document provision.

Section 7. Section 57-8-8.1 is amended to read:

57-8-8.1. Equal treatment by rules required -- Limits on rules.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.

(b) [~~Notwithstanding Subsection (1)(a), a~~]A rule may:

(i) vary according to the level and type of service that the association of unit owners provides to unit owners;

(ii) differ between residential and nonresidential uses; or

(iii) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest.

(2) (a) [~~If~~]Except as provided in Subsection (2)(b), if a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under Subsection (5), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

(b) [~~Notwithstanding Subsection (2)(a), a~~]A rule may:

(i) limit or prohibit a rental unit owner from using the common areas and facilities for purposes other than attending an association meeting or managing the rental unit;

(ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally:

(A) charge a rental unit owner a fee to use the common areas and facilities; and

(B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest; or

(iii) include a provision in the association of unit owners' governing documents that:

(A) requires each tenant of a rental unit to abide by the terms of the governing documents; and

(B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) [~~A~~]Except as provided in Subsection (3)(b), a rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.

(b) [~~Notwithstanding Subsection (3)(a), an~~]An association of unit owners may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas and facilities.

(4) Unless contrary to a declaration, a rule may require a minimum lease term.

(5) [~~Unless otherwise provided in the declaration, an~~]Subject to Subsection (15), an association of unit owners may by rule:

(a) unless otherwise provided in the declaration:

(i) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities; and

[~~(b)~~](ii) impose and receive any payment, fee, or charge for:

[~~(i)~~](A) the use, rental, or operation of the common areas, except limited common areas and facilities; [~~and~~]or

[~~(ii)~~](B) a service provided to a unit owner;

[~~(c)~~](b) impose [~~a charge~~], for a late payment of an assessment:

(i) a late fee, not to exceed the greater of:

(A) 10% of the assessment amount; or

(B) $50; and

(ii) interest on the assessment and a late fee of up to 1.5% per month; or

[~~(d)~~](c) provide for the indemnification of the association of unit owners' officers and management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(6) (a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's condominium unit.

(b) A rule may prohibit a unit owner from installing a personal security camera in a common area not physically connected to the owner's unit.

(7) (a) A rule may not abridge the right of a unit owner to display a religious or holiday sign, symbol, or decoration inside the owner's condominium unit.

(b) An association may adopt a reasonable time, place, and manner restriction with respect to a display that is visible from the exterior of a unit.

(8) (a) A rule may not:

(i) prohibit a unit owner from displaying in a window of the owner's condominium unit:

(A) a for-sale sign; [~~or~~]

(B) a political sign; or

(C) a flag; or

(ii) except as provided Subsection (8)(b), regulate the content or establish specific design criteria for the content of a political sign [~~:~~] or flag.

[~~(iii) establish design criteria for a political sign.~~]

(b) A rule may restrict a political sign or flag that contains obscene, profane, or commercial content.

[~~(b)~~](c) [~~Notwithstanding Subsection (8)(a), a~~]A rule may reasonably regulate the size and time, place, and manner of posting a for-sale sign [~~or~~], a political sign, or a flag.

(9) For any area for which one or more unit owners are responsible for landscape maintenance, the association of unit owners:

(a) shall adopt rules supporting water wise landscaping, including:

(i) low water use requirements on lawns during drought conditions;

(ii) design criterion for water wise landscaping; and

(iii) limiting permissible plant material to specific water wise plant material;

(b) may not prohibit low water use on lawns during drought conditions; and

(c) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.

(10) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 77-27-21.7(3).

(11) (a) Except as provided in this Subsection (11), a rule may not prohibit a unit owner from making modifications, consistent with industry standards, for radon mitigation.

(b) Subsection (11)(a) does not apply if the modifications would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(c) A rule governing the placement or external appearance of modifications may apply to modifications for radon mitigation unless the rule would:

(i) unreasonably interfere with the modifications' functionality; or

(ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.

(d) A rule may require that a unit owner making modifications related to radon mitigation:

(i) demonstrate or provide proof of radon contamination; and

(ii) provide proof that the modifications and any related construction will be performed by a licensed person.

(12) (a) Except as provided in Subsection (12)(b), a rule may not restrict an individual from parking an operable vehicle in a driveway where the vehicle has a legal right to park, unless the vehicle is:

(i) a commercial vehicle, as that term is defined in Section 72-9-102;

(ii) a motor home, as that term is defined in Section 13-20-2; or

(iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2.

(b) A rule may require that an individual park in a garage appurtenant to a unit before parking elsewhere.

(13) (a) Except as provided in Subsection (13)(b), a rule may not restrict an individual from operating a vehicle that is not a commercial vehicle, as that term is defined in Section 72-9-102, in conformance with state traffic laws.

(b) A rule may enforce a reduced speed limit on a private roadway.

(14) A rule may not:

(a) impose a requirement or restriction on the use of a public street, as that term is defined in Section 10-9a-103; or

(b) restrict an individual from:

(i) installing, displaying, or storing an item that the individual has a legal right to store if the item is not visible to an individual standing outside the unit;

(ii) hiring a contractor or worker solely because the contractor or worker:

(A) is not on the association's preferred vendor list; or

(B) does not have a professional or occupational license, unless the license is required by law.

[~~(12)~~](15) A rule shall be reasonable.

[~~(13)~~](16) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

[~~(14)~~](17) This section applies to an association of unit owners regardless of when the association of unit owners is created.

(18) Before imposing a fee under Subsection (5), an association of unit owners shall:

(a) adopt a fee schedule by rule that describes the amount of each fee the association of unit owners shall impose; and

(b) provide a copy of the fee schedule to each unit owner.

Section 8. Section 57-8-13.1 is amended to read:

57-8-13.1. Registration with Department of Commerce -- Department publication of educational materials.

(1) As used in this section, "department" means the Department of Commerce created in Section 13-1-2.

(2) No later than 90 days after the recording of a declaration, an association of unit owners shall register with the department in the manner established by the department.

(3) The department shall require an association of unit owners registering as required in this section to provide with each registration:

(a) the name and address of the association of unit owners;

(b) the name, address, telephone number, and, if applicable, email address of the president of the association of unit owners;

(c) the name and address of each manager or management committee member;

(d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile transmission for communicating payoff information, the email address or facsimile number, as applicable, of a primary contact person who has association payoff information that a closing agent needs in connection with the closing of a unit owner's financing, refinancing, or sale of the owner's unit; and

(e) a registration fee [~~not to exceed $37~~]set by the department in accordance with Section 63J-1-504.

(4) (a) An association of unit owners shall annually renew the registration of the association of unit owners described in Subsection (2).

(b) The department may impose and set the amount of a renewal registration fee in accordance with Section 63J-1-504.

[~~(4)~~](5) An association of unit owners that has registered under Subsection (2) shall submit to the department an [~~updated registration~~]update to the association of unit owners' registration information, in the manner established by the department, within 90 days after a change in any of the information provided under Subsection (3).

[~~(5)~~](6) (a) During any period of noncompliance with the registration requirement described in Subsection (2) or the requirement for an updated registration described in Subsection [~~(4)~~](5):

(i) a lien may not arise under Section 57-8-44; and

(ii) an association of unit owners may not enforce an existing lien that arose under Section 57-8-44.

(b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated registration requirement of Subsection [~~(4)~~](5) does not begin until after the expiration of the 90-day period specified in Subsection (2) or [~~(4)~~](5), respectively.

(c) An association of unit owners that is not in compliance with the registration requirement described in Subsection (2) may end the period of noncompliance by registering with the department in the manner established by the department under Subsection (2).

(d) An association of unit owners that is not in compliance with the updated registration requirement described in Subsection [~~(4)~~](5) may end the period of noncompliance by submitting to the department an updated registration in the manner established by the department under Subsection [~~(4)~~](5).

(e) Except as described in Subsection [~~(5)(f)~~](6)(f), beginning on the date an association of unit owners ends a period of noncompliance:

(i) a lien may arise under Section 57-8-44 for any event that:

(A) occurred during the period of noncompliance; and

(B) would have given rise to a lien under Section 57-8-44 had the association of unit owners been in compliance with the registration requirements described in this section; and

(ii) an association of unit owners may enforce a lien described in Subsection [~~(5)(c)~~](6)(c) or a lien that existed before the period of noncompliance.

(f) If an owner's unit is conveyed to an independent third party during a period of noncompliance described in this Subsection [~~(5)~~](6):

(i) a lien that arose under Section 57-8-44 before the conveyance of the unit became final is extinguished when the conveyance of the unit becomes final; and

(ii) an event that occurred before the conveyance of the unit became final, and that would have given rise to a lien under Section 57-8-44 had the association of unit owners been in compliance with the registration requirements of this section, may not give rise to a lien under Section 57-8-44 if the conveyance of the unit becomes final before the association of unit owners ends the period of noncompliance.

[~~(6)~~](7) The department shall publish educational materials on the department's website providing, in simple and easy to understand language, a brief overview of state law governing associations of unit owners, including:

(a) a description of the rights and responsibilities provided in this chapter to any party under the jurisdiction of an association of unit owners; and

(b) instructions regarding how an association of unit owners may be organized and dismantled in accordance with this chapter.

Section 9. Section 57-8-17 is amended to read:

57-8-17. Records -- Availability for examination.

(1) (a) Subject to Subsection (1)(b) and regardless of whether the association of unit owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an association of unit owners shall keep and make available to unit owners:

(i) each record identified in Subsections 16-6a-1601(1) through (5), in [~~accordance with~~]the manner described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610; and

(ii) a copy of the association's:

(A) governing documents;

(B) most recent approved minutes;

(C) most recent annual budget and financial statement;

(D) most recent reserve analysis; [~~and~~]

(E) certificate of insurance for each insurance policy the association of unit owners holds [~~.~~];

(F) management committee meeting minutes from the previous three calendar years;

(G) a profit and loss statement for the previous three fiscal years; and

(H) a balance sheet for the previous three fiscal years.

(b) An association of unit owners may redact the following information from any document the association of unit owners produces for inspection or copying:

(i) a Social Security number;

(ii) a bank account number; or

(iii) any communication subject to attorney-client privilege.

(2) (a) In addition to the requirements described in Subsection (1), an association of unit owners shall:

(i) make documents available to unit owners in accordance with the association of unit owners' governing documents; and

(ii) (A) if the association of unit owners has an active website, make the documents described in Subsections (1)(a)(ii)(A) through (C) available to unit owners, free of charge, through the website; or

(B) if the association of unit owners does not have an active website, make physical copies of the documents described in Subsections (1)(a)(ii)(A) through (C) available to unit owners during regular business hours at the association of unit owners' address registered with the Department of Commerce under Section 57-8-13.1.

(b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.

(c) If a provision of an association of unit owners' governing documents conflicts with a provision of this section, the provision of this section governs.

(3) In a written request to inspect or copy documents:

(a) a unit owner shall include:

(i) the association of unit owners' name;

(ii) the unit owner's name;

(iii) the unit owner's property address;

(iv) the unit owner's email address;

(v) a description of the documents requested; and

(vi) any election or request described in Subsection (3)(b); and

(b) a unit owner may:

(i) elect whether to inspect or copy the documents;

(ii) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or

(iii) subject to Subsection (4), request that:

(A) the association of unit owners make the copies or electronic scans of the requested documents;

(B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;

(C) the unit owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or

(D) the association of unit owners email the requested documents to an email address provided in the request.

(4) (a) An association of unit owners shall comply with a request described in Subsection (3) within two weeks after the day on which the association of unit owners receives the request.

(b) If an association of unit owners produces the copies or electronic scans:

(i) the copies or electronic scans shall be legible and accurate; [~~and~~]

(ii) the unit owner shall pay the association of unit owners the reasonable cost of the copies [~~or electronic scans~~]and for time spent meeting with the unit owner, which may not exceed:

(A) the actual cost that the association of unit owners paid to a recognized third party duplicating service to make the copies or electronic scans; or

(B) 10 cents per page and [~~$15~~]$20 per hour for the employee's, manager's, or other agent's time making the copies or electronic scans [~~.~~]; and

(iii) the association may not charge the unit owner for any costs associated with fulfilling a request for the electronic transmission of the documents described in Subsection (3).

(c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:

(i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and

(ii) the unit owner shall pay the duplicating service directly.

(d) Subject to Subsection (9), if a unit owner requests to bring imaging equipment to the inspection, the association of unit owners shall provide the necessary space, light, and power for the imaging equipment.

(e) An association may comply with a request described in Subsection (3) by posting the documents described in Subsection (3) to the association's website or online owner portal.

(5) If, in response to a unit owner's request to inspect or copy documents, an association of unit owners fails to comply with a provision of this section, the association of unit owners shall pay:

(a) the reasonable costs of inspecting and copying the requested documents;

(b) for items described in Subsections (1)(a)(ii)(A) through (C), $25 to the unit owner who made the request for each day the request continues unfulfilled, beginning the sixth day after the day on which the unit owner made the request; and

(c) reasonable attorney fees and costs incurred by the unit owner in obtaining the inspection and copies of the requested documents.

(6) (a) In addition to any remedy in the association of unit owners' governing documents or as otherwise provided by law, a unit owner may file an action in court under this section if:

(i) subject to Subsection (9), an association of unit owners fails to make documents available to the unit owner in accordance with this section, the association of unit owners' governing documents, or as otherwise provided by law; and

(ii) the association of unit owners fails to timely comply with a notice described in Subsection (6)(d).

(b) In an action described in Subsection (6)(a):

(i) the unit owner may request:

(A) injunctive relief requiring the association of unit owners to comply with the provisions of this section;

(B) [~~$500~~]$1,000 or actual damage, whichever is greater; or

(C) any other relief provided by law; and

(ii) the court [~~shall~~]may award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

(c) (i) In an action described in Subsection (6)(a), upon motion by the unit owner made in accordance with Subsection (6)(b), notice to the association of unit owners, and a hearing in which the court finds a likelihood that the association of unit owners failed to comply with a provision of this section, the court shall order the association of unit owners to immediately comply with the provision.

(ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the unit owner files the motion.

(d) At least 10 days before the day on which a unit owner files an action described in Subsection (6)(a), the unit owner shall deliver a written notice to the association of unit owners that states:

(i) the unit owner's name, address, telephone number, and email address;

(ii) each requirement of this section with which the association of unit owners has failed to comply;

(iii) a demand that the association of unit owners comply with each requirement with which the association of unit owners has failed to comply; and

(iv) a date by which the association of unit owners shall remedy the association of unit owners' noncompliance that is at least 10 days after the day on which the unit owner delivers the notice to the association of unit owners.

(7) (a) The provisions of Section 16-6a-1604 do not apply to an association of unit owners.

(b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that the unit owner has under this section.

(9) An association of unit owners is not liable for identifying or providing a document in error, if the association of unit owners identified or provided the erroneous document in good faith.

Section 10. Section 57-8-32 is amended to read:

57-8-32. Sale of property and common areas and facilities.

(1) Subject to Subsection 10-9a-605(5) or 17-27a-606(5), unless otherwise provided in the declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect to sell, convey, transfer, or otherwise dispose of the property or all or part of the common areas and facilities.

(2) An affirmative vote described in Subsection (1) is binding upon all unit owners, and each unit owner shall execute and deliver the appropriate instruments and perform all acts as necessary to effect the sale, conveyance, transfer, or other disposition of the property or common areas and facilities.

(3) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and unit owners through recorded governing documents is extinguished in any portion of the common areas and facilities the unit owners sell, convey, transfer, or otherwise dispose of, if:

(a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the portion of the common areas and facilities, comply

with:

(i) the provisions of this section; and

(ii) Section 10-9a-606 or 17-27a-606; and

(b) the sale, conveyance, transfer, or other disposition of the portion of the common areas and facilities results in a person other than the association or a unit owner owning the portion of the common areas and facilities.

(4) This section applies to an association of unit owners regardless of when the association of unit owners is created.

(5) A declarant may not sell any part of the common areas and facilities during the period of administrative control, except:

(a) as allowed for convertible land or convertible space within a condominium project; or

(b) as provided in Section 10-9a-606 or 17-27a-606.

Section 11. Section 57-8-39 is amended to read:

57-8-39. Limitation on requirements for amending governing documents -- Limitation on contracts.

(1) (a) (i) To amend the governing documents, the governing documents may not require:

(A) for an amendment adopted after the period of administrative control, the vote or approval of unit owners with more than 67% of the voting interests;

(B) the approval of any specific unit owner; or

(C) the vote or approval of lien holders holding more than 67% of the first position security interests secured by a mortgage or trust deed in the association of unit owners.

(ii) An amendment to the declaration after the period of administrative control may be adopted by a majority vote of voters, or a greater percentage if required in the declaration, at a meeting where at least 51% of the voting interests are present.

[~~(ii)~~](iii) Any provision in the governing documents that prohibits a vote or approval to amend any part of the governing documents during a particular time period is invalid.

(b) Subsection (1)(a) does not apply to an amendment affecting only:

(i) the undivided interest of each unit owner in the common areas and facilities, as expressed in the declaration;

(ii) unit boundaries; or

(iii) unit owners' voting rights.

(c) The management committee may not amend a declaration.

(2) (a) A contract for services such as garbage collection, maintenance, lawn care, or snow removal executed on behalf of the association of unit owners during a period of administrative control is binding beyond the period of administrative control unless terminated by the management committee after the period of administrative control ends.

(b) Subsection (2)(a) does not apply to golf course and amenity management, utilities, cable services, and other similar services that require an investment of infrastructure or capital.

(3) Voting interests under Subsection (1) are calculated in the manner required by the governing documents.

(4) Nothing in this section affects any other rights reserved by the declarant.

(5) This section applies to an association of unit owners regardless of when the association of unit owners is created.

Section 12. Section 57-8-58 is amended to read:

57-8-58. Liability of declarant or management committee -- Period of declarant control.

(1) An association may not, after the period of declarant control, bring a legal action against a declarant, a management committee, or an employee, an independent contractor, or an agent of the declarant or the management committee related to the period of declarant control unless:

(a) the legal action is approved in advance at a meeting where owners of at least 51% in aggregate in interest of the undivided ownership of the common areas and facilities are:

(i) present; or

(ii) represented by a proxy specifically assigned for the purpose of voting to approve or deny the legal action at the meeting;

(b) the legal action is approved by vote in person or by proxy of owners of the lesser of:

(i) more than 75% in aggregate in interest of the total aggregate interest of the undivided ownership of the common areas and facilities represented by those owners present at the meeting or represented by a proxy as described in Subsection (1)(a); or

(ii) more than 51% in aggregate in interest of the undivided ownership of the common areas and facilities;

(c) the association provides each unit owner with the items described in Subsection (2);

(d) the association establishes the trust described in Subsection (3); and

(e) the association first:

(i) notifies the person subject to the proposed action of the action and the basis of the association's claim; and

(ii) gives the person subject to the proposed action a reasonable opportunity to resolve the dispute that is the basis of the action.

(2) Before unit owners in an association may vote to approve an action described in Subsection (1), the association shall provide each unit owner:

(a) a written notice that the association is contemplating legal action; and

(b) after the association consults with an attorney licensed to practice in the state, a written assessment of:

(i) the likelihood that the legal action will succeed;

(ii) the likely amount in controversy in the legal action;

(iii) the likely cost of resolving the legal action to the association's satisfaction; and

(iv) the likely effect the legal action will have on a unit owner's or prospective unit buyer's ability to obtain financing for a unit while the legal action is pending.

(3) Before the association commences a legal action described in Subsection (1), the association shall:

(a) allocate an amount equal to 10% of the cost estimated to resolve the legal action, not including attorney fees; and

(b) place the amount described in Subsection (3)(a) in a trust that the association may only use to pay the costs to resolve the legal action.

(4) This section does not apply to an association that brings a legal action that has an amount in controversy of less than $75,000.

(5) In a legal action brought by one or more unit owners solely against the declarant before the end of the period of declarant control, a declarant may not use any funds paid by a unit owner to the association to pay for costs of the declarant's legal defense.

Section 13. Section 57-8a-102 is amended to read:

57-8a-102. Definitions.

As used in this chapter:

(1) (a) "Assessment" means a charge imposed or levied:

(i) by the association;

(ii) on or against a lot or a lot owner; and

(iii) pursuant to a governing document recorded with the county recorder.

(b) "Assessment" includes:

(i) a common expense; and

(ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

(2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:

(i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and

(ii) by virtue of membership or ownership of a residential lot is obligated to pay:

(A) real property taxes;

(B) insurance premiums;

(C) maintenance costs; or

(D) for improvement of real property not owned by the member.

(b) "Association" or "homeowner association" does not include an association created under Chapter 8, Condominium Ownership Act.

(3) "Board meeting" means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.

(4) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.

(5) "Common areas" means property that the association:

(a) owns;

(b) maintains;

(c) repairs; or

(d) administers.

(6) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.

(7) "Declarant":

(a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and

(b) includes the person's successor and assign.

(8) "Development right" means any right or combination of rights a declarant reserves in the declaration to:

(a) add real estate to an association;

(b) create lots, common elements, or limited common elements within an association;

(c) subdivide lots or convert lots into common elements; or

(d) withdraw real estate from an association.

[~~(8)~~](9) "Director" means a member of the board of directors.

[~~(9)~~](10) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

[~~(10)~~](11) "Gas corporation" means the same as that term is defined in Section 54-2-1.

[~~(11)~~](12) (a) "Governing documents" means a written instrument by which the association may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.

(b) "Governing documents" includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association.

[~~(12)~~](13) "Independent third party" means a person that:

(a) is not related to the owner of the residential lot;

(b) shares no pecuniary interests with the owner of the residential lot; and

(c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.

[~~(13)~~](14) "Judicial foreclosure" means a foreclosure of a lot:

(a) for the nonpayment of an assessment;

(b) in the manner provided by law for the foreclosure of a mortgage on real property; and

(c) as provided in Part 3, Collection of Assessments.

[~~(14)~~](15) "Lease" or "leasing" means regular, exclusive occupancy of a lot:

(a) by a person or persons other than the owner; and

(b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

[~~(15)~~](16) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

[~~(16)~~](17) "Lot" means:

(a) a lot, parcel, plot, or other division of land:

(i) designated for separate ownership or occupancy; and

(ii) (A) shown on a recorded subdivision plat; or

(B) the boundaries of which are described in a recorded governing document; or

(b) (i) a unit in a condominium association if the condominium association is a part of a development; or

(ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.

[~~(17)~~](18) (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.

(b) "Means of electronic communication" includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

[~~(18)~~](19) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.

[~~(19)~~](20) "Nonjudicial foreclosure" means the sale of a lot:

(a) for the nonpayment of an assessment;

(b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(c) as provided in Part 3, Collection of Assessments.

[~~(20)~~](21) "Period of administrative control" means the period during which the person who filed the association's governing documents or the person's successor in interest retains authority to:

(a) appoint or remove members of the association's board of directors; or

(b) exercise power or authority assigned to the association under the association's governing documents.

[~~(21)~~](22) "Political sign" means any sign or document that advocates:

(a) the election or defeat of a candidate for public office; or

(b) the approval or defeat of a ballot proposition.

[~~(22)~~](23) "Protected area" means the same as that term is defined in Section 77-27-21.7.

[~~(23)~~](24) "Rentals" or "rental lot" means:

(a) a lot that:

(i) is not owned by an entity or trust; and

(ii) is occupied by an individual while the lot owner is not occupying the lot as the lot owner's primary residence;

(b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or

(c) an internal accessory dwelling unit as defined in Section 10-9a-530 or 17-27a-526.

[~~(24)~~](25) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.

[~~(25)~~](26) (a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association that:

(i) is not set forth in a contract, easement, article of incorporation, bylaw, or declaration; and

(ii) governs:

(A) the conduct of persons; or

(B) the use, quality, type, design, or appearance of real property or personal property.

(b) "Rule" does not include the internal business operating procedures of a board.

[~~(26)~~](27) "Sex offender" means the same as that term is defined in Section 77-27-21.7.

[~~(27)~~](28) "Solar energy system" means:

(a) a system that is used to produce electric energy from sunlight; and

(b) the components of the system described in Subsection [~~(27)(a)~~](28)(a).

Section 14. Section 57-8a-104 is amended to read:

57-8a-104. Limitation on requirements for amending governing documents -- Limitation on contracts.

(1) (a) (i) To amend the governing documents, the governing documents may not require:

(A) for an amendment adopted after the period of administrative control, the vote or approval of lot owners with more than 67% of the voting interests;

(B) the approval of any specific lot owner; or

(C) the vote or approval of lien holders holding more than 67% of the first position security interests secured by a mortgage or trust deed in the association.

(ii) An amendment to the declaration after the period of administrative control may be adopted by a majority vote of voters, or a greater

percentage if required in the declaration, at a meeting where at least 51% of the voting interests are present.

[~~(iii)~~](iii) Any provision in the governing documents that prohibits a vote or approval to amend any part of the governing documents during a particular time period is invalid.

(iv) The board may not amend the declaration.

(b) Subsection (1)(a) does not apply to an amendment affecting only:

(i) lot boundaries; or

(ii) lot owner's voting rights.

(2) (a) A contract for services such as garbage collection, maintenance, lawn care, or snow removal executed on behalf of the association during a period of administrative control is binding beyond the period of administrative control unless terminated by the board of directors after the period of administrative control ends.

(b) Subsection (2)(a) does not apply to golf course and amenity management, utilities, cable services, and other similar services that require an investment of infrastructure or capital.

(3) Voting interests under Subsection (1) are calculated in the manner required by the governing documents.

(4) Nothing in this section affects any other rights reserved by the person who filed the association's original governing documents or a successor in interest.

(5) This section applies to an association regardless of when the association is created.

Section 15. Section 57-8a-105 is amended to read:

57-8a-105. Registration with Department of Commerce -- Department publication of educational materials.

(1) As used in this section, "department" means the Department of Commerce created in Section 13-1-2.

(2) (a) No later than 90 days after the recording of a declaration of covenants, conditions, and restrictions establishing an association, the association shall register with the department in the manner established by the department.

(b) An association existing under a declaration of covenants, conditions, and restrictions recorded before May 10, 2011, shall, no later than July 1, 2011, register with the department in the manner established by the department.

(3) The department shall require an association registering as required in this section to provide with each registration:

(a) the name and address of the association;

(b) the name, address, telephone number, and, if applicable, email address of the chair of the association board;

(c) contact information for the manager;

(d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile transmission for communicating payoff information, the email address or facsimile number, as applicable, of a primary contact person who has association payoff information that a closing agent needs in connection with the closing of a lot owner's financing, refinancing, or sale of the owner's lot; and

(e) a registration fee [~~not to exceed $37~~]set by the department in accordance with Section 63J-1-504.

(4) (a) An association shall annually renew the association's registration described in Subsection (2).

(b) The department may impose and set the amount of a renewal registration fee in accordance with Section 63J-1-504.

[~~(4)~~](5) An association that has registered under Subsection (2) shall submit to the department an [~~updated registration~~]update to the association's registration information, in the manner established by the department, within 90 days after a change in any of the information provided under Subsection (3).

[~~(5)~~](6) (a) During any period of noncompliance with the registration requirement described in Subsection (2) or the requirement for an updated registration described in Subsection [~~(4)~~](5):

(i) a lien may not arise under Section 57-8a-301; and

(ii) an association may not enforce an existing lien that arose under Section 57-8a-301.

(b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated registration requirement of Subsection [~~(4)~~](5) does not begin until after the expiration of the 90-day period specified in Subsection (2) or [~~(4)~~](5), respectively.

(c) An association that is not in compliance with the registration requirement described in Subsection (2) may end the period of noncompliance by registering with the department in the manner established by the department under Subsection (2).

(d) An association that is not in compliance with the updated registration requirement described in Subsection [~~(4)~~](5) may end the period of noncompliance by submitting to the department an updated registration in the manner established by the department under Subsection [~~(4)~~](5).

(e) Except as described in Subsection [~~(5)(f)~~](6)(f), beginning on the date an association ends a period of noncompliance:

(i) a lien may arise under Section 57-8a-301 for any event that:

(A) occurred during the period of noncompliance; and

(B) would have given rise to a lien under Section 57-8a-301 had the association been in compliance with the registration requirements described in this section; and

(ii) an association may enforce a lien described in this Subsection [~~(5)(e)~~](6)(e) or a lien that existed before the period of noncompliance.

(f) If an owner's residential lot is conveyed to an independent third party during a period of noncompliance described in this Subsection [~~(5)~~](6):

(i) a lien that arose under Section 57-8a-301 before the conveyance of the residential lot became final is extinguished when the conveyance of the residential lot becomes final; and

(ii) an event that occurred before the conveyance of the residential lot became final, and that would have given rise to a lien under Section 57-8a-301 had the association been in compliance with the registration requirements of this section, may not give rise to a lien under Section 57-8a-301 if the conveyance of the residential lot becomes final before the association ends the period of noncompliance.

[~~(6)~~](7) The department shall publish educational materials on the department's website providing, in simple and easy to understand language, a brief overview of state law governing associations, including:

(a) a description of the rights and responsibilities provided in this chapter to any party under the jurisdiction of an association; and

(b) instructions regarding how an association may be organized and dismantled in accordance with this chapter.

[~~(7)~~](8) (a) Unless otherwise expressly exempted, this chapter applies to an association that registers, or renews or updates the association's registration, with the department under this section.

(b) This section applies to an association regardless of when the association is created.

Section 16. Section 57-8a-109 is amended to read:

57-8a-109. Approval of plans.

(1) As used in this section:

(a) "Fire-resistant material" means a material designed and tested to resist ignition, slow the spread of fire, or withstand high temperatures, including:

(i) Class A roofing;

(ii) non-combustible siding;

(iii) a fiber cement product;

(iv) metal roofing; or

(v) fire-rated gypsum board.

[~~(a)~~](b) "Lot plans" means plans:

(i) for the construction or improvement of a lot; and

(ii) that are required to be approved by the association before the lot construction or improvement may occur.

[~~(b)~~](c) "Plan fee" means a fee that an association charges for review and approval of lot plans.

(2) An association may not charge a plan fee that exceeds the actual cost of reviewing and approving the lot plans.

(3) An association may not prohibit, unreasonably restrict, deny, or delay a plan due to the plan's inclusion of a fire-resistant material in an area with heightened risk of wildfire.

(4) If the association denies a lot plan, the association shall provide written notice to the lot owner specifying:

(a) each governing document provision on which the association relied when denying the plan; and

(b) the specific aspect of the proposed plan that does not conform to the specified governing document provision.

Section 17. Section 57-8a-201 is amended to read:

57-8a-201. Payment of a common expense or assessment -- Late fees.

(1) An owner shall pay the owner's proportionate share of:

(a) the common expenses; and

(b) any other assessments levied by the association.

(2) A payment described in Subsection (1) shall be in the amount and at the time determined by the board of directors in accordance with the terms of the:

(a) declaration; or

(b) bylaws.

(3) An assessment levied against a lot is:

(a) a debt of the owner at the time the assessment is made; and

(b) collectible as a debt described in Subsection (3)(a).

(4) The board of directors may impose, for a late payment:

(a) a late fee, not to exceed the greater of:

(i) 10% of the assessment amount; or

(ii) $50; and

(b) interest on the assessment and late fee of up to 1.5% per month.

(5) Before imposing a fee under this section, the board of directors shall:

(a) adopt a fee schedule by rule in accordance with Section 57-8a-217 that describes the amount of fee the board shall impose; and

(b) provide a copy of the fee schedule to each lot owner.

Section 18. Section 57-8a-218 is amended to read:

57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) [~~Notwithstanding Subsection (1)(a), a~~]A rule may:

(i) vary according to the level and type of service that the association provides to lot owners;

(ii) differ between residential and nonresidential uses; and

(iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

(2) (a) [~~If~~]Except as provided in Subsection (2)(b), if a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) [~~Notwithstanding Subsection (2)(a), a~~]A rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

(A) charge a rental lot owner a fee to use the common areas; or

(B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use

the common areas and facilities as guests of the lot tenant or lot owner; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) [~~A~~]Except as provided in Subsection (3)(b), a rule [~~criterion~~]may not abridge the rights of a lot owner to display a religious or holiday sign, symbol, or decoration on:

[~~(i) inside a dwelling on a lot; or~~]

[~~(ii) outside a dwelling on:~~]

[~~(A)~~](i) a lot;

[~~(B)~~](ii) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the exterior; or

[~~(C)~~](iii) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the yard.

(b) [~~Notwithstanding Subsection (3)(a), the~~]The association may adopt a reasonable time, place, and manner restriction with respect to a display that is:

(i) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling; or

(C) the front yard of the dwelling; and

(ii) visible from outside the lot.

(4) (a) A rule may not prohibit a lot owner from displaying a political sign or flag on:

[~~(i) inside a dwelling on a lot; or~~]

[~~(ii) outside a dwelling on:~~]

[~~(A)~~](i) a lot;

[~~(B)~~](ii) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

[~~(C)~~](iii) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) [~~A~~]Except as provided in Subsection (4)(c), a rule may not regulate the content of a political sign or flag.

(c) A rule may restrict a political sign or flag that contains obscene, profane, or commercial content.

[~~(c)~~](d) [~~Notwithstanding Subsection (4)(a), a~~]A rule may reasonably regulate the time, place, and manner of posting a political sign or flag.

[~~(d)~~](e) An association design provision may not establish design criteria for a political sign or flag.

(5) (a) A rule may not prohibit a lot owner from displaying a for-sale sign on:

[~~(i) inside a dwelling on a lot; or~~]

[~~(ii) outside a dwelling on:~~]

[~~(A)~~](i) a lot;

[~~(B)~~](ii) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

[~~(C)~~](iii) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) [~~Notwithstanding Subsection (5)(a), a~~]A rule may reasonably regulate the time, place, and manner of posting a for-sale sign.

(6) (a) [~~A~~]Except as provided in Subsection (6)(b), a rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) [~~Notwithstanding Subsection (6)(a), an~~]An association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(7) (a) [~~A~~]Except as provided in Subsection (7)(b), a rule may not interfere with a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances.

(b) [~~Notwithstanding Subsection (7)(a), a~~]A rule may prohibit an activity within the confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii) (A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible [~~from~~]to an individual standing outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection (7)(b) that affect the use of or behavior inside the dwelling.

(8) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) [~~Notwithstanding Subsection (7)(b), an~~]An association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection (8) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

(9) (a) Subject to Subsection (9)(b), a rule may not:

(i) prohibit the transfer of a lot; or

(ii) require the consent of the association or board to transfer a lot.

(b) Unless contrary to a declaration, a rule may require a minimum lease term.

(10) (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection (10)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (10)(a).

(11) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

(12) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

(13) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

(14) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

[~~(15) A rule may not prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit.~~]

[~~(16)~~](15) (a) For any area for which one or more lot owners are responsible for landscape maintenance of any landscaping within the lot owner's lot or the common areas, the association shall adopt rules supporting water wise landscaping as defined in Section 57-8a-231 including:

(i) low water use requirements on lawns during drought conditions;

(ii) design criterion for water wise landscaping; and

(iii) limiting permissible plant material to specific water wise plant material.

(b) A rule may not:

(i) prohibit or restrict the conversion of a grass park strip to water wise landscaping as defined in Section 57-8a-231; or

(ii) prohibit low water use on lawns during drought conditions.

[~~(17)~~](16) (a) Except as provided in Subsection [~~(17)(b)~~](16)(b), a rule may not prohibit the owner of a residential lot from constructing an internal accessory dwelling unit, as defined in Section 10-9a-530 or 17-27a-526, within the owner's residential lot.

(b) Subsection [~~(17)(a)~~](16)(a) does not apply if the construction would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

[~~(18)~~](17) (a) Except as provided in Subsection [~~(18)(b)~~](17)(b), a rule may not prohibit the owner of a residential lot from making modifications, consistent with industry standards, for radon mitigation.

(b) Subsection [~~(18)(a)~~](17)(a) does not apply if the modifications would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(c) A rule governing the placement or external appearance of modifications for radon mitigation does not apply to a lot owner's modifications if the rule would:

(i) unreasonably interfere with the modifications' functionality; or

(ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.

(d) A rule may require that a lot owner making modifications related to radon mitigation:

(i) demonstrate or provide proof of radon contamination; and

(ii) provide proof that the modifications and any related construction will be performed by a licensed person.

[~~(19)~~](18) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 77-27-21.7(3).

(19) (a) As used in this Subsection (19), "vegetable garden" means a plot of ground or elevated soil bed where vegetables, herbs, fruits, flowers, pollinator plants, leafy greens, or other edible plants are cultivated.

(b) A rule may not prohibit a vegetable garden on the rear yard of a lot on which the association does not have an ownership interest or a maintenance responsibility.

(c) A rule may:

(i) impose reasonable regulations that do not significantly increase the cost of cultivating a vegetable garden or significantly decrease the efficiency of cultivating a vegetable garden, including reasonable regulations on plant height, water use, fertilizer use, and weed maintenance; and

(ii) prohibit the cultivation of invasive or unlawful species.

(20) (a) Except as provided in Subsection (20)(b), a rule may not restrict an individual from parking an operable vehicle in a driveway where the vehicle has a legal right to park, unless the vehicle is:

(i) a commercial vehicle, as defined in Section 72-9-102;

(ii) a motor home, as defined in Section 13-20-2; or

(iii) a recreational vehicle trailer, as defined in Section 13-20-2.

(b) A rule may require that an individual park in a garage appurtenant to a dwelling before parking elsewhere.

(21) (a) Except as provided in Subsection (21)(b), a rule may not restrict an individual from operating a vehicle that is not a commercial vehicle, as defined in Section 72-9-102, in conformance with state traffic laws.

(b) A rule may enforce a reduced speed limit on a private roadway.

(22) A rule may not:

(a) prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit;

(b) impose a requirement or restriction on:

(i) a dwelling's interior, except as reasonably necessary for the safety of adjacent lots and the occupants of those lots; or

(ii) the use of a public street, as defined in Section 10-9a-103;

(c) restrict an individual from:

(i) installing, displaying, or storing an item that the individual has a legal right to store if the item is not visible to an individual standing outside the lot;

(ii) installing or keeping a properly maintained basketball standard on the individual's driveway or property if the driveway or property where the basketball standard is located is:

(A) privately owned and maintained; and

(B) abutting a public street; or

(iii) hiring a contractor or worker solely because the contractor or worker:

(A) is not on the association's preferred vendor list; or

(B) does not have a professional or occupational license, unless the license is required by law; or

(d) be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.

[~~(20)~~](23) A rule shall be reasonable.

[~~(21)~~](24) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).

[~~(22) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.~~]

[~~(23)~~](25) This section applies to an association regardless of when the association is created.

Section 19. Section 57-8a-227 is amended to read:

57-8a-227. Records -- Availability for examination.

(1) (a) Subject to Subsection (1)(b) and regardless of whether the association is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an association shall keep and make available to lot owners:

(i) each record identified in Subsections 16-6a-1601(1) through (5), [~~in accordance with~~]in the manner described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610; and

(ii) a copy of the association's:

(A) governing documents;

(B) most recent approved minutes;

(C) most recent annual budget and financial statement;

(D) most recent reserve analysis; [~~and~~]

(E) certificate of insurance for each insurance policy the association holds [~~.~~];

(F) board meeting minutes from the previous three calendar years;

(G) a profit and loss statement for the previous three fiscal years; and

(H) a balance sheet for the previous three fiscal years;

(b) An association may redact the following information from any document the association produces for inspection or copying:

(i) a Social Security number;

(ii) a bank account number; or

(iii) any communication subject to attorney-client privilege.

(2) (a) In addition to the requirements described in Subsection (1), an association shall:

(i) make documents available to lot owners in accordance with the association's governing documents; and

(ii) (A) if the association has an active website, make the documents described in Subsections (1)(a)(ii)(A) through (C) available to lot owners, free of charge, through the website; or

(B) if the association does not have an active website, make physical copies of the documents described in Subsections (1)(a)(ii)(A) through (C) available to lot owners during regular business hours at the association's address registered with the Department of Commerce under Section 57-8a-105.

(b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.

(c) If a provision of an association's governing documents conflicts with a provision of this section, the provision of this section governs.

(3) In a written request to inspect or copy documents:

(a) a lot owner shall include:

(i) the association's name;

(ii) the lot owner's name;

(iii) the lot owner's property address;

(iv) the lot owner's email address;

(v) a description of the documents requested; and

(vi) any election or request described in Subsection (3)(b); and

(b) a lot owner may:

(i) elect whether to inspect or copy the documents;

(ii) if the lot owner elects to copy the documents, request hard copies or electronic scans of the documents; or

(iii) subject to Subsection (4), request that:

(A) the association make the copies or electronic scans of the requested documents;

(B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;

(C) the lot owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or

(D) the association email the requested documents to an email address provided in the request.

(4) (a) An association shall comply with a request described in Subsection (3) within two weeks after the day on which the association receives the request.

(b) If an association produces the copies or electronic scans:

(i) the copies or electronic scans shall be legible and accurate; [~~and~~]

(ii) the lot owner shall pay the association the reasonable cost of the copies [~~or electronic scans~~]and for time spent meeting with the lot owner, which may not exceed:

(A) the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans; or

(B) 10 cents per page and [~~$15~~]$20 per hour for the employee's, manager's, or other agent's time [~~.~~]; and

(iii) the association may not charge the lot owner for any costs associated with fulfilling a request for electronic transmission of the documents described in Subsection (3).

(c) If a lot owner requests a recognized third party duplicating service make the copies or electronic scans:

(i) the association shall arrange for the delivery and pick up of the original documents; and

(ii) the lot owner shall pay the duplicating service directly.

(d) If a lot owner requests to bring imaging equipment to the inspection, the association shall provide the necessary space, light, and power for the imaging equipment.

(e) An association may fulfill the request described in Subsection (3) by posting the documents described in Subsection (3) to the association's website or online owner portal.

(5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy documents, an association fails to comply with a provision of this section, the association shall pay:

(a) the reasonable costs of inspecting and copying the requested documents;

(b) for items described in Subsections (1)(a)(ii)(A) through (C), $25 to the lot owner who made the request for each day the request continues unfulfilled, beginning the sixth day after the day on which the lot owner made the request; and

(c) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies of the requested documents.

(6) (a) In addition to any remedy in the association's governing documents or otherwise provided by law, a lot owner may file an action in court against the association under this section if:

(i) subject to Subsection (9), an association fails to make documents available to the lot owner in accordance with this section, the association's governing documents, or as otherwise provided by law; and

(ii) the association fails to timely comply with a notice described in Subsection (6)(d).

(b) In an action described in Subsection (6)(a):

(i) the lot owner may request:

(A) injunctive relief requiring the association to comply with the provisions of this section;

(B) [~~$500~~]$1,000 or actual damage, whichever is greater; or

(C) any other relief provided by law; and

(ii) the court [~~shall~~]may award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

(c) (i) In an action described in Subsection (6)(a), upon motion by the lot owner made in accordance with Subsection (6)(b), notice to the association, and a hearing in which the court finds a likelihood that the association failed to comply with a provision of this section, the court shall order the association to immediately comply with the provision.

(ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the lot owner files the motion.

(d) At least 10 days before the day on which a lot owner files an action described in Subsection (6)(a), the lot owner shall deliver a written notice to the association that states:

(i) the lot owner's name, address, telephone number, and email address;

(ii) each requirement of this section with which the association has failed to comply;

(iii) a demand that the association comply with each requirement with which the association has failed to comply; and

(iv) a date by which the association shall remedy the association's noncompliance that is at least 10 days after the day on which the lot owner delivers the notice to the association.

(7) (a) The provisions of Section 16-6a-1604 do not apply to an association.

(b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the lot owner has under this section.

(9) An association is not liable for identifying or providing a document in error, if the association identified or provided the erroneous document in good faith.

Section 20. Section 57-8a-229 is amended to read:

57-8a-229. Liability of declarant or board of directors -- Period of administrative control.

(1) An association may not, after the period of administrative control, bring a legal action against a declarant, a board of directors, or an employee, an independent contractor, or the agent of the declarant or the previous board of directors related to the period of administrative control unless:

(a) the legal action is approved in advance at a meeting where owners of at least 51% of the allocated voting interests of the lot owners in the association are:

(i) present; or

(ii) represented by a proxy specifically assigned for the purpose of voting to approve or deny the legal action at the meeting;

(b) the legal action is approved by vote in person or by proxy of owners of the lesser of:

(i) more than 75% of the allocated voting interests of the lot owners present at the meeting or represented by a proxy as described in Subsection (1)(a); or

(ii) more than 51% of the allocated voting interests of the lot owners in the association;

(c) the association provides each lot owner with the items described in Subsection (2);

(d) the association establishes the trust described in Subsection (3); and

(e) the association first:

(i) notifies the person subject to the proposed legal action of the legal action and basis of the association's claim; and

(ii) gives the person subject to the claim a reasonable opportunity to resolve the dispute that is the basis of the proposed legal action.

(2) Before lot owners in an association may vote to approve an action described in Subsection (1), the association shall provide each lot owner:

(a) a written notice that the association is contemplating legal action; and

(b) after the association consults with an attorney licensed to practice in the state, a written assessment of:

(i) the likelihood that the legal action will succeed;

(ii) the likely amount in controversy in the legal action;

(iii) the likely cost of resolving the legal action to the association's satisfaction; and

(iv) the likely effect the legal action will have on a lot owner's or prospective lot buyer's ability to obtain financing for a lot while the legal action is pending.

(3) Before the association commences a legal action described in Subsection (1), the association shall:

(a) allocate an amount equal to 10% of the cost estimated to resolve the legal action, not including attorney fees; and

(b) place the amount described in Subsection (3)(a) in a trust that the association may only use to pay the costs to resolve the legal action.

(4) This section does not apply to an association that brings a legal action that has an amount in controversy of less than $75,000.

(5) In a legal action brought by one or more lot owners solely against the declarant before the end of the period of declarant control, a declarant may not use any funds paid by a lot owner to the association to pay for costs of the declarant's legal defense.

Section 21. Section 57-8a-231 is amended to read:

57-8a-231. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full

maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation;

(B) reduce the landscape area dedicated to lawn or turf; or

(C) encourage vegetative coverage.

(f) "Water wise plant material" means a plant material suited to water wise landscaping as defined in this section.

(2) An association may not enact or enforce a governing document that prohibits, or has the effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise landscaping on the lot owner's lot.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the association including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to the association's operations; and

(B) restricts or prohibits the use of specific plant materials other than water wise plant materials.

(b) An association may not require a lot owner to install or keep in place lawn or turf in an area.

(4) (a) Subject to Subsection (4)(b), if an association does not adopt rules as required by Subsection [~~57-8a-218(16)~~]57-8a-218(15) and fails to remedy the noncompliance within the time specified in Subsection (4)(c), a lot owner may file an action in state court for:

(i) injunctive relief requiring the association to comply with the requirements of Subsection [~~57-8a-218(16)~~]57-8a-218(15);

(ii) $500, or the lot owner's actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a lot owner files a complaint under Subsection (4)(a), the lot owner shall deliver written notice described in Subsection (4)(c) to the association.

(c) The lot owner shall include in a notice described in Subsection (4)(b):

(i) the requirements in Subsection [~~57-8a-218(16)~~]57-8a-218(15) for adopting water wise landscaping rules with which the association has failed to comply;

(ii) a demand that the association come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which the lot owner delivers the notice, by which the association must remedy the association's noncompliance.

Section 22. Section 57-8a-232 is amended to read:

57-8a-232. Sale of common areas.

(1) Subject to Subsection 10-9a-606(5) or 17-27a-606(5), unless otherwise provided in the governing documents, an association may by an affirmative vote of at least 67% of the voting interests of the association, elect to sell, convey, transfer, or otherwise dispose of all or part of the common areas.

(2) An affirmative vote described in Subsection (1) is binding upon all lot owners, and each lot owner shall execute and deliver the appropriate instruments and perform all acts as necessary to effect the sale, conveyance, transfer, or other disposition of the common areas.

(3) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and lot owners through recorded governing documents is extinguished in any portion of the common areas and facilities the association sells, conveys, transfers, or otherwise disposes of, if:

(a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the portion of the common areas, comply with:

(i) the provisions of this section; and

(ii) Section 10-9a-606 or 17-27a-606; and

(b) the sale, conveyance, transfer, or other disposition of the portion of the common areas results in a person other than the association or a lot owner owning the portion of the common areas and facilities.

(4) This section applies to an association regardless of when the association is created.

(5) A declarant may not sell any part of the common areas during the period of administrative control, except as provided in Section 10-9a-606 or 17-27a-606.

Section 23. Section 57-8a-502 is amended to read:

57-8a-502. Period of administrative control.

(1) Unless otherwise provided for in a declaration and subject to Subsection (2), a period of administrative control terminates [~~on the first to occur of the following:~~]60 days after the day on which 80% of the lots that may be created in the association are conveyed to lot owners other than a declarant.

[~~(a) 60 days after 75% of the lots that may be created are conveyed to lot owners other than a declarant;~~]

[~~(b) seven years after all declarants have ceased to offer lots for sale in the ordinary course of business; or~~]

[~~(c) the day the declarant, after giving written notice to the lot owners, records an instrument voluntarily surrendering all rights to control activities of the association.~~]

(2) Notwithstanding Subsection (1), the period of administrative control terminates no later than the earlier of:

(a) the day on which the declarant no longer owns any lot and no longer possesses any development right; or

(b) seven years after the day on which a declarant has ceased to offer lots, including lots that may be created, for sale in the ordinary course of business.

[~~(2)~~](3) (a) A declarant may voluntarily surrender the right to appoint and remove a member of the board before the period of administrative control terminates under Subsection (1).

(b) Subject to Subsection [~~(2)(a)~~](3)(a), the declarant may require, for the duration of the period of administrative control, that actions of the association or board, as specified in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

(c) During a period of administrative control, except as provided in Subsection [~~(2)(a)~~](3)(a), a declarant may appoint the declarant's officers, employees, or agents as members of the board.

[~~(3)~~](4) (a) Upon termination of the period of administrative control, the lot owners shall elect a board consisting of an odd number of at least three members, a majority of whom shall be lot owners.

(b) Unless the declaration provides for the election of officers by the lot owners, the board shall elect officers of the association.

(c) The board members and officers shall take office upon election or appointment.

(5) During the period of administrative control, the declarant shall:

(a) use reasonable care and prudence in managing and maintaining the common areas;

(b) establish a sound fiscal basis for the association by imposing and collecting assessments and establishing reserves for the maintenance and replacement of common areas;

(c) for a service that the association is or will be obligated to provide, disclose to the lot owners the amount of money the declarant provides for or subsidizes for that service;

(d) maintain records and account for the financial affairs of the association from the association's inception;

(e) comply with and enforce the terms of the declaration, including design controls, land-use restrictions, and the payment of assessments; and

(f) disclose to the lot owners all material facts and circumstances affecting:

(i) the condition of the property that the association is responsible for maintaining; and

(ii) the financial condition of the association, including the interest of the declarant and the declarant's affiliates in any contract, lease, or other agreement entered into by the association.

Section 24. Section 63I-1-213 is amended to read:

63I-1-213. Repeal dates: Title 13.

(1) Title 13, Chapter 1b, Office of Professional Licensure Review, is repealed July 1, 2034.

(2) Section 13-43-202, Land Use and Eminent Domain Advisory Board -- Appointment -- Compensation -- Duties, is repealed July 1, 2026.

(3) Title 13, Chapter 75, Office of the Homeowners' Association Ombudsman, is repealed July 1, 2030.

Section 25. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 227
H. B. 226
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

CRIMINAL AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Daniel McCay

Cosponsor:	Stewart E. Barlow	Michael J. Petersen
Nelson T. Abbott	Scott H. Chew	Calvin Roberts
Cheryl K. Acton	Tyler Clancy	
Tiara Auxier	Matt MacPherson	

LONG TITLE

General Description:

This bill addresses criminal offenses and repercussions from those offenses.

Highlighted Provisions:

This bill:

- ► requires a county sheriff to notify and coordinate with the relevant federal immigration authority when preparing to release from the county jail an individual who:
  - • is being released after serving the individual's jail sentence for certain class A misdemeanors or a felony; and
  - • is unlawfully present in the United States;
- ► requires the Department of Corrections to notify and coordinate with the relevant federal immigration authority when preparing to release an inmate who:
  - • is being released after serving a term of imprisonment for a felony; and
  - • is unlawfully present in the United States;
- ► amends the sentence of imprisonment for a class A misdemeanor to one year for certain offenses;
- ► amends certain pretrial release provisions to add a rebuttable presumption that an individual is a flight risk if the individual is not lawfully present in the United States; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-9.5, as enacted by Laws of Utah 2008, Chapter 26
64-13-10.6, as last amended by Laws of Utah 2023, Chapters 58, 414
76-3-204, as last amended by Laws of Utah 2019, Chapter 222
76-3-208, as last amended by Laws of Utah 2021, Chapter 260
77-20-201, as last amended by Laws of Utah 2024, Chapter 197
77-20-202, as last amended by Laws of Utah 2024, Chapter 181
77-20-203, as last amended by Laws of Utah 2024, Chapter 16

ENACTS:

64-13-10.7, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-9.5 is amended to read:

17-22-9.5. Citizenship determination of incarcerated persons -- Notification to and coordination with federal authorities when releasing certain individuals.

(1) The sheriff shall make a reasonable effort to determine the citizenship status of [~~a person~~]an individual charged with a felony or driving under the influence under Section 41-6a-502 when the [~~person~~]individual is confined to the county jail for a period of time.

(2) If the confined [~~person~~]individual is a foreign national, the sheriff shall make a reasonable effort to verify that [~~the person~~]:

(a) the individual has been lawfully admitted into the United States; and

(b) the [~~person's~~]individual's lawful status has not expired.

(3) (a) If the sheriff cannot verify the confined [~~person's~~]individual's lawful status from documents in the [~~person's~~]individual's possession, the sheriff shall attempt to verify that status within 48 hours of the [~~person's~~]individual's confinement at the jail through contacting:

(i) the Law Enforcement Support Center of the United States Department of Homeland Security; or

(ii) an office or agency designated for citizenship status verification by the United States Department of Homeland Security.

(b) The sheriff shall notify the United States Department of Homeland Security of [~~a person~~]an individual whose lawful citizenship status cannot be verified under Subsection (2) or (3)(a).

(4) [~~It~~]In accordance with Title 77, Chapter 20, Bail, it is a rebuttable presumption for the purpose of determining [~~the grant or issuance of a bond that a person~~]whether to grant pretrial release that an individual who is verified under this section as a foreign national not lawfully admitted into the United States is at risk of flight.

(5) (a) As soon as practicable before the day of release, the sheriff shall notify the United States Department of Homeland Security, or other relevant federal agency in charge of handling immigration violations or deportations, when the sheriff is preparing to release an individual from the county jail who:

(i) is being released after serving the individual's jail sentence for:

(A) a class A misdemeanor described under Subsection 76-3-204(1)(b)(i); or

(B) a felony; and

(ii) is unlawfully present in the United States.

(b) The sheriff shall coordinate with federal authorities to transfer the custody of a released individual into federal custody as may be required under Subsection (5)(a).

(c) The requirements described in Subsection (5)(a) do not prohibit a sheriff from notifying or working with the United States Department of Homeland Security, or other relevant federal agency in charge of handling immigration violations or deportations, at any time with regard to an individual who is at the county jail or otherwise in the sheriff's custody.

Section 2. Section 64-13-10.6 is amended to read:

64-13-10.6. Transition and reentry of an inmate at termination of incarceration.

(1) The department shall evaluate the case action plan and update the case action plan as necessary to prepare for the offender's transition from incarceration to release, including:

(a) establishing the supervision level and program needs, based on the offender's criminal risk factors;

(b) identifying barriers to the offender's ability to obtain housing, food, clothing, and transportation;

(c) identifying community-based treatment resources that are reasonably accessible to the offender;

(d) establishing the initial supervision procedures and strategy for the offender's parole officer; and

(e) ensuring that the offender has access to the web portal described in Section 35A-2-204 a minimum of 30 days before the offender's anticipated release date.

(2) The department shall notify the Board of Pardons and Parole not fewer than 30 days prior to an offender's release of:

(a) the offender's case action plan; and

(b) any specific conditions of parole necessary to better facilitate transition to the community.

(3) (a) At least six months before the projected date of an inmate's release from incarceration, if practicable, the department shall follow the procedures described in Section 64-13-10.4.

(b) If the department is notified of the inmate's release and the remaining term of incarceration is for less than six months, the department shall follow the procedures described in Section 64-13-10.4 as soon as practicable after the department receives notification of the inmate's release date.

(4) If the inmate's term of incarceration is for longer than six months, the department shall follow procedures described in Section 64-13-10.4:

(a) approximately six months before the date of the inmate's anticipated release, if the inmate's term of incarceration is for longer than six months; or

(b) as soon as possible, upon notification of the inmate's release, if the release is in shorter than six months.

(5) (a) If an inmate accepts assistance in obtaining a current state-issued identification card or driver license, as described in Subsection 64-13-10.4(4), the department shall coordinate with the Driver License Division to:

(i) (A) obtain a duplicate of the inmate's state-issued driver license, as described in Section 53-3-215; or

(B) renew the inmate's state-issued driver license, if the inmate meets the criteria listed in Section 53-3-214; or

(ii) (A) extend the inmate's state-issued regular identification card, as described in Section 53-3-807; or

(B) issue the inmate a temporary regular identification card as described in Subsection 53-3-805(10), unless the inmate will live outside this state immediately upon release.

(b) (i) Subject to Subsection (5)(b)(ii), the department shall ensure that within the last seven days of the inmate's incarceration, the inmate meets with the Driver License Division to be issued a duplicate driver license, a renewed driver license, an extended regular identification card, or a temporary regular identification card, as described in Subsection (5)(a).

(ii) If an inmate is released from a facility other than a state correctional facility, the department shall coordinate with that correctional facility and the Driver License Division in assisting the inmate in meeting with the Driver License Division.

(c) Before the inmate meets with the Driver License Division, as described in Subsection (5)(b)(i), the department shall ensure that the inmate is provided all required documentation and information the department possesses for the inmate to obtain a document listed in Subsection (5)(a), including:

(i) all personal identification documentation; and

(ii) a voucher for payment toward any one of the documents listed in Subsection (5)(a), up to the cost of a temporary regular identification card described in Subsection 53-3-805(10).

(6) (a) Subsections (4) and (5) do not apply to an inmate that is not:

[~~(a)~~](i) a citizen of the United States; or

[~~(b)~~](ii) a lawful resident of the United States and has legal authorization to work in the United States.

(b) An inmate described in Subsection (6)(a) may be subject to the department's notification requirements under Section 64-13-10.7.

Section 3. Section 64-13-10.7 is enacted to read:

64-13-10.7. Release of inmates who are not lawfully present in the United States -- Notification to and coordination with federal authorities.

(1) As soon as practicable before the day of release, but at least five business days before the day of release, the department shall notify the United States Department of Homeland Security, or other relevant federal agency in charge of handling immigration violations or deportations, when the department is preparing to release an inmate who:

(a) is being released after serving a term of imprisonment for a felony; and

(b) is unlawfully present in the United States.

(2) The department shall coordinate with federal authorities to transfer the custody of a released inmate into federal custody as may be required under Subsection (1).

Section 4. Section 76-3-204 is amended to read:

76-3-204. Misdemeanor conviction -- Term of imprisonment.

A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

(1) (a) [~~In~~]Except as provided in Subsection (1)(b), in the case of a class A misdemeanor, for a term not exceeding 364 days.

(b) (i) Except as provided in Subsection (1)(b)(ii), in the case of a class A misdemeanor under Title 76, Chapter 5, Offenses Against the Individual, for a term not exceeding one year.

(ii) For a class A misdemeanor for one of following offenses, for a term not exceeding 364 days:

(A) Section 76-5-102.9, propelling a bodily substance or material as described in Section 76-5-102.9;

(B) Section 76-5-107.5, prohibition of "hazing";

(C) Section 76-5-113, surreptitious administration of certain substances; or

(D) Section 76-5-303, custodial interference.

(2) In the case of a class B misdemeanor, for a term not exceeding six months.

(3) In the case of a class C misdemeanor, for a term not exceeding 90 days.

Section 5. Section 76-3-208 is amended to read:

76-3-208. Imprisonment -- Custodial authorities.

(1) Persons sentenced to imprisonment shall be committed to the following custodial authorities:

(a) felony commitments shall be to the Utah State Prison;

(b) (i) [~~notwithstanding Section 76-3-204,~~]class A misdemeanor commitments shall be to the jail, or other facility designated by the town, city, or county where the defendant was convicted, unless the defendant is also serving a felony commitment at the Utah State Prison at the commencement of the class A misdemeanor conviction, in which case, the class A misdemeanor commitment shall be to the Utah State Prison for an indeterminate term not to exceed one year with a credit for one day, unless the offense is an offense described in Subsection 76-3-204(1)(b)(i), in which case there is no credit for one day; and

(ii) the court may not order the imprisonment of a defendant to the Utah State Prison for a fixed term or other term that is inconsistent with this section and Section 77-18-111; and

(c) all other misdemeanor commitments shall be to the jail or other facility designated by the town, city or county where the defendant was convicted.

(2) A custodial authority may place a prisoner in a facility other than the one to which the prisoner was committed when:

(a) the custodial authority does not have space to accommodate the prisoner; or

(b) the security of the institution or prisoner requires the prisoner to be placed in a facility other than the one to which the prisoner was committed.

Section 6. Section 77-20-201 is amended to read:

77-20-201. Right to bail -- Capital felony.

(1) An individual charged with, or arrested for, a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with:

(a) a capital felony when there is substantial evidence to support the charge;

(b) a felony committed while on parole or on probation for a felony conviction, or while free on bail awaiting trial on a previous felony charge, when there is substantial evidence to support the current felony charge;

(c) a felony when there is substantial evidence to support the charge and the court finds, by clear and convincing evidence, that:

(i) the individual would constitute a substantial danger to any other individual or to the community after considering available conditions of release that the court may impose if the individual is released on bail; or

(ii) the individual is likely to flee the jurisdiction of the court if the individual is released on bail;

(d) a felony when there is substantial evidence to support the charge and the court finds, by clear and convincing evidence, that the individual violated a material condition of release while previously on bail;

(e) a domestic violence offense if:

(i) there is substantial evidence to support the charge; and

(ii) the court finds, by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence after considering available conditions of release that the court may impose if the individual is released on bail;

(f) the offense of driving under the influence or driving with a measurable controlled substance in the body if:

(i) the offense results in death or serious bodily injury to an individual;

(ii) there is substantial evidence to support the charge; and

(iii) the court finds, by clear and convincing evidence, that the individual would constitute a substantial danger to the community after considering available conditions of release that the court may impose if the individual is released on bail;

(g) a felony violation of Section 76-9-101 if:

(i) there is substantial evidence to support the charge; and

(ii) the court finds, by clear and convincing evidence, that the individual is not likely to appear for a subsequent court appearance; or

(h) except as provided in Subsection (4), the offense of driving under the influence or driving with a measurable controlled substance in the body:

(i) if committed while on parole or on probation for a driving under the influence or driving with a measurable controlled substance in the body conviction; or

(ii) while the individual is out of custody awaiting trial on a previous driving under the influence or driving with a measurable controlled substance in the body charge, when the court finds there is substantial evidence to support the current charge.

(2) Notwithstanding any other provision of this section, there is a rebuttable presumption that an individual is a substantial danger to the community under Subsection (1)(f)(iii):

(a) as long as the individual has a blood or breath alcohol concentration of .05 grams or greater if the individual is arrested for, or charged with, the offense of driving under the influence and the offense resulted in death or serious bodily injury to an individual; or

(b) if the individual has a measurable amount of controlled substance in the individual's body, the individual is arrested for, or charged with, the offense of driving with a measurable controlled substance in the body and the offense resulted in death or serious bodily injury to an individual.

(3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section 76-5-202, aggravated murder, is a capital felony unless:

(a) the prosecuting attorney files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecuting attorney has not filed a notice to seek the death penalty.

(4) For purposes of Subsection (1)(h), there is a rebuttable presumption that an individual would not constitute a substantial danger to any other person or the community if:

(a) the court orders the person to participate in an inpatient drug and alcohol treatment program; or

(b) the court orders the person to participate in home confinement through the use of electronic monitoring as described in Section 41-6a-506.

(5) For purposes of a determination under Subsection (1)(c)(ii), there is a rebuttable presumption that an individual is at risk of fleeing the jurisdiction if the individual is not lawfully present in the United States.

Section 7. Section 77-20-202 is amended to read:

77-20-202. Collection of pretrial information.

(1) When an individual is arrested without a warrant for an offense and booked at a jail facility, an employee at the jail facility, or an employee of a pretrial services program, shall submit the following information to the court with the probable cause statement:

(a) identification information for the individual, including:

(i) the individual's legal name and any known aliases;

(ii) the individual's date of birth;

(iii) the individual's state identification number;

(iv) the individual's mobile phone number; [~~and~~]

(v) the individual's email address; and

(vi) the individual's immigration status, if the individual is not a United States citizen or national;

(b) the individual's residential address;

(c) any pending criminal charge or warrant for the individual, including the offense tracking number of the current offense for which the individual is booked;

(d) the individual's probation or parole supervision status;

(e) whether the individual was on pretrial release for another criminal offense prior to the booking of the individual for the current criminal offense if the employee knows that the individual was on pretrial release for a prior criminal offense;

(f) the individual's financial circumstances to the best of the individual's knowledge at the time of booking, including:

(i) the individual's current employer;

(ii) the individual's monthly income, including any alimony or child support that contributes to the individual's monthly income;

(iii) the individual's monthly expenses, including any alimony or child support obligation that the individual is responsible for paying;

(iv) the individual's ownership of, or any interest in, personal or real property, including any savings or checking accounts or cash;

(v) the number, ages, and relationships of any dependents;

(vi) any financial support or benefit that the individual receives from a state or federal government; and

(vii) any other information about the individual's financial circumstances that may be relevant;

(g) any ties the individual has to the community, including:

(i) the length of time that the individual has been at the individual's residential address;

(ii) any enrollment in a local college, university, or trade school; and

(iii) the name and contact information for any family member or friend that the individual believes would be willing to provide supervision of the individual;

(h) the results of a lethality assessment completed in accordance with Section 77-36-2.1, if any; and

(i) whether the individual is under the influence of alcohol or a controlled substance to a degree that would endanger the individual or another individual if the individual is released.

(2) Upon request, the jail facility, or the pretrial services program, shall provide the information described in Subsection (1) to the individual, the individual's attorney, or the prosecuting attorney.

(3) Any information collected from an individual under Subsection (1) is inadmissible in any court proceeding other than:

(a) a criminal proceeding addressing the individual's pretrial release or indigency for the offense, or offenses, for which the individual was arrested or charged with; or

(b) another criminal proceeding regarding prosecution for providing a false statement under Subsection (1).

(4) Nothing in this section prohibits a court and a county from entering into an agreement regarding information to be submitted to the court with a probable cause statement.

Section 8. Section 77-20-203 is amended to read:

77-20-203. County sheriff authority to release an individual from jail on own recognizance.

(1) As used in this section:

(a) (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

(b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

(c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) Except as provided in Subsection (3), a county jail official may release an individual from a jail facility on the individual's own recognizance if:

(a) the individual was arrested without a warrant;

(b) the individual was not arrested for:

(i) a violent felony;

(ii) a qualifying offense;

(iii) the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in death or serious bodily injury to an individual; or

(iv) an offense described in Subsection 76-9-101(4);

(c) law enforcement has not submitted a probable cause statement to a court or magistrate;

(d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(e) the individual qualifies for release under the written policy described in Subsection (4) for the county.

(3) A county jail official may not release an individual from a jail facility if the individual is subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Section 64-13-29.

(4) (a) A county sheriff shall create and approve a written policy for the county that governs the release of an individual on the individual's own recognizance.

(b) The written policy shall describe the criteria an individual shall meet to be released on the individual's own recognizance.

(c) A county sheriff may include in the written policy the criteria for release relating to:

(i) criminal history;

(ii) prior instances of failing to appear for a mandatory court appearance;

(iii) current employment;

(iv) residency, including immigration status;

(v) ties to the community;

(vi) an offense for which the individual was arrested;

(vii) any potential criminal charges that have not yet been filed;

(viii) the individual's health condition;

(ix) any potential risks to a victim, a witness, or the public; and

(x) any other similar factor a sheriff determines is relevant.

(5) (a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual for up to 24 hours from booking if:

(i) the individual is on supervised probation or parole and that information is reasonably available; and

(ii) the individual was arrested for:

(A) a violent felony; or

(B) a qualifying domestic violence offense.

(b) The jail facility shall:

(i) notify the entity supervising the individual's probation or parole that the individual is being detained; and

(ii) release the individual:

(A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or

(B) if a court or magistrate orders release.

(c) This Subsection (5) does not prohibit a jail facility from holding the individual in accordance with this chapter for a new criminal offense.

(6) This section does not prohibit a court and a county from entering into an agreement regarding release.

Section 9. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 228
H. B. 230
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

BLOCKCHAIN AND DIGITAL INNOVATION AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Kirk A. Cullimore

Cosponsor:	Ken Ivory	David Shallenberger
Kay J. Christofferson	Trevor Lee	Troy Shelley
Tyler Clancy	Matt MacPherson	Lisa Shepherd
Paul A. Cutler	Verona Mauga	Rex P. Shipp
Jennifer Dailey-Provost	Logan J. Monson	Andrew Stoddard
Doug Fiefia	Jefferson Moss	Jason E. Thompson
Stephanie Gricius	Angela Romero	Raymond P. Ward

LONG TITLE

General Description:

This bill creates authority for the state treasurer to invest public funds in certain digital assets.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► prohibits state and local governmental entities from restricting the acceptance or custody of digital assets;
- ► establishes the right to operate nodes, develop software, transfer digital assets, and participate in staking on blockchain protocols;
- ► creates exemptions from money transmitter licensing requirements for certain blockchain and digital asset activities;
- ► restricts the ability of political subdivisions to impose sound limitations or zoning restrictions on digital asset mining businesses in industrial zones; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

7-28-101, Utah Code Annotated 1953
7-28-102, Utah Code Annotated 1953
7-28-103, Utah Code Annotated 1953
7-28-104, Utah Code Annotated 1953
10-9a-541, Utah Code Annotated 1953
17-27a-536, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-28-101 is enacted to read:

7-28-101. Definitions.

As used in this chapter:

(1) "Blockchain protocol" means any executable software deployed to enable the transfer of data and electronic records through a distributed network of nodes, including an additional standardized set of rules that uses a previously existing blockchain as a base.

(2) "Digital asset" means:

(a) virtual currency;

(b) cryptocurrency;

(c) natively electronic assets, including:

(i) stablecoins; and

(ii) non-fungible tokens; or

(d) other digital-only assets that confer economic, proprietary, or access rights or powers.

(3) "Hardware wallet" means a physical device that:

(a) is not continuously connected to the Internet;

(b) allows an individual to secure and transfer digital assets; and

(c) enables the owner of digital assets to retain independent control over the digital assets.

Section 2. Section 7-28-102 is enacted to read:

7-28-102. Permitted uses of digital assets.

A state or local governmental entity may not prohibit, restrict, or impair a person's ability to:

(1) accept digital assets as a method of payment for legal goods and services; or

(2) take custody of digital assets using:

(a) a self-hosted wallet; or

(b) a hardware wallet.

Section 3. Section 7-28-103 is enacted to read:

7-28-103. Access to blockchain protocols and transfer of digital assets.

A person may:

(1) operate a node for the purpose of:

(a) connecting to a blockchain protocol; and

(b) participating in the blockchain protocol's operations;

(2) develop software on a blockchain protocol;

(3) transfer digital assets to another individual or business utilizing a blockchain protocol; or

(4) participate in staking on a blockchain protocol.

Section 4. Section 7-28-104 is enacted to read:

7-28-104. Exemption from money transmission license.

The following activities do not require an individual or business to obtain a money transmitter license under Title 7, Chapter 25, Money Transmitter Act:

(1) operating one or more nodes on a blockchain protocol;

(2) developing software on a blockchain protocol; or

(3) operating a business or decentralized protocol that:

(a) effectuates the exchange of one digital asset for another digital asset; and

(b) does not exchange digital assets for legal tender or bank deposits.

Section 5. Section 10-9a-541 is enacted to read:

10-9a-541. Digital asset mining -- Zoning restrictions.

(1) As used in this section:

(a) "Digital asset" means the same as that term is defined in Section 7-28-101.

(b) "Digital asset mining" means using computer hardware and software specifically designed or utilized for validating data and securing a blockchain network.

(c) "Digital asset mining business" means a group of computers working at a single site that:

(i) consumes more than one megawatt of energy on an average annual basis; and

(ii) operates for the purpose of generating blockchain tokens by securing a blockchain network.

(2) A political subdivision of the state may not enact an ordinance, resolution, or rule that:

(a) for digital asset mining businesses located in areas zoned for industrial use, imposes sound restrictions on digital asset mining businesses that are more stringent than the generally applicable limits set for industrial-zoned areas; or

(b) prevents a digital asset mining business from operating in an area zoned for industrial use if the digital asset mining business meets other requirements for industrial use.

Section 6. Section 17-27a-536 is enacted to read:

17-27a-536. Digital asset mining -- Zoning restrictions.

(1) As used in this section:

(a) "Digital asset" means the same as that term is defined in Section 7-28-101.

(b) "Digital asset mining" means using computer hardware and software specifically designed or utilized for validating data and securing a blockchain network.

(c) "Digital asset mining business" means a group of computers working at a single site that:

(i) consumes more than one megawatt of energy on an average annual basis; and

(ii) operates for the purpose of generating blockchain tokens by securing a blockchain network.

(2) A political subdivision of the state may not enact an ordinance, resolution, or rule that:

(a) for digital asset mining businesses located in areas zoned for industrial use, imposes sound restrictions on digital asset mining businesses that are more stringent than the generally applicable limits set for industrial-zoned areas; or

(b) prevents a digital asset mining business from operating in an area zoned for industrial use if the digital asset mining business meets other requirements for industrial use.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 229
H. B. 234
Passed February 21, 2025
Approved March 25, 2025
Effective May 7, 2025

MOTORCYCLE SAFETY AMENDMENTS

Chief Sponsor: Ariel Defay
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill increases a fine for a person who operates a motorcycle without a motorcycle endorsement.

Highlighted Provisions:

This bill:

- ► increases a fine for a person who operates a motorcycle without a motorcycle endorsement on the person's driver license;
- ► requires a court to waive the increased fine if the person obtains a motorcycle endorsement within 30 days of the date of the plea or sentencing; and
- ► allows a court to extend the 30-day period if the court finds it reasonable and necessary.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-202, as last amended by Laws of Utah 2019, Chapter 459

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-202 is amended to read:

53-3-202. Drivers must be licensed -- Violation.

(1) A human driver may not drive a motor vehicle or an autocycle on a highway in this state unless the human driver is:

(a) granted the privilege to operate a motor vehicle by being licensed as a driver by the division under this chapter;

(b) driving an official United States Government class D motor vehicle with a valid United States Government driver permit or license for that type of vehicle;

(c) (i) driving a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved, or propelled on the highways; and

(ii) driving the vehicle described in Subsection (1)(c)(i) in conjunction with a construction or agricultural activity;

(d) a nonresident who is at least 16 years [~~of age~~]old and younger than 18 years [~~of age~~]old who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country and is driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(e) a nonresident who is at least 18 years [~~of age~~]old and who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country if driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(f) driving under a learner permit in accordance with Section 53-3-210.5;

(g) driving with a temporary license certificate issued in accordance with Section 53-3-207; or

(h) exempt under Title 41, Chapter 22, Off-highway Vehicles.

(2) A human driver may not drive a motor vehicle or perform lateral or longitudinal vehicle motion control for a vehicle being towed by another motor vehicle upon a highway unless the human driver:

(a) is licensed under this chapter to drive a motor vehicle of the type or class of motor vehicle being towed; or

(b) is exempted under either Subsection (1)(b) or (1)(c).

(3) (a) A human driver may not drive a motor vehicle as a taxicab on a highway of this state unless the person has a valid class D driver license issued by the division.

(b) A human driver may not drive a motor vehicle as a private passenger carrier on a highway of this state unless the human driver has:

(i) a taxicab endorsement issued by the division on the human driver's license certificate; or

(ii) a commercial driver license with:

(A) a taxicab endorsement;

(B) a passenger endorsement; or

(C) a school bus endorsement.

(c) Nothing in Subsection (3)(b) is intended to exempt a human driver driving a motor vehicle as a private passenger carrier from regulation under other statutory and regulatory schemes, including:

(i) 49 C.F.R. Parts 350-399, Federal Motor Carrier Safety Regulations;

(ii) Title 34, Chapter 36, Transportation of Workers, and rules adopted by the Labor Commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) Title 72, Chapter 9, Motor Carrier Safety Act, and rules adopted by the Motor Carrier Division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) Except as provided in Subsections (4)(b), (c), (d), and (e), a human driver may not operate:

(i) a motorcycle unless the human driver has a valid class D driver license and a motorcycle endorsement issued under this chapter;

(ii) a street legal all-terrain vehicle unless the human driver has a valid class D driver license; or

(iii) a motor-driven cycle unless the human driver has a valid class D driver license and a motorcycle endorsement issued under this chapter.

(b) A human driver operating a moped, as defined in Section 41-6a-102, is not required to have a motorcycle endorsement issued under this chapter.

(c) An individual operating an electric assisted bicycle, as defined in Section 41-6a-102, is not required to have a valid class D driver license or a motorcycle endorsement issued under this chapter.

(d) An individual is not required to have a valid class D driver license if the person is:

(i) operating a motor assisted scooter, as defined in Section 41-6a-102, in accordance with Section 41-6a-1115; or

(ii) operating an electric personal assistive mobility device, as defined in Section 41-6a-102, in accordance with Section 41-6a-1116.

(e) A human driver operating an autocycle is not required to have a motorcycle endorsement issued under this chapter.

(5) An automated driving system as defined in Section 41-26-102.1 is not required to have a driver license.

(6) (a) A person who violates this section is guilty of an infraction.

(b) Except as provided in Subsection (6)(d), a person who violates Subsection (4)(a)(i) or (4)(a)(iii) is subject to a minimum fine of $350.

(c) The fine described in Subsection (6)(b) is in addition to any other fine for a violation of Title 41, Chapter 6a, Traffic Code, or a local ordinance related to the operation of the motorcycle.

(d) (i) A court shall waive the fine imposed under Subsection (6)(b) if the person provides to the court within 30 days of the date of the entry of a plea or sentencing, whichever is later, proof that the person has been issued a motorcycle endorsement as provided in this chapter.

(ii) A court may extend the 30-day time period described in Subsection (6)(d)(i) for a reasonable time period for the person to obtain a motorcycle endorsement for good cause shown.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 230
H. B. 235
Passed February 20, 2025
Approved March 25, 2025
Effective May 7, 2025

COUNTY AUDITOR MODIFICATIONS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to a county auditor in a county of the first class.

Highlighted Provisions:

This bill:

- ► establishes professional requirements for a county auditor in a county of the first class or a candidate seeking the office of county auditor in a county of the first class; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-16-1, as last amended by Laws of Utah 2013, Chapter 237
17-19a-102, as last amended by Laws of Utah 2023, Chapter 178
17-19a-202, as last amended by Laws of Utah 2023, Chapter 178
20A-1-508, as last amended by Laws of Utah 2022, Chapters 13, 166 and 177

ENACTS:

17-19a-201.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-16-1 is amended to read:

17-16-1. Eligibility and residency requirements for county, district, precinct, or prosecution district office.

(1) [~~A person~~]An individual filing a declaration of candidacy for a county, district, precinct, or prosecution district office shall:

(a) be a United States citizen;

(b) except as provided in Section 20A-1-509.2 with respect to the office of county attorney or district attorney, as of the date of the election, have been a resident for at least one year of the county, district, precinct, or prosecution district in which the [~~person~~]individual seeks office; [~~and~~]

(c) be a registered voter in the county, district, precinct, or prosecution district in which the [~~person~~]individual seeks office [~~.~~]; and

(d) if the individual is filing a declaration of candidacy for the office of county auditor in a county of the first class, meet the qualifications described in Section 17-19a-201.5.

(2) (a) A county, district, precinct, or prosecution district officer shall maintain residency within the county, district, precinct, or prosecution district in which the officer was elected during the officer's term of office.

(b) If a county, district, precinct, or prosecution district officer establishes the officer's principal place of residence as provided in Section 20A-2-105 outside the county, district, precinct, or prosecution district in which the officer was elected, the office is automatically vacant.

Section 2. Section 17-19a-102 is amended to read:

17-19a-102. Definitions.

As used in this chapter:

(1) "Account" or "accounting" means:

(a) the systematic recording, classification, or summarizing of a financial transaction or event; and

(b) the interpretation or presentation of the result of an action described in Subsection (1)(a).

(2) (a) "Accounting services" means the creation, modification, or deletion of transactions and records in a financial accounting system, including the preparation of a county's annual financial report.

(b) "Accounting services" does not include the creation of a purchase order.

(3) "Audit" or "auditing" means an examination that is a formal analysis of a county account or county financial record:

(a) to verify accuracy, completeness, or compliance with an internal control;

(b) to give a fair presentation of a county's financial status; and

(c) that conforms to the uniform classification of accounts established by the state auditor.

(4) "Book" means a financial record of the county, regardless of a record's format.

(5) (a) "Budget" or "budgeting" means the preparation or presentation of a proposed or tentative budget as provided in Chapter 36, Uniform Fiscal Procedures Act for Counties.

(b) "Budget" or "budgeting" includes:

(i) a revenue projection;

(ii) a budget request compilation; or

(iii) the performance of an activity described in Subsection (5)(b)(i) or (ii).

(6) (a) "Claim" means under the color of law:

(i) a demand presented for money or damages; or

(ii) a cause of action presented for money or damages.

(b) "Claim" does not mean a routine, uncontested, or regular payment, including a bill, purchase, or payroll.

(7) (a) "County auditor" means the county officer elected as the county auditor under Section 17-53-101.

(b) "County auditor" includes [~~aperson~~]an individual given the title of county controller under Subsection [~~17-19a-202(6)~~]17-19a-202(4).

(8) "County executive" means the elected chief executive officer of a county.

(9) "Performance audit" means an assessment of whether a county office, officer, department, division, court, or entity, or any related county program is:

(a) managing public resources and exercising authority in compliance with law and policy;

(b) achieving objectives and desired outcomes; and

(c) providing services effectively, efficiently, economically, ethically, and equitably.

Section 3. Section 17-19a-201.5 is enacted to read:

17-19a-201.5. Qualifications for a county auditor in a county of the first class.

(1) In a county of the first class, in addition to the requirements described in Section 17-16-1, an individual filing a declaration of candidacy for the office of county auditor, an individual elected to the office of county auditor, or an interim replacement appointed under Subsection 20A-1-508(3), shall have one or more of the following professional certifications active and in good standing:

(a) certified public accountant;

(b) certified internal auditor;

(c) certified fraud examiner;

(d) certified management accountant; or

(e) certified information systems auditor.

(2) Subsection (1) does not apply to any other position within an auditor's office, except that a chief deputy or other individual filling the vacancy of an elected auditor in a county of the first class may not be appointed as an interim replacement under Subsection 20A-1-508(3) unless the individual meets the qualifications of Subsection (1) and Section 17-16-1.

Section 4. Section 17-19a-202 is amended to read:

17-19a-202. Duties and services.

(1) A county auditor shall perform:

[~~(1)~~](a) in accordance with Section 17-19a-205, an accounting duty or service described in this chapter or otherwise required by law;

[~~(2)~~](b) an auditing duty or service described in this chapter or otherwise required by law; and

[~~(3)~~](c) other duties as may be required by law.

[~~(4)~~](2) A county auditor may conduct, in relation to any county office, officer, department, division, court, or entity, as the county auditor deems necessary, the following duties and services:

(a) financial audits;

(b) attestation-level examinations, reviews, and agreed-upon procedures engagements or reviews of financial statements;

(c) subject to Section 17-19a-206, performance audits;

(d) subject to Section 17-19a-205, accounting services; and

(e) other duties as required by law.

[~~(5)~~](3) In a county of the first class, the county auditor shall conduct the services under Subsections [~~(4)(a)~~](2)(a) through (c) in accordance with generally accepted government auditing standards.

[~~(6)~~](4) A county legislative body may change the title of county auditor to county controller for a county auditor's office that predominantly performs accounting services.

[~~(7)~~](5) The county auditor may not conduct the services described in Subsections [~~(4)(a)~~](2)(a) through (c) with respect to the auditor's own office, accounts, or financial records.

[~~(8)~~](6) Nothing in this chapter limits a county legislative body's authority under Section 17-53-212 or a county executive's authority under Section 17-53-303.

Section 5. Section 20A-1-508 is amended to read:

20A-1-508. Midterm vacancies in county elected offices -- Temporary manager -- Interim replacement.

(1) As used in this section:

(a) (i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not include the office of county attorney, district attorney, or judge.

(b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters

relating to the political party's relationship with a county as required by Section 20A-8-401.

(2) (a) Except as provided in Subsection (2)(d), until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall temporarily discharge the duties of the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or

(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).

(c) The temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office:

(i) may not take an oath of office for the county office as a temporary manager;

(ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;

(iii) unless approved by the county legislative body, may not change the compensation of an employee;

(iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;

(v) may terminate an employee only if the termination is conducted in accordance with:

(A) personnel rules described in Subsection 17-33-5(4) that are approved by the county legislative body; and

(B) applicable law;

(vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office for which the temporary manager discharges duties was vacated;

(vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and

(viii) if approved by the county legislative body, may receive a performance award after:

(A) the county legislative body appoints an interim replacement under Subsection (3); and

(B) the interim replacement is sworn into office.

(d) This Subsection (2) does not apply to a vacancy in the office of county legislative body member.

(3) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (3).

(b) In addition to this Subsection (3), an interim replacement appointed to the office of county auditor in a county of the first class is subject to the requirements described in Section 17-19a-201.5.

[~~(b)~~](c) (i) To appoint an interim replacement, the county legislative body shall, within 10 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of an individual to fill the vacancy.

(ii) That party liaison shall, before 5 p.m. within 30 days after the day on which the liaison receives the notice described in Subsection [~~(3)(b)(i)~~](3)(c)(i), or if the party liaison does not receive the notice, before 5 p.m. within 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual the party selects in accordance with the party's constitution or bylaws to serve as the interim replacement.

(iii) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the individual to serve as the interim replacement, appoint the individual to serve out the unexpired term.

[~~(c)~~](d) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection [~~(3)(b)(iii)~~](3)(c)(iii), the county clerk shall, no later than five days after the day of the deadline described in Subsection [~~(3)(b)(iii)~~](3)(c)(iii), send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection [~~(3)(c)(i)~~](3)(d)(i), appoint the individual named by the party liaison as an interim replacement to fill the vacancy.

[~~(d)~~](e) An individual appointed as interim replacement under this Subsection (3) shall hold office until a successor is elected and has qualified.

(4) (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the officeholder was elected, but before the first day of the declaration of candidacy filing period described in Section 20A-9-201.5.

(b) (i) When the conditions described in Subsection (4)(a) are met, the county clerk shall as soon as practicable, but no later than 180 days before the next regular general election, notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a party candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) An individual who is nominated as a party candidate, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(5) (a) The requirements of this Subsection (5) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs on or after the first day of the declaration of candidacy filing period described in Section 20A-9-201.5, but more than 75 days before the regular primary election.

(b) When the conditions described in Subsection (5)(a) are met, the county clerk shall as soon as practicable, but no later than 70 days before the next regular primary election, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines described in Subsection (5)(c)(i) and the deadlines established under Subsection (5)(d)(ii).

(c) (i) An individual intending to become a party candidate for a vacant office shall, within five days after the day on which the notice is given, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(ii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk as soon as practicable, but before 5 p.m. no later than 60 days before the day of the regular primary election.

(d) (i) Except as provided in Subsection (5)(d)(ii), an individual intending to become a candidate for a vacant office who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(ii) (A) The county clerk shall establish, in the clerk's reasonable discretion, a deadline that is before 5 p.m. no later than 65 days before the day of the next regular general election by which an individual who is not affiliated with a registered political party is required to submit a certificate of nomination under Subsection (5)(d)(i).

(B) The county clerk shall establish the deadline described in Subsection (5)(d)(ii)(A) in a manner that gives an unaffiliated candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is nominated as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(6) (a) The requirements of this Subsection (6) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 75 days or less remain before the day of the regular primary election but more than 65 days remain before the day of the regular general election.

(b) When the conditions described in Subsection (6)(a) are met, the county clerk shall, as soon as practicable, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines established under Subsection (6)(d).

(c) (i) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(A), the county central committee of each registered political party that wishes to submit a candidate for the office shall certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(ii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(B), a candidate who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(iii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(C), a write-in candidate shall submit to the county clerk a declaration of candidacy described in Section 20A-9-601.

(d) (i) The county clerk shall establish, in the clerk's reasonable discretion, deadlines that are before 5 p.m. no later than 65 days before the day of the next regular general election by which:

(A) a registered political party is required to certify a name under Subsection (6)(c)(i);

(B) an individual who does not wish to affiliate with a registered political party is required to submit a certificate of nomination under Subsection (6)(c)(ii); and

(C) a write-in candidate is required to submit a declaration of candidacy under Subsection (6)(c)(iii).

(ii) The county clerk shall establish deadlines under Subsection (6)(d)(i) in a manner that gives an unaffiliated candidate or a write-in candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is certified as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(7) (a) The requirements of this Subsection (7) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 days or less remain before the day of the next regular general election.

(b) (i) When the conditions described in Subsection (7)(a) are met, the county legislative body shall as soon as practicable, but no later than 10 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party as the prior office holder and invite that party liaison to submit the name of an individual to fill the vacancy.

(ii) That party liaison shall, before 5 p.m. within 30 days after the day on which the party liaison receives the notice described in Subsection (7)(b)(i), or if the party liaison does not receive the notice, before 5 p.m. no later than 40 days after the day on which the vacancy

occurs, submit to the county legislative body the name of an individual to fill the vacancy.

(iii) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the individual to fill the vacancy, appoint the individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an individual to fill the vacancy in accordance with Subsection (7)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint an individual to fill the vacancy within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (7)(c)(i), appoint the individual named by the party liaison to fill the vacancy.

(d) An individual appointed to fill the vacancy under this Subsection (7) shall hold office until a successor is elected and has qualified.

(8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

(9) Nothing in this section prohibits a candidate that does not wish to affiliate with a political party from filing a certificate of nomination for a vacant office within the same time limits as a candidate that is affiliated with a political party.

(10) (a) Each individual elected under Subsection (4), (5), or (6) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the individual who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section 17-16-6.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 231
H. B. 248
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

VETERAN PROTECTIONS AMENDMENTS

Chief Sponsor: Verona Mauga
Senate Sponsor: Jerry W. Stevenson

Cosponsor:	Doug Fiefia	Grant Amjad Miller
Cheryl K. Acton	Jake Fitisemanu	Carol S. Moss
Gay Lynn Bennion	Sahara Hayes	Hoang Nguyen
Jefferson S. Burton	Sandra Hollins	Doug Owens
Tyler Clancy	Jason B. Kyle	Angela Romero
Jennifer Dailey-Provost	Anthony E. Loubet	Raymond P. Ward
Rosalba Dominguez	Ashlee Matthews	

LONG TITLE

General Description:

This bill addresses protections for veterans.

Highlighted Provisions:

This bill:

- ► provides that the Division of Consumer Protection is responsible for enforcing civil penalties for individuals who unlawfully provide veterans with assistance in obtaining VA benefits;
- ► clarifies what conduct is not permitted when providing veterans with assistance in obtaining VA benefits; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-11-4, as last amended by Laws of Utah 2024, Chapters 102, 186
71A-4-101, as renumbered and amended by Laws of Utah 2023, Chapter 44
71A-4-102, as renumbered and amended by Laws of Utah 2023, Chapter 44
71A-4-103, as renumbered and amended by Laws of Utah 2023, Chapter 44
71A-4-104, as renumbered and amended by Laws of Utah 2023, Chapter 44
71A-4-105, as renumbered and amended by Laws of Utah 2023, Chapter 44

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-11-4 is amended to read:

13-11-4. Deceptive act or practice by supplier.

(1) A deceptive act or practice by a supplier in connection with a consumer transaction violates this chapter whether it occurs before, during, or after the transaction.

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(a) indicates that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits, if it has not;

(b) indicates that the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not;

(c) indicates that the subject of a consumer transaction is new, or unused, if it is not, or has been used to an extent that is materially different from the fact;

(d) indicates that the subject of a consumer transaction is available to the consumer for a reason that does not exist, including any of the following reasons falsely used in an advertisement:

(i) "going out of business";

(ii) "bankruptcy sale";

(iii) "lost our lease";

(iv) "building coming down";

(v) "forced out of business";

(vi) "final days";

(vii) "liquidation sale";

(viii) "fire sale";

(ix) "quitting business"; or

(x) an expression similar to any of the expressions in Subsections (2)(d)(i) through (ix);

(e) indicates that the subject of a consumer transaction has been supplied in accordance with a previous representation, if it has not;

(f) indicates that the subject of a consumer transaction will be supplied in greater quantity than the supplier intends;

(g) indicates that replacement or repair is needed, if it is not;

(h) indicates that a specific price advantage exists, if it does not;

(i) indicates that the supplier has a sponsorship, approval, license, certification, or affiliation the supplier does not have;

(j) (i) indicates that a consumer transaction involves or does not involve a warranty, a disclaimer of warranties, particular warranty terms, or other rights, remedies, or obligations, if the representation is false; or

(ii) fails to honor a warranty or a particular warranty term;

(k) indicates that the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if receipt of the benefit is contingent on an event occurring after the consumer enters into the transaction;

(l) after receipt of payment for goods or services, fails to ship the goods or furnish the services within the time advertised or otherwise represented or, if no specific time is advertised or represented, fails to ship the goods or furnish the services within 30 days, unless within the applicable time period the supplier provides the buyer with the option to:

(i) cancel the sales agreement and receive a refund of all previous payments to the supplier if the refund is mailed or delivered to the buyer within 10 business days after the day on which the seller receives written notification from the buyer of the buyer's intent to cancel the sales agreement and receive the refund; or

(ii) extend the shipping date to a specific date proposed by the supplier;

(m) except as provided in Subsection (3)(b), fails to furnish a notice meeting the requirements of Subsection (3)(a) of the purchaser's right to cancel a direct solicitation sale within three business days of the time of purchase if:

(i) the sale is made other than at the supplier's established place of business pursuant to the supplier's personal contact, whether through mail, electronic mail, facsimile transmission, telephone, or any other form of direct solicitation; and

(ii) the sale price exceeds $25;

(n) promotes, offers, or grants participation in a pyramid scheme as defined under Title 76, Chapter 6a, Pyramid Scheme Act;

(o) in connection with a charitable solicitation:

(i) falsely indicates that:

(A) the supplier is affiliated with a charitable organization;

(B) the supplier is an employee, officer, or representative of a public safety agency;

(C) the supplier has sponsorship or approval of a given charitable organization;

(D) a charitable contribution will be provided to a given charitable organization;

(E) providing a charitable contribution has an additional benefit, including a tax benefit; or

(F) the recipient of the solicitation has previously contributed to a given charitable organization;

(ii) uses a fictitious name or a name the supplier is not authorized to use; or

(iii) with intent to deceive:

(A) uses a name that is substantially similar to that of another charitable organization; or

(B) falsely indicates that a charitable contribution will be used for a particular purpose;

(p) if a consumer indicates the consumer's intention of making a claim for a motor vehicle repair against the consumer's motor vehicle insurance policy:

(i) commences the repair without first giving the consumer oral and written notice of:

(A) the total estimated cost of the repair; and

(B) the total dollar amount the consumer is responsible to pay for the repair, which dollar amount may not exceed the applicable deductible or other copay arrangement in the consumer's insurance policy; or

(ii) requests or collects from a consumer an amount that exceeds the dollar amount a consumer was initially told the consumer was responsible to pay as an insurance deductible or other copay arrangement for a motor vehicle repair under Subsection (2)(p)(i), even if that amount is less than the full amount the motor vehicle insurance policy requires the insured to pay as a deductible or other copay arrangement, unless:

(A) the consumer's insurance company denies that coverage exists for the repair, in which case, the full amount of the repair may be charged and collected from the consumer; or

(B) the consumer misstates, before the repair is commenced, the amount of money the insurance policy requires the consumer to pay as a deductible or other copay arrangement, in which case, the supplier may charge and collect from the consumer an amount that does not exceed the amount the insurance policy requires the consumer to pay as a deductible or other copay arrangement;

(q) includes in any contract, receipt, or other written documentation of a consumer transaction, or any addendum to any contract, receipt, or other written documentation of a consumer transaction, any confession of judgment or any waiver of any of the rights to which a consumer is entitled under this chapter;

(r) charges a consumer for a consumer transaction or a portion of a consumer transaction that has not previously been agreed to by the consumer;

(s) solicits or enters into a consumer transaction with a person who lacks the mental ability to comprehend the nature and consequences of:

(i) the consumer transaction; or

(ii) the person's ability to benefit from the consumer transaction;

(t) solicits for the sale of a product or service by providing a consumer with an unsolicited check or negotiable instrument the presentment or negotiation of which obligates the consumer to purchase a product or service, unless the supplier is:

(i) a depository institution under Section 7-1-103;

(ii) an affiliate of a depository institution; or

(iii) an entity regulated under Title 7, Financial Institutions Act;

(u) sends an unsolicited mailing to a person that appears to be a billing, statement, or request for payment for a product or service the person has not ordered or used, or that implies that the mailing requests payment for an ongoing product or service the person has not received or requested;

(v) issues a gift certificate, instrument, or other record in exchange for payment to provide the bearer, upon presentation, goods or services in a specified amount without printing in a readable manner on the gift certificate, instrument, packaging, or record any expiration date or information concerning a fee to be charged and deducted from the balance of the gift certificate, instrument, or other record;

(w) misrepresents the geographical origin or location of the supplier's business;

(x) fails to comply with the restrictions of Section 15-10-201 on automatic renewal provisions;

(y) violates Section 13-59-201;

(z) fails to comply with the restrictions of Subsection 13-54-202(2); [~~or~~]

(aa) states or implies that a registration or application administered or enforced by the division is an endorsement, sanction, or approval by the division or a governmental agency or office [~~.~~]; or

(bb) fails to comply with the requirements of Section 71A-4-102 regarding assistance to veterans for benefits.

(3) (a) The notice required by Subsection (2)(m) shall:

(i) be a conspicuous statement written in dark bold with at least 12-point type on the first page of the purchase documentation; and

(ii) read as follows: "YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY (or time period reflecting the supplier's cancellation policy but not less than three business days) AFTER THE DATE OF THE TRANSACTION OR RECEIPT OF THE PRODUCT, WHICHEVER IS LATER."

(b) A supplier is exempt from the requirements of Subsection (2)(m) if the supplier's cancellation policy:

(i) is communicated to the buyer; and

(ii) offers greater rights to the buyer than Subsection (2)(m).

(4) (a) A gift certificate, instrument, or other record that does not print an expiration date in accordance with Subsection (2)(v) does not expire.

(b) A gift certificate, instrument, or other record that does not include printed information concerning a fee to be charged and deducted from the balance of the gift certificate, instrument, or other record is not subject to the charging and deduction of the fee.

(c) Subsections (2)(v) and (4)(b) do not apply to a gift certificate, instrument, or other record useable at multiple, unaffiliated sellers of goods or services if an expiration date is printed on the gift certificate, instrument, or other record.

Section 2. Section 71A-4-101 is amended to read:

CHAPTER 4. VETERANS BENEFITS APPLICATION ASSISTANCE REQUIREMENTS AND PROHIBITIONS

71A-4-101. Definitions.

(1) As used in this chapter:

(a) "Accredited" means a veterans service organization, representative, agent, or attorney to whom authority has been granted by the VA to provide assistance to claimants in the preparation, presentation, and prosecution of claims for VA benefits.

[~~(b) "Assistance" means an accredited individual providing claimant-specific recommendations or preparing or submitting an application for VA benefits on behalf of a claimant.~~]

(b) "Assistance" means an act performed by a person on behalf of a claimant to:

(i) provide claimant-specific recommendations for VA benefits; or

(ii) prepare or submit an application for VA benefits on behalf of a claimant.

(c) "Certify" means to submit in writing to a veteran or the veteran's dependents certain disclosure forms provided by the department.

(d) "Claimant" means [~~a person~~]an individual who has filed or has expressed to [~~a service organization representative, agent, or attorney~~]an accredited person an intention to file a written application for determination of entitlement to benefits provided under United States Code, Title 38, and implementing directives.

(e) "Compensation" means payment of money, a thing of financial value, or a financial benefit.

(f) "Division" means the Division of Consumer Protection created within the Department of Commerce in Section 13-2-1.

[~~(e)~~](g) "Non-compliant referral" means referring a veteran's or a veteran's dependent's original claim for veteran benefits for assistance to [~~an individual~~]a person who is in violation of the provisions of this chapter.

[~~(f) "Referring entity" means an individual, business, or organization licensed in this state who refers or assists a veteran or a veteran's dependents for assistance with an original claim for veteran benefits.~~]

[~~(g)~~](h) "VA benefits" means any payment, service, commodity, function, or status entitlement [~~which~~]that is determined under laws administered by the VA pertaining to veterans, dependents, and survivors, as well as other potential beneficiaries under United States Code [~~,~~]Title 38.

[~~(h)~~](i) "Veteran" includes all eligible dependents.

(2) Terms defined in Section 71A-1-101 apply to this chapter.

Section 3. Section 71A-4-102 is amended to read:

71A-4-102. Requirements and prohibitions regarding assisting a claimant.

(1) Each [~~individual~~]person offering to assist veterans in applying for VA benefits shall:

(a) be accredited, in compliance with the provisions of C.F.R., Title 38, Pensions, Bonuses, and Veterans' Relief, or, if under the supervision of an accredited attorney, meet the provisions of C.F.R., Title 38, pertaining to authorized claim representation under an attorney; and

(b) disclose in writing, in a format approved by the department that the claimant can retain, the federal laws, regulations, and rules governing assistance for VA benefits.

(2) The disclosure required by Subsection (1)(b) shall specifically include:

(a) the [~~individual's~~]person's:

(i) name;

(ii) business address;

(iii) business phone number; and

(iv) the registration number from the VA;

(b) a statement of the claimant's rights regarding the assistance for VA benefits, including that there is no charge to the claimant or a member of the claimant's family for assistance with the initial benefits application; and

(c) a statement that if, as a result of the [~~individual~~]person providing assistance for a claim, income is accrued to the assisting [~~individual~~]person from the sale of a product or other services to the claimant, the income is both justified and reasonable as compared with income from similar products and services available in the state.

(3) No provisions of the form may be struck out or designated as nonapplicable.

(4) Disclosure forms, when completed, shall be:

(a) signed by both the [~~individual~~]person providing assistance and the claimant; and

(b) retained for three years by the assisting [~~individual~~]person.

(5) Copies of the disclosure form shall be provided to:

(a) the veteran on the day the form is completed and signed; and

(b) the department within five working days.

(6) A person seeking to receive compensation for preparation, presentation or prosecution of, or advising, consulting or assisting an individual with a VA benefits matter that is allowed by federal law, regulation, and rule governing the assistance for VA benefits shall, before rendering any services, document in a written agreement the terms of the compensation signed by both parties that complies with 38 C.F.R. 14.636.

(7) A person may not:

(a) receive compensation for preparation, presentation, or prosecution of, or advising, consulting or assisting an individual with, a VA benefits matter, except as permitted under federal law or regulation governing the assistance for VA benefits;

(b) receive compensation for referring an individual to another person to prepare, present or prosecute, or advise, consult or assist the individual with, a VA benefits matter;

(c) receive, with respect to an individual's VA benefits matter, compensation for services rendered before the date on which a notice of disagreement, decision review, or appeal is filed, whichever comes first;

(d) guarantee, either directly or by implication, that any individual will receive specific VA benefits or that any individual will receive a specific level, percentage, or amount of VA benefits; or

(e) receive excessive or unreasonable fees as compensation for preparation, presentation or prosecution of, or advising, consulting or assisting an individual with, a VA benefits matter as described in 38 C.F.R. 14.636.

(8) The division may:

(a) accept complaints alleging violations of this section; and

(b) bring an enforcement action under Title 13, Chapter 11, Utah Consumer Sales Practices Act, against a person who violates this section.

Section 4. Section 71A-4-103 is amended to read:

71A-4-103. Education requirements.

(1) [~~All individuals and attorneys~~]Every person providing assistance to a veteran shall complete three hours of qualifying education as specified in 38 C.F.R. 14.629(b) during the first 12 month period following the date of the person's initial accreditation.

(2) An additional three hours of qualifying continuing education shall be completed by the person described in Subsection (1) every two years following the initial 12-month period.

Section 5. Section 71A-4-104 is amended to read:

71A-4-104. Department responsibilities -- Notification -- Assistance -- Complaints -- Claimant responsibilities.

(1) The department shall notify in writing each veteran for whom the department has contact information that any [~~individual or business~~]person offering to assist veterans in applying for benefits shall disclose in writing to the veteran the following:

(a) 38 C.F.R. 14.629 and 38 C.F.R. 14.630 require that any [~~individual~~]person providing assistance be accredited by the VA;

(b) federal law restricts charging a veteran a fee for assisting in the initial application for VA benefits; and

(c) the department's website has a list with contact information of VA accredited claim representatives.

(2) Beginning July 1, 2015, and every three years after the department shall:

(a) notify the Insurance Department regarding the federal law governing assistance for VA benefits, and the Insurance Department shall notify all individual producers and consultants licensed by the Insurance Department at the time of initial licensing and upon license renewal of those same federal laws governing assistance for VA benefits;

(b) contact the Utah State Bar regarding federal law governing legal assistance for claimants applying for benefits and request that the association provide continuing legal education on federal laws governing assistance; and

(c) notify the Department of Health and Human Services regarding federal law governing the assistance for claimants applying for benefits, and require the Department of Health and Human Services to notify all assisted living and nursing care facilities of those federal laws.

(3) The executive director may establish procedures for processing complaints related to assistance regarding a claim for VA benefits.

(4) For violations by accredited or non-accredited [~~individuals~~]persons who offer assistance with VA benefits, the executive director may [~~audit~~]evaluate selected assisting [~~individuals and referring entities~~]persons for compliance with this chapter and federal laws which govern the provision of assistance to claimants.

Section 6. Section 71A-4-105 is amended to read:

71A-4-105. Veterans Benefits Application Assistance Act -- Exempt organizations.

Accredited representatives of the following organizations are exempt from the provisions of this chapter:

(1) the department;

[~~(1)~~](2) American Legion;

[~~(2)~~](3) Veterans of Foreign Wars;

[~~(3)~~](4) Disabled American Veterans;

[~~(4)~~](5) Vietnam Veterans of America;

[~~(5)~~](6) American Veterans (AMVET);

[~~(6)~~](7) Military Order of the Purple Heart; and

[~~(7)~~](8) other VA recognized service organizations or individuals as determined by the executive director.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 232
H. B. 259
Passed February 14, 2025
Approved March 25, 2025
Effective May 7, 2025

TAX COMMISSION AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses the executive director and motor vehicle enforcement administrator of the State Tax Commission.

Highlighted Provisions:

This bill:

- ► clarifies that the motor vehicle enforcement administrator of the State Tax Commission reports to the executive director of the State Tax Commission; and
- ► modifies the salary and benefits of the executive director of the State Tax Commission.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-3-104, (Effective 05/07/25) as enacted by Laws of Utah 1992, Chapter 234
67-22-2, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapter 522

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-3-104 is amended to read:

41-3-104 (Effective 05/07/25). Division creation -- Administrator appointed.

(1) There is created within the commission the Motor Vehicle Enforcement Division with the powers and duties provided in this chapter.

(2) The division shall be administered by the motor vehicle enforcement administrator.

(3) The administrator shall be appointed by the [~~commission~~]executive director and is subject to the [~~commission's~~]executive director's supervision and direction.

Section 2. Section 67-22-2 is amended to read:

67-22-2 (Effective 07/01/25). Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

(iv) director, Department of Alcoholic Beverage Services;

(v) commissioner of the Department of Financial Institutions;

(vi) executive director, Department of Commerce;

(vii) executive director, Commission on Criminal and Juvenile Justice;

(viii) adjutant general;

(ix) executive director, Department of Cultural and Community Engagement;

(x) executive director, Department of Corrections;

(xi) commissioner, Department of Public Safety;

(xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of Planning and Budget;

(xiv) executive director, Department of Government Operations;

(xv) executive director, Department of Environmental Quality;

(xvi) executive director, Governor's Office of Economic Opportunity;

(xvii) executive director, Department of Workforce Services;

(xviii) executive director, Department of Health and Human Services, Nonphysician;

(xix) executive director, Department of Transportation;

(xx) executive director, Department of Veterans and Military Affairs;

(xxi) executive director, Public Lands Policy Coordinating Office, created in Section 63L-11-201;

(xxii) Great Salt Lake commissioner, appointed under Section 73-32-201; and

(xxiii) Utah water agent, appointed under Section 73-10g-602.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Division of Human Resource Management.

(2) (a) The director of the Division of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Division of Human Resource Management.

(b) (i) The Division of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in [~~Subsection (1)(b)(ii) or (iii),~~]Subsection (1)(b)(ii), (1)(b)(iii), or (1)(b)(iv), the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii) or Subsection (3)(d), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health and Human Services is a physician, the governor shall establish a salary within the highest physician salary range established by the Division of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(d) If under Section 73-10g-602 the governor appoints an individual who is serving in an appointed executive branch position to be the Utah water agent, the governor shall adjust the salary of the Utah water agent to account for salary received for the appointed executive branch position.

(4) Salaries for other Schedule A employees, as defined in Section 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 63A-17-301.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

[~~(a) for the executive director of the State Tax Commission a vehicle for official and personal use;~~]

[~~(b)~~](a) for the executive director of the Department of Transportation a vehicle for official and personal use;

[~~(c)~~](b) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

[~~(d)~~](c) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

[~~(e)~~](d) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

[~~(f)~~](e) for the adjutant general a vehicle for official and personal use;

[~~(g)~~](f) for each member of the Board of Pardons and Parole a vehicle for commute and official use; and

[~~(h)~~](g) for the executive director of the Department of Veterans and Military Affairs a vehicle for commute and official use.

Section 3. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect May 7, 2025.

(2) The actions affecting Section 67-22-2 (Effective 07/01/25) take effect on July 1, 2025.

CHAPTER 233
H. B. 264
Passed February 24, 2025
Approved March 25, 2025
Effective May 7, 2025

TAX INCENTIVES AMENDMENTS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies and repeals provisions related to income tax incentives.

Highlighted Provisions:

This bill:

- ► limits the eligibility for claiming the corporate or individual income tax credit for clean energy systems to systems that are placed in service before January 1, 2028; and
- ► repeals the individual income tax credit for qualifying solar projects and the corporate and individual income tax credits for alternative energy development.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-614, as last amended by Laws of Utah 2024, Chapter 53
59-10-1014, as last amended by Laws of Utah 2024, Chapter 53
59-10-1106, as last amended by Laws of Utah 2024, Chapter 53

REPEALS:

59-7-614.7, as last amended by Laws of Utah 2023, Chapter 482
59-10-1024, as last amended by Laws of Utah 2021, Chapter 280
59-10-1029, as last amended by Laws of Utah 2023, Chapter 482

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-614 is amended to read:
59-7-614. Clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:
(a) (i) "Active solar system" means a system of equipment that is capable of:
(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and
(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.
(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.
(b) "Biomass system" means a system of apparatus and equipment for use in:
(i) converting material into biomass energy, as defined in Section 59-12-102; and
(ii) transporting the biomass energy by separate apparatus to the point of use or storage.
(c) "Clean energy source" means the same as that term is defined in Section 54-17-601.
(d) "Commercial energy system" means a system that is:
(i) (A) an active solar system;
(B) a biomass system;
(C) a direct use geothermal system;
(D) a geothermal electricity system;
(E) a geothermal heat pump system;
(F) a hydroenergy system;
(G) a passive solar system; or
(H) a wind system;
(ii) located in the state; and
(iii) used:
(A) to supply energy to a commercial unit; or
(B) as a commercial enterprise.

(e) "Commercial enterprise" means an entity, the purpose of which is to produce:

(i) electrical, mechanical, or thermal energy for sale from a commercial energy system; or

(ii) hydrogen for sale from a hydrogen production system.

(f) (i) "Commercial unit" means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection (1)(f)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

(g) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(h) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(i) "Geothermal energy" means energy generated by heat that is contained in the earth.

(j) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(k) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(l) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that uses:

(i) electricity from a clean energy source to create hydrogen gas from water, regardless of whether the clean energy source is at a separate facility or the same facility as the system of apparatus and equipment; or

(ii) uses renewable natural gas to produce hydrogen gas.

(m) "Office" means the Office of Energy Development created in Section 79-6-401.

(n) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and the structure's operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(o) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(p) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(q) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(r) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(s) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for [~~a taxable year~~]an energy system that is completed and placed in service before January 1, 2028.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit; and

(ii) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed $2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(v) for a system installed on or after January 1, 2024, $0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (4); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (4)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (5); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (6); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (6)(b)(ii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7) if:

(i) the taxpayer owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4), (5), or (6) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this Subsection (7); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(8) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system, the commercial energy system, or the hydrogen production system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from clean resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system, the commercial energy system, or the hydrogen production system uses the state's clean and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system, a commercial energy system, or a hydrogen production system meets the requirements of Subsection (8)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the clean energy system was installed.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(10) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(11) A taxpayer may not claim or carry forward a tax credit described in this section in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-7-614.7.

Section 2. Section 59-10-1014 is amended to read:

59-10-1014. Nonrefundable clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(d) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(e) "Geothermal energy" means energy generated by heat that is contained in the earth.

(f) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Office" means the Office of Energy Development created in Section 79-6-401.

(i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(k) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(l) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(m) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(n) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for [~~a taxable year~~]an energy system that is completed and placed in service before January 1, 2028.

(3) For a taxable year beginning on or after January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:

(a) the claimant, estate, or trust:

(i) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(ii) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(b) the residential energy system is installed on or after January 1, 2007; and

(c) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

(4) (a) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses; and

(ii) $2,000.

(b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; or

(ii) (A) for a system installed on or after January 1, 2007, but on or before December 31, 2017, $2,000;

(B) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(C) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(D) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(E) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(F) for a system installed on or after January 1, 2024, $0.

(c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).

(ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).

(d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the taxable year in which the residential energy system is installed.

(e) If the amount of a tax credit listed on the written certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(f) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed $2,000 per residential unit.

(g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim as a tax credit under Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim a tax credit under Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(h) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from clean resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system meets the requirements of Subsection (5)(b)(ii); and

(ii) for purposes of determining the amount of a tax credit that a claimant, estate, or trust may receive under Subsection (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the clean energy system was installed.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Section 3. Section 59-10-1106 is amended to read:

59-10-1106. Refundable clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system" means the same as that term is defined in Section 59-10-1014.

(b) "Biomass system" means the same as that term is defined in Section 59-10-1014.

(c) "Commercial energy system" means the same as that term is defined in Section 59-7-614.

(d) "Commercial enterprise" means the same as that term is defined in Section 59-7-614.

(e) "Commercial unit" means the same as that term is defined in Section 59-7-614.

(f) "Direct use geothermal system" means the same as that term is defined in Section 59-10-1014.

(g) "Geothermal electricity" means the same as that term is defined in Section 59-10-1014.

(h) "Geothermal energy" means the same as that term is defined in Section 59-10-1014.

(i) "Geothermal heat pump system" means the same as that term is defined in Section 59-10-1014.

(j) "Hydroenergy system" means the same as that term is defined in Section 59-10-1014.

(k) "Hydrogen production system" means the same as that term is defined in Section 59-7-614.

(l) "Office" means the Office of Energy Development created in Section 79-6-401.

(m) "Passive solar system" means the same as that term is defined in Section 59-10-1014.

(n) "Principal recovery portion" means the same as that term is defined in Section 59-10-1014.

(o) "Wind system" means the same as that term is defined in Section 59-10-1014.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for [~~a taxable year~~]an energy system that is completed and placed in service before January 1, 2028.

(3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (3); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (4); and

(iv) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsection (4)(b)(ii), a tax credit under this Subsection (4) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:

(i) the claimant, estate, or trust owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (5); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the claimant, estate, or trust owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (6) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(7) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the commercial energy system or the hydrogen production system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from clean resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system or the hydrogen production system uses the state's clean and nonrenewable resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a commercial energy system or a hydrogen production system meets the requirements of Subsection (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a commercial energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the commercial energy system or the hydrogen production system was installed.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(10) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(11) A claimant, estate, or trust may not claim or carry forward a tax credit described in this section in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 59-10-1029.

Section 4. Repealer.

This bill repeals:

Section 59-7-614.7, Nonrefundable alternative energy development tax credit.

Section 59-10-1024, Nonrefundable tax credit for qualifying solar projects.

Section 59-10-1029, Nonrefundable alternative energy development tax credit.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

Section 6. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2025.

CHAPTER 234
H. B. 272
Passed March 4, 2025
Approved March 25, 2025
Effective July 1, 2025

VEHICLE ASSESSMENT AMENDMENTS

Chief Sponsor: Clinton D. Okerlund
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses vehicle weights relating to vehicle registration and uniform fees in lieu of property tax.

Highlighted Provisions:

This bill:

- ► modifies the weight at which a motor vehicle qualifies for a statewide uniform fee in lieu of the property tax;
- ► modifies weight limits for vehicle registrations; and
- ► defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-20-2, as last amended by Laws of Utah 2013, Chapter 124
41-1a-215.5, as last amended by Laws of Utah 2012, Chapter 397
41-1a-229, as last amended by Laws of Utah 2015, Chapter 412
41-1a-301, as last amended by Laws of Utah 2024, Chapter 251
41-1a-1206, as last amended by Laws of Utah 2024, Chapter 483
41-1a-1207, as last amended by Laws of Utah 1992, Chapter 54 and renumbered and amended by Laws of Utah 1992, Chapter 1
41-1a-1219, as enacted by Laws of Utah 1996, Chapter 170
41-3-407, as last amended by Laws of Utah 1998, Chapters 222, 339
41-6a-1642, as last amended by Laws of Utah 2024, Chapters 459, 483
41-6a-1644, as last amended by Laws of Utah 2012, Chapter 360
59-2-102, as last amended by Laws of Utah 2024, Chapter 53
59-2-103, as last amended by Laws of Utah 2024, Chapter 253
59-2-103.5, as last amended by Laws of Utah 2024, Chapter 253
59-2-405, as last amended by Laws of Utah 2008, Chapter 210
59-2-405.1, as last amended by Laws of Utah 2012, Chapter 397
59-2-801, as last amended by Laws of Utah 2024, Chapter 269
59-2-804, as last amended by Laws of Utah 2020, Chapter 38
59-7-302, as last amended by Laws of Utah 2022, Chapter 228

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-20-2 is amended to read:

13-20-2. Definitions.

As used in this chapter:

(1) "Consumer" means an individual who enters into an agreement or contract for the transfer, lease, purchase of a new motor vehicle other than for purposes of resale, or sublease during the duration of the period defined under Section 13-20-5.

(2) "Manufacturer" means manufacturer, importer, distributor, or anyone who is named as the warrantor on an express written warranty on a motor vehicle.

(3) "Motor home" means a self-propelled vehicular unit, primarily designed as a temporary dwelling for travel, recreational, and vacation use.

(4) (a) "Motor vehicle" includes:

(i) a motor home, as defined in this section, but only the self-propelled vehicle and chassis sold in this state;

(ii) a motor vehicle, as defined in Section 41-1a-102, sold in this state; and

(iii) a motorcycle, as defined in Section 41-1a-102, sold in this state if the motorcycle is designed primarily for use and operation on paved highways.

(b) "Motor vehicle" does not include:

(i) those portions of a motor home designated, used, or maintained primarily as a mobile dwelling, office, or commercial space;

(ii) a road tractor or truck tractor as defined in Section 41-1a-102;

(iii) a mobile home as defined in Section 41-1a-102;

(iv) any motor vehicle with a gross laden weight of over [~~12,000~~]14,000 pounds, except:

(A) a motor home as defined under Subsection (3); and

(B) a farm tractor as defined in Section 41-1a-102;

(v) a motorcycle, as defined in Section 41-1a-102, if the motorcycle is designed primarily for use or operation over unimproved terrain;

(vi) an electric assisted bicycle as defined in Section 41-6a-102;

(vii) a moped as defined in Section 41-6a-102;

(viii) a motor assisted scooter as defined in Section 41-6a-102; or

(ix) a motor-driven cycle as defined in Section 41-6a-102.

(5) "Recreational vehicle trailer" means a travel trailer, camping trailer, or fifth wheel trailer.

Section 2. Section 41-1a-215.5 is amended to read:

41-1a-215.5. Six-month registration.

(1) (a) Subject to the requirements of this section, a person may register a motorcycle or motor vehicle of [~~12,000~~]14,000 pounds or less gross laden weight for a six-month period that begins on the first day of the calendar month of registration and expires on the last day of the sixth month of registration.

(b) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the vehicle is extended to midnight of the next business day.

(2) A registration under this section is subject to this chapter.

(3) The option to register a motorcycle or motor vehicle under this section shall be available to a person when the division:

(a) has implemented the division's GenTax system; and

(b) at least 30 days before implementing the division's GenTax system as described in Subsection (3)(a), has provided notice in a conspicuous place on the division's website stating:

(i) the date the commission will implement the GenTax system; and

(ii) that, at the time the commission implements the GenTax system, the option to register a motorcycle or motor vehicle for a six-month registration period will be available.

Section 3. Section 41-1a-229 is amended to read:

41-1a-229. Display of gross laden weight.

(1) Each vehicle registered by gross laden weight and exceeding [~~12,000~~]14,000 pounds of gross laden weight shall have the gross laden weight for which it is registered painted, stenciled, or shown by decal upon both the left and right sides of the vehicle, in a conspicuous place, in letters of a reasonable size as determined by the commission.

(2) If vehicles are registered in combination, the gross laden weight for which the combination of vehicles is registered shall be displayed upon the power unit.

(3) An owner or operator of a vehicle or combination of vehicles may not display a gross laden weight other than that shown on the certificate of registration of the vehicle.

(4) A park model recreational vehicle is exempt from this section.

(5) A violation of this section is an infraction.

Section 4. Section 41-1a-301 is amended to read:

41-1a-301. Apportioned registration and licensing of interstate vehicles.

(1) For purposes of this section, "registrant" means an owner or operator of one or more commercial vehicles operating in two or more jurisdictions applying for apportioned registration and licensing of a commercial vehicle.

(2) (a) An owner or operator of a fleet of commercial vehicles based in this state and operating in two or more jurisdictions may register commercial vehicles for operation under the International Registration Plan or the Uniform Vehicle Registration Proration and Reciprocity Agreement by filing an application with the division.

(b) The application shall include information that identifies the vehicle owner, the vehicle, the miles traveled in each jurisdiction, and other information pertinent to the registration of apportioned vehicles.

(c) The division may not grant apportioned registration for vehicles operated exclusively in this state.

(3) (a) If no operations were conducted during the preceding year, in computing fees due:

(i) the application shall contain a statement of the proposed operations; and

(ii) the division shall determine fees based on average per vehicle distance requirements under the International Registration Plan.

(b) At renewal, the registrant shall use the actual mileage from the preceding year in computing fees due each jurisdiction.

(4) The division shall determine the registration fee for apportioned vehicles as follows:

(a) divide the in-jurisdiction miles by the total miles generated during the preceding year;

(b) total the fees for each vehicle based on the fees prescribed in Section 41-1a-1206; and

(c) multiply the sum obtained under Subsection (4)(b) by the quotient obtained under Subsection (4)(a).

(5) The registrant may list trailers or semitrailers of apportioned fleets separately as "trailer fleets" on the application, with the fees paid according to the total distance those trailers were towed in all jurisdictions during the preceding year mileage reporting period.

(6) (a) (i) When the registrant has paid the proper fees and cleared the property tax or in lieu fee under Section 41-1a-206 or 41-1a-207, the division shall issue a registration card and license plate for each unit listed on the application.

(ii) The owner or operator shall carry an original registration in each vehicle at all times.

(b) The owner or operator may carry original registration cards for trailers or semitrailers in the power unit.

(c) (i) In lieu of a permanent registration card or license plate, the division may issue one temporary permit authorizing operation of

new or unlicensed vehicles until the permanent registration is completed.

(ii) Once a temporary permit is issued:

(A) neither the registrant nor the division may cancel the registration process; and

(B) the division shall complete registration and the registrant shall pay the fees and any property tax or in lieu fee due for the vehicle for which the permit was issued.

(iii) The division may not issue temporary permits for renewals.

(d) (i) The division shall issue one distinctive license plate for apportioned vehicles.

(ii) The owner or operator shall display the plate on the front of an apportioned truck tractor or power unit or on the rear of any other apportioned vehicle.

(iii) (A) The division shall issue distinctive decals or a distinctive license plate displaying the word "apportioned" or the abbreviation "APP" for each apportioned vehicle.

(B) A registrant of an apportioned vehicle is not required to display a registration decal.

(iv) At the request of a registrant of an apportioned vehicle, the division may issue a second license plate, for a total of two, to display on both the front and rear of the apportioned vehicle.

(e) The division shall charge a nonrefundable administrative fee, determined by the commission pursuant to Section 63J-1-504, for each temporary permit, registration, or both.

(7) Vehicles that are apportionally registered are fully registered for intrastate and interstate movements, providing the registrant has secured proper interstate and intrastate authority.

(8) (a) The division shall register vehicles added to an apportioned fleet after the beginning of the registration year by applying the quotient under Subsection (4)(a) for the original application to the fees due for the remainder of the registration year.

(b) (i) The owner shall maintain and submit complete annual mileage for each vehicle in each jurisdiction, showing all miles operated by the lessor and lessee.

(ii) The fiscal mileage reporting period begins July 1, and continues through June 30 of the year immediately preceding the calendar year in which the registration year begins.

(c) (i) An owner-operator, who is a lessor, may register the vehicle in the name of the owner-operator.

(ii) The identification plates and registration card shall be the property of the lessor and may reflect both the owner-operator's name and that of the carrier as lessee.

(iii) The division shall allocate the fees according to the operational records of the owner-operator.

(d) (i) At the option of the lessor, the lessee may register a leased vehicle.

(ii) If a lessee is the registrant of a leased vehicle, both the lessor's and lessee's name shall appear on the registration.

(iii) The division shall allocate the fees according to the records of the carrier.

(9) (a) When the division has accepted an application for apportioned registration, the registrant shall preserve the records on which the application is based for a period of three years after the close of the registration year.

(b) Upon request for audit as to accuracy of computations, payments, and assessments for deficiencies, or allowances for credits, the registrant shall provide the records to the division.

(c) The division may not make an assessment for deficiency or claim for credit for any period for which records are no longer required.

(d) The division may assess interest in the amount prescribed by Section 59-1-402 from the date due until paid on deficiencies found due after audit.

(e) Registrants with deficiencies are subject to the penalties under Section 59-1-401.

(f) The division may enter into agreements with other International Registration Plan jurisdictions for joint audits.

(10) (a) Except as provided in Subsection (10)(b), the division shall deposit all state fees collected under this section in the Transportation Fund.

(b) The commission may use the following fees as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303:

(i) $5 of each temporary registration permit fee paid under Subsection (13)(a)(i) for a single unit; and

(ii) $10 of each temporary registration permit fee paid under Subsection (13)(a)(ii) for multiple units.

(11) If registration is for less than a full year, the division shall assess fees for apportioned registration according to Section 41-1a-1207.

(a) (i) If the registrant is replacing a vehicle for one withdrawn from the fleet and the new vehicle is of the same weight category as the replaced vehicle, the registrant shall file a supplemental application.

(ii) If the registrant is replacing a vehicle for one withdrawn from the fleet and the new vehicle is heavier than the replaced vehicle, the division shall assess additional registration fees.

(iii) If the registrant is replacing a vehicle for one withdrawn from the fleet, the division shall issue a new registration card.

(b) If a vehicle is withdrawn from an apportioned fleet during the period for which it is registered, the registrant shall notify the division and surrender the registration card and license plate of the withdrawn vehicle.

(12) (a) An out-of-state carrier with an apportionally registered vehicle who has not presented a certificate of property tax or in lieu fee as required by Section 41-1a-206or 41-1a-207, shall pay, at the time of registration, a proportional part of an equalized highway use tax computed as follows:

(i) Multiply the number of vehicles or combination vehicles registered in each weight class by the equivalent tax figure from the following tables:

Vehicle or Combination Registered Weight	Age of Vehicle	Equivalent Tax
[~~12,000~~]14,000 pounds or less	12 or more years	$10
[~~12,000~~]14,000 pounds or less	9 or more years but less than 12 years	$50

[~~12,000~~]14,000 pounds or less	6 or more years but less than 9 years	$80
[~~12,000~~]14,000 pounds or less	3 or more years but less than 6 years	$110
[~~12,000~~]14,000 pounds or less	Less than 3 years	$150

Vehicle or Combination Registered Weight	Equivalent Tax
[~~12,001~~]14,001 - 18,000 pounds	$150
18,001 - 34,000 pounds	200
34,001 - 48,000 pounds	300
48,001 - 64,000 pounds	450
64,001 pounds and over	600

(ii) Multiply the equivalent tax value for the total fleet determined under Subsection (12)(a)(i) by the fraction computed under Subsection (4) for the apportioned fleet for the registration year.

(b) For registration described in Subsection (12)(a), the division shall assess fees as provided in Section 41-1a-1207.

(13) (a) Commercial vehicles meeting the registration requirements of another jurisdiction may, as an alternative to full or apportioned registration, secure a temporary registration permit for a period not to exceed 96 hours or until they leave the state, whichever is less, for a fee of:

(i) $25 for a single unit; and

(ii) $50 for multiple units.

(b) A state temporary permit or registration fee is not required from nonresident owners or operators of vehicles or combination of vehicles having a gross laden weight of 26,000 pounds or less for each single unit or combination.

(14) The division may not register a park model recreational vehicle under this section.

(15) A violation of this section is an infraction.

Section 5. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) $46.00 for each motorcycle;

(b) $44 for each motor vehicle of [~~12,000~~]14,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) $31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) $28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) $53 for each farm truck over [~~12,000~~]14,000 pounds, but not exceeding [~~14,000~~]16,000 pounds gross laden weight; plus

(ii) $9 for each 2,000 pounds over [~~14,000~~]16,000 pounds gross laden weight;

(e) (i) $69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over [~~12,000~~]14,000 pounds, but not exceeding [~~14,000~~]16,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over [~~14,000~~]16,000 pounds gross laden weight;

(f) (i) $69.50 for each park model recreational vehicle over [~~12,000~~]14,000 pounds, but not exceeding [~~14,000~~]16,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over [~~14,000~~]16,000 pounds gross laden weight;

(g) $45 for each vintage vehicle that has a model year of 1983 or newer;

(h) in addition to the fee described in Subsection (1)(b):

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) Each motor vehicle not described in this Subsection (1)(h) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $21.75 for each hybrid electric motor vehicle; and

(iii) $56.50 for each plug-in hybrid electric motor vehicle;

(i) in addition to the fee described in Subsection (1)(g), for a vintage vehicle that has a model year of 1983 or newer, 50 cents; and

(j) $28.50 for each roadable aircraft.

(2) (a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(i) $34.50 for each motorcycle; and

(ii) $33.50 for each motor vehicle of [~~12,000~~]14,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) each motor vehicle not described in this Subsection (2)(b) that is fueled exclusively by a source other than motor fuel, diesel fuel,

natural gas, or propane;

(ii) $16.50 for each hybrid electric motor vehicle; and

(iii) $43.50 for each plug-in hybrid electric motor vehicle.

(3) (a) Beginning on January 1, 2024, at the time of registration:

(i) in addition to the amounts described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (1)(h), (4)(a), and (7), the individual shall also pay an additional $7 as part of the registration fee; and

(ii) in addition to the amounts described in Subsection (2)(a), the individual shall also pay an additional $5 as part of the registration fee.

(b) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (1)(j), (2)(a), (3)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2024, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(ii) and (iii) and (2)(b)(ii) and (iii) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(c) The amounts calculated as described in Subsection (3)(b) shall be rounded up to the nearest 25 cents.

(4) (a) The initial registration fee for a vintage vehicle that has a model year of 1982 or older is $40.

(b) A vintage vehicle that has a model year of 1982 or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued on or before December 31, 2023, or issued in accordance with Part 16, Sponsored Special Group License Plates, is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds [~~12,000~~]14,000 pounds.

(6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of $130.

(8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than [~~12,000~~]14,000 pounds; or

(ii) the truck has a gross vehicle weight rating of [~~12,000~~]14,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(9) A violation of Subsection (8) is an infraction that shall be punished by a fine of not less than $200.

(10) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 6. Section 41-1a-1207 is amended to read:

41-1a-1207. Reduced fees for portion of year.

If a motor vehicle exceeding [~~12,000~~]14,000 pounds gross laden weight is registered for less than a 12-month registration period, the registration fees are:

(1) for not more than three months, 30% of the regular registration fee;

(2) for in excess of three months but not more than six months, 60% of the regular registration fee;

(3) for in excess of six months and not more than nine months, 90% of the regular registration fee; and

(4) for anything in excess of nine months but not more than 12 months, the entire registration fee.

Section 7. Section 41-1a-1219 is amended to read:

41-1a-1219. Motor carrier fee.

(1) At the time application is made for registration or renewal of registration of a motor vehicle or combination of motor vehicles over [~~12,000~~]14,000 pounds gross laden weight, the applicant shall pay a motor carrier fee of $6 for each motor vehicle or combination of motor vehicles.

(2) This fee is in addition to the registration fees under Subsections 41-1a-1206(1)(d) and (e).

Section 8. Section 41-3-407 is amended to read:

41-3-407. Definitions.

As used in Sections 41-3-406 through 41-3-414:

(1) "Buyback vehicle" means a motor vehicle with an alleged nonconformity that has been replaced or repurchased by a manufacturer as the result of a court judgment, arbitration, or any voluntary agreement entered into between the manufacturer or its agent and a consumer.

(2) "Consumer" means an individual who has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle other than for the purposes of resale, or sublease, during the duration of the period defined under Section 13-20-5.

(3) "Manufacturer" means any manufacturer, importer, distributor, or anyone who is named as the warrantor on an express written warranty on a motor vehicle.

(4) (a) "Motor vehicle" includes:

(i) a motor home, as defined in Section 13-20-2, but only the self-propelled vehicle and chassis; and

(ii) a motor vehicle, as defined in Section 41-1a-102.

(b) "Motor vehicle" does not include:

(i) those portions of a motor home designated, used, or maintained primarily as a mobile dwelling, office, or commercial space;

(ii) farm tractor, motorcycle, road tractor, or truck tractor as defined in Section 41-1a-102;

(iii) mobile home as defined in Section 41-1a-102; or

(iv) any motor vehicle with a gross laden weight of over [~~12,000~~]14,000 pounds, except a motor home as defined under Subsection (4)(a)(i).

(5) "Nonconforming vehicle" means a buyback vehicle that has been investigated and evaluated pursuant to Title 13, Chapter 20, New Motor Vehicle Warranties Act, or a similar law of another state or federal government.

(6) (a) "Nonconformity" means a defect, malfunction, or condition that fails to conform to the express warranty, or substantially impairs the use, safety, or value of a motor vehicle.

(b) "Nonconformity" does not include a defect, malfunction, or condition that results from an accident, abuse, neglect, modification, or alteration of a motor vehicle by a person other than the manufacturer, its authorized agent, or a dealer.

(7) "Seller" means any person selling, auctioning, leasing, or exchanging a motor vehicle.

(8) "Violation" means each failure to comply with the obligations imposed by Sections 41-3-406 through 41-3-413. In the case of multiple failures to comply resulting from a single transaction, each failure to comply is a separate violation.

Section 9. Section 41-6a-1642 is amended to read:

41-6a-1642. Emissions inspection -- County program.

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) (a) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(i) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(A) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(B) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(C) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(D) Volkswagen Golf Sportwagen, model year 2015;

(E) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(F) Volkswagen Beetle, model years 2013, 2014, and 2015;

(G) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(H) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(ii) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(A) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(B) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(C) Audi A6 Quattro, model years 2014, 2015, and 2016;

(D) Audi A7 Quattro, model years 2014, 2015, and 2016;

(E) Audi A8, model years 2014, 2015, and 2016;

(F) Audi A8L, model years 2014, 2015, and 2016;

(G) Audi Q5, model years 2014, 2015, and 2016; and

(H) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(b) (i) An owner of a restored-modified vehicle subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1).

(ii) A county emissions program may not refuse to perform an emissions inspection or indicate a failed emissions test of the vehicle based solely on a modification to the engine or component of the motor vehicle if:

(A) the modification is not likely to result in the motor vehicle having increased emissions relative to the emissions of the motor vehicle before the modification; and

(B) the motor vehicle modification is a change to an engine that is newer than the engine with which the motor vehicle was originally equipped, or the engine includes technology that increases the facility of the administration of an emissions test, such as an on-board diagnostics system.

(iii) The first time an owner seeks to obtain an emissions inspection as a prerequisite to registration of a restored-modified vehicle:

(A) the owner shall present the signed statement described in Subsection 41-1a-226(4); and

(B) the county emissions program shall perform the emissions test.

(iv) If a motor vehicle is registered as a restored-modified vehicle and the registration certificate is notated as described in Subsection 41-1a-226(4), a county emissions program may not refuse to perform an emissions test based solely on the restored-modified status of the motor vehicle.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of [~~12,001~~]14,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1:

(i) if the vintage vehicle has a model year of 1982 or older; or

(ii) for a vintage vehicle that has a model year of 1983 or newer, if the owner provides proof of vehicle insurance that is a type specific to a vehicle collector;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) a vehicle registered as a novel vehicle under Section 41-27-201;

(f) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(g) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of [~~12,000~~]14,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(h) a motorcycle as defined in Section 41-1a-102;

(i) an electric motor vehicle as defined in Section 41-1a-102;

(j) a motor vehicle with a model year of 1967 or older; and

(k) a roadable aircraft as defined in Section 72-10-102.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(g) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than [~~14,000~~]16,000 pounds; or

(b) model year of 1997 or older.

(7) The legislative body of a county required under federal law to utilize a motor vehicle emissions inspection program shall require:

(a) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(i) a model year of 2007 or newer;

(ii) a gross vehicle weight rating of [~~14,000~~]16,000 pounds or less; and

(iii) a model year that is five years old or older; and

(b) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(i) with a gross vehicle weight rating of [~~14,000~~]16,000 pounds or less;

(ii) that has a model year of 1998 or newer; and

(iii) that has a model year that is five years old or older.

(8) (a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in regulations or ordinances made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection (9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by $2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a $7.50 increase.

(13) (a) Except as provided in Subsection 41-1a-1223(1)(c), a county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

(14) (a) If a county has reason to believe that a vehicle owner has provided an address as required in Section 41-1a-209 to register or attempt to register a motor vehicle in a county other than the county of the bona fide residence of the owner in order to avoid an emissions

inspection required under this section, the county may investigate and gather evidence to determine whether the vehicle owner has used a false address or an address other than the vehicle owner's bona fide residence or place of business.

(b) If a county conducts an investigation as described in Subsection (14)(a) and determines that the vehicle owner has used a false or improper address in an effort to avoid an emissions inspection as required in this section, the county may impose a civil penalty of $1,000.

(15) A county legislative body described in Subsection (1) may exempt a motor vehicle from an emissions inspection if:

(a) the motor vehicle is 30 years old or older;

(b) the county determines that the motor vehicle was driven less than 1,500 miles during the preceding 12-month period; and

(c) the owner provides to the county legislative body a statement signed by the owner that states the motor vehicle:

(i) is primarily a collector's item used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours; or

(D) parades; or

(ii) is only used for occasional transportation.

Section 10. Section 41-6a-1644 is amended to read:

41-6a-1644. Diesel emissions program -- Implementation -- Monitoring -- Exemptions.

(1) The legislative body of each county required by the comprehensive plan for air pollution control developed by the director of the Division of Air Quality in accordance with Subsection 19-2-107(2)(a)(i) to use an emissions opacity inspection and maintenance program for diesel-powered motor vehicles shall:

(a) make regulations or ordinances to implement and enforce the requirement established by the Air Quality Board;

(b) collect information about and monitor the program; and

(c) by August 1 of each year, supply written information to the Department of Environmental Quality to identify program status.

(2) The following vehicles are exempt from an emissions opacity inspection and maintenance program for diesel-powered motor vehicles established by a legislative body of a county under Subsection (1):

(a) an implement of husbandry; and

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of [~~12,001~~]14,001 pounds or more.

(3) (a) The legislative body of a county identified in Subsection (1) shall exempt a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight of [~~12,000~~]14,000 pounds or less from the emissions opacity inspection and maintenance program requirements of this section, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, and floricultural and horticultural products; and

(B) for the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance.

(b) The county shall provide to the registered owner who signs and submits a signed statement under this section a certificate of exemption from emissions opacity inspection and maintenance program requirements for purposes of registering the exempt vehicle.

Section 11. Section 59-2-102 is amended to read:

59-2-102. Definitions.

As used in this chapter:

(1) (a) "Acquisition cost" means any cost required to put an item of tangible personal property into service.

(b) "Acquisition cost" includes:

(i) the purchase price of a new or used item;

(ii) the cost of freight, shipping, loading at origin, unloading at destination, crating, skidding, or any other applicable cost of shipping;

(iii) the cost of installation, engineering, rigging, erection, or assembly, including foundations, pilings, utility connections, or similar costs; and

(iv) sales and use taxes.

(2) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(3) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(4) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(5) "Aircraft" means the same as that term is defined in Section 72-10-102.

(6) (a) Except as provided in Subsection (6)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(7) "Assessment roll" or "assessment book" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(8) "Base parcel" means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(9) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (9), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (9), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(10) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) $5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13) (a) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

(b) For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection [~~(19)(a) or (b);~~](20)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, the special district's board of trustees;

(c) for a school district, the local board of education;

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301; or

(e) for a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, the public infrastructure district's board of trustees.

(18) "Gross vehicle weight rating" means the maximum gross vehicle weight rating as reported by the manufacturer of the motor vehicle for the vehicle identification number.

[~~(18)~~](19) (a) Except as provided in Subsection [~~(18)(c)~~](19)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection [~~(18)(a)~~](19)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection [~~(18)(a)~~](19)(a); and

(B) installed solely to serve the operation of the item described in Subsection [~~(18)(a)~~](19)(a); and

(ii) an item described in Subsection [~~(18)(a)~~](19)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

[~~(19)~~](20) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a clean or renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

[~~(20)~~](21) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

[~~(21)~~](22) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

[~~(22)~~](23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

[~~(23)~~](24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

[~~(24)~~](25) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

[~~(25)~~](26) (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:

(i) is capable of flight or is attached to an aircraft that is capable of flight; or

(ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(A) during multiple flights;

(B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

[~~(26)~~](27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

[~~(27)~~](28) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

[~~(28)~~](29) "Personal property" includes:

(a) every class of property as defined in Subsection [~~(29)~~](30) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

[~~(29)~~](30) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

[~~(30)~~](31) (a) "Public utility" means:

(i) the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company,

electrical corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(ii) the operating property of any entity or person defined under Section 54-2-1except water corporations.

(b) "Public utility" does not include the operating property of a telecommunications service provider.

[~~(31)~~](32) (a) Subject to Subsection [~~(31)(b)~~](32)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection [~~(31)~~](32) and Subsection [~~(34)~~](35).

[~~(32)~~](33) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

[~~(33)~~](34) (a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

[~~(34)~~](35) (a) "Residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) "Residential property" includes:

(i) except as provided in Subsection [~~(34)(b)(ii)~~](35)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) if the county assessor determines that the property will be used for residential purposes as a primary residence:

(A) property under construction; or

(B) unoccupied property.

(c) "Residential property" does not include property used for transient residential use.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection [~~(31)~~](32) and this Subsection [~~(34)~~](35).

[~~(35)~~](36) "Split estate mineral rights owner" means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

[~~(36)~~](37) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection (10)(c) as county-assessed commercial vehicles.

[~~(37)~~](38) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.

[~~(38)~~](39) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

[~~(39)~~](40) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

[~~(40)~~](41) "Taxing entity" means any county, city, town, school district, special taxing district, special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or other political subdivision of the state with the authority to levy a tax on property.

[~~(41)~~](42) (a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) "Tax roll" includes tax books, tax lists, and other similar materials.

[~~(42)~~](43) "Telecommunications service provider" means the same as that term is defined in Section 59-12-102.

Section 12. Section 59-2-103 is amended to read:

59-2-103. Rate of assessment of property -- Residential property.

(1) As used in this section:

(a) (i) "Household" means the association of individuals who live in the same dwelling, sharing the dwelling's furnishings, facilities, accommodations, and expenses.

(ii) "Household" includes married individuals, who are not legally separated, who have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(2) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

(3) Subject to Subsections (4) through (6) and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.

(4) Part-year residential property located within the state is allowed the residential exemption described in Subsection (3) if the part-year residential property is used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption.

(5) No more than one acre of land per residential unit may qualify for the residential exemption described in Subsection (3).

(6) (a) Except as provided in Subsections (6)(b)(ii) and (iii), a residential exemption described in Subsection (3) is limited to one primary residence per household.

(b) An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection (3) for:

(i) subject to Subsection (6)(a), the primary residence of the owner;

(ii) each residential property that is the primary residence of a tenant; and

(iii) subject to Subsection 59-2-103.5(4), each residential property described in Subsection [~~59-2-102(34)(b)(ii)~~]59-2-102(35)(b)(ii).

Section 13. Section 59-2-103.5 is amended to read:

59-2-103.5. Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption.

(1) Subject to Subsections (4), (5), and (10), for residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before the county applies a residential exemption authorized under Section 59-2-103 to the value of the residential property if:

(a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential exemption applied to the value of the residential property;

(b) an ownership interest in the residential property changes; or

(c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.

(2) (a) The application described in Subsection (1):

(i) shall be on a form the commission provides by rule and makes available to the counties;

(ii) shall be signed by the owner of the residential property; and

(iii) may not request the sales price of the residential property.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing the contents of the form described in Subsection (2)(a).

(c) For purposes of the application described in Subsection (1), a county may not request information from an owner of a residential property beyond the information in the form provided by the commission under this Subsection (2).

(3) (a) Regardless of whether a county legislative body adopts an ordinance described in Subsection (1), before a county may apply a residential exemption to the value of part-year residential property, an owner of the property shall:

(i) file the application described in Subsection (2)(a) with the county board of equalization; and

(ii) include as part of the application described in Subsection (2)(a) a statement that certifies:

(A) the date the part-year residential property became residential property;

(B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and

(C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.

(b) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee not to exceed $50.

(4) Before a county allows residential property described in Subsection [~~59-2-102(34)(b)(ii)~~]59-2-102(35)(b)(ii) a residential exemption authorized under Section 59-2-103, an owner of the residential property shall file with the county assessor a written declaration that:

(a) states under penalty of perjury that, to the best of each owner's knowledge, upon completion of construction or occupancy of the residential property, the residential property will be used for residential purposes as a primary residence;

(b) is signed by each owner of the residential property; and

(c) is on a form approved by the commission.

(5) (a) Before a county allows residential property described in Subsection 59-2-103(6)(b) a residential exemption authorized under Section 59-2-103, an owner of the residential property shall file with the county assessor a written declaration that:

(i) states under penalty of perjury that, to the best of each owner's knowledge, the residential property will be used for residential purposes as a primary residence of a tenant;

(ii) is signed by each owner of the residential property; and

(iii) is on a form approved by the commission.

(b) (i) (A) In addition to the declaration, a county assessor may request from an owner a current lease agreement signed by the tenant.

(B) If the lease agreement is insufficient for a county assessor to make a determination about eligibility for a residential exemption, a

county assessor may request a copy of the real estate insurance policy for the property.

(C) If the real estate insurance policy is insufficient for a county assessor to make a determination about eligibility for a residential exemption, a county assessor may request a copy of a filing from the most recent federal tax return showing that the owner had profit or loss from the residential property as a rental.

(ii) A county assessor may not request information from an owner's tenant.

(6) Except as provided in Subsection (7), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, the property owner shall:

(a) file a written statement with the county board of equalization of the county in which the property is located:

(i) on a form provided by the county board of equalization; and

(ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and

(b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence.

(7) A property owner is not required to file a written statement or make the declaration described in Subsection (6) if the property owner:

(a) changes primary residences;

(b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and

(c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.

(8) Subsections (2) through (7) do not apply to qualifying exempt primary residential rental personal property.

(9) (a) Subject to Subsection (10), for the first calendar year in which a property owner qualifies to receive a residential exemption under Section 59-2-103, a county assessor may require the property owner to file a signed statement described in Section 59-2-306.

(b) Subject to Subsection (10) and notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection (9)(a) in which a property owner qualifies for an exemption authorized under Section 59-2-1115 for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the property owner to certify, under penalty of perjury, that the property owner qualifies for the exemption authorized under Section 59-2-1115.

(10) (a) After an ownership interest in residential property changes, the county assessor shall:

(i) notify the owner of the residential property that the owner is required to submit a written declaration described in Subsection (10)(d) within 90 days after the day on which the county assessor mails the notice under this Subsection (10)(a); and

(ii) provide the owner of the residential property with the form described in Subsection (10)(e) to make the written declaration described in Subsection (10)(d).

(b) A county assessor is not required to provide a notice to an owner of residential property under Subsection (10)(a) if the situs address of the residential property is the same as any one of the following:

(i) the mailing address of the residential property owner or the tenant of the residential property;

(ii) the address listed on the:

(A) residential property owner's driver license; or

(B) tenant of the residential property's driver license; or

(iii) the address listed on the:

(A) residential property owner's voter registration; or

(B) tenant of the residential property's voter registration.

(c) A county assessor is not required to provide a notice to an owner of residential property under Subsection (10)(a) if:

(i) the owner is using a post office box or rural route box located in the county where the residential property is located; and

(ii) the residential property is located in a county of the fourth, fifth, or sixth class.

(d) An owner of residential property that receives a notice described in Subsection (10)(a) shall submit a written declaration to the county assessor under penalty of perjury certifying the information contained in the form described in Subsection (10)(e).

(e) The written declaration required by Subsection (10)(d) shall be:

(i) signed by the owner of the residential property; and

(ii) in substantially the following form:

"Residential Property Declaration

This form must be submitted to the County Assessor's office where your new residential property is located within 90 days of receipt. Failure to do so will result in the county assessor taking action that could result in the withdrawal of the primary residential exemption from your residential property.

Residential Property Owner Information

Name(s):_____

Home Phone:_____

Work Phone:_____

Mailing Address:_____

Residential Property Information

Physical Address:_____

Certification

1. Is this property used as a primary residential property or part-year residential property for you or another person?

"Part-year residential property" means owned property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

Yes No

2. Will this primary residential property or part-year residential property be occupied for 183 or more consecutive calendar days by the owner or another person?

A part-year residential property occupied for 183 or more consecutive calendar days in a calendar year by the owner(s) or a tenant is eligible for the exemption.

Yes No

If a property owner or a property owner's spouse claims a residential exemption under Utah Code Ann. &59-2-103 for property in this state that is the primary residence of the property owner or the property owner's spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner's spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner's spouse.

Signature

Under penalties of perjury, I declare to the best of my knowledge and belief, this declaration and accompanying pages are true, correct, and complete.

_____(Owner signature) _____Date (mm/dd/yyyy)

_____(Owner printed name)

(f) For purposes of a written declaration described in this Subsection (10), a county may not request information from a property owner beyond the information described in the form provided in Subsection (10)(e).

(g) (i) If, after receiving a written declaration filed under Subsection (10)(d), the county determines that the property has been incorrectly qualified or disqualified to receive a residential exemption, the county shall:

(A) redetermine the property's qualification to receive a residential exemption; and

(B) notify the claimant of the redetermination and the county's reason for the redetermination.

(ii) The redetermination provided in Subsection (10)(g)(i)(A) is final unless:

(A) except as provided in Subsection (10)(g)(iii), the property owner appeals the redetermination to the board of equalization in accordance with Subsection 59-2-1004(2); or

(B) the county determines that the property is eligible to receive a primary residential exemption as part-year residential property.

(iii) The board of equalization may not accept an appeal that is filed after the later of:

(A) September 15 of the current calendar year; or

(B) the last day of the 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(h) (i) If a residential property owner fails to file a written declaration required by Subsection (10)(d), the county assessor shall mail to the owner of the residential property a notice that:

(A) the property owner failed to file a written declaration as required by Subsection (10)(d); and

(B) the property owner will no longer qualify to receive the residential exemption authorized under Section 59-2-103 for the property that is the subject of the written declaration if the property owner does not file the written declaration required by Subsection (10)(d) within 30 days after the day on which the county assessor mails the notice under this Subsection (10)(h)(i).

(ii) If a property owner fails to file a written declaration required by Subsection (10)(d) after receiving the notice described in Subsection (10)(h)(i), the property owner no longer qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar year for the property that is the subject of the written declaration unless:

(A) except as provided in Subsection (10)(h)(iii), the property owner appeals the redetermination to the board of equalization in accordance

with Subsection 59-2-1004(2); or

(B) the county determines that the property is eligible to receive a primary residential exemption as part-year residential property.

(iii) The board of equalization may not accept an appeal that is filed after the later of:

(A) September 15 of the current calendar year; or

(B) the last day of the 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(iv) A property owner that is disqualified to receive the residential exemption under Subsection (10)(h)(ii) may file an application described in Subsection (1) to determine whether the owner is eligible to receive the residential exemption.

(i) The requirements of this Subsection (10) do not apply to a county assessor in a county that has, for the five calendar years prior to 2019, had in place and enforced an ordinance described in Subsection (1).

Section 14. Section 59-2-405 is amended to read:

59-2-405. Uniform fee on tangible personal property required to be registered with the state -- Distribution of revenues -- Appeals.

(1) The property described in Subsection (2), except Subsection (2)(b)(ii), is exempt from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section 2, Subsection (6).

(2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this part a statewide uniform fee in lieu of the ad valorem tax on:

(i) motor vehicles required to be registered with the state that [~~weigh 12,001~~]have a gross vehicle weight rating of 14,001 pounds or more;

(ii) motorcycles as defined in Section 41-1a-102 that are required to be registered with the state;

(iii) watercraft required to be registered with the state;

(iv) recreational vehicles required to be registered with the state; and

(v) all other tangible personal property required to be registered with the state before it is used on a public highway, on a public waterway, on public land, or in the air.

(b) The following tangible personal property is exempt from the statewide uniform fee imposed by this section:

(i) aircraft;

(ii) state-assessed commercial vehicles;

(iii) tangible personal property subject to a uniform fee imposed by:

(A) Section 59-2-405.1;

(B) Section 59-2-405.2; or

(C) Section 59-2-405.3; and

(iv) personal property that is exempt from state or county ad valorem property taxes under the laws of this state or of the federal government.

(3) Beginning on January 1, 1999, the uniform fee is 1.5% of the fair market value of the personal property, as established by the commission.

(4) Notwithstanding Section 59-2-407, property subject to the uniform fee that is brought into the state and is required to be registered in Utah shall, as a condition of registration, be subject to the uniform fee unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(5) (a) The revenues collected in each county from the uniform fee shall be distributed by the county to each taxing entity in which the property described in Subsection (2) is located in the same proportion in which revenue collected from ad valorem real property tax is distributed.

(b) Each taxing entity shall distribute the revenues received under Subsection (5)(a) in the same proportion in which revenue collected from ad valorem real property tax is distributed.

(6) An appeal relating to the uniform fee imposed on the tangible personal property described in Subsection (2) shall be filed pursuant to Section 59-2-1005.

Section 15. Section 59-2-405.1 is amended to read:

59-2-405.1. Uniform fee on certain vehicles with a gross vehicle weight rating of 14,000 pounds or less -- Distribution of revenues -- Appeals.

(1) The property described in Subsection (2) is exempt from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section 2, Subsection (6).

(2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this part a statewide uniform fee in lieu of the ad valorem tax on:

(i) motor vehicles as defined in Section 41-1a-102 that:

(A) are required to be registered with the state; and

(B) [~~weigh 12,000~~]have a gross vehicle weight rating of 14,000 pounds or less; and

(ii) state-assessed commercial vehicles required to be registered with the state that [~~weigh 12,000~~]have a gross vehicle weight rating of 14,000 pounds or less.

(b) The following tangible personal property is exempt from the statewide uniform fee imposed by this section:

(i) aircraft;

(ii) tangible personal property subject to a uniform fee imposed by:

(A) Section 59-2-405;

(B) Section 59-2-405.2; or

(C) Section 59-2-405.3; and

(iii) tangible personal property that is exempt from state or county ad valorem property taxes under the laws of this state or of the

federal government.

(3) (a) Except as provided in Subsections (3)(b) and (c), beginning on January 1, 1999, the uniform fee for purposes of this section is as follows:

Age of Vehicle	Uniform Fee
12 or more years	$10
9 or more years but less than 12 years	$50
6 or more years but less than 9 years	$80
3 or more years but less than 6 years	$110
Less than 3 years	$150

(b) For registrations under Section 41-1a-215.5, the uniform fee for purposes of this section is as follows:

Age of Vehicle	Uniform Fee
12 or more years	$7.75
9 or more years but less than 12 years	$38.50
6 or more years but less than 9 years	$61.50
3 or more years but less than 6 years	$84.75
Less than 3 years	$115.50

(c) Notwithstanding Subsections (3)(a) and (b), beginning on September 1, 2001, for a motor vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306, the uniform fee for purposes of this section is $5 for the event period specified on the temporary sports event registration certificate regardless of the age of the motor vehicle.

(4) Notwithstanding Section 59-2-407, property subject to the uniform fee that is brought into the state and is required to be registered in Utah shall, as a condition of registration, be subject to the uniform fee unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(5) (a) The revenues collected in each county from the uniform fee shall be distributed by the county to each taxing entity in which the property described in Subsection (2) is located in the same proportion in which revenue collected from ad valorem real property tax is distributed.

(b) Each taxing entity shall distribute the revenues received under Subsection (5)(a) in the same proportion in which revenue collected from ad valorem real property tax is distributed.

Section 16. Section 59-2-801 is amended to read:

59-2-801. Apportionment of property assessed by commission.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(A) a county; and

(B) a school district.

(ii) "Designated tax area" includes a tax area created by the overlapping boundaries of the taxing entities described in Subsection (1)(a)(i) and:

(A) a city or town if the boundaries of the school district under Subsection (1)(a)(i) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection (1)(a)(i) are located entirely within the special service district.

(b) "Ground hours" means the total number of hours during the calendar year immediately preceding the January 1 described in Section 59-2-103 that aircraft owned or operated by the following are on the ground:

(i) an air charter service;

(ii) an air contract service; or

(iii) an airline.

(2) Before May 25 of each year, the commission shall apportion to each tax area the total assessment of all of the property the commission assesses as provided in Subsections (2)(a) through (e).

(a) (i) The commission shall apportion the assessments of the property described in Subsection (2)(a)(ii):

(A) to each tax area through which the public utility or company described in Subsection (2)(a)(ii) operates; and

(B) in proportion to the property's value in each tax area.

(ii) Subsection (2)(a)(i) applies to property owned by:

(A) a public utility, except for the rolling stock of a public utility;

(B) a pipeline company;

(C) a power company;

(D) a canal company; or

(E) an irrigation company.

(b) The commission shall apportion the assessments of the rolling stock of a railroad:

(i) to the tax areas through which railroads operate; and

(ii) in the proportion that the length of the main tracks, sidetracks, passing tracks, switches, and tramways of the railroads in each tax area bears to the total length of the main tracks, sidetracks, passing tracks, switches, and tramways in the state.

(c) The commission shall apportion the assessments of the property of a car company to:

(i) each tax area in which a railroad is operated; and

(ii) in the proportion that the length of the main tracks, passing tracks, sidetracks, switches, and tramways of all of the railroads in each tax area bears to the total length of the main tracks, passing tracks, sidetracks, switches, and tramways of all of the railroads in the state.

(d) (i) The commission shall apportion the assessments of the property described in Subsection (2)(d)(ii) to each tax area in which the property is located.

(ii) Subsection (2)(d)(i) applies to the following property:

(A) mines;

(B) mining claims; or

(C) mining property.

(e) (i) The commission shall apportion the assessments of the property described in Subsection (2)(e)(ii) to:

(A) each designated tax area; and

(B) in the proportion that the ground hours in each designated tax area bear to the total ground hours in the state.

(ii) Subsection (2)(e)(i) applies to the mobile flight equipment owned or operated by an:

(A) air charter service;

(B) air contract service; or

(C) airline.

(3) (a) (i) (A) State-assessed commercial vehicles that weigh [~~12,001~~]14,001 pounds or more shall be taxed at a statewide average rate which is calculated from the overall county average tax rates from the preceding year, exclusive of the property subject to the statewide uniform fee, weighted by lane miles of principal routes in each county.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules to define "principal routes."

(ii) State-assessed commercial vehicles that weigh [~~12,000~~]14,000 pounds or less are subject to the uniform fee provided in Section 59-2-405.1.

(b) The combined revenue from all state-assessed commercial vehicles shall be apportioned to the counties based on:

(i) 40% by the percentage of lane miles of principal routes within each county as determined by the commission; and

(ii) 60% by the percentage of total state-assessed vehicles having business situs in each county.

(c) At least quarterly, the commission shall apportion the total taxes paid on state-assessed commercial vehicles to the counties.

(d) Each county shall apportion its share of the revenues under this Subsection (3) to the taxing entities within its boundaries in the same proportion as the assessments of other:

(i) real property;

(ii) tangible personal property; and

(iii) property assessed by the commission.

Section 17. Section 59-2-804 is amended to read:

59-2-804. Interstate allocation of mobile flight equipment.

(1) As used in this section:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline ground hours calculation" means an amount equal to the product of:

(i) the total number of hours aircraft owned or operated by an airline are on the ground, calculated by aircraft type; and

(ii) the cost percentage.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the calendar year that immediately precedes the January 1 described in Section 59-2-103.

(d) "Cost percentage" means a fraction, calculated by aircraft type, the numerator of which is the airline's average cost of the aircraft type and the denominator of which is the airline's average cost of the aircraft type:

(i) owned or operated by the airline; and

(ii) that has the lowest average cost.

(e) "Ground hours factor" means the product of:

(i) a fraction, the numerator of which is the Utah ground hours calculation and the denominator of which is the airline ground hours calculation; and

(ii) .50.

(f) (i) Except as provided in Subsection (1)(f)(ii), "mobile flight equipment" is as defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include tangible personal property described in Subsection [~~59-2-102(25)~~]59-2-102(26) owned by an:

(A) air charter service; or

(B) air contract service.

(g) "Mobile flight equipment allocation factor" means the sum of:

(i) the ground hours factor; and

(ii) the revenue ton miles factor.

(h) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(i) "Revenue ton miles factor" means the product of:

(i) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles; and

(ii) .50.

(j) "Utah ground hours calculation" means an amount equal to the product of:

(i) the total number of hours aircraft owned or operated by an airline are on the ground in this state, calculated by aircraft type; and

(ii) the cost percentage.

(k) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the calendar year that immediately precedes the January 1 described in Section 59-2-103; and

(ii) from flight stages that originate or terminate in this state.

(2) For purposes of the assessment of an airline's mobile flight equipment by the commission, a portion of the value of the airline's mobile flight equipment shall be allocated to the state by calculating the product of:

(a) the total value of the mobile flight equipment; and

(b) the mobile flight equipment allocation factor.

Section 18. Section 59-7-302 is amended to read:

59-7-302. Definitions -- Determination of taxpayer status.

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" means the same as that term is defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income that:

(i) is apportionable under the United States Constitution and is not allocated under the laws of this state, including income arising from:

(A) a transaction or activity in the regular course of the taxpayer's trade or business; and

(B) tangible and intangible property, if the acquisition, management, employment, development, or disposition of the property is or was related to the operation of the taxpayer's trade or business; or

(ii) would be allocable to this state under the United States Constitution, but is apportioned rather than allocated in accordance with the laws of this state.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) "Excluded NAICS code" means a NAICS code of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, within:

(i) NAICS Code 211120, Crude Petroleum Extraction;

(ii) NAICS Industry Group 2121, Coal Mining;

(iii) NAICS Industry Group 2212, Natural Gas Distribution;

(iv) NAICS Subsector 311, Food Manufacturing;

(v) NAICS Industry Group 3121, Beverage Manufacturing;

(vi) NAICS Code 327310, Cement Manufacturing;

(vii) NAICS Subsector 482, Rail Transportation;

(viii) NAICS Code 512110, Motion Picture and Video Production;

(ix) NAICS Subsection 515, Broadcasting (except Internet); or

(x) NAICS Code 522110, Commercial Banking.

(h) (i) Except as provided in Subsection (1)(h)(ii), "mobile flight equipment" means the same as that term is defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection [~~59-2-102(25)~~]59-2-102(26) owned by an air charter service or an air contract service.

(i) "Nonbusiness income" means all income other than business income.

(j) "Optional apportionment taxpayer" means a taxpayer described in Subsection (3).

(k) "Phased-in sales factor weighted taxpayer" means a taxpayer that:

(i) is not a sales factor weighted taxpayer;

(ii) does not meet the definition of an optional apportionment taxpayer; or

(iii) for a taxable year beginning on or after January 1, 2020:

(A) meets the definition of an optional apportionment taxpayer; and

(B) apportioned business income using the method described in Subsection 59-7-311(4) during the previous taxable year.

(l) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(m) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.

(n) "Sales factor weighted taxpayer" means a taxpayer described in Subsection (2).

(o) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or

possession of the United States, and any foreign country or political subdivision thereof.

(p) "Transportation revenue" means revenue an airline earns from:

(i) transporting a passenger or cargo; or

(ii) from miscellaneous sales of merchandise as part of providing transportation services.

(q) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the airline's tax period; and

(ii) from flight stages that originate or terminate in this state.

(2) (a) A taxpayer is a sales factor weighted taxpayer if the taxpayer apportioned business income using the method described in Subsection 59-7-311(2) during the previous taxable year or if, regardless of the number of economic activities the taxpayer performs, the taxpayer generates greater than 50% of the taxpayer's total sales everywhere from economic activities that are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, other than:

(i) a NAICS code within NAICS Sector 21, Mining;

(ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except:

(A) NAICS Industry Group 3254, Pharmaceutical and Medicine Manufacturing;

(B) NAICS Industry Group 3333, Commercial and Service Industry Machinery Manufacturing;

(C) NAICS Subsector 334, Computer and Electronic Product Manufacturing; and

(D) NAICS Code 336111, Automobile Manufacturing;

(iv) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector 519, Other Information Services; or

(vi) a NAICS code within NAICS Sector 52, Finance and Insurance.

(b) A taxpayer shall determine if the taxpayer is a sales factor weighted taxpayer each year before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

(c) For purposes of making the determination required by Subsection (2)(a), total sales everywhere include only the total sales everywhere:

(i) as determined in accordance with this part; and

(ii) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a).

(3) (a) A taxpayer is an optional apportionment taxpayer if the average calculated in accordance with Subsection (3)(b) is greater than .50.

(b) To calculate the average described in Subsection (3)(a), a taxpayer shall:

(i) calculate the following two fractions:

(A) the property factor fraction as described in Subsection 59-7-312(3); and

(B) the payroll factor fraction as described in Subsection 59-7-315(3);

(ii) add together the fractions described in Subsection (3)(b)(i); and

(iii) divide the sum calculated in Subsection (3)(b)(ii):

(A) except as provided in Subsection (3)(b)(iii)(B), by two; or

(B) if either the property factor fraction or the payroll factor fraction has a denominator of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.

(c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

(4) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

Section 19. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 235
H. B. 273
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

LAW ENFORCEMENT INVESTIGATION AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill concerns procedures and requirements related to law enforcement investigations.

Highlighted Provisions:

This bill:

- ► defines and modifies terms;
- ► places restrictions on and establishes procedures for law enforcement access to reverse-keyword information;
- ► requires, with a sunset provision, a specified notice for certain warrant applications; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-277, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
77-23f-101, as enacted by Laws of Utah 2023, Chapter 382
77-23f-104, as enacted by Laws of Utah 2023, Chapter 382
77-23f-105, as enacted by Laws of Utah 2023, Chapter 382
77-23f-106, as enacted by Laws of Utah 2023, Chapter 382
77-23f-107, as enacted by Laws of Utah 2023, Chapter 382
77-23f-109, as enacted by Laws of Utah 2023, Chapter 382

ENACTS:

77-23f-102.2, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-277 is amended to read:

63I-2-277. Repeal dates: Title 77.

(1) [~~Subsection~~]Subsections 77-23f-102(2)(a)(ii) and 77-23f-102.1(2)(a), regarding a notice for certain [~~reverse-location~~]search warrant applications, is repealed January 1, 2033.

(2) Subsection 77-23f-103(2)(a)(ii), regarding a notice for certain reverse-location search warrant applications, is repealed January 1, 2033.

Section 2. Section 77-23f-101 is amended to read:

CHAPTER 23f. ACCESS TO REVERSE-LOCATION AND REVERSE-KEYWORD INFORMATION

77-23f-101. Definitions.

As used in this chapter:

(1) "Anonymized" means that the identifying information connected to an electronic device has been rendered anonymous in a manner such that the subject, including an individual, household, device, or Internet protocol address, is not identifiable to a law enforcement agency.

(2) "Cell site" means transmission or reception equipment, including a base-station antenna, that connects an electronic device to a network.

(3) "Cell site record" means the cell site location information of an electronic device that corresponds to a specific cell site and time frame.

(4) "Electronic device" means [~~a device that enables access to or use of a location information service or can otherwise create or provide location information~~]the same as that term is defined in Section 77-23c-101.2.

(5) "Geofence" means a specified geographic area defined by a virtual perimeter or geographic coordinates.

(6) "Identifying information" means information tied to an electronic device that identifies the user's or owner's:

(a) name;

(b) address;

(c) phone number;

(d) email; or

(e) other identifying information that would identify the owner or user of the electronic device.

(7) "Law enforcement agency" means the same as that term is defined in Section 77-23c-101.2.

(8) "Location information" means the same as that term is defined in Section 77-23c-101.2.

(9) (a) "Reverse-keyword information" means information that:

(i) identifies an unnamed individual, by name or other unique identifier, who:

(A) electronically searched for a particular word, phrase, character string, or website; or

(B) visited a particular website through a link generated by an electronic search for a particular word, phrase, character string, or website; and

(ii) is or is not limited to a specific geographic area or time frame.

(b) "Reverse-keyword information" does not include keyword information concerning a known individual or a specified electronic device that may be obtained pursuant to Chapter 23c, Electronic Information Privacy Act.

[~~(9)~~](10) "Reverse-location information" means historical location information for:

(a) a defined time period;

(b) a defined or undefined area; and

(c) a defined or undefined number of electronic devices, for which the identities of the owners or users of the electronic devices are unknown to law enforcement.

Section 3. Section 77-23f-102.2 is enacted to read:

77-23f-102.2. Obtaining reverse-keyword information -- Warrant required for disclosure -- Procedure.

(1) Except as provided in Section 77-23f-106, for a criminal investigation or prosecution, a law enforcement agency may not obtain reverse-keyword information for electronic devices unless:

(a) the law enforcement agency obtains a search warrant as provided under this section; and

(b) (i) the investigation or prosecution involves an offense listed in Subsection (4); or

(ii) the law enforcement agency can demonstrate an imminent, ongoing threat to public safety.

(2) To obtain reverse-keyword information, a law enforcement agency shall:

(a) include with the sworn warrant application the following language at the beginning of the application in a legible font no smaller than other text appearing in the application: "NOTICE: This warrant application seeks judicial authorization for the disclosure of reverse-keyword information of electronic devices. If authorized, the warrant allows law enforcement to obtain historical information of all devices that searched for specific terms or visited a particular website through a link generated by an electronic search during the specified time described in the warrant from entities in possession of the relevant data. The electronic devices captured in the warrant may be owned or used by both alleged criminal perpetrators and individuals not involved in the commission of a crime. For this reason, any warrant issued must require the anonymization of all devices associated with the reverse-keyword information."; and

(b) establish probable cause to believe that evidence of a crime will be found based on the reverse-keyword information sought to be searched and within the specified period of time.

(3) If a court grants a warrant under Subsection (2), the court shall require that all electronic device data provided pursuant to the warrant be anonymized before the reverse-keyword information or reverse-location information is released to the law enforcement agency.

(4) The offenses referred to in Subsection (1)(b)(i) are:

(a) a felony offense under Title 76, Chapter 5, Offenses Against the Individual;

(b) a first or second degree felony offense under Title 76, Chapter 6, Part 1, Property Destruction;

(c) a first or second degree felony offense under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(d) a first or second degree felony offense under Title 76, Chapter 6, Part 3, Robbery;

(e) a first or second degree felony offense under Title 76, Chapter 8, Part 3, Obstructing Governmental Operations;

(f) a first or second degree felony offense under Title 76, Chapter 10, Part 3, Explosives;

(g) a first or second degree felony offense under Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;

(h) a first or second degree felony offense under Title 76, Chapter 10, Part 13, Prostitution; and

(i) a first or second degree felony offense under Title 76, Chapter 10, Part 15, Bus Passenger Safety Act.

Section 4. Section 77-23f-104 is amended to read:

77-23f-104. Obtaining additional reverse-location or reverse-keyword information -- Warrant required for disclosure -- Procedure.

(1) If, after executing a warrant described in Section 77-23f-102, 77-23f-102.2, or 77-23f-103, a law enforcement agency seeks to obtain reverse-keyword information or reverse-location information beyond the parameters of the warrant obtained under Section 77-23f-102, 77-23f-102.2, or 77-23f-103, the law enforcement agency shall:

(a) include in the sworn warrant application the specific electronic devices identified in the anonymized data for which the law enforcement agency seeks additional reverse-location information or reverse-keyword information;

(b) establish probable cause to believe that evidence of a crime will be found within a specified period of time; and

(c) affirm that the crime described in Subsection (1)(b) is:

(i) the same crime or directly related to the crime that was the subject of the warrant obtained under Section 77-23f-102, 77-23f-102.2, or 77-23f-103; or

(ii) a crime subject to the judicially recognized plain view exception to the warrant requirement.

(2) If a court grants a warrant under Subsection (1), the court shall require that all electronic device data provided pursuant to the warrant be anonymized before the reverse-location information or reverse-keyword information is released to the law enforcement agency.

Section 5. Section 77-23f-105 is amended to read:

77-23f-105. Obtaining identifying information connected to reverse-location information or reverse-keyword information -- Warrant required for disclosure -- Procedure.

To obtain identifying information for an electronic device identified pursuant to a warrant concerning reverse-location information or reverse-keyword information obtained under Section 77-23f-102, 77-23f-102.2, 77-23f-103, or 77-23f-104, a law enforcement agency shall establish in the sworn warrant application probable cause to believe that the electronic device was used or otherwise implicated in a crime.

Section 6. Section 77-23f-106 is amended to read:

77-23f-106. Exceptions to reverse-location and reverse-keyword warrant requirements.

(1) Notwithstanding any other provision in this chapter, a law enforcement agency may obtain reverse-location information or reverse-keyword information without a warrant:

(a) in accordance with Section 53-10-104.5; or

(b) in accordance with a judicially recognized exception to warrant requirements.

(2) Nothing in this chapter:

(a) limits or affects the disclosure of public records under Title 63G, Chapter 2, Government Records Access and Management Act;

(b) affects the rights of an employer under Subsection 34-48-202(1)(e) or an administrative rule adopted under Section 63A-16-205; or

(c) limits the ability of a law enforcement agency to receive or use information, without a warrant or subpoena, from the National Center for Missing and Exploited Children under 18 U.S.C. Sec. 2258A.

Section 7. Section 77-23f-107 is amended to read:

77-23f-107. Use, disclosure, and destruction of reverse-location information or reverse-keyword information -- Anonymization.

(1) (a) A law enforcement agency may not use, copy, or disclose, for any purpose, reverse-location information or reverse-keyword information obtained under a warrant under Section 77-23f-102, 77-23f-102.2, 77-23f-103, or 77-23f-104 that:

(i) is not related to the crime that is the subject of the warrant; and

(ii) is collected as part of an effort to obtain the reverse-location information or reverse-keyword information of an electronic device that is related to the crime that is the subject of the warrant obtained under Section 77-23f-102, 77-23f-102.2, 77-23f-103, or 77-23f-104.

(b) The law enforcement agency shall destroy in an unrecoverable manner the reverse-location information or reverse-keyword information described in Subsection (1)(a) as soon as reasonably possible after the criminal case is declined for prosecution or, if criminal charges are filed, the final disposition of the criminal case.

(2) (a) Reverse-location information obtained under Section 77-23f-102, 77-23f-103, or 77-23f-104 may not be:

(i) compared with, merged with, linked to, or in any way electronically or otherwise connected to a source of electronic data, including a database or file, containing one or more points of data that includes the location information provided by an electronic device; or

(ii) used in any other criminal investigation or prosecution.

(b) Subsection (2)(a)(i) does not apply if all the electronic data, including the reverse-location information, is obtained for the purpose of investigating the same criminal incident.

(3) A person or entity that provides reverse-location information or reverse-keyword information under this chapter shall ensure that the reverse-location information or reverse-keyword information is anonymized before the reverse-location information or reverse-keyword information is provided to a law enforcement agency.

Section 8. Section 77-23f-109 is amended to read:

77-23f-109. Exclusion of records.

Reverse-location information, reverse-keyword information, or identifying information obtained in violation of the provisions of this chapter shall be subject to the rules governing exclusion as if the [~~records were~~]information was obtained in violation of the Fourth Amendment to the United States Constitution [~~and~~]or Utah Constitution, Article I, Section 14.

Section 9. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 236
H. B. 278
Passed March 5, 2025
Approved March 25, 2025
Effective October 1, 2025

MASSAGE THERAPY AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies licensing requirements for performing massage therapy, including creating a registration requirement for massage therapy establishments.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► amends the licensure requirements for massage therapy;
- ► specifies requirements for a criminal background check for an individual performing massage therapy;
- ► specifies requirements for a massage establishment to register;
- ► provides the circumstances under which an individual must perform massage therapy in a registered massage establishment;
- ► provides for the expiration and renewal of licensure;
- ► specifies identification, signage, and disclosure requirements;
- ► creates standards for unlawful and unprofessional conduct by a massage establishment;
- ► requires penalties for a massage establishment that engages in unlawful or unprofessional conduct;
- ► specifies when a massage establishment can be denied registration;
- ► specifies requirements for a criminal background check for massage establishment owners;
- ► creates a safe harbor provision for a licensed individual renting or leasing to a sole practitioner;
- ► allows the Division of Professional Licensing to inspect a massage establishment;
- ► requires standards for the inspection of a registered massage establishment;
- ► provides exemptions from licensure requirements;
- ► schedules the repeal of provisions related to a massage assistant and massage assistant-in-training;
- ► includes a coordination clause to coordinate enactment of provisions with S.B. 44, Professional Licensure Amendments; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

58-1-301.5, as last amended by Laws of Utah 2024, Chapter 420
58-47b-102, as last amended by Laws of Utah 2024, Chapter 507
58-47b-301, as last amended by Laws of Utah 2023, Chapter 225
58-47b-302.1, as enacted by Laws of Utah 2023, Chapter 225
58-47b-303, as last amended by Laws of Utah 2023, Chapter 225
58-47b-304, as last amended by Laws of Utah 2024, Chapter 455
58-47b-305, as last amended by Laws of Utah 2023, Chapter 225
58-47b-306, as enacted by Laws of Utah 2023, Chapter 225
58-47b-401, as enacted by Laws of Utah 1996, Chapter 76
58-47b-501, as last amended by Laws of Utah 2023, Chapter 225
58-47b-502, as last amended by Laws of Utah 2023, Chapter 225
58-47b-503, as last amended by Laws of Utah 2000, Chapter 309
63I-1-258, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

58-47b-301.1, Utah Code Annotated 1953
58-47b-302.2, Utah Code Annotated 1953
58-47b-303.1, Utah Code Annotated 1953
58-47b-304.1, Utah Code Annotated 1953
58-47b-306.1, Utah Code Annotated 1953

58-47b-401.1, Utah Code Annotated 1953
58-47b-501.1, Utah Code Annotated 1953
58-47b-502.1, Utah Code Annotated 1953
58-47b-503.1, Utah Code Annotated 1953
58-47b-504, Utah Code Annotated 1953
58-47b-601, Utah Code Annotated 1953

REPEALS AND REENACTS:

58-47b-302, as last amended by Laws of Utah 2024, Chapter 137

Utah Code Sections Affected by Coordination Clause:

AMENDS:

58-1-301.5, as last amended by Laws of Utah 2024, Chapter 420
58-47b-302, as last amended by Laws of Utah 2024, Chapter 137
58-47b-302.1, as enacted by Laws of Utah 2023, Chapter 225
58-47b-302.2, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-301.5 is amended to read:
58-1-301.5. Division access to Bureau of Criminal Identification records.

(1) The division shall have direct access to local files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of individuals who are applying for licensure or certification, or with respect to a license or certification, renewal, reinstatement, or relicensure or recertification, as required in:

(a) Sections 58-17b-306 and 58-17b-307;

(b) Sections 58-24b-302 and 58-24b-302.1;

(c) Section 58-31b-302;

(d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy Practice Act;

(e) Section 58-44a-302.1;

(f) Sections 58-47b-302 [~~and 58-47b-302.1~~]and 58-47b-302.2;

(g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm company agents, and Section 58-55-302.1;

(h) Sections 58-60-103.1, 58-60-205, 58-60-305, 58-60-405, and 58-60-506[~~of Chapter 60, Mental Health Professional Practice Act~~];

(i) Sections 58-61-304 and 58-61-304.1;

(j) Sections 58-63-302 and 58-63-302.1;

(k) Sections 58-64-302 and 58-64-302.1;

(l) Sections 58-67-302 and 58-67-302.1;

(m) Sections 58-68-302 and 58-68-302.1; and

(n) Sections 58-70a-301.1 and 58-70a-302[~~, of Chapter 70a, Utah Physician Assistant Act~~].

(2) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition.

(3) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 2. Section 58-47b-102 is amended to read:
58-47b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Board of Massage Therapy and Acupuncture created in Section 58-47b-201.

(2) "Bodywork" means:

(a) the systematic manual or mechanical manipulation of the soft tissue of the body;

(b) the use of the hands or a mechanical or electrical apparatus in connection with an activity described in this Subsection (2);

(c) range of motion movements or movements without adjustment or articulation of the spinal column as defined in Section 58-73-102;

(d) the use of oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and cabinet baths;

(e) manual traction and stretching exercise;

(f) activities and modality techniques similar or related to the activities and techniques described in this Subsection (2); or

(g) providing, offering, or advertising a paid service using the term "massage" or a derivative of the word "massage" regardless of whether the service includes physical contact.

[~~(2)~~](3) (a) "Breast" means the female mammary gland [~~and~~].

(b) "Breast" does not include the muscles, connective tissue, or other soft tissue of the upper chest.

[~~(3)~~](4) "Homeostasis" means [~~maintaining, stabilizing, or returning~~]the maintenance, the stabilization, or the return of the muscular system to equilibrium [~~the muscular system~~].

(5) "Licensed individual" means an individual who is a massage assistant-in-training, a massage assistant, a massage apprentice, or a licensed massage therapist.

(6) "Licensed massage therapist" means an individual licensed under this chapter to perform massage services without supervision.

(7) "Limited massage therapy" means:

(a) bodywork that is not intended to be billed to an insurance company; or

(b) bodywork that is not supervised by:

(i) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

(ii) a physician licensed under Chapter 67, Utah Medical Practice Act;

(iii) an occupational therapist licensed under Chapter 42a, Occupational Therapy Practice Act;

(iv) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical Practice Act;

(v) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or

(vi) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act.

[~~(4)~~](8) "Massage apprentice" means an individual licensed under this chapter as a massage apprentice.

[~~(5)~~](9) "Massage assistant" means an individual licensed under this chapter as a massage assistant.

[~~(6)~~](10) "Massage [~~assistant in-training~~]assistant-in-training" means an individual licensed under this chapter as a [~~massage assistant in-training~~]massage assistant-in-training.

[~~(7) "Massage therapist" means an individual licensed under this chapter as a massage therapist.~~]

[~~(8) "Massage therapy supervisor" means:~~]

[~~(a) a massage therapist who has at least three years of experience as a massage therapist and has engaged in the lawful practice of massage therapy for at least 3,000 hours;~~]

[~~(b) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;~~]

[~~(c) a physician licensed under Chapter 67, Utah Medical Practice Act;~~]

[~~(d) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical Practice Act;~~]

[~~(e) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or~~]

[~~(f) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act.~~]

(11) (a) "Massage establishment" means a place where massage services are performed by an individual.

(b) "Massage establishment" includes a location an owner rents or leases to multiple sole practitioners to perform massage services.

(c) "Massage establishment" does not include:

(i) a location owned, rented, or leased by a single sole practitioner to perform massage services;

(ii) an out-call location; or

(iii) a massage school where massage services are only performed for an educational purpose.

(12) "Massage services" means massage therapy or limited massage therapy.

(13) "Massage therapy" means:

(a) bodywork that is intended to be billed to an insurance company;

(b) bodywork that is supervised by:

(i) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

(ii) a physician licensed under Chapter 67, Utah Medical Practice Act;

(iii) an occupational therapist licensed under Chapter 42a, Occupational Therapy Practice Act;

(iv) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical Practice Act;

(v) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or

(vi) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act;

(c) the examination, assessment, and evaluation of the soft tissue structures of the body for the purpose of devising a treatment plan to promote homeostasis;

(d) counseling, education, and other advisory services to reduce the incidence and severity of physical disability, movement dysfunction, and pain;

(e) the use of rehabilitative procedures involving the soft tissue of the body;

(f) correction of muscular distortion by treatment of the soft tissues of the body; or

(g) work on an acute or subacute injury.

(14) "Massage therapy supervisor" means a licensed massage therapist in good standing who has lawfully engaged in massage services for at least 3,000 hours.

(15) "Out-call location" means a location:

(a) where massage services are provided; and

(b) that a sole practitioner or a massage establishment does not own, lease, or rent.

(16) (a) "Owner" means an individual who controls the operation of a massage establishment.

(b) "Owner" includes:

(i) a shareholder, as defined in Section 16-10a-102, who owns, directly or indirectly through an entity controlled by the individual, any of the outstanding shares of an entity that owns, leases, or otherwise operates a massage establishment that:

(A) is a corporation; or

(B) is not publicly listed or traded;

(ii) an individual who owns, directly or indirectly through an entity controlled by the individual, any part of an entity that is not a corporation and that owns, leases, or otherwise operates a massage establishment;

(iii) an individual:

(A) in whose name a certificate of occupancy has been issued for a massage establishment; or

(B) that operates a massage establishment under a lease, operating agreement, franchise, or other arrangement; and

(iv) a sublessee or other legal possessor.

[~~(9) (a) "Practice of limited massage therapy" means:~~]

[~~(i) the systematic manual manipulation of the soft tissue of the body for the purpose of promoting the therapeutic health and well-being of a client, enhancing the circulation of the blood and lymph, relaxing and lengthening muscles, relieving pain, restoring metabolic balance, relaxation, or achieving homeostasis;~~]

[~~(ii) seated chair massage;~~]

[~~(iii) the use of body wraps;~~]

[~~(iv) aromatherapy;~~]

[~~(v) reflexology; or~~]

[~~(vi) in connection with an activity described in this Subsection (9), the use of:~~]

[~~(A) the hands;~~]

[~~(B) a towel;~~]

[~~(C) a stone;~~]

[~~(D) a shell;~~]

[~~(E) a bamboo stick; or~~]

[~~(F) an herbal ball compress.~~]

[~~(b) "Practice of limited massage therapy" does not include work on an acute or subacute injury.~~]

[~~(10) "Practice of massage therapy" means:~~]

[~~(a) the examination, assessment, and evaluation of the soft tissue structures of the body for the purpose of devising a treatment plan to promote homeostasis;~~]

[~~(b) the systematic manual or mechanical manipulation of the soft tissue of the body for the purpose of promoting the therapeutic health and well-being of a client, enhancing the circulation of the blood and lymph, relaxing and lengthening muscles, relieving pain, restoring metabolic balance, or achieving homeostasis, or for any other purpose;~~]

[~~(c) the use of the hands or a mechanical or electrical apparatus in connection with this Subsection (10);~~]

[~~(d) the use of rehabilitative procedures involving the soft tissue of the body;~~]

[~~(e) range of motion or movements without spinal adjustment as set forth in Section 58-73-102;~~]

[~~(f) the use of oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and cabinet baths;~~]

[~~(g) manual traction and stretching exercise;~~]

[~~(h) correction of muscular distortion by treatment of the soft tissues of the body;~~]

[~~(i) counseling, education, and other advisory services to reduce the incidence and severity of physical disability, movement dysfunction, and pain;~~]

[~~(j) activities and modality techniques similar or related to the activities and techniques described in this Subsection (10);~~]

[~~(k) a practice described in this Subsection (10) on an animal to the extent permitted by:~~]

[~~(i) Subsection 58-28-307(12);~~]

[~~(ii) the provisions of this chapter; and~~]

[~~(iii) division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or~~]

[~~(l) providing, offering, or advertising a paid service using the term massage or a derivative of the word massage, regardless of whether the service includes physical contact.~~]

(17) "Registered massage establishment" means a massage establishment that is registered with the division to lawfully provide massage services at a fixed massage establishment location in this state.

[~~(11)~~](18) "Soft tissue" means the muscles and related connective tissue.

(19) "Sole practitioner" means a licensed massage therapist who:

(a) does not employ or contract with a licensed individual to offer massage services; and

(b) does not employ an individual who works at the sole practitioner's location on a regular basis.

[~~(12)~~](20) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501[~~and~~], 58-47b-501, and 58-47b-501.1.

[~~(13)~~](21) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501[~~and~~], 58-47b-502, and 58-47b-502.1 and as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 58-47b-301 is amended to read:

58-47b-301. Licensure required -- Registration required -- Scope of practice -- Individuals.

[~~(1) An individual shall hold a license issued under this chapter in order to engage in the practice of massage therapy or the practice of limited massage therapy, except as specifically provided in Section 58-1-307 or 58-47b-304.~~]

[~~(2)~~]

(1) An individual shall hold a license to perform massage services.

(2) [~~An individual shall have a license in order to:~~]Only a licensed individual may:

(a) represent oneself as a [~~massage therapist, massage apprentice, massage assistant, or massage assistant in-training~~]massage assistant-in-training, a massage assistant, a massage apprentice, or a licensed massage therapist;

(b) (i) represent oneself as providing [~~a service that is within the practice of massage therapy or the practice of limited massage therapy~~]massage services; or

(ii) use the word "massage " or any [~~other word~~]similar wording to describe the [~~services~~]service; or

(c) charge or receive a fee or any consideration for providing [~~a service that is within the practice of massage therapy or the practice of limited massage therapy~~]massage services.

(3) A licensed individual, other than a sole practitioner, may perform massage services only in:

(a) a registered massage establishment;

(b) an out-call location; or

(c) a location exempt from registration under Section 58-47b-304.1.

(4) A sole practitioner may offer massage services from:

(a) an out-call location;

(b) the licensed individual's residence, if the licensed individual does not employ or contract with another licensed individual; or

(c) a location, other than the licensed individual's residence, that the licensed individual owns, rents, or leases.

(5) (a) Subject to Subsection 58-47b-502(9):

(i) except as provided in Subsection (5)(b), a massage assistant-in-training may perform limited massage therapy under the direct supervision of a massage therapy supervisor;

(ii) a massage assistant may perform limited massage therapy without supervision after completing 300 hours under the indirect supervision of a massage therapy supervisor;

(iii) a massage apprentice may perform massage services under the supervision of a massage therapy supervisor as the division requires by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iv) a licensed massage therapist may perform massage services without supervision.

(b) A massage assistant-in-training is permitted to complete 150 hours under the indirect supervision of a massage therapy supervisor.

(6) A massage therapy supervisor may supervise at one time up to six individuals of which no more than four may be massage apprentices or massage assistants-in-training.

Section 4. Section 58-47b-301.1 is enacted to read:

58-47b-301.1. Massage establishment registration required -- Maintenance of registration.

(1) An owner shall register a massage establishment with the division.

(2) (a) Each place of business shall register separately.

(b) If multiple massage establishments exist at the same address, each massage establishment shall register separately.

(3) A massage establishment shall provide the physical address where the massage establishment operates to the division.

(4) A massage establishment may not allow massage services on the massage establishment's premises unless the massage establishment is registered in accordance with this section.

(5) (a) A registered massage establishment shall ensure only a licensed individual or an exempt individual performs massage services.

(b) A registered massage establishment shall maintain documentation of the employment or contract relationship and make the documentation available during an inspection or investigation by the division.

(6) An owner may not assign or transfer a massage establishment registration.

(7) Upon the sale, sublease, or change of legal possession of a registered massage establishment, the owner, lessee, or legal possessor of the massage establishment shall notify the division in a form the division approves within 30 days after the day on which the ownership, lessee, or legal possession changes.

(8) Whenever statute or rule requires or prohibits action by a registered massage establishment, any owner of the registered massage establishment is responsible for all activities of the registered massage establishment, regardless of the form of the business organization.

Section 5. Section 58-47b-302 is repealed and re-enacted to read:

58-47b-302. Qualifications for registration and licensure -- Individuals.

(1) An applicant for a massage assistant-in-training license shall provide satisfactory evidence to the division that the applicant will practice as a massage assistant-in-training only under the supervision of a massage therapy supervisor.

(2) An applicant for a massage assistant license shall:

(a) (i) complete 300 hours of education that meets the standards the division requires by rule;

(ii) complete training on the activities described in Subsection (5)(d) while the applicant is enrolled in massage school; and

(iii) pass an examination as the division requires by rule;

(b) (i) while the applicant is licensed as a massage assistant-in-training:

(A) complete at least 150 hours of education that meets the standards the division requires by rule under the direct supervision of a massage therapy supervisor; and

(B) complete 150 hours of education that meets the standards the division requires by rule under the indirect supervision of a massage therapy supervisor;

(ii) complete training on the activities described in Subsection (5)(d); and

(iii) pass an examination as the division requires by rule; or

(c) (i) have a massage safety permit; and

(ii) pass an examination as the division requires by rule that contains questions that demonstrate the applicant's understanding of:

(A) the basics of anatomy;

(B) the basics of contraindications relating to massage;

(C) the basics of kinesiology;

(D) the basics of pathology;

(E) the basics of physiology; and

(F) the laws and rules relating to massage therapy.

(3) An applicant for a massage apprentice license shall provide satisfactory evidence to the division that the applicant will practice as a massage apprentice only under the supervision of a massage therapy supervisor as the division requires by rule.

(4) An applicant for a massage therapist license shall:

(a) (i) (A) have graduated from a school of massage having a curriculum that meets the standards the division requires by rule; and

(B) complete training on the activities described in Subsection (5)(d) while the applicant is enrolled in massage school;

(ii) (A) have completed equivalent education in compliance with standards the division requires by rule; and

(B) complete training on the activities described in Subsection (5)(d); or

(iii) (A) have completed a massage apprenticeship program consisting of a minimum of 1,000 hours of supervised training in accordance with standards the division requires by rule; and

(B) complete training on the activities described in Subsection (5)(d) while the applicant is a massage apprentice; and

(b) pass an examination as the division requires by rule.

(5) An applicant for a massage safety permit shall:

(a) submit an application in a form the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be 18 years old or older; and

(d) complete an educational module the division requires by rule that includes:

(i) practicing physical boundaries;

(ii) draping;

(iii) gaining consent; and

(iv) taking a medical history.

(6) An applicant for licensure under this chapter shall:

(a) submit an application in a form the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be 18 years old or older;

(d) consent to, and complete, a criminal background check described in Section 58-47b-302.1;

(e) meet any standard related to the criminal background check described in Subsection (6)(d) as the division requires by rule; and

(f) disclose any criminal history the division requests on a form the division approves.

(7) Under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(a) the examinations required by this chapter;

(b) the standards of a massage assistant-in-training program;

(c) the standards for a massage school curriculum;

(d) the equivalent education and training for a licensed massage therapist;

(e) the standards of a massage apprenticeship program including supervision requirements;

(f) the educational module described in Subsection (5)(d); and

(g) the standards for the criminal background check described in Subsection (6)(e).

Section 6. Section 58-47b-302.1 is amended to read:

58-47b-302.1. Criminal background check.

(1) An applicant for individual licensure [~~under this chapter who requires a criminal background check~~]or registration and an owner of a registered massage establishment shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6) (a) A new license issued under this chapter is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act[~~,~~]:

(i) if the criminal background check required [~~in Subsection 58-47b-302(7)~~]by this section demonstrates the applicant has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division [~~,~~]; and

(ii) if a massage establishment owner has a criminal conviction or pending criminal charges for any crime under Title 76, Chapter 5, Part 4, Sexual Offenses, or any crime listed by rule made by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall deny an application for registration of a massage establishment.

(c) A person whose conditional license is revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(7) An applicant who successfully completes a background check under this section may not be required by any other state or local government body to submit to a second background check as a condition of lawfully engaging in the practice of massage therapy or the practice of limited massage therapy in this state.

Section 7. Section 58-47b-302.2 is enacted to read:

58-47b-302.2. Qualifications for registration -- Massage establishments.

(1) (a) The owner of a massage establishment shall register the massage establishment.

(b) If the massage establishment has multiple owners, the owners of the massage establishment shall choose one owner to register the massage establishment.

(2) To register a massage establishment, the owner shall:

(a) submit an application in a form the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation:

(i) of registration with the Division of Corporations and Commercial Code;

(ii) of business licensure if the municipality or county in which the massage establishment is located requires a business license;

(iii) that the massage establishment's physical facilities comply with the requirements the division requires by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iv) of each owner's ownership or right to possession of the premises where the massage establishment will be operated;

(d) (i) consent to, and complete, a criminal background check, described in Section 58-47b-302.1;

(ii) meet any standard related to the criminal background check described in Subsection (2)(d)(i), that the division requires by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves;

(e) submit the following information for each individual for whom a criminal background check is required under Subsection (3):

(i) full name;

(ii) any name used;

(iii) date of birth;

(iv) social security number or other satisfactory evidence of the applicant's identity permitted by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(v) address;

(vi) phone number;

(vii) email address;

(viii) license number, if licensed under this chapter;

(ix) registration number, if registered under this chapter;

(x) a recent color photograph of each owner; and

(xi) fingerprints in a form the division approves;

(f) allow the division to verify that the applicant and each individual listed in Subsection (3) is legally present in the United States;

(g) submit a signed attestation in a form the division approves by rule attesting that the massage establishment does not engage in illegal activities including human trafficking, sex advertising, or unlicensed practice; and

(h) meet with the division or board if requested by the division or board.

(3) An individual shall consent to and complete a criminal background check in accordance with Subsection (2)(d) if the individual:

(a) personally or constructively holds, including as the beneficiary of a trust:

(i) at least 10% of the entity's outstanding stock; or

(ii) more than $25,000 of the fair market value of the entity;

(b) has a direct or indirect participating interest through shares, stock, or otherwise, regardless of whether voting rights are included, of more than 10% of the profits, proceeds, or capital gains of the entity;

(c) is a member of the board of directors or other governing body of the entity; or

(d) serves as:

(i) an elected officer of the entity; or

(ii) a general manager of the entity.

(4) A minor who is an owner of the massage establishment as the beneficiary of a trust is exempt from Subsections (2)(d) and (2)(e).

(5) The division may require an owner to prove continuing right of possession at any time during the registration period.

Section 8. Section 58-47b-303 is amended to read:

58-47b-303. Term of license and registration -- Expiration -- Renewal -- Individuals.

(1) (a) Except as provided in Subsection (3), the division shall [~~issue a license~~]provide licensing under this chapter in accordance with a two-year renewal cycle established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) [~~A~~]The division may extend or shorten a license renewal period [~~may be extended or shortened~~]by as much as one year to maintain established renewal cycles or to change an established renewal cycle.

(2) Subject to Subsection (3), a license automatically expires on the expiration date shown on the license unless renewed by the [~~licensee~~]licensed individual in accordance with Section 58-1-308.

(3) (a) A massage apprentice license expires 24 months after the day on which the division issues the massage apprentice license.

(b) A massage [~~assistant in-training~~]assistant-in-training license expires six months after the day on which the division issues the [~~massage assistant in-training~~]massage assistant-in-training license.

(c) The division may not renew or extend a massage apprentice or massage assistant-in-training license unless:

(i) a circumstance or hardship arose beyond the individual's control that prevented the individual from completing the process;

(ii) the division grants the renewal or extension for a period proportionate to the circumstance or hardship; and

(iii) the individual's massage therapy supervisor consents in writing to the renewal or extension.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing the evidence an applicant shall present to renew a license.

Section 9. Section 58-47b-303.1 is enacted to read:

58-47b-303.1. Term of registration -- Expiration -- Renewal -- Massage establishments.

(1) (a) Except as provided in Subsection (3), the division shall issue a registration under this chapter in accordance with a two-year renewal cycle.

(b) The division may extend or shorten a renewal period by as much as one year to maintain established renewal cycles or to change an established renewal cycle.

(2) A registration automatically expires on the expiration date shown on the registration unless the registered massage establishment renews.

(3) At the time of renewal, a registered massage establishment shall:

(a) complete and submit an application for renewal in the form the division approves; and

(b) pay a renewal fee established by the department under Section 63J-1-504.

Section 10. Section 58-47b-304 is amended to read:

58-47b-304. Exemptions from licensure -- Individuals.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may [~~engage in the practice of massage therapy or the practice of limited massage therapy~~]perform massage services, subject to the stated circumstances and limitations, without being [~~licensed under this chapter~~]a licensed individual:

(a) a physician or surgeon licensed under Chapter 67, Utah Medical Practice Act;

(b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;

(c) a nurse licensed under Chapter 31b, Nurse Practice Act, or under Chapter 44a, Nurse Midwife Practice Act;

(d) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

(e) a physical therapist assistant licensed under Chapter 24b, Physical Therapy Practice Act, while under the general supervision of a physical therapist;

(f) an osteopathic physician or surgeon licensed under Chapter 68, Utah Osteopathic Medical Practice Act;

(g) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act;

(h) a hospital staff member employed by a hospital, who practices massage as part of the staff member's responsibilities;

(i) an athletic trainer licensed under Chapter 40a, Athletic Trainer Licensing Act;

(j) a student in training enrolled in a massage therapy school approved by the division;

(k) a naturopathic physician licensed under Chapter 71, Naturopathic Physician Practice Act;

(l) (i) an occupational therapist licensed under Chapter 42a, Occupational Therapy Practice Act; and

(ii) an occupational therapy assistant licensed under Chapter 42a, Occupational Therapy Practice Act, while under the general supervision of an occupational therapist;

(m) an individual performing animal massage therapy under the rules made by the division in accordance with Subsection 58-28-307(12);

(n) an individual performing gratuitous massage; [~~and~~]

(o) an individual:

(i) certified by or through, and in good standing with, an industry organization that is recognized by the division and that represents a profession with established standards and ethics:

(A) who is certified to practice reflexology and whose practice is limited to the scope of practice of reflexology;

(B) who is certified to practice a type of zone therapy, including foot zone therapy, and whose practice is limited to the scope of practice for which the individual is certified;

(C) who is certified to practice ortho-bionomy and whose practice is limited to the scope of practice of ortho-bionomy;

(D) who is certified to practice bowenwork and whose practice is limited to the scope of practice of bowenwork; or

(E) who is certified to practice a type of brain integration and whose practice is limited to the scope of practice for which the individual is certified;

(ii) whose clients remain fully clothed from the shoulders to the knees; and

(iii) whose clients do not receive gratuitous massage from the individual [~~.~~]; and

(p) (i) an individual performing massage services who:

(A) holds a valid license, permit, certificate, or registration, for massage services issued by any other jurisdiction of the United States or by a foreign country; or

(B) holds a certification from a nationally recognized massage therapy organization if the nonresident individual is from a jurisdiction of the United States that does not regulate massage therapy; and

(ii) is temporarily performing massage services in this state for a period that does not exceed 30 days for the purpose of:

(A) presenting educational or clinical programs, lectures, seminars, or workshops;

(B) providing massage services during an emergency as part of a disaster response team; or

(C) consulting with a licensed individual regarding massage services.

(2) An individual described in Subsection (1) may not represent oneself as a [~~massage therapist, massage apprentice, massage assistant, or massage assistant in-training~~]massage assistant-in-training, a massage assistant, a massage apprentice, or a licensed massage therapist.

(3) This chapter may not be construed to:

(a) authorize any individual licensed under this chapter to engage in any manner in the practice of medicine as defined by the laws of this state;

(b) require insurance coverage or reimbursement for [~~massage therapy or limited massage therapy~~]massage services from third party payors; or

(c) prevent an insurance carrier from offering coverage for [~~massage therapy or limited massage therapy~~]massage services.

Section 11. Section 58-47b-304.1 is enacted to read:

58-47b-304.1. Exemptions from registration -- Massage establishments.

The following establishments or facilities are exempt from registering as massage establishments:

(1) hospitals or medical clinics;

(2) physician offices;

(3) physical therapy facilities;

(4) chiropractic offices;

(5) athletic training facilities or institutions of secondary or higher education when massage services are performed in connection with employment related to athletic teams;

(6) a sole practitioner who only rents or leases to a sole practitioner if the sole practitioner meets the requirements described in Section 58-47b-504; and

(7) other facilities as defined by rule.

Section 12. Section 58-47b-305 is amended to read:

58-47b-305. State and local jurisdiction.

(1) (a) The division is the only agency authorized to license and register individuals to [~~engage in the practice of massage therapy or the practice of limited massage therapy~~]perform massage services within the state or any of the state's political subdivisions.

(b) This chapter does not prevent any political subdivision of the state from enacting:

(i) subject to Subsection (1)(b)(ii),ordinances governing the operation of establishments offering [~~massages~~]massage services; or

(ii) ordinances regulating the practice of massage therapy or the practice of limited massage therapy, if:

(A) []except as provided in Subsection (1)(b)(ii)(B), the ordinances are [~~not less~~]at least as stringent [~~than~~]as this chapter [~~.~~]; and

(B) the ordinances do not require a background check.

(2) This chapter does not prohibit any political subdivision of the state from prosecuting:

(a) an [~~unlicensed~~]individual who is engaged in [~~the practice of massage therapy or the practice of limited massage therapy~~]massage services without the required license; or

(b) [~~a licensed~~]an individual [~~who~~]or a massage establishment that is engaged in unlawful conduct.

Section 13. Section 58-47b-306 is amended to read:

58-47b-306. Required identification and disclosures -- Individuals.

[~~(1) As used in this section, "massage establishment" means an establishment in which an individual lawfully engages in the practice of massage therapy or the practice of limited massage therapy.~~]

[~~(2) If a massage assistant or massage assistant in-training engages in the practice of limited massage therapy at a massage establishment, the massage establishment shall prominently display to the public a sign that indicates certain massage services offered at the massage establishment are performed by a massage assistant or a massage assistant in-training.~~]

[~~(3)~~](1) (a) Before a licensed individual first provides massage services to a client, the licensed individual shall obtain from the client a completed and signed intake form.

(b) The division may further define the intake form by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) While performing massage services, a licensed individual:

(a) except as required in Subsection (2)(b), shall wear or display the licensed individual's first and last name and license type;

(b) shall wear or display the licensed individual's first name and last initial and license type if the licensed individual requests redaction as described in Subsection 58-47b-306.1(2); and

(c) [~~If an individual requests a massage service that is performed by a massage assistant or a massage assistant in-training, the licensee performing or the massage therapy supervisor supervising the massage service shall ensure that the individual is notified before scheduling or agreeing to the massage service that the massage service is performed by a massage assistant or massage assistant in-training.~~]may not identify to any person in connection with massage services other than as the individual's license.

(3) Before scheduling or agreeing to a massage service, the client shall receive notice of the first name and last initial of the licensed individual performing the massage services and the licensed individual's license type.

Section 14. Section 58-47b-306.1 is enacted to read:

58-47b-306.1. Required signage and disclosures -- Massage establishments.

(1) A massage establishment shall display prominently:

(a) the massage establishment registration;

(b) a copy of the state issued license for each licensed individual contracted with or employed by the establishment;

(c) division resources required by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(d) a sign that states some massage services offered at the registered massage establishment is performed by a massage assistant-in-

training, a massage assistant, or a massage apprentice if the massage establishment employs or contracts with a massage assistant-in-training, a massage assistant, or a massage apprentice.

(2) If a licensed individual has a reasonable belief that the licensed individual's safety may be compromised, the licensed individual may request that the provider redact the displayed license to provide only the first name and last initial and the license type for the licensed individual.

(3) The massage establishment shall display signage that:

(a) states the massage establishment has verified that all providers are licensed individuals under Section 58-47b-302; and

(b) informs clients of:

(i) the right to request the provider's first name and last initial and license type; and

(ii) methods for reporting complaints to the division.

Section 15. Section 58-47b-401 is amended to read:

58-47b-401. Grounds for denial of license -- Individuals.

[~~Grounds for~~]If there are grounds in accordance with Section 58-1-401, the division may take the following actions regarding [~~a license under this chapter are in accordance with Section 58-1-401~~]a licensed individual:

(1) refusal to issue a license to an applicant;

(2) refusal to renew the license of a licensee;

(3) revocation, suspension, restriction, or placement on probation of a license;

(4) issuance of a public or private reprimand to a licensee; and

(5) issuance of a cease and desist order.

Section 16. Section 58-47b-401.1 is enacted to read:

58-47b-401.1. Grounds for denial of registration -- Massage establishments.

The division shall deny an application for registration of a massage establishment under this chapter if:

(1) the location in the registration application had a registration revoked or surrendered for cause within the last two years;

(2) the application is for a location or a business that has advertised in a manner that reasonably implies sexual services are offered at the location;

(3) within two years before the date of the application, an owner had a previous license or registration issued under this chapter suspended or revoked; or

(4) an owner has a criminal conviction or pending criminal charges for any crime under Title 76, Chapter 5, Part 4, Sexual Offenses, or any crime listed by rule made by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 17. Section 58-47b-501 is amended to read:

58-47b-501. Unlawful conduct -- Individuals.

(1) "Unlawful conduct" for an individual includes:

(a) [~~practicing, engaging in, or attempting to practice or engage in the practice of massage therapy without holding a current license as a massage therapist or a massage apprentice under this chapter~~]performance of massage services without being a licensed individual or an exempt individual;

(b) [~~advertising or representing oneself as engaging in the practice of massage therapy when not licensed to do so~~]advertisement of or representation of oneself as able to perform massage services when not a licensed individual or an exempt individual;

(c) performance of massage services outside the scope of what the licensed individual is licensed or registered to perform; or

[~~(c) practicing, engaging in, or attempting to practice or engage in the practice of limited massage therapy without holding a current license as a massage therapist, massage apprentice, massage assistant, or massage assistant in-training under this chapter;~~]

[~~(d) advertising or representing oneself as engaging in the practice of limited massage therapy when not licensed to do so; and~~]

[~~(e)~~](d) [~~massaging, touching, or applying~~]while performing massage services, massage, touch, or application of any instrument or device [~~by a licensee in the course of engaging in the practice of massage therapy or the practice of limited massage therapy~~]to the:

(i) genitals;

(ii) anus; or

(iii) except as provided in Subsection (2), breasts of a female [~~patron~~]client.

(2) (a) Subsection [~~(1)(c)(iii)~~](1)(d)(iii) does not apply if a female [~~patron~~]client:

(i) requests breast massage, as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) subject to Subsection (2)(b), signs a written consent form before each time the procedure is performed.

(b) If the female [~~patron~~]client is a minor, the female [~~patron's~~]client's parent or legal guardian shall sign the written consent form described in Subsection (2)(a).

Section 18. Section 58-47b-501.1 is enacted to read:

58-47b-501.1. Unlawful conduct -- Massage establishments.

"Unlawful conduct" for a massage establishment includes:

(1) operation without a valid registration;

(2) use of a registered massage establishment as housing, sheltering, or for harboring any individual;

(3) performance of massage services by an individual who is not licensed or exempt;

(4) performance of:

(a) massage services without the individual performing the massage being fully clothed; or

(b) a sexual act;

(5) arrangement for a sexual act;

(6) use or the possession of adult-oriented merchandise while at the registered massage establishment;

(7) advertisement on a sexually oriented website;

(8) advertisement of services in a manner that may be reasonably construed as sexual in nature;

(9) refusal of inspection by the division as authorized under Section 58-47b-601;

(10) arrangement or allowance of any of the unlawful acts described in Section 58-47b-501;

(11) failure to immediately report to a local police department any disorderly conduct, sexual acts, or other criminal activity occurring on or within the registered massage establishment's premises;

(12) concealment of an individual in the massage establishment;

(13) refusal to provide identification to inspectors or law enforcement; or

(14) attempt to elude an inspector by leaving the massage establishment or remaining behind locked doors in the massage establishment during an inspection.

Section 19. Section 58-47b-502 is amended to read:

58-47b-502. Unprofessional conduct -- Individuals.

"Unprofessional conduct" for an individual includes the following and may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(1) [~~maintaining, operating, or assisting~~]the maintenance, operation, or assistance in the establishment or operation of any place of business for the purpose of performing [~~the practice of massage therapy or the practice of limited massage therapy~~]massage services without first obtaining a business license, if a license is required;

(2) [~~failing~~]failure to comply with any applicable ordinances relating to the regulation of massage establishment;

(3) [~~failing~~]failure to comply with all applicable state and local health or sanitation codes;

(4) [~~failing~~]failure of a massage therapy supervisor to properly supervise a massage apprentice, massage assistant, [~~or massage assistant-in-training~~]or a massage assistant-in-training;

(5) [~~failing~~]failure to maintain mechanical or electrical equipment in a safe operating condition;

(6) [~~failing~~]failure to adequately monitor [~~patrons~~]clients utilizing steam rooms, dry heat cabinets, or water baths;

(7) [~~prescribing or administering~~]prescription or administration of medicine or drugs;

(8) [~~engaging~~]engagement in any act or practice in a professional capacity that is outside of the [~~practice of massage therapy or the practice of limited massage therapy~~]scope of massage services; and

(9) [~~engaging~~]engagement in any act or practice in a professional capacity for which the [~~licensee~~]licensed individual is not competent to perform through training or experience.

Section 20. Section 58-47b-502.1 is enacted to read:

58-47b-502.1. Unprofessional conduct -- Massage establishments.

"Unprofessional conduct" for a massage establishment includes the following and may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(1) failure to comply with employee or client recordkeeping requirements as established in rule;

(2) failure to comply with all applicable state and local health or sanitation codes and requirements as established by rule;

(3) failure to comply with facility requirements as established by rule;

(4) maintenance, operation, or assistance in an establishment or operation of any place of business for the purpose of performing massage services without first obtaining a business registration, if a license is required;

(5) failure to comply with any applicable ordinances relating to the regulation of massage establishment;

(6) failure to maintain mechanical or electrical equipment in a safe operating condition; and

(7) failure to adequately monitor a client utilizing steam rooms, dry heat cabinets, or water baths.

Section 21. Section 58-47b-503 is amended to read:

58-47b-503. Penalties -- Individuals.

(1) Except as provided in Subsection (2), [~~any~~]an individual who commits an act of unlawful conduct under Section 58-47b-501 is guilty of a class A misdemeanor.

(2) Sexual conduct that violates Section 58-47b-501 and Title 76, Utah Criminal Code, shall be subject to the applicable penalties in Title 76, Utah Criminal Code.

(3) For acts of unprofessional conduct or unlawful conduct by an individual, the division may:

(a) assess an administrative fine in accordance with Subsection 58-1-502(1); and

(b) take any appropriate administrative action, which may include sending letters of concern to the municipality and the police department for the municipality in which the individual violates this chapter.

(4) The division shall deposit an administrative fine imposed in accordance with this section into the Commerce Service Account.

(5) If an individual has been convicted of violating Section 58-47b-501, before an administrative finding of a violation of the same section, the individual may not be assessed an administrative fine under this chapter for the same incident for which the conviction was obtained.

(6) (a) If, upon an inspection described in Section 58-47b-601 or an investigation under this section, the division concludes that an individual has violated the provisions of Chapter 1, Division of Professional Licensing Act, Section 58-47b-501 or 58-47b-502, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

(i) notify the individual to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act;

(ii) attempt to negotiate a stipulated settlement; or

(iii) promptly issue a citation to the individual according to this chapter and any pertinent rules.

(b) The division shall suspend, revoke, place on probation, or refuse to issue or renew the license of a licensed individual that fails to comply with the citation after the citation becomes final.

(c) Failure of an individual to comply with a citation after the citation becomes final is a ground for denial of license or renewal.

(d) The division may not issue a citation under this section after one year from the date on which the violation that is the subject of the citation is reported to the division.

(e) (i) In addition to or in lieu of an administrative fine authorized in Subsection (3), the division may assess a penalty to any person that is in violation of the provisions of Chapter 1, Division of Professional Licensing Act, Section 58-47b-501 or 58-47b-502, or any rule or order issued with respect to these provisions, as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding.

(ii) The penalty may be in an amount that is the greater of up to $10,000 per single violation or up to $2,000 per day of an ongoing violation in accordance with a penalty schedule established by rule.

(iii) The division shall deposit a penalty imposed in accordance with this section into the Commerce Service Account.

(iv) The director may collect a penalty that is not paid by:

(A) referring the matter to a collection agency; or

(B) bringing an action in the district court of the county where the individual against whom the penalty is imposed resides or in the county where the office of the director is located.

(v) The division may consult with the county attorney or the attorney general of the state for legal assistance and advice in an action to collect a penalty.

(vi) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

(vii) In addition to or in lieu of a penalty, the division may order the individual to cease and desist from violating the provisions of Chapter 1, Division of Professional Licensing Act, Section 58-47b-501 or 58-47b-502, or any rule or order issued with respect to these provisions.

(7) (a) A citation under Subsection (6) shall:

(i) be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(ii) state that the individual to whom the division issues the citation shall notify the division in writing within 20 calendar days of service of the citation to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iii) explain the consequences of failure to timely contest the citation or to make payment of any penalties assessed by the citation within the time specified in the citation.

(b) The division may serve a citation issued under this section, or a copy of each citation, upon any individual upon which a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the individual's agent by a division investigator or by any person specially designated by the director; or

(iii) by mail.

(c) If, within 20 calendar days after the day of service of a citation, the individual to whom the division issues the citation fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(d) The division may extend the period to contest the citation for cause.

(8) (a) The division may suspend the license of a licensed individual without notice if:

(i) there is a pattern of credible facts that the individual is attempting to operate a prostitution enterprise; or

(ii) the individual is engaged in any form of human trafficking whether there is a violation of any other specific law, rule, or code.

(b) If the division suspends the license of a licensed individual without notice, the division shall hold a hearing within 15 days.

Section 22. Section 58-47b-503.1 is enacted to read:

58-47b-503.1. Penalties -- Massage establishments.

(1) For acts of unprofessional conduct or unlawful conduct by a massage establishment, the division may:

(a) assess an administrative fine in accordance with Subsection 58-1-502(1); and

(b) take any appropriate administrative action, which may include sending letters of concern to:

(i) the municipality and the police department for the municipality in which the massage establishment is located; or

(ii) the property owner or manager from which the massage establishment is leasing space.

(2) The division shall deposit an administrative fine imposed in accordance with this section into the Commerce Service Account.

(3) If a massage establishment owner has been convicted of violating Section 58-47b-501.1, before an administrative finding of a violation of the same section, the massage establishment owner may not be assessed an administrative fine under this chapter for the same incident for which the conviction was obtained.

(4) (a) If, upon an inspection described in Section 58-47b-601 or an investigation under this section, the division concludes that a massage establishment has violated the provisions of Chapter 1, Division of Professional Licensing Act, Section 58-47b-501.1 or 58-47b-502.1, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

(i) notify the massage establishment to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act;

(ii) attempt to negotiate a stipulated settlement; or

(iii) promptly issue a citation to the massage establishment according to this chapter and any pertinent rules.

(b) The division shall suspend, revoke, place on probation, or refuse to issue or renew the registration of a registered massage establishment that fails to comply with the citation after the citation becomes final.

(c) Failure of a massage establishment to comply with a citation after the citation becomes final is a ground for denial of license, registration, or renewal.

(d) The division may not issue a citation under this section after one year from the date on which the violation that is the subject of the citation is reported to the division.

(e) (i) In addition to or in lieu of an administrative fine authorized in Subsection (1), the division may assess a penalty to any massage establishment that is in violation of the provisions of Chapter 1, Division of Professional Licensing Act, Section 58-47b-501.1 or 58-47b-502.1, or any rule or order issued with respect to these provisions, as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding.

(ii) The penalty may be in an amount that is the greater of up to $10,000 per single violation or up to $2,000 per day of an ongoing violation in accordance with a penalty schedule established by rule.

(iii) The division shall deposit a penalty imposed in accordance with this section into the Commerce Service Account.

(iv) The director may collect a penalty that is not paid by:

(A) referring the matter to a collection agency; or

(B) bringing an action in the district court of the county where the massage establishment against which the penalty is imposed resides or in the county where the office of the director is located.

(v) The division may consult with the county attorney or the attorney general of the state for legal assistance and advice in an action to collect a penalty.

(vi) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

(vii) In addition to or in lieu of a penalty, the division may order the massage establishment to cease and desist from violating the provisions of Chapter 1, Division of Professional Licensing Act, Section 58-47b-501.1 or 58-47b-502.1, or any rule or order issued with respect to these provisions.

(5) (a) A citation under Subsection (4) shall:

(i) be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(ii) state that the massage establishment to which the division issues the citation shall notify the division in writing within 20 calendar days of service of the citation to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iii) explain the consequences of failure to timely contest the citation or to make payment of any penalties assessed by the citation within the time specified in the citation.

(b) The division may serve a citation issued under this section, or a copy of each citation, upon any massage establishment upon which a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the massage establishment's agent by a division investigator or by any person specially designated by the director; or

(iii) by mail.

(c) If, within 20 calendar days after the day of service of a citation, the massage establishment to which the division issues the citation fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(d) The division may extend the period to contest the citation for cause.

(6) (a) The division may suspend a registered massage establishment's registration without notice if:

(i) there is a pattern of credible facts that the registered massage establishment is attempting to operate a prostitution enterprise; or

(ii) the registered massage establishment is engaged in any form of human trafficking whether there is a violation of any other specific law, rule, or code.

(b) If the division suspends the registration without notice, the division shall hold a hearing within 15 days.

Section 23. Section 58-47b-504 is enacted to read:

58-47b-504. Renting or leasing to a sole practitioner.

A sole practitioner renting or leasing to a sole practitioner is not liable for the actions of the sole practitioner to which the sole practitioner rents or leases so long as the sole practitioner:

(1) verifies that the sole practitioner who is renting or leasing is a licensed massage therapist and in good standing in the state of Utah at the time of the rental or lease;

(2) obtains a signed attestation from the sole practitioner who is renting or leasing that the sole practitioner has no business arrangement with the licensed individual other than a rental or lease; and

(3) produces copies of the following if requested by the division:

(a) the sole practitioner's state massage license;

(b) the sole practitioner's signed attestation described in Subsection (2); and

(c) the rental agreement.

Section 24. Section 58-47b-601 is enacted to read:

PART 6. Enforcement

58-47b-601. Inspection.

(1) For the purpose of verifying compliance with this chapter, the division may enter and inspect the premises of any massage establishment.

(2) Before conducting an inspection under Subsection (1), the division shall:

(a) give proper identification;

(b) request the registration for the massage establishment;

(c) describe the nature and purpose of the inspection; and

(d) provide upon request, the authority of the division to conduct the inspection and the penalty for refusing to permit the inspection as provided in Section 58-47b-503.1.

(3) If during the inspection, the inspector has reasonable expectation that an occupant of a room is not fully clothed, the inspector shall

allow the occupant a reasonable amount of time to dress before the inspector enters the room.

(4) In conducting an inspection under Subsection (1), the division may, after meeting the requirements of Subsection (2):

(a) examine any record, device, equipment, machine, electronic device or media, or area related to the practice of massage therapy for the purpose of verifying compliance with the applicable provisions of this chapter;

(b) reproduce any record or media at the division's own cost; and

(c) take a device for further analysis if considered necessary.

(5) The owner or manager of the massage establishment shall assist the inspector by providing access to:

(a) all areas of the massage establishment;

(b) all personnel; and

(c) all records requested by the inspector.

(6) If upon inspection the division concludes that a person has violated the provisions of this chapter, or a rule or order issued with respect to this chapter, and that disciplinary action is appropriate, the director or the director's designee shall issue a penalty or citation to the registrant.

Section 25. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates: Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

(4) Section 58-37-3.5, Drugs for behavioral health treatment, is repealed July 1, 2027.

(5) Subsection 58-37-6(7)(f)(iii), regarding a seven-day opiate supply restriction, is repealed July 1, 2032.

(6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2033.

(7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2033.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2034.

(10) Subsection 58-47b-102(8), defining massage assistant, is repealed July 1, 2029.

(11) Subsection 58-47b-102(9), defining massage assistant-in-training, is repealed July 1, 2029.

(12) Subsection 58-47b-302(1), regarding applicant for a massage assistant-in-training, is repealed July 1, 2029.

(13) Subsection 58-47b-302(2), regarding applicant for a massage assistant, is repealed July 1, 2029.

(14) Subsection 58-47b-303(3)(b), regarding expiration of a massage assistant-in-training license, is repealed July 1, 2029.

(15) Subsection 58-55-201(2), regarding the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

[~~(11)~~](16) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

Section 26. Effective Date.

This bill takes effect on October 1, 2025.

Section 27. Coordinating H.B. 278 with S.B. 44.

If H.B. 278, Massage Therapy Amendments, and S.B. 44, Professional Licensure Amendments, both pass and become law, the Legislature intends that, on October 1, 2025:

(1) Subsection 58-1-301.5(1) in S.B. 44 be amended to read:

"(1) As used in this section, "applicant" means an individual applying for licensure, certification, or registration, or with respect to a license, certification or registration, applying for renewal, reinstatement, relicensure, or recertification, as required in:

(a) Section 58-5a-302;

(b) Section 58-16a-302;

(c) Section 58-17b-303;

(d) Section 58-17b-304;

(e) Section 58-17b-305;

(f) Section 58-17b-306;

(g) Section 58-24b-302;

(h) Section 58-31b-302;

(i) Section 58-42a-302;

(j) Section 58-44a-302;

(k) Section 58-47b-302;

(l) Section 58-47b-302.2;

(m) Section 58-55-302;

(n) Section 58-60-205;

(o) Section 58-60-305;

(p) Section 58-60-405;

(q) Section 58-60-506;

(r) Section 58-61-304;

(s) Section 58-63-302;

(t) Section 58-64-302;

(u) Section 58-67-302;

(v) Section 58-68-302;

(w) Section 58-69-302;

(x) Section 58-70a-302;

(y) Section 58-70b-302;

(z) Section 58-71-302; or

(aa) Section 58-73-302.";

(2) Subsection 58-1-301.5(5) enacted in S.B. 44 be amended to read:

"(5) To fulfill an applicable criminal background check requirement, an applicant shall:

(a) submit fingerprints in a form acceptable to the division at the time the applicant files a license application or a registration; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.";

(3) Subsection 58-1-301.5(8) enacted in S.B. 44 be amended to read:

"(8)(a)(i) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required under this section demonstrates, after the applicant is licensed or registered, that the applicant failed to accurately disclose a criminal history, the division may provide notice to the applicant that the license or registration is immediately and automatically revoked.

(ii) If a massage establishment owner has a criminal conviction or pending criminal charges for any crime under Title 76, Chapter 5, Part 4, Sexual Offenses, or any crime listed by rule made by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall deny an application for registration of a massage establishment.

(b)(i) An individual whose license has been revoked in accordance with Subsection (8)(a) is entitled to a hearing to challenge the revocation.

(ii) A registered massage establishment for which the registration has been revoked in accordance with Subsection (8)(a) is entitled to a hearing to challenge the revocation.

(c) The division shall conduct the hearing described in this Subsection (8) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.";

(4) Subsection 58-47b-302(6)(d) enacted in H.B. 278 be amended to read:

"(d) consent to, and complete, a criminal background check, described in Section 58-1-301.5."; and

(5) Subsection 58-47b-302.2(2)(d)(i) enacted in H.B. 278 be amended to read:

"(d)(i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;".

CHAPTER 237
H. B. 279
Passed March 4, 2025
Approved March 25, 2025
Effective May 7, 2025

EARNED WAGE ACCESS SERVICES ACT

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill enacts the Earned Wage Access Services Act.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► enacts provisions related to earned wage access services, including provider registration and renewal;
- ► directs the Division of Consumer Protection to administer and enforce the Earned Wage Access Services Act;
- ► provides penalties for violation; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2024, Chapter 132

ENACTS:

13-75-101, Utah Code Annotated 1953
13-75-102, Utah Code Annotated 1953
13-75-103, Utah Code Annotated 1953
13-75-104, Utah Code Annotated 1953
13-75-105, Utah Code Annotated 1953
13-75-106, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 is amended to read:

13-2-1. Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 10a, Music Licensing Practices Act;

(b) Chapter 11, Utah Consumer Sales Practices Act;

(c) Chapter 15, Business Opportunity Disclosure Act;

(d) Chapter 20, New Motor Vehicle Warranties Act;

(e) Chapter 21, Credit Services Organizations Act;

(f) Chapter 22, Charitable Solicitations Act;

(g) Chapter 23, Health Spa Services Protection Act;

(h) Chapter 25a, Telephone and Facsimile Solicitation Act;

(i) Chapter 26, Telephone Fraud Prevention Act;

(j) Chapter 28, Prize Notices Regulation Act;

(k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(l) Chapter 34, Utah Postsecondary School and State Authorization Act;

(m) Chapter 41, Price Controls During Emergencies Act;

(n) Chapter 42, Uniform Debt-Management Services Act;

(o) Chapter 49, Immigration Consultants Registration Act;

(p) Chapter 51, Transportation Network Company Registration Act;

(q) Chapter 52, Residential Solar Energy Disclosure Act;

(r) Chapter 53, Residential, Vocational and Life Skills Program Act;

(s) Chapter 54, Ticket Website Sales Act;

(t) Chapter 56, Ticket Transferability Act;

(u) Chapter 57, Maintenance Funding Practices Act;

(v) Chapter 61, Utah Consumer Privacy Act;

(w) Chapter 63, Utah Social Media Regulation Act;

(x) Chapter 64, Vehicle Value Protection Agreement Act;

(y) Chapter 65, Utah Commercial Email Act;

(z) Chapter 67, Online Dating Safety Act;

(aa) Chapter 68, Lawyer Referral Consultants Registration Act;

(bb) Chapter 70, Automatic Renewal Contracts Act; [~~and~~]

(cc) Chapter 71, Utah Minor Protection in Social Media Act [~~.~~]; and

(dd) Chapter 75, Earned Wage Access Services Act.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to establish:

(a) a public list that identifies a person [~~who~~]that:

(i) violates a chapter described in Subsection (2);

(ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal process issued by:

(A) the division; or

(B) a court of competent jurisdiction; or

(iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar instrument signed by the person and the division; and

(b) a process by which a person may be removed from the list the division establishes as described in Subsection (3)(a).

Section 2. Section 13-75-101 is enacted to read:

CHAPTER 75. EARNED WAGE ACCESS SERVICES ACT

13-75-101. Definitions.

As used in this chapter:

(1) "Consumer" means an individual who resides in the state.

(2) "Earned but unpaid income" means compensation, including salary, wages, or other income, that is:

(a) earned or accrued by a consumer through services provided to an employer or as an independent contractor; and

(b) not paid yet to the consumer by the employer or hiring party.

(3) "Earned wage access services" means the payment of funds to a consumer determined by:

(a) (i) a consumer's representation; and

(ii) the provider's reasonable determination of earned but unpaid income; or

(b) employment, income, and attendance data obtained directly or indirectly by a provider from an employer or an employer's payroll service provider.

(4) (a) "Fee" means a charge the provider imposes on a consumer for earned wage access services, expedited delivery of funds, or a subscription or membership that includes earned wage access services.

(b) "Fee" does not include a voluntary tip, gratuity, or donation.

(5) (a) "Provider" means a person engaged in the business of offering earned wage access services.

(b) "Provider" does not include:

(i) a service provider, such as a payroll service provider, that verifies, but does not fund, earned wages;

(ii) an employer that advances a portion of earned wages directly to employees or independent contractors; or

(iii) a person regulated under Title 7, Financial Institutions Act.

Section 3. Section 13-75-102 is enacted to read:

13-75-102. Provider registration and registration renewal.

(1) Except as provided in Subsection (4), a person may not act as a provider without registering with the division.

(2) To register as a provider, a person shall submit to the division a registration application:

(a) in the manner the division determines; and

(b) that includes:

(i) a registration application fee in an amount the division determines in accordance with Sections 13-1-2 and 63J-1-504;

(ii) a copy of the agreement for earned wage access services the provider uses with a consumer; and

(iii) any information that the division requires by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Each year a provider shall renew the provider's registration by submitting to the division an application for registration renewal:

(a) in a manner the division determines; and

(b) that includes:

(i) a registration renewal application fee in an amount the division determines in accordance with Sections 13-1-2 and 63J-1-504; and

(ii) any information the division requires by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A person that acts as a provider on May 7, 2025, may continue to act as a provider:

(a) if the person:

(i) applies for registration in accordance with this section on or before October 6, 2025; and

(ii) complies with the requirements of this chapter; and

(b) until the day on which the division issues a decision on the registration application after which:

(i) a person for which a registration application is denied may no longer operate; and

(ii) a person for which a registration application is granted may operate as provider.

(5) (a) The division shall require a provider's principal to:

(i) submit a fingerprint card in a form acceptable to the division; and

(ii) consent to a criminal background check by:

(A) the Federal Bureau of Investigation;

(B) the Utah Bureau of Criminal Identification; or

(C) another agency of any state that performs criminal background checks.

(b) The provider shall pay the cost of:

(i) the fingerprint card described in Subsection (5)(a)(i); and

(ii) the criminal background check described in Subsection (5)(a)(ii).

(6) The division may grant or deny the registration application or the renewal application in accordance with Section 13-75-105.

Section 4. Section 13-75-103 is enacted to read:

13-75-103. Regulation of earned wage access services.

(1) A provider is exempt from Title 7, Financial Institutions Act, and Title 12, Collection Agencies.

(2) A provider shall:

(a) develop and implement procedures to address consumer questions and complaints;

(b) before entering into an agreement for earned wage access services with a consumer, clearly and conspicuously disclose:

(i) the consumer's rights under the agreement;

(ii) all fees; and

(iii) any voluntary tip, gratuity, or donation opportunities;

(c) (i) obtain customer consent to changes to terms and conditions of the earned wage access services; or

(ii) clearly and conspicuously disclose any material changes to terms and conditions of the earned wage access services at least 30 days before the effective date of the material changes;

(d) allow a consumer to cancel the use of earned wage access services at any time without incurring a penalty;

(e) offer at least one no-fee option to receive funds and clearly and conspicuously disclose how to select the no-fee option to receive funds;

(f) comply with all applicable local, state, and federal privacy and information security laws;

(g) deliver funds through any method agreed upon by the consumer and provider;

(h) reimburse overdraft or non-sufficient fund fees the consumer incurs as a result of the provider's error in disclosed or actual payment amount or payment date unless the funds were acquired by a consumer through fraudulent means;

(i) clearly and conspicuously disclose the voluntary nature of tips, gratuities, or donations and ensure the availability or terms of the earned wage access services are not contingent upon the payment of tips, gratuities, or donations;

(j) provide information to a consumer on how to file a complaint with the division;

(k) provide the following disclosures to a consumer at the time the consumer makes a request for funds:

(i) the anticipated timeline the consumer will receive the requested funds;

(ii) the amount of funds the consumer has requested;

(iii) the amount of the fee charged;

(iv) the amount of funds the consumer will receive;

(v) the account that will receive the funds; and

(vi) the date the provider is authorized to withdraw funds from the consumer's account, including fees and voluntary payments; and

(l) before initiating an advance, require the customer to acknowledge receiving the opportunity to view all disclosures listed in Subsection (2)(k) and any costs and fees.

(3) A provider may not:

(a) compel a consumer to repay funds by:

(i) using or threatening to use civil lawsuits, outbound calls, third-party collections, or debt sales;

(ii) reporting or threatening to report nonpayment to consumer reporting agencies; or

(iii) charging or threatening to charge interest, finance charges, late fees, or other penalties for nonpayment;

(b) use a consumer's credit report or credit score as defined by 15 U.S.C. Sec. 1681 et seq., to determine eligibility for earned wage access services;

(c) accept payment with a credit card or charge card;

(d) condition receipt of funds based on fees, tips, gratuities, or donations;

(e) mislead a consumer about the voluntary nature of tips, gratuities, or donations;

(f) charge a consumer a fee, interest, or any other penalty for failure to repay outstanding proceeds, fees, tips, or gratuities; or

(g) provide earned wage access services in this state without first registering with the division.

(4) Each act performed in violation of Subsection (3) is a separate violation of this chapter.

(5) The provider may prohibit a consumer from requesting a transaction if the consumer has outstanding unpaid proceeds from a

previous transaction with the provider.

(6) A provider is not entitled to the exemption described by Subsection 13-11-22(1)(d).

Section 5. Section 13-75-104 is enacted to read:

13-75-104. Penalties and enforcement -- Powers -- Legal counsel -- Fees.

(1) The attorney general, upon request, shall give legal advice to, and act as counsel for, the division in the exercise of the division's responsibilities under this chapter.

(2) (a) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(i) the division director may impose an administrative fine of up to $2,500 for each violation of this chapter; and

(ii) the division may bring an action in court to enforce a provision of this chapter.

(b) In a court action by the division to enforce a provision of this chapter, the court may:

(i) declare that an act or practice violates a provision of this chapter;

(ii) issue an injunction for a violation of this chapter;

(iii) order disgorgement of any money received in violation of this chapter;

(iv) order payment of disgorged money to an injured purchaser or consumer;

(v) impose a fine of up to $2,500 for each violation of this chapter; or

(vi) award any other relief that the court deems reasonable and necessary.

(3) If a court grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(4) (a) A person that violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of no more than $5,000 for each violation.

(b) The court may impose a civil penalty authorized under this section in any civil action brought by the attorney general on behalf of the division.

(5) The division shall deposit money received for the payment of a fine or civil penalty imposed under this section into the Consumer Protection Education and Training Fund created in Section 13-2-8.

Section 6. Section 13-75-105 is enacted to read:

13-75-105. Denial, suspension, or revocation of provider registration.

In accordance with Chapter 2, Division of Consumer Protection, and Title 63G, Chapter 4, Administrative Procedures Act, the division may initiate adjudicative proceedings to deny, suspend, or revoke a registration if:

(1) the division finds that the denial, suspension, or revocation is in the public interest; and

(2) (a) the registration is incomplete, false, or misleading; or

(b) the provider or the provider's principal has:

(i) violated, caused a violation, or allowed a violation of a provision of:

(A) this chapter; or

(B) a rule made by the division under this chapter;

(ii) violated Chapter 11, Utah Consumer Sales Practices Act;

(iii) been enjoined by a court, or is the subject of an administrative or judicial order issued in Utah or another state, if the order:

(A) includes a finding or admission of fraud, breach of fiduciary duty, or material misrepresentation; or

(B) was based on a finding of lack of integrity, truthfulness, or mental competence;

(iv) been convicted of a crime involving theft, fraud, or dishonesty;

(v) obtained or attempted to obtain a registration by misrepresenting any material fact;

(vi) failed to provide information the division requests;

(vii) failed to pay an administrative fine that the division or an administrative or judicial order imposed;

(viii) failed to pay the fee to file a registration application or a renewal application; or

(ix) failed to satisfy the requirements of this chapter or rule made by the division under this chapter.

Section 7. Section 13-75-106 is enacted to read:

13-75-106. Applicability.

(1) A provider offering or providing earned wage access services in this state:

(a) does not violate state law governing deductions from payroll, salary, wages, compensation, or other income or the purchase, sale or assignment of, or an order for earned but unpaid income;

(b) is not offering a loan or other form of credit or debt, if the provider is not a creditor, a debt collector, or a lender; or

(c) is not offering a money transmission, if the provider is not a money transmitter.

(2) Fees, voluntary tips, gratuities, or other donations paid to the provider, in accordance with this chapter, are not interest or finance charges.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 238
H. B. 287
Passed March 4, 2025
Approved March 25, 2025
Effective May 7, 2025

STALKING AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses stalking.

Highlighted Provisions:

This bill:

► provides that an individual does not commit stalking in certain circumstances; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-106.5, as last amended by Laws of Utah 2024, Chapter 179
78B-7-701, as last amended by Laws of Utah 2022, Chapter 297

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-5-106.5 is amended to read:

76-5-106.5. Stalking -- Definitions -- Injunction -- Penalties -- Duties of law enforcement officer.

(1) (a) As used in this section:

(i) "Course of conduct" means two or more acts directed at or toward a specific individual, including:

(A) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property:

(I) directly, indirectly, or through any third party; and

(II) by any action, method, device, or means; or

(B) when the actor engages in any of the following acts or causes someone else to engage in any of these acts:

(I) approaches or confronts an individual;

(II) appears at the individual's workplace or contacts the individual's employer or coworker;

(III) appears at an individual's residence or contacts an individual's neighbor, or enters property owned, leased, or occupied by an individual;

(IV) sends material by any means to the individual or for the purpose of obtaining or disseminating information about or communicating with the individual to a member of the individual's family or household, employer, coworker, friend, or associate of the individual;

(V) places an object on or delivers an object to property owned, leased, or occupied by an individual, or to the individual's place of employment with the intent that the object be delivered to the individual; or

(VI) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.

(ii) (A) "Emotional distress" means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required.

(B) "Emotional distress" includes significant mental or psychological suffering resulting from harm to an animal.

(iii) "Immediate family" means a spouse, parent, child, sibling, or any other individual who regularly resides in the household or who regularly resided in the household within the prior six months.

(iv) "Private investigator" means the same as that term is defined in Section 76-9-408.

(v) "Reasonable person" means a reasonable person in the victim's circumstances.

(vi) "Stalking" means an offense as described in Subsection (2).

(vii) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone or computer to another individual's telephone or computer by addressing the communication to the recipient's telephone number.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits stalking if the actor intentionally or knowingly:

(a) engages in a course of conduct directed at a specific individual and knows or is reckless as to whether the course of conduct would

cause a reasonable person:

(i) to fear for the individual's own safety or the safety of a third individual; or

(ii) to suffer other emotional distress; or

(b) violates:

(i) a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions; or

(ii) a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

(3) (a) A violation of Subsection (2) is a class A misdemeanor:

(i) upon the actor's first violation of Subsection (2); or

(ii) if the actor violated a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor:

(i) has been previously convicted of an offense of stalking;

(ii) has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;

(iii) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking offense or a member of the victim's immediate family was also a victim of the previous felony offense;

(iv) violated a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions; or

(v) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the victim.

(c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second degree felony if the actor:

(i) used a dangerous weapon or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;

(ii) has been previously convicted two or more times of the offense of stalking;

(iii) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;

(iv) has been convicted two or more times, in any combination, of offenses under Subsection (3)(b)(i), (ii), or (iii);

(v) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses; or

(vi) has been previously convicted of an offense under Subsection (3)(b)(iv) or (v).

(4) In a prosecution under this section, it is not a defense that the actor:

(a) was not given actual notice that the course of conduct was unwanted; or

(b) did not intend to cause the victim fear or other emotional distress.

(5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.

(6) (a) Except as provided in Subsection (6)(b), an actor does not violate this section if:

(i) the actor is acting:

[~~(i)~~](A) in the actor's official capacity as a law enforcement officer, governmental investigator, or private investigator; and

[~~(ii)~~](B) for a legitimate official or business purpose [~~.~~]; or

(ii) (A) the actor is the owner of a business;

(B) the actor engages in a course of conduct that is reasonable and necessary to protect the actor's ownership interest in the business;

(C) the conduct is not directed at a cohabitant, as that term is defined in Section 78B-7-102; and

(D) the actor's conduct does not violate any other provision of this code.

(b) A private investigator is not exempt from this section if the private investigator engages in conduct that would constitute a ground for disciplinary action under Section 53-9-118.

(7) (a) A permanent criminal stalking injunction limiting the contact between the actor and victim may be filed in accordance with Section 78B-7-902.

(b) This section does not preclude the filing of criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

(8) (a) A law enforcement officer who responds to an allegation of stalking shall use all reasonable means to protect the victim and prevent further violence, including:

(i) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(ii) confiscating the weapon or weapons involved in the alleged stalking;

(iii) making arrangements for the victim and any child to obtain emergency housing or shelter;

(iv) providing protection while the victim removes essential personal effects;

(v) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(vi) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of stalking, in accordance with Subsection (8)(b).

(b) (i) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this section and Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(ii) The written notice shall also include:

(A) a statement that the forms needed in order to obtain a stalking injunction are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(B) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the

victim in accessing any needed assistance.

(c) If a weapon is confiscated under this Subsection (8), the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a stalking injunction is not issued or once the stalking injunction is terminated.

Section 2. Section 78B-7-701 is amended to read:

78B-7-701. Ex parte civil stalking injunction -- Civil stalking injunction.

(1) (a) (i) Except as provided in Subsection (1)(b), an individual who believes that the individual is the victim of stalking may [~~file~~]bring a verified written petition for a civil stalking injunction against the alleged stalker [~~with the district court in the district in which the individual or respondent resides, is temporarily domiciled, or in which any of the events occurred~~].

(ii) A minor with the minor's parent or guardian may [~~file~~]bring a petition on the minor's own behalf, or a parent, guardian, or custodian may file a petition on the minor's behalf.

(b) A stalking injunction may not be obtained against:

(i) []a law enforcement officer, governmental investigator, or licensed private investigator, [~~who is acting in official capacity.~~]as described in Subsection 76-5-106.5(6); or

(ii) an individual for engaging in conduct described in Subsection 76-5-106.5(6)(a)(ii).

(2) Notwithstanding Chapter 3a, Venue for Civil Actions, an individual shall bring a petition described in Subsection (1)(a) in the judicial district in which:

(a) the individual or respondent resides or is temporarily domiciled; or

(b) any of the events occurred.

[~~(2)~~](3) (a) Except as provided in Subsection [~~(2)(b)~~](3)(b), a petition for a civil stalking injunction shall include:

(i) the name of the petitioner;

(ii) the name and address, if known, of the respondent;

(iii) specific events and dates of the actions constituting the alleged stalking;

(iv) if there is a prior court order concerning the same conduct, the name of the court in which the order was rendered; and

(v) corroborating evidence of stalking, which may be in the form of a police report, affidavit, record, statement, item, letter, or any other evidence which tends to prove the allegation of stalking.

(b) (i) The petitioner's address shall be disclosed to the court for purposes of service.

(ii) On request of the petitioner, the petitioner's address may not be listed on the petition, and shall be protected and maintained in a separate document or automated database, not subject to release, disclosure, or any form of public access except as ordered by the court for good cause shown.

[~~(3)~~](4) (a) If the court determines that there is reason to believe that an offense of stalking has occurred, the court may issue an ex parte civil stalking injunction [~~may be issued by the court~~]that includes any of the following:

(i) the respondent may be enjoined from committing stalking;

(ii) the respondent may be restrained from coming near the residence, place of employment, or school of the other party or specifically designated locations or persons;

(iii) the respondent may be restrained from contacting, directly or indirectly, the other party, including personal, written or telephone contact with the other party, the other party's employers, employees, fellow workers or others with whom communication would be likely to cause annoyance or alarm to the other party; or

(iv) any other relief necessary or convenient for the protection of the petitioner and other specifically designated individuals under the circumstances.

(b) (i) If the petitioner and respondent have minor children, the court shall follow the provisions of Section 78B-7-603 and take into consideration the respondent's custody and parent-time rights while ensuring the safety of the victim and the minor children.

(ii) If the court issues a civil stalking injunction, but declines to address custody and parent-time issues, a copy of the stalking injunction shall be filed in any action in which custody and parent-time issues are being considered.

[~~(4)~~](5) (a) Within 10 days after the day on which the [~~the~~]ex parte civil stalking injunction is served, the respondent is entitled to request, in writing, an evidentiary hearing on the civil stalking injunction.

(b) (i) The court shall hold a hearing requested by the respondent at the earliest possible time and within 10 days after the day on which the request is filed with the court unless the court finds compelling reasons to continue the hearing.

(ii) At the hearing, the burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

(c) An ex parte civil stalking injunction issued under this section shall state on the civil stalking injunction's face:

(i) that the respondent is entitled to a hearing, upon written request within 10 days after the day on which the order is served;

(ii) the name and address of the court where the request may be filed;

(iii) that if the respondent fails to request a hearing within 10 days after the day on which the ex parte civil stalking injunction is served, the ex parte civil stalking injunction is automatically modified to a civil stalking injunction without further notice to the respondent and the civil stalking injunction expires three years after the day on which the ex parte civil stalking injunction is served; and

(iv) that if the respondent requests, in writing, a hearing after the ten-day period after service, the court shall set a hearing within a reasonable time from the date requested.

[~~(5)~~](6) (a) At the hearing, the court may modify, revoke, or continue the injunction.

(b) At the hearing, the burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

[~~(6)~~](7) (a) The ex parte civil stalking injunction shall be served on the respondent within 90 days after the day on which the ex parte civil stalking injunction is signed.

(b) An ex parte civil stalking injunction is effective upon service.

(c) If a hearing is not requested in writing by the respondent within 10 days after the day on which the ex parte civil stalking injunction is served, the ex parte civil stalking injunction automatically becomes a civil stalking injunction without further notice to the respondent

and expires three years after the day on which the ex parte civil stalking injunction is served.

[~~(7)~~](8) (a) If the respondent requests a hearing after the 10-day period after service, the court shall set a hearing within a reasonable time from the date requested.

(b) At the hearing, the burden is on the respondent to show good cause why the civil stalking injunction should be dissolved or modified.

[~~(8)~~](9) (a) Within 24 hours after the affidavit or acceptance of service is returned, excluding weekends and holidays, the clerk of the court from which the ex parte civil stalking injunction was issued shall enter a copy of the ex parte civil stalking injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.

(b) The effectiveness of an ex parte civil stalking injunction or civil stalking injunction does not depend upon entry of the ex parte civil stalking injunction or civil stalking injunction in the statewide system and, for enforcement purposes, a certified copy of an ex parte civil stalking injunction or civil stalking injunction is presumed to be a valid existing order of the court for a period of three years after the day on which the ex parte civil stalking injunction is served on the respondent.

(c) (i) Any changes or modifications of the ex parte civil stalking injunction are effective upon service on the respondent.

(ii) The original ex parte civil stalking injunction continues in effect until service of the changed or modified civil stalking injunction on the respondent.

[~~(9)~~](10) Within 24 hours after the affidavit or acceptance of service is returned, excluding weekends and holidays, the clerk of the court shall enter a copy of the changed or modified civil stalking injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.

[~~(10)~~](11) The ex parte civil stalking injunction or civil stalking injunction may be dissolved at any time upon application of the petitioner to the court that granted the ex parte civil stalking injunction or civil stalking injunction.

[~~(11)~~](12) An ex parte civil stalking injunction and a civil stalking injunction shall be served by a sheriff or constable in accordance with this section.

[~~(12)~~](13) The remedies provided in this chapter for enforcement of the orders of the court are in addition to any other civil and criminal remedies available.

[~~(13)~~](14) The court shall hear and decide all matters arising under this section.

[~~(14)~~](15) After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees.

[~~(15)~~](16) This section does not apply to preliminary injunctions issued under an action for dissolution of marriage or legal separation.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 239
H. B. 297
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

EXPUNGEMENT AMENDMENTS

Chief Sponsor: Tiara Auxier
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill addresses expungement.

Highlighted Provisions:

This bill:

- ► defines terms for expungement;
- ► allows the Department of Public Safety to make rules regarding the procedure for notifying the Bureau of Criminal Identification of an order of expungement;
- ► modifies the list of offenses that are not eligible for automatic expungement;
- ► allows the Bureau of Criminal Identification to request the vacation of an order for automatic expungement in certain circumstances;
- ► modifies the requirements for a certificate of eligibility to address registration as a sex offender, kidnap offender, or child abuse offender or a protective order or criminal stalking injunction in effect against the individual;
- ► modifies venue for a petition seeking expungement of criminal records;
- ► clarifies that a certificate of eligibility has to be valid at the time that the petition for expungement was filed for a court to grant expungement;
- ► addresses the effect of an expungement on a civil protective order;
- ► modifies venue for a petition seeking expungement of juvenile records;
- ► includes a coordination clause to address a technical conflict if this bill and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, both pass and become law; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

77-40a-101, as last amended by Laws of Utah 2024, Chapter 180
77-40a-104, as last amended by Laws of Utah 2024, Chapter 180
77-40a-205, as enacted by Laws of Utah 2024, Chapter 180
77-40a-207, as enacted by Laws of Utah 2024, Chapter 180
77-40a-303, as last amended by Laws of Utah 2024, Chapter 180
77-40a-305, as last amended by Laws of Utah 2024, Chapter 180
77-40a-306, as last amended by Laws of Utah 2024, Chapter 180
78B-7-109, as last amended by Laws of Utah 2020, Chapter 142
80-6-1001.2, as enacted by Laws of Utah 2024, Chapter 194

Utah Code Sections Affected by Coordination Clause:

AMENDS:

77-40a-303, as last amended by Laws of Utah 2024, Chapter 180

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-40a-101 is amended to read:

77-40a-101. Definitions.

As used in this chapter:

(1) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(2) "Automatic expungement" means the expungement of records of an investigation, arrest, detention, or conviction of an offense without the filing of a petition.

(3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(5) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(6) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(7) "Civil protective order" means the same as that term is defined in Section 78B-7-102.

[~~(7)~~](8) "Clean slate eligible case" means a case that is eligible for automatic expungement under Section 77-40a-205.

[~~(8)~~](9) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

[~~(9)~~](10) "Court" means a district court or a justice court.

[~~(10)~~](11) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

[~~(11)~~](12) "Criminal protective order" means the same as that term is defined in Section 78B-7-102.

[~~(12)~~](13) "Criminal stalking injunction" means the same as that term is defined in Section 78B-7-102.

[~~(13)~~](14) "Department" means the Department of Public Safety established in Section 53-1-103.

[~~(14)~~](15) "Drug possession offense" means:

(a) an offense described in Subsection 58-37-8(2), except for:

(i) an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana;

(ii) an offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility; or

(iii) an offense for driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(b) an offense described in Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) an offense described in Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection [~~(14)~~](15).

[~~(15)~~](16) (a) "Expunge" means to remove a record from public inspection by:

(i) sealing the record; or

(ii) restricting or denying access to the record.

(b) "Expunge" does not include the destruction of a record.

[~~(16)~~](17) "Indigent" means a financial status that results from a court finding that a petitioner is financially unable to pay the fee to file a petition for expungement under Section 78A-2-302.

[~~(17)~~](18) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

[~~(18)~~](19) (a) "Minor regulatory offense" means [~~, except as provided in Subsection (18)(c),~~] a class B or C misdemeanor offense or a local ordinance.

(b) "Minor regulatory offense" includes an offense under Section 76-9-701 or 76-10-105.

(c) "Minor regulatory offense" does not include:

(i) any drug possession offense;

(ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iii) an offense under Sections 73-18-13 through 73-18-13.6;

(iv) except as provided in Subsection [~~(18)(b)~~](19)(b), an offense under Title 76, Utah Criminal Code; or

(v) any local ordinance that is substantially similar to an offense listed in Subsections [~~(18)(c)(i)~~](19)(c)(i) through (iv).

[~~(19)~~](20) "Petitioner" means an individual applying for expungement under this chapter.

[~~(20)~~](21) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.

[~~(21)~~](22) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material, regardless of physical form or characteristics, that:

(a) is contained in the agency's file regarding the arrest, detention, investigation, conviction, sentence, incarceration, probation, or parole of an individual; and

(b) is prepared, owned, received, or retained by an agency, including a court.

[~~(22)~~](23) "Special certificate" means a document issued as described in Subsection 77-40a-304(1)(c) by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with the case [~~that is the subject of a petition for expungement is eligible for expungment~~]do not clearly demonstrate whether the case is eligible for expungement.

[~~(23)~~](24) (a) "Traffic offense" means [~~, except as provided in Subsection (23)(b)~~]:

(i) an infraction or a class C misdemeanor offense under Title 41, Chapter 1a, Motor Vehicle Act;

[~~(i)~~](ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 41, Chapter 6a, Traffic Code;

(iii) an infraction or a class C misdemeanor offense under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

[~~(ii)~~](iv) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 53, Chapter 3, Part 2, Driver Licensing Act;

[~~(iii)~~](v) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 73, Chapter 18, State Boating Act; and

[~~(iv)~~](vi) all local ordinances that are substantially similar to an offense listed in Subsections [~~(23)(a)(i)~~](24)(a)(i) through (iii).

(b) "Traffic offense" does not [~~mean~~]include:

(i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) an offense under Section 41-12a-302 for operating a motor vehicle without owner's or operator's security;

(iii) an offense under Section 41-12a-303.3 for providing false evidence of owner's or operator's security;

[~~(ii)~~](iv) an offense under Sections 73-18-13 through 73-18-13.6; or

[~~(iii)~~](v) any local ordinance that is substantially similar to an offense listed in Subsection [~~(23)(b)(i)~~](24)(b)(i) or (ii).

[~~(24)~~](25) "Traffic offense case" means that each offense in the case is a traffic offense.

Section 2. Section 77-40a-104 is amended to read:

77-40a-104. Department rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:

(1) implement procedures for processing an automatic expungement;

(2) implement procedures for applying for certificates of eligibility;

(3) specify procedures for receiving a certificate of eligibility;

(4) specify the procedure for notification of an order of expungement under Subsection 77-40a-306(5)(b);

[~~(4)~~](5) create forms and determine information necessary to be provided to the bureau; and

[~~(5)~~](6) implement procedures for the confirmation of an expungement under Subsection 77-40a-401(4).

Section 3. Section 77-40a-205 is amended to read:

77-40a-205. Automatic expungement of state records for a clean slate case.

(1) A court shall issue an order of expungement, without the filing of a petition, for all records of the case that are held by the court and the bureau if:

(a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a form requesting expungement of a case as described in Section 77-40a-204;

(b) the case is eligible for expungement under this section; and

(c) the prosecuting agency does not object to the expungement of the case as described in Subsection (6).

(2) Except as otherwise provided in Subsection (3), a case is eligible for expungement under this section if:

(a) (i) each conviction within the case is a conviction for:

(A) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(ii) the following time periods have passed after the day on which the individual is adjudicated:

(A) at least five years for the conviction of a class C misdemeanor offense or an infraction;

(B) at least six years for the conviction of a class B misdemeanor offense; or

(C) at least seven years for the conviction of a class A misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i); or

(b) (i) the case is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;

(ii) each charge within the case is:

(A) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(iii) the following time periods have passed after the day on which the case is dismissed:

(A) at least five years for a charge in the case for a class C misdemeanor offense or an infraction;

(B) at least six years for a charge in the case for a class B misdemeanor offense; or

(C) at least seven years for a charge in the case for a class A misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(3) A case is not eligible for expungement under this section if:

(a) the individual has a total number of convictions in courts of this state that exceed the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:

(i) the exception in Subsection 77-40a-303(7); or

(ii) any infraction, traffic offense, or minor regulatory offense;

(b) there is a criminal proceeding for a misdemeanor or felony offense pending in a court of this state against the individual, unless the proceeding is for a traffic offense;

(c) for an individual seeking an automatic expungement on and after January 1, 2025, the individual is incarcerated in the state prison or on probation or parole that is supervised by the Department of Corrections;

(d) the case resulted in the individual being found not guilty by reason of insanity;

(e) the case establishes a criminal accounts receivable that:

(i) has been entered as a civil accounts receivable or a civil judgment of restitution and transferred to the Office of State Debt Collection under Section 77-18-114; or

(ii) has not been satisfied according to court records; or

(f) the case resulted in a plea held in abeyance or a conviction for the following offenses:

(i) any of the offenses listed in Subsection 77-40a-303(2)(a);

(ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Individual;

(iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

(iv) sexual battery in violation of Section 76-9-702.1;

(v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(vii) damage to or interruption of a communication device in violation of Section 76-6-108;

(viii) a domestic violence offense as defined in Section 77-36-1; [~~or~~]

(ix) driving under the influence of alcohol, drugs, or a combination of both, or with specified or unsafe blood alcohol concentration, as codified before February 2, 2005, Laws of Utah 2005, Chapter 2; or

[~~(ix)~~](x) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that appears to be eligible for automatic expungement under this section.

(5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic expungement for any of the following reasons:

(a) the prosecuting agency believes that the case is not eligible for expungement under this section after reviewing the agency record;

(b) the individual has not paid restitution to the victim as ordered by the court; or

(c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual involved in the case is continuing to engage in criminal activity within or outside of the state.

(6) If a prosecuting agency provides written notice of an objection for a reason described in Subsection (5) within 35 days after the day on which the notice under Subsection (4) is sent, the court may not proceed with automatic expungement of the case.

(7) If 35 days pass after the day on which the notice described in Subsection (4) is sent without the prosecuting agency providing written notice of an objection under Subsection (5), the court shall proceed with automatic expungement of the case.

(8) If a court issues an order of expungement under Subsection (1), the court shall:

(a) expunge all records of the case held by the court in accordance with Section 77-40a-401; and

(b) notify the bureau and the prosecuting agency identified in the case, based on information available to the court, of the order of expungement.

Section 4. Section 77-40a-207 is amended to read:

77-40a-207. Automatic expungement by the bureau.

(1) Upon receiving notice from a court of an expungement order under this part, the bureau shall expunge all records of the case in accordance with Section 77-40a-401.

(2) (a) Notwithstanding Subsection (1) or Section 77-40a-205, the bureau may request that a court vacate an expungement order issued under this part if the bureau determines that:

(i) the order is expunging:

(A) a case that was dismissed as a result of a plea held in abeyance; or

(B) a conviction of an offense; and

(ii) the offense was not eligible for expungement under this part at the time that the court issued the order.

(b) The court shall vacate an expungement order issued under this part if the court determines that the offense was not eligible for expungement under this part at the time the court issued the order.

[~~(2)~~](3) The bureau shall forward a copy of the expungement order to the Federal Bureau of Investigation.

[~~(3)~~](4) Except for the court and the bureau, an agency is not required to expunge all records of a case that is automatically expunged under this part.

Section 5. Section 77-40a-303 is amended to read:

77-40a-303. Requirements for a certificate of eligibility to expunge records of a conviction.

(1) Except as otherwise provided by this section, a petitioner is eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction if:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

(b) the petitioner has paid in full all restitution ordered by the court under Section 77-38b-205; and

(c) the following time periods have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for the conviction that the petitioner seeks to expunge:

(i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);

(ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021,

Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(iii) seven years for the conviction of a felony;

(iv) five years for the conviction of a drug possession offense that is a felony;

(v) five years for the conviction of a class A misdemeanor;

(vi) four years for the conviction of a class B misdemeanor; or

(vii) three years for the conviction of a class C misdemeanor or infraction.

(2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction under Subsection (1) if:

(a) except as provided in Subsection (3), the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) a felony conviction described in Subsection 41-6a-501(2); or

(v) an offense, or a combination of offenses, [~~that would require the individual to register as a sex offender, as defined in Section 77-41-102~~]that require registration as a sex offender, kidnap offender, or child abuse offender under Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, at the time of the application for the certificate of eligibility; [~~or~~]

[~~(vi) a registerable child abuse offense as defined in Subsection 77-41-102(1);~~]

(b) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner, unless the criminal proceeding is for a traffic offense;

(c) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner, unless the plea in abeyance is for a traffic offense;

(d) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense;

(e) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility;

(f) there is a civil protective order, a criminal protective order, or a criminal stalking injunction against the petitioner that is in effect [~~for the case~~]; or

(g) the bureau determines that the petitioner's criminal history makes the petitioner ineligible for a certificate of eligibility under Subsection (4) or (5).

(3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by a district court as an adult in accordance with Title 80, Chapter 6, Part 5, [~~Transfer to District Court~~]Minor Tried as an Adult.

(4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

(5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(6) If the petitioner's criminal history contains convictions for both a drug possession offense and a non-drug possession offense arising from the same criminal episode, the bureau shall count that criminal episode as a conviction under Subsection (4) if any non-drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (1)(c) than any drug possession offense in that episode.

(7) Except as provided in Subsection (8), if at least 10 years have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions:

(a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by one; and

(b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if the highest level of convicted offense in the criminal episode is:

(i) a class B misdemeanor;

(ii) a class C misdemeanor;

(iii) a drug possession offense if none of the non-drug possession offenses in the criminal episode are a felony or a class A misdemeanor; or

(iv) an infraction.

(8) When determining whether a petitioner is eligible for a certificate of eligibility under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or prior conviction for:

(a) an infraction;

(b) a traffic offense;

(c) a minor regulatory offense; or

(d) a clean slate eligible case that was automatically expunged.

(9) If the petitioner received a pardon before May 14, 2013, from the [~~Utah~~]Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes in accordance with Section 77-27-5.1.

Section 6. Section 77-40a-305 is amended to read:

77-40a-305. Petition for expungement -- Prosecutorial responsibility -- Hearing.

(1) (a) The petitioner shall file a petition for expungement in accordance with Rule 42 of the Utah Rules of Criminal Procedure.

(b) A petitioner shall include the identification number for the certificate of eligibility or special certificate described in Subsection 77-40a-304(2)(b)(ii) in the petition for expungement, unless the petitioner is not required to obtain a certificate of eligibility under Subsection (3) or (4).

(c) Information on a certificate of eligibility is incorporated into a petition by reference to the identification number for the certificate of eligibility.

(d) A petitioner shall bring a petition for expungement, including a petition for expungement for which the petitioner obtained a special certificate:

(i) in the court where the criminal case was filed; [~~or~~]

(ii) if the court in which the criminal case was filed no longer exists, in the court that would have jurisdiction over the criminal case if the criminal case were filed on the day on which the petition is brought; or

[~~(ii)~~](iii) if charges were never filed, in the district court in the county in which the arrest occurred or the citation is issued.

(2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall obtain a certificate of eligibility or special certificate from the bureau.

(b) A court may not accept a petition for expungement if the certificate of eligibility or special certificate is no longer valid as described in Subsection 77-40a-304(2)(b)(i).

(3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement of a traffic offense case without obtaining a certificate of eligibility if:

(a) (i) for a traffic offense case with a class C misdemeanor or infraction, at least three years have passed after the day on which the case was adjudicated or dismissed; or

(ii) for a traffic offense case with a class B misdemeanor, at least four years have passed after the day on which the case was adjudicated or dismissed;

(b) there is no traffic offense case pending against the petitioner;

(c) there is no plea in abeyance for a traffic offense case pending against the petitioner; and

(d) the petitioner is not currently on probation for a traffic offense case.

(4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a record for a conviction related to cannabis possession without a certificate of eligibility if the petition demonstrates that:

(a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and

(b) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (4)(a).

(5) (a) The court shall provide notice of a filing of a petition and certificate of eligibility or special certificate to the prosecutorial office that handled the court proceedings within three days after the day on which the petitioner's filing fee is paid or waived.

(b) If there were no court proceedings, the court shall provide notice of a filing of a petition and certificate of eligibility or special certificate to the county attorney's office in the jurisdiction where the arrest occurred.

(c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where the arrest occurred shall immediately notify the city attorney's office that the county attorney's office has received a notice of a filing of a petition for expungement.

(6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall make a reasonable effort to provide notice to any victim of the conviction or charge.

(b) The notice under Subsection (6)(a) shall:

(i) include a copy of the petition, certificate of eligibility or special certificate, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(7) (a) The prosecuting attorney may respond to the petition by filing a recommendation or objection with the court within 35 days after the day on which the notice of the filing of the petition is sent by the court to the prosecuting attorney.

(b) If there is a victim of the offense for which expungement is sought, the victim may respond to the petition by filing a recommendation or objection with the court within 60 days after the day on which the petition for expungement was filed with the court.

(8) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(9) The petitioner may respond in writing to any objections filed by the prosecuting attorney or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after the day on which the objection or response is received.

(10) (a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing.

(b) The prosecuting attorney shall notify the victim of the date set for the hearing.

(c) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

(d) The court shall review the petition, the certificate of eligibility or special certificate, and any written responses submitted regarding the petition.

(11) If no objection is received within 60 days from the day on which the petition for expungement is filed with the court, the expungement may be granted without a hearing.

(12) (a) If the petitioner seeks a waiver of the fee required for a petition for expungement in accordance with Section 78A-2-302, the court shall consider the total number of cases for which the petitioner has received a certificate of eligibility and is seeking expungement in determining whether the petitioner is indigent under Subsection 78A-2-302(3)(e) even if the court does not have jurisdiction over a case for which the petitioner is seeking expungement.

(b) If a court grants a waiver of the fee required for a petition for expungement in accordance with Section 78A-2-302, and only upon a request from the petitioner, a subsequent court shall grant a waiver of a fee for a petition for expungement if the prior court waived the fee for a petition for expungement within 180 days before the day on which the petitioner filed the petition for expungement with the subsequent court.

Section 7. Section 77-40a-306 is amended to read:

77-40a-306. Order of expungement.

(1) If a petition for expungement is filed in accordance with Section 77-40a-305, the court shall issue an order of expungement if the court finds, by clear and convincing evidence, that:

(a) except as provided in Subsection (1)(b) and Subsection 77-40a-305(3) or (4):

(i) the certificate of eligibility is valid at the time the petition for expungement was filed with the court and contains the information needed for the court to issue an order for expungement; and

(ii) the statutory requirements for expungement have been met;

(b) if the petitioner obtained a special certificate from the bureau:

(i) the special certificate is valid at the time the petition for expungement was filed with the court; and

(ii) there is sufficient information in the petition for the court to determine that the statutory requirements for expungement have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecuting attorney provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement without a certificate of eligibility for expungement under Subsection 77-40a-305(4) for a record of conviction related to cannabis possession:

(i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and

(ii) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (1)(d)(i);

(e) if an objection is received, the petition for expungement is for a charge dismissed in accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used for enhancement, there is good cause for the court to grant the expungement; and

(f) the interests of the public would not be harmed by granting the expungement.

(2) (a) If the court denies a petition described in Subsection (1)(c) because the prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of eligibility if charges are not refiled within 180 days after the day on which the court denies the petition.

(b) A prosecuting attorney who opposes an expungement of a case dismissed without prejudice, or without condition, shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecuting attorney is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (1)(c).

(3) If the court grants a petition described in Subsection (1)(e), the court shall make the court's findings in a written order.

(4) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be, or should not have been, issued under Section 77-40a-302 or 77-40a-303.

(5) If the court issues an order of expungement under this section, the court shall:

(a) expunge all records of the case as described in Section 77-40a-401;

(b) notify the bureau of the order of expungement in a manner specified by the department; and

(c) provide the bureau with the order of expungement and all relevant information available to the court that the bureau will need to identify an expunged record.

(6) (a) The petitioner may request certified copies of an order of expungement within 28 days after the day on which the court issues an order of expungement.

(b) If a petitioner makes a request under Subsection (6)(a), the court shall provide the petitioner with certified copies of the order of expungement.

Section 8. Section 78B-7-109 is amended to read:

78B-7-109. Continuing duty to inform court of other proceedings -- Effect of other proceedings.

(1) Each party has a continuing duty to inform the court of each proceeding for a civil protective order or a criminal protective order, any civil litigation, each proceeding in juvenile court, and each criminal case involving either party, including the case name, the file number, and the county and state of the proceeding, if that information is known by the party.

(2) (a) A civil protective order issued under this chapter is in addition to and not in lieu of any other available civil or criminal proceeding.

(b) A petitioner is not barred from seeking a civil protective order because of other pending proceedings.

(c) A court may not delay granting a civil protective order under this chapter because of the existence of a pending civil action between the parties.

(d) If a petitioner seeks a civil protective order based upon facts related to an arrest, investigation, detention, charging, or conviction of the respondent, the court may consider the facts when determining whether to issue a civil protective order even if the records of the arrest, investigation, detention, charging, or conviction are expunged.

(3) A petitioner may omit the petitioner's address from all documents filed with the court under this chapter, but shall separately provide the court with a mailing address that is not to be made part of the public record, but that may be provided to a peace officer or entity for service of process.

Section 9. Section 80-6-1001.2 is amended to read:

80-6-1001.2. Venue for petition seeking expungement.

Notwithstanding Section 78A-6-350 and Title 78B, Chapter 3a, Venue for Civil Actions, a petitioner shall bring a petition for expungement under this part:

(1) in the court [~~where the~~]that presided over the final proceedings in a case if a petition for delinquency was filed; or

(2) if a petition for delinquency was never filed, in the juvenile court in the [~~county~~]judicial district in which the last arrest occurred or the citation was [~~issued~~]resolved.

Section 10. Effective Date.

This bill takes effect on May 7, 2025.

Section 11. Coordinating H.B. 297 with S.B. 41.

If H.B. 297, Expungement Amendments, and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 77-40a-303(2)(a) be amended to read:

"(a) except as provided in Subsection (3), the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) a felony conviction described in Subsection 41-6a-501(2); or

(v) an offense, or a combination of offenses, [~~that would require the individual to register as a sex offender, as defined in Section 77-41-102; or~~]that require registration as a sex offender, kidnap offender, or child abuse offender under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Registry, at the time of the application for the certificate of eligibility;

[~~(vi) a registerable child abuse offense as defined in Subsection 77-41-102(1);~~]".

CHAPTER 240
H. B. 298
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

VOLUNTEER EMERGENCY MEDICAL SERVICE PERSONNEL INSURANCE PROGRAM AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions regarding the Volunteer Emergency Medical Service Personnel Insurance Program.

Highlighted Provisions:

This bill:

► allows additional municipalities to participate in the Volunteer Emergency Medical Service Personnel Insurance Program.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-2d-703, as last amended by Laws of Utah 2024, Chapters 138, 240

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-2d-703 is amended to read:

53-2d-703. Volunteer Emergency Medical Service Personnel Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board.

(1) As used in this section:

(a) "Basic life insurance benefit" means the standard group life insurance benefit offered by PEHP that combines basic life, line-of-duty, accidental death and disability, and dependent coverage into one benefit package.

(b) "Basic long-term disability benefit" means a $1,000 monthly benefit arising from a disability determined in accordance with Title 49, Chapter 21, Public [~~Employee's Long-term~~]Employees' Long-Term Disability Act, and excluding any coverage offered on a pilot basis.

(c) "Dental plan" means the same as that term is defined in Section 31A-22-646.

(d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(e) "Local government entity" means a political subdivision that:

(i) is licensed as a ground ambulance provider under Part 5, Ambulance and Paramedic Providers or a quick response provider as designated under 53-2d-403; and

(ii) does not offer health insurance benefits to volunteer emergency medical service personnel.

(f) "PEHP" means the Public Employees' Benefit and Insurance Program created in Section 49-20-103.

(g) "Political subdivision" means a county, a municipality, a limited purpose government entity described in Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(h) "Qualifying association" means an association that represents two or more political subdivisions in the state.

[~~(i) "Qualifying community" means a city or community that:~~]

[~~(i) has a population less than or equal to 3,000; and~~]

[~~(ii) is located within a county of the second class.~~]

(i) "Qualifying community" means any of the following located in a county of the second class:

(i) a city of the fifth class; or

(ii) a town.

(2) The Volunteer Emergency Medical Service Personnel Insurance Program shall promote recruitment and retention of volunteer emergency medical service personnel by making insurance available to volunteer emergency medical service personnel in accordance with this section.

(3) (a) The bureau shall contract with a qualifying association to create, implement, and administer the Volunteer Emergency Medical Service Personnel Insurance Program described in this section.

(b) The qualifying association will create promotional campaigns for the Volunteer Emergency Medical Service Personnel Insurance Program and volunteer emergency medical service recruitment and retention including outreach to local government entities through social media, video production, and other media platforms.

(4) Participation in the program is limited to any individual who:

(a) is licensed under Section 53-2d-402 as an emergency medical technician, an advanced emergency medical technician, or a paramedic;

(b) is able to perform all necessary functions associated with the license;

(c) provides emergency medical services under the direction of a local governmental entity:

(i) by responding to 20% of calls for emergency medical services in a rolling twelve-month period; and

(ii) within a qualifying community or a county of the third, fourth, fifth, or sixth class by responding to the number of calls described in Subsection (4)(c)(i); and

(iii) (A) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R. Sec. 553.106; or

(B) as a part-time unbenefited employee, as classified by the employing local government entity;

(d) if seeking health insurance:

(i) (A) is not eligible for a health benefit plan through an employer or a spouse's employer; and

(B) is not eligible for medical coverage under a government sponsored healthcare program; or

(ii) the individual's premium cost for individual, double, or family coverage through another source exceeds 20% or greater of the premium cost of the program created by this section;

(e) if seeking dental insurance:

(i) (A) is not eligible for a dental plan through an employer or a spouse's employer; and

(B) is not eligible for dental coverage under a government sponsored healthcare program; or

(ii) the individual's premium cost for individual, double, or family coverage exceeds 20% or greater of the premium cost of the program created by this section; and

(f) resides in the state.

(5) (a) A participant in the program is eligible to participate in PEHP in accordance with Subsection (5)(b) and Subsection 49-20-201(3).

(b) Health and dental benefits available to program participants under PEHP are limited to health insurance and dental insurance that:

(i) covers the program participant and the program participant's eligible dependents on a July 1 plan year;

(ii) accepts enrollment during an open enrollment period or for a special enrollment event, including the initial eligibility of a program participant;

(iii) if the program participant is no longer eligible for benefits, terminates on the last day of the last month for which the individual is a participant in the Volunteer Emergency Medical Service Personnel Insurance Program; and

(iv) is not subject to continuation rights under state or federal law.

(c) Within existing appropriations, the Volunteer Emergency Medical Service Personnel Insurance Program may offer basic life insurance and long-term disability insurance to participants to enhance recruitment and retention efforts.

(6) (a) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define additional criteria regarding benefit design, eligibility for the program, and to implement this section.

(b) The bureau shall convene an advisory board:

(i) to advise the bureau on making rules under Subsection (6)(a); and

(ii) that includes representation from at least the following entities:

(A) the qualifying association that receives the contract under Subsection (3); and

(B) PEHP.

(7) For purposes of this section, the qualifying association that receives the contract under Subsection (3) shall be considered the public agency for whom the program participant is volunteering under 29 C.F.R. Sec. 553.101.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 241
H. B. 301
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

AMBULANCE PROVIDER PAYMENT AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to ambulance billing and charges.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► codifies a base rate for ground ambulance transports;
- ► prohibits a ground ambulance provider from charging rates that exceed established rates;
- ► prohibits balance billing;
- ► requires an insurer and workers' compensation to allow for established rates;
- ► requires the Office of the Legislative Auditor General to conduct an audit if prioritized; and
- ► creates a repeal date.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-2d-503, as last amended by Laws of Utah 2024, Chapter 240
63I-1-231, as last amended by Laws of Utah 2023, Chapter 28
63I-1-234, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-1-253, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

31A-22-627.1, Utah Code Annotated 1953
34A-2-407.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-627.1 is enacted to read:
31A-22-627.1. Ground ambulance reimbursement.

(1) As used in this section:

(a) "Base rate" means the same as that term is defined in Section 53-2d-503.

(b) "Medication maximum cost" means the same as that term is defined in Section 53-2d-503.

(2) For a mileage rate established in a rule created under Section 53-2d-503, a health benefit plan shall accept a correctly charged mileage rate as an allowable expense for a claim.

(3) For claims made under Section 53-2d-503, a health benefit plan shall accept a correctly charged amount:

(a) that is equal to the base rate as an allowable expense; and

(b) that is equal to the medication maximum cost as an allowable expense for a provided medication.

(4) A health benefit plan shall make a payment for claims described in this section directly to the provider, including an out-of-network provider.

Section 2. Section 34A-2-407.1 is enacted to read:
34A-2-407.1. Ground ambulance reimbursement.

(1) As used in this section:

(a) "Base rate" means the same as that term is defined in Section 53-2d-503.

(b) "Medication maximum cost" means the same as that term is defined in Section 53-2d-503.

(2) For a mileage rate established in a rule created under Section 53-2d-503, an employer or the employer's workers' compensation insurance carrier, if any, shall accept a correctly charged mileage rate as an allowable expense for a claim.

(3) For claims made under Section 53-2d-503, an employer or the employer's workers' compensation insurance carrier, if any, shall accept a correctly charged amount:

(a) that is equal to the base rate as an allowable expense; and

(b) that is equal to the medication maximum cost as an allowable expense for a provided medication.

(4) An employer or the employer's workers' compensation insurance carrier, if any, shall make a payment for claims described in this section directly to the provider, including an out-of-network provider.

Section 3. Section 53-2d-503 is amended to read:

53-2d-503. Establishment of maximum rates.

(1) [~~The~~]As used in this section:

(a) (i) "Balance bill" means the practice of a health care provider billing an individual for the difference between the individual's billed charges and the amount the individual's health benefit plan allows for a covered service.

(ii) "Balance bill" does not include billing:

(A) an uninsured individual for services provided;

(B) an individual for the difference of the amount allowed by a health benefit plan for a billed service and the amount paid by the health benefit plan for the billed service; and

(C) an individual for a service that was denied by the health benefit plan because the service was an uncovered service under the health benefit plan.

(b) (i) "Base rate" means the rate a ground ambulance provider charges for:

(A) transporting an individual to a hospital or patient receiving facility;

(B) supplies used when transporting the individual;

(C) providing procedures during transport; and

(D) administering medications during transport.

(ii) "Base rate" does not include charges for:

(A) the cost of a medication; or

(B) mileage.

(c) "Medication maximum cost" means a cost for a medication that equals the lower of the:

(i) national average drug acquisition cost; and

(ii) Utah maximum allowable cost established in the Utah Medicaid program.

(2) [~~bureau shall, after receiving recommendations under Subsection (2), establish maximum rates for ground ambulance providers and paramedic providers that are just and reasonable~~]The bureau shall establish a maximum mileage rate for ground ambulance providers and paramedic providers that is just and reasonable.

[~~(2)~~](3) The committee may make recommendations to the bureau on the maximum [~~rates that should be~~]mileage rate set under Subsection [~~(1)~~](2).

[~~(3)~~](4) (a) Ground ambulance providers and paramedic providers may not charge fees for transporting a patient when the provider does not transport the patient.

(b) The provisions of Subsection [~~(3)(a)~~](4)(a) do not apply to ambulance providers or paramedic providers in a geographic service area which contains a town as defined in Subsection 10-2-301(2)(f).

(5) (a) The base rate is as follows:

(i) for emergency medical technician ground ambulance transport, $1,234.92;

(ii) for advanced emergency medical technician ground ambulance transport, $1,630.31;

(iii) for paramedic ground ambulance transport, $2,383.73; and

(iv) subject to Subsection (5)(b), for a transport described in Subsection (5)(a)(i) or (ii) that has a paramedic on board, $2,383.73.

(b) A ground ambulance provider may charge the rate described in Subsection (5)(a)(iv) if:

(i) a designated emergency medical service dispatch center dispatches a licensed paramedic provider to treat the individual;

(ii) the licensed paramedic provider has initiated advanced life support;

(iii) online medical control directs that a paramedic remain with the patient during transport; and

(iv) the licensed ground ambulance provider has a reimbursement for paramedic services agreement with a paramedic licensed provider for the service provided.

(6) (a) For the mileage rate established in rule under this section, a ground ambulance provider or paramedic provider may not charge an amount greater than the amount authorized in the rule setting the mileage rate.

(b) For the base rate, a ground ambulance provider or paramedic provider may not charge an amount greater than the base rate described in Subsection (5)(a) for transportation services.

(c) For a medication, a ground ambulance provider or paramedic provider may not charge an amount greater than the medication maximum cost for a provided medication.

(7) A ground ambulance provider or paramedic provider may not balance bill.

(8) Subject to prioritization by the Legislative Audit Subcommittee, the Office of the Legislative Auditor General created in Section 36-12-15 shall conduct an audit of ground ambulance providers, paramedic providers, and insurance companies regarding rates and payments described in this section, Section 31A-22-627.1, and Section 34A-2-407.1.

Section 4. Section 63I-1-231 is amended to read:

63I-1-231. Repeal dates: Title 31A.

(1) Section 31A-2-217, Coordination with other states, is repealed July 1, 2033.

(2) Section 31A-22-627.1, Ground ambulance reimbursement, is repealed July 1, 2027.

Section 5. Section 63I-1-234 is amended to read:

63I-1-234. Repeal dates: Titles 34 and 34A.

(1) Subsection 34A-1-202(2)(b)(i), regarding the Workers' Compensation Advisory Council, is repealed July 1, 2027.

(2) Subsection 34A-1-202(2)(b)(iii), regarding the Coal Miner Certification Panel, is repealed July 1, 2034.

(3) Section 34A-2-107, Appointment of workers' compensation advisory council -- Composition -- Terms of members -- Duties -- Compensation, is repealed July 1, 2027.

(4) Section 34A-2-202.5, Offset for occupational health and safety related donations, is repealed December 31, 2030.

(5) Section 34A-2-407.1, Ground ambulance transport, is repealed July 1, 2027.

Section 6. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.

(2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

(5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

(6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.

(7) Section 53-2d-503, Establishment of maximum rates, is repealed July 1, 2027.

[~~(7)~~](8) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

[~~(8)~~](9) Section 53-5-703, Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

[~~(9)~~](10) Section 53-11-104, Board, is repealed July 1, 2029.

[~~(10)~~](11) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

[~~(11)~~](12) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

[~~(12)~~](13) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(13)~~](14) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.

[~~(14)~~](15) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(15)~~](16) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(16)~~](17) Section 53B-17-1203, SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.

[~~(17)~~](18) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(18)~~](19) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

[~~(19)~~](20) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.

[~~(20)~~](21) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(21)~~](22) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(22)~~](23) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(23)~~](24) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(24)~~](25) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(25)~~](26) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(26)~~](27) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

[~~(27)~~](28) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

[~~(28)~~](29) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(29)~~](30) Subsection 53E-7-207(7), regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(30)~~](31) Section 53F-2-420, Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(31)~~](32) Section 53F-5-214, Grant for professional learning, is repealed July 1, 2025.

[~~(32)~~](33) Section 53F-5-215, Elementary teacher preparation grant, is repealed July 1, 2025.

[~~(33)~~](34) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is repealed July 1, 2025.

[~~(34)~~](35) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(35)~~](36) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(36)~~](37) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(37)~~](38) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 242
H. B. 308
Passed March 3, 2025
Approved March 25, 2025
Effective May 7, 2025

DRIVING BY MINORS AMENDMENTS

Chief Sponsor: Jill Koford
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies who may supervise a minor with a learner permit.

Highlighted Provisions:

This bill:

► allows an individual with a learner permit who is younger than 18 years old to drive with an adult other than a parent, in certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-210.5, as last amended by Laws of Utah 2021, Chapter 247

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-210.5 is amended to read:

53-3-210.5. Learner permit.

(1) The division, upon receiving an application for a learner permit, may issue a learner permit effective for 18 months to an applicant who is at least 15 years old.

(2) (a) The learner permit entitles an applicant that is 18 years old or older to operate a class D motor vehicle only if [~~:~~]

[~~(i)~~] a person 21 years old or older who is a licensed driver is occupying a seat beside the applicant [~~; and~~].

[~~(ii) the applicant has the learner permit in the applicant's immediate possession while operating the motor vehicle.~~]

(b) The learner permit entitles an applicant that is younger than 18 years old to operate a class D motor vehicle only if:

(i) [~~(A)~~] an approved driving instructor is occupying a seat beside the applicant;

[~~(B)~~](ii) the applicant's parent or legal guardian, who must be a licensed driver, is occupying a seat beside the applicant; [~~or~~]

[~~(C)~~](iii) a responsible adult who has signed for the applicant under Section 53-3-211 and who must be a licensed driver, is occupying a seat beside the applicant; [~~and~~]or

[~~(ii)~~](iv) a responsible individual 21 years old or older who is not the parent or legal guardian is occupying a seat beside the applicant and:

(A) the parent or legal guardian is not a licensed driver;

(B) the individual occupying the seat beside the applicant has in the individual's immediate possession evidence that the individual is authorized by the parent or legal guardian to accompany the applicant while operating the motor vehicle; and

(C) the individual occupying the seat beside the applicant is a licensed driver.

(c) [~~the~~]The applicant [~~has~~]shall have the learner permit in the applicant's immediate possession while operating the motor vehicle.

(3) The division shall issue a learner permit to an applicant who:

(a) is at least 15 years old;

(b) has passed the knowledge test required by the division;

(c) has passed the physical and mental fitness tests; and

(d) has submitted a nonrefundable fee for a learner permit under Section 53-3-105.

(4) (a) The division shall supply the learner permit form.

(b) The form under Subsection (4)(a) shall include:

(i) the applicant's full name, date of birth, sex, Utah residence address, height, weight, and eye color;

(ii) the date of issuance and expiration of the permit; and

(iii) the conditions and restrictions contained in this section for operating a class D motor vehicle.

(5) An application and fee for a learner permit entitle the applicant to:

(a) not more than three attempts to pass the knowledge test for a class D license within one year; and

(b) a learner permit after the knowledge test is passed.

(6) (a) If an applicant has been issued a learner permit under this section or an equivalent by another state or branch of the United States

Armed Forces, the applicant may be issued an original or provisional class D license from the division upon:

(i) completing a driver education course in a:

(A) commercial driver training school licensed under Part 5, Commercial Driver Training Schools Act; or

(B) driver education program approved by the State Board of Education or the division;

(ii) passing a knowledge test approved by the division that complies with the requirement of Subsection (6)(d);

(iii) passing the skills test approved by the division;

(iv) reaching 16 years old; and

(v) paying the nonrefundable fee for an original or provisional class D license application under Section 53-3-105.

(b) In addition to the requirements under Subsection (6)(a), an applicant who is 17 years old or younger is required to hold a learner permit for six months before applying for a provisional class D license.

(c) An applicant is exempt from the requirement under Subsection (6)(a)(i) if the applicant:

(i) is 19 years old or older;

(ii) holds a learner permit for three months before applying for an original class D license; and

(iii) certifies that the applicant, under the authority of a permit issued under this chapter, has completed at least 40 hours of driving a motor vehicle, of which at least 10 hours were completed during night hours after sunset.

(d) Fifty percent of the test questions included in the knowledge test required under Subsection (6)(a)(ii) shall cover the topic of major causes of traffic related deaths as identified in statistics published by the Highway Safety Office.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 243
H. B. 312
Passed March 5, 2025
Approved March 25, 2025
Effective September 1, 2025

CRIMINAL JUSTICE AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Brady Brammer

Cosponsor:	Jefferson Moss
Tyler Clancy	

LONG TITLE

General Description:

This bill modifies statutory provisions related to criminal justice.

Highlighted Provisions:

This bill:

- ► modifies provisions related to the release of individuals due to overcrowding of correctional facilities;
- ► modifies provisions related to contracting with federal and county entities to house individuals, and establishes reporting requirements;
- ► requires a county sheriff who permits probation to establish probation standards and procedures adopted by the Utah Sheriffs' Association;
- ► prohibits the use of state funds for a syringe exchange program;
- ► adds "detention removal officer" to the definition of federal officers who have statewide law enforcement authority;
- ► prohibits the Department of Corrections from housing inmates in a private correctional facility, unless the purpose is federal immigration detention or civil detention;
- ► modifies definitions related to the state daily incarceration rate;
- ► modifies provisions related to the definition and calculation of the state daily incarceration rate;
- ► modifies permitted uses for funds in the Adult Probation and Parole Employment Incentive Program;
- ► adds strangulation or choking as a criminal offense included with the crime of commission of domestic violence in the presence of a child;
- ► modifies the definition of habitual offender and makes conforming changes;
- ► requires a county sheriff to report statistics on releases due to overcrowding and pretrial release;
- ► modifies provisions related to a county sheriff's release of individuals on their own recognizance;
- ► prohibits a county jail official from fixing a financial condition for an individual with a misdemeanor charge for certain domestic violence and driving under the influence offenses;
- ► modifies provisions related to orders for pretrial release or detention;
- ► modifies provisions related to interlocal agreements regarding release of incarcerated or supervised individuals;
- ► repeals the Subcommittee on County Correctional Facility Contracting and Reimbursement;
- ► repeals outdated provisions; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-22-5.5, (Effective 09/01/25) as last amended by Laws of Utah 2024, Chapter 419
17-22-5.6, (Effective 09/01/25) as enacted by Laws of Utah 2024, Chapter 16
26B-7-117, (Effective 09/01/25) as last amended by Laws of Utah 2024, Chapter 250
53-13-106, (Effective 09/01/25) as last amended by Laws of Utah 2020, Chapter 153
64-13d-103, (Effective 09/01/25) as enacted by Laws of Utah 1999, Chapter 288
64-13e-102, (Effective 09/01/25) as last amended by Laws of Utah 2024, Chapter 467
64-13e-103, (Effective 07/01/25) as last amended by Laws of Utah 2023, Chapter 246
64-13e-103.1, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapter 467
64-13e-103.3, (Effective 09/01/25) as enacted by Laws of Utah 2023, Chapter 246
64-13g-102, (Effective 09/01/25) as last amended by Laws of Utah 2024, Chapter 208
76-5-114, (Effective 09/01/25) as renumbered and amended by Laws of Utah 2022, Chapter 181
77-18-102, (Effective 09/01/25) as last amended by Laws of Utah 2024, Chapters 245, 434
77-18-103, (Effective 09/01/25) as last amended by Laws of Utah 2024, Chapters 187, 245 and 434
77-20-103, (Effective 09/01/25) as renumbered and amended by Laws of Utah 2021, Second Special Session, Chapter 4
77-20-203, (Effective 09/01/25) as last amended by Laws of Utah 2024, Chapter 16

77-20-204, (Effective 09/01/25) as last amended by Laws of Utah 2024, Chapter 16
77-20-205, (Effective 09/01/25) as last amended by Laws of Utah 2024, Chapters 187, 434

REPEALS:

64-13e-105, (Effective 09/01/25) as last amended by Laws of Utah 2024, Chapter 467
77-27-21.9, (Effective 09/01/25) as enacted by Laws of Utah 2008, Chapter 309

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-5.5 is amended to read:

17-22-5.5 (Effective 09/01/25). Sheriff's classification of jail facilities -- Maximum operating capacity of jail facilities -- Limitations on contracting -- Transfer or release of prisoners -- Records regarding release.

(1) (a) Except as provided in Subsection [~~(4)~~](5), a county sheriff shall determine:

(i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail facility under the sheriff's control;

(ii) the nature of each program conducted at a jail facility under the sheriff's control; and

(iii) the internal operation of a jail facility under the sheriff's control.

(b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any applicable zoning ordinance or conditional use permit of the county or municipality.

(2) Except as provided in Subsection [~~(4)~~](5), each county sheriff shall:

(a) with the approval of the county legislative body, establish a maximum operating capacity for each jail facility under the sheriff's control, based on facility design and staffing; and

(b) upon a jail facility reaching the jail facility's maximum operating capacity:

(i) transfer prisoners to another appropriate facility:

(A) under the sheriff's control; or

(B) available to the sheriff by contract;

(ii) subject to the requirements of Subsection (4), release prisoners:

(A) to a supervised release program, according to release criteria established by the sheriff; or

(B) to another alternative incarceration program developed by the sheriff; or

(iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all entities using the county jail.

(3) (a) The sheriff shall keep records of the release status and the type of release program or alternative incarceration program for any prisoner released under Subsection (2)(b)(ii).

(b) The sheriff shall make these records available upon request to the Department of Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

(4) A sheriff may not release an individual due to overcrowding who, based on information that is reasonably available to the sheriff:

(a) is arrested or convicted of a violent criminal offense as defined in Section 76-3-203.10;

(b) is arrested or convicted of a drug offense that is a felony;

(c) is arrested or convicted of possession of any composition or mixture, including pills, that contains 100 grams or more of fentanyl or a fentanyl-related substance;

(d) is arrested or convicted of an offense of driving under the influence or driving with a measurable controlled substance in the body, if the offense results in death or serious bodily injury to an individual;

(e) has been previously booked into the same jail within the immediately preceding 12-month period; or

(f) has an outstanding warrant for failing to appear in a case:

(i) involving any charge described in Subsections (4)(a) through (4)(d); or

(ii) where the individual classifies as a habitual offender as defined in Section 77-18-102.

[~~(4)~~](5) (a) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail an individual sentenced to the Department of Corrections.

(b) A county contracting with another county to house an individual due to capacity issues:

(i) shall contract with a county that:

(A) has available capacity in its county jail; and

(B) agrees to contract to house the individual;

(ii) shall, subject to the agreement of the parties to the contract, pay to the county contracting to receive the transferred individual a day per capita rate that does not exceed the higher of:

(A) the current average cost of housing an individual in the transferring county jail; or

(B) the daily incarceration rates described in Section 64-13e-103.1; and

(iii) if the county is a county of the first class, and if the county or a sheriff in the county has released an individual due to overcrowding during the lookback period described in Subsection (5)(c), the county:

(A) may not enter into a new contract with a federal agency for the purpose of housing individuals;

(B) may not house federal detainees in a number that exceeds the number of beds that the county has contracted for with a federal agency in the current fiscal year; and

(C) shall publish daily totals on the public data dashboard showing:

(I) the total number of federal detainees held;

(II) the total number of beds under contract with a federal agency; and

(III) the total number of beds that are currently under contract with another county for the purpose of housing individuals.

(c) The lookback period described in Subsection (5)(b)(iii) is:

(i) beginning on September 1, 2025, the period that begins on September 1, 2025 and ends on August 31, 2026; and

(ii) for September 1, 2026 forward, the period that begins on September 1 of the previous calendar year and ends on August 31 of the current calendar year.

[~~(5)~~](6) Regardless of whether a jail facility has reached the jail facility's maximum operating capacity under Subsection (2), a sheriff may release an individual from a jail facility in accordance with Section 77-20-203 or 77-20-204.

[~~(6)~~](7) The sheriff of a county of the first class is encouraged to open and operate all sections of a jail facility within the county that is not being used to full capacity.

Section 2. Section 17-22-5.6 is amended to read:

17-22-5.6 (Effective 09/01/25). Probation supervision -- Violation of probation -- Detention -- Hearing.

(1) As used in this section:

(a) "Probationer" means an individual on probation under the supervision of the county sheriff.

(b) (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

(c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) A county sheriff who permits an individual to be granted probation shall adopt probation standards and practices that are established by the Utah Sheriffs' Association.

(3) A county sheriff shall ensure that the court is notified of violations of the terms and conditions of a probationer's probation when the county sheriff determines that:

(a) incarceration is recommended as a sanction;

(b) a graduated and evidence-based response is not an appropriate response to the offender's violation and recommends revocation of probation; or

(c) there is probable cause that the conduct that led to a violation of probation is:

(i) a violent felony; or

(ii) a qualifying domestic violence offense.

[~~(3)~~](4) A county sheriff may take custody of, and detain, a probationer for a maximum of 72 hours, excluding weekends and holidays, if there is probable cause to believe that the probationer has committed a violation of probation.

[~~(4)~~](5) A county sheriff may not detain a probationer or parolee for longer than 72 hours without obtaining a warrant issued by the court.

[~~(5)~~](6) If the county sheriff detains a probationer under Subsection [~~(3)~~](4), the county sheriff shall ensure the proper court is notified.

[~~(6)~~](7) A written order from the county sheriff is sufficient authorization for a peace officer to incarcerate a probationer if the county sheriff has determined that there is probable cause to believe that the probationer has violated the conditions of probation.

[~~(7)~~](8) If a probationer commits a violation outside of the jurisdiction of the county sheriff supervising the probationer, the arresting law enforcement agency is not required to hold or transport the probationer to the county sheriff.

[~~(8)~~](9) This section does not require the county sheriff to release a probationer who is being held for something other than a probation violation, including a warrant issued for new criminal conduct or a new conviction where the individual is sentenced to incarceration.

Section 3. Section 26B-7-117 is amended to read:

26B-7-117 (Effective 09/01/25). Syringe exchange and education.

(1) The following may operate a syringe exchange program in the state to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs, and those individuals' contacts:

(a) a government entity, including:

(i) the department;

(ii) a local health department; or

(iii) a local substance abuse authority, as defined in Section 26B-5-101;

(b) a nongovernment entity, including:

(i) a nonprofit organization; or

(ii) a for-profit organization; or

(c) any other entity that complies with Subsections (2) and (3).

(2) An entity operating a syringe exchange program in the state shall:

(a) facilitate the exchange of an individual's used syringe for one or more new syringes in sealed sterile packages;

(b) ensure that a recipient of a new syringe is given verbal and written instruction on:

(i) methods for preventing the transmission of blood-borne diseases, including hepatitis C and human immunodeficiency virus; and

(ii) options for obtaining:

(A) services for the treatment of a substance use disorder;

(B) testing for a blood-borne disease; and

(C) an opiate antagonist; and

(c) report annually to the department the following information about the program's activities:

(i) the number of individuals who have exchanged syringes;

(ii) the number of used syringes exchanged for new syringes; and

(iii) the number of new syringes provided in exchange for used syringes.

(3) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).

(4) The use of state funds to operate a syringe exchange program is prohibited. Nothing in this section should be construed to prohibit the use or distribution of municipal, county, or federal funds in operating or financing a syringe exchange program under this section.

Section 4. Section 53-13-106 is amended to read:

53-13-106 (Effective 09/01/25). Federal officers -- State law enforcement authority.

(1) (a) "Federal agency" means:

(i) the United States Bureau of Land Management;

(ii) the United States Forest Service;

(iii) the National Park Service;

(iv) the United States Fish and Wildlife Service;

(v) the United States Bureau of Reclamation;

(vi) the United States Environmental Protection Agency;

(vii) the United States Army Corps of Engineers; and

(viii) the Department of Veterans Affairs.

(b) "Federal employee" means an employee of a federal agency.

(c) "Federal officer" includes:

(i) a special agent of the Federal Bureau of Investigation;

(ii) a special agent of the United States Secret Service;

(iii) a special agent of the United States Department of Homeland Security, excluding a customs inspector [~~or detention removal officer~~];

(iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;

(v) a special agent of the Drug Enforcement Administration;

(vi) a United States marshal, deputy marshal, and special deputy United States marshal;

(vii) a U.S. postal inspector of the United States Postal Inspection Service; and

(viii) a police officer of the Department of Veterans Affairs.

(d) (i) Federal officers listed in Subsection (1)(c) have statewide law enforcement authority relating to felony offenses under the laws of this state. This Subsection (1)(d)(i) takes precedence over Subsection (2).

(ii) Federal agencies and federal employees may exercise law enforcement authority related to misdemeanor and felony offenses under Utah law only as established by an agreement as provided in Subsection (1)(d)(iii) and as provided in Section 53-13-106.9 or pursuant to Section 53-13-106.7. This Subsection (1)(d)(ii) takes precedence over Subsection (2).

(iii) Consistent with Section 53-13-106.9, county sheriffs may enter into agreements with federal agencies that allow concurrent authority to enforce federal laws and state and local laws, provided that:

(A) the agreement is limited to a term of not more than two years; and

(B) the officers granted authority under the agreement have completed a 20-hour training course that is focused on Utah criminal law and procedure and that is approved by the director of the Peace Officer Standards and Training Division.

(e) The council may designate other federal peace officers, as necessary, if the officers:

(i) are persons employed full-time by the United States government as federally recognized law enforcement officers primarily responsible for the investigation and enforcement of the federal laws;

(ii) have successfully completed formal law enforcement training offered by an agency of the federal government consisting of not less than 400 hours; and

(iii) maintain in-service training in accordance with the standards set forth in Section 53-13-103.

(2) Except as otherwise provided under Title 63L, Chapter 1, Federal Jurisdiction, and Title 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer may exercise state law enforcement authority only if:

(a) the state law enforcement agencies and county sheriffs with jurisdiction enter into an agreement with the federal agency to be given authority; and

(b) except as provided in Subsection (3), each federal officer employed by the federal agency meets the waiver requirements set forth in Section 53-6-206.

(3) A federal officer working as such in the state on or before July 1, 1995, may exercise state law enforcement authority without meeting the waiver requirement.

(4) At any time, consistent with any contract with a federal agency, a state or local law enforcement authority may withdraw state law enforcement authority from any individual federal officer by sending written notice to the federal agency and to the division.

(5) The authority of a federal officer under this section is limited to the jurisdiction of the authorizing state or local agency, and may be further limited by the state or local agency to enforcing specific statutes, codes, or ordinances.

Section 5. Section 64-13d-103 is amended to read:

64-13d-103 (Effective 09/01/25). Private contracts -- Limitations on purpose -- Requirements before entering into contract -- Required terms.

(1) (a) The department may contract with a contractor to finance, acquire, construct, lease, or provide full or partial correctional services.

(b) A contractor may only house an inmate for federal immigration detention or civil detention. The department may not contract with a contractor to house an inmate for any other purpose.

(2) Before entering into a contract, the department shall:

(a) hold a public hearing within the county or municipality where the facility is to be sited for the purpose of obtaining public comment;

(b) give consideration to the input received at the public hearing when making decisions regarding the awarding of a contract and the contract process; and

(c) have received written notification from the legislative body of the municipality or county where the proposed facility is to be sited, stating that the legislative body has agreed to the establishment of the facility within its boundaries.

(3) Before entering into a contract, the department shall require that the contractor proposing to provide the services demonstrate that it has:

(a) management personnel with the qualifications and experience necessary to carry out the terms of the contract;

(b) sufficient financial resources to:

(i) complete and operate the facility;

(ii) provide indemnification for liability arising from the operation of the facility; and

(iii) provide reimbursement as required under Section 64-13d-105;

(c) the ability and resources to meet applicable court orders, correctional standards as defined by the department, and constitutional requirements; and

(d) liability insurance adequate to protect the state, the political subdivision where the facility is located, and the officers and employees of the facility from all claims and losses incurred as a result of action or inaction by the contractor or its employees.

(4) A contract awarded for the operation of a facility shall be consistent with commonly accepted correctional practices as defined by the department and shall include:

(a) adequate internal and perimeter security to protect the public, employees, and inmates, based on the security level of the inmate population;

(b) work, training, educational, and treatment programs for inmates;

(c) a minimum correctional officer to inmate ratio;

(d) imposition of inmate discipline in accordance with applicable state law and department policy; and

(e) adequate food, clothing, housing, and medical care for inmates.

Section 6. Section 64-13e-102 is amended to read:

64-13e-102 (Effective 09/01/25). Definitions.

As used in this chapter:

(1) "Alternative treatment program" means:

(a) an evidence-based cognitive behavioral therapy program; or

(b) a certificate-based program provided by:

(i) an institution of higher education described in Subsection 53B-1-102(1)(b); or

(ii) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.

(2) "Average state daily incarceration cost" means the average cost incurred by the department per bed day over the previous three fiscal years, that reflects the following expenses incurred by the department for housing an inmate:

(a) executive overhead;

(b) administrative overhead;

(c) transportation overhead;

(d) division overhead; and

(e) motor pool expenses.

[~~(2)~~](3) "Board" means the Board of Pardons and Parole.

[~~(3)~~](4) "Commission" means the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

[~~(4)~~](5) (a) "Condition of probation day" means a day spent by a state probationary inmate in a county correctional facility as a condition of probation.

(b) "Condition of probation day" includes a day spent by a state probationary inmate in a county correctional facility:

(i) after the date of sentencing;

(ii) before the date of sentencing, if a court orders that the state probationary inmate shall receive credit for time served in a county correctional facility before the date of sentencing;

(iii) as a condition of an original order of probation; and

(iv) as a condition of a new order of probation after a prior revocation of probation.

(c) "Condition of probation day" does not include a day spent by a state probationary inmate in a county correctional facility:

(i) as a probation sanction day;

(ii) after the state probationary inmate has spent 365 consecutive days in a county correctional facility for a single order of probation;

(iii) as a condition of a plea in abeyance agreement if a conviction has not been entered;

(iv) on a hold instituted by the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security; or

(v) after the termination of probation if the state probationary inmate is:

(A) sentenced to prison; or

(B) eligible for release.

[~~(5)~~](6) "Department" means the Department of Corrections, created in Section 64-13-2.

[~~(6)~~](7) "Division" means the Division of Finance, created in Section 63A-3-101.

[~~(7)~~](8) (a) "Eligible bed day" means a day spent by a state probationary inmate or a state parole inmate in a county correctional facility that is eligible for reimbursement under Section 64-13e-104.

(b) "Eligible bed day" includes:

(i) a condition of probation day;

(ii) a parole hold day;

(iii) a parole sanction day; and

(iv) a probation sanction day.

[~~(8)~~](9) (a) "Parole hold day" means a day spent in a county correctional facility by a state parole inmate under Subsection 64-13-29(3) based on a suspected violation of the state parole inmate's terms of parole.

(b) "Parole hold day" does not include a day spent in a county correctional facility by a state parole inmate:

(i) after the state parole inmate has spent 72 hours, excluding weekends and holidays, for a single suspected violation of the state parole inmate's terms of parole; or

(ii) as a parole sanction day.

[~~(9)~~](10) (a) "Parole sanction day" means a day spent in a county correctional facility by a state parole inmate as a sanction under Subsection 64-13-6(2) for a violation of the state parole inmate's terms of parole.

(b) "Parole sanction day" includes not more than three consecutive days and not more than a total of five days within a period of 30 days for each sanction.

(c) "Parole sanction day" does not include a parole hold day.

[~~(10)~~](11) (a) "Probation sanction day" means a day spent in a county correctional facility by a state probationary inmate as a sanction under Subsection 64-13-6(2) based on a violation of the state probationary inmate's terms of probation.

(b) "Probation sanction day" includes not more than three consecutive days and not more than a total of five days within a period of 30 days for each sanction.

(c) "Probation sanction day" does not include:

(i) a condition of probation day; or

(ii) a day spent in a county correctional facility by a state probationary inmate under Subsection 64-13-29(3) based on a suspected violation of the state probationary inmate's terms of probation.

(12) "Rate surplus" means the dollar amount by which the average state daily incarceration cost for a given year exceeds 105% of the prior year's state daily incarceration rate.

[~~(11)~~](13) "State daily incarceration rate" means [~~the average daily incarceration rate, calculated by the department based on the previous three fiscal years, that reflects the following expenses incurred by the department for housing an inmate:~~]the daily per bed dollar basis upon which the department will calculate payments to other parties for housing state inmates and state probationary inmates.

[~~(a) executive overhead;~~]

[~~(b) administrative overhead;~~]

[~~(c) transportation overhead;~~]

[~~(d) division overhead; and~~]

[~~(e) motor pool expenses.~~]

[~~(12)~~](14) "State inmate" means an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.

[~~(13)~~](15) "State parole inmate" means an individual who is:

(a) on parole, as defined in Section 77-27-1; and

(b) housed in a county correctional facility for a reason related to the individual's parole.

[~~(14)~~](16) "State probationary inmate" means a felony probationer sentenced to time in a county correctional facility under Subsection 77-18-105(6).

[~~(15)~~](17) "Treatment program" means:

(a) an alcohol treatment program;

(b) a substance abuse treatment program;

(c) a sex offender treatment program; or

(d) an alternative treatment program.

Section 7. Section 64-13e-103 is amended to read:

64-13e-103 (Effective 07/01/25). County correctional facility contracting program for state inmates -- Payments -- Reporting -- Contracts.

(1) Subject to Subsection [~~(6)~~](7), the department may only contract with a county to house state inmates in a county correctional facility.

[~~(2) The department shall give preference for placement of state inmates, over private entities, to county correctional facility bed spaces for which the department has contracted under Subsection (1).~~]

[~~(3)~~](2) (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1) shall be:

(i) except as provided in Subsection [~~(3)(a)(ii)~~](2)(a)(ii), 84% of the state daily incarceration rate for a county correctional facility bed space in a county that, pursuant to the contract, is dedicated to a treatment program for state inmates, if the treatment program is approved by the department under Subsection [~~(3)(c)~~](2)(c);

(ii) 75% of the state daily incarceration rate for a county correctional facility bed space in a county that, pursuant to the contract, is dedicated to an alternative treatment program for state inmates, if the alternative treatment program is approved by the department under Subsection [~~(3)(c)~~](2)(c); and

(iii) 70% of the state daily incarceration rate for a county correctional facility bed space in a county other than the bed spaces described in Subsections [~~(3)(a)(i)~~](2)(a)(i)and (ii).

(b) The department shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is considered for approval for the purpose of a county receiving payment based on the rate described in Subsection [~~(3)(a)(i)~~](2)(a)(i) or (ii); and

(ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection [~~(3)(b)(i)~~](2)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection [~~(3)(a)(i)~~](2)(a)(i) or (ii).

(c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection [~~(3)(a)(i)~~](2)(a)(i) or (ii), unless:

(i) the program meets the standards established under Subsection [~~(3)(b)(i)~~](2)(b)(i); and

(ii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(d) (i) The department shall annually:

(A) collect information from each county described in Subsection (1) regarding the treatment programs for state inmates offered by the county;

(B) evaluate, review, and audit the results of each treatment program on state inmate recidivism and other relevant metrics; and

(C) on or before November 30, report the results of the information described in Subsection [~~(3)(d)(i)(B)~~](2)(d)(i)(B) to the Executive Offices and Criminal Justice Appropriations Subcommittee.

(ii) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of Subsection [~~(3)(d)(i)~~](2)(d)(i).

[~~(4)~~](3) (a) Compensation to a county for state inmates incarcerated under this section shall be made by the department.

(b) Funds from the County Correctional Facility Contracting Reserve Program may be used only once existing annual appropriated funds for the fiscal year have been exhausted.

[~~(5)~~](4) Counties that contract with the department under Subsection (1) shall, on or before June 30 of each year, submit a report to the department that includes:

(a) the number of state inmates the county housed under this section;

(b) the total number of state inmate days of incarceration that were provided by the county; and

(c) the information required under Subsection [~~(3)(d)(i)(A)~~](2)(d)(i)(A).

[~~(6)~~](5) Except as provided under Subsection [~~(7)~~](6), the department may not enter into a contract with a county as described under Subsection (1), unless:

(a) beginning July 1, 2023, the county correctional facility within the county is in compliance with the reporting requirements described in Subsection 17-22-32(2); and

(b) the Legislature has previously passed a joint resolution that includes the following information regarding the proposed contract:

(i) the approximate number of beds to be contracted;

(ii) the approximate amount of the county's long-term debt; and

(iii) the repayment time of the debt for the facility where the inmates are to be housed.

[~~(7)~~](6) The department may enter into a contract with a county government to house inmates without complying with the approval process described in Subsection [~~(6)~~](5) only if the county facility was under construction, or already in existence, on March 16, 2001.

[~~(8)~~](7) Any resolution passed by the Legislature under Subsection [~~(6)~~](5) does not bind or obligate the Legislature or the department regarding the proposed contract.

Section 8. Section 64-13e-103.1 is amended to read:

64-13e-103.1 (Effective 07/01/25). Calculating the average state daily incarceration cost and the state incarceration rate.

[~~(1) Before September 15 of each year, the department shall:~~]

[~~(a) calculate the state daily incarceration rate; and~~]

[~~(b) inform each county and the commission of the state daily incarceration rate.~~]

[~~(2) The state daily incarceration rate may not be less than the rate presented to the Executive Appropriations Committee of the Legislature for purposes of setting the appropriation for the department's budget.~~]

(1) Before September 15 of each year, the department shall:

(a) calculate the average state daily incarceration cost; and:

(i) if the average state daily incarceration cost equals more than 105% of the previous year's state daily incarceration rate:

(A) set the state daily incarceration rate at 105% of the prior year's state daily incarceration rate; and

(B) record that year's rate surplus; or

(ii) if the average state daily incarceration cost is less than 105% of the previous year's state daily incarceration rate:

(A) set the state daily incarceration rate at the state daily incarceration cost; or

(B) if in any one or more of the prior three years there existed a rate surplus, and that rate surplus has not been used to augment the state daily incarceration cost in another year, add the rate surplus or surpluses to the state daily incarceration cost and set the state daily incarceration rate to that combined amount, up to 105% of the previous year's state daily incarceration rate; and

(b) inform each county and the commission of the state daily incarceration rate.

(2) Except as provided in Subsections (3) and (4), the state daily incarceration rate may not be less that the rate presented to the Executive Appropriations Committee of the Legislature for purposes of setting the appropriation for the department's budget.

(3) Notwithstanding any other provision in this section, in a fiscal year where General Fund revenue growth is not sufficient to fund the state daily incarceration rate presented to the Executive Appropriations Committee, the state daily incarceration rate shall be reset by the Executive Appropriations Committee in an appropriations act.

(4) For the fiscal year beginning July 1, 2025, only, the state daily incarceration rate is $120.75.

Section 9. Section 64-13e-103.3 is amended to read:

64-13e-103.3 (Effective 09/01/25). Estimating the annual number of county correctional facility bed spaces required for state inmates.

(1) (a) Before September 15 of each year, the department shall estimate the total number of annual county correctional facility bed spaces that are required for state inmates in the upcoming fiscal year, including the annual number of bed spaces that shall be dedicated to:

(i) a treatment program for state inmates under Subsection [~~64-13e-103(3)(a)(i)~~]64-13e-103(2)(a)(i); and

(ii) an alternative treatment program for state inmates under Subsection [~~64-13e-103(3)(a)(ii)~~]64-13e-103(2)(a)(ii).

(b) The department's estimates described in Subsection (1)(a) shall be based upon:

(i) a review of the annual numbers of county correctional facility bed spaces used for state inmates during the preceding years; and

(ii) any other information relevant to the department.

(2) The department shall inform each county of the estimates described in Subsection (1)(a).

Section 10. Section 64-13g-102 is amended to read:

64-13g-102 (Effective 09/01/25). Adult Probation and Parole Employment Incentive Program.

(1) There is created the Adult Probation and Parole Employment Incentive Program.

(2) The department and the office shall implement the program in accordance with the requirements of this chapter.

(3) Beginning July 2026, and each July after 2026, the department shall calculate and report to the office, for the preceding fiscal year, for each region and statewide:

(a) the parole employment rate and the average length of employment of individuals on parole;

(b) the probation employment rate and average length of employment of individuals on felony probation;

(c) the recidivism percentage, using applicable recidivism metrics described in Subsections 63M-7-102(1) and (3);

(d) the number and percentage of individuals who successfully complete parole or felony probation;

(e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage described in Subsection (3)(c) relates, the estimated costs of incarceration savings to the state, based on the marginal cost of incarceration;

(f) the number of individuals who successfully complete parole and, during the entire six months before the day on which the individuals' parole ends, held eligible employment; and

(g) the number of individuals who successfully complete felony probation and, during the entire six months before the day on which the individuals' parole ended, held eligible employment.

(4) In addition to the information described in Subsection (3), the department shall report, for each region, the number and types of parole or probation programs that were created, replaced, or discontinued during the preceding fiscal year.

(5) After receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region:

(a) add the region's baseline parole employment rate and the region's baseline probation employment rate;

(b) add the region's parole employment rate and the region's probation employment rate;

(c) subtract the sum described in Subsection (5)(a) from the sum described in Subsection (5)(b); and

(d) (i) if the rate difference described in Subsection (5)(c) is zero or less than zero, assign an employment incentive payment of zero to the region; or

(ii) except as provided in Subsection (7), if the rate difference described in Subsection (5)(c) is greater than zero, assign an employment incentive payment to the region by:

(A) multiplying the rate difference by the average daily population for that region; and

(B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A) by $2,500.

(6) In addition to the employment incentive payment described in Subsection (5), after receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region, multiply the sum of the numbers described in Subsections (3)(f) and (g) for the region by $2,500 to determine the end-of-supervision employment incentive payment for the region.

(7) The employment incentive payment, or end-of-supervision employment supervision payment, for a region is zero if the recidivism percentage for the region, described in Subsection (3)(c), represents an increase in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage for the region, described in Subsection (3)(c), relates.

(8) Upon determining an employment incentive payment for a region in accordance with Subsections (5)(d)(ii), (6), and (7), the office shall authorize distribution, from the restricted account, of the incentive payment as follows:

(a) 15% of the payment may be used by the department for expenses related to administering the program; and

(b) 85% of the payment shall be used by the region to improve and expand supervision and rehabilitative services to individuals on parole or adult probation, including by:

(i) implementing and expanding evidence-based practices for risk and needs assessments for individuals;

(ii) implementing and expanding intermediate sanctions, including mandatory community service, home detention, day reporting, restorative justice programs, and furlough programs;

(iii) expanding the availability of evidence-based practices for rehabilitation programs, including drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs, and job training and other employment services;

(iv) hiring additional officers, contractors, or other personnel to implement evidence-based practices for rehabilitative and vocational programing;

(v) purchasing and adopting new technologies or equipment that are relevant to, and enhance, supervision, rehabilitation, or vocational training;

(vi) funding workforce development coordinators, bus passes, soft skills instructors, job search technology in community correctional centers, or sector-specific workforce development programs; or

[~~(vi)~~](vii) evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.

(9) (a) The report described in Subsections (3) and (4) is a public record.

(b) The department shall maintain a complete and accurate accounting of the payment and use of funds under this section.

(c) If the money in the restricted account is insufficient to make the full employment incentive payments or the full end-of-supervision employment incentive payments, the office shall authorize the payments on a prorated basis.

Section 11. Section 76-5-114 is amended to read:

76-5-114 (Effective 09/01/25). Commission of domestic violence in the presence of a child.

(1) (a) As used in this section:

(i) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(ii) "Criminal homicide offense" means an offense listed in Subsection 76-5-201(2).

(iii) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(iv) "In the presence of a child" means:

(A) in the physical presence of a child; or

(B) having knowledge that a child is present and may see or hear an act of domestic violence.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits domestic violence in the presence of a child if the actor:

(a) commits or attempts to commit a criminal homicide offense against a cohabitant in the presence of a child;

(b) intentionally causes serious bodily injury to a cohabitant or uses a dangerous weapon or other means or force likely to produce death or serious bodily injury against a cohabitant, in the presence of a child; [~~or~~]

(c) intentionally or knowingly impedes the breathing or the circulation of blood of another individual by the actor's use of unlawful force or violence by applying pressure to the neck or throat of an individual or obstructing the nose, mouth, or airway of an individual, in the presence of a child; or

[~~(c)~~](d) under circumstances not amounting to a violation of Subsection (2)(a)[~~or (b)~~], (2)(b), or (2)(c),commits an act of domestic violence in the presence of a child.

(3) (a) A violation of Subsection (2)(a)[~~or (b)~~], (2)(b), or (2)(c) is a third degree felony.

(b) A violation of Subsection [~~(2)(c)~~](2)(d) is a class B misdemeanor.

(4) (a) A charge under this section is separate and distinct from, and is in addition to, a charge of domestic violence in which the victim is the cohabitant.

(b) Either or both charges may be filed by the prosecutor.

(5) An actor who commits a violation of this section when more than one child is present is guilty of one offense of domestic violence in the presence of a child regarding each child present when the violation occurred.

Section 12. Section 77-18-102 is amended to read:

77-18-102 (Effective 09/01/25). Definitions.

As used in this chapter:

(1) "Assessment" means the same as the term "risk and needs assessment" in Section 77-1-3.

(2) "Board" means the Board of Pardons and Parole.

(3) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(5) "Convicted" means the same as that term is defined in Section 76-3-201.

(6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(7) "Default" means the same as that term is defined in Section 77-32b-102.

(8) "Delinquent" means the same as that term is defined in Section 77-32b-102.

(9) "Department" means the Department of Corrections created in Section 64-13-2.

(10) "Habitual offender" means an individual who [~~has been convicted in~~]:

(a) (i) has been convicted in at least [~~six~~]five previous cases for one or more felony offenses in each case; and

[~~(b)~~](ii) [~~each case described in Subsection (10)(a) within five years before~~]the conviction for each case referred to in Subsection (10)(a)(i) occurred within the five-year period immediately preceding the day on which the defendant is convicted of the new felony offense before the court [~~.~~];

(b) (i) has been charged with one or more felony offenses in at least nine separate cases; and

(ii) a felony charge in each case referred to in Subsection (10)(b)(i) was issued within the five-year period immediately preceding the day on which the defendant is convicted of the new felony offense before the court;

(c) (i) has been convicted in at least nine previous cases for one or more misdemeanor offenses in each case; and

(ii) the conviction for each case referred to in Subsection (10)(c)(i) occurred within the three-year period immediately preceding the day on which the defendant is convicted of a new misdemeanor or felony offense before the court; or

(d) (i) has been charged with one or more misdemeanor offenses in at least 19 separate cases; and

(ii) a misdemeanor charge in each case referred to in Subsection (10)(d)(i) was issued within the three-year period immediately preceding the day on which the defendant is convicted of the new misdemeanor or felony offense before the court.

(11) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

(12) "Restitution" means the same as that term is defined in Section 77-38b-102.

(13) "Screening" means a tool or questionnaire that is designed to determine whether an individual needs further assessment or any additional resource or referral for treatment.

(14) "Substance use disorder treatment" means treatment obtained through a substance use disorder program that is licensed by the Office of Licensing within the Department of Health and Human Services.

Section 13. Section 77-18-103 is amended to read:

77-18-103 (Effective 09/01/25). Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

(1) Before the imposition of a sentence, the court may:

(a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any other source about the defendant; and

(b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.

(2) (a) Notwithstanding Subsection (1), if a defendant is convicted of [~~a felony~~]an offense and the defendant is a habitual offender, the prosecuting attorney shall notify the court that the defendant is a habitual offender.

(b) Upon a notification under Subsection (2)(a), the court may not impose a sentence for the conviction without ordering and obtaining a presentence investigation report, unless the court finds good cause to proceed with sentencing without the presentence investigation report.

(3) If a presentence investigation report is required under Subsection (2) or the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:

(a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);

(b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);

(c) recommendations for treatment for the defendant; and

(d) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-22-5.5.

(4) The department or law enforcement agency shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.

(5) (a) (i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:

(A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and

(B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.

(ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:

(A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and

(B) provide the written finding to the department or the law enforcement agency.

(b) The department shall attach the written finding to the presentence investigation report as an addendum.

(c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.

(6) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department or law enforcement agency.

(7) (a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report.

(8) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:

(a) ordered by the court in accordance with Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;

(c) requested by the board;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:

(i) statements or materials provided by the victim;

(ii) the circumstances of the offense, including statements by the defendant; or

(iii) the impact of the offense on the victim or the victim's household; or

(f) requested by a sex offender treatment provider:

(i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);

(ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and

(iii) who provides written assurance to the department that the report:

(A) is necessary for the treatment of the defendant;

(B) will be used solely for the treatment of the defendant; and

(C) will not be disclosed to an individual or entity other than the defendant.

(9) (a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.

(b) Testimony, evidence, or information under Subsection (9)(a) shall be presented in open court on record and in the presence of the defendant.

(10) The court may not rely solely on an algorithm or a risk assessment tool score in determining the appropriate sentence for a defendant.

Section 14. Section 77-20-103 is amended to read:

77-20-103 (Effective 09/01/25). Release data requirements.

(1) The Administrative Office of the Courts shall submit the following data on cases involving individuals for whom the Administrative Office of the Courts has a state identification number broken down by judicial district to the Commission on Criminal and Juvenile Justice before July 1 of each year:

(a) for the preceding calendar year:

(i) the number of individuals charged with a criminal offense who failed to appear at a required court preceding while on pretrial release under each of the following categories of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition;

(ii) the number of offenses that carry a potential penalty of incarceration an individual committed while on pretrial release under each of the following categories of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition; and

(iii) the total amount of fees and fines, including bond forfeiture, collected by the court from an individual for the individual's failure to comply with a condition of release under each of the following categories of release:

(A) an individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition; and

(b) at the end of the preceding calendar year:

(i) the total number of outstanding warrants of arrest for individuals who were released from law enforcement custody on pretrial release under each of the following categories of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition;

(ii) for each of the categories described in Subsection (1)(b)(i), the average length of time that the outstanding warrants had been outstanding; and

(iii) for each of the categories described in Subsection (1)(b)(i), the number of outstanding warrants for arrest for crimes of each of the following categories:

(A) a first degree felony;

(B) a second degree felony;

(C) a third degree felony;

(D) a class A misdemeanor;

(E) a class B misdemeanor; and

(F) a class C misdemeanor.

(2) Each county jail shall submit the following data, based on the preceding calendar year, to the Commission of Criminal and Juvenile Justice before July 1 of each year:

(a) the number of individuals released upon payment of monetary bail before appearing before a court;

(b) the number of individuals released on the individual's own recognizance before appearing before a court; [~~and~~]

(c) the amount of monetary bail, any fees, and any other money paid by or on behalf of individuals collected by the county jail [~~.~~];

(d) the number of individuals released as a result of overcrowding; and

(e) the number of individuals released on pretrial release.

(3) The Commission on Criminal and Juvenile Justice shall compile the data collected under this section and shall submit the compiled data in an electronic report to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

Section 15. Section 77-20-203 is amended to read:

77-20-203 (Effective 09/01/25). County sheriff authority to release an individual from jail on own recognizance.

(1) As used in this section:

(a) (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

(b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

(c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) Except as provided in Subsection (3), a county jail official may release an individual from a jail facility on the individual's own recognizance if:

(a) the individual was arrested without a warrant;

(b) the individual was not [~~arrested for~~]:

(i) arrested for a violent [~~felony~~]offense as defined in Section 76-3-201.10;

(ii) arrested for a qualifying offense;

(iii) arrested for the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in death or serious bodily injury to an individual; [~~or~~]

(iv) arrested for an offense described in Subsection 76-9-101(4);

(v) arrested for possession of any composition or mixture, including pills, that contains 100 grams or more of fentanyl or a fentanyl-related substance; or

(vi) previously booked into the same jail within the immediately preceding 12-month period;

(c) law enforcement has not submitted a probable cause statement to a court or magistrate;

(d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(e) the individual qualifies for release under the written policy described in Subsection (4) for the county.

(3) A county jail official may not release an individual from a jail facility if the individual is subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Section 64-13-29.

(4) (a) A county sheriff shall create and approve a written policy for the county that governs the release of an individual on the individual's own recognizance.

(b) The written policy shall describe the criteria an individual shall meet to be released on the individual's own recognizance.

(c) A county sheriff may include in the written policy the criteria for release relating to:

(i) criminal history;

(ii) prior instances of failing to appear for a mandatory court appearance;

(iii) current employment;

(iv) residency;

(v) ties to the community;

(vi) an offense for which the individual was arrested;

(vii) any potential criminal charges that have not yet been filed;

(viii) the individual's health condition;

(ix) any potential risks to a victim, a witness, or the public; and

(x) any other similar factor a sheriff determines is relevant.

(5) (a) (i) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual for no fewer than eight hours and up to 24 hours from booking if [~~:~~]the individual is on supervised probation or parole and that information is reasonably available.

[~~(i) the individual is on supervised probation or parole and that information is reasonably available; and~~]

[~~(ii) the individual was arrested for:~~]

[~~(A) a violent felony; or~~]

[~~(B) a qualifying domestic violence offense~~]

(ii) Notwithstanding Subsection (5)(a)(i), an individual may be released earlier than eight hours if:

(A) the entity supervising the individual on probation or parole informs the jail that the supervising entity does not intend to place a hold on the individual; and

(B) a court or magistrate has ordered a release.

(b) [~~The~~]Before any release, a jail facility shall:

(i) notify the entity supervising the individual's probation or parole that the individual is being detained and provide that entity an opportunity to place a hold on the individual; and

(ii) only release the individual:

(A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or

(B) if a court or magistrate orders release.

(c) This Subsection (5) does not prohibit a jail facility from holding the individual in accordance with this chapter for a new criminal offense.

(6) This section does not prohibit a court and a county from entering into an agreement regarding release, except that any such agreement shall apply only to an individual who meets the criteria in an agreement as those criteria existed as of January 1, 2025.

Section 16. Section 77-20-204 is amended to read:

77-20-204 (Effective 09/01/25). County jail authority to release an individual from jail on monetary bail.

(1) As used in this section, "eligible felony offense" means a third degree felony violation under:

(a) Section 23A-4-501 or 23A-4-502;

(b) Section 23A-5-311;

(c) Section 23A-5-313;

(d) Title 76, Chapter 6, Part 4, Theft;

(e) Title 76, Chapter 6, Part 5, Fraud;

(f) Title 76, Chapter 6, Part 6, Retail Theft;

(g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

(h) Title 76, Chapter 6, Part 8, Library Theft;

(i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

(j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

(k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

(m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

(n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

(o) Title 76, Chapter 6a, Pyramid Scheme Act;

(p) Title 76, Chapter 7, Offenses Against the Family;

(q) Title 76, Chapter 7a, Abortion Prohibition;

(r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

(s) Title 76, Chapter 9, Part 3, Cruelty to Animals;

(t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(u) Title 76, Chapter 9, Part 5, Libel; or

(v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.

(2) Except as provided in Subsection (7)(a), a county jail official may fix a financial condition for an individual if:

(a) (i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;

(ii) the individual is arrested for, or charged with:

(A) a misdemeanor offense under state law, excluding a misdemeanor offense:

(I) for domestic violence as defined in Section 77-36-1; or

(II) for driving under the influence under Title 41, Chapter 6, Part 5, Driving Under the Influence and Reckless Driving, or Section 76-5-102.1; or

(B) a violation of a city or county ordinance that is classified as a class B or C misdemeanor offense;

(iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(iv) law enforcement has not submitted a probable cause statement to a magistrate; or

(b) (i) the individual is arrested for, or charged with, an eligible felony offense;

(ii) the individual is not on pretrial release for a separate criminal offense;

(iii) the individual is not on probation or parole;

(iv) the primary risk posed by the individual is the risk of failure to appear;

(v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(vi) law enforcement has not submitted a probable cause statement to a magistrate.

(3) A county jail official may not fix a financial condition at a monetary amount that exceeds:

(a) $5,000 for an eligible felony offense;

(b) $1,950 for a class A misdemeanor offense;

(c) $680 for a class B misdemeanor offense;

(d) $340 for a class C misdemeanor offense;

(e) $150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or

(f) $80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.

(4) If an individual is arrested for more than one offense, and the county jail official fixes a financial condition for release:

(a) the county jail official shall fix the financial condition at a single monetary amount; and

(b) the single monetary amount may not exceed the monetary amount under Subsection (3) for the highest level of offense for which the individual is arrested.

(5) Except as provided in Subsection (7)(b), an individual shall be released if the individual posts a financial condition fixed by a county jail official in accordance with this section.

(6) If a county jail official fixes a financial condition for an individual, law enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of Criminal Procedure after the county jail official fixes the financial condition.

(7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah Rules of Criminal Procedure:

(a) a county jail official may not fix or modify a financial condition for an individual; and

(b) if a county jail official fixed a financial condition for the individual before the magistrate's review, the individual may no longer be released on the financial condition.

(8) A jail facility may not release an individual subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Section 64-13-29.

(9) This section does not prohibit a court and a county from entering into an agreement regarding release, except that any such agreement shall apply only to an individual who meets the criteria in an agreement as those criteria existed as of January 1, 2025.

Section 17. Section 77-20-205 is amended to read:

77-20-205 (Effective 09/01/25). Pretrial release by a magistrate or judge.

(1) (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure, the magistrate shall issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges, subject to the requirements of Subsection (1)(c).

(b) At the time that a magistrate issues a summons, the magistrate may issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges.

(c) (i) Notwithstanding Subsection (1)(a) or (b), a magistrate shall issue a temporary pretrial status order of detention under Subsection [~~(1) that detains an individual~~](1)(a)(iii)if the individual is arrested for a felony offense and the magistrate finds:

[~~(i)~~](A) there is substantial evidence to support the individual's arrest for the felony offense;

[~~(ii)~~](B) the individual committed the felony offense while:

[~~(A)~~](I) the individual was on parole or probation for a conviction of a felony offense; or

[~~(B)~~](II) the individual was released and awaiting trial on a previous charge for a felony offense; and

[~~(iii)~~](C) based on information reasonably available to the magistrate, the individual [~~has at least nine cases where the individual has been charged or convicted, or entered a plea of guilty, within five years from the day on which the individual was arrested for the felony offense described in Subsection (1)(c)(i)~~]is a habitual offender as defined in Section 77-18-102.

[~~(d)~~](ii) [~~Subsection (1)(c)~~]This Subsection (1)(c) does not limit or prohibit a magistrate's authority to detain an individual who does

not meet the requirements described in this Subsection (1)(c).

(2) (a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a pretrial status order at an individual's first appearance before the court.

(b) The magistrate or judge may delay the issuance of a pretrial status order at an individual's first appearance before the court:

(i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for pretrial detention as described in Section 77-20-206;

(ii) if a party requests a delay; or

(iii) if there is good cause to delay the issuance.

(c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection (2)(b), the magistrate or judge shall extend the temporary pretrial status order until the issuance of a pretrial status order.

(3) (a) When a magistrate or judge issues a pretrial status order, the pretrial status order shall:

(i) release the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designate a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) order the individual to be detained during the time that individual awaits trial or other resolution of criminal charges.

(b) In making a determination about pretrial release in a pretrial status order, the magistrate or judge may not give any deference to a magistrate's decision in a temporary pretrial status order.

(4) In making a determination about pretrial release, a magistrate or judge shall impose:

(a) only conditions of release that are reasonably available; and

(b) conditions of release that reasonably ensure:

(i) the individual's appearance in court when required;

(ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;

(iii) the safety and welfare of the public; and

(iv) that the individual will not obstruct, or attempt to obstruct, the criminal justice process.

(5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a condition, or combination of conditions, for pretrial release that requires an individual to:

(a) not commit a federal, state, or local offense during the period of pretrial release;

(b) avoid contact with a victim of the alleged offense;

(c) avoid contact with a witness who:

(i) may testify concerning the alleged offense; and

(ii) is named in the pretrial status order;

(d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;

(e) submit to drug or alcohol testing;

(f) complete a substance abuse evaluation and comply with any recommended treatment or release program;

(g) submit to electronic monitoring or location device tracking;

(h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

(i) maintain employment or actively seek employment if unemployed;

(j) maintain or commence an education program;

(k) comply with limitations on where the individual is allowed to be located or the times that the individual shall be, or may not be, at a specified location;

(l) comply with specified restrictions on personal associations, place of residence, or travel;

(m) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;

(n) comply with a specified curfew;

(o) forfeit or refrain from possession of a firearm or other dangerous weapon;

(p) if the individual is charged with an offense against a child, limit or prohibit access to any location or occupation where children are located, including any residence where children are on the premises, activities where children are involved, locations where children congregate, or where a reasonable person would know that children congregate;

(q) comply with requirements for house arrest;

(r) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;

(s) remain in custody of one or more designated individuals who agree to:

(i) supervise and report on the behavior and activities of the individual; and

(ii) encourage compliance with all court orders and attendance at all required court proceedings;

(t) comply with a financial condition; or

(u) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection (4).

(6) (a) If a county or municipality has established a pretrial services program, the magistrate or judge shall consider the services that the county or municipality has identified as available in determining what conditions of release to impose.

(b) The magistrate or judge may not order conditions of release that would require the county or municipality to provide services that are not currently available from the county or municipality.

(c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions of release not identified by the county or municipality so long as the condition does not require assistance or resources from the county or municipality.

(7) (a) If the magistrate or judge determines that a financial condition, other than an unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall consider the individual's ability to pay when determining the amount of the financial condition.

(b) If the magistrate or judge determines that a financial condition is necessary to impose as a condition of release, and a county jail official fixed a financial condition for the individual under Section 77-20-204, the magistrate or judge may not give any deference to:

(i) the county jail official's action to fix a financial condition; or

(ii) the amount of the financial condition that the individual was required to pay for pretrial release.

(c) If a magistrate or judge orders a financial condition as a condition of release, the judge or magistrate shall set the financial condition at a single amount per case.

(8) In making a determination about pretrial release, the magistrate or judge may:

(a) rely upon information contained in:

(i) the indictment or information;

(ii) any sworn or probable cause statement or other information provided by law enforcement;

(iii) a pretrial risk assessment;

(iv) an affidavit of indigency described in Section 78B-22-201.5;

(v) witness statements or testimony;

(vi) the results of a lethality assessment completed in accordance with Section 77-36-2.1; or

(vii) any other reliable record or source, including proffered evidence; and

(b) consider:

(i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:

(A) whether the offense is a violent offense; and

(B) the vulnerability of a witness or alleged victim;

(ii) the nature and circumstances of the individual, including the individual's:

(A) character;

(B) physical and mental health;

(C) family and community ties;

(D) employment status or history;

(E) financial resources;

(F) past criminal conduct;

(G) history of drug or alcohol abuse; and

(H) history of timely appearances at required court proceedings;

(iii) the potential danger to another individual, or individuals, posed by the release of the individual;

(iv) whether the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense or offenses;

(v) the availability of:

(A) other individuals who agree to assist the individual in attending court when required; or

(B) supervision of the individual in the individual's community;

(vi) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or

(vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.

(9) The magistrate or judge may not base a determination about pretrial release solely:

(a) on the seriousness or type of offense that the individual is arrested for or charged with, unless the individual is arrested for or charged with a capital felony; or

(b) on an algorithm or a risk assessment tool score.

(10) An individual arrested for violation of a jail release agreement, or a jail release court order, issued in accordance with Section 78B-7-802:

(a) may not be released before the individual's first appearance before a magistrate or judge; and

(b) may be denied pretrial release by the magistrate or judge.

Section 18. Repealer.

This bill repeals:

Section 64-13e-105, Subcommittee on County Correctional Facility Contracting and Reimbursement -- Purpose -- Responsibilities -- Membership.

Section 77-27-21.9, Sex offender assessment.

Section 19. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect September 1, 2025.

(2) The actions affecting the following sections take effect on July 1, 2025:

(a) Section 64-13e-103 (Effective 07/01/25); and

(b) Section 64-13e-103.1 (Effective 07/01/25).

CHAPTER 244
H. B. 321
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

UTAH OLYMPICS AMENDMENTS

Chief Sponsor: Jon Hawkins
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions of the Olympic and Paralympic Winter Games Act.

Highlighted Provisions:

This bill:

- ► modifies the Olympic and Paralympic Winter Games Act to reflect the award of the 2034 Olympic and Paralympic Winter Games to Utah and the shift from a bid committee to an organizing committee;
- ► modifies requirements for the Utah Olympic bid and organizing committee (host committee) and the host committee's relation to the Legislature's Olympic and Paralympic Winter Games Coordination Committee;
- ► imposes requirements on the host committee;
- ► repeals provisions; and
- ► updates language and makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-28-101, as last amended by Laws of Utah 2024, Chapter 406
63G-28-201, as enacted by Laws of Utah 2023, Chapter 14
63G-28-202, as last amended by Laws of Utah 2024, Chapter 406
63G-28-203, as enacted by Laws of Utah 2023, Chapter 14
63G-28-301, as renumbered and amended by Laws of Utah 2023, Chapter 14
63G-28-402, as enacted by Laws of Utah 2023, Chapter 14

ENACTS:

63G-28-403, Utah Code Annotated 1953

REPEALS:

63G-28-401, as enacted by Laws of Utah 2023, Chapter 14

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-28-101 is amended to read:
63G-28-101. Definitions.

As used in this chapter:

(1) (a) "Corporation director" means a board member of the host committee who:

(i) has the authority to vote in board decisions;

(ii) is subject to the approval of the host representatives under Subsection 63G-28-403(1); and

(iii) is appointed by the board after a search conducted by the Nominations and Governance Committee.

(b) "Corporation director" does not mean a board member of the host committee who was appointed by, or serves as a board member as a result of the individual's affiliation with:

(i) the International Olympic Committee;

(ii) the International Paralympic Committee; or

(iii) the United States Olympic and Paralympic Committee.

[~~(1)~~](2) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.

[~~(2)~~](3) "Fund" means the Olympic and Paralympic Venues Grant Fund.

[~~(3)~~](4) "Games" means the [~~2030 or~~]2034 Olympic and Paralympic Winter Games.

[~~(4)~~](5) "Games committee" means the Olympic and Paralympic Winter Games Coordination Committee created in Section 63G-28-201.

[~~(5) "Host agreement" means an agreement with a site selection committee that is made in connection with the selection of the state for the location of the games.~~]

[~~(6) "Host assurance" means a written assurance to a site selection committee that is made in connection with the selection of the state for the location of the games.~~]

[~~(7)~~](6) "Host committee" means a nonprofit corporation, including a successor in interest, that [~~may~~]:

[~~(a) provide an application and bid to a site selection committee for selection of the state as the location of the games; and~~]

[~~(b)~~](a) [~~execute an agreement with the United States Olympic and Paralympic Committee regarding a bid and the bid process to host the games.~~]has been awarded the authority to organize the games within the state; and

(b) has the primary purpose of organizing and managing the games.

(7) "Host representatives" means the governor, the president of the Senate, and the speaker of the House of Representatives.

[~~(8) "Site selection committee" means the International Olympic Committee or the International Paralympic Committee.~~]

[~~(9) "State security" means a financial obligation undertaken by the state under a host agreement.~~]

Section 2. Section 63G-28-201 is amended to read:

63G-28-201. Olympic and Paralympic Winter Games Coordination Committee -- Creation -- Membership -- Chairs -- Quorum -- Compensation -- Staff.

(1) There is created the Olympic and Paralympic Winter Games Coordination Committee to review and advise the Legislature on issues related to the state's hosting of the games.

(2) The games committee consists of the following members:

(a) three members of the Senate, appointed by the president of the Senate, no more than two of whom may be from the same political party; and

(b) three members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2) as co-chair of the games committee.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2) as co-chair of the games committee.

(4) (a) A majority of the members of the games committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes action of the games committee.

(5) A member of the games committee shall be paid salary and expenses in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(6) The Office of Legislative Research and General Counsel shall:

(a) provide staff support to the games committee; [~~and~~]

(b) assist the games committee in the games committee's communications with the host committee regarding the host committee's activities in relation to the games and the requirements of this chapter; and

[~~(b)~~](c) consult with the Office of the Legislative Fiscal Analyst on fiscal issues reviewed by the games committee.

Section 3. Section 63G-28-202 is amended to read:

63G-28-202. Games committee duties.

(1) The games committee shall:

(a) review issues related to:

(i) the state's [~~bid to host or~~]and the host committee's activities and finances involved in preparing for and coordinating the hosting of the games;

(ii) the impact of hosting the games on the state; and

(iii) any [~~state security~~]financial or public resource obligation undertaken by the state in relation to hosting the games;

(b) review a report provided to the games committee under Section 63G-28-203;

(c) review [~~a host agreement or host assurance provided to the games committee under Section 63G-28-401~~]any contract that legally binds the state or lists the state as a party; and

(d) make recommendations to the Legislature regarding [~~a host agreement, a host assurance,~~]the host committee and the state's role in hosting the games.

(2) The games committee may, during a regular meeting of the games committee, or a meeting scheduled by the games committee at the request of the division, provide recommendations regarding the fund and grants from the fund.

Section 4. Section 63G-28-203 is amended to read:

63G-28-203. Host committee reports to games committee.

At least [~~twice~~]once each year and at the request of the games committee, the host committee shall, at the discretion of the chairs of the games committee, provide [~~a~~]either a verbal or written report to the games committee regarding:

(1) the [~~state's bid~~]the host committee's ongoing activities and preparations to host [~~or hosting of~~]the games;

(2) the projected budget for the games; [~~and~~]

(3) the financial impact of the games on the state [~~.~~]; and

(4) any other activity or impact that is requested by the games committee.

Section 5. Section 63G-28-301 is amended to read:

63G-28-301. Definitions.

As used in this part:

[~~(1) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.~~]

[~~(2)~~](1) "Fund" means the Olympic and Paralympic Venues Grant Fund.

[~~(3)~~](2) "Improve" or "improvements" means the replacement or addition to infrastructure, buildings, building components, or facility equipment.

[~~(4)~~](3) "Venue" means a facility:

(a) designed and currently approved under standards developed by a generally recognized sports federation to host world-class level, international winter sports competitions; and

(b) used for recreational, developmental, and competitive athletic training.

[~~(5)~~](4) "Venue operator" means a person who:

(a) operates a venue that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(b) owns a venue or operates a venue under contract with the public owner of the venue.

Section 6. Section 63G-28-402 is amended to read:

63G-28-402. Host committee insurance agreements -- State liability under host committee agreements.

(1) The host committee shall:

(a) list the state as an additional insured on any insurance policy purchased by the host committee to be in effect in connection with the preparation for hosting and [~~conduct of~~]conducting the games; and

(b) include in any agreement signed by the host committee that the state is not liable for the host committee's failure to perform the duties under the agreement.

(2) An insurance policy or other agreement that violates Subsection (1) is void.

Section 7. Section 63G-28-403 is enacted to read:

63G-28-403. Approval of certain positions of host committee -- Condition on use of state services or state resources.

(1) The host representatives shall approve the following individuals for the host committee:

(a) a chair;

(b) a vice chair; and

(c) a replacement corporation director.

(2) The approval required under Subsection (1) shall be a condition of receiving state services or necessitating the use of state resources.

(3) The approval required under Subsection (1) is subject to any other legal or contractual requirements governing the approval of directors of the host committee.

Section 8. Repealer.

This bill repeals:

Section 63G-28-401, Governor authority to execute host agreement -- Legislative notice.

Section 9. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 245
H. B. 322
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

CHILD ACTOR REGULATIONS

Chief Sponsor: Doug Owens
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill enacts provisions related to minors involved in entertainment.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires that a parent or guardian establish a trust for a minor involved in entertainment;
- ► provides the circumstances under which a child of a content creator is not subject to trust and compensation requirements;
- ► provides the circumstances under which a parent or guardian may serve as the trustee of a trust for a minor involved in entertainment;
- ► provides the requirements for a performer's employer when depositing a percentage of the earnings of a minor involved in entertainment into a trust;
- ► establishes a right of action for a minor involved in entertainment;
- ► requires that a content creator maintain a record that relates to a minor featured in the content creator's content;
- ► requires that a content creator inform a minor's parents that the minor is featured in the content creator's content;
- ► requires that a minor's parent or guardian establish a trust for the minor featured in social media content under certain conditions;
- ► establishes limitations related to the trust established for a minor featured in social media content;
- ► establishes a formula for a content creator to calculate the percentage of any earnings from social media that feature a minor and to transfer the earnings to the minor's trust;
- ► provides exemptions from the trust and compensation requirements;
- ► establishes a right of action for an individual featured in social media content as a minor;
- ► establishes a process by which a content creator may petition a court for an exception to the requirement to divide earnings from social media featuring a minor;
- ► grants an individual featured in social media content as a minor a right of deletion;
- ► requires that a social media company maintain a readily available process by which an individual featured in social media content as a minor may request that a content creator delete content featuring the individual featured in social media content as a minor;
- ► provides a process by which an individual may petition a court to require that a content creator delete the individual's content;
- ► provides for an award of attorney fees and damages; and
- ► provides the circumstances under which the provisions of this bill supersede a contractual provision related to disputes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

34-23-501, Utah Code Annotated 1953
34-23-502, Utah Code Annotated 1953
34-23-503, Utah Code Annotated 1953
34-23-504, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-23-501 is enacted to read:

PART 5. Employment of Minors in Entertainment

34-23-501. Definitions.

As used in this part:

(1) (a) "Administrative cost" means a reasonable cost that a content creator incurs when making social media content.

(b) "Administrative cost" includes:

(i) an expense directly related to the production of social media content; and

(ii) a social media service fee.

(c) "Administrative cost" does not mean any income a content creator pays to the content creator.

(2) "Compensated content" means paid minutes that feature a qualifying minor's personal content.

(3) (a) "Content creator" means an individual who produces social media content.

(b) "Content creator" does not include a minor who is the sole producer of the minor's own social media content.

(4) "Content share" means a determination, that a content creator makes on the first of each calendar month, of the percentage of minutes of a content creator's social media content that:

(a) were published in the calendar month immediately before the day on which the content creator makes the determination; and

(b) feature the personal content of an individual other than the content creator.

(5) "Emotional harm or substantial embarrassment" means psychological or emotional distress a reasonable, similarly situated individual would feel resulting from the individual's personal content appearing in a content creator's social media content.

(6) "Income from social media" means the income a content creator receives from creating social media content after the content creator makes reasonable deductions for administrative costs.

(7) "Market value compensated minor" means a minor who:

(a) in a calendar year, has an average monthly content share of at least 30% of a content creator's content;

(b) is featured in social media content where the content creator:

(i) received income from social media of at least $150,000 in a calendar year; and

(ii) is the parent or guardian of the minor;

(c) receives compensation for appearing in a content creator's content that is substantially equivalent to the compensation that similarly situated represented minors would receive;

(d) is not represented in negotiations relating to the minor's appearance in the content creator's content; and

(e) is not a qualified minor or a represented minor.

(8) "Minor" means an individual who is under 18 years old.

(9) "Minor content earnings" means any portion of income from social media that resulted from paid minutes featuring a qualifying minor.

(10) "Paid minutes" means the total number of minutes of social media content that generates income from social media.

(11) (a) "Performer" means an individual who, either directly or through a third-party:

(i) renders artistic or creative services in a motion picture, theater, radio, television production, or social media content in exchange for compensation under an employment contract;

(ii) agrees to sell, lease, license, transfer, exchange, or otherwise dispose of for the purpose of use in motion pictures or theatrical, radio, or television productions:

(A) literary, musical, artistic, or dramatic properties;

(B) the use of the individual's name, likeness, recording, or performance; or

(C) the story of or the incidents in the life of the individual; or

(iii) appears in social media content as a market value compensated minor.

(b) "Performer" includes an individual who engages in an activity described in Subsection (11)(a)(i) or (ii) as:

(i) an actor or actress;

(ii) a dancer;

(iii) a musician;

(iv) a stunt double;

(v) a writer;

(vi) a director;

(vii) a producer;

(viii) a choreographer;

(ix) a composer;

(x) a conductor;

(xi) a designer; or

(xii) a represented minor.

(12) "Personal content" means social media content that features an individual's name, likeness, or photograph, or for which an individual is the subject of an oral narrative.

(13) "Qualifying minor" means a minor who:

(a) a content creator determines on January 1 of each year, that in the immediately preceding calendar year:

(i) had an average monthly content share of at least 30% of a content creator's content; and

(ii) was featured in social media content where the content creator received income from social media of at least $150,000 in a calendar year; and

(b) is not a represented minor or a market value compensated minor.

(14) "Represented minor" means a minor:

(a) in a calendar year, has an average monthly content share of at least 30% of a content creator's content;

(b) who is featured in social media content where the content creator received income from social media of at least $150,000 in a calendar year;

(c) (i) who is represented by a parent, guardian, attorney, or other individual with a fiduciary duty to the minor and who is not the content creator in negotiations relating to a minor's appearance in a content creator's social media content; and

(ii) whose parent, guardian, attorney, or other individual with a fiduciary duty to the minor enters into an employment agreement with the content creator.

(15) "Social media company" means the same as that term is defined in Section 13-71-101.

(16) "Social media content" means video content shared on a social media service that meets the social media service's threshold for the generation of income from social media.

(17) "Social media service" means the same as that term is defined in Section 13-71-101.

Section 2. Section 34-23-502 is enacted to read:

34-23-502. Minors employed as performers -- Trust required -- Cause of action.

(1) As used in this section, "employer," as that term relates to a market value compensated minor, means the market value compensated minor's parent or guardian.

(2) On or before January 30 of a calendar year, if in the preceding calendar year a performer earned income of $20,000 or more, the performer's parent or guardian shall:

(a) establish a trust for the benefit of the performer in accordance with Title 75A, Chapter 8, Uniform Transfer to Minors; and

(b) unless the performer is a market value compensated minor, notify the performer's employer of the existence of the trust and any additional information required for the employer to transfer gross earnings to the trust.

(3) (a) Subject to Subsection (3)(b), the performer's parent or guardian may serve as the trustee of the trust.

(b) If the average monthly balance of the trust exceeds $250,000 for a consecutive period of at least six months:

(i) the trustee of the trust shall petition a court to appoint a trustee to replace the trustee; and

(ii) after receiving a petition under Subsection (3)(b)(i), a court shall appoint a new trustee to replace the trustee.

(c) A performer's parent or guardian may not access the funds in the trust.

(d) A beneficiary of a trust established under this section may access the funds in the trust beginning the day on which the beneficiary turns 18 years old.

(4) The performer's employer shall transfer 15% of the performer's gross earnings into the trust:

(a) no later than 30 days after the day on which the minor's employment terminates if the minor's term of employment is 30 days or fewer; or

(b) on the same date that the employer makes payments in accordance with the employer's regular pay period, if the performer's term of employment is more than 30 days.

(5) The performer's employer shall make the transfer described in Subsection (4) in accordance with Title 75A, Chapter 8, Uniform Transfer to Minors.

(6) After the performer's employer completes the transfer described in Subsection (4), the performer's employer has no further obligations under this section.

(7) Notwithstanding any other statute of limitation or repose that may be applicable to an action described in this section, an individual, for up to five years after the day on which the individual turns 18 years old, has a right of action against:

(a) an employer if the employer fails to transfer funds to the individual's trust as required under this section;

(b) an individual's parent or guardian if the individual's parent or guardian fails to:

(i) establish a trust as required under this section; or

(ii) notify the individual's employer of the existence of the trust as required under this section; and

(c) the trustee of the individual's trust, if the trustee failed to appoint a trust company to serve as trustee of the trust as required under this section.

(8) If an individual brings a cause of action under Subsection (7), a court may award:

(a) actual damages;

(b) punitive damages;

(c) any other remedy provided by law; and

(d) reasonable costs and attorney fees.

Section 3. Section 34-23-503 is enacted to read:

34-23-503. Qualifying minors -- Trust required -- Cause of action.

(1) A content creator that produces social media content featuring a qualifying minor shall maintain a monthly record of:

(a) income from social media;

(b) the qualifying minor's name and documentation of the qualifying minor's age;

(c) paid minutes;

(d) minor content earnings;

(e) compensated content; and

(f) the funds transferred into a trust for the benefit of a qualifying minor, as described in Subsection (5).

(2) The content creator shall:

(a) retain the records described in Subsection (1) for at least two years after the day on which the content creator creates the records;

(b) provide notice to the qualifying minor of the existence of the records; and

(c) make the records readily available to the minor for review upon request from the qualifying minor.

(3) (a) If any portion of a content creator's social media content contains a minor, on January 1 of each year, the content creator shall make a determination as to whether the minor is a qualifying minor.

(b) If a content creator determines that a minor is a qualifying minor, the content creator shall inform the qualifying minor's parent or guardian, in writing and within 15 business days:

(i) that the minor is a qualifying minor; and

(ii) of any compensation the content creator shall pay to the qualifying minor in accordance with Subsection (5).

(c) Within 15 days after the day on which the content creator informs the qualifying minor's parent or guardian as described in Subsection (3)(b), the parent or guardian of the qualifying minor shall, if the total amount of compensation described in Subsection (3)(b)(ii) equals or exceeds $20,000:

(i) establish a trust for the benefit of the qualifying minor in accordance with Title 75A, Chapter 8, Uniform Transfer to Minors;

(ii) notify the content creator of the existence of the trust; and

(iii) provide any additional information required for the content creator to make transfers of gross earnings into the trust.

(d) If the parent or guardian of the qualifying minor is the content creator, the requirement to notify the qualifying minor's parent or guardian described in Subsections (3)(b) and (3)(c) does not apply.

(4) (a) The qualifying minor's parent or guardian may serve as the trustee of the trust.

(b) If the average monthly balance of the trust exceeds $250,000 for a consecutive period of at least six months:

(i) the trustee of the trust shall petition a court to appoint a trustee to replace the trustee; and

(ii) after receiving a petition under Subsection (4)(c)(i), a court shall appoint a new trustee to replace the trustee.

(c) The qualifying minor's parent or guardian may not access the funds in the trust.

(d) A beneficiary of a trust established under this section may access the funds in the trust beginning the day on which the beneficiary turns 18 years old.

(5) (a) If a content creator's content had minor content earnings in the previous month, a content creator shall use the formula E = (A/T) * (Q/S) * (M/2) or the formula E = (A/T) * (1/X) * (M/2) to determine the qualifying minor's earnings to transfer to each qualifying minor where:

(i) E = a qualifying minor's earnings;

(ii) A = all paid minutes featuring any qualifying minor;

(iii) T = total paid minutes;

(iv) Q = paid minutes featuring the qualifying minor;

(v) S = the sum of paid minutes for all qualifying minors;

(vi) M = the preceding month's income from social media; and

(vii) X = the total number of qualifying minors; and

(b) (i) subject to Subsection (5)(b)(ii), transfer the minor's earnings described in Subsection (5)(a)(i) directly to the qualifying minor; or

(ii) after the qualifying minor's parent or guardian establishes a trust as described in Subsection (3)(c), transfer the qualifying minor's earnings calculated to each qualifying minor's trust.

(6) (a) The content creator shall make a transfer described in Subsection (5) in accordance with Title 75A, Chapter 8, Uniform Transfer to Minors.

(b) The content creator shall make the calculations and the transfers described in Subsection (5) before the end of the month following the month in which the content creator received minor content earnings.

(7) (a) A content creator may petition a court for an exception to Subsection (5) if:

(i) the content creator shows complying with Subsection (5) causes undue hardship;

(ii) the content creator provides an alternative plan to distribute compensation to a qualifying minor; and

(iii) the content creator commits to establishing an alternative trust that complies with the requirements of this section.

(b) A court shall issue an order granting an exception to Subsection (5) if the court determines:

(i) the content creator adequately shows that complying with Subsection (5) causes undue hardship; and

(ii) the alternative plan described in Subsection (7)(a)(ii) is in the best interest of the qualifying minor.

(8) Notwithstanding any other statute of limitation or repose that may be applicable to an action described in this section, an individual, for up to five years after the day on which the individual turns 18 years old, has a right of action:

(a) against:

(i) a content creator if the content creator fails to transfer funds to the individual's trust during the time the individual was a qualifying minor as required under this section;

(ii) a trustee if the trustee fails to appoint a trust company to serve as the trustee as required under this section; and

(iii) an individual's parent or guardian, if the parent or guardian fails to:

(A) establish a trust as required under this section; or

(B) notify the content creator of the existence of the trust as required under this section; and

(b) only if a court did not issue an order granting an exception as described in Subsection (7)(b).

(9) If an individual brings a cause of action under Subsection (8), a court may award:

(a) actual damages;

(b) punitive damages;

(c) any other remedy provided by law; and

(d) reasonable costs and attorney fees.

(10) A minor that creates, produces, or publishes the minor's own social media content is entitled to all compensation resulting from the social media content.

(11) The provisions of this section supersede any agreement related to venue, arbitration, or mediation in a contract entered into after May 7, 2025, between a qualifying minor and a content creator.

Section 4. Section 34-23-504 is enacted to read:

34-23-504. Minor's right of deletion.

(1) An individual, who is at least 18 years old, may request that a content creator delete or edit any social media content that the content creator posted featuring the individual as a qualifying minor or a market value compensated minor by making a request to a social media company.

(2) The social media company may verify the age of the individual when the individual submits the request to delete or edit the content creator's post featuring the individual as a qualifying minor or market value compensated minor.

(3) A social media company shall provide a readily apparent process for an individual described in Subsection (1) to submit a request for a content creator to:

(a) delete the post from the social media platform; or

(b) edit posts to remove the individual's personal content.

(4) An individual submitting a request under this section shall include all information reasonably requested by the social media company to identify the individual and the social media content featuring the individual as a qualifying minor or a market value compensated minor that the individual requests to delete or edit.

(5) Upon receiving a request described in Subsection (1), a social media company shall inform the content creator of the request within three business days after the day on which the social media company receives the request.

(6) (a) Within ten business days after the day on which the content creator receives the notice described in Subsection (5), the content creator shall:

(i) delete or edit the social media content described in the request; or

(ii) notify the social media company of:

(A) the content creator's decision to not delete or edit the social media content; and

(B) the content creator's reason for not deleting or editing the social media content.

(b) The social media company shall inform the individual making the request of the content creator's decision under Subsection (6)(a) within three business days after the day on which the social media company receives notification from the content creator.

(7) (a) Subject to Subsection (7)(d), an individual who was a qualifying minor or a market value compensated minor has a right of action under this section against the content creator if the content creator does not edit or delete social media content that features the individual after a request described in Subsection (1).

(b) If an individual brings an action in accordance with Subsection (7)(a), a court shall consider:

(i) any emotional harm or substantial embarrassment the social media content causes the individual;

(ii) the interests of the content creator in the social media content; and

(iii) the public interest served by the social media content.

(c) If the court issues an order requiring the content creator to delete the social media content that is the subject of the individual's request, the court shall award the individual:

(i) if the content creator's social media content featured the individual as a qualifying minor:

(A) actual damages; and

(B) reasonable costs and attorney fees; or

(ii) if the content creator's social media content featured the individual as a market value compensated minor, actual damages that occurred after the day on which the individual turned 18 years old.

(d) An individual who was a market value compensated minor may bring an action under this Subsection (7) for up to the later of:

(i) three years after the day on which the individual turns 18 years old; or

(ii) three years after the day on which the individual knew or should have known that the social media content inflicted emotional harm or substantial embarrassment.

(8) The provisions of this section supersede any agreement related to venue, arbitration, or mediation in a contract entered into after May 7, 2025, between an individual petitioning a court to edit or delete the social media content and a social media service.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 246
H. B. 323
Passed March 4, 2025
Approved March 25, 2025
Effective May 7, 2025

CORRECTIONAL DRUG ENFORCEMENT AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill addresses illegal drug enforcement by the Department of Corrections.

Highlighted Provisions:

This bill:

► requires the Department of Corrections to create a drug abuse and trafficking unit within the department to combat illegal drug abuse and trafficking by inmates and offenders on probation and parole and enhance coordination with law enforcement agencies.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

64-13-51, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 64-13-51 is enacted to read:

64-13-51. Drug abuse and trafficking unit.

(1) The department shall create a drug abuse and trafficking unit within the department.

(2) The drug abuse and trafficking unit created in Subsection (1) shall:

(a) develop and implement strategies to combat drug abuse and trafficking by:

(i) offenders within correctional facilities and under the department's supervision; and

(ii) individuals working directly with, or in connection with, offenders within correctional facilities or under the department's supervision; and

(b) enhance collaboration and information sharing between the department and law enforcement agencies throughout the state to combat drug abuse and trafficking by the individuals listed in Subsections (2)(a)(i) and (ii).

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 247
H. B. 324
Passed March 6, 2025
Approved March 25, 2025
Effective July 1, 2025

SPECIAL GROUP LICENSE PLATE AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill changes the allocation of money from a historical support special group license plate.

Highlighted Provisions:

This bill:

- allows an individual to request, for an additional fee, a set of two license plates;
- requires the Motor Vehicle Division to design and distribute a white, classic license plate;
- allows a corporate brand sponsored special group license plate and a special group license plate for major league sports teams;
- allows the consolidation of license plate types for purposes of meeting the minimum circulation requirements;
- provides the allocation of money from the voluntary contribution for a historical support special group license plate, allocating revenue to the sponsoring agency and to the Transportation Investment Fund of 2005;
- requires the Motor Vehicle Division to provide notice regarding the allocation of the money from the historical support special group license plate;
- provides that a vintage vehicle is not required to make the voluntary contribution to obtain the historical support special group license plate;
- allows contributions for collegiate special group license plates to be used for the institution's compensation to student athletes for the use of the student athlete's name, image, or likeness;
- amends the definition of a vintage vehicle to exclude the requirement regarding the type of license plate to be displayed;
- requires the State Tax Commission to provide a report regarding special group license plates; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates $3,500,000 in expendable funds and accounts for fiscal year 2026, all of which is from the General Fund.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-401, as last amended by Laws of Utah 2024, Chapter 251
41-1a-418, as renumbered and amended by Laws of Utah 2023, Chapter 33
41-1a-419, as last amended by Laws of Utah 2024, Chapter 251
41-1a-1601, as enacted by Laws of Utah 2023, Chapter 33
41-1a-1602, as enacted by Laws of Utah 2023, Chapter 33
41-1a-1603, as last amended by Laws of Utah 2024, Chapter 251
41-1a-1605, as last amended by Laws of Utah 2024, Chapter 251
41-1a-1606, as enacted by Laws of Utah 2023, Chapter 33
41-1a-1607, as enacted by Laws of Utah 2023, Chapter 33
41-1a-1608, as enacted by Laws of Utah 2023, Chapter 33
41-21-1, as last amended by Laws of Utah 2023, Chapters 22, 219

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-401 is amended to read:

41-1a-401. License plates -- Number of plates -- Reflectorization -- Indicia of registration in lieu of or used with plates.

(1) (a) Except as provided in Subsections (1)(c), (d), and (e), the division upon registering a vehicle shall issue to the owner:

(i) one license plate for a motorcycle, trailer, or semitrailer;

(ii) one registration decal for a park model recreational vehicle, in lieu of a license plate, which shall be attached in plain sight to the rear of the park model recreational vehicle;

(iii) one registration decal for a camper, in lieu of a license plate, which shall be attached in plain sight to the rear of the camper; and

(iv) one license plate for every other vehicle.

(b) The license plate or registration decal issued under Subsection (1)(a) is for the particular vehicle registered and may not be removed during the term for which the license plate or registration decal is issued or used upon any other vehicle than the registered vehicle.

(c) (i) Notwithstanding Subsections (1)(a) and (b) and except as provided in Subsection (1)(c)(ii), the division, upon registering a motor

vehicle that has been sold, traded, or the ownership of which has been otherwise released, shall transfer the license plate issued to the person applying to register the vehicle if:

(A) the previous registered owner has included the license plate as part of the sale, trade, or ownership release; and

(B) the person applying to register the vehicle applies to transfer the license plate to the new registered owner of the vehicle.

(ii) The division may not transfer a personalized or special group license plate to a new registered owner under this Subsection (1)(c) if the new registered owner does not meet the qualification or eligibility requirements for that personalized or special group license plate under this part or Part 16, Sponsored Special Group License Plates.

(d) (i) For a vehicle described in Section 41-1a-301, the division upon registering a vehicle shall issue a license plate or set of license plates as provided in that section.

(ii) For any [~~commercial vehicle that operates intrastate~~]vehicle not described in Subsection (1)(d)(i), at the request of the registrant, the division upon registering a vehicle may issue two license plates, for display on both the front and rear of the [~~intrastate commercial~~]vehicle.

(e) The division upon registering a vehicle may, until inventory of license plate sets is exhausted, but no later than December 31, 2025, issue a set of two plates.

(f) The division shall ensure that license plates are distributed from a central location as soon as practicable, but no later than July 1, 2025.

(2) The division may receive applications for registration renewal, renew registration, and issue a new license plate or registration decal at any time prior to the expiration of registration.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), all license plates to be manufactured and issued by the division shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate.

(ii) Notwithstanding Subsection (3)(a)(i), a historical support special group license plate may be treated with a place face that is partially reflective and provides effective and dependable reflective brightness during the service period of the license plate.

(b) The division shall prescribe all license plate material specifications and establish and implement procedures for conforming to the specifications.

(c) The specifications for the materials used such as the aluminum plate substrate, the reflective sheeting, and glue shall be drawn in a manner so that at least two manufacturers may qualify as suppliers.

(d) The granting of contracts for the materials shall be by public bid.

(4) (a) The commission may issue, adopt, and require the use of indicia of registration it considers advisable in lieu of or in conjunction with license plates as provided in this part.

(b) All provisions of this part relative to license plates apply to these indicia of registration, so far as the provisions are applicable.

(5) A violation of this section is an infraction.

Section 2. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) In accordance with this chapter, the division shall issue to an eligible applicant a special group license plate in one of the following categories:

(a) a disability special group license plate issued in accordance with Section 41-1a-420;

(b) a special group license plate issued for a:

(i) vintage vehicle;

(ii) farm truck; or

(iii) special group license plate described in Section 41-1a-1602.

(2) The division may not issue a new type of special group license plate or symbol decal unless the division receives:

(a) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plate or symbol decal; or

(b) a legislative appropriation for the start-up fee described in Subsection (2)(a).

(3) Notwithstanding other provisions of this chapter, the division may not require a contribution as defined in Section 41-1a-1601 for a special group license plate described in Subsection [~~(1)(a) or (b)~~](1)(a), (1)(b)(i), or (1)(b)(ii).

Section 3. Section 41-1a-419 is amended to read:

41-1a-419. Plate design and review -- Personalized special group license plates -- Rulemaking.

(1) (a) In accordance with Subsection (1)(c), and except as provided in Subsection (1)(b), the division shall determine the design and number of numerals or characters on a special group license plate.

(b) (i) When the division has technology and processes in place to centrally distribute license plates, but no later than July 1, 2025, subject to Subsection (1)(c)(iii), an institution may design a collegiate special group license plate for the institution in accordance with Subsection (1)(c).

(ii) If an institution chooses to design a collegiate special group license plate for the institution, the institution is responsible for any design costs.

(c) (i) Except as provided in Subsection (1)(c)(ii), each special group license plate shall display:

(A) the word Utah;

(B) the name or identifying slogan of the special group; and

(C) the combination of letters, numbers, or both uniquely identifying the registered vehicle.

(ii) The division, in consultation with the Utah State Historical Society, shall design the historical support special group license plate, which shall:

(A) have a black background;

(B) have white characters; and

(C) display the word Utah.

(iii) The division shall design a classic support special group license plate, which shall:

(A) have a white background;

(B) have black characters; and

(C) display the word Utah.

[~~(iii)~~](iv) The design of a special group license plate is subject to approval by the license plate design review board as described in Subsection 41-1a-402(3).

(2) (a) The division shall, after consultation with a representative designated by the sponsoring organization as defined in Section 41-1a-1601, specify the word or words comprising the special group name and the symbol decal to be displayed upon the special group license plate.

(b) A special group license plate symbol decal may not be redesigned:

(i) unless the division receives a redesign fee established by the division under Section 63J-1-504; and

(ii) more frequently than every five years.

(c) A special group license plate symbol decal may not be reordered unless the division receives a symbol decal reorder fee established by the division in accordance with Section 63J-1-504.

(3) The license plates issued for horseless carriages prior to July 1, 1992, are valid without renewal as long as the vehicle is owned by the registered owner and the license plates may not be recalled by the division.

(4) A person who meets the requirements described in this part or Part 16, Sponsored Special Group License Plates, for a special group license plate may, apply for a personalized special group license plate in accordance with Sections 41-1a-410 and 41-1a-411.

(5) Subject to this chapter, the commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish qualifying criteria for persons to receive, renew, or surrender special group license plates; and

(b) establish the number of numerals or characters for special group license plates.

Section 4. Section 41-1a-1601 is amended to read:

41-1a-1601. Definitions.

As used in this part:

(1) "Applicant" means a registered owner who submits an application to obtain or renew a sponsored special group license plate in accordance with this part.

(2) (a) "Charitable purpose" means:

(i) relief of the poor, the distressed, or the underprivileged;

(ii) advancement of religion;

(iii) advancement of education or science;

(iv) erecting or maintaining a public building, monument, or work;

(v) reducing the burdens of government;

(vi) reducing neighborhood tensions;

(vii) eliminating prejudice and discrimination;

(viii) defending human rights and civil rights secured by law; or

(ix) combating community deterioration and juvenile delinquency.

(b) "Charitable purpose" does not include providing, encouraging, or paying for the costs of obtaining an abortion.

(3) "Collegiate special group license plate" means a sponsored special group license plate issued to a contributor to an institution.

(4) "Contributor" means an applicant who contributes the required contribution to a sponsoring organization for a sponsored special group license plate.

(5) "Corporate brand sponsored special group license plate" means a sponsored special group license plate with a sponsoring organization that is a private business.

[~~(5)~~](6) (a) "Existing special group license plate" means a special group license plate that the division issues before January 1, 2024.

(b) "Existing special group license plate" does not include a special group license plate described in Subsection 41-1a-418(1)(a) or (b).

[~~(6)~~](7) "Existing state agency recognition special group license plate" means an existing special group license plate issued to a registered owner who:

(a) has a special license that supports or furthers a government purpose;

(b) has received an honor that supports or furthers a government purpose;

(c) has achieved an accomplishment that supports or furthers a government purpose; or

(d) holds an elected office.

[~~(7)~~](8) "Institution" means:

(a) a state institution of higher education as defined in Section 53B-3-102; or

(b) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(9) "Major league sport" means the same as that term is defined in Section 11-70-101.

[~~(8)~~](10) (a) "Private nonprofit organization" means a private nonprofit organization that:

(i) qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

(ii) has a charitable purpose.

(b) "Private nonprofit organization" does not include an organization that provides, encourages, or pays for the costs of obtaining an abortion.

[~~(9)~~](11) "Private nonprofit special group license plate" means a sponsored special group license plate issued to a contributor to a private nonprofit organization.

[~~(10)~~](12) "Required contribution" means:

(a) the minimum annual contribution amount established under Subsection 41-1a-1603(4)(a)(iii); or

(b) if the sponsoring organization establishes a minimum annual contribution amount in accordance with Subsection 41-1a-1603(4)(b) that is greater than the minimum required contribution amount established under Subsection 41-1a-1603(4)(a)(iii), the amount the sponsoring organization establishes.

[~~(11)~~](13) "Special group license plate" means:

(a) a collegiate special group license plate;

(b) a private nonprofit special group license plate;

(c) a corporate brand sponsored special group license plate;

(d) a major league sports team sponsored special group license plate;

[~~(c)~~](e) a sponsored special group license plate;

[~~(d)~~](f) a state agency recognition special group license plate; or

[~~(e)~~](g) a state agency support special group license plate.

[~~(12)~~](14) "Sponsored special group license plate" means a license plate:

(a) designed for and associated with a sponsoring organization; and

(b) issued to an applicant in accordance with this part.

[~~(13)~~](15) "Sponsoring organization" means an institution, a private nonprofit organization, a private business, or a state agency that is or seeks to be associated with a sponsored special group license plate created under this part.

[~~(14)~~](16) "State agency recognition special group license plate" means a sponsored special group license plate issued to an applicant who:

(a) has a special license that supports or furthers a government purpose;

(b) has received an honor that supports or furthers a government purpose;

(c) has achieved an accomplishment that supports or furthers a government purpose; or

(d) holds an elected office.

[~~(15)~~](17) (a) "State agency support special group license plate" means:

(i) a sponsored special group license plate issued to a contributor to a state agency to support a specific state agency program; or

(ii) an existing special group license plate issued for a special interest vehicle.

(b) "State agency support special group license plate" includes a cancer support license plate created by an act of the Legislature before December 31, 2022.

Section 5. Section 41-1a-1602 is amended to read:

41-1a-1602. Sponsored special group license plate program.

(1) The division shall establish and administer a sponsored special group license plate program as described in this part.

(2) The division shall issue to an applicant who satisfies the requirements of this part one of the following:

(a) a collegiate special group license plate;

(b) a private nonprofit special group license plate;

(c) a corporate brand sponsored special group license plate;

(d) a major league sports team sponsored special group license plate;

[~~(c)~~](e) a state agency support special group license plate; or

[~~(d)~~](f) a state agency recognition special group license plate.

Section 6. Section 41-1a-1603 is amended to read:

41-1a-1603. Application requirements -- Fees -- Contributions -- Rulemaking.

(1) An applicant for a sponsored special group license plate shall submit to the division:

(a) in a form and manner that the division prescribes, a complete application;

(b) payment of the fee for the issuance of the sponsored special group license plate established under Subsection (4)(a)(i);

(c) the required contribution for the sponsored special group license plate, unless the applicant previously paid the required contribution as part of a preorder application described in Subsection [~~(4)~~](3); and

(d) if the sponsoring organization elects to require verification as described in Section 41-1a-1604, a verification form obtained from the sponsoring organization.

(2) An applicant who owns a vehicle with the sponsoring organization's sponsored special group license plate shall submit to the division the required contribution to renew the sponsored special group license plate.

(3) (a) An applicant who wishes to obtain a new type of sponsored special group license plate may preorder the new type of sponsored special group license plate by:

(i) submitting to the sponsoring organization associated with the new type of sponsored special group license plate a complete preorder form created by the division; and

(ii) making the required contribution to the sponsoring organization.

(b) After the division approves the sponsoring organization's request for the new type of sponsored special group license plate under Section 41-1a-1604, an applicant who submitted a preorder in accordance with Subsection (3)(a) may apply for the sponsored special group license plate in accordance with Subsection (1).

(4) (a) The division shall, in accordance with Section 63J-1-504, establish:

(i) the fee to charge an applicant for the division's costs of issuing or renewing a sponsored special group license plate or symbol decal; [~~and~~]

(ii) the fee to charge a sponsoring organization for the division's costs of designing and administering a new type of sponsored special group license plate, in accordance with Subsection 41-1a-1604(2)(c); and

(iii) subject to [~~Subsection (4)(b)~~]Subsections (4)(b) and (6), in an amount equal to at least $25, the minimum annual contribution amount an applicant is required to make to obtain or renew the sponsoring organization's sponsored special group license plate.

(b) A fee paid in accordance with Subsection (4)(a)(i) shall be deposited into the License Plate Restricted Account created in [~~Subsection~~]Section41-1a-122.

(c) A sponsoring organization may establish a required contribution amount for the sponsoring organization's sponsored special group license plate that is greater than the amount established by the division under Subsection (4)(a)(ii).

(5) An applicant's contribution is a voluntary contribution for funding the sponsoring organization's activities and not a motor vehicle registration fee.

(6) Beginning on July 1, 2025, an applicant's voluntary contribution described in Subsection (4)(a)(iii) for the historical support special group license plate described in Section 41-1a-419 is $25 which the division shall allocate as follows:

(a) $2 to the Utah State Historical Society as the sponsoring organization; and

(b) $23 into the Transportation Investment Fund of 2005, created in Section 72-2-124.

(7) For a fiscal year beginning on July 1, 2025, only, the division shall transfer into the General Fund $3,500,000 from the Sponsored Special Group License Plate Fund created in Section 41-1a-1610 from funds generated by the historical support special group license plate.

(8) The division shall provide notice indicating the allocation of the voluntary contributions described in Subsection (6) for the historical support special group license plate as follows:

(a) on or before July 1, 2025, on the division website; and

(b) beginning on July 1, 2025, and until June 30, 2026, in any email notification of a registrant's pending vehicle registration expiration described in Section 41-1a-203.

(9) An applicant for a historical support special group license plate for a vehicle that is a vintage vehicle is not required to make the voluntary contribution to obtain the historical support special group license plate.

[~~(6)~~](10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to establish and administer the sponsored special group license plate program.

Section 7. Section 41-1a-1605 is amended to read:

41-1a-1605. Collegiate special group license plates.

(1) A sponsoring organization that is an institution may use funds received through the sponsored special group license plate program only for:

(a) the institution's academic scholarships [~~.~~]; or

(b) the institution's intercollegiate athletics program for compensation for a student athlete's name, image, or likeness as described in Title 53B, Chapter 16, Part 6, Use of Student Athlete's Name, Image, and Likeness in Collegiate Athletics.

(2) The state auditor may audit each institution to verify that the money an institution collects from contributors is used only for [~~academic scholarships~~]the uses described in Subsection (1).

(3) A sponsoring organization that is an institution may establish the contribution amount required to obtain the institution's collegiate special group license plate.

Section 8. Section 41-1a-1606 is amended to read:

41-1a-1606. Private nonprofit special group license plates -- Corporate brand sponsored special group license plates -- Major league sports team sponsored special group license plates.

(1) A sponsoring organization that is a private nonprofit organization [~~shall~~]:

(a) shall only use funds received through the sponsored special group license plate program for the charitable purpose described in the private nonprofit organization's application submitted to the division under Section 41-1a-1603; and

(b) may not use funds received through the sponsored special group license plate program to pay the private nonprofit organization's employee salaries or benefits, administrative costs, or fundraising expenses.

(2) A private nonprofit organization may collect a contributor's personal information for the purposes of future fundraising and any required reporting, if the private nonprofit organization requires a verification form described in Section 41-1a-1604.

(3) The voluntary contribution for a corporate brand sponsored special group license plate shall be deposited into the Transportation Fund.

(4) (a) A major league sports team based in Utah may request a sponsored special group license plate as provided in this part.

(b) The sponsoring organization for a major league sports team sponsored special group license plate may elect to use voluntary contributions for:

(i) a charitable purpose; or

(ii) a contribution to the Transportation Fund.

(c) A sponsoring organization for a major league sports team sponsored special group license plate that elects to use contribution funds for a charitable purpose:

(i) shall only use funds received through the sponsored special group license plate program for the charitable purpose of an entity registered under Section 501(c)(3) of the Internal Revenue Code as described in the sponsoring organization's application submitted to the division under Section 41-1a-1603; and

(ii) may not use funds received through the sponsored special group license plate program to pay the private nonprofit organization's employee salaries or benefits, administrative costs, or fundraising expenses.

[~~(3)~~](5) The state auditor may audit each private nonprofit organization or major league sports team sponsoring organization that elects to use funds for a charitable purpose to verify that the money the private nonprofit organization collects from contributors is used for the private nonprofit organization's charitable purpose in accordance with this part.

Section 9. Section 41-1a-1607 is amended to read:

41-1a-1607. State agency special group license plates.

(1) A sponsoring organization that is a state agency:

[~~(1)~~](a) shall only use funds received through the sponsored special group license plate program for the implementation or administration of the state agency's designated program; and

[~~(2)~~](b) may not direct funds received through the sponsored special group license plate program to a nongovernmental entity.

(2) (a) For a classic support special group license plate described in Section 41-1a-419, the division shall require each applicant to pay a $25 contribution to obtain the classic support special group license plate.

(b) The division shall transfer revenue from the classic support special group license plate into the General Fund.

Section 10. Section 41-1a-1608 is amended to read:

41-1a-1608. Review -- Discontinuance -- Consolidation -- Report.

(1) The division shall annually review each sponsored special group license plate to determine the number of registered vehicles with each type of sponsored special group license plate during the preceding calendar year.

(2) (a) The division shall discontinue a type of sponsored special group license plate if for three consecutive calendar years, the division's annual review shows that fewer than 500 registered vehicles have that type of sponsored special group license plate.

(b) The division shall discontinue a sponsored special group license plate under Subsection (2)(a) beginning January 1 of the calendar year following the year of the third annual review.

(3) If the division discontinues a type of sponsored special group license plate in accordance with this section, the division may not reinstate the sponsored special group license plate unless the sponsoring organization submits a request for the discontinued sponsored special group license plate in the same manner as a request for a new type of sponsored special group license plate under Section 41-1a-1604.

(4) (a) A registered owner to whom the division issued an existing special group license plate or a sponsored special group license plate that the division discontinues in accordance with this section may continue to display the license plate upon renewing the motor vehicle's registration.

(b) A registered owner described in Subsection (4)(a) is not required to pay a required contribution to the sponsoring organization associated with the sponsored special group license plate.

(5) The division may not transfer to a new registered owner a special group license plate that is discontinued under this part.

(6) Subsection (2) does not apply to a state agency recognition special group license plate that is an existing special group license plate.

(7) If two or more special group license plates collect required contributions that are distributed to the same entity or fund, the sponsoring organization or organizations may request to consolidate the license plate types for purposes of meeting the minimum threshold described in this section.

(8) On or before November 1 of each year, the State Tax Commission shall provide a report to the Revenue and Taxation Interim Committee, including:

(a) data on the amount of revenue allocated from each license plate issued under this part;

(b) the recipients of allocated revenue from each license plate, including the amount to each recipient;

(c) the number of each type of license plate in circulation; and

(d) any other information or data the State Tax Commission finds to be relevant.

Section 11. Section 41-21-1 is amended to read:

41-21-1. Definitions.

(1) "Autocycle" means the same as that term is defined in Section 53-3-102.

(2) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

(3) (a) "Street rod" means a motor vehicle or motorcycle that:

(i) (A) was manufactured in 1948 or before; or

(B) (I) was manufactured after 1948 to resemble a vehicle that was manufactured in 1948 or before; and

(II) (Aa) has been altered from the manufacturer's original design; or

(Bb) has a body constructed from non-original materials; and

(ii) is primarily a collector's item that is used for:

(A) club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional transportation; and

(F) other similar uses.

(b) "Street rod" does not include a motor vehicle or motorcycle that is used for general, daily transportation.

(4) (a) "Vintage travel trailer" means a travel trailer, camping trailer, or fifth wheel trailer that is:

(i) 30 years old or older, from the current year; and

(ii) primarily a collector's item that is used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional recreational or vacation use; and

(F) other similar uses.

(b) "Vintage travel trailer" does not include a travel trailer, camping trailer, or fifth wheel trailer that is used for the general, daily transportation of persons or property.

(5) (a) "Vintage vehicle" means a motor vehicle or motorcycle that:

(i) is 30 years old or older from the current year; and

[~~(ii) displays:~~]

[~~(A) a unique vehicle type special group license plate issued in accordance with Section 41-1a-418;~~]

[~~(B) for a vehicle that has a model year of 1982 or older, a historical support special group plate; or~~]

[~~(C) an original issue license plate in accordance with Section 41-1a-416; and~~]

[~~(iii)~~](ii) is primarily a collector's item that is used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional transportation; and

(F) other similar uses.

(b) "Vintage vehicle" does not include a motor vehicle or motorcycle that is used for general, daily transportation.

(c) "Vintage vehicle" includes a:

(i) street rod; and

(ii) vintage travel trailer.

Section 12. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 12(a). Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 1

To Department of Cultural and Community Engagement - Heritage and Arts Foundation Fund

From General Fund, One-time - - -

CHAPTER 248
H. B. 337
Passed March 3, 2025
Approved March 25, 2025
Effective January 1, 2026

PROPERTY MANAGER REQUIREMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies the Utah Real Estate Licensing and Practices Act.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► grants the Real Estate Commission (commission) authority to make administrative rules relating to property managers;
- ► requires an individual to hold a license as a property manager before engaging in property management;
- ► exempts certain individuals from licensure under this act;
- ► requires that the commission and Division of Real Estate determine the qualifications and requirements for an applicant for a property manager license;
- ► allows an individual with an active broker, associate broker, or sales agent license to obtain a property manager license without meeting certain examination and education requirements;
- ► requires that an applicant for a property manager license pay a licensing fee;
- ► repeals provisions authorizing certain individuals to act as a property manager;
- ► authorizes a property manager to fill out any form or document related to property management;
- ► provides parameters for what a property manager may do when engaging in property management;
- ► requires that a property manager associate with a real estate trust account;
- ► exempts a property manager with a security bond that protects at least 30% of estimated client funds from the requirement to associate with a real estate trust account; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

61-2f-102, as last amended by Laws of Utah 2024, Chapter 227
61-2f-103, as last amended by Laws of Utah 2022, Chapter 204
61-2f-201, as renumbered and amended by Laws of Utah 2010, Chapter 379
61-2f-202, as last amended by Laws of Utah 2022, Chapter 204
61-2f-203, as last amended by Laws of Utah 2022, Chapter 204
61-2f-204, as last amended by Laws of Utah 2022, Chapter 204
61-2f-206, as last amended by Laws of Utah 2022, Chapter 204

ENACTS:

61-2f-202.5, Utah Code Annotated 1953
61-2f-307, Utah Code Annotated 1953
61-2f-411, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 61-2f-102 is amended to read:

61-2f-102. Definitions.

As used in this chapter:

(1) "Associate broker" means an individual who is:

(a) employed or engaged as an independent contractor by or on behalf of a principal broker to perform an act described in Subsection [~~(20)~~](19) for valuable consideration; and

(b) licensed or is required to be licensed under this chapter as an associate broker.

(2) "Branch broker" means an associate broker who manages a principal broker's branch office under the supervision of the principal broker.

(3) "Branch office" means a principal broker's real estate brokerage office that is not the principal broker's main office.

(4) "Business day" means a day other than:

(a) a Saturday;

(b) a Sunday; or

(c) a federal or state holiday.

(5) "Business opportunity" means the sale, lease, or exchange of any business that includes an interest in real estate.

(6) "Commission" means the Real Estate Commission established under this chapter.

(7) "Common interest association" means the same as that term is defined in Section 57-1-46.

[~~(7)~~](8) "Concurrence" means the entities given a concurring role must jointly agree for action to be taken.

[~~(8) "Condominium homeowners' association" means the condominium unit owners acting as a group in accordance with declarations and bylaws.~~]

(9) (a) "Condominium hotel" means one or more condominium units that are operated as a hotel.

(b) "Condominium hotel" does not mean a hotel consisting of condominium units, all of which are owned by a single entity.

(10) "Condominium unit" means the same as that term is defined in Section 57-8-3.

(11) "Director" means the director of the Division of Real Estate.

(12) "Division" means the Division of Real Estate.

[~~(13) "Dual broker" means a principal broker of a real estate sales brokerage who obtains from the division a dual broker license in order to function as the principal broker of a property management company that is a separate entity from the real estate sales brokerage.~~]

[~~(14)~~](13) "Entity" means:

(a) a corporation;

(b) a partnership;

(c) a limited liability company;

(d) a company;

(e) an association;

(f) a joint venture;

(g) a business trust;

(h) a trust; or

(i) any organization similar to an entity described in Subsections [~~(14)(a)~~](13)(a) through (h).

[~~(15)~~](14) "Executive director" means the director of the Department of Commerce.

[~~(16)~~](15) "Foreclosure rescue" means, for compensation or with the expectation of receiving valuable consideration [~~, to:~~]:

[~~(a) engage, or offer to engage, in~~]

(a) an act that:

(i) the person represents will assist a borrower in preventing a foreclosure; and

(ii) relates to a transaction involving the transfer of title to residential real property; or

(b) as an employee or agent of another person:

(i) [~~solicit, or offer~~]a solicitation or an offer that the other person will engage in an act described in Subsection [~~(16)(a)~~](15)(a); or

(ii) [~~negotiate~~]negotiation of the terms in relationship to an act described in Subsection [~~(16)(a)~~](15)(a).

[~~(17)~~](16) "Loan modification assistance" means, for compensation or with the expectation of receiving valuable consideration [~~, to~~]:

(a) [~~act,~~]an act, or an offer to act, on behalf of a person to:

(i) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

(A) an increase or decrease in an interest rate;

(B) a change to the type of interest rate;

(C) an increase or decrease in the principal amount of the residential mortgage loan;

(D) a change in the number of required period payments;

(E) an addition of collateral;

(F) a change to, or addition of, a prepayment penalty;

(G) an addition of a cosigner; or

(H) a change in persons obligated under the existing residential mortgage loan; or

(ii) a substitute of a new residential mortgage loan for an existing residential mortgage loan; or

(b) as an employee or agent of another person:

(i) [~~solicit, or offer~~]a solicitation or an offer that the other person will engage in an act described in Subsection [~~(17)(a)~~](16)(a); or

(ii) [~~negotiate~~]negotiation of the terms in relationship to an act described in Subsection [~~(17)(a)~~](16)(a).

[~~(18)~~](17) "Main office" means the address [~~which~~]that a principal broker designates with the division as the principal broker's primary brokerage office.

[~~(19)~~](18) "Person" means an individual or entity.

[~~(20)~~](19) "Principal broker" means an individual who []:

(a) is licensed or required to be licensed as a principal broker under this chapter [~~who:~~]; and

[~~(a)~~](b) (i) sells or lists for sale real estate, including real estate being sold as part of a foreclosure rescue, or a business opportunity with the expectation of receiving valuable consideration;

[~~(b)~~](ii) buys, exchanges, or auctions real estate, an option on real estate, a business opportunity, or an improvement on real estate with the expectation of receiving valuable consideration;

[~~(c)~~](iii) advertises, offers, attempts, or otherwise holds the individual out to be engaged in the business described in Subsection [~~(20)(a)~~](19)(a) or (b) (ii);

[~~(d)~~](iv) is employed by or on behalf of the owner of real estate or by a prospective purchaser of real estate and performs an act described in Subsection [~~(20)(a),~~](19)(b)(i),whether the individual's compensation is at a stated salary, a commission basis, upon a salary and commission basis, or otherwise;

[~~(e)~~](v) with the expectation of receiving valuable consideration, manages property owned by another person;

[~~(f)~~](vi) advertises or otherwise holds the individual out to be engaged in property management;

[~~(g)~~](vii) with the expectation of receiving valuable consideration, assists or directs in the procurement of prospects for or the negotiation of a transaction listed in Subsections [~~(20)(a)~~](19)(b)(i) and [~~(e)~~](v);

[~~(h)~~](viii) except for a mortgage lender, title insurance producer, or an employee of a mortgage lender or title insurance producer, assists or directs in the closing of a real estate transaction with the expectation of receiving valuable consideration;

[~~(i)~~](ix) engages in foreclosure rescue; or

[~~(j)~~](x) advertises, offers, attempts, or otherwise holds the person out as being engaged in foreclosure rescue.

[~~(21)~~](20) (a) "Property management" means [~~engaging in~~]the management of real estate owned by another person, with the expectation of receiving valuable consideration, [~~the management of real estate owned by another person~~] or advertising or otherwise claiming to be engaged in [~~property management~~]the management of real estate owned by another person, by:

(i) advertising for, arranging, negotiating, offering, or otherwise attempting or participating in a transaction calculated to secure the rental or leasing of real estate;

(ii) collecting, agreeing, offering, or otherwise attempting to collect rent for the real estate [~~and accounting for and disbursing the money collected~~]; or

(iii) [~~authorizing expenditures for repairs to the real estate~~]signing a lease agreement or an addendum with a tenant.

(b) "Property management" does not include:

(i) hotel or motel management;

(ii) rental of tourist accommodations, including hotels, motels, tourist homes, condominiums, condominium hotels, mobile home park accommodations, campgrounds, or similar public accommodations for a period of less than 30 consecutive days, and the management activities associated with these rentals; or

(iii) the leasing or management of surface or subsurface minerals or oil and gas interests, if the leasing or management is separate from a sale or lease of the surface estate.

[~~(22) "Property management sales agent" means a sales agent who:~~]

[~~(a) is affiliated with a dual broker through the dual broker's property management company; and~~]

[~~(b) is designated by the dual broker as a property management sales agent.~~]

(21) "Property manager" means an individual who:

(a) is licensed or required to be licensed as a property manager under this chapter; and

(b) (i) engages in property management; or

(ii) advertises or otherwise holds the individual out to be engaged in property management.

[~~(23)~~](22) "Real estate" includes leaseholds and business opportunities involving real property.

[~~(24)~~](23) (a) "Regular salaried employee" means an individual:

(i) who performs a service for wages or other remuneration [~~;~~]; and

(ii) whose employer withholds federal employment taxes under a contract of hire, written or oral, express or implied.

(b) "Regular salaried employee" does not include an individual who performs services on a project-by-project basis or on a commission basis.

[~~(25)~~](24) "Reinstatement" means [~~restoring~~]the restoration of a license that has expired or has been suspended.

[~~(26)~~](25) "Reissuance" means the process by which [~~a licensee~~]an individual may obtain a license following revocation of the license.

[~~(27)~~](26) "Renewal" means [~~extending~~]the extension of a license for an additional licensing period on or before the date the license expires.

[~~(28)~~](27) "Sales agent" means an individual who is:

(a) affiliated with a principal broker, either as an independent contractor or an employee as provided in Section 61-2f-303, to perform for valuable consideration an act described in Subsection [~~(20)~~](19); and

(b) licensed, or required to be licensed, under this chapter as a sales agent.

[~~(29)~~](28) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.

Section 2. Section 61-2f-103 is amended to read:

61-2f-103. Real Estate Commission.

(1) There is created within the division a Real Estate Commission.

(2) The commission shall:

(a) subject to concurrence by the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of this chapter that are not inconsistent with this chapter, including:

(i) licensing of:

(A) a principal broker;

(B) an associate broker; [~~and~~]

(C) a sales agent; and

(D) a property manager;

(ii) registration of:

(A) an entity;

(B) an assumed name under which a person conducts business;

(C) a branch office; and

(D) a property management company;

(iii) prelicensing and postlicensing education curricula;

(iv) examination procedures;

(v) the certification and conduct of:

(A) a real estate school;

(B) a course provider; or

(C) an instructor;

(vi) proper handling of money received by a licensee under this chapter;

(vii) brokerage office procedures and recordkeeping requirements;

(viii) property management;

(ix) standards of conduct for a licensee under this chapter;

(x) if the commission, with the concurrence of the division, determines necessary, a rule as provided in Subsection 61-2f-306(3) regarding a legal form;

(xi) the qualification and designation of an acting principal broker in the event a principal broker dies, is incapacitated, or is unable to perform the duties of a principal broker, as described in Section 61-2f-202; and

(xii) giving or paying an inducement gift or a closing gift to a buyer or seller in a real property transaction;

(b) establish, with the concurrence of the division, a fee provided for in this chapter, except a fee imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;

(c) conduct an administrative hearing not delegated by the commission to an administrative law judge or the division relating to the:

(i) licensing of an applicant;

(ii) conduct of a licensee;

(iii) the certification or conduct of a real estate school, course provider, or instructor regulated under this chapter; or

(iv) violation of this chapter by any person;

(d) with the concurrence of the director, impose a sanction as provided in Section 61-2f-404;

(e) advise the director on the administration and enforcement of a matter affecting the division and the real estate sales and property management industries;

(f) advise the director on matters affecting the division budget;

(g) advise and assist the director in conducting real estate seminars; and

(h) perform other duties as provided by this chapter.

(3) (a) Except as provided in Subsection (3)(b), a state entity may not, without the concurrence of the commission, make a rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate transaction between private parties.

(b) Subsection (3)(a) does not apply to a rule made:

(i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or

(ii) by the Department of Commerce or any division or other rulemaking body within the Department of Commerce.

(4) (a) The commission [~~shall be comprised~~]consists of five members appointed by the governor and approved by the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) Four of the commission members shall:

(i) have at least five years' experience in the real estate business; and

(ii) hold an active principal broker, associate broker, or sales agent license.

(c) One commission member shall be a member of the general public.

(d) The governor may not appoint a commission member described in Subsection (4)(b) who, at the time of appointment, resides in the same county in the state as another commission member.

(e) At least one commission member described in Subsection (4)(b) shall at the time of an appointment reside in a county that is not a county of the first or second class.

(5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) [~~Notwithstanding the requirements of Subsection (5)(a), the~~]The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) Upon the expiration of the term of a member of the commission, the member of the commission shall continue to hold office until a successor is appointed and qualified.

(d) A commission member may not serve more than two consecutive terms.

(e) Members of the commission shall annually select one member to serve as chair.

(6) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) The commission shall meet at least monthly.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more commission members.

(9) Three members of the commission constitute a quorum for the transaction of business.

(10) A member of the commission shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 3. Section 61-2f-201 is amended to read:

61-2f-201. License required.

(1) Unless a person is licensed under this chapter, it is unlawful for the person to do the following with respect to real estate located in this state:

(a) engage in the business of a principal broker, associate broker, or sales agent;

(b) act in the capacity of a principal broker, associate broker, or sales agent;

(c) advertise or assume to act as a principal broker, associate broker, or a sales agent [~~.~~]; or

(d) engage in property management.

(2) Except as provided in Section 61-2f-202, an individual is required to be licensed as a principal broker, associate broker, or a sales agent if the individual performs, offers to perform, or attempts to perform one act for valuable consideration of:

(a) buying, selling, [~~leasing, managing,~~] or exchanging real estate for another person; or

(b) offering for another person to buy, sell, [~~lease, manage,~~]or exchange real estate.

(3) Except as provided in Subsection 61-2f-202(1), unless an individual is licensed as a property manager, an individual may not, for consideration:

(a) engage in property management; or

(b) offer to engage in property management on behalf of another person.

Section 4. Section 61-2f-202 is amended to read:

61-2f-202. Exempt persons and transactions.

(1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not required for:

(i) a person who as owner or lessor performs an act described in Subsection [~~61-2f-102(20)~~]61-2f-102(19) with reference to real estate owned or leased by that person;

(ii) a regular salaried employee of the owner or lessor of real estate who, with reference to nonresidential real estate owned or leased by the employer, performs an act described in Subsection [~~61-2f-102(20)(b)~~]61-2f-102(19)(b) or (c);

(iii) a regular salaried employee of the owner of real estate who performs property management services with reference to real estate owned by the employer, except that the employee may only manage real estate for one employer;

(iv) an individual who performs property management services for the apartments at which that individual resides in exchange for free or reduced rent on that individual's apartment;

(v) a regular salaried employee of a [~~condominium homeowners'~~]common interest association who manages real estate subject to the declaration [~~of condominium~~]covenants, conditions, and restrictions that established the [~~condominium homeowners'~~]common interest association [~~, except that the employee may only manage real estate for one condominium homeowners' association~~];

(vi) a regular salaried employee of a licensed property management company or real estate brokerage who performs support services, as prescribed by rule, for the property management company or real estate brokerage; or

(vii) in the event a principal broker dies, is incapacitated, or is unable to perform the duties of a principal broker, an individual qualified and designated as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division, as an acting principal broker:

(A) in relation to each transaction pending on the day on which the principal broker dies, becomes incapacitated, or becomes unable to perform the duties of a principal broker, including the distribution of compensation for each transaction; and

(B) until the day on which each transaction described in Subsection (1)(a)(vii)(A) is completed.

(b) Subsection (1)(a) does not exempt from licensing:

(i) an employee engaged in the sale of real estate regulated under:

(A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; or

(B) Title 57, Chapter 19, Timeshare and Camp Resort Act;

(ii) an employee engaged in the sale of cooperative interests regulated under Title 57, Chapter 23, Real Estate Cooperative Marketing Act; or

(iii) an individual whose interest as an owner or lessor is obtained by that individual or transferred to that individual for the purpose of evading the application of this chapter, and not for another legitimate business reason.

(2) A license under this chapter is not required for:

(a) an isolated transaction or service by an individual holding an unsolicited, duly executed power of attorney from a property owner;

(b) subject to Subsection 61-2f-401(5), services rendered by an attorney admitted to practice law in this state in performing the attorney's duties as an attorney;

(c) a receiver, trustee in bankruptcy, administrator, executor, or an individual acting under order of a court;

(d) a trustee or employee of a trustee under a deed of trust or a will;

(e) a public utility, officer of a public utility, or regular salaried employee of a public utility, unless performance of an act described in Subsection [~~61-2f-102(20)~~]61-2f-102(19) is in connection with the sale, purchase, lease, or other disposition of real estate or investment in real estate unrelated to the principal business activity of that public utility;

(f) a regular salaried employee or authorized agent working under the oversight of the Department of Transportation when performing an act on behalf of the Department of Transportation in connection with one or more of the following:

(i) the acquisition of real estate pursuant to Section 72-5-103;

(ii) the disposal of real estate pursuant to Section 72-5-111;

(iii) services that constitute property management; or

(iv) the leasing of real estate; and

(g) a regular salaried employee of a county, city, or town when performing an act on behalf of the county, city, or town:

(i) in accordance with:

(A) if a regular salaried employee of a city or town:

(I) Title 10, Utah Municipal Code; or

(II) Title 11, Cities, Counties, and Local Taxing Units; and

(B) if a regular salaried employee of a county:

(I) Title 11, Cities, Counties, and Local Taxing Units; and

(II) Title 17, Counties; and

(ii) in connection with one or more of the following:

(A) the acquisition of real estate, including by eminent domain;

(B) the disposal of real estate;

(C) services that constitute property management; or

(D) the leasing of real estate.

(3) A license under this chapter is not required for an individual registered to act as a broker-dealer, agent, or investment adviser under the Utah and federal securities laws in the sale or the offer for sale of real estate if:

(a) (i) the real estate is a necessary element of a "security" as that term is defined by the Securities Act of 1933 and the Securities Exchange Act of 1934; and

(ii) the security is registered for sale in accordance with:

(A) the Securities Act of 1933; or

(B) Title 61, Chapter 1, Utah Uniform Securities Act; or

(b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec. 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation D, Rule 506, 17 C.F.R. Sec. 230.506; and

(ii) the selling agent and the purchaser are not residents of this state.

(4) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this chapter, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an individual licensed under the laws of this state, other than under this chapter, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(b) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(c) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

(5) As used in this section, "owner" does not include:

(a) a person who holds an option to purchase real property;

(b) a mortgagee;

(c) a beneficiary under a deed of trust;

(d) a trustee under a deed of trust; or

(e) a person who owns or holds a claim that encumbers any real property or an improvement to the real property.

(6) The commission, with the concurrence of the division, may provide, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the circumstances under which a person or transaction qualifies for an exemption that is described in this section.

Section 5. Section 61-2f-202.5 is enacted to read:

61-2f-202.5. Exempt individuals and transactions involving property management.

A license under this chapter is not required for:

(1) an individual who, as an owner or lessor, performs an act described in Subsection 61-2f-102(20) in connection to real estate owned or leased by that individual;

(2) an individual who is part of a property owner's immediate family, if the individual performs an act described in Subsection 61-2f-102(20) in connection to real estate owned by the property owner;

(3) an unlicensed or remote assistant of a property manager;

(4) an individual who exclusively performs the following tasks:

(a) maintenance and repairs on real property; or

(b) bookkeeping and accounting; or

(5) a regional manager or a corporate official of a rental agency who does not engage in an act described in Subsection 61-2f-102(20).

Section 6. Section 61-2f-203 is amended to read:

61-2f-203. Licensing requirements.

(1) (a) (i) The division shall determine whether an applicant with a criminal history qualifies for licensure.

(ii) If the division, acting under Subsection (1)(a)(i), denies or restricts a license or places a license on probation, the applicant may petition the commission for de novo review of the application.

(b) Except as provided in Subsection (6), the commission shall determine all other qualifications and requirements of an applicant for:

(i) a principal broker license;

(ii) an associate broker license; [~~or~~]

(iii) a sales agent license [~~.~~]; or

(iv) a property manager license.

(c) The division, with the concurrence of the commission, shall require and pass upon proof necessary to determine the honesty, integrity, truthfulness, reputation, and competency of each applicant for an initial license or for renewal of an existing license.

(d) (i) (A) Except as provided in Subsection (1)(d)(i)(B), the division, with the concurrence of the commission, shall require an applicant for a sales agent license to complete a division-approved educational program consisting of not less than 120 hours, as designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(B) If on the day on which an applicant for a sales agent license applies for the license the applicant is licensed as a real estate sales agent in another state, the division may require the applicant to complete a division-approved, state-specific educational program consisting of the number of hours designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(ii) (A) Except as provided in Subsection (1)(d)(ii)(B), the division, with the concurrence of the commission, shall require an applicant for an associate broker or a principal broker license to complete a division-approved educational program consisting of not less than 120 hours, as designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(B) If on the day on which an applicant for an associate broker or a principal broker license applies for the license the applicant is licensed as a real estate broker in another state, the division may require the applicant to complete a division-approved, state-specific educational program consisting of the number of hours designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(iii) (A) Except as provided in Subsection (1)(d)(iii)(B), the division shall require that an applicant for a property manager license complete the educational program described in Subsection (1)(d)(iv).

(B) If, on the day on which an applicant for a property manager license applies for the license, the applicant is licensed as a property manager in another state, the division may require the applicant to complete a division-approved, state-specific educational program consisting of the number of hours designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(iv) The division shall create an educational program for a property manager license that:

(A) requires at least 24 hours of training;

(B) covers subjects the division determines necessary for the program; and

(C) establishes the proportion of hours allocated for each subject in the program.

[~~(iii)~~](v) An hour required by this section means 50 minutes of instruction in each 60 minutes.

[~~(iv)~~](vi) The maximum number of program hours available to an individual is eight hours per day.

(e) (i) Except as provided in Subsection (1)(e)(ii), the division, with the concurrence of the commission, shall require an applicant to pass an examination approved by the commission covering:

(A) the fundamentals of the English language;

(B) the fundamentals of arithmetic;

(C) the fundamentals of bookkeeping;

(D) the fundamentals of real estate principles and practices;

(E) this chapter;

(F) the rules established by the commission with the concurrence of the division; and

(G) any other aspect of Utah real estate license law considered appropriate.

(ii) If on the day on which an applicant applies for a license the applicant is licensed as a real estate broker or a sales agent in another state, the division may, with the concurrence of the commission, require the applicant to pass a division-approved, state-specific examination rather than the examination required under Subsection (1)(e)(i).

(iii) Subject to Subsection (1)(e)(iv), the division, with the concurrence of the commission, may modify the length and material of an examination for a property manager license under this chapter if:

(A) an applicant is licensed as a property manager in another state;

(B) the division determines an applicant's prior experience warrants a modification of the examination; or

(C) the division determines the applicant has good cause for the modification of the examination.

(iv) An examination for a property manager license shall:

(A) cover the topics that appear in the educational program described in Subsection (1)(d)(iv); and

(B) match the proportion of questions for each topic to the proportion of hours designated by the division in accordance with Subsection (1)(d)(iv)(C).

(f) (i) Three years' full-time experience as a sales agent or [~~its~~]the equivalent is required before an applicant may apply for, and secure a principal broker or associate broker license in this state.

(ii) The commission shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the criteria by which the commission will accept experience or special education in similar fields of business in lieu of the three years' experience.

(2) (a) The division, with the concurrence of the commission, may require an applicant to furnish a sworn statement setting forth evidence satisfactory to the division of the applicant's reputation and competency as set forth by rule.

(b) The division shall require an applicant to provide the applicant's social security number, which is a private record under Subsection 63G-2-302(1)(i).

(3) (a) An individual who is not a resident of this state may be licensed in this state if the [~~person~~]individual complies with this chapter.

(b) An individual who is not a resident of this state may be licensed as an associate broker or sales agent in this state by:

(i) complying with this chapter; and

(ii) being employed or engaged as an independent contractor by or on behalf of a principal broker who is licensed in this state, regardless of whether the principal broker is a resident of this state.

(4) The division, with the concurrence of the commission, may enter into a reciprocal licensing agreement with another jurisdiction for the licensure of a principal broker, an associate broker, or a sales agent, if the jurisdiction's requirements and standards for the license are substantially similar to those of this state.

(5) (a) The division and commission shall treat an application to be relicensed of an applicant whose real estate license is revoked as an original application.

(b) In the case of an applicant for a new license as a principal broker or associate broker, the applicant is not entitled to credit for experience gained before the revocation of a real estate license.

(6) (a) Notwithstanding Subsection (1)(b), the commission may delegate to the division the authority to:

(i) review a class or category of applications for initial or renewed licenses;

(ii) determine whether an applicant meets the licensing criteria in Subsection (1); and

(iii) approve or deny a license application without concurrence by the commission.

(b) (i) If the commission delegates to the division the authority to approve or deny an application without concurrence by the commission and the division denies an application for licensure, the applicant who is denied licensure may petition the commission for de novo review of the application.

(ii) An applicant who is denied licensure pursuant to this Subsection (6) may seek agency review by the executive director only after the commission has reviewed the division's denial of the applicant's application.

(7) An individual with an active broker, associate broker, or sales agent license may obtain a property manager license without:

(a) meeting the education requirement described in Subsection (1)(d)(iii); or

(b) passing an exam required for a property manager license under Subsection (1)(e).

Section 7. Section 61-2f-204 is amended to read:

61-2f-204. Licensing fees and procedures -- Renewal fees and procedures.

(1) (a) Upon filing an application for an examination for a license under this chapter, the applicant shall pay a nonrefundable fee established in accordance with Section 63J-1-504 for admission to the examination.

(b) An applicant for a principal broker, associate broker, [~~or~~]sales agent, or property manager license shall pay a nonrefundable fee as determined by the commission with the concurrence of the division under Section 63J-1-504 for issuance of an initial license or license renewal.

(c) [~~A license issued under this Subsection (1) shall be issued~~]The division shall issue a license under this Subsection (1) for a period of not less than two years as the division determines with the concurrence of the commission.

(d) (i) Each of the following applicants shall comply with this Subsection (1)(d):

(A) a new sales agent applicant;

(B) a principal broker applicant; [~~and~~]

(C) an associate broker applicant [~~.~~]; and

(D) a property manager applicant.

(ii) An applicant described in this Subsection (1)(d) shall at the time the [~~licensee~~]applicant files an application:

(A) submit to the division fingerprint cards in a form acceptable to the Department of Public Safety;

(B) submit to the division a signed waiver in accordance with Subsection 53-10-108(4), acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service [~~beginning January 1, 2020~~];

(C) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation; and

(D) pay the fee the division establishes in accordance with Subsection [~~(1)(d)(vi)~~](1)(d)(iv).

(iii) The Bureau of Criminal Identification shall:

(A) check the fingerprints an applicant submits under Subsection (1)(d)(ii) against the applicable state, regional, and national criminal records databases, including [~~, beginning January 1, 2020,~~] the Federal Bureau of Investigation Next Generation Identification System;

(B) report the results of the background check to the division;

(C) maintain a separate file of fingerprints that applicants submit under Subsection (1)(d) for search by future submissions to the local and regional criminal records databases, including latent prints;

(D) request that [~~beginning January 1, 2020,~~] the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(E) ensure that the division only receives notifications for an individual with whom the division maintains permission to receive notifications.

(iv) (A) The division shall assess an applicant who submits fingerprints under this Subsection (1)(d) or (2)(f) a fee in an amount that the division sets in accordance with Section 63J-1-504 for services that the division and the Bureau of Criminal Identification or another authorized agency provide under this Subsection (1)(d) or (2)(f).

(B) The Bureau of Criminal Identification may collect from the division money for services provided under this section.

(v) Money paid to the division by an applicant for the cost of the criminal background check is nonlapsing.

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and with the concurrence of the division, the commission may make rules for the administration of this Subsection (1)(d) and Subsection (2)(f) regarding criminal background checks with ongoing monitoring.

(e) (i) A license issued under Subsection (1)(d) is conditional, pending completion of the criminal background check.

(ii) If a criminal background check discloses that an applicant fails to accurately disclose a criminal history, the division:

(A) shall review the application; and

(B) in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:

(I) place a condition on a license;

(II) place a restriction on a license;

(III) revoke a license; or

(IV) refer the application to the commission for a decision.

(iii) (A) [~~A person~~]An individual whose conditional license is conditioned, restricted, or revoked under Subsection (1)(e)(ii) may have a hearing after the action is taken to challenge the action.

(B) The division shall conduct a hearing described in Subsection (1)(e)(iii)(A) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(iv) The director shall designate one of the following to act as the presiding officer in a hearing described in Subsection (1)(e)(iii)(A):

(A) the division; or

(B) the division with the concurrence of the commission.

(v) The presiding officer shall decide whether to grant relief from an action under this Subsection (1)(e)[~~is granted~~].

(vi) If a license is revoked or a revocation under this Subsection (1)(e) is upheld after a hearing, the individual may not apply for a new license until at least 12 months after the day on which the license is revoked.

(2) (a) (i) A license expires if [~~it~~]the license is not renewed on or before the expiration date of the license.

(ii) As a condition of renewal, an active licensee shall demonstrate competence by completing 18 hours of continuing education within a two-year renewal period subject to rules made by the commission, with the concurrence of the division.

(iii) In making a rule described in Subsection (2)(c)(ii), the division and commission shall consider:

(A) evaluating continuing education [~~on the basis of~~]based on competency, rather than course time;

(B) allowing completion of courses in a significant variety of topic areas that the division and commission determine are valuable in assisting an individual licensed under this chapter to increase the individual's competency; and

(C) allowing completion of courses that will increase a licensee's professional competency in the area of practice of the licensee.

(iv) The division may award credit to a licensee for a continuing education requirement of this Subsection (2)(a) for a reasonable [~~period of time~~]time period upon a finding of reasonable cause, including:

(A) military service; or

(B) if an individual is elected or appointed to government service, the individual's government service during which the individual spends a substantial time addressing real estate issues subject to conditions established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) For a period of 30 days after the day on which a license expires, [~~the license may be reinstated~~]the division may reinstate the license:

(i) if the applicant's license was inactive on the day on which the applicant's license expired, upon payment of a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504; or

(ii) if the applicant's license was active on the day on which the applicant's license expired, upon payment of a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504, and providing proof acceptable to the division and the commission of the licensee having:

(A) completed the hours of education required by Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

(c) After the 30-day period described in Subsection (2)(b), and until one year after the day on which an active or inactive license expires, the division may reinstate the license [~~may be reinstated by~~]if the applicant:

(i) [~~paying~~]pays a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504; and

(ii) [~~providing~~]provides proof acceptable to the division and the commission of the licensee having:

(A) completed the hours of education required by Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

(d) The division shall relicense [~~a person~~]an individual who does not renew that [~~person's~~]individual's license within one year as prescribed for an original application.

(e) Notwithstanding Subsection (2)(a), the division may extend the term of a license that would expire under Subsection (2)(a) except for the extension if:

(i) (A) the [~~person~~]individual complies with the requirements of this section to renew the license; and

(B) the renewal application remains pending at the time of the extension; or

(ii) at the time of the extension, there is pending a disciplinary action under this chapter.

(f) [~~Beginning January 1, 2020, each~~]Each applicant for renewal or reinstatement of a license to practice as a sales agent, principal broker, [~~or~~]associate broker, or a property manager, who is not already subject to ongoing monitoring of the individual's criminal history shall, at the time the application for renewal or reinstatement is filed:

(i) submit fingerprint cards in a form acceptable to the Department of Public Safety;

(ii) submit to the division a signed waiver in accordance with Subsection 53-10-108(4), acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service;

(iii) consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation; and

(iv) pay the fee the division establishes in accordance with Subsection (1)(d)(iv).

(3) (a) As a condition for the activation of an inactive license that was in an inactive status at the time of the licensee's most recent renewal, the licensee shall supply the division with proof of:

(i) successful completion of the respective sales agent or principal broker licensing examination within six months before the day on which the licensee applies to activate the license; or

(ii) the successful completion of the hours of continuing education that the licensee would have been required to complete under Subsection (2)(a) if the license had been on active status at the time of the licensee's most recent renewal.

(b) The commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, establish by rule:

(i) the nature or type of continuing education required for reactivation of a license; and

(ii) how long before reactivation the continuing education must be completed.

Section 8. Section 61-2f-206 is amended to read:

61-2f-206. Registration of person or branch office -- Certification of education providers and courses -- Specialized licenses.

(1) (a) A person may not engage in an activity described in Section 61-2f-201, unless the person is registered with the division.

(b) To register with the division under this Subsection (1), a person shall submit to the division:

(i) an application in a form required by the division;

(ii) evidence of an affiliation with a principal broker;

(iii) evidence that the person is registered and in good standing with the Division of Corporations and Commercial Code; and

(iv) a registration fee established by the commission with the concurrence of the division under Section 63J-1-504.

(c) The division may terminate a person's registration if:

(i) the person's registration with the Division of Corporations and Commercial Code has been expired for at least three years; and

(ii) the person's license with the division has been inactive for at least three years.

(2) (a) A principal broker shall register with the division each of the principal broker's branch offices.

(b) To register a branch office with the division under this Subsection (2), a principal broker shall submit to the division:

(i) an application in a form required by the division; and

(ii) a registration fee established by the commission with the concurrence of the division under Section 63J-1-504.

(3) (a) In accordance with rules made by the commission with the concurrence of the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall certify:

(i) a real estate school;

(ii) a course provider; or

(iii) an instructor.

(b) In accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the division shall certify a continuing education course that is required under this chapter.

(4) Except as provided under this chapter or by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a principal broker may not be responsible for more than one registered entity at the same time.

(5) A principal broker:

(a) shall exercise active and reasonable supervision of the principal broker's main office in accordance with this chapter and rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) may supervise a branch office affiliated with the principal broker at the same time the principal broker exercises the supervision required under Subsection (5)(a).

(6) (a) A principal broker may designate a branch broker to supervise a branch office affiliated with the principal broker.

(b) A branch broker shall exercise active and reasonable supervision, in accordance with this chapter and rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of each branch office the principal broker designates the branch broker to supervise.

[~~(7) (a) In addition to issuing a principal broker license, associate broker license, or sales agent license authorizing the performance of an act set forth in Section 61-2f-201, the division may issue a specialized sales license or specialized property management license with the scope of practice limited to the specialty.~~]

[~~(b) An individual may hold a specialized license in addition to a license as a principal broker, associate broker, or a sales agent.~~]

[~~(c) A sales agent who is affiliated with a dual broker may act as a property management sales agent if:~~]

[~~(i) the dual broker designates the sales agent as a property management sales agent; and~~]

[~~(ii) the sales agent pays to the division a property management sales agent designation fee in an amount determined by the division in accordance with Section 63J-1-504.~~]

[~~(d) A property management sales agent may simultaneously provide both property management services and real estate sales services under the supervision of a dual broker as provided by the commission with the concurrence of the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

[~~(8) The commission may determine, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, licensing requirements related to this section for a principal broker, associate broker, sales agent, dual broker, property management sales agent, or for a specialized license described in Subsection (7), including:~~]

[~~(a) prelicensing and postlicensing education requirements;~~]

[~~(b) examination requirements;~~]

[~~(c) affiliation with real estate brokerages or property management companies;~~]

[~~(d) property management sales agent:~~]

[~~(i) designation procedures;~~]

[~~(ii) allowable scope of practice; and~~]

[~~(iii) division fees;~~]

[~~(c) what constitutes active and reasonable supervision for:~~]

[~~(i) a principal broker when supervising a branch broker or sales agent; and~~]

[~~(ii) a branch broker when supervising a sales agent; and~~]

[~~(f) other licensing procedures.~~]

Section 9. Section 61-2f-307 is enacted to read:

61-2f-307. Rights and privileges of a property manager to fill out a form or document.

A property manager may fill out any form, contract, or lease agreement associated with the renting and management of real property.

Section 10. Section 61-2f-411 is enacted to read:

61-2f-411. Enforcement related to a property manager.

(1) Nothing in this section applies to an individual:

(a) buying, selling, or exchanging real estate for another person; or

(b) offering to buy, sell, or exchange real estate for another person.

(2) When engaging in property management, a property manager may:

(a) solicit referrals for clients, owners, customers, and renters;

(b) pay a finder's fee or exchange valuable consideration to an unlicensed person for referring a prospective client;

(c) accept a referral fee from an individual, whether licensed or unlicensed;

(d) contract for services, pay bills, and act on behalf of an owner as provided in a management agreement; and

(e) advertise properties for rent or lease.

(3) Except as provided in Subsection (4), a property manager shall associate with at least one real estate trust account in a bank or credit union:

(a) located within the state;

(b) that, unless otherwise modified by a contract for property management, one or more property managers use for the purpose of securing:

(i) tenant security deposits;

(ii) rent;

(iii) money tendered by a property owner as a reserve fund or for payment of an unexpected expense; and

(iv) any other purpose designated by the commission; and

(c) that is non-interest bearing, unless the parties to a property management contract:

(i) agree in writing to deposit the funds in an interest-bearing account;

(ii) designate in writing the individuals to whom the parties will pay the interest on completion or failure of the property management contract; and

(iii) ensure that the parties and trust account comply with any other rules established by the commission or division.

(4) A property manager who obtains and holds a security bond that protects at least 30% of the estimated client funds the property manager holds in the property manager's bank accounts is not required to be associated with a trust account.

Section 11. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 249
H. B. 339
Passed March 4, 2025
Approved March 25, 2025
Effective May 7, 2025

LAW ENFORCEMENT INVESTIGATION MODIFICATIONS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill addresses the activation and use of body-worn cameras by law enforcement officers.

Highlighted Provisions:

This bill:

- ► exempts a law enforcement officer who wears a body-worn camera and is a part of a narcotics unit or task force or engaged in an undercover operation from certain requirements relating to the activation and use of the body-worn camera; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-7a-104, as last amended by Laws of Utah 2020, Chapter 404

REPEALS:

77-7a-101, as enacted by Laws of Utah 2016, Chapter 410

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-7a-104 is amended to read:
77-7a-104. Activation and use of body-worn cameras.

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section 78B-3-403.

(b) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(c) "Hospital" means the same as that term is defined in Section 78B-3-403.

(d) "Human service program" means the same as that term is defined in Section 26B-2-101.

(2) Except as provided in Subsection (5), an officer using a body-worn camera:

[~~(1)~~](a) [~~An officer using a body-worn camera~~]shall verify that the equipment is properly functioning as is reasonably within the officer's ability [~~.~~];

[~~(2)~~](b) [~~An officer~~]shall report any malfunctioning equipment to the officer's supervisor if:

[~~(a)~~](i) the body-worn camera issued to the officer is not functioning properly upon initial inspection; or

[~~(b)~~](ii) [~~an~~]the officer determines that the officer's body-worn camera is not functioning properly at any time while the officer is on duty [~~.~~];

[~~(3)~~](c) [~~An officer~~]shall wear the body-worn camera so that it is clearly visible to the [~~person~~]individual being recorded [~~.~~];

[~~(4)~~](d) [~~An officer~~]shall activate the body-worn camera prior to any law enforcement encounter, or as soon as reasonably possible [~~.~~];

[~~(5)~~](e) [~~An officer~~]shall record in an uninterrupted manner until after the conclusion of a law enforcement encounter, except as an interruption of a recording is allowed under this section [~~.~~];

[~~(6)~~](f) [~~When~~]shall, when going on duty and off duty, [~~an officer who is issued a body-worn camera shall~~]record the officer's name, identification number, and the current time and date, unless the information is already available due to the functionality of the body-worn camera [~~.~~];

[~~(7)~~](g) [~~If a~~]shall, if the body-worn camera was present during a law enforcement encounter, [~~the officer shall~~]document the presence of the body-worn camera in any report or other official record of a contact [~~.~~];

[~~(8)~~](h) [~~When a~~]except as provided in Subsection (2)(i), when the body-worn camera has been activated [~~, the officer may not deactivate the~~]during the officer's direct participation in a law enforcement encounter, keep the body-worn camera activated until the officer's direct participation in the law enforcement encounter is complete [~~, except as provided in Subsection (9).~~];

[~~(9)~~](i) [~~An officer~~]may deactivate [~~a~~]the body-worn camera:

[~~(a)~~](i) to consult with a supervisor or another officer;

[~~(b)~~](ii) during a significant period of inactivity;

[~~(c)~~](iii) during a conversation with a sensitive victim of crime, a witness of a crime, or an individual who wishes to report or discuss

criminal activity if:

[~~(i)~~](A) the individual who is the subject of the recording requests that the officer deactivate the officer's body-worn camera; and

[~~(ii)~~](B) the officer believes that the value of the information outweighs the value of the potential recording and records the request by the individual to deactivate the body-worn camera; or

[~~(d)~~](iv) during a conversation with a victim of a sexual offense, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, or domestic violence, as defined in Section 77-36-1, if:

[~~(i)~~](A) the officer is conducting an evidence-based lethality assessment;

[~~(ii)~~](B) the victim or the officer believes that deactivating the body-worn camera recording [~~:~~]

[~~(A)~~] will encourage complete and accurate information sharing by the victim [~~;~~],or

[~~(B)~~] is necessary to protect the safety or identity of the victim; and

[~~(iii)~~](C) the officer's body-worn camera is reactivated as soon as reasonably possible after the evidence-based lethality assessment is complete [~~.~~];

[~~(10)~~](j) [~~If an~~]shall, if the officer deactivates or fails to activate [~~a~~]the body-worn camera in violation of this section, [~~the officer shall~~]document in a written report the reason for deactivating or for failing to activate [~~a~~]the body-worn camera [~~in a written report.~~]; and

[~~(11) (a) For purposes of this Subsection (11):~~]

[~~(i) "Health care facility" means the same as that term is defined in Section 78B-3-403.~~]

[~~(ii) "Health care provider" means the same as that term is defined in Section 78B-3-403.~~]

[~~(iii) "Hospital" means the same as that term is defined in Section 78B-3-403.~~]

[~~(iv) "Human service program" means the same as that term is defined in Section 26B-2-101.~~]

[~~(b)~~](k) [~~An officer~~]may not activate a body-worn camera in a hospital, health care facility, human service program, or the clinic of a health care provider, except during a law enforcement encounter, and with notice under Section 77-7a-105.

[~~(12)~~](3) A violation of this section may not serve as the sole basis to dismiss a criminal case or charge.

[~~(13)~~](4) [~~Nothing in this~~]This section [~~precludes~~]does not preclude a law enforcement agency from establishing internal agency policies for an officer's failure to comply with the requirements of this section.

(5) Subsections (2)(c), (d), (e), (g), (h), and (j) do not apply to an officer who:

(a) is assigned to a narcotics unit or task force that is engaged primarily in narcotics investigations; or

(b) is engaged in an undercover operation.

Section 2. Repealer.

This bill repeals:

Section 77-7a-101, Title.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 250
H. B. 340
Passed February 28, 2025
Approved March 25, 2025
Effective May 7, 2025

SOLAR POWER AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions related to residential solar energy generation by creating a new category for small portable solar generation devices.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates exemptions from interconnection requirements for portable solar generation devices;
- ► establishes basic safety requirements for portable solar generation devices; and
- ► provides liability protections for electrical corporations.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-15-102, as last amended by Laws of Utah 2014, Chapter 53

ENACTS:

54-15-601, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-15-102 is amended to read:

54-15-102. Definitions.

As used in this chapter:

(1) "Annualized billing period" means:

(a) a 12-month billing cycle beginning on April 1 of one year and ending on March 31 of the following year; or

(b) an additional 12-month billing cycle as defined by an electrical corporation's net metering tariff or rate schedule.

(2) "Customer-generated electricity" means electricity that:

(a) is generated by a customer generation system for a customer participating in a net metering program;

(b) exceeds the electricity the customer needs for the customer's own use; and

(c) is supplied to the electrical corporation administering the net metering program.

(3) "Customer generation system":

(a) means an eligible facility that is used to supply energy to or for a specific customer that:

(i) has a generating capacity of:

(A) more than 1,200 watts but not more than 25 kilowatts for a residential facility; or

(B) not more than two megawatts for a non-residential facility, unless the governing authority approves a greater generation capacity;

(ii) is located on, or adjacent to, the premises of the electrical corporation's customer, subject to the electrical corporation's service requirements;

(iii) operates in parallel and is interconnected with the electrical corporation's distribution facilities;

(iv) is intended primarily to offset part or all of the customer's requirements for electricity; and

(v) is controlled by an inverter; [~~and~~]

(b) includes an electric generator and its accompanying equipment package [-]; and

(c) does not include a portable solar generation device.

(4) "Eligible facility" means a facility that uses energy derived from one of the following to generate electricity:

(a) solar photovoltaic and solar thermal energy;

(b) wind energy;

(c) hydrogen;

(d) organic waste;

(e) hydroelectric energy;

(f) waste gas and waste heat capture or recovery;

(g) biomass and biomass byproducts, except for the combustion of:

(i) wood that has been treated with chemical preservatives such as creosote, pentachlorophenol, or chromated copper arsenate; or

(ii) municipal waste in a solid form;

(h) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;

(i) agricultural residues;

(j) dedicated energy crops;

(k) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste; or

(l) geothermal energy.

(5) "Equipment package" means a group of components connecting an electric generator to an electric distribution system, including all interface equipment and the interface equipment's controls, switchgear, inverter, and other interface devices.

(6) "Excess customer-generated electricity" means the amount of customer-generated electricity in excess of the customer's consumption from the customer generation system during a monthly billing period, as measured at the electrical corporation's meter.

(7) "Fuel cell" means a device in which the energy of a reaction between a fuel and an oxidant is converted directly and continuously into electrical energy.

(8) "Governing authority" means:

(a) for a distribution electrical cooperative, its board of directors; and

(b) for each other electrical corporation, the Public Service Commission.

(9) "Inverter" means a device that:

(a) converts direct current power into alternating current power that is compatible with power generated by an electrical corporation; and

(b) has been designed, tested, and certified to UL1741 and installed and operated in accordance with the latest revision of IEEE1547, as amended.

(10) "Net electricity" means the difference, as measured at the meter owned by the electrical corporation between:

(a) the amount of electricity that an electrical corporation supplies to a customer participating in a net metering program; and

(b) the amount of customer-generated electricity delivered to the electrical corporation.

(11) "Net metering" means measuring the amount of net electricity for the applicable billing period.

(12) "Net metering program" means a program administered by an electrical corporation whereby a customer with a customer generation system may:

(a) generate electricity primarily for the customer's own use;

(b) supply customer-generated electricity to the electrical corporation; and

(c) if net metering results in excess customer-generated electricity during a billing period, receive a credit as provided in Section 54-15-104.

(13) "Portable solar generation device" means a moveable photovoltaic generation device that:

(a) has a maximum power output of not more than 1,200 watts;

(b) is designed to be connected to a building's electrical system through a standard 120-volt alternating current outlet;

(c) is intended primarily to offset part of the customer's electricity consumption;

(d) meets the standards of the most recent version of the National Electrical Code; and

(e) is certified by Underwriters Laboratories or an equivalent nationally recognized testing laboratory.

[~~(13)~~](14) "Switchgear" means the combination of electrical disconnects, fuses, or circuit breakers:

(a) used to:

(i) isolate electrical equipment; and

(ii) de-energize equipment to allow work to be performed or faults downstream to be cleared; and

(b) that is:

(i) designed, tested, and certified to UL1741; and

(ii) installed and operated in accordance with the latest revision of IEEE1547, as amended.

Section 2. Section 54-15-601 is enacted to read:

PART 6. Portable Solar Generation Device

54-15-601. Portable solar generation device -- Exemptions -- Requirements.

(1) A portable solar generation device that meets the requirements of this part:

(a) is exempt from:

(i) the interconnection requirements described in Section 54-15-106; and

(ii) requirements to enter into an interconnection agreement under Section 54-15-103; and

(b) is not subject to the net metering program requirements under this chapter.

(2) A portable solar generation device shall include a device or feature that prevents the system from energizing the building's electrical system during a power outage.

(3) An electrical corporation:

(a) may not require a customer using a portable solar generation device to:

(i) obtain the electrical corporation's approval before installing or using the system;
(ii) pay any fee or charge related to the system; or
(iii) install any additional controls or equipment beyond what is integrated into the system; and
(b) is not liable for any damage or injury caused by a portable solar generation device.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 251
H. B. 350
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

DISTRICT ENERGY AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies the High Cost Infrastructure Development Tax Credit Act to include district energy systems.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► modifies provisions regarding heat corporations to address cooling plants;
- ► adds district energy systems as qualifying energy delivery projects;
- ► establishes investment thresholds for district energy systems to qualify for high cost infrastructure tax credits; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-2-1, as last amended by Laws of Utah 2022, Chapter 314
79-6-602, as last amended by Laws of Utah 2024, Chapter 192

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-2-1 is amended to read:

54-2-1. Definitions.

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) "Clean coal technology" means a technology that may be researched, developed, or used for reducing emissions or the rate of emissions from a thermal electric generation plant that uses coal as a fuel source.

(3) "Cogeneration facility":

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

(b) is a qualifying cogeneration facility under federal law.

(4) "Commission" means the Public Service Commission.

(5) "Commissioner" means a member of the commission.

(6) "Cooling plant" means all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial cold.

[~~(6)~~](7) (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

[~~(7)~~](8) "Department" means the Department of Transportation created in Section 72-1-201.

[~~(8)~~](9) "Distribution electrical cooperative" includes an electrical corporation that:

(a) is a cooperative;

(b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative's members; and

(c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative's:

(i) members; or

(ii) patrons.

[~~(9)~~](10) (a) "Electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state.

(b) "Electrical corporation" does not include:

(i) an independent energy producer;

(ii) where electricity is generated on or distributed by the producer solely for the producer's own use, or the use of the producer's tenants, or the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally;

(iii) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(iv) a nonutility energy supplier who sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(c) "Electrical corporation" does not include an entity that sells electric vehicle battery charging services:

(i) if the entity obtains the electricity for the electric vehicle battery charging service, including any electricity from an electricity storage device:

(A) from an electrical corporation in whose service area the electric vehicle battery charging service is located; and

(B) under an established tariff for rates, charges, and conditions of service; and

(ii) unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as an electrical corporation.

[~~(10)~~](11) "Electric plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

[~~(11)~~](12) "Eligible customer" means a person who:

(a) on December 31, 2013:

(i) was a customer of a public utility that, on December 31, 2013, had more than 200,000 retail customers in this state; and

(ii) owned an electric plant that is an electric generation plant that, on December 31, 2013, had a generation name plate capacity of greater than 150 megawatts; and

(b) produces electricity:

(i) from a qualifying power production facility for sale to a public utility in this state;

(ii) primarily for the eligible customer's own use; or

(iii) for the use of the eligible customer's tenant or affiliate.

[~~(12)~~](13) "Eligible customer's tenant or affiliate" means one or more tenants or affiliates:

(a) of an eligible customer; and

(b) who are primarily engaged in an activity:

(i) related to the eligible customer's core mining or industrial businesses; and

(ii) performed on real property that is:

(A) within a 25-mile radius of the electric plant described in Subsection [~~(11)(a)(ii);~~](12)(a)(ii); and

(B) owned by, controlled by, or under common control with, the eligible customer.

[~~(13)~~](14) "Gas corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner's own use or the use of the owner's employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely for sale as a motor vehicle fuel.

[~~(14)~~](15) "Gas plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

(16) (a) "Heat corporation" means a corporation or person, including the corporation's or person's lessees, trustees, and receivers, that owns, controls, operates, or manages for public service within the state:

(i) a heating plant; or

(ii) a heating plant and cooling plant operated in combination.

(b) "Heat corporation" does not include a corporation or person, including the corporation's or person's lessees, trustees, and receivers, that owns, controls, operates, or manages a cooling plant that is not operated in combination with a heating plant.

[~~(15) "Heat corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.~~]

[~~(16)~~](17) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.

(b) "Heating plant" does not include either small power production facilities or cogeneration facilities.

[~~(17)~~](18) "Independent energy producer" means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.

[~~(18)~~](19) "Independent power production facility" means a facility that:

(a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or

(b) is a qualifying power production facility.

[~~(19)~~](20) "Large-scale electric utility" means a public utility that provides retail electric service to more than 200,000 retail customers in the state.

[~~(20)~~](21) "Large-scale natural gas utility" means a public utility that provides retail natural gas service to more than 200,000 retail customers in the state.

[~~(21)~~](22) "Nonutility energy supplier" means a person that:

(a) has received market-based rate authority from the Federal Energy Regulatory Commission in accordance with 16 U.S.C. Sec. 824d, 18 C.F.R. Part 35, Filing of Rate Schedules and Tariffs, or applicable Federal Energy Regulatory Commission orders; or

(b) owns, leases, operates, or manages an electric plant that is an electric generation plant that:

(i) has a capacity of greater than 100 megawatts; and

(ii) is hosted on the site of an eligible customer that consumes the output of the electric plant, in whole or in part, for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

[~~(22)~~](23) "Private telecommunications system" includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.

[~~(23)~~](24) (a) "Public utility" includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Section 54-2-201 where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Section 54-2-201, performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Section 54-2-201, or electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) Any person or corporation defined as an electrical corporation or public utility under this section may continue to serve its existing customers subject to any order or future determination of the commission in reference to the right to serve those customers.

(e) (i) "Public utility" does not include any person that is otherwise considered a public utility under this Subsection [~~(23)~~](24) solely because of that person's ownership of an interest in an electric plant, cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections [~~(23)(e)(i)(A)(I)~~](24)(e)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection [~~(23)(e)(i)(A)~~](24)(e)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection [~~(23)(e)(i)~~](24)(e)(i) shall continue to be so exempt from classification following termination of the lessee's right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(f) "Public utility" does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financer of an electric plant, small power production facility, or cogeneration facility, then that third-party financer is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(g) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a "public utility," unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributers or transporters, but the retail sale alone of compressed natural gas as a motor vehicle fuel may not cause the seller to be a "public utility."

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

(h) "Public utility" does not include:

(i) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(ii) a nonutility energy supplier that sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(i) "Public utility" does not include an entity that sells electric vehicle battery charging services:

(i) if the entity obtains the electricity for the electric vehicle battery charging service, including any electricity from an electricity storage device:

(A) from a large-scale electric utility or an electrical corporation in whose service area the electric vehicle battery charging service is located; and

(B) under an established tariff for rates, charges, and conditions of service; and

(ii) unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as a public utility.

(j) "Public utility" does not include an independent energy producer that is not subject to regulation by the commission as a public utility under Section 54-2-201.

[~~(24)~~](25) "Purchasing utility" means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. Sec. 824a-3.

[~~(25)~~](26) "Qualifying power producer" means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

[~~(26)~~](27) "Qualifying power production facility" means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;

(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and

(c) is a qualifying small power production facility under federal law.

[~~(27)~~](28) "Railroad" includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

[~~(28)~~](29) "Railroad corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.

[~~(29)~~](30) (a) "Sewerage corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) "Sewerage corporation" does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

[~~(30)~~](31) "Telegraph corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.

[~~(31)~~](32) "Telegraph line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

[~~(32)~~](33) "Telephone cooperative" means a telephone corporation that:

(a) is a cooperative; and

(b) is organized for the purpose of providing telecommunications service to the telephone corporation's members and the public at cost plus a reasonable rate of return.

[~~(33)~~](34) (a) "Telephone corporation" means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) "Telephone corporation" does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

[~~(34)~~](35) "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

[~~(35)~~](36) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person's baggage.

[~~(36)~~](37) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

[~~(37)~~](38) "Utility-owned vehicle charging infrastructure" means all facilities, equipment, and electrical systems owned and installed by a large-scale electric utility:

(a) on the customer's side or the large-scale electric utility's side of the electricity metering equipment; and

(b) to facilitate utility vehicle charging service or other electric vehicle battery charging service.

[~~(38)~~](39) "Utility vehicle charging service" means the furnishing of electricity:

(a) to an electric vehicle battery charging station;

(b) by a public utility in whose service area the charging station is located; and

(c) pursuant to a duly established tariff for rates, charges, and conditions of service for the electricity.

[~~(39)~~](40) "Water corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

[~~(40)~~](41) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) "Water system" does not include private irrigation companies engaged in distributing water only to their stockholders.

[~~(41)~~](42) "Wholesale electrical cooperative" includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

Section 2. Section 79-6-602 is amended to read:

79-6-602. Definitions.

As used in this part:

(1) "Applicant" means a person that conducts business in the state and that applies for a tax credit under this part.

(2) (a) "District energy system" means equipment and facilities that:

(i) use one or more thermal energy sources to provide:

(A) space heating;

(B) hot water; or

(C) space cooling; and

(ii) deliver services through a distribution system.

(b) "District energy system" includes:

(i) plants;

(ii) equipment;

(iii) distribution piping;

(iv) apparatus; and

(v) other facilities used to provide space heating, hot water, or space cooling.

[~~(2)~~](3) (a) "Energy delivery project" means a project that is designed to:

(i) increase the capacity for the delivery of energy to a user of energy inside or outside the state;

(ii) increase the capability of an existing energy delivery system or related facility to deliver energy to a user of energy inside or outside the state; [~~or~~]

(iii) increase the production and delivery of geothermal energy through horizontal drilling to create injection and production wells [~~.~~]; or

(iv) increase the capacity for recovery of thermal energy for a heating or cooling system through a district energy system.

(b) "Energy delivery project" includes:

(i) a hydroelectric energy storage system;

(ii) a utility-scale battery storage system; [~~or~~]

(iii) a nuclear power generation system [~~.~~]; or

(iv) a district energy system.

[~~(3)~~](4) "Emissions reduction project" means a project that is designed to reduce the emissions of an existing electrical generation facility, refinery, smelter, kiln, mineral processing facility, manufacturing facility, oil or gas production facility, or other industrial facility, by utilizing selective catalytic reduction technology, carbon capture utilization and sequestration technology, or any other emissions reduction technology or equipment.

[~~(4)~~](5) "Fuel standard compliance project" means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.

[~~(5)~~](6) "High cost infrastructure project" means:

(a) for an energy delivery project, fuel standard compliance project, mineral processing project, or underground mine infrastructure project, a project:

(i) (A) that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business;

(B) that involves new investment of at least $50,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the first or second class;

(C) that involves new investment of at least $25,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the third, fourth, fifth, or sixth class, or a municipality with a population of 10,000 or less located within a county of the second class; [~~or~~]

(D) that involves new investment of at least $10,000,000 for the construction of a plant or facility for thermal energy production of heating or cooling used in a district energy system; or

[~~(D)~~](E) for the construction of a plant or other facility for the storage or production of fuel used for transportation, electricity generation, or industrial use;

(ii) that requires or is directly facilitated by infrastructure construction; and

(iii) for which the cost of infrastructure construction to the entity creating the project is greater than:

(A) 10% of the total cost of the project; or

(B) $10,000,000; and

(b) for an emissions reduction project, water purification project, or water resource forecasting project, a project:

(i) that involves:

(A) new investment of at least $50,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the first or second class; or

(B) new investment of at least $25,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the third, fourth, fifth, or sixth class, or a municipality with a population of 10,000 or less located within a county of the second class; and

(ii) that requires or is directly facilitated by infrastructure construction.

[~~(6)~~](7) "Infrastructure" means:

(a) an energy delivery project;

(b) a railroad as defined in Section 54-2-1;

(c) a fuel standard compliance project;

(d) a road improvement project;

(e) a water self-supply project;

(f) a water removal system project;

(g) a solution-mined subsurface salt cavern;

(h) a project that is designed to:

(i) increase the capacity for water delivery to a water user in the state; or

(ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state;

(i) an underground mine infrastructure project;

(j) an emissions reduction project;

(k) a mineral processing project;

(l) a district energy system project;

[~~(l)~~](m) a water purification project; or

[~~(m)~~](n) a water resource forecasting project.

[~~(7)~~](8) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.

(b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection [~~(7)(a)~~](8)(a).

[~~(8)~~](9) "Infrastructure-related revenue" means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:

(a) Subsection 59-24-103.5(2)(e);

(b) Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax;

(c) Title 59, Chapter 5, Part 2, Mining Severance Tax;

(d) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(e) Title 59, Chapter 10, Individual Income Tax Act; and

(f) Title 59, Chapter 12, Sales and Use Tax Act.

[~~(9)~~](10) "Mineral processing project" means a project that is designed to:

(a) process, smelt, refine, convert, separate, or otherwise beneficiate metalliferous minerals as defined in Section 59-5-201 or a metalliferous compound as defined in Section 59-5-202;

(b) calcine limestone or manufacture cement;

(c) process, refine, or otherwise beneficiate chloride compounds, salts, potash, gypsum, sulfur or sulfuric acid, ammonium nitrate, phosphate, or uintaite; or

(d) convert or gasify coal to recover chemical compounds, gases, or minerals.

[~~(10)~~](11) "Office" means the Office of Energy Development created in Section 79-6-401.

[~~(11)~~](12) "Tax credit" means a tax credit under Section 59-7-619 or 59-10-1034.

[~~(12)~~](13) "Tax credit certificate" means a certificate issued by the office to an infrastructure cost-burdened entity that:

(a) lists the name of the infrastructure cost-burdened entity;

(b) lists the infrastructure cost-burdened entity's taxpayer identification number;

(c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and

(d) includes other information as determined by the office.

[~~(13)~~](14) (a) "Underground mine infrastructure project" means a project that:

(i) is designed to create permanent underground infrastructure to facilitate underground mining operations; and

(ii) services multiple levels or areas of an underground mine or multiple underground mines.

(b) "Underground mine infrastructure project" includes:

(i) an underground access or a haulage road, entry, ramp, or decline;

(ii) a vertical or incline mine shaft;

(iii) a ventilation shaft or an air course; or

(iv) a conveyor or a truck haulageway.

[~~(14)~~](15) "Water purification project" means a project that, in order to meet applicable quality standards established under Title 19, Chapter 5, Water Quality Act, is designed to reduce the existing total dissolved solids or other naturally existing impurities contained in

water sources:

(a) located at a distance of not less than 2,000 feet below the surface;

(b) associated with existing mineral operations; or

(c) associated with deep water mining operations designed primarily for the revitalization of the Great Salt Lake.

[~~(15)~~](16) "Water resource forecasting project" means a project that includes a network of permanent physical data collection systems designed to improve forecasting for the availability of seasonal water flows within the state, including flash flooding and other event-driven water flows resulting from localized severe weather events.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 252
H. B. 354
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

CRIMINAL JUSTICE REVISIONS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill creates certain requirements for criminal justice agencies and entities working with criminal justice agencies.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► adds county attorney offices in counties of the second and third class to the statute requiring certain prosecutorial data collection and reporting regarding criminal cases and modifies requirements;
- ► requires a county jail to:
  - • collect biometric and other personal information for individuals brought to the county jail for processing or booking into custody regardless of whether the county jail retains custody of the individual; and
  - • to the extent possible, connect an individual in custody with the individual's state identification number and use the state identification number in association with any records regarding the individual;
- ► amends the membership of the Public Safety Data Management Task Force;
- ► requires the State Commission on Criminal and Juvenile Justice (the commission) to include certain DUI crash data in an annual DUI report;
- ► requires the Department of Public Safety's Criminal Investigations and Technical Services Division to collect certain DUI crash data and provide the data to the commission;
- ► establishes law enforcement agency requirements concerning:
  - • the collection and reporting of certain DUI crash data;
  - • the sharing of information with the Department of Public Safety's statewide criminal intelligence system;
  - • the collection and reporting of certain lost, stolen, and untraceable firearms; and
  - • the collection and reporting of the disposition of firearms in the custody of a law enforcement agency;
- ► requires the commission to receive, compile, and publish law enforcement agency data concerning firearms;
- ► requires law enforcement agencies to supply certain law enforcement officers with a portable biometric capture device;
- ► provides that the public safety data portal is the repository for statutorily required data concerning:
  - • certain DUI crash data;
  - • law enforcement agency reporting requirements for certain firearms data; and
  - • prosecutorial data collection regarding prosecutions of false sexual assault accusations;
- ► imposes certain requirements for software service vendors if the software service is for use by a criminal justice agency and collects and stores data required by statute to be reported to the commission;
- ► requires prosecutorial agencies and courts to report to the commission data concerning enhancements to criminal charges;
- ► requires all prosecutorial agencies in the state to submit data to the commission concerning certain prosecutions, dismissals, and declinations to prosecute;
- ► exempts certain reporting requirements from law enforcement grant eligibility requirements;
- ► modifies pretrial release data reporting requirements from the Administrative Office of the Courts;
- ► requires the Department of Corrections to conduct a risk assessment for every individual convicted of a sex offense that would require the individual to register on the Sex, Kidnap, and Child Abuse Offender Registry;
- ► requires the Department of Corrections, until January 1, 2030, to submit the results of risk assessments for sex offenders to the commission;
- ► includes coordination clauses to:
  - • merge the changes to Sections 63I-2-277 and 77-41-115 in this bill if this bill and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, both pass and become law, including to address the repeal and replacement of Section 77-41-115 in S.B. 41 with a newly enacted statute; and
  - • merge the changes to Sections 53-25-104 and 63A-16-1002 if this bill and H.B. 436, Impaired Driving Amendments, both pass and become law; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

17-18a-203.5, (Effective 07/01/25) as enacted by Laws of Utah 2024, Chapter 538
17-22-5.5, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 419
36-29-111, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 506
41-6a-511, (Effective 05/07/25) as last amended by Laws of Utah 2011, Chapter 51
63A-16-1002, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 467
63I-2-277, (Effective 05/07/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63M-7-204, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 345
63M-7-216, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 108
63M-7-218, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 345
77-20-103, (Effective 05/07/25) as renumbered and amended by Laws of Utah 2021, Second Special Session, Chapter 4
78A-2-109.5, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 319

ENACTS:

17-22-35, (Effective 05/07/25) Utah Code Annotated 1953
53-10-118, (Effective 05/07/25) Utah Code Annotated 1953
53-25-104, (Effective 05/07/25) Utah Code Annotated 1953
53-25-105, (Effective 05/07/25) Utah Code Annotated 1953
53-25-502, (Effective 05/07/25) Utah Code Annotated 1953
53-25-601, (Effective 05/07/25) Utah Code Annotated 1953
53-25-602, (Effective 05/07/25) Utah Code Annotated 1953
63A-16-1004, (Effective 05/07/25) Utah Code Annotated 1953
63M-7-216.1, (Effective 05/07/25) Utah Code Annotated 1953
77-41-115, (Effective 05/07/25) Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

AMENDS:

53-25-104, (Effective 05/07/25) Utah Code Annotated 1953
63A-16-1002, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 467
63I-2-277, (Effective 05/07/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
77-41-115, (Effective 05/07/25) Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-18a-203.5 is amended to read:

17-18a-203.5 (Effective 07/01/25). District attorney and county attorney data collection for counties of the first, second, and third class -- Report.

[~~(1) In this section, "prosecution personnel" means:~~]

[~~(a) investigators;~~]

[~~(b) prosecutors;~~]

[~~(c) support staff; or~~]

[~~(d) other individuals paid for their work on the case.~~]

[~~(2)~~](1) The district attorney in a county of the first class, and the county attorney in a county of the second or third class, shall [~~:~~]

[~~(a) track the time spent by prosecution personnel on each criminal case, calculated in quarter of an hour increments, by the offense classification; and~~]

[~~(b)~~] provide a written report to the Law Enforcement and Criminal Justice Interim Committee by [~~November~~]May 1, annually, beginning on May 1, 2026, to report data from the prior calendar year.

[~~(3)~~](2) The annual report required in Subsection [~~(2)(b)~~](1) shall include the following information, organized by the offense classification, for the cases that were active during the reporting period:

[~~(a) the total number of hours, calculated in quarter of an hour increments, worked on the cases by prosecution personnel;~~]

[~~(b)~~](a) the average amount of taxpayer dollars spent per case, as calculated by the [~~hours worked and the salary of the prosecution personnel who worked on the case~~]total number of misdemeanors, juvenile adjudications, and felonies, divided by the portion of the attorney's annual budget allocated to prosecution;

[~~(c)~~](b) the total number of juvenile adjudications, misdemeanors, and felonies;

(c) the total case numbers and individual prosecutor average annual caseload of felonies broken down by sexual offenses, general crimes, and crimes of violence;

(d) [~~the cumulative total hours worked and the number of cases, categorized by the following~~]the total number of cases categorized by the most serious charge as follows:

(i) cases that were [~~dismissed prior to the filing of charges~~]referred to the prosecutor's office by law enforcement but not filed due to insufficient evidence;

(ii) cases that were dismissed after charges were filed;

(iii) cases in which a plea agreement was reached by the parties prior to the preliminary hearing;

(iv) cases that were dismissed by the court after the preliminary hearing;

(v) cases in which a plea agreement was reached by the parties after the preliminary hearing;

(vi) cases that resulted in [~~a court ruling in favor of the state~~]a conviction at trial; and

(vii) cases that resulted in [~~a court ruling in favor of the defense~~]an acquittal at trial; and

[~~(d)~~](e) the average number of days between:

(i) the filing of criminal charges; and

(ii) (A) the delivery of discovery information, including witness statements; or

[~~(B) the preliminary hearing; or~~]

[~~(C)~~](B) the first day of trial [~~; and~~].

[~~(e) the average number of attorneys assigned to each case.~~]

Section 2. Section 17-22-5.5 is amended to read:

17-22-5.5 (Effective 05/07/25). Sheriff's classification of jail facilities -- Maximum operating capacity of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding release.

(1) (a) Except as provided in Subsection (4), a county sheriff shall determine:

(i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail facility under the sheriff's control;

(ii) the nature of each program conducted at a jail facility under the sheriff's control; and

(iii) the internal operation of a jail facility under the sheriff's control.

(b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any applicable zoning ordinance or conditional use permit of the county or municipality.

(2) Except as provided in Subsection (4), each county sheriff shall:

(a) with the approval of the county legislative body, establish a maximum operating capacity for each jail facility under the sheriff's control, based on facility design and staffing; and

(b) upon a jail facility reaching the jail facility's maximum operating capacity:

(i) transfer prisoners to another appropriate facility:

(A) under the sheriff's control; or

(B) available to the sheriff by contract;

(ii) release prisoners:

(A) to a supervised release program, according to release criteria established by the sheriff; or

(B) to another alternative incarceration program developed by the sheriff; or

(iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all entities using the county jail.

(3) (a) The sheriff shall keep records of the release status and the type of release program or alternative incarceration program for any prisoner released under Subsection (2)(b)(ii).

(b) The sheriff shall make these records available upon request to the Department of Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

(4) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail an individual sentenced to the Department of Corrections.

(5) Regardless of whether a jail facility has reached the jail facility's maximum operating capacity under Subsection (2), a sheriff may release an individual from a jail facility in accordance with Section 17-22-35 and Section 77-20-203 or 77-20-204.

(6) The sheriff of a county of the first class is encouraged to open and operate all sections of a jail facility within the county that is not being used to full capacity.

Section 3. Section 17-22-35 is enacted to read:

17-22-35 (Effective 05/07/25). County jail requirements concerning state identification numbers and biometric and other personal information.

(1) As used in this section, "state identification number" means the number issued by the Bureau of Criminal Identification within the Department of Public Safety that corresponds to a certain individual.

(2) If an individual is brought to a county jail for processing or booking into custody, the county jail shall, regardless of whether the county jail retains custody of the individual or releases the individual due to capacity issues or another reason:

(a) collect the individual's biometric and other personal information required by law; and

(b) (i) to the extent possible, connect the individual with the individual's state identification number; and

(ii) if identified, use the individual's state identification number in association with any records created or accessed by the county jail concerning the individual.

Section 4. Section 36-29-111 is amended to read:

36-29-111 (Effective 05/07/25). Public Safety Data Management Task Force.

(1) As used in this section:

(a) "Cohabitant abuse protective order" means an order issued with or without notice to the respondent in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.

(b) "Lethality assessment" means an evidence-based assessment that is intended to identify a victim of domestic violence who is at a high risk of being killed by the perpetrator.

(c) "Task force" means the Public Safety Data Management Task Force created in this section.

(d) "Victim" means an individual who is a victim of domestic violence, as defined in Section 77-36-1.

(2) There is created the Public Safety Data Management Task Force consisting of the following members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; and

(c) representatives from the following organizations as requested by the executive director of the State Commission on Criminal and Juvenile Justice:

(i) the State Commission on Criminal and Juvenile Justice;

(ii) the Judicial Council;

(iii) the Statewide Association of Prosecutors;

(iv) the Department of Corrections;

(v) the Department of Public Safety;

(vi) the Utah Association of Counties;

(vii) the Utah Chiefs of Police Association;

(viii) the Utah Sheriffs Association;

(ix) the Board of Pardons and Parole;

(x) the Department of Health and Human Services; and

[~~(xi) the Utah Division of Indian Affairs; and~~]

[~~(xii)~~](xi) any other organizations or groups as recommended by the executive director of the Commission on Criminal and Juvenile Justice.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) A majority of the members of the task force present at a meeting constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with the task force; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The State Commission on Criminal and Juvenile Justice shall provide staff support to the task force.

(7) The task force shall review the state's current criminal justice data collection requirements and make recommendations regarding:

(a) possible ways to connect the various records systems used throughout the state so that data can be shared between criminal justice agencies and with policymakers;

(b) ways to automate the collection, storage, and dissemination of the data;

(c) standardizing the format of data collection and retention;

(d) the collection of domestic violence data in the state; and

(e) the collection of data not already required related to criminal justice.

(8) On or before November 30 of each year, the task force shall provide a report to the Law Enforcement and Criminal Justice Interim Committee and the Legislative Management Committee that includes:

(a) recommendations in accordance with Subsection (7)(a);

(b) information on:

(i) lethality assessments conducted in the state, including:

(A) the type of lethality assessments used by law enforcement agencies and other organizations that provide domestic violence services; and

(B) training and protocols implemented by law enforcement agencies and the organizations described in Subsection (8)(b)(i)(A) regarding the use of lethality assessments;

(ii) the data collection efforts implemented by law enforcement agencies and the organizations described in Subsection (8)(b)(i)(A);

(iii) the number of cohabitant abuse protective orders that, in the immediately preceding calendar year, were:

(A) issued;

(B) amended or dismissed before the date of expiration; or

(C) dismissed under Section 78B-7-605; and

(iv) the prevalence of domestic violence in the state and the prevalence of the following in domestic violence cases:

(A) stalking;

(B) strangulation;

(C) violence in the presence of a child; and

(D) threats of suicide or homicide;

(c) a review of and feedback on:

(i) lethality assessment training and protocols implemented by law enforcement agencies and the organizations described in Subsection (8)(b)(i)(A); and

(ii) the collection of domestic violence data in the state, including:

(A) the coordination between state, local, and not-for-profit agencies to collect data from lethality assessments and on the prevalence of domestic violence, including the number of voluntary commitments of firearms under Section 53-5c-201;

(B) efforts to standardize the format for collecting domestic violence and lethality assessment data from state, local, and not-for-profit agencies within federal confidentiality requirements; and

(C) the need for any additional data collection requirements or efforts; and

(d) any proposed legislation.

Section 5. Section 41-6a-511 is amended to read:

41-6a-511 (Effective 05/07/25). Courts to collect and maintain data.

(1) The state courts shall collect and maintain data necessary to allow sentencing and enhancement decisions to be made in accordance with this part.

(2) (a) Each justice court shall transmit dispositions electronically to the Department of Public Safety in accordance with the requirement for recertification established by the Judicial Council.

(b) Immediately upon filling the requirements under Subsection (2)(a), a justice court shall collect and report the same DUI related data elements collected and maintained by the state courts under Subsection (1).

(3) The department shall maintain an electronic data base for DUI related records and data including the data elements received or collected from the courts under this section.

(4) (a) The Commission on Criminal and Juvenile Justice shall prepare an annual report of DUI related data including the following:

(i) the data collected by the courts under Subsections (1) and (2); [~~and~~]

(ii) the DUI crash data collected from law enforcement agencies under Section 53-10-118 by the Department of Public Safety's Criminal Investigations and Technical Services Division; and

[~~(ii)~~](iii) any measures for which data are available to evaluate the profile and impacts of DUI recidivism and to evaluate the DUI related processes of:

(A) law enforcement;

(B) adjudication;

(C) sanctions;

(D) driver license control; and

(E) alcohol education, assessment, and treatment.

(b) The report shall be provided in writing to the Judiciary and Transportation Interim Committees no later than the last day of October following the end of the fiscal year for which the report is prepared.

Section 6. Section 53-10-118 is enacted to read:

53-10-118 (Effective 05/07/25). Collection of DUI crash data.

(1) (a) The division shall collect from every law enforcement agency the following data concerning a crash that appears to be connected with a driving under the influence offense:

(i) whether the impaired driver was injured or killed;

(ii) whether any other individual was injured or killed;

(iii) whether there was damage to real or personal property; and

(iv) the following results or findings regarding the driver's impairment:

(A) blood, breath, or urine alcohol concentration readings; and

(B) blood, urine, chemical, or similar tests detecting alcohol or other drugs in an individual.

(b) In accordance with Section 53-25-104, a law enforcement agency shall provide the information described in Subsection (1)(a) in the form and manner requested by the division.

(2) The division shall provide the information collected under Subsection (1) to the Commission on Criminal and Juvenile Justice for use in the annual report described in Section 41-6a-511.

Section 7. Section 53-25-104 is enacted to read:

PART 1. Disclosure and General Reporting Requirements

53-25-104 (Effective 05/07/25). DUI crash data reporting requirements.

Beginning on January 1, 2026, a law enforcement agency shall collect and provide to the department's Criminal Investigations and Technical Services Division the DUI crash data described in Section 53-10-118.

Section 8. Section 53-25-105 is enacted to read:

53-25-105 (Effective 05/07/25). Sharing information with statewide criminal intelligence system.

Beginning on July 1, 2025, a law enforcement agency shall:

(1) share information from the law enforcement agency's record management system with the department's statewide criminal intelligence system as described in Subsection 53-10-302(8); and

(2) coordinate with the department to enter into a memorandum of understanding or related agreement that may be necessary for the sharing of the information described in Subsection (1).

Section 9. Section 53-25-502 is enacted to read:

PART 5. Firearm Reporting Requirements

53-25-502 (Effective 05/07/25). Law enforcement agency reporting requirements for certain firearm data.

(1) As used in this section:

(a) "Antique firearm" means the same as that term is defined in Section 76-10-501.

(b) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(c) "Firearm" means the same as that term is defined in Section 76-10-501.

(d) (i) "Untraceable firearm" means a firearm:

(A) that was manufactured, assembled, or otherwise created in a manner such that a serial number or other legally required identifying number or marking is not affixed to the firearm;

(B) that is made of plastic, fiberglass, or another material that would not be detectable by a detection device commonly used at an airport or other public building for security screening; or

(C) on which the identifying serial number or other legally required identifying number or marking has been removed or altered such that the firearm's provenance cannot be traced.

(ii) "Untraceable firearm" does not include an antique firearm.

(2) (a) Beginning on July 1, 2027, a law enforcement agency shall collect and annually, on or before April 30, report to the commission the following data for the previous calendar year:

(i) the number of criminal offenses reported to, or investigated by, the law enforcement agency in which the law enforcement agency determined that a lost, stolen, or untraceable firearm was used in the commission of the criminal offense, categorized by the type of offense; and

(ii) the number of firearms, separated by each category described in Subsections (2)(a)(ii)(A) through (E), in the custody of the law enforcement agency that were:

(A) returned to the property owner;

(B) destroyed;

(C) retained in evidence or other storage;

(D) transferred to another governmental entity; or

(E) submitted to a non-governmental entity for sale or disposal under Section 77-11a-403.

(b) A law enforcement agency shall compile the data described in Subsection (2)(a) for each calendar year in the standardized format developed by the commission under Subsection (3).

(c) The reporting requirements under Subsection (2)(a)(i) do not apply to a criminal offense or investigation for an offense under Title 23A, Wildlife Resources Act, that involves a firearm.

(3) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

(4) This section does not apply to:

(a) the Department of Corrections; or

(b) a law enforcement agency created under Section 41-3-104.

Section 10. Section 53-25-601 is enacted to read:

PART 6. Law Enforcement Equipment Requirements

53-25-601 (Effective 05/07/25). Definitions.

As used in this part:

(1) (a) "Biometric data" means data generated by automatic measurements of an individual's unique biological characteristics.

(b) "Biometric data" includes data described in Subsection (1)(a) that is generated by automatic measurements of an individual's fingerprint.

(c) "Biometric data" does not include:

(i) a physical or digital photograph;

(ii) a video or audio recording; or

(iii) data generated from an item described in Subsection (1)(c)(i) or (ii).

(2) "Portable biometric capture device" means a device or electronic application that:

(a) is able to accurately capture at least one form of an individual's biometric data;

(b) can be carried by a law enforcement officer, either on the law enforcement officer's person or in the law enforcement officer's vehicle; and

(c) is capable of transmitting or allowing for the transfer of captured biometric data into a law enforcement database so that the captured biometric data can be used to identify an individual based on the individual's existing biometric data in the law enforcement database.

Section 11. Section 53-25-602 is enacted to read:

53-25-602 (Effective 05/07/25). Portable biometric capture method requirement.

Beginning January 1, 2027, a law enforcement agency shall ensure that every law enforcement officer who is on duty outside of the law enforcement agency's facility is supplied with a portable biometric capture device.

Section 12. Section 63A-16-1002 is amended to read:

63A-16-1002 (Effective 05/07/25). Public safety portal.

(1) The commission shall oversee the creation and management of a public safety portal for information and data required to be reported to the commission and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the public safety portal.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the public safety portal;

(b) a gateway, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information from the public safety portal;

(d) a protocol for accessing information in the public safety portal that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed from the public safety portal by participating data source, data use entities, and regulators.

(4) The public safety portal shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 26B-1-427, Alcohol Abuse Tracking Committee;

(e) Section 41-6a-511, courts to collect and maintain data;

(f) Section 53-10-118, collection of DUI crash data;

[~~(f)~~](g) Section 53-25-301, reporting requirements for reverse-location warrants;

[~~(g)~~](h) Section 53-25-202, sexual assault offense reporting requirements for law enforcement agencies;

[~~(h)~~](i) Section 53E-3-516, school disciplinary and law enforcement action report;

[~~(i)~~](j) Section 53-25-501, reporting requirements for seized firearms;

(k) Section 53-25-502, law enforcement agency reporting requirements for certain firearm data;

[~~(j)~~](l) Section 63M-7-214, law enforcement agency grant reporting;

[~~(k)~~](m) Section 63M-7-216, prosecutorial data collection;

(n) Section 63M-7-216.1, prosecutorial data collection regarding certain prosecutions, dismissals, and declinations to prosecute;

[~~(l)~~](o) Section 63M-7-220, domestic violence data collection;

[~~(m)~~](p) Section 64-13-21, supervision of sentenced offenders placed in community;

[~~(n)~~](q) Section 64-13-25, standards for programs;

[~~(o)~~](r) Section 64-13-45, department reporting requirements;

[~~(p)~~](s) Section 64-13e-104, county correctional facility reimbursement program for state probationary inmates and state parole inmates;

[~~(q)~~](t) Section 77-7-8.5, use of tactical groups;

[~~(r)~~](u) Section 77-11b-404, forfeiture reporting requirements;

[~~(s)~~](v) Section 77-20-103, release data requirements;

[~~(t)~~](w) Section 77-22-2.5, court orders for criminal investigations;

[~~(u)~~](x) Section 78A-2-109.5, court data collection on criminal cases;

[~~(v)~~](y) Section 80-6-104, data collection on offenses committed by minors; and

[~~(w)~~](z) any other statutes [~~which~~]that require the collection of specific data and the reporting of that data to the commission.

(5) Before October 1, 2025, the commission shall report all data collected to the Law Enforcement and Criminal Justice Interim Committee.

(6) The commission may:

(a) enter into contracts with private or governmental entities to assist entities in complying with the data reporting requirements of Subsection (4); and

(b) adopt, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules to administer this section, including establishing requirements and procedures for collecting the data described in Subsection (4).

Section 13. Section 63A-16-1004 is enacted to read:

63A-16-1004 (Effective 05/07/25). Software service required to be compatible with public safety portal.

(1) A vendor that operates a software service described in Subsection (2) shall:

(a) establish an automated connection to the commission's public safety portal; and

(b) ensure that the connection described in Subsection (1)(a) is operational within one year of the criminal justice agency's system that uses the software service becoming active.

(2) A software service is subject to Subsection (1) if the software service:

(a) is for use by a criminal justice agency within the state's criminal justice system; and

(b) collects and stores data required by statute to be reported to the commission.

Section 14. Section 63I-2-277 is amended to read:

63I-2-277 (Effective 05/07/25). Repeal dates: Title 77.

(1) Subsection 77-23f-102(2)(a)(ii), regarding a notice for certain reverse-location search warrant applications, is repealed January 1, 2033.

(2) Subsection 77-23f-103(2)(a)(ii), regarding a notice for certain reverse-location search warrant applications, is repealed January 1, 2033.

(3) Subsection 77-41-115(2)(b), regarding the requirement for the Department of Corrections to submit the results of risk assessments for sex offenders to the State Commission on Criminal and Juvenile Justice, is repealed January 1, 2030.

Section 15. Section 63M-7-204 is amended to read:

63M-7-204 (Effective 05/07/25). Duties of commission.

(1) The commission shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 26B-5-102(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216, 63M-7-216.1, and 78A-2-109.5;

(v) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(w) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 26B-5-102(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental health or substance use treatment program;

(x) publish the report described in Subsection (1)(w) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees;

(y) receive, compile, and publish on the commission's website the data provided under:

(i) Section 53-25-202;

(ii) Section 53-25-301; and

(iii) Section 53-25-401;

(z) review, research, advise, and make recommendations to the three branches of government regarding evidence-based sex offense management policies and practices, including supervision standards, treatment standards, and the sex offender registry;

(aa) receive and evaluate a referral from the Department of Public Safety received under Section 53-21-104.3 involving a denial of mental health resources to an eligible individual, including, if appropriate in the commission's discretion, deny the relevant entity from receiving any grant of state funds under Section 63M-7-218 for a specified period of time; and

(bb) accept public comment.

(2) (a) The commission may designate an entity to perform the duties described in this part.

(b) If the commission designates an entity under Subsection (2)(a), the commission shall ensure that the membership of the designated entity includes representation from relevant stakeholder groups from the parts of the justice system implicated in the policy area.

(3) in fulfilling the commission's duties under Subsection (1), the commission may seek input and request assistance from groups with knowledge and expertise in criminal justice, including other boards and commissions affiliated or housed within the commission.

Section 16. Section 63M-7-216 is amended to read:

63M-7-216 (Effective 05/07/25). Prosecutorial data collection -- Policy transparency.

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) (i) "Criminal case" means a case where an offender is charged with an offense for which a mandatory court appearance is required under the Uniform Bail Schedule.

(ii) "Criminal case" does not mean a case for criminal non-support under Section 76-7-201 or any proceeding involving collection or payment of child support, medical support, or child care expenses by or on behalf of the Office of Recovery Services under Section 26B-9-108 or 76-7-202.

(c) "Offense tracking number" means a distinct number applied to each criminal offense by the Bureau of Criminal Identification.

(d) "Pre-filing diversion" means an agreement between a prosecutor and an individual prior to being charged with a crime, before an information or indictment is filed, in which the individual is diverted from the traditional criminal justice system into a program of supervision and supportive services in the community.

(e) "Post-filing diversion" is as described in Section 77-2-5.

(f) "Prosecutorial agency" means the Office of the Attorney General and any city, county, or district attorney acting as a public prosecutor.

(g) "Publish" means to make aggregated data available to the general public.

(2) Beginning July 1, 2021, all prosecutorial agencies within the state shall submit the following data with regards to each criminal case referred to it from a law enforcement agency to the commission for compilation and analysis:

(a) the defendant's:

(i) full name;

(ii) offense tracking number;

(iii) date of birth; and

(iv) zip code;

(b) referring agency;

(c) whether the prosecutorial agency filed charges, declined charges, initiated a pre-filing diversion, or asked the referring agency for additional information;

(d) if charges were filed, the case number and the court in which the charges were filed;

(e) all charges brought against the defendant;

(f) if applicable, all enhancements to the charges against the defendant;

[~~(f)~~](g) whether bail was requested and, if so, the requested amount;

[~~(g)~~](h) the date of initial discovery disclosure;

[~~(h)~~](i) whether post-filing diversion was offered and, if so, whether it was entered;

[~~(i)~~](j) if post-filing diversion or other plea agreement was accepted, the date entered by the court; and

[~~(j)~~](k) the date of conviction, acquittal, plea agreement, dismissal, or other disposition of the case.

(3) (a) The information required by Subsection (2), including information that was missing or incomplete at the time of an earlier submission but is presently available, shall be submitted within 90 days of the last day of March, June, September, and December of each year for the previous 90-day period in the form and manner selected by the commission.

(b) If the last day of the month is a Saturday, Sunday, or state holiday, the information shall be submitted on the next working day.

(4) The prosecutorial agency shall maintain a record of all information collected and transmitted to the commission for 10 years.

(5) The commission shall include in the plan required by Subsection 63M-7-204(1)(k) an analysis of the data received, comparing and contrasting the practices and trends among and between prosecutorial agencies in the state. The Law Enforcement and Criminal Justice Interim Committee may request an in-depth analysis of the data received annually. Any request shall be in writing and specify which data points the report shall focus on.

(6) The commission may provide assistance to prosecutorial agencies in setting up a method of collecting and reporting data required by this section.

(7) Beginning January 1, 2021, all prosecutorial agencies shall publish specific office policies. If the agency does not maintain a policy on a topic in this subsection, the agency shall affirmatively disclose that fact. Policies shall be published online on the following topics:

(a) screening and filing criminal charges;

(b) plea bargains;

(c) sentencing recommendations;

(d) discovery practices;

(e) prosecution of juveniles, including whether to prosecute a juvenile as an adult;

(f) collection of fines and fees;

(g) criminal and civil asset forfeiture practices;

(h) services available to victims of crime, both internal to the prosecutorial office and by referral to outside agencies;

(i) diversion programs; and

(j) restorative justice programs.

Section 17. Section 63M-7-216.1 is enacted to read:

63M-7-216.1 (Effective 05/07/25). Prosecutorial data collection regarding certain prosecutions, dismissals, and declinations to prosecute.

(1) Beginning January 1, 2026, all prosecutorial agencies within the state shall collect and submit the following data to the commission:

(a) the number of prosecutions during the previous calendar year in which charges were brought against an individual based on the individual's false accusation that a felony or misdemeanor had occurred;

(b) the disposition of each prosecution described in Subsection (1)(a); and

(c) the number of cases during the previous calendar year for which an alleged violation of any felony or misdemeanor was dismissed or declined:

(i) based on evidence that no crime was committed or attempted;

(ii) based on insufficient evidence to establish a likelihood of success at trial; or

(iii) because the victim was unable to participate.

(2) The information required by Subsection (1) shall be submitted to the commission in the form and manner selected by the commission.

Section 18. Section 63M-7-218 is amended to read:

63M-7-218 (Effective 05/07/25). State grant requirements.

(1) Except as provided in Subsection (2), the commission may not award a grant of state funds to an entity subject to, and not in compliance with, the reporting requirements in Subsection 63A-16-1002(4).

(2) (a) The commission may award a grant to an entity under Section 63A-16-1003 even if the entity is not in compliance with the reporting requirements described in Subsection 63A-16-1002(4).

(b) Subsection (1) does not apply to the law enforcement reporting requirements for certain firearm data described in Section 53-25-502.

(3) Beginning July 1, 2025, the commission may not award any grant of state funds to an entity subject to the requirements under Sections 53-21-102 and 53-21-104.3, if the commission has determined under Subsection 63M-7-204(1)(aa) that the entity is currently not eligible to receive state grant funds under this section.

Section 19. Section 77-20-103 is amended to read:

77-20-103 (Effective 05/07/25). Release data requirements.

(1) The Administrative Office of the Courts shall submit the following data on cases involving individuals for whom the Administrative Office of the Courts has a state identification number broken down by judicial district to the Commission on Criminal and Juvenile Justice before July 1 of each year:

(a) for the preceding calendar year:

(i) the number of individuals charged with a criminal offense who failed to appear at a required court preceding while on pretrial release under each of the following categories of release, separated by each type of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition;

(ii) the number of offenses that carry a potential penalty of incarceration an individual committed while on pretrial release under each of the following categories of release, separated by each type of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition; and

(iii) the total amount of fees and fines, including bond forfeiture, collected by the court from an individual for the individual's failure to comply with a condition of release under each of the following categories of release, separated by each type of release:

(A) an individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition; and

(b) at the end of the preceding calendar year:

(i) the total number of outstanding warrants of arrest for individuals who were released from law enforcement custody on pretrial release under each of the following categories of release, separated by each type of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition;

(ii) for each of the categories described in Subsection (1)(b)(i), the average length of time that the outstanding warrants had been outstanding; and

(iii) for each of the categories described in Subsection (1)(b)(i), the number of outstanding warrants for arrest for crimes of each of the following categories:

(A) a first degree felony;

(B) a second degree felony;

(C) a third degree felony;

(D) a class A misdemeanor;

(E) a class B misdemeanor; and

(F) a class C misdemeanor.

(2) The data described in Subsection (1) shall include cases involving pretrial release by a temporary pretrial status order and a pretrial release order.

(3) Each county jail shall submit the following data, based on the preceding calendar year, to the Commission of Criminal and Juvenile Justice before July 1 of each year:

(a) the number of individuals released upon payment of monetary bail before appearing before a court;

(b) the number of individuals released on the individual's own recognizance before appearing before a court; and

(c) the amount of monetary bail, any fees, and any other money paid by or on behalf of individuals collected by the county jail.

[~~(3)~~](4) The Commission on Criminal and Juvenile Justice shall compile the data collected under this section and shall submit the compiled data in an electronic report to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

Section 20. Section 77-41-115 is enacted to read:

77-41-115 (Effective 05/07/25). Sex offender risk assessment -- Department of Corrections responsibilities.

(1) As used in this section:

(a) "Dynamic factors" means an individual's individual characteristics, issues, resources, or circumstances that:

(i) can change or be influenced; and

(ii) affect the risk of:

(A) recidivism; or

(B) violating conditions of probation or parole.

(b) "Multi-domain assessment" means an evaluation process or tool that reports in quantitative and qualitative terms an offender's condition, stability, needs, resources, dynamic factors, and static factors that affect the offender's transition into the community and compliance with conditions of probation or parole.

(c) "Static factors" means an individual's individual characteristics, issues, resources, or circumstances that:

(i) are unlikely to be changeable or influenced; and

(ii) affect the risk of:

(A) recidivism; or

(B) violating conditions of probation or parole.

(2) The Department of Corrections shall:

(a) for a sex offender convicted after May 7, 2025, of an offense committed in this state described in Subsection 77-41-102(19)(a), conduct, if available, multi-domain assessments that are validated for the population and offense type of the individual to inform the treatment and supervision needs of the individual; and

(b) 30 days after the day on which a calendar quarterly period ends, submit the results of any risk assessments completed under Subsection (2)(a) during the preceding quarter to the State Commission on Criminal and Juvenile Justice.

Section 21. Section 78A-2-109.5 is amended to read:

78A-2-109.5 (Effective 05/07/25). Court data collection and reporting.

(1) As used in this section, "commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) The Administrative Office of the Courts shall submit the following information to the commission for each criminal case filed with the court:

(a) case number;

(b) the defendant's:

(i) full name;

(ii) offense tracking number; and

(iii) date of birth;

(c) charges filed;

(d) if applicable, all enhancements to the charges against the defendant;

[~~(d)~~](e) initial appearance date;

[~~(e)~~](f) bail amount set by the court, if any;

[~~(f)~~](g) whether the defendant was represented by a public defender, private counsel, or pro se;

[~~(g)~~](h) whether the defendant has previously been convicted of an offense;

[~~(h)~~](i) final disposition of the charges; and

[~~(i)~~](j) if the defendant is convicted, the defendant's total score for any pretrial risk assessment used by a magistrate or judge in making a determination about pretrial release as described in Section 77-20-205.

(3) (a) The Administrative Office of the Courts shall submit the information described in Subsection (2) to the commission on the 15th day of July and January of each year for the previous six-month period ending the last day of June and December of each year in the form and manner selected by the commission.

(b) If the last day of the month is a Saturday, Sunday, or state holiday, the Administrative Office of the Courts shall submit the information described in Subsection (2) to the commission on the next working day.

(4) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data on cases involving individuals charged with class A misdemeanors and felonies, broken down by judicial district, to the commission for each preceding calendar year:

(a) the number of cases in which a preliminary hearing is set and placed on the court calendar;

(b) the median and range of the number of times that a preliminary hearing is continued in cases in which a preliminary hearing is set and placed on the court calendar;

(c) the number of cases, and the average time to disposition for those cases, in which only written statements from witnesses are submitted as probable cause at the preliminary hearing;

(d) the number of cases, and the average time to disposition for those cases, in which written statements and witness testimony are submitted as probable cause at the preliminary hearing;

(e) the number of cases, and the average time to disposition for those cases, in which only witness testimony is submitted as probable cause at the preliminary hearing; and

(f) the number of cases in which a preliminary hearing is held and the defendant is bound over for trial.

(5) The commission shall include the data collected under Subsection (4) in the commission's annual report described in Section 63M-7-205.

(6) No later than November 1, 2027, the Administrative Office of the Courts shall provide the Law Enforcement and Criminal Justice Interim Committee with a written report on, for each fiscal year that begins on and after July 1, 2024:

(a) the total number of offenses, including the level of each offense, for which an enhancement was sought under Section 76-3-203.17;

(b) the total number of offenses, including the level of each offense, that were enhanced under Section 76-3-203.17; and

(c) the total amount of fines that were imposed under Section 76-3-203.17.

Section 22. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect May 7, 2025.

(2) The actions affecting Section 17-18a-203.5 (Effective 07/01/25) take effect on July 1, 2025.

Section 23. Coordinating H.B. 354 with S.B. 41.

If H.B. 354, Criminal Justice Revisions, and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) Section 77-41-115, enacted by H.B. 354, be deleted;

(2) Section 53-29-302, enacted in S.B. 41, have the following subsection inserted as Subsection (1) and the remaining subsections be renumbered accordingly:

"(1) As used in this section:

(a) "Dynamic factors" means an individual's individual characteristics, issues, resources, or circumstances that:

(i) can change or be influenced; and

(ii) affect the risk of:

(A) recidivism; or

(B) violating conditions of probation or parole.

(b) "Multi-domain assessment" means an evaluation process or tool that reports in quantitative and qualitative terms an offender's condition, stability, needs, resources, dynamic factors, and static factors that affect the offender's transition into the community and compliance with conditions of probation or parole.

(c) "Static factors" means an individual's individual characteristics, issues, resources, or circumstances that:

(i) are unlikely to be changeable or influenced; and

(ii) affect the risk of:

(A) recidivism; or

(B) violating conditions of probation or parole.";

(3) Subsection 53-29-302(2), enacted in S.B. 41, be amended to read:

"(2) The Department of Corrections shall:

(a) register an offender in the custody of the Department of Corrections with the department upon:

(i) placement on probation;

(ii) commitment to a secure correctional facility operated by or under contract with the Department of Corrections;

(iii) release from confinement to parole status, termination or expiration of sentence, or escape;

(iv) entrance to and release from any community-based residential program operated by or under contract with the Department of Corrections; or

(v) termination of probation or parole; and

(b)(i) for an offender convicted after May 7, 2025, of an offense committed in this state that requires the individual to register as a sex offender, conduct, if available, multi-domain assessments that are validated for the population and offense type of the offender to inform the treatment and supervision needs of the offender; and

(ii) 30 days after the day on which a calendar quarterly period ends, submit the results of any risk assessments completed under Subsection (2)(b)(i) during the preceding quarter to the State Commission on Criminal and Juvenile Justice.";

(4) Subsection 63I-2-277(3), enacted in H.B. 354, be deleted; and

(5) The following language be inserted numerically according to title placement as a subsection in Section 63I-2-253, and the remaining subsections be renumbered accordingly:

"Subsection 53-29-302(2)(b)(ii), regarding the requirement for the Department of Corrections to submit the results of risk assessments for sex offenders to the State Commission on Criminal and Juvenile Justice, is repealed January 1, 2030.".

Section 24. Coordinating H.B. 354 with H.B. 436.

If H.B. 354, Criminal Justice Revisions, and H.B. 436, Impaired Driving Amendments, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) Section 53-25-104, enacted in H.B. 436, supersedes Section 53-25-104, enacted in H.B. 354; and

(2) Subsection 63A-16-1002(4)(f), enacted in H.B. 354 and H.B. 436, be amended to read:

"(f) Section 53-10-118, regarding driving under the influence data;".

CHAPTER 253
H. B. 358
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

CRIMINAL SEXUAL CONDUCT AMENDMENTS

Chief Sponsor: Verona Mauga
Senate Sponsor: Karen Kwan

LONG TITLE

General Description:

This bill concerns criminal sexual conduct.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates the criminal offense of:
  - • custodial solicitation of sexually explicit conduct from a person in custody;
  - • unlawful sexual activity with a child using virtual reality; and
  - • unlawful sexual activity with a minor using virtual reality; and
- ► provides criminal penalties.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-5-412.4, Utah Code Annotated 1953
76-5-417, Utah Code Annotated 1953
76-5-418, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-5-412.4 is enacted to read:

76-5-412.4. Custodial solicitation of sexually explicit conduct from a person in custody.

(1) (a) As used in this section:

(i) "Actor" means the same as that term is defined in Section 76-5-412.

(ii) "Person in custody" means an individual who is:

(A) 18 years old or older; and

(B) otherwise meets the definition of a person in custody as that term is defined in Section 76-5-412.

(iii) "Sexually explicit conduct" means actual or simulated:

(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between individuals of the same or opposite sex;

(B) masturbation;

(C) bestiality;

(D) sadistic or masochistic activities;

(E) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

(F) visual depiction of nudity or partial nudity;

(G) fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(H) the visual depiction of defecation or urination for the purpose of causing sexual arousal of any individual.

(iv) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits custodial solicitation of sexually explicit conduct from a person in custody if:

(a) the actor knowingly requests, demands, or otherwise solicits from a person in custody:

(i) a photograph, image, live video, or a recording of the person in custody engaging in sexually explicit conduct or simulated sexually explicit conduct; or

(ii) a live demonstration or performance by the person in custody engaging in sexually explicit conduct or simulated sexually explicit conduct; and

(b) (i) the actor knows that the individual described in Subsection (2)(a) is a person in custody; or

(ii) a reasonable person in the actor's position should have known under the circumstances that the individual described in Subsection (2)(a) was a person in custody.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

(5) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2).

(6) This section does not apply to an actor who is acting within the course and scope of the actor's legitimate duties, including documenting photographic evidence.

Section 2. Section 76-5-417 is enacted to read:

76-5-417. Unlawful sexual activity with a child using virtual reality.

(1) (a) As used in this section:

(i) "Avatar" means a three-dimensional character that represents a human user in a virtual reality environment.

(ii) "Child" means an individual who is younger than 14 years old.

(iii) "Haptic technology" means technology that can create an experience of touch by applying force, vibration, or motion to the human user.

(iv) "Virtual reality" means a three-dimensional environment in which the human user is fully immersed in a computer-generated simulation through the use of an avatar, regardless of whether the human user is using haptic technology.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits unlawful sexual activity with a child using virtual reality if the actor:

(a) is 18 years old or older;

(b) knows that the human user of an avatar is a child; and

(c) for the purpose of arousing or gratifying the sexual desire of any individual, intentionally uses the actor's avatar to engage in sexual activity or simulated sexual activity with the child's avatar involving:

(i) the genitals, pubic area, or anus of the actor's avatar or the child's avatar; and

(ii) the mouth, buttocks, pubic area, genitals, or anus of either the actor's avatar or the child's avatar.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor is less than 10 years older than the child.

(4) Consent of the child to engage in the sexual activity is not a defense to a violation of Subsection (2).

Section 3. Section 76-5-418 is enacted to read:

76-5-418. Unlawful sexual activity with a minor using virtual reality.

(1) (a) As used in this section:

(i) "Avatar" means the same as that term is defined in Section 76-5-417.

(ii) "Haptic technology" means the same as that term is defined in Section 76-5-417.

(iii) "Minor" means an individual who is 14 years old or older but younger than 18 years old.

(iv) "Virtual reality" means the same as that term is defined in Section 76-5-417.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits unlawful sexual activity with a minor using virtual reality if the actor:

(a) knows that the human user of an avatar is a minor;

(b) is older than the minor by 10 years or more; and

(c) for the purpose of arousing or gratifying the sexual desire of any individual, intentionally uses the actor's avatar to engage in sexual activity or simulated sexual activity with the minor's avatar involving:

(i) the genitals, pubic area, or anus of the actor's avatar or the minor's avatar; and

(ii) the mouth, buttocks, pubic area, genitals, or anus of either the actor's avatar or the minor's avatar.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) Consent of the minor to engage in the sexual activity is not a defense to a violation of Subsection (2).

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 254
H. B. 366
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

ACCESS TO COMMUNICATION DEVICE LOCATION INFORMATION AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill concerns access to communication device location information.

Highlighted Provisions:

This bill:

- ► defines terms and modifies definitions;
- ► provides that a mobile telecommunications service shall provide communication device location information as quickly as possible under certain circumstances;
- ► adds certain law enforcement warrants that are prioritized as urgent regarding a missing individual in danger to the list of circumstances under which a mobile telecommunications service shall provide communication device location information as quickly as possible;
- ► requires, if a mobile telecommunications service establishes procedures for providing communication device location information, a method for a law enforcement agency to identify different types of requested information; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-104.5, as last amended by Laws of Utah 2022, Chapter 430

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-10-104.5 is amended to read:

53-10-104.5. Wireless service -- Communication device location information in emergencies and certain urgent situations.

(1) As used in this section:

(a) [~~"Call"~~]"Communication device" means the same as that term is defined in Section 76-8-311.3.

(b) (i) "Communication device data" means information obtained from the available records or other network data concerning a specific communication device that may help to reveal the location of the communication device.

(ii) "Communication device data" includes, if the data will help to reveal the location of a specific communication device:

(A) call logs;

(B) GPS tracking data;

(C) application data;

(D) browser history;

(E) email records;

(F) photos and videos;

(G) SMS and MMS messages; and

(H) contact details.

(c) (i) "Communication device location information" means the best available location information, including information obtained by use of historical cellular site information or a mobile locator tool for a communication device or a telecommunication device.

(ii) "Communication device location information" includes communication device data.

[~~(b)~~](d) "Law enforcement agency" or "agency" has the same definition as in Section 53-1-102.

[~~(c)~~](e) "Mobile telecommunications service" has the same definition as in Section 54-8b-2.

(f) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

[~~(d)~~](g) "Telecommunication device" has the same definition as in Section 76-6-409.5.

(2) A mobile telecommunications service shall provide [~~call~~]communication device location information as quickly as possible regarding a telecommunication device user or a communication device user whom a law enforcement agency:

(a) has reason to believe is in need of services under Subsection [~~(2)(a) or (b)~~](2)(a)(i) or (ii), upon the request of a law enforcement agency or a public safety communications center if the agency or center determines the communication device location information is necessary in order to respond to:

[~~(a)~~](i) a call for emergency response services; or

[~~(b)~~](ii) an emergency situation that involves the imminent risk of death or serious bodily injury [~~as defined in Section 76-1-101.5.~~]; or

(b) has a warrant for the communication device location information for the telecommunication device user or communication device user who is missing, if the law enforcement agency has prioritized the warrant as urgent based on the law enforcement agency's determination that the user may be in danger of physical harm.

(3) (a) The mobile telecommunications service may establish procedures in accordance with 18 U.S.C. Sec. 2702(b)(8) for [~~its voluntary response~~]the mobile telecommunications service's response to a request for location under Subsection (2).

(b) If a mobile telecommunications service establishes procedures under Subsection (3)(a), the procedures shall include a method for a law enforcement agency to identify a situation under Subsection (2)(a) and a prioritized warrant described in Subsection (2)(b).

(4) A mobile telecommunications service that, acting in good faith, provides information as requested under Subsection (2) may not be held civilly liable for providing the information.

(5) (a) The division shall obtain contact information from all mobile telecommunication service providers that provide services in this state to facilitate communicating location requests under Subsection (2).

(b) The division shall provide the contact information to all public safety communications centers in the state and shall provide updates to the contact information.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 255
H. B. 372
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

DENTAL PRACTICE AMENDMENTS

Chief Sponsor: Ariel Defay
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to dental practice.

Highlighted Provisions:

This bill:

- ► amends definitions;
- ► amends supervision provisions regarding dental professionals;
- ► amends provisions regarding dental hygiene schools;
- ► amends provisions related to the practice of dentistry and dental hygiene;
- ► amends teledentistry provisions; and
- ► makes other conforming and technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-69-102, as last amended by Laws of Utah 2020, Chapter 273
58-69-301, as last amended by Laws of Utah 2020, Chapter 273
58-69-501, as last amended by Laws of Utah 2015, Chapter 343
58-69-802, as last amended by Laws of Utah 2020, Chapter 273
58-69-803, as enacted by Laws of Utah 1996, Chapter 116
58-69-804, as enacted by Laws of Utah 1996, Chapter 116
58-69-807, as enacted by Laws of Utah 2020, Chapter 273

ENACTS:

58-69-808, Utah Code Annotated 1953

REPEALS AND REENACTS:

58-69-801, as last amended by Laws of Utah 2023, Chapter 334

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-69-102 is amended to read:

58-69-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Asynchronous technology" means store-and-forward technology that allows [~~a licensed dental professional to transmit~~]for the transmission of a patient's health information to a dentist for viewing at a later time.

(2) "Board" means the Dentist and Dental Hygienist Licensing Board created in Section 58-69-201.

(3) "Dental assistant" means an unlicensed individual who engages in [~~, directly or indirectly,~~] supervised acts and duties as defined by division rule made in collaboration with the board.

(4) "Dental hygienist" means an individual licensed under this chapter as a dental hygienist.

(5) "Dentist" means an individual licensed under this chapter as a dentist.

[~~(4)~~](6) "Direct supervision" means the supervising dentist is present and available for face-to-face communication with the person being supervised when and where professional services are being provided.

(7) "Expanded function" means a procedure that is authorized under Section 58-69-808.

[~~(5)~~](8) "General supervision" means that the supervising dentist is available for consultation regarding work the supervising dentist has authorized, without regard as to whether the supervising dentist is located on the same premises as the person being supervised.

[~~(6)~~](9) "Indirect supervision" means that the supervising dentist is present within the facility in which the person being supervised is providing services and is available to provide immediate face-to-face communication with the person being supervised.

[~~(7)~~](10) "Practice of dental hygiene" means, [~~regarding~~]with respect to humans and subject to Section 58-69-801:

[~~(a) under the general supervision of a dentist, or under a written agreement with a dentist licensed under this chapter, as provided in~~

~~Section 58-69-801, to:~~]

[~~(i)~~](a) [~~perform~~]performing a preliminary clinical examination of human teeth and gums;

[~~(ii)~~](b) [~~make~~]making preliminary instrumental examination of [~~patients' teeth~~]a patient's periodontium;

[~~(iii) expose dental radiographs;~~]

[~~(iv)~~](c) [~~assess dental hygiene status and collaborate~~]conducting a dental hygiene assessment;

(d) [~~with the supervising dentist regarding~~]formulating a dental hygiene treatment plan for a patient, and communicating those findings and treatment recommendations;

(e) evaluating a patient's progress towards achieving the goals specified in the dental hygiene treatment plan;

(f) modifying a dental hygiene treatment plan based on the ongoing reassessment and in collaboration with a dentist;

[~~(v)~~](g) [~~remove~~]removing deposits, accumulations, calculus, and concretions from the surfaces of human teeth;

[~~(vi)~~](h) [~~remove~~]removing toxins and debris from subgingival surfaces;

[~~(vii)~~](i) [~~provide~~]providing:

(i) delegated dental hygiene care in accordance with a dentist's treatment plan for a patient; or

(ii) dental hygiene care in accordance with a dental hygiene treatment plan;

[~~(viii) take impressions of teeth or jaws except for impressions or registrations to supply artificial teeth as substitutes for natural teeth; or~~]

[~~(ix) engage in other practices of dental hygiene as defined by division rule;~~]

[~~(b) under the indirect supervision of a dentist to administer in accordance with standards and ethics of the professions of dentistry and dental hygiene:~~]

[~~(i) local anesthesia; or~~]

[~~(ii) nitrous oxide analgesia;~~]

[~~(c)~~](j) [~~to represent~~]representing oneself by any title, degree, or in any other way as being a dental hygienist; [~~or~~]

[~~(d) to direct a dental assistant when the supervising dentist is not on the premises.~~]

(k) administering local anesthesia and nitrous oxide analgesia, only as allowed by division rule and the supervision requirements described in Section 58-69-801;

(l) directing a dental assistant when the supervising dentist is not on the premises;

(m) exposing and capturing dental radiographs;

(n) making impressions or intraoral scans of teeth or jaws;

(o) performing tasks delegated by a dentist in other practices of dental hygiene as defined by division rule; and

(p) performing expanded functions in accordance with Section 58-69-808.

[~~(8)~~](11) "Practice of dentistry" means the following, regarding humans:

(a) to offer, undertake, or represent that a person will undertake by any means or method, including teledentistry, to:

(i) examine, evaluate, diagnose, treat, operate, or prescribe therapy for any disease, pain, injury, deficiency, deformity, or any other condition of the human teeth, alveolar process, gums, jaws, or adjacent hard and soft tissues and structures in the maxillofacial region;

(ii) take an appropriate history and physical consistent with the level of professional service to be provided and the available resources in the facility in which the service is to be provided;

(iii) [~~take~~]make impressions, intraoral scans, or registrations;

(iv) supply artificial teeth as substitutes for natural teeth, including placing veneers;

(v) remove deposits, accumulations, calculus, and concretions from the surfaces of teeth; [~~and~~]

(vi) correct or attempt to correct malposition of teeth; and

(vii) prescribe, deliver, and provide follow-up care for oral appliance therapy, including as a treatment for sleep-disordered breathing and obstructive sleep apnea;

(b) to administer anesthetics necessary or proper in the practice of dentistry, only as allowed by an anesthesia and analgesia permit obtained from the division;

(c) to administer and prescribe drugs related to and appropriate in the practice of dentistry;

(d) to supervise the practice of a:

(i) []dental hygienist in accordance with Section 58-69-801; or

(ii) []dental assistant as established by division rule made in collaboration with the board; or

(e) to represent oneself by any title, degree, or in any other way that one is a dentist.

(12) "Public health agency" means a local health department as defined in Section 26A-1-102 or the Department of Health and Human Services.

[~~(9)~~](13) "Public health setting" means:

(a) an individual's residence, if the individual is [~~unable to leave the residence~~]non-ambulatory;

(b) a school, as part of a school-based program;

(c) a nursing home;

(d) an assisted living or long-term care facility;

(e) a community health center;

(f) if a dental hygienist is employed by a public health agency, a location directed by the public health agency;

[~~(f)~~](g) a federally-qualified health center; or

[~~(g)~~](h) a mobile dental health program that employs a dentist who is licensed under this chapter.

[~~(10)~~](14) "Supervising dentist" means a licensed dentist who has agreed to provide supervision of a dental hygienist or unlicensed individual in accordance with the provisions of this chapter.

[~~(11)~~](15) "Synchronous technology" means two-way audiovisual technology that allows a licensed dental professional to see and communicate in real time with a patient who is located in a different physical location.

[~~(12)~~](16) "Teledentistry" means the practice of dentistry using synchronous or asynchronous technology.

[~~(13)~~](17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501and 58-69-501.

[~~(14)~~](18) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-69-502 and as may be further defined by rule.

Section 2. Section 58-69-301 is amended to read:

58-69-301. License required -- License classifications -- Anesthesia and analgesia permits.

(1) A license is required to engage in the practice of dentistry, including teledentistry, or dental hygiene, except as specifically provided in Section 58-69-306 or 58-1-307.

(2) The division shall issue to individuals qualified under the provisions of this chapter a license in the classification:

(a) dentist; or

(b) dental hygienist.

(3) A permit is required to engage in administration of anesthesia or analgesia in the practice of dentistry or dental hygiene.

(4) The division in collaboration with the board shall establish by rule:

(a) the classifications of anesthesia and analgesia permits [~~and~~];

(b) the scope of practice permitted under each permit classification; and

[~~(b)~~](c) the [~~qualifications~~]requirements for obtaining each [~~classification~~]class of [~~anesthesia and analgesia~~]permit.

Section 3. Section 58-69-501 is amended to read:

58-69-501. Unlawful conduct.

"Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

(1) administering anesthesia or analgesia in the practice of dentistry or dental hygiene if the individual does not hold a current permit issued by the division authorizing that individual to administer the type of anesthesia or analgesia used; and

(2) practice of dental hygiene by a licensed dental hygienist [~~when not under the supervision of a dentist, or under a written agreement with a dentist who is licensed under this chapter and who is a Utah resident, in accordance with the provisions of this chapter; or~~]if not done in accordance with Section 58-69-801.

(3) directing or interfering with a licensed dentist's judgment and competent practice of dentistry.

Section 4. Section 58-69-801 is repealed and re-enacted to read:

58-69-801. Dental hygienist practice standards.

(1) Except as provided in Subsection (2), a dental hygienist may engage in the practice of dental hygiene:

(a) in any setting under general supervision; and

(b) if done in accordance with a dentist's treatment plan for a patient.

(2) A dental hygienist may:

(a) under the indirect supervision of a dentist:

(i) administer nitrous oxide analgesia; and

(ii) perform expanded functions in accordance with Section 58-69-808; and

(b) under the general supervision of a dentist:

(i) administer local anesthesia;

(ii) expose dental radiography; or

(iii) make impressions or intraoral scans of teeth or jaws as authorized by a supervising dentist.

(3) Notwithstanding Subsection (1) and except as provided in Subsection (2), a dental hygienist may engage in the practice of dental hygiene without general supervision if:

(a) the dental hygienist engages in the practice of dental hygiene in a public health setting;

(b) prior to engaging in the practice of dental hygiene in a public health setting, the dental hygienist notifies the division on a one-time basis in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the dental hygienist will engage in the practice of dental hygiene in a public health setting;

(c) the dental hygienist assumes liability for the work done by the dental hygienist while engaging in the practice of dental hygiene in a public health setting;

(d) the dental hygienist has liability insurance for the work done by the dental hygienist while engaging in the practice of dental hygiene in a public health setting; and

(e) the dental hygienist:

(i) obtains from each patient an informed consent form that provides that treatment by a dental hygienist is not a substitute for a dental examination by a dentist;

(ii) refers to a dentist any patient with a dental need beyond the dental hygienist's scope of practice encountered while engaging in the practice of dental hygiene in a public health setting; and

(iii) retains all dental records for the patient generated by the dental hygienist in accordance with Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(4) Notwithstanding Subsection (1) and except as provided in Subsection (2), a dental hygienist may practice dental hygiene in an accredited dental hygiene school to teach and demonstrate the practice of dental hygiene.

(5) (a) An accredited dental hygiene school may teach, demonstrate, and perform expanded functions in accordance with Section 58-69-808 and associated rules in a clinical setting operated by the school if:

(i) the expanded functions are included in the school's curriculum;

(ii) the curriculum is compliant with standards created by the Commission on Dental Accreditation, or its successor organization, for teaching expanded functions;

(iii) except as provided in Subsection (5)(b), any expanded function is performed in accordance with rules made under Section 58-69-808; and

(iv) any expanded function performed in the clinical setting is done under the indirect supervision of a dentist.

(b) An accredited dental hygiene school may act in accordance with Subsection (5)(a)without regard to rules being issued under Section 58-69-808 until the earlier of:

(i) the day on which the division issues rules under Section 58-69-808; or

(ii) May 31, 2027.

Section 5. Section 58-69-802 is amended to read:

58-69-802. Practice within limits of law, education, training, experience, and competency.

[~~(1)~~] Each individual licensed under this chapter shall confine [~~his~~]the individual's practice to those acts [~~or practices~~]:

[~~(a)~~](1) permitted by law; and

[~~(b)~~](2) in which the [~~individual~~]dentist or dental hygienist is competent by education, training, and experience.

[~~(2) (a) The standard of dental care a licensed dental professional provides through teledentistry is the same as the standard of dental care a licensed dental professional provides in a traditional physical setting.~~]

[~~(b) (i) A treating dentist may use teledentistry to collaborate with a dental hygienist within the relevant applicable scopes of practice and under the appropriate level of dentist supervision, in accordance with existing supervision laws.~~]

[~~(ii) A dental hygienist, other dental auxiliary, or any other teledentistry provider may not carry out any duties through teledentistry that require the in-person supervision of a dentist licensed under this chapter.~~]

[~~(c) A dentist may not conduct a dental examination using teledentistry if the standard of care necessitates a traditional physical dental examination.~~]

Section 6. Section 58-69-803 is amended to read:

58-69-803. Use of dental assistants.

[~~The standards~~]Standards regulating the use of [~~unlicensed individuals as~~]dental assistants shall be established by division rule made in collaboration with the board.

Section 7. Section 58-69-804 is amended to read:

58-69-804. Form of practice.

(1) A dentist [~~licensed under this chapter may engage in practice as a dentist, or in the practice of dentistry only as an individual licensee, but as an individual licensee, he may be~~]may engage in the practice of dentistry as:

(a) an individual operating as a business proprietor;

(b) an employee of another person;

(c) a partner in a lawfully organized partnership;

(d) a lawfully formed professional corporation;

(e) a lawfully organized limited liability company;

(f) a lawfully organized business corporation; or

(g) any other form of organization recognized by the state which is not prohibited by rule adopted by division rules made in collaboration with the board.

(2) Regardless of the form in which a licensee engages in the practice of dentistry, the licensee may not permit another person who is not licensed in Utah as a dentist and is not otherwise competent to engage in the practice of dentistry to direct, or in any other way participate in, or interfere in the licensee's practice of dentistry.

Section 8. Section 58-69-807 is amended to read:

58-69-807. Use of teledentistry -- Informed consent -- Rulemaking.

(1) A dentist may provide dental services using teledentistry [~~, including the following:~~].

[~~(a) collaborating with a licensed dental professional in the completion of the following at a public health setting, generally with a written collaborative agreement, directly, or indirectly, in accordance with this chapter:~~]

[~~(i) gathering diagnostic information to be used by the dentist at a remote location to form a tentative basic treatment plan and provide appropriate preventive or urgent prescriptions;~~]

[~~(ii) perform preventive dental procedures;~~]

[~~(iii) provide oral health education; and~~]

[~~(iv) perform any palliative or interim treatment or caries arresting treatment outlined in the dentist's treatment plan and authorized by the dentist, in accordance with this chapter and rules made in accordance with this chapter; and~~]

[~~(b) at a remote location, using records and diagnostic information that a dental hygienist provides to form a tentative treatment plan for basic dental procedures.~~]

(2) (a) The standard of dental care a licensed dental professional provides through teledentistry is the same as the standard of dental care a licensed dental professional provides in a traditional physical setting.

(b) A treating dentist may use teledentistry to collaborate with a dental hygienist within the relevant applicable scopes of practice and under the appropriate level of supervision described in Section 58-69-801.

(c) A dental hygienist, other unlicensed individual supervised by a dentist, or any other provider may not carry out any duties through teledentistry that require direct or indirect supervision of a dentist.

(d) A dentist may not conduct a dental examination using teledentistry if the standard of care necessitates a traditional physical dental examination.

(e) (i) A dentist may correct or attempt to correct malpositioned teeth or provide an oral appliance to treat sleep-disordered breathing

and obstructive sleep apnea if the dentist:

(A) has performed an appropriate, in-person, physical examination of the patient for the purpose of diagnosing, assessing, and developing a treatment plan;

(B) has reviewed the patient's relevant history, medical records, diagnostic records, and contemporaneous radiographic records; and

(C) will provide reasonable in-person follow-up care.

(ii) Notwithstanding the limitations described in Subsection (2)(e)(i), the dentist may establish an initial relationship with a patient through teledentistry only:

(A) for the purpose of emergent care;

(B) to make an initial diagnosis of a malposition of teeth and a determination of the need for an orthodontic appliance; or

(C) to screen for sleep-disordered breathing and obstructive sleep apnea, and assess the need for oral appliance therapy for jaw repositioning.

(iii) A dentist shall confirm an initial diagnosis described in Subsection (2)(e)(ii)(B) through conducting an in-person examination, reviewing the patient's contemporaneous radiographic records, and reviewing results from any other relevant test, imaging, or consultation before the patient begins using any orthodontic appliance.

(iv) A dentist shall confirm an assessment described in Subsection (2)(e)(ii)(C) through conducting an in-person examination, reviewing the patient's contemporaneous radiographic records, and reviewing results from any other relevant test, imaging, or consultation before ordering fabrication of an oral appliance for jaw repositioning and delivering the appliance to the patient.

(3) A licensed dental professional or any entity employing a licensed dental professional may not require a patient to sign [~~an~~]a pretreatment agreement that limits the patient's ability to file a complaint with the division, file a lawsuit, join a class action lawsuit, make reports to a governmental entity, require the patient to submit to binding arbitration, or otherwise limit or prohibit the patient from obtaining relief for deficiencies in the treatment or services provided to the patient.

[~~(3)~~](4) When a licensed dental professional uses teledentistry, the licensed dental professional shall ensure informed consent covers the following additional information:

(a) a description of the types of dental care services provided through teledentistry, including limitations on services;

(b) the name, contact information, licensure, credentials, and qualifications of all dentists and dental hygienists involved in the patient's dental care; and

(c) precautions and protocols for technological failures or emergency situations.

[~~(4)~~](5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish requirements and parameters regarding teledentistry to ensure the safe use of teledentistry, including additional provisions for:

(a) transparency, disclosure, and informed consent;

(b) standard of care;

(c) proper documentation;

(d) supervision and scope of practice;

(e) patient complaints; and

(f) protocols for referrals.

(6) If provisions or rules made under Section 26B-4-704 conflict with the provisions of this section or rules made under this section, the provisions of this section and the rules made under this section control when the individual being regulated is providing services regulated under this chapter.

Section 9. Section 58-69-808 is enacted to read:

58-69-808. Expanded functions of dental auxiliaries.

(1) The division shall create certifications for dental auxiliaries to perform, under the indirect supervision of a dentist, various expanded functions, including:

(a) delegated maxillofacial administration of botulinum toxin by a dental hygienist certified by the division;

(b) placement of direct restorations by a dental hygienist certified by the division or a dental assistant certified by the division; and

(c) the removal of coronal dental adhesive by a dental hygienist certified by the division or a dental assistant certified by the division.

(2) The division shall make rules to implement this section, including rules regarding:

(a) the education and minimum qualifications to obtain a certification; and

(b) parameters for performing an expanded function.

Section 10. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 256
H. B. 373
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

SERVICE MARKETPLACE PLATFORMS AMENDMENTS

Chief Sponsor: Jason E. Thompson
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill amends provisions relating to service marketplace platforms.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► authorizes a daycare provider to affiliate with a service marketplace platform;
- ► establishes a presumption that a daycare provider affiliating with a service marketplace platform is an independent contractor; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34-53-102, as enacted by Laws of Utah 2018, Chapter 386
34-53-201, as enacted by Laws of Utah 2018, Chapter 386

ENACTS:

34-53-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-53-102 is amended to read:

34-53-102. Definitions.

As used in this chapter:

(1) "Building service" means any of the following services, if the charge for the service is $3,000 or less:

(a) cleaning or janitorial;

(b) furniture delivery, assembly, moving, or installation;

(c) landscaping;

(d) home repair; or

(e) any service similar to the services described in Subsections (1)(a) through (d).

(2) "Building service contractor" means a person who enters into an agreement with a service marketplace platform to use the service marketplace platform's software platform to connect with and receive requests from customers seeking a building service.

(3) "Daycare provider" means an individual who enters into an agreement with a service marketplace platform to use the service marketplace platform's software platform to connect with and receive requests from customers seeking daycare service.

(4) "Daycare service" means a paid service provided by an individual:

(a) for the supervision and care of one or more children; and

(b) during a period of time where the parent or guardian of the child is not present.

[~~(3)~~](5) "Service marketplace platform" means an entity that:

(a) uses an Internet-connected software platform, including a mobile application:

(i) to connect building service contractors with customers seeking a building service; and

(ii) through which a customer may request a building service; and

(b) charges the building service contractor a fee to use the software platform.

Section 2. Section 34-53-201 is amended to read:

34-53-201. Independent contractor presumption -- Building service contractor.

(1) A building service contractor may affiliate with a service marketplace platform as an independent contractor or as an employee.

(2) (a) There is a presumption that a building service contractor who affiliates with a service marketplace platform is an independent contractor of the service marketplace platform, unless there is clear and convincing evidence that the parties intended the building service contractor to be an employee.

(b) The presumption described in Subsection (2)(a) extends to each act the building service contractor performs in connection with a request for a building service placed through the service marketplace platform.

Section 3. Section 34-53-202 is enacted to read:

34-53-202. Independent contractor presumption -- Daycare provider.

(1) A daycare provider may affiliate with a service marketplace platform as an independent contractor or as an employee.

(2) (a) There is a presumption that a daycare provider who affiliates with a service marketplace platform is an independent contractor of the service marketplace platform, unless there is clear and convincing evidence that the parties intended the daycare provider to be an employee.

(b) The presumption described in Subsection (2)(a) extends to each act the daycare provider performs in connection with a service request placed through the service marketplace platform.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 257
H. B. 376
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

NATIONAL GUARD AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to the National Guard.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► amends provisions related to the appointment of the adjutant general;
- ► amends provisions related to the management of the State Armory Board;
- ► clarifies what electronic means the State Armory Board may use in conducting meetings and taking official action;
- ► allows for the National Guard to repay student loans for active members of the National Guard using current funds;
- ► addresses the appointment and responsibilities of certain judge advocates;
- ► addresses the use of force by a military service member or a member of the National Guard in certain circumstances;
- ► provides that a military chaplain may solemnize a marriage; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

39A-1-201, as last amended by Laws of Utah 2024, Chapter 334
39A-2-101, as last amended by Laws of Utah 2022, Chapter 421 and renumbered and amended by Laws of Utah 2022, Chapter 373
39A-2-102, as last amended by Laws of Utah 2024, Chapter 268
39A-3-201, as last amended by Laws of Utah 2024, Chapter 28
39A-5-103, as renumbered and amended by Laws of Utah 2022, Chapter 373
39A-9-101, as enacted by Laws of Utah 2024, Chapter 334
63I-2-239, as enacted by Laws of Utah 2024, Third Special Session, Chapter 5
81-2-301, as enacted by Laws of Utah 2024, Chapter 366
81-2-305, as renumbered and amended by Laws of Utah 2024, Chapter 366

ENACTS:

39A-5-114.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 39A-1-201 is amended to read:

39A-1-201. Adjutant general -- Appointment -- Term -- Qualifications.

(1) There shall be one adjutant general of the [~~Utah~~]National Guard [~~appointed by~~].

(2) (a) Beginning in the calendar year of 2027 and in every fourth year after 2027, the governor shall, in the month of January, appoint an individual who meets the qualifications under this section to serve a four-year term as the adjutant general.

(b) The four-year term for the adjutant general appointed under Subsection (2)(a) shall begin on the day of the adjutant general's appointment.

(c) If an individual appointed to serve as the adjutant general for a four-year term under Subsection (2)(a) is removed, resigns, or otherwise vacates the position of adjutant general, the governor may appoint another individual to serve as the adjutant general for the remainder of the unexpired four-year term.

(d) (i) If a vacancy in the position of adjutant general occurs before the year of 2027, the governor shall appoint an individual who meets the qualifications under this section to serve as the adjutant general.

(ii) An adjutant general appointed under Subsection (2) (d)(i) shall serve a term that begins on the day of the adjutant general's appointment and ends when the governor appoints an adjutant general to a four-year term in January of 2027, as described in Subsection (2)(a).

[~~(2)~~](3) The adjutant general is the commanding general of the [~~Utah~~]National Guard and the Utah State Defense Force and serves at the pleasure of the governor.

[~~(3)~~](4) The individual appointed to the office shall:

(a) be a citizen of Utah and meet the requirements provided in Title 32, United States Code;

(b) be a federally recognized commissioned officer, with the rank of colonel or higher, of the Army National Guard or the Air National Guard with no fewer than five years commissioned service in the [~~Utah~~]National Guard; and

(c) as determined by the governor, have sufficient knowledge and experience to command the [~~Utah~~]National Guard.

[~~(4)~~](5) Active service in the armed forces of the United States may be included in the requirement in Subsection [~~(3)(b)~~](4)(b), if the officer was a member of the [~~Utah~~]National Guard when the officer entered that service.

[~~(5)~~](6) The adjutant general shall establish a succession plan consistent with Section 53-2a-804 to ensure the continuity of command.

[~~(6)~~](7) An officer is no longer eligible to hold the office of adjutant general [~~after attaining the age of 64 years~~]if the officer is 64 years old or older.

[~~(7)~~](8) The adjutant general shall ensure the readiness, training, discipline, and operations of the [~~Utah~~]National Guard.

(9) An individual who otherwise meets the qualifications under this section to serve as the adjutant general may serve multiple terms as the adjutant general if appointed by the governor under Subsection (2).

Section 2. Section 39A-2-101 is amended to read:

39A-2-101. State Armory Board -- Creation -- Members -- A body corporate -- Powers -- Expenses.

(1) There is created a three member State Armory Board with the following members:

(a) the governor;

(b) the executive director of the Department of Government Operations; and

(c) the adjutant general of the [~~Utah~~]National Guard, appointed in accordance with Section 39A-3-102.

(2) The board is a body corporate with perpetual succession and the board's property is exempt from all taxes and assessments.

(3) The board may:

(a) have and use a common seal;

(b) sue and be sued;

(c) contract and be contracted with;

(d) take and hold by purchase, gift, devise, grant, or bequest real and personal property required for the board's use; and

(e) convert property received by gift, devise, or bequest, and not suitable for the board's uses, into other property as available, or into money.

(4) The board may:

(a) borrow money for the purpose of providing facilities, ranges, and training lands upon the sole credit of the real property to which the board has legal title; and

(b) secure loans described in Subsection (4)(a) by mortgage upon property to which the State Armory Board has legal title.

(5) (a) Property mortgaged for a loan as provided in Subsection (4)(b) shall be the sole security for the loan.

(b) A deficiency judgment may not be made, rendered, or entered against the board upon the foreclosure of a mortgage under Subsection (4)(b).

(c) The board may not mortgage property in one city for the purpose of obtaining money for the erection of armories in any other place.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the National Guard shall make rules governing the management and operational needs of the board established under this section including rules for the appointment, duties, and responsibilities of the board's secretary.

Section 3. Section 39A-2-102 is amended to read:

39A-2-102. Responsibilities of State Armory Board.

(1) The board shall supervise and control all facilities, ranges, training lands, and all real property held or acquired for the military purposes of the state.

(2) The board may:

(a) provide suitable facilities, ranges, and training lands for the different organizations of the National Guard;

(b) lease real property throughout the state wherever necessary for the use of organizations of the National Guard and for the storage of state and government property at a rental that the board considers reasonable;

(c) erect facilities and ranges at places within the state that it considers necessary upon lands to which it has acquired the legal title;

(d) expend military funds to acquire legal title to lands and to construct facilities and ranges;

(e) sell and lease property that the board holds under Subsection (1) for purposes consistent with the mission of the [~~Utah~~]National Guard; and

(f) conduct meetings and take official action in person or as necessary via electronic means, including electronic mail, electronic messaging, telephone [~~or~~], video teleconferencing, or a combination of these methods.

(3) (a) Subject to Subsection (3)(b), the board may take options for the purchase of any premises under lease to the state for National Guard purposes:

(i) at any time during the life of the lease; and

(ii) when the purchase is in the state's interest.

(b) An option is not binding upon the board until it is approved by the Legislature.

(4) (a) Before legally binding the state to sell or lease any real property owned by the National Guard, the board shall submit a description of the proposed sale to the Legislative Management Committee for [~~its~~]the Legislative Management Committee's review and

recommendations.

(b) Before legally binding the state to purchase any interest in real property, the board shall submit a description of the proposed sale to the Legislative Management Committee for [~~its~~]the Legislative Management Committee's review and recommendations.

(c) The Legislative Management Committee shall review each proposal and may approve or disapprove the sale.

(5) (a) There is created an expendable special revenue fund known as the "State Armory Fund."

(b) The State Armory Fund shall consist of:

(i) proceeds from the sales and leases of real property authorized by this section;

(ii) appropriations by the Legislature; and

(iii) interest earned on the fund.

(c) Subject to the Legislative Management Committee's review and recommendation, the State Armory Board may expend money in the State Armory Fund to pay for the acquisition and sale of real property and the construction of new armories.

Section 4. Section 39A-3-201 is amended to read:

39A-3-201. Tuition and fees assistance for National Guard members -- Use and allocation -- Appropriation.

(1) (a) As used in this section, "fees" means general course fees, in addition to tuition, that are:

(i) imposed by an institution of higher education; and

(ii) required to be paid by a student to engage in a course of study at the institution of higher education.

(b) "Fees" includes:

(i) a special course fee; and

(ii) expenses for required:

(A) text books; and

(B) course related materials.

(2) The [~~Utah~~]National Guard may provide tuition and fees assistance to a member of the [~~Utah~~]National Guard for study at an institution of higher education, subject to the following requirements:

(a) the individual shall be, at the time the individual receives the assistance, an active member of the [~~Utah~~]National Guard; and

(b) the assistance is for tuition and fees only and may not be more than the resident tuition and fees for the actual course of postsecondary study engaged in by the individual.

(3) (a) Tuition and fees assistance shall be awarded as the adjutant general considers necessary.

(b) An individual may apply to the adjutant general [~~of the state~~]for assistance for each year during which the individual is an active member of the [~~Utah~~]National Guard.

(c) The adjutant general may recoup funds if a recipient fails to meet the requirements of the program.

(4) The adjutant general [~~of the state~~]shall:

(a) []pay tuition and fees assistance directly to the institution of higher education from the funds appropriated [~~.~~]; and

[~~(5)~~](b) [~~The adjutant general of the state shall~~]establish regulations, procedures, forms, and reports necessary to administer the allocation of assistance and payment of funds under this section.

[~~(6)~~](5) The adjutant general may [~~use no more~~]not use more than 10% of the funds for administration of the program as the adjutant general considers necessary.

(6) (a) Subject to Subsections (6)(b) and (c), the adjutant general may allocate funds for the repayment of student loans for members of the National Guard.

(b) In addition to the requirements described in Subsection (6)(c), a member of the National Guard qualifies for the repayment of the member's student loans if the member is currently an active member of the National Guard.

(c) The adjutant general shall administer the loan repayment option described in this Subsection (6) in accordance with policies and procedures established by the adjutant general, including:

(i) additional eligibility requirements;

(ii) repayment limits; and

(iii) any other condition the adjutant general determines is appropriate.

Section 5. Section 39A-5-103 is amended to read:

39A-5-103. State staff judge advocate -- Appointment -- Qualifications -- Duties -- Assistants.

(1) (a) The adjutant general shall appoint a state staff judge advocate.

(b) The state staff judge advocate appointed under Subsection (1)(a) shall be:

(i) an officer of the National Guard;

(ii) a member of the Utah State Bar; and

(iii) designated as a state staff judge advocate officer.

(c) The state staff judge advocate appointed under Subsection (1)(a):

(i) is the senior legal officer for the National Guard and a member of the adjutant general's special staff; and

(ii) shall act as the primary legal advisor to the adjutant general on all matters involving military justice.

[~~(1)~~](2) (a) The adjutant general [~~shall~~]may appoint [~~an officer of the National Guard as the~~]a state judge advocate.

(b) The [~~officer~~]state judge advocate appointed under Subsection (2)(a) shall be:

(i) an officer of the National Guard;

(ii) []a member of the Utah State Bar [~~, a United States federal court, branch qualified, and~~]; and

(iii) []designated as a staff judge advocate officer.

[~~(2)~~](c) The state judge advocate appointed under Subsection (2)(a) is:

(i) []the principal military legal advisor; and

(ii) []shall, in connection with rendering legal advice to the adjutant general, prepare pretrial advice, a post-trial review, and act, in concert with the state staff judge advocate, as legal advisor to the adjutant general on all matters involving military justice.

(3) (a) The adjutant general may appoint staff judge advocates for the individual services of the National Guard.

(b) A service staff judge advocate appointed under Subsection (3)(a) shall be:

(i) an officer of the National Guard;

(ii) a member of the Utah State Bar; and

(iii) designated as a staff judge advocate officer.

(c) A service staff judge advocate appointed under Subsection (3)(a):

(i) is responsible for the provision of military justice legal advice to the service assistant adjutant general of the branch state staff judge advocate; and

(ii) shall provide oversight to subordinate assistant staff judge advocates.

[~~(3)~~](4) (a) The adjutant general may appoint assistant state judge advocates [~~as considered necessary~~].

(b) [~~All~~]An assistant state judge [~~advocates~~]advocate appointed under Subsection (4)(a)shall be:

(i) [~~officers~~]an officer of the National Guard [~~,~~];

(ii) [~~members~~]a member of the Utah State Bar [~~, branch qualified, and~~]; and

(iii) []designated as a staff judge advocate [~~officers~~]officer.

[~~(4)~~](5) (a) The [~~SJA or an assistant SJA~~]state judge advocate or service staff judge advocate shall make frequent inspections of military units throughout the state to supervise the administration of military justice.

(b) The duty described in Subsection (5)(a) may be delegated to an assistant state judge advocate.

[~~(5)~~](6) (a) The convening authority shall review directly with [~~the SJA~~]the convening authority's staff judge advocate all matters relating to the administration of military justice and administrative actions.

(b) []The assistant state judge advocate or legal officer of any command may communicate directly with the assistant state judge advocate or legal officer of a superior or subordinate command, or with the [~~SJA~~]state staff judge advocate.

[~~(6)~~](7) An individual who has acted as a member, military judge, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer, or who has been a witness for either the prosecution or defense, may not subsequently act as assistant state judge advocate, [~~SJA~~]state judge advocate, state staff judge advocate, service staff judge advocate, or legal officer to any reviewing authority upon the same case.

Section 6. Section 39A-5-114.5 is enacted to read:

39A-5-114.5. Use of force in defense of equipment and personnel of the National Guard or military.

(1) As used in this section, "deadly force" means the same as that term is defined Section 76-2-404.

(2) A military service member or a member of the National Guard may use force, including deadly force, to defend military or National Guard equipment or personnel, if:

(a) the member is on official duty to defend equipment or personnel of the military or National Guard; and

(b) the use of force is used in accordance with the military or National Guard regulations and doctrine regarding the appropriate use of force in the defense of equipment or personnel.

(3) (a) Before a military service member or a member of the National Guard is assigned to official duty to defend equipment or personnel, the servicing staff judge advocate shall provide a briefing to the member on the rules for the use of force under this section and in accordance with military or National Guard regulations and doctrine.

(b) A military service member or a member of the National Guard who does not receive the briefing described in Subsection (3)(a) may still claim the privilege described in Subsection (2) if the member is not at fault for not receiving the briefing.

Section 7. Section 39A-9-101 is amended to read:

39A-9-101. Acceptance of gifts.

(1) The [~~Utah~~]National Guard is authorized to receive gifts, contributions, and donations of all kinds, including tangible objects and real property made on the condition that the [~~Utah~~]National Guard uses the gifts, contributions, and donations for the benefit of, or in connection with, the [~~Utah~~]National Guard and [~~Utah~~]National Guard members, employees, or members' or employees' dependents.

(2) The adjutant general is the acceptance authority for gifts described in Subsection (1).

(3) The adjutant general may also accept gifts donated to benefit a state military museum or to create a memorial within the state honoring the activities of the [~~Utah~~]National Guard.

(4) A gift, grant, or donation described in this section will not revert to the General Fund and shall be considered non-lapsing funds.

(5) Acceptance authorities will ensure compliance with the restrictions and limitations contained in Section 63G-6a-2404.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~department~~]National Guard shall make rules for the acceptance of gifts, including establishing:

(a) delegation of gift acceptance authority;

(b) the method and criteria for accepting gifts;

(c) identification of existing accounts for gift proceeds to be deposited into;

(d) use and purpose of gifts;

(e) prohibitions; and

(f) exceptions to the policy.

Section 8. Section 63I-2-239 is amended to read:

63I-2-239. Repeal dates: Title 39A.

[~~Reserved~~]Subsection 39A-1-201(2)(d), regarding a vacancy in the position of adjutant general that occurs before the year 2027 is repealed January 1, 2027.

Section 9. Section 81-2-301 is amended to read:

81-2-301. Definitions for part.

As used in this part:

(1) "County clerk" means:

(a) the county clerk of the county; or

(b) an employee or designee of the county clerk who is authorized to issue marriage licenses or solemnize marriages.

(2) "Judge or magistrate of the United States" means:

(a) a justice of the United States Supreme Court;

(b) a judge of a court of appeals;

(c) a judge of a district court;

(d) a judge of any court created by an act of Congress, the judges of which are entitled to hold office during good behavior;

(e) a judge of a bankruptcy court;

(f) a judge of a tax court; or

(g) a United States magistrate.

(3) "Minor" means an individual who is 16 or 17 years old.

(4) (a) "Native American spiritual advisor" means an individual who:

(i) leads, instructs, or facilitates a Native American religious ceremony or service or provides religious counseling; and

(ii) is recognized as a spiritual advisor by a federally recognized Native American tribe.

(b) "Native American spiritual advisor" includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman.

(c) "Military chaplain" means an individual who is a commissioned officer of:

(i) the Chaplain Corps of the United States Army;

(ii) the Chaplain Corps of the United States Navy, including the United States Coast Guard; or

(iii) the United States Air Force designated for duty as a chaplain.

Section 10. Section 81-2-305 is amended to read:

81-2-305. Who may solemnize marriages -- Certificate.

(1) The following individuals may solemnize a marriage:

(a) an individual 18 years old or older who is authorized by a religious denomination to solemnize a marriage;

(b) a Native American spiritual advisor;

(c) the governor;

(d) the lieutenant governor;

(e) the state attorney general;

(f) the state treasurer;

(g) the state auditor;

(h) a mayor of a municipality or county executive;

(i) a justice, judge, or commissioner of a court of record;

(j) a judge of a court not of record of the state;

(k) a judge or magistrate of the United States;

(l) the county clerk of any county in the state or the county clerk's designee as authorized by Section 17-20-4;

(m) a senator or representative of the Utah Legislature;

[~~(nn)~~](n) a member of the state's congressional delegation; [~~or~~]

[~~(oo)~~](o) a judge or magistrate who holds office in Utah when retired, under rules set by the Supreme Court; or

(p) a military chaplain.

(2) An individual authorized under Subsection (1) who solemnizes a marriage shall give to the couple married a certificate of marriage that shows the:

(a) name of the county from which the license is issued; and

(b) date of the license's issuance.

(3) Except for an individual described in Subsection (1)(l), an individual described in Subsection (1) has discretion to solemnize a marriage.

(4) Except as provided in Section 17-20-4 and Subsection (1)(l), and notwithstanding any other provision in law, no individual authorized under Subsection (1) to solemnize a marriage may delegate or deputize another individual to perform the function of solemnizing a marriage.

(5) (a) Within 30 days after the day on which a marriage is solemnized, the individual solemnizing the marriage shall return the marriage license to the county clerk that issued the marriage license with a certificate of the marriage over the individual's signature stating the date and place of solemnization and the names of two or more witnesses present at the marriage.

(b) An individual described in Subsection (5)(a) who fails to return the license is guilty of an infraction.

(c) An individual described in Subsection (5)(a) who knowingly or intentionally makes a false statement on a certificate of marriage is guilty of perjury and may be prosecuted and punished as provided in Title 76, Chapter 8, Part 5, Falsification in Official Matters.

(6) (a) An individual is guilty of a third degree felony if the individual knowingly:

(i) solemnizes a marriage without a valid marriage license; or

(ii) solemnizes a marriage in violation of this section.

(b) An individual is guilty of a class A misdemeanor if the individual knowingly, with or without a marriage license, solemnizes a marriage between two individuals who are 18 years old or older that is prohibited by law.

Section 11. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 258
H. B. 378
Passed March 7, 2025
Approved March 25, 2025
Effective January 1, 2026

DEPARTMENT OF NATURAL RESOURCES FUNDING AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses revenue and expenditures related to funding state accounts within the Department of Natural Resources.

Highlighted Provisions:

This bill:

- ► requires counties to remit to the state money calculated based on certain new transmission facilities for deposit into the Species Protection Account;
- ► expands resources to be deposited into the Species Protection Account;
- ► requires reporting by the Division of Wildlife Resources and a study by the Office of Energy Development;
- ► addresses the payment of a tax on gross receipts of a radioactive waste facility derived from the disposal of concentrated depleted uranium and containerized waste, including having certain revenue be deposited into the Species Protection Account;
- ► imposes a tax related to certain wind or solar electric generation facilities to be deposited into the Species Protection Account;
- ► imposes an assessment on renewable energy parent entities to be deposited into the Species Protection Account;
- ► modifies calculation of centrally assessed new growth;
- ► requires counties to remit to the state a portion of centrally assessed new growth for deposit into the Species Protection Account;
- ► authorizes rulemaking; and
- ► makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

23A-3-214, as renumbered and amended by Laws of Utah 2024, Chapter 88
59-1-306, as last amended by Laws of Utah 2024, Chapter 35
59-1-401, as last amended by Laws of Utah 2024, Chapter 96
59-2-924, as last amended by Laws of Utah 2024, Chapter 258
59-24-105, as last amended by Laws of Utah 2003, Chapter 295
63I-2-279, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
79-6-405, as renumbered and amended by Laws of Utah 2024, Chapter 88

ENACTS:

17-56-101, Utah Code Annotated 1953
17-56-201, Utah Code Annotated 1953
17-56-202, Utah Code Annotated 1953
59-2-924.5, Utah Code Annotated 1953
59-32-101, Utah Code Annotated 1953
59-32-201, Utah Code Annotated 1953
59-32-301, Utah Code Annotated 1953
59-32-302, Utah Code Annotated 1953
79-6-1101, Utah Code Annotated 1953
79-6-1102, Utah Code Annotated 1953
79-6-1103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-56-101 is enacted to read:

CHAPTER 56. SPECIES PROTECTION FUNDING ACT

PART 1. General Provisions

17-56-101. Definitions.

As used in this chapter:

(1) "Commission" means the State Tax Commission.

(2) "Contributing business" means a person who is centrally assessed and owns a qualifying transmission line.

(3) "Qualifying transmission line" means an electrical transmission line that first transmits electrical current within the state on or after January 1, 2026, and operates at a nominal voltage of at least 340,000 volts, including structures, equipment, plant, or fixtures associated with the electrical transmission line.

Section 2. Section 17-56-201 is enacted to read:

PART 2. Payment Obligations

17-56-201. Payments due -- Calculation of payment amount.

(1) (a) On or before March 1 of each year, and included with the statement of taxpayer required under Section 59-2-202, the owner of a contributing business shall electronically file with the commission a statement containing the following information, in a manner prescribed by the commission:

(i) the name, description, location, and number of miles of qualifying transmission line located within each county, by tax area, in which a qualifying transmission line is located as of January 1 of the year of the statement; and

(ii) any other reasonable and necessary information required by the commission.

(b) The owner of the contributing business or the owner's designee shall sign and swear to the statement described in Subsection (1)(a).

(2) (a) On or before November 30 of each year, the commission shall notify each county that contains a portion of the qualifying transmission line owned by a contributing business of the amount calculated in Subsection (2)(b).

(b) The commission shall calculate an amount for each county by multiplying $6,400 by the number of miles of qualifying transmission line owned by a contributing business that is located within the county.

(3) On or before December 31 of each year, the county treasurer of a county notified under Subsection (2)(a) shall remit the amount calculated under Subsection (2)(b) to the Division of Finance from the revenue derived from the current year's property taxes.

Section 3. Section 17-56-202 is enacted to read:

17-56-202. Deposit into Species Protection Account.

The Division of Finance shall deposit revenue remitted to the Division of Finance under this chapter into the Species Protection Account created in Section 23A-3-214.

Section 4. Section 23A-3-214 is amended to read:

23A-3-214. Species Protection Account -- Reporting.

(1) There is created within the General Fund a restricted account known as the "Species Protection Account. "

(2) The [~~account~~]Species Protection Account shall consist of:

(a) revenue remitted by a county to the Division of Finance in accordance with:

(i) Title 17, Chapter 56, Species Protection Funding Act; or

(ii) Section 59-2-924.5;

(b) revenue generated by the brine shrimp tax provided for in Title 59, Chapter 23, Brine Shrimp Royalty Act; [~~and~~]

(c) tax revenue deposited into the Species Protection Account in accordance with Section 59-24-105;

(d) tax revenue collected in accordance with Title 59, Chapter 32, Wind or Solar Electric Generation Facility Capacity Tax;

(e) revenue collected in accordance with Title 79, Chapter 6, Part 11, Energy Project Assessment; and

[~~(b)~~](f) interest earned on money in the [~~account~~]Species Protection Account.

(3) Money in the [~~account~~]Species Protection Account may be appropriated by the Legislature to:

(a) develop and implement species status assessments and species protection measures;

(b) obtain biological opinions of proposed species protection measures;

(c) conduct studies, investigations, and research into the effects of proposed species protection measures;

(d) verify species protection proposals that are not based on valid biological data;

(e) implement Great Salt Lake wetlands mitigation projects in connection with the western transportation corridor;

(f) pay for the state's voluntary contributions to the Utah Reclamation Mitigation and Conservation Account under the Central Utah Project Completion Act, Pub. L. No. 102-575, Titles II-VI, 106 Stat. 4605-4655; and

(g) pay for expenses of the State Tax Commission under Title 59, Chapter 23, Brine Shrimp Royalty Act.

(4) The purposes specified in Subsections (3)(a) through (3)(d) may be accomplished by the state or, in an appropriation act, the Legislature may authorize the department to award grants to political subdivisions of the state to accomplish those purposes.

(5) Money in the [~~account~~]Species Protection Account may not be used to develop or implement a habitat conservation plan required under federal law unless the federal government pays for at least 1/3 of the habitat conservation plan costs.

(6) The division shall report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than November 30, 2026, concerning:

(a) the amount of revenue deposited into the Species Protection Account under each revenue source outlined in Subsection (2); and

(b) how the division spent the money deposited.

Section 5. Section 59-1-306 is amended to read:

59-1-306. Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenue into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.

(1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge the commission administers under:

(a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(c) Section 19-6-714;

(d) Section 19-6-805;

(e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;

(f) Section 59-27-105;

(g) Chapter 31, Cannabinoid Licensing and Tax Act;

(h) Chapter 32, Wind or Solar Electric Generation Facility Capacity Tax;

[~~(h)~~](i) Section 63H-1-205; [~~or~~]

[~~(i)~~](j) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges [~~.~~]; or

(k) Title 79, Chapter 6, Part 11, Energy Project Assessment.

(2) There is created a restricted account within the General Fund known as the "State Tax Commission Administrative Charge Account."

(3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.

(4) For purposes of this section, the administrative charge is a percentage of revenue the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:

(a) 1.5%; or

(b) an equal percentage of revenue the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.

(5) The commission shall deposit an administrative charge into the restricted account.

(6) Interest earned on the restricted account shall be deposited into the General Fund.

(7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

Section 6. Section 59-1-401 is amended to read:

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

(1) As used in this section:

(a) "Tax, fee, or charge" means:

(i) a tax, fee, or charge the commission administers under:

(A) this title;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-410.5;

(E) Section 19-6-714;

(F) Section 19-6-805;

(G) Section 34A-2-202;

(H) Section 40-6-14; [~~or~~]

(I) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(J) Title 79, Chapter 6, Part 11, Energy Project Assessment; or

(ii) another amount that by statute is subject to a penalty imposed under this section.

(b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(iii) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(iv) Chapter 3, Tax Equivalent Property Act; or

(v) Chapter 4, Privilege Tax.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) $20; or

(ii) (A) 2% of the unpaid tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(B) 5% of the unpaid tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(C) 10% of the unpaid tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in

Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) Except as provided in Subsection (15), a person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) $20; or

(ii) (A) 2% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(B) 5% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(C) 10% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) In the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is $50 for each information return, information report, or supporting schedule up to a maximum of $1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is $500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is $500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) Criminal offenses and penalties are provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than $500; or

(B) exceed $1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than $1,000; or

(B) exceed $5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) or (9) is subject to a penalty described in Subsection (13)(b) if the employer:

(i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8) or (9);

(ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8) or (9);

(iii) fails to provide accurate information on the form; or

(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) $30 per form, not to exceed $75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8) or (9), more than 14 days after the due date provided in Subsection 59-10-406(8) or (9) but no later than 30 days after the due date provided in Subsection 59-10-406(8) or (9);

(ii) $60 per form, not to exceed $200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8) or (9), more than 30 days after the due date provided in Subsection 59-10-406(8) or (9) but on or before June 1; or

(iii) $100 per form, not to exceed $500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) or (9) after June 1; or

(B) fails to file the form.

(14) Upon making a record of the commission's actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

(15) Failure to pay a tax described in Subsection 59-10-1403.2(2) shall be subject to a penalty as described in Subsection (3) except that the penalty shall be:

(a) assessed only if the pass-through entity reports tax paid on a Utah Schedule K-1 but does not pay some or all of the tax reported; and

(b) calculated based on the difference between the amount of tax reported and the amount of tax paid.

Section 7. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(v) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

(vi) for a host local government, the same as that term is defined in Section 63N-2-502;

(vii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-602;

(viii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 10-9a-1001 or Section 17-27a-1201; or

(ix) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-1601.

(e) "Centrally assessed benchmark value" means an amount equal to the average year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous three calendar years, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity;

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f) "Centrally assessed industry" means the following industry classes the commission assesses in accordance with Part 2, Assessment of Property:

(i) air carrier;

(ii) coal;

(iii) coal load out property;

(iv) electric generation;

(v) electric rural;

(vi) electric utility;

(vii) gas utility;

(viii) ground access property;

(ix) land only property;

(x) liquid pipeline;

(xi) metalliferous mining;

(xii) nonmetalliferous mining;

(xiii) oil and gas gathering;

(xiv) oil and gas production;

(xv) oil and gas water disposal;

(xvi) railroad;

(xvii) sand and gravel; and

(xviii) uranium.

[~~(f)~~](g) (i) "Centrally assessed new growth" means the greater of:

(A) for each centrally assessed industry, zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value for each centrally assessed industry, adjusted for prior year end incremental value, from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for each centrally assessed industry for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value for a centrally assessed industry as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

[~~(g)~~](h) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

[~~(h)~~](i) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

[~~(i)~~](j) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

[~~(j)~~](k) "Host local government" means the same as that term is defined in Section 63N-2-502.

[~~(k)~~](l) "Hotel property" means the same as that term is defined in Section 63N-2-502.

[~~(l)~~](m) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

[~~(m)~~](n) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

[~~(n)~~](o) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the amount calculated by multiplying:

(A) the difference between the taxable value for the current year and the base taxable value of the property that is located within a project area; and

(B) the number that represents the percentage of enhanced property tax revenue, as defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(v) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority;

(vi) for a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone;

(vii) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government;

(viii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a home ownership promotion zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the home ownership promotion zone; or

(ix) for a first home investment zone created pursuant to Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a first home investment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the first home investment zone.

[~~(o)~~](p) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

[~~(p)~~](q) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

[~~(q)~~](r) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, an amount equal to the incremental value that is no longer provided to the Utah Fairpark Area Investment and Restoration District;

(iv) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency

as tax increment;

(v) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation;

(vi) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone as tax increment;

(vii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, an amount equal to the incremental value that is no longer provided to a home ownership promotion zone as tax increment; or

(viii) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount equal to the incremental value that is no longer provided to a first home investment zone as tax increment.

[~~(r)~~](s) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

[~~(s)~~](t) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

[~~(t)~~](u) "Property tax differential" means the same as that term is defined in Section 11-58-102.

[~~(u)~~](v) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

[~~(v)~~](w) "Tax increment" means:

(i) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(ii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602;

(iii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, the same as that term is defined in Section 10-9a-1001 or Section 17-27a-1201; or

(iv) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, the same as that term is defined in Section 63N-3-1601.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that

the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 8. Section 59-2-924.5 is enacted to read:

59-2-924.5. Diversion of centrally assessed new growth.

(1) As used in this section:

(a) "Centrally assessed new growth" means the same as that term is defined in Section 59-2-924.

(b) "Centrally assessed new growth revenue" means an amount calculated by multiplying a taxing entity's centrally assessed new growth for a calendar year by the taxing entity's final tax rate adopted under this part for that year.

(2) (a) On or before December 31 of each year, the county treasurer shall remit the amount calculated under Subsection (2)(b) to the Division of Finance.

(b) The amount to be remitted to the Division of Finance under this Subsection (2) shall be the sum of centrally assessed new growth revenue for each taxing entity in the county for that year multiplied by 7%.

(c) Notwithstanding the remittance of money under this Subsection (2), for purposes of calculating a tax rate, a taxing entity shall recognize total centrally assessed new growth in the following year's budgeted revenue.

(3) Beginning in 2027, by no later than June 30 of each year, the Division of Finance shall deposit into the Species Protection Account created in Section 23A-3-214 the amounts remitted to the Division of Finance under Subsection (2) after subtracting the administrative charge described in Subsection (4).

(4) Notwithstanding the other provisions of this section, the Division of Finance may retain an administrative charge for the costs associated with implementing this section from the amounts remitted to the Division of Finance under Subsection (2).

Section 9. Section 59-24-105 is amended to read:

59-24-105. Deposit of tax revenue.

(1) [~~The~~]Except as provided in Subsection (2), the commission shall deposit the tax revenue collected under this chapter into the Uniform School Fund.

(2) The commission shall deposit the tax revenue collected in accordance with Subsection 59-24-103.7(2)(a) into the Species Protection Account created in Section 23A-3-214.

Section 10. Section 59-32-101 is enacted to read:

CHAPTER 32. WIND OR SOLAR ELECTRIC GENERATION FACILITY CAPACITY TAX

PART 1. General Provisions

59-32-101. Definitions.

As used in this chapter:

(1) "Commercially operational" means that a wind or solar electric generation facility generates commercial amounts of electricity.

(2) "Nameplate capacity" means the sum of the maximum rated outputs of all electrical generating equipment within a facility under specific conditions designated by the manufacturer, as indicated on individual nameplates physically attached to the equipment.

(3) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(4) "Renewable energy project entity" means a corporation or pass-though entity that directly owns a wind or solar electric generation facility in the state that has executed a power purchase agreement or other binding agreement to purchase the output of a wind or solar electric generation facility owned by the renewable energy project entity after January 1, 2026.

(5) (a) "Wind or solar electric generation facility" means a commercially operational facility with the capacity to generate electricity from wind or solar that has not reached the end of the facility's operational life that uses:

(i) wind equipment with a nameplate capacity of at least 20 megawatts generating alternating current electricity; or

(ii) solar equipment with a nameplate capacity of at least 20 megawatts generating alternating current electricity.

(b) "Wind or solar electric generation facility" does not include a facility that generates wind or solar electricity primarily for onsite consumption by the owner or tenant of the property on which the facility is located.

Section 11. Section 59-32-201 is enacted to read:

PART 2. Imposition of Tax

59-32-201. Imposition of tax on renewable energy project entities -- Deposit of revenue.

(1) (a) Beginning January 1, 2026, there is annually levied a tax on a renewable energy project entity in the state for each calendar year following the calendar year in which a wind or solar electric generation facility owned by the renewable energy project entity becomes commercially operational.

(b) Notwithstanding the other provisions of this chapter, a renewable energy project entity does not owe a tax under this chapter for a wind or solar electric generation facility project that before December 31, 2025, was:

(i) operating;

(ii) under construction; or

(iii) subject to a power purchase agreement or other binding agreement to purchase output of the wind or solar electric generation facility.

(2) The tax levied under Subsection (1) is calculated by multiplying the megawatts, or portion of megawatts, of operational generating alternating current nameplate capacity of a wind or solar electric generation facility owned by the renewable energy project entity by $1,050.

(3) (a) A renewable energy project entity in the state shall electronically file with the commission, on or before March 1 of each year, a statement containing the information required by Subsection (3)(b) in a manner prescribed by the commission.

(b) The statement required in Subsection (3)(a) shall include:

(i) the name, description, and location of a wind or solar electric generation facility owned by the renewable energy project entity in the state;

(ii) the nameplate capacity described in Subsection (2); and

(iii) any other reasonable and necessary information required by the commission.

(c) A statement or report required to be filed with the commission shall be signed and sworn to by the chief executive officer of the renewable energy project entity or the chief executive officer's designee.

(d) A willful false swearing as to a material fact set out in the statement or report required under this Subsection (3) is a violation of Section 76-8-504 and may result in prosecution.

(4) The tax imposed by this chapter does not apply to a wind or solar electric generation facility that is owned or operated by:

(a) the United States;

(b) the state or a political subdivision of the state;

(c) an Indian or Indian tribe, as defined in Section 9-9-101; or

(d) a distribution electric cooperative or a wholesale electric cooperative, as defined in Section 54-2-1.

(5) The commission shall deposit revenue from the tax imposed in this section into the Species Protection Account created by Section 23A-3-214.

Section 12. Section 59-32-301 is enacted to read:

PART 3. Administration, Collection, and Enforcement of Tax

59-32-301. Administration, collection, and enforcement of tax -- Rulemaking.

The commission shall administer, collect, and enforce a tax under this chapter in accordance with Chapter 1, General Taxation Policies.

Section 13. Section 59-32-302 is enacted to read:

59-32-302. When taxes due -- Payment of tax -- Audit.

The tax imposed by this chapter is due and payable on or before March 1 of the year next succeeding the calendar year when the renewable energy project entity is subject to the tax imposed under Section 59-32-201.

Section 14. Section 63I-2-279 is amended to read:

63I-2-279. Repeal dates: Title 79.

(1) Section 79-2-206, Transition, is repealed July 1, 2024.

(2) Section 79-2-407, Study of funding for water infrastructure costs, is repealed July 1, 2025.

(3) Subsection 79-4-1002(2), regarding a pilot program for veteran free admission to state parks, is repealed July 1, 2025.

(4) Section 79-7-303, Zion National Park Support Programs Restricted Account, is repealed July 1, 2024.

(5) Title 79, Chapter 6, Part 11, Energy Project Assessment, is repealed January 1, 2028.

Section 15. Section 79-6-405 is amended to read:

79-6-405. Reports -- Study.

(1) The director shall report annually to the Public Utilities, Energy, and Technology Interim Committee.

(2) The report required in Subsection (1) shall:

(a) summarize the status and development of the state's energy resources;

(b) summarize the activities and accomplishments of the office;

(c) address the director's activities under this part;

(d) recommend any energy-related executive or legislative action the director or office considers beneficial to the state, including updates to the state energy policy under Section 79-6-301; and

(e) address long-term energy planning required under Subsection 79-6-401(10).

(3) (a) The office shall study the impacts of the following on energy costs in the state:

(i) Title 59, Chapter 32, Wind or Solar Electric Generation Facility Capacity Tax; and

(ii) Part 11, Energy Project Assessment.

(b) The director shall report the office's findings regarding the study required under this Subsection (3) to the Public Utilities, Energy, and Technology Interim Committee by no later than the 2026 November interim meeting of the Public Utilities, Energy, and Technology Interim Committee.

Section 16. Section 79-6-1101 is enacted to read:

PART 11. Energy Project Assessment

79-6-1101. Definitions.

As used in this part:

(1) "Affiliated group" means one or more chains of corporations or pass-through entities that are connected through ownership by a common parent entity that directly or indirectly controls or owns more than 50% of the outstanding voting stock or ownership interests of each corporation or pass-through entity.

(2) "Commercially operational" means that a wind or solar electric generation facility generates commercial amounts of electricity.

(3) "Eligible facility" means a wind or solar electric generation facility that is:

(a) commercially operational on January 1, 2026;

(b) under construction on January 1, 2026; or

(c) subject to a power purchase agreement or other binding agreement to purchase the output of the wind or solar electric generation facility as of January 1, 2026.

(4) "Energy project assessment" means the assessment imposed in Section 79-6-1102.

(5) "Nameplate capacity" means the sum of the maximum rated outputs of all electrical generating equipment within a facility under specific conditions designated by the manufacturer, as indicated on individual nameplates physically attached to the equipment.

(6) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(7) "Renewable energy parent entity" means the parent entity of an affiliated group when an entity in the affiliated group controls, directly or indirectly, a wind or solar electric generation facility in the state.

(8) "Species Protection Account" means the account created in Section 23A-3-214.

(9) "Tax commission" means the State Tax Commission.

(10) "Wind or solar electric generation facility" means a commercially operational facility with the capacity to generate electricity from wind or solar that has not reached the end of the facility's operational life that uses:

(a) wind equipment with a nameplate capacity of at least 20 megawatts of generating alternating current electricity; or

(b) solar equipment with a nameplate capacity of at least 20 megawatts of generating alternating current electricity.

Section 17. Section 79-6-1102 is enacted to read:

79-6-1102. Energy project assessment.

(1) Beginning January 1, 2026, each renewable energy parent entity with an eligible facility that is commercially operational in the state shall pay an annual energy project assessment to the tax commission before March 1 of each year.

(2) The amount of the energy project assessment is based on the total number of generating alternating current nameplate capacity megawatts of wind or solar electric generation facilities that are commercially operational in the state at the beginning of the calendar year, and controlled by the renewable energy parent entity, as follows:

(a) for 500 or greater megawatts of operational generating alternating current nameplate capacity, the assessment is $200,000;

(b) for megawatts of operational generating alternating current nameplate capacity equal to or greater than 200 megawatts, but less than 500 megawatts, the assessment is $175,000;

(c) for megawatts of operational generating alternating current nameplate capacity equal to or greater than 100 megawatts, but less than 200 megawatts, the assessment is $125,000;

(d) for megawatts of operational generating alternating current nameplate capacity equal to or greater than 50 megawatts, but less than 100 megawatts, the assessment is $50,000; and

(e) for megawatts of operational generating alternating current nameplate capacity equal to or greater than 20 megawatts, but less than 50 megawatts, the assessment is $25,000.

(3) The office shall annually determine the amount of energy project assessment each renewable energy parent entity owes under this section and report that amount to the tax commission to be collected in accordance with Section 79-6-1103.

(4) The office may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to create procedures for assessing and reporting the amounts to be collected under this section.

Section 18. Section 79-6-1103 is enacted to read:

79-6-1103. Administration of the assessment -- Species Protection Account.

(1) The tax commission shall administer, collect, and enforce the energy project assessment collected under this part in accordance with Title 59, Chapter 1, General Taxation Policies.

(2) (a) A renewable energy parent entity shall electronically file with the tax commission, on or before March 1 of each year, a statement containing the information required by Subsection (2)(b) in a manner prescribed by the tax commission.

(b) The statement required in Subsection (2)(a) shall include:

(i) the name of the renewable energy parent entity;

(ii) the nameplate capacity in megawatts of wind or solar electric generation facilities that are generating alternating current, commercially operational in the state at the beginning of the calendar year, and controlled by the renewable energy parent entity; and

(iii) any other reasonable and necessary information required by the tax commission.

(c) A statement required to be filed with the tax commission shall be signed and sworn to by the chief executive officer of the renewable energy parent entity or the chief executive officer's designee.

(3) The tax commission shall deposit revenue collected from the energy project assessment into the Species Protection Account.

Section 19. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 259
H. B. 383
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

COURT FINE AMENDMENTS

Chief Sponsor: Grant Amjad Miller
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies provisions related to compensatory service and credits toward criminal fines.

Highlighted Provisions:

This bill:

- ► permits a judge to order that the cost of any court-ordered treatment or course be credited toward payment of criminal fines if the treatment or course is completed; and
- ► permits credit for the cost of a court-ordered treatment or course to also be issued by means of a judge's order on a petition for remittance.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-301.7, as enacted by Laws of Utah 2018, Chapter 214
77-32b-105, as enacted by Laws of Utah 2021, Chapter 260

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-301.7 is amended to read:

76-3-301.7. Compensatory service -- Credit for cost of court-ordered treatment or course.

(1) As used in this section, "compensatory service" means service or unpaid work performed by a person, in lieu of the payment of a criminal fine, for:

(a) a state or local government agency;

(b) an entity that is approved as a nonprofit organization under Section 501(c) of the Internal Revenue Code; or

(c) any other entity or organization if prior approval is obtained from the court.

(2) When a defendant is sentenced to pay a fine for an infraction, class C or class B misdemeanor, the court shall consider allowing the defendant to complete compensatory service in lieu of the payment of the fine or account receivable, exclusive of any victim restitution imposed.

(3) A defendant who intends to forfeit bail or who is ordered to pay a fine by the court for an infraction, class C or class B misdemeanor, shall be informed by the court of the opportunity to perform compensatory service in lieu of the fine or bail amount.

(4) The court shall credit timely completed compensatory service reported in accordance with Subsection (5) against the fine or bail amount at the rate of $10 per hour and shall allow the defendant a reasonable amount of time to complete the service.

(5) (a) The court shall provide the defendant with instructions that inform the organization:

(i) about the requirements in Subsection (5)(b); and

(ii) that making a written false statement to the court about the defendant's compensatory service is punishable as a class B misdemeanor pursuant to Section 76-8-504.

(b) The defendant shall report compensatory service hours to the court in a letter that:

(i) is on the organization's official letterhead and includes contact information for the organization's representative;

(ii) specifies the number of hours for which the defendant provided service;

(iii) contains a brief description of what the service involved; and

(iv) is signed by an authorized representative of the organization; or

(v) is in a form otherwise acceptable to the court.

(6) The court may refuse to accept compensatory service:

(a) completed prior to the date of sentencing;

(b) that has been submitted to another court for credit; or

(c) completed at an agency or organization or is a type of service that is specifically prohibited by the court.

(7) In addition to any other provision of this section, a court may order that the unpaid amount of the criminal accounts receivable, that is not the principal or interest amount owed for restitution, be reduced in the amount of the cost of any treatment or course if:

(a) the treatment or course was ordered by the court as part of the case;

(b) the defendant has completed the court's requirements related to the treatment or course;

(c) the defendant provides proof that the defendant completed the court's requirements and paid the cost of the treatment or course; and

(d) the court finds that payment of an unpaid amount of a criminal accounts receivable will impose manifest hardship on the defendant or the defendant's family.

Section 2. Section 77-32b-105 is amended to read:

77-32b-105. Petition for remittance or modification of a criminal accounts receivable before termination of a sentence.

(1) At any time before a defendant's sentence terminates, the defendant may petition the sentencing court to:

(a) correct an error in a criminal accounts receivable;

(b) modify the payment schedule for the defendant's criminal accounts receivable in accordance with this section if the defendant is not under the jurisdiction of the board; or

(c) remit, in whole or in part, an unpaid amount of the defendant's criminal accounts receivable that is not the principal or interest amount owed for restitution in accordance with this section.

(2) If a defendant files a petition under Subsection (1), and it appears to the satisfaction of the sentencing court that payment of an unpaid amount of a criminal accounts receivable will impose manifest hardship on the defendant, or the defendant's family, the court may:

(a) if the criminal accounts receivable is not delinquent or in default, remit, in whole or in part, the unpaid amount of the criminal accounts receivable that is not the principal or interest amount owed for restitution; or

(b) regardless of whether the criminal accounts receivable is delinquent or in default:

(i) require the defendant to pay the criminal accounts receivable, or a specified amount of the criminal accounts receivable, by a certain date;

(ii) modify the payment schedule for the criminal accounts receivable in accordance with the factors described in Subsection 77-32b-103(3)(b) if the defendant has demonstrated that the criminal accounts receivable will impose a manifest hardship due to changed circumstances or new evidence that justifies modifying the payment schedule; or

(iii) (A) allow the defendant to satisfy an unpaid amount of the criminal accounts receivable, that is not the principal or interest amount owed for restitution, with proof of compensatory service completed by the defendant at a rate of credit not less than $10 for each hour of compensatory service [.]; and

(B) allow the defendant to reduce the unpaid amount of the criminal accounts receivable, that is not the principal or interest amount owed for restitution, in the amount of the cost of any treatment or course if:

(I) the treatment or course was ordered by the court as part of the case;

(II) the defendant has completed the court's requirements related to the treatment or course; and

(III) the defendant provides proof that the defendant completed the court's requirements and paid the cost of the treatment or course.

(3) (a) If a defendant is under the jurisdiction of the board, the defendant may petition the board, at any time before the defendant's sentence terminates, to modify the payment schedule for the defendant's criminal accounts receivable.

(b) If a defendant files a petition under Subsection (3)(a), the board may modify the payment schedule for the criminal accounts receivable in accordance with the factors described in Subsection 77-32b-103(3)(b) if the defendant has demonstrated that the criminal accounts receivable will impose a manifest hardship to the defendant, or the defendant's family, due to changed circumstances or new evidence that justifies modifying the payment schedule.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 260
H. B. 391
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

EMERGENCY MEDICAL SERVICES REVISIONS

Chief Sponsor: Hoang Nguyen
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses emergency medical services.

Highlighted Provisions:

This bill:

- ► grants certain enforcement authority to the Bureau of Emergency Medical Services (bureau);
- ► requires the Trauma System and Emergency Medical Services Committee (committee) to make an annual recommendation to the bureau regarding the schedule of potential fines that the bureau should assess and collect;
- ► requires the bureau to consider the committee's annual recommendation, and to adopt, publish, and enforce a schedule of potential fines for violations by a licensed emergency medical service provider;
- ► creates the Emergency Medical Services Critical Needs Account;
- ► requires fines collected to be deposited into the Emergency Medical Services Critical Needs Account; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-2d-103, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
53-2d-105, as last amended by Laws of Utah 2024, Chapter 506
53-2d-207, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
53-2d-604, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
63G-4-102, as last amended by Laws of Utah 2024, Chapter 147
63J-1-602.1, as last amended by Laws of Utah 2024, Chapters 88, 501

ENACTS:

53-2d-109, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-2d-103 is amended to read:

53-2d-103. Bureau duties -- Data sharing.

(1) The bureau shall:

(a) coordinate the emergency medical services within the state;

(b) administer and enforce any programs and applicable rules created under this chapter;

(c) establish a voluntary task force representing a diversity of emergency medical service providers to advise the bureau and the committee on rules;

(d) establish an emergency medical service personnel peer review board to advise the bureau concerning discipline of emergency medical service personnel under this chapter; and

(e) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) license ambulance providers and paramedic providers;

(ii) permit ambulances, emergency medical response vehicles, and nonemergency secured behavioral health transport vehicles, including approving an emergency vehicle operator's course in accordance with Section 53-2d-404;

(iii) establish:

(A) the qualifications for membership of the peer review board created by this section;

(B) a process for placing restrictions on a license while an investigation is pending;

(C) the process for the investigation and recommendation by the peer review board; and

(D) the process for determining the status of a license while a peer review board investigation is pending;

(iv) establish application, submission, and procedural requirements for licenses, designations, and permits; and

(v) establish and implement the programs, plans, and responsibilities as specified in other sections of this chapter.

(2) (a) The bureau shall share data related to the bureau's duties with the Department of Health and Human Services.

(b) The Department of Health and Human Services shall share data related to the bureau's duties with the bureau.

(c) All data collected by the bureau under this chapter is subject to Title 26B, Chapter 8, Part 4, Health Statistics, including data privacy protections.

Section 2. Section 53-2d-105 is amended to read:

53-2d-105. Committee advisory duties.

The [~~committee~~]Trauma System and Emergency Medical Services Committee created under Section 53-2d-104 shall:

(1) advise the bureau chief regarding:

(a) licensure, certification, and reciprocity requirements under Section 53-2d-402;

(b) designation requirements under Section 53-2d-403;

(c) insurance requirements for ambulance providers;

(d) guidelines for requiring patient data under Section 53-2d-203;

(e) criteria for awarding grants under Section 53-2d-207;

(f) requirements for the coordination of emergency medical services and the medical supervision of emergency medical service providers under Section 53-2d-403;

(g) appropriate vendors to establish certification requirements for emergency medical dispatchers;

(h) the minimum level of service for 911 ambulance services provided under Section 11-48-103; and

(i) rules necessary to administer this chapter, which shall be made by the bureau chief in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(2) on or before June 1 of each year, deliver to the bureau a recommended fine schedule, setting forth the Trauma System and Emergency Medical Services Committee's recommendations, for each type of violation, regarding the range of potential fines that the bureau should adopt and impose under Subsection 53-2d-604(3); and

[~~(2)~~](3) promote the development of a statewide emergency medical services system under Section 53-2d-403.

Section 3. Section 53-2d-109 is enacted to read:

53-2d-109. Emergency Medical Services Critical Needs Account.

(1) There is created within the General Fund a restricted account known as the "Emergency Medical Services Critical Needs Account."

(2) The account shall be funded through deposits of:

(a) interest earned on the account;

(b) appropriations made by the Legislature; and

(c) contributions deposited into the account in accordance with Subsection 53-2d-207(3)(g).

(3) All funds in the account shall be nonlapsing.

(4) The bureau shall:

(a) calculate and allocate for use under Subsection (4)(b) an amount not greater than 25% of the fund balance, quarterly, as of January 1, April 1, July 1, and October 1 of each year; and

(b) use the allocated amount under Subsection (4)(a) to award and fund critical needs grants:

(i) in accordance with the criteria and procedures established by administrative rule; and

(ii) during the three-month period ending on the date of the next quarterly allocation under Subsection (4)(a).

Section 4. Section 53-2d-207 is amended to read:

53-2d-207. Emergency Medical Services Grant Program.

(1) Funds appropriated to the [~~department~~]bureau for the Emergency Medical Services Grant Program shall be used for improvement of delivery of emergency medical services and administrative costs as described in Subsection (2)(a).

(2) From the total amount of funds appropriated to the bureau under Subsection (1), the bureau shall use:

(a) an amount equal to 50% of the funds:

(i) to provide staff support; and

(ii) for other expenses incurred in:

(A) administration of grant funds; and

(B) other bureau administrative costs under this chapter; and

(b) an amount equal to 50% of the funds to provide emergency medical services grants in accordance with Subsection (3).

(3) (a) A recipient of a grant under this section shall actively provide emergency medical services within the state.

(b) (i) From the total amount of funds used to provide grants under Subsection (3), the bureau shall distribute an amount equal to 21% as per capita block grants for use specifically related to the provision of emergency medical services to nonprofit prehospital emergency medical services providers that are either licensed or designated and to emergency medical services that are the primary emergency medical services for a service area.

(ii) The bureau shall determine the grant amounts by prorating available funds on a per capita basis by county as described in bureau rule.

(c) Subject to Subsections (3)(d) through (f), the [~~committee~~]bureau shall use the remaining grant funds to award competitive grants to licensed emergency medical services providers that provide emergency medical services within counties of the third through sixth class, in accordance with rules made by the [~~committee~~]bureau.

(d) A grant awarded under Subsection (3)(c) shall be used:

(i) for the purchase of equipment, subject to Subsection (3)(e); or

(ii) for the recruitment, training, or retention of licensed emergency medical services providers.

(e) A recipient of a grant under Subsection (3)(c) may not use more than $100,000 in grant proceeds for the purchase of vehicles.

(f) A grant awarded for the purpose described in Subsection (3)(d)(ii) is ongoing for a period of up to three years.

(g) [~~(i)~~] If, after providing grants under Subsections (3)(c) through (f), any grant funds are unallocated at the end of the fiscal year, the [~~committee~~]bureau shall [~~distribute~~]deposit the unallocated grant funds [~~as per capita block grants as described in Subsection (3)(b)~~]into the Emergency Medical Services Critical Needs Account created under Section 53-2d-109.

[~~(ii) Any grant funds distributed as per capita grants under Subsection(3)(g)(i)are in addition to the amount described in Subsection(3)(b).~~]

Section 5. Section 53-2d-604 is amended to read:

53-2d-604. Discipline of designated and licensed providers -- Penalties.

(1) The bureau may, with respect to emergency medical service providers, as defined in Section 53-2d-101, excluding emergency medical service personnel:

(a) impose a fine; or

(b) refuse to issue a license or designation or a renewal, or revoke, suspend, restrict, or place on probation, an emergency medical service provider's license or designation, including the license or designation of a non-911 service provider, if the provider has:

[~~(a)~~](i) failed to abide by terms of the license or designation;

[~~(b)~~](ii) violated statute or rule;

[~~(c)~~](iii) failed to provide services at the level or in the exclusive geographic service area required by the license or designation;

[~~(d)~~](iv) failed to submit a renewal application in a timely fashion as required by department rule;

[~~(e)~~](v) failed to follow operational standards established by the committee; or

[~~(f)~~](vi) committed an act in the performance of a professional duty that endangered the public or constituted gross negligence.

(2) (a) [~~An~~]Except as provided in this chapter, an administrative action to impose a fine or penalty, or to revoke, suspend, restrict, or place a license or designation on probation, shall be done in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist order under Section 53-2d-607 to immediately suspend a license or designation pending an administrative proceeding to be held within 30 days if there is evidence to show that the provider or facility poses a clear, immediate, and unjustifiable threat or potential threat to the public health, safety, or welfare.

(3) (a) The bureau shall:

(i) consider the recommended schedule of potential fines received under Subsection 53-2d-105(2) from the Trauma System and Emergency Medical Services Committee; and

(ii) by rule on or before August 31 of each year, adopt and publish a schedule setting forth the range of potential fines that the bureau may impose for each type of violation for the annual period beginning September 1 of the current year and ending August 31 of the following year.

(b) In determining the appropriate fine from the published range of potential fines the bureau may impose for a violation, the bureau shall consider any relevant aggravating or mitigating circumstances.

(c) The bureau shall deposit any fines collected under this section into the Emergency Medical Services Critical Needs Account created under Section 53-2d-109.

Section 6. Section 63G-4-102 is amended to read:

63G-4-102. Scope and applicability of chapter.

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) state agency action that determines the legal rights, duties, privileges, immunities, or other legal interests of an identifiable person, including agency action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of the action.

(2) This chapter does not govern:

(a) the procedure for making agency rules, or judicial review of the procedure or rules;

(b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the issuance of a tax assessment, except that this chapter governs an agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of the action;

(c) state agency action relating to extradition, to the granting of a pardon or parole, a commutation or termination of a sentence, or to the rescission, termination, or revocation of parole or probation, to the discipline of, resolution of a grievance of, supervision of, confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction of the Office of Substance Use and Mental Health, or a person on probation or parole, or judicial review of the action;

(d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a student or teacher in a school or educational institution, or judicial review of the action;

(e) an application for employment and internal personnel action within an agency concerning its own employees, or judicial review of the action;

(f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that this chapter governs an agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency action relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of the action;

(h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, and Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action;

(i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for

benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency action relating to the distribution or award of a monetary grant to or between governmental units, or for research, development, or the arts, or judicial review of the action;

(k) the issuance of a notice of violation or order under [~~Title 53, Chapter 2d, Emergency Medical Services Act,~~]Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, Underground Storage Tank Act, [~~or~~]Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures;

(m) the initial determination of a person's eligibility for government or public assistance benefits;

(n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration;

(o) a license for use of state recreational facilities;

(p) state agency action under Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603;

(q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action;

(r) state agency action relating to the installation, maintenance, and repair of headgates, caps, values, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;

(s) the issuance and enforcement of an initial order under Section 73-2-25;

(t) (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and

(ii) an action taken by the Division of Securities under a hearing conducted under Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange of securities described in Subsection 61-1-11.1(1);

(u) state agency action relating to water well driller licenses, water well drilling permits, water well driller registration, or water well drilling construction standards, or judicial review of the action;

(v) the issuance of a determination and order under Title 34A, Chapter 5, Utah Antidiscrimination Act;

(w) state environmental studies and related decisions by the Department of Transportation approving state or locally funded projects, or judicial review of the action;

(x) the suspension of operations under Subsection 32B-1-304(3);

(y) the issuance of a determination of violation by the Governor's Office of Economic Opportunity under Section 11-41-104; or

(z) a challenge to an aspect of a distribution management plan under Section 73-33-202.

(3) This chapter does not affect a legal remedy otherwise available to:

(a) compel an agency to take action; or

(b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering a conference with parties and interested persons to:

(i) encourage settlement;

(ii) clarify the issues;

(iii) simplify the evidence;

(iv) facilitate discovery; or

(v) expedite the proceeding; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is governed by this chapter.

(6) This chapter does not preclude an agency from enacting a rule affecting or governing an adjudicative proceeding or from following the rule, if the rule is enacted according to the procedures outlined in Chapter 3, Utah Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.

(7) (a) If the attorney general issues a written determination that a provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of the provision to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening a time period prescribed in this chapter, except the time period established for judicial review.

(10) Notwithstanding any other provision of this section, this chapter does not apply to a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent expressly provided in Section 19-1-301.5.

(11) Subsection (2)(w), regarding action taken based on state environmental studies and policies of the Department of Transportation, applies to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order before May 14, 2019.

Section 7. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Native American Repatriation Restricted Account created in Section 9-9-407.

(2) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Title 9, Chapter 23, Pete

Suazo Utah Athletic Commission Act.

(3) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(4) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(5) The Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17.

(6) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(7) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(8) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26B-3-906.

(9) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26B-7-111.

(10) The Technology Development Restricted Account created in Section 31A-3-104.

(11) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(12) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(13) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(14) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(15) The State Mandated Insurer Payments Restricted Account created in Section 31A-30-118.

(16) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(17) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(18) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(19) The School Readiness Restricted Account created in Section 35A-15-203.

(20) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(21) The Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(22) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(23) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(24) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(25) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(26) The License Plate Restricted Account created by Section 41-1a-122.

(27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(28) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(29) The Response, Recovery, and Post-disaster Mitigation Restricted Account created in Section 53-2a-1302.

(30) The Emergency Medical Services Critical Needs Account created in Section 53-2d-109.

[~~(30)~~](31) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[~~(31)~~](32) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[~~(32)~~](33) The DNA Specimen Restricted Account created in Section 53-10-407.

[~~(33)~~](34) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[~~(34)~~](35) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[~~(35)~~](36) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[~~(36)~~](37) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[~~(37)~~](38) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[~~(38)~~](39) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~(39)~~](40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[~~(40)~~](41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[~~(41)~~](42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[~~(42)~~](43) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~(43)~~](44) The Relative Value Study Restricted Account created in Section 59-9-105.

[~~(44)~~](45) The Cigarette Tax Restricted Account created in Section 59-14-204.

[~~(45)~~](46) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[~~(46)~~](47) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[~~(47)~~](48) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

[~~(48)~~](49) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

[~~(49)~~](50) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(50)~~](51) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~(51)~~](52) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~(52)~~](53) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[~~(53)~~](54) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~(54)~~](55) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(55)~~](56) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(56)~~](57) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(57)~~](58) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(58)~~](59) The following funds or accounts created in Section 72-2-124:

(a) Transportation Investment Fund of 2005;

(b) Transit Transportation Investment Fund;

(c) Cottonwood Canyons Transportation Investment Fund;

(d) Active Transportation Investment Fund; and

(e) Commuter Rail Subaccount.

[~~(59)~~](60) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(60)~~](61) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(61)~~](62) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(62)~~](63) Award money under the State Asset Forfeiture Grant Program, as provided under Section 77-11b-403.

[~~(63)~~](64) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(64)~~](65) Fees for certificate of admission created under Section 78A-9-102.

[~~(65)~~](66) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(66)~~](67) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(67)~~](68) The Utah Geological Survey Restricted Account created in Section 79-3-403.

[~~(68)~~](69) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(69)~~](70) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 261
H. B. 394
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

STATUTORY INTENT AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies or removes provisions relating to legislative intent and statutory interpretation.

Highlighted Provisions:

This bill:

- ► removes certain statements of legislative intent and statutory interpretation;
- ► restates, modifies, replaces, or recharacterizes certain provisions that are stated in the form of legislative intent; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

7-17-1, as enacted by Laws of Utah 1979, Chapter 124
17-19a-206, as last amended by Laws of Utah 2023, Chapter 178
17B-2a-1002, as enacted by Laws of Utah 2007, Chapter 329
19-3-302, as last amended by Laws of Utah 2011, Chapter 297
19-3-318, as enacted by Laws of Utah 1999, Chapter 190
26B-9-202, as last amended by Laws of Utah 2024, Chapter 366
31A-22-305, as last amended by Laws of Utah 2024, Chapter 158
31A-22-305.3, as last amended by Laws of Utah 2024, Chapter 158
32B-14-101, as enacted by Laws of Utah 2010, Chapter 276
35A-8-301, as last amended by Laws of Utah 2021, Chapter 339
35A-8-310, as enacted by Laws of Utah 2021, Chapter 339 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 339
35A-8-1602, as last amended by Laws of Utah 2013, Chapter 400
35A-8-1703, as last amended by Laws of Utah 2019, Chapter 136
35A-8-1704, as last amended by Laws of Utah 2019, Chapter 136
53B-9-101, as last amended by Laws of Utah 2021, Chapter 203
53E-4-301.5, as last amended by Laws of Utah 2019, Chapter 186
54-5-1.5, as last amended by Laws of Utah 2023, Chapter 23
59-12-202, as last amended by Laws of Utah 1994, Chapter 259
59-12-701, as last amended by Laws of Utah 2020, Chapter 419
59-12-1401, as last amended by Laws of Utah 2004, Chapter 317
63A-3-104, as last amended by Laws of Utah 2016, Chapter 298
63N-1a-305, as renumbered and amended by Laws of Utah 2021, Chapter 282
64-9b-5, as last amended by Laws of Utah 1997, Chapter 158
64-13a-2, as enacted by Laws of Utah 1985, Chapter 201
72-5-201, as renumbered and amended by Laws of Utah 1998, Chapter 270
73-10-1, as last amended by Laws of Utah 2020, Chapter 354
77-37-1, as enacted by Laws of Utah 1987, Chapter 194
78B-6-102, as last amended by Laws of Utah 2019, Chapter 335

REPEALS:

10-1-101, as enacted by Laws of Utah 1977, Chapter 48
10-6-102, as enacted by Laws of Utah 1979, Chapter 26
26B-5-502, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-9-102, as renumbered and amended by Laws of Utah 2023, Chapter 305
34A-6-102, as renumbered and amended by Laws of Utah 1997, Chapter 375
35A-8-1701, as last amended by Laws of Utah 2019, Chapter 136
53B-8a-114, as enacted by Laws of Utah 1996, Second Special Session, Chapters 4, 4

63G-2-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
67-16-2, as last amended by Laws of Utah 1989, Chapter 147

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-17-1 is amended to read:
7-17-1. Effect of act.

[~~It is the intent of the Legislature that the~~]The provisions of this act govern the rights, duties and liabilities of borrowers and lenders with respect to reserve accounts established before and after the effective date of this act.

Section 2. Section 17-19a-206 is amended to read:
17-19a-206. Performance audit services.

(1) In a county of the first class, the county auditor shall conduct a performance audit:

(a) as the county auditor deems appropriate, taking into account:

(i) the standards of the profession;

(ii) the county auditor's professional judgment; and

(iii) the county auditor's assessment of risk and materiality; or

(b) as requested and engaged by the county legislative body or county executive, in accordance with the following:

(i) the county legislative body or county executive shall establish the goals and nature of the performance audit;

(ii) the county auditor shall conduct the audit in a manner consistent with the county auditor's professional judgment and statutory duties; and

(iii) the county legislative body or county executive and the county auditor shall agree upon the prioritization and timing of the performance audit, with terms that are consistent with the county auditor's statutory duties and available resources.

(2) (a) In a county of the second through sixth class, the county auditor shall conduct a performance audit under the direction and supervision of the county legislative body or county executive.

(b) The county legislative body or county executive shall establish the goals and nature of a performance audit conducted under Subsection (2)(a).

(3) A performance audit conducted under this section may include an assessment of the following:

(a) the honesty and integrity of financial and other affairs;

(b) the accuracy and reliability of financial and management reports;

(c) the adequacy of financial controls to safeguard public funds;

(d) the management and staff adherence to statute, ordinance, and policies [~~, and legislative intent~~];

(e) the economy, efficiency, and effectiveness of operational performance;

(f) the accomplishment of intended objectives; and

(g) whether management, financial, and information systems are adequate and effective.

Section 3. Section 17B-2a-1002 is amended to read:
17B-2a-1002. Purpose of water conservancy districts.

(1) It is the [~~intent of the Legislature and the~~]policy of the state to:

(a) provide for the conservation and development of the water and land resources of the state;

(b) provide for the greatest beneficial use of water within the state;

(c) control and make use of all unappropriated waters in the state and to apply those waters to direct and supplemental beneficial uses including domestic, manufacturing, irrigation, and power;

(d) obtain from water in the state the highest duty for domestic uses and irrigation of lands in the state within the terms of applicable interstate compacts and other law;

(e) cooperate with the United States and its agencies under federal reclamation or other laws and to construct, finance, operate, and maintain works in the state; and

(f) promote the greater prosperity and general welfare of the people of the state by encouraging the organization of water conservancy districts.

(2) The creation and operation of water conservancy districts are a public use to help accomplish the [~~intent and~~]policy stated in Subsection (1) and will:

(a) be essentially for the benefit and advantage of the people of the state;

(b) indirectly benefit all industries of the state;

(c) indirectly benefit the state by increasing the value of taxable property in the state;

(d) directly benefit municipalities by providing adequate supplies of water for domestic use;

(e) directly benefit lands to be irrigated or drained;

(f) directly benefit lands now under irrigation by stabilizing the flow of water in streams and by increasing flow and return flow of water to those streams; and

(g) promote the comfort, safety, and welfare of the people of the state.

Section 4. Section 19-3-302 is amended to read:
19-3-302. Legislative assertions and findings.

(1) (a) The state [~~enacts this part to prevent~~]:

(i) asserts a right and interest to prevent the placement of any high-level nuclear waste or greater than class C radioactive waste in Utah [~~. The state also~~]; and

(ii) recognizes that high-level nuclear waste or greater than class C radioactive waste may be placed within the exterior boundaries of the state, pursuant to a license from the federal government, or by the federal government itself, in violation of this state law.

(b) Due to this possibility, the state also [~~enacts provisions in this part to regulate~~]asserts an interest in regulating transportation, transfer, storage, decay in storage, treatment, and disposal of any high-level nuclear waste and greater than class C radioactive waste in Utah, thereby asserting and protecting the state's interests in environmental and economic resources consistent with 42 U.S.C.A. Sec.2011 et seq., Atomic Energy Act and 42 U.S.C.A. Sec.10101 et seq., Nuclear Waste Policy Act, should the federal government decide to authorize any entity to operate, or operate itself, in violation of this state law.

(2) [~~Neither~~]The state finds that the Atomic Energy Act nor the Nuclear Waste Policy Act provides for siting a large privately owned high-level nuclear waste transfer, storage, decay in storage, or treatment facility away from the vicinity of the reactors. The Atomic Energy Act and the Nuclear Waste Policy Act specifically define authorized storage and disposal programs and activities. The state in enacting this part is not preempted by federal law, since any proposed facilities that would be sited in Utah are not contemplated or authorized by federal law and, in any circumstance, this part is not contrary to or inconsistent with federal law or congressional intent.

(3) The state has environmental and economic interests which do not involve nuclear safety regulation, and which shall be considered and complied with in siting a high-level nuclear waste or greater than class C radioactive waste transfer, storage, decay in storage, treatment, or disposal facility and in transporting these wastes in the state.

(4) [~~An additional primary purpose of this part is to ensure protection of~~]The state also asserts an interest in protecting the state from nonradiological hazards associated with any waste transportation, transfer, storage, decay in storage, treatment, or disposal.

(5) The state recognizes the sovereign rights of Indian tribes within the state. However, any proposed transfer, storage, decay in storage, treatment, or disposal facility located on a reservation which directly affects and impacts state interests by creating off-reservation effects such as potential or actual degradation of soils and groundwater, potential or actual contamination of surface water, pollution of the ambient air, emergency planning costs, impacts on development, agriculture, and ranching, and increased transportation activity, is subject to state jurisdiction.

(6) There is no tradition of regulation by the Indian tribes in Utah of high-level nuclear waste or higher than class C radioactive waste. The state does have a long history of regulation of radioactive sources and natural resources and in the transfer, storage, treatment, and transportation of materials and wastes throughout the state. The state finds that its interests are even greater when nonmembers of an Indian tribe propose to locate a facility on tribal trust lands primarily to avoid state regulation and state authorities under federal law.

(7) (a) This part [~~is not intended to~~]does not modify existing state requirements for obtaining environmental approvals, permits, and licenses, including surface and groundwater permits and air quality permits, when the permits are necessary under state and federal law to construct and operate a high-level nuclear waste or greater than class C radioactive waste transfer, storage, decay in storage, treatment, or disposal facility.

(b) Any source of air pollution proposed to be located within the state, including sources located within the boundaries of an Indian reservation, which will potentially or actually have a direct and significant impact on ambient air within the state, is required to obtain an approval order and permit from the state under Section 19-2-108.

(c) Any facility which will potentially or actually have a significant impact on the state's surface or groundwater resources is required to obtain a permit under Section 19-5-107 even if located within the boundaries of an Indian reservation.

(8) The state finds that the transportation, transfer, storage, decay in storage, treatment, and disposal of high-level nuclear waste and greater than class C radioactive waste within the state is an ultra-hazardous activity which carries with it the risk that any release of waste may result in enormous economic and human injury.

Section 5. Section 19-3-318 is amended to read:

19-3-318. No limitation of liability regarding businesses involved in high level radioactive waste.

(1) As used in this section:

(a) "Controlling interest" means:

(i) the direct or indirect possession of the power to direct or cause the direction of the management and policies of an organization, whether through the ownership of voting interests, by contract, or otherwise; or

(ii) the direct or indirect possession of a 10% or greater equity interest in an organization.

(b) "Equity interest holder" means a shareholder, member, partner, limited partner, trust beneficiary, or other person whose interest in an organization:

(i) is in the nature of an ownership interest;

(ii) entitles the person to participate in the profits and losses of the organization; or

(iii) is otherwise of a type generally considered to be an equity interest.

(c) "Organization" means a corporation, limited liability company, partnership, limited partnership, limited liability partnership, joint venture, consortium, association, trust, or other entity formed to undertake an enterprise or activity, whether or not for profit.

(d) "Parent organization" means an organization with a controlling interest in another organization.

(e) (i) "Subject activity" means:

(A) to arrange for or engage in the transportation or transfer of high level nuclear waste or greater than class C radioactive waste to or from a storage facility in the state; or

(B) to arrange for or engage in the operation or maintenance of a storage facility or a transfer facility for that waste.

(ii) "Subject activity" does not include the transportation of high level nuclear waste or greater than class C radioactive waste by a class I railroad that was doing business in the state as a common or contract carrier by rail prior to January 1, 1999.

(f) "Subsidiary organization" means an organization in which a parent organization has a controlling interest.

(2) (a) The Legislature enacts this section because of the state's compelling interest in the transportation, transfer, and storage of high level nuclear waste and greater than class C radioactive waste in this state. Legislative [~~intent~~]findings and assertions supporting this section [~~is~~]are further described in Section 19-3-302.

(b) [~~Limited~~]The state finds that:

(i) liability for equity interest holders is a privilege, not a right, under the law and is meant to benefit the state and its citizens [~~. An~~];

(ii) an organization engaging in subject activities has significant potential to affect the health, welfare, or best interests of the state and should not have limited liability for its equity interest holders [~~. To shield~~]; and

(iii) shielding equity interest holders from the debts and obligations of an organization engaged in subject activities would have the

effect of attracting capital to enterprises whose goals are contrary to the state's interests.

(c) This section [~~has the intent of revoking~~]revokes any and all statutory and common law grants of limited liability for an equity interest holder of an organization that chooses to engage in a subject activity in this state.

[~~(d) This section shall be interpreted liberally to allow the greatest possible lawful recourse against an equity interest holder of an organization engaged in a subject activity in this state for the debts and liabilities of that organization.~~]

[~~(c)~~](d) This section does not reduce or affect any liability limitation otherwise granted to an organization by Utah law if that organization is not engaged in a subject activity in this state.

(3) Notwithstanding any law to the contrary, if a domestic or foreign organization engages in a subject activity in this state, no equity interest holder of that organization enjoys any shield or limitation of liability for the acts, omissions, debts, and obligations of the organization incurred in this state. Each equity interest holder of the organization is strictly and jointly and severally liable for all these obligations.

(4) Notwithstanding any law to the contrary, each officer and director of an organization engaged in a subject activity in this state is individually liable for the acts, omissions, debts, and obligations of the organization incurred in this state.

(5) (a) Notwithstanding any law to the contrary, if a subsidiary organization is engaged in a subject activity in this state, [~~then~~]each parent organization of the subsidiary is also considered to be engaged in a subject activity in this state. Each parent organization's equity interest holders and officers and directors are subject to this section to the same degree as the subsidiary's equity interest holders and officers and directors.

(b) Subsection (5)(a) applies regardless of the number of parent organizations through which the controlling interest passes in the relationship between the subsidiary and the ultimate parent organization that controls the subsidiary.

(6) This section does not excuse or modify the requirements imposed upon an applicant for a license by Subsection 19-3-306(9).

Section 6. Section 26B-9-202 is amended to read:

26B-9-202. Common-law and statutory remedies augmented by act.

(1) The state of Utah, exercising its police and sovereign power, declares that the common-law and statutory remedies pertaining to family desertion and nonsupport of children shall be augmented by this part, which is directed to the real and personal property resources of the responsible parents.

(2) [~~In order to render resources more immediately available to meet the needs of children, it is the legislative intent that the~~]The remedies provided in this part are in addition to, and not in lieu of, existing law.

[~~(3) It is declared to be the public policy of this state that this part be liberally construed and administered to the end that children shall be maintained from the resources of responsible parents, thereby relieving or avoiding, at least in part, the burden often borne by the general citizenry through public assistance programs.~~]

Section 7. Section 31A-22-305 is amended to read:

31A-22-305. Uninsured motorist coverage.

(1) As used in this section, "covered persons" includes:

(a) the named insured;

(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;

(c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

(d) any person occupying or using a motor vehicle:

(i) referred to in the policy; or

(ii) owned by a self-insured; and

(e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii) (A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4) (a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies [~~legislative intent~~]the application of law and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies [~~legislative intent~~]the application of law.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b) (i) All persons, including governmental entities, that are engaged in the business of, or that accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance, uninsured motorist coverage of at least $25,000 per person and $500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

(i) in order to avoid double recovery, does not cover any benefit under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act, provided by the workers' compensation insurance carrier, uninsured employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702, except that:

(A) the covered person is credited an amount described in Subsection 34A-2-106(5); and

(B) the benefits described in this Subsection (5)(c)(i) do not need to be paid before an uninsured motorist claim may be pursued and resolved;

(ii) may not be subrogated by the workers' compensation insurance carrier, uninsured employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by any benefits provided by the workers' compensation insurance carrier, uninsured employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years old who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" means the same as that term is defined in Section 41-1a-102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the covered person's testimony.

(7) (a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a) through (c) shall be secondary coverage.

(8) (a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c) (i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person's resident parent; or

(III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage bears to the total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9) (a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the uninsured motorist carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (9).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(l) (i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

(m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(m) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means; and

(ii) within 20 days after service of the arbitration award, a party:

(A) files a complaint requesting a trial de novo in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim shall proceed through litigation in accordance with the Utah Rules of Civil Procedure and Utah Rules of Evidence.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, a party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(r) may not exceed $2,500 unless Subsection (10)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10) (a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection (10)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a) through (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed $5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) (A) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed.

(B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and

Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter

300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(11) (a) A person shall commence an action on a written policy or contract for uninsured motorist coverage within four years after the inception of loss.

(b) Subsection (11)(a) shall apply to all claims that have not been time barred by Subsection 31A-21-313(1)(a) as of May 14, 2019.

Section 8. Section 31A-22-305.3 is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" means the same as that term is defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover damages from an owner or operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3) (a) For purposes of this Subsection (3), "new policy" means:

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the

insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that "underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance"; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the liability coverage until the insured requests, in writing, a change of underinsured motorist coverage from that liability insurer.

(d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c) clarifies [~~legislative intent~~]the application of law and does not enlarge, eliminate, or destroy vested rights.

(e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(a)(ii) does not constitute a new policy.

(g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) $10,000 for one person in any one accident; and

(ii) at least $20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(b) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k) (i) The named insured's underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may recover underinsured motorist benefits under

any one other policy in which they are described as a covered person.

(ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

(iii) (A) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

(iv) A covered person's recovery under any available policies may not exceed the full amount of damages.

(v) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.

(vi) The primary and the secondary coverage may not be set off against the other.

(vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

(viii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

(ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

(i) in order to avoid double recovery, does not cover any benefit under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act, provided by the workers' compensation insurance carrier, uninsured employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702, except that:

(A) the covered person is credited an amount described in Subsection 34A-2-106(5); and

(B) the benefits described in this Subsection (4)(c)(i) do not need to be paid before an underinsured motorist claim may be pursued and resolved.

(ii) may not be subrogated by a workers' compensation insurance carrier, uninsured employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by benefits provided by the workers' compensation insurance carrier, uninsured employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person younger than 18 years old who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for underinsured motorist coverage shall be commenced within four years after the inception of loss.

(b) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the settlement check representing the last liability policy payment.

(6) An underinsured motorist insurer does not have a right of reimbursement against a person liable for the damages resulting from an injury-causing occurrence if the person's liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8) (a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (8).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

(l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(m) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(m) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means; or

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the a court with jurisdiction under Title 78A, Judiciary and Judicial Administration; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall proceed through litigation in accordance with the Utah Rules of Civil Procedure and Utah Rules of Evidence.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(r) may not exceed $2,500 unless Subsection (9)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9) (a) Within 30 days after a covered person elects to submit a claim for underinsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a) through (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed $5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter

300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

Section 9. Section 32B-14-101 is amended to read:

32B-14-101. Legislative policy.

[~~(1) This chapter is known as the "Utah Beer Industry Distribution Act."~~]

[~~(2) (a)~~] It is the policy of the Legislature to regulate and control the importation, sale, and distribution of beer within the state in the exercise of its powers under the Twenty-first Amendment to the Constitution of the United States and pursuant to the Utah Constitution.

[~~(b) In furtherance of the policy described in Subsection (2)(a), this chapter is enacted to:~~]

[~~(i) promote good faith and fair dealing in the business relationships between suppliers, wholesalers, and retailers of beer; and~~]

[~~(ii) provide for the establishment and maintenance of an orderly system for the distribution of beer in accordance with the laws of the state regulating the sale and distribution of beer to the public.~~]

Section 10. Section 35A-8-301 is amended to read:

35A-8-301. Legislative policy.

(1) [~~It is the intent of the Legislature to make available funds~~]Funds received by the state from federal mineral lease revenues under Section 59-21-2, bonus payments on federal oil shale lease tracts U-A and U-B, and all other bonus payments on federal mineral leases are to be used for planning, construction and maintenance of public facilities, and provision of public service, subject to the limitations provided for in Section 35 of the Mineral Leasing Act of 1920 (41 Stat. 450, 30 U.S.C. Sec. 191).

(2) To the extent allowed under the Mineral Leasing Act, any ambiguity as to whether a particular use of the lease revenue and bonus payments described in Subsection (1) is a permissible use under this part shall be resolved in favor of upholding the use.

(3) [~~The purpose of this part is to maximize the long-term benefit of funds derived from these lease revenues and bonus payments by fostering funding mechanisms which will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of this state, with priority~~]Priority for the use of the funds described in Subsection (1) shall be given to those communities designated as impacted by the development of natural resources covered by the Mineral Leasing Act.

(4) The policy of this state is to promote cooperation and coordination between the state and the state's agencies and political subdivisions with individuals, firms, and business organizations engaged in the development of the natural resources of this state.

Section 11. Section 35A-8-310 is amended to read:

35A-8-310. Application -- Retroactivity.

(1) The provisions of Laws of Utah 2021, Chapter 339, apply to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order.

(2) The Legislature finds that the provisions of Laws of Utah 2021, Chapter 339:

(a) do not enlarge, eliminate, or destroy vested rights; and

(b) clarify [~~legislative intent~~]application of the law.

Section 12. Section 35A-8-1602 is amended to read:

35A-8-1602. Uintah Basin Revitalization Fund -- Deposits and contents.

(1) In order to maximize the long-term benefit of severance taxes derived from lands held in trust by the United States for the Tribe and [~~its~~]the Tribe's members by fostering funding mechanisms that will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of the Uintah Basin, and in order to promote cooperation and coordination between the state, its political subdivisions, Indian tribes, and individuals, firms, and business organizations engaged in the development of oil and

gas interests held in trust for the Tribe and [~~its~~]the Tribe's members, there is created an expendable special revenue fund entitled the "Uintah Basin Revitalization Fund."

(2) The fund consists of all money deposited to the Revitalization Fund under this part and Section 59-5-116.

(3) (a) The Revitalization Fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

Section 13. Section 35A-8-1703 is amended to read:

35A-8-1703. Purpose.

[~~(1)~~] The purpose of this part is to:

[~~(a)~~](1) maximize the long-term benefit of state severance taxes derived from lands in Utah held in trust by the United States for the Navajo Nation and its members by fostering funding mechanisms that will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of San Juan County; and

[~~(b)~~](2) promote cooperation and coordination between the state, its political subdivisions, Indian tribes, and individuals, firms, and business organizations engaged in the development of oil and gas interests in Utah held in trust by the United States for the Navajo Nation and its members.

[~~(2) Notwithstanding Subsection (1), the fund:~~]

[~~(a) consists of state severance tax money to be spent at the discretion of the state; and~~]

[~~(b) does not constitute a trust fund.~~]

Section 14. Section 35A-8-1704 is amended to read:

35A-8-1704. Navajo Revitalization Fund.

(1) (a) There is created an expendable special revenue fund called the "Navajo Revitalization Fund."

(b) The revitalization fund shall consist of:

(i) money deposited to the revitalization fund under this part;

(ii) money deposited to the revitalization fund under Section 59-5-119; and

(iii) any loan repayment or interest on a loan issued under this part.

(2) (a) The revitalization fund shall earn interest.

(b) The interest earned on revitalization fund money shall be deposited into the fund.

(3) Beginning for fiscal year 2010-11, the division may use revitalization fund money for the administration of the revitalization fund, but this amount may not exceed 4% of the annual receipts to the revitalization fund.

(4) The fund:

(a) consists of state severance tax money to be spent at the discretion of the state; and

(b) does not constitute a trust fund.

Section 15. Section 53B-9-101 is amended to read:

53B-9-101. Legislative findings on higher education for senior citizens and veterans -- Tuition exemption -- Quarterly registration fee.

(1) The Legislature finds that substantial benefits would accrue to the state, as well as those directly involved, through making higher education more accessible to senior citizens and veterans who generally find themselves with more time for learning but with less funds for such purposes.

(2) [~~It is intended that an~~]An institution of higher education shall allow Utah residents who have reached 62 years [~~of age~~]old or are veterans as defined in Section 68-3-12.5 to enroll at the institution, in classes for which they may be qualified, on the basis of surplus space in regularly scheduled classes and in accordance with this chapter and implementing rules. []These persons are exempt from tuition and other charges, except for a quarterly registration fee established by the board.

Section 16. Section 53E-4-301.5 is amended to read:

53E-4-301.5. Statewide assessment.

[~~(1) In enacting this part, the Legislature intends to determine the effectiveness of school districts and schools in assisting students to master the fundamental educational skills toward which instruction is directed.~~]

[~~(2)~~] The state board shall ensure that a statewide assessment provides the public, the Legislature, the state board, school districts, public schools, and school teachers with:

[~~(a)~~](1) evaluative information regarding the various levels of proficiency achieved by students, so that they may have an additional tool to plan, measure, and evaluate the effectiveness of programs in the public schools; and

[~~(b)~~](2) information to recognize excellence and to identify the need for additional resources or to reallocate educational resources in a manner to ensure educational opportunities for all students and to improve existing programs.

Section 17. Section 54-5-1.5 is amended to read:

54-5-1.5. Special regulation fee -- Supplemental Levy Committee -- Supplemental fee -- Fee for electrical cooperatives.

(1) Legislative findings:

(a) A special fee to defray the cost of regulation is imposed upon all public utilities subject to the jurisdiction of the Public Service Commission.

(b) The special fee is in addition to any charge now assessed, levied, or required by law.

(2) (a) The executive director of the Department of Commerce shall determine the special fee for the Department of Commerce.

(b) The chair of the Public Service Commission shall determine the special fee for the Public Service Commission.

(c) The fee shall be assessed as a uniform percentage of the gross operating revenue for the preceding calendar year derived from each public utility's business and operations during that period within this state, excluding income derived from interstate business. Gross operating revenue shall not include income to a wholesale electric cooperative derived from the sale of power to a rural electric cooperative which resells that power within the state.

(3) (a) The executive director of the Department of Commerce shall notify each public utility subject to the provisions of this chapter of the amount of the fee.

(b) The fee is due and payable on or before July 1 of each year.

(4) (a) There is created a restricted account within the General Fund known as the Public Utility Regulatory Restricted Account.

(b) Notwithstanding Subsection 13-1-2(3)(c), the Department of Commerce shall deposit a fee assessed under this section into the Public Utility Regulatory Restricted Account.

(c) Within appropriations by the Legislature:

(i) the Department of Commerce may use the funds in the Public Utility Regulatory Restricted Account to administer:

(A) the Division of Public Utilities; and

(B) the Office of Consumer Services;

(ii) the Public Service Commission may use the funds in the Public Utility Regulatory Restricted Account to administer the Public Service Commission; and

(iii) the Division of Public Utilities may use the funds in the Public Utility Regulatory Restricted Account to administer the Utility Bill Assistance Program created under Section 54-4-42.

(d) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any balance in the Public Utility Regulatory Restricted Account in excess of $3,000,000.

(5) (a) [~~The Legislature intends that the public~~]Subject to Subsection (5)(b), public utilities shall provide [~~all of the~~]funds for the administration, support, and maintenance of:

(i) the Public Service Commission;

(ii) state agencies within the Department of Commerce involved in the regulation of public utilities; and

(iii) expenditures by the attorney general for utility regulation.

(b) [~~Notwithstanding Subsection (5)(a), the~~]The fee imposed by Subsection (1)[~~shall~~]may not exceed the greater of:

(i) (A) for a public utility other than an electrical cooperative, .3% of the public utility's gross operating revenues for the preceding calendar year; or

(B) for an electrical cooperative, .15% of the electrical cooperative's gross operating revenues for the preceding calendar year; or

(ii) $50.

(6) (a) There is created a Supplemental Levy Committee to levy additional assessments on public utilities when unanticipated costs of regulation occur in any fiscal year.

(b) The Supplemental Levy Committee shall consist of:

(i) one member selected by the executive director of the Department of Commerce;

(ii) one member selected by the chairman of the Public Service Commission;

(iii) two members selected by the three public utilities that paid the largest percent of the current regulatory fee; and

(iv) one member selected by the four appointed members.

(c) (i) The members of the Supplemental Levy Committee shall be selected within 10 working days after the executive director of the Department of Commerce gives written notice to the Public Service Commission and the public utilities that a supplemental levy committee is needed.

(ii) If the members of the Supplemental Levy Committee have not been appointed within the time prescribed, the governor shall appoint the members of the Supplemental Levy Committee.

(d) (i) During any state fiscal year, the Supplemental Levy Committee, by a majority vote and subject to audit by the state auditor, may impose a supplemental fee on the regulated utilities for the purpose of defraying any increased cost of regulation.

(ii) The supplemental fee imposed upon the utilities shall equal a percentage of their gross operating revenue for the preceding calendar year.

(iii) The aggregate of all fees, including any supplemental fees assessed, shall not exceed .3% of the gross operating revenue of the utilities assessed for the preceding calendar year.

(iv) Payment of the supplemental fee is due within 30 days after receipt of the assessment.

(v) The utility may, within 10 days after receipt of assessment, request a hearing before the Public Service Commission if it questions the need for, or the reasonableness of, the supplemental fee.

(e) (i) Any supplemental fee collected to defray the cost of regulation shall be transferred to the state treasurer as a departmental collection.

(ii) Supplemental fees are excess collections, credited according to the procedures of Section 63J-1-105.

(iii) Charges billed to the Department of Commerce by any other state department, institution, or agency for services rendered in connection with regulation of a utility shall be credited by the state treasurer from the special or supplemental fees collected to the appropriations account of the entity providing that service according to the procedures provided in Title 63J, Chapter 1, Budgetary Procedures Act.

(7) (a) For purposes of this section, "electrical cooperative" means:

(i) a distribution electrical cooperative; or

(ii) a wholesale electrical cooperative.

(b) Subject to Subsection (7)(c), if the regulation of one or more electrical cooperatives causes unanticipated costs of regulation in a fiscal year, the commission may impose a supplemental fee on the one or more electrical cooperatives in this state responsible for the increased cost of regulation.

(c) The aggregate of all fees imposed under this section on an electrical cooperative in a calendar year shall not exceed the greater of:

(i) .3% of the electrical cooperative's gross operating revenues for the preceding calendar year; or

(ii) $50.

Section 18. Section 59-12-202 is amended to read:

59-12-202. Legislative findings -- Commission authority.

[~~(1) It is the purpose of this part to provide the counties, cities, and towns of the state with an added source of revenue and to thereby assist them to meet their growing financial needs. It is the legislative intent that this added revenue be used to the greatest possible extent by the counties, cities, and towns to finance their capital outlay requirements and to service their bonded indebtedness.~~]

[~~(2)~~](1) [~~It is the purpose of this part to provide an orderly and efficient system of administering, operating, and enforcing the state and local option sales and use tax.~~]The Legislature finds that:

(a) intervention by counties, cities, and towns into the administration, operation, and enforcement of the local sales and use tax, particularly in the hearing and appeal process, increases the cost of administering both the local option sales and use tax and the state sales and use tax proceedings, and substantially delays the receipt of revenues for counties, cities, towns, and the state [~~. The Legislature finds that~~]; and

(b) the interests and concerns of counties, cities, and towns can be adequately protected through the commission's enforcement efforts. [~~It is therefore the Legislature's intent to grant the commission~~]

(2) The commission has exclusive authority to:

(a) administer, operate, and enforce the local option sales and use tax, without interference from counties, cities, [~~and~~]or towns [~~and to~~]; and

(b) allow intervention by [~~any~~]a county, city, or town only in the limited circumstances where a particular hearing or appeal may result in a significant lessening of the revenues of [~~any~~]a single county, city, or town.

Section 19. Section 59-12-701 is amended to read:

59-12-701. Legislative findings.

The Utah Legislature finds and declares that:

(1) [~~Recreational~~]recreational and zoological facilities and the botanical, cultural, and zoological organizations of the state of Utah enhance the quality of life of Utah's citizens, as well as the continuing growth of Utah's tourist, convention, and recreational industries [~~.~~];

(2) Utah was the first state in this nation to create and financially support a state arts agency and remains committed to the nurturing and growth of cultural pursuits [~~.~~];

(3) Utah has provided, and intends to continue, the financial support of recreational and zoological facilities and the botanical, cultural, and zoological organizations of this state [~~.~~];

(4) [~~The~~]the state's support of its recreational and zoological facilities and its botanical, cultural, and zoological organizations has not been sufficient to assure the continuing existence and growth of these facilities and organizations, and the Legislature believes that local government may wish to play a greater role in the support of these organizations [~~.~~]; and

[~~(5) Without jeopardizing the state's ongoing support of its recreational and zoological facilities and its botanical, cultural, and zoological organizations, the Legislature intends to permit the counties of the state of Utah to enhance public financial support of Utah's publicly owned or operated recreational and zoological facilities, and botanical, cultural, and zoological organizations owned or operated by institutions or private nonprofit organizations, through the imposition of a county sales and use tax.~~]

[~~(6)~~](5) [~~In~~]in a county of the first class, it is necessary and appropriate to allocate a tax imposed under this part in a manner that provides adequate predictable support to a fixed number of botanical and cultural organizations and that gives the county legislative body discretion to allocate the tax revenues to other botanical and cultural organizations.

Section 20. Section 59-12-1401 is amended to read:

59-12-1401. Purpose statement -- Definitions -- Scope of part.

(1) [~~The purpose of~~]In relation to the tax imposed by this part [~~is the same for cities and towns as is stated in Section 59-12-701 for counties~~], the legislative findings described in Section 59-12-701 apply similarly to cities and towns as the findings apply to counties.

(2) The definitions of Section 59-12-702 are incorporated into this part.

(3) This part applies only to a city or town that is located within a county of the second, third, fourth, fifth, or sixth class as designated in Section 17-50-501.

Section 21. Section 63A-3-104 is amended to read:

63A-3-104. Appropriation for contingency purposes -- Procedure for allotment.

(1) (a) The Legislature shall determine the amount to be appropriated for contingency purposes, as well as the limits on the amount of any one allotment or total allotments to any one agency.

(b) In advance of making [~~any such~~]an allotment described in Subsection (1), the governor shall notify the Legislature through the Office of the Legislative Fiscal Analyst, of [~~his or her intent to do so~~]the governor's intent to make an allotment, of the amount to be allotted, and the justification for the allotment.

(2) [~~It is the intent of the Legislature that such transfers~~]Allotments described in this section:

(a) shall be made only for unforeseeable emergencies [~~, and allotments shall~~]; and

(b) may not be made to correct poor budgetary practices or for purposes having no existing appropriation or authorization.

Section 22. Section 63N-1a-305 is amended to read:

63N-1a-305. Incentive review process.

The [~~Legislature intends that the office will~~]office shall develop an incentives review process under the direction of the speaker of the House and the president of the Senate.

Section 23. Section 64-9b-5 is amended to read:

64-9b-5. Use of earnings from jobs.

[~~It is the legislative intent, and inmates are encouraged,~~]Inmates are encouraged to use their personal earnings from jobs created under this chapter for the following:

(1) for restitution to the victims of the inmate's criminal offense, where applicable;

(2) for support of the inmate's family, where applicable;

(3) for the inmate's personal use; and

(4) for reimbursement of security, operational, and other costs incurred by the Utah Correctional Industries Division of the department in administering these projects.

Section 24. Section 64-13a-2 is amended to read:

64-13a-2. Division duties.

[~~It is the intent of the Legislature in this chapter to:~~]

[~~(1) create a~~]The Division of Correctional Industries [~~which~~]:

[~~(a)~~](1) is a self-supporting organization;

[~~(b)~~](2) is profit-oriented;

[~~(c)~~](3) generates revenue for its operations and capital investment; [~~and~~]

[~~(d)~~](4) assumes responsibility for training offenders in general work habits, work skills, and specific training skills that increase their employment prospects when released;

[~~(2)~~](5) shall provide an environment for the operation of correctional industries that closely resembles the environment for the business operations of a private corporate entity; and

[~~(3)~~](6) [~~make the Division of Correctional Industries~~]is responsible for and accountable to the Legislature and to the governor for correctional industries programs in this state.

Section 25. Section 72-5-201 is amended to read:

72-5-201. Legislative finding -- Ensuring access.

(1) (a) The Legislature [~~recognizes~~]finds that highways provide tangible benefits to private and public lands of the state by providing access, allowing development, and facilitating production of income.

(b) Many of those highways traverse state lands, including lands held by the state in trust for the school children and public institutions of the state.

(c) Many of the existing highways have been previously established without an official grant of an easement or right of entry from this state, yet these highways often are the only access to private and public lands of the state.

(2) The [~~Legislature intends to establish a means for ensuring~~]state shall ensure continued access to the private and public lands of the state for the good of the people, while fulfilling its fiduciary responsibilities toward the schoolchildren by protecting their trust holdings against loss.

Section 26. Section 73-10-1 is amended to read:

73-10-1. State's policy -- Creation of revolving fund -- General construction of chapter.

(1) (a) The Legislature restates the following, previously-declared policies of the state of Utah [~~has heretofore declared~~]:

(i) [~~by Section 73-1-1, Utah Code Annotated 1953, that,~~]"All waters in this state, whether above or under the ground, are hereby declared to be the property of the public, subject to all existing rights to the use thereof";

(ii) [~~by Section 73-1-3, Utah Code Annotated 1953, that~~]"Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state"; and

(iii) [~~by Section 17B-2a-1002 that the policy of the state is,~~]to "obtain from water in the state the highest duty for domestic uses and irrigation of lands in the state within the terms of applicable interstate compacts and other law."

(b) The Legislature by this chapter reiterates and reaffirms [~~such~~]the declaration of the public policy of the state of Utah, described in Subsection (1)(a).

(2) It is further declared to be the policy of this chapter and of the state of Utah, and the [~~legislature~~]Legislature recognizes:

(a) that by construction of projects based upon sound engineering the waters within the various counties of the state of Utah can be saved from waste and increased in efficiency of beneficial use by 25% to 100%;

(b) that because of well-known conditions such as low prices and lack of market for farm products, particularly the inefficiency of water supply because of lack of late season water and consequent lack of financial strength, water users in small communities have been unable to build projects that would provide full conservation and beneficial use for the limited water supply in this semiarid land;

(c) that water, as the property of the public, should be so managed by the public that it can be put to the highest use for public benefit;

(d) that Congress of the United States has provided for the building of larger water conservation projects throughout the semiarid states, payment of the capital costs without interest to be made by the water users upon the basis of a fair portion of crop returns;

(e) that the Congress of the United States has established in the department of interior and in the department of agriculture, various agencies having authority to develop, protect, and aid in putting to beneficial use the land and water resources of the United States and to cooperate with state agencies having similar authority;

(f) that the interests of the state of Utah require that means be provided for close cooperation between all state and federal agencies to the end that the underground waters and waters of the small streams of the state, and the lands thereunder, can be made to yield abundantly and increase the income and well-being of the citizens of the state; and

(g) that it appears to be sound public policy for the state of Utah to provide a revolving fund, to be increased at each legislative session, to the end that every mountain stream and every water resource within the state can be made to render the highest beneficial service, such fund to be so administered that no project will be built except upon expert engineering, financial, and geological approval.

[~~(3) All of the provisions of this chapter shall be liberally construed so as to carry out and put into force and effect the purposes and policies as hereinabove set forth.~~]

Section 27. Section 77-37-1 is amended to read:

77-37-1. Legislative findings.

(1) (a) The Legislature recognizes the duty of victims and witnesses of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, the essential nature of citizen cooperation to state and local law enforcement efforts, and the general effectiveness and well-being of the criminal justice system of this state. [~~In this chapter, the Legislature declares its intent to~~]

(b) The state shall ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity, and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law in a manner no less vigorous than protections afforded criminal defendants.

(2) (a) The Legislature finds it is necessary to provide child victims and child witnesses with additional consideration and different treatment than that usually afforded to adults.

(b) The treatment should ensure that children's participation in the criminal justice process be conducted in the most effective and least traumatic, intrusive, or intimidating manner.

Section 28. Section 78B-6-102 is amended to read:

78B-6-102. Legislative findings -- Best interest of child -- Interests of each party.

(1) [~~It is the intent and desire of the Legislature that in~~]In every adoption, the best interest of the child should govern and be of foremost concern in [~~the~~]a court's determination.

(2) The court shall make a specific finding regarding the best interest of the child, taking into consideration information provided to the court pursuant to the requirements of this chapter relating to the health, safety, and welfare of the child and the moral climate of the potential adoptive placement.

(3) The Legislature finds that the rights and interests of all parties affected by an adoption proceeding must be considered and balanced in determining what constitutional protections and processes are necessary and appropriate.

(4) The Legislature specifically finds that it is not in a child's best interest to be adopted by a person or persons who are cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state. Nothing in this section limits or prohibits the court's placement of a child with a single adult who is not cohabiting or a person who is a relative of the child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(5) The Legislature also finds that:

(a) the state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children;

(b) an unmarried mother, faced with the responsibility of making crucial decisions about the future of a newborn child, is entitled to privacy, and has the right to make timely and appropriate decisions regarding her future and the future of the child, and is entitled to assurance regarding the permanence of an adoptive placement;

(c) adoptive children have a right to permanence and stability in adoptive placements;

(d) adoptive parents have a constitutionally protected liberty and privacy interest in retaining custody of an adopted child;

(e) an unmarried biological father has an inchoate interest that acquires constitutional protection only when he demonstrates a timely and full commitment to the responsibilities of parenthood, both during pregnancy and upon the child's birth; and

(f) the state has a compelling interest in requiring unmarried biological fathers to demonstrate commitment by providing appropriate medical care and financial support and by establishing legal paternity, in accordance with the requirements of this chapter.

(6) (a) In enacting this chapter, the Legislature has prescribed the conditions for determining whether an unmarried biological father's action is sufficiently prompt and substantial to require constitutional protection.

(b) If an unmarried biological father fails to grasp the opportunities to establish a relationship with his child that are available to him, his biological parental interest may be lost entirely, or greatly diminished in constitutional significance by his failure to timely exercise it, or by his failure to strictly comply with the available legal steps to substantiate it.

(c) A certain degree of finality is necessary in order to facilitate the state's compelling interest. The Legislature finds that the interests of the state, the mother, the child, and the adoptive parents described in this section outweigh the interest of an unmarried biological father who does not timely grasp the opportunity to establish and demonstrate a relationship with his child in accordance with the requirements of this chapter.

(d) The Legislature finds no practical way to remove all risk of fraud or misrepresentation in adoption proceedings, and has provided a method for absolute protection of an unmarried biological father's rights by compliance with the provisions of this chapter. In balancing the rights and interests of the state, and of all parties affected by fraud, specifically the child, the adoptive parents, and the unmarried biological father, the Legislature has determined that the unmarried biological father is in the best position to prevent or ameliorate the effects of fraud and that, therefore, the burden of fraud shall be borne by him.

(e) An unmarried biological father has the primary responsibility to protect his rights.

(f) An unmarried biological father is presumed to know that the child may be adopted without his consent unless he strictly complies with the provisions of this chapter, manifests a prompt and full commitment to his parental responsibilities, and establishes paternity.

(7) The Legislature finds that an unmarried mother has a right of privacy with regard to her pregnancy and adoption plan, and therefore has no legal obligation to disclose the identity of an unmarried biological father prior to or during an adoption proceeding, and has no obligation to volunteer information to the court with respect to the father.

Section 29. Repealer.

This bill repeals:

Section 10-1-101, Short title.

Section 10-6-102, Legislative intent -- Purpose of chapter.

Section 26B-5-502, Statement of legislative intent.

Section 26B-9-102, Legislative intent -- Liberal construction.

Section 34A-6-102, Legislative intent.

Section 35A-8-1701, Title.

Section 53B-8a-114, Liberal construction.

Section 63G-2-102, Legislative intent.

Section 67-16-2, Purpose of chapter.

Section 30. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 262
H. B. 405
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

HUMAN TRAFFICKING AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill increases penalties for certain human trafficking offenses.

Highlighted Provisions:

This bill:

► increases penalties for certain human trafficking offenses; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-308.1, as enacted by Laws of Utah 2022, Chapter 181
76-5-308.5, as last amended by Laws of Utah 2022, Chapter 181
76-5-309, as last amended by Laws of Utah 2022, Chapter 181
76-5-310, as last amended by Laws of Utah 2022, Chapter 181
76-5-311, as last amended by Laws of Utah 2022, Chapter 181

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-5-308.1 is amended to read:

76-5-308.1. Human trafficking for sexual exploitation.

(1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

(2) An actor commits human trafficking for sexual exploitation if the actor recruits, harbors, transports, obtains, patronizes, or solicits an individual for sexual exploitation through the use of force, fraud, or coercion, which may include:

(a) threatening serious harm to, or physical restraint against, that individual or another individual;

(b) destroying, concealing, removing, confiscating, or possessing any passport, immigration document, or other government-issued identification document;

(c) abusing or threatening abuse of the law or legal process against the individual or another individual;

(d) using a condition of an individual being a debtor due to a pledge of the individual's personal services or the personal services of an individual under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;

(e) using a condition of servitude by means of any scheme, plan, or pattern intended to cause an individual to believe that if the individual did not enter into or continue in a condition of servitude, the individual or another individual would suffer serious harm or physical restraint, or would be threatened with abuse of legal process; or

(f) creating or exploiting a relationship where the individual is dependent upon the actor.

(3) A violation of Subsection (2) is a [~~second~~]first degree felony.

(4) Human trafficking for sexual exploitation includes all forms of commercial sexual activity, which may include the following conduct when the person acts under force, fraud, or coercion as described in Subsection (1):

(a) sexually explicit performance;

(b) prostitution;

(c) participation in the production of pornography;

(d) performance in strip clubs; and

(e) exotic dancing or display.

(5) This offense is a separate offense from any other crime committed in relationship to the commission of this offense.

Section 2. Section 76-5-308.5 is amended to read:

76-5-308.5. Human trafficking of a child.

(1) (a) As used in this section, "commercial sexual activity with a child" means any sexual act with a child, for which anything of value is given to or received by any person.

(b) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

(2) An actor commits human trafficking of a child if the actor recruits, harbors, transports, obtains, patronizes, or solicits a child for sexual exploitation or forced labor.

(3) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of not less than:

(a) 10 years and which may be for life if the child described in Subsection (2) is 14 years old or older but younger than 18 years old; or

(b) 15 years and which may be for life if the child described in Subsection (2) is under 14 years old.

(4) (a) Human trafficking of a child for labor includes any labor obtained through force, fraud, or coercion as described in Section 76-5-308.

(b) Human trafficking of a child for sexual exploitation includes all forms of commercial sexual activity with a child, including sexually explicit performance, prostitution, participation in the production of pornography, performance in a strip club, and exotic dancing or display as described in Section 76-5-308.1.

(5) This offense is a separate offense from any other crime committed in relationship to the commission of this offense.

Section 3. Section 76-5-309 is amended to read:

76-5-309. Benefitting from trafficking and human smuggling.

(1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

(2) An actor is a party to the offense if the actor benefits, receives, or exchanges anything of value from knowing participation in:

(a) human trafficking for labor in violation of Section 76-5-308;

(b) human smuggling in violation of Section 76-5-308.3;

(c) human trafficking of a child in violation of Section 76-5-308.5; and

(d) human trafficking for sexual exploitation in violation of Section 76-5-308.1.

(3) (a) A violation of Subsection (2)(a)[~~or (2)(d)~~]is a second degree felony.

(b) A violation of Subsection (2)(b) is a third degree felony.

(c) A violation of Subsection (2)(c) is a first degree felony punishable by a term of imprisonment of not less than 10 years and which may be for life.

(d) A violation of Subsection (2)(d) is a first degree felony.

(4) An actor commits a separate offense of human trafficking, human trafficking of a child, or human smuggling for each individual who is smuggled or trafficked under Section 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-310, or 76-5-310.1.

Section 4. Section 76-5-310 is amended to read:

76-5-310. Aggravated human trafficking.

(1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

(2) An actor commits aggravated human trafficking for labor or sexual exploitation if, in the course of committing an offense under Section 76-5-308 or 76-5-308.1, the offense:

(a) results in the death of a trafficked individual;

(b) results in serious bodily injury of a trafficked individual;

(c) involves:

(i) rape under Section 76-5-402;

(ii) rape of a child under Section 76-5-402.1;

(iii) object rape under Section 76-5-402.2;

(iv) object rape of a child under Section 76-5-402.3;

(v) forcible sodomy under Section 76-5-403;

(vi) sodomy on a child under Section 76-5-403.1;

(vii) aggravated sexual abuse of a child under Section 76-5-404.3; or

(viii) aggravated sexual assault under Section 76-5-405;

(d) involves the trafficking of 10 or more individuals; or

(e) involves an individual trafficked for longer than 30 consecutive days.

(3) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of not less than 10 years and which may be for life.

(4) Aggravated human trafficking is a separate offense from any other crime committed in relationship to the commission of the offense.

Section 5. Section 76-5-311 is amended to read:

76-5-311. Human trafficking of a vulnerable adult.

(1) (a) As used in this section:

(i) "Commercial sexual activity with a vulnerable adult" means any sexual act with a vulnerable adult for which anything of value is given to or received by any individual.

(ii) "Vulnerable adult" means the same as that term is defined in Subsection 76-5-111(1).

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits human trafficking of a vulnerable adult if the actor:

(a) recruits, harbors, transports, or obtains a vulnerable adult for sexual exploitation or forced labor; or

(b) patronizes or solicits a vulnerable adult for sexual exploitation or forced labor when the actor knew or should have known of the victim's vulnerability.

(3) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of not less than 10 years and which may be for life.

(4) (a) Human trafficking of a vulnerable adult for labor includes any labor obtained through force, fraud, or coercion as described in Section 76-5-308.

(b) Human trafficking of a vulnerable adult for sexual exploitation includes all forms of commercial sexual activity with a vulnerable adult involving:

(i) sexually explicit performances;

(ii) prostitution;

(iii) participation in the production of pornography;

(iv) performance in a strip club; or

(v) exotic dancing or display.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 263
H. B. 419
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

REAL ESTATE REVISIONS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill amends provisions related to the Division of Real Estate's investigation practices and procedures.

Highlighted Provisions:

This bill:

- ► amends provisions related to the Division of Real Estate's (division) authority to investigate licensees, including time periods for retention of certain documents, and the division's ability to request documents;
- ► provides guidance on the determination of disciplinary actions taken by the Real Estate Commission;
- ► defines terms related to advertising practices;
- ► provides that certain conduct by a principal broker does not create an agency relationship with a buyer;
- ► amends provisions related to the inclusion of the brokerage's name being included in an advertisement or through a link requiring only one click; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

61-2-203, as last amended by Laws of Utah 2023, Chapter 401
61-2f-102, as last amended by Laws of Utah 2024, Chapter 227
61-2f-206, as last amended by Laws of Utah 2022, Chapter 204
61-2f-308, as last amended by Laws of Utah 2014, Chapter 350
61-2f-401, as last amended by Laws of Utah 2024, Chapter 227
61-2f-402, as last amended by Laws of Utah 2022, Chapter 204
61-2f-404, as last amended by Laws of Utah 2024, Chapter 227
61-2f-405, as renumbered and amended by Laws of Utah 2010, Chapter 379

ENACTS:

61-2f-309, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 61-2-203 is amended to read:

61-2-203. Adjudicative proceedings -- Citation authority.

(1) The division shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding under a chapter the division administers.

(2) The division may initiate an adjudicative proceeding through:

(a) a notice of agency action; or

(b) a notice of formal or informal proceeding.

(3) The provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to the issuance of a citation under Subsection (4), unless a licensee or another person authorized by law to contest the validity or correctness of a citation commences an adjudicative proceeding contesting the citation.

(4) [~~In addition to any other statutory penalty for a violation related to an occupation or profession regulated under this title, the~~]The division may issue a citation to a person who, upon inspection or investigation, the division concludes to have violated:

(a) Subsection 61-2c-201(1), which requires licensure;

(b) Subsection 61-2c-201(4), which requires licensure;

(c) Subsection 61-2c-205(3), which requires notification of a change in specified information regarding a licensee;

(d) Subsection 61-2c-205(4), which requires notification of a specified legal action;

(e) Subsection 61-2c-301(1)(g), which prohibits failing to respond to the division within the required time period;

(f) Subsection 61-2c-301(1)(h), which prohibits making a false representation to the division;

(g) Subsection 61-2c-301(1)(i), which prohibits taking a dual role in a transaction;

(h) Subsection 61-2c-301(1)(l), which prohibits engaging in false or misleading advertising;

(i) Subsection 61-2c-301(1)(t), which prohibits advertising the ability to do licensed work if unlicensed;

(j) Subsection 61-2c-302(5), which requires a mortgage entity to create and file a quarterly report of condition;

(k) Subsection 61-2e-201(1), which requires registration;

(l) Subsection 61-2e-203(4), which requires a notification of a change in ownership;

(m) Subsection 61-2e-307(1)(c), which prohibits use of an unregistered fictitious name;

(n) Subsection 61-2e-401(1)(c), which prohibits failure to respond to a division request;

(o) Subsection 61-2f-201(1), which requires licensure;

(p) Subsection 61-2f-206(1), which requires registration;

(q) Subsection 61-2f-301(1), which requires notification of a specified legal action;

(r) Subsection 61-2f-401(1)(a), which prohibits making a substantial misrepresentation;

(s) Subsection 61-2f-401(3), which prohibits undertaking real estate while not affiliated with a principal broker;

(t) Subsection 61-2f-401(9), which prohibits failing to keep specified records and prohibits failing to make the specified records available for division inspection;

(u) Subsection 61-2f-401(12), which prohibits false, misleading, or deceptive advertising;

(v) Subsection 61-2f-401(18), which prohibits failing to respond to a division request;

(w) Subsection 61-2g-301(1), which requires licensure;

(x) Subsection 61-2g-405(3), which requires making records required to be maintained available to the division;

(y) Subsection 61-2g-501(2)(c), which requires a person to respond to a division request in an investigation within 10 days after the day on which the request is served;

(z) Subsection 61-2g-502(2)(f), which prohibits using a nonregistered fictitious name;

(aa) a rule made pursuant to any Subsection listed in this Subsection (4);

(bb) an order of the division; or

(cc) an order of the commission or board that oversees the person's profession.

(5) (a) In accordance with Subsection (10), the division may assess a fine against a person for a violation of a provision listed in Subsection (4), as evidenced by:

(i) an uncontested citation;

(ii) a stipulated settlement; or

(iii) a finding of a violation in an adjudicative proceeding.

(b) The division may, in addition to or in lieu of a fine under Subsection (5)(a), order the person to cease and desist from an activity that violates a provision listed in Subsection (4).

(6) Except as provided in Subsection (8)(d), the division may not use a citation to effect a license:

(a) denial;

(b) probation;

(c) suspension; or

(d) revocation.

(7) (a) A citation issued by the division shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the statute, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days after the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time period specified in the citation.

(b) The division may issue a notice in lieu of a citation.

(8) (a) A citation becomes final:

(i) if within 20 calendar days after the day on which the citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation; or

(ii) if the director or the director's designee conducts a hearing pursuant to a timely request for a hearing and issues an order finding that a violation has occurred.

(b) The division may extend, for cause, the 20-day period to contest a citation.

(c) A citation that becomes the final order of the division due to a person's failure to timely request a hearing is not subject to further agency review.

(d) (i) The division may refuse to issue, refuse to renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(ii) The failure of a license applicant to comply with a citation after the citation becomes final is a ground for denial of the license application.

(9) (a) The division may not issue a citation under this section after the expiration of one year after the day on which the violation occurs.

(b) The division may issue a notice to address a violation that is outside of the one-year citation period.

(10) The director or the director's designee shall assess a fine with a citation in an amount that is no more than:

(a) for a first offense, $1,000;

(b) for a second offense, $2,000; and

(c) for each offense subsequent to a second offense, $2,000 for each day of continued offense.

(11) (a) An action for a first or second offense for which the division has not issued a final order does not preclude the division from initiating a subsequent action for a second or subsequent offense while the preceding action is pending.

(b) The final order on a subsequent action is considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(12) (a) If a person does not pay a penalty, the director may collect the unpaid penalty by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) A county attorney or the attorney general of the state shall provide legal services to the director in an action to collect the penalty.

(c) A court may award reasonable attorney fees and costs to the division in an action the division brings to enforce the provisions of this section.

Section 2. Section 61-2f-102 is amended to read:

61-2f-102. Definitions.

As used in this chapter:

(1) "Admonition" means a public discipline that declares the conduct of a person as improper and does not identify the person.

(2) (a) "Advertisement" means a notice or announcement meant to:

(i) promote the availability of real estate, an option on real estate, or a business opportunity for sale, exchange, auction, or lease;

(ii) offer specific types of brokerage services; or

(iii) specifically solicit the public to contact that licensee for more information.

(b) "Advertisement" does not include a social media post that generally identifies the person as being engaged in the profession of real estate if the social media post does not:

(i) promote the availability of real estate, an option on real estate, or a business opportunity for sale, exchange, auction, or lease;

(ii) offer specific types of brokerage services; or

(iii) specifically solicit the public to contact that licensee for more information.

(3) "Advertising" or "advertise" means placing or directing the placement of an advertisement.

[~~(1)~~](4) "Associate broker" means an individual who is:

(a) employed or engaged as an independent contractor by or on behalf of a principal broker to perform an act described in Subsection [~~(20)~~](29) for valuable consideration; and

(b) licensed under this chapter as an associate broker.

[~~(2)~~](5) "Branch broker" means an associate broker who manages a principal broker's branch office under the supervision of the principal broker.

[~~(3)~~](6) "Branch office" means a principal broker's real estate brokerage office that is not the principal broker's main office.

(7) "Brokerage" means an entity registered or required to be registered with the division pursuant to Section 61-2f-206.

(8) "Brokerage name" means:

(a) the name of the brokerage as shown on division records;

(b) the name of a branch office of the brokerage; or

(c) a DBA of the brokerage.

[~~(4)~~](9) "Business day" means a day other than:

(a) a Saturday;

(b) a Sunday; or

(c) a federal or state holiday.

[~~(5)~~](10) "Business opportunity" means the sale, lease, or exchange of any business that includes an interest in real estate.

[~~(6)~~](11) "Commission" means the Real Estate Commission established under this chapter.

[~~(7)~~](12) "Concurrence" means the entities given a concurring role must jointly agree for action to be taken.

[~~(8)~~](13) "Condominium homeowners' association" means the condominium unit owners acting as a group in accordance with declarations and bylaws.

[~~(9)~~](14) (a) "Condominium hotel" means one or more condominium units that are operated as a hotel.

(b) "Condominium hotel" does not mean a hotel consisting of condominium units, all of which are owned by a single entity.

[~~(10)~~](15) "Condominium unit" means the same as that term is defined in Section 57-8-3.

[~~(11)~~](16) "Director" means the director of the Division of Real Estate.

[~~(12)~~](17) "Division" means the Division of Real Estate.

(18) "Doing business as" or "DBA" means a name that is registered with the Division of Corporations and Commercial Code that allows a business to operate under a name different from the business's legal name.

[~~(13)~~](19) "Dual broker" means a principal broker of a real estate sales brokerage who obtains from the division a dual broker license in order to function as the principal broker of a property management company that is a separate entity from the real estate sales brokerage.

[~~(14)~~](20) "Entity" means:

(a) a corporation;

(b) a partnership;

(c) a limited liability company;

(d) a company;

(e) an association;

(f) a joint venture;

(g) a business trust;

(h) a trust; or

(i) any organization similar to an entity described in Subsections [~~(14)(a)~~](20)(a) through (h).

[~~(15)~~](21) "Executive director" means the director of the Department of Commerce.

(22) "Factory built housing" means a manufactured home or mobile home.

[~~(16)~~](23) "Foreclosure rescue" means, for compensation or with the expectation of receiving valuable consideration, to:

(a) engage, or offer to engage, in an act that:

(i) the person represents will assist a borrower in preventing a foreclosure; and

(ii) relates to a transaction involving the transfer of title to residential real property; or

(b) as an employee or agent of another person:

(i) solicit, or offer that the other person will engage in an act described in Subsection [~~(16)(a)~~](23)(a); or

(ii) negotiate terms in relationship to an act described in Subsection [~~(16)(a)~~](23)(a).

[~~(17)~~](24) "Loan modification assistance" means, for compensation or with the expectation of receiving valuable consideration, to:

(a) act, or offer to act, on behalf of a person to:

(i) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

(A) an increase or decrease in an interest rate;

(B) a change to the type of interest rate;

(C) an increase or decrease in the principal amount of the residential mortgage loan;

(D) a change in the number of required period payments;

(E) an addition of collateral;

(F) a change to, or addition of, a prepayment penalty;

(G) an addition of a cosigner; or

(H) a change in persons obligated under the existing residential mortgage loan; or

(ii) substitute a new residential mortgage loan for an existing residential mortgage loan; or

(b) as an employee or agent of another person:

(i) solicit, or offer that the other person will engage in an act described in Subsection [~~(17)(a)~~](24)(a); or

(ii) negotiate terms in relationship to an act described in Subsection [~~(17)(a)~~](24)(a).

[~~(18)~~](25) "Main office" means the address which a principal broker designates with the division as the principal broker's primary brokerage office.

(26) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(27) "Mobile home" means the same as that term is defined in Section 15A-1-302.

[~~(19)~~](28) "Person" means an individual or entity.

[~~(20)~~](29) "Principal broker" means an individual who is licensed or required to be licensed as a principal broker under this chapter who:

(a) sells or lists for sale real estate, including real estate being sold as part of a foreclosure rescue, [~~or~~]a business opportunity, or, unless licensed with the Division of Professional Licensing as a dealer under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act, factory built housing, with the expectation of receiving valuable consideration;

(b) buys, exchanges, or auctions real estate, an option on real estate, a business opportunity [~~, or an improvement on real estate~~], or, unless licensed with the Division of Professional Licensing as a dealer under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act, factory built housing, with the expectation of receiving valuable consideration;

(c) advertises, offers, attempts, or otherwise holds the individual out to be engaged in the business described in Subsection [~~(20)(a)~~](29)(a) or (b);

(d) is employed by or on behalf of the owner of real estate or by a prospective purchaser of real estate and performs an act described in Subsection [~~(20)(a)~~](29)(a), whether the individual's compensation is at a stated salary, a commission basis, upon a salary and commission basis, or otherwise;

(e) with the expectation of receiving valuable consideration, manages property owned by another person;

(f) advertises or otherwise holds the individual out to be engaged in property management;

(g) with the expectation of receiving valuable consideration, assists or directs in the procurement of prospects for or the negotiation of a transaction listed in Subsections [~~(20)(a)~~](29)(a) and (e);

(h) except for a mortgage lender, title insurance producer, or an employee of a mortgage lender or title insurance producer, assists or directs in the closing of a real estate transaction with the expectation of receiving valuable consideration;

(i) engages in foreclosure rescue; or

(j) advertises, offers, attempts, or otherwise holds the person out as being engaged in foreclosure rescue.

[~~(21)~~](30) (a) "Property management" means engaging in, with the expectation of receiving valuable consideration, the management of real estate owned by another person or advertising or otherwise claiming to be engaged in property management by:

(i) advertising for, arranging, negotiating, offering, or otherwise attempting or participating in a transaction calculated to secure the rental or leasing of real estate;

(ii) collecting, agreeing, offering, or otherwise attempting to collect rent for the real estate and accounting for and disbursing the money collected; or

(iii) authorizing expenditures for repairs to the real estate.

(b) "Property management" does not include:

(i) hotel or motel management;

(ii) rental of tourist accommodations, including hotels, motels, tourist homes, condominiums, condominium hotels, mobile home park accommodations, campgrounds, or similar public accommodations for a period of less than 30 consecutive days, and the management activities associated with these rentals; or

(iii) the leasing or management of surface or subsurface minerals or oil and gas interests, if the leasing or management is separate from a sale or lease of the surface estate.

[~~(22)~~](31) "Property management sales agent" means a sales agent who:

(a) is affiliated with a dual broker through the dual broker's property management company; and

(b) is designated by the dual broker as a property management sales agent.

[~~(23)~~](32) "Real estate" includes leaseholds and business opportunities involving real property.

[~~(24)~~](33) (a) "Regular salaried employee" means an individual who performs a service for wages or other remuneration, whose employer withholds federal employment taxes under a contract of hire, written or oral, express or implied.

(b) "Regular salaried employee" does not include an individual who performs services on a project-by-project basis or on a commission basis.

[~~(25)~~](34) "Reinstatement" means restoring a license that has expired or has been suspended.

[~~(26)~~](35) "Reissuance" means the process by which a licensee may obtain a license following revocation of the license.

[~~(27)~~](36) "Renewal" means extending a license for an additional licensing period on or before the date the license expires.

(37) "Reprimand" means a public discipline that declares the conduct of a person as improper and includes the name of the person.

[~~(28)~~](38) "Sales agent" means an individual who is:

(a) affiliated with a principal broker, either as an independent contractor or an employee as provided in Section 61-2f-303, to perform for valuable consideration an act described in Subsection [~~(20)~~](29); and

(b) licensed under this chapter as a sales agent.

(39) "Transaction" means, whether complete or incomplete:

(a) a purchase of real estate;

(b) a sale of real estate;

(c) an exchange of real estate;

(d) a lease of real estate;

(e) an auction of real estate;

(f) management of real estate;

(g) an option on real estate; or

(h) a business opportunity.

[~~(29)~~](40) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.

Section 3. Section 61-2f-206 is amended to read:

61-2f-206. Registration of person or branch office -- Certification of education providers and courses -- Specialized licenses.

(1) (a) A person may not engage in an activity described in Section 61-2f-201, unless:

(i) the person is registered with the division [~~.~~]; or

(ii) an exemption to registration applies.

(b) To register with the division under this Subsection (1), a person shall submit to the division:

(i) an application in a form required by the division;

(ii) evidence of an affiliation with a principal broker;

(iii) evidence that the person is registered and in good standing with the Division of Corporations and Commercial Code; and

(iv) a registration fee established by the commission with the concurrence of the division under Section 63J-1-504.

(c) The division may terminate a person's registration if:

(i) the person's registration with the Division of Corporations and Commercial Code has been expired for at least three years; and

(ii) the person's license with the division has been inactive for at least three years.

(2) (a) A principal broker shall register with the division each of the principal broker's branch offices.

(b) To register a branch office with the division under this Subsection (2), a principal broker shall submit to the division:

(i) an application in a form required by the division; and

(ii) a registration fee established by the commission with the concurrence of the division under Section 63J-1-504.

(3) (a) In accordance with rules made by the commission with the concurrence of the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall certify:

(i) a real estate school;

(ii) a course provider; or

(iii) an instructor.

(b) In accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the division shall certify a continuing education course that is required under this chapter.

(4) Except as provided under this chapter or by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a principal broker may not be responsible for more than one registered entity at the same time.

(5) A principal broker:

(a) shall exercise active and reasonable supervision of the principal broker's main office in accordance with this chapter and rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) may supervise a branch office affiliated with the principal broker at the same time the principal broker exercises the supervision required under Subsection (5)(a).

(6) (a) A principal broker may designate a branch broker to supervise a branch office affiliated with the principal broker.

(b) A branch broker shall exercise active and reasonable supervision, in accordance with this chapter and rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of each branch office the principal broker designates the branch broker to supervise.

(7) (a) In addition to issuing a principal broker license, associate broker license, or sales agent license authorizing the performance of an act set forth in Section 61-2f-201, the division may issue a specialized sales license or specialized property management license with the scope of practice limited to the specialty.

(b) An individual may hold a specialized license in addition to a license as a principal broker, associate broker, or a sales agent.

(c) A sales agent who is affiliated with a dual broker may act as a property management sales agent if:

(i) the dual broker designates the sales agent as a property management sales agent; and

(ii) the sales agent pays to the division a property management sales agent designation fee in an amount determined by the division in accordance with Section 63J-1-504.

(d) A property management sales agent may simultaneously provide both property management services and real estate sales services under the supervision of a dual broker as provided by the commission with the concurrence of the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) The commission may determine, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, licensing requirements related to this section for a principal broker, associate broker, sales agent, dual broker, property management sales agent, or for a specialized license described in Subsection (7), including:

(a) prelicensing and postlicensing education requirements;

(b) examination requirements;

(c) affiliation with real estate brokerages or property management companies;

(d) property management sales agent:

(i) designation procedures;

(ii) allowable scope of practice; and

(iii) division fees;

(e) what constitutes active and reasonable supervision for:

(i) a principal broker when supervising a branch broker or sales agent; and

(ii) a branch broker when supervising a sales agent; and

(f) other licensing procedures.

Section 4. Section 61-2f-308 is amended to read:

61-2f-308. Brokerage agreements.

(1) As used in this section:

(a) "Brokerage agreement" means a written agreement between a client and a principal broker:

(i) (A) to list for sale, lease, or exchange, real estate, an option on real estate, or an improvement on real estate; or

(B) for representation in the purchase, lease, or exchange of real estate, an option on real estate, or an improvement on real estate; and

(ii) that gives the principal broker the expectation of receiving valuable consideration in exchange for the principal broker's services.

(b) "Client" means a person who makes an exclusive brokerage agreement with a principal broker under Subsection (1)(d).

(c) "Closed" means that:

(i) the documents required to be executed under the contract are executed;

(ii) the money required to be paid by either party under the contract is paid in the form of collected or cleared funds;

(iii) the proceeds of any new loan are delivered by the lender to the seller; and

(iv) the applicable documents are recorded in the office of the county recorder for the county in which the real estate is located.

(d) "Exclusive brokerage agreement" means a brokerage agreement that gives the principal broker the sole right to act as the agent or representative of the client for the purchase, sale, lease, or exchange of real estate, an option on real estate, or an improvement on real estate.

(2) (a) Except as provided in Subsection (2)(b), a principal broker subject to an exclusive brokerage agreement shall:

(i) accept delivery of and present to the client offers and counteroffers to buy, lease, or exchange the client's real estate;

(ii) assist the client in developing, communicating, and presenting offers, counteroffers, and notices; and

(iii) answer any question the client has concerning:

(A) an offer;

(B) a counteroffer;

(C) a notice; and

(D) a contingency.

(b) A principal broker subject to an exclusive brokerage agreement need not comply with Subsection (2)(a) after:

(i) (A) an agreement for the sale, lease, or exchange of the real estate, option on real estate, or improvement on real estate is signed;

(B) the contingencies related to the sale, lease, or exchange are satisfied or waived; and

(C) the sale, lease, or exchange is closed; or

(ii) the exclusive brokerage agreement expires or terminates.

[~~(3) A principal broker who violates this section is subject to Sections 61-2f-404 and 61-2f-405.~~]

[~~(4)~~](3) (a) Subject to Subsection (4)(b), a principal broker who represents a buyer may directly contact a seller who is subject to a brokerage agreement or an exclusive brokerage agreement if:

(i) the seller's principal broker gives the buyer's principal broker written authorization; or

(ii) subject to Subsection (4)(c), the seller gives the buyer's principal broker written authorization.

(b) If a buyer's principal broker obtains a written authorization described in Subsection (4)(a), the buyer's principal broker may contact the seller directly to:

(i) discuss items related to a real estate transaction between the buyer and the seller;

(ii) provide the seller with blank [~~state-approved~~]forms; and

(iii) negotiate the terms of a real estate transaction between the buyer and the seller.

(c) A buyer's principal broker may not solicit from a seller a written authorization described in Subsection (4)(a)(ii).

[~~(5)~~](4) A principal broker who, in accordance with Subsection (4), engages in the conduct described in Subsection (4)(b) is not, by that conduct, representing that the principal broker is acting on behalf of both the buyer and the seller.

(5) The following conduct by a principal broker who represents a seller does not create an agency relationship with a buyer unrepresented by a principal broker:

(a) contacting the buyer directly to discuss items related to a real estate transaction between the seller and buyer;

(b) providing the buyer with blank forms; or

(c) negotiating the terms of a real estate transaction between the seller and the buyer.

Section 5. Section 61-2f-309 is enacted to read:

61-2f-309. Record requirements.

(1) A brokerage shall make or possess any applicable record required for the brokerage to maintain by rule made by the commission pursuant to Section 61-2f-103 for the time period specified in Subsection (2).

(2) A brokerage shall maintain and safeguard in the brokerage's possession a record described in Subsection (1) for three years following:

(a) the day the transaction either closes or fails;

(b) in a lease transaction, the day of the commencement of the lease;

(c) the day an offer is rejected; or

(d) the end of the term of a property management agreement.

Section 6. Section 61-2f-401 is amended to read:

61-2f-401. Grounds for disciplinary action.

The following acts are unlawful and grounds for disciplinary action for a person licensed or required to be licensed under this chapter:

(1) (a) making a substantial misrepresentation, including in a licensure statement;

(b) making an intentional misrepresentation;

(c) pursuing a continued and flagrant course of misrepresentation;

(d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or

(e) making a false representation or promise of a character likely to influence, persuade, or induce;

(2) acting for more than one party in a transaction without the informed written consent of the parties;

(3) (a) acting as an associate broker or sales agent while not affiliated with a principal broker;

(b) representing or attempting to represent a principal broker other than the principal broker with whom the person is affiliated; or

(c) representing as sales agent or having a contractual relationship similar to that of sales agent with a person other than a principal broker;

(4) (a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes into the person's possession;

(b) commingling money described in Subsection (4)(a) with the person's own money; or

(c) diverting money described in Subsection (4)(a) from the purpose for which the money is received;

(5) paying or offering to pay valuable consideration to a person not licensed under this chapter, except that valuable consideration may be shared:

(a) with a principal broker of another jurisdiction; or

(b) as provided under:

(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;

(ii) Title 16, Chapter 11, Professional Corporation Act; or

(iii) Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405;

(6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not affiliated with the principal broker at the time the sales agent or associate broker earned the compensation;

(7) being incompetent to act as a principal broker, associate broker, or sales agent in such manner as to safeguard the interests of the public;

(8) failing to voluntarily furnish a copy of a document to the parties before and after the execution of a document;

(9) a brokerage failing to keep and make available for inspection by the division a record of each transaction, including:

(a) the names of buyers and sellers or lessees and lessors;

(b) the identification of real estate;

(c) the sale or rental price;

(d) money received in trust;

(e) agreements or instructions from buyers and sellers or lessees and lessors; and

(f) any other information required by rule;

(10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether the purchase, sale, or rental is made for that person or for an undisclosed principal;

(11) regardless of whether the crime is related to the business of real estate:

(a) be convicted of:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(b) plead guilty or nolo contendere to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(c) enter into a plea in abeyance agreement in relation to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(12) at the time of placing an advertisement:

(a) advertising the availability of real estate or the services of a licensee in a false, misleading, or deceptive manner; or

(b) failing to include within the advertisement the brokerage name with which a person who is licensed is affiliated or, if the advertisement is placed online or in a digital format, a link to a website or media platform that identifies the brokerage name within one click;

(13) in the case of a principal broker or a branch broker, failing to exercise active and reasonable supervision, as the commission may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, over the activities of the principal broker's or branch broker's licensed or unlicensed staff;

(14) violating or disregarding:

(a) this chapter;

(b) an order of the commission; or

(c) the rules adopted by the commission and the division;

(15) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;

(16) any other conduct which constitutes dishonest dealing;

(17) having one of the following suspended, revoked, surrendered, or cancelled on the basis of misconduct in a professional capacity that relates to character, honesty, integrity, or truthfulness:

(a) a real estate license, registration, or certificate issued by another jurisdiction; or

(b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;

(18) failing to respond to a request by the division in an investigation authorized under this chapter within 10 business days after the day on which the request is served, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce documents or records;

(19) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(a) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(b) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2);

(20) violating an independent contractor agreement between a principal broker and a sales agent or associate broker as evidenced by a final judgment of a court;

(21) violating Title 57, Chapter 30, Residential Property Service Agreements;

(22) (a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;

(b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;

(c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:

(i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(ii) falsely representing or advertising that the licensee is acting on behalf of:

(A) a government agency;

(B) the person's lender or loan servicer; or

(C) a nonprofit or charitable institution; or

(d) recommending or participating in a foreclosure rescue that requires a person to:

(i) transfer title to real estate to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(ii) make a mortgage payment to a person other than the person's loan servicer; or

(iii) refrain from contacting the person's:

(A) lender;

(B) loan servicer;

(C) attorney;

(D) credit counselor; or

(E) housing counselor;

(23) taking or removing from the premises of a main office or a branch office, or otherwise limiting a real estate brokerage's access to or control over, a record that:

(a) (i) the real estate brokerage's licensed staff, unlicensed staff, or affiliated independent contractor prepared; and

(ii) is related to the business of:

(A) the real estate brokerage; or

(B) an associate broker, a branch broker, or a sales agent of the real estate brokerage; or

(b) is related to the business administration of the real estate brokerage;

(24) as a principal broker, placing a lien on real property, unless authorized by law;

(25) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or other compensation related to real estate brokerage services; or

(26) failing to timely disclose to a buyer or seller an affiliated business arrangement, as defined in Section 31A-23a-1001, in accordance with the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.

Section 7. Section 61-2f-402 is amended to read:

61-2f-402. Investigations -- Disciplinary actions.

(1) The division may conduct a public or private investigation within or outside of this state as the division considers necessary to determine whether a person has violated, is violating, or is about to violate this chapter or any rule or order under this chapter.

(2) To aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter, the division may require or permit a person to file a statement in writing, under oath or otherwise as to the facts and circumstances concerning the matter to be investigated.

(3) (a) For the purpose of the investigation described in Subsection (1), the division or an employee designated by the division may:

[~~(a)~~](i) administer an oath or affirmation;

[~~(b)~~](ii) issue a subpoena that requires:

[~~(i)~~](A) the attendance and testimony of a witness; or

[~~(ii)~~](B) the production of evidence;

[~~(c)~~](iii) take evidence;

[~~(d)~~](iv) require the production of a book, paper, contract, record, other document, or information relevant to the investigation; and

[~~(e)~~](v) serve a subpoena by certified mail.

(b) The division may not require the production of evidence, book, paper, contract, record, other document, or information required to be kept by a brokerage, or licensee pursuant to Section 61-2f-309 after the expiration of the time in which the brokerage is required to maintain and safeguard the record as described in Section 61-2f-309.

(4) (a) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(b) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

(5) (a) Except as provided in Subsections (5)(b) and (c), the division shall commence [~~a disciplinary action~~]an adjudicative proceeding under this chapter no later than the earlier of the following:

(i) [~~four years~~]two years after the day on which the violation is reported to the division; or

(ii) the date the brokerage is no longer required to keep and maintain the records as provided in Section 61-2f-309.

[~~(ii) 10 years after the day on which the violation occurred.~~]

[~~(b) Except as provided in Subsection (5)(c), the division shall commence a disciplinary action within four years after the day on which a violation occurred, if the violation was of:~~]

[~~(i) Section 61-2f-206;~~]

[~~(ii) Subsection 61-2f-401(8), which prohibits failure to voluntarily furnish a copy of a document to the parties before and after the execution of a document; or~~]

[~~(iii) Subsection 61-2f-401(18), which prohibits failure to respond to a division request in an investigation within 10 days after the day on which the request is served.~~]

[~~(c)~~](b) The division may commence [~~a disciplinary action~~]an adjudicative proceeding under this chapter after the time period described in Subsection (5)(a) [~~or (b)~~] expires if:

(i) (A) the [~~disciplinary action~~]adjudicative proceeding is in response to a civil or criminal judgment or settlement; and

(B) the division [~~initiates the disciplinary action~~]commences an adjudicative proceeding no later than one year after the day on which the judgment is issued or the settlement is final; or

(ii) the division and the person subject to [~~a disciplinary action~~]an adjudicative proceeding enter into a written stipulation to extend the time period described in Subsection (5)(a) [~~or (b)~~].

(c) The time period described in Subsection (5)(a) is tolled during the division's enforcement of a subpoena under Subsection (4), including any resulting appeals.

(6) (a) The division may publish notices of admonition, reprimand, suspension, revocation, and surrender with discipline pending in the division newsletter.

(b) Nothing in this Subsection (6) shall be construed to restrict the division's publication of information, including orders, irrespective of their style or format, on the division's website.

(c) Nothing in this Subsection (6) shall be construed to restrict the division's publication of information as required by Title 52, Chapter 4, Open and Public Meetings Act.

Section 8. Section 61-2f-404 is amended to read:

61-2f-404. Disciplinary action -- Judicial review.

(1) (a) On the basis of a violation of this chapter, the commission with the concurrence of the director, may issue an order:

(i) imposing an educational requirement;

(ii) imposing a civil penalty not to exceed the greater of:

(A) except as provided in Subsection (1)(a)(ii)(B), $5,000 for each violation;

(B) $10,000 for each violation, if the person knew or should have known that the property owner was an individual 65 years old or older, or a vulnerable adult; or

(C) the amount of any gain or economic benefit derived from each violation;

(iii) taking any of the following actions related to a license, registration, or certificate:

(A) revoking;

(B) suspending;

(C) placing on probation;

(D) denying the renewal, reinstatement, or application for an original license, registration, or certificate; or

(E) in the case of denial or revocation of a license, registration, or certificate, setting a waiting period for an applicant to apply for a license, registration, or certificate under this title;

(iv) issuing a cease and desist order;

(v) authorizing an admonition;

(vi) authorizing a reprimand;

(vii) authorizing surrender with discipline pending;

[~~(v)~~](viii) modifying an action described in Subsections (1)(a)(i) through [~~(iv)~~](vii) if the commission finds that the person complies with court ordered restitution; or

[~~(vi)~~](ix) doing any combination of Subsections (1)(a)(i) through [~~(v)~~](viii).

(b) In determining appropriate action under Subsection (1)(a), the commission shall consider the following factors:

(i) the seriousness, nature, circumstances, extent, and persistence of the conduct constituting the violation;

(ii) the harm to other persons resulting either directly or indirectly from the violation;

(iii) (A) the cooperation by the person in any inquiry conducted by the division concerning the violation;

(B) efforts by the person to prevent future occurrences of the violation; and

(C) efforts by the person to mitigate the harm caused by the violation, including any disgorgement or restitution made to the other persons harmed by the acts of the person;

(iv) the history of previous violations by the person;

(v) the need to deter the person or other persons from committing the violation in the future;

(vi) whether the person knew or should have known that the property owner was an individual 65 years old or older, or a vulnerable adult;

(vii) any direct or indirect compensation or economic benefit the person committing the violation received; and

(viii) other matters as justice may require.

[~~(b)~~](c) (i) If the commission with the concurrence of the director issues an order that orders a fine or educational requirements as part of a disciplinary action against a person, including a stipulation and order, the commission shall state in the order the deadline by which the person shall comply with the fine or educational requirements.

(ii) If a person fails to comply by the stated deadline:

(A) the person's license, registration, or certificate is automatically suspended:

(I) beginning the day specified in the order as the deadline for compliance; and

(II) ending the day on which the person complies in full with the order; and

(B) if the person fails to pay a fine required by an order, the division may begin a collection process:

(I) established by the division, with the concurrence of the commission, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

[~~(c)~~](d) In a manner determined by the division, the division shall inform a principal broker:

(i) with whom a licensee is affiliated of:

(A) a complaint made to the division against the licensee that requires a written response from the licensee;

(B) a violation alleged against the licensee by the division;

(C) the time and place of any disciplinary hearing regarding the licensee; and

(D) the resolution of a violation alleged described in Subsection [~~(1)(c)(i)(B)~~](1)(d)(i)(B); and

(ii) upon inquiry from a principal broker regarding an affiliated licensee:

(A) disciplinary actions made by the division against the licensee for the past five years; and

(B) the resolution of the disciplinary actions described in Subsection [~~(1)(c)(ii)(A)~~](1)(d)(ii)(A).

[~~(d)~~](e) A person previously licensed under this chapter remains responsible for, and is subject to disciplinary action for, an act the person committed while the person was licensed in violation of this chapter or an administrative rule in effect at the time the person committed the act, regardless of whether the person is currently licensed.

(2) (a) An applicant, certificate holder, licensee, registrant, or person aggrieved, including the complainant, may obtain agency review by the executive director and judicial review of any adverse ruling, order, or decision of the division.

(b) If an applicant, certificate holder, registrant, or licensee prevails in the appeal and the court finds that the state action was undertaken without substantial justification, the court may award reasonable litigation expenses to the applicant, certificate holder,

registrant, or licensee as provided under Title 78B, Chapter 8, Part 5, Small Business Equal Access to Justice Act.

(c) (i) An order, ruling, or decision of the division shall take effect and become operative 30 days after the service of the order, ruling, or decision unless otherwise provided in the order.

(ii) If an appeal is taken by a licensee, registrant, or certificate holder, the division may stay enforcement of an order, ruling, or decision in accordance with Section 63G-4-405.

(iii) An appeal is governed by the Utah Rules of Appellate Procedure.

(3) The commission and the director shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding.

Section 9. Section 61-2f-405 is amended to read:

61-2f-405. Other penalties for violation of chapter.

[~~(1) (a) An individual required to be licensed under this chapter who violates this chapter, in addition to being subject to a license sanction or a fine ordered by the commission, is, upon conviction of a first violation, guilty of a class A misdemeanor.~~]

[~~(b) For a conviction under this Subsection (1), imprisonment shall be for a term not to exceed six months.~~]

[~~(2) (a) Upon conviction of a second or subsequent violation, an individual is guilty of a third degree felony.~~]

[~~(b) Imprisonment for a conviction under this Subsection (2)(a) shall be for a term not to exceed two years.~~]

[~~(3)~~](1) An officer or agent of a corporation, a member or agent of a partnership or association, or an individual in a similar position of another type of entity who personally participates in or is an accessory to any violation of this chapter by the entity is subject to the penalties prescribed for an individual.

[~~(4)~~](2) If a person receives money or its equivalent, as commission, compensation, or profit by or in consequence of a violation of this chapter, that person is liable for an additional penalty of not less than the amount of the money received and not more than three times the amount of money received, as may be determined by the court. This penalty may be sued for in any court of competent jurisdiction, and recovered by any person aggrieved for the person's own use and benefit.

[~~(5)~~](3) A fine imposed by the commission and the director under this chapter shall, notwithstanding Section 13-1-2, be deposited into the Real Estate Education, Research, and Recovery Fund to be used in a manner consistent with the requirements of Part 5, Real Estate Education, Research, and Recovery Fund Act.

Section 10. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 264
H. B. 420
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

HALOGEN EMISSIONS AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Kirk A. Cullimore

Cosponsor:	Paul A. Cutler	David Shallenberger
Tyler Clancy	Clinton D. Okerlund	

LONG TITLE

General Description:

This bill addresses major sources of halogen emissions.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► allows the Division of Air Quality (division) to complete a best available control technology emissions reduction plan for major halogen sources;
- ► requires the division to submit an annual report on halogen emissions to the Natural Resources, Agriculture, and Environmental Interim Committee; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-2a-107, as enacted by Laws of Utah 2023, Chapter 143

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-2a-107 is amended to read:

19-2a-107. Point source pollution of halogens -- Control technology plan -- Annual report.

(1) As used in this section:

[~~(a) "Applicable geographic area" means the following counties:~~]

[~~(i) Box Elder County;~~]

[~~(ii) Davis County;~~]

[~~(iii) Salt Lake County;~~]

[~~(iv) Tooele County;~~]

[~~(v) Utah County; and~~]

[~~(vi) Weber County.~~]

[~~(b)~~](a) "Division" means the Division of Air Quality created in Section 19-1-105.

(b) "Major halogen source" means a facility, building, structure, or installation that has the potential to emit 3,000 tons or more of a halogen per year from the smelting, mining, or extracting of magnesium.

(2) (a) The division may complete a best available control technology emissions reduction plan to reduce halogen emissions for all major halogen sources.

(b) The division may require an operating major halogen source to implement a plan described in Subsection (2)(a) with an implementation date determined by the division.

(c) The division may create a plan described in Subsection (2)(a) based on the division's status report for halogen reductions and standards recommendations submitted to the Natural Resources, Agriculture, and Environment Interim Committee in October 2024.

(3) The division may modify the plan described in Subsection (2) to include a more cost-effective control technology if the cost-effective control technology achieves the same or better reduction in halogen emissions as the best available control technology.

(4) (a) The division shall submit a halogen emissions report to the Natural Resources, Agriculture, and Environment Interim Committee on or before October 31 of each year.

(b) The report described in Subsection (4)(a) shall include:

(i) the status of halogen emissions in this state;

(ii) the effectiveness of the controls described in Subsection (2); and

(iii) recommendations, if any, from the division for legislative action to address halogen emissions.

[~~(2) By no later than December 31, 2024, the division shall complete:~~]

[~~(a) an air emissions inventory of point sources in the applicable geographic area that emit halogens;~~]

[~~(b) a best available control technology emissions reduction plan to reduce the compounds of halogens in the applicable geographic area, with an implementation date of December 31, 2026; and~~]

[~~(c) recommendations for a state standard limiting halogen emissions.~~]

[~~(3) Upon completion, the division shall publish the air emissions inventory, the best available control technology emissions reduction plan, and the recommendations on standards required under Subsection (2) on the division's public website.~~]

[~~(4) The division shall report to the Natural Resources, Agriculture, and Environment Interim Committee regarding the status of the air emissions inventory, the best available control technology emissions reduction plan, and the recommendations for a standard:~~]

[~~(a) on or before the 2023 November interim committee meeting of the Natural Resources, Agriculture, and Environment Interim Committee; and~~]

[~~(b) on or before the 2024 November interim committee meeting of the Natural Resources, Agriculture, and Environment Interim Committee.~~]

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 265
H. B. 425
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

DEPARTMENT OF PUBLIC SAFETY FEE AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill addresses fees collected by the Bureau of Criminal Identification.

Highlighted Provisions:

This bill:

- ► increases the fee for a concealed firearm permit for out-of-state applicants assessed before July 1, 2026;
- ► amends fee provisions related to concealed firearm permits assessed after July 1, 2026, allowing the Bureau of Criminal Identification to set related fees in accordance with the procedures specified in Section 63J-1-504;
- ► amends when funds from the Concealed Weapons Account are transferred to the Suicide Prevention and Education Fund;
- ► increases the annual fee for offenders on the Sex, Kidnap, and Child Abuse Offender Registry assessed before July 1, 2026;
- ► amends fee provisions related to the Sex, Kidnap, and Child Abuse Offender Registry assessed after July 1, 2026, allowing the Department of Public Safety to set related fees in accordance with the procedures specified in Section 63J-1-504; and
- ► contains a coordination clause coordinating changes between this bill and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendment.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53-5-704, as last amended by Laws of Utah 2024, Chapter 195
53-5-707, as last amended by Laws of Utah 2023, Chapters 328, 387
53-5-707.5, as last amended by Laws of Utah 2018, Chapter 417
77-41-111, as last amended by Laws of Utah 2023, Chapter 128

Utah Code Sections Affected by Coordination Clause:

AMENDS:

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-5-704 is amended to read:

53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.

(1) (a) Except as provided in Subsection (1)(b), the bureau shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years old or older within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(b) (i) Within 90 days before the day on which a provisional permit holder under Section 53-5-704.5 reaches 21 years old, the provisional permit holder may apply under this section for a permit to carry a concealed firearm for lawful self defense.

(ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(iii) A permit issued under this Subsection (1)(b):

(A) is not valid until an applicant is 21 years old; and

(B) requires, before July 1, 2026, a $10 application fee and, on or after July 1, 2026, an application fee set by the bureau.

(iv) A person who applies for a permit under this Subsection (1)(b) is not required to retake the firearms training described in Subsection 53-5-704(8).

(c) The permit is valid throughout the state for five years, without restriction, except as otherwise provided by Section 53-5-710.

(d) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to an individual issued a permit under Subsection (1)(a) or (b).

(e) Subsection (4)(a) does not apply to a nonresident:

(i) active duty service member, who presents to the bureau orders requiring the active duty service member to report for duty in this state; or

(ii) active duty service member's spouse, stationed with the active duty service member, who presents to the bureau the active duty service member's orders requiring the service member to report for duty in this state.

(2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder:

(i) has been or is convicted of a felony;

(ii) has been or is convicted of a crime of violence;

(iii) has been or is convicted of an offense involving the use of alcohol;

(iv) has been or is convicted of an offense involving the unlawful use of narcotics or other controlled substances;

(v) has been or is convicted of an offense involving moral turpitude;

(vi) has been or is convicted of an offense involving domestic violence;

(vii) has been or is adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and

(viii) is not qualified to purchase and possess a firearm pursuant to Section 76-10-503 and federal law.

(b) In determining whether an applicant or permit holder is qualified to hold a permit under Subsection (2)(a), the bureau shall consider mitigating circumstances.

(3) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has reasonable cause to believe that the applicant or permit holder has been or is a danger to self or others as demonstrated by evidence, including:

(i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

(ii) past participation in incidents involving unlawful violence or threats of unlawful violence; or

(iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

(b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction of an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

(c) In determining whether the applicant or permit holder has been or is a danger to self or others, the bureau may inspect:

(i) expunged records of arrests and convictions of adults as provided in Section 77-40a-403; and

(ii) juvenile court records as provided in Section 78A-6-209.

(d) (i) The bureau shall suspend a concealed firearm permit if a permit holder becomes a temporarily restricted person in accordance with Section 53-5c-301.

(ii) Upon removal from the temporary restricted list, the permit holder's permit shall be reinstated unless:

(A) the permit has been revoked, been suspended for a reason other than the restriction described in Subsection (3)(d)(i), or expired; or

(B) the permit holder has become a restricted person under Section 76-10-503.

(4) (a) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law shall:

(i) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and

(ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

(b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit for a period of 10 years.

(c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm permit that are received by the bureau after May 10, 2011.

(d) Beginning January 1, 2012, Subsection (4)(a) also applies to an application for renewal of a concealed firearm permit by a nonresident.

(5) The bureau shall issue a concealed firearm permit to a former peace officer who departs full-time employment as a peace officer, in an honorable manner, within five years of that departure if the officer meets the requirements of this section.

(6) Except as provided in Subsection (7), the bureau shall also require the applicant to provide:

(a) the address of the applicant's permanent residence;

(b) one recent dated photograph;

(c) one set of fingerprints; and

(d) evidence of general familiarity with the types of firearms to be concealed as defined in Subsection (8).

(7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (6)(d).

(8) (a) General familiarity with the types of firearms to be concealed includes training in:

(i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.

(b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by one of the following:

(i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the bureau;

(ii) certification of general familiarity by an individual who has been certified by the bureau, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

(iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.

(c) Instruction taken by a student under this Subsection (8) shall be in person and not through electronic means.

(d) A person applying for a renewal permit is not required to retake the firearms training described in this Subsection 53-5-704(8) if the person:

(i) has an unexpired permit; or

(ii) has a permit that expired less than one year before the date on which the renewal application was submitted.

(9) (a) An applicant for certification as a Utah concealed firearms instructor shall:

(i) be at least 21 years old;

(ii) be currently eligible to possess a firearm under Section 76-10-503;

(iii) have:

(A) completed a firearm instruction training course from the National Rifle Association or another nationally recognized firearm training organization that customarily offers firearm safety and firearm law instructor training or the Department of Public Safety, Division of Peace Officer Safety Standards and Training; or

(B) received training equivalent to one of the courses referred to in Subsection (9)(a)(iii)(A) as determined by the bureau;

(iv) have taken a course of instruction and passed a certification test as described in Subsection (9)(c); and

(v) possess a Utah concealed firearm permit.

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the bureau.

(c) (i) In order to obtain initial certification or renew a certification, an instructor shall attend an instructional course and pass a test under the direction of the bureau.

(ii) (A) The bureau shall provide or contract to provide the course referred to in Subsection (9)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d) (i) Each applicant for certification under this Subsection (9) shall:

(A) before July 1, 2026, pay a fee of $50.00 at the time of application for initial certification; and

(B) on or after July 1, 2026, pay a fee determined by the bureau.

(ii) The renewal fee for the certificate is:

(A) before July 1, 2026, $25; and

(B) on or after July 1, 2026, a fee determined by the bureau.

(iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (9).

(10) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the bureau.

(11) (a) (i) A concealed firearms instructor shall provide a signed certificate to an individual successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the bureau under Subsection (9).

(iii) (A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other individual.

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (9).

(C) The bureau shall determine the design and content of the seal to include at least the following:

(I) the instructor's name as it appears on the instructor's certification;

(II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and

(III) the instructor's business or residence address.

(D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.

(b) The applicant shall provide the certificate to the bureau in compliance with Subsection (6)(d).

(12) The bureau may deny, suspend, or revoke the certification of an applicant or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:

(a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or

(b) knowingly and willfully provided false information to the bureau.

(13) An applicant for certification or a concealed firearms instructor has the same appeal rights as described in Subsection (16).

(14) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the bureau are not vicariously liable for damages caused by the permit holder.

(15) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(16) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or permit holder may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant or permit holder by certified mail, return receipt requested.

(b) The bureau's denial of a permit shall be in writing and shall include the general reasons for the action.

(c) If an applicant or permit holder appeals the denial to the review board, the applicant or permit holder may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the bureau has the burden of proof by a preponderance of the evidence.

(e) (i) Upon a ruling by the board on the appeal of a denial, the board shall issue a final order within 30 days stating the board's decision.

(ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

(iii) The final order is final bureau action for purposes of judicial review under Section 63G-4-402.

(17) (a) The bureau shall, beginning July 1, 2026, establish fees authorized in this part in accordance with the procedures specified in Section 63J-1-504.

(b) When submitting the information required to the Legislature under Subsection 63J-1-504(6)(a), the bureau shall also provide, for the previous five years categorized by year:

(i) the number of permit holders;

(ii) the amount of revenue deposited into the Concealed Weapons Account created in Section 53-5-707 that is collected from fees for:

(A) nonresidents; and

(B) residents; and

(iii) the amount of expenditures from the Concealed Weapons Account created in Section 53-5-707.

[~~(17)~~](18) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Section 2. Section 53-5-707 is amended to read:

53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.

(1) (a) An applicant for a concealed firearm permit shall pay:

(i) []before July 1, 2026, a fee of $25 at the time of filing an application; and

(ii) on or after July 1, 2026, a fee set by the bureau at the time of filing an application.

(b) A nonresident applicant shall pay:

(i) before July 1, 2026, an additional [~~$10 for the additional cost of processing a nonresident application~~]$35 fee; and

(ii) on or after July 1, 2026, an additional fee set by the bureau.

(c) The bureau shall waive the initial fee for an applicant who is:

(i) a law enforcement officer under Section 53-13-103;

(ii) an active duty service member;

(iii) the spouse of an active duty service member; or

(iv) a school employee.

(2) (a) [~~The~~]A holder of a concealed firearm permit shall pay:

(i) before July 1, 2026, $20 for a renewal fee for the permit [~~is $20.~~]; and

(ii) on or after July 1, 2026, a renewal fee set by the bureau.

(b) [] A nonresident holder of a concealed firearm permit shall pay:

(i) before July 1, 2026, an additional [~~$5 for the additional cost of processing a nonresidential renewal~~]$30 fee; and

(ii) on or after July 1, 2026, an additional fee set by the bureau.

(3) [~~The~~]If a holder of a concealed firearm permit needs a replacement concealed firearm permit, the holder shall pay:

(a) before July 1, 2026, a$10replacement fee for the permit [~~is $10~~]; and

(b) on or after July 1, 2026, a replacement fee set by the bureau.

(4) (a) The late fee for the renewal permit is:

(i) before July 1, 2026, $7.50; and

(ii) on or after July 1, 2026, a late fee set by the bureau.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5) (a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."

(b) The account shall be funded from fees collected under this section and Section 53-5-707.5.

(c) Funds in the account may only be used to cover costs relating to:

(i) the issuance of concealed firearm permits under this part; or

(ii) the programs described in Subsection 26B-5-102(3) and Section 26B-5-611.

(d) No later than 90 days after the end of the fiscal year 50% [~~of the fund balance~~]of the excess of revenues over expenditures for the fiscal year shall be transferred to the Suicide Prevention and Education Fund, created in Section 26B-1-326.

(6) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section and Section 53-5-707.5.

Section 3. Section 53-5-707.5 is amended to read:

53-5-707.5. Provisional concealed firearm permit -- Fees -- Disposition of fees.

(1) (a) An applicant for a provisional concealed firearm permit, as described in Section 53-5-704.5, shall pay:

(i) []before July 1, 2026, a fee of $25 at the time of filing an application; and

(ii) on or after July 1, 2026, a fee set by the bureau at the time of filing an application.

(b) A nonresident applicant shall pay:

(i) before July 1, 2026, an additional $10 [~~for the additional cost of processing a nonresident application~~]fee; and

(ii) on or after July 1, 2026, an additional fee set by the bureau.

(2) The replacement fee for the permit is:

(a) before July 1, 2026, $10; and

(b) on or after July 1, 2026, a replacement fee set by the bureau.

(3) Fees collected under this section shall be remitted to the Concealed Weapons Account, as described in Subsection 53-5-707(5).

(4) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau shall promptly forward any fees collected under Subsection (4)(a) to the appropriate agency.

Section 4. Section 77-41-111 is amended to read:

77-41-111. Fees.

(1) Each offender required to register under Section 77-41-105 shall, in the month of the offender's birth:

(a) pay to the department each year the offender is subject to the registration requirements of this chapter:

(i) before July 1, 2026, an annual fee of [~~$100~~]$125; and

(ii) [~~each year the offender is subject to the registration requirements of this chapter~~]on or after July 1, 2026, an annual fee set by the department in accordance with the process in Section 63J-1-504; and

(b) pay to the registering agency, if it is an agency other than the department [~~,~~]:

(i) before July 1, 2026, an annual fee of not more than $25, which may be assessed by that agency for providing registration; and

(ii) on or after July 1, 2026, an annual fee set by the department in accordance with the process in Section 63J-1-504 which may be assessed by that agency for providing registration.

(2) Notwithstanding Subsection (1), an offender who is confined in a secure facility or in a state mental hospital is not required to pay the annual fee.

(3) The department shall deposit fees collected in accordance with this chapter in the General Fund as a dedicated credit, to be used by the department for maintaining the offender registry under this chapter and monitoring offender registration compliance, including the costs of:

(a) data entry;

(b) processing registration packets;

(c) updating registry information; and

(d) reporting an offender not in compliance with registration requirements to a law enforcement agency.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

Section 6. Coordinating H.B. 425 with S.B. 41.

If H.B. 425, Bureau of Criminal Identification Fee Amendments, and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 53-29-304(8)(a)(i), enacted in S.B. 41, be amended to read:

"(i) pay to the department each year the offender is subject to the registration requirements of this chapter:

(A) before July 1, 2026, an annual fee of $125; and

(B) on or after July 1, 2026, an annual fee determined by the department in accordance with the process in Section 63J-1-504; and".

CHAPTER 266
H. B. 430
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

SECURITY AND LAND RESTRICTION AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Michael K. McKell

Cosponsor:	Tracy J. Miller	Troy Shelley
Jefferson S. Burton	Nicholeen P. Peck	Ryan D. Wilcox
Michael L. Kohler	Michael J. Petersen	
Jason B. Kyle	Jake Sawyer	

LONG TITLE

General Description:

This bill amends provisions relating to security.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires that a food delivery company mark military land as a food delivery dead zone;
- ► authorizes delivery drivers and staff on military land to report a violation of a food delivery dead zone;
- ► authorizes the Department of Veterans and Military Affairs to enforce a food delivery dead zone;
- ► requires that a county recorder make a form available for an individual to disclose the individual's connection to a restricted foreign entity;
- ► requires that a county recorder send a form upon which an individual shall disclose the individual's connection to a restricted foreign entity to the Department of Public Safety; and
- ► creates a criminal offense for:
  - • a person purchasing or leasing land on behalf of a restricted foreign entity; and
  - • an individual who fails to disclose to a county recorder the individual's connection to a restricted foreign entity.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63L-13-201, as last amended by Laws of Utah 2024, Chapter 504
71A-1-201, as enacted by Laws of Utah 2023, Chapter 44 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 154

ENACTS:

13-75-101, Utah Code Annotated 1953
13-75-201, Utah Code Annotated 1953
63L-13-204, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-75-101 is enacted to read:

CHAPTER 75. FOOD DELIVERY ACT

PART 1. Definitions

13-75-101. Definitions.

As used in this chapter:

(1) "Delivery driver" means an individual working for a food delivery service.

(2) "Department" means the Department of Veterans and Military Affairs established in Section 71A-1-201.

(3) "Food delivery company" means an entity that operates a food delivery service.

(4) "Food delivery dead zone" means a defined geographic area in which a food delivery service may not:

(a) permit the delivery or pickup of food; or

(b) allow an individual delivering food on behalf of the food delivery service to enter.

(5) "Food delivery service" means a service that:

(a) facilitates the delivery of food from a restaurant or other food establishment to a consumer; and

(b) conducts operations online or through a mobile application.

(6) "Military land" means the same as that term is defined in Section 10-9a-537.

Section 2. Section 13-75-201 is enacted to read:

PART 2. Food Delivery Dead Zone Food delivery dead zone

13-75-201. Department to enforce food delivery dead zone.

(1) A food delivery company shall ensure that the physical boundaries of military land are marked as a food delivery dead zone.

(2) A delivery driver may report to the department a food delivery company's failure to mark the physical boundaries of military land as a food delivery dead zone.

(3) Staff employed on military land may report to the department any deliveries made by a delivery driver.

(4) The department shall:

(a) create a process by which a delivery driver or staff employed on military land may make a report described in Subsection (2);

(b) upon receiving a report described in Subsection (2), investigate whether the food delivery company has marked the physical boundaries of military land as a food delivery dead zone; and

(c) if the investigation demonstrates that a food delivery company has not marked the physical boundaries of military land as a food delivery dead zone, the department shall impose a fine on the food delivery company of $1,000.

Section 3. Section 63L-13-201 is amended to read:

63L-13-201. Acquisition of land prohibited -- Exceptions -- Enforcement.

(1) As used in this section, "department" means the Department of Public Safety created under Section 53-1-103.

(2) Subject to Subsection (3) and Section 63L-13-202, a restricted foreign entity may not acquire an interest in land in this state.

(3) A restricted foreign entity that, in violation of Subsection (2), obtains an interest in land shall alienate the interest in accordance with Section 63L-13-202.

(4) The department shall:

(a) maintain a publicly available list of restricted foreign entities;

(b) create a process by which a county recorder may report a land conveyance the county recorder suspects is prohibited under this section;

(c) provide an annual notice to each county recorder in the state that includes:

(i) instruction on how to identify a restricted foreign entity;

(ii) the process by which a county recorder may report to the department a land conveyance the county recorder suspects is prohibited under this section; and

(iii) any additional information the department deems necessary;

(d) investigate the validity of each land conveyance a county recorder reports under this section;

(e) when, after investigation, the department determines that a land conveyance violates this section:

(i) give notice to the restricted foreign entity that:

(A) the land conveyance violates this section; and

(B) Section 63L-13-202 requires the restricted foreign entity to alienate the restricted foreign entity's interest in the land within one year or the Division of Facilities Construction and Management will sell the interest in accordance with Subsection 63L-13-202(3); and

(ii) notify the county recorder of the county in which the land is located of the land conveyance; and

(f) coordinate with the Division of Facilities Construction and Management to facilitate a sale of the interest in land as described in Section 63L-13-202.

(5) A county recorder:

(a) is not liable for a conveyance to a restricted foreign entity; [~~and~~]

(b) shall, upon notice from the department under Subsection (4)(e)(ii), create a public record of each violation of this section [~~.~~];

(c) shall make available a form on which an individual purchasing an interest in land may disclose that the individual served in the military of a restricted foreign entity; and

(d) shall send a form on which an individual makes a disclosure as described in Subsection (5)(c) to the department.

Section 4. Section 63L-13-204 is enacted to read:

63L-13-204. Purchase of interest of land or lease of an interest in land on behalf of restricted foreign entity prohibited -- Disclosure required.

(1) A person may not purchase an interest in land or lease an interest in land on behalf of a restricted foreign entity.

(2) A person violates Subsection (1) if the person knowingly purchases an interest in land or leases an interest in land:

(a) using funds provided by a restricted foreign entity; or

(b) under the direction of a restricted foreign entity.

(3) An individual purchasing an interest in land shall disclose if the individual served in the military of a restricted foreign entity.

(4) An individual violates Subsection (3) if the individual fails to disclose to the county recorder of the county in which the interest in land is located, on a form described in Subsection 63L-13-201(5), that the individual served in the military of a restricted foreign entity.

(5) A person that violates Subsection (1) is guilty of a third degree felony.

(6) An individual who violates Subsection (3) is guilty of a third degree felony.

Section 5. Section 71A-1-201 is amended to read:

71A-1-201. Department of Veterans and Military Affairs -- Creation -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department who is subject to Senate confirmation.

(3) The executive director shall be a veteran.

(4) The department shall:

(a) conduct and supervise all veteran and military affairs activities as provided in this title;

(b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title;

(c) in accordance with Section 41-1a-418:

(i) determine which campaign or combat theater awards are eligible for a special group license plate;

(ii) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it; and

(iii) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;

(d) maintain liaison with local, state, and federal veterans agencies and with Utah veterans organizations;

(e) provide current information to veterans, service members, their surviving spouses and family members, and Utah veterans and military organizations on benefits they are entitled to;

(f) assist veterans, service members, and their families in applying for benefits and services;

(g) cooperate with other state entities in the receipt of information to create and maintain a record of veterans in Utah;

(h) create and administer a veterans assistance registry in accordance with Chapter 5, Veterans Assistance Registry, with recommendations from the council, that provides contact information to the qualified donors of materials and labor for certain qualified recipients;

(i) identify military-related issues, challenges, and opportunities, and develop plans for addressing them;

(j) develop, coordinate, and maintain relationships with military leaders of Utah military installations, including the Utah National Guard;

(k) develop and maintain relationships with military-related organizations in Utah; [~~and~~]

(l) consult with municipalities and counties regarding compatible use plans as described in Sections 10-9a-537 and 17-27a-533[~~.~~]; and

(m) enforce a food delivery dead zone as described in Section 13-75-201.

(5) (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (5)(a) to:

(i) an institution of higher education listed in Section 53B-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:

(i) the form and process for submitting an application to the department;

(ii) the method and criteria for selecting a grant recipient;

(iii) the method and formula for determining a grant amount; and

(iv) the reporting requirements of a grant recipient.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules related to:

(a) the consultation with municipalities and counties regarding compatible use plans as required in Subsection (4)(l); and

(b) criteria to evaluate whether a proposed land use is compatible with military operations.

(7) Nothing in this chapter shall be construed as altering or preempting any provisions of Title 39A, National Guard and Militia Act, as specifically related to the Utah National Guard.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 267
H. B. 436
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

IMPAIRED DRIVING AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill concerns the collection and reporting of certain DUI information.

Highlighted Provisions:

This bill:

- ► requires the State Commission on Criminal and Juvenile Justice (the commission) to include certain DUI crash and arrest data in an annual DUI report;
- ► requires the Department of Public Safety's Criminal Investigations and Technical Services Division to collect certain DUI crash and arrest data and provide the data to the commission;
- ► establishes law enforcement agency reporting requirements concerning the collection and reporting of certain DUI crash and arrest data;
- ► provides that the public safety data portal is the repository for the statutorily required DUI crash and arrest data; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-511, as last amended by Laws of Utah 2011, Chapter 51
63A-16-1002, as last amended by Laws of Utah 2024, Chapter 467

ENACTS:

53-10-118, Utah Code Annotated 1953
53-25-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-511 is amended to read:

41-6a-511. Courts to collect and maintain data.

(1) The state courts shall collect and maintain data necessary to allow sentencing and enhancement decisions to be made in accordance with this part.

(2) (a) Each justice court shall transmit dispositions electronically to the Department of Public Safety in accordance with the requirement for recertification established by the Judicial Council.

(b) Immediately upon filling the requirements under Subsection (2)(a), a justice court shall collect and report the same DUI related data elements collected and maintained by the state courts under Subsection (1).

(3) The department shall maintain an electronic data base for DUI related records and data including the data elements received or collected from the courts under this section.

(4) (a) The Commission on Criminal and Juvenile Justice shall prepare an annual report of DUI related data including the following:

(i) the data collected by the courts under Subsections (1) and (2); [~~and~~]

(ii) the DUI crash and arrest data collected from law enforcement agencies under Section 53-10-118 by the Department of Public Safety's Criminal Investigations and Technical Services Division; and

[~~(ii)~~](iii) any measures for which data are available to evaluate the profile and impacts of DUI recidivism and to evaluate the DUI related processes of:

(A) law enforcement;

(B) adjudication;

(C) sanctions;

(D) driver license control; and

(E) alcohol education, assessment, and treatment.

(b) The report shall be provided in writing to the Judiciary and Transportation Interim Committees no later than the last day of October following the end of the fiscal year for which the report is prepared.

Section 2. Section 53-10-118 is enacted to read:

53-10-118. Collection of driving under the influence crash and arrest data.

(1) (a) The division shall collect from every law enforcement agency the following data concerning a crash that appears to be connected with a driving under the influence offense:

(i) whether the impaired driver was injured or killed;

(ii) whether any other individual was injured or killed;

(iii) whether there was damage to real or personal property;

(iv) the following results or findings regarding the impaired driver's impairment:

(A) blood, breath, or urine alcohol concentration readings; and

(B) blood, urine, chemical, or similar tests detecting alcohol or other drugs in an individual; and

(v) if applicable, the name of the establishment that provided the alcohol to the impaired driver.

(b) The division shall collect from every law enforcement agency the following data for every arrest made for a suspected driving under the influence offense, including those that are unrelated to a crash described in Subsection (1)(a):

(i) the data described in Subsections (1)(a)(iv) and (v); and

(ii) if there were any injuries, deaths, or property damage based on the driving under the influence incident, a description of the injuries, deaths, or damages.

(c) In accordance with Section 53-25-104, a law enforcement agency shall provide the information described in Subsections (1)(a) and (b) in the form and manner requested by the division.

(2) The division shall provide the information collected under Subsection (1) to the Commission on Criminal and Juvenile Justice for use in the annual report described in Section 41-6a-511.

Section 3. Section 53-25-104 is enacted to read:

PART 1. Disclosure and General Reporting Requirements

53-25-104. Driving under the influence reporting requirements.

Beginning on January 1, 2026, a law enforcement agency shall collect and provide to the department's Criminal Investigations and Technical Services Division the driving under the influence crash and arrest data described in Section 53-10-118.

Section 4. Section 63A-16-1002 is amended to read:

63A-16-1002. Public safety portal.

(1) The commission shall oversee the creation and management of a public safety portal for information and data required to be reported to the commission and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the public safety portal.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the public safety portal;

(b) a gateway, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information from the public safety portal;

(d) a protocol for accessing information in the public safety portal that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed from the public safety portal by participating data source, data use entities, and regulators.

(4) The public safety portal shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 26B-1-427, Alcohol Abuse Tracking Committee;

(e) Section 41-6a-511, courts to collect and maintain data;

(f) Section 53-10-118, collection of driving under the influence crash and arrest data;

[~~(f)~~](g) Section 53-25-301, reporting requirements for reverse-location warrants;

[~~(g)~~](h) Section 53-25-202, sexual assault offense reporting requirements for law enforcement agencies;

[~~(h)~~](i) Section 53E-3-516, school disciplinary and law enforcement action report;

[~~(i)~~](j) Section 53-25-501, reporting requirements for seized firearms;

[~~(j)~~](k) Section 63M-7-214, law enforcement agency grant reporting;

[~~(k)~~](l) Section 63M-7-216, prosecutorial data collection;

[~~(l)~~](m) Section 63M-7-220, domestic violence data collection;

[~~(m)~~](n) Section 64-13-21, supervision of sentenced offenders placed in community;

[~~(n)~~](o) Section 64-13-25, standards for programs;

[~~(o)~~](p) Section 64-13-45, department reporting requirements;

[~~(p)~~](q) Section 64-13e-104, county correctional facility reimbursement program for state probationary inmates and state parole inmates;

[~~(q)~~](r) Section 77-7-8.5, use of tactical groups;

[~~(r)~~](s) Section 77-11b-404, forfeiture reporting requirements;

[~~(s)~~](t) Section 77-20-103, release data requirements;

[~~(t)~~](u) Section 77-22-2.5, court orders for criminal investigations;

[~~(u)~~](v) Section 78A-2-109.5, court data collection on criminal cases;

[~~(v)~~](w) Section 80-6-104, data collection on offenses committed by minors; and

[~~(w)~~](x) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(5) Before October 1, 2025, the commission shall report all data collected to the Law Enforcement and Criminal Justice Interim Committee.

(6) The commission may:

(a) enter into contracts with private or governmental entities to assist entities in complying with the data reporting requirements of Subsection (4); and

(b) adopt, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules to administer this section, including establishing requirements and procedures for collecting the data described in Subsection (4).

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 268
H. B. 442
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

CONSTRUCTION TRADES LICENSING AMENDMENTS

Chief Sponsor: Thomas W. Peterson
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies requirements for construction trade licenses.

Highlighted Provisions:

This bill:

- ► provides requirements for a general engineering contractor license for electrical utilities;
- ► allows an applicant with sufficient experience to obtain a general engineering contractor license;
- ► grants rulemaking authority to the division to establish by rule sufficient experience for an applicant with a journeyman lineman license from another jurisdiction; and
- ► provides the requirements for an HVAC contractor license.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-55-102, as last amended by Laws of Utah 2024, Chapter 507
58-55-301, as last amended by Laws of Utah 2017, Chapter 411
58-55-302, as last amended by Laws of Utah 2024, Chapter 507

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-55-102 is amended to read:

58-55-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Alarm business" or "alarm company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business" or "alarm company" does not include:

(i) a person engaged in the manufacture or sale of alarm systems unless:

(A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;

(B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or

(C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent":

(a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

(b) does not include an individual who:

(i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

(3) "Alarm company officer" means:

(a) a governing person, as defined in Section 48-3a-102, of an alarm company;

(b) an individual appointed as an officer of an alarm company that is a corporation in accordance with Section 16-10a-830;

(c) a general partner, as defined in Section 48-2e-102, of an alarm company; or

(d) a partner, as defined in Section 48-1d-102, of an alarm company.

(4) "Alarm company owner" means:

(a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the outstanding shares of an alarm company that:

(i) is a corporation; and

(ii) is not publicly listed or traded; or

(b) an individual who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the equity of an alarm company that is not a corporation.

(5) "Alarm company proprietor" means the sole proprietor of an alarm company that is registered as a sole proprietorship with the Division of Corporations and Commercial Code.

(6) "Alarm company trustee" means an individual with control of or power of administration over property held in trust.

(7) (a) "Alarm system" means equipment and devices assembled for the purpose of:

(i) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(ii) signaling a robbery or attempted robbery on protected premises.

(b) "Alarm system" includes a battery-charged suspended-wire system or fence that is part of and interfaces with an alarm system for the purposes of detecting and deterring unauthorized intrusion or entry into or onto certain premises.

(8) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(9) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

(10) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

(11) (a) "Approved prelicensure course provider" means a provider that is the Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and Contractors, or the Utah Home Builders Association, and that meets the requirements established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).

(b) "Approved prelicensure course provider" may only include a provider that, in addition to any other locations, offers the 25-hour course described in Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake County, Utah County, Davis County, or Weber County.

(12) "Board" means the Alarm System Security and Licensing Board or Electricians and Plumbers Licensing Board created in Section 58-55-201.

(13) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

(14) "Commission" means the Construction Services Commission created under Section 58-55-103.

(15) "Construction trade" means any trade or occupation involving:

(a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

(16) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

(17) (a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person's own property for the purpose of sale or who builds any structure intended for public use on the person's own property;

(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection (17) by advertising on a website or social media, or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of "construction trade";

(iv) any person engaged in, or offering to engage in, any construction trade for which licensure is required under this chapter; or

(v) a construction manager, construction consultant, construction assistant, or any other person who, for a fee:

(A) performs or offers to perform construction consulting;

(B) performs or offers to perform management of construction subcontractors;

(C) provides or offers to provide a list of subcontractors or suppliers; or

(D) provides or offers to provide management or counseling services on a construction project.

(b) "Contractor" does not include:

(i) an alarm company or alarm company agent; or

(ii) a material supplier who provides consulting to customers regarding the design and installation of the material supplier's products.

(18) (a) "Electrical trade" means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring;

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities;

(iv) work involving cable-type wiring that does not pose a shock or fire-initiation hazard; or

(v) work involving class two or class three power-limited circuits as defined in the National Electrical Code.

(19) "Elevator" means the same as that term is defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

(20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

(21) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

(22) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

(23) "Engage in a construction trade" means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.

(24) (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

(25) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(26) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

(27) [~~(a)~~] "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, [~~or~~]apparatus that uses electrical energy, or any other work the division authorizes by rule in accordance with Subsection 58-55-301(4).

[~~(b) The scope of work of a general electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(28) (a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform or superintend construction of fixed works, or components of fixed works requiring specialized engineering knowledge and skill in [~~any of the following~~]:

[~~(i) irrigation;~~]

[~~(ii) drainage;~~]

[~~(iii) water power;~~]

[~~(iv) water supply;~~]

[~~(v) flood control;~~]

[~~(vi) an inland waterway;~~]

[~~(vii) a harbor;~~]

[~~(viii) a railroad;~~]

[~~(ix) a highway;~~]

[~~(x) a tunnel;~~]

[~~(xi) an airport;~~]

[~~(xii) an airport runway;~~]

[~~(xiii) a sewer;~~]

[~~(xiv) a bridge;~~]

[~~(xv) a refinery;~~]

[~~(xvi) a pipeline;~~]

[~~(xvii) a chemical plant;~~]

[~~(xviii) an industrial plant;~~]

[~~(xix) a pier;~~]

[~~(xx) a foundation;~~]

[~~(xxi) a power plant;~~]

[~~(xxii) a utility plant or installation; or~~]

[~~(xxiii) an underground electric utility conduit.~~]

(i) airports;

(ii) airport runways;

(iii) bridges;

(iv) chemical plants;

(v) drainage;

(vi) electrical utilities;

(vii) flood control;

(viii) foundations;

(ix) harbors;

(x) highways;

(xi) industrial plants;

(xii) inland waterways;

(xiii) irrigation systems;

(xiv) piers;

(xv) pipelines;

(xvi) power plants;

(xvii) railroads;

(xviii) refineries;

(xix) sewers;

(xx) tunnels;

(xxi) underground electric utility conduits;

(xxii) utility plants;

(xxiii) water power; or

(xxiv) water supply.

(b) A general engineering contractor may not perform or superintend:

(i) construction of a structure built primarily for the support, shelter, and enclosure of persons, animals, and chattels; [~~or~~]

(ii) plumbing work;

(iii) electrical work beyond underground electric utility conduit or electrical utilities;

(iv) mechanical work; or

(v) work where the general engineering contractor does not have the required specialized engineering knowledge and skill.

[~~(ii) performance of:~~]

[~~(A) plumbing work;~~]

[~~(B) electrical work beyond underground electric utility conduit; or~~]

[~~(C) mechanical work.~~]

(29) [~~(a)~~] "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, [~~and~~]a safe and adequate supply of gases for lighting, heating, and industrial purposes, or other work the division authorizes by rule in accordance with Subsection 58-55-301(4).

[~~(b) The scope of work of a general plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(30) "HVAC" means a heating, ventilation, and air conditioning system and the specific components that are a part of the system, including the gas line.

(31) "HVAC contractor" means a person licensed under this chapter specialized in the installation, maintenance, repair, and servicing of heating, ventilation, air conditioning systems or any other work the division authorizes by rule in accordance with Subsection 58-55-301(4).

[~~(30)~~](32) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

(a) as the division specifies in rule;

(b) by, as applicable, a qualified electrician or plumber;

(c) as part of a planned program of training; and

(d) to ensure that the end result complies with applicable standards.

[~~(31)~~](33) "Individual" means a natural person.

(34) "Journeyman lineman" means a person that builds and maintains an electrical power system, performs work on transmission lines or distribution lines from power plants to customers, and has completed an approved 7,000 hour certified apprenticeship program.

[~~(32)~~](35) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

[~~(33)~~](36) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

[~~(34)~~](37) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

[~~(35)~~](38) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

[~~(36)~~](39) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

[~~(37)~~](40) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change,

repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

(i) delivery of the water supply;

(ii) discharge of liquid and water carried waste;

(iii) building drainage system within the walls of the building; and

(iv) delivery of gases for lighting, heating, and industrial purposes.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the safe and adequate supply of gases, together with their devices, appurtenances, and connections where installed within the outside walls of the building.

[~~(38)~~](41) "Ratio of apprentices" means the number of licensed plumber apprentices or licensed electrician apprentices that are allowed to be under the immediate supervision of a licensed supervisor as established by the provisions of this chapter and by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(39)~~](42) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

[~~(40)~~](43) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

[~~(41)~~](44) [~~(a)~~] "Residential electrical contractor" means a person licensed under this chapter as a residential electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances, and fixtures in a residential unit or any other work the division authorizes by rule in accordance with Subsection 58-55-301(4).

[~~(b) The scope of work of a residential electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

[~~(42)~~](45) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

[~~(43)~~](46) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

[~~(44)~~](47) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

[~~(45)~~](48) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

[~~(46)~~](49) [~~(a)~~] "Residential plumbing contractor" means a person licensed under this chapter as a residential plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in residential buildings by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, [~~and~~]a safe and adequate supply of gases for lighting, heating, and residential purposes, or any other work the division authorizes by rule in accordance with Subsection 58-55-301(4).

[~~(b) The scope of work of a residential plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

[~~(47)~~](50) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

[~~(48)~~](51) "Responsible management personnel" means:

(a) a qualifying agent;

(b) an operations manager; or

(c) a site manager.

[~~(49)~~](52) "Sensitive alarm system information" means:

(a) a pass code or other code used in the operation of an alarm system;

(b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;

(c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and

(d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

[~~(50)~~](53) (a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.

[~~(51)~~](54) "Unincorporated entity" means an entity that is not:

(a) an individual;

(b) a corporation; or

(c) publicly traded.

[~~(52)~~](55) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-501.

[~~(53)~~](56) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

[~~(54)~~](57) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Section 2. Section 58-55-301 is amended to read:

58-55-301. License required -- License classifications -- Scope.

(1) (a) A person engaged in the construction trades licensed under this chapter, as a contractor regulated under this chapter, as an alarm business or company, or as an alarm company agent, shall become licensed under this chapter before engaging in that trade or contracting activity in this state unless specifically exempted from licensure under Section 58-1-307 or 58-55-305.

(b) The license issued under this chapter and the business license issued by the local jurisdiction in which the licensee has its principal place of business shall be the only licenses required for the licensee to engage in a trade licensed by this chapter, within the state.

(c) Neither the state nor any of its political subdivisions may require of a licensee any additional business licenses, registrations, certifications, contributions, donations, or anything else established for the purpose of qualifying a licensee under this chapter to do business in that local jurisdiction, except for contract prequalification procedures required by state agencies, or the payment of any fee for the license, registration, or certification established as a condition to do business in that local jurisdiction.

(2) The division shall issue licenses under this chapter to qualified persons in the following classifications:

(a) [~~general engineering contractor;~~]alarm company;

(b) alarm company agent;

(c) apprentice electrician;

(d) apprentice plumber;

(e) construction trades instructor:

(i) general building classification;

(ii) general engineering classification;

(iii) electrical classification;

(iv) mechanical classification; and

(v) plumbing classification;

(f) elevator contractor;

(g) elevator mechanic;

(h) general building contractor;

(i) general electrical contractor;

(j) general engineering contractor;

(k) general plumbing contractor;

(l) HVAC contractor;

(m) journeyman electrician;

(n) journeyman plumber;

(o) master electrician;

(p) master plumber;

(q) residential and small commercial contractor;

(r) residential electrical contractor;

(s) residential journeyman electrician;

(t) residential journeyman plumber;

(u) residential master electrician;

(v) residential master plumber;

(w) residential plumbing contractor; and

(x) specialty contractor.

[~~(b) general building contractor;~~]

[~~(c) residential and small commercial contractor;~~]

[~~(d) elevator contractor;~~]

[~~(e) general plumbing contractor;~~]

[~~(f) residential plumbing contractor;~~]

[~~(g) general electrical contractor;~~]

[~~(h) residential electrical contractor;~~]

[~~(i) specialty contractor;~~]

[~~(j) master plumber;~~]

[~~(k) residential master plumber;~~]

[~~(l) journeyman plumber;~~]

[~~(m) apprentice plumber;~~]

[~~(n) residential journeyman plumber;~~]

[~~(o) master electrician;~~]

[~~(p) residential master electrician;~~]

[~~(q) journeyman electrician;~~]

[~~(r) residential journeyman electrician;~~]

[~~(s) apprentice electrician;~~]

[~~(t) construction trades instructor:~~]

[~~(i) general engineering classification;~~]

[~~(ii) general building classification;~~]

[~~(iii) electrical classification;~~]

[~~(iv) plumbing classification; and~~]

[~~(v) mechanical classification;~~]

[~~(u) alarm company;~~]

[~~(v) alarm company agent; and~~]

[~~(w) elevator mechanic.~~]

(3) (a) An applicant may apply for a license in one or more classification or specialty contractor subclassification.

(b) A license shall be granted in each classification or subclassification for which the applicant qualifies.

(c) A separate application and fee must be submitted for each license classification or subclassification.

(4) With the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may further define the scope of work by rule for:

(a) a general electrical contractor;

(b) a general plumbing contractor;

(c) an HVAC contractor;

(d) a residential electrical contractor; and

(e) a residential plumbing contractor.

Section 3. Section 58-55-302 is amended to read:

58-55-302. Qualifications for licensure.

(1) Each applicant for a license under this chapter shall:

(a) submit an application prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) meet the examination requirements established by this section and by rule by the commission with the concurrence of the director, which requirements include:

(i) for licensure as an apprentice electrician, apprentice plumber, or specialty contractor, no division-administered examination is required;

(ii) for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, the only required division-administered examination is a division-administered examination that covers information from the 25-hour course described in Subsection (1)(e)(iii), which course may have been previously completed as part of applying for any other license under this chapter, and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law course described in Subsection (1)(e)(iv); and

(iii) if required in Section 58-55-304, an individual qualifier must pass the required division-administered examination if the applicant is a business entity;

(d) if an apprentice, identify the proposed supervisor of the apprenticeship;

(e) if an applicant for a contractor's license:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of:

(A) except as provided in Subsection (2)(a), and except that no employment experience is required for licensure as a specialty contractor, two years full-time paid employment experience in the construction industry, which employment experience, unless more specifically described in this section, may be related to any contracting classification and does not have to include supervisory experience; and

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 25-hour course established by rule by the commission with the concurrence of the director, which is taught by an approved prelicensure course provider, and which course may include:

(A) construction business practices;

(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals;

(D) other aspects of business and construction principles considered important by the commission with the concurrence of the director; and

(E) for no additional fee, a provider-administered examination at the end of the 25-hour course;

(iv) [~~complete a five-hour business and law course established by rule by the commission with the concurrence of the director, which is taught by an approved prelicensure course provider, if an applicant for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was completed before July 1, 2019, the applicant does not need to take the business and law course;~~]if the applicant is applying for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, residential electrical contractor, or HVAC contractor, other than an applicant who completed the 25-hour course described in Subsection (1)(e)(iii) before July 1, 2019, complete a five-hour business and law course:

(A) that the commission, with the concurrence of the director, establishes by rule; and

(B) that is taught by an approved prelicensure course provider;

(v) (A) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license;

(B) be a licensed master plumber if an applicant for a plumbing contractor's license or a licensed master residential plumber if an applicant for a residential plumbing contractor's license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and

(vi) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and social security number or other satisfactory evidence of the applicant's identity permitted under rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2) (a) If the applicant for a contractor's license described in Subsection (1) is a building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory evidence of two years full-time paid employment experience as a building inspector, which shall include at least one year full-time experience as a licensed combination inspector.

(b) The applicant shall file the following with the division before the division issues the license:

(i) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

(ii) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and

(iii) proof of registration as required by applicable law with the:

(A) Department of Commerce;

(B) Division of Corporations and Commercial Code;

(C) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(D) State Tax Commission; and

(E) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:

(a) (i) A master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master plumber.

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

(iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:

(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303; and

(B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303.

(b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master residential plumber.

(c) A journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Electricians and Plumbers Licensing Board; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman plumber.

(d) A residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in

accordance with a planned program of training approved by the division;

(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman plumber.

(e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

(ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed apprentice plumber may work without supervision for a period not to exceed eight hours in any 24-hour period; and

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor.

(f) A master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master electrician.

(g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a master residential electrician.

(h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians and Plumbers Licensing Board; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman electrician.

(i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman electrician.

(j) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with the following:

(i) a licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician;

(ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed apprentice electrician may work without supervision for a period not to exceed eight hours in any 24-hour period;

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor; and

(iv) a licensed supervisor may have up to three licensed apprentice electricians on a residential project, or more if established by rules made by the commission, in concurrence with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) An alarm company applicant shall:

(i) have a qualifying agent who:

(A) is an alarm company officer, alarm company owner, alarm company proprietor, an alarm company trustee, or other responsible management personnel;

(B) demonstrates 6,000 hours of experience in the alarm company business;

(C) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(D) passes an examination [~~component~~]established by rule by the commission with the concurrence of the director;

(ii) provide the name, address, date of birth, social security number, fingerprint card, and consent to a background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for each alarm company officer, alarm company owner, alarm company proprietor, alarm company trustee, and responsible management personnel with direct responsibility for managing operations of the applicant within the state;

(iii) document that none of the persons described in Subsection (3)(k)(ii):

(A) have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; or

(B) are currently suffering from habitual drunkenness or from drug addiction or dependence;

(iv) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(v) meet with the division and board.

(l) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) submit to and pass a criminal background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

(vi) meet with the division and board if requested by the division or the board.

(m) (i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(n) An applicant for licensure as an HVAC contractor shall produce satisfactory evidence to the division that the applicant:

(i) completed two years full-time paid employment of HVAC specific experience; and

(ii) passed an examination the commission, with the concurrence of the director, established by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(o) An applicant for a general engineering contractor's license described in Subsection (1) may satisfy Subsection (1)(e)(ii)(A):

(i) by producing satisfactory evidence of four years relevant full-time paid employment experience; or

(ii) if the applicant is a licensed journeyman lineman in another jurisdiction, by meeting the requirements the division makes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent under this section and Section 58-55-302.1.

(5) (a) An application for licensure under this chapter shall be denied if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application; or

(iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application.

(6) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection (6)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection (6)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection (6) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection (1)(e)(vi);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504if the ownership status report indicates there is a change described in Subsection (6)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection (6):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or Subsection 58-55-502(8) or (9).

(7) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection (7)(a)(i), an ownership status report containing the information that would be required under Subsection (6) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection (7)(a)(i) or an ownership status report described in Subsection [~~(7)(a)(i)~~](7)(a)(ii)an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

(8) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (6) or (7) and the owners of the unincorporated entity for any purpose, including income tax withholding.

(9) (a) A social security number provided under Subsection (1)(e)(vi) or (3)(k)(ii) is a private record under Subsection 63G-2-302(1)(i).

(b) The division may designate an applicant's evidence of identity under Subsection (1)(e)(vi) as a private record in accordance with Section 63G-2-302.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 269
H. B. 452
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

ARTIFICIAL INTELLIGENCE AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill enacts provisions relating to the regulation of mental health chatbots that use artificial intelligence technology.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes protections for users of mental health chatbots that use artificial intelligence technology;
- ► prohibits certain uses of personal information by a mental health chatbot;
- ► requires a mental health chatbot to make certain disclosures to users;
- ► provides enforcement authority to the Division of Consumer Protection;
- ► establishes requirements for creating and maintaining policies for mental health chatbots;
- ► creates rebuttable presumptions for suppliers who comply with policy requirements; and
- ► provides a severability clause.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2024, Chapter 132

ENACTS:

13-72a-101, Utah Code Annotated 1953
13-72a-201, Utah Code Annotated 1953
13-72a-202, Utah Code Annotated 1953
13-72a-203, Utah Code Annotated 1953
13-72a-204, Utah Code Annotated 1953
13-72a-301, Utah Code Annotated 1953
58-60-118, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 is amended to read:

13-2-1. Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 10a, Music Licensing Practices Act;

(b) Chapter 11, Utah Consumer Sales Practices Act;

(c) Chapter 15, Business Opportunity Disclosure Act;

(d) Chapter 20, New Motor Vehicle Warranties Act;

(e) Chapter 21, Credit Services Organizations Act;

(f) Chapter 22, Charitable Solicitations Act;

(g) Chapter 23, Health Spa Services Protection Act;

(h) Chapter 25a, Telephone and Facsimile Solicitation Act;

(i) Chapter 26, Telephone Fraud Prevention Act;

(j) Chapter 28, Prize Notices Regulation Act;

(k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(l) Chapter 34, Utah Postsecondary School and State Authorization Act;

(m) Chapter 41, Price Controls During Emergencies Act;

(n) Chapter 42, Uniform Debt-Management Services Act;

(o) Chapter 49, Immigration Consultants Registration Act;

(p) Chapter 51, Transportation Network Company Registration Act;

(q) Chapter 52, Residential Solar Energy Disclosure Act;

(r) Chapter 53, Residential, Vocational and Life Skills Program Act;

(s) Chapter 54, Ticket Website Sales Act;

(t) Chapter 56, Ticket Transferability Act;

(u) Chapter 57, Maintenance Funding Practices Act;

(v) Chapter 61, Utah Consumer Privacy Act;

[~~(w) Chapter 63, Utah Social Media Regulation Act;~~]

[~~(x)~~](w) Chapter 64, Vehicle Value Protection Agreement Act;

[~~(y)~~](x) Chapter 65, Utah Commercial Email Act;

[~~(z)~~](y) Chapter 67, Online Dating Safety Act;

[~~(aa)~~](z) Chapter 68, Lawyer Referral Consultants Registration Act;

[~~(bb)~~](aa) Chapter 70, Automatic Renewal Contracts Act [~~, and~~];

[~~(cc)~~](bb) Chapter 71, Utah Minor Protection in Social Media Act [~~.~~]; and

(cc) Chapter 72a, Artificial Intelligence Applications Relating to Mental Health.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to establish:

(a) a public list that identifies a person who:

(i) violates a chapter described in Subsection (2);

(ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal process issued by:

(A) the division; or

(B) a court of competent jurisdiction; or

(iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar instrument signed by the person and the division; and

(b) a process by which a person may be removed from the list the division establishes as described in Subsection (3)(a).

Section 2. Section 13-72a-101 is enacted to read:

CHAPTER 72a. ARTIFICIAL INTELLIGENCE APPLICATIONS RELATING TO MENTAL HEALTH

PART 1. General Provisions

13-72a-101. Definitions.

As used in this chapter:

(1) "Artificial intelligence" means the same as that term is defined in Section 13-72-101.

(2) "Artificial intelligence technology" means the same as that term is defined in Section 13-72-101.

(3) "Confidential communications" means the same as that term is defined in Section 58-60-102.

(4) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(5) "Division" means the Division of Consumer Protection created in Section 13-2-1.

(6) "Generative artificial intelligence" means an artificial intelligence technology system that:

(a) is trained on data;

(b) is designed to simulate human conversation with a consumer through one or more of the following:

(i) text;

(ii) audio; or

(iii) visual communication; and

(c) generates non-scripted outputs similar to outputs created by a human, with limited or no human oversight.

(7) "Health care provider" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(8) "Health plan" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(9) "Individually identifiable health information" means any information, whether oral or recorded in any form or medium, that relates to the physical or mental health or condition of an individual.

(10) (a) "Mental health chatbot" means an artificial intelligence technology that:

(i) uses generative artificial intelligence to engage in interactive conversations with a user of the mental health chatbot similar to the confidential communications that an individual would have with a licensed mental health therapist; and

(ii) a supplier represents, or a reasonable person would believe, can or will provide mental health therapy or help a user manage or treat mental health conditions.

(b) "Mental health chatbot" does not include artificial intelligence technology that only:

(i) provides scripted output, such as guided meditations or mindfulness exercises; or

(ii) analyzes an individual's input for the purpose of connecting the individual with a human mental health therapist.

(11) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(12) "Personal data" means the same as that term is defined in Section 63A-19-101.

(13) "Scientific research development" means research:

(a) conducted by a researcher affiliated with:

(i) an institution of higher education;

(ii) a research organization; or

(iii) a healthcare facility; and

(b) that is:

(i) approved by an institutional review board; and

(ii) conducted in accordance with applicable ethics requirements for human subject research.

(14) "Supplier" means the same as that term is defined in Section 13-11-3.

(15) "Utah user" means an individual located in the state at the time the individual accesses or uses a mental health chatbot.

(16) "User input" means content provided to a mental health chatbot by a Utah user.

Section 3. Section 13-72a-201 is enacted to read:

PART 2. Protections for Users of Mental Health Chatbots

13-72a-201. Protection of personal information.

(1) A supplier of a mental health chatbot may not sell to or share with any third party any:

(a) individually identifiable health information of a Utah user; or

(b) user input of a Utah user.

(2) Subsection (1) does not apply to individually identifiable health information:

(a) requested by a health care provider with the consent of the Utah user;

(b) provided to a health plan of a Utah user upon request of the Utah user; or

(c) shared in compliance with Subsection (3).

(3) (a) A supplier may share individually identifiable health information necessary to ensure the effective functionality of the mental health chatbot with another party with which the supplier has a contract related to such functionality.

(b) When sharing information under Subsection (3)(a), the supplier and the other entity shall comply with all applicable privacy and security provisions of 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, as if the supplier were a covered entity and the other entity were a business associate, as such terms are defined in 45 C.F.R. 160.103.

Section 4. Section 13-72a-202 is enacted to read:

13-72a-202. Restrictions on advertising.

(1) A supplier may not use a mental health chatbot to advertise a specific product or service to a Utah user in a conversation between the Utah user and the mental health chatbot unless the mental health chatbot:

(a) clearly and conspicuously identifies the advertisement as an advertisement; and

(b) clearly and conspicuously discloses to the Utah user any:

(i) sponsorship;

(ii) business affiliation; or

(iii) agreement that the supplier has with a third party to promote, advertise, or recommend the product or service.

(2) A supplier of a mental health chatbot may not use a Utah user's input to:

(a) determine whether to display an advertisement for a product or service to the Utah user, unless the advertisement is for the mental health chatbot itself;

(b) determine a product, service, or category of product or service, to advertise to the Utah user; or

(c) customize how an advertisement is presented to the Utah user.

(3) This section does not prohibit a mental health chatbot from recommending that a Utah user seek counseling, therapy, or other assistance from a licensed professional, including a specific licensed professional.

Section 5. Section 13-72a-203 is enacted to read:

13-72a-203. Disclosure requirements.

(1) A supplier of a mental health chatbot shall cause the mental health chatbot to clearly and conspicuously disclose to a Utah user that the mental health chatbot is an artificial intelligence technology and not a human.

(2) The disclosure described in Subsection (1) shall be made:

(a) before the Utah user may access the features of the mental health chatbot;

(b) at the beginning of any interaction with the Utah user if the Utah user has not accessed the mental health chatbot within the previous seven days; and

(c) any time a Utah user asks or otherwise prompts the mental health chatbot about whether artificial intelligence is being used.

Section 6. Section 13-72a-204 is enacted to read:

13-72a-204. Violations -- Enforcement authority.

(1) The division shall administer and enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.

(2) The attorney general shall:

(a) upon request, give legal advice to the division; and

(b) act as counsel for the division in the exercise of the division's responsibilities under this chapter.

(3) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(a) the division director may impose an administrative fine of up to $2,500 for each violation of this chapter; and

(b) the division may bring an action in a court of competent jurisdiction to enforce a provision of this chapter.

(4) In a court action by the division to enforce a provision of this chapter, the court may:

(a) declare that an act or practice violates a provision of this chapter;

(b) issue an injunction for a violation of this part;

(c) order disgorgement of money received in violation of this chapter;

(d) order payment of disgorged money to an injured purchaser or consumer;

(e) impose a fine of up to $2,500 for each violation of this chapter; or

(f) award other relief that the court determines reasonable and necessary.

(5) If a court awards judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(6) A court may impose a civil penalty of no more than $5,000 for each violation of an administrative or court order issued for a violation of this chapter.

(7) The attorney general may bring a civil action on behalf of the division to collect a civil penalty imposed under this section.

(8) The division shall deposit all fines and civil penalties collected under this section into the Consumer Protection Education and Training Fund created in Section 13-2-8.

Section 7. Section 13-72a-301 is enacted to read:

PART 3. Severability

13-72a-301. Severability.

(1) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application.

(2) The provisions of this chapter are severable.

Section 8. Section 58-60-118 is enacted to read:

58-60-118. Mental health chatbots -- Affirmative defense.

(1) As used in this section:

(a) "Mental health chatbot" means the same as that term is defined in Section 13-72a-101.

(b) "Supplier" means the same as that term is defined in Section 13-11-3.

(2) It is an affirmative defense to liability in an action brought under Subsection 58-1-501(1) or Subsection 58-1-501(2) if the supplier demonstrates that the supplier:

(a) created, maintained, and implemented a policy that meets the requirements of Subsection (3);

(b) maintains documentation regarding the development and implementation of the mental health chatbot that describes:

(i) foundation models used in development;

(ii) training data used;

(iii) compliance with federal health privacy regulations;

(iv) user data collection and sharing practices; and

(v) ongoing efforts to ensure accuracy, reliability, fairness, and safety;

(c) filed the policy with the division as described in Subsection (4); and

(d) complied with all requirements of the filed policy at the time of the alleged violation.

(3) A policy described in Subsection (2)(a) must:

(a) be in writing;

(b) clearly state:

(i) the intended purposes of the mental health chatbot; and

(ii) the abilities and limitations of the mental health chatbot; and

(c) describe the procedures by which the supplier:

(i) ensures that licensed mental health therapists are involved in the development and review process;

(ii) ensures the mental health chatbot is developed and monitored in a manner consistent with clinical best practices;

(iii) conducts testing, prior to making the mental health chatbot publicly available and regularly thereafter, to ensure that the output of the mental health chatbot poses no greater risk to a user than that posed to an individual in therapy with a licensed mental health therapist;

(iv) identifies reasonably foreseeable adverse outcomes to, and potentially harmful interactions with, users that could result from using the mental health chatbot;

(v) provides a mechanism for a user to report any potentially harmful interactions from use of the mental health chatbot;

(vi) implements protocols to assess and respond to risk of harm to users or other individuals;

(vii) details actions taken to prevent or mitigate any such adverse outcomes or potentially harmful interactions;

(viii) implements protocols to respond in real time to acute risk of physical harm;

(ix) reasonably ensures regular, objective reviews of safety, accuracy, and efficacy, which may include internal or external audits;

(x) provides users any necessary instructions on the safe use of the mental health chatbot;

(xi) ensures users understand they are interacting with artificial intelligence;

(xii) ensures users understand the intended purpose, capabilities, and limitations of the mental health chatbot;

(xiii) prioritizes user mental health and safety over engagement metrics or profit;

(xiv) implements measures to prevent discriminatory treatment of users; and

(xv) ensures compliance with the security and privacy provisions of 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A, C, and E, as if the supplier were a covered entity, and applicable consumer protection requirements, including Sections 13-72a-201, 13-72a-202, and 13-72a-203.

(4) To file a policy with the division under this section, a supplier of a mental health chatbot:

(a) shall provide to the division:

(i) the name and address of the supplier;

(ii) the name of the mental health chatbot supplied by the supplier;

(iii) the written policy described in Subsection (3); and

(iv) a fee set in accordance with Section 63J-1-504;

(b) shall file in a manner established by the division; and

(c) may provide to the division:

(i) any revisions to a policy filed under this section; or

(ii) any other documentation the supplier elects to provide.

(5) The division:

(a) shall provide a means for a supplier of a mental health chatbot to file under this section; and

(b) may impose an annual filing fee set in accordance with Section 63J-1-504.

(6) The affirmative defense described in this section applies only in an administrative or civil action alleging a violation of:

(a) Subsection 58-1-501(1); or

(b) Subsection 58-1-501(2).

(7) Nothing in this section shall be construed to:

(a) bar the division from bringing an action under Subsection 58-1-501(1) or Subsection 58-1-501(2) against the supplier of a mental health chatbot; or

(b) recognize a mental health chatbot as a licensed mental health therapist.

Section 9. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 270
H. B. 456
Passed March 6, 2025
Approved March 25, 2025
Effective July 1, 2025

TRANSIENT ROOM TAX AMENDMENTS

Chief Sponsor: Bridger Bolinder
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies the transient room tax and creates the Outdoor Recreation Mitigation Grant Program.

Highlighted Provisions:

This bill:

- ► defines terms and modifies definitions;
- ► modifies the acceptable uses of transient room tax revenue;
- ► authorizes a county to enter into an interlocal agreement with a municipality within the county to share county transient room tax revenue;
- ► modifies reporting requirements on counties that impose transient room tax;
- ► provides that certain municipalities may appoint board members to a tourism tax advisory board;
- ► requires the state auditor to review a county's report on transient room tax and determine if the report is sufficient and compliant;
- ► modifies the maximum county tax rate on short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services for counties of the second, third, fourth, fifth, and sixth class;
- ► extends an earmark on certain transient room tax revenue for a county of the first class;
- ► modifies the state tax rate on short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services;
- ► imposes an additional state tax on short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services that take place within a county of the first class;
- ► directs the State Tax Commission to distribute certain revenue the state collects on short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services;
- ► extends the sunset on the State Search and Rescue Advisory Board;
- ► creates a sunset review;
- ► modifies the uses of the Transient Room Tax Fund;
- ► establishes an outdoor recreation mitigation grant program within the Division of Outdoor Recreation;
- ► creates the Outdoor Recreation Mitigation Grant Fund;
- ► describes the criteria to apply for and receive an outdoor recreation mitigation grant;
- ► describes the acceptable uses of an outdoor recreation mitigation grant;
- ► requires the Division of Outdoor Recreation to provide a written report annually to the Revenue and Taxation and Political Subdivisions Interim committees;
- ► repeals the sunset date on the Volunteer Emergency Medical Service Personnel Health Insurance Program; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-31-2, as last amended by Laws of Utah 2023, Chapter 15
17-31-5, as last amended by Laws of Utah 2022, Chapter 360
17-31-5.5, as last amended by Laws of Utah 2023, Chapter 479
17-31-8, as last amended by Laws of Utah 2018, Chapter 68
17-36-37, as last amended by Laws of Utah 2022, Chapter 288
59-12-301, as last amended by Laws of Utah 2015, Chapter 283
59-28-102, as enacted by Laws of Utah 2017, Chapter 166
59-28-103, as last amended by Laws of Utah 2022, Chapter 68
63I-1-253, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-1-259, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63N-3-403, as last amended by Laws of Utah 2024, Chapter 268
67-3-12, as last amended by Laws of Utah 2023, Chapters 16, 502
79-7-203, as last amended by Laws of Utah 2023, Chapter 33

ENACTS:

79-9-101, Utah Code Annotated 1953

79-9-102, Utah Code Annotated 1953
79-9-103, Utah Code Annotated 1953
79-9-104, Utah Code Annotated 1953
79-9-201, Utah Code Annotated 1953
79-9-202, Utah Code Annotated 1953
79-9-203, Utah Code Annotated 1953
79-9-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-31-2 is amended to read:

17-31-2. Purposes of transient room tax and expenditure of revenue -- Purchase or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions -- Issuance of bonds.

(1) As used in this section:

[~~(a) "Aircraft" means the same as that term is defined in Section 72-10-102.~~]

[~~(b)~~](a) "Airport" means the same as that term is defined in Section 72-10-102.

[~~(c) "Airport authority" means the same as that term is defined in Section 72-10-102.~~]

[~~(d)~~](b) "Airport operator" means the same as that term is defined in Section 72-10-102.

(c) "Establishing and promoting" means an activity or related expense to encourage, solicit, advertise, or market in order to attract or enhance transient guest spending in a county for a purpose described in Subsection (3)(a).

(d) "Mitigation" means activity to address the direct impacts of tourism, recreation related to tourism, or conventions in a county, specifically sanitation and solid waste disposal, emergency medical services, search and rescue services, law enforcement, road repair, and road upgrades.

[~~(e) "Base year revenue" means the amount of revenue generated by a transient room tax and collected by a county for fiscal year 2018-19.~~]

[~~(f) "Base year promotion expenditure" means the amount of revenue generated by a transient room tax that a county spent for the purpose described in Subsection (2)(a)during fiscal year 2018-19.~~]

[~~(g) "Eligible town" means a town that:~~]

[~~(i) is located within a county that has a national park within or partially within the county's boundaries; and~~]

[~~(ii) imposes a resort communities tax authorized by Section 59-12-401.~~]

[~~(h) "Emergency medical services provider" means an eligible town, a special district, or a special service district.~~]

[~~(i) "Tourism" means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, development, and advertising for the purpose described in Subsection (2)(a)(i).~~]

[~~(j) "Town" means a municipality that is classified as a town in accordance with Section 10-2-301.~~]

[~~(k)~~](e) "Transient room tax" means a tax at a rate not to exceed [~~4.25%~~]the relevant rate authorized by Section 59-12-301.

(2) Subject to the requirements of this section, a county legislative body may impose the transient room tax for a purpose described in Subsection (3).

(3) [~~for the purposes of~~]A county legislative body may expend revenue generated by the transient room tax imposed under this section and any revenue the county receives from the State Tax Commission under Section 59-28-103 only:

(a) for the purpose of establishing and promoting:

(i) tourism; [~~or~~]

(ii) recreation [~~,~~];

(iii) film production [~~, and~~]; or

(iv) conventions;

(b) to pay for tourism- or recreation-related facilities in the county, including acquiring, leasing, constructing, furnishing, maintaining, or operating:

(i) convention meeting rooms;

(ii) exhibit halls;

(iii) visitor information centers;

(iv) museums;

(v) sports and recreation facilities including practice fields, stadiums, [~~and~~]arenas, and trails;

[~~(vi) related facilities;~~]

[~~(vii)~~](vi) [~~if a national park is located within or partially within the county's boundaries,~~]the following on any route to a recreation destination within the county, as designated by the county legislative body:

(A) transit service, including shuttle service; and

(B) parking infrastructure; and

[~~(viii)~~](vii) an airport, if [~~:~~]

[~~(A) the county is a county of the fourth, fifth, or sixth class; and~~]

[~~(B)~~] the county is the airport operator of the airport;

(c) for the purpose of acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the [~~purposes~~]facilities listed in Subsection [~~(2)(b)~~](3)(b);

(d) [~~as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, paying for~~]to pay mitigation costs, specifically:

(i) solid waste disposal operations;

(ii) emergency medical services;

(iii) search and rescue activities;

(iv) law enforcement activities; and

(v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104; or

(C) class D roads, as defined in Section 72-3-105; and

(e) [~~making~~]to make the annual payment of principal, interest, premiums, and necessary reserves for any of the aggregate of bonds authorized under Subsection [~~(5)~~](4).

[~~(3) (a) The county legislative body of a county that imposes a transient room tax at a rate of 3% or less may expend the revenue generated as provided in Subsection (4), after making any reduction required by Subsection (6).~~]

[~~(b) The county legislative body of a county that imposes a transient room tax at a rate that exceeds 3% or increases the rate of transient room tax above 3% may expend:~~]

[~~(i) the revenue generated from the transient room tax at a rate of 3% as provided in Subsection (4), after making any reduction required by Subsection (6); and~~]

[~~(ii) the revenue generated from the portion of the rate that exceeds 3%:~~]

[~~(A) for any combination of the purposes described in Subsections (2) and (5); and~~]

[~~(B) regardless of the limitation on expenditures for the purposes described in Subsection (4).~~]

[~~(4) Subject to Subsections (6) and (7), a county may not expend more than 1/3 of the revenue generated by a rate of transient room tax that does not exceed 3%, for any combination of the purposes described in Subsections (2)(b) through (2)(e).~~]

[~~(5)~~](4) [~~(a)~~] The county legislative body may issue bonds or cause bonds to be issued, as permitted by law, to pay all or part of any costs incurred for the purposes set forth in Subsections [~~(2)(b)~~](3)(b) through [~~(2)(d)~~](3)(d) that are permitted to be paid from bond proceeds.

[~~(b) If a county legislative body does not need the revenue generated by the transient room tax for payment of principal, interest, premiums, and reserves on bonds issued as provided in Subsection (2)(e), the county legislative body shall expend that revenue for the purposes described in Subsection (2), subject to the limitation of Subsection (4).~~]

[~~(6) (a) In addition to the purposes described in Subsection (2), a county legislative body:~~]

[~~(i) may expend up to 4% of the total revenue generated by a transient room tax to pay a provider for emergency medical services in one or more eligible towns; and~~]

[~~(ii) may expend up to 10% of the total revenue generated by a transient room tax for visitor management and destination development if:~~]

[~~(A) a national park is located within or partially within the county's boundaries; and~~]

[~~(B) the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) or the substantially similar body as described in Subsection 17-31-8(1)(b) has prioritized and recommended the use of the revenue in accordance with Subsection 17-31-8(4).~~]

[~~(b) A county legislative body shall reduce the amount that the county is authorized to expend for the purposes described in Subsection (4) by subtracting the amount of transient room tax revenue expended in accordance with Subsection (6)(a) from the amount of revenue described in Subsection (4).~~]

[~~(7) (a) Except as provided in Subsection (7)(b), a county legislative body in a county of the fourth, fifth, or sixth class shall expend the revenue generated by a transient room tax as follows:~~]

[~~(i) an amount equal to the county's base year promotion expenditure for the purpose described in Subsection (2)(a)(i);~~]

[~~(ii) an amount equal to the difference between the county's base year revenue and the county's base year promotion expenditure in accordance with Subsections (3)through (6); and~~]

[~~(iii) (A) 37% of the revenue that exceeds the county's base year revenue for the purpose described in Subsection (2)(a)(i); and~~]

[~~(B) subject to Subsection (7)(c), 63% of the revenue that exceeds the county's base year revenue for any combination of the purposes described in Subsections (2)(a)(ii) through (e) or to pay an emergency medical services provider for emergency medical services in one or more eligible towns.~~]

[~~(b) A county legislative body in a county of the fourth, fifth, or sixth class with one or more national recreation areas administered by the National Park Service or the Forest Service or national parks within or partially within the county's boundaries shall expend the revenue generated by a transient room tax as follows:~~]

[~~(i) for a purpose described in Subsection (2)(a) and subject to the limitation described in Subsection (7)(d), the greater of:~~]

[~~(A) an amount equal to the county's base year promotion expenditure; or~~]

[~~(B) 37% of the transient room tax revenue; and~~]

[~~(ii) the remainder of the transient room tax not expended in accordance with Subsection (7)(b)(i) for any combination of the purposes described in Subsection (2) and, subject to the limitation described in Subsection (7)(c), Subsection (6).~~]

[~~(c) A county legislative body in a county of the fourth, fifth, or sixth class may not:~~]

[~~(i) expend more than 4% of the revenue generated by a transient room tax to pay an emergency medical services provider for emergency medical services in one or more eligible towns; or~~]

[~~(ii) expend revenue generated by a transient room tax for the purpose described in Subsection (2)(e) in an amount that exceeds the county's base year promotion expenditure.~~]

[~~(d) A county legislative body may not expend more than 1/5 of the revenue described in Subsection (7)(b)(i) for a purpose described in Subsection (2)(a)(ii).~~]

[~~(e) The provisions of this Subsection (7) apply notwithstanding any other provision of this section.~~]

[~~(f) If the total amount of revenue generated by a transient room tax in a county of the fourth, fifth, or sixth class is less than the county's base year promotion expenditure:~~]

[~~(i) Subsections (7)(a) through (d) do not apply; and~~]

[~~(ii) the county legislative body shall expend the revenue generated by the transient room tax in accordance with Subsections (3) through (6).~~]

(5) (a) Activity described in Subsection (3)(a) is exclusive of activity described in Subsection (3)(b) or (c).

(b) A county may not distribute revenue generated by the transient room tax imposed under this section to a large public transit district, as that term is defined in Section 17B-2a-802.

(6) A county that generates $1 million or more in revenue from a transient room tax imposed under this section in the preceding calendar year:

(a) shall expend, at a minimum, the revenue the county generates from the first 2% of the tax rate of a transient room tax on a purpose described in Subsection (3)(a); and

(b) may expend the remainder of the revenue the county generates from a transient room tax on any purpose described in Subsection (3).

(7) A county that generates $500,000 or more but less than $1 million in revenue from a transient room tax imposed under this section in the preceding calendar year:

(a) shall expend, at a minimum, the revenue the county generates from the first 1% of the tax rate of a transient room tax on a purpose described in Subsection (3)(a); and

(b) may expend the remainder of the revenue the county generates from a transient room tax on any purpose described in Subsection (3).

(8) A county that is not described in Subsection (6) or (7) may expend the revenue the county generates from a transient room tax on any purpose described in Subsection (3).

(9) The legislative body of a county may cause revenue generated by a transient room tax to be expended by a municipality within the county if:

(a) the revenue the county shares with the municipality is not required to be spent by the county for a purpose described in Subsection (3)(a);

(b) the county and municipality enter into an interlocal agreement:

(i) governing the use of the revenue; and

(ii) requiring the municipality to report the municipality's expenditures of the revenue to the county; and

(c) the municipality receiving revenue generated by the county's transient room tax agrees to and expends the revenue for a purpose described in Subsection (3).

Section 2. Section 17-31-5 is amended to read:

17-31-5. General powers and duties of a county legislative body related to the transient room tax.

(1) The legislative body of each county that imposes a transient room tax in accordance with Section 17-31-2:

(a) shall, except as provided in Subsection (2), at least annually consider the priorities and recommendations of the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) or the substantially similar body as described in Subsection 17-31-8(1)(b) in one or more public meetings before finalizing decisions on expenditures of revenue from the transient room tax in each fiscal year;

(b) shall prepare and provide the annual written report for each fiscal year as described in Section 17-31-5.5; and

(c) may do and perform any and all other acts and things necessary, [~~convenient,~~]desirable, or appropriate to carry out the provisions of [~~Sections 17-31-2 through 17-31-5.5~~]this chapter.

(2) Subsection (1)(a) does not apply to the legislative body of a county if:

(a) the legislative body of the county has entered into a written contract with a substantially similar body to a tourism tax advisory board as described in Subsection 17-31-8(1)(b); and

(b) the written contract described in Subsection (2)(a) clearly delineates how the expenditures of revenue from the transient room tax are to be spent.

Section 3. Section 17-31-5.5 is amended to read:

17-31-5.5. Report by county legislative body -- Content.

(1) The legislative body of each county that imposes a transient room tax under Section 59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall:

(a) ensure that the annual financial report required by Section 17-36-37 includes a breakdown of expenditures:

(i) for revenue generated by the transient room tax, according to the allowable expenditure categories described in Subsection 17-31-2(3); and

(ii) for revenue generated by the tourism, recreation, cultural, convention, and airport facilities tax, according to the allowable expenditure categories described in Sections 59-12-602 and 59-12-603; and

(b) prepare annually a written report in accordance with Subsection (2).

[~~(2) The report described in Subsection (1) shall include a breakdown of expenditures into the following categories:~~]

[~~(a) for the transient room tax, identification of expenditures for:~~]

[~~(i) establishing and promoting:~~]

[~~(A) recreation;~~]

[~~(B) tourism;~~]

[~~(C) film production; and~~]

[~~(D) conventions;~~]

[~~(ii) acquiring, leasing, constructing, furnishing, or operating:~~]

[~~(A) convention meeting rooms;~~]

[~~(B) exhibit halls;~~]

[~~(C) visitor information centers;~~]

[~~(D) museums; and~~]

[~~(E) related facilities;~~]

[~~(iii) acquiring or leasing land required for or related to the purposes listed in Subsection (2)(a)(ii);~~]

[~~(iv) mitigation costs as identified in Subsection 17-31-2(2)(d); and~~]

[(v) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds issued to pay for costs referred to in Subsections 17-31-2(2)(c) and (5)(a); and]

[(b) for the tourism, recreation, cultural, convention, and airport facilities tax, identification of expenditures for:]

[(i) financing tourism promotion, which means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, product development, and advertising;]

[(ii) the development, operation, and maintenance of the following facilities as defined in Section 59-12-602:]

[(A) an airport facility;]

[(B) a convention facility;]

[(C) a cultural facility;]

[(D) a recreation facility; and]

[(E) a tourist facility;]

[(iii) mitigation costs as identified in Subsection 59-12-603(2)(b); and]

[(iv) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).]

[(3)](2) (a) For the transient room tax, the written report described in Subsection [(1)](1)(b) shall include [a breakdown of each expenditure described in Subsection (2)(a)(i), including]:

[(a)](i) [whether the expenditure was used for in-state and out-of-state promotion efforts]a breakdown of promotion expenditures;

[(b) an explanation of how the expenditure targeted a cost created by tourism; and]

[(c) an accounting of the expenditure showing that the expenditure was used only for costs directly related to a cost created by tourism.]

(ii) if the county caused revenue generated by the transient room tax to be expended by a municipality within the county, as described in Subsection 17-31-2(9), a description:

(A) of each interlocal agreement the county entered into with a municipality; and

(B) the amount of revenue the county shared with a municipality pursuant to an interlocal agreement;

(iii) the number of search and rescue efforts conducted by the county in the previous fiscal year;

(iv) the total cost of search and rescue efforts and emergency medical services that were related to tourism or recreation within the eligible county in the previous fiscal year;

(v) a description of any factors that made a search and rescue effort or emergency medical service more expensive or difficult, including the condition of roads within the county;

(vi) what money, if any, the county was able to recover in the previous fiscal year from an individual on whose behalf the county incurred the cost of search and rescue or emergency medical services; and

(vii) (A) data on the percentages of individuals on whose behalf the county incurred the cost of search and rescue or emergency medical services who were in-state visitors to the county, out-of-state visitors to the county, or residents of the county; and

(B) if data described in Subsection (2)(a)(vii)(A) is unavailable regarding an individual on whose behalf the county incurred the cost of search and rescue or emergency medical services, the number of individuals whose data described in Subsection (2)(a)(vii)(A) is unavailable.

(b) The state auditor, in consultation with the Utah Office of Tourism created in Section 63N-7-102, shall:

(i) create a form for a financial report and a form for a written report required under this section;

(ii) designate at least one employee within the state auditor's office to serve as the point of contact for counties preparing a financial report or written report under this section; and

(iii) if the state auditor's office determines it is advisable, create written guidance to assist counties in preparing a financial report or written report under this section.

[(4)](3) On or before October 1, the county legislative body shall provide a copy of the annual written report described in Subsection [(1)](1)(b) for the previous fiscal year to [:]the state auditor.

[(a) the Utah Office of Tourism within the Governor's Office of Economic Opportunity;]

[(b) the county's tourism tax advisory board; and]

[(c) the Office of the Legislative Fiscal Analyst.]

Section 4. Section 17-31-8 is amended to read:

17-31-8. Tourism tax advisory boards.

(1) (a) Except as provided in Subsection (1)(b), any county that collects the following taxes shall operate a tourism tax advisory board:

(i) the tax allowed under Section 59-12-301; or

(ii) the tax allowed under Section 59-12-603.

(b) Notwithstanding Subsection (1)(a), a county is exempt from Subsection (1)(a) if the county has an existing board, council, committee, convention visitor's bureau, or body that substantially conforms with Subsections (2), (3), and (4).

(2) A tourism tax advisory board created under Subsection (1) shall consist of at least five members.

(3) (a) A tourism tax advisory board shall be composed of the following members that are residents of the county:

[(a)](i) a majority of the members shall be current employees of entities in the county that are subject to the taxes referred to in Section 59-12-301 or 59-12-603; and

[(b)](ii) [the balance]at least two of the board's membership shall be employees of recreational facilities, convention facilities, museums, cultural attractions, or other tourism related industries located within the county.

(b) A tourism tax advisory board may add additional members to the board, including board members who represent the interests of municipalities in the county.

(c) If a county generates 50% or more of the county's revenue generated by the imposition of a tax described in Subsection (1)(a)(i) within one municipality in the county, the tourism tax advisory board for that county shall include a board member to represent the interests of the municipality.

(4) (a) Each tourism tax advisory board shall advise the county legislative body on the best use of revenues collected from the tax allowed under Section 59-12-301 by providing the legislative body with a priority listing for proposed expenditures based on projected

available tax revenues supplied to the board by the county legislative body on an annual basis.

(b) Each tourism tax advisory board in a county operating under the county commission form of government under Section 17-52a-201 or the expanded county commission form under Section 17-52a-202 shall advise the county legislative body on the best use of revenues collected from the tax allowed under Section 59-12-603 by providing the legislative body with a priority listing for proposed expenditures based on projected available tax revenues supplied to the board by the county legislative body on an annual basis.

(5) A member of any county tourism tax advisory board:

(a) may not receive compensation or benefits for the member's services; and

(b) may receive per diem and travel expenses incurred in the performance of the member's official duties, in accordance with Section 11-55-103.

Section 5. Section 17-36-37 is amended to read:

17-36-37. Finance officer -- Annual financial statement -- Contents -- Duties of state auditor.

(1) The finance officer of each county, within 180 days after the close of each fiscal period, or, for a county that has adopted a fiscal period that is a biennial period, within 180 days after both the midpoint and the close of the fiscal period, except as provided by Section 17-36-38, shall prepare and make available to the governing body an annual financial report that shall contain:

(a) a statement of revenues and expenditures and a comparison with the budget of the county general fund, similar statements of all other funds for which budgets are required, and statements of revenues and expenditures or of income and expense for all other operating funds of the county;

(b) a balance sheet of each fund and a combined balance sheet of all funds as of:

(i) for a county that has adopted a fiscal period that is a biennial period, the midpoint and the close of the fiscal period; and

(ii) for each other county, the close of the fiscal period; or

(c) any other reports the governing body may require, including work performance data, tax levies, taxable values, details of bonded indebtedness, and historical facts of interest to the governing body and the public.

(2) Copies of the annual report shall be furnished to the state auditor and made a matter of public record in the office of the finance officer.

(3) The statement of revenues and expenditures described in Subsection (1)(a) shall specifically identify when revenue is restricted for only statutorily authorized expenditures, including:

(a) transient room tax, according to the expenditure authorizations described in Section 17-31-2; and

(b) tourism, recreation, cultural, convention, and airport facilities tax, according to the expenditure authorizations described in Sections 59-12-602 and 59-12-603.

(4) The state auditor:

(a) may provide guidance to the finance officer of each county to ensure uniform reporting across counties;

(b) may include the information described in Subsection (3) on the public finance website described in Section 67-3-12;

(c) shall, on a regular basis determined by the state auditor, evaluate a county's annual financial report in regard to revenues and expenditures described in Subsection (3) and determine whether a county's reporting is sufficient to ensure transparency and accountability; and

(d) shall, upon receipt of a county's written report under Section 17-31-5.5 and in conjunction with evaluating the information described in Subsection (3), determine if a county is compliant with the expenditure authorizations described in Sections 17-31-2, 59-12-602, and 59-12-603.

(5) If the state auditor determines under Subsection (4)(c) that a county is not sufficiently reporting or determines under Subsection (4)(d) that a county is not compliant, the state auditor:

(a) shall provide the county finance officer with written notice of the determination, including the rationale for the determination; and

(b) shall provide the county finance officer with an opportunity to respond to the determination in writing, including an opportunity to correct any deficiencies identified by the state auditor.

(6) If the auditor determines, after providing a county with an opportunity to respond and correct any deficiencies as described in Subsection (5)(b), that a county is still not in compliance with this section, the auditor:

(a) shall provide notice of the determination to the Division of Outdoor Recreation created in Section 79-7-201;

(b) may provide notice to the Revenue and Taxation Interim Committee and the Political Subdivisions Interim Committee, or if the Legislature is in session, the Legislative Management Committee; and

(c) may take any action authorized in Section 51-2a-401 or other provision of law.

Section 6. Section 59-12-301 is amended to read:

59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) (a) A county legislative body may impose a tax on charges for the accommodations and services described in Subsection 59-12-103(1)(i) at a rate of not to exceed:

(i) []4.25% beginning on or after October 1, 2006 [-]; and

(ii) for counties of the second, third, fourth, fifth, or sixth class, 4.5% beginning on or after July 1, 2025.

(b) Subject to Subsection (2), the revenues raised from the tax imposed under Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

(c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed under Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act.

(2) (a) If a county legislative body of a county of the first class imposes a tax under this section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

[~~(a)~~](i) deposited into the Transient Room Tax Fund created by Section 63N-3-403; and

[~~(b)~~](ii) expended as provided in Section 63N-3-403.

(b) If a county legislative body of a county of the first class imposes a tax under this section, beginning on July 1, 2027, and ending on June 30, 2047, each year the first 7.5% of the revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

(i) deposited into the Transient Room Tax Fund created by Section 63N-3-403; and

(ii) expended as provided in Section 63N-3-403.

(3) Subject to Subsection (4), a county legislative body:

(a) may increase or decrease the tax authorized under this part; and

(b) shall regulate the tax authorized under this part by ordinance.

(4) (a) For purposes of this Subsection (4):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(b)(ii) from the county.

(ii) The notice described in Subsection (4)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

(d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (4)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (4)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (4)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(d)(ii)(A), the rate of the tax.

(e) (i) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (4)(e)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Section 7. Section 59-28-102 is amended to read:

59-28-102. Definitions.

As used in this chapter:

(1) "Agreement" means the same as that term is defined in Section 59-12-102.

(2) "Certified service provider" means the same as that term is defined in Section 59-12-102.

(3) "Initial rate" means a rate of 0.32%.

[~~(3)~~](4) "Model 2 seller" means the same as that term is defined in Section 59-12-102.

[~~(4)~~](5) "Purchaser" means the same as that term is defined in Section 59-12-102.

[~~(5)~~](6) "Sales price" means the same as that term is defined in Section 59-12-102.

(7) "Secondary rate" means a rate of 0.75%.

[~~(6)~~](8) "Seller" means the same as that term is defined in Section 59-12-102.

Section 8. Section 59-28-103 is amended to read:

59-28-103. Imposition -- Rate -- Revenue distribution.

(1) Subject to the other provisions of this chapter, the state shall impose a tax on the transactions described in Subsection 59-12-103(1)(i) at [~~a rate of .32%~~]:

(a) the initial rate; and

(b) the secondary rate.

(2) The tax imposed under this chapter is in addition to any other taxes imposed on the transactions described in Subsection 59-12-103(1)(i).

(3) (a) (i) Subject to Subsection (3)(a)(ii), the commission shall deposit 6% of the revenue the state collects from the tax under this chapter at the initial rate into the Hospitality and Tourism Management Education Account created in Section 53F-9-501 to fund the Hospitality and Tourism Management Career and Technical Education Pilot Program created in Section 53E-3-515.

(ii) The commission may not deposit more than $300,000 into the Hospitality and Tourism Management Education Account under Subsection (3)(a)(i) in a fiscal year.

(b) Except for the amount deposited into the Hospitality and Tourism Management Education Account under Subsection (3)(a) and the administrative charge retained under Subsection 59-28-104(4), the commission shall deposit [~~any~~]the remainder of the revenue the state collects from the tax under this chapter at the initial rate into the Outdoor Recreation Infrastructure Account created in Section 79-8-106 to fund:

(i) the Outdoor Recreational Infrastructure Grant Program created in Section 79-8-401; and

(ii) the Recreation Restoration Infrastructure Grant Program created in Section 79-8-202.

(4) (a) The commission shall deposit 33% of the revenue the state collects from the tax at the secondary rate into the Outdoor Recreation Mitigation Grant Fund created in Section 79-9-103.

(b) The commission shall distribute the remaining revenue the state collects from the tax under this chapter at the secondary rate to the Division of Finance, which shall transfer the revenue into the General Fund.

(5) (a) In addition to the imposition of tax described in Subsection (1), the state shall impose a tax at the rate of 0.25% on the transactions described in Subsection 59-12-103(1)(i) that take place within a county of the first class.

(b) The commission shall distribute the revenue the state collects from the tax described in Subsection (5)(a) to the Division of Finance, which shall transfer the revenue into the Transient Room Tax Fund created in Section 63N-3-403.

Section 9. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.

(2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, [~~2027~~]2030.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

(5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

(6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.

[~~(7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.~~]

[~~(8)~~](7) Section 53-5-703, Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

[~~(9)~~](8) Section 53-11-104, Board, is repealed July 1, 2029.

[~~(10)~~](9) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

[~~(11)~~](10) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

[~~(12)~~](11) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(13)~~](12) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.

[~~(14)~~](13) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(15)~~](14) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(16)~~](15) Section 53B-17-1203, SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.

[~~(17)~~](16) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(18)~~](17) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

[~~(19)~~](18) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.

[~~(20)~~](19) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(21)~~](20) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(22)~~](21) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(23)~~](22) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(24)~~](23) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(25)~~](24) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(26)~~](25) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

[~~(27)~~](26) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

[~~(28)~~](27) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(29)~~](28) Subsection 53E-7-207(7), regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(30)~~](29) Section 53F-2-420, Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(31)~~](30) Section 53F-5-214, Grant for professional learning, is repealed July 1, 2025.

[~~(32)~~](31) Section 53F-5-215, Elementary teacher preparation grant, is repealed July 1, 2025.

[~~(33)~~](32) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is repealed July 1, 2025.

[~~(34)~~](33) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(35)~~](34) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(36)~~](35) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(37)~~](36) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

Section 10. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates: Title 59.

(1) Subsection 59-1-403(4)(aa), regarding a requirement for the State Tax Commission to inform the Department of Workforce Services whether an individual claimed a federal earned income tax credit, is repealed July 1, 2029.

(2) Section 59-7-618.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July 1, 2029.

(3) Section 59-9-102.5, Offset for occupational health and safety related donations, is repealed December 31, 2030.

(4) Section 59-10-1033.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July 1, 2029.

(5) Subsection 59-28-103(5) is repealed July 1, 2047.

Section 11. Section 63N-3-403 is amended to read:

63N-3-403. Transient Room Tax Fund -- Source of revenues -- Interest -- Expenditure or pledge of revenues.

(1) There is created a fiduciary fund held by the state in a purely custodial capacity known as the Transient Room Tax Fund.

(2) (a) The fund shall be funded by the portion of the sales and use tax imposed by a county of the first class described in Subsection 59-12-301(2) and the revenue generated by the tax described in Subsection 59-28-103(5).

(b) (i) The fund shall earn interest.

(ii) Any interest earned on fund money shall be deposited into the fund.

(3) (a) [~~Subject~~]Before July 1, 2027, and subject to Subsection (3)(b), the executive director shall expend or pledge the money deposited into the fund:

(i) to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class;

(ii) for a purpose listed in Section 17-31-2, except that any requirements in Section 17-31-2 for the expenditure of money do not apply; or

(iii) for a combination of Subsections (3)(a)(i) and (ii).

(b) The executive director may not expend more than $20,000,000 in total to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class.

(4) Beginning on July 1, 2027, the executive director shall expend or pledge the money deposited into the fund for:

(a) the benefit of a city of the first class:

(i) in a county of the first class;

(ii) with a convention center; and

(iii) that is not a capital city; and

(b) a purpose listed in Section 17-31-2, except that any requirements in Section 17-31-2 for the expenditure of money do not apply.

Section 12. Section 67-3-12 is amended to read:

67-3-12. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) As used in this section:

(a) (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same as that term is defined in Section 63E-1-102.

(ii) "Independent entity" includes an entity that is part of an independent entity described in Subsection (1)(a)(i), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(iii) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(b) "Local education agency" means a school district or charter school.

(c) "Participating local entity" means:

(i) a county;

(ii) a municipality;

(iii) the State Fair Park Authority, created in Section 11-68-201;

(iv) a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts;

(v) a special service district under Title 17D, Chapter 1, Special Service District Act;

(vi) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(vii) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(viii) except for a taxed interlocal entity as defined in Section 11-13-602:

(A) an interlocal entity as defined in Section 11-13-103;

(B) a joint or cooperative undertaking as defined in Section 11-13-103; or

(C) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(ix) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (1)(c)(i) through (viii), if the entity is considered a component unit of the entity described in Subsections (1)(c)(i)through (viii) under the governmental accounting standards issued by the Governmental Accounting Standards Board; or

(x) a conservation district under Title 17D, Chapter 3, Conservation District Act.

(d) (i) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(ii) "Participating state entity" includes an entity that is part of an entity described in Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(e) "Public finance website" or "website" means the website established by the state auditor in accordance with this section.

(f) "Public financial information" means each record that is required under this section or by rule made by the Office of the State Auditor under Subsection (9) to be made available on the public finance website, a participating local entity's website, or an independent entity's website.

(g) "Qualifying entity" means:

(i) an independent entity;

(ii) a participating local entity;

(iii) a participating state entity;

(iv) a local education agency;

(v) a state institution of higher education as defined in Section 53B-3-102;

(vi) the Utah Educational Savings Plan created in Section 53B-8a-103;

(vii) the Utah Housing Corporation created in Section 63H-8-201;

(viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or

(x) a URS-participating employer.

(h) (i) "URS-participating employer" means an entity that:

(A) is a participating employer, as that term is defined in Section 49-11-102; and

(B) is not required to report public financial information under this section as a qualifying entity described in Subsections (1)(g)(i) through (ix).

(ii) "URS-participating employer" does not include:

(A) the Utah State Retirement Office created in Section 49-11-201;

(B) an insurer that is subject to the disclosure requirements of Section 31A-4-113; or

(C) a withdrawing entity.

(i) (i) "Withdrawing entity" means:

(A) an entity that elects to withdraw from participation in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records;

(B) until the date determined under Subsection 49-11-626(2)(a), a public employees' association that provides the notice of intent described in Subsection 49-11-626(2)(b); and

(C) beginning on the date determined under Subsection 49-11-626(2)(a), a public employees' association that makes an election described in Subsection 49-11-626(3).

(ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in Sections 49-11-623 and 49-11-624.

(2) The state auditor shall establish and maintain a public finance website in accordance with this section.

(3) The website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, participating local entities, and URS-participating employers, using the website; and

(ii) link to websites administered by participating local entities, independent entities, or URS-participating employers that do not use the website for the purpose of providing public financial information as required by this section and by rule made under Subsection (9);

(b) allow a person that has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the website;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule made in accordance with Subsection (9);

(e) have a unique and simplified website address;

(f) be guided by the principles described in Subsection 63A-16-202(2);

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule made under Subsection (9); and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(4) The state auditor shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities; and

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities.

(5) A qualifying entity shall permit the public to view the qualifying entity's public financial information by posting the public financial information to the public finance website in accordance with rules made under Subsection (9).

(6) The content of the public financial information posted to the public finance website is the responsibility of the qualifying entity posting the public financial information.

(7) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the Utah Public Finance Website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.

(8) (a) A qualifying entity may not post financial information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, to the public finance website.

(b) An individual who negligently discloses financial information that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the financial information if the financial information is disclosed solely as a result of the preparation or publication of the website.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of the State Auditor:

(a) shall make rules to:

(i) establish which records a qualifying entity is required to post to the public finance website; and

(ii) establish procedures for obtaining, submitting, reporting, storing, and posting public financial information on the public finance website; and

(b) may make rules:

(i) governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure [.]; and

(ii) allowing for the inclusion of financial data provided by a participating local entity to be included on the Utah Public Finance Website in a uniform manner.

(10) The rules made under Subsection (9) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the public finance website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state auditor for posting on the public finance website.

Section 13. Section 79-7-203 is amended to read:

79-7-203. Powers and duties of division.

(1) As used in this section, "real property" includes land under water, upland, and all other property commonly or legally defined as real property.

(2) The Division of Wildlife Resources shall retain the power and jurisdiction conferred upon the Division of Wildlife Resources by law on property controlled by the division with reference to fish and game.

(3) For purposes of property controlled by the division, the division shall permit multiple uses of the property for purposes such as grazing, fishing, hunting, camping, mining, and the development and use of water and other natural resources.

(4) (a) The division may acquire real and personal property in the name of the state by legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange, or otherwise, subject to the approval of the executive director and the governor.

(b) In acquiring real or personal property, the credit of the state may not be pledged without the consent of the Legislature.

(5) (a) Before acquiring any real property, the division shall notify the county legislative body of the county where the property is situated of the division's intention to acquire the property.

(b) If the county legislative body requests a hearing within 10 days of receipt of the notice, the division shall hold a public hearing in the county concerning the matter.

(6) Acceptance of gifts or devises of land or other property is at the discretion of the division, subject to the approval of the executive director and the governor.

(7) The division shall acquire property by eminent domain in the manner authorized by Title 78B, Chapter 6, Part 5, Eminent Domain.

(8) (a) The division may make charges for special services and use of facilities, the income from which is available for recreation purposes.

(b) The division may conduct and operate those services necessary for the comfort and convenience of the public.

(9) (a) The division may lease or rent concessions of lawful kinds and nature on property to persons, partnerships, and corporations for a valuable consideration after notifying the commission.

(b) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in selecting concessionaires.

(10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.

(11) (a) The division shall coordinate with and annually report to the following regarding land acquisition and development and grants administered under this chapter or Chapter 8, Outdoor Recreation Grants:

(i) the Division of State Parks; and

(ii) the Office of Rural Development.

(b) The report required under Subsection (11)(a) shall be in writing, made public, and include a description and the amount of any grant awarded under this chapter or Chapter 8, Outdoor Recreation Grants.

(12) The division shall:

(a) coordinate outdoor recreation policy, management, and promotion:

(i) among state and federal agencies and local government entities in the state;

(ii) with the Public Lands Policy Coordinating Office created in Section 63L-11-201, if public land is involved; and

(iii) on at least a quarterly basis, with the executive director and the executive director of the Governor's Office of Economic Opportunity;

(b) in cooperation with the Governor's Office of Economic Opportunity, promote economic development in the state by:

(i) coordinating with outdoor recreation stakeholders;

(ii) improving recreational opportunities; and

(iii) recruiting outdoor recreation business;

(c) administer Chapter 9, Mitigating the Direct Impacts of Tourism and Outdoor Recreation;

(d) promote all forms of outdoor recreation, including motorized and nonmotorized outdoor recreation;

[~~(d)~~](e) recommend to the governor and Legislature policies and initiatives to enhance recreational amenities and experiences in the state and help implement those policies and initiatives;

[~~(e)~~](f) in performing the division's duties, seek to ensure safe and adequate access to outdoor recreation for all user groups and for all forms of recreation;

[~~(f)~~](g) develop data regarding the impacts of outdoor recreation in the state; and

[~~(g)~~](h) promote the health and social benefits of outdoor recreation, especially to young people.

(13) By following Title 63J, Chapter 5, Federal Funds Procedures Act, the division may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded outdoor recreation programs.

Section 14. Section 79-9-101 is enacted to read:

CHAPTER 9. MITIGATING THE DIRECT IMPACTS OF TOURISM AND OUTDOOR RECREATION

PART 1. General Provisions

79-9-101. Definitions.

As used in this part:

(1) "Board" means the Outdoor Recreation Mitigation Board created in Section 79-9-104.

(2) "Division" means the Division of Outdoor Recreation created in Section 79-9-201.

(3) "Eligible county" means a county:

(a) of the third, fourth, fifth, or sixth class;

(b) that imposes the maximum allowable rate of a county transient room tax; and

(c) that generated less than $10,000,000 in revenue from the imposition of a transient room tax in the previous calendar year.

(4) "Grant" means an outdoor recreation mitigation grant issued by the division to an eligible county as described in Section 79-9-201.

(5) "Grantee" means an eligible county that receives an outdoor recreation mitigation grant from the division.

(6) (a) "Visitor-related emergency costs" means the documented expenditures of an eligible county in conducting search and rescue efforts or providing emergency medical services in direct relation to an individual who is in the eligible county for the purpose of outdoor recreation, tourism, or a convention.

(b) "Visitor-related emergency costs" may include road repair and upgrade costs, as described in Subsection 17-31-2(3)(d), so long as the eligible county applying for a grant presents sufficient evidence to suggest that the condition of roads in the eligible county has a direct impact on search and rescue efforts or providing emergency medical services in relation to an individual who is in the eligible county for the purpose of outdoor recreation, tourism, or a convention.

(7) "Visitor-related safety costs" means a mitigation cost described in Subsection 17-31-2(3)(d) that is not a visitor-related emergency cost, so long as the eligible county applying for a grant presents sufficient evidence to suggest that:

(a) the eligible county's current solid waste disposal operations are overwhelmed by outdoor recreation, tourism, or conventions in the eligible county, resulting in unsanitary or unsafe conditions in the eligible county;

(b) law enforcement activities within the eligible county are strained as a direct result of outdoor recreation, tourism, or conventions in the eligible county, resulting in unsafe conditions for recreators, visitors, tourists, county residents, and members of law enforcement within the eligible county; or

(c) road repair and upgrade costs, if the current condition of roads in the eligible county are overwhelmed by outdoor recreation, tourism, or conventions in the eligible county, resulting in unsafe conditions in the eligible county.

Section 15. Section 79-9-102 is enacted to read:

79-9-102. Outdoor recreation mitigation grants authorized -- Rulemaking.

(1) To the extent that money is available, the division shall administer an outdoor recreation mitigation grants program to address visitor-related emergency costs and visitor-related safety costs in eligible counties.

(2) The purpose of the outdoor recreation mitigation grants program is to:

(a) assist an eligible county that is impacted by outdoor recreation, tourism, or conventions to such a degree that the eligible county is unable to address visitor-related emergency costs or visitor-related safety costs within revenue generated by an eligible county's imposition of a transient room tax; and

(b) over time, ensure that an eligible county impacted by outdoor recreation, tourism, or conventions is able to manage the impacts of outdoor recreation, tourism, or conventions within eligible county revenue generated by the eligible county's imposition of a transient room tax.

(3) The division shall, in consultation with the board, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to perform the division's duties described in this chapter.

Section 16. Section 79-9-103 is enacted to read:

79-9-103. Outdoor Recreation Mitigation Grant Fund created.

(1) There is created an expendable special revenue fund known as the "Outdoor Recreation Mitigation Grant Fund," which the division may use to make competitive outdoor recreation mitigation grants to one or more eligible counties as described in Section 79-9-201.

(2) The fund consists of:

(a) deposits into the fund under Subsection 59-28-103(4)(a);

(b) appropriations made by the Legislature;

(c) private donations, grants, gifts, bequests, or money made available from any other source to implement this chapter;

(d) any grant funding that is returned to the division from an eligible county, as described in Section 79-9-203; and

(e) interest earned on the fund.

(3) The division shall, with the advice of the board, administer the fund.

(4) The cost of administering the fund:

(a) shall be paid from money in the fund; and

(b) may not exceed 2% of the revenue deposited annually into the fund under Subsection 59-28-103(4)(a).

(5) Interest accrued from investment of money in the fund shall remain in the fund.

Section 17. Section 79-9-104 is enacted to read:

79-9-104. Outdoor recreation mitigation board.

(1) There is created the Outdoor Recreation Mitigation Board consisting of the following five members:

(a) two representatives of the Utah Association of Counties, appointed by the Utah Association of Counties;

(b) one representative of the Utah Sheriffs' Association, appointed by the Utah Sheriffs' Association;

(c) one representative of rural emergency medical services directors, appointed by the director of the division after consultation with an organization representing rural emergency medical services directors; and

(d) an individual representing the tourism industry, appointed by the director of the division after consultation with an organization representing the tourism industry.

(2) The board shall annually select one of the board's members to be the chair of the board.

(3) (a) If a vacancy occurs in the membership of the board, the member shall be replaced in the same manner in which the original appointment was made.

(b) A member of the board shall serve a term of four years and until the member's successor is appointed and qualified.

(c) Notwithstanding Subsection (3)(b), the initial appointment of one member described in Subsection (1)(b) and one member described in Subsection (1)(c) shall be two years so the terms of board members are staggered and approximately half of the board members are appointed every two years.

(d) An individual may be appointed to more than one term.

(e) Three board members constitutes a quorum.

(f) The action of a majority of a quorum constitutes action of the board.

(4) A board member may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The division shall provide staff support to the board.

Section 18. Section 79-9-201 is enacted to read:

PART 2. Outdoor Recreation Mitigation Grants

79-9-201. Outdoor recreation mitigation grant criteria -- Priorities -- Application -- Prohibition on awards.

(1) The division may, within available funding, award an outdoor recreation mitigation grant as described in this section.

(2) In the event the division receives grant applications in excess of funding available to make grants, the division shall:

(a) prioritize applications for grant funding for visitor-related emergency costs over applications for grant funding for visitor-related safety costs;

(b) within applications for grant funding to relieve visitor-related emergency costs, prioritize applications for grant funding to support search and rescue efforts or emergency medical services over applications for grant funding to support road repair; and

(c) prioritize an application for grant funding from an eligible county with a smaller population over an application for grant funding from an eligible county with a larger population.

(3) After making the priority determinations described in Subsection (2), the division may prioritize available grant funding based on need, in terms of:

(a) the amount of outdoor recreation or tourism taking place within the eligible county;

(b) the existing capacity of an eligible county to manage search and rescue efforts or emergency medical services without additional financial assistance;

(c) the existing capacity of an eligible county to engage in road repair and maintenance without additional financial assistance; and

(d) the existing capacity of an eligible county to manage tourism-related safety costs without additional financial assistance.

(4) The division may, in the division's discretion and in accordance with this part and any rules made pursuant to Subsection 79-9-102(3), fulfill an eligible county's application for grant funding in whole or in part.

(5) In implementing a competitive grant-making program described in this section, the division shall:

(a) create an application for eligible counties to apply for grant funding; and

(b) require an eligible county applying for grant funding to:

(i) use the application created by the division;

(ii) include information the division requires in an application; and

(iii) apply by a deadline established by the division.

(6) If an eligible county intends to share some or all grant funding awarded to the eligible county under this section with a special district in the eligible county, the eligible county shall provide that information in the eligible county's application for grant funding.

(7) Beginning January 1, 2028, an eligible county may not receive grant funding described in this chapter if the state auditor notifies the division that the eligible county is not in compliance with Section 17-36-37.

Section 19. Section 79-9-202 is enacted to read:

79-9-202. Determining need of eligible counties.

(1) The division shall annually determine the relative needs of eligible counties for financial assistance to support visitor-related emergency costs in eligible counties, specifically taking into account the rolling five-year average of past visitor-related emergency costs within each eligible county, based on available data.

(2) The division may request assistance from the state auditor and the Utah Office of Tourism in making the determination described in Subsection (1).

Section 20. Section 79-9-203 is enacted to read:

79-9-203. Use of outdoor recreation mitigation grant funding.

(1) An eligible county that receives grant funding under Section 79-9-201:

(a) shall use grant funding:

(i) to pay for any present or ongoing visitor-related emergency costs or visitor-related safety costs;

(ii) to reimburse a provider of search and rescue efforts or emergency medical services for any past, unpaid services within the eligible county;

(iii) to support the activities of a special district providing search and rescue efforts, emergency medical services, solid waste disposal, or road repair;

(iv) as proposed in the eligible county's or eligible special district's application for grant funding;

(b) shall report to the division on the expenditures made with the grant funding by December 31 of each year in which grant funding is received or is unexpended;

(c) may not use grant funding to:

(i) supplant existing funds; or

(ii) purchase real property or make payments toward the ownership or leasing of real property.

(2) If a grantee does not expend or encumber the funding within 18 months of the day on which the funding was received by the grantee due to a lack of need within the eligible county, the grantee:

(a) shall inform the division regarding the remaining grant funding;

(b) may retain the remaining grant funding until fully expended unless required by the division to return the remaining grant funding to the division; and

(c) may not apply for a new outdoor recreation mitigation grant until the grant funding is fully expended or returned.

(3) Upon receipt of unexpended outdoor recreation mitigation grant funding from a grantee, the division shall deposit the unexpended grant funding into the Outdoor Recreation Mitigation Grant Fund created in Section 79-9-103.

Section 21. Section 79-9-301 is enacted to read:

PART 3. Reporting

79-9-301. Reporting.

(1) The division shall report quarterly to the board on:

(a) grant applications received from eligible counties;

(b) grant awards made to eligible counties; and

(c) the division's progress in determining the relative needs of eligible counties, as described in Section 79-9-202.

(2) Beginning January 1, 2027, the division and board shall provide an annual written report to the Revenue and Taxation Interim Committee and the Political Subdivisions Interim Committee no later than September 30, describing the division's efforts to implement the requirements of this chapter and any recommendations for legislative changes to the grant program described in this part.

Section 22. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 271
H. B. 459
Passed February 27, 2025
Approved March 25, 2025
Effective May 7, 2025

APPROPRIATIONS SUBCOMMITTEE AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Jerry W Stevenson

LONG TITLE

General Description:

This bill updates the names of certain appropriations subcommittees.

Highlighted Provisions:

This bill:

- ► changes the name of:
  - the "Business, Economic Development, and Labor Appropriations Subcommittee" to the "Economic and Community Development Appropriations Subcommittee";
  - the "Executive Offices and Criminal Justice Appropriations Subcommittee" to the "Criminal Justice Appropriations Subcommittee"; and
  - the "Infrastructure and General Government Appropriations Subcommittee" to the "Transportation and Infrastructure Appropriations Subcommittee";
- ► modifies reporting requirements to align with the correct appropriations subcommittee;
- ► provides a coordination clause to coordinate with H.B. 200 regarding reporting requirements for a recreation restoration infrastructure grant; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-46-303, as last amended by Laws of Utah 2023, Chapter 180
17B-2a-808.1, as last amended by Laws of Utah 2024, Chapter 498
32B-2-307, as last amended by Laws of Utah 2023, Chapter 538
32B-2-505, as last amended by Laws of Utah 2023, Chapter 369
35A-6-105, as last amended by Laws of Utah 2022, Chapter 415
36-33-103, as renumbered and amended by Laws of Utah 2022, Chapter 334
53-1-121, as enacted by Laws of Utah 2021, Chapter 215
53-2a-603, as last amended by Laws of Utah 2023, Chapters 434, 534
53-2a-606, as last amended by Laws of Utah 2023, Chapter 434
53-2a-1302, as last amended by Laws of Utah 2023, Chapter 434
53-8-105, as last amended by Laws of Utah 2024, Chapter 425
53-8-214, as last amended by Laws of Utah 2024, Chapter 251
53-10-910, as renumbered and amended by Laws of Utah 2022, Chapter 430
53B-2a-117, as last amended by Laws of Utah 2024, Chapter 378
53B-18-1805, as enacted by Laws of Utah 2023, Chapter 494
53B-18-1806, as enacted by Laws of Utah 2023, Chapter 494
53B-20-104, as last amended by Laws of Utah 2023, Chapter 369
53B-22-204, as last amended by Laws of Utah 2024, Chapter 378
58-55-104, as enacted by Laws of Utah 2019, Chapter 215
58-55-105, as enacted by Laws of Utah 2019, Chapter 215
59-21-2, as last amended by Laws of Utah 2024, Chapter 88
63A-5b-404, as last amended by Laws of Utah 2022, Chapter 421
63A-5b-407, as enacted by Laws of Utah 2023, Chapter 369
63A-5b-912, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-5b-1002, as last amended by Laws of Utah 2021, Chapter 116
63A-13-502, as last amended by Laws of Utah 2019, Chapter 286
63A-16-302.1, as enacted by Laws of Utah 2023, Chapter 496
63H-7a-206, as last amended by Laws of Utah 2024, Chapter 357
63J-1-504, as last amended by Laws of Utah 2023, Chapter 428

63M-7-904, as last amended by Laws of Utah 2024, Chapter 506
63N-2-107, as last amended by Laws of Utah 2024, Chapter 159
63N-6-301, as last amended by Laws of Utah 2022, Chapters 298, 362
63N-21-401, as enacted by Laws of Utah 2023, Chapter 38
64-13-46.1, as renumbered and amended by Laws of Utah 2024, Chapter 182
64-13e-103, as last amended by Laws of Utah 2023, Chapter 246
64-13e-105, as last amended by Laws of Utah 2024, Chapter 467
67-5-1, as last amended by Laws of Utah 2024, Chapters 2, 74 and 348
77-38-620, as last amended by Laws of Utah 2023, Chapter 237
77-40a-107, as enacted by Laws of Utah 2022, Chapter 384 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 384
78A-2-310, as enacted by Laws of Utah 2023, Chapter 428
78A-5-303, as enacted by Laws of Utah 2020, Chapter 62
78B-1-117, as last amended by Laws of Utah 2018, Chapter 25
79-8-203, as renumbered and amended by Laws of Utah 2021, Chapter 280
80-5-303, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-5-502, as renumbered and amended by Laws of Utah 2021, Chapter 261

REPEALS:

53B-17-1102, as enacted by Laws of Utah 2018, Chapter 453
53B-18-1602, as enacted by Laws of Utah 2018, Chapter 453

Utah Code Sections Affected by Coordination Clause:

AMENDS:

79-8-203, as renumbered and amended by Laws of Utah 2021, Chapter 280

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-46-303 is amended to read:

4-46-303. Board to report annually.

The board shall submit an annual report to the [~~Infrastructure and General Government~~]Transportation and Infrastructure and Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittees:

(1) specifying the amount of each disbursement from the fund;

(2) identifying the recipient of each disbursement and describing the project for which money was disbursed; and

(3) detailing the conditions, if any, placed by the board on disbursements from the fund.

Section 2. Section 17B-2a-808.1 is amended to read:

17B-2a-808.1. Large public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

(1) The powers and duties of a board of trustees of a large public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each large public transit district shall:

(a) hold public meetings and receive public comment;

(b) ensure that the policies, procedures, and management practices established by the public transit district meet state and federal regulatory requirements and federal grantee eligibility;

(c) create and approve an annual budget, including the issuance of bonds and other financial instruments, after consultation with the local advisory council;

(d) approve any interlocal agreement with a local jurisdiction;

(e) in consultation with the local advisory council, approve contracts and overall property acquisitions and dispositions for transit-oriented development;

(f) in consultation with constituent counties, municipalities, metropolitan planning organizations, and the local advisory council:

(i) develop and approve a strategic plan for development and operations on at least a four-year basis; and

(ii) create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district;

(g) annually report the public transit district's long-term financial plan to the State Bonding Commission;

(h) annually report the public transit district's progress and expenditures related to state resources to the Executive Appropriations Committee and the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee;

(i) annually report to the Transportation Interim Committee the public transit district's efforts to engage in public-private partnerships for public transit services;

(j) hire, set salaries, and develop performance targets and evaluations for:

(i) the executive director; and

(ii) all chief level officers;

(k) supervise and regulate each transit facility that the public transit district owns and operates, including:

(i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and charges; and

(ii) make and enforce rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;

(l) control the investment of all funds assigned to the district for investment, including funds:

(i) held as part of a district's retirement system; and

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

(m) in consultation with the local advisory council created under Section 17B-2a-808.2, invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(n) if a custodian is appointed under Subsection (3)(d), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

(o) (i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:

(A) the result of district operations during the preceding fiscal year;

(B) an accounting of the expenditures of all local sales and use tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;

(C) the district's financial status on the final day of the fiscal year; and

(D) the district's progress and efforts to improve efficiency relative to the previous fiscal year; and

(iii) supply copies of the report under Subsection (2)(o)(ii) to the general public upon request;

(p) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

(i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and

(ii) any transit capital development projects that the board of trustees would like the Transportation Commission to consider;

(q) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines, in consultation with the local advisory council created in Section 17B-2a-808.2, to be the most critical to the success of the organization;

(r) together with the local advisory council created in Section 17B-2a-808.2, hear audit reports for audits conducted in accordance with Subsection (2)(o);

(s) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:

(i) how negotiations occurred;

(ii) the rationale for providing a reduced fare; and

(iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;

(t) in consultation with the local advisory council, develop and approve other board policies, ordinances, and bylaws;

(u) review and approve any:

(i) contract or expense exceeding $200,000; or

(ii) proposed change order to an existing contract if the change order:

(A) increases the total contract value to $200,000 or more;

(B) increases a contract of or expense of $200,000 or more by 15% or more; or

(C) has a total change order value of $200,000 or more; and

(v) coordinate with political subdivisions within the large public transit district and the department to coordinate public transit services provided by the large public transit district with pilot services related to public transit innovation grants.

(3) A board of trustees of a large public transit district may:

(a) subject to Subsection (4), make and pass ordinances, resolutions, and orders that are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the governance and management of the affairs of the district;

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the executive director or other officer or deputy as the board prescribes;

(c) in consultation with the local advisory council created in Section 17B-2a-808.2:

(i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(n).

(4) The board of trustees may not issue a bond unless the board of trustees has consulted and received approval from the State Finance Review Commission created in Section 63C-25-201.

(5) A member of the board of trustees of a large public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(6) (a) The vote of the board of trustees on each ordinance or resolution shall be by roll call vote with each affirmative and negative vote recorded.

(b) The board of trustees of a large public transit district may not adopt an ordinance unless it is introduced at least 24 hours before the board of trustees adopts it.

(c) Each ordinance adopted by a large public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

(7) (a) The board of trustees shall provide a report to each city and town within the boundary of the large public transit district, that shall provide an accounting of:

(i) the amount of revenue from local option sales and use taxes under this part that was collected within each respective county, city, or town and allocated to the large public transit district as provided in this part;

(ii) how much revenue described in Subsection (7)(a)(i) was allocated to provide public transit services utilized by residents of each city and town; and

(iii) how the revenue described in Subsection [~~(7)(b)~~](7)(a)(i) was spent to provide public transit services utilized by residents of each respective city and town.

(b) The board of trustees shall provide the report described in Subsection (7)(a):

(i) on or before January 1, 2025; and

(ii) at least every two years thereafter.

(c) To provide the report described in this Subsection (7), a board of trustees may coordinate with the Department of Transportation to report on relevant public transit capital development administered by the Department of Transportation.

Section 3. Section 32B-2-307 is amended to read:

32B-2-307. State Store Land Acquisition and Building Construction Fund.

(1) As used in this section, "fund" means the State Store Land Acquisition and Building Construction Fund created in this section.

(2) There is created an enterprise fund known as the State Store Land Acquisition and Building Construction Fund.

(3) The fund is funded from the following sources:

(a) appropriations made to the fund by the Legislature;

(b) in accordance with Subsection (6)(a), proceeds from revenue bonds authorized by Title 63B, Bonds;

(c) subject to Subsection (7)(b), repayments to the fund; and

(d) the interest described in Subsection (4).

(4) (a) The fund shall earn interest.

(b) Interest earned on the fund shall be deposited into the fund.

(5) Subject to Subsection (6), the department may use the money deposited into the fund:

(a) for construction of new state stores, including to purchase or lease property; and

(b) for maintenance or renovation of existing state stores or facilities.

(6) (a) Before the department spends or commits money from the fund, the department shall:

(i) present to the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee a description of how the department will spend the money; and

(ii) if the department intends to spend or commit money from the fund for construction of a new state store:

(A) receive approval from the Division of Facilities Construction and Management, created in Section 63A-5b-301; and

(B) receive authorization in an appropriations act.

(b) Following a presentation described in Subsection (6)(a)(i), the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee shall recommend whether the department spend the money in accordance with the department's presentation.

(7) (a) If the department uses money in the fund for a purpose described in Subsection (5), and subsequently issues a revenue bond for that purpose, the department shall repay the money with proceeds from the revenue bond.

(b) If the department uses money from the fund for a purpose described in Subsection (5), and subsequently uses, instead of issuing bonds, cash funding appropriated by the Legislature to fund that purpose, the department shall reimburse the fund:

(i) with proceeds from liquor revenue in the Liquor Control Fund, created in Section 32B-2-301, on a long-term payment schedule set by the state treasurer; and

(ii) before the transfer described in Subsection 32B-2-301(7).

(8) (a) If the department uses money from the fund that the Legislature appropriated as a loan to be used for the purposes described in Subsection (5), the department shall repay the money with proceeds from liquor revenue in the Liquor Control Fund, created in Section 32B-2-301:

(i) with interest at prevailing municipal revenue bond rates for the state of Utah at the time of loan origination minus 50 basis points; and

(ii) on a term not to exceed 15 years.

(b) The department shall make each payment under Subsection (8)(a) before the transfer described in Subsection 32B-2-301(7).

Section 4. Section 32B-2-505 is amended to read:

32B-2-505. Reporting requirements -- Building plan and market survey required -- Department performance measures.

(1) In 2018 and each year thereafter, the department shall present a five-year building plan to the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee that describes the department's anticipated property acquisition, building, and remodeling for the five years following the day on which the department presents the five-year building plan.

(2) (a) In 2018 and every other year thereafter, the department shall complete a market survey to inform the department's five-year building plan described in Subsection (1).

(b) The department shall:

(i) provide a copy of each market survey to the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee and the Business and Labor Interim Committee; and

(ii) upon request, appear before the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee to present the results of the market survey.

(3) For fiscal year 2018-19 and each fiscal year thereafter, before the fiscal year begins, the Governor's Office of Planning and Budget, in consultation with the department and the Office of the Legislative Fiscal Analyst, shall establish performance measures and goals to

evaluate the department's operations during the fiscal year.

(4) (a) The department may not submit a request to the Division of Facilities Construction and Management for a capital development project unless the department first obtains approval from the Governor's Office of Planning and Budget.

(b) In determining whether to grant approval for a request described in Subsection (4)(a), the Governor's Office of Planning and Budget shall evaluate the extent to which the department met the performance measures and goals described in Subsection (3)during the previous fiscal year.

Section 5. Section 35A-6-105 is amended to read:

35A-6-105. Commissioner of Apprenticeship Programs.

(1) There is created the position of Commissioner of Apprenticeship Programs within the department.

(2) The commissioner shall be appointed by the executive director and chosen from one or more recommendations provided by a majority vote of the State Workforce Development Board.

(3) The commissioner may be terminated without cause by the executive director.

(4) The commissioner shall:

(a) promote and educate the public, including high school guidance counselors and potential participants in apprenticeship programs, about apprenticeship programs, youth apprenticeship, and pre-apprenticeship programs offered in the state, including apprenticeship, youth apprenticeship, and pre-apprenticeship programs offered by private sector businesses, trade groups, labor unions, partnerships with educational institutions, and other associations in the state;

(b) coordinate with the department and other stakeholders, including union and nonunion apprenticeship programs, the Office of Apprenticeship, the State Board of Education, the Utah system of higher education, the Department of Commerce, the Division of Professional Licensing, and the Governor's Office of Economic Opportunity to improve and promote apprenticeship opportunities in the state; and

(c) provide an annual written report to:

(i) the department for inclusion in the department's annual written report described in Section 35A-1-109;

(ii) the [~~Business, Economic Development, and Labor~~]Economic and Community Development Appropriations Subcommittee; and

(iii) the Higher Education Appropriations Subcommittee.

(5) The annual written report described in Subsection (4)(c) shall provide information concerning:

(a) the number of available apprenticeship, youth apprenticeship, and pre-apprenticeship programs in the state;

(b) the number of apprentice participants in each program;

(c) the completion rate of each program;

(d) the cost of state funding for each program; and

(e) recommendations for improving apprenticeship, youth apprenticeship, and pre-apprenticeship programs.

Section 6. Section 36-33-103 is amended to read:

36-33-103. Panel powers and duties -- Record access and confidentiality.

(1) The panel shall:

(a) examine and observe the process and execution of laws governing the child welfare system by the executive branch and the judicial branch;

(b) upon request, receive testimony from the public, the juvenile court, or a state agency involved with the child welfare system, including the division, another office or agency within the department, the attorney general, the Office of Guardian Ad Litem, or a school district;

(c) before October 1 of each year, receive a report from the Administrative Office of the Courts identifying the cases not in compliance with the time limits established in the following sections, and the reasons for noncompliance:

(i) Subsection 80-3-301(1), regarding shelter hearings;

(ii) Section 80-3-401, regarding pretrial and adjudication hearings;

(iii) Section 80-3-402, regarding dispositional hearings;

(iv) Section 80-3-406, regarding reunification services; and

(v) Section 80-3-409, regarding permanency hearings and petitions for termination;

(d) receive recommendations from, and make recommendations to the governor, the Legislature, the attorney general, the division, the Office of Guardian Ad Litem, the juvenile court, and the public;

(e) (i) receive reports from the division and the Administrative Office of the Courts on budgetary issues impacting the child welfare system; and

(ii) before December 1 of each year, recommend, as the panel considers advisable, budgetary proposals to the Social Services Appropriations Subcommittee and the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee;

(f) study and recommend changes to laws governing the child welfare system;

(g) study actions the state can take to preserve, unify, and strengthen the child's family ties whenever possible in the child's best interest, including recognizing the constitutional rights and claims of parents if those family ties are severed or infringed;

(h) perform other duties related to the oversight of the child welfare system as the panel considers appropriate; and

(i) annually report the panel's findings and recommendations to the president of the Senate, the speaker of the House of Representatives, the Health and Human Services Interim Committee, and the Judiciary Interim Committee.

(2) (a) The panel may:

(i) review and discuss individual child welfare cases;

(ii) make recommendations to the Legislature, the governor, the Board of Juvenile Court Judges, the division, and any other statutorily created entity related to the policies and procedures of the child welfare system; and

(iii) hold public hearings, as the panel considers advisable, in various locations within the state to afford all interested persons an opportunity to appear and present the persons' views regarding the child welfare system.

(b) (i) If the panel discusses an individual child welfare case, the panel shall close the panel's meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(ii) If the panel discusses an individual child welfare case, the panel shall make reasonable efforts to identify and consider the concerns of all parties to the case.

(iii) The panel may not make recommendations to the court, the division, or any other public or private entity regarding the disposition of an individual child welfare case.

(3) (a) A record of the panel regarding an individual child welfare case:

(i) is classified as private under Section 63G-2-302; and

(ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2, Government Records Access and Management Act.

(b) (i) The panel shall have access to all of the division's records, including records regarding individual child welfare cases.

(ii) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, all documents and information received by the panel from the division shall maintain the same classification under Title 63G, Chapter 2, Government Records Access and Management Act, that was designated by the division.

(4) In order to accomplish the panel's oversight functions under this section, the panel has:

(a) all powers granted to legislative interim committees in Section 36-12-11; and

(b) legislative subpoena powers under, Chapter 14, Legislative Subpoena Powers.

Section 7. Section 53-1-121 is amended to read:

53-1-121. Technology and equipment for officer-involved critical incident investigation -- Rulemaking -- Legislative findings -- Revenue fund created.

(1) The department shall assist the law enforcement agencies of the state and the state's political subdivisions to obtain technology and equipment to assist in the investigation of officer-involved critical incidents in which a firearm is used.

(2) To be eligible, the technology or equipment shall be:

(a) capable of recording actual shots fired, including the date and time, from a specific weapon;

(b) able to distinguish between actual shots fired and other, unrelated but contemporaneous, events; and

(c) tamper-proof and unable to be removed or manipulated by the officer.

(3) The department shall create a program to assist law enforcement agencies through monetary grants to:

(a) purchase technology and equipment to assist in the investigation of officer-involved critical incidents involving a firearm; and

(b) train law enforcement officers in the proper use and handling of any technology and equipment purchased in accordance with this section.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules establishing a program with criteria and procedures for granting matching funds under this section to law enforcement agencies to purchase technology or equipment meeting the criteria in Subsection (2).

(b) The rules shall require that funding provided to purchase technology or equipment under this section shall be matched by the requesting law enforcement agency.

(5) The Legislature finds that the money is for a general and statewide public purpose.

(6) Expenses accrued by the department in carrying out this section shall be provided from this appropriation, but may not exceed $40,000 annually.

(7) The Legislature shall appropriate funds to the department to use for matching grants to local law enforcement agencies to carry out the purpose of this program.

(8) The department shall report annually to the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee on the program. The report shall contain:

(a) the total amount of appropriations received by the program;

(b) amounts granted from the program to local law enforcement agencies, including an accounting of technology purchased by the local law enforcement agency;

(c) an accounting of any administrative expenses for the program paid out of the funds;

(d) requests for funding that were not granted and the reason for denial; and

(e) the total amount of remaining funds.

Section 8. Section 53-2a-603 is amended to read:

53-2a-603. State Disaster Recovery Restricted Account.

(1) (a) There is created a restricted account in the General Fund known as the "State Disaster Recovery Restricted Account."

(b) The disaster recovery account consists of:

(i) money deposited into the disaster recovery account in accordance with Section 63J-1-314;

(ii) money appropriated to the disaster recovery account by the Legislature; and

(iii) any other public or private money received by the division that is:

(A) given to the division for purposes consistent with this section; and

(B) deposited into the disaster recovery account at the request of:

(I) the division; or

(II) the person or entity giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(2) Money in the disaster recovery account may only be expended or committed to be expended as follows:

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed $500,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $500,000, but does not exceed $3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment to expend from the governor;

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2);

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $3,000,000, but does not exceed $5,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment to expend from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3);

(iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed $500,000 to fund expenses incurred by the National Guard if:

(A) in accordance with Section 39A-3-103, the governor orders into active service the National Guard in response to a declared disaster; and

(B) the money is not used for expenses that qualify for payment as emergency disaster services; and

(v) in any fiscal year, the division may expend an amount that does not exceed $750,000 to fund expenses incurred to develop or enhance emergency management capabilities if:

(A) the money is used for personnel, equipment, supplies, contracts, training, exercises, or other expenses deemed reasonable and necessary to:

(I) promote and strengthen the state's level of resiliency through mitigation, preparedness, response, or recovery activities; or

(II) meet federal grant matching requirements; and

(B) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of $5,000,000;

(b) money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs to the state directly related to a declared disaster that are not costs related to:

(i) emergency disaster services;

(ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund;

(c) to fund:

(i) the Local Government Emergency Response Loan Fund created in Section 53-2a-607; and

(ii) the Response, Recovery, and Post-disaster Mitigation Restricted Account created in Section 53-2a-1302;

(d) the division may provide advanced funding from the disaster recovery account to recognized agents of the state when:

(i) Utah has agreed, through the division, to enact the Emergency Management Assistance Compact with another member state that has requested assistance during a declared disaster;

(ii) Utah agrees to provide resources to the requesting member state;

(iii) the agent of the state who represents the requested resource has no other funding source available at the time of the Emergency Management Assistance Compact request; and

(iv) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of $5,000,000;

(e) to fund up to $500,000 for the governor's emergency appropriations described in Subsection 63J-1-217(4); and

(f) to pay the state's deductible in the event of an earthquake.

(3) All funding provided in advance to an agent of the state and subsequently reimbursed shall be credited to the account.

(4) The state treasurer shall invest money in the disaster recovery account according to Title 51, Chapter 7, State Money Management Act.

(5) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery account to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery account is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money in the disaster recovery account may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(6) The division:

(a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and

(b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

Section 9. Section 53-2a-606 is amended to read:

53-2a-606. Reporting.

(1) By no later than December 31 of each year, the division shall provide a written report to the governor and the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee of:

(a) the division's activities under this part;

(b) money expended or committed to be expended in accordance with this part;

(c) the balances in the disaster recovery fund; and

(d) any unexpended balance of appropriations from the disaster recovery fund.

(2) (a) The governor and the Department of Public Safety shall report to the Legislative Management Committee an expenditure or commitment to expend made in accordance with Subsection 53-2a-603(2)(a)(ii) or 53-2a-1302(5)(b)(ii).

(b) The governor and the Department of Public Safety shall make the report required by this Subsection (2) on or before the sooner of:

(i) the day on which the governor calls the Legislature into session; or

(ii) 15 days after the division makes the expenditure or commitment to expend described in Subsection 53-2a-603(2)(a)(ii) or 53-2a-1302(5)(b)(ii).

(3) (a) Subject to Subsection (3)(b), before the division makes an expenditure or commitment to expend described in Subsection 53-2a-603(2)(a)(iii) or 53-2a-1302(5)(b)(iii), the governor and the Department of Public Safety shall submit the expenditure or commitment to expend to the Executive Appropriations Committee for its review and recommendations.

(b) The Executive Appropriations Committee shall review the expenditure or commitment to expend and may:

(i) recommend that the division make the expenditure or commitment to expend;

(ii) recommend that the division not make the expenditure or commitment to expend; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the expenditure or commitment to expend.

Section 10. Section 53-2a-1302 is amended to read:

53-2a-1302. Response, Recovery, and Post-disaster Mitigation Restricted Account.

(1) There is created a restricted account in the General Fund known as the "Response, Recovery, and Post-disaster Mitigation Restricted Account."

(2) The account consists of:

(a) money appropriated to the account by the Legislature;

(b) money deposited into the account in accordance with Section 63J-1-314;

(c) income and interest derived from the deposit and investment of money in the account; and

(d) private donations, grants, gifts, bequests, or money made available from any other source to implement this section.

(3) (a) At the close of a fiscal year, money in the account exceeding $50,000,000, excluding money granted to the account under Subsection (2)(d), shall be transferred to the State Disaster Recovery Restricted Account.

(b) Except as provided by Subsection (3)(a), money in the Response, Recovery, and Post-disaster Mitigation Restricted Account may only be used for the purposes set forth in this part.

(4) Subject to the requirements described in this part, and upon appropriation by the Legislature, the division may grant money appropriated from the account

to an affected community for the affected community's disaster response and recovery efforts as described in Section 53-2a-1303.

(5) (a) Money in the account may only be expended or committed to be expended as provided in Subsections (5)(b) and (5)(c).

(b) Subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend for disaster response and recovery efforts as described in Section 53-2a-1303:

(i) an amount that does not exceed $500,000 in response to a disaster described in Subsection 53-2a-1303(2)(b);

(ii) an amount that exceeds $500,000 but does not exceed $3,000,000 for a disaster described in Subsection 53-2a-1303(2)(b) if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment from the governor;

(B) provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2); and

(iii) an amount that exceeds $3,000,000 but does not exceed $5,000,000, if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3).

(c) Money paid by the division under this part to government entities and private persons providing emergency disaster services are subject to Title 63G, Chapter 6a, Utah Procurement Code.

Section 11. Section 53-8-105 is amended to read:

53-8-105. Duties of Highway Patrol.

(1) In addition to the duties in this chapter, the Highway Patrol shall:

(a) enforce the state laws and rules governing use of the state highways;

(b) regulate traffic on all highways and roads of the state;

(c) assist the governor in an emergency or at other times at his discretion;

(d) in cooperation with federal, state, and local agencies, enforce and assist in the enforcement of all state and federal laws related to the operation of a motor carrier on a highway, including all state and federal rules and regulations;

(e) inspect certain vehicles to determine road worthiness and safe condition as provided in Section 41-6a-1630;

(f) upon request, assist with any condition of unrest existing or developing on a campus or related facility of an institution of higher education;

(g) assist the Alcoholic Beverage Services Commission in an emergency to enforce the state liquor laws;

(h) provide security and protection for both houses of the Legislature while in session as the speaker of the House of Representatives and the president of the Senate find necessary;

(i) enforce the state laws and rules governing use of capitol hill; and

(j) carry out the following for the Supreme Court and the Court of Appeals:

(i) provide security and protection to those courts when in session in the capital city of the state;

(ii) execute orders issued by the courts; and

(iii) carry out duties as directed by the courts.

(2) (a) The division and the department shall annually:

(i) evaluate the inventory of new and existing state highways, in coordination with relevant local law enforcement agencies, to determine which law enforcement agency is best suited to patrol and enforce state laws and regulate traffic on each state highway; and

(ii) before October 1 of each year, report to the Transportation Interim Committee and the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee regarding:

(A) significant changes to the patrol and enforcement responsibilities resulting from the evaluation described in Subsection (2)(a)(i); and

(B) any budget request necessary to accommodate additional patrol and enforcement responsibilities.

(b) The division and the department shall, before July 1 of each year, coordinate with the Department of Transportation created in Section 72-1-201 regarding patrol and enforcement responsibilities described in Subsection (2)(a) and incident management services on state highways.

Section 12. Section 53-8-214 is amended to read:

53-8-214. Creation of the Motor Vehicle Safety Impact Restricted Account.

(1) There is created a restricted account within the General Fund known as the Motor Vehicle Safety Impact Restricted Account.

(2) The account includes:

(a) deposits made to the restricted account from registration fees as described in Subsection 41-1a-1201(7);

(b) deposits into the account as described in Section 41-1a-1211;

(c) donations or deposits made to the account; and

(d) any interest earned on the account.

(3) Upon appropriation, the division may use funds in the account to improve motor vehicle safety, mitigate impacts, and enforce safety provisions, including the following:

(a) hiring new Highway Patrol troopers;

(b) payment of overtime for Highway Patrol troopers; and

(c) acquisition of equipment to improve motor vehicle safety impacts and enforcement.

(4) The division shall annually report to the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee to justify expenditures and use of funds in the account.

Section 13. Section 53-10-910 is amended to read:

53-10-910. Reporting requirement.

The Department of Public Safety and the Utah Bureau of Forensic Services shall report by July 31 of each year to the Law Enforcement and Criminal Justice Interim Committee and the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee regarding:

(1) the timelines set for testing all sexual assault kits submitted to the Utah Bureau of Forensic Services as provided in Subsection 53-10-903(2);

(2) the goals established in Section 53-10-909;

(3) the status of meeting those goals;

(4) the number of sexual assault kits that are sent to the Utah Bureau of Forensic Services for testing;

(5) the number of restricted kits held by law enforcement;

(6) the number of sexual assault kits that are not processed in accordance with the timelines established in this part; and

(7) future appropriations requests that will ensure that all DNA cases can be processed according to the timelines established by this part.

Section 14. Section 53B-2a-117 is amended to read:

53B-2a-117. Legislative approval -- Capital development projects -- Prioritization.

(1) As used in this section:

(a) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(b) "Fund" means the Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(2) In accordance with this section, a technical college is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(3) In accordance with Section 53B-2a-112, a technical college shall submit to the board a proposal for a funding request for each dedicated project or nondedicated project for which the technical college seeks legislative approval.

(4) The board shall:

(a) review each proposal submitted under Subsection (3) to ensure that the proposal complies with Section 53B-2a-112;

(b) based on the results of the board's review under Subsection (4)(a), create:

(i) a list of approved dedicated projects, prioritized in accordance with Subsection (6); and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (6); and

(c) submit the lists described in Subsection (4)(b) to:

(i) the governor;

(ii) the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the Division of Facilities Construction and Management for a:

(A) recommendation, for the list described in Subsection (4)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).

(5) A dedicated project:

(a) is subject to the recommendation of the Division of Facilities Construction and Management as described in Section 63A-5b-403; and

(b) is not subject to the prioritization of the Division of Facilities Construction and Management as described in Section 63A-5b-403.

(6) (a) Subject to Subsection (7), the board shall prioritize funding requests for capital development projects described in this section based on:

(i) growth and capacity;

(ii) effectiveness and support of critical programs;

(iii) cost effectiveness;

(iv) building deficiencies and life safety concerns; and

(v) alternative funding sources.

(b) The board shall establish:

(i) how the board will measure each factor described in Subsection (6)(a); and

(ii) procedures for prioritizing funding requests for capital development projects described in this section.

(7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than $7,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least $7,000,000 but less than $14,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least $14,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(8) (a) A technical college may request operations and maintenance funds for a capital development project approved under this section.

(b) A technical college shall make the request described in Subsection (8)(a) at the same time the technical college submits the proposal described in Subsection (3).

(c) The Legislature shall consider a technical college's request described in Subsection (8)(a).

Section 15. Section 53B-18-1805 is amended to read:

53B-18-1805. Duties of the project director.

(1) The project director and the steering committee shall consult the following parties in developing and carrying out the initiative:

(a) representatives of each sector described in the industry advisory board membership in Subsection 53B-18-1804(1), regardless of whether that sector is actually represented on the industry advisory board;

(b) institutions of higher education, including institutions of technical education, both inside and outside this state;

(c) the chairs of the following committees of the Legislature:

(i) the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee;

(ii) the Public Utilities, Energy, and Technology Interim Committee; and

(iii) the Transportation Interim Committee; and

(d) any other persons or entities the steering committee determines are relevant or necessary to fulfilling the stated mission.

(2) The project director, in consultation with the steering committee and the industry advisory board, shall lead an outreach and promotional effort to:

(a) build awareness among stakeholders, industry partners, federal agencies, and the state's congressional delegation of the state's efforts to be a national leader in electrifying the state's transportation system; and

(b) attract industry partners and industry and federal investment to the state to design, develop, and deliver systems to promote and implement the initiative.

(3) The project director shall:

(a) oversee the operations of the initiative; and

(b) propose to the steering committee the program budget for the expenditure of funds appropriated by the Legislature to carry out the duties under this part.

(4) (a) The project director may, in accordance with this part, and subject to this Subsection (4), expend funds appropriated by the Legislature.

(b) (i) Before October 1, 2023, the project director may not expend more than 25% of the annual project budget.

(ii) At the first meeting of the steering committee, the project director shall:

(A) provide a detailed account to the steering committee for all expenditures made before October 1, 2023; and

(B) present a budget proposal for the remainder of the fiscal year ending June 30, 2024.

(iii) Before October 1, 2023, the project director may expend funds for the following purposes:

(A) establish necessary and time-sensitive groundwork for development of the vision and strategic objective of the initiative;

(B) acquisition of materials needed for the initiative; and

(C) costs to hire and pay salaries of staff.

(c) Except as described in Subsection (4)(b), the project director:

(i) shall propose an annual budget for the initiative; and

(ii) may not expend funds appropriated to the research center outside of the approved budget without approval of the steering committee.

Section 16. Section 53B-18-1806 is amended to read:

53B-18-1806. Project development and strategic objectives -- Reporting requirements.

(1) (a) The research center shall develop and define an action plan for the electrification of transportation infrastructure in this state.

(b) The research center shall provide a report of the action plan that includes:

(i) a description of the ideal electrified transportation system and incremental steps to implement the action plan over 10-year, 20-year, and 30-year time horizons, including a description of a transportation system that:

(A) provides intelligent coordination for vehicular traffic and charging individually and collectively into a dynamically communicative transportation system that links to and coordinates with the electric grid;

(B) integrates across and supports all modes of transportation and vehicle classes in complementary ways;

(C) integrates with hydrogen and renewable natural gas generation, storage, grid support, and fuel cell vehicles in complementary ways; and

(D) provides improved air quality, reduced cost to move people and goods, and new jobs and economic growth in the state;

(ii) strategic objectives in each element of the action plan above that are necessary to realize the action plan;

(iii) an initial description of changes needed to realize the action plan in each of the following sectors across the ecosystem:

(A) electrical power generation, distribution, and utility-scale energy storage infrastructure and capacity, including reliability, cost, and availability standards;

(B) interconnected smart charging infrastructure, intelligent transportation systems, control systems, and communications systems to facilitate the transition to electrified transportation;

(C) private surface transportation, including passenger vehicles, freight trucks, and freight trains;

(D) public surface transportation, including passenger vehicles, buses, and trains;

(E) air transportation, including private commercial aircraft and unmanned aircraft systems;

(F) vehicles that operate off-highway, including construction, mining, and agriculture;

(G) charging technology, solutions, and systems, including charging stations and shared use of infrastructure across modes of transportation and vehicle classes;

(H) workforce, including analysis of the capacity and types of education, vocations, trades, and certifications necessary in each relevant sector to develop the local workforce needed to accomplish the vision; and

(I) any other sector that the steering committee determines is substantially necessary to fulfilling the stated mission;

(iv) identification of key gaps in the ecosystem from the sectors and industries described in this Subsection (1)(b) that serve as priorities for near term innovation and investment;

(v) evaluation of risk and vulnerability of relevant supply chains, including natural resources to ensure stability and availability; and

(vi) an accounting of funds appropriated to or received by the research center, and any expenditure of those funds.

(c) Before August 1, 2024, the research center shall report on the action plan described in this Subsection (1) to the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee of the Legislature.

(2) Beginning in 2025, before August 1 of each year, the research center shall provide an annual report to the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee of the Legislature, including:

(a) an updated and prioritized list of strategic objectives identified in the initial report described in Subsection (1)(b);

(b) any actionable goals established or recommended by the research center;

(c) a prioritized list of steps to accomplish the goals and strategic objectives identified by the research center;

(d) metrics to measure the effectiveness of any goals or strategic objectives and related analysis;

(e) the research center's progress and effort in developing a long-range strategy for implementation of the action plan;

(f) the research center's efforts in and results of outreach to relevant industry, government, and investment sectors;

(g) any recommendations on potential legislation to implement the action plan; and

(h) an accounting of funds appropriated to or received by the research center, and any expenditure of those funds.

(3) Before November 30, 2027, the Transportation Interim Committee shall consider whether to continue the initiative as described in this part or allow the repeal of this part as described in Section 63I-1-253.

Section 17. Section 53B-20-104 is amended to read:

53B-20-104. Buildings and facilities -- Board approval of construction and purchases -- Rules.

(1) The board shall approve all new construction, repair, or purchase of educational and general buildings and facilities financed from any source at all institutions subject to the jurisdiction of the board.

(2) An institution may not submit plans or specifications to the Division of Facilities Construction and Management for the construction or alteration of buildings, structures, or facilities or for the purchases of equipment or fixtures for the structure without the authorization of the board.

(3) The board shall make rules establishing the conditions under which facilities may be eligible to request state funds for operations and maintenance.

(4) Before approving the purchase of a building, the board shall:

(a) determine whether or not the building will be eligible for state funds for operations and maintenance by applying the rules adopted under Subsection (3); and

(b) if the annual request for state funding for operations and maintenance will be greater than $100,000, notify the speaker of the House, the president of the Senate, and the cochairs of the [~~Infrastructure and General Government subcommittee of the Legislature's Joint Appropriation Committee~~]Transportation and Infrastructure Appropriations Subcommittee.

Section 18. Section 53B-22-204 is amended to read:

53B-22-204. Funding request for capital development project -- Legislative approval -- Board prioritization, approval, and review.

(1) In accordance with this section, an institution is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(2) An institution shall submit to the board a proposal for a funding request for each dedicated project or nondedicated project for which the institution seeks legislative approval.

(3) The board shall:

(a) review each proposal submitted under Subsection (2) to ensure the proposal:

(i) is cost effective and an efficient use of resources;

(ii) is consistent with the institution's mission and master plan; and

(iii) fulfills a critical institutional facility need;

(b) based on the results of the board's review under Subsection (3)(a), create:

(i) a list of approved dedicated projects; and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (5); and

(c) submit the lists described in Subsection (3)(b) to:

(i) the governor;

(ii) the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the Division of Facilities Construction and Management for a:

(A) recommendation, for the list described in Subsection (3)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (3)(b)(ii).

(4) A dedicated project:

(a) is subject to the recommendation of the Division of Facilities Construction and Management as described in Section 63A-5b-403; and

(b) is not subject to the prioritization of the Division of Facilities Construction and Management as described in Section 63A-5b-403.

(5) (a) Subject to Subsection (6), the board shall prioritize institution requests for funding for nondedicated projects based on:

(i) capital facility need;

(ii) utilization of facilities;

(iii) maintenance and condition of facilities; and

(iv) any other factor determined by the board.

(b) On or before August 1, 2019, the board shall establish how the board will prioritize institution requests for funding for nondedicated projects, including:

(i) how the board will measure each factor described in Subsection (5)(a); and

(ii) procedures for prioritizing requests.

(6) (a) Subject to Subsection (6)(b), and in accordance with Subsection (5), the board may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than $50,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least $50,000,000 but less than $100,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least $100,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (6)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(7) (a) An institution may request operations and maintenance funds for a capital development project approved under this section.

(b) An institution shall make the request described in Subsection (7)(a) at the same time the institution submits the proposal described in Subsection (2).

(c) The Legislature shall consider an institution's request described in Subsection (7)(a).

(8) After an institution completes a capital development project described in this section, the board shall review the capital development project, including the costs and design of the capital development project.

Section 19. Section 58-55-104 is amended to read:

58-55-104. Electrician Education Fund.

(1) There is created an expendable special revenue fund known as the Electrician Education Fund.

(2) The fund consists of money from a surcharge fee, established by the division in accordance with Section 63J-1-504, placed on initial, renewal, and reinstatement licensure fees for an apprentice electrician, journeyman electrician, master electrician, residential journeyman electrician, and residential master electrician.

(3) The surcharge fee described in Subsection (2) may not be more than $5.

(4) The fund shall earn interest and all interest earned on fund money shall be deposited into the fund.

(5) The director may, with the concurrence of the commission, make distributions from the fund for the following purposes:

(a) education and training of licensees under this chapter who are practicing in the electrical trade; and

(b) education and training of other licensees under this chapter or the public in matters concerning electrical laws and practices.

(6) If the balance in the fund is more than $100,000 at the end of any fiscal year, the excess amount shall be transferred to the General Fund.

(7) The division shall report annually to the [~~Business, Economic Development, and Labor~~]General Government Appropriations Subcommittee regarding the balance in the fund and how the fund is being used.

Section 20. Section 58-55-105 is amended to read:

58-55-105. Plumber Education Fund.

(1) There is created an expendable special revenue fund known as the Plumber Education Fund.

(2) The fund consists of money from a surcharge fee, established by the division in accordance with Section 63J-1-504, placed on initial, renewal, and reinstatement licensure fees for apprentice plumbers, journeyman plumbers, master plumbers, residential journeyman plumbers, and residential master plumbers.

(3) The surcharge fee described in Subsection (2) may not be more than $5.

(4) The fund shall earn interest and all interest earned on fund money shall be deposited into the fund.

(5) The director may, with the concurrence of the commission, make distributions from the fund for the following purposes:

(a) education and training of licensees under this chapter who are licensed in the professions described in Subsection (2); and

(b) education and training of other licensees under this chapter or the public in matters concerning plumbing laws and practices.

(6) If the balance in the fund is more than $100,000 at the end of any fiscal year, the excess amount shall be transferred to the General Fund.

(7) The division shall report annually to the [~~Business, Economic Development, and Labor~~]General Government Appropriations Subcommittee regarding the balance in the fund and how the fund is being used.

Section 21. Section 59-21-2 is amended to read:

59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus Account money -- Mineral Lease Account created -- Contents -- Appropriation of money from Mineral Lease Account.

(1) (a) There is created a restricted account within the General Fund known as the "Mineral Bonus Account."

(b) The Mineral Bonus Account consists of federal mineral lease bonus payments deposited pursuant to Subsection 59-21-1(3).

(c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

(i) invest the money in the Mineral Bonus Account by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(ii) deposit all interest or other earnings derived from the account into the Mineral Bonus Account.

(e) The Division of Finance shall, beginning on July 1, 2017, annually deposit 30% of mineral lease bonus payments deposited under Subsection (1)(b) from the previous fiscal year into the Wildland Fire Suppression Fund created in Section 65A-8-204, up to $2,000,000 but not to exceed 20% of the amount expended in the previous fiscal year from the Wildland Fire Suppression Fund.

(2) (a) There is created a restricted account within the General Fund known as the "Mineral Lease Account."

(b) The Mineral Lease Account consists of federal mineral lease money deposited pursuant to Subsection 59-21-1(1).

(c) The Legislature shall make appropriations from the Mineral Lease Account as provided in Subsection 59-21-1(1) and this Subsection (2).

(d) The Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 35A-8-303.

(e) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the State Board of Education, to be used for education research and experimentation in the use of staff and facilities designed to improve the quality of education in Utah.

(f) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Utah Geological Survey Restricted Account, created in Section 79-3-403, to be used by the Utah Geological Survey for activities carried on by the Utah Geological Survey having as a purpose the development and exploitation of natural resources in the state.

(g) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used for activities carried on by the laboratory having as a purpose the development and exploitation of water resources in the state.

(h) (i) The Legislature shall annually appropriate to the Division of Finance 40% of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection (2)(h)(ii) to:

(A) counties;

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(C) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Division of Finance shall allocate the funds specified in Subsection (2)(h)(i):

(A) in amounts proportionate to the amount of mineral lease money generated by each county; and

(B) to a county or special service district established by a county under Title 17D, Chapter 1, Special Service District Act, as determined by the county legislative body.

(i) (i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral Lease Account to the Department of Workforce Services to be distributed to:

(A) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Workforce Services may distribute the amounts described in Subsection (2)(i)(i) only to special service districts established under Title 17D, Chapter 1, Special Service District Act, by counties:

(A) of the third, fourth, fifth, or sixth class;

(B) in which 4.5% or less of the mineral lease money within the state is generated; and

(C) that are significantly socially or economically impacted as provided in Subsection (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.

(iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C) shall be as a result of:

(A) the transportation within the county of hydrocarbons, including solid hydrocarbons as defined in Section 59-5-101;

(B) the employment of persons residing within the county in hydrocarbon extraction, including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

(C) a combination of Subsections (2)(i)(iii)(A) and (B).

(iv) For purposes of distributing the appropriations under this Subsection (2)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, the Department of Workforce Services shall:

(A) (I) allocate 50% of the appropriations equally among the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(II) allocate 50% of the appropriations based on the ratio that the population of each county meeting the requirements of Subsections (2)(i)(ii) and (iii) bears to the total population of all of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(B) after making the allocations described in Subsection (2)(i)(iv)(A), distribute the allocated revenues to special service districts established by the counties under Title 17D, Chapter 1, Special Service District Act, as determined by the executive director of the Department of Workforce Services after consulting with the county legislative bodies of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii).

(v) The executive director of the Department of Workforce Services:

(A) shall determine whether a county meets the requirements of Subsections (2)(i)(ii) and (iii);

(B) shall distribute the appropriations under Subsection (2)(i)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, that meet the requirements of Subsections (2)(i)(ii) and (iii); and

(C) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may make rules:

(I) providing a procedure for making the distributions under this Subsection (2)(i) to special service districts; and

(II) defining the term "population" for purposes of Subsection (2)(i)(iv).

(j) (i) The Legislature shall annually make the following appropriations from the Mineral Lease Account:

(A) an amount equal to 52 cents multiplied by the number of acres of school or institutional trust lands, lands owned by the Division of State Parks or the Division of Outdoor Recreation, and lands owned by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each county in which those lands are located;

(B) to each county in which school or institutional trust lands are transferred to the federal government after December 31, 1992, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between 52 cents per acre and the per acre payment made to that county in the most recent payment under the federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal payment was equal to or exceeded the 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(B) may not be made for the transferred lands;

(C) to each county in which federal lands, which are entitlement lands under the federal in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between the most recent per acre payment made under the federal payment in lieu of taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(C) may not be made for the transferred land; and

(D) to a county of the fifth or sixth class, an amount equal to the product of:

(I) $1,000; and

(II) the number of residences described in Subsection (2)(j)(iv) that are located within the county.

(ii) A county receiving money under Subsection (2)(j)(i) may, as determined by the county legislative body, distribute the money or a portion of the money to:

(A) special service districts established by the county under Title 17D, Chapter 1, Special Service District Act;

(B) school districts; or

(C) public institutions of higher education.

(iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the Division of Finance shall increase or decrease the amounts per acre provided for in Subsections (2)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance shall increase or decrease the amount described in Subsection (2)(j)(i)(D)(I) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(iv) Residences for purposes of Subsection (2)(j)(i)(D)(II) are residences that are:

(A) owned by:

(I) the Division of State Parks;

(II) the Division of Outdoor Recreation; or

(III) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of State Parks;

(II) the Division of Outdoor Recreation; or

(III) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

(k) The Legislature shall annually appropriate to the Permanent Community Impact Fund all deposits remaining in the Mineral Lease Account after making the appropriations provided for in Subsections (2)(d) through (j).

(3) (a) Each agency, board, institution of higher education, and political subdivision receiving money under this chapter shall provide the Legislature, through the Office of the Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual basis.

(b) The accounting required under Subsection (3)(a) shall:

(i) include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year; and

(ii) be reviewed by the [~~Business, Economic Development, and Labor~~]Economic and Community Development Appropriations Subcommittee as part of its normal budgetary process under Title 63J, Chapter 1, Budgetary Procedures Act.

Section 22. Section 63A-5b-404 is amended to read:

63A-5b-404. Exceptions to requirement of legislative approval for capital development projects.

(1) (a) Except as provided in this section, a capital development project may not be constructed on state property without legislative approval.

(b) The division may authorize a capital development project on state property without legislative approval only as provided in this section.

(2) (a) Legislative approval is not required for a capital development project that consists of the design or construction of a new facility if:

(i) the division determines that the requesting agency has provided adequate assurance that state funds will not be used for the design or construction of the facility;

(ii) the agency provides to the division a written document, signed by the head of the agency:

(A) stating that funding or a revenue stream is in place, or will be in place before the project is completed, to ensure that increased state funding will not be required to cover the cost of operations and maintenance for the resulting facility or for immediate or future capital improvements; and

(B) detailing the source of the funding that will be used for the cost of operations and maintenance and for immediate and future capital improvements to the resulting facility; and

(iii) the division determines that the use of the state property:

(A) is appropriate and consistent with the master plan for the property; and

(B) will not create an adverse impact on the state.

(b) For a facility constructed without legislative approval under Subsection (2)(a), an agency may not request:

(i) increased state funds for operations and maintenance; or

(ii) increased state capital improvement funding.

(3) Legislative approval is not required for:

(a) a facility:

(i) to be built with funds other than state funds and owned by an entity other than a state entity; and

(ii) that is within a research park area at the University of Utah or Utah State University;

(b) a facility to be built at This is the Place State Park by the This is the Place Foundation with funds of the This is the Place Foundation or with donated services or materials and that may include grant money from the state;

(c) a project that:

(i) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization Fund; and

(ii) does not provide a new facility for an agency or institution of higher education; or

(d) a project on school and institutional trust lands that:

(i) is funded by the trust lands administration from the Land Grant Management Fund; and

(ii) does not fund construction of a new facility for an agency or institution of higher education.

(4) (a) Legislative approval is not required for a capital development project to be built for the Department of Transportation resulting from:

(i) an exchange of real property under Section 72-5-111; or

(ii) a sale or exchange of real property from a maintenance facility if the proceeds from the sale of the real property are used for, or the real property is exchanged for:

(A) real property for another maintenance facility; or

(B) another maintenance facility, including improvements for a maintenance facility.

(b) If the Department of Transportation approves a sale or exchange under Subsection (4)(a) for a capital development project subject to the board's approval, the Department of Transportation shall notify the president of the Senate, the speaker of the House of Representatives, and the cochairs of the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee of the Legislature's Joint Appropriations Committee about any new facilities to be built or improved.

Section 23. Section 63A-5b-407 is amended to read:

63A-5b-407. State Agency Capital Development Fund -- Creation -- Process.

(1) (a) There is created a capital projects fund known as the State Agency Capital Development Fund.

(b) The State Agency Capital Development Fund and this section do not apply to an institution of higher education.

(2) The State Agency Capital Development Fund is funded from the following sources:

(a) one-time appropriations made to the State Agency Capital Development Fund by the Legislature;

(b) ongoing appropriations made by the Legislature; or

(c) revenue received from the sale, lease, or disposition of any state agency building or property associated with the implementation of the Statewide Master Plan for State Agencies as described in Subsection (7).

(3) Subject to Subsection (4), and subject to appropriation by the Legislature, the division may use the money deposited into the State Agency Capital Development Fund for capital development projects, capital improvement projects, and to design, renovate, or construct facilities for state agencies.

(4) (a) Before the division spends or commits money from the State Agency Capital Development Fund, in accordance with Sections 63A-5b-402, 63A-5b-405, and 63A-5b-501, the division shall present to the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee:

(i) a description of each project for which the division will spend the money; and

(ii) the amount of money needed for each project.

(b) Following a presentation described in Subsection (4)(a), the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee shall recommend to the Legislature appropriations of money from the State Agency Capital Development Fund to the division for approved projects in the division's plan.

(c) In accordance with this section, the division is required to receive legislative approval through an appropriations act in order to expend money in the State Agency Capital Development Fund for a capital development project.

(5) In the 2024 General Session of the Legislature, and each year thereafter, and in accordance with Sections 63A-5b-402, 63A-5b-405, and 63A-5b-501, the division shall present a five-year building plan to the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee that describes the division's anticipated plan for designing, renovating, or building state agency facilities.

(6) The division may not submit a request to the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee for funding from the State Agency Capital Development Fund unless:

(a) the project complies with the Statewide Master Plan for State Agencies; and

(b) the division first obtains approval from the Governor's Office of Planning and Budget.

(7) If a building is vacated by an agency and the agency moves to another building, proceeds from the sale or lease of the vacated building:

(a) may not be used by the agency or otherwise absorbed into the agency's budget; and

(b) shall be deposited into the State Agency Capital Development Fund described in this section.

Section 24. Section 63A-5b-912 is amended to read:

63A-5b-912. Report to Transportation and Infrastructure Appropriations Subcommittee.

The division shall, on or before the third Wednesday in November of every even-numbered year, present a written report to the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee that identifies state land and buildings that are no longer needed and can be sold by the state.

Section 25. Section 63A-5b-1002 is amended to read:

63A-5b-1002. State Building Energy Efficiency Program.

(1) The division shall:

(a) develop and administer the energy efficiency program, which shall include guidelines and procedures to improve energy efficiency in the maintenance and management of state facilities;

(b) provide information and assistance to agencies in the agencies' efforts to improve energy efficiency in state facilities;

(c) analyze energy consumption by agencies to identify opportunities for improved energy efficiency;

(d) establish an advisory group composed of representatives of agencies to provide information and assistance in the development and implementation of the energy efficiency program; and

(e) submit to the governor and to the [~~Infrastructure and General Government~~]Transportation and Infrastructure Appropriations Subcommittee of the Legislature an annual report that:

(i) identifies strategies for long-term improvement in energy efficiency;

(ii) identifies goals for energy conservation for the upcoming year; and

(iii) details energy management programs and strategies that were undertaken in the previous year to improve the energy efficiency of agencies and the energy savings achieved.

(2) Each agency shall:

(a) designate a staff member that is responsible for coordinating energy efficiency efforts within the agency with assistance from the division;

(b) provide energy consumption and costs information to the division;

(c) develop strategies for improving energy efficiency and reducing energy costs; and

(d) provide the division with information regarding the agency's energy efficiency and reduction strategies.

(3) (a) An agency may enter into a performance efficiency agreement for a term of up to 20 years.

(b) Before entering into a performance efficiency agreement, the agency shall:

(i) utilize the division to oversee the project unless the project is exempt from the division's oversight or the oversight is delegated to the agency under the provisions of Section 63A-5b-701;

(ii) obtain the prior approval of the governor or the governor's designee; and

(iii) provide the Office of the Legislative Fiscal Analyst with a copy of the proposed agreement before the agency enters into the agreement.

(4) An agency may consult with the energy efficiency program manager within the division regarding:

(a) the cost effectiveness of energy efficiency measures; and

(b) ways to measure energy savings that take into account fluctuations in energy costs and temperature.

(5) (a) Except as provided under Subsection (5)(c) and subject to future budget constraints, the Legislature may not remove energy savings from an agency's appropriation.

(b) An agency shall use energy savings to:

(i) fund the cost of the energy efficiency measures; and

(ii) if funds are available after meeting the requirements of Subsection (5)(b)(i), fund and implement new energy efficiency measures.

(c) The Legislature may remove energy savings if:

(i) an agency has complied with Subsection (5)(b)(i); and

(ii) no new cost-effective energy efficiency measure is available for implementation.

Section 26. Section 63A-13-502 is amended to read:

63A-13-502. Report and recommendations to governor and General Government Appropriations Subcommittee.

(1) The inspector general of Medicaid services shall, on an annual basis, prepare an electronic report on the activities of the office for the preceding fiscal year.

(2) The report shall include:

(a) non-identifying information, including statistical information, on:

(i) the items described in Subsection 63A-13-202(1)(b) and Section 63A-13-204;

(ii) action taken by the office and the result of that action;

(iii) fraud, waste, and abuse in the state Medicaid program, including emerging trends of Medicaid fraud, waste, and abuse and the office's actions to identify and address the emerging trends;

(iv) the recovery of fraudulent or improper use of state and federal Medicaid funds, including total dollars recovered through cash recovery, credit adjustments, and rebilled claims;

(v) measures taken by the state to discover and reduce fraud, waste, and abuse in the state Medicaid program;

(vi) audits conducted by the office, including performance and financial audits;

(vii) investigations conducted by the office and the results of those investigations, including preliminary investigations;

(viii) administrative and educational efforts made by the office and the division to improve compliance with Medicaid program policies and requirements;

(ix) total cost avoidance attributed to an office policy or action;

(x) the number of complaints against Medicaid recipients received and disposition of those complaints;

(xi) the number of educational activities that the office provided to a provider or a state agency;

(xii) the number of credible allegations of fraud referred to the Medicaid fraud control unit under Section 63A-13-501; and

(xiii) the number of data pulls performed and general results of those pulls;

(b) recommendations on action that should be taken by the Legislature or the governor to:

(i) improve the discovery and reduction of fraud, waste, and abuse in the state Medicaid program;

(ii) improve the recovery of fraudulently or improperly used Medicaid funds; and

(iii) reduce costs and avoid or minimize increased costs in the state Medicaid program;

(c) recommendations relating to rules, policies, or procedures of a state or local government entity; and

(d) services provided by the state Medicaid program that exceed industry standards.

(3) The report described in Subsection (1) may not include any information that would interfere with or jeopardize an ongoing criminal investigation or other investigation.

(4) On or before November 1 of each year, the inspector general of Medicaid services shall provide the electronic report described in Subsection (1) to the [~~Infrastructure and General Government~~]General Government Appropriations Subcommittee of the Legislature and to the governor.

Section 27. Section 63A-16-302.1 is amended to read:

63A-16-302.1. Reporting on consolidation of certain information technology services.

(1) The division shall, in collaboration with the Cybersecurity Commission created in Section 63C-27-201, identify opportunities, limitations, and barriers to enhancing the overall cybersecurity resilience of the state by consolidating:

(a) certain information technology services utilized by governmental entities; and

(b) to the extent feasible, the information technology networks that are operated or utilized by governmental entities.

(2) On or before November 15, 2023, the division shall report the information described in Subsection (1) to:

(a) the Government Operations Interim Committee;

(b) the [~~Infrastructure and General Government~~]General Government Appropriations Subcommittee; and

(c) the Cybersecurity Commission created in Section 63C-27-201.

Section 28. Section 63H-7a-206 is amended to read:

63H-7a-206. Required annual reporting and strategic plan.

(1) The authority shall create, maintain, and review annually a statewide, comprehensive multiyear strategic plan, in consultation with state and local stakeholders, the PSAP advisory committee, and the public safety advisory committee, that:

(a) coordinates the authority's activities and duties in the:

(i) 911 Division;

(ii) Radio Network Division;

(iii) Interoperability Division; and

(iv) Administrative Services Division; and

(b) includes:

(i) a plan for maintaining, upgrading, and expanding the public safety communications network, including microwave and fiber optics based systems;

(ii) a plan for statewide interoperability;

(iii) a plan for statewide coordination;

(iv) radio network coverage maps; and

(v) FirstNet standards.

(2) The executive director shall update the strategic plan described in Subsection (1) before July 1 of each year.

(3) The executive director shall, before December 1 of each year, report on the strategic plan described in Subsection (1) to:

(a) the board;

(b) the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee;

(c) the Legislative Management Committee; and

(d) the Retirement and Independent Entities Interim Committee.

(4) Each report described in Subsection (3) shall include a description of the authority's goals for implementation of the strategic plan and a progress report of accomplishments and updates to the strategic plan.

(5) The authority shall consider the strategic plan described in Subsection (1) before spending funds in the restricted accounts created by this chapter.

(6) (a) Following the close of each fiscal year, the executive director shall submit and make available to the public an annual report of the authority's activities for the preceding year to the governor, the board, the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Retirement and Independent Entities Interim Committee.

(b) Each report described in Subsection (6)(a) shall include:

(i) the agency's complete operating and financial statement for the preceding fiscal year;

(ii) the total aggregate surcharge collected by the state in the last fiscal year under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;

(iii) the amount of each disbursement from the restricted accounts described in:

(A) Section 63H-7a-304; and

(B) Section 63H-7a-403;

(iv) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;

(v) any conditions the authority placed on the disbursements from a restricted account;

(vi) the anticipated expenditures from the restricted accounts described in this chapter for the next fiscal year;

(vii) the amount of any unexpended funds carried forward; and

(viii) other relevant justification for ongoing support from the restricted accounts created by:

(A) Section 63H-7a-304; and

(B) Section 63H-7a-403.

Section 29. Section 63J-1-504 is amended to read:

63J-1-504. Fees -- Adoption, procedure, and approval -- Establishing and assessing fees without legislative approval -- Report summarizing fees.

(1) As used in this section:

(a) (i) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(ii) "Agency" does not include:

(A) the Legislature or a committee or staff office of the Legislature; or

(B) the Judiciary, as that term is defined in Section 78A-2-310.

(b) "Agency's cost" means all of a fee agency's direct and indirect costs and expenses for providing the goods or service for which the fee agency charges a fee or for regulating the industry in which the persons paying the fee operate, including:

(i) salaries, benefits, contracted labor costs, travel expenses, training expenses, equipment and material costs, depreciation expense, utility costs, and other overhead costs; and

(ii) costs and expenses for administering the fee.

(c) "Fee agency" means an agency that is authorized to establish and charge a service fee or a regulatory fee.

(d) "Fee schedule" means the complete list of service fees and regulatory fees charged by a fee agency and the amount of those fees.

(e) "Regulatory fee" means a fee that a fee agency charges to cover the agency's cost of regulating the industry in which the persons paying the fee operate.

(f) "Service fee" means a fee that a fee agency charges to cover the agency's cost of providing the goods or service for which the fee is charged.

(2) (a) A fee agency that charges or intends to charge a service fee or regulatory fee shall adopt a fee schedule.

(b) A service fee or regulatory fee that a fee agency charges shall:

(i) be reasonable and fair;

(ii) reflect and be based on the agency's cost for the fee; and

(iii) be established according to a cost formula determined by the executive director of the Governor's Office of Planning and Budget and the director of the Division of Finance in conjunction with the fee agency seeking to establish the fee.

(3) Except as provided in Subsection (7), a fee agency may not:

(a) set fees by rule; or

(b) create, change, or collect any fee unless the fee has been established according to the procedures and requirements of this section.

(4) Each fee agency that is proposing a new fee or proposing to change a fee shall:

(a) present each proposed fee at a public hearing, subject to the requirements of Title 52, Chapter 4, Open and Public Meetings Act;

(b) increase, decrease, or affirm each proposed fee based on the results of the public hearing;

(c) except as provided in Subsection (8), submit the fee schedule to the Legislature as part of the agency's annual appropriations request; and

(d) modify the fee schedule as necessary to implement the Legislature's actions.

(5) (a) No later than November 30, 2022, the Governor's Office of Planning and Budget and the Division of Finance shall submit a report to the [~~Infrastructure and General Government~~]General Government Appropriations Subcommittee of the Legislature.

(b) A report under Subsection (5)(a) shall:

(i) provide a summary of:

(A) the types of service fees and regulatory fees included in the fee schedules of all fee agencies;

(B) the methods used by fee agencies to determine the amount of fees;

(C) each estimated agency's cost related to each fee;

(D) whether a fee is intended to cover the agency's cost related to the fee;

(E) whether the fee agency intends to subsidize the fee to cover the agency's cost related to the fee and, if so, the fee agency's justification for the subsidy; and

(F) whether the fee agency set the fee at an amount that exceeds the agency's cost related to the fee and, if so, the fee agency's justification for the excess fee; and

(ii) include any recommendations for improving the process described in this section.

(6) (a) A fee agency shall submit the fee agency's fee schedule to the Legislature for the Legislature's approval on an annual basis.

(b) The Legislature may approve, increase or decrease and approve, or reject any fee submitted to it by a fee agency.

(7) After conducting the public hearing required by this section, a fee agency may establish and assess fees without first obtaining legislative approval if:

(a) (i) the Legislature creates a new program that is to be funded by fees to be set by the Legislature;

(ii) the new program's effective date is before the Legislature's next annual general session; and

(iii) the fee agency submits the fee schedule for the new program to the Legislature for its approval at a special session, if allowed in the governor's call, or at the next annual general session of the Legislature, whichever is sooner; or

(b) (i) the fee agency proposes to increase or decrease an existing fee for the purpose of adding or removing a transactional fee that is charged or assessed by a non-governmental third party but is included as part of the fee charged by the fee agency;

(ii) the amount of the increase or decrease in the fee is equal to the amount of the transactional fee charged or assessed by the non-governmental third party; and

(iii) the increased or decreased fee is submitted to the Legislature for the Legislature's approval at a special session, if allowed in the governor's call, or at the next annual session of the Legislature, whichever is sooner.

(8) (a) A fee agency that intends to change any fee shall submit to the governor, as part of the agency's annual appropriation request a list that identifies:

(i) the title or purpose of the fee;

(ii) the present amount of the fee;

(iii) the proposed new amount of the fee;

(iv) the percent that the fee will have increased if the Legislature approves the higher fee;

(v) the estimated total annual revenue and total estimated annual revenue change that will result from the changed fee;

(vi) the account or fund into which the fee will be deposited;

(vii) the reason for the change in the fee;

(viii) the estimated number of persons to be charged the fee;

(ix) the estimated agency's cost related to the fee;

(x) whether the fee is a service fee or a regulatory fee;

(xi) whether the fee is intended to cover the agency's cost related to the fee;

(xii) whether the fee agency intends to subsidize the fee to cover the agency's cost related to the fee and, if so, the fee agency's justification for the subsidy; and

(xiii) whether the fee agency set the fee at an amount that exceeds the agency's cost related to the fee and, if so, the fee agency's justification for the excess fee.

(b) (i) The governor may review and approve, modify and approve, or reject the fee increases.

(ii) The governor shall transmit the list required by Subsection (8)(a), with any modifications, to the legislative fiscal analyst with the governor's budget recommendations.

(c) Bills approving any fee change shall be filed before the beginning of the Legislature's annual general session, if possible.

(9) (a) Except as provided in Subsection (9)(b), the School and Institutional Trust Lands Administration, established in Section 53C-1-201, is exempt from the requirements of this section.

(b) The following fees of the School and Institutional Trust Lands Administration are subject to the requirements of this section: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial

conveyance, patent reissue, collateral assignment, electronic payment, and processing.

Section 30. Section 63M-7-904 is amended to read:

63M-7-904. Duties of the commission -- Report.

(1) The commission shall:

(a) advocate for the adoption, repeal, or modification of laws or proposed legislation in the interest of victims of crime;

(b) make recommendations to the Legislature, the governor, and the Judicial Council on the following:

(i) enforcing existing rights of victims of crime;

(ii) enhancing rights of victims of crime;

(iii) the role of victims of crime in the criminal justice system;

(iv) victim restitution;

(v) educating and training criminal justice professionals on the rights of victims of crime; and

(vi) enhancing services to victims of crimes; and

(c) provide training on the rights of victims of crime.

(2) The commission shall, in partnership with state agencies and organizations, including the Children's Justice Center Program, the Utah Office for Victims of Crime, and the Division of Child and Family Services:

(a) review and assess the duties and practices of the State Commission on Criminal and Juvenile Justice regarding services and criminal justice policies pertaining to victims;

(b) encourage and facilitate the development and coordination of trauma-informed services for crime victims throughout the state;

(c) encourage and foster public and private partnerships for the purpose of:

(i) assessing needs for crime victim services throughout the state;

(ii) developing crime victim services and resources throughout the state; and

(iii) coordinating crime victim services and resources throughout the state;

(d) generate unity for ongoing efforts to reduce and eliminate the impact of crime on victims through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(e) recommend and support the creation, dissemination, and implementation of statewide policies and plans to address crimes, including domestic violence, sexual violence, child abuse, and driving under the influence of drugs and alcohol;

(f) collect information on statewide funding for crime victim services and prevention efforts, including the sources, disbursement, and outcomes of statewide funding for crime victim services and prevention efforts;

(g) consider recommendations from any subcommittee of the commission; and

(h) make recommendations regarding:

(i) the duties and practices of the State Commission on Criminal and Juvenile Justice to ensure that:

(A) crime victims are a vital part of the criminal justice system of the state;

(B) all crime victims and witnesses are treated with dignity, respect, courtesy, and sensitivity; and

(C) the rights of crime victims and witnesses are honored and protected by law in a manner no less vigorous than protections afforded to criminal defendants; and

(ii) statewide funding for crime victim services and prevention efforts.

(3) The commission may:

(a) subject to court rules and the governor's approval, advocate in an appellate court on behalf of a victim of crime;

(b) recommend to the Legislature the services to be funded by the Victim Services Restricted Account;

(c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the process by which a victim, or a representative of a victim, may submit a complaint alleging a violation of the victim's rights; and

(d) review any action taken by a victim rights committee created in accordance with Section 63M-7-1002.

(4) The commission shall report the commission's recommendations annually to the State Commission on Criminal and Juvenile Justice, the governor, the Judicial Council, the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee, the Health and Human Services Interim Committee, the Judiciary Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee.

(5) When taking an action or making a recommendation, the commission shall respect that a state agency is bound to follow state law and may have duties or responsibilities imposed by state law.

Section 31. Section 63N-2-107 is amended to read:

63N-2-107. Reports of new state revenue, partial rebates, and tax credits.

(1) Before October 1 of each year, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) (i) the total estimated amount of new state revenue created from new commercial projects;

(ii) the estimated amount of new state revenue from new commercial projects that will be generated from:

(A) sales tax;

(B) income tax; and

(C) corporate franchise and income tax; and

(iii) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded; and

(b) the total estimated amount of tax credits that the office projects that business entities will qualify to claim under this part.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new written agreement that the office entered into since the last report;

(b) the estimated amount of new state revenue that will be generated under each written agreement described in Subsection (2)(a);

(c) the estimated maximum amount of tax credits that a business entity could qualify for under each written agreement described in Subsection (2)(a); and

(d) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded.

(3) At the reasonable request of the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, or the Division of Finance, the office shall provide additional information about the tax credit, new incremental jobs and high paying jobs, costs, and economic benefits related to this part, if the information is part of a public record as defined in Section 63G-2-103.

(4) By October 1, the office shall submit to the Economic Development and Workforce Services Interim Committee, the [~~Business, Economic Development, and Labor~~]Economic and Community Development Appropriations Subcommittee, and the governor, a written report that provides an overview of the implementation and efficacy of the statewide economic development strategy, including an analysis of the extent to which the office's programs are aligned with the prevailing economic conditions expected in the next fiscal year.

Section 32. Section 63N-6-301 is amended to read:

63N-6-301. Utah Capital Investment Corporation -- Powers and purposes -- Reporting requirements.

(1) (a) There is created an independent quasi-public nonprofit corporation known as the Utah Capital Investment Corporation.

(b) The corporation:

(i) may exercise all powers conferred on independent corporations under Section 63E-2-106;

(ii) is subject to the prohibited participation provisions of Section 63E-2-107; and

(iii) is subject to the other provisions of Title 63E, Chapter 2, Independent Corporations Act, except as otherwise provided in this part.

(c) The corporation shall file with the Division of Corporations and Commercial Code:

(i) articles of incorporation; and

(ii) any amendment to its articles of incorporation.

(d) In addition to the articles of incorporation, the corporation may adopt bylaws and operational policies that are consistent with this chapter.

(e) Except as otherwise provided in this part, this part does not exempt the corporation from the requirements under state law which apply to other corporations organized under Title 63E, Chapter 2, Independent Corporations Act.

(2) The purposes of the corporation are to:

(a) administer the Utah fund of funds;

(b) select an investment fund allocation manager to manage investments by the Utah fund of funds;

(c) negotiate the terms of a contract with the investment fund allocation manager;

(d) execute the contract with the selected investment fund manager on behalf of the Utah fund of funds; and

(e) receive investment returns from the Utah fund of funds.

(3) The corporation may not:

(a) exercise governmental functions;

(b) have members;

(c) pledge the credit or taxing power of the state or any political subdivision of the state; or

(d) make its debts payable out of any money except money of the corporation.

(4) The obligations of the corporation are not obligations of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds.

(5) The corporation may:

(a) engage consultants and legal counsel;

(b) expend funds;

(c) invest funds;

(d) issue debt and equity, and borrow funds;

(e) enter into contracts;

(f) insure against loss;

(g) hire employees; and

(h) perform any other act necessary to carry out its purposes.

(6) (a) The corporation shall publish on or before September 1 an annual report of the activities conducted by the Utah fund of funds and submit, in accordance with Section 68-3-14, the written report to:

(i) the governor;

(ii) the [~~Business, Economic Development, and Labor~~]Economic and Community Development Appropriations Subcommittee;

(iii) the Business and Labor Interim Committee; and

(iv) the Retirement and Independent Entities Interim Committee.

(b) The annual report shall:

(i) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;

(ii) include a copy of the audit of the Utah fund of funds described in Section 63N-6-405;

(iii) include a detailed balance sheet, revenue and expenses statement, and cash flow statement;

(iv) include detailed information regarding:

(A) realized gains from investments and any realized losses; and

(B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;

(v) include detailed information regarding all yearly expenditures, including:

(A) administrative, operating, and financing costs;

(B) aggregate compensation information for full- and part-time employees, including benefit and travel expenses; and

(C) expenses related to the allocation manager;

(vi) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;

(vii) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds; and

(viii) include an aggregate total value for all funds the Utah fund of funds is invested in.

Section 33. Section 63N-21-401 is amended to read:

63N-21-401. Annual report.

(1) On or before September 1 of each year, the innovation lab shall publish an annual report of the activities conducted by the Utah innovation fund and submit, in accordance with Section 68-3-14, the written report to:

(a) the governor;

(b) the [~~Business, Economic Development, and Labor~~]Economic and Community Development Appropriations Subcommittee;

(c) the Economic Development and Workforce Services Interim Committee; and

(d) the Retirement and Independent Entities Interim Committee.

(2) The annual report shall:

(a) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;

(b) include a copy of the annual audit required under Section 63N-21-402;

(c) describe the policies adopted by the board under Subsection 63N-21-203(1)(b);

(d) include detailed information regarding:

(i) the name and location of each qualified business that received capital from the Utah innovation fund;

(ii) the amount of each qualified investment made by the Utah innovation fund;

(iii) the aggregate amount of capital provided to qualified businesses;

(iv) realized gains from qualified investments and any realized losses; and

(v) unrealized gains and any unrealized losses based on the net present value of ongoing qualified investments;

(e) include detailed information regarding the innovation lab's yearly expenditures, including:

(i) administrative, operating, and financing expenses; and

(ii) aggregate compensation information for full-time and part-time employees, including benefit and travel expenses;

(f) include detailed information regarding all funding sources for administrative, operating, and financing expenses, including any fees charged by the innovation lab to the Utah innovation fund under Subsection 63N-21-201(4)(g); and

(g) include an explanation of the Utah innovation fund's progress in achieving the purposes described in Subsection 63N-21-301(2).

Section 34. Section 64-13-46.1 is amended to read:

64-13-46.1. Correctional Postnatal and Early Childhood Advisory Board -- Duties -- Rulemaking.

(1) As used in this part:

(a) "Advisory board" means the Correctional Postnatal and Early Childhood Advisory Board.

(b) "Correctional facility" means a facility operated by the department or a county sheriff that houses inmates in a secure setting.

(c) "Incarcerated mother" means an inmate who:

(i) has recently given birth before entering a correctional facility;

(ii) is pregnant and incarcerated in a correctional facility; or

(iii) has given birth while incarcerated in a correctional facility.

(2) The advisory board shall consist of the following members:

(a) two individuals from the department, appointed by the executive director;

(b) one individual appointed by the Board of Pardons and Parole;

(c) one individual appointed by the president of the Utah Sheriffs' Association; and

(d) four individuals appointed by the executive director of the Department of Health and Human Services, including:

(i) two pediatric healthcare providers;

(ii) one individual with expertise in early childhood development; and

(iii) one individual with experience advocating for incarcerated women.

(3) (a) Except as provided in Subsection (3)(b), a member of the advisory board shall be appointed for a four-year term.

(b) A member that is appointed to complete an unexpired term may complete the unexpired term and serve a subsequent four-year term.

(c) Appointments and reappointments may be staggered so that one-fourth of the advisory board changes each year.

(d) The advisory board shall annually elect a chair and co-chair of the board from among the members of the board to serve a two-year term.

(4) The advisory board shall meet at least bi-annually, or more frequently as determined by the executive director, the chair, or three or more members of the advisory board.

(5) A majority of the board constitutes a quorum and a vote of the majority of the members present constitutes an action of the advisory board.

(6) A member of the advisory board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(7) The advisory board shall:

(a) review research regarding childhood development and best practices for placing infants and incarcerated mothers in a diversion program not located in a correctional facility;

(b) study the costs of implementing a diversion program for infants and incarcerated mothers removed from a correctional facility;

(c) create a provisional plan for implementing a diversion program for infants and incarcerated mothers removed from a correctional facility; and

(d) advise and make recommendations to the department and county sheriffs regarding rules and policies for placing an infant or incarcerated mother in a diversion program not located in a correctional facility.

(8) On or before November 30, 2024, the advisory board shall provide a report of the advisory board's research and study under Subsections (7)(a) through (c), including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee.

Section 35. Section 64-13e-103 is amended to read:

64-13e-103. County correctional facility contracting program for state inmates -- Payments -- Reporting -- Contracts.

(1) Subject to Subsection (6), the department may contract with a county to house state inmates in a county correctional facility.

(2) The department shall give preference for placement of state inmates, over private entities, to county correctional facility bed spaces for which the department has contracted under Subsection (1).

(3) (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1) shall be:

(i) except as provided in Subsection (3)(a)(ii), 84% of the state daily incarceration rate for a county correctional facility bed space in a county that, pursuant to the contract, is dedicated to a treatment program for state inmates, if the treatment program is approved by the department under Subsection (3)(c);

(ii) 75% of the state daily incarceration rate for a county correctional facility bed space in a county that, pursuant to the contract, is dedicated to an alternative treatment program for state inmates, if the alternative treatment program is approved by the department under Subsection (3)(c); and

(iii) 70% of the state daily incarceration rate for a county correctional facility bed space in a county other than the bed spaces described in Subsections (3)(a)(i) and (ii).

(b) The department shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is considered for approval for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii); and

(ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii).

(c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii), unless:

(i) the program meets the standards established under Subsection (3)(b)(i); and

(ii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(d) (i) The department shall annually:

(A) collect information from each county described in Subsection (1) regarding the treatment programs for state inmates offered by the county;

(B) evaluate, review, and audit the results of each treatment program on state inmate recidivism and other relevant metrics; and

(C) on or before November 30, report the results of the information described in Subsection (3)(d)(i)(B) to the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee.

(ii) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of Subsection (3)(d)(i).

(4) (a) Compensation to a county for state inmates incarcerated under this section shall be made by the department.

(b) Funds from the County Correctional Facility Contracting Reserve Program may be used only once existing annual appropriated funds for the fiscal year have been exhausted.

(5) Counties that contract with the department under Subsection (1) shall, on or before June 30 of each year, submit a report to the department that includes:

(a) the number of state inmates the county housed under this section;

(b) the total number of state inmate days of incarceration that were provided by the county; and

(c) the information required under Subsection (3)(d)(i)(A).

(6) Except as provided under Subsection (7), the department may not enter into a contract with a county as described under Subsection (1), unless:

(a) beginning July 1, 2023, the county correctional facility within the county is in compliance with the reporting requirements described in Subsection 17-22-32(2); and

(b) the Legislature has previously passed a joint resolution that includes the following information regarding the proposed contract:

(i) the approximate number of beds to be contracted;

(ii) the approximate amount of the county's long-term debt; and

(iii) the repayment time of the debt for the facility where the inmates are to be housed.

(7) The department may enter into a contract with a county government to house inmates without complying with the approval process described in Subsection (6) only if the county facility was under construction, or already in existence, on March 16, 2001.

(8) Any resolution passed by the Legislature under Subsection (6) does not bind or obligate the Legislature or the department regarding the proposed contract.

Section 36. Section 64-13e-105 is amended to read:

64-13e-105. Subcommittee on County Correctional Facility Contracting and Reimbursement -- Purpose -- Responsibilities -- Membership.

(1) There is created within the commission, the Subcommittee on County Correctional Facility Contracting and Reimbursement consisting of the individuals listed in Subsection (3).

(2) The subcommittee shall meet at least annually to review, discuss, and make recommendations for:

(a) the state daily incarceration rate, described in Section 64-13e-103.1;

(b) county correctional facility contracting and reimbursement processes and goals, including the creation of a comprehensive statewide system of county correctional facility contracting and reimbursement;

(c) developing a partnership between the state and counties to create common goals for housing state inmates;

(d) calculations for the projected number of bed spaces needed;

(e) programming for inmates while incarcerated;

(f) proposals to reduce recidivism;

(g) enhancing partnerships to improve law enforcement and incarceration programs;

(h) inmate transportation costs; and

(i) the compilation described in Subsection 64-13e-104(7).

(3) The membership of the subcommittee shall consist of the following nine members:

(a) as designated by the Utah Sheriffs' Association:

(i) one sheriff of a county that is currently under contract with the department to house state inmates; and

(ii) one sheriff of a county that is currently receiving reimbursement from the department for housing state probationary inmates or state parole inmates;

(b) the executive director of the department or the executive director's designee;

(c) as designated by the Utah Association of Counties:

(i) one member of the legislative body of one county that is currently under contract with the department to house state inmates; and

(ii) one member of the legislative body of one county that is currently receiving reimbursement for housing state probationary inmates or state parole inmates;

(d) the executive director of the commission or the executive director's designee;

(e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(f) one member of the Senate, appointed by the president of the Senate; and

(g) the executive director of the Governor's Office of Planning and Budget or the executive director's designee.

(4) The subcommittee shall report to the Law Enforcement and Criminal Justice Interim Committee in November of each year on the status of the comprehensive statewide county correctional facility reimbursement and contracting system.

(5) The subcommittee shall report to the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee not later than October 31 of each year on costs associated with the comprehensive statewide county correctional facility reimbursement and contracting system established in this chapter.

(6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the division according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 37. Section 67-5-1 is amended to read:

67-5-1. General duties -- Restrictions.

(1) The attorney general shall:

(a) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of process as necessary to execute the judgment;

(d) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(e) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(ii) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(iii) deliver this information to the attorney general's successor in office;

(f) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of the district

and county attorneys' offices, including the authority described in Subsection (2);

(g) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

(i) in accordance with Section 67-5-1.1, to the Legislature or either house;

(ii) to any state officer, board, or commission; and

(iii) to any county attorney or district attorney;

(h) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(i) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(j) when the property of a judgment debtor in any judgment mentioned in Subsection (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(k) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(l) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(m) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(n) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(o) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(q) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(r) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False Claims Act;

(s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:

(i) in health care facilities that receive payments under the state Medicaid program;

(ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

(iii) who are receiving medical assistance under the Medicaid program as defined in Section 26B-3-101 in a noninstitutional or other setting;

(t) (i) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(A) cost the state more than $500,000; or

(B) require the state to take legally binding action that would cost more than $500,000 to implement; and

(ii) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(u) (i) submit a written report to the committees described in Subsection (1)(u)(ii) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection (1)(u), including any:

(A) settlements reached;

(B) consent decrees entered;

(C) judgments issued;

(D) preliminary injunctions issued;

(E) temporary restraining orders issued; or

(F) formal or informal policies of the Office of the Attorney General to not enforce a law; and

(ii) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (1)(u)(i) to:

(A) the Legislative Management Committee;

(B) the Judiciary Interim Committee; and

(C) the Law Enforcement and Criminal Justice Interim Committee;

(v) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(ii) any other information or analysis requested by the rate committee;

(w) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;

(x) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(y) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

(i) the constitutionality of a state statute;

(ii) the validity of legislation; or

(iii) any action of the Legislature;

(z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:

(A) establish outreach to the tribes and affected counties and communities; and

(B) foster better relations and a cooperative framework; and

(ii) annually report to the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee regarding:

(A) the status of the work of the special advisor described in Subsection (1)(z)(i); and

(B) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection (1)(z)(i); [~~and~~]

(aa) (i) enforce compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and

(ii) report to the Legislative Management Committee, upon request, regarding the attorney general's enforcement under this Subsection (1)(aa) [~~.~~]; and

(bb) ensure compliance with Title 53B, Chapter 27, Part 6, Student Legal Representation, by:

(i) establishing a process to track the number of complaints submitted by students;

(ii) pursuing civil action to enforce statutory protections; and

(iii) no later than November 1 each year, reporting to the Judiciary Interim Committee regarding the attorney general's enforcement under this Subsection [~~(1)(aa)~~](1)(bb).

(2) (a) The attorney general may require a district attorney or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge.

(b) The attorney general may review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:

(i) a law enforcement agency submits investigation results to the county attorney or district attorney of the jurisdiction where the incident occurred and the county attorney or district attorney:

(A) declines to file criminal charges; or

(B) fails to screen the case for criminal charges within six months after the law enforcement agency's submission of the investigation results; and

(ii) after consultation with the county attorney or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county attorney or district attorney of the jurisdiction where the incident occurred.

(c) If the attorney general decides to conduct a review under Subsection (2)(b), the district attorney, county attorney, and law enforcement agency shall, within 14 days after the day on which the attorney general makes a request, provide the attorney general with:

(i) all information relating to the investigation, including all reports, witness lists, witness statements, and other documents created or collected in relation to the investigation;

(ii) all recordings, photographs, and other physical or digital media created or collected in relation to the investigation;

(iii) access to all evidence gathered or collected in relation to the investigation; and

(iv) the identification of, and access to, all officers or other persons who have information relating to the investigation.

(d) If a district attorney, county attorney, or law enforcement agency fails to timely comply with Subsection (2)(c), the attorney general may seek a court order compelling compliance.

(e) If the attorney general seeks a court order under Subsection (2)(d), the court shall grant the order unless the district attorney, county attorney, or law enforcement agency shows good cause and a compelling interest for not complying with Subsection (2)(c).

(3) The attorney general:

(a) is a full-time employee of the state; and

(b) may not engage in the private practice of law.

Section 38. Section 77-38-620 is amended to read:

77-38-620. Safe at Home Program Restricted Account -- Report.

(1) There is created a restricted account in the General Fund known as the "Safe at Home Program Restricted Account."

(2) The account shall be funded by:

(a) private contributions;

(b) gifts, donations, or grants from public or private entities; and

(c) interest and earnings on account money.

(3) Upon appropriation by the Legislature, the commission may expend funds from the account to:

(a) designate, train, and manage program assistants;

(b) develop, distribute, and process application forms and related materials for the program;

(c) assist applicants and program participants in enrolling in the program; or

(d) ensure program participants receive mail forwarded from the program to the program participant's actual address.

(4) No later than December 31 of each year, the commission shall provide to the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee a written report of the program's activities, including:

(a) the contributions received under Subsection (2);

(b) an accounting of the money expended or committed to be expended by the commission under Subsection (3); and

(c) the balance of the account.

Section 39. Section 77-40a-107 is amended to read:

77-40a-107. Expungement data requirements -- Report.

(1) No later than November 1 of each year, the Administrative Office of the Courts shall submit a written report to the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee and the Judiciary Interim Committee regarding expungement data for the preceding fiscal year, including:

(a) the number of petitions filed for expungement in the district, justice, and juvenile courts;

(b) the number of petitions granted for expungement in the district, justice, and juvenile courts;

(c) the number of orders issued for an automatic expungement by the district, justice, and juvenile courts;

(d) the total number of individuals for whom at least one automatic expungement order was issued by the district, justice, or juvenile court; and

(e) the total number of individuals for whom at least one petition-based expungement order was issued by the district, justice, or juvenile court.

(2) No later than November 1 of each year, the bureau shall submit a written report to the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee and the Judiciary Interim Committee regarding expungement data for the preceding fiscal year, including:

(a) the number of applications for expungement received by the bureau;

(b) the number of certificates of eligibility issued by the bureau; and

(c) the number of orders for expungement received by the bureau.

Section 40. Section 78A-2-310 is amended to read:

78A-2-310. Report by Judicial Council on court fees.

(1) As used in this section:

(a) "Cost" means the direct and indirect costs and expenses for providing the good or service for which a fee is charged, including:

(i) salaries, benefits, contracted labor costs, travel expenses, training expenses, equipment and material costs, depreciation expenses, utility costs, and other overhead costs; and

(ii) costs and expenses for administering the fee.

(b) (i) "Judiciary" means the Judicial Council, the Supreme Court, the Court of Appeals, a district court, or a juvenile court.

(ii) "Judiciary" includes any board, committee, or staff office of the Judicial Council, the Supreme Court, the Court of Appeals, a district court, or a juvenile court.

(2) Before November 30 of each year, the Judicial Council shall submit a report to the [~~Infrastructure and General Government~~]General Government Appropriations Subcommittee of the Legislature that:

(a) includes details on:

(i) the types of fees charged and collected by the Judiciary;

(ii) the methods used to determine the amount of each fee charged and collected by the Judiciary;

(iii) the Judiciary's estimated cost related to each fee;

(iv) whether each fee is intended to cover the Judiciary's cost related to the fee; and

(v) the number of fee waivers granted by the Judiciary for each type of fee charged and collected by the Judiciary; and

(b) include any recommendations regarding fees charged and collected by the Judiciary.

(3) If the Judicial Council recommends that the Legislature create a fee or modify an existing fee under Subsection (2)(b), the Judicial Council shall include the following information with the recommendation:

(a) the title or purpose of the fee;

(b) the present amount of the fee;

(c) the proposed amount of the fee;

(d) the percent that the fee will have increased or decreased if the Legislature approves the modification of the fee;

(e) the estimated total annual revenue and total estimated annual revenue change that will result from the creation or modification of the fee;

(f) the account or fund into which the fee will be deposited;

(g) the reason for the creating or modifying the fee;

(h) the estimated number of persons to be charged the fee;

(i) the Judiciary's estimated cost related to the fee; and

(j) whether the fee is intended to cover the Judiciary's cost related to the fee.

Section 41. Section 78A-5-303 is amended to read:

78A-5-303. Creation of a veterans treatment court.

(1) The Judicial Council may create a veterans treatment court in any judicial district or geographic region that demonstrates:

(a) the need for a veterans treatment court; and

(b) the existence of a collaborative strategy between the veterans treatment court, prosecutors, defense attorneys, substance abuse treatment services, the Department of Corrections, and the United States Department of Veterans Affairs Veterans Justice Outreach Program to work with veteran offenders.

(2) A veterans treatment court shall:

(a) establish a collaborative strategy that includes monitoring and evaluation components to measure program effectiveness; and

(b) submit a collaborative strategy, for the purpose of coordinating the disbursement of funding, to the Administrative Office of the Courts.

(3) A veterans treatment court shall include continuous judicial supervision using a cooperative approach with prosecutors, defense attorneys, substance abuse treatment services, the Department of Corrections, and the United States Department of Veterans Affairs Veterans Justice Outreach Program, as appropriate, to promote public safety, protect participants' due process rights, and integrate veteran treatment programs with the justice system case processing.

(4) Screening criteria for participation in a veterans treatment court shall include:

(a) a plea in abeyance or plea agreement for a criminal offense, or a requirement for participation in a veterans treatment court as a condition of probation;

(b) frequent alcohol and other drug testing, if appropriate;

(c) participation in veteran outreach programs, including substance abuse treatment programs where appropriate;

(d) sanctions for noncompliance with the requirements for participation in a veterans treatment court; and

(e) any additional criteria developed by a veterans treatment court.

(5) No later than October 1 each year, the Administrative Office of the Courts shall provide to the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee a written report describing:

(a) the types of policies and procedures adopted by veteran treatment courts;

(b) the number of veteran participants in the previous fiscal year;

(c) the outcomes for veteran participants in the previous fiscal year; and

(d) recommendations for future veterans treatment courts, including expansion and funding.

Section 42. Section 78B-1-117 is amended to read:

78B-1-117. Jurors and witnesses -- State payment for jurors and subpoenaed persons -- Appropriations and costs -- Expenses in justice court.

(1) The state is responsible for payment of all fees and expenses authorized by law for prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs in criminal actions in the courts of record and actions in the juvenile court. The state is responsible for payment of all fees and expenses authorized by law for jurors in the courts of record. For these payments, the Judicial Council shall receive an annual appropriation contained in a separate line item appropriation.

(2) If expenses, for the purposes of this section, exceed the line item appropriation, the state court administrator shall submit a claim against the state to the Board of Examiners and request the board to recommend and submit a supplemental appropriation request to the Legislature for the deficit incurred.

(3) In the justice courts, the fees, mileage, and other expenses authorized by law for jurors, prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs shall be paid by the municipality if the action is prosecuted by the city attorney, and by the county if the action is prosecuted by the county attorney or district attorney.

(4) Beginning July 1, 2014, the state court administrator shall provide a report during each interim to the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee detailing expenses, trends, and efforts made to minimize expenses and maximize performance of the costs under this section.

(5) The funding of additional full-time equivalent employees shall be authorized by the Legislature through specific intent language.

Section 43. Section 79-8-203 is amended to read:

79-8-203. Award of recreation restoration infrastructure grants.

(1) In determining the award of a recreation restoration infrastructure grant, the advisory committee shall prioritize projects that the advisory committee considers to be high demand outdoor recreation amenities or high priority trails.

(2) The division may give special consideration to projects from qualified applicants within rural counties to ensure geographic parity of the awarded money.

(3) (a) An applicant shall use a recreation restoration infrastructure grant to leverage private and other nonstate public money and the division may give priority to projects that exceed a 50% match from the applicant.

(b) Leverage includes cash, resources, goods, or services necessary to complete a project.

(c) The division shall apply money from a cooperative agreement entered into with the United States Department of Agriculture or the United States Department of the Interior as a portion of the applicant's match.

(4) A recreation restoration infrastructure grant may only be awarded by the executive director after consultation with the director and the advisory committee.

(5) A recreation restoration infrastructure grant is available for rehabilitation or restoration projects for high demand outdoor recreation amenities and high priority trails that relate directly to the visitor including:

(a) a trail, trail head infrastructure, signage, and crossing infrastructure, for both nonmotorized and motorized recreation;

(b) a campground or picnic area;

(c) water recreation infrastructure, including a pier, dock, or boat ramp; and

(d) recreation facilities that are accessible to visitors with disabilities.

(6) The following are not eligible for a recreation restoration infrastructure grant:

(a) general facility operations and administrative costs;

(b) land acquisitions;

(c) visitor facilities, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) water and utility systems; and

(e) employee housing.

(7) The division shall compile data and report to the [~~Business, Economic Development, and Labor~~]Economic and Community Development Appropriations Subcommittee on the:

(a) effectiveness of the grant program in addressing the deferred maintenance and repair backlog of trails, campgrounds, and other recreation amenities on public lands;

(b) estimated value of the rehabilitation or restoration projects;

(c) number of miles of trails that are rehabilitated or restored; and

(d) leverage of state money to federal and private money and in-kind services such as volunteer labor.

Section 44. Section 80-5-303 is amended to read:

80-5-303. Report on the Juvenile Justice Reinvestment Restricted Account.

No later than December 31 of each year, the division shall provide to the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee a written report of the division's activities under Subsection 80-5-202(1)(c) and Section 80-5-302, including:

(1) for the report submitted in 2019, the formula used to calculate the savings from General Fund appropriations under Subsection 80-5-202(1)(c);

(2) the amount of savings from General Fund appropriations calculated by the division for the previous fiscal year;

(3) an accounting of the money expended or committed to be expended under Subsection 80-5-302(4); and

(4) the balance of the account.

Section 45. Section 80-5-502 is amended to read:

80-5-502. New detention facilities.

(1) The division may issue requests for proposals to allow for the private construction of facilities suitable to meet the detention requirements of any county or group of counties, subject to approval by the governor.

(2) The governor shall furnish an analysis of the benefits of the proposals received to the [~~Infrastructure and General~~]Transportation and Infrastructure Government Appropriations Subcommittee for the subcommittee's review.

Section 46. Repealer.

This bill repeals:

Section 53B-17-1102, Researcher reporting requirements.

Section 53B-18-1602, Researcher reporting requirements.

Section 47. Effective Date.

This bill takes effect on May 7, 2025.

Section 48. Coordinating H.B. 459 with H.B. 200.

If H.B. 459, Appropriations Subcommittee Amendments, and H.B. 200, Outdoor Recreation Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, the amendments to Subsection 79-8-203(7) in H.B. 200 supersede the amendments to Subsection 79-8-203(7) in H.B. 459.

CHAPTER 272
H. B. 464
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

STATE SOVEREIGNTY FUND

Chief Sponsor: Joseph Elison
Senate Sponsor: Chris H. Wilson

Cosponsor:	Stephanie Gricius	Jefferson Moss
Nelson T. Abbott	Matthew H. Gwynn	Hoang Nguyen
Cheryl K. Acton	Katy Hall	Clinton D. Okerlund
Carl R. Albrecht	Jon Hawkins	Doug Owens
Tiara Auxier	Sahara Hayes	Nicholeen P. Peck
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Stewart E. Barlow	Ken Ivory	Thomas W. Peterson
Bridger Bolinder	Colin W. Jack	Calvin Roberts
Walt Brooks	Jill Koford	Angela Romero
Jefferson S. Burton	Michael L. Kohler	Jake Sawyer
Kristen Chevrier	Jason B. Kyle	Mike Schultz
Kay J. Christofferson	Trevor Lee	Troy Shelley
Tyler Clancy	Karianne Lisonbee	Lisa Shepherd
Paul A. Cutler	Anthony E. Loubet	Rex P. Shipp
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Ariel Defay	A. Cory Maloy	Mark A. Strong
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Steve Eliason	Tracy J. Miller	R. Neil Walter
Doug Fiefia	Grant Amjad Miller	Stephen L. Whyte
Jake Fitisemanu	Logan J. Monson	Ryan D. Wilcox

LONG TITLE

General Description:

This bill creates the State Sovereignty Fund.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes the State Sovereignty Fund;
- ► provides for the funding, investment, and distribution of the State Sovereignty Fund; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

51-7-2, as last amended by Laws of Utah 2024, Chapters 418, 492 and 510

63J-1-312, as last amended by Laws of Utah 2022, Chapter 456
63J-1-313, as last amended by Laws of Utah 2022, Chapter 456

ENACTS:

51-13-101, Utah Code Annotated 1953
51-13-201, Utah Code Annotated 1953
51-13-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

(1) Except as provided in Subsection (2), the following funds are exempt from this chapter:

(a) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(b) funds of the Utah State Retirement Board;

(c) funds of the Utah Housing Corporation;

(d) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section 53B-7-802;

(e) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(f) the State Post-Retirement Benefits Trust Fund;

(g) the funds of the Utah Educational Savings Plan;

(h) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(i) the funds in the Navajo Trust Fund;

(j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(k) the funds in the Employers' Reinsurance Fund;

(l) the funds in the Uninsured Employers' Fund;

(m) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 26B-1-331;

(n) the funds in the Risk Management Fund created in Section 63A-4-201;

(o) the Utah fund of funds created in Section 63N-6-401;

(p) the funds deposited into the Utah Homes Investment Program from the Transportation Infrastructure General Fund Support Subfund created in Section 72-2-134; [~~and~~]

(q) subject to Subsection 67-4-19(2), the portion of the funds in the following accounts invested by the state treasurer in precious metals:

(i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;

(ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;

(iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and

(iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in Section [~~63J-1-315.~~]63J-1-315; and

(r) the State Sovereignty Fund created in Section 51-13-201.

(2) Except for the funds of the Utah State Retirement Board and the Utah Educational Savings Plan, the funds described in Subsection (1) are not exempt from Subsections 51-7-14(2) and (3).

(3) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, a public body that administers a fund described in Subsection (1) may hold a closed meeting to discuss the sale or purchase of identifiable securities, investment funds, or investment contracts.

(4) A paper, electronic, or other depiction or record of information relating to investment activities of a fund described in Subsection (1) is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Section 2. Section 51-13-101 is enacted to read:

CHAPTER 13. STATE SOVEREIGNTY FUND

PART 1. General Provisions

51-13-101. Definitions.

As used in this chapter:

(1) "Division" means the Division of Finance created in Section 63A-3-101.

(2) "Excess revenue collections" means any amount of General Fund or Income Tax Fund revenue that, in any fiscal year, exceeds the estimated revenue for that fiscal year last adopted by the Executive Appropriations Committee by more than two standard deviations on a 20-year mean.

(3) "Fund" means the State Sovereignty Fund created in Section 51-13-201.

(4) "General Fund Budget Reserve Account" means the General Fund Budget Reserve Account created in Section 63J-1-312.

(5) "Income Tax Fund Budget Reserve Account" means the Income Tax Fund Budget Reserve Account created in Section 63J-1-313.

(6) (a) "Principal" means money deposited into the State Sovereignty Fund in accordance with Section 51-13-201.

(b) "Principal" does not include earnings like interest, dividends, or asset appreciation credited to the State Sovereignty Fund.

(7) "Reserve account surplus" means an amount described in Subsection 63J-1-312(3)(a)(ii)(B) or 63J-1-313(3)(a)(ii)(B).

Section 3. Section 51-13-201 is enacted to read:

PART 2. Establishment of State Sovereignty Fund

51-13-201. State Sovereignty Fund -- Creation -- Distribution.

(1) There is created the State Sovereignty Fund which consists of:

(a) any reserve account surplus;

(b) one-half of any General Fund savings from a decrease in the Federal Medical Assistance Percentages;

(c) if the federal government offers an enhanced Federal Medical Assistance Percentage, 12.5% of the resulting state fund savings;

(d) any excess revenue collections;

(e) interest, dividends, or other earnings attributable to the fund; and

(f) additional money appropriated by the Legislature.

(2) (a) The division shall deposit into the fund any amounts described in Subsections (1)(a) through (f).

(b) The Governor's Office of Planning and Budget, in consultation with the legislative fiscal analyst, shall annually report to the Division of Finance the amounts described in Subsections (1)(b), (c), and (d).

(3) The division shall separately track principal deposits into the fund from the General Fund and Income Tax Fund, including earnings on the deposits.

(4) In accordance with Section 51-13-202, the state treasurer shall invest the money in the fund for the benefit of the people of the state in perpetuity.

(5) The Legislature may not appropriate money from the fund before fiscal year 2075-76.

(6) (a) Beginning fiscal year 2075-76, the Legislature may appropriate up to 50% of the annual earnings from the investment of the fund to offset reduced federal funding or to provide state tax relief.

(b) After any appropriations under Subsection (6)(a), the division shall deposit any remaining earnings into the fund for investment.

(7) The Legislature may appropriate principal from the fund only:

(a) by affirmative vote of two-thirds of all members elected of each chamber of the Legislature; and

(b) for the purpose of offsetting reduced federal funding or providing state tax relief.

Section 4. Section 51-13-202 is enacted to read:

51-13-202. State Sovereignty Fund -- Investment -- Administrative costs.

(1) The state treasurer shall:

(a) invest money in the fund with the following goals, in order of priority:

(i) providing for growth of the principal; and

(ii) fund stability;

(b) invest and manage fund assets as a prudent investor would by:

(i) considering the purpose, terms, distribution requirements, and other circumstances of the fund; and

(ii) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor; and

(c) deposit into the fund the interest, dividends, or other earnings attributable to the fund.

(2) The state treasurer may deduct any administrative costs incurred by managing the fund from earnings generated by investments in the fund.

Section 5. Section 63J-1-312 is amended to read:

63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.

(1) As used in this section:

(a) " Income Tax Fund budget deficit" means a situation where appropriations made by the Legislature from the Income Tax Fund for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the Income Tax Fund in that fiscal year.

(b) "General Fund appropriations" means the sum of the spending authority for a fiscal year that is:

(i) granted by the Legislature in all appropriation acts and bills; and

(ii) identified as coming from the General Fund.

(c) "General Fund budget deficit" means a situation where General Fund appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

(d) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(e) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(2) There is created within the General Fund a restricted account to be known as the General Fund Budget Reserve Account, which is designated to receive the legislative appropriations and the surplus revenue required to be deposited into the account by this section.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in which the Division of Finance, in consultation with the [~~Legislative Fiscal Analyst~~]legislative fiscal analyst and in conjunction with the completion of the annual audit by the state auditor, determines that there is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account.

(ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account would cause the balance in the account to exceed 9% of General Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of Finance shall:

(A) transfer to the General Fund Budget Reserve Account only those funds necessary to ensure that the balance in the account equals

9% of General Fund appropriations for the fiscal year in which the General Fund revenue surplus occurred [~~.~~]; and

(B) transfer to the State Sovereignty Fund created in Section 51-13-201 the remaining amount of the 25% of the General Fund revenue surplus described in Subsection (3)(a)(i).

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(a):

(A) after making the transfer of General Fund revenue surplus to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315;

(B) before transferring from the General Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(C) excluding any direct legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

(b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if a General Fund revenue surplus exists and if, within the last 10 years, the Legislature has appropriated any money from the General Fund Budget Reserve Account that has not been replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if any, and transfers from the General Fund revenue surplus under this Subsection (3)(b)have replaced the appropriations from the account.

(ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to exceed 9% of General Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 9% of General Fund appropriations for the fiscal year in which the revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(b):

(A) after making the transfer of General Fund revenue surplus to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315;

(B) before transferring from the General Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(C) excluding any direct legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

(c) For appropriations made by the Legislature to the General Fund Budget Reserve Account, the Division of Finance shall treat those appropriations, unless otherwise specified in the appropriation, as replacement funds for appropriations made from the account if funds were appropriated from the General Fund Budget Reserve Account within the past 10 years and have not yet been replaced.

(4) The Legislature may appropriate money from the General Fund Budget Reserve Account only to:

(a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund budget deficit occurs;

(b) pay some or all of state settlement agreements approved under Title 63G, Chapter 10, State Settlement Agreements Act;

(c) pay claims approved under Section 63G-9-304;

(d) pay retroactive tax refunds;

(e) resolve an Income Tax Fund budget deficit; or

(f) finance an existing federally funded program or activity when:

(i) the federal funds expected to fund the federal program or activity are not available to fund the program or activity; and

(ii) the Legislature and governor concurrently determine that the program or activity is essential.

(5) Interest generated from investments of money in the General Fund Budget Reserve Account shall be deposited into the General Fund.

Section 6. Section 63J-1-313 is amended to read:

63J-1-313. Establishing an Income Tax Fund Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.

(1) As used in this section:

(a) " Income Tax Fund appropriations" means the sum of the spending authority for a fiscal year that is:

(i) granted by the Legislature in all appropriation acts and bills; and

(ii) identified as coming from the Income Tax Fund.

(b) " Income Tax Fund budget deficit" means a situation where appropriations made by the Legislature from the Income Tax Fund for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the Income Tax Fund in that fiscal year.

(c) " Income Tax Fund revenue surplus" means a situation where actual Income Tax Fund revenues collected in a completed fiscal year exceed the estimated revenues for the Income Tax Fund in that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the Income Tax Fund is less than zero.

(2) There is created within the Income Tax Fund a restricted account to be known as the Income Tax Fund Budget Reserve Account, which is designated to receive the legislative appropriations and the surplus revenue required to be deposited into the account by this section.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in which the Division of Finance, in consultation with the [~~Legislative Fiscal Analyst~~]legislative fiscal analyst and in conjunction with the completion of the annual audit by the state auditor, determines that there is an Income Tax Fund revenue surplus, the Division of Finance shall transfer 25% of the Income Tax Fund revenue surplus to the Income Tax Fund Budget Reserve Account.

(ii) If the transfer of 25% of the Income Tax Fund revenue surplus to the Income Tax Fund Budget Reserve Account under Subsection (3)(a)(i) would cause the balance in the account to exceed 11% of Income Tax Fund appropriations for the fiscal year in which the Income Tax Fund revenue surplus occurred, the Division of Finance shall:

(A) transfer to the Income Tax Fund Budget Reserve Account only those funds necessary to ensure that the balance in the account equals 11% of the Income Tax Fund appropriations for the fiscal year in which the Income Tax Fund revenue surplus occurred [~~.~~]; and

(B) transfer to the State Sovereignty Fund created in Section 51-13-201 the remaining amount of the 25% of the Income Tax Fund revenue surplus described in Subsection (3)(a)(i).

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(a):

(A) before transferring from the Income Tax Fund revenue surplus any other year-end contingency appropriations, year-end set-asides,

or other year-end transfers required by law; and

(B) excluding any direct legislative appropriation made to the Income Tax Fund Budget Reserve Account for the fiscal year.

(b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if an Income Tax Fund revenue surplus exists and if, within the last 10 years, the Legislature has appropriated any money from the Income Tax Fund Budget Reserve Account that has not been replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall transfer up to 25% more of the Income Tax Fund revenue surplus to the Income Tax Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if any, and transfers from the Income Tax Fund revenue surplus under this Subsection (3)(b) have replaced the appropriations from the account.

(ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to exceed 11% of Income Tax Fund appropriations for the fiscal year in which the Income Tax Fund revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 11% of Income Tax Fund appropriations for the fiscal year in which the revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(b):

(A) before transferring from the Income Tax Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(B) excluding any direct legislative appropriation made to the Income Tax Fund Budget Reserve Account for the fiscal year.

(c) For appropriations made by the Legislature to the Income Tax Fund Budget Reserve Account, the Division of Finance shall treat those appropriations, unless specified otherwise in the appropriation, as replacement funds for appropriations made from the account if funds were appropriated from the account within the past 10 years and have not yet been replaced.

(4) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the Division of Finance may reduce the transfer to the Income Tax Fund Budget Reserve Account by the amount necessary to eliminate the operating deficit.

(5) The Legislature may appropriate money from the Income Tax Fund Budget Reserve Account only to resolve an Income Tax Fund budget deficit.

(6) Interest generated from investments of money in the Income Tax Fund Budget Reserve Account shall be deposited into the Income Tax Fund.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 273
H. B. 465
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

PUBLIC SAFETY AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses provisions related to public safety.

Highlighted Provisions:

This bill:

- ► enacts provisions requiring a law enforcement agency of a city that is the seat of government for a county of the first class to enter into an interagency agreement related to public safety concerns with the Department of Public Safety (the department) and repeals the provisions, subject to a review by an interim committee, on July 1, 2027;
- ► enacts provisions requiring a law enforcement agency that has entered into an interagency agreement with the department to submit a report to the Law Enforcement and Criminal Justice Interim Committee regarding the interagency agreement and repeals the provisions, subject to a review by an interim committee, on July 1, 2027;
- ► enacts provisions allowing the Division of Facilities Construction and Management to use eminent domain to condemn unincorporated property owned by a city that is the seat of government for a county of the first class in certain circumstances that are repealed on July 1, 2027; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-263, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

53-29-101, Utah Code Annotated 1953
53-29-102, Utah Code Annotated 1953
63A-5b-807, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-29-101 is enacted to read:

CHAPTER 29. DEPARTMENT INTERACTION WITH LOCAL LAW ENFORCEMENT

53-29-101. Definitions.

As used in this chapter, "county of the first class" means a county that is classified by population as a county of the first class under Section 17-50-501.

Section 2. Section 53-29-102 is enacted to read:

53-29-102. Public safety interagency agreement.

(1) Subject to Subsection (2), by July 1, 2025, the law enforcement agency of a city that is the seat of government for a county of the first class shall enter into a public safety interagency agreement with the department that addresses how the law enforcement agency and the department can improve public safety within the jurisdiction of the law enforcement agency.

(2) The interagency agreement described in Subsection (1) shall include:

(a) at a minimum, terms that require the law enforcement agency to reimburse the department for the department's expenses if the department deploys department resources to effectuate the interagency agreement;

(b) if the agreement requires joint operations to be conducted between the department and the law enforcement agency, the roles and responsibilities of the department and the law enforcement agency in any joint operations;

(c) the parameters on any data shared under the agreement to assist in effectuating the agreement;

(d) measures to ensure accountability and communication between the department and the law enforcement agency; and

(e) accountability metrics to determine if public safety within the jurisdiction of the law enforcement agency has improved.

(3) By November 1 of each year, a law enforcement agency that has entered into an agreement under Subsection (1), shall make a presentation to the Law Enforcement and Criminal Justice Interim Committee regarding:

(a) the terms of the interagency agreement;

(b) if available, any information regarding the implementation and operation of the interagency agreement; and

(c) whether the law enforcement agency has successfully improved public safety within the jurisdiction of the law enforcement agency.

Section 3. Section 63A-5b-807 is enacted to read:

63A-5b-807. Eminent domain of unincorporated city owned land.

(1) As used in this section:

(a) "County of the first class" means a county that is classified by population as a county of the first class under Section 17-50-501.

(b) "Unincorporated land" means land that before January 1, 2025, was not within the boundaries of a city.

(2) The division may exercise eminent domain, consistent with the procedures described in Title 78B, Chapter 6, Part 5, Eminent Domain, to condemn unincorporated land for the public use of constructing a new facility on the land for homelessness services provided by, or under contract with, the state if the land is owned by a city that is the seat of government for a county of the first class.

(3) The division may consult with the Department of Transportation for assistance in performing the division's duties under Subsection (2).

Section 4. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.

(2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

(5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

(6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.

(7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

(8) Section 53-5-703, Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

(9) Section 53-11-104, Board, is repealed July 1, 2029.

(10) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(11) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

(12) Title 53, Chapter 29, Department Interaction With Local Law Enforcement, is repealed July 1, 2027.

[~~(12)~~](13) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(13)~~](14) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.

[~~(14)~~](15) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(15)~~](16) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(16)~~](17) Section 53B-17-1203, and School Safety Commission established -- Members, is repealed January 1, 2030.

[~~(17)~~](18) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(18)~~](19) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

[~~(19)~~](20) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.

[~~(20)~~](21) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(21)~~](22) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(22)~~](23) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(23)~~](24) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(24)~~](25) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(25)~~](26) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(26)~~](27) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

[~~(27)~~](28) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

[~~(28)~~](29) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(29)~~](30) Subsection 53E-7-207(7), regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(30)~~](31) Section 53F-2-420, Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(31)~~](32) Section 53F-5-214, Grant for professional learning, is repealed July 1, 2025.

[~~(32)~~](33) Section 53F-5-215, Elementary teacher preparation grant, is repealed July 1, 2025.

[~~(33)~~](34) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is repealed July 1, 2025.

[~~(34)~~](35) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(35)~~](36) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(36)~~](37) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(37)~~](38) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

Section 5. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Titles 63A through 63O.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July

1, 2025.

(2) Section 63A-5b-807, Eminent domain of unincorporated city owned land, is repealed January 1, 2027.

[~~(2)~~](3) Section 63A-17-806, Definitions -- Infant at Work Pilot Program -- Administration -- Report, is repealed June 30, 2026.

[~~(3)~~](4) Section 63C-1-103, Appointment and terms of boards, committees, councils, and commissions transitioning on October 1, 2024, or December 31, 2024, is repealed July 1, 2025.

[~~(4)~~](5) Section 63C-1-104, Appointment and terms of boards transitioning on October 1, 2024, is repealed January 1, 2025.

[~~(5)~~](6) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed October 1, 2024.

[~~(6)~~](7) Subsection 63G-6a-802(1)(e), regarding a procurement for a presidential debate, is repealed January 1, 2025.

[~~(7)~~](8) Subsection 63G-6a-802(3)(b)(iii), regarding a procurement for a presidential debate, is repealed January 1, 2025.

[~~(8)~~](9) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

[~~(9)~~](10) Subsection 63J-1-602.2(47), regarding appropriations to the State Tax Commission for deferral reimbursements, is repealed July 1, 2027.

[~~(10)~~](11) Section 63M-7-221, Expungement working group, is repealed April 30, 2025.

[~~(11)~~](12) Section 63M-7-504, Crime Victim Reparations and Assistance Board -- Members, is repealed December 31, 2024.

[~~(12)~~](13) Section 63M-7-505, Board and office within Commission on Criminal and Juvenile Justice, is repealed December 31, 2024.

[~~(13)~~](14) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed December 31, 2024.

[~~(14)~~](15) Subsection 63N-2-213(12)(a), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(15)~~](16) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 274
H. B. 475
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

PUBLIC FUNDS REPORTING AMENDMENTS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies the duties of the state auditor.

Highlighted Provisions:

This bill:

► directs the state auditor to annually prepare a report that states, for each entity that holds public funds, the entity's total balance of cash, cash equivalents, and investments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-3-1, as last amended by Laws of Utah 2024, Chapters 3, 158

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including

a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and

Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Carson Smith Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402, including an analysis of the cost effectiveness of the program, taking into consideration the amount of the scholarship and the amount of state and local funds dedicated on a per-student basis within the traditional public education system.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23) (a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

(24) The state auditor shall:

(a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and

(b) report to the Legislative Management Committee, upon request, regarding the state auditor's actions under this Subsection (24).

(25) The state auditor shall report compliance with Sections 67-27-107, 67-27-108, and 67-27-109 by:

(a) establishing a process to receive and audit each alleged violation; and

(b) reporting to the Legislative Management Committee, upon request, regarding the state auditor's findings and recommendations under this Subsection (25).

(26) (a) On or before January 31 each year, the state auditor shall prepare a report that states, for each entity that holds public funds as defined in Section 51-7-3, the entity's total balance, as of the last day of the immediately preceding fiscal year, of cash, cash equivalents,

and investments, as those terms are defined under the standards established by the Governmental Accounting Standards Board.

(b) The state auditor shall make the report described in Subsection (26)(a) publicly available on a website that the state auditor maintains.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 275
H. B. 480
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

LANDLORD COMMUNICATION AMENDMENTS

Chief Sponsor: David Shallenberger
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill amends provisions relating to owners and tenants.

Highlighted Provisions:

This bill:

- ► allows an owner to return a deposit and prepaid rent and a notice of itemized deductions through electronic means;
- ► amends the form a renter may use to request the return of a renter's security deposit, prepaid rent, and itemized deductions;
- ► conditions an award of the amount due under a lease agreement on the failure to make payments;
- ► provides exceptions to the time limit by which a renter shall vacate an owner's property after an order of restitution; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-17-3, as last amended by Laws of Utah 2018, Chapter 298
78B-6-810, as last amended by Laws of Utah 2020, Chapter 329
78B-6-811, as last amended by Laws of Utah 2020, Chapter 329
78B-6-812, as last amended by Laws of Utah 2024, Chapter 428

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-17-3 is amended to read:

57-17-3. Deductions from deposit -- Written itemization -- Time for return.

(1) Upon termination of a tenancy, the owner or the owner's agent may apply property or money held as a deposit toward the payment of rent, damages to the premises beyond reasonable wear and tear, other costs and fees provided for in the contract, or cleaning of the unit.

(2) No later than 30 days after the day on which a renter vacates and returns possession of a rental property to the owner or the owner's agent, the owner or the owner's agent shall mail or deliver to the renter at the renter's last known address or electronically to the renter by a means provided to the owner or owner's agent by the renter:

(a) the balance of any deposit;

(b) the balance of any prepaid rent; and

(c) if the owner or the owner's agent made any deductions from the deposit or prepaid rent, a written notice that itemizes and explains the reason for each deduction.

(3) If an owner or the owner's agent fails to comply with the requirements described in Subsection (2), the renter may serve the owner or the owner's agent, in accordance with Subsection (4), a notice that:

(a) states:

(i) the names of the parties to the rental agreement;

(ii) the day on which the renter vacated the rental property;

(iii) that the owner or the owner's agent has failed to comply with the requirements described in Subsection (2); and

(iv) the address where the owner or the owner's agent may send the items described in Subsection (2); and

(b) is substantially in the following form:

TENANT'S NOTICE TO PROVIDE DEPOSIT DISPOSITION

TO: (insert owner or owner's agent's name)

RE: (insert address of rental property)

NOTICE IS HEREBY GIVEN THAT WITHIN FIVE (5) [~~CALENDAR~~]BUSINESSDAYS pursuant to Utah Code Sections 57-17-3 et

seq., the owner or the owner's agent must provide the tenant, at the address below, a refund of the balance of any security deposit, the balance of any prepaid rent, and a notice of any deductions from the security deposit or prepaid rent as allowed by law.

NOTICE IS FURTHER GIVEN that the tenant vacated the property on the _____ day of _____, 20___.

NOTICE IS FURTHER GIVEN that failure to comply with this notice will require the owner to refund the entire security deposit, the full amount of any prepaid rent, and a penalty of $100. If the entire security deposit, the full amount of any prepaid rent, and the penalty of $100 is not tendered to the tenant, and the tenant is required to initiate litigation to enforce the provisions of the statute, the owner may be liable for the tenant's court costs and attorney fees, if the court determines the owner acted in bad faith.

Tenant's Name(s):_____

Mailing Address_____ City_____ State_____ Zip_____

This is a legal document. Please read and comply with the document's terms.

Dated this _____ day of _____, 20____.

Return of Service

On this _____ day of _____, 20____, I swear and attest that I served this notice in compliance with Utah Code Section 57-17-3 by:

____ Delivering a copy to the owner or the owner's agent personally at the address provided in the lease agreement;

____ Leaving a copy with a person of suitable age and discretion at the address provided in the lease agreement because the owner or the owner's agent was absent from the address provided in the lease agreement;

____ Affixing a copy in a conspicuous place at the address provided in the lease agreement because a person of suitable age or discretion could not be found at the address provided in the lease agreement; or

____ Sending a copy through registered or certified mail to the owner or the owner's agent at the address provided in the lease agreement.

The owner's address to which the service was effected is:

Address_____ City_____ State_____ Zip_____

_____ (server's signature)

Self-Authentication Declaration

Pursuant to Utah Code Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Executed this _____ day of _____, 20____.

_____ (server's signature)

(4) A notice described in Subsection (3) shall be served:

(a) (i) by delivering a copy to the owner or the owner's agent personally at the address provided in the lease agreement;

(ii) if the owner or the owner's agent is absent from the address provided in the lease agreement, by leaving a copy with a person of suitable age and discretion at the address provided in the lease agreement; or

(iii) if a person of suitable age or discretion cannot be found at the address provided in the lease agreement, by affixing a copy in a conspicuous place at the address provided in the lease agreement; or

(b) by sending a copy through registered or certified mail to the owner or the owner's agent at the address provided in the lease agreement.

(5) Within five business days after the day on which the notice described in Subsection (3) is served, the owner or the owner's agent shall comply with the requirements described in Subsection (2).

Section 2. Section 78B-6-810 is amended to read:

78B-6-810. Court procedures.

(1) In an action under this chapter in which the tenant remains in possession of the property:

(a) the court shall expedite the proceedings, including the resolution of motions and trial;

(b) the court shall begin the trial within 60 days after the day on which the complaint is served, unless the parties agree otherwise;

(c) if this chapter requires a hearing to be held within a specified time and a judge is not available, the time may be extended to the first date after expiration of the specified time on which a judge is available to hear the case;

(d) if this chapter requires a hearing to be held within a specified time, this section does not require a hearing to be held before the assigned judge, and the court may, out of convenience, schedule a hearing before another judge within the jurisdiction; and

(e) if a court denies an order of restitution submitted by a party, and upon a party's request, the court shall give notice to the parties of the reason for denial and set a hearing within 10 business days [~~of the day on which the order was submitted~~]after the day on which a party submitted the order to the court.

(2) (a) In an action for unlawful detainer, the court shall hold an evidentiary hearing, upon request of either party, within 10 business

days after the day on which the defendant files an answer or response.

(b) At the evidentiary hearing held in accordance with Subsection (2)(a):

(i) the court shall determine who has the right of occupancy during the litigation's pendency; and

(ii) if the court determines that all issues between the parties can be adjudicated without further proceedings, the court shall adjudicate all issues and enter judgment on the merits.

(3) (a) (i) As used in this Subsection (3)(a), "an act that would be considered criminal under the laws of this state" means:

(A) an act that would constitute a felony under the laws of this state;

(B) an act that would be considered criminal affecting the health or safety of a tenant, the landlord, the landlord's agent, or other individual on the landlord's property;

(C) an act that would be considered criminal that causes damage or loss to any tenant's property or the landlord's property;

(D) a drug- or gang-related act that would be considered criminal;

(E) an act or threat of violence against any tenant or other individual on the premises, or against the landlord or the landlord's agent; and

(F) any other act that would be considered criminal that the court determines directly impacts the safety or peaceful enjoyment of the premises by any tenant.

(ii) In an action for unlawful detainer in which the claim is for nuisance and alleges an act that would be considered criminal under the laws of this state, the court shall hold an evidentiary hearing upon request within 10 days after the day on which the complaint is filed to determine whether the alleged act occurred.

(b) The hearing required by Subsection (3)(a)(ii) shall be set at the time the complaint is filed and notice of the hearing shall be served upon the defendant with the summons at least three calendar days before the scheduled time of the hearing.

(c) If the court, at an evidentiary hearing held in accordance with Subsection (3)(a), determines that it is more likely than not that the alleged act occurred, the court shall issue an order of restitution.

(d) [~~If an order of restitution is issued in~~]If a court issues an order of restitution in accordance with Subsection (3)(c), a constable or the sheriff of the county where the property is [~~situated~~]located shall return possession of the property to the plaintiff immediately.

(e) The court may allow a period of up to 72 hours before [~~restitution may be made under Subsection (3)(d)~~]a constable or the sheriff of the county where the property is located makes restitution if the court determines the time is appropriate under the circumstances.

(f) At the evidentiary hearing held in accordance with Subsection (3)(a)(ii), if the court determines that all issues between the parties can be adjudicated without further proceedings, the court shall adjudicate those issues and enter judgment on the merits.

(4) (a) At any hearing held in accordance with this chapter in which the defendant after receiving notice fails to appear, the court shall issue an order of restitution and enter a judgment of default against the defendant, unless the court makes a finding for why the order of restitution or judgment of default should not be issued.

(b) If an order of restitution is issued in accordance with Subsection (4)(a), a constable or the sheriff of the county where the property is situated shall return possession of the property to the plaintiff immediately.

[~~(5) A court adjudicating matters under this chapter may make other orders as are appropriate and proper.~~]

Section 3. Section 78B-6-811 is amended to read:

78B-6-811. Judgment for restitution, damages, and rent -- Immediate enforcement -- Remedies.

(1) (a) A court may:

(i) enter a judgment upon the merits or upon default; and

(ii) issue an order of restitution regardless of whether a judgment is entered.

(b) A judgment entered in favor of the plaintiff shall include an order for the restitution of the premises as provided in Section 78B-6-812.

(c) If the proceeding is for unlawful detainer after neglect or failure to perform any condition or covenant of the lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease or agreement.

(d) (i) A forfeiture under Subsection (1)(c) does not release a defendant from any obligation for payments on a lease for the remainder of the lease's term.

(ii) Subsection (1)(d)(i) does not change any obligation on either party to mitigate damages.

(2) The jury or the court, if the proceeding is tried without a jury or upon the defendant's default, shall also assess the damages resulting to the plaintiff from any of the following:

(a) forcible entry;

(b) forcible or unlawful detainer;

(c) waste of the premises during the defendant's tenancy, if waste is alleged in the complaint and proved at trial;

(d) the amounts due under the contract [~~, if the alleged unlawful detainer is after default in the payment of amounts due under the contract~~]; and

(e) the abatement of the nuisance by eviction as provided in Sections 78B-6-1107 through 78B-6-1114.

(3) The [~~judgment shall be entered~~]court shall enter the judgment against the defendant for the rent [~~,~~]and for three times the amount of the damages assessed under Subsections (2)(a) through (2)(e).

(4) (a) If the proceeding is for unlawful detainer, the court shall issue execution upon the judgment [~~shall be issued~~]immediately after the entry of the judgment.

(b) In all cases, the judgment may be issued and enforced immediately.

(5) In an action under this chapter, the court:

(a) shall award costs and reasonable attorney fees to the prevailing party;

(b) may modify a judgment for additional amounts owed if a motion is submitted within 180 days on the earlier of the day on which:

(i) the order of restitution is enforced; or

(ii) the defendant vacates the premises; and

(c) may grant a party additional time for a motion under Subsection (5)(b).

(6) (a) If the court issues an order of restitution, the defendant shall provide a current address to the court and the plaintiff within 30

days of the day on which the court issues the order of restitution.

(b) Failure of a defendant to provide an address under Subsection (6)(a) does not require the plaintiff or the court to bear the burden of seeking out the defendant to provide notice for any subsequent proceeding.

Section 4. Section 78B-6-812 is amended to read:

78B-6-812. Order of restitution -- Service -- Enforcement -- Disposition of personal property -- Hearing.

(1) As used in this section:

(a) "Personal animal" means a domestic dog, cat, rabbit, bird, or other animal that is kept solely as a pet and is not a production animal.

(b) (i) "Production animal" means a live, nonhuman vertebrate member of the biological kingdom Animalia used for the purpose of producing, or being sold to another for the purpose of producing, food, fiber, or another commercial product.

(ii) "Production animal" includes:

(A) cattle;

(B) sheep;

(C) goats;

(D) swine;

(E) poultry;

(F) ratites;

(G) equines;

(H) domestic cervidae;

(I) cameliadae;

(J) a guard dog;

(K) a stock dog;

(L) a livestock guardian dog; and

(M) a fur bearing animal kept for the purpose of commercial fur production.

(2) An order of restitution shall:

(a) direct the defendant to vacate the premises, remove the defendant's personal property, and restore possession of the premises to the plaintiff, or be forcibly removed by a sheriff or constable;

(b) advise the defendant [~~of the time limit set by the court for~~]that the defendant has three calendar days after service of the order to vacate the premises, [~~which shall be three calendar days following service of the order, unless the court determines that a longer or shorter period is appropriate after a finding of extenuating circumstances~~]unless:

(i) a constable or sheriff of the county where the premises are located immediately returns possession of the property to the plaintiff as described in Subsection 78B-6-810(3)(d);

(ii) the plaintiff and defendant agree otherwise; or

(iii) the court issues an order in accordance with Subsection 78B-6-810(4);and

(c) advise the defendant of the defendant's right to a hearing to contest the manner of [~~its~~]the order of restitution's enforcement.

(3) (a) A person authorized to serve process under Subsection 78B-8-302(2) shall serve, in accordance with Section 78B-6-805, a copy of the order of restitution and a form for the defendant to request a hearing as listed on the form [~~shall be served in accordance with Section 78B-6-805 by a person authorized to serve process pursuant to Subsection 78B-8-302(2)~~].

(b) A defendant's request for hearing or other pleading [~~filed by the defendant~~]may not stay enforcement of the restitution order unless:

(i) the defendant furnishes a corporate bond, cash bond, certified funds, or a property bond to the clerk of the court in an amount approved by the court according to Subsection 78B-6-808(4)(b); and

(ii) the court orders that the restitution order be stayed.

(c) The [~~date of service, the name, title, signature, and telephone number of the~~]person serving the order and the form shall [~~be legibly endorsed~~]legibly write the date of service and the person's name, title, signature, and telephone number on the copy of the order and the form served on the defendant.

(d) The person serving the order and the form shall file proof of service in accordance with Rule 4(e), Utah Rules of Civil Procedure.

(4) (a) If the defendant fails to comply with the order within the time prescribed by the court, a sheriff or constable at the plaintiff's direction may enter the premises by force using the least destructive means possible to remove the defendant.

(b) (i) [~~Personal~~]The sheriff or constable may remove personal property remaining in the leased property [~~may be removed~~]from the premises [~~by the sheriff or constable~~]and [~~transported~~]transport the personal property to a suitable location for safe storage.

(ii) (A) []The sheriff or constable may delegate responsibility for inventory, moving, and storage to the plaintiff [~~,~~].

(B) [~~who~~]If the sheriff or constable delegates responsibility as described in this Subsection (4)(b)(ii), the plaintiff shall store the personal property in a suitable place and in a reasonable manner.

(c) A tenant may not access the property until the tenant pays the removal and storage costs [~~have been paid~~]in full, except that the landlord, sheriff, or constable shall provide the tenant [~~shall be provided~~]reasonable access to the property within five business days after the day on which the sheriff or constable removes the tenant to retrieve:

(i) clothing;

(ii) identification;

(iii) financial documents, including all those related to the tenant's immigration status or employment status;

(iv) documents pertaining to receipt of public services; and

(v) medical information, prescription medications, and any medical equipment required for maintenance of medical needs.

(d) The personal property removed and stored is considered abandoned property and subject to Section 78B-6-816.

(e) If a personal animal is on the premises, the sheriff or constable executing the order of restitution shall give the personal animal to the tenant, if the tenant is present.

(f) If the tenant is not present when the order of restitution is enforced:

(i) the sheriff, constable, or landlord shall notify the local animal control authority to take custody of the personal animal;

(ii) the animal control authority shall respond to take custody of the personal animal within one business day after the day on which the sheriff, constable, or landlord provides the notice described in Subsection (4)(f)(i);

(iii) the animal control authority or organization where the personal animal is taken shall apply the same standards described in Section 11-46-103;

(iv) the landlord shall provide the animal control authority with the name and last known contact information of the tenant; and

(v) the animal control authority shall post a notice at the premises in a visible place with the name and contact information of the animal control authority or organization where the personal animal is taken.

(5) (a) In the event of a dispute concerning the manner of enforcement of the restitution order, [~~the defendant may file a request for a hearing~~]either party may file a request for a hearing.

(b) The court shall:

(i) set the matter for hearing:

(A) within 10 calendar days after the day on which the defendant files the request for a hearing; or

(B) as soon as practicable, if the court is unable to set the matter within the time described in Subsection (5)(b)(i)(A); and

(ii) provide notice of the hearing to the parties.

(6) The Judicial Council shall draft the forms necessary to implement this section.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 276
H. B. 495
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

HEALTH CARE AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to health care practices.

Highlighted Provisions:

This bill:

- ► amends provisions regarding the use of credit card payments to health care providers;
- ► amends provisions related to dental claims practices; and
- ► allows dentists to dispense medications under certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-26-301.6, as last amended by Laws of Utah 2024, Chapter 120
31A-26-301.7, as enacted by Laws of Utah 2021, Chapter 288
58-88-201, as last amended by Laws of Utah 2023, Chapter 329
58-88-202, as last amended by Laws of Utah 2024, Chapter 210

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-26-301.6 is amended to read:
31A-26-301.6. Health care claims practices.

(1) As used in this section:

(a) "Health care provider" means a person licensed to provide health care under:

(i) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

(ii) Title 58, Occupations and Professions.

(b) "Insurer" means an admitted or authorized insurer, as defined in Section 31A-1-301, and includes:

(i) a health maintenance organization; and

(ii) a third party administrator that is subject to this title, provided that nothing in this section may be construed as requiring a third party administrator to use its own funds to pay claims that have not been funded by the entity for which the third party administrator is paying claims.

(c) "Provider" means a health care provider to whom an insurer is obligated to pay directly in connection with a claim by virtue of:

(i) an agreement between the insurer and the provider;

(ii) an accident and health insurance policy or contract of the insurer; or

(iii) state or federal law.

(2) An insurer shall timely pay every valid insurance claim submitted by a provider in accordance with this section.

(3) (a) Except as provided in Subsection (4), within 30 days of the day on which the insurer receives a written claim, an insurer shall:

(i) pay the claim; or

(ii) deny the claim and provide a written explanation for the denial.

(b) (i) Subject to Subsection (3)(b)(ii), the time period described in Subsection (3)(a) may be extended by 15 days if the insurer:

(A) determines that the extension is necessary due to matters beyond the control of the insurer; and

(B) before the end of the 30-day period described in Subsection (3)(a), notifies the provider and insured in writing of:

(I) the circumstances requiring the extension of time; and

(II) the date by which the insurer expects to pay the claim or deny the claim with a written explanation for the denial.

(ii) If an extension is necessary due to a failure of the provider or insured to submit the information necessary to decide the claim:

(A) the notice of extension required by this Subsection (3)(b) shall specifically describe the required information; and

(B) the insurer shall give the provider or insured at least 45 days from the day on which the provider or insured receives the notice before the insurer denies the claim for failure to provide the information requested in Subsection (3)(b)(ii)(A).

(4) (a) In the case of a claim for income replacement benefits, within 45 days of the day on which the insurer receives a written claim, an insurer shall:

(i) pay the claim; or

(ii) deny the claim and provide a written explanation of the denial.

(b) Subject to Subsections (4)(d) and (e), the time period described in Subsection (4)(a) may be extended for 30 days if the insurer:

(i) determines that the extension is necessary due to matters beyond the control of the insurer; and

(ii) before the expiration of the 45-day period described in Subsection (4)(a), notifies the insured of:

(A) the circumstances requiring the extension of time; and

(B) the date by which the insurer expects to pay the claim or deny the claim with a written explanation for the denial.

(c) Subject to Subsections (4)(d) and (e), the time period for complying with Subsection (4)(a) may be extended for up to an additional 30 days from the day on which the 30-day extension period provided in Subsection (4)(b) ends if before the day on which the 30-day extension period ends, the insurer:

(i) determines that due to matters beyond the control of the insurer a decision cannot be rendered within the 30-day extension period; and

(ii) notifies the insured of:

(A) the circumstances requiring the extension; and

(B) the date as of which the insurer expects to pay the claim or deny the claim with a written explanation for the denial.

(d) A notice of extension under this Subsection (4) shall specifically explain:

(i) the standards on which entitlement to a benefit is based; and

(ii) the unresolved issues that prevent a decision on the claim.

(e) If an extension allowed by Subsection (4)(b) or (c) is necessary due to a failure of the insured to submit the information necessary to decide the claim:

(i) the notice of extension required by Subsection (4)(b) or (c) shall specifically describe the necessary information; and

(ii) the insurer shall give the insured at least 45 days from the day on which the insured receives the notice before the insurer denies the claim for failure to provide the information requested in Subsection (4)(b) or (c).

(5) If a period of time is extended as permitted under Subsection (3)(b), (4)(b), or (4)(c), due to an insured or provider failing to submit information necessary to decide a claim, the period for making the benefit determination shall be tolled from the date on which the notification of the extension is sent to the insured or provider until the date on which the insured or provider responds to the request for additional information.

(6) An insurer shall pay all sums to the provider or insured that the insurer is obligated to pay on the claim, and provide a written explanation of the insurer's decision regarding any part of the claim that is denied within 20 days of receiving the information requested under Subsection (3)(b), (4)(b), or (4)(c).

(7) (a) Whenever an insurer makes a payment to a provider on any part of a claim under this section, the insurer shall also send to the insured an explanation of benefits paid.

(b) Whenever an insurer denies any part of a claim under this section, the insurer shall also send to the insured:

(i) a written explanation of the part of the claim that was denied; and

(ii) notice of the adverse benefit determination review process established under Section 31A-22-629.

(c) This Subsection (7) does not apply to a person receiving benefits under the state Medicaid program as defined in Section 26B-3-101, unless required by the Department of Health and Human Services or federal law.

(8) (a) A late fee shall be imposed on:

(i) an insurer that fails to timely pay a claim in accordance with this section; and

(ii) a provider that fails to timely provide information on a claim in accordance with this section.

(b) The late fee described in Subsection (8)(a) shall be determined by multiplying together:

(i) the total amount of the claim the insurer is obliged to pay;

(ii) the total number of days the response or the payment is late; and

(iii) 0.033% daily interest rate.

(c) Any late fee paid or collected under this Subsection (8) shall be separately identified on the documentation used by the insurer to pay the claim.

(d) For purposes of this Subsection (8), "late fee" does not include an amount that is less than $1.

(9) Each insurer shall establish a review process to resolve claims-related disputes between the insurer and providers.

(10) An insurer or person representing an insurer may not engage in any unfair claim settlement practice with respect to a provider. Unfair claim settlement practices include:

(a) knowingly misrepresenting a material fact or the contents of an insurance policy in connection with a claim;

(b) failing to acknowledge and substantively respond within 15 days to any written communication from a provider relating to a pending claim;

(c) denying or threatening to deny the payment of a claim for any reason that is not clearly described in the insured's policy;

(d) failing to maintain a payment process sufficient to comply with this section;

(e) failing to maintain claims documentation sufficient to demonstrate compliance with this section;

(f) failing, upon request, to give to the provider written information regarding the specific rate and terms under which the provider will be paid for health care services;

(g) failing to timely pay a valid claim in accordance with this section as a means of influencing, intimidating, retaliating, or gaining an advantage over the provider with respect to an unrelated claim, an undisputed part of a pending claim, or some other aspect of the contractual relationship;

(h) failing to pay the sum when required and as required under Subsection (8) when a violation has occurred;

(i) threatening to retaliate or actual retaliation against a provider for the provider applying this section;

(j) any material violation of this section; and

(k) any other unfair claim settlement practice established in rule or law.

(11) (a) The provisions of this section shall apply to each contract between an insurer and a provider for the duration of the contract.

(b) Notwithstanding Subsection (11)(a), this section may not be the basis for a bad faith insurance claim.

(c) Nothing in Subsection (11)(a) may be construed as limiting the ability of an insurer and a provider from including provisions in their contract that are more stringent than the provisions of this section.

(12) (a) Pursuant to Chapter 2, Part 2, Duties and Powers of Commissioner, the commissioner may conduct examinations to determine an insurer's level of compliance with this section and impose sanctions for each violation.

(b) The commissioner may adopt rules only as necessary to implement this section.

(c) The commissioner may establish rules to facilitate the exchange of electronic confirmations when claims-related information has been received.

(d) Notwithstanding Subsection (12)(b), the commissioner may not adopt rules regarding the review process required by Subsection (9).

(13) Nothing in this section may be construed as limiting the collection rights of a provider under Section 31A-26-301.5.

(14) Nothing in this section may be construed as limiting the ability of an insurer to:

(a) recover any amount improperly paid to a provider or an insured:

(i) in accordance with Section 31A-31-103 or any other provision of state or federal law;

(ii) within 24 months of the amount improperly paid for a coordination of benefits error;

(iii) within 12 months of the amount improperly paid for any other reason not identified in Subsection (14)(a)(i) or (ii); or

(iv) within 36 months of the amount improperly paid when the improper payment was due to a recovery by Medicaid, Medicare, the Children's Health Insurance Program, or any other state or federal health care program;

(b) take any action against a provider that is permitted under the terms of the provider contract and not prohibited by this section;

(c) report the provider to a state or federal agency with regulatory authority over the provider for unprofessional, unlawful, or fraudulent conduct; or

(d) enter into a mutual agreement with a provider to resolve alleged violations of this section through mediation or binding arbitration.

(15) A provider may only seek recovery from the insurer for an amount improperly paid by the insurer within the same time frames as Subsections (14)(a) and (b).

(16) (a) An insurer may offer the remittance of payment through a credit card or other similar arrangement.

(b) (i) A provider may elect not to receive remittance through a credit card or other similar arrangement.

(ii) An insurer:

(A) shall permit a provider's election described in Subsection (16)(b)(i) to apply to the provider's entire practice; [~~and~~]

(B) may not require a provider's election described in Subsection (16)(b)(i) to be made on a patient-by-patient basis [~~.~~]; and

(C) shall allow a provider to opt out of all credit card or other similar arrangements for every plan offered by the insurer through a single opt out process.

(iii) If a provider elects not to receive remittance through a credit card or other similar arrangement, that decision remains in effect until:

(A) the provider affirmatively elects to receive remittance through credit card or similar arrangement; or

(B) a new contract is issued.

(c) An insurer may not require a provider or insured to accept remittance through a credit card or other similar arrangement.

(d) An insurer shall allow a tangible check as a form of acceptable payment.

Section 2. Section 31A-26-301.7 is amended to read:

31A-26-301.7. Dental claim transparency and practices.

(1) As used in this section:

(a) "Bundling" means the practice of combining distinct dental procedures into one procedure for billing purposes.

(b) "Dental plan" means the same as that term is defined in Section 31A-22-646.

(c) "Downcoding" means the adjustment of a claim submitted to a dental plan to a less complex or lower cost procedure code.

(d) "Covered services" means the same as that term is defined in Section 31A-22-646.

(e) "Material change" means a change to:

(i) a dental plan's rules, guidelines, policies, or procedures concerning payment for dental services;

(ii) the general policies of the dental plan that affect a reimbursement paid to providers; or

(iii) the manner by which a dental plan adjudicates and pays a claim for services.

(2) An insurer that contracts or renews a contract with a dental provider shall:

(a) make a copy of the insurer's current dental plan policies available online; and

(b) if requested by a provider, send a copy of the policies to the provider through mail or electronic mail.

(3) Dental policies described in Subsection (2) shall include:

(a) a summary of all material changes made to a dental plan since the policies were last updated;

(b) the downcoding and bundling policies that the insurer reasonably expects to be applied to the dental provider or provider's services as a matter of policy; and

(c) a description of the dental plan's utilization review procedures, including:

(i) a procedure for an enrollee of the dental plan to obtain review of an adverse determination in accordance with Section 31A-22-629; and

(ii) a statement of a provider's rights and responsibilities regarding the procedures described in Subsection (3)(c)(i).

(4) An insurer may not maintain a dental plan that:

(a) based on the provider's contracted fee for covered services, uses downcoding in a manner that prevents a dental provider from

collecting the contracted fee for the actual service performed from either the plan or the patient; [~~or~~]

(b) uses bundling in a manner where a procedure code is labeled as nonbillable to the patient unless, under generally accepted practice standards, the procedure code is for a procedure that may be provided in conjunction with another procedure [~~.~~];

(c) does not allow a dental provider to seek payment of the contracted fee for a covered service from the patient when the insurer denies payment for the service, unless under generally accepted practice standards, the service performed should not be billed; or

(d) beginning January 1, 2026, automatically recoups an overpayment unless:

(i) the recoupment occurs more than 60 days from the day the insurer sends a notice of the overpayment; or

(ii) the dental provider affirmatively elects to have recoupment occur earlier than 60 days from the day the insurer sends a notice of the overpayment.

(5) (a) An insurer shall ensure that an explanation of benefits for a dental plan includes the reason for any downcoding or bundling result.

(b) A dental provider who receives an overpayment from a dental plan shall return the amount of the overpayment through check or other means to the dental plan within 60 days from the day the insurer sends a notice of the overpayment.

(c) A dental provider shall make reasonable efforts to inform patients of services that may not be covered by the patient's dental plan if the dental provider will perform a service that may not be covered.

Section 3. Section 58-88-201 is amended to read:

58-88-201. Definitions.

As used in this part:

(1) (a) "Dispense" means the delivery by a prescriber of a prescription drug or device to a patient, including the packaging, labeling, and security necessary to prepare and safeguard the drug or device for supplying to a patient.

(b) "Dispense" does not include:

(i) prescribing or administering a drug or device; or

(ii) delivering to a patient a sample packaged for individual use by a licensed manufacturer or re-packager of a drug or device.

(2) "Dispensing practitioner" means an individual who:

(a) is currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) an advanced practice registered nurse under Subsection 58-31b-301(2)(d); [~~or~~]

(iv) a physician assistant under Chapter 70a, Utah Physician Assistant Act; or

(v) a dentist under Chapter 69, Dentist and Dental Hygienist Practice Act;

(b) is authorized by state law to prescribe and administer drugs in the course of professional practice; and

(c) practices at a licensed dispensing practice.

(3) "Drug" means the same as that term is defined in Section 58-17b-102.

(4) "Health care practice" means:

(a) a health care facility as defined in Section 26B-2-201; or

(b) the offices of one or more private prescribers, whether for individual or group practice.

(5) "Licensed dispensing practice" means a health care practice that is licensed as a dispensing practice under Section 58-88-202.

Section 4. Section 58-88-202 is amended to read:

58-88-202. Dispensing practice -- Drugs that may be dispensed -- Limitations and exceptions.

(1) Notwithstanding Section 58-17b-302, a dispensing practitioner may dispense a drug at a licensed dispensing practice if the drug is:

(a) packaged in a fixed quantity per package by:

(i) the drug manufacturer;

(ii) a pharmaceutical wholesaler or distributor; or

(iii) a pharmacy licensed under Chapter 17b, Pharmacy Practice Act;

(b) dispensed:

(i) at a licensed dispensing practice at which the dispensing practitioner regularly practices; and

(ii) under a prescription issued by the dispensing practitioner to the dispensing practitioner's patient;

(c) except as provided in Subsection (6), for a condition that is not expected to last longer than 30 days; and

(d) for a condition for which the patient has been evaluated by the dispensing practitioner on the same day on which the dispensing practitioner dispenses the drug.

(2) A dispensing practitioner may not dispense:

(a) a controlled substance as defined in Section 58-37-2;

(b) a drug or class of drugs that is designated by the division under Subsection 58-88-205(2); or

[~~(c) gabapentin; or~~]

[~~(d)~~](c) a supply of a drug under this part that exceeds a 30-day supply.

(3) A dispensing practitioner may not make a claim against workers' compensation or automobile insurance for a drug dispensed under this part for outpatient use unless the dispensing practitioner is contracted with a pharmacy network established by the claim payor.

(4) When a dispensing practitioner dispenses a drug to the patient under this part, a dispensing practitioner shall:

(a) disclose to the patient verbally and in writing that the patient is not required to fill the prescription through the licensed dispensing practice and that the patient has a right to fill the prescription through a pharmacy; and

(b) if the patient will be responsible to pay cash for the drug, disclose:

(i) that the patient will be responsible to pay cash for the drug; and

(ii) the amount that the patient will be charged by the licensed dispensing practice for the drug.

(5) This part does not:

(a) require a dispensing practitioner to dispense a drug under this part;

(b) limit a health care prescriber from dispensing under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy; or

(c) apply to a physician who dispenses:

(i) a drug sample, as defined in Section 58-17b-102, to a patient in accordance with Section 58-1-501.3 or Section 58-17b-610; or

(ii) a drug in an emergency situation as defined by the division in rule under Chapter 17b, Pharmacy Practice Act.

(6) A dispensing practitioner that is a dentist may dispense prescription fluoride medication regardless of whether the condition the fluoride is treating will last longer than 30 days.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 277
H. B. 496
Passed February 28, 2025
Approved March 25, 2025
Effective May 7, 2025

REVISOR'S TECHNICAL CORRECTIONS TO UTAH CODE

Chief Sponsor: Jefferson Moss
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill makes technical corrections to the Utah Code.

Highlighted Provisions:

This bill:

- ► modifies parts of the Utah Code to make technical corrections, including:
  - • eliminating or correcting references involving repealed provisions;
  - • eliminating redundant or obsolete language;
  - • making minor wording changes;
  - • updating cross-references; and
  - • correcting numbering and other errors;
- ► amends the Sunset Act and the Repeal Dates by Title Act to repeal sunset and repeal dates that have passed and taken effect; and
- ► adds a coordination clause to subordinate changes in this bill that are in conflict with other legislation during the 2025 General Session.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-41a-1001, as last amended by Laws of Utah 2024, Chapters 217, 238 and 240
9-9-104.6, as last amended by Laws of Utah 2022, Chapter 245
15A-1-304, as last amended by Laws of Utah 2024, Chapter 431
17-27a-1204, as enacted by Laws of Utah 2024, Chapter 431
17B-2a-602, as last amended by Laws of Utah 2023, Chapter 15
17B-2a-1003, as last amended by Laws of Utah 2023, Chapter 15
26B-1-213, as renumbered and amended by Laws of Utah 2022, Chapter 255
26B-1-410, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-101, as last amended by Laws of Utah 2024, Chapters 240, 267, 307, and 438
26B-2-120, as last amended by Laws of Utah 2024, Chapter 234
26B-2-309, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-4-245, as last amended by Laws of Utah 2024, Chapters 217, 240
26B-5-331, as last amended by Laws of Utah 2024, Chapter 299
26B-6-201, as last amended by Laws of Utah 2024, Chapter 364
35A-8-302, as last amended by Laws of Utah 2021, Chapter 339
40-11-16, as last amended by Laws of Utah 2024, Chapter 79
53-2a-1102, as last amended by Laws of Utah 2023, Chapters 34, 471
53-2d-101, as last amended by Laws of Utah 2024, Chapters 147, 438 and 506
53E-3-301, as last amended by Laws of Utah 2019, Chapters 186, 324
53G-6-1004, as last amended by Laws of Utah 2024, Chapter 524
58-11a-102, as last amended by Laws of Utah 2024, Chapter 479
59-2-1804, as last amended by Laws of Utah 2023, Chapter 354
59-2-1901, as last amended by Laws of Utah 2023, Chapters 329, 461
59-12-102, as last amended by Laws of Utah 2024, Chapter 274
59-12-702, as last amended by Laws of Utah 2024, Chapter 270
63C-18-203, as last amended by Laws of Utah 2024, Chapters 245, 250
63G-3-503, as enacted by Laws of Utah 2024, Chapter 178
63I-1-226, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-1-241, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-1-253, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-1-263, as last amended by Laws of Utah 2024, Third Special Session, Chapter 4
63I-1-267, as last amended by Laws of Utah 2024, Chapter 385

63I-2-204, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-207, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-209, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-213, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-219, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-223, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-226, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-232, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-235, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-236, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-253, as last amended by Laws of Utah 2024, Third Special Session, Chapters 5, 5
63I-2-258, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-259, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-263, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-272, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-278, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-279, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63O-1-101, as enacted by Laws of Utah 2024, Chapter 425
65A-5-1, as last amended by Laws of Utah 2024, Chapter 25
67-22-2, as last amended by Laws of Utah 2024, Chapter 522
73-2-1.6, as last amended by Laws of Utah 2024, Chapter 154
73-10-18, as last amended by Laws of Utah 2024, Chapter 522
76-5-404.3, as last amended by Laws of Utah 2024, Chapter 97
77-11b-104, as enacted by Laws of Utah 2023, Chapter 448
77-11c-402, as renumbered and amended by Laws of Utah 2023, Chapter 448
77-36-1, as last amended by Laws of Utah 2024, Chapter 366
77-40a-303, as last amended by Laws of Utah 2024, Chapter 180
78A-6-103, as last amended by Laws of Utah 2024, Chapter 366
78B-5-618, as last amended by Laws of Utah 2024, Chapter 306
78B-6-501, as last amended by Laws of Utah 2024, Chapters 25, 350
78B-7-805, as last amended by Laws of Utah 2024, Chapter 240
80-6-601, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-7-105, as renumbered and amended by Laws of Utah 2021, Chapter 261

REPEALS:

26-29-2, as last amended by Laws of Utah 2001, Chapter 73
26-29-3, as last amended by Laws of Utah 2022, Chapter 421
26-29-4, as last amended by Laws of Utah 2023, Chapter 369
26B-1-305, as enacted by Laws of Utah 2022, Chapter 255

Utah Code Sections Affected by Coordination Clause:

AMENDS:

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-1001 is amended to read:

4-41a-1001. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not:

(a) operate as a medical cannabis pharmacy without a license that the department issues under this part;

(b) obtain a medical cannabis pharmacy license if obtaining the license would cause the person to exceed the pharmacy ownership limit;

(c) obtain a partial ownership share of a medical cannabis pharmacy if obtaining the partial ownership share would cause the person to exceed the pharmacy ownership limit; or

(d) enter into any contract or agreement that allows the person to directly or indirectly control the operations of a medical cannabis pharmacy if the person's control of the medical cannabis pharmacy would cause the person to effectively exceed the pharmacy ownership limit.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 4-41a-1005, the department shall issue a license to operate a medical cannabis pharmacy through the licensing board created under Section 4-41a-201.1.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 10% or greater in the proposed medical cannabis pharmacy;

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;

(iii) for each application that the applicant submits to the department, a statement from the applicant that the applicant will obtain and

maintain:

(A) a performance bond in the amount of $100,000 issued by a surety authorized to transact surety business in the state; or

(B) a liquid cash account in the amount of $100,000 with a financial institution;

(iv) an operating plan that:

(A) complies with Section 4-41a-1004;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this part and with a relevant municipal or county law that is consistent with Section 4-41a-1106; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to [~~cite~~]site the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant complies with the bond or liquid cash requirement described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(f) In considering the issuance of a medical cannabis pharmacy license under this section, the department may consider the extent to which the pharmacy can increase efficiency and reduce cost to patients of medical cannabis.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504;

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii); and

(c) charge the licensee a fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony in the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5) (a) If an applicant for a medical cannabis pharmacy license under this section holds another license under this chapter, the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under this section, the department may give consideration to the applicant's status as a holder of the license if:

(i) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(ii) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

(6) The licensing board may revoke a license under this part:

(a) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the department's intent to award a license to the medical cannabis pharmacy;

(b) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(c) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(e) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter;

(f) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; or

(g) if through an investigation conducted under Subsection 4-41a-201.1(11) and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the board finds that the licensee has participated in anticompetitive business practices.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Production Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(11) (a) A medical cannabis pharmacy license is not transferrable or assignable.

(b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.

(c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

(i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the department's cost of conducting the application review.

Section 2. Section 9-9-104.6 is amended to read:

9-9-104.6. Participation of state agencies in meetings with tribal leaders -- Contact information.

(1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.

(2) The following may participate in all meetings described in Subsection (1):

(a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

(b) the governor or the governor's designee;

[~~(c) the American Indian-Alaska Native Health Liaison appointed in accordance with Section 26B-1-305;~~]

[~~(d)~~](c) the American Indian-Alaska Native Public Education Liaison appointed in accordance with Section 53F-5-604; and

[~~(e)~~](d) a representative appointed by the chief administrative officer of the following:

(i) the Department of Health and Human Services;

(ii) the Department of Natural Resources;

(iii) the Department of Workforce Services;

(iv) the Governor's Office of Economic Opportunity;

(v) the State Board of Education; and

(vi) the Utah Board of Higher Education.

(3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

(i) designate the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and

(ii) notify the division:

(A) who is the designated contact person described in Subsection (3)(a)(i); and

(B) of any change in who is the designated contact person described in Subsection (3)(a)(i).

(b) This Subsection (3) applies to:

(i) the Department of Agriculture and Food;

(ii) the Department of Cultural and Community Engagement;

(iii) the Department of Corrections;

(iv) the Department of Environmental Quality;

(v) the Department of Public Safety;

(vi) the Department of Transportation;

(vii) the Office of the Attorney General;

(viii) the State Tax Commission; and

(ix) any agency described in Subsections (2)(c) through [~~(e)~~](d).

(c) At the request of the division, a contact person listed in Subsection [~~(3)(b)~~](3)(a)(i)may participate in a meeting described in Subsection (1).

(4) (a) A participant under this section who is not a legislator may not receive compensation or benefits for the participant's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 3. Section 15A-1-304 is amended to read:

15A-1-304. Modular units.

Modular unit construction, installation, issuance of permits for construction or installation, and setup shall be in accordance with the following:

(1) Construction, installation, and setup of a modular unit, module, or panelized system shall be in accordance with the State Construction Code.

(2) A local regulator has the responsibility and exclusive authority to:

(a) review and approve the elements of construction documents related to onsite construction;

(b) issue a permit for construction of a modular building unit or a modular building unit site modification;

(c) perform an inspection of onsite construction of a modular building unit or modular building unit site modification;

(d) verify that a module or panelized system is installed in accordance with:

(i) the modular unit's construction documents;

(ii) the State Construction Code; and

(iii) applicable state and local requirements;

(e) verify that a decal has been permanently affixed to a modular building unit;

(f) subject to Subsection (3), establish and assess fees related to the construction and installation of modular units;

(g) upon discovery of visible damage to a module or panelized system, or discovery of evidence that would cause a reasonable inspector to believe that a modular building unit may not be in compliance with the State Construction Code or construction documents:

(i) inform the Division of Facilities Construction and Management; and

(ii) proceed in accordance with the guidance in Modular Building Institute Standards 1200 and 1205;

(h) approve any proposed alteration or change to a set of construction documents so long as the alteration or change complies with the requirements of this chapter;

(i) inspect any alteration to a modular unit or panelized system that occurred after installation;

(j) notwithstanding any other provision of state law, the construction code and standards, agency rule, or local ordinance:

(i) prevent the use or occupancy of a modular building unit that, in the opinion of the local regulator, contains a serious defect or presents an imminent safety hazard; and

(ii) report the prevention of use or occupancy of a modular building unit to the Division of Facilities Construction and Management and the division; and

(k) perform all other duties and responsibilities set forth in the Modular Building Institute Standards 1200 and 1205 not otherwise listed in this section.

(3) Fees related to the construction and installation of modular building units may include building permit fees, inspection fees, impact fees, and administrative fees.

(4) (a) In addition to any immunity and protections set forth in the Utah Governmental Immunity Act, a municipality [~~shall not be~~]is not liable for a claim arising solely from the offsite construction of a module, panelized system, or modular building unit.

(b) A local regulator may provide written notice with the certificate of occupancy that explains the municipality's limitations of liability pursuant to this section and the Utah Governmental Immunity Act.

(5) An inspection of the construction, modification of, or setup of a modular unit shall conform with this chapter.

(6) A local regulator has the responsibility to issue an approval for the political subdivision in which a modular unit is to be setup or is setup.

(7) Nothing in this section precludes:

(a) a local regulator from contracting with a qualified third party to act as its designee for the inspection or plan review provided in this section; or

(b) the state from entering into an interstate compact for third party inspection of the construction of a modular unit.

Section 4. Section 17-27a-1204 is amended to read:

17-27a-1204. Notification prior to creation of a home ownership promotion zone.

(1) (a) As used in this section, "hearing" means a public meeting in which the legislative body of a county:

(i) considers a resolution creating a home ownership promotion zone; and

(ii) takes public comment on a proposed home ownership promotion zone.

(b) A hearing under this section may be combined with any other public meeting of a legislative body of a county.

(2) Before a county creates a home ownership promotion zone as described in Section [~~17-27a-1002~~]17-27a-1202, it shall provide notice of a hearing as described in this section.

(3) The notice required by Subsection (2) shall be given by:

(a) publishing notice for the county, as a class A notice under Section 63G-30-102, for at least 14 days before the day on which the legislative body of the county intends to have a hearing;

(b) at least 30 days before the hearing, mailing notice to:

(i) each record owner of property located within the proposed home ownership promotion zone;

(ii) the State Tax Commission; and

(iii) (A) if the proposed home ownership promotion zone is subject to a taxing entity committee, each member of the taxing entity committee and the State Board of Education; or

(B) if the proposed home ownership promotion zone is not subject to a taxing entity committee, the legislative body or governing board of each taxing entity within the boundaries of the proposed home ownership promotion zone.

(4) The mailing of the notice to record property owners required under Subsection (3)(b) shall be conclusively considered to have been properly completed if:

(a) the county mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(5) The county shall include in each notice required under this section:

(a) (i) a boundary description of the proposed home ownership promotion zone; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the boundary description of the proposed home ownership promotion zone be sent at no cost to the person by mail, email, or facsimile transmission; and

(B) if the agency or community has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the boundary description of the proposed home ownership promotion zone;

(b) a map of the boundaries of the proposed home ownership promotion zone;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(6) The county shall include in each notice under Subsection (3)(b):

(a) a statement that property tax revenue resulting from an increase in valuation of property within the proposed home ownership promotion zone will be paid to the county for proposed home ownership promotion zone development rather than to the taxing entity to which the tax revenue would otherwise have been paid; and

(b) an invitation to the recipient of the notice to submit to the county comments concerning the subject matter of the hearing before the date of the hearing.

(7) A county may include in a notice under Subsection (2) any other information the county considers necessary or advisable, including the public purpose achieved by the proposed home ownership promotion zone.

Section 5. Section 17B-2a-602 is amended to read:

17B-2a-602. Provisions applicable to metropolitan water districts.

(1) Each metropolitan water district is governed by and has the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Special Districts.

(2) This part applies only to metropolitan water districts.

(3) A metropolitan water district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

[~~(5) Before September 30, 2019, a metropolitan water district shall submit a written report to the Revenue and Taxation Interim Committee that describes, for the metropolitan water district's fiscal year that ended in 2018, the percentage and amount of revenue in the metropolitan water district from:~~]

[~~(a) property taxes;~~]

[~~(b) water rates; and~~]

[~~(c) all other sources.~~]

Section 6. Section 17B-2a-1003 is amended to read:

17B-2a-1003. Provisions applicable to water conservancy districts.

(1) Each water conservancy district is governed by and has the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Special Districts.

(2) This part applies only to water conservancy districts.

(3) A water conservancy district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

[~~(5) Before September 30, 2019, a water conservancy district shall submit a written report to the Revenue and Taxation Interim Committee that describes, for the water conservancy district's fiscal year that ended in 2018, the percentage and amount of revenue in the water conservancy district from:~~]

[~~(a) property taxes;~~]

[~~(b) water rates; and~~]

[~~(c) all other sources.~~]

Section 7. Section 26B-1-213 is amended to read:

26B-1-213. Department and committee rules and proceedings.

(1) (a) Except in areas subject to concurrence between the department and a committee created under this title [~~, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code~~], the department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

(b) If the adoption of rules under a provision of this title is subject to concurrence between the department and a committee created under this title and no concurrence can be reached, the department has final authority to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

(c) When the provisions of this title require concurrence between the department and a committee created under this title:

(i) the department shall report to and update the committee on a regular basis related to matters requiring concurrence; and

(ii) the committee shall review the report submitted by the department under this Subsection (1)(c) and shall:

(A) concur with the report; or

(B) provide a reason for not concurring with the report and provide an alternative recommendation to the department.

(2) Rules shall have the force and effect of law and may deal with matters which materially affect the security of health or the preservation and improvement of public health in the state, and any matters as to which jurisdiction is conferred upon the department by this title.

(3) Every rule adopted by the department, or by the concurrence of the department and a committee established under Section 26B-1-204, is subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and is effective at the time and in the manner provided in that act.

(4) If, at the next general session of the Legislature following the filing of a rule with the legislative research director, the Legislature passes a bill disapproving such rule, the rule shall be null and void.

(5) The department, or the department in concurrence with a committee created under Section 26B-1-204, may not adopt a rule identical to a rule disapproved under Subsection (4) of this section before the beginning of the next general session of the Legislature following the general session at which the rule was disapproved.

(6) The department and all committees, boards, divisions, and offices created under this title [~~, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code,~~] shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in any adjudicative proceedings.

(7) (a) The department may hold hearings, administer oaths, subpoena witnesses, and take testimony in matters relating to the exercise and performance of the powers and duties vested in or imposed upon the department.

(b) The department may, at the department's sole discretion, contract with any other agency or department of the state to conduct hearings in the name of the department.

Section 8. Section 26B-1-410 is amended to read:

26B-1-410. Primary Care Grant Committee.

(1) As used in this section:

(a) "Committee" means the Primary Care Grant Committee created in Subsection (2).

(b) "Program" means the Primary Care Grant Program described in Sections 26B-4-310 and 26B-4-313.

(2) There is created the Primary Care Grant Committee.

(3) The committee shall:

(a) review grant applications forwarded to the committee by the department under Subsection 26B-4-312(1);

(b) recommend, to the executive director, grant applications to award under Subsection 26B-4-310(1);

(c) evaluate:

(i) the need for primary health care as defined in Section [~~26B-4-325~~]26B-4-301 in different areas of the state;

(ii) how the program is addressing those needs; and

(iii) the overall effectiveness and efficiency of the program;

(d) review annual reports from primary care grant recipients;

(e) meet as necessary to carry out its duties, or upon a call by the committee chair or by a majority of committee members; and

(f) make rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that govern the committee, including the committee's grant selection criteria.

(4) The committee shall consist of:

(a) as chair, the executive director or an individual designated by the executive director; and

(b) six members appointed by the governor to serve up to two consecutive, two-year terms of office, including:

(i) four licensed health care professionals; and

(ii) two community advocates who are familiar with a medically underserved population as defined in Section [~~26B-4-325~~]26B-4-301 and with health care systems, where at least one is familiar with a rural medically underserved population.

(5) The executive director may remove a committee member:

(a) if the member is unable or unwilling to carry out the member's assigned responsibilities; or

(b) for a rational reason.

(6) A committee member may not receive compensation or benefits for the member's service, except a committee member who is not an employee of the department may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 9. Section 26B-2-101 is amended to read:

26B-2-101. Definitions.

As used in this part:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

(2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(3) "Applicant" means a person that applies for an initial license or a license renewal under this part.

(4) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (40)(a); or

(B) provides the treatment or services described in Subsection (40)(a) on a limited basis, as described in Subsection (5)(b)(ii).

(b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more grades from kindergarten through grade 12.

(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection (40)(a) on a limited basis if:

(A) the treatment or services described in Subsection (40)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (40)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (40)(a).

(c) "Boarding school" does not include a therapeutic school.

(6) "Certification" means a less restrictive level of licensure issued by the department.

(7) "Child" means an individual under 18 years old.

(8) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(9) "Child-placing agency" means a person that engages in child placing.

(10) "Client" means an individual who receives or has received services from a licensee.

(11) (a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

(12) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(13) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(14) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(15) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background check approval issued by the office.

(16) "Director" means the director of the office.

(17) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(18) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(19) "Elder adult" means a person 65 years old or older.

(20) "Emergency safety intervention" means a tactic used to protect staff or a client from being physically injured, utilized by an appropriately trained direct care staff and only performed in accordance with a nationally or regionally recognized curriculum in the least restrictive manner to restore staff or client safety.

(21) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

[~~(22) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.~~]

[~~(23)~~](22) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(24) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.~~]

[~~(25)~~](23) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school;

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102; or

(iii) a short-term relief care provider.

[~~(26)~~](24) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(27)~~](25) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

[~~(28)~~](26) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(29)~~](27) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

[~~(30)~~](28) "Licensee" means an individual or a human services program licensed by the office.

[~~(31)~~](29) "Local government" means a city, town, or county.

[~~(32)~~](30) "Minor" means child.

[~~(33)~~](31) "Office" means the Office of Licensing within the department.

[~~(34)~~](32) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

[~~(35)~~](33) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

[~~(36)~~](34) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

[~~(37)~~](35) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

[~~(38)~~](36) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

[~~(39)~~](37) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[~~(40)~~](38) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[~~(41)~~](39) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

[~~(42)~~](40) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

[~~(43)~~](41) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

[~~(44)~~](42) "Short-term relief care provider" means an individual who:

(a) provides short-term and temporary relief care to a foster parent:

(i) for less than six consecutive nights; and

(ii) in the short-term relief care provider's home;

(b) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

(c) is direct access qualified, as that term is defined in Section 26B-2-120;

(d) has been approved to provide short-term relief care by the department;

(e) is not reimbursed by the department for the temporary relief care provided; and

(f) is not an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster child.

[~~(45)~~](43) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[~~(46)~~](44) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

[~~(47)~~](45) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection (47)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

[~~(48)~~](46) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[~~(49)~~](47) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~(50)~~](48) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(51)~~](49) (a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for the program's services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

[~~(52)~~](50) (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 10. Section 26B-2-120 is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the department under this part and has direct access, including:

(A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in accordance with Section 78B-6-128;

(B) a foster parent or prospective foster parent;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) an individual who transports a child for a youth transportation company;

(E) an individual who provides certified peer support, as defined in Section 26B-5-610;

(F) an individual who provides peer supports, has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder;

(G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;

(H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;

(I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the division;

(J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access;

(K) a foster home licensee that submits an application for an annual background screening as required by Subsection 26B-2-105(4)(d)(iii); or

(L) a short-term relief care provider.

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services;

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services;

(C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or

(D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.

(b) "Application" means a background check application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Criminal finding" means a record of:

(i) an arrest for a criminal offense;

(ii) a warrant for a criminal arrest;

(iii) charges for a criminal offense; or

(iv) a criminal conviction.

(e) "Direct access" means that an individual has, or likely will have:

(i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or

(ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.

(f) (i) "Direct access qualified" means that the applicant has an eligible determination by the office within the license and renewal time period; and

(ii) no more than 180 days have passed since the date on which the applicant's association with a certification, contract, or licensee with the department expires.

(g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(h) "Licensee" means an individual or a human services program licensed by the division.

(i) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) juvenile court arrest, adjudication, and disposition records;

(v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or

(vi) a state child abuse or neglect registry.

(j) "Office" means the Office of Background Processing within the department.

(k) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504;

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon association with a certification, contract, or licensee with the department;

(ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification, contract, or licensee with the department for 180 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(c) and (4);

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories; and

(e) an application showing an applicant's association with a certification, contract, or a licensee with the department, for the purpose of the office tracking the direct access qualified status of the applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18 years old or older;

(v) if the applicant is associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;

(e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;

(f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and

(h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The [~~Bureau~~]bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that an individual who has direct access qualified status will no longer be associated with a certification, contract, or licensee with the department, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation or prostitution;

(D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

(E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

(F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

(G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;

(H) an offense included in Title 76, Chapter 7, Offenses Against the Family;

(I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;

(K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(L) aggravated arson, as described in Section 76-6-103;

(M) aggravated burglary, as described in Section 76-6-203;

(N) aggravated exploitation of prostitution, as described in Section 76-10-1306;

(O) aggravated robbery, as described in Section 76-6-302;

(P) endangering persons in a human services program, as described in Section 26B-2-113;

(Q) failure to report, as described in Section 80-2-609;

(R) identity fraud crime, as described in Section 76-6-1102;

(S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;

(T) riot, as described in Section 76-9-101;

(U) sexual battery, as described in Section 76-9-702.1; or

(V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section 76-10-506; or

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider or a mental health professional, if the applicant provides services in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (7).

(c) The office shall deny direct access qualified status to an applicant if the office finds that a court order prohibits the applicant from having direct access to a child or vulnerable adult.

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);

(b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;

(d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);

(e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;

(f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

(h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);

(i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;

(j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(k) has a pending charge for an offense described in Subsection (5)(a);

(l) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(m) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;

(n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;

(p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

(7) (a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.

(b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status to an applicant if the office finds the approval would likely create a risk of harm to a child or vulnerable adult.

(8) The office shall grant direct access qualified status to an applicant who is not denied under this section.

(9) (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice, without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice, without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall grant or deny direct access qualified status to the applicant in accordance with this section.

(10) (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.

(b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

(i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(c) Notwithstanding any other provision of this section, an applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office grants direct access qualified status to the applicant through a subsequent application in accordance with this section.

(11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.

(12) (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.

(b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.

(c) The office shall conduct a comprehensive review for an applicant if:

(i) the applicant is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal finding.

(13) (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

(b) As federally required, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(c) The requirements described in Subsection (13)(b) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).

(d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;

(E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(F) aggravated murder, as described in Section 76-5-202;

(G) murder, as described in Section 76-5-203;

(H) manslaughter, as described in Section 76-5-205;

(I) child abuse homicide, as described in Section 76-5-208;

(J) homicide by assault, as described in Section 76-5-209;

(K) kidnapping, as described in Section 76-5-301;

(L) child kidnapping, as described in Section 76-5-301.1;

(M) aggravated kidnapping, as described in Section 76-5-302;

(N) human trafficking of a child, as described in Section 76-5-308.5;

(O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

(Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(R) aggravated arson, as described in Section 76-6-103;

(S) aggravated burglary, as described in Section 76-6-203;

(T) aggravated robbery, as described in Section 76-6-302;

(U) lewdness involving a child, as described in Section 76-9-702.5;

(V) incest, as described in Section 76-7-102; or

(W) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).

(e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(f) In addition to the circumstances described in Subsection (6), the office shall conduct a comprehensive review of an applicant's background check under this section if the applicant:

(i) has an offense described in Subsection (5)(a);

(ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;

(iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-2-210;

(v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6), (7), and (13); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services for purposes of granting or denying direct access qualified status to an applicant.

Section 11. Section 26B-2-309 is amended to read:

26B-2-309. Assisted living facility transfers.

(1) After the ombudsman receives a notice described in Subsection [~~26B-2-237(2)(b)~~]26B-2-237(3)(b), the ombudsman shall:

(a) review the notice; and

(b) contact the resident or the resident's responsible person to conduct a voluntary interview.

(2) The voluntary interview described in Subsection (1)(b) shall:

(a) provide the resident with information about the services available through the ombudsman;

(b) confirm the details in the notice described in Subsection [~~26B-2-237(2)(b)~~]26B-2-237(3)(b), including:

(i) the name of the resident;

(ii) the reason for the transfer or discharge;

(iii) the date of the transfer or discharge; and

(iv) a description of the resident's next living arrangement; and

(c) provide the resident an opportunity to discuss any concerns or complaints the resident may have regarding:

(i) the resident's treatment at the assisted living facility; and

(ii) whether the assisted living facility treated the resident fairly when the assisted living facility transferred or discharged the resident.

(3) On or before November 1 of each year, the ombudsman shall provide a report to the Health and Human Services Interim Committee regarding:

(a) the reasons why assisted living facilities are transferring residents;

(b) where residents are going upon transfer or discharge; and

(c) the type and prevalence of complaints that the ombudsman receives regarding assisted living facilities, including complaints about the process or reasons for a transfer or discharge.

Section 12. Section 26B-4-245 is amended to read:

26B-4-245. Purchasing and use limitations.

(1) An individual with a medical cannabis card:

(a) may purchase, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis in a medicinal dosage form; and

(ii) a cannabis product in a medicinal dosage form;

(b) may not purchase:

(i) except as provided in Subsection (2), more medical cannabis than described in Subsection (1)(a); or

(ii) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection 26B-4-231(5), any medical cannabis; and

(c) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection 26B-4-231(5), has not recommended.

(2) (a) A qualified medical provider may petition the department to waive the 28-day period limit described in Subsection (1)(a) for a medical cannabis cardholder if the medical cannabis cardholder:

(i) has been diagnosed with a terminal illness;

(ii) has a life expectancy of six months or less; and

(iii) needs the waiver for palliative purposes.

(b) The department shall:

(i) consult with the Compassionate Use Board to determine whether the waiver should be granted; and

(ii) issue a response to the petition within 10 days from the day on which the petition is received.

(c) The department may waive the 28-day period limit for no more than 180 days.

(d) A petition described in this Subsection (2) may be combined with the petition described in Subsection 26B-1-421(6).

Section 13. Section 26B-5-331 is amended to read:

26B-5-331. Temporary commitment -- Requirements and procedures -- Rights.

(1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:

(a) a written application that:

(i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and

(ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding the certification, and that the physician, physician assistant, nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or

(b) a peace officer or a mental health officer:

(i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:

(A) the adult has a mental illness; and

(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

(A) is on a form prescribed by the division;

(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;

(C) states the specific nature of the danger;

(D) provides a summary of the observations upon which the statement of danger is based; and

(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.

(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall:

(a) document the change and release the patient; and

(b) if the patient was admitted under Subsection (1)(b), notify the peace officer or mental health officer of the patient's release.

(3) A patient committed under this section may be held for a maximum of 72 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

(a) as described in Section 26B-5-332, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 26B-5-332(4); or

(b) the patient makes a voluntary application for admission.

(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:

(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the adult meets any of the criteria described in Section [~~26B-4-119~~]53-2d-405;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, physician assistant, nurse practitioner, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the adult is present, if the adult is not transported by ambulance;

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section 53-2d-101.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6) (a) The local mental health authority shall inform an adult patient committed under this section of the reason for commitment.

(b) An adult patient committed under this section has the right to:

(i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice; and

(ii) see and communicate with an attorney.

(7) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.

(b) This section does not create a special duty of care.

(8) (a) A local mental health authority shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the local mental health authority's custody, regardless of whether the individual is discharged by being released, taken into a peace officer's protective custody, transported to a medical facility or other facility, or other circumstances.

(b) Discharge instructions provided under Subsection (8)(a) shall include:

(i) a summary of why the individual was committed to the local mental health authority;

(ii) detailed information about why the individual is being discharged from the local mental health authority's custody;

(iii) a safety plan for the individual based on the individual's mental illness or mental or emotional state;

(iv) notification to the individual's primary care provider, if applicable;

(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

(vi) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

(vii) a copy of any psychiatric advance directive presented to the local mental health authority, if applicable;

(viii) information about how to establish a psychiatric advance directive if one was not presented to the local mental health authority;

(ix) as applicable, information about medications that were changed or discontinued during the commitment;

(x) a list of any screening or diagnostic tests conducted during the commitment;

(xi) a summary of therapeutic treatments provided during the commitment;

(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and

(xiii) information about how to contact the local mental health authority if needed.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (8)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) If an individual refuses to accept discharge instructions, the local mental health authority shall document the refusal in the individual's medical record.

(e) If an individual's discharge instructions include referrals to services under Subsection (8)(b)(v), the local mental health authority shall document those referrals in the individual's medical record.

(f) The local mental health authority shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 14. Section 26B-6-201 is amended to read:

26B-6-201. Definitions.

As used in this part:

(1) "Abandonment" means any knowing or intentional action or failure to act, including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.

(2) "Abuse" means:

(a) knowingly or intentionally:

(i) attempting to cause harm;

(ii) causing harm; or

(iii) placing another in fear of harm;

(b) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult;

(c) emotional or psychological abuse;

(d) a sexual offense as described in Title 76, Chapter 5, Offenses Against the Individual; or

(e) deprivation of life sustaining treatment, or medical or mental health treatment, except:

(i) as provided in Title 75A, Chapter 3, Health Care Decisions; or

(ii) when informed consent, as defined in Section 76-5-111, has been obtained.

(3) "Adult" means an individual who is 18 years old or older.

(4) "Adult protection case file" means a record, stored in any format, contained in a case file maintained by Adult Protective Services.

(5) "Adult Protective Services" means the unit within the division responsible to investigate abuse, neglect, and exploitation of vulnerable adults and provide appropriate protective services.

(6) "Capacity to consent" means the ability of an individual to understand and communicate regarding the nature and consequences of decisions relating to the individual, and relating to the individual's property and lifestyle, including a decision to accept or refuse services.

(7) "Caretaker" means a person or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, resource management, or other necessities for pecuniary gain, by contract, or as a result of friendship, or who is otherwise in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.

(8) "Counsel" means an attorney licensed to practice law in this state.

(9) "Database" means the statewide database maintained by the division under Section 26B-6-210.

(10) (a) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.

(b) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

(11) "Elder abuse" means abuse, neglect, or exploitation of an elder adult.

(12) "Elder adult" means an individual 65 years old or older.

(13) "Emergency" means a circumstance in which a vulnerable adult is at an immediate risk of death, serious physical injury, or serious physical, emotional, or financial harm.

(14) "Emergency protective services" means measures taken by Adult Protective Services under time-limited, court-ordered authority for the purpose of remediating an emergency.

(15) (a) "Emotional or psychological abuse" means knowing or intentional verbal or nonverbal conduct directed at a vulnerable adult that results in the vulnerable adult suffering mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(b) "Emotional or psychological abuse" includes intimidating, threatening, isolating, coercing, or harassing.

(c) "Emotional or psychological abuse" does not include verbal or non-verbal conduct by a vulnerable adult who lacks the capacity to intentionally or knowingly:

(i) engage in the conduct; or

(ii) cause mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(16) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or 76-5b-202.

(17) "Harm" means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, serious physical

injury, suffering, or distress inflicted knowingly or intentionally.

(18) "Inconclusive" means a finding by the division that there is not a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

(19) "Intimidation" means communication through verbal or nonverbal conduct which threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or which threatens isolation or abuse.

(20) (a) "Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

(i) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the expressed wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

(ii) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(iii) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

(b) "Isolation" does not include an act:

(i) intended in good faith to protect the physical or mental welfare of the vulnerable adult; or

(ii) performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.

(21) "Lacks capacity to consent" [~~is as~~]means the same as that term is defined in Section 76-5-111.4.

(22) (a) "Neglect" means:

(i) (A) failure of a caretaker to provide necessary care, including nutrition, clothing, shelter, supervision, personal care, or dental, medical, or other health care for a vulnerable adult, unless the vulnerable adult is able to provide or obtain the necessary care without assistance; or

(B) failure of a caretaker to provide protection from health and safety hazards or maltreatment;

(ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

(iii) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;

(iv) knowing or intentional failure by a caretaker to carry out a prescribed treatment plan that causes or is likely to cause harm to the vulnerable adult;

(v) self-neglect by the vulnerable adult; or

(vi) abandonment by a caretaker.

(b) "Neglect" does not include conduct, or failure to take action, that is permitted or excused under Title 75A, Chapter 3, Health Care Decisions.

(23) "Physical injury" includes the damage and conditions described in Section 76-5-111.

(24) "Protected person" means a vulnerable adult for whom the court has ordered protective services.

(25) "Protective services" means services to protect a vulnerable adult from abuse, neglect, or exploitation.

(26) "Self-neglect" means the failure of a vulnerable adult to provide or obtain food, water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain the vulnerable adult's well being when that failure is the result of the adult's mental or physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be evidence of self-neglect.

(27) "Serious physical injury" is as defined in Section 76-5-111.

(28) "Supported" means a finding by the division that there is a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

(29) "Undue influence" occurs when a person:

(a) uses influence to take advantage of a vulnerable adult's mental or physical impairment; or

(b) uses the person's role, relationship, or power:

(i) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult; or

(ii) to gain control deceptively over the decision making of the vulnerable adult.

(30) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or physical impairment which substantially affects that person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own financial resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(31) "Without merit" means a finding that abuse, neglect, or exploitation did not occur.

Section 15. Section 35A-8-302 is amended to read:

35A-8-302. Definitions.

As used in this part:

(1) "Bonus payments" means that portion of the bonus payments received by the United States government under the Leasing Act paid to the state under Section 35 of the Leasing Act, 30 U.S.C. Sec. 191, together with any interest that had accrued on those payments.

(2) "Impact board" means the Permanent Community Impact Fund Board created under Section 35A-8-304.

(3) "Impact fund" means the Permanent Community Impact Fund established by this chapter.

(4) "Interlocal agency" means a legal or administrative entity created by a subdivision or combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

(5) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.

(6) "Qualifying sales and use tax distribution reduction" means that, for the calendar year beginning on January 1, 2008, the total sales and use tax distributions a city received under Section 59-12-205 were reduced by at least 15% from the total sales and use tax distributions the city received under Section 59-12-205 for the calendar year beginning on January 1, 2007.

(7) (a) "Planning" means any of the following performed by or on behalf of the state, a subdivision, or an interlocal [~~entity~~]agency:

(i) a study, analysis, plan, or survey; or

(ii) activities necessary to obtain a permit or land use approval, including review to determine the need, cost, or feasibility of obtaining a permit or land use approval.

(b) "Planning" includes:

(i) the preparation of maps and guidelines;

(ii) land use planning;

(iii) a study or analysis of:

(A) the social or economic impacts associated with natural resource development;

(B) the demand for the transportation of individuals or goods;

(C) state, regional, and local development and growth;

(D) population and employment;

(E) development related to natural resources; and

(F) as related to any other activity described in this Subsection (7), engineering, financial analysis, legal analysis, or any other analysis helpful to the state, subdivision, or interlocal agency; and

(iv) any activity described in this Subsection (7) regardless of whether the activity is for a public facility or a public service.

(8) "Public facility" means a facility:

(a) in whole or in part, owned, controlled, or operated by the state, a subdivision, or an interlocal agency; and

(b) that serves a public purpose.

(9) (a) "Public service" means a service that:

(i) is provided, in whole or in part, by or on behalf of the state, a subdivision, or an interlocal agency; and

(ii) serves a public purpose.

(b) "Public service" includes:

(i) a service described in Subsection (9)(a) regardless of whether the service is provided in connection with a public facility;

(ii) the cost of providing a service described in Subsection (9)(a), including administrative costs, wages, and legal fees; and

(iii) a contract with a public postsecondary institution to fund research, education, or a public service program.

(10) "Subdivision" means a county, city, town, county service area, special service district, special improvement district, water conservancy district, water improvement district, sewer improvement district, housing authority, building authority, school district, or public postsecondary institution organized under the laws of this state.

(11) (a) "Throughput infrastructure project" means the following facilities, whether located within, partially within, or outside of the state:

(i) a bulk commodities ocean terminal;

(ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;

(iii) electric transmission lines and ancillary facilities;

(iv) a shortline freight railroad and ancillary facilities;

(v) a plant or facility for storing, distributing, or producing hydrogen, including the liquification of hydrogen, for use as a fuel in zero emission motor vehicles, for electricity generation, or for industrial use; or

(vi) a plant for the production of zero emission hydrogen fueled trucks.

(b) "Throughput infrastructure project" includes:

(i) an ownership interest or a joint or undivided ownership interest in a facility;

(ii) a membership interest in the owner of a facility; or

(iii) a contractual right, whether secured or unsecured, to use all or a portion of the throughput, transportation, or transmission capacity of a facility.

Section 16. Section 40-11-16 is amended to read:

40-11-16. Certificate of project completion.

(1) To request a certificate of project completion, a storage operator shall submit:

(a) a demonstration that the last carbon dioxide injection was no fewer than 10 years preceding the filing;

(b) a statement of compliance with all statutes and rules regulating the storage facility;

(c) a demonstration of the resolution of all pending claims regarding the storage facility;

(d) a demonstration of the present and future physical integrity of the storage reservoir;

(e) a demonstration that any carbon dioxide in the storage reservoir:

(i) is essentially stationary; or

(ii) if the carbon dioxide migrates or will migrate, is highly unlikely to cross the storage reservoir boundary;

(f) a demonstration that all wells, equipment, and facilities necessary for maintaining the continued integrity of the storage reservoir are currently in good condition and will maintain that good condition; and

(g) a demonstration that the operator has:

(i) plugged wells;

(ii) removed equipment and facilities not necessary to maintaining the integrity of the reservoir; and

(iii) completed any other reclamation work the board requires.

(2) Immediately after the board issues a certificate of project completion:

(a) title to the storage facility and the stored carbon dioxide, including oversight of a facility used to store the stored carbon dioxide, transfers to the state;

(b) liability with respect to the storage facility and the stored carbon dioxide transfers to the state;

(c) the storage operator and any person who is not the state who has property rights in the storage facility is released from any obligation to comply with regulatory requirements associated with the storage facility;

(d) the board shall release any bonds the storage operator has posted; and

(e) the division shall oversee the monitoring and managing of the storage facility.

Section 17. Section 53-2a-1102 is amended to read:

53-2a-1102. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.

(1) As used in this section:

(a) "Assistance card program" means the Utah Search and Rescue Assistance Card Program created within this section.

(b) "Card" means the Search and Rescue Assistance Card issued under this section to a participant.

(c) "Participant" means an individual, family, or group who is registered pursuant to this section as having a valid card at the time search, rescue, or both are provided.

(d) "Program" means the Search and Rescue Financial Assistance Program created within this section.

(e) (i) "Reimbursable base expenses" means those reasonable expenses incidental to search and rescue activities.

(ii) "Reimbursable base expenses" include:

(A) rental for fixed wing aircraft, snowmobiles, boats, and generators;

(B) replacement and upgrade of search and rescue equipment;

(C) training of search and rescue volunteers;

(D) costs of providing life insurance and workers' compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

(E) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(iii) "Reimbursable base expenses" do not include any salary or overtime paid to an individual on a regular or permanent payroll, including permanent part-time employees of any agency of the state.

(f) "Rescue" means search services, rescue services, or both search and rescue services.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The financial program and the assistance card program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under Subsection (11) and under Sections 23A-4-209, 41-22-34, and 73-18-24;

(iii) money deposited under Subsection [~~59-12-103(13)~~]59-12-103(12);

(iv) contributions deposited in accordance with Section 41-1a-230.7; and

(v) appropriations made to the program by the Legislature.

(b) Money received from the revenue sources in Subsections (3)(a)(i), (ii), and (iv), and 90% of the money described in Subsection (3)(a)(iii), shall be deposited into the General Fund as a dedicated credit to be used solely for the program.

(c) Ten percent of the money described in Subsection (3)(a)(iii) shall be deposited into the General Fund as a dedicated credit to be used solely to promote the assistance card program.

(d) Funding for the program is nonlapsing.

(4) Subject to Subsections (3)(b) and (c), the director shall use the money described in this section to reimburse counties for all or a portion of each county's reimbursable base expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and

(c) rules made under Subsection (7).

(5) Money described in Subsection (3) may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section:

(a) specifying the costs that qualify as reimbursable base expenses;

(b) defining the procedures of counties to submit expenses and be reimbursed;

(c) defining a participant in the assistance card program, including:

(i) individuals; and

(ii) families and organized groups who qualify as participants;

(d) defining the procedure for issuing a card to a participant;

(e) defining excluded expenses that may not be reimbursed under the program, including medical expenses;

(f) establishing the card renewal cycle for the Utah Search and Rescue Assistance Card Program;

(g) establishing the frequency of review of the fee schedule;

(h) providing for the administration of the program; and

(i) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue

expenses based on:

(i) the total qualifying expenses submitted;

(ii) the number of search and rescue incidents per county population;

(iii) the number of victims that reside outside the county; and

(iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

(8) (a) The division shall, in consultation with the Division of Outdoor Recreation, establish the fee schedule of the Utah Search and Rescue Assistance Card Program under Subsection 63J-1-504(7).

(b) The division shall provide a discount of not less than 10% of the card fee under Subsection (8)(a) to a person who has paid a fee under Section 23A-4-209, 41-22-34, or 73-18-24 during the same calendar year in which the person applies to be a participant in the assistance card program.

(9) Counties may not bill reimbursable base expenses to an individual for costs incurred for the rescue of an individual, if the individual is a current participant in the Utah Search and Rescue Assistance Card Program at the time of rescue, unless:

(a) the rescuing county finds that the participant acted recklessly in creating a situation resulting in the need for the county to provide rescue services; or

(b) the rescuing county finds that the participant intentionally created a situation resulting in the need for the county to provide rescue services.

(10) (a) There is created the Utah Search and Rescue Assistance Card Program. The program is located within the division.

(b) The program may not be used to cover any expenses, such as medically related expenses, that are not reimbursable base expenses related to the rescue.

(11) (a) To participate in the program, a person shall purchase a search and rescue assistance card from the division by paying the fee as determined by the division in Subsection (8).

(b) The money generated by the fees shall be deposited into the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created in this section.

(c) Participation and payment of fees by a person under Sections 23A-4-209, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the Division of Outdoor Recreation regarding:

(a) administration of the assistance card program; and

(b) outreach and marketing strategies.

(13) Pursuant to Subsection 31A-1-103(7), the Utah Search and Rescue Assistance Card Program under this section is exempt from being considered insurance as that term is defined in Section 31A-1-301.

Section 18. Section 53-2d-101 is amended to read:

53-2d-101. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 53-2d-404 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 5, Ambulance and Paramedic Providers.

(4) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:

(a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to 21 U.S.C. Sec. 360(k);

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of, or automatically delivers, an electrical impulse through the chest wall and to an individual's heart.

(5) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302;

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

(6) "Bureau" means the Bureau of Emergency Medical Services created in Section 53-2d-102.

(7) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.

(8) "Committee" means the Trauma System and Emergency Medical Services Committee created by Section 53-2d-104.

(9) "Community paramedicine" means medical care:

(a) provided by emergency medical service personnel; and

(b) provided to a patient who is not:

(i) in need of ambulance transportation; or

(ii) located in a health care facility as defined in Section 26B-2-201.

(10) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26B-4-116.

(11) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 53-2d-402 during transport.

(12) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the bureau.

(13) (a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 53-2d-402.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

(14) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 53-2d-403(1)(a); and

(c) emergency medical service personnel.

(15) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections (15)(a) through (c).

(16) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 53-2d-404.

(17) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

(18) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 5, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 5, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(19) "Level of service" means the level at which an ambulance provider type of service is licensed as:

(a) emergency medical technician;

(b) advanced emergency medical technician; or

(c) paramedic.

(20) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(21) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

(22) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 53-2d-405; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 53-2d-403.

(23) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 5, Ambulance and Paramedic Providers.

(24) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section [~~26B-4-119~~]53-2d-405.

(25) "Political subdivision" means:

(a) a city or town;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a special district created under Title 17B, Limited Purpose Local Government Entities - Special Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection 53-2d-505.2(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

(26) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.

(27) "Trauma" means an injury requiring immediate medical or surgical intervention.

(28) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

(29) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

(30) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

(31) "Type of service" means the category at which an ambulance provider is licensed as:

(a) ground ambulance transport;

(b) ground ambulance interfacility transport; or

(c) both ground ambulance transport and ground ambulance interfacility transport.

Section 19. Section 53E-3-301 is amended to read:

53E-3-301. Appointment -- Qualifications -- Duties.

(1) (a) The state board shall appoint a state superintendent of public instruction, who is the executive officer of the state board and serves at the pleasure of the state board.

(b) The state board shall appoint the state superintendent on the basis of outstanding professional qualifications.

(c) The state superintendent shall administer all programs assigned to the state board in accordance with the policies and the standards established by the state board.

(2) The state board shall, with the state superintendent, develop a statewide education strategy focusing on core academics, including the development of:

(a) core standards for Utah public schools and graduation requirements;

(b) a process to select model instructional materials that best correlate with the core standards for Utah public schools and graduation requirements that are supported by generally accepted scientific standards of evidence;

(c) professional development programs for teachers, superintendents, and principals;

(d) model remediation programs;

(e) a model method for creating individual student learning targets, and a method of measuring an individual student's performance toward those targets;

(f) progress-based assessments for ongoing performance evaluations of school districts and schools;

(g) incentives to achieve the desired outcome of individual student progress in core academics that do not create disincentives for setting high goals for the students;

(h) an annual report card for school and school district performance, measuring learning and reporting progress-based assessments;

(i) a systematic method to encourage innovation in schools and school districts as each strives to achieve improvement in performance; and

(j) a method for identifying and sharing best demonstrated practices across school districts and schools.

(3) The state superintendent shall perform duties assigned by the state board, including:

(a) investigating all matters pertaining to the public schools;

(b) adopting and keeping an official seal to authenticate the state superintendent's official acts;

(c) holding and conducting meetings, seminars, and conferences on educational topics;

(d) collecting and organizing education data into an automated decision support system to facilitate school district and school

improvement planning, accountability reporting, performance recognition, and the evaluation of educational policy and program effectiveness to include:

(i) data that are:

(A) comparable across schools and school districts;

(B) appropriate for use in longitudinal studies; and

(C) comprehensive with regard to the data elements required under applicable state or federal law or state board rule;

(ii) features that enable users, most particularly school administrators, teachers, and parents, to:

(A) retrieve school and school district level data electronically;

(B) interpret the data visually; and

(C) draw conclusions that are statistically valid; and

(iii) procedures for the collection and management of education data that:

(A) require the state superintendent to:

(I) collaborate with school districts and charter schools in designing and implementing uniform data standards and definitions;

(II) undertake or sponsor research to implement improved methods for analyzing education data;

(III) provide for data security to prevent unauthorized access to or contamination of the data; and

(IV) protect the confidentiality of data under state and federal privacy laws; and

(B) require all school districts and schools to comply with the data collection and management procedures established under this Subsection (3)(d);

(e) administering and implementing federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs; and

(f) with the approval of the state board, preparing and submitting to the governor a budget for the state board to be included in the budget that the governor submits to the Legislature.

[~~(4) The state superintendent shall distribute funds deposited in the Autism Awareness Restricted Account created in Section 53F-9-401 in accordance with the requirements of Section 53F-9-401.~~]

[~~(5)~~](4) Upon leaving office, the state superintendent shall deliver to the state superintendent's successor all books, records, documents, maps, reports, papers, and other articles pertaining to the state superintendent's office.

Section 20. Section 53G-6-1004 is amended to read:

53G-6-1004. Eligibility for interscholastic activities.

(1) (a) Notwithstanding any state board rule or policy of an athletic association, and except as provided in Subsections (1)(b) and (c):

(i) once a student has obtained the eligibility approval of the commission under Subsection (2), the student may participate in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's birth certificate; and

(ii) if a student does not obtain the eligibility approval of the commission under Subsection (2), the student may not participate in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's birth certificate.

(b) A student who has undergone or is undergoing a gender transition shall obtain the eligibility approval of the commission under Subsection (2) to participate in a gender-designated interscholastic activity that corresponds with the student's gender identity.

(c) Nothing in this subsection prohibits a student from participating in a gender-designated interscholastic activity in accordance with 34 C.F.R. Sec. 106.41(b).

(2) (a) When a student registers with an athletic association to participate in a gender-designated interscholastic activity:

(i) a student who has undergone or is undergoing a gender transition shall notify the athletic association of the student's transition and the need for the commission's eligibility approval as described in Subsection (1)(b);

(ii) the athletic association shall notify the commission of:

(A) a student for whom an eligibility determination of the commission is required due to the sex designation on the student's birth certificate not corresponding with the gender designation of the gender-designated interscholastic activity in which the student seeks to participate or the student's notice of a gender transition under Subsection [~~(1)(a)(ii)~~](1)(b); and

(B) the association's ad hoc appointment to the commission described in Subsection 53G-6-1003(2)(a)(iv); and

(iii) the athletic association shall notify the student described in this Subsection (2)(a) regarding the process for determining the student's eligibility for the activity under this section.

(b) The commission shall:

(i) schedule a non-public meeting to consider a student's eligibility to be held within 30 days after the day on which the commission receives the notification described in Subsection (2)(a); and

(ii) notify the relevant athletic association and the student's parents or legal guardians of the scheduled meeting.

(c) Before the meeting described in Subsection (2)(b):

(i) the student for whom the commission has scheduled the meeting or the student's parent or guardian is not required but may submit to the commission any information the student wishes to disclose to the commission that may be relevant to the commission's eligibility determination, including information regarding:

(A) the gender-designated interscholastic activities for which the student seeks eligibility;

(B) the gender-designated interscholastic activities in which the student has previously participated; and

(C) the student's physical characteristics or medical treatments that support the student's eligibility for the specific gender-designated interscholastic activity;

(ii) the commission may request additional evidence from the student that is:

(A) limited to the extent possible to protect the student's privacy; and

(B) only directly relevant to the commission's eligibility determination; and

(iii) the commission may offer the student a voucher to cover the cost of a diagnostic assessment if the commission makes a request for medical information under Subsection (2)(c)(ii) for which the student's insurance does not provide coverage or reimbursement for the

diagnostic that:

(A) would provide the requested information; and

(B) is not free or otherwise readily available to the student.

(d) During the meeting described in Subsection (2)(b):

(i) only the following individuals may be present or participate electronically:

(A) the student for whom the commission is meeting to make an eligibility determination;

(B) the student's parents or guardians;

(C) the members and necessary staff of the commission; and

(D) any medical professionals or other witnesses the student chooses to include to support the student's eligibility;

(ii) attendees may participate in person or electronically; and

(iii) the commission shall:

(A) hear the information that supports the student's eligibility;

(B) deliberate the facts relevant to the student's physical characteristics and eligibility in camera or otherwise after temporarily excusing from the meeting the student, the student's parents or legal guardians, and any medical professionals or other witnesses whom the student includes; and

(C) render the commission's eligibility determination in accordance with Subsection (3) or request additional information and schedule an additional commission meeting to be held within 30 days of the meeting and in accordance with this Subsection (2)(d) to discuss the additional information and render the commission's eligibility determination.

(e) The commission may not address the commission's application or analysis of or determination under this part regarding the eligibility of a specific student in a public meeting or public communication.

(3) (a) In making an eligibility determination, the commission, after considering whether the student's assertion of a gender identity is consistent with the statutory definition of gender identity as that term is defined in Section 34A-5-102, including the implications for the student's mental health of participating in the gender-designated interscholastic activity, shall:

(i) make a determination regarding whether, when measured against the relevant baseline range described in Subsection 53G-6-1003(8), granting the student's eligibility would:

(A) present a substantial safety risk to the student or others that is significantly greater than the inherent risks of the given activity; or

(B) likely give the student a material competitive advantage when compared to students of the same age competing in the relevant gender-designated activity, including consideration of the student's previous history of participation in gender-designated interscholastic activities; and

(ii) record the commission's decision and rationale in writing and provide the written decision to the athletic [~~commission~~]association within 30 days after the day on which the commission renders an eligibility decision under this Subsection (3)(a) in a meeting described in Subsection (2)(b).

(b) Upon receipt of the commission's determination and rationale under Subsection (3)(a), the athletic [~~commission~~]association shall notify the student and the relevant school or LEA of the commission's determination and rationale.

(c) A school or LEA shall comply with the commission's determination under this Subsection (3).

(4) (a) Notwithstanding any other provision of law and except as provided in Subsections (3)(b) and (4)(b), the commission may not disclose:

(i) the name of a student whose eligibility the commission will consider, is considering, or has considered; or

(ii) the commission's determination regarding a student's eligibility.

(b) The commission shall disclose the commission's determination of a student's eligibility for a given gender-designated interscholastic activity to the relevant athletic association, only for the purpose of confirming whether the student is eligible for the interscholastic activity.

(c) (i) Notwithstanding any other provision of law, an athletic association may not disclose the information described in Subsections (4)(a)(i) and (ii).

(ii) Nothing in this Subsection (4) prohibits an athletic association from affirming that a student is eligible if the eligibility of a student is questioned.

Section 21. Section 58-11a-102 is amended to read:

58-11a-102. Definitions.

As used in this chapter:

(1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Approved esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(4) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Approved eyelash and eyebrow technician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(7) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Approved hair designer apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(3) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Approved master esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(5) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) "Approved nail technician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(6) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) "Barber" means a person who is licensed under this chapter to engage in the practice of barbering.

(8) "Barber instructor" means a barber who is licensed under this chapter to engage in the practice of barbering instruction.

(9) "Board" means the Cosmetology and Associated Professions Licensing Board created in Section 58-11a-201.

(10) "Cosmetic laser procedure" includes a nonablative procedure as defined in Section 58-67-102.

(11) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

(12) "Cosmetologist/barber" means a person who is licensed under this chapter to engage in the practice of cosmetology/barbering.

(13) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed under this chapter to engage in the practice of cosmetology/barbering instruction.

(14) "Direct supervision" means that the supervisor of an apprentice or the instructor of a student is physically present in the same building as the apprentice or student and readily able to establish direct contact with the apprentice or student for consultation, advice, instruction, and evaluation.

(15) "Electrologist" means a person who is licensed under this chapter to engage in the practice of electrology.

(16) "Electrologist instructor" means an electrologist who is licensed under this chapter to engage in the practice of electrology instruction.

(17) "Esthetician" means a person who is licensed under this chapter to engage in the practice of esthetics.

(18) "Esthetician instructor" means a master esthetician who is licensed under this chapter to engage in the practice of esthetics instruction.

(19) "Eyelash and eyebrow technician" means a person who is licensed under this chapter to engage in the practice of eyelash and eyebrow technology.

(20) "Eyelash and eyebrow technician instructor" means an eyelash and eyebrow technician licensed under this chapter to engage in the practice of eyelash and eyebrow technology instruction.

(21) "Fund" means the Cosmetology and Associated Professions Education and Enforcement Fund created in Section 58-11a-103.

(22) (a) "Hair braiding" means the twisting, weaving, or interweaving of a person's natural human hair.

(b) "Hair braiding" includes the following methods or styles:

(i) African-style braiding;

(ii) box braids;

(iii) cornrows;

(iv) dreadlocks;

(v) french braids;

(vi) invisible braids;

(vii) micro braids;

(viii) single braids;

(ix) single plaits;

(x) twists;

(xi) visible braids;

(xii) the use of lock braids;

(xiii) the use of decorative beads, accessories, and extensions; and

(xiv) the use of wefts if applied without the use of glue or tape.

(c) "Hair braiding" does not include:

(i) the use of:

(A) wefts if applied with the use of glue or tape;

(B) synthetic tape;

(C) synthetic glue;

(D) keratin bonds;

(E) fusion bonds; or

(F) heat tools;

(ii) the cutting of human hair; or

(iii) the application of heat, dye, a reactive chemical, or other preparation to:

(A) alter the color of the hair; or

(B) straighten, curl, or alter the structure of the hair.

(23) "Hair designer" means a person who is licensed under this chapter to engage in the practice of hair design.

(24) "Hair designer instructor" means a hair designer who is licensed under this chapter to engage in the practice of hair design instruction.

(25) "Licensed barber or cosmetology/barber school" means a barber or cosmetology/barber school licensed under this chapter.

(26) "Licensed electrology school" means an electrology school licensed under this chapter.

(27) "Licensed esthetics school" means an esthetics school licensed under this chapter.

(28) "Licensed hair design school" means a hair design school licensed under this chapter.

(29) "Licensed nail technology school" means a nail technology school licensed under this chapter.

(30) "Master esthetician" means an individual who is licensed under this chapter to engage in the practice of master-level esthetics.

(31) "Nail technician" means an individual who is licensed under this chapter to engage in the practice of nail technology.

(32) "Nail technician instructor" means a nail technician licensed under this chapter to engage in the practice of nail technology instruction.

(33) "Practice of barbering" means:

(a) cutting, clipping, or trimming the hair of the head of any person by the use of scissors, shears, clippers, or other appliances;

(b) draping, shampooing, scalp treatments, basic wet styling, and blow drying;

(c) removing hair from the face or neck of a person by the use of shaving equipment; and

(d) when providing other services described in this Subsection (33), gently massaging the head, back of the neck, and shoulders by manual or mechanical means.

(34) "Practice of barbering instruction" means teaching the practice of barbering at a licensed barber school, at any school licensed under this chapter or for an approved barber apprenticeship.

(35) "Practice of basic esthetics" means any one of the following skin care procedures done on the body for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

(a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous removal by buffing or filing;

(b) limited chemical exfoliation as defined by rule;

(c) removing superfluous hair by means other than electrolysis, except that an individual is not required to be licensed as an esthetician to engage in the practice of threading;

(d) other esthetic preparations or procedures with the use of the hands, a high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not for the treatment of medical, physical, or mental ailments;

(e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes or eyebrows, or applying eyelash or eyebrow extensions; or

(f) except as provided in Subsection (35)(f)(i), cosmetic laser procedures under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the following:

(i) superfluous hair removal which shall be under indirect supervision;

(ii) anti-aging resurfacing enhancements;

(iii) photo rejuvenation; or

(iv) tattoo removal.

(36) (a) "Practice of cosmetology/barbering" means:

(i) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;

(ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or other appliances;

(iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes or eyebrows, applying eyelash or eyebrow extensions;

(iv) removing hair from the body of a person by the use of depilatories, waxing, or shaving equipment;

(v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces or both on the human head; or

(vi) practicing hair weaving or hair fusing or servicing previously medically implanted hair.

(b) The term "practice of cosmetology/barbering" includes:

(i) the practice of barbering;

(ii) the practice of basic esthetics;

(iii) the practice of nail technology; and

(iv) the practice of eyelash and eyebrow technology.

(c) An individual is not required to be licensed as a cosmetologist/barber to engage in the practice of threading.

(37) "Practice of cosmetology/barbering instruction" means teaching the practice of cosmetology/barbering:

(a) at any school licensed under this chapter; or

(b) for an approved cosmetologist/barber apprenticeship.

(38) "Practice of electrology" means:

(a) the removal of superfluous hair from the body of a person by the use of electricity, waxing, shaving, or tweezing; or

(b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to superfluous hair removal.

(39) "Practice of electrology instruction" means teaching the practice of electrology at any school licensed under this chapter.

(40) "Practice of esthetics instruction" means teaching the practice of basic esthetics or the practice of master-level esthetics:

(a) at any school licensed under this chapter; or

(b) for an approved esthetician apprenticeship or an approved master esthetician apprenticeship.

(41) "Practice of eyelash and eyebrow technology" means arching eyebrows by tweezing, tinting eyelashes or eyebrows, perming eyelashes or eyebrows, or applying eyelash or eyebrow extensions.

(42) "Practice of eyelash and eyebrow technology instruction" means teaching the practice of eyelash and eyebrow technology at any school licensed under this chapter or for an approved eyelash and eyebrow technician apprenticeship.

(43) "Practice of hair design" means:

(a) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;

(b) barbering, cutting, clipping, shaving, or trimming the hair by the use of scissors, shears, clippers, or other appliances;

(c) cutting, curling, styling, fitting, measuring, or forming caps for wigs, hairpieces, or both on the human head; or

(d) practicing hair weaving, hair fusing, or servicing previously medically implanted hair.

(44) "Practice of hair design instruction" means teaching the practice of hair design at any school licensed under this chapter.

(45) (a) "Practice of master-level esthetics" means:

(i) any of the following when done for cosmetic purposes on the body and not for the treatment of medical, physical, or mental ailments:

(A) body wraps as defined by rule;

(B) hydrotherapy as defined by rule;

(C) chemical exfoliation as defined by rule;

(D) advanced pedicures as defined by rule;

(E) sanding, including microdermabrasion;

(F) advanced extraction;

(G) dermaplaning;

(H) other esthetic preparations or procedures with the use of:

(I) the hands; or

(II) a mechanical or electrical apparatus which is approved for use by division rule for beautifying or similar work performed on the body for cosmetic purposes and not for the treatment of a medical, physical, or mental ailment; or

(I) cosmetic laser procedures under the supervision of a cosmetic supervisor with a physician's evaluation before the procedure, as needed, unless specifically required under Section 58-1-506, and limited to the following:

(I) superfluous hair removal;

(II) anti-aging resurfacing enhancements;

(III) photo rejuvenation; or

(IV) tattoo removal with a physician's, advanced practice nurse's, or physician assistant's evaluation before the tattoo removal procedure, as required by Subsection 58-1-506(3)(a); and

(ii) lymphatic massage by manual or other means as defined by rule.

(b) Notwithstanding the provisions of Subsection (45)(a), a master-level esthetician may perform procedures listed in Subsection (45)(a)(i) [~~(II)~~](I) if done under the supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.

(c) The term "practice of master-level esthetics" includes:

(i) the practice of esthetics, but an individual is not required to be licensed as an esthetician or master-level esthetician to engage in the practice of threading; and

(ii) the practice of eyelash and eyebrow technology.

(46) (a) "Practice of nail technology" means to trim, cut, clean, manicure, shape, massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of hands, mechanical, or electrical preparation, antiseptic, lotions, or creams.

(b) "Practice of nail technology" includes:

(i) the application and removal of sculptured or artificial nails; and

(ii) using blades, including corn or callus planer or rasp, for smoothing, shaving, or removing dead skin from the feet.

(47) "Practice of nail technology instruction" means teaching the practice of nail technology at any school licensed under this chapter or for an approved nail technician apprenticeship.

(48) "Recognized barber school" means a barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(49) "Recognized cosmetology/barber school" means a cosmetology/barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(50) "Recognized electrology school" means an electrology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(51) "Recognized esthetics school" means an esthetics school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(52) "Recognized eyelash and eyebrow technology school" means an eyelash and eyebrow technology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(53) "Recognized hair design school" means a hair design school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(54) "Recognized nail technology school" means a nail technology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(55) "Salon" means a place, shop, or establishment in which cosmetology/barbering, esthetics, electrology, nail technology, or eyelash and eyebrow technology is practiced.

(56) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

(57) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-11a-501 and as may be further defined by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 22. Section 59-2-1804 is amended to read:

59-2-1804. Application for tax deferral or tax abatement.

(1) (a) Except as provided in Subsection (1)(b) or (2), an applicant for deferral or abatement for the current tax year shall annually file an application on or before September 1 with the county in which the applicant's property is located.

(b) If a county finds good cause exists, the county may extend until December 31 the deadline described in Subsection (1)(a).

(c) An indigent individual may apply and potentially qualify for deferral, abatement, or both.

(2) [~~(a)~~] A county shall extend the default application deadline by one additional year if:

(a) the applicant had been approved for a deferral under this part in the prior year; or

(b) the county determines that:

(i) the applicant or a member of the applicant's immediate family had an illness or injury that prevented the applicant from filing the application on or before the default application deadline;

(ii) a member of the applicant's immediate family died during the calendar year of the default application deadline;

(iii) the failure of the applicant to file the application on or before the default application deadline was beyond the reasonable control of the applicant; or

(iv) denial of an application would be unjust or unreasonable.

(3) (a) An applicant shall include in an application a signed statement that describes the eligibility of the applicant for deferral or abatement.

(b) For an application for a deferral under Section 59-2-1802.5, the requirements described in Subsection (3)(a) include:

(i) proof that the applicant resides at the single-family residence for which the applicant seeks the deferral;

(ii) proof of age; and

(iii) proof of household income.

(4) Both spouses shall sign an application if the application seeks a deferral or abatement on a residence:

(a) in which both spouses reside; and

(b) that the spouses own as joint tenants.

(5) If an applicant is dissatisfied with a county's decision on the applicant's application for deferral or abatement, the applicant may appeal the decision to the commission in accordance with Section 59-2-1006.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 23. Section 59-2-1901 is amended to read:

59-2-1901. Definitions.

As used in this section:

(1) "Active component of the United States Armed Forces" means the same as that term is defined in Section 59-10-1027.

(2) "Active duty claimant" means a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who:

(a) performed qualifying active duty military service; and

(b) applies for an exemption described in Section 59-2-1902.

(3) "Adjusted taxable value limit" means:

(a) for the calendar year that begins on January 1, 2023, $479,504; or

(b) for each calendar year after the calendar year that begins on January 1, 2023, the amount of the adjusted taxable value limit for the previous year plus an amount calculated by multiplying the amount of the adjusted taxable value limit for the previous year by the actual percent change in the consumer price index during the previous calendar year.

(4) "Consumer price index" means the same as that term is described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(5) "Deceased veteran with a disability" means a deceased individual who was a veteran with a disability at the time the individual died.

(6) "Military entity" means:

(a) the United States Department of Veterans Affairs;

(b) an active component of the United States Armed Forces; or

(c) a reserve component of the United States Armed Forces.

(7) "Primary residence" includes the residence of a individual who does not reside in the residence if the individual:

(a) does not reside in the residence because the individual is admitted as an inpatient at a health care facility as defined in Section 26B-4-501; and

(b) otherwise meets the requirements of this part.

(8) "Qualifying active duty military service" means at least 200 days, regardless of whether consecutive, in any continuous 365-day period of active duty military service outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, if the days of active duty military service:

(a) were completed in the year before an individual applies for an exemption described in Section 59-2-1902; and

(b) have not previously been counted as qualifying active duty military service for purposes of qualifying for an exemption described in Section 59-2-1902 or applying for the exemption described in Section 59-2-1902.

[~~(9) "Statement of disability" means the statement of disability described in Section 59-2-1904.~~]

[~~(10)~~](9) "Reserve component of the United States Armed Forces" means the same as that term is defined in Section 59-10-1027.

[~~(11)~~](10) "Residence" means real property where an individual resides, including:

(a) a mobile home, as defined in Section 41-1a-102; or

(b) a manufactured home, as defined in Section 41-1a-102.

(11) "Statement of disability" means the statement of disability described in Section 59-2-1904.

(12) "Veteran claimant" means one of the following individuals who applies for an exemption described in Section 59-2-1903:

(a) a veteran with a disability;

(b) the unmarried surviving spouse:

(i) of a deceased veteran with a disability; or

(ii) a veteran who was killed in action or died in the line of duty; or

(c) a minor orphan:

(i) of a deceased veteran with a disability; or

(ii) a veteran who was killed in action or died in the line of duty.

(13) "Veteran who was killed in action or died in the line of duty" means an individual who was killed in action or died in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, regardless of whether that individual had a disability at the time that individual was killed in action or died in the line of duty.

(14) "Veteran with a disability" means an individual with a disability who, during military training or a military conflict, acquired a disability in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, as determined by a military entity.

Section 24. Section 59-12-102 is amended to read:
59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d);

(e) Subsection [~~59-12-103(2)(e)(i)(A)(I)~~]59-12-103(2)(f)(i)(A)(I);

(f) Section 59-12-204;

(g) Section 59-12-401;

(h) Section 59-12-402;

(i) Section 59-12-402.1;

(j) Section 59-12-703;

(k) Section 59-12-802;

(l) Section 59-12-804;

(m) Section 59-12-1102;

(n) Section 59-12-1302;

(o) Section 59-12-1402;

(p) Section 59-12-1802;

(q) Section 59-12-2003;

(r) Section 59-12-2103;

(s) Section 59-12-2213;

(t) Section 59-12-2214;

(u) Section 59-12-2215;

(v) Section 59-12-2216;

(w) Section 59-12-2217;

(x) Section 59-12-2218;

(y) Section 59-12-2219; or

(z) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

(15) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18) (a) "Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(19) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total

purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(21) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

(22) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (22)(a)(i).

(23) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(24) (a) Subject to Subsection (24)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (60) or residential use under Subsection (115).

(27) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (27)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(28) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(29) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(30) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(31) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (31)(a) and (b).

(32) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (32)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (32)(a).

(33) "Construction materials" means any tangible personal property that will be converted into real property.

(34) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(35) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (35)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(36) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(37) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (37)(b)(i) through (v);

(c) (i) except as provided in Subsection (37)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (37)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(38) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(39) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(40) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(41) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(42) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(43) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26B-2-201;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (43)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (43)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(44) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(45) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or
(D) a supplement to a publication listed in Subsections (45)(a)(i)(A) through (C);
(ii) intended for use in the:
(A) diagnosis of disease;
(B) cure of disease;
(C) mitigation of disease;
(D) treatment of disease; or
(E) prevention of disease; or
(iii) intended to affect:
(A) the structure of the body; or
(B) any function of the body.
(b) "Drug" does not include:
(i) food and food ingredients;
(ii) a dietary supplement;
(iii) an alcoholic beverage; or
(iv) a prosthetic device.
(46) (a) "Durable medical equipment" means equipment that:
(i) can withstand repeated use;
(ii) is primarily and customarily used to serve a medical purpose;
(iii) generally is not useful to a person in the absence of illness or injury; and
(iv) is not worn in or on the body.
(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (46)(a).
(c) "Durable medical equipment" does not include mobility enhancing equipment.
(47) "Electronic" means:
(a) relating to technology; and
(b) having:
(i) electrical capabilities;
(ii) digital capabilities;
(iii) magnetic capabilities;
(iv) wireless capabilities;
(v) optical capabilities;
(vi) electromagnetic capabilities; or
(vii) capabilities similar to Subsections (47)(b)(i) through (vi).
(48) "Electronic financial payment service" means an establishment:
(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
(b) that performs electronic financial payment services.
(49) "Employee" means the same as that term is defined in Section 59-10-401.
(50) "Fixed guideway" means a public transit facility that uses and occupies:
(a) rail for the use of public transit; or
(b) a separate right-of-way for the use of public transit.
(51) "Fixed wing turbine powered aircraft" means an aircraft that:
(a) is powered by turbine engines;
(b) operates on jet fuel; and
(c) has wings that are permanently attached to the fuselage of the aircraft.
(52) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.
(53) (a) "Food and food ingredients" means substances:
(i) regardless of whether the substances are in:
(A) liquid form;
(B) concentrated form;
(C) solid form;
(D) frozen form;
(E) dried form; or
(F) dehydrated form; and
(ii) that are:
(A) sold for:
(I) ingestion by humans; or
(II) chewing by humans; and
(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (99)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(54) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (54)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or school district.

(55) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(56) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(57) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(58) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(59) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

(60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (60)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(61) (a) "Installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(62) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(63) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes:

(i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code; and

(ii) car sharing.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (63)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(64) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(65) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(66) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(67) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(68) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(69) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(70) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (70)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(71) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(72) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (72)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (72)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(73) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(74) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (74)(a) through (g); or

(j) person similar to a person described in Subsections (74)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(75) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(76) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(77) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (77)(a)(i) and the termination point described in Subsection (77)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(78) (a) "Mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (78)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(79) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(80) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (80)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(81) (a) Subject to Subsection (81)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenue of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (81)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(82) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(83) "Modular home" means a modular unit as defined in Section 15A-1-302.

(84) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(85) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(86) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(87) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(88) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(89) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (89)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(90) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(91) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(92) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (92)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (92)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (92)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (137)(c).

(93) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(94) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(95) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(96) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(97) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(98) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(99) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (99)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes;

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (99)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (99)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(100) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(101) (a) "Prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (101)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (101)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (101)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(102) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(103) (a) "Product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(104) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(105) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(106) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(107) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (107)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the

understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(108) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(109) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(110) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(111) "Rental" means the same as that term is defined in Subsection (63).

(112) (a) "Repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which

the prewritten computer software is detached is not permanently attached to real property.

(113) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(114) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (114)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(115) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(117) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(119) "Sale at retail" means the same as that term is defined in Subsection (116).

(120) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(121) "Sales price" means the same as that term is defined in Subsection (107).

(122) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenue generated by the sales is deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (122)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(123) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(124) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(125) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (125)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(126) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.

(127) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

(128) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

(129) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

(130) (a) Subject to Subsections (130)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (130)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(131) (a) "Short-term rental" means a lease or rental for less than 30 consecutive days.

(b) "Short-term rental" does not include car sharing.

(132) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(133) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(134) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(135) "State" means the state of Utah, its departments, and agencies.

(136) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(137) (a) "Tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (137)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(138) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (138)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (138)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (138)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (138)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (138)(b)(i) through (vi).

(139) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(140) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(141) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(142) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (142)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (142)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(143) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (143)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (143)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (143)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (143)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (143)(b)(i) through (ix).

(144) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (144)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (144)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (144)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (144)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (144)(b)(i) through (xxv).

(145) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(146) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(147) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(148) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(149) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(150) (a) Subject to Subsection (150)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (150)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(151) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (150).

(152) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(153) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(154) (a) "Waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(155) "Watercraft" means a vessel as defined in Section 73-18-2.

(156) "Wind energy" means wind used as the sole source of energy to produce electricity.

(157) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 25. Section 59-12-702 is amended to read:

59-12-702. Definitions.

As used in this part:

(1) "Administrative unit" means a division of a private nonprofit organization or institution that:

(a) would, if it were a separate entity, be a botanical organization or cultural organization; and

(b) consistently maintains books and records separate from those of the administrative unit's parent organization.

(2) "Aquarium" means a park or building where a collection of water animals and plants is kept for study, conservation, and public exhibition.

(3) "Aviary" means a park or building where a collection of birds is kept for study, conservation, and public exhibition.

(4) "Botanical organization" means:

(a) a private nonprofit organization or institution having as the private nonprofit organization's or institution's primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education; or

(b) an administrative unit.

(5) "Cultural facility" means the same as that term is defined in Section 59-12-602.

(6) (a) "Cultural organization" means:

(i) a private nonprofit organization or institution having as the private nonprofit organization's or institution's primary purpose the advancement and preservation of:

(A) natural history;

(B) art;

(C) music;

(D) theater;

(E) dance; or

(F) cultural arts, including literature, a motion picture, or storytelling; and

(ii) an administrative unit.

(b) "Cultural organization" includes, for purposes of Subsections 59-12-704(1)(d) and (10) only:

(i) a private nonprofit organization or institution having as the private nonprofit organization's or institution's primary purpose the advancement and preservation of history; or

(ii) a municipal or county cultural council having as the municipal or county cultural council's primary purpose the advancement and preservation of:

(A) history;

(B) natural history;

(C) art;

(D) music;

(E) theater; or

(F) dance.

(c) "Cultural organization" does not include:

(i) an agency of the state;

(ii) except as provided in Subsection (6)(b)(ii), a political subdivision of the state;

(iii) an educational institution for which annual revenue is directly derived more than 50% from state funds; or

(iv) in a county of the first or second class, a radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(7) "Institution" means an institution of higher education listed in Subsection 53B-1-102(1)(a).

(8) "Recreational facility" means a publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, or other facility used for recreational purposes.

(9) "Rural radio station" means a nonprofit radio station based in a county of the third, fourth, fifth, or sixth class.

(10) In a county of the first class, "zoological facility" means a public, public-private partnership, or private nonprofit building, exhibit, utility and infrastructure, walkway, pathway, roadway, office, administration facility, public service facility, educational facility, enclosure, public viewing area, animal barrier, animal housing, animal care facility, and veterinary and hospital facility related to the advancement, exhibition, or preservation of a mammal, bird, reptile, fish, or an amphibian.

(11) (a) (i) Except as provided in Subsection (11)(a)(ii), "zoological organization" means a public, public-private partnership, or private nonprofit organization having as its primary purpose the advancement and preservation of zoology.

(ii) In a county of the first class, "zoological organization" means a nonprofit organization having as the nonprofit organization's primary purpose the advancement and exhibition of a mammal, bird, reptile, fish, or an amphibian to an audience of 75,000 or more persons annually.

(b) "Zoological organization" does not include an agency of the state, educational institution, radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(12) "Zoological park" means a park or garden where a collection of wild animals is kept for study, conservation, and public exhibition.

Section 26. Section 63C-18-203 is amended to read:

63C-18-203. Committee duties.

(1) Under the direction of the Utah Behavioral Health Commission created in Section 26B-5-702, the committee shall:

(a) identify a method to integrate existing local mental health crisis lines to ensure each individual who accesses a local mental health crisis line is connected to a qualified mental or behavioral health professional, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line;

(b) study how to establish and implement a statewide mental health crisis line and a statewide warm line, including identifying:

(i) a statewide phone number or other means for an individual to easily access the statewide mental health crisis line, including a short code for text messaging and a three-digit number for calls;

(ii) a statewide phone number or other means for an individual to easily access the statewide warm line, including a short code for text messaging and a three-digit number for calls;

(iii) a supply of:

(A) qualified mental or behavioral health professionals to staff the statewide mental health crisis line; and

(B) qualified mental or behavioral health professionals or certified peer support specialists to staff the statewide warm line; and

(iv) a funding mechanism to operate and maintain the statewide mental health crisis line and the statewide warm line;

(c) coordinate with local mental health authorities in fulfilling the committee's duties described in Subsections (1)(a) and (b);

(d) recommend standards for the certifications described in Section 26B-5-610; and

(e) coordinate services provided by local mental health crisis lines and mobile crisis outreach teams, as defined in Section 62A-15-1401.

(2) The committee shall study and make recommendations regarding:

(a) crisis line practices and needs, including:

(i) quality and timeliness of service;

(ii) service volume projections;

(iii) a statewide assessment of crisis line staffing needs, including required certifications; and

(iv) a statewide assessment of technology needs;

(b) primary duties performed by crisis line workers;

(c) coordination or redistribution of secondary duties performed by crisis line workers, including responding to non-emergency calls;

(d) operating the statewide 988 hotline:

(i) in accordance with federal law;

(ii) to ensure the efficient and effective routing of calls to an appropriate crisis center; and

(iii) to directly respond to calls with trained personnel and the provision of acute mental health, crisis outreach, and stabilization services;

(e) opportunities to increase operational and technological efficiencies and effectiveness between 988 and 911, utilizing current technology;

(f) needs for interoperability partnerships and policies related to 911 call transfers and public safety responses;

(g) standards for statewide mobile crisis outreach teams, including:

(i) current models and projected needs;

(ii) quality and timeliness of service;

(iii) hospital and jail diversions; and

(iv) staffing and certification;

(h) resource centers, including:

(i) current models and projected needs; and

(ii) quality and timeliness of service;

(i) policy considerations related to whether the state should:

(i) manage, operate, and pay for a complete behavioral health system; or

(ii) create partnerships with private industry; and

(j) sustainable funding source alternatives, including:

(i) charging a 988 fee, including a recommendation on the fee amount;

(ii) General Fund appropriations;

(iii) other government funding options;

(iv) private funding sources;

(v) grants;

(vi) insurance partnerships, including coverage for support and treatment after initial call and triage; and

(vii) other funding resources.

(3) The committee may conduct other business related to the committee's duties described in this section.

(4) The committee shall consult with the Office of Substance Use and Mental Health regarding:

(a) the standards and operation of the statewide mental health crisis line and the statewide warm line, in accordance with Section 26B-5-610; and

(b) the incorporation of the statewide mental health crisis line and the statewide warm line into behavioral health systems throughout the state.

Section 27. Section 63G-3-503 is amended to read:

63G-3-503. Agency rules oversight.

Oversight of the rulemaking process is conducted by the Rules Review and General Oversight Committee created in Section [~~36-35-502~~]36-35-102.

Section 28. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26 through 26B.

(1) Subsection 26B-1-204(2)(h), regarding the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, Medicaid ACA Fund, is repealed July 1, 2034.

(3) Section 26B-1-318, Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

(4) Section 26B-1-402, Rare Disease Advisory Council Grant Program -- Creation -- Reporting, is repealed July 1, 2026.

(5) Section 26B-1-409, Utah Digital Health Service Commission -- Creation -- Membership -- Duties, is repealed July 1, 2025.

(6) Section 26B-1-410, Primary Care Grant Committee, is repealed July 1, 2025.

(7) Section 26B-1-416, Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(8) Section 26B-1-417, Brain and Spinal Cord Injury Advisory Committee -- Membership -- Duties, is repealed July 1, 2029.

(9) Section 26B-1-422, Early Childhood Utah Advisory Council -- Creation -- Compensation -- Duties, is repealed July 1, 2029.

(10) Section 26B-1-425, Utah Health Workforce Advisory Council -- Creation and membership, is repealed July 1, 2027.

(11) Section 26B-1-428, Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee and Program -- Creation -- Membership -- Duties, is repealed July 1, 2025.

(12) Section 26B-1-430, Coordinating Council for Persons with Disabilities -- Policy regarding services to individuals with disabilities -- Creation -- Membership -- Expenses, is repealed July 1, 2027.

(13) Section 26B-1-432, Newborn Hearing Screening Committee, is repealed July 1, 2026.

(14) Section 26B-2-407, Drinking water quality in child care centers, is repealed July 1, 2027.

(15) Subsection 26B-3-107(9), regarding reimbursement for dental hygienists, is repealed July 1, 2028.

(16) Section 26B-3-136, Children's Health Care Coverage Program, is repealed July 1, 2025.

(17) Section 26B-3-137, Reimbursement for diabetes prevention program, is repealed June 30, 2027.

(18) Subsection 26B-3-213(2)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(19) Section 26B-3-302, DUR Board -- Creation and membership -- Expenses, is repealed July 1, 2027.

(20) Section 26B-3-303, DUR Board -- Responsibilities, is repealed July 1, 2027.

(21) Section 26B-3-304, Confidentiality of records, is repealed July 1, 2027.

(22) Section 26B-3-305, Drug prior approval program, is repealed July 1, 2027.

(23) Section 26B-3-306, Advisory committees, is repealed July 1, 2027.

(24) Section 26B-3-307, Retrospective and prospective DUR, is repealed July 1, 2027.

(25) Section 26B-3-308, Penalties, is repealed July 1, 2027.

(26) Section 26B-3-309, Immunity, is repealed July 1, 2027.

(27) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2034.

(28) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2034.

(29) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

(30) Section 26B-3-910, Alternative eligibility -- Report -- Alternative Eligibility Expendable Revenue Fund, is repealed July 1, 2028.

(31) Section 26B-4-710, Rural residency training program, is repealed July 1, 2025.

(32) Subsection 26B-5-112(1)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(33) Subsection 26B-5-112(5)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(34) Section 26B-5-112.5, Mobile Crisis Outreach Team Grant Program, is repealed December 31, 2026.

(35) Section 26B-5-114, Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

(36) Section 26B-5-118, Collaborative care grant program, is repealed December 31, 2024.

(37) Section 26B-5-120, Virtual crisis outreach team grant program, is repealed December 31, 2026.

(38) Subsection 26B-5-609(1)(a), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(39) Subsection 26B-5-609(3)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(40) Subsection 26B-5-610(1)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(41) Subsection 26B-5-610(2)(b)(ii), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(42) Section 26B-5-612, Integrated behavioral health care grant programs, is repealed December 31, 2025.

(43) Title 26B, Chapter 5, Part 7, Utah Behavioral Health Commission, is repealed July 1, 2029.

(44) Subsection 26B-5-704(2)(a), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(45) Subsection 26B-5-704(2)(b), regarding the Education and Mental Health Coordinating Committee, is repealed December 31, 2024.~~]

[~~(46)~~](45) Title 26B, Chapter 5, Part 8, Utah Substance Use and Mental Health Advisory Committee, is repealed January 1, 2033.

[~~(47)~~](46) Section 26B-7-119, Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(48)~~](47) Section 26B-7-122, Communication Habits to reduce Adolescent Threats Pilot Program, is repealed July 1, 2029.

[~~(49)~~](48) Section 26B-7-123, Report on CHAT campaign, is repealed July 1, 2029.

[~~(50)~~](49) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2026.

Section 29. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates: Title 41.

(1) Subsection 41-1a-1201(8), regarding the Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

(2) Subsection 41-6a-102(34), regarding lane filtering, is repealed July 1, 2027.

(3) Subsection 41-6a-704(6), regarding lane filtering, is repealed July 1, 2027.

(4) Subsection 41-6a-710(1)(c), regarding lane filtering, is repealed July 1, 2027.

(5) Subsection [~~41-6a-1406(6)(b)(iii)~~]41-6a-1406(7)(b)(iii), regarding the Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

(6) Subsection 41-22-2(1), regarding an advisory council addressing off-highway vehicle issues, is repealed July 1, 2027.

(7) Subsection 41-22-10(1), regarding an advisory council addressing off-highway vehicle issues, is repealed July 1, 2027.

(8) Subsection 41-22-8(3)(b), regarding the Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

Section 30. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.

(2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

(5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

(6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.

(7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

(8) Section 53-5-703, Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

(9) Section 53-11-104, Board, is repealed July 1, 2029.

(10) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(11) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

(12) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

(13) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.

(14) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(15) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(16) Section 53B-17-1203, SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.

(17) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(18) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

(19) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.

(20) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

(21) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(22) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

(23) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

(24) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.

(25) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

(26) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

(27) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

(28) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(29) Subsection 53E-7-207(7), regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(30) Section 53F-2-420, Intensive Services Special Education Pilot Program, is repealed July 1, 2024.~~]

[~~(31)~~](30) Section 53F-5-214, Grant for professional learning, is repealed July 1, 2025.

[~~(32)~~](31) Section 53F-5-215, Elementary teacher preparation grant, is repealed July 1, 2025.

[~~(33)~~](32) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is repealed July 1, 2025.

[~~(34)~~](33) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(35)~~](34) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(36)~~](35) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(37)~~](36) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

Section 31. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63O.

[~~(1) Subsection 63A-5b-405(5), regarding prioritizing and allocating capital improvement funding, is repealed July 1, 2024.~~]

[~~(2)~~](1) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

[~~(3)~~](2) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(4)~~](3) Title 63C, Chapter 18, Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(5) Title 63C, Chapter 23, Education and Mental Health Coordinating Committee, is repealed December 31, 2024.~~]

[~~(6)~~](4) Title 63C, Chapter 25, State Finance Review Commission, is repealed July 1, 2027.

[~~(7)~~](5) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

[~~(8)~~](6) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

[~~(9)~~](7) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed July 1, 2028.

[~~(10)~~](8) Section 63G-6a-805, Purchase from community rehabilitation programs, is repealed July 1, 2026.

[~~(11)~~](9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

[~~(12)~~](10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2029.

[~~(13)~~](11) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(14)~~](12) Subsection 63J-1-602.2(16), related to the Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program, is repealed July 1, 2029.

[~~(15)~~](13) Subsection 63J-1-602.2(26), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(16)~~](14) Section 63L-11-204, Canyon resource management plan, is repealed July 1, 2025.

[~~(17)~~](15) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(18)~~](16) Title 63M, Chapter 7, Part 7, Domestic Violence Offender Treatment Board, is repealed July 1, 2027.

[~~(19)~~](17) Section 63M-7-902, Creation -- Membership -- Terms -- Vacancies -- Expenses, is repealed July 1, 2029.

[~~(20)~~](18) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(21)~~](19) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2030.

[~~(22)~~](20) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(23)~~](21) Subsection 63N-2-511(1)(b), regarding the Board of Tourism Development, is repealed July 1, 2025.

[~~(24)~~](22) Section 63N-2-512, Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(25)~~](23) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(26)~~](24) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(27)~~](25) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2028.

[~~(28)~~](26) Section 63N-4-804, which creates the Rural Opportunity Advisory Committee, is repealed July 1, 2027.

[~~(29)~~](27) Subsection 63N-4-805(5)(b), regarding the Rural Employment Expansion Program, is repealed July 1, 2028.

[~~(30)~~](28) Subsection 63N-7-101(1), regarding the Board of Tourism Development, is repealed July 1, 2025.

[~~(31)~~](29) Subsection 63N-7-102(3)(c), regarding a requirement for the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed July 1, 2025.

[~~(32)~~](30) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed July 1, 2025.

Section 32. Section 63I-1-267 is amended to read:

63I-1-267. Repeal dates: Title 67.

(1) Section 67-1-8.1, Executive Residence Commission -- Recommendations as to use, maintenance, and operation of executive residence, is repealed July 1, 2027.

(2) Section 67-1-15, Approval of international trade agreement -- Consultation with Utah International Relations and Trade Commission, is repealed December 31, 2027.

[~~(3) Section 67-3-11, Health care price transparency tool -- Transparency tool requirements, is repealed July 1, 2024.~~]

[~~(4)~~](3) Title 67, Chapter 5a, Utah Prosecution Council, is repealed July 1, 2027.

Section 33. Section 63I-2-204 is amended to read:

63I-2-204. Repeal dates: Title 4.

(1) Section 4-11-117, Beekeeping working group -- Development of standards, is repealed May 1, 2025.

(2) Subsection 4-41a-102(6), regarding the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(3) Section 4-46-104, Transition, is repealed July 1, 2024.~~]

Section 34. Section 63I-2-207 is amended to read:

63I-2-207. Repeal dates: Title 7.

[~~(1) Section 7-3-40, Board of Bank Advisors, is repealed October 1, 2024.~~]

[~~(2) Section 7-9-43, Board of Credit Union Advisors, is repealed October 1, 2024.~~]Reserved.

Section 35. Section 63I-2-209 is amended to read:

63I-2-209. Repeal dates: Title 9.

[~~(1) Section 9-6-303, Arts collection committee, is repealed October 1, 2024.~~]

[~~(2)~~](1) Subsection 9-6-402(1)(b), regarding public art installations, is repealed January 1, 2035.

[~~(3)~~](2) Subsection 9-6-403(4), regarding public art installations, is repealed January 1, 2035.

[~~(4)~~](3) Subsection 9-6-403(6)(b), regarding public art installations, is repealed January 1, 2035.

[~~(5)~~](4) Subsection 9-6-404(2)(a)(i), regarding the use of an appropriation received by or available for a new state building that is not in a county of the first class, is repealed January 1, 2035.

[~~(6)~~](5) Subsection 9-6-404(2)(b), regarding an appropriation received or made available for a new state building in a county of the first class, is repealed January 1, 2035.

[~~(7)~~](6) Section 9-6-410, Public Art Installation Initiative, is repealed January 1, 2035.

[~~(8) Title 9, Chapter 17, Humanitarian Service and Educational and Cultural Exchange Restricted Account Act, is repealed July 1, 2024.~~]

[~~(9) Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted Account Act, is repealed July 1, 2024.~~]

[~~(10) Title 9, Chapter 19, National Professional Men's Soccer Team Support of Building Communities Restricted Account Act, is repealed July 1, 2024.~~]

Section 36. Section 63I-2-213 is amended to read:

63I-2-213. Repeal dates: Title 13.

[~~(1) Section 13-1-16, Latino Community Support Restricted Account, is repealed July 1, 2024.~~]

[~~(2) Section 13-14-103, Utah Motor Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest, is repealed October 1, 2024.~~]

[~~(3) Section 13-35-103, Utah Powersport Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest, is repealed October 1, 2024.~~]

[~~(4)~~](1) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program start date, as defined in Section 63G-12-102.

[~~(5)~~](2) Title 13, Chapter 72, Artificial Intelligence Policy Act, is repealed May 1, 2025.

Section 37. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates: Title 19.

[~~(1) Section 19-1-109, Clean Air Support Restricted Account, is repealed July 1, 2024.~~]

[~~(2) Section 19-2a-102.5, Emissions reduction plan study and recommendations, is repealed July 1, 2024.~~]Reserved.

Section 38. Section 63I-2-223 is amended to read:

63I-2-223. Repeal dates: Title 23A.

[~~Section 23A-3-203, Support for State-Owned Shooting Ranges Restricted Account, is repealed July 1, 2024.~~]Reserved.

Section 39. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26 through 26B.

[~~(1) Section 26B-1-241, Tardive dyskinesia, is repealed July 1, 2024.~~]

[~~(2) Section 26B-1-302, National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account, is repealed July 1, 2024.~~]

[~~(3) Section 26B-1-309, Medicaid Restricted Account, is repealed July 1, 2024.~~]

[~~(4) Section 26B-1-313, Cancer Research Restricted Account, is repealed July 1, 2024.~~]

[~~(5)~~](1) Section 26B-1-420, Cannabis Research Review Board, is repealed July 1, 2026.

[~~(6)~~](2) Subsection 26B-1-421(9)(a), regarding a report to the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(7)~~](3) Section 26B-1-423, Rural Physician Loan Repayment Program Advisory Committee -- Membership -- Compensation -- Duties, is repealed July 1, 2026.

[~~(8)~~](4) Section 26B-2-243, Data collection and reporting requirements concerning incidents of abuse, neglect, or exploitation, is repealed July 1, 2027.

[~~(9) Section 26B-3-142, Long-acting injectables, is repealed July 1, 2024.~~]

[~~(10)~~](5) Subsection 26B-3-215(5), regarding reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(11)~~](6) Subsection 26B-4-201(5), regarding the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(12)~~](7) Subsection 26B-4-212(1)(b), regarding the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(13)~~](8) Section 26B-4-702, Creation of Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(14)~~](9) Subsection 26B-4-703(3)(b), regarding per diem and expenses for the Rural Physician Loan Repayment Program Advisory Committee, is repealed July 1, 2026.

[~~(15)~~](10) Subsection 26B-4-703(3)(c), regarding expenses for the Rural Physician Loan Repayment Program, is repealed July 1, 2026.

[~~(16)~~](11) Subsection 26B-4-703(6)(b), regarding recommendations from the Rural Physician Loan Repayment Program Advisory Committee, is repealed July 1, 2026.

[~~(17)~~](12) Section 26B-5-117, Early childhood mental health support grant program, is repealed January 2, 2025.

[~~(18)~~](13) Section 26B-5-302.5, Study concerning civil commitment and the Utah State Hospital, is repealed July 1, 2025.

[~~(19)~~](14) Section 26B-6-414, Respite care services, is repealed July 1, 2025.

[~~(20)~~](15) Section 26B-7-120, Invisible condition alert program education and outreach, is repealed July 1, 2025.

Section 40. Section 63I-2-232 is amended to read:

63I-2-232. Repeal dates: Title 32B.

[~~(1) Subsection 32B-1-603.5(7), regarding the Department of Alcoholic Beverage Services' review of beer that is sold or distributed in the state, is repealed December 31, 2024.~~]

[~~(2)~~] Subsection 32B-2-205(4), regarding a workgroup to make recommendations regarding training and recordkeeping for certain cash transactions, is repealed January 1, 2025.

Section 41. Section 63I-2-235 is amended to read:

63I-2-235. Repeal dates: Title 35A.

Section 35A-3-212, Use of COVID-19 relief funds -- Grants to child care providers -- Reporting requirements, is repealed June 30, 2025.

[~~(1) Section 35A-13-301, Title, is repealed October 1, 2024.~~]

[~~(2) Section 35A-13-302, Governor's Committee on Employment of People with Disabilities, is repealed October 1, 2024.~~]

Section 42. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates: Title 36.

(1) Section 36-12-8.2, Medical cannabis governance structure working group, is repealed July 1, 2025.

[~~(2) Section 36-29-107.5, Murdered and Missing Indigenous Relatives Task Force -- Creation -- Membership -- Quorum -- Compensation -- Staff -- Vacancies -- Duties -- Interim report, is repealed November 30, 2024.~~]

[~~(3)~~](2) Section 36-29-109, Utah Broadband Center Advisory Commission, is repealed November 30, 2027.

[~~(4) Section 36-29-110, Blockchain and Digital Innovation Task Force, is repealed November 30, 2024.~~]

Section 43. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

[~~(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.~~]

[~~(2) Section 53-1-118, Public Safety Honoring Heroes Restricted Account -- Creation -- Funding -- Distribution of funds by the commissioner, is repealed July 1, 2024.~~]

[~~(3) Section 53-1-120, Utah Law Enforcement Memorial Support Restricted Account -- Creation -- Funding -- Distribution of funds by the commissioner, is repealed July 1, 2024.~~]

[~~(4) Section 53-2a-303, Statewide mutual aid committee, is repealed October 1, 2024.~~]

[~~(5)~~](1) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed July 1, 2026.

[~~(6) Section 53-2d-101.1, Contracting authority -- Rulemaking authority, is repealed July 1, 2024.~~]

[~~(7) Section 53-2d-107, Air Ambulance Committee -- Membership -- Duties, is repealed July 1, 2024.~~]

[~~(8) Section 53-2d-302, Trauma system advisory committee, is repealed October 1, 2024.~~]

[~~(9) Section 53-7-109, Firefighter Support Restricted Account, is repealed July 1, 2024.~~]

[~~(10) Section 53-9-104, Board -- Creation -- Qualifications -- Appointments -- Terms -- Immunity, is repealed October 1, 2024.~~]

[~~(11) Section 53-9-105, Powers and duties of the board, is repealed October 1, 2024.~~]

[~~(12) Section 53-9-106, Meetings -- Hearings, is repealed October 1, 2024.~~]

[~~(13)~~](2) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

[~~(14)~~](3) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

[~~(15)~~](4) Section 53-25-103, Airport dangerous weapon possession reporting requirements, is repealed December 31, 2031.

[~~(16) Section 53B-8-114, Continuation of previously authorized scholarships, is repealed July 1, 2024.~~]

[~~(17)~~](5) Section 53B-10-101, Terrel H. Bell Teaching Incentive Loans program -- Eligible students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet requirements -- Duration of incentive loans, is repealed July 1, 2027.

[~~(18)~~](6) Subsection 53F-2-504(6), regarding a report on the Salary Supplement for Highly Needed Educators, is repealed July 1, 2026.

[~~(19) Section 53F-2-524, Teacher bonuses for extra assignments, is repealed July 1, 2024.~~]

[~~(20)~~](7) Section 53F-5-221, Management of energy and water use pilot program, is repealed July 1, 2028.

[~~(21)~~](8) Section 53F-5-222, Mentoring and Supporting Teacher Excellence and Refinement Pilot Program, is repealed July 1, 2028.

[~~(22)~~](9) Section 53F-5-223, Stipends for Future Educators Grant Program, is repealed July 1, 2028.

[~~(23) Section 53F-9-401, Autism Awareness Restricted Account, is repealed July 1, 2024.~~]

[~~(24) Section 53F-9-403, Kiwanis Education Support Fund, is repealed July 1, 2024.~~]

[~~(25)~~](10) Subsection 53G-11-502(1), regarding implementation of the educator evaluation process, is repealed July 1, 2029.

[~~(26)~~](11) Section 53G-11-506, Establishment of educator evaluation program -- Joint committee, is repealed July 1, 2029.

[~~(27)~~](12) Section 53G-11-507, Components of educator evaluation program, is repealed July 1, 2029.

[~~(28)~~](13) Section 53G-11-508, Summative evaluation timelines -- Review of summative evaluations, is repealed July 1, 2029.

[~~(29)~~](14) Section 53G-11-509, Mentor for provisional educator, is repealed July 1, 2029.

[~~(30)~~](15) Section 53G-11-510, State board to describe a framework for the evaluation of educators, is repealed July 1, 2029.

[~~(31)~~](16) Section 53G-11-511, Rulemaking for privacy protection, is repealed July 1, 2029.

[~~(32)~~](17) Subsection 53G-11-520(1), regarding optional alternative educator evaluation processes, is repealed July 1, 2029.

[~~(33)~~](18) Subsection 53G-11-520(2), regarding an exception from educator evaluation process requirements, is repealed July 1, 2029.

Section 44. Section 63I-2-258 is amended to read:

63I-2-258. Repeal dates: Title 58.

[~~(1) Section 58-42a-201, Board, is repealed October 1, 2024.~~]

[~~(2) Section 58-44a-201, Board, is repealed October 1, 2024.~~]

[~~(3) Section 58-53-201, Creation of board -- Duties, is repealed October 1, 2024.~~]

[~~(4) Section 58-68-201, Board, is repealed October 1, 2024.~~]

[~~(5) Section 58-70a-201, Board, is repealed October 1, 2024.~~]

[~~(6) Section 58-72-201, Acupuncture Licensing Board, is repealed October 1, 2024.~~]Reserved.

Section 45. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates: Title 59.

[~~(1) Subsection 59-7-610(8), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.~~]

[~~(2) Subsection 59-7-614.10(5), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.~~]

[~~(3) Section 59-7-624, Targeted business income tax credit, is repealed December 31, 2024.~~]

[~~(4) Subsection 59-10-210(2)(b)(vi), regarding Section 59-10-1112, is repealed December 31, 2024.~~]

[~~(5) Subsection 59-10-1007(8), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.~~]

[~~(6) Subsection 59-10-1037(5), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.~~]

[~~(7) Section 59-10-1112, Targeted business income tax credit, is repealed December 31, 2024.~~]Reserved.

Section 46. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Titles 63A through 63O.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-806, Definitions -- Infant at Work Pilot Program -- Administration -- Report, is repealed June 30, 2026.

(3) Section 63C-1-103, Appointment and terms of boards, committees, councils, and commissions transitioning on October 1, 2024, or December 31, 2024, is repealed July 1, 2025.

(4) Section 63C-1-104, Appointment and terms of boards transitioning on October 1, 2024, is repealed January 1, 2025.

[~~(5) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed October 1, 2024.~~]

[~~(6)~~](5) Subsection 63G-6a-802(1)(e), regarding a procurement for a presidential debate, is repealed January 1, 2025.

[~~(7)~~](6) Subsection 63G-6a-802(3)(b)(iii), regarding a procurement for a presidential debate, is repealed January 1, 2025.

[~~(8)~~](7) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

[~~(9)~~](8) Subsection [~~63J-1-602.2(47)~~]63J-1-602.2(46), regarding appropriations to the State Tax Commission for deferral reimbursements, is repealed July 1, 2027.

[~~(10)~~](9) Section 63M-7-221, Expungement working group, is repealed April 30, 2025.

[~~(11) Section 63M-7-504, Crime Victim Reparations and Assistance Board -- Members, is repealed December 31, 2024.~~]

[~~(12) Section 63M-7-505, Board and office within Commission on Criminal and Juvenile Justice, is repealed December 31, 2024.~~]

[~~(13) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed December 31, 2024.~~]

[~~(14) Subsection 63N-2-213(12)(a), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.~~]

[~~(15) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.~~]

Section 47. Section 63I-2-272 is amended to read:
63I-2-272. Repeal dates: Title 72.

[~~(1)~~] Subsection 72-1-213.1(13), regarding the road usage charge rate and road usage charge cap, is repealed January 1, 2033.

[~~(2) Section 72-2-127, Share the Road Bicycle Support Restricted Account, is repealed July 1, 2024.~~]

Section 48. Section 63I-2-278 is amended to read:
63I-2-278. Repeal dates: Titles 78A through 78B.

[~~Section 78A-2-804, Guardian Ad Litem Services Account established -- Funding, is repealed July 1, 2024.~~]Reserved.

Section 49. Section 63I-2-279 is amended to read:
63I-2-279. Repeal dates: Title 79.

[~~(1) Section 79-2-206, Transition, is repealed July 1, 2024.~~]

[~~(2)~~](1) Section 79-2-407, Study of funding for water infrastructure costs, is repealed July 1, 2025.

[~~(3)~~](2) Subsection 79-4-1002(2), regarding a pilot program for veteran free admission to state parks, is repealed July 1, 2025.

[~~(4) Section 79-7-303, Zion National Park Support Programs Restricted Account, is repealed July 1, 2024.~~]

Section 50. Section 63O-1-101 is amended to read:
63O-1-101. Definitions.

As used in this title:

(1) "Architectural integrity" means the architectural elements, materials, color, and quality of the original building construction.

(2) "Area of joint control" means all areas that are specified under this chapter as being under the direction and control of both the Legislature and the governor.

(3) "Board" means the State Capitol Preservation Board created in Section [~~63C-9-201~~]63O-2-201.

(4) "Capitol hill" means the following, in Salt Lake City:

(a) the grounds, monuments, parking areas, buildings, structures, and other man-made and natural objects within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard;

(b) the White Community Memorial Chapel, including the grounds, monuments, parking areas, buildings, structures, and other man-made and natural objects on the property;

(c) the Council Hall Travel Information Center, including the grounds, monuments, parking areas, buildings, structures, and other man-made and natural objects on the property;

(d) the Daughters of the Utah Pioneers Building and the Carriage House, including:

(i) the grounds, monuments, parking areas, buildings, structures, and other man-made and natural objects on the property; and

(ii) the other state-owned property within the area bounded by Columbus Street, North Main Street, and Apricot Avenue;

(e) the Central Plant, located to the southeast of the intersection of 500 North and Columbus Street;

(f) the state-owned property within the area bounded by Columbus Street, Wall Street, and 400 North Street; and

(g) the state-owned property within the area bounded by Columbus Street, West Capitol Street, and 500 North Street.

(5) "Governor's area" means all areas, other than an area of joint control, that are specified under this chapter as being under the direction and control of the governor.

(6) "House Building" means the west building on capitol hill that is located northwest of the State Capitol, southwest of the North Building, and west of the Senate Building.

(7) "Legislative area" means all areas, other than an area of joint control, that are specified under this chapter as being under the direction and control of the Legislature.

(8) "Legislative day" means:

(a) a day during the annual general session of the Legislature;

(b) a day during a special session of the Legislature;

(c) a day during which the House of Representatives is convened under Utah Constitution, Article VI, Section 17;

(d) a day during which the Senate is convened under Utah Constitution, Article VI, Section 18;

(e) a day during a veto override session; or

(f) a day designated by the Legislative Management Committee as a legislative day for meetings of the House of Representatives, the Senate, or a committee, task force, caucus, or other group of the legislative branch.

(9) "North Building" means the building on capitol hill that is located north of the State Capitol, northeast of the House Building, and northwest of the Senate Building.

(10) "Senate Building" means the building on capitol hill that is located northeast of the State Capitol, southeast of the North Building, and east of the House Building.

(11) "State Capitol" means the building dedicated as the Utah State Capitol in 1916.

(12) (a) "Tunnels" means all utility and security tunnels, corridors, and hallways on the basement level of capitol hill.

(b) "Tunnels" does not include the underground parking.

Section 51. Section 65A-5-1 is amended to read:
65A-5-1. Sovereign Lands Management Account.

(1) There is created within the General Fund a restricted account known as the "Sovereign Lands Management Account."

(2) The Sovereign Lands Management Account shall consist of the following:

(a) the revenues derived from sovereign lands, except for revenues deposited into the Great Salt Lake Account under Section 73-32-304;

(b) that portion of the revenues derived from mineral leases on other lands managed by the division necessary to recover management costs;

(c) revenues derived from the Great Salt Lake Preservation support special group license plate described in Sections 41-1a-418 and 41-1a-422;

(d) fees deposited by the division;

(e) amounts deposited into the account in accordance with Section 59-23-4; and

(f) amounts deposited into the account in accordance with Section 59-5-202.

(3) (a) The expenditures of the division relating directly to the management of sovereign lands shall be funded by appropriation by the Legislature from the Sovereign Lands Management Account or other sources.

(b) Money in the Sovereign Lands Management Account may be used only for the direct benefit of sovereign lands, including the management of sovereign lands.

(c) In appropriating money from the Sovereign Lands Management Account, the Legislature shall prefer appropriations that benefit the sovereign land from which the money is derived unless compelling circumstances require that money be appropriated for sovereign land other than the sovereign land from which the money is derived.

(4) The division shall use the amount deposited into the account under Subsection [~~(2)(d)~~](2)(e) for the Great Salt Lake as described in Section 65A-17-201 as directed by the Great Salt Lake Advisory Council created in Section 73-32-302.

Section 52. Section 67-22-2 is amended to read:

67-22-2. Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

(iv) director, Department of Alcoholic Beverage Services;

(v) commissioner of the Department of Financial Institutions;

(vi) executive director, Department of Commerce;

(vii) executive director, Commission on Criminal and Juvenile Justice;

(viii) adjutant general;

(ix) executive director, Department of Cultural and Community Engagement;

(x) executive director, Department of Corrections;

(xi) commissioner, Department of Public Safety;

(xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of Planning and Budget;

(xiv) executive director, Department of Government Operations;

(xv) executive director, Department of Environmental Quality;

(xvi) executive director, Governor's Office of Economic Opportunity;

(xvii) executive director, Department of Workforce Services;

(xviii) executive director, Department of Health and Human Services, Nonphysician;

(xix) executive director, Department of Transportation;

(xx) executive director, Department of Veterans and Military Affairs;

(xxi) executive director, Public Lands Policy Coordinating Office, created in Section 63L-11-201;

(xxii) Great Salt Lake commissioner, appointed under Section 73-32-201; and

(xxiii) Utah water agent, appointed under Section [~~73-10g-602~~]73-10g-702.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Division of Human Resource Management.

(2) (a) The director of the Division of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Division of Human Resource Management.

(b) (i) The Division of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives'

salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii) or Subsection (3)(d), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health and Human Services is a physician, the governor shall establish a salary within the highest physician salary range established by the Division of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(d) If under Section [~~73-10g-602~~]73-10g-702 the governor appoints an individual who is serving in an appointed executive branch position to be the Utah water agent, the governor shall adjust the salary of the Utah water agent to account for salary received for the appointed executive branch position.

(4) Salaries for other Schedule A employees, as defined in Section 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 63A-17-301.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use;

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use; and

(h) for the executive director of the Department of Veterans and Military Affairs a vehicle for commute and official use.

Section 53. Section 73-2-1.6 is amended to read:

73-2-1.6. Water Rights Restricted Account.

(1) As used in this section:

(a) "Account" means the Water Rights Restricted Account created by this section.

(b) "Division" means the Division of Water Rights.

(2) There is created in the General Fund a restricted account known as the "Water Rights Restricted Account."

(3) The account shall consist of the money deposited into the account under Subsection 59-12-103(5)(e).

(4) Upon appropriation, the division may use money in the account for:

(a) costs incurred by the division that benefit water rights adjudications, including:

(i) employing technical staff;

(ii) acquiring equipment;

(iii) obtaining legal support; and

(iv) conducting studies;

(A) installing, operating, and maintaining measurement infrastructure; and

(B) sharing the costs of installed United States Geological Survey stream gauges; and

(b) not to exceed 5% of the money deposited into the account under Subsection 59-12-103(5)(e) in the fiscal year preceding the fiscal year of appropriation, costs incurred by the division to acquire, manage, and analyze surface and groundwater data, not limited to geographic areas of adjudication.

(5) (a) The account may not exceed $8,000,000 at the end of a fiscal year.

(b) If the account exceeds $8,000,000 at the end of a fiscal year, the Division of Finance shall deposit into the Water Resources Conservation and Development Fund, created in Section 73-10-24, the money in excess of the amount necessary to maintain the account balance at $8,000,000.

Section 54. Section 73-10-18 is amended to read:

73-10-18. Division of Water Resources -- Creation -- Power and authority.

(1) There is created the Division of Water Resources, which shall be within the Department of Natural Resources under the administration and general supervision of the executive director of the Department of Natural Resources and under the policy direction of the Board of Water Resources.

(2) Except for the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act, or state representation under the Bear River Compact or Columbia Interstate Compact, the Division of Water Resources shall:

(a) be the water resource authority for the state; and

(b) assume all of the functions, powers, duties, rights, and responsibilities of the Utah water and power board except those which are delegated to the board by this act and is vested with such other functions, powers, duties, rights and responsibilities as provided in this act and other law.

(3) Notwithstanding Subsection (2), the Utah water agent, appointed under Section 73-10g-702, has authority over out-of-state negotiations related to water importation in accordance with Chapter 10g, Part [~~6~~]7, Utah Water Agent, except when limited by Section 73-10g-703.

Section 55. Section 76-5-404.3 is amended to read:

76-5-404.3. Aggravated sexual abuse of a child -- Penalties.

(1) (a) As used in this section:

(i) "Adult" means the same as that term is defined in Section 76-5-404.1.

(ii) "Child" means the same as that term is defined in Section 76-5-404.1.

(iii) "Position of special trust" means the same as that term is defined in Section 76-5-404.1.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated sexual abuse of a child if, in conjunction with the offense described in Subsection 76-5-404.1(2)(a), any of the following circumstances have been charged and admitted or found true in the action for the offense:

(a) the actor committed the offense:

(i) by the use of a dangerous weapon;

(ii) by force, duress, violence, intimidation, coercion, menace, or threat of harm; or

(iii) during the course of a kidnapping;

(b) the actor caused bodily injury or severe psychological injury to the child during or as a result of the offense;

(c) the actor was a stranger to the child or made friends with the child for the purpose of committing the offense;

(d) the actor used, showed, or displayed pornography or caused the child to be photographed in a lewd condition during the course of the offense;

(e) the actor, prior to sentencing for this offense, was previously convicted of any sexual offense;

(f) the actor committed the same or similar sexual act upon two or more individuals at the same time or during the same course of conduct;

(g) the actor committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;

(h) the actor occupied a position of special trust in relation to the child; or

(i) the actor encouraged, aided, allowed, or [~~benefitted~~]benefited from acts of prostitution or sexual acts by the child with any other individual, sexual performance by the child before any other individual, human trafficking, or human smuggling.

(3) Except as provided in Subsection (6), a violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b), (3)(c), or (4), not less than 15 years and which may be for life;

(b) except as provided in Subsection (3)(c) or (4), life without parole, if the trier of fact finds that during the course of the commission

of the aggravated sexual abuse of a child the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the defendant was previously convicted of a grievous sexual offense.

(4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a lesser term than the term described in Subsection (3)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (3)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (3)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply if a defendant is sentenced under Subsection (3)(c).

(6) Subsection (3)(b) or (3)(c) does not apply if the defendant was younger than 18 years old at the time of the offense.

(7) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 56. Section 77-11b-104 is amended to read:

77-11b-104. Venue.

Notwithstanding [~~Title 78B, Chapter 3, Part 3, Place of Trial -- Venue~~]Title 78B, Chapter 3a, Venue for Civil Actions, or any other provision of law, a person may bring an action or proceeding under this chapter in the judicial district in which:

(1) the property is seized;

(2) any part of the property is found; or

(3) a civil or criminal action could be maintained against a claimant for the offense subjecting the property to forfeiture under this chapter.

Section 57. Section 77-11c-402 is amended to read:

77-11c-402. Exceptions to preservation of biological evidence.

(1) As used in this section, "offense concerning driving under the influence" means:

(a) Section 41-6a-502;

(b) Section 41-6a-502.5;

(c) Section 41-6a-517;

(d) Section 41-6a-530;

(e) Section 76-5-102.1;

(f) Section 76-5-207; and

(g) a local ordinance similar to the offenses described in this Subsection (1).

(2) Section [~~77-11c-402~~]77-11c-401 does not apply to biological evidence obtained during an investigation or prosecution for an offense concerning driving under the influence solely for toxicology purposes.

Section 58. Section 77-36-1 is amended to read:

77-36-1. Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 81, Chapter 4, Part 4, Divorce.

(4) (a) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another.

(b) "Domestic violence" or "domestic violence offense" includes the commission of or attempt to commit, any of the following offenses by one cohabitant against another:

(i) aggravated assault under Section 76-5-103;

(ii) aggravated cruelty to an animal under Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

(iii) assault under Section 76-5-102;

(iv) criminal homicide under Section 76-5-201;

(v) harassment under Section 76-5-106;

(vi) electronic communication harassment under Section 76-9-201;

(vii) kidnapping, child kidnapping, or aggravated kidnapping under Sections 76-5-301, 76-5-301.1, and 76-5-302;

(viii) mayhem under Section 76-5-105;

(ix) propelling a bodily substance or material, as described in Section 76-5-102.9

(x) sexual offenses under Title 76, Chapter 5, Part 4, Sexual Offenses, and sexual exploitation of a minor and aggravated sexual exploitation of a minor, as described in Sections 76-5b-201 and 76-5b-201.1;

(xi) stalking under Section 76-5-106.5;

(xii) unlawful detention and unlawful detention of a minor under Section 76-5-304;

(xiii) violation of a protective order or ex parte protective order under Section 76-5-108;

(xiv) an offense against property under Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(xv) possession of a deadly weapon with criminal intent under Section 76-10-507;

(xvi) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle under Section 76-10-508;

(xvii) disorderly conduct under Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection [~~(4)(p)~~](4)(b), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

(xviii) child abuse under Section 76-5-114;

(xix) threatening use of a dangerous weapon under Section 76-10-506;

(xx) threatening violence under Section 76-5-107;

(xxi) tampering with a witness under Section 76-8-508;

(xxii) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(xxiii) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(xxiv) unlawful distribution of an intimate image under Section 76-5b-203;

(xxv) unlawful distribution of a counterfeit intimate image under Section 76-5b-205;

(xxvi) sexual battery under Section 76-9-702.1;

(xxvii) voyeurism under Section 76-9-702.7;

(xxviii) damage to or interruption of a communication device under Section 76-6-108; or

(xxix) an offense under Subsection 78B-7-806(1).

(5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 81-2-305 or 81-2-407 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 81-2-305 or 81-2-407 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 59. Section 77-40a-303 is amended to read:

77-40a-303. Requirements for a certificate of eligibility to expunge records of a conviction.

(1) Except as otherwise provided by this section, a petitioner is eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction if:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

(b) the petitioner has paid in full all restitution ordered by the court under Section 77-38b-205; and

(c) the following time periods have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for the conviction that the petitioner seeks to expunge:

(i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);

(ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021,

Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(iii) seven years for the conviction of a felony;

(iv) five years for the conviction of a drug possession offense that is a felony;

(v) five years for the conviction of a class A misdemeanor;

(vi) four years for the conviction of a class B misdemeanor; or

(vii) three years for the conviction of a class C misdemeanor or infraction.

(2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction under Subsection (1) if:

(a) except as provided in Subsection (3), the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) a felony conviction described in Subsection 41-6a-501(2);

(v) an offense, or a combination of offenses, that would require the individual to register as a sex offender, as defined in Section 77-41-102; or

(vi) a registerable child abuse offense as defined in Subsection 77-41-102(1);

(b) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner, unless the criminal proceeding is for a traffic offense;

(c) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner, unless the plea in abeyance is for a traffic offense;

(d) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense;

(e) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility;

(f) there is a criminal protective order or a criminal stalking injunction in effect for the case; or

(g) the bureau determines that the petitioner's criminal history makes the petitioner ineligible for a certificate of eligibility under Subsection (4) or (5).

(3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by a district court as an adult in accordance with [~~Title 80, Chapter 6, Part 5, Transfer to District Court~~]Title 80, Chapter 6, Part 5, Minor Tried as an Adult.

(4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

(5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(6) If the petitioner's criminal history contains convictions for both a drug possession offense and a non-drug possession offense arising from the same criminal episode, the bureau shall count that criminal episode as a conviction under Subsection (4) if any non-drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (1)(c) than any drug possession offense in that episode.

(7) Except as provided in Subsection (8), if at least 10 years have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions:

(a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by one; and

(b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if the highest level of convicted offense in the criminal episode is:

(i) a class B misdemeanor;

(ii) a class C misdemeanor;

(iii) a drug possession offense if none of the non-drug possession offenses in the criminal episode are a felony or a class A misdemeanor; or

(iv) an infraction.

(8) When determining whether a petitioner is eligible for a certificate of eligibility under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or prior conviction for:

(a) an infraction;

(b) a traffic offense;

(c) a minor regulatory offense; or

(d) a clean slate eligible case that was automatically expunged.

(9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes in accordance with Section 77-27-5.1.

Section 60. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as provided in Subsection (3), the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Section 53G-8-211.

(2) The juvenile court has original jurisdiction over:

(a) any proceeding concerning:

(i) a child who is an abused child, neglected child, or dependent child;

(ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(iii) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(v) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(vi) the treatment or commitment of a minor who has an intellectual disability;

(vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 81-2-304;

(viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(x) the treatment or commitment of a child with a mental illness;

(xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 26B-5-204;

(xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(xiv) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(xv) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

(A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(B) has run away from home; and

(xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court;

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement;

(c) the extension of a nonjudicial adjustment under Section 80-6-304;

(d) a petition for special findings under Section 80-3-305; and

(e) a referral of a minor for being a habitual truant as defined in Section 53G-8-211.

(3) The juvenile court does not have original jurisdiction over an offense committed by a minor as described in Subsection (1) if:

(a) the district court has original jurisdiction over the offense under Section 78A-5-102.5;

(b) the district court has original jurisdiction over the offense under Subsection 78A-5-102(8), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5; or

(c) the justice court has original jurisdiction over the offense under Subsection 78A-7-106(2), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5.

(4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a)(xvi), (b), or (c).

(5) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under [~~Title 80, Chapter 6, Part 5, Transfer to District Court~~]Title 80, Chapter 6, Part 5, Minor Tried as an Adult.

(7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(8) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(6) and Section 80-6-303.

(9) The juvenile court has jurisdiction to enforce foreign protection orders as described in Subsection 78B-7-303(8).

Section 61. Section 78B-5-618 is amended to read:

78B-5-618. Patient access to medical records -- Third-party access to medical records -- Medical records services -- Fees -- Standard form.

(1) As used in this section:

(a) "Force majeure event" means an event or circumstance beyond the control of the health care provider or the health care provider's third-party service, including fires, floods, earthquakes, acts of God, lockouts, ransomware, or strikes.

(b) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(c) "History of poor payment" means three or more invoices where payment is more than 30 days late within a 12-month period.

(d) "Indigent individual" means an individual whose household income is at or below 100% of the federal poverty level as defined in Section 26B-3-113.

(e) "Inflation" means the unadjusted Consumer Price Index, as published by the Bureau of Labor Statistics of the United States Department of Labor, that measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers.

(f) "Payment and balance information" means:

(i) all payments the health care provider has received for providing health care to the patient; and

(ii) the total balance owed to the health care provider for providing the health care to the patient.

(g) "Qualified claim or appeal" means a claim or appeal under any:

(i) provision of the Social Security Act as defined in Section 67-11-2; or

(ii) federal or state financial needs-based benefit program.

(h) "Third-party service" means a service that has entered into a contract with a health care provider to provide patient records on behalf of a health care provider.

(2) Pursuant to Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records from a health care provider when that health care provider is governed by the provisions of 45 C.F.R., Parts 160 and 164.

(3) When a health care provider is not governed by Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records unless access to the records is restricted by law or judicial order.

(4) A health care provider who provides a paper or electronic copy of a patient's records to the patient or the patient's personal representative:

(a) shall provide the copy within the deadlines required by the Health Insurance Portability and Accountability Act of 1996, Administrative Simplification rule, 45 C.F.R. Sec. 164.524(b); and

(b) may charge a reasonable cost-based fee provided that the fee includes only the cost of:

(i) copying, including the cost of supplies for and labor of copying; and

(ii) postage, when the patient or patient's personal representative has requested the copy be mailed.

(5) (a) Except for records provided under Section 26B-8-411, a health care provider or a health care provider's third-party service that provides a copy of a patient's records to a patient's attorney, legal representative, or other third party authorized to receive records:

(i) shall provide the copy within 30 days after receipt of notice;

(ii) may charge a reasonable fee for paper or electronic copies, but may not exceed the following rates:

(A) $30 per request for locating a patient's records;

(B) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32 cents per page for each additional page;

(C) the cost of postage when the requester has requested the copy be mailed;

(D) if requested, the person fulfilling the request will certify the record as a duplicate of the original for a fee of $20; and

(E) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act; and

(iii) may charge an expedition fee of $20 if:

(A) the requester's notice explicitly requests an expedited response; and

(B) the person fulfilling the request postmarks or otherwise makes the record available electronically within 15 days from the day the person fulfilling the request receives notice of the request.

(b) Notwithstanding the provisions of Subsection (5)(a)(ii) and subject to Subsection (5)(c), in the event the requested records are not postmarked or otherwise made available electronically by the person fulfilling the request:

(i) within 30 days after the day on which notice is received by the person fulfilling the request, the person fulfilling the request shall waive 50% of the fee; or

(ii) within 60 days after the day on which notice is received by the person fulfilling the request, the person fulfilling the request shall provide the requested records free of charge to the requester.

(c) Performance under Subsection (5)(b) shall be extended in accordance with Subsection (5)(d) if the person fulfilling the request notifies the requester of:

(i) the occurrence of a force majeure event within 10 days from the day:

(A) the force majeure event occurs; or

(B) the person fulfilling the request receives notice of the request; and

(ii) the termination of the force majeure event within 10 days from the day the force majeure event terminates.

(d) In accordance with Subsection (5)(c), for a force majeure event:

(i) that lasts less than eight days, the person fulfilling the request shall, if the records are not postmarked or otherwise made available electronically within:

(A) 30 days of the day the force majeure event ends, waive 50% of the fee for providing the records; and

(B) 60 days of the day the force majeure event ends, waive the entire fee for providing the records;

(ii) that lasts at least eight days but less than 30 days, the person fulfilling the request shall, if the records are not postmarked or otherwise made available electronically within:

(A) 60 days of the day the force majeure event ends, waive 50% of the fee for providing the records; and

(B) 90 days of the day the force majeure event ends, waive the entire fee for providing the records; and

(iii) that lasts more than 30 days, the person fulfilling the request shall, if the records are not postmarked or otherwise made available electronically within:

(A) 90 days of the day the force majeure event ends, waive 50% of the fee for providing the records; and

(B) 120 days of the day the force majeure event ends, waive the entire fee for providing the records.

(e) (i) A third-party service may require prepayment before sending records for a request under this Subsection (5) if the third-party service:

(A) determines the requester has a history of poor payment; and

(B) notifies the requester, within the time periods described in Subsections (5)(b)(i) and (ii), that the records will be sent as soon as the request has been prepaid.

(ii) The fee reductions described in Subsection (5)(d) do not apply if a third-party service complies with Subsection (5)(e)(i).

(f) If a third-party service does not possess or have access to the data necessary to fulfill a request, the third-party service shall notify:

(i) the requester that the request cannot be fulfilled; and

(ii) state the reasons for the third-party service's inability to fulfill the request within 30 days from the day on which the request is received by the third-party service.

(g) A patient's attorney, legal representative, or other third party authorized to receive records may request patient records directly from a third-party service.

(6) (a) A separate notice of request for payment and balance information shall:

(i) clearly indicate that the request is only for payment and balance information; and

(ii) indicate the name, telephone number, email address, and address of the requester.

(b) A health care provider or third-party service fulfilling a request for payment and balance information from a patient's attorney, legal representative, or other third-party representative, shall fulfill the request within 30 days after the day on which notice is received by the health care provider or by the third-party service, whichever is fulfilling the request, by:

(i) mailing a postmarked copy of the information to the requester; or

(ii) providing the information electronically or telephonically.

(c) A health care provider or third-party service that is responsible for fulfilling a request for payment and balance information but fails to:

(i) fulfill the request within 30 days, in accordance with Subsection (6)(b), shall pay, as a penalty, $50; and

(ii) fulfill the request within 60 days shall pay, as a penalty, an additional $150.

(d) A health care provider or third-party service obligated to pay a penalty under Subsection (6)(c) shall pay the amount owed:

(i) to reduce any amount the patient owes to the health care provider for the provision of health care, after any third-party obligations to pay, if the amount owed is more than the penalty;

(ii) directly to the patient, if the requested payment and balance information reflects that the patient owes no amount to the health care provider for the provision of health care services; or

(iii) allocated between:

(A) a payment to satisfy the amount the patient owes to the health care provider for the provision of health care, as indicated on the payment and balance information; and

(B) a payment in the amount of any remaining penalty obligation to the patient.

(e) A third-party service may satisfy any obligation to pay a penalty under Subsection (6)(c) by remitting the penalty amount to the health care provider to be allocated in accordance with Subsection (6)(d).

(7) A health care provider or third-party service shall, if the health care provider or the third-party service responding to a request for payment and balance information is unable to comply with Subsection (6)(b), provide a written response that includes:

(a) contact information, if known, for the individual who the requester may contact to fulfill the request; and

(b) the reason for not complying with Subsection (6)(b).

(8) (a) Subject to Subsection (8)(b), a health care provider that contracts with a third-party service to fulfill the health care provider's medical record requests shall file a statement with the Division of Professional Licensing containing:

(i) the name of the third-party service;

(ii) the phone number of the third-party service;

(iii) the fax number, email address, website portal address, if applicable, and mailing address for the third-party service where medical record requests can be sent for fulfillment; and

(iv) beginning January 1, 2025, whether the third-party service is authorized to fulfill requests for patient medical records for patient payment and balance information.

(b) If an individual health care provider is an employee or contractor of an organization that is a health care provider and that contracts with a third-party service to fulfill the medical record requests for the individual health care provider, the organization may file the statement under Subsection (8)(a) on behalf of the organization's employees and contractors.

(c) A health care provider described in Subsection (8)(a) shall update the filing described in Subsection (8)(a) as necessary to ensure that the information is accurate.

(d) The Division of Professional Licensing shall develop a form for a health care provider to complete that provides the information required by Subsection (8)(a).

(e) The Division of Professional Licensing shall:

(i) maintain an index of statements described in Subsection (8)(a) arranged alphabetically by entity; and

(ii) make the index available to the public electronically on the Division of Professional Licensing's website.

(9) A health care provider or the health care provider's third-party service shall deliver the medical records in the electronic medium customarily used by the person fulfilling the request or in a universally readable image such as portable document format:

(a) if the patient, patient's personal representative, or a third party authorized to receive the records requests the records be delivered in an electronic medium; and

(b) the original medical record is readily producible in an electronic medium.

(10) (a) Except as provided in Subsections (10)(b) through (d), the per page fee in Subsections (4) and (5) applies to medical records reproduced electronically or on paper.

(b) The per page fee for producing a copy of records in an electronic medium shall be 50% of the per page fee otherwise provided in this section, regardless of whether the original medical records are stored in electronic format.

(c) (i) A health care provider or a health care provider's third-party service shall deliver the medical records in the electronic medium customarily used by the health care provider or the health care provider's third-party service or in a universally readable image, such as portable document format, if the patient, patient's personal representative, patient's attorney, legal representative, or a third party authorized to receive the records, requests the records be delivered in an electronic medium.

(ii) A person fulfilling the request under Subsection (10)(c)(i):

(A) shall provide the requested information within 30 days; and

(B) may not charge a fee for the electronic copy that exceeds $150 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format.

(d) Subject to Subsection (10)(e), in the event the requested records under Subsection (10)(c)(i) are not postmarked or otherwise made available electronically by the person fulfilling the request:

(i) within 30 days after the day notice is received by the person fulfilling the request, the person fulfilling the request may not charge a fee for the electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; or

(ii) within 60 days after the day notice is received by the person fulfilling the request, the person fulfilling the request shall provide the requested records free of charge to the requester.

(e) Performance under Subsection (10)(d) shall be extended in accordance with Subsection (10)(f) if the person fulfilling the request notifies the requester of:

(i) the occurrence of a force majeure event within 10 days from the day:

(A) the force majeure event occurs; or

(B) the person fulfilling the request receives notice of the request; and

(ii) the termination of the force majeure event within 10 days from the day the force majeure event terminates.

(f) In accordance with Subsection (10)(e), for a force majeure event:

(i) that lasts less than eight days, the person fulfilling the request, if the records are not postmarked or otherwise made available electronically within:

(A) 30 days of the day the force majeure event ends, may not charge a fee for an electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; and

(B) 60 days of the day the force majeure event ends, shall waive the entire fee for providing the records;

(ii) that lasts at least eight days but less than 30 days, the person fulfilling the request, if the records are not postmarked or otherwise made available electronically within:

(A) 60 days of the day the force majeure event ends, may not charge a fee for an electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; and

(B) 90 days of the day the force majeure event ends, shall waive the entire fee for providing the records; and

(iii) that lasts more than 30 days, the person fulfilling the request, if the records are not postmarked or otherwise made available electronically within:

(A) 90 days of the day the force majeure event ends, may not charge a fee for an electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; and

(B) 120 days of the day the force majeure event ends, shall waive the entire fee for providing the records.

(11) (a) On January 1 of each year, the state treasurer shall adjust the following fees for inflation:

(i) the fee for providing patient's records under Subsections [~~(5)(a)(iii)(A)~~](5)(a)(ii)(A) and (B); and

(ii) the maximum amount that may be charged for an electronic copy under Subsection (10)(c)(ii)(B).

(b) On or before January 30 of each year, the state treasurer shall:

(i) certify the inflation-adjusted fees and maximum amounts calculated under this section; and

(ii) notify the Administrative Office of the Courts of the information described in Subsection (11)(b)(i) for posting on the court's website.

(12) Notwithstanding Subsections (4) through (8), if a request for a medical record is accompanied by documentation of a qualified claim or appeal, a health care provider or the health care provider's third-party service:

(a) may not charge a fee for the first copy of the record for each date of service that is necessary to support the qualified claim or appeal in each calendar year;

(b) for a second or subsequent copy in a calendar year of a date of service that is necessary to support the qualified claim or appeal, may charge a reasonable fee that may not:

(i) exceed 60 cents per page for paper photocopies;

(ii) exceed a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes;

(iii) include an administrative fee or additional service fee related to the production of the medical record; or

(iv) exceed the fee provisions for an electronic copy under Subsection (10)(c); and

(c) shall provide the health record within 30 days after the day on which the request is received by the health care provider.

(13) (a) Except as otherwise provided in Subsections (4) through (8), a health care provider or the health care provider's third-party service shall waive all fees under this section for an indigent individual.

(b) A health care provider or the health care provider's third-party service may require the indigent individual or the indigent individual's authorized representative to provide proof that the individual is an indigent individual by executing an affidavit.

(c) (i) An indigent individual that receives copies of a medical record at no charge under this Subsection (13) is limited to one copy for each date of service for each health care provider, or the health care provider's third-party service, in each calendar year.

(ii) Any request for additional copies in addition to the one copy allowed under Subsection (13)(c) is subject to the fee provisions described in Subsection (12).

(14) By January 1, 2023, a health care provider and all of the health care provider's contracted third party health related services shall accept a properly executed form described in Section 26B-8-514.

Section 62. Section 78B-6-501 is amended to read:

78B-6-501. Eminent domain -- Uses for which right may be exercised -- Limitations on eminent domain.

(1) As used in this section:

(a) "Century farm" means real property that is:

(i) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(ii) owned or held by the same family for a continuous period of 100 years or more.

(b) "Mineral or element" means the same as that term is defined in Section 65A-17-101.

(c) (i) "Mining use" means:

(A) the full range of permitted or active activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(B) the use of the surface, subsurface, groundwater, and surface water of an area in connection with the activities described in Subsection (1)(c)(i)(A) that have been, are being, or will be conducted.

(ii) "Mining use" includes, whether conducted on-site or off-site:

(A) sampling, staking, surveying, exploration, or development activity;

(B) drilling, blasting, excavating, or tunneling;

(C) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(D) the recovery of sand and gravel;

(E) removal, transportation, extraction, beneficiation, or processing of ore;

(F) use of solar evaporation ponds and other facilities for the recovery of minerals in solution;

(G) smelting, refining, autoclaving, or other primary or secondary processing operation;

(H) the recovery of any mineral left in residue from a previous extraction or processing operation;

(I) a mining activity that is identified in a work plan or permitting document;

(J) the use, operation, maintenance, repair, replacement, construction, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(K) an accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(L) the construction of a storage, factory, processing, or maintenance facility; and

(M) an activity described in Subsection [~~40-8-4(17)(a)~~]40-8-4(19)(a).

(2) Except as provided in Subsections (3), (4), and (5) and subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:

(a) all public uses authorized by the federal government;

(b) public buildings and grounds for the use of the state, and all other public uses authorized by the Legislature;

(c) (i) public buildings and grounds for the use of any county, city, town, or board of education;

(ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or sewage, including to or from a development, for the use of the inhabitants of any county, city, or town, or for the draining of any county, city, or town;

(iii) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels;

(iv) bicycle paths and sidewalks adjacent to paved roads;

(v) roads, byroads, streets, and alleys for public vehicular use, including for access to a development; and

(vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;

(d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation;

(e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of minerals or elements in solution;

(f) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals or elements in solution;

(ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits including minerals or elements in solution;

(iii) mill dams;

(iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or formation in any land for the underground storage of natural gas, and in connection with that, any other interests in property which may be required to adequately examine, prepare, maintain, and operate underground natural gas storage facilities;

(v) subject to Subsection (6), solar evaporation ponds and other facilities for the recovery of minerals in solution; and

(vi) any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter;

(g) byroads leading from a highway to:

(i) a residence; or

(ii) a farm;

(h) telecommunications, electric light and electric power lines, sites for electric light and power plants, or sites for the transmission of broadcast signals from a station licensed by the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that provides emergency broadcast services;

(i) sewage service for:

(i) a city, a town, or any settlement of not fewer than 10 families;

(ii) a public building belonging to the state; or

(iii) a college or university;

(j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat;

(k) cemeteries and public parks; and

(l) sites for mills, smelters or other works for the reduction of ores and necessary to their successful operation, including the right to take lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the operation of works, provided that the

powers granted by this section may not be exercised in any county where the population exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing between the condemner and the owner of land within the limit and providing for the operation of such mill, smelter, or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter, or other works for the reduction of ores.

(3) The right of eminent domain may not be exercised on behalf of the following uses:

(a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway;

(b) (i) a public park whose primary purpose is:

(A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or

(B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use; or

(ii) a public park established on real property that is:

(A) a century farm; and

(B) located in a county of the first class.

(4) (a) The right of eminent domain may not be exercised within a migratory bird production area created on or before December 31, 2020, under Title 23A, Chapter 13, Migratory Bird Production Area, except as follows:

(i) subject to Subsection (4)(b), an electric utility may condemn land within a migratory bird production area located in a county of the first class only for the purpose of installing buried power lines;

(ii) an electric utility may condemn land within a migratory bird production area in a county other than a county of the first class to install:

(A) buried power lines; or

(B) a new overhead transmission line that is parallel to and abutting an existing overhead transmission line or collocated within an existing overhead transmission line right of way; or

(iii) the Department of Transportation may exercise eminent domain for the purpose of the construction of the West Davis Highway.

(b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the electric utility shall demonstrate that:

(i) the proposed condemnation would not have an unreasonable adverse effect on the preservation, use, and enhancement of the migratory bird production area; and

(ii) there is no reasonable alternative to constructing the power line within the boundaries of a migratory bird production area.

(5) If the intended public purpose is for a mining use, a private person may not exercise the power of eminent domain over property, or an interest in property, that is already used for a mining use within the boundary of:

(a) a permit area, as defined in Section 40-8-4;

(b) an area for which a permit has been issued by the Division of Water Quality, as part of the underground injection control program, under rules made by the Water Quality Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) private property; or

(d) an area under a state or federal lease.

(6) (a) For the purpose of solar evaporation ponds and other facilities for the recovery of minerals or elements in solution on or from the Great Salt Lake, a public use includes removal or extinguishment, by a state entity, in whole or in part, on Great Salt Lake Sovereign lands of:

(i) a solar evaporation pond;

(ii) improvements, property, easements, or rights-of-way appurtenant to a solar evaporation pond, including a lease hold; or

(iii) other facilities for the recovery of minerals or elements in solution.

(b) The public use under this Subsection (6) is in the furtherance of the benefits to public trust assets attributable to the Great Salt Lake under Section 65A-1-1.

Section 63. Section 78B-7-805 is amended to read:

78B-7-805. Sentencing protective orders and continuous protective orders for an offense that is not domestic violence -- Modification -- Expiration.

(1) Before a perpetrator has been convicted of or adjudicated for an offense that is not domestic violence is placed on probation, the court may consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) (a) If a perpetrator is convicted of an offense that is not domestic violence resulting in a sentence of imprisonment that is to be served after conviction, the court may issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim if the court determines by clear and convincing evidence that the victim has a reasonable fear of future harm or abuse.

(b) (i) The court shall notify the perpetrator of the right to request a hearing.

(ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold the hearing at the time determined by the court and the continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(c) Except as provided in Subsection (6), a continuous protective order is permanent in accordance with this Subsection (3)(c) and may include any order described in Subsection [~~78B-7-804(3)(c)~~]78B-7-804(3)(d).

(4) A continuous protective order issued under this section may be modified or dismissed only in accordance with Subsection 78B-7-804(4).

(5) Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3)(a), a district court may issue a continuous protective order at any time in accordance with Subsection 78B-7-804(5).

(6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor.

(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:

(i) the day on which the juvenile court terminates jurisdiction; or

(ii) in accordance with Section 80-6-807, the day on which the Division of Juvenile Justice and Youth Services discharges the perpetrator.

Section 64. Section 80-6-601 is amended to read:

80-6-601. Minors' cases considered civil proceedings -- Minor not to be charged with crime -- Exception for a prior adjudication -- Traffic violation cases.

(1) Except as provided in [~~Part 5, Transfer to District Court~~]Part 5, Minor Tried as an Adult, a proceeding in a minor's case under this chapter is a civil proceeding with the juvenile court exercising equitable powers.

(2) (a) An adjudication by a juvenile court of a minor under this chapter is not considered a conviction of a crime, except in cases involving traffic violations.

(b) An adjudication may not:

(i) operate to impose any civil disabilities upon the minor; or

(ii) disqualify the minor for any civil service or military service or appointment.

(3) (a) Except in cases involving traffic violations, and as provided in [~~Part 5, Transfer to District Court~~]Part 5, Minor Tried as an Adult, a minor may not be charged with a crime and convicted in any court.

(b) Except as provided in Section 80-6-504, if a petition is filed in the juvenile court, the minor may not later be subject to criminal prosecution based on the same facts.

(c) Except as provided in Section 80-6-305, an individual may not be subject to a proceeding under this chapter for an offense that the individual is alleged to have committed before the individual was 12 years old.

(4) (a) An adjudication by a juvenile court of a minor under this chapter is considered a conviction for the purposes of determining the level of offense for which a minor may be charged and enhancing the level of an offense in the juvenile court.

(b) A prior adjudication may be used to enhance the level or degree of an offense committed by an adult only as otherwise specifically provided.

Section 65. Section 80-7-105 is amended to read:

80-7-105. Emancipation.

(1) A minor who is emancipated may:

(a) enter into contracts;

(b) buy and sell property;

(c) sue or be sued;

(d) retain the minor's own earnings;

(e) borrow money for any purpose, including for education; and

(f) obtain healthcare without parental consent.

(2) A minor who is emancipated may not be considered an adult:

(a) under the criminal laws of the state, unless the requirements of [~~Chapter 6, Part 5, Transfer to District Court~~]Chapter 6, Part 5, Minor Tried as an Adult, have been met;

(b) under the criminal laws of the state when the minor is a victim and the age of the victim is an element of the offense; and

(c) for specific constitutional and statutory age requirements regarding voting, use of alcoholic beverages, possession of tobacco or firearms, and other health and safety regulations relevant to the minor because of the minor's age.

(3) (a) An order of emancipation prospectively terminates parental responsibilities that accrue based on the minor's status as a minor under the custody and control of a parent, guardian, or custodian, including parental tort liability for the acts of the minor.

(b) Nothing in this chapter shall be construed to interfere with the integrity of the family or to minimize the rights of parents or children.

Section 66. Repealer.

This bill repeals:

Section 26-29-2, Purpose of chapter.

Section 26-29-3, Basis for standards.

Section 26-29-4, Enforcement of chapter.

Section 26B-1-305, Department of Health and Human Services Transition Restricted Account.

Section 67. Effective Date.

This bill takes effect on May 7, 2025.

Section 68. Coordinating H.B. 496 with other 2025 General Session legislation.

The Legislature intends that, on May 7, 2025, any 2025 General Session legislation amending the Utah Code that conflicts with amendments made in H.B. 496, Revisor's Technical Corrections to Utah Code, and that passes and becomes law, supersedes the conflicting amendments in H.B. 496.

CHAPTER 278
H. B. 510
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

AGRICULTURAL AMENDMENTS

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill creates a requirement for the Department of Agriculture and Food to study issues related to local food availability.

Highlighted Provisions:

This bill:

- ► defines "local food";
- ► requires the Department of Agriculture and Food (department) to study the barriers and gaps related to increasing the availability of local food in the state, including issues related to:
  - • the intrastate food supply;
  - • crop production and optimization;
  - • the agricultural workforce; and
  - • the capital funding of local food production;
- ► requires the department to report the findings and recommendations of the study to the Natural Resources, Agriculture, and Environment Interim Committee; and
- ► implements a sunset date for the study.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-204, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

4-2-1101, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-2-1101 is enacted to read:

PART 11. Agricultural Studies

4-2-1101. Local food study.

(1) As used in this section, "local food" means an agricultural product that is:

(a) produced, processed, and distributed for sale or consumption within the state; and

(b) sold to an end consumer within the state.

(2) (a) The department shall study the barriers and gaps related to increasing local food availability in the state, including analysis of:

(i) the intrastate food supply chain;

(ii) crop production and optimization;

(iii) the agricultural workforce;

(iv) the capital funding of local food production; and

(v) federal and state regulatory burdens on local food production.

(b) The department shall seek input from a wide range of stakeholders for the study described in Subsection (2)(a), including a diverse group of the state's agricultural producers based on geography, operation size. and operation type.

(3) The study described in Subsection (2) shall:

(a) research the production costs and economic impacts for agricultural operators to:

(i) voluntarily seek to implement or explore various crop types, including the production costs to, and economic impacts on, agricultural operators that seek out assistance to incorporate new traditional or alternative crop types into an existing operation; and

(ii) maintain, modernize, and upgrade equipment;

(b) research the barriers to entry associated with careers in agriculture by reviewing:

(i) existing challenges;

(ii) available career development and hiring resources;

(iii) programs in other states that support individuals interested in pursuing careers in agriculture;

(iv) opportunities for new agricultural producers to use the expertise and capital of existing agricultural producers; and

(v) the potential for creating a small farm incubator program;

(c) research gaps in the state's food supply chain with respect to local food, including:

(i) aggregation;

(ii) distribution;

(iii) storage; and

(iv) processing; and

(d) propose potential funding solutions to address the issues identified by the department's research under this Subsection (3), including recommendations for:

(i) potential grant programs;

(ii) potential investment by private capital; and

(iii) available funding from state and federal sources.

(4) (a) The department shall report to the Natural Resources, Agriculture, and Environment Interim Committee at or before the committee's June 2026 interim meeting.

(b) The report described in Subsection (4)(a) shall include:

(i) research findings related to each study item described in Subsection (3); and

(ii) policy solutions related to each study item described in Subsection (3).

(c) The report described in Subsection (4)(a) may include recommendations for legislation and legislative appropriations.

Section 2. Section 63I-2-204 is amended to read:

63I-2-204. Repeal dates: Title 4.

(1) Section 4-2-1101, Local food study, is repealed July 1, 2026.

[~~(1)~~](2) Section 4-11-117, Beekeeping working group -- Development of standards, is repealed May 1, 2025.

[~~(2)~~](3) Subsection 4-41a-102(6), regarding the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(3)~~](4) Section 4-46-104, Transition, is repealed July 1, 2024.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 279
H. B. 514
Passed March 6, 2025
Approved March 25, 2025
Effective January 1, 2026

VEHICLE REGISTRATION CHANGES

Chief Sponsor: Ariel Defay
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends vehicle registration notification requirements and provides an option for a two-year registration period for certain vehicles.

Highlighted Provisions:

This bill:

- ► allows a person to select a mail option for notification of vehicle registration;
- ► provides an option for a two-year vehicle registration period for a trailer, off-highway vehicle, street-legal all-terrain vehicle, or electric motor vehicle;
- ► provides for the calculation and deposit of registration and various other fees and taxes due at the time of registration to account for a 24-month vehicle registration period; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-203, as last amended by Laws of Utah 2024, Chapter 483
41-1a-215.5, as last amended by Laws of Utah 2012, Chapter 397
41-1a-402, as last amended by Laws of Utah 2024, Chapter 251
41-1a-1201, as last amended by Laws of Utah 2024, Chapter 483
41-1a-1204, as last amended by Laws of Utah 2023, Chapter 33
41-1a-1206, as last amended by Laws of Utah 2024, Chapter 483
41-1a-1218, as last amended by Laws of Utah 2024, Chapter 236
41-1a-1219, as enacted by Laws of Utah 1996, Chapter 170
41-1a-1221, as last amended by Laws of Utah 2018, Chapters 424, 469
41-1a-1222, as last amended by Laws of Utah 2024, Chapter 438
41-22-3, as last amended by Laws of Utah 2024, Chapter 236
41-22-3.5, as enacted by Laws of Utah 2003, Chapter 317
41-22-8, as last amended by Laws of Utah 2024, Chapter 289
41-22-19, as last amended by Laws of Utah 2023, Chapter 11 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 33
41-22-33, as last amended by Laws of Utah 2022, Chapter 68
41-22-34, as last amended by Laws of Utah 2013, Chapter 295
59-2-405.1, as last amended by Laws of Utah 2012, Chapter 397
59-2-405.2, as last amended by Laws of Utah 2023, Chapter 159

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-203 is amended to read:

41-1a-203. Prerequisites for registration, transfer of ownership, or registration renewal.

(1) (a) [~~(i)~~] Except as provided in Subsections (1)(b) and (1)(c), the division shall mail a notification to the owner of a vehicle at least 30 days before the date the vehicle's registration is due to expire.

[~~(ii) The division shall ensure that mailing of notifications described in Section (1)(a)(i) begins as soon as practicable.~~]

(b) (i) The division shall provide a process for a vehicle owner to choose to receive electronic notification of the pending expiration of a vehicle's registration.

(ii) If a vehicle owner chooses electronic notification, the division shall notify by email the owner of a vehicle at least 30 days before the date the vehicle's registration is due to expire.

(c) If at the time the owner renews the vehicle registration, the previous registration period has been expired at least 270 days, the division is not required to comply with the notification requirement described in Subsection (1) (a) for the next registration period.

(d) An individual may elect to receive notification through both electronic means and the mail.

(2) Except as otherwise provided, before registration of a vehicle, an owner shall:

(a) obtain an identification number inspection under Section 41-1a-204;

(b) obtain a certificate of emissions inspection, if required in the current year, as provided under Section 41-6a-1642;

(c) pay property taxes, the in lieu fee, or receive a property tax clearance under Section 41-1a-206 or 41-1a-207;

(d) pay the automobile driver education tax required by Section 41-1a-208;

(e) pay the applicable registration fee under Part 12, Fee and Tax Requirements;

(f) pay the uninsured motorist identification fee under Section 41-1a-1218, if applicable;

(g) pay the motor carrier fee under Section 41-1a-1219, if applicable;

(h) pay any applicable local emissions compliance fee under Section 41-1a-1223;

(i) pay the taxes applicable under Title 59, Chapter 12, Sales and Use Tax Act; and

(j) for a roadable aircraft, provide proof of registration of the roadable aircraft as an aircraft under Section 72-10-109.

(3) In addition to the requirements in Subsection (1), an owner of a vehicle that has not been previously registered or that is currently registered under a previous owner's name shall apply for a valid certificate of title in the owner's name before registration.

(4) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 73-18-7 for a vessel or outboard motor that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

(5) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 41-22-3 for an off-highway vehicle that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

(6) The division may not issue a registration renewal for a motor vehicle if the division has received a hold request for the motor vehicle for which a registration renewal has been requested as described in:

(a) Section 72-1-213.1; or

(b) Section 72-6-118.

Section 2. Section 41-1a-215.5 is amended to read:

41-1a-215.5. Alternative term registration.

(1) [~~(a)~~] Subject to the requirements of this section, a person may register a motorcycle or motor vehicle of 12,000 pounds or less gross laden weight for a six-month period that begins on the first day of the calendar month of registration and expires on the last day of the sixth month of registration.

[~~(b) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the vehicle is extended to midnight of the next business day.~~]

(2) (a) A person may register the following types of vehicles for a 24-month period that begins the first day of the calendar month of registration and expires on the last day of the 24th month of registration:

(i) a trailer;

(ii) an electric motor vehicle;

(iii) an off-highway vehicle as described in Section 41-22-3; or

(iv) a street-legal all-terrain vehicle as described in Section 41-6a-1509 and Section 41-22-3.

(b) An interstate apportioned vehicle registered in accordance with Section 41-1a-301 is not eligible for a 24-month registration.

(c) To register a vehicle for a 24-month period as provided in this Subsection (2), the person is required to pay double the amount of any tax or fee that would be due for the same vehicle registered for a 12-month period.

(3) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the vehicle is extended to midnight of the next business day.

[~~(2)~~](4) A registration under this section is subject to this chapter.

[~~(3) The option to register a motorcycle or motor vehicle under this section shall be available to a person when the division:~~]

[~~(a) has implemented the division's GenTax system; and~~]

[~~(b) at least 30 days before implementing the division's GenTax system as described in Subsection (3)(a), has provided notice in a conspicuous place on the division's website stating:~~]

[~~(i) the date the commission will implement the GenTax system; and~~]

[~~(ii) that, at the time the commission implements the GenTax system, the option to register a motorcycle or motor vehicle for a six-month registration period will be available.~~]

Section 3. Section 41-1a-402 is amended to read:

41-1a-402. Standard license plates -- Required colors, numerals, and letters -- Expiration.

(1) (a) Upon registering a vehicle, the division shall issue to the owner a standard license plate described in Subsection (1)(b) unless the division issues to the owner:

(i) a special group license plate in accordance with Section 41-1a-418; or

(ii) an apportioned vehicle license plate in accordance with Section 41-1a-301.

(b) The division may offer up to four standard license plate options at one time, each with a different design as follows:

(i) two designs that incorporate one or more elements that represent the state's economy or geography;

(ii) one design that represents the state's values or culture; and

(iii) one design that commemorates a current event relevant to the state or a significant anniversary of a historic event relevant to the state.

(c) The division shall offer:

(i) each design described in Subsection (1)(b)(i) or (ii) for at least a 10-year period; and

(ii) each design described in Subsection (1)(b)(iii) for no more than a five-year period.

(d) The division may not offer more than four standard license plate designs at any one time.

(2) Before the division may offer a design described in Subsection (1)(b), the division shall:

(a) consult with the Utah Department of Cultural and Community Engagement regarding the proposed design;

(b) identify which current standard license plate design will be replaced by the proposed design; and

(c) submit the proposed design to the commission.

(3) (a) If the commission receives a submission for a proposed design of a standard license plate as described in Subsection (2)(c), or a sponsored special group license plate as described in Section 41-1a-419 and Part 16, Sponsored Special Group License Plates, the commission shall notify:

(i) the governor;

(ii) the speaker of the House of Representatives; and

(iii) the president of the Senate.

(b) After receiving a notification described in Subsection (3)(a):

(i) the governor shall appoint an individual to the license plate design review board described in Subsection (3)(c);

(ii) the speaker of the House of Representatives shall appoint a member of the House of Representatives to the license plate design review board described in Subsection (3)(c); and

(iii) the president of the Senate shall appoint a member of the Senate to the license plate design review board described in Subsection (3)(c).

(c) (i) The license plate design review board, comprised of the members appointed as described in Subsection (3)(b), shall review proposed license plate designs.

(ii) The member of the license plate design review board appointed by the governor shall serve as chair and convene the license plate design review board.

(iii) The license plate design review board shall:

(A) review each proposed license plate design; and

(B) vote whether to approve or reject the proposed license plate design.

(iv) If all three members of the license plate design review board are not present, the license plate design review board may not consider or vote on a proposed license plate design.

(v) The license plate design review board shall notify the commission and the division regarding the results of the vote to approve each proposed license plate design.

(d) The license plate design review board is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

(e) If the license plate design review board approves a proposed license plate design, the division may begin the processes necessary for production and distribution of the license plate.

(4) (a) Except as provided in Subsection (4)(b), the division may not order or produce a standard license plate that is discontinued under this section.

(b) The division may issue a discontinued standard license plate until the division exhausts the discontinued standard license plate's remaining stock.

(5) (a) Each license plate shall have displayed on it:

(i) the registration number assigned to the vehicle for which the license plate is issued;

(ii) the name of the state; and

(iii) unless exempted by Section 41-1a-301 or 41-1a-407, a registration decal showing the date of expiration displayed in accordance with Subsection (8).

(b) No later than July 1, 2025, each license plate:

(i) shall have an embossed edge around the perimeter of the plate; and

(ii) may not have embossed registration numbers or characters.

(6) If registration is extended by affixing a registration decal to the license plate, the expiration date of the registration decal governs the expiration date of the license plate.

(7) (a) (i) Except as provided under Subsection (7)(b), Subsection 41-1a-215(2), Subsection 41-1a-215.5(2), and Section 41-1a-216, a license plate shall be renewed annually.

(ii) (A) The division shall issue the vehicle owner a month registration decal and a year registration decal upon the vehicle's first registration with the division.

(B) The division shall issue the vehicle owner only a year registration decal upon subsequent renewals of registration to validate registration renewal.

(b) Beginning on January 1, 2025, the division shall issue one registration decal displaying both the month and year.

(c) For a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, the division may issue two 12-month decals for the 24-month registration period.

(8) (a) Except as otherwise provided in Subsection (8)(b) and by rule:

(i) the month registration decal issued in accordance with Subsection (7) shall be displayed on the license plate in the left position; and

(ii) the year registration decal issued in accordance with Subsection (7) shall be displayed on the license plate in the right position.

(b) Beginning on January 1, 2025, the registration decal shall be displayed on the upper right position.

(9) The current year registration decal issued in accordance with Subsection (7) shall be placed over or in place of the previous year registration decal.

(10) If a license plate or registration decal is lost or destroyed, a replacement shall be issued upon application and payment of the fees required under Section 41-1a-1211 or 41-1a-1212.

(11) (a) A violation of this section is an infraction.

(b) A court shall waive a fine for a violation under this section if:

(i) the registration for the vehicle was current at the time of the citation; and

(ii) the person to whom the citation was issued provides, within 21 business days, evidence that the license plate and registration decal are properly displayed in compliance with this section.

(12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules regarding the

placement and positioning of registration decal on a license plate issued by the division.

Section 4. Section 41-1a-1201 is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (5), (6), (7), (8), and (9) and Sections 41-1a-1205, 41-1a-1220, 41-1a-1221, 41-1a-1222, 41-1a-1223, and 41-1a-1603, all fees collected under this part shall be deposited into the Transportation Fund.

(3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), (7), and (9), and Section 41-1a-1212 shall be deposited into the License Plate Restricted Account created in Section 41-1a-122.

(4) (a) Except as provided in Subsections (3) and (4)(b) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and administering this part.

(c) Fifty cents of the registration fee imposed under Subsection 41-1a-1206(1)(i) for each vintage vehicle that has a model year of 1983 or newer may be used by the commission to cover the costs incurred in enforcing and administering this part.

(5) (a) The following portions of the registration fees imposed under Section 41-1a-1206for each vehicle shall be deposited into the Transportation Investment Fund of 2005 created in Section 72-2-124:

(i) $30 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (1)(f), (4), and (7);

(ii) $21 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i) and (1)(c)(ii);

(iii) $2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(iv) $23 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

(v) $24.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i);

(vi) $1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii); and

(vii) $17 of the registration fee imposed under Subsection 41-1a-1206(1)(j).

(b) The following portions of the registration fees collected for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Transportation Investment Fund of 2005 created in Section 72-2-124:

(i) $23.25 of each registration fee collected under Subsection 41-1a-1206(2)(a)(i); and

(ii) $23 of each registration fee collected under Subsection 41-1a-1206(2)(a)(ii).

(6) (a) Ninety-four cents of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(b) Seventy-one cents of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(7) (a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(8) Fifty cents of each registration fee imposed under Subsection 41-1a-1206(1)(a) for each motorcycle shall be deposited into the Brain and Spinal Cord Injury Fund created in Section 26B-1-318.

(9) (a) Beginning on January 1, 2024, subject to Subsection (9)(b), $2 of each registration fee imposed under Section 41-1a-1206 shall be deposited into the Rural Transportation Infrastructure Fund created in Section 72-2-133.

(b) Beginning on January 1, 2025, and each January 1 thereafter, the amount described in Subsection (9)(a) shall be annually adjusted by taking the amount deposited the previous year and adding an amount equal to the greater of:

(i) an amount calculated by multiplying the amount deposited by the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(ii) 0.

(c) The amounts calculated as described in Subsection (9)(b) shall be rounded up to the nearest 1 cent.

(10) For a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, the deposits under this section are double the amounts due for a 12-month registration of the same vehicle.

Section 5. Section 41-1a-1204 is amended to read:

41-1a-1204. Automobile driver education fee -- Amount -- When paid -- Exception.

(1) Each year there is levied and shall be paid to the commission the automobile driver education fee.

(2) (a) Except as provided in Subsections (2)(b) and (c), the fee is $2.50 upon each motor vehicle to be registered for a one-year registration period.

(b) The fee is $2.00 upon each motor vehicle to be registered under Section 41-1a-215.5for a six-month registration period.

(c) The following registrations are exempt from the fee in Subsection (2)(a) or (b):

(i) a motorcycle registration; and

(ii) a registration of a vehicle with a Purple Heart special group license plate issued:

(A) on or before December 31, 2023; or

(B) in accordance with Part 16, Sponsored Special Group License Plates.

(3) For a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, the fee amounts are double the amounts due for a 12-month registration of the same vehicle.

Section 6. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) $46.00 for each motorcycle;

(b) $44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) $31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) $28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) $53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) $69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(f) (i) $69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(g) $45 for each vintage vehicle that has a model year of 1983 or newer;

(h) in addition to the fee described in Subsection (1)(b):

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) Each motor vehicle not described in this Subsection (1)(h) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $21.75 for each hybrid electric motor vehicle; and

(iii) $56.50 for each plug-in hybrid electric motor vehicle;

(i) in addition to the fee described in Subsection (1)(g), for a vintage vehicle that has a model year of 1983 or newer, 50 cents; and

(j) $28.50 for each roadable aircraft.

(2) (a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(i) $34.50 for each motorcycle; and

(ii) $33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) each motor vehicle not described in this Subsection (2)(b) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $16.50 for each hybrid electric motor vehicle; and

(iii) $43.50 for each plug-in hybrid electric motor vehicle.

(3) (a) Beginning on January 1, 2024, at the time of registration:

(i) in addition to the amounts described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (1)(h), (4)(a), and (7), the individual shall also pay an additional $7 as part of the registration fee; and

(ii) in addition to the amounts described in Subsection (2)(a), the individual shall also pay an additional $5 as part of the registration fee.

(b) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (1)(j), (2)(a), (3)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2024, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(ii) and (iii) and (2)(b)(ii) and (iii) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(c) The amounts calculated as described in Subsection (3)(b) shall be rounded up to the nearest 25 cents.

(4) (a) The initial registration fee for a vintage vehicle that has a model year of 1982 or older is $40.

(b) A vintage vehicle that has a model year of 1982 or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued on or before December 31, 2023, or issued in accordance with Part 16, Sponsored Special Group License Plates, is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of $130.

(8) For a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, the fee amounts are double the amounts due for a 12-month registration of the same vehicle.

[~~(8)~~](9) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

[~~(9)~~](10) A violation of Subsection [~~(8)~~](9) is an infraction that shall be punished by a fine of not less than $200.

[~~(10)~~](11) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 7. Section 41-1a-1218 is amended to read:

41-1a-1218. Uninsured motorist identification fee for tracking motor vehicle insurance -- Exemption -- Deposit.

(1) (a) Except as provided in Subsections (1)(b) and (c), at the time application is made for registration or renewal of registration under this chapter, the applicant shall pay an uninsured motorist identification fee of:

(i) $1 on each motor vehicle or street-legal all-terrain vehicle; or

(ii) $2 on each motorboat.

(b) Except as provided in Subsection (1)(c), at the time application is made for registration or renewal of registration of a motor vehicle for a six-month registration period under Section 41-1a-215.5, the applicant shall pay an uninsured motorist identification fee of 75 cents on each motor vehicle.

(c) The following are exempt from the fee required under Subsection (1)(a) or (b):

(i) a commercial vehicle registered as part of a fleet under Section 41-1a-222 or Section 41-1a-301;

(ii) a motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or Subsection 41-1a-419(3); and

(iii) a motor vehicle with a Purple Heart special group license plate issued:

(A) on or before December 31, 2023; or

(B) in accordance with Part 16, Sponsored Special Group License Plates.

(2) For a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, the fee amounts under this section are double the amounts due for the same vehicle registered for a 12-month period.

[~~(2)~~](3) The revenue generated under this section shall be deposited in the Uninsured Motorist Identification Restricted Account created in Section 41-12a-806.

Section 8. Section 41-1a-1219 is amended to read:

41-1a-1219. Motor carrier fee.

(1) At the time application is made for registration or renewal of registration of a motor vehicle or combination of motor vehicles over 12,000 pounds gross laden weight, the applicant shall pay a motor carrier fee of $6 for each motor vehicle or combination of motor vehicles.

(2) This fee is in addition to the registration fees under Subsections 41-1a-1206(1)(d) and (e).

(3) For a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, the fee amounts under this section are double the amounts due for the same vehicle registered for a 12-month period.

Section 9. Section 41-1a-1221 is amended to read:

41-1a-1221. Fees to cover the cost of electronic payments.

(1) As used in this section:

(a) "Electronic payment" means use of any form of payment processed through electronic means, including credit cards, debit cards, and automatic clearinghouse transactions.

(b) "Electronic payment fee" means the fee assessed to defray:

(i) the charge, discount fee, or processing fee charged by credit card companies or processing agents to process an electronic payment; or

(ii) costs associated with the purchase of equipment necessary for processing electronic payments.

(2) (a) The Motor Vehicle Division may collect an electronic payment fee on all registrations and renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), (2)(a), (2)(b), and (4).

(b) The fee described in Subsection (2)(a):

(i) shall be imposed regardless of the method of payment for a particular transaction; and

(ii) need not be separately identified from the fees imposed for registration and renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), (2)(a), (2)(b), and (4).

(c) For a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, the electronic fee amounts under this section are double the amounts due for the same vehicle registered for a 12-month period.

(3) The division shall establish the fee according to the procedures and requirements of Section 63J-1-504.

(4) A fee imposed under this section:

(a) shall be deposited in the Electronic Payment Fee Restricted Account created by Section 41-1a-121; and

(b) is not subject to Subsection 63J-1-105(3) or (4).

Section 10. Section 41-1a-1222 is amended to read:

41-1a-1222. Local option highway construction and transportation corridor preservation fee -- Exemptions -- Deposit -- Transfer -- County ordinance -- Notice.

(1) As used in this section, "unincorporated" means the same as that term is defined in Section 10-1-104.

(2) (a) (i) Except as provided in Subsection (2)(a)(ii), a county legislative body may impose a local option highway construction and transportation corridor preservation fee of up to $10 on each motor vehicle registration within the county.

(ii) A county legislative body may impose a local option highway construction and transportation corridor preservation fee of up to $7.75 on each motor vehicle registration for a six-month registration period under Section 41-1a-215.5 within the county.

(iii) A fee imposed under Subsection (2)(a)(i) or (ii) shall be set in whole dollar increments.

(b) (i) If imposed under Subsection (2)(a), at the time application is made for registration or renewal of registration of a motor vehicle under this chapter, the applicant shall pay the local option highway construction and transportation corridor preservation fee established by the county legislative body.

(ii) If imposed under Subsection (2)(a), at the time application is made for registration or renewal of registration of a vehicle under this chapter for a 24-month period as provided in Section 41-1a-215.5, the applicant shall pay double the amount of the local option highway construction and transportation corridor preservation fee established by the county legislative body for the same vehicle registered for a 12-month period.

(c) The following are exempt from the fee required under Subsection (2)(a):

(i) a motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or Subsection 41-1a-419(3);

(ii) a commercial vehicle with an apportioned registration under Section 41-1a-301; and

(iii) a motor vehicle with a Purple Heart special group license plate issued:

(A) on or before December 31, 2023; or

(B) in accordance with Part 16, Sponsored Special Group License Plates.

(3) (a) Except as provided in Subsection (3)(b), the revenue generated under this section shall be:

(i) deposited in the Local Highway and Transportation Corridor Preservation Fund created in Section 72-2-117.5;

(ii) credited to the county from which it is generated; and

(iii) used and distributed in accordance with Section 72-2-117.5.

(b) The revenue generated by a fee imposed under this section in a county of the first class shall be deposited or transferred as follows:

(i) 50% of the revenue shall be:

(A) deposited in the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) used in accordance with Section 72-2-121;

(ii) 30% of the revenue shall be deposited, credited, and used as provided in Subsection (3)(a); and

(iii) 20% of the revenue shall be transferred to the legislative body of a county of the first class.

(4) Beginning in a fiscal year beginning on or after July 1, 2023, and for 15 years thereafter, the legislative body of the county of the first class shall annually transfer, from the revenue transferred to the legislative body of a county of the first class as described in Subsection (3)(b)(iii):

(a) $300,000 to Kearns; and

(b) $225,000 to Magna.

(5) To impose or change the amount of a fee under this section, the county legislative body shall pass an ordinance:

(a) approving the fee;

(b) setting the amount of the fee; and

(c) providing an effective date for the fee as provided in Subsection (6).

(6) (a) If a county legislative body enacts, changes, or repeals a fee under this section, the enactment, change, or repeal shall take effect on July 1 if the commission receives notice meeting the requirements of Subsection (6)(b) from the county prior to April 1.

(b) The notice described in Subsection (6)(a) shall:

(i) state that the county will enact, change, or repeal a fee under this part;

(ii) include a copy of the ordinance imposing the fee; and

(iii) if the county enacts or changes the fee under this section, state the amount of the fee.

Section 11. Section 41-22-3 is amended to read:

41-22-3. Registration of vehicles -- Application -- Issuance of sticker and card -- Proof of property tax payment -- Records.

(1) (a) Unless exempted under Section 41-22-9, a person may not operate or place and an owner may not give another person permission to operate or place any off-highway vehicle on any public land, trail, street, or highway in this state unless the off-highway vehicle is registered under this chapter for the current year.

(b) Unless exempted under Section 41-22-9, a dealer may not sell an off-highway vehicle which can be used on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.

(c) Unless specifically provided in this chapter, the division shall administer license plates, decals, and registration of off-highway vehicles in accordance with Chapter 1a, Motor Vehicle Act.

(2) (a) The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Motor Vehicle Division for registration on forms approved by the Motor Vehicle Division.

(b) An owner of an off-highway vehicle may apply for automatic registration renewal as described in Section 41-1a-216.

(c) A person may register an off-highway vehicle or street-legal all-terrain vehicle for a 24-month period as described in Section 41-1a-215.5.

(3) Each application for registration of an off-highway vehicle shall be accompanied by:

(a) evidence of ownership, a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number;

(b) the past registration card; or

(c) the fee for a duplicate.

(4) (a) (i) Beginning on January 1, 2023, except as provided in Subsection (4)(e), the first time an off-highway vehicle is registered, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

(ii) If an off-highway vehicle has been registered previously in this state but has not been issued an off-highway vehicle license plate, beginning on January 1, 2023, upon application for registration renewal, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

(b) Upon each annual registration, the Motor Vehicle Division shall issue a registration decal and a registration card for each off-highway vehicle registered.

(c) The off-highway vehicle license plate:

(i) shall contain a unique five-digit number, using numbers, letters, or a combination of numbers and letters, to identify the off-highway vehicle for which it is issued;

(ii) shall be affixed to the rear of the off-highway vehicle for which it is issued in a plainly visible and upright position as prescribed by rule of the division under Section 41-22-5.1;

(iii) shall be maintained free of foreign materials and in a condition to be clearly legible;

(iv) shall be a distinct tan color with black lettering to identify the license plate as an off-highway vehicle license plate;

(v) shall have a location to attach the registration decal; and

(vi) may not be a personalized license plate or a special group license plate.

(d) (i) At all times, proof of registration shall be kept with the off-highway vehicle and shall be available for inspection by a law enforcement officer.

(ii) An individual may show proof of registration by displaying:

(A) a digital copy or photograph of the registration card on a mobile electronic device;

(B) proof of registration on a mobile electronic device through a mobile application approved by the relevant state agency; or

(C) an original registration card issued by the Motor Vehicle Division.

(e) An off-highway vehicle that is a motorcycle or a snowmobile is:

(i) not required to obtain or display an off-highway vehicle license plate; and

(ii) required to obtain and display an off-highway vehicle registration sticker.

(5) (a) Except as provided by Subsection (5)(c), an applicant for a registration card and registration decal shall provide the Motor Vehicle Division a certificate, described under Subsection (5)(b), from the county assessor of the county in which the off-highway vehicle has situs for taxation.

(b) The certificate required under Subsection (5)(a) shall state one of the following:

(i) the property tax on the off-highway vehicle for the current year has been paid;

(ii) in the county assessor's opinion, the tax is a lien on real property sufficient to secure the payment of the tax; or

(iii) the off-highway vehicle is exempt by law from payment of property tax for the current year.

(c) An off-highway vehicle for which an off-highway implement of husbandry sticker has been issued in accordance with Section 41-22-5.5 is:

(i) exempt from the requirement under this Subsection (5);

(ii) not required to obtain or purchase an off-highway vehicle license plate; and

(iii) required to obtain and display an off-highway vehicle registration sticker.

(6) (a) All records of the division made or kept under this section shall be classified by the Motor Vehicle Division in the same manner as motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records under Section 41-1a-116.

(7) A violation of this section is an infraction.

Section 12. Section 41-22-3.5 is amended to read:

41-22-3.5. Staggered registration dates -- Registration renewal.

(1) Unless exempted under Section 41-22-9, or unless the off-highway vehicle or street-legal all-terrain vehicle is registered for a 24-month period as provided in Section 41-1a-215.5, every off-highway vehicle registration, every registration card, and every registration sticker issued under this chapter for the first registration of the off-highway vehicle in this state, continues in effect for a period of 12 months beginning with the first day of the calendar month of registration and does not expire until the last day of the same month in the following year.

(2) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the off-highway vehicle is extended to 12 midnight of the next business day.

(3) (a) The division may receive applications for registration renewal and issue new registration cards at any time prior to the expiration of the registration, subject to the availability of renewal materials.

(b) Applications for registration renewal shall be made in accordance with Section 41-22-3.

(4) (a) The new registration shall retain the same expiration month as recorded on the original registration even if the registration has expired.

(b) The year of registration expiration shall be changed to reflect the renewed registration period.

(5) If the registration renewal application is an application generated by the division through its automated system, the owner need not surrender the last registration card or duplicate.

Section 13. Section 41-22-8 is amended to read:

41-22-8. Registration fees.

(1) [~~The~~]Subject to Subsection (4), the division, after notifying the commission, shall establish the fees that shall be paid in accordance with this chapter, subject to the following:

(a) (i) Except as provided in Subsection (1)(a)(ii) or (iii), the fee for each off-highway vehicle registration may not exceed $35.

(ii) The fee for each snowmobile registration may not exceed $26.

(iii) The fee for each street-legal all-terrain vehicle may not exceed $72.

(b) The fee for each duplicate registration card may not exceed $3.

(c) The fee for each duplicate registration sticker may not exceed $5.

(2) A fee may not be charged for an off-highway vehicle that is owned and operated by the United States Government, this state, or its political subdivisions.

(3) (a) In addition to the fees under this section, Section 41-22-33, and Section 41-22-34, the Motor Vehicle Division shall require a person to pay one dollar to register an off-highway vehicle under Section 41-22-3.

(b) The Motor Vehicle Division shall deposit the fees the Motor Vehicle Division collects under Subsection (3)(a) into the Brain and Spinal Cord Injury Fund described in Section 26B-1-318.

(4) For a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, the fee amounts are double the amounts due for the same vehicle registered for a 12-month period.

Section 14. Section 41-22-19 is amended to read:

41-22-19. Deposit of fees and related money into Off-highway Vehicle Account -- Use for facilities, costs and expenses of division, and education -- Request for matching funds.

(1) (a) Except as provided under Subsections (3) through (5) and Sections 41-22-34 and 41-22-36, registration fees and related money collected by the Motor Vehicle Division or any agencies designated to act for the Motor Vehicle Division under this chapter shall be deposited as restricted revenue into the Off-highway Vehicle Account in the General Fund less the costs incurred by the Motor Vehicle Division for collecting off-highway vehicle registration fees.

(b) The balance of the money may be used by the division:

(i) for the construction, improvement, operation, acquisition, or maintenance of publicly owned or administered off-highway vehicle facilities, including public access facilities;

(ii) for the mitigation of impacts associated with off-highway vehicle use;

(iii) for the education of off-highway vehicle users;

(iv) for off-highway vehicle access protection;

(v) to support off-highway vehicle search and rescue activities and programs;

(vi) to promote and encourage off-highway vehicle tourism;

(vii) for other uses that further the policy set forth in Section 41-22-1;

(viii) as grants or matching funds with a federal agency, state agency, political subdivision of the state, or organized user group for any of the uses described in Subsections (1)(b)(i) through (vii); and

(ix) for the administration and enforcement of this chapter.

(2) An agency or political subdivision requesting matching funds shall submit plans for proposed off-highway vehicle facilities to the division for review and approval.

(3) (a) One dollar and 50 cents of each annual registration fee collected under Subsection 41-22-8(1) and each off-highway vehicle user fee collected under Subsection 41-22-35(2) shall be deposited into the Land Grant Management Fund created under Section 53C-3-101.

(b) The Utah School and Institutional Trust Lands Administration shall use the money deposited under Subsection (3)(a) for costs associated with off-highway vehicle use of legally accessible lands within its jurisdiction as follows:

(i) to improve recreational opportunities on trust lands by constructing, improving, maintaining, or perfecting access for off-highway vehicle trails; and

(ii) to mitigate impacts associated with off-highway vehicle use.

(c) An unused balance of the money deposited under Subsection (3)(a) exceeding $350,000 at the end of each fiscal year shall be deposited in the Off-highway Vehicle Account under Subsection (1).

(4) One dollar of each off-highway vehicle registration fee collected under Subsection 41-22-8(1) shall be deposited into the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(5) (a) The Motor Vehicle Division shall collect a fee for any new or replacement license plate issued under this chapter.

(b) The fee described in Subsection (5)(a) shall be an amount equal to the fee for a new or replacement license plate as established pursuant to Section 63J-1-504.

(c) The Motor Vehicle Division shall deposit the fee described in Subsection (5)(a) into the License Plate Restricted Account created under Section 41-1a-122.

(6) For a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, the deposited amounts described in this section shall be double the amount for the same vehicle registered for a 12-month period.

[~~(6)~~](7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after notifying the commission, shall make rules as necessary to implement this section.

Section 15. Section 41-22-33 is amended to read:

41-22-33. Fees for safety and education program -- Penalty -- Unlawful acts.

(1) A fee set by the division, after notifying the commission, in accordance with Section 63J-1-504 shall be added to the registration fee required to register an off-highway vehicle under Section 41-22-8 to help fund the off-highway vehicle safety and education program.

(2) If the division modifies the fee under Subsection (1), the modification shall take effect on the first day of the calendar quarter after 90 days from the day on which the division provides the State Tax Commission:

(a) notice from the division stating that the division will modify the fee; and

(b) a copy of the fee modification.

(3) The division shall require a person registering an off-highway vehicle or a street-legal all-terrain vehicle registered for a 24-month period as provided in Section 41-1a-215.5 to pay double the amount of the fee described in Subsection (1) for the same vehicle registered for a 12-month period.

Section 16. Section 41-22-34 is amended to read:

41-22-34. Search and rescue fee -- Amount -- Deposition.

(1) In addition to the fees imposed under Sections 41-22-8 and 41-22-33, there is imposed a search and rescue fee of 50 cents on each off-highway vehicle required to be registered or renewed under Section 41-22-3.

(2) The fees imposed under this section shall be collected in the same manner and by the same agency designated to collect the fees imposed under this chapter.

(3) The fees collected under this section shall be deposited [~~in~~]into the General Fund as dedicated credits for the Search and Rescue Financial Assistance Program created under Section 53-2a-1101.

(4) The division shall require a person registering an off-highway vehicle or a street-legal all-terrain vehicle registered for a 24-month period as provided in Section 41-1a-215.5 to pay double the amount of the fee described in Subsection (1) for the same vehicle registered for a 12-month period.

Section 17. Section 59-2-405.1 is amended to read:

59-2-405.1. Uniform fee on certain vehicles weighing 12,000 pounds or less -- Distribution of revenues -- Appeals.

(1) The property described in Subsection (2) is exempt from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section 2, Subsection (6).

(2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this part a statewide uniform fee in lieu of the ad valorem tax on:

(i) motor vehicles as defined in Section 41-1a-102 that:

(A) are required to be registered with the state; and

(B) weigh 12,000 pounds or less; and

(ii) state-assessed commercial vehicles required to be registered with the state that weigh 12,000 pounds or less.

(b) The following tangible personal property is exempt from the statewide uniform fee imposed by this section:

(i) aircraft;

(ii) tangible personal property subject to a uniform fee imposed by:

(A) Section 59-2-405;

(B) Section 59-2-405.2; or

(C) Section 59-2-405.3; and

(iii) tangible personal property that is exempt from state or county ad valorem property taxes under the laws of this state or of the federal government.

(3) (a) Except as provided in Subsections (3)(b) and (c), beginning on January 1, 1999, the uniform fee for purposes of this section is as follows:

Age of Vehicle	Uniform Fee
12 or more years	$10
9 or more years but less than 12 years	$50
6 or more years but less than 9 years	$80
3 or more years but less than 6 years	$110
Less than 3 years	$150

(b) For registrations under Section 41-1a-215.5, the uniform fee for purposes of this section is as follows:

Age of Vehicle	Uniform Fee
12 or more years	$7.75
9 or more years but less than 12 years	$38.50
6 or more years but less than 9 years	$61.50
3 or more years but less than 6 years	$84.75
Less than 3 years	$115.50

(c) Notwithstanding Subsections (3)(a) and (b), beginning on September 1, 2001, for a motor vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306, the uniform fee for purposes of this section is $5 for the event period specified on the temporary sports event registration certificate regardless of the age of the motor vehicle.

(d) (i) Subject to Subsection (3)(d)(ii), for a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, the uniform statewide fee amounts imposed by this section are double the amounts due for the same vehicle registered for a 12-month period.

(ii) For a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, if the 24-month term extends from one age bracket to another age bracket as described in this section, the person shall pay the sum of:

(A) the uniform statewide fee amount for the first year corresponding to the age bracket applicable for the first 12 months of the registration period; and

(B) the uniform statewide fee amount for the second year corresponding to the age bracket applicable for the second 12 months of the registration period.

(4) Notwithstanding Section 59-2-407, property subject to the uniform fee that is brought into the state and is required to be registered in Utah shall, as a condition of registration, be subject to the uniform fee unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(5) (a) The revenues collected in each county from the uniform fee shall be distributed by the county to each taxing entity in which the property described in Subsection (2) is located in the same proportion in which revenue collected from ad valorem real property tax is distributed.

(b) Each taxing entity shall distribute the revenues received under Subsection (5)(a) in the same proportion in which revenue collected from ad valorem real property tax is distributed.

Section 18. Section 59-2-405.2 is amended to read:

59-2-405.2. Definitions -- Uniform statewide fee on certain tangible personal property -- Distribution of revenues -- Rulemaking authority -- Determining the length of a vessel.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "all-terrain vehicle" means a motor vehicle that:

(A) is an:

(I) all-terrain type I vehicle as defined in Section 41-22-2;

(II) all-terrain type II vehicle as defined in Section 41-22-2; or

(III) all-terrain type III vehicle as defined in Section 41-22-2;

(B) is required to be registered in accordance with Title 41, Chapter 22, Off-highway Vehicles; and

(C) has:

(I) an engine with more than 150 cubic centimeters displacement;

(II) a motor that produces more than five horsepower; or

(III) an electric motor; and

(ii) notwithstanding Subsection (1)(a)(i), "all-terrain vehicle" does not include a snowmobile.

(b) "Camper" means a camper:

(i) as defined in Section 41-1a-102; and

(ii) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration.

(c) (i) "Canoe" means a vessel that:

(A) is long and narrow;

(B) has curved sides; and

(C) is tapered:

(I) to two pointed ends; or

(II) to one pointed end and is blunt on the other end; and

(ii) "canoe" includes:

(A) a collapsible inflatable canoe;

(B) a kayak;

(C) a racing shell;

(D) a rowing scull; or

(E) notwithstanding the definition of vessel in Subsection (1)(cc), a canoe with an outboard motor.

(d) "Dealer" [~~is as~~]means the same as that term is defined in Section 41-1a-102.

(e) "Jon boat" means a vessel that:

(i) has a square bow; and

(ii) has a flat bottom.

(f) "Motor vehicle" [~~is as~~]means the same as that term is defined in Section 41-22-2.

(g) "Other motorcycle" means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation over unimproved terrain;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(h) (i) "Other trailer" means a portable vehicle without motive power that is primarily used:

(A) to transport tangible personal property; and

(B) for a purpose other than a commercial purpose; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(h)(i)(B), the commission may by rule define what constitutes a purpose other than a commercial purpose.

(i) "Outboard motor" [~~is as~~]means the same as that term is defined in Section 41-1a-102.

(j) "Park model recreational vehicle" [~~is as~~]means the same as that term is defined in Section 41-1a-102.

(k) "Personal watercraft" means a personal watercraft:

(i) as defined in Section 73-18-2; and

(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(l) (i) "Pontoon" means a vessel that:

(A) is:

(I) supported by one or more floats; and

(II) propelled by either inboard or outboard power; and

(B) is not:

(I) a houseboat; or

(II) a collapsible inflatable vessel; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "houseboat."

(m) "Qualifying adjustment, exemption, or reduction" means an adjustment, exemption, or reduction:

(i) of all or a portion of a qualifying payment;

(ii) granted by a county during the refund period; and

(iii) received by a qualifying person.

(n) (i) "Qualifying payment" means the payment made:

(A) of a uniform statewide fee in accordance with this section:

(I) by a qualifying person;

(II) to a county; and

(III) during the refund period; and

(B) on an item of qualifying tangible personal property; and

(ii) if a qualifying person received a qualifying adjustment, exemption, or reduction for an item of qualifying tangible personal property, the qualifying payment for that qualifying tangible personal property is equal to the difference between:

(A) the payment described in this Subsection (1)(n) for that item of qualifying tangible personal property; and

(B) the amount of the qualifying adjustment, exemption, or reduction.

(o) "Qualifying person" means a person that paid a uniform statewide fee:

(i) during the refund period;

(ii) in accordance with this section; and

(iii) on an item of qualifying tangible personal property.

(p) "Qualifying tangible personal property" means a:

(i) qualifying vehicle; or

(ii) qualifying watercraft.

(q) "Qualifying vehicle" means:

(i) an all-terrain vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(ii) an other motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(iii) a small motor vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(iv) a snowmobile with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters; or

(v) a street motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters.

(r) "Qualifying watercraft" means a:

(i) canoe;

(ii) collapsible inflatable vessel;

(iii) jon boat;

(iv) pontoon;

(v) sailboat; or

(vi) utility boat.

(s) "Refund period" means the time period:

(i) beginning on January 1, 2006; and

(ii) ending on December 29, 2006.

(t) "Sailboat" means a sailboat as defined in Section 73-18-2.

(u) (i) "Small motor vehicle" means a motor vehicle that:

(A) is required to be registered in accordance with Title 41, Motor Vehicles; and

(B) has:

(I) an engine with 150 or less cubic centimeters displacement; or

(II) a motor that produces five or less horsepower; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule develop a process for an owner of a motor vehicle to certify whether the motor vehicle has:

(A) an engine with 150 or less cubic centimeters displacement; or

(B) a motor that produces five or less horsepower.

(v) "Snowmobile" means a motor vehicle that:

(i) is a snowmobile as defined in Section 41-22-2;

(ii) is required to be registered in accordance with Title 41, Chapter 22, Off-highway Vehicles; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(w) "Street-legal all-terrain vehicle" means the same as that term is defined in Section 41-6a-102.

(x) "Street motorcycle" means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation on highways;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(y) "Tangible personal property owner" means a person that owns an item of qualifying tangible personal property.

(z) "Tent trailer" means a portable vehicle without motive power that:

(i) is constructed with collapsible side walls that:

(A) fold for towing by a motor vehicle; and

(B) unfold at a campsite;

(ii) is designed as a temporary dwelling for travel, recreational, or vacation use;

(iii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iv) does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

(aa) (i) Except as provided in Subsection (1)(aa)(ii), "travel trailer" means a travel trailer:

(A) as defined in Section 41-1a-102; and

(B) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(ii) notwithstanding Subsection (1)(aa)(i), "travel trailer" does not include:

(A) a camper; or

(B) a tent trailer.

(bb) (i) "Utility boat" means a vessel that:

(A) has:

(I) two or three bench seating;

(II) an outboard motor; and

(III) a hull made of aluminum, fiberglass, or wood; and

(B) does not have:

(I) decking;

(II) a permanent canopy; or

(III) a floor other than the hull; and

(ii) notwithstanding Subsection (1)(bb)(i), "utility boat" does not include a collapsible inflatable vessel.

(cc) "Vessel" means a vessel:

(i) as defined in Section 73-18-2, including an outboard motor of the vessel; and

(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), beginning on January 1, 2006, the tangible personal property described in Subsection (2)(b) is:

(i) exempt from the tax imposed by Section 59-2-103; and

(ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as provided in this section.

(b) The following tangible personal property applies to Subsection (2)(a) if that tangible personal property is required to be registered with the state:

(i) an all-terrain vehicle;

(ii) a camper;

(iii) an other motorcycle;

(iv) an other trailer;

(v) a personal watercraft;

(vi) a small motor vehicle;

(vii) a snowmobile;

(viii) a street motorcycle;

(ix) a tent trailer;

(x) a travel trailer;

(xi) a park model recreational vehicle; and

(xii) a vessel if that vessel is less than 31 feet in length as determined under Subsection [~~(8)~~](9).

(3) Except as provided in Subsection (4) and for purposes of this section, the uniform statewide fees are:
(a) for a snowmobile:

Age of Snowmobile	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$20
6 or more years but less than 9 years	$30
3 or more years but less than 6 years	$35
Less than 3 years	$45

(b) for an all-terrain vehicle that is not a street-legal all-terrain vehicle or another motorcycle:

Age of All-Terrain Vehicle or Other Motorcycle	Uniform Statewide Fee
12 or more years	$4
9 or more years but less than 12 years	$8
6 or more years but less than 9 years	$12
3 or more years but less than 6 years	$14
Less than 3 years	$18

(c) for a street-legal all-terrain vehicle:

Age of Street-Legal All-Terrain Vehicle	Uniform Statewide Fee
12 or more years	$4
9 or more years but less than 12 years	$14
6 or more years but less than 9 years	$20
3 or more years but less than 6 years	$28
Less than 3 years	$38

(d) for a camper or a tent trailer:

Age of Camper or Tent Trailer	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$25
6 or more years but less than 9 years	$35
3 or more years but less than 6 years	$50
Less than 3 years	$70

(e) for an other trailer:

Age of Other Trailer	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$15
6 or more years but less than 9 years	$20
3 or more years but less than 6 years	$25
Less than 3 years	$30

(f) for a personal watercraft:

Age of Personal Watercraft	Uniform Statewide Fee
12 or more years	$10

9 or more years but less than 12 years	$25
6 or more years but less than 9 years	$35
3 or more years but less than 6 years	$45
Less than 3 years	$55

(g) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
6 or more years	$10
3 or more years but less than 6 years	$15
Less than 3 years	$25

(h) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$35
6 or more years but less than 9 years	$50
3 or more years but less than 6 years	$70
Less than 3 years	$95

(i) for a travel trailer or park model recreational vehicle:

Age of Travel Trailer or Park Model Recreational Vehicle	Uniform Statewide Fee
12 or more years	$20
9 or more years but less than 12 years	$65
6 or more years but less than 9 years	$90
3 or more years but less than 6 years	$135
Less than 3 years	$175

(j) $10 regardless of the age of the vessel if the vessel is:
(i) less than 15 feet in length;
(ii) a canoe;
(iii) a jon boat; or
(iv) a utility boat;
(k) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age:

Length of Vessel	Uniform Statewide Fee
15 feet or more in length but less than 19 feet in length	$15
19 feet or more in length but less than 23 feet in length	$25
23 feet or more in length but less than 27 feet in length	$40
27 feet or more in length but less than 31 feet in length	$75

(l) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$25
9 or more years but less than 12 years	$65
6 or more years but less than 9 years	$80
3 or more years but less than 6 years	$110

Less than 3 years	$150

(m) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$50
9 or more years but less than 12 years	$120
6 or more years but less than 9 years	$175
3 or more years but less than 6 years	$220
Less than 3 years	$275

(n) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$100
9 or more years but less than 12 years	$180
6 or more years but less than 9 years	$240
3 or more years but less than 6 years	$310
Less than 3 years	$400

(o) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$120
9 or more years but less than 12 years	$250
6 or more years but less than 9 years	$350
3 or more years but less than 6 years	$500
Less than 3 years	$700

(4) For registrations under Section 41-1a-215.5, the uniform fee for purposes of this section is as follows:

(a) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
12 or more years	$7.75
9 or more years but less than 12 years	$27
6 or more years but less than 9 years	$38.50
3 or more years but less than 6 years	$54
Less than 3 years	$73

(b) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
6 or more years	$7.75
3 or more years but less than 6 years	$11.50
Less than 3 years	$19.25

(5) Notwithstanding Section 59-2-407, tangible personal property subject to the uniform statewide fees imposed by this section that is brought into the state shall, as a condition of registration, be subject to the uniform statewide fees unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(6) (a) Subject to Subsection (6)(b), for a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, the uniform statewide fee amounts imposed by this section are double the amounts due for the same vehicle registered for a 12-month period.

(b) For a vehicle registered for a 24-month period as provided in Section 41-1a-215.5, if the 24-month term extends from one age bracket to another age bracket as described in this section, the person shall pay the sum of:

(i) the uniform statewide fee amount for the first year corresponding to the age bracket applicable for the first 12 months of the registration period; and

(ii) the uniform statewide fee amount for the second year corresponding to the age bracket applicable for the second 12 months of the registration period.

[~~(6)~~](7) (a) Except as provided in Subsection [~~(7)~~](8), the revenues collected in each county from the uniform statewide fees imposed by this section shall be distributed by the county to each taxing entity in which each item of tangible personal property subject to the uniform statewide fees is located in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(b) Each taxing entity described in Subsection [~~(6)(a)~~](7)(a) that receives revenues from the uniform statewide fees imposed by this section shall distribute the revenues in the same proportion in which revenues collected from the ad valorem property tax are distributed.

[~~(7)~~](8) The commission shall deposit 50% of the revenue collected from the statewide uniform fee on a vessel that is imposed under this section into the Utah Boating Grant Account created in Section 73-18-22.3. The remaining 50% is subject to the requirements of Subsection [~~(6)~~](7).

[~~(8)~~](9) (a) For purposes of the uniform statewide fee imposed by this section, the length of a vessel shall be determined as provided in this Subsection [~~(8)~~](9).

(b) (i) Except as provided in Subsection [~~(8)(b)(ii)~~](9)(b)(ii), the length of a vessel shall be measured as follows:

(A) the length of a vessel shall be measured in a straight line; and

(B) the length of a vessel is equal to the distance between the bow of the vessel and the stern of the vessel.

(ii) Notwithstanding Subsection [~~(8)(b)(i)~~](9)(b)(i), the length of a vessel may not include the length of:

(A) a swim deck;

(B) a ladder;

(C) an outboard motor; or

(D) an appurtenance or attachment similar to Subsections [~~(8)(b)(ii)(A)~~](9)(b)(ii)(A) through (C) as determined by the commission by rule.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an appurtenance or attachment similar to Subsections [~~(8)(b)(ii)(A)~~](9)(b)(ii)(A) through (C).

(c) The length of a vessel:

(i) (A) for a new vessel, is the length:

(I) listed on the manufacturer's statement of origin if the length of the vessel measured under Subsection [~~(8)(b)~~](9)(b) is equal to the length of the vessel listed on the manufacturer's statement of origin; or

(II) listed on a form submitted to the commission by a dealer in accordance with Subsection [~~(8)(d)~~](9)(d) if the length of the vessel measured under Subsection [~~(8)(b)~~](9)(b) is not equal to the length of the vessel listed on the manufacturer's statement of origin; or

(B) for a vessel other than a new vessel, is the length:

(I) corresponding to the model number if the length of the vessel measured under Subsection [~~(8)(b)~~](9)(b) is equal to the length of the vessel determined by reference to the model number; or

(II) listed on a form submitted to the commission by an owner of the vessel in accordance with Subsection [~~(8)(d)~~](9)(d) if the length of the vessel measured under Subsection [~~(8)(b)~~](9)(b) is not equal to the length of the vessel determined by reference to the model number; and

(ii) (A) is determined at the time of the:

(I) first registration as defined in Section 41-1a-102 that occurs on or after January 1, 2006; or

(II) first renewal of registration that occurs on or after January 1, 2006; and

(B) may be determined after the time described in Subsection [~~(8)(c)(ii)(A)~~](9)(c)(ii)(A) only if the commission requests that a dealer or an owner submit a form to the commission in accordance with Subsection [~~(8)(d)~~](9)(d).

(d) (i) A form under Subsection [~~(8)(c)~~](9)(c) shall:

(A) be developed by the commission;

(B) be provided by the commission to:

(I) a dealer; or

(II) an owner of a vessel;

(C) provide for the reporting of the length of a vessel;

(D) be submitted to the commission at the time the length of the vessel is determined in accordance with Subsection [~~(8)(c)(ii)~~](9)(c)(ii);

(E) be signed by:

(I) if the form is submitted by a dealer, that dealer; or

(II) if the form is submitted by an owner of the vessel, an owner of the vessel; and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection [~~(8)(d)(i)(F)~~](9)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A dealer or an owner that submits a form to the commission under Subsection [~~(8)(c)~~](9)(c) is considered to have given the dealer's or owner's consent to an audit or review by:

(I) the commission;

(II) the county assessor; or

(III) the commission and the county assessor.

(B) The consent described in Subsection [~~(8)(d)(iii)(A)~~](9)(d)(iii)(A) is a condition to the acceptance of any form.

[~~(9)~~](10) (a) A county that collected a qualifying payment from a qualifying person during the refund period shall issue a refund to the qualifying person as described in Subsection [~~(9)(b)~~](10)(b) if:

(i) the difference described in Subsection [~~(9)(b)~~](10)(b) is $1 or more; and

(ii) the qualifying person submitted a form in accordance with Subsections [~~(9)(c) and (d)~~](10)(c) and (d).

(b) The refund amount shall be calculated as follows:

(i) for a qualifying vehicle, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying vehicle during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying vehicle; and

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period; and

(ii) for a qualifying watercraft, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying watercraft during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying watercraft;

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period.

(c) Before the county issues a refund to the qualifying person in accordance with Subsection [~~(9)(a)~~](10)(a) the qualifying person shall submit a form to the county to verify the qualifying person is entitled to the refund.

(d) (i) A form under Subsection [~~(9)(c) or (10)~~](10)(c) or (11) shall:

(A) be developed by the commission;

(B) be provided by the commission to the counties;

(C) be provided by the county to the qualifying person or tangible personal property owner;

(D) provide for the reporting of the following:

(I) for a qualifying vehicle:

(Aa) the type of qualifying vehicle; and

(Bb) the amount of cubic centimeters displacement;

(II) for a qualifying watercraft:

(Aa) the length of the qualifying watercraft;

(Bb) the age of the qualifying watercraft; and

(Cc) the type of qualifying watercraft;

(E) be signed by the qualifying person or tangible personal property owner; and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection [~~(9)(d)(i)(F)~~](10)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A qualifying person or tangible personal property owner that submits a form to a county under Subsection [~~(9)(c) or (10)~~](10)(c) or (11) is considered to have given the qualifying person's consent to an audit or review by:

(I) the commission;

(II) the county assessor; or

(III) the commission and the county assessor.

(B) The consent described in Subsection [~~(9)(d)(iii)(A)~~](10)(d)(iii)(A) is a condition to the acceptance of any form.

(e) The county shall make changes to the commission's records with the information received by the county from the form submitted in accordance with Subsection [~~(9)(c)~~](10)(c).

[~~(10)~~](11) A county shall change its records regarding an item of qualifying tangible personal property if the tangible personal property owner submits a form to the county in accordance with Subsection [~~(9)(d)~~](10)(d).

[~~(11)~~](12) (a) For purposes of this Subsection [~~(11)~~](12), "owner of tangible personal property" means a person that was required to pay a uniform statewide fee:

(i) during the refund period;

(ii) in accordance with this section; and

(iii) on an item of tangible personal property subject to the uniform statewide fees imposed by this section.

(b) A county that collected revenues from uniform statewide fees imposed by this section during the refund period shall notify an owner of tangible personal property:

(i) of the tangible personal property classification changes made to this section pursuant to Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1;

(ii) that the owner of tangible personal property may obtain and file a form to modify the county's records regarding the owner's tangible personal property; and

(iii) that the owner may be entitled to a refund pursuant to Subsection [~~(9)~~](10).

Section 19. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 280
H. B. 516
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

AUTOMOBILE FRANCHISE AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Chris H. Wilson

Cosponsor:
Melissa G. Ballard

LONG TITLE

General Description:

This bill amends provisions related to an automobile franchise.

Highlighted Provisions:

This bill:

- ► defines "affiliate";
- ► repeals provisions relating to a franchisor's ability to engage in certain activities;
- ► amends the definition of "franchise holder" to include a manufacturer that acquires or expands the manufacturer's interests under certain conditions;
- ► excludes a dealership from the definition of "franchise holder"; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-14-201, as last amended by Laws of Utah 2024, Chapter 507
41-3-102, as last amended by Laws of Utah 2024, Chapter 507

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-14-201 is amended to read:
13-14-201. Prohibited acts by franchisors -- Affiliates -- Disclosures.

(1) A franchisor may not in this state:

(a) except as provided in Subsection (3), require a franchisee to order or accept delivery of any new motor vehicle, part, accessory, equipment, or other item not otherwise required by law that is not voluntarily ordered by the franchisee;

(b) require a franchisee to:

(i) participate monetarily in any advertising campaign; or

(ii) participate in a contest, or purchase any promotional materials, display devices, or display decorations or materials;

(c) require a franchisee to change the capital structure of the franchisee's dealership or the means by or through which the franchisee finances the operation of the franchisee's dealership, if the dealership at all times meets reasonable capital standards determined by and applied in a nondiscriminatory manner by the franchisor;

(d) require a franchisee to refrain from participating in the management of, investment in, or acquisition of any other line of new motor vehicles or related products, if the franchisee:

(i) maintains a reasonable line of credit for each make or line of vehicles; and

(ii) complies with reasonable capital and facilities requirements of the franchisor;

(e) require a franchisee to prospectively agree to a release, assignment, novation, waiver, or estoppel that would:

(i) relieve a franchisor from any liability, including notice and hearing rights imposed on the franchisor by this chapter; or

(ii) require any controversy between the franchisee and a franchisor to be referred to a third party if the decision by the third party would be binding;

(f) require a franchisee to change the location of the principal place of business of the franchisee's dealership or make any substantial alterations to the dealership premises, if the change or alterations would be unreasonable or cause the franchisee to lose control of the premises or impose any other unreasonable requirement related to the facilities or premises;

(g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an advertising association;

(h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with the franchisor or do any other act that is unfair or prejudicial to the franchisee, by threatening to cancel a franchise agreement or other contractual agreement or understanding existing

between the franchisor and franchisee;

(i) adopt, change, establish, enforce, modify, or implement a plan or system for the allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to the franchisor's franchisees so that the plan or system is not fair, reasonable, and equitable, including a plan or system that imposes a vehicle sales objective, goal, or quota on a franchisee, or that evaluates a franchisee's sales effectiveness or overall sales performance, without providing a reasonable opportunity for the franchisee to acquire the necessary vehicles in a timely manner from the franchisor on commercially reasonable terms;

(j) increase the price of any new motor vehicle that the franchisee has ordered from the franchisor and for which there exists at the time of the order a bona fide sale to a retail purchaser if the order was made [~~prior to~~]before the franchisee's receipt of an official written price increase notification;

(k) fail to indemnify and hold harmless the franchisor's franchisee against any judgment for damages or settlement approved in writing by the franchisor:

(i) including court costs and attorney fees arising out of actions, claims, or proceedings including those based on:

(A) strict liability;

(B) negligence;

(C) misrepresentation;

(D) express or implied warranty;

(E) revocation as described in Section 70A-2-608; or

(F) rejection as described in Section 70A-2-602; and

(ii) to the extent the judgment or settlement relates to alleged defective or negligent actions by the franchisor;

(l) threaten or coerce a franchisee to waive or forbear the franchisee's right to protest the establishment or relocation of a same line-make franchisee in the relevant market area of the affected franchisee;

(m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of new motor vehicles of each make, series, and model needed by the franchisee to achieve a percentage of total new vehicle sales of each make, series, and model equitably related to the total new vehicle production or importation being achieved nationally at the time of the order by each make, series, and model covered under the franchise agreement;

(n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing dealer facility or facilities, including by:

(i) requiring or otherwise coercing a franchisee to exclude or remove from the franchisee's facility operations the selling or servicing of a line-make of vehicles for which the franchisee has a franchise agreement to utilize the facilities; or

(ii) prohibiting the franchisee from locating, relocating, or occupying a franchise or line-make in an existing facility owned or occupied by the franchisee that includes the selling or servicing of another franchise or line-make at the facility provided that the franchisee gives the franchisor written notice of the franchise co-location;

(o) fail to include in any franchise agreement or other agreement governing a franchisee's ownership of a dealership or a franchisee's conduct of business under a franchise the following language or language to the effect that: "If any provision in this agreement contravenes the laws or regulations of any state or other jurisdiction where this agreement is to be performed, or provided for by such laws or regulations, the provision is considered to be modified to conform to such laws or regulations, and all other terms and provisions shall remain in full force.";

(p) engage in the distribution, sale, offer for sale, or lease of a new motor vehicle to purchasers [~~who~~]that acquire the vehicle in this state except through a franchisee with [~~whom~~]which the franchisor has established a written franchise agreement, if the franchisor's trade name, trademark, service mark, or related characteristic is an integral element in the distribution, sale, offer for sale, or lease;

(q) engage in the distribution or sale of a recreational vehicle that is manufactured, rented, sold, or offered for sale in this state without being constructed in accordance with the standards set by the American National Standards Institute for recreational vehicles and evidenced by a seal or plate attached to the vehicle;

(r) except as provided in Subsection (2), authorize or permit a person to perform warranty service repairs on motor vehicles, except warranty service repairs:

(i) by a franchisee with [~~whom~~]which the franchisor has entered into a franchise agreement for the sale and service of the franchisor's motor vehicles; or

(ii) on owned motor vehicles by a person or government entity [~~who~~]that has purchased new motor vehicles [~~pursuant to~~]in accordance with a franchisor's fleet discount program;

(s) fail to provide a franchisee with a written franchise agreement;

(t) (i) except as provided in Subsection (1)(t)(ii) and notwithstanding any other provisions of this chapter:

(A) unreasonably fail or refuse to offer to [~~its~~]the franchisor's same line-make franchised dealers all models manufactured for that line-make; or

(B) unreasonably require a dealer to:

(I) pay any extra fee, remodel, renovate, or recondition the dealer's existing facilities; or

(II) purchase unreasonable advertising displays or other materials as a prerequisite to receiving a model or series of vehicles; and

(ii) notwithstanding Subsection (1)(t)(i), a recreational vehicle franchisor may split a line-make between motor home and travel trailer products;

(u) except as provided in Subsection (6), directly or indirectly:

(i) own an interest in a new motor vehicle dealer or dealership;

(ii) operate or control a new motor vehicle dealer or dealership;

(iii) act in the capacity of a new motor vehicle dealer, as defined in Section 13-14-102; or

(iv) operate a motor vehicle service facility;

(v) fail to timely pay for all reimbursements to a franchisee for incentives and other payments made by the franchisor;

(w) directly or indirectly influence or direct potential customers to franchisees in an inequitable manner, including:

(i) charging a franchisee a fee for a referral regarding a potential sale or lease of any of the franchisee's products or services in an amount exceeding the actual cost of the referral;

(ii) giving a customer referral to a franchisee on the condition that the franchisee agree to sell the vehicle at a price fixed by the franchisor; or

(iii) advising a potential customer as to the amount that the potential customer should pay for a particular product;

(x) fail to provide comparable delivery terms to each franchisee for a product of the franchisor, including the time of delivery after the placement of an order by the franchisee;

(y) if a franchisor provides personnel training to the franchisor's franchisees, unreasonably fail to make that training available to each franchisee on proportionally equal terms;

(z) condition a franchisee's eligibility to participate in a sales incentive program on the requirement that a franchisee use the financing services of the franchisor or a subsidiary or affiliate of the franchisor for inventory financing;

(aa) make available for public disclosure, except with the franchisee's permission or under subpoena or in any administrative or judicial proceeding in which the franchisee or the franchisor is a party, any confidential financial information regarding a franchisee, including:

(i) monthly financial statements provided by the franchisee;

(ii) the profitability of a franchisee; or

(iii) the status of a franchisee's inventory of products;

(bb) use any performance standard, incentive program, or similar method to measure the performance of franchisees unless the standard or program:

(i) is designed and administered in a fair, reasonable, and equitable manner;

(ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample; and

(iii) is, upon request by a franchisee, disclosed and explained in writing to the franchisee, including:

(A) how the standard or program is designed;

(B) how the standard or program will be administered; and

(C) the types of data that will be collected and used in the application of the standard or program;

(cc) other than sales to the federal government, directly or indirectly, sell, lease, offer to sell, or offer to lease, a new motor vehicle or any motor vehicle owned by the franchisor, except through a franchised new motor vehicle dealer;

(dd) compel a franchisee, through a finance subsidiary, to agree to unreasonable operating requirements, except that this Subsection (1)(dd) may not be construed to limit the right of a financing subsidiary to engage in business practices in accordance with the usage of trade in retail and wholesale motor vehicle financing;

(ee) condition the franchisor's participation in co-op advertising for a product category on the franchisee's participation in any program related to another product category or on the franchisee's achievement of any level of sales in a product category other than that which is the subject of the co-op advertising;

(ff) except as provided in Subsections (7) through (9), discriminate against a franchisee in the state in favor of another franchisee of the same line-make in the state:

(i) by selling or offering to sell a new motor vehicle to one franchisee at a higher actual price, including the price for vehicle transportation, than the actual price at which the same model similarly equipped is offered to or is made available by the franchisor to another franchisee in the state during a similar time period;

(ii) except as provided in Subsection (8), by using a promotional program or device or an incentive, payment, or other benefit, whether paid at the time of the sale of the new motor vehicle to the franchisee or later, that results in the sale of or offer to sell a new motor vehicle to one franchisee in the state at a higher price, including the price for vehicle transportation, than the price at which the same model similarly equipped is offered or is made available by the franchisor to another franchisee in the state during a similar time period;

(iii) except as provided in Subsection (9), by failing to provide or direct a lead in a fair, equitable, and timely manner; or

(iv) if the franchisee complies with any reasonable requirement concerning the sale of new motor vehicles, by using or considering the performance of any of [~~its~~]the franchisor's franchisees located in this state relating to the sale of the franchisor's new motor vehicles in determining the:

(A) dealer's eligibility to purchase program, certified, or other used motor vehicles from the franchisor;

(B) volume, type, or model of program, certified, or other used motor vehicles the dealer is eligible to purchase from the franchisor;

(C) price of any program, certified, or other used motor vehicles that the dealer is eligible to purchase from the franchisor; or

(D) availability or amount of any discount, credit, rebate, or sales incentive the dealer is eligible to receive from the manufacturer for the purchase of any program, certified, or other motor vehicle offered for sale by the franchisor;

(gg) (i) take control over funds owned or under the control of a franchisee based on the findings of a warranty audit, sales incentive audit, or recall repair audit, unless the following conditions are satisfied:

(A) the franchisor fully identifies in writing the basis for the franchisor's claim or charge back arising from the audit, including notifying the franchisee that the franchisee has 20 days from the day on which the franchisee receives the franchisor's claim or charge back to assert a protest in writing to the franchisor identifying the basis for the protest;

(B) the franchisee's protest shall inform the franchisor that the protest shall be submitted to a mediator in the state who is identified by name and address in the franchisee's notice to the franchisor;

(C) if mediation is requested under Subsection (1)(gg)(i)(B), mediation shall occur no later than 30 days after the day on which the franchisor receives the franchisee's protest of a claim or charge back;

(D) if mediation does not lead to a resolution of the protest, the protest shall be set for binding arbitration in the same venue in which the mediation occurred;

(E) binding arbitration under Subsection (1)(gg)(i)(D) shall be conducted:

(I) by an arbitrator mutually agreed upon by the franchisor and the franchisee; and

(II) on a date mutually agreed upon by the franchisor and the franchisee, but shall be held no later than 90 days after the franchisor's receipt of the franchisee's notice of protest;

(F) this Subsection (1)(gg)(i) applies exclusively to warranty audits, recall repair audits, and sales incentive audits;

(G) Subsections (1)(gg)(i)(A) through (E) do not apply if the franchisor reasonably believes that the amount of the claim or charge back is related to a fraudulent act by the franchisee; and

(H) the costs of the mediator or arbitrator instituted under this Subsection (1)(gg) shall be shared equally by the franchisor and the

franchisee; or

(ii) require a franchisee to execute a written waiver of the requirements of Subsection (1)(gg)(i);

(hh) coerce, or attempt to coerce a franchisee to purchase or sell an aftermarket product manufactured by the franchisor, or obtained by the franchisor for resale from a third-party supplier and the franchisor or [~~its~~]the franchisor's affiliate derives a financial benefit from the franchisee's sale or purchase of the aftermarket product as a condition to obtaining preferential status from the franchisor;

(ii) through an affiliate, take any action that would otherwise be prohibited under this chapter;

(jj) impose any fee, surcharge, or other charge on a franchisee designed to recover the cost of a warranty repair for which the franchisor pays the franchisee;

(kk) except as provided by the audit provisions of this chapter, take an action designed to recover a cost related to a recall, including:

(i) imposing a fee, surcharge, or other charge on a franchisee;

(ii) reducing the compensation the franchisor owes to a franchisee;

(iii) removing the franchisee from an incentive program; or

(iv) reducing the amount the franchisor owes to a franchisee under an incentive program;

(ll) directly or indirectly condition any of the following actions on the willingness of a franchisee, prospective new franchisee, or owner of an interest in a dealership facility to enter into a site-control agreement:

(i) the awarding of a franchise to a prospective new franchisee;

(ii) the addition of a line-make or franchise to an existing franchisee;

(iii) the renewal of an existing franchisee's franchise;

(iv) the approval of the relocation of an existing franchisee's dealership facility, unless the franchisor pays, and the franchisee voluntarily accepts, additional specified cash consideration to facilitate the relocation; or

(v) the approval of the sale or transfer of a franchise's ownership, unless the franchisor pays, and the buyer voluntarily accepts, additional specified cash consideration to facilitate the sale or transfer;

(mm) subject to Subsection (11), deny a franchisee the right to return any or all parts or accessories that:

(i) were specified for and sold to the franchisee under an automated ordering system required by the franchisor; and

(ii) (A) are in good, resalable condition; and

(B) (I) the franchisee received within the previous 12 months; or

(II) are listed in the current parts catalog;

(nn) subject to Subsection (12), obtain from a franchisee a waiver of a franchisee's right, by threatening:

(i) to impose a detriment upon the franchisee's business; or

(ii) to withhold any entitlement, benefit, or service:

(A) to which the franchisee is entitled under a franchise agreement, contract, statute, rule, regulation, or law; or

(B) that has been granted to more than one other franchisee of the franchisor in the state;

(oo) coerce a franchisee to establish, or provide by agreement, program, or incentive provision that a franchisee must establish, a price at which the franchisee is required to sell a product or service that is:

(i) sold in connection with the franchisee's sale of a motor vehicle; and

(ii) (A) in the case of a product, not manufactured, provided, or distributed by the franchisor or an affiliate; or

(B) in the case of a service, not provided by the franchisor or an affiliate;

(pp) except as necessary to comply with a health or safety law, or to comply with a technology requirement compliance with which is necessary to sell or service a motor vehicle that the franchisee is authorized or licensed by the franchisor to sell or service, coerce or require a franchisee, through a penalty or other detriment to the franchisee's business, to:

(i) construct a new dealer facility or materially alter or remodel an existing dealer facility before the date that is 10 years after the date the construction of the new dealer facility at that location was completed, if the construction substantially complied with the franchisor's brand image standards or plans that the franchisor provided or approved; or

(ii) materially alter or remodel an existing dealer facility before the date that is 10 years after the date the previous alteration or remodeling at that location was completed, if the previous alteration or remodeling substantially complied with the franchisor's brand image standards or plans that the franchisor provided or approved;

(qq) notwithstanding the terms of a franchise agreement providing otherwise and subject to Subsection (14):

(i) coerce or require a franchisee, including by agreement, program, or incentive provision, to purchase a good or service, relating to a facility construction, alteration, or remodel, from a vendor that a franchisor or [~~its~~]the franchisor's affiliate selects, identifies, or designates, without allowing the franchisee, after consultation with the franchisor, to obtain a like good or service of substantially similar quality from a vendor that the franchisee chooses; or

(ii) coerce or require a franchisee, including by agreement, program, or incentive provision, to lease a sign or other franchisor image element from the franchisor or an affiliate without providing the franchisee the right to purchase a sign or other franchisor image element of like kind and quality from a vendor that the franchisee chooses;

(rr) when providing a new motor vehicle to a franchisee for offer or sale to the public, fail to provide to the franchisee a written disclosure that may be provided to a potential buyer of the new motor vehicle of each accessory or function of the vehicle that may be initiated, updated, changed, or maintained by the franchisor or affiliate through over the air or remote means, and the charge to the customer at the time of sale for such initiation, update, change, or maintenance; or

(ss) fail to provide reasonable compensation to a franchisee for assistance requested by a customer whose vehicle was subjected to an over the air or remote change, repair, or update to any part, system, accessory, or function by the franchisor or affiliate and performed at the franchisee's dealership in order to satisfy the customer.

(2) Notwithstanding Subsection (1)(r), a franchisor may authorize or permit a person to perform warranty service repairs on motor vehicles if the warranty services are for a franchisor of recreational vehicles.

(3) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee carry a reasonable inventory of:

(a) new motor vehicle models offered for sale by the franchisor; and

(b) parts to service the repair of the new motor vehicles.

(4) Subsection (1)(d) does not prevent a franchisor from requiring that a franchisee maintain separate sales personnel or display space.

(5) Upon the written request of any franchisee, a franchisor shall disclose in writing to the franchisee the basis on which new motor vehicles, parts, and accessories are allocated, scheduled, and delivered among the franchisor's dealers of the same line-make.

(6) (a) A franchisor may engage in any of the activities listed in Subsection (1)(u), for a period not to exceed 12 months if:

(i) (A) the person from [~~whom~~]which the franchisor acquired the interest in or control of the new motor vehicle dealership was a franchised new motor vehicle dealer; and

(B) the franchisor's interest in the new motor vehicle dealership is for sale at a reasonable price and on reasonable terms and conditions; or

(ii) the franchisor is engaging in the activity listed in Subsection (1)(u) for the purpose of broadening the diversity of [~~its~~]the franchisor's dealer body and facilitating the ownership of a new motor vehicle dealership by a person [~~who~~]that:

(A) is part of a group that has been historically underrepresented in the franchisor's dealer body;

(B) would not otherwise be able to purchase a new motor vehicle dealership;

(C) has made a significant investment in the new motor vehicle dealership which is subject to loss;

(D) has an ownership interest in the new motor vehicle dealership; and

(E) operates the new motor vehicle dealership under a plan to acquire full ownership of the dealership within a reasonable period of time and under reasonable terms and conditions.

(b) The executive director may, for good cause shown, extend the time limit set forth in Subsection (6)(a) for an additional period not to exceed 12 months.

[~~(c) A franchisor who was engaged in any of the activities listed in Subsection (1)(u) in this state prior to May 1, 2000, may continue to engage in that activity, but may not expand that activity to acquire an interest in any other new motor vehicle dealerships or motor vehicle service facilities after May 1, 2000.~~]

[~~(d) Notwithstanding Subsection (1)(u), a franchisor may own, operate, or control a new motor vehicle dealership trading in a line-make of motor vehicle if:~~]

[~~(i) as to that line-make of motor vehicle, there are no more than four franchised new motor vehicle dealerships licensed and in operation within the state as of January 1, 2000;~~]

[~~(ii) the franchisor does not own directly or indirectly, more than a 45% interest in the dealership;~~]

[~~(iii) at the time the franchisor first acquires ownership or assumes operation or control of the dealership, the distance between the dealership thus owned, operated, or controlled and the nearest unaffiliated new motor vehicle dealership trading in the same line-make is not less than 150 miles;~~]

[~~(iv) all the franchisor's franchise agreements confer rights on the franchisee to develop and operate as many dealership facilities as the franchisee and franchisor shall agree are appropriate within a defined geographic territory or area; and~~]

[~~(v) as of January 1, 2000, no fewer than half of the franchisees of the line-make within the state own and operate two or more dealership facilities in the geographic area covered by the franchise agreement.~~]

(7) Subsection (1)(ff) does not apply to recreational vehicles.

(8) Subsection (1)(ff)(ii) does not prohibit a promotional or incentive program that is functionally available to all competing franchisees of the same line-make in the state on substantially comparable terms.

(9) Subsection (1)(ff)(iii) may not be construed to:

(a) permit provision of or access to customer information that is otherwise protected from disclosure by law or by contract between a franchisor and a franchisee; or

(b) require a franchisor to disregard the preference volunteered by a potential customer in providing or directing a lead.

(10) Subsection (1)(ii) does not limit the right of an affiliate to engage in business practices in accordance with the usage of trade in which the affiliate is engaged.

(11) (a) Subsection (1)(mm) does not apply to parts or accessories that the franchisee ordered and purchased outside of an automated parts ordering system required by the franchisor.

(b) In determining whether parts or accessories in a franchisee's inventory were specified and sold under an automated ordering system required by the franchisor, the parts and accessories in the franchisee's inventory are presumed to be the most recent parts and accessories that the franchisor sold to the franchisee.

(12) (a) Subsection (1)(nn) does not apply to a good faith settlement of a dispute, including a dispute relating to contract negotiations, in which the franchisee gives a waiver in exchange for fair consideration in the form of a benefit conferred on the franchisee.

(b) Subsection (12)(a) may not be construed to defeat a franchisee's claim that a waiver has been obtained in violation of Subsection (1)(nn).

(13) (a) As used in Subsection (1)(pp):

(i) "Materially alter":

(A) means to make a material architectural, structural, or aesthetic alteration; and

(B) does not include routine maintenance, such as interior painting, reasonably necessary to keep a dealership facility in attractive condition.

(ii) "Penalty or other detriment" does not include a payment under an agreement, incentive, or program that is offered to but declined or not accepted by a franchisee, even if a similar payment is made to another franchisee in the state that chooses to participate in the agreement, incentive, or program.

(b) Subsection (1)(pp) does not apply to:

(i) a program that provides a lump sum payment to assist a franchisee to make a facility improvement or to pay for a sign or a franchisor image element, if the payment is not dependent on the franchisee selling or purchasing a specific number of new vehicles;

(ii) a program that is in effect on May 8, 2012, with more than one franchisee in the state or to a renewal or modification of the program;

(iii) a program that provides reimbursement to a franchisee on reasonable, written terms for a substantial portion of the franchisee's cost of making a facility improvement or installing signage or a franchisor image element; or

(iv) a written agreement between a franchisor and franchisee, in effect before May 8, 2012, under which a franchisee agrees to construct a new dealer facility.

(14) (a) Subsection (1)(qq)(i) does not apply to:

(i) signage purchased by a franchisee in which the franchisor has an intellectual property right; or

(ii) a good used in a facility construction, alteration, or remodel that is:

(A) a moveable interior display that contains material subject to a franchisor's intellectual property right; or

(B) specifically eligible for reimbursement of over one-half [~~its~~]the good's cost [~~pursuant to~~]in accordance with a franchisor or distributor program or incentive granted to the franchisee on reasonable, written terms.

(b) Subsection (1)(qq)(ii) may not be construed to allow a franchisee to:

(i) impair or eliminate a franchisor's intellectual property right; or

(ii) erect or maintain a sign that does not conform to the franchisor's reasonable fabrication specifications and intellectual property usage guidelines.

(15) A franchisor may comply with Subsection (1)(rr) by notifying the franchisee that the information in a written disclosure described in Subsection (1)(rr) is available on a website or by other digital means.

Section 2. Section 41-3-102 is amended to read:

41-3-102. Definitions.

As used in this chapter:

(1) "Administrator" means the motor vehicle enforcement administrator.

(2) (a) "Affiliate" means a person that:

(i) manufactures, distributes, sells, or leases new motor vehicles; and

(ii) directly or indirectly, through one or more intermediaries:

(A) possesses control over a person specified;

(B) is controlled by a person specified; or

(C) shares common control with a person specified.

(b) As used in this Subsection (2), "control" includes the power to direct or cause the direction of the management and policies of any person through ownership, contractual rights, or other means.

[~~(2)~~](3) "Agent" means a person other than a holder of any dealer's or salesperson's license issued under this chapter, [~~who~~]that for salary, commission, or compensation of any kind, negotiates in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other person in any 12-month period.

[~~(3)~~](4) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either owned or consigned, to the general public.

[~~(4)~~](5) "Authorized service center" means an entity that:

(a) is in the business of repairing exclusively the motor vehicles of the same line-make as the motor vehicles a single direct-sale manufacturer manufactures;

(b) the direct-sale manufacturer described in Subsection [~~(4)(a)~~](5)(a) authorizes to complete warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for sale, or offers for sale or exchange; and

(c) conducts business primarily from an enclosed commercial repair facility that is permanently located in the state.

[~~(5)~~](6) "Body shop" means a person engaged in rebuilding, restoring, repairing, or painting the body of motor vehicles for compensation.

[~~(6)~~](7) "Commission" means the State Tax Commission.

[~~(7)~~](8) "Crusher" means a person [~~who~~]that crushes or shreds motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.

[~~(8)~~](9) (a) "Dealer" means a person:

(i) [~~whose~~]for which the business in whole or in part involves selling new, used, or new and used motor vehicles or off-highway vehicles; and

(ii) [~~who~~]that sells, displays for sale, or offers for sale or exchange three or more new or used motor vehicles or off-highway vehicles in any 12-month period.

(b) "Dealer" includes a representative or consignee of any dealer.

[~~(9)~~](10) "Direct-sale manufacturer" means a person:

(a) that is both a manufacturer and a dealer;

(b) that is:

(i) an electric vehicle manufacturer; or

(ii) a low-volume manufacturer;

(c) that is not a franchise holder;

(d) that is domiciled in the United States; and

(e) whose chief officers direct, control, and coordinate the person's activities as a direct-sale manufacturer from a physical location in the United States.

[~~(10)~~](11) "Direct-sale manufacturer salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale manufacturer who employs the individual.

[~~(11)~~](12) (a) "Dismantler" means a person engaged in the business of dismantling motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, for the resale of parts or for salvage.

(b) "Dismantler" includes a person [~~who~~]that dismantles three or more motor vehicles in any 12-month period.

[~~(12)~~](13) "Distributor" means a person [~~who~~]that has a franchise from a manufacturer of motor vehicles to distribute motor vehicles within this state and [~~who~~]that in whole or in part sells or distributes new motor vehicles to dealers or [~~who~~]that maintains distributor representatives.

[~~(13)~~](14) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is

maintained.

[~~(14)~~](15) "Distributor representative" means a person and each officer and employee of the person engaged as a representative of a distributor or distributor branch of motor vehicles to make or promote the sale of the distributor or the distributor branch's motor vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the distributor branch.

[~~(15)~~](16) "Division" means the Motor Vehicle Enforcement Division created in Section 41-3-104.

[~~(16)~~](17) "Electric vehicle manufacturer" means a person that, in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line-make that are:

(a) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another non-fossil fuel source;

(b) (i) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or

(ii) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(c) manufactured by the person.

[~~(17)~~](18) "Factory branch" means a branch office maintained by a person [~~who~~]that manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or [~~who~~]that directs or supervises the factory branch's representatives.

[~~(18)~~](19) "Factory representative" means a person and each officer and employee of the person engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or for supervising or contacting the dealers or prospective dealers of the manufacturer or the factory branch.

[~~(19)~~](20) "Fleet transaction" means a licensee's sale of one or more motor vehicles to a manufacturer-approved current fleet customer under the manufacturer's fleet program.

[~~(20)~~](21) (a) "Franchise" means a contract or agreement between a dealer and a manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.

(b) "Franchise" includes a contract or agreement described in Subsection [~~(20)(a)~~](21)(a) regardless of whether the contract or agreement is subject to Title 13, Chapter 14, New Automobile Franchise Act, Title 13, Chapter 35, Powersport Vehicle Franchise Act, or neither.

[~~(21)~~](22) (a) "Franchise holder" means a manufacturer [~~who~~]that:

(i) previously had a franchised dealer in the United States;

(ii) currently has a franchised dealer in the United States;

(iii) is a successor to another manufacturer [~~who~~]that previously had or currently has a franchised dealer in the United States;

(iv) [~~is a material owner of another manufacturer who previously had or currently has a franchised dealer in the United States;~~]that is a material owner of, is an affiliate of, or has any ownership by:

(A) another manufacturer that previously or currently has a franchised dealer; or

(B) another franchise holder;

(v) is under legal or common ownership, or practical control, with another manufacturer [~~who~~]that previously had or currently has a franchised dealer in the United States; [~~or~~]

(vi) is in a partnership, joint venture, or similar arrangement for production of a commonly owned line-make with another manufacturer [~~who~~]that previously had or currently has a franchised dealer in the United States [~~.~~]; or

(vii) is a manufacturer otherwise described in Subsection (22)(b) if, after July 1, 2018, the manufacturer, or the manufacturer through an affiliate, acquires or expands an interest in:

(A) any other manufacturer that is not exclusively an electric vehicle manufacturer; or

(B) a dealership that deals exclusively in electric vehicles manufactured by any other manufacturer.

(b) "Franchise holder" does not include a manufacturer described in Subsection [~~(21)(a), if at all times during the franchised dealer's existence,~~](22)(a), if as of July 1, 2018, the manufacturer had legal or practical common ownership or common control of:

(i) a dealership of the manufacturer's line-make in this state; or

(ii) [~~with the~~]a franchised dealer [~~.~~]of the manufacturer's line-make in this state.

[~~(22)~~](23) "Low-volume manufacturer" means a manufacturer who:

(a) in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line make that are:

(i) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or

(B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(ii) manufactured by the person; and

(b) constructs no more than 325 new motor vehicles in any 12-month period.

[~~(23)~~](24) "Line-make" means motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer.

[~~(24)~~](25) "Manufacturer" means a person engaged in the business of constructing or assembling new motor vehicles, ownership of which is customarily transferred by a manufacturer's statement or certificate of origin, or a person [~~who~~]that constructs three or more new motor vehicles in any 12-month period.

[~~(25)~~](26) "Material owner" means a person [~~who~~]that possesses, directly or indirectly, the power to direct, or cause the direction of, the management, policies, or activities of another person:

(a) through ownership of voting securities;

(b) by contract or credit arrangement; or

(c) in another way not described in Subsections [~~(25)(a)~~](26)(a) and (b).

[~~(26)~~](27) (a) "Motor vehicle" means a vehicle that is:

(i) self-propelled;

(ii) a trailer;

(iii) a travel trailer;

(iv) a semitrailer;

(v) an off-highway vehicle; or

(vi) a small trailer.

(b) "Motor vehicle" does not include:

(i) mobile homes as defined in Section 41-1a-102;

(ii) trailers of 750 pounds or less unladen weight;

(iii) a farm tractor or other machine or tool used in the production, harvesting, or care of a farm product; and

(iv) park model recreational vehicles as defined in Section 41-1a-102.

[~~(27)~~](28) "Motorcycle" means the same as that term is defined in Section 41-1a-102.

[~~(28)~~](29) "New motor vehicle" means a motor vehicle that:

(a) has never been titled or registered; and

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.

[~~(29)~~](30) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

[~~(30)~~](31) "Pawnbroker" means a person whose business is to lend money on security of personal property deposited with [~~him~~]the pawnbroker.

[~~(31)~~](32) (a) "Principal place of business" means a site or location in this state:

(i) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to [~~them~~]the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop;

(ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary and to admit a definite description with space adequate to permit the display of three or more new, or new and used, or used motor vehicles and sufficient parking for the public; and

(iii) that includes a permanent enclosed building or structure large enough to accommodate the office of the establishment and to provide a safe place to keep the books and other records of the business, at which the principal portion of the business is conducted and the books and records kept and maintained.

(b) "Principal place of business" means, with respect to a direct-sale manufacturer, the direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection [~~(31)(a)~~](32)(a).

[~~(32)~~](33) "Remanufacturer" means a person [~~who~~]that:

(a) reconstructs used motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, to change the body style and appearance of the motor vehicle [~~or who~~];

(b) constructs or assembles motor vehicles from used or new and used motor vehicle parts [~~,~~]; or [~~who~~]

(c) reconstructs, constructs, or assembles three or more motor vehicles in any 12-month period.

[~~(33)~~](34) "Salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles.

[~~(34)~~](35) "Semitrailer" means the same as that term is defined in Section 41-1a-102.

[~~(35)~~](36) "Showroom" means a site or location in the state that a direct-sale manufacturer uses for the direct-sale manufacturer's business, including the display and demonstration of new motor vehicles that are exclusively of the same line-make that the direct-sale manufacturer manufactures.

[~~(36)~~](37) "Small trailer" means a trailer that has an unladen weight of:

(a) more than 750 pounds; and

(b) less than 2,000 pounds.

[~~(37)~~](38) "Special equipment" includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.

[~~(38)~~](39) "Special equipment dealer" means a new or new and used motor vehicle dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

[~~(39)~~](40) "Trailer" means the same as that term is defined in Section 41-1a-102.

[~~(40)~~](41) "Transporter" means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.

[~~(41)~~](42) "Travel trailer" means the same as that term is defined in Section 41-1a-102.

[~~(42)~~](43) "Used motor vehicle" means a vehicle that:

(a) has been titled and registered to a purchaser other than a dealer; or

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

[~~(43)~~](44) "Wholesale motor vehicle auction" means a dealer primarily engaged in the business of auctioning consigned motor vehicles to dealers or dismantlers [~~who~~]that are licensed by this or any other jurisdiction.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 281
S. B. 12
Passed February 5, 2025
Approved March 25, 2025
Effective May 7, 2025

BOARD OF TOURISM DEVELOPMENT AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Carol S. Moss

LONG TITLE

General Description:

This bill extends the sunset for the Board of Tourism Development.

Highlighted Provisions:

This bill:

► extends the sunset for the Board of Tourism Development; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2024, Third Special Session, Chapter 4

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63O.

(1) Subsection 63A-5b-405(5), regarding prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(3) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(4) Title 63C, Chapter 18, Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(5) Title 63C, Chapter 23, Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

(6) Title 63C, Chapter 25, State Finance Review Commission, is repealed July 1, 2027.

(7) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(8) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(9) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed July 1, 2028.

(10) Section 63G-6a-805, Purchase from community rehabilitation programs, is repealed July 1, 2026.

(11) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(12) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2029.

(13) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(14) Subsection 63J-1-602.2(16), related to the Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program, is repealed July 1, 2029.

(15) Subsection 63J-1-602.2(26), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

(16) Section 63L-11-204, Canyon resource management plan, is repealed July 1, 2025.

(17) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(18) Title 63M, Chapter 7, Part 7, Domestic Violence Offender Treatment Board, is repealed July 1, 2027.

(19) Section 63M-7-902, Creation -- Membership -- Terms -- Vacancies -- Expenses, is repealed July 1, 2029.

(20) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(21) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2030.

(22) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(23) Subsection 63N-2-511(1)(b), regarding the Board of Tourism Development, is repealed [~~July 1, 2025~~]July 1, 2030.

(24) Section 63N-2-512, Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(25) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

(26) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

(27) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2028.

(28) Section 63N-4-804, [~~which creates the~~]Rural Opportunity Advisory Committee, is repealed July 1, 2027.

(29) Subsection 63N-4-805(5)(b), regarding the Rural Employment Expansion Program, is repealed July 1, 2028.

(30) Subsection 63N-7-101(1), regarding the Board of Tourism Development, is repealed [~~July 1, 2025~~]July 1, 2030.

(31) Subsection 63N-7-102(3)(c), regarding a requirement for the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed [~~July 1, 2025~~]July 1, 2030.

(32) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed [~~July 1, 2025~~]July 1, 2030.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 282
S. B. 14
Passed February 6, 2025
Approved March 25, 2025
Effective May 7, 2025

PRIVATE SALE OF A FIREARM SUNSET REVIEW AMENDMENTS

Chief Sponsor: Keith Grover
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses the sunset provision for Section 76-10-526.1, Information check before private sale of a firearm.

Highlighted Provisions:

This bill:

► removes the sunset review provision for Section 76-10-526.1, Information check before private sale of a firearm; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-276, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-276 is amended to read:

63I-1-276. Repeal dates: Title 76.

[~~(1)~~] Subsection 76-7-313(6), regarding a report provided by the Department of Health and Human Services, is repealed July 1, 2027.

[~~(2) Section 76-10-526.1, Information check before private sale of firearm, is repealed July 1, 2025.~~]

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 283
S. B. 15
Passed March 6, 2025
Approved March 25, 2025
Effective January 1, 2026

CERTIFIED PUBLIC ACCOUNTANT LICENSING AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends provisions relating to certified public accountants.

Highlighted Provisions:

This bill:

- ► removes the hours requirement for a certified public accountant (CPA) to become licensed;
- ► adds a requirement that an applicant for licensure as a CPA have a bachelor's degree, master's degree, or the equivalent with a concentration in accounting and business;
- ► allows an individual with a valid CPA license from a state other than Utah to practice in this state under certain conditions;
- ► authorizes the Division of Professional Licensing to make a citation and assess a fine for a person engaging in unlawful conduct relating to CPAs; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

58-26a-102, as last amended by Laws of Utah 2017, Chapter 229
58-26a-201, as enacted by Laws of Utah 2000, Chapter 261
58-26a-302, as last amended by Laws of Utah 2020, Chapter 339
58-26a-305, as last amended by Laws of Utah 2020, Chapter 339
58-26a-306, as last amended by Laws of Utah 2020, Chapter 339
58-26a-501, as last amended by Laws of Utah 2016, Chapter 238

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-26a-102 is amended to read:

58-26a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Accounting experience" means applying accounting and auditing skills and principles that are taught as a part of the professional education qualifying a person for licensure under this chapter and generally accepted by the profession, under the supervision of a licensed certified public accountant.

(2) "AICPA" means the American Institute of Certified Public Accountants.

(3) (a) "Attest and attestation engagement" means providing any or all of the following [~~financial statement~~]services:

(i) an audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

(ii) a review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);

(iii) an examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE);

(iv) an examination, review, or agreed upon procedures engagement to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE), other than an examination described in Subsection (3)(a)(iii); or

(v) an engagement to be performed in accordance with the standards of the PCAOB.

(b) The division shall adopt the standards specified in this definition [~~shall be adopted~~]:

(i) that are developed for general application by recognized national accountancy organizations such as the AICPA and the PCAOB; and

(ii) by reference [~~by the division~~]under [~~its~~]the division's rulemaking authority in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~, and shall be those developed for general application by recognized national accountancy organizations such as the AICPA and the PCAOB~~].

(4) "Board" means the Utah Board of Accountancy created in Section 58-26a-201.

(5) "Certified Public Accountant" or "CPA" means an individual currently licensed by this state or any other state, district, or territory of the United States of America to practice public accountancy or who has been granted a license as a certified public accountant under prior law or this chapter.

(6) "Certified Public Accountant firm" or "CPA firm" means a qualified business entity holding a valid registration as a Certified Public Accountant firm under this chapter.

(7) (a) "Client" means the person who retains a licensee for the performance of one or more of the services included in the definition of the practice of public accountancy.

(b) "Client" does not include a CPA's employer when the licensee works in a salaried or hourly rate position.

(8) "Compilation" means providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is presenting, in the form of financial statements, information that is the representation of management or owners, without undertaking to express any assurance on the statements.

(9) "Experience" means:

(a) accounting experience; or

(b) professional experience.

(10) "Licensee" means the holder of a current valid license issued under this chapter.

(11) "NASBA" means the National Association of State Boards of Accountancy.

(12) "PCAOB" means the Public Company Accounting Oversight Board.

(13) "Practice of public accounting" means, while holding oneself out as a certified public accountant, offering to perform or performing one or more kinds of services involving the use of auditing or accounting skills, including issuing reports or opinions on financial statements, performing attestation engagements, performing one or more kinds of advisory or consulting services, preparing tax returns, or furnishing advice on tax matters for a client.

(14) "Peer review" means a board approved study, appraisal, or review of one or more aspects of the attest and compilation services rendered by a licensee in the practice of public accounting, performed by a licensee holding an active license in this or another state who is not affiliated with the licensee being reviewed.

(15) "Principal place of business" means the office location designated by the licensee for purposes of [~~substantial equivalency and~~]licensure by endorsement.

(16) "Professional experience" means experience lawfully obtained while licensed as a certified public accountant in another state, recognized by rule, in the practice of public accountancy performed for a client, which includes expression of assurance or opinion.

(17) "Qualified business entity" means a sole proprietorship, corporation, limited liability company, or partnership engaged in the practice of public accountancy.

(18) "Qualified continuing professional education" means a formal program of education that contributes directly to the professional competence of a certified public accountant.

(19) "Qualifying examinations" means:

(a) the AICPA Uniform CPA Examination;

(b) the AICPA Examination of Professional Ethics for CPAs;

(c) the Utah Laws and Rules Examination; and

(d) any other examination approved by the board and adopted by the division by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(20) (a) "Report," when used with reference to financial statements, means:

(i) an opinion, report, or other form of language that:

(A) states or implies assurance as to the reliability of the attested information or compiled financial statements; or

(B) implies that the [~~person~~]individual or firm issuing the report has special knowledge or competence in accounting or auditing and specifically includes compilations and reviews; such an implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is a public accountant or auditor, or from the language of the report itself; or

(ii) any disclaimer of opinion:

(A) [~~when it~~]that is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to or language suggesting special competence on the part of the [~~person~~]individual or firm issuing such language; and

(B) the report includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.

(b) "Report" does not include a financial statement prepared by an unlicensed person if:

(i) that financial statement has a cover page [~~which~~]that includes essentially the following language: "I (we) have prepared the accompanying financial statements of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing, in the form of financial statements, information that is the representation of management (owners). I (we) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them."; and

(ii) the cover page and any related footnotes do not use the terms "compilation," "review," "audit," "generally accepted auditing standards," "generally accepted accounting principles," or other similar terms.

(21) "Review of financial statements" means providing a service in accordance with the Statements on Standards for Accounting and Review Services [~~(SSARS)~~]in which the accountant obtains limited assurance as a basis for reporting whether the accountant is aware of any material modifications that should be made to the financial statements for [~~them~~]the financial statements to be in accordance with the applicable financial reporting framework, primarily through the performance of inquiry and analytical procedures.

[~~(22) (a) "Substantial equivalency" means a determination by the division in collaboration with the board or the board's designee that:~~]

[~~(i) the education, examination, and experience requirements set forth in the statutes and administrative rules of another state are comparable to or exceed the education, examination, and experience requirements set forth in the Uniform Accountancy Act; or~~]

[~~(ii) an individual CPA's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements set forth in the Uniform Accountancy Act.~~]

[~~(b) In ascertaining whether an individual's qualifications are substantially equivalent as used in this chapter, the division in collaboration with the board shall take into account the qualifications without regard to the sequence in which the education, examination, and experience requirements were attained.~~]

[~~(23)~~](22) "Uniform Accountancy Act" means the model public accountancy legislation developed and promulgated by national

accounting and regulatory associations that contains standardized definitions and regulations for the practice of public accounting as recognized by the division in collaboration with the board.

[~~(24)~~](23) "Unlawful conduct" [~~is as~~]means the same as that term is defined in Sections 58-1-501 and 58-26a-501.

[~~(25)~~](24) "Unprofessional conduct" [~~is as~~]means the same as that term is defined in Sections 58-1-501 and 58-26a-502 and as may be further defined by rule.

[~~(26)~~](25) "Year of experience" means 2,000 hours of experience:

(a) generally accepted by the profession; and

(b) under the supervision of a licensed certified public accountant.

Section 2. Section 58-26a-201 is amended to read:

58-26a-201. Board.

(1) There is created the Utah Board of Accountancy consisting of four licensed certified public accountants and one member of the general public.

(2) The board shall be appointed and shall serve in accordance with Section 58-1-201.

(3) (a) [~~The duties and responsibilities of the board shall be in accordance with~~]The board shall perform the duties and responsibilities described in Sections 58-1-202 and 58-1-203.

(b) [~~In addition, the~~]The board shall designate one of [~~its~~]the board's members on a permanent or rotating basis to:

[~~(a)~~](i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

[~~(b)~~](ii) advise the division in [~~its~~]the division's investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in [~~its~~]the investigation of the complaint may be disqualified from participating with the board when the board serves as a presiding officer of an administrative proceeding concerning the complaint.

Section 3. Section 58-26a-302 is amended to read:

58-26a-302. Qualifications for licensure and registration -- Licensure by endorsement.

(1) Each applicant for licensure under this chapter as a certified public accountant shall:

(a) submit an application in a form [~~prescribed by the division~~]the division approves by rule;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) submit a certified transcript of credits from an accredited institution acceptable to the board showing:

[~~(i) successful completion of a total of 150 semester hours or 225 quarter hours of collegiate level education with a concentration in accounting, auditing, and business;~~]

[~~(ii)~~](i) successful completion of a [~~baccalaureate~~]bachelor's degree, master's degree, or [~~its~~]the equivalent with a concentration of accounting and business at a college or university approved by the board; and

[~~(iii)~~](ii) compliance with any other education requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) submit evidence of [~~one year of~~]accounting experience in a form [~~prescribed by the division~~]the division approves by rule of at least:

(i) one year of accounting experience for an individual with a master's degree or the equivalent with a concentration of accounting and business; or

(ii) two years of accounting experience for an individual with a bachelor's degree or the equivalent with a concentration of accounting and business;

(e) submit evidence of having successfully completed the qualifying examinations in accordance with Section 58-26a-306; and

(f) submit to an interview by the board, if requested, for the purpose of examining the applicant's competence and qualifications for licensure.

(2) (a) The division may issue a license under this chapter to [~~a person~~]an individual who holds a license as a certified public accountant issued by [~~any other state of the United States of America~~]another state if the applicant for licensure by endorsement:

(i) submits an application in a form [~~prescribed by the division~~]the division approves by rule;

(ii) pays a fee determined by the department under Section 63J-1-504;

(iii) submits to an interview by the board, if requested, for the purpose of examining the applicant's competence and qualifications for licensure; and

(iv) (A) (I) shows evidence of having passed the qualifying examinations; and

(II) (Aa) meets the requirements for licensure [~~which~~]that were applicable in this state at the time of the issuance of the applicant's license by the state from which the original licensure by satisfactorily passing the AICPA Uniform CPA Examination was issued; or

(Bb) had four years of professional experience after passing the AICPA Uniform CPA Examination upon which the original license was based, within the 10 years immediately preceding the application for licensure by endorsement; or

(B) shows evidence that the applicant's education, examination record, and experience are substantially equivalent to the requirements of Subsection (1), as provided by rule.

(b) This Subsection (2) applies only to [~~a person~~]an individual seeking to obtain a license issued by this state and does not apply to [~~a person~~]an individual practicing as a certified public accountant in the state under Subsection 58-26a-305(1).

(3) (a) Each applicant for registration as a Certified Public Accountant firm shall:

(i) submit an application in a form [~~prescribed by the division~~]the division approves by rule;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) have, notwithstanding any other provision of law, a simple majority of the ownership of the Certified Public Accountant firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers, held by individuals who are certified public accountants, licensed under this chapter or another state of the United States of America, and the partners, officers, shareholders, members, or managers, whose principal place of business is in this state, and who perform professional services in this state hold a valid license issued under Subsection 58-26a-301(2) or the corresponding provisions of prior law; and

(iv) meet any other requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) Each separate location of a qualified business entity within the state seeking registration as a Certified Public Accountant firm shall register separately.

(c) A Certified Public Accountant firm may include owners who are not licensed under this chapter as outlined in Subsection (3)(a)(iii), provided that:

(i) the firm designates a licensee of this state who is responsible for the proper registration of the Certified Public Accountant firm and identifies that individual to the division; and

(ii) all nonlicensed owners are active individual participants in the CPA firm.

Section 4. Section 58-26a-305 is amended to read:

58-26a-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in acts included within the definition of the practice of public accountancy, subject to the stated circumstances and limitations, without being licensed under this chapter:

[~~(a) a person licensed by any other state, district, or territory of the United States as a certified public accountant or its equivalent under any other title while practicing in this state if:~~]

[~~(i) the person's principal place of business is not in this state; and~~]

[~~(A) the person's license as a certified public accountant is from any state which the National Association of State Boards of Accountancy (NASBA) National Qualification Appraisal Service has verified to be substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act; or~~]

[~~(B) the person's license as a certified public accountant is from a state which the NASBA National Qualification Appraisal Service has not verified to be substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act and the person obtains from the NASBA National Qualification Appraisal Service verification that the person's CPA qualifications are substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act and Subsection 58-26a-302(1)(c)(i); and~~]

(a) an individual that:

(i) holds a valid license or permit in good standing as a certified public accountant or equivalent issued by another state, if at the time the individual was licensed, the individual showed evidence of having successfully completed the equivalent of qualifying examinations required for that state; and

(ii) [~~the person~~]consents, as a condition of the grant of [~~this~~]the privilege described in Subsection (1)(a)(i):

(A) to personal and subject matter jurisdiction and disciplinary authority of the division;

(B) to comply with this chapter and the rules made under this chapter;

(C) that in the event the license from the state of the [~~person's~~]individual's principal place of business becomes invalid, the [~~person~~]individual shall cease offering or rendering professional services in this state both individually and on behalf of the firm; and

(D) to the appointment of the state board which issued the [~~person's~~]individual's license as the [~~person's~~]individual's agent upon whom process may be served in an action or proceeding brought by the division against the [~~licensee~~]individual;

[~~(b) through December 31, 2012, a person licensed by any other state, district, or territory of the United States as a certified public accountant or its equivalent under another title while practicing in this state if:~~]

[~~(i) the person does not qualify for a practice privilege under Subsection (1)(a);~~]

[~~(ii) the practice is incidental to the person's regular practice outside of this state; and~~]

[~~(iii) the person's temporary practice within the state is in conformity with this chapter and the rules established under this chapter;~~]

[~~(c)~~](b) an officer, member, partner, or employee of any entity or organization who signs any statement or report in reference to the financial affairs of the entity or organization with a designation of that [~~person's~~]individual's position within the entity or organization;

[~~(d)~~](c) a public official or employee while performing [~~his~~]the public official's or employee's official duties;

[~~(e)~~](d) [~~a person~~]an individual using accounting or auditing skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports; or

[~~(f)~~](e) an employee of a CPA firm registered under this chapter or an assistant to a person licensed under this chapter, working under the supervision of a licensee, if:

(i) neither the employee or assistant nor the licensed employer or registered CPA firm represents that the unlicensed [~~person~~]individual is a certified public accountant; and

(ii) no accounting or financial statements are issued [~~over~~]in the unlicensed [~~person's~~]individual's name.

(2) (a) Notwithstanding any other provision of law, [~~a person~~]an individual who qualifies under Subsection (1)(a) has all the privileges of a licensee of this state and may engage in acts included within the definition of the practice of public accountancy, whether in person or by mail, telephone, or electronic means, based on a practice privilege in this state, and no notice, fee, or other submission shall be provided by that person.

(b) The division may revoke, suspend, or restrict an exemption granted under Subsection (1)(a)[~~or (b)~~], or place on probation or issue a public or private reprimand to a person exempted under those subsections for the reasons set forth in Subsection 58-1-401(2).

Section 5. Section 58-26a-306 is amended to read:

58-26a-306. Examination requirements.

(1) Before taking the qualifying examinations, an applicant shall:

(a) submit an application in a form approved by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) [~~demonstrate completion of at least 120 semester hours or 180 quarter hours of the education requirement~~]demonstrate completion of at least a bachelor's degree or the equivalent as described in Subsection 58-26a-302(1)(c); and

(d) be approved by the board, or an organization designated by the board, to take the qualifying examinations.

(2) [~~A person must~~]An individual shall sit for and meet the conditioning requirements of the AICPA Uniform CPA Examination as established by the AICPA.

Section 6. Section 58-26a-501 is amended to read:

58-26a-501. Unlawful conduct.

(1) "Unlawful conduct" includes:

[~~(1)~~](a) using "certified public accountant," "public accountant," "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the [~~person~~]individual is a certified public accountant, unless that [~~person~~]individual:

[~~(a)~~](i) has a current license as a certified public accountant issued under this chapter; or

[~~(b)~~](ii) [~~qualifies for a practice privilege as provided in~~]is exempt from licensure under Subsection 58-26a-305(1)(a);

[~~(2)~~](b) a firm assuming or using "certified public accountant," "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants unless each office of the firm in this state:

[~~(a)~~](i) is registered with the division; and

[~~(b)~~](ii) meets the requirements of Subsections 58-26a-302(3)(a)(iii) and (iv);

[~~(3)~~](c) signing or affixing to any accounting or financial statement the person's name or any trade or assumed name used in that person's profession or business, with any wording indicating that the person is an auditor, or with any wording indicating that the person has expert knowledge in accounting or auditing, unless that person is licensed under this chapter and all of the person's offices in this state for the practice of public accountancy are maintained and registered as provided in this chapter; and

[~~(4)~~](d) except as provided in Section 58-26a-305, engaging in the following conduct if not licensed under this chapter to practice public accountancy:

[~~(a)~~](i) issuing a report on financial statements of any other person, firm, organization, or governmental unit; or

[~~(b)~~](ii) issuing a report using any form of language substantially similar to conventional language used by licensees respecting:

[~~(i)~~](A) a review of financial statements; or

[~~(ii)~~](B) a compilation of financial statements.

(2) (a) Except as provided in Subsection (2)(c), if, upon inspection or investigation, the division concludes that a person has engaged in unlawful conduct and that disciplinary action is appropriate, the division shall promptly issue a citation to the person in accordance with this chapter and any pertinent division rules.

(b) A citation issued under Subsection (2)(a) shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the statute or rule alleged to have been violated;

(iii) state that the recipient must notify the division in writing within 20 calendar days from the day on which the recipient receives the citation if the recipient intends to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) explain the consequences of failure to timely contest the citation or make payment of any fine assessed by citation within the time specified by the citation.

(c) The division may issue a notice instead of a citation.

(d) A citation issued as described in Subsection (2)(a) may be served:

(i) (A) upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure; and

(B) may be made personally or upon the person's agent by a division investigator or by any person designated by the director; or

(ii) by mail.

(e) If, within 20 calendar days from the date of the service of the citation described in Subsection (2)(a), the recipient of the citation fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(f) The division may extend the time period described in Subsection (2)(e) for cause.

(g) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(h) The failure of an applicant for licensure to comply with a citation after the citation becomes final is grounds for denial of a license.

(i) The division may not issue a citation more than one year after the day on which the violation that is the subject of the citation is reported to the division.

(3) (a) The division shall assess a fine under Subsection (2) according to the following:

(i) for a first offense, a fine of up to $1,000;

(ii) for a second offense, a fine of up to $2,000; and

(iii) for any subsequent offense, a fine of up to $2,000 for each day of continued offense.

(b) An action the division initiates for a first or second offense that has not resulted in a final order of the division may not preclude the initiation of any subsequent action for a second or subsequent offense during the pendency of the preceding action.

(4) (a) The division may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in a court with jurisdiction.

(b) A county attorney or the attorney general shall provide legal assistance and advice to the director in an action to collect a fine.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.

Section 7. Effective Date.

This bill takes effect on July 1, 2026.

CHAPTER 284
S. B. 24
Passed March 4, 2025
Approved March 25, 2025
Effective May 7, 2025

CHILD ABUSE AND TORTURE AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill concerns child abuse and torture.

Highlighted Provisions:

This bill:

- ► creates a new criminal offense for child torture and provides penalties;
- ► adds the offense of child torture to the list of offenses for which imprisonment is mandatory;
- ► amends existing definitions relating to the offenses of child abuse and aggravated criminal child abuse;
- ► modifies child abandonment, abuse or neglect of a child with a disability, and other statutes that rely on certain definitions concerning criminal child abuse;
- ► includes the offense of child torture in statutes that reference child abuse or aggravated child abuse, including statutes concerning background checks, murder and aggravated murder, child abuse homicide, bigamy, jail release agreements and orders, and adoption, parent-time, and custody statutes;
- ► adds the offense of child torture to the definition of "violent felony";
- ► includes the offense of child torture as a registrable offense on the Sex, Kidnap, and Child Abuse Offender Registry;
- ► modifies the definition of "severe type of child abuse or neglect" in the juvenile code to refer to the amended definition of serious injury in the criminal child abuse statute;
- ► adds coordination clauses:
  - • to merge the changes to Section 76-3-406 if both this bill and H.B. 78, Criminal Offenses Amendments, both pass and become law;
  - • to merge the changes to Section 77-41-102 in this bill if this bill, S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, both pass and become law, and H.B. 21, Criminal Code Recodification and Cross References, does not pass and become law, due to Section 77-41-102 being repealed and replaced with newly enacted statutes in S.B. 41; and
  - • to merge the changes to Section 77-41-102 in this bill if this bill, S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, and H.B. 21, Criminal Code Recodification and Cross References, all pass and become law, due to Section 77-41-102 being repealed and replaced with newly enacted statutes in S.B. 41; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

26B-2-120, as last amended by Laws of Utah 2024, Chapter 234
53G-6-204, as last amended by Laws of Utah 2024, Chapters 113, 386
76-2-401, as last amended by Laws of Utah 2022, Chapter 181
76-3-203.5, as last amended by Laws of Utah 2024, Chapters 96, 179
76-3-406, as last amended by Laws of Utah 2024, Chapter 96
76-5-109, as last amended by Laws of Utah 2022, Chapters 181, 335
76-5-109.2, as enacted by Laws of Utah 2022, Chapter 181
76-5-109.3, as last amended by Laws of Utah 2024, Chapter 225
76-5-110, as last amended by Laws of Utah 2022, Chapter 181
76-5-202, as last amended by Laws of Utah 2022, Chapter 181
76-5-203, as last amended by Laws of Utah 2024, Chapters 96, 187
76-5-208, as last amended by Laws of Utah 2023, Chapter 111
76-7-101, as last amended by Laws of Utah 2022, Chapter 181
77-41-102, as last amended by Laws of Utah 2024, Chapter 234
78B-6-117, as last amended by Laws of Utah 2022, Chapters 185, 430
78B-7-801, as last amended by Laws of Utah 2023, Chapter 114
80-1-102, as last amended by Laws of Utah 2024, Chapter 256
81-9-202, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-207, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-208, as renumbered and amended by Laws of Utah 2024, Chapter 366

81-9-402, as renumbered and amended by Laws of Utah 2024, Chapter 366

ENACTS:

76-5-109.4, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

AMENDS:

76-3-406, as last amended by Laws of Utah 2024, Chapter 96

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-2-120 is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the department under this part and has direct access, including:

(A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in accordance with Section 78B-6-128;

(B) a foster parent or prospective foster parent;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) an individual who transports a child for a youth transportation company;

(E) an individual who provides certified peer support, as defined in Section 26B-5-610;

(F) an individual who provides peer supports, has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder;

(G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;

(H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;

(I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the division;

(J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access;

(K) a foster home licensee that submits an application for an annual background screening as required by Subsection 26B-2-105(4)(d)(iii); or

(L) a short-term relief care provider.

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services;

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services;

(C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or

(D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.

(b) "Application" means a background check application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Criminal finding" means a record of:

(i) an arrest for a criminal offense;

(ii) a warrant for a criminal arrest;

(iii) charges for a criminal offense; or

(iv) a criminal conviction.

(e) "Direct access" means that an individual has, or likely will have:

(i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or

(ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.

(f) (i) "Direct access qualified" means that the applicant has an eligible determination by the office within the license and renewal time period; and

(ii) no more than 180 days have passed since the date on which the applicant's association with a certification, contract, or licensee with the department expires.

(g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(h) "Licensee" means an individual or a human services program licensed by the division.

(i) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) juvenile court arrest, adjudication, and disposition records;

(v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or

(vi) a state child abuse or neglect registry.

(j) "Office" means the Office of Background Processing within the department.

(k) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504;

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon association with a certification, contract, or licensee with the department;

(ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification, contract, or licensee with the department for 180 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(c) and (4);

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories; and

(e) an application showing an applicant's association with a certification, contract, or a licensee with the department, for the purpose of the office tracking the direct access qualified status of the applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18 years old or older;

(v) if the applicant is associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;

(e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;

(f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and

(h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The [~~Bureau~~]bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that an individual who has direct access qualified status will no longer be associated with a certification, contract, or licensee with the department, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation or prostitution;

(D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

(E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

(F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

(G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;

(H) an offense included in Title 76, Chapter 7, Offenses Against the Family;

(I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;

(K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(L) aggravated arson, as described in Section 76-6-103;

(M) aggravated burglary, as described in Section 76-6-203;

(N) aggravated exploitation of prostitution, as described in Section 76-10-1306;

(O) aggravated robbery, as described in Section 76-6-302;

(P) endangering persons in a human services program, as described in Section 26B-2-113;

(Q) failure to report, as described in Section 80-2-609;

(R) identity fraud crime, as described in Section 76-6-1102;

(S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;

(T) riot, as described in Section 76-9-101;

(U) sexual battery, as described in Section 76-9-702.1; or

(V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section 76-10-506; or

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider or a mental health professional, if the applicant provides services in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (7).

(c) The office shall deny direct access qualified status to an applicant if the office finds that a court order prohibits the applicant from having direct access to a child or vulnerable adult.

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);

(b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for

an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;

(d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);

(e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;

(f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

(h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);

(i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;

(j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(k) has a pending charge for an offense described in Subsection (5)(a);

(l) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section;

(m) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;

(n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;

(p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

(7) (a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.

(b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status to an applicant if the office finds the approval would likely create a risk of harm to a child or vulnerable adult.

(8) The office shall grant direct access qualified status to an applicant who is not denied under this section.

(9) (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice, without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice, without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall grant or deny direct access qualified status to the applicant in accordance with this section.

(10) (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.

(b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

(i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(c) Notwithstanding any other provision of this section, an applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office grants direct access qualified status to the applicant through a subsequent application in accordance with this section.

(11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.

(12) (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.

(b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.

(c) The office shall conduct a comprehensive review for an applicant if:

(i) the applicant is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal finding.

(13) (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

(b) As federally required, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(c) The requirements described in Subsection (13)(b) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).

(d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in [~~Sections~~]Section 76-5-109;

(B) [~~, 76-5-109.2, and~~]aggravated child abuse, as described in Section 76-5-109.2;

(C) child abandonment, as described in Section 76-5-109.3;

(D) child torture, as described in Section 76-5-109.4;

[~~(B)~~](E) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

[~~(C)~~](F) abuse or neglect of a child with a disability, as described in Section 76-5-110;

[~~(D)~~](G) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;

[~~(E)~~](H) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

[~~(F)~~](I) aggravated murder, as described in Section 76-5-202;

[~~(G)~~](J) murder, as described in Section 76-5-203;

[~~(H)~~](K) manslaughter, as described in Section 76-5-205;

[~~(I)~~](L) child abuse homicide, as described in Section 76-5-208;

[~~(J)~~](M) homicide by assault, as described in Section 76-5-209;

[~~(K)~~](N) kidnapping, as described in Section 76-5-301;

[~~(L)~~](O) child kidnapping, as described in Section 76-5-301.1;

[~~(M)~~](P) aggravated kidnapping, as described in Section 76-5-302;

[~~(N)~~](Q) human trafficking of a child, as described in Section 76-5-308.5;

[~~(O)~~](R) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

[~~(P)~~](S) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

[~~(Q)~~](T) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

[~~(R)~~](U) aggravated arson, as described in Section 76-6-103;

[~~(S)~~](V) aggravated burglary, as described in Section 76-6-203;

[~~(T)~~](W) aggravated robbery, as described in Section 76-6-302;

[~~(U)~~](X) lewdness involving a child, as described in Section 76-9-702.5;

[~~(V)~~](Y) incest, as described in Section 76-7-102; or

[~~(W)~~](Z) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).

(e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(f) In addition to the circumstances described in Subsection (6), the office shall conduct a comprehensive review of an applicant's background check under this section if the applicant:

(i) has an offense described in Subsection (5)(a);

(ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;

(iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-2-210;

(v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6), (7), and (13); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services for purposes of granting or denying direct access qualified status to an applicant.

Section 2. Section 53G-6-204 is amended to read:

53G-6-204. School-age children exempt from school attendance.

(1) (a) A local school board or charter school governing board may excuse a school-age child from attendance for any of the following reasons:

(i) a school-age child over 16 years old may receive a partial release from school to enter employment, or attend a trade school, if the school-age child has completed grade 8; or

(ii) on an annual basis, a school-age child may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age child has already completed the work required for graduation from high school;

(B) the school-age child is in a physical or mental condition, certified by a competent physician or physician assistant if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age child's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age child over 16 years old is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age child from attendance as provided by this Subsection (1) shall issue a certificate that the child is excused from attendance during the time specified on the certificate.

(2) (a) (i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or attempted felony offense of which an individual is convicted, or to which an individual pleads guilty or no contest, for conduct that constitutes any of the following:

(A) child abuse under Section 76-5-109;

(B) aggravated child abuse under Section 76-5-109.2;

(C) child abandonment under Section 76-5-109.3;

(D) child torture under Section 76-5-109.4;

[~~(D)~~](E) commission of domestic violence in the presence of a child under Section 76-5-114;

[~~(E)~~](F) child abuse homicide under Section 76-5-208;

[~~(F)~~](G) child kidnapping under Section 76-5-301.1;

[~~(G)~~](H) human trafficking of a child under Section 76-5-308.5;

[~~(H)~~](I) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in Title 76, Chapter 5b, Part 2, Sexual Exploitation, if

the victim is under 18 years old;

[~~(I)~~](J) sexual exploitation of a minor under Section 76-5b-201;

[~~(J)~~](K) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or

[~~(K)~~](L) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (2)(a)(i).

(ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a school-age child from attendance, if the school-age child's parent or legal guardian files a signed affidavit with the school-age child's school district of residence, as defined in Section 53G-6-302, that:

(A) the school-age child will attend a home school; and

(B) the parent or legal guardian assumes sole responsibility for the education of the school-age child, except to the extent the school-age child is dual enrolled in a public school as provided in Section 53G-6-702.

(iii) If a parent or legal guardian has been convicted of child abuse or if a court of competent jurisdiction has made a substantiated finding of child abuse against the parent or legal guardian:

(A) the parent or legal guardian may not assume responsibility for the education of a school-age child under Subsection (2)(a)(ii); and

(B) the local school board may not accept the affidavit described in Subsection (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to home school the child.

(iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit described in Subsection (2)(a)(ii).

(b) A signed affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age child attends a home school;

(ii) the school district where the affidavit was filed remains the school-age child's district of residence; and

(iii) the parent or legal guardian who filed the signed affidavit has not been convicted of child abuse or been the subject of a substantiated finding of child abuse by a court of competent jurisdiction.

(c) A parent or legal guardian of a school-age child who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent or legal guardian of a school-age child who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent or legal guardian, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent or legal guardian in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age child from attendance under this Subsection (2) shall annually issue a certificate stating that the school-age child is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age child from attendance:

(i) within 30 days after receipt of a signed affidavit filed by the school-age child's parent or legal guardian under this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age child enrolls in a school within the school district;

(B) the school-age child's parent or legal guardian notifies the school district that the school-age child no longer attends a home school; or

(C) the school-age child's parent or legal guardian notifies the school district that the school-age child's school district of residence has changed.

(3) A parent or legal guardian who is eligible to file and files a signed affidavit under Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

(4) (a) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or legal guardian of a child attending a home school.

(b) The exemptions in this section apply regardless of whether:

(i) a parent or legal guardian provides education instruction to the parent's or legal guardian's child alone or in cooperation with other parents or legal guardians similarly exempted under this section; or

(ii) the parent or legal guardian makes payment for educational services the parent's or legal guardian's child receives.

Section 3. Section 76-2-401 is amended to read:

76-2-401. Justification as defense -- When allowed.

(1) Conduct which is justified is a defense to prosecution for any offense based on the conduct. The defense of justification may be claimed:

(a) when the actor's conduct is in defense of persons or property under the circumstances described in Sections 76-2-402 through 76-2-406 of this part;

(b) when the actor's conduct is reasonable and in fulfillment of his duties as a governmental officer or employee;

(c) when the actor's conduct is reasonable discipline of minors by parents, guardians, teachers, or other persons in loco parentis, as limited by Subsection (2);

(d) when the actor's conduct is reasonable discipline of persons in custody under the laws of the state; or

(e) when the actor's conduct is justified for any other reason under the laws of this state.

(2) The defense of justification under Subsection (1)(c) is not available if the offense charged involves causing serious bodily injury,

as defined in Section 76-1-101.5, serious [~~physical~~]injury, as defined in Section 76-5-109, or the death of the minor.

Section 4. Section 76-3-203.5 is amended to read:

76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:

(A) arson as described in Section 76-6-102;

(B) causing a catastrophe as described in Subsection 76-6-105(3)(a) or (3)(b);

(C) criminal mischief as described in Section 76-6-106;

(D) aggravated arson as described in Section 76-6-103;

(E) assault by prisoner as described in Section 76-5-102.5;

(F) disarming a police officer as described in Section 76-5-102.8;

(G) aggravated assault as described in Section 76-5-103;

(H) aggravated assault by prisoner as described in Section 76-5-103.5;

(I) mayhem as described in Section 76-5-105;

(J) stalking as described in Subsection 76-5-106.5(2);

(K) threat of terrorism as described in Section 76-5-107.3;

(L) aggravated child abuse as described in Subsection 76-5-109.2(3)(a) or (b);

(M) child torture as described in Section 76-5-109.4;

[~~(M)~~](N) commission of domestic violence in the presence of a child as described in Section 76-5-114;

[~~(N)~~](O) abuse or neglect of a child with a disability as described in Section 76-5-110;

[~~(O)~~](P) abuse or exploitation of a vulnerable adult as described in Section 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;

[~~(P)~~](Q) endangerment of a child or vulnerable adult as described in Section 76-5-112.5;

[~~(Q)~~](R) an offense described in Chapter 5, Part 2, Criminal Homicide;

[~~(R)~~](S) kidnapping as described in Section 76-5-301;

[~~(S)~~](T) child kidnapping as described in Section 76-5-301.1;

[~~(T)~~](U) aggravated kidnapping as described in Section 76-5-302;

[~~(U)~~](V) rape as described in Section 76-5-402;

[~~(V)~~](W) rape of a child as described in Section 76-5-402.1;

[~~(W)~~](X) object rape as described in Section 76-5-402.2;

[~~(X)~~](Y) object rape of a child as described in Section 76-5-402.3;

[~~(Y)~~](Z) forcible sodomy as described in Section 76-5-403;

[~~(Z)~~](AA) sodomy on a child as described in Section 76-5-403.1;

[~~(AA)~~](BB) forcible sexual abuse as described in Section 76-5-404;

[~~(BB)~~](CC) sexual abuse of a child as described in Section 76-5-404.1;

[~~(CC)~~](DD) aggravated sexual abuse of a child as described in Section 76-5-404.3;

[~~(DD)~~](EE) aggravated sexual assault as described in Section 76-5-405;

[~~(EE)~~](FF) sexual exploitation of a minor as described in Section 76-5b-201;

[~~(FF)~~](GG) aggravated sexual exploitation of a minor as described in Section 76-5b-201.1;

[~~(GG)~~](HH) sexual exploitation of a vulnerable adult as described in Section 76-5b-202;

[~~(HH)~~](II) burglary as described in Subsection 76-6-202(3)(b);

[~~(II)~~](JJ) aggravated burglary as described in Section 76-6-203;

[~~(JJ)~~](KK) robbery as described in Section 76-6-301;

[~~(KK)~~](LL) aggravated robbery as described in Section 76-6-302;

[~~(LL)~~](MM) theft by extortion as described in Subsection 76-6-406(1)(a)(i) or (1)(a)(ii);

[~~(MM)~~](NN) tampering with a witness as described in Section 76-8-508;

[~~(NN)~~](OO) retaliation against a witness, victim, or informant as described in Section 76-8-508.3;

[~~(OO)~~](PP) tampering or retaliating against a juror as described in Subsection 76-8-508.5(2)(a)(iii);

[~~(PP)~~](QQ) extortion to dismiss a criminal proceeding as described in Subsection 76-6-406(1)(a)(i), (ii), or (ix);

[~~(QQ)~~](RR) possession, use, or removal of explosive, chemical, or incendiary devices as described in Subsections 76-10-306(3) through (6);

[~~(RR)~~](SS) unlawful delivery of explosive, chemical, or incendiary devices as described in Section 76-10-307;

[~~(SS)~~](TT) purchase or possession of a dangerous weapon or handgun by a restricted person as described in Section 76-10-503;

[~~(TT)~~](UU) aggravated exploitation of prostitution as described in Subsection 76-10-1306(1)(a);

[~~(UU)~~](VV) bus hijacking as described in Section 76-10-1504; and

[~~(VV)~~](WW) discharging firearms and hurling missiles as described in Section 76-10-1505; or

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c) (i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 5. Section 76-3-406 is amended to read:

76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

(1) Notwithstanding Sections 76-3-201 and 77-18-105 and Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, except as provided in Section 76-5-406.5 or Subsection 77-16a-103(6) or (7), probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for an individual who commits a capital felony or a first degree felony involving:

(a) child torture as described in Section 76-5-109.4;

(b) aggravated murder as described in Section 76-5-202;

[~~(b)~~](c) murder as described in Section 76-5-203;

[~~(c)~~](d) child kidnapping as described in Section 76-5-301.1;

[~~(d)~~](e) aggravated kidnapping as described in Subsection 76-5-302(3)(b);

[~~(e)~~](f) rape as described in Subsection 76-5-402(3)(b), (3)(c), or (4);

[~~(f)~~](g) rape of a child as described in Section 76-5-402.1;

[~~(g)~~](h) object rape as described in Subsection 76-5-402.2(3)(b), (3)(c), or (4);

[~~(h)~~](i) object rape of a child as described in Section 76-5-402.3;

[~~(i)~~](j) forcible sodomy as described in Subsection 76-5-403(3)(b), (3)(c), or (4);

[~~(j)~~](k) sodomy on a child as described in Section 76-5-403.1;

[~~(k)~~](l) forcible sexual abuse as described in Subsection 76-5-404(3)(b)(i) or (ii);

[~~(l)~~](m) aggravated sexual abuse of a child as described in Section 76-5-404.3;

[~~(m)~~](n) aggravated sexual assault as described in Section 76-5-405; or

[~~(n)~~](o) any attempt to commit a felony listed in Subsection [~~(1)(f), (h), or (j)~~](1)(g), (i), or (k).

(2) Except for an offense before the district court in accordance with Section 80-6-502 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the defendant:

(a) was under 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

Section 6. Section 76-5-109 is amended to read:

76-5-109. Child abuse.

(1) (a) As used in this section:

(i) "Child" means an individual who is younger than 18 years old.

(ii) [~~"Physical injury"~~]"Injury" means [~~an~~]a physical or psychological injury to or condition of a child which impairs the physical or psychological condition of the child, including:

(A) a bruise or other contusion of the skin;

(B) a minor laceration or abrasion;

(C) failure to thrive or malnutrition; or

(D) any other condition [~~which~~]that imperils the child's physical or psychological health or welfare and that is not a serious [~~physical~~]injury.

(iii) "Psychological injury" means an identifiable mental or emotional harm, damage, impairment, or dysfunction.

[~~(iii)~~](iv) (A) "Serious [~~physical~~]injury" means [~~any physical~~]an injury or set of injuries that:

(I) seriously impairs the child's health, which includes the child's physical or mental well-being or development;

[~~(II) involves physical torture;~~]

[~~(III)~~](II) causes serious emotional harm to the child; or

[~~(IV)~~](III) involves a substantial risk of death to the child.

(B) "Serious [~~physical~~]injury" includes:

(I) fracture of any bone or bones;

(II) intracranial bleeding, swelling or contusion of the brain, whether caused by blows, shaking, or causing the child's head to impact with an object or surface;

(III) any burn, including burns inflicted by hot water, or those caused by placing a hot object upon the skin or body of the child;

(IV) any injury caused by use of a dangerous weapon;

(V) any combination of two or more [~~physical~~]injuries inflicted by the same [~~person~~]individual, either at the same time or on different occasions;

(VI) any damage to internal organs of the body;

(VII) any conduct toward a child that results in severe emotional harm, severe developmental delay or intellectual disability, or severe impairment of the child's ability to function;

(VIII) any injury that creates a permanent disfigurement or protracted loss or impairment of the function of a bodily member, limb, or organ;

(IX) any impediment of the breathing or the circulation of blood by application of pressure to the neck, throat, or chest, or by the obstruction of the nose or mouth, that is likely to produce a loss of consciousness;

(X) any conduct involving unreasonable forcible restriction of a child's movements, including restraining or confining the child with restraints or in an enclosed space or forcing the child to remain in a stress position;

(XI) any conduct involving forcing or coercing a child to injure the child's self, an individual known to the child, or an animal known to the child;

(XII) any conduct involving a threat to harm or kill the child, an individual known to the child, or an animal known to the child;

(XIII) any conduct involving unreasonably subjecting a child to excessive heat, cold, darkness, solitary confinement, or sleep deprivation;

[~~(X)~~](XIV) any conduct that results in starvation [~~or~~], dehydration, failure to thrive, or malnutrition, that jeopardizes the child's life or seriously injures the child's physical or mental well-being or development; or

[~~(XI)~~](XV) unconsciousness caused by the unlawful infliction of a brain injury or unlawfully causing any deprivation of oxygen to the brain.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits child abuse if the actor:

(a) inflicts upon a child [~~physical~~]an injury; or

(b) having the care or custody of [~~such~~]a child, causes or permits another to inflict [~~physical~~]an injury upon [~~a~~]the child.

(3) (a) A violation of Subsection (2) is a class A misdemeanor if done intentionally or knowingly.

(b) A violation of Subsection (2) is a class B misdemeanor if done recklessly.

(c) A violation of Subsection (2) is a class C misdemeanor if done with criminal negligence.

(4) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal

guardian is a member or adherent may not, for that reason alone, be considered to have committed an offense under this section.

(b) A parent or guardian of a child does not violate this section by selecting a treatment option for a medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.

(c) An actor is not guilty of an offense under this section for conduct that constitutes:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (4)(c)(iii)(A) through (C).

Section 7. Section 76-5-109.2 is amended to read:

76-5-109.2. Aggravated child abuse.

(1) (a) As used in this section:

(i) "Child" means the same as that term is defined in Section 76-5-109.

(ii) "Serious [~~physical~~]injury" means the same as that term is defined in Section 76-5-109.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~An~~]Under circumstances not amounting to a violation of Section 76-5-109.4, Child torture, an actor commits aggravated child abuse if the actor:

(a) inflicts upon a child a serious [~~physical~~]injury; or

(b) having the care or custody of [~~such~~]a child, causes or permits another to inflict a serious [~~physical~~]injury upon [~~a~~]the child.

(3) (a) A violation of Subsection (2) is a second degree felony if done intentionally or knowingly.

(b) A violation of Subsection (2) is a third degree felony if done recklessly.

(c) A violation of Subsection (2) is a class A misdemeanor if done with criminal negligence.

(4) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to have committed an offense under this section.

(b) A parent or guardian of a child does not violate this section by selecting a treatment option for the medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.

(c) An actor is not guilty of an offense under this section for conduct that constitutes:

(i) conduct described in Section 76-2-401; or

(ii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (4)(c)(ii)(A) through (C).

Section 8. Section 76-5-109.3 is amended to read:

76-5-109.3. Child abandonment.

(1) (a) As used in this section:

(i) "Child" means the same as that term is defined in Section 76-5-109.

(ii) "Enterprise" means the same as that term is defined in Section 76-10-1602.

(iii) "Serious [~~physical~~]injury" means the same as that term is defined in Section 76-5-109.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Except as provided in Subsection (4), an actor commits child abandonment if the actor:

(i) is a parent or legal guardian of a child, and:

(A) intentionally ceases to maintain physical custody of the child;

(B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and

(C) (I) intentionally fails to provide the child with food, shelter, or clothing;

(II) manifests an intent to permanently not resume physical custody of the child; or

(III) for a period of at least 30 days, intentionally fails to resume physical custody of the child and fails to manifest a genuine intent to resume physical custody of the child; or

(ii) encourages or causes the parent or legal guardian of a child to violate Subsection (2)(a)(i).

(b) Except as provided in Subsection (4), an enterprise commits child abandonment if the enterprise encourages, commands, induces by misrepresentation, or causes another to violate Subsection (2)(a).

(3) (a) (i) A violation of Subsection (2) is a third degree felony.

(ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second degree felony if, as a result of the child abandonment:

(A) the child suffers a serious [~~physical~~]injury; or

(B) the actor or enterprise receives, directly or indirectly, any benefit.

(b) (i) In addition to the penalty described in Subsection (3)(a)(ii), the court may order the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under

Subsection (3)(b)(ii).

(ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is subject to criminal or civil forfeiture pursuant to Title 77, Chapter 11b, Forfeiture of Seized Property.

(4) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to have committed an offense under this section.

(b) An actor is not guilty of an offense under this section for conduct that constitutes:

(i) the safe relinquishment of a child pursuant to the provisions of Section 80-4-502;

(ii) giving legal consent to a court order for termination of parental rights:

(A) in a legal adoption proceeding; or

(B) in a case in which a petition for the termination of parental rights, or the termination of a guardianship, has been filed;

(iii) reasonable discipline or management of a child, including withholding privileges; or

(iv) conduct described in Section 76-2-401.

(c) It is a defense to prosecution under Subsection (2)(a)(i) that the actor committed child abandonment due to:

(i) intimidation;

(ii) isolation;

(iii) harassment;

(iv) coercion;

(v) the actor's reasonable fear of bodily harm; or

(vi) the reasonable actions of the actor to protect the safety and welfare of the actor or another individual.

Section 9. Section 76-5-109.4 is enacted to read:

76-5-109.4. Child torture.

(1) (a) As used in this section:

(i) "Child" means the same as that term is defined in Section 76-5-109.

(ii) "Course of conduct" means a pattern of conduct composed of two or more acts that evidence a continuity of purpose.

(iii) "Serious injury" means the same as that term is defined in Section 76-5-109.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits child torture if the actor intentionally or knowingly inflicts upon a child, or having the care or custody of a child, intentionally or knowingly causes or permits another to inflict upon the child:

(a) a serious injury that is inflicted in an exceptionally cruel or exceptionally depraved manner that causes the child to experience extreme physical or psychological pain or anguish; or

(b) a serious injury, or more than one serious injury, as part of a course of conduct or over a prolonged period of time.

(3) (a) Except as provided under Subsection (3)(b), a violation of Subsection (2) is a first degree felony subject to a sentence of imprisonment of at least 10 years and which may be for life.

(b) If, when imposing a sentence of imprisonment, a court finds that a lesser term than the term described in Subsection (3)(a) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(i) seven years and which may be for life; or

(ii) four years and which may be for life.

(4) Imprisonment under Subsection (3) is mandatory in accordance with Section 76-3-406.

(5) An actor's conduct is not subject to punishment under Subsection (2)(b) if the serious injury that forms the basis for the offense is based solely on the commission of two or more injuries by the same individual as described under Subsection 76-5-109(1)(a)(iii)(B)(V).

Section 10. Section 76-5-110 is amended to read:

76-5-110. Abuse or neglect of a child with a disability.

(1) (a) As used in this section:

(i) "Abuse" means:

(A) inflicting [~~physical~~]injury;

(B) having the care or custody of a child with a disability, causing or permitting another to inflict [~~physical~~]injury; or

(C) unreasonable confinement.

(ii) "Caretaker" means:

(A) any parent, legal guardian, or other person having under that person's care and custody a child with a disability; or

(B) any person, corporation, or public institution that has assumed by contract or court order the responsibility to provide food, shelter, clothing, medical, and other necessities to a child with a disability.

(iii) "Child with a disability" means an individual under 18 years old who is impaired because of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent that the individual is unable to care for the individual's own personal safety or to provide necessities such as food, shelter, clothing, and medical care.

(iv) "Injury" means the same as that term is defined in Section 76-5-109.

[~~(iv)~~](v) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter, supervision, or medical care.

[~~(v) "Physical injury" means the same as that term is defined in Section 76-5-109.~~]

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits abuse or neglect of a child with a disability if the actor is a caretaker and intentionally, knowingly, or recklessly abuses or neglects a child with a disability.

(3) A violation of Subsection (2) is a third degree felony.

(4) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to be in violation under this section.

(b) Subject to Section 80-3-109, the exception under Subsection (4)(a) does not preclude a court from ordering medical services from a physician licensed to engage in the practice of medicine to be provided to the child where there is substantial risk of harm to the child's health or welfare if the treatment is not provided.

(c) A caretaker of a child with a disability does not violate this section by selecting a treatment option for a medical condition of a child with a disability, if the treatment option is one that a reasonable caretaker would believe to be in the best interest of the child with a disability.

Section 11. Section 76-5-202 is amended to read:

76-5-202. Aggravated murder -- Penalties -- Affirmative defense and special mitigation -- Separate offense.

(1) (a) As used in this section:

(i) "Correctional officer" means the same as that term is defined in Section 53-13-104.

(ii) "Emergency responder" means the same as that term is defined in Section 53-2b-102.

(iii) "Federal officer" means the same as that term is defined in Section 53-13-106.

(iv) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(v) "Peace officer" means:

(A) a correctional officer, federal officer, law enforcement officer, or special function officer; or

(B) any other person who may exercise peace officer authority in accordance with Title 53, Chapter 13, Peace Officer Classifications.

(vi) "Special function officer" means the same as that term is defined in Section 53-13-105.

(vii) "Target a law enforcement officer" means an act:

(A) involving the unlawful use of force and violence against a law enforcement officer;

(B) that causes serious bodily injury or death; and

(C) that is in furtherance of political or social objectives in order to intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government.

(viii) "Weapon of mass destruction" means the same as that term is defined in Section 76-10-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits aggravated murder if the actor intentionally or knowingly causes the death of another individual under any of the following circumstances:

(i) the actor committed homicide while confined in a jail or other correctional institution;

(ii) (A) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which two or more individuals other than the actor were killed; or

(B) the actor, during commission of the homicide, attempted to kill one or more other individuals in addition to the deceased individual;

(iii) the actor knowingly created a great risk of death to another individual other than the deceased individual and the actor;

(iv) the actor committed homicide incident to an act, scheme, course of conduct, or criminal episode during which the actor committed or attempted to commit aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse of a child, aggravated sexual abuse of a child, aggravated child abuse as described in Subsection 76-5-109.2(3)(a), child torture, or aggravated sexual assault, aggravated arson, arson, aggravated burglary, burglary, aggravated kidnapping, or kidnapping, or child kidnapping;

(v) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which the actor committed the crime of abuse or desecration of a dead human body as described in Subsection 76-9-704(2)(e);

(vi) the actor committed homicide for the purpose of avoiding or preventing an arrest of the actor or another individual by a peace officer acting under color of legal authority or for the purpose of effecting the actor's or another individual's escape from lawful custody;

(vii) the actor committed homicide for pecuniary gain;

(viii) the actor committed, engaged, or employed another person to commit the homicide subject to an agreement or contract for remuneration or the promise of remuneration for commission of the homicide;

(ix) the actor previously committed or was convicted of:

(A) aggravated murder under this section;

(B) attempted aggravated murder under this section;

(C) murder, under Section 76-5-203;

(D) attempted murder, under Section 76-5-203; or

(E) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (2)(a)(ix);

(x) the actor was previously convicted of:

(A) aggravated assault, under Section 76-5-103;

(B) mayhem, under Section 76-5-105;

(C) kidnapping, under Section 76-5-301;

(D) child kidnapping, under Section 76-5-301.1;

(E) aggravated kidnapping, under Section 76-5-302;

(F) rape, under Section 76-5-402;

(G) rape of a child, under Section 76-5-402.1;

(H) object rape, under Section 76-5-402.2;

(I) object rape of a child, under Section 76-5-402.3;

(J) forcible sodomy, under Section 76-5-403;

(K) sodomy on a child, under Section 76-5-403.1;

(L) aggravated sexual abuse of a child, under Section 76-5-404.3;

(M) aggravated sexual assault, under Section 76-5-405;

(N) aggravated arson, under Section 76-6-103;

(O) aggravated burglary, under Section 76-6-203;

(P) aggravated robbery, under Section 76-6-302;

(Q) felony discharge of a firearm, under Section 76-10-508.1; or

(R) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (2)(a)(x);

(xi) the actor committed homicide for the purpose of:

(A) preventing a witness from testifying;

(B) preventing a person from providing evidence or participating in any legal proceedings or official investigation;

(C) retaliating against a person for testifying, providing evidence, or participating in any legal proceedings or official investigation; or

(D) disrupting or hindering any lawful governmental function or enforcement of laws;

(xii) the deceased individual was a local, state, or federal public official, or a candidate for public office, and the homicide is based on, is caused by, or is related to that official position, act, capacity, or candidacy;

(xiii) the deceased individual was on duty in a verified position or the homicide is based on, is caused by, or is related to the deceased individual's position, and the actor knew, or reasonably should have known, that the deceased individual holds or has held the position of:

(A) a peace officer;

(B) an executive officer, prosecuting officer, jailer, or prison official;

(C) a firefighter, search and rescue personnel, emergency medical personnel, ambulance personnel, or any other emergency responder;

(D) a judge or other court official, juror, probation officer, or parole officer; or

(E) a security officer contracted to secure, guard, or otherwise protect tangible personal property, real property, or the life and well-being of human or animal life in the area of the offense;

(xiv) the actor committed homicide:

(A) by means of a destructive device, bomb, explosive, incendiary device, or similar device which was planted, hidden, or concealed in any place, area, dwelling, building, or structure, or was mailed or delivered;

(B) by means of any weapon of mass destruction; or

(C) to target a law enforcement officer;

(xv) the actor committed homicide during the act of unlawfully assuming control of an aircraft, train, or other public conveyance by use of threats or force with intent to:

(A) obtain any valuable consideration for the release of the public conveyance or any passenger, crew member, or any other person aboard;

(B) direct the route or movement of the public conveyance; or

(C) otherwise exert control over the public conveyance;

(xvi) the actor committed homicide by means of the administration of a poison or of any lethal substance or of any substance administered in a lethal amount, dosage, or quantity;

(xvii) the deceased individual was held or otherwise detained as a shield, hostage, or for ransom;

(xviii) the actor committed homicide in an especially heinous, atrocious, cruel, or exceptionally depraved manner, any of which must be demonstrated by physical torture, serious physical abuse, or serious bodily injury of the deceased individual before death;

(xix) the actor dismembers, mutilates, or disfigures the deceased individual's body, whether before or after death, in a manner demonstrating the actor's depravity of mind; or

(xx) the deceased individual, at the time of the death of the deceased individual:

(A) was younger than 14 years old; and

(B) was not an unborn child.

(b) An actor commits aggravated murder if the actor, with reckless indifference to human life, causes the death of another individual incident to an act, scheme, course of conduct, or criminal episode during which the actor is a major participant in the commission or attempted commission of:

(i) aggravated child abuse, punishable as a felony of the second degree under Subsection 76-5-109.2(3)(a);

(ii) child torture under Section 76-5-109.4;

[~~(ii)~~](iii) child kidnapping [,] under Section 76-5-301.1;

[~~(iii)~~](iv) rape of a child [,] under Section 76-5-402.1;

[~~(iv)~~](v) object rape of a child [,] under Section 76-5-402.3;

[~~(v)~~](vi) sodomy on a child [,] under Section 76-5-403.1; or

[~~(vi)~~](vii) sexual abuse or aggravated sexual abuse of a child [,] under Section 76-5-404.1.

(3) (a) If a notice of intent to seek the death penalty has been filed, a violation of Subsection (2) is a capital felony.

(b) If a notice of intent to seek the death penalty has not been filed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

(c) (i) Within 60 days after arraignment of the defendant, the prosecutor may file notice of intent to seek the death penalty.

(ii) The notice shall be served on the defendant or defense counsel and filed with the court.

(iii) Notice of intent to seek the death penalty may be served and filed more than 60 days after the arraignment upon written stipulation of the parties or upon a finding by the court of good cause.

(d) Without the consent of the prosecutor, the court may not accept a plea of guilty to noncapital first degree felony aggravated murder during the period in which the prosecutor may file a notice of intent to seek the death penalty under Subsection (3)(c)(i).

(e) If the defendant was younger than 18 years old at the time the offense was committed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

(f) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or

(ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.

(4) (a) It is an affirmative defense to a charge of aggravated murder or attempted aggravated murder that the actor caused the death of another or attempted to cause the death of another under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or

(ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.

(5) (a) Any aggravating circumstance described in Subsection (2) that constitutes a separate offense does not merge with the crime of aggravated murder.

(b) An actor who is convicted of aggravated murder, based on an aggravating circumstance described in Subsection (2) that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 12. Section 76-5-203 is amended to read:

76-5-203. Murder -- Penalties-- Affirmative defense and special mitigation -- Separate offenses.

(1) (a) As used in this section, "predicate offense" means:

(i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;

(ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused individual is younger than 18 years old;

(iii) child torture under Section 76-5-109.4;

[~~(iii)~~](iv) kidnapping under Section 76-5-301;

[~~(iv)~~](v) child kidnapping under Section 76-5-301.1;

[~~(v)~~](vi) aggravated kidnapping under Section 76-5-302;

[~~(vi)~~](vii) rape under Section 76-5-402;

[~~(vii)~~](viii) rape of a child under Section 76-5-402.1;

[~~(viii)~~](ix) object rape under Section 76-5-402.2;

[~~(ix)~~](x) object rape of a child under Section 76-5-402.3;

[~~(x)~~](xi) forcible sodomy under Section 76-5-403;

[~~(xi)~~](xii) sodomy upon a child under Section 76-5-403.1;

[~~(xii)~~](xiii) forcible sexual abuse under Section 76-5-404;

[~~(xiii)~~](xiv) sexual abuse of a child under Section 76-5-404.1;

[~~(xiv)~~](xv) aggravated sexual abuse of a child under Section 76-5-404.3;

[~~(xv)~~](xvi) aggravated sexual assault under Section 76-5-405;

[~~(xvi)~~](xvii) arson under Section 76-6-102;

[~~(xvii)~~](xviii) aggravated arson under Section 76-6-103;

[~~(xviii)~~](xix) burglary under Section 76-6-202;

[~~(xix)~~](xx) aggravated burglary under Section 76-6-203;

[~~(xx)~~](xxi) robbery under Section 76-6-301;

[~~(xxi)~~](xxii) aggravated robbery under Section 76-6-302;

[~~(xxii)~~](xxiii) escape under Section 76-8-309;

[~~(xxiii)~~](xxiv) aggravated escape under Section 76-8-309.3; or

[~~(xxiv)~~](xxv) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of a firearm or dangerous weapon.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits murder if:

(a) the actor intentionally or knowingly causes the death of another individual;

(b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of the other individual;

(c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct that creates a grave risk of death to another individual and thereby causes the death of the other individual;

(d) (i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;

(ii) an individual other than a party described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and

(iii) the actor acted with the intent required as an element of the predicate offense;

(e) the actor recklessly causes the death of a peace officer or military service member in uniform while in the commission or attempted commission of:

(i) an assault against a peace officer under Section 76-5-102.4;

(ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against the peace officer; or

(iii) an assault against a military service member in uniform under Section 76-5-102.4; or

(f) the actor commits a homicide that would be aggravated murder, but the offense is reduced in accordance with Subsection 76-5-202(4).

(3) (a) (i) A violation of Subsection (2) is a first degree felony.

(ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.

(b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment of conviction for attempted manslaughter.

(4) (a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.

(5) (a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.

(b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 13. Section 76-5-208 is amended to read:

76-5-208. Child abuse homicide -- Penalties.

(1) (a) As used in this section, "child abuse" means an offense described in [~~Sections~~]Section76-5-109, 76-5-109.2, 76-5-109.3, [~~and~~]76-5-109.4, or 76-5-114.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Unless a violation amounts to aggravated murder as described in Section 76-5-202, an actor commits child abuse homicide if:

(a) (i) the actor causes the death of another individual who is younger than 18 years old; and

(ii) the individual's death results from child abuse; and

(b) (i) the child abuse is based on a violation of Section 76-5-109.4, Child Torture;

(ii) the child abuse is done recklessly under Subsection 76-5-109.2(3)(b);

[~~(ii)~~](iii) the child abuse is done with criminal negligence under Subsection 76-5-109.2(3)(c); or

[~~(iii)~~](iv) under circumstances not amounting to the type of child abuse homicide described in Subsection (2)(b)(i), the child abuse is done intentionally, knowingly, recklessly, or with criminal negligence, under Subsection 76-5-109(3)(a), (b), or (c).

(3) (a) A violation of Subsection (2) under the circumstances described in Subsection (2)(b)(i) is a first degree felony.

(b) A violation of Subsection (2) under the circumstances described in Subsection (2)(b)(ii) or (iii) is a second degree felony.

Section 14. Section 76-7-101 is amended to read:

76-7-101. Bigamy -- Penalty -- Defense.

(1) An individual is guilty of bigamy if:

(a) the individual purports to marry another individual; and

(b) knows or reasonably should know that one or both of the individuals described in Subsection (1)(a) are legally married to another individual.

(2) An individual who violates Subsection (1) is guilty of an infraction.

(3) An individual is guilty of a third degree felony if the individual induces bigamy:

(a) under fraudulent or false pretenses; or

(b) by threat or coercion.

(4) An individual is guilty of a second degree felony if the individual:

(a) cohabitates with another individual with whom the individual is engaged in bigamy as described in Subsection (1); and

(b) in furtherance of the conduct described in Subsection (4)(a), commits a felony offense, or for Subsection [~~(4)(b)(xiii)~~](4)(b)(xiv), a misdemeanor offense, in violation of one or more of the following:

(i) Section 76-5-109, child abuse;

(ii) Section 76-5-109.2, aggravated child abuse;

(iii) Section 76-5-109.3, child abandonment;

(iv) Section 76-5-109.4, child torture;

[~~(iv)~~](v) Section 76-5-111, abuse of a vulnerable adult;

[~~(v)~~](vi) Section 76-5-111.2, aggravated abuse of a vulnerable adult;

[~~(vi)~~](vii) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;

[~~(vii)~~](viii) Section 76-5-111.4, financial exploitation of a vulnerable adult;

[~~(viii)~~](ix) Chapter 5, Part 2, Criminal Homicide;

[~~(ix)~~](x) Section 76-5-208, child abuse homicide;

[~~(x)~~](xi) Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

[~~(xi)~~](xii) Chapter 5, Part 4, Sexual Offenses;

[~~(xii)~~](xiii) Section 76-7-201, criminal nonsupport;

[~~(xiii)~~](xiv) Section 76-9-702.1, sexual battery;

[~~(xiv)~~](xv) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or

[~~(xv)~~](xvi) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(5) It is a defense to prosecution under Subsection (2) that:

(a) the individual ceased the practice of bigamy as described in Subsection (1) under reasonable fear of coercion or bodily harm;

(b) the individual entered the practice of bigamy, as described in Subsection (1), as a minor and ceased the practice of bigamy at any time after the individual entered the practice of bigamy; or

(c) law enforcement discovers that the individual practices bigamy, as described in Subsection (1), as a result of the individual's efforts to protect the safety and welfare of another individual.

Section 15. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

(1) "Child abuse offender" means an individual:

(a) who has been convicted in this state of a violation of:

(i) (A) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b); or

[~~(ii)~~](B) attempting, soliciting, or conspiring to commit aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b); or

(ii) (A) child torture under Section 76-5-109.4; or

(B) attempting, soliciting, or conspiring to commit child torture under Section 76-5-109.4;

(b) (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offense listed in Subsection (1)(a); and

(ii) (A) who is a Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a child abuse offender in another jurisdiction of original conviction;

(B) who is required to register as a child abuse offender by a state, a federal, or a military court; or

(C) who would be required to register as a child abuse offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of the offense listed in Subsection (1)(a) or a substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (1)(a);

(e) who is found not guilty by reason of insanity in this state or in another jurisdiction of the offense listed in Subsection (1)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for the offense listed in Subsection (1)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(2) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in [~~section~~]Section 53-10-201.

(3) "Business day" means a day on which state offices are open for regular business.

(4) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(5) (a) "Convicted" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental illness; or

(iii) no contest.

(b) "Convicted" includes, unless otherwise specified, the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

(c) "Convicted" does not include:

(i) a withdrawn or dismissed plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(6) "Department" means the Department of Public Safety.

(7) "Division" means the Division of Juvenile Justice and Youth Services.

(8) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(9) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(10) "Jurisdiction" means any state, Indian Country, United States Territory, or property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(11) "Kidnap offender" means an individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) kidnapping under Subsection 76-5-301(2)(c) or (d);

(ii) child kidnapping under Section 76-5-301.1;

(iii) aggravated kidnapping under Section 76-5-302;

(iv) human trafficking for labor under Section 76-5-308;

(v) human smuggling under Section 76-5-308.3;

(vi) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);

(vii) aggravated human trafficking under Section 76-5-310;

(viii) aggravated human smuggling under Section 76-5-310.1;

(ix) human trafficking of a vulnerable adult for labor under Section 76-5-311; or

(x) attempting, soliciting, or conspiring to commit a felony offense listed in Subsections (11)(a)(i) through (ix);

(b) (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection (11)(a); and

(ii) (A) who [~~isa~~]is a Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a kidnap offender in another jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by a state, federal, or military court; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (11)(a) or any substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (11)(a);

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (11)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (11)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(12) "Natural parent" means a minor's biological or adoptive parent, including the minor's noncustodial parent.

(13) "Offender" means a child abuse offender, kidnap offender, or sex offender.

(14) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(15) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another

location or return to another location at a future date.

(16) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(17) "Registration website" means the Sex, Kidnap, and Child Abuse Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(18) "Secondary residence" means real property that the offender owns or has a financial interest in, or a location where the offender stays overnight a total of 10 or more nights in a 12-month period when not staying at the offender's primary residence.

(19) "Sex offender" means an individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of enticing a minor under Section 76-4-401;

(ii) sexual exploitation of a vulnerable adult under Section 76-5b-202;

(iii) human trafficking for sexual exploitation under Section 76-5-308.1;

(iv) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);

(v) aggravated human trafficking for sexual exploitation under Section 76-5-310;

(vi) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

(vii) unlawful sexual activity with a minor under Section 76-5-401, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) sexual abuse of a minor under Section 76-5-401.1, except as provided in Subsection 76-5-401.1(3);

(ix) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

(x) rape under Section 76-5-402;

(xi) rape of a child under Section 76-5-402.1;

(xii) object rape under Section 76-5-402.2;

(xiii) object rape of a child under Section 76-5-402.3;

(xiv) a felony violation of forcible sodomy under Section 76-5-403;

(xv) sodomy on a child under Section 76-5-403.1;

(xvi) forcible sexual abuse under Section 76-5-404;

(xvii) sexual abuse of a child under Section 76-5-404.1;

(xviii) aggravated sexual abuse of a child under Section 76-5-404.3;

(xix) aggravated sexual assault under Section 76-5-405;

(xx) custodial sexual relations under Section 76-5-412, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;

(xxi) sexual exploitation of a minor under Section 76-5b-201;

(xxii) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(xxiii) sexual extortion or aggravated sexual extortion under Section 76-5b-204;

(xxiv) incest under Section 76-7-102;

(xxv) lewdness under Section 76-9-702, if the individual has been convicted of the offense four or more times;

(xxvi) sexual battery under Section 76-9-702.1, if the individual has been convicted of the offense four or more times;

(xxvii) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under Section 76-9-702.1, that total four or more convictions;

(xxviii) lewdness involving a child under Section 76-9-702.5;

(xxix) a felony or class A misdemeanor violation of voyeurism under Section 76-9-702.7;

(xxx) aggravated exploitation of prostitution under Section 76-10-1306; or

(xxxi) attempting, soliciting, or conspiring to commit a felony offense listed in this Subsection (19)(a);

(b) (i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection (19)(a); and

(ii) (A) who [~~isa~~]is a Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a sex offender in another jurisdiction of original conviction;

(B) who is required to register as a sex offender by a state, federal, or military court; or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (19)(a) or a substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's jurisdiction of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (19)(a);

(e) who is found not guilty by reason of insanity in this state, or in another jurisdiction of one or more offenses listed in Subsection (19)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (19)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(20) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(21) "Vehicle" means a motor vehicle, an aircraft, or a watercraft subject to registration in any jurisdiction.

Section 16. Section 78B-6-117 is amended to read:

78B-6-117. Who may adopt -- Adoption of minor.

(1) A minor child may be adopted by an adult individual, in accordance with this section and this part.

(2) A child may be adopted by:

(a) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or

(b) subject to Subsections (3) and (4), a single adult.

(3) A child may not be adopted by an individual who is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state unless the individual is a relative of the child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(4) To provide a child who is in the custody of the division with the most beneficial family structure, when a child in the custody of the division is placed for adoption, the division or child-placing agency shall place the child with a married couple, unless:

(a) there are no qualified married couples who:

(i) have applied to adopt a child;

(ii) are willing to adopt the child; and

(iii) are an appropriate placement for the child;

(b) the child is placed with a relative of the child;

(c) the child is placed with an individual who has already developed a substantial relationship with the child;

(d) the child is placed with an individual who:

(i) is selected by a parent or former parent of the child, if the parent or former parent consented to the adoption of the child; and

(ii) the parent or former parent described in Subsection (4)(d)(i):

(A) knew the individual with whom the child is placed before the parent consented to the adoption; or

(B) became aware of the individual with whom the child is placed through a source other than the division or the child-placing agency that assists with the adoption of the child; or

(e) it is in the best interests of the child to place the child with a single adult.

(5) Except as provided in Subsection (6), an adult may not adopt a child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(a) child abuse, as described in Section 76-5-109;

(b) aggravated child abuse, as described in Section 76-5-109.2;

(c) child abandonment, as described in Section 76-5-109.3;

(d) child torture, as described in Section 76-5-109.4;

(e) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

[~~(b)~~](f) child abuse homicide, as described in Section 76-5-208;

[~~(c)~~](g) child kidnapping, as described in Section 76-5-301.1;

[~~(d)~~](h) human trafficking of a child, as described in Section 76-5-308.5;

[~~(e)~~](i) sexual abuse of a minor, as described in Section 76-5-401.1;

[~~(f)~~](j) rape of a child, as described in Section 76-5-402.1;

[~~(g)~~](k) object rape of a child, as described in Section 76-5-402.3;

[~~(h)~~](l) sodomy on a child, as described in Section 76-5-403.1;

[~~(i)~~](m) sexual abuse of a child, as described in Section 76-5-404.1, or aggravated sexual abuse of a child, as described in Section 76-5-404.3;

[~~(j)~~](n) sexual exploitation of a minor, as described in Section 76-5b-201;

[~~(k)~~](o) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1; or

[~~(l) aggravated child abuse, as described in Section 76-5-109.2;~~]

[~~(m) child abandonment, as described in Section 76-5-109.3;~~]

[~~(n) commission of domestic violence in the presence of a child, as described in Section 76-5-114; or~~]

[~~(o)~~](p) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (5).

(6) (a) For purpose of this Subsection (6), "disqualifying offense" means an offense listed in Subsection (5) that prevents a court from considering an individual for adoption of a child except as provided in this Subsection (6).

(b) An individual described in Subsection (5) may only be considered for adoption of a child if the following criteria are met by clear and convincing evidence:

(i) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(ii) during the 10 years before the day on which the individual files a petition with the court seeking adoption, the individual has not been convicted, pleaded guilty, or pleaded no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;

(iii) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(iv) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the child currently or at any time in the future when considering all of the following:

(A) the child's age;

(B) the child's gender;

(C) the child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a child 12 years old or older;

(F) any available assessments, including custody evaluations, home studies, pre-placement adoptive evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(v) the individual can provide evidence of all of the following:

(A) the relationship with the child is of long duration;

(B) that an emotional bond exists with the child; and

(C) that adoption by the individual who has committed the disqualifying offense ensures the best interests of the child are met; and

(vi) the adoption is by:

(A) a stepparent whose spouse is the adoptee's parent and consents to the adoption; or

(B) subject to Subsection (6)(d), a relative of the child as defined in Section 80-3-102 and there is not another relative without a disqualifying offense filing an adoption petition.

(c) The individual with the disqualifying offense bears the burden of proof regarding why adoption with that individual is in the best interest of the child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If there is an alternative responsible relative who does not have a disqualifying offense filing an adoption petition, the following applies:

(i) preference for adoption shall be given to a relative who does not have a disqualifying offense; and

(ii) before the court may grant adoption to the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(7) Subsections (5) and (6) apply to a case pending on March 25, 2017, for which a final decision on adoption has not been made and to a case filed on or after March 25, 2017.

Section 17. Section 78B-7-801 is amended to read:

78B-7-801. Definitions.

As used in this part:

(1) (a) "Jail release agreement" means a written agreement that is entered into by an individual who is arrested or issued a citation, regardless of whether the individual is booked into jail:

(i) under which the arrested or cited individual agrees to not engage in any of the following:

(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(B) threatening or harassing the alleged victim; or

(C) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim, unless, after a law enforcement officer or the law enforcement officer's employing agency notifies or attempts to notify the alleged victim, the individual enters the premises while accompanied by a law enforcement officer for the purpose of retrieving the individual's personal belongings; and

(ii) that specifies other conditions of release from jail or arrest.

(b) "Jail release agreement" includes a written agreement that includes the conditions described in Section (1)(a) entered into by a minor who is taken into custody or placed in detention or a shelter facility under Section 80-6-201.

(2) "Jail release court order" means a written court order that:

(a) orders an arrested or cited individual not to engage in any of the following:

(i) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(ii) threatening or harassing the alleged victim; or

(iii) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim, unless, after a law enforcement officer or the law enforcement officer's employing agency notifies or attempts to notify the alleged victim, the individual enters the premises while accompanied by a law enforcement officer for the purpose of retrieving the individual's personal belongings; and

(b) specifies other conditions of release from jail.

(3) "Minor" means the same as that term is defined in Section 80-1-102.

(4) "Offense against a child or vulnerable adult" means the commission or attempted commission of an offense described in:

(a) Section 76-5-109, child abuse;

(b) Section 76-5-109.2, aggravated child abuse;

(c) Section 76-5-109.3, child abandonment;

(d) Section 76-5-109.4, child torture;

[~~(d)~~](e) Section 76-5-110, abuse or neglect of a child with a disability;

[~~(e)~~](f) Section 76-5-111, abuse of a vulnerable adult;

[~~(f)~~](g) Section 76-5-111.2, aggravated abuse of a vulnerable adult;

[~~(g)~~](h) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;

[~~(h)~~](i) Section 76-5-111.4, financial exploitation of a vulnerable adult;

[~~(i)~~](j) Section 76-5-114, commission of domestic violence in the presence of a child; or

[~~(j)~~](k) Section 76-9-702.1, sexual battery.

(5) "Qualifying offense" means:

(a) domestic violence;

(b) an offense against a child or vulnerable adult; or

(c) the commission or attempted commission of an offense described in Section 76-9-702.1 or Title 76, Chapter 5, Part 4, Sexual Offenses.

Section 18. Section 80-1-102 is amended to read:

80-1-102. Juvenile Code definitions.

Except as provided in Section 80-6-1103, as used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means, except as provided in Subsection (3)(b):

(i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:

(A) a finding by the juvenile court that the facts alleged in a delinquency petition or criminal information alleging that a minor committed an offense have been proved;

(B) an admission by a minor in the juvenile court as described in Section 80-6-306; or

(C) a plea of no contest by minor in the juvenile court; or

(ii) for all other proceedings under this title, a finding by the juvenile court that the facts alleged in the petition have been proved.

(b) "Adjudication" does not include:

(i) an admission by a minor described in Section 80-6-306 until the juvenile court enters the minor's admission; or

(ii) a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 80-3-307.

(9) "Child placing" means the same as that term is defined in Section 26B-2-101.

(10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.

(11) "Child protection team" means a team consisting of:

(a) the child welfare caseworker assigned to the case;

(b) if applicable, the child welfare caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) if applicable, the law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12) (a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(13) (a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(15) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.

(17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth Services in accordance with Section 80-5-501, for minors held in detention.

(25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(29) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(30) "Emancipated" means the same as that term is defined in Section 80-7-102.

(31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(34) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(37) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(38) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.

(39) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(45) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(46) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(47) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(50) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(51) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

(52) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

(53) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

(iii) (A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

(55) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

(56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.

(57) (a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(58) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated child custody transfer under Section 78B-24-203; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(59) "Neglected child" means a child who has been subjected to neglect.

(60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, guardian, or custodian.

(61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(62) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.

(63) "Physical abuse" means abuse that results in physical injury or damage to a child.

(64) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(65) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(66) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(67) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

(68) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(69) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(70) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(71) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(72) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.

(73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(74) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(75) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

(76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(78) (a) "Severe type of child abuse or neglect" means, except as provided in Subsection (78)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious [~~physical~~]injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

(B) sexual behavior with or upon another child that indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with Subsection 53G-8-302(2) or Section 76-2-401;

(ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

(iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

(79) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (39), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(80) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

(83) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

(f) family risk factors; and

(g) other related considerations.

(84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(85) "Status offense" means an offense that would not be an offense but for the age of the offender.

(86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

(87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred.

(88) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or

(c) the licensing and supervision of a substitute care facility.

(89) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

(90) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(91) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (93)(a) and (b).

(94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(95) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(96) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(97) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

(98) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

Section 19. Section 81-9-202 is amended to read:

81-9-202. Advisory guidelines for a custody and parent-time arrangement.

(1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304, the following advisory guidelines are suggested to govern a custody and parent-time arrangement between parents.

(2) A parent-time schedule mutually agreed upon by both parents is preferable to a court-imposed solution.

(3) A parent-time schedule shall be used to maximize the continuity and stability of the minor child's life.

(4) Each parent shall give special consideration to make the minor child available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the minor child or in the life of either parent which may inadvertently conflict with the parent-time schedule.

(5) (a) The court shall determine the responsibility for the pick up, delivery, and return of the minor child when the parent-time order is entered.

(b) The court may change the responsibility described in Subsection (5)(a) at any time a subsequent modification is made to the parent-time order.

(c) If the noncustodial parent will be providing transportation, the custodial parent shall:

(i) have the minor child ready for parent-time at the time the minor child is to be picked up; and

(ii) be present at the custodial home or make reasonable alternate arrangements to receive the minor child at the time the minor child is returned.

(d) If the custodial parent will be transporting the minor child, the noncustodial parent shall:

(i) be at the appointed place at the time the noncustodial parent is to receive the minor child; and

(ii) have the minor child ready to be picked up at the appointed time and place or have made reasonable alternate arrangements for the custodial parent to pick up the minor child.

(6) A parent may not interrupt regular school hours for a school-age minor child for the exercise of parent-time.

(7) The court may:

(a) make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents; and

(b) increase the parent-time allowed to the noncustodial parent but may not diminish the standardized parent-time provided in Sections 81-9-302 and 81-9-304.

(8) The court may make alterations in the parent-time schedule to reasonably accommodate the distance between the parties and the expense of exercising parent-time.

(9) A parent may not withhold parent-time or child support due to the other parent's failure to comply with a court-ordered parent-time schedule.

(10) (a) The custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school, social, sports, and community functions in which the minor child is participating or being honored.

(b) The noncustodial parent is entitled to attend and participate fully in the functions described in Subsection (10)(a).

(c) The noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records.

(d) A parent shall immediately notify the other parent in the event of a medical emergency.

(11) Each parent shall provide the other with the parent's current address and telephone number, email address, and other virtual parent-time access information within 24 hours of any change.

(12) (a) Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the minor child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available.

(b) If the parents cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably [~~availableby~~]available by taking into consideration:

(i) the best interests of the minor child;

(ii) each parent's ability to handle any additional expenses for virtual parent-time; and

(iii) any other factors the court considers material.

(13) (a) Parental care is presumed to be better care for the minor child than surrogate care.

(b) The court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able to transport the minor child, to provide the child care.

(c) Child care arrangements existing during the marriage are preferred as are child care arrangements with nominal or no charge.

(14) Each parent shall:

(a) provide all surrogate care providers with the name, current address, and telephone number of the other parent; and

(b) provide the noncustodial parent with the name, current address, and telephone number of all surrogate care providers unless the

court for good cause orders otherwise.

(15) (a) Each parent is entitled to an equal division of major religious holidays celebrated by the parents.

(b) The parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the minor child on the religious holiday.

(16) If the minor child is on a different parent-time schedule than a sibling, based on Sections 81-9-302 and 81-9-304, the parents should consider if an upward deviation for parent-time with all the minor children so that parent-time is uniform between school aged and nonschool aged children, is appropriate.

(17) (a) When one or both parents are servicemembers or contemplating joining a uniformed service, the parents should resolve issues of custodial responsibility in the event of deployment as soon as practicable through reaching a voluntary agreement pursuant to Section 78B-20-201 or through court order obtained pursuant to this part.

(b) Service members shall ensure their family care plan reflects orders and agreements entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act.

(18) A parent shall immediately notify the other parent if:

(a) the parent resides with an individual or provides an individual with access to the minor child; and

(b) the parent knows that the individual:

(i) is required to register as a sex offender or a kidnap offender for an offense against a minor child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or

(iii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-109.4, 76-5-114, or 76-5-208;

(B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses;

(C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections (18)(b)(iii)(A) through (D).

(19) (a) For emergency purposes, whenever the minor child travels with a parent, the parent shall provide the following information to the other parent:

(i) an itinerary of travel dates;

(ii) destinations;

(iii) places where the minor child or traveling parent can be reached; and

(iv) the name and telephone number of an available third person who would be knowledgeable of the minor child's location.

(b) Unchaperoned travel of a minor child under the age of five years is not recommended.

Section 20. Section 81-9-207 is amended to read:

81-9-207. Supervised parent-time.

(1) If it is necessary to protect a minor child and there is no less restrictive means reasonably available, and in accordance with Section 81-9-104, a court may order supervised parent-time if the court finds evidence that the minor child would be subject to physical or emotional harm or child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-109.4, 76-5-114, and 80-1-102, from the noncustodial parent if left unsupervised with the noncustodial parent.

(2) If the court finds evidence of domestic violence, child abuse, or an ongoing risk to a child, and orders supervised parent-time, the court shall give preference to supervision by a professional individual or private agency trained in child abuse reporting laws, the developmental needs of a child, and the dynamics of domestic violence, child abuse, sexual abuse, and substance abuse.

(3) If a professional individual or private agency described in Subsection (2) is not available, affordable, or practicable under the circumstances, a court shall give preference to supervision by an individual who is:

(a) capable and willing to provide physical and psychological safety and security to the minor child, and to assist in the avoidance and prevention of domestic and family violence; and

(b) is trained in child abuse reporting laws, the developmental needs of a child, and the dynamics of domestic violence, child abuse, sexual abuse, and substance abuse.

(4) If an individual described in Subsection (2) or (3) is not available, affordable, or practicable under the circumstances, or if the court does not find evidence of domestic violence, child abuse, or an ongoing risk to a minor child, a court may order supervised parent-time that is supervised by an individual who is willing to supervise, and is capable of protecting the minor child from physical or emotional harm, or child abuse, and the court shall give preference to individuals suggested by the parties, including relatives.

(5) At the time supervised parent-time is imposed, the court shall consider:

(a) whether the cost of professional or agency services is likely to prevent the noncustodial parent from exercising parent-time; and

(b) whether the requirement for supervised parent-time should expire after a set period of time.

(6) (a) Except when the court makes a finding that, due to abuse by or the incapacity of the noncustodial parent, supervised parent-time will be necessary indefinitely to ensure the physical or psychological safety and protection of the minor child, the court shall, in its order for supervised parent-time, provide specific goals and expectations for the noncustodial parent to accomplish before unsupervised parent-time may be granted.

(b) The court shall schedule one or more follow-up hearings to revisit the issue of supervised parent-time.

(7) A noncustodial parent may, at any time, petition the court to modify the order for supervised parent-time if the noncustodial parent can demonstrate that the specific goals and expectations set by the court as described in Subsection (6) have been accomplished.

Section 21. Section 81-9-208 is amended to read:

81-9-208. Modification or termination of a custody or parent-time order -- Noncompliance with a parent-time order.

(1) The court has continuing jurisdiction to make subsequent changes to modify:

(a) custody of a minor child if there is a showing of a substantial and material change in circumstances since the entry of the order; and

(b) parent-time for a minor child if there is a showing that there is a change in circumstances since the entry of the order.

(2) A substantial and material change in circumstances under Subsection (1)(a) includes a showing by a parent that the other parent:

(a) resides with an individual or provides an individual with access to the minor child; and

(b) knows that the individual:

(i) is required to register as a sex offender or a kidnap offender for an offense against a minor child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or

(iii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-109.4, 76-5-114, or 76-5-208;

(B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses;

(C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections (2)(b)(iii)(A) through (D).

(3) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal custody or joint physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that there has been a substantial and material change in the circumstances of the minor child or one or both parents or joint legal or physical custodians since the entry of the order to be modified;

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child; and

(c) (i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 81-9-205(8); or

(ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 81-9-205(13) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.

(4) (a) In determining whether the best interest of a minor child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors described in Sections 81-9-204 and 81-9-205.

(b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:

(i) a substantial and material change of circumstance has occurred; and

(ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child.

(c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the minor child is thriving, happy, and well-adjusted.

(5) The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Section 81-9-204.

(6) The court may modify the terms and conditions of the existing order in accordance with this chapter and may order the parents to file a parenting plan in accordance with Section 81-9-203.

(7) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 81-9-203.

(8) If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are service members, and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(9) If the court finds that an action to modify custody or parent-time is filed or answered frivolously and, in a manner, designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

(10) If a petition to modify custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action if the court determines that the petition was without merit and not asserted or defended against in good faith.

(11) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court:

(a) may award to the prevailing party:

(i) actual attorney fees incurred;

(ii) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, including:

(A) court costs;

(B) child care expenses;

(C) transportation expenses actually incurred;

(D) lost wages, if ascertainable; or

(E) counseling for a parent or a minor child if ordered or approved by the court; or

(iii) any other appropriate equitable remedy; and

(b) shall award reasonable make-up parent-time to the prevailing party, unless make-up parent-time is not in the best interest of the minor child.

Section 22. Section 81-9-402 is amended to read:

81-9-402. Custody and visitation for individuals other than a parent -- Venue.

(1) (a) In accordance with Section 80-2a-201, it is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of a minor child of the parent.

(b) There is a rebuttable presumption that a parent's decisions are in the minor child's best interests.

(2) A court may find the presumption in Subsection (1) rebutted and grant custodial or visitation rights to an individual other than a parent who, by clear and convincing evidence, establishes that:

(a) the individual has intentionally assumed the role and obligations of a parent;

(b) the individual and the minor child have formed a substantial emotional bond and created a parent-child type relationship;

(c) the individual substantially contributed emotionally or financially to the minor child's well being;

(d) the assumption of the parental role is not the result of a financially compensated surrogate care arrangement;

(e) the continuation of the relationship between the individual and the minor child is in the minor child's best interest;

(f) the loss or cessation of the relationship between the individual and the minor child would substantially harm the minor child; and

(g) the parent:

(i) is absent; or

(ii) is found by a court to have abused or neglected the minor child.

(3) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, or Section 78A-6-350, an individual shall file a verified petition, or a petition supported by an affidavit, for custodial or visitation rights to the minor child in the juvenile court if a matter is pending in the juvenile court, or in the district court in the county where the minor child:

(a) currently resides; or

(b) lived with a parent or an individual other than a parent who acted as a parent within six months before the commencement of the action.

(4) An individual may file a petition under this section in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court involving custody of or visitation with a minor child.

(5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information described in Section 78B-13-209.

(6) An individual may not file a petition under this section against a parent who is actively serving outside the state in any branch of the military.

(7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the Utah Rules of Civil Procedure on all of the following:

(a) the minor child's biological, adopted, presumed, declarant, and adjudicated parents;

(b) any individual who has court-ordered custody or visitation rights;

(c) the minor child's guardian;

(d) the guardian ad litem, if one has been appointed;

(e) an individual or agency that has physical custody of the minor child or that claims to have custody or visitation rights; and

(f) any other individual or agency that has previously appeared in any action regarding custody of or visitation with the minor child.

(8) The court may order a custody evaluation to be conducted in any proceeding brought under this section.

(9) The court may enter temporary orders in a proceeding brought under this section pending the entry of final orders.

(10) Except as provided in Subsection (11), a court may not grant custody of a minor child under this section to an individual:

(a) who is not the parent of the minor child; and

(b) who, before a custody order is issued, is convicted, pleads guilty, or pleads no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(i) child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-109.4, and 76-5-114;

(ii) child abuse homicide, as described in Section 76-5-208;

(iii) child kidnapping, as described in Section 76-5-301.1;

(iv) human trafficking of a child, as described in Section 76-5-308.5;

(v) sexual abuse of a minor, as described in Section 76-5-401.1;

(vi) rape of a child, as described in Section 76-5-402.1;

(vii) object rape of a child, as described in Section 76-5-402.3;

(viii) sodomy on a child, as described in Section 76-5-403.1;

(ix) sexual abuse of a child, as described in Section 76-5-404.1, or aggravated sexual abuse of a child, as described in Section 76-5-404.3;

(x) sexual exploitation of a minor, as described in Section 76-5b-201;

(xi) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1; or

(xii) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (10).

(11) (a) As used in this Subsection (11), "disqualifying offense" means an offense listed in Subsection (10) that prevents a court from granting custody except as provided in this Subsection (11).

(b) An individual described in Subsection (10) may only be considered for custody of a minor child if the following criteria are met by clear and convincing evidence:

(i) the individual is a relative, as defined in Section 80-3-102, of the minor child;

(ii) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(iii) during the 10 years before the day on which the individual files a petition with the court seeking custody the individual has not been convicted, plead guilty, or plead no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the minor child;

(iv) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(v) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the minor child currently or at any time in the future when considering all of the following:

(A) the minor child's age;

(B) the minor child's gender;

(C) the minor child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a minor child who is 12 years old or older;

(F) any available assessments, including custody evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(vi) the individual can provide evidence of the following:

(A) the relationship with the minor child is of long duration;

(B) that an emotional bond exists with the minor child; and

(C) that custody by the individual who has committed the disqualifying offense ensures the best interests of the minor child are met;

(vii) (A) there is no other responsible relative known to the court who has or likely could develop an emotional bond with the minor child and does not have a disqualifying offense; or

(B) if there is a responsible relative known to the court that does not have a disqualifying offense, Subsection (11)(d) applies; and

(viii) that the continuation of the relationship between the individual with the disqualifying offense and the minor child could not be sufficiently maintained through any type of visitation if custody were given to the relative with no disqualifying offense described in Subsection (11)(d).

(c) The individual with the disqualifying offense bears the burden of proof regarding why placement with that individual is in the best interest of the minor child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to the court who does not have a disqualifying offense:

(i) preference for custody is given to a relative who does not have a disqualifying offense; and

(ii) before the court may place custody with the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final decision on custody has not been made and to a case filed on or after March 25, 2017.

Section 23. Effective Date.

This bill takes effect on May 7, 2025.

Section 24. Coordinating S.B. 24 with H.B. 78.

If S.B. 24, Child Abuse and Torture Amendments, and H.B. 78, Criminal Offenses Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, the following language be inserted as Subsection 76-3-406(2)(b) in H.B. 78 and that the existing subsections in Subsection 76-3-406(2) in H.B. 78 be renumbered accordingly:

"(b) child torture as described in Section 76-5-109.4;".

Section 25. Coordinating S.B. 24 with S.B. 41 if H.B. 21 does not pass and become law.

If S.B. 24, Child Abuse and Torture Amendments, and S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, both pass and become law, and H.B. 21, Criminal Code Recodification and Cross References, does not pass and become law, the Legislature intends that, on May 7, 2025:

(1) Section 53-29-202, enacted in S.B. 41, be amended to read:

"(1) An individual is an offender described in Subsection (2) and subject to the requirements, restrictions, and penalties described in this chapter if the individual:

(a) has been convicted in this state of:

(i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

(ii) child torture under Section 76-5-109.4;

(iii) a felony or class A misdemeanor violation of enticing a minor under Section 76-4-401;

(iv) sexual exploitation of a vulnerable adult under Section 76-5b-202;

(v) human trafficking for sexual exploitation under Section 76-5-308.1;

(vi) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);

(vii) aggravated human trafficking for sexual exploitation under Section 76-5-310;

(viii) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

(ix) unlawful sexual activity with a minor under Section 76-5-401, except as provided in Subsection 76-5-401(3)(b) or (c);

(x) sexual abuse of a minor under Section 76-5-401.1, on the individual's first offense unless the individual was younger than 21 years old at the time of the offense then on the individual's second offense;

(xi) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

(xii) rape under Section 76-5-402;

(xiii) rape of a child under Section 76-5-402.1;

(xiv) object rape under Section 76-5-402.2;

(xv) object rape of a child under Section 76-5-402.3;

(xvi) a felony violation of forcible sodomy under Section 76-5-403;

(xvii) sodomy on a child under Section 76-5-403.1;

(xviii) forcible sexual abuse under Section 76-5-404;

(xix) sexual abuse of a child under Section 76-5-404.1;

(xx) aggravated sexual abuse of a child under Section 76-5-404.3;

(xxi) aggravated sexual assault under Section 76-5-405;

(xxii) custodial sexual relations under Section 76-5-412, if the victim in custody is younger than 18 years old and the offense is committed on or after May 10, 2011;

(xxiii) sexual exploitation of a minor under Section 76-5b-201;

(xxiv) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(xxv) sexual extortion or aggravated sexual extortion under Section 76-5b-204;

(xxvi) incest under Section 76-7-102;

(xxvii) lewdness under Section 76-9-702, if the individual has been convicted of the offense four or more times;

(xxviii) sexual battery under Section 76-9-702.1, if the individual has been convicted of the offense four or more times;

(xxix) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under Section 76-9-702.1, that total four or more convictions;

(xxx) lewdness involving a child under Section 76-9-702.5;

(xxxi) a felony or class A misdemeanor violation of voyeurism under Section 76-9-702.7;

(xxxii) aggravated exploitation of prostitution under Section 76-10-1306;

(xxxiii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the natural parent of the child victim;

(xxxiv) child kidnapping under Section 76-5-301.1, if the offender was not the natural parent of the child victim;

(xxxv) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;

(xxxvi) human trafficking for labor under Section 76-5-308, if the offender was not the natural parent of the child victim;

(xxxvii) human smuggling under Section 76-5-308.3, if the offender was not the natural parent of the child victim;

(xxxviii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the offender was not the natural parent of the child victim;

(xxxix) aggravated human trafficking for labor under Section 76-5-310, if the offender was not the natural parent of the child victim;

(xl) aggravated human smuggling under Section 76-5-310.1, if the offender was not the natural parent of the child victim;

(xli) human trafficking of a vulnerable adult for labor under Section 76-5-311, if the offender was not the natural parent of the child victim; or

(xlii) attempting, soliciting, or conspiring to commit a felony violation of an offense listed in Subsections (1)(a)(i) through (xli);

(b)(i) has been convicted of a criminal offense, or an attempt, solicitation, or conspiracy to commit a criminal offense in an external jurisdiction that is substantially equivalent to the offense listed in Subsection (1)(a); and

(ii)(A) is a Utah resident; or

(B) is not a Utah resident and is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

(c)(i)(A) is required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense;

(B) is ordered by a court to register on a registry for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

(C) would be required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a), or a substantially equivalent offense, if residing in the external jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

(d)(i)(A) is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) is convicted of an offense listed in Subsection (1)(a) or a substantially equivalent offense in an external jurisdiction; or

(B) is required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (1)(a);

(e) is found not guilty by reason of insanity in this state or in an external jurisdiction of an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

(f)(i) is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (1)(a); and

(ii) has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(2) Subject to Subsection (3), an individual is:

(a) a child abuse offender if the individual:

(i) has committed, attempted, solicited, or conspired to commit an offense described in Subsections (1)(a)(i) through (ii); or

(ii) meets a requirement described in Subsections (1)(b) through (e) for an offense described in Subsections (1)(a)(i) through (ii) or a substantially equivalent offense;

(b) a sex offender if the individual:

(i) has committed, attempted, solicited, or conspired to commit an offense described in Subsections (1)(a)(iii) through (xxxii); or

(ii) meets a requirement described in Subsections (1)(b) through (e) for an offense described in Subsections (1)(a)(iii) through (xxxii) or a substantially equivalent offense; or

(c) a kidnap offender if the individual:

(i) has committed, attempted, solicited, or conspired to commit an offense described in Subsections (1)(a)(xxxiii) through (xli); or

(ii) meets a requirement described in Subsections (1)(b) through (e) for an offense described in Subsections (1)(a)(xxxiii) through (xli) or a substantially equivalent offense.

(3) An individual who has committed a registrable offense described in Subsection (1)(d)(ii)(B) in an external jurisdiction that is not substantially equivalent to an offense described in Subsection (1)(a) and is required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, in the individual's state of residence is a child abuse offender, sex offender, or kidnap offender based on the individual's status on the registry in the individual's state of residence.

(4) Notwithstanding Subsection 53-29-101(2)(a), a plea of guilty or nolo contendere to a charge of sexual battery or lewdness that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction even if the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.";

(2) Subsection 53-29-203(1)(a), enacted in S.B. 41, be amended to read:

"(a) 10 years after the day on which the offender's sentence for the offense has been terminated if the registrable offense is for:

(i) a felony or class A misdemeanor violation of enticing a minor under Section 76-4-401, if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (1)(a)(ii) through (xxiv);

(ii) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

(iii) child torture under Section 76-5-109.4;

(iv) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the natural parent of the child victim;

(v) human trafficking for labor under Section 76-5-308, if the offender was not the natural parent of the child victim;

(vi) human smuggling under Section 76-5-308.3, if the offender was not the natural parent of the child victim;

(vii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the offender was not the natural parent of the child victim;

(viii) aggravated human trafficking for labor under Section 76-5-310, if the offender was not the natural parent of the child victim;

(ix) aggravated human smuggling under Section 76-5-310.1;

(x) human trafficking of a vulnerable adult for labor under Section 76-5-311;

(xi) a felony violation of unlawful sexual activity with a minor under Section 76-5-401;

(xii) sexual abuse of a minor under Section 76-5-401.1;

(xiii) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

(xiv) forcible sexual abuse under Section 76-5-404;

(xv) custodial sexual relations under Section 76-5-412;

(xvi) sexual exploitation of a vulnerable adult under Section 76-5b-202;

(xvii) sexual extortion under Subsection 76-5b-204(2)(a);

(xviii) incest under Section 76-7-102;

(xix) four to seven convictions of lewdness under Section 76-9-702;

(xx) four to seven convictions of sexual battery under Section 76-9-702.1;

(xxi) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under Section 76-9-702.1, that total four to seven convictions;

(xxii) lewdness involving a child under Section 76-9-702.5;

(xxiii) a felony or class A misdemeanor violation of voyeurism under Section 76-9-702.7;

(xxiv) aggravated exploitation of prostitution under Section 76-10-1306, committed on or before May 9, 2011;

(xxv) attempting, soliciting, or conspiring to commit an offense listed in Subsections (1)(a)(i) through (xxiv) if the attempt, solicitation, or conspiracy is a registrable offense; or

(xxvi) attempting, soliciting, or conspiring to commit:

(A) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;

(B) human trafficking for sexual exploitation under Section 76-5-308.1, if the offender was not the natural parent of the child victim;

(C) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;

(D) aggravated human trafficking for sexual exploitation under Section 76-5-310, if the offender was not the natural parent of the child victim;

(E) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311, if the offender was not the natural parent of the child victim;

(F) forcible sodomy under Section 76-5-403;

(G) sexual abuse of a child under Section 76-5-404.1;

(H) sexual exploitation of a minor under Section 76-5b-201;

(I) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(J) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or

(K) aggravated exploitation of prostitution under Section 76-10-1306, on or after May 10, 2011; or"; and

(3) the following language be inserted as Subsection 53-29-205(3)(c) in S.B. 41 and the existing subsections in Subsection 53-29-205(3) in S.B. 41 be renumbered accordingly:

"(c) child torture under Section 76-5-109.4;".

Section 26. Coordinating S.B. 24 with H.B. 21 and S.B. 41, if all pass and become law.

If S.B. 24, Child Abuse and Torture Amendments, S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, and H.B. 21, Criminal Code Recodification and Cross References, all pass and become law, the Legislature intends that, on May 7, 2025:

(1) Section 53-29-202, enacted in S.B. 41, be amended to read:

"(1) An individual is an offender described in Subsection (2) and subject to the requirements, restrictions, and penalties described in this

chapter if the individual:

(a) has been convicted in this state of:

(i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

(ii) child torture under Section 76-5-109.4;

(iii) a felony or class A misdemeanor violation of enticing a minor under Section 76-4-401;

(iv) sexual exploitation of a vulnerable adult under Section 76-5b-202;

(v) human trafficking for sexual exploitation under Section 76-5-308.1;

(vi) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);

(vii) aggravated human trafficking for sexual exploitation under Section 76-5-310;

(viii) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

(ix) unlawful sexual activity with a minor under Section 76-5-401, except as provided in Subsection 76-5-401(3)(b) or (c);

(x) sexual abuse of a minor under Section 76-5-401.1, on the individual's first offense unless the individual was younger than 21 years old at the time of the offense then on the individual's second offense;

(xi) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

(xii) rape under Section 76-5-402;

(xiii) rape of a child under Section 76-5-402.1;

(xiv) object rape under Section 76-5-402.2;

(xv) object rape of a child under Section 76-5-402.3;

(xvi) a felony violation of forcible sodomy under Section 76-5-403;

(xvii) sodomy on a child under Section 76-5-403.1;

(xviii) forcible sexual abuse under Section 76-5-404;

(xix) sexual abuse of a child under Section 76-5-404.1;

(xx) aggravated sexual abuse of a child under Section 76-5-404.3;

(xxi) aggravated sexual assault under Section 76-5-405;

(xxii) custodial sexual relations under Section 76-5-412, if the victim in custody is younger than 18 years old and the offense is committed on or after May 10, 2011;

(xxiii) sexual exploitation of a minor under Section 76-5b-201;

(xxiv) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(xxv) sexual extortion or aggravated sexual extortion under Section 76-5b-204;

(xxvi) incest under Section 76-7-102;

(xxvii) lewdness under Section 76-9-702, if the individual has been convicted of the offense four or more times;

(xxviii) sexual battery under Section 76-9-702.1, if the individual has been convicted of the offense four or more times;

(xxix) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under Section 76-9-702.1, that total four or more convictions;

(xxx) lewdness involving a child under Section 76-9-702.5;

(xxxi) a felony or class A misdemeanor violation of:

(A) voyeurism under Section 76-12-306;

(B) recorded or photographed voyeurism under Section 76-12-307; or

(C) distribution of images obtained through voyeurism under Section 76-12-308;

(xxxii) aggravated exploitation of prostitution under Section 76-10-1306;

(xxxiii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the natural parent of the child victim;

(xxxiv) child kidnapping under Section 76-5-301.1, if the offender was not the natural parent of the child victim;

(xxxv) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;

(xxxvi) human trafficking for labor under Section 76-5-308, if the offender was not the natural parent of the child victim;

(xxxvii) human smuggling under Section 76-5-308.3, if the offender was not the natural parent of the child victim;

(xxxviii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the offender was not the natural parent of the child victim;

(xxxix) aggravated human trafficking for labor under Section 76-5-310, if the offender was not the natural parent of the child victim;

(xl) aggravated human smuggling under Section 76-5-310.1, if the offender was not the natural parent of the child victim;

(xli) human trafficking of a vulnerable adult for labor under Section 76-5-311, if the offender was not the natural parent of the child victim; or

(xlii) attempting, soliciting, or conspiring to commit a felony violation of an offense listed in Subsections (1)(a)(i) through (xli);

(b)(i) has been convicted of a criminal offense, or an attempt, solicitation, or conspiracy to commit a criminal offense in an external jurisdiction that is substantially equivalent to the offense listed in Subsection (1)(a); and

(ii)(A) is a Utah resident; or

(B) is not a Utah resident and is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

(c)(i)(A) is required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense;

(B) is ordered by a court to register on a registry for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

(C) would be required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a), or a substantially equivalent offense, if residing in the external jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

(d)(i)(A) is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) is convicted of an offense listed in Subsection (1)(a) or a substantially equivalent offense in an external jurisdiction; or

(B) is required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (1)(a);

(e) is found not guilty by reason of insanity in this state or in an external jurisdiction of an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

(f)(i) is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (1)(a); and

(ii) has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(2) Subject to Subsection (3), an individual is:

(a) a child abuse offender if the individual:

(i) has committed, attempted, solicited, or conspired to commit an offense described in Subsections (1)(a)(i) through (ii); or

(ii) meets a requirement described in Subsections (1)(b) through (e) for an offense described in Subsections (1)(a)(i) through (ii) or a substantially equivalent offense;

(b) a sex offender if the individual:

(i) has committed, attempted, solicited, or conspired to commit an offense described in Subsections (1)(a)(iii) through (xxxii); or

(ii) meets a requirement described in Subsections (1)(b) through (e) for an offense described in Subsections (1)(a)(iii) through (xxxii) or a substantially equivalent offense; or

(c) a kidnap offender if the individual:

(i) has committed, attempted, solicited, or conspired to commit an offense described in Subsections (1)(a)(xxxiii) through (xli); or

(ii) meets a requirement described in Subsections (1)(b) through (e) for an offense described in Subsections (1)(a)(xxxiii) through (xli) or a substantially equivalent offense.

(3) An individual who has committed a registrable offense described in Subsection (1)(d)(ii)(B) in an external jurisdiction that is not substantially equivalent to an offense described in Subsection (1)(a) and is required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, in the individual's state of residence is a child abuse offender, sex offender, or kidnap offender based on the individual's status on the registry in the individual's state of residence.

(4) Notwithstanding Subsection 53-29-101(2)(a), a plea of guilty or nolo contendere to a charge of sexual battery or lewdness that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction even if the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.";

(2) Subsection 53-29-203(1)(a), enacted in S.B. 41, be amended to read:

"(a) 10 years after the day on which the offender's sentence for the offense has been terminated if the registrable offense is for:

(i) a felony or class A misdemeanor violation of enticing a minor under Section 76-4-401, if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (1)(a)(ii) through (xxiv);

(ii) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

(iii) child torture under Section 76-5-109.4;

(iv) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the natural parent of the child victim;

(v) human trafficking for labor under Section 76-5-308, if the offender was not the natural parent of the child victim;

(vi) human smuggling under Section 76-5-308.3, if the offender was not the natural parent of the child victim;

(vii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the offender was not the natural parent of the child victim;

(viii) aggravated human trafficking for labor under Section 76-5-310, if the offender was not the natural parent of the child victim;

(ix) aggravated human smuggling under Section 76-5-310.1;

(x) human trafficking of a vulnerable adult for labor under Section 76-5-311;

(xi) a felony violation of unlawful sexual activity with a minor under Section 76-5-401;

(xii) sexual abuse of a minor under Section 76-5-401.1;

(xiii) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

(xiv) forcible sexual abuse under Section 76-5-404;

(xv) custodial sexual relations under Section 76-5-412;

(xvi) sexual exploitation of a vulnerable adult under Section 76-5b-202;

(xvii) sexual extortion under Subsection 76-5b-204(2)(a);

(xviii) incest under Section 76-7-102;

(xix) four to seven convictions of lewdness under Section 76-9-702;

(xx) four to seven convictions of sexual battery under Section 76-9-702.1;

(xxi) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under Section 76-9-702.1, that total four to seven convictions;

(xxii) lewdness involving a child under Section 76-9-702.5;

(xxiii) a felony or class A misdemeanor violation of:

(A) voyeurism under Section 76-12-306;

(B) recorded or photographed voyeurism under Section 76-12-307; or

(C) distribution of images obtained through voyeurism under Section 76-12-308;

(xxiv) aggravated exploitation of prostitution under Section 76-10-1306, committed on or before May 9, 2011;

(xxv) attempting, soliciting, or conspiring to commit an offense listed in Subsections (1)(a)(i) through (xxiv) if the attempt, solicitation, or conspiracy is a registrable offense; or

(xxvi) attempting, soliciting, or conspiring to commit:

(A) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;

(B) human trafficking for sexual exploitation under Section 76-5-308.1, if the offender was not the natural parent of the child victim;

(C) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;

(D) aggravated human trafficking for sexual exploitation under Section 76-5-310, if the offender was not the natural parent of the child victim;

(E) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311, if the offender was not the natural parent of the child victim;

(F) forcible sodomy under Section 76-5-403;

(G) sexual abuse of a child under Section 76-5-404.1;

(H) sexual exploitation of a minor under Section 76-5b-201;

(I) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(J) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or

(K) aggravated exploitation of prostitution under Section 76-10-1306, on or after May 10, 2011; or";

(3) the following language be inserted as Subsection 53-29-205(3)(c) in S.B. 41 and the existing subsections in Subsection 53-29-205(3) in S.B. 41 be renumbered accordingly:

"(c) child torture under Section 76-5-109.4;"; and

(4) Subsection 53-29-205(3)(u), enacted in S.B. 41, be amended to read:

"(u) a felony violation of:

(i) recorded or photographed voyeurism under Section 76-12-307; or

(ii) distribution of images obtained through voyeurism under Section 76-12-308;".

CHAPTER 285
S. B. 27
Passed February 27, 2025
Approved March 25, 2025
Effective July 1, 2025

MOTOR VEHICLE DIVISION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends provisions pertaining to the Motor Vehicle Division to make technical changes and clean up.

Highlighted Provisions:

This bill:

- ► defines terms related to trailers, motorboats, and motorcycles;
- ► allows a fleet of personal vehicles to be registered as a fleet;
- ► clarifies that a street-legal off-highway vehicle includes an off-highway motorcycle that has been modified to have equipment necessary for on-highway use;
- ► clarifies which registration fees apply to certain vehicles;
- ► amends provisions related to insurance for a motorboat, to only require the designated agent to notify the Motor Vehicle Division of a lapse in coverage during the months of April through October;
- ► revises provisions related to sales and use taxes to simplify certain earmarks; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-70-207, (Effective 07/01/26) as enacted by Laws of Utah 2024, Chapter 419
26B-1-315, (Effective 07/01/26) as last amended by Laws of Utah 2024, Chapter 439
41-1a-102, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 483
41-1a-110, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapter 212
41-1a-215, (Effective 01/01/26) as last amended by Laws of Utah 2012, Chapter 397
41-1a-1206, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 483
41-6a-102, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 236
41-6a-1509, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 459
41-12a-804, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 236
41-22-2, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 242
41-22-3, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 236
41-22-5.5, (Effective 05/07/25) as last amended by Laws of Utah 2022, Chapter 68
41-22-10.7, (Effective 05/07/25) as last amended by Laws of Utah 2022, Chapter 68
41-22-10.8, (Effective 05/07/25) as last amended by Laws of Utah 2010, Chapter 363
51-9-902, (Effective 07/01/26) as last amended by Laws of Utah 2024, Chapter 41
53-2a-1102, (Effective 07/01/26) as last amended by Laws of Utah 2023, Chapters 34, 471
59-12-102, (Effective 07/01/26) as last amended by Laws of Utah 2024, Chapter 274
59-12-103, (Effective 07/01/26) as last amended by Laws of Utah 2024, Chapters 88, 501
59-12-104.2, (Effective 07/01/26) as last amended by Laws of Utah 2022, Chapter 274
59-12-1201, (Effective 07/01/26) as last amended by Laws of Utah 2024, Chapter 274
63N-2-510, (Effective 07/01/26) as last amended by Laws of Utah 2023, Chapter 471
63N-2-512, (Effective 07/01/26) as last amended by Laws of Utah 2024, Chapter 159
72-2-106, (Effective 07/01/26) as last amended by Laws of Utah 2023, Chapter 22
72-2-124, (Effective 07/01/26) as last amended by Laws of Utah 2024, Chapters 498, 501
73-2-1.6, (Effective 07/01/26) as last amended by Laws of Utah 2024, Chapter 154

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-70-207 is amended to read:

11-70-207 (Effective 07/01/26). Use of fairpark district funds.

(1) (a) Subject to Subsection (2), the fairpark district may use fairpark district funds for any purpose authorized under this chapter,

including to pay for:

(i) the development and construction of a qualified stadium;

(ii) administrative, overhead, legal, consulting, and other operating expenses of the fairpark district;

(iii) all or part of the development of land within a project area, including:

(A) financing or refinancing; and

(B) assisting the ongoing operation of a development or facility within the project area;

(iv) the cost of the installation of public infrastructure and improvements outside a project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area;

(v) the principal and interest on bonds issued by the fairpark district;

(vi) the payment of an infrastructure loan, as defined in Section 11-70-104, according to the terms of the infrastructure loan; and

(vii) the costs of promoting, facilitating, and implementing other development of land within the fairpark district boundary.

(b) The determination of the board under Subsection (1)(a)(iv) regarding benefit to the project area is final.

(2) (a) The fairpark district may use money it receives under Subsection 59-12-1201(2)(a)(ii) and Subsection [~~59-12-103(16)~~]59-12-103(8) only for the development and construction of a qualified stadium, including paying for bonds issued to pay for the development and construction of a qualified stadium.

(b) If the amount of money the fairpark district receives under Subsection (2)(a) exceeds the amount required to pay the annual debt service on bonds issued to pay for the development and construction of a qualified stadium, the fairpark district shall use the excess amount received to pay down the principal on those bonds.

(3) The fairpark district may share enhanced property tax revenue with a taxing entity that levies a property tax on land within the project area from which the enhanced property tax revenue is generated.

Section 2. Section 26B-1-315 is amended to read:

26B-1-315 (Effective 07/01/26). Medicaid ACA Fund.

(1) There is created an expendable special revenue fund known as the "Medicaid ACA Fund."

(2) The fund consists of:

(a) assessments collected under Chapter 3, Part 5, Inpatient Hospital Assessment;

(b) intergovernmental transfers under Section 26B-3-508;

(c) savings attributable to the health coverage improvement program, as defined in Section 26B-3-501, as determined by the department;

(d) savings attributable to the enhancement waiver program, as defined in Section 26B-3-501, as determined by the department;

(e) savings attributable to the Medicaid waiver expansion, as defined in Section 26B-3-501, as determined by the department;

(f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26B-3-105(3) as determined by the department;

(g) revenues collected from the sales tax described in Subsection [~~59-12-103(11)~~]59-12-103(6);

(h) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(i) interest earned on money in the fund; and

(j) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of Chapter 3, Part 5, Inpatient Hospital Assessment, may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement program as defined in Section 26B-3-501;

(ii) the enhancement waiver program as defined in Section 26B-3-501;

(iii) a Medicaid waiver expansion as defined in Section 26B-3-501; and

(iv) the outpatient upper payment limit supplemental payments under Section 26B-3-511.

(b) A state agency administering the provisions of Chapter 3, Part 5, Inpatient Hospital Assessment, may not use:

(i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or

(ii) money in the fund for any purpose not described in Subsection (4)(a).

Section 3. Section 41-1a-102 is amended to read:

41-1a-102 (Effective 05/07/25). Definitions.

As used in this chapter:

(1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

(2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

(a) an electric motor vehicle;

(b) a hybrid electric motor vehicle;

(c) a plug-in hybrid electric motor vehicle; or

(d) a motor vehicle powered exclusively by a fuel other than:

(i) motor fuel;

(ii) diesel fuel;

(iii) natural gas; or

(iv) propane.

(7) "Amateur radio operator" means a person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53-3-102.

(9) "Automated driving system" means the same as that term is defined in Section 41-26-102.1.

(10) "Branded title" means a title certificate that is labeled:

(a) rebuilt and restored to operation;

(b) flooded and restored to operation; or

(c) not restored to operation.

(11) "Camper" means a structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(12) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(13) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(14) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

(a) as a carrier for hire, compensation, or profit; or

(b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(15) "Commission" means the State Tax Commission.

(16) "Consumer price index" means the same as that term is defined in Section 59-13-102.

(17) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(18) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

(19) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(20) "Dynamic driving task" means the same as that term is defined in Section 41-26-102.1.

(21) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(22) "Essential parts" means the integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter the vehicle's appearance, model, type, or mode of operation.

(23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(24) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and any other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(25) "Fleet" means:

(a) one or more commercial vehicles; or

(b) for purposes of Section 41-1a-215, one or more personal vehicles.

(26) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(27) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(28) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(29) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

(30) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(31) "Implement of husbandry" means a vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(32) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If a fleet is composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(33) "Interstate vehicle" means a commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(34) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(35) "Lienholder" means a person with a security interest in particular property.

(36) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(37) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(38) "Military vehicle" means a vehicle of any size or weight that was manufactured for use by armed forces and that is maintained in a condition that represents the vehicle's military design and markings regardless of current ownership or use.

(39) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(40) "Motor fuel" means the same as that term is defined in Section 59-13-102.

(41) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" includes a roadable aircraft and a street-legal all-terrain vehicle.

(c) "Motor vehicle" does not include:

(i) an off-highway vehicle; or

(ii) a motor assisted scooter as defined in Section 41-6a-102.

(42) "Motorboat" means the same as that term is defined in Section [~~73-18-2~~]73-18c-102.

(43) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

(44) "Natural gas" means a fuel of which the primary constituent is methane.

(45) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains a vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(46) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(47) "Off-highway implement of husbandry" means the same as that term is defined in Section 41-22-2.

(48) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

(49) (a) "Operate" means:

(i) to navigate a vessel; or

(ii) collectively, the activities performed in order to perform the entire dynamic driving task for a given motor vehicle by:

(A) a human driver as defined in Section 41-26-102.1; or

(B) an engaged automated driving system.

(b) "Operate" includes testing of an automated driving system.

(50) "Original issue license plate" means a license plate that is of a format and type issued by the state in the same year as the model year of a vehicle that is a model year 1973 or older.

(51) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(52) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee's option to purchase the vehicle.

(53) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

(54) "Personal vehicle" means a vehicle that is not a commercial vehicle.

[~~(54)~~](55) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

[~~(55)~~](56) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes a motor vehicle with the open cargo area covered with a camper, camper shell, tarp, removable top, or

similar structure.

[~~(56)~~](57) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

[~~(57)~~](58) "Pneumatic tire" means a tire in which compressed air is designed to support the load.

[~~(58)~~](59) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

[~~(59)~~](60) "Public garage" means a building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

[~~(60)~~](61) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

[~~(61)~~](62) "Reconstructed vehicle" means a vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

[~~(62)~~](63) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

[~~(63)~~](64) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

[~~(64)~~](65) "Registration decal" means the decal issued by the division that is evidence of compliance with the division's registration requirements.

[~~(65)~~](66) (a) "Registration year" means a 12 consecutive month period commencing with the completion of the applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

[~~(66)~~](67) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

[~~(67)~~](68) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

[~~(68)~~](69) "Restored-modified vehicle" means a motor vehicle that has been restored and modified with modern parts and technology, including emission control technology and an on-board diagnostic system.

[~~(69)~~](70) "Road tractor" means a motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

[~~(70)~~](71) "Roadable aircraft" means the same as that term is defined in Section 72-10-102.

[~~(71)~~](72) "Sailboat" means the same as that term is defined in Section 73-18-2.

[~~(72)~~](73) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

[~~(73) "Semitrailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.~~]

(74) "Semitrailer" means the same as the term "trailer."

[~~(74)~~](75) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418 or Part 16, Sponsored Special Group License Plates.

[~~(75)~~](76) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection [~~(75)(a)~~](76)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

[~~(76)~~](77) (a) "Special mobile equipment" means a vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

[~~(77)~~](78) "Specially constructed vehicle" means a vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its

original construction.

[~~(78)~~](79) (a) "Standard license plate" means a license plate for general issue described in Subsection 41-1a-402(1).

(b) "Standard license plate" includes a license plate for general issue that the division issues before January 1, 2024.

[~~(79)~~](80) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission as described in Subsection 41-1a-1101(7).

[~~(80)~~](81) "Street-legal all-terrain vehicle" or "street-legal ATV" means the same as that term is defined in Section 41-6a-102.

[~~(81)~~](82) "Symbol decal" means the decal that is designed to represent a special group and displayed on a special group license plate.

[~~(82)~~](83) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

[~~(83)~~](84) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

[~~(84)~~](85) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(85)~~](86) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(86) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.~~]

(87) "Trailer" means a vehicle:

(a) without motive power; and

(b) designed for:

(i) carrying persons or property; and

(ii) being drawn by a motor vehicle.

[~~(87)~~](88) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

[~~(88)~~](89) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

[~~(89)~~](90) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[~~(90)~~](91) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[~~(91)~~](92) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

[~~(92)~~](93) "Vessel" means the same as that term is defined in Section 73-18-2.

[~~(93)~~](94) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

[~~(94)~~](95) "Waters of this state" means the same as that term is defined in Section 73-18-2.

[~~(95)~~](96) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 4. Section 41-1a-110 is amended to read:

41-1a-110 (Effective 05/07/25). Authority of division to suspend or revoke registration, certificate of title, license plate, or permit.

(1) Except as provided in Subsections (3) and (4), the division may suspend or revoke a registration, certificate of title, license plate, or permit if:

(a) the division is satisfied that a registration, certificate of title, license plate, or permit was fraudulently procured or erroneously issued;

(b) the division determines that a registered vehicle is mechanically unfit or unsafe to be operated or moved upon the highways;

(c) a registered vehicle has been dismantled;

(d) the division determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand;

(e) a registration decal, license plate, or permit is knowingly displayed upon a vehicle other than the one for which issued;

(f) the division determines that the owner has committed any offense under this chapter involving the registration, certificate of title, registration card, license plate, registration decal, or permit; or

(g) the division receives notification by the Department of Transportation that the owner has committed any offence under Title 72, Chapter 9, Motor Carrier Safety Act.

(2) (a) The division shall revoke the registration of a vehicle if the division receives notification by the:

(i) Department of Public Safety that a person:

(A) has been convicted of operating a registered motor vehicle in violation of Section 41-12a-301 or 41-12a-303.2; or

(B) is under an administrative action taken by the Department of Public Safety for operating a registered motor vehicle in violation of Section 41-12a-301; [~~or~~]

(ii) designated agent that the owner of a motor vehicle:

(A) has failed to provide satisfactory proof of owner's or operator's security to the designated agent after the second notice provided under Section 41-12a-804; or

(B) provided a false or fraudulent statement to the designated agent [~~.~~]; or

(iii) designated agent that, during the months of April through October, the owner of a motorboat:

(A) has failed to provide satisfactory proof of owner's or operator's security to the designated agent after the second notice provided under Section 41-12a-804; or

(B) provided a false or fraudulent statement to the designated agent.

(b) The division shall notify the Driver License Division if the division revokes the registration of a vehicle under Subsection (2)(a)(ii)(A).

(3) The division may not suspend or revoke the registration of a vessel or outboard motor unless authorized under Section 73-18-7.3.

(4) The division may not suspend or revoke the registration of an off-highway vehicle unless authorized under Section 41-22-17.

(5) The division shall charge a registration reinstatement fee under Section 41-1a-1220, if the registration is revoked under Subsection (2).

(6) Except as provided in Subsections (3), (4), and (7), the division may suspend or revoke a registered vehicle's registration if the division is notified by a local health department, as defined in Section 26A-1-102, that the registered vehicle is unable to meet state or local air emissions standards or violates Subsection 41-6a-1626(2)(a) or (b).

(7) The division may not suspend or revoke a registered vehicle's registration under Subsection (6) if the registered vehicle has a manufacturer's gross vehicle weight rating that is greater than 26,000 pounds.

Section 5. Section 41-1a-215 is amended to read:

41-1a-215 (Effective 01/01/26). Staggered registration dates -- Exceptions.

(1) (a) Except as provided under Subsections (2) and (3), every vehicle registration, every registration card, and every registration plate issued under this chapter for the first registration of the vehicle in this state, continues in effect for a period of 12 months beginning with the first day of the calendar month of registration and does not expire until the last day of the same month in the following year.

(b) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the vehicle is extended to midnight of the next business day.

(2) The provisions of Subsection (1) do not apply to the following:

(a) registration issued to government vehicles under Section 41-1a-221;

(b) registration issued to apportioned vehicles under Section 41-1a-301;

(c) multiyear registration issued under Section 41-1a-222;

(d) lifetime trailer registration issued under Section 41-1a-1206;

(e) partial year registration issued under Section 41-1a-1207;

(f) a six-month registration issued under Section 41-1a-215.5; or

(g) plates issued to a dealer, dismantler, manufacturer, remanufacturer, and transporter under [~~Title 41, Chapter 3, Part 5, Special Dealer License Plates~~]Chapter 3, Part 5, Special Dealer License Plates.

(3) (a) Upon application of the owner or lessee of a fleet of commercial vehicles not apportioned under Section 41-1a-301 and required to be registered in this state, the State Tax Commission may permit the vehicles to be registered for a registration period commencing on the first day of March, June, September, or December of any year and expiring on the last day of March, June, September, or December in the following year.

(b) Upon application of the owner or lessee of a fleet of commercial vehicles apportioned under Section 41-1a-301 and required to be registered in this state, the State Tax Commission may permit the vehicles to be registered for a registration period commencing on the first day of January, April, July, or October of any year and expiring on the last day of March, June, September, or December in the following year.

(c) (i) Upon application of the owner or lessee of a fleet of personal vehicles required to be registered in this state, the State Tax Commission may permit the vehicles to be registered for a registration period commencing on the first day of February, May, August, or November of any year and expiring on the last day of February, May, August, or November of the following year.

(ii) If the registration period for a personal vehicle is adjusted under Subsection (3)(c)(i), the registration fees for the adjustment are:

(A) 25% of the regular registration fees if the adjustment is for not more than three months;

(B) 50% of the regular registration fees if the adjustment is in excess of three months but not more than six months;

(C) 75% of the regular registration fees if the adjustment is in excess of six months but not more than nine months; and

(D) 100% of the regular registration fees if the adjustment is in excess of nine months but not more than 12 months.

(4) When the expiration of a registration plate is extended by affixing a registration decal to it, the expiration of the decal governs the expiration date of the plate.

Section 6. Section 41-1a-1206 is amended to read:

41-1a-1206 (Effective 05/07/25). Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) $46.00 for each motorcycle;

(b) $44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) $31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) $28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) $53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) $69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(f) (i) $69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(g) $45 for each vintage vehicle that has a model year of 1983 or newer;

(h) in addition to the fee described in Subsection (1)(b):

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) Each motor vehicle not described in this Subsection (1)(h) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $21.75 for each hybrid electric motor vehicle; and

(iii) $56.50 for each plug-in hybrid electric motor vehicle;

(i) in addition to the fee described in Subsection (1)(g), for a vintage vehicle that has a model year of 1983 or newer, 50 cents; and

(j) $28.50 for each roadable aircraft.

(2) (a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(i) $34.50 for each motorcycle; and

(ii) $33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) each motor vehicle not described in this Subsection (2)(b) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $16.50 for each hybrid electric motor vehicle; and

(iii) $43.50 for each plug-in hybrid electric motor vehicle.

(3) (a) Beginning on January 1, 2024, at the time of registration:

(i) in addition to the amounts described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (1)(h), (4)(a), and (7), the individual shall also pay an additional $7 as part of the registration fee; and

(ii) in addition to the amounts described in Subsection (2)(a), the individual shall also pay an additional $5 as part of the registration fee.

(b) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (1)(j), (2)(a), (3)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2024, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(ii) and (iii) and (2)(b)(ii) and (iii) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(c) The amounts calculated as described in Subsection (3)(b) shall be rounded up to the nearest 25 cents.

(4) (a) The initial registration fee for a vintage vehicle that has a model year of 1982 or older is $40.

(b) A vintage vehicle that has a model year of 1982 or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued on or before December 31, 2023, or issued in accordance with Part 16, Sponsored Special Group License Plates, is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of $130.

(8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(9) A violation of Subsection (8) is an infraction that shall be punished by a fine of not less than $200.

(10) A motor vehicle registered as a street-legal all-terrain vehicle is:

(a) subject to the registration and other fees described in Section 41-22-9; and

(b) not required to pay an additional registration fee under this section.

[~~(10)~~](11) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 7. Section 41-6a-102 is amended to read:

41-6a-102 (Effective 05/07/25). Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(5) "Authorized emergency vehicle" includes:

(a) a fire department vehicle;

(b) a police vehicle;

(c) an ambulance; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(6) "Autocycle" means the same as that term is defined in Section 53-3-102.

(7) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(8) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(9) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(10) "Class 1 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) provides assistance only when the rider is pedaling; and

(b) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(11) "Class 2 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) may be used exclusively to propel the bicycle; and

(b) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

(12) "Class 3 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) provides assistance only when the rider is pedaling;

(b) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(c) is equipped with a speedometer.

(13) "Commissioner" means the commissioner of the Department of Public Safety.

(14) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(15) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(16) "Department" means the Department of Public Safety.

(17) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(18) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(19) "Echelon formation" means the operation of two or more snowplows arranged side-by-side or diagonally across multiple lanes of traffic of a multi-lane highway to clear snow from two or more lanes at once.

(20) (a) "Electric assisted bicycle" means a bicycle with an electric motor that:

(i) has a power output of not more than 750 watts;

(ii) has fully operable pedals;

(iii) has permanently affixed cranks that were installed at the time of the original manufacture;

(iv) is fully operable as a bicycle without the use of the electric motor; and

(v) is one of the following:

(A) a class 1 electric assisted bicycle;

(B) a class 2 electric assisted bicycle;

(C) a class 3 electric assisted bicycle; or

(D) a programmable electric assisted bicycle.

(b) "Electric assisted bicycle" does not include:

(i) a moped;

(ii) a motor assisted scooter;

(iii) a motorcycle;

(iv) a motor-driven cycle; or

(v) any other vehicle with less than four wheels that is designed, manufactured, intended, or advertised by the seller to have any of the following capabilities or features, or that is modifiable or is modified to have any of the following capabilities or features:

(A) has the ability to attain the speed of 20 miles per hour or greater on motor power alone;

(B) is equipped with a continuous rated motor power of 750 watts or greater;

(C) is equipped with foot pegs for the operator at the time of manufacture, or requires installation of a pedal kit to have operable pedals; or

(D) if equipped with multiple operating modes and a throttle, has one or more modes that exceed 20 miles per hour on motor power alone.

(21) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(22) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(24) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a Tagliabue or equivalent closed-cup test device.

(25) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(26) (a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(27) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(28) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(29) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

(30) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(31) "Highway authority" means the same as that term is defined in Section 72-1-102.

(32) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(33) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(34) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

(35) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

(36) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(37) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(38) (a) "Low-speed vehicle" means a four wheeled motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

(39) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(40) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(41) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (41)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(42) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an object, caused by a neuro-muscular, orthopedic, or other condition.

(43) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

(44) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

(45) (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(46) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

(47) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

(48) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

(49) "Off-highway motorcycle" means the same as that term is defined in Section 41-22-2.

[~~(49)~~](50) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

[~~(50)~~](51) "Operate" means the same as that term is defined in Section 41-1a-102.

[~~(51)~~](52) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

[~~(52)~~](53) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

[~~(53)~~](54) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

[~~(54)~~](55) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

[~~(55)~~](56) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

[~~(56)~~](57) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

[~~(57)~~](58) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

[~~(58)~~](59) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[~~(59)~~](60) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[~~(60)~~](61) "Programmable electric assisted bicycle" means an electric assisted bicycle with capability to switch or be programmed to function as a class 1 electric assisted bicycle, class 2 electric assisted bicycle, or class 3 electric assisted bicycle, provided that the electric assisted bicycle fully conforms with the respective requirements of each class of electric assisted bicycle when operated in that mode.

[~~(61)~~](62) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[~~(62)~~](63) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[~~(63)~~](64) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[~~(64)~~](65) "Restored-modified vehicle" means the same as the term defined in Section 41-1a-102.

[~~(65)~~](66) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[~~(66)~~](67) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[~~(67)~~](68) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[~~(68)~~](69) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[~~(69)~~](70) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[~~(70)~~](71) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[~~(71)~~](72) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[~~(72)~~](73) (a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

[~~(73)~~](74) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[~~(74)~~](75) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[~~(75)~~](76) "Stop" when required means complete cessation from movement.

[~~(76)~~](77) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[~~(77)~~](78) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, or an off-highway motorcycle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(78)~~](79) "Street-legal novel vehicle" means a vehicle registered as a novel vehicle under Section 41-27-201 that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with [~~with~~]Section 41-6a-1509.

[~~(79)~~](80) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(80)~~](81) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(81)~~](82) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(82)~~](83) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(83)~~](84) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(84)~~](85) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(85)~~](86) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(86)~~](87) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(87)~~](88) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(88)~~](89) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(89)~~](90) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(90)~~](91) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 8. Section 41-6a-1509 is amended to read:

41-6a-1509 (Effective 05/07/25). Street-legal all-terrain vehicle -- Operation on highways -- Registration and licensing requirements -- Equipment requirements.

(1) (a) Except as provided in Subsection (1)(b), an individual may operate an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, or an off-highway motorcycle, that meets the requirements of this section as a street-legal ATV on a street or highway.

(b) An individual may not operate an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, or an off-highway motorcycle, as a street-legal ATV on a highway if:

(i) the highway is an interstate system as defined in Section 72-1-102; or

(ii) the highway is in a county of the first class and both of the following criterion is met:

(A) the highway is near a grade separated portion of the highway; and

(B) the highway has a posted speed limit higher than 50 miles per hour.

(c) Nothing in this section authorizes the operation of a street-legal ATV in an area that is not open to motor vehicle use.

(2) (a) Except as provided in Subsection (2)(b), an individual may operate a vehicle that is registered as a novel vehicle on a street or highway, if the vehicle meets the requirements of this section as a street-legal novel vehicle.

(b) An individual may not operate a vehicle registered as a novel vehicle as a street-legal novel vehicle on a highway if:

(i) the highway is an interstate system as defined in Section 72-1-102; or

(ii) the highway is in a county of the first class and both of the following criterion are met:

(A) the highway is near a grade separated portion of the highway; and

(B) the highway has a posted speed limit higher than 50 miles per hour.

(c) Nothing in this section authorizes the operation of a street-legal novel vehicle in an area that is not open to motor vehicle use.

(3) A street-legal ATV shall comply with Section 59-2-405.2, Subsection 41-1a-205(1), Subsection 53-8-205(1)(b), and the same requirements as:

(a) a motorcycle for:

(i) traffic rules under this chapter;

(ii) titling, odometer statement, vehicle identification, license plates, and registration, excluding registration fees, under Chapter 1a, Motor Vehicle Act; and

(iii) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;

(b) a motor vehicle for:

(i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act; and

(ii) motor vehicle insurance under Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act; and

(c) an all-terrain type I or type II vehicle, or an off-highway motorcycle, for off-highway vehicle provisions under Chapter 22, Off-highway Vehicles, and Chapter 3, Motor Vehicle Business Regulation Act, unless otherwise specified in this section.

(4) A street-legal novel vehicle shall comply with Subsection 41-1a-205(1), Subsection 53-8-205(1)(b), and the requirements for registration as a novel vehicle under Section 41-27-201.

(5) (a) The owner of an all-terrain type I vehicle or an off-highway motorcycle being operated as a street-legal ATV shall ensure that the vehicle is equipped with:

(i) one or more headlamps that meet the requirements of Section 41-6a-1603;

(ii) one or more tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) one or more stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers; and

(xiv) tires that:

(A) are not larger than the tires that the all-terrain vehicle manufacturer made available for the all-terrain vehicle model; and

(B) have at least 2/32 inches or greater tire tread.

(b) The owner of an all-terrain type II vehicle or all-terrain type III vehicle being operated as a street-legal all-terrain vehicle or of a vehicle registered as a novel vehicle being operated as a street-legal novel vehicle shall ensure that the vehicle is equipped with:

(i) two headlamps that meet the requirements of Section 41-6a-1603;

(ii) two tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) two stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers;

(xiv) for vehicles with side-by-side or tandem seating, seatbelts for each vehicle occupant;

(xv) a seat with a height between 20 and 40 inches when measured at the forward edge of the seat bottom; and

(xvi) tires that:

(A) do not exceed 44 inches in height; and

(B) have at least 2/32 inches or greater tire tread.

(c) The owner of a street-legal all-terrain vehicle is not required to equip the vehicle with wheel covers, mudguards, flaps, or splash aprons.

(6) (a) Subject to the requirements of Subsection (6)(b), an operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway, may not exceed the lesser of:

(i) the posted speed limit; or

(ii) 50 miles per hour.

(b) An operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway with a posted speed limit higher than 50 miles per hour, shall:

(i) operate the street-legal all-terrain vehicle on the extreme right hand side of the roadway; and

(ii) equip the street-legal all-terrain vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

(7) (a) Subject to the requirements of Subsection (7)(b), an operator of a street-legal novel vehicle, when operating as a street-legal novel vehicle on a highway, may not exceed the lesser of:

(i) the posted speed limit; or

(ii) 50 miles per hour.

(b) An operator of a street-legal novel vehicle, when operating a street-legal novel vehicle on a highway with a posted speed limit higher than 50 miles per hour, shall:

(i) operate the street-legal novel vehicle on the extreme right hand side of the roadway; and

(ii) equip the street-legal novel vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

(8) (a) A nonresident operator of an off-highway vehicle that is authorized to be operated on the highways of another state has the same rights and privileges as a street-legal ATV or street-legal novel vehicle that is granted operating privileges on the highways of this state, subject to the restrictions under this section and rules made by the Division of Outdoor Recreation, after notifying the Outdoor Adventure Commission, if the other state offers reciprocal operating privileges to Utah residents.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Outdoor Recreation, after notifying the Outdoor Adventure Commission, shall establish eligibility requirements for reciprocal operating privileges for nonresident users granted under Subsection (8)(a).

(9) Nothing in this chapter restricts the owner of an off-highway vehicle from operating the off-highway vehicle in accordance with Section 41-22-10.5.

(10) A violation of this section is an infraction.

Section 9. Section 41-12a-804 is amended to read:

41-12a-804 (Effective 05/07/25). Notice -- Proof -- Revocation of registration -- False statements -- Penalties -- Exemptions -- Sales tax enforcement.

(1) [~~If~~]Subject to Subsection (3), if the comparison under Section 41-12a-803 shows that a motor vehicle [~~or motorboat~~]is not insured for three consecutive months, or a motorboat is not insured for two consecutive months, the Motor Vehicle Division shall direct that the designated agent provide notice to the owner of the motor vehicle or motorboat that the owner has 15 days to provide:

(a) proof of owner's or operator's security in a form allowed under Subsection 41-12a-303.2(2); or

(b) proof of exemption from the owner's or operator's security requirements.

(2) [~~If~~]Subject to Subsection (3), if an owner of a motor vehicle or motorboat fails to provide satisfactory proof of owner's or operator's security to the designated agent, the designated agent shall:

(a) provide a second notice to the owner of the motor vehicle or motorboat that the owner now has 15 days to provide:

(i) proof of owner's or operator's security in a form allowed under Subsection 41-12a-303.2(2); or

(ii) proof of exemption from the owner's or operator's security requirements;

(b) for each notice provided, indicate information relating to the owner's failure to provide proof of owner's or operator's security in the database; and

(c) provide this information to state and local law enforcement agencies as requested in accordance with the provisions under Section 41-12a-805.

(3) (a) Except as provided in Subsection (3)(b), for a motorboat, Subsections (1) and (2) only apply during the months of April through October.

(b) For a motorboat, the designated agent shall comply with the requirement described in Subsection (2)(c) year-round.

(c) For a notice required under Subsection (1) for a motorboat, the requirement for the Motor Vehicle Division and the designated

agent to send notice begins on January 1, 2026.

[~~(3)~~](4) (a) The Motor Vehicle Division:

[~~(a)~~](i) shall revoke the registration upon receiving notification under Subsection 41-1a-110(2);

[~~(b)~~](ii) shall provide appropriate notices of the revocation, the legal consequences of operating a vehicle with revoked registration and without owner's or operator's security, and instructions on how to get the registration reinstated; and

[~~(c)~~](iii) may direct the designated agent to provide the notices under this Subsection [~~(3)~~](4)(a).

(b) For a motorboat, Subsection (4)(a) only applies during the months of April through October.

[~~(4)~~](5) Any action by the Motor Vehicle Division to revoke the registration of a motor vehicle or motorboat under this section may be in addition to an action by a law enforcement agency to impose the penalties under Section 41-12a-302 or 41-12a-303.2.

[~~(5)~~](6) (a) A person may not provide a false or fraudulent statement to the Motor Vehicle Division or designated agent.

(b) In addition to any other penalties, a person who violates Subsection [~~(5)(a)~~](6)(a) is guilty of a class B misdemeanor.

[~~(6)~~](7) The department and the Motor Vehicle Division shall direct the designated agent to exempt from this section a farm truck that:

(a) meets the definition of a farm truck under Section 41-1a-102; and

(b) is registered as a farm truck under Title 41, Chapter 1a, Motor Vehicle Act.

[~~(7)~~](8) This part does not affect other actions or penalties that may be taken or imposed for violation of the owner's and operator's security requirements of this chapter.

[~~(8)~~](9) If a comparison under Section 41-12a-803 shows that a motor vehicle or motorboat may not be in compliance with motor vehicle or motorboat registration or sales and use tax laws, the Motor Vehicle Division may direct that the designated agent provide notice to the owner of a motor vehicle or motorboat that information exists which indicates the possible violation.

Section 10. Section 41-22-2 is amended to read:

41-22-2 (Effective 05/07/25). Definitions.

As used in this chapter:

(1) "Advisory council" means an advisory council appointed by the Division of Outdoor Recreation that has within the advisory council's duties advising on policies related to the use of off-highway vehicles.

(2) "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

(3) (a) "All-terrain type II vehicle" means any motor vehicle 80 inches or less in width, traveling on four or more low pressure tires, having a steering wheel, non-straddle seating, a rollover protection system, and designed for or capable of travel over unimproved terrain, and is:

(i) an electric-powered vehicle; or

(ii) a vehicle powered by an internal combustion engine and has an unladen dry weight of 3,500 pounds or less.

(b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed or modified primarily for recreational use on unimproved terrain, or farm tractors as defined under Section 41-1a-102.

(4) (a) "All-terrain type III vehicle" means any other motor vehicle, not defined in Subsection (2), (3), (12), or [~~(22)~~](23), designed for or capable of travel over unimproved terrain.

(b) "All-terrain type III vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed or modified primarily for recreational use on unimproved terrain, or farm tractors as defined under Section 41-1a-102.

(5) "Commission" means the Outdoor Adventure Commission.

(6) "Cross-country" means across natural terrain and off an existing highway, road, route, or trail.

(7) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.

(8) "Division" means the Division of Outdoor Recreation.

(9) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(10) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.

(11) (a) "Motor vehicle" means every vehicle which is self-propelled.

(b) "Motor vehicle" includes an off-highway vehicle.

(12) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(13) "Off-highway implement of husbandry" means every all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, off-highway motorcycle, or snowmobile that is used by the owner or the owner's agent for agricultural operations.

(14) "Off-highway motorcycle" means an off-highway vehicle that is a motorcycle and is designed for use primarily off-highway.

[~~(14)~~](15) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or off-highway motorcycle.

[~~(15)~~](16) "Operate" means to control the movement of or otherwise use an off-highway vehicle.

[~~(16)~~](17) "Operator" means the person who is in actual physical control of an off-highway vehicle.

[~~(17)~~](18) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.

[~~(18)~~](19) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.

[~~(19)~~](20) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.

[~~(20)~~](21) "Register" means the act of assigning a registration number to an off-highway vehicle.

[~~(21)~~](22) "Roadway" is used as defined in Section 41-6a-102.

[~~(22)~~](23) "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires, and equipped with a saddle or seat for the use of the rider.

[~~(23)~~](24) "Street or highway" means the entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel.

[~~(24)~~](25) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same meaning as defined in Section 41-6a-102.

Section 11. Section 41-22-3 is amended to read:

41-22-3 (Effective 05/07/25). Registration of vehicles -- Application -- Issuance of sticker and card -- Proof of property tax payment -- Records.

(1) (a) Unless exempted under Section 41-22-9, a person may not operate or place and an owner may not give another person permission to operate or place any off-highway vehicle on any public land, trail, street, or highway in this state unless the off-highway vehicle is registered under this chapter for the current year.

(b) Unless exempted under Section 41-22-9, a dealer may not sell an off-highway vehicle which can be used on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.

(c) Unless specifically provided in this chapter, the division shall administer license plates, decals, and registration of off-highway vehicles in accordance with Chapter 1a, Motor Vehicle Act.

(2) (a) The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Motor Vehicle Division for registration on forms approved by the Motor Vehicle Division.

(b) An owner of an off-highway vehicle may apply for automatic registration renewal as described in Section 41-1a-216.

(3) Each application for registration of an off-highway vehicle shall be accompanied by:

(a) evidence of ownership, a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number;

(b) the past registration card; or

(c) the fee for a duplicate.

(4) (a) (i) Beginning on January 1, 2023, except as provided in Subsection (4)(e), the first time an off-highway vehicle is registered, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

(ii) If an off-highway vehicle has been registered previously in this state but has not been issued an off-highway vehicle license plate, beginning on January 1, 2023, upon application for registration renewal, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

(b) Upon each annual registration, the Motor Vehicle Division shall issue a registration decal and a registration card for each off-highway vehicle registered.

(c) The off-highway vehicle license plate:

(i) shall contain a unique five-digit number, using numbers, letters, or a combination of numbers and letters, to identify the off-highway vehicle for which it is issued;

(ii) shall be affixed to the rear of the off-highway vehicle for which it is issued in a plainly visible and upright position as prescribed by rule of the division under Section 41-22-5.1;

(iii) shall be maintained free of foreign materials and in a condition to be clearly legible;

(iv) shall be a distinct tan color with black lettering to identify the license plate as an off-highway vehicle license plate;

(v) shall have a location to attach the registration decal; and

(vi) may not be a personalized license plate or a special group license plate.

(d) (i) At all times, proof of registration shall be kept with the off-highway vehicle and shall be available for inspection by a law enforcement officer.

(ii) An individual may show proof of registration by displaying:

(A) a digital copy or photograph of the registration card on a mobile electronic device;

(B) proof of registration on a mobile electronic device through a mobile application approved by the relevant state agency; or

(C) an original registration card issued by the Motor Vehicle Division.

(e) An off-highway vehicle that is [~~a~~]an off-highway motorcycle or a snowmobile is:

(i) not required to obtain or display an off-highway vehicle license plate; and

(ii) required to obtain and display an off-highway vehicle registration sticker.

(5) (a) Except as provided by Subsection (5)(c), an applicant for a registration card and registration decal shall provide the Motor Vehicle Division a certificate, described under Subsection (5)(b), from the county assessor of the county in which the off-highway vehicle has situs for taxation.

(b) The certificate required under Subsection (5)(a) shall state one of the following:

(i) the property tax on the off-highway vehicle for the current year has been paid;

(ii) in the county assessor's opinion, the tax is a lien on real property sufficient to secure the payment of the tax; or

(iii) the off-highway vehicle is exempt by law from payment of property tax for the current year.

(c) An off-highway vehicle for which an off-highway implement of husbandry sticker has been issued in accordance with Section 41-22-5.5 is:

(i) exempt from the requirement under this Subsection (5);

(ii) not required to obtain or purchase an off-highway vehicle license plate; and

(iii) required to obtain and display an off-highway vehicle registration sticker.

(6) (a) All records of the division made or kept under this section shall be classified by the Motor Vehicle Division in the same manner as motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records under Section 41-1a-116.

(7) A violation of this section is an infraction.

Section 12. Section 41-22-5.5 is amended to read:

41-22-5.5 (Effective 05/07/25). Off-highway husbandry vehicles.

(1) (a) (i) The owner of an all-terrain type I vehicle, off-highway motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile used for agricultural purposes may apply to the Motor Vehicle Division for an off-highway implement of husbandry sticker.

(ii) Each application under Subsection (1)(a)(i) shall be accompanied by:

(A) evidence of ownership;

(B) a title or a manufacturer's certificate of origin; and

(C) a signed statement certifying that the off-highway vehicle is used for agricultural purposes.

(iii) The owner shall receive an off-highway implement of husbandry sticker upon production of:

(A) the documents required under this Subsection (1); and

(B) payment of an off-highway implement of husbandry sticker fee established by the division, after notifying the commission, not to exceed $10.

(b) If the vehicle is also used for recreational purposes on public lands, trails, streets, or highways, it shall also be registered under Section 41-22-3.

(c) The off-highway implement of husbandry sticker shall be displayed in a manner prescribed by the division and shall identify the all-terrain type I vehicle, off-highway motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile as an off-highway implement of husbandry.

(2) The off-highway implement of husbandry sticker is valid only for the life of the ownership of the all-terrain type I vehicle, off-highway motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile and is not transferable.

(3) The off-highway implement of husbandry sticker is valid for an all-terrain type I vehicle, off-highway motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile that is being operated adjacent to a roadway:

(a) when the all-terrain type I vehicle, off-highway motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile is only being used to travel from one parcel of land owned, operated, permitted, or leased for agricultural purposes by the owner of the vehicle to another parcel of land owned, operated, permitted, or leased for agricultural purposes by the owner; and

(b) when this operation is necessary for the furtherance of agricultural purposes.

(4) If the operation of an off-highway implement of husbandry adjacent to a roadway is impractical, it may be operated on the roadway if the operator exercises due care towards conventional motor vehicle traffic.

(5) It is unlawful to operate an off-highway implement of husbandry along, across, or within the boundaries of an interstate freeway.

(6) A violation of this section is an infraction.

Section 13. Section 41-22-10.7 is amended to read:

41-22-10.7 (Effective 05/07/25). Vehicle equipment requirements -- Rulemaking -- Exceptions.

(1) Except as provided under Subsection (3), an off-highway vehicle shall be equipped with:

(a) brakes adequate to control the movement of and to stop and hold the vehicle under normal operating conditions;

(b) headlights and taillights when operated between sunset and sunrise;

(c) a noise control device and except for a snowmobile, a spark arrestor device; and

(d) when operated on sand dunes designated by the division, a safety flag that is:

(i) red or orange in color;

(ii) a minimum of six by 12 inches; and

(iii) attached to:

(A) the off-highway vehicle so that the safety flag is at least eight feet above the surface of level ground; or

(B) the protective headgear of a person operating [~~a~~]an off-highway motorcycle so that the safety flag is at least 18 inches above the top of the person's head.

(2) A violation of Subsection (1) is an infraction.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules, after notifying the commission, which set standards for the equipment and which designate sand dunes where safety flags are required under Subsection (1).

(4) An off-highway implement of husbandry used only in agricultural operations and not operated on a highway, is exempt from the provisions of this section.

Section 14. Section 41-22-10.8 is amended to read:

41-22-10.8 (Effective 05/07/25). Protective headgear requirements -- Owner duty -- Penalty for violation.

(1) A person under the age of 18 may not operate or ride on [~~all-terrain type I vehicles, snowmobiles, or motorcycles~~]an all-terrain type I vehicle, a snowmobile, or an off-highway motorcycle on public land unless the person is wearing a properly fitted and fastened, United States Department of Transportation safety-rated protective headgear designed for motorized vehicle use.

(2) The owner of an off-highway vehicle or any other person may not give permission to a person who is under 18 years [~~of age~~]old to operate or ride on an off-highway vehicle in violation of this section.

(3) An operator and passengers of off-highway implements of husbandry operated in the manner prescribed by Subsections 41-22-5.5(3) and (4) are exempt from the requirements of this section.

(4) Any person convicted of violations of this section is guilty of an infraction and shall be fined not more than $50 per offense.

(5) A court shall waive $8 of a fine charged for a violation of Title 41, Chapter 22, Off-highway Vehicles, to a person operating an off-highway vehicle on public land if the person was:

(a) 18 years [~~of age~~]old or older at the time of operation; and

(b) wearing protective headgear that complies with the requirements described under Subsection (1) at the time of operation.

(6) The failure to wear protective headgear:

(a) does not constitute contributory or comparative negligence on the part of a person seeking recovery for injuries; and

(b) may not be introduced as evidence in any civil litigation on the issue of negligence, injuries, or the mitigation of damages.

(7) Notwithstanding Subsection (5), a court may not waive $8 of a fine charged to a person operating an off-highway vehicle on public land for a driving under the influence violation of Section 41-6a-502.

Section 15. Section 51-9-902 is amended to read:

51-9-902 (Effective 07/01/26). Outdoor Adventure Infrastructure Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Outdoor Adventure Infrastructure Restricted Account."

(2) The account shall consist of:

(a) money deposited into the account under Subsection [~~59-12-103(15)~~]59-12-103(4)(h); and

(b) interest and earnings on money in the account.

(3) Subject to appropriation from the Legislature, money from the account shall be used for:

(a) new construction of outdoor recreation infrastructure;

(b) upgrades of outdoor recreation infrastructure;

(c) the replacement of or structural improvements to outdoor recreation infrastructure;

(d) the acquisition of land, a right-of-way, or easement used in relationship to outdoor recreation infrastructure;

(e) providing access from state highways, as defined in Section 72-1-102, to outdoor recreation infrastructure;

(f) the costs associated with bringing new construction or upgrades of outdoor recreation infrastructure into environmental compliance;

(g) strategic planning related to the development of outdoor recreation infrastructure; or

(h) facilitating avalanche safety forecasting to protect the public in relation to outdoor recreation infrastructure.

(4) For each fiscal year, beginning with fiscal year 2023-2024, the Division of Finance shall, subject to appropriation by the Legislature, distribute money from the Outdoor Adventure Infrastructure Restricted Account as follows:

(a) at least 15% to the Department of Natural Resources - Division of State Parks - Capital, to be expended using the department's existing prioritization process for capital projects in state parks described in Subsection (3);

(b) at least 22% to the Department of Natural Resources - Division of Outdoor Recreation - Capital, to be expended for competitive Recreation Restoration Infrastructure grants or Outdoor Recreational Infrastructure grants for outdoor recreation capital projects and related maintenance expenses, where maintenance expenses do not exceed 15% of the appropriation; and

(c) at least 53% to the Department of Natural Resources - Division of Outdoor Recreation - Capital, to be expended for larger outdoor recreation infrastructure projects described in Subsection (3) as recommended to the Legislature by the Outdoor Adventure Commission.

(5) If the Legislature appropriates money to the Department of Transportation from the account, the Transportation Commission, created in Section 72-1-301, shall prioritize projects and determine funding levels in accordance with Subsection 72-1-303(1)(a) based on recommendations of the Department of Transportation.

Section 16. Section 53-2a-1102 is amended to read:

53-2a-1102 (Effective 07/01/26). Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.

(1) As used in this section:

(a) "Assistance card program" means the Utah Search and Rescue Assistance Card Program created within this section.

(b) "Card" means the Search and Rescue Assistance Card issued under this section to a participant.

(c) "Participant" means an individual, family, or group who is registered pursuant to this section as having a valid card at the time search, rescue, or both are provided.

(d) "Program" means the Search and Rescue Financial Assistance Program created within this section.

(e) (i) "Reimbursable base expenses" means those reasonable expenses incidental to search and rescue activities.

(ii) "Reimbursable base expenses" include:

(A) rental for fixed wing aircraft, snowmobiles, boats, and generators;

(B) replacement and upgrade of search and rescue equipment;

(C) training of search and rescue volunteers;

(D) costs of providing life insurance and workers' compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

(E) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(iii) "Reimbursable base expenses" do not include any salary or overtime paid to an individual on a regular or permanent payroll, including permanent part-time employees of any agency of the state.

(f) "Rescue" means search services, rescue services, or both search and rescue services.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The financial program and the assistance card program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under Subsection (11) and under Sections 23A-4-209, 41-22-34, and 73-18-24;

(iii) money deposited under [~~Subsection 59-12-103(13)~~]Section 59-12-103 as a dedicated credit for the sole use of the Search and Rescue Financial Assistance Program;

(iv) contributions deposited in accordance with Section 41-1a-230.7; and

(v) appropriations made to the program by the Legislature.

(b) Money received from the revenue sources in Subsections (3)(a)(i), (ii), and (iv), and 90% of the money described in Subsection (3)(a)(iii), shall be deposited into the General Fund as a dedicated credit to be used solely for the program.

(c) Ten percent of the money described in Subsection (3)(a)(iii) shall be deposited into the General Fund as a dedicated credit to be

used solely to promote the assistance card program.

(d) Funding for the program is nonlapsing.

(4) Subject to Subsections (3)(b) and (c), the director shall use the money described in this section to reimburse counties for all or a portion of each county's reimbursable base expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and

(c) rules made under Subsection (7).

(5) Money described in Subsection (3) may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section:

(a) specifying the costs that qualify as reimbursable base expenses;

(b) defining the procedures of counties to submit expenses and be reimbursed;

(c) defining a participant in the assistance card program, including:

(i) individuals; and

(ii) families and organized groups who qualify as participants;

(d) defining the procedure for issuing a card to a participant;

(e) defining excluded expenses that may not be reimbursed under the program, including medical expenses;

(f) establishing the card renewal cycle for the Utah Search and Rescue Assistance Card Program;

(g) establishing the frequency of review of the fee schedule;

(h) providing for the administration of the program; and

(i) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses based on:

(i) the total qualifying expenses submitted;

(ii) the number of search and rescue incidents per county population;

(iii) the number of victims that reside outside the county; and

(iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

(8) (a) The division shall, in consultation with the Division of Outdoor Recreation, establish the fee schedule of the Utah Search and Rescue Assistance Card Program under Subsection 63J-1-504(7).

(b) The division shall provide a discount of not less than 10% of the card fee under Subsection (8)(a) to a person who has paid a fee under Section 23A-4-209, 41-22-34, or 73-18-24 during the same calendar year in which the person applies to be a participant in the assistance card program.

(9) Counties may not bill reimbursable base expenses to an individual for costs incurred for the rescue of an individual, if the individual is a current participant in the Utah Search and Rescue Assistance Card Program at the time of rescue, unless:

(a) the rescuing county finds that the participant acted recklessly in creating a situation resulting in the need for the county to provide rescue services; or

(b) the rescuing county finds that the participant intentionally created a situation resulting in the need for the county to provide rescue services.

(10) (a) There is created the Utah Search and Rescue Assistance Card Program. The program is located within the division.

(b) The program may not be used to cover any expenses, such as medically related expenses, that are not reimbursable base expenses related to the rescue.

(11) (a) To participate in the program, a person shall purchase a search and rescue assistance card from the division by paying the fee as determined by the division in Subsection (8).

(b) The money generated by the fees shall be deposited into the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created in this section.

(c) Participation and payment of fees by a person under Sections 23A-4-209, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the Division of Outdoor Recreation regarding:

(a) administration of the assistance card program; and

(b) outreach and marketing strategies.

(13) Pursuant to Subsection 31A-1-103(7), the Utah Search and Rescue Assistance Card Program under this section is exempt from being considered insurance as that term is defined in Section 31A-1-301.

Section 17. Section 59-12-102 is amended to read:

59-12-102 (Effective 07/01/26). Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(a)(i)(B);

[~~(b)~~](c) Subsection 59-12-103(2)(b)(i);

[~~(c)~~](d) Subsection 59-12-103(2)(c)(i);

[~~(d)~~](e) Subsection 59-12-103(2)(d);

[~~(e)~~](f) Subsection 59-12-103(2)(e)(i)(A) [~~(I)~~];

[~~(f)~~](g) Section 59-12-204;

[~~(g)~~](h) Section 59-12-401;

[~~(h)~~](i) Section 59-12-402;

[~~(i)~~](j) Section 59-12-402.1;

[~~(j)~~](k) Section 59-12-703;

[~~(k)~~](l) Section 59-12-802;

[~~(l)~~](m) Section 59-12-804;

[~~(m)~~](n) Section 59-12-1102;

[~~(n)~~](o) Section 59-12-1302;

[~~(o)~~](p) Section 59-12-1402;

[~~(p)~~](q) Section 59-12-1802;

[~~(q)~~](r) Section 59-12-2003;

[~~(r)~~](s) Section 59-12-2103;

[~~(s)~~](t) Section 59-12-2213;

[~~(t)~~](u) Section 59-12-2214;

[~~(u)~~](v) Section 59-12-2215;

[~~(v)~~](w) Section 59-12-2216;

[~~(w)~~](x) Section 59-12-2217;

[~~(x)~~](y) Section 59-12-2218;

[~~(y)~~](z) Section 59-12-2219; or

[~~(z)~~](aa) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

(15) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18) (a) "Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(19) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(21) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

(22) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (22)(a)(i).

(23) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(24) (a) Subject to Subsection (24)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (60) or residential use under Subsection (115).

(27) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (27)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(28) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(29) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(30) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(31) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (31)(a) and (b).

(32) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (32)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (32)(a).

(33) "Construction materials" means any tangible personal property that will be converted into real property.

(34) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(35) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (35)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(36) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(37) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (37)(b)(i) through (v);

(c) (i) except as provided in Subsection (37)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (37)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(38) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(39) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(40) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(41) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(42) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(43) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26B-2-201;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (43)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (43)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(44) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(45) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (45)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(46) (a) "Durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (46)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(47) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (47)(b)(i) through (vi).

(48) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(49) "Employee" means the same as that term is defined in Section 59-10-401.

(50) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(51) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(52) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(53) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (99)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(54) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (54)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or school district.

(55) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(56) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(57) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(58) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(59) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

(60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (60)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(61) (a) "Installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(62) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(63) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes:

(i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code; and

(ii) car sharing.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (63)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(64) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(65) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(66) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(67) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(68) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(69) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(70) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (70)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(71) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(72) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (72)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (72)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(73) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(74) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (74)(a) through (g); or

(j) person similar to a person described in Subsections (74)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(75) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(76) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(77) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (77)(a)(i) and the termination point described in Subsection (77)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(78) (a) "Mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (78)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(79) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(80) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (80)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(81) (a) Subject to Subsection (81)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenue of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (81)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(82) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(83) "Modular home" means a modular unit as defined in Section 15A-1-302.

(84) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(85) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(86) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(87) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(88) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(89) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (89)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(90) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(91) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(92) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (92)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (92)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (92)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (137)(c).

(93) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(94) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(95) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(96) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(97) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(98) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(99) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (99)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes;

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (99)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (99)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(100) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(101) (a) "Prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (101)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (101)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (101)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(102) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(103) (a) "Product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(104) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(105) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(106) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(107) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (107)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(108) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(109) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(110) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(111) "Rental" means the same as that term is defined in Subsection (63).

(112) (a) "Repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(113) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(114) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and

paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (114)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(115) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(117) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(119) "Sale at retail" means the same as that term is defined in Subsection (116).

(120) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(121) "Sales price" means the same as that term is defined in Subsection (107).

(122) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenue generated by the sales is deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (122)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(123) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(124) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(125) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (125)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(126) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.

(127) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

(128) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

(129) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

(130) (a) Subject to Subsections (130)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (130)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(131) (a) "Short-term rental" means a lease or rental for less than 30 consecutive days.

(b) "Short-term rental" does not include car sharing.

(132) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(133) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(134) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(135) "State" means the state of Utah, its departments, and agencies.

(136) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(137) (a) "Tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (137)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(138) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (138)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (138)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (138)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (138)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (138)(b)(i) through (vi).

(139) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(140) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(141) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(142) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (142)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (142)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(143) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (143)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (143)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (143)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (143)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (143)(b)(i) through (ix).

(144) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (144)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (144)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (144)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (144)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (144)(b)(i) through (xxv).

(145) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(146) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(147) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(148) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(149) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(150) (a) Subject to Subsection (150)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (150)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(151) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (150).

(152) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(153) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(154) (a) "Waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(155) "Watercraft" means a vessel as defined in Section 73-18-2.

(156) "Wind energy" means wind used as the sole source of energy to produce electricity.

(157) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 18. Section 59-12-103 is amended to read:

59-12-103 (Effective 07/01/26). Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenue.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% [~~plus~~];

(B) the rate specified in Subsection [~~(11)(a)~~](6)(a); and

[~~(B)~~](C) [~~(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and~~]

[~~(II)~~] the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate [~~of 4.85%.~~]equal to the sum of the rates described in Subsections (2)(a)(i)(A) and (2)(a)(i)(B).

(e) (i) [~~(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.~~]

(A) The rates described in Subsections (2)(a)(i)(A) and (2)(a)(i)(B) do not apply to car sharing, a car sharing program, a shared vehicle driver, or a shared vehicle owner, for a car sharing or shared vehicle transaction if a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection [~~(2)(a)(i)(B)~~](2)(a)(i)(C) or (2)(a)(ii) applies to car sharing.

(iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under [~~Subsection (2)(a)(i)(A)~~]Subsections (2)(a)(i)(A) and (2)(a)(i)(B) for that tax period.

(v) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) [~~a state tax imposed on the entire bundled transaction equal to the sum of:~~]the tax rates described in Subsection (2)(a)(i); and

[~~(I) the tax rate described in Subsection (2)(a)(i)(A); and~~]

[~~(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and~~]

[~~(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and~~]

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(a)(i)(B);

[~~(ii)~~](iii) Subsection (2)(b)(i);

[~~(iii)~~](iv) Subsection (2)(c)(i); or

[~~(iv)~~](v) Subsection (2)(f)(i)(A) [~~(I)~~].

(j) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(a)(i)(B);

[~~(B)~~](C) Subsection (2)(b)(i);

[~~(C)~~](D) Subsection (2)(c)(i); or

[~~(D)~~](E) Subsection (2)(f)(i)(A) [~~(I)~~].

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(a)(i)(B);

[~~(B)~~](C) Subsection (2)(b)(i);

[~~(C)~~](D) Subsection (2)(c)(i); or

[~~(D)~~](E) Subsection (2)(f)(i)(A) [~~(I)~~].

(k) (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(a)(i)(B);

[~~(B)~~](C) Subsection (2)(b)(i);

[~~(C)~~](D) Subsection (2)(c)(i); or

[~~(D)~~](E) Subsection (2)(f)(i)(A) [~~(I)~~].

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l) (i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The commission shall deposit the following state taxes [~~shall be deposited~~]into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); [~~and~~]

(iv) the tax imposed by Subsection (2)(d); and

[~~(iv)~~](v) the tax imposed by Subsection (2)(f)(i)(A) [~~(I)~~].

(b) The commission shall distribute the following local taxes [~~shall be distributed~~]to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

[~~(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.~~]

[~~(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts~~

~~shall be expended as provided in Subsections (4)(b) through (g):~~]

[~~(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:~~]

[~~(A) by a 1/16% tax rate on the transactions described in Subsection (1); and~~]

[~~(B) for the fiscal year; or~~]

[~~(ii) $17,500,000.~~]

[~~(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Wildlife Resources to:~~]

[~~(A) implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species; or~~]

[~~(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species.~~]

[~~(ii) Money transferred to the Division of Wildlife Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.~~]

[~~(iii) At the end of each fiscal year:~~]

[~~(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;~~]

[~~(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and~~]

[~~(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.~~]

[~~(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.~~]

[~~(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.~~]

[~~(ii) At the end of each fiscal year:~~]

[~~(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;~~]

[~~(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and~~]

[~~(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.~~]

[~~(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.~~]

[~~(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:~~]

[~~(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;~~]

[~~(B) fund state required dam safety improvements; and~~]

[~~(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.~~]

[~~(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.~~]

[~~(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:~~]

[~~(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;~~]

[~~(ii) develop underground sources of water, including springs and wells; and~~]

[~~(iii) develop surface water sources.~~]

(4) (a) Notwithstanding Subsection (3)(a), for each fiscal year the commission shall make the deposits described in Subsections (4)(b) through (4)(h) from the revenue from the taxes imposed by:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); and

(iv) Subsection (2)(f)(i)(A).

(b) The commission shall deposit 15% of the difference between 1.4543% of the revenue described in Subsection (4)(a) and the deposits made under Subsection (5)(b), into the Water Rights Restricted Account created in Section 73-2-1.6.

(c) The commission shall deposit 85% of the difference between 1.4543% of the revenue described in Subsection (4)(a) and the deposits made under Subsection (5)(b), into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (5)(b)(iv)(B) after funding the uses specified in Subsections (4)(c)(i) through (iii).

(d) The commission shall deposit 1.4543% of the revenue described in Subsection (4)(a) into the Water Infrastructure Restricted Account created in Section 73-10g-103.

(e) (i) Subject to Subsection (4)(e)(ii), the commission shall deposit 26.24% of the revenue described in Subsection (4)(a) into the Transportation Investment Fund of 2005 created in Section 72-2-124.

(ii) The commission shall annually reduce the deposit described in Subsection (4)(e)(i) by the sum of:

(A) $1,813,400;

(B) the earmark described in Subsection (5)(c); and

(C) an amount equal to 35% of the revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received in the state that exceeds 29.4 cents per gallon.

(iii) The amount described in Subsection (4)(e)(ii)(C) shall be annually deposited into the Transit Transportation Investment Fund created in Section 72-2-124.

(f) The commission shall deposit .44% of the revenue described in Subsection (4)(a) into the Cottonwood Canyons Transportation Investment Fund created in Section 72-2-124.

(g) The commission shall deposit 1% of the revenue described in Subsection (4)(a) into the Commuter Rail Subaccount created in Section 72-2-124.

(h) The commission shall deposit 1% of the revenue described in Subsection (4)(a) into the Outdoor Recreation Adventure Infrastructure Restricted Account created in Section 51-9-902.

[~~(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:~~]

[~~(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and~~]

[~~(ii) $17,500,000.~~]

[~~(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:~~]

[~~(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and~~]

[~~(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.~~]

[~~(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.~~]

[~~(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:~~]

[~~(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and~~]

[~~(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.~~]

[~~(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.~~]

[~~(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:~~]

[~~(i) preconstruction costs:~~]

[~~(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and~~]

[~~(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;~~]

[~~(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;~~]

[~~(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and~~]

[~~(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).~~]

[~~(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.~~]

(5) (a) Notwithstanding Subsection (3)(a), each fiscal year the commission shall make the deposits described in this Subsection (5).

(b) (i) (A) The commission shall deposit $500,000 to the Department of Natural Resources to be used for watershed rehabilitation or restoration.

(B) At the end of each fiscal year, 100% of any unexpended amount described in Subsection (5)(b)(i)(A) shall lapse into the Water Resources Conservation and Development Fund created in Section 73-10-24.

(ii) The commission shall deposit $150,000 to the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(iii) The commission shall deposit $525,000 into the Division of Conservation created in Section 4-46-401 to implement water related programs.

(iv) The commission shall deposit $7,175,000 into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources:

(A) for the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24;

(B) to conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without

jeopardizing the resource;

(C) to fund state required dam safety improvements; and

(D) to protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(v) The commission shall deposit $3,587,500 into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(vi) The commission shall deposit $3,587,500 into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(A) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(B) develop underground sources of water, including springs and wells; and

(C) develop surface water sources.

(vii) The commission shall deposit $2,450,000 to the Division of Wildlife Resources to:

(A) implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species.

(viii) Funds transferred to the Division of Wildlife Resources under Subsection (5)(b)(vii)(A) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531, et seq.

(ix) At the end of each fiscal year, any unexpended amounts described in Subsections (5)(b)(vii)(A) and (B) shall lapse:

(A) 50% into the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% into the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(x) The commission shall allocate $175,000 to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(xi) At the end of each fiscal year, any unexpended amounts described in Subsection (5)(b)(x) shall lapse:

(A) 50% into the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% into the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) The commission shall deposit $45,000,000 into the Active Transportation Investment Fund created in Section 72-2-124.

(d) The commission shall deposit $533,750 into the Qualified Emergency Food Agencies Fund created by and expended in accordance with Section 35A-8-1009.

(e) The commission shall deposit $200,000 into the General Fund as a dedicated credit for the sole use of the Search and Rescue Financial Assistance Program created by and to be expended in accordance with Title 53, Chapter 2a, Part 11, Search and Rescue Act.

[~~(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.~~]

[~~(7) (a) Notwithstanding Subsection (3)(a) and subject to Subsections (7)(b), (c), and (d), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:~~]

[~~(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;~~]

[~~(ii) the tax imposed by Subsection (2)(b)(i);~~]

[~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]

[~~(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).~~]

[~~(b) (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to .44% of the revenue collected from the following sales and use taxes:~~]

[~~(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;~~]

[~~(B) the tax imposed by Subsection (2)(b)(i);~~]

[~~(C) the tax imposed by Subsection (2)(c)(i); and~~]

[~~(D) the tax imposed by Subsection (2)(f)(i)(A)(I).~~]

[~~(ii) The commission shall annually deposit the amount described in Subsection (7)(b)(i) into the Cottonwood Canyons Transportation Investment Fund created in Section 72-2-124.~~]

[~~(c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:~~]

[~~(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);~~]

[~~(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and~~]

[~~(C) revenue transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.~~]

[~~(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.~~]

[~~(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).~~]

[~~(d) (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under this Subsection (7) by an amount that is equal to 1% of the revenue collected from the following sales and use taxes:~~]

[~~(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;~~]

[~~(B) the tax imposed by Subsection (2)(b)(i);~~]

[~~(C) the tax imposed by Subsection (2)(e)(i); and~~]

[~~(D) the tax imposed by Subsection (2)(f)(i)(A)(I).~~]

[~~(ii) The commission shall annually deposit the amount described in Subsection (7)(d)(i) into the Commuter Rail Subaccount created in Section 72-2-124.~~]

[~~(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenue collected from the following taxes:~~]

[~~(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;~~]

[~~(ii) the tax imposed by Subsection (2)(b)(i);~~]

[~~(iii) the tax imposed by Subsection (2)(e)(i); and~~]

[~~(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).~~]

[~~(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.~~]

[~~(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.~~]

[~~(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.~~]

[~~(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.~~]

[~~(11)~~](6) (a) The rate specified in this [~~subsection~~]Subsection (6) is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection [~~(11)(a)~~](6)(a) on the transactions that are subject to the sales and use tax under Subsection [~~(2)(a)(i)(A)~~](2)(a)(i)(B) into the Medicaid ACA Fund created in Section 26B-1-315.

[~~(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.~~]

[~~(13) (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.~~]

[~~(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.~~]

[~~(14)~~](7) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

[~~(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenue collected from the following sales and use taxes:~~]

[~~(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;~~]

[~~(b) the tax imposed by Subsection (2)(b)(i);~~]

[~~(c) the tax imposed by Subsection (2)(e)(i); and~~]

[~~(d) the tax imposed by Subsection (2)(f)(i)(A)(I).~~]

[~~(16)~~](8) Notwithstanding Subsection (3)(a), beginning October 1, 2024 the commission shall transfer to the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) [~~at a 4.7% rate~~], on transactions occurring within the district sales tax area, as defined in Section 11-70-101.

[~~(17)~~](9) (a) As used in this Subsection [~~(17)~~](9):

(i) "Additional land" means point of the mountain state land described in Subsection 11-59-102(6)(b) that the point of the mountain authority acquires after the point of the mountain authority provides the commission a map under Subsection [~~(17)(c)~~](9)(c).

(ii) "Point of the mountain authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(iii) "Point of the mountain state land" means the same as that term is defined in Section 11-59-102.

(b) Notwithstanding Subsection (3)(a), the commission shall distribute to the point of the mountain authority 50% of the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) [~~at a 4.7% rate~~], on transactions occurring on the point of the mountain state land.

(c) The distribution under Subsection [~~(17)(b)~~](9)(b) shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map that:

(i) accurately describes the point of the mountain state land; and

(ii) the point of the mountain authority certifies as accurate.

(d) A distribution under Subsection [~~(17)(b)~~](9)(b) with respect to additional land shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map of point of the mountain state land that:

(i) accurately describes the point of the mountain state land, including the additional land; and

(ii) the point of the mountain authority certifies as accurate.

(e) (i) Upon the payment in full of bonds secured by the sales and use tax revenue distributed to the point of the mountain authority under Subsection [~~(17)(b)~~](9)(b), the point of the mountain authority shall immediately notify the commission in writing that the bonds are paid in full.

(ii) The commission shall discontinue distributions of sales and use tax revenue under Subsection [~~(17)(b)~~](9)(b) at the beginning of the calendar quarter that begins at least 90 days after the date that the commission receives the written notice under Subsection [~~(17)(e)(i)~~](9)(e)(i).

(10) Notwithstanding Subsection (3)(a), the amount of state sales tax revenues described in Section 63N-2-503.5 is deposited into the Convention Incentive Fund created in Section 63N-2-503.5.

Section 19. Section 59-12-104.2 is amended to read:

59-12-104.2 (Effective 07/01/26). Exemption for accommodations and services taxed by the Navajo Nation.

(1) As used in this section "tribal taxing area" means the geographical area that:

(a) is subject to the taxing authority of the Navajo Nation; and

(b) consists of:

(i) notwithstanding the issuance of a patent, all land:

(A) within the limits of an Indian reservation under the jurisdiction of the federal government; and

(B) including any rights-of-way running through the reservation; and

(ii) all Indian allotments the Indian titles to which have not been extinguished, including any rights-of-way running through an Indian allotment.

(2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax imposed by [~~Subsection 59-12-103(2)(a)(i)(A) or (2)(e)(i)(A)(I)~~]Subsections 59-12-103(2)(a)(i)(A) and (B) or Subsection 59-12-103(2)(e)(i)(A) to the extent permitted under Subsection (2)(b) if:

(i) the accommodations and services described in Subsection 59-12-103(1)(i) are provided within:

(A) the state; and

(B) a tribal taxing area;

(ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

(iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without regard to whether or not the purchaser that pays or is charged for the accommodations and services is an enrolled member of the Navajo Nation; and

(iv) the requirements of Subsection (4) are met.

(b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for accommodations and services described in Subsection (2)(a) are subject to a tax imposed by [~~Subsection 59-12-103(2)(a)(i)(A) or (2)(e)(i)(A)(I)~~]Subsections 59-12-103(2)(a)(i)(A) and (B) or Subsection 59-12-103(2)(e)(i)(A):

(i) the seller shall collect and pay to the state the difference described in Subsection (3) if that difference is greater than $0; and

(ii) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (3) is equal to or less than $0.

(3) The difference described in Subsection (2)(b) is equal to the difference between:

(a) the amount of tax imposed by [~~Subsection 59-12-103(2)(a)(i)(A) or (2)(e)(i)(A)(I)~~]Subsections 59-12-103(2)(a)(i)(A) and (B) or Subsection 59-12-103(2)(e)(i)(A) on the amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i); less

(b) the tax imposed and collected by the Navajo Nation on the amounts paid by or charged to a purchaser for the accommodations and services described in Subsection 59-12-103(1)(i).

(4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under Subsection (2) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(b) from the Navajo Nation.

(b) The notice described in Subsection (4)(a) shall state:

(i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i);

(ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i); and

(iii) the new rate of the tax described in Subsection (4)(b)(i).

Section 20. Section 59-12-1201 is amended to read:

59-12-1201 (Effective 07/01/26). Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.

(1) As used in this section:

(a) "Fairpark district board" means the board of the fairpark district.

(b) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(c) "Franchise agreement date" means the same as that term is defined in Section 11-70-101.

(d) "Stadium contribution" means the same as that term is defined in Section 11-70-101.

(e) "Transition date" means the first day of the calendar quarter that begins at least 90 days after the fairpark district board delivers to the commission the certificate described in Subsection (2)(a)(ii)(B).

(2) (a) (i) Except as provided in Subsections (4) and (5), there is imposed a tax of 2.5% on all short-term rentals of motor vehicles.

(ii) (A) In addition to the tax imposed under Subsection (2)(a)(i) and except as provided in Subsections (4) and (5), beginning on the transition date there is imposed a tax of 1.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(B) After the franchise agreement date, the fairpark district board shall deliver to the commission a certificate verifying the execution

of a franchise agreement, as defined in Section 11-70-101, and providing the franchise agreement date.

(C) A tax under this Subsection (2)(a)(ii) is imposed only if the franchise agreement date is on or before June 30, 2032.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(3) (a) Subject to Subsection (3)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (2) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (2), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (2).

(ii) For a transaction subject to a tax under Subsection (2), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection [~~(1)~~](2).

(4) A tax imposed under this section applies at the same rate to car sharing of less than 30 days, except for car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement.

(5) A motor vehicle is exempt from the tax imposed under this section if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

(6) (a) (i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection [~~(5)(a)(i)~~](6)(a)(i), a tax under this part is not subject to Subsections 59-12-103(4) through [~~(9)~~](10) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(c) Except as provided under Subsections (6)(b) and (d):

(i) the commission shall deposit daily with the state treasurer all revenue received under this section; and

(ii) the state treasurer shall credit monthly all revenue received under this section to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

(d) (i) Subject to Subsection (6)(d)(iii), all revenue received by the commission under Subsection (2)(a)(ii) shall be paid to the fairpark district.

(ii) Within 10 days after the fairpark district completes payment of the stadium contribution, the fairpark district board shall deliver to the commission a written statement verifying that the fairpark district has completed payment of the stadium contribution.

(iii) Upon receipt of the written statement under Subsection (6)(d)(ii), the commission shall:

(A) discontinue collecting revenue under Subsection (2)(a)(ii), beginning the first day of the calendar quarter that is at least 90 days after the commission's receipt of the written statement;

(B) discontinue distributing revenue under Subsection (2)(a)(ii) to the fairpark district, beginning the first day of the calendar quarter that is at least 90 days after the commission's receipt of the written statement; and

(C) notify the Executive Appropriations Committee of the Legislature that the commission is discontinuing collecting and distributing revenue under Subsection (2)(a)(ii).

Section 21. Section 63N-2-510 is amended to read:

63N-2-510 (Effective 07/01/26). Report by office -- Posting of report.

(1) The office shall include the following information in the office's annual written report described in Section 63N-1a-306:

(a) the state's success in attracting new conventions and corresponding new state revenue;

(b) the estimated amount of convention incentive commitments and the associated calculation made by the office and the period of time over which convention incentives are expected to be paid;

(c) the economic impact on the state related to generating new state revenue and providing convention incentives; and

(d) the estimated and actual costs and economic benefits of the convention incentive commitments that the office made.

(2) Upon the commencement of the construction of a qualified hotel, the office shall send a written notice to the Division of Finance [~~:~~]

[~~(a) referring to the two annual deposits required under Subsection 59-12-103(10); and~~]

[~~(b)~~] notifying the Division of Finance that construction on the qualified hotel has begun.

Section 22. Section 63N-2-512 is amended to read:

63N-2-512 (Effective 07/01/26). Hotel Impact Mitigation Fund.

(1) As used in this section:

(a) "Affected hotel" means a hotel built in the state before July 1, 2014.

(b) "Direct losses" means affected hotels' losses of hotel guest business attributable to the qualified hotel room supply being added to the market in the state.

(c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).

(2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(3) The mitigation fund shall:

(a) be administered by GOEO;

(b) earn interest; and

(c) be funded by:

[~~(i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103(10);~~]

[~~(ii)~~](i) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and

[~~(iii)~~](ii) any money deposited into the mitigation fund under Subsection (6).

(4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

(5) (a) In accordance with office rules, GOEO shall annually pay up to $2,100,000 of money in the mitigation fund:

(i) to affected hotels;

(ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and

(iii) to mitigate direct losses.

(b) (i) If the amount GOEO pays under Subsection (5)(a) in any year is less than $2,100,000, GOEO shall pay to the Stay Another Day and Bounce Back Fund, created in Section 63N-2-511, the difference between $2,100,000 and the amount paid under Subsection (5)(a).

(ii) GOEO shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much GOEO is required to pay to affected hotels under Subsection (5)(a).

(6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5)(a) to affected hotels.

Section 23. Section 72-2-106 is amended to read:

72-2-106 (Effective 07/01/26). Appropriation and transfers from Transportation Fund.

(1) On and after July 1, 1981, there is appropriated from the Transportation Fund to the use of the department an amount equal to two-elevenths of the taxes collected from the motor fuel tax and the special fuel tax, exclusive of the formula amount appropriated for class B and class C roads, to be used for highway rehabilitation.

(2) For a fiscal year beginning on or after July 1, 2016, the Division of Finance shall annually transfer an amount equal to the amount of revenue generated by a tax imposed on motor and special fuel that is sold, used, or received for sale or used in this state at a rate of 1.8 cents per gallon to the Transportation Investment Fund of 2005 created by Section 72-2-124.

(3) For a fiscal year beginning on or after July 1, 2019, the Division of Finance shall annually transfer to the Transportation Investment Fund of 2005 created by Section 72-2-124 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

[~~(4) For purposes of the calculation described in Subsection 59-12-103(7)(e), the Division of Finance shall notify the State Tax Commission of the amount of any transfer made under Subsections (2) and (3).~~]

Section 24. Section 72-2-124 is amended to read:

72-2-124 (Effective 07/01/26). Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) subject to Subsection (4)(c), two lanes on U-111 from Herriman Parkway to South Jordan Parkway;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(c) (i) Construction related to the project described in Subsection (4)(a)(ix)(D) may not commence until a right-of-way not owned by a federal agency that is required for the realignment and extension of U-111, as described in the department's 2023 environmental study related to the project, is dedicated to the department.

(ii) Notwithstanding Subsection (4)(c)(i), if a right-of-way is not dedicated for the project as described in Subsection (4)(c)(i) on or before October 1, 2024, the department may proceed with the project, except that the project will be limited to two lanes on U-111 from Herriman Parkway to 11800 South.

(5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (5) no longer applies to the municipality.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (6) no longer applies to the county.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) transfers of local option sales and use tax revenue as described in Subsection 59-12-2220(11)(b) or (c);

(v) private contributions; and

(vi) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the commission may prioritize money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304;

(ii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility; or

(iii) up to $500,000 per year, to be used for a public transit study.

(e) (i) Subject to Subsections (9)(g), (h), and (i), the commission may only prioritize money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 30% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to [~~Title 72, Chapter 2,~~]Part 2, State Infrastructure Bank Fund, to provide all or part of the 30% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in [~~Title 72, Chapter 2,~~]Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(g) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(b):

(i) the commission may prioritize money from the fund for public transit projects, operations, or maintenance within the county of the first class; and

(ii) Subsection (9)(e) does not apply.

(h) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(c):

(i) the commission may prioritize public transit projects, operations, or maintenance in the county from which the revenue was generated; and

(ii) Subsection (9)(e) does not apply.

(i) The requirement to provide funds equal to or greater than 30% of the costs needed for the project described in Subsection (9)(e) does not apply to a public transit capital development project or pedestrian or nonmotorized transportation project that the department proposes.

(j) In accordance with Part [~~3~~]4, Public Transit Innovation Grants, the commission may prioritize money from the fund for public transit innovation grants, as defined in Section 72-2-401, for public transit capital development projects requested by a political subdivision within a public transit district.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

(e) The department may use up to 2% of the revenue deposited into the account under Subsection [~~59-12-103(7)(b)~~]59-12-103(4)(f) to contract with local governments as necessary for public safety enforcement related to the Cottonwood Canyons of Salt Lake County.

(11) (a) There is created in the Transportation Investment Fund of 2005 the Active Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature; and

(iii) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The executive director may only use fund money to pay the costs needed for:

(i) the planning, design, construction, maintenance, reconstruction, or renovation of paved pedestrian or paved nonmotorized trail projects that:

(A) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(B) serve a regional purpose; and

(C) are part of an active transportation plan approved by the department or the plan described in Subsection (11)(d)(ii);

(ii) the development of a plan for a statewide network of paved pedestrian or paved nonmotorized trails that serve a regional purpose; and

(iii) the administration of the fund, including staff and overhead costs.

(12) (a) As used in this Subsection (12), "commuter rail" means the same as that term is defined in Section 63N-3-602.

(b) There is created in the Transit Transportation Investment Fund the Commuter Rail Subaccount.

(c) The subaccount shall be funded by:

(i) contributions deposited into the subaccount in accordance with Section 59-12-103;

(ii) appropriations into the subaccount by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(d) (i) The subaccount shall earn interest.

(ii) All interest earned on money in the subaccount shall be deposited into the subaccount.

(e) As prioritized by the commission through the prioritization process adopted under Section 72-1-304 or as directed by the Legislature, the department may only use money from the subaccount for projects that improve the state's commuter rail infrastructure, including the building or improvement of grade-separated crossings between commuter rail lines and public highways.

(f) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

Section 25. Section 73-2-1.6 is amended to read:

73-2-1.6 (Effective 07/01/26). Water Rights Restricted Account.

(1) As used in this section:

(a) "Account" means the Water Rights Restricted Account created by this section.

(b) "Division" means the Division of Water Rights.

(2) There is created in the General Fund a restricted account known as the "Water Rights Restricted Account."

(3) The account shall consist of the money deposited into the account under Subsection [~~59-12-103(5)(e)~~]59-12-103(4)(b).

(4) Upon appropriation, the division may use money in the account for:

(a) costs incurred by the division that benefit water rights adjudications, including:

(i) employing technical staff;

(ii) acquiring equipment;

(iii) obtaining legal support;

(iv) conducting studies;

(A) installing, operating, and maintaining measurement infrastructure; and

(B) sharing the costs of installed United States Geological Survey stream gauges; and

(b) not to exceed 5% of the money deposited into the account under Subsection [~~59-12-103(5)(e)~~]59-12-103(4)(b) in the fiscal year preceding the fiscal year of appropriation, costs incurred by the division to acquire, manage, and analyze surface and groundwater data, not limited to geographic areas of adjudication.

(5) (a) The account may not exceed $8,000,000 at the end of a fiscal year.

(b) If the account exceeds $8,000,000 at the end of a fiscal year, the Division of Finance shall deposit into the Water Resources Conservation and Development Fund, created in Section 73-10-24, the money in excess of the amount necessary to maintain the account balance at $8,000,000.

Section 26. Effective date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect on July 1, 2026.

(2) The actions affecting the following sections take effect on May 7, 2025:

(a) Section 41-1a-102 (Effective 05/07/25);

(b) Section 41-1a-110 (Effective 05/07/25);

(c) Section 41-1a-1206 (Effective 05/07/25);

(d) Section 41-6a-102 (Effective 05/07/25);

(e) Section 41-6a-1509 (Effective 05/07/25);

(f) Section 41-12a-804 (Effective 05/07/25);

(g) Section 41-22-2 (Effective 05/07/25);

(h) Section 41-22-3 (Effective 05/07/25);

(i) Section 41-22-5.5 (Effective 05/07/25);

(j) Section 41-22-10.7 (Effective 05/07/25); and

(k) Section 41-22-10.8 (Effective 05/07/25).

(3) The actions affecting Section 41-1a-215 (Effective 01/01/26) take effect on January 1, 2026.

CHAPTER 286
S. B. 28
Passed February 13, 2025
Approved March 25, 2025
Effective May 7, 2025

LIVESTOCK BRAND BOARD AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill addresses the Livestock Brand Board.

Highlighted Provisions:

This bill:

► extends the sunset date for the section creating the Livestock Brand Board.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-204, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates: Title 4.

(1) Section 4-2-108, Agricultural Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation -- Executive committee, is repealed July 1, 2028.

(2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2026.

(3) Section 4-17-104, Creation of State Weed Committee -- Membership -- Powers and duties -- Expenses, is repealed July 1, 2026.

(4) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

(5) Section 4-20-103, Utah Grazing Improvement Program Advisory Board -- Duties, is repealed July 1, 2032.

(6) Section 4-23-104, Agricultural and Wildlife Damage Prevention Board created -- Composition -- Appointment -- Terms -- Vacancies -- Compensation, is repealed July 1, 2034.

(7) Section 4-23-105, Board responsibilities -- Damage prevention policy -- Rules -- Methods to control predators and depredating birds and animals, is repealed July 1, 2034.

(8) Section 4-24-104, Livestock Brand Board created -- Composition -- Terms -- Removal -- Quorum for transaction of business -- Compensation -- Duties, is repealed July 1, [~~2025~~]2035.

(9) Section 4-39-104, Domesticated Elk Act advisory council, is repealed July 1, 2027.

(10) Title 4, Chapter 46, Part 2, Land Conservation Board, is repealed July 1, 2027.

(11) Subsection 4-46-304(2)(d), regarding the Land Conservation Board, is repealed July 1, 2027.

(12) Subsection 4-46-401(3)(a), regarding the Land Conservation Board, is repealed July 1, 2027.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 287
S. B. 29
Passed February 20, 2025
Approved March 25, 2025
Effective July 1, 2025

CHARTER SCHOOL AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill allows the State Board of Education (state board) to adjust funding for charter schools with significant enrollment underestimates.

Highlighted Provisions:

This bill:

- ► provides the state board discretionary authority to allocate funds to adjust charter school enrollment estimates;
- ► specifies funding sources in priority order;
- ► requires reporting to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget; and
- ► exempts adjustments from certain budgetary requirements.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63J-1-206, as last amended by Laws of Utah 2024, Chapter 268

ENACTS:

53F-2-707, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-707 is enacted to read:

53F-2-707. Allocations for adjustment of initial enrollment estimates for charter schools.

(1) As used in this section:

(a) "Enrollment deficiency" means the difference between:

(i) the initial enrollment of a new or expanding charter school; and

(ii) in accordance with Section 53F-2-208, the estimated enrollment of a new or expanding charter school the state board used in developing the state appropriation for the applicable budget year for the new or expanding charter school.

(b) "Initial enrollment" means the actual student enrollment count within a charter school's student information system following the completion of the regular registration process for the upcoming school year, but prior to the October 1 enrollment count of that school year.

(2) The state board may provide an allocation to adjust funding for estimated enrollment to a new or expanding charter school if:

(a) the charter school requests an adjustment from the state board;

(b) the enrollment deficiency is more than 10%; and

(c) in accordance with Section 53F-2-208, the initial budgetary estimates the state board used to develop the state appropriation for the new or expanding charter school did not include or underestimated the enrollment for the applicable budget year.

(3) If the state board approves an allocation under Subsection (2), the state board may provide additional funding to cover costs until the completion of the fall enrollment counts and the mid-year or end of year updates to the estimated state funding distribution.

(4) The state board may use unencumbered balances from the following programs, in priority order, to provide an allocation to a charter school under this section:

(a) without the consent or approval of the State Charter School Board, balances remaining in the grants for charter school start-up costs under Section 53F-2-705;

(b) from prior year ending balances, balances remaining in the charter school levy state guarantee under Section 53F-2-704; and

(c) unrestricted balances in the basic school program.

(5) The state board shall report actions the state board takes under this section to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

Section 2. Section 63J-1-206 is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) If the money appropriated to an agency to pay lease payments under the program established in Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

(3) Notwithstanding Subsection (2)(c)(i):

(a) the state superintendent:

(i) may transfer money appropriated for:

(A) the Minimum School Program between line items in accordance with Section 53F-2-205; and

(B) initial enrollment estimates for charter schools between line items in accordance with Section 53F-2-707; and

(ii) shall provide the state board with information on the transfers described in Subsection (3)(a)(i) within 60 days of a transfer; and

(b) the Department of Government Operations may transfer money appropriated to another department, agency, institution, or division for the purpose of paying the costs of pay for performance under Section 63A-17-112.

Section 3. Effective date.

This bill takes effect on July 1, 2025.

CHAPTER 288
S. B. 38
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

MANUFACTURING MODERNIZATION GRANT SUNSET AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Colin W. Jack

LONG TITLE

General Description:

This bill extends the sunset for the Manufacturing Modernization Grant Program.

Highlighted Provisions:

This bill:

► extends the sunset for the Manufacturing Modernization Grant Program; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2024, Third Special Session, Chapter 4

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63O.

(1) Subsection 63A-5b-405(5), regarding prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(3) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(4) Title 63C, Chapter 18, Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(5) Title 63C, Chapter 23, Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

(6) Title 63C, Chapter 25, State Finance Review Commission, is repealed July 1, 2027.

(7) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(8) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(9) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed July 1, 2028.

(10) Section 63G-6a-805, Purchase from community rehabilitation programs, is repealed July 1, 2026.

(11) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(12) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2029.

(13) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(14) Subsection 63J-1-602.2(16), related to the Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program, is repealed July 1, 2029.

(15) Subsection 63J-1-602.2(26), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

(16) Section 63L-11-204, Canyon resource management plan, is repealed July 1, 2025.

(17) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(18) Title 63M, Chapter 7, Part 7, Domestic Violence Offender Treatment Board, is repealed July 1, 2027.

(19) Section 63M-7-902, Creation -- Membership -- Terms -- Vacancies -- Expenses, is repealed July 1, 2029.

(20) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(21) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2030.

(22) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(23) Subsection 63N-2-511(1)(b), regarding the Board of Tourism Development, is repealed July 1, 2025.

(24) Section 63N-2-512, Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(25) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

(26) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, [~~2025~~]2028.

(27) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2028.

(28) Section 63N-4-804, which creates the Rural Opportunity Advisory Committee, is repealed July 1, 2027.

(29) Subsection 63N-4-805(5)(b), regarding the Rural Employment Expansion Program, is repealed July 1, 2028.

(30) Subsection 63N-7-101(1), regarding the Board of Tourism Development, is repealed July 1, 2025.

(31) Subsection 63N-7-102(3)(c), regarding a requirement for the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed July 1, 2025.

(32) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed July 1, 2025.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 289
S. B. 39
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

EDUCATION TESTING AMENDMENTS

Chief Sponsor: John D. Johnson
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill amends provisions relating to Utah standard assessments.

Highlighted Provisions:

This bill:

► increases the grade range for certain subjects of the state selected standards assessment; and
► removes provisions requiring the use of a different assessment.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-4-303, as last amended by Laws of Utah 2021, Chapter 129

REPEALS:

53E-4-304, as last amended by Laws of Utah 2019, Chapters 186, 202

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-4-303 is amended to read:

53E-4-303. Utah standards assessments -- Administration -- Review committee.

(1) As used in this section, "computer adaptive assessment" means an assessment that measures the range of a student's ability by adapting to the student's responses, selecting more difficult or less difficult questions based on the student's responses.

(2) The state board shall:

(a) adopt a standards assessment that:

(i) measures a student's proficiency in:

(A) mathematics for students in each of grades 3 through 8 until July 1, 2026, and 3 through 10 after July 1, 2026;

(B) English language arts for students in each of grades 3 through 8 until July 1, 2026, and 3 through 10 after July 1, 2026;

(C) science for students in each of grades 4 through 8 until July 1, 2026, and 4 through 10 after July 1, 2026; and

(D) writing for students in at least grades 5 and 8; and

(ii) except for the writing measurement described in Subsection (2)(a)(i)(D), is a computer adaptive assessment; and

(b) ensure that an assessment described in Subsection (2)(a) is:

(i) a criterion referenced assessment;

(ii) administered online;

(iii) aligned with the core standards for Utah public schools; and

(iv) adaptable to personalized, competency-based learning, as that term is defined in Section 53F-5-501.

(3) A school district or charter school shall annually administer the standards assessment adopted by the state board under Subsection (2) to all students in the subjects and grade levels described in Subsection (2).

(4) (a) Except as provided in Subsection (4)(b), a student's score on the standards assessment adopted under Subsection (2) may not be considered in determining:

(i) the student's academic grade for a course; or

(ii) whether the student may advance to the next grade level.

(b) A teacher may use a student's score on the standards assessment adopted under Subsection (2) to improve the student's academic grade for or demonstrate the student's competency within a relevant course.

(5) (a) The state board shall establish a committee consisting of 15 parents of Utah public education students to review all standards assessment questions.

(b) The committee established in Subsection (5)(a) shall include the following parent members:

(i) five members appointed by the chair of the state board;

(ii) five members appointed by the speaker of the House of Representatives or the speaker's designee; and

(iii) five members appointed by the president of the Senate or the president's designee.

(c) The state board shall provide staff support to the parent committee.

(d) The term of office of each member appointed in Subsection (5)(b) is four years.

(e) The chair of the state board, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately half of the committee members are appointed every two years.

(f) No member may receive compensation or benefits for the member's service on the committee.

Section 2. Repealer.

This bill repeals:

Section 53E-4-304, High school assessments.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 290
S. B. 40
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

SALES AND USE TAX ACT AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies provisions in the Sales and Use Tax Act.

Highlighted Provisions:

This bill:

- ► clarifies the amnesty period during which a seller or certified service provider is not liable for failure to collect taxes due to an error by the State Tax Commission;
- ► clarifies requirements related to the reauthorization of certain local option sales taxes;
- ► includes a coordination clause to address substantive conflicts if this bill and S.B. 67, Local Option Sales Tax Amendments, both pass and become law; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-125, as last amended by Laws of Utah 2009, Chapter 203
59-12-302, as last amended by Laws of Utah 2023, Chapter 471
59-12-354, as last amended by Laws of Utah 2024, Chapter 419
59-12-403, as last amended by Laws of Utah 2023, Chapter 471
59-12-603, as last amended by Laws of Utah 2024, Chapter 274
59-12-703, as last amended by Laws of Utah 2023, Chapter 471
59-12-704, as last amended by Laws of Utah 2024, Chapter 270
59-12-802, as last amended by Laws of Utah 2024, Chapter 333
59-12-804, as last amended by Laws of Utah 2023, Chapter 471
59-12-1102, as last amended by Laws of Utah 2023, Chapters 435, 471
59-12-1201, as last amended by Laws of Utah 2024, Chapter 274
59-12-1402, as last amended by Laws of Utah 2023, Chapter 471
59-12-1803, as last amended by Laws of Utah 2012, Chapter 254

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-125 is amended to read:

59-12-125. Seller or certified service provider reliance on commission information.

(1) [~~A~~]Subject to Subsection (2), a seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

[~~(1)~~](a) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

[~~(2)~~](b) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

(2) The time period for which a seller or certified service provider is not liable for failure to collect taxes under Subsection (1) ends on the first day of the calendar quarter after 90 days from the day on which the commission first notifies the seller or certified service provider of the error.

Section 2. Section 59-12-302 is amended to read:

59-12-302. Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2), (3), and (4), the tax authorized under this part shall be administered, collected, [~~and~~]enforced, and interpreted in accordance with:

(a) the same procedures used to administer, collect, [~~and~~]enforce, and interpret the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) The location of a transaction shall be determined in accordance with Sections 59-12-211through 59-12-215.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).

(4) A county auditor may make referrals to the commission to assist the commission in determining whether to require an audit of any person that is required to remit a tax authorized under this part.

(5) The commission:

(a) shall distribute the revenue collected from the tax to the county within which the revenue was collected; and

(b) shall retain and deposit an administrative charge in accordance with Section 59-1-306from revenue the commission collects from a tax under this part.

Section 3. Section 59-12-354 is amended to read:

59-12-354. Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be administered, collected, [~~and~~]enforced, and interpreted in accordance with:

(a) the same procedures used to administer, collect, [~~and~~]enforce, and interpret the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) (a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(b) Except as provided in Subsection (2)(c), the commission shall distribute the revenue collected from the tax to:

(i) (A) the municipality within which the revenue was collected, for a tax imposed under this part by a municipality; or

(B) the Utah Fairpark Area Investment and Restoration District, for a tax imposed under this part by the Utah Fairpark Area Investment and Restoration District; and

(ii) the Point of the Mountain State Land Authority, for a tax imposed under Subsection 59-12-352(6).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).

Section 4. Section 59-12-403 is amended to read:

59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, enforcement, and interpretation of tax -- Administrative charge.

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be administered, collected, [~~and~~]enforced, and interpreted in accordance with:

(i) the same procedures used to administer, collect, [~~and~~]enforce, and interpret the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (5).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

Section 5. Section 59-12-603 is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

(iii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food;

(iv) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i); and

(v) if a county legislative body of any county imposes a tax under Subsection (1)(a)(i), a tax at the same rate applies to car sharing of less than 30 days, except for car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement.

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(c), a county may use revenue from the imposition of a tax under Subsection (1) for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) (i) In addition to the uses described in Subsection (2)(a) and subject to Subsection (2)(b)(ii), a county of the fourth, fifth, or sixth class or a county with a population density of fewer than 15 people per square mile may expend the revenue from the imposition of a tax under Subsections (1)(a)(i) and (ii) on the following activities to mitigate the impacts of tourism:

(A) solid waste disposal;

(B) search and rescue activities;

(C) law enforcement activities;

(D) emergency medical services; or

(E) fire protection services.

(ii) A county may only expend the revenue as outlined in Subsection (2)(b)(i) if the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) has prioritized the use of revenue to mitigate the impacts of tourism.

(c) A county of the first class shall expend at least $450,000 each year of the revenue from the imposition of a tax authorized by

Subsection (1)(a)(iv) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect a tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, [~~and~~]enforced, and interpreted in accordance with:

(A) the same procedures used to administer, collect, [~~and~~]enforce, and interpret the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 6. Section 59-12-703 is amended to read:

59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) sales and uses within a municipality that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax [~~as prescribed in~~]in accordance with Subsection (1), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(i) described in Subsection (1); and

(ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenue generated from a tax imposed under Subsection (2)(a) without submitting an opinion question to residents of the county.

(3) (a) After the residents of a county of the third, fourth, fifth, or sixth class authorize a tax under this part in accordance with

Subsection (1) for two consecutive 10-year periods, the tax may be reauthorized only by a majority vote of the members of the county legislative body.

(b) For purposes of reauthorizing the tax in accordance with Subsection (3)(a), the county legislative body shall post the purposes for imposing the tax at least 24 hours before the meeting at which the county legislative body votes to reauthorize the tax.

[~~(3)~~](4) Subject to Section 59-12-704, a county shall expend revenue collected from a tax imposed under Subsection (2)[~~shall be expended~~]or (3):

(a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(b) to fund ongoing operating expenses of:

(i) recreational facilities described in Subsection [~~(3)(a)~~](4)(a);

(ii) botanical organizations, cultural organizations, and zoological organizations within the county; and

(iii) rural radio stations within the county; and

(c) (i) as stated in the opinion question described in Subsection (1) if the county authorizes the tax in accordance with Subsections (1) and (2); or

(ii) for the purposes posted by the members of the county legislative body if the county legislative body reauthorizes the tax in accordance with Subsection (3).

[~~(4)~~](5) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection [~~(4)(b)~~](5)(b), administered, collected, [~~and~~]enforced, and interpreted in accordance with:

(A) the same procedures used to administer, collect, [~~and~~]enforce, and interpret the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the [~~ten~~]10-year period in accordance with this section.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (5).

[~~(5)~~](6) (a) For purposes of this Subsection [~~(5)~~](6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection [~~(5)(c)~~](6)(c) or (d), if [~~, on or after July 1, 2004,~~] a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection [~~(5)(b)(ii)~~](6)(b)(ii) from the county.

(ii) The notice described in Subsection [~~(5)(b)(i)(B)~~](6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection [~~(5)(b)(ii)(A)~~](6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection [~~(5)(b)(ii)(A)~~](6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection [~~(5)(b)(ii)(A)~~](6)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection [~~(5)(b)(i)~~](6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection [~~(5)(b)(i)~~](6)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection [~~(5)(f)~~](6)(f) or (g), if [~~, for an annexation that occurs on or after July 1, 2004, the~~]an annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection [~~(5)(e)(ii)~~](6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection [~~(5)(e)(i)(B)~~](6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection [~~(5)(e)(i)~~](6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection [~~(5)(e)(ii)(A)~~](6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection [~~(5)(e)(ii)(A)~~](6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection [~~(5)(e)(ii)(A)~~](6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue,

an enactment or repeal of a tax described in Subsection [~~(5)(e)(i)~~](6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection [~~(5)(e)(i)~~](6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 7. Section 59-12-704 is amended to read:

59-12-704. Distribution of revenue -- Advisory board creation -- Determining operating expenses -- Administrative charge.

(1) Except as provided in Subsections (7)(b) and (9), and subject to the requirements of this section, the county legislative body of a county of the first class shall distribute annually any revenue collected under this part to support cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations within that first class county as follows:

(a) 30% of the revenue to support cultural facilities and recreational facilities located within the county;

(b) 16% of the revenue to support zoological facilities and zoological organizations located within the county as provided in Subsection (2);

(c) as provided in Subsection (5), 45% of the revenue to support no more than 22 botanical organizations and cultural organizations:

(i) each of which has average annual operating expenses of more than $250,000 as determined under Subsection (7); and

(ii) whose activities impact all or a significant region of the county or state; and

(d) 9% of the revenue to botanical organizations and cultural organizations that do not receive revenue under Subsection (1)(c) in communities throughout the county as determined by the county legislative body.

(2) (a) The distribution described in Subsection (1)(b) shall support no more than three zoological facilities and zoological organizations located within the county and having average annual operating expenses of $1,500,000 or more as determined under Subsection (7).

(b) For the calendar years that begin on or after January 1, 2025, and on or before January 1, 2029, the county shall distribute the 16% of the revenue as follows:

(i) 8.25% of the revenue to support a zoological organization having as the zoological organization's primary purpose the operation of an aviary, or a zoological facility that is part of or integrated with an aviary;

(ii) an amount equal to the amount distributed during the previous calendar year to support a zoological organization having as the zoological organization's primary purpose the operation of a zoological park, or a zoological facility that is part of or integrated with a zoological park; and

(iii) the remaining amount to a zoological organization having as the zoological organization's primary purpose the operation of an aquarium, or a zoological facility that is part of or integrated with an aquarium.

(c) For a calendar year that begins on or after January 1, 2030, the county shall provide by ordinance for the distribution of the 16% of revenue to no more than three zoological facilities and zoological organizations located within the county and having average annual operating expenses of $1,500,000 or more as determined under Subsection (7).

(3) If more than one zoological organization or zoological facility qualifies to receive the money described in Subsection (2), the county legislative body shall distribute the money described in the subsection for which more than one zoological organization or zoological facility qualifies to whichever zoological organization or zoological facility the county legislative body determines is most appropriate, except that a zoological organization or zoological facility may not receive money under more than one subsection under Subsection (2).

(4) If no zoological organization or zoological facility qualifies to receive money described in Subsection (2), the county legislative body shall distribute the money described in the subsection for which no zoological organization or zoological facility qualifies among the zoological organizations or zoological facilities qualifying for and receiving money under the other subsections in proportion to the zoological organizations' or zoological facilities' average annual operating expenses as determined under Subsection (7).

(5) (a) Subject to Subsection (5)(b), the county legislative body shall distribute the money described in Subsection (1)(c) among the botanical organizations and cultural organizations in proportion to the botanical organizations' and cultural organizations' average annual operating expenses as determined under Subsection (7).

(b) The county may not distribute to any botanical organization or cultural organization described in Subsection (1)(c) an amount that exceeds 35% of the botanical organization's or cultural organization's operating budget.

(6) (a) The county legislative body of each county shall create an advisory board to advise the county legislative body on disbursement of funds to botanical organizations and cultural organizations under Subsection (1)(c).

(b) (i) The advisory board under Subsection (6)(a) shall consist of seven members appointed by the county legislative body.

(ii) In a county of the first class, the Division of Arts and Museums created in Section 9-6-201 shall appoint two of the seven members of the advisory board under Subsection (6)(a).

(7) (a) Except as provided in Subsection (7)(b), to be eligible to receive money collected by the county under this part, a botanical organization, cultural organization, zoological organization, and zoological facility located within a county of the first class shall, every year:

(i) calculate its average annual operating expenses based upon audited operating expenses for three preceding fiscal years; and

(ii) submit to the appropriate county legislative body:

(A) a verified audit of annual operating expenses for each of those three preceding fiscal years; and

(B) the average annual operating expenses as calculated under Subsection (7)(a)(i).

(b) The county legislative body may waive the operating expenses reporting requirements under Subsection (7)(a) for organizations described in Subsection (1)(d).

(8) When calculating average annual operating expenses as described in Subsection (7), each botanical organization, cultural organization, and zoological organization shall use the same three-year fiscal period as determined by the county legislative body.

(9) (a) By July 1 of each year, the county legislative body of a first class county may index the threshold amount in Subsections (1)(c) and [~~(d)~~](2)(a).

(b) Any change under Subsection (9)(a) shall be rounded off to the nearest $100.

(10) (a) In a county except for a county of the first class, the county legislative body shall by ordinance provide for the distribution of the entire amount of the revenue generated by the tax imposed by this section:

(i) as provided in this Subsection (10); and

(ii) as stated in:

(A) the opinion question described in Subsection 59-12-703(1) if the county authorizes the tax in accordance with Subsections 59-12-703(1) and (2); or

(B) the purposes posted as required in Subsection 59-12-703(3) if the county legislative body reauthorizes the tax in accordance with Subsection 59-12-703(3).

(b) In accordance with an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, a county described in Subsection (10)(a) may distribute to a city, town, or political subdivision within the county revenue generated by a tax under this part.

(c) The revenue distributed under Subsection (10)(a) or (b) shall be used for one or more organizations or facilities defined in Section 59-12-702 regardless of whether the revenue is distributed:

(i) directly by the county described in Subsection (10)(a) to be used for an organization or facility defined in Section 59-12-702; or

(ii) in accordance with an interlocal agreement described in Subsection (10)(b).

(11) A county legislative body may retain up to 1.5% of the proceeds from a tax under this part for the cost of administering this part.

(12) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

Section 8. Section 59-12-802 is amended to read:

59-12-802. Imposition of rural county health care tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, enforcement, and interpretation of tax -- Administrative charge.

(1) (a) A county legislative body of the following counties may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county:

(i) a county of the third, fourth, fifth, or sixth class; or

(ii) a county of the second class that has:

(A) a national park within or partially within the county's boundaries; and

(B) two or more state parks within or partially within the county's boundaries.

(b) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Except as provided in Subsection (5)(b), before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) Subject to Subsection (4), a county legislative body may use money collected from a tax imposed under Subsection (1) to fund:

(a) for a county described in Subsection (1)(a)(i):

(i) the following costs associated with a federally qualified health center within the county, a freestanding urgent care center within the county, a rural county health care facility within the county, or a rural health clinic within the county:

(A) ongoing operating expenses of the center, clinic, or facility;

(B) the acquisition of land for the center, clinic, or facility; or

(C) the design, construction, equipping, or furnishing of the center, clinic, or facility;

(ii) rural emergency medical services within the county; or

(iii) a combination of the activities described in this Subsection (3)(a); and

(b) for a county described in Subsection (1)(a)(ii), emergency medical services that are provided by a political subdivision within that county, subject to Subsection (5)(c).

(4) (a) For a tax enacted on or after July 1, 2024, by a county described in Subsection (1)(a)(i), a county legislative body may use money collected from a tax imposed under Subsection (1) to fund:

(i) the costs described in Subsection (3)(a)(i);

(ii) the following activities to mitigate the impacts of visitors within the county:

(A) emergency medical services;

(B) solid waste disposal;

(C) search and rescue activities;

(D) law enforcement activities; or

(E) fire protection services;

(iii) avalanche forecasting within the county; or

(iv) a combination of the activities described in this Subsection (4)(a).

(b) For a tax increased on or after July 1, 2024, by a county described in Subsection (1)(a)(i), a county legislative body may use the

money collected from the increased tax rate to fund the activities described in Subsections (4)(a)(i) through (iv).

(5) (a) A county described in Subsection (1)(a)(ii) may impose a tax under this section within a portion of the county if the affected area includes:

(i) the entire unincorporated area of the county; and

(ii) the entire boundaries of any municipality located within the affected area.

(b) Before a county described in Subsection (1)(a)(ii) may impose a tax under this section within a portion of the county, the county legislative body shall obtain approval to impose the tax from a majority of:

(i) the members of the county's legislative body;

(ii) the county's registered voters within the affected area voting on the imposition of the tax, in an election conducted according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act; and

(iii) (A) the members of the legislative body of each municipality located within the affected area; or

(B) the members of the governing body of a special service district established under Title 17D, Chapter 1, Special Service District Act, to provide emergency medical services within the affected area.

(c) A county described in Subsection (1)(a)(ii) that imposes a tax under this section within a portion of the county in accordance with this Subsection (5) may use the money collected from the tax to fund emergency medical services that are provided by a political subdivision within the affected area.

(6) (a) A tax under this section shall be:

(i) except as provided in Subsection (6)(b), administered, collected, [~~and~~]enforced, and interpreted in accordance with:

(A) the same procedures used to administer, collect, [~~and~~]enforce, and interpret the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the 10-year period by the county legislative body [~~as provided in Subsection (1)~~]and the county's registered voters in accordance with the procedures and requirements for levying a tax under Subsection (2) or (5)(b), except as provided in Subsection (6)(d).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through (5).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

(d) (i) This Subsection (6)(d) applies to a county that imposes a tax under this section on or before January 1, 2024.

(ii) Notwithstanding Subsection (6)(a)(ii), a county described in Subsection (6)(d)(i)is not subject to the voter approval requirement in Subsection (2) or (5)(b) for the first time the county reauthorizes the tax at the end of the 10-year levy period after January 1, 2024.

(iii) The voter approval requirement in Subsection (2) or (5)(b) applies to a county described in Subsection (6)(d)(i) for any time the county reauthorizes the tax at the end of the 10-year levy period after the reauthorization described in Subsection (6)(d)(ii).

(7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 9. Section 59-12-804 is amended to read:

59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration, collection, enforcement, and interpretation of tax -- Administrative charge.

(1) (a) A city legislative body may impose a sales and use tax of up to 1%:

(i) on the transactions described in Subsection 59-12-103(1) located within the city; and

(ii) to fund rural city hospitals in that city.

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the city legislative body; and

(ii) city's registered voters voting on the imposition of the tax.

(b) The city legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) The money collected from a tax imposed under Subsection (1) may only be used to fund:

(a) ongoing operating expenses of a rural city hospital;

(b) the acquisition of land for a rural city hospital; or

(c) the design, construction, equipping, or furnishing of a rural city hospital.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, [~~and~~]enforced, and interpreted in accordance with:

(A) the same procedures used to administer, collect, [~~and~~]enforce, and interpret the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the [~~ten~~]10-year period by the city legislative body [~~as provided in Subsection (1)~~]and the city's registered voters in accordance with the procedures and requirements for levying a tax under Subsection (2), except as provided in Subsection (4)(c).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through (5).

(c) (i) This Subsection (4)(c) applies to a city that imposes a tax under this section on or before January 1, 2024.

(ii) Notwithstanding Subsection (4)(a)(ii), a city described in Subsection (4)(c)(i) is not subject to the voter approval requirement in Subsection (2) for the first time the city reauthorizes the tax at the end of the 10-year levy period after January 1, 2024.

(iii) The voter approval requirement in Subsection (2) applies to a city described in Subsection (4)(c)(i) for any time the city reauthorizes the tax at the end of the 10-year levy period after the reauthorization described in Subsection (4)(c)(ii).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 10. Section 59-12-1102 is amended to read:

59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) The county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) for the county, as a class A notice under Section 63G-30-102, for two weeks before the day on which the first of the two public hearings is held.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least $75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii)shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is $75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, [~~and~~]enforced, and interpreted in accordance with:

(i) the same procedures used to administer, collect, [~~and~~]enforce, and interpret the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (5).

(c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (3) have been made; and

(B) the commission retains the amount required by Subsection (5).

(5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (5)(b)for the county; and

(ii) $6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 11. Section 59-12-1201 is amended to read:

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, enforcement, and interpretation of tax -- Administrative charge -- Deposits.

(1) As used in this section:

(a) "Fairpark district board" means the board of the fairpark district.

(b) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(c) "Franchise agreement date" means the same as that term is defined in Section 11-70-101.

(d) "Stadium contribution" means the same as that term is defined in Section 11-70-101.

(e) "Transition date" means the first day of the calendar quarter that begins at least 90 days after the fairpark district board delivers to the commission the certificate described in Subsection (2)(a)(ii)(B).

(2) (a) (i) Except as provided in Subsections (4) and (5), there is imposed a tax of 2.5% on all short-term rentals of motor vehicles.

(ii) (A) In addition to the tax imposed under Subsection (2)(a)(i) and except as provided in Subsections (4) and (5), beginning on the transition date there is imposed a tax of 1.5% on all [~~short-term leases and rentals of motor vehicles not exceeding 30 days~~]short-term rentals of motor vehicles.

(B) After the franchise agreement date, the fairpark district board shall deliver to the commission a certificate verifying the execution of a franchise agreement, as defined in Section 11-70-101, and providing the franchise agreement date.

(C) A tax under this Subsection (2)(a)(ii) is imposed only if the franchise agreement date is on or before June 30, 2032.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(3) (a) Subject to Subsection (3)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (2) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (2), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (2).

(ii) For a transaction subject to a tax under Subsection (2), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection [~~(1)~~](2).

(4) A tax imposed under this section applies at the same rate to car sharing of less than 30 days, except for car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement.

(5) A motor vehicle is exempt from the tax imposed under this section if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

(6) (a) (i) The tax authorized under this section shall be administered, collected, [~~and~~]enforced, and interpreted in accordance with:

(A) the same procedures used to administer, collect, [~~and~~]enforce, and interpret the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection [~~(5)(a)(i)~~](6)(a)(i), a tax under this part is not subject to Subsections 59-12-103(4) through (9) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(c) Except as provided under Subsections (6)(b) and (d):

(i) the commission shall deposit daily with the state treasurer all revenue received under this section; and

(ii) the state treasurer shall credit monthly all revenue received under this section to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

(d) (i) Subject to Subsection (6)(d)(iii), all revenue received by the commission under Subsection (2)(a)(ii) shall be paid to the fairpark district.

(ii) Within 10 days after the fairpark district completes payment of the stadium contribution, the fairpark district board shall deliver to the commission a written statement verifying that the fairpark district has completed payment of the stadium contribution.

(iii) Upon receipt of the written statement under Subsection (6)(d)(ii), the commission shall:

(A) discontinue collecting revenue under Subsection (2)(a)(ii), beginning the first day of the calendar quarter that is at least 90 days after the commission's receipt of the written statement;

(B) discontinue distributing revenue under Subsection (2)(a)(ii) to the fairpark district, beginning the first day of the calendar quarter that is at least 90 days after the commission's receipt of the written statement; and

(C) notify the Executive Appropriations Committee of the Legislature that the commission is discontinuing collecting and distributing

revenue under Subsection (2)(a)(ii).

Section 12. Section 59-12-1402 is amended to read:

59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations in that city or town; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A city or town legislative body may not impose a tax under this section:

(i) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(ii) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) Except as provided in Subsection (6), the election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) Subject to Section 59-12-1403, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to finance cultural facilities, recreational facilities, and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for cultural facilities, recreational facilities, or zoological facilities;

(b) to finance ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a) within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational facilities; or

(ii) botanical organizations, cultural organizations, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical organizations, cultural organizations, or zoological organizations; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) Except as provided in [~~Subsection~~]Subsections(4)(b) and (c), a tax authorized under this part shall be:

(i) administered, collected, [~~and~~]enforced, and interpreted in accordance with:

(A) the same procedures used to administer, collect, [~~and~~]enforce, and interpret the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this section.

(b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the tax shall be levied for a period of 10 years.

(ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or after July 1, 2011, the tax shall be reauthorized for a [~~ten~~]10-year period.

(c) A tax under this section is not subject to Subsections 59-12-205(2) through (5).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1) an opinion question to the city's or town's residents.

Section 13. Section 59-12-1803 is amended to read:

59-12-1803. Enactment or repeal of tax -- Effective date -- Administration, collection, enforcement, and interpretation of tax.

(1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax imposed under this part shall take effect on the first day of a calendar quarter.

(2) (a) The enactment of a tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax if the billing period for the transaction begins before the effective date of the tax under this part.

(b) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this part.

(3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax under this part takes effect:

(i) on the first day of a calendar quarter; and

(ii) beginning 60 days after the effective date of the enactment or repeal of the tax under this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(4) A tax imposed by this part shall be administered, collected, [~~and~~]enforced, and interpreted in accordance with:

(a) the same procedures used to administer, collect, [~~and~~]enforce, and interpret the tax under Part 1, Tax Collection; and

(b) Chapter 1, General Taxation Policies.

Section 14. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 291
S. B. 41
Passed February 10, 2025
Approved March 25, 2025
Effective May 7, 2025

SEX, KIDNAP, AND CHILD ABUSE OFFENDER REGISTRY AMENDMENTS

Chief Sponsor: Keith Grover
House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

This bill amends provisions related to the Sex, Kidnap, and Child Abuse Offender Registry.

Highlighted Provisions:

This bill:

- ► recodifies the statutes applicable to the Sex, Kidnap, and Child Abuse Offender Registry;
- ► contains a coordination clause to coordinate technical changes between this bill and H.B. 21, Criminal Code Recodification and Cross References; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

13-51-107, as last amended by Laws of Utah 2024, Chapter 234
13-67-101, as last amended by Laws of Utah 2024, Chapter 234
26B-2-120, as last amended by Laws of Utah 2024, Chapter 234
41-3-205.5, as last amended by Laws of Utah 2012, Chapter 145
41-3-209, as last amended by Laws of Utah 2024, Chapter 251
42-1-1, as last amended by Laws of Utah 2024, Chapter 296
53-3-205, as last amended by Laws of Utah 2024, Chapters 116, 234
53-3-216, as last amended by Laws of Utah 2024, Chapter 234
53-3-804, as last amended by Laws of Utah 2024, Chapters 116, 234
53-3-806.5, as last amended by Laws of Utah 2024, Chapter 234
53-3-807, as last amended by Laws of Utah 2024, Chapter 234
53-10-214, as enacted by Laws of Utah 2019, Chapter 406
53-10-403, as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256
53-10-404, as last amended by Laws of Utah 2024, Chapter 234
57-8-3, as last amended by Laws of Utah 2024, Chapter 519
57-8-8.1, as last amended by Laws of Utah 2024, Chapters 115, 519
57-8a-102, as last amended by Laws of Utah 2024, Chapter 519
57-8a-218, as last amended by Laws of Utah 2024, Chapters 115, 519
63G-2-302, as last amended by Laws of Utah 2024, Chapter 234
63G-7-301, as last amended by Laws of Utah 2024, Chapter 234
76-1-201, as last amended by Laws of Utah 2024, Chapter 234
76-1-202, as last amended by Laws of Utah 2024, Chapter 234
76-3-402, as last amended by Laws of Utah 2024, Chapter 234
76-5-401, as last amended by Laws of Utah 2024, Chapter 234
76-5-401.1, as last amended by Laws of Utah 2024, Chapter 234
76-5-401.3, as last amended by Laws of Utah 2024, Chapter 234
76-9-702, as last amended by Laws of Utah 2024, Chapter 234
76-9-702.1, as last amended by Laws of Utah 2024, Chapter 234
76-9-702.5, as last amended by Laws of Utah 2024, Chapter 205
77-2-2.3, as last amended by Laws of Utah 2024, Chapter 234
77-11c-101, as last amended by Laws of Utah 2024, Chapter 234
77-27-5.2, as last amended by Laws of Utah 2024, Chapters 116, 234
77-38-605, as last amended by Laws of Utah 2024, Chapter 234
77-40a-303, as last amended by Laws of Utah 2024, Chapter 180
77-40a-403, as last amended by Laws of Utah 2024, Chapter 180
78A-2-301, as last amended by Laws of Utah 2024, Chapter 366

78B-8-302, as last amended by Laws of Utah 2024, Chapter 234
80-3-406, as last amended by Laws of Utah 2023, Chapter 320
80-5-201, as last amended by Laws of Utah 2024, Chapters 116, 234
80-8-101, as enacted by Laws of Utah 2024, Chapter 371
80-8-201, as enacted by Laws of Utah 2024, Chapter 371
81-9-202, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-208, as renumbered and amended by Laws of Utah 2024, Chapter 366

ENACTS:

53-29-101, Utah Code Annotated 1953
53-29-102, Utah Code Annotated 1953
53-29-201, Utah Code Annotated 1953
53-29-202, Utah Code Annotated 1953
53-29-203, Utah Code Annotated 1953
53-29-204, Utah Code Annotated 1953
53-29-205, Utah Code Annotated 1953
53-29-206, Utah Code Annotated 1953
53-29-207, Utah Code Annotated 1953
53-29-301, Utah Code Annotated 1953
53-29-302, Utah Code Annotated 1953
53-29-303, Utah Code Annotated 1953
53-29-304, Utah Code Annotated 1953
53-29-305, Utah Code Annotated 1953
53-29-401, Utah Code Annotated 1953
53-29-402, Utah Code Annotated 1953
53-29-403, Utah Code Annotated 1953
53-29-404, Utah Code Annotated 1953
53-29-405, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53-29-306, (Renumbered from 77-27-21.7, as last amended by Laws of Utah 2024, Chapters 116, 234)
53-29-307, (Renumbered from 77-27-21.8, as last amended by Laws of Utah 2024, Chapter 234)

REPEALS:

77-41-102, as last amended by Laws of Utah 2024, Chapter 234
77-41-103, as last amended by Laws of Utah 2024, Chapters 116, 234
77-41-104, as last amended by Laws of Utah 2023, Chapter 128
77-41-105, as last amended by Laws of Utah 2024, Chapter 234
77-41-106, as last amended by Laws of Utah 2024, Chapter 234
77-41-107, as last amended by Laws of Utah 2024, Chapter 234
77-41-108, as enacted by Laws of Utah 2012, Chapter 145
77-41-109, as last amended by Laws of Utah 2024, Chapter 234
77-41-110, as last amended by Laws of Utah 2024, Chapter 234
77-41-111, as last amended by Laws of Utah 2023, Chapter 128
77-41-112, as last amended by Laws of Utah 2024, Chapters 116, 234
77-41-113, as last amended by Laws of Utah 2024, Chapter 234
77-41-114, as last amended by Laws of Utah 2024, Chapter 234

Utah Code Sections Affected by Coordination Clause:

AMENDS:

53-29-204, Utah Code Annotated 1953
76-9-702, as last amended by Laws of Utah 2024, Chapter 234

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-51-107 is amended to read:
13-51-107. Driver requirements.

(1) Before a transportation network company allows an individual to use the transportation network company's software application as a transportation network driver, the transportation network company shall:

(a) require the individual to submit to the transportation network company:

(i) the individual's name, address, and age;

(ii) a copy of the individual's driver license, including the driver license number; and

(iii) proof that the vehicle that the individual will use to provide transportation network services is registered with the Division of Motor Vehicles;

(b) require the individual to consent to a criminal background check of the individual by the transportation network company or the transportation network company's designee; and

(c) obtain and review a report that lists the individual's driving history.

(2) A transportation company may not allow an individual to provide transportation network services as a transportation network driver if the individual:

(a) has committed more than three moving violations in the three years before the day on which the individual applies to become a transportation network driver;

(b) has been convicted, in the seven years before the day on which the individual applies to become a transportation network driver, of:

(i) driving under the influence of alcohol or drugs;

(ii) fraud;

(iii) a sexual offense;

(iv) a felony involving a motor vehicle;

(v) a crime involving property damage;

(vi) a crime involving theft;

(vii) a crime of violence; or

(viii) an act of terror;

(c) is required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry;

(d) does not have a valid Utah driver license; or

(e) is not at least 18 years old.

(3) (a) A transportation network company shall prohibit a transportation network driver from accepting a request for a prearranged ride if the motor vehicle that the transportation network driver uses to provide transportation network services fails to comply with:

(i) equipment standards described in Section 41-6a-1601; and

(ii) emission requirements adopted by a county under Section 41-6a-1642.

(b) (i) If upon visual inspection, a defect relating to the equipment standards described in Section 41-6a-1601 can be reasonably identified, an airport operator may perform a safety inspection of a transportation network driver's vehicle operating within the airport to ensure compliance with equipment standards described in Section 41-6a-1601.

(ii) An airport operator shall conduct all inspections under this Subsection (3) in such a manner to minimize impact to the transportation network driver's and transportation network company vehicle's availability to provide prearranged rides.

(4) A transportation network driver, while providing transportation network services, shall carry proof, in physical or electronic form, that the transportation network driver is covered by insurance that satisfies the requirements of Section 13-51-108.

Section 2. Section 13-67-101 is amended to read:

13-67-101. Definitions.

As used in this chapter:

(1) "Banned member" means a member whose account or profile is the subject of a fraud ban.

(2) "Criminal background screening" means a name search for an individual's criminal conviction and is conducted by searching:

(a) available and regularly updated government public record databases that in the aggregate provide national coverage for criminal conviction records; or

(b) a regularly updated database with national coverage of criminal conviction records and sexual offender registries maintained by a private vendor.

(3) (a) "Criminal conviction" means a conviction for a crime in this state, another state, or under federal law.

(b) "Criminal conviction" includes an offense that would require registration under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or under a similar law in a different jurisdiction.

(4) "Division" means the Division of Consumer Protection in the Department of Commerce.

(5) "Fraud ban" means the expulsion of a member from an online dating service because, in the judgment of the online dating service provider, there is a significant risk the member will attempt to obtain money from another member through fraudulent means.

(6) "Member" means an individual who submits to an online dating service provider the information required by the online dating service provider to access the online dating service provider's online dating service.

(7) "Online dating service" means a product or service that is:

(a) conducted through a website or a mobile application; and

(b) primarily marketed and intended to offer a member access to dating or romantic relationships with another member by arranging or facilitating the social introduction of members.

(8) "Online dating service provider" means a person [~~predominately~~]predominantly engaged in the business of offering an online dating service.

(9) "Utah member" means a member who provides a Utah billing address or zip code when registering with an online dating service provider.

Section 3. Section 26B-2-120 is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the department under this part and has direct access, including:

(A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in accordance with Section 78B-6-128;

(B) a foster parent or prospective foster parent;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) an individual who transports a child for a youth transportation company;

(E) an individual who provides certified peer support, as defined in Section 26B-5-610;

(F) an individual who provides peer supports, has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder;

(G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;

(H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;

(I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the division;

(J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access;

(K) a foster home licensee that submits an application for an annual background screening as required by Subsection 26B-2-105(4)(d)(iii); or

(L) a short-term relief care provider.

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services;

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services;

(C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or

(D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.

(b) "Application" means a background check application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Criminal finding" means a record of:

(i) an arrest for a criminal offense;

(ii) a warrant for a criminal arrest;

(iii) charges for a criminal offense; or

(iv) a criminal conviction.

(e) "Direct access" means that an individual has, or likely will have:

(i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or

(ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.

(f) (i) "Direct access qualified" means that the applicant has an eligible determination by the office within the license and renewal time period; and

(ii) no more than 180 days have passed since the date on which the applicant's association with a certification, contract, or licensee with the department expires.

(g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(h) "Licensee" means an individual or a human services program licensed by the division.

(i) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) juvenile court arrest, adjudication, and disposition records;

(v) the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or

(vi) a state child abuse or neglect registry.

(j) "Office" means the Office of Background Processing within the department.

(k) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504;

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon association with a certification, contract, or licensee with the department;

(ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification, contract, or licensee with the department for 180 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(c) and (4);

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories; and

(e) an application showing an applicant's association with a certification, contract, or a licensee with the department, for the purpose of the office tracking the direct access qualified status of the applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18 years old or older;

(v) if the applicant is associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;

(e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;

(f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and

(h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The [~~Bureau~~]bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that an individual who has direct access qualified status will no longer be associated with a certification, contract, or

licensee with the department, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation or prostitution;

(D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

(E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

(F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

(G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;

(H) an offense included in Title 76, Chapter 7, Offenses Against the Family;

(I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;

(K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(L) aggravated arson, as described in Section 76-6-103;

(M) aggravated burglary, as described in Section 76-6-203;

(N) aggravated exploitation of prostitution, as described in Section 76-10-1306;

(O) aggravated robbery, as described in Section 76-6-302;

(P) endangering persons in a human services program, as described in Section 26B-2-113;

(Q) failure to report, as described in Section 80-2-609;

(R) identity fraud crime, as described in Section 76-6-1102;

(S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;

(T) riot, as described in Section 76-9-101;

(U) sexual battery, as described in Section 76-9-702.1; or

(V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section 76-10-506; or

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider or a mental health professional, if the applicant provides services in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (7).

(c) The office shall deny direct access qualified status to an applicant if the office finds that a court order prohibits the applicant from having direct access to a child or vulnerable adult.

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);

(b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;

(d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);

(e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;

(f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

(h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);

(i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;

(j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(k) has a pending charge for an offense described in Subsection (5)(a);

(l) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(m) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;

(n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;

(p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

(7) (a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.

(b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status to an applicant if the office finds the approval would likely create a risk of harm to a child or vulnerable adult.

(8) The office shall grant direct access qualified status to an applicant who is not denied under this section.

(9) (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice, without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice, without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall grant or deny direct access qualified status to the applicant in accordance with this section.

(10) (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.

(b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

(i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(c) Notwithstanding any other provision of this section, an applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office grants direct access qualified status to the applicant through a subsequent application in accordance with this section.

(11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.

(12) (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.

(b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.

(c) The office shall conduct a comprehensive review for an applicant if:

(i) the applicant is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor

charge or conviction or a non-criminal finding.

(13) (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

(b) As federally required, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(c) The requirements described in Subsection (13)(b) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).

(d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;

(E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(F) aggravated murder, as described in Section 76-5-202;

(G) murder, as described in Section 76-5-203;

(H) manslaughter, as described in Section 76-5-205;

(I) child abuse homicide, as described in Section 76-5-208;

(J) homicide by assault, as described in Section 76-5-209;

(K) kidnapping, as described in Section 76-5-301;

(L) child kidnapping, as described in Section 76-5-301.1;

(M) aggravated kidnapping, as described in Section 76-5-302;

(N) human trafficking of a child, as described in Section 76-5-308.5;

(O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

(Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(R) aggravated arson, as described in Section 76-6-103;

(S) aggravated burglary, as described in Section 76-6-203;

(T) aggravated robbery, as described in Section 76-6-302;

(U) lewdness involving a child, as described in Section 76-9-702.5;

(V) incest, as described in Section 76-7-102; or

(W) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).

(e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(f) In addition to the circumstances described in Subsection (6), the office shall conduct a comprehensive review of an applicant's background check under this section if the applicant:

(i) has an offense described in Subsection (5)(a);

(ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;

(iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-2-210;

(v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6), (7), and (13); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services for purposes of granting or denying direct access qualified status to an applicant.

Section 4. Section 41-3-205.5 is amended to read:

41-3-205.5. Licenses -- Criminal background check required on salesperson's licenses -- Payment of cost.

(1) (a) Every applicant for a salesperson's license shall submit fingerprints with a completed application to the division.

(b) [~~A person~~]An individual required to renew a salesperson license on or before June 30, 2010, shall submit fingerprints to the division on or before November 30, 2010.

(2) The division shall submit fingerprints for each applicant described in Subsection (1) to the Bureau of Criminal Identification established in Section 53-10-201.

(3) The Bureau of Criminal Identification shall:

(a) check the information submitted by the division for an applicant under Subsection (2)against the applicable state and regional criminal records databases; and

(b) release to the division all information obtained under Subsection (3)(a) relating to the applicant.

(4) (a) The Bureau of Criminal Identification shall maintain a separate file of fingerprints submitted under Subsection (2) and notify the division when a new entry is made in the applicable state and regional database against [~~a person~~]an individual whose fingerprints are held in the file regarding any matter involving an arrest under state law involving:

(i) motor vehicles;

(ii) controlled substances;

(iii) fraud; or

[~~(iv) a registerable sex offense under Section 77-41-106.~~]

(iv) an offense that would result in the individual being a sex offender under Subsection 53-29-202(2)(b) and required to register for the individual's lifetime under Subsection 53-29-203(1)(b).

(b) Upon request by the division, the Bureau of Criminal Identification shall inform the division whether a person whose arrest was reported to the division under Subsection (4)(a) was subsequently convicted of the charge for which the person was arrested.

(5) In addition to any fees imposed under this chapter, the division shall:

(a) impose on individuals submitting fingerprints in accordance with this section the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Subsections (3) and (4); and

(b) remit the fees collected under Subsection (5)(a) to the Bureau of Criminal Identification.

(6) The division shall use information received from the Bureau of Criminal Identification under this section to determine whether a license should be denied, suspended, or revoked under Section 41-3-209.

Section 5. Section 41-3-209 is amended to read:

41-3-209. Administrator's findings -- Suspension and revocation of license.

(1) If the administrator finds that an applicant is not qualified to receive a license, a license may not be granted.

(2) (a) If the administrator finds that there is reasonable cause to deny, suspend, or revoke a license issued under this chapter, the administrator shall deny, suspend, or revoke the license.

(b) Reasonable cause for denial, suspension, or revocation of a license includes, in relation to the applicant or license holder or any of the applicant or license holder's partners, officers, or directors:

(i) lack of a principal place of business or authorized service center as required by this chapter;

(ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax Act;

(iii) lack of a bond in effect as required by this chapter;

(iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson license issued in another state;

(v) nonpayment of required fees;

(vi) making a false statement on any application for a license under this chapter or for a special license plate;

(vii) a violation of any state or federal law involving motor vehicles;

(viii) a violation of any state or federal law involving controlled substances;

(ix) charges filed with any county attorney, district attorney, or U.S. attorney in any court of competent jurisdiction for a violation of any state or federal law involving motor vehicles;

(x) a violation of any state or federal law involving fraud;

(xi) a violation of any state or federal law involving [~~a registerable sex offense under Section 77-41-106~~]an offense that would result in the individual being a sex offender under Subsection 53-29-202(2)(b) and required to register for the individual's lifetime under Subsection 53-29-203(1)(b);

(xii) having had a license issued under this chapter revoked within five years from the date of application; or

(xiii) failure to comply with any applicable qualification or requirement imposed under this chapter.

(c) Any action taken by the administrator under Subsection (2)(b)(ix) shall remain in effect until a final resolution is reached by the court involved or the charges are dropped.

(3) If the administrator finds that an applicant is not qualified to receive a license under this section, the administrator shall provide the applicant written notice of the reason for the denial.

(4) If the administrator finds that the license holder has been convicted by a court of competent jurisdiction of violating any of the provisions of this chapter or any rules made by the administrator, or finds other reasonable cause, the administrator may, by complying with the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act:

(a) suspend the license on terms and for a period of time the administrator finds reasonable; or

(b) revoke the license.

(5) (a) After suspending or revoking a license, the administrator may take reasonable action to:

(i) notify the public that the licensee is no longer in business; and

(ii) prevent the former licensee from violating the law by conducting business without a license.

(b) Action under Subsection (5)(a) may include signs, banners, barriers, locks, bulletins, and notices.

(c) Any business being conducted incidental to the business for which the former licensee was licensed may continue to operate subject to the preventive action taken under this subsection.

Section 6. Section 42-1-1 is amended to read:

42-1-1. By petition to district court -- Contents.

(1) Any natural person, desiring to change the natural person's name, may file a petition in the district court of the county where the natural person resides, setting forth:

(a) the cause for which the change of name is sought;

(b) the name proposed; and

(c) that the natural person has been a bona fide resident of the county for the year immediately prior to the filing of the petition.

(2) (a) A natural person petitioning for a name change under this section shall indicate on the petition whether the individual is [~~registered with the state's Sex and Kidnap Offender Registry~~]required to register under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry.

(b) The court may request additional information from a natural person who is [~~registered with the state's Sex and Kidnap Offender Registry~~]required to register under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, to make the determination described in Subsection [~~77-41-105(8)~~]53-29-303(3).

(3) The provisions of Title 76, Chapter 8, Part 5, Falsification in Official Matters, apply to this section when applicable.

Section 7. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for an original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months after the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months after the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application for a commercial class A, B, or C license entitles the applicant to:

(a) not more than two attempts to pass a knowledge test when accompanied by the fee provided in Subsection 53-3-105(18);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(19) within six months after the date of application;

(c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(d) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months after the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) An out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105(19).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the out-of-state resident has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) (i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class D license expires on the birth date of the

applicant in the eighth year after the year the license certificate was issued.

(ii) An original provisional class D license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(iii) Except as provided in Subsection (7)(f), a limited term class D license expires on the birth date of the applicant in the fifth year the license certificate was issued.

(b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a license expires on the birth date of the licensee in the eighth year after the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and an endorsement to the regular license certificate held by an individual described in Subsection (7)(e)(ii), that expires during the time period the individual is stationed outside of the state, is valid until 90 days after the individual's orders are terminated, the individual is discharged, or the individual's assignment is changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to an individual:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, an applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's sex;

(D) (I) documentary evidence of the applicant's valid social security number;

(II) written proof that the applicant is ineligible to receive a social security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for an individual who:

(Aa) does not qualify for a social security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints, or a fingerprint confirmation form described in Subsection 53-3-205.5(1)(a)(ii), and a photograph in accordance with Section 53-3-205.5 if the applicant is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that the applicant is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had a license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had a license application refused, and if so, the date of and reason for the suspension, cancellation,

revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender, kidnap offender, or child abuse offender, in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the Department of Veterans and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Unless the applicant provides acceptable verification of homelessness as described in rules made by the division, an applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) An applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on the division's computerized records an applicant's:

(i) (A) social security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry.

(9) The division shall require proof of an applicant's name, birth date, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application is treated as an original application; and

(ii) license and endorsement fees is assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from an applicant previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license is accompanied by the additional fee or fees specified in Section 53-3-105.

(13) An individual who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) An applicant who applies for an original license or renewal of a license agrees that the individual's license is subject to a suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi) in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26B-8-301, the names and addresses of all applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all applicants who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex, Kidnap, and Child Abuse Offender Registry office in the Department of Public Safety, the names and addresses of all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry.

(18) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(19) An applicant who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(20) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(21) (a) An applicant who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the applicant:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of an individual described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for an individual to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 8. Section 53-3-216 is amended to read:

53-3-216. Change of address -- Duty of licensee to notify division within 10 days -- Change of name -- Proof necessary -- Method of giving notice by division.

(1) (a) Except as provided in Subsection (1)(b), if an individual, after applying for or receiving a license, moves from the address named in the application or in the license certificate issued to the individual, the individual shall, within 10 days after the day on which the individual moves, notify the division in a manner specified by the division of the individual's new address and the number of any license certificate held by the individual.

(b) If an individual who is required to register as a sex offender, kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, after applying for or receiving a license, moves from the address named in the application or in the license certificate issued to the individual, the individual shall, within 30 days after the day on which the individual moves, apply for an updated license in-person at a division office.

(2) If an applicant requests to change the surname on the applicant's license, the division shall issue a substitute license with the new name upon receiving an application and fee for a duplicate license and any of the following proofs of the applicant's full legal name:

(a) an original or certified copy of the applicant's marriage certificate;

(b) a certified copy of a court order under Title 42, Chapter 1, Change of Name, showing the name change;

(c) an original or certified copy of a birth certificate issued by a government agency;

(d) a certified copy of a divorce decree or annulment granted the applicant that specifies the name change requested; or

(e) a certified copy of a divorce decree that does not specify the name change requested together with:

(i) an original or certified copy of the applicant's birth certificate;

(ii) the applicant's marriage license;

(iii) a driver license record showing use of a maiden name; or

(iv) other documentation the division finds acceptable.

(3) (a) If the division is authorized or required to give a notice under this chapter or other law regulating the operation of vehicles, the notice shall, unless otherwise prescribed, be given by:

(i) personal delivery to the individual to be notified; or

(ii) deposit in the United States mail with postage prepaid, addressed to the individual at the individual's address as shown by the records of the division.

(b) The giving of notice by mail is complete upon the expiration of four days after the deposit of the notice.

(c) Proof of the giving of notice in either manner may be made by the certificate of an officer or employee of the division or affidavit of an individual 18 years [~~of age~~]old or older, naming the individual to whom the notice was given and specifying the time, place, and manner of giving the notice.

(4) The division may use state mailing or United States Postal Service information to:

(a) verify an address on an application or on records of the division; and

(b) correct mailing addresses in the division's records.

(5) A violation of the provisions of Subsection (1) is an infraction.

Section 9. Section 53-3-804 is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information -- Cancellation of identification card.

(1) To apply for a regular identification card or limited-term identification card, an applicant shall:

(a) be a Utah resident;

(b) have a Utah residence address; and

(c) appear in person at any license examining station.

(2) An applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c) (i) social security number; or

(ii) written proof that the applicant is ineligible to receive a social security number;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that the applicant is:

(A) a United States citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

(A) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(B) pending or approved application for asylum in the United States;

(C) admission into the United States as a refugee;

(D) pending or approved application for temporary protected status in the United States;

(E) approved deferred action status;

(F) pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) conditional permanent resident alien status;

(j) an indication whether the applicant intends to make an anatomical gift under Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

(k) an indication whether the applicant is required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry; and

(l) an indication whether the applicant is a veteran of the United States Armed Forces, verification that the applicant has received an honorable or general discharge from the United States Armed Forces, and an indication whether the applicant does or does not authorize sharing the information with the state Department of Veterans and Military Affairs.

(3) (a) The requirements of Section 53-3-234 apply to this section for each individual, age 16 and older, applying for an identification card.

(b) Refusal to consent to the release of information under Section 53-3-234 shall result in the denial of the identification card.

(4) An individual person who knowingly fails to provide the information required under Subsection (2)(k) is guilty of a class A misdemeanor.

(5) (a) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(b) A person who holds a regular or limited term Utah driver license and chooses to relinquish the person's driving privilege may apply for an identification card under this chapter, provided:

(i) the driver:

(A) no longer qualifies for a driver license for failure to meet the requirement in Section 53-3-304; or

(B) makes a personal decision to permanently discontinue driving;

(ii) the driver:

(A) submits an application to the division on a form approved by the division in person, through electronic means, or by mail;

(B) affirms their intention to permanently discontinue driving; and

(C) surrenders to the division the driver license certificate; and

(iii) the division possesses a digital photograph of the driver obtained within the preceding 10 years.

(c) (i) The division shall waive the fee under Section 53-3-105 for an identification card for an original identification card application under this Subsection (5).

(ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose driving privilege is suspended or revoked.

(6) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex, Kidnap, and Child Abuse Offender Registry office in the Department of Public Safety, the names and addresses of all applicants who, under Subsection (2)(k), indicate they are required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry.

Section 10. Section 53-3-806.5 is amended to read:

53-3-806.5. Identification card required if offender does not have driver license.

(1) (a) An individual who does not hold a current driver license in compliance with Section 53-3-205 and is required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, shall obtain an identification card.

(b) The individual shall maintain a current identification card during the time the individual is required to register as a sex offender, kidnap offender, or child abuse offender and the individual does not hold a valid driver license.

(2) Failure to maintain a current identification card as required under Subsection (1) is a class A misdemeanor for each month of violation of Subsection (1).

Section 11. Section 53-3-807 is amended to read:

53-3-807. Expiration -- Address and name change -- Extension.

(1) (a) A regular identification card expires on the birth date of the applicant in the fifth year after the issuance of the regular identification card.

(b) A limited-term identification card expires on:

(i) the expiration date of the period of time of the individual's authorized stay in the United States or on the birth date of the applicant in the fifth year after the issuance of the limited-term identification card, whichever is sooner; or

(ii) on the date of issuance in the first year after the year that the limited-term identification card was issued if there is no definite end to the individual's period of authorized stay.

(2) (a) Except as provided in Subsection (2)(b), if an individual has applied for and received an identification card and subsequently moves from the address shown on the application or on the card, the individual shall, within 10 days after the day on which the individual moves, notify the division in a manner specified by the division of the individual's new address.

(b) If an individual who is required to register as a sex offender, kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, has applied for and received an identification card and subsequently moves from the address shown on the application or on the card, the individual shall, within 30 days after the day on which the individual moves, apply for an updated identification card in-person at a division office.

(3) If an individual has applied for and received an identification card and subsequently changes the individual's name under Title 42, Chapter 1, Change of Name, the individual:

(a) shall surrender the card to the division; and

(b) may apply for a new card in the individual's new name by:

(i) furnishing proper documentation to the division as provided in Section 53-3-804; and

(ii) paying the fee required under Section 53-3-105.

(4) A person 21 years old or older with a disability, as defined under the Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an identification card for five years if the person with a disability or an agent of the person with a disability:

(a) requests that the division send the application form to obtain the extension or requests an application form in person at the division's offices;

(b) completes the application;

(c) certifies that the extension is for a person 21 years old or older with a disability; and

(d) returns the application to the division together with the identification card fee required under Section 53-3-105.

(5) (a) The division may extend a valid regular identification card issued after January 1, 2010, for five years at any time within six months before the day on which the identification card expires.

(b) The application for an extension of a regular identification card is accompanied by a fee under Section 53-3-105.

(c) The division shall allow extensions:

(i) by mail, electronic means, or other means as determined by the division at the appropriate extension fee rate under Section 53-3-105; and

(ii) only if the applicant qualifies under this section.

(6) (a) A regular identification card may only be extended once under Subsections (4) and (5).

(b) After an extension an application for an identification card must be applied for in person at the division's offices.

Section 12. Section 53-10-214 is amended to read:

53-10-214. Reporting requirements.

The bureau shall submit a record received pursuant to Section 53-10-208.1 for all nonextraditable warrants issued for violent felonies as defined in Section 76-3-203.5 and all nonextraditable warrants issued for knowingly failing to register under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, for a sexual offense pursuant to Section [~~77-41-107~~]53-29-305 to the National Crime Information Center within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

Section 13. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:

(a) a person who has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) a person who has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) a person who has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) a person who has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) a minor:

(i) (A) who is adjudicated by the juvenile court for an offense described in Subsection (2) that is within the jurisdiction of the juvenile court on or after July 1, 2002; or

(B) who is adjudicated by the juvenile court for an offense described in Subsection (2) and is in the legal custody of the Division of Juvenile Justice Services for the offense on or after July 1, 2002; and

(ii) who is 14 years old or older at the time of the commission of the offense described in Subsection (2).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26B-8-315;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor, Section 76-4-401;

(vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

(vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) automobile homicide, Subsection 76-5-207(2)(b);

(ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;

(x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xiii) sale of a child, Section 76-7-203;

(xiv) aggravated escape, Section 76-8-309.3;

(xv) a felony violation of threatened or attempted assault on an elected official, Section 76-8-313;

(xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;

(xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.2;

(xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.4;

(xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.6;

(xx) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xxii) a felony violation of sexual battery, Section 76-9-702.1;

(xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xxiv) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxvii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxviii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxix) commercial obstruction, Subsection 76-10-2402(2);

(xxx) a felony violation of failure to register as a sex or kidnap offender, Section [~~77-41-107~~]53-29-305;

(xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or

(xxxii) violation of condition for release after arrest under Section 78B-7-802.

Section 14. Section 53-10-404 is amended to read:

53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.

(1) As used in this section, "person" means a person or minor described in Section 53-10-403.

(2) (a) A person under Section 53-10-403 or any person required to register as a sex offender, kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen $150 for the cost of obtaining the DNA specimen unless:

(i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or

(ii) the agency determines the person lacks the ability to pay.

(b) (i) (A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.

(B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.

(ii) An agency's guidelines and procedures may provide for the assessment of $150 on the inmate's county trust fund account and may allow a negative balance in the account until the $150 is paid in full.

(3) (a) (i) All fees collected under Subsection (2) shall be deposited into the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than $25 per individual specimen for the costs of obtaining the saliva DNA specimen.

(ii) The agency collecting the $150 fee may not retain from each separate fee more than $25, and no amount of the $150 fee may be credited to any other fee or agency obligation.

(b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.

(c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.

(d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.

(e) (i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.

(ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.

(iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.

(f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.

(4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:

(i) after a conviction or an adjudication by the juvenile court;

(ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c); and

(iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).

(b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).

(c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:

(i) obtain and transmit an additional DNA specimen; or

(ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.

(d) Each agency that is responsible for collecting DNA specimens under this section shall establish:

(i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and

(ii) a procedure to account for the management of all fees it collects under this section.

(5) (a) The Department of Corrections is the responsible agency whenever the person is committed to the custody of or is under the supervision of the Department of Corrections.

(b) If a minor described in Subsection 53-10-403(3) is not committed to the legal custody of the Division of Juvenile Justice and Youth Services upon an adjudication, the juvenile court is the responsible agency regarding the collection of a DNA specimen from the minor.

(c) If a minor described in Subsection 53-10-403(3) is committed to the legal custody of the Division of Juvenile Justice and Youth Services upon an adjudication, the Division of Juvenile Justice and Youth Services is the responsible agency regarding the collection of a DNA specimen from the minor.

(d) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:

(i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of or are not under the supervision of the Department of Corrections;

(ii) are incarcerated in the county jail:

(A) as a condition of probation for a felony offense; or

(B) for a misdemeanor offense for which collection of a DNA specimen is required;

(iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c); and

(iv) are booked at the county jail:

(A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or

(B) on or after January 1, 2015, for any felony offense.

(e) Each agency required to collect a DNA specimen under this section shall:

(i) designate employees to obtain the saliva DNA specimens required under this section; and

(ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.

(6) (a) As used in this Subsection (6), "department" means the Department of Corrections.

(b) Priority of obtaining DNA specimens by the department is:

(i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004; and

(ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.

(c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:

(i) first, persons on probation;

(ii) second, persons on parole; and

(iii) third, incarcerated persons.

(d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.

(7) (a) As used in this Subsection (7):

(i) "Court" means the juvenile court.

(ii) "Division" means the Division of Juvenile Justice and Youth Services.

(b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 whose cases are under the jurisdiction of the court but who are not in the legal custody of the division shall be:

(i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under the court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and

(ii) second, to obtain specimens from minors whose cases are under the jurisdiction of the court after July 1, 2002, within 120 days of the minor's case being found to be within the court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's case terminates.

(c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, before termination of the division's legal custody of these minors; and

(ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but no later than before the termination of the court's jurisdiction over the minor's case.

(8) (a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice and Youth Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.

(b) (i) The department may designate correctional officers, including those employed by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section.

(ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

Section 15. Section 53-29-101 is enacted to read:

CHAPTER 29. SEX, KIDNAP, AND CHILD ABUSE OFFENDER REGISTRY

PART 1. General Provisions

53-29-101. Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(2) "Certificate of eligibility" means the certificate issued by the bureau described in Section 53-29-207.

(3) "Child abuse offender" means an individual who meets the requirements under Subsection 53-29-202(2)(a).

(4) (a) "Convicted" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental illness; or

(iii) no contest.

(b) "Convicted" includes, except as provided in Subsection 53-29-202(4), the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

(c) "Convicted" does not include:

(i) a withdrawn or dismissed plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(5) "Division" means the Division of Juvenile Justice and Youth Services.

(6) "Employed" means employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(7) "Kidnap offender" means an individual who meets the requirements under Subsection 53-29-202(2)(c).

(8) "Offender" means an individual who qualifies as a sex offender, a kidnap offender, or a child abuse offender as described in Section 53-29-202.

(9) (a) "Online identifier" means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication.

(b) "Online identifier" does not include date of birth, social security number, PIN number, or Internet passwords.

(10) "Primary residence" means the location where an offender regularly resides, even if the offender intends to move to another location or return to another location at a future date.

(11) "Registrable offense" means an offense described in Subsection 53-29-202(1).

(12) "Registration website" means the Sex, Kidnap, and Child Abuse Offender Notification and Registration website described in Section 53-29-404.

(13) "Registry" means the Sex, Kidnap, and Child Abuse Offender Registry maintained by the department and created in Section 53-29-102 to monitor and track offenders.

(14) "Registry office" means the office within the department that manages the Sex, Kidnap, and Child Abuse Offender Registry.

(15) "Sex offender" means an individual who meets the requirements under Subsection 53-29-202(2)(b).

(16) "Vehicle" means a motor vehicle, an aircraft, or a watercraft subject to registration in any jurisdiction.

Section 16. Section 53-29-102 is enacted to read:

53-29-102. Sex, Kidnap, and Child Abuse Offender Registry -- Creation -- Purpose.

(1) The department, to assist law enforcement in investigating kidnapping and sex-related crimes and in apprehending offenders, shall:

(a) develop and operate a system known as the Sex, Kidnap, and Child Abuse Offender Registry to collect, analyze, maintain, and disseminate information on offenders and registrable offenses; and

(b) make information listed in Subsection 53-29-404(3) available to the public.

(2) This chapter does not create or impose any duty on any individual to request or obtain information regarding any offender from

the department.

Section 17. Section 53-29-201 is enacted to read:

PART 2. Registrable Offenses, Timelines for Registration, and Petitions for Removal

53-29-201. Definitions.

As used in this part:

(1) "Court" means a state, federal, or military court.

(2) "External jurisdiction" means:

(a) a state of the United States not including Utah;

(b) the United States federal government;

(c) Indian country;

(d) a United States territory;

(e) the United States military; or

(f) Canada, Australia, New Zealand, or the United Kingdom.

(3) "Indian country" means:

(a) all land within the limits of an Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(4) "Natural parent" means a minor's biological or adoptive parent, including the minor's noncustodial parent.

(5) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

Section 18. Section 53-29-202 is enacted to read:

53-29-202. Registrable offenses -- Status as a sex offender, kidnap offender, and child abuse offender established.

(1) An individual is an offender described in Subsection (2) and subject to the requirements, restrictions, and penalties described in this chapter if the individual:

(a) has been convicted in this state of:

(i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

(ii) a felony or class A misdemeanor violation of enticing a minor under Section 76-4-401;

(iii) sexual exploitation of a vulnerable adult under Section 76-5b-202;

(iv) human trafficking for sexual exploitation under Section 76-5-308.1;

(v) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);

(vi) aggravated human trafficking for sexual exploitation under Section 76-5-310;

(vii) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

(viii) unlawful sexual activity with a minor under Section 76-5-401, except as provided in Subsection 76-5-401(3)(b) or (c);

(ix) sexual abuse of a minor under Section 76-5-401.1, on the individual's first offense unless the individual was younger than 21 years old at the time of the offense then on the individual's second offense;

(x) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

(xi) rape under Section 76-5-402;

(xii) rape of a child under Section 76-5-402.1;

(xiii) object rape under Section 76-5-402.2;

(xiv) object rape of a child under Section 76-5-402.3;

(xv) a felony violation of forcible sodomy under Section 76-5-403;

(xvi) sodomy on a child under Section 76-5-403.1;

(xvii) forcible sexual abuse under Section 76-5-404;

(xviii) sexual abuse of a child under Section 76-5-404.1;

(xix) aggravated sexual abuse of a child under Section 76-5-404.3;

(xx) aggravated sexual assault under Section 76-5-405;

(xxi) custodial sexual relations under Section 76-5-412, if the victim in custody is younger than 18 years old and the offense is committed on or after May 10, 2011;

(xxii) sexual exploitation of a minor under Section 76-5b-201;

(xxiii) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(xxiv) sexual extortion or aggravated sexual extortion under Section 76-5b-204;

(xxv) incest under Section 76-7-102;

(xxvi) lewdness under Section 76-9-702, if the individual has been convicted of the offense four or more times;

(xxvii) sexual battery under Section 76-9-702.1, if the individual has been convicted of the offense four or more times;

(xxviii) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under Section 76-9-702.1, that total four or more convictions;

(xxix) lewdness involving a child under Section 76-9-702.5;

(xxx) a felony or class A misdemeanor violation of voyeurism under Section 76-9-702.7;

(xxxi) aggravated exploitation of prostitution under Section 76-10-1306;

(xxxii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the natural parent of the child victim;

(xxxiii) child kidnapping under Section 76-5-301.1, if the offender was not the natural parent of the child victim;

(xxxiv) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;

(xxxv) human trafficking for labor under Section 76-5-308, if the offender was not the natural parent of the child victim;

(xxxvi) human smuggling under Section 76-5-308.3, if the offender was not the natural parent of the child victim;

(xxxvii) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the offender was not the natural parent of the child victim;

(xxxviii) aggravated human trafficking for labor under Section 76-5-310, if the offender was not the natural parent of the child victim;

(xxxix) aggravated human smuggling under Section 76-5-310.1, if the offender was not the natural parent of the child victim;

(xl) human trafficking of a vulnerable adult for labor under Section 76-5-311, if the offender was not the natural parent of the child victim; or

(xli) attempting, soliciting, or conspiring to commit a felony violation of an offense listed in Subsections (1)(a)(i) through (xl);

(b) (i) has been convicted of a criminal offense, or an attempt, solicitation, or conspiracy to commit a criminal offense in an external jurisdiction that is substantially equivalent to the offense listed in Subsection (1)(a); and

(ii) (A) is a Utah resident; or

(B) is not a Utah resident and is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

(c) (i) (A) is required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense;

(B) is ordered by a court to register on a registry for individuals who have committed an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

(C) would be required to register on a registry in an external jurisdiction for individuals who have committed an offense listed in Subsection (1)(a), or a substantially equivalent offense, if residing in the external jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) is in this state for a total of 10 days in a 12-month period, regardless of whether the individual intends to permanently reside in this state;

(d) (i) (A) is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) is convicted of an offense listed in Subsection (1)(a) or a substantially equivalent offense in an external jurisdiction; or

(B) is required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (1)(a);

(e) is found not guilty by reason of insanity in this state or in an external jurisdiction of an offense listed in Subsection (1)(a) or a substantially equivalent offense; or

(f) (i) is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (1)(a); and

(ii) has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(2) Subject to Subsection (3), an individual is:

(a) a child abuse offender if the individual:

(i) has committed, attempted, solicited, or conspired to commit an offense described in Subsection (1)(a)(i); or

(ii) meets a requirement described in Subsections (1)(b) through (e) for an offense described in Subsection (1)(a)(i) or a substantially equivalent offense;

(b) a sex offender if the individual:

(i) has committed, attempted, solicited, or conspired to commit an offense described in Subsections (1)(a)(ii) through (xxxi); or

(ii) meets a requirement described in Subsections (1)(b) through (e) for an offense described in Subsections (1)(a)(ii) through (xxxi) or a substantially equivalent offense; or

(c) a kidnap offender if the individual:

(i) has committed, attempted, solicited, or conspired to commit an offense described in Subsections (1)(a)(xxxii) through (xl); or

(ii) meets a requirement described in Subsections (1)(b) through (e) for an offense described in Subsections (1)(a)(xxxii) through (xl) or a substantially equivalent offense.

(3) An individual who has committed a registrable offense described in Subsection (1)(d)(ii)(B) in an external jurisdiction that is not substantially equivalent to an offense described in Subsection (1)(a) and is required to register on a sex, kidnap, and child abuse registry, or an equivalent registry, in the individual's state of residence is a child abuse offender, sex offender, or kidnap offender based on the individual's status on the registry in the individual's state of residence.

(4) Notwithstanding Subsection 53-29-101(4)(a), a plea of guilty or nolo contendere to a charge of sexual battery or lewdness that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction even if the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Section 19. Section 53-29-203 is enacted to read:

53-29-203. Registration lengths -- 10 years -- Lifetime.

(1) Except as provided in Subsection (2), (3), or (4), an individual who commits a registrable offense is required to register on the

registry for:

(a) 10 years after the day on which the offender's sentence for the offense has been terminated if the registrable offense is for:

(i) a felony or class A misdemeanor violation of enticing a minor under Section 76-4-401, if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (1)(a)(ii) through (xxiii);

(ii) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

(iii) kidnapping under Subsection 76-5-301(2)(c) or (d), if the offender was not the natural parent of the child victim;

(iv) human trafficking for labor under Section 76-5-308, if the offender was not the natural parent of the child victim;

(v) human smuggling under Section 76-5-308.3, if the offender was not the natural parent of the child victim;

(vi) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a), if the offender was not the natural parent of the child victim;

(vii) aggravated human trafficking for labor under Section 76-5-310, if the offender was not the natural parent of the child victim;

(viii) aggravated human smuggling under Section 76-5-310.1;

(ix) human trafficking of a vulnerable adult for labor under Section 76-5-311;

(x) a felony violation of unlawful sexual activity with a minor under Section 76-5-401;

(xi) sexual abuse of a minor under Section 76-5-401.1;

(xii) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

(xiii) forcible sexual abuse under Section 76-5-404;

(xiv) custodial sexual relations under Section 76-5-412;

(xv) sexual exploitation of a vulnerable adult under Section 76-5b-202;

(xvi) sexual extortion under Subsection 76-5b-204(2)(a);

(xvii) incest under Section 76-7-102;

(xviii) four or more convictions of lewdness under Section 76-9-702;

(xix) four or more convictions of sexual battery under Section 76-9-702.1;

(xx) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under Section 76-9-702.1, that total four or more convictions;

(xxi) lewdness involving a child under Section 76-9-702.5;

(xxii) a felony or class A misdemeanor violation of voyeurism under Section 76-9-702.7;

(xxiii) aggravated exploitation of prostitution under Section 76-10-1306, committed on or before May 9, 2011;

(xxiv) attempting, soliciting, or conspiring to commit an offense listed in Subsections (1)(a)(i) through (xxiii) if the attempt, solicitation, or conspiracy is a registrable offense; or

(xxv) attempting, soliciting, or conspiring to commit:

(A) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;

(B) human trafficking for sexual exploitation under Section 76-5-308.1, if the offender was not the natural parent of the child victim;

(C) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b), if the offender was not the natural parent of the child victim;

(D) aggravated human trafficking for sexual exploitation under Section 76-5-310, if the offender was not the natural parent of the child victim;

(E) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311, if the offender was not the natural parent of the child victim;

(F) forcible sodomy under Section 76-5-403;

(G) sexual abuse of a child under Section 76-5-404.1;

(H) sexual exploitation of a minor under Section 76-5b-201;

(I) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(J) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or

(K) aggravated exploitation of prostitution under Section 76-10-1306, on or after May 10, 2011; or

(b) the offender's lifetime if the registrable offense is:

(i) a conviction for an offense described in Subsection (1)(a), if the offender has, at the time of conviction for the offense:

(A) previously been convicted of an offense described in Subsection (1)(a), or a substantially equivalent offense in an external jurisdiction; or

(B) previously been required to register as an offender for an offense described in Subsection (1)(a) committed as a juvenile;

(ii) a following offense, including attempting, soliciting, or conspiring to commit a felony violation of:

(A) child kidnapping under Section 76-5-301.1, if the offender was not the natural parent of the child victim;

(B) rape under Section 76-5-402;

(C) rape of a child under Section 76-5-402.1;

(D) object rape under Section 76-5-402.2;

(E) object rape of a child under Section 76-5-402.3;

(F) sodomy on a child under Section 76-5-403.1;

(G) aggravated sexual abuse of a child under Section 76-5-404.3; or

(H) aggravated sexual assault under Section 76-5-405;

(iii) aggravated kidnapping under Section 76-5-302, if the offender was not the natural parent of the child victim;

(iv) human trafficking for sexual exploitation under Section 76-5-308.1, if the offender was not the natural parent of the child victim;

(v) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b), if the offender was not the natural parent

of the child victim;

(vi) aggravated human trafficking for sexual exploitation under Section 76-5-310, if the offender was not the natural parent of the child victim;

(vii) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311, if the offender was not the natural parent of the child victim;

(viii) forcible sodomy under Section 76-5-403;

(ix) sexual abuse of a child under Section 76-5-404.1;

(x) sexual exploitation of a minor under Section 76-5b-201;

(xi) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(xii) aggravated sexual extortion under Subsection 76-5b-204(2)(b);

(xiii) aggravated exploitation of prostitution under Section 76-10-1306, on or after May 10, 2011; or

(xiv) a felony violation of enticing a minor under Section 76-4-401, if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (1)(b)(ii) through (xiii).

(2) An individual who qualifies as an offender based on a conviction in an external jurisdiction for a registrable offense, or a substantially equivalent offense, and is on an external jurisdiction's sex, kidnap, and child abuse registry, or an equivalent registry, is required to register on the registry for the time period required by the external jurisdiction.

(3) If the sentencing court at any time after an offender is convicted of an offense requiring lifetime registration described in Subsection (1)(b) determines that the offender was under 21 years old at the time the offense was committed and the offense did not involve force or coercion, the requirement that the offender register for the offender's lifetime does not apply and the offender shall register for 10 years after the day on which the offender's sentence for the offense has been terminated.

(4) Except for an individual who is adjudicated for a registrable offense and is an offender who meets the requirements under Subsection 53-29-202(1)(f), an individual who is under 18 years old and commits a registrable offense after May 3, 2023, is not subject to registration requirements under this chapter unless the offender:

(a) is charged by criminal information in juvenile court under Section 80-6-503;

(b) is bound over to district court in accordance with Section 80-6-504; and

(c) is convicted of a registrable offense.

(5) An offender subject to the 10-year or lifetime registration requirements under Subsection (1) may petition the court for an order of removal from the registry in accordance with Section 53-29-204, 53-29-205, or 53-29-206.

Section 20. Section 53-29-204 is enacted to read:

53-29-204. Five-year petition for removal from registry -- Eligibility.

(1) An offender who is required to register on the registry for a registrable offense described in Subsection (2) that is subject to a 10-year registration period, as described in Section 53-29-203, is eligible to petition the court under Section 53-29-207 for an order of removal from the registry after five years after the day on which the offender's sentence for the offense has been terminated if:

(a) the offense is the only offense for which the offender was required to register;

(b) the offender has not been convicted of another offense, excluding a traffic offense, after the day on which the offender was convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

(c) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(d) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense.

(2) The offenses that qualify for a five-year petition for an order of removal from the registry referenced in Subsection (1) are:

(a) a class A misdemeanor violation of enticing a minor under Section 76-4-401;

(b) kidnapping under Subsection 76-5-301(2)(c) or (d);

(c) a felony violation of unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(d) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, if at the time of the offense, the offender is not more than 15 years older than the victim;

(f) a class A misdemeanor violation of voyeurism under Section 76-9-702.7;

(g) attempting, soliciting, or conspiring to commit an offense listed in Subsections (2)(a)through (f) if the attempt, solicitation, or conspiracy is a registrable offense; and

(h) an offense committed in an external jurisdiction that is not substantially equivalent to a registrable offense described in Subsection 53-29-202(1)(a).

Section 21. Section 53-29-205 is enacted to read:

53-29-205. Ten-year petition for removal from registry -- Eligibility.

(1) An offender who is required to register on the registry for a registrable offense described in Subsection (3) subject to a 10-year registration period as described in Section 53-29-203 is eligible to petition the court under Section 53-29-207 for an order of removal from the registry at a 10-year after entrance into the community period described in Subsection (2) if:

(a) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (2), as evidenced by a certificate of eligibility issued by the bureau;

(b) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(c) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense.

(2) An offender who qualifies under Subsection (1) may petition the court under Section 53-29-207 for an order of removal from the registry if 10 years have passed after the later of the following events in which the offender entered into the community:

(a) the day on which the offender was placed on probation;

(b) the day on which the offender was released from incarceration to parole;

(c) the day on which the offender's sentence was terminated without parole;

(d) the day on which the offender entered a community-based residential program; or

(e) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated.

(3) The offenses that qualify for a 10-year petition for an order of removal from the registry referenced in Subsection (1) are:

(a) a felony violation of enticing a minor under Section 76-4-401, if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (3)(b) through (v);

(b) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

(c) human trafficking for labor under Section 76-5-308;

(d) human smuggling under Section 76-5-308.3;

(e) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);

(f) aggravated human trafficking for labor under Section 76-5-310;

(g) aggravated human smuggling under Section 76-5-310.1;

(h) human trafficking of a vulnerable adult for labor under Section 76-5-311;

(i) a felony violation of unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the offense, the offender is more than 10 years older than the victim;

(j) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the offender is more than 10 years older than the victim;

(k) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, if, at the time of the offense, the offender is more than 15 years older than the victim;

(l) forcible sexual abuse under Section 76-5-404;

(m) custodial sexual relations under Section 76-5-412, if the victim in custody is younger than 18 years old and the offense is committed on or after May 10, 2011;

(n) sexual exploitation of a vulnerable adult under Section 76-5b-202;

(o) sexual extortion under Subsection 76-5b-204(2)(a);

(p) incest under Section 76-7-102;

(q) four or more convictions of lewdness under Section 76-9-702;

(r) four or more convictions of sexual battery under Section 76-9-702.1;

(s) any combination of convictions of lewdness under Section 76-9-702, and of sexual battery under Section 76-9-702.1, that total four or more convictions;

(t) lewdness involving a child under Section 76-9-702.5;

(u) a felony violation of voyeurism under Section 76-9-702.7;

(v) aggravated exploitation of prostitution under Section 76-10-1306, committed on or before May 9, 2011;

(w) attempting, soliciting, or conspiring to commit an offense listed in Subsections (3)(a) through (v) if the attempt, solicitation, or conspiracy is a registrable offense;

(x) attempting, soliciting, or conspiring to commit:

(i) human trafficking for sexual exploitation under Section 76-5-308.1;

(ii) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);

(iii) aggravated human trafficking for sexual exploitation under Section 76-5-310;

(iv) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

(v) aggravated kidnapping under Section 76-5-302, except if the offender is a natural parent of the victim;

(vi) forcible sodomy under Section 76-5-403;

(vii) sexual abuse of a child under Section 76-5-404.1;

(viii) sexual exploitation of a minor under Section 76-5b-201;

(ix) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(x) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or

(xi) aggravated exploitation of prostitution under Section 76-10-1306, on or after May 10, 2011; or

(y) an offense described in Subsection 53-29-203(1)(b) that would otherwise be subject to a 20-year petition for removal as described in Section 53-29-206, if:

(i) the sentencing court determines that the offender was under 21 years old at the time the offense was committed; and

(ii) the offense did not involve force or coercion as described in Subsection 53-29-203(3).

(4) An individual who is as an offender under Section 53-29-202 based on a conviction in an external jurisdiction for a registrable offense, or a substantially equivalent offense, and is required to register on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry, may petition for removal from the registry in accordance with the requirements of this section if the individual:

(a) does not have a lifetime registration requirement on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry;

(b) meets the requirements described in Subsections (1)(a) through (c);

(c) has resided in this state for at least 183 days in a year for two consecutive years; and

(d) intends to primarily reside in this state.

Section 22. Section 53-29-206 is enacted to read:

53-29-206. Twenty-year petition for removal from registry -- Eligibility.

(1) An offender who is required to register on the registry for a registrable offense subject to a lifetime registration period described in Subsection 53-29-203(1)(b) is eligible to petition the court under Section 53-29-207 for an order of removal from the registry at a 20-year entrance into the community period described in Subsection (2) if:

(a) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 20-year period after the date described in Subsection (2), as evidenced by a certificate of eligibility issued by the bureau;

(b) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(c) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(d) the offender submits to an evidence-based risk assessment that:

(i) meets the standards for the current risk assessment, score, and risk level required by the Board of Pardons and Parole for parole termination requests;

(ii) is completed within the six months before the date on which the petition is filed; and

(iii) describes the evidence-based risk assessment of the current level of risk to the safety of the public posed by the offender.

(2) An offender who qualifies under Subsection (1) may petition the court under Section 53-29-207 for an order of removal from the registry if 20 years have passed after the later of the following events in which the offender has entered into the community:

(a) the day on which the offender was placed on probation;

(b) the day on which the offender was released from incarceration to parole;

(c) the day on which the offender's sentence was terminated without parole;

(d) the day on which the offender entered a community-based residential program; or

(e) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated.

(3) An individual who is as an offender under Section 53-29-202 based on a conviction in an external jurisdiction for a registrable offense or a substantially equivalent offense, and is required to register on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry, may petition for removal from the registry in accordance with the requirements of this section if the individual:

(a) is required to register on the external jurisdiction's sex, kidnap, or child abuse offender registry, or an equivalent registry, for the individual's lifetime;

(b) meets the requirements described in Subsections (1)(a) through (d);

(c) has resided in this state for at least 183 days in a year for two consecutive years; and

(d) intends to primarily reside in this state.

Section 23. Section 53-29-207 is enacted to read:

53-29-207. Process to petition for removal from registry -- Offender, bureau, court, and prosecutor responsibilities.

(1) Before an offender who is eligible to petition for an order of removal from the registry as described in Section 53-29-204, 53-29-205, or 53-29-206 may file a petition with the court for an order of removal from the registry, the offender shall apply to the bureau for a certificate of eligibility for removal from the registry that states that the offender has met certain qualifications for removal.

(2) After the bureau receives an offender's application for a certificate of eligibility for removal from the registry, the bureau shall:

(a) perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender meets the requirements described in:

(i) Subsection 53-29-204(1), if the offender is seeking a five-year petition for removal;

(ii) Subsections 53-29-205(1) and (2), if the offender is seeking a 10-year petition for removal; or

(iii) Subsections 53-29-206(1) and (2), if the offender is seeking a 20-year petition for removal; and

(b) if the bureau determines that the offender meets the requirements described in Subsection (2)(a), issue a certificate of eligibility for removal from the registry to the offender, which is valid for 90 days after the day on which the bureau issues the certificate.

(3) (a) After an offender has received the certificate of eligibility for removal from the registry described in Subsection (2), the offender may petition the court for an order of removal from the registry, and shall include in the petition:

(i) the original information or indictment regarding the registrable offense that the offender committed;

(ii) the court docket; and

(iii) the certificate of eligibility for removal from the registry.

(b) An offender who files a petition with the court as described in Subsection (3)(a) shall provide a copy of the petition to the prosecutor.

(4) A prosecutor, upon receipt of the petition described in Subsection (3), shall:

(a) provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the parent or guardian of the victim, that includes:

(i) a copy of the petition;

(ii) an explanation that the victim has a right to object to the removal of the offender from the registry or make other recommendations to the court; and

(iii) instructions for how the victim can file an objection or recommendation with the court; and

(b) provide the following, if available, to the court within 30 days after the day on which the prosecutor receives the petition:

(i) the presentencing report created for the offender based on the registrable offense committed by the offender;

(ii) any evaluation done as part of sentencing for the registrable offense; and

(iii) other information the prosecutor determines the court should consider.

(5) A victim, or the victim's parent or guardian if the victim is a minor under 18 years old, may respond to a petition described in Subsection (3) by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.

(6) (a) A court receiving a petition under this section shall:

(i) review the petition and all documents submitted with the petition; and

(ii) hold a hearing if requested by the prosecutor or the victim.

(b) (i) Except as provided in Subsection (6)(b)(ii) or (iii), the court may grant the petition for removal and order the removal of the offender from the registry if the court determines that the offender has met the requirements for issuance of a certificate of eligibility for removal issued under Subsection (2) and removal is not contrary to the interests of the public.

(ii) When considering a petition filed by an offender subject to a lifetime registration requirement and eligible for a 20-year petition for removal from the registry as described in Section 53-29-206, the court shall determine whether the offender has demonstrated, by clear and convincing evidence, that the offender is rehabilitated and does not pose a threat to the safety of the public.

(iii) In making the determination described in Subsection (6)(b)(ii), the court may consider:

(A) the nature and degree of violence involved in the registrable offense;

(B) the age and number of victims of the registrable offense;

(C) the age of the offender at the time the registrable offense was committed;

(D) the offender's performance while on supervision for the registrable offense;

(E) the offender's stability in employment and housing;

(F) the offender's community and personal support system;

(G) other criminal and relevant noncriminal behavior of the offender both before and after the offender committed the registrable offense;

(H) if applicable, the level of risk posed by the offender as evidenced by the evidence-based risk assessment described in Subsection 53-29-206(1)(d); and

(I) any other relevant factors.

(c) In determining whether removal from the registry is contrary to the interests of the public, the court may not consider removal unless the offender has substantially complied with all registration requirements under this chapter at all times.

(d) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

(e) (i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the offender may not submit another petition for three years after the day on which the court denied the petition.

(ii) If the offender is an offender subject to a lifetime registration requirement and eligible for a 20-year petition for removal from the registry as described in Section 53-29-206 and files a petition for removal that is denied by the court, the offender may not submit another petition for eight years after the day on which the court denied the petition.

(f) The court shall notify the victim and the registry office of the court's decision under this Subsection (6) within three days after the day on which the court issues the court's decision.

(7) (a) An offender who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility under this section is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(b) The bureau may, even if the offender is not prosecuted for providing the false or misleading information, deny a certificate of eligibility to an offender who provides false or misleading information on an application.

(8) (a) (i) The bureau shall charge application and issuance fees for a certificate of eligibility for removal from the registry under this section in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application to the bureau for a certificate of eligibility for removal from the registry.

(iii) If the bureau determines that the issuance of a certificate of eligibility for removal from the registry is appropriate, the offender will be charged an additional fee for the issuance of the certificate.

(b) Funds generated under this Subsection (8) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

Section 24. Section 53-29-301 is enacted to read:

PART 3. Offender, Court, and Law Enforcement Responsibilities

53-29-301. Definitions.

As used in this part:

(1) "Business day" means a day on which state offices are open for regular business.

(2) "Correctional facility" means:

(a) a county jail;

(b) a secure correctional facility as defined by Section 64-13-1; or

(c) a secure care facility as defined in Section 80-1-102.

(3) "Secondary residence" means real property that an offender owns or has a financial interest in, or a location where the offender stays overnight a total of 10 or more nights in a 12-month period when not staying at the offender's primary residence.

Section 25. Section 53-29-302 is enacted to read:

53-29-302. Law enforcement and agency responsibilities related to the registry.

(1) A law enforcement agency shall, in the manner prescribed by the department, inform the department of:

(a) the receipt of a report or complaint of a registrable offense, within three business days after the day on which the law enforcement agency received the report or complaint; and

(b) the arrest of an individual suspected of a registrable offense, within five business days after the day on which the law enforcement agency arrested the individual.

(2) The Department of Corrections shall register an offender in the custody of the Department of Corrections with the department upon:

(a) placement on probation;

(b) commitment to a secure correctional facility operated by or under contract with the Department of Corrections;

(c) release from confinement to parole status, termination or expiration of sentence, or escape;

(d) entrance to and release from any community-based residential program operated by or under contract with the Department of

Corrections; or

(e) termination of probation or parole.

(3) The sheriff of the county in which an offender is confined shall register an offender with the department, as required under this chapter, if the offender is not in the custody of the Department of Corrections and is confined in a correctional facility not operated by or under contract with the Department of Corrections upon:

(a) commitment to the correctional facility; and

(b) release from confinement.

(4) (a) Except as provided in Subsection (4)(b), if an offender is sent on an assignment outside a secure facility, including being assigned for firefighting or disaster control, the official who has physical custody of the offender shall, within a reasonable time after the day of the offender's removal from the secure facility, notify the local law enforcement agencies where the offender is assigned.

(b) Subsection (4)(a) does not apply to an offender temporarily released from a secure facility setting who is under the supervision of a correctional facility official.

(5) The division shall register an offender in the custody of the division with the department, as required under this chapter, before the offender's release from custody of the division.

(6) A state mental hospital shall register an offender committed to the state mental hospital with the department, as required under this chapter, upon the offender's admission and upon the offender's discharge.

(7) (a) A municipal or county law enforcement agency shall register an offender who resides within the agency's jurisdiction and is not under the supervision of the Division of Adult Probation and Parole within the Department of Corrections.

(b) A municipal or county law enforcement agency may conduct offender registration under this chapter, if the agency ensures that the agency's staff responsible for registration:

(i) have received initial training by the department and have been certified by the department as qualified and authorized to conduct registrations and enter offender registration information into the registry database; and

(ii) annually certifies with the department.

(8) An agency in the state that registers with the department an offender on probation, an offender who has been released from confinement to parole status or termination, or an offender whose sentence has expired, shall inform the offender of the duty to comply with the continuing registration requirements of this chapter during the period of registration required in Section 53-29-203, including:

(a) notification to the state agencies in the states where the registrant presently resides and plans to reside when moving across state lines;

(b) verification of address at least every 60 days pursuant to a parole agreement for lifetime parolees; and

(c) notification to the out-of-state agency where the offender is living, regardless of whether the offender is a resident of that state.

Section 26. Section 53-29-303 is enacted to read:

53-29-303. Court responsibilities related to the registry.

(1) The court shall, after an offender is convicted of a registrable offense, within three business days after the day on which the conviction is entered, forward a signed copy of the judgment and sentence to the registry office.

(2) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a conviction for a registrable offense, the court shall, within three business days, forward a signed copy of the order to the registry office.

(3) (a) An offender may change the offender's name in accordance with Title 42, Chapter 1, Change of Name, if the name change is not contrary to the interests of the public.

(b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department at least 30 days before the day on which the hearing for the name change is held.

(c) The court shall provide a copy of the order granting the offender's name change to the department within 10 days after the day on which the court issues the order.

(d) If the court orders an offender's name to be changed, the department shall publish on the registration website the offender's former name and the offender's changed name as an alias.

(4) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, information under Subsection (2) that is collected and released under Subsection 53-29-404(3)(a) is public information, unless otherwise restricted under this chapter.

(5) The department shall redact information regarding the identity or location of a victim from information provided under Subsection (2).

Section 27. Section 53-29-304 is enacted to read:

53-29-304. Offender responsibilities related to the registry.

(1) An offender shall:

(a) if the offender is on probation or parole under the supervision of the Department of Corrections, register in person with the Division of Adult Probation and Parole; or

(b) if the offender is not on probation or parole under the supervision of the Department of Corrections, register in person with the police department or sheriff's office that has jurisdiction over the area where the offender resides.

(2) An offender registering under Subsection (1) shall register for the duration of the offender's applicable registration period described in Section 53-29-203:

(a) each year during the month of the offender's date of birth;

(b) during the month that is the sixth month after the offender's birth month; and

(c) within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information described in Subsection (4).

(3) An offender who enters this state from another jurisdiction is required to register with the department within 10 days after the day on which the offender enters the state, regardless of the offender's length of stay.

(4) (a) When registering under Subsection (1), an offender shall provide the following information:

(i) all names and aliases by which the offender is or has been known;

(ii) the addresses of the offender's primary and secondary residences;

(iii) a physical description, including the offender's date of birth, height, weight, eye color, and hair color;

(iv) the make, model, color, year, plate number, and vehicle identification number of a vehicle or vehicles the offender owns or drives more than 12 times per year;

(v) a current photograph of the offender;

(vi) a set of fingerprints, if a set has not already been provided;

(vii) a DNA specimen, taken in accordance with Section 53-10-404, if a set has not already been provided;

(viii) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;

(ix) online identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;

(x) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;

(xi) a copy of the offender's passport, if a passport has been issued to the offender;

(xii) if the offender is an alien, all documents establishing the offender's immigration status;

(xiii) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;

(xiv) each educational institution in Utah at which the offender is employed or is a student, and a change of enrollment or employment status of the offender at an educational institution;

(xv) the name, the telephone number, and the address of a place where the offender is employed or will be employed;

(xvi) the name, the telephone number, and the address of a place where the offender works as a volunteer or will work as a volunteer; and

(xvii) the offender's social security number.

(b) The department shall redact information regarding the identity or location of a victim from information provided under Subsection (4)(a).

(5) Notwithstanding Subsections (4)(a)(ix) and (x) and 53-29-404(7), an offender is not required to provide the department with:

(a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or

(b) online identifiers for the offender's financial accounts, including a bank, retirement, or investment account.

(6) Notwithstanding Title 77, Chapter 40a, Expungement of Criminal Records, an offender convicted of a registrable offense is required to register in accordance with this section unless the offender is removed from the registry under Section 53-29-207.

(7) Except as provided in Subsection 53-29-404(7), in the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of Subsection (3).

(8) (a) An offender required to register on the registry shall, in the month of the offender's birth:

(i) pay to the department an annual fee of $100 each year the offender is subject to the registration requirements of this chapter; and

(ii) pay to the registering agency, if the registering agency is an agency other than the department, an annual fee of not more than $25, which may be assessed by that agency for providing registration.

(b) Notwithstanding Subsection (8)(a), an offender who is confined in a secure facility or in a state mental hospital is not required to pay the annual fee.

(c) The department shall deposit fees collected in accordance with this chapter into the General Fund as a dedicated credit, to be used by the department for maintaining the offender registry under this chapter and monitoring offender registration compliance, including the costs of:

(i) data entry;

(ii) processing registration packets;

(iii) updating registry information; and

(iv) reporting an offender not in compliance with registration requirements to a law enforcement agency.

Section 28. Section 53-29-305 is enacted to read:

53-29-305. Failing to register or providing false or incomplete information -- Penalties.

(1) An offender who knowingly fails to register under this chapter or provides false or incomplete information is guilty of:

(a) a third degree felony and shall be sentenced to serve a term of incarceration of not less than 30 days and also at least one year of probation if:

(i) the offender is required to register for a registrable offense that is a felony or adjudicated delinquent for a registrable offense committed before May 3, 2023, that would be a felony if the juvenile were an adult; or

(ii) the offender is required to register for the offender's lifetime as described in Subsection 53-29-203(1)(b); or

(b) a class A misdemeanor and shall be sentenced to serve a term of incarceration of not less than 30 days and also at least one year of probation if the offender is required to register for a misdemeanor conviction that is a registrable offense or is adjudicated delinquent for a registrable offense committed before May 3, 2023, that would be a misdemeanor if the juvenile were an adult.

(2) (a) The court or Board of Pardons and Parole may not release an individual who violates this chapter from serving the term required under Subsection (1).

(b) This Subsection (2) supersedes any other provision of the law contrary to this chapter.

(3) The offender shall register for an additional year for every year in which the offender does not comply with the registration requirements of this chapter.

Section 29. Section 53-29-306, which is renumbered from Section 77-27-21.7 is renumbered and amended to read:

[~~77-27-21.7~~]53-29-306. Sex offender restrictions.

(1) As used in this section:

(a) "Condominium project" means the same as that term is defined in Section 57-8-3.

(b) "Minor" means an individual who is younger than 18 years old [~~:~~].

(c) (i) "Protected area" means the premises occupied by:

(A) a licensed day care or preschool facility;

(B) a public swimming pool or a swimming pool maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex;

(C) a public or private primary or secondary school that is not on the grounds of a correctional facility;

(D) a community park that is open to the public or a park maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex;

(E) a public playground or a playground maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex, including those areas designed to provide minors with space, recreational equipment, or other amenities intended to allow minors to engage in physical activity; and

(F) except as provided in Subsection (1)(c)(ii), an area that is 1,000 feet or less from the residence of a victim of the sex offender if the sex offender is subject to a victim requested restriction.

(ii) "Protected area" does not include:

(A) the area described in Subsection (1)(c)(i)(F) if the victim is a member of the immediate family of the sex offender and the terms of the sex offender's agreement of probation or parole allow the sex offender to reside in the same residence as the victim;

(B) a park, playground, or swimming pool located on the property of a residential home;

(C) a park or swimming pool that prohibits minors at all times from using the park or swimming pool; or

(D) a park or swimming pool maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex established for residents 55 years old or older if no minors are present at the park or swimming pool at the time the sex offender is present at the park or swimming pool.

[~~(d) "Sex offender" means an adult or juvenile who is required to register in accordance with Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, due to a conviction for an offense that is committed against a person younger than 18 years old.~~]

(2) For purposes of Subsection (1)(c)(i)(F), a sex offender who has committed a registrable offense against an individual younger than 18 years old is subject to a victim requested restriction if:

(a) the sex offender is on probation or parole for an offense that requires the offender to register in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]this chapter;

(b) the victim or the victim's parent or guardian advises the [~~Department of Public Safety~~]department that the victim elects to restrict the sex offender from the area and authorizes the [~~Department of Public Safety~~]department to advise the sex offender of the area where the victim resides; and

(c) the [~~Department of Public Safety~~]department notifies the sex offender in writing that the sex offender is prohibited from being in the area described in Subsection (1)(c)(i)(F) and provides a description of the location of the protected area to the sex offender.

(3) A sex offender who has committed a registrable offense against an individual younger than 18 years old may not:

(a) be in a protected area except:

(i) when the sex offender must be in a protected area to perform the sex offender's parental responsibilities;

(ii) (A) when the protected area is a public or private primary or secondary school; and

(B) the school is open and being used for a public activity other than a school-related function that involves a minor; or

(iii) (A) if the protected area is a licensed day care or preschool facility located within a building that is open to the public for purposes other than the operation of the day care or preschool facility; and

(B) the sex offender does not enter a part of the building that is occupied by the day care or preschool facility; or

(b) serve as an athletic coach, manager, or trainer for a sports team of which a minor who is younger than 18 years old is a member.

(4) A sex offender who violates this section is guilty of:

(a) a class A misdemeanor; or

(b) if previously convicted of violating this section within the last ten years, a third degree felony.

Section 30. Section 53-29-307, which is renumbered from Section 77-27-21.8 is renumbered and amended to read:

[~~77-27-21.8~~]53-29-307. Sex offender in presence of a child -- Definitions -- Penalties.

(1) As used in this section:

(a) "Accompany" means:

(i) to be in the presence of an individual; and

(ii) to move or travel with that individual from one location to another, whether outdoors, indoors, or in or on any type of vehicle.

(b) "Child" means an individual younger than 14 years [~~of age~~]old.

(2) A sex offender subject to registration in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]this chapter, for [~~an~~]a registrable offense committed or attempted to be committed against a child younger than 14 years [~~of age~~]old is guilty of a class A misdemeanor if the sex offender requests, invites, or solicits a child to accompany the sex offender, under circumstances that do not constitute an attempt to violate Section 76-5-301.1, child kidnapping, unless:

(a) (i) the sex offender, prior to accompanying the child:

(A) verbally advises the child's parent or legal guardian that the sex offender is on the state sex offender registry and is required by state law to obtain written permission in order for the sex offender to accompany the child; and

(B) requests that the child's parent or legal guardian provide written authorization for the sex offender to accompany the child, including the specific dates and locations;

(ii) the child's parent or legal guardian has provided to the sex offender written authorization, including the specific dates and locations, for the sex offender to accompany the child; and

(iii) the sex offender has possession of the written authorization and is accompanying the child only at the dates and locations specified in the authorization;

(b) the child's parent or guardian has verbally authorized the sex offender to accompany the child either in the child's residence or on property appurtenant to the child's residence, but in no other locations; or

(c) the child is the natural child of the sex offender, and the offender is not prohibited by any court order, or probation or parole provision, from contact with the child.

(3) (a) A sex offender convicted of a violation of Subsection (2) is subject to registration in accordance with [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]this chapter, for an additional five years subsequent to the required registration [~~under Section 77-41-105~~]described in Section 53-29-203.

(b) The period of additional registration imposed under Subsection (3)(a) is also in addition to any period of registration imposed under Subsection [~~77-41-107(3)~~]53-29-305(3) for failure to comply with registration requirements.

(4) It is not a defense to a prosecution under this section that the defendant mistakenly believed the individual to be 14 years [~~of age~~]old or older at the time of the offense or was unaware of the individual's true age.

(5) This section does not apply if a sex offender is acting to rescue a child who is in an emergency and life-threatening situation.

Section 31. Section 53-29-401 is enacted to read:

PART 4. Department Functions Related to the Registry

53-29-401. Definitions.

Reserved.

Section 32. Section 53-29-402 is enacted to read:

53-29-402. Department responsibilities related to the registry.

(1) The department shall:

(a) maintain the registration website;

(b) ensure that the registration information collected regarding an offender's enrollment or employment at an educational institution is:

(i) (A) promptly made available to any law enforcement agency that has jurisdiction where the institution is located if the educational institution is an institution of higher education; or

(B) promptly made available to the district superintendent of the school district where the offender is employed if the educational institution is an institution of primary education; and

(ii) entered into the appropriate state records or data system; and

(c) make available to an offender the name of the local law enforcement agency or state agency that the offender should contact to register, the location for registering, and the requirements of registration.

(2) (a) When the department receives offender registration information regarding a change of an offender's primary residence, the department shall, within five days after the day on which the department receives the information, electronically notify the law enforcement agencies that have jurisdiction over the area where:

(i) the residence that the offender is leaving is located; and

(ii) the residence to which the offender is moving is located.

(b) The department shall provide notification under Subsection (2)(a) if the offender's change of address is:

(i) between law enforcement agency jurisdictions; or

(ii) within one law enforcement agency jurisdiction.

(3) The department may make administrative rules necessary to implement this chapter, including:

(a) the method for dissemination of the information; and

(b) instructions to the public regarding the use of the information.

Section 33. Section 53-29-403 is enacted to read:

53-29-403. Intervention in legal action by the department.

(1) Subject to Subsection (2), the department may intervene in any matter, including a criminal action, where the matter purports to affect an individual's registration requirements under this chapter.

(2) The department may only file a motion to intervene under Subsection (1) within 60 days after the day on which:

(a) the sentencing court enters a judgment or sentence against an individual for a registrable offense, if the details of the written plea agreement, judgment, or sentence indicate that the individual's registration requirements under this chapter could be affected; or

(b) a court modifies, withdraws, sets aside, vacates, or otherwise alters an individual's conviction for a registrable offense, affecting the individual's registration requirement under this chapter if the written plea agreement, judgment, or sentence entered at the time the individual was sentenced did not indicate that the individual's registration requirement could be affected.

Section 34. Section 53-29-404 is enacted to read:

53-29-404. Sex, Kidnap, and Child Abuse Offender Notification and Registration website.

(1) The department shall maintain a Sex, Kidnap, and Child Abuse Offender Notification and Registration website on the Internet available to the public.

(2) The registration website shall be indexed by both the surname of the offender and by postal codes.

(3) (a) Except as provided in Subsection (3)(b), the registration website shall include the following information:

(i) all names and aliases by which the offender is or has been known, but not including any online identifiers;

(ii) the addresses of the offender's primary, secondary, and temporary residences;

(iii) a physical description, including the offender's date of birth, height, weight, eye color, and hair color;

(iv) the make, model, color, year, and plate number of any vehicle or vehicles the offender owns or regularly drives;

(v) a current photograph of the offender;

(vi) a list of all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business;

(vii) each educational institution in Utah at which the offender is employed or is a student;

(viii) a list of places where the offender works as a volunteer;

(ix) any registrable offenses for which the offender has been convicted or adjudicated; and

(x) other relevant identifying information of the offender as determined by the department.

(b) The department shall redact any information the department receives under Subsection (3)(a) that, if disclosed, could reasonably identify a victim.

(4) (a) The department shall enable the public to search the registration website to determine if the following search criteria are linked to an offender:

(i) telephone numbers or other designations for an offender provided under Subsection 53-29-304(4)(a)(vii);

(ii) online identifiers or other addresses for an offender provided under Subsection 53-29-304(4)(a)(ix); and

(iii) names and Internet addresses of websites on which an offender is registered using an online identifier, including the online identifier used to access the website.

(b) The department shall ensure that a search performed using the criteria in Subsection (4)(a):

(i) provides the individual requesting the search with only information regarding whether the criteria are linked to an offender; and

(ii) does not return the name or any other identifying information about an offender.

(c) The department is not required to:

(i) report the results of the search under Subsection (4)(a) to a law enforcement agency; or

(ii) based on the results of a search under Subsection (4)(a), open an investigation.

(5) (a) Subject to Subsection (5)(b), the department shall place a disclaimer on the registration website informing the public that:

(i) the information contained on the site is obtained from offenders and the department does not guarantee the information's accuracy or completeness;

(ii) members of the public are not allowed to use the information to harass or threaten an offender or a member of an offender's family; and

(iii) harassment, stalking, or threats against an offender or an offender's family are prohibited and may violate Utah criminal laws.

(b) Before a user may access the registry website, the department shall require the user to indicate that the user has read the disclaimer, understands the disclaimer, and agrees to comply with the disclaimer's terms.

(6) (a) If an offender was under 18 years old at the time of committing a registrable offense described in Subsection 53-29-202(1)(a), (c), or (f), and as a result is required to register on the registry, the department shall maintain, but not publish, the offender's information on the registration website.

(b) (i) If, based on the information provided to the department by the sentencing court, prosecuting entity, offender, or offender's counsel, the department cannot determine whether the offender is eligible for an exemption to publication on the registration website as described in Subsection (6)(a), the department shall continue to publish the offender's information on the registration website.

(ii) Information may be provided to the department at any time in order to clarify the offender's age at the time the offender committed the registrable offense.

(iii) This section does not prohibit the department from seeking or receiving information from individuals or entities other than those identified in Subsection (6)(b)(i).

(c) This Subsection (6):

(i) applies to an offender with a registration requirement on or after May 3, 2023, regardless of when the offender was first required to register; and

(ii) does not apply to an offender who is required to register for the offender's lifetime due to the offender being convicted of two or more registrable offenses or being convicted of one registrable offense and, at the time of the conviction for the registrable offense, being previously required to register as an offender for an offense committed as a juvenile as described in Subsection 53-29-203(1)(b).

(7) In the case of an offender adjudicated in an external jurisdiction as a juvenile and required to register under this chapter the department shall maintain, but not publish, the offender's information on the registration website if the external jurisdiction where the juvenile offender was adjudicated does not publish the juvenile offender's information on a public website.

(8) Any information in the department's possession not listed in Subsection (3)(a) that is not available to the public shall be shared:

(a) for a purpose under this chapter; or

(b) in accordance with Section 63G-2-206.

Section 35. Section 53-29-405 is enacted to read:

53-29-405. Removal for offenses or convictions for which registration is no longer required.

(1) The department shall automatically remove an individual who is currently on the registry if:

(a) the only offense or offenses for which the individual is on the registry are listed in Subsection (2); or

(b) the department receives a formal notification or order from the court or the Board of Pardons and Parole that the conviction for the registrable offense for which the individual is on the registry has been reversed, vacated, or pardoned.

(2) The offenses described in Subsection (1)(a) are:

(a) a class B or class C misdemeanor for enticing a minor under Section 76-4-401;

(b) kidnapping under Subsection 76-5-301(2)(a) or (b);

(c) child kidnapping under Section 76-5-301.1, if the offender was the natural parent of the child victim;

(d) unlawful detention under Section 76-5-304;

(e) a third degree felony for unlawful sexual intercourse before 1986, or a class B misdemeanor for unlawful sexual intercourse, under Section 76-5-401; or

(f) sodomy, but not forcible sodomy, under Section 76-5-403.

(3) The department shall notify an individual who has been removed from the registry in accordance with Subsection (1) and inform the individual in the notice that the individual is no longer required to register as an offender.

(4) An individual who is currently on the registry may submit a request to the department to be removed from the registry if the

individual believes that the individual qualifies for removal under Subsection (1).

(5) The department, upon receipt of a request for removal from the registry in accordance with this section, shall:

(a) check the registry for the individual's current status;

(b) determine whether the individual qualifies for removal based upon this section; and

(c) notify the individual in writing of the department's determination and whether the individual:

(i) qualifies for removal from the registry; or

(ii) does not qualify for removal.

(6) If the department determines that the individual qualifies for removal from the registry, the department shall remove the offender from the registry.

(7) (a) If the department determines that the individual does not qualify for removal from the registry, the department shall provide an explanation in writing for the department's determination.

(b) The department's determination under Subsection (7)(a) is final and not subject to administrative review.

(8) The department or an employee of the department is not civilly liable for a determination made in good faith in accordance with this section.

(9) (a) The department shall provide a response to a request for removal within 30 days after the day on which the department receives the request.

(b) If the response under Subsection (9)(a) cannot be provided within 30 days after the day on which the department receives the request, the department shall notify the individual that the response may be delayed up to 30 additional days.

Section 36. Section 57-8-3 is amended to read:

57-8-3. Definitions.

As used in this chapter:

(1) "Assessment" means any charge imposed by the association, including:

(a) common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or this chapter; and

(b) an amount that an association of unit owners assesses to a unit owner under Subsection 57-8-43(9)(g).

(2) "Association of unit owners" or "association" means all of the unit owners:

(a) acting as a group in accordance with the declaration and bylaws; or

(b) organized as a legal entity in accordance with the declaration.

(3) "Building" means a building, containing units, and comprising a part of the property.

(4) "Commercial condominium project" means a condominium project that has no residential units within the project.

(5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:

(a) the land included within the condominium project, whether leasehold or in fee simple;

(b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and storage spaces;

(d) the premises for lodging of janitors or persons in charge of the property;

(e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;

(f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(g) such community and commercial facilities as may be provided for in the declaration; and

(h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

(6) "Common expenses" means:

(a) all sums lawfully assessed against the unit owners;

(b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

(c) expenses agreed upon as common expenses by the association of unit owners; and

(d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.

(7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the declaration, means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(8) "Condominium" means the ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.

(9) "Condominium plat" means a plat or plats of survey of land and units prepared in accordance with Section 57-8-13.

(10) "Condominium project" means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed apartments, commercial or industrial buildings or structures, or otherwise, are separately offered or proposed to be offered for sale. Condominium project also means the property when the context so requires.

(11) "Condominium unit" means a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this chapter to a condominium unit includes both a physical unit together with its appurtenant undivided interest in the common areas and facilities and a time period unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(12) "Contractible condominium" means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this chapter. If the withdrawal can occur only by the expiration or termination of one or more leases, then the condominium project is not a contractible condominium within the meaning of this chapter.

(13) "Convertible land" means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.

(14) "Convertible space" means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.

(15) "Declarant" means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors also come within this definition.

(16) "Declaration" means the instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.

(17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

(18) "Expandable condominium" means a condominium project to which additional land or an interest in it may be added in accordance with the declaration and this chapter.

(19) "Gas corporation" means the same as that term is defined in Section 54-2-1.

(20) "Governing documents":

(a) means a written instrument by which an association of unit owners may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit owners; and

(b) includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association of unit owners.

(21) "Independent third party" means a person that:

(a) is not related to the unit owner;

(b) shares no pecuniary interests with the unit owner; and

(c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.

(22) "Judicial foreclosure" means a foreclosure of a unit:

(a) for the nonpayment of an assessment;

(b) in the manner provided by law for the foreclosure of a mortgage on real property; and

(c) as provided in this chapter.

(23) "Leasehold condominium" means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which that unit is situated, or both, with all those leasehold interests to expire naturally at the same time. A condominium project including leased land, or an interest in the land, upon which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

(24) "Limited common areas and facilities" means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.

(25) "Majority" or "majority of the unit owners," unless otherwise provided in the declaration or lawful amendments to the declaration, means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.

(26) "Management committee" means the committee as provided in the declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules covering the operation and maintenance of the property.

(27) "Management committee meeting" means a gathering of a management committee, whether in person or by means of electronic communication, at which the management committee can take binding action.

(28) (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.

(b) "Means of electronic communication" includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

(29) "Mixed-use condominium project" means a condominium project that has both residential and commercial units in the condominium project.

(30) "Nonjudicial foreclosure" means the sale of a unit:

(a) for the nonpayment of an assessment;

(b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(c) as provided in this chapter.

(31) "Par value" means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement may not be considered to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the unit owners' association, liability for common expenses, or right to common profits, assigned on the basis thereof.

(32) "Period of administrative control" means the period of control described in Subsection 57-8-16.5(1).

(33) "Person" means an individual, corporation, partnership, association, trustee, or other legal entity.

(34) "Political sign" means any sign or document that advocates:

(a) the election or defeat of a candidate for public office; or

(b) the approval or defeat of a ballot proposition.

(35) "Property" means the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all

easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(36) "Protected area" means the same as that term is defined in Section [~~77-27-21.7~~]53-29-306.

(37) "Record," "recording," "recorded," and "recorder" have the meaning stated in Chapter 3, Recording of Documents.

(38) "Rentals" or "rental unit" means:

(a) a unit that:

(i) is not owned by an entity or trust; and

(ii) is occupied by an individual while the unit owner is not occupying the unit as the unit owner's primary residence; or

(b) an occupied unit owned by an entity or trust, regardless of who occupies the unit.

(39) "Size" means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.

(40) "Time period unit" means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as defined in Section 57-19-2.

(41) "Unconstructed unit" means a unit that:

(a) is intended, as depicted in the condominium plat, to be fully or partially contained in a building; and

(b) is not constructed.

(42) (a) "Unit" means a separate part of the property intended for any type of independent use, which is created by the recording of a declaration and a condominium plat that describes the unit boundaries.

(b) "Unit" includes one or more rooms or spaces located in one or more floors or a portion of a floor in a building.

(c) "Unit" includes a convertible space, in accordance with Subsection 57-8-13.4(3).

(43) "Unit number" means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.

(44) "Unit owner" means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

(45) "Water wise landscaping" means:

(a) installation of plant materials, suited to the microclimate and soil conditions, that can:

(i) remain healthy with minimal irrigation once established; or

(ii) be maintained without the use of overhead spray irrigation;

(b) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(c) use of other landscape design features that:

(i) minimize the landscape's need for supplemental water from irrigation;

(ii) reduce the landscape area dedicated to lawn or turf; or

(iii) encourage vegetative coverage.

(46) "Water wise plant material" means a plant material suited to water wise landscaping.

Section 37. Section 57-8-8.1 is amended to read:

57-8-8.1. Equal treatment by rules required -- Limits on rules.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association of unit owners provides to unit owners;

(ii) differ between residential and nonresidential uses; or

(iii) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest.

(2) (a) If a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under Subsection (5), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental unit owner from using the common areas and facilities for purposes other than attending an association meeting or managing the rental unit;

(ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally:

(A) charge a rental unit owner a fee to use the common areas and facilities; and

(B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest; or

(iii) include a provision in the association of unit owners' governing documents that:

(A) requires each tenant of a rental unit to abide by the terms of the governing documents; and

(B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.

(b) Notwithstanding Subsection (3)(a), an association of unit owners may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas and facilities.

(4) Unless contrary to a declaration, a rule may require a minimum lease term.

(5) Unless otherwise provided in the declaration, an association of unit owners may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas and facilities; and

(ii) a service provided to a unit owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association of unit owners' officers and management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(6) (a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's condominium unit.

(b) A rule may prohibit a unit owner from installing a personal security camera in a common area not physically connected to the owner's unit.

(7) (a) A rule may not abridge the right of a unit owner to display a religious or holiday sign, symbol, or decoration inside the owner's condominium unit.

(b) An association may adopt a reasonable time, place, and manner restriction with respect to a display that is visible from the exterior of a unit.

(8) (a) A rule may not:

(i) prohibit a unit owner from displaying in a window of the owner's condominium unit:

(A) a for-sale sign; or

(B) a political sign;

(ii) regulate the content of a political sign; or

(iii) establish design criteria for a political sign.

(b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time, place, and manner of posting a for-sale sign or a political sign.

(9) For any area for which one or more unit owners are responsible for landscape maintenance, the association of unit owners:

(a) shall adopt rules supporting water wise landscaping, including:

(i) low water use requirements on lawns during drought conditions;

(ii) design criterion for water wise landscaping; and

(iii) limiting permissible plant material to specific water wise plant material;

(b) may not prohibit low water use on lawns during drought conditions; and

(c) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.

(10) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection [~~77-27-21.7(3)~~]53-29-306(3).

(11) (a) Except as provided in this Subsection (11), a rule may not prohibit a unit owner from making modifications, consistent with industry standards, for radon mitigation.

(b) Subsection (11)(a) does not apply if the modifications would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(c) A rule governing the placement or external appearance of modifications may apply to modifications for radon mitigation unless the rule would:

(i) unreasonably interfere with the modifications' functionality; or

(ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.

(d) A rule may require that a unit owner making modifications related to radon mitigation:

(i) demonstrate or provide proof of radon contamination; and

(ii) provide proof that the modifications and any related construction will be performed by a licensed person.

(12) A rule shall be reasonable.

(13) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

(14) This section applies to an association of unit owners regardless of when the association of unit owners is created.

Section 38. Section 57-8a-102 is amended to read:

57-8a-102. Definitions.

As used in this chapter:

(1) (a) "Assessment" means a charge imposed or levied:

(i) by the association;

(ii) on or against a lot or a lot owner; and

(iii) pursuant to a governing document recorded with the county recorder.

(b) "Assessment" includes:

(i) a common expense; and

(ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

(2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:

(i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and

(ii) by virtue of membership or ownership of a residential lot is obligated to pay:

(A) real property taxes;

(B) insurance premiums;

(C) maintenance costs; or

(D) for improvement of real property not owned by the member.

(b) "Association" or "homeowner association" does not include an association created under Chapter 8, Condominium Ownership Act.

(3) "Board meeting" means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.

(4) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.

(5) "Common areas" means property that the association:

(a) owns;

(b) maintains;

(c) repairs; or

(d) administers.

(6) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.

(7) "Declarant":

(a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and

(b) includes the person's successor and assign.

(8) "Director" means a member of the board of directors.

(9) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

(10) "Gas corporation" means the same as that term is defined in Section 54-2-1.

(11) (a) "Governing documents" means a written instrument by which the association may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.

(b) "Governing documents" includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association.

(12) "Independent third party" means a person that:

(a) is not related to the owner of the residential lot;

(b) shares no pecuniary interests with the owner of the residential lot; and

(c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.

(13) "Judicial foreclosure" means a foreclosure of a lot:

(a) for the nonpayment of an assessment;

(b) in the manner provided by law for the foreclosure of a mortgage on real property; and

(c) as provided in Part 3, Collection of Assessments.

(14) "Lease" or "leasing" means regular, exclusive occupancy of a lot:

(a) by a person or persons other than the owner; and

(b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

(15) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

(16) "Lot" means:

(a) a lot, parcel, plot, or other division of land:

(i) designated for separate ownership or occupancy; and

(ii) (A) shown on a recorded subdivision plat; or

(B) the boundaries of which are described in a recorded governing document; or

(b) (i) a unit in a condominium association if the condominium association is a part of a development; or

(ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.

(17) (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.

(b) "Means of electronic communication" includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

(18) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.

(19) "Nonjudicial foreclosure" means the sale of a lot:

(a) for the nonpayment of an assessment;

(b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(c) as provided in Part 3, Collection of Assessments.

(20) "Period of administrative control" means the period during which the person who filed the association's governing documents or the person's successor in interest retains authority to:

(a) appoint or remove members of the association's board of directors; or

(b) exercise power or authority assigned to the association under the association's governing documents.

(21) "Political sign" means any sign or document that advocates:

(a) the election or defeat of a candidate for public office; or

(b) the approval or defeat of a ballot proposition.

(22) "Protected area" means the same as that term is defined in Section 77-27-21.7.

(23) "Rentals" or "rental lot" means:

(a) a lot that:

(i) is not owned by an entity or trust; and

(ii) is occupied by an individual while the lot owner is not occupying the lot as the lot owner's primary residence;

(b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or

(c) an internal accessory dwelling unit as defined in Section 10-9a-530 or 17-27a-526.

(24) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.

(25) (a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association that:

(i) is not set forth in a contract, easement, article of incorporation, bylaw, or declaration; and

(ii) governs:

(A) the conduct of persons; or

(B) the use, quality, type, design, or appearance of real property or personal property.

(b) "Rule" does not include the internal business operating procedures of a board.

(26) "Sex offender" means [~~the same as that term is defined in Section 77-27-21.7~~]an individual who is a sex offender as described in Subsection 53-29-202(2)(b) if the offense that the individual committed that resulted in the individual being a sex offender was committed against an individual younger than 18 years old.

(27) "Solar energy system" means:

(a) a system that is used to produce electric energy from sunlight; and

(b) the components of the system described in Subsection (27)(a).

Section 39. Section 57-8a-218 is amended to read:

57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association provides to lot owners;

(ii) differ between residential and nonresidential uses; and

(iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

(2) (a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

(A) charge a rental lot owner a fee to use the common areas; or

(B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule criterion may not abridge the rights of a lot owner to display a religious or holiday sign, symbol, or decoration:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the exterior; or

(C) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the yard.

(b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time, place, and manner restriction with respect to a display that is:

(i) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling; or

(C) the front yard of the dwelling; and

(ii) visible from outside the lot.

(4) (a) A rule may not prohibit a lot owner from displaying a political sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) A rule may not regulate the content of a political sign.

(c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place, and manner of posting a political sign.

(d) An association design provision may not establish design criteria for a political sign.

(5) (a) A rule may not prohibit a lot owner from displaying a for-sale sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place, and manner of posting a for-sale sign.

(6) (a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) Notwithstanding Subsection (6)(a), an association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(7) (a) A rule may not interfere with a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances.

(b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii) (A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible from outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection (7)(b) that affect the use of or behavior inside the dwelling.

(8) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) Notwithstanding Subsection [~~(7)(b)~~](8)(a), an association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection (8) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

(9) (a) Subject to Subsection (9)(b), a rule may not:

(i) prohibit the transfer of a lot; or

(ii) require the consent of the association or board to transfer a lot.

(b) Unless contrary to a declaration, a rule may require a minimum lease term.

(10) (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection (10)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (10)(a).

(11) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

(12) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

(13) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

(14) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(15) A rule may not prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit.

(16) (a) For any area for which one or more lot owners are responsible for landscape maintenance of any landscaping within the lot owner's lot or the common areas, the association shall adopt rules supporting water wise landscaping as defined in Section 57-8a-231 including:

(i) low water use requirements on lawns during drought conditions;

(ii) design criterion for water wise landscaping; and

(iii) limiting permissible plant material to specific water wise plant material.

(b) A rule may not:

(i) prohibit or restrict the conversion of a grass park strip to water wise landscaping as defined in Section 57-8a-231; or

(ii) prohibit low water use on lawns during drought conditions.

(17) (a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a residential lot from constructing an internal accessory dwelling unit, as defined in Section 10-9a-530 or 17-27a-526, within the owner's residential lot.

(b) Subsection (17)(a) does not apply if the construction would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(18) (a) Except as provided in Subsection (18)(b), a rule may not prohibit the owner of a residential lot from making modifications, consistent with industry standards, for radon mitigation.

(b) Subsection (18)(a) does not apply if the modifications would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(c) A rule governing the placement or external appearance of modifications for radon mitigation does not apply to a lot owner's modifications if the rule would:

(i) unreasonably interfere with the modifications' functionality; or

(ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.

(d) A rule may require that a lot owner making modifications related to radon mitigation:

(i) demonstrate or provide proof of radon contamination; and

(ii) provide proof that the modifications and any related construction will be performed by a licensed person.

(19) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection [~~77-27-21.7(3)~~]53-29-306(3).

(20) A rule shall be reasonable.

(21) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).

(22) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.

(23) This section applies to an association regardless of when the association is created.

Section 40. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection [~~77-41-110(4)~~]53-29-404(3)(a);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-

201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);

(cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3); and

(dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004;

(ee) a record relating to a request by a state elected official or state employee who has been threatened to the Division of Technology Services to remove personal identifying information from the open web under Section 63A-16-109; and

(ff) a record including confidential information as that term is defined in Section 67-27-105.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 41. Section 63G-7-301 is amended to read:

63G-7-301. Waivers of immunity.

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural

condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Section 63G-7-302, as to any action brought under the authority of Utah

Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;

(j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, a kidnap offender, or a child abuse offender as [~~defined~~]described in Section [~~77-41-102~~]53-29-202, required to register under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex offender, kidnap offender, or child abuse offender would have been revealed in a background check under Section 53G-11-402;

(k) as to any action brought under Section 78B-6-2303; and

(l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student Legal Representation.

(3) (a) As used in this Subsection (3):

(i) "Code of conduct" means a code of conduct that:

(A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the code of conduct to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

(4) (a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 42. Section 76-1-201 is amended to read:

76-1-201. Jurisdiction of offenses.

(1) A person is subject to prosecution in this state for an offense which the person commits, while either within or outside the state, by the person's own conduct or that of another for which the person is legally accountable, if:

(a) the offense is committed either wholly or partly within the state;

(b) the conduct outside the state constitutes an attempt to commit an offense within the state;

(c) the conduct outside the state constitutes a conspiracy to commit an offense within the state and an act in furtherance of the conspiracy occurs in the state; or

(d) the conduct within the state constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense under the laws of both this state and the other jurisdiction.

(2) An offense is committed partly within this state if either the conduct which is any element of the offense, or the result which is an element, occurs within this state.

(3) In homicide offenses, the "result" is either the physical contact which causes death or the death itself.

(a) If the body of a homicide victim is found within the state, the death shall be presumed to have occurred within the state.

(b) If jurisdiction is based on this presumption, this state retains jurisdiction unless the defendant proves by clear and convincing evidence that:

(i) the result of the homicide did not occur in this state; and

(ii) the defendant did not engage in any conduct in this state which is any element of the offense.

(4) [~~(a)~~] An offense which is based on an omission to perform a duty imposed by the law of this state is committed within the state regardless of the location of the offender at the time of the omission.

[~~(b) For the purpose of establishing venue for a violation of Subsection 77-41-105(3) concerning sex offender, kidnap offender, or child abuse registration, the offense is considered to be committed:~~]

[~~(i) at the most recent registered primary residence of the offender, if the actual location of the offender at the time of the violation is not known; or~~]

[~~(ii) at the location of the offender at the time the offender is apprehended.~~]

(5) (a) If no jurisdictional issue is raised, the pleadings are sufficient to establish jurisdiction.

(b) The defendant may challenge jurisdiction by filing a motion before trial stating which facts exist that deprive the state of jurisdiction.

(c) The burden is upon the state to initially establish jurisdiction over the offense by a preponderance of the evidence by showing under the provisions of Subsections (1) through (4) that the offense was committed either wholly or partly within the borders of the state.

(d) If after the prosecution has met its burden of proof under Subsection (5)(c) the defendant claims that the state is deprived of jurisdiction or may not exercise jurisdiction, the burden is upon the defendant to prove by a preponderance of the evidence:

(i) any facts claimed; and

(ii) why those facts deprive the state of jurisdiction.

(6) Facts that deprive the state of jurisdiction or prohibit the state from exercising jurisdiction include the fact that the:

(a) defendant is serving in a position that is entitled to diplomatic immunity from prosecution and that the defendant's country has not waived that diplomatic immunity;

(b) defendant is a member of the armed forces of another country and that the crime that he is alleged to have committed is one that due to an international agreement, such as a status of forces agreement between his country and the United States, cedes the exercise of jurisdiction over him for that offense to his country;

(c) defendant is an enrolled member of an Indian tribe, as defined in Section 9-9-101, and that the Indian tribe has a legal status with the United States or the state that vests jurisdiction in either tribal or federal courts for certain offenses committed within the exterior boundaries of a tribal reservation, and that the facts establish that the crime is one that vests jurisdiction in tribal or federal court; or

(d) offense occurred on land that is exclusively within federal jurisdiction.

(7) (a) The Legislature finds that identity fraud under Chapter 6, Part 11, Identity Fraud Act, involves the use of personal identifying

information which is uniquely personal to the consumer or business victim of that identity fraud and which information is considered to be in lawful possession of the consumer or business victim wherever the consumer or business victim currently resides or is found.

(b) For purposes of Subsection (1)(a), an offense which is based on a violation of Chapter 6, Part 11, Identity Fraud Act, is committed partly within this state, regardless of the location of the offender at the time of the offense, if the victim of the identity fraud resides or is found in this state.

(8) The judge shall determine jurisdiction.

Section 43. Section 76-1-202 is amended to read:

76-1-202. Venue of actions.

(1) Criminal actions shall be tried in the county, district, or precinct where the offense is alleged to have been committed. In determining the proper place of trial, the following provisions shall apply:

(a) If the commission of an offense commenced outside the state is consummated within this state, the offender shall be tried in the county where the offense is consummated.

(b) When conduct constituting elements of an offense or results that constitute elements, whether the conduct or result constituting elements is in itself unlawful, shall occur in two or more counties, trial of the offense may be held in any of the counties concerned.

(c) If a person committing an offense upon the person of another is located in one county and his victim is located in another county at the time of the commission of the offense, trial may be held in either county.

(d) If a cause of death is inflicted in one county and death ensues in another county, the offender may be tried in either county.

(e) A person who commits an inchoate offense may be tried in any county in which any act that is an element of the offense, including the agreement in conspiracy, is committed.

(f) Where a person in one county solicits, aids, abets, agrees, or attempts to aid another in the planning or commission of an offense in another county, he may be tried for the offense in either county.

(g) When an offense is committed within this state and it cannot be readily determined in which county or district the offense occurred, the following provisions shall be applicable:

(i) When an offense is committed upon any railroad car, vehicle, watercraft, or aircraft passing within this state, the offender may be tried in any county through which such railroad car, vehicle, watercraft, or aircraft has passed.

(ii) When an offense is committed on any body of water bordering on or within this state, the offender may be tried in any county adjacent to such body of water. The words "body of water" shall include but not be limited to any stream, river, lake, or reservoir, whether natural or man-made.

(iii) A person who commits theft may be tried in any county in which he exerts control over the property affected.

(iv) If an offense is committed on or near the boundary of two or more counties, trial of the offense may be held in any of such counties.

(v) For any other offense, trial may be held in the county in which the defendant resides, or, if he has no fixed residence, in the county in which he is apprehended or to which he is extradited.

(h) A person who commits an offense based on Chapter 6, Part 11, Identity Fraud Act, may be tried in the county:

(i) where the victim's personal identifying information was obtained;

(ii) where the defendant used or attempted to use the personally identifying information;

(iii) where the victim of the identity fraud resides or is found; or

(iv) if multiple offenses of identity fraud occur in multiple jurisdictions, in any county where the victim's identity was used or obtained, or where the victim resides or is found.

(i) For the purpose of establishing venue for a violation of [~~Subsection 77-41-105(3)~~]Section 53-29-304 concerning sex offender, kidnap offender, or child abuse offender registration, the offense is considered to be committed:

(i) at the most recent registered primary residence of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(2) All objections of improper place of trial are waived by a defendant unless made before trial.

Section 44. Section 76-3-402 is amended to read:

76-3-402. Conviction of lower degree of offense -- Procedure and limitations.

(1) As used in this section:

(a) "Lower degree of offense" includes an offense for which:

(i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

(ii) the court removes the statutory enhancement in accordance with this section.

(b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

(c) (i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

(ii) "Rehabilitation program" includes:

(A) a domestic violence treatment program, as that term is defined in Section 26B-2-101;

(B) a residential, vocational, and life skills program, as that term is defined in Section 13-53-102;

(C) a substance abuse treatment program, as that term is defined in Section 26B-2-101;

(D) a substance use disorder treatment program, as that term is defined in Section 26B-2-101;

(E) a youth program, as that term is defined in Section 26B-2-101;

(F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;

(G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or

(H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).

(d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.

(e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

(f) (i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.

(ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:

(A) the possession, use, or removal of explosive, chemical, or incendiary devices under Subsection 76-10-306(3), (5), or (6); or

(B) the purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

(3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:

(a) after the defendant is successfully discharged from probation or parole for the conviction; and

(b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;

(b) (i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or

(ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (4)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;

(b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (5)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;

(b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);

(c) there are no criminal proceedings pending against the defendant;

(d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(f) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):

(a) the court shall consider:

(i) the nature, circumstances, and severity of the offense for which a reduction is sought;

(ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and

(iii) any input from a victim of the offense; and

(b) the court may consider:

(i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;

(ii) the defendant's criminal history;

(iii) the defendant's employment and community service history;

(iv) whether the defendant participated in a rehabilitative program and successfully completed the program;

(v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;

(vi) whether the level of the offense has been reduced by law after the defendant's conviction;

(vii) any potential impact that the reduction would have on public safety; or

(viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.

(8) (a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) after:

(i) notice is provided to the other party;

(ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

(iii) a hearing is held if a hearing is requested by either party.

(b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).

(c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.

(d) If a defendant files a motion under this section, the prosecuting attorney shall respond to the motion within 35 days after the day on which the motion is filed with the court.

(9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.

(10) (a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) An offense may not be reduced under this section by more than two degrees.

(11) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with [~~Title 44, Chapter 40A, Expungement of Criminal Records~~]Title 77, Chapter 40a, Expungement of Criminal Records.

(12) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:

(a) the reduction is specifically precluded by law; or

(b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.

(13) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

(14) (a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender, kidnap offender, or child abuse offender under Section 53-29-202 until the registration requirements under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, have expired.

(b) An individual required to register as a sex offender, kidnap offender, or child abuse offender under Section 53-29-202 and required to register for the individual's lifetime [~~under Subsection 77-41-105(3)(c)~~]as described in Subsection 53-29-203(1)(b), may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender, kidnap offender, or child abuse offender.

Section 45. Section 76-5-401 is amended to read:

76-5-401. Unlawful sexual activity with a minor -- Penalties -- Evidence of age raised by defendant -- Limitations.

(1) (a) As used in this section, "minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor 18 years old or older commits unlawful sexual activity with a minor if the actor:

(i) has sexual intercourse with the minor;

(ii) engages in any sexual act with the minor involving the genitals of an individual and the mouth or anus of another individual; or

(iii) causes the penetration, however slight, of the genital or anal opening of the minor by a foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual.

(b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a)(ii).

(3) (a) A violation of Subsection (2) is a third degree felony.

(b) [~~(i)~~] Notwithstanding Subsection (3)(a) or (c), a violation of Subsection (2) is a class B misdemeanor if the defendant establishes by a preponderance of the evidence the mitigating factor that:

[~~(A)~~](i) the defendant is less than four years older than the minor at the time the sexual activity occurred; or

[~~(B)~~](ii) the defendant is 18 years old and enrolled in high school at the time the sexual activity occurred.

[~~(ii) An offense under Subsection (3)(b)(i) is not subject to registration under Subsection 77-41-102(19)(a)(vii).~~]

(c) [~~(i)~~] Notwithstanding Subsection (3)(a), if the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant was younger than 21 years old at the time the sexual activity occurred, the offense is a class A misdemeanor.

[~~(ii) An offense under Subsection (3)(c)(i) is not subject to registration under Subsection 77-41-102(19)(a)(vii).~~]

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape, in violation of Section 76-5-402;

(b) object rape, in violation of Section 76-5-402.2;

(c) forcible sodomy, in violation of Section 76-5-403;

(d) aggravated sexual assault, in violation of Section 76-5-405; or

(e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

Section 46. Section 76-5-401.1 is amended to read:

76-5-401.1. Sexual abuse of a minor.

(1) (a) As used in this section:

(i) "Indecent liberties" means:

(A) the actor touching another individual's genitals, anus, buttocks, pubic area, or female breast;

(B) causing any part of an individual's body to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;

(C) simulating or pretending to engage in sexual intercourse with another individual, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or

(D) causing an individual to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.

(ii) "Minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a minor if the actor:

(i) is four years or more older than the minor; and

(ii) with the intent to cause substantial emotional or bodily pain to any individual, or with the intent to arouse or gratify the sexual desire of any individual:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;

(B) touches the breast of a female minor; or

(C) otherwise takes indecent liberties with the minor.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2)(a) is [~~:~~]

[~~(a)~~] a class A misdemeanor [~~; and~~].

[~~(b) not subject to registration under Subsection 77-41-102(19)(a)(viii) on a first offense if the offender was younger than 21 years old at the time of the offense.~~]

(4) The offenses referred to in Subsection (2)(a) are:

(a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

(b) rape, in violation of Section 76-5-402;

(c) object rape, in violation of Section 76-5-402.2;

(d) forcible sodomy, in violation of Section 76-5-403;

(e) aggravated sexual assault, in violation of Section 76-5-405; or

(f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Section 47. Section 76-5-401.3 is amended to read:

76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.

(1) (a) As used in this section, "adolescent" means an individual who is 12 years old or older but younger than 18 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Under circumstances not amounting to an offense listed in Subsection (5), an actor commits unlawful sexual activity if:

(a) (i) the actor is 12 years old or older but younger than 18 years old;

(ii) the actor engages in sexual activity with an adolescent;

(iii) the actor is not the biological sibling of the adolescent; and

(iv) both the actor and the adolescent mutually agree to the sexual activity; or

(b) (i) the actor engages in sexual activity with an adolescent who is 13 years old;

(ii) the actor is 18 years old and enrolled in high school at the time that the sexual activity occurred;

(iii) the actor is not the biological sibling of the adolescent; and

(iv) both the actor and the adolescent mutually agree to the sexual activity.

(3) (a) A violation of Subsection (2)(a) is a:

(i) third degree felony if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(ii) third degree felony if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(iii) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(iv) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(v) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;

(vi) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(vii) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and

(viii) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.

(b) A violation of Subsection (2)(b) is a third degree felony.

(4) The actor and the adolescent do not mutually agree to the sexual activity under Subsection (2) if:

(a) the adolescent expresses lack of agreement to the sexual activity through words or conduct;

(b) the actor overcomes the adolescent's will through:

(i) threats to the adolescent or any other individual;

(ii) force;

(iii) coercion; or

(iv) enticement;

(c) the actor is able to overcome the adolescent through concealment or by the element of surprise;

(d) the actor knows, or reasonably should know, that the adolescent has a mental disease or defect, which renders the adolescent unable to:

(i) appraise the nature of the act;

(ii) resist the act;

(iii) understand the possible consequences to the adolescent's health or safety; or

(iv) appraise the nature of the relationship between the actor and the adolescent;

(e) the actor knows that the adolescent participates in the sexual activity because the adolescent erroneously believes that the actor is someone else; or

(f) the actor intentionally impaired the power of the adolescent to appraise or control the adolescent's conduct by administering any substance without the adolescent's knowledge.

(5) The offenses referred to in Subsection (2) are:

(a) rape under Section 76-5-402;

(b) object rape under Section 76-5-402.2;

(c) forcible sodomy under Section 76-5-403;

(d) aggravated sexual assault under Section 76-5-405;

(e) incest under Section 76-7-102; or

(f) an attempt to commit an offense listed in Subsections (5)(a) through (e).

(6) An offense under this section is not eligible for a nonjudicial adjustment under Section 80-6-303.5 or a referral to a youth court under Section 80-6-902.

(7) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

[~~(8) An offense under this section is not subject to registration under Subsection 77-41-102(19).~~]

Section 48. Section 76-9-702 is amended to read:

76-9-702. Lewdness.

(1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2, custodial sexual relations with youth receiving state services under Section 76-5-413, custodial sexual misconduct with youth receiving state services under Section 76-5-413.2, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another individual who is 14 years old or older:

(a) an act of sexual intercourse or sodomy;

(b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;

(c) masturbates; or

(d) any other act of lewdness.

(2) (a) A person convicted the first or second time of a violation of Subsection (1) is guilty of a class B misdemeanor, except under Subsection (2)(b).

(b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony if at the time of the violation:

(i) the person is a sex offender as defined in Section [~~77-27-21.7~~]57-8a-102;

(ii) the person has been previously convicted two or more times of violating Subsection (1);

(iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5;

(iv) the person commits the offense of lewdness while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness involving a child under Section 76-9-702.5;

(C) voyeurism under Section 76-9-702.7; or

(D) loitering in a privacy space under Section 76-9-702.8; or

(v) the person commits the offense of lewdness in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.

(c) (i) [~~For~~]As described in Subsection 53-29-202(4), for purposes of this Subsection (2) [~~and Subsection 77-41-102(19)~~], a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(3) (a) As used in this Subsection (3):

(i) "Common area of a privacy space" means any area of a privacy space other than:

(A) a toilet stall with a closed door;

(B) immediately in front of a urinal during use; or

(C) a shower stall with a closed door or other closed covering.

(ii) "Privacy space" means the same as that term is defined in Section 76-9-702.8.

(b) The common area of a privacy space constitutes a public place or circumstance described in Subsection (1) where an act or an attempted act described in Subsection (1) constitutes lewdness.

(c) Within the common area of a dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (1) that constitutes lewdness.

(4) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Section 49. Section 76-9-702.1 is amended to read:

76-9-702.1. Sexual battery.

(1) An actor is guilty of sexual battery if the actor, under circumstances not amounting to an offense under Subsection (2), intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another individual, or the breast of a female individual, and the actor's conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the individual touched.

(2) Offenses referred to in Subsection (1) are:

(a) rape under Section 76-5-402;

(b) rape of a child under Section 76-5-402.1;

(c) object rape under Section 76-5-402.2;

(d) object rape of a child under Section 76-5-402.3;

(e) forcible sodomy under Subsection 76-5-403(2);

(f) sodomy on a child under Section 76-5-403.1;

(g) forcible sexual abuse under Section 76-5-404;

(h) sexual abuse of a child under Section 76-5-404.1;

(i) aggravated sexual abuse of a child under Section 76-5-404.3;

(j) aggravated sexual assault under Section 76-5-405; and

(k) an attempt to commit an offense under this Subsection (2).

(3) Sexual battery is a class A misdemeanor.

[~~(4) (a) For purposes of Subsection 77-41-102(19)only, a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.~~]

[~~(b) This Subsection (4) also applies if the charge under this section has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.~~]

Section 50. Section 76-9-702.5 is amended to read:

76-9-702.5. Lewdness involving a child.

(1) As used in this section:

(a) "In the presence of" includes within visual contact through an electronic device.

(b) "Common area of a privacy space" means the same as that term is defined in Section 76-9-702.

(c) "Privacy space" means the same as that term is defined in Section 76-9-702.8.

(2) An actor commits lewdness involving a child if:

(a) the actor, under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses, intentionally or [~~knowinglydoes~~]knowingly does any of the following in the presence of a child who is under 14 years old:

(i) performs an act of sexual intercourse or sodomy;

(ii) exposes the actor's genitals, female breast below the top of the areola, buttocks, anus, or pubic area:

(A) in a public place; or

(B) in a private place under circumstances the actor should know will likely cause affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the child; or

(iii) masturbates;

(b) the actor is 18 years old or older and, under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses, intentionally or knowingly does any of the following in the presence of a child who is under 14 years old with the intent to cause affront or alarm to the child or with the intent to arouse or gratify the sexual desire of the actor or the child:

(i) simulates masturbation;

(ii) performs an act of simulated intercourse or sodomy;

(iii) displays the actor's male genitals or prosthetic male genitals in a discernibly turgid state, even if completely and opaquely covered;

(iv) engages in erotic touching of the actor's nude breast, regardless of the actor's sex or how the breast was developed or created; or

(v) involves a child in an act that would lead a reasonable person to conclude that the child is engaging in an act of:

(A) simulated intercourse or sodomy; or

(B) simulated masturbation;

(c) the actor, under circumstances not amounting to sexual exploitation of a child under Section 76-5b-201 or aggravated sexual exploitation of a child under Section 76-5b-201.1, intentionally or knowingly causes a child under 14 years old to expose the child's genitals, anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child; or

(d) the actor performs any other act of lewdness.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if at the time of the violation, the actor:

(i) is a sex offender [~~as defined in Section 77-27-21.7~~]as described in Subsection 53-29-202(2)(b) and the offense that the actor committed that resulted in the actor being a sex offender was committed against an individual younger than 18 years old;

(ii) previously has been convicted of a violation of this section;

(iii) commits the violation of Subsection (2) while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness under Section 76-9-702;

(C) voyeurism under Section 76-9-702.7; or

(D) loitering in a privacy space under Section 76-9-702.8; or

(iv) commits the violation of Subsection (2) in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.

(4) (a) The common area of a privacy space constitutes a public place or circumstance described in Subsection (2) where an act or an attempted act described in Subsection (2) constitutes lewdness involving a child.

(b) Within the common area of a government entity's dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (2) that constitutes lewdness involving a child.

Section 51. Section 77-2-2.3 is amended to read:

77-2-2.3. Reducing the level of an offense.

(1) Notwithstanding any other provision of law, a prosecuting attorney may:

(a) present and file an information charging an individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one degree lower than the classification that is provided in statute if the prosecuting attorney believes that the sentence would be disproportionate to the offense because there are special circumstances relating to the offense; or

(b) subject to the approval of the court, amend an information, as part of a plea agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one degree lower than the classification that is provided in statute.

(2) A court may:

(a) enter a judgment of conviction for an offense filed under Subsection (1) at one degree lower than classified in statute; and

(b) impose a sentence for the offense filed under Subsection (1) at one degree lower than classified in statute.

(3) A conviction of an offense at one degree lower than classified in statute under Subsection (2) does not affect the requirements for registration of the offense under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, if the elements of the offense for which the defendant is convicted are the same as the elements of [~~an~~]a registrable offense described in Section [~~77-41-102~~]53-29-202.

(4) This section does not preclude an individual from obtaining and being granted an expungement for the individual's record in accordance with Title 77, Chapter 40a, Expungement of Criminal Records.

Section 52. Section 77-11c-101 is amended to read:

77-11c-101. Definitions.

As used in this chapter:

(1) "Acquitted" means the same as that term is defined in Section 77-11b-101.

(2) "Adjudicated" means that:

(a) (i) a judgment of conviction by plea or verdict of an offense has been entered by a court; and

(ii) a sentence has been imposed by the court; or

(b) a judgment has been entered for an adjudication of an offense by a juvenile court under Section 80-6-701.

(3) "Adjudication" means:

(a) a judgment of conviction by plea or verdict of an offense; or

(b) an adjudication for an offense by a juvenile court under Section 80-6-701.

(4) "Agency" means the same as that term is defined in Section 77-11a-101.

(5) "Appellate court" means the Utah Court of Appeals, the Utah Supreme Court, or the United States Supreme Court.

(6) (a) "Biological evidence" means an item that contains blood, semen, hair, saliva, epithelial cells, latent fingerprint evidence that may contain biological material suitable for DNA testing, or other identifiable human biological material that:

(i) is collected as part of an investigation or prosecution of a violent felony offense; and

(ii) may reasonably be used to incriminate or exculpate a person for the violent felony offense.

(b) "Biological evidence" includes:

(i) material that is catalogued separately, including:

(A) on a slide or swab; or

(B) inside a test tube, if the evidentiary sample that previously was inside the test tube has been consumed by testing;

(ii) material that is present on other evidence, including clothing, a ligature, bedding, a drinking cup, a cigarette, or a weapon, from which a DNA profile may be obtained;

(iii) the contents of a sexual assault kit; and

(iv) for a violent felony offense, material described in this Subsection (6) that is in the custody of an evidence collecting or retaining

entity on May 4, 2022.

(7) "Claimant" means the same as that term is defined in Section 77-11a-101.

(8) "Computer" means the same as that term is defined in Section 77-11a-101.

(9) "Continuous chain of custody" means:

(a) for a law enforcement agency or a court, that legal standards regarding a continuous chain of custody are maintained; and

(b) for an entity that is not a law enforcement agency or a court, that the entity maintains a record in accordance with legal standards required of the entity.

(10) "Contraband" means the same as that term is defined in Section 77-11a-101.

(11) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(12) "Court" means a municipal, county, or state court.

(13) "DNA" means deoxyribonucleic acid.

(14) "DNA profile" means a unique identifier of an individual derived from DNA.

(15) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(16) "Evidence" means property, contraband, or an item or substance that:

(a) is seized or collected as part of an investigation or prosecution of an offense; and

(b) may reasonably be used to incriminate or exculpate an individual for an offense.

(17) (a) "Evidence collecting or retaining entity" means an entity within the state that collects, stores, or retrieves biological evidence.

(b) "Evidence collecting or retaining entity" includes:

(i) a medical or forensic entity;

(ii) a law enforcement agency;

(iii) a court; and

(iv) an official, employee, or agent of an entity or agency described in this Subsection (17).

(v) "Evidence collecting or retaining entity" does not include a collecting facility defined in Section 53-10-902.

(18) "Exhibit" means property, contraband, or an item or substance that is admitted into evidence for a court proceeding.

(19) "In custody" means an individual who:

(a) is incarcerated, civilly committed, on parole, or on probation; or

(b) is required to register under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry.

(20) "Law enforcement agency" means the same as that term is defined in Section 77-11a-101.

(21) "Medical or forensic entity" means a private or public hospital, medical facility, or other entity that secures biological evidence or conducts forensic examinations related to criminal investigations.

(22) "Physical evidence" includes evidence that:

(a) is related to:

(i) an investigation;

(ii) an arrest; or

(iii) a prosecution that resulted in a judgment of conviction; and

(b) is in the actual or constructive possession of a law enforcement agency or a court or an agent of a law enforcement agency or a court.

(23) "Property" means the same as that term is defined in Section 77-11a-101.

(24) "Prosecuting attorney" means the same as that term is defined in Section 77-11a-101.

(25) "Sexual assault kit" means the same as that term is defined in Section 53-10-902.

(26) "Victim" means the same as that term is defined in Section 53-10-902.

(27) "Violent felony offense" means the same as the term "violent felony" is defined in Section 76-3-203.5.

(28) "Wildlife" means the same as that term is defined in Section 23A-1-101.

Section 53. Section 77-27-5.2 is amended to read:

77-27-5.2. Board authority to order removal from Sex, Kidnap, and Child Abuse Offender Registry.

(1) If the board grants a pardon for a conviction described in Section 53-29-202 that is the basis for an individual's registration on the Sex, Kidnap, and Child Abuse Offender Registry, the board shall issue an order directing the Department of Public Safety to remove the individual's name and personal information relating to the pardoned conviction from the Sex, Kidnap, and Child Abuse Offender Registry.

(2) An order described in Subsection (1), issued by the board, satisfies the notification requirement described in Subsection [~~77-41-113(1)(b)~~]53-29-405(1)(b).

Section 54. Section 77-38-605 is amended to read:

77-38-605. Administration -- Application.

(1) The commission shall provide an application form to an applicant who seeks to participate in the program under this part.

(2) The commission may not charge an applicant or program participant for an application or participation fee to apply for, or participate in, the program.

(3) The application shall include:

(a) the applicant's name;

(b) a mailing address, a phone number, and an email address where the applicant may be contacted by the commission;

(c) an indication regarding whether the assailant is employed by a state or local government entity, and if applicable, the name of the state or local government entity;

(d) a statement that the applicant understands and consents to:

(i) remain enrolled in the program for four years, unless the applicant's participation in the program is cancelled under Section 77-38-617;

(ii) while the applicant is enrolled in the program, notify the commission when the applicant changes the applicant's actual address or legal name;

(iii) develop a safety plan with a program assistant;

(iv) authorize the commission to notify a state or local government entity that the applicant is a program participant;

(v) submit written notice to the commission if the applicant chooses to cancel the applicant's participation in the program;

(vi) register to vote in person at the office of the clerk in the county where the applicant's actual address is located; and

(vii) certify that the commission is the applicant's designated agent for service of process for personal service;

(e) evidence that the applicant, or a minor or an incapacitated individual residing with the applicant, is a victim, including:

(i) a law enforcement, court, or other state, local, or federal government agency record; or

(ii) a document from:

(A) a domestic violence program, facility, or shelter;

(B) a sexual assault program; or

(C) a religious, medical, or other professional from whom the applicant, or the minor or the incapacitated individual residing with the applicant, sought assistance in dealing with alleged abuse, domestic violence, stalking, or a sexual offense;

(f) a statement from the applicant that a disclosure of the applicant's actual address would endanger the applicant, or a minor or an incapacitated individual residing with the applicant;

(g) a statement by the applicant that the applicant:

(i) resides at a residential address that is not known by the assailant;

(ii) has relocated to a different residential address in the past 90 days that is not known by the assailant; or

(iii) will relocate to a different residential address in the state within 90 days that is not known by the assailant;

(h) the actual address that:

(i) the applicant requests that the commission not disclose; and

(ii) is at risk of discovery by the assailant or potential assailant;

(i) a statement by the applicant disclosing:

(i) the existence of a court order or action involving the applicant, or a minor or an incapacitated individual residing with the applicant, related to a divorce proceeding, a child support order or judgment, or the allocation of custody or parent-time; and

(ii) the court that issued the order or has jurisdiction over the action;

(j) the name of any other individual who resides with the applicant who needs to be a program participant to ensure the safety of the applicant, or a minor or an incapacitated individual residing with the applicant;

(k) a statement by the applicant that:

(i) the applicant, or a minor or an incapacitated individual residing at the same address as the applicant, will benefit from participation in the program;

(ii) if the applicant intends to vote, the applicant will register to vote at the office of the clerk in the county in which the applicant actually resides; and

(iii) the applicant does not have a current obligation to register as a sex offender, kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry;

(l) a statement by the applicant, under penalty of perjury, that the information contained in the application is true;

(m) a statement that:

(i) if the applicant intends to use the assigned address for any correspondence with the State Tax Commission, the applicant must provide the State Tax Commission with the applicant's social security number, federal employee identification number, and any other identification number related to a tax, fee, charge, or license administered by the State Tax Commission; and

(ii) if the applicant intends to use the assigned address for correspondence to a state or local government entity for the purpose of titling or registering a motor vehicle or a watercraft that is owned or leased by the applicant, the applicant shall provide to the state or local government entity for each motor vehicle or watercraft:

(A) the motor vehicle or hull identification number;

(B) the license plate or registration number for the motor vehicle or the watercraft; and

(C) the physical address where each motor vehicle or watercraft is stored; and

(n) a statement that any assistance or counseling provided by a program assistant as part of the program does not constitute legal advice or legal services to the applicant.

Section 55. Section 77-40a-303 is amended to read:

77-40a-303. Requirements for a certificate of eligibility to expunge records of a conviction.

(1) Except as otherwise provided by this section, a petitioner is eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction if:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

(b) the petitioner has paid in full all restitution ordered by the court under Section 77-38b-205; and

(c) the following time periods have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for the conviction that the petitioner seeks to expunge:

(i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);

(ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021,

Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(iii) seven years for the conviction of a felony;

(iv) five years for the conviction of a drug possession offense that is a felony;

(v) five years for the conviction of a class A misdemeanor;

(vi) four years for the conviction of a class B misdemeanor; or

(vii) three years for the conviction of a class C misdemeanor or infraction.

(2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction under Subsection (1) if:

(a) except as provided in Subsection (3), the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) a felony conviction described in Subsection 41-6a-501(2);

(v) an offense, or a combination of offenses, that would [~~require the individual to register as a sex offender, as defined in Section 77-41-102~~]result in the individual being a sex offender under Subsection 53-29-202(2)(b); or

(vi) [~~a registerable child abuse offense as defined in Subsection 77-41-102(1);~~]an offense, or a combination of offenses, that would result in the individual being a child abuse offender under Subsection 53-29-202(2)(a);

(b) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner, unless the criminal proceeding is for a traffic offense;

(c) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner, unless the plea in abeyance is for a traffic offense;

(d) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense;

(e) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility;

(f) there is a criminal protective order or a criminal stalking injunction in effect for the case; or

(g) the bureau determines that the petitioner's criminal history makes the petitioner ineligible for a certificate of eligibility under Subsection (4) or (5).

(3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by a district court as an adult in accordance with [~~Title 80, Chapter 6, Part 5, Transfer to District Court~~]Title 80, Chapter 6, Part 5, Minor Tried as an Adult.

(4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

(5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(6) If the petitioner's criminal history contains convictions for both a drug possession offense and a non-drug possession offense arising from the same criminal episode, the bureau shall count that criminal episode as a conviction under Subsection (4) if any non-drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (1)(c) than any drug possession offense in that episode.

(7) Except as provided in Subsection (8), if at least 10 years have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions:

(a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by one; and

(b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if the highest level of convicted offense in the criminal episode is:

(i) a class B misdemeanor;

(ii) a class C misdemeanor;

(iii) a drug possession offense if none of the non-drug possession offenses in the criminal episode are a felony or a class A misdemeanor; or

(iv) an infraction.

(8) When determining whether a petitioner is eligible for a certificate of eligibility under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or prior conviction for:

(a) an infraction;

(b) a traffic offense;

(c) a minor regulatory offense; or

(d) a clean slate eligible case that was automatically expunged.

(9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes in accordance with Section 77-27-5.1.

Section 56. Section 77-40a-403 is amended to read:

77-40a-403. Release and use of expunged records -- Agencies.

(1) (a) An agency with an expunged record, or any employee of an agency with an expunged record, may not knowingly or intentionally divulge any information contained in the expunged record to any person, or another agency, without a court order unless:

(i) specifically authorized by Subsection (4) or Section 77-40a-404; or

(ii) subject to Subsection (1)(b), the information in an expunged record is being shared with another agency through a records management system that both agencies use for the purpose of record management.

(b) An agency with a records management system may not disclose any information in an expunged record to another agency or person, or allow another agency or person access to an expunged record, if that agency or person does not use the records management system for the purpose of record management.

(2) The following entities or agencies may receive information contained in expunged records upon specific request:

(a) the Board of Pardons and Parole;

(b) Peace Officer Standards and Training;

(c) federal authorities if required by federal law;

(d) the State Board of Education;

(e) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office; and

(f) a research institution or an agency engaged in research regarding the criminal justice system if:

(i) the research institution or agency provides a legitimate research purpose for gathering information from the expunged records;

(ii) the research institution or agency enters into a data sharing agreement with the court or agency with custody of the expunged records that protects the confidentiality of any identifying information in the expunged records;

(iii) any research using expunged records does not include any individual's name or identifying information in any product of that research; and

(iv) any product resulting from research using expunged records includes a disclosure that expunged records were used for research purposes.

(3) Except as otherwise provided by this section or by court order, a person, an agency, or an entity authorized by this section to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the specific request, including distribution on a public website.

(4) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance agreement, for:

(a) stalking as described in Section 76-5-106.5;

(b) a domestic violence offense as defined in Section 77-36-1;

(c) an offense that would [~~require the individual to register as a sex offender, kidnap offender, or child abuse offender as defined in Section 77-41-102~~]result in the individual being a child abuse offender, a sex offender, or a kidnap offender under Section 53-29-202; or

(d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.

(5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction.

(6) The bureau may also use the information in the bureau's index as provided in Section 53-5-704.

(7) If an individual is charged with a felony, or an offense eligible for enhancement based on a prior conviction, after obtaining an order of expungement, the prosecuting attorney may petition the court in which the individual is charged to open the expunged records upon a showing of good cause.

(8) (a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

(b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

(c) At the end of the action or proceeding, the court shall order the records expunged again.

(d) Any person authorized by this Subsection (8) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

(9) Records released under this chapter are classified as protected under Section 63G-2-305and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

Section 57. Section 78A-2-301 is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is $375.

(b) The fee for filing a complaint or petition is:

(i) $90 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $200 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $375 if the claim for damages or amount in interpleader is $10,000 or more;

(iv) except as provided in Subsection (1)(b)(v), $325 if the petition is filed for an action described in Title 81, Chapter 4, Dissolution of Marriage;

(v) $35 for a petition for temporary separation described in Section 81-4-104;

(vi) $125 if the petition is for removal from the [~~The~~]Sex, Kidnap, and Child Abuse Offender Registry under Section [~~77-41-112~~]53-29-204, 53-29-205, or 53-29-206; and

(vii) $35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.

(c) The fee for filing a small claims affidavit is:

(i) $60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) $55 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $165 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $170 if the original petition is filed under Subsection (1)(a), the claim for relief is $10,000 or more, or the party seeks relief other than monetary damages; and

(iv) $130 if the original petition is filed for an action described in Title 81, Chapter 4, Dissolution of Marriage.

(e) The fee for filing a small claims counter affidavit is:

(i) $50 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $120 if the claim for relief exclusive of court costs, interest, and attorney fees is $7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) $240 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) $80 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is $240.

(i) The fee for filing a petition for expungement is $150.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited into the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Five dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is $35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is $35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the State Tax Commission is $30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the State Tax Commission, is $50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is $35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is $35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is $100.

(r) The fee for filing any accounting required by law is:

(i) $15 for an estate valued at $50,000 or less;

(ii) $30 for an estate valued at $75,000 or less but more than $50,000;

(iii) $50 for an estate valued at $112,000 or less but more than $75,000;

(iv) $90 for an estate valued at $168,000 or less but more than $112,000; and

(v) $175 for an estate valued at more than $168,000.

(s) The fee for filing a demand for a civil jury is $250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is $35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is $35.

(v) The fee for a petition to open a sealed record is $35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is $50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 81-2-304 is $5.

(ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7, Emancipation, is $50.

(y) The fee for a certificate issued under Section 26B-8-128 is $8.

(z) The fee for a certified copy of a document is $4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is $6 per document plus 50 cents per page.

(bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of expenditures.

(cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of the public to conduct a limited amount of searches on the Xchange database without having to pay a monthly subscription fee.

(dd) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(ee) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ff) The filing fees under this section may not be charged to the state, the state's agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to $3,750,000 of the revenue deposited into the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited into the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the state court administrator shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the state court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the state court administrator shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the state court administrator or a municipality shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the state court administrator for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

Section 58. Section 78B-8-302 is amended to read:

78B-8-302. Process servers.

(1) A complaint, a summons, or a subpoena may be served by an individual who is:

(a) 18 years old or older at the time of service; and

(b) not a party to the action or a party's attorney.

(2) Except as provided in Subsection (5), the following may serve all process issued by the courts of this state:

(a) a peace officer employed by a political subdivision of the state acting within the scope and jurisdiction of the peace officer's employment;

(b) a sheriff or appointed deputy sheriff employed by a county of the state;

(c) a constable, or the constable's deputy, serving in compliance with applicable law;

(d) an investigator employed by the state and authorized by law to serve civil process; or

(e) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act.

(3) A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.

(4) While serving process, a private investigator shall:

(a) have on the investigator's body a visible form of credentials and identification identifying:

(i) the investigator's name;

(ii) that the investigator is a licensed private investigator; and

(iii) the name and address of the agency employing the investigator or, if the investigator is self-employed, the address of the investigator's place of business;

(b) verbally communicate to the person being served that the investigator is acting as a process server; and

(c) print on the first page of each document served:

(i) the investigator's name and identification number as a private investigator; and

(ii) the address and phone number for the investigator's place of business.

(5) The following may only serve process under this section when the use of force is authorized on the face of the document, or when a breach of the peace is imminent or likely under the totality of the circumstances:

(a) a law enforcement officer, as defined in Section 53-13-103; or

(b) a special function officer, as defined in Section 53-13-105, who is:

(i) employed as an appointed deputy sheriff by a county of the state; or

(ii) a constable.

(6) The following may not serve process issued by a court:

(a) an individual convicted of a felony violation of an offense [~~listed in Subsection 77-41-102(19)~~]that would result in the individual being a sex offender under Subsection 53-29-202(2)(b); or

(b) an individual who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, in which a court has granted the petitioner a protective order.

(7) An individual serving process shall:

(a) legibly document the date and time of service on the front page of the document being served;

(b) legibly print the process server's name, address, and telephone number on the return of service;

(c) sign the return of service in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act;

(d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and

(e) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

Section 59. Section 80-3-406 is amended to read:

80-3-406. Permanency plan -- Reunification services.

(1) If the juvenile court orders continued removal at the dispositional hearing under Section 80-3-402, and that the minor remain in the custody of the division, the juvenile court shall first:

(a) establish a primary permanency plan and a concurrent permanency plan for the minor in accordance with this section; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family under Subsections (5) through (8).

(2) (a) The concurrent permanency plan shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the juvenile court shall consider:

(i) the preference for kinship placement over nonkinship placement, including the rebuttable presumption described in Subsection 80-3-302(7)(a);

(ii) the potential for a guardianship placement if parental rights are terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(3) (a) The juvenile court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 80-3-409.

(b) The juvenile court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the juvenile court determines that reunification is no longer a minor's primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 on or before the earlier of:

(i) 30 days after the day on which the juvenile court makes the determination described in this Subsection (3)(c); or

(ii) the day on which the provision of reunification services, described in Section 80-3-409, ends.

(4) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The juvenile court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(5) There is a presumption that reunification services should not be provided to a parent if the juvenile court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based on a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such magnitude that the mental illness renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the child:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a minor; or

(B) child abuse homicide;

(iii) committed sexual abuse against the minor;

(iv) is [~~a registered sex offender or required to register as a sex offender~~]a sex offender under Subsection 53-29-202(2)(b); or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor;

(e) the minor suffered severe abuse by the parent or by any individual known by the parent if the parent knew or reasonably should have known that the individual was abusing the minor;

(f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent, and the juvenile court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the minor to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the minor's mother while the minor was in utero, if the minor was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) any other circumstance that the juvenile court determines should preclude reunification efforts or services.

(6) (a) The juvenile court shall base the finding under Subsection (5)(b) on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.

(b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (5)(k) is not warranted.

(7) In determining whether reunification services are appropriate, the juvenile court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the minor or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification services, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(9) (a) Subject to Subsections (9)(b) through (e), if the juvenile court determines that reunification services are appropriate for the minor and the minor's family, the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(b) Parent-time is in the best interests of a minor unless the juvenile court makes a finding that it is necessary to deny parent-time in order to:

(i) protect the physical safety of the minor;

(ii) protect the life of the minor; or

(iii) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based solely on a parent's failure to:

(i) prove that the parent has not used legal or illegal substances; or

(ii) comply with an aspect of the child and family plan that is ordered by the juvenile court.

(d) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(e) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (9)(e)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (9)(e)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(10) (a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (10)(a), the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved:

(a) the juvenile court does not have any duty to order reunification services; and

(b) the division does not have a duty to make reasonable efforts to or in any other way attempt to provide reunification services or attempt to rehabilitate the offending parent or parents.

(12) (a) The juvenile court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute reasonable efforts on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 80-3-307(5)(g)(iii); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program, the juvenile court may order the parent:

(i) to submit to supplementary drug or alcohol testing, in accordance with Subsection 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) to provide the results of drug or alcohol testing recommended by the substance use disorder program to the juvenile court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the day on which the minor was initially removed from the minor's home, unless the time period is extended under Subsection 80-3-409(7).

(b) This section does not entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the juvenile court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established under Section 80-3-409, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the final permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (10) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 before the day on which the time period for reunification services expires.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the day on which reunification services are ordered:

(a) the juvenile court shall terminate reunification services; and

(b) the division shall petition the juvenile court for termination of parental rights.

(18) When a minor is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation, subject to the division obtaining consent from the sibling's guardian, according to the juvenile court's determination of the best interests of the minor for whom the hearing is held.

(19) (a) If reunification services are not ordered under this section, and the whereabouts of a parent becomes known within six months after the day on which the out-of-home placement of the minor is made, the juvenile court may order the division to provide reunification services.

(b) The time limits described in this section are not tolled by the parent's absence.

(20) (a) If a parent is incarcerated or institutionalized, the juvenile court shall order reasonable services unless the juvenile court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (20)(a), the juvenile court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in this section.

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in this section, unless the juvenile court determines that continued reunification services would be in the minor's best interest.

Section 60. Section 80-5-201 is amended to read:

80-5-201. Division responsibilities.

(1) The division is responsible for all minors committed to the division by juvenile courts under Sections 80-6-703 and 80-6-705.

(2) The division shall:

(a) establish and administer a continuum of community, secure, and nonsecure programs for all minors committed to the division;

(b) establish and maintain all detention and secure care facilities and set minimum standards for all detention and secure care facilities;

(c) establish and operate prevention and early intervention youth services programs for nonadjudicated minors placed with the division;

(d) establish observation and assessment programs necessary to serve minors in a nonresidential setting under Subsection 80-6-706(1);

(e) place minors committed to the division under Section 80-6-703 in the most appropriate program for supervision and treatment;

(f) employ staff necessary to:

(i) supervise and control minors committed to the division for secure care or placement in the community;

(ii) supervise and coordinate treatment of minors committed to the division for placement in community-based programs; and

(iii) control and supervise adjudicated and nonadjudicated minors placed with the division for temporary services in juvenile receiving centers, youth services, and other programs established by the division;

(g) control or detain a minor committed to the division, or in the temporary custody of the division, in a manner that is consistent with public safety and rules made by the division;

(h) establish and operate work programs for minors committed to the division by the juvenile court that:

(i) are not residential;

(ii) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;

(iii) provide educational and prevocational programs in cooperation with the State Board of Education for minors placed in the program; and

(iv) provide counseling to minors;

(i) establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities that provide services to minors who have committed an offense in this state or in any other state;

(j) provide regular training for secure care staff, detention staff, case management staff, and staff of the community-based programs;

(k) designate employees to obtain the saliva DNA specimens required under Section 53-10-403;

(l) ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol;

(m) register an individual with the Department of Public Safety who:

(i) is adjudicated for an offense [~~listed in Subsection 77-41-102(1) or 77-41-102(19)~~]that would result in the individual being a child abuse offender under Subsection 53-29-202(2)(a) or a sex offender under Subsection 53-29-202(2)(b);

(ii) is committed to the division for secure care; and

(iii) (A) if the individual is a youth offender, remains in the division's custody 30 days before the individual's 21st birthday; or

(B) if the individual is a serious youth offender, remains in the division's custody 30 days before the individual's 25th birthday; and

(n) ensure that a program delivered to a minor under this section is an evidence-based program in accordance with Section 63M-7-208.

(3) (a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to:

(i) locate and apprehend minors who have absconded from division custody;

(ii) transport minors taken into custody in accordance with division policy;

(iii) investigate cases; and

(iv) carry out other duties as assigned by the division.

(b) A special function officer may be:

(i) employed through a contract with the Department of Public Safety, or any law enforcement agency certified by the Peace Officer Standards and Training Division; or

(ii) directly hired by the division.

(4) In the event of an unauthorized leave from secure care, detention, a community-based program, a juvenile receiving center, a home, or any other designated placement of a minor, a division employee has the authority and duty to locate and apprehend the minor, or to initiate action with a local law enforcement agency for assistance.

(5) The division may proceed with an initial medical screening or assessment of a child admitted to a detention facility to ensure the safety of the child and others in the detention facility if the division makes a good faith effort to obtain consent for the screening or assessment from the child's parent or guardian.

Section 61. Section 80-8-101 is amended to read:

80-8-101. Definitions.

As used in this chapter:

(1) "Child" means an individual under 18 years old.

(2) "Registered sex offender check" means a search of:

(a) the [~~state's Sex and Kidnap Offender Registry~~]registry described in [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry; and

(b) the National Sex Offender Public Website administered by the United States Department of Justice.

(3) "Sexual abuse" means the same as that term is defined in Section 78B-2-308.

(4) (a) "Youth services organization" means a sports league, athletic association, church or religious organization, scouting organization, or similar formally organized association, league, or organization, that provides recreational, educational, cultural, or social programs or activities to 25 or more children.

(b) "Youth services organization" does not include any person that is required to conduct a background check on employees or volunteers under any other provision of state or federal law.

(5) "Youth worker" means an individual:

(a) who is 18 years old or older;

(b) who is employed by or volunteers with a youth services organization; and

(c) whose responsibilities as an employee or volunteer with the youth services organization give the individual regular and repeated care, supervision, guidance, or control of a child or children.

Section 62. Section 80-8-201 is amended to read:

80-8-201. Youth protection requirements.

(1) A youth service organization may not employ a youth worker or allow an individual to volunteer as a youth worker unless the youth service organization has completed a registered sex offender check for the individual.

(2) A youth services organization shall require a potential youth worker to provide the individual's full name and a current, government-issued identification to facilitate the registered sex offender check required by Subsection (1).

(3) If an individual is registered on the [~~state's Sex and Kidnap Offender Registry~~]registry described in Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or the National Sex Offender Public Website, a youth service organization may not employ the individual as a youth worker or allow the individual to volunteer as a youth worker.

Section 63. Section 81-9-202 is amended to read:

81-9-202. Advisory guidelines for a custody and parent-time arrangement.

(1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304, the following advisory guidelines are suggested to govern a custody and parent-time arrangement between parents.

(2) A parent-time schedule mutually agreed upon by both parents is preferable to a court-imposed solution.

(3) A parent-time schedule shall be used to maximize the continuity and stability of the minor child's life.

(4) Each parent shall give special consideration to make the minor child available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the minor child or in the life of either parent which may inadvertently conflict with the parent-time schedule.

(5) (a) The court shall determine the responsibility for the pick up, delivery, and return of the minor child when the parent-time order is entered.

(b) The court may change the responsibility described in Subsection (5)(a) at any time a subsequent modification is made to the parent-time order.

(c) If the noncustodial parent will be providing transportation, the custodial parent shall:

(i) have the minor child ready for parent-time at the time the minor child is to be picked up; and

(ii) be present at the custodial home or make reasonable alternate arrangements to receive the minor child at the time the minor child is returned.

(d) If the custodial parent will be transporting the minor child, the noncustodial parent shall:

(i) be at the appointed place at the time the noncustodial parent is to receive the minor child; and

(ii) have the minor child ready to be picked up at the appointed time and place or have made reasonable alternate arrangements for the custodial parent to pick up the minor child.

(6) A parent may not interrupt regular school hours for a school-age minor child for the exercise of parent-time.

(7) The court may:

(a) make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents; and

(b) increase the parent-time allowed to the noncustodial parent but may not diminish the standardized parent-time provided in Sections 81-9-302 and 81-9-304.

(8) The court may make alterations in the parent-time schedule to reasonably accommodate the distance between the parties and the expense of exercising parent-time.

(9) A parent may not withhold parent-time or child support due to the other parent's failure to comply with a court-ordered parent-time schedule.

(10) (a) The custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school, social, sports, and community functions in which the minor child is participating or being honored.

(b) The noncustodial parent is entitled to attend and participate fully in the functions described in Subsection (10)(a).

(c) The noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records.

(d) A parent shall immediately notify the other parent in the event of a medical emergency.

(11) Each parent shall provide the other with the parent's current address and telephone number, email address, and other virtual parent-time access information within 24 hours of any change.

(12) (a) Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the minor child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available.

(b) If the parents cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably [~~availableby~~]available by taking into consideration:

(i) the best interests of the minor child;

(ii) each parent's ability to handle any additional expenses for virtual parent-time; and

(iii) any other factors the court considers material.

(13) (a) Parental care is presumed to be better care for the minor child than surrogate care.

(b) The court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able to transport the minor child, to provide the child care.

(c) Child care arrangements existing during the marriage are preferred as are child care arrangements with nominal or no charge.

(14) Each parent shall:

(a) provide all surrogate care providers with the name, current address, and telephone number of the other parent; and

(b) provide the noncustodial parent with the name, current address, and telephone number of all surrogate care providers unless the court for good cause orders otherwise.

(15) (a) Each parent is entitled to an equal division of major religious holidays celebrated by the parents.

(b) The parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the minor child on the religious holiday.

(16) If the minor child is on a different parent-time schedule than a sibling, based on Sections 81-9-302 and 81-9-304, the parents should consider if an upward deviation for parent-time with all the minor children so that parent-time is uniform between school aged and nonschool aged children, is appropriate.

(17) (a) When one or both parents are servicemembers or contemplating joining a uniformed service, the parents should resolve issues of custodial responsibility in the event of deployment as soon as practicable through reaching a voluntary agreement pursuant to Section 78B-20-201 or through court order obtained pursuant to this part.

(b) Service members shall ensure their family care plan reflects orders and agreements entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act.

(18) A parent shall immediately notify the other parent if:

(a) the parent resides with an individual or provides an individual with access to the minor child; and

(b) the parent knows that the individual:

(i) is required to register as a sex offender [~~or~~], a kidnap offender, or a child abuse offender for an offense committed against a minor child under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry; or

[~~(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or~~]

[~~(iii)~~](ii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses;

(C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections [~~(18)(b)(iii)(A)~~](18)(b)(ii)(A) through (D).

(19) (a) For emergency purposes, whenever the minor child travels with a parent, the parent shall provide the following information to the other parent:

(i) an itinerary of travel dates;

(ii) destinations;

(iii) places where the minor child or traveling parent can be reached; and

(iv) the name and telephone number of an available third person who would be knowledgeable of the minor child's location.

(b) Unchaperoned travel of a minor child under the age of five years is not recommended.

Section 64. Section 81-9-208 is amended to read:

81-9-208. Modification or termination of a custody or parent-time order -- Noncompliance with a parent-time order.

(1) The court has continuing jurisdiction to make subsequent changes to modify:

(a) custody of a minor child if there is a showing of a substantial and material change in circumstances since the entry of the order; and

(b) parent-time for a minor child if there is a showing that there is a change in circumstances since the entry of the order.

(2) A substantial and material change in circumstances under Subsection (1)(a) includes a showing by a parent that the other parent:

(a) resides with an individual or provides an individual with access to the minor child; and

(b) knows that the individual:

(i) is required to register as a sex offender [~~or~~], a kidnap offender, or a child abuse offender for an offense committed against a minor child under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry; or

[~~(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or~~]

[~~(iii)~~](ii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses;

(C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections [~~(2)(b)(iii)(A)~~](2)(b)(ii)(A) through (D).

(3) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal custody or joint physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that there has been a substantial and material change in the circumstances of the minor child or one or both parents or joint legal or physical custodians since the entry of the order to be modified;

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child; and

(c) (i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 81-9-205(8); or

(ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 81-9-205(13) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.

(4) (a) In determining whether the best interest of a minor child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors described in Sections 81-9-204 and 81-9-205.

(b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:

(i) a substantial and material change of circumstance has occurred; and

(ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child.

(c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the minor child is thriving, happy, and well-adjusted.

(5) The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Section 81-9-204.

(6) The court may modify the terms and conditions of the existing order in accordance with this chapter and may order the parents to file a parenting plan in accordance with Section 81-9-203.

(7) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 81-9-203.

(8) If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are service members, and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(9) If the court finds that an action to modify custody or parent-time is filed or answered frivolously and, in a manner, designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

(10) If a petition to modify custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action if the court determines that the petition was without merit and not asserted or defended against in good faith.

(11) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court:

(a) may award to the prevailing party:

(i) actual attorney fees incurred;

(ii) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, including:

(A) court costs;

(B) child care expenses;

(C) transportation expenses actually incurred;

(D) lost wages, if ascertainable; or

(E) counseling for a parent or a minor child if ordered or approved by the court; or

(iii) any other appropriate equitable remedy; and

(b) shall award reasonable make-up parent-time to the prevailing party, unless make-up parent-time is not in the best interest of the minor child.

Section 65. Repealer.

This bill repeals:

Section 77-41-102, Definitions.

Section 77-41-103, Department duties.

Section 77-41-104, Registration of offenders -- Department and agency requirements.

Section 77-41-106, Offenses requiring lifetime registration.

Section 77-41-107, Penalties.

Section 77-41-108, Classification of information.

Section 77-41-109, Miscellaneous provisions.

Section 77-41-110, Sex offender, kidnap offender, and child abuse offender registry -- Department to maintain.

Section 77-41-111, Fees.

Section 77-41-112, Removal from registry -- Requirements -- Procedure.

Section 77-41-113, Removal for offenses or convictions for which registration is no longer required.

Section 77-41-114, Registration for individuals under 18 years old at the time of the offense.

Section 77-41-105, Registration of offenders -- Offender responsibilities.

Section 66. Effective Date.

This bill takes effect on May 7, 2025.

Section 67. Coordinating S.B. 41 with H.B. 21.

If S.B. 41, Sex, Kidnap, and Child Abuse Offender Registry Amendments, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) Subsection 76-5-419(5)(a), which section is renumbered from Section 76-9-702, in H.B. 21 be amended to read:

"(5)(a) As described in Subsection 53-29-202(4), for purposes of Subsection (3), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction."; and

(2) Subsection 53-29-204(2)(f), enacted in S.B. 41, be amended to read:

"(f) a class A misdemeanor violation of:

(i) voyeurism under Section 76-12-306;

(ii) recorded or photographed voyeurism under Section 76-12-307; or

(iii) distribution of images obtained through voyeurism under Section 76-12-308;".

CHAPTER 292
S. B. 43
Passed February 20, 2025
Approved March 25, 2025
Effective May 7, 2025

INCOME TAX CREDIT REVIEW AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies the process for income tax credit review.

Highlighted Provisions:

This bill:

- ► extends the income tax credit review cycle from three years to five years;
- ► provides a process for the Office of the Legislative Auditor General to audit the income tax credits; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-7-159, as last amended by Laws of Utah 2022, Chapters 264, 274
59-7-614.2, as last amended by Laws of Utah 2022, Chapter 200
59-7-614.5, as last amended by Laws of Utah 2021, Chapter 282
59-7-614.7, as last amended by Laws of Utah 2023, Chapter 482
59-7-614.10, as last amended by Laws of Utah 2021, Chapter 282
59-7-619, as last amended by Laws of Utah 2023, Chapter 473
59-10-137, as last amended by Laws of Utah 2023, Chapter 460
59-10-1025, as last amended by Laws of Utah 2019, Chapter 465
59-10-1029, as last amended by Laws of Utah 2023, Chapter 482
59-10-1034, as last amended by Laws of Utah 2021, Chapters 64, 280 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 280
59-10-1037, as last amended by Laws of Utah 2021, Chapter 282
59-10-1107, as last amended by Laws of Utah 2021, Chapter 282
59-10-1108, as last amended by Laws of Utah 2021, Chapter 282

ENACTS:

36-12-15.4, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-15.4 is enacted to read:
36-12-15.4. Income tax credit audits.

(1) As used in this section:

(a) "Committee" means the Revenue and Taxation Interim Committee.

(b) "Income tax credit" means a state tax credit described in Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act.

(c) "Office" means the Office of the Legislative Auditor General.

(2) In addition to other audits performed by the office, the office shall conduct, in accordance with this section and under the direction of the Legislative Audit Subcommittee, a comprehensive performance audit of the income tax credits.

(3) (a) On or before August 31 of each year, the committee may refer a list of income tax credits to the office that the committee recommends for audit.

(b) The list may include an order in which the committee prefers the office to conduct the income tax credit audit.

(4) If the committee does not refer a list of income tax credits, the office shall select which income tax credits to audit, considering the income tax credit's usage in terms of dollars and vulnerability to error or fraud.

Section 2. Section 59-7-159 is amended to read:
59-7-159. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) [~~(a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.~~]

(a) The committee shall review each tax credit described in this chapter once every five years to determine whether to continue, modify, or repeal the tax credit.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on [~~at least one~~]a committee agenda to conduct the review as needed;

(ii) invite state agencies, individuals, and organizations concerned with [~~the~~]a tax credit under review to provide oral or written testimony;

(iii) (A) invite the Governor's Office of Economic Opportunity to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Opportunity is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) [~~ensure that the committee's recommendations described in this section include an evaluation of~~]evaluate:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

[~~(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:~~]

[~~(i) Section 59-7-601;~~]

[~~(ii) Section 59-7-607;~~]

[~~(iii) Section 59-7-612;~~]

[~~(iv) Section 59-7-614.1; and~~]

[~~(v) Section 59-7-614.5.~~]

[~~(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:~~]

[~~(i) Section 59-7-609;~~]

[~~(ii) Section 59-7-614.2;~~]

[~~(iii) Section 59-7-614.10; and~~]

[~~(iv) Section 59-7-619.~~]

[~~(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:~~]

[~~(i) Section 59-7-610;~~]

[~~(ii) Section 59-7-614; and~~]

[~~(iii) Section 59-7-614.7.~~]

[~~(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.~~]

[~~(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.~~]

Section 3. Section 59-7-614.2 is amended to read:

59-7-614.2. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a taxpayer that meets the definition of "business entity" as defined in Section 63N-2-103.

(b) "Incremental job" means the same as that term is defined in Section 63N-1a-102.

(c) "New state revenue" means the same as that term is defined in Section 63N-1a-102.

(d) "Office" means the Governor's Office of Economic Opportunity.

(2) Subject to the other provisions of this section, a business entity may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a business entity that claims a tax credit under this section if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity as required by Subsection (4)(a).

(5) [~~(a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.~~]

[~~(b) Except as provided in Subsection (5)(c), for purposes of the study required by this Subsection (5),~~]

(a) To assist the Revenue and Taxation Interim Committee with the review required by Section 59-7-159, the office shall provide the following information, if available to the office, to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit that the office grants to each business entity for each calendar year;

(ii) the criteria that the office uses in granting a tax credit;

(iii) the new state revenue generated by the business entity for the calendar year;

(iv) estimates for each of the next three calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state revenue that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(v) the information contained in the office's latest report under Section 63N-2-106; and

(vi) any other information that the Revenue and Taxation Interim Committee requests.

[~~(c)~~](b) [~~(i)~~] In providing the information described in Subsection [~~(5)(b)~~](5)(a), the office shall redact information that identifies a recipient of a tax credit under this section.

[~~(ii)~~](c) If, notwithstanding the redactions made under Subsection [~~(5)(c)(i)~~](5)(b), reporting the information described in Subsection [~~(5)(b)~~](5)(a) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [~~(5)(b)~~](5)(a) in the aggregate for all business entities that receive the tax credit under this section.

[~~(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:~~]

[~~(i) the cost of the tax credit to the state;~~]

[~~(ii) the purpose and effectiveness of the tax credit; and~~]

[~~(iii) the extent to which the state benefits from the tax credit.~~]

Section 4. Section 59-7-614.5 is amended to read:

59-7-614.5. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a taxpayer that meets the definition of a motion picture company under Section 63N-8-102.

(b) "Office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(c) "State-approved production" means the same as that term is defined in Section 63N-8-102.

(2) [~~For a taxable year beginning on or after January 1, 2009, a~~]A motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section 63N-8-103 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) [~~(a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.~~]

[~~(b)~~](a) (i) [~~Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the~~]To assist the Revenue and Taxation Interim Committee with the review required by Section 59-7-159, the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(A) the amount of tax credit that the office grants to each motion picture company for each calendar year;

(B) estimates of the amount of tax credit that the office will grant for each of the next three calendar years;

(C) the criteria that the office uses in granting the tax credit;

(D) the dollars left in the state, as defined in Section 63N-8-102, by each motion picture company for each calendar year;

(E) the information contained in the office's latest report under Section 63N-1a-306; and

(F) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) [~~(A)~~] In providing the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

[~~(B)~~](iii) If, notwithstanding the redactions made under Subsection [~~(5)(b)(ii)(A)~~](5)(a)(ii), reporting the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) in the aggregate for all motion picture companies that receive the tax credit under this section.

[~~(c)~~](b) [~~As part of the study required by this Subsection (5), the~~]The Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection [~~(5)(b)~~](5)(a).

[~~(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:~~]

[~~(i) the cost of the tax credit to the state;~~]

[~~(ii) the effectiveness of the tax credit; and~~]

[~~(iii) the extent to which the state benefits from the tax credit.~~]

Section 5. Section 59-7-614.7 is amended to read:

59-7-614.7. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) "Alternative energy entity" means the same as that term is defined in Section 79-6-502.

(b) "Alternative energy project" means the same as that term is defined in Section 79-6-502.

(c) "Office" means the Office of Energy Development created in Section 79-6-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) [~~(a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.~~]

[~~(b)~~](a) (i) [~~Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the~~]To assist the Revenue and Taxation Interim Committee with the review required by Section 59-7-159, the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(A) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(B) the new state revenues generated by each alternative energy project;

(C) the information contained in the office's latest report under Section 79-6-505; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) [~~(A)~~] In providing the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

[~~(B)~~](iii) If, notwithstanding the redactions made under Subsection [~~(5)(b)(ii)(A)~~](5)(a)(ii), reporting the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) in the aggregate for all alternative energy entities that receive the tax credit under this section.

[~~(c)~~](b) [~~As part of the study required by this Subsection (5), the~~]The Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection [~~(5)(b)~~](5)(a).

[~~(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:~~]

[~~(i) the cost of the tax credit to the state;~~]

[~~(ii) the purpose and effectiveness of the tax credit; and~~]

[~~(iii) the extent to which the state benefits from the tax credit.~~]

(6) A taxpayer may not claim or carry forward a tax credit described in Subsection (2) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-7-614.

Section 6. Section 59-7-614.10 is amended to read:

59-7-614.10. Nonrefundable enterprise zone tax credit.

(1) As used in this section:

(a) "Business entity" means a corporation that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) [~~(a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.~~]

[~~(b)~~](a) (i) [~~Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5)~~]To assist the Revenue and Taxation Interim Committee with the review required by Section 59-7-159, the office shall provide by electronic means the following information for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

(B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(C) the amount of tax credits awarded for rehabilitating a building in each development zone;

(D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(E) the information related to the tax credit contained in the office's latest report under Section 63N-1a-301; and

(F) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) [~~(A)~~] In providing the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

[~~(B)~~](iii) If, notwithstanding the redactions made under Subsection [~~(5)(b)(ii)(A)~~](5)(a)(ii), reporting the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) in the aggregate for all development zones that receive the tax credit under this section.

[~~(c)~~](b) [~~As part of the study required by this Subsection (5), the~~]The Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection [~~(5)(b)~~](5)(a).

[~~(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:~~]

[~~(i) the cost of the tax credit to the state;~~]

[~~(ii) the purpose and effectiveness of the tax credit; and~~]

[~~(iii) the extent to which the state benefits from the tax credit.~~]

Section 7. Section 59-7-619 is amended to read:

59-7-619. Nonrefundable high cost infrastructure development tax credit.

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section 79-6-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 79-6-602.

(c) "Infrastructure-related revenue" means the same as that term is defined in Section 79-6-602.

(d) "Office" means the Office of Energy Development created in Section 79-6-401.

(2) Subject to the other provisions of this section, a corporation that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) [~~(a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.~~]

[~~(b)~~](a) (i) [~~Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5)~~]To assist the Revenue and Taxation Interim Committee with the review required by Section 59-7-159, the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(B) the infrastructure-related revenue generated by each high cost infrastructure project;

(C) the information contained in the office's latest report under Section 79-6-605; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) [~~(A)~~] In providing the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

[~~(B)~~](iii) If, notwithstanding the redactions made under Subsection [~~(5)(b)(ii)(A)~~](5)(a)(ii), reporting the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.

[~~(c)~~](b) [~~As part of the study required by this Subsection (5), the~~]The Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection [~~(5)(b)~~](5)(a).

[~~(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:~~]

[~~(i) the cost of the tax credit to the state;~~]

[~~(ii) the purpose and effectiveness of the tax credit; and~~]

[~~(iii) the extent to which the state benefits from the tax credit.~~]

(6) Notwithstanding Section 59-7-903, the commission may not remove the tax credit described in this section from the tax return for a taxable year beginning before January 1, 2027.

Section 8. Section 59-10-137 is amended to read:

59-10-137. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) [~~(a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.~~]

(a) The committee shall review each tax credit described in this chapter once every five years to determine whether to continue, modify, or repeal the tax credit.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on [~~at least one~~]a committee agenda to conduct the review as needed;

(ii) invite state agencies, individuals, and organizations concerned with [~~the~~]a tax credit under review to provide oral or written testimony;

(iii) (A) invite the Governor's Office of Economic Opportunity to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Opportunity is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) [~~ensure that the committee's recommendations described in this section include an evaluation of~~]evaluate:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

[~~(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:~~]

[~~(i) Section 59-10-1004;~~]

[~~(ii) Section 59-10-1010;~~]

[~~(iii) Section 59-10-1015;~~]

[~~(iv) Section 59-10-1025;~~]

[~~(v) Section 59-10-1027;~~]

[~~(vi) Section 59-10-1031;~~]

[~~(vii) Section 59-10-1032;~~]

[~~(viii) Section 59-10-1035;~~]

[~~(ix) Section 59-10-1105; and~~]

[~~(x) Section 59-10-1108.~~]

[~~(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:~~]

[~~(i) Section 59-10-1005;~~]

[~~(ii) Section 59-10-1006;~~]

[~~(iii) Section 59-10-1012;~~]

[~~(iv) Section 59-10-1022;~~]

[~~(v) Section 59-10-1023;~~]

[~~(vi) Section 59-10-1028;~~]

[~~(vii) Section 59-10-1034;~~]

[~~(viii) Section 59-10-1037; and~~]

[~~(ix) Section 59-10-1107.~~]

[~~(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:~~]

[~~(i) Section 59-10-1007;~~]

[~~(ii) Section 59-10-1014;~~]

[~~(iii) Section 59-10-1017;~~]

[~~(iv) Section 59-10-1018;~~]

[~~(v) Section 59-10-1019;~~]

[~~(vi) Section 59-10-1024;~~]

[~~(vii) Section 59-10-1029;~~]

[~~(viii) Section 59-10-1036;~~]

[~~(ix) Section 59-10-1106; and~~]

[~~(x) Section 59-10-1111.~~]

[~~(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.~~]

[~~(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.~~]

Section 9. Section 59-10-1025 is amended to read:

59-10-1025. Nonrefundable tax credit for investment in certain life science establishments.

(1) As used in this section:

(a) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(b) "Eligible claimant, estate, or trust" means the same as that term is defined in Section 63N-2-802.

(c) "Life science establishment" means an establishment primarily engaged in the development or manufacture of products in one or more of the following categories:

(i) biotechnologies;

(ii) medical devices;

(iii) medical diagnostics; and

(iv) pharmaceuticals.

(d) "Office" means the Governor's Office of Economic Opportunity.

(e) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(f) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(g) "Qualifying ownership interest" means an ownership interest that is:

(i) (A) common stock;

(B) preferred stock; or

(C) an ownership interest in a pass-through entity;

(ii) originally issued to:

(A) an eligible claimant, estate, or trust; or

(B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit under this section was a pass-through entity taxpayer of the pass-through entity on the day on which the qualifying ownership interest was issued and remains a pass-through entity taxpayer of the pass-through entity until the last day of the taxable year for which the eligible claimant, estate, or trust claims a tax credit

under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2011; and

(C) for money or other property, except for stock or securities.

(h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" means the same as that term is defined in Section 59-10-1022.

(ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity.

(2) Subject to the other provisions of this section, [~~for a taxable year beginning on or after January 1, 2011,~~]an eligible claimant, estate, or trust that holds a tax credit certificate issued to the eligible claimant, estate, or trust in accordance with Section 63N-2-808 for that taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase price of a qualifying ownership interest in a Utah small business corporation by the claimant, estate, or trust if:

(a) the qualifying ownership interest is issued by a Utah small business corporation that is a life science establishment;

(b) the qualifying ownership interest in the Utah small business corporation is purchased for at least $25,000;

(c) the eligible claimant, estate, or trust owned less than 30% of the qualifying ownership interest of the Utah small business corporation at the time of the purchase of the qualifying ownership interest; and

(d) on each day of the taxable year in which the purchase of the qualifying ownership interest was made, the Utah small business corporation described in Subsection (2)(a) has at least 50% of its employees in the state.

(3) Subject to Subsection (4), the tax credit under Subsection (2):

(a) may only be claimed by an eligible claimant, estate, or trust:

(i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit certificate issued in accordance with Section 63N-2-808; and

(ii) subject to obtaining a tax credit certificate for each taxable year as required by Subsection (3)(a)(i), for a period of three taxable years as follows:

(A) the tax credit in the taxable year in which the purchase of the qualifying ownership interest was made may not exceed 10% of the purchase price of the qualifying ownership interest;

(B) the tax credit in the taxable year after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest; and

(C) the tax credit in the taxable year two years after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership interest; and

(b) may not exceed the lesser of:

(i) the amount listed on the tax credit certificate issued in accordance with Section 63N-2-808; or

(ii) $350,000 in a taxable year.

(4) An eligible claimant, estate, or trust may not claim a tax credit under this section for a taxable year if the eligible claimant, estate, or trust:

(a) has sold any of the qualifying ownership interest during the taxable year; or

(b) does not hold a tax credit certificate for that taxable year that is issued to the eligible claimant, estate, or trust by the office in accordance with Section 63N-2-808.

(5) If a Utah small business corporation in which an eligible claimant, estate, or trust purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the eligible claimant, estate, or trust may not claim both the tax credit provided in this section and a capital loss on the qualifying ownership interest.

(6) If an eligible claimant is a pass-through entity taxpayer that files a return under Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax credit under this section on the return filed under Chapter 7, Corporate Franchise and Income Taxes.

(7) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(8) [~~(a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.~~]

[~~(b)~~](a) [~~Except as provided in Subsection (8)(c), for purposes of the study required by this Subsection (8),~~]

(i) To assist the Revenue and Taxation Interim Committee with the review required by Section 59-10-137, the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

[~~(i)~~](A) the amount of tax credit that the office grants to each eligible business entity for each taxable year;

[~~(ii)~~](B) the amount of eligible new state tax revenues generated by each eligible product or project;

[~~(iii)~~](C) estimates for each of the next three calendar years of the following:

[~~(A)~~](I) the amount of tax credit that the office will grant;

[~~(B)~~](II) the amount of eligible new state tax revenues that will be generated; and

[~~(C)~~](III) the number of new incremental jobs within the state that will be generated; and

[~~(iv)~~](D) any other information that the Office of the Legislative Fiscal Analyst requests.

[~~(c)~~](ii) [~~(i)~~] In providing the information described in Subsection [~~(8)(b)~~](8)(a)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

[~~(ii)~~](iii) If, notwithstanding the redactions made under Subsection [~~(8)(c)(i)~~](8)(a)(ii), reporting the information described in Subsection [~~(8)(b)~~](8)(a)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [~~(8)(b)~~](8)(a)(i) in the aggregate for all entities that receive the tax credit under this section.

[~~(d)~~](b) [~~As part of the study required by this Subsection (8), the~~]The Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection [~~(8)(b)~~](8)(a).

[~~(c) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (8)(a) include an evaluation of:~~]

[~~(i) the cost of the tax credit under this section;~~]

[~~(ii) the purpose and effectiveness of the tax credit; and~~]

[~~(iii) the extent to which the state benefits from the tax credit.~~]

Section 10. Section 59-10-1029 is amended to read:

59-10-1029. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) "Alternative energy entity" means the same as that term is defined in Section 79-6-502.

(b) "Alternative energy project" means the same as that term is defined in Section 79-6-502.

(c) "Office" means the Office of Energy Development created in Section 79-6-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) [~~(a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.~~]

[~~(b)~~](a) (i) [~~Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5)~~]To assist the Revenue and Taxation Interim Committee with the review required by Section 59-10-137, the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(A) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(B) the new state revenues generated by each alternative energy project;

(C) the information contained in the office's latest report under Section 79-6-505; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection [~~(5)(b)(ii)(A)~~](5)(a)(ii)(A), reporting the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) in the aggregate for all alternative energy entities that receive the tax credit under this section.

[~~(c)~~](b) [~~As part of the study required by this Subsection (5), the~~]The Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection [~~(5)(b)~~](5)(a).

[~~(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:~~]

[~~(i) the cost of the tax credit to the state;~~]

[~~(ii) the purpose and effectiveness of the tax credit; and~~]

[~~(iii) the extent to which the state benefits from the tax credit.~~]

(6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (2) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-10-1106.

Section 11. Section 59-10-1034 is amended to read:

59-10-1034. Nonrefundable high cost infrastructure development tax credit.

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section 79-6-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 79-6-602.

(c) "Infrastructure-related revenue" means the same as that term is defined in Section 79-6-602.

(d) "Office" means the Office of Energy Development created in Section 79-6-401.

(2) Subject to the other provisions of this section, a claimant, estate, or trust that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) [~~(a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.~~]

[~~(b)~~](a) (i) [~~Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5)~~]To assist the Revenue and Taxation Interim Committee with the review required by Section 59-10-137, the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(B) the infrastructure-related revenue generated by each high cost infrastructure project;

(C) the information contained in the office's latest report under Section 79-6-605; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) [~~(A)~~] In providing the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

[~~(B)~~](iii) If, notwithstanding the redactions made under Subsection [~~(5)(b)(ii)(A)~~](5)(a)(ii), reporting the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.

[~~(c)~~](b) [~~As part of the study required by this Subsection (5), the~~]The Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection [~~(5)(b)~~](5)(a).

[~~(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:~~]

[~~(i) the cost of the tax credit to the state;~~]

[~~(ii) the purpose and effectiveness of the tax credit; and~~]

[~~(iii) the extent to which the state benefits from the tax credit.~~]

Section 12. Section 59-10-1037 is amended to read:

59-10-1037. Nonrefundable enterprise zone tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) [~~(a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.~~]

[~~(b)~~](a) (i) [~~Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5)~~]To assist the Revenue and Taxation Interim Committee with the review required by Section 59-10-137, the office shall provide by electronic means the following information, if available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

(B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(C) the amount of tax credits awarded for rehabilitating a building in each development zone;

(D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(E) the information related to the tax credit contained in the office's latest report under Section 63N-1a-306; and

(F) other information that the Office of the Legislative Fiscal Analyst requests.

(ii) [~~(A)~~] In providing the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

[~~(B)~~](iii) If, notwithstanding the redactions made under Subsection [~~(5)(b)(ii)(A)~~](5)(a)(ii), reporting the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) in the aggregate for all development zones that receive the tax credit under this section.

[~~(c)~~](b) [~~As part of the study required by this Subsection (5), the~~]The Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection [~~(5)(b)~~](5)(a).

[~~(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:~~]

[~~(i) the cost of the tax credit to the state;~~]

[~~(ii) the purpose and effectiveness of the tax credit; and~~]

[~~(iii) the extent to which the state benefits from the tax credit.~~]

Section 13. Section 59-10-1107 is amended to read:

59-10-1107. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as defined in Section 63N-2-103.

(b) "Incremental job" means the same as that term is defined in Section 63N-1a-102.

(c) "New state revenue" means the same as that term is defined in Section 63N-1a-102.

(d) "Office" means the Governor's Office of Economic Opportunity.

(2) Subject to the other provisions of this section, a business entity may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to

the business entity for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a business entity that claims a tax credit under this section if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity as required by Subsection (4)(a).

(5) [~~(a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.~~]

[~~(b)~~](a) [~~Except as provided in Subsection (5)(c), for purposes of the study required by this Subsection (5),~~]To assist the Revenue and Taxation Interim Committee with the review required by Section 59-10-137,the office shall provide the following information, if available to the office, to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit the office grants to each taxpayer for each calendar year;

(ii) the criteria the office uses in granting a tax credit;

(iii) the new state revenue generated by each taxpayer for each calendar year;

(iv) estimates for each of the next three calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state revenue that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(v) the information contained in the office's latest report under Section 63N-2-106; and

(vi) any other information that the Revenue and Taxation Interim Committee requests.

[~~(c)~~](b) [~~(i)~~] In providing the information described in Subsection [~~(5)(b)~~](5)(a), the office shall redact information that identifies a recipient of a tax credit under this section.

[~~(ii)~~](c) If, notwithstanding the redactions made under Subsection [~~(5)(c)(i)~~](5)(b), reporting the information described in Subsection [~~(5)(b)~~](5)(a) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [~~(5)(b)~~](5)(a) in the aggregate for all taxpayers that receive the tax credit under this section.

[~~(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:~~]

[~~(i) the cost of the tax credit to the state;~~]

[~~(ii) the purpose and effectiveness of the tax credit; and~~]

[~~(iii) the extent to which the state benefits from the tax credit.~~]

Section 14. Section 59-10-1108 is amended to read:

59-10-1108. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a claimant, estate, or trust that meets the definition of a motion picture company under Section 63N-8-102.

(b) "Office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(c) "State-approved production" means the same as that term is defined in Section 63N-8-102.

(2) [~~For a taxable year beginning on or after January 1, 2009, a~~]A motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section 63N-8-103 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for the taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) [~~(a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.~~]

[~~(b)~~](a) (i) [~~Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5)~~]To assist the Revenue and Taxation Interim Committee with the review required by Section 59-10-137, the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(A) the amount of tax credit the office grants to each taxpayer for each calendar year;

(B) estimates of the amount of tax credit that the office will grant for each of the next three calendar years;

(C) the criteria the office uses in granting a tax credit;

(D) the dollars left in the state, as defined in Section 63N-8-102, by each motion picture company for each calendar year;

(E) the information contained in the office's latest report under Section 63N-8-105; and

(F) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) [~~(A)~~] In providing the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

[~~(B)~~](iii) If, notwithstanding the redactions made under Subsection [~~(5)(b)(ii)(A)~~](5)(a)(ii), reporting the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [~~(5)(b)(i)~~](5)(a)(i) in the aggregate for all taxpayers that receive the tax credit under this section.

[~~(c)~~](b) [~~As part of the study required by this Subsection (5), the~~]The Office of the Legislative Fiscal Analyst shall report to the

Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection [~~(5)(b)~~](5)(a).

[~~(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:~~]

[~~(i) the cost of the tax credit to the state;~~]

[~~(ii) the effectiveness of the tax credit; and~~]

[~~(iii) the extent to which the state benefits from the tax credit.~~]

Section 15. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 293
S. B. 47
Passed March 6, 2025
Approved March 25, 2025
Effective July 1, 2025

SALES AND USE TAX REMITTANCE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends the requirements governing when a seller has to pay or collect and remit sales and use tax.

Highlighted Provisions:

This bill:

- ► repeals the requirement that a seller has to pay or collect and remit the sales and use tax if the seller sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state in more than a certain number of separate transactions; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates $0 in operating and capital budgets for fiscal year 2026, including ($2,920,000) from General Fund and $2,920,000 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-107, as last amended by Laws of Utah 2022, Chapter 273
59-12-107.6, as last amended by Laws of Utah 2023, Chapter 361

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-107 is amended to read:

59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.

(1) As used in this section:

(a) "Ownership" means direct ownership or indirect ownership through a parent, subsidiary, or affiliate.

(b) "Related seller" means a seller that:

(i) meets one or more of the criteria described in Subsection (2)(a)(i); and

(ii) delivers tangible personal property, a service, or a product transferred electronically that is sold:

(A) by a seller that does not meet one or more of the criteria described in Subsection (2)(a)(i); and

(B) to a purchaser in the state.

(c) "Substantial ownership interest" means an ownership interest in a business entity if that ownership interest is greater than the degree of ownership of equity interest specified in 15 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

(2) (a) Except as provided in Subsection (2)(f), Section 59-12-107.1, or Section 59-12-123, and subject to Subsection (2)(g), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:

(i) has or utilizes:

(A) an office;

(B) a distribution house;

(C) a sales house;

(D) a warehouse;

(E) a service enterprise; or

(F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

(ii) maintains a stock of goods;

(iii) regularly solicits orders, regardless of whether or not the orders are accepted in the state, unless the seller's only activity in the state is:

(A) advertising; or

(B) solicitation by:

(I) direct mail;

(II) electronic mail;

(III) the Internet;

(IV) telecommunications service; or

(V) a means similar to Subsection (2)(a)(iii)(A) or (B);

(iv) regularly engages in the delivery of property in the state other than by:

(A) common carrier; or

(B) United States mail; or

(v) regularly engages in an activity directly related to the leasing or servicing of property located within the state.

(b) A seller is considered to be engaged in the business of selling tangible personal property, a product transferred electronically, or a service for use in the state, and shall pay or collect and remit the sales and use taxes imposed by this chapter if:

(i) the seller holds a substantial ownership interest in, or is owned in whole or in substantial part by, a related seller; and

(ii) (A) the seller sells the same or a substantially similar line of products as the related seller and does so under the same or a substantially similar business name; or

(B) the place of business described in Subsection (2)(a)(i) of the related seller or an in state employee of the related seller is used to advertise, promote, or facilitate sales by the seller to a purchaser.

(c) Subject to Section 59-12-107.6, each seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit the sales and use taxes imposed by this chapter under Subsection (2)(b) shall pay or collect and remit the sales and use tax imposed by this chapter if the seller:

(i) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state; and

(ii) in either the previous calendar year or the current calendar year[:]

[~~(A)~~] , receives gross revenue from the sale of tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state of more than $100,000[~~; or~~].

[~~(B) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state in 200 or more separate transactions.~~]

(d) A seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection (2)(b), Subsection (2)(c), or Section 59-12-107.6 may voluntarily:

(i) collect a tax on a transaction described in Subsection 59-12-103(1); and

(ii) remit the tax to the commission as provided in this part.

(e) The collection and remittance of a tax under this chapter by a seller that is registered under the agreement may not be used as a factor in determining whether that seller is required by this Subsection (2) to:

(i) pay a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

(E) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(F) this title; or

(ii) collect and remit a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

(E) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(F) this title.

(f) A person shall pay a use tax imposed by this chapter on a transaction described in Subsection 59-12-103(1) if:

(i) the seller did not collect a tax imposed by this chapter on the transaction; and

(ii) the person:

(A) stores the tangible personal property or product transferred electronically in the state;

(B) uses the tangible personal property or product transferred electronically in the state; or

(C) consumes the tangible personal property or product transferred electronically in the state.

(g) The ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

(3) (a) Except as provided in Section 59-12-107.1, a seller shall collect a tax under this chapter from a purchaser.

(b) A seller may not collect as tax an amount, without regard to fractional parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.

(c) (i) Each seller shall:

(A) give the purchaser a receipt for the tax collected; or

(B) bill the tax as a separate item and declare the name of this state and the seller's sales and use tax license number on the invoice for the sale.

(ii) The receipt or invoice is prima facie evidence that the seller has collected the tax and relieves the purchaser of the liability for reporting the tax to the commission as a consumer.

(d) A seller is not required to maintain a separate account for the tax collected, but is considered to be a person charged with receipt, safekeeping, and transfer of public money.

(e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.

(f) If any seller, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall remit to the commission the full amount of the tax imposed under this chapter, plus any excess.

(g) If the accounting methods regularly employed by the seller in the transaction of the seller's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that, in the commission's opinion, will better suit the convenience of the taxpayer or seller and will not jeopardize collection of the tax.

(h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1, and until such time as the commission accepts specie legal tender for the payment of a tax under this chapter, if the commission requires a seller to remit a tax under this chapter in legal tender other than specie legal tender, the seller shall state on the seller's books and records and on an invoice, bill of sale, or similar document provided to the purchaser:

(A) the purchase price in specie legal tender and in the legal tender the seller is required to remit to the commission;

(B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie legal tender and in the legal tender the seller is required to remit to the commission;

(C) the tax rate under this chapter applicable to the purchase; and

(D) the date of the purchase.

(ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the specie legal tender the purchaser paid.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the amount of tax due under Subsection (3)(h)(i) if the London fixing price is not available for a particular day.

(4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each quarterly calendar period.

(b) (i) Each seller shall, on or before the last day of the month next succeeding each quarterly calendar period, file with the commission a return for the preceding quarterly period.

(ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the tax required under this chapter to be collected or paid for the period covered by the return.

(c) Except as provided in Subsection (5)(c), a return shall contain information and be in a form the commission prescribes by rule.

(d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be based on the total nonexempt sales made during the period for which the return is filed, including both cash and charge sales.

(ii) For a sale that includes the delivery or installation of tangible personal property at a location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery or installation is separately stated on an invoice or receipt, a seller may compute the tax due on the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that sale during each period for which the seller receives payment for the sale.

(e) (i) The use tax as computed in the return shall be based on the total amount of purchases for storage, use, or other consumption in this state made during the period for which the return is filed, including both cash and charge purchases.

(ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser that is required to remit taxes under this chapter, but is not required to remit taxes monthly in accordance with Section 59-12-108, and that converts tangible personal property into real property.

(B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the taxes due under this chapter on tangible personal property for which the qualifying purchaser claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C), for the conversion of the tangible personal property into real property.

(C) A qualifying purchaser remitting taxes due under this chapter in accordance with Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the qualifying purchaser's purchase of the tangible personal property that was converted into real property multiplied by a fraction, the numerator of which is the payment received in the period for the qualifying purchaser's sale of the tangible personal property that was converted into real property and the denominator of which is the entire sales price for the qualifying purchaser's sale of the tangible personal property that was converted into real property.

(D) A qualifying purchaser may remit taxes due under this chapter in accordance with this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes.

(ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if the commission considers it necessary in order to ensure the payment of the tax imposed by this chapter.

(h) (i) The commission may require a seller that files a simplified electronic return with the commission to file an additional electronic report with the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:

(A) the information required to be included in the additional electronic report described in Subsection (4)(h)(i); and

(B) one or more due dates for filing the additional electronic report described in Subsection (4)(h)(i).

(5) (a) As used in this Subsection (5) and Subsection (6)(b), ["]"voluntary seller" means a seller that is:

(i) registered under the agreement;

(ii) described in Subsection (2)(d); and

(iii) not a:

(A) model 1 seller;

(B) model 2 seller; or

(C) model 3 seller.

(b) (i) Except as provided in Subsection (5)(b)(ii), a tax a voluntary seller collects in accordance with Subsection (2)(d) is due and payable:

(A) to the commission;

(B) annually; and

(C) on or before the last day of the month immediately following the last day of each calendar year.

(ii) The commission may require that a tax a voluntary seller collects in accordance with Subsection (2)(d) be due and payable:

(A) to the commission; and

(B) on the last day of the month immediately following any month in which the seller accumulates a total of at least $1,000 in agreement sales and use tax.

(c) (i) If a voluntary seller remits a tax to the commission in accordance with Subsection (5)(b), the voluntary seller shall file a return:

(A) with the commission;

(B) with respect to the tax;

(C) containing information prescribed by the commission; and

(D) on a form prescribed by the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:

(A) the information required to be contained in a return described in Subsection (5)(c)(i); and

(B) the form described in Subsection (5)(c)(i)(D).

(d) A tax a voluntary seller collects in accordance with this Subsection (5) shall be calculated on the basis of the total amount of taxable transactions under Subsection 59-12-103(1) the voluntary seller completes, including:

(i) a cash transaction; and

(ii) a charge transaction.

(6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified electronic return collects in accordance with this chapter is due and payable:

(i) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(ii) for the month for which the seller collects a tax under this chapter.

(b) A tax a voluntary seller that files a simplified electronic return collects in accordance with this chapter is due and payable as provided in Subsection (5).

(7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.

(b) The commission shall collect the tax described in Subsection (7)(a) when the vehicle is titled or registered.

(8) If any sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer:

(a) the wholesaler is not responsible for the collection or payment of the tax imposed on the sale; and

(b) the retailer is responsible for the collection or payment of the tax imposed on the sale if:

(i) the retailer represents that the tangible personal property, product transferred electronically, or service is purchased by the retailer for resale; and

(ii) the tangible personal property, product transferred electronically, or service is not subsequently resold.

(9) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a contractor or subcontractor of that person:

(a) the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax; and

(b) the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

(10) (a) For purposes of this Subsection (10):

(i) Except as provided in Subsection (10)(a)(ii), "bad debt" means the same as that term is defined in Section 166, Internal Revenue Code.

(ii) "Bad debt" does not include:

(A) an amount included in the purchase price of tangible personal property, a product transferred electronically, or a service that is:

(I) not a transaction described in Subsection 59-12-103(1); or

(II) exempt under Section 59-12-104;

(B) a financing charge;

(C) interest;

(D) a tax imposed under this chapter on the purchase price of tangible personal property, a product transferred electronically, or a service;

(E) an uncollectible amount on tangible personal property or a product transferred electronically that:

(I) is subject to a tax under this chapter; and

(II) remains in the possession of a seller until the full purchase price is paid;

(F) an expense incurred in attempting to collect any debt; or

(G) an amount that a seller does not collect on repossessed property.

(b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax under this chapter is calculated on a return.

(ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on the qualifying purchaser's purchase of tangible personal property converted into real property to the extent that:

(A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal property converted into real property;

(B) the qualifying purchaser's sale of that tangible personal property converted into real property later becomes bad debt; and

(C) the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(c) A seller may file a refund claim with the commission if:

(i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time period; and

(ii) as provided in Section 59-1-1410.

(d) A bad debt deduction under this section may not include interest.

(e) A bad debt may be deducted under this Subsection (10) on a return for the time period during which the bad debt:

(i) is written off as uncollectible in the seller's books and records; and

(ii) would be eligible for a bad debt deduction:

(A) for federal income tax purposes; and

(B) if the seller were required to file a federal income tax return.

(f) If a seller recovers any portion of bad debt for which the seller makes a deduction or claims a refund under this Subsection (10), the seller shall report and remit a tax under this chapter:

(i) on the portion of the bad debt the seller recovers; and

(ii) on a return filed for the time period for which the portion of the bad debt is recovered.

(g) For purposes of reporting a recovery of a portion of bad debt under Subsection (10)(f), a seller shall apply amounts received on the bad debt in the following order:

(i) in a proportional amount:

(A) to the purchase price of the tangible personal property, product transferred electronically, or service; and

(B) to the tax due under this chapter on the tangible personal property, product transferred electronically, or service; and

(ii) to:

(A) interest charges;

(B) service charges; and

(C) other charges.

(h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:

(i) in accordance with this Subsection (10); and

(ii) if the certified service provider credits or refunds the entire amount of the bad debt deduction or refund to the seller.

(i) A seller may allocate bad debt among the states that are members of the agreement if the seller's books and records support that allocation.

(11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.

(b) A violation of this section is punishable as provided in Section 59-1-401.

(c) Each person that fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time required by this chapter, or that fails to file any return as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(d) For purposes of prosecution under this section, each quarterly tax period in which a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted constitutes a separate offense.

Section 2. Section 59-12-107.6 is amended to read:

59-12-107.6. Marketplace facilitator collection, remittance, and payment of sales tax obligation -- Marketplace seller collection, remittance, and payment of sales tax obligation -- Liability for collection.

(1) A marketplace facilitator shall pay or collect and remit taxes imposed by this chapter in accordance with Section 59-12-107:

(a) if the marketplace facilitator meets one or more of the criteria provided for in Subsection 59-12-107(2)(a) or (b); and

(b) on the sales the marketplace facilitator made on the marketplace facilitator's own behalf.

(2) (a) A marketplace facilitator shall pay or collect and remit taxes imposed by this chapter in accordance with Subsection (3) if the marketplace facilitator, in the previous calendar year or the current calendar year, makes sales of tangible personal property, products transferred electronically, or services on the marketplace facilitator's own behalf or facilitates sales on behalf of one or more marketplace sellers[~~:~~]

[~~(i)~~] that exceed $100,000[~~; or~~].

[~~(ii) in 200 or more separate transactions.~~]

(b) For purposes of determining if a marketplace facilitator [~~meets or exceeds one or both thresholds~~]exceeds the threshold described in this Subsection (2), a marketplace facilitator shall separately total:

(i) the marketplace facilitator's sales; and

(ii) any sales the marketplace facilitator makes or facilitates for a marketplace seller.

(c) A marketplace facilitator without a physical presence in this state shall begin collecting and remitting the taxes imposed by this chapter no later than the first day of the calendar quarter that is at least 60 days after the day on which the marketplace facilitator [~~meets or exceeds either~~]exceeds the threshold described in Subsection (2)(a).

(3) A marketplace facilitator described in Subsection (2) shall pay or collect and remit taxes imposed by this chapter for each sale that the marketplace facilitator:

(a) makes on the marketplace facilitator's own behalf; or

(b) makes or facilitates on behalf of a marketplace seller, regardless of:

(i) whether the marketplace seller has an obligation to pay or collect and remit taxes under Section 59-12-107;

(ii) whether the marketplace seller would have been required to pay or collect and remit taxes under Section 59-12-107 if the marketplace facilitator had not facilitated the sale; or

(iii) the amount of the sales price or the purchase price that accrues to or benefits the marketplace facilitator, the marketplace seller, or any other person.

(4) A marketplace facilitator shall comply with the procedures and requirements in this chapter and Chapter 1, General Taxation Policies, for sellers required to pay or collect and remit taxes except that the marketplace facilitator shall segregate, in the marketplace facilitator's books and records:

(a) the sales that the marketplace facilitator makes on the marketplace facilitator's own behalf; and

(b) the sales that the marketplace facilitator makes or facilitates on behalf of one or more marketplace sellers.

(5) (a) The commission may audit the marketplace facilitator for sales made or facilitated through the marketplace facilitator's marketplace on behalf of one or more marketplace sellers.

(b) The commission may not audit the marketplace seller for sales made or facilitated through the marketplace facilitator's marketplace on the marketplace seller's behalf.

(6) Nothing in this section prohibits a marketplace facilitator from providing in a marketplace facilitator's agreement with a marketplace seller for the recovery of taxes, and any related interest or penalties to the extent that a tax, interest, or penalty is assessed by the state in an audit of the marketplace facilitator on a retail sale:

(a) that a marketplace facilitator makes or facilitates on behalf of a marketplace seller; and

(b) for which the marketplace facilitator relied on incorrect or incomplete information provided by the marketplace seller.

[~~(7) (a) Subject to Subsections (7)(b) and (c), a marketplace facilitator is not liable for failing to collect the taxes under this chapter for a sale on which the marketplace facilitator failed to collect taxes if the marketplace facilitator demonstrates, to the satisfaction of the commission, that:~~]

[~~(i) the marketplace facilitator made or facilitated the sale through the marketplace facilitator's marketplace on or before December 31, 2022;~~]

[~~(ii) the marketplace facilitator made or facilitated the sale on behalf of a marketplace seller and not on behalf of the marketplace facilitator;~~]

[~~(iii) the marketplace facilitator and the marketplace seller are not affiliates; and~~]

[~~(iv) the failure to collect taxes was due to a good faith error other than an error in sourcing.~~]

[~~(b) For purposes of Subsection (7)(a):~~]

[~~(i) for sales made or facilitated during the 2019 or 2020 calendar year, the marketplace facilitator is not liable for the amount the marketplace facilitator fails to collect due to error that is equal to the error rate, but not to exceed a 7% error rate;~~]

[~~(ii) for sales made or facilitated during the 2021 calendar year, the marketplace facilitator is not liable for the amount the marketplace facilitator fails to collect due to error that is equal to the error rate, but not to exceed a 5% error rate; and~~]

[~~(iii) for sales made or facilitated during the 2022 calendar year, the marketplace facilitator is not liable for the amount the marketplace facilitator fails to collect due to error that is equal to the error rate, but not to exceed a 3% error rate.~~]

[~~(c) The commission shall calculate the percentages described in Subsection (7)(b):~~]

[~~(i) using the total taxes due on sales that:~~]

[~~(A) a marketplace facilitator made or facilitated in this state on behalf of one or more marketplace sellers during the calendar year that the sale for which the marketplace facilitator seeks relief was made or facilitated; and~~]

[~~(B) are sourced to the state; and~~]

[~~(ii) not including sales that the marketplace facilitator or the marketplace facilitator's affiliates directly made during the same calendar year.~~]

[~~(8)~~](7) A marketplace seller shall pay or collect and remit taxes imposed by this chapter for a sale of tangible personal property, a product transferred electronically, or a service that the marketplace seller makes other than through a marketplace facilitator if:

(a) the sale is sourced to this state; and

(b) the marketplace seller's sales in this state, other than through a marketplace facilitator, in the previous calendar year or the current calendar year[~~:~~]

[~~(i)~~] exceed $100,000[~~; or~~].

[~~(ii) occur in 200 or more separate transactions.~~]

[~~(9)~~](8) (a) A marketplace seller may not pay or collect and remit taxes imposed by this chapter for any sale for which a marketplace facilitator is required to pay or collect and remit.

(b) A marketplace seller is not liable for a marketplace facilitator's failure to pay or collect and remit, or the marketplace facilitator's underpayment of, taxes imposed by this chapter for any sale for which a marketplace facilitator is required to pay or collect and remit the taxes imposed by this chapter.

[~~(10)~~](9) (a) A purchaser of tangible personal property, a product transferred electronically, or a service may file a claim for a refund with the marketplace facilitator if the purchaser overpaid taxes imposed under this chapter.

(b) No person may bring a class action against a marketplace facilitator in any court of the state on behalf of purchasers arising from or in any way related to an overpayment of taxes collected and remitted on sales made or facilitated by the marketplace facilitator on behalf of a marketplace seller, regardless of whether such claim is characterized as a tax refund claim.

[~~(11)~~](10) Nothing in this section affects the obligation of a purchaser to remit the use tax described in Subsection 59-12-107(2)(f) on any sale for which a marketplace facilitator or marketplace seller failed to collect and remit a tax imposed by this chapter.

Section 3. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 3(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of

money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah State Tax Commission - Tax Administration

From General Fund	(3,280,000)
From General Fund, One-time	360,000
From General Fund Rest. - State Tax Commission Administrative Charge Account	3,280,000
From General Fund Rest. - State Tax Commission Administrative Charge Account, One-time	(360,000)

Section 4. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 294
S. B. 52
Passed March 6, 2025
Approved March 25, 2025
Effective March 25, 2025

VEHICLE REGISTRATION MODIFICATIONS

Chief Sponsor: Brady Brammer
House Sponsor: Jason B. Kyle

LONG TITLE

General Description:

This bill allows the State Tax Commission to contract with a designated agent to assist in address verification for vehicles and vessels insured in the state.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► allows the State Tax Commission (commission) to contract with a designated agent to determine the address for which a vehicle's or vessel's insurance is tied, to assist the commission in determining whether the owner is a resident of this state;
- ► based on information provided by the designated agent, allows the commission to investigate whether the owner is a resident for vehicle or vessel registration purposes or otherwise in compliance with relevant registration and tax laws;
- ► for a person found in violation of certain tax and fee requirements, allows the person 60 days to cure the violation before being subject to a penalty;
- ► allows the commission to impose penalties in certain circumstances;
- ► allows funds in the Uninsured Motorist Identification Restricted Account to be used to cover the costs of the designated agent for address verification; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-202, as last amended by Laws of Utah 2023, Chapters 81, 532
41-12a-301, as last amended by Laws of Utah 2023, Chapter 94
41-12a-806, as last amended by Laws of Utah 2024, Chapters 268, 319
59-12-107, as last amended by Laws of Utah 2022, Chapter 273

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-202 is amended to read:

41-1a-202. Definitions -- Vehicles exempt from registration -- Registration of vehicles after establishing residency.

(1) [~~In~~]As used in this section:

(a) "Designated agent" means the same as that term is defined in Section 41-12a-803.

[~~(a)~~](b) "Domicile" means the place:

(i) where an individual has a fixed permanent home and principal establishment;

(ii) to which the individual if absent, intends to return; and

(iii) in which the individual and his family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home.

[~~(b)~~](c) (i) "Resident" means any of the following:

(A) an individual who:

(I) has established a domicile in this state;

(II) regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(III) engages in a trade, profession, or occupation in this state or who accepts employment in other than seasonal work in this state and who does not commute into the state;

(IV) declares himself to be a resident of this state for the purpose of obtaining a driver license or motor vehicle registration; or

(V) declares himself a resident of Utah to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees; or

(B) any individual, partnership, limited liability company, firm, corporation, association, or other entity that:

(I) maintains a main office, branch office, or warehouse facility in this state and that bases and operates a motor vehicle in this state; or

(II) operates a motor vehicle in intrastate transportation for other than seasonal work.

(ii) "Resident" does not include any of the following:

(A) a member of the military temporarily stationed in Utah;

(B) an out-of-state student, as classified by the institution of higher education, enrolled with the equivalent of seven or more quarter hours, regardless of whether the student engages in a trade, profession, or occupation in this state or accepts employment in this state; and

(C) an individual domiciled in another state or a foreign country that:

(I) is engaged in public, charitable, educational, or religious services for a government agency or an organization that qualifies for tax-exempt status under Internal Revenue Code Section 501(c)(3);

(II) is not compensated for services rendered other than expense reimbursements; and

(III) is temporarily in Utah for a period not to exceed 24 months.

(iii) Notwithstanding Subsections [~~(1)(b)(i) and (ii)~~](1)(c)(i) and (ii), "resident" includes the owner of a vehicle equipped with an automated driving system as defined in Section 41-26-102.1 if the vehicle is physically present in the state for more than 30 consecutive days in a calendar year.

(2) (a) Registration under this chapter is not required for any:

(i) vehicle registered in another state and owned by a nonresident of the state or operating under a temporary registration permit issued by the division or a dealer authorized by this chapter, driven or moved upon a highway in conformance with the provisions of this chapter relating to manufacturers, transporters, dealers, lien holders, or interstate vehicles;

(ii) vehicle driven or moved upon a highway only for the purpose of crossing the highway from one property to another;

(iii) implement of husbandry, whether of a type otherwise subject to registration or not, that is only incidentally operated or moved upon a highway;

(iv) special mobile equipment;

(v) vehicle owned or leased by the federal government;

(vi) motor vehicle not designed, used, or maintained for the transportation of passengers for hire or for the transportation of property if the motor vehicle is registered in another state and is owned and operated by a nonresident of this state;

(vii) vehicle or combination of vehicles designed, used, or maintained for the transportation of persons for hire or for the transportation of property if the vehicle or combination of vehicles is registered in another state and is owned and operated by a nonresident of this state and if the vehicle or combination of vehicles has a gross laden weight of 26,000 pounds or less;

(viii) trailer of 750 pounds or less unladen weight and not designed, used, and maintained for hire for the transportation of property or person;

(ix) single-axle trailer unless that trailer is:

(A) a commercial vehicle;

(B) a trailer designed, used, and maintained for hire for the transportation of property or person; or

(C) a travel trailer, camping trailer, or fifth wheel trailer of 750 pounds or more laden weight;

(x) manufactured home or mobile home;

(xi) off-highway vehicle currently registered under Section 41-22-3 if the off-highway vehicle is:

(A) being towed;

(B) operated on a street or highway designated as open to off-highway vehicle use; or

(C) operated in the manner prescribed in Subsections 41-22-10.3(1) through (3);

(xii) off-highway implement of husbandry operated in the manner prescribed in Subsections 41-22-5.5(3) through (5);

(xiii) modular and prebuilt homes conforming to the uniform building code and presently regulated by the United States Department of Housing and Urban Development that are not constructed on a permanent chassis;

(xiv) electric assisted bicycle defined under Section 41-6a-102;

(xv) motor assisted scooter defined under Section 41-6a-102; or

(xvi) electric personal assistive mobility device defined under Section 41-6a-102.

(b) For purposes of an implement of husbandry as described in Subsection (2)(a)(iii), incidental operation on a highway includes operation that is:

(i) transportation of raw agricultural materials or other agricultural related operations; and

(ii) limited to 100 miles round trip on a highway.

(3) (a) Unless otherwise exempted under Subsection (2), registration under this chapter is required for any motor vehicle, combination of vehicles, trailer, semitrailer, vintage vehicle, or restored-modified vehicle within 60 days of the owner establishing residency in this state.

(b) (i) The commission may contract with a designated agent described in Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, to determine the address for which a contract for owner's or operator's security pertaining to a certain vehicle or vessel is tied.

(ii) If the information provided by the designated agent under Subsection (3)(b)(i) indicates that the owner of a vehicle or vessel is a resident of this state, the commission may investigate to ensure compliance with this chapter, Chapter 22, Off-highway Vehicles, Title 59, Chapter 12, Sales and Use Tax Act, and Title 73, Chapter 18, State Boating Act.

(c) If the commission's investigation described in Subsection (3)(b)(ii) determines that the owner of the vehicle or vessel is not in compliance with this chapter, Chapter 22, Off-highway Vehicles, Title 59, Chapter 12, Sales and Use Tax Act, or Title 73, Chapter 18, State Boating Act, the commission:

(i) may impose a penalty on the owner of the vehicle or vessel of $150; and

(ii) shall provide notice of noncompliance to the owner of the vehicle or vessel and allow 60 days after the date on which the notice was issued for the owner of the vehicle or vessel to comply with the provisions identified in the commission's investigation described in Subsection (3)(b)(ii).

(d) If the owner of a vehicle or vessel fails to comply as directed within the time period described in Subsection (3)(c), the commission created in Section 41-3-104 may impose on the owner of the vehicle or vessel a penalty equal to the greater of:

(i) if the commission finds there was an underpayment of tax under Title 59, Chapter 12, Sales and Use Tax Act, a penalty as provided in Subsection 59-1-401(7); or

(ii) $500.

(e) Upon making a record of the commission's actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any penalty imposed under Subsection (3)(c) or (3)(d).

(f) (i) The commission shall deposit money from a penalty under Subsections (3)(c)(i) and (3)(d)(ii) for failure to properly register or title a vehicle or vessel pursuant to this chapter, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act, into the Uninsured Motorist Identification Restricted Account created in Section 41-12a-806.

(ii) The commission shall deposit money from a penalty under this Subsection (3)(d)(i) for failure to pay a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, into the General Fund.

(4) A motor vehicle that is registered under Section 41-3-306 is exempt from the registration requirements of this part for the time period that the registration under Section 41-3-306 is valid.

(5) A vehicle that has been issued a nonrepairable certificate may not be registered under this chapter.

Section 2. Section 41-12a-301 is amended to read:

41-12a-301. Definitions -- Requirement of owner's or operator's security -- Exceptions.

(1) As used in this section:

(a) "Highway" means the same as that term is defined in Section 41-1a-102.

(b) "Local education agency" or "LEA" means the same as that term is defined in Section 53E-1-102.

(c) "Quasi-public road or parking area" means the same as that term is defined in Section 41-6a-214.

(2) Except as provided in Subsection (5):

(a) every resident owner of a motor vehicle shall maintain owner's or operator's security in effect at any time that the motor vehicle is operated on a highway or on a quasi-public road or parking area or registered within the state; and

(b) every nonresident owner of a motor vehicle that has been physically present in this state for:

(i) 90 or fewer days during the preceding 365 days shall maintain the type and amount of owner's or operator's security required in his place of residence, in effect continuously throughout the period the motor vehicle remains within Utah; or

(ii) more than 90 days during the preceding 365 days shall thereafter maintain owner's or operator's security in effect continuously throughout the period the motor vehicle remains within Utah.

(3) (a) Except as provided in Subsection (5), the state and all of its political subdivisions and their respective departments, institutions, or agencies shall maintain owner's or operator's security in effect continuously for their motor vehicles.

(b) Any other state is considered a nonresident owner of its motor vehicles and is subject to Subsection (2)(b).

(4) The United States, any political subdivision of it, or any of its agencies may maintain owner's or operator's security in effect for their motor vehicles.

(5) Owner's or operator's security is not required for any of the following:

(a) off-highway vehicles registered under Section 41-22-3 when operated either:

(i) on a highway designated as open for off-highway vehicle use; or

(ii) in the manner prescribed by Subsections 41-22-10.3(1) through (3);

(b) off-highway implements of husbandry operated in the manner prescribed by Subsections 41-22-5.5(3) through (5);

(c) electric assisted bicycles as defined under Section 41-6a-102;

(d) motor assisted scooters as defined under Section 41-6a-102;

(e) electric personal assistive mobility devices as defined under Section 41-6a-102; or

(f) an LEA, for a school bus that the LEA authorizes a state entity or political subdivision of the state to use.

(6) If an LEA authorizes a state entity or political subdivision of the state to use a school bus:

(a) the state entity or political subdivision shall maintain owner's or operator's security during the term of the school bus use in an amount that is greater than or equal to any governmental immunity liability limit;

(b) the state entity or the political subdivision shall indemnify and defend the LEA for any claim that arises from the school bus use including a claim directed at the LEA, unless the claim arises from the sole negligence of the LEA; and

(c) if the school district maintains owner's or operator's security for the school bus during the term of school bus use, the owner's and operator's security maintained by the state entity or political subdivision of the state is primary to the owner's and operator's security maintained by the LEA.

Section 3. Section 41-12a-806 is amended to read:

41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.

(1) There is created within the Transportation Fund a restricted account known as the "Uninsured Motorist Identification Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) money received by the state under Subsection 41-1a-202(3);

[~~(a)~~](b) money received by the state under Section 41-1a-1218, the uninsured motorist identification fee;

[~~(b)~~](c) money received by the state under Section 41-1a-1220, the registration reinstatement fee; and

[~~(c)~~](d) appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The Legislature shall appropriate money from the account to:

(a) the department to fund the contract with the designated agent;

(b) the department to offset the costs to state and local law enforcement agencies of using the information for the purposes authorized under this part;

(c) the State Tax Commission to:

(i) offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii); and

(ii) cover the contract and other costs of the designated agent for address verification described in Subsection 41-1a-202(3); and

(d) the department to reimburse a person for the costs of towing and storing the person's vehicle if:

(i) the person's vehicle was impounded in accordance with Subsection 41-1a-1101(4);

(ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at the time of the impoundment;

(iii) the database indicated that owner's or operator's security was not in effect for the impounded vehicle; and

(iv) the department determines that the person's vehicle was wrongfully impounded.

(5) The Legislature may appropriate not more than $2,000,000 annually from the account to the Peace Officer Standards and Training Division, created under Section 53-6-103, for use in law enforcement training, including training on the use of the Uninsured Motorist Identification Database Program created under [~~Title 41, Chapter 12a,~~]Part 8, Uninsured Motorist Identification Database Program.

(6) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the department shall hold a hearing to determine whether a person's vehicle was wrongfully impounded under Subsection 41-1a-1101(4).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for a person to apply for a reimbursement under Subsection (4)(d).

(c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the person applies for the reimbursement within six months from the date that the motor vehicle was impounded.

Section 4. Section 59-12-107 is amended to read:

59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.

(1) As used in this section:

(a) "Ownership" means direct ownership or indirect ownership through a parent, subsidiary, or affiliate.

(b) "Related seller" means a seller that:

(i) meets one or more of the criteria described in Subsection (2)(a)(i); and

(ii) delivers tangible personal property, a service, or a product transferred electronically that is sold:

(A) by a seller that does not meet one or more of the criteria described in Subsection (2)(a)(i); and

(B) to a purchaser in the state.

(c) "Substantial ownership interest" means an ownership interest in a business entity if that ownership interest is greater than the degree of ownership of equity interest specified in 15 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

(2) (a) Except as provided in Subsection (2)(f), Section 59-12-107.1, or Section 59-12-123, and subject to Subsection (2)(g), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:

(i) has or utilizes:

(A) an office;

(B) a distribution house;

(C) a sales house;

(D) a warehouse;

(E) a service enterprise; or

(F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

(ii) maintains a stock of goods;

(iii) regularly solicits orders, regardless of whether or not the orders are accepted in the state, unless the seller's only activity in the state is:

(A) advertising; or

(B) solicitation by:

(I) direct mail;

(II) electronic mail;

(III) the Internet;

(IV) telecommunications service; or

(V) a means similar to Subsection (2)(a)(iii)(A) or (B);

(iv) regularly engages in the delivery of property in the state other than by:

(A) common carrier; or

(B) United States mail; or

(v) regularly engages in an activity directly related to the leasing or servicing of property located within the state.

(b) A seller is considered to be engaged in the business of selling tangible personal property, a product transferred electronically, or a service for use in the state, and shall pay or collect and remit the sales and use taxes imposed by this chapter if:

(i) the seller holds a substantial ownership interest in, or is owned in whole or in substantial part by, a related seller; and

(ii) (A) the seller sells the same or a substantially similar line of products as the related seller and does so under the same or a substantially similar business name; or

(B) the place of business described in Subsection (2)(a)(i) of the related seller or an in state employee of the related seller is used to advertise, promote, or facilitate sales by the seller to a purchaser.

(c) Subject to Section 59-12-107.6, each seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit the sales and use taxes imposed by this chapter under Subsection (2)(b) shall pay or collect and remit the sales and use tax imposed by this chapter if the seller:

(i) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state; and

(ii) in either the previous calendar year or the current calendar year:

(A) receives gross revenue from the sale of tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state of more than $100,000; or

(B) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state in 200 or more separate transactions.

(d) A seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection (2)(b), Subsection (2)(c), or Section 59-12-107.6 may voluntarily:

(i) collect a tax on a transaction described in Subsection 59-12-103(1); and

(ii) remit the tax to the commission as provided in this part.

(e) The collection and remittance of a tax under this chapter by a seller that is registered under the agreement may not be used as a factor in determining whether that seller is required by this Subsection (2) to:

(i) pay a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

(E) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(F) this title; or

(ii) collect and remit a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

(E) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(F) this title.

(f) A person shall pay a use tax imposed by this chapter on a transaction described in Subsection 59-12-103(1) if:

(i) the seller did not collect a tax imposed by this chapter on the transaction; and

(ii) the person:

(A) stores the tangible personal property or product transferred electronically in the state;

(B) uses the tangible personal property or product transferred electronically in the state; or

(C) consumes the tangible personal property or product transferred electronically in the state.

(g) The ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

(3) (a) Except as provided in Section 59-12-107.1, a seller shall collect a tax under this chapter from a purchaser.

(b) A seller may not collect as tax an amount, without regard to fractional parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.

(c) (i) Each seller shall:

(A) give the purchaser a receipt for the tax collected; or

(B) bill the tax as a separate item and declare the name of this state and the seller's sales and use tax license number on the invoice for the sale.

(ii) The receipt or invoice is prima facie evidence that the seller has collected the tax and relieves the purchaser of the liability for reporting the tax to the commission as a consumer.

(d) A seller is not required to maintain a separate account for the tax collected, but is considered to be a person charged with receipt, safekeeping, and transfer of public money.

(e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.

(f) If any seller, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall remit to the commission the full amount of the tax imposed under this chapter, plus any excess.

(g) If the accounting methods regularly employed by the seller in the transaction of the seller's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that, in the commission's opinion, will better suit the convenience of the taxpayer or seller and will not jeopardize collection of the tax.

(h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1, and until such time as the commission accepts specie legal tender for the payment of a tax under this chapter, if the commission requires a seller to remit a tax under this chapter in legal tender other than specie legal tender, the seller shall state on the seller's books and records and on an invoice, bill of sale, or similar document provided to the purchaser:

(A) the purchase price in specie legal tender and in the legal tender the seller is required to remit to the commission;

(B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie legal tender and in the legal tender the seller is required to remit to the commission;

(C) the tax rate under this chapter applicable to the purchase; and

(D) the date of the purchase.

(ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the specie legal tender the purchaser paid.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the amount of tax due under Subsection (3)(h)(i) if the London fixing price is not available for a particular day.

(4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each quarterly calendar period.

(b) (i) Each seller shall, on or before the last day of the month next succeeding each quarterly calendar period, file with the commission a return for the preceding quarterly period.

(ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the tax required under this chapter to be collected or paid for the period covered by the return.

(c) Except as provided in Subsection (5)(c), a return shall contain information and be in a form the commission prescribes by rule.

(d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be based on the total nonexempt sales made during the period for which the return is filed, including both cash and charge sales.

(ii) For a sale that includes the delivery or installation of tangible personal property at a location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery or installation is separately stated on an invoice or receipt, a seller may compute the tax due on the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that sale during each period for which the seller receives payment for the sale.

(e) (i) The use tax as computed in the return shall be based on the total amount of purchases for storage, use, or other consumption in this state made during the period for which the return is filed, including both cash and charge purchases.

(ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser that is required to remit taxes under this chapter, but is not required to remit taxes monthly in accordance with Section 59-12-108, and that converts tangible personal property into real property.

(B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the taxes due under this chapter on tangible personal property for which the qualifying purchaser claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C), for the conversion of the tangible personal property into real property.

(C) A qualifying purchaser remitting taxes due under this chapter in accordance with Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the qualifying purchaser's purchase of the tangible personal property that was converted into real property multiplied by a fraction, the numerator of which is the payment received in the period for the qualifying purchaser's sale of the tangible personal property that was converted into real property and the denominator of which is the entire sales price for the qualifying purchaser's sale of the tangible personal property that was converted into real property.

(D) A qualifying purchaser may remit taxes due under this chapter in accordance with this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes.

(ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if the commission considers it necessary in order to ensure the payment of the tax imposed by this chapter.

(h) (i) The commission may require a seller that files a simplified electronic return with the commission to file an additional electronic report with the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:

(A) the information required to be included in the additional electronic report described in Subsection (4)(h)(i); and

(B) one or more due dates for filing the additional electronic report described in Subsection (4)(h)(i).

(5) (a) As used in this Subsection (5) and Subsection (6)(b), " voluntary seller" means a seller that is:

(i) registered under the agreement;

(ii) described in Subsection (2)(d); and

(iii) not a:

(A) model 1 seller;

(B) model 2 seller; or

(C) model 3 seller.

(b) (i) Except as provided in Subsection (5)(b)(ii), a tax a voluntary seller collects in accordance with Subsection (2)(d) is due and payable:

(A) to the commission;

(B) annually; and

(C) on or before the last day of the month immediately following the last day of each calendar year.

(ii) The commission may require that a tax a voluntary seller collects in accordance with Subsection (2)(d) be due and payable:

(A) to the commission; and

(B) on the last day of the month immediately following any month in which the seller accumulates a total of at least $1,000 in agreement sales and use tax.

(c) (i) If a voluntary seller remits a tax to the commission in accordance with Subsection (5)(b), the voluntary seller shall file a return:

(A) with the commission;

(B) with respect to the tax;

(C) containing information prescribed by the commission; and

(D) on a form prescribed by the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:

(A) the information required to be contained in a return described in Subsection (5)(c)(i); and

(B) the form described in Subsection (5)(c)(i)(D).

(d) A tax a voluntary seller collects in accordance with this Subsection (5) shall be calculated on the basis of the total amount of taxable transactions under Subsection 59-12-103(1) the voluntary seller completes, including:

(i) a cash transaction; and

(ii) a charge transaction.

(6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified electronic return collects in accordance with this chapter is due and payable:

(i) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(ii) for the month for which the seller collects a tax under this chapter.

(b) A tax a voluntary seller that files a simplified electronic return collects in accordance with this chapter is due and payable as provided in Subsection (5).

(7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.

(b) The commission shall collect the tax described in Subsection (7)(a) when the vehicle is titled or registered.

(c) If a commission investigation under Section 41-1a-202 determines that an owner of a vehicle or vessel is not in compliance with this chapter, the owner shall pay a liability under this chapter directly to the commission if the vehicle or vessel is subject to titling or registration under the laws of this state.

(8) If any sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer:

(a) the wholesaler is not responsible for the collection or payment of the tax imposed on the sale; and

(b) the retailer is responsible for the collection or payment of the tax imposed on the sale if:

(i) the retailer represents that the tangible personal property, product transferred electronically, or service is purchased by the retailer for resale; and

(ii) the tangible personal property, product transferred electronically, or service is not subsequently resold.

(9) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a contractor or subcontractor of that person:

(a) the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax; and

(b) the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

(10) (a) For purposes of this Subsection (10):

(i) Except as provided in Subsection (10)(a)(ii), "bad debt" means the same as that term is defined in Section 166, Internal Revenue Code.

(ii) "Bad debt" does not include:

(A) an amount included in the purchase price of tangible personal property, a product transferred electronically, or a service that is:

(I) not a transaction described in Subsection 59-12-103(1); or

(II) exempt under Section 59-12-104;

(B) a financing charge;

(C) interest;

(D) a tax imposed under this chapter on the purchase price of tangible personal property, a product transferred electronically, or a service;

(E) an uncollectible amount on tangible personal property or a product transferred electronically that:

(I) is subject to a tax under this chapter; and

(II) remains in the possession of a seller until the full purchase price is paid;

(F) an expense incurred in attempting to collect any debt; or

(G) an amount that a seller does not collect on repossessed property.

(b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax under this chapter is calculated on a return.

(ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on the qualifying purchaser's purchase of tangible personal property converted into real property to the extent that:

(A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal property converted into real property;

(B) the qualifying purchaser's sale of that tangible personal property converted into real property later becomes bad debt; and

(C) the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(c) A seller may file a refund claim with the commission if:

(i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time period; and

(ii) as provided in Section 59-1-1410.

(d) A bad debt deduction under this section may not include interest.

(e) A bad debt may be deducted under this Subsection (10) on a return for the time period during which the bad debt:

(i) is written off as uncollectible in the seller's books and records; and

(ii) would be eligible for a bad debt deduction:

(A) for federal income tax purposes; and

(B) if the seller were required to file a federal income tax return.

(f) If a seller recovers any portion of bad debt for which the seller makes a deduction or claims a refund under this Subsection (10), the seller shall report and remit a tax under this chapter:

(i) on the portion of the bad debt the seller recovers; and

(ii) on a return filed for the time period for which the portion of the bad debt is recovered.

(g) For purposes of reporting a recovery of a portion of bad debt under Subsection (10)(f), a seller shall apply amounts received on the bad debt in the following order:

(i) in a proportional amount:

(A) to the purchase price of the tangible personal property, product transferred electronically, or service; and

(B) to the tax due under this chapter on the tangible personal property, product transferred electronically, or service; and

(ii) to:

(A) interest charges;

(B) service charges; and

(C) other charges.

(h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:

(i) in accordance with this Subsection (10); and

(ii) if the certified service provider credits or refunds the entire amount of the bad debt deduction or refund to the seller.

(i) A seller may allocate bad debt among the states that are members of the agreement if the seller's books and records support that allocation.

(11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.

(b) A violation of this section is punishable as provided in Section 59-1-401.

(c) Each person that fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time required by this chapter, or that fails to file any return as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(d) For purposes of prosecution under this section, each quarterly tax period in which a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted constitutes a separate offense.

Section 5. Effective date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all the members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 295
S. B. 55
Passed February 19, 2025
Approved March 25, 2025
Effective May 7, 2025

UNAUTHORIZED USE OF REAL PROPERTY AMENDMENTS

Chief Sponsor: Heidi Balderree
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill addresses the consequences of unauthorized use of real property by providing a limited alternative remedy to remove a trespasser from real property and providing a criminal penalty for the fraudulent sale or rental of real property.

Highlighted Provisions:

This bill:

- ► authorizes property owners or their agents to request assistance from law enforcement for the immediate removal of a trespasser from real property under certain conditions;
- ► requires an owner seeking removal of a trespasser, or the owner's authorized agent, to submit a complaint;
- ► specifies requirements for the complaint;
- ► provides requirements for law enforcement;
- ► authorizes law enforcement to arrest a trespasser for legal cause;
- ► authorizes the owner or agent to request that law enforcement stand by while the owner or agent takes possession of the property;
- ► provides that law enforcement is not liable to any party for loss, destruction, or damage;
- ► provides that the property owner or agent is not liable to any party for the loss or destruction of, or damage to, personal property unless it was wrongfully removed;
- ► provides civil remedies;
- ► imposes criminal penalties for unlawfully possessing of, occupying on, or trespassing on real property intentionally and causing a specified amount of damage;
- ► imposes criminal penalties for any person who knowingly and willfully presents a false document purporting to be a valid lease agreement, deed, or other instrument conveying real property rights;
- ► imposes criminal penalties for fraudulently listing or advertising for sale, or renting or leasing, residential real property under certain circumstances; and
- ► provides criminal penalties for committing perjury.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-206, as last amended by Laws of Utah 2024, Chapter 2

ENACTS:

76-6-106.2, Utah Code Annotated 1953
76-6-525, Utah Code Annotated 1953
78B-6-817, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-6-106.2 is enacted to read:

76-6-106.2. Property damage or destruction by a trespasser on real property.

(1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor commits property damage or destruction by a trespasser on real property if, under circumstances not amounting to burglary as defined in Section 76-6-202 or 76-6-203, the actor:

(a) enters or remains unlawfully on real property; and

(b) causes damage or pecuniary loss equal to or in excess of $1,500.

(3) A violation of Subsection (2) is a second degree felony.

Section 2. Section 76-6-206 is amended to read:

76-6-206. Criminal trespass.

(1) (a) As used in this section:

(i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.

(ii) "Graffiti" means the same as that term is defined in Section 76-6-101.

(iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means remaining on or over private property when:

(A) the private property or any portion of the private property is not open to the public; and

(B) the person operating the unmanned aircraft is not otherwise authorized to fly the unmanned aircraft over the private property or any portion of the private property.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) An actor commits criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204, a violation of Section 76-6-106.2, or a violation of Section 76-10-2402 regarding commercial obstruction:

(a) the actor enters or remains unlawfully on or causes an unmanned aircraft to enter and remain unlawfully over property and:

(i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti;

(ii) intends to commit any crime, other than theft or a felony; or

(iii) is reckless as to whether the actor's or unmanned aircraft's presence will cause fear for the safety of another;

(b) knowing the actor's or unmanned aircraft's entry or presence is unlawful, the actor enters or remains on or causes an unmanned aircraft to enter or remain unlawfully over property to which notice against entering is given by:

(i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;

(ii) fencing or other enclosure obviously designed to exclude intruders; or

(iii) posting of signs reasonably likely to come to the attention of intruders;

(c) the actor enters a condominium unit in violation of Section 57-8-7(8); or

(d) the actor enters a sex-designated changing room in violation of Subsection 63G-31-302(3).

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2)(a), (b), or (d) is a class B misdemeanor.

(b) The following is a class A misdemeanor:

(i) if a violation of Subsection (2)(a) or (b) is committed in a dwelling;

(ii) if a violation of Subsection (2)(d) is committed while also committing the offense of:

(A) lewdness under Section 76-9-702;

(B) lewdness involving a child under Section 76-9-702.5;

(C) voyeurism under Section 76-9-702.7; or

(D) loitering in a privacy space under Section 76-9-702.8; or

(iii) if a violation of Subsection (2)(d) is committed in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.

(c) A violation of Subsection (2)(c) is an infraction.

(4) It is a defense to prosecution under this section that:

(a) the property was at the time open to the public; and

(b) the defendant complied with all lawful conditions imposed on access to or remaining on the property.

(5) In addition to an order for restitution under Section 77-38b-205, an actor who commits a violation of Subsection (2) may also be liable for:

(a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or $500, whichever is greater; and

(b) reasonable attorney fees not to exceed $250, and court costs.

(6) Civil damages under Subsection (5) may be collected in a separate action by the property owner or the owner's assignee.

Section 3. Section 76-6-525 is enacted to read:

76-6-525. Fraudulent advertisement, sale, lease, or mortgaging of real property.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits fraudulent advertisement, sale, lease, or mortgaging of real property if the actor knowingly:

(a) (i) lists or advertises residential real property for sale; or

(ii) sells, leases, or mortgages real property; and

(b) does not have legal title to the property or authority to advertise, sell, lease, or mortgage the real property.

(3) A violation of Subsection (2) is a second degree felony.

Section 4. Section 78B-6-817 is enacted to read:

78B-6-817. Limited alternative remedy to remove a trespasser from real property.

(1) An owner of real property, or the property owner's authorized agent, may request that law enforcement of the appropriate jurisdiction in which the real property is located, immediately remove a trespasser occupying the real property if the property owner, or an authorized agent of the property owner, attests that:

(a) the trespasser has unlawfully entered and remains on the real property;

(b) the real property was not open to members of the public at the time the trespasser entered;

(c) the property owner has directed the trespasser to leave the real property;

(d) the trespasser is not a current or former tenant of the real property under a written rental agreement authorized by the property owner;

(e) the trespasser is not an immediate family member of the property owner; and

(f) there is no pending litigation related to the real property between the property owner and the trespasser.

(2) (a) To request the immediate removal of a trespasser on the real property, the property owner or property owner's authorized agent shall submit a complaint by presenting a completed and verified Complaint to Remove Trespassers Unlawfully Occupying Real Property to law enforcement of the appropriate jurisdiction in which the real property is located.

(b) The submitted complaint shall be in substantially the following form:

"COMPLAINT TO REMOVE TRESPASSERS UNLAWFULLY OCCUPYING REAL PROPERTY

I, the owner or authorized agent of the owner of the real property located at [physical address of the real property], declare under the penalty of perjury that (initial each box):

1. ..... I am the owner of the real property or the authorized agent of the owner of the real property.

2. ..... I have attached evidence that I am the record owner of the real property, or the authorized agent of the owner.

3. ..... A trespasser has unlawfully entered and is remaining or residing unlawfully on the real property.

4. ..... The real property was not open to members of the public at the time the trespasser entered.

5. ..... I have directed the trespasser to leave the real property, but the trespasser has not done so.

6. ..... The trespasser is not a current or former tenant according to any valid lease authorized by the property owner for the real property, and any lease that may be produced by an occupant is fraudulent.

7. ..... The trespasser sought to be removed is not an owner or a co-owner of the property and has not been listed on the title to the property unless the trespasser has engaged in title fraud.

8. ..... The trespasser is not an immediate family member of the property owner.

9. ..... There is no litigation related to the real property pending between the property owner and any trespasser sought to be removed.

10. ..... I understand that an individual removed from the real property with this procedure may bring a cause of action against me for any false statements made in this complaint, or for wrongfully using this procedure, and that as a result of such action I may be held liable for actual damages, penalties, costs, and reasonable attorney fees.

11. ..... I am requesting law enforcement to immediately remove the trespasser from the real property.

12. ..... A copy of my valid government-issued identification is attached, or I am an agent of the property owner and documents evidencing my authority to act on the property owner's behalf are attached.

I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN UTAH CODE, SECTION 76-8-502.

.....

(Signature of Property Owner or Authorized Agent of Owner)"

(3) (a) Upon receipt of the complaint and evidence of ownership, and the owner or authorized agent appears entitled to the relief described in this section, law enforcement shall, without delay, instruct the trespasser or serve a notice to immediately vacate on any trespasser and shall put the owner or authorized agent in possession of the real property.

(b) If verified, law enforcement shall, without delay, serve a notice to immediately vacate on any trespasser and shall put the owner in possession of the real property.

(c) Law enforcement may serve the trespasser by hand delivery of the notice or by posting the notice on the real property.

(d) Law enforcement shall attempt to verify the identity of any trespasser occupying the real property and note the identities on the return of service.

(e) If appropriate, law enforcement may arrest any trespasser found on the real property for trespass, outstanding warrants, or any other legal cause.

(4) (a) After law enforcement serves the notice to immediately vacate, the property owner or authorized agent may request that law enforcement stand by to keep the peace while the property owner or authorized agent of the property owner changes the locks and removes the personal property of the trespasser from the real property to or near the property line.

(b) Law enforcement is not liable to the trespasser or any other party for loss, destruction, or damage of property.

(c) The property owner and authorized agent are not liable to the trespasser or any other party for the loss, destruction, or damage to the personal property unless the removal was wrongful.

(5) (a) An individual may bring a civil cause of action for wrongful removal under this section.

(b) (i) An individual harmed by a wrongful removal under this section may be restored to possession of the real property and may recover actual costs and damages incurred, statutory damages equal to triple the fair market rent of the dwelling, court costs, and reasonable attorney fees.

(ii) The court shall expedite the trial and any hearing in an action described in this Subsection (5).

(6) This section does not limit the rights of a property owner or limit the authority of a law enforcement officer to arrest a trespasser for trespassing, vandalism, theft, or other crimes.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 296
S. B. 59
Passed February 6, 2025
Approved March 25, 2025
Effective May 7, 2025

COMMERCIAL DRIVER LICENSE REVISIONS

Chief Sponsor: Don L. Ipson
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses procedures relating to commercial driver licenses.

Highlighted Provisions:

This bill:

- ► amends provisions relating to disqualification of a commercial driver license;
- ► requires the Driver License Division to utilize the Drug and Alcohol Clearinghouse as required by federal law; and
- ► amends definitions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-221, as last amended by Laws of Utah 2021, Chapter 120 and last amended by Coordination Clause, Laws of Utah 2021, Chapters 83, 157
53-3-223, as last amended by Laws of Utah 2024, Chapter 106
53-3-402, as last amended by Laws of Utah 2022, Chapter 426
53-3-414, as last amended by Laws of Utah 2024, Chapters 153, 194

ENACTS:

53-3-409, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-221 is amended to read:

53-3-221. Offenses that may result in denial, suspension, disqualification, or revocation of license -- Additional grounds for suspension -- Point system for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.

(1) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may deny, suspend, disqualify, or revoke the license or permit of any [~~person~~]individual without receiving a record of the [~~person's~~]individual's conviction of crime when the division has been notified or has reason to believe the [~~person~~]individual:

(a) has committed any offenses for which mandatory suspension or revocation of a license is required upon conviction under Section 53-3-220;

(b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other [~~person~~]individual, or serious property damage;

(c) is incompetent to drive a motor vehicle or mobility vehicle or has a mental or physical disability rendering it unsafe for the [~~person~~]individual to drive a motor vehicle or mobility vehicle upon the highways;

(d) has committed a serious violation of the motor vehicle laws of this state;

(e) has knowingly committed a violation of Section 53-3-229; or

(f) has been convicted of serious offenses against traffic laws governing the movement of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the safety of other [~~persons~~]individuals on the highways.

(2) (a) (i) Except as provided in Subsection 53-3-218(3), and subject to Subsection (2)(a)(ii), the division may suspend a license of [~~a person~~]an individual under Subsection (1):

(A) when the [~~person~~]individual has failed to comply with the terms stated on a traffic citation issued in this state; or

(B) if the division receives a notification from a court as described in Subsection 41-6a-509(11)(d) or 41-6a-517(13)(b).

(ii) This Subsection (2) does not apply to highway weight limit violations or violations of law governing the transportation of hazardous materials.

(b) (i) This Subsection (2) may not be exercised unless notice of the pending suspension of the driving privilege has been sent at least 30 days previously to the [~~person~~]individual at the address provided to the division.

(ii) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of a suspension that occurred as a result of failure to comply with the terms stated on a traffic citation.

(3) Except as provided in Subsection 53-3-218(3), the division may not revoke, deny, suspend, or disqualify an individual's driver license based solely on:

(a) the individual's failure to appear;

(b) the individual's failure to pay an outstanding penalty accounts receivable; or

(c) the issuance of a bench warrant as a result of an event described in Subsection (3)(a)or (b).

(4) (a) The division shall make rules establishing a point system as provided for in this Subsection (4).

(b) (i) The division shall assign a number of points to each type of moving traffic violation as a measure of its seriousness.

(ii) The points shall be based upon actual relationships between types of traffic violations and motor vehicle traffic accidents.

(iii) Except as provided in Subsection (4)(b)(iv), the division may not assess points against [~~a person's~~]an individual's driving record for a conviction of a traffic violation:

(A) that occurred in another state; and

(B) that was committed on or after July 1, 2011.

(iv) The provisions of Subsection (4)(b)(iii) do not apply to:

(A) a reckless or impaired driving violation or a speeding violation for exceeding the posted speed limit by 21 or more miles per hour; or

(B) an offense committed in another state which, if committed within Utah, would result in the mandatory suspension or revocation of a license upon conviction under Section 53-3-220.

(c) Every [~~person~~]individual convicted of a traffic violation shall have assessed against the [~~person's~~]individual's driving record the number of points that the division has assigned to the type of violation of which the [~~person~~]individual has been convicted, except that the number of points assessed shall be decreased by 10% if on the abstract of the court record of the conviction the court has graded the severity of violation as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of violation as maximum.

(d) (i) A separate procedure for assessing points for speeding offenses shall be established by the division based upon the severity of the offense.

(ii) The severity of a speeding violation shall be graded as:

(A) "minimum" for exceeding the posted speed limit by up to 10 miles per hour;

(B) "intermediate" for exceeding the posted speed limit by [~~from~~]11 to 20 miles per hour; and

(C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

(iii) Consideration shall be made for assessment of no points on minimum speeding violations, except for speeding violations in school zones.

(e) (i) Points assessed against [~~a person's~~]an individual's driving record shall be deleted for violations occurring before a time limit set by the division.

(ii) The time limit may not exceed three years.

(iii) The division may also delete points to reward violation-free driving for periods of time set by the division.

(f) (i) By publication in two newspapers having general circulation throughout the state, the division shall give notice of the number of points it has assigned to each type of traffic violation, the time limit set by the division for the deletion of points, and the point level at which the division will generally take action to deny or suspend under this section.

(ii) The division may not change any of the information provided above regarding points without first giving new notice in the same manner.

(5) (a) (i) If the division finds that the license of [~~a person~~]an individual should be denied, suspended, disqualified, or revoked under this section, the division shall immediately notify the licensee in a manner specified by the division and afford the [~~person~~]individual an opportunity for a hearing in the county where the licensee resides.

(ii) The hearing shall be documented, and the division or its authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee.

(iii) One or more members of the division may conduct the hearing, and any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division.

(iv) After the hearing the division shall either rescind or affirm its decision to deny, suspend, disqualify, or revoke the license.

(b) The denial, suspension, disqualification, or revocation of the license remains in effect pending qualifications determined by the division regarding [~~a person~~]an individual:

(i) whose license has been denied or suspended following reexamination;

(ii) who is incompetent to drive a motor vehicle;

(iii) who is afflicted with mental or physical infirmities that might make [~~him~~]the individual dangerous on the highways; or

(iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

(6) (a) Subject to Subsection (6)(d), the division shall suspend [~~a person's~~]an individual'slicense when the division receives notice from the Office of Recovery Services that the Office of Recovery Services has ordered the suspension of the [~~person's~~]individual's license.

(b) A suspension under Subsection (6)(a) shall remain in effect until the division receives notice from the Office of Recovery Services that the Office of Recovery Services has rescinded the order of suspension.

(c) After an order of suspension is rescinded under Subsection (6)(b), a report authorized by Section 53-3-104 may not contain any evidence of the suspension.

(d) (i) If the division suspends [~~a person's~~]an individual's license under this Subsection (6), the division shall, upon application, issue a temporary limited driver license to the [~~person~~]individual if that [~~person~~]individual needs a driver license for employment, education, or child visitation.

(ii) The temporary limited driver license described in this section:

(A) shall provide that the [~~person~~]individual may operate a motor vehicle only for the purpose of driving to or from the [~~person's~~]individual's place of employment, education, or child visitation;

(B) shall prohibit the [~~person~~]individual from driving a motor vehicle for any purpose other than a purpose described in Subsection (6)(d)(ii)(A); and

(C) shall expire 90 days after the day on which the temporary limited driver license is issued.

(iii) (A) During the period beginning on the day on which a temporary limited driver license is issued under this Subsection (6), and

ending on the day that the temporary limited driver license expires, the suspension described in this Subsection (6) only applies if the [~~person~~]individual who is suspended operates a motor vehicle for a purpose other than employment, education, or child visitation.

(B) Upon expiration of a temporary limited driver license described in this Subsection (6)(d):

(I) a suspension described in Subsection (6)(a) shall be in full effect until the division receives notice, under Subsection (6)(b), that the order of suspension is rescinded; and

(II) [~~a person~~]an individual suspended under Subsection (6)(a) may not drive a motor vehicle for any reason.

(iv) The division is not required to issue a limited driver license to [~~a person~~]an individual under this Subsection (6)(d) if there are other legal grounds for the suspension of the [~~person's~~]individual's driver license.

(v) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this part.

(7) (a) The division may suspend or revoke the license of any resident of this state upon receiving notice of the conviction of that [~~person~~]individual in another state of an offense committed there that, if committed in this state, would be grounds for the suspension or revocation of a license.

(b) The division may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws of this state, forward a certified copy of the record to the motor vehicle administrator in the state where the [~~person~~]individual convicted is a resident.

(8) (a) The division may suspend or revoke the license of any nonresident to drive a motor vehicle in this state for any cause for which the license of a resident driver may be suspended or revoked.

(b) Any nonresident who drives a motor vehicle upon a highway when the [~~person's~~]individual's license has been suspended or revoked by the division is guilty of a class C misdemeanor.

(9) (a) The division may not deny or suspend the license of any [~~person~~]individual for a period of more than one year except:

(i) for failure to comply with the terms of a traffic citation under Subsection (2);

(ii) upon receipt of a second or subsequent order suspending juvenile driving privileges under Section 53-3-219;

(iii) when extending a denial or suspension upon receiving certain records or reports under Subsection 53-3-220(2);

(iv) for failure to give and maintain owner's or operator's security under Section 41-12a-411;

(v) when the division suspends the license under Subsection (6); or

(vi) when the division denies the license under Subsection (14).

(b) The division may suspend the license of [~~a person~~]an individual under Subsection (2) until the [~~person~~]individual shows satisfactory evidence of compliance with the terms of the traffic citation.

(10) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may suspend the license of any [~~person~~]individual without receiving a record of the [~~person's~~]individual's conviction for a crime when the division has reason to believe that the [~~person's~~]individual's license was granted by the division through error or fraud or that the necessary consent for the license has been withdrawn or is terminated.

(b) The procedure upon suspension is the same as under Subsection (5), except that after the hearing the division shall either rescind its order of suspension or cancel the license.

(11) (a) The division, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified by the division of at least five days to the licensee require [~~him~~]the licensee to submit to an examination.

(b) Upon the conclusion of the examination the division may suspend or revoke the [~~person's~~]individual's license, permit [~~him~~]the individual to retain the license, or grant a license subject to a restriction imposed in accordance with Section 53-3-208.

(c) Refusal or neglect of the licensee to submit to an examination is grounds for suspension or revocation of the licensee's license.

(12) (a) Except as provided in Subsection (12)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in this state if the conviction was for a speed of 10 miles per hour or less, above the posted speed limit and did not result in an accident, unless authorized in a manner specified by the division by the individual whose report is being requested.

(b) The provisions of Subsection (12)(a) do not apply for:

(i) a CDIP or CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

(13) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may suspend the license of [~~a person~~]an individual if it has reason to believe that the [~~person~~]individual is the owner of a motor vehicle for which security is required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act, and has driven the motor vehicle or permitted it to be driven within this state without the security being in effect.

(b) The division may suspend a driving privilege card holder's driving privilege card if the division receives notification from the Motor Vehicle Division that:

(i) the driving privilege card holder is the registered owner of a vehicle; and

(ii) the driving privilege card holder's vehicle registration has been revoked under Subsection 41-1a-110(2)(a)(ii)(A).

(c) Section 41-12a-411 regarding the requirement of proof of owner's or operator's security applies to [~~persons~~]individuals whose driving privileges are suspended under this Subsection (13).

(14) The division may deny an individual's license if the [~~person~~]individual fails to comply with the requirement to downgrade the [~~person's~~]individual's CDL to a class D license under Section 53-3-409 or 53-3-410.1.

(15) The division may deny [~~a person's~~]an individual's class A, B, C, or D license if the [~~person~~]individual fails to comply with the requirement to have a K restriction removed from the [~~person's~~]individual's license.

(16) Any suspension or revocation of [~~a person's~~]an individual's license under this section also disqualifies any license issued to that [~~person~~]individual under Part 4, Uniform Commercial Driver License Act.

Section 2. Section 53-3-223 is amended to read:

53-3-223. Chemical test for driving under the influence -- Temporary license -- Hearing and decision -- Suspension and fee -- Judicial review.

(1) (a) If a peace officer has reasonable grounds to believe that [~~a person~~]an individual may be violating or has violated Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, the peace officer may, in connection with arresting the [~~person~~]individual, request that the [~~person~~]individual submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance adopted in compliance with Subsection 41-6a-510(1).

(2) The peace officer shall advise [~~a person~~]an individual prior to the [~~person's~~]individual's submission to a chemical test that a test result indicating a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207 shall, and the existence of a blood alcohol content sufficient to render the [~~person~~]individual incapable of safely driving a motor vehicle may, result in suspension or revocation of the [~~person's~~]individual's license to drive a motor vehicle.

(3) If the [~~person~~]individual submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, or if a peace officer makes a determination, based on reasonable grounds, that the [~~person~~]individual is otherwise in violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the [~~person's~~]individual's license to drive a motor vehicle.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

(a) a copy of the citation issued for the offense;

(b) a signed report in a manner specified by the division indicating the chemical test results, if any; and

(c) any other basis for the peace officer's determination that the [~~person~~]individual has violated Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207.

(6) (a) Upon request in a manner specified by the division, the division shall grant to the [~~person~~]individual an opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within 10 calendar days of the day on which notice is provided under Subsection (5).

(b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the [~~person~~]individual both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the [~~person~~]individual was driving a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207;

(ii) whether the [~~person~~]individual refused to submit to the test; and

(iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or

(B) may issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(7) (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the [~~person~~]individual was driving a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the [~~person~~]individual failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the [~~person~~]individual is 21 years old or older at the time of arrest, suspend the [~~person's~~]individual's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or

(B) two years beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(ii) if the [~~person~~]individual is under 21 years old at the time of arrest:

(A) suspend the [~~person's~~]individual's license or permit to operate a motor vehicle:

(I) for a period of six months, beginning on the 45th day after the date of arrest for a first suspension; or

(II) until the [~~person~~]individual is 21 years old or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(B) deny the [~~person's~~]individual's application for a license or learner's permit:

(I) for a period of six months beginning on the 45th day after the date of the arrest for a first suspension, if the [~~person~~]individual has not been issued an operator license; or

(II) until the [~~person~~]individual is 21 years old or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

(b) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate [~~a person's~~]an individual's license prior to completion of the 120 day suspension period imposed under Subsection (7)(a)(i)(A):

(A) immediately upon receiving written verification of the [~~person's~~]individual's dismissal of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the 45th day after the date of arrest upon receiving written verification of the [~~person's~~]individual's reduction of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period.

(ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate [~~a person's~~]an individual's license prior to completion of the 120-day suspension period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the

[~~person's~~]individual's conviction of impaired driving under Section 41-6a-502.5 if:

(A) the written verification is received prior to completion of the suspension period; and

(B) the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court as defined in Section 41-6a-501.

(iii) If [~~a person's~~]an individual's license is reinstated under this Subsection (7)(b), the [~~person~~]individual is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).

(iv) The driver license reinstatements authorized under this Subsection (7)(b) only apply to a 120-day suspension period imposed under Subsection (7)(a)(i)(A).

(v) A driver license reinstatement authorized under this Subsection (7)(b) does not apply to a CDL disqualification imposed under Section 53-3-414.

(8) (a) The division shall assess against [~~a person~~]an individual, in addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the [~~person's~~]individual's driving privilege is reinstated. This fee shall be cancelled if the [~~person~~]individual obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) [~~A person~~]An individual whose license has been suspended by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

(9) (a) Notwithstanding the provisions in Subsection (7)(a)(i), the division shall reinstate [~~a person's~~]an individual's license before completion of the suspension period imposed under Subsection (7)(a)(i) if:

(i) (A) the reporting court notifies the Driver License Division that the [~~person~~]individual is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5; or

(B) the reporting court notifies the Driver License Division that the [~~person~~]individual is participating in or has successfully completed a problem solving court program approved by the Judicial Council, including a driving under the influence court program or a drug court program, and has elected to become an interlock restricted driver as a condition of probation during the remainder of the [~~person's~~]individual's suspension period in accordance with Section 41-6a-518; and

(ii) the [~~person~~]individual has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i).

(b) If [~~a person's~~]an individual's license is reinstated under Subsection (9)(a), the [~~person~~]individual is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).

(10) (a) If the division suspends [~~a person's~~]an individual's license for an alcohol related offense under Subsection (7)(a)(i)(A), the [~~person~~]individual may petition the division and elect to become an ignition interlock restricted driver if the [~~person~~]individual:

(i) has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i)(A);

(ii) installs an ignition interlock device in any vehicle owned or driven by the [~~person~~]individual in accordance with Section 53-3-1007; and

(iii) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27).

(b) (i) The [~~person~~]individual shall remain an ignition interlock restricted driver for a period of 120 days from the original effective date of the suspension under Subsection (7)(a)(i)(A).

(ii) If the [~~person~~]individual removes an ignition interlock device from a vehicle owned or driven by the [~~person~~]individual prior to the expiration of the 120-day ignition interlock restriction period and does not install a new ignition interlock device from the same or a different provider within 24 hours:

(A) the [~~person's~~]individual's driver license shall be suspended under Subsection (7)(a)(i)(A) for the remainder of the 120-day ignition interlock restriction period;

(B) the [~~person~~]individual is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and

(C) the [~~person~~]individual may not elect to become an ignition interlock restricted driver under this section.

(c) If [~~a person~~]an individual elects to become an ignition interlock restricted driver under Subsection (10)(a), the provisions under Subsection (7)(b) do not apply.

(11) (a) If the division suspends [~~a person's~~]an individual's license for an alcohol related offense under Subsection (7)(a)(i)(B), the [~~person~~]individual may petition the division and elect to become an ignition interlock restricted driver after the driver serves at least 90 days of the suspension if the [~~person~~]individual:

(i) was charged with a violation of Section 41-6a-502 that is a misdemeanor;

(ii) has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i)(B);

(iii) installs an ignition interlock device in any vehicle owned or driven by the [~~person~~]individual in accordance with Section 53-3-1007; and

(iv) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27);

(b) (i) The [~~person~~]individual shall remain an ignition interlock restricted driver for a period of two years from the original effective date of the suspension under Subsection (7)(a)(i)(B).

(ii) If the [~~person~~]individual removes an ignition interlock device from a vehicle owned or driven by the [~~person~~]individual prior to the expiration of the two-year ignition interlock restriction period and does not install a new ignition interlock device from the same or a different provider within 24 hours:

(A) the [~~person's~~]individual's driver license shall be suspended under Subsection (7)(a)(i)(B) for the remainder of the two-year ignition interlock restriction period;

(B) the [~~person~~]individual is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and

(C) the [~~person~~]individual may not elect to become an ignition interlock restricted driver under this section.

(c) Notwithstanding Subsections (11)(a) and (b), if the [~~person~~]individual is subsequently convicted of the violation of Section 41-6a-502 that gave rise to the suspension under Subsection (7)(a)(i)(B), the division shall revoke the [~~person's~~]individual's license under Subsection 41-6a-509(1)(a)(ii), and the [~~person~~]individual is no longer an ignition interlock restricted driver under this Subsection (11).

(12) (a) Notwithstanding the provisions in Subsection (7)(a)(i)(B), the division shall reinstate [~~a person's~~]an individual's license prior to completion of the two-year suspension period imposed under Subsection (7)(a)(i)(B) immediately upon receiving written verification of the [~~person's~~]individual's dismissal of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period.

(b) If the [~~person~~]individual elected to become an ignition interlock restricted driver under Subsection (11), and the division receives written verification of the [~~person's~~]individual's dismissal of a charge for violation of Section 41-6a-502, the driver is no longer an ignition interlock restricted driver under Subsection (11)(b)(i), and the division shall reinstate the [~~person's~~]individual's license prior to the completion of the two-year ignition interlock restriction period under Subsection (11)(b)(i).

Section 3. Section 53-3-402 is amended to read:

53-3-402. Definitions.

As used in this part:

(1) "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means the number of grams of alcohol per:

(a) 100 milliliters of blood;

(b) 210 liters of breath; or

(c) 67 milliliters of urine.

(3) "Commercial driver license information system" or "CDLIS" means the information system established under Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, as a clearinghouse for information related to the licensing and identification of commercial motor vehicle drivers.

(4) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6), and includes all substances listed on the current Schedules I through V of 21 C.F.R., Part 1308 as they may be revised from time to time.

(5) "Drug and Alcohol Clearinghouse" means the database established under 49 C.F.R. Sec. 382, that requires an employer and service agent to report information to and to query regarding a driver who is subject to the United States Department of Transportation controlled substance and alcohol testing regulations.

[~~(5)~~](6) "Employee" means any driver of a commercial motor vehicle, including:

(a) full-time, regularly employed drivers;

(b) casual, intermittent, or occasional drivers;

(c) leased drivers; and

(d) independent, owner-operator contractors while in the course of driving a commercial motor vehicle who are either directly employed by or under lease to an employer.

[~~(6)~~](7) "Employer" means any individual or person including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns an individual to drive a commercial motor vehicle.

[~~(7)~~](8) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term of more than one year.

[~~(8)~~](9) "Foreign jurisdiction" means any jurisdiction other than the United States or a state of the United States.

[~~(9)~~](10) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum loaded weight of a single vehicle or GVWR of a combination or articulated vehicle, and includes the GVWR of the power unit plus the total weight of all towed units and the loads on those units.

[~~(10)~~](11) "Hazardous material" has the same meaning as defined under 49 C.F.R. Sec. 383.5.

[~~(11)~~](12) "Imminent hazard" means the existence of a condition, practice, or violation that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment is expected to occur immediately, or before the condition, practice, or violation can be abated.

[~~(12)~~](13) "Medical certification status" means the medical certification of a commercial driver license holder or commercial motor vehicle operator in any of the following categories:

(a) Non-excepted interstate. [~~A person~~]An individual shall certify that the [~~person~~]individual:

(i) operates or expects to operate in interstate commerce;

(ii) is both subject to and meets the qualification requirements under 49 C.F.R. Part 391; and

(iii) is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(b) Excepted interstate. [~~A person~~]An individual shall certify that the [~~person~~]individual:

(i) operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Sec. 390.3(f), 391.2, 391.68, or 398.3 from all or parts of the qualification requirements of 49 C.F.R. Part 391; and

(ii) is not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(c) Non-excepted intrastate. [~~A person~~]An individual shall certify that the [~~person~~]individual:

(i) operates only in intrastate commerce; and

(ii) is subject to state driver qualification requirements under Sections 53-3-303.5, 53-3-304, and 53-3-414.

(d) Excepted intrastate. [~~A person~~]An individual shall certify that the [~~person~~]individual:

(i) operates in intrastate commerce; and

(ii) engages exclusively in transportation or operations excepted from all parts of the state driver qualification requirements.

[~~(13)~~](14) "NDR" means the National Driver Register.

[~~(14)~~](15) "Nonresident CDL" means a commercial driver license issued by a state to an individual who resides in a foreign jurisdiction.

[~~(15)~~](16) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

[~~(16)~~](17) "Port-of-entry agent" has the same meaning as provided in Section 72-1-102.

[~~(17)~~](18) "Serious traffic violation" means a conviction of any of the following:

(a) speeding 15 or more miles per hour above the posted speed limit;

(b) reckless driving as defined by state or local law;

(c) improper or erratic traffic lane changes;

(d) following the vehicle ahead too closely;

(e) any other motor vehicle traffic law which arises in connection with a fatal traffic accident;

(f) operating a commercial motor vehicle without a CDL or a CDIP;

(g) operating a commercial motor vehicle without the proper class of CDL or CDL endorsement for the type of vehicle group being operated or for the passengers or cargo being transported;

(h) operating a commercial motor vehicle without a CDL or CDIP license certificate in the driver's possession in violation of Section 53-3-404;

(i) using a wireless communication device in violation of Section 41-6a-1716 while operating a commercial motor vehicle; or

(j) using a hand-held mobile telephone while operating a commercial motor vehicle in violation of 49 C.F.R. Sec. 392.82.

[~~(18)~~](19) "State" means a state of the United States, the District of Columbia, any province or territory of Canada, or Mexico.

[~~(19)~~](20) "United States" means the 50 states and the District of Columbia.

Section 4. Section 53-3-409 is enacted to read:

53-3-409. Drug and Alcohol Clearinghouse.

(1) The division shall query the Drug and Alcohol Clearinghouse before:

(a) issuing an original CDL or CDIP;

(b) renewing a CDL or CDIP;

(c) issuing a duplicate CDL or CDIP;

(d) upgrading a CDL or CDIP; or

(e) transferring a CDL or CDIP from another jurisdiction.

(2) Upon receipt of information from the Drug and Alcohol Clearinghouse that an applicant is prohibited from operating a commercial motor vehicle, the division shall deny the:

(a) issuance of an original CDL or CDIP;

(b) renewal of a CDL or CDIP;

(c) issuance of a duplicate CDL or CDIP;

(d) upgrade of a CDL or CDIP; or

(e) transfer of a CDL or CDIP.

(3) If the division determines that an individual who holds a CDL or CDIP is prohibited from operating a commercial motor vehicle under this part or 49 C.F.R. Sec. 382.501, the individual shall be required to downgrade the CDL or CDIP to a class D license.

(4) If the division receives notification pursuant to 49 C.F.R. Sec. 382.503 that the individual is no longer prohibited from operating a commercial motor vehicle, the division may terminate the downgrade process.

(5) A reinstatement to a CDL or CDIP after downgrade to a class D license may be completed if:

(a) the division receives notification pursuant to 49 C.F.R. Sec. 382.503 that the individual is no longer prohibited from operating a commercial motor vehicle; or

(b) the division receives notification that the individual was erroneously identified as prohibited from operating a commercial motor vehicle.

(6) If the division receives a notification described in Subsection (5)(b), the division shall:

(a) reinstate the CDL or CDIP privilege as expeditiously as possible; and

(b) remove any reference to the prohibited status from the CDLIS record and motor vehicle record.

(7) Failure to comply with the requirements of this section shall result in the denial of the license under Section 53-3-221.

Section 5. Section 53-3-414 is amended to read:

53-3-414. CDL disqualification or suspension -- Grounds and duration -- Procedure.

(1) (a) An individual who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle for a period of not less than one year effective seven days from the date of notice to the driver if convicted of a first offense of:

(i) driving a motor vehicle while impaired or under the influence of alcohol, drugs, a controlled substance, or more than one of these;

(ii) driving a commercial motor vehicle while the concentration of alcohol in the [~~person's~~]individual's blood, breath, or urine is .04 grams or more;

(iii) leaving the scene of an accident involving a motor vehicle the [~~person~~]individual was driving;

(iv) failing to provide reasonable assistance or identification when involved in an accident resulting in:

(A) personal injury in accordance with Section 41-6a-401.3; or

(B) death in accordance with Section 41-6a-401.5; [~~or~~]

(v) using a motor vehicle in the commission of a felony;

(vi) refusal to submit to a test to determine the concentration of alcohol in the [~~person's~~]individual's blood, breath, or urine;

(vii) driving a commercial motor vehicle while the [~~person's~~]individual's commercial driver license is disqualified in accordance with the provisions of this section for violating an offense described in this section; or

(viii) operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of manslaughter under Section 76-5-205, negligent homicide under Section 76-5-206, or automobile homicide under Section 76-5-207.

(b) The division shall subtract from any disqualification period under Subsection (1)(a)(i) the number of days for which a license was previously disqualified under Subsection (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence upon which the record of conviction is based.

(2) If any of the violations under Subsection (1) occur while the driver is transporting a hazardous material required to be placarded, the driver is disqualified for not less than three years.

(3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if convicted of or administrative action is taken for two or more of any of the offenses under Subsection (1)[~~, (5),~~] or (14) arising from two or more separate incidents.

(b) An individual who is convicted of or administrative action is taken for an offense under Subsection (5):

(i) is disqualified for life from driving a commercial motor vehicle; and

(ii) may not be reinstated under Subsection (4).

[~~(b)~~](c) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

(4) (a) Any driver disqualified for life from driving a commercial motor vehicle under this section may apply to the division for reinstatement of the driver's CDL if the driver:

(i) has both voluntarily enrolled in and successfully completed an appropriate rehabilitation program that:

(A) meets the standards of the division; and

(B) complies with 49 C.F.R. Sec. 383.51;

(ii) has served a minimum disqualification period of 10 years; and

(iii) has fully met the standards for reinstatement of commercial motor vehicle driving privileges established by rule of the division.

(b) If a reinstated driver is subsequently convicted of another disqualifying offense under this section, the driver is permanently disqualified for life and is ineligible to again apply for a reduction of the lifetime disqualification.

(5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the commission of any felony involving:

(a) the manufacturing, distributing, or dispensing of a controlled substance[~~, or possession with intent to manufacture, distribute, or dispense a controlled substance and is ineligible to apply for a reduction of the lifetime disqualification under Subsection (4);~~]; or

(b) an act or practice of severe forms of trafficking in persons as defined and described in 22 U.S.C. Sec. 7102(11).

(6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) involve the use or operation of a commercial motor vehicle.

(c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (6), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(7) (a) A driver of a commercial motor vehicle who is convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(i) 180 days if the driver is convicted of a first violation;

(ii) two years if, during any 10 year period, the driver is convicted of two violations of out-of-service orders in separate incidents;

(iii) three years but not more than five years if, during any 10 year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents;

(iv) 180 days but not more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver; or

(v) three years but not more than five years if, during any 10 year period, the driver is convicted of two or more violations, in separate incidents, of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver.

(b) A driver of a commercial motor vehicle who is convicted of a first violation of an out-of-service order is subject to a civil penalty of not less than $2,500.

(c) A driver of a commercial motor vehicle who is convicted of a second or subsequent violation of an out-of-service order is subject to a civil penalty of not less than $5,000.

(8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than 60 days if the division determines, in its check of the driver's driver license status, application, and record prior to issuing a CDL or at any time after the CDL is issued, that the driver has falsified information required to apply for a CDL in this state.

(9) A driver of a commercial motor vehicle who is convicted of violating a railroad-highway grade crossing provision under Section 41-6a-1205, while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(a) 60 days if the driver is convicted of a first violation;

(b) 120 days if, during any three-year period, the driver is convicted of a second violation in separate incidents; or

(c) one year if, during any three-year period, the driver is convicted of three or more violations in separate incidents.

(10) (a) The division shall update its records and notify the CDLIS within 10 days of suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

(b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL, the division shall notify the licensing authority of the issuing state or other jurisdiction and the CDLIS within 10 days after the action is taken.

(c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this state, the division shall notify the CDLIS within 10 days after the action is taken.

(11) (a) The division may immediately suspend or disqualify the CDL of a driver without a hearing or receiving a record of the driver's conviction when the division has reason to believe that the:

(i) CDL was issued by the division through error or fraud;

(ii) applicant provided incorrect or incomplete information to the division;

(iii) applicant cheated on any part of a CDL examination;

(iv) driver no longer meets the fitness standards required to obtain a CDL; or

(v) driver poses an imminent hazard.

(b) Suspension of a CDL under this Subsection (11) shall be in accordance with Section 53-3-221.

(c) If a hearing is held under Section 53-3-221, the division shall then rescind the suspension order or cancel the CDL.

(12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (12)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving privilege from at least one of the violations.

(c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (12), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(13) (a) Upon receiving a notice that [~~a person~~]an individual has entered into a plea of guilty or no contest to a violation of a disqualifying offense described in this section which plea is held in abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend, cancel, or revoke the [~~person's~~]individual's CDL for the period required under this section for a conviction of that disqualifying offense, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) The division shall report the plea in abeyance to the CDLIS within 10 days of taking the action under Subsection (13)(a).

(c) A plea which is held in abeyance may not be removed from [~~a person's~~]an individual's driving record for 10 years from the date of the plea in abeyance agreement, even if the charge is:

(i) reduced or dismissed in accordance with the plea in abeyance agreement; or

(ii) expunged under Title 77, Chapter 40a, Expungement of Criminal Records.

(14) The division shall disqualify the CDL of a driver for an arrest of a violation of Section 41-6a-502 when administrative action is taken against the operator's driving privilege pursuant to Section 53-3-223 for a period of:

(a) one year; or

(b) three years if the violation occurred while transporting hazardous materials.

(15) The division may concurrently impose any disqualification periods that arise under this section while a driver is disqualified by the Secretary of the United States Department of Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 297
S. B. 61
Passed February 28, 2025
Approved March 25, 2025
Effective May 7, 2025

ENERGY CORRIDOR AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Troy Shelley

LONG TITLE

General Description:

This bill modifies provisions related to eminent domain and the condemnation process for public utilities.

Highlighted Provisions:

This bill:

- ► requires a person filing an eminent domain action for a high voltage power line to:
  - • conduct an infrastructure siting analysis; and
  - • coordinate with federal land management agencies before pursuing condemnation of private lands;
- ► modifies the requirements for certain eminent domain complaints to include infrastructure siting analysis and federal agency coordination documentation;
- ► requires a public utility to submit an annual report on eminent domain actions and efforts to utilize federal public lands to the Public Utilities, Energy, and Technology Interim Committee; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-504, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-505, as last amended by Laws of Utah 2020, Chapter 290
78B-6-507, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

78B-6-505.5, Utah Code Annotated 1953
78B-6-523, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-6-504 is amended to read:
78B-6-504. Conditions precedent to taking.

[~~(1) Before property can be taken it must appear that:~~]

[~~(a) the use to which it is to be applied is a use authorized by law;~~]

[~~(b) the taking is necessary for the use;~~]

[~~(c) construction and use of all property sought to be condemned will commence within a reasonable time as determined by the court, after the initiation of proceedings under this part; and~~]

[~~(d) if already appropriated to some public use, the public use to which it is to be applied is a more necessary public use.~~]

[~~(2)~~](1) [~~(a)~~] As used in this section[~~,~~]:

(a) "Feasible" means reasonably practicable after consideration of factors including:

(i) cost;

(ii) delay;

(iii) terrain;

(iv) safety; and

(v) the size and complexity of the infrastructure route.

(b) [~~"governing~~]"Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town; and

(ii) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.

(c) "High voltage power line" means the same as that term is defined in Section 54-18-102.

(d) "Infrastructure siting analysis" means a comprehensive evaluation that:

(i) identifies and assesses all reasonable route alternatives for the proposed infrastructure;

(ii) prioritizes the use of existing utility corridors in accordance with federal standards;

(iii) considers first the use of federal public lands when feasible; and

(iv) documents why alternatives using federal public lands are not feasible, if applicable.

(e) "Standard Form 299" means the federal form titled "Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands and Property" used to request authorization for use of federal lands.

(2) Before property can be taken it must appear that:

(a) the use to which it is to be applied is a use authorized by law;

(b) the taking is necessary for the use;

(c) construction and use of all property sought to be condemned will commence within a reasonable time as determined by the court, after the initiation of proceedings under this part; and

(d) if already appropriated to some public use, the public use to which it is to be applied is a more necessary public use.

[~~(b)~~](3) Property may not be taken by a political subdivision of the state unless the governing body of the political subdivision approves the taking.

[~~(c)~~](4) (a) Before taking a final vote to approve the filing of an eminent domain action, the governing body of each political subdivision intending to take property shall provide written notice to each owner of property to be taken of each public meeting of the political subdivision's governing body at which a vote on the proposed taking is expected to occur and allow the property owner the opportunity to be heard on the proposed taking.

[~~(d)~~](b) The requirement under Subsection [~~(2)(c)~~](4)(a) to provide notice to a property owner is satisfied by the governing body mailing the written notice to the property owner:

(i) at the owner's address as shown on the records of the county assessor's office; and

(ii) at least 10 business days before the public meeting.

(5) In addition to the requirements of Subsection (2), a person filing an eminent domain action for a high voltage power line shall:

(a) complete an infrastructure siting analysis;

(b) demonstrate that use of federal public lands is not authorized, feasible, or would result in greater public harm than the proposed condemnation; and

(c) submit the analysis to the court as part of the condemnation proceedings.

Section 2. Section 78B-6-505 is amended to read:

78B-6-505. Negotiation and disclosure required before filing an eminent domain action.

(1) As used in this section:

(a) (i) "Claimant" means a person who is a record interest holder of real property sought to be condemned.

(ii) "Claimant" does not include:

(A) a fee simple owner; or

(B) a utility subject to Section 72-6-116.

(b) "Fee simple owner" means the same as that term is defined in Section 57-12-13.

(2) A political subdivision of the state that seeks to acquire property by eminent domain or that intends to use eminent domain to acquire property if the property cannot be acquired in a voluntary transaction shall:

(a) before the governing body, as defined in Subsection 78B-6-504(2)(a), of the political subdivision takes a final vote to approve the filing of an eminent domain action, make a reasonable effort to negotiate with the fee simple owner for the purchase of the property; and

(b) except as provided in Subsection (5), as early in the negotiation process described in Subsection (2)(a) as practicable, but no later than 14 days before the day on which a final vote is taken to approve the filing of an eminent domain action:

(i) provide the fee simple owner and each claimant a complete printed copy of the materials provided on the Office of the Property Rights Ombudsman website in accordance with Section 13-43-203 regarding the acquisition of property for a public purpose and a property owner's right to just compensation;

(ii) provide the fee simple owner a written statement in substantially the following form:

"Although this letter is provided as part of an attempt to negotiate with you for the sale of your property or an interest in your property without using the power of eminent domain, [name of political subdivision] may use that power if it is not able to acquire the property by negotiation. Because of that potential, the person negotiating on behalf of the entity is required to provide the following disclosures to you.

1. You are entitled to receive just compensation for your property.

2. You are entitled to an opportunity to negotiate with [name of political subdivision] over the amount of just compensation before any legal action will be filed.

a. You are entitled to an explanation of how the compensation offered for your property was calculated.

b. If an appraiser is asked to value your property, you are entitled to accompany the appraiser during an inspection of the property.

3. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

4. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

5. If you have a dispute with [name of political subdivision] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

6. Oral representations or promises made during the negotiation process are not binding upon the entity seeking to acquire the property by eminent domain."; and

(iii) provide each claimant a written statement in substantially the following form:

"1. Your interest in property may be impacted by a public improvement project and you may be entitled to receive just compensation.

2. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

3. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

4. If you have a dispute with [name of entity] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

5. Oral representations or promises made during any negotiation are not binding upon the entity seeking to acquire the property by eminent domain."

(3) Except as provided in Subsection (5), the entity involved in the acquisition of property may not bring a legal action to acquire the property under this chapter until 30 days after the day on which the disclosure and materials required in Subsections (2)(b)(ii) and (iii) are provided to the fee simple owner and each claimant.

(4) A person, other than a political subdivision of the state, that seeks to acquire property by eminent domain or that intends to use eminent domain to acquire property if the property cannot be acquired in a voluntary transaction shall:

(a) before filing an eminent domain action, make a reasonable effort to negotiate [~~with the property owner for the purchase of the fee simple;~~]with the fee simple owner for the purchase of the property interest being condemned; and

(b) except as provided in Subsection (5), as early in the negotiation process described in Subsection (4)(a) as practicable, but no later than 30 days before the day on which the person files an eminent domain action:

(i) provide the fee simple owner and each claimant a complete printed copy of the materials provided on the Office of the Property Rights Ombudsman website in accordance with Section 13-43-203 regarding the acquisition of property for a public purpose and a property owner's right to just compensation;

(ii) provide the fee simple owner a written statement in substantially the following form:

"Although this letter is provided as part of an attempt to negotiate with you for the sale of your property or an interest in your property without using the power of eminent domain, [name of entity] may use that power if it is not able to acquire the property by negotiation. Because of that potential, the person negotiating on behalf of the entity is required to provide the following disclosures to you.

1. You are entitled to receive just compensation for your property.

2. You are entitled to an opportunity to negotiate with [name of entity] over the amount of just compensation before any legal action will be filed.

a. You are entitled to an explanation of how the compensation offered for your property was calculated.

b. If an appraiser is asked to value your property, you are entitled to accompany the appraiser during an inspection of the property.

3. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

4. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

5. If you have a dispute with [name of entity] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

6. Oral representations or promises made during the negotiation process are not binding upon the entity seeking to acquire the property by eminent domain."; and

(iii) provide each claimant a written statement in substantially the following form:

"1. Your interest in property may be impacted by a public improvement project and you may be entitled to receive just compensation.

2. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

3. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

4. If you have a dispute with [name of entity] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

5. Oral representations or promises made during any negotiation are not binding upon the entity seeking to acquire the property by eminent domain."

(5) The court may, upon a showing of exigent circumstances and for good cause, shorten the 14-day period described in Subsection

(2)(b) or the 30-day period described in Subsection (3) or (4)(b).

Section 3. Section 78B-6-505.5 is enacted to read:

78B-6-505.5. Coordination with federal land management agencies.

(1) Before filing an eminent domain action to condemn private land for a high voltage power line, a person shall:

(a) if federal public land exists within one quarter mile of the proposed high voltage power line, submit a Standard Form 299, or equivalent form, to each relevant federal land management agency to identify potentially suitable federal public land for the proposed use;

(b) document all efforts to coordinate with federal agencies; and

(c) include the documentation described in Subsection (1)(b) in any subsequent eminent domain filing.

(2) A person may file an eminent domain action to condemn private land if each relevant federal land management agency fails to respond within 60 days after the person files a Standard Form 299, or equivalent form, with the agency.

Section 4. Section 78B-6-507 is amended to read:

78B-6-507. Complaint -- Contents.

(1) The complaint shall contain:

(a) the name of the corporation, association, commission or person in charge of the public use for which the property is sought, who must be styled plaintiff;

(b) the names of all owners and claimants of the property, if known, or a statement that they are unknown, who must be styled defendants;

(c) a statement of the right of the plaintiff;

(d) if a right of way is sought, its location, general route, beginning and ending, and be accompanied by a map of the proposed right of way, as it is involved in the action or proceeding;

(e) if any interest in land is sought for a right of way or associated facilities for a subject activity as defined in Section 19-3-318:

(i) the permission of the governor with the concurrence of the Legislature authorizing:

(A) use of the site for the subject activity; and

(B) use of the proposed route for the subject activity; and

(ii) the proposed route as required by Subsection (1)(d); [~~and~~]

(f) a description of each piece of land sought to be taken, and whether it includes the whole or only part of an entire parcel or tract[~~.~~]; and

(g) for actions filed for a high voltage power line, the infrastructure siting analysis and federal agency coordination documentation required by Sections 78B-6-504 and 78B-6-505.5.

(2) All parcels lying in the county and required for the same public use may be included in the same or separate proceedings, at the option of the plaintiff, but the court may consolidate or separate them to suit the convenience of parties.

Section 5. Section 78B-6-523 is enacted to read:

78B-6-523. Reporting on consideration of federal public lands.

(1) As used in this section, "public utility" means the same as that term is defined in Section 54-2-1.

(2) A public utility that files any eminent domain action for a high voltage power line in a calendar year shall submit, on or before July 1 of each year, a report to the Public Utilities, Energy, and Technology Interim Committee detailing:

(a) the number of condemnation actions filed in the previous calendar year;

(b) infrastructure siting analyses completed to identify and evaluate alternatives using federal public lands prior to initiating a condemnation action;

(c) reasons for not utilizing federal public lands, if applicable; and

(d) any coordination efforts with federal land management agencies.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 298
S. B. 66
Passed February 19, 2025
Approved March 25, 2025
Effective May 7, 2025

SCHOOL PERSONNEL AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Norman K Thurston

LONG TITLE

General Description:

This bill amends the definition of certain school employees to "education support professional."

Highlighted Provisions:

This bill:

► amends the definitions of classified school employee and classified employee to "education support professional"; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-11-205, as last amended by Laws of Utah 2023, Chapter 16
49-12-102, as last amended by Laws of Utah 2022, Chapter 171
49-13-102, as last amended by Laws of Utah 2022, Chapter 171
49-22-102, as last amended by Laws of Utah 2022, Chapter 171
53E-1-203, as last amended by Laws of Utah 2024, Chapter 460
53G-10-402, as last amended by Laws of Utah 2024, Chapters 20, 507
53G-11-205, as last amended by Laws of Utah 2019, Chapter 293
53G-11-519, as last amended by Laws of Utah 2024, Chapter 484

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-205 is amended to read:

49-11-205. Membership Council established -- Members -- Chair -- Duties -- Expenses and per diem.

(1) [~~There is established a~~]A Membership Council is established to perform the duties under Subsection (5).

(2) The Membership Council shall be composed of 15 council members selected as follows:

(a) three council members shall be school employees selected by the governing board of an association representative of a majority of school employees who are members of a system administered by the board;

(b) one council member shall be [~~a classified school employee~~]an education support professional selected by the governing board of the association representative of a majority of [~~classified school employees~~]education support professionals who are members of a system administered by the board;

(c) two council members shall be public employees selected by the governing board of the association representative of a majority of the public employees who are members of a system administered by the board;

(d) one council member shall be a municipal officer or employee selected by the governing board of the association representative of a majority of the municipalities who participate in a system administered by the board;

(e) one council member shall be a county officer or employee selected by the governing board of the association representative of a majority of counties who participate in a system administered by the board;

(f) one council member shall be a representative of members of the Judges' Noncontributory Retirement System selected by the Judicial Council;

(g) one council member shall be a representative of members of the Public Safety Retirement Systems selected by the governing board of the association representative of the majority of peace officers who are members of the Public Safety Retirement Systems;

(h) one council member shall be a representative of members of the Firefighters' Retirement System selected by the governing board of the association representative of the majority of paid professional firefighters who are members of the Firefighters' Retirement System;

(i) one council member shall be a retiree selected by the governing board of the association representing the largest number of retirees, who are not public education retirees, from the Public Employees' Contributory, Public Employees' Noncontributory, and New Public Employees' Tier II Contributory Retirement Systems;

(j) one council member shall be a retiree selected by the governing board of the association representing the largest number of public education retirees;

(k) one council member shall be a school business official selected by the governing board of the association representative of a majority of the school business officials from public education employers who participate in a system administered by the board; and

(l) one council member shall be a special district officer or employee selected by the governing board of the association representing the largest number of special service districts and special districts who participate in a system administered by the board.

(3) (a) Each entity granted authority to select council members under Subsection (2) may also revoke the selection at any time.

(b) Each term on the council shall be for a period of four years, subject to Subsection (3)(a).

(c) Each term begins on July 1 and expires on June 30.

(d) When a vacancy occurs on the council for any reason, the replacement shall be selected for the remainder of the unexpired term.

(4) The council shall annually designate one council member as chair.

(5) The council shall:

(a) recommend to the board and to the Legislature benefits and policies for members of any system or plan administered by the board;

(b) recommend procedures and practices to improve the administration of the systems and plans and the public employee relations responsibilities of the board and office;

(c) examine the record of all decisions affecting retirement benefits made by a hearing officer under Section 49-11-613;

(d) submit nominations to the board for the position of executive director if that position is vacant;

(e) advise and counsel with the board and the director on policies affecting members of the various systems administered by the office; and

(f) perform other duties assigned to it by the board.

(6) A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section 49-12-102 is amended to read:

49-12-102. Definitions.

As used in this chapter:

(1) (a) "Benefits normally provided" means a benefit offered by an employer, including:

(i) a leave benefit of any kind;

(ii) insurance coverage of any kind if the employer pays some or all of the premium for the coverage;

(iii) employer contributions to a health savings account, health reimbursement account, health reimbursement arrangement, or medical expense reimbursement plan; and

(iv) a retirement benefit of any kind if the employer pays some or all of the cost of the benefit.

(b) "Benefits normally provided" does not include:

(i) a payment for social security;

(ii) workers' compensation insurance;

(iii) unemployment insurance;

(iv) a payment for Medicare;

(v) a payment or insurance required by federal or state law that is similar to a payment or insurance listed in Subsection (1)(b)(i), (ii), (iii), or (iv);

(vi) any other benefit that state or federal law requires an employer to provide an employee who would not otherwise be eligible to receive the benefit; or

(vii) any benefit that an employer provides an employee in order to avoid a penalty or tax under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations, including a penalty imposed by Internal Revenue Code, Section 4980H.

(2) (a) "Compensation" means the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to deduction under social security law;

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; and

(v) member contributions.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee, an exempt employee, or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments;

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs; or

(vi) a teacher salary bonus described in Section 53F-2-513.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) (a) "Final average salary" means the amount calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections (3)(b), (c), (d), (e), and (f).

(b) Except as provided in Subsection (3)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(b) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(d) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(e) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(f) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (7).

(4) "Participating employer" means an employer that meets the participation requirements of Sections 49-12-201 and 49-12-202.

(5) (a) "Regular full-time employee" means an employee:

(i) whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year;

(ii) whose employment normally requires an average of 20 hours or more per week, except as modified by the board; and

(iii) who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half-time or more;

(ii) [~~a classified school employee~~]an education support professional:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an officer, elective or appointive, who earns $500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407;

(iv) a faculty member or employee of an institution of higher education who is considered full-time by that institution of higher education; and

(v) an individual who otherwise meets the definition of this Subsection (5) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include [~~a classified school employee~~]an education support professional:

(i) (A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer;

(ii) (A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer; or

(iii) who is a person working on a contract:

(A) for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and

(B) that has been set aside from procurement requirements by the state pursuant to Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

(6) "System" means the Public Employees' Contributory Retirement System created under this chapter.

(7) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 3. Section 49-13-102 is amended to read:

49-13-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided" means the same as that term is defined in Section 49-12-102.

(2) (a) "Compensation" means the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to deduction under social security law; and

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee, an exempt employee, or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments;

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs; or

(vi) a teacher salary bonus described in Section 53F-2-513.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) (a) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(b), (c), (d), and (e).

(b) Except as provided in Subsection (3)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(b) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(d) If the member retires more than six months from the date of termination of employment and for purposes of computing the member's final average salary only, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement.

(e) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (7).

(4) "Participating employer" means an employer that meets the participation requirements of Sections 49-13-201 and 49-13-202.

(5) (a) "Regular full-time employee" means an employee:

(i) whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year;

(ii) whose employment normally requires an average of 20 hours or more per week, except as modified by the board; and

(iii) who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time or more;

(ii) [~~a classified school employee~~]an education support professional:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an officer, elective or appointive, who earns $500 or more per month, indexed as of January 1, 1990, as provided in Section 49-13-407;

(iv) a faculty member or employee of an institution of higher education who is considered full time by that institution of higher education; and

(v) an individual who otherwise meets the definition of this Subsection (5) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include [~~a classified school employee~~]an education support professional:

(i) (A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer;

(ii) (A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer; or

(iii) who is a person working on a contract:

(A) for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and

(B) that has been set aside from procurement requirements by the state pursuant to Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

(6) "System" means the Public Employees' Noncontributory Retirement System.

(7) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 4. Section 49-22-102 is amended to read:

49-22-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided" means the same as that term is defined in Section 49-12-102.

(2) (a) "Compensation" means the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to deduction under social security law;

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; and

(v) member contributions.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments;

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs; or

(vi) a teacher salary bonus described in Section 53F-2-513.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.

(4) (a) "Final average salary" means the amount calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections (4)(b), (c), (d), (e), and (f).

(b) Except as provided in Subsection (4)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (4)(b) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(d) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(e) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(f) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (8).

(5) "Participating employer" means an employer that meets the participation requirements of:

(a) Sections 49-12-201 and 49-12-202;

(b) Sections 49-13-201 and 49-13-202;

(c) Section 49-19-201; or

(d) Section 49-22-201 or 49-22-202.

(6) (a) "Regular full-time employee" means an employee:

(i) whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year;

(ii) whose employment normally requires an average of 20 hours or more per week, except as modified by the board; and

(iii) who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time or more;

(ii) [~~a classified school employee~~]an education support professional:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an appointive officer whose appointed position is full time as certified by the participating employer;

(iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the attorney general, and a state legislator;

(v) an elected official not included under Subsection (6)(b)(iv) whose elected position is full time as certified by the participating employer;

(vi) a faculty member or employee of an institution of higher education who is considered full time by that institution of higher education; and

(vii) an individual who otherwise meets the definition of this Subsection (6) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include:

(i) a firefighter service employee as defined in Section 49-23-102;

(ii) a public safety service employee as defined in Section 49-23-102;

(iii) [~~a classified school employee~~]an education support professional:

(A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer;

(iv) [~~a classified school employee~~]an education support professional:

(A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer; or

(E) who is a person working on a contract:

(I) for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and

(II) that has been set aside from procurement requirements by the state pursuant to Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

(7) "System" means the New Public Employees' Tier II Contributory Retirement System created under this chapter.

(8) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 5. Section 53E-1-203 is amended to read:

53E-1-203. State Superintendent's Annual Report.

(1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:

(a) the operations, activities, programs, and services of the state board;

(b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and

(c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:

(i) a complete statement of fund balances;

(ii) a complete statement of revenues by fund and source;

(iii) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";

(v) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) [~~licensed and classified employees~~]all employees, including data reported by school districts on educator ratings described in Section 53G-11-511;

(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

(H) applicable private school data; and

(I) data from statewide assessments described in Section 53E-4-301 for each school and school district;

(vi) statistical information for each school district and charter school regarding:

(A) student attendance by grade level;

(B) the percentage of students chronically absent;

(C) the percentage of student excused absences; and

(D) the percentage of student unexcused absences;

(vii) statistical information regarding incidents of delinquent activity in the schools, at school-related activities, on school buses, and at school bus stops; and

(viii) other statistical and financial information about the school system that the state superintendent considers pertinent.

(2) (a) For the purposes of Subsection (1)(c)(v):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The report shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

(C) the state's public schools aggregated; and

(ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.

(3) For each operation, activity, program, or service provided by the state board, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the state board that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

(i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;

(ii) the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;

(iii) the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;

(iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;

(v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

(vi) the report described in Section 53E-10-308 by the state board and Utah Board of Higher Education on student participation in the concurrent enrollment program;

(vii) the report described in Section 53F-5-506 by the state board on information related to personalized, competency-based learning; and

(viii) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services.

(b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.

(5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(6) The state board shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7) (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Section 6. Section 53G-10-402 is amended to read:

53G-10-402. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.

(1) As used in this section:

(a) "LEA governing board" means a local school board or charter school governing board.

(b) "Refusal skills" means instruction:

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another individual;

(iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances;

(iv) in sexual harassment; and

(v) informing a student that a student may not consent to criminally prohibited activities or activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual of the individual or another.

(2) (a) The state board shall establish curriculum requirements under Section 53E-3-501 that include instruction in:

(i) community and personal health;

(ii) physiology;

(iii) personal hygiene;

(iv) prevention of communicable disease;

(v) refusal skills; and

(vi) the harmful effects of pornography.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that, and instruction shall:

(i) stress the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases;

(ii) stress personal skills that encourage individual choice of abstinence and fidelity;

(iii) prohibit instruction in:

(A) the intricacies of intercourse, sexual stimulation, or erotic behavior;

(B) the advocacy of premarital or extramarital sexual activity; or

(C) the advocacy or encouragement of the use of contraceptive methods or devices; and

(iv) except as provided in Subsection (2)(d), allow instruction to include information about contraceptive methods or devices that stresses effectiveness, limitations, risks, and information on state law applicable to minors obtaining contraceptive methods or devices.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for an LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) that:

(i) require the LEA governing board to report on the materials selected and the LEA governing board's compliance with Subsection (2)(h); and

(ii) provide for an appeal and review process of the LEA governing board's adoption of instructional materials.

(d) The state board may not require an LEA to teach or adopt instructional materials that include information on contraceptive methods or devices.

(e) (i) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

(ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

(f) The state board shall recommend instructional materials for use in the curricula required under Subsection (2)(a).

(g) An LEA governing board may choose to adopt:

(i) the instructional materials recommended under Subsection (2)(f); or

(ii) other instructional materials in accordance with Subsection (2)(h).

(h) An LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) shall:

(i) ensure that the materials comply with state law and board rules;

(ii) base the adoption of the materials on the recommendations of the LEA governing board's Curriculum Materials Review Committee;

(iii) adopt the instructional materials in an open and regular meeting of the LEA governing board for which prior notice is given to parents of students who attend the respective schools; and

(iv) give parents an opportunity to express the parents' views and opinions on the materials at the meeting described in Subsection (2)(h)(iii).

(3) (a) A student shall receive instruction in the courses described in Subsection (2) on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12.

(b) At the request of the state board, the Department of Health and Human Services shall cooperate with the state board in developing programs to provide instruction in those areas.

(4) (a) The state board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The state board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(5) (a) In keeping with the requirements of Section 53G-10-204, and because school employees and volunteers serve as examples to students, school employees or volunteers acting in an official capacity may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school employee's or volunteer's official capacity if:

(i) the employee or volunteer knew or should have known that the employee's or volunteer's action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) The state board or an LEA governing board may not allow training of school employees or volunteers that support or encourage criminal conduct.

(d) The state board shall adopt, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules implementing this section.

(e) Nothing in this section limits the ability or authority of the state board or an LEA governing board to enact and enforce rules or

take actions that are otherwise lawful, regarding an educator's, employee's, or volunteer's qualifications or behavior evidencing unfitness for duty.

(6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(7) (a) An LEA governing board and an LEA governing board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) An LEA governing board shall provide appropriate professional development for the LEA governing board's teachers, counselors, and school administrators to enable the teachers, counselors, and school administrators to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the professional development.

(c) An LEA governing board shall make the written materials described in Subsection (7)(b) available to [~~classified employees~~]education support professionals, students, and students' parents.

(d) In order to assist an LEA governing board in providing the professional development required under Subsection (7)(b), the state board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (7)(b) to develop and disseminate model teacher professional development programs that an LEA governing board may use to train the individuals referred to in Subsection (7)(b) to effectively teach the values and qualities of character referenced in Subsection (7)(b).

(e) In accordance with the provisions of Subsection (5)(c), professional development may not support or encourage criminal conduct.

(8) An LEA governing board shall review every two years:

(a) LEA governing board policies on instruction described in this section;

(b) for a local school board, data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:

(i) teen pregnancy;

(ii) child sexual abuse; and

(iii) sexually transmitted diseases and sexually transmitted infections; and

(c) the number of pornography complaints or other instances reported within the jurisdiction of the LEA governing board.

(9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

Section 7. Section 53G-11-205 is amended to read:

53G-11-205. Education employee associations -- Equal participation -- Prohibition on endorsement or preferential treatment -- Naming of school breaks.

(1) As used in this section:

(a) "Education employee association" includes teacher associations, teacher unions, teacher organizations, and [~~classified education employees'~~]education support professionals' associations.

(b) "School" means a school district, a school in a school district, a charter school, or the state board and its employees.

(2) A school shall allow education employee associations equal access to the following activities:

(a) distribution of information in or access to teachers' or employees' physical or electronic mailboxes, including email accounts that are provided by the school; and

(b) membership solicitation activities at new teacher or employee orientation training or functions.

(3) If a school permits an education employee association to engage in any of the activities described in Subsection (2), the school shall permit all other education employee associations to engage in the activity on the same terms and conditions afforded to the education employee association.

(4) It is unlawful for a school to:

(a) establish or maintain structures, procedures, or policies that favor one education employee association over another or otherwise give preferential treatment to an education employee association; or

(b) explicitly or implicitly endorse any education employee association.

(5) A school's calendars and publications may not include or refer to the name of any education employee association in relation to any day or break in the school calendar.

Section 8. Section 53G-11-519 is amended to read:

53G-11-519. Utah Recognizing Inspiring School Employees Award.

(1) As used in this section:

(a) "Association" means the governing board of the association that represents a majority of [~~classified school employees~~]education support professionals employed in the state.

(b) [~~"Classified school employee"~~]"Education support professional" means [~~the same as that term is~~]a classified employee defined in the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6682.

(c) "Eligible individual" means [~~a classified school employee~~]an education support professional who meets the eligibility requirements to be a nominee for the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq.

(2) (a) In accordance with the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq., the governor shall annually nominate [~~a classified school employee~~]an education support professional for the Recognizing Inspiring School Employees Award Program.

(b) The governor shall consider submissions from the association in making the nomination described in Subsection (2)(a).

(c) The association shall submit a list of eligible individuals to the governor no later than September 1 each year.

(3) (a) There is created the Utah Recognizing Inspiring School Employees Award Program to recognize excellence exhibited by public school system employees providing services to students in pre-kindergarten through grade 12.

(b) The Utah Recognizing Inspiring School Employees Award shall be awarded to the governor's nominee for the federal Recognizing Inspiring School Employees Award Program under the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq.

Section 9. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 299
S. B. 74
Passed February 27, 2025
Approved March 25, 2025
Effective May 7, 2025

CORRECTIONS MODIFICATIONS

Chief Sponsor: Derrin R. Owens
House Sponsor: Melissa G. Ballard

LONG TITLE

General Description:

This bill amends provisions related to corrections.

Highlighted Provisions:

This bill:

- ► amends which individuals in the custody of the Department of Corrections (the department) may petition to have a sex designation change on a birth certificate;
- ► prohibits an individual in the custody of the department from filing a petition in district court to legally change the individual's name;
- ► includes individuals on parole on the list of individuals to whom a government entity is not required to respond regarding certain records requests;
- ► clarifies that the department may independently investigate criminal allegations against:
  - • individuals in the custody of the department; and
  - • subject to certain limitations, employees of the department;
- ► amends the prison telephone surcharge account to allow revenue generated from offenders using department tablets and other electronic devices to be placed in the account;
- ► amends provisions regarding the substances administered by the department when carrying out a judgment of death by lethal intravenous injection;
- ► requires an individual on probation or parole who is required to undergo drug testing as a condition of probation or parole to sign a waiver allowing the provider undertaking the testing to notify the individual's supervising officer regarding the results of the testing; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-8-111, as last amended by Laws of Utah 2024, Chapter 296
42-1-1, as last amended by Laws of Utah 2024, Chapter 296
63G-2-201, as last amended by Laws of Utah 2023, Chapters 173, 516
64-13-6, as last amended by Laws of Utah 2024, Chapters 144, 208
64-13-42, as last amended by Laws of Utah 2024, Chapter 144
77-18-105, as last amended by Laws of Utah 2024, Chapters 187, 208
77-19-10, as last amended by Laws of Utah 2021, Chapter 260
77-27-10, as last amended by Laws of Utah 2024, Chapter 208

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-8-111 is amended to read:

26B-8-111. Birth certificate name or sex designation change -- Registration of court order and amendment of birth certificate.

(1) An individual may obtain a court order in accordance with Title 42, Names, to change the name on the individual's birth certificate.

(2) (a) A court may grant a petition ordering a sex designation change on a birth certificate if the court determines by clear and convincing evidence that the individual seeking the sex designation change:

(i) is not involved in any kind of lawsuit;

(ii) is not [~~on probation or parole~~]an offender as defined in Section 64-13-1;

(iii) is not seeking the amendment:

(A) to commit a crime;

(B) to interfere with the rights of others;

(C) to avoid creditors;

(D) to influence the sentence, fine, or conditions of imprisonment in a criminal case;

(E) to commit fraud on the public; or

(F) for any other fraudulent purpose;

(iv) has transitioned from the sex designation of the biological sex at birth to the sex sought in the petition;

(v) has outwardly expressed as the sex sought in the petition in a consistent and uniform manner for at least six months; and

(vi) suffers from clinically significant distress or impairment due to the current sex designation on the birth certificate.

(b) The court shall consider the following when making the determination described in Subsection (2)(a)(iv):

(i) evidence of medical history, care, or treatment related to sex transitioning; and

(ii) evidence that the sex sought in the petition is sincerely held and part of the individual's core identity.

(c) (i) An individual petitioning for a sex designation change under this section shall indicate on the petition whether the individual is registered with the state's Sex and Kidnap Offender Registry.

(ii) Based on the disclosure described in Subsection (2)(c)(i), the court may request additional information from an individual who is registered with the state's Sex and Kidnap Offender Registry to determine whether to grant a petition under this section.

(3) (a) (i) When determining whether to grant a sex designation change for a child who is at least 15 years and six months old, unless the child is emancipated, the court shall appoint, notwithstanding Subsection 78A-2-703(1), a guardian ad litem for the child.

(ii) Notwithstanding Subsection 78A-2-703(7), the child's parent or guardian is responsible for the costs of the guardian ad litem's services unless the court determines the parent or guardian is indigent in accordance with Section 78A-2-302.

(b) The guardian ad litem shall provide the court relevant evidence, whether submitted by the child or other sources of evidence, regarding the following:

(i) whether the child is capable of making decisions with long-term consequences independently of the child's parent or guardian;

(ii) whether the child is mature and capable of appreciating the implications of the decision to change the sex designation on the child's birth certificate; and

(iii) whether the child meets the other requirements of this section.

(c) The guardian of a child described in Subsection (3)(a) shall:

(i) give notice of the proceeding to any known parent of the child; and

(ii) provide the court with a declaration of the status of any divorce or custody matter pertaining to the child, including the case name, case number, court, judge, and current status of the case.

(d) The court shall:

(i) consider any objection given by a parent;

(ii) close the hearing on a petition for a sex designation change;

(iii) receive all evidence; and

(iv) make a determination as to whether:

(A) all of the requirements of Subsection (2) have been met; and

(B) the evidence supports a finding by clear and convincing evidence that the sex designation change is in the best interest of the child and would not create a risk of harm to the minor.

(4) (a) A court may not grant a petition for a sex designation change if:

(i) the birth certificate is for a child who is younger than 15 years and six months old; or

(ii) the child's parent or guardian with legal custody has not given permission.

(b) An order granting a sex designation change under this section is not effective until the individual is at least 16 years old.

(5) A petition for a sex designation under this section may be combined with a petition under Title 42, Names.

(6) (a) Upon the receipt of a certified order granting a birth certificate amendment, any required application, and an appropriate fee, the department shall issue:

(i) a birth certificate that does not indicate which fields were amended unless requested by the individual; and

(ii) an amendment history of the birth certificate, including the fields of the birth certificate that have been amended and the date of the amendment.

(b) The department shall retain a record of all amendments to a birth certificate, including any amendment history issued by the department.

(7) The provisions of this section are severable.

(8) This section only applies to birth certificates issued by the state.

(9) The provisions of Title 76, Chapter 8, Part 5, Falsification in Official Matters, apply to this section when applicable.

Section 2. Section 42-1-1 is amended to read:

42-1-1. By petition to district court -- Contents.

(1) [~~Any~~]Except as provided in Subsection (2) and subject to Subsection (3), any natural person, desiring to change the natural person's name, may file a petition in the district court of the county where the natural person resides, setting forth:

(a) the cause for which the change of name is sought;

(b) the name proposed; and

(c) that the natural person has been a bona fide resident of the county for the year immediately prior to the filing of the petition.

(2) A natural person who is an offender, as that term is defined in Section 64-13-1, may not file a petition in district court to change the natural person's name.

[~~(2)~~](3) (a) A natural person petitioning for a name change under this section shall indicate on the petition whether the individual is registered with the state's Sex and Kidnap Offender Registry.

(b) The court may request additional information from a natural person who is registered with the state's Sex and Kidnap Offender Registry to make the determination described in Subsection 77-41-105(8).

[~~(3)~~](4) The provisions of Title 76, Chapter 8, Part 5, Falsification in Official Matters, apply to this section when applicable.

Section 3. Section 63G-2-201 is amended to read:

63G-2-201. Provisions relating to records -- Public records -- Private, controlled, protected, and other restricted records -- Disclosure and

nondisclosure of records -- Certified copy of record -- Limits on obligation to respond to record request.

(1) (a) Except as provided in Subsection (1)(b), a person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections 63G-2-203 and 63G-2-204.

(b) A right under Subsection (1)(a) does not apply with respect to a record:

(i) a copy of which the governmental entity has already provided to the person;

(ii) that is the subject of a records request that the governmental entity is not required to fill under Subsection (7)(a)(v); or

(iii) (A) that is accessible only by a computer or other electronic device owned or controlled by the governmental entity;

(B) that is part of an electronic file that also contains a record that is private, controlled, or protected; and

(C) that the governmental entity cannot readily segregate from the part of the electronic file that contains a private, controlled, or protected record.

(2) A record is public unless otherwise expressly provided by statute.

(3) The following records are not public:

(a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303, 63G-2-304, and 63G-2-305; and

(b) a record to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

(4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or 63G-2-305 may be classified private, controlled, or protected.

(5) (a) A governmental entity may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section 63G-2-202, 63G-2-206, or 63G-2-303.

(b) A governmental entity may disclose a record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to persons other than those specified in Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or a designee, determines that:

(i) there is no interest in restricting access to the record; or

(ii) the interests favoring access are greater than or equal to the interest favoring restriction of access.

(c) In addition to the disclosure under Subsection (5)(b), a governmental entity may disclose a record that is protected under Subsection 63G-2-305(51) if:

(i) the head of the governmental entity, or a designee, determines that the disclosure:

(A) is mutually beneficial to:

(I) the subject of the record;

(II) the governmental entity; and

(III) the public; and

(B) serves a public purpose related to:

(I) public safety; or

(II) consumer protection; and

(ii) the person who receives the record from the governmental entity agrees not to use or allow the use of the record for advertising or solicitation purposes.

(6) A governmental entity shall provide a person with a certified copy of a record if:

(a) the person requesting the record has a right to inspect it;

(b) the person identifies the record with reasonable specificity; and

(c) the person pays the lawful fees.

(7) (a) In response to a request, a governmental entity is not required to:

(i) create a record;

(ii) compile, format, manipulate, package, summarize, or tailor information;

(iii) provide a record in a particular format, medium, or program not currently maintained by the governmental entity;

(iv) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person;

(v) fill a person's records request if:

(A) the record requested is:

(I) publicly accessible online; or

(II) included in a public publication or product produced by the governmental entity receiving the request; and

(B) the governmental entity:

(I) specifies to the person requesting the record where the record is accessible online; or

(II) provides the person requesting the record with the public publication or product and specifies where the record can be found in the public publication or product; or

(vi) fulfill a person's records request if:

(A) the person has been determined under Section 63G-2-209 to be a vexatious requester;

(B) the State Records Committee order determining the person to be a vexatious requester provides that the governmental entity is not required to fulfill a request from the person for a period of time; and

(C) the period of time described in Subsection (7)(a)(vi)(B) has not expired.

(b) A governmental entity shall conduct a reasonable search for a requested record.

(8) (a) Although not required to do so, a governmental entity may, upon request from the person who submitted the records request, compile, format, manipulate, package, summarize, or tailor information or provide a record in a format, medium, or program not currently maintained by the governmental entity.

(b) In determining whether to fulfill a request described in Subsection (8)(a), a governmental entity may consider whether the

governmental entity is able to fulfill the request without unreasonably interfering with the governmental entity's duties and responsibilities.

(c) A governmental entity may require a person who makes a request under Subsection (8)(a) to pay the governmental entity, in accordance with Section 63G-2-203, for providing the information or record as requested.

(9) (a) Notwithstanding any other provision of this chapter, and subject to Subsection (9)(b), a governmental entity is not required to respond to, or provide a record in response to, a record request if the request is submitted by or in behalf of an individual who is on parole or confined in a jail or other correctional facility following the individual's conviction.

(b) Subsection (9)(a) does not apply to:

(i) the first five record requests submitted to the governmental entity by or in behalf of an individual described in Subsection (9)(a) during any calendar year requesting only a record that contains a specific reference to the individual; or

(ii) a record request that is submitted by an attorney of an individual described in Subsection (9)(a).

(10) (a) A governmental entity may allow a person requesting more than 50 pages of records to copy the records if:

(i) the records are contained in files that do not contain records that are exempt from disclosure, or the records may be segregated to remove private, protected, or controlled information from disclosure; and

(ii) the governmental entity provides reasonable safeguards to protect the public from the potential for loss of a public record.

(b) If the requirements of Subsection (10)(a) are met, the governmental entity may:

(i) provide the requester with the facilities for copying the requested records and require that the requester make the copies; or

(ii) allow the requester to provide the requester's own copying facilities and personnel to make the copies at the governmental entity's offices and waive the fees for copying the records.

(11) (a) A governmental entity that owns an intellectual property right and that offers the intellectual property right for sale or license may control by ordinance or policy the duplication and distribution of the material based on terms the governmental entity considers to be in the public interest.

(b) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the governmental entity under federal copyright or patent law as a result of its ownership of the intellectual property right.

(12) A governmental entity may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and receive a copy of a record under this chapter.

(13) Subject to the requirements of Subsection (7), a governmental entity shall provide access to an electronic copy of a record in lieu of providing access to its paper equivalent if:

(a) the person making the request requests or states a preference for an electronic copy;

(b) the governmental entity currently maintains the record in an electronic format that is reproducible and may be provided without reformatting or conversion; and

(c) the electronic copy of the record:

(i) does not disclose other records that are exempt from disclosure; or

(ii) may be segregated to protect private, protected, or controlled information from disclosure without the undue expenditure of public resources or funds.

(14) In determining whether a record is properly classified as private under Subsection 63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals board, or court shall consider and weigh:

(a) any personal privacy interests, including those in images, that would be affected by disclosure of the records in question; and

(b) any public interests served by disclosure.

Section 4. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

(f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(h) manage programs that take into account the needs and interests of victims, where reasonable;

(i) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(j) subject to Subsection (3), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i) (A) if an offender is to be supervised in the community, the department shall establish a case action plan for the offender no later than 60 days after the day on which the department's community supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan for the offender no later than 90 days after the day on which the offender is committed to the custody of the department;

(ii) each case action plan shall:

(A) integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements; and

(B) require that a case manager will:

(I) ensure that an assessment of the education level, occupational interests, and aptitudes of the inmate has been completed;

(II) refer the inmate to a higher education student advisor at an institution offering programs consistent with the inmate's interests and aptitudes for advisement on educational preferences and plans;

(III) incorporate the inmate's interests, aptitudes, and student advisement into an education plan consistent with the guidance provided by the Higher Education and Corrections Council created in Section 53B-35-201; and

(IV) refer the inmate to the student advisor at the institution called for in the case action plan for guidance and assistance with the education process;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change;

(n) ensure that an inmate has reasonable access to legal research;

(o) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(p) when reporting on statewide recidivism, include the metrics and requirements described in Section 63M-7-102;

(q) create a reentry division that focuses on the successful reentry of inmates into the community;

(r) coordinate with the Board of Pardons and Parole regarding inmate records that are necessary for the Board of Pardons and Parole to make necessary determinations regarding an inmate; and

(s) ensure that inmate records regarding discipline, programs, and other relevant metrics are:

(i) complete and updated in a timely manner; and

(ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.

(2) The department may in the course of supervising probationers and parolees:

(a) respond to an individual's violation of one or more terms of the probation or parole in accordance with the graduated and evidence-based processes established by the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

[~~(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:~~]

[~~(i) criminal conduct of departmental employees;~~]

[~~(ii) felony crimes resulting in serious bodily injury;~~]

[~~(iii) death of any person; or~~]

[~~(iv) aggravated kidnaping.~~]

[~~(b) Before investigating any occurrence specified in Subsection (3)(a), the department shall:~~]

[~~(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and~~]

[~~(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).~~]

[~~(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.~~]

(3) In accordance with department policy, the department may conduct criminal investigations regarding an allegation that:

(a) an offender has committed a criminal offense; or

(b) an employee of the department has committed a criminal offense.

[~~(5)~~](4) (a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding:

(i) the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time; and

(ii) the progress of the department's implementation of the inmate program requirements described in Section 64-13-50.

[~~(6)~~](5) (a) As used in this Subsection [~~(6):~~](5):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-13-21, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection [~~(6)(c)~~](5)(c); and

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or

terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection [~~(6)~~](5) only applies to offenders sentenced before July 1, 2021.

Section 5. Section 64-13-42 is amended to read:

64-13-42. Prison Telephone Surcharge Account -- Funding inmate and offender education and training programs.

(1) (a) There is created within the General Fund a restricted account known as the Prison Telephone Surcharge Account.

(b) The Prison Telephone Surcharge Account consists of:

(i) revenue generated by the state from pay telephone services located at any correctional facility as defined in Section 64-13-1;

(ii) interest on account money;

(iii) (A) money paid by inmates participating in postsecondary education provided by the department; and

(B) money repaid by former inmates who have a written agreement with the department to pay for a specified portion of the tuition costs under the department's deferred tuition payment program;

(iv) money collected by the Office of State Debt Collection for debt described in Subsection (1)(b)(iii);

(v) revenue generated from offenders using department tablets or other electronic devices; and

[~~(v)~~](vi) money appropriated by the Legislature.

(2) Upon appropriation by the Legislature, money from the Prison Telephone Surcharge Account shall be used by the department for education and training programs for offenders and inmates as defined in Section 64-13-1.

Section 6. Section 77-18-105 is amended to read:

77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

(1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:

(a) in accordance with Chapter 2a, Pleas in Abeyance; and

(b) under the terms of the plea in abeyance agreement.

(2) If a defendant is convicted, the court:

(a) shall impose a sentence in accordance with Section 76-3-201; and

(b) subject to Subsection (5), may suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the department;

(ii) on probation under the supervision of an agency of a local government or a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(3) (a) The legal custody of all probationers under the supervision of the department is with the department.

(b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(c) The court has continuing jurisdiction over all probationers.

(4) (a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.

(b) Supervised probation services provided by the department, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.

(c) If a court orders supervised probation and determines that a public probation provider is unavailable or inappropriate to supervise the defendant, the court shall make available to the defendant the list of private probation providers prepared by a criminal justice coordinating council under Section 17-55-201.

(5) (a) Before ordering supervised probation, the court shall consider the supervision costs to the defendant for each entity that can supervise the defendant.

(b) (i) A court may order an agency of a local government to supervise the probation for an individual convicted of any crime if:

(A) the agency has the capacity to supervise the individual; and

(B) the individual's supervision needs will be met by the agency.

(ii) A court may only order:

(A) the department to supervise the probation for an individual convicted of a class A misdemeanor or any felony; or

(B) a private organization to supervise the probation for an individual convicted of a class A, B, or C misdemeanor or an infraction.

(c) A court may not order a specific private organization to supervise an individual unless there is only one private organization that can provide the specific supervision services required to meet the individual's supervision needs.

(6) (a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

(i) to provide for the support of persons for whose support the defendant is legally liable;

(ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

(iii) be voluntarily admitted to the custody of the Division of Substance [~~Abuse~~]Use and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

(iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(v) to serve a term of home confinement in accordance with Section 77-18-107;

(vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-3-410;

(vii) to pay for the costs of investigation, probation, or treatment services;

(viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime Victims Restitution Act; or

(ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(b) If a defendant is placed on probation and a condition of the defendant's probation is routine or random drug testing, the defendant shall sign a waiver consistent with the Health Insurance Portability and Accountability Act, 42 U.S.C. Sec. 1320d et seq., allowing the treatment provider conducting the drug testing to notify the defendant's supervising probation officer regarding the results of the defendant's drug testing.

[~~(b)~~](c) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.

(ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(b)(ii).

(7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:

(i) may not exceed the individual's maximum sentence;

(ii) shall be for a period of time that is in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law; and

(iii) shall be terminated in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.

(b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.

(c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.

(d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

(b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.

(c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.

(d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.

(ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(9) When making any decision regarding probation:

(a) the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements; and

(b) the court may not rely solely on an algorithm or a risk assessment tool score.

Section 7. Section 77-19-10 is amended to read:

77-19-10. Judgment of death -- Location and procedures for execution.

(1) The executive director of the Department of Corrections or a designee shall ensure that the method of judgment of death specified in the warrant or as required under Section 77-18-113 is carried out at a secure correctional facility operated by the department and at an hour determined by the department on the date specified in the warrant.

(2) When the judgment of death is to be carried out by lethal intravenous injection, the executive director of the department or a designee shall select two or more persons trained in accordance with accepted medical practices to administer intravenous injections, who shall each administer a continuous intravenous injection, [~~one of which shall be of a lethal quantity of:~~]

[~~(a) sodium thiopental; or~~]

[~~(b) other equally or more effective substance sufficient to cause death.~~]consisting of one or more substances of a type and amount that is sufficiently effective to cause death without a substantial risk of severe pain.

(3) If the judgment of death is to be carried out by firing squad under Subsection 77-18-113(2), (3), or (4) the executive director of the department or a designee shall select a five-person firing squad of peace officers.

(4) Compensation for persons administering intravenous injections and for members of a firing squad under Subsection 77-18-113(2), (3), or (4) shall be in an amount determined by the director of the Division of Finance.

(5) Death under this section shall be certified by a physician.

(6) The department shall adopt and enforce rules governing procedures for the execution of judgments of death.

Section 8. Section 77-27-10 is amended to read:

77-27-10. Conditions of parole -- Inmate agreement to warrant -- Rulemaking -- Intensive early release parole program.

(1) (a) When the Board of Pardons and Parole releases an offender on parole, it shall, in accordance with Section 64-13-21, issue to the parolee a certificate setting forth the conditions of parole, including the graduated and evidence-based responses to a violation of a

condition of parole established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, which the offender shall accept and agree to as evidenced by the offender's signature affixed to the agreement.

(b) The parole agreement shall require that the inmate agree in writing that the board may issue a warrant and conduct a parole revocation hearing if:

(i) the board determines after the grant of parole that the inmate willfully provided to the board false or inaccurate information that the board finds was significant in the board's determination to grant parole; or

(ii) (A) the inmate has engaged in criminal conduct prior to the granting of parole; and

(B) the board did not have information regarding the conduct at the time parole was granted.

(c) (i) A copy of the agreement shall be delivered to the Department of Corrections and a copy shall be given to the parolee.

(ii) The original agreement shall remain with the board's file.

(2) (a) If an offender convicted of violating or attempting to violate Section 76-5-301.1, 76-5-302, 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, 76-5-404.3, or 76-5-405, is released on parole, the board shall order outpatient mental health counseling and treatment as a condition of parole.

(b) The board shall develop standards and conditions of parole under this Subsection (2) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) This Subsection (2) does not apply to intensive early release parole.

(3) (a) (i) In addition to the conditions set out in Subsection (1), the board may place offenders in an intensive early release parole program.

(ii) The board shall determine the conditions of parole which are reasonably necessary to protect the community as well as to protect the interests of the offender and to assist the offender to lead a law-abiding life.

(b) The offender is eligible for this program only if the offender:

(i) has not been convicted of a sexual offense; or

(ii) has not been sentenced pursuant to Section 76-3-406.

(c) The department shall:

(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for operation of the program;

(ii) adopt and implement internal management policies for operation of the program;

(iii) determine whether or not to refer an offender into this program within 120 days from the date the offender is committed to prison by the sentencing court; and

(iv) make the final recommendation to the board regarding the placement of an offender into the program.

(d) The department may not consider credit for time served in a county jail awaiting trial or sentencing when calculating the 120-day period.

(e) The prosecuting attorney or sentencing court may refer an offender for consideration by the department for participation in the program.

(f) The board shall determine whether or not to place an offender into this program within 30 days of receiving the department's recommendation.

(4) This program shall be implemented by the department within the existing budget.

(5) In addition to the conditions of parole described in this section, and if a condition of the offender's parole is routine or random drug testing, the board shall order the offender to sign a waiver consistent with the Health Insurance Portability and Accountability Act, 42 U.S.C. Sec. 1320d et seq., allowing the treatment provider conducting the drug testing to notify the offender's supervising parole officer regarding the results of the offender's drug testing.

[~~(5)~~](6) During the time the offender is on parole, the department shall collect from the offender the monthly supervision fee authorized by Section 64-13-21.

[~~(6)~~](7) When a parolee commits a violation of the parole agreement, the department may:

(a) respond in accordance with the graduated and evidence-based responses established in accordance with Section 64-13-21; or

(b) when the graduated and evidence-based responses established in accordance with Section 64-13-21 indicate, refer the parolee to the Board of Pardons and Parole for revocation of parole.

Section 9. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 300
S. B. 76
Passed February 20, 2025
Approved March 25, 2025
Effective May 7, 2025

MARRIAGE AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Ariel Defay

LONG TITLE

General Description:

This bill addresses the marriage of a minor.

Highlighted Provisions:

This bill:

- ► does not allow the juvenile court to issue a written authorization for a minor to marry if there is an age difference between the parties of more than four years;
- ► requires a 72-hour waiting period before the juvenile court can issue a written authorization for a minor to marry; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

81-2-304, as renumbered and amended by Laws of Utah 2024, Chapter 366

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 81-2-304 is amended to read:

81-2-304. Marriage of a minor -- Consent of parent or guardian -- Juvenile court authorization.

(1) (a) If an applicant is a minor at the time of applying for a license, a county clerk may not issue a marriage license without the signed consent of the minor's parent or legal guardian given in person to the clerk, except that:

(i) if the parents of the minor are divorced, consent shall be given by the parent having legal custody of the minor as evidenced by an oath of affirmation to the clerk;

(ii) if the parents of the minor are divorced and have been awarded joint custody of the minor, consent shall be given by the parent having physical custody of the minor the majority of the time as evidenced by an oath of affirmation to the clerk; or

(iii) if the minor is not in the custody of a parent, the legal guardian shall provide the consent and provide proof of guardianship by court order as well as an oath of affirmation.

(b) Each applicant, and the minor's consenting parent or legal guardian if an applicant is a minor, shall appear in person before the county clerk and provide legal documentation to establish the following information:

(i) the legal relationship between the minor and the minor's parent or legal guardian;

(ii) the legal name and identity of the minor; and

(iii) the birth date of each applicant.

(c) An individual may present the following documents to satisfy a requirement described in Subsection (1)(b):

(i) for verifying the legal relationship between the minor and the minor's parent or legal guardian, one of the following:

(A) the minor's certified birth certificate with the name of the parent, and an official translation if the birth certificate is in a language other than English;

(B) a report of a birth abroad with the name of the minor and the parent;

(C) a certified adoption decree with the name of the minor and the parent; or

(D) a certified court order establishing custody or guardianship between the minor and the parent or legal guardian;

(ii) for verifying the legal name and identity of the minor, one of the following:

(A) an expired or current passport;

(B) a driver's license;

(C) a certificate of naturalization;

(D) a military identification

(E) a state identification card; or

(F) a government employee identification card from a federal, state, or municipal government; and

(iii) for verifying the birth date of each applicant, one of the following for each applicant:

(A) a certified birth certificate;

(B) a report of a birth abroad;

(C) a certificate of naturalization;

(D) a certificate of citizenship;

(E) a passport;

(F) a driver's license; or

(G) a state identification card.

(d) An individual may not use a temporary or altered document to satisfy a requirement described in Subsection (1)(b).

(2) (a) The minor and the parent or legal guardian of the minor shall obtain a written authorization to marry from:

(i) a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides; or

(ii) a court commissioner as permitted by rule of the Judicial Council.

(b) Before issuing written authorization for a minor to marry, the judge or court commissioner shall determine:

(i) that the minor is entering into the marriage voluntarily; and

(ii) the marriage is in the best interest of the minor under the circumstances.

(c) The judge or court commissioner shall require that both parties to the marriage complete premarital counseling, except the requirement for premarital counseling may be waived if premarital counseling is not reasonably available.

(d) The judge or court commissioner may require:

(i) that the minor continue to attend school, unless excused under Section 53G-6-204; and

(ii) any other conditions that the court deems reasonable under the circumstances.

(e) The judge or court commissioner may not issue a written authorization [~~to the minor~~]for a minor to marry if the age difference between both parties to the marriage is more than [~~seven~~]four years.

(f) The judge or court commissioner may not issue a written authorization for a minor to marry until at least 72 hours after the time at which the minor and the minor's parent or legal guardian file the petition for the written authorization.

(3) (a) The determination required in Subsection (2) shall be made on the record.

(b) Any inquiry conducted by the judge or commissioner may be conducted in chambers.

(4) (a) A parent or legal guardian who knowingly consents or allows a minor to enter into a marriage prohibited by law is guilty of a third degree felony.

(b) An individual is guilty of a third degree felony if the individual:

(i) knowingly, with or without a license, solemnizes the marriage of an individual who is younger than 18 years old and the marriage is prohibited by law;

(ii) without a written authorization from the juvenile court, solemnizes a marriage to which a party is a minor;

(iii) impersonates a parent or legal guardian of a minor to obtain a license for the minor to marry; or

(iv) forges the name of a parent or legal guardian of a minor on any writing purporting to give consent to a marriage of a minor.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 301
S. B. 77
Passed February 20, 2025
Approved March 25, 2025
Effective May 7, 2025

PUBLIC SAFETY ANIMAL AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill amends provisions relating to public safety animals.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► expands and clarifies criminal provisions relating to police service canines to include other animals used by public safety organizations to assist with duties related to public safety; and
- ► adds a coordination clause to merge the changes to Section 76-9-306 in this bill, if this bill and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, due to Section 76-9-306 being renumbered and split into two separate sections in H.B. 21.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-9-306, as last amended by Laws of Utah 2018, Chapter 264

Utah Code Sections Affected by Coordination Clause:

AMENDS:

76-9-306, as last amended by Laws of Utah 2018, Chapter 264

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-9-306 is amended to read:

76-9-306. Public safety animals -- Causing injury, death, or interference -- Penalties.

(1) As used in this section:

[~~(a) "Handler" means a law enforcement officer who is specially trained, and uses a police service canine during the course of the performance of his law enforcement duties.~~]

[~~(b) "Police service canine" means any dog used by a law enforcement agency, which is specially trained for law enforcement work, or any animal contracted to assist a law enforcement agency in the performance of law enforcement duties.~~]

(a) "Handler" means an individual who uses a public safety animal to assist with duties of a public safety organization.

(b) "Public safety animal" means an animal that a public safety organization:

(i) owns or uses under contract; and

(ii) uses, or allows another public safety organization to use, to assist with duties of a public safety organization.

(c) "Public safety organization" means a government entity that provides a law enforcement, firefighting, search and rescue, military, or other public safety service.

(2) It is a second degree felony for a person to intentionally or knowingly cause death to a [~~police service canine~~]public safety animal.

(3) It is a third degree felony for a person to intentionally or knowingly:

(a) cause bodily injury to a [~~police service canine~~]public safety animal;

(b) engage in conduct likely to cause bodily injury or death to [~~a police service canine~~]a public safety animal; or

(c) lay out, place, or administer any poison, trap, substance, or object which is likely to produce bodily injury or death to a [~~police service canine~~]public safety animal.

(4) It is a class A misdemeanor for a person to intentionally or knowingly:

(a) taunt, torment, strike, or otherwise assault a [~~police service canine~~]public safety animal;

(b) throw any object or substance at, or in the path of, a [~~police service canine~~]public safety animal;

(c) interfere with or obstruct a [~~police service canine~~]public safety animal, or attempt to, or interfere with the handler of [~~the canine~~]a public safety animal in a manner that inhibits, restricts, or deprives the handler of control of the [~~canine~~]public safety animal;

(d) release a [~~police service canine~~]public safety animal from its area of control, such as a vehicle, kennel, or pen, or trespass in that area; or

(e) place any food, object, or substance into a [~~police service canine's~~]public safety animal's area of control without the permission of

the handler.

(5) (a) A [~~police service canine~~]public safety animal is exempt from quarantine or other animal control ordinances if [~~it~~]the public safety animal bites any [~~person~~]individual while under proper [~~police~~]supervision by a public safety organization or during routine veterinary care.

(b) The [~~law enforcement agency~~]public safety organization and the [~~canine's~~]public safety animal's handler shall make the [~~canine~~]public safety animal available for examination at any reasonable time and shall notify the local health officer if the [~~canine~~]public safety animal exhibits any abnormal behavior.

(6) In addition to any other penalty, a person convicted of a violation of this section is liable for restitution to the owning or employing [~~law enforcement agency~~]public safety organization or individual owner of the [~~police service canine~~]public safety animal for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

Section 3. Coordinating S.B. 77 with H.B. 21.

If S.B. 77, Public Safety Animal Amendments, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) Section 76-13-209 (renumbered from Section 76-9-306) in H.B. 21 and Section 76-9-306 in S.B. 77 be amended to read:

"**76-13-209.Endangering, injuring, or killing a public safety animal**.

(1) (a) As used in this section:

[~~(a) "Handler" means a law enforcement officer who is specially trained, and uses a police service canine during the course of the performance of his law enforcement duties.~~]

[~~(b) "Police service canine" means any dog used by a law enforcement agency, which is specially trained for law enforcement work, or any animal contracted to assist a law enforcement agency in the performance of law enforcement duties.~~]

(i) "Handler" means an individual who uses a public safety animal to assist with duties of a public safety organization.

(ii) "Public safety animal" means an animal that a public safety organization:

(A) owns or uses under contract; and

(B) uses, or allows another public safety organization to use, to assist with duties of a public safety organization.

(iii) "Public safety organization" means a government entity that provides a law enforcement, firefighting, search and rescue, military, or other public safety service.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) [~~It is a second degree felony for a person to intentionally or knowingly cause~~]An actor commits endangering, injuring, or killing a public safety animal if the actor intentionally or knowingly:

(a) causes the death [~~to~~]of a [~~police service canine.~~]public safety animal;

(b) causes bodily injury to a public safety animal;

(c) engages in conduct likely to cause bodily injury or death to a public safety animal; or

(d) lays out, places, or administers any poison, trap, substance, or object that is likely to produce bodily injury or death to a public safety animal.

(3) (a) A violation of Subsection (2)(a) is a second degree felony.

(b) A violation of Subsection (2)(b), (c), or (d) is a third degree felony.

[~~(3) It is a third degree felony for a person to intentionally or knowingly:~~]

[~~(a) cause bodily injury to a police service canine;~~]

[~~(b) engage in conduct likely to cause bodily injury or death to a police service canine; or~~]

[~~(c) lay out, place, or administer any poison, trap, substance, or object which is likely to produce bodily injury or death to a police service canine.~~]

[~~(4) It is a class A misdemeanor for a person to intentionally or knowingly:~~]

[~~(a) taunt, torment, strike, or otherwise assault a police service canine;~~]

[~~(b) throw any object or substance at, or in the path of, a police service canine;~~]

[~~(c) interfere with or obstruct a police service canine, or attempt to, or interfere with the handler of the canine in a manner that inhibits, restricts, or deprives the handler of control of the canine;~~]

[~~(d) release a police service canine from its area of control, such as a vehicle, kennel, or pen, or trespass in that area; or~~]

[~~(e) place any food, object, or substance into a police service canine's area of control without the permission of the handler.~~]

[~~(5)~~](4)(a)A [~~police service canine~~]public safety animal is exempt from quarantine or other animal control ordinances if [~~it~~]the public safety animal bites [~~any person~~]an individual while under proper [~~police~~]supervision by a public safety organization or during routine veterinary care.

(b) The [~~law enforcement agency~~]public safety organization and the [~~canine's~~]public safety animal's handler shall make the [~~canine~~]public safety animal available for examination at [~~any~~]a reasonable time and shall notify the local health officer if the [~~canine~~]public safety animal exhibits any abnormal behavior.

[~~(6)~~](5) In addition to any other penalty, [~~a person~~]an actor convicted of a violation of this section is liable for restitution to the owning or employing [~~law enforcement agency~~]public safety organization or individual owner of the [~~police service canine~~]public safety animal for the replacement, training, and veterinary costs incurred as a result of the violation of this section. "; and

(2) Section 76-13-210, enacted in H.B. 21, be amended to read:

"**76-13-210.Interference with a public safety animal**.

(1)(a) As used in this section:

(i) "Handler" means the same as that term is defined in Section 76-13-209.

(ii) "Public safety animal" means the same as that term is defined in Section 76-13-209.

(iii) "Public safety organization" means the same as that term is defined in Section 76-13-209.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) An actor commits interference with a public safety animal if the actor intentionally or knowingly:

(a) taunts, torments, strikes, or otherwise assaults a public safety animal;

(b) throws an object or substance at, or in the path of, a public safety animal;

(c) interferes with or obstructs a public safety animal, or attempts to, or interferes with the handler of the public safety animal in a manner that inhibits, restricts, or deprives the handler of control of the public safety animal;

(d) releases a public safety animal from the public safety animal's area of control, including a vehicle, kennel, or pen, or trespasses in that area; or

(e) places any food, object, or substance into a public safety animal's area of control without the permission of the handler.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) In addition to any other penalty, an actor convicted of a violation of this section is liable for restitution to the owning or employing public safety organization or individual owner of the public safety animal for the replacement, training, and veterinary costs incurred as a result of the violation of this section.".

CHAPTER 302
S. B. 79
Passed February 18, 2025
Approved March 25, 2025
Effective May 7, 2025

TECHNICAL CODE AMENDMENTS

Chief Sponsor: Karen Kwan
House Sponsor: Melissa G. Ballard

LONG TITLE

General Description:

This bill amends provisions to modify gender-specific language.

Highlighted Provisions:

This bill:

- ► amends provisions to modify gender-specific language;
- ► enacts changes to conform with legislative drafting standards;
- ► includes a coordination clause to address conflicts with any other legislation; and
- ► makes other technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

7-1-208.2, as enacted by Laws of Utah 1989, Chapter 267
7-1-302, as enacted by Laws of Utah 1981, Chapter 16
7-1-308, as last amended by Laws of Utah 1993, Chapter 38
7-1-310, as enacted by Laws of Utah 1981, Chapter 16
7-1-312, as enacted by Laws of Utah 1981, Chapter 16
7-1-313, as last amended by Laws of Utah 1989, Chapter 267
7-1-314, as enacted by Laws of Utah 1981, Chapter 16
7-1-315, as enacted by Laws of Utah 1981, Chapter 16
7-1-316, as enacted by Laws of Utah 1981, Chapter 16
7-1-319, as last amended by Laws of Utah 1993, Chapter 38
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Utah Code Sections Affected by Coordination Clause:

AMENDS:

13-11-9, as enacted by Laws of Utah 1973, Chapter 188

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-1-208.2 is amended to read:

7-1-208.2. Deputy commissioner.

The commissioner may appoint a deputy commissioner who shall be a citizen of the United States and a member of the Utah State Bar, to serve at the pleasure of the commissioner. The deputy commissioner shall serve as staff attorney for the department and perform all other duties assigned to [~~him~~]the deputy commissioner by the commissioner.

Section 2. Section 7-1-302 is amended to read:

7-1-302. Review of supervisor's action by commissioner.

The commissioner shall review, upon written request of the institution or other person affected, any act or order of a supervisor and may suspend, modify, or revoke any such act or order as [~~he~~]the commissioner may find to be arbitrary, capricious, contrary to law or the rules and regulations of the department, or not in the best interest of the public or of the state.

Section 3. Section 7-1-308 is amended to read:

7-1-308. Suspension or removal of director or officer -- Grounds -- Procedure for issuance of order.

(1) (a) If the commissioner has determined that any officer or director of an institution or other person under the jurisdiction of the department has:

(i) violated any law, rule, regulation, or a cease and desist order which has become final;

(ii) engaged or participated in any unsafe or unsound practice in the conduct of the affairs of the institution or other person;

(iii) committed or engaged in any act, omission, or practice which constitutes a breach of [~~his~~]the person's fiduciary duty as an officer or director;

(iv) been charged in any information, indictment, or complaint authorized by a county attorney, a district attorney, or the attorney general of the state relative to a violation of this title; or

(v) been charged with the commission of or participation in a crime involving dishonesty or breach of trust; and

(b) if the commissioner determines that:

(i) the institution or other person under the jurisdiction of the department has suffered or will suffer substantial financial loss or other damage due to such actions and that such action may impair the safety and soundness of the institution or other person or prejudice in any manner the interests of the depositors, members, creditors, or shareholders; or

(ii) the director or officer has received financial gain by reason of any breach of fiduciary duty[~~;~~], the commissioner may, after notice and opportunity for hearing, serve upon such director or officer a written notice of suspension or removal of the individual from office or prohibition from further participation in the conduct of the affairs of the institution or other person.

(2) If the commissioner deems it necessary for the protection of an institution or other person under the jurisdiction of the department or the interests of its depositors, members, creditors, or shareholders, [~~he~~]the commissioner may, by written notice served upon the officer or director, suspend that officer or director from office or prohibit [~~him~~]the officer or director from further participation in any manner in the conduct of the affairs of the institution or other person. The suspension or prohibition is effective upon service of the notice and, unless stayed by a court, shall remain in effect until the commissioner dismisses the charges specified in the notice, or, if an order of removal or prohibition is issued against the officer or director, until the effective date of that order.

Section 4. Section 7-1-310 is amended to read:

7-1-310. Subpoena power of commissioner.

The commissioner may issue subpoenas to compel the attendance of witnesses and the production of books, records, and other papers and documents and may examine or cause to be examined under oath any officer, director, or employee of any institution subject to the jurisdiction of the department or any other person whose testimony [~~he~~]the commissioner finds relevant to any matter before [~~him~~]the commissioner or whose testimony is necessary or appropriate in carrying out [~~his~~]the commissioner's duties and responsibilities.

Section 5. Section 7-1-312 is amended to read:

7-1-312. Reports required of large stockholders of financial institutions as to loans secured by stock.

The commissioner may require any person owning or acquiring 25% or more of the outstanding capital stock of any depository institution subject to [~~his~~]the commissioner's jurisdiction, or 25% or more of the stock of any corporation having control of the institution, to report to [~~him~~]the commissioner any borrowing by that person which is secured by that stock and to report to [~~him~~]the commissioner the terms of the borrowing. This section applies only if the purpose for the borrowing was to acquire control of the institution or any other depository institution.

Section 6. Section 7-1-313 is amended to read:

7-1-313. Requiring remedial action by institution in or about to be in unsound condition -- Assistance by insurers.

(1) The commissioner may require any financial institution subject to the jurisdiction of the department that [~~he~~]the commissioner finds to be or about to be in an unsafe or unsound condition to take corrective or remedial action as [~~he~~]the commissioner considers appropriate to protect the interests of depositors, members, other creditors, and shareholders of the institution, and the general public.

(2) An insurer of the accounts of a financial institution may make loans to, purchase the assets of, establish accounts in, or provide other assistance to a financial institution in order to correct or remedy an unsafe or unsound condition or to protect the interests of depositors, members, other creditors, and shareholders of the institution. This assistance is subject to approval by the commissioner.

Section 7. Section 7-1-314 is amended to read:

7-1-314. Examination of institutions by commissioner or supervisor.

(1) The commissioner or the responsible supervisor shall visit and examine or cause to be visited and examined every depository institution and such other institutions subject to the jurisdiction of the department as the commissioner considers necessary or advisable.

(2) At every examination of a depository institution careful inquiry shall be made as to:

(a) the condition and resources of the institution examined;

(b) the mode of conducting and managing of its affairs;

(c) the actions of its directors and officers;

(d) the investment and disposition of its funds;

(e) the security offered to depositors and other customers;

(f) whether or not it is violating any provision of law relating to the institution or the business of the institution examined;

(g) whether or not it is complying with its articles of incorporation and bylaws; and

(h) such other matters as the commissioner may prescribe.

(3) The commissioner may, in [~~his~~]the commissioner's discretion, accept examinations of any institution which are made by federal examiners or examiners from other states having jurisdiction over that institution in lieu of any examination required under the laws of this state.

(4) The nature and extent of examination of institutions or other business entities not classified as depository institutions but otherwise subject to the jurisdiction of the department as provided in this title shall be such as the commissioner may determine to be necessary or appropriate in determining whether or not the business is being conducted in accordance with law and the regulations of the department.

Section 8. Section 7-1-315 is amended to read:

7-1-315. Examination by board of directors required -- Report.

The commissioner may at any time require the board of directors of any or all institutions under [~~his~~]the commissioner's jurisdiction to fully examine or have fully examined the books, papers, and affairs of the institution of which they are directors and particularly the loans, discounts, and overdrafts of such institutions to ascertain the value and security thereof and the collateral security, if any, given in connection therewith and to inquire into such other matters as the commissioner may consider necessary and to have a report placed on file with the records of the institution, which report shall be subject to examination by the commissioner.

Section 9. Section 7-1-316 is amended to read:

7-1-316. Forms for reports required from institutions.

The commissioner shall prescribe the forms for all reports required by law or regulation from financial institutions subject to the jurisdiction of the department and may change the forms at [~~his~~]the commissioner's discretion. The department shall furnish without charge upon the request of any such institution any blank form necessary or required by law.

Section 10. Section 7-1-319 is amended to read:

7-1-319. Notice to county attorney or district attorney of criminal violations -- Attorney general to conduct actions commenced by commissioner -- Assistance of county attorney or district attorney.

The commissioner shall inform the county attorney or district attorney in the county in which the principal office of an institution is located of any violation of any provision of law which constitutes a misdemeanor or felony by an officer, director, or employee of any institution under [~~his~~]the commissioner's jurisdiction[~~which shall come to his notice~~], and upon receipt of such information the county attorney or district attorney shall institute proceedings to enforce the provisions of the law. The attorney general shall conduct all actions, suits, and proceedings begun by the commissioner under authority of law and may call to [~~his~~]the attorney general's assistance the county attorney or district attorney of the county in which the action, suit, or proceeding is conducted, and it shall be the duty of the county attorney or district attorney to render such assistance as the attorney general may require.

Section 11. Section 7-1-320 is amended to read:

7-1-320. Actions to enjoin violations -- Bond not required -- Recovery -- Attorney fees.

(1) Whenever it appears to the commissioner that any person has engaged in or is about to engage in any act or practice constituting a violation of this title or any rule, regulation, or order of the commissioner or the department, [~~he~~]the commissioner may bring an action in an appropriate court of general jurisdiction to enjoin the acts or practices and to enforce compliance with this title or any rule or order issued under this title. Upon a proper showing, a permanent or temporary injunction, restraining order, or extraordinary writ shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court may not require the commissioner to post a bond.

(2) If the court finds that the defendant in an action brought by the commissioner pursuant to this section has violated or is about to violate any provision of this title or any rule or order of the commissioner, the court may award to the department an amount not exceeding $10,000 per day for each day the defendant was in violation. The court may also award the department reasonable [~~attorney's~~]attorney fees.

Section 12. Section 7-1-510 is amended to read:

7-1-510. Examination of institutions -- Adoption of rules -- Requiring actions by institutions.

If the commissioner finds that it is in the public interest and necessary to protect the depositors and other customers of a financial institution, [~~he~~]the commissioner may:

(1) examine the books and records of any financial institution holding company and require the company to furnish whatever reports that [~~he~~]the commissioner considers appropriate to properly supervise the company's financial institution subsidiaries;

(2) adopt and issue rules consistent with the purposes and provisions of this title as they pertain to financial institution holding companies; and

(3) require a financial institution holding company to take any action [~~he~~]the commissioner finds reasonable and necessary to protect the interests of depositors, other customers, and creditors of any subsidiary financial institution, to maintain its solvency or to prevent its failure.

Section 13. Section 7-1-601 is amended to read:

7-1-601. Adverse claim to account in depository institution -- Notice required -- Bond may be required for payment.

Receipt of a notice of an adverse claim to a deposit or other account standing on the books of any depository institution doing business in this state does not obligate the depository institution to the adverse claimant, unless the notice is given pursuant to an appropriate court order, obtained by the adverse claimant in a legal action instituted by [~~him~~]the adverse claimant in which the person to whose credit the deposit stands is made a party. Such depository institution may also pay the adverse claim, if the claimant executes to the depository institution a good and sufficient bond in double the amount claimed, indemnifying it from any and all liability, loss, damage, costs and expenses including [~~attorneys'~~]attorney fees for and on account of the payment of the adverse claim or the dishonor of a check or other instrument of the person to whose credit the deposit stands on its books.

Section 14. Section 7-1-604 is amended to read:

7-1-604. Savings accounts -- Qualifications to hold -- Representation -- Transfer -- Holder treated as owner -- Exception.

(1) Savings accounts may be opened and held solely and absolutely by any adult or minor individual, male or female, single or married in [~~his or her~~]the individual's own right or in trust or other fiduciary capacity for any such adult or minor.

(2) Savings accounts shall be represented only by the account of each savings account holder on the books of the depository institution.

(3) Savings accounts shall be transferable only on the books of the depository institution and only upon written application. Acceptance by the institution of the transferee as an account holder may only be upon terms approved by its board of directors. Nothing in this subsection shall be construed as prohibiting the transfer of part or all of the funds in a transaction account to a third party by means of checks, drafts, or other instruments or by electronic means.

(4) The institution may treat the holder of record of a savings account as the owner of the account for all purposes and may disregard any notice to the contrary, unless the institution has acknowledged, in writing, notice of a pledge of the savings account.

Section 15. Section 7-1-610 is amended to read:

7-1-610. Attorney-in-fact as to savings account -- Institution immune from liability.

Any depository institution may continue to recognize the authority of an attorney-in-fact authorized in writing to manage or to make withdrawals either in whole or in part from the savings account of a holder, whether minor or adult, until it is on actual notice of the revocation of [~~his~~]the authority of the attorney-in-fact. No such institution shall be liable for damages, penalty, or tax by reason of any

payment made under this section.

Section 16. Section 7-1-613 is amended to read:

7-1-613. Incompetency of savings account owner.

When a savings account is held in any depository institution by a person who becomes incompetent and an adjudication of incompetency has been made by a court of competent jurisdiction, the institution may pay or deliver the withdrawal value of the savings account and any earnings that may have accrued on the account to the conservator for that person upon proof of [~~his~~]the conservator's appointment and qualification. However, if the institution has received no written notice and is not on actual notice that the savings account holder has been adjudicated incompetent, it may pay or deliver the funds to the holder in accordance with the provision of the savings account contract, and the receipt or acquittance of the holder therefor shall be a valid and sufficient release and discharge of the institution for the payment or delivery so made.

Section 17. Section 7-1-803 is amended to read:

7-1-803. Conflicting interests of commissioner, supervisors, and examiners -- Loans and accounts -- Disclosure -- Penalty.

(1) Neither the commissioner nor any supervisor or examiner may do any of the following with respect to any institution under the supervision of the department:

(a) be indebted, directly or indirectly, as a borrower, accommodation endorser, surety, or guarantor to an institution, or to an individual or any other legal or commercial entity owning or controlling an institution;

(b) be an officer, director, or employee of any institution or of an individual or any other legal or commercial entity owning or controlling an institution;

(c) own or deal in, directly or indirectly, the shares or obligations of an institution or of a corporation owning or controlling an institution;

(d) receive, directly or indirectly, from an institution or any officer, director, or employee of an institution, any salary, fee, or compensation; or

(e) be interested in or engage in the negotiations of any loan to, obligation of, or accommodation for another person to or with an institution.

(2) Notwithstanding Subsection (1), the commissioner, any supervisor, or any examiner of the department may:

(a) have and maintain savings, transaction, share, time deposit, or other accounts, or certificates and deposits in any financial or depository institution in the state, or be a lessee of a safe deposit box on the same terms and conditions available to the public generally;

(b) be indebted to a depository institution under the supervision of the department on terms offered to the public generally upon:

(i) a mortgage loan upon the mortgagor's own home;

(ii) an open or closed end consumer loan granted before the person became employed with the department or before the institution became subject to the jurisdiction of the department;

(iii) in the case of a supervisor or examiner, a consumer loan lawfully made prior to January 1, 1991, provided that while the debt is subject to the provisions of this chapter, the terms of the debt are not changed in favor of the debtor in a manner not offered and provided to other creditworthy borrowers or waived or extended as a result of delinquency or default; and

(iv) a debt fully secured at all times by deposits in the institution;

(c) be indebted on an installment debt transferred to an institution under the jurisdiction of the department in the regular course of business by a seller of consumer goods; and

(d) continue to receive payments under a regularly established pension plan of general application for fully retired employees of an institution under the supervision of the department.

(3) Full disclosure in writing of any indebtedness incurred under Subsection (2) shall be filed in the commissioner's office.

(4) Any person who knowingly violates this section with the intention of getting gain through the influence of [~~his~~]that person's office shall forfeit the office or employment and is guilty of a third degree felony.

Section 18. Section 7-2-3 is amended to read:

7-2-3. Action for injunction against commissioner in possession -- Procedure -- Appeal.

(1) (a) Whenever any institution or other person of which the commissioner has taken possession considers itself aggrieved by the taking, it may within 10 days after the taking apply to the court to enjoin further proceedings.

(b) After ordering the commissioner to show cause why further proceedings should not be enjoined and after hearing the allegations and proofs of the parties and determining the facts, the court may:

(i) dismiss the application; or

(ii) enjoin the commissioner from further proceedings if the court finds the taking to be arbitrary, capricious, an abuse of discretion, or otherwise contrary to law.

(c) If the court enjoins further proceedings, it shall order the commissioner to surrender possession of the institution in a manner and on terms designated by the court in the public interest.

(d) Notice of any hearings shall be given to persons designated by the court in the manner designated by the court.

(2) An appeal may be taken by the commissioner, a receiver, or liquidator appointed by the commissioner under Section 7-2-9, or by the institution from the judgment of the court as provided by law. An appeal from the judgment does not stay any judgment in favor of the commissioner, or a receiver or liquidator appointed by [~~him~~]the commissioner. If the appeal is taken by the commissioner, or by a receiver or liquidator appointed by [~~him~~]the commissioner, no bond is required. If the appeal is taken by the institution, a bond is required as provided by the Utah Rules of Civil Procedure.

Section 19. Section 7-2-4 is amended to read:

7-2-4. Consent required for institution to resume business.

The institution or other person may resume business only with the consent of and upon conditions approved by the commissioner. The commissioner may give [~~his~~]the commissioner's consent to resumption of business if arrangements have been made by the institution or its stockholders, by reorganization or otherwise, to the satisfaction of the commissioner, to pay all creditors of the institution, aside from the stockholders, and to remedy the default or condition for which possession was taken and to pay the expenses of the proceeding.

Section 20. Section 7-2-8 is amended to read:

7-2-8. Special deputies or agents -- Appointment -- Bond.

The commissioner may appoint one or more special deputies or agents to assist [~~him~~]the commissioner in the proceedings. The commissioner may fix the compensation of any agent appointed to assist [~~him~~]the commissioner. The commissioner may require from agents security for the faithful discharge of their duties. All bonds given under this section shall be deposited with the commissioner and kept in [~~his~~]the commissioner's office.

Section 21. Section 7-2-11 is amended to read:

7-2-11. Special counsel -- Employment by attorney general.

Upon taking possession of any institution or other person subject to the jurisdiction of the department, the commissioner may request the attorney general to employ special counsel on [~~his~~]the commissioner's behalf to assist and advise [~~him~~]the commissioner in connection with a liquidation or reorganization proceeding and the prosecution or defense of any action or proceeding connected with it.

Section 22. Section 7-2-13 is amended to read:

7-2-13. Collections in liquidation -- Deposit -- Preference.

The money collected in process of a liquidation by the commissioner shall be from time to time deposited, subject to [~~his~~]the commissioner's order as herein provided, in one or more federally insured depository institutions organized under the laws of this state. In case of the suspension or insolvency of the depository institution, these deposits shall be preferred before all other deposits.

Section 23. Section 7-2-14 is amended to read:

7-2-14. Expenses during possession.

The expenses reimbursable to the commissioner during possession or in the course of proceedings under this chapter include the compensation of deputies, agents, clerks, and examiners employed by [~~him~~]the commissioner and reasonable fees for counsel, accountants or consultants employed by [~~him~~]the commissioner or on [~~his~~]the commissioner's behalf. The compensation shall be fixed by the commissioner subject to the approval of the court. The expenses of the proceedings shall be paid out of the property of the institution in the hands of the commissioner, shall be a valid charge against that property, and shall be paid first in order of priority. No expenses may be paid out of the property of the institution until an account of the expense has been filed with and approved by the court.

Section 24. Section 7-2-15 is amended to read:

7-2-15. Priority of obligations, expenses, and claims -- Distribution of balance of assets.

(1) The following obligations, expenses, and claims have the following priority:

(a) first, any obligation the commissioner may have under Subsection 7-2-6(3)(b) to be bound by the terms, covenants, and conditions of obligations secured by assets or property of the institution;

(b) second, administrative expenses, including those allowed under Section 7-2-14;

(c) third, unsecured claims for wages, salaries, or commissions, including vacation, severance, or sick leave pay, earned by an individual within 90 days before the date of the commissioner's possession, in an amount not exceeding $2,000 for each individual;

(d) fourth, claims of depositors. Any federal deposit insurance agency or other deposit insurer is subrogated to all rights of the depositors against the institution, its officers and directors, and its persons in control of the institution as control is defined in Section 7-1-103 to the extent of all payments made for the benefit of the depositors. "Payments," as used in this subsection, includes arrangements by a federal deposit insurance agency for the assumption or payment of the deposit liabilities by another institution whose deposits are insured by a federal deposit insurance agency. The right of any agency of the United States insuring deposits or savings obligations to be subrogated to the rights of depositors upon payment of their claims may not be less extensive than the law of the United States provides with respect to subrogation to the rights of depositors in national banks. For the purposes of this section, a contractual commitment to advance funds, including a standby letter of credit, may not be considered a deposit liability of the institution;

(e) fifth, all other unsecured claims in amounts allowed by the court, including claims of secured creditors to the extent the amount of their claims exceed the present fair market value of their collateral. The claim of a lessor for damages resulting from the termination of a lease of property may not be allowed in an amount in excess of the rent reserved by the lease, without acceleration, for 60 days after the lessor repossessed the leased property, or the leased property was surrendered to the lessor, whichever first occurs, whether before or after the commissioner took possession of the institution, plus any unpaid rent due under the lease, without acceleration, on the date of possession or surrender. A claim for damages resulting from the termination of an employment contract, may not be allowed in an amount in excess of the compensation provided by the contract, without acceleration, for 90 days after the employee was directed to terminate, or the employee terminated, performance under the contract, whichever first occurs, whether before or after the commissioner took possession of the institution, plus any unpaid compensation due under the contract, without acceleration, on the date the employee was directed to terminate or the employee terminated performance. Claims for damages resulting from the termination of employment contracts of persons who were in control of the institution, as control is defined in Section 7-1-103, are not entitled to priority under this subsection. Claims for damages for breach of a commitment to advance funds shall be limited to the amount due and owing by the institution on the date the commissioner took possession of the institution;

(f) sixth, claims for debt that are subordinated under the provisions of a subordination agreement or other instrument;

(g) seventh, claims of persons who were at any time in control of the institution as control is defined in Section 7-1-103; and

(h) eighth, all other claims.

(2) The commissioner shall classify each claim presented for priority purposes under Subsection (1) and shall indicate the classification on any certificate issued under the provisions of Subsection 7-2-6(11). This classification is final, subject to review by the court upon a timely objection filed under Subsection 7-2-6(9).

(3) When the commissioner has paid to each depositor and creditor of the institution whose claims have been proved and allowed the full amount of the claim, has made proper provision for unclaimed or unpaid deposits or dividends, and has paid all the expenses of the liquidation, [~~he~~]the commissioner shall distribute the balance of the assets of the institution in [~~his~~]the commissioner's possession among the shareholders of the institution in proportion to the holdings and classes of this stock. Unless a court of competent jurisdiction determines otherwise, the shareholders shall be determined by the books and records of the institution as of the date the commissioner took possession.

Section 25. Section 7-2-16 is amended to read:

7-2-16. Interim ratable dividends.

At any time after the expiration of the date fixed for the presentation of claims and prior to the declaration of a final dividend the commissioner may, out of the funds remaining in [~~his~~]the commissioner's hands after the payment of expenses, declare and pay, subject to their priorities established under Section 7-2-15, one or more interim ratable dividends to any person and in the amount and upon such notice as the court directs.

Section 26. Section 7-2-18 is amended to read:

7-2-18. Plan for reorganization or liquidation of institution -- Hearing -- Procedure -- Effect -- Appeals.

(1) If the commissioner has taken possession of any institution or other person under the jurisdiction of the department[~~he~~], the commissioner may propose to the court a plan for the reorganization or liquidation of the institution or the establishment of a new institution by filing a petition with the court, setting forth the details of the plan and requesting the court to set a day for hearing on the petition.

(2) The court shall make an order fixing a day for the hearing of the petition, prescribing the manner in which notice of the hearing is given, and may prescribe a deadline for filing written objections. The court may adjourn the hearing from time to time and no further notice is required. At the time of hearing or any adjournment of a hearing the court shall take testimony, and if it appears that it is in the best interests of the depositors and other creditors, the court shall approve the plan.

(3) A plan of reorganization or liquidation approved by the court shall be fully binding upon and constitute a final adjudication of all claims, rights, and interests of all depositors, creditors, shareholders, and members of the institution being reorganized or liquidated, and all other parties in interest with regard to the plan and with regard to any institution or other person receiving any assets or assuming any liabilities under the plan.

(4) Notice of an appeal of an order approving a plan of reorganization or liquidation shall be filed within 10 days after the date of entry of the order appealed from.

Section 27. Section 7-2-19 is amended to read:

7-2-19. Suspension of payments by institution -- Order of commissioner -- Approval of governor -- Period effective -- Exempt payments -- Operation during suspension -- Modification of orders -- Adoption of rules and regulations.

(1) The commissioner, whenever in [~~his~~]the commissioner's opinion the action is necessary in the public interest, may, if the governor approves, order such institutions as are subject to [~~his~~]the commissioner's supervision to suspend the payment in any manner of their respective liabilities to their depositors and other creditors, except as hereinafter provided.

(2) The order shall become effective upon notice, and shall continue in full force and effect until rescinded or modified by [~~him~~]the commissioner. No such order shall be issued for an initial period of more than 60 days, but any such order may, if the governor approves, be extended from time to time for further periods not exceeding 60 days each.

(3) Nothing contained in this chapter shall affect the right of the institutions to pay current operating expenses and other liabilities incurred during a period of suspension.

(4) Whenever in the opinion of the commissioner conditions warrant such action, [~~he~~]the commissioner may, if the governor approves, authorize the issuance of clearing house certificates, post notes or other evidences of indebtedness, either during a period of suspension, or during such longer period as [~~he~~]the commissioner may prescribe, and during a period of suspension, [~~he~~]the commissioner may permit the suspended institution to receive deposits and may authorize any such institution to pay any part of its liabilities, or of any class thereof, payment of which has been suspended.

(5) [~~He~~]The commissioner may, if the governor approves, at any time, by order, modify or rescind any or all previous orders made by [~~him~~]the commissioner under authority of this chapter.

(6) The commissioner may, if the governor approves, prescribe such rules and regulations as [~~he~~]the commissioner considers necessary in order to carry out the provisions of this chapter, and an order may be issued on such terms and conditions as may be incorporated in the order.

Section 28. Section 7-3-3.2 is amended to read:

7-3-3.2. Securities business permitted -- Activities conducted by subsidiary -- Disclosure statements required.

(1) A bank has all necessary and incidental powers to engage in the business of purchasing, selling, underwriting, and dealing in securities, whether as a principal for its own account or as agent or broker for a customer, subject to the limitations in this section.

(2) The securities business that a bank may conduct as a principal for its own account is limited to the activities specified in Subsections (2)(a) through (d). A bank does not otherwise have power to enter securities underwriting or act as a principal in issuance or marketing of securities.

(a) A bank may purchase for investment and subsequently resell those types of securities authorized by statute or rule of the commissioner, including, without limitation, shares purchased in accordance with Section 7-3-21 and government or other securities lawfully acquired for the investment or trading portfolio of the bank or any of its subsidiaries or affiliates in accordance with any limitation established by any other federal or state statute, regulation, or rule.

(b) A bank may sell securities of any kind acquired in the ordinary course of business, including, without limitation, through foreclosure on pledged securities.

(c) A bank may underwrite or deal in securities issued by a municipality, county, or other local governmental entity or an agency of any such governmental entity, securities issued by a state or any of its agencies, or securities issued by the federal government or any of its agencies.

(d) A bank may establish or underwrite the securities of registered investment companies that are limited to operating or investing in money market funds or other short-term government or corporate debt instruments.

(3) This section may not be interpreted to alter the traditional rights and powers of banks to issue deposit instruments or similar instruments that acknowledge receipt of money for customers, even though the instruments may for some purposes be considered securities.

(4) Securities activities under this section, except those activities described in Subsections (2)(a) and (b), shall be conducted only through a subsidiary. Any such subsidiary shall be established pursuant to rules that the commissioner may adopt after notice and hearing. Any such rules shall further define the standards by which a securities subsidiary of a bank may be established and operated, including the requirement for registration, if required, as a broker-dealer with state, federal, and self-regulatory agencies. In addition to other standards that may be established by these rules, a bank may not invest more than 10% of its total capital in a securities subsidiary. For purposes of that determination, total capital shall be calculated in accordance with all other applicable statutes and rules of the commissioner, including the effect of loans from the bank to the subsidiary, together with capital standards established by the Federal Deposit Insurance Corporation. Every loan made by the bank to a securities subsidiary shall comply with applicable state and federal laws. In all cases, each subsidiary shall maintain separate corporate and financial records.

(5) Notwithstanding Subsection (4), a bank may enter into a networking agreement with a registered broker-dealer for the provision of brokerage services to the bank's customers on the bank's premises without the need to comply with Subsection (4), (6), or (7).

(6) The securities activities authorized by this section may be conducted from an authorized banking office or from a separate office of a subsidiary, and may be offered to customers in this state or in any other state, territory, or country, except to the extent such activities are limited or prohibited by the laws of the other state, territory, or country.

(7) Before undertaking any of the direct or indirect securities activities permitted under this section, except those authorized by Subsection (2)(a), a bank shall apply to the commissioner. The commissioner shall render a decision of approval, conditional approval, or disapproval within 60 days from the date of receiving the application. Public notice is not required for any hearing on the application that may be held. [~~The commissioner shall satisfy himself before approving the application~~]Before approving the application, the commissioner shall be satisfied that the bank possesses the managerial and financial resources necessary to conduct the securities activities safely and soundly.

(8) In conducting securities activities, a bank shall in all respects comply, and cause its securities subsidiary to comply, with the Utah Uniform Securities Act, the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, and other applicable statutes, regulations, and rules.

(9) In connection with each customer for which a bank or its securities subsidiary shall act as agent or broker, the bank or the subsidiary, as applicable, shall give a written disclosure to its customer prior to closing any single transaction or establishment of an account contemplating a series of transactions. The disclosure statement shall be in legible print and shall be in substantially the form shown in Subsection (9)(a) with respect to the bank and in Subsection (9)(b) with respect to any securities subsidiary.

(a)

DISCLOSURE STATEMENT

The services offered by the securities department of this bank are offered to its customers without regard to any other banking relationship. By signing below the customer acknowledges receipt of this Disclosure Statement and agrees that any contract for securities services is completely voluntary, and the selection of this bank for securities services has not been required by any other business relationship or account with the bank.

_____(month/day/year).

CUSTOMER:

_____

_____

(b)

DISCLOSURE STATEMENT

_____ (name of securities agency subsidiary) is a subsidiary of _____ (name of bank). The services offered by _____ (name of subsidiary) are offered to its customers without regard to any separate banking relationship with _____ (name of bank). By signing below the customer acknowledges receipt of this Disclosure Statement and agrees that any contract for services with _____ (name of subsidiary) is completely voluntary and the selection of _____ (name of subsidiary) for securities services has not been required by any business relationship with its parent bank.

_____(month/day/year).

CUSTOMER:

_____

_____

Section 29. Section 7-3-35 is amended to read:

7-3-35. Examinations in lieu of directors' examination -- Report filed with board minutes.

(1) With the approval of the commissioner, and under rules and regulations prescribed by [~~him~~]the commissioner, any examination made during an 18-month period by the department, the applicable federal reserve bank or the Federal Deposit Insurance Corporation, or a certified audit prepared by an independent certified public accountant may be substituted for the directors' examination required under Section 7-3-33.

(2) If an examination by the department, the applicable federal reserve bank, or the Federal Deposit Insurance Corporation or an audit by a certified public accountant, is substituted for the directors' examination, the board of directors of the examined bank, or an examining committee appointed by the board shall prepare and file with the minutes of the board a detailed written report of the findings and recommendations based upon the examination. The report shall be in addition to any other requirements prescribed by the commissioner.

Section 30. Section 7-5-3 is amended to read:

7-5-3. Application for authorization to engage in trust business -- Criteria for granting -- Authority of trust company.

(1) A person seeking authorization to become a trust company and engage in the trust business in this state shall file an application with the commissioner in the manner provided in Section 7-1-704, and shall pay the fee prescribed in Section 7-1-401.

(2) The commissioner shall, in deciding whether or not to approve the application, take into account:

(a) the character and condition of the applicant's assets;

(b) the adequacy of its capital;

(c) its earnings record;

(d) the quality of its management;

(e) the qualifications of any person proposed to be an officer in charge of the trust operations;

(f) the needs of the community for fiduciary services;

(g) the volume of business that the applicant will probably do; and

(h) any other relevant facts and circumstances, including the availability of legal counsel to advise and pass upon matters relating to the trust business.

(3) The commissioner may not apply criteria making it more difficult for a state chartered depository institution to obtain approval to engage in the trust business than for a federally chartered depository institution of the same class.

(4) The commissioner may impose such conditions when authorizing a person to engage in the trust business as [~~he~~]the commissioner considers appropriate to protect the public interest.

(5) Upon receiving authorization from the commissioner to become a trust company and engage in the trust business, the trust company is qualified to act as fiduciary in any capacity without bond.

Section 31. Section 7-5-12 is amended to read:

7-5-12. Directors' audit of trust business -- Report available to commissioner or examiners -- Examinations in lieu of audit.

A committee of the board of directors, exclusive of any active officers of the trust department, of every trust company authorized to engage in the trust business in this state shall, at least once during a 15-month period, make a suitable audit of the trust business operations of the institution or cause a suitable audit to be made by auditors responsible only to the board of directors and shall ascertain whether the trust business operations of the institution have been administered in accordance with law and sound fiduciary principles. A report of the audit, together with the action taken thereon, shall be made available to the commissioner, [~~his~~]the commissioner's examiners, or the examiners of other trust company regulating agencies upon request. An examination by the state or other trust company regulating agencies or both made during the same period may be substituted for this audit.

Section 32. Section 7-9-18 is amended to read:

7-9-18. Expulsion of member.

(1) The board of directors or board-designated representatives may expel from the credit union any member who has not carried out [~~his~~]the member's engagements with the credit union, or neglected or refused to comply with the credit union board policies, provisions of this chapter, or of the credit union bylaws.

(2) If the member whose expulsion is under consideration is a member of the board of directors or credit committee, the supervisory committee shall call a special meeting of the members to hear the facts and act upon the proposed expulsion.

Section 33. Section 7-9-31 is amended to read:

7-9-31. Shares held in trust.

(1) Shares may be issued to and deposits received in the name of a minor, and these shares and deposits may, in the discretion of the board of directors, be withdrawn by the minor or by [~~his~~]the minor's parent or guardian.

(2) A credit union share account, share certificate, deposit, or deposit certificate may be held in trust provided that the trustor, trustee, or primary beneficiary is a member of the credit union.

(3) The trustee of the trust meeting the requirements of Subsection (2) shall exercise the rights of the trust as a member of the credit union.

Section 34. Section 7-9-49 is amended to read:

7-9-49. Limitation of personal liability of directors and committee members.

(1) Without limiting the generality of Section 7-9-50, the articles of incorporation may include a provision eliminating or limiting the personal liability of a director, supervisory committee member, or credit committee member to the credit union, its members, or its depositors for monetary damages for any action taken or any failure to take any action as a director, supervisory committee member, or credit committee member, except liability for:

(a) the amount of a financial benefit received by a director, supervisory committee member, or credit committee member to which [~~he~~]the individual is not entitled;

(b) an intentional infliction of harm on the credit union, its members, or depositors; or

(c) an intentional violation of criminal law.

(2) No provision authorized under this section may eliminate or limit the liability of a director, supervisory committee member, or credit committee member for any act or omission occurring prior to the date when the provision becomes effective.

(3) Any provision authorized under this section to be included in the articles of incorporation may also be adopted in the bylaws or by resolution, but only if the provision is approved by the same percentage of members as would be required to approve it as an amendment to the articles of incorporation.

Section 35. Section 7-9-50 is amended to read:

7-9-50. General limitation on liability.

A director, supervisory committee member, credit committee member, or officer is not liable to the credit union, its members, its depositors, any conservator or receiver, or any assignee or successor-in-interest thereof, for any action taken, or any failure to take any action, as a director, supervisory committee member, credit committee member, or officer, as the case may be, unless:

(1) [~~he~~]the director, supervisory committee member, credit committee member, or officer has breached or failed to perform the duties of the office in compliance with this title; and

(2) the breach or failure to perform constitutes gross negligence, willful misconduct, or intentional infliction of harm on the credit union or its members.

Section 36. Section 7-17-5 is amended to read:

7-17-5. Statements.

Every lender shall furnish to the borrower, or [~~his~~]the borrower's successors or assigns, without charge, within 60 days after the end of each calendar year, an itemized statement showing money:

(1) received for interest and principal repayment; and

(2) received and held in or disbursed from a reserve account, if any.

Section 37. Section 7-19-3 is amended to read:

7-19-3. Waiver of procedures.

The commissioner may waive any of the procedures of Section 7-1-705 or any regulation of the department if [~~he~~]the commissioner considers it necessary to protect the interest of depositors, creditors, and other customers of a failing or failed depository institution or failing or failed depository institution holding company in a supervisory merger or a supervisory acquisition.

Section 38. Section 7-19-5 is amended to read:

7-19-5. Findings prerequisite to requiring or authorizing supervisory acquisitions or mergers by commissioner.

The commissioner may not authorize or require any transaction pursuant to Section 7-19-2 unless [~~he~~]the commissioner determines that:

(1) the acquiring or resulting depository institution or depository institution holding company has demonstrated an acceptable record of meeting the credit needs of the communities which it serves; and

(2) the acquiring or resulting depository institution or depository institution holding company has a record of sound performance, capital adequacy, financial capacity, and efficient management such that the acquisition or merger will not jeopardize the financial stability of the acquired or merged depository institution and will not be detrimental to the interests of depositors, creditors, other customers of the depository institution, or to the public.

Section 39. Section 7-19-9 is amended to read:

7-19-9. Commissioner's powers not limited -- Immunity -- Rules -- Reports.

(1) This chapter does not limit any power otherwise granted to the commissioner or to any depository institution or depository institution holding company by the laws of this state.

(2) The commissioner is not subject to any civil liability or penalty nor to any criminal prosecution for any error in judgment or discretion in any action taken or omitted by [~~him~~]the commissioner in good faith under the provisions of this chapter.

(3) The commissioner may promulgate such rules and regulations as may be necessary to implement this chapter.

(4) By January 10 of each year, the commissioner shall report to the governor and the Legislature the nature and general terms and conditions of any supervisory acquisition or supervisory merger effectuated under the provisions of this chapter during the preceding year.

Section 40. Section 8-2-2 is amended to read:

8-2-2. Investment of funds by Division of Finance.

The Division of Finance shall with the approval of the governor invest the money which may be deposited with the state treasurer under the provisions of the preceding section in the name of the state, in bonds or other obligations of the state or of the United States, or in securities in which the division is authorized to invest money in behalf of the state, and semiannually in each year it shall cause to be paid the accrued interest thereof to such person, association or corporation for the care, maintenance or improvement of any cemetery or cemetery lot where the money has been deposited for that purpose. If such cemetery is not held in private ownership, such interest shall be paid to the city or town in which the cemetery is located. At the time of paying such interest the treasurer shall inform the person, city, or town to whom it is paid of the purpose to which it is to be applied as stated in the copy of the instrument which is filed with [~~him~~]the treasurer, and the person, city, or town to whom it is paid shall apply it to such purpose.

Section 41. Section 9-8-804 is amended to read:

9-8-804. Statute of limitations for claiming reposited materials from a collecting institution.

(1) Any reposited materials in a collecting institution that are not accompanied by a transfer of title to those materials are considered a gift to the collecting institution when more than 25 years have passed from the date of the last written contact between the depositor or [~~his~~]the depositor's successors and the collecting institution.

(2) No depositor or any of [~~his~~]the depositor's successors may bring an action against the collecting institution to recover the reposited materials from the collecting institution after 25 years have passed from the date of the last written contact between the depositor or [~~his~~]the depositor's successors and the collecting institution.

Section 42. Section 9-8-806 is amended to read:

9-8-806. Claiming reposited materials held by a collecting institution.

(1) Any person claiming title to reposited materials held by a collecting institution shall demonstrate that [~~he~~]the person owns all right, title, and interest in the reposited materials to the reasonable satisfaction of the collecting institution.

(2) (a) Any person claiming to represent a person claiming title to reposited materials held by a collecting institution shall demonstrate, to the reasonable satisfaction of the collecting institution, that:

(i) [~~he~~]the person claiming to represent a person claiming title to the reposited material represents every person who owns any right, title, or interest in the reposited materials; and

(ii) the represented persons [~~he represents~~]own all right, title, and interest in the reposited materials.

(b) Any person claiming [~~he represents~~]to represent persons holding all right, title, and interest in the reposited materials may demonstrate that representation by providing the collecting institution with a notarized authorization from every person having any right, title, or interest in the reposited materials.

Section 43. Section 9-9-203 is amended to read:

9-9-203. Acceptance or rejection of cession of state jurisdiction -- Proclamation by governor.

(1) If the governor receives a resolution signed by the majority of any tribe, tribal council, or other governing body duly recognized by the Bureau of Indian Affairs of any tribe, community, band or group in the state certifying the results of a special election expressly ceding criminal or civil jurisdiction of the Indian tribe, community, band, or group or its lands or any portion thereof to the state of Utah within the limits authorized by federal law, [~~he~~]the governor shall either accept or reject the cession of jurisdiction within 60 days.

(2) If the governor accepts jurisdiction, [~~he~~]the governor shall issue a proclamation within 60 days to the effect that civil or criminal jurisdiction shall apply, subject to the limitations of this chapter, to all Indians and all Indian territory, country, lands or any portion thereof

of the Indian body involved to the extent authorized by the resolution. Failure to issue the proclamation within the time prescribed is considered a rejection of the assumption of jurisdiction.

Section 44. Section 10-3-202 is amended to read:

10-3-202. Terms of elected municipal officers.

Each elected officer of a municipality shall hold office for the term for which [~~he~~]the officer is elected and until [~~his~~]the officer's successor is chosen and qualified, unless the office becomes vacant under Section 10-3-301.

Section 45. Section 10-3-705 is amended to read:

10-3-705. Requirements as to form -- Effective date.

Ordinances passed or enacted by the governing body shall be signed by the mayor, or if [~~he~~]the mayor is absent, by the mayor pro tempore, or by a quorum of the governing body, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of Subsection 10-3-704(1), (2), (3) or (4). Ordinances which do not have an effective date shall become effective 20 days after publication or posting, or 30 days after final passage by the governing body, whichever is sooner.

Section 46. Section 10-3-829 is amended to read:

10-3-829. Acts of officials not voided.

No official act of any municipal officer shall be invalid for the reason that [~~he~~]the officer failed to take the oath of office.

Section 47. Section 10-3-904 is amended to read:

10-3-904. Books and supplies -- Recording, filing, and inspection.

The city engineer's office shall be supplied with all necessary books, cases and supplies for recording and filing as required. The city engineer shall record and file all drawings and documents pertaining to public lands and improvements. Those made in [~~his~~]the city engineer's office shall be placed on record as soon as completed and shall then be open for public inspections, and any person copying the same or taking notes therefrom may do so in pencil only. [~~He~~]The city engineer shall keep the records and files in good condition and turn the same over to [~~his~~]the city engineer's successor in office. [~~He~~]The city engineer shall allow no alteration, mutilation or changes to be made in any matter of record, and shall be held strictly accountable for the same.

Section 48. Section 10-3-906 is amended to read:

10-3-906. Seal.

The city engineer shall be provided with a seal by the city for [~~his~~]the city engineer's use, containing the words "____City, Utah, Engineering Department." The seal shall be affixed to every certification approval.

Section 49. Section 10-3-915 is amended to read:

10-3-915. Rights to arrest without warrant.

The members of the police force shall have the power and authority, without process, to arrest and take into custody any person who shall commit or threaten or attempt to commit in the presence of the officer, or within [~~his~~]the officer's view, any breach of the peace, or any offense directly prohibited by the laws of this state or by ordinance.

Section 50. Section 10-8-50 is amended to read:

10-8-50. Disturbing the peace -- Public intoxication -- Fighting -- Obscene language -- Disorderly conduct -- Lewd behavior -- Interference with officers -- Trespass.

(1) Boards of commissioners and city councils of cities may provide for the punishment of any person or persons for:

(a) disturbing the peace or good order of the city;

(b) disturbing the peace of any person or persons;

(c) disturbing any lawful assembly;

(d) public intoxication;

(e) challenging, encouraging, or engaging in fighting;

(f) using obscene or profane language in a place or under circumstances which could cause a breach of the peace or good order of the city;

(g) engaging in indecent or disorderly conduct;

(h) engaging in lewd or lascivious behavior or conduct in the city; and

(i) interfering with any city officer in the discharge of [~~his~~]the officer's duty.

(2) Boards of commissioners and city councils of cities may provide for the punishment of trespass and such other petty offenses as the board of commissioners or city council may consider proper.

(3) (a) A woman's breast feeding, including breast feeding in any location where she otherwise may rightfully be, does not under any circumstance constitute a lewd or indecent act, irrespective of whether or not the breast is covered during or incidental to feeding.

(b) Boards of commissioners and city councils of cities may not prohibit a woman's breast feeding in any location where she otherwise may rightfully be, irrespective of whether the breast is uncovered during or incidental to the breast feeding.

Section 51. Section 11-3-4 is amended to read:

11-3-4. Enforcement -- Seizure of fireworks sold unlawfully -- Revocation of license.

(1) Each county and municipal officer charged with the enforcement of state and municipal laws, including all fire enforcement officials and the State Fire Marshal Division of the Department of Public Safety, shall enforce this chapter and Sections 53-7-220 through 53-7-225, Utah Fireworks Act.

(2) Any official charged with enforcing this chapter and the Utah Fireworks Act may:

(a) seize display fireworks, fireworks, and unclassified fireworks that are offered for sale, sold, or in the possession of an individual in violation of this chapter or the Utah Fireworks Act; and

(b) recommend to the state fire [~~marshall~~]marshal that the state fire marshal revoke the license of each importer or wholesaler selling or offering to sell display fireworks, fireworks, or unclassified fireworks in violation of this chapter or the Utah Fireworks Act[~~have his license revoked~~].

Section 52. Section 11-30-6 is amended to read:

11-30-6. Contest of petition by attorney general or county attorney -- Attorney general and county attorney as parties.

(1) A copy of the petition and order shall be served on the attorney general at least 20 days before the hearing. Upon receipt of the petition, the attorney general shall carefully examine the petition and, if the petition is believed to be defective, insufficient, or untrue, or if, in the attorney general's opinion, a reasonable question exists as to the validity of the bonds, the attorney general shall contest the petition. If neither of those conditions exists or if one or more other parties to the action will, in the attorney general's opinion, competently contest the petition, the attorney general may, upon approval of the court, be dismissed as a defendant.

(2) If the petition is filed by the state or any agency, authority, instrumentality, or institution of the state, the attorney general may not be made a party to the proceeding and notice shall be served on the county attorney in the county in which the largest expenditure of the proceeds of the bonds is expected to be made. That county attorney shall then in all respects perform the role of the attorney general as set forth in this section.

(3) The attorney general or county attorney, as the case may be, may waive [~~his~~]the right of appeal and that waiver shall be binding on all successors and assigns.

(4) All costs of the attorney general or county attorney incurred in performing duties imposed by this section shall be reimbursed from the proceeds of the bonds if the bonds are issued.

Section 53. Section 13-1-5 is amended to read:

13-1-5. Executive director's authority over division directors.

The executive director has policymaking and management jurisdiction over directors of the divisions and agencies within the department. [~~He~~]The executive director shall appoint the division directors, subject to approval by the governor, unless otherwise provided by law and shall determine their compensation.

Section 54. Section 13-7-4 is amended to read:

13-7-4. Business establishment, place of public accommodation, or enterprise regulated by the state denying rights deemed public nuisance -- Investigation and conciliation -- Action to enjoin -- Civil action for damages -- Expenses of defending action.

Any business establishment or place of public accommodation or enterprise regulated by the state in which a violation of the rights provided in Section 13-7-3 of this chapter occurs is a public nuisance. The operator of any such business establishment or place of public accommodation or enterprise regulated by the state is guilty of maintaining a public nuisance and may be enjoined as hereinafter provided.

(1) Upon application to the attorney general by any person denied the rights guaranteed by Section 13-7-3, the attorney general shall investigate and seek to conciliate the matter.

(2) An action to enjoin any nuisance defined in this section may be brought in the name of the state of Utah by the attorney general. Upon the trial of the cause, on finding that the material allegations of the complaint are true, the court shall order such nuisance to be abated, and enjoin all persons from maintaining or permitting such nuisance. When any injunction as herein provided has been granted it shall be binding upon the defendant and shall act as an injunction in personam against the defendant throughout the state.

(3) Any person who is denied the rights provided for in Section 13-7-3 shall have a civil action for damages and any other remedy available in law or equity against any person who denies [~~him~~]that person the rights provided for in Section 13-7-3 or who aids, incites or conspires to bring about such denial.

(4) Any business establishment or place of public accommodation or enterprises regulated by the state charged with maintaining a public nuisance in violation of this chapter, which is determined or found not to be in violation of this chapter, may be awarded all actual and necessary expenses incurred in defending such action, as determined and approved by the court having jurisdiction of the matter.

Section 55. Section 13-11-9 is amended to read:

13-11-9. Rule-making requirements.

(1) In addition to complying with other rule-making requirements imposed by this act, the enforcing authority shall:

(a) adopt as a rule a description of the organization of [~~his~~]the enforcing authority's office, stating the general course and method of operation of [~~his~~]the office and method whereby the public may obtain information or make submissions or requests;

(b) adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of the forms and instructions used by the enforcing authority of [~~his~~]the enforcing authority's office; and

(c) make available for public inspection all rules, written statements of policy, and interpretations formulated, adopted, or used by the enforcing authority in discharging [~~his~~]the enforcing authority's functions.

(2) A rule of the enforcing authority is invalid, and may not be invoked by the enforcing authority for any purpose, until it has been made available for public inspection under Subsection (1). This provision does not apply to a person who has knowledge of a rule before engaging in an act or practice that violates this act.

Section 56. Section 13-11-16 is amended to read:

13-11-16. Investigatory powers of enforcing authority.

(1) If, by [~~his~~]the enforcing authority's own inquiries or as a result of complaints, the enforcing authority has reason to believe that a person has engaged in, is engaging in, or is about to engage in an act or practice that violates this act, [~~he~~]the enforcing authority may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence.

(2) If matter that the enforcing authority subpoenas is located outside this state, the person subpoenaed may either make it available to the enforcing authority at a convenient location within the state or pay the reasonable and necessary expenses for the enforcing authority or [~~his~~]the enforcing authority's representative to examine the matter at the place where it is located. The enforcing authority may designate representatives, including officials of the state in which the matter is located, to inspect the matter on [~~his~~]the enforcing authority's behalf, and [~~he~~]the enforcing authority may respond to similar requests from officials of other states.

(3) Upon failure of a person without lawful excuse to obey a subpoena and upon reasonable notice to all persons affected, the enforcing authority may apply to the court for an order compelling compliance.

(4) In the event a witness asserts a privilege against self-incrimination, testimony and evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of Immunity.

Section 57. Section 13-14a-5 is amended to read:

13-14a-5. Notice or consent required before changing terms of retailing agreement -- Limitations on pledge of personal assets -- Cancellation

of retailing agreement.

(1) Each manufacturer, wholesaler, financing subsidiary or division of the manufacturer, or any independent lender shall give the dealer prior written notice and obtain the dealer's consent before:

(a) changing either the time or manner of payment;

(b) making any changes in notes or security;

(c) adding or releasing guarantors; or

(d) granting extensions or renewals in payment schedules on any contract that is executed by the dealer in behalf of and in the name of any third purchaser of goods or services in which the dealer is obligated to assume contingent liability for the repurchase of that contract upon default by that third party.

(2) A person who signs a security agreement or guarantee agreement with a manufacturer or wholesaler may not be required to pledge or encumber [~~his~~]the person's personal assets in a value in excess of the amount of the indebtedness secured.

(3) If any manufacturer or wholesaler fails to give notice or obtain consent under Subsection (1), or fails to comply with Subsection (2), the guarantee or security agreement affected is considered cancelled and terminated.

Section 58. Section 13-20-4 is amended to read:

13-20-4. Nonconforming motor vehicles -- Replacement -- Refund -- Criteria -- Defenses.

(1) If the manufacturer, its agent, or its authorized dealer is unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition that substantially impairs the use, market value, or safety of the motor vehicle after a reasonable number of attempts, the manufacturer shall replace the motor vehicle with a comparable new motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the full purchase price including all collateral charges, less a reasonable allowance for the consumer's use of the vehicle. Refunds shall be made to the consumer, and any lienholders or lessors as their interests may appear.

(2) A reasonable allowance for use is that amount directly attributable to use by the consumer prior to [~~his~~]the consumer's first report of the nonconformity to the manufacturer, its agent, or its authorized dealer, and during any subsequent period when the vehicle is not out of service because of repair.

(3) Upon receipt of any refund or replacement under Subsection (1), the consumer, lienholder, or lessor shall furnish to the manufacturer clear title to and possession of the motor vehicle.

(4) It is an affirmative defense to any claim under this chapter:

(a) that an alleged nonconformity does not substantially impair the consumer's use of the motor vehicle and does not substantially impair the market value or safety of the motor vehicle; or

(b) that an alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by a consumer.

Section 59. Section 13-21-4 is amended to read:

13-21-4. Bond, letter of credit, or certificate of deposit -- Not required of agent if obtained by organization.

(1) If a credit services organization has obtained a bond, letter of credit, or certificate of deposit as set forth in Subsection 13-21-3(1) a salesperson, agent, or representative who sells the services of that organization is not required to post [~~his own~~]a separate bond, letter of credit, or certificate of deposit.

(2) As used in this section, a person is not a salesperson, agent, or representative of a credit services organization unless:

(a) the person does business under the same name as the credit services organization; or

(b) the credit services organization and the issuer of the bond or letter of credit certify in writing that the bond or letter of credit covers the person.

Section 60. Section 13-28-7 is amended to read:

13-28-7. Penalties -- Administrative and criminal.

(1) Any person who violates this chapter shall be subject to:

(a) a cease and desist order; and

(b) an administrative fine of not less than $100 or more than $5,000 for each separate violation.

(2) All administrative fines shall be deposited in the Consumer Protection Education and Training Fund created in Section 13-2-8.

(3) Any person who intentionally violates this part is guilty of a class A misdemeanor and may be fined up to $10,000. A person intentionally violates this part if the violation occurs after the division, attorney general, or a district or county attorney notifies the person by certified mail that [~~he~~]the person is in violation of this chapter.

Section 61. Section 15-8-11 is amended to read:

15-8-11. Enforcement -- Penalties.

(1) (a) A lessor who fails to comply with the requirements of this chapter is liable to a consumer in an amount equal to the greater of:

(i) the actual damages sustained by the consumer as a result of the lessor's failure to comply with this chapter; or

(ii) 25% of the total payments necessary to acquire ownership, but not less than $100 nor more than $1,000.

(b) A lessor may also be liable to the consumer for the costs of the action and reasonable [~~attorneys'~~]attorney fees, as determined by the court.

(2) A consumer may not take any action to offset the amount for which a lessor is potentially liable under Subsection (1) against any amount owed by the consumer, unless the amount of the lessor's liability has been determined by judgment of a court of competent jurisdiction in an action in which the lessor was a party. This subsection does not bar a consumer then in default on an obligation from asserting a violation of this chapter as an original action, or as a defense or counterclaim, to an action brought by a lessor against the consumer.

(3) No action under this section may be brought in any court of competent jurisdiction more than two years after the date the consumer made [~~his~~]the consumer's last rental payment or more than two years after the date of the occurrence of the violation that is the subject of the suit, whichever is later.

Section 62. Section 16-7-2 is amended to read:

16-7-2. Articles of incorporation -- Execution -- Filing.

Any person who is the archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, or clergyman of any church or religious society who has been duly chosen, elected, or appointed in conformity with the constitution, canons, rites, regulations, or discipline of such church or religious society, and in whom is vested the legal title to its property, may make and subscribe articles of incorporation, acknowledge the same before some officer authorized to take acknowledgments, and file the original articles with the Division of Corporations and Commercial Code; [~~he~~]the person who makes and subscribes the articles of incorporation shall retain a copy of these articles in [~~his~~]the person's possession.

Section 63. Section 16-10a-129 is amended to read:

16-10a-129. Penalty for signing false documents.

(1) A person commits an offense if [~~he~~]the person signs a document knowing it to be false in any material respect, with intent that the document be delivered to the division for filing.

(2) An offense under this section is a class A misdemeanor punishable by a fine not to exceed $2,500.

Section 64. Section 16-10a-824 is amended to read:

16-10a-824. Quorum and voting.

(1) Unless the articles of incorporation or bylaws require a greater number, or, as permitted in Subsection (2), a lower number, a quorum of a board of directors consists of:

(a) a majority of the fixed number of directors if the corporation has a fixed board size; or

(b) a majority of the number of directors prescribed, or if no number is prescribed, of the number in office immediately before the meeting begins, if a range for the size of the board is established pursuant to Subsection 16-10a-803(2).

(2) The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no fewer than 1/3 of the fixed or prescribed number of directors determined under Subsection (1).

(3) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation, bylaws, or this chapter require the vote of a greater number of directors.

(4) A director who is present at a meeting of the board of directors when corporate action is taken is considered to have assented to the action taken at the meeting unless:

(a) the director objects at the beginning of the meeting, or promptly upon arrival, to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken at the meeting;

(b) the director contemporaneously requests [~~his~~]the director's dissent or abstention as to any specific action to be entered into the minutes of the meeting; or

(c) the director causes written notice of a dissent or abstention as to any specific action to be received by the presiding officer of the meeting before adjournment of the meeting or by the corporation promptly after adjournment of the meeting.

(5) The right of dissent or abstention as to a specific action pursuant to Subsection (4) is not available to a director who votes in favor of the action taken.

Section 65. Section 16-10a-841 is amended to read:

16-10a-841. Limitation of liability of directors.

(1) Without limiting the generality of Subsection 16-10a-840(4), if so provided in the articles of incorporation or in the bylaws or a resolution to the extent permitted in Subsection (3), a corporation may eliminate or limit the liability of a director to the corporation or to its shareholders for monetary damages for any action taken or any failure to take any action as a director, except liability for:

(a) the amount of a financial benefit received by a director to which [~~he~~]the director is not entitled;

(b) an intentional infliction of harm on the corporation or the shareholders;

(c) a violation of Section 16-10a-842; or

(d) an intentional violation of criminal law.

(2) No provision authorized under this section may eliminate or limit the liability of a director for any act or omission occurring prior to the date when the provision becomes effective.

(3) Any provision authorized under this section to be included in the articles of incorporation may also be adopted in the bylaws or by resolution, but only if the provision is approved by the same percentage of shareholders of each voting group as would be required to approve an amendment to the articles of incorporation including the provision.

(4) Any foreign corporation authorized to transact business in this state, including any federally chartered depository institution authorized under federal law to transact business in this state, may adopt any provision authorized under this section.

(5) With respect to a corporation that is a depository institution regulated by the Department of Financial Institutions or by an agency of the federal government, any provision authorized under this section may include the elimination or limitation of the personal liability of a director or officer to the corporation's members or depositors.

Section 66. Section 16-10a-853 is amended to read:

16-10a-853. Shareholders' action.

(1) Shareholders' action respecting a transaction is effective for purposes of Subsection 16-10a-851(2)(b) if a quorum existed pursuant to Subsection (2) and a majority of the votes entitled to be cast by holders of qualified shares present in person or by proxy at the meeting were cast in favor of the transaction after notice to shareholders describing the director's conflicting interest transaction, provision of the information referred to in Subsection (3), and required disclosure to the shareholders who voted on the transaction, to the extent the information was not known by them.

(2) A majority of the votes entitled to be cast by the holders of all qualified shares constitutes a quorum for purposes of action that complies with this section. Subject to the provisions of Subsections (3) and (4), shareholders' action that otherwise complies with this section is not affected by the presence of holders of, or the voting of, shares that are not qualified shares.

(3) For purposes of compliance with Subsection (1), a director who has a conflicting interest respecting the transaction shall, before the shareholders vote, inform the secretary or other officer or agent of the corporation authorized to tabulate votes of the number and the identity of persons holding or controlling the vote, of all shares that the director knows are beneficially owned, or the voting of which is controlled, by the director or by a related person of the director, or both.

(4) If a shareholders' vote does not comply with Subsection (1) solely because of a failure of a director to comply with Subsection (3), and if the director establishes that the failure did not determine and was not intended by [~~him~~]the director to influence the outcome of the vote, the court may, with or without further proceedings under Subsection 16-10a-851(2)(c), take any action respecting the transaction and the director, and give any effect to the shareholders' vote, as it considers appropriate in the circumstances.

Section 67. Section 16-10a-902 is amended to read:

16-10a-902. Authority to indemnify directors.

(1) Except as provided in Subsection (4), a corporation may indemnify an individual made a party to a proceeding because [~~he~~]the individual is or was a director, against liability incurred in the proceeding if:

(a) [~~his~~]the individual's conduct was in good faith; [~~and~~]

(b) [~~he~~]the individual reasonably believed that [~~his~~]the individual's conduct was in, or not opposed to, the corporation's best interests; and

(c) in the case of any criminal proceeding, [~~he~~]the individual had no reasonable cause to believe [~~his~~]the individual's conduct was unlawful.

(2) A director's conduct with respect to any employee benefit plan for a purpose [~~he~~]the director reasonably believed to be in or not opposed to the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of Subsection (1)(b).

(3) The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the standard of conduct described in this section.

(4) A corporation may not indemnify a director under this section:

(a) in connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation; or

(b) in connection with any other proceeding charging that the director derived an improper personal benefit, whether or not involving action in [~~his~~]the director's official capacity, in which proceeding [~~he~~]the director was adjudged liable on the basis that [~~he~~]the director derived an improper personal benefit.

(5) Indemnification permitted under this section in connection with a proceeding by or in the right of the corporation is limited to reasonable expenses incurred in connection with the proceeding.

Section 68. Section 16-10a-903 is amended to read:

16-10a-903. Mandatory indemnification of directors.

Unless limited by its articles of incorporation, a corporation shall indemnify a director who was successful, on the merits or otherwise, in the defense of any proceeding, or in the defense of any claim, issue, or matter in the proceeding, to which [~~he~~]the director was a party because [~~he~~]the director is or was a director of the corporation, against reasonable expenses incurred by [~~him~~]the director in connection with the proceeding or claim with respect to which [~~he~~]the director has been successful.

Section 69. Section 16-10a-908 is amended to read:

16-10a-908. Insurance.

A corporation may purchase and maintain liability insurance on behalf of a person who is or was a director, officer, employee, fiduciary, or agent of the corporation, or who, while serving as a director, officer, employee, fiduciary, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, fiduciary, or agent of another foreign or domestic corporation or other person, or of an employee benefit plan, against liability asserted against or incurred by [~~him~~]the person in that capacity or arising from [~~his~~]the person's status as a director, officer, employee, fiduciary, or agent, whether or not the corporation would have power to indemnify [~~him~~]the person against the same liability under Section 16-10a-902, 16-10a-903, or 16-10a-907. Insurance may be procured from any insurance company designated by the board of directors, whether the insurance company is formed under the laws of this state or any other jurisdiction of the United States or elsewhere, including any insurance company in which the corporation has an equity or any other interest through stock ownership or otherwise.

Section 70. Section 16-10a-1302 is amended to read:

16-10a-1302. Right to dissent.

(1) A shareholder, whether or not entitled to vote, is entitled to dissent from, and obtain payment of the fair value of shares held by [~~him~~]the shareholder in the event of, any of the following corporate actions:

(a) consummation of a plan of merger to which the corporation is a party if:

(i) shareholder approval is required for the merger by Section 16-10a-1103 or the articles of incorporation; or

(ii) the corporation is a subsidiary that is merged with its parent under Section 16-10a-1104;

(b) consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired;

(c) consummation of a sale, lease, exchange, or other disposition of all, or substantially all, of the property of the corporation for which a shareholder vote is required under Subsection 16-10a-1202(1), but not including a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one year after the date of sale; and

(d) consummation of a sale, lease, exchange, or other disposition of all, or substantially all, of the property of an entity controlled by the corporation if the shareholders of the corporation were entitled to vote upon the consent of the corporation to the disposition pursuant to Subsection 16-10a-1202(2).

(2) A shareholder is entitled to dissent and obtain payment of the fair value of [~~his~~]the shareholder's shares in the event of any other corporate action to the extent the articles of incorporation, bylaws, or a resolution of the board of directors so provides.

(3) Notwithstanding the other provisions of this part, except to the extent otherwise provided in the articles of incorporation, bylaws, or a resolution of the board of directors, and subject to the limitations set forth in Subsection (4), a shareholder is not entitled to dissent and obtain payment under Subsection (1) of the fair value of the shares of any class or series of shares which either were listed on a national securities exchange registered under the federal Securities Exchange Act of 1934, as amended, or on the National Market System of the National Association of Securities Dealers Automated Quotation System, or were held of record by more than 2,000 shareholders, at the time of:

(a) the record date fixed under Section 16-10a-707 to determine the shareholders entitled to receive notice of the shareholders' meeting at which the corporate action is submitted to a vote;

(b) the record date fixed under Section 16-10a-704 to determine shareholders entitled to sign writings consenting to the proposed corporate action; or

(c) the effective date of the corporate action if the corporate action is authorized other than by a vote of shareholders.

(4) The limitation set forth in Subsection (3) does not apply if the shareholder will receive for [~~his~~]the shareholder's shares, pursuant

to the corporate action, anything except:

(a) shares of the corporation surviving the consummation of the plan of merger or share exchange;

(b) shares of a corporation which at the effective date of the plan of merger or share exchange either will be listed on a national securities exchange registered under the federal Securities Exchange Act of 1934, as amended, or on the National Market System of the National Association of Securities Dealers Automated Quotation System, or will be held of record by more than 2,000 shareholders;

(c) cash in lieu of fractional shares; or

(d) any combination of the shares described in Subsection (4), or cash in lieu of fractional shares.

(5) A shareholder entitled to dissent and obtain payment for [~~his~~]the shareholder's shares under this part may not challenge the corporate action creating the entitlement unless the action is unlawful or fraudulent with respect to [~~him~~]the shareholder or to the corporation.

Section 71. Section 16-10a-1327 is amended to read:

16-10a-1327. Special provisions relating to shares acquired after announcement of proposed corporate action.

(1) A corporation may, with the dissenters' notice given pursuant to Section 16-10a-1322, state the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action creating dissenters' rights under Section 16-10a-1302 and state that a shareholder who asserts dissenters' rights must certify in writing, in or with the payment demand, whether or not [~~he~~]the dissenter or the person on whose behalf [~~he asserts~~]the dissenters' rights are being asserted acquired beneficial ownership of the shares before that date. With respect to any dissenter who does not certify in writing, in or with the payment demand that [~~he~~]the dissenter or the person on whose behalf the dissenters' rights are being asserted, acquired beneficial ownership of the shares before that date, the corporation may, in lieu of making the payment provided in Section 16-10a-1325, offer to make payment if the dissenter agrees to accept it in full satisfaction of [~~his~~]the dissenter's demand.

(2) An offer to make payment under Subsection (1) shall include or be accompanied by the information required by Subsection 16-10a-1325(2).

Section 72. Section 16-10a-1328 is amended to read:

16-10a-1328. Procedure for shareholder dissatisfied with payment or offer.

(1) A dissenter who has not accepted an offer made by a corporation under Section 16-10a-1327 may notify the corporation in writing of [~~his~~]the dissenter's own estimate of the fair value of [~~his~~]the dissenter's shares and demand payment of the estimated amount, plus interest, less any payment made under Section 16-10a-1325, if:

(a) the dissenter believes that the amount paid under Section 16-10a-1325 or offered under Section 16-10a-1327 is less than the fair value of the shares;

(b) the corporation fails to make payment under Section 16-10a-1325 within 60 days after the date set by the corporation as the date by which it must receive the payment demand; or

(c) the corporation, having failed to take the proposed corporate action creating dissenters' rights, does not return the deposited certificates or release the transfer restrictions imposed on uncertificated shares as required by Section 16-10a-1326.

(2) A dissenter waives the right to demand payment under this section unless [~~he~~]the dissenter causes the corporation to receive the notice required by Subsection (1) within 30 days after the corporation made or offered payment for [~~his~~]the dissenter's shares.

Section 73. Section 16-10a-1408 is amended to read:

16-10a-1408. Enforcement of claims against dissolved corporations.

A claim may be enforced:

(1) under Section 16-10a-1406 or 16-10a-1407 against the dissolved corporation, to the extent of its undistributed assets; or

(2) against a shareholder of the dissolved corporation, if the assets have been distributed in liquidation; but a shareholder's total liability for all claims under this section may not exceed the total value of assets distributed to [~~him~~]the shareholder, as that value is determined at the time of distribution. Any shareholder required to return any portion of the value of assets received by [~~him~~]the shareholder in liquidation shall be entitled to contribution from all other shareholders. The contributions shall be in accordance with the shareholders' respective rights and interests and may not exceed the value of the assets received in liquidation.

Section 74. Section 16-10a-1602 is amended to read:

16-10a-1602. Inspection of records by shareholders and directors.

(1) A shareholder or director of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in Subsection 16-10a-1601(5) if [~~he~~]the shareholder or director gives the corporation written notice of the demand at least five business days before the date on which [~~he~~]the shareholder or director wishes to inspect and copy.

(2) In addition to the rights set forth in Subsection (1), a shareholder or director of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder or director meets the requirements of Subsection (3) and gives the corporation written notice of the demand at least five business days before the date on which [~~he~~]the shareholder or director wishes to inspect and copy:

(a) excerpts from:

(i) minutes of any meeting, records of any action taken by the board of directors, or by a committee of the board of directors while acting on behalf of the corporation in place of the board of directors;

(ii) minutes of any meeting of the shareholders;

(iii) records of any action taken by the shareholders without a meeting; and

(iv) waivers of notices of any meeting of the shareholders, of any meeting of the board of directors, or of any meeting of a committee of the board of directors;

(b) accounting records of the corporation; and

(c) the record of shareholders described in Subsection 16-10a-1601(3).

(3) A shareholder or director is entitled to inspect and copy records as described in Subsection (2) only if:

(a) the demand is made in good faith and for a proper purpose;

(b) the shareholder or director describes with reasonable particularity [~~his~~]the shareholder's or director's purpose and the records [~~he~~]the shareholder or director desires to inspect; and

(c) the records are directly connected with [~~his~~]the shareholder's or director's purpose.

(4) For purposes of this section:

(a) "proper purpose" means a purpose reasonably related to the demanding shareholder's or director's interest as a shareholder or director; and

(b) "shareholder" includes a beneficial owner whose shares are held in a voting trust and any other beneficial owner who establishes beneficial ownership.

(5) The right of inspection granted by this section may not be abolished by a corporation's articles of incorporation or bylaws.

(6) This section does not affect:

(a) the right of a shareholder or director to inspect records under Section 16-10a-720 or, if the shareholder or director is in litigation with the corporation, to the same extent as any other litigant; or

(b) the power of a court, independent of this chapter, to compel the production of corporate records for examination.

(7) A shareholder or director may not use any information obtained through the inspection or copying of records permitted by Subsection (2) for any purposes other than those set forth in a demand made under Subsection (3).

Section 75. Section 16-10a-1603 is amended to read:

16-10a-1603. Scope of inspection right.

(1) A shareholder's or director's agent or attorney has the same inspection and copying rights as the shareholder or director represented by the agent or attorney.

(2) The right to copy records under Section 16-10a-1602 includes, if reasonable, the right to receive copies made by photographic, xerographic, or other means.

(3) Except as provided in Section 16-10a-1606, the corporation may impose a reasonable charge, payable in advance, covering the costs of labor and material, for copies of any documents to be provided to the shareholder or director. The charge may not exceed the estimated cost of production or reproduction of the records.

(4) The corporation may comply with a shareholder's or director's demand to inspect the record of shareholders under Subsection 16-10a-1602(2)(c) by providing [~~him~~]the shareholder or director with a list of the corporation's shareholders that complies with Subsection 16-10a-1601(3) and was compiled no earlier than the date of the shareholder's or director's demand.

Section 76. Section 16-10a-1605 is amended to read:

16-10a-1605. Financial statements.

Upon the written request of any shareholder, a corporation shall mail to [~~him~~]the shareholder its most recent annual or quarterly financial statements showing in reasonable detail its assets and liabilities and the results of its operations.

Section 77. Section 16-10a-1606 is amended to read:

16-10a-1606. Information respecting shares.

Upon the written request of any shareholder, a corporation at its own expense shall mail to [~~him~~]the shareholder the information specified by Subsection 16-10a-625(3), whether or not the information is also contained or summarized on any share certificate of the shareholder. The corporation may comply with this section by mailing articles of incorporation including the designations, preferences, limitations, and relative rights applicable to each class and series of shares and the authority of the board of directors to determine variations for any existing or future class or series.

Section 78. Section 16-10a-1608 is amended to read:

16-10a-1608. Statement of person named as director or officer.

[~~(1)~~] Any person named as a director or officer of a domestic or foreign corporation in an annual report or other document on file with the division may, if [~~he~~]the person does not hold the named position, deliver to the division for filing a statement setting forth:

[~~(a)~~](1) [~~his~~]the person's name;

[~~(b)~~](2) the domestic or foreign corporation's name;

[~~(c)~~](3) information sufficient to identify the report or other document in which [~~he~~]the person is named as a director or officer; and

[~~(d)~~](4) the date on which [~~he~~]the person ceased to be a director or officer of the domestic or foreign corporation, or a statement that [~~he~~]the person did not hold the position for which [~~he~~]the person was named in the corporate report or other document.

Section 79. Section 19-1-302 is amended to read:

19-1-302. Violation of laws and orders unlawful.

It is unlawful for any person:

(1) to violate the provisions of the laws of this title or the terms of any order or rule issued under it; or

(2) to fail to remove or abate from private property under the person's control at [~~his~~]the person's own expense within 48 hours, or such other reasonable time as the department determines, after being ordered to do so, any nuisance, source of filth, or other sanitation violation.

Section 80. Section 19-6-304 is amended to read:

19-6-304. Inspections.

(1) Upon presentation of appropriate credentials and at any reasonable time, any authorized officer, employee, or representative of the department may:

(a) enter and inspect any property, premises, or place where [~~he~~]the officer, employee, or representative has reason to believe there is a hazardous materials or substances release;

(b) copy any records relating to those hazardous materials or substances to determine compliance with this part and the rules made under authority of this part; and

(c) inspect and take samples of any suspected hazardous material or substance.

(2) If the department's representative takes samples of any suspected hazardous material or substance under authority of this section, [~~he~~]the representative shall:

(a) give a receipt describing the sample taken to the owner, operator, or agent who has control of the suspected hazardous material or

substance;

(b) if requested and if possible, give the owner, operator, or agent a split sample of the suspected hazardous material or substance equal in volume or weight to the portion [~~he~~]the representative retains; and

(c) if an analysis of any sample is made, upon request, promptly furnish a copy of the results of the analysis to the owner, operator, or agent.

Section 81. Section 19-6-309 is amended to read:

19-6-309. Emergency provisions.

(1) (a) If the executive director has reason to believe any hazardous materials release that occurred after March 18, 1985, is presenting a direct and immediate threat to public health or the environment, the executive director may:

(i) issue an order requiring the owner or operator of the facility to take abatement action within the time specified in the order; or

(ii) bring suit on behalf of the state in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to require the owner or operator to take immediate abatement action.

(b) If the executive director determines the owner or operator cannot be located or is unwilling or unable to take abatement action, the executive director may:

(i) reach an agreement with one or more potentially responsible parties to take abatement action; or

(ii) use fund money to investigate the release and take abatement action.

(2) The executive director may use money from the fund created in Section 19-6-307:

(a) for abatement action even if an adjudicative proceeding or judicial review challenging an order or a decision to take abatement action is pending; and

(b) to investigate a suspected hazardous materials release if [~~he~~]the executive director has reason to believe the release may present a direct and immediate threat to public health.

(3) This section takes precedence over any conflicting provision in this part.

Section 82. Section 19-6-312 is amended to read:

19-6-312. Preinvestigation requirements.

Before undertaking any remedial investigations on a facility on the hazardous substances priority list, the executive director shall make reasonable attempts to:

(1) identify potentially responsible parties for each facility; and

(2) send written notice to each potentially responsible party informing [~~him~~]the party of [~~his~~]the party's potential responsibility.

Section 83. Section 19-6-314 is amended to read:

19-6-314. Remedial investigations of priority list sites -- Parties involved -- Powers of the executive director.

(1) All remedial investigations conducted under the authority of this section shall:

(a) meet the substantive requirements of CERCLA;

(b) follow procedures established by the National Contingency Plan to avoid inconsistent state and federal action; and

(c) include recommendations for remedial action.

(2) (a) After determining that a hazardous substance release is occurring from a national priority list site or proposed national priority list site, and identifying responsible parties under Section 19-6-312, the executive director shall make reasonable efforts to reach an agreement with the identified responsible parties to conduct a remedial investigation.

(b) The executive director may define in the agreement the scope of the remedial investigation, the form of the report, and the time limits for completion of the investigation.

(c) If any responsible party fails to perform as required under an agreement entered under the authority of this section, the executive director may take action to enforce the agreement.

(3) (a) If the executive director is unable to reach an agreement with one or more responsible parties to perform a remedial investigation, the executive director may issue an order directing one or more responsible parties to perform the remedial investigation.

(b) The executive director may define in the order the scope of the remedial investigation, the form of the report, and the time limits for completion of the remedial investigation.

(4) (a) If the executive director is unable to obtain an agreement with one or more responsible parties to perform a remedial investigation, chooses not to order any responsible party to perform the remedial investigation, or determines that the remedial investigation performed by a responsible party does not meet the substantive requirements of CERCLA, [~~he~~]the executive director may direct the department to conduct or correct the remedial investigation.

(b) The executive director may recover the costs incurred in conducting a remedial investigation from responsible parties according to the standards contained in Section 19-6-316.

Section 84. Section 19-6-315 is amended to read:

19-6-315. Remedial investigations of scored sites -- Parties involved -- Powers of the executive director.

(1) All remedial investigations conducted under the authority of this section shall:

(a) meet the substantive requirements of CERCLA; and

(b) include recommendations for remedial action.

(2) (a) After determining that a hazardous substance release is occurring from a scored site and identifying responsible parties under Section 19-6-312, the executive director shall make reasonable efforts to reach an agreement with the identified responsible parties to perform a remedial investigation.

(b) The executive director may define in the agreement the scope of the investigation, the form of the report, and the time limits for completion of the investigation.

(c) If the potentially responsible parties fail to perform as required under an agreement entered under the authority of this section, the executive director may take action to enforce the agreement.

(3) (a) If the executive director is unable to reach an agreement with one or more responsible parties to perform a remedial

investigation, or determines that the remedial investigation performed by responsible parties does not meet the substantive requirements of CERCLA, [~~he~~]the executive director may direct the department to conduct or correct the remedial investigation.

(b) The executive director may recover the costs incurred in conducting a remedial investigation from responsible parties according to the standards contained in Section 19-6-316.

Section 85. Section 19-6-317 is amended to read:

19-6-317. Remedial investigation report -- Remedial action plan implementation -- Legal remedies.

(1) Upon receipt of a remedial investigation report for a national priority list site, the executive director shall:

(a) review the report;

(b) provide a period for public comment;

(c) issue an order defining a remedial action plan consistent with CERCLA for the facility; and

(d) follow the procedures established by the National Contingency Plan to avoid inconsistent state and federal action.

(2) (a) To implement the remedial action plan, the executive director shall seek to reach an agreement with all responsible parties to perform the remedial action.

(b) The executive director may define in the agreement the remedial action required and the time limits for completion of the remedial action.

(c) If the responsible parties fail to perform as required under an agreement entered under the authority of this section, the executive director may take action to enforce the agreement.

(3) (a) If the executive director is unable to reach an agreement with one or more responsible parties to perform remedial action, [~~he~~]the executive director may order all responsible parties to perform the remedial action.

(b) The executive director may define in the order the remedial action required and the time limits for completion of the remedial action.

Section 86. Section 19-6-422 is amended to read:

19-6-422. Participation by state risk manager in suit, claim, or settlement.

(1) If a suit is filed or a claim is made against a responsible party who is eligible for payments from the fund for bodily injury or property damage connected with a release of petroleum from a petroleum storage tank, the state risk manager and [~~his~~]the state risk manager's legal counsel may participate with the responsible party and [~~his~~]the responsible party's legal counsel in:

(a) the defense of any suit;

(b) determination of legal strategy and any other decisions affecting the defense of any suit; and

(c) any settlement negotiations.

(2) The state risk manager shall approve any settlement between the responsible party and a third party before payment of fund money is made.

Section 87. Section 19-8-110 is amended to read:

19-8-110. Voluntary cleanup work plans and reports.

(1) After the applicant and the executive director have signed the voluntary cleanup agreement, the applicant shall prepare and submit the appropriate work plans and reports to the executive director as provided in the agreement.

(2) The executive director shall review and evaluate the work plans and reports for accuracy, quality, and completeness.

(3) The executive director may approve a voluntary cleanup work plan or report, or if [~~he~~]the executive director does not approve the work plan or a report, [~~he~~]the executive director shall notify the applicant in writing concerning additional information or commitments necessary to obtain approval.

(4) At any time during the evaluation of a work plan or report, the executive director may request the applicant to submit additional or corrected information.

(5) After considering the proposed future use of the property that is the subject of the agreement, the executive director may approve work plans and reports submitted under this section that do not require removal or remedy of all discharges, releases, and threatened releases on the property if the applicant's response actions under the agreement:

(a) will be completed in a manner that protects human health and the environment;

(b) will not cause, contribute to, or exacerbate discharges, releases, or threatened releases on the property that are not required to be removed or remedied under the work plan; and

(c) will not interfere with or substantially increase the costs of response actions to address any remaining discharges, releases, or threatened releases resulting from releases initially generated on the property.

Section 88. Section 31A-2-105 is amended to read:

31A-2-105. Constitutional oath.

Before entering upon the duties of [~~his~~]the commissioner's office, the commissioner shall take, subscribe, and file the constitutional oath. If the commissioner takes action in [~~his~~]the commissioner's office before complying with this section, in good faith and without knowledge of this requirement, and the validity of [~~his~~]the commissioner's action is then challenged, that person may take the oath after the action and the oath shall be given retroactive effect to the date on which [~~he~~]the commissioner began [~~his~~]the commissioner's duties.

Section 89. Section 31A-2-106 is amended to read:

31A-2-106. Ethical requirements for Insurance Department staff.

(1) No employee of the Insurance Department, including the commissioner, may:

(a) make any solicitation for any partisan political purpose or for anything that is not related to the public interest, as it is affected by insurance; or

(b) continue or initiate a monetary relationship, except as policyholder, with an insurance agency or brokerage firm, insurance service organization, insurance adjuster, insurer or person affiliated with an insurer, except that:

(i) a commissioner may receive renewal commissions or other deferred compensation earned before [~~his~~]the commissioner's appointment if this commission or compensation does not require [~~him~~]the commissioner to personally perform further service;

(ii) a commissioner may continue to be obligated under the terms of a mortgage entered into prior to [~~his~~]the commissioner's appointment; and

(iii) a commissioner may continue to have the beneficial interest in or own stock in an insurer, noninsurance company with insurance subsidiaries, insurance agency, brokerage firm, or insurance service organization acquired before appointment if the commissioner's ownership or interest is not of such total value that the commissioner might receive a substantial monetary benefit by failing to act impartially towards the organization. A partnership interest shall be treated as if it were shares in a corporation.

(2) If the commissioner has any beneficial interest or ownership in an organization outlined under Subsection (1)(b)(iii), or if it is known to the commissioner that [~~his~~]the commissioner's spouse, parent, sibling, or child has an interest in any organization that, if held by the commissioner, would disqualify [~~him~~]the commissioner from serving as commissioner, [~~he shall disqualify himself~~]the commissioner is disqualified and shall abstain from all actions respecting the particular organization. The commissioner shall then delegate a senior staff member who is not also disqualified to act in [~~his~~]the commissioner's place with regard to that organization. There is a rebuttable presumption that the commissioner or the delegate service staff member knows of any disqualifying holdings. The commissioner shall report a disqualification in each annual report to the governor as long as the disqualification continues.

(3) The commissioner shall give the governor at least 10 days written notice of any solicitation to be made by the commissioner or other member of the department staff.

(4) In addition to any other penalty, an employee violating this section may be removed from office.

Section 90. Section 31A-2-111 is amended to read:

31A-2-111. Delegation.

(1) Any power, duty, or function vested in the commissioner by law may be exercised, discharged, or performed by an employee of the Insurance Department acting in the commissioner's name and under [~~his~~]the commissioner's delegated authority.

(2) Any person whose own course of action depends in good faith upon proof of the validity of an alleged delegation is not obligated to act until shown a written delegation of the commissioner with the signature of the commissioner or deputy commissioner.

Section 91. Section 31A-2-112 is amended to read:

31A-2-112. Advisory councils and committees.

The commissioner may create advisory councils and committees to assist [~~him. He~~]the commissioner. The commissioner may appoint members and provide by rule for the creation, governance, duties, and termination of any council or committee established.

Section 92. Section 31A-2-311 is amended to read:

31A-2-311. Reciprocal enforcement of foreign decrees.

(1) As used in this section:

(a) "Reciprocal state" means a state whose laws contain procedures substantially similar to those specified in this section for the enforcement of decrees or orders issued by courts located in other states against an insurer authorized to do business in the reciprocal state, and which recognizes Utah as a reciprocal state under its law.

(b) "Foreign decree" means a decree or order of a court located in a reciprocal state, including a United States court located in a reciprocal state against an insurer authorized to do business in Utah.

(2) The commissioner shall determine which states qualify as reciprocal states and shall maintain a list of them.

(3) The attorney general, upon request of the commissioner, may proceed in the courts of Utah or any other state to enforce an order or decision issued in Utah in any court proceeding or in any administrative proceeding before the insurance commissioner.

(4) (a) A copy of any foreign court decree authenticated under Utah statutes or court rules may be filed in the office of the clerk of the Third District Court for Salt Lake County. The clerk, upon verifying with the commissioner that the decree or order qualifies as a foreign court decree, shall treat it in the same manner and give it the same effect as a decree of a district court of Utah.

(b) (i) When filing the foreign decree, the filer shall deposit with the clerk of the court an affidavit setting forth the name and last-known post-office address of the defendant in Utah.

(ii) When the foreign decree and the affidavit are filed, the clerk shall immediately mail notice of the filing of the foreign decree to the defendant at the address given by the filer and to the commissioner, and shall note the mailing in the docket. In addition, the attorney general may mail a notice of the filing of the foreign decree to the defendant and to the commissioner. Alternatively, the commissioner may mail a notice of the filing of the foreign decree to the defendant, and either the attorney general or the commissioner may file proof of this mailing with the clerk. The clerk's failure to mail notice of the filing does not affect the enforcement proceedings if the attorney general or the commissioner has filed a proof of mailing.

(iii) No execution or other process for enforcement of a foreign decree may issue until 30 days after the foreign decree is filed.

(c) (i) If the defendant shows the court that an appeal from the foreign decree is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign decree until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof by the defendant that [~~he~~]the defendant has furnished the security for the satisfaction of the decree required by the state in which it was rendered.

(ii) If the defendant shows the court any ground upon which enforcement of a similar decree of any district court of Utah would be stayed, the court shall stay enforcement of the foreign decree for an appropriate period, upon proof by the defendant that [~~he~~]the defendant has furnished the same security for satisfaction of the decree as is required in Utah.

(d) A person filing a foreign decree shall pay to the clerk of the court the same fee for an enforcement proceeding as is required for enforcing a decree of the district court.

Section 93. Section 31A-5-103 is amended to read:

31A-5-103. Orders imposing and relaxing restrictions.

(1) The commissioner may by order subject an individual corporation not otherwise subject to some or all of the restrictions of Subsections 31A-5-304(4), 31A-5-305(1)(a), 31A-5-305(2)(a)(i) and (ii), and 31A-5-410(1)(b) if [~~he~~]the commissioner finds after a hearing that the individual corporation's financial condition, management, and other circumstances require additional regulation for the protection of the interests of insureds or the public. The commissioner shall detail in writing the grounds for [~~his~~]the commissioner's order.

(2) The commissioner may by order free a new corporation from any or all of the restrictions generally applicable to new corporations under the provisions listed in Subsection (1), if [~~he~~]the commissioner is satisfied that the corporation's financial condition, management, and other circumstances give assurance that the interests of insureds and the public will not be endangered by doing so.

Section 94. Section 31A-5-206 is amended to read:

31A-5-206. Sale of securities by authorized insurer.

A domestic insurer that has already received a certificate of authority may issue additional securities to obtain further financing, after obtaining a solicitation permit from the commissioner. The organizational permit requirements in Section 31A-5-204 apply if the commissioner prescribes its application. The phrase "organization permit" in Section 31A-5-204 means "solicitation permit" when being applied to this section. The solicitation permit terminates one year from the date of its issuance. However, this permit may be extended for not more than one additional year by the commissioner on terms [~~he~~]the commissioner considers sufficient to protect the policyholders, the shareholders, and the public.

Section 95. Section 31A-5-209 is amended to read:

31A-5-209. Termination and revocation of organization permit and payment of organization expenses.

(1) The organization permit terminates upon:

(a) issuance of a certificate of authority under Section 31A-5-212;

(b) revocation of the organization permit under Subsection (2); or

(c) expiration of one year after issuance, except that:

(i) filing with the commissioner a good-faith application for a certificate of authority tolls the running of the expiration period for 30 days or until the commissioner rejects the application, whichever is earlier; and

(ii) on application before expiration of the year the commissioner may grant a reasonable extension if [~~he~~]the commissioner states that [~~he~~]the commissioner expects the corporation to be able to satisfy the requirements for a certificate of authority within the extended period.

(2) The commissioner may revoke an organization permit if:

(a) he finds, after a hearing, that because of changes in circumstances, or because the facts are not as represented in the application, the conditions for issuance of a permit are not satisfied; or

(b) he denies an application for a certificate of authority and finds that the corporation cannot reasonably be expected to satisfy the requirements for a certificate of authority within the remaining term of the organization permit or extension allowable under Subsection (1)(c).

(3) (a) Except in cases under Subsections (3)(b) and (3)(c), if the organization permit is revoked or expires before a certificate of authority is granted, after payment of the expenses of the state and payments to creditors under Section 31A-5-205, incorporators who have advanced money for the reasonable and authorized expenses of organization, including underwriting expenses, may be reimbursed in cash from the proceeds of share, mutual bond, or contribution note subscriptions under the organization permit, on itemized receipts audited by the commissioner. The total reimbursement may not exceed 5% of the amount received from subscribers. The remainder in the escrow account shall then be distributed among the subscribers in proportion to their contributions, valued as of the time the contributions were made. The bond under Section 31A-5-205 shall be discharged or the deposits under Section 31A-5-205 shall be released to the extent they are not needed for other purposes.

(b) Reimbursement may be refused to any incorporator under Subsection (3), if the commissioner finds that in connection with the organization of the corporation, the incorporator has wilfully or negligently violated in a material way any provision of this chapter.

(c) No reimbursement may be made under Subsection (3)(a) to an incorporator of an assessable mutual until all advance premiums collected under Subsection 31A-5-211(5) have been repaid in full.

(4) The legal existence of the corporation terminates upon completion of the payments under Subsection (3).

(5) This section does not apply to stock or mutual insurance corporations already in existence on July 1, 1986.

Section 96. Section 31A-5-213 is amended to read:

31A-5-213. Accelerated organization procedure.

(1) The incorporators may apply for a certificate of authority without first obtaining an organization permit if:

(a) their number is not more than 15;

(b) no compensation is paid directly or indirectly for soliciting any of them;

(c) they purchase for their own accounts all the shares proposed to be issued in the case of a stock corporation, or in the case of a mutual, they supply all the minimum permanent surplus and initial expendable surplus by contribution notes or otherwise; and

(d) the shares are promotional securities and are subject to Subsections 31A-5-304(3) and (4).

(2) The application for a certificate of authority shall include:

(a) proof that the purchase price for the shares or the proceeds of contribution notes have been deposited on behalf of the proposed corporation;

(b) a statement concerning whether and what property other than money is held in trust for the proposed corporation; and

(c) the information which the commissioner reasonably requires under Subsection 31A-5-204(2).

(3) The commissioner shall issue a certificate of authority if [~~he~~]the commissioner finds that:

(a) all requirements of law have been met;

(b) all natural persons who are incorporators, the directors and principal officers of corporate incorporators, and the proposed directors and officers of the corporation being formed are trustworthy and collectively have the competence and experience to engage in the particular insurance business proposed; and

(c) the business plan is consistent with the interests of the corporation's potential insureds and of the public.

(4) The director of the Division of Corporations and Commercial Code shall issue a certificate of incorporation upon notice from the insurance commissioner that all the applicable requirements of law have been met, including the payment of fees.

(5) When the certificate of incorporation is issued, the corporation's legal existence begins, the articles and bylaws become effective, and the proposed directors and officers take office. The certificate is conclusive evidence of compliance with this section, except in a proceeding by the state against the corporation.

(6) This section does not apply to stock or mutual insurance corporations already in existence on July 1, 1986.

Section 97. Section 31A-5-216 is amended to read:

31A-5-216. Change of domicile.

(1) A foreign insurance corporation may become a Utah insurance corporation if it submits an application which evidences that the corporation complies with all of the requirements imposed on domestic Utah corporations. The commissioner may, by order after a hearing, relax the requirements of this chapter applicable to corporations in the process of organization that, because of the developed status of the insurer, [~~he~~]the commissioner finds unnecessary to protect policyholders and the public. The commissioner shall simultaneously issue a certificate of organization under Subsection 31A-5-204(3) and a certificate of authority under Subsection 31A-5-212(2) when the conditions for both have been satisfied.

(2) Upon approval by the commissioner, a domestic insurer may transfer its domicile to any other state in which it is admitted. The commissioner shall approve the transfer of domicile unless [~~he~~]the commissioner finds that the transfer will prejudice the interests of policyholders, creditors, or the public in Utah. The commissioner may require a special deposit, reinsurance, or other protective measures as an alternative to rejecting the insurer's application to move. After or simultaneous with the removal of the corporation, it may seek entry into this state as a foreign corporation under Chapter 14, Foreign Insurers.

(3) The transfer of domicile of an insurance corporation under either Subsection (1) or Subsection (2) does not affect the obligations of the corporation under its existing insurance contracts or any other existing contracts.

Section 98. Section 31A-5-303 is amended to read:

31A-5-303. Insider trading of securities.

(1) Every person who is directly or indirectly the beneficial owner of more than 10% of any class of any equity security of a domestic stock insurance corporation, or who is a director or officer of a domestic stock corporation, shall file with the commissioner within 10 days after [~~he~~]the person becomes a beneficial owner, director, or officer, and within 10 days after the close of any following calendar month in which there has been a change in [~~his~~]the person's ownership or office, a statement in a form prescribed by the commissioner, of [~~his~~]the person's office and of all the equity securities of the company which [~~he~~]the person beneficially owns, and of all the changes in either. The commissioner may accept a copy of a similar statement filed with another regulatory authority in satisfaction of this subsection's requirement.

(2) To prevent the unfair use of information which may have been obtained by a beneficial owner, director, or officer because of [~~his~~]the beneficial owner's, director's, or officer's relationship to the corporation, any profit realized by [~~him~~]the beneficial owner, director, or officer from the purchase and sale or sale and purchase of any equity security of the corporation within any period of less than six months, unless the security was acquired in good faith in connection with a debt previously contracted, is recoverable by the corporation. This recovery may be made in spite of any intention by the beneficial owner, director, or officer in entering into the transaction to hold the security purchased or not to repurchase the security sold for a period exceeding six months. A suit to recover the profit may be instituted in any court of competent jurisdiction by the corporation. If the corporation fails to bring suit within 60 days after request by the owner of a security of the corporation or if the corporation fails to prosecute it diligently, the owner of any security of the corporation may bring suit or prosecute the action in the name and on behalf of the corporation. This suit may not be brought more than two years after the date the profit was realized. This subsection does not apply to any transaction where the beneficial owner was not a beneficial owner both at the time of the purchase and sale, or the sale and purchase, of the security involved, nor does it apply to any transaction which the commissioner, by rule, exempts as not within the purpose of this subsection.

(3) (a) A dealer in the ordinary course of [~~his~~]the dealer's business and incident to [~~his~~]the dealer's establishment or maintenance of a primary or secondary market for the security other than on an exchange as defined in the federal Securities Exchange Act of 1934, is not governed by Subsection (2) regarding a purchase and sale or sale and purchase. The commissioner may by rule define terms and prescribe conditions regarding securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

(b) Subsections (1) and (2) do not apply to foreign or domestic arbitrage transactions unless made in contravention of rules the commissioner adopts to carry out this section.

(c) Subsections (1) and (2) do not apply to equity securities of a corporation if:

(i) the securities are registered, or are required to be registered, under Section 12 of the federal Securities Exchange Act of 1934, as amended; or

(ii) the corporation did not have any class of its equity securities held of record by 100 or more persons on the last business day of the year preceding the year in which equity securities of the corporation would otherwise be subject to Subsections (1) and (2).

(4) No person may, in contravention of rules the commissioner adopts for the protection of investors or the public, solicit or permit the use of [~~his~~]the person's name to solicit a proxy, consent, or authorization regarding an equity security of a domestic stock corporation having 100 or more shareholders of record.

(5) No provision of this section imposing liability applies to an act done or omitted in good faith in conformity with any rule of the commissioner. Liability does not apply even if the rule is amended, rescinded, or determined by judicial or other authority to be invalid after the act or omission.

(6) As used in this section, "equity security" means any stock or similar security; any security convertible, with or without consideration, into stock or a similar security; carrying any warrant or right to subscribe to or purchase stock or a similar security; any such warrant or right; or any other security which the commissioner considers to be of similar nature and designates as an equity security by rules promulgated in the public interest or for the protection of investors.

Section 99. Section 31A-5-304 is amended to read:

31A-5-304. Promoter stock.

(1) While the organization permit is effective, the incorporators, directors, and principal officers of a stock corporation shall in the aggregate subscribe and pay, at the public offering price, at least $150,000 in cash or in property of equivalent value approved by the commissioner under Subsection 31A-5-207(1)(a) or (2)(a), for shares offered by the corporation under the organization permit.

(2) (a) Certificates representing promotional securities and any stock received on those shares as the result of a stock dividend, stock split, or exercise of preemptive or conversion rights, shall be placed in escrow with a depository satisfactory to the commissioner under an agreement providing that the shares may not be transferred without the approval of the commissioner.

(b) If the corporation issues any life insurance policies, any shares subject to this section shall be released from escrow five years after issuance of the certificate of authority. In other cases, the shares shall be released from escrow three years after issuance of the certificate of authority.

(3) The commissioner's approval of the transfer of promoter stock under Subsection (2)(a):

(a) shall be granted upon request, if the corporation has made an addition to earned surplus in each of the two immediately preceding years of at least 15% of the capital and surplus raised by the sale of shares under the organization permit; and

(b) may be granted upon a showing of hardship by the shareholder or [~~his~~]the shareholder's estate or legatee, if the release from escrow of the shares or a portion of the shares would not, in the commissioner's opinion, endanger the interests of insureds or the public.

(4) For three years after the issuance of the certificate of authority, an option to purchase stock may be issued only under a plan approved by the commissioner.

(5) This section does not apply to promotional securities issued prior to July 1, 1986.

Section 100. Section 31A-5-307 is amended to read:

31A-5-307. Reduction in capital.

A stock corporation may reduce its capital by amendment of its articles of incorporation under Section 31A-5-219, if the commissioner is notified of the proposed reduction at least 60 days prior to the proposed effective date of the reduction. The commissioner may disapprove the reduction within 45 days after the notice if [~~he~~]the commissioner finds that it would violate the law or would be contrary to the interests of insureds. [~~His~~]The commissioner's order shall explain in detail why the distribution is disapproved.

Section 101. Section 31A-5-408 is amended to read:

31A-5-408. Election and removal of directors and officers of stock corporations.

(1) Sections 16-10a-721, 16-10a-724, and 16-10a-728 apply to the voting of shares of a stock corporation.

(2) At each annual meeting of shareholders, the shareholders shall elect directors to hold office until the next succeeding annual election, except as provided under Subsection (3) or (4). Each director shall hold office for the term for which [~~he~~]the director is elected and until [~~his~~]the director's successor is elected and qualified, if qualification is required.

(3) Sections 16-10a-808 and 16-10a-832 apply to removal of directors and officers of a stock corporation.

(4) Each director shall be subject to election at least once every three years.

(5) A vacancy in the board of directors may be filled by the affirmative vote of a majority of the remaining directors even though the number of remaining directors is less than a quorum. The director elected through this process shall serve only until the next regular shareholders meeting at which a director's election may be held.

Section 102. Section 31A-5-507 is amended to read:

31A-5-507. Conversion of assessable to nonassessable and nonassessable to assessable mutuals.

(1) When an assessable mutual accumulates enough surplus to satisfy the financial requirements for the operation of a nonassessable mutual, it may apply for a certificate of authority authorizing it to sell nonassessable policies. The commissioner shall issue a certificate of authority designating it a nonassessable mutual, if [~~he~~]the commissioner finds that the applicant satisfies the requirements of the law and that the issuance of nonassessable policies will not endanger the interests of its insureds or the public. Policies issued after the issuance of this certificate of authority are nonassessable. Existing policies remain in effect and are nonassessable.

(2) A nonassessable mutual may apply to the commissioner for a certificate of authority designating it an assessable mutual. The commissioner shall issue the certificate if the law permits the corporation to issue assessable policies and if [~~he~~]the commissioner finds that the conversion will not endanger the interests of insureds or the public. All policies issued after conversion are assessable, unless otherwise provided by contract.

Section 103. Section 31A-5-509 is amended to read:

31A-5-509. Conversion of a domestic mutual life insurance company into a fraternal.

A domestic mutual life insurance company may be converted into a fraternal under Chapter 9, Insurance Fraternals, in the following manner:

(1) The board of directors of the company shall adopt a plan of conversion stating:

(a) the basis for and the purposes of the proposed action;

(b) the proposed articles and bylaws for the new fraternal; and

(c) the proposed procedure and estimated expenses for implementing the conversion.

(2) The plan shall be filed with the commissioner for approval, together with the information under Subsection 31A-9-205(2) required by the commissioner. The commissioner shall approve the plan unless [~~he~~]the commissioner finds, after a hearing, that:

(a) the conversion would be contrary to the law;

(b) the new fraternal would not satisfy the requirements for a certificate of authority under Section 31A-5-212 as incorporated by Section 31A-9-210; or

(c) the plan would be contrary to the interests of the policyholders or the public.

(3) After being approved by the commissioner, the plan shall be submitted to the policyholders for their approval.

(4) A copy of the plan adopted by the policyholders shall be filed with the commissioner, with a statement indicating the number and percentages of policyholders voting, the method of voting, and the number of votes cast in favor of the plan.

(5) If all requirements of the law are met, the commissioner shall issue a certificate of authority for the new fraternal. Upon this issuance, the mutual ceases its legal existence and the corporate existence of the new fraternal begins. The new fraternal is considered as having been incorporated on the date the converted mutual was incorporated. The new fraternal has all of the assets and is liable for all of the obligations of the converted mutual. The commissioner may grant a fraternal an adjustment period, not to exceed one year, for compliance with the requirements of Chapter 9, Insurance Fraternals. The commissioner's extension shall specify the extent to which particular provisions of Chapter 9, Insurance Fraternals, do not apply.

Section 104. Section 31A-5-601 is amended to read:

31A-5-601. Duties of officers, directors, agents, and employees.

(1) Any officer, director, agent, attorney, or employee upon whom legal process is properly served or who receives notice of any legal action that may affect or involve the property or business of the insurer, shall promptly communicate the service or notice and detailed information about it to facilitate informed response to persons in the insurer's organization who have authority to take responsive action or to instigate responsive action by those in authority.

(2) A director of an insurer is assumed to have enough knowledge of its affairs to determine whether any act, proceeding, or omission of its directors is a violation of any provision of this chapter. If a director is present at a meeting of directors at which a violation of any provision of this chapter occurs, [~~he~~]the director is considered as concurring in the violation unless at the meeting [~~he~~]the director requires [~~his~~]the director's dissent to be entered on the minutes. If a director is absent from the meeting, [~~he~~]the director is considered as concurring in any violation if the facts of violation appear on the minutes of the meeting and [~~he~~]the director remains a director for six months after the violation without requiring that [~~his~~]the director's dissent from the violation be entered upon the record or the minutes.

Section 105. Section 31A-7-303 is amended to read:

31A-7-303. Board of directors.

(1) Subject to other provisions under this section, Sections 16-6a-801 through 16-6a-805, and Sections 16-6a-810, 16-6a-812, 16-6a-814, 16-6a-815, and 16-6a-816 apply to the board of directors of insurers organized or operating under this chapter.

(2) The property and lawful business of every corporation subject to this chapter shall be held and managed by a governing board of trustees or directors with the powers and authority as is necessary or incidental to the complete execution of the purposes of each corporation as limited by its articles of incorporation and bylaws. A board may not consist of less than five members. A majority of the directors shall be residents of Utah.

(3) Any person employed by or receiving more than 10% of [~~his~~]the person's income from a corporation licensed under this chapter, and any person related to that person within the second degree by blood or marriage, is an "insider." Insiders may not constitute a majority of the board of a corporation organized and operating under this chapter.

(4) The board shall manage the business and affairs of the corporation and may not delegate its power or responsibility to do so, except to the extent authorized by Section 31A-7-307.

(5) Section 16-6a-814 applies to the place and notice of directors' meetings.

(6) Any director may be removed from office for cause by an affirmative vote of a majority of the full board at a meeting of the board called for that purpose.

Section 106. Section 31A-7-403 is amended to read:

31A-7-403. Conversion to a Title 31A, Chapter 5, mutual insurer.

(1) An insurer organized and operating under this chapter may be converted into a mutual insurer under Chapter 5, Domestic Stock and Mutual Insurance Corporations, as provided in this section.

(2) (a) The board shall pass a resolution that the conversion is not contrary to the interests of the policyholders specifying the reasons for and the purposes of the proposed conversion, and the manner in which the conversion is expected to affect policyholders, particularly the policyholders that are members.

(b) The board's resolution shall also set forth a plan of conversion which shall include:

(i) the articles of incorporation of the new Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual insurer, including a description of the classes of policyholders who, by virtue of being policyholders, will have an interest in the converted insurer;

(ii) the bylaws of the new Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual insurer;

(iii) a description of any changes in the insurer's mode of operations after conversion to a Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual insurer; and

(iv) any other items specified by rule.

(3) The provisions of Chapter 16, Insurance Holding Companies, apply to the conversion of a Chapter 7, Nonprofit Health Service Insurance Corporations, insurer to a Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual insurance corporation.

(4) The plan of conversion shall be submitted to the commissioner for approval, together with a projection of the planned or anticipated financial condition of the insurer for two years after the conversion.

(5) The commissioner shall hold an adjudicative proceeding concerning the conversion application.

(6) The commissioner shall approve the plan of conversion, unless [~~he~~]the commissioner finds that the plan violates the law, is contrary to the interests of policyholders or the public, or would result in an unfair distribution of interest among the insurer's policyholders.

(7) (a) Upon the commissioner approving the conversion under Subsection (6), the commissioner shall issue a new certificate of authority.

(b) The issuance of the certificate is the conversion, and upon issuance of the certificate the Chapter 7, Nonprofit Health Service Insurance Corporations, insurer at once becomes a mutual insurance corporation organized under and fully subject to Chapter 5, Domestic Stock and Mutual Insurance Corporations.

(c) The mutual insurer is considered to have been organized at the time the converted Chapter 7, Nonprofit Health Service Insurance Corporations, insurer was organized.

(d) Unless otherwise provided in the plan of conversion, the directors, officers, agents, and employees of the Chapter 7, Nonprofit Health Service Insurance Corporations, insurer shall continue in like capacity with the mutual insurance corporation.

Section 107. Section 31A-9-103 is amended to read:

31A-9-103. Orders imposing and relaxing restrictions.

(1) The commissioner may subject any fraternal to some or all of the restrictions of Subsections 31A-5-305(2)(a)(i) and (ii), and Subsection 31A-5-410(1)(b), as such provisions are incorporated by Sections 31A-9-303 and 31A-9-407.

(2) The commissioner may free a fraternal from any of the restrictions applicable to fraternals under the provisions enumerated in Subsection (1), if [~~he~~]the commissioner is satisfied that the fraternal's financial condition, management, and other circumstances give assurance that the interests of insureds and the public will not be endangered by the waiver.

Section 108. Section 31A-11-106 is amended to read:

31A-11-106. Application for certificate of authority -- Deposit or bond.

(1) Any corporation may apply, in the form specified by the commissioner, for a certificate of authority to transact a motor club business. The applicant shall include with the application any documents the commissioner may reasonably require, the deposit described in Subsection (2), which may be waived if net worth exceeds the deposit requirements, and the fee provided for in Section 31A-3-103. No person may engage in the motor club business without complying with this section and receiving a certificate of authority under Section 31A-11-107.

(2) The deposit required under Subsection (1) shall comply with the requirements of Section 31A-2-206, and is $100,000. In lieu of the deposit, the applicant may supply a bond of a corporate surety authorized to do a surety business in this state, in the same sum and in a form prescribed by the commissioner, payable to the state. The deposit, or the bond, shall be conditioned upon the corporation's faithful performance in the sale or rendering of motor club service under the provisions of this chapter, and the payment of fines, fees, or penalties imposed on the motor club under this title. Any person with a claim against the deposit or bond arising from the motor club's breach of the conditions of the deposit or bond may bring suit in [~~his~~]the person's own name to make a claim against the deposit or bond, or the commissioner may bring suit on behalf of claimants. In no event shall the liability of the surety exceed the amount of the bond, regardless of the number of claimants or claims made on the bond. Regardless of the number of years the bond continues in force or the number of

premiums payable or paid, the limit of the surety's liability, specified as the amount of liability of the bond, is not cumulative from year to year or from period to period. The bond shall be forfeited up to the amount of actual damages sustained by any claimant or claimants. No cause of action shall be filed against the bond after two years from the date of termination of the bond.

(3) If a motor club is a separate division of a corporation, the commissioner may increase the deposit or bond requirements to take into account the increased risk created by the other business of the corporation. However, the deposit or bond requirement may not be more than twice the amounts required under Subsection (2).

Section 109. Section 31A-11-108 is amended to read:

31A-11-108. Denial of certificate of authority.

If the commissioner declines or fails to issue a certificate of authority under Section 31A-11-107 within a reasonable time, [~~he~~]the commissioner shall issue an order giving a reasonably detailed explanation for the refusal or the delay.

Section 110. Section 31A-11-110 is amended to read:

31A-11-110. Registration of agents.

No person may execute, issue, or deliver any motor club service contract to any person or receive anything of value for the contract either before or after its execution, unless [~~he~~]the person executing, issuing, or delivering the contract is registered with the commissioner. A person is registered upon filing a statement including [~~his~~]the person's name, home and business address, telephone number, and motor club represented with the commissioner, on a form prescribed by the commissioner, and upon payment of all the fees due under Section 31A-3-103. Registered persons shall give the commissioner notice of any change in registration information.

Section 111. Section 31A-11-112 is amended to read:

31A-11-112. Bail for traffic violations.

(1) Any insurance company that is qualified to transact a surety business in Utah may contract to become surety for any guaranteed arrest bond certificates issued by it or by a motor club, by filing with the commissioner an undertaking to become surety. The undertaking shall be in a form prescribed by the commissioner and shall state the following:

(a) The name and address of the motor club or clubs issuing the guaranteed arrest bond certificates on which the company will be surety, and whether the motor club will issue the certificates itself.

(b) The unqualified obligation of the company to be surety to pay, up to a specified dollar amount, the fine or forfeiture of any person who fails to make an appearance to answer the charges for which the guaranteed arrest bond certificate is posted.

(2) Any guaranteed arrest bond certificate under Subsection (1), when posted by the signatory, shall be accepted in lieu of cash bail or other bond in an amount not exceeding the dollar amount specified under Subsection (1)(b), to guarantee the appearance of the person when required by any court in Utah when the person is arrested for violation of any Utah motor vehicle law, or any motor vehicle ordinance of any Utah municipality, except for driving under the influence of drugs or intoxicating liquors or for any felony. A law enforcement officer who issues a citation to an operator of a vehicle who has a valid guaranteed arrest bond certificate in [~~his~~]the operator's possession shall obtain the necessary information for the arrest citation, and if the guaranteed arrest bond certificate covers the fine for the violation, the officer shall release the vehicle and operator after serving the citation and receiving the guaranteed arrest bond from the operator. The officer shall deliver the guaranteed arrest bond to the appropriate court to be held as a bail bond.

(3) A guaranteed arrest bond certificate posted as a bail bond in a district court is subject to the forfeiture and enforcement provisions which govern bail bonds in criminal cases. A guaranteed arrest bond certificate posted as a bail bond in a justice court is subject to the forfeiture and enforcement provisions of the charter or ordinance of the particular municipality which pertains to bail bonds.

(4) A motor club may not agree to exonerate or indemnify an authorized surety issuing guaranteed arrest bonds under Subsection (1) for losses in connection with these bonds.

Section 112. Section 31A-14-202 is amended to read:

31A-14-202. Certificate of authority.

(1) The commissioner shall either issue a certificate of authority to an applicant under Section 31A-14-201 or issue an order refusing the certificate which explains why [~~he~~]the commissioner finds that:

(a) not all specific requirements of the law have been met, including the requirements of Section 31A-14-209 for an alien insurer;

(b) the applicant is not sound, reliable, entitled to public confidence, or cannot reasonably be expected to perform its obligations continuously in the future;

(c) the applicant's directors and officers or, in the case of an alien insurer, its United States manager, are not sufficiently trustworthy and competent to engage in the proposed business in this state and to comply with the laws of this state; or

(d) the applicant has not been in existence long enough to demonstrate its competence to engage in the proposed business in this state.

(2) If the commissioner finds that the applicant does not comply with all requirements of the law, the commissioner may, after a hearing under Section 31A-2-301, issue a certificate of authority if the purposes of each unsatisfied requirement and the protection of insureds, creditors, and the public in this state are otherwise achieved by:

(a) a deposit in trust to be established and maintained under Section 31A-2-206;

(b) a bond acceptable to the commissioner conditioned on the satisfaction of the purposes of the requirement;

(c) special limits on the applicant's business or methods of operation in this state or elsewhere; or

(d) other protective devices satisfactory to the commissioner.

(3) The certificate of authority shall specify the terms of any deposit or bond required as a condition for authorization, any limits placed on the insurer's business or methods of operation in this state, and any other conditions imposed under Subsection (2).

(4) An insurer may apply to the commissioner for a new certificate of authority, removing, altering, or adding limits on its business or methods of operation. The application shall be accompanied by the information specified in Section 31A-14-201 that the commissioner reasonably requires. The commissioner shall issue the new certificate as requested if [~~he~~]the commissioner would do so if an initial application were being made.

Section 113. Section 31A-14-216 is amended to read:

31A-14-216. Release from regulation.

(1) A foreign insurer authorized under this chapter is subject to regulation under the applicable provisions of the Insurance Code, unless it is released from regulation under this section.

(2) A foreign insurer may apply for release from regulation by filing with the commissioner:

(a) its certificate of authority;

(b) a schedule of its outstanding liabilities from policies issued in this state to residents of Utah or on risks located in Utah, and from other business transactions in Utah;

(c) a plan for securing the discharge of those outstanding liabilities; and

(d) any other information as reasonably required by the commissioner.

(3) The commissioner shall promptly release the insurer from regulation if [~~he~~]the commissioner finds all the following:

(a) The insurer has stopped doing any new business in Utah.

(b) The discharge of existing liabilities to creditors in Utah is sufficiently secured.

(c) The release would not otherwise be prejudicial to the interests of insureds or creditors in Utah or, if the insurer is an alien insurer and Utah is the state of entry into the United States, of all insureds and creditors in the United States.

(4) Before deciding on the release, the commissioner may require the insurer to notify, at its own expense, all agents or other classes of potentially interested persons in a manner the commissioner prescribes, including publication of its withdrawal from Utah. The notice shall advise affected persons to communicate to the commissioner any objections they may have to the insurer's release from regulation.

(5) As a prerequisite for releasing the insurer, the commissioner may require a deposit under Section 31A-2-206, a bond issued by a surety authorized in Utah, or other appropriate security or reinsurance in a sufficient amount to secure the proper discharge of the insurer's remaining liabilities in Utah. The commissioner may also require the insurer to sign an agreement to remain subject to the jurisdiction of the commissioner and the courts of Utah with respect to any matter arising out of business done in Utah prior to the release.

Section 114. Section 31A-15-107 is amended to read:

31A-15-107. Defense of action by unauthorized person.

(1) Except under Subsection (3), no pleading, notice, order, or process in any action in court or in any administrative proceeding before the commissioner instituted against an unauthorized person under Sections 31A-2-309 and 31A-2-310 may be filed by or on behalf of the unauthorized person unless one of the following conditions exists:

(a) The unauthorized person deposits with the clerk of the court in which the action or proceeding is pending, or with the commissioner in administrative proceedings, cash, securities, or a bond with sureties in an amount fixed by the court or the commissioner, sufficient to secure the payment or performance of any probable final judgment or order.

(b) That person procures proper authorization to do an insurance business in Utah.

(c) The commissioner, after a hearing, issues an order stating that [~~he~~]the commissioner is satisfied the person has funds or securities, in a state of the United States, in trust or otherwise, which are readily available and adequate to satisfy any probable final judgment or to perform in accordance with any order.

(2) The court in any action or proceeding under this section, or the commissioner in any administrative proceeding under this section, may order any postponement [~~he~~]the commissioner considers necessary to give the unauthorized person a reasonable opportunity to comply with Subsection (1).

(3) Subsection (1) does not prevent an unauthorized person from filing a motion to quash a writ or to set aside service on the ground that the person has not done any of the acts specified under Subsection 31A-15-102(2).

Section 115. Section 31A-21-310 is amended to read:

31A-21-310. Dividends on policies.

(1) Section 31A-22-418 applies to life insurance and annuities.

(2) Any insurer may distribute a portion of surplus attributable to policies other than life insurance or annuities, in amounts and with classifications the board of directors determines to be fair and reasonable. This distribution may not be contingent on the renewal of any policy or of premium payments unless the policy stated that limitation when it was written. A schedule explaining the basis for the distribution shall be filed with the commissioner prior to the distribution. The schedule shall be kept confidential by the commissioner unless [~~he~~]the commissioner finds that the interests of insureds and the public require that it be made public.

(3) Any insurer may distribute surplus to any class of policyholder, even if their policies do not provide for it. A schedule explaining the basis for the distribution shall be filed with the commissioner under Subsection (2) at least 30 days prior to the distribution. The commissioner shall disallow any distribution which is materially unfair to other policyholders or which would place the insurer in a financially hazardous condition.

(4) It is permissible to provide an indivisible dividend to classes of policyholders having more than one type of policy, including a combination of life or annuities with other types of insurance.

Section 116. Section 31A-22-105 is amended to read:

31A-22-105. Common control of fiduciary funds permissible.

Any fiduciary from whom a bond, undertaking, or other obligation is required may agree and arrange with [~~his~~]the fiduciary's sureties for the deposit for safekeeping of any and all assets for which [~~he~~]the fiduciary is responsible with a depository institution authorized by law to hold the assets, in a manner which prevents the withdrawal or alienation of any part of the property without the written consent of the sureties, or an order of the court made after notice is given to the sureties and a hearing is held as directed by the court. This deposit agreement does not release or change the fiduciary responsibility of the principal, or the liability of the principal or sureties as established under the bond.

Section 117. Section 31A-22-308 is amended to read:

31A-22-308. Persons covered by personal injury protection.

The following may receive benefits under personal injury protection coverage:

(1) the named insured, when injured in an accident involving any motor vehicle, regardless of whether the accident occurs in this state, the United States, its territories or possessions, or Canada, except where the injury is the result of the use or operation of the named insured's own motor vehicle not actually insured under the policy;

(2) persons related to the insured by blood, marriage, adoption, or guardianship who are residents of the insured's household, including those who usually make their home in the same household but temporarily live elsewhere under the circumstances described in [~~Section~~]Subsection (1), except where the person is injured as a result of the use or operation of [~~his~~]the person's own motor vehicle not insured under the policy; and

(3) any other natural person whose injuries arise out of an automobile accident occurring:

(a) []while the person occupies a motor vehicle described in the policy with the express or implied consent of the named insured; or

(b) [~~while~~]if the person is a pedestrian [~~if he~~]who is injured in an accident occurring in Utah involving the described motor vehicle.

Section 118. Section 31A-22-311 is amended to read:

31A-22-311. Definitions.

As used in Sections 31A-22-312 and 31A-22-314:

(1) "Authorized driver" means the person to whom the vehicle is rented and includes:

(a) [~~his~~]the spouse of the person renting the vehicle if the spouse is a licensed driver satisfying the rental company's minimum age requirement;

(b) [~~his~~]the employer or coworker of the person renting the vehicle if the employer or coworker is engaged in business activity with the renter and if [~~they~~]the employer or coworker are licensed drivers satisfying the rental company's minimum age requirement;

(c) any person who operates the vehicle during an emergency situation;

(d) any person who operates the vehicle while parking the vehicle at a commercial establishment; or

(e) any person expressly listed by the rental company on the rental agreement as an authorized driver.

(2) "Damage" means any damage or loss to the rented vehicle resulting from a collision, including loss of use and any costs and expenses incident to the damage or loss.

(3) "Rental agreement" means any written agreement stating the terms and conditions governing the use of a private passenger motor vehicle provided by a rental company.

(4) "Rental company" means any person or organization in the business of providing private passenger motor vehicles to the public.

(5) "Renter" means any person or organization obtaining the use of a private passenger motor vehicle from a rental company under the terms of a rental agreement.

Section 119. Section 31A-22-312 is amended to read:

31A-22-312. Liability for collision damage -- No security required -- No waiver -- Section inapplicable to rental companies disclosing charges.

(1) No rental company may, in rental agreements of 30 continuous days or less, hold any authorized driver liable for any damage except when:

(a) the damage is caused intentionally by an authorized driver or as a result of [~~his~~]the authorized driver's willful and wanton misconduct;

(b) the damage arises out of the authorized driver's operation of the vehicle while illegally intoxicated or under the influence of any illegal drug as defined or determined under the law of the state where the damage occurred;

(c) the damage is caused while the authorized driver is engaged in any speed contest;

(d) the rental transaction is based on information supplied by the renter with the intent to defraud the rental company;

(e) the damage arises out of the use of the vehicle while committing or otherwise engaged in a criminal act in which the use of the motor vehicle is substantially related to the nature of the criminal activity;

(f) the damage arises out of the use of the motor vehicle to carry persons or property for hire; or

(g) the damage arises out of the use of the motor vehicle outside of the United States or Canada unless the use is specifically authorized by the rental agreement.

(2) No security or deposit for damage in any form may be required or requested by the rental company during the rental period, or pending the resolution of any dispute.

(3) No waiver may be offered to provide coverage for any of the exceptions listed in this section.

(4) This section does not apply to any rental company:

(a) whose advertising in this state clearly discloses all charges and costs incidental to the basic daily rental rate; and

(b) that provides written notice to renters clearly printed on the rental agreement and prominently displayed at its place of business, that the renter's own motor vehicle insurance or [~~his~~]the renter's credit card agreement may cover any damage or loss to the rental vehicle.

Section 120. Section 31A-22-401 is amended to read:

31A-22-401. Prohibited life insurance policy provisions.

No life insurance company may issue or deliver any life insurance policy subject to this chapter under Section 31A-21-101 which contains any provision:

(1) forfeiting the policy for failure to repay any loan on the policy or to pay interest on the loan while the total indebtedness on the policy is less than its loan value, and in ascertaining the indebtedness due upon policy loans, the interest, if not paid when due, may be added to the principal of those loans and may bear interest at the same rate as the principal;

(2) claiming that the policy was issued or became effective more than one year before the original application for the insurance is executed, if the insured would then be rated at an age more than one year younger than [~~his~~]the insured's age at the date of [~~his~~]the insured's application, unless the aggregate amount of the annual premiums for the whole term of the back-dated period is paid in cash;

(3) allowing assessments or calls to be made upon policyholders; or

(4) allowing an insurer to cancel or terminate a policy for a reason other than:

(a) nonpayment of a premium when due; or

(b) as allowed pursuant to Subsection 31A-21-105(2).

Section 121. Section 31A-22-512 is amended to read:

31A-22-512. Individual insurability.

(1) An insurer may exclude or limit the coverage under a group life policy on any person, including a group member's dependent, as to whom the evidence of individual insurability is not satisfactory to the insurer.

(2) The group life insurance policy shall contain a provision setting forth the conditions, if any, under which the insurer reserves the

right to require a person eligible for insurance to furnish satisfactory evidence to the insurer of the individual insurability as a condition to part or all of [~~his~~]the person's coverage.

Section 122. Section 31A-22-514 is amended to read:

31A-22-514. Incontestability.

The group life insurance policy shall contain a provision that the validity of the policy may not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue. This provision shall also state that no statement made by any person insured under the policy relating to [~~his~~]the person's insurability may be used in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force, prior to the contest, for a period of two years during the person's lifetime, nor may the statement be used unless it is contained in a written instrument signed by [~~him~~]the person. This type of provision does not preclude the assertion of defenses based upon provisions in the policy which relate to eligibility for coverage.

Section 123. Section 31A-22-1005 is amended to read:

31A-22-1005. Payment as bar to recovery.

Payment of compensation under a workers' compensation insurance policy, whether in whole or in part, by either the employer or the insurer, bars recovery by the employee or [~~his~~]the employee's dependents to the extent of the payment.

Section 124. Section 31A-22-1007 is amended to read:

31A-22-1007. Employer's insolvency.

Every workers' compensation policy or contract shall contain a provision that the insolvency of the employer and [~~his~~]the employer's discharge does not relieve the insurer from the payment of compensation for injuries or death sustained by an employee during the life of that policy or contract.

Section 125. Section 31A-22-1102 is amended to read:

31A-22-1102. Policy and certificate forms.

(1) Legal expense insurance may be written as individual, group, blanket, or franchise insurance. Each contractual obligation for legal expense insurance shall be evidenced by a policy. Each person insured under a group policy shall be issued a certificate of coverage.

(2) Policies and certificates of legal expense insurance are subject to Section 31A-21-201.

(3) The commissioner may not approve any form that does not meet all of the following requirements:

(a) Policies shall contain a list and description of the legal services promised or the legal matters for which expenses are to be reimbursed, and any limits on the amounts to be reimbursed.

(b) Certificates issued under group policies shall contain a full statement of the benefits provided, but may summarize the other terms of the master policy.

(c) Policies promising legal services to be provided by a limited number of attorneys who have concluded provider contracts with the insurer, whether the attorney in an individual case is to be selected by the insured or by the insurer, shall provide for alternative benefits in case the insured is unable to find a participating attorney willing to perform the promised services or the attorney selected by the insurer is disqualified or otherwise unable to perform the promised services. The alternative benefit may consist of furnishing the services of an attorney selected and paid by the insurer or paying the fee of an attorney selected by the insured. The policy shall also provide a procedure that includes impartial review for settling disagreements about the grounds for demanding an alternative benefit.

(d) No policy, except one issued by a mutual insurance company, may provide for assessments on policyholders or for reductions of benefits to maintain the insurer's solvency.

(4) The commissioner may disapprove a policy or certificate form if [~~he~~]the commissioner finds that it:

(a) is unfair, unfairly discriminatory, misleading, or encourages misrepresentation or misunderstanding of the contract;

(b) provides coverage or benefits or contains other provisions that would endanger the solidity of the insurer; or

(c) is contrary to law.

(5) The commissioner may require the submission of relevant information [~~he~~]the commissioner considers to be reasonably necessary in determining whether to approve or disapprove a filing.

Section 126. Section 31A-22-1305 is amended to read:

31A-22-1305. Persons authorized to issue annuities.

No person may issue an annuity to another person unless the issuer is:

(1) an insurer authorized to issue annuities under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 9, Insurance Fraternals, or Chapter 14, Foreign Insurers;

(2) a domestic corporation created under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or other applicable law, or a foreign corporation conducted without profit, which is engaged solely in bona fide charitable, religious, missionary, educational, medical, or philanthropic activities; or

(3) a natural person who issues an annuity to [~~his~~]the person's spouse, children, grandchildren, great-grandchildren, parents, grandparents, uncles, aunts, brothers, sisters, nieces, or nephews, whether those relationships are by birth, marriage, or legal adoption.

Section 127. Section 31A-25-201 is amended to read:

31A-25-201. License and authority from insurers required.

(1) A person may not perform, offer to perform, or advertise any service as a third party administrator in Utah, without a valid license under Section 31A-25-203 and express authority from all insurers it represents. A person may not utilize the services of another as a third party administrator if [~~he~~]the person knows or should know that the other does not have a license or the insurer authority as required by law. The commissioner shall be notified of the commencement or termination of insurer authority in a form established by rules.

(2) The commissioner may by rule exempt certain persons or classes of persons from the license requirement of Subsection (1) if the functions they perform do not require the special competence, trustworthiness, or regulatory surveillance made possible by licensing.

(3) A contract is not invalid as a result of a violation of this section.

Section 128. Section 31A-26-211 is amended to read:

31A-26-211. Claims liaison.

Authorized insurers with employees engaged in insurance adjusting may be required by the commissioner to designate one or more natural persons to whom the commissioner or [~~his~~]the commissioner's staff may direct inquiries concerning the insurer's claims adjustments. Insurers shall report to the commissioner the name, title, business address, telephone number of, and any changes in its designees under this section.

Section 129. Section 31A-26-212 is amended to read:

31A-26-212. Emergency license.

In the event of a catastrophe or emergency which arises out of a disaster, act of God, riot, civil commotion, conflagration, or other similar occurrence, the commissioner shall, upon application, issue emergency licenses to persons who are not licensed adjusters. An emergency license shall be applied for within a week of beginning claims adjustment. It may remain in force for not more than 90 days, unless extended by the commissioner before it expires for an additional period of not more than 90 additional days. The insurer who contracts with an independent adjuster who is so licensed is responsible for all [~~his~~]the independent adjuster's claims practices while so engaged, as if [~~he~~]the independent adjuster were a regular salaried employee. The fee for an emergency license is the same as the fee required of other licensed adjusters, unless the commissioner waives the fee.

Section 130. Section 31A-28-217 is amended to read:

31A-28-217. Immunity.

(1) There is no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the association or its agents or employees, members of the board of directors, or the commissioner or [~~his~~]the commissioner's representatives, for any action or omission by them in effecting this part.

(2) The state does not waive any defense under this part, including the defense of governmental immunity. The state is not liable for any action or omission of the association, its members, or their respective agents or employees. The state is not liable for any failure of the association to perform its duties or to fulfill its stated purpose under this part.

Section 131. Section 34-23-303 is amended to read:

34-23-303. Civil action allowed.

(1) In addition to the administrative action authorized by Section 34-23-401, and criminal actions authorized by Sections 34-23-302 and 34-23-402, a minor employee may bring a civil action to enforce [~~his~~]the minor employee's right to a minimum wage under Section 34-23-301.

(2) (a) An aggrieved minor employee is entitled to injunctive relief and may recover the difference between the wage paid and the minimum wage, plus interest.

(b) The court may award court costs and attorney fees to the prevailing party.

(3) An action brought under this section shall be brought within two years of the alleged violation.

Section 132. Section 34-26-1 is amended to read:

34-26-1. Extent and condition of preference.

If any property of any person is seized through any process of any court, or when [~~his~~]a person's business is suspended by the act of creditors or is put into the hands of a receiver, assignee, or trustee, either by voluntary or involuntary action, the amount owing to workmen, clerks, traveling or city salesmen, or servants, for work or labor performed within five months next preceding the seizure or transfer of the property shall be considered and treated as preferred debts, and the workmen, clerks, traveling and city salesmen, and servants shall be preferred creditors, the first to be paid in full. If there are not sufficient proceeds to pay them in full, then the proceeds shall be paid to them pro rata, after paying costs. No officer, director, or general manager of a corporation employer or any member of an association employer or partner of a partnership employer is entitled to this preference.

Section 133. Section 34-38-4 is amended to read:

34-38-4. Samples -- Identification and collection.

In order to test reliably for the presence of drugs or alcohol, an employer may require samples from [~~his~~]the employer's employees and prospective employees, and may require presentation of reliable identification to the person collecting the samples. Collection of the sample shall be in conformance with the requirements of Section 34-38-6. The employer may designate the type of sample to be used for testing.

Section 134. Section 34-38-7 is amended to read:

34-38-7. Employer's written testing policy -- Purposes and requirements for collection and testing -- Employer's use of test results.

(1) Testing or retesting for the presence of drugs or alcohol by an employer shall be carried out within the terms of a written policy which has been distributed to employees and is available for review by prospective employees.

(2) Within the terms of [~~his~~]the employer's written policy, an employer may require the collection and testing of samples for the following purposes:

(a) investigation of possible individual employee impairment;

(b) investigation of accidents in the workplace or incidents of workplace theft;

(c) maintenance of safety for employees or the general public; or

(d) maintenance of productivity, quality of products or services, or security of property or information.

(3) The collection and testing of samples shall be conducted in accordance with Sections 34-38-4, 34-38-5, and 34-38-6, and need not be limited to circumstances where there are indications of individual, job-related impairment of an employee or prospective employee.

(4) The employer's use and disposition of all drug or alcohol test results are subject to the limitations of Sections 34-38-8 and 34-38-13.

Section 135. Section 34-39-2 is amended to read:

34-39-2. Definitions.

As used in this chapter:

(1) "Employment invention" means any invention or part thereof conceived, developed, reduced to practice, or created by an employee which is:

(a) conceived, developed, reduced to practice, or created by the employee:

(i) within the scope of [~~his~~]the employee's employment;

(ii) on [~~his~~]the employer's time; or

(iii) with the aid, assistance, or use of any of [~~his~~]the employer's property, equipment, facilities, supplies, resources, or intellectual property;

(b) the result of any work, services, or duties performed by an employee for [~~his~~]the employer;

(c) related to the industry or trade of the employer; or

(d) related to the current or demonstrably anticipated business, research, or development of the employer.

(2) "Intellectual property" means any and all patents, trade secrets, know-how, technology, confidential information, ideas, copyrights, trademarks, and service marks and any and all rights, applications, and registrations relating to them.

Section 136. Section 34-39-3 is amended to read:

34-39-3. Scope of act -- When agreements between an employee and employer are enforceable or unenforceable with respect to employment inventions -- Exceptions.

(1) An employment agreement between an employee and [~~his~~]employer is not enforceable against the employee to the extent that the agreement requires the employee to assign or license, or to offer to assign or license, to the employer any right or intellectual property in or to an invention that is:

(a) created by the employee entirely on [~~his~~]the employee's own time; and

(b) not an employment invention.

(2) An agreement between an employee and [~~his~~]employer may require the employee to assign or license, or to offer to assign or license, to [~~his~~]the employer any or all of [~~his~~]the employee's rights and intellectual property in or to an employment invention.

(3) Subsection (1) does not apply to:

(a) any right, intellectual property or invention that is required by law or by contract between the employer and the United States government or a state or local government to be assigned or licensed to the United States; or

(b) an agreement between an employee and [~~his~~]employer which is not an employment agreement.

(4) Notwithstanding Subsection (1), an agreement is enforceable under Subsection (1) if the employee's employment or continuation of employment is not conditioned on the employee's acceptance of such agreement and the employee receives a consideration under such agreement which is not compensation for employment.

(5) Employment of the employee or the continuation of [~~his~~]the employee's employment is sufficient consideration to support the enforceability of an agreement under Subsection (2) whether or not the agreement recites such consideration.

(6) An employer may require [~~his~~]employees to agree to an agreement within the scope of Subsection (2) as a condition of employment or the continuation of employment.

(7) An employer may not require [~~his~~]employees to agree to anything unenforceable under Subsection (1) as a condition of employment or the continuation of employment.

(8) Nothing in this chapter invalidates or renders unenforceable any employment agreement or provisions of an employment agreement unrelated to employment inventions.

Section 137. Section 34-40-205 is amended to read:

34-40-205. Civil action allowed.

(1) In addition to the administrative and criminal actions authorized by this chapter, an employee may bring a civil action to enforce [~~his~~]the employee's rights under this chapter.

(2) (a) An aggrieved employee is entitled to injunctive relief and may recover the difference between the wage paid and the minimum wage, plus interest.

(b) The court may award court costs and attorney fees to the prevailing party.

(3) An action brought under this section shall be brought within two years of the alleged violation.

Section 138. Section 34A-2-207 is amended to read:

34A-2-207. Noncompliance -- Civil action by employees.

(1) (a) Employers who fail to comply with Section 34A-2-201 are not entitled to the benefits of this chapter or Chapter 3, Utah Occupational Disease Act, during the period of noncompliance, but shall be liable in a civil action to their employees for damages suffered by reason of personal injuries arising out of or in the course of employment caused by the wrongful act, neglect, or default of the employer or any of the employer's officers, agents, or employees, and also to the dependents or personal representatives of such employees when death results from such injuries.

(b) In any action described in Subsection (1)(a), the defendant may not [~~avail himself of~~]use any of the following defenses:

(i) the fellow-servant rule;

(ii) assumption of risk; or

(iii) contributory negligence.

(2) Proof of the injury shall constitute prima facie evidence of negligence on the part of the employer and the burden shall be upon the employer to show freedom from negligence resulting in the injury.

(3) An employer who fails to comply with Section 34A-2-201 is subject to Sections 34A-2-208 and 34A-2-212.

(4) In any civil action permitted under this section against the employer, the employee shall be entitled to necessary costs and a reasonable attorney fee assessed against the employer.

Section 139. Section 35A-4-102 is amended to read:

35A-4-102. Public policy -- General welfare requires creation of unemployment reserves -- Employment offices.

As a guide to the interpretation and application of this chapter, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Unemployment is therefore a subject of general interest and concern that requires appropriate action by the Legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and [~~his~~]the unemployed worker's family. The achievement of social security requires protection against this greatest hazard of our economic life. This objective can be furthered by operating free public employment offices in affiliation with a nation-wide system of employment services, by devising appropriate methods

for reducing the volume of unemployment and by the systematic accumulation of funds during periods of employment from which benefits may be paid for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of unemployment. The Legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police power of the state, for the establishment and maintenance of free public employment offices and for the compulsory setting aside of unemployment reserves to be used for the benefit of unemployed persons.

Section 140. Section 35A-4-105 is amended to read:

35A-4-105. Department may be represented by attorneys in actions.

(1) In any civil action to enforce the provisions of this chapter the department may be represented by any qualified attorney who is employed by the department and is designated by it for this purpose, or at the department's request by the attorney general, or if the action is brought in the courts of any other state by any attorney qualified to appear in the courts of that state.

(2) All criminal actions for violation of any provision of this chapter, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the attorney general of the state; or, at [~~his~~]the attorney general's request and under [~~his~~] direction, by the prosecuting attorney of any county in which the employing unit has a place of business or the violator resides.

Section 141. Section 35A-4-207 is amended to read:

35A-4-207. Unemployment.

(1) (a) An individual is "unemployed" in any week during which [~~he~~]the individual performs no services and with respect to which no wages are payable to [~~him~~]the individual, or in any week of less than full-time work if the wages payable to [~~him~~]the individual with respect to the week are less than [~~his~~]the individual's weekly benefit amount.

(b) The department shall prescribe rules applicable to unemployed individuals making distinctions in the procedure as to total unemployment, part-total unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work, as the department considers necessary.

(2) The department may by rule prescribe in the case of individuals working on a regular attachment basis the existence of unemployment for periods longer than a week if:

(a) it is a period of less than full-time work;

(b) insofar as possible the loss of wages required as a condition of being considered unemployed in those periods shall be such as to allow comparable benefits, for comparable loss in wages, to those individuals working less than full-time in each week as would be payable on a weekly claim period basis to those individuals working full-time and not at all in alternate weeks.

(3) Unemployment shall in no case be measured on a basis of longer than a four-week period.

Section 142. Section 35A-4-402 is amended to read:

35A-4-402. Extended benefits.

(1) Except when the result would be inconsistent with the other provisions of this section or the rules of the department, the provisions of this chapter that apply to claims for or payments of regular benefits apply to claims for and payments of extended benefits.

(2) An individual is eligible to receive extended benefits with respect to any week of unemployment in [~~his~~]the individual's eligibility period only if the division finds that with respect to that week the individual:

(a) is an "exhaustee" as defined in this section;

(b) has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

(c) has satisfied the federal requirements as adopted by state regulation for the receipt of extended benefits.

(3) The weekly extended benefit amount payable to an individual for a week of total unemployment in [~~his~~]the individual's eligibility period is an amount equal to the weekly benefit amount payable to [~~him~~]the individual during [~~his~~]the individual's applicable benefit year.

(4) The total extended benefit amount payable to any eligible individual with respect to [~~his~~]the individual's applicable benefit year is the lesser of the following amounts:

(a) 50% of the total amount of regular benefits which were payable to [~~him~~]the individual under this chapter in [~~his~~]the individual's applicable benefit year;

(b) 13 times [~~his~~]the individual's weekly benefit amount which was payable to [~~him~~]the individual under this chapter for a week of total unemployment in the applicable benefit year; or

(c) 39 times [~~his~~]the individual's weekly benefit amount which was payable to [~~him~~]the individual under this chapter for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid or deemed paid to [~~him~~]the individual under this chapter with respect to the benefit year.

(5) Notwithstanding any other provision of this chapter, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade adjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(6) (a) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the division shall make an appropriate public announcement.

(b) Computations required by Subsection (7)(f) shall be made by the division, in accordance with regulations prescribed by the United States Secretary of Labor.

(7) As used in this section:

(a) "Extended benefit period" means a period that:

(i) begins with the third week after a week for which there is a state "on" indicator; and

(ii) ends with either:

(A) the third week after the first week for which there is a state "off" indicator; or

(B) after the 13th consecutive week of duration of that period, whichever occurs later; however, no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect with respect to this state.

(b) There is a "state 'on' indicator" for this state for a week if the division determines, in accordance with the regulations of the Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter equaled or exceeded 120% of the average of the rates for the corresponding 13-week period ending in each of the preceding two calendar years and that the rate equaled or exceeded 4% until the weeks beginning after September 25, 1982, at which time it will become 5%.

(c) There is a "state 'off' indicator" for this state for a week if the division determines, in accordance with the regulations of the Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter was less than 120% of the average of the rates for the corresponding 13-week period ending in each of the preceding two calendar years or that the rate was less than 4% until the weeks beginning after September 25, 1982, at which time it will become 5%.

(d) "Rate of insured unemployment," for purposes of Subsections (7)(b) and (7)(c), means the percentage derived by dividing the average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the division on the basis of its reports to the Secretary of Labor, by the average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of the 13-week period.

(e) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law, including benefits payable to federal civilian employees and to ex-servicemen under 5 U.S.C. Chapter 85, other than extended benefits.

(f) "Extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-servicemen under 5 U.S.C. Chapter 85, payable to an individual under the provisions of this section for weeks of unemployment in [~~his~~]the individual's eligibility period.

(g) "Eligibility period" of an individual means the period consisting of the weeks in [~~his~~]the individual's benefit year which begin in an extended benefit period and, if [~~his~~]the individual's benefit year ends within the extended benefit period, any weeks thereafter which begin in that period.

(h) "Exhaustee" means an individual who, with respect to any week of unemployment in [~~his~~]the individual's eligibility period:

(i) has received, prior to that week, all of the regular benefits that were available to [~~him~~]the individual under this chapter or any other state law, including dependent's allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. Chapter 85, in [~~his~~]the individual's current benefit year that includes such week. An individual, for the purposes of this subsection, shall be deemed to have received all of the regular benefits that were available to [~~him~~]the individual although, as a result of a pending appeal with respect to wages or employment, or both, that were not considered in the original monetary determination in [~~his~~]the individual's benefit year, [~~he~~]the individual may subsequently be determined to be entitled to added regular benefits; or

(ii) has no, or insufficient, wages or employment or both on the basis of which [~~he~~]the individual could establish a new benefit year that would include that week, [~~his~~]the individual's benefit year having expired prior to that week; and

(iii) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, or any other federal laws as are specified in regulations issued by the Secretary of Labor and has not received, and is not seeking, unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada. However, if that [~~person~~]individual is seeking such benefits and the appropriate agency finally determines that [~~he~~]the individual is not entitled to benefits under that law [~~he~~]the individual is considered an "exhaustee," provided that the reference in this subsection to the Virgin Islands shall be inapplicable effective on the day on which the U. S. Secretary of Labor approves under Section 3304 (a) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a), an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.

(i) "State law" means the unemployment insurance law of any state, approved by the Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a).

Section 143. Section 35A-4-406 is amended to read:

35A-4-406. Claims for benefits -- Continuing jurisdiction -- Appeal -- Notice of decision -- Repayment of benefits fraudulently received.

(1) (a) Claims for benefits shall be made and shall be determined by the division or referred to an administrative law judge in accordance with rules adopted by the department.

(b) Each employer shall post and maintain in places readily accessible to individuals in [~~his~~]the employer's service printed statements concerning benefit rights, claims for benefits, and the other matters relating to the administration of this chapter as prescribed by rule of the department.

(c) Each employer shall supply to individuals in [~~his~~]the employer's service copies of the printed statements or other materials relating to claims for benefits when and as the department may by rule prescribe. The printed statements and other materials shall be supplied by the division to each employer without cost to the employer.

(2) (a) Jurisdiction over benefits shall be continuous.

(b) Upon its own initiative or upon application of any party affected, the division may on the basis of change in conditions or because of a mistake as to facts, review a decision allowing or disallowing in whole or in part a claim for benefits.

(c) The review shall be conducted in accordance with rules adopted by the department and may result in a new decision that may award, terminate, continue, increase, or decrease benefits, or may result in a referral of the claim to an appeal tribunal.

(d) Notice of any redetermination shall be promptly given to the party applying for redetermination and to other parties entitled to notice of the original determination, in the manner prescribed in this section with respect to notice of an original determination.

(e) The new order shall be subject to review and appeal as provided in this section.

(f) A review may not be made after one year from the date of the original determination, except in cases of fraud or claimant fault as provided in Subsection (4).

(3) (a) The claimant or any other party entitled to notice of a determination as provided by department rule may file an appeal from the determination with the Division of Adjudication within 10 days after the date of mailing of the notice of determination or redetermination to the party's last-known address or, if the notice is not mailed, within 10 days after the date of delivery of the notice.

(b) Unless the appeal or referral is withdrawn with permission of the administrative law judge, after affording the parties reasonable opportunity for a fair hearing, the administrative law judge shall make findings and conclusions and on that basis affirm, modify, or reverse the determination or redetermination.

(c) The administrative law judge shall first give notice of the pendency of an appeal to the division, which may then be a party to the proceedings. The administrative law judge shall receive into the record of the appeal any documents or other records provided by the division, and may obtain or request any additional documents or records held by the division or any of the parties that the administrative law judge considers relevant to the proper determination of the appeal.

(d) The parties shall be promptly notified of the administrative law judge's decision and shall be furnished with a copy of the decision and the findings and conclusions in support of the decision.

(e) The decision is considered to be final unless, within 30 days after the date of mailing of notice and a copy of the decision to the party's last-known address, or in the absence of mailed notice, within 30 days after the delivery of the notice, further appeal is initiated in accordance with Section 35A-4-508 and Chapter 1, Part 3, Adjudicative Proceedings.

(4) (a) Any person who, by reason of [~~his~~]that person's fraud, has received any sum as benefits under this chapter to which [~~he~~]the person was not entitled shall repay the sum to the division for the fund.

(b) If any person, by reason of [~~his~~]that person's own fault, has received any sum as benefits under this chapter to which under a redetermination or decision pursuant to this section [~~he~~]the person has been found not entitled, [~~he~~]the person shall repay the sum, or shall, in the discretion of the division, have the sum deducted from any future benefits payable to [~~him~~]the person, or both.

(c) In any case in which under this subsection a claimant is liable to repay to the division any sum for the fund, the sum shall be collectible in the same manner as provided for contributions due under this chapter.

(5) (a) If any person has received any sum as benefits under this chapter to which under a redetermination or decision [~~he~~]that person was not entitled, and it has been found that [~~he~~]the person was without fault in the matter, [~~he~~]the person is not liable to repay the sum but shall be liable to have the sum deducted from any future benefits payable to [~~him~~]the person.

(b) The division may waive recovery of the overpayment if it is shown to the satisfaction of the division that the claimant has the inability to meet more than the basic needs of survival for an indefinite period lasting at least several months.

Section 144. Section 36-19-1 is amended to read:

36-19-1. Conflict of interest -- Prohibition of benefit.

(1) A legislator, member of [~~his~~]the legislator's household, or client shall not be a party to or have an interest in the profits or benefits of a state contract when the state contract is the direct result of a bill sponsored by the legislator unless the contract is let in compliance with state procurement policies and is open to the general public.

(2) Any person violating this section shall be guilty of a class B misdemeanor.

Section 145. Section 38-2-4 is amended to read:

38-2-4. Disposal of property by lienholder -- Procedure.

(1) Any party holding a lien upon personal property as provided in this chapter may dispose of the property in the manner provided in Subsection (2).

(2) (a) The lienor shall give notice to the owner of the property, to the customer as indicated on the work order, and to all other persons claiming an interest in or lien on it, as disclosed by the records of the Motor Vehicle Division, lieutenant governor's office, or of corresponding agencies of any other state in which the property appears registered or an interest in or lien on it is evidenced if known by the lienor.

(b) The notice shall be sent by certified mail at least 30 days before the proposed or scheduled date of any sale and shall contain:

(i) a description of the property and its location;

(ii) the name and address of the owner of the property, the customer as indicated on the work order, and any person claiming an interest in or lien on the property;

(iii) the name, address, and telephone number of the lienor;

(iv) notice that the lienor claims a lien on the property for labor and services performed and interest and storage fees charged, if any, and the cash sum which, if paid to the lienor, would be sufficient to redeem the property from the lien claimed by the lienor;

(v) notice that the lien claimed by the lienor is subject to enforcement under this section and that the property may be sold to satisfy the lien;

(vi) the date, time, and location of any proposed or scheduled sale of the property and whether the sale is private or public, except that no property may be sold earlier than 45 days after completion of the repair work; and

(vii) notice that the owner of the property has a right to recover possession of the property without instituting judicial proceedings by posting bond.

(3) If the owner of the property is unknown or [~~his~~]the property owner's whereabouts cannot be determined, or if the owner or any person notified under Subsection (2) fails to acknowledge receipt of the notice, the lienor, at least 20 days before the proposed or scheduled date of sale of the property, shall publish the notice required by this section once in a newspaper circulated in the county where the vehicle is held.

(4) A lienee may have [~~his~~]the lienee's property released from any lien claimed on it under this chapter by filing with the clerk of a court a cash or surety bond, payable to the person claiming the lien, and conditioned for the payment of any judgment that may be recovered on the lien, with costs, interest, and storage fees.

(5) (a) The lienor has 60 days after receiving notice that the lienee has filed the bond provided in Subsection (4) to file suit to foreclose [~~his~~]the lien.

(b) If the lienor fails to timely file an action, the clerk of the court shall release the bond.

(6) Property subject to lien enforcement under this section may be sold by the lienor at public or private sale; however, in the case of a private sale, every aspect of the sale, including the method, manner, time, place, and terms shall be commercially reasonable.

(7) This section may not be construed to affect an owner's right to redeem [~~his~~]the owner's property from the lien at any time prior to sale by paying the amount claimed by the lienor for work done, interest, and storage fees charged and any costs incurred by the repair shop for using enforcement procedures under this section.

Section 146. Section 38-3-5 is amended to read:

38-3-5. When attachment will issue -- Determination of priorities.

Upon the filing of such complaint, affidavit and bond it shall be the duty of the court wherein the same are filed to issue a writ of attachment to the proper officer, commanding [~~him~~]the officer to seize the property of the defendant subject to such lien, or so much thereof as will satisfy the demand, and to make a determination of the priorities of the claims, liens, and security interests in such property.

Section 147. Section 38-7-2 is amended to read:

38-7-2. Notice of lien required -- Filing with district court -- Mailing to injured person, heirs or legal representative, and insurance carrier.

A hospital lien upon damages recovered or to be recovered for personal injuries or death shall be effective if:

(1) a verified written notice is filed in the district court of the county in which the hospital asserting the lien is located containing:

(a) an itemized statement of the services rendered to the injured person and the dates of the services;

(b) the name and address of the hospital making the claim;

(c) the name of the person, firm, or corporation alleged to be liable to the injured party for the injuries and damages sustained; and

(d) the full name and address of the injured person;

(2) the hospital sends by certified mail with return receipt requested, prior to the payment of any money to the injured person or [~~his~~]the injured person's attorney or heirs or legal representatives as compensation for the injuries and/or damages sustained, a copy of the written notice, together with a statement of the date of filing, to the person, firm, or corporation alleged to be liable to the injured party for the injuries and/or damages sustained; and

(3) the hospital mails a copy of the written notice by certified mail with return receipt requested to the home office of any insurance carrier that has insured the person, firm, or corporation against liability, if the name and address is known.

Section 148. Section 38-10-102.1 is amended to read:

38-10-102.1. Perfection of lien -- Notice of subcontractor's claim -- Information required to be provided -- Payments to be held in trust.

(1) (a) To perfect a lien a subcontractor must comply with the requirements of this section and Section 38-10-105.

(b) This section shall apply only to a subcontractor's claim or a portion of a claim for amounts more than $5,000, for work performed upon or materials or equipment furnished for each production unit.

(2) A subcontractor shall provide notice of a subcontractor's claim to the owner and operator designated by the owner within 20 days after the commencement of work or the furnishing of materials or equipment.

(3) The notice shall:

(a) be delivered, or mailed by certified mail, return receipt requested, to the:

(i) owner; and

(ii) operator designated by the owner;

(b) be considered delivered when deposited in the mail; and

(c) contain a statement setting forth the following information:

(i) identification of the lien claimant by full name, address, and telephone number;

(ii) the name of the person by whom [~~he~~]the subcontractor was employed or to whom [~~he~~]the subcontractor furnished material or equipment; and

(iii) a description of the property comprising the production unit.

(4) Failure to deliver or mail the notice shall discharge and satisfy the lien attaching to the interest of the owner to the extent the owner pays a contractor or operator [~~his~~]the contractor's or operator's share of all, or part, of the lien claimant's agreed contract price.

(5) (a) Any contractor or subcontractor shall provide, in writing, to each person with whom [~~he~~]the contractor or subcontractor contracts:

(i) the full name and address of the:

(A) owner of the production unit; and

(B) the operator designated by the owner; and

(ii) a description of the property comprising the production unit.

(b) Failure to provide the information required under this section within three days after the work is commenced or the materials and equipment are furnished shall entitle the claimant to an award of costs and [~~attorneys'~~]attorney fees in an action against the person to enforce the contract.

(6) Any contractor, operator, or subcontractor who receives payment for work performed upon, or material or equipment furnished for any production unit, shall hold all payments in trust for the person with whom [~~he~~]the contractor, operator, or subcontractor contracts for work upon, or the furnishing of materials or equipment for the production unit, for any amount remaining unpaid under the contract.

Section 149. Section 38-10-108 is amended to read:

38-10-108. Limitation upon owner's liability.

Except as provided in Section 38-10-102 and Section 38-10-114, nothing in this chapter shall be construed to fix a greater liability against the owner than the price or sum agreed by the owner to be paid for [~~his~~]a contractor's or subcontractor's share of the work performed or the materials or equipment furnished.

Section 150. Section 38-10-109 is amended to read:

38-10-109. Limitation on liability for other owners in production unit if notice provided -- Contents of notice -- Filing of notice -- Time for filing -- Failure to file does not affect other defenses.

(1) Where work is performed or materials or equipment are furnished for any production unit under a contract with an owner of an interest in the production unit, any interest of any other owner in the production unit shall not be subject to a lien under this chapter, if such other owner gives written notice that [~~he~~]the other owner will not be responsible for work performed or materials or equipment provided.

(2) Written notice shall be:

(a) in recordable form;

(b) filed with the county recorder of the county where the production unit is located; and

(c) filed within 10 working days after the latter of:

(i) the owner obtaining knowledge of the performance of such work or the providing of such materials or equipment; or

(ii) the execution by the last party of:

(A) a farmout agreement;

(B) a lease or sublease;

(C) an operating agreement;

(D) an assignment of less than 100% of the lessee's interest or operating rights under a lease;

(E) a sales contract; or

(F) an option agreement.

(3) Failure to file under this section shall not impair any other defense available to such owner.

Section 151. Section 40-1-6 is amended to read:

40-1-6. Affidavit of performance of annual labor or payment of maintenance fee.

(1) As used in this section, "assessment work" means the performance of labor or making of improvements on or for the benefit of a mining claim.

(2) Within 30 days after the end of the annual period specified in 30 U.S.C. Sec. 28 the owner of an unpatented lode or placer mining claim, []or a mill or tunnel site claim or someone []on [~~his~~]the owner's behalf, shall record an affidavit in the office of the county recorder of the county in which the claim is located setting forth:

(a) the name and address of the owner of the claim;

(b) the name of the claim and the serial number, if any, assigned to the claim by the United States Bureau of Land Management;

(c) if assessment work was required to be performed under 30 U.S.C. Sec. 28 or other federal law to maintain the claim, a statement that the annual assessment work required to maintain the claim was performed; and

(d) if the assessment work was not required to be performed under 30 U.S.C. Sec. 28 or other federal law, a statement that it is the intention of the owner to hold the claim, and if a claim maintenance fee was paid as required by the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66 or other federal law, a statement that the fee was paid in a timely manner.

(3) The affidavit, or a certified copy, shall be prima facie evidence of the facts stated in the affidavit.

(4) The amendments made in this section do not affect any act or right accruing or which has accrued or been established or any suit or proceeding commenced before May 1, 1995.

Section 152. Section 40-8-19 is amended to read:

40-8-19. Transfer of mining operation under approved notice of intention.

Whenever an operator succeeds to the interest of another operator who holds an approved notice of intention or revision covering a mining operation, by sale, assignment, lease, or other means, the division may release the first operator from [~~his~~]the first operator's responsibilities under [~~his~~]the first operator's approved notice of intention, including surety, provided the successor assumes all of the duties of the former operator, to the satisfaction of the division, under this approved notice of intention, including its then approved reclamation plan and the posting of surety. Upon the satisfactory assumption of such responsibilities by the successor operator, under conditions approved by the division, the approved notice of intention shall be transferred to the successor operator.

Section 153. Section 40-8-23 is amended to read:

40-8-23. Effective dates -- Exceptions.

This act shall become effective 60 days after adjournment of the Legislature except as follows:

(1) Mining operations which are active on the effective date of this act will be required to prepare and submit a notice of intention on or before July 1, 1977, and shall be authorized to continue such existing operations until the operator obtains approval of [~~his~~]a notice of intention. Such approval shall be obtained by the operator within 36 months from the date of submission of this notice. Subsequent to approval of the notice of intention, the operator shall be bound by the provisions of the approved notice of intention and surety requirements as provided in Sections 40-8-13 and 40-8-14.

(2) Mining operations which are active on the effective date of this act and which are suspended or terminated on or before July 1, 1977, shall advise the division of this fact before July 10, 1977, and shall not be required to submit a notice of intention.

(3) Mining operations which are inactive on the effective date of this act and which resume operations on or before July 1, 1977, shall be required to prepare and submit a notice of intention within 12 months following the effective date of this act or within six months of the resumption of such operations, whichever is earlier, and shall be authorized to conduct operations as described in the notice of intention until the operator obtains approval of [~~his~~]a notice of intention. Such approval shall be obtained by the operator within 36 months from the date of submission of the notice. Subsequent to approval of the notice of intention the operator shall be bound by the provisions of the approved notice of intention and surety requirements as provided in Sections 40-8-13 and 40-8-14.

(4) The board and division, in the initial application of this act and until July 1, 1977, shall not be bound by the 30 day time limitation within which to take action on a notice of intention; but all notices of intention filed before July 1, 1977, shall be acknowledged as received within 30 days of receipt and action shall be commenced by the division within 12 months from the date of receipt.

(5) This act and the rules and regulations promulgated under it shall be fully effective for all operators and mining operations active on the effective date of this act or commenced or reactivated on and after July 1, 1977.

Section 154. Section 40-10-5 is amended to read:

40-10-5. Activities exempted from chapter.

This chapter does not apply to the following activities:

(1) the extraction of coal by a landowner for [~~his~~]the landowner's own noncommercial use from land owned or leased by [~~him~~]the landowner; or

(2) the extraction of coal as an incidental part of federal, state, or local government-financed highway or other construction under rules established by the division.

Section 155. Section 40-10-19 is amended to read:

40-10-19. Information provided by permittees to division -- Inspections by division -- Signs required at operations entrances -- Violations reported by reclamation officers -- Copies of records and reports available to public.

(1) For the purpose of developing, administering, and enforcing any permit under this chapter, or of determining whether any person is in violation of any requirement of this chapter, the division shall require any permittee to provide information relative to surface coal mining and reclamation operations as the division deems reasonable and necessary in the division's rules.

(2) The authorized representatives of the division, without advance notice and upon presentation of appropriate credentials:

(a) shall have the right of entry into, upon, or through any surface coal mining and reclamation operations or any premises in which any records required to be maintained under Subsection (2) are located; and

(b) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this chapter. As required by Subsection 40-8-17(2), this entry and access are conditions to obtaining an approved state permit to conduct surface mining operations.

(3) The inspections by the division shall:

(a) occur on an irregular basis averaging not less than one partial inspection per month and one complete inspection per calendar quarter for the surface coal mining and reclamation operation covered by each permit;

(b) occur without prior notice to the permittee or [~~his~~]the permitee's agents or employees except for necessary onsite meetings with the permittee; and

(c) include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this chapter.

(4) Each permittee shall conspicuously maintain at the entrances to the surface coal mining and reclamation operations a clearly visible sign which sets forth the names, business address, and phone number of the permittee and the permit number of the surface coal mining and reclamation operations.

(5) Each reclamation officer, upon detection of each violation of any requirement of this chapter, shall forthwith inform the operator in writing and shall report in writing the violation to the division.

(6) Copies of any records, reports, inspection materials, or information obtained under this chapter by the division shall be made immediately available to the public.

Section 156. Section 40-10-20 is amended to read:

40-10-20. Civil penalty for violation of chapter -- Informal conference -- Public hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties -- Civil penalty for failure to correct violation.

(1) (a) Any permittee who violates any permit condition or other provision of this chapter may be assessed a civil penalty by the division. If the violation leads to the issuance of a cessation order under Section 40-10-22, the civil penalty shall be assessed.

(b) (i) The penalty may not exceed $5,000 for each violation.

(ii) Each day of a continuing violation may be deemed a separate violation for purposes of the penalty assessments.

(c) In determining the amount of the penalty, consideration shall be given to:

(i) the permittee's history of previous violations at the particular surface coal mining operation;

(ii) the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public;

(iii) whether the permittee was negligent; and

(iv) the demonstrated good faith of the permittee in attempting to achieve rapid compliance after notification of the violation.

(2) (a) Within 30 days after the issuance of a notice or order charging that a violation of this chapter has occurred, the division shall inform the permittee of the proposed assessment.

(b) The person charged with the penalty shall then have 30 days to pay the proposed assessment in full, or request an informal conference before the division.

(c) The informal conference held by the division may address either the amount of the proposed assessment or the fact of the violation, or both.

(d) If the permittee who requested the informal conference and participated in the proceedings is not in agreement with the results of the informal conference, the permittee may, within 30 days of receipt of the decision made by the division in the informal conference, request a hearing before the board.

(e) (i) Prior to any review of the proposed assessment or the fact of a violation by the board, and within 30 days of receipt of the decision made by the division in the informal conference, the permittee shall forward to the division the amount of the proposed assessment for placement in an escrow account.

(ii) If the operator fails to forward the amount of the penalty to the division within 30 days of receipt of the results of the informal conference, the operator waives any opportunity for further review of the fact of the violation or to contest the amount of the civil penalty assessed for the violation.

(iii) If, through administrative or judicial review, it is determined that no violation occurred or that the amount of the penalty should be reduced, the division shall within 30 days remit the appropriate amount to the operator with interest accumulated.

(3) (a) A civil penalty assessed by the division shall be final only after the person charged with a violation described under Subsection (1) has been given an opportunity for a public hearing.

(b) If a public hearing is held, the board shall make findings of fact and shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) When appropriate, the board shall consolidate the hearings with other proceedings under Section 40-10-22.

(d) Any hearing under this section shall be of record and shall be conducted pursuant to board rules governing the proceedings.

(e) If the person charged with a violation fails to [~~avail himself of~~]use the opportunity for a public hearing, a civil penalty shall be assessed by the division after the division:

(i) has determined:

(A) that a violation did occur; and

(B) the amount of the penalty which is warranted; and

(ii) has issued an order requiring that the penalty be paid.

(4) At the request of the board, the attorney general may bring a civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil penalty owed under this chapter.

(5) Any person who willfully and knowingly violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with any order issued under Section 40-10-22 or any order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision under Subsection (3), shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

(6) Whenever a corporate permittee violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with any order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision issued under Subsection (3), any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the

violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under Subsections (1) and (5).

(7) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter or any order or decision issued by the board under this chapter shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

(8) (a) Any operator who fails to correct a violation for which a notice or cessation order has been issued under Subsection 40-10-22(1) within the period permitted for its correction shall be assessed a civil penalty of not less than $750 for each day during which the failure or violation continues.

(b) The period permitted for correction of a violation for which a notice of cessation order has been issued under Subsection 40-10-22(1) may not end until:

(i) the entry of a final order by the board, in the case of any review proceedings initiated by the operator in which the board orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements; or

(ii) the entry of an order of the court, in the case of any review proceedings initiated by the operator wherein the court orders the suspension of the abatement requirements of the citation.

Section 157. Section 40-10-29 is amended to read:

40-10-29. Other enforcement and protection rights unaffected -- Operator to replace adversely affected water supply of legitimate users.

(1) Nothing in this chapter shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, [~~his~~]the person's interest in water resources affected by a surface coal mining operation.

(2) The operator of a surface coal mine shall replace the water supply of an owner of interest in real property who obtains all or part of [~~his~~]the owner's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where this supply has been affected by contamination, diminution, or interruption proximately resulting from the surface coal mine operation.

Section 158. Section 41-1a-224 is amended to read:

41-1a-224. Registration of specially constructed, reconstructed, or foreign vehicles -- Surrender of foreign registration.

(1) If the vehicle to be registered is a specially constructed, reconstructed, or foreign vehicle, that fact shall be stated in the application.

(2) The owner of a foreign vehicle that has been registered outside of this state shall surrender to the division all registration cards, certificates of title, or other evidence of foreign registration in [~~his~~]the owner's possession or under [~~his~~]the owner's control, except as provided in Section 41-1a-223.

Section 159. Section 41-1a-607 is amended to read:

41-1a-607. Assignment by lienholder.

(1) (a) Any person holding a lien or encumbrance upon a vehicle, vessel, or outboard motor, other than a lien dependent solely upon possession, may assign [~~his~~]the person's title or interest in or to the vehicle, vessel, or outboard motor to a person other than the owner without the consent of and without affecting the interest of the owner or the registration of the vehicle, vessel, or outboard motor.

(b) If assignment of the lien or encumbrance in any way modifies or affects the owner's repayment agreement, the lien or encumbrance holder shall give to the owner a written notice of the assignment.

(2) Upon request to the division and upon receipt of a certificate of title assigned by the holder of a lien or encumbrance shown on it and giving the name and address of the assignee, accompanied by the fee provided by law, the division shall issue a new certificate of title.

Section 160. Section 41-1a-608 is amended to read:

41-1a-608. Release by lienholder to owner.

(1) A person holding a lien or encumbrance as shown upon a certificate of title upon a vehicle or vessel may release the lien or encumbrance or assign [~~his~~]the person's interest to the owner without affecting the registration of the vehicle or vessel.

(2) The division shall issue a new certificate of title without a lien previously recorded upon receiving:

(a) a certificate of title:

(i) upon which a lienholder has released or assigned [~~his~~]the lienholder's interest to the owner; or

(ii) not so endorsed but accompanied by a legal release from a lienholder of [~~his~~]the lienholder's interest in or to a vehicle, vessel, or outboard motor;

(b) an application properly completed; and

(c) the proper fee.

Section 161. Section 41-1a-708 is amended to read:

41-1a-708. Owner not liable for negligent operation after transfer.

The owner of a vehicle or vessel who has made a bona fide sale or transfer of [~~his~~]the owner's title or interest and who has delivered to the purchaser or transferee possession of the vehicle or vessel, the certificate of registration, and the properly endorsed certificate of title to the vehicle or vessel is not liable for any damages thereafter resulting from negligent operation of the vehicle or vessel by another.

Section 162. Section 41-1a-801 is amended to read:

41-1a-801. Altered or changed identification number -- State assigned identification number.

(1) The owner of a vehicle required to be registered []under this chapter, the identification number of which has been altered, removed, defaced, or has not been placed on it shall make application in the form prescribed by the division for a state assigned identification number.

(2) The owner shall furnish []information that will satisfy the division that [~~he~~]the owner is the owner of the vehicle and furnish information to identify the vehicle with the registration of the vehicle for the current year, at which time the division shall assign a state identification number for the vehicle.

(3) A record of state assigned numbers shall be maintained by the division.

(4) The state assigned identification number is the identification number of the vehicle when:

(a) the owner has stamped the state assigned identification number upon the vehicle as directed by the division;

(b) a qualified identification number inspector has inspected and found the state assigned identification number stamped upon the vehicle as directed;

(c) the owner has provided the division with a certificate of inspection; and

(d) the owner has submitted an application for a certificate of title.

Section 163. Section 41-1a-1301 is amended to read:

41-1a-1301. Unpaid fees and penalty -- Lien -- Seizure and sale.

(1) (a) Every registration fee and penalty not paid by the due date is a lien upon all:

(i) the unexempt personal property of the owner or operator of the vehicle, vessel, or outboard motor; and

(ii) interest or equity of the owner or operator in all personal property, including vehicles, vessels, or outboard motors used by the owner or operator in the conduct or operation of [~~his~~]the owner's or operator's business.

(b) The properties and vehicles, vessels, or outboard motors may be held under warrant, issued by the commission, and sold in accordance with the law applicable to personal property taxes.

(2) Delinquency is a ground for the issuance of a writ of attachment against the owner or operator.

Section 164. Section 41-1a-1313 is amended to read:

41-1a-1313. Third degree felony to possess motor vehicle, trailer, semitrailer, or parts without identification number -- Presumption of knowledge.

(1) It is a third degree felony for a person to have in [~~his~~]the person's possession any motor vehicle, trailer, or semitrailer, or any part or parts of a motor vehicle, trailer, or semitrailer, from which any identification number has been removed, defaced, destroyed, obliterated, or so covered as to be concealed, or where the identification number has been altered or changed in any manner.

(2) A person having possession of any motor vehicle, trailer, or semitrailer or part of them under this section is presumed prima facie to have knowledge of this condition.

Section 165. Section 41-1a-1316 is amended to read:

41-1a-1316. Receiving or transferring stolen motor vehicle, trailer, or semitrailer -- Penalty.

It is a second degree felony for a person:

(1) with intent to procure or pass title to a motor vehicle, trailer, or semitrailer that [~~he~~]the person knows or has reason to believe has been stolen or unlawfully taken to receive or transfer possession of the motor vehicle, trailer, or semitrailer from or to another; or

(2) to have in [~~his~~]the person's possession any motor vehicle, trailer, or semitrailer that [~~he~~]the person knows or has reason to believe has been stolen or unlawfully taken if [~~he~~]the person is not a peace officer engaged at the time in the performance of [~~his~~]the peace officer's duty.

Section 166. Section 41-1a-1317 is amended to read:

41-1a-1317. Selling or buying without identification numbers -- Penalty.

It is a second degree felony for a person to knowingly buy, receive, dispose of, sell, offer for sale, or have in [~~his~~]that person's possession any motor vehicle, trailer, semitrailer, or engine removed from a motor vehicle, from which the identification number has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of the motor vehicle or engine.

Section 167. Section 41-3-207 is amended to read:

41-3-207. New motor vehicle dealer's license -- Change, addition, or loss of franchise -- Notification -- Relinquishment of license and relicensing as used motor vehicle dealer -- Continuance in business to dispose of stock.

(1) If a dealer changes to, adds, cancels, or loses a franchise for the sale of new motor vehicles [~~he~~]the dealer shall immediately notify the administrator.

(2) (a) If the dealer has cancelled or lost a franchise, the administrator shall determine whether the dealer should be licensed as a used motor vehicle dealer.

(b) If the administrator determines that the dealer should be licensed as a used motor vehicle dealer, [~~he~~]the administrator shall issue to the dealer a used motor vehicle dealer's license.

(c) A dealer relicensed as a used motor vehicle dealer may continue to sell new motor vehicles for up to six months from the date of the relicensing, to enable the dealer to dispose of [~~his~~]the dealer's existing stock of new motor vehicles.

Section 168. Section 41-3-208 is amended to read:

41-3-208. Salesperson's license -- Relinquishment upon loss or change of employment -- Notice to salesperson -- New license required.

(1) If a salesperson is discharged from or leaves [~~his~~]the salesperson's employer, the dealer who last employed the salesperson shall return the salesperson's license to the administrator.

(2) The salesperson shall be notified at [~~his~~]the salesperson's last known place of residence that [~~his~~]the salesperson's license has been returned to the administrator.

(3) A person may not act as a motor vehicle salesperson until a new license is procured.

Section 169. Section 41-3-505 is amended to read:

41-3-505. Special plates -- Application -- Security requirements.

(1) A dealer, dismantler, manufacturer, remanufacturer, or transporter may apply to the division upon the appropriate form for one or more special plates.

(2) The applicant shall also submit proof of [~~his~~]the applicant's status as a licensed dealer, dismantler, manufacturer, remanufacturer, or transporter as required by the []division.

(3) The applicant shall also establish to the satisfaction of the division that [~~he~~]the applicant complies with the security requirements of Sections 31A-22-302 and 31A-22-303.

Section 170. Section 41-3-506 is amended to read:

41-3-506. Special plates -- Expiration.

(1) A special plate issued expires:

(a) on June 30 each year; or

(b) upon the cancellation, suspension, or revocation of the licensee's license.

(2) Under Subsection (1)(b), the plates shall be returned to the licensee upon reinstatement of [~~his~~]the licensee's license.

(3) A new plate or plates, or renewal decal, for the ensuing year may be obtained by the licensee submitting a new application to the division and paying the dealer, dismantler, manufacturer, or transporter plate fee provided by law.

Section 171. Section 41-3-508 is amended to read:

41-3-508. Special plates -- Suspension or revocation -- Grounds -- Procedure -- Appeal -- Confiscation.

(1) The division may suspend or revoke the special plate or plates issued to a dealer, dismantler, manufacturer, remanufacturer, or transporter if it determines that the person:

(a) is not lawfully entitled to them;

(b) has made or knowingly permitted illegal use of the plates;

(c) has committed fraud in the registration of motor vehicles; or

(d) failed to give notices of sales or transfers required under this chapter.

(2) (a) Suspension or revocation of special plates takes effect immediately upon written notification to the licensee by the division.

(b) Upon notification, the licensee shall immediately return all special plates to the division.

(c) Failure to return the plates or permitting their continued use is a violation of this chapter.

(3) (a) If a licensee desires to appeal the division's suspension or revocation, [~~he~~]the licensee shall file a written notice of appeal with the administrator within 10 days of the suspension or revocation.

(b) Upon receipt of the notice, the administrator shall schedule a hearing for not more than 20 days from the date the written appeal is received.

(c) The licensee may not continue to use or possess any special plates that have been suspended or revoked.

(d) The hearing and subsequent appeal process are in accordance with the procedures in this chapter.

(4) (a) A peace officer may confiscate any special plate that [~~he~~]the peace officer has reason to believe is being used illegally.

(b) A special plate confiscated under this chapter or Title 41, Chapter 1a, Motor Vehicle Act, may not be returned to the licensee if the administrator determines that the plate was being used illegally.

Section 172. Section 41-3-803 is amended to read:

41-3-803. Consignment sales.

(1) A consignor may take possession of [~~his~~]the consignor's consigned vehicle at any time the consigned vehicle is in the possession of a consignee, provided that the consignor:

(a) has notified the consignee in writing that [~~he~~]the consignor will take possession of the consigned vehicle; and

(b) has paid all outstanding charges owing to the consignee that have been agreed to by the consignor in accordance with Subsection (2).

(2) The agreed upon charges under Subsection (1)(b) shall be:

(a) stated on a form designed by the department; and

(b) included with the written consignment agreement.

(3) A consignee who sells a consigned vehicle shall report to the consignor in writing the exact selling price of the consigned vehicle under either of the following circumstances:

(a) the consignor and consignee agree in writing that the consignor shall receive a percentage of the selling price upon the sale of the vehicle; or

(b) the consignor and consignee renegotiate in writing the selling price of the vehicle.

(4) When a consignee sells a consigned vehicle:

(a) the consignee, within seven calendar days of the date of sale, must give written notice to the consignor that the consigned vehicle has been sold; and

(b) the consignee, within 21 calendar days of the date of sale, or within 15 calendar days of receiving payment in full for the consigned vehicle, whichever date is earlier, shall remit the payment received to the consignor, unless the agreement to purchase the consigned vehicle has been rescinded before expiration of the 21 days.

(5) If the agreement to purchase the consigned vehicle has for any reason been rescinded before the expiration of 21 calendar days of the date of sale, the consignee shall within five calendar days thereafter give written notice to the consignor that the agreement to purchase has been rescinded.

(6) Vehicles on consignment shall be driven with the consignee's dealer plates. All other license plates or registration indicia must be removed from the vehicle.

(7) Prior to driving a consigned vehicle on the consignee's dealer plates, the consignee and the consignor shall execute a written consignment agreement that states:

(a) the party responsible for damage or misuse to a consigned vehicle; and

(b) the permitted uses a consignee may make of a consigned vehicle.

(8) The consignee shall keep the written consignment agreement on file at [~~his~~]the consignee's principal place of business.

Section 173. Section 41-12a-104 is amended to read:

41-12a-104. Rules of construction.

(1) If a person maintains owner's security under this chapter, it does not limit [~~his~~]the person's liability to the face amount of the owner's security.

(2) Nothing in this chapter prevents the plaintiff in any action at law from relying for relief upon the other processes provided by law.

(3) This chapter is cumulative with the requirements of the laws of this state requiring policies of motor vehicle insurance against

liability. This subsection does not preclude compliance through a single policy which, by its terms or by an appropriate endorsement, satisfies the requirements of both applicable laws.

Section 174. Section 41-12a-411 is amended to read:

41-12a-411. Duration of proof of owner's or operator's security.

(1) Except as otherwise provided under this section, any person required to give proof of owner's or operator's security shall maintain that proof with the department for a period of three years from the date the filing of proof was last requested. Subject to Subsection (2), the department shall:

(a) upon request, consent to the immediate cancellation of any bond or certificate of insurance;

(b) direct the state treasurer to return to the person entitled to it any money or securities deposited pursuant to this chapter as proof of owner's or operator's security; or

(c) waive the requirement of filing proof, if the person on whose behalf the proof was filed dies or becomes permanently incapacitated to operate a motor vehicle or if the person who has given proof surrenders [~~his~~]the person's registration to the department, except that if [~~he~~]that person applies for a registration within three years from the date proof was originally required, the application shall be refused unless the applicant reestablishes proof of owner's or operator's security and maintains the proof for the remainder of the three-year period.

(2) (a) The department may not consent to the cancellation of any bond or the return of any money or securities if any action for damages upon a liability covered by that proof is then pending, if:

(i) any judgment of liability is unsatisfied; or

(ii) the person who filed the bond or deposited the money or securities has, within one year immediately preceding the request, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others.

(b) An affidavit of the applicant is sufficient evidence in the absence of contrary evidence in the records of the department if the affidavit declares:

(i) the nonexistence of liability or accidents;

(ii) that the person has been released from all liability; or

(iii) that the person has been finally adjudicated not to be liable for the injury or damage.

Section 175. Section 41-12a-503 is amended to read:

41-12a-503. Conditions to license, registration, and privilege renewal.

The license, registration, and nonresident's operating privilege suspended under Subsection 41-12a-501(3) remain suspended and may not be renewed nor may that license or registration be issued until one of the following is satisfied:

(1) The person deposits or has deposited on [~~his~~]that person's behalf the post-accident security required under Subsection 41-12a-501(1).

(2) One year has elapsed following the effective date of the suspension and evidence satisfactory to the department has been filed that during that period no action for damages arising out of the accident has been commenced.

(3) Evidence satisfactory to the department has been filed with it of a release from liability, of a final adjudication of nonliability, or of a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident. In the event of default in the payment of any installment under such an agreement, upon receiving notice of the default, the department shall suspend the license and registration or nonresident's operating privilege of the person defaulting. This license, registration, or nonresident's operating privilege may not be restored until either:

(a) The person deposits and thereafter maintains security as required under Subsection 41-12a-501(1).

(b) One year has elapsed following the date when the security was required and during that period no action upon the agreement has been instituted in a Utah court.

Section 176. Section 41-12a-506 is amended to read:

41-12a-506. Application to persons without license or registration.

If the operator or the owner of a motor vehicle involved in an accident in Utah has no license or registration in Utah, or is a nonresident, [~~he~~]the operator or owner may not obtain a license or registration in Utah until [~~he~~]the operator or owner has complied with the requirements of this chapter to the extent that would be necessary if, at the time of the accident, [~~he~~]the operator or owner held a Utah license and registration.

Section 177. Section 41-12a-507 is amended to read:

41-12a-507. Cooperation with other states.

(1) When a nonresident's operating privilege is suspended under this chapter, the department shall send a certified copy of the record of the action to the official in charge of the issuance of licenses and registration certificates in the state in which the nonresident resides, if the law of the other state provides for action similar to that provided for in Subsection (2).

(2) Upon receipt of certification from the official of another state that the operating privilege of a Utah resident has been suspended in the other state for failure to deposit post-accident security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the deposit in Utah, the department shall suspend the license of the resident if [~~he~~]the resident was the operator, and all of [~~his~~]the resident's registrations if [~~he~~]the resident was the owner of a motor vehicle involved in the accident. These suspensions continue until the Utah resident furnishes evidence of [~~his~~]the resident's compliance with the law of the other state relating to the deposit of post-accident security.

Section 178. Section 41-12a-509 is amended to read:

41-12a-509. Custody and terms of post-accident security deposits.

Post-accident security deposited in compliance with Subsection 41-12a-501(1) shall be placed by the department in the custody of the state treasurer and may be applied only to the payment of judgments rendered against the persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than one year after the date of the accident, or within one year after the date of deposit of any security under Subsection 41-12a-503(3)(a), or to the payment in settlement, agreed to by the depositor, of claims arising out of the accident. The deposit or any balance of it shall be returned to the depositor or [~~his~~]the depositor's personal representative when evidence satisfactory to the department has been provided that the conditions of either Subsection 41-12a-503(2) or (3) have been satisfied.

Section 179. Section 41-12a-511 is amended to read:

41-12a-511. Failure to satisfy judgment.

(1) Whenever any person fails within 60 days to satisfy any judgment, it is the duty of the clerk of the court or of the judge of a court which has no clerk in which any such judgment is rendered in Utah, upon the written request of the judgment creditor or [~~his~~]the creditor's attorney, to forward to the department immediately after the expiration of the 60 days, a certified copy of the judgment.

(2) The department, upon the receipt of a certified copy of a judgment, shall suspend the license and registration and any nonresident's operating privilege of any person against whom the judgment was rendered, except as provided in Subsection (5) and Section 41-12a-513.

(3) Except as provided under Subsection (5) and Section 41-12a-513, a license, registration, and nonresident's operating privilege suspended under Subsection (2) remains suspended and may not be renewed nor may that license or registration be thereafter issued in the name of the same person, including a person not previously licensed, unless every such judgment is stayed or satisfied in full within the meaning of Section 41-12a-512, and until the person files proof of owner's or operator's security.

(4) If the judgment debtor named in any certified copy of a judgment reported to the department is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the judgment debtor is a resident.

(5) If the judgment creditor consents in writing, in a form the department prescribes, that the judgment debtor be allowed license and registration or nonresident's operating privilege, they may be allowed by the department for six months from the date of the consent and thereafter until that consent is revoked in writing, notwithstanding the default in the payment of the judgment or of any installments thereof prescribed in Section 41-12a-513, if the judgment debtor furnishes proof of owner's security.

Section 180. Section 41-12a-604 is amended to read:

41-12a-604. Suspension of license.

(1) A person convicted of a class A or a class B misdemeanor under this chapter, in addition to any other penalties which are imposed by law, shall have [~~his~~]the person's operator's license suspended by the department.

(2) Whenever any person is convicted of an offense for which this chapter mandates the suspension of [~~his~~]that person's license or the registration of [~~his~~]that person's motor vehicle, and that person does not produce proof of owner's or operator's security at the time of [~~his~~]that person's appearance, the court in which the conviction takes place shall require the surrender to it of all pertinent evidences of registration, including all registration cards, license plates, nonresident temporary permits, and other similar materials then held by the person so convicted. This court shall then forward the registration materials to the Motor Vehicle Division of the State Tax Commission and send the Driver License Division a record of the conviction. If the person so convicted secures a judgment of acquittal or reversal of this conviction in any appellate court, the department shall reinstate [~~his~~]that person's driver license or privilege and the Motor Vehicle Division shall reinstate the registration of [~~his~~]that person's motor vehicle immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

(3) If the owner has surrendered the owner's registration materials to the Motor Vehicle Division, the owner may, unless otherwise prohibited by law, apply for a new registration, by providing proof of owner's security.

Section 181. Section 42-3-1 is amended to read:

42-3-1. Commissioner of agriculture and food to register names.

Any owner of a farm in this state may have the name of [~~his~~]the owner's farm, together with a brief description of [~~his~~]the owner's lands to which such name applies, recorded in a register kept for the purpose in the office of the commissioner of agriculture and food, and the commissioner of agriculture and food shall furnish to such landowner a proper certificate setting forth such name and a brief description of such lands. When any name shall have been so recorded it shall not be recorded as the name of any other farm.

Section 182. Section 45-2-2 is amended to read:

45-2-2. Libel and slander defined.

As used in this chapter:

(1) "Libel" means a malicious defamation, expressed either by printing or by signs or pictures or the like, tending to blacken the memory of [~~one~~]an individual who is dead, or to impeach the honesty, integrity, virtue or reputation, or publish the natural defects of [~~one~~]an individual who is alive, and thereby to expose [~~him~~]the individual to public hatred, contempt or ridicule.

(2) "Slander" means any libel communicated by spoken words.

Section 183. Section 45-2-7 is amended to read:

45-2-7. Limitations and restrictions -- Immune from liability -- Due care.

Except as provided in Section 45-2-1.5, nothing in this act contained shall be construed to relieve any person broadcasting over a radio or television station from liability under the law of libel, slander, or defamation. Nor shall anything else in this act be construed to relieve any person, firm, or corporation owning or operating a radio or television broadcasting station or network from liability under the law of libel, slander, or defamation on account of any broadcast prepared or made by any such person, firm, or corporation or by any officer or employee thereof in the course of [~~his~~]the officer's or employee's employment. In no event, however, shall any such person, firm, or corporation be liable for any damages for any defamatory statement or act published or uttered in or as a part of a visual or sound broadcast unless it shall be alleged and proved by the complaining party that such person, firm, or corporation has failed to exercise due care to prevent the publication or utterance of such statement or act in such broadcast. Bona fide compliance with any federal law or the regulation of any federal regulatory agency shall be deemed to constitute such due care as hereinabove mentioned.

Section 184. Section 47-1-5 is amended to read:

47-1-5. Order of abatement -- Execution -- Sale of personal property -- Padlocking.

If the existence of the nuisance is established in an action as provided in this chapter, an order of abatement shall be entered as a part of the judgment in the case. The order shall direct the removal from the building or place of all fixtures, furniture, musical instruments, and movable property used in conducting the nuisance, and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and shall further direct the effective closing of the building or place against its use for any purpose, and the keeping of it so closed for a period of one year, unless sooner released. If any person shall break and enter or use a building, structure, or place so directed to be closed, [~~he~~]that person shall be punished as for contempt as provided in Section 47-1-4. For removing and selling the movable property the officer shall be entitled to charge and receive the same fees as for levying upon and selling like property on execution; and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

Section 185. Section 47-2-6 is amended to read:

47-2-6. Owners may reclaim -- Damages -- Taxes.

Any person owning any horses which are running at large in any county in which the county executive has given notice of intention to make a drive, as provided in this chapter, may within 30 days after the posting or the first publication of the notice mentioned in Section 47-2-4 file with the county executive a description of such horses claimed by [~~him~~]the person, giving the marks and brands, if any, which appear thereon, and, if the county executive shall take into its possession any horses so claimed, it shall by registered letter addressed to the owner or claimant of such horses notify [~~him~~]the owner or claimant that the same may be claimed within 10 days from the mailing of such notice; and such owner or claimant shall be permitted upon application to the county legislative body to take possession of such horses upon payment of the expense of caring for the same from the date of capture. If any horses are killed by order of the county executive under the provisions of this chapter, a description of which has been reported by the owner thereof to the county legislative body, and ownership of such animals can be satisfactorily established, such owner shall receive as damage therefor a sum not exceeding $10 for each animal; provided, that [~~he~~]the owner has paid all taxes assessed against said animal; provided further, that payment of such claims may be made only from proceeds of sales of captured horses.

Section 186. Section 51-7-9 is amended to read:

51-7-9. Quarterly reports by state treasurer -- Audit of accounts of state treasurer -- Report of audit -- Employment of investment staff and services.

The state treasurer shall report not less often than quarterly to each participating state officer, board, commission, institution, department, division, agency, or other similar instrumentality, or political subdivision, the activities, investments, and performance of [~~his~~]the state treasurer's office during the preceding period. The accounts of the state treasurer shall be audited annually under the direction of the state auditor. The report of this audit shall be open for inspection by the public in the offices of the state auditor and the state treasurer and a copy of it shall be submitted to the legislature through the Office of the Legislative Fiscal Analyst. The state treasurer is authorized, within the limits of available appropriations, to employ such investment staff and secure such financial, investment, and other technical services [~~he~~]the state treasurer considers necessary to properly carry out [~~his~~]the state treasurer's responsibilities under this chapter.

Section 187. Section 51-7-18.1 is amended to read:

51-7-18.1. Qualified depositories list -- Reports -- Treatment of confidential information -- Powers -- Staff -- Limits on powers.

(1) (a) The council shall provide a list of qualified depositories to each public treasurer at least semiannually.

(b) The list shall include:

(i) the name of each qualified depository; and

(ii) the maximum amount of public funds that each qualified depository is eligible to hold.

(2) In determining the maximum amount of public deposits for a qualified depository, the council may not designate a maximum amount for any qualified depository that is more than twice that depository's capital as defined by council rule.

(3) (a) The council may require each qualified depository to submit monthly reports to the commissioner of Financial Institutions disclosing the amount of public funds held by the depository at the close of business on a day designated by the council.

(b) The council may also require the qualified depository to include in the report:

(i) information about the character and condition of the qualified depository's assets;

(ii) information about the qualified depository's deposits and other liabilities;

(iii) information about the qualified depository's capital; and

(iv) any other information that the council considers necessary in order for it to fulfill its responsibilities under this chapter.

(c) The council shall require that any reports submitted be verified by the oath or affirmation of the president or vice-president of the qualified depository.

(d) Any officer of a qualified depository who knowingly makes or causes to be made any false statement or report to the council or any false entry in the books or accounts of the qualified depository is guilty of a class A misdemeanor.

(4) (a) Notwithstanding Section 7-1-802, the commissioner may disclose necessary information about the condition of any qualified depository to the council to assist it in evaluating the eligibility of any qualified depository to receive and hold public funds.

(b) If the secretary of the council or any member of the council discloses confidential information obtained from the commissioner under this subsection, [~~he~~]the secretary or council member is guilty of a class A misdemeanor.

(c) If any member of the council discloses confidential information obtained from the commissioner under this subsection, the governor shall remove [~~him~~]the council member from [~~his~~]the council member's position.

(5) Upon the vote of at least three of the council members, the commissioner shall require any qualified depository to:

(a) surrender deposits of public funds that exceed the amount that the qualified depository may legally hold under authority of this chapter and council rule; or

(b) pledge collateral security for those excess deposits.

(6) (a) If the commissioner orders the qualified depository to pledge collateral security for the excess deposits, the collateral security pledged shall have a market value determined upon the last day of the month of:

(i) 110% of the amount of the excess deposits, if the collateral consists of obligations of or fully guaranteed by the United States or its agencies as to principal and interest, a segregated earmarked deposit account, or notes, drafts, bills of exchange, or bankers' acceptances that are eligible for rediscount or purchase by a federal reserve bank;

(ii) 120% of the amount of the excess deposits, if the collateral consists of obligations of the state of Utah or any of its political subdivisions; and

(iii) 130% of the amount of the excess deposits, if the collateral consists of obligations of other readily marketable bonds, notes, or debentures.

(b) The qualified depository shall deposit any collateral pledged to secure excess deposits with the state treasurer.

(c) The state treasurer may not release the collateral until [~~he~~]the state treasurer has received written confirmation from the commissioner that the qualified depository:

(i) has relinquished the excess deposits; or

(ii) is in compliance with this chapter and council rules.

(7) Any qualified depository that fails to comply with a written order issued by the commissioner under authority of this section within 15 days of receipt of the order is ineligible to receive or renew any deposits or investments of public funds until it receives written authorization to do so from the council.

(8) In addition to the requirements set forth by rule, in order to be certified as a qualified depository as defined in Section 51-7-3, a depository institution shall pay to the commissioner an annual certification fee of $250 due April 1 of each year.

Section 188. Section 53-7-211 is amended to read:

53-7-211. Fire investigations by fire marshal.

(1) If the division is of the opinion that further investigation of a fire is necessary, the state fire marshal, [~~his~~]or the state marshal's deputy [~~,~~]or representative, may:

(a) join the investigation in cooperation with the fire officers who have been conducting it;

(b) upon the request of the chief fire official of the political subdivision, assume control of the investigation and direct it; or

(c) conduct an independent investigation if necessary.

(2) A fire officer who has conducted or is conducting the investigation shall cooperate in every possible way with the state fire marshal, [~~his~~]the state fire marshal's deputy, and the state fire marshal's representative to further the purpose of the investigation.

(3) The county attorney or district attorney of the county in which the fire occurred shall, upon the request of the state fire marshal, [~~his~~]or the state fire marshal's deputy [~~,~~]or representative, assist in the investigation.

Section 189. Section 53-7-212 is amended to read:

53-7-212. Powers of fire marshal in respect to investigation.

In investigating any fire the state fire marshal and [~~his~~]the state fire marshal's deputy may:

(1) subpoena witnesses;

(2) compel their attendance and testimony; and

(3) require the production of books, papers, documents, records, and other tangible items that constitute or may contain evidence relevant to the investigation in the judgment of the state fire marshal or [~~his~~]the state fire marshal's deputy.

Section 190. Section 53-7-213 is amended to read:

53-7-213. Criminal charges resulting from investigation -- Procedure.

If the state fire marshal, [~~his~~]or the state fire marshal's deputy [~~,~~]or representative, or any other officer participating in the investigation of any fire []believes that there is evidence sufficient to charge a person with arson, burning with intent to defraud or prejudice the insurer, or a similar crime, [~~he~~]the officer participating in the investigation shall furnish the county attorney or district attorney of the county in which the crime occurred with [~~his~~]evidence and request the county attorney or district attorney to commence the proper procedures to charge the person with the appropriate crime.

Section 191. Section 53-7-214 is amended to read:

53-7-214. Insurance company reports of fires.

(1) The state fire marshal, [~~his~~]the state fire marshal's deputy, and investigator may, in writing, require any insurance company transacting business in this state to release to the state fire marshal all relevant information or evidence found important by the state fire marshal, [~~his~~]the state fire marshal's deputy, and investigator that the company may have in its possession, relating to any fire loss in this state in which the company has an insuring interest. Relevant information includes:

(a) insurance policy information related to a fire loss under investigation and any application for the policy;

(b) available policy premium payment records;

(c) history of previous claims made by the insured; and

(d) material relating to the investigation of the loss, including statements of any person, proof of loss, and any other evidence related to the investigation.

(2) (a) Every insurance company transacting business in the state must file with the division a report of any fire of suspicious origin.

(b) The report shall show:

(i) the name of the insured;

(ii) the location of the property burned;

(iii) the probable cause of the fire;

(iv) the occupancy of the property burned;

(v) the construction of the building or structure burned;

(vi) the market value of the property involved;

(vii) the actual loss;

(viii) the insurance carried;

(ix) the insurance paid;

(x) the apportionment of loss where more than one company was on the risk; and

(xi) if a motor vehicle or building is involved in any fire loss, a description of the motor vehicle or building.

(c) In case of a fire of suspicious or incendiary origin, a preliminary report shall be made immediately through some officer or representative of the insurance company, showing:

(i) the name of the insured;

(ii) the date of the fire;

(iii) the location;

(iv) occupancy; and

(v) other facts and circumstances tending to establish the cause or origin of the fire.

(3) All persons making an adjustment occasioned by a loss due to a fire of suspicious or incendiary origin in this state shall, upon written request, send to the division a copy of the final adjustment immediately after the adjustment is made, signed by the person making the adjustment.

(4) Any insurance company or person acting in its behalf or any person making adjustments occasioned by a loss due to fire who

releases information, whether oral or written, pursuant to Subsection (1), (2), or (3) is immune from any liability for the release of this information arising out of a civil action or penalty resulting from a criminal prosecution.

Section 192. Section 53-9-112 is amended to read:

53-9-112. Issuance of license and identification card to applicant -- License period -- Expiration of application -- Transfer of license prohibited.

(1) The commissioner shall issue a license to an applicant who complies with the provisions of this chapter. Each license issued under this chapter shall:

(a) contain the name and address of the licensee and the number of the license, its agency, registrant, or apprentice license designation; and

(b) be issued for a period of two years.

(2) On the issuance of a license, an identification card shall:

(a) be issued without charge to the licensee; and

(b) state on its face whether the bearer holds an agency, registrant, or apprentice license.

(3) (a) A registrant identification card shall state that the licensee is under the direction of a licensed agency and may not do investigative work independently for the public.

(b) An apprentice identification card shall state that the licensee is under the direct supervision of a licensed agency and may not do investigative work independently for the public.

(4) Upon request by any person, the licensee shall immediately identify the name, business address, and phone number of the licensed agency for which the licensee is an employee or independent contractor.

(5) (a) On notification by the commissioner to an applicant that the license is not complete, or is not ready for issuance pending additional information, the applicant shall complete the application process and provide the additional information within 90 days.

(b) Failure to complete the process shall result in the application being cancelled and all fees forfeited.

(c) Subsequent application by the same applicant requires the payment of all application and license fees prescribed in Section 53-9-111.

(6) A licensee shall notify the commissioner of any change in the name or address of [~~his~~]the licensee's business within 60 days of the change and failure to so notify will result in the automatic suspension of the license. To relieve the suspension, the licensee must apply for reinstatement and pay the fee prescribed in Section 53-9-111.

(7) A license issued under this chapter is not transferable or assignable.

Section 193. Section 53-9-116 is amended to read:

53-9-116. Divulging investigative information -- False reports prohibited.

(1) Except as otherwise provided by this chapter, a licensee may not divulge or release to anyone other than [~~his~~]the licensee's client or employer the contents of an investigative file acquired in the course of licensed investigative activity. However, the board shall have access to investigative files if the client for whom the information was acquired, or [~~his~~]the client's lawful representative, alleges a violation of this chapter by the licensee or if the prior written consent of the client to divulge or release the information has been obtained.

(2) A licensee may not willfully make a false statement or report to a client, employer, the board, or any authorized representative of the department, concerning information acquired in the course of activities regulated by this chapter.

(3) The licensee shall submit investigative reports to a client at times and in the manner agreed upon between the licensee and the client.

(4) Upon demand by the client, the licensee shall divulge to the client the results of an investigation if payment in full has been tendered for the charges levied.

(5) The licensee has full right to withdraw from any case and refund any portion of a retainer for which investigative work has not been completed.

Section 194. Section 53-10-206 is amended to read:

53-10-206. Collection of information.

The commissioner and persons designated by [~~him~~]the commissioner may require all peace officers, the warden of the state prison, the keeper of any jail or correctional institution, or superintendent of the state hospital to obtain information that will aid in establishing the records required to be kept.

Section 195. Section 53-10-207 is amended to read:

53-10-207. Peace officers, prosecutors, and magistrates to supply information to state and F.B.I. -- Notification of arrest based on warrant.

(1) Every peace officer shall:

(a) cause fingerprints of persons [~~he~~]the peace officer has arrested to be taken on forms provided by the division and the Federal Bureau of Investigation;

(b) supply information requested on the forms; and

(c) forward without delay both copies to the division, which shall forward the F.B.I. copy to the Identification Division of the Federal Bureau of Investigation.

(2) If, after fingerprints have been taken in accordance with Subsection (1), the prosecutor declines to prosecute, or investigative action as described in Section 77-2-3 is terminated, the prosecutor or law enforcement agency shall notify the division of this action within 14 working days.

(3) At the preliminary hearing or arraignment of a felony case, the prosecutor shall ensure that each felony defendant has been fingerprinted and an arrest and fingerprint form is transmitted to the division. In felony cases where fingerprints have not been taken, the judge shall order the chief law enforcement officer of the jurisdiction or the sheriff of the county to:

(a) cause fingerprints of each felony defendant to be taken on forms provided by the division;

(b) supply information requested on the forms; and

(c) forward without delay both copies to the division.

(4) If an arrest is based upon information about the existence of a criminal warrant of arrest or commitment under Rule 6, Utah Rules of Criminal Procedure, every peace officer shall without delay notify the division of the service of each warrant of arrest or commitment, in a manner specified by the division.

Section 196. Section 53-11-107 is amended to read:

53-11-107. Licenses -- Classifications -- Prohibited acts.

(1) Licenses under this chapter are issued in the classifications of:

(a) bail enforcement agent;

(b) bail recovery agent; or

(c) bail recovery apprentice.

(2) A person may not:

(a) act or assume to act as, or [~~represent himself~~]claim to be, a licensee unless [~~he~~]the person is licensed under this chapter; or

(b) falsely represent that [~~he~~]the person is employed by a licensee.

(3) The commissioner shall issue licenses to applicants who qualify for them under this chapter.

(4) A license issued under this chapter is not transferable or assignable.

Section 197. Section 53-11-108 is amended to read:

53-11-108. Licensure -- Basic qualifications.

An applicant for licensure under this chapter shall meet the following qualifications:

(1) An applicant shall be:

(a) at least 21 years [~~of age~~]old;

(b) a citizen or legal resident of the United States; and

(c) of good moral character.

(2) An applicant may not:

(a) have been convicted of:

(i) a felony;

(ii) any act involving illegally using, carrying, or possessing a dangerous weapon;

(iii) any act of personal violence or force on any person or convicted of threatening to commit any act of personal violence or force against another person;

(iv) any act constituting dishonesty or fraud;

(v) impersonating a peace officer; or

(vi) any act involving moral turpitude;

(b) be on probation, parole, community supervision, or named in an outstanding arrest warrant; or

(c) be employed as a peace officer.

(3) If previously or currently licensed in another state or jurisdiction, the applicant shall be in good standing within that state or jurisdiction.

(4) (a) The applicant shall also have completed a training program of not less than 16 hours that is approved by the board and includes:

(i) instruction on the duties and responsibilities of a licensee under this chapter, including:

(A) search, seizure, and arrest procedure;

(B) pursuit, arrest, detainment, and transportation of a bail bond suspect; and

(C) specific duties and responsibilities regarding entering an occupied structure to carry out functions under this chapter;

(ii) the laws and rules relating to the bail bond business;

(iii) the rights of the accused; and

(iv) ethics.

(b) The program may be completed after the licensure application is submitted, but shall be completed before a license may be issued under this chapter.

(5) If the applicant desires to carry a firearm as a licensee, the applicant shall:

(a) successfully complete a course regarding the specified types of weapons [~~he~~]the applicant plans to carry. The course shall:

(i) be not less than 16 hours;

(ii) be conducted by any national, state, or local firearms training organization approved by the Criminal Investigations and Technical Services Division created in Section 53-10-103; and

(iii) provide training regarding general familiarity with the types of firearms to be carried, including:

(A) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(B) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of deadly force, transportation, and concealment; and

(b) shall hold a valid license to carry a concealed weapon, issued under Section 53-5-704.

Section 198. Section 53-11-111 is amended to read:

53-11-111. Licensure -- Bail recovery agent -- Requirements and limitations.

(1) (a) In addition to the requirements in Sections 53-11-108 and 53-11-113, an applicant for licensure as a bail recovery agent shall meet all of the requirements under Section 53-11-109, but instead of the experience requirement under Subsection 53-11-109(1)(a), a bail recovery agent applicant shall have a minimum of 1,000 hours of experience consisting of either actual bail recovery work, or work as a law enforcement officer for a federal, state, or local governmental agency.

(b) The applicant shall substantiate the experience claimed under Subsection (1) as qualifying experience and shall provide:

(i) the exact details as to the character and nature of the experience on a form prescribed by the department; and

(ii) certification by the applicant's employers, which is subject to independent verification by the board.

(c) If an applicant is unable to supply written certification of experience from an employer in whole or in part, an applicant may offer

written certification from persons other than an employer covering the same subject matter for consideration by the board.

(d) The burden of proving completion of the required experience is on the applicant.

(2) An applicant for license renewal shall have completed not less than eight hours of continuing classroom instruction.

(3) A bail recovery agent may work as a licensee under this chapter only as an employee of or as an independent contractor with a bail bond agency. A bail recovery agent may not:

(a) advertise [~~his~~]the agent's services;

(b) provide services as a licensee under this chapter directly for members of the public; or

(c) employ or hire as independent contractors bail enforcement agents, bail recovery agents, or bail recovery apprentices.

Section 199. Section 53-11-116 is amended to read:

53-11-116. Issuance of license and card to applicant -- License period -- Expiration of application -- Transfer of license prohibited.

(1) (a) The board shall issue a license to an applicant who complies with the provisions of this chapter.

(b) Each license shall:

(i) contain the name and address of the licensee, the classification of license, and the number of the license; and

(ii) be issued for a period of two years.

(2) (a) When the board issues the license, it shall also issue an identification card the design of which shall be approved by the commissioner in accordance with Section 53-11-116.5.

(b) The identification card shall be issued without charge to the licensee if an individual, or if the licensee is an agency, to each of its licensed employees and contract employees, and is evidence the licensee and [~~his~~]the licensee's employees and contract employees are licensed under this chapter.

(3) (a) If an identification card issued to a person states on it any bail bond agencies for which the cardholder works, that person shall return the card to the employer upon termination of [~~his~~]the person's work relationship with the bail bond agency licensee.

(b) Within five days the licensee shall mail or deliver the card to the commissioner for cancellation.

(4) (a) When the commissioner notifies an applicant that licensure as a bail bond recovery agency is ready for issuance, the applicant shall complete the application process within 90 days.

(b) Failure to complete the process results in cancellation of the application and forfeiture of all fees paid to that point.

(c) Subsequent application by the same applicant requires the payment of all application and license fees prescribed in Section 53-11-115.

(5) A bail bond agency licensee shall notify the commissioner of any change in the name or address of [~~his~~]the bail bond agency licensee's business and of any change of employees or contract employees within 30 days after the change.

(6) (a) All new employees and contract employees of an agency who are licensed under this chapter shall submit applications on forms prescribed by the board.

(b) Upon board approval, identification cards shall be issued without charge.

Section 200. Section 53-11-122 is amended to read:

53-11-122. Requirements during search and seizure -- Notification of law enforcement agency.

A bail enforcement agent, bail recovery agent, or bail recovery apprentice shall observe the following requirements before taking action authorized under this chapter:

(1) identify himself or herself as a "bail enforcement agent," "bail recovery agent," or "bail recovery apprentice"; and

(2) comply with the notification requirements of Section 53-11-123.

Section 201. Section 53-11-123 is amended to read:

53-11-123. Notification of local law enforcement.

(1) (a) A bail enforcement agent or bail recovery agent who is searching for or planning to apprehend a person shall notify the local law enforcement agency if the search or apprehension will be conducted in an occupied structure within that law enforcement agency's jurisdiction.

(b) When possible, notification shall be provided before taking action, but always within 24 hours of taking action.

(c) When a bail enforcement agent or bail recovery agent is preparing to enter an occupied structure to carry out an arrest, [~~he~~]the agent shall verbally advise the local law enforcement agency of [~~his~~]the agent's location and intended action prior to acting.

(2) A bail enforcement agent, bail recovery agent, and bail recovery apprentice shall each carry [~~with him~~] a written document providing proof and cause for the actions [~~he~~]the agent or apprentice is taking as a licensee, and shall make the document available to local law enforcement agencies upon request.

Section 202. Section 53-13-113 is amended to read:

53-13-113. Authority of peace officers to administer oaths.

A peace officer, as defined in Section 53-1-102, who is acting within the scope of [~~his or her~~]the peace officer's official duties may administer oaths.

Section 203. Section 53B-13-102 is amended to read:

53B-13-102. Definitions.

As used in this chapter:

(1) "Bonds" means the bonds authorized to be issued by the board under this chapter, and may consist of bonds, notes, or debt obligations evidencing an obligation to repay borrowed money and payable solely from revenues and other money of the board pledged for repayment.

(2) "Eligible borrower" means a person, or the parent of a person, who is eligible to borrow under regulations applicable to the student loan program.

(3) "Eligible institution" means an institution which is approved by the board and the United States Secretary of Education for purposes of the guaranteed loan program.

(4) "Obligations" means student loan notes and other debt obligations reflecting loans to students which the board may take, acquire, buy, sell, or endorse under this chapter, and may include a direct or indirect interest in the whole or any part of the notes or obligations.

(5) "Resolution," when used in relation to the issuance of bonds, means the resolution or trust agreement securing the bonds.

(6) "Student" means a person who, under rules promulgated by the board, is enrolled or accepted for enrollment at an eligible institution and who is making suitable progress in [~~his~~]the person's education toward obtaining a degree or other appropriate certification in accordance with standards acceptable to the board.

Section 204. Section 53B-13-110 is amended to read:

53B-13-110. Default by board -- Appointment of a trustee -- Powers of the trustee and bondholders.

(1) If the board defaults in the payment of principal of or interest on an issue of bonds after the issue becomes due, whether at maturity or upon call for redemption, and the default continues for 30 days, or if the board fails or refuses to comply with this chapter, or defaults in an agreement made with the holders of an issue of bonds, the holders of 25% of the aggregate principal amount of the bonds of the issue then outstanding, may appoint a trustee to represent all holders of that issue of bonds for the purposes provided in this section.

(2) The trustee may, and upon written request of the holders of 25% of the aggregate principal amount of the bonds of the issue then outstanding shall, in [~~his~~]the trustee's own name by action or proceeding enforce all rights of the bondholders including the following:

(a) bringing an action to require the board to collect fees, charges, interest, and amortization payments of loans made by it adequate to carry out the agreement as to, or pledge of, the fees, charges, interest, and amortization payment on the loans and other properties;

(b) bringing an action to require the board to carry out other agreements with the holders of the bonds and to perform its duties under this chapter;

(c) bringing an action upon the bonds; or

(d) bringing an action to require the board to account as if it were the trustee of an express trust for the holders of the bonds due and payable, and if all defaults are made good, then, with the consent of the holders of 25% of the principal amount of the issue of bonds then outstanding, to annul the declaration and its consequences.

(3) The holders of bonds and the trustee authorized by this section shall have all of the rights to which they are entitled by virtue of provisions included in the bonds or otherwise available to them under law.

Section 205. Section 53B-13-114 is amended to read:

53B-13-114. Mandamus in Supreme Court -- Precedence.

(1) If an official required by the proceeding authorizing bonds under this chapter to sign the bonds refuses to affix [~~his~~]the official's signature to [~~them~~]the bonds, or if the attorney general refuses to certify the bonds as legal obligations, alleging illegality of the bonds, the board may bring an original action in mandamus in the Supreme Court of Utah.

(2) The importance to the state and its inhabitants of the program of loans to eligible borrowers is such that this action brought in the Supreme Court should be given precedence over the other matters pending before the court, and the court is requested to give this action precedence and to render its decision concerning it at the earliest possible time.

Section 206. Section 53C-1-301 is amended to read:

53C-1-301. Director -- Term -- Compensation -- Removal from office.

(1) (a) The board, with the consent of the governor, shall select the director on the basis of outstanding professional qualifications pertinent to the purposes and activities of the trust.

(b) If the governor withholds [~~his~~]consent from a candidate agreed upon by the board, [~~he~~]the governor shall give [~~his~~]reasons in writing to the board.

(2) The director shall serve a term of four years, or until a successor is selected and qualified.

(3) When a vacancy occurs in the office of the director, the vacancy shall be filled pursuant to Subsection (1) for the remainder of the term.

(4) (a) The board:

(i) shall establish the compensation of the director; and

(ii) annually report the director's compensation to the Legislature.

(b) The compensation and performance of the director shall be examined each year as part of the board's budget review process.

(5) (a) The board may remove the director from office for cause by a majority vote of the board.

(b) (i) The governor may petition the board for removal of the director for cause.

(ii) The board shall hold a hearing on the governor's petition within 60 days after its receipt.

(iii) If after the hearing the board finds by a preponderance of the evidence cause for removal, it shall remove the director from office by a majority vote.

Section 207. Section 53C-2-412 is amended to read:

53C-2-412. Land subject to federal mineral lease.

(1) With respect to any tract of land in which the trust acquires or has acquired any interest subject to an outstanding federal mineral lease or prospecting permit, the lessee or permittee may submit a petition seeking extension of the permit or lease or any other action as may be necessary to give to the lessee or permittee any and all rights, privileges, and benefits which [~~he~~]the lessee or permittee would have had under the permit or lease had the trust not acquired its interest in the tract.

(2) In consideration of the voluntary termination by the federal lessee or permittee of [~~his~~]the lease or permit as it relates to that tract, the director may issue to that lessee or permittee a lease of the acquired tract or any portion of that tract for recovery of the same mineral substances, granting the lessee or permittee all the rights, privileges, and benefits with reference to that tract which [~~he~~]the lessee or permittee would have had by reason of [~~his~~]the lessee's lease or permittee's permit from the United States had the state not acquired its interest in the tract.

Section 208. Section 53C-5-101 is amended to read:

53C-5-101. Management of range resources.

(1) The director is responsible for the efficient management of all range resources on lands under the director's administration, consistent with [~~his~~]the director's fiduciary duties of financial support to the beneficiaries.

(2) This management shall be based on sound resource management principles.

Section 209. Section 54-7-3 is amended to read:

54-7-3. Subpoena -- Witness fees -- Depositions.

(1) (a) The commission and each commissioner may administer oaths, certify to all official acts, and issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and other evidence in any inquiry, investigation, hearing, or proceeding in any part of the state.

(b) (i) Each witness who appears by order of the commission or a commissioner shall receive the same fees and mileage for [~~his~~]the witness's attendance that are allowed by law to a witness in the district court.

(ii) The party at whose request the witness is subpoenaed shall pay the witness and mileage fee.

(iii) When any witness who has not been required to attend at the request of any party is subpoenaed by the commission, [~~his~~]the witness's fees and mileage shall be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid.

(iv) Any witness subpoenaed, except one whose fees and mileage may be paid from the funds of the commission, may at the time of service, demand the fee to which [~~he~~]the witness is entitled for travel to and from the place at which [~~he~~]the witness is required to appear and one day's attendance.

(v) If the witness demands the fees at the time of service and [~~they~~]the fees are not paid at that time, [~~he~~]the witness is not required to attend the hearing.

(vi) All fees or mileage to which any witness is entitled under the provisions of this section may be collected by action instituted by the person to whom the fees are payable.

(vii) No witness furnished with free transportation receives mileage for the distance [~~he~~]the witness may have traveled.

(2) The commission or any commissioner or any party may in any investigation before the commission cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for depositions in civil actions in the district courts of this state, and may compel the attendance of witnesses and the production of books, waybills, documents, papers, and accounts.

Section 210. Section 54-7-25 is amended to read:

54-7-25. Violations by utilities -- Penalty.

(1) Any public utility that violates or fails to comply with this title or any rule or order issued under this title, in a case in which a penalty is not otherwise provided for that public utility, is subject to a penalty of not less than $500 nor more than $2,000 for each offense.

(2) Any violation of this title or any rule or order of the commission by any corporation or person is a separate and distinct offense. In the case of a continuing violation, each day's continuance of the violation shall be a separate and distinct offense.

(3) In construing and enforcing the provisions of this title relating to penalties, the act, omission, or failure of any officer, agent, or employee of any public utility acting within the scope of [~~his~~]the officer's, agent's, or employee's official duties or employment shall in each case be deemed to be the act, omission, or failure of that public utility.

Section 211. Section 56-1-21.5 is amended to read:

56-1-21.5. Railroad special agents.

(1) (a) A railroad company may appoint one or more persons to be designated by the railroad company as a railroad special agent for the protection of railroad property and the protection of the persons and property of railroad passengers and employees.

(b) While engaged in the conduct of employment, each appointed railroad special agent may possess and exercise the powers of a special function officer.

(c) The special function officer authority may be exercised only:

(i) in the protection of passengers and employees on or about railroad premises and in the protection of property belonging to passengers, or belonging to or under the control of the railroad employing the special agents; and

(ii) in preventing and making arrest for a violation of law upon the premises or in connection with the property.

(2) (a) A person appointed by a railroad company to act as a railroad special agent shall, prior to appointment, meet the qualifications established for special function officers, pursuant to Section 53-13-105, or as otherwise provided by law.

(b) (i) Before the appointee performs any duties as a special agent, the railroad company shall file the name of the appointee with the commissioner of the Department of Public Safety.

(ii) If the appointee meets qualifications for a special function officer, the commissioner of the Department of Public Safety shall issue to the special agent a certificate of authority to act as a peace officer, to continue in effect during [~~his~~]the special agent's employment by the railroad unless revoked by the commissioner for cause.

(3) (a) A railroad company appointing a special agent is responsible for any liability arising from the acts or omissions of the special agent within the scope of railroad employment, but is entitled to any defense to liability that may be available to other peace officers.

(b) Neither the state nor any of its political subdivisions is liable for any act or omission of a railroad special agent.

Section 212. Section 57-1-14 is amended to read:

57-1-14. Form of mortgage -- Effect.

A mortgage of land may be substantially in the following form:

MORTGAGE

____ (here insert name), mortgagor, of ____ (insert place of residence), hereby mortgages to ____ (insert name), mortgagee, of ____ (insert place of residence), for the sum of ____ dollars, the following described tract ____ of land in ____ County, Utah, to wit: (here describe the premises).

This mortgage is given to secure the following indebtedness (here state amount and form of indebtedness, maturity, rate of interest, by and to whom payable, and where).

The mortgagor agrees to pay all taxes and assessments on said premises, and the sum of ____ dollars [~~attorneys'~~]attorney fee in case of foreclosure.

Witness the hand of said mortgagor this _____(month\day\year).

A mortgage when executed as required by law shall have the effect of a conveyance of the land therein described, together with all the rights, privileges and appurtenances thereunto belonging, to the mortgagee, [~~his~~]the mortgagee's heirs, assigns, and legal representatives, as security for the payment of the indebtedness thereon set forth, with covenants from the mortgagor of general warranty of title, and that all taxes and assessments levied and assessed upon the land described, during the continuance of the mortgage, will be paid previous to the day appointed for the sale of such lands for taxes; and may be foreclosed as provided by law upon any default being made in any of the conditions thereof as to payment of either principal, interest, taxes, or assessments.

Section 213. Section 57-1-19 is amended to read:

57-1-19. Trust deeds -- Definitions of terms.

As used in Sections 57-1-20 through 57-1-36:

(1) "Beneficiary" means the person named or otherwise designated in a trust deed as the person for whose benefit a trust deed is given, or [~~his~~]that person's successor in interest.

(2) "Trustor" means the person conveying real property by a trust deed as security for the performance of an obligation.

(3) "Trust deed" means a deed executed in conformity with Sections 57-1-20 through 57-1-36 and conveying real property to a trustee in trust to secure the performance of an obligation of the trustor or other person named in the deed to a beneficiary.

(4) "Trustee" means a person to whom title to real property is conveyed by trust deed, or [~~his~~]that person's successor in interest.

(5) "Real property" has the same meaning as set forth in Section 57-1-1.

(6) "Trust property" means the real property conveyed by the trust deed.

Section 214. Section 57-1-37 is amended to read:

57-1-37. Failure to disclose not a basis for liability.

(1) The failure of an owner of real property to disclose that the property being offered for sale is stigmatized is not a material fact that must be disclosed in the transaction of real property.

(2) Neither an owner nor [~~his~~]the owner's agent is liable for failing to disclose that the property is stigmatized.

Section 215. Section 57-2-13 is amended to read:

57-2-13. Form for certificate of proof.

The certificate of proof shall be substantially in the following form, to wit:

State of Utah, County of ____

On this _____(month\day\year), before me personally appeared ____, personally known to me (or satisfactorily proved to me by the oath of ____, a competent and credible witness for that purpose, by me duly sworn) to be the same person whose name is subscribed to the above instrument as a witness thereto, who, being by me duly sworn, deposed and said [~~that he~~]_____ resides in ____, county of ____, and state of Utah; that [~~he~~]as a subscribing witness was present and saw ____, personally known to [~~him~~]the subscribing witness to be the signer of the above instrument as a party thereto, sign and deliver the same, and heard [~~him~~]the party acknowledge that [~~he~~]the party executed the same, and that [~~he, the deponent,~~]the subscribing witness thereupon signed [~~his~~]his/her name as a subscribing witness thereto at the request of said ____.

Section 216. Section 57-2a-2 is amended to read:

57-2a-2. Definitions.

As used in this chapter:

(1) "Acknowledged before me" means:

(a) that the person acknowledging appeared before the person taking the acknowledgment;

(b) [~~that he acknowledged he executed the document~~]that the person acknowledging executed the document;

(c) that, in the case of:

(i) a natural person, [~~he~~]the natural person executed the document for the purposes stated in it;

(ii) a corporation, the officer or agent acknowledged [~~he~~]the officer or agent held the position or title set forth in the document or certificate, [~~he~~]the officer or agent signed the document on behalf of the corporation by proper authority, and the document was the act of the corporation for the purpose stated in it;

(iii) a partnership, the partner or agent acknowledged [~~he~~]the partner or agent signed the document on behalf of the partnership by proper authority, and [~~he~~]the partner or agent executed the document as the act of the partnership for the purposes stated in it;

(iv) a person acknowledging as principal by an attorney in fact, [~~he~~]that person executed the document by proper authority as the act of the principal for the purposes stated in it; or

(v) a person acknowledging as a public officer, trustee, administrator, guardian, or other representative, [~~he~~]that person signed the document by proper authority, and [~~he~~]that person executed the document in the capacity and for the purposes stated in it; and

(d) that the person taking the acknowledgment:

(i) either knew or had satisfactory evidence that the person acknowledging was the person named in the document or certificate; and

(ii) in the case of a person executing a document in a representative capacity, either had satisfactory evidence or received the sworn statement or affirmation of the person acknowledging that the person had the proper authority to execute the document.

(2) "Notarial act" means any act a notary public is authorized by state law to perform, including administering oaths and affirmations, taking acknowledgments of documents, and attesting documents.

Section 217. Section 57-2a-3 is amended to read:

57-2a-3. Persons authorized to perform notarial acts.

(1) Notarial acts performed in this state shall be performed by:

(a) a judge or court clerk having a seal;

(b) a notary public; or

(c) a county clerk or county recorder.

(2) The following persons authorized under the laws and regulations of other governments may perform notarial acts outside this state for use in this state with the same effect as if performed by a notary public of this state:

(a) a notary public authorized to perform notarial acts in the place where the act is performed;

(b) a judge, clerk, or deputy clerk of any court of record in the place where the notarial act is performed;

(c) an officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place where the act is performed;

(d) a commissioned officer in active service with the Armed Forces of the United States and any other person authorized by regulation of the Armed Forces to perform notarial acts if the notarial act is performed for any of [~~his~~]that person's dependents, a merchant seaman of the United States, a member of the Armed Forces of the United States, or any other person serving with or accompanying the Armed Forces of the United States; or

(e) any other person authorized to perform notarial acts in the place where the act is performed.

Section 218. Section 57-3-102 is amended to read:

57-3-102. Record imparts notice -- Change in interest rate -- Validity of document -- Notice of unnamed interests -- Conveyance by grantee.

(1) Each document executed, acknowledged, and certified, in the manner prescribed by this title, each original document or certified copy of a document complying with Section 57-4a-3, whether or not acknowledged, each copy of a notice of location complying with Section 40-1-4, and each financing statement complying with Section 70A-9a-502, whether or not acknowledged shall, from the time of recording with the appropriate county recorder, impart notice to all persons of their contents.

(2) If a recorded document was given as security, a change in the interest rate in accordance with the terms of an agreement pertaining to the underlying secured obligation does not affect the notice or alter the priority of the document provided under Subsection (1).

(3) This section does not affect the validity of a document with respect to the parties to the document and all other persons who have notice of the document.

(4) The fact that a recorded document recites only a nominal consideration, names the grantee as trustee, or otherwise purports to be in trust without naming beneficiaries or stating the terms of the trust does not charge any third person with notice of any interest of the grantor or of the interest of any other person not named in the document.

(5) The grantee in a recorded document may convey the interest granted to [~~him~~]the grantee free and clear of all claims not disclosed in the document in which [~~he~~]the grantee appears as grantee or in any other document recorded in accordance with this title that sets forth the names of the beneficiaries, specifies the interest claimed, and describes the real property subject to the interest.

Section 219. Section 57-4a-4 is amended to read:

57-4a-4. Presumptions.

(1) A recorded document creates the following presumptions regarding title to the real property affected:

(a) the document is genuine and was executed voluntarily by the person purporting to execute it;

(b) the person executing the document and the person on whose behalf it is executed are the persons they purport to be;

(c) the person executing the document was neither incompetent nor a minor at any relevant time;

(d) delivery occurred notwithstanding any lapse of time between dates on the document and the date of recording;

(e) any necessary consideration was given;

(f) the grantee, transferee, or beneficiary of an interest created or described by the document acted in good faith at all relevant times;

(g) a person executing a document as an agent, attorney in fact, officer of an organization, or in a fiduciary or official capacity:

(i) held the position [~~he~~]that the person executing the document purported to hold and acted within the scope of [~~his~~]that person's authority;

(ii) in the case of an officer of an organization, was authorized under all applicable laws to act on behalf of the organization; and

(iii) in the case of an agent, [~~his~~]the agent's agency was not revoked, and [~~he~~]the agent acted for a principal who was neither incompetent nor a minor at any relevant time;

(h) a person executing the document as an individual:

(i) was unmarried on the effective date of the document; or

(ii) if it otherwise appears from the document that the person was married on the effective date of the document, the grantee was a bona fide purchaser and the grantor received adequate and full consideration in money or money's worth so that the joinder of the nonexecuting spouse was not required under Sections 75-2-201 through 75-2-207;

(i) if the document purports to be executed pursuant to or to be a final determination in a judicial or administrative proceeding, or to be executed pursuant to a power of eminent domain, the court, official body, or condemnor acted within its jurisdiction and all steps required for the execution of the document were taken; and

(j) recitals and other statements of fact in a document, including without limitation recitals concerning mergers or name changes of organizations, are true.

(2) The presumptions stated in Subsection (1) arise even though the document purports only to release a claim or to convey any right, title, or interest of the person executing it or the person on whose behalf it is executed.

Section 220. Section 57-8-6 is amended to read:

57-8-6. Ownership and possession rights.

Each unit owner shall be entitled to the exclusive ownership and possession of [~~his~~]that unit owner's unit. The owner of a time period condominium unit shall be entitled to the exclusive ownership and possession of the physical unit to which [~~his~~]that owner's time period relates and shall be entitled to the use and enjoyment of the common areas and facilities during, but only during, such annually

recurring part or parts of a year as describe and define the time period unit concerned in the declaration.

Section 221. Section 57-8-8 is amended to read:

57-8-8. Compliance with covenants, bylaws and/or house rules and administrative provisions.

Subject to reasonable compliance therewith by the manager and the management committee, each unit owner shall reasonably comply with the covenants, conditions, and restrictions as set forth in the declaration or in the deed to [~~his~~]that unit owner's unit, and with the bylaws and/or house rules and with the administrative rules and regulations drafted pursuant thereto, as either of the same may be lawfully amended from time to time, and failure to comply shall be ground for an action to recover sums due for damages or injunctive relief or both, maintainable by the manager or management committee on behalf of the unit owners, or in a proper case, by an aggrieved unit owner.

Section 222. Section 57-8-13.14 is amended to read:

57-8-13.14. Easement rights -- Sales offices and model units -- Damage to property.

(1) Subject to any restrictions and limitations the declaration may specify, the declarant shall have a transferable easement over and on the common areas and facilities for the purpose of making improvements on the land within the project or on any additional land under the declaration and this act, and for the purpose of doing all things reasonably necessary and proper in connection with the same.

(2) The declarant and [~~his~~]the declarant's duly authorized agents, representatives, and employees may maintain sales offices or model units on the land within the project if the declaration provides for the same and specifies the rights of the declarant about the number, size, location, and relocation of them. Any sales office or model unit which is not designated a unit by the declaration shall become a common area and facility as soon as the declarant ceases to be a unit owner, and the declarant shall cease to have any rights concerning it unless the sales office or model unit is removed immediately from the land included within the project in accordance with a right reserved in the declaration to make this removal.

(3) To the extent that damage is inflicted on any part of the condominium project by any person or persons utilizing the easements reserved by the declaration or created by Subsections (1) and (2) of this section, the declarant, together with the person or persons causing the same, shall be jointly and severally liable for the prompt repair of the damage and for the restoration of the same to a condition compatible with the remainder of the condominium project.

Section 223. Section 57-8-32.5 is amended to read:

57-8-32.5. Property taken by eminent domain -- Allocation of award -- Reallocation of interests.

(1) If any portion of the common areas and facilities is taken by eminent domain, the award for it shall be allocated to the unit owners in proportion to their respective undivided interests in the common areas and facilities.

(2) If any units are taken by eminent domain, the undivided interest in the common areas and facilities appertaining to these units shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interests in the common areas and facilities. The court shall enter a decree reflecting the reallocation of undivided interests so produced, and the award shall include, without limitation, just compensation to the unit owner of any unit taken for [~~his~~]the unit owner's undivided interest in the common areas and facilities as well as for [~~his~~]the unit owner's unit.

(3) If portions of any unit are taken by eminent domain, the court shall determine the fair market value of the portions of the unit not taken, and the undivided interest in the common areas and facilities appertaining to any such units shall be reduced, in the case of each unit, in proportion to the diminution in the fair market value of the unit resulting from the taking. The portions of undivided interest in the common areas and facilities thus divested from the unit owners of these units shall be reallocated among these units and the other units in the condominium project in proportion to their respective undivided interests in the common areas and facilities, with any units partially taken participating in the reallocation on the basis of their undivided interests as reduced in accordance with the preceding sentence. The court shall enter a decree reflecting the reallocation of undivided interests produced by this, and the award shall include, without limitation, just compensation to the unit owner of any unit partially taken for that portion of [~~his~~]the unit owner's undivided interest in the common areas and facilities divested from [~~him~~]the unit owner by operation of the first sentence of this Subsection (3), and not revested in [~~him~~]the unit owner by operation of the following sentence, as well as for that portion of [~~his~~]the unit owner's unit taken by eminent domain.

(4) The court shall enter a decree reflecting the reallocation of undivided interests produced by this, and the award shall include, without limitation, just compensation to the unit owner of any unit partially taken for that portion of [~~his~~]the unit owner's undivided interest in the common areas and facilities divested from [~~him~~]the unit owner and also not revested in [~~him~~]the unit owner under this Subsection (4), as well as for that portion of [~~his~~]the unit owner's unit taken by eminent domain.

(5) If, however, the taking of a portion of any unit makes it impractical to use the remaining portion of that unit for any lawful purpose permitted by the declaration, then the entire undivided interest in the common areas and facilities appertaining to that unit shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interest in the common areas and facilities, and the remaining portion of that unit shall thenceforth be a common area and facility. The court shall enter a decree reflecting the reallocation of undivided interests produced by this, and the award shall include, without limitation, just compensation to the unit owner of the unit for [~~his~~]the unit owner's entire undivided interest in the common areas and facilities and for [~~his~~]the unit owner's entire unit.

Section 224. Section 57-12-6 is amended to read:

57-12-6. Buildings, structures, or other improvements.

(1) Where any interest in real property is acquired, an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which is required to be removed from the real property or which is determined to be adversely affected by the use to which the real property will be put, shall be acquired.

(2) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired under Subsection (1), the building, structure, or other improvement shall be deemed to be a part of the real property to be acquired, notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove the building, structure, or improvement at the expiration of [~~his~~]the tenant's term; and the fair market value which the building, structure, or improvement contributes to the fair market value of the property to be acquired, or the fair market value of the building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.

(3) Payment for the buildings, structures, or improvements as set forth in Subsection (2) shall not result in duplication of any payments otherwise authorized by state law. No payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any payment, the tenant shall assign, transfer, and release all [~~his~~]the tenant's right, title and interest in and to the improvements. Nothing with regard to this acquisition of buildings, structures, or other improvements shall be construed to deprive the tenants of any rights to reject payment and to obtain payment for these property interests in accordance with other laws of this state.

Section 225. Section 57-12-7 is amended to read:

57-12-7. Replacement property.

(1) No person shall be required to move or be relocated from land used for [~~his~~]the person's residence and acquired under any of the condemnation or eminent domain laws of this state until [~~he~~]the person has been offered a comparable replacement dwelling, including the curtilage, which is a decent, safe, clean, and sanitary dwelling, including the curtilage, adequate to accommodate the occupants, available on the private market, and reasonably accessible to public services and places of employment.

(2) If a program or project cannot proceed to actual construction because comparable sale or rental housing is not available and cannot otherwise be made available, such action shall be taken as is necessary or appropriate to provide this housing by use of funds authorized for the project.

(3) No person shall be required to move from [~~his~~]the person's dwelling, including the curtilage, after the effective date of this act because of any project of the agency, unless replacement housing is available to, and offered to the property owner.

(4) The agency shall assist owners of small businesses and family farms in identifying replacement properties available on the private market, located within the jurisdiction of the agency.

Section 226. Section 57-19-17 is amended to read:

57-19-17. Administrative procedures.

(1) The director may summarily deny an application for registration under any of the provisions of Section 57-19-13 or 57-19-16. If a registration is denied, the applicant may, within 10 days after receipt of notice of the denial, request a hearing before an administrative law judge. The director shall schedule the hearing within 30 days after receipt of the applicant's request and give notice of the hearing in writing to the applicant, specifying the reasons for denial of the registration. If, as a result of the hearing, it is determined that the applicant is qualified to be registered, the registration shall be issued.

(2) Before an existing registration is suspended or revoked, or a fine imposed, the director shall schedule a hearing before an administrative law judge and give notice in writing to the affected person as prescribed in Title 13, Chapter 1, Department of Commerce, and the rules of procedure for hearings before the Department of Commerce. If, as a result of the hearing, the administrative law judge finds that there has been a violation of this chapter, the registration shall be suspended or revoked, or a fine imposed, by written order of the director in concurrence with the executive director.

(3) The developer or salesperson has the right to appear at the hearing, in person or by counsel, to be heard and to examine witnesses appearing in connection with the complaint. At the hearing, all witnesses shall be sworn by the administrative law judge, and stenographic notes or a tape recording of the proceeding shall be taken and filed as a part of the record in the case. Any party to the proceeding shall be furnished a copy of the stenographic notes or tape recording at a reasonable cost. The administrative law judge shall render a decision within 60 days after the completion of the hearing. The executive director and the director shall concurrently make the final decision and promptly notify the parties to the proceedings, in writing, of the ruling, order, or decision.

(4) The developer or salesperson, or any person aggrieved, may appeal any adverse ruling, order, or decision of the executive director and the director to the district court for the county in which the hearing was held, within 30 days from the date of service of notice of the ruling, order, or decision upon [~~him~~]the developer, salesperson, or aggrieved person. At the time of filing the notice of appeal, the appellant shall file with the notice a bond for costs on appeal in the amount of $200, conditioned to secure the payment of costs if the appeal is dismissed or the judgment affirmed.

Section 227. Section 57-19-18 is amended to read:

57-19-18. Investigation -- Publication.

(1) The director may make any investigations or requests for information, within or outside of this state, that [~~he~~]the director considers necessary:

(a) to determine whether any registration under this chapter should be granted, denied, or revoked;

(b) to determine whether any person has violated or is about to violate any of the provisions of this chapter or any rule or order under this chapter; or

(c) to aid in the enforcement of this chapter.

(2) The director may publish information concerning any violation of this chapter or any rule or order under this chapter.

Section 228. Section 57-19-23 is amended to read:

57-19-23. Prosecution.

The director may refer any available evidence concerning violations of this chapter or of any rule or order under this chapter to the attorney general or the proper prosecuting attorney, who may, in [~~his~~]the attorney's discretion, with or without such a referral, institute the appropriate civil or criminal proceedings under this chapter.

Section 229. Section 57-22-3 is amended to read:

57-22-3. Duties of owners and renters -- Generally.

(1) Each owner and [~~his~~]the owner's agent renting or leasing a residential rental unit shall maintain that unit in a condition fit for human habitation and in accordance with local ordinances and the rules of the board of health having jurisdiction in the area in which the residential rental unit is located. Each residential rental unit shall have electrical systems, heating, plumbing, and hot and cold water.

(2) Each renter shall cooperate in maintaining [~~his~~]the renter's residential rental unit in accordance with this chapter.

(3) This chapter does not apply to breakage, malfunctions, or other conditions which do not materially affect the physical health or safety of the ordinary renter.

(4) Any duty in this act may be allocated to a different party by explicit written agreement signed by the parties.

Section 230. Section 58-1-105 is amended to read:

58-1-105. Employment of staff.

The director, with the approval of the executive director, may employ necessary staff, including specialists and professionals, to assist [~~him~~]the director in performing the duties, functions, and responsibilities of the division.

Section 231. Section 58-3a-603 is amended to read:

58-3a-603. Seal -- Authorized use.

[~~(1)~~] An architect may only affix the architect's seal to a plan and a specification when the plan and the specification:

[~~(a)~~](1) was personally prepared by the architect;

[~~(b)~~](2) was prepared by an employee, subordinate, associate, or drafter under the supervision of a licensee, provided the licensee or a principal affixing [~~his~~]the seal assumes responsibility;

[~~(c)~~](3) was prepared by a licensed architect, professional engineer, or professional structural engineer in this state or any other state provided:

[~~(i)~~](a) the licensee in this state affixing the seal performs a thorough review of all work for compliance with all applicable laws and rules and the standards of the profession; and

[~~(ii)~~](b) makes any necessary corrections before submitting the final plan and specification:

[~~(A)~~](i) to a building official for the purpose of obtaining a building permit; or

[~~(B)~~](ii) to a client who has contracted with an architect for the design of a building, when the architect represents, or could reasonably expect the client to consider, the plans and a specification to be complete and final;

[~~(d)~~](4) was prepared in part by a licensed architect, professional engineer, or professional structural engineer in this state or any other state provided:

[~~(i)~~](a) the licensee in this state clearly identifies that portion of the plans and specification for which the licensee is responsible;

[~~(ii)~~](b) the licensee in this state affixing the seal performs a thorough review of that portion of the plan and specification for which the licensee is responsible for compliance with the standards of the profession; and

[~~(iii)~~](c) makes any necessary corrections before submitting the final plan and specification for which the licensee is responsible:

[~~(A)~~](i) to a building official for the purpose of obtaining a building permit; or

[~~(B)~~](ii) to a client who has contracted with an architect for the design of a building, when the architect represents, or could reasonably expect the client to consider, the plans and specifications to be complete and final;

[~~(e)~~](5) was prepared by a person exempt from licensure as an architect, professional engineer, or professional structural engineer provided that:

[~~(i)~~](a) the licensee in this state affixing the seal performs a thorough review for compliance with all applicable laws and rules and the standards of the profession; and

[~~(ii)~~](b) makes any necessary corrections before submitting the final plan and specification:

[~~(A)~~](i) to a building official for the purpose of obtaining a building permit; or

[~~(B)~~](ii) to a client who has contracted with an architect for the design of a building, when the architect represents, or could reasonably expect the client to consider, the plan and specification to be complete and final; or

[~~(f)~~](6) meet any additional requirements established by rule by the division in collaboration with the board.

Section 232. Section 58-16a-201 is amended to read:

58-16a-201. Creation of board -- Board duties and functions.

(1) There is created an Optometrist Licensing Board consisting of five optometrists and two members from the general public who do not provide eye care services.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The board's duties and responsibilities shall be in accordance with Sections 58-1-202 and 58-1-203, and as provided under this Subsection (3).

(4) The board shall designate one of its members on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(b) advise the division in its investigation of these complaints.

(5) A board member who has, under Subsection (4), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint. The board member may be disqualified:

(a) on [~~his~~]the board member's own motion, due to actual or perceived bias or lack of objectivity; or

(b) upon challenge for cause raised on the record by any party to the adjudicative proceeding.

Section 233. Section 58-16a-701 is amended to read:

58-16a-701. Form of practice.

(1) An optometrist licensed under this chapter may engage in practice as an optometrist or in the practice of optometry only as an individual licensee. However, as an individual licensee[~~he~~], the optometrist may be:

(a) an individual operating as a business proprietor;

(b) an employee of another person or corporation;

(c) a partner in a lawfully organized partnership;

(d) a lawfully formed professional corporation;

(e) a lawfully organized limited liability company;

(f) a lawfully organized business corporation; or

(g) any other form of organization recognized by the state and which is not prohibited by division rule made in collaboration with the board.

(2) Regardless of the form in which a licensee engages in the practice of optometry, the licensee may only permit the practice of optometry in that form of practice to be conducted by an individual:

(a) licensed in Utah as an optometrist under Section 58-16a-301; and

(b) who is able to lawfully and competently engage in the practice of optometry.

Section 234. Section 58-22-603 is amended to read:

58-22-603. Seal -- Authorized use.

(1) A professional engineer or professional structural engineer may only affix the licensee's seal to a plan, specification, and report when the plan, specification, and report:

(a) was personally prepared by the licensee;

(b) was prepared by an employee, subordinate, associate, or drafter under the supervision of a licensee, provided the licensee or a principal affixing [~~his~~]the seal assumes responsibility;

(c) was prepared by a licensed professional engineer, professional structural engineer, or architect in this state or any other state provided:

(i) the licensee in this state affixing the seal performs a thorough review of all work for compliance with all applicable laws and rules and the standards of the profession; and

(ii) makes any necessary corrections before submitting the final plan, specification, or report:

(A) to a building official for the purpose of obtaining a building permit; or

(B) to a client who has contracted with a professional engineer or professional structural engineer for the design of a building or structure, when the licensee represents, or could reasonably expect the client to consider, the plan, specification, or report to be complete and final;

(d) was prepared in part by a licensed professional engineer, professional structural engineer, or architect in this state or any other state provided:

(i) the licensee in this state clearly identifies that portion of the plan, specification, or report for which the licensee is responsible;

(ii) the licensee in this state affixing the seal performs a thorough review of that portion of the plan, specification, or report for which the licensee is responsible for compliance with the standards of the profession; and

(iii) makes any necessary corrections before submitting the final plan, specification, or report for which the licensee is responsible:

(A) to a building official for the purpose of obtaining a building permit; or

(B) to a client who has contracted with a professional engineer or professional structural engineer for the design of a building or structure, when the licensee represents, or could reasonably expect the client to consider, the plans, specifications, or reports to be complete and final;

(e) was prepared by a person exempt from licensure as a professional engineer, professional structural engineer, or architect provided that:

(i) the licensee in this state affixing the seal performs a thorough review for compliance with all applicable laws and rules and the standards of the profession; and

(ii) makes any necessary corrections before submitting the final plan, specification, or report:

(A) to a building official for the purpose of obtaining a building permit; or

(B) to a client who has contracted with a professional engineer, professional structural engineer, or architect for the design of a building or structure, when the licensee represents, or could reasonably expect the client to consider, the plan, specification, or report to be complete and final; or

(f) meet any additional requirements established by rule by the division in collaboration with the board.

(2) A professional land surveyor may only affix the licensee's seal to a plan, map, sketch, survey, drawing, document, plat, and report when the plan, map, sketch, survey, drawing, document, plat, and report:

(a) was personally prepared by the licensee; or

(b) was prepared by an employee, subordinate, associate, or drafter under the supervision of a professional land surveyor, provided the professional land surveyor or a principal affixing [~~his~~]the seal assumes responsibility.

Section 235. Section 58-31b-801 is amended to read:

58-31b-801. Practice within limits of competency.

(1) Each person licensed under this chapter is responsible for confining [~~his~~]the person's practice as a nurse to those acts and practices permitted by law.

(2) A person licensed under this act may not engage in any act or practice for which [~~he~~]the person is not competent.

Section 236. Section 58-37-15 is amended to read:

58-37-15. Burden of proof in proceedings on violations -- Enforcement officers exempt from liability.

(1) It is not necessary for the state to negate any exemption or exception set forth in this act in any complaint, information, indictment or other pleading or trial, hearing, or other proceeding under this act, and the burden of proof of any exemption or exception is upon the person claiming its benefit.

(2) In absence of proof that a person is the duly authorized holder of an appropriate license, registration, order form, or prescription issued under this act, [~~he~~]a person shall be presumed not to be the holder of a license, registration, order form, or prescription, and the burden of proof is upon [~~him~~]the person to rebut the presumption.

(3) No liability shall be imposed upon any duly authorized state or federal officer engaged in the enforcement of this act who is engaged in the enforcement of any law, municipal ordinance, or regulation relating to controlled substances.

Section 237. Section 58-41-16 is amended to read:

58-41-16. Privileged communication.

A person licensed under this chapter may not be examined or required to reveal any findings, examinations, or representation made [~~by his client to him~~]to the licensed person by the licensed person's client, or any advice or treatment given to [~~his~~]the client in the course of professional practice, without the consent of [~~his~~]the client or the client's representative. A person employed by a person licensed under this chapter may not be examined without the consent of the employer concerning any fact of which the employee has acquired knowledge in [~~his~~]the employee's professional capacity.

Section 238. Section 58-49-7 is amended to read:

58-49-7. Certificates -- Display -- Surrender.

(1) Any person who meets the certification qualifications of this chapter shall receive a certificate stating that [~~he~~]the person has met these qualifications.

(2) Each certified dietitian shall:

(a) display the certificate in an appropriate, conspicuous, and public manner; and

(b) keep the division informed of [~~his~~]the certified dietitian's current address.

(3) A certificate issued by the division is the property of the division and shall be surrendered on demand.

Section 239. Section 58-50-5 is amended to read:

58-50-5. Qualifications for licensure.

An applicant for licensure as a private probation provider shall:

(1) have a baccalaureate degree in a program approved by the division in collaboration with the board or have a combination of equivalent education and training as determined by the division in collaboration with the board;

(2) submit evidence that a business license to engage in private probation has been issued by the political subdivision of the state in which the applicant intends to establish [~~his~~]a business office or offices; and

(3) apply for licensure and pay the required fees.

Section 240. Section 58-55-601 is amended to read:

58-55-601. Payment -- Account designated.

When making any payment to a materialman, supplier, contractor, or subcontractor with whom [~~he~~]a contractor has a running account, or with whom [~~he~~]the contractor has more than one contract, or to whom [~~he~~]the contractor is otherwise indebted, the contractor shall designate the contract under which the payment is made or the items of account to which it is to be applied. When a payment for materials or labor is made to a subcontractor or materialman, the subcontractor or materialman shall demand of the person making the payment a designation of the account and the items of account to which the payment is to apply. In cases where a lien is claimed for materials furnished or labor performed by a subcontractor or materialman, it is a defense to the claim that a payment was made by the owner to the contractor for the materials and was so designated and paid over to the subcontractor or materialman, if when the payment was received by the subcontractor or materialman, [~~he~~]the subcontractor or materialman did not demand a designation of the account and of the items of account to which the payment was to be applied.

Section 241. Section 58-55-603 is amended to read:

58-55-603. Payment to subcontractors and suppliers.

(1) When a contractor receives any construction funds from an owner or another contractor for work performed and billed, [~~he~~]the contractor receiving funds shall pay each of [~~his~~]that contractor's subcontractors and suppliers in proportion to the percentage of the work they performed under that billing, unless otherwise agreed by contract.

(2) If, under this section and without reasonable cause, or unless otherwise agreed by contract, the contractor fails to pay for work performed by [~~his~~]subcontractors or suppliers within 30 consecutive days after receiving construction funds from the owner or another contractor for work performed and billed, or after the last day payment is due under the terms of the billing, whichever is later, [~~he~~]the contractor receiving funds shall pay to the subcontractor or supplier, in addition to the payment, interest in the amount of 1% per month of the amount due, beginning on the day after payment is due, and reasonable costs of any collection and [~~attorney's~~]attorney fees.

(3) When a subcontractor receives any construction payment under this section, Subsections (1) and (2) apply to that subcontractor.

Section 242. Section 58-67-802 is amended to read:

58-67-802. Form of practice.

(1) A physician and surgeon licensed under this chapter may engage in practice as a physician and surgeon, or in the practice of medicine only as an individual licensee; but as an individual licensee, [~~he~~]a physician and surgeon may be:

(a) an individual operating as a business proprietor;

(b) an employee of another person;

(c) a partner in a lawfully organized partnership;

(d) a lawfully formed professional corporation;

(e) a lawfully organized limited liability company;

(f) a lawfully organized business corporation; or

(g) any other form of organization recognized by the state which is not prohibited by division rule made in collaboration with the board.

(2) Regardless of the form in which a licensee engages in the practice of medicine, the licensee may only permit the practice of medicine in that form of practice to be conducted by an individual:

(a) licensed in Utah as a physician and surgeon under Section 58-67-301 or as an osteopathic physician and surgeon under Section 58-68-301; and

(b) who is able to lawfully and competently engage in the practice of medicine.

Section 243. Section 58-69-804 is amended to read:

58-69-804. Form of practice.

(1) A dentist licensed under this chapter may engage in practice as a dentist, or in the practice of dentistry only as an individual licensee, but as an individual licensee, [~~he~~]the individual licensee may be:

(a) an individual operating as a business proprietor;

(b) an employee of another person;

(c) a partner in a lawfully organized partnership;

(d) a lawfully formed professional corporation;

(e) a lawfully organized limited liability company;

(f) a lawfully organized business corporation; or

(g) any other form of organization recognized by the state which is not prohibited by rule adopted by division rules made in collaboration with the board.

(2) Regardless of the form in which a licensee engages in the practice of dentistry, the licensee may not permit another person who is not licensed in Utah as a dentist and is not otherwise competent to engage in the practice of dentistry to direct, or in any other way

participate in, or interfere in the licensee's practice of dentistry.

Section 244. Section 59-1-701 is amended to read:

59-1-701. Grounds for termination and jeopardy assessment -- Notice -- Collection -- Reopening period -- Bond.

(1) If the commission finds that a taxpayer intends quickly to depart from this state or to remove [~~his~~]the taxpayer's property therefrom, or to conceal [~~himself or his~~]the taxpayer or the taxpayer's property therein, or to do any other act (including in the case of a taxpayer selling or otherwise distributing all or a part of its assets in liquidation or otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings to collect any tax or penalty in lieu of tax for the current or the preceding taxable period, unless such proceedings be brought without delay, the commission may declare the taxable period for such taxpayer immediately terminated whether or not the time otherwise allowed by law for filing returns and paying the liability has expired. The commission shall immediately make a determination of tax for the current taxable period or for the preceding period, or both, and notwithstanding any other provision of law, the tax shall become immediately due and payable. The commission shall immediately assess the amount of the tax so determined (together with all interest, penalties, additional amounts, and additions to the tax provided by law) for the current taxable period or such preceding taxable period, or both, and shall give the notice of determination and assessment to the taxpayer, together with a demand for immediate payment of the tax.

(2) In the case of a current taxable period, the commission shall determine the tax for the period beginning on the first day of the current taxable period and ending on the date of the determination under Subsection (1) as though the period were a taxable period of the taxpayer. The commission shall take into account any prior determination made under this subsection with respect to such current taxable period. Any amounts collected as a result of any assessments under this subsection shall be treated as a partial payment of tax for the taxable period.

(3) Notwithstanding the termination of the taxable period of the taxpayer as provided in Subsection (1), the commission may reopen such taxable period each time the taxpayer is found by the commission to have incurred additional liabilities, within the current taxable period, since the termination of such period. A taxable period so terminated by the commission may be reopened by the taxpayer if [~~he~~]the taxpayer files a true and accurate return, as required under [~~Title 59, Chapter 2, Property Tax Act,~~]Chapter 2, Property Tax Act, Chapter 7, Corporate Franchise and Income Taxes, Chapter 10, Individual Income Tax Act, or Chapter 12, Sales and Use Tax Act, for the taxable period, together with such other information as the commission may by rule prescribe.

(4) Payment of taxes may not be enforced by any proceedings under Subsection (1) prior to the expiration of the time otherwise allowed for paying such taxes if the taxpayer furnishes, under rules prescribed by the commission, a bond to ensure the timely making of returns with respect to, and payment of, the taxes, penalties, or interest for prior periods.

Section 245. Section 59-1-707 is amended to read:

59-1-707. Writ of mandate requiring taxpayer to file return.

(1) (a) If a taxpayer fails to file any return required pursuant to [~~Title 59, Revenue and Taxation,~~]this title within 60 days of the time prescribed, the commission may petition for a writ of mandate to compel the taxpayer to file the return. The petition may be filed, in the discretion of the commission, in the Tax Division of the Third Judicial District or in the district court for the county in which the taxpayer resides or has [~~his~~]a principal place of business. In the case of a nonresident taxpayer the petition shall be filed in the Third District Court.

(b) The court shall grant a hearing on the petition for a writ of mandate within 20 days after the filing of the petition or as soon thereafter as the court may determine, having regard for the rights of the parties and the necessity of a speedy determination of the petition.

(c) Upon a finding of failure to file a return within 60 days of the time prescribed pursuant to [~~Title 59, Revenue and Taxation,~~]this title the court shall issue a writ of mandate requiring the taxpayer to file a return. The order of the court shall include an award of [~~attorneys' fees~~]attorney fees, court costs, witness fees, and all other costs in favor of the prevailing party.

(2) Nothing in this section shall limit the remedies otherwise available to the commission under [~~Title 59, Revenue and Taxation,~~]this title or other laws of this state.

Section 246. Section 59-1-1002 is amended to read:

59-1-1002. Audit interviews.

(1) During any audit interview, the commission shall:

(a) require reasonable scheduling of its audit interviews;

(b) permit recording of audit interviews;

(c) explain its audit and collection process before the first interview; and

(d) allow a taxpayer to be represented at an interview by an attorney or other representative with power of attorney.

(2) The commission may not require a taxpayer to bring [~~his~~]an attorney or other representative to interviews.

Section 247. Section 59-1-1004 is amended to read:

59-1-1004. Installment payments.

(1) The commission may enter into agreements with taxpayers on installment payments of taxes, penalties, and interest. The commission may revise, accelerate, or cancel the installment agreement if any of the following occurs:

(a) the commission determines that the financial condition of the taxpayer has substantially changed;

(b) the commission determines that the taxpayer provided inaccurate information concerning [~~his~~]the taxpayer's financial condition; or

(c) the taxpayer fails to make timely payments pursuant to the terms of the installment agreement.

(2) The commission shall give the taxpayer reasonable notice of its intent to revise or cancel an installment agreement entered into under this section.

Section 248. Section 59-2-326 is amended to read:

59-2-326. Assessment roll delivered to county treasurer.

Before November 1, the county auditor must deliver the corrected assessment roll to the county treasurer, together with a signed statement subscribed by [~~him~~]the county auditor in a form substantially as follows:

I, ____ county auditor of the county of ____, do swear that I received the accompanying assessment roll of the taxable property of the county from the assessor, and that I have corrected it and made it conform to the requirements of the county board of equalization and commission, that I have reckoned the respective sums due as taxes and have added up the columns of valuations, taxes, and acreage as required by law.

Section 249. Section 59-10-512 is amended to read:

59-10-512. Signing of returns and other documents.

(1) Except as otherwise provided by Subsection (2), any return, statement, or other document required to be made under any provision of this chapter shall be signed in accordance with forms or rules prescribed by the commission.

(2) The return of a partnership made under Section 59-10-507 shall be signed by any one of the partners. The fact that a partner's name is signed on the return shall be prima facie evidence that such partner is authorized to sign the return on behalf of the partnership.

(3) The fact that an individual's name is signed on a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by [~~him~~]the individual.

Section 250. Section 59-12-112 is amended to read:

59-12-112. Tax a lien when selling business -- Liability of purchaser.

The tax imposed by this chapter shall be a lien upon the property of any person who sells out [~~his~~]the person's business or stock of goods or quits business. Such person shall complete the return provided for under Section 59-12-107, within 30 days after the date [~~he~~]the person sold [~~his~~]the business or stock of goods, or quit business. Such person's successor in business shall withhold enough of the purchase money to cover the amount of taxes due and unpaid until the former owner produces a receipt from the commission showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods fails to withhold such purchase money and the taxes are due and unpaid after the 30-day period allowed, [~~he~~]the purchaser is personally liable for the payment of the taxes collected and unpaid by the former owner.

Section 251. Section 59-18-104 is amended to read:

59-18-104. Duties and powers of trustee.

Except as provided in Section 59-18-106, the trustee of a private foundation trust or a split interest trust has the duties and powers conferred upon [~~him~~]the trustee by the provisions of this chapter.

Section 252. Section 59-18-105 is amended to read:

59-18-105. Trustee's fiduciary obligations and duty not to deprive trust of tax exemption, deduction, or credit.

(1) In the exercise of [~~his~~]a trustee's powers including the powers granted by this chapter, a trustee has a duty to act with due regard to [~~his~~]the trustee's obligation as a fiduciary, including a duty not to exercise any power in such a way as to deprive the trust of an otherwise available tax exemption, deduction, or credit for tax purposes or deprive a donor of a trust asset of a tax deduction or credit or operate to impose a tax upon a donor, trust, or other person. The word "tax" includes, but is not limited to any federal, state, or local excise, income, gift, estate, or inheritance tax.

(2) A trustee of a private foundation trust, except as provided in Section 59-18-106, shall make distributions at such time and in such manner as not to subject the trust to tax under Section 4942.

(3) A trustee of a private foundation trust or a split interest trust, to the extent that the split interest trust is subject to the provisions of Section 4947(a)(2), in the exercise of [~~his~~]the trustee's powers, except as provided in Subsection (4) of this section and Section 59-18-106, shall not:

(a) engage in any act of self dealing (as defined in Section 4941(d));

(b) retain any excess business holdings (as defined in Section 4943(c));

(c) make any investments in such manner as to subject the foundation to tax under Section 4944; and

(d) make any taxable expenditures (as defined in Section 4945(d)).

(4) Subsections (3)(b) and (c) do not apply to a split interest trust if:

(a) all the income interest (and none of the remainder interest) of such trust is devoted solely to one or more of the purposes described in Section 170(c)(2)(B), and all amounts in such trust for which a deduction was allowed under Section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 have aggregate fair market value not more than 60% of the aggregate fair market value of all amounts in such trust; or

(b) a deduction was allowed under Section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for amounts payable under the terms of such trust to every remainder beneficiary but not to any income beneficiary.

Section 253. Section 59-18-108 is amended to read:

59-18-108. Court's power to relieve trustee from restrictions on powers and duties.

This chapter does not affect the power of a court of competent jurisdiction for cause shown and upon petition of the trustee, attorney general, or affected beneficiary, and upon appropriate notice to the affected parties to relieve a trustee from any restrictions on [~~his~~]the trustee's powers and duties that are placed upon [~~him~~]the trustee by the governing instrument or applicable law.

Section 254. Section 63B-2-117 is amended to read:

63B-2-117. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 255. Section 63B-2-217 is amended to read:

63B-2-217. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 256. Section 63B-3-117 is amended to read:

63B-3-117. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 257. Section 63B-3-217 is amended to read:

63B-3-217. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 258. Section 63B-4-117 is amended to read:

63B-4-117. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 259. Section 63B-5-117 is amended to read:

63B-5-117. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 260. Section 63B-6-117 is amended to read:

63B-6-117. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 261. Section 63B-6-217 is amended to read:

63B-6-217. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 262. Section 63B-6-302 is amended to read:

63B-6-302. Authorization, terms, and procedures.

(1) The state treasurer may, by written order, issue bond anticipation notes and renewals of bond anticipation notes, including, but not limited to, flexible notes and short-term series notes, in the form and with the terms that [~~he~~]the state treasurer determines.

(2) The state treasurer may:

(a) enter into whatever agreements with other persons that [~~he~~]the state treasurer considers necessary or appropriate in connection with the issuance, sale, and resale of the notes; and

(b) resell or retire any notes purchased by the state before the stated maturity of those notes.

(3) (a) The notes and renewals of the notes shall:

(i) bear the interest rate or rates as determined by the state treasurer; and

(ii) mature within a period not to exceed three years.

(b) The notes and renewals of notes may:

(i) bear a variable interest rate; and

(ii) be redeemed prior to maturity by the state treasurer, but only in accordance with the provisions of the notes relating to redemption prior to maturity.

(4) The proceeds from the sale of the notes may be used only for:

(a) the purposes established in Section 63B-6-202;

(b) the payment of principal of and, if not otherwise provided, interest on, bond anticipation notes;

(c) the payment of costs of issuance; or

(d) any combination of Subsections (4)(a), (b), and (c).

(5) (a) All of the notes and any renewals of the notes shall be payable from the proceeds of the sale of bonds.

(b) A renewal of any note may not be issued after the sale of bonds in anticipation of which the original note was issued.

(6) If a sale of the bonds has not occurred before the maturity of the notes issued in anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:

(a) issue renewal notes for that purpose;

(b) pay the notes from state money legally available for paying those notes; or

(c) any combination of Subsections (6)(a) and (b).

(7) Each note and any renewal of any note, with the interest on the note or renewal, constitute general obligations of the state.

(8) Each note and any renewal of any note, with the interest on the note or renewal, shall be:

(a) secured by the full faith, credit, and resources of the state in the manner provided in Part 2, 1997 Highway General Obligation Bond Authorization;

(b) payable from:

(i) the proceeds of the sale of the bonds and not from any other borrowing; and

(ii) money of the state on hand and legally available for that purpose; or

(iii) any combination of Subsections (8)(b)(i) and (ii); and

(c) payable within five years from the date of original issue.

(9) The total amount of notes or renewals of notes issued and outstanding at any one time may not exceed the lesser of:

(a) the total amount of bonds authorized to be issued but not yet issued; or

(b) $260,000,000.

(10) The state treasurer shall, in [~~his~~]the state treasurer's annual report to the governor, include a detailed statement of all notes and bonds issued during the year and of [~~his~~]the state treasurer's actions in relation to them.

Section 263. Section 63B-6-417 is amended to read:

63B-6-417. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's

budget for as long as bonds issued under this chapter remain outstanding.

Section 264. Section 63B-7-117 is amended to read:

63B-7-117. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 265. Section 63B-7-217 is amended to read:

63B-7-217. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 266. Section 63B-7-302 is amended to read:

63B-7-302. Authorization, terms, and procedures.

(1) The state treasurer may, by written order, issue bond anticipation notes and renewals of bond anticipation notes, including, but not limited to, flexible notes and short-term series notes, in the form and with the terms that [~~he~~]the state treasurer determines.

(2) The state treasurer may:

(a) enter into whatever agreements with other persons that [~~he~~]the state treasurer considers necessary or appropriate in connection with the issuance, sale, and resale of the notes; and

(b) resell or retire any notes purchased by the state before the stated maturity of those notes.

(3) (a) The notes and renewals of the notes shall:

(i) bear the interest rate or rates as determined by the state treasurer; and

(ii) mature within a period not to exceed three years.

(b) The notes and renewals of notes may:

(i) bear a variable interest rate; and

(ii) be redeemed prior to maturity by the state treasurer, but only in accordance with the provisions of the notes relating to redemption prior to maturity.

(4) The proceeds from the sale of the notes may be used only for:

(a) the purposes established in Section 63B-7-202;

(b) the payment of principal of and, if not otherwise provided, interest on, bond anticipation notes;

(c) the payment of costs of issuance; or

(d) any combination of Subsections (4)(a), (b), and (c).

(5) (a) All of the notes and any renewals of the notes shall be payable from the proceeds of the sale of bonds.

(b) A renewal of any note may not be issued after the sale of bonds in anticipation of which the original note was issued.

(6) If a sale of the bonds has not occurred before the maturity of the notes issued in anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:

(a) issue renewal notes for that purpose;

(b) pay the notes from state money legally available for paying those notes; or

(c) any combination of Subsections (6)(a) and (b).

(7) Each note and any renewal of any note, with the interest on the note or renewal, constitute general obligations of the state.

(8) Each note and any renewal of any note, with the interest on the note or renewal, shall be:

(a) secured by the full faith, credit, and resources of the state in the manner provided in Part 2, 1998 Highway General Obligation Bond Authorization;

(b) payable from:

(i) the proceeds of the sale of the bonds and not from any other borrowing; and

(ii) money of the state on hand and legally available for that purpose; or

(iii) any combination of Subsections (8)(b)(i) and (ii); and

(c) payable within five years from the date of original issue.

(9) (a) As used in this Subsection (9), "total amount of bonds authorized to be issued but not yet issued" includes bonds authorized to be issued only if one or more conditions are met.

(b) The total amount of notes or renewals of notes issued and outstanding at any one time may not exceed the total amount of bonds authorized to be issued but not yet issued.

(10) The state treasurer shall, in [~~his~~]the state treasurer's annual report to the governor, include a detailed statement of all notes and bonds issued during the year and of [~~his~~]the state treasurer's actions in relation to them.

Section 267. Section 63B-7-417 is amended to read:

63B-7-417. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 268. Section 63B-8-117 is amended to read:

63B-8-117. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 269. Section 63B-8-217 is amended to read:

63B-8-217. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 270. Section 63B-8-302 is amended to read:

63B-8-302. Authorization, terms, and procedures.

(1) The state treasurer may, by written order, issue bond anticipation notes and renewals of bond anticipation notes, including flexible notes and short-term series notes, in the form and with the terms that [~~he~~]the state treasurer determines.

(2) The state treasurer may:

(a) enter into whatever agreements with other persons that [~~he~~]the state treasurer considers necessary or appropriate in connection with the issuance, sale, and resale of the notes; and

(b) resell or retire any notes purchased by the state before the stated maturity of those notes.

(3) (a) The notes and renewals of the notes shall:

(i) bear the interest rate or rates as determined by the state treasurer; and

(ii) mature within a period not to exceed three years.

(b) The notes and renewals of notes may:

(i) bear a variable interest rate; and

(ii) be redeemed prior to maturity by the state treasurer, but only in accordance with the provisions of the notes relating to redemption prior to maturity.

(4) The proceeds from the sale of the notes may be used only for:

(a) the purposes established in Section 63B-8-202;

(b) the payment of principal of and, if not otherwise provided, interest on, bond anticipation notes;

(c) the payment of costs of issuance, credit enhancement, and liquidity support; or

(d) any combination of Subsections (4)(a), (b), and (c).

(5) (a) All of the notes and any renewals of the notes shall be payable from the proceeds of the sale of bonds.

(b) A renewal of any note may not be issued after the sale of bonds in anticipation of which the original note was issued.

(6) If a sale of the bonds has not occurred before the maturity of the notes issued in anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:

(a) issue renewal notes for that purpose;

(b) pay the notes from state money legally available for paying those notes; or

(c) any combination of Subsections (6)(a) and (b).

(7) Each note and any renewal of any note, with the interest on the note or renewal, constitute general obligations of the state.

(8) Each note and any renewal of any note, with the interest on the note or renewal, shall be:

(a) secured by the full faith, credit, and resources of the state in the manner provided in Part 2, 1999 Highway General Obligation Bond Authorization;

(b) payable from:

(i) the proceeds of the sale of the bonds and not from any other borrowing; and

(ii) money of the state on hand and legally available for that purpose; or

(iii) any combination of Subsections (8)(b)(i) and (ii); and

(c) payable within five years from the date of original issue.

(9) The total amount of notes or renewals of notes issued and outstanding at any one time may not exceed the total amount of bonds authorized to be issued but not yet issued.

(10) The state treasurer shall, in [~~his~~]the state treasurer's annual report to the governor, include a detailed statement of all notes and bonds issued during the year and of [~~his~~]the state treasurer's actions in relation to them.

Section 271. Section 63B-8-417 is amended to read:

63B-8-417. Report to Legislature.

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~]the governor's budget for as long as bonds issued under this chapter remain outstanding.

Section 272. Section 64-13-15 is amended to read:

64-13-15. Property of offender -- Storage and disposal.

(1) (a) Offenders may retain personal property at correctional facilities only as authorized by the department. An offender's property which is retained by the department shall be inventoried and placed in storage by the department and a receipt for the property shall be issued to the offender. Offenders shall be required to arrange for disposal of property retained by the department within a reasonable time under department rules. Property retained by the department shall be returned to the offender at discharge, or in accordance with Title 75, Utah Uniform Probate Code, in the case of death prior to discharge.

(b) If property is not claimed within one year of discharge, or it is not disposed of by the offender within a reasonable time after the department's order to arrange for disposal, it becomes property of the state and may be used for correctional purposes or donated to a charity within the state.

(c) If an inmate's property is not claimed within one year of [~~his~~]the inmate's death, it becomes the property of the state in accordance with Section 75-2-105.

(d) Funds which are contraband and in the physical custody of any prisoner, whether in the form of currency and coin which are legal tender in any jurisdiction or negotiable instruments drawn upon a personal or business account, shall be subject to forfeiture following a hearing which accords with prevailing standards of due process. All such forfeited funds shall be used by the department for purposes which promote the general welfare of prisoners in the custody of the department. Money and negotiable instruments taken from offenders' mail

under department rule and which are not otherwise contraband shall be placed in an account administered by the department, to the credit of the offender who owns the money or negotiable instruments.

(2) Upon discharge from a secure correctional facility, the department may give an inmate transition funds in an amount established by the department with the approval of the director of the Division of Finance. At its discretion, the department may spend the funds directly on the purchase of necessities or transportation for the discharged inmate.

Section 273. Section 64-13-32 is amended to read:

64-13-32. Discipline of offenders -- Use of force.

(1) If an offender offers violence to an officer or other employee of the Department of Corrections, or to another offender, or to any other person; attempts to damage or damages any corrections property; attempts to escape; or resists or refuses to obey any lawful and reasonable command; the officers and other employees of the department may use all reasonable means, including the use of weapons, to defend themselves and department property and to enforce the observance of discipline and prevent escapes.

(2) An inmate who is housed in a secure correctional facility and is in the act of escaping from that secure correctional facility or from the custody of a peace or correctional officer is presumed to pose a threat of death or serious bodily injury to an officer or others if apprehension is delayed. Notwithstanding Section 76-2-404, a peace or correctional officer is justified in using deadly force if [~~he~~]the peace or correctional officer reasonably believes deadly force is necessary to apprehend the inmate.

Section 274. Section 64-13d-106 is amended to read:

64-13d-106. Monitoring contracts.

(1) The executive director or [~~his~~]the executive director's designee shall monitor the performance of all facilities incarcerating inmates under the jurisdiction of the department.

(2) The executive director or [~~his~~]the executive director's designee shall have unlimited access to all facilities, records, and staff for monitoring purposes.

(3) The executive director may appoint a monitor to inspect a facility. The monitor shall have unlimited access to all facilities, records, and staff for monitoring purposes.

(4) The department shall be reimbursed by the entity operating the facility for that portion of the salary and expenses of the monitor attributable to monitoring the particular facility.

(5) Monitoring consists of ensuring that:

(a) all state laws, department rules, and contractual obligations applicable to the facility are being met; and

(b) all operations are effective, efficient, and economical.

Section 275. Section 65A-6-11 is amended to read:

65A-6-11. Land subject to a federal mineral lease.

(1) With respect to any tract of land in which the state acquires or has acquired any interest subject to an outstanding federal mineral lease or prospecting permit, the lessee or permittee may submit a petition seeking extension of the permit or lease or any other action as may be necessary to give to the lessee or permittee any and all rights, privileges, and benefits which [~~he~~]the lessee or permittee would have had under the permit or lease had the state not acquired its interest in the tract.

(2) In consideration of the voluntary termination by the federal lessee or permittee of [~~his~~]the lease or permit as it relates to that tract, the division may issue to that lessee or permittee a lease of the acquired tract or any portion of that tract for recovery of the same mineral substances upon terms that the lessee or permittee shall have all the rights, privileges, and benefits with reference to that tract which [~~he~~]the lessee or permittee would have had by reason of [~~his~~]the lease or permit from the United States had the state not acquired its interest in the tract.

Section 276. Section 67-1-1 is amended to read:

67-1-1. General powers and duties.

In addition to those prescribed by the constitution, the governor[~~has the following powers and must perform the following duties~~]:

(1) [~~He~~]shall supervise the official conduct of all executive and ministerial officers[~~.~~];

(2) [~~He~~]shall see that all offices are filled and the duties thereof performed, or in default thereof, apply such remedy as the law allows, and, if the remedy is imperfect, acquaint the Legislature therewith at its next session[~~.~~];

(3) [~~He~~]shall make appointments and fill vacancies as required by law[~~.~~];

(4) [~~He~~]is the sole official organ of communication between the government of this state and the government of any other state and of the United States[~~.~~];

(5) [~~Whenever~~]whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, [~~he~~]may direct the attorney general to appear on behalf of the state, and may employ such additional counsel as [~~he~~]the governor may judge expedient[~~.~~];

(6) [~~He~~]may require the attorney general or the county attorney or district attorney of any county to inquire into the affairs or management of any corporation doing business in this state[~~.~~];

(7) [~~He~~]may require the attorney general to aid any county attorney or district attorney in the discharge of [~~his~~]the county attorney's or district attorney's duties[~~.~~];

(8) [~~He~~]may offer rewards, not exceeding $1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison, or any person who has committed, or is charged with the commission of, a felony[~~.~~];

(9) [~~He must~~]shall perform such duties respecting fugitives from justice as are prescribed by law[~~.~~];

(10) [~~He must~~]shall issue and transmit election proclamations as prescribed by law[~~.~~];

(11) [~~He must~~]shall issue land warrants and patents as prescribed by law[~~.~~];

(12) [~~He must~~]shall, prior to each regular meeting of the Legislature, deliver to the Division of Archives for publication all biennial reports of officers, commissions, and boards for the two preceding years[~~.~~];

(13) [~~He may~~]shall require any officer, commission, or board to make special reports to [~~him~~]the governor in writing[~~.~~];

(14) [~~He must~~]shall discharge the duties of a member of all boards of which [~~he~~]the governor is or may be made a member by the constitution or by law[~~.~~];

(15) [~~He~~]shall each year issue a proclamation recommending the observance of Arbor day, by the planting of trees, shrubs, and vines,

in the promotion of forest growth and culture, and in the adornment of public and private grounds, places and ways, and in such other efforts and undertakings as shall be in harmony with the general character of such holiday[.]; and

(16) [~~He~~]has such other powers and must perform such other duties as are devolved upon [~~him~~]the governor by law.

Section 277. Section 67-5-5 is amended to read:

67-5-5. Hiring of legal counsel for agencies -- Costs.

Except where specifically authorized by the Utah Constitution, or statutes, no agency shall hire legal counsel, and the attorney general alone shall have the sole right to hire legal counsel for each such agency. Where the Legislature has provided by statute for separate agency counsel, no such counsel may act as an assistant attorney general nor as a special assistant attorney general unless the attorney general shall so authorize. Unless [~~he~~]the attorney general hires such legal counsel from outside [~~his~~]the attorney general's office, the attorney general shall remain the sole legal counsel for that agency. If outside counsel is hired for an agency, then the costs of any services to be rendered by this counsel shall be approved by the attorney general before these costs are incurred. The attorney general shall approve all billing statements from outside counsel and shall pay the full costs of this counsel unless the agency by legislative appropriation or in the form of costs, fees, fines, penalties, forfeitures or proceeds reserved or designated for the payment of legal fees receives from any other source the equivalent cost or a portion thereof, in which case the attorney general may bill the agency for the services; provided, the agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal service rendered.

Section 278. Section 67-9-1 is amended to read:

67-9-1. Appointment -- Powers.

The state auditor, the state treasurer, the attorney general, and the superintendent of public instruction may each appoint a deputy, who may, during the absence or disability of the principal, perform all the duties pertaining to the office, except those required of the principal as a member of any board. The principal shall be answerable for neglect or misconduct in office of [~~his~~]the deputy, and may require from [~~him~~]the deputy a bond for [~~his own~~]security. The appointment of a deputy shall be in writing, and shall be revocable at the pleasure of the principal; and all such appointments and revocations shall be filed with the lieutenant governor.

Section 279. Section 67-16-2 is amended to read:

67-16-2. Purpose of chapter.

The purpose of this chapter is to set forth standards of conduct for officers and employees of the state of Utah and its political subdivisions in areas where there are actual or potential conflicts of interest between their public duties and their private interests. In this manner the Legislature intends to promote the public interest and strengthen the faith and confidence of the people of Utah in the integrity of their government. It does not intend to deny any public officer or employee the opportunities available to all other citizens of the state to acquire private economic or other interests so long as this does not interfere with [~~his~~]the full and faithful discharge of [~~his~~]a public officer's or employee's public duties.

Section 280. Section 70C-2-207 is amended to read:

70C-2-207. Referral sales.

With respect to a consumer credit sale, the seller may not give or offer to give a rebate or discount or otherwise pay or offer to pay value to the buyer as an inducement for a sale in consideration of [~~his~~]the buyer giving to the seller the names of prospective purchasers or otherwise aiding the seller in making a sale to another person, if the earning of the rebate, discount, or other value is contingent upon the occurrence of an event subsequent to the time the buyer agrees to buy. If a buyer is induced by a violation of this section to enter into a consumer credit sale, the agreement is unenforceable by the seller and the buyer may rescind the agreement and retain any goods delivered until all payments made by the debtor have been fully refunded to [~~him~~]the buyer. The buyer may retain the benefit of any services performed without any obligation to pay for them. This section does not apply if any goods delivered to the buyer are damaged while in the buyer's possession or are not delivered to the seller at the buyer's residence, or at any other place agreed on by the parties, within a reasonable time after the seller tenders or delivers a full refund of all payments to the buyer.

Section 281. Section 70C-5-101 is amended to read:

70C-5-101. Definition -- Home solicitation sale.

As used in this chapter, "home solicitation sale" means a consumer credit sale of goods or services in which the seller or a person acting for [~~him~~]the seller engages in a face-to-face solicitation of the sale at a residence or place of employment of the buyer and the buyer's agreement or offer to purchase is there given to the seller or a person acting for [~~him~~]the seller. It does not include a sale made pursuant to preexisting open-end accounts, or a sale made between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale.

Section 282. Section 70C-5-103 is amended to read:

70C-5-103. Form of agreement or offer -- Statement of buyer's rights.

(1) In a home solicitation sale, unless the buyer requests the seller to provide goods or services without delay in an emergency, the seller shall present to the buyer and obtain [~~his~~]the buyer's signature to a written agreement or offer to purchase which designates as the date of the transaction the date on which the buyer actually signs and contains a statement of the buyer's rights which complies with Subsection (2).

(2) The statement shall:

(a) appear under the conspicuous caption: "BUYER'S RIGHT TO CANCEL"; and

(b) read as follows:

"If this agreement was solicited at your residence or place of employment and you do not want the goods or services, you may cancel this agreement by mailing a notice to the seller. The notice must say that you do not want the goods or services and must be mailed before midnight on the third business day after you sign this agreement. The notice must be mailed to: _____ (insert name and mailing address of seller)."

(3) Compliance with any notice of cancellation or similar requirement of any rule of the Federal Trade Commission which by its terms applies to a home solicitation sale covered by this title is deemed compliance with Subsection (2)(b) if compliance is totally consistent with this title.

(4) Until the seller has complied with this section the buyer may cancel the home solicitation sale by notifying the seller in any manner and by any means of [~~his~~]the buyer's intention to cancel.

Section 283. Section 70C-5-104 is amended to read:

70C-5-104. Restoration of down payment.

(1) Within 10 days after a home solicitation sale has been canceled or an offer to purchase revoked the seller shall tender to the buyer any payments made by the buyer and any note or other evidence of indebtedness.

(2) If the down payment includes goods traded in, the goods shall be tendered in substantially as good condition as when received by the seller. If the seller fails to tender the goods as provided by this section, the buyer may recover an amount equal to the trade-in allowance stated in the agreement.

(3) A provision permitting the seller to keep all or any part of any payment, note, or evidence of indebtedness is in violation of this section and unenforceable.

(4) Until the seller has complied with the obligations imposed by this section, the buyer may retain possession of goods delivered to [~~him~~]the buyer by the seller and has a lien on the goods in [~~his~~]the buyer's possession or control for any recovery to which [~~he~~]the buyer is entitled.

Section 284. Section 70C-5-105 is amended to read:

70C-5-105. Duty of buyer -- No compensation for services prior to cancellation.

(1) Except as provided by the provisions on retention of goods by the buyer under Subsection 70C-5-104(4), within a reasonable time after a home solicitation sale has been canceled or an offer to purchase revoked, the buyer upon demand shall tender to the seller any goods delivered by the seller pursuant to the sale, but [~~he~~]the buyer is not obligated to tender at any place other than [~~his~~]the buyer's residence or place of employment. If the seller fails to demand possession of goods within a reasonable period of time after cancellation or revocation, the goods become the property of the buyer without obligation to pay for them. For the purpose of this section, 40 days is a reasonable period of time.

(2) The buyer has a duty to take reasonable care of the goods in [~~his~~]the buyer's possession before cancellation or revocation and for a reasonable time thereafter, during which time the goods are otherwise at the seller's risk.

(3) If the seller has performed any services pursuant to a home solicitation sale prior to its cancellation, the seller is entitled to no compensation.

Section 285. Section 70C-6-104 is amended to read:

70C-6-104. Conditions applying to insurance to be provided by creditor.

If a creditor agrees with a debtor to provide insurance:

(1) the insurance shall be evidenced by an individual policy or certificate of insurance delivered to the debtor, or sent to [~~him~~]the debtor at [~~his~~]the debtor's address as stated by [~~him~~]the debtor, within 30 days after the term of the insurance commences under the agreement between the creditor and debtor; or

(2) the creditor shall promptly notify the debtor of any failure or delay in providing the insurance.

Section 286. Section 70C-6-106 is amended to read:

70C-6-106. Refund or credit required -- Amount.

(1) A debtor or [~~his~~]a debtor's estate is entitled to any rebate or refund due from an insurer and to any unearned part of a separate charge for insurance previously paid by the debtor, resulting from the prepayment of a consumer credit debt, except when all refunds and credits due to the debtor under this title amount to less than $5.

(2) A creditor shall promptly make or cause to be made an appropriate refund or credit to the debtor with respect to any separate charge made to [~~him~~]the debtor for insurance if:

(a) the insurance is not provided or is provided for a shorter term than that for which the charge to a debtor for insurance was computed; or

(b) the insurance terminates prior to the end of the term for which it was written because of prepayment in full or otherwise.

(3) All refunds or credit required by this section shall be computed according to a method prescribed or approved by the Insurance Department or formula filed by the insurer with the Insurance Department at least 30 days before any debtor's right to a refund or credit becomes determinable, unless the method or formula is employed after the Insurance Department notifies the insurer that the method or formula has been disapproved.

(4) Except as provided in Subsection (1), a creditor is not obligated to account to a debtor for any portion of a separate charge for insurance when:

(a) the insurance is terminated by performance of the insurer's obligation;

(b) the creditor pays or accounts for premiums to the insurer in amounts and at times determined by the agreement between them; or

(c) the creditor receives directly or indirectly under any policy of insurance a gain or advantage not prohibited by law.

Section 287. Section 70C-6-304 is amended to read:

70C-6-304. Cancellation by creditor.

A creditor may not request cancellation of a policy of property or liability insurance except after the debtor's default or in accordance with a written authorization by the debtor, and in either case the cancellation does not take effect until written notice is delivered to the debtor or mailed to [~~him~~]the debtor at [~~his~~]the debtor's address as stated by [~~him~~]the debtor. The notice shall state that the policy may be cancelled on a date not less than 10 days after the notice is delivered, or, if the notice is mailed, not less than 13 days after it is mailed.

Section 288. Section 70C-7-104 is amended to read:

70C-7-104. No discharge from employment for garnishment.

No employer may discharge any employee because [~~his~~]the employee's earnings have been subject to garnishment in connection with any one judgment.

Section 289. Section 70C-7-201 is amended to read:

70C-7-201. Effect of violations by creditors -- Penalties -- Debtor's rights.

(1) A debtor is not obligated to pay a charge in excess of that allowed by this title, and if [~~he~~]the debtor has paid an excess charge[~~he~~], the debtor has a right to a refund. A refund may be made in whole or in part by reducing the debtor's obligation by the amount of the excess charge. If the debtor has paid an amount in excess of the lawful obligation under the agreement, the debtor may recover the excess amount from the party who made the excess charge or from an assignee of the creditor's rights who undertakes direct collection of payments from or enforcement of rights against the debtor with respect to the debt.

(2) If a debtor is entitled to a refund and a party liable to the debtor in bad faith refuses to make a refund within a reasonable time after demand, the debtor may recover from that party a penalty in an amount to be determined by a court not exceeding the greater of either the amount of the finance charge or 10 times the amount of the excess charge. If the creditor has made an excess charge in deliberate violation of or in reckless disregard for this title, the penalty may be recovered even though the creditor has refunded the excess charge.

Section 290. Section 72-2-104 is amended to read:

72-2-104. Budget.

(1) The department shall prepare and submit to the governor, to be included in [~~his~~]the governor's budget to be submitted to the Legislature, a budget of the requirements for the operation of the department for the fiscal year following the convening of the Legislature.

(2) This budget shall be so separated, in relation to the various functions of the department, so as to allow the separate determination of funds for deposit into the Transportation Fund and into any other special funds which are required by law to be utilized for specific purposes and which are separately maintained by the department for those purposes.

Section 291. Section 72-5-107 is amended to read:

72-5-107. United States patents -- Patentee and county to assert claims to roads crossing land.

(1) (a) If any person acquires title from the United States to any land in this state over which any public highway extends that has not been duly platted, and that has not been continuously used as a public highway for a period of 10 years, the person shall within three months after receipt of the person's patent assert the person's claim for damages in writing to the county executive of the county in which the land is situated.

(b) The county legislative body shall have an additional period of three months in which to begin proceedings to condemn the land according to law.

(2) (a) The highway shall continue open as a public highway during the periods described under Subsection (1).

(b) If no action is begun by the county executive within the period described under Subsection (1)(b), the highway shall be considered to be abandoned by the public.

(3) In case of a failure by the person so acquiring title to public lands to assert [~~his~~]the person's claim for damage during the three months from the time the person received a patent to the lands, the person shall thereafter be barred from asserting or recovering any damages by reason of the public highway, and the public highway shall remain open.

Section 292. Section 72-9-303 is amended to read:

72-9-303. Cease and desist orders -- Registration sanctions.

(1) The department may issue cease and desist orders to any person:

(a) who engages in or represents himself or herself to be engaged in a motor carrier operation that is in violation of this chapter;

(b) to prevent the violation of any of the provisions of this title; and

(c) who otherwise violates this chapter or any rules adopted under this chapter.

(2) (a) The department shall notify the Motor Vehicle Division of the State Tax Commission upon having reasonable grounds to believe that a motor carrier is in violation of this chapter. Upon receiving notice by the department, the Motor Vehicle Division shall refuse registration or shall suspend or revoke a registration as provided in Sections 41-1a-109 and 41-1a-110.

(b) The department shall notify the Motor Vehicle Division immediately upon being satisfied that a motor carrier, reported as being in violation under Subsection (2)(a), is in compliance with this chapter. Upon receiving notice by the department, the Motor Vehicle Division shall remove any restriction made on a registration under this chapter.

Section 293. Section 72-9-703 is amended to read:

72-9-703. Civil penalties for violations -- Compromise.

(1) In addition to any other penalties, a motor carrier that fails or neglects to comply with any provision of the Constitution of this state, statute, or any rule or order of the department is subject to a civil penalty of not less than $500 nor more than $2,000 for each offense.

(2) Every violation of any provision of the constitution of this state, statute, or any rule or order of the department, is a separate and distinct offense. Each day's continuance of the violation is a separate and distinct offense.

(3) (a) The civil penalty may be compromised by the department and a determination of compromise is appealable by the person alleged to have committed the violation. In determining the amount of the penalty or the amount agreed upon in compromise, the department shall consider the:

(i) gravity of the violation; and

(ii) good faith of the person charged in attempting to achieve compliance after notification of the violation.

(b) The amount of the penalty when finally determined or the amount agreed upon in compromise may be deducted from any sums owing by the state to the person charged or may be recovered in a civil action in the courts of this state.

(4) In construing and enforcing the provisions of this chapter relating to penalties, the act, omission, or failure of any officer, agent, or employee of any motor carrier, acting within the scope of [~~his~~]the officer's, agent's, or employee's official duties or employment, is deemed to be the act, omission, or failure of the motor carrier.

Section 294. Section 73-2-10 is amended to read:

73-2-10. Knowledge of waterways and irrigation -- Suggestions as to amendment or enactment of laws.

The state engineer shall become conversant with the waterways of the state and its needs as to irrigation matters; and [~~he~~]the state engineer shall make such suggestions as to the amendment of existing laws or the enactment of new laws as [~~his~~]the state engineer's information and experience shall suggest.

Section 295. Section 73-2-12 is amended to read:

73-2-12. Seal.

The state engineer shall have a seal which [~~he~~]the state engineer shall affix to all certificates issued from [~~his~~]the state engineer's office, and [~~he~~]the state engineer shall file a description and an impression of the same with the Division of Archives.

Section 296. Section 73-2-13 is amended to read:

73-2-13. Attorney general and county attorneys to counsel.

In all matters requiring legal advice in the performance of [~~his~~]the state engineer's duties and the prosecution or defense of any action growing out of the performance of [~~his~~]the state engineer's duties, the attorney general or county attorney of the county in which any legal question arises, shall be the legal advisers of the state engineer, and [~~they~~]are hereby required to perform any and all legal services required [~~of them~~]by [~~him~~]the state engineer without other compensation than their salaries.

Section 297. Section 73-2-23.1 is amended to read:

73-2-23.1. Assistance of state engineer in management of flood waters.

In addition to [~~his~~]the state engineer's other flood management authority under Sections 73-2-22 and 73-2-23, the state engineer may assist in the management of flood waters pursuant to court judgments and decrees.

Section 298. Section 73-3-5.5 is amended to read:

73-3-5.5. Temporary applications to appropriate water -- Approval by engineer -- Expiration -- Proof of appropriation not required.

(1) The state engineer may issue temporary applications to appropriate water for beneficial purposes.

(2) The provisions of this chapter governing regular applications to appropriate water shall apply to temporary applications with the following exceptions:

(a) (i) The state engineer shall undertake a thorough investigation of the proposed appropriation, and if the temporary application complies with the provisions of Section 73-3-8, may make an order approving the application.

(ii) If the state engineer finds that the appropriation sought might impair other rights, before approving the application, the state engineer shall give notice of the application to all persons whose rights may be affected by the temporary appropriations.

(b) The state engineer may issue a temporary application for a period of time not exceeding one year.

(c) (i) The state engineer, in the approval of a temporary application, may make approval subject to whatever conditions and provisions [~~he~~]the state engineer considers necessary to fully protect prior existing rights.

(ii) If the state engineer determines that it is necessary to have a water commissioner distribute the water under a temporary application for the protection of other vested rights, the state engineer may assess the distribution costs against the holder of the temporary application.

(d) (i) A temporary application does not vest in its holder a permanent vested right to the use of water.

(ii) A temporary application automatically expires and is cancelled according to its terms.

(e) Proof of appropriation otherwise required under this chapter is not required for temporary applications.

Section 299. Section 73-3a-108 is amended to read:

73-3a-108. Approval of applications -- Criteria.

(1) The state engineer shall:

(a) undertake an investigation of any application made under this chapter; and

(b) approve the application, if [~~he~~]the state engineer finds that:

(i) the proposed appropriation or change:

(A) satisfies Section 73-3-3, 73-3-5.5, or 73-3-8, whichever is applicable;

(B) is consistent with Utah's reasonable water conservation policies or objectives;

(C) is not contrary to the public welfare; and

(D) does not impair the ability of the state of Utah to comply with its obligation under any interstate compact or judicial decree which apportions water among Utah and other states; and

(ii) the water can be transported, measured, delivered, and beneficially used in the recipient state.

(2) In reviewing the criteria of Subsections (1)(b)(i)(B) and (1)(b)(i)(C), the state engineer shall consider the following factors:

(a) the supply and quality of water available to the state of Utah;

(b) the current and reasonably anticipated water demands of the state of Utah;

(c) whether there are current or reasonably anticipated water shortages within Utah;

(d) whether the water that is the subject of the application could feasibly be used to alleviate current or reasonably anticipated water shortages within Utah;

(e) the alternative supply and sources of water available to the applicant in the state where the applicant intends to use the water; and

(f) the demands placed on the applicant's alternate water supply in the state where the applicant intends to use the water.

(3) If any application fails to meet any criteria of Subsection (1), it shall be rejected.

(4) The state engineer may condition any approval to ensure that the use of the water in another state:

(a) is subject to the same laws, rules, and controls that may be imposed upon water use within the state of Utah; or

(b) is consistent with the terms and conditions of any applicable interstate compact to which the state of Utah is a party.

Section 300. Section 73-3b-303 is amended to read:

73-3b-303. Modification of recharge or recovery permits.

(1) The state engineer, on [~~his~~]the state engineer's own initiative or at the request of any person holding a recharge or recovery permit, may modify the conditions of the respective permit, if [~~he~~]the state engineer finds that modifications are necessary and will not impair existing water rights or the water quality of the aquifer.

(2) Before any permit condition is modified, the state engineer may require notice to potentially impaired water users if [~~he~~]the state engineer finds that the modification under consideration may impair existing water rights.

Section 301. Section 73-5a-203 is amended to read:

73-5a-203. Review of plans.

(1) The state engineer shall establish a formal written procedure for the review of plans submitted pursuant to Section 73-5a-202. Plans shall be reviewed according to:

(a) design criteria which the state engineer shall specify in rules; and

(b) data or criteria generally accepted by the general dam design community.

(2) Upon review of the plans, the state engineer will:

(a) approve them with appropriate conditions;

(b) reject them; or

(c) return them for correction.

(3) The state engineer shall document each review indicating:

(a) how the plans were reviewed; and

(b) [~~his~~]the state engineer's evaluation of the plans.

Section 302. Section 73-5a-301 is amended to read:

73-5a-301. Inspections to insure compliance with plans -- Duties and costs of owners -- Weekly reports.

(1) During construction, enlargement, repair, alteration, or removal of any dam:

(a) the state engineer, [~~his~~]the state engineer's staff, or an independent consultant shall make periodic inspections of the work for the purpose of ascertaining compliance with the approved plans and specifications; and

(b) the owner of the dam shall:

(i) conduct tests that the state engineer determines are necessary;

(ii) provide adequate supervision of the work by an engineer licensed by the state who has experience in dam design and construction; and

(iii) disclose information sufficient to enable the state engineer to determine that the work is being done in conformance with the approved plans and specifications.

(2) Costs of any work or tests required by the state engineer shall be paid by the owner of the dam.

(3) The engineer who is supervising the work pursuant to Subsection (1)(b)(ii) is required to submit a report weekly to the state engineer. Each report shall show the work accomplished during the previous week and summarize the results of any material testing.

Section 303. Section 73-5a-302 is amended to read:

73-5a-302. Failure to conform to plans.

(1) If at any time during construction, enlargement, repair, alteration, or removal of any dam the state engineer finds that the work is not being done in accordance with the approved plans and specifications, [~~he~~]the state engineer shall:

(a) notify the owner of the failure to comply;

(b) order the owner to effect compliance with the plans and specifications; or

(c) approve the modification to the approved plans and specifications.

(2) The state engineer may order that no further work be done until compliance has been effected and approved by [~~him~~]the state engineer.

(3) A failure to comply with the approved plans and specifications shall render the approval subject to revocation by the state engineer. If compliance is not effected in a reasonable time, the state engineer may order the incomplete structure removed in order to eliminate any safety hazard to life or property.

Section 304. Section 73-5a-303 is amended to read:

73-5a-303. Circumstances under which the plan must be modified or the approval revoked.

(1) If at any time during construction, enlargement, repair, alteration, or removal of a dam the state engineer finds that the conditions encountered differ appreciably from those assumed in the plan, [~~he~~]the state engineer may require the plans to be modified.

(2) If conditions are revealed which will not permit the construction of a safe dam, the state engineer shall revoke the approval.

Section 305. Section 73-5a-402 is amended to read:

73-5a-402. Standard operating plans required.

The owner of each dam shall prepare a standard operating plan for the dam. In the case of a dam in operation prior to May 1, 1991, the standard operating plan shall be submitted to the state engineer for [~~his~~]the state engineer's approval by May 1, 1994. In the case of any dam beginning operations on or after May 1, 1991, the standard operating plan shall be submitted to the state engineer for [~~his~~]the state engineer's approval prior to the final inspection.

Section 306. Section 73-5a-601 is amended to read:

73-5a-601. Emergency action plans required.

(1) The owner of any dam which, in the state engineer's opinion, may pose a threat to life or cause significant damage to property if it fails shall prepare a plan of action to be implemented when an emergency involving the dam occurs.

(2) In the case of a dam in operation prior to May 1, 1991, the emergency action plan shall be submitted to the state engineer for [~~his~~]the state engineer's approval by May 1, 1994.

(3) In the case of a dam beginning operations on or after May 1, 1991, the emergency action plan shall be submitted to the state engineer prior to the date of the final inspection.

Section 307. Section 73-18-7.1 is amended to read:

73-18-7.1. Fraudulent application for registration or certificate of title.

A person is guilty of a third degree felony if [~~he~~]the person:

(1) fraudulently uses a false or fictitious name in any application for a registration or certificate of title for a motorboat, sailboat, or outboard motor; or

(2) in making an application specified in Subsection (1)[~~, he~~]:

(a) knowingly makes a false statement;

(b) knowingly conceals a material fact; or

(c) otherwise commits a fraud.

Section 308. Section 73-18-10 is amended to read:

73-18-10. Owner of boat livery -- Duties.

(1) The owner of a boat livery shall keep a record of the following: the name and address of the person hiring any vessel; the identification number of the vessel; the vessel's departure date and time; and the vessel's expected time of return. The record shall be preserved for at least one year.

(2) Neither the owner of a boat livery nor [~~his~~]the owner's agent or employee may permit any vessel to depart from the premises of the boat livery unless the owner has equipped it as required under this chapter and unless [~~he~~]the owner has advised the lessee or renter of the vessel of all rules promulgated under this chapter which the lessee or renter must obey.

Section 309. Section 73-18-20.3 is amended to read:

73-18-20.3. Falsified hull identification, engine, or motor number.

(1) A person is guilty of a third degree felony if [~~he~~]the person:

(a) with fraudulent intent defaces, destroys, or alters a vessel hull identification number or serial number for an engine or outboard motor;

(b) places or stamps any vessel hull identification number upon a vessel or serial number upon an engine or outboard motor, except one assigned by the division or its authorized agent;

(c) knowingly buys, receives, disposes of, sells, offers for sale, or [~~has in his possession~~]possesses any vessel, or engine or outboard motor removed from a vessel, from which the vessel hull identification number or engine or outboard motor serial number, has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of the vessel, engine, or outboard motor;

(d) with intent to procure or pass title to a vessel or outboard motor, receives or transfers possession of a vessel or outboard motor which he knows or has reason to believe has been stolen or unlawfully taken; or

(e) [~~has in his possession~~]possesses a vessel or outboard motor which [~~he~~]the person knows or has reason to believe has been stolen or unlawfully taken, unless the person is a peace officer engaged at the time in the performance of [~~his duty~~]peace officer duties.

(2) (a) This section does not prohibit the restoration by an owner of an original vessel hull identification number or manufacturer's serial number for an engine or outboard motor if the restoration is made by application to the division or its authorized agent.

(b) This section does not prohibit any manufacturer from placing, in the ordinary course of business, numbers or marks upon vessels, motors, outboard motors, or parts.

Section 310. Section 73-18-20.5 is amended to read:

73-18-20.5. Reporting of theft and recovery of vessels.

(1) (a) Any peace officer upon receiving reliable information that any vessel or outboard motor has been stolen shall immediately report the theft to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(b) Any peace officer upon receiving information that any vessel or outboard motor which was previously reported as stolen has been recovered shall immediately report the recovery to [~~his~~]the peace officer's law enforcement agency and to the Criminal Investigations and Technical Services Division.

(2) The reporting and recovery procedures for vessels and outboard motors shall be the same as those specified in Section 41-1a-1401 for motor vehicles.

Section 311. Section 73-18-20.7 is amended to read:

73-18-20.7. Unlawful control over vessels -- Penalties -- Effect of prior consent -- Accessory or accomplice.

(1) Any person who exercises unauthorized control over a vessel [~~, not his own,~~]that the person does not own without the consent of the owner or lawful custodian and with intent to temporarily deprive the owner or lawful custodian of possession of the vessel, is guilty of a class A misdemeanor.

(2) An offense under this section is a third degree felony if the actor does not return the vessel to the owner or lawful custodian within 24 hours after the exercise of unauthorized control.

(3) The consent of the owner or legal custodian of a vessel to its control by the actor is not in any case presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the vessel by the same or a different person.

(4) Any person who assists in, or is a party or accessory to or an accomplice in, an unauthorized taking or operating of a vessel is guilty of a class A misdemeanor.

Section 312. Section 76-1-304 is amended to read:

76-1-304. Defendant out of state -- Plea held invalid -- New prosecutions.

(1) The period of limitation does not run against any defendant during any period of time in which the defendant is out of the state following the commission of an offense.

(2) If the defendant has entered into a plea agreement with the prosecution and later successfully moves to invalidate [~~his~~]the defendant's conviction, the period of limitation is suspended from the time of the entry of the plea pursuant to the plea agreement until the time at which the conviction is determined to be invalid, and that determination becomes final.

(3) For purposes of this section, "final" means:

(a) all appeals have been exhausted;

(b) no judicial review is pending; and

(c) no application for judicial review is pending.

(4) When the period of limitation is suspended pursuant to Subsection (2), the suspension includes any charges to which the defendant pleaded guilty pursuant to a plea agreement, charges which were dismissed as a result of a plea agreement, as well as any known charges which were not barred at the time of entry of the plea.

(5) Notwithstanding any other limitation, a prosecution may be commenced for charges described in Subsection (4) within one year after a plea entered pursuant to a plea agreement has been determined to be invalid, and that determination becomes final.

Section 313. Section 76-1-402 is amended to read:

76-1-402. Separate offenses arising out of single criminal episode -- Included offenses.

(1) A defendant may be prosecuted in a single criminal action for all separate offenses arising out of a single criminal episode; however, when the same act of a defendant under a single criminal episode shall establish offenses which may be punished in different ways under different provisions of this code, the act shall be punishable under only one such provision; an acquittal or conviction and sentence under any such provision bars a prosecution under any other such provision.

(2) Whenever conduct may establish separate offenses under a single criminal episode, unless the court otherwise orders to promote justice, a defendant shall not be subject to separate trials for multiple offenses when:

(a) [~~The~~]the offenses are within the jurisdiction of a single court; and

(b) [~~The~~]the offenses are known to the prosecuting attorney at the time the defendant is arraigned on the first information or indictment.

(3) A defendant may be convicted of an offense included in the offense charged but may not be convicted of both the offense charged and the included offense. An offense is so included when:

(a) [~~It~~]it is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or

(b) [~~It~~]it constitutes an attempt, solicitation, conspiracy, or form of preparation to commit the offense charged or an offense otherwise included therein; or

(c) [~~It~~]it is specifically designated by a statute as a lesser included offense.

(4) The court shall not be obligated to charge the jury with respect to an included offense unless there is a rational basis for a verdict acquitting the defendant of the offense charged and convicting [~~him~~]the defendant of the included offense.

(5) If the district court on motion after verdict or judgment, or an appellate court on appeal or certiorari, shall determine that there is insufficient evidence to support a conviction for the offense charged but that there is sufficient evidence to support a conviction for an included offense and the trier of fact necessarily found every fact required for conviction of that included offense, the verdict or judgment of conviction may be set aside or reversed and a judgment of conviction entered for the included offense, without necessity of a new trial, if such relief is sought by the defendant.

Section 314. Section 76-2-201 is amended to read:

76-2-201. Definitions.

As used in this part:

(1) "Agent" means any director, officer, employee, or other person authorized to act in behalf of a corporation or association.

(2) "High managerial agent" means:

(a) [~~A~~]a partner in a partnership;

(b) [~~An~~]an officer of a corporation or association;

(c) [~~An~~]an agent of a corporation or association who has duties of such responsibility that [~~his~~]the agent's conduct reasonably may be assumed to represent the policy of the corporation or association.

(3) "Corporation" means all organizations required by the laws of this state or any other state to obtain a certificate of authority, a certificate of incorporation, or other form of registration to transact business as a corporation within this state or any other state and shall include domestic, foreign, profit and nonprofit corporations, but shall not include a corporation sole, as such term is used in Title 16, Chapter 7, Corporations Sole. Lack of an appropriate certificate of authority, incorporation, or other form of registration shall be no defense when such organization conducted its business in a manner as to appear to have lawful corporate existence.

Section 315. Section 76-2-204 is amended to read:

76-2-204. Criminal responsibility of corporation or association.

A corporation or association is guilty of an offense when:

(1) The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations or associations by law; or

(2) The conduct constituting the offense is authorized, solicited, requested, commanded, or undertaken, performed, or recklessly tolerated by the board of directors or by a high managerial agent acting within the scope of [~~his~~]employment and in behalf of the corporation or association.

Section 316. Section 76-2-205 is amended to read:

76-2-205. Criminal responsibility of person for conduct in name of corporation or association.

A person is criminally liable for conduct constituting an offense which [~~he~~]the person performs or causes to be performed in the name of or on behalf of a corporation or association to the same extent as if such conduct were performed in [~~his~~]the person's own name or behalf.

Section 317. Section 76-2-301 is amended to read:

76-2-301. Person under 14 years old not criminally responsible.

A person is not criminally responsible for conduct performed before [~~he~~]the person reaches [~~the age of~~]14 years old. This section shall in no way limit the jurisdiction of or proceedings before the juvenile courts of this state.

Section 318. Section 76-2-302 is amended to read:

76-2-302. Compulsion.

(1) A person is not guilty of an offense when [~~he~~]the person engaged in the proscribed conduct because [~~he~~]the person was coerced to do so by the use or threatened imminent use of unlawful physical force upon [~~him~~]the person or a third person, which force or threatened force a person of reasonable firmness in [~~his~~]that situation would not have resisted.

(2) The defense of compulsion provided by this section shall be unavailable to a person who intentionally, knowingly, or recklessly places himself or herself in a situation in which it is probable that [~~he~~]the person will be subjected to duress.

(3) A married woman is not entitled, by reason of the presence of her husband, to any presumption of compulsion or to any defense of compulsion except as in Subsection (1) provided.

Section 319. Section 76-2-303 is amended to read:

76-2-303. Entrapment.

(1) It is a defense that the actor was entrapped into committing the offense. Entrapment occurs when a peace officer or a person directed

by or acting in cooperation with the officer induces the commission of an offense in order to obtain evidence of the commission for prosecution by methods creating a substantial risk that the offense would be committed by one not otherwise ready to commit it. Conduct merely affording a person an opportunity to commit an offense does not constitute entrapment.

(2) The defense of entrapment shall be unavailable when causing or threatening bodily injury is an element of the offense charged and the prosecution is based on conduct causing or threatening the injury to a person other than the person perpetrating the entrapment.

(3) The defense provided by this section is available even though the actor denies commission of the conduct charged to constitute the offense.

(4) Upon written motion of the defendant, the court shall hear evidence on the issue and shall determine as a matter of fact and law whether the defendant was entrapped to commit the offense. Defendant's motion shall be made at least 10 days before trial except the court for good cause shown may permit a later filing.

(5) Should the court determine that the defendant was entrapped, it shall dismiss the case with prejudice, but if the court determines the defendant was not entrapped, such issue may be presented by the defendant to the jury at trial. Any order by the court dismissing a case based on entrapment shall be appealable by the state.

(6) In any hearing before a judge or jury where the defense of entrapment is an issue, past offenses of the defendant shall not be admitted, except that in a trial where the defendant testifies[~~he~~], the defendant may be asked [~~of his~~]about past convictions for felonies and any testimony given by the defendant at a hearing on entrapment may be used to impeach [~~his~~]the defendant's testimony at trial.

Section 320. Section 76-2-304 is amended to read:

76-2-304. Ignorance or mistake of fact or law.

(1) Unless otherwise provided, ignorance or mistake of fact which disproves the culpable mental state is a defense to any prosecution for that crime.

(2) Ignorance or mistake concerning the existence or meaning of a penal law is no defense to a crime unless:

(a) [~~Due~~]due to [~~his~~]an actor's ignorance or mistake, the actor reasonably believed [~~his~~]the actor's conduct did not constitute an offense[~~.~~];and

(b) [~~His~~]an actor's ignorance or mistake resulted from the actor's reasonable reliance upon:

(i) [~~An~~]an official statement of the law contained in a written order or grant of permission by an administrative agency charged by law with responsibility for interpreting the law in question; or

(ii) [~~A~~]a written interpretation of the law contained in an opinion of a court of record or made by a public servant charged by law with responsibility for interpreting the law in question.

(3) Although an actor's ignorance or mistake of fact or law may constitute a defense to the offense charged, [~~he~~]the actor may nevertheless be convicted of a lesser included offense of which [~~he~~]the actor would be guilty if the fact or law were as [~~he~~]the actor believed.

Section 321. Section 76-2-307 is amended to read:

76-2-307. Voluntary termination of efforts prior to offense.

It is an affirmative defense to a prosecution in which an actor's criminal responsibility arises from [~~his~~]the actor's own conduct or from being a party to an offense under Section 76-2-202 that prior to the commission of the offense, the actor voluntarily terminated [~~his~~]the actor's effort to promote or facilitate its commission and either:

(1) [~~Gave~~]gave timely warning to the proper law enforcement authorities or the intended victim; or

(2) [~~Wholly~~]wholly deprives [~~his~~]the actor's prior efforts of effectiveness in the commission.

Section 322. Section 76-2-403 is amended to read:

76-2-403. Force in arrest.

Any person is justified in using any force, except deadly force, which [~~he~~]the person reasonably believes to be necessary to effect an arrest or to defend himself or herself or another from bodily harm while making an arrest.

Section 323. Section 76-3-303 is amended to read:

76-3-303. Additional sanctions against corporation or association -- Advertising of conviction -- Disqualification of officer.

(1) When a corporation or association is convicted of an offense, the court may, in addition to or in lieu of imposing other authorized sanctions, require the corporation or association to give appropriate publicity of the conviction by notice to the class or classes of persons or section of the public interested in or affected by the conviction, by advertising in designated areas, or by designated media or otherwise.

(2) When an executive or high managerial officer of a corporation or association is convicted of an offense committed in furtherance of the affairs of the corporation or association, the court may include in the sentence an order disqualifying [~~him~~]the executive or high managerial officer from exercising similar functions in the same or other corporations or associations for a period of not exceeding five years if [~~it~~]the court finds the scope or willfulness of [~~his~~]the illegal actions make it dangerous or inadvisable for such functions to be entrusted to [~~him~~]the executive or high managerial officer.

Section 324. Section 76-3-405 is amended to read:

76-3-405. Limitation on sentence where conviction or prior sentence set aside.

(1) Where a conviction or sentence has been set aside on direct review or on collateral attack, the court shall not impose a new sentence for the same offense or for a different offense based on the same conduct which is more severe than the prior sentence less the portion of the prior sentence previously satisfied.

(2) This section does not apply when:

(a) the increased sentence is based on facts which were not known to the court at the time of the original sentence, and the court affirmatively places on the record the facts which provide the basis for the increased sentence; or

(b) a defendant enters into a plea agreement with the prosecution and later successfully moves to invalidate [~~his~~]the defendant's conviction, in which case the defendant and the prosecution stand in the same position as though the plea bargain, conviction, and sentence had never occurred.

Section 325. Section 76-3-409 is amended to read:

76-3-409. Child abuse or sex offense against child -- Treatment of offender or victim -- Payment of costs.

(1) Any person convicted in the district court of child abuse, or a sexual offense if the victim is under 18 years [~~of age~~]old, may be ordered to participate in treatment or therapy under the supervision of the adult probation and parole section of the Department of Corrections, in cooperation with the division of children, youth, and families until the court is satisfied that such treatment or therapy has been successful or that no further benefit to the convicted offender would result if such treatment or therapy were continued. The court may also order treatment of the victim if it believes the same would be beneficial under the circumstances. Nothing in this section shall preclude the court from imposing any additional sentence as provided by law.

(2) The convicted offender shall be ordered to pay, to the extent that [~~he or she~~]the convicted offender is able, the costs of [~~his or her~~]the convicted offender's treatment, together with treatment costs incurred by the victim and any administrative costs incurred by the appropriate state agency in the supervision of such treatment. If the convicted offender is unable to pay all or part of the costs of treatment, the court may order the appropriate state agency to pay such costs to the extent funding is provided by the Legislature for such purpose and shall order the convicted offender to perform public service work as compensation for the cost of treatment.

Section 326. Section 76-7-202 is amended to read:

76-7-202. Orders for support in criminal nonsupport proceedings.

(1) In any proceeding under Section 76-7-201, the court may, instead of imposing the punishments otherwise prescribed, issue an order directing the defendant to periodically pay a sum to the Office of Recovery Services, or otherwise as the court may direct, to be used for the support of the dependents who are the subject of the proceeding under Section 76-7-201.

(2) The order to periodically pay a sum for the support of the dependents:

(a) may be issued with the consent of the defendant prior to trial, or after conviction, having regard to the circumstances, financial ability, and earning capacity of the defendant;

(b) shall be subject to change from time to time as circumstances may require;

(c) may not require payments for a period exceeding the term of probation provided for the offense with which the defendant is charged, or of which [~~he~~]the defendant is found guilty; and

(d) shall be conditioned upon the defendant either entering a recognizance in accordance with Subsection (3), or providing security in a sum as the court directs.

(3) The condition of recognizance shall require the defendant to:

(a) make personal appearance in court whenever ordered to do so within the period of probation; and

(b) comply with the terms of the order and any subsequent modifications of the order.

(4) If the court is satisfied by information and due proof under oath that at any time during the period of probation the defendant has violated the terms of the order, it may proceed with the trial of defendant under the original charge or sentence [~~him~~]the defendant under the original conviction or enforce the original sentence as the case may be. In the case of forfeiture of bail or bond in any proceeding under Section 76-7-201, the sum recovered may, in the discretion of the court, be paid in whole or in part to the Office of Recovery Services, or otherwise as the court may direct, to be used for the support of the dependents involved.

Section 327. Section 76-7-303 is amended to read:

76-7-303. Concurrence of attending physician based on medical judgment.

No abortion may be performed in this state without the concurrence of the attending physician, based on [~~his~~]the attending physician's best medical judgment.

Section 328. Section 76-7-308 is amended to read:

76-7-308. Medical skills required to preserve life of unborn child.

Consistent with the purpose of saving the life of the woman or preventing grave damage to the woman's medical health, the physician performing the abortion must use all of [~~his~~]the physician's medical skills to attempt to promote, preserve and maintain the life of any unborn child sufficiently developed to have any reasonable possibility of survival outside of the mother's womb.

Section 329. Section 77-1-6 is amended to read:

77-1-6. Rights of defendant.

(1) In criminal prosecutions the defendant is entitled to:

(a) [~~To~~]appear in person and defend in person or by counsel;

(b) [~~To~~]receive a copy of the accusation filed against [~~him~~]the defendant;

(c) [~~To~~]testify in [~~his~~]the defendant's own behalf;

(d) [~~To~~]be confronted by the witnesses against [~~him~~]the defendant;

(e) [~~To~~]have compulsory process to insure the attendance of witnesses in [~~his~~]the defendant's behalf;

(f) [~~To~~]a speedy public trial by an impartial jury of the county or district where the offense is alleged to have been committed;

(g) [~~To~~]the right of appeal in all cases; and

(h) [~~To~~]be admitted to bail in accordance with provisions of law, or be entitled to a trial within 30 days after arraignment if unable to post bail and if the business of the court permits.

(2) In addition:

(a) [~~No~~]no person shall be put twice in jeopardy for the same offense;

(b) [~~No~~]no accused person shall, before final judgment, be compelled to advance money or fees to secure rights guaranteed by the Constitution or the laws of Utah, or to pay the costs of those rights when received;

(c) [~~No~~]no person shall be compelled to give evidence against himself or herself;

(d) [~~A wife shall not be compelled to testify against her husband nor a husband against his wife~~]an individual may not be compelled to testify against the individual's spouse; and

(e) [~~No~~]no person shall be convicted unless by verdict of a jury, or upon a plea of guilty or no contest, or upon a judgment of a court when trial by jury has been waived or, in case of an infraction, upon a judgment by a magistrate.

Section 330. Section 77-2-4 is amended to read:

77-2-4. Dismissal of prosecution.

After commencement of a prosecution the prosecutor may, upon reasonable grounds, move the magistrate before whom the prosecution is pending to dismiss the prosecution. If, in the judgment of the magistrate, the prosecution should not continue, [~~he~~]the magistrate may dismiss the prosecution and enter an order of dismissal stating the reasons for the dismissal in the order.

Section 331. Section 77-2-4.5 is amended to read:

77-2-4.5. Dismissal by compromise -- Limitations.

(1) In misdemeanor cases the court may dismiss the case upon motion of the prosecutor if it is compromised by the defendant and the injured party, except under Subsection (2). The injured party shall first acknowledge the compromise before the court or in writing. The reasons for the order shall be set forth and entered in the minutes. The order is a bar to another prosecution for the same offense.

(2) A dismissal by compromise may not be granted when the misdemeanor is committed by or upon a peace officer while in the performance of [~~his~~]the peace officer's duties, or riotously, or with intent to commit a felony.

Section 332. Section 77-2-6 is amended to read:

77-2-6. Dismissal after compliance with diversion agreement.

The court shall dismiss the information or indictment filed against the defendant who has complied with the requirements of [~~his~~]a diversion agreement and the defendant shall not thereafter be subject to further prosecution for the offense involved or for any lesser included offense.

Section 333. Section 77-2-8 is amended to read:

77-2-8. Violation of diversion agreement -- Hearing -- Prosecution resumed.

If, during the course of the diversion of a defendant, information is brought to the attention of a magistrate or the prosecuting attorney that the defendant has violated [~~his~~]the diversion agreement and it appears in the best interests of the community to reinstate and proceed with the prosecution, the prosecuting attorney, upon court approval, or the magistrate, on [~~his~~]the magistrate's own motion, shall cause to be served upon the defendant an order to show cause specifying the facts relied upon by the prosecuting attorney or magistrate to terminate diversion and shall set a time and place for a hearing to determine whether or not the defendant has violated [~~his~~]the diversion agreement. If, at the hearing, the magistrate finds the defendant has failed to comply with any terms or conditions of the diversion agreement, [~~he~~]the magistrate may authorize the prosecuting attorney to proceed with prosecution. The prosecution of a diverted offense shall not bar any independent prosecution arising from any offense that constituted a violation of any term or condition of the diversion agreement by which the original prosecution was diverted.

Section 334. Section 77-3-2 is amended to read:

77-3-2. Examination of complainant and witnesses.

The magistrate shall examine, on oath, the complainant and any witnesses [~~he~~]the complainant may produce and may take [~~their~~]the complainant's or witnesses' testimony in writing.

Section 335. Section 77-3-4 is amended to read:

77-3-4. Warrant of arrest -- Temporary restraining order.

If the magistrate believes there is reasonable ground to fear the commission of the offense threatened, [~~he~~]the magistrate may issue:

(1) [~~Issue~~]a warrant directed generally to any peace officer, reciting the substance of the complaint and commanding the officer to immediately arrest the person complained of and bring [~~him~~]that person before the magistrate or, in the case of [~~his~~]the magistrate's absence or inability to act, before the nearest and most accessible magistrate of the county; and

(2) [~~Issue~~]a temporary restraining order against the commission of the offense and order the person complained of to immediately appear before the magistrate for a hearing.

Section 336. Section 77-3-5 is amended to read:

77-3-5. Defendant taken before different magistrate -- Procedure.

When the person arrested is taken before a magistrate other than the one who issued the warrant, the peace officer who executed the warrant shall deliver it to the issuing magistrate with his or her endorsed return. The complaint and written testimony, if any, on which the warrant was issued shall be sent to the magistrate before whom the person arrested is taken.

Section 337. Section 77-3-8 is amended to read:

77-3-8. Findings and orders -- Discharge -- Undertaking -- Commitment.

(1) If it appears there is no reasonable ground to fear the commission of the offense alleged to have been threatened, the person complained of shall be discharged. The complainant may be ordered to pay the costs of the proceedings if the magistrate believes the complaint was unfounded and frivolous.

(2) If there is reasonable ground to fear the commission of an offense, the court may, in addition or as an alternative to other relief, enter an order permanently restraining the person from engaging in illegal conduct or acting in any manner that could result in illegal conduct or the person complained of may be required to enter into an undertaking in a sum not to exceed $3,000, with one or more sufficient sureties, to keep the peace toward the people of this state and particularly toward the persons endangered. The conditions of the undertaking shall be in writing and shall be for a period of six months. It may be extended on good cause shown for a longer period or enlarged and a new undertaking may be required.

(a) If the undertaking is given, the party complained of shall be discharged.

(b) If the undertaking is not given, the magistrate shall commit the defendant to jail specifying in the warrant of commitment the requirement to give security, the amount thereof, and the effective period of time.

(c) A person committed for not giving the required undertaking may be discharged by any magistrate when [~~he~~]the person provides the undertaking.

Section 338. Section 77-3-10 is amended to read:

77-3-10. Assault in presence of magistrate or court.

A person who, in the presence of the court or magistrate, assaults or threatens to assault another or to commit an offense against person or property, or who contends with another with threatening words, may be ordered by the court or magistrate to give security and if [~~he~~]the person refuses to do so, may be committed as provided in Subsection 77-3-8(2)(b).

Section 339. Section 77-5-2 is amended to read:

77-5-2. Chief justice to preside, when.

When the governor is on trial, the chief justice of the Supreme Court shall preside, and, in case [~~he~~]the chief justice is disqualified or unable to act, the Senate shall select some other justice of the Supreme Court to preside.

Section 340. Section 77-5-8 is amended to read:

77-5-8. Two-thirds vote necessary for conviction.

The officer shall not be convicted on impeachment without the concurrence of two-thirds of the senators elected, voting by ayes and nays, and if two-thirds of the senators elected do not concur in a conviction, [~~he~~]the officer shall be acquitted.

Section 341. Section 77-6-5 is amended to read:

77-6-5. Appearance -- Procedure on default.

The defendant shall appear at the time appointed and answer the accusation, unless for some sufficient cause the court assigns another time for that purpose. If [~~he~~]the defendant does not appear, the court may proceed to hear and determine the accusation in [~~his~~]the defendant's absence.

Section 342. Section 77-6-6 is amended to read:

77-6-6. Answer -- Objections for insufficiency.

The defendant may orally answer the accusation either by admitting or denying it in open court, or [~~he~~]the defendant may, in writing, object to the legal sufficiency of the accusation. If the objection to the sufficiency of the accusation is sustained, the accusation shall be dismissed. If the objection is overruled, the defendant shall immediately admit or deny the accusation.

Section 343. Section 77-6-8 is amended to read:

77-6-8. Judgment of removal -- Service on defendant.

If the defendant admits the accusation or is convicted, the court shall enter judgment against [~~him~~]the defendant directing the defendant be removed from office and setting forth the causes of removal. The judgment of removal shall immediately be served upon the defendant.

Section 344. Section 77-6-9 is amended to read:

77-6-9. Appeal -- Suspension from office.

From a judgment of removal an appeal may be taken to the Supreme Court in the same manner as from a judgment in a civil action; but from entry of judgment and until the judgment is reversed, the defendant shall be suspended from [~~his~~]the defendant's office. Pending the appeal, the office shall be filled as in the case of a vacancy.

Section 345. Section 77-7-1 is amended to read:

77-7-1. "Arrest" defined -- Restraint allowed.

An arrest is an actual restraint of the person arrested or submission to custody. The person shall not be subjected to any more restraint than is necessary for [~~his~~]arrest and detention.

Section 346. Section 77-7-3 is amended to read:

77-7-3. By private persons.

A private person may arrest another:

(1) [~~For~~]for a public offense committed or attempted in [~~his~~]the private person's presence; or

(2) [~~When~~]when a felony has been committed and [~~he~~]the private person has reasonable cause to believe the person arrested has committed it.

Section 347. Section 77-7-9 is amended to read:

77-7-9. Weapons may be taken from prisoner.

Any person making an arrest may seize from the person arrested all weapons which [~~he~~]the person arrested may have on or about his or her person.

Section 348. Section 77-7-10 is amended to read:

77-7-10. Telegraph or telephone authorization of execution of arrest warrant.

Any magistrate may, by an endorsement on a warrant of arrest, authorize by telegraph, telephone or other reasonable means, its execution. A copy of the warrant or notice of its issuance and terms may be sent to one or more peace officers. The copy or notice communicated authorizes the officer to proceed in the same manner under it as if [~~he~~]the peace officer had an original warrant.

Section 349. Section 77-7-11 is amended to read:

77-7-11. Possession of warrant by arresting officer not required.

Any peace officer who has knowledge of an outstanding warrant of arrest may arrest a person [~~he~~]the peace officer reasonably believes to be the person described in the warrant, without the peace officer having physical possession of the warrant.

Section 350. Section 77-7-14 is amended to read:

77-7-14. Person causing detention or arrest of person suspected of shoplifting or library theft -- Civil and criminal immunity.

(1) A peace officer, merchant, or merchant's employee, servant, or agent who causes the detention of a person as provided in Section 77-7-12, or who causes the arrest of a person for theft of goods held or displayed for sale, is not criminally or civilly liable where [~~he has~~]there is reasonable and probable cause to believe the person detained or arrested committed a theft of goods held or displayed for sale.

(2) A peace officer or employee of a library who causes a detention or arrest of a person under Title 76, Chapter 6, Part 8, Library Theft, is not criminally or civilly liable where [~~he has~~]there is reasonable and probable cause to believe that the person committed a theft of library materials.

Section 351. Section 77-7-16 is amended to read:

77-7-16. Authority of peace officer to frisk suspect for dangerous weapon -- Grounds.

A peace officer who has stopped a person temporarily for questioning may frisk the person for a dangerous weapon if [~~he~~]the peace officer reasonably believes [~~he~~]the peace officer or any other person is in danger.

Section 352. Section 77-7-17 is amended to read:

77-7-17. Authority of peace officer to take possession of weapons.

A peace officer who finds a dangerous weapon pursuant to a frisk may take and keep it until the completion of the questioning, at which time [~~he~~]the peace officer shall either return it if lawfully possessed, or arrest such person.

Section 353. Section 77-8-2 is amended to read:

77-8-2. Suspect's right to have attorney present.

A suspect has the right to have [~~his~~]an attorney present at any lineup. The magistrate or party in charge of the lineup shall notify the suspect of this right. Every suspect unable to employ counsel shall be entitled to representation by an attorney appointed by a magistrate for a lineup either before or after an arrest.

Section 354. Section 77-8-4 is amended to read:

77-8-4. Record of proceedings -- Access by suspect.

The entire lineup procedure shall be recorded, including all conversations between the witnesses and the conducting peace officers. The suspect shall have access to and may make copies of the record and any photographs taken of [~~him~~]the suspect or any other persons in connection with the lineup.

Section 355. Section 77-8a-1 is amended to read:

77-8a-1. Joinder of offenses and of defendants.

(1) Two or more felonies, misdemeanors, or both, may be charged in the same indictment or information if each offense is a separate count and if the offenses charged are:

(a) based on the same conduct or are otherwise connected together in their commission; or

(b) alleged to have been part of a common scheme or plan.

(2) (a) When a felony and misdemeanor are charged together the defendant is afforded a preliminary hearing with respect to both the misdemeanor and felony offenses.

(b) Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or conduct or in the same criminal episode.

(c) The defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

(d) When two or more defendants are jointly charged with any offense, they shall be tried jointly unless the court in its discretion on motion or otherwise orders separate trials consistent with the interests of justice.

(3) (a) The court may order two or more indictments or informations or both to be tried together if the offenses, and the defendants, if there is more than one, could have been joined in a single indictment or information.

(b) The procedure shall be the same as if the prosecution were under a single indictment or information.

(4) (a) If the court finds a defendant or the prosecution is prejudiced by a joinder of offenses or defendants in an indictment or information or by a joinder for trial together, the court shall order an election of separate trials of separate counts, grant a severance of defendants, or provide other relief as justice requires.

(b) A defendant's right to severance of offenses or defendants is waived if the motion is not made at least five days before trial. In ruling on a motion by defendant for severance, the court may order the prosecutor to disclose any statements made by the defendants which [~~he~~]the prosecutor intends to introduce in evidence at the trial.

Section 356. Section 77-9-1 is amended to read:

77-9-1. Authority of peace officer of another state.

A peace officer of another state or the District of Columbia who enters this state in fresh pursuit and continues in fresh pursuit of a person in order to make an arrest [~~him~~]on the ground that [~~he~~]the person is reasonably believed to have committed a felony in another state, has the same authority to arrest and hold a person in custody as a peace officer of this state. Fresh pursuit does not require instant action, but pursuit without unreasonable delay.

Section 357. Section 77-9-2 is amended to read:

77-9-2. Procedure after arrest.

An officer who has made an arrest pursuant to Section 77-9-1 shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest was made. The magistrate shall conduct a hearing to determine the lawfulness of the arrest. If [~~he~~]the magistrate finds the arrest was lawful, the magistrate may commit the person arrested for a reasonable time or may admit the person to bail pending extradition proceedings.

Section 358. Section 77-9-3 is amended to read:

77-9-3. Authority of peace officer of this state beyond normal jurisdiction.

(1) Any peace officer authorized by any governmental entity of this state may exercise a peace officer's authority beyond the limits of such officer's normal jurisdiction as follows:

(a) when in fresh pursuit of an offender for the purpose of arresting and holding that person in custody or returning the suspect to the jurisdiction where the offense was committed;

(b) when a public offense is committed in such officer's presence;

(c) when participating in an investigation of criminal activity which originated in the officer's normal jurisdiction in cooperation with the local authority; or

(d) when called to assist peace officers of another jurisdiction.

(2) (a) Any peace officer, prior to taking any action authorized by Subsection (1), shall notify and receive approval of the local law enforcement authority, or if the prior contact is not reasonably possible, notify the local law enforcement authority as soon as reasonably

possible.

(b) Unless specifically requested to aid a peace officer of another jurisdiction or otherwise as provided for by law, no legal responsibility for a peace officer's action outside [~~his~~]the peace officer's normal jurisdiction, except as provided in this section, shall attach to the local law enforcement authority.

Section 359. Section 77-10a-1 is amended to read:

77-10a-1. Definitions.

As used in this chapter:

(1) "Clerk of the court" means the state court administrator or [~~his~~]the state court administrator's designee.

(2) "Managing judge" means the supervising judge when [~~he~~]the supervising judge retains authority to manage a grand jury, or the district court judge to whom the supervising judge delegates management of a grand jury.

(3) "Presiding officer" means the presiding officer of the Judicial Council.

(4) "Subject" means a person whose conduct is within the scope of the grand jury's investigation, and that conduct exposes the person to possible criminal prosecution.

(5) "Supervising judge" means the district court judge appointed by the presiding officer to supervise the five-judge grand jury panel.

(6) "Target" means a person regarding whom the attorney for the state, the special prosecutor, or the grand jury has substantial evidence that links that person to the commission of a crime and who could be indicted or charged with that crime.

(7) "Witness" means a person who appears before the grand jury either voluntarily or pursuant to subpoena for the purpose of providing testimony or evidence for the grand jury's use in discharging its responsibilities.

Section 360. Section 77-10a-7 is amended to read:

77-10a-7. Selection of grand jurors -- Notice -- Examination -- Qualification -- Alternates.

(1) When the supervising judge orders that a grand jury be summoned, the managing judge shall direct the clerk to select at random from the master list the number of names determined by the managing judge to ensure that the required number of grand jurors under this chapter may be qualified to constitute the grand jury.

(2) (a) The managing judge may direct the clerk to draw additional names from the master list so alternate grand jurors may be designated at the time the grand jury is selected.

(b) Alternate grand jurors shall be drawn in the same manner and have the same qualifications as the regular grand jurors. If impanelled, they are subject to the same challenges, shall take the same oath, and have the same functions, powers, facilities, and privileges as the regular jurors.

(3) The clerk shall cause each person drawn for service on the grand jury or as an alternate to be notified of when and where to report for service. Notice may be given by telephone or by service of a summons, either personally or by first class mail addressed to the prospective juror's current residence, place of business, or post office box.

(4) The names of those drawn for service on the grand jury or as alternates and the contents of all grand juror questionnaires may not be made available to the public.

(5) (a) At the time and place specified for the appearance of the persons summoned to serve as grand jurors and alternates, the managing judge shall examine the prospective grand jurors and alternates. Before accepting any person as a grand juror or alternate, the managing judge shall be satisfied that the person has no bias or prejudice that would prevent [~~him~~]the person from fairly and dispassionately considering the matters presented to the grand jury.

(b) When drawn and qualified, the person shall be accepted for service unless[~~the managing judge in his~~], in the managing judge's discretion and on the application of the juror, the managing judge excuses [~~him~~]the person from service before [~~he~~]the person is sworn.

(6) The managing judge may dismiss the grand jury panel if [~~he~~]the managing judge finds there has been a material departure from the methods prescribed for the selecting, drawing, and return of the grand jury, or if there has been an intentional omission by the proper officer to summon one or more of the grand jurors drawn.

(7) When 15 of the persons summoned as grand jurors who are qualified and not excused remain, they are the grand jury. If more than 15 qualified persons remain, their names shall be written by the clerk on separate slips, folded to conceal the names, and placed in a box. The clerk shall then draw 15 slips, and the persons whose names are drawn are the grand jury.

(8) (a) When the number of persons to be designated as alternate grand jurors who are qualified and not excused remain, they are the alternate grand jurors.

(b) If more than the number of alternate grand jurors designated by the managing judge remain, their names shall be written by the clerk on separate slips, folded to conceal the names, and placed in a box. The clerk shall then draw slips until the designated number of alternate grand jurors are selected.

Section 361. Section 77-10a-8 is amended to read:

77-10a-8. Challenge of prospective grand jurors -- Failure to comply in selection of jurors -- Remedies.

(1) The attorney general, county attorney, district attorney, or special prosecutor may challenge:

(a) the array of grand jurors on the ground the grand jury was not selected, drawn, or summoned in accordance with law; and

(b) an individual juror on the ground the juror is not legally qualified.

(2) Challenges shall be made before the administration of the oath to the jurors and shall be tried to the court managing the grand jury.

(3) A motion to dismiss the indictment may be based on objections to the array or on the lack of legal qualification of an individual juror, if not previously determined upon challenge.

(4) In criminal cases the defendant or attorney for the state may move to dismiss the indictment or stay the proceedings on the ground of substantial failure to comply with this chapter in selecting the grand jury. However, [~~he~~]the defendant or attorney for the state must do so before the voir dire examination begins or within seven days after the defendant or attorney for the state discovered or could have discovered the grounds by the exercise of diligence, whichever is earlier, or the motion is considered waived.

(5) (a) Any motion filed under Subsection (1), (3), or (4) must contain a sworn statement of facts which, if true, would constitute a substantial failure to comply with the provisions of this chapter. The moving party may present in support of the motion the testimony of the clerk if [~~he~~]the clerk is available, any relevant records and papers used by the clerk that were not made public or otherwise available, and any other relevant evidence.

(b) If the managing judge determines there has been a substantial failure to comply with the provisions of this chapter in selecting the grand jury, [~~he~~]the managing judge shall stay the proceedings pending the selection of a grand jury in conformity with this chapter or dismiss the indictment, whichever is appropriate.

(6) (a) The procedures prescribed by this section are the exclusive means by which a party accused of a crime or an attorney for the state may challenge any grand jury on the ground it was not selected in conformity with this chapter.

(b) An indictment may not be dismissed in any case on the ground that one or more members of the grand jury that returned the indictment were not legally qualified if it appears from the record kept by the grand jury that eight or more jurors, after deducting the number not qualified, concurred in finding the indictment.

Section 362. Section 77-10a-11 is amended to read:

77-10a-11. Jury foreman -- Compensation of grand jurors.

(1) The managing judge shall appoint one of the jurors to be foreman and another to be deputy foreman. The foreman may administer oaths and affirmations and shall sign all indictments. The foreman or another juror designated by [~~him~~]the foreman shall keep record of the number of jurors concurring in the finding of every indictment and shall file the record with the clerk of the court. The record may not be made public except on order of the managing judge.

(2) During the absence of the foreman the deputy foreman shall act as foreman.

(3) A grand juror shall be compensated at the same rate as a juror in a state district court for each day of service.

Section 363. Section 77-10a-17 is amended to read:

77-10a-17. Grand jury report on noncriminal misconduct -- Action on the report.

(1) A grand jury may upon completion of its original term or each extension, with the concurrence of a majority of its members, submit to the managing judge a report concerning noncriminal misconduct, malfeasance, or misfeasance in office as a basis for a recommendation of removal or disciplinary action against a public officer or employee.

(2) The judge to whom the report is submitted shall examine it and the minutes of the grand jury. The judge shall make an order accepting and filing the report as a public record, but only if the judge is satisfied that it complies with Subsection (1) and:

(a) the report is based on facts revealed during the grand jury's investigation and is supported by a preponderance of evidence; and

(b) each person named and any reasonable number of witnesses on [~~his~~]the named person's behalf as designated by [~~him~~]the named person to the foreman of the grand jury were afforded an opportunity to testify before the grand jury prior to the filing of the report.

(3) An order accepting a report made under this section and the report itself shall be sealed by the managing judge and may not be filed as a public record or be subject to subpoena or otherwise made public until:

(a) at least 31 days after a copy of the order and report are served on each public officer or employee named and an answer has been filed;

(b) the time for filing an answer has expired; or

(c) an appeal is taken or until all rights of review of the public officer or employee named have expired or terminated in an order accepting the report.

(4) (a) An order accepting the report may not be entered until 30 days after the delivery of the report to the public officer or body having jurisdiction, responsibility, or authority over each public officer or employee named in the report.

(b) The managing judge may issue orders it finds necessary and appropriate to prevent unauthorized publication of a report. Unauthorized publication of a report may be punished as contempt of court.

(5) (a) A public officer or employee named in a report may file with the clerk a verified answer to the report not later than 20 days after service of the order and report upon [~~him~~]the public officer or employee. Upon a showing of good cause, the managing judge may grant the public officer or employee an extension of time to file an answer and may authorize limited publication of the report as necessary to prepare an answer.

(b) The answer shall plainly and concisely state the facts and law constituting the defense of the public officer or employee to the charges in the report. Except for those parts the managing judge determines have been inserted scandalously, prejudiciously, or unnecessarily, the answer becomes an appendix to the report.

(6) Upon the submission of a report made under this section the managing judge shall order the report sealed if [~~he~~]the managing judge finds the filing of the report as a public record may prejudice fair consideration of a pending criminal matter. The report may not be subject to subpoena or public inspection during the pendency of the criminal matter except upon order of the managing judge.

(7) (a) When the managing judge to whom a report is submitted is not satisfied that the report complies with the provisions of this section, [~~he~~]the managing judge may direct that additional testimony be taken before the same grand jury or [~~he~~]the managing judge shall make an order sealing the report.

(b) If the report is sealed, it may not be filed as a public record or be subject to subpoena or otherwise made public until the provisions of this section are met.

(8) A grand jury's term may be extended by the managing judge so additional testimony may be taken or the provisions of this section met.

Section 364. Section 77-10a-18 is amended to read:

77-10a-18. Grand jury term of service -- Excusing a juror.

(1) A grand jury shall serve until discharged by the managing judge. However, a grand jury may not serve more than 18 months unless the managing judge extends the service of the grand jury, upon determining an extension is in the public interest. The extension may be no longer than a period of six months.

(2) The managing judge may at any time excuse a juror either temporarily or permanently for cause shown. If a juror is excused permanently, the managing judge may impanel another juror in [~~his~~]that juror's place.

Section 365. Section 77-13-5 is amended to read:

77-13-5. Failure to plead -- Not guilty entered.

When a defendant does not enter a plea, the court shall enter a plea of not guilty for [~~him~~]the defendant.

Section 366. Section 77-14-1 is amended to read:

77-14-1. Time and place of alleged offense -- Specification.

The prosecuting attorney, on timely written demand of the defendant, shall within 10 days, or such other time as the court may

allow, specify in writing as particularly as is known to [~~him~~]the prosecuting attorney the place, date and time of the commission of the offense charged.

Section 367. Section 77-14-2 is amended to read:

77-14-2. Alibi -- Notice requirements -- Witness lists.

(1) A defendant, whether or not written demand has been made, who intends to offer evidence of an alibi shall, not less than 10 days before trial or at such other time as the court may allow, file and serve on the prosecuting attorney a notice, in writing, of [~~his~~]the defendant's intention to claim alibi. The notice shall contain specific information as to the place where the defendant claims to have been at the time of the alleged offense and, as particularly as is known to the defendant or [~~his~~]the defendant's attorney, the names and addresses of the witnesses by whom [~~he~~]the defendant proposes to establish alibi. The prosecuting attorney, not more than five days after receipt of the list provided herein or at such other time as the court may direct, shall file and serve the defendant with the addresses, as particularly as are known to [~~him~~]the prosecuting attorney, of the witnesses the state proposes to offer to contradict or impeach the defendant's alibi evidence.

(2) The defendant and prosecuting attorney shall be under a continuing duty to disclose the names and addresses of additional witnesses which come to the attention of either party after filing their alibi witness lists.

(3) If a defendant or prosecuting attorney fails to comply with the requirements of this section, the court may exclude evidence offered to establish or rebut alibi. However, the defendant may always testify on [~~his~~]the defendant's own behalf concerning alibi.

(4) The court may, for good cause shown, waive the requirements of this section.

Section 368. Section 77-16a-303 is amended to read:

77-16a-303. Court determinations.

After entry of judgment of not guilty by reason of insanity, the court shall:

(1) determine on the record the offense of which the person otherwise would have been convicted and the maximum sentence [~~he~~]the person could have received; and

(2) make specific findings regarding whether there is a victim of the crime for which the defendant has been found not guilty by reason of insanity and, if so, whether the victim wishes to be notified of any conditional release, discharge, or escape of the defendant.

Section 369. Section 77-17-1 is amended to read:

77-17-1. Doubt as to degree -- Conviction only on lowest.

When it appears the defendant has committed a public offense and there is reasonable doubt as to which of two or more degrees [~~he~~]the defendant is guilty, [~~he~~]the defendant shall be convicted only of the lower degree.

Section 370. Section 77-17-2 is amended to read:

77-17-2. Discharging one of several defendants -- To testify for state.

When two or more persons are included in the same charge, the court may at any time, on the application of the prosecuting attorney, direct any defendant to be discharged or [~~his~~]the defendant's case severed so that [~~he~~]the defendant may be a witness for the prosecution.

Section 371. Section 77-17-3 is amended to read:

77-17-3. Discharge for insufficient evidence.

When it appears to the court that there is not sufficient evidence to put a defendant to [~~his~~]the defendant's defense, it shall forthwith order [~~him~~]the defendant discharged.

Section 372. Section 77-17-9 is amended to read:

77-17-9. Separation or sequestration of jurors -- Oath of officer having custody.

(1) The court, at any time before the submission of the case to the jury, may permit the jury to separate or order that it be sequestered in charge of a proper officer.

(2) If the jury is sequestered, the officer:

(a) shall be sworn to keep the jurors together until the next meeting of the court, to prevent any person from speaking or communicating with them[~~, and~~];

(b) [~~not to do so himself~~]may not communicate with the jurors on any subject connected with the trial[~~,~~]; and

(c) [~~to~~]shall return the jury to the court pursuant to its order.

Section 373. Section 77-17-11 is amended to read:

77-17-11. Jury to retire for deliberation -- Oath of officer having custody.

(1) After hearing the court's instructions and arguments of counsel, the jury shall retire for deliberation.

(2) An officer shall:

(a) []be sworn to keep [~~them~~]the jury together in some private and convenient place [~~and~~];

(b) []not permit any person to speak to or communicate with [~~them or to do so himself~~]the jury;

(c) not communicate with the jury except:

(i) []upon the order of the court[~~,~~]; or

(ii) []to ask [~~them~~]the jury whether [~~they have~~]the jury has agreed on a verdict[~~. He shall~~]; and

(d) []return [~~them~~]the jury to court when [~~they have~~]the jury has agreed and the court has so ordered, or when otherwise ordered by the court.

Section 374. Section 77-17-12 is amended to read:

77-17-12. Defendant on bail appearing for trial may be committed.

When a defendant who has given bail appears for trial, the court may, at any time after [~~his~~]the defendant's appearance for trial, order [~~him~~]the defendant to be committed to the custody of the proper officer to await the judgment or further order of the court.

Section 375. Section 77-19-5 is amended to read:

77-19-5. Special release from city or county jail -- Revocation.

The judge may, for good cause, revoke any release time previously awarded, and shall notify the prisoner that, if [~~he~~]the prisoner makes written request, a hearing shall be afforded to [~~him~~]the prisoner to challenge the revocation.

Section 376. Section 77-19-11 is amended to read:

77-19-11. Who may be present -- Photographic and recording equipment.

(1) As used in this section:

(a) "Close relative of the deceased victim" means:

(i) the spouse of the victim;

(ii) a parent or stepparent of the victim;

(iii) a brother, sister, stepbrother, stepsister, child, or stepchild of the victim; and

(iv) any person who had a close relationship with the deceased victim, or with a close relative of the victim, upon the recommendation of the victim assistance coordinator for the Department of Corrections or for the Office of the Attorney General.

(b) "Director" means the executive director of the Department of Corrections, or the director's designee.

(2) At the discretion of the director, the following persons may attend the execution:

(a) the prosecuting attorney, or a designated deputy, of the county in which the defendant committed the offense for which [~~he~~]the defendant is being executed;

(b) no more than two law enforcement officials from the county in which the defendant committed the offense for which [~~he~~]the defendant is being executed;

(c) the attorney general or a designee;

(d) religious representatives, friends, or relatives designated by the defendant, not exceeding a total of five persons; and

(e) unless approved by the director, no more than five close relatives of the deceased victim, as selected by the director, but giving priority in the order listed in Subsection (1)(a).

(3) The persons listed in Subsection (2) may not be required to attend, nor may any of them attend as a matter of right.

(4) The director shall permit the attendance at the execution of members of the press and broadcast news media:

(a) as named by the director in accordance with rules of the department; and

(b) with the agreement of the selected news media members that they serve as a pool for other members of the news media.

(5) (a) Except as provided in Subsection (5)(b), photographic or recording equipment is not permitted at the execution site until the execution is completed, the body is removed, and the site has been restored to an orderly condition. However, the physical arrangements for the execution may not be disturbed.

(b) Audio recording equipment may be used by the department for the purpose of recording the defendant's last words.

(c) The department shall permanently destroy the recording made under Subsection (5)(b) not later than 24 hours after the completion of the execution.

(d) A violation of this subsection is a class B misdemeanor.

(6) All persons in attendance are subject to reasonable search as a condition of attendance.

(7) (a) The following persons may also attend the execution:

(i) staff as determined by the director; and

(ii) no more than three correctional officials from other states that are preparing for executions, but no more than two correctional officials may be from any one state, as designated by the director.

(b) A person younger than 18 years [~~of age~~]old may not attend.

(8) The department shall adopt rules governing the attendance of persons, including the number of media representatives, at the execution. These rules shall be in accordance with this section.

Section 377. Section 77-19-12 is amended to read:

77-19-12. Return upon death warrant.

After the execution, the executive director of the Department of Corrections or [~~his~~]the executive director's designee shall make a return upon the death warrant, showing the time, place, and manner in which it was executed.

Section 378. Section 77-22-4.5 is amended to read:

77-22-4.5. Prosecutorial authority to compromise an offense regarding a witness.

(1) As used in this section, "prosecutor" includes the state attorney general and any assistant, a district attorney and any deputy, a county attorney and any deputy, and a municipal prosecutor and any deputy.

(2) This chapter does not prohibit or limit the authority of a prosecutor to divert, reduce, or compromise any criminal charge against a witness or other party when the witness voluntarily enters into an agreement to provide testimony or other evidence against himself or herself or another accused in consideration for the diversion, reduction, or compromise if:

(a) the prosecutor holds authority to prosecute the offense against the witness or other party; and

(b) the complete agreement with the witness is in writing and a copy of the agreement is given to the witness.

(3) Any agreement under Subsection (2) is subject to discovery by counsel for the accused in any prosecution in which the witness with whom the agreement is made has agreed to testify.

Section 379. Section 77-22a-2 is amended to read:

77-22a-2. Service of administrative subpoena.

(1) A subpoena issued under this section may be served by any person designated in the subpoena for that purpose. Service upon a natural person may be made by personal delivery of the subpoena to [~~him~~]the natural person. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association subject to suit under a common name by delivering the subpoena to an officer, managing or general agent, or other agent authorized by appointment or law to receive service of process.

(2) The affidavit of the person serving the subpoena, when entered on a copy of the subpoena by the person serving it, is proof of service.

Section 380. Section 77-22a-3 is amended to read:

77-22a-3. Compliance with administrative subpoena.

(1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the attorney general or a deputy or assistant attorney general or the county attorney or district attorney or [~~his~~]the district attorney's deputy may compel compliance with the subpoena through the district court:

(a) in the jurisdiction where the investigation is carried on;

(b) where the subpoenaed person is an inhabitant;

(c) where [~~he~~]the subpoenaed person carries on business; or

(d) where [~~he~~]the subpoenaed person may be found.

(2) The court may issue an order requiring the person subpoenaed to produce records or to appear before the attorney general or deputy or assistant attorney general, or the county attorney or district attorney or [~~his~~]the district attorney's deputy who issued the subpoena testimony touching the matter under investigation.

(3) Any failure to obey the court order may be punished by the court as contempt. All process in the case may be served in any judicial district in which the person may be found within the state.

(4) A witness may not be held liable in any civil or criminal proceeding for producing records or disclosing information to the person issuing the administrative subpoena as commanded by the subpoena.

Section 381. Section 77-23a-3 is amended to read:

77-23a-3. Definitions.

As used in this chapter:

(1) "Aggrieved person" means a person who was a party to any intercepted wire, electronic, or oral communication, or a person against whom the interception was directed.

(2) "Aural transfer" means any transfer containing the human voice at any point between and including the point of origin and the point of reception.

(3) "Communications common carrier" means any person engaged as a common carrier for hire in intrastate, interstate, or foreign communication by wire or radio, including a provider of electronic communication service. However, a person engaged in radio broadcasting is not, when that person is so engaged, a communications common carrier.

(4) "Contents" when used with respect to any wire, electronic, or oral communication includes any information concerning the substance, purport, or meaning of that communication.

(5) "Electronic communication" means any transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, but does not include:

(a) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

(b) any wire or oral communications;

(c) any communication made through a tone-only paging device; or

(d) any communication from an electronic or mechanical device that permits the tracking of the movement of a person or object.

(6) "Electronic communications service" means any service that provides for users the ability to send or receive wire or electronic communications.

(7) "Electronic communications system" means any wire, radio, electromagnetic, photoelectronic, or photo-optical facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of the communication.

(8) "Electronic, mechanical, or other device" means any device or apparatus that may be used to intercept a wire, electronic, or oral communication other than:

(a) any telephone or telegraph instrument, equipment or facility, or a component of any of them:

(i) furnished by the provider of wire or electronic communications service or by the subscriber or user, and being used by the subscriber or user in the ordinary course of its business; or

(ii) being used by a provider of wire or electronic communications service in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of [~~his~~]the officer's duties; or

(b) a hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(9) "Electronic storage" means:

(a) any temporary intermediate storage of a wire or electronic communication incident to the electronic transmission of it; and

(b) any storage of the communication by an electronic communications service for the purposes of backup protection of the communication.

(10) "Intercept" means the acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.

(11) "Investigative or law enforcement officer" means any officer of the state or of a political subdivision, who by law may conduct investigations of or make arrests for offenses enumerated in this chapter, or any federal officer as defined in Section 53-13-106, and any attorney authorized by law to prosecute or participate in the prosecution of these offenses.

(12) "Judge of competent jurisdiction" means a judge of a district court of the state.

(13) "Oral communication" means any oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception, under circumstances justifying that expectation, but does not include any electronic communication.

(14) "Pen register" means a device that records or decodes electronic or other impulses that identify the numbers dialed or otherwise transmitted on the telephone line to which the device is attached. "Pen register" does not include any device used by a provider or customer of a wire or electronic communication service for billing or recording as an incident to billing, for communications services provided by the provider, or any device used by a provider or customer of a wire communications service for cost accounting or other like purposes in the ordinary course of its business.

(15) "Person" means any employee or agent of the state or a political subdivision, and any individual, partnership, association, joint stock company, trust, or corporation.

(16) "Readily accessible to the general public" means, regarding a radio communication, that the communication is not:

(a) scrambled or encrypted;

(b) transmitted using modulation techniques with essential parameters that have been withheld from the public with the intention of preserving the privacy of the communication;

(c) carried on a subcarrier or signal subsidiary to a radio transmission;

(d) transmitted over a communications system provided by a common carrier, unless the communication is a tone-only paging system communication; or

(e) transmitted on frequencies allocated under Part 25, Subpart D, E, or F of Part 74, or Part 94, Rules of the Federal Communications Commission unless, in the case of a communication transmitted on a frequency allocated under Part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio.

(17) "Trap and trace device" means a device, process, or procedure that captures the incoming electronic or other impulses that identify the originating number of an instrument or device from which a wire or electronic communication is transmitted.

(18) "User" means any person or entity who:

(a) uses an electronic communications service; and

(b) is authorized by the provider of the service to engage in the use.

(19) (a) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception, including the use of the connection in a switching station, furnished or operated by any person engaged as a common carrier in providing or operating these facilities for the transmission of intrastate, interstate, or foreign communications.

(b) "Wire communication" includes the electronic storage of the communication, but does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.

Section 382. Section 77-23a-9 is amended to read:

77-23a-9. Disclosure or use of intercepted information.

(1) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, electronic, or oral communication, or evidence derived from any of these, may disclose those contents to another investigative or law enforcement officer to the extent that the disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(2) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, electronic, or oral communication or evidence derived from any of them may use those contents to the extent the use is appropriate to the proper performance of [~~his~~]the officer's official duties.

(3) Any person who has received, by any means authorized by this chapter, any information concerning a wire, electronic, or oral communication or evidence derived from any of them intercepted in accordance with this chapter may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of the United States or of any state or political subdivision.

(4) An otherwise privileged wire, electronic, or oral communication intercepted in accordance with, or in violation of, the provisions of this chapter does not lose its privileged character.

(5) When an investigative or law enforcement officer, while engaged in intercepting wire, electronic, or oral communications in the manner authorized, intercepts wire, electronic, or oral communications relating to offenses other than those specified in the order of authorization or approval, the contents, and evidence derived from the contents, may be disclosed or used as provided in Subsections (1) and (2). The contents and any evidence derived from them may be used under Subsection (3) when authorized or approved by a judge of competent jurisdiction, if the judge finds on subsequent application that the contents were otherwise intercepted in accordance with this chapter. The application shall be made as soon as practicable.

Section 383. Section 77-23a-16 is amended to read:

77-23a-16. Communications provider -- Cooperation and support services -- Compensation -- Liability defense.

(1) Upon the request of an attorney for the government or an officer of a law enforcement agency authorized to install and use pen registers under this chapter, a provider of wire or electronic communications service, landlord, custodian, or other person shall furnish investigative or law enforcement officers forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services the person ordered by the court accords the party regarding whom the installation and use is to take place, if such assistance is directed by a court order as provided in Subsection 77-23a-15(2)(b) of this chapter.

(2) (a) Upon request of an attorney for the government or an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of wire or electronic communications service, landlord, custodian, or other person shall:

(i) []install the device forthwith on the appropriate line[~~.~~]; and

(ii) [~~(b) He shall also~~]furnish the investigative or law enforcement officer all additional information, facilities, and technical assistance, including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if the installation and assistance is directed by a court order under [~~Section~~]Subsection 77-23a-15(2)(b).

[~~(c)~~](b) Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of the law enforcement agency designated by the court, at reasonable intervals and during regular business hours, for the duration of the order.

(3) A provider of wire or electronic communications service, landlord, custodian, or other person who furnishes facilities or technical assistance under this section shall be reasonably compensated for reasonable expenses incurred in providing the facilities and assistance.

(4) A cause of action does not lie in any court against the provider of wire or electronic communications service, its officers, employees, agents, or other specified persons, for providing information, facilities, or assistance in accordance with the terms of a court order under this chapter.

(5) A good faith reliance on a court order, a legislative authorization, or a statutory authorization, is a complete defense against any civil or criminal action brought under this chapter or any other law.

Section 384. Section 77-23b-2 is amended to read:

77-23b-2. Interference with access to stored communication -- Offenses -- Penalties.

(1) Except under Subsection (3), a person who obtains, alters, or prevents authorized access to a wire or electronic communication

while it is in electronic storage in the system shall be punished under Subsection (2) if [~~he~~]the person:

(a) intentionally accesses without authorization a facility through which an electronic communications service is provided; or

(b) intentionally exceeds an authorization to access that facility.

(2) A person who commits a violation of Subsection (1) is:

(a) if the offense is committed for purposes of commercial advantage, malicious destruction, or damage, or private commercial gain, guilty of a:

(i) third degree felony for the first offense under this subsection; and

(ii) second degree felony for any subsequent offense; and

(b) class B misdemeanor in any other case.

(3) Subsection (1) does not apply to conduct authorized:

(a) by the person or entity providing a wire or electronic communications service;

(b) by a user of that service with respect to a communication of or intended for that user; or

(c) under Sections 77-23a-10, 77-23b-4, and 77-23b-5.

Section 385. Section 77-23b-5 is amended to read:

77-23b-5. Backup copy of communications -- When required of provider -- Court order -- Procedures.

(1) (a) A governmental entity acting under Subsection 77-23b-4(2)(b) may include in its subpoena or court order a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of the subpoena or court order, the service provider shall create the backup as soon as practicable, consistent with its regular business practices. The provider shall also confirm to the governmental entity that the backup copy has been made. The backup copy shall be created within two business days after receipt by the service provider of the subpoena or court order.

(b) Notice to the subscriber or customer shall be made by the governmental entity within three days after receipt of confirmation, unless the notice is delayed under Subsection 77-23b-6(1).

(c) The service provider may not destroy the backup copy until the later of:

(i) the delivery of the information; or

(ii) the resolution of any proceedings, including appeals of any proceeding, concerning the government's subpoena or court order.

(d) The service provider shall release the backup copy to the requesting governmental entity no sooner than 14 days after the governmental entity's notice to the subscriber or customer, if the service provider:

(i) has not received notice from the subscriber or customer that the subscriber or customer has challenged the governmental entity's request; and

(ii) has not initiated proceedings to challenge the request of the governmental entity.

(e) A governmental entity may seek to require the creation of a backup copy under Subsection (1)(a) if in its sole discretion the entity determines that there is reason to believe that notification under Section 77-23b-4 of the existence of the subpoena or court order may result in destruction of or tampering with evidence. This determination is not subject to challenge by the subscriber, customer, or service provider.

(2) (a) Within 14 days after notice by the governmental entity to the subscriber or customer under Subsection (1)(b), the subscriber or customer may file a motion to quash the subpoena or vacate the court order, with copies served upon the governmental entity, and with written notice of the challenge to the service provider. A motion to vacate a court order shall be filed in the court that issues the order. A motion to quash a subpoena shall be filed in the appropriate district court. The motion or application shall contain an affidavit or sworn statement:

(i) that the applicant is a customer or subscriber to the service from which the contents of electronic communications maintained for [~~him~~]the applicant have been sought; and

(ii) that the applicant's reason for believing the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

(b) Service shall be made under this section upon a governmental entity by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice the customer received under this chapter. For purposes of this subsection, "deliver" has the same meaning as under the Utah Rules of Criminal Procedure.

(c) If the court finds that the customer has complied with Subsections (2)(a) and (b), the court shall order the governmental entity to file a sworn response, that may be filed in camera if the governmental entity includes in its response the reasons making in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct additional proceedings as it considers appropriate. All proceedings shall be completed, and the motion or application decided, as soon as practicable after the filing of the governmental entity's response.

(d) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the governmental entity are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order the process enforced. If the court finds that the applicant is the subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is no reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with this chapter, it shall order the process quashed.

(e) A court order denying a motion or application under this section is not considered a final order, and no interlocutory appeal may be taken from it by the customer or subscriber.

Section 386. Section 77-27-5.5 is amended to read:

77-27-5.5. Review procedure -- Commutation.

(1) The Board of Pardons and Parole may consider the commutation of a death sentence only to life without parole.

(2) Only the person who has been sentenced to death or [~~his~~]the sentenced person's counsel may petition the Board of Pardons and Parole for commutation.

(3) The petition shall be in writing, signed personally by the person sentenced to death, and shall include a statement of the grounds upon which the petitioner seeks review.

(4) The state shall be permitted to respond in writing to the petition as may be established by board rules.

(5) The board shall review the petition and determine whether the petition presents a substantial issue which has not been reviewed in the judicial process.

(6) The board shall not consider legal issues, including constitutional issues, which:

(a) have been reviewed previously by the courts;

(b) should have been raised during the judicial process; or

(c) if based on new information, are subject to judicial review.

(7) (a) If the board does not find a substantial issue, the board shall deny the hearing to the petitioner.

(b) If the board finds a substantial issue, the board shall conduct a hearing in which the petitioner and the state may present evidence and argument as may be provided by board rules.

Section 387. Section 77-27-12 is amended to read:

77-27-12. Parole discharge--Sentence termination.

Any person released on parole shall be discharged from parole or have [~~his~~]the person's sentence terminated subject to the conditions and limitations contained in Section 76-3-202.

Section 388. Section 77-27-26 is amended to read:

77-27-26. Deputization of agents to effect return of parole and probation violators.

(1) (a) The official administrator of the interstate compact for the supervision of parolees and probationers is authorized and empowered to deputize any person to act as an officer and agent of this state in carrying out the return of any person who has violated the terms and conditions of parole or probation as granted by this state.

(b) In any matter relating to the return of a violator described in Subsection (1)(a), any deputized agent shall have all the powers of a peace officer of this state.

(2) Any deputization of any person pursuant to this section shall be in writing and the deputized agent shall:

(a) carry formal evidence of [~~his~~]deputization; and

(b) produce the evidence of deputization upon demand.

(3) The official administrator of the interstate compact is authorized, subject to the approval of the governor, to enter into contracts with similar officials of any other state or states for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the terms and conditions of parole or probation as granted by this state.

Section 389. Section 77-28b-3 is amended to read:

77-28b-3. Eligibility criteria for international transfer.

An offender must meet the following criteria before [~~he may be~~]being considered for an international transfer:

(1) the offender is a citizen of the receiving country;

(2) the offender consents to transfer to [~~his~~]the offender's country of citizenship;

(3) the offense committed by the offender constitutes a criminal offense under the laws of the receiving state;

(4) the offender does not have fewer than 12 months remaining on [~~his~~]the offender's sentence at the time of the application for transfer;

(5) the offender is not under a sentence of death;

(6) the offender does not have collateral attacks or appeals on either the sentence or conviction pending;

(7) all other provisions of the imposed sentence such as fines, restitution, and penalties are paid in full;

(8) there are no detainers, wanted notices based on criminal convictions, indictments, informations, complaints, or parole or probation violation allegations pending against the offender; and

(9) the offender meets all of the eligibility requirements of the treaty with [~~his~~]the offender's country.

Section 390. Section 77-28b-4 is amended to read:

77-28b-4. Role of the classification officer.

(1) The classification officer of each correctional institution shall be provided with the eligibility requirements of each prisoner transfer treaty.

(2) The classification officer shall forward Form I, Transfer Inquiry, to all offenders identified as having national or citizenship status in a party nation.

(3) Upon receipt of Form I, Transfer Inquiry, the offender may indicate [~~he~~]that the offender is:

(a) interested in pursuing a transfer by signing Form I and returning it to the classification officer along with proof of citizenship; or

(b) not interested in pursuing a transfer by returning Form I to the classification officer without proof of citizenship.

(4) If the offender indicates on Form I, Transfer Inquiry, that [~~he~~]the offender is interested in pursuing a transfer, the institution classification officer shall complete Form II, Inmate Information Provided to Treaty Nation, and Form III, Notice Regarding International Prisoner Transfer.

(5) The following forms, provided by the federal government, shall be completed and forwarded in triplicate by the classification officer to the superintendent of the institution:

(a) Form I, Transfer Inquiry;

(b) Form II, Inmate Information Provided to Treaty Nation;

(c) Form III, Notice Regarding International Prisoner Transfer;

(d) proof of citizenship;

(e) statement of offender's eligibility;

(f) presentence report;

(g) classification assessment;

(h) current psychological and medical reports;

(i) signed release of confidential information forms;

(j) criminal history sheet; and

(k) judgments of conviction or certification to be tried as an adult.

Section 391. Section 77-28b-7 is amended to read:

77-28b-7. Role of director.

(1) The director of the Department of Corrections shall review the application and materials. Upon [~~his~~]the director's approval the application and materials shall be forwarded to the governor for authorization to transfer.

(2) Applications that are not approved by the director shall be returned to the sending institution and the inmate shall be notified.

Section 392. Section 77-30-3 is amended to read:

77-30-3. Form of demand -- What documents presented must show.

No demand for the extradition of a person charged with a crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under Section 77-30-6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter [~~he~~]the accused fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon or by a copy of a judgment of conviction or of a sentence composed in execution, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of [~~his~~]the person's bail, probation or parole. The indictment, information or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state and the copy of the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

Section 393. Section 77-30-4 is amended to read:

77-30-4. Governor may investigate demand.

When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with a crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to [~~him~~]the governor the situation and circumstances of the person so demanded, and whether [~~he~~]the person ought to be surrendered.

Section 394. Section 77-30-5 is amended to read:

77-30-5. Extradition for prosecution before conclusion of trial or term in other state -- Return of person involuntarily leaving demanding state.

(1) When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against [~~him~~]the person in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or [~~his~~]the person's term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated[~~.~~].

(2) The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in Section 77-30-23 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

Section 395. Section 77-30-7 is amended to read:

77-30-7. Governor's warrant of arrest -- Recitals.

If the governor decides that the demand should be complied with[~~he~~], the governor shall sign a warrant of arrest, which shall be sealed with the state seal, directed to any peace officer or other person whom [~~he~~]the governor may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

Section 396. Section 77-30-10 is amended to read:

77-30-10. Time to apply for habeas corpus allowed.

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding [~~him~~]the arrested person shall have appointed to receive [~~him~~]the arrested person unless [~~he~~]the arrested person shall first be taken forthwith before a judge of a court of record in this state who shall inform [~~him~~]the arrested person of the demand made for [~~his~~]the arrested person's surrender and of the crime with which [~~he~~]the arrested person is charged and that [~~he~~]the arrested person has the right to demand and procure legal counsel and if the prisoner or [~~his~~]the prisoner's counsel shall state that [~~he or they desire~~]the prisoner or the prisoner's counsel desires to test the legality of [~~his~~]the prisoner's arrest, the judge of such court of record shall fix a reasonable time to be allowed [~~him~~]the prisoner within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof and the time and place of hearing thereon shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

Section 397. Section 77-30-11 is amended to read:

77-30-11. Penalty for disobedience of habeas corpus.

Any officer who shall deliver to the agent for extradition of the demanding state a person in [~~his~~]the officer's custody under the governor's warrant, in willful disobedience to Section 77-30-10, shall be guilty of a misdemeanor and on conviction shall be fined not more than $1,000 or be imprisoned in the county jail not more than six months, or both.

Section 398. Section 77-30-12 is amended to read:

77-30-12. Officers entitled to use local jails.

(1) The officer or persons executing the governor's warrant of arrest or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which [~~he~~]the officer or person having charge of the prisoner may pass and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of [~~him~~]the prisoner is ready to proceed [~~on his route~~], such officer or person being chargeable with the expense of keeping. []

(2) The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another

state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which [~~he~~]the officer or person having charge of the prisoner may pass, and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of [~~him~~]the prisoner is ready to proceed [~~on his route~~], such officer or agent being chargeable with the expense of keeping; provided, such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that [~~he~~]the officer or agent is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

Section 399. Section 77-30-13 is amended to read:

77-30-13. Fugitives from justice -- Warrant of arrest.

Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state, and, except in cases arising under Section 77-30-6, that [~~he~~]the person charged has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of [~~his~~]the person's bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the [~~accused~~]person has been charged in such state with the commission of the crime, and except in cases arising under Section 77-30-6, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of [~~his~~]the person's bail, probation or parole, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding [~~him~~]the officer to apprehend the person named therein, wherever [~~he~~]the named person may be found in this state, and to bring [~~him~~]the named person before the same or any judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Section 400. Section 77-30-14 is amended to read:

77-30-14. Arrest without warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused person must be taken before a judge or magistrate with all practicable speed and complaint must be made against [~~him~~]the accused person under oath setting forth the ground for the arrest as in Section 77-30-13, and thereafter [~~his~~]the accused person's answer shall be heard as if [~~he~~]the accused person had been arrested on a warrant.

Section 401. Section 77-30-15 is amended to read:

77-30-15. Commitment pending arrest under warrant of governor.

If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under Section 77-30-6, that [~~he~~]the accused person has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit [~~him~~]the accused person to the county jail for such a time not exceeding 30 days and specified in the warrant as will enable the arrest of the accused person to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused person gives bail as provided in the next section or until [~~he~~]the accused person shall be legally discharged.

Section 402. Section 77-30-16 is amended to read:

77-30-16. Amount of bail.

(1) Except as provided in Subsection (2), a judge or magistrate in this state may admit the person arrested to bail by bond with sufficient sureties and in an amount [~~he~~]the judge or magistrate considers proper, conditioned for [~~his~~]the arrested person's appearance before [~~him~~]the judge or magistrate at a time specified in the bond and for [~~his~~]the arrested person's surrender, to be arrested upon the warrant of the governor of this state.

(2) A person arrested under Section 77-30-13 shall be admitted to bail as a matter of right, except the court has discretion to deny bail as provided in Utah Constitution Article I, Section 8, and when a judge or magistrate in the demanding state has ordered that the person charged be held without bail or the person has waived extradition.

(3) There is a rebuttable presumption that the bail set by the court or magistrate in the demanding state is the proper amount of bail in this state.

Section 403. Section 77-30-17 is amended to read:

77-30-17. Procedure when no arrest made under warrant of governor.

If the accused person is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge [~~him~~]the accused person or may recommit [~~him~~]the accused person for a further period not to exceed 60 days, or a judge or magistrate may again take bail for [~~his~~]the accused person's appearance and surrender, as provided in Section 77-30-16, but within a period not to exceed 60 days after the date of such new bond.

Section 404. Section 77-30-20 is amended to read:

77-30-20. Governor not to inquire into guilt or innocence.

The guilt or innocence of the accused person as to the crime of which [~~he~~]the accused person is charged in another state may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the accused person held as the person charged with the crime.

Section 405. Section 77-30-21 is amended to read:

77-30-21. Governor's warrant of arrest recalled or another issued.

The governor may recall [~~his~~]the governor's warrant of arrest or may issue another warrant whenever [~~he~~]the governor deems proper.

Section 406. Section 77-30-22 is amended to read:

77-30-22. Fugitives from this state -- Issuance of governor's warrant.

Whenever the governor of this state shall demand a person charged with a crime or with escaping from confinement or breaking the terms of [~~his~~]bail, probation, or parole in this state from the executive authority of any other state or from the chief justice or an associate

justice of the superior court of the District of Columbia authorized to receive such demand under the laws of the United States, [~~he~~]the governor shall issue a warrant under the seal of this state to some agent, commanding [~~him~~]the agent to receive the person so charged if delivered to [~~him~~]the agent and convey [~~him~~]the charged person to the proper officer of the county in this state in which the offense was committed.

Section 407. Section 77-30-26 is amended to read:

77-30-26. Prosecution not limited to crime specified in requisition.

After a person has been brought back to this state by or after waiver of extradition proceedings[~~he~~], the person may be tried in this state for other crimes which [~~he~~]the person may be charged with having committed here as well as that specified in the requisition for [~~his~~]the person's extradition.

Section 408. Section 77-38-10 is amended to read:

77-38-10. Victim's discretion.

(1) (a) The victim may exercise any rights under this chapter at [~~his~~]the victim's discretion to be present and to be heard at a court proceeding, including a juvenile delinquency proceeding.

(b) The absence of the victim at the court proceeding does not preclude the court from conducting the proceeding.

(2) A victim shall not refuse to comply with an otherwise lawful subpoena under this chapter.

(3) A victim shall not prevent the prosecution from complying with requests for information within a prosecutor's possession and control under this chapter.

Section 409. Effective Date.

This bill takes effect on May 7, 2025.

Section 410. Coordinating S.B. 79 with other 2025 General Session legislation.

The Legislature intends that, on May 7, 2025, any 2025 General Session legislation amending the Utah Code that conflicts with amendments made in S.B. 79, and that passes and becomes law, supersedes the conflicting amendments in S.B. 79.

CHAPTER 303
S. B. 83
Passed February 26, 2025
Approved March 25, 2025
Effective January 1, 2026

LAW ENFORCEMENT POLICY REQUIREMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill addresses law enforcement policies.

Highlighted Provisions:

This bill:

- ► defines terms; and
- ► requires a law enforcement agency to create and maintain a policy regarding the handling of an investigation into a criminal violation of a stalking injunction, jail release agreement, jail release court order, or protective order.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53-25-601, Utah Code Annotated 1953
53-25-602, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-25-601 is enacted to read:

PART 6. Policy for Violation of Protective Orders and Injunctions

53-25-601. Definitions.

As used in this part:

(1) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(2) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(3) "Law enforcement agency" means an entity of the state, a political subdivision of the state, or an entity operated by a private institution of higher education, that exists primarily to prevent and detect crime and enforce criminal laws, statutes, or ordinances.

(4) "Protective order" means a protective order, or ex parte protective order, issued under:

(a) Title 78B, Chapter 7, Part 2, Child Protective Orders;

(b) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

(c) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;

(d) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders;

(e) Title 78B, Chapter 7, Part 8, Criminal Protective Orders; or

(f) Title 78B, Chapter 7, Part 11, Workplace Violence Protective Orders.

(5) "Stalking injunction" means an injunction, or ex parte injunction, issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

Section 2. Section 53-25-602 is enacted to read:

53-25-602. Policy and public information requirements for investigations into violations of protective orders or injunctions.

(1) A law enforcement agency shall create and maintain a policy regarding the law enforcement agency's processes for handling an investigation into an alleged criminal violation of:

(a) a jail release agreement;

(b) a jail release court order;

(c) a protective order; or

(d) a stalking injunction.

(2) A policy described in Subsection (1) shall include best practices for an employee of the law enforcement agency conducting an investigation into an alleged criminal violation of an agreement, order, or injunction described in Subsection (1), including the proper procedures for:

(a) investigating an individual who has previously violated an agreement, order, or injunction described in Subsection (1); and

(b) contacting the victim of a violation of an agreement, order, or injunction described in Subsection (1).

(3) A policy created under Subsection (1) shall be posted on the law enforcement agency's website that includes:

(a) contact information for a victim of a violation of an agreement, order, or injunction described in Subsection (1) where the victim can obtain relevant information from the law enforcement agency; and

(b) victim services referral information for a victim of a violation of an agreement, order, or injunction described in Subsection (1).

Section 3. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 304
S. B. 87
Passed February 13, 2025
Approved March 25, 2025
Effective May 7, 2025

DUI SENTENCING MODIFICATIONS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This bill addresses DUI sentencing.

Highlighted Provisions:

This bill:

- ► clarifies that a veterans treatment court program is a problem solving court an individual may participate in or successfully complete that allows a court to shorten or suspend the individual's suspension or revocation of the individual's license due to a DUI conviction; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-509, as last amended by Laws of Utah 2024, Chapter 106

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-509 is amended to read:

41-6a-509. Driver license suspension or revocation for a driving under the influence violation.

(1) (a) The Driver License Division shall, if the person is 21 years old or older at the time of arrest:

(i) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502 or 76-5-102.1; or

(ii) revoke for a period of two years the license of a person if:

(A) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(B) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation.

(b) (i) If a person elects to become an interlock restricted driver under Subsection 53-3-223(10)(a), the Driver License Division may not suspend the operator's license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to complete 120 days of the interlock restriction.

(ii) If a person elects to become an interlock restricted driver under Subsection 53-3-223(10)(a), and the person fails to complete the full 120 days of interlock restriction, the Driver License Division:

(A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period of 120 days from the date the ignition interlock system was removed from the vehicle; and

(B) may not reduce the 120-day suspension for any days the person was compliant with the interlock restriction under Subsection 53-3-223(10)(a).

(c) (i) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), the Driver License Division may not suspend the operator's license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to complete three years of the interlock restriction under Subsection 41-6a-521(7).

(ii) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), and the person fails to complete the full three years of interlock restriction, the Driver License Division:

(A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period of 120 days from the date the ignition interlock system was removed from the vehicle; and

(B) may not reduce the 120-day suspension for any days the person was compliant with the interlock restriction under Subsection 41-6a-521(7).

(2) The Driver License Division shall, if the person is 19 years old or older but under 21 years old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years old or for a period of one year, whichever is longer, if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense that was committed on or after July 1, 2011;

(b) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of one year, whichever is longer, if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense committed on or after July 1, 2011; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years old or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(3) The Driver License Division shall, if the person is under 19 years old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years old if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207;

(b) deny the person's application for a license or learner's permit until the person is 21 years old if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years old if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years old if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (9).

(5) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(6) If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502, 76-5-102.1, or 76-5-207 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:

(a) may not subtract from any suspension or revocation any time for which a license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

(b) shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

(7) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (7)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (7)(c);

(e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection (7)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years old or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

(ii) is under 18 years old and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(8) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (7), the court shall forward the order shortening the person's suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(9) (a) (i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional suspension or revocation period provided in this Subsection (9) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207.

(b) If the court suspends or revokes the person's license under this Subsection (9), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(10) (a) The court shall notify the Driver License Division if a person fails to complete all court ordered:

(i) screenings;

(ii) assessments;

(iii) educational series;

(iv) substance abuse treatment; and

(v) hours of work in a compensatory-service work program.

(b) Subject to Subsection 53-3-218(3), upon receiving the notification described in Subsection (10)(a), the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

(11) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the Driver License Division may shorten the suspension or revocation period imposed under Subsection (1) before completion of the suspension or revocation period if the person:

(i) is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5;

(ii) (A) is participating in or has successfully completed a problem solving court program approved by the Judicial Council, including a driving under the influence court program[~~or~~], a drug court program, or a veterans treatment court program; and

(B) has elected to become an interlock restricted driver as a condition of probation during the remainder of the person's suspension or revocation period in accordance with Section 41-6a-518; or

(iii) has had their operator license suspended under Subsection (1)(a)(i), and the court does not have a problem solving court program approved by the Judicial Council or access to a 24-7 sobriety program as defined in Section 41-6a-515.5, if the person:

(A) has installed an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007; and

(B) did not inflict bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner.

(b) If a court shortens a person's license suspension or revocation period in accordance with the requirements of this Subsection (11), the court shall forward the order shortening the person's suspension or revocation period to the Driver License Division in a manner specified by the division.

(c) The court shall notify the Driver License Division, in a manner specified by the Driver License Division, if a person fails to complete or comply with a condition that allowed the court to shorten the person's license suspension or revocation period under Subsection (11)(a).

(d) (i) (A) Upon receiving the notification described in Subsection (11)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described under Subsection (11)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was previously suspended under this section or Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under Section 41-6a-502 is based.

(ii) (A) Upon receiving the notification described in Subsection (11)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a license revocation described in Subsection (11)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under Section 41-6a-502 is based.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 305
S. B. 90
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

MANDATORY JAIL SENTENCE AMENDMENTS

Chief Sponsor: Calvin R. Musselman
House Sponsor: Colin W. Jack

LONG TITLE

General Description:

This bill requires a mandatory jail sentence for certain crimes committed under certain conditions.

Highlighted Provisions:

This bill:

- ► requires a mandatory jail sentence for certain drug and theft crimes committed under certain conditions and with specified prior criminal convictions;
- ► provides that a person who receives a mandatory jail sentence under certain conditions may not be turned over to the federal government for deportation until the person has served the entire mandatory jail sentence, with limited exceptions;
- ► adds a coordination clause in order to incorporate the changes made in this bill to Section 58-37-8.1 as enacted in H.B. 87 if both this bill and H.B. 87, Drug Trafficking Amendments, both pass and become law; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

58-37-8, as last amended by Laws of Utah 2024, Chapter 105
76-6-404, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-602, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407

Utah Code Sections Affected by Coordination Clause:

AMENDS:

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) (i) Except as provided in Subsection (1)(c)(ii), a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as described in Subsection (1)(b) and Title 76, Chapter 3, Punishments.

(ii) The court shall impose an indeterminate prison term for a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation, the person intentionally or knowingly:

(A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section 76-10-501, that is not a firearm, in an angry, threatening, intimidating, or coercive manner;

(B) used a firearm or had a firearm readily accessible for immediate use, as those terms are defined in Section 76-10-501; or

(C) distributed a firearm, as that term is defined in Section 76-10-501, or possessed a firearm with intent to distribute the firearm.

(iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate prison term for a person convicted under Subsection (1)(c)(ii) if the court:

(A) details on the record the reasons why it is in the interests of justice not to impose the indeterminate prison term;

(B) makes a finding on the record that the person does not pose a significant safety risk to the public; and

(C) orders the person to complete the terms and conditions of supervised probation provided by the Department of Corrections.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(f) (i) A court shall impose the mandatory jail sentence described in Subsection (1)(f)(ii), and may not suspend any portion of the jail sentence or grant early release, if:

(A) the court suspends the imposition of a prison sentence for a felony conviction under Subsection (1)(a) or sentences a person for a misdemeanor violation of an offense under Subsection (1)(a);

(B) (I) the violation is the person's second or subsequent conviction for any level of offense under Subsection (1)(a); or

(II) the person previously has been convicted of a criminal violation in another jurisdiction, including a state or federal court, that is substantially equivalent to the violation of an offense under Subsection (1)(a); and

(C) the person previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.

(ii) The mandatory jail sentences referred to in Subsection (1)(f)(i) are:

(A) for a felony or a class A misdemeanor, 360 days in jail;

(B) for a class B misdemeanor, 180 days in jail; and

(C) for a class C misdemeanor, 90 days in jail.

(iii) (A) Except as provided in Subsection (1)(f)(iii)(B), a person who is subject to a mandatory jail sentence under Subsection (1)(f)(i) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the person has served the entire jail sentence described in Subsection (1)(f)(ii).

(B) A person may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation at any time during the 14-day period before the final day of the person's jail sentence described in Subsection (1)(f)(ii).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i) through (vi);

(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research;

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment; or

(c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled or counterfeit substance to conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 2. Section 76-6-404 is amended to read:

76-6-404. Theft -- Elements.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft if the actor obtains or exercises unauthorized control over another person's property with a purpose to deprive the person of the person's property.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;

(iii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

(iv) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

(4) (a) A court shall impose the mandatory jail sentence described in Subsection (4)(b), and may not suspend any portion of the jail sentence or grant early release, if:

(i) the court suspends the imposition of a prison sentence for a felony conviction under this section or sentences an actor for a misdemeanor violation of this section;

(ii) (A) the violation is the actor's second or subsequent conviction for any level of offense under this section; or

(B) the actor previously has been convicted of a criminal violation in another jurisdiction, including a state or federal court, that is substantially equivalent to the violation of this section; and

(iii) the actor previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.

(b) The mandatory jail sentences referred to in Subsection (4)(a) are:

(i) for a felony or a class A misdemeanor, 360 days in jail;

(ii) for a class B misdemeanor, 180 days in jail; and

(iii) for a class C misdemeanor, 90 days in jail.

(c) (i) Except as provided in Subsection (4)(c)(ii), an actor who is subject to a mandatory jail sentence under Subsection (4)(a) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the actor has served the entire jail sentence described in Subsection (4)(b).

(ii) An actor may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of

Homeland Security for deportation at any time during the 14-day period before the final day of the actor's jail sentence described in Subsection (4)(b).

Section 3. Section 76-6-602 is amended to read:

76-6-602. Retail theft.

(1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.

(2) An actor commits retail theft if the actor knowingly:

(a) takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment with the intention of:

(i) retaining the merchandise; or

(ii) depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of the merchandise;

(b) (i) alters, transfers, or removes any label, price tag, marking, indicia of value, or any other markings which aid in determining value of any merchandise displayed, held, stored, or offered for sale, in a retail mercantile establishment; and

(ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of the merchandise;

(c) transfers any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment from the container in or on which the merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of the merchandise;

(d) under-rings with the intention of depriving the merchant of the retail value of the merchandise; or

(e) removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use, or benefit of the shopping cart.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the merchandise or shopping cart is or exceeds $5,000;

(ii) merchandise stolen is a firearm or an operable motor vehicle; or

(b) a third degree felony if:

(i) the value of the merchandise is or exceeds $1,500 but is less than $5,000;

(ii) the merchandise is:

(A) a catalytic converter as defined under Section 76-6-1402; or

(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;

(iii) the value of the merchandise or shopping cart is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

(iv) (A) the value of merchandise or shopping cart is or exceeds $500 but is less than $1,500;

(B) the theft occurs in a retail mercantile establishment or on the premises of a retail mercantile establishment where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the merchandise or shopping cart stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of merchandise or shopping cart is less than $500;

(B) the theft occurs in a retail mercantile establishment or premises of a retail mercantile establishment where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the merchandise or shopping cart stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

(4) (a) A court shall impose the mandatory jail sentence described in Subsection (4)(b), and may not suspend any portion of the jail sentence or grant early release, if:

(i) the court suspends the imposition of a prison sentence for a felony conviction under this section or sentences an actor for a misdemeanor violation of this section;

(ii) (A) the violation is the actor's second or subsequent conviction for any level of offense under this section; or

(B) the actor previously has been convicted of a criminal violation in another jurisdiction, including a state or federal court, that is substantially equivalent to the violation of this section; and

(iii) the actor previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.

(b) The mandatory jail sentences referred to in Subsection (4)(a) are:

(i) for a felony or a class A misdemeanor, 360 days in jail;

(ii) for a class B misdemeanor, 180 days in jail; and

(iii) for a class C misdemeanor, 90 days in jail.

(c) (i) Except as provided in Subsection (4)(c)(ii), an actor who is subject to a mandatory jail sentence under Subsection (4)(a) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the actor has served the entire jail sentence described in Subsection (4)(b).

(ii) An actor may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation at any time during the 14-day period before the final day of the actor's jail sentence described in Subsection (4)(b).

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

Section 5. Coordinating S.B. 90 with H.B. 87.

If S.B. 90, Mandatory Jail Sentence Amendments, and H.B. 87, Drug Trafficking Amendments, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) the language "Except as provided by Subsection (7)" be inserted at the beginning of Subsection 58-37-8.1(5) enacted in H.B. 87; and

(2) the following language be inserted as Subsection 58-37-8.1(7) in H.B. 87:

"(7)(a) If a court seeks to suspend the execution or imposition of a prison sentence under Subsection (5), the court shall impose the mandatory jail sentence described in Subsection (7)(b), and may not suspend any portion of the jail sentence or grant early release, if:

(i) the court suspends the imposition of a prison sentence for a conviction under Subsection (2);

(ii) (A) the violation is the person's second or subsequent conviction for an offense under Subsection (2); or

(B) the person previously has been convicted of a criminal violation in another jurisdiction, including a state or federal court, that is substantially equivalent to the violation of an offense under Subsection (2); and

(iii) the person previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.

(b) The mandatory jail sentence referred to in Subsection (7)(a) is 360 days in jail.

(c) (i) Except as provided in Subsection (7)(c)(ii), a person who is subject to a mandatory jail sentence under Subsection (7)(a) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the person has served the entire jail sentence described in Subsection (7)(b).

(ii) A person may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation at any time during the 14-day period before the final day of the person's jail sentence described in Subsection (7)(b).".

CHAPTER 306
S. B. 91
Passed March 7, 2025
Approved March 25, 2025
Effective January 1, 2026

RESTAURANT TAX REVISIONS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Jason B. Kyle

LONG TITLE

General Description:

This bill amends the restaurant tax within the Tourism, Recreation, Cultural, Convention, and Airport Facilities tax.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► imposes the 1% county tax historically imposed only in restaurants on certain prepared food transactions in a convenience store, gas station, or grocery store; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-602, as last amended by Laws of Utah 2024, Chapter 483
59-12-603, as last amended by Laws of Utah 2024, Chapter 274

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-602 is amended to read:
59-12-602. Definitions.

As used in this part:

(1) "Airport facility" means an airport of regional significance, and includes:

(a) an appurtenance to an airport, including a fixed guideway that provides transportation service to or from the airport;

(b) a control tower, including a radar system;

(c) a public area of an airport; or

(d) a terminal facility.

(2) "Airport of regional significance" means the same as that term is defined in Section 59-12-2202.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Convenience store" means a retail establishment described in NAICS Code 445131, Convenience Retailers, of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

[~~(6)~~](7) "Convention facility" means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

[~~(7)~~](8) "Cultural facility" means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.

(9) (a) "Customized" means prepared or heated by a seller for on-premise or immediate consumption at the request or specification of the purchaser.

(b) "Customized" does not include a purchaser specifying the quantity.

(10) "Gas station" means a retail establishment at which the primary purpose or function is the sale of fuel.

(11) "Grocery store" means a retail establishment at which the primary business or function is the sale of food or food ingredients for off-premise, but not immediate, consumption.

[~~(8)~~](12) (a) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

(b) "Off-highway vehicle" does not include a vehicle that is a motor vehicle under Section 41-1a-102.

[~~(9)~~](13) "Motorcycle" means the same as that term is defined in Section 41-22-2.

[~~(10)~~](14) "Recreation facility" or "tourist facility" means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

[~~(11)~~](15) (a) "Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is pulled by another vehicle.

(b) "Recreational vehicle" includes:

(i) a travel trailer;

(ii) a camping trailer; and

(iii) a fifth wheel trailer.

(c) "Recreational vehicle" does not include a vehicle that is a motor vehicle under Section 41-1a-102.

[~~(12)~~](16) (a) "Restaurant" means a retail establishment at which the primary business or function is the sale of prepared food for immediate or on-premises consumption.

[~~(a)~~](b) "Restaurant" includes [~~any~~]a coffee shop, cafeteria, luncheonette, soda fountain, dinner theater, or fast-food service where food is prepared for immediate consumption.

[~~(b)~~](c) "Restaurant" does not include:

[~~(i) any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and~~]

(i) a convenience store;

(ii) a gas station;

(iii) a grocery store; or

[~~(ii)~~](iv) a theater that sells food items [~~, but not~~]other than a dinner theater.

[~~(13)~~](17) "Snowmobile" means the same as that term is defined in Section 41-22-2.

[~~(14)~~](18) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

Section 2. Section 59-12-603 is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

(iii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of[~~the following that are sold by a restaurant~~]:

(A) alcoholic beverages[~~;~~], food and food ingredients, or prepared food sold by a restaurant; and

(B) [~~food and food ingredients; or~~]customized prepared food sold by a convenience store, a gas station, or a grocery store;

[~~(C) prepared food;~~]

(iv) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i); and

(v) if a county legislative body of any county imposes a tax under Subsection (1)(a)(i), a tax at the same rate applies to car sharing of less than 30 days, except for car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement.

(b) A tax imposed under Subsection (1)(a) is subject to the [~~audit~~]reporting provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(c), a county may use revenue from the imposition of a tax under Subsection (1) for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) (i) In addition to the uses described in Subsection (2)(a) and subject to Subsection (2)(b)(ii), a county of the fourth, fifth, or sixth class or a county with a population density of fewer than 15 people per square mile may expend the revenue from the imposition of a tax under Subsections (1)(a)(i) and (ii) on the following activities to mitigate the impacts of tourism:

(A) solid waste disposal;

(B) search and rescue activities;

(C) law enforcement activities;

(D) emergency medical services; or

(E) fire protection services.

(ii) A county may only expend the revenue as outlined in Subsection (2)(b)(i) if the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) has prioritized the use of revenue to mitigate the impacts of tourism.

(c) A county of the first class shall expend at least $450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect a tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 3. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 307
S. B. 95
Passed February 19, 2025
Approved March 25, 2025
Effective May 7, 2025

TRUTH IN TAXATION AMENDMENTS

Chief Sponsor: Heidi Balderree
House Sponsor: Colin W. Jack

LONG TITLE

General Description:

This bill addresses the public hearing requirements for increasing the property tax rate.

Highlighted Provisions:

This bill:

- ► defines "meeting" to align with the definition in the Open and Public Meetings Act to clarify that a public hearing on increasing the property tax rate above the certified tax rate requires the presence of a quorum of the taxing entity; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-919,
(Effective 05/07/25) (Retrospective 01/01/25)
as last amended by Laws of Utah 2024, Chapter 246

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-919 is amended to read:

59-2-919

(Effective 05/07/25) (Retrospective 01/01/25)

. Notice and public hearing requirements for certain tax increases -- Exceptions -- Audit.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Meeting" means the same as that term is defined in Section 52-4-103.

[~~(g)~~](h) "Last year's property tax budgeted revenue" does not include:

(i) revenue received by a taxing entity from a debt service levy voted on by the public;

(ii) revenue generated by the combined basic rate as defined in Section 53F-2-301; or

(iii) revenue generated by the charter school levy described in Section 53F-2-703.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the dollar amount of additional ad valorem tax revenue that would be generated each year by the proposed increase in the certified tax rate;

(vi) shall include a brief statement of the primary purpose for the proposed tax increase, including the taxing entity's intended use of additional ad valorem tax revenue described in Subsection (3)(c)(v);

(vii) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v);

(viii) shall state the Internet address for the taxing entity's public website;

(ix) may contain other information approved by the commission; and

(x) if sent in calendar year 2024, 2025, or 2026, shall contain:

(A) notice that the taxpayer may request electronic notice as described in Subsection 17-21-6(1)(m); and

(B) instructions describing how to elect to receive a notice as described in Subsection 17-21-6(1)(m).

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than $20,000 in ad valorem tax revenue for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than $20,000 of ad valorem tax revenue.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) for the taxing entity, as a class A notice under Section 63G-30-102, for at least 14 days before the day on which the taxing entity conducts the public hearing described in Subsection (3)(a)(v) or (4)(b).

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase; and

(C) state the Internet address for the taxing entity's public website.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b);

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase; and

(C) state the Internet address for the taxing entity's public website.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE

(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from $_____ to $_____, which is $_____ per year.

If the proposed budget is approved, (name of the taxing entity) would receive an additional $_____ in property tax revenue per year as a result of the tax increase.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

The (name of the taxing entity) invites all concerned citizens to a public hearing for the purpose of hearing comments regarding the proposed tax increase and to explain the reasons for the proposed tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity) or visit (Internet address for the taxing entity's public website)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) [~~A~~]On or before June 1, a fiscal year taxing entity shall [~~, on or before June 1,~~] notify the commission and the county auditor of the date, time, and place of the public hearing described in Subsection (4)(b).

(ii) [~~A~~]On or before October 1 of the current calendar year, a calendar year taxing entity shall [~~, on or before October 1 of the current calendar year,~~]notify the commission and the county auditor of the date, time, and place of the public hearing described in Subsection (3)(a)(v).

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public; and

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a special district's or special service district's fee implementation or increase, or a combination of these items.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall:

(A) state the dollar amount of additional ad valorem tax revenue that would be generated each year by the proposed increase in the certified tax rate;

(B) explain the reasons for the proposed tax increase, including the taxing entity's intended use of additional ad valorem tax revenue described in Subsection (8)(b)(ii)(A);

(C) if the county auditor compiles the list required by Section 59-2-919.2, present the list at the public hearing and make the list available on the taxing entity's public website; and

(D) provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) The county auditor shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a special district or a special service district, a fee hearing described in Section 17B-1-643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10-5-107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10-6-135.5.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

(10) (a) A county auditor may conduct an audit to verify a taxing entity's compliance with Subsection (8).

(b) If the county auditor, after completing an audit, finds that a taxing entity has failed to meet the requirements of Subsection (8), the county auditor shall prepare and submit a report of the auditor's findings to the commission.

(c) The commission may not certify a tax rate that exceeds a taxing entity's certified tax rate if, on or before September 15 of the year in which the taxing entity is required to hold the public hearing described in Subsection (3)(a)(v) or (4)(b), the commission determines that the taxing entity has failed to meet the requirements of Subsection (8).

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

Section 3. Retrospective operation.

This bill has retrospective operation to January 1, 2025.

CHAPTER 308
S. B. 98
Passed February 27, 2025
Approved March 25, 2025
Effective May 7, 2025

PARENTAL EDUCATION ON STUDENT USE OF TECHNOLOGY AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill provides for parental education regarding student use of technology.

Highlighted Provisions:

This bill:

- ► requires the State Board of Education to:
  - • create a video presentation for parents regarding potential safety and legal issues a student may encounter regarding the student's use of technology; and
  - • make the video presentation available to each school district so that the school district may provide the video presentation to parents;
- ► provides a sunset date; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-9-703, as last amended by Laws of Utah 2024, Chapter 20
63I-1-253, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-9-703 is amended to read:

53G-9-703. Parent education -- Mental health -- Bullying -- Safety -- Video presentation regarding student use of technology.

(1) (a) Except as provided in Subsection (3), a school district shall offer a seminar for parents of students who attend school in the school district that:

(i) is offered at no cost to parents;

(ii) (A) begins at or after 6 p.m.; or

(B) takes place on a Saturday;

(iii) (A) is held in at least one school located in the school district; or

(B) is provided through a virtual platform; and

(iv) covers the topics described in Subsection (2).

(b) (i) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(ii) Notwithstanding Subsection (1)(b)(i), a school district may not be required to offer more than three seminars.

(c) A school district may:

(i) develop the district school's own curriculum for the seminar described in Subsection (1)(a); or

(ii) use the curriculum developed by the state board under Subsection (2).

(d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.

(2) The state board shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;

(iv) Internet safety, including pornography addiction; and

(v) the SafeUT Crisis Line established in Section 53B-17-1202; and

(b) provide the curriculum, including resources and training, to school districts upon request.

(3) (a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the state board and provide the reasons why the local school board chose not to offer the parent seminar.

(4) (a) The state board shall develop a brief video presentation that is directed at educating parents about potential safety and legal issues a student may encounter regarding the student's use of technology, including:

(i) sharing personal data via social media and other means of communication; and

(ii) creating or sharing sexual or nude images, both real and artificially produced.

(b) The state board shall make the video presentation described in Subsection (4)(a) available to each school district so that the school district may provide the video presentation to parents within the school district.

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.

(2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

(5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

(6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.

(7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

(8) Section 53-5-703, Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

(9) Section 53-11-104, Board, is repealed July 1, 2029.

(10) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(11) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

(12) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

(13) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.

(14) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(15) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(16) Section 53B-17-1203, SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.

(17) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(18) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

(19) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.

(20) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

(21) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(22) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

(23) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

(24) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.

(25) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

(26) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

(27) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

(28) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(29) Subsection 53E-7-207(7), regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

(30) Section 53F-2-420, Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(31) Section 53F-5-214, Grant for professional learning, is repealed July 1, 2025.

(32) Section 53F-5-215, Elementary teacher preparation grant, is repealed July 1, 2025.

(33) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is repealed July 1, 2025.

(34) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

(35) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

(36) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

(37) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

(38) Subsection 53G-9-703(4), regarding the parental video presentation concerning student use of technology, is repealed January 1, 2030.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 309
S. B. 99
Passed March 5, 2025
Approved March 25, 2025
Effective March 25, 2025

EXCELLENCE IN EDUCATION AND LEADERSHIP SUPPLEMENT AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill amends existing timeline and appropriation requirements to the Excellence in Education and Leadership Supplement.

Highlighted Provisions:

This bill:

- ► amends existing timeline and appropriation requirements to the Excellence in Education and Leadership Supplement;
- ► requires the State Board of Education to obtain and house a web-based application portal; and
- ► makes technical changes.

Money Appropriated in this Bill:

This bill appropriates $600,000 in operating and capital budgets for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-2-526, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 374

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-526 is amended to read:

53F-2-526 (Effective upon governor's approval). Excellence in Education and Leadership Supplement.

(1) As used in this section:

(a) "Center" means the Center for the School of the Future at Utah State University established in Section 53B-18-801.

(b) "Eligible teacher" means a teacher who is a top-performing teacher that the center determines using an LEA's assessment methods, including:

(i) student growth or achievement measures;

(ii) professional evaluations;

(iii) parent or student surveys; and

(iv) other data-driven criteria the LEA establishes and the center verifies for validity.

(c) "Eligible teacher" includes an individual whom an LEA participating in the program employs and who holds:

(i) a license the state board issues; and

(ii) a position that includes a current classroom teaching assignment.

(d) "High poverty school" means the same as the term is defined in Section 53F-2-513.

(e) "LEA" means:

(i) a school district;

(ii) a charter school;

(iii) the Utah Schools for the Deaf and the Blind; and

[~~(iii)~~](iv) a regional education service agency.

(f) "Program" means the Excellence in Education and Leadership Supplement created in Subsection (2).

(g) "Tier performance level" means the following levels of performance for a teacher in comparison to all teachers the center determines in accordance with Subsection (7):

(i) the top 5% of teachers;

(ii) the next 6%-10% of teachers; and

(iii) the next 11%-25% of teachers.

(h) "Top-performing" means the top 25% of teachers in comparison to all teachers the center determines using the methods described in Subsection (1)(b).

(2) Beginning July 1, 2024, there is created a five-year pilot program known as the Excellence in Education and Leadership Supplement to provide a [~~salary supplement~~]performance-based award to an eligible teacher in recognition for outstanding instructional talent.

(3) (a) No later than December 31, 2024, an LEA shall declare the LEA's intent to participate in the program to the center.

(b) If an LEA declares an intent to participate in the program, the LEA shall:

(i) develop a process for a school principal or the principal's designee to assess a teacher's performance consistent with this section to determine if a teacher is an eligible teacher, including the corresponding tier performance level; and

(ii) create an appeals process for an employee who is not nominated to be an eligible teacher.

(4) No later than [~~April 1~~]July 1, 2025, an LEA shall:

(a) attend a training that the center creates regarding the guidelines for developing a process described in Subsection (3); and

(b) develop and submit for approval the LEA's process described in Subsection (3) to the center.

(5) (a) The center shall review the LEA's process described in Subsection (3) and approve the process or request that the LEA make changes to the submitted process.

(b) If the center requests changes to the LEA's submitted process, the LEA shall work with the center to make necessary changes to receive final approval from the center.

(c) No later than [~~June 30~~]August 15, 2025, the center shall provide final approval or denial of an LEA's process.

(6) Before [~~the start of the 2025-2026 school year~~]August 31, 2025, an LEA with an approved process as described in Subsection (5) shall:

(a) ensure each school principal or the principal's designee attends a training that the center creates regarding:

(i) how to effectively use the LEA's approved process to select and submit to the center nominations for eligible teachers, including the corresponding tier performance level; and

(ii) how to protect student and educator data privacy when submitting nominations and applications, as described in Subsection (9)(b)(ii).

(b) provide information to teachers within the LEA regarding the program and how the school's principal or principal's designee will use the approved LEA process to make nominations of eligible teachers; and

(c) ensure each school principal or the principal's designee [~~uses~~]is able to use the LEA's approved process to evaluate and select which teachers within the school to nominate as eligible teachers, including the corresponding tier performance level[~~; and~~].

[~~(d) as provided in Subsection (9), submit to the center a list of the nominated eligible teachers for the center to consider.~~]

(7) In assessing if a nominated teacher is an eligible teacher, the center shall create an assessment process that:

(a) uses the methods described in Subsection (1)(b);

(b) calibrates the submissions an LEA submits to determine, for all nominated teachers statewide, which teachers are eligible teachers, including the corresponding tier performance level;

(c) may use additional criteria as determined by the center in consultation with participating LEAs; and

(d) establishes a scoring rubric including the scores required for a designation in each tier performance level.

(8) (a) The center shall collaborate with LEAs to create:

(i) selection and submission guidelines for:

(A) the approval of the LEA's process as described in Subsection (5); and

(B) the list of nominated eligible teachers described in Subsection (6);

(ii) methods to determine student growth and achievement measures for subject areas that do not have standardized assessment data;

(iii) the weightings for each element of the assessment process described in Subsection (7); and

(iv) the trainings described in this section.

(b) In addition to the requirements in Subsection (8)(a), an LEA may include the following if the LEA collaborates with the center to do so:

(i) methods to determine student growth and achievement measures for subject areas that have standardized assessment data; and

(ii) methods for combining measures described in Subsections (8)(a)(ii) and (8)(b)(i) as appropriate to assure compatibility across all subject areas.

[~~(b)~~](c) The center may provide program related technical assistance to an LEA.

(9) (a) An LEA shall:

(i) apply to the center on behalf of the nominated eligible teachers within the LEA through a process and format that the center determines; and

(ii) ensure a school principal or the principal's designee reevaluates an eligible teacher's designation under this section every three years.

(b) The center shall:

(i) create an application process for an LEA to submit the list of nominated eligible teachers described in Subsection (9)(a), including a deadline for submission of the list of nominated teachers to the center;

(ii) coordinate with the state board in the creation of the application process described in Subsection (9)(b)(i) to ensure that any sharing of student and educator data during the application process:

(A) complies with the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99;

(B) complies with Title 53E, Chapter 9, Student Privacy and Data Protection; and

(C) uses disclosure avoidance techniques, including aggregating and otherwise de-identifying data;

(iii) no later than October 1, 2026, determine if a nominated teacher is an eligible teacher through the process described in Subsection (7);

(iv) verify:

(A) the validity of the LEA's process and assessment of an eligible teacher as described in Subsections (4) and (5); and

(B) the nominations described in Subsection (7) with the LEA and school administrators;

(v) certify a list of eligible teachers, including the total amount of funding the LEA receives for the LEA's eligible teachers; and

(vi) provide the list described in Subsection [~~(9)(b)(iv)~~](9)(b)(v) to the state board.

(10) (a) Subject to legislative appropriations, the state board shall:

(i) within 45 days of receiving the list described in Subsection (9)(b)(v) from the center, disburse funding to an LEA in the amount the center verifies that an LEA qualifies to receive for [~~salary supplements~~]performance-based awards under this section; [~~and~~]

(ii) [~~(A) except as provided in Subsection (10)(a)(ii)(B),~~]allocate [~~1%~~]up to 4.25% of the funds appropriated under this section to the

center; and

[~~(B) provide no more than $500,000 to the center each fiscal year from the funds described in Subsection (10)(a)(ii)(A).~~]

(iii) develop a method to compensate an LEA for program administration that:

(A) does not exceed 4% of the total funds appropriated under this section;

(B) first compensates an LEA for fixed efforts associated with development and management of the LEA's teacher performance-based award program; and

(C) allocates any remaining balance to compensate an LEA for variable efforts associated with ongoing program administration and management.

(b) The annual [~~salary supplement~~]performance-based award for an eligible teacher is:

(i) $10,000 for a teacher in the top 5% of teachers;

(ii) $5,000 for a teacher in the next 6%-10% of teachers; and

(iii) $2,000 for a teacher in the next 11%-25% of teachers.

(c) If the eligible teacher is employed at a high poverty school, the eligible teacher shall receive an additional [~~salary supplement~~]performance-based award that is equal in amount to the eligible teacher's [~~salary supplement~~]performance-based award described in Subsection (10)(b).

(11) (a) An LEA shall:

(i) within 45 days of receiving the LEA's funds from the state board for all eligible teachers, use the program funds to provide a [~~salary supplement~~]performance-based award equal to the amount specified in Subsection (10) for each eligible teacher in each tier performance level; and

(ii) provide the [~~salary supplement~~]performance-based award in an eligible teacher's regularly occurring compensation in equal amounts through the contracted school years related to the [~~salary supplement~~]performance-based award.

(b) An LEA:

[~~(i) may use up to 4% of the money appropriated to the LEA for salary supplements to cover administrative costs associated with implementing the program;~~]

[~~(ii)~~](i) may use money appropriated to the LEA for the [~~salary supplement~~]performance-based award for employer-paid benefits; [~~and~~]

[~~(iii)~~](ii) may not include a [~~salary supplement~~]performance-based award received under this section:

(A) in a retirement calculation; or

(B) as part of retirement contributions[~~,~~]; and

(iii) may not reduce an eligible teacher's award to ensure the LEA maintains the funds described in Subsection (10)(a)(iii).

(c) The [~~salary supplement~~]performance-based award is not part of an eligible teacher's base pay, and is subject to the eligible teacher's designation as an eligible teacher.

(12) [~~Notwithstanding the provisions of this section~~]Except as provided for in Subsection (11), if the appropriation for the program is insufficient to cover the costs associated with [~~salary supplement~~]performance-based awards, an LEA may distribute the funds to each eligible teacher of the same tier of performance level on a pro rata basis.

(13) (a) (i) [~~The center and the state board shall collaborate regarding data sharing and other relevant interactions to facilitate the successful administration of the program.~~]In accordance with state and federal privacy laws, the state board shall provide the following data to the center:

(A) relevant student achievement data;

(B) relevant teacher data; and

(C) any other relevant data as the center determines.

(ii) If the center needs data from a non-participating LEA for purposes of the program, the state board:

(A) shall provide the data; and

(B) may provide the data in a de-identified manner, including providing an individual teacher's or student's data with a unique identifier that is not associated with the teacher's or student's name or school provided identification number.

(b) The state board shall:

(i) consult with the center; and

(ii) contract with a third party to obtain and house a secure web-based portal for authorized LEA and state board users to:

(A) allow a teacher to track the teacher's students' academic achievement and growth and assess within the teacher's LEA the teacher's individual progress toward becoming an eligible teacher nominee;

(B) report results of the chosen model or models at the district, school, and subject or grade levels;

(C) provide diagnostic data showing the growth and achievement trends for different groups of students associated with a teacher, school, charter system, or district; and

(D) provide resources for teachers to interpret the model results, training modules, and receive or request technical support.

(c) The state board shall use up to 2.5% of the total funds appropriated under this section for the web-based access portal described in Subsection (13)(b).

(14) (a) An eligible teacher that receives a [~~salary supplement~~]performance-based award under the program has no vested property right in the [~~salary supplement~~]performance-based award or the designation as an eligible teacher.

(b) An eligible teacher's [~~salary supplement~~]performance-based award and designation under this section are void if the school principal or principal's designee, LEA, or the center made or certified the designation improperly.

(15) (a) Subject to prioritization of the Audit Subcommittee, unless the state board contracts a private auditor in accordance with Subsection (15)(b), the Office of the Legislative Auditor General established under Section 36-12-15 shall, in any fiscal year:

(i) conduct an audit of the program including:

(A) an evaluation of the implementation of the program; and

(B) the efficacy of the program, including program outcomes; and

(ii) prepare and submit a written report for an audit described in this section in accordance with Subsection 36-12-15(4)(b)(ii).

(b) Subject to legislative appropriations, the state board may contract with an external auditor to perform the audit described in this Subsection (15).

(16) (a) The center shall report to the Education Interim Committee no later than the 2024 October meeting the following:

(i) the methodology and process the center develops to achieve the requirements of Subsection (7);

(ii) relevant data and updates resulting from the collaborations described in Subsection (8);

(iii) any recommendations for future legislation; and

(iv) data regarding [~~salary supplement~~]performance-based award programs, including:

(A) different approaches used to reward teacher performance, including different evaluation methods;

(B) research outlining the effectiveness and impact of different [~~salary supplement~~]performance-based award amounts on teacher retention; and

(C) other considerations for impactful [~~salary supplement~~]performance-based award programs in relation to teacher retention.

(b) Beginning November 1, 2026, the center shall provide an annual report to the Education Interim Committee regarding:

(i) the statewide metrics used in accordance with Subsection (7);

(ii) de-identified and aggregated data showing the number of:

(A) [~~salary supplement~~]performance-based awards per school, including total number of eligible teachers in each school;

(B) eligible teachers in high poverty schools;

(C) eligible teachers in each tier performance level;

(D) eligible teachers in subject areas that do not have standardized assessments; and

(E) [~~salary supplement~~]performance-based award denials per school, including the reasons for a denial;

(iii) proportion of eligible teachers in:

(A) school districts; and

(B) charter schools; and

(iv) teacher retention data for a school where an eligible teacher is employed.

Section 2. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 2(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Public Education Economic Stabilization Restricted Account, One-time - 600,000

Schedule of Programs:

Effective Teachers in High Poverty Schools Incentive Program - 600,000

Section 3. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 310
S. B. 100
Passed February 21, 2025
Approved March 25, 2025
Effective May 7, 2025

ESTATE PLANNING RECODIFICATION

Chief Sponsor: Todd Weiler
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill recodifies and amends statutes related to estate planning.

Highlighted Provisions:

This bill:

- ► coordinates definitions between Title 75, Utah Uniform Probate Code, Title 75A, Fiduciaries, and Title 75B, Trusts;
- ► modifies the definitions for Title 75, Utah Uniform Probate Code;
- ► recodifies and clarifies a statute regarding the effective date of Title 75, Utah Uniform Probate Code;
- ► recodifies Title 75, Chapter 7, Utah Uniform Trust Code, to Title 75B, Chapter 2, Uniform Trust Code;
- ► recodifies Title 75, Chapter 12, Uniform Directed Trust Act, to Title 75B, Chapter 3, Uniform Directed Trust Act;
- ► includes a coordination clause to explain that certain definitions will not be enacted in Title 75A, Chapter 9, Uniform Health-Care Decisions Act, if this bill and S.B. 134, Health-Care Decisions Act Amendments, both pass and become law;
- ► includes a coordination clause to address a technical conflict with a cross-reference change if this bill and H.B. 334, Guardianships and Supported Decision-Making Agreements Amendments, both pass and become law; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

7-5-1, as last amended by Laws of Utah 2013, Chapter 364
7-5-6, as last amended by Laws of Utah 2014, Chapter 189
7-5-7, as last amended by Laws of Utah 2014, Chapters 97, 189
7-5-10, as last amended by Laws of Utah 2004, Chapter 89
7-5-11, as last amended by Laws of Utah 2014, Chapter 189
8-4-2, as last amended by Laws of Utah 2010, Chapter 324
26B-3-1008, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-1013, as renumbered and amended by Laws of Utah 2023, Chapter 306
49-11-303, as last amended by Laws of Utah 2005, Chapter 116
51-7-14, as last amended by Laws of Utah 2023, Chapter 242
53B-8a-107, as last amended by Laws of Utah 2023, Chapter 242
58-9-703, as last amended by Laws of Utah 2007, Chapter 144
59-10-103, as last amended by Laws of Utah 2023, Chapter 44
75-1-102, as enacted by Laws of Utah 1975, Chapter 150
75-1-103, as enacted by Laws of Utah 1975, Chapter 150
75-1-104, as enacted by Laws of Utah 1975, Chapter 150
75-1-105, as enacted by Laws of Utah 1975, Chapter 150
75-1-106, as enacted by Laws of Utah 1975, Chapter 150
75-1-201, as last amended by Laws of Utah 2024, Chapter 364
75-1-301, as last amended by Laws of Utah 1992, Chapter 30
75-1-303, as enacted by Laws of Utah 1975, Chapter 150
75-1-304, as enacted by Laws of Utah 1975, Chapter 150
75-1-305, as enacted by Laws of Utah 1975, Chapter 150
75-1-309, as enacted by Laws of Utah 1975, Chapter 150
75-1-310, as enacted by Laws of Utah 1975, Chapter 150
75-1-311, as last amended by Laws of Utah 1977, Chapter 194
75-1-404, as enacted by Laws of Utah 1975, Chapter 150
75-2-803, as last amended by Laws of Utah 2024, Chapter 153
75-2-1209, as last amended by Laws of Utah 2004, Chapter 89
75-2-1402, as enacted by Laws of Utah 2020, Sixth Special Session, Chapter 1

75-3-101, as enacted by Laws of Utah 1975, Chapter 150
75-3-105, as enacted by Laws of Utah 1975, Chapter 150
75-3-303, as last amended by Laws of Utah 2013, Chapter 364
75-3-308, as last amended by Laws of Utah 1998, Chapter 39
75-3-504, as enacted by Laws of Utah 1975, Chapter 150
75-3-608, as enacted by Laws of Utah 1975, Chapter 150
75-3-616, as enacted by Laws of Utah 1975, Chapter 150
75-3-703, as last amended by Laws of Utah 2004, Chapter 89
75-3-704, as last amended by Laws of Utah 1988, Chapter 110
75-3-710, as last amended by Laws of Utah 1983, Chapter 226
75-3-714, as last amended by Laws of Utah 1992, Chapter 30
75-3-913, as last amended by Laws of Utah 2004, Chapter 89
75-3-915, as enacted by Laws of Utah 1975, Chapter 150
75-3-916, as last amended by Laws of Utah 1983, Chapter 226
75-3-1008, as enacted by Laws of Utah 1975, Chapter 150
75-5-303, as last amended by Laws of Utah 2024, Chapter 113
75-5-412, as enacted by Laws of Utah 1975, Chapter 150
75-5-416, as last amended by Laws of Utah 2014, Chapter 142
75-5-417, as last amended by Laws of Utah 2022, Chapter 358
75-5b-102, as enacted by Laws of Utah 2008, Chapter 253
75-6-201, as last amended by Laws of Utah 1986, Chapter 158
75A-1-101, as enacted by Laws of Utah 2024, Chapter 364
75A-1-201, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-2-102, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-2-120, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-101, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-4-102, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-4-302, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-5-102, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-5-202, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-5-203, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-5-303, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-5-304, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-6-102, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-6-112, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-6-113, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-7-102, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-8-102, as renumbered and amended by Laws of Utah 2024, Chapter 364
75B-1-101, as enacted by Laws of Utah 2024, Chapter 364
75B-1-201, as enacted by Laws of Utah 2024, Chapter 364
75B-1-301, as enacted by Laws of Utah 2024, Chapter 364
75B-1-302, as renumbered and amended by Laws of Utah 2024, Chapter 364
78B-5-505, as last amended by Laws of Utah 2021, Chapter 260

ENACTS:

75B-2-101, Utah Code Annotated 1953
75B-3-101, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

75-1-111, (Renumbered from 75-8-101, as enacted by Laws of Utah 1975, Chapter 150)
75B-2-102, (Renumbered from 75-7-102, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-103, (Renumbered from 75-7-103, as last amended by Laws of Utah 2020, Chapter 348)
75B-2-104, (Renumbered from 75-7-104, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-105, (Renumbered from 75-7-105, as last amended by Laws of Utah 2024, Chapter 364)
75B-2-106, (Renumbered from 75-7-106, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-107, (Renumbered from 75-7-107, as last amended by Laws of Utah 2024, Chapter 364)
75B-2-108, (Renumbered from 75-7-108, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-109, (Renumbered from 75-7-109, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-110, (Renumbered from 75-7-110, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-111, (Renumbered from 75-7-111, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-112, (Renumbered from 75-7-112, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-113, (Renumbered from 75-7-1201, as enacted by Laws of Utah 2004, Forth Special Session, Chapters 1, 1)
75B-2-201, (Renumbered from 75-7-201, as last amended by Laws of Utah 2003, Second Special Session, Chapters 3, 3)
75B-2-202, (Renumbered from 75-7-202, as last amended by Laws of Utah 2004, Chapter 89)
75B-2-203, (Renumbered from 75-7-203, as last amended by Laws of Utah 2024, Chapter 158)
75B-2-204, (Renumbered from 75-7-204, as last amended by Laws of Utah 2003, Second Special Session, Chapters 3, 3)

75B-2-205, (Renumbered from 75-7-205, as last amended by Laws of Utah 2024, Chapter 158)
75B-2-301, (Renumbered from 75-7-301, as last amended by Laws of Utah 2024, Chapter 364)
75B-2-302, (Renumbered from 75-7-302, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-303, (Renumbered from 75-7-303, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-304, (Renumbered from 75-7-304, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-305, (Renumbered from 75-7-305, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-401, (Renumbered from 75-7-401, as last amended by Laws of Utah 2009, Chapter 278)
75B-2-402, (Renumbered from 75-7-402, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-403, (Renumbered from 75-7-403, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-404, (Renumbered from 75-7-404, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-405, (Renumbered from 75-7-405, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-406, (Renumbered from 75-7-406, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-407, (Renumbered from 75-7-407, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-408, (Renumbered from 75-7-408, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-409, (Renumbered from 75-7-409, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-410, (Renumbered from 75-7-410, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-411, (Renumbered from 75-7-411, as repealed and reenacted by Laws of Utah 2004, Chapter 89)
75B-2-412, (Renumbered from 75-7-412, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-413, (Renumbered from 75-7-413, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-414, (Renumbered from 75-7-414, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-415, (Renumbered from 75-7-415, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-416, (Renumbered from 75-7-416, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-417, (Renumbered from 75-7-417, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-501, (Renumbered from 75-7-501, as last amended by Laws of Utah 2024, Chapter 364)
75B-2-502, (Renumbered from 75-7-502, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-503, (Renumbered from 75-7-503, as last amended by Laws of Utah 2021, Chapter 260)
75B-2-504, (Renumbered from 75-7-504, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-505, (Renumbered from 75-7-505, as last amended by Laws of Utah 2024, Chapter 364)
75B-2-506, (Renumbered from 75-7-506, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-507, (Renumbered from 75-7-507, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-508, (Renumbered from 75-7-508, as last amended by Laws of Utah 2023, Chapter 330)
75B-2-509, (Renumbered from 75-7-509, as last amended by Laws of Utah 2023, Chapter 330)
75B-2-510, (Renumbered from 75-7-510, as renumbered and amended by Laws of Utah 2004, Chapter 89)
75B-2-511, (Renumbered from 75-7-511, as last amended by Laws of Utah 2023, Chapter 330)
75B-2-512, (Renumbered from 75-7-512, as renumbered and amended by Laws of Utah 2004, Chapter 89)
75B-2-513, (Renumbered from 75-7-513, as last amended by Laws of Utah 2004, Chapter 282 and renumbered and amended by Laws of Utah 2004, Chapter 89)
75B-2-514, (Renumbered from 75-7-514, as renumbered and amended by Laws of Utah 2004, Chapter 89)
75B-2-515, (Renumbered from 75-7-515, as renumbered and amended by Laws of Utah 2004, Chapter 89)
75B-2-516, (Renumbered from 75-7-516, as renumbered and amended by Laws of Utah 2004, Chapter 89)
75B-2-517, (Renumbered from 75-7-517, as renumbered and amended by Laws of Utah 2004, Chapter 89)
75B-2-518, (Renumbered from 75-7-518, as renumbered and amended by Laws of Utah 2004, Chapter 89)
75B-2-519, (Renumbered from 75-7-519, as renumbered and amended by Laws of Utah 2004, Chapter 89)
75B-2-601, (Renumbered from 75-7-604, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-602, (Renumbered from 75-7-605, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-603, (Renumbered from 75-7-606, as last amended by Laws of Utah 2019, Chapter 153)
75B-2-604, (Renumbered from 75-7-607, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-701, (Renumbered from 75-7-701, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-702, (Renumbered from 75-7-702, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-703, (Renumbered from 75-7-703, as last amended by Laws of Utah 2019, Chapter 153)
75B-2-704, (Renumbered from 75-7-704, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-705, (Renumbered from 75-7-705, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-706, (Renumbered from 75-7-706, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-707, (Renumbered from 75-7-707, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-708, (Renumbered from 75-7-708, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-709, (Renumbered from 75-7-709, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-801, (Renumbered from 75-7-801, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-802, (Renumbered from 75-7-802, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-803, (Renumbered from 75-7-803, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-804, (Renumbered from 75-7-804, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-805, (Renumbered from 75-7-805, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-806, (Renumbered from 75-7-806, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-807, (Renumbered from 75-7-807, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-808, (Renumbered from 75-7-808, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-809, (Renumbered from 75-7-809, as enacted by Laws of Utah 2004, Chapter 89)

75B-2-810, (Renumbered from 75-7-810, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-811, (Renumbered from 75-7-811, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-812, (Renumbered from 75-7-812, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-813, (Renumbered from 75-7-813, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-814, (Renumbered from 75-7-814, as last amended by Laws of Utah 2024, Chapter 364)
75B-2-815, (Renumbered from 75-7-815, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-816, (Renumbered from 75-7-816, as last amended by Laws of Utah 2024, Chapter 364)
75B-2-817, (Renumbered from 75-7-817, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-901, (Renumbered from 75-7-901, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-902, (Renumbered from 75-7-902, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-903, (Renumbered from 75-7-903, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-904, (Renumbered from 75-7-904, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-905, (Renumbered from 75-7-905, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-906, (Renumbered from 75-7-906, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-907, (Renumbered from 75-7-907, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1001, (Renumbered from 75-7-1001, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1002, (Renumbered from 75-7-1002, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1003, (Renumbered from 75-7-1003, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1004, (Renumbered from 75-7-1004, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1005, (Renumbered from 75-7-1005, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1006, (Renumbered from 75-7-1006, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1007, (Renumbered from 75-7-1007, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1008, (Renumbered from 75-7-1008, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1009, (Renumbered from 75-7-1009, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1010, (Renumbered from 75-7-1010, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1011, (Renumbered from 75-7-1011, as last amended by Laws of Utah 2018, Chapter 281)
75B-2-1012, (Renumbered from 75-7-1012, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1013, (Renumbered from 75-7-1013, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1101, (Renumbered from 75-7-1101, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1102, (Renumbered from 75-7-1102, as enacted by Laws of Utah 2004, Chapter 89)
75B-2-1103, (Renumbered from 75-7-1103, as enacted by Laws of Utah 2004, Chapter 89)
75B-3-102, (Renumbered from 75-12-102, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-103, (Renumbered from 75-12-103, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-104, (Renumbered from 75-12-104, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-105, (Renumbered from 75-12-105, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-106, (Renumbered from 75-12-106, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-107, (Renumbered from 75-12-107, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-108, (Renumbered from 75-12-108, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-109, (Renumbered from 75-12-109, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-110, (Renumbered from 75-12-110, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-111, (Renumbered from 75-12-111, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-112, (Renumbered from 75-12-112, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-113, (Renumbered from 75-12-113, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-114, (Renumbered from 75-12-114, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-115, (Renumbered from 75-12-115, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-116, (Renumbered from 75-12-116, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-117, (Renumbered from 75-12-117, as enacted by Laws of Utah 2019, Chapter 153)
75B-3-118, (Renumbered from 75-12-118, as enacted by Laws of Utah 2019, Chapter 153)

REPEALS:

75-7-101, as repealed and reenacted by Laws of Utah 2004, Chapter 89
75-12-101, as enacted by Laws of Utah 2019, Chapter 153

Utah Code Sections Affected by Coordination Clause:

AMENDS:

7-5-1, as last amended by Laws of Utah 2013, Chapter 364

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-5-1 is amended to read:
7-5-1. Definitions -- Allowable trust companies -- Exceptions.

(1) As used in this chapter:

(a) "Business trust" means an entity engaged in a trade or business that is created by a declaration of trust that transfers property to trustees, to be held and managed by them for the benefit of persons holding certificates representing the beneficial interest in the trust estate and assets.

(b) "Trust" means the same as that term is defined in Section 75B-1-101.

[~~(b)~~](c) "Trust business" means, except as provided in Subsection [~~(1)(c)~~](1)(d), a business in which one acts in any agency or fiduciary capacity, including that of personal representative, executor, administrator, conservator, guardian, assignee, receiver, depositary, or trustee under appointment as trustee for any purpose permitted by law[~~, including the definition of "trust" set forth in Subsection 75-1-201(55)~~].

[~~(c)~~](d) "Trust business" does not include the following means of holding money, assets, or other property:

(i) money held in a client trust account by an attorney authorized to practice law in this state;

(ii) money held in connection with the purchase or sale of real estate by a person licensed as a principal broker in accordance with Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

(iii) money or other assets held in escrow by a person authorized by the department in accordance with Chapter 22, Regulation of Independent Escrow Agents, or by the [~~Utah~~]Insurance Department to act as an escrow agent in this state;

(iv) money held by a homeowners' association or similar organization to pay maintenance and other related costs for commonly owned property;

(v) money held in connection with the collection of debts or payments on loans by a person acting solely as the agent or representative or otherwise at the sole direction of the person to which the debt or payment is owed, including money held by an escrow agent for payment of taxes or insurance;

(vi) money and other assets held in trust on an occasional or isolated basis by a person who does not represent that the person is engaged in the trust business in Utah;

(vii) money or other assets found by a court to be held in an implied, resulting, or constructive trust;

(viii) money or other assets held by a court appointed conservator, guardian, receiver, trustee, or other fiduciary if:

(A) the conservator, receiver, guardian, trustee, or other fiduciary is responsible to the court in the same manner as a personal representative under Title 75, Chapter 3, Part 5, Supervised Administration, or as a receiver under Rule 66, Utah Rules of Civil Procedure; and

(B) the conservator, trustee, or other fiduciary is a certified public accountant or has qualified for and received a designation as a certified financial planner, chartered financial consultant, certified financial analyst, or similar designation suitable to the court, that evidences the conservator's, trustee's, or other fiduciary's professional competence to manage financial matters;

(ix) money or other assets held by a credit services organization operating in compliance with Title 13, Chapter 21, Credit Services Organizations Act;

(x) money, securities, or other assets held in a customer account in connection with the purchase or sale of securities by a regulated securities broker, dealer, or transfer agent; or

(xi) money, assets, and other property held in a business trust for the benefit of holders of certificates of beneficial interest if the fiduciary activities of the business trust are merely incidental to conducting business in the business trust form.

[~~(d)~~](e) "Trust company" means an institution authorized to engage in the trust business under this chapter. Only the following may be a trust company:

(i) a Utah depository institution or its wholly owned subsidiary;

(ii) an out-of-state depository institution authorized to engage in business as a depository institution in Utah or its wholly owned subsidiary;

(iii) a corporation, including a credit union service organization, owned entirely by one or more federally insured depository institutions as defined in Subsection 7-1-103(8);

(iv) a direct or indirect subsidiary of a depository institution holding company that also has a direct or indirect subsidiary authorized to engage in business as a depository institution in Utah; and

(v) any other corporation continuously and lawfully engaged in the trust business in this state since before July 1, 1981.

(2) Only a trust company may engage in the trust business in this state.

(3) The requirements of this chapter do not apply to:

(a) an institution authorized to engage in a trust business in another state that is engaged in trust activities in this state solely to fulfill its duties as a trustee of a trust created and administered in another state;

(b) a national bank, federal savings bank, federal savings and loan association, or federal credit union authorized to engage in business as a depository institution in Utah, or any wholly owned subsidiary of any of these, to the extent the institution is authorized by its primary federal regulator to engage in the trust business in this state; or

(c) a state agency that is otherwise authorized by statute to act as a conservator, receiver, guardian, trustee, or in any other fiduciary capacity.

Section 2. Section 7-5-6 is amended to read:

7-5-6. Confidentiality of communications and writings concerning trust -- Actions to protect property or authorized under probate laws not precluded.

Any trust company exercising the powers and performing the duties described in this chapter shall keep inviolate all communications and writings made to or by that trust company relating to the existence, condition, management or administration of any agency or fiduciary account confided to it and no creditor or stockholder of any such trust company shall be entitled to disclosure or knowledge of any such communication or writing, except that the directors, president, vice president, manager, treasurer, and trust officers, and any employees assigned to work on the trust business, and the attorney or auditor employed by it shall be entitled to knowledge of any such communication or writing and except that in any suit or proceeding relating to the existence, condition, management or administration of the account, the court in which the suit is pending may require disclosure of any such communication or writing. A trust company is not, however, precluded from filing an action in court to protect trust account property or as authorized under [~~Title 75, Utah Uniform Probate Code~~]Title 75B, Trusts.

Section 3. Section 7-5-7 is amended to read:

7-5-7. Management and investment of trust money.

(1) Money received or held by a trust company as agent or fiduciary, whether for investment or distribution, shall be invested or distributed as soon as practicable as authorized under the instrument creating the account and may not be held uninvested any longer than is reasonably necessary.

(2) If the instrument creating an agency or fiduciary account contains provisions authorizing the trust company, its officers, or its directors to exercise their discretion in the matter of investments, money held in the trust account under that instrument may be invested only in those classes of securities which are approved by the directors of the trust company or a committee of directors appointed for that

purpose. If a trust company acts in any agency or fiduciary capacity under appointment by a court [~~of competent~~]with jurisdiction, it shall make and account for the investments according to [~~Title 75, Utah Uniform Probate Code~~]Title 75B, Trusts, unless the underlying instrument provides otherwise.

(3) (a) Money received or held as agent or fiduciary by any trust company which is also a depository institution, whether for investment or distribution, may be deposited in the commercial department or savings department of that trust company to the credit of its trust department. Whenever the money so deposited in a fiduciary or managing agency account exceed the amount of federal deposit insurance applicable to that account, the trust company shall deliver to the trust department or put under its control collateral security as outlined in Regulation 9.10 of the Comptroller of the Currency. However, if the instrument creating such a fiduciary or managing agency account expressly provides that money may be deposited to the commercial or savings department of the trust company, then the money may be so deposited without setting aside collateral securities as required under this section and the deposits in the event of insolvency of any such trust company shall be treated as other general deposits are treated. A trust company that deposits trust funds in its commercial or savings department shall be liable for interest on the deposits only at the rates, if any, paid by the trust company on deposits of like kind not made to the credit of its trust department.

(b) Money received or held as agent or fiduciary by a trust company, whether for investment or distribution, may be deposited in an affiliated depository institution. Whenever the money so deposited in a fiduciary or managing agency account exceed the amount of federal deposit insurance applicable to that account, the depository institution shall deliver to the trust company or put under its control collateral security as outlined in Regulation 9.10 of the Comptroller of the Currency. However, if the instrument creating the fiduciary or managing agency account expressly permits money to be deposited in the affiliated depository institution, the money may be so deposited without setting aside collateral securities as required under this section and deposits in the event of insolvency of the depository institution shall be treated as other general deposits are treated. A trust company that deposits trust money in an affiliated depository institution is liable for interest on the deposits only at the rates, if any, paid by the depository institution on deposits of like kind.

(4) In carrying out all aspects of its trust business, a trust company shall have all the powers, privileges, and duties as set forth in Sections [~~75-7-813 and 75-7-814~~]75B-2-813 and 75B-2-814 with respect to trustees, whether or not the trust company is acting as a trustee as defined in [~~Title 75, Utah Uniform Probate Code~~]Section 75B-1-101.

(5) Nothing in this section may alter, amend, or limit the powers of a trust company acting in a fiduciary capacity as specified in the particular instrument or order creating the fiduciary relationship.

Section 4. Section 7-5-10 is amended to read:

7-5-10. Lending trust funds to trust company, officer, director, or employee as felony.

(1) Unless expressly permitted in the instrument creating a trust account or by a person authorized to give that permission or by a court order as permitted in Section [~~75-7-802, no trust company shall~~]75B-2-802, a trust company may not lend to itself or to any officer or director or employee of the trust company any funds held in any trust account under the powers conferred in this chapter.

(2) Any officer, director or employee making such a loan, or to whom such a loan is made, is guilty of a third degree felony.

Section 5. Section 7-5-11 is amended to read:

7-5-11. Self-dealing with trust property -- Own stock as trust property -- Policies for dealing with trust securities.

(1) Except as provided in Section 7-5-7, in [~~Title 75, Utah Uniform Probate Code~~]Title 75B, Trusts, or as authorized under the instrument creating the relationship, a trust company may not invest funds held as an agent or fiduciary in stock or obligations of, or with such funds acquire property from, the trust company or any of its directors, officers or employees, nor shall a trust company sell property held as an agent or fiduciary to the company or to any of its directors, officers, or employees.

(2) A trust company may retain and vote stock of the trust company or of any of its affiliates received by it as assets of any trust account or in any other fiduciary relationship of which it is appointed agent or fiduciary, unless the instrument creating the relationship otherwise provides.

(3) Every trust company shall adopt written policies and procedures regarding decisions or recommendations to purchase or sell any security to facilitate compliance with federal and state securities laws. These policies and procedures, in particular, shall prohibit the trust company from using material inside information in connection with any decision or recommendation to purchase or sell any security.

Section 6. Section 8-4-2 is amended to read:

8-4-2. Endowment care cemetery trust funds -- Deposits in endowment fund -- Reports -- Penalties for failure to file -- Investment of trust fund money -- Attestation.

(1) An endowment care cemetery shall establish an endowment care trust fund [~~pursuant to Title 75, Chapter 7, Utah Uniform Trust Code~~]in accordance with Title 75B, Chapter 2, Uniform Trust Code.

(a) Any newly established endowment care cemetery or existing cemetery converting to an endowment care cemetery shall deposit a minimum of $25,000 in the endowment care trust fund.

(b) Each endowment care cemetery shall deposit in the endowment care trust fund for each plot space sold or disposed of a minimum of:

(i) $1.50 a square foot for each grave;

(ii) $15 for each niche; and

(iii) $60 for each crypt.

(2) (a) An endowment care cemetery shall collect endowment care funds only pursuant to a written contract of sale signed by the endowment care cemetery and the purchaser.

(b) The contract of sale shall specify the terms of the endowment care trust consistent with this section and the terms of payment.

(c) If requested by the purchaser, a copy of the endowment care trust shall be provided to the purchaser.

(3) (a) Each endowment care cemetery shall prepare an annual written report for the benefit of its trustor lot holders.

(b) The report shall contain:

(i) information determined to be reasonable and necessary to show compliance with the provisions of this chapter;

(ii) the number and square feet of grave space;

(iii) the number of crypts and niches sold or disposed of under endowment care during a specific period; and

(iv) the dollar amount of sales, amounts paid, amounts receivable, and amounts deposited in endowment care funds for crypts, niches, and grave space during a specific period, set forth on the accrual basis as determined by the cemetery authority.

(c) An officer of the endowment care cemetery authority shall verify the report.

(d) The report shall be on file in the principal office of the endowment care cemetery and shall be made available upon request.

(e) The report shall be completed by the 15th day of the third month following the end of the endowment care cemetery's fiscal year.

(4) An officer, director, partner, proprietor, or other person having control of the records of an endowment care cemetery shall provide the reports and records necessary to comply with the provisions of this chapter.

(5) A person is guilty of a class A misdemeanor who willfully and intentionally fails to:

(a) deposit funds collected as endowment care funds into the endowment care trust within 30 days of receipt of the funds; or

(b) prepare the report required by Subsection (3).

(6) Endowment care funds may be invested separately or together. The investment income shall be divided between the funds in the proportion that each contributed to the invested amount.

(7) Endowment care funds shall be invested in accordance with Section 31A-18-105 and [~~Title 75, Chapter 7, Utah Uniform Trust Code~~]Title 75B, Chapter 2, Uniform Trust Code.

(8) (a) An endowment care cemetery shall place endowment care funds with an independent trustee appointed by the endowment care cemetery.

(b) A trustee may be independent even if it has common ownership with the cemetery.

(c) The independent trustee shall be a depository institution, as defined by Section 7-1-103, or an insurer, as defined in Section 31A-1-301.

(9) (a) The trustee shall submit to the endowment care cemetery an annual independent attestation of the endowment care trust funds.

(b) The attestation shall state:

(i) the total amount of the general and special endowment care funds invested by law;

(ii) the amount of cash on hand not invested;

(iii) the location, description, and character of the investments in which the special endowment care funds are invested;

(iv) the value of any securities held in the endowment care fund; and

(v) the actual financial condition of the funds.

(10) (a) A trustee may not receive compensation for services and expenses, including audits, in excess of 5% of the income derived from an endowment care fund in any year.

(b) If there are insufficient funds from the income derived from the endowment care trust fund to pay for the attestation of the endowment care funds, the endowment care cemetery shall pay amounts due from funds other than the endowment care trust fund or income derived from that fund.

(11) The income from an endowment care fund shall be used for the care, maintenance, and embellishment of the cemetery as determined by the endowment care cemetery, and to pay for administering the fund.

Section 7. Section 26B-3-1008 is amended to read:

26B-3-1008. Statute of limitations -- Survival of right of action -- Insurance policy not to limit time allowed for recovery.

(1) (a) Subject to Subsection (6), action commenced by the department under this part against a health insurance entity shall be commenced within:

(i) subject to Subsection (7), six years after the day on which the department submits the claim for recovery or payment for the health care item or service upon which the action is based; or

(ii) six months after the date of the last payment for medical assistance, whichever is later.

(b) An action against any other third party, the recipient, or anyone to whom the proceeds are payable shall be commenced within:

(i) four years after the date of the injury or onset of the illness; or

(ii) six months after the date of the last payment for medical assistance, whichever is later.

(2) The death of the recipient does not abate any right of action established by this part.

(3) (a) No insurance policy issued or renewed after June 1, 1981, may contain any provision that limits the time in which the department may submit its claim to recover medical assistance benefits to a period of less than 24 months from the date the provider furnishes services or goods to the recipient.

(b) No insurance policy issued or renewed after April 30, 2007, may contain any provision that limits the time in which the department may submit its claim to recover medical assistance benefits to a period of less than that described in Subsection (1)(a).

(4) The provisions of this section do not apply to Section 26B-3-1013 or Sections 26B-3-1015 through 26B-3-1023.

(5) The provisions of this section supersede any other sections regarding the time limit in which an action shall be commenced, including Section [~~75-7-509~~]75B-2-509.

(6) (a) Subsection (1)(a) extends the statute of limitations on a cause of action described in Subsection (1)(a) that was not time-barred on or before April 30, 2007.

(b) Subsection (1)(a) does not revive a cause of action that was time-barred on or before April 30, 2007.

(7) An action described in Subsection (1)(a) may not be commenced if the claim for recovery or payment described in Subsection (1)(a)(i) is submitted later than three years after the day on which the health care item or service upon which the claim is based was provided.

Section 8. Section 26B-3-1013 is amended to read:

26B-3-1013. Estate and trust recovery.

(1) (a) Except as provided in Subsection (1)(b), upon a recipient's death, the department may recover from the recipient's recovery estate and any trust, in which the recipient is the grantor and a beneficiary, medical assistance correctly provided for the benefit of the recipient when the recipient was 55 years old or older.

(b) The department may not make an adjustment or a recovery under Subsection (1)(a):

(i) while the deceased recipient's spouse is still living; or

(ii) if the deceased recipient has a surviving child who is:

(A) under 21 years old; or

(B) blind or disabled, as defined in the state plan.

(2) (a) The amount of medical assistance correctly provided for the benefit of a recipient and recoverable under this section is a lien against the deceased recipient's recovery estate or any trust when the recipient is the grantor and a beneficiary.

(b) The lien holds the same priority as reasonable and necessary medical expenses of the last illness as provided in Section 75-3-805.

(3) (a) For a lien described in Subsection (2), the department shall provide notice in accordance with Section 38-12-102.

(b) Before final distribution, the department shall perfect the lien as follows:

(i) for an estate, by presenting the lien to the estate's personal representative in accordance with Section 75-3-804; and

(ii) for a trust, by presenting the lien to the trustee in accordance with Section [~~75-7-510~~]75B-2-510.

(c) The department may file an amended lien before the entry of the final order to close the estate or trust.

(4) Claims against a deceased recipient's inter vivos trust shall be presented in accordance with Sections [~~75-7-509 and 75-7-510~~]75B-2-509 and 75B-2-510.

(5) Any trust provision that denies recovery for medical assistance is void at the time of its making.

(6) Nothing in this section affects the right of the department to recover Medicaid assistance before a recipient's death under Section 26B-3-1003 or 26B-3-1014.

(7) A lien imposed under this section is of indefinite duration.

Section 9. Section 49-11-303 is amended to read:

49-11-303. Fund investment standard -- Prudent investor rule.

The fund shall be invested in accordance with the prudent investor rule established in [~~Title 75, Chapter 7, Part 9, Utah Uniform Prudent Investor Act~~]Title 75B, Chapter 2, Part 9, Uniform Prudent Investor Act.

Section 10. Section 51-7-14 is amended to read:

51-7-14. Prudent investor rule for management of investments -- Proxy voting -- Sale of security or investment for less than cost -- State treasurer access.

(1) Subject to Subsection (2), a person selecting investments authorized by Sections 51-7-11 and 51-7-13 shall:

(a) select investments not for speculation but for investment; and

(b) consider:

(i) the probable safety of the capital;

(ii) the probable benefits to be derived;

(iii) the probable duration for which that investment may be made;

(iv) the investment objectives specified in Section 51-7-17; and

(v) the investment portfolio as a whole.

(2) A public treasurer shall:

(a) invest public funds in accordance with the prudent investor rule established in [~~Title 75, Chapter 7, Part 9, Utah Uniform Prudent Investor Act~~]Title 75B, Chapter 2, Part 9, Uniform Prudent Investor Act;

(b) make public fund investment decisions with the sole purpose of maximizing the risk-adjusted return on the investments; and

(c) to the extent practicable:

(i) (A) retain the right to vote investor proxies; or

(B) if the investments are commingled with another investor's funds, request the right to vote investor proxies; and

(ii) ensure proxy voting is exercised to maximize risk-adjusted returns for the exclusive benefit of beneficiaries.

(3) A public treasurer may sell or otherwise dispose of, at less than cost, any security or investment in which public funds under the public treasurer's jurisdiction have been invested if that sale or other disposition tends to maximize the benefits that may be derived from the changed investment.

(4) (a) A public treasurer shall make proxy voting records available to the state treasurer upon the state treasurer's request.

(b) The state treasurer is subject to the same restrictions on disclosure of the proxy voting records as the originating public treasurer.

Section 11. Section 53B-8a-107 is amended to read:

53B-8a-107. Program, administrative, and endowment funds -- Investment and payments from funds -- Proxy voting -- State treasurer access.

(1) The plan shall segregate money received by the plan into three funds, the program fund, the administrative fund, and the endowment fund.

(2) The board shall:

(a) invest the plan in a manner that is consistent with the prudent investor rule for trustees established in [~~Title 75, Chapter 7, Part 9, Utah Uniform Prudent Investor Act~~]Title 75B, Chapter 2, Part 9, Uniform Prudent Investor Act;

(b) in accordance with the board's fiduciary responsibilities, make investment decisions with the sole purpose of maximizing the risk-adjusted return on the investments; and

(c) to the extent practicable:

(i) (A) retain the right to vote investor proxies; or

(B) if the investments are commingled with another investor's funds, request the right to vote investor proxies; and

(ii) ensure proxy voting is exercised to maximize risk-adjusted returns for the exclusive benefit of beneficiaries.

(3) Transfers may be made from the program fund to the administrative fund to pay operating costs:

(a) associated with administering the plan and as required under Sections 53B-8a-103 through 53B-8a-105; and

(b) as included in the budget approved by the board.

(4) (a) All money paid by account owners in connection with account agreements shall be deposited as received into separate accounts within the program fund which shall be invested and accounted for separately.

(b) Money accrued by account owners in the program fund may be used for:

(i) payments to any institution of higher education;

(ii) payments to the account owner or beneficiary;

(iii) transfers to another 529 plan; or

(iv) other expenditures or transfers made in accordance with the account agreement.

(5) (a) All money received by the plan from the proceeds of gifts and other endowments for the purposes of the plan shall be:

(i) deposited, according to the nature of the donation, as received into the endowment fund or the administrative fund; and

(ii) invested and accounted for separately.

(b) Any gifts, grants, or donations made by any governmental unit or any person, firm, partnership, or corporation to the plan for deposit to the endowment fund or the administrative fund is a grant, gift, or donation to the state for the accomplishment of a valid public eleemosynary, charitable, and educational purpose and is not included in the income of the donor for Utah tax purposes.

(c) The endowment fund or the administrative fund may be used to enhance the savings of low income account owners investing in the plan, for scholarships, or for other college savings incentive programs as approved by the board.

(d) Transfers may be made between the endowment fund and the administrative fund upon approval by the board.

(e) Endowment fund earnings not accruing to a beneficiary under an account agreement, not transferred to the administrative fund, or not otherwise approved by the board for expenditure, shall be reinvested in the endowment fund.

(6) Subsection (2) does not prohibit the board from offering individual account owners a variety of voluntary investment options that have different risk profiles and investment objectives.

(7) (a) The board shall make proxy voting records available to the state treasurer upon the state treasurer's request.

(b) The state treasurer is subject to the same restrictions on disclosure of the proxy voting records as the board.

Section 12. Section 58-9-703 is amended to read:

58-9-703. Trust agreement.

(1) Each trust established by a funeral service establishment shall be administered in accordance with a trust agreement conforming with:

(a) the requirements of this chapter;

(b) rules adopted with respect to this chapter;

(c) the provisions of [~~Title 75, Chapter 7, Utah Uniform Trust Code~~]Title 75B, Chapter 2, Uniform Trust Code; and

(d) all other state and federal laws applicable to trusts and trust agreements.

(2) Each trust agreement shall require that the funeral service establishment maintain a copy of the trust agreement until five years after all of its obligations under the trust agreement have been executed or transferred.

(3) Each trust agreement shall require that the trustee:

(a) separately account for each contract; and

(b) separately record payments with respect to each contract made into the corpus of the trust.

(4) Each trust agreement shall provide for distributions from the trust in accordance with the provisions of this chapter upon:

(a) the death of the beneficiary;

(b) revocation of the contract by the funeral service establishment upon nonpayment by the buyer; or

(c) revocation of the contract by the beneficiary or buyer.

Section 13. Section 59-10-103 is amended to read:

59-10-103. Definitions.

(1) As used in this chapter:

(a) (i) "Adjusted gross income":

(A) for a resident or nonresident individual, means the same as that term is defined in Section 62, Internal Revenue Code; or

(B) for a resident or nonresident estate or trust, is as calculated in Section 67(e), Internal Revenue Code.

(ii) "Adjusted gross income" does not include:

(A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a) (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a similar paycheck protection loan that is authorized by the federal government, provided in response to COVID-19, forgiven if the borrower meets the expenditure requirements, and exempt from federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed; or

(B) an amount that an individual receives in accordance with Section 6428, Internal Revenue Code, or an amount that an individual receives that is authorized by the federal government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in advance of the filing of the individual's 2020 federal income tax return, and exempt from federal income tax.

(b) "Corporation" includes:

(i) an association;

(ii) a joint stock company; and

(iii) an insurance company.

(c) "COVID-19" means:

(i) the severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(d) "Distributable net income" means the same as that term is defined in Section 643, Internal Revenue Code.

(e) "Employee" means the same as that term is defined in Section 59-10-401.

(f) "Employer" means the same as that term is defined in Section 59-10-401.

(g) "Federal taxable income":

(i) for a resident or nonresident individual, means taxable income as defined by Section 63, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and (b), Internal Revenue Code.

(h) "Fiduciary" means:

(i) a guardian;

(ii) a trustee;

(iii) an executor;

(iv) an administrator;

(v) a receiver;

(vi) a conservator; or

(vii) any person acting in any fiduciary capacity for any individual.

(i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

(j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the homesteaded land that was held to have been diminished from the Uintah and Ouray Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

(k) "Individual" means a natural person and includes aliens and minors.

(l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all or part of the trust without the consent of a person who has a substantial beneficial interest in the trust and the interest would be adversely affected by the exercise of the settlor's power to revoke or terminate all or part of the trust.

(m) "Military service" means the same as that term is defined in Pub. L. No. 108-189, Sec. 101.

(n) "Nonresident individual" means an individual who is not a resident of this state.

(o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a resident estate or trust.

(p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization:

(A) through or by means of which any business, financial operation, or venture is carried on; and

(B) that is not, within the meaning of this chapter, a trust, an estate, or a corporation.

(ii) "Partnership" does not include any organization not included under the definition of "partnership" in Section 761, Internal Revenue Code.

(iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or organization described in Subsection (1)(p)(i).

(q) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(r) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(s) "Qualified nongrantor charitable lead trust" means a trust:

(i) that is irrevocable;

(ii) that has a trust term measured by:

(A) a fixed term of years; or

(B) the life of a person living on the day on which the trust is created;

(iii) under which:

(A) a portion of the value of the trust assets is distributed during the trust term:

(I) to an organization described in Section 170(c), Internal Revenue Code; and

(II) as a guaranteed annuity interest or a unitrust interest; and

(B) assets remaining in the trust at the termination of the trust term are distributed to a beneficiary:

(I) designated in the trust; and

(II) that is not an organization described in Section 170(c), Internal Revenue Code;

(iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue Code; and

(v) under which the grantor of the trust is not treated as the owner of any portion of the trust for federal income tax purposes.

(t) "Resident individual" means an individual who is domiciled in this state for any period of time during the taxable year, but only for the duration of the period during which the individual is domiciled in this state.

(u) "Resident estate" or "resident trust" means the same as that term is defined in Section [~~75-7-103~~]75B-2-103.

(v) " Service member" means the same as that term is defined in Pub. L. No. 108-189, Sec. 101.

(w) "State income tax percentage for a nonresident estate or trust" means a percentage equal to a nonresident estate's or trust's state taxable income for the taxable year divided by the nonresident estate's or trust's total adjusted gross income for that taxable year after making the adjustments required by:

(i) Section 59-10-202;

(ii) Section 59-10-207;

(iii) Section 59-10-209.1; or

(iv) Section 59-10-210.

(x) "State income tax percentage for a nonresident individual" means a percentage equal to a nonresident individual's state taxable income for the taxable year divided by the difference between:

(i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross income for that taxable year, after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115; and

(ii) if the nonresident individual described in Subsection (1)(x)(i) is a service member, the compensation the service member receives for military service if the service member is serving in compliance with military orders.

(y) "State income tax percentage for a part-year resident individual" means, for a taxable year, a fraction:

(i) the numerator of which is the sum of:

(A) subject to Section 59-10-1404.5, for the time period during the taxable year that the part-year resident individual is a resident, the part-year resident individual's total adjusted gross income for that time period, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) for the time period during the taxable year that the part-year resident individual is a nonresident, an amount calculated by:

(I) determining the part-year resident individual's adjusted gross income for that time period, after making the:

(Aa) additions and subtractions required by Section 59-10-114; and

(Bb) adjustments required by Section 59-10-115; and

(II) calculating the portion of the amount determined under Subsection (1)(y)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117; and

(ii) the denominator of which is the difference between:

(A) the part-year resident individual's total adjusted gross income for that taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) if the part-year resident individual is a service member, any compensation the service member receives for military service during the portion of the taxable year that the service member is a nonresident if the service member is serving in compliance with military orders.

(z) "Taxable income" or "state taxable income":

(i) subject to Section 59-10-1404.5, for a resident individual, means the resident individual's adjusted gross income after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115;

(ii) for a nonresident individual, is an amount calculated by:

(A) determining the nonresident individual's adjusted gross income for the taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) calculating the portion of the amount determined under Subsection (1)(z)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

(iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

(iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

(aa) "Taxpayer" means any of the following that has income subject in whole or part to the tax imposed by this chapter:

(i) an individual;

(ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through entity or a pass-through entity taxpayer;

(iii) a pass-through entity; or

(iv) a pass-through entity taxpayer.

(bb) "Trust term" means a time period:

(i) beginning on the day on which a qualified nongrantor charitable lead trust is created; and

(ii) ending on the day on which the qualified nongrantor charitable lead trust described in Subsection (1)(bb)(i) terminates.

(cc) "Uintah and Ouray Reservation" means the lands recognized as being included within the Uintah and Ouray Reservation in:

(i) Hagen v. Utah, 510 U.S. 399 (1994); and

(ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

(dd) "Unadjusted income" means an amount equal to the difference between:

(i) the total income required to be reported by a resident or nonresident estate or trust on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(ii) the sum of the following:

(A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:

(I) for administering the resident or nonresident estate or trust; and

(II) that the resident or nonresident estate or trust deducts as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(B) the income distribution deduction that a resident or nonresident estate or trust deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(C) the amount that a resident or nonresident estate or trust deducts as a deduction for estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(D) the amount that a resident or nonresident estate or trust deducts as a personal exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year.

(ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

(ff) "Ute tribal member" means an individual who is enrolled as a member of the Ute Indian Tribe of the Uintah and Ouray Reservation.

(gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

(hh) "Wages" means the same as that term is defined in Section 59-10-401.

(2) (a) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required.

(b) Any reference to the Internal Revenue Code or to the laws of the United States shall mean the Internal Revenue Code or other

provisions of the laws of the United States relating to federal income taxes that are in effect for the taxable year.

(c) Any reference to a specific section of the Internal Revenue Code or other provision of the laws of the United States relating to federal income taxes shall include any corresponding or comparable provisions of the Internal Revenue Code as amended, redesignated, or reenacted.

Section 14. Section 75-1-102 is amended to read:

75-1-102. Purposes -- Rule of construction.

(1) This [~~code~~]title shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this [~~code~~]title are:

(a) [~~To~~]to simplify and clarify the law concerning the affairs of decedents, missing persons, protected persons, minors, and incapacitated persons;

(b) [~~To~~]to discover and make effective the intent of a decedent in distribution of [~~his~~]the decedent's property;

(c) [~~To~~]to promote a speedy and efficient system for administering the estate of the decedent and making distribution to [~~his~~]the decedent's successors;

(d) [~~To~~]to facilitate use and enforcement of certain trusts; and

(e) [~~To~~]to make uniform the law among the various jurisdictions.

Section 15. Section 75-1-103 is amended to read:

75-1-103. Supplementary general principles of law applicable.

Unless displaced by the particular provisions of this [~~code~~]title, the principles of law and equity supplement [~~its provisions~~]the provisions of this title.

Section 16. Section 75-1-104 is amended to read:

75-1-104. Severability.

If any provision of this [~~code~~]title or the application [~~thereof~~]of this title to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of [~~the code which~~]this title that can be given effect without the invalid provision or application, and to this end the provisions of this [~~code~~]title are declared to be severable.

Section 17. Section 75-1-105 is amended to read:

75-1-105. Construction against implied repeal.

This [~~code~~]title is a general act intended as a unified coverage of [~~its~~]the title's subject matter, and no part of [~~it~~]this title shall be deemed impliedly repealed by subsequent legislation if it can reasonably be avoided.

Section 18. Section 75-1-106 is amended to read:

75-1-106. Effect of fraud and evasion.

(1) Whenever fraud has been perpetrated in connection with any proceeding or in any statement filed under this [~~code~~]title or if fraud is used to avoid or circumvent the provisions or purposes of this [~~code~~]title, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud or restitution from any person[~~(~~], other than a bona fide purchaser[~~)~~], benefitting from the fraud, whether innocent or not.

(2) Any proceeding must be commenced within three years after the discovery of the fraud, but no proceeding may be brought against one not a perpetrator of the fraud later than five years after the time of commission of the fraud.

(3) This section has no bearing on remedies relating to fraud practiced on a decedent during [~~his~~]the decedent's lifetime which affects the succession of [~~his~~]the decedent's estate.

Section 19. Section 75-1-111, which is renumbered from Section 75-8-101 is renumbered and amended to read:

[~~75-8-101~~]75-1-111. Time of taking effect -- Provisions for transition.

(1) This [~~code~~]title takes effect on July 1, 1977.

(2) Except as [~~provided elsewhere in this code, on the effective date of this code~~]otherwise provided by this title:

(a) [~~This code~~]this title applies to any wills of decedents dying [~~thereafter.~~]on or after July 1, 1977;

(b) [~~The code~~]the title applies to any proceedings in court [~~then pending or thereafter commenced~~]that are pending or commenced on or after July 1, 1977, regardless of the time of the death of decedent except to the extent that in the opinion of the court the former procedure should be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedure of this [~~code.~~]title;

(c) [~~Every~~]every personal representative including a person administering an estate of a minor or incompetent holding an appointment on [~~that date~~]July 1, 1977, continues to hold the appointment but has only the powers conferred by this [~~code~~]title and is subject to the duties imposed with respect to any act occurring or done [~~thereafter.~~]on or after July 1, 1977;

(d) (i) [~~An~~]an act done before [~~the effective date~~]July 1, 1977, in any proceeding and any accrued right is not impaired by this [~~code.~~]title; and

(ii) [~~If~~]if a right is acquired, extinguished or barred upon the expiration of a prescribed period of time which has commenced to run by the provisions of any statute before [~~the effective date~~]July 1, 1977, the provisions shall remain in force with respect to that right[~~.~~]; and

(e) [~~Any~~]any rule of construction or presumption provided in this [~~code~~]title applies to instruments executed and multiple-party accounts opened before [~~the effective date~~]July 1, 1977, unless there is a clear indication of a contrary intent.

Section 20. Section 75-1-201 is amended to read:

75-1-201. Title definitions.

As used in this title:

(1) "Agent" includes an attorney-in-fact under a durable or nondurable power of attorney, an individual authorized to make decisions concerning another's health care, and an individual authorized to make decisions for another under a natural death act.

(2) "Application" means a written request to the registrar for an order of informal probate or appointment under Chapter 3, Part 3,

Informal Probate and Appointment Proceedings.

(3) (a) "Beneficiary," as it relates to trust beneficiaries, includes:

(i) a person who has any present or future interest, vested or contingent; and

(ii) the owner of an interest by assignment or other transfer.

(b) "Beneficiary," as it relates to a charitable trust, includes any person entitled to enforce the trust.

(c) "Beneficiary," as it relates to a beneficiary of a beneficiary designation, means a beneficiary of:

(i) an insurance or annuity policy;

(ii) an account with POD designation;

(iii) a security registered in beneficiary form (TOD);

(iv) a pension, profit-sharing, retirement, or similar benefit plan; or

(v) other nonprobate transfer at death.

(d) "Beneficiary," as it relates to a beneficiary designated in a governing instrument, includes:

(i) a grantee of a deed, a devisee, a trust beneficiary, a beneficiary of a beneficiary designation, a donee, appointee, or taker in default of a power of appointment; and

(ii) a person in whose favor a power of attorney or a power held in any individual, fiduciary, or representative capacity is exercised.

(4) "Beneficiary designation" means a governing instrument naming a beneficiary of an insurance or annuity policy, of an account with POD designation, of a security registered in beneficiary form (TOD), or of a pension, profit-sharing, retirement, or similar benefit plan, or other nonprobate transfer at death.

(5) (a) "Child" includes any individual entitled to take as a child under this title by intestate succession from the parent whose relationship is involved.

(b) "Child" does not include an individual who is only a stepchild, a foster child, a grandchild, or any more remote descendant.

(6) (a) "Claims," in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person, whether arising in contract, in tort, or otherwise, and liabilities of the estate which arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration.

(b) "Claims" does not include estate or inheritance taxes, or demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(7) "Community property with a right of survivorship" means joint tenants with the right of survivorship.

(8) "Conservator" means a person who is appointed by a court to manage the estate of a protected person.

(9) "Court" means any of the courts of record in this state having jurisdiction in matters relating to the affairs of decedents.

(10) "Descendant" means all of an individual's descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in this title.

(11) "Devise," when used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will.

(12) "Devisee" means any person designated in a will to receive a devise. For the purposes of Chapter 3, Probate of Wills and Administration, in the case of a devise to an existing trust or trustee, or to a trustee in trust described by will, the trust or trustee is the devisee, and the beneficiaries are not devisees.

(13) "Disability" means cause for a protective order as described by Section 75-5-401.

(14) "Distributee" means any person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment thereto remaining in his hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For purposes of this provision, "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(15) "Estate" includes the property of the decedent, trust, or other person whose affairs are subject to this title as originally constituted and as it exists from time to time during administration.

(16) "Exempt property" means that property of a decedent's estate which is described in Section 75-2-403.

(17) "Fiduciary" includes a personal representative, guardian, conservator, and trustee.

(18) "Foreign personal representative" means a personal representative of another jurisdiction.

(19) "Formal proceedings" means proceedings conducted before a judge with notice to interested persons.

(20) "General personal representative" does not include a special administrator.

(21) "Governing instrument" means a deed, will, trust, insurance or annuity policy, account with POD designation, security registered in beneficiary form (TOD), pension, profit-sharing, retirement, or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney, or a dispositive, appointive, or nominative instrument of any similar type.

[~~(22) (a) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, or by written instrument as provided in Section 75-5-202.5.~~]

[~~(b) "Guardian" does not include a person who is merely a guardian ad litem.~~]

(22) (a) "Guardian" means a person appointed by the court to make decisions with respect to the personal affairs of an individual.

(b) "Guardian" includes a coguardian.

(c) "Guardian" does not include a guardian ad litem.

(23) "Heirs," except as controlled by Section 75-2-711, means persons, including the surviving spouse and state, who are entitled under the statutes of intestate succession to the property of a decedent.

(24) "Incapacitated" means a judicial determination after proof by clear and convincing evidence that an adult's ability to do the following is impaired to the extent that the individual lacks the ability, even with appropriate technological assistance, to meet the essential requirements for financial protection or physical health, safety, or self-care:

(a) receive and evaluate information;

(b) make and communicate decisions; or

(c) provide for necessities such as food, shelter, clothing, health care, or safety.

(25) "Incapacity" means incapacitated.

(26) "Informal proceedings" mean a proceeding conducted without notice to interested persons by an officer of the court acting as a registrar for probate of a will or appointment of a personal representative.

(27) (a) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person. The meaning of interested person as it relates to particular persons may vary from time to time and is determined according to the particular purposes of, and matter involved in, any proceeding.

(b) "Interested person" includes persons having priority for appointment as personal representative, other fiduciaries representing interested persons, a settlor of a trust, if living, or the settlor's legal representative, if any, if the settlor is living but incapacitated.

(28) "Issue" means a descendant of an individual.

(29) (a) "Joint tenants with the right of survivorship" includes coowners of property held under circumstances that entitle one or more to the whole of the property on the death of the other.

(b) "Joint tenants with the right of survivorship" does not include forms of coownership registration in which the underlying ownership of each party is in proportion to that party's contribution.

(30) "Lease" includes an oil, gas, or other mineral lease.

(31) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(32) "Minor" means [~~a person~~]an individual who is under 18 years old.

(33) "Minor protected person" means a minor for whom a conservator has been appointed because of minority.

(34) "Minor ward" means a minor for whom a guardian has been appointed solely because of minority.

(35) "Mortgage" means any conveyance, agreement, or arrangement in which property is used as security.

(36) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of the decedent's death.

[~~(37) "Organization" includes a corporation, limited liability company, business trust, estate, trust, partnership, joint venture, association, government or governmental subdivision or agency, or any other legal or commercial entity.~~]

(37) "Organization" means an association, a business trust, a corporation, a partnership, a government or governmental subdivision, agency, or instrumentality, an estate, a limited liability company, a joint venture, a trust, or any other legal or commercial entity.

(38) (a) "Parent" includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under this title by intestate succession from the child whose relationship is in question.

(b) "Parent" does not include any person who is only a stepparent, foster parent, or grandparent.

(39) "Payor" means a trustee, insurer, business entity, employer, government, governmental agency or subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

(40) "Person" means an individual or an organization.

[~~(41) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.~~]

(41) "Personal representative" means an executor, an administrator, a successor personal representative, a special administrator, or a person who performs substantially the same function under the law governing the person's status.

(42) "Petition" means a written request to the court for an order after notice.

(43) "Proceeding" includes action at law and suit in equity.

[~~(44) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.~~]

(44) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest in anything that may be the subject of ownership.

(45) "Protected person" means a person for whom a conservator has been appointed.

(46) "Protective proceeding" means a proceeding described in Section 75-5-401.

(47) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(48) "Registrar" means the official of the court designated to perform the functions of registrar as provided in Section 75-1-307.

(49) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate, and, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt, or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

(50) "Settlement," in reference to a decedent's estate, includes the full process of administration, distribution, and closing.

(51) "Settlor" means the same as that term is defined in Section 75B-1-101.

[~~(51)~~](52) "Sign" means, with present intent to authenticate or adopt a record other than a will that is not an electronic will as defined in Section 75-2-1402:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

[~~(52)~~](53) "Special administrator" means a personal representative as described in Sections 75-3-614 through 75-3-618.

[~~(53)~~](54) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States, or a Native American tribe or band recognized by federal law or formally acknowledged by a state.

[~~(54)~~](55) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

[~~(55)~~](56) "Successors" means persons, other than creditors, who are entitled to property of a decedent under the decedent's will or this title.

[~~(56)~~](57) "Supervised administration" means the proceedings described in Chapter 3, Part 5, Supervised Administration.

[~~(57)~~](58) (a) "Survive" means, except for Chapter 6, Part 3, Uniform Transfer on Death Security Registration Act, that an individual

has neither predeceased an event, including the death of another individual, nor is considered to have predeceased an event under Section 75-2-104 or 75-2-702.

(b) "Survive" includes its derivatives, such as "survives," "survived," "survivor," and "surviving."

[~~(58)~~](59) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

[~~(59)~~](60) "Testator" includes an individual of either sex.

[~~(60) (a) "Trust" includes:~~]

[~~(i) a health savings account, as defined in Section 223of the Internal Revenue Code;~~]

[~~(ii) an express trust, private or charitable, with additions thereto, wherever and however created; or~~]

[~~(iii) a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust.~~]

[~~(b) "Trust" does not include:~~]

[~~(i) a constructive trust;~~]

[~~(ii) a resulting trust;~~]

[~~(iii) a conservatorship;~~]

[~~(iv) a personal representative;~~]

[~~(v) a trust account as defined in Chapter 6, Nonprobate Transfers;~~]

[~~(vi) a custodial arrangement under Title 75A, Chapter 8, Uniform Transfers To Minors Act;~~]

[~~(vii) a business trust providing for certificates to be issued to beneficiaries;~~]

[~~(viii) a common trust fund;~~]

[~~(ix) a voting trust;~~]

[~~(x) a preneed funeral plan under Title 58, Chapter 9, Funeral Services Licensing Act;~~]

[~~(xi) a security arrangement;~~]

[~~(xii) a liquidation trust;~~]

[~~(xiii) a trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind; or~~]

[~~(xiv) any arrangement under which a person is nominee or escrowee for another.~~]

[~~(61) "Trustee" includes an original, additional, and successor trustee, and cotrustee, whether or not appointed or confirmed by the court.~~]

(61) "Trust" means the same as that term is defined in Section 75B-1-101.

(62) "Trustee" means the same as that term is defined in Section 75B-1-101.

[~~(62)~~](63) "Ward" means [~~a person~~]an individual for whom a guardian has been appointed.

[~~(63) "Will" includes codicil and any testamentary instrument which merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.~~]

(64) (a) "Will" means a writing or other record:

(i) by which an individual directs the disposition of the individual's estate upon the individual's death; and

(ii) only effective upon the death of the individual.

(b) "Will" includes a writing or the other record described in Subsection (64)(a) that is:

(i) a codicil; or

(ii) an instrument that merely:

(A) appoints a personal representative;

(B) nominates a guardian for a minor or an individual who is incapacitated;

(C) revokes or revises a prior writing or other record described in Subsection (64)(a); or

(D) expressly limits or excludes the right of an individual or class to succeed to property by interstate succession.

Section 21. Section 75-1-301 is amended to read:

75-1-301. Territorial application.

Except as otherwise provided in this [~~code~~]title, this [~~code~~]title applies to:

(1) [~~The~~]the affairs and estates of decedents, missing persons, and persons to be protected, domiciled in this state;

(2) [~~The~~]the property of nonresidents located in this state or property coming into the control of a fiduciary who is subject to the laws of this state;

(3) [~~Incapacitated~~]incapacitated persons and minors in this state;

(4) [~~Survivorship~~]survivorship and related accounts in this state; and

(5) [~~Trusts~~]trusts subject to administration in this state.

Section 22. Section 75-1-303 is amended to read:

75-1-303. Venue -- Multiple proceedings -- Transfer -- Orders and hearings.

(1) Where a proceeding under this [~~code~~]title could be maintained in more than one place in this state, the court in which the proceeding is first commenced has the exclusive right to proceed.

(2) (a) If proceedings concerning the same estate, protected person, ward, or trust are commenced in more than one court of this state[~~;~~]:

(i) the court in which the proceeding was first commenced shall continue to hear the matter[~~, and the other courts~~]; and

(ii) the other court shall hold the matter in abeyance until the question of venue is decided[~~; and if~~].

(b) If the ruling court determines that venue is properly in another court, [~~it~~]the ruling court shall transfer the proceeding to the other court.

(3) If a court finds that in the interest of justice a proceeding or a file should be located in another court of this state, the court making

the finding may transfer the proceeding or file to the other court.

(4) (a) The [~~judge of the~~]court in which any proceeding under this [~~code~~]title is pending may make any order relating to the proceeding in chambers at any place in [~~his~~]the court's district, and the order shall have the same force and effect as if made by the court sitting in the proper county.

(b) The hearing of any matter requiring notice shall be had at the time and place appointed or at the time to which the same may be postponed, except that where there is no contest or where all the parties consent, the hearing may be had at any place within the judicial district in which the matter is pending.

Section 23. Section 75-1-304 is amended to read:

75-1-304. Practice in court.

Unless specifically provided to the contrary in this [~~code~~]title or unless inconsistent with [~~its~~]this title's provisions, the [~~rules of civil procedure~~]Utah Rules of Civil Procedure, including the rules concerning vacation of orders and appellate review, govern formal proceedings under this [~~code~~]title.

Section 24. Section 75-1-305 is amended to read:

75-1-305. Records and certified copies.

(1) The clerk of the court shall keep a record for each decedent, ward, protected person, or trust involved in any document which may be filed with the court under this [~~code~~]title, including petitions and applications, demands for notices or bonds, and of any orders or responses relating thereto by the registrar or court, and establish and maintain a system for indexing, filing, or recording which is sufficient to enable users of the records to obtain adequate information.

(2) Upon payment of the fees required by law the clerk must issue certified copies of any probated wills, letters issued to personal representatives, or any other record or paper filed or recorded.

(3) Certificates relating to probated wills must indicate whether the decedent was domiciled in this state and whether the probate was formal or informal.

(4) Certificates relating to letters must show the date of appointment.

Section 25. Section 75-1-309 is amended to read:

75-1-309. Oath or affirmation on filed documents.

(1) Except as otherwise specifically provided in this [~~code~~]title or by rule, every document filed with the court under this code, including applications, petitions, and demands for notice, shall be deemed to include an oath, affirmation, or statement to the effect that its representations are true as far as the person executing or filing it knows or is informed[~~; and penalties~~].

(2) Penalties for perjury may follow deliberate falsification therein.

Section 26. Section 75-1-310 is amended to read:

75-1-310. Costs -- In discretion of court.

When not otherwise prescribed in this [~~code, the court, or the Supreme Court on appeal from the court, may, in its~~]title, the court, or an appellate court on appeal from the court, may in the court's discretion, order costs to be paid by any party to the proceedings or out of the assets of the estate as justice may require.

Section 27. Section 75-1-311 is amended to read:

75-1-311. Consent to jurisdiction.

(1) By submitting an application for informal probate or appointment or a petition for formal probate, adjudication of intestacy, or appointment the applicant or petitioner subjects himself to the jurisdiction of the court in all matters arising under this [~~code~~]title.

(2) Notice of any proceeding sought to be maintained against the applicant or petitioner pursuant to his submission to jurisdiction shall be delivered to him or mailed to him by ordinary first-class mail at his address as it is known to the moving party or as listed in the application or petition or as thereafter reported to the court.

Section 28. Section 75-1-404 is amended to read:

75-1-404. Publication in newspapers.

(1) Newspapers shall publish all notices of proceedings under [~~the code~~]this title under the heading "Probate, Guardianship, Conservator and Trust Notices. Consult clerk of the court or the respective signers for further information." [~~These notices~~]

(2) The notices under Subsection (1) shall be published as often during the prescribed period as the paper is regularly issued, unless otherwise provided by law or directed by the court, and as far as possible in one column in the alphabetical order of the surnames of decedents, wards, incapacitated persons, and creators of trusts.

Section 29. Section 75-2-803 is amended to read:

75-2-803. Definitions -- Effect of homicide on intestate succession, wills, trusts, joint assets, life insurance, and beneficiary designations -- Petition -- Forfeiture -- Revocation.

(1) As used in this section:

(a) "Conviction" means the same as that term is defined in Section 77-38b-102.

(b) "Decedent" means a deceased individual.

(c) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(d) (i) Except as provided in Subsection (1)(d)(ii), "disqualifying homicide" means any felony homicide offense described in Title 76, Chapter 5, Offenses Against the Individual, for which the elements are established by a preponderance of the evidence and by applying the same principles of culpability and defenses described in Title 76, Utah Criminal Code.

(ii) "Disqualifying homicide" does not include an offense for:

(A) automobile homicide, as described in Section 76-5-207; and

(B) automobile homicide involving using a handheld wireless communication device while driving, as described in Section 76-5-207.5.

(e) "Governing instrument" means a governing instrument executed by the decedent.

(f) "Killer" means an individual who commits a disqualifying homicide.

(g) "Revocable" means a disposition, appointment, provision, or nomination under which the decedent, at the time of or immediately before death, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the killer regardless of whether at the time or immediately before death:

(i) the decedent was empowered to designate the decedent in place of the decedent's killer; or

(ii) the decedent had the capacity to exercise the power.

(2) (a) An individual who commits a disqualifying homicide of the decedent forfeits all benefits under this chapter with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, a homestead allowance, exempt property, and a family allowance.

(b) If the decedent died intestate, the decedent's intestate estate passes as if the killer disclaimed the killer's intestate share.

(3) The killing of the decedent by means of a disqualifying homicide:

(a) revokes any revocable:

(i) disposition or appointment of property made by the decedent to the killer in a governing instrument;

(ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the killer; and

(iii) nomination of the killer in a governing instrument, nominating or appointing the killer to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, or agent; and

(b) severs the interests of the decedent and killer in property held by them at the time of the killing as joint tenants with the right of survivorship, transforming the interests of the decedent and killer into tenancies in common.

(4) A severance under Subsection (3)(b) does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

(5) Provisions of a governing instrument are given effect as if the killer disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the killer predeceased the decedent.

(6) A wrongful acquisition of property or interest by one who kills another under circumstances not covered by this section shall be treated in accordance with the principle that a killer cannot profit from the killer's wrong.

(7) (a) An interested person may petition the court to determine whether an individual has committed a disqualifying homicide of the decedent.

(b) An individual has committed a disqualifying homicide of the decedent for purposes of this section if:

(i) unless the court finds that disinheritance would create a manifest injustice, the court finds that, by a preponderance of the evidence, the individual has committed a disqualifying homicide of the decedent; or

(ii) the court finds that a judgment of conviction has been entered against the individual for a disqualifying homicide of the decedent and all direct appeals for the judgment have been exhausted.

(8) (a) Before a court determines whether an individual committed a disqualifying homicide of the decedent under Subsection (7), the decedent's estate may petition the court to:

(i) enter a temporary restraining order, an injunction, or a temporary restraining order and an injunction, to preserve the property or assets of the killer or the killer's estate;

(ii) require the execution of a trustee's bond under Section [~~75-7-702~~]75B-2-702 for the killer's estate;

(iii) establish a constructive trust on any property or assets of the killer or the killer's estate that is effective from the time the killer's act caused the death of the decedent; or

(iv) take any other action necessary to preserve the property or assets of the killer or the killer's estate:

(A) until a court makes a determination under Subsection (7); or

(B) for the payment of all damages and judgments for conduct resulting in the disqualifying homicide of the decedent.

(b) Upon a petition for a temporary restraining order or an injunction under Subsection (8)(a)(i), a court may enter a temporary restraining order against an owner's property in accordance with Rule 65A of the Utah Rules of Civil Procedure, without notice or opportunity of a hearing, if the court determines that:

(i) there is a substantial likelihood that the property is, or will be, necessary to satisfy a judgment or damages owed by the killer for conduct resulting in the disqualifying homicide of the decedent; and

(ii) notice of the hearing would likely result in the property being:

(A) sold, distributed, destroyed, or removed; and

(B) unavailable to satisfy a judgment or damages owed by the killer for conduct resulting in the disqualifying homicide of the decedent.

(9) (a) (i) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a disqualifying homicide, or for having taken any other action in good faith reliance on the validity of the governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(ii) A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(b) (i) Written notice of a claimed forfeiture or revocation under Subsection (9)(a) shall be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action.

(ii) Upon receipt of written notice of a claimed forfeiture or revocation under this section, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by the payor or third party to or with:

(A) the court having jurisdiction of the probate proceedings relating to the decedent's estate; or

(B) if no proceedings have been commenced, the court having jurisdiction of probate proceedings relating to the decedent's estates located in the county of the decedent's residence.

(iii) The court shall hold the funds or item of property and, upon the court's determination under this section, shall order disbursement in accordance with the determination.

(iv) Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(10) (a) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is:

(i) not obligated under this section to return the payment, item of property, or benefit; and

(ii) not liable under this section for the amount of the payment or the value of the item of property or benefit.

(b) Notwithstanding Subsection (10)(a), a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this section is:

(i) obligated to return the payment, item of property, or benefit to the person who is entitled to the payment, property, or benefit under this section; and

(ii) personally liable for the amount of the payment or the value of the item of property or benefit to the person who is entitled to the payment, property, or benefit under this section.

(c) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this section is:

(i) obligated to return the payment, item of property, or benefit to the person who would have been entitled to the payment, property, or benefit if this section or part were not preempted; and

(ii) personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to the payment, property, or benefit if this section or part were not preempted.

Section 30. Section 75-2-1209 is amended to read:

75-2-1209. Real estate conveyed to a trust under the Statutory Rule Against Perpetuities.

On or after the effective date, when title to real property is granted to the trustee of a trust governed by Title 75, Chapter 2, Part 12, Statutory Rule Against Perpetuities, the terms of the trust, provisions regarding the appointment of successor trustees, and the names and addresses of successor trustees must be disclosed in accordance with Section [~~75-7-816~~]75B-2-816.

Section 31. Section 75-2-1402 is amended to read:

75-2-1402. Definitions.

As used in this part:

(1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) "Electronic presence" means the relationship of two or more individuals in different locations communicating in real time to the same extent as if the individuals were physically present in the same location.

(3) "Electronic will" means a will executed electronically in compliance with Subsection 75-2-1405(1).

(4) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(5) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to affix to or logically associate with the record an electronic symbol or process.

(6) (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(b) "State" includes a federally recognized Indian tribe.

[~~(7) "Will" includes a codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.~~]

Section 32. Section 75-3-101 is amended to read:

75-3-101. Devolution of estate at death -- Restrictions.

(1) The power of a person to leave property by will and the rights of creditors, devisees, and heirs to his property are subject to the restrictions and limitations contained in this [~~code~~]title to facilitate the prompt settlement of estates.

(2) Upon the death of a person his real and personal property devolves to persons to whom it is devised by his last will or to those indicated as substitutes for them in cases involving lapse, renunciation, or other circumstances affecting the devolution of testate estate, or in the absence of testamentary disposition, to his heirs, or to those indicated as substitutes for them in cases involving renunciation or other circumstances affecting devolution of intestate estates, subject to homestead allowance, exempt property and family allowance, rights of creditors, elective share of the surviving spouse, and administration.

Section 33. Section 75-3-105 is amended to read:

75-3-105. Proceedings affecting devolution and administration -- Jurisdiction of subject matter.

(1) (a) Persons interested in decedents' estates may apply to the registrar for determination in the informal proceedings provided in this chapter and may petition the court for orders in formal proceedings within the court's jurisdiction, including, but not limited to those described in this chapter.

(b) The court may hear and determine formal proceedings involving administration and distribution of decedents' estates after notice to interested persons in conformity with Section 75-1-401.

(c) Persons notified are bound though less than all interested persons may have been given notice.

(2) For purposes of this [~~code~~]title, formal proceedings involving administration and distribution of decedent's estates shall include proceedings to determine the heirs of a decedent and proceedings to construe a duly probated will of a decedent, whether or not the estate of the decedent is being, or previously has been, administered or distributed.

Section 34. Section 75-3-303 is amended to read:

75-3-303. Informal probate -- Proof and findings required.

(1) In an informal proceeding for original probate of a will, the registrar shall determine whether:

(a) the application is complete;

(b) the applicant has made oath or affirmation that the statements contained in the application are true to the best of his knowledge and belief;

(c) the applicant appears from the application to be an interested person[~~as defined in Subsection 75-1-201(24)~~];

(d) on the basis of the statements in the application, venue is proper;

(e) an original, duly executed and apparently unrevoked will was presented to the court for electronic storage and electronic filing and is now in the possession of the applicant or the applicant's attorney, or is in the registrar's possession;

(f) any notice required by Section 75-3-204 has been given and that the application is not within Section 75-3-304; and

(g) it appears from the application that the time limit for original probate has not expired.

(2) The application shall be denied if it indicates that a personal representative has been appointed in another county of this state or except as provided in Subsection (4), if it appears that this or another will of the decedent has been the subject of a previous probate order.

(3) A will which appears to have the required signatures and which contains an attestation clause showing that requirements of execution under Section 75-2-502, 75-2-503, or 75-2-506 have been met shall be probated without further proof. In other cases, the registrar may assume execution if the will appears to have been properly executed, or he may accept a sworn statement or affidavit of any person having knowledge of the circumstances of execution, whether or not the person was a witness to the will.

(4) Informal probate of a will which has been previously probated elsewhere may be granted at any time upon written application by any interested person, together with deposit of an authenticated copy of the will and of the statement probating it from the office or court where it was first probated.

(5) A will from a place which does not provide for probate of a will after death and which is not eligible for probate under Subsection (1) above may be probated in this state upon receipt by the registrar of a duly authenticated copy of the will and a duly authenticated certificate of its legal custodian that the copy filed is a true copy and that the will has become operative under the law of the other place.

Section 35. Section 75-3-308 is amended to read:

75-3-308. Informal appointment proceedings -- Proof and findings required.

(1) In informal appointment proceedings, the registrar shall determine whether:

(a) the application for informal appointment of a personal representative is complete;

(b) the applicant has made oath or affirmation that the statements contained in the application are true to the best of his knowledge and belief;

(c) the applicant appears from the application to be an interested person[~~as defined in Subsection 75-1-201(24)~~];

(d) on the basis of the statements in the application, venue is proper;

(e) any will to which the requested appointment relates has been formally or informally probated; but this requirement does not apply to the appointment of a special administrator;

(f) any notice required by Section 75-3-204 has been given; and

(g) from the statements in the application, the person whose appointment is sought has priority entitling him to the appointment.

(2) Unless Section 75-3-612 controls, the application shall be denied if it indicates that a personal representative who has not filed a written statement of resignation as provided in Subsection 75-3-610(3) has been appointed in this or another county of this state, that[~~(~~], unless the applicant is the domiciliary personal representative or his nominee[~~)~~], the decedent was not domiciled in this state, and that a personal representative whose appointment has not been terminated has been appointed by a court in the state of domicile, or that other requirements of this section have not been met.

Section 36. Section 75-3-504 is amended to read:

75-3-504. Powers of personal representative.

(1) Unless restricted by the court, a supervised personal representative has, without interim orders approving exercise of a power, all powers of personal representatives under this [~~code~~]title, but he shall not exercise his power to make any distribution of the estate without prior order of the court.

(2) Any other restriction on the power of a personal representative which may be ordered by the court must be endorsed on his letters of appointment and, unless so endorsed, is ineffective as to persons dealing in good faith with the personal representative.

Section 37. Section 75-3-608 is amended to read:

75-3-608. Termination of appointment -- General.

(1) Termination of appointment of a personal representative occurs as indicated in Sections 75-3-609 through 75-3-612.

(2) Termination ends the right and power pertaining to the office of personal representative as conferred by this [~~code~~]title or any will, except that a personal representative, at any time prior to distribution or until restrained or enjoined by court order, may perform acts necessary to protect the estate and may deliver the assets to a successor representative.

(3) Termination does not discharge a personal representative from liability for transactions or omissions occurring before termination or relieve him of the duty to preserve assets subject to his control, to account therefor, and to deliver the assets.

(4) Termination does not affect the jurisdiction of the court over the personal representative but terminates his authority to represent the estate in any pending or future proceeding.

Section 38. Section 75-3-616 is amended to read:

75-3-616. Special administrator -- Appointed informally -- Powers and duties.

(1) A special administrator appointed by the registrar in informal proceedings pursuant to Subsection 75-3-614(1)(a) has the duty to collect and manage the assets of the estate, to preserve them, to account therefor and to deliver them to the general personal representative upon [~~his~~]the special administrator's qualification.

(2) The special administrator has the power of a personal representative under the [~~code~~]title necessary to perform his duties.

Section 39. Section 75-3-703 is amended to read:

75-3-703. General duties -- Relation and liability to persons interested in estate -- Standing to sue.

(1) (a) A personal representative is a fiduciary who shall observe the standard of care applicable to trustees as described by Section [~~75-7-902~~]75B-2-902.

(b) A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and this [~~code~~]title and as expeditiously and efficiently as is consistent with the best interests of the estate. [~~He~~]

(c) A personal representative shall use the authority conferred upon [~~him~~]the personal representative by this [~~code~~]title, the terms of the will, if any, and any order in proceedings to which [~~he~~]the personal representative is party for the best interests of successors to the estate.

(2) (a) A personal representative [~~shall not~~]may not be surcharged for acts of administration or distribution if the conduct in question was authorized at the time.

(b) Subject to other obligations of administration, an informally probated will is authority to administer and distribute the estate according to [~~its terms~~]the terms of the will.

(c) An order of appointment of a personal representative, whether issued in informal or formal proceedings, is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the personal representative is not aware of a pending testacy proceeding, a proceeding to vacate an order entered in an earlier testacy proceeding, a formal proceeding questioning his appointment or fitness to continue, or a supervised administration proceeding.

(d) Nothing in this section affects the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants, the surviving spouse, any minor and dependent children, and any pretermitted child of the decedent as described elsewhere in this [~~code~~]title.

(3) Except as to proceedings which do not survive the death of the decedent, a personal representative of a decedent domiciled in this state at [~~his~~]the decedent's death has the same standing to sue and be sued in the courts of this state and courts of any other jurisdiction as [~~his~~]the decedent had immediately prior to death.

Section 40. Section 75-3-704 is amended to read:

75-3-704. Personal representative to proceed without court order -- Exception.

A personal representative shall proceed expeditiously with the settlement and distribution of a decedent's estate and except as otherwise specified or ordered in regard to a supervised personal representative, do so without adjudication, order, or direction of the court, but may invoke the jurisdiction of the court in proceedings authorized by this [~~code~~]title to resolve questions concerning the estate or its administration.

Section 41. Section 75-3-710 is amended to read:

75-3-710. Powers of personal representatives -- In general.

(1) Until termination of his appointment a personal representative has the same power over the title to property of the estate that an absolute owner would have, in trust, however, for the benefit of the creditors and others interested in the estate.

(2) This power may be exercised without notice, hearing, or order of court, unless otherwise specifically provided by this [~~code~~]title.

Section 42. Section 75-3-714 is amended to read:

75-3-714. Transactions authorized for personal representatives -- Exceptions.

Except as restricted or otherwise provided by this [~~code~~]title, by the will or by an order in a formal proceeding and subject to the priorities stated in Section 75-3-902, a personal representative, acting reasonably for the benefit of the interested persons, may properly:

(1) retain assets owned by the decedent pending distribution or liquidation including those in which the representative is personally interested or which are otherwise improper for trust investment;

(2) receive assets from fiduciaries, or other sources;

(3) perform, compromise, or refuse performance of the decedent's contracts that continue as obligations of the estate, as he may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease land, the personal representative, among other possible courses of action, may:

(a) execute and deliver a deed of conveyance for cash payment of all sums remaining due or the purchaser's note for the sum remaining due secured by a mortgage or deed of trust on the land; or

(b) deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement;

(4) satisfy written charitable pledges of the decedent irrespective of whether the pledges constituted binding obligations of the decedent or were properly presented as claims, if in the judgment of the personal representative the decedent would have wanted the pledges completed under the circumstances;

(5) if funds are not needed to meet debts and expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including money received from the sale of other assets, in federally insured interest-bearing accounts, readily marketable secured loan arrangements, or other prudent investments which would be reasonable for use by trustees generally;

(6) acquire or dispose of an asset, including land in this or another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

(7) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, or raze existing or erect new party walls or buildings;

(8) subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate easements to public use without consideration;

(9) enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the period of administration;

(10) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(11) abandon property when, in the opinion of the personal representative, it is valueless, is so encumbered, or is in condition that it is of no benefit to the estate;

(12) vote stocks or other securities in person or by general or limited proxy;

(13) pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims;

(14) hold a security in the name of a nominee or in other form without disclosure of the interest of the estate but the personal

representative is liable for any act of the nominee in connection with the security so held;

(15) insure the assets of the estate against damage, loss, and liability and himself against liability as to third persons;

(16) borrow money with or without security to be repaid from the estate assets or otherwise; and advance money for the protection of the estate;

(17) effect a fair and reasonable compromise with any debtor or obligor, or extend, renew, or in any manner modify the terms of any obligation owing to the estate. If the personal representative holds a mortgage, pledge, or other lien upon property of another person, he may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien;

(18) pay taxes, assessments, compensation of the personal representative, and other expenses incident to the administration of the estate;

(19) sell or exercise stock subscription or conversion rights; and consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(20) allocate items of income or expense to either estate income or principal, as permitted or provided by law;

(21) employ persons, including attorneys, auditors, investment advisers, or agents, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of his administrative duties; act without independent investigation upon their recommendations; and instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;

(22) prosecute or defend claims or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of his duties;

(23) sell, mortgage, or lease any real or personal property of the estate or any interest in it for cash, credit, or for part cash and part credit, and with or without security for unpaid balances;

(24) continue any unincorporated business or venture in which the decedent was engaged at the time of his death:

(a) in the same business form for a period of not more than four months from the date of appointment of a general personal representative if continuation is a reasonable means of preserving the value of the business including good will;

(b) in the same business form for any additional period of time that may be approved by order of the court in a formal proceeding to which the persons interested in the estate are parties; or

(c) throughout the period of administration if the business is incorporated by the personal representative and if none of the probable distributees of the business who are competent adults object to its incorporation and retention in the estate;

(25) incorporate any business or venture in which the decedent was engaged at the time of his death;

(26) provide for exoneration of the personal representative from personal liability in any contract entered into on behalf of the estate;

(27) satisfy and settle claims and distribute the estate as provided in this [~~code~~]title.

Section 43. Section 75-3-913 is amended to read:

75-3-913. Distributions to trustee.

(1) Before distributing to a trustee, the personal representative may require that the trust be registered if the state in which [~~it~~]the trust is to be administered provides for registration and that the trustee inform the qualified beneficiaries [~~as provided in Section 75-7-811~~]as described in Section 75B-2-811.

(2) If the trust instrument does not excuse the trustee from giving bond, the personal representative may:

(a) petition the appropriate court to require that the trustee post bond if [~~he~~]the trustee apprehends that distribution might jeopardize the interests of persons who are not able to protect themselves[~~; and he may~~]; and

(b) withhold distribution until the court has acted.

(3) No inference of negligence on the part of the personal representative shall be drawn from [~~his~~]the personal representative's failure to exercise the authority conferred by Subsections (1) and (2).

Section 44. Section 75-3-915 is amended to read:

75-3-915. Distribution to person under disability.

A personal representative may discharge [~~his~~]the personal representative's obligation to distribute to any person under legal disability by distributing to [~~his~~]the person's conservator, or any other person authorized by this [~~code~~]title or otherwise to give a valid receipt and discharge for the distribution.

Section 45. Section 75-3-916 is amended to read:

75-3-916. Apportionment of estate taxes.

(1) As used in this section:

(a) "Estate" means the gross estate of a decedent as determined for the purpose of federal estate tax and the estate tax payable to this state;

(b) "Fiduciary" means personal representative, executor, administrator of any description, or trustee;

(c) "Person" means any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency;

(d) "Person interested in the estate" means any person, including a personal representative, conservator, guardian, or trustee entitled to receive, or who has received, from a decedent while alive or by reason of the death of a decedent any property or interest in property included in the decedent's taxable estate;

(e) "State" means any state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; and

(f) "Tax" means the federal estate tax and the inheritance, estate, or other death tax payable to this state and interest and penalties imposed in addition to the tax but specifically does not include the federal generation skipping transfer tax.

(2) (a) Unless otherwise provided in the will or other dispositive instrument, the tax shall be apportioned among all persons interested in the estate.

(b) The apportionment shall be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate.

(c) The values used in determining the tax shall be used for that purpose.

(d) If the decedent's will or other dispositive instrument directs a method of apportionment of tax different from the method described in this [~~code~~]title, the method described in the will or other dispositive instrument controls.

(3) (a) The court having jurisdiction over the administration of the estate of a decedent shall determine the apportionment of the tax. If there are no probate proceedings, the court of the county in which the decedent was domiciled at death shall determine the apportionment of the tax upon the petition of the person required to pay the tax.

(b) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in Subsection (2), because of special circumstances, it may direct the apportionment in the manner it finds equitable.

(c) (i) The expenses reasonably incurred by any fiduciary and by other persons interested in the estate concerning the determination of the amount and apportionment of the tax shall be apportioned as provided in Subsection (2) and charged and collected as a part of the tax apportioned.

(ii) If the court finds it is inequitable to apportion the expenses as provided in Subsection (2), it may direct the apportionment equitably.

(d) If the court finds that the assessment of penalties and interest assessed in relation to the tax is due to delay caused by the negligence of the fiduciary, the court may charge the fiduciary with the amount of the assessed penalties and interest.

(e) In any suit or judicial proceeding to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this [~~code~~]title, the determination of the court in this regard is prima facie correct.

(4) (a) (i) The fiduciary or other person required to pay the tax may withhold from any property of the decedent in his possession and distributable to any person interested in the estate, the amount of tax attributable to his interest.

(ii) If the property in possession of the fiduciary or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the fiduciary or other person required to pay the tax may recover the deficiency from the person interested in the estate.

(iii) If the property is not in the possession of the fiduciary or other person required to pay the tax, the fiduciary or the other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this section.

(b) If property held by the fiduciary or other person required to pay the tax is distributed prior to final apportionment of the tax, the fiduciary or other person may require the distributee to provide a bond or other security for the apportionment liability in the form and amount prescribed by the fiduciary, with the approval of the court having jurisdiction of the administration of the estate.

(5) (a) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate, and any deductions and credits allowed by the law imposing the tax.

(b) (i) Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing that relationship or receiving the gift.

(ii) When an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(c) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or his estate inures to the proportionate benefit of all persons liable to apportionment.

(d) Any credit for inheritance, succession, or estate taxes or taxes of this nature in respect to property or interests includable in the estate inures to the benefit of the persons or interests chargeable with the payment of the tax to the extent that, or in proportion as, the credit reduces the tax.

(e) (i) To the extent that property passing to or in trust for a surviving spouse or child or any charitable, public, or similar gift or bequest does not constitute an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property shall not be included in the computation provided for in Subsection (2), and to that extent no apportionment shall be made against the property.

(ii) This does not apply in any instance where the result will be to deprive the estate of a deduction otherwise allowable under Section 2053(d)[~~of the Internal Revenue Code of 1954 of the United States~~], Internal Revenue Code, relating to deduction for state death taxes on transfers for public, charitable, or religious uses.

(6) (a) No interest in income and no estate for years or for life or other temporary interest in any property or fund is subject to apportionment as between the temporary interest and the remainder.

(b) The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

(7) (a) Neither the fiduciary nor other person required to pay the tax is under any duty to institute any suit or proceeding to recover from any person interested in the estate the amount of the tax apportioned to the person until the expiration of the three months next following final determination of the tax.

(b) A fiduciary or other person required to pay the tax who institutes the suit or proceeding within a reasonable time after the three months' period is not subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectible at a time following the death of the decedent but thereafter became uncollectible. If the fiduciary or other person required to pay the tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be paid from the residuary estate.

(c) To the extent that the residuary estate is not adequate, the balance shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment.

(8) (a) Subject to this section, a fiduciary acting in another state or a person required to pay the tax who is domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state, or of a death duty due by a decedent's estate to another state, from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution.

(b) For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct.

(c) The provisions of this section apply only if the state in which the determination of apportionment was made affords a substantially similar remedy.

(9) This section does not apply to the apportionment of expenses incurred in connection with the determination of the amount and apportionment of the taxes due on account of the death of decedents dying prior to July 1, 1983.

Section 46. Section 75-3-1008 is amended to read:

75-3-1008. Subsequent administration.

(1) If other property of the estate is discovered after an estate has been settled and the personal representative discharged or after one year after a closing statement has been filed, the court upon petition of any interested person and upon notice as it directs may appoint the same or a successor personal representative to administer the subsequently-discovered estate.

(2) If a new appointment is made, unless the court orders otherwise, the provisions of this [~~code~~]title apply as appropriate [~~:~~]but no claim previously barred may be asserted in the subsequent administration.

Section 47. Section 75-5-303 is amended to read:

75-5-303. Procedure for court appointment of a guardian of an incapacitated person.

(1) An incapacitated person or any person interested in the incapacitated person's welfare may petition for a finding of incapacity and appointment of a guardian.

(2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity.

(b) Unless the allegedly incapacitated person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding the cost of which shall be paid by the person alleged to be incapacitated, unless the allegedly incapacitated person and the allegedly incapacitated person's parents are indigent.

(c) If the court determines that the petition is without merit, the attorney fees and court costs shall be paid by the person filing the petition.

(d) If the court appoints the petitioner or the petitioner's nominee as guardian of the incapacitated person, regardless of whether the nominee is specified in the moving petition or nominated during the proceedings, the petitioner shall be entitled to receive from the incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting, or defending the petition.

(3) The legal representation of the incapacitated person by an attorney shall terminate upon the appointment of a guardian, unless:

(a) there are separate conservatorship proceedings still pending before the court subsequent to the appointment of a guardian;

(b) there is a timely filed appeal of the appointment of the guardian or the determination of incapacity; or

(c) upon an express finding of good cause, the court orders otherwise.

(4) The person alleged to be incapacitated may be examined by a physician or physician assistant appointed by the court who shall submit a report in writing to the court and may be interviewed by a visitor sent by the court. The visitor also may interview the person seeking appointment as guardian, visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will be detained or reside if the requested appointment is made, conduct other investigations or observations as directed by the court, and submit a report in writing to the court.

(5) (a) The person alleged to be incapacitated shall be present at the hearing in person and see or hear all evidence bearing upon the person's condition. If the person seeking the guardianship requests a waiver of presence of the person alleged to be incapacitated, the court shall order an investigation by a court visitor, the costs of which shall be paid by the person seeking the guardianship.

(b) The investigation by a court visitor is not required if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has:

(i) fourth stage Alzheimer's Disease;

(ii) extended comatosis; or

(iii) (A) an intellectual disability; and

(B) an intelligence quotient score under 25.

(c) The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician and the visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel so requests.

(d) Counsel for the person alleged to be incapacitated[~~, as defined in Subsection 75-1-201(22),~~] is not required if:

(i) the person is the biological or adopted child of the petitioner;

(ii) the value of the person's entire estate does not exceed $20,000 as established by an affidavit of the petitioner in accordance with Section 75-3-1201;

(iii) the person appears in court with the petitioner;

(iv) the person is given the opportunity to communicate, to the extent possible, the person's acceptance of the appointment of petitioner;

(v) no attorney from the state court's list of attorneys who have volunteered to represent respondents in guardianship proceedings is able to provide counsel to the person within 60 days of the date of the appointment described in Subsection (2);

(vi) the court is satisfied that counsel is not necessary in order to protect the interests of the person; and

(vii) the court appoints a visitor under Subsection (4).

Section 48. Section 75-5-412 is amended to read:

75-5-412. Terms and requirements of bonds.

(1) The following requirements and provisions apply to any bond required under Section 75-5-411:

(a) [~~Unless~~]unless otherwise provided by the terms of the approved bond, sureties are jointly and severally liable with the conservator and with each other;

(b) (i) [~~By~~]by executing an approved bond of a conservator, the surety consents to the jurisdiction of the court which issued letters to the primary obligor in any proceeding pertaining to the fiduciary duties of the conservator and naming the surety as a party defendant[~~.~~]; and

(ii) [~~Notice~~]notice of the proceeding shall be delivered to the surety or mailed to him by registered or certified mail at his address as listed with the court where the bond is filed and to his address as then known to the petitioner;

(c) [~~On~~]on petition of a successor conservator or any interested person, a proceeding may be initiated against a surety for breach of the obligation of the bond of the conservator; and

(d) [~~The~~]the bond of the conservator is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

(2) No proceeding may be commenced against the surety on any matter as to which an action or proceeding against the primary obligor is barred by adjudication or limitation under this [~~code~~]title.

Section 49. Section 75-5-416 is amended to read:

75-5-416. Petitions for orders subsequent to appointment.

(1) Any person interested in the welfare of a person for whom a conservator has been appointed may file a petition in the appointing court for an order:

(a) requiring bond or security or additional bond or security, or reducing bond;

(b) requiring an accounting for the administration of the conservatorship estate;

(c) directing distribution;

(d) removing the conservator and appointing a temporary or successor conservator; or

(e) granting other appropriate relief, including any relief available under [~~Title 75, Chapter 7, Utah Uniform Trust Code~~]Title 75B, Chapter 2, Uniform Trust Code, if the protected person is a grantor, settlor, trustor, or beneficiary of a trust.

(2) A conservator may petition the appointing court for instructions concerning the conservator's fiduciary responsibility.

(3) Upon notice and hearing the court may give appropriate instructions or make any appropriate order.

Section 50. Section 75-5-417 is amended to read:

75-5-417. General duty of conservator.

(1) A conservator shall act as a fiduciary and shall observe the standards of care as set forth in Section [~~75-7-902~~]75B-2-902.

(2) (a) For all estates in excess of $50,000 excluding the residence owned by the ward, the conservator shall send a report with a full accounting to the court on an annual basis.

(b) For estates less than $50,000 excluding the residence owned by the ward, the conservator shall fill out an informal annual report and mail the report to the court.

(c) A report under Subsection (2)(a) or (b) shall include a statement regarding:

(i) all assets at the beginning and end of the reporting year;

(ii) any income received during the year;

(iii) any disbursements for the support of the ward;

(iv) any investments or trusts that are held for the ward's benefit;

(v) any expenditures or fees charged to the ward's estate; and

(vi) any other expenses incurred by the ward's estate.

(d) The Judicial Council shall approve the forms for the accounting reports described in Subsections (2)(a) and (b).

(e) An annual accounting report under Subsection (2)(a) or (b) shall be examined and approved by the court.

(3) (a) Corporate fiduciaries are not required to fully petition the court, but shall submit their internal report annually to the court.

(b) A report under Subsection (3)(a) shall be examined and approved by the court.

(4) Upon a motion and after a hearing, the court may alter the frequency of, or the information included in, an accounting report provided to a ward in accordance with Subsection 75-5-301.5(2)(t).

(5) (a) The court may impose a fine in an amount not to exceed $5,000, if, after receiving written notice of the failure to file and after a grace period of two months have elapsed, a conservator or corporate fiduciary:

(i) makes a substantial misstatement on filings of any required annual reports;

(ii) is guilty of gross impropriety in handling the property of the ward; or

(iii) willfully fails to file the report required by this section.

(b) The court may also order restitution of funds misappropriated from the estate of a ward.

(c) The penalty shall be paid by the conservator or corporate fiduciary and may not be paid by the estate.

(6) These provisions and penalties governing annual reports do not apply if the conservator is the parent of the ward.

Section 51. Section 75-5b-102 is amended to read:

75-5b-102. Definitions.

[~~In~~]As used in this chapter:

(1) "Adult" means an individual who has attained 18 years of age.

(2) "Conservator" means a person appointed by the court to administer the property of an adult, including a person appointed under Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors.

(3) "Emergency" means circumstances that likely will result in substantial harm to a respondent's health, safety, or welfare, and in which the appointment of a guardian is necessary because no other person has authority to and is willing to act on the respondent's behalf.

[~~(4) "Guardian" means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons.~~]

[~~(5)~~](4) "Guardianship order" means an order appointing a guardian.

[~~(6)~~](5) "Guardianship proceeding" means a proceeding in which an order for the appointment of a guardian is sought or has been issued.

[~~(7)~~](6) "Home state" means the state in which the respondent was physically present for at least six consecutive months immediately before the filing of a petition for the appointment of a guardian or protective order. A period of temporary absence counts as part of the six-month period.

[~~(8)~~](7) "Incapacitated person" means an adult for whom a guardian has been appointed.

[~~(9)~~](8) "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding.

[~~(10)~~](9) "Person," except in the terms "incapacitated person" or "protected person," means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government or governmental subdivision, agency or instrumentality, public corporation, or any other legal or commercial entity.

[~~(11)~~](10) "Protected person" means an adult for whom a protective order has been made.

[~~(12)~~](11) "Protective order" means an order appointing a conservator or another court order related to management of an adult's property.

[~~(13)~~](12) "Protective proceeding" means a judicial proceeding in which a protective order is sought or has been issued.

[~~(14)~~](13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[~~(15)~~](14) "Respondent" means an adult for whom a protective order or the appointment of a guardian is sought.

[~~(16)~~](15) "Significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

[~~(17)~~](16) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

Section 52. Section 75-6-201 is amended to read:

75-6-201. Provisions for payment or transfer at death.

(1) Any of the following provisions in an insurance policy, contract of employment, bond, mortgage, promissory note, deposit agreement, pension plan, trust agreement, conveyance, or any other written instrument effective as a contract, gift, conveyance, or trust are considered nontestamentary, and this [~~code~~]title does not invalidate the instrument or any provision:

(a) that money or other benefits previously due to, controlled, or owned by a decedent shall be paid after his death to a person designated by the decedent in either the instrument or a separate writing, including a will, executed at the same time as the instrument or subsequently;

(b) that any money due or to become due under the instrument shall cease to be payable in event of the death of the promisee or the promisor before payment or demand; or

(c) that any property which is the subject of the instrument shall pass to a person designated by the decedent in either the instrument or a separate writing, including a will, executed at the same time as the instrument or subsequently.

(2) Nothing in this section limits the rights of creditors under other laws of this state.

(3) (a) Any provision in a lease of a safety deposit repository to the effect that two or more persons shall have access to the repository, that purports to create a joint tenancy in the repository or in the contents of the repository, or that purports to vest ownership of the contents of the repository in the surviving lessee is ineffective to create joint ownership of the contents of the repository or to transfer ownership at death of one of the lessees to the survivor.

(b) Ownership of the contents of the repository and devolution of title to these contents is determined according to rules of law without regard to the lease provisions.

(c) The contents of the repository may be delivered on request to any person who has access to the repository by the terms of the lease agreement without liability on the part of the financial institution or other person where the repository is located.

(4) Any motor vehicle, trailer, semitrailer, or boat registration in the names of two or more individuals shall be deemed to be held in joint tenancy with right of survivorship unless otherwise indicated.

Section 53. Section 75A-1-101 is amended to read:

75A-1-101. Definitions for title.

[~~Reserved.~~]As used in this title:

(1) "Conservator" means the same as that term is defined in Section 75-1-201.

(2) "Descendant" means the same as that term is defined in Section 75-1-201.

(3) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(4) "Estate" means, except as provided in Section 75A-5-102, the same as that term is defined in Section 75-1-201.

(5) "Good faith" means honesty in fact in the conduct or transaction concerned and the observance of reasonable fiduciary standards.

(6) "Guardian" means the same as that term is defined in Section 75-1-201.

(7) "Person" means the same as that term is defined in Section 75-1-201.

(8) "Personal representative" means the same as that term is defined in Section 75-1-201.

(9) "Property" means the same as that term is defined in Section 75-1-201.

(10) "Record" means the same as that term is defined in Section 75-1-201.

(11) "Sign" means the same as that term is defined in Section 75-1-201.

(12) "State" means the same as that term is defined in Section 75-1-201.

(13) "Trust" means, except as provided in Section 75A-5-102, the same as that term is defined in Section 75B-1-101.

(14) "Will" means the same as that term is defined in Section 75-1-201.

Section 54. Section 75A-1-201 is amended to read:

75A-1-201. Definitions for part.

As used in this part:

(1) "Fiduciary" means:

(a) a trustee under any trust, expressed, implied, resulting or constructive;

(b) an executor;

(c) an administrator;

(d) a guardian;

(e) a conservator;

(f) a curator;

(g) a receiver;

(h) a trustee in bankruptcy;

(i) an assignee for the benefit of creditors;

(j) a partner;

(k) an agent;

(l) an officer of a corporation, public or private;

(m) a public officer; or

[~~(m)~~](n) any other person acting in a fiduciary capacity for any person, trust, or estate.

[~~(2) "Good faith" means something is in fact done honestly regardless of whether it is done negligently or not.~~]

[~~(3)~~](2) "Principal" means a person to whom a fiduciary owes an obligation.

Section 55. Section 75A-2-102 is amended to read:

75A-2-102. Definitions for chapter.

As used in this chapter:

(1) (a) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise.

(b) "Agent" includes an original agent, coagent, successor agent, and person to which an agent's authority is delegated.

(2) "Beneficiary" means the same as that term is defined in Section 75-1-201.

(3) "Beneficiary designation" means the same as that term is defined in Section 75-1-201.

(4) "Child" means the same as that term is defined in Section 75-1-201.

(5) "Claims" means the same as that term is defined in Section 75-1-201.

[~~(6) "Conservator" means the same as that term is defined in Section 75-1-201.~~]

[~~(7) "Descendant" means the same as that term is defined in Section 75-1-201.~~]

[~~(8)~~](6) "Durable," with respect to a power of attorney, means not terminated by the principal's incapacity.

[~~(9) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.~~]

[~~(10) "Estate" means the same as that term is defined in Section 75-1-201.~~]

[~~(11)~~](7) "Fiduciary" means the same as that term is defined in Section 75-1-201.

[~~(12) "Good faith" means honesty in fact.~~]

[~~(13) "Guardian" means the same as that term is defined in Section 75-1-201.~~]

[~~(14)~~](8) "Incapacity" means the inability of an individual to manage property or business affairs because the individual:

(a) has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or

(b) is:

(i) missing;

(ii) detained, including incarcerated in a penal system; or

(iii) outside the United States and unable to return.

[~~(15)~~](9) "Lease" means the same as that term is defined in Section 75-1-201.

[~~(16)~~](10) "Mortgage" means the same as that term is defined in Section 75-1-201.

[~~(17)~~](11) "Organization" means the same as that term is defined in Section 75-1-201.

[~~(18) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.~~]

[~~(19) "Personal representative" means the same as that term is defined in Section 75-1-201.~~]

[~~(20)~~](12) "Power of attorney" means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used.

[~~(21)~~](13) (a) "Presently exercisable general power of appointment," with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors, or the creditors of the principal's estate.

(b) "Presently exercisable general power of appointment" includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period.

(c) "Presently exercisable general power of appointment" does not include a power exercisable in a fiduciary capacity or only by will.

[~~(22)~~](14) "Principal" means an individual who grants authority to an agent in a power of attorney.

[~~(23) "Property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.~~]

[~~(24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~]

[~~(25)~~](15) "Security" means the same as that term is defined in Section 75-1-201.

[~~(26) "Sign" means, with present intent to authenticate or adopt a record:~~]

[~~(a) to execute or adopt a tangible symbol; or~~]

[~~(b) to attach to or logically associate with the record an electronic sound, symbol, or process.~~]

[~~(27) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.~~]

[~~(28)~~](16) (a) "Stocks and bonds" means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner.

(b) "Stocks and bonds" does not include commodity futures contracts and call or put options on stocks or stock indexes.

[~~(29) "Trust" means the same as that term is defined in Section 75-1-201.~~]

[~~(30)~~](17) "Trustee" means the same as that term is defined in Section [~~75-1-201~~]75B-1-101.

[~~(31) "Will" means the same as that term is defined in Section 75-1-201.~~]

Section 56. Section 75A-2-120 is amended to read:

75A-2-120. Liability for refusal to accept acknowledged power of attorney.

(1) As used in this section, "acknowledged" means the same as that term is defined in Section 75A-2-119.

(2) Except as otherwise provided in Subsection (3):

(a) a person shall either accept an acknowledged power of attorney or request a certification, a translation, or an opinion of counsel under Subsection 75A-2-119(4) no later than seven business days after presentation of the power of attorney for acceptance;

(b) if a person requests a certification, a translation, or an opinion of counsel under Subsection 75A-2-119(4), the person shall accept the power of attorney no later than five business days after receipt of the certification, translation, or opinion of counsel; and

(c) a person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.

(3) A person is not required to accept an acknowledged power of attorney if:

(a) the person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(b) engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal law;

(c) the person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power;

(d) a request for a certification, a translation, or an opinion of counsel under Subsection 75A-2-119(4) is refused;

(e) the person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation, or an opinion of counsel under Subsection 75A-2-119(4) has been requested or provided; or

(f) the person makes, or has actual knowledge that another person has made, a report to the Division of Aging and Adult Services stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

(4) A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to:

(a) a court order mandating acceptance of the power of attorney; and

(b) liability for reasonable attorney fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

(5) Court proceedings under this section shall be conducted [~~pursuant to the terms in the Uniform Probate Code~~]in accordance with the provisions of Title 75, Utah Uniform Probate Code, governing venue and procedures.

Section 57. Section 75A-3-101 is amended to read:

75A-3-101. Definitions for chapter.

As used in this chapter:

(1) "Adult" means an individual who is:

(a) at least 18 years old; or

(b) an emancipated minor.

(2) "Advance health care directive":

(a) includes:

(i) a designation of an agent to make health care decisions for an adult when the adult cannot make or communicate health care decisions; or

(ii) an expression of preferences about health care decisions;

(b) may take one of the following forms:

(i) a written document, voluntarily executed by an adult in accordance with the requirements of this chapter; or

(ii) a witnessed oral statement, made in accordance with the requirements of this chapter; and

(c) does not include an order for life sustaining treatment.

(3) "Agent" means an adult designated in an advance health care directive to make health care decisions for the declarant.

(4) "APRN" means an individual who is:

(a) certified or licensed as an advance practice registered nurse under Subsection 58-31b-301(2)(e);

(b) an independent practitioner; and

(c) acting within the scope of practice for that individual, as provided by law, rule, and specialized certification and training in that individual's area of practice.

(5) "Best interest" means that the benefits to the individual resulting from a treatment outweigh the burdens to the individual resulting from the treatment, taking into account:

(a) the effect of the treatment on the physical, emotional, and cognitive functions of the individual;

(b) the degree of physical pain or discomfort caused to the individual by the treatment or the withholding or withdrawal of treatment;

(c) the degree to which the individual's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the individual by subjecting the individual to humiliation and dependency;

(d) the effect of the treatment on the life expectancy of the individual;

(e) the prognosis of the individual for recovery with and without the treatment;

(f) the risks, side effects, and benefits of the treatment, or the withholding or withdrawal of treatment; and

(g) the religious beliefs and basic values of the individual receiving treatment, to the extent these may assist the decision maker in determining the best interest.

(6) "Capacity to appoint an agent" means that the adult understands the consequences of appointing a particular individual as agent.

[~~(7) "Child" means the same as that term is defined in Section 75-1-201.~~]

[~~(8)~~](7) "Declarant" means an adult who has completed and signed or directed the signing of an advance health care directive.

[~~(9)~~](8) "Default surrogate" means the adult who may make decisions for an individual when either:

(a) an agent or guardian has not been appointed; or

(b) an agent is not able, available, or willing to make decisions for an adult.

[~~(10)~~](9) "Emergency medical services provider" means a person that is licensed, designated, or certified under Title 53, Chapter 2d, Emergency Medical Services Act.

[~~(11) "Estate" means the same as that term is defined in Section 75-1-201.~~]

[~~(12)~~](10) "Generally accepted health care standards":

(a) is defined only for the purpose of:

(i) this chapter and does not define the standard of care for any other purpose under Utah law; and

(ii) enabling health care providers to interpret the statutory form set forth in Section 75A-3-303; and

(b) means the standard of care that justifies a provider in declining to provide life sustaining care because the proposed life sustaining care:

(i) will not prevent or reduce the deterioration in the health or functional status of an individual;

(ii) will not prevent the impending death of an individual; or

(iii) will impose more burden on the individual than any expected benefit to the individual.

[~~(13) "Guardian" means the same as that term is defined in Section 75-1-201.~~]

[~~(14)~~](11) "Health care" means any care, treatment, service, or procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.

[~~(15)~~](12) (a) "Health care decision" [~~:~~]

[~~(a)~~] means a decision about an adult's health care made by, or on behalf of, an adult, that is communicated to a health care provider[~~;~~].

(b) "Health care decision" includes:

(i) selection and discharge of a health care provider and a health care facility;

(ii) approval or disapproval of diagnostic tests, procedures, programs of medication, and orders not to resuscitate; and

(iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care[~~; and~~].

(c) "Health care decision" does not include decisions about an adult's financial affairs or social interactions other than as indirectly affected by the health care decision.

[~~(16)~~](13) "Health care decision making capacity" means an adult's ability to make an informed decision about receiving or refusing health care, including:

(a) the ability to understand the nature, extent, or probable consequences of health status and health care alternatives;

(b) the ability to make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting health care; and

(c) the ability to communicate a decision.

[~~(17)~~](14) "Health care facility" means:

(a) a health care facility as defined in Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(b) private offices of physicians, dentists, and other health care providers licensed to provide health care under Title 58, Occupations and Professions.

[~~(18)~~](15) "Health care provider" means the same as that term is defined in Section 78B-3-403, except that "health care provider" does not include an emergency medical services provider.

[~~(19)~~](16) "Incapacitated" means the same as that term is defined in Section 75-1-201.

[~~(20)~~](17) "Incapacity" means the same as that term is defined in Section 75-1-201.

[~~(21)~~](18) (a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.

(b) "Life sustaining care" does not include care provided for the purpose of keeping an individual comfortable.

[~~(22)~~](19) "Minor" means an individual who:

(a) is under 18 years old; and

(b) is not an emancipated minor.

[~~(23)~~](20) "Order for life sustaining treatment" means an order related to life sustaining treatment, on a form designated by the Department of Health and Human Services under Section [~~75-3-106~~]75A-3-106, that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the individual to whom the order relates.

[~~(24)~~](21) "Parent" means the same as that term is defined in Section 75-1-201.

[~~(25) "Personal representative" means the same as that term is defined in Section 75-1-201.~~]

[~~(26)~~](22) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(27)~~](23) "Physician assistant" means an individual licensed as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(28)~~](24) "Reasonably available" means:

(a) readily able to be contacted without undue effort; and

(b) willing and able to act in a timely manner considering the urgency of the circumstances.

[~~(29) "State" means the same as that term is defined in Section 75-1-201.~~]

[~~(30)~~](25) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the capacity to make health care decisions, which requires the surrogate to consider:

(a) specific preferences expressed by the adult:

(i) when the adult had the capacity to make health care decisions; and

(ii) at the time the decision is being made;

(b) the surrogate's understanding of the adult's health care preferences;

(c) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(d) to the extent that the preferences described in Subsections [~~(30)(a)~~](25)(a) through (c) are unknown, the best interest of the adult.

[~~(31)~~](26) "Surrogate" means a health care decision maker who is:

(a) an appointed agent;

(b) a default surrogate under the provisions of Section 75A-3-203; or

(c) a guardian.

[~~(32) "Trust" means the same as that term is defined in Section 75-1-201.~~]

[~~(33) "Will" means the same as that term is defined in Section 75-1-201.~~]

Section 58. Section 75A-4-102 is amended to read:

75A-4-102. Definitions for chapter.

As used in this chapter:

(1) "Appointee" means a person to which a powerholder makes an appointment of appointive property.

(2) "Appointive property" means the property or property interest subject to a power of appointment.

(3) (a) "Blanket-exercise clause" means a clause in an instrument that exercises a power of appointment and is not a specific-exercise clause.

(b) "Blanket-exercise clause" includes a clause that:

(i) expressly uses the words "any power" in exercising any power of appointment the powerholder has;

(ii) expressly uses the words "any property" in appointing any property over which the powerholder has a power of appointment; or

(iii) disposes of all property subject to disposition by the powerholder.

[~~(4) "Deseendant" means the same as that term is defined in Section 75-1-201.~~]

[~~(5)~~](4) "Donor" means a person that creates a power of appointment.

[~~(6) "Estate" means the same as that term is defined in Section 75-1-201.~~]

[~~(7)~~](5) "Exclusionary power of appointment" means a power of appointment exercisable in favor of any one or more of the permissible appointees to the exclusion of the other permissible appointees.

[~~(8)~~](6) "General power of appointment" means a power of appointment exercisable in favor of the powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

[~~(9)~~](7) "Gift-in-default clause" means a clause identifying a taker in default of appointment.

[~~(10)~~](8) "Impermissible appointee" means a person that is not a permissible appointee.

[~~(11)~~](9) "Instrument" means a record.

[~~(12)~~](10) (a) "Nongeneral power of appointment" means a power of appointment that is not a general power of appointment.

(b) "Nongeneral power of appointment" includes a special power of appointment, a limited power of appointment, or similar terminology that is used in an instrument creating a power that does not grant powers making it a general power of appointment.

[~~(13)~~](11) "Permissible appointee" means a person in whose favor a powerholder may exercise a power of appointment.

[~~(14) "Person" means an individual, estate, trust, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity.~~]

[~~(15)~~](12) "Powerholder" means a person in whom a donor creates a power of appointment.

[~~(16)~~](13) (a) "Power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an interest in, or another power of appointment over, the appointive property.

(b) "Power of appointment" does not include a power of attorney.

[~~(17)~~](14) (a) "Presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at a relevant time.

(b) "Presently exercisable power of appointment" includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified time only after:

(i) the occurrence of the specified event;

(ii) the satisfaction of the ascertainable standard; or

(iii) the passage of the specified time.

(c) "Presently exercisable power of appointment" does not include a power exercisable only at the powerholder's death.

[~~(18) "Property" means the same as that term is defined in Section 75-1-201.~~]

[~~(19) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~]

[~~(20)~~](15) "Specific-exercise clause" means a clause in an instrument that specifically refers to and exercises a particular power of appointment.

[~~(21)~~](16) "Taker in default of appointment" means a person that takes all or part of the appointive property to the extent the powerholder does not effectively exercise the power of appointment.

[~~(22)~~](17) "Terms of the instrument" means the manifestation of the intent of the maker of the instrument regarding the instrument's provisions as expressed in the instrument or as may be established by other evidence that would be admissible in a legal proceeding.

[~~(23) "Trust" means the same as that term is defined in Section 75-1-201.~~]

[~~(24) "Will" means the same as that term is defined in Section 75-1-201.~~]

Section 59. Section 75A-4-302 is amended to read:

75A-4-302. Intent to exercise -- Determining intent from residuary clause.

(1) As used in this section[~~:~~],

[~~(a) "Residuary~~] "residuary clause" does not include a residuary clause containing a blanket-exercise clause or a specific-exercise clause.

[~~(b) "Will" includes a codicil and a testamentary instrument that revises another will.~~]

(2) A residuary clause in a powerholder's will, or a comparable clause in the powerholder's revocable trust, manifests the powerholder's intent to exercise a power of appointment only if:

(a) the terms of the instrument containing the residuary clause do not manifest a contrary intent;

(b) the power is a general power exercisable in favor of the powerholder's estate;

(c) there is no gift-in-default clause or the clause is ineffective; and

(d) the powerholder did not release the power.

Section 60. Section 75A-5-102 is amended to read:

75A-5-102. Definitions for chapter.

As used in this chapter:

(1) (a) "Accounting period" means a calendar year, unless a fiduciary selects another period of 12 calendar months or approximately 12 calendar months.

(b) "Accounting period" includes a part of a calendar year or another period of 12 calendar months or approximately 12 calendar months that begins when an income interest begins or ends when an income interest ends.

(2) (a) "Asset-backed security" means a security that is serviced primarily by the cash flows of a discrete pool of fixed or revolving receivables or other financial assets that by the financial assets' terms convert into cash within a finite time.

(b) "Asset-backed security" includes rights or other assets that ensure the servicing or timely distribution of proceeds to the holder of the asset-backed security.

(c) "Asset-backed security" does not include an asset to which Section 75A-5-401, 75A-5-409, or 75A-5-414 applies.

(3) "Beneficiary" includes:

(a) for a trust:

(i) a current beneficiary, including a current income beneficiary and a beneficiary that may receive only principal;

(ii) a remainder beneficiary; and

(iii) any other successor beneficiary;

(b) for an estate, an heir and devisee; and

(c) for a life estate or term interest, a person that holds a life estate, term interest, or remainder, or other interest following a life estate or term interest.

(4) "Court" means a court in this state with jurisdiction over a trust or estate, or a life estate or other term interest described in Subsection 75A-5-103(2).

(5) "Current income beneficiary" means a beneficiary to which a fiduciary may distribute net income, even if the fiduciary also may distribute principal to the beneficiary.

(6) (a) "Distribution" means a payment or transfer by a fiduciary to a beneficiary in the beneficiary's capacity as a beneficiary, made under the terms of the trust, without consideration other than the beneficiary's right to receive the payment or transfer under the terms of the trust.

(b) "Distribute," "distributed," and "distributee" have corresponding meanings.

(7) (a) "Estate" means a decedent's estate.

(b) "Estate" includes the property of the decedent as the estate is originally constituted and the property of the estate as it exists at any time during administration.

(8) "Fiduciary" includes:

(a) a trustee, trust director as defined in Section [~~75-12-102~~]75B-3-102, personal representative, life tenant, holder of a term interest, and person acting under a delegation from a fiduciary;

(b) a person that holds property for a successor beneficiary whose interest may be affected by an allocation of receipts and expenditures between income and principal; and

(c) if there are two or more co-fiduciaries, all co-fiduciaries acting under the terms of the trust and applicable law.

(9) (a) "Income" means money or other property a fiduciary receives as current return from principal.

(b) "Income" includes a part of receipts from a sale, exchange, or liquidation of a principal asset to the extent provided in Part 4, Allocation of Receipts.

(10) (a) "Income interest" means the right of a current income beneficiary to receive all or part of net income, whether the terms of the trust require the net income to be distributed or authorize the net income to be distributed in the fiduciary's discretion.

(b) "Income interest" includes the right of a current beneficiary to use property held by a fiduciary.

(11) "Independent person" means a person that is not:

(a) for a trust:

(i) a qualified beneficiary as determined under Section [~~75-7-103~~]75B-2-103;

(ii) a settlor of the trust; or

(iii) an individual whose legal obligation to support a beneficiary may be satisfied by a distribution from the trust;

(b) for an estate, a beneficiary;

(c) a spouse, parent, brother, sister, or issue of an individual described in Subsection (11)(a) or (b);

(d) a corporation, partnership, limited liability company, or other entity in which persons described in Subsections (11)(a) through (c), in the aggregate, have voting control; or

(e) an employee of a person described in Subsection (11)(a), (b), (c), or (d).

(12) "Mandatory income interest" means the right of a current income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

(13) (a) "Net income" means:

(i) the total allocations during an accounting period to income under the terms of a trust and this chapter minus the disbursements during the accounting period, other than distributions, allocated to income under the terms of the trust and this chapter; and

(ii) to the extent the trust is a unitrust under Part 3, Unitrust, the unitrust amount determined under Part 3, Unitrust.

(b) "Net income" includes an adjustment from principal to income under Section 75A-5-203.

(c) "Net income" does not include an adjustment from income to principal under Section 75A-5-203.

[~~(14) "Person" means:~~]

[~~(a) an individual;~~]

[~~(b) an estate;~~]

[~~(c) a trust;~~]

[~~(d) a business or nonprofit entity;~~]

[~~(e) a public corporation, government or governmental subdivision, agency, or instrumentality; or~~]

[~~(f) any other legal entity.~~]

[~~(15) "Personal representative" means an executor, administrator, successor personal representative, special administrator, or person that performs substantially the same function with respect to an estate under the law governing the person's status.~~]

[~~(16)~~](14) "Principal" means property held in trust for distribution to, production of income for, or use by a current or successor beneficiary.

[~~(17) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~]

[~~(18)~~](15) "Settlor" means the same as that term is defined in Section [~~75-7-103~~]75B-1-101.

[~~(19)~~](16) "Special tax benefit" means:

(a) exclusion of a transfer to a trust from gifts described in Section 2503(b) of the Internal Revenue Code because of the qualification of an income interest in the trust as a present interest in property;

(b) status as a qualified subchapter S trust described in Section 1361(d)(3) of the Internal Revenue Code at a time the trust holds stock of an S corporation described in Section 1361(a)(1) of the Internal Revenue Code;

(c) an estate or gift tax marital deduction for a transfer to a trust under Section 2056 or 2523 of the Internal Revenue Code that depends or depended in whole or in part on the right of the settlor's spouse to receive the net income of the trust;

(d) exemption in whole or in part of a trust from the federal generation-skipping transfer tax imposed by Section 2601 of the Internal Revenue Code because the trust was irrevocable on September 25, 1985, if there is any possibility that:

(i) a taxable distribution, as defined in Section 2612(b) of the Internal Revenue Code, could be made from the trust; or

(ii) a taxable termination, as defined in Section 2612(a) of the Internal Revenue Code, could occur with respect to the trust; or

(e) an inclusion ratio, as defined in Section 2642(a) of the Internal Revenue Code, of the trust which is less than one, if there is any possibility that:

(i) a taxable distribution, as defined in Section 2612(b) of the Internal Revenue Code, could be made from the trust; or

(ii) a taxable termination, as defined in Section 2612(a) of the Internal Revenue Code, could occur with respect to the trust.

[~~(20)~~](17) "Successive interest" means the interest of a successor beneficiary.

[~~(21)~~](18) "Successor beneficiary" means a person entitled to receive income or principal or to use property when an income interest or other current interest ends.

[~~(22)~~](19) "Terms of a trust" means:

(a) except as otherwise provided in Subsection [~~(22)(b),~~](19)(b), the manifestation of the settlor's intent regarding a trust's provisions as:

(i) expressed in the trust instrument; or

(ii) established by other evidence that would be admissible in a judicial proceeding;

(b) the trust's provisions as established, determined, or amended by:

(i) a trustee or trust director in accordance with applicable law;

(ii) a court order; or

(iii) a nonjudicial settlement agreement under Section [~~75-7-110~~]75B-2-110;

(c) for an estate, a will; or

(d) for a life estate or term interest, the corresponding manifestation of the rights of the beneficiaries.

[~~(23)~~](20) (a) "Trust" includes:

(i) an express trust, private or charitable, with additions to the trust, wherever and however created; and

(ii) a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust.

(b) "Trust" does not include:

(i) a constructive trust;

(ii) a resulting trust, conservatorship, guardianship, multi-party account, custodial arrangement for a minor, business trust, voting trust, security arrangement, liquidation trust, or trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, retirement benefits, or employee benefits of any kind; or

(iii) an arrangement under which a person is a nominee, escrowee, or agent for another.

[~~(24)~~](21) (a) "Trustee" means a person, other than a personal representative, that owns or holds property for the benefit of a beneficiary.

(b) "Trustee" includes an original, additional, or successor trustee, whether appointed or confirmed by a court.

[~~(25) (a) "Will" means any testamentary instrument recognized by applicable law that makes a legally effective disposition of an individual's property effective at the individual's death.~~]

[~~(b) "Will" includes a codicil or other amendment to a testamentary instrument.~~]

Section 61. Section 75A-5-202 is amended to read:

75A-5-202. Judicial review of exercise of discretionary power -- Request for instruction.

(1) In this section, "fiduciary decision" means:

(a) a fiduciary's allocation between income and principal or other determination regarding income and principal required or authorized by the terms of the trust or this chapter;

(b) the fiduciary's exercise or nonexercise of a discretionary power regarding income and principal granted by the terms of the trust or this chapter, including the power to:

(i) adjust under Section 75A-5-203;

(ii) convert an income trust to a unitrust under Subsection 75A-5-303(1)(a);

(iii) change the percentage or method used to calculate a unitrust amount under Subsection 75A-5-303(1)(b); or

(iv) convert a unitrust to an income trust under Subsection 75A-5-303(1)(c); or

(c) the fiduciary's implementation of a decision described in Subsection (1)(a) or (b).

(2) The court may not order a fiduciary to change a fiduciary decision, unless the court determines that the fiduciary decision was an abuse of the fiduciary's discretion.

(3) (a) If the court determines that a fiduciary decision was an abuse of the fiduciary's discretion, the court may order a remedy authorized by law, including a remedy authorized in Section [~~75-7-1001~~]75B-2-1001.

(b) To place the beneficiaries in the positions that the beneficiaries would have occupied if there had not been an abuse of the fiduciary's discretion, the court may order:

(i) the fiduciary to exercise or refrain from exercising the power to adjust under Section 75A-5-203;

(ii) the fiduciary to exercise or refrain from exercising the power to:

(A) convert an income trust to a unitrust under Subsection 75A-5-303(1)(a);

(B) change the percentage or method used to calculate a unitrust amount under Subsection 75A-5-303(1)(b); or

(C) convert a unitrust to an income trust under Subsection 75A-5-303(1)(c);

(iii) the fiduciary to distribute an amount to a beneficiary;

(iv) a beneficiary to return some or all of a distribution; or

(v) the fiduciary to withhold an amount from one or more future distributions to a beneficiary.

(4) (a) On petition by a fiduciary for instruction, the court may determine whether a proposed fiduciary decision will result in an abuse of the fiduciary's discretion.

(b) A beneficiary that opposes the proposed decision has the burden to establish that the proposed decision will result in an abuse of the fiduciary's discretion if the petition:

(i) describes the proposed decision;

(ii) contains sufficient information to inform the beneficiary of the reasons for making the proposed decision and the facts on which the fiduciary relies; and

(iii) explains how the beneficiary will be affected by the proposed decision.

Section 62. Section 75A-5-203 is amended to read:

75A-5-203. Fiduciary's power to adjust.

(1) Except as otherwise provided in the terms of a trust or this section, a fiduciary, in a record, without court approval, may adjust between income and principal if the fiduciary determines the exercise of the power to adjust will assist the fiduciary to administer the trust or estate impartially.

(2) This section does not create a duty to exercise or consider the power to adjust under Subsection (1) or to inform a beneficiary about the applicability of this section.

(3) A fiduciary that in good faith exercises or fails to exercise the power to adjust under Subsection (1) is not liable to a person affected by the exercise or failure to exercise.

(4) In deciding whether and to what extent to exercise the power to adjust under Subsection (1), a fiduciary shall consider all factors the fiduciary considers relevant, including the relevant factors in Subsection 75A-5-201(5) and the application of Subsection 75A-5-401(9), Section 75A-5-408, and Section 75A-5-413.

(5) A fiduciary may not exercise the power to make an adjustment under Subsection (1) or the power to make a determination that an allocation is insubstantial under Section 75A-5-408 if:

(a) the adjustment or determination would reduce the amount payable to a current income beneficiary from a trust that qualifies for a special tax benefit, except to the extent the adjustment is made to provide for a reasonable apportionment of the total return of the trust between the current income beneficiary and successor beneficiaries;

(b) the adjustment or determination would change the amount payable to a beneficiary, as a fixed annuity or a fixed fraction of the value of the trust assets, under the terms of the trust;

(c) the adjustment or determination would reduce an amount that is permanently set aside for a charitable purpose under the terms of the trust, unless both income and principal are set aside for the charitable purpose;

(d) possessing or exercising the power would cause a person to be treated as the owner of all or part of the trust for federal income tax purposes;

(e) possessing or exercising the power would cause all or part of the value of the trust assets to be included in the gross estate of an individual for federal estate tax purposes;

(f) possessing or exercising the power would cause an individual to be treated as making a gift for federal gift tax purposes;

(g) the fiduciary is not an independent person;

(h) the trust is irrevocable and provides for income to be paid to the settlor and possessing or exercising the power would cause the adjusted principal or income to be considered an available resource or available income under a public-benefit program; or

(i) the trust is a unitrust under Part 3, Unitrust.

(6) If Subsection (5)(d), (e), (f), or (g) applies to a fiduciary:

(a) a co-fiduciary to which Subsections (5)(d) through (g) do not apply may exercise the power to adjust, unless the exercise of the power to adjust by the remaining co-fiduciary or co-fiduciaries is not permitted by the terms of the trust or law other than this chapter; or

(b) (i) if there is no co-fiduciary to which Subsections (5)(d) through (g) do not apply:

(A) except as otherwise provided in Subsection (6)(b)(ii)(A), the fiduciary may appoint a co-fiduciary to which Subsections (5)(d) through (g) do not apply;

(B) except as otherwise provided in Subsection (6)(b)(ii)(B), the appointed co-fiduciary may exercise the power to adjust under Subsection (1); and

(C) the appointed co-fiduciary may be a special fiduciary with limited powers.

(ii) (A) If the appointment of a co-fiduciary is not permitted by the terms of the trust or by a provision of law outside this chapter, a fiduciary may not appoint a co-fiduciary.

(B) If the exercise of the power to adjust by a co-fiduciary is not permitted by the terms of the trust or by a provision of law outside this chapter, the co-fiduciary may not exercise the power to adjust under Subsection (1).

(7) A fiduciary may release or delegate to a co-fiduciary the power to adjust under Subsection (1) if the fiduciary determines that the fiduciary's possession or exercise of the power to adjust will or may:

(a) cause a result described in Subsections (5)(a) through (f) or (h); or

(b) deprive the trust of a tax benefit or impose a tax burden not described in Subsections (5)(a) through (f).

(8) A fiduciary's release or delegation to a co-fiduciary under Subsection (7) of the power to adjust under Subsection (1):

(a) must be in a record;

(b) applies to the entire power to adjust, unless the release or delegation provides a limitation, which may be a limitation to the power to adjust:

(i) from income to principal;

(ii) from principal to income;

(iii) for specified property; or

(iv) in specified circumstances;

(c) for a delegation, may be modified by a redelegation under this subsection by the co-fiduciary to which the delegation is made; and

(d) subject to Subsection (8)(c), is permanent, unless the release or delegation provides a specified period, including a period measured by the life of an individual or the lives of more than one individual.

(9) Terms of a trust that deny or limit the power to adjust between income and principal do not affect the application of this section, unless the terms of the trust expressly deny or limit the power to adjust under Subsection (1).

(10) The exercise of the power to adjust under Subsection (1) in any accounting period may apply to the current accounting period, the immediately preceding accounting period, and one or more subsequent accounting periods.

(11) A description of the exercise of the power to adjust under Subsection (1) shall be:

(a) included in a report, if any, sent to beneficiaries under Subsection [~~75-7-811(3)~~]75B-2-811(3); or

(b) communicated at least annually to the qualified beneficiaries determined under Subsection [~~75-7-103(1)(h)~~]75B-2-103(8).

Section 63. Section 75A-5-303 is amended to read:

75A-5-303. Authority of fiduciary.

(1) A fiduciary, without court approval, by complying with Subsections (2) and (6), may:

(a) convert an income trust to a unitrust if the fiduciary adopts, in a record, a unitrust policy for the trust providing:

(i) that, in administering the trust, the net income of the trust will be a unitrust amount rather than net income determined without regard to this part; and

(ii) the percentage and method used to calculate the unitrust amount;

(b) change the percentage or method used to calculate a unitrust amount for a unitrust if the fiduciary adopts in a record a unitrust policy or an amendment or replacement of a unitrust policy providing changes in the percentage or method used to calculate the unitrust amount; or

(c) convert a unitrust to an income trust if the fiduciary adopts, in a record, a determination that, in administering the trust, the net income of the trust will be net income determined without regard to this part rather than a unitrust amount.

(2) A fiduciary may take an action under Subsection (1) if:

(a) the fiduciary determines that the action will assist the fiduciary to administer a trust impartially;

(b) the fiduciary sends a notice in a record, in the manner required by Section 75A-5-304, describing and proposing to take the action;

(c) the fiduciary sends a copy of the notice under Subsection (2)(b) to each settlor of the trust which is:

(i) if an individual, living; or

(ii) if not an individual, in existence;

(d) at least one member of each class of the qualified beneficiaries determined under Subsection [~~75-7-103(1)(h)~~]75B-2-103(8) receiving the notice under Subsection (2)(b) is:

(i) if an individual, legally competent;

(ii) if not an individual, in existence; or

(iii) represented in the manner provided in Subsection 75A-5-304(2); and

(e) the fiduciary does not receive, by the date specified in the notice under Subsection 75A-5-304(4)(e), an objection in a record to the action proposed under Subsection (2)(b) from a person to which the notice under Subsection (2)(b) is sent.

(3) (a) If a fiduciary receives, not later than the date stated in the notice under Subsection 75A-5-304(4)(e), an objection in a record described in Subsection 75A-5-304(4)(d) to a proposed action, the fiduciary or a beneficiary may request that the court:

(i) require the fiduciary to take the proposed action;

(ii) require the fiduciary to take the proposed action with modifications; or

(iii) prevent the proposed action.

(b) A person described in Subsection 75A-5-304(1) may oppose the proposed action in the proceeding under Subsection (3)(a),

regardless of whether the person:

(i) consented under Subsection 75A-5-304(3); or

(ii) objected under Subsection 75A-5-304(4)(d).

(4) If, after sending a notice under Subsection (2)(b), a fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify each person described in Subsection 75A-5-304(1) in a record of the decision not to take the action and the reasons for the decision.

(5) If a beneficiary requests in a record that a fiduciary take an action described in Subsection (1) and the fiduciary declines to act or does not act within 90 days after receiving the request, the beneficiary may request the court to direct the fiduciary to take the action requested.

(6) In deciding whether and how to take an action authorized by Subsection (1), or whether and how to respond to a request by a beneficiary under Subsection (5), a fiduciary shall consider all factors relevant to the trust and the beneficiaries, including the relevant factors in Subsection 75A-5-201(5).

(7) For a reason described in Subsection 75A-5-203(7), and in the manner described in Subsection 75A-5-203(8), a fiduciary may:

(a) release or delegate the power to convert an income trust to a unitrust under Subsection (1)(a);

(b) change the percentage or method used to calculate a unitrust amount under Subsection (1)(b); or

(c) convert a unitrust to an income trust under Subsection (1)(c).

Section 64. Section 75A-5-304 is amended to read:

75A-5-304. Notice.

(1) A fiduciary shall send a notice required by Subsection 75A-5-303(2)(b) in a manner authorized under Section [~~75-7-109~~]75B-2-109 to:

(a) the qualified beneficiaries determined under Subsection [~~75-7-103(1)(h)~~]75B-2-103(8);

(b) each person acting, in accordance with Title 75, Chapter 12, Uniform Directed Trust Act, as trust director of the trust; and

(c) each person that is granted a power by the terms of the trust to appoint or remove a trustee or person described in Subsection (1)(b), to the extent the power is exercisable when the person that exercises the power is not then serving as trustee or is a person described in Subsection (1)(b).

(2) The representation provisions of [~~Sections 75-7-301 through 75-7-305~~]Title 75B, Chapter 2, Part 3, Representation, apply to notice under this section.

(3) (a) A person may consent in a record at any time to action proposed under Subsection 75A-5-303(2)(b).

(b) If a person required to receive a notice under Subsection (1) consents under Subsection (3)(a) to not receive the notice, the fiduciary is not required to send the person the notice.

(4) A notice required by Subsection 75A-5-303(2)(b) shall include:

(a) the action proposed under Subsection 75A-5-303(2)(b);

(b) for a conversion of an income trust to a unitrust, a copy of the unitrust policy adopted under Subsection 75A-5-303(1)(a);

(c) for a change in the percentage or method used to calculate the unitrust amount, a copy of the unitrust policy or amendment or replacement of the unitrust policy adopted under Subsection 75A-5-303(1)(b);

(d) a statement that the person to which the notice is sent may object to the proposed action by stating in a record the basis for the objection and sending or delivering the record to the fiduciary;

(e) the date by which the fiduciary shall receive an objection under Subsection (4)(d), which shall be at least 30 days after the date the notice is sent;

(f) the date on which the action is proposed to be taken and the date on which the action is proposed to take effect;

(g) the name and contact information of the fiduciary; and

(h) the name and contact information of a person that may be contacted for additional information.

Section 65. Section 75A-6-102 is amended to read:

75A-6-102. Definitions for chapter.

As used in this chapter:

(1) "Account" means an arrangement under a terms of service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

[~~(2) "Agent" means an attorney in fact granted authority under a durable or nondurable power of attorney.~~]

(2) "Agent" means the same as that term is defined in Section 75A-2-102.

(3) "Carries" means engages in the transmission of an electronic communication.

(4) "Catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

[~~(5) (a) "Conservator" means a person appointed by a court to manage the estate of a living individual.~~]

[~~(b) "Conservator" includes a limited conservator.~~]

[~~(6)~~](5) "Content of an electronic communication" means information concerning the substance or meaning of the communication that:

(a) has been sent or received by a user;

(b) is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and

(c) is not readily accessible to the public.

[~~(7)~~](6) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

[~~(8)~~](7) "Custodian" means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

[~~(9)~~](8) "Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.

[~~(10)~~](9) (a) "Digital asset" means an electronic record in which an individual has a right or interest.

(b) "Digital asset" does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

[~~(11) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar~~

~~capabilities.~~]

[~~(12)~~](10) "Electronic communication" has the same meaning as the definition in 18 U.S.C. Sec. 2510(12).

[~~(13)~~](11) "Electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.

[~~(14) "Estate" means the same as that term is defined in Section 75-1-201.~~]

[~~(15)~~](12) "Fiduciary" means an original, additional, or successor personal representative, conservator, guardian, agent, or trustee.

[~~(16) (a) "Guardian" means a person appointed by a court to manage the affairs of a living individual.~~]

[~~(b) "Guardian" includes a limited guardian.~~]

[~~(17)~~](13) "Information" means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

[~~(18)~~](14) "Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms of service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

[~~(19) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity.~~]

[~~(20) "Personal representative" means an executor, administrator, special administrator as defined in Section 75-1-201, or person that performs substantially the same function under the law of this state other than this chapter.~~]

[~~(21) "Power of attorney" means a record that grants an agent authority to act in the place of a principal.~~]

[~~(22) "Principal" means an individual who grants authority to an agent in a power of attorney.~~]

(15) "Power of attorney" means the same as that term is defined in Section 75A-2-102.

(16) "Principal" means the same as that term is defined in Section 75A-2-102.

[~~(23)~~](17) (a) "Protected person" means an individual for whom a conservator or guardian has been appointed.

(b) "Protected person" includes an individual for whom an application for the appointment of a conservator or guardian is pending.

[~~(24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~]

[~~(25)~~](18) "Remote computing service" means a custodian that provides to a user computer processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. Sec. 2510(14).

[~~(26)~~](19) "Successor personal representative" means the same as that term is defined in Section 75-1-201.

[~~(27)~~](20) "Terms of service agreement" means an agreement that controls the relationship between a user and a custodian.

[~~(28) "Trust" means the same as that term is defined in Section 75-1-201.~~]

[~~(29)~~](21) (a) "Trustee" means a fiduciary with legal title to property pursuant to an agreement or declaration that creates a beneficial interest in another.

(b) "Trustee" includes a successor trustee.

[~~(30)~~](22) "User" means a person that has an account with a custodian.

[~~(31) "Will" includes a codicil, a testamentary instrument that only appoints an executor, and an instrument that revokes or revises a testamentary instrument.~~]

Section 66. Section 75A-6-112 is amended to read:

75A-6-112. Disclosure of contents of electronic communications held in trust when trustee not original user.

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the trust instrument or a certification of the trust under Section [~~75-7-1013~~]75B-2-1013 that includes consent to disclosure of the content of electronic communications to the trustee;

(3) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) if requested by the custodian:

(a) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(b) evidence linking the account to the trust.

Section 67. Section 75A-6-113 is amended to read:

75A-6-113. Disclosure of other digital assets held in trust when trustee not original user.

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the trust instrument or a certification of the trust under Section [~~75-7-1013~~]75B-2-1013;

(3) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) if requested by the custodian:

(a) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(b) evidence linking the account to the trust.

Section 68. Section 75A-7-102 is amended to read:

75A-7-102. Definitions for chapter.

As used in this chapter:

(1) "Assignment" includes any written stock power, bond power, bill of sale, deed, declaration of trust or other instrument of transfer.

(2) "Claim of beneficial interest" includes:

(a) a claim of any interest by a decedent's legatee, distributee, heir or creditor, a beneficiary under a trust, a ward, a beneficial owner of a security registered in the name of a nominee, or a minor owner of a security registered in the name of a custodian, or a claim of any similar interest, whether the claim is asserted by the claimant or by a fiduciary or by any other authorized person in his behalf; and

(b) a claim that the transfer would be in breach of fiduciary duties.

(3) "Corporation" means a private or public corporation, association or trust issuing a security.

(4) "Fiduciary" means an executor, administrator, trustee, guardian, committee, conservator, curator, tutor, custodian or nominee.

[~~(5) "Person" includes an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.~~]

[~~(6)~~](5) "Security" includes any share of stock, bond, debenture, note or other security issued by a corporation which is registered as to ownership on the books of the corporation.

[~~(7)~~](6) "Transfer" means a change on the books of a corporation in the registered ownership of a security.

[~~(8)~~](7) "Transfer agent" means a person employed or authorized by a corporation to transfer securities issued by the corporation.

Section 69. Section 75A-8-102 is amended to read:

CHAPTER 8. UNIFORM TRANSFERS TO MINORS ACT

75A-8-102. Definitions for chapter.

As used in this chapter:

(1) "Adult" means an individual who is 21 years old or older.

(2) "Beneficiary" means the same as that term is defined in Section 75-1-201.

(3) "Benefit plan" means an employer's plan for the benefit of an employee or partner.

(4) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the accounts of others.

[~~(5) "Conservator" means a person appointed or qualified by a court to act as general, limited, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.~~]

[~~(6)~~](5) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

[~~(7)~~](6) "Custodial property" means:

(a) any interest in property transferred to a custodian under this chapter; and

(b) the income from and proceeds of that interest in property.

[~~(8)~~](7) "Custodian" means a person so designated under Section 75A-8-110 or a successor or substitute custodian designated under Section 75A-8-119.

[~~(9) "Estate" means the same as that term is defined in Section 75-1-201.~~]

[~~(10)~~](8) "Fiduciary" means the same as that term is defined in Section 75-1-201.

[~~(11)~~](9) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

[~~(12) "Guardian" means the same as that term is defined in Section 75-1-201.~~]

[~~(13)~~](10) "Incapacitated" means the same as that term is defined in Section 75-1-201.

[~~(14)~~](11) "Incapacity" means the same as that term is defined in Section 75-1-201.

[~~(15)~~](12) "Interested person" means the same as that term is defined in Section 75-1-201.

[~~(16)~~](13) "Legal representative" means an individual's personal representative or conservator.

[~~(17)~~](14) "Member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

[~~(18)~~](15) "Minor" means an individual who is under 21 years old.

[~~(19)~~](16) "Parent" means the same as that term is defined in Section 75-1-201.

[~~(20)~~](17) "Payor" means the same as that term is defined in Section 75-1-201.

[~~(21) "Person" means an individual, corporation, organization as defined in Section 75-1-201, or other legal entity.~~]

[~~(22) "Personal representative" means an executor, administrator, successor personal representative as defined in Section 75-1-201, or special administrator as defined in Section 75-1-201, of a decedent's estate or a person legally authorized to perform substantially the same functions.~~]

[~~(23)~~](18) "Petition" means the same as that term is defined in Section 75-1-201.

[~~(24) "Property" means the same as that term is defined in Section 75-1-201.~~]

[~~(25) "Record" means the same as that term is defined in Section 75-1-201.~~]

[~~(26)~~](19) "Security" means the same as that term is defined in Section 75-1-201.

[~~(27) "State" includes any state of the United States, the district of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.~~]

[~~(28)~~](20) "Testator" means the same as that term is defined in Section 75-1-201.

[~~(29)~~](21) "Transfer" means a transaction that creates custodial property under Section [~~75A-8-109~~]75A-8-110.

[~~(30)~~](22) "Transferor" means a person who makes a transfer under this chapter.

[~~(31) "Trust" means the same as that term is defined in Section 75-1-201.~~]

[~~(32)~~](23) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

[~~(33)~~](24) "Trustee" means the same as that term is defined in Section 75-1-201.

[~~(34) "Will" means the same as that term is defined in Section 75-1-201.~~]

Section 70. Section 75B-1-101 is amended to read:
75B-1-101. Definitions for title.

[~~Reserved.~~]As used in this title:

(1) "Agent" means the same as that term is defined in Section 75-1-201.

(2) "Beneficiary" means a person that:

(a) has a present or future beneficial interest in a trust, vested or contingent; or

(b) in a capacity other than that of trustee, holds a power of appointment over trust property.

(3) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in Subsection 75B-2-405(1).

(4) "Child" means, except as provided in Sections 75B-2-503 and 75B-2-504, the same as that term is defined in Section 75-1-201.

(5) "Claims" means the same as that term is defined in Section 75-1-201.

(6) "Conservator" means the same as that term is defined in Section 75-1-201.

(7) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(8) "Descendant" means the same as that term is defined in Section 75-1-201.

(9) "Devise" means the same as that term is defined in Section 75-1-201.

(10) "Distributee" means the same as that term is defined in Section 75-1-201.

(11) "Estate" means the same as that term is defined in Section 75-1-201.

(12) "Fiduciary" means the same as that term is defined in Section 75-1-201.

(13) "Governing instrument" means the same as that term is defined in Section 75-1-201.

(14) "Guardian" means the same as that term is defined in Section 75-1-201.

(15) "Incapacitated" means the same as that term is defined in Section 75-1-201.

(16) "Income" means the same as that term is defined in Section 75A-5-102.

(17) "Interested person" means, except as provided in Section 75B-2-110, the same as that term is defined in Section 75-1-102.

(18) "Lease" means the same as that term is defined in Section 75-1-201.

(19) "Minor" means an individual who is younger than 18 years old.

(20) "Mortgage" means the same as that term is defined in Section 75-1-201.

(21) "Organization" means the same as that term is defined in Section 75-1-201.

(22) "Parent" means the same as that term is defined in Section 75-1-201.

(23) "Person" means the same as that term is defined in Section 75-1-201.

(24) "Personal representative" means the same as that term is defined in Section 75-1-201.

(25) "Petition" means the same as that term is defined in Section 75-1-201.

(26) "Power of appointment" means the same as that term is defined in Section 75A-4-102.

(27) "Principal" means the same as that term is defined in Section 75A-5-102.

(28) "Property" means the same as that term is defined in Section 75-1-201.

(29) "Protected person" means the same as that term is defined in Section 75-1-201.

(30) "Record" means the same as that term is defined in Section 75-1-201.

(31) "Security" means the same as that term is defined in Section 75-1-201.

(32) (a) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust.

(b) If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(33) "Sign" means the same as that term is defined in Section 75-1-201.

(34) "State" means the same as that term is defined in Section 75-1-201.

(35) "Successor" means a person, other than a creditor, that is entitled to property of a decedent under the decedent's will or Title 75, Utah Uniform Probate Code.

(36) "Testator" means the same as that term is defined in Section 75-1-201.

(37) (a) "Trust" means:

(i) a health savings account, as defined in Section 223 of the Internal Revenue Code;

(ii) an express trust, private or charitable, with additions thereto, wherever and however created; or

(iii) a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust.

(b) "Trust" does not include:

(i) a constructive trust;

(ii) a resulting trust;

(iii) a conservatorship;

(iv) a personal representative;

(v) a trust account as defined in Title 75, Chapter 6, Nonprobate Transfers;

(vi) a custodial arrangement under Title 75A, Chapter 8, Uniform Transfers To Minors Act;

(vii) a business trust providing for certificates to be issued to beneficiaries;

(viii) a common trust fund;

(ix) a voting trust;

(x) a preneed funeral plan under Title 58, Chapter 9, Funeral Services Licensing Act;

(xi) a security arrangement;

(xii) a liquidation trust;

(xiii) a trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind; or

(xiv) any arrangement under which a person is nominee or escrowee for another person.

(38) "Trustee" means an original, additional, and successor trustee, and cotrustee, whether or not appointed or confirmed by the court.

(39) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

(40) "Ward" means the same as that term is defined in Section 75-1-201.

(41) "Will" means the same as that term is defined in Section 75-1-201.

Section 71. Section 75B-1-201 is amended to read:

75B-1-201. Definitions for part.

As used in this part[~~:~~],

[~~(1) "Income" means the same as that term is defined in Section 75A-5-101.~~]

[~~(2) "Principal" means the same as that term is defined in Section 75A-5-101.~~]

[~~(3) "Retirement~~]" retirement trust" means a trust:

[~~(a)~~](1) created by an employer as part of a pension, stock bonus, disability, death benefit, profit sharing, retirement, or similar plan primarily for the benefit of an employee or the employee's family, appointee, or beneficiary;

[~~(b)~~](2) to which contributions are made by the employer or employee; and

[~~(c)~~](3) that is created for the purpose of distributing principal or income to the employee or the employee's family, appointee, or beneficiary.

Section 72. Section 75B-1-301 is amended to read:

75B-1-301. Definitions for part.

As used in this part:

(1) "Creditor" means:

(a) a creditor or other claimant of the settlor existing when the trust is created; or

(b) a person who subsequently becomes a creditor, including whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured:

(i) holding or seeking to enforce a judgment entered by a court or other body having adjudicative authority; or

(ii) with a right to payment.

(2) "Domestic support obligation" means:

(a) a child support judgment or order;

(b) a spousal support judgment or order; or

(c) an unsatisfied claim arising from a property division in a divorce proceeding.

(3) "Insolvent" means:

(a) having generally ceased to pay debts in the ordinary course of business other than as a result of a bona fide dispute;

(b) being unable to pay debts as they become due; or

(c) being insolvent within the meaning of federal bankruptcy law.

(4) "Paid and delivered" does not include the settlor's use or occupancy of real property or personal property owned by the trust if the use or occupancy is in accordance with the trustee's discretionary authority under the trust instrument.

(5) "Personal property" includes intangible and tangible personal property.

[~~(6) "Property" means real property, personal property, and interests in real or personal property.~~]

[~~(7) "Settlor" means a person who transfers property in trust.~~]

[~~(8)~~](6) "Transfer" means any form of transfer of property, including gratuitous transfers, whether by deed, conveyance, or assignment.

[~~(9) "Trust" means the same as that term is defined in Section 75-1-201.~~]

Section 73. Section 75B-1-302 is amended to read:

75B-1-302. Asset protection trust.

(1) If the settlor of an irrevocable trust is also a beneficiary of the trust, and if the requirements of Subsection (3) are satisfied, a creditor of the settlor may not:

(a) satisfy a claim or liability of the settlor in either law or equity out of the settlor's transfer to the trust or the settlor's beneficial interest in the trust;

(b) force or require the trustee to make a distribution to the settlor, as beneficiary; or

(c) require the trustee to pay any distribution directly to the creditor, or otherwise attach the distribution before it has been paid or delivered by the trustee to the settlor, as beneficiary.

(2) Notwithstanding Subsection (1), nothing in this section:

(a) prohibits a creditor from satisfying a claim or liability from the distribution once it has been paid or delivered by the trustee to the settlor, as beneficiary; or

(b) nullifies or impairs a security interest that was granted by a settlor or a trustee with respect to property that is transferred to the trust.

(3) (a) In order for Subsection (1) to apply, the conditions in this Subsection (3) shall be satisfied.

(b) Where this Subsection (3) requires that a provision be included in the trust instrument, no particular language need be used in the

trust instrument if the meaning of the trust provision otherwise complies with this Subsection (3).

(c) An agreement or understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention by the settlor of greater rights or authority than is stated in the trust instrument is void.

(d) The trust instrument shall provide that the trust is governed by Utah law and is established pursuant to this section.

(e) The trust instrument shall require that at all times at least one trustee shall be a Utah resident or Utah trust company, as the term "trust company" is defined in Section 7-5-1.

(f) (i) The trust instrument shall provide that neither the interest of the settlor, as beneficiary, nor the income or principal of the trust may be voluntarily or involuntarily transferred by the settlor, as beneficiary.

(ii) The provision shall be considered to be a restriction on the transfer of the settlor's beneficial interest in the trust that is enforceable under applicable nonbankruptcy law within the meaning of 11 U.S.C. Sec. 541(c)(2).

(g) The settlor may not have the ability under the trust instrument, without the consent of a person who has a substantial beneficial interest in the trust, which interest would be adversely affected by the exercise of the power held by the settlor:

(i) to revoke, amend, or terminate all or any part of the trust; or

(ii) to withdraw any property from the trust, except that the settlor, without the approval or consent of any person, may be given the power, under the trust agreement, to substitute assets of substantially equivalent value.

(h) The trust instrument may not provide for any mandatory distributions of either income or principal to the settlor, as beneficiary, except as provided in Subsection (5)(g).

(i) (i) The trust instrument shall require that, at least 30 days before paying and delivering any distribution to the settlor, as beneficiary, the trustee notify in writing every person who has a domestic support obligation against the settlor.

(ii) The trust instrument shall require that the notice state the date the distribution will be paid and delivered and the amount of the distribution.

(j) At the time that the settlor transfers any assets to the trust, the settlor may not be in default of making a payment due under a domestic support obligation.

(k) A transfer of assets to the trust may not render the settlor insolvent.

(l) At the time the settlor transfers any assets to the trust, the settlor may not intend to hinder, delay, or defraud a known creditor by transferring the assets to the trust. A settlor's expressed intention to protect trust assets from the settlor's potential future creditors is not evidence of an intent to hinder, delay, or defraud a known creditor.

(m) Assets transferred to the trust may not be derived from unlawful activities.

[~~(nn)~~](n) With respect to each transfer of assets to the trust, the settlor shall sign a sworn affidavit stating that at the time of the transfer of the assets to the trust:

(i) the settlor has full right, title, and authority to transfer the assets to the trust;

(ii) the transfer of the assets to the trust will not render the settlor insolvent;

(iii) the settlor does not intend to hinder, delay, or defraud a known creditor by transferring the assets to the trust;

(iv) there is no pending or threatened court action against the settlor, except for a court action identified by the settlor on an attachment to the affidavit;

(v) the settlor is not involved in an administrative proceeding that is reasonably expected to have a material adverse effect on the financial condition of the settlor, except an administrative proceeding identified on an attachment to the affidavit;

(vi) at the time of the transfer of the assets to the trust, the settlor is not in default of a domestic support obligation;

(vii) the settlor does not contemplate filing for relief under the provisions of United States Code, Title 11, Bankruptcy; and

(viii) the assets being transferred to the trust were not derived from unlawful activities.

(4) Failure to satisfy the requirements of Subsection (3) shall result in the consequences described in this Subsection (4).

(a) If any requirement of Subsections (3)(b) through (g) is not satisfied, none of the property held in the trust will at any time have the benefit of the protections described in Subsection (1).

(b) If the trustee does not send the notice required under Subsection [~~(3)(g),~~](3)(i) the court may authorize any person with a domestic support obligation against the settlor to whom notice was not sent to attach the distribution or future distributions, but the person may not:

(i) satisfy a claim or liability in either law or equity out of the settlor's transfer to the trust or the settlor's beneficial interest in the trust; or

(ii) force or require the trustee to make a distribution to the settlor, as beneficiary.

(c) If any requirement described in Subsections (3)(i) through (l) is not satisfied, the property transferred to the trust that does not satisfy the requirement may not have the benefit of the protections described in Subsection (1).

(d) If the requirement described in Subsection (3)(h) is not satisfied, the property transferred to the trust that does not satisfy the requirement does not have the benefit of the protections described in Subsection (1) with respect to any person with a domestic support obligation.

(e) A creditor of the settlor has the burden of proving that the requirement in Subsection (3)(i) or (j) is not satisfied by clear and convincing evidence.

(5) The provisions of Subsection (1) may apply to a trust even if:

(a) the settlor serves as a cotrustee or as an advisor to the trustee, except that the settlor may not determine whether a discretionary distribution will be made;

(b) the settlor participates in a determination regarding whether a discretionary distribution is made to the settlor by:

(i) requesting a distribution from the trust;

(ii) consulting with the trustees regarding whether a discretionary distribution will be made;

(iii) exercising a right to consent to or veto the distribution under a power described in Subsection (5)(e);

(iv) signing documentation in the settlor's capacity as a cotrustee that implements a distribution when the other trustees use discretionary power to independently authorize a distribution; or

(v) participating in an action authorizing a distribution if the other trustees can authorize the distribution without the settlor's participation.

(c) the settlor has the authority under the terms of the trust instrument to appoint a nonsubordinate advisor or a trust protector who can

remove and appoint trustees and who can direct, consent to, or disapprove distributions;

(d) the settlor has the power under the terms of the trust instrument to serve as an investment director or to appoint an investment director under Section 75-7-906;

(e) the trust instrument gives the settlor the power to consent to or veto a distribution from the trust;

(f) the trust instrument gives the settlor an inter vivos or a testamentary nongeneral power of appointment or similar power;

(g) the trust instrument gives the settlor the right to receive the following types of distributions:

(i) income, principal, or both in the discretion of a person, including a trustee, other than the settlor;

(ii) principal, subject to an ascertainable standard set forth in the trust;

(iii) income or principal from a charitable remainder annuity trust or charitable remainder unitrust, as defined in 26 U.S.C. Sec. 664;

(iv) a percentage of the value of the trust each year as determined under the trust instrument, but not exceeding the amount that may be defined as income under 26 U.S.C. Sec. 643(b);

(v) the transferor's potential or actual use of real property held under a qualified personal residence trust, or potential or actual possession of a qualified annuity interest, within the meaning of 26 U.S.C. Sec. 2702 and the accompanying regulations;

(vi) income or principal from a grantor retained annuity trust or grantor retained unitrust that is allowed under 26 U.S.C. Sec. 2702; and

(vii) income from a trust intended to qualify for the federal estate tax or gift tax marital deduction under 26 U.S.C. Sec. 2056(b)(7) or 2523(f);

(h) the trust instrument authorizes the settlor to use real or personal property owned by the trust; or

(i) with respect to the property held in the trust, the settlor may:

(i) give a personal guarantee on a debt or obligation secured by the property;

(ii) make payments, directly or indirectly, on a debt or obligation secured by the property;

(iii) pay property taxes, casualty and liability insurance premiums, homeowner association dues, maintenance expenses, or other similar expenses on the property; or

(iv) pay income tax on income attributable to the portion of property held in the trust, of which the settlor is considered to be the owner under 26 U.S.C. Secs. 671 through 678, which payments will not be considered additional transfers to the trust for purposes of this section.

(6) (a) If a trust instrument contains the provisions described in Subsections (3)(b) through (g), the transfer restrictions prevent a creditor or other person from asserting any cause of action or claim for relief against a trustee of the trust or against others involved in the counseling, drafting, preparation, execution, or funding of the trust for conspiracy to commit fraudulent conveyance or another voidable transfer, aiding and abetting a fraudulent conveyance or another voidable transfer, participation in the trust transaction, or similar cause of action or claim for relief.

(b) For purposes of this Subsection (6), counseling, drafting, preparation, execution, or funding of the trust includes the preparation and funding of a limited partnership, a limited liability company, or other entity if interests in the entity are subsequently transferred to the trust.

(c) The creditor and other person prevented from asserting a cause of action or claim for relief may assert a cause of action against, and are limited to recourse against, only:

(i) the trust and the trust assets; and

(ii) the settlor, to the extent otherwise allowed in this section.

(7) (a) A cause of action or claim for relief under Subsection (3)(i) or (j) is a cause of action or claim for relief under Section 25-6-202 or 25-6-203.

(b) Except as provided in Subsection (7)(a), a cause of action or claim for relief under this section is not a cause of action or claim for relief under Sections 25-6-101through 25-6-407.

(c) Notwithstanding Section 25-6-305, a cause of action or claim for relief regarding a fraudulent conveyance or other voidable transfer of a settlor's assets under this section is extinguished unless the action is brought by a creditor of the settlor who was a creditor of the settlor before the assets in question were transferred to the trust and the action is brought within the earlier of:

(i) the later of two years after the transfer is made, or one year after the transfer is or reasonably could have been discovered by the creditor if the creditor:

(A) can demonstrate, by clear and convincing evidence, that the creditor asserted a specific claim against the settlor before the transfer; or

(B) files another action, other than an action alleging a fraudulent conveyance or other voidable transfer against the settlor that asserts a claim based on an act or omission of the settlor that occurred before the transfer, and the action described in this Subsection (7)(c) is filed within two years after the transfer; or

(ii) (A) with respect to a creditor known to the settlor, 120 days after the date on which notice of the transfer is mailed to the creditor, which notice shall state the name and address of the settlor or the settlor's representative, the name and address of the trustee or the trustee's representative, and also describe the assets that were transferred, but does not need to state the value of those assets if the assets are other than cash, and which shall inform the creditor that the creditor is required to bring the creditor's cause of action or claim for relief against the settlor and the trustee within 120 days from the mailing of the notice or be forever barred; or

(B) with respect to a creditor not known to the settlor, 120 days after the date on which notice of the transfer is first published in a newspaper of general circulation in the county in which the settlor then resides, or is published on a public legal notice website as defined in Section 45-1-101, which notice shall state the name of the settlor or the settlor's representative, the address of the settlor or the settlor's representative, the name of the trustee or the trustee's representative, the address of the trustee or the trustee's representative, and also describe the assets that were transferred, but does not need to state the value of those assets.

(8) (a) The notice required in Subsection (7)(c)(ii)(B) shall be published in accordance with the provisions of Section 45-1-101 for three consecutive weeks and inform creditors that they are required to bring a cause of action or claim for relief within 120 days from the first publication of the notice or be forever barred.

(b) Failure to give the notice required in Subsection (7)(c)(ii) to a creditor does not prevent the shortening of the limitations period under Subsection (7)(c)(ii) with respect to another creditor who properly received notice by mail or publication.

(9) (a) A trust is subject to this section if it is governed by Utah law, as provided in Section [~~75-7-107~~]75B-2-107, and if it otherwise meets the requirements of this section.

(b) A court of this state has exclusive jurisdiction over an action or claim for relief that is based on a transfer of property to a trust that is the subject of this section.

(10) (a) With respect to a trust that is subject to this section, a claim brought by a creditor of a beneficiary who is not the settlor is subject to [~~Section 75-7-501 et. seq~~]Chapter 2, Part 5, Spendthrift and Discretionary Trusts.

(b) With respect to an irrevocable trust that is not subject to this section, a claim brought by a creditor of a beneficiary who is the settlor is subject to the provisions of Subsection [~~75-7-505(2)~~]75B-2-505(2).

(11) If a provision in this section conflicts with a provision in Sections 25-6-101 through 25-6-407, the provision of this section shall supersede the conflicting provision in Sections 25-6-101 through 25-6-407.

(12) Nothing in this section alters rights vested or created under this section before May 14, 2019.

Section 74. Section 75B-2-101 is enacted to read:

CHAPTER 2. UNIFORM TRUST CODE

PART 1. General Provisions

75B-2-101. Reserved.

Reserved.

Section 75. Section 75B-2-102, which is renumbered from Section 75-7-102 is renumbered and amended to read:
[~~75-7-102~~]75B-2-102. Scope.

This chapter applies to [~~trusts as defined in Section 75-1-201~~]a trust.

Section 76. Section 75B-2-103, which is renumbered from Section 75-7-103 is renumbered and amended to read:
[~~75-7-103~~]75B-2-103. Definitions for chapter.

[~~(1) In~~]As used in this chapter:

[~~(a)~~](1) "Action," with respect to an act of a trustee, includes a failure to act.

[~~(b) "Beneficiary" means a person that:~~]

[~~(i) has a present or future beneficial interest in a trust, vested or contingent; or~~]

[~~(ii) in a capacity other than that of trustee, holds a power of appointment over trust property.~~]

[~~(c)~~](2) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in Subsection [~~75-7-405(1)~~]75B-2-405(1).

[~~(d)~~](3) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

[~~(e)~~](4) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

[~~(f)~~](5) "Jurisdiction," with respect to a geographic area, includes a state or country.

[~~(g)~~](6) "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest.

(7) "Proceeding" means the same as that term is defined in Section 75-1-201.

[~~(h)~~](8) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

[~~(i)~~](a) is a current distributee or permissible distributee of trust income or principal; or

[~~(ii)~~](b) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

[~~(i)~~](9) "Resident estate" or "resident trust" means:

[~~(i)~~](a) an estate of a decedent who at death was domiciled in this state;

[~~(ii)~~](b) a trust, or a portion of a trust, consisting of property transferred by will of a decedent who at [~~his~~]the time of the decedent's death was domiciled in this state; or

[~~(iii)~~](c) a trust administered in this state.

[~~(j)~~](10) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

[~~(k) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.~~]

[~~(l)~~](11) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer or encumbrance of a beneficiary's interest.

[~~(m)~~](12) "Terms of a trust" means:

[~~(i)~~](a) except as otherwise provided in Subsection [~~(1)(m)(ii)~~](12)(b), the manifestation of the settlor's intent regarding a trust's provisions as:

[~~(A)~~](i) expressed in the trust instrument; or

[~~(B)~~](ii) established by other evidence that would be admissible in a judicial proceeding; or

[~~(ii)~~](b) the trust's provisions as established, determined, or amended by:

[~~(A)~~](i) a trustee or trust director in accordance with the applicable law;

[~~(B)~~](ii) court order; or

[~~(C)~~](iii) a nonjudicial settlement agreement under Section [~~75-7-110~~]75B-2-110.

[~~(n) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.~~]

[~~(2) Terms not specifically defined in this section have the meanings provided in Section 75-1-201.~~]

Section 77. Section 75B-2-104, which is renumbered from Section 75-7-104 is renumbered and amended to read:
[~~75-7-104~~]75B-2-104. Knowledge.

(1) Subject to Subsection (2), a person has knowledge of a fact if the person:

(a) has actual knowledge of [~~it~~]the fact;

(b) has received a notice or notification of [~~it~~]the fact; or

(c) from all the facts and circumstances known to the person at the time in question, has reason to know [~~it~~]the fact.

(2) (a) An organization that conducts activities through employees has notice or knowledge of a fact involving a trust only from the time the information was received by an employee having responsibility to act for the trust, or would have been brought to the employee's attention if the organization had exercised reasonable diligence.

(b) An organization exercises reasonable diligence if [~~it~~]the organization maintains reasonable routines for communicating significant information to the employee having responsibility to act for the trust and there is reasonable compliance with the routines.

(c) Reasonable diligence does not require an employee of the organization to communicate information unless the communication is part of the individual's regular duties or the individual knows a matter involving the trust would be materially affected by the information.

Section 78. Section 75B-2-105, which is renumbered from Section 75-7-105 is renumbered and amended to read:

[~~75-7-105~~]75B-2-105. Default and mandatory rules.

(1) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

(2) Except as specifically provided in this chapter, the terms of a trust prevail over any provision of this chapter except:

(a) the requirements for creating a trust;

(b) subject to Sections [~~75-12-109, 75-12-111, and 75-12-112~~]75B-3-109, 75B-3-111, and 75B-3-112, the duty of a trustee to act in good faith and in accordance with the purposes of the trust;

(c) the requirement that a trust and the terms of the trust be for the benefit of the trust's beneficiaries;

(d) the power of the court to modify or terminate a trust under Sections [~~75-7-410through 75-7-416~~]75B-2-410 through 75B-2-416;

(e) the effect of a spendthrift provision, [~~Section 75B-1-302~~]an asset protection trust described in Chapter 1, Part 3, Asset Protection Trust, and the rights of certain creditors and assignees to reach a trust as provided in Part 5, [~~Creditor's Claims -~~]Spendthrift and Discretionary Trusts;

(f) the power of the court under Section [~~75-7-702~~]75B-2-702 to require, dispense with, or modify or terminate a bond;

(g) the effect of an exculpatory term under Section [~~75-7-1008~~]75B-2-1008;

(h) the rights under Sections [~~75-7-1010 through 75-7-1013~~]75B-2-1010 through 75B-2-1013 of a person other than a trustee or beneficiary;

(i) periods of limitation for commencing a judicial proceeding; and

(j) the jurisdiction and venue requirements for an action involving a trust as described in Sections [~~75-7-203 and 75-7-205~~]75B-2-203 and 75B-2-205.

Section 79. Section 75B-2-106, which is renumbered from Section 75-7-106 is renumbered and amended to read:

[~~75-7-106~~]75B-2-106. Common law of trusts -- Principles of equity.

The common law of trusts and principles of equity supplement this chapter, except to the extent modified by this chapter or laws of this state.

Section 80. Section 75B-2-107, which is renumbered from Section 75-7-107 is renumbered and amended to read:

[~~75-7-107~~]75B-2-107. Governing law.

(1) As used in this section:

(a) "Foreign trust" means a trust that is created in another state or country and valid in the state or country in which the trust is created.

(b) "State law provision" means a provision that the laws of a named state govern the validity, construction, and administration of a trust.

(2) If a trust has a state law provision specifying this state, the validity, construction, and administration of the trust are to be governed by the laws of this state if any administration of the trust is done in this state.

(3) For all trusts created on or after December 31, 2003, if a trust does not have a state law provision, the validity, construction, and administration of the trust are to be governed by the laws of this state if the trust is administered in this state.

(4) A trust shall be considered to be administered in this state if:

(a) the trust states that this state is the place of administration, and any administration of the trust is done in this state; or

(b) the place of business where the fiduciary transacts a major portion of [~~its~~]the fiduciary's administration of the trust is in this state.

(5) If a foreign trust is administered in this state as provided in this section, the following provisions are effective and enforceable under the laws of this state:

(a) a provision in the trust that restricts the transfer of trust assets in a manner similar to Section 75B-1-302;

(b) a provision that allows the trust to be perpetual; or

(c) a provision that is not expressly prohibited by the law of this state.

(6) A foreign trust that moves [~~its~~]the foreign trust's administration to this state is valid whether or not the trust complied with the laws of this state at the time of the trust's creation or after the trust's creation.

(7) Unless otherwise designated in the trust instrument, a trust is administered in this state if [~~it~~]the trust meets the requirements of Subsection (4).

Section 81. Section 75B-2-108, which is renumbered from Section 75-7-108 is renumbered and amended to read:

[~~75-7-108~~]75B-2-108. Principal place of administration.

(1) Without precluding other means for establishing a sufficient connection with the designated jurisdiction, the terms of a trust designating the principal place of administration are valid and controlling if:

(a) a trustee's principal place of business is located in or a trustee is a resident of the designated jurisdiction; or

(b) all or part of the administration occurs in the designated jurisdiction.

(2) A trustee is under a continuing duty to administer the trust at a place appropriate to [~~its~~]the trust's purposes, [~~its~~]the trust's

administration, and the interests of the beneficiaries.

(3) Without precluding the right of the court to order, approve, or disapprove a transfer, the trustee, in furtherance of the duty prescribed by Subsection (2), may transfer the trust's principal place of administration to another state or to a jurisdiction outside of the United States.

(4) (a) The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's principal place of administration not less than 60 days before initiating the transfer.

(b) The notice of proposed transfer must include:

[~~(a)~~](i) the name of the jurisdiction to which the principal place of administration is to be transferred;

[~~(b)~~](ii) the address and telephone number at the new location at which the trustee can be contacted;

[~~(c)~~](iii) an explanation of the reasons for the proposed transfer;

[~~(d)~~](iv) the date on which the proposed transfer is anticipated to occur; and

[~~(e)~~](v) the date, not less than 60 days after the giving of the notice, by which the qualified beneficiary must notify the trustee of an objection to the proposed transfer.

(5) The authority of a trustee under this section to transfer a trust's principal place of administration terminates if a qualified beneficiary notifies the trustee of an objection to the proposed transfer on or before the date specified in the notice.

(6) In connection with a transfer of the trust's principal place of administration, the trustee may transfer some or all of the trust property to a successor trustee designated in the terms of the trust or appointed [~~pursuant to Section 75-7-704~~]in accordance with Section 75B-2-704.

Section 82. Section 75B-2-109, which is renumbered from Section 75-7-109 is renumbered and amended to read:

[~~75-7-109~~]75B-2-109. Methods and waiver of notice.

(1) (a) Notice to a person under this chapter or the sending of a document to a person under this chapter must be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document.

(b) Permissible methods of notice or for sending a document include first-class mail, personal delivery, delivery to the person's last known place of residence or place of business, or a properly directed electronic message.

(2) Notice under this chapter or the sending of a document under this chapter may be waived by the person to be notified or sent the document.

(3) Notice of a judicial proceeding must be given [~~as provided in the applicable rules of civil procedure~~]in accordance with the Utah Rules of Civil Procedure.

Section 83. Section 75B-2-110, which is renumbered from Section 75-7-110 is renumbered and amended to read:

[~~75-7-110~~]75B-2-110. Nonjudicial settlement agreements.

(1) [~~For purposes of~~]As used in this section, [~~"interested persons" means persons~~]"interested person" means a person whose consent would be required in order to achieve a binding settlement were the settlement to be approved by the court.

(2) Except as otherwise provided in Subsection (3), [~~interested persons~~]an interested person may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust.

(3) A nonjudicial settlement agreement is valid only to the extent [~~it~~]that the nonjudicial settlement agreement does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by the court under this chapter or other applicable law.

(4) Matters that may be resolved by a nonjudicial settlement agreement include:

(a) the interpretation or construction of the terms of the trust;

(b) the approval of a trustee's report or accounting;

(c) direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power;

(d) the resignation or appointment of a trustee and the determination of a trustee's compensation;

(e) transfer of a trust's principal place of administration; and

(f) liability of a trustee for an action relating to the trust.

(5) Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation as provided in Part 3, Representation, was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved.

Section 84. Section 75B-2-111, which is renumbered from Section 75-7-111 is renumbered and amended to read:

[~~75-7-111~~]75B-2-111. Rules of construction.

The rules of construction that apply to the interpretation of and disposition of property by will or other governing instrument [~~, as defined in Section 75-1-201,~~]also apply as appropriate to the interpretation of the terms of a trust and the disposition of the trust property.

Section 85. Section 75B-2-112, which is renumbered from Section 75-7-112 is renumbered and amended to read:

[~~75-7-112~~]75B-2-112. Penalty provisions.

A provision in a trust instrument purporting to penalize a beneficiary by charging the beneficiary's interest in the trust, or to penalize the beneficiary in another manner, for instituting a proceeding to challenge the acts of the trustee or other fiduciary of a trust, or for instituting other proceedings relating to the trust is unenforceable if probable cause exists for instituting the proceedings.

Section 86. Section 75B-2-113, which is renumbered from Section 75-7-1201 is renumbered and amended to read:

[~~75-7-1201~~]75B-2-113. Foreign trustees.

(1) A foreign corporate trustee is required to qualify as a foreign corporation doing business in this state if [~~it~~]the foreign corporate trustee maintains the principal place of administration of any trust within the state.

(2) A foreign corporate cotrustee is not required to qualify in this state solely because [~~its~~]the other foreign corporate cotrustee maintains the principal place of administration in this state.

(3) Unless otherwise doing business in this state, local qualification by a foreign corporate trustee is not required in order for the trustee to receive distribution from a local estate or to hold, invest in, manage, or acquire property located in this state, or maintain litigation if the state of the principal place of business of the foreign corporate trustee provides substantially similar provisions applicable to trustees from

this state.

(4) Local qualification by a foreign trustee other than a corporation is not required in order for the trustee to receive distribution from a local estate or to hold, invest in, manage, or acquire property located in this state or maintain litigation.

(5) Nothing in this section affects a determination of what other acts require qualification as doing business in this state.

Section 87. Section 75B-2-201, which is renumbered from Section 75-7-201 is renumbered and amended to read:

PART 2. Jurisdiction and Venue for Trusts

[~~75-7-201~~]75B-2-201. Court -- Exclusive jurisdiction of trusts.

(1) (a) The court has exclusive jurisdiction [~~of proceedings initiated by interested parties~~]over proceedings initiated by an interested party concerning the internal affairs of trusts.

(b) [~~Proceedings which may be maintained under this section are those concerning~~]An interested party may bring proceedings under Subsection (1)(a) concerning:

(i) the administration and distribution of trusts;

(ii) the declaration of rights; and

(iii) the determination of other matters involving trustees and beneficiaries of trusts.

(c) [~~These include, but are not limited to proceedings~~]A proceeding under Subsection (1) includes a proceeding to:

(i) appoint or remove a trustee;

(ii) review a trustee's fees;

(iii) review and settle interim or final accounts;

(iv) ascertain beneficiaries;

(v) determine any question arising in the administration or distribution of any trust, including questions of construction of trust instruments;

(vi) instruct trustees;

(vii) determine the existence or nonexistence of any immunity, power, privilege, duty, or right; [~~and~~]or

(viii) order transfer of administration of the trust to another state upon appropriate conditions as may be determined by the court or accept transfer of administration of a trust from another state to this state upon such conditions as may be imposed by the supervising court of the other state, unless the court in this state determines that these conditions are incompatible with its own rules and procedures.

(2) (a) A proceeding under this section does not result in continuing supervision by the court over the administration of the trust.

(b) The management and distribution of a trust estate, submission of accounts and reports to beneficiaries, payment of trustee's fees and other obligations of a trust, acceptance and change of trusteeship, and other aspects of the administration of a trust shall proceed expeditiously consistent with the terms of the trust, free of judicial intervention and without order, approval or other action of any court, subject to the jurisdiction of the court as invoked by interested parties or as otherwise exercised as provided by law.

Section 88. Section 75B-2-202, which is renumbered from Section 75-7-202 is renumbered and amended to read:

[~~75-7-202~~]75B-2-202. Effect of administration in this state -- Consent to jurisdiction.

(1) The trustee submits personally to the jurisdiction of the courts of this state regarding any matter involving the trust if the trustee acts as trustee of a trust administered in this state.

(2) (a) To the extent of the beneficial interests in a trust administered in this state, the beneficiaries of the trust are subject to the jurisdiction of the courts of this state regarding any matter involving the trust.

(b) By accepting a distribution from such a trust, the recipient submits personally to the jurisdiction of the courts of this state regarding any matter involving the trust.

(3) By accepting the delegation of a trust function from the trustee of a trust administered in this state, the agent submits to the jurisdiction of the courts of this state regarding any matter involving the trust.

(4) Unless otherwise designated in the trust instrument, a trust is administered in this state if it meets the requirements of Subsection [~~75-7-107(4)~~]75B-2-107(4).

Section 89. Section 75B-2-203, which is renumbered from Section 75-7-203 is renumbered and amended to read:

[~~75-7-203~~]75B-2-203. Jurisdiction over an action involving a trust.

(1) A court of this state has jurisdiction as described in Title 78A, Judiciary and Judicial Administration, over an action involving a trust.

(2) This section does not preclude judicial or nonjudicial alternative dispute resolution.

Section 90. Section 75B-2-204, which is renumbered from Section 75-7-204 is renumbered and amended to read:

[~~75-7-204~~]75B-2-204. Trust proceedings -- Dismissal of matters relating to foreign trusts.

(1) The court may not, over the objection of a party, entertain proceedings under Section [~~75-7-201~~]75B-2-201 involving a trust [~~which~~]that:

(a) is under the continuing supervision of a foreign court;

(b) is registered in another state; or

(c) has a fiduciary which transacts a major portion of its trust administration in another state.

(2) Notwithstanding Subsection (1), the court may entertain a proceeding regarding any matter involving a trust if:

(a) all appropriate parties could not be bound by litigation in the courts of the other state; or

(b) the interests of justice would be seriously impaired.

(3) The court may condition a stay or dismissal of a proceeding on the consent of any party to the jurisdiction of the courts of another state, or the court may grant a continuance or enter any other appropriate order.

Section 91. Section 75B-2-205, which is renumbered from Section 75-7-205 is renumbered and amended to read:

[~~75-7-205~~]75B-2-205. Venue for an action involving a trust.

(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and except as provided in Subsection (2), a person shall bring an action involving a trust [~~, if the action is brought in the district court,~~]in:

(a) the county in which the trust's principal place of administration is or will be located; or

(b) if the trust is created by a will and the estate is not yet closed, the county in which the decedent's estate is being administered.

(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and if a trust has no trustee, a person shall bring an action for the appointment of a trustee [~~, if the action is brought in the district court,~~]in:

(a) a county of this state in which a beneficiary resides;

(b) a county in which any trust property is located; or

(c) if the trust is created by a will, the county in which the decedent's estate was or is being administered.

(3) This section does not apply to an action brought in the Business and Chancery Court.

Section 92. Section 75B-2-301, which is renumbered from Section 75-7-301 is renumbered and amended to read:

PART 3. Representation

[~~75-7-301~~]75B-2-301. Basic effect.

(1) Notice to a person who may represent and bind another person under this part has the same effect as if notice were given directly to the other person.

(2) The consent of a person who may represent and bind another person under this part is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

(3) Except as otherwise provided in [~~Sections 75-7-411 and 75B-1-302~~]Section 75B-2-411 and Chapter 1, Part 3, Asset Protection Trust, a person who under this part may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

Section 93. Section 75B-2-302, which is renumbered from Section 75-7-302 is renumbered and amended to read:

[~~75-7-302~~]75B-2-302. Representation by holder of general testamentary power of appointment.

To the extent there is no conflict of interest between the holder of a general testamentary power of appointment and the persons represented with respect to the particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.

Section 94. Section 75B-2-303, which is renumbered from Section 75-7-303 is renumbered and amended to read:

[~~75-7-303~~]75B-2-303. Representation by fiduciaries and parents.

To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:

(1) a conservator may represent and bind the protected person whose estate the conservator controls;

(2) a guardian may represent and bind the ward if a conservator of the ward's estate has not been appointed;

(3) an agent having authority to act with respect to the particular question or dispute may represent and bind the principal;

(4) a trustee may represent and bind the beneficiaries of the trust;

(5) a personal representative of a decedent's estate may represent and bind persons interested in the estate; and

(6) a parent may represent and bind the parent's minor or unborn child if a conservator or guardian for the child has not been appointed.

Section 95. Section 75B-2-304, which is renumbered from Section 75-7-304 is renumbered and amended to read:

[~~75-7-304~~]75B-2-304. Representation by person having substantially identical interest.

Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the representative and the person represented.

Section 96. Section 75B-2-305, which is renumbered from Section 75-7-305 is renumbered and amended to read:

[~~75-7-305~~]75B-2-305. Appointment of guardian ad litem or other representative.

(1) (a) If the court determines that an interest is not represented under this part, or that the otherwise available representation might be inadequate, the court may appoint a guardian ad litem or other representative to receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor, incapacitated or protected person, or unborn individual, or a person whose identity or location is unknown.

(b) A guardian ad litem or other representative may be appointed to represent several persons or interests.

(2) A guardian ad litem or other representative may act on behalf of the individual represented with respect to any matter arising under this chapter, whether or not a judicial proceeding concerning the trust is pending.

(3) In making decisions, a guardian ad litem or other representative may consider general benefit accruing to the living members of the individual's family.

Section 97. Section 75B-2-401, which is renumbered from Section 75-7-401 is renumbered and amended to read:

PART 4. Creation, Validity, Modification, and Termination of a Trust

[~~75-7-401~~]75B-2-401. Methods of creating trust.

(1) A trust may be created by:

(a) transfer of property to another person as trustee during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death;

(b) declaration by the owner of property that the owner holds identifiable property as trustee; or

(c) exercise of a power of appointment in favor of a trustee.

(2) (a) A health savings account is established on the first day an individual is covered by a high deductible health plan, as defined in Section 223 of the Internal Revenue Code.

(b) The health savings account shall be opened with a trustee or custodian within the time prescribed by law, without extensions, for filing a federal income tax return for that year.

(c) A health savings account is established regardless of a transfer of cash or other property to the account and, unless required by the trustee or custodian, it is not necessary for any party to sign a health savings account trust or custodial agreement regarding the health savings account.

Section 98. Section 75B-2-402, which is renumbered from Section 75-7-402 is renumbered and amended to read:
[~~75-7-402~~]75B-2-402. Requirements for creation.

(1) A trust is created only if:

(a) the settlor has capacity to create a trust, which standard of capacity shall be the same as for a person to create a will;

(b) the settlor indicates an intention to create the trust or a statute, judgment, or decree authorizes the creation of a trust;

(c) the trust has a definite beneficiary or is:

(i) a charitable trust;

(ii) a trust for the care of an animal, as provided in Section 75-2-1001; or

(iii) a trust for a noncharitable purpose, as provided in Section 75-2-1001;

(d) the trustee has duties to perform; and

(e) the same person is not the sole trustee and sole beneficiary.

(2) A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.

(3) A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property had the power not been conferred.

Section 99. Section 75B-2-403, which is renumbered from Section 75-7-403 is renumbered and amended to read:
[~~75-7-403~~]75B-2-403. Trusts created in other jurisdictions.

A trust not created by will is validly created if its creation complies with the law of the jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which, at the time of creation:

(1) the settlor was domiciled, had a place of abode, or was a national;

(2) a trustee was domiciled or had a place of business; or

(3) any trust property was located.

Section 100. Section 75B-2-404, which is renumbered from Section 75-7-404 is renumbered and amended to read:
[~~75-7-404~~]75B-2-404. Trust purposes.

(1) A trust may be created only to the extent [~~its~~]the trust's purposes are lawful, not contrary to public policy, and possible to achieve.

(2) A trust and [~~its~~]the trust's terms must be for the benefit of [~~its~~]the trust's beneficiaries.

Section 101. Section 75B-2-405, which is renumbered from Section 75-7-405 is renumbered and amended to read:
[~~75-7-405~~]75B-2-405. Charitable purposes -- Enforcement.

(1) A charitable trust may be created for the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes, or other purposes the achievement of which is beneficial to the community.

(2) (a) If the terms of a charitable trust do not indicate a particular charitable purpose or beneficiary, the trustee, if authorized by the terms of the trust, or if not, the court may select one or more charitable purposes or beneficiaries.

(b) The selection must be consistent with the settlor's intention to the extent [~~it~~]intent can be ascertained.

(3) The settlor of a charitable trust, among others, may maintain a proceeding to enforce the trust.

Section 102. Section 75B-2-406, which is renumbered from Section 75-7-406 is renumbered and amended to read:
[~~75-7-406~~]75B-2-406. Creation of trust induced by fraud, duress, or undue influence.

A trust is void to the extent [~~its~~]the trust's creation was induced by fraud, duress, or undue influence.

Section 103. Section 75B-2-407, which is renumbered from Section 75-7-407 is renumbered and amended to read:
[~~75-7-407~~]75B-2-407. Evidence of oral trust.

Except as required by a statute other than this chapter, a trust need not be evidenced by a trust instrument, but the creation of an oral trust and [~~its~~]the trust's terms may be established only by clear and convincing evidence.

Section 104. Section 75B-2-408, which is renumbered from Section 75-7-408 is renumbered and amended to read:
[~~75-7-408~~]75B-2-408. Trust for care of animal.

A trust may be created to provide for the care of a pet or animal as provided in Section 75-2-1001.

Section 105. Section 75B-2-409, which is renumbered from Section 75-7-409 is renumbered and amended to read:
[~~75-7-409~~]75B-2-409. Noncharitable trust without ascertainable beneficiary.

A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee as provided in Section 75-2-1001.

Section 106. Section 75B-2-410, which is renumbered from Section 75-7-410 is renumbered and amended to read:
[~~75-7-410~~]75B-2-410. Modification or termination of trust -- Proceedings for approval or disapproval.

(1) In addition to the methods of termination prescribed by Sections [~~75-7-411 through 75-7-414~~]75B-2-411 through 78B-2-414, a trust terminates to the extent the trust is revoked or expires pursuant to [~~its~~]the trust's terms, no purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful, contrary to public policy, or impossible to achieve.

(2) (a) A proceeding to approve or disapprove a proposed modification or termination under Sections [~~75-7-411 through 75-7-416~~]75B-2-411 through 78B-2-416, or trust combination or division under Section [~~75-7-417~~]75B-2-417, may be commenced by a trustee

or qualified beneficiary, and a proceeding to approve or disapprove a proposed modification or termination under Section [~~75-7-411~~]75B-2-411 may be commenced by the settlor.

(b) The settlor of a charitable trust may maintain a proceeding to modify the trust under Section [~~75-7-413~~]75B-2-413.

Section 107. Section 75B-2-411, which is renumbered from Section 75-7-411 is renumbered and amended to read:

[~~75-7-411~~]75B-2-411. Modification or termination of noncharitable irrevocable trust by consent.

(1) (a) A noncharitable, irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust.

(b) A settlor's power to consent to a trust's termination may be exercised by an agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust, by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized, or by the settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed.

(2) (a) A noncharitable, irrevocable trust may be terminated upon consent of all of the beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust.

(b) A noncharitable, irrevocable trust may be modified upon consent of all of the beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(3) A spendthrift provision in the terms of the trust is not presumed to constitute a material purpose of the trust.

(4) Upon termination of a trust under Subsection (1) or (2), the trustee shall distribute the trust property as agreed by the beneficiaries.

(5) If not all of the beneficiaries consent to a proposed modification or termination of the trust under Subsection (1) or (2), the modification or termination may be approved by the court if the court is satisfied that:

(a) if all of the beneficiaries had consented, the trust could have been modified or terminated under this section; and

(b) the interests of a beneficiary who does not consent will be adequately protected.

Section 108. Section 75B-2-412, which is renumbered from Section 75-7-412 is renumbered and amended to read:

[~~75-7-412~~]75B-2-412. Modification or termination because of unanticipated circumstances or inability to administer trust effectively.

(1) (a) The court may modify the administrative or dispositive terms of a trust or terminate the trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust.

(b) To the extent practicable, the modification must be made in accordance with the settlor's probable intention.

(2) The court may modify the administrative terms of a trust if continuation of the trust on [~~its~~]the trust's existing terms would be impracticable or wasteful or impair the trust's administration.

(3) Upon termination of a trust under this section, the trustee shall distribute the trust property as directed by the court or otherwise in a manner consistent with the purposes of the trust.

Section 109. Section 75B-2-413, which is renumbered from Section 75-7-413 is renumbered and amended to read:

[~~75-7-413~~]75B-2-413. Cy pres.

(1) Except as otherwise provided in Subsection (2), if a particular charitable purpose becomes unlawful, impracticable, impossible to achieve, or wasteful:

(a) the trust does not fail, in whole or in part;

(b) the trust property does not revert to the settlor or the settlor's successors in interest; and

(c) the court may apply cy pres to modify or terminate the trust by directing that the trust property be applied or distributed, in whole or in part, in a manner consistent with the settlor's charitable purposes.

(2) A provision in the terms of a charitable trust that would result in distribution of the trust property to a noncharitable beneficiary prevails over the power of the court under Subsection (1) to apply cy pres to modify or terminate the trust only if, when the provision takes effect:

(a) the trust property is to revert to the settlor and the settlor is still living; or

(b) fewer than 21 years have elapsed since the date of the trust's creation.

Section 110. Section 75B-2-414, which is renumbered from Section 75-7-414 is renumbered and amended to read:

[~~75-7-414~~]75B-2-414. Modification or termination of uneconomic trust.

(1) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property having a total value less than $100,000 may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration.

(2) The court may modify or terminate a trust or remove the trustee and appoint a different trustee if it determines that the value of the trust property is insufficient to justify the cost of administration.

(3) Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

(4) This section does not apply to an easement for conservation or preservation.

Section 111. Section 75B-2-415, which is renumbered from Section 75-7-415 is renumbered and amended to read:

[~~75-7-415~~]75B-2-415. Reformation to correct mistakes.

The court may reform the terms of a trust, even if unambiguous, to conform the terms to the settlor's intention if it is proved by clear and convincing evidence that both the settlor's intent and the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement.

Section 112. Section 75B-2-416, which is renumbered from Section 75-7-416 is renumbered and amended to read:

[~~75-7-416~~]75B-2-416. Modification to achieve settlor's tax objectives.

(1) To achieve the settlor's tax objectives, the court may modify the terms of a trust in order to achieve the settlor's tax objectives.

(2) The court may provide that the modification has retroactive effect.

Section 113. Section 75B-2-417, which is renumbered from Section 75-7-417 is renumbered and amended to read:

[~~75-7-417~~]75B-2-417. Combination and division of trusts.

After notice to the qualified beneficiaries, a trustee may combine two or more trusts into a single trust or divide a trust into two or more separate trusts[~~,~~] if the result does not impair rights of any beneficiary or adversely affect achievement of the purposes of the trust.

Section 114. Section 75B-2-501, which is renumbered from Section 75-7-501 is renumbered and amended to read:

PART 5. Spendthrift and Discretionary Trusts

[~~75-7-501~~]75B-2-501. Rights of beneficiary's creditor or assignee.

(1) To the extent a beneficiary's interest is not protected by a spendthrift provision or Section 75B-1-302, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means.

(2) The court may limit the award to relief as is appropriate under the circumstances.

Section 115. Section 75B-2-502, which is renumbered from Section 75-7-502 is renumbered and amended to read:

[~~75-7-502~~]75B-2-502. Spendthrift provisions for beneficiaries other than the settlor.

(1) A spendthrift provision for a beneficiary other than the settlor is valid only if [~~it~~]the spendthrift provision restrains both voluntary and involuntary transfer of a beneficiary's interest, even if the beneficiary is the trustee or cotrustee of the trust.

(2) A term of a trust providing that the interest of a beneficiary other than the settlor is held subject to a "spendthrift trust," or words of similar import, is sufficient to restrain both voluntary and involuntary transfer of the beneficiary's interest.

(3) A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift provision and, except as otherwise provided in this part, a creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary.

Section 116. Section 75B-2-503, which is renumbered from Section 75-7-503 is renumbered and amended to read:

[~~75-7-503~~]75B-2-503. Exceptions to spendthrift provision.

(1) As used in this section:

(a) "Child" includes any person for whom an order or judgment for child support has been entered in this or another state.

(b) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(c) [~~"Civil restitution of judgment"~~]"Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(d) "Restitution" means the same as that term is defined in Section 77-38b-102.

(e) "Victim" means the same as that term is defined in Section 77-38b-102.

(2) Even if a trust contains a spendthrift provision, the following persons may obtain an order from a court that attaches present or future distributions to the beneficiary:

(a) a beneficiary's child who has a judgment or court order against the beneficiary for support or maintenance;

(b) a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust;

(c) a victim who has a judgment requiring the beneficiary to pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act, or similar provision in another state; or

(d) the Office of State Debt Collection, created in Section 63A-3-502, for collecting payment on a civil accounts receivable or a civil judgment of restitution.

(3) A spendthrift provision is unenforceable against a claim of this state or the United States to the extent a statute of this state or federal law so provides.

Section 117. Section 75B-2-504, which is renumbered from Section 75-7-504 is renumbered and amended to read:

[~~75-7-504~~]75B-2-504. Discretionary trusts -- Effect of standard.

(1) [~~In~~]As used in this section, "child" includes any person for whom an order or judgment for child support has been entered in this or another state.

(2) Except as otherwise provided in Subsection (3), whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if:

(a) the discretion is expressed in the form of a standard of distribution; or

(b) the trustee has abused the discretion.

(3) To the extent a trustee has not complied with a standard of distribution or has abused a discretion:

(a) a distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of the beneficiary's child, spouse, or former spouse; and

(b) the court shall direct the trustee to pay to the child, spouse, or former spouse such amount as is equitable under the circumstances but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.

(4) This section does not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

Section 118. Section 75B-2-505, which is renumbered from Section 75-7-505 is renumbered and amended to read:

[~~75-7-505~~]75B-2-505. Creditor's claim against settlor.

Regardless of whether the terms of a trust contain a spendthrift provision, the following rules apply:

(1) (a) During the lifetime of the settlor, the property of a revocable trust is subject to the claims of the settlor's creditors.

(b) If a revocable trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(2) (a) With respect to an irrevocable trust other than an irrevocable trust that meets the requirements of [~~Section 75B-1-302~~]Chapter 1, Part 3, Asset Protection Trust, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit.

(b) With respect to an irrevocable trust that has more than one settlor, other than an irrevocable trust that meets the requirements of [~~Section 75B-1-302~~]Chapter 1, Part 3, Asset Protection Trust, the amount a creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(c) Notwithstanding Subsections (2)(a) and (b), a creditor of a settlor may not satisfy the creditor's claim from an irrevocable trust solely because the trustee may make a discretionary distribution reimbursing the settlor for income tax liability of the settlor attributable to the income of the irrevocable trust, when the distribution is:

(i) subject to the discretion of a trustee who is not the settlor;

(ii) subject to the consent of an advisor who is not the settlor; or

(iii) at the direction of an advisor who is not the settlor.

(3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable at the settlor's death, but not property received by the trust as a result of the death of the settlor which is otherwise exempt from the claims of the settlor's creditors, is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, expenses, and allowances.

Section 119. Section 75B-2-506, which is renumbered from Section 75-7-506 is renumbered and amended to read:

[~~75-7-506~~]75B-2-506. Overdue distribution.

Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the required distribution date.

Section 120. Section 75B-2-507, which is renumbered from Section 75-7-507 is renumbered and amended to read:

[~~75-7-507~~]75B-2-507. Personal obligations of trustee.

Trust property is not subject to personal obligations of the trustee, even if the trustee becomes insolvent or bankrupt.

Section 121. Section 75B-2-508, which is renumbered from Section 75-7-508 is renumbered and amended to read:

[~~75-7-508~~]75B-2-508. Notice to creditors.

(1) (a) A trustee for an inter vivos revocable trust, upon the death of the settlor, may publish a notice to creditors:

(i) once a week for three successive weeks in a newspaper of general circulation in the county where the settlor resided at the time of death; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (1)(a) shall:

(i) provide the trustee's name and address; and

(ii) notify creditors:

(A) of the deceased settlor; and

(B) to present their claims within three months after the date of the first publication of the notice or be forever barred from presenting the claim.

(2) (a) A trustee shall give written notice by mail or other delivery to any known creditor of the deceased settlor, notifying the creditor to present the creditor's claim within 90 days from the published notice if given as provided in Subsection (1) or within 60 days from the mailing or other delivery of the notice, whichever is later, or be forever barred.

(b) Written notice shall be the notice described in Subsection (1) or a similar notice.

(3) (a) If the deceased settlor received medical assistance, as defined in Section 26B-3-1001, at any time after the age of 55, the trustee for an inter vivos revocable trust, upon the death of the settlor, shall mail or deliver written notice to the Director of the Office of Recovery Services, on behalf of the Department of Health and Human Services, to present any claim under Section 26B-3-1013 within 60 days from the mailing or other delivery of notice, whichever is later, or be forever barred.

(b) If the trustee does not mail notice to the director of the Office of Recovery Services on behalf of the [~~department~~]Department of Health and Human Services in accordance with Subsection (3)(a), the [~~department~~]Department of Health and Human Services shall have one year from the death of the settlor to present [~~its~~]the Department of Health and Human Services' claim.

(4) The trustee is not liable to any creditor or to any successor of the deceased settlor for giving or failing to give notice under this section.

(5) The notice to creditors shall be valid against any creditor of the trust and also against any creditor of the estate of the deceased settlor.

Section 122. Section 75B-2-509, which is renumbered from Section 75-7-509 is renumbered and amended to read:

[~~75-7-509~~]75B-2-509. Limitations on presentation of claims.

(1) All claims against a deceased settlor which arose before the death of the deceased settlor, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the deceased settlor's estate, the trustee, the trust estate, and the beneficiaries of the deceased settlor's trust, unless presented within the earlier of the following:

(a) one year after the settlor's death; or

(b) the time provided by Subsection [~~75-7-508(2)~~]75B-2-508(2) or (3) for creditors who are given actual notice, and where notice is published, within the time provided in Subsection [~~75-7-508(1)~~]75B-2-508(1) for all claims barred by publication.

(2) In all events, claims barred by the nonclaim statute at the deceased settlor's domicile are also barred in this state.

(3) All claims against a deceased settlor's estate or trust estate which arise at or after the death of the settlor, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis are barred against the deceased settlor's estate, the trustee, the trust estate, and the beneficiaries of the deceased settlor, unless presented as follows:

(a) a claim based on a contract with the trustee within three months after performance by the trustee is due; or

(b) any other claim within the later of three months after [~~it~~]the claim arises, or the time specified in Subsection (1).

(4) Nothing in this section affects or prevents:

(a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the deceased settlor's estate or the trust estate;

(b) to the limits of the insurance protection only, any proceeding to establish liability of the deceased settlor or the trustee for which [~~he~~]the deceased settlor or trustee is protected by liability insurance;

(c) collection of compensation for services rendered and reimbursement for expenses advanced by the trustee or by the attorney or accountant for the trustee of the trust estate; or

(d) the right to recover medical assistance provided to the settlor under Title 26B, Chapter 3, Part 10, Medical Benefits Recovery.

Section 123. Section 75B-2-510, which is renumbered from Section 75-7-510 is renumbered and amended to read:

[~~75-7-510~~]75B-2-510. Manner of presentation of claims.

(1) Claims against a deceased settlor's estate or inter vivos revocable trust shall be presented as follows:

(a) (i) The claimant may deliver or mail to the trustee, or the trustee's attorney of record, a written statement of the claim indicating its basis, the name and address of the claimant, and the amount claimed.

(ii) The claim is considered presented upon the receipt of the written statement of claim by the trustee or the trustee's attorney of record.

(iii) If a claim is not yet due, the date when [~~it~~]the claim will become due shall be stated.

(iv) If the claim is contingent or unliquidated, the nature of the uncertainty shall be stated.

(v) If the claim is secured, the security shall be described.

(vi) Failure to describe correctly the security, the nature of any uncertainty, and the due date of a claim not yet due does not invalidate the presentation made.

(b) (i) The claimant may commence a proceeding against the trustee in any court where the trustee may be subjected to jurisdiction to obtain payment of the claim against the deceased settlor's estate or the trust estate, but the commencement of the proceeding must occur within the time limited for presenting the claim.

(ii) No presentation of claim is required in regard to matters claimed in proceedings against the deceased settlor which were pending at the time of the deceased settlor's death.

(2) (a) If a claim is presented under Subsection (1)(a), [~~no proceeding thereon may~~]a proceeding may not be commenced more than 60 days after the trustee has mailed a notice of disallowance[~~, but,~~].

(b) Notwithstanding Subsection (2)(a), in the case of a claim which is not presently due or which is contingent or unliquidated, the trustee may consent to an extension of the 60-day period, or to avoid injustice, the court, on petition, may order an extension of the 60-day period, [~~but in no event may~~]except that the extension may not run beyond the applicable statute of limitations.

Section 124. Section 75B-2-511, which is renumbered from Section 75-7-511 is renumbered and amended to read:

[~~75-7-511~~]75B-2-511. Classification of claims.

(1) If the applicable assets of the deceased settlor's estate or trust estate are insufficient to pay all claims in full, the trustee shall make payment in the following order:

(a) reasonable funeral expenses;

(b) costs and expenses of administration;

(c) debts and taxes with preference under federal law;

(d) reasonable and necessary medical and hospital expenses of the last illness of the deceased settlor, including compensation of persons attending the deceased settlor, and medical assistance if Section 26B-3-1013 applies;

(e) debts and taxes with preference under other laws of this state; and

(f) all other claims.

(2) No preference shall be given in the payment of any claim over any other claim of the same class[~~, and a~~].

(3) A claim due and payable shall not be entitled to a preference over claims not due.

Section 125. Section 75B-2-512, which is renumbered from Section 75-7-512 is renumbered and amended to read:

[~~75-7-512~~]75B-2-512. Allowance of claims.

(1) (a) As to claims presented in the manner described in Section [~~75-7-510~~]75B-2-510 and within the time limit prescribed in Section [~~75-7-509~~]75B-2-509, the trustee may mail a notice to any claimant stating that the claim has been allowed or disallowed.

(b) If, after allowing or disallowing a claim, the trustee changes the decision concerning the claim, the trustee shall notify the claimant.

(c) The trustee may not change a disallowance of a claim after the time for the claimant to file a petition for allowance or to commence a proceeding on the claim has expired and the claim has been barred.

(d) If the notice of disallowance warns the claimant of the impending bar, a claim which is disallowed in whole or in part by the trustee is barred so far as not allowed, unless the claimant seeks a court-ordered allowance by filing a petition for allowance in the court or by commencing a proceeding against the trustee not later than 60 days after the mailing of the notice of disallowance or partial allowance.

(e) If the trustee fails to mail notice to a claimant of action on the claim within 60 days after the time for original presentation of the claim has expired, this failure has the effect of a notice of allowance.

(2) (a) Upon the petition of the trustee or a claimant in a proceeding for this purpose, the court may order any claim presented to the trustee or trustee's attorney in a timely manner and not barred by Subsection (1) to be allowed in whole or in part.

(b) Notice of this proceeding shall be given to the claimant, the trustee, and those other persons interested in the trust estate as the court may direct by order at the time the proceeding is commenced.

(3) A judgment in a proceeding in another court against the trustee to enforce a claim against a deceased settlor's estate is a court-ordered allowance of the claim.

(4) Unless otherwise provided in any judgment in another court entered against a trustee, allowed claims bear interest at the legal rate for the period commencing six months after the deceased settlor's date of death unless based on a contract making a provision for interest, in which case they bear interest in accordance with that provision.

Section 126. Section 75B-2-513, which is renumbered from Section 75-7-513 is renumbered and amended to read:

[~~75-7-513~~]75B-2-513. Payment of claims.

(1) (a) Upon the expiration of the earliest of the time limitations provided in Section [~~75-7-509~~]75B-2-509 for the presentation of claims, the trustee shall pay the claims allowed against the deceased settlor's estate in the order of priority prescribed, after making

provision for claims already presented which have not yet been allowed or whose allowance has been appealed, and for unbarred claims which may yet be presented, including costs and expenses of administration.

(b) By petition to the court in a proceeding for that purpose, a claimant whose claim has been allowed but not paid as provided in this section may secure an order directing the trustee to pay the claim to the extent that funds of the deceased settlor's estate or trust estate are available for the payment.

(2) The trustee at any time may pay any just claim that has not been barred, with or without formal presentation, but the trustee shall be personally liable to any other claimant whose claim is allowed and who is injured by the payment if:

(a) the payment was made before the expiration of the time limit stated in Subsection (1) and the trustee failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or

(b) the payment was made, due to the negligence or willful fault of the trustee, in a way that deprived the injured claimant of his priority.

Section 127. Section 75B-2-514, which is renumbered from Section 75-7-514 is renumbered and amended to read:

[~~75-7-514~~]75B-2-514. Secured claims.

Payment of a secured claim shall be upon the basis of the amount allowed if the creditor surrenders [~~his~~]the creditor's security[~~:~~]. but otherwise payment shall be based upon one of the following:

(1) if the creditor exhausts [~~his~~]the creditor's security before receiving payment, unless precluded by another provision of the law, upon the amount of the claim allowed less the fair value of the security; or

(2) if the creditor does not have the right to exhaust [~~his~~]the creditor's security or has not done so, upon the amount of the claim allowed less the value of the security determined by converting [~~it~~]the security into money according to the terms of the agreement pursuant to which the security was delivered to the creditor, or by the creditor and trustee by agreement, arbitration, compromise, or litigation.

Section 128. Section 75B-2-515, which is renumbered from Section 75-7-515 is renumbered and amended to read:

[~~75-7-515~~]75B-2-515. Claims not due and contingent or unliquidated claims.

(1) If a claim which will become due at a future time or a contingent or unliquidated claim becomes due or certain before the distribution of the trust estate, and if the claim has been allowed or established by a proceeding, [~~it~~]the claim shall be paid in the same manner as presently due and absolute claims of the same class.

(2) In other cases the trustee, or, on petition of the trustee or the claimant in a special proceeding for that purpose, the court, may provide for payment as follows:

(a) if the claimant consents, [~~he~~]the claimant may be paid the present or agreed value of the claim, taking any uncertainty into account; or

(b) arrangement for future payment, or possible payment, on the happening of the contingency or on liquidation may be made by creating a trust, giving a mortgage, obtaining a bond or security from a beneficiary, or otherwise.

Section 129. Section 75B-2-516, which is renumbered from Section 75-7-516 is renumbered and amended to read:

[~~75-7-516~~]75B-2-516. Counterclaims.

(1) (a) In allowing a claim, the trustee may deduct any counterclaim which the deceased settlor's estate has against the claimant.

(b) In determining a claim against a deceased settlor's estate, a court shall reduce the amount allowed by the amount of any counterclaims and, if the counterclaims exceed the claim, render a judgment against the claimant in the amount of the excess.

(2) A counterclaim, liquidated or unliquidated, may arise from a transaction other than that upon which the claim is based.

(3) A counterclaim may give rise to relief exceeding in amount or different in kind from that sought in the claim.

Section 130. Section 75B-2-517, which is renumbered from Section 75-7-517 is renumbered and amended to read:

[~~75-7-517~~]75B-2-517. Execution and levies prohibited.

(1) No execution may issue upon nor may any levy be made against any property of the deceased settlor's estate under any judgment against a deceased settlor or a trustee.

(2) This section may not be construed to prevent the enforcement of mortgages, pledges, or liens upon real or personal property in an appropriate proceeding.

Section 131. Section 75B-2-518, which is renumbered from Section 75-7-518 is renumbered and amended to read:

[~~75-7-518~~]75B-2-518. Compromise of claims.

When a claim against a deceased settlor's estate has been presented in any manner, the trustee may, if [~~it~~]the claim appears in the best interest of the deceased settlor's estate, compromise the claim, whether due or not due, absolute or contingent, liquidated or unliquidated.

Section 132. Section 75B-2-519, which is renumbered from Section 75-7-519 is renumbered and amended to read:

[~~75-7-519~~]75B-2-519. Encumbered assets.

(1) If any assets of the deceased settlor's estate are encumbered by mortgage, pledge, lien, or other security interest, the trustee may pay the encumbrance or any part thereof, renew or extend any obligation secured by the encumbrance, or convey or transfer the assets to the creditor in satisfaction of [~~his~~]the creditor's lien, in whole or in part, whether or not the holder of the encumbrance has presented a claim, if it appears to be in the best interest of the deceased settlor's estate.

(2) Payment of an encumbrance does not increase the share of the beneficiary entitled to the encumbered assets unless the beneficiary is entitled to exoneration or unless the terms of the deceased settlor's trust, under which the beneficiary is entitled to the encumbered assets, provides otherwise.

Section 133. Section 75B-2-601, which is renumbered from Section 75-7-604 is renumbered and amended to read:

PART 6. Revocable Trust

[~~75-7-604~~]75B-2-601. Capacity of settlor of revocable trust.

The capacity required to create, amend, revoke, or add property to a revocable trust, or to direct the actions of the trustee of a revocable trust, is the same as that required to make a will.

Section 134. Section 75B-2-602, which is renumbered from Section 75-7-605 is renumbered and amended to read:

[~~75-7-605~~]75B-2-602. Revocation or amendment of revocable trust.

(1) (a) Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust.

(b) This Subsection (1) does not apply to a trust created under an instrument executed before May 1, 2004.

(2) If a revocable trust is created or funded by more than one settlor:

(a) to the extent the trust consists of community property, the trust may be revoked by either spouse acting alone but may be amended only by joint action of both spouses; and

(b) to the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard to the portion of the trust property attributable to that settlor's contribution.

(3) The settlor may revoke or amend a revocable trust:

(a) by substantially complying with a method provided in the terms of the trust; or

(b) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by:

(i) executing a later will or codicil that expressly refers to the trust or specifically devises property that would otherwise have passed according to the terms of the trust; or

(ii) any other method manifesting clear and convincing evidence of the settlor's intent.

(4) Upon revocation of a revocable trust, the trustee shall deliver the trust property as the settlor directs.

(5) A settlor's powers with respect to revocation, amendment, or distribution of trust property may be exercised by an agent under a power of attorney only to the extent expressly authorized by the terms of the trust or the power.

(6) A conservator of the settlor or, if no conservator has been appointed, a guardian of the settlor may exercise a settlor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the conservatorship or guardianship.

(7) A trustee who does not know that a trust has been revoked or amended is not liable to the settlor or settlor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked.

Section 135. Section 75B-2-603, which is renumbered from Section 75-7-606 is renumbered and amended to read:

[~~75-7-606~~]75B-2-603. Settlor's powers -- Powers of withdrawal.

(1) (a) To the extent a trust is revocable by a settlor, a trustee may follow a direction of the settlor that is contrary to the terms of the trust.

(b) To the extent a trust is revocable by a settlor in conjunction with a person other than a trustee or a person holding an adverse interest, the trustee may follow a direction from the settlor and the other person holding the power to revoke even if the direction is contrary to the terms of the trust.

(2) To the extent a trust is revocable and the settlor has capacity to revoke the trust, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.

(3) If a revocable trust has more than one settlor, the duties of the trustee are owed to all of the settlors having capacity to revoke the trust.

(4) During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.

Section 136. Section 75B-2-604, which is renumbered from Section 75-7-607 is renumbered and amended to read:

[~~75-7-607~~]75B-2-604. Limitation on action contesting validity of revocable trust -- Distribution of trust property.

(1) A person shall commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earlier of:

(a) three years after the settlor's death; or

(b) 90 days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding.

(2) (a) Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust.

(b) The trustee is not subject to liability for doing so unless:

[~~(a)~~](i) the trustee knows of a pending judicial proceeding contesting the validity of the trust; or

[~~(b)~~](ii) a potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within 60 days after the contestant sent the notification.

(3) (a) With respect to a potential contest, the trustee is only liable for actions taken two or more business days after the trustee has actual receipt of written notice from a potential contestant.

(b) The written notice shall include the name of the settlor or of the trust, the name of the potential contestant, and a description of the basis for the potential contest.

(c) The written notice shall be mailed to the trustee at the principal place of administration of the trust by registered or certified mail, return receipt requested, or served upon the trustee in the same manner as a summons in a civil action.

(d) Any other form or service of notice is not sufficient to impose liability on the trustee for actions taken pursuant to the terms of the trust.

(4) A beneficiary of a trust that is determined to have been invalid is liable to return any distribution received.

Section 137. Section 75B-2-701, which is renumbered from Section 75-7-701 is renumbered and amended to read:

PART 7. Office of Trustee

[~~75-7-701~~]75B-2-701. Accepting or declining trusteeship.

(1) Except as otherwise provided in Subsection (3), a person designated as trustee accepts the trusteeship:

(a) by substantially complying with a method of acceptance provided in the terms of the trust; or

(b) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship.

(2) (a) A person designated as trustee who has not yet accepted the trusteeship may reject the trusteeship.

(b) A designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is considered to have rejected the trusteeship.

(3) A person designated as trustee, without accepting the trusteeship, may:

(a) act to preserve the trust property if, within a reasonable time after acting, the person sends a rejection of the trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a qualified beneficiary; and

(b) inspect or investigate trust property to determine potential liability under environmental or other law or for any other purpose.

Section 138. Section 75B-2-702, which is renumbered from Section 75-7-702 is renumbered and amended to read:

[~~75-7-702~~]75B-2-702. Trustee's bond.

(1) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

(2) (a) The court may specify the amount of a bond, [~~its~~]the bond's liabilities, and whether sureties are necessary.

(b) The court may modify or terminate a bond at any time.

(3) (a) A regulated financial service institution qualified to do trust business in this state need not give bond, unless required by the terms of the trust.

(b) The cost of any bond shall be borne by the trust.

(4) Unless otherwise directed by the court, the cost of the bond is charged to the trust.

Section 139. Section 75B-2-703, which is renumbered from Section 75-7-703 is renumbered and amended to read:

[~~75-7-703~~]75B-2-703. Cotrustees.

(1) Cotrustees who are unable to reach a unanimous decision may act by majority decision.

(2) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.

(3) Subject to Section [~~75-12-112~~]75B-3-112, a cotrustee must participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity, or the cotrustee has properly delegated the performance of the function to another trustee.

(4) If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, or if a cotrustee fails or refuses to act after reasonable notice, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.

(5) (a) A trustee may not delegate to a cotrustee the performance of a function the settlor intended the trustees to perform jointly as determined from the terms of the trust.

(b) If one of the cotrustees is a regulated financial service institution qualified to do trust business in this state and the remaining cotrustees are individuals, a delegation by the individual cotrustees to the regulated financial service institution of the performance of trust investment functions shall be presumed to be in accordance with the settlor's intent unless the terms of the trust specifically provide otherwise.

(c) Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.

(6) Except as otherwise provided in Subsection (7), a trustee who does not join in an action of another trustee is not liable for the action.

(7) Subject to Section [~~75-12-112~~]75B-3-112, each trustee shall exercise reasonable care to:

(a) prevent a cotrustee from committing a serious breach of trust; and

(b) compel a cotrustee to redress a serious breach of trust.

(8) A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust.

Section 140. Section 75B-2-704, which is renumbered from Section 75-7-704 is renumbered and amended to read:

[~~75-7-704~~]75B-2-704. Vacancy in trusteeship -- Appointment of successor.

(1) A vacancy in a trusteeship occurs if:

(a) a person designated as trustee rejects the trusteeship;

(b) a person designated as trustee cannot be identified or does not exist;

(c) a trustee resigns;

(d) a trustee is disqualified or removed;

(e) a trustee dies; or

(f) a guardian or conservator is appointed for an individual serving as trustee, unless otherwise provided in the trust.

(2) (a) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled.

(b) A vacancy in a trusteeship must be filled if the trust has no remaining trustee.

(3) A vacancy in a trusteeship required to be filled must be filled in the following order of priority:

(a) by a person designated in the terms of the trust to act as successor trustee;

(b) by a person appointed by unanimous agreement of the qualified beneficiaries; or

(c) by a person appointed by the court.

(4) A vacancy in a trusteeship of a charitable trust that is required to be filled must be filled in the following order of priority:

(a) by a person designated in the terms of the trust to act as successor trustee;

(b) by a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust if the attorney general concurs in the selection; or

(c) by a person appointed by the court.

(5) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust.

Section 141. Section 75B-2-705, which is renumbered from Section 75-7-705 is renumbered and amended to read:

[~~75-7-705~~]75B-2-705. Resignation of trustee.

(1) A trustee may resign:

(a) upon at least 30 days' notice to the qualified beneficiaries, the settlor, if living, and all cotrustees; or

(b) with the approval of the court.

(2) In approving a resignation, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property.

(3) Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or omissions of the trustee is not discharged or affected by the trustee's resignation.

Section 142. Section 75B-2-706, which is renumbered from Section 75-7-706 is renumbered and amended to read:

[~~75-7-706~~]75B-2-706. Removal of trustee.

(1) The settlor, a cotrustee, or a qualified beneficiary may request the court to remove a trustee, or a trustee may be removed by the court on [~~its~~]the court's own initiative.

(2) The court may remove a trustee if:

(a) the trustee has committed a serious breach of trust;

(b) lack of cooperation among cotrustees substantially impairs the administration of the trust;

(c) because of unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries; or

(d) there has been a substantial change of circumstances or removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.

(3) Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order appropriate relief under Subsection [~~75-7-1001(2)~~]75B-2-1001(2) necessary to protect the trust property or the interests of the beneficiaries.

Section 143. Section 75B-2-707, which is renumbered from Section 75-7-707 is renumbered and amended to read:

[~~75-7-707~~]75B-2-707. Delivery of property by former trustee.

(1) Unless a cotrustee remains in office or the court otherwise orders, and until the trust property is delivered to a successor trustee or other person entitled to it, a trustee who has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property.

(2) A trustee who has resigned or been removed shall proceed expeditiously to deliver the trust property within the trustee's possession to the cotrustee, successor trustee, or other person entitled to [~~it~~]the trust property.

Section 144. Section 75B-2-708, which is renumbered from Section 75-7-708 is renumbered and amended to read:

[~~75-7-708~~]75B-2-708. Compensation of trustee.

If the terms of a trust do not specify the trustee's compensation, a trustee is entitled to compensation that is reasonable under the circumstances.

Section 145. Section 75B-2-709, which is renumbered from Section 75-7-709 is renumbered and amended to read:

[~~75-7-709~~]75B-2-709. Reimbursement of expenses.

(1) A trustee is entitled to be reimbursed out of the trust property, with interest as appropriate, for:

(a) expenses that were properly incurred in the administration of the trust; and

(b) to the extent necessary to prevent unjust enrichment of the trust, expenses that were not properly incurred in the administration of the trust.

(2) An advance by the trustee of money for the protection of the trust gives rise to a lien against trust property to secure reimbursement with reasonable interest.

Section 146. Section 75B-2-801, which is renumbered from Section 75-7-801 is renumbered and amended to read:

PART 8. Duties and Power of Trustee

[~~75-7-801~~]75B-2-801. Duty to administer trust.

Upon acceptance of a trusteeship, the trustee shall administer the trust expeditiously and in good faith, in accordance with [~~its~~]the trust's terms and purposes and the interests of the beneficiaries, and in accordance with this chapter.

Section 147. Section 75B-2-802, which is renumbered from Section 75-7-802 is renumbered and amended to read:

[~~75-7-802~~]75B-2-802. Duty of loyalty.

(1) A trustee shall administer the trust solely in the interests of the beneficiaries.

(2) Subject to the rights of persons dealing with or assisting the trustee as provided in Section [~~75-7-1012~~]75B-2-1012, a sale, encumbrance, or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:

(a) the transaction was authorized by the terms of the trust;

(b) the transaction was approved by the court;

(c) the beneficiary did not commence a judicial proceeding within the time allowed by Section [~~75-7-1005~~]75B-2-1005;

(d) the beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with Section [~~75-7-1009~~]75B-2-1009; or

(e) the transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.

(3) A sale, encumbrance, or other transaction involving the investment or management of trust property is presumed to be affected by

a conflict between personal and fiduciary interests if [~~it~~]the sale, encumbrance, or other transaction is entered into by the trustee with:

(a) the trustee's spouse;

(b) the trustee's descendants, siblings, parents, or [~~their spouses~~]the spouses of the trustee's descendants, siblings, or parents;

(c) an agent of the trustee, including but not limited to an attorney, accountant, or financial advisor; or

(d) a corporation or other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.

(4) A transaction between a trustee and a beneficiary that does not concern trust property but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary.

(5) A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

(6) (a) An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor rule of Section [~~75-7-901~~]75B-2-901.

(b) The trustee may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust.

(7) (a) In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries.

(b) If the trust is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint directors or other managers who will manage the corporation or enterprise in the best interests of the beneficiaries.

(8) This section does not preclude the following actions by the trustee:

(a) an agreement between the trustee and a beneficiary relating to the appointment or compensation of the trustee;

(b) payment of reasonable compensation to the trustee;

(c) a transaction between a trust and another trust, decedent's estate, conservatorship, or guardianship of which the trustee is a fiduciary or in which a beneficiary has an interest;

(d) a deposit of trust money in a regulated financial service institution operated by the trustee;

(e) an advance by the trustee of money for the protection of the trust;

(f) collecting, holding, and retaining trust assets received from a trustor until, in the judgment of the trustee, disposition of the assets should be made, even though the assets include an asset in which the trustee is personally interested;

(g) acquiring an undivided interest in a trust asset in which the trustee, in any trust capacity, holds an undivided interest;

(h) borrowing money to be repaid from the trust assets or otherwise;

(i) advancing money to be repaid from the assets or otherwise;

(j) employing [~~persons, including attorneys, auditors, investment advisers, or agents~~]a person, including an attorney, an auditor, an investment adviser, or an agent, even if [~~they are~~]the person is associated with the trustee:

(i) to advise or assist the trustee in the performance of the trustee's administrative duties or perform any act of administration, whether or not discretionary; or

(ii) to act without independent investigation upon [~~their~~]the person's recommendations;

(k) if a governing instrument or order requires or authorizes investment in United States government obligations, investing in those obligations, either directly or in the form of securities or other interests, in any open-end or closed-end management type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, 15 U.S.C. Sections 80a-1 through 80a-64 if:

(i) the portfolio of the investment company or investment trust is limited to United States government obligations, and repurchase agreements are fully collateralized by United States government obligations; and

(ii) the investment company or investment trust takes delivery of the collateral for any repurchase agreement either directly or through an authorized custodian.

(9) The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee.

Section 148. Section 75B-2-803, which is renumbered from Section 75-7-803 is renumbered and amended to read:

[~~75-7-803~~]75B-2-803. Impartiality.

If a trust has two or more beneficiaries, the trustee shall act impartially in investing, managing, and distributing the trust property, giving due regard to the beneficiaries' respective interests.

Section 149. Section 75B-2-804, which is renumbered from Section 75-7-804 is renumbered and amended to read:

[~~75-7-804~~]75B-2-804. Prudent administration.

(1) A trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements, and other circumstances of the trust.

(2) In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

Section 150. Section 75B-2-805, which is renumbered from Section 75-7-805 is renumbered and amended to read:

[~~75-7-805~~]75B-2-805. Costs of administration.

In administering a trust, the trustee may incur only costs that are reasonable in relation to the trust property, the purposes of the trust, and the skills of the trustee.

Section 151. Section 75B-2-806, which is renumbered from Section 75-7-806 is renumbered and amended to read:

[~~75-7-806~~]75B-2-806. Trustee's skills.

A trustee who is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, shall use those special skills or expertise.

Section 152. Section 75B-2-807, which is renumbered from Section 75-7-807 is renumbered and amended to read:
[~~75-7-807~~]75B-2-807. Control and protection of trust property.

A trustee shall take reasonable steps to take control of and protect the trust property.

Section 153. Section 75B-2-808, which is renumbered from Section 75-7-808 is renumbered and amended to read:
[~~75-7-808~~]75B-2-808. Recordkeeping and identification of trust property.

(1) A trustee shall keep adequate records of the administration of the trust.

(2) A trustee shall keep trust property separate from the trustee's own property.

(3) Except as otherwise provided in Subsection (4), a trustee shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary.

(4) If the trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of two or more separate trusts.

Section 154. Section 75B-2-809, which is renumbered from Section 75-7-809 is renumbered and amended to read:
[~~75-7-809~~]75B-2-809. Enforcement and defense of claims.

A trustee shall take reasonable steps to enforce claims of the trust and to defend claims against the trust.

Section 155. Section 75B-2-810, which is renumbered from Section 75-7-810 is renumbered and amended to read:
[~~75-7-810~~]75B-2-810. Collecting trust property.

A trustee shall take reasonable steps to compel a former trustee or other person to deliver trust property to the trustee, and to redress a breach of trust known to the trustee to have been committed by a former trustee, unless the terms of the trust provide otherwise.

Section 156. Section 75B-2-811, which is renumbered from Section 75-7-811 is renumbered and amended to read:
[~~75-7-811~~]75B-2-811. Duty to inform and report.

(1) (a) Except to the extent the terms of the trust provide otherwise, a trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for [~~them~~]the qualified beneficiaries to protect [~~their~~]the qualified beneficiaries' interests.

(b) Unless unreasonable under the circumstances, and unless otherwise provided by the terms of the trust a trustee shall promptly respond to a qualified beneficiary's request for information related to the administration of the trust.

(2) Except to the extent the terms of the trust provide otherwise, a trustee:

(a) upon request of a qualified beneficiary, shall promptly furnish to the beneficiary a copy of the portions of the trust instrument which describe or affect the beneficiary's interest;

(b) within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number;

(c) within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report as provided in Subsection (3); and

(d) shall notify the qualified beneficiaries in advance of any change in the method or rate of the trustee's compensation.

(3) (a) A trustee shall send to the qualified beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts, and disbursements, including the amount of the trustee's compensation or a fee schedule or other writing showing how the trustee's compensation was determined, a listing of the trust assets and, if feasible, [~~their~~]the trust assets' respective market values.

(b) Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the former trustee, unless the terms of the trust provide otherwise.

(c) A personal representative, conservator, or guardian may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.

(4) (a) A qualified beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section.

(b) A beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

Section 157. Section 75B-2-812, which is renumbered from Section 75-7-812 is renumbered and amended to read:
[~~75-7-812~~]75B-2-812. Discretionary powers -- Tax savings.

(1) Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of such terms as "absolute," "sole," or "uncontrolled," the trustee shall exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

(2) Subject to Subsection (4), and unless the terms of the trust expressly indicate that [~~a rule in~~]a requirement described in this section does not apply:

(a) a person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard relating to the trustee's individual health, education, support, or maintenance within the meaning of Subsection 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986, as in effect on May 1, 2004; and

(b) a trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person.

(3) (a) A power whose exercise is limited or prohibited by Subsection (2) may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited.

(b) If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

(4) Subsection (2) does not apply to:

(a) a power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in Subsection 2056(b)(5)

or 2523(e) of the Internal Revenue Code of 1986, as in effect on May 1, 2004, was previously allowed;

(b) any trust during any period that the trust may be revoked or amended by [~~its~~]the trust's settlor; or

(c) a trust if contributions to the trust qualify for the annual exclusion under Subsection 2503(c) of the Internal Revenue Code of 1986, as in effect on May 1, 2004.

Section 158. Section 75B-2-813, which is renumbered from Section 75-7-813 is renumbered and amended to read:

[~~75-7-813~~]75B-2-813. General powers of trustee.

(1) A trustee, without authorization by the court, may exercise:

(a) powers conferred by the terms of the trust; or

(b) except as limited by the terms of the trust:

(i) all powers over the trust property [~~which~~]that an unmarried competent owner has over individually owned property;

(ii) any other powers appropriate to achieve the proper investment, management, and distribution of the trust property; and

(iii) any other powers conferred by this chapter.

(2) The exercise of a power is subject to the fiduciary duties prescribed by this part.

Section 159. Section 75B-2-814, which is renumbered from Section 75-7-814 is renumbered and amended to read:

[~~75-7-814~~]75B-2-814. Specific powers of trustee.

(1) Without limiting the authority conferred by Section [~~75-7-813~~]75B-2-813, a trustee may:

(a) collect trust property and accept or reject additions to the trust property from a settlor or any other person;

(b) acquire or sell property, for cash or on credit, at public or private sale;

(c) exchange, partition, or otherwise change the character of trust property;

(d) deposit trust money in an account in a regulated financial service institution;

(e) borrow money, with or without security from any financial institution, including a financial institution that is serving as a trustee or one of [~~its~~]the financial institution's affiliates, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;

(f) with respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;

(g) with respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:

(i) vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;

(ii) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;

(iii) pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and

(iv) deposit the securities with a depositary or other regulated financial service institution;

(h) with respect to an interest in real property, construct, or make ordinary or extraordinary repairs to, alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries;

(i) enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;

(j) grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;

(k) insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;

(l) abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;

(m) with respect to possible liability for violation of environmental law:

(i) inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;

(ii) take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;

(iii) decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;

(iv) compromise claims against the trust which may be asserted for an alleged violation of environmental law; and

(v) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law;

(n) pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;

(o) pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;

(p) exercise elections with respect to federal, state, and local taxes;

(q) select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;

(r) make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;

(s) pledge trust property to guarantee loans made by others to the beneficiary;

(t) appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the

appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;

(u) pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying [~~it~~]the amount directly to the beneficiary or applying it for the beneficiary's benefit, or by:

(i) paying [~~it~~]the amount to the beneficiary's conservator or, if the beneficiary does not have a conservator, the beneficiary's guardian;

(ii) paying [~~it~~]the amount to the beneficiary's custodian under Title 75A, Chapter 8, Uniform Transfers to Minors Act;

(iii) if the trustee does not know of a conservator, guardian, custodian, or custodial trustee, paying [~~it~~]the amount to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or

(iv) managing [~~it~~]the amount as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution;

(v) on distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;

(w) resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;

(x) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

(y) sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers; and

(z) on termination of the trust, exercise the powers appropriate to finalize the administration of the trust and distribute the trust property to the persons entitled to [~~it~~]the trust.

(2) A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances.

(a) The trustee shall exercise reasonable care, skill, and caution in:

(i) selecting the agent;

(ii) establishing the scope and terms of the delegation consistent with the purposes of the trust; and

(iii) periodically reviewing the agent's actions to monitor the agent's performance and compliance with the terms of the delegation.

(b) In performing a delegated function, an agent has a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) A trustee who complies with the requirements of this Subsection (2) is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(3) (a) The trustee may exercise the powers set forth in this section and in the trust either in the name of the trust or in the name of the trustee as trustee, specifically including the right to take title, to encumber or convey assets, including real property, in the name of the trust.

(b) This Subsection (3) applies to a trustee's exercise of trust powers.

(c) After May 11, 2010, for recording purposes, the name of the trustee, the address of the trustee, and the name and date of the trust, shall be included on all recorded documents affecting real property to which the trust is a party in interest.

Section 160. Section 75B-2-815, which is renumbered from Section 75-7-815 is renumbered and amended to read:

[~~75-7-815~~]75B-2-815. Distribution upon termination.

(1) (a) Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution.

(b) The right of any beneficiary to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection within 30 days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.

(2) Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to [~~it~~]the trust property, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.

(3) A release by a beneficiary of a trustee from liability for breach of trust is invalid to the extent:

(a) [~~it~~]the release was induced by improper conduct of the trustee; or

(b) the beneficiary, at the time of the release, did not know or had no reason to know of the beneficiary's rights or of the material facts relating to the breach.

Section 161. Section 75B-2-816, which is renumbered from Section 75-7-816 is renumbered and amended to read:

[~~75-7-816~~]75B-2-816. Recitals when title to real property is in trust -- Failure.

(1) When title to real property is granted to a person as trustee, the terms of the trust may be given either:

(a) in the deed of transfer; or

(b) in an instrument signed by the grantor and recorded in the same office as the grant to the trustee.

(2) If the terms of the trust are not made public as required in Subsection (1), a conveyance from the trustee is absolute in favor of purchasers for value who take the property without notice of the terms of the trust.

(3) The terms of the trust recited in the deed of transfer or the instrument recorded under Subsection (1)(b) shall include:

(a) the name of the trustee;

(b) the address of the trustee; and

(c) the name and date of the trust.

(4) Any real property titled in a trust [~~which~~]that has a restriction on transfer described in Section 75B-1-302 shall include in the title the words "asset protection trust."

Section 162. Section 75B-2-817, which is renumbered from Section 75-7-817 is renumbered and amended to read:

[~~75-7-817~~]75B-2-817. Marital deduction formulas -- Trusts.

(1) For estates of decedents dying after December 31, 1981, where a decedent's trust executed before September 13, 1981, contains a formula expressly providing that the decedent's spouse is to receive the maximum amount of property qualifying for the marital deduction allowable by federal law, this formula shall be construed as referring to the unlimited marital deduction allowable by federal law as amended by Section 403(a) of the Economic Recovery Tax Act of 1981.

(2) The intention of a trustor as expressed in the trust shall control the legal effect of any dispositions made by it for purposes of construing Subsection (1), and the rule of construction of Subsection (1) shall apply unless a contrary intention is indicated by the trust.

Section 163. Section 75B-2-901, which is renumbered from Section 75-7-901 is renumbered and amended to read:

PART 9. Uniform Prudent Investor Act

[~~75-7-901~~]75B-2-901. Prudent investor rule.

(1) (a) Except as otherwise provided in Subsection (2), a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule [~~set forth~~]described in this chapter.

(b) If a trustee is named on the basis of a trustee's representations of special skills or expertise, the trustee has a duty to use those special skills or expertise.

(2) (a) The prudent investor rule is a default rule and may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust.

(b) A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

Section 164. Section 75B-2-902, which is renumbered from Section 75-7-902 is renumbered and amended to read:

[~~75-7-902~~]75B-2-902. Standard of care -- Portfolio strategy -- Risk and return objectives.

(1) (a) A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust.

(b) In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(2) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(3) Among circumstances that a trustee shall consider in investing and managing trust assets are the following which may be relevant to the trust or [~~its~~]the trust's beneficiaries:

(a) general economic conditions;

(b) the possible effect of inflation or deflation;

(c) the expected tax consequences of investment decisions or strategies;

(d) the role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;

(e) the expected total return from income and the appreciation of capital;

(f) other resources of the beneficiaries;

(g) needs for liquidity, regularity of income, and preservation or appreciation of capital; and

(h) an asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(4) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(5) A trustee may invest in any kind of property or type of investment consistent with the standards of this chapter.

Section 165. Section 75B-2-903, which is renumbered from Section 75-7-903 is renumbered and amended to read:

[~~75-7-903~~]75B-2-903. Diversification.

A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

Section 166. Section 75B-2-904, which is renumbered from Section 75-7-904 is renumbered and amended to read:

[~~75-7-904~~]75B-2-904. Duties at inception of trusteeship.

Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust, and with the requirements of this chapter.

Section 167. Section 75B-2-905, which is renumbered from Section 75-7-905 is renumbered and amended to read:

[~~75-7-905~~]75B-2-905. Reviewing compliance.

(1) Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

(2) This section does not require a specific outcome in investing.

Section 168. Section 75B-2-906, which is renumbered from Section 75-7-906 is renumbered and amended to read:

[~~75-7-906~~]75B-2-906. Investment direction.

(1) [~~For purposes of~~]As used in this section, "investment direction" means a direction that is binding on the trustee, except for an investment direction given by a settlor as described in Subsection (2) to do any of the following with respect to an investment:

(a) retention;

(b) purchase;

(c) sale;

(d) exchange;

(e) tender; or

(f) any other transaction affecting ownership in the investment.

(2) (a) During the time period that a trust is revocable, the trustee may follow any investment direction of the settlor, including an investment direction that:

(i) is manifestly contrary to the terms of the trust; or

(ii) seriously breaches a fiduciary duty to the beneficiaries.

(b) The trustee is not liable for any loss resulting from following an investment direction described in Subsection (2)(a).

(3) If the terms of a trust authorize a person to give investment direction to the trustee, the person authorized to give investment direction:

(a) is presumptively a fiduciary only with respect to an investment direction that the person gives to the trustee;

(b) is required to act in good faith with regard to:

(i) the purposes of the trust; and

(ii) the interests of the beneficiaries; and

(c) is liable for any loss that results from breach of the fiduciary duty only with respect to an investment direction that the person gives to the trustee.

(4) Except in cases of willful misconduct or gross negligence, a trustee is not liable for any loss that results from following an investment direction if:

(a) the terms of a trust authorizes a person to give the investment direction to the trustee; and

(b) the trustee acts in accordance with the investment direction given by a person described in Subsection (4)(a).

(5) If the terms of a trust require another person's approval or consent to an investment decision of the trustee:

(a) the person from whom approval or consent is required:

(i) is presumptively a fiduciary;

(ii) is required to act in good faith with regard to:

(A) the purposes of the trust; and

(B) the interests of the beneficiaries; and

(iii) is liable for any loss that results from breach of the fiduciary duty; and

(b) except in cases of willful misconduct or gross negligence, the trustee is not liable for any loss resulting from any act not taken as a result of the person's failure to respond to a request for approval or consent.

Section 169. Section 75B-2-907, which is renumbered from Section 75-7-907 is renumbered and amended to read:

[~~75-7-907~~]75B-2-907. Language invoking standard of chapter.

The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this chapter: "investments permissible by law for investment of trust funds," "legal investments," "authorized investments," "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital," "prudent man rule," "prudent trustee rule," "prudent person rule," and "prudent investor rule."

Section 170. Section 75B-2-1001, which is renumbered from Section 75-7-1001 is renumbered and amended to read:

PART 10. Liability of Trustees and Rights of Persons Dealing with Trustee

[~~75-7-1001~~]75B-2-1001. Remedies for breach of trust.

(1) A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.

(2) To remedy a breach of trust that has occurred or may occur, the court may:

(a) compel the trustee to perform the trustee's duties;

(b) enjoin the trustee from committing a breach of trust;

(c) compel the trustee to redress a breach of trust by paying money, restoring property, or other means;

(d) order a trustee to account;

(e) appoint a special fiduciary to take possession of the trust property and administer the trust;

(f) suspend the trustee;

(g) remove the trustee as provided in Section [~~75-7-706~~]75B-2-706;

(h) reduce or deny compensation to the trustee;

(i) subject to Section [~~75-7-1012~~]75B-2-1012, void an act of the trustee, impose a lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or [~~its~~]the property's proceeds; or

(j) order any other appropriate relief.

Section 171. Section 75B-2-1002, which is renumbered from Section 75-7-1002 is renumbered and amended to read:

[~~75-7-1002~~]75B-2-1002. Damages for breach of trust.

(1) A trustee who commits a breach of trust is liable to the beneficiaries affected for the greater of:

(a) the amount required to restore the value of the trust property and trust distributions to what [~~they~~]the beneficiaries would have been had the breach not occurred; or

(b) the profit the trustee made by reason of the breach.

(2) (a) Except as otherwise provided in this Subsection (2), if more than one trustee is liable to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee or trustees.

(b) A trustee is not entitled to contribution if the trustee was substantially more at fault than another trustee or if the trustee committed the breach of trust in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries.

(c) A trustee who received a benefit from the breach of trust is not entitled to contribution from another trustee to the extent of the benefit received.

Section 172. Section 75B-2-1003, which is renumbered from Section 75-7-1003 is renumbered and amended to read:

[~~75-7-1003~~]75B-2-1003. Damages in absence of breach.

(1) A trustee is accountable to an affected beneficiary for any profit made by the trustee arising from the administration of the trust, even absent a breach of trust.

(2) Absent a breach of trust, a trustee is not liable to a beneficiary for a loss or depreciation in the value of trust property or for not having made a profit.

Section 173. Section 75B-2-1004, which is renumbered from Section 75-7-1004 is renumbered and amended to read:

[~~75-7-1004~~]75B-2-1004. Attorney's fees and costs.

(1) In a judicial proceeding involving the administration of a trust, the court may, as justice and equity may require, award costs and expenses, including reasonable attorney's fees, to any party, to be paid by another party or from the trust that is the subject of the controversy.

(2) If a trustee defends or prosecutes any proceeding in good faith, whether successful or not, the trustee is entitled to receive from the trust the necessary expenses and disbursements, including reasonable attorney's fees, incurred.

Section 174. Section 75B-2-1005, which is renumbered from Section 75-7-1005 is renumbered and amended to read:

[~~75-7-1005~~]75B-2-1005. Limitation of action against trustee.

(1) A beneficiary may not commence a proceeding against a trustee for breach of trust more than six months after the date that the beneficiary or a person who may represent and bind the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of trust and informed the beneficiary of the time allowed for commencing a proceeding.

(2) A report adequately discloses the existence of a potential claim for breach of trust if [~~it~~]the report provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into [~~its~~]the claim's existence.

(3) If Subsection (1) does not apply, a judicial proceeding by a beneficiary against a trustee for breach of trust must be commenced within one year after the first to occur of:

(a) the removal, resignation, or death of the trustee;

(b) the termination of the beneficiary's interest in the trust; or

(c) the termination of the trust.

(4) This section does not preclude an action to recover for fraud or misrepresentation related to the report.

Section 175. Section 75B-2-1006, which is renumbered from Section 75-7-1006 is renumbered and amended to read:

[~~75-7-1006~~]75B-2-1006. Reliance on trust instrument.

A trustee who acts in reasonable reliance on the terms of the trust as expressed in the trust instrument is not liable to a beneficiary for a breach of trust to the extent the breach resulted from the reliance.

Section 176. Section 75B-2-1007, which is renumbered from Section 75-7-1007 is renumbered and amended to read:

[~~75-7-1007~~]75B-2-1007. Event affecting administration or distribution.

If the happening of an event, including marriage, divorce, performance of educational requirements, or death, affects the administration or distribution of a trust, a trustee is not liable for a loss resulting from the trustee's lack of knowledge or lack of notice.

Section 177. Section 75B-2-1008, which is renumbered from Section 75-7-1008 is renumbered and amended to read:

[~~75-7-1008~~]75B-2-1008. Exculpation of trustee.

A term of a trust relieving a trustee of liability for breach of trust is unenforceable to the extent that [~~it~~]the term:

(1) relieves the trustee of liability for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries; or

(2) was inserted by the trustee or fiduciary without disclosure of its existence and contents.

Section 178. Section 75B-2-1009, which is renumbered from Section 75-7-1009 is renumbered and amended to read:

[~~75-7-1009~~]75B-2-1009. Beneficiary's consent, release, or ratification.

A trustee is not liable to a beneficiary for breach of trust if the beneficiary, while having capacity, consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless at the time of the consent, release, or ratification, the beneficiary did not know of the beneficiary's rights or of the material facts relating to the breach.

Section 179. Section 75B-2-1010, which is renumbered from Section 75-7-1010 is renumbered and amended to read:

[~~75-7-1010~~]75B-2-1010. Limitation on personal liability of trustee.

(1) Except as otherwise provided in the contract, a trustee is not personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administering the trust if the trustee in the contract disclosed the fiduciary capacity.

(2) A trustee is personally liable for torts committed in the course of administering a trust, or for obligations arising from ownership or control of trust property, including liability for violation of environmental law, only if the trustee is personally at fault.

(3) A claim based on a contract entered into by a trustee in the trustee's fiduciary capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administering a trust, may be asserted in a judicial proceeding against the trustee in the trustee's fiduciary capacity, whether or not the trustee is personally liable for the claim.

(4) The question of liability as between the trust estate and the trustee individually may be determined in a proceeding for accounting, surcharge, or indemnification or other appropriate proceeding.

(5) Whenever an instrument creating a trust reserves to the settlor, or vests in an advisory or investment committee, or in any other person or persons, including one or more cotrustees to the exclusion of the trustee or to the exclusion of one or more of several trustees, authority to direct the making or retention of any investment, the excluded trustee or trustees shall not be liable, either individually or as a fiduciary, for any loss resulting from the making or retention of any investment pursuant to such direction.

(6) (a) In the absence of actual knowledge or information which would cause a reasonable trustee to inquire further, no trustee shall be liable for failure to take necessary steps to compel the redress of any breach of trust or fiduciary duty by any predecessor personal representative, trustee, or other fiduciary.

(b) The provisions of this section shall not be construed to limit the fiduciary liability of any trustee for [~~his~~]the trustee's own acts or omissions with respect to the trust estate.

Section 180. Section 75B-2-1011, which is renumbered from Section 75-7-1011 is renumbered and amended to read:

[~~75-7-1011~~]75B-2-1011. Interest as general partner.

(1) Except as otherwise provided in Subsection (3) or unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into by the partnership after the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a statement previously filed [~~pursuant to~~]in accordance with Title 48, Chapter 2e, Utah Uniform Limited Partnership Act.

(2) Except as otherwise provided in Subsection (3), a trustee who holds an interest as a general partner is not personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

(3) The immunity provided by this section does not apply if an interest in the partnership is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse or one or more of the trustee's descendants, siblings, or parents, or the spouse of any of them.

(4) If the trustee of a revocable trust holds an interest as a general partner, the settlor is personally liable for contracts and other obligations of the partnership as if the settlor were a general partner.

Section 181. Section 75B-2-1012, which is renumbered from Section 75-7-1012 is renumbered and amended to read:

[~~75-7-1012~~]75B-2-1012. Protection of person dealing with trustee.

(1) A person other than a beneficiary who in good faith assists a trustee, or who in good faith and for value deals with a trustee, without knowledge that the trustee is exceeding or improperly exercising the trustee's powers is protected from liability as if the trustee properly exercised the power.

(2) A person other than a beneficiary who in good faith deals with a trustee is not required to inquire into the extent of the trustee's powers or the propriety of [~~their~~]the trustee's exercise.

(3) A person who in good faith delivers assets to a trustee need not ensure [~~their~~]the assets' proper application.

(4) A person other than a beneficiary who in good faith assists a former trustee, or who in good faith and for value deals with a former trustee, without knowledge that the trusteeship has terminated is protected from liability as if the former trustee were still a trustee.

(5) Comparable protective provisions of other laws relating to commercial transactions or transfer of securities by fiduciaries prevail over the protection provided by this section.

Section 182. Section 75B-2-1013, which is renumbered from Section 75-7-1013 is renumbered and amended to read:

[~~75-7-1013~~]75B-2-1013. Certification of trust.

(1) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information:

(a) that the trust exists and the date the trust instrument was executed;

(b) the identity of the settlor;

(c) the identity and address of the currently acting trustee;

(d) the powers of the trustee in the pending transaction;

(e) the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;

(f) the authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee; and

(g) the name in which title to trust property may be taken.

(2) A certification of trust may be signed or otherwise authenticated by any trustee.

(3) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(4) A certification of trust need not contain the dispositive terms of a trust.

(5) A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction.

(6) (a) A person who acts in reliance upon a certification of trust without knowledge that the representations contained in it are incorrect is not liable to any person for acting and may assume without inquiry the existence of the facts contained in the certification.

(b) Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.

(7) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(8) A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for costs, expenses, attorney fees, and damages if the court determines that the person did not act in good faith in demanding the trust instrument.

(9) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

Section 183. Section 75B-2-1101, which is renumbered from Section 75-7-1101 is renumbered and amended to read:

PART 11. Applicability Provisions

[~~75-7-1101~~]75B-2-1101. Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to [~~its~~]this chapter's subject matter among states that enact [~~it~~]this chapter.

Section 184. Section 75B-2-1102, which is renumbered from Section 75-7-1102 is renumbered and amended to read:

[~~75-7-1102~~]75B-2-1102. Electronic records and signatures.

The provisions of this chapter governing the legal effect, validity, or enforceability of electronic records or electronic signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of Section 102 of the

Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7002) and supersede, modify, and limit the requirements of the Electronic Signatures in Global and National Commerce Act.

Section 185. Section 75B-2-1103, which is renumbered from Section 75-7-1103 is renumbered and amended to read:

[~~75-7-1103~~]75B-2-1103. Application to existing relationships.

(1) Except as otherwise provided, this chapter applies to:

(a) all trusts created before, on, or after July 1, 2004;

(b) all judicial proceedings concerning trusts commenced on or after July 1, 2004; and

(c) judicial proceedings concerning trusts commenced before July 1, 2004, unless the court finds that application of a particular provision of this chapter would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the particular provision of this chapter does not apply and the superseded section will apply.

(2) Any rule of construction or presumption provided in this chapter applies to trust instruments executed before July 1, 2004, unless there is a clear indication of a contrary intent in the terms of the trust.

(3) An act done before July 1, 2004, is not affected by this chapter.

(4) If a right is acquired, extinguished, or barred upon the expiration of a prescribed period that has commenced to run under any other statute before July 1, 2004, that statute continues to apply to the right even if [~~it~~]the right has been repealed or superseded.

Section 186. Section 75B-3-101 is enacted to read:

CHAPTER 3. UNIFORM DIRECTED TRUST ACT

75B-3-101. Reserved.

Reserved.

Section 187. Section 75B-3-102, which is renumbered from Section 75-12-102 is renumbered and amended to read:

[~~75-12-102~~]75B-3-102. Definitions.

As used in this chapter:

(1) "Breach of trust" includes a violation by a trust director or trustee of a duty imposed on the director or trustee by the terms of the trust, this chapter, or the law of this state other than this chapter pertaining to trusts.

(2) "Directed trust" means a trust for which the terms of the trust grant a power of direction.

(3) "Directed trustee" means a trustee that is subject to a trust director's power of direction.

[~~(4) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity.~~]

[~~(5)~~](4) (a) "Power of direction" means a power over a trust granted to a person by the terms of the trust to the extent the power is exercisable while the person is not serving as a trustee.

(b) "Power of direction" includes a power over the investment, management, or distribution of trust property or other matters of trust administration.

(c) "Power of direction" does not include the powers described in Subsection [~~75-12-105(2)~~]75B-3-105(2).

[~~(6) "Settlor" means the same as that term is defined in Section 75-7-103.~~]

[~~(7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.~~]

[~~(8)~~](5) "Terms of a trust" means:

(a) subject to Subsection [~~(8)(b)~~](5)(b), the manifestation of the settlor's intent regarding a trust's provisions as:

(i) expressed in the trust instrument; or

(ii) established by other evidence that would be admissible in a judicial proceeding; or

(b) the trust's provisions as established, determined, or amended by:

(i) a trustee or trust director in accordance with applicable law;

(ii) a court order; or

(iii) a nonjudicial settlement agreement under Section [~~75-7-110~~]75B-2-110.

[~~(9)~~](6) "Trust director" means a person that is granted a power of direction by the terms of a trust to the extent the power is exercisable while the person is not serving as a trustee, regardless of whether:

(a) the terms of the trust refer to the person as a trust director; or

(b) the person is a beneficiary or settlor of the trust.

[~~(10) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.~~]

Section 188. Section 75B-3-103, which is renumbered from Section 75-12-103 is renumbered and amended to read:

[~~75-12-103~~]75B-3-103. Application -- Principal place of administration.

(1) This chapter applies to a trust, whenever created, that has the trust's principal place of administration in this state, subject to the following rules:

(a) if the trust was created before May 14, 2019, this chapter applies only to a decision or action occurring on or after May 14, 2019; and

(b) if the principal place of administration of the trust is changed to this state on or after May 14, 2019, this chapter applies only to a decision or action occurring on or after the date of the change.

(2) Without precluding other means to establish a sufficient connection with the designated jurisdiction in a directed trust, the terms of the trust that designate the principal place of administration of the trust are valid and controlling if:

(a) a trustee's principal place of business is located in, or a trustee is a resident of, the designated jurisdiction;

(b) a trust director's principal place of business is located in, or a trust director is a resident of, the designated jurisdiction; or

(c) all or part of the administration occurs in the designated jurisdiction.

Section 189. Section 75B-3-104, which is renumbered from Section 75-12-104 is renumbered and amended to read:
[~~75-12-104~~]75B-3-104. Common law and principles of equity.

The common law and principles of equity supplement this chapter, except to the extent modified by this chapter or the law of this state other than this chapter.

Section 190. Section 75B-3-105, which is renumbered from Section 75-12-105 is renumbered and amended to read:
[~~75-12-105~~]75B-3-105. Exclusions.

(1) As used in this section, "power of appointment" means a power that enables a person acting in a nonfiduciary capacity to designate a recipient of an ownership interest in, or another power of appointment over, trust property.

(2) This chapter does not apply to:

(a) a power of appointment;

(b) a power to appoint or remove a trustee or trust director;

(c) a power of a settlor over a trust to the extent the settlor has a power to revoke the trust;

(d) a power of a beneficiary over a trust to the extent the exercise or nonexercise of the power affects the beneficial interest of:

(i) the beneficiary; or

(ii) another beneficiary represented by the beneficiary under [~~Sections 75-7-301through 75-7-305~~]Chapter 2, Part 3, Representation, with respect to the exercise or nonexercise of the power; or

(e) power over a trust if:

(i) the terms of the trust provide that the power is held in a nonfiduciary capacity; and

(ii) the power must be held in a nonfiduciary capacity to achieve the settlor's tax objectives under the Internal Revenue Code of 1986, as amended, and any related Internal Revenue Service regulations.

(3) Unless the terms of a trust provide otherwise, a power granted to a person to designate a recipient of an ownership interest in, or power of appointment over, trust property that is exercisable while the person is not serving as trustee is a power of appointment and not a power of direction.

Section 191. Section 75B-3-106, which is renumbered from Section 75-12-106 is renumbered and amended to read:
[~~75-12-106~~]75B-3-106. Powers of trust director.

(1) Subject to Section [~~75-12-107~~]75B-3-107, the terms of a trust may grant a power of direction to a trust director.

(2) Unless the terms of a trust provide otherwise:

(a) a trust director may exercise any further power appropriate to the exercise or nonexercise of a power of direction granted to the director under Subsection (1); and

(b) trust directors with joint powers shall act by majority decision.

Section 192. Section 75B-3-107, which is renumbered from Section 75-12-107 is renumbered and amended to read:
[~~75-12-107~~]75B-3-107. Limitations on trust director.

A trust director is subject to the same rules as a trustee in a like position and under similar circumstances in the exercise or nonexercise of a power of direction or further power under Subsection [~~75-12-106(2)(a)~~]75B-3-106(2)(a) regarding:

(1) a payback provision in the terms of a trust necessary to comply with the Medicaid reimbursement requirements in Section 1917 of the Social Security Act, 42 U.S.C. Sec. 1396p(d)(4)(A), as amended, and any related regulations; and

(2) a charitable interest in the trust, including notice regarding the interest to the attorney general.

Section 193. Section 75B-3-108, which is renumbered from Section 75-12-108 is renumbered and amended to read:
[~~75-12-108~~]75B-3-108. Duty and liability of trust director.

(1) Subject to Subsection (2), with respect to a power of direction or further power under Subsection [~~75-12-106(2)(a)~~]75B-3-106(2)(a):

(a) a trust director has the same fiduciary duty and liability in the exercise or nonexercise of the power:

(i) if the power is held individually, as a sole trustee in a like position and under similar circumstances; or

(ii) if the power is held jointly with a trustee or another trust director, as a cotrustee in a like position and under similar circumstances; and

(b) the terms of the trust may vary the director's duty or liability to the same extent the terms of the trust could vary the duty or liability of a trustee in a like position and under similar circumstances.

(2) Unless the terms of a trust provide otherwise, if a trust director is licensed, certified, or otherwise authorized or permitted by law other than this chapter to provide health care in the ordinary course of the director's business or practice of a profession, to the extent the director acts in that capacity, the director has no duty or liability under this chapter.

(3) The terms of a trust may impose a duty or liability on a trust director in addition to the duties and liability described in this section.

Section 194. Section 75B-3-109, which is renumbered from Section 75-12-109 is renumbered and amended to read:
[~~75-12-109~~]75B-3-109. Duty and liability of directed trustee.

(1) Subject to Subsection (2), a directed trustee shall take reasonable action to comply with a trust director's exercise or nonexercise of a power of direction or further power under Subsection [~~75-12-106(2)(a)~~]75B-3-106(2)(a), and the trustee is not liable for the action.

(2) A directed trustee may not comply with a trust director's exercise or nonexercise of a power of direction or further power under Subsection [~~75-12-106(2)(a)~~]75B-3-106(2)(a) to the extent that by complying the trustee would engage in willful misconduct.

(3) An exercise of a power of direction under which a trust director may release a trustee or another trust director from liability for breach of trust is not effective if:

(a) the breach involved the trustee's or other director's willful misconduct;

(b) the release was induced by improper conduct of the trustee or other director in procuring the release; or

(c) at the time of the release, the director did not know the material facts relating to the breach.

(4) A directed trustee that has reasonable doubt about the directed trustee's duty under this section may petition the court for instructions.

(5) The terms of a trust may impose a duty or liability on a directed trustee in addition to the duties and liabilities under this section.

Section 195. Section 75B-3-110, which is renumbered from Section 75-12-110 is renumbered and amended to read:

[~~75-12-110~~]75B-3-110. Duty to provide information to trust director or trustee.

(1) Subject to Section [~~75-12-111~~]75B-3-111, a trustee shall provide information to a trust director to the extent the information is reasonably related both to:

(a) the powers or duties of the trustee; and

(b) the powers or duties of the director.

(2) Subject to Section [~~75-12-111~~]75B-3-111, a trust director shall provide information to a trustee or another trust director to the extent the information is reasonably related both to:

(a) the powers or duties of the director; and

(b) the powers or duties of the trustee or other director.

(3) A trustee that acts in reliance on information provided by a trust director is not liable for a breach of trust to the extent the breach resulted from the reliance, unless, by acting, the trustee engages in willful misconduct.

(4) A trust director that acts in reliance on information provided by a trustee or another trust director is not liable for a breach of trust to the extent the breach resulted from the reliance, unless, by acting, the trust director engages in willful misconduct.

Section 196. Section 75B-3-111, which is renumbered from Section 75-12-111 is renumbered and amended to read:

[~~75-12-111~~]75B-3-111. No duty to monitor, inform, or advise.

(1) Unless the terms of a trust provide otherwise:

(a) a trustee does not have a duty to:

(i) monitor a trust director; or

(ii) inform or give advice to a settlor, beneficiary, trustee, or trust director concerning an instance in which the trustee might have acted differently than the director; and

(b) by taking an action described in Subsection (1)(a), a trustee does not assume the duty excluded under Subsection (1)(a).

(2) Unless the terms of a trust provide otherwise:

(a) a trust director does not have a duty to:

(i) monitor a trustee or another trust director; or

(ii) inform or give advice to a settlor, beneficiary, trustee, or another trust director concerning an instance in which the director might have acted differently than a trustee or another trust director; and

(b) by taking an action described in Subsection (1)(a), a trust director does not assume the duty excluded under Subsection (1)(a).

Section 197. Section 75B-3-112, which is renumbered from Section 75-12-112 is renumbered and amended to read:

[~~75-12-112~~]75B-3-112. Application to cotrustee.

The terms of a trust may relieve a cotrustee from duty and liability with respect to another cotrustee's exercise or nonexercise of a power of the other cotrustee to the same extent that, in a directed trust, a directed trustee is relieved from duty and liability with respect to a trust director's power of direction under Sections [~~75-12-109 through 75-12-111~~]75B-3-109 through 75B-3-111.

Section 198. Section 75B-3-113, which is renumbered from Section 75-12-113 is renumbered and amended to read:

[~~75-12-113~~]75B-3-113. Limitation of action against trust director.

(1) An action against a trust director for a breach of trust must be commenced within the same limitation period as described in Section [~~75-7-1005~~]75B-2-1005 for an action for a breach of trust against a trustee in a like position and under similar circumstances.

(2) A report or accounting has the same effect on the limitation period for an action against a trust director for breach of trust that the report or accounting would have as described in Section [~~75-7-1005~~]75B-2-1005 in an action for a breach of trust against a trustee in a like position and under similar circumstances.

Section 199. Section 75B-3-114, which is renumbered from Section 75-12-114 is renumbered and amended to read:

[~~75-12-114~~]75B-3-114. Defenses in action against trust director.

In an action against a trust director for a breach of trust, the director may assert the same defenses a trustee in a like position and under similar circumstances could assert in an action for a breach of trust against the trustee.

Section 200. Section 75B-3-115, which is renumbered from Section 75-12-115 is renumbered and amended to read:

[~~75-12-115~~]75B-3-115. Jurisdiction over trust director.

(1) By accepting appointment as a trust director of a trust subject to this chapter, the director submits to personal jurisdiction of the courts of this state regarding any matter related to a power or duty of the director.

(2) This section does not preclude other methods of obtaining jurisdiction over a trust director.

Section 201. Section 75B-3-116, which is renumbered from Section 75-12-116 is renumbered and amended to read:

[~~75-12-116~~]75B-3-116. Office of trust director.

Unless the terms of a trust provide otherwise, the rules applicable to a trustee apply to a trust director regarding the following matters:

(1) acceptance under Section [~~75-7-701~~]75B-2-701;

(2) giving of bond to secure performance under Section [~~75-7-702~~]75B-2-702;

(3) reasonable compensation under Section [~~75-7-708~~]75B-2-708;

(4) resignation under Section [~~75-7-705~~]75B-2-705;

(5) removal under Section [~~75-7-706~~]75B-2-706; and

(6) vacancy and appointment of successor under Section [~~75-7-704~~]75B-2-704.

Section 202. Section 75B-3-117, which is renumbered from Section 75-12-117 is renumbered and amended to read:

[~~75-12-117~~]75B-3-117. Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to [~~its~~]this chapter's subject matter among states that enact [~~it~~]this chapter.

Section 203. Section 75B-3-118, which is renumbered from Section 75-12-118 is renumbered and amended to read:

[~~75-12-118~~]75B-3-118. Electronic records and signatures.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 204. Section 78B-5-505 is amended to read:

78B-5-505. Property exempt from execution.

(1) (a) An individual is entitled to exemption of the following property:

(i) a burial plot for the individual and the individual's family;

(ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain health;

(iii) benefits that the individual or the individual's dependent have received or are entitled to receive from any source because of:

(A) disability;

(B) illness; or

(C) unemployment;

(iv) benefits paid or payable for medical, surgical, or hospital care to the extent that the benefits are used by an individual or the individual's dependent to pay for that care;

(v) veterans benefits;

(vi) money or property received, and rights to receive money or property for child support;

(vii) money or property received, and rights to receive money or property for alimony or separate maintenance, to the extent reasonably necessary for the support of the individual and the individual's dependents;

(viii) (A) one:

(I) clothes washer and dryer;

(II) refrigerator;

(III) freezer;

(IV) stove;

(V) microwave oven; and

(VI) sewing machine;

(B) all carpets in use;

(C) provisions sufficient for 12 months actually provided for individual or family use;

(D) all wearing apparel of every individual and dependent, not including jewelry or furs; and

(E) all beds and bedding for every individual or dependent;

(ix) except for works of art held by the debtor as part of a trade or business, works of art:

(A) depicting the debtor or the debtor and the debtor's resident family; or

(B) produced by the debtor or the debtor and the debtor's resident family;

(x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;

(xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or children of the debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired period of one year;

(xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the death of the debtor, provided that the contract or policy has been in existence for a continuous unexpired period of one year;

(xiii) proceeds and avails of any unmatured life insurance contracts owned by the debtor or any revocable grantor trust created by the debtor, excluding any payments made on the contract during the one year immediately preceding a creditor's levy or execution;

(xiv) except as provided in Subsection (1)(b), and except for a judgment described in Subsection [~~75-7-503(2)(e)~~]75B-2-503(2)(c), any money or other assets held for or payable to the individual as an owner, participant, or beneficiary from or an interest of the individual as an owner, participant, or beneficiary in a fund or account, including an inherited fund or account, in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or otherwise;

(xv) the interest of or any money or other assets payable to an alternate payee under a qualified domestic relations order as those terms are defined in Section 414(p), Internal Revenue Code;

(xvi) unpaid earnings of the household of the filing individual due as of the date of the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for the household size of the filing individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of the Utah State annual median family income for the household size of the individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers;

(xvii) except for curio or relic firearms, as defined in Section 76-10-501, any three of the following:

(A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

(B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

(C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds; and

(xviii) money, not exceeding $200,000, in the aggregate, that an individual deposits, more than 18 months before the day on which the individual files a petition for bankruptcy or an action is filed by a creditor against the individual, as applicable, in all tax-advantaged accounts for saving for higher education costs on behalf of a particular individual that meets the requirements of Section 529, Internal Revenue Code.

(b) (i) Any money, asset, or other interest in a fund or account that is exempt from a claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does not cease to be exempt after the owner's, participant's, or beneficiary's death by reason of a direct transfer or eligible rollover to an inherited individual retirement account as defined in Section 408(d)(3), Internal Revenue Code.

(ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement accounts without regard to the date on which the account was created.

(c) (i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

(A) an alternate payee under a qualified domestic relations order, as those terms are defined in Section 414(p), Internal Revenue Code; or

(B) amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy, except amounts directly rolled over from other funds that are exempt from attachment under this section.

(ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the secured creditor's interest in proceeds and avails of any matured or unmatured life insurance contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

(2) (a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a victim who is a child if the person receiving the benefits has been convicted of a felony sex offense against the victim and ordered by the sentencing court to pay restitution to the victim.

(b) The exemption from execution under this Subsection (2) shall be reinstated upon payment of the restitution in full.

(3) The exemptions under this section do not limit items that may be claimed as exempt under Section 78B-5-506.

(4) (a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii), (xiii), (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil judgment of restitution for an individual who is found in contempt under Section 78B-6-317.

(b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if the individual's dependent received, or is entitled to receive, the benefits.

Section 205. Repealer.

This bill repeals:

Section 75-7-101, Title.

Section 75-12-101, Title.

Section 206. Effective Date.

This bill takes effect on May 7, 2025.

Section 207. Coordinating S.B. 100 with S.B. 134.

If S.B. 100, Estate Planning Recodification, and S.B. 134, Health-Care Decisions Act Amendments, both pass and become law, the Legislature intends that, on January 1, 2026, the following subsections enacted by S.B. 134 be deleted and the remaining subsections renumbered accordingly:

(1) Subsection 75A-9-101(7), defining the term, "Electronic";

(2) Subsection 75A-9-101(10), defining the term, "Guardian";

(3) Subsection 75A-9-101(19), defining the term, "Person";

(4) Subsection 75A-9-101(24), defining the term, "Record";

(5) Subsection 75A-9-101(26), defining the term, "Sign"; and

(6) Subsection 75A-9-101(27), defining the term, "State".

Section 208. Coordinating S.B. 100 with H.B. 334.

If S.B. 100, Estate Planning Recodification, and H.B. 334, Guardianships and Supported Decision-Making Agreements Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, the changes in H.B. 334 to Subsection 7-5-1(1)(b) not be made.

CHAPTER 311
S. B. 101
Passed February 19, 2025
Approved March 25, 2025
Effective May 7, 2025

DOG RELATED LIABILITY AMENDMENTS

Chief Sponsor: Karen Kwan
House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This bill relates to dog owner liability.

Highlighted Provisions:

This bill:

► provides that a dog owner is not liable for injury or death caused by the owner's dog to a trespasser; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

18-1-1, as last amended by Laws of Utah 2024, Chapter 438
57-14-301, as enacted by Laws of Utah 2013, Chapter 212

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 18-1-1 is amended to read:

18-1-1. Liability and damages for dog injury -- Exceptions.

(1) (a) Except as provided in Subsections (2) and (3), [~~a person~~]an individual who owns or keeps a dog is liable for an injury caused by the dog, regardless of whether:

(i) the dog is vicious or mischievous; or

(ii) the owner knows the dog is vicious or mischievous.

(b) Damages for an injury described in Subsection (1)(a) shall be determined in accordance with Section 78B-5-818.

(2) Neither the state nor any county, city, or town in the state nor any peace officer employed by the state, a county, a city, or a town is liable in damages for an injury caused by a dog, if:

(a) the dog and the dog's law enforcement handler are trained to assist in law enforcement and are certified according to the standards adopted in Title 53, Chapter 6, Part 4, Law Enforcement Canine Team Certification Act;

(b) the governmental agency has adopted a written policy on the necessary and appropriate use of dogs in official law enforcement duties;

(c) the actions of the dog's handler do not violate the agency's written policy; and

(d) the injury occurs while the dog is reasonably and carefully being used in the apprehension, arrest, or location of a suspected offender or in maintaining or controlling the public order.

(3) [~~A person~~]An individual who owns or keeps a dog is not liable for an injury or death caused by the dog if:

(a) (i) the injury or death is to another animal;

[~~(b)~~](ii) the injury or death occurs:

[~~(i)~~](A) on the [~~person's~~]individual's private property; and

[~~(ii)~~](B) while the dog is reasonably secured within a fence or other enclosure; and

[~~(c)~~](iii) the animal described in Subsection (3)(a) entered the [~~person's~~]individual's private property without consent[~~.~~]; or

(b) (i) the injury or death is to a trespasser who is in violation of Subsection 76-6-206(2); and

(ii) the injury or death occurs:

(A) on the individual's private property; and

(B) while the dog is reasonably secured within a fence or other enclosure.

Section 2. Section 57-14-301 is amended to read:

57-14-301. Owner liability to trespasser.

(1) Except as provided in Subsection (2), with respect to a trespasser, an owner does not:

(a) make any representation or extend any assurance that the land is safe for any purpose;

(b) owe any duty of care to the trespasser;

(c) assume responsibility for or incur liability for any injury to, the death of, or damage to property of, a trespasser; or

(d) owe any duty to curtail the owner's use of the land.

(2) Notwithstanding Subsection (1) and except as provided in Subsection (3), an owner may be subject to liability for serious physical injury or death to a trespasser if:

(a) (i) the trespasser is a child;

(ii) the serious physical injury or death is caused by an artificial condition on the land;

(iii) the owner knows or reasonably should know that:

(A) the artificial condition exists;

(B) the artificial condition poses an unreasonable risk of serious physical injury or death to a child; and

(C) a child is likely to trespass at the location of the artificial condition;

(iv) the artificial condition is not of a type that a child, because of the child's youth, would discover exists or would not realize that the artificial condition poses a risk of serious physical injury or death; and

(v) the owner fails to take reasonable measures to eliminate, or to protect against serious physical injury or death from, the artificial condition;

(b) (i) the serious physical injury or death:

(A) occurs on a limited area of the land that the owner knows, or reasonably should know, is constantly intruded upon by trespassers; and

(B) is caused by an activity conducted by the owner that poses a risk of serious physical injury or death to a trespasser; and

(ii) the owner fails to conduct the activity described in Subsection (2)(b)(i)(B) with reasonable care for a trespasser's safety.

[~~(3) (a) An owner is not subject to liability for serious physical injury or death to a trespasser if the conduct of the owner that results in serious physical injury or death is permitted or justified under Title 76, Chapter 2, Part 4, Justification Excluding Criminal Responsibility, or any other provision of law.~~]

[~~(b)~~](3) An owner is not subject to liability for serious physical injury or death to a trespasser under Subsection (2) if:

(a) the burden on the owner to eliminate, or to protect against serious physical injury or death from, the artificial condition outweighs the risk of serious physical injury or death posed by the artificial condition[~~.~~]; or

[~~(c)~~](b) [~~An owner is not subject to liability for serious physical injury or death to a trespasser under Subsection (2) if~~]the serious injury or death is caused by an irrigation canal or ditch.

(4) An owner is not subject to liability for serious physical injury or death to a trespasser if:

(a) the conduct of the owner that results in serious physical injury or death is permitted or justified under:

(i) Title 76, Chapter 2, Part 4, Justification Excluding Criminal Responsibility; or

(ii) any other provision of law; or

(b) the serious physical injury or death is caused by the owner's dog in accordance with Subsection 18-1-1(3)(b).

[~~(d)~~](5) A public transit district is not subject to liability for a serious physical injury or death to a trespasser under Subsection (2) if the serious injury or death is caused by a trespasser entering into a fixed guideway, railroad right-of-way, or on transit facilities or premises in violation of Section 56-1-18.5 or Section 41-6a-1005.

[~~(4)~~](6) Nothing in this chapter shall impose liability on an owner except to the extent liability existed as of May 14, 2013.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 312
S. B. 102
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

PUBLIC EDUCATION REPORTING AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Matt MacPherson

LONG TITLE

General Description:

This bill requires certain programs be reviewed.

Highlighted Provisions:

This bill:

► mandates regular program reviews by the Education Interim Committee for certain programs; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-201, as last amended by Laws of Utah 2024, Chapters 3, 460 and 525

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(e) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(h) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(i) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(j) the report described in Section 53F-2-522 regarding mental health screening programs;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

(m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

(n) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

(o) the report described in Section 53F-5-405 by the state board regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;

(p) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

(q) the report described in Section 53G-7-221 by the state board regarding innovation plans; and

(r) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) in 2027, 2030, 2033, and 2035, the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

(b) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(c) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(d) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(e) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(f) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

(g) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

(h) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the state board, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

(3) In accordance with applicable provisions and Section 68-3-14, every five years the Education Interim Committee shall review the programs described in the following sections of code:

(a) beginning July 1, 2027, Title 53E, Chapter 10, Part 3, Concurrent Enrollment;

(b) beginning July 1, 2027, Section 53F-2-408, Enhancement for Accelerated Students Program;

(c) beginning July 1, 2027, Section 53F-2-409, Concurrent enrollment funding;

(d) beginning July 1, 2027, Section 53F-2-415, Student health and counseling support -- Qualifying personnel -- Distribution formula -- Rulemaking;

(e) beginning July 1, 2028, Section 53F-2-416, Appropriation and distribution for the Teacher and Student Success Program;

(f) beginning July 1, 2028, Section 53F-2-510, Digital Teaching and Learning Grant Program;

(g) beginning July 1, 2028, Section 53F-9-306, Teacher and Student Success Account;

(h) beginning July 1, 2028, Title 53G, Chapter 7, Part 13, Teacher and Student Success Program; and

(i) beginning July 1, 2029, Section 53F-2-502, Dual language immersion.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 313
S. B. 105
Passed March 7, 2025
Approved March 25, 2025
Effective July 1, 2025

STUDENT PRIVACY AND MODESTY IN PUBLIC EDUCATION

Chief Sponsor: Jen Plumb
House Sponsor: Ariel Defay

LONG TITLE

General Description:

This bill enacts provisions regarding a student's reasonable expectation of individual privacy and personal modesty in the public education system.

Highlighted Provisions:

This bill:

- ► defines terms; and
- ► enacts provisions regarding a student's reasonable expectation of individual privacy and personal modesty in the public education system, including:
  - • prohibiting any requirement that a student undress in the presence of another individual; and
  - • establishing options for local education agencies which constitute compliance regarding the prohibition.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53G-9-214, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-9-214 is enacted to read:

53G-9-214. Individual privacy -- Personal modesty.

(1) As used in this section:

(a) (i) "Changing facility" means a room in which two or more individuals may be in a state of undress in the presence of others.

(ii) "Changing facility" includes a dressing room, fitting room, locker room, changing room, or shower room.

(b) "Full nudity" means that an individual's genitalia, female breast below the top of the areola, buttocks, anus, or pubic area is completely exposed.

(c) "Partial nudity" means that an individual's pubic region or chest are less than completely covered.

(d) "Restroom" means a room that includes one or more toilets or urinals.

(e) "Single-occupant facility" means a restroom or changing facility:

(i) with floor-to-ceiling walls;

(ii) with an entirely encased and locking door; and

(iii) that is designated for single occupancy.

(2) Each student in the public education system has a reasonable expectation of individual privacy and personal modesty.

(3) In accordance with Subsection (2), an LEA may not require, invite, or encourage a student to undress, change clothing, or otherwise be in a state of full or partial nudity in the presence of another individual, regardless of whether:

(a) the student is in a restroom or changing facility; or

(b) the other individual is an employee of the LEA.

(4) (a) An LEA is presumed to comply with Subsection (3) if the LEA ensures the availability of the following for students who choose to undress or change clothing in private:

(i) single-occupant facilities;

(ii) floor-to-ceiling walls and doors or similar privacy protections within changing facilities; or

(iii) curtains or similar privacy protections in changing facilities.

(b) Nothing in this section requires an LEA to make available a specific privacy accommodation described in Subsection (4)(a).

Section 2. Effective date.

This bill takes effect on July 1, 2025.

CHAPTER 314
S. B. 110
Passed February 26, 2025
Approved March 25, 2025
Effective May 7, 2025

SUMMONS MODIFICATIONS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses the issuance of a summons.

Highlighted Provisions:

This bill:

- ► creates a presumption against issuing a warrant in lieu of a summons in certain circumstances;
- ► provides the requirements for overcoming the presumption; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-7-5, as last amended by Laws of Utah 2023, Chapter 497

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-7-5 is amended to read:

77-7-5. Issuance of summons or warrant -- Time and place arrests may be made -- Contents of warrant or summons -- Responsibility for transporting prisoners.

(1) As used in this section:

(a) "Daytime hours" means the hours after 6 a.m. and before 10 p.m.

(b) "Nighttime hours" means the hours after 10 p.m. and before 6 a.m.

(2) A magistrate may issue a warrant for arrest in lieu of a summons for the appearance of the accused only upon finding:

(a) probable cause to believe that the person to be arrested has committed a public offense; and

(b) under [~~the~~]Rule 6 of the Utah Rules of Criminal Procedure [~~,~~]and this section that a warrant is necessary to:

(i) prevent risk of injury to a person or property;

(ii) secure the appearance of the accused; or

(iii) protect the public safety and welfare of the community or an individual.

(3) There is a presumption against the issuance of a warrant in lieu of a summons if:

(a) after being booked into jail on conduct that would constitute an offense, the accused was released from jail because the prosecuting attorney did not file an information within the time period required under Rule 9 of the Utah Rules of Criminal Procedure; and

(b) the prosecuting attorney filed an information more than 60 days after the day on which the accused was released from jail.

(4) The presumption described in Subsection (3) may be overcome if:

(a) the accused fails to appear on a served summons;

(b) a summons is unable to be served after good faith efforts; or

(c) the prosecuting attorney establishes good cause for issuing a warrant in lieu of a summons to:

(i) prevent risk of injury to a person or property; or

(ii) protect the public safety and welfare of the community or an individual.

[~~(3)~~](5) If the offense charged is:

(a) a felony, the arrest upon a warrant may be made at any time of the day or night; or

(b) a misdemeanor, the arrest upon a warrant may be made during nighttime hours only if:

(i) the magistrate has endorsed authorization to do so on the warrant;

(ii) the person to be arrested is upon a public highway, in a public place, or in a place open to or accessible to the public; or

(iii) the person to be arrested is encountered by a peace officer in the regular course of that peace officer's investigation of a criminal offense unrelated to the misdemeanor warrant for arrest.

[~~(4)~~](6) (a) If the magistrate determines that the accused must appear in court, the magistrate shall include in the arrest warrant the name of the law enforcement agency in the county or municipality with jurisdiction over the offense charged.

(b) (i) The law enforcement agency identified by the magistrate under Subsection [~~(4)(a)~~](6)(a) is responsible for providing inter-county transportation of the defendant, if necessary, from the arresting law enforcement agency to the court site.

(ii) The law enforcement agency named on the warrant may contract with another law enforcement agency to have a defendant transported.

[~~(5)~~](7) The law enforcement agency identified by the magistrate under Subsection [~~(4)(a)~~](6)(a) shall indicate to the court within 48 hours of the issuance, excluding Saturdays, Sundays, and legal holidays if a warrant issued in accordance with this section is an extradition warrant.

[~~(6)~~](8) The law enforcement agency identified by the magistrate under Subsection [~~(4)(a)~~](6)(a) shall report any changes to the status of a warrant issued in accordance with this section to the Bureau of Criminal Identification.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 315
S. B. 117
Passed February 21, 2025
Approved March 25, 2025
Effective May 7, 2025

UNIFORM FAMILY LAW ARBITRATION ACT

Chief Sponsor: Michael K. McKell
House Sponsor: Jordan D. Chester

LONG TITLE

General Description:

This bill enacts the Uniform Family Law Arbitration Act.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► provides the scope of the Uniform Family Law Arbitration Act (act);
- ► addresses the law that is applicable to arbitration in a family law dispute;
- ► provides the requirements for an arbitration agreement for a family law dispute;
- ► allows a party to initiate arbitration by giving notice to the other party in accordance with the arbitration agreement or the laws governing contractual arbitration;
- ► provides the framework for motions for judicial relief involving a family law arbitration;
- ► provides the qualification and selection requirements for an arbitrator;
- ► requires certain disclosures by an arbitrator, the parties, and the attorneys representing the parties;
- ► addresses the disqualification of an arbitrator;
- ► addresses the participation of, and a communication by, an attorney or other individual in family law arbitration;
- ► allows a court or arbitrator to make a temporary order when there is an arbitration of a family law dispute;
- ► addresses protection orders in family law arbitration;
- ► provides the powers and duties of an arbitrator;
- ► addresses the recording of an arbitration hearing;
- ► provides the requirements for an award by an arbitrator in a family law arbitration;
- ► addresses the confirmation or correction of an award in a family law arbitration;
- ► addresses the vacation or amendment of an award in a family law arbitration by a court;
- ► addresses the requirements for a party seeking to clarify a confirmed award;
- ► requires a court to enter a judgment for a family law arbitration award;
- ► allows a court to seal or redact a document that was part of the family law arbitration;
- ► addresses the modification and enforcement of a confirmed award or judgment from a family law arbitration;
- ► addresses when an appeal from a family law arbitration may be taken;
- ► addresses immunity of an arbitrator in a family law arbitration;
- ► addresses the uniformity of application and construction of the act;
- ► addresses the Electronic Signatures in Global and National Commerce Act; and
- ► provides a transitional provision.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

81-15-101, Utah Code Annotated 1953
81-15-102, Utah Code Annotated 1953
81-15-103, Utah Code Annotated 1953
81-15-104, Utah Code Annotated 1953
81-15-105, Utah Code Annotated 1953
81-15-106, Utah Code Annotated 1953
81-15-107, Utah Code Annotated 1953
81-15-108, Utah Code Annotated 1953
81-15-109, Utah Code Annotated 1953
81-15-110, Utah Code Annotated 1953
81-15-111, Utah Code Annotated 1953
81-15-112, Utah Code Annotated 1953
81-15-113, Utah Code Annotated 1953

81-15-114, Utah Code Annotated 1953
81-15-115, Utah Code Annotated 1953
81-15-116, Utah Code Annotated 1953
81-15-117, Utah Code Annotated 1953
81-15-118, Utah Code Annotated 1953
81-15-119, Utah Code Annotated 1953
81-15-120, Utah Code Annotated 1953
81-15-121, Utah Code Annotated 1953
81-15-122, Utah Code Annotated 1953
81-15-123, Utah Code Annotated 1953
81-15-124, Utah Code Annotated 1953
81-15-125, Utah Code Annotated 1953
81-15-126, Utah Code Annotated 1953
81-15-127, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 81-15-101 is enacted to read:

CHAPTER 15. UNIFORM FAMILY LAW ARBITRATION ACT

81-15-101. Definitions for chapter.

As used in this chapter:

(1) "Arbitration agreement" means an agreement that subjects a family law dispute to arbitration.

(2) "Arbitration organization" means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration or is involved in the selection of an arbitrator.

(3) "Arbitrator" means an individual selected, alone or with other individuals, to make an award in a family law dispute that is subject to an arbitration agreement.

(4) "Child-related dispute" means a family law dispute regarding the custody, parent-time, visitation, or financial support of a child.

(5) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, over the family law dispute.

(6) "Family law dispute" means a contested issue arising under this title.

(7) "Party" means an individual who signs an arbitration agreement and whose rights will be determined by an award.

(8) "Person" means an individual, an estate, a business or nonprofit entity, a public corporation, a government or governmental subdivision, agency, or instrumentality, or any other legal entity.

(9) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(10) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(11) (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(b) "State" includes a federally recognized Indian tribe.

Section 2. Section 81-15-102 is enacted to read:
81-15-102. Scope.

(1) This chapter governs arbitration of a family law dispute.

(2) This chapter does not authorize an arbitrator to make an award that:

(a) grants a legal separation, a divorce, or an annulment;

(b) terminates parental rights;

(c) grants an adoption or a guardianship of a minor child or incapacitated individual; or

(d) determines the status of abuse, neglect, or dependency, as those terms are defined in Section 80-1-102, for a minor child.

Section 3. Section 81-15-103 is enacted to read:
81-15-103. Applicable law.

(1) Except as otherwise provided in this chapter, the law applicable to arbitration is Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(2) In determining the merits of a family law dispute, an arbitrator shall apply the law of this state, including this state's choice of law rules.

Section 4. Section 81-15-104 is enacted to read:
81-15-104. Arbitration agreement.

(1) An arbitration agreement shall:

(a) be in a record signed by the parties;

(b) identify the arbitrator, an arbitration organization, or a method of selecting an arbitrator; and

(c) identify the family law dispute the parties intend to arbitrate.

(2) Except as otherwise provided in Subsection (3), an agreement in a record to arbitrate a family law dispute that arises between the parties before, at the time, or after the agreement is made is valid and enforceable as any other contract and irrevocable except on a ground that exists at law or in equity for the revocation of a contract.

(3) An agreement to arbitrate a child-related dispute that arises between the parties after the agreement is made is unenforceable unless:

(a) the parties affirm the agreement in a record after the dispute arises; or

(b) the agreement was entered during a family law proceeding and the court approved or incorporated the agreement in an order issued in the proceeding.

(4) If a party objects to arbitration on the ground the arbitration agreement is unenforceable or the agreement does not include a family law dispute, the court shall decide whether the agreement is enforceable or includes the family law dispute.

Section 5. Section 81-15-105 is enacted to read:

81-15-105. Notice of arbitration.

A party may initiate arbitration by giving notice to arbitrate to the other party in the manner specified in the arbitration agreement or, in the absence of a specified manner, under the laws and procedural rules of this state, other than this chapter, governing contractual arbitration.

Section 6. Section 81-15-106 is enacted to read:

81-15-106. Motion for judicial relief.

(1) If a party brings a motion for judicial relief under this chapter, the party shall bring the motion in:

(a) the court in which a proceeding is pending involving the family law dispute subject to arbitration; or

(b) if no proceeding is pending, a court with jurisdiction over the parties and the subject matter.

(2) On a motion of a party, the court may compel arbitration if the parties have entered into an arbitration agreement that complies with Section 81-15-104 unless the court determines under Section 81-15-111 that the arbitration should not proceed.

(3) On a motion of a party, the court shall terminate arbitration if the court determines that:

(a) the agreement to arbitrate is unenforceable;

(b) the family law dispute is not subject to arbitration; or

(c) under Section 81-15-111, the arbitration should not proceed.

(4) Unless prohibited by an arbitration agreement, on a motion of a party, the court may order consolidation of separate arbitrations involving the same parties and a common issue of law or fact if necessary for the fair and expeditious resolution of the family law dispute.

Section 7. Section 81-15-107 is enacted to read:

81-15-107. Qualification and selection of arbitrator.

(1) Except as otherwise provided in Subsection (2), and unless waived in a record by the parties, an arbitrator shall be:

(a) an attorney in good standing admitted to practice law or on inactive status in this state or another state; and

(b) trained in identifying domestic violence and child abuse according to the requirements established by Section 78A-2-232 for a judicial officer assigned to hear a family law proceeding.

(2) The identification in the arbitration agreement of an arbitrator, arbitration organization, or method of selection of the arbitrator controls.

(3) If an arbitrator is unable or unwilling to act or if the agreed upon method of selecting an arbitrator fails, the court shall select an arbitrator on a motion of a party.

Section 8. Section 81-15-108 is enacted to read:

81-15-108. Disclosure by arbitrator -- Disqualification.

(1) Before agreeing to serve as an arbitrator, an individual shall disclose, after making reasonable inquiry, to all parties any known fact a reasonable person would believe is likely to affect:

(a) the impartiality of the arbitrator in the arbitration, including bias, a financial or personal interest in the outcome of the arbitration, or an existing or past relationship with a party, an attorney representing a party, or a witness; or

(b) the arbitrator's ability to make a timely award.

(2) An arbitrator, the parties, and the attorneys representing the parties have a continuing obligation to disclose to all parties any known fact a reasonable person would believe is likely to affect the impartiality of the arbitrator or the arbitrator's ability to make a timely award.

(3) A party shall make an objection to the selection or continued service of an arbitrator and a motion for a stay of arbitration and disqualification of the arbitrator in accordance with the law and procedural rules of this state, other than this chapter, governing arbitrator disqualification.

(4) If a disclosure required by Subsection (1)(a) or (2) is not made, the court may:

(a) suspend the arbitration on a motion of a party that is no later than 30 days after the day on which the failure to disclose is known or by the exercise of reasonable care should have been known to the party;

(b) vacate an award under Subsection 81-15-118(1)(b) on timely motion of a party; or

(c) grant other appropriate relief under a law of this state other than this chapter if an award has been confirmed.

(5) If the parties agree to discharge an arbitrator or the arbitrator is disqualified, the parties by agreement may select a new arbitrator or request the court to select another arbitrator as provided in Section 81-15-107.

Section 9. Section 81-15-109 is enacted to read:

81-15-109. Party participation.

(1) A party may:

(a) be represented in an arbitration by an attorney;

(b) be accompanied by an individual who will not be called as a witness or act as an advocate; and

(c) participate in the arbitration to the full extent permitted under the law and procedural rules of this state, other than this chapter, governing a party's participation in contractual arbitration.

(2) A party or representative of a party may not communicate ex parte with the arbitrator except to the extent allowed in a family law proceeding for communication with a judge.

Section 10. Section 81-15-110 is enacted to read:

81-15-110. Temporary order or award.

(1) Before an arbitrator is selected and able to act, the court may enter a temporary order on a motion of a party in accordance with this title and the Utah Rules of Civil Procedure.

(2) After an arbitrator is selected:

(a) the arbitrator may make a temporary award in accordance with this title and the Utah Rules of Civil Procedure; and

(b) if the matter is urgent and the arbitrator is not able to act in a timely manner or provide an adequate remedy, the court may enter a temporary order on a motion by a party.

(3) (a) On a motion of a party, before the court confirms a final award, the court under Section 81-15-115, 81-15-117, or 81-15-118 may confirm, correct, vacate, or amend a temporary award made under Subsection (2)(a).

(b) If an arbitrator makes an temporary award in favor of a party to the arbitration proceeding, the prevailing party may move the court for an expedited order to confirm the temporary award.

(c) On a motion described in Subsection (3)(b), the court shall issue an order confirming the temporary award unless the court vacates, alters, or amends the temporary award under this part.

(4) On a motion of a party, the court may enforce a subpoena or interim award issued by an arbitrator for the fair and expeditious disposition of the arbitration.

Section 11. Section 81-15-111 is enacted to read:

81-15-111. Protection of party or child.

(1) As used in this section, "protection order" means an injunction or other order:

(a) issued under the domestic violence, family violence, or stalking laws of the issuing jurisdiction; and

(b) to prevent an individual from engaging in a violent or threatening act against, harassment of, contact or communication with, or being in physical proximity to another individual who is a party or a minor child under the custodial responsibility of a party.

(2) If a party is subject to a protection order or an arbitrator determines there is a reasonable basis to believe a party's safety or ability to participate effectively in arbitration is at risk, the arbitrator shall stay the arbitration and refer the parties to court.

(3) The arbitration may not proceed unless the party at risk affirms the arbitration agreement in a record and the court determines:

(a) the affirmation is informed and voluntary;

(b) arbitration is not inconsistent with the protection order; and

(c) reasonable procedures are in place to protect the party from risk of harm, harassment, or intimidation.

(4) If an arbitrator determines that there is a reasonable basis to believe a minor child who is the subject of a child-related dispute is abused or neglected, the arbitrator shall terminate the arbitration of the child-related dispute and report the abuse or neglect to the Division of Child and Family Services.

(5) An arbitrator may make a temporary award to protect a party or a minor child from harm, harassment, or intimidation.

(6) On a motion of a party, the court may stay arbitration and review a determination or temporary award under this section.

(7) This section supplements remedies available under a law of this state, other than this chapter, for the protection of victims of domestic violence, family violence, stalking, harassment, or similar abuse.

Section 12. Section 81-15-112 is enacted to read:

81-15-112. Powers and duties of arbitrator.

(1) (a) An arbitrator shall conduct an arbitration in a manner the arbitrator considers appropriate for a fair and expeditious disposition of the dispute.

(b) An arbitrator may conduct an arbitration remotely by electronic means.

(2) An arbitrator shall provide each party a right to:

(a) be heard;

(b) present evidence material to the family law dispute; and

(c) cross-examine witnesses.

(3) Unless the parties otherwise agree in a record, an arbitrator's powers include the power to:

(a) select the rules for conducting the arbitration;

(b) hold conferences with the parties before a hearing;

(c) determine the date, time, and place of a hearing;

(d) require a party to provide:

(i) a copy of a relevant court order;

(ii) information required to be disclosed in a family law proceeding under a law of this state, other than this chapter; and

(iii) a proposed award that addresses each issue in arbitration;

(e) meet with or interview a minor child who is the subject of a child-related dispute;

(f) appoint a private expert at the expense of the parties;

(g) administer an oath or affirmation and issue a subpoena for the attendance of a witness or the production of documents and other evidence at a hearing;

(h) compel discovery concerning the family law dispute and determine the date, time, and place of discovery;

(i) determine the admissibility and weight of evidence;

(j) permit deposition of a witness for use as evidence at a hearing;

(k) prohibit a party from disclosing information for good cause;

(l) appoint an attorney, guardian ad litem, or other representative for a minor child at the expense of the parties;

(m) impose a procedure to protect a party or minor child from risk of harm, harassment, or intimidation;

(n) allocate arbitration fees, attorney fees, expert witness fees, and other costs to the parties; and

(o) impose a sanction on a party for bad faith or misconduct during the arbitration according to standards governing imposition of a sanction for litigant misconduct in a family law proceeding.

(4) An arbitrator may not allow ex parte communication except to the extent allowed in a family law proceeding for communication with a judge.

Section 13. Section 81-15-113 is enacted to read:

81-15-113. Recording of hearing.

(1) Except as otherwise provided in Subsection (2) or as required by a law of this state other than this chapter, an arbitration hearing does not need to be recorded unless required by the arbitrator, provided by the arbitration agreement, or requested by a party.

(2) An arbitrator shall request a verbatim recording be made of any part of an arbitration hearing concerning a child-related dispute.

Section 14. Section 81-15-114 is enacted to read:

81-15-114. Award.

(1) An arbitrator shall make an award in a record, dated and signed by the arbitrator.

(2) The arbitrator shall give notice of the award to each party by a method agreed on by the parties or, if the parties have not agreed on a method, under the law and procedural rules of this state, other than this chapter, governing notice in contractual arbitration.

(3) Except as otherwise provided in Subsection (4), the award under this chapter shall state the reasons on which the award is based unless otherwise agreed by the parties.

(4) An award determining a child-related dispute shall state the reasons on which the award is based as required by a law of this state, other than this chapter, for a court order in a family law proceeding.

(5) An award under this chapter is not enforceable as a judgment until confirmed under Section 81-15-115.

Section 15. Section 81-15-115 is enacted to read:

81-15-115. Confirmation of award.

(1) After an arbitrator gives notice under Subsection 81-15-114(2) of an award, including an award corrected under Section 81-15-116, a party may move the court for an order confirming the award.

(2) Except as otherwise provided in Subsection (3), the court shall confirm an award under this chapter if:

(a) the parties agree in a record to confirmation; or

(b) the time has expired for making a motion, and no motion is pending, under Section 81-15-117 or 81-15-118.

(3) If an award determines a child-related dispute, the court shall confirm the award under Subsection (2) if the court finds, after a review of the record if necessary, that the award on the award's face:

(a) complies with Section 81-15-114 and the law of this state, other than this chapter, governing a child-related dispute; and

(b) is in the best interests of the minor child.

(4) On confirmation, an award under this chapter is enforceable as a judgment.

Section 16. Section 81-15-116 is enacted to read:

81-15-116. Correction by arbitrator of unconfirmed award.

On a motion of a party that is made no later than 30 days after the day on which an arbitrator gives notice under Subsection 81-15-114(2) of an award, the arbitrator may correct the award:

(1) if the award has an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property;

(2) if the award is imperfect in a matter of form not affecting the merits on the issues submitted; or

(3) to clarify the award.

Section 17. Section 81-15-117 is enacted to read:

81-15-117. Correction by court of unconfirmed award.

(1) On a motion of a party that is made no later than 90 days after the day on which an arbitrator gives notice under Subsection 81-15-114(2) of an award, including an award corrected under Section 81-15-116, the court shall correct the award if:

(a) the award has an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property;

(b) the award is imperfect in a matter of form not affecting the merits of the issues submitted; or

(c) the arbitrator made an award on a dispute not submitted to the arbitrator and the award may be corrected without affecting the merits of the issues submitted.

(2) A motion under this section to correct an award may be joined with a motion to vacate or amend the award under Section 81-15-118.

(3) Unless a motion under Section 81-15-118 is pending, the court may confirm a corrected award under Section 81-15-115.

Section 18. Section 81-15-118 is enacted to read:

81-15-118. Vacation or amendment by court of unconfirmed award.

(1) On a motion of a party, the court shall vacate an unconfirmed award if the moving party establishes that:

(a) the award was procured by corruption, fraud, or other undue means;

(b) there was:

(i) evident partiality by the arbitrator;

(ii) corruption by the arbitrator; or

(iii) misconduct by the arbitrator substantially prejudicing the rights of a party;

(c) the arbitrator refused to postpone a hearing on showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to Section 81-15-112, so as to prejudice substantially the rights of a party;

(d) the arbitrator exceeded the arbitrator's powers;

(e) no arbitration agreement exists, unless the moving party participated in the arbitration without making a motion under Section 81-15-106 no later than the beginning of the first arbitration hearing; or

(f) the arbitration was conducted without proper notice under Section 81-15-105 of the initiation of arbitration, so as to prejudice substantially the rights of a party.

(2) Except as otherwise provided in Subsection (3), on a motion of a party, the court shall vacate an unconfirmed award that determines a child-related dispute if the moving party establishes that:

(a) the award does not comply with Section 81-15-114 or a law of this state, other than this chapter, governing a child-related dispute or is contrary to the best interests of the minor child;

(b) the record of the hearing or the statement of reasons in the award is inadequate for the court to review the award; or

(c) a ground for vacating the award under Subsection (1) exists.

(3) If an award is subject to vacation under Subsection (2)(a), on a motion of a party, the court may amend the award if amending rather than vacating is in the best interests of the minor child.

(4) The court shall determine a motion under Subsection (2) or (3) based on the record of the arbitration hearing and facts occurring after the hearing.

(5) A motion under this section to vacate or amend an award shall be filed no later than 90 days after the day on which:

(a) an arbitrator gives the party filing the motion notice of the award or a corrected award; or

(b) for a motion under Subsection (1)(a), the ground of corruption, fraud, or other undue means is known or by the exercise of reasonable care should have been known to the party filing the motion.

(6) (a) If the court under this section vacates an award for a reason other than the absence of an enforceable arbitration agreement, the court may order a rehearing before an arbitrator.

(b) If the reason for vacating the award is that the award was procured by corruption, fraud, or other undue means or there was evident partiality, corruption, or misconduct by the arbitrator, the rehearing shall be before another arbitrator.

(7) If the court under this section denies a motion to vacate or amend an award, the court may confirm the award under Section 81-15-115 unless a motion is pending under Section 81-15-117.

Section 19. Section 81-15-119 is enacted to read:

81-15-119. Clarification of confirmed award.

If the meaning or effect of an award confirmed under Section 81-15-115 is in dispute, the parties may:

(1) agree to arbitrate the dispute before the original arbitrator or another arbitrator; or

(2) proceed in court under a law of this state, other than this chapter, governing clarification of a judgment in a family law proceeding.

Section 20. Section 81-15-120 is enacted to read:

81-15-120. Judgment on award.

(1) On granting an order confirming, vacating without directing a rehearing, or amending an award under this chapter, the court shall enter judgment in conformity with the order.

(2) On a motion of a party, the court shall order that a document or part of the arbitration record be sealed or redacted to prevent public disclosure of all or part of the record or award to the extent permitted under a law of this state other than this chapter.

Section 21. Section 81-15-121 is enacted to read:

81-15-121. Modification of confirmed award or judgment.

If a party requests under a law of this state, other than this chapter, a modification of an award confirmed under Section 81-15-115 or judgment on the award based on a fact occurring after confirmation:

(1) the parties shall proceed under the dispute-resolution method specified in the award or judgment; or

(2) if the award or judgment does not specify a dispute-resolution method, the parties may:

(a) agree to arbitrate the modification before the original arbitrator or another arbitrator; or

(b) absent an agreement under Subsection (2)(a), proceed under a law of this state, other than this chapter, governing modification of a judgment in a family law proceeding.

Section 22. Section 81-15-122 is enacted to read:

81-15-122. Enforcement of confirmed award.

(1) The court shall enforce an award confirmed under Section 81-15-115, including a temporary award, in the manner and to the same extent as any other order or judgment of a court.

(2) The court shall enforce an arbitration award in a family law dispute confirmed by a court in another state in the manner and to the same extent as any other order or judgment from another state.

Section 23. Section 81-15-123 is enacted to read:

81-15-123. Appeal.

(1) An appeal may be taken under this chapter from:

(a) an order denying a motion to compel arbitration;

(b) an order granting a motion to stay arbitration;

(c) an order confirming or denying confirmation of an award;

(d) an order modifying or correcting an award;

(e) an order vacating an award without directing a rehearing; or

(f) a final judgment entered in accordance with this chapter.

(2) An appeal under this section shall be taken as from an order or a judgment in a civil action.

Section 24. Section 81-15-124 is enacted to read:

81-15-124. Immunity of arbitrator.

(1) An arbitrator or arbitration organization acting in that capacity in a family law dispute is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(2) The immunity provided by this section supplements any immunity under a law of this state other than this chapter.

(3) An arbitrator's failure to make a disclosure required by Section 81-15-108 does not cause the arbitrator to lose immunity under this section.

(4) (a) An arbitrator is not competent to testify, and may not be required to produce records, in a judicial, administrative, or similar proceeding about a statement, conduct, decision, or ruling occurring during an arbitration, to the same extent as a judge of a court of this state acting in a judicial capacity.

(b) This Subsection (4) does not apply:

(i) to the extent disclosure is necessary to determine a claim by the arbitrator or arbitration organization against a party to the arbitration; or

(ii) to a hearing on a motion under Subsection 81-15-118(1)(a) or (b) to vacate an award if there is prima facie evidence that a ground for vacating the award exists.

(5) If a person commences a civil action against an arbitrator arising from the services of the arbitrator or seeks to compel the arbitrator to testify or produce records in violation of Subsection (4) and the court determines that the arbitrator is immune from civil liability or is not competent to testify or required to produce the records, the court shall award the arbitrator reasonable attorney fees, costs, and reasonable expenses of litigation.

Section 25. Section 81-15-125 is enacted to read:

81-15-125. Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to this uniform law's subject matter among states that enact this uniform law.

Section 26. Section 81-15-126 is enacted to read:

81-15-126. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 27. Section 81-15-127 is enacted to read:

81-15-127. Transitional provision.

(1) This chapter applies to arbitration of a family law dispute under an arbitration agreement made on or after May 7, 2025.

(2) If an arbitration agreement was made before May 7, 2025, the parties may agree in a record that this chapter applies to the arbitration.

Section 28. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 316
S. B. 123
Passed February 26, 2025
Approved March 25, 2025
Effective May 7, 2025

CRIMINAL PROTECTIVE ORDER AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Grant Amjad Miller

LONG TITLE

General Description:

This bill addresses criminal protective orders.

Highlighted Provisions:

This bill:

► requires a court to include certain provisions in a criminal pretrial protective order to address a utility service for a victim's residence; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-7-803, as last amended by Laws of Utah 2023, Chapters 114, 447

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-7-803 is amended to read:

78B-7-803. Pretrial protective orders.

(1) (a) When an alleged perpetrator is charged with a crime involving a qualifying offense, the court shall, at the time of the alleged perpetrator's court appearance under Section 77-36-2.6:

(i) determine the necessity of imposing a pretrial protective order or other condition of pretrial release; and

(ii) state the court's findings and determination in writing.

(b) Except as provided in Subsection [~~(4)~~](5), in any criminal case, the court may, during any court hearing where the alleged perpetrator is present, issue a pretrial protective order, pending trial.

(c) When determining the necessity of imposing a pretrial protective order or other condition of pretrial release, a court may consider the results of any relevant lethality assessment conducted in accordance with Section 77-36-2.1.

(2) [~~A~~]The court may include any of the following provisions in a pretrial protective order:

(a) an order enjoining the alleged perpetrator from threatening to commit or committing acts of domestic violence or abuse against the victim and any designated family or household member;

(b) an order prohibiting the alleged perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order removing and excluding the alleged perpetrator from the victim's residence and the premises of the residence;

(d) an order requiring the alleged perpetrator to stay away from the victim's residence, school, or place of employment, and the premises of any of these, or any specified place frequented by the victim and any designated family member;

(e) an order for any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member;

(f) an order identifying and requiring an individual designated by the victim to communicate between the alleged perpetrator and the victim if and to the extent necessary for family related matters;

(g) an order requiring the alleged perpetrator to participate in an electronic or other type of monitoring program; and

(h) if the alleged victim and the alleged perpetrator share custody of one or more minor children, an order for indirect or limited contact to temporarily facilitate parent visitation with a minor child.

(3) (a) If a court orders the removal and exclusion of the alleged perpetrator from the victim's residence in a pretrial protective order described in Subsection (2), the court shall include a provision in the pretrial protective order:

(i) prohibiting the alleged perpetrator from terminating any utility service to the victim's residence for at least 60 days from the day on which the pretrial protective order is issued; or

(ii) if appropriate, ordering the alleged perpetrator to restore any utility service to the victim's residence.

(b) A provision in a pretrial protective order described Subsection (3)(a)(i) or (ii) is not a determination that the alleged perpetrator is responsible for the costs of a utility service to a victim's residence.

(c) If the court includes a provision described in Subsection (3)(a) in a pretrial protective order, the court may include:

(i) a provision in the pretrial protective order addressing the party responsible for paying the costs of a utility service to the victim's

residence; or

(ii) a provision in the pretrial protective order requiring the alleged perpetrator to pay the costs of restoring a utility service if the court includes the provision described in Subsection (3)(a)(ii).

[~~(3)~~](4) If the court issues a pretrial protective order, the court shall determine whether to allow provisions for transfer of personal property to decrease the need for contact between the parties.

[~~(4)~~](5) A pretrial protective order issued under this section against an alleged perpetrator who is a minor expires on the earlier of:

(a) the day on which the alleged perpetrator is served with an order issued under Section 78B-7-804 or 78B-7-805;

(b) the day on which the court makes a disposition of the alleged perpetrator's case under Title 80, Chapter 6, Part 7, Adjudication and Disposition; or

(c) the day on which the juvenile court terminates jurisdiction.

[~~(5)~~](6) A pretrial protective order issued under this section against an alleged perpetrator who is not a minor expires on the earliest of:

(a) the day on which the court dismisses the case;

(b) the day on which the court dismisses the pretrial protective order; or

(c) the day on which the alleged perpetrator is served with an order issued under Section 78B-7-804 or 78B-7-805.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 317
S. B. 129
Passed March 6, 2025
Approved March 25, 2025
Effective March 25, 2025

HIGHER EDUCATION DEVELOPMENT AREAS

Chief Sponsor: Chris H. Wilson
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill enacts provisions relating to the development of property owned by certain higher education institutions.

Highlighted Provisions:

This bill:

- ► authorizes certain higher education institutions to designate a development area consisting of property owned by the institution;
- ► provides a process for an institution to adopt a resolution designating a development area;
- ► requires an institution to establish a fund for revenue from the development area and provides for uses of money in the fund;
- ► provides limitations on a member of the board of trustees regarding participation in development actions and requires a member of a board of trustees to disclose a conflict before the board of trustees approves a development agreement;
- ► requires payment of privilege tax on leased property within a development area and describes the method for a county treasurer to distribute privilege tax revenue to the institution; and
- ► requires the board of trustees to provide an annual report to the Higher Education Appropriations Subcommittee for each development area.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53B-20-108, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-20-108 is enacted to read:

53B-20-108. Development of university property.

(1) As used in this section:

(a) "Board of trustees" means the board of trustees of an eligible university.

(b) "Conflict" means a situation in which a board of trustees member or a family member of a board of trustees member will or is likely to receive a direct financial benefit because of the development of eligible university property within a development area.

(c) "Designation resolution" means a board of trustees' resolution designating eligible university property as a development area.

(d) "Development action" means:

(i) a board of trustees' deliberations on whether to adopt a designation resolution;

(ii) a board of trustees' adoption of a designation resolution;

(iii) a board of trustees' deliberations on whether to approve a development agreement; or

(iv) a board of trustees' approval of a development agreement.

(e) "Development agreement" means an agreement between an eligible university and a development partner that governs the development of eligible university property within a development area.

(f) "Development area" means a single, contiguous area that:

(i) consists only of eligible university property;

(ii) is no larger than 75 acres; and

(iii) the board of trustees designates for development or redevelopment in a designation resolution under this section.

(g) "Development fund" means the fund described in and established under Subsection (4).

(h) "Development partner" means a person who enters into a development agreement with an eligible university to develop or redevelop eligible university property within a development area.

(i) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(j) "Eligible university" means an institution of higher education listed in Subsection 53B-1-102(1)(a).

(k) "Eligible university property" means real property owned by an eligible university as of January 1, 2025.

(l) "Family member" means a parent, spouse, sibling, child, or grandchild.

(m) "Leased property" means eligible university property that:

(i) is within a development area; and

(ii) an eligible university leases to a private person.

(n) "Privilege tax" means a tax imposed under Section 59-4-101.

(2) (a) Except as provided in Subsection (2)(f), before January 1, 2035, an eligible university may, by resolution of the eligible university's board of trustees, designate eligible university property as a development area.

(b) Before adopting a designation resolution, a board of trustees shall:

(i) obtain approval from the Utah Board of Higher Education of the geographic area proposed to be designated as a development area; and

(ii) after obtaining approval from the Utah Board of Higher Education under Subsection (2)(b)(i):

(A) provide notice of the public hearing required under Subsection (2)(b)(ii)(B), as required for a class A notice under Section 63G-30-102, for at least seven days before the day of the public hearing; and

(B) hold a public hearing on the proposed adoption of a designation resolution.

(c) A notice under Subsection (2)(b)(ii)(A) shall include a copy of the proposed designation resolution.

(d) A designation resolution, including a proposed designation resolution that accompanies a notice under Subsection (2)(b)(ii)(A), shall:

(i) accurately describe the boundary of the proposed development area;

(ii) describe the development that is proposed to occur in the proposed development area; and

(iii) estimate the amount and sources of revenue the eligible university expects to receive from the development area.

(e) Before adopting a designation resolution, a board of trustees may modify the proposed designation resolution to:

(i) address concerns raised in a public hearing held under Subsection (2)(b)(ii)(B); or

(ii) clarify or adjust provisions of the proposed designation resolution, as the board of trustees considers appropriate.

(f) A board of trustees may not adopt a designation resolution if:

(i) the board of trustees has previously adopted a designation resolution; or

(ii) the area in the proposed development area would overlap with part or all of:

(A) a community reinvestment project area created under Title 17C, Chapter 5, Part 1, Community Reinvestment Project Area Plan, as that project area exists on January 1, 2025; or

(B) a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, as that zone exists on January 1, 2025.

(3) Within 30 days after a board of trustees' adoption of a designation resolution, the board of trustees or the board of trustees' delegee shall deliver a copy of the designation resolution to:

(a) the clerk of the municipality in which the development area that is the subject of the designation resolution is located; and

(b) the assessor, treasurer, and auditor of the county in which the development area that is the subject of the designation resolution is located.

(4) (a) Upon adoption of a designation resolution, a board of trustees shall establish a separate fund related to the development area that is the subject of the designation resolution.

(b) An eligible university shall deposit into a development fund all money the eligible university receives from the development and lease of eligible university property within a development area.

(c) Money in a development fund shall be accounted for separately from any other fund of the eligible university.

(d) An eligible university may use money in a development fund for:

(i) expenses associated with the development of the development area;

(ii) capital facility projects of the eligible university;

(iii) operation and maintenance costs associated with capital facilities of the eligible university; or

(iv) any other eligible university-related purpose.

(5) An eligible university may enter into a development agreement.

(6) (a) A board of trustees member may not participate in a development action if the board of trustees member or a family member of the board of trustees member owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the board of trustees member reasonably believes is likely to participate in or receive a direct financial benefit from the development of land that is the subject of a development agreement.

(b) Before the board of trustees approves a development agreement, the board of trustees shall require any member with a conflict to disclose the conflict in writing to the board of trustees.

(c) Nothing in this Subsection (6) affects the application or effect of any other code provision applicable to a board of trustees member relating to ethics or conflicts of interest.

(7) (a) Beginning January 1 of the year immediately following the execution of a development agreement, the possession or other beneficial use enjoyed by a person of leased property that is located within the development area subject to the development agreement shall be subject to Title 59, Chapter 4, Privilege Tax, if that leased property is used in connection with a business conducted for profit.

(b) The treasurer of the county in which the leased property described in Subsection (7)(a) is located shall, in the manner and at the time provided in Section 59-2-1365:

(i) collect privilege tax from a lessee of the leased property; and

(ii) distribute 80% of the privilege tax revenue to the eligible university.

(8) (a) A board of trustees shall present a written report to the Higher Education Appropriations Subcommittee no later than September 30 of each year after the board of trustees' adoption of a designation resolution.

(b) A report under Subsection (8)(a) shall:

(i) describe the development taking place or expected to take place within the development area; and

(ii) provide a summary of money deposited into and expended from the development fund for that development area.

Section 2. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 318
S. B. 132
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

ELECTRIC UTILITY AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Colin W. Jack

LONG TITLE

General Description:

This bill creates requirements for providing electrical service to large-scale electrical loads.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes alternative processes for providing electric service to customers with large electrical loads;
- ► exempts service provided under this chapter from certain rate regulation requirements while maintaining safety and reliability standards;
- ► creates procedures for submitting, evaluating, and contracting for large-scale electrical service requests;
- ► establishes requirements for qualified electric utilities and large-scale generation providers serving large load customers;
- ► creates accounting and operational transparency requirements to protect retail customers;
- ► establishes a framework for closed private generation systems and connected generation systems;
- ► requires the Public Service Commission (commission) to investigate the feasibility of a large load flexible tariff; and
- ► requires the commission to conduct periodic reviews of the program and report to the Legislature.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-6a-107.6, as last amended by Laws of Utah 2024, Chapters 291, 522

ENACTS:

54-26-101, Utah Code Annotated 1953
54-26-102, Utah Code Annotated 1953
54-26-201, Utah Code Annotated 1953
54-26-202, Utah Code Annotated 1953
54-26-301, Utah Code Annotated 1953
54-26-301.5, Utah Code Annotated 1953
54-26-302, Utah Code Annotated 1953
54-26-401, Utah Code Annotated 1953
54-26-402, Utah Code Annotated 1953
54-26-501, Utah Code Annotated 1953
54-26-502, Utah Code Annotated 1953
54-26-503, Utah Code Annotated 1953
54-26-504, Utah Code Annotated 1953
54-26-505, Utah Code Annotated 1953
54-26-601, Utah Code Annotated 1953
54-26-602, Utah Code Annotated 1953
54-26-701, Utah Code Annotated 1953
54-26-801, Utah Code Annotated 1953
54-26-802, Utah Code Annotated 1953
54-26-901, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-26-101 is enacted to read:

CHAPTER 26. LARGE-SCALE ELECTRIC SERVICE REQUIREMENTS

PART 1. General Provisions

54-26-101. Definitions.

As used in this chapter:

(1) "Closed private generation system" means electric generating facilities and associated transmission infrastructure that:

(a) is not connected to and operates independently from the transmission system of a qualified electric utility, cooperative utility, municipal utility, or other utility;

(b) serves one or more customers with a minimum cumulative electrical demand of 100 megawatts; and

(c) serves one or more large load customers through direct connection.

(2) "Connected generation system" means electric generating facilities and associated transmission infrastructure that:

(a) is connected to and operates in conjunction with the transmission system of a qualified electric utility;

(b) serves one or more large load customers through connection to the transmission system of a qualified electric utility; and

(c) except as provided in a large load contract, operates independent of the generation resources of any qualified electric utility, cooperative utility, municipal utility, or other utility.

(3) "Evaluation" means an assessment that:

(a) evaluates the impact of a large-scale service request on a qualified electric utility's systems;

(b) identifies any necessary:

(i) system modifications or upgrades to the qualified electric utility's system to provide service as requested in a large-scale service request;

(ii) generation capacity; or

(iii) transmission service requests;

(c) provides cost estimates for any required improvements; and

(d) establishes an estimated timeline for implementing any necessary system changes.

(4) "Large load contract" means a large load construction contract or a large load service contract.

(5) "Large load construction contract" means a contract for the construction of large load facilities between:

(a) a qualified electric utility or a large-scale generation provider; and

(b) a large load customer.

(6) "Large load customer" means a current or potential customer in the service territory of a qualified electric utility that:

(a) requests electric service under a large-scale service request; or

(b) enters into a private generation contract with a large-scale generation provider.

(7) "Large load facilities" means facilities and resources reasonably necessary, as determined in an evaluation, to provide safe and reliable electric service as requested in a large-scale service request, including the reasonably allocated share of facilities or upgrades necessary to facilitate a transmission request from a qualified electric utility or large-scale generation provider necessary to serve a large-scale service request.

(8) "Large load flexible tariff" means a tariff:

(a) pursuant to which a large load customer:

(i) will receive components of electric services from a large-scale service provider; or

(ii) will reduce demand at periods specified by a large-scale service provider; and

(b) under which a large load customer receives components of available electric services from a qualified electric utility to the extent:

(i) the qualified electric utility's resources are reasonably expected to be available and sufficient; and

(ii) as determined by:

(A) agreement with the qualified electric utility; or

(B) tariffs approved by the commission.

(9) "Large load incremental costs" means all costs reasonably necessary for:

(a) the design, engineering, procurement, construction, and completion of:

(i) large load facilities; and

(ii) any activities required to provide electric service under a large-scale service request; and

(b) the long-term operation and maintenance of large load facilities for the duration of any applicable service contract.

(10) "Large load service contract" means a contract for the provision of electric service for a large-scale service request between:

(a) a qualified electric utility or a large-scale generation provider; and

(b) a large load customer.

(11) "Large-scale generation provider" means an entity that:

(a) is not a qualified electric utility;

(b) is registered with the commission in accordance with Section 54-26-501; and

(c) owns, operates, or contracts for the output of one or more qualifying generation resources intended to be used to supply certain retail electric services to a large load customer pursuant to a large load contract or a private generation contract.

(12) "Large-scale service request" means a request submitted to a qualified electric utility for:

(a) new electric service that is expected to reach a cumulative demand of 100 megawatts or greater within five years of the requested initial start date; or

(b) additional electric service that is expected to increase a customer's total service level by 100 megawatts or greater within five years of the requested start date for the additional service.

(13) "Private generation contract" means a contract for the provision of electric service through a closed private generation system between:

(a) a large-scale generation provider; and

(b) a large load customer requesting new electric service that is expected to reach a cumulative demand of 100 megawatts or greater within five years of the requested initial start date.

(14) "Qualified electric utility" means a large-scale electric utility.

(15) "Qualifying generation resources" means one or more electric generating resources that, in combination:

(a) if connected to the transmission system of a qualified electric utility:

(i) meets or exceeds the resource adequacy standards of the qualified electric utility;

(ii) includes sufficient resources and capacity to meet all requirements imposed by the North American Electric Reliability Corporation and the Western Electricity Coordinating Council; and

(iii) is capable of satisfying the load and electricity requirements of a large load customer without drawing on any generation or generation services provided by a qualified electric utility, any cooperative utility, municipal utility, or other utility except to the extent such services are provided under a large load contract; or

(b) if not connected to the transmission system of a qualified electric utility:

(i) is capable of satisfying the load, transmission, and electricity requirements of a large load customer without drawing on any generation or services provided by a qualified electric utility, any cooperative utility, municipal utility, or other utility; and

(ii) meets any other reliability standards established by the commission.

(16) "Transmission provider" means an entity that:

(a) is an affiliate of a qualified electric utility; and

(b) (i) owns, operates, or controls facilities located in the state that are used for the transmission of electric energy at voltages above 100 kilovolts; or

(ii) provides transmission service under a Federal Energy Regulatory Commission-approved open access transmission tariff.

Section 2. Section 54-26-102 is enacted to read:

54-26-102. Application.

(1) The procedures and standards set forth in this chapter shall govern:

(a) large-scale service requests;

(b) services sought, provided, or received under either a large-scale service request or a private generation service request;

(c) services provided through closed private generation systems under private generation contracts; and

(d) the review and approval of large load contracts and private generation contracts.

(2) Electric service provided pursuant to a large-scale service request under this chapter is exempt from:

(a) rate regulation under Section 54-3-1;

(b) the ratemaking provisions of Section 54-3-4;

(c) the tariff and schedule filing requirements under Section 54-3-2; and

(d) any other provision related to the regulation of rates, charges, or classifications of service.

Section 3. Section 54-26-201 is enacted to read:

PART 2. Service Request Process

54-26-201. Large-scale service request requirements.

(1) Except for large load customers seeking service under a private generation contract, a large load customer seeking service under this chapter shall submit a large-scale service request to the qualified electric utility serving the proposed location.

(2) A large-scale service request shall include:

(a) the customer's identifying information;

(b) the proposed location for electric service;

(c) the requested amount of electric demand in megawatts;

(d) a proposed service commencement date;

(e) load profile information, including:

(i) anticipated annual energy usage;

(ii) expected hours of operation;

(iii) seasonal variations;

(iv) peak demand requirements; and

(v) any special service requirements;

(f) information sufficient to demonstrate the financial capability to complete the large load customer's project that is the subject of the large-scale service request; and

(g) confirmation that the customer will not use the electric service for resale.

(3) After submitting a large-scale service request and before entering into a large load contract, a customer shall:

(a) ensure that all information submitted under this section remains current; and

(b) promptly notify the qualified electric utility of any material changes to information submitted under this section.

(4) A large load customer satisfies the requirements of Subsection (1) of this section if the large load customer submitted a large-scale service request consistent with the qualified electric utility's then-existing requirements to the qualified electric utility prior to May 7, 2025.

Section 4. Section 54-26-202 is enacted to read:

54-26-202. Service request procedures -- Notice.

(1) A qualified electric utility that receives a large-scale service request shall:

(a) acknowledge receipt of the request;

(b) notify the customer of any missing information within 15 business days after beginning to process the request under Subsection (2); and

(c) complete an evaluation as soon as reasonably practicable after beginning the study under Subsection (2), but in no case more than 6 months after beginning the evaluation.

(2) A qualified electric utility shall begin processing large-scale service requests, including conducting evaluations, no later than:

(a) April 1, for requests received after September 30 of the prior year and on or before March 31; or

(b) October 1, for requests received after March 31 and on or before September 30.

(3) During the evaluation process, the qualified electric utility shall:

(a) provide the customer with regular updates; and

(b) notify the customer when the evaluation is completed.

(4) Within 15 business days after completing an evaluation, the qualified electric utility shall provide to the customer a written service proposal that includes:

(a) whether the qualified electric utility can provide the requested service within the time frame required by the customer;

(b) the estimated large load incremental costs that will be allocated to the customer, based on the information provided by the customer;

(c) any required:

(i) system upgrades;

(ii) improvements; or

(iii) transmission service requests;

(d) the estimated timeline for commencing the requested electric service; and

(e) the proposed terms and conditions of service, including provisions for addressing long-term operation and maintenance costs for large load facilities.

(5) A qualified electric utility:

(a) may charge reasonable fees for costs incurred in:

(i) evaluating a large-scale service request; and

(ii) necessary subsequent or related assessments; and

(b) is not required to begin work on an evaluation until the customer:

(i) pays applicable fees; and

(ii) provides the information required to the qualified electric utility to conduct an evaluation.

Section 5. Section 54-26-301 is enacted to read:

PART 3. Large Load and Private Generation Contracts

54-26-301. Large load contract requirements.

(1) Electric service for a large-scale service request shall be provided only under one or more large load contracts with:

(a) a qualified electric utility;

(b) a large-scale generation provider; or

(c) any combination of Subsections (1)(a) and (1)(b).

(2) A large load customer shall:

(a) contract for all of the customer's projected electrical requirements under the large-scale service request; and

(b) maintain contracts with resources or load shedding capabilities sufficient to meet the customer's actual electrical requirements at all times.

(3) A large load contract with a qualified electric utility shall:

(a) ensure that all large load incremental costs are allocated to and paid by the large load customer;

(b) comply with all system requirements;

(c) require the large load customer to maintain financial security sufficient to cover the large load customer's obligations;

(d) specify:

(i) points of interconnection;

(ii) power delivery points;

(iii) the amount of electrical capacity contracted for;

(iv) the term of service; and

(v) any arrangements for backup power supply;

(e) provide curtailment provisions if the large load customer's demand exceeds the amount of contractually supported demand;

(f) identify the incremental generation resources that the qualified electric utility will use to serve the large load customer; and

(g) include provisions addressing the allocation and payment of long-term operation and maintenance costs for large load facilities.

(4) A large load contract with a large-scale generation provider that provides service through a connected electrical system shall:

(a) ensure that all large load incremental costs are allocated to and paid by the large load customer;

(b) comply with all system requirements;

(c) specify:

(i) points of interconnection;

(ii) power delivery points;

(iii) the amount of electrical capacity contracted for;

(iv) the term of service; and

(v) any arrangements for backup power supply; and

(d) provide curtailment provisions if the large load customer's demand exceeds the real-time dispatch of the large-scale generation provider's resources under the large load contract, net of transmission losses.

(5) A qualified electric utility:

(a) has no duty to serve a large load customer except as explicitly provided in a large load contract; and

(b) is not required to provide backup power to a large load customer except as explicitly provided in a large load contract.

(6) A qualified electric utility may not be required to commence design and construction of large load facilities until after:

(a) executing a large load construction contract; and

(b) obtaining commission approval in accordance with Section 54-26-302.

(7) A qualified electric utility or large-scale generation provider shall:

(a) obtain commission approval in accordance with Section 54-26-302 before providing electric service under a large load contract; and

(b) negotiate the terms of a large load contract with a large load customer on a case-by-case basis.

(8) Within 15 business days after executing a large load contract, a person executing the contract shall submit an application for approval to the commission for review under Section 54-26-302.

Section 6. Section 54-26-301.5 is enacted to read:

54-26-301.5. Private generation contracts.

A customer seeking to receive electric service through a closed private generation system:

(1) may negotiate directly with a large-scale generation provider; and

(2) is not required to submit a large-scale service request to a qualified electric utility.

Section 7. Section 54-26-302 is enacted to read:

54-26-302. Commission review -- Approval of contracts.

(1) A qualified electric utility or a large-scale generation provider shall file an application with the commission for approval of a large load contract that includes:

(a) a copy of the large load contract for which the applicant seeks review and approval; and

(b) evidence sufficient to demonstrate compliance with Subsection (2)(b).

(2) The commission shall approve a large load contract submitted under Subsection (1) if the commission finds by a preponderance of the evidence that:

(a) the contract complies with the requirements of this chapter;

(b) the large load customer bears all just and reasonable incremental costs attributable to receiving the requested electric service; and

(c) existing ratepayers do not bear costs justly and reasonably attributable to providing electric service for the large load customer.

(3) Commission review of a large load contract:

(a) is limited to the requirements described in Subsection (2); and

(b) does not include review of other contract terms.

(4) The commission shall approve or disapprove an application submitted under this section within 60 days after the day on which a person files the application.

(5) The commission may establish rules to expedite the review of applications for approval of a large load contract under this chapter.

Section 8. Section 54-26-401 is enacted to read:

PART 4. Service Provider Obligations

54-26-401. Qualified electric utility service obligations.

(1) Subject to Subsection (2), a qualified electric utility has the sole right to provide electric service to a large load customer in the qualified electric utility's service territory.

(2) A qualified electric utility:

(a) is not required to provide electric service:

(i) in response to a large-scale service request if:

(A) the large load customer has not complied with the requirements of this chapter;

(B) the qualified electric utility cannot provide the requested service within the timeframe required by the large-scale service request;

(C) the large load customer and the qualified electric utility cannot agree upon terms for a large load contract;

(D) the large load customer fails or refuses to comply with the requirements of a large load contract; or

(E) the large load customer is receiving service from a large-scale generation provider in accordance with Section 54-26-402; or

(ii) to a large load customer that receives service pursuant to a private generation contract; and

(b) that does not agree to terms with a large load customer for a large load contract:

(i) has no right or duty to serve the large load customer;

(ii) is not required to provide ancillary or backup services to the large load customer; and

(iii) is not required to provide any services to a large-scale generation provider.

Section 9. Section 54-26-402 is enacted to read:

54-26-402. Alternative service requirements.

(1) A large load customer may enter into a large load contract with a large-scale generation provider if:

(a) a qualified electric utility fails to complete an evaluation or provide a written response within the time period specified in Section 54-26-202; or

(b) the qualified electric utility and large load customer cannot agree to a large load contract within 90 days after the day on which the large load customer receives the evaluation described in Section 54-26-202, unless the qualified electric utility and the large load customer mutually agree to a longer period of time.

(2) After submitting a large-scale service request, a large load customer:

(a) may negotiate a contract with one or more large-scale generation providers; and

(b) may not execute a contract with a large-scale generation provider unless the conditions described in Subsection (1) are met.

Section 10. Section 54-26-501 is enacted to read:

PART 5. Large-Scale Generation Provider Requirements

54-26-501. Large-scale generation provider requirements.

(1) A large-scale generation provider shall:

(a) register with the commission before providing service to a large load customer;

(b) maintain any reasonable technical and financial qualifications required by the commission;

(c) provide service only through qualifying generation resources as required in this part; and

(d) post security:

(i) as reasonably negotiated with a large load customer;

(ii) as required by contract with a transmission provider; or

(iii) as required by the commission for services to be provided by a qualified electric utility.

(2) A large-scale generation provider shall submit to the commission:

(a) proof of compliance with Subsection (1);

(b) proof of financial capability as reasonably negotiated with the large load customer;

(c) the provider's operational history and experience;

(d) a description of the portfolio of qualifying generation resources the provider intends to use to serve the large load customer without reliance on any qualified electric utility, cooperative utility, municipal utility, or other utility except as provided under a large load contract; and

(e) documentation of:

(i) all required permits obtained for generating sources, including any environmental permits; and

(ii) the estimated impact of generating sources on the state implementation plan for air quality.

Section 11. Section 54-26-502 is enacted to read:

54-26-502. Operating requirements -- Registration suspension.

(1) A large-scale generation provider that fails to satisfy the requirements of this chapter:

(a) may not initiate new service to a large load customer;

(b) shall remedy any deficiencies within 90 days after the day on which the deficiency arises; and

(c) may have reasonable conditions imposed by the commission on the provider's registration status.

(2) If the commission suspends or revokes a large-scale generation provider's registration:

(a) the provider may not continue to provide service to a large load customer after the large load customer has been given a reasonable opportunity to secure alternative service arrangements; and

(b) the large load customer may not receive electric service from another large-scale generation provider or a qualified electric utility except pursuant to agreement and commission approval of the terms of a new large load contract consistent with this chapter.

Section 12. Section 54-26-503 is enacted to read:

54-26-503. Transmission requirements.

(1) If the provision of service to a large load customer requires transmission service:

(a) the qualified electric utility or the large-scale generation provider shall submit a transmission service request to the transmission provider;

(b) to the fullest extent allowable under applicable federal law and regulations, the large-scale generation provider or large load customer shall:

(i) pay for:

(A) any interconnection or transmission-related studies;

(B) any identified interconnection upgrades, transmission upgrades, network upgrades, distribution system upgrades, or system upgrades; and

(C) the transmission service rates in the transmission provider's open access transmission tariff; and

(ii) pay and provide for:

(A) ancillary services;

(B) balancing services; and

(C) backup services.

(2) Nothing in this section shall be construed to:

(a) conflict with or supersede any applicable federal law, regulation, or order regarding transmission cost allocation; or

(b) require cost allocation methods inconsistent with Federal Energy Regulatory Commission requirements or orders.

(3) The commission shall review transmission cost allocation consistent with federal requirements and may establish rules for implementation of this section.

Section 13. Section 54-26-504 is enacted to read:

54-26-504. Closed private generation systems.

(1) A large load customer may enter into a private generation contract for all needed electric services from a large-scale generation provider through a closed private generation system under terms and conditions acceptable to the large load customer and the large-scale generation provider.

(2) A closed private generation system and a large-scale generation provider that provides service on or through a closed private generation system in accordance with this chapter:

(a) are exempt from commission oversight or regulation as a public utility under this title;

(b) shall ensure all generation, transmission, and related facilities remain wholly separate from facilities owned or operated by any qualified electric utility, cooperative utility, municipal utility, or other utility except to the extent authorized by this part; and

(c) may connect to or receive services from a qualified electric utility only pursuant to a contract approved by the commission and consistent with Section 54-26-505.

(3) The provision of service to a large load customer on or through a closed private generation system shall utilize qualified generation resources.

(4) The commission may establish rules requiring appropriate notices and warnings regarding separation from the utility system.

Section 14. Section 54-26-505 is enacted to read:

54-26-505. Connected generation systems.

(1) A large load customer may obtain all needed electric services from a large-scale generation provider through a connected generation system consistent with this chapter.

(2) A large-scale generation provider may provide service on or through a connected generation system if the provider:

(a) registers with the commission in accordance with Section 54-26-501;

(b) uses only qualifying generation resources;

(c) maintains sufficient generation capacity to serve all contracted load;

(d) provides the commission with:

(i) system design and operational information;

(ii) emergency response procedures; and

(iii) notification of any changes in system configuration or operation; and

(e) maintains commercial liability insurance as required under Section 54-26-602.

(3) A large-scale generation provider that provides service on or through a connected generation system consistent with the requirements of this chapter is exempt from commission regulation as a public utility under this title.

(4) A closed private generation system or a large-scale generation provider that provides service through a closed private generation system may connect to the interstate transmission system of a transmission provider only if:

(a) the closed private generation system is interconnected to the interstate transmission system pursuant to the transmission provider's Federal Energy Regulatory Commission approved open access transmission tariff; and

(b) the commission determines that the closed private generation system or large-scale generation provider has satisfied the requirements of this chapter for the provision of service on or through a connected generation system.

(5) A closed private generation system or a large-scale generation provider that provides service through a closed private generation system may receive services from a qualified electric utility only if:

(a) the requirements of Subsection (4) are met; and

(b) the system or provider has an agreement with the qualified electric utility as approved by the commission.

(6) A qualified electric utility:

(a) is not required to purchase or accept any power from a connected generation system; and

(b) shall accept power from a connected generation system only as explicitly provided in an agreement that has been approved by the commission.

Section 15. Section 54-26-601 is enacted to read:

PART 6. Customer Requirements and Accounting

54-26-601. Large load customer requirements -- Cost allocation.

A large load customer shall pay all just and reasonable large load incremental costs necessary to receive electric service, including the costs of:

(1) generation resources;

(2) distribution system upgrades;

(3) to the extent permitted by federal law, and, as applicable, approved by the Federal Energy Regulatory Commission:

(a) transmission system improvements, including network upgrades; and

(b) interconnection facilities;

(4) transmission service; and

(5) other necessary infrastructure.

Section 16. Section 54-26-602 is enacted to read:

54-26-602. Accounting requirements -- Service standards.

(1) A large-scale generation provider shall:

(a) maintain separate accounting records for all investments, revenues, and expenses associated with large-scale service requests using generally accepted accounting principles;

(b) take reasonable measures to ensure costs are properly allocated between large load service and other customers;

(c) provide all contracted energy services without reliance on any qualified electric utility, cooperative utility, municipal utility, or other utility except as provided under a large load contract;

(d) meet all applicable North American Electric Reliability Corporation standards; and

(e) maintain reasonable commercial liability insurance as determined by contract or the commission.

(2) A qualified electric utility shall:

(a) maintain separate accounting records for all investments, revenues, and expenses associated with large-scale service requests using generally accepted accounting principles; and

(b) take reasonable measures to ensure costs are properly allocated between large load service and other operations.

(3) All revenues and large load incremental costs associated with a large-scale service request shall be excluded from any rate determinations by the commission.

(4) In connection with any rate case or other appropriate proceeding before the commission, a qualified electric utility shall provide:

(a) operational data identifying when and to what extent the incremental generation resources identified in a large load contract pursuant to Subsection 54-26-301(3)(f) were dispatched to serve large load customers;

(b) an identification of the timing, magnitude, and duration of:

(i) the qualified electric utility's dispatch of the resources described in Subsection (4)(a);

(ii) any periods in which large load customers' loads exceeded the dispatch of resources described in Subsection (4)(a); and

(iii) any periods in which the dispatch of resources described in Subsection (4)(a) exceeded the large load customers' loads;

(c) the method by which costs for the provision of electric service from a qualified electric utility to a large load customer will be excluded from rates paid by retail customers; and

(d) any other information the commission requires to ensure that the costs associated with service to a large load customer are excluded from the rates paid for by retail customers.

(5) A qualified electric utility may not be required to publicly disclose specific revenue information from individual large load customers in any proceeding described in Subsection (4).

Section 17. Section 54-26-701 is enacted to read:

PART 7. Large Load Flexible Tariffs

54-26-701. Large load flexible tariffs.

(1) The commission shall:

(a) investigate a large load flexible tariff for a qualified electric utility; and

(b) adopt a large load flexible tariff if the commission determines that the tariff is:

(i) just and reasonable; and

(ii) in the public interest.

(2) In conducting an investigation for a large load flexible tariff, the commission shall consider:

(a) the conditions and times for the tariff;

(b) the means of determining the rates, terms, and conditions pursuant to which a qualified electric utility may provide electric services to a large load customer; and

(c) the conditions under which a qualified electric utility may require a large load customer to reduce or eliminate electric usage under the large flexible load tariff.

Section 18. Section 54-26-801 is enacted to read:

PART 8. Application and Review

54-26-801. Program duration.

The provisions of this chapter apply only to:

(1) large load customers, large-scale generation providers or qualified electric utilities which enter into a large load service contract which provides for service to commence on or before December 31, 2034; and

(2) large load customers and large-scale generation providers which enter into a private generation contract which provides for service to commence on or before December 31, 2034.

Section 19. Section 54-26-802 is enacted to read:

54-26-802. Commission review.

The commission shall:

(1) conduct a review of this chapter before October 31, 2027, and every three years thereafter;

(2) conduct an investigation with stakeholder input and public comment and prepare a report that includes:

(a) data on program participation;

(b) analysis of impacts on electrical rates;

(c) assessment of transmission system reliability; and

(d) recommendations regarding whether to:

(i) extend the program;

(ii) modify program requirements; or

(iii) allow the program to close to new participants; and

(3) provide the report described in Subsection (2) and any recommendations to the Public Utilities, Energy, and Technology Interim Committee.

Section 20. Section 54-26-901 is enacted to read:

PART 9. Transmission Cost Allocation

54-26-901. Transmission cost allocation.

(1) The commission shall:

(a) conduct a proceeding to establish rules for the allocation of transmission costs between large load customers and retail customers for large load contracts executed on or after January 1, 2026;

(b) retain a qualified independent consultant with expertise in transmission cost allocation methodologies to:

(i) analyze potential methodologies for transmission cost allocation, taking into account the factors listed in Subsection (2); and

(ii) make recommendations to the commission; and

(c) issue a rule no later than January 1, 2026.

(2) In developing rules under Subsection (1), the commission shall consider:

(a) Federal Energy Regulatory Commission policies and precedents regarding transmission cost allocation;

(b) the projected increase in electricity demand from large load customers;

(c) the incremental transmission costs required to serve large load customers;

(d) the economic development benefits associated with serving large load customers;

(e) the need to maintain just and reasonable rates for retail customers;

(f) the extent to which new large load facilities are required specifically to serve large load customers;

(g) the extent to which large load customers utilize existing transmission infrastructure;

(h) methods to apportion costs based on cost causation and system benefits; and

(i) any other factors the commission determines are relevant to establishing a fair and reasonable allocation of transmission costs.

(3) The commission may establish different cost allocation methodologies based on:

(a) the timing of large load customer interconnection;

(b) the size of the load being served;

(c) the cost causation attributable to various customer classes;

(d) the benefits accruing to various customer classes; or

(e) other relevant distinctions.

(4) Nothing in this section limits the commission's existing authority to determine just and reasonable rates.

(5) (a) The commission shall impose and collect a fee from each large load customer that submits a large-scale service request to cover the cost of:

(i) retaining qualified independent consultants and experts by the commission, the Division of Public Utilities, and the Office of Consumer Services to evaluate large-scale service requests and large load contracts; and

(ii) any other reasonable costs incurred in conducting proceedings and evaluations under this chapter.

(b) The fee shall be:

(i) assessed on a semi-annual basis corresponding to the study periods established in Section 54-26-202;

(ii) determined based on the anticipated needs given the number and complexity of requests received in each study period; and

(iii) proportionately allocated among large load customers with pending requests.

(c) All fees collected under this subsection shall be:

(i) remitted to the state treasurer;

(ii) credited to the Public Utility Regulation Fee Account created in Section 54-5-1.5; and

(iii) used exclusively for the purposes described in Subsection (5)(a).

Section 21. Section 63G-6a-107.6 is amended to read:

63G-6a-107.6. Exemptions from chapter.

(1) Except for this Subsection (1), the provisions of this chapter do not apply to:

(a) a public entity's acquisition of a procurement item from another public entity; [~~or~~]

(b) a public entity that is not a procurement unit, including the Colorado River Authority of Utah as provided in Section 63M-14-210[~~.~~]; or

(c) the retention of experts by:

(i) the Public Service Commission under Subsection 54-1-6(1)(a)(iii);

(ii) the Division of Public Utilities under Subsection 54-4a-3(2)(b); and

(iii) the Office of Consumer Services under Title 54, Chapter 10a, Office of Consumer Services Act.

(2) Unless otherwise provided by statute and except for this Subsection (2), the provisions of this chapter do not apply to the acquisition or disposal of real property or an interest in real property.

(3) Except for this Subsection (3) and Part 24, Unlawful Conduct and Penalties, the provisions of this chapter do not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) a grant;

(c) medical supplies or medical equipment, including service agreements for medical equipment, obtained by the University of Utah Hospital or the Department of Health and Human Services through a purchasing consortium if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital or the executive director of the Department of Health and Human Services, as the case may be, makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are

competitive with market prices;

(d) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;

(e) supplies purchased for resale to the public;

(f) activities related to the management of investments by a public entity granted investment authority by law; or

(g) activities of the Utah water agent appointed under Section 73-10g-702.

(4) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

(5) Except for this Subsection (5), the provisions of this chapter do not apply to a procurement unit's hiring a mediator, arbitrator, or arbitration panel member to participate in the procurement unit's dispute resolution efforts.

Section 22. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 319
S. B. 140
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

LAW ENFORCEMENT DNA AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses the collection and analysis of DNA by law enforcement.

Highlighted Provisions:

This bill:

- ► amends when a DNA specimen for an individual taken at the time of booking may be processed to include, among other circumstances, to allow the processing of the individual's DNA 60 days after the day on which any warrant of arrest has been issued for the individual if the warrant is still outstanding;
- ► clarifies the level of offense that must be charged or convicted before an individual who had the individual's DNA specimen taken may be assessed a fee;
- ► requires a prosecutor to notify an individual charged with an offense requiring collection of the individual's DNA of the individual's rights regarding the destruction of the individual's DNA specimen in certain circumstances; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-404.5, as last amended by Laws of Utah 2022, Chapter 113
53-10-406, as last amended by Laws of Utah 2024, Chapter 256

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-10-404.5 is amended to read:
53-10-404.5. Obtaining DNA specimen at time of booking -- Payment of fee upon conviction.

(1) (a) When a sheriff books a person for any offense under Subsections 53-10-403(1)(c) and (d), the sheriff shall:

(i) except as provided in Subsection (1)(b), obtain a DNA specimen from the person upon booking of the person at the county jail; and

(ii) provide the person, in a manner the bureau specifies, notice of the process described in Subsection 53-10-406(6)(b) to request destruction of the DNA specimen and removal of the person's DNA record from the database described in Subsection 53-10-406(1)(d).

(b) If at the time of booking the sheriff is able to obtain information from the bureau stating that the bureau has received a DNA specimen for the person and the sample analysis is either in process or complete, the sheriff is not required to obtain an additional DNA specimen.

(c) If at the time of booking the sheriff is able to obtain information from the bureau stating that the bureau has received a DNA specimen for the person and the sample analysis is pending, the sheriff may obtain an additional DNA specimen.

(2) The person booked under Subsection (1) shall pay a fee of $150 for the cost of obtaining the DNA specimen if:

(a) (i) the charge upon which the booking is based is resolved by a conviction of a class A misdemeanor or felony level offense; or

(ii) []the person is convicted of any [~~charge~~]class A misdemeanor or felony level offense arising out of the same criminal episode regarding which the DNA specimen was obtained; and

(b) the person's DNA sample is not on file under Subsection (1)(b).

(3) (a) All fees collected under Subsection (2) shall be deposited into the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than $25 per individual specimen for the costs of obtaining the DNA specimen.

(b) The agency collecting the $150 fee may not retain from each separate fee more than $25, and no amount of the $150 fee may be credited to any other fee or agency obligation.

(4) Any DNA specimen obtained under this section shall be held and may not be processed until:

(a) the court has bound the person over for trial for a felony level offense following a preliminary hearing for any charge arising out of the same criminal episode regarding which the person was booked;

(b) the person has waived the preliminary hearing for any charge for a felony level offense arising out of the same criminal episode regarding which the person was booked;

(c) a grand jury has returned an indictment for any charge for a felony level offense arising out of the same criminal episode regarding which the person was booked; or

(d) for a DNA specimen obtained before, on, or after May 7, 2025, sixty days has passed after [~~the issuance of an arrest warrant for failure to appear, provided~~]the day on which any warrant of arrest has been issued for the person if the warrant of arrest is still outstanding[~~or has not been recalled~~].

Section 2. Section 53-10-406 is amended to read:

53-10-406. DNA specimen analysis -- Bureau responsibilities.

(1) The bureau shall:

(a) administer and oversee the DNA specimen collection process;

(b) store each DNA specimen and associated records received;

(c) analyze each specimen, or contract with a qualified public or private laboratory to analyze the specimen, to establish the genetic profile of the donor or to otherwise determine the identity of the person;

(d) maintain a criminal identification database containing information derived from DNA analysis;

(e) ensure that the DNA identification system does not provide information allowing prediction of genetic disease or predisposition to illness;

(f) ensure that only DNA markers routinely used or accepted in the field of forensic science are used to establish the gender and unique individual identification of the donor;

(g) utilize only those DNA analysis procedures that are consistent with, and do not exceed, procedures established and used by the Federal Bureau of Investigation for the forensic analysis of DNA;

(h) destroy a DNA specimen obtained under this part if criminal charges have not been filed within 90 days after booking for an alleged offense under Subsection 53-10-403(2)(c); and

(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures for obtaining, transmitting, and analyzing DNA specimens and for storing and destroying DNA specimens and associated records, and criminal identification information obtained from the analysis.

(2) Procedures for DNA analysis may include all techniques which the department determines are accurate and reliable in establishing identity.

(3) (a) In accordance with Section 63G-2-305, each DNA specimen and associated record is classified as protected.

(b) The department may not transfer or disclose any DNA specimen, associated record, or criminal identification information obtained, stored, or maintained under this section, except under the provisions of this section.

(4) Notwithstanding Subsection 63G-2-202(1), the department may deny inspection if the department determines that there is a reasonable likelihood that the inspection would prejudice a pending criminal investigation.

(5) The department shall adopt procedures governing the inspection of records, DNA specimens, and challenges to the accuracy of records. The procedures shall accommodate the need to preserve the materials from contamination and destruction.

(6) A person whose DNA specimen is obtained under this part may, personally or through a legal representative, submit:

(a) to the court a motion for a court order requiring the destruction of the person's DNA specimen, associated record, and any criminal identification record created in connection with that specimen, and removal of the person's DNA record from the database described in Subsection (1)(d) if:

(i) a final judgment reverses the conviction, judgment, or order that created an obligation to provide a DNA specimen; or

(ii) all charges arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of dismissal with prejudice or acquittal; or

(b) to the department a request for the destruction of the person's DNA specimen, and associated record, and removal of the person's DNA record from the database described in Subsection (1)(d) if:

(i) no charge arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) is filed against the person within one year after the day on which the person is booked; or

(ii) all charges arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of dismissal with prejudice or acquittal.

(7) If charges have been filed against a person whose DNA specimen is obtained under this part and the charges have later been resolved by a final judgment of dismissal with prejudice or acquittal, or a final judgment is issued reversing a conviction, judgment, or other order arising from the charges that created an obligation to provide a DNA specimen, the prosecutor who filed the charges against the person shall notify the person of the process described in Subsection (6) to request destruction of the DNA specimen and removal of the person's DNA record from the database described in Subsection (1)(d).

[~~(7)~~](8) A court order issued under Subsection (6)(a) may be accompanied by a written notice to the person advising that state law provides for expungement of criminal charges if the charge is resolved by a final judgment of dismissal or acquittal.

[~~(8)~~](9) The department shall destroy the person's DNA specimen, and associated record, and remove the person's DNA record from the database described in Subsection (1)(d), if:

(a) the person provides the department with:

(i) a court order for destruction described in Subsection (6)(a), and a certified copy of:

(A) the court order reversing the conviction, judgment, or order;

(B) a court order to set aside the conviction; or

(C) the dismissal or acquittal of the charge regarding which the person was arrested; or

(ii) a written request for destruction of the DNA specimen, and associated record, and removal of the DNA record from the database described in Subsection (6)(b), and a certified copy of:

(A) a declination to prosecute from the prosecutor; or

(B) a court document that indicates all charges have been resolved by a final judgment of dismissal with prejudice or acquittal; and

(b) the department determines that the person is not obligated to submit a DNA specimen as a result of a separate conviction or adjudication for an offense listed in Subsection 53-10-403(2).

[~~(9)~~](10) The department may not destroy a person's DNA specimen or remove a person's DNA record from the database described in Subsection (1)(d) if the person has a prior conviction or a pending charge for which collection of a sample is authorized in accordance with

Section 53-10-404.

[~~(10)~~](11) A DNA specimen, associated record, or criminal identification record created in connection with that specimen may not be affected by an order to set aside a conviction, except under the provisions of this section.

[~~(11)~~](12) If funding is not available for analysis of any of the DNA specimens collected under this part, the bureau shall store the collected specimens until funding is made available for analysis through state or federal funds.

[~~(12)~~](13) (a) (i) A person who, due to the person's employment or authority, has possession of or access to individually identifiable DNA information contained in the state criminal identification database or the state DNA specimen repository may not willfully disclose the information in any manner to any individual, agency, or entity that is not entitled under this part to receive the information.

(ii) A person may not willfully obtain individually identifiable DNA information from the state criminal identification database or the state DNA repository other than as authorized by this part.

(iii) A person may not willfully analyze a DNA specimen for any purpose, or to obtain any information other than as required under this part.

(iv) A person may not willfully fail to destroy or fail to ensure the destruction of a DNA specimen when destruction is required by this part or by court order.

(b) (i) A person who violates Subsection [~~(12)(a)(i),~~](13)(a)(i),(ii), or (iii) is guilty of a third degree felony.

(ii) A person who violates Subsection [~~(12)(a)(iv)~~](13)(a)(iv) is guilty of a class B misdemeanor.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 320
S. B. 144
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

SEXUAL CRIMES AMENDMENTS

Chief Sponsor: Karen Kwan
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill addresses sexual crimes.

Highlighted Provisions:

This bill:

- ► provides a definition of a female breast for certain sexual and sexual exploitation offenses that includes a breast that is undeveloped or partially developed;
- ► expands the definition of "child sexual abuse material" to include a minor observing or being used for sexually explicit conduct;
- ► expands the definition of "sexually explicit conduct" concerning certain bodily functions for certain offenses;
- ► changes the mental state necessary to commit the offense of sexual exploitation of a minor;
- ► expands the offense of sexual exploitation of a minor to include when an actor accesses child sexual abuse material with the intent to view;
- ► provides a safe harbor provision for certain employees and independent contractors who are required to access or view child sexual abuse material within the scope of employment;
- ► changes the mental state necessary to commit the offense of aggravated sexual exploitation of a minor;
- ► amends the offense of aggravated sexual exploitation of a minor to remove a lesser penalty for circumstances when the child sexual abuse material depicts an individual who is 14 years old or older or pubescent; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-203.13, as last amended by Laws of Utah 2022, Chapter 181
76-5-401.1, as last amended by Laws of Utah 2024, Chapter 234
76-5-401.2, as last amended by Laws of Utah 2022, Chapter 181
76-5-404, as last amended by Laws of Utah 2022, Chapter 181
76-5-404.1, as last amended by Laws of Utah 2024, Chapters 96, 97
76-5-412.2, as enacted by Laws of Utah 2022, Chapter 181
76-5-413.2, as enacted by Laws of Utah 2022, Chapter 181
76-5b-103, as last amended by Laws of Utah 2024, Chapters 127, 142
76-5b-201, as last amended by Laws of Utah 2024, Chapter 142
76-5b-201.1, as last amended by Laws of Utah 2024, Chapter 142
76-5b-203, as last amended by Laws of Utah 2024, Chapter 127
76-10-1301, as last amended by Laws of Utah 2022, Chapter 124

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-203.13 is amended to read:

76-3-203.13. Enhanced penalty for unlawful sexual contact with a student.

(1) [~~A person~~]An actor convicted of a sexual offense described in Section 76-5-401.1 or 76-5-401.2 may be subject to an enhanced penalty if, at the time of the commission of the sexual offense, the actor:

(a) was 18 years old or older;

(b) held a position of special trust as a teacher, employee, or volunteer at a school, as that position is defined in Subsection [~~76-5-404.1(1)(a)(iv)(S)~~]76-5-404.1(1)(a)(v)(S); and

(c) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.

(2) The enhancement of a penalty described in Subsection (1) shall be an enhancement of one classification higher than the offense of which the [~~person~~]actor was convicted.

Section 2. Section 76-5-401.1 is amended to read:

76-5-401.1. Sexual abuse of a minor -- Penalties -- Limitations.

(1) (a) As used in this section:

(i) "Female breast" means the undeveloped, partially developed, or developed breast of a female individual.

(ii) "Indecent liberties" means:

(A) the actor touching another individual's genitals, anus, buttocks, pubic area, or female breast;

(B) causing any part of an individual's body to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;

(C) simulating or pretending to engage in sexual intercourse with another individual, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or

(D) causing an individual to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.

[~~(ii)~~](iii) "Minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a minor if the actor:

(i) is four years or more older than the minor; and

(ii) with the intent to cause substantial emotional or bodily pain to any individual, or with the intent to arouse or gratify the sexual desire of any individual:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;

(B) touches the female breast of a [~~female~~]minor; or

(C) otherwise takes indecent liberties with the minor.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2)(a) is:

(a) a class A misdemeanor; and

(b) not subject to registration under Subsection 77-41-102(19)(a)(viii) on a first offense if the offender was younger than 21 years old at the time of the offense.

(4) The offenses referred to in Subsection (2)(a) are:

(a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

(b) rape, in violation of Section 76-5-402;

(c) object rape, in violation of Section 76-5-402.2;

(d) forcible sodomy, in violation of Section 76-5-403;

(e) aggravated sexual assault, in violation of Section 76-5-405; or

(f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Section 3. Section 76-5-401.2 is amended to read:

76-5-401.2. Unlawful sexual conduct with a 16- or 17-year-old -- Penalties -- Limitations.

(1) (a) As used in this section:

(i) "Female breast" means the same as that term is defined in Section 76-5-401.1.

(ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

[~~(ii)~~](iii) "Minor" means an individual who is 16 years old or older, but younger than 18 years old, at the time the sexual conduct described in Subsection (2) occurred.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits unlawful sexual conduct with a minor if the actor:

(i) (A) is seven or more years older but less than 10 years older than the minor at the time of the sexual conduct;

(B) engages in any conduct listed in Subsection (2)(b); and

(C) knew or reasonably should have known the age of the minor; or

(ii) (A) is 10 or more years older than the minor at the time of the sexual conduct; and

(B) engages in any conduct listed in Subsection (2)(b).

(b) As used in Subsection (2)(a), "sexual conduct" refers to when the actor:

(i) has sexual intercourse with the minor;

(ii) engages in any sexual act with the minor involving the genitals of one individual and the mouth or anus of another individual;

(iii) (A) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body; and

(B) causes the penetration with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual; or

(iv) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;

(B) touches the female breast of a [~~female~~]minor; or

(C) otherwise takes indecent liberties with the minor.

(c) (i) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(ii) Any penetration, however slight, is sufficient to constitute the relevant element under Subsection (2)(b)(i).

(iii) Any touching, however slight, is sufficient to constitute the relevant element under Subsection (2)(b)(ii).

(3) (a) A violation of Subsection (2)(b)(i), (ii), or (iii) is a third degree felony.

(b) A violation of Subsection (2)(b)(iv) is a class A misdemeanor.

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape, in violation of Section 76-5-402;

(b) object rape, in violation of Section 76-5-402.2;

(c) forcible sodomy, in violation of Section 76-5-403;

(d) forcible sexual abuse, in violation of Section 76-5-404;

(e) aggravated sexual assault, in violation of Section 76-5-405; or

(f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Section 4. Section 76-5-404 is amended to read:

76-5-404. Forcible sexual abuse -- Penalties -- Limitations.

(1) (a) As used in this section[~~, "indecent~~]:

(i) "Female breast" means the same as that term is defined in Section 76-5-401.1.

(ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits forcible sexual abuse if:

(i) without the consent of the individual, the actor:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of another individual;

(B) touches the female breast of another individual[~~who is female~~]; or

(C) otherwise takes indecent liberties with another individual;

(ii) the actor intends to:

(A) cause substantial emotional or bodily pain to any individual; or

(B) arouse or gratify the sexual desire of any individual; and

(iii) the individual described in Subsection (2)(a)(i)(A), (B), or (C) is 14 years old or older.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) (a) A violation of Subsection (2) is a second degree felony[~~of the second degree~~], punishable by a term of imprisonment of not less than one year nor more than 15 years.

(b) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection (3)(b)(ii), a violation of Subsection (2) is a first degree felony[~~of the first degree~~], punishable by a term of imprisonment for 15 years and which may be for life, if the trier of fact finds that during the course of the commission of the forcible sexual abuse the [~~defendant~~]actor caused serious bodily injury to the victim.

(ii) If, when imposing a sentence under Subsection (3)(b)(i), a court finds that a lesser term than the term described in Subsection (3)(b)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(A) 10 years and which may be for life; or

(B) six years and which may be for life.

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape, in violation of Section 76-5-402;

(b) object rape, in violation of Section 76-5-402.2;

(c) forcible sodomy, in violation of Section 76-5-403; or

(d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).

(5) Imprisonment under Subsection (3)(b) or (4) is mandatory in accordance with Section 76-3-406.

Section 5. Section 76-5-404.1 is amended to read:

76-5-404.1. Sexual abuse of a child -- Penalties -- Limitations.

(1) (a) As used in this section:

(i) "Adult" means an individual 18 years old or older.

(ii) "Child" means an individual younger than 14 years old.

(iii) "Female breast" means the same as that term is defined in Section 76-5-401.1.

[~~(iii)~~](iv) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

[~~(iv)~~](v) "Position of special trust" means:

(A) an adoptive parent;

(B) an athletic manager who is an adult;

(C) an aunt;

(D) a babysitter;

(E) a coach;

(F) a cohabitant of a parent if the cohabitant is an adult;

(G) a counselor;

(H) a doctor or physician;

(I) an employer;

(J) a foster parent;

(K) a grandparent;

(L) a legal guardian;

(M) a natural parent;

(N) a recreational leader who is an adult;

(O) a religious leader;

(P) a sibling or a stepsibling who is an adult;

(Q) a scout leader who is an adult;

(R) a stepparent;

(S) a teacher or any other individual employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years old or older;

(T) an instructor, professor, or teaching assistant at a public or private institution of higher education;

(U) an uncle;

(V) a youth leader who is an adult; or

(W) any individual in a position of authority, other than those individuals listed in Subsections [~~(1)(a)(iv)(A)~~](1)(a)(v)(A) through (V), which enables the individual to exercise undue influence over the child.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a child if the actor:

(i) (A) touches, whether over or under the clothing, the buttocks or pubic area of a child;

(B) touches, whether over or under the clothing, the female breast of a [~~female~~]child;

(C) touches the anus or genitals of a child over the clothing; or

(D) otherwise takes indecent liberties with a child whether over or under the clothing; and

(ii) the actor's conduct is with intent to:

(A) cause substantial emotional or bodily pain to any individual; or

(B) arouse or gratify the sexual desire of any individual.

(b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2) is a second degree felony.

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape of a child, in violation of Section 76-5-402.1;

(b) object rape of a child, in violation of Section 76-5-402.3;

(c) sodomy on a child, in violation of Section 76-5-403.1; or

(d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).

Section 6. Section 76-5-412.2 is amended to read:

76-5-412.2. Custodial sexual misconduct -- Penalties -- Defenses.

(1) (a) As used in this section:

(i) "Actor" means the same as that term is defined in Section 76-5-412.

(ii) "Female breast" means the same as that term is defined in Section 76-5-401.1.

[~~(ii)~~](iii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

[~~(iii)~~](iv) "Person in custody" means the same as that term is defined in Section 76-5-412.

[~~(iv)~~](v) "Private provider or contractor" means the same as that term is defined in Section 76-5-412.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits custodial sexual misconduct if:

(i) the actor commits any of the acts under Subsection (2)(b) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection 76-5-412(4); and

(ii) (A) the actor knows that the individual is a person in custody; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.

(b) Acts referred to in Subsection (2)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to another individual or with the intent to arouse or gratify the sexual desire of any individual:

(i) touching the anus, buttocks, pubic area, or any part of the genitals of a person in custody;

(ii) touching the female breast of a [~~female~~] person in custody; or

(iii) otherwise taking indecent liberties with a person in custody.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18 years old, a violation of Subsection (2) is a third degree felony.

(c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.

(4) (a) It is not a defense to the commission of, or attempt to commit, the offense described in Subsection (2) if the person in custody is younger than 18 years old, that the actor:

(i) mistakenly believed the person in custody to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the person in custody.

(b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2).

(5) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 7. Section 76-5-413.2 is amended to read:

76-5-413.2. Custodial sexual misconduct with a youth receiving state services -- Penalties -- Defenses and limitations.

(1) (a) As used in this section:

(i) "Actor" means the same as that term is defined in Section 76-5-413.

(ii) "Department" means the same as that term is defined in Section 76-5-413.

(iii) "Female breast" means the same as that term is defined in Section 76-5-401.1.

[~~(iii)~~](iv) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

[~~(iv)~~](v) "Juvenile court" means the same as that term is defined in Section 76-5-413.

[~~(v)~~](vi) "Private provider or contractor" means the same as that term is defined in Section 76-5-413.

[~~(vi)~~](vii) "Youth receiving state services" means the same as that term is defined in Section 76-5-413.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits custodial sexual misconduct with a youth receiving state services if:

(i) the actor commits any of the acts described in Subsection (2)(b); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) Acts referred to in Subsection (2)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:

(i) touching the anus, buttocks, pubic area, or any part of the genitals of a youth receiving state services;

(ii) touching the female breast of a [~~female~~]youth receiving state services; or

(iii) otherwise taking indecent liberties with a youth receiving state services.

(c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger than 18 years old, a violation of Subsection (2) is a third degree felony.

(c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.

(4) The offenses referred to in Subsection (2) are:

(a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

(b) rape, in violation of Section 76-5-402;

(c) rape of a child, in violation of Section 76-5-402.1;

(d) object rape, in violation of Section 76-5-402.2;

(e) object rape of a child, in violation of Section 76-5-402.3;

(f) forcible sodomy, in violation of Section 76-5-403;

(g) sodomy on a child, in violation of Section 76-5-403.1;

(h) forcible sexual abuse, in violation of Section 76-5-404;

(i) sexual abuse of a child, in violation of Section 76-5-404.1;

(j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;

(k) aggravated sexual assault, in violation of Section 76-5-405; or

(l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).

(5) (a) It is not a defense to the commission of, or an attempt to commit, the offense described in Subsection (2) if the youth receiving state services is younger than 18 years old, that the actor:

(i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the youth receiving state services.

(b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2).

(6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 8. Section 76-5b-103 is amended to read:

76-5b-103. Definitions.

As used in this chapter:

(1) "Child sexual abuse material" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image, picture, or video, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a minor engaging in, observing, or being used for sexually explicit conduct;

(b) the visual depiction is:

(i) of a minor engaging in, observing, or being used for sexually explicit conduct; or

(ii) artificially generated and depicts an individual with substantial characteristics of a minor engaging in, observing, or being used for

sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in, observing, or being used for sexually explicit conduct.

(2) "Children's Justice Center" means a facility or satellite office established under the Children's Justice Center Program described in Section 67-5b-102.

(3) "Distribute" means, with or without consideration, to sell, exhibit, display, provide, give, grant admission to, provide access to, or otherwise transfer.

(4) "Female breast" means the undeveloped, partially developed, or developed breast of a female individual.

[~~(3)~~](5) "Identifiable minor" means an individual:

(a) (i) who was a minor at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual individual by the individual's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

[~~(4)~~](6) "Identifiable vulnerable adult" means an individual:

(a) (i) who was a vulnerable adult at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a vulnerable adult was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual individual by the individual's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

[~~(5)~~](7) "Lacks capacity to consent" means the same as that term is defined in Section 76-5-111.4.

[~~(6)~~](8) "Live performance" means any act, play, dance, pantomime, song, or other activity performed by live actors in person.

[~~(7)~~](9) "Minor" means an individual who is younger than 18 years old.

[~~(8)~~](10) "Nudity or partial nudity" means any state of dress or undress in which the human genitals, pubic region, buttocks, or the female breast, at a point below the top of the areola, is less than completely and opaquely covered.

[~~(9)~~](11) "Produce" means:

(a) the photographing, filming, taping, directing, producing, creating, designing, or composing of child sexual abuse material or vulnerable adult sexual abuse material; or

(b) the securing or hiring of individuals to engage in the photographing, filming, taping, directing, producing, creating, designing, or composing of child sexual abuse material or vulnerable adult sexual abuse material.

[~~(10)~~](12) "Sexually explicit conduct" means actual or simulated:

(a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between individuals of the same or opposite sex;

(b) masturbation;

(c) bestiality;

(d) sadistic or masochistic activities;

(e) lascivious exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

(f) the visual depiction of nudity or partial nudity for the purpose of causing sexual arousal of any individual;

(g) the fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(h) the [~~explicit representation of the~~]visual depiction of defecation or urination [~~functions~~]for the purpose of causing sexual arousal of any individual.

[~~(11)~~](13) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct which duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

[~~(12)~~](14) "Vulnerable adult" means the same as that term is defined in Subsection 76-5-111(1).

[~~(13)~~](15) "Vulnerable adult sexual abuse material" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a vulnerable adult engaging in sexually explicit conduct;

(b) the visual depiction is of a vulnerable adult engaging in sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable vulnerable adult is engaging in sexually explicit conduct.

Section 9. Section 76-5b-201 is amended to read:

76-5b-201. Sexual exploitation of a minor -- Offenses.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits sexual exploitation of a minor when the actor knowingly possesses[~~or intentionally~~], views, accesses with the intent to view, or maintains access with the intent to view, child sexual abuse material.

(3) (a) A violation of Subsection (2) is a second degree felony.

(b) It is a separate offense under this section:

(i) for each minor depicted in the child sexual abuse material; and

(ii) for each time the same minor is depicted in different child sexual abuse material.

(4) For a charge of violating this section, it is an affirmative defense that:

(a) the defendant:

(i) did not solicit the child sexual abuse material from the minor depicted in the child sexual abuse material;

(ii) is not more than two years older than the minor depicted in the child sexual abuse material; and

(iii) upon request of a law enforcement agent or the minor depicted in the child sexual abuse material, removes from an electronic device or destroys the child sexual abuse material and all copies of the child sexual abuse material in the defendant's possession; and

(b) the child sexual abuse material does not depict an offense under Chapter 5, Part 4, Sexual Offenses.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) The following are not criminally or civilly liable under this section when acting in good faith compliance with Section 77-4-201:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child sexual abuse material on tangible or intangible property, or of detecting and reporting the presence of child sexual abuse material on the property;

(b) a law enforcement officer, a civilian employee of a law enforcement agency, or an independent contractor who is contracted with a law enforcement agency, acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child sexual abuse material during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child sexual abuse material during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child sexual abuse material during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Health and Human Services who is required to view child sexual abuse material within the scope of the employee's employment; [~~or~~]

(g) an employee, independent contractor, or designated interviewer of a Children's Justice Center, who is required to view child sexual abuse material within the scope of the employee's, independent contractor's, or designated interviewer's scope of employment or assignment; or

[~~(g)~~](h) an attorney who is required to view child sexual abuse material within the scope of the attorney's responsibility to represent the Department of Health and Human Services, including the divisions and offices within the Department of Health and Human Services.

Section 10. Section 76-5b-201.1 is amended to read:

76-5b-201.1. Aggravated sexual exploitation of a minor.

[~~(1) As used in this section:~~]

[~~(a) "Physical abuse" or "physically abused" means the same as the term "physical abuse" is defined in Section 80-1-102.~~]

[~~(b)~~](1) [~~The terms~~]Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated sexual exploitation of a minor if the actor:

(a) [~~intentionally~~]knowingly distributes or produces child sexual abuse material; or

[~~(b) knowingly produces child sexual abuse material; or~~]

[~~(c)~~](b) is the minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (2)(a) [~~or (b)~~]or Section 76-5b-201.

(3) (a) Except as provided in Subsection (3)(b)[~~or (c)~~], a violation of Subsection (2) is a first degree felony.

(b) If an actor is under 18 years old at the time of the offense, a violation of Subsection (2) is a second degree felony.

[~~(c) A violation of Subsection (2)(a) is a second degree felony if the child sexual abuse material depicts an individual who is:~~]

[~~(i) 14 years old or older; or~~]

[~~(ii) pubescent.~~]

(4) It is a separate offense under this section:

(a) for each minor depicted in the child sexual abuse material; and

(b) for each time the same minor is depicted in different child sexual abuse material.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) The following are not criminally or civilly liable under this section when acting in good faith compliance with Section 77-4-201:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child sexual abuse material on tangible or intangible property, or of detecting and reporting the presence of child sexual abuse material on the property;

(b) a law enforcement officer, a civilian employee of a law enforcement agency, or an independent contractor who is contracted with a law enforcement agency, acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child sexual abuse material during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child sexual abuse material during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child sexual abuse material during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Health and Human Services who is required to view child sexual abuse material within the scope of the employee's employment; [~~or~~]

(g) an employee, independent contractor, or designated interviewer of a Children's Justice Center, who is required to view child sexual abuse material within the scope of the employee's, independent contractor's, or designated interviewer's scope of employment or assignment; or

[~~(g)~~](h) an attorney who is required to view child sexual abuse material within the scope of the attorney's responsibility to represent the Department of Health and Human Services, including the divisions and offices within the Department of Health and Human Services.

Section 11. Section 76-5b-203 is amended to read:

76-5b-203. Distribution of an intimate image -- Penalty.

(1) (a) As used in this section:

(i) "Intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image, picture, or video, whether made or produced by electronic, mechanical, or other means, that depicts:

(A) exposed human male or female genitals or pubic area, with less than an opaque covering;

(B) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(C) the individual engaged in any sexually explicit conduct.

(ii) "Sexually explicit conduct" means actual or simulated:

(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between individuals of the same or opposite sex;

(B) masturbation;

(C) bestiality;

(D) sadistic or masochistic activities;

(E) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

(F) visual depiction of nudity or partial nudity;

(G) fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(H) [~~explicit representation of the~~]visual depiction of defecation or urination [~~functions~~]for the purpose of causing sexual arousal of any individual.

(iii) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(iv) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits the offense of distribution of an intimate image if:

(i) the actor knowingly or intentionally distributes to a third party, or knowingly duplicates or copies an intimate image of an individual who is 18 years old or older and knows or should know that the distribution, duplication or copying would cause a reasonable person to suffer emotional distress or harm;

(ii) the actor has not received consent from the individual depicted in the image to distribute the intimate image;

(iii) the intimate image was created by or provided to the actor under circumstances in which the individual depicted in the image has a reasonable expectation of privacy; and

(iv) except as provided in Subsection (2)(b), actual emotional distress or harm is caused to the individual depicted in the image as a result of the distribution.

(b) Subsection (2)(a)(iv) is not an element of the offense described in Subsection (2)(a) if:

(i) the individual depicted in the intimate image was the victim of a crime;

(ii) the intimate image was provided to law enforcement as part of an investigation or prosecution of a crime committed against the victim;

(iii) the intimate image was distributed without a legitimate law enforcement or investigative purpose by an individual who had access to the intimate image due to the individual's association with the investigation or prosecution described in Subsection (2)(b)(ii); and

(iv) the victim is incapacitated or deceased.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(4) This section does not apply to:

(a) except as provided in Section 76-5b-203.5:

(i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) an intimate image if the individual portrayed in the image voluntarily allows public exposure of the image;

(c) an intimate image that is portrayed in a lawful commercial setting; or

(d) an intimate image that is related to a matter of public concern or interest.

(5) (a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of an intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of an intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the intimate image; and

(iii) the hosting company does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the intimate image.

(c) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

Section 12. Section 76-10-1301 is amended to read:

76-10-1301. Definitions.

As used in this part:

(1) "Child" is an individual younger than 18 years old.

(2) "Female breast" means the undeveloped, partially developed, or developed breast of a female individual.

[~~(2)~~](3) "Place of prostitution" means a place or business where prostitution or promotion of prostitution is arranged, regularly carried on, or attempted by one or more individuals under the control, management, or supervision of another.

[~~(3)~~](4) "Prostitute" or "prostituted individual" means an individual engaged in an activity described in Subsection 76-10-1302(1) or 76-10-1313(1)(a), (c), (d), or (f).

[~~(4)~~](5) "Public place" means a place to which the public or any substantial group of the public has access.

[~~(5)~~](6) "Sexual activity" means, regardless of the gender of either participant:

(a) an act of masturbation, sexual intercourse, or any sexual act involving the genitals of one individual and the mouth or anus of another individual; or

(b) the touching of the genitals, female breast, or anus of one individual with any other body part of another individual with the intent to sexually arouse or gratify either individual.

Section 13. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 321
S. B. 147
Passed February 24, 2025
Approved March 25, 2025
Effective May 1, 2025

YOUTH SERVICE ORGANIZATIONS AMENDMENTS

Chief Sponsor: Keith Grover
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill amends provisions related to registered sex offender checks for potential youth workers.

Highlighted Provisions:

This bill:

- ► provides that a youth service organization may require a potential youth worker to provide the individual's full name and, in certain circumstances, a current identification, to facilitate a registered sex offender check; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

80-8-201, as enacted by Laws of Utah 2024, Chapter 371

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 80-8-201 is amended to read:

80-8-201. Youth protection requirements.

(1) A youth service organization may not employ a youth worker or allow an individual to volunteer as a youth worker unless the youth service organization has completed a registered sex offender check for the individual.

(2) [~~A~~]To facilitate the registered sex offender check required by Subsection (1), a youth services organization [~~shall~~]may require a potential youth worker to provide the individual's full name and, if the youth services organization has any question about the potential youth worker's identity, a current, government-issued identification[~~to facilitate the registered sex offender check required by Subsection (1)~~].

(3) If an individual is registered on the [~~state's Sex and Kidnap Offender Registry~~]registry described in Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, or the National Sex Offender Public Website, a youth service organization may not employ the individual as a youth worker or allow the individual to volunteer as a youth worker.

Section 2. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house, the later of:

(a) May 1, 2025; or

(b) (i) upon approval by the governor;

(ii) without the governor's approval, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(iii) with the governor's veto and a vote of the Legislature to override the veto, the date of veto override.

CHAPTER 322
S. B. 151
Passed February 19, 2025
Approved March 25, 2025
Effective May 7, 2025

INCOME TAX CONTRIBUTIONS AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill provides for taxpayer contributions for statewide hunger relief on the income tax return.

Highlighted Provisions:

This bill:

- ► establishes the Statewide Hunger Relief Fund (fund);
- ► allows taxpayers, through the individual income tax return, to contribute to the fund to support the Utah Food Bank in fighting hunger statewide;
- ► requires the State Tax Commission to make annual disbursements from the fund to the Utah Food Bank;
- ► provides for the removal of the contribution from the income tax return if the contribution does not generate a certain amount of money each year for a specified period; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-1304, as last amended by Laws of Utah 2023, Chapters 419, 513 and 534

ENACTS:

59-10-1322, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-10-1304 is amended to read:

59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than $30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than $30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1306;

(ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iii) the contribution provided for in Section 59-10-1308;

(iv) the contribution provided for in Section 59-10-1319;

(v) the contribution provided for in Section 59-10-1320; [~~or~~]

(vi) the contribution provided for in Section 59-10-1321[~~.~~]; or

(vii) the contribution provided for in Section 59-10-1322.

(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee by electronic means that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

(3) (a) Within a 30-day period after the day on which the commission makes the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that the commission:

(A) is required to remove the contribution from the individual income tax return; and

(B) may not collect the contribution;

(iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (3).

Section 2. Section 59-10-1322 is enacted to read:

59-10-1322. Contribution to the Statewide Hunger Relief Fund.

(1) (a) There is created an expendable special revenue fund known as the "Statewide Hunger Relief Fund."

(b) The fund shall consist of all amounts deposited into the fund in accordance with Subsection (2).

(2) Except as provided in Section 59-10-1304, for a taxable year beginning on or after January 1, 2025, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution to be:

(a) deposited into the Statewide Hunger Relief Fund; and

(b) disbursed to the Utah Food Bank for the purpose of fighting hunger statewide.

(3) At least once each year, the commission shall disburse from the Statewide Hunger Relief Fund all money deposited into the fund since the last disbursement to the Utah Food Bank.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

Section 4. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2025.

CHAPTER 323
S. B. 154
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

LEGISLATIVE AUDIT AMENDMENTS

Chief Sponsor: Brady Brammer
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill enacts and amends provisions governing the duties and powers of the legislative auditor general.

Highlighted Provisions:

This bill:

- ► restates the authority of the legislative auditor general;
- ► amends provisions governing information that may be subject to federal law and is requested by the legislative auditor general from an entity, including the State Tax Commission;
- ► excludes certain information provided to the legislative auditor general from the definition of "record";
- ► permits an entity to provide certain privileged items to the legislative auditor general;
- ► requires an entity that withholds certain privileged items from the legislative auditor general to expressly assert a privilege;
- ► permits the legislative auditor general to contest a privilege claim;
- ► requires, in certain circumstances, an entity to submit privileged items to an arbitrator to determine a privilege claim;
- ► authorizes the legislative auditor general to provide certain information to an audited entity;
- ► amends the definition of "chief officer" for purposes of an entity responding to a legislative audit;
- ► amends provisions governing an audit response plan and an update to a plan;
- ► authorizes the legislative auditor general to review and monitor the Utah System of Higher Education;
- ► coordinates enactment of provisions with S.J.R. 4, Joint Resolution Amending Court Rules on Attorney Confidentiality; and
- ► makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-12-15, (Effective 05/07/25) (Applies beginning 06/21/24) as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
36-12-15.3, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 403
53F-2-526, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 374
59-1-403, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 25, 35

ENACTS:

36-12-15.4, (Effective 05/07/25) Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-15 is amended to read:

36-12-15 (Effective 05/07/25) (Applies beginning 06/21/24). Office of the Legislative Auditor General established -- Qualifications -- Powers, functions, and duties -- Reporting -- Criminal penalty -- Employment.

(1) As used in this section:

(a) "Audit action" means an audit, examination, investigation, or review of an entity conducted by the office.

(b) "Entity" means:

(i) a government organization; or

(ii) a receiving organization.

(c) "Government organization" means:

(i) a state branch, department, or agency; or

(ii) a political subdivision, including a county, municipality, special district, special service district, school district, interlocal entity as defined in Section 11-13-103, or any other local government unit.

(d) "Office" means the Office of the Legislative Auditor General.

(e) "Receiving organization" means an organization that receives public funds that is not a government organization.

(2) (a) There is created the Office of the Legislative Auditor General as a permanent staff office for the Legislature.

(b) The authority of the legislative auditor general is:

(i) established in Utah Constitution, Article VI, Section 33; and

(ii) an extension of the Legislature's inherent inquiry and investigatory power.

(3) The legislative auditor general shall be a licensed certified public accountant or certified internal auditor with at least seven years of experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

(4) The legislative auditor general shall [~~appoint~~]employ and develop a professional staff within budget limitations.

(5) The office shall exercise the constitutional authority provided in Utah Constitution, Article VI, Section 33.

(6) Under the direction of the legislative auditor general, the office shall:

(a) conduct comprehensive and special purpose audits, examinations, investigations, or reviews of entity funds, functions, and accounts;

(b) prepare and submit a written report on each audit action to the Audit Subcommittee created in Section 36-12-8 and make the report available to all members of the Legislature within 75 days after the audit action is completed;

(c) monitor, conduct a risk assessment of, or audit any efficiency evaluations that the legislative auditor general determines necessary, in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule;

(d) create, manage, and report to the Audit Subcommittee a list of high risk programs and operations that:

(i) threaten public funds or programs;

(ii) are vulnerable to inefficiency, waste, fraud, abuse, or mismanagement; or

(iii) require transformation;

(e) monitor and report to the Audit Subcommittee the health of a government organization's internal audit functions;

(f) make recommendations to increase the independence and value added of internal audit functions throughout the state;

(g) implement a process to track, monitor, and report whether the subject of an audit has implemented recommendations made in the audit report;

(h) establish, train, and [~~maintain~~]retain individuals within the office to conduct investigations and represent themselves as lawful investigators on behalf of the office;

(i) establish policies, procedures, methods, and standards of audit work and investigations for the office and staff;

(j) prepare and submit each audit and investigative report independent of any influence external of the office, including the content of the report, the conclusions reached in the report, and the manner of disclosing the legislative auditor general's findings;

(k) prepare and submit [~~the~~]an annual budget request for the office; and

(l) perform other duties as prescribed by the Legislature.

(7) (a) In conducting an audit action of an entity, the office may include a determination of any or all of the following:

[~~(a)~~](i) the honesty and integrity of any of the entity's fiscal affairs;

[~~(b)~~](ii) the accuracy and reliability of the entity's internal control systems and specific financial statements and reports;

[~~(c)~~](iii) whether [~~or not~~]the entity's financial controls are adequate and effective to properly record and safeguard the entity's acquisition, custody, use, and accounting of public funds;

[~~(d)~~](iv) whether the entity's administrators have complied with legislative intent;

[~~(e)~~](v) whether the entity's operations have been conducted in an efficient, effective, and cost efficient manner;

[~~(f)~~](vi) whether the entity's programs have been effective in accomplishing intended objectives; and

[~~(g)~~](vii) whether the entity's management control and information systems are adequate and effective.

(b) The office may provide to an entity that is the subject of an audit action the following:

(i) the record classification of a draft report of an audit action;

(ii) opportunity to discuss a draft report of an audit action before release;

(iii) the contact information of the office's manager or supervisor of an audit action; or

(iv) any other information related to the audit action.

(8) [~~(a)~~] If requested by the office, each entity that the legislative auditor general is authorized to audit under Utah Constitution, Article VI, Section 33, or this section shall, notwithstanding any other provision of law[~~except as provided in Subsection (8)(b)~~], provide the office with access to information, materials, or resources the office determines are necessary to conduct an audit, examination, investigation, or review, including:

[~~(i)~~](a) the following in the possession or custody of the entity in the format identified by the office:

[~~(A)~~](i) a record, document, and report; and

[~~(B)~~](ii) films, tapes, recordings, and electronically stored information;

[~~(ii)~~](b) entity personnel; and

[~~(iii)~~](c) each official or unofficial recording of formal or informal meetings or conversations to which the entity has access.

[~~(b) To the extent compliance would violate federal law, the requirements of Subsection (8)(a) do not apply.~~]

(9) (a) In carrying out the duties provided for in this section and under Utah Constitution, Article VI, Section 33, the legislative auditor general may issue a subpoena to access information, materials, or resources in accordance with Chapter 14, Legislative Subpoena Powers.

(b) The legislative auditor general may issue a subpoena, as described in Subsection (9)(a), to a financial institution or any other entity to obtain information as part of an investigation [~~of~~]involving public funds and fraud, waste, or abuse, including any suspected malfeasance, misfeasance, or nonfeasance[~~involving public funds~~].

(10) (a) As used in this Subsection (10):

(i) "Bad faith" means an action or inaction that is unambiguously not authorized under an authority described in Subsection (10)(a)(iii)(A), (B), or (C).

(ii) "Item" means information, materials, or resources described in Subsection (8).

(iii) "Privileged item" means an item that is an attorney-client communication, attorney work product, or information relating to representation of the entity, governed by:

(A) Utah Rules of Professional Conduct, Rule 1.6;

(B) Utah Rules of Evidence, Rule 504; or

(C) Utah Rules of Civil Procedure, Rule 26.

(b) If an entity discloses information to the legislative auditor general that is confidential under Utah Rules of Professional Conduct, Rule 1.6, the disclosure is authorized in accordance with Utah Rules of Professional Conduct, Rule 1.6(b)(6), and does not make the information discoverable or prevent the entity from claiming that the information is privileged in another proceeding.

(c) If requested by the legislative auditor general for an audit action, an entity may provide a privileged item.

(d) If an entity withholds an item after a request by the legislative auditor general for an audit action, the entity shall, for each instance in which the entity asserts privilege, submit to the legislative auditor general a written statement:

(i) expressly asserting the privilege and the authority for the privilege claim; and

(ii) for each privilege claim, describing the nature of the item in a manner that, without revealing the attorney-client communication, attorney work product, or representation information itself, enables the legislative auditor general to evaluate the privilege claim.

(e) The legislative auditor general may contest a privilege claim asserted under Subsection (10)(d) by:

(i) notifying the entity in writing of each contested privilege claim and providing the list of available arbitrators described in Subsection (10)(f); and

(ii) submitting each contested privilege claim to the arbitrator selected in accordance with Subsection (10)(f).

(f) (i) The legislative auditor general shall:

(A) maintain a list of three arbitrators; and

(B) engage an arbitrator selected in accordance with this Subsection (10)(f).

(ii) No later than three business days after receiving the notification under Subsection (10)(e)(i), the entity may select an arbitrator from the list provided by the legislative auditor general.

(iii) If an entity fails to select an arbitrator in accordance with Subsection (10)(f)(ii), the legislative auditor general shall select an arbitrator from the list.

(iv) The arbitrator shall be licensed to practice law in the state of Utah and in good standing.

(v) Subject to Subsection (10)(i)(ii), the entity and the legislative auditor general shall equally bare the cost of the arbitrator.

(g) The entity:

(i) shall provide to the arbitrator the item and contested privilege claim no later than seven business days after the arbitrator is engaged under Subsection (10)(f); and

(ii) may provide supplemental information in support of a privilege claim.

(h) No later than seven business days after the arbitrator receives the contested privilege claim under Subsection (10)(g)(i), the arbitrator shall:

(i) conduct an in camera review of each contested item and the authority for the relevant privilege claim;

(ii) review supplemental information submitted under Subsection (10)(g)(ii) and any supplemental information provided by the legislative auditor general;

(iii) issue a determination as to whether the entity has a valid claim of privilege, favoring access to the legislative auditor general of material that is not privileged; and

(iv) issue a determination as to whether the entity acted in bad faith.

(i) (i) If the arbitrator determines that an entity does not have a valid privilege claim, the entity shall provide the withheld item to the legislative auditor general immediately.

(ii) If the arbitrator determines that the entity acted in bad faith, the entity shall bare the full cost of the arbitrator.

(j) The arbitrator may not disclose:

(i) a privileged item; or

(ii) supplemental information described in Subsection (10)(g)(ii).

(k) Provisions of this Subsection (10) are not subject to Title 78B, Chapter 11, Utah Uniform Arbitration Act.

[~~(10)~~](11) To preserve the professional integrity and independence of the office:

(a) no legislator or public official may urge the appointment of any person to the office; and

(b) the legislative auditor general may not be appointed to serve on any board, authority, commission, or other agency of the state during the legislative auditor general's term as legislative auditor general.

[~~(11)~~](12) (a) The following records in the custody or control of the legislative auditor general are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records and audit work papers that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the legislative auditor general through other documents or evidence, and the records relating to the allegation are not relied upon by the legislative auditor general in preparing a final audit report;

(ii) records and audit workpapers that would disclose the identity of a person who, during the course of a legislative audit, communicated the existence of:

(A) unethical behavior;

(B) waste of public funds, property, or personnel; or

(C) a violation or suspected violation of a United States, Utah state, or political subdivision law, rule, ordinance, or regulation, if the person disclosed on the condition that the identity of the person be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of an entity for review, response, or information;

(iv) records that would disclose:

(A) an outline;

(B) all or part of an audit survey, audit risk assessment plan, or audit program; or

(C) other procedural documents necessary to fulfill the duties of the office; and

(v) [~~requests for audits~~]a request for an audit, if disclosure would risk circumvention of [~~an~~]the audit.

(b) The provisions of Subsection [~~(11)(a)~~](12)(a) do not prohibit the disclosure of records or information to a government prosecutor or peace officer if those records or information relate to a violation of the law by an entity or entity employee.

(c) A record, as defined in Section 63G-2-103, created by the office in a closed meeting held in accordance with Section 52-4-205:

(i) is a protected record, as defined in Section 63G-2-103;

(ii) to the extent the record contains information:

(A) described in Section 63G-2-302, is a private record; or

(B) described in Section 63G-2-304, is a controlled record; and

(iii) may not be reclassified by the office.

(d) The provisions of this section do not limit the authority otherwise given to the legislative auditor general to maintain the private, controlled, or protected record status of a shared record in the legislative auditor general's possession or classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(e) If provided to the legislative auditor general, the following are not a record, as defined in Section 63G-2-103:

(i) a privileged item, as defined in Subsection (10)(a); and

(ii) supplemental information described in Subsection (10)(g)(ii).

[~~(12)~~](13) The legislative auditor general shall:

(a) be available to the Legislature and to the Legislature's committees for consultation on matters relevant to areas of the legislative auditor general's professional competence;

(b) conduct special audits as requested by the Audit Subcommittee;

(c) report immediately to the Audit Subcommittee any apparent violation of penal statutes disclosed by the audit of an entity and furnish to the Audit Subcommittee all information relative to the apparent violation;

(d) report immediately to the Audit Subcommittee any apparent instances of malfeasance or nonfeasance by an entity officer or employee disclosed by the audit of an entity; and

(e) make any recommendations to the Audit Subcommittee with respect to the alteration or improvement of the accounting system used by an entity.

[~~(13)~~](14) If the legislative auditor general conducts an audit of an entity that has previously been audited and finds that the entity has not implemented a recommendation made by the legislative auditor general in a previous audit report, the legislative auditor general shall report to the Audit Subcommittee that the entity has not implemented the recommendation.

[~~(14)~~](15) Before each annual general session, the legislative auditor general:

(a) shall:

[~~(a)~~](i) prepare an annual report that:

[~~(i)~~](A) summarizes the audits, examinations, investigations, and reviews conducted by the office since the last annual report; and

[~~(ii)~~](B) evaluate and report the degree to which an entity that has been the subject of an audit has implemented the audit recommendations;

[~~(b)~~](ii) include in the report any items and recommendations that the legislative auditor general believes the Legislature should consider in the annual general session; and

[~~(c)~~](iii) deliver the report to the Legislature and to the appropriate committees of the Legislature[~~.~~]; and

(b) may use information from an audit response plan or update of an audit response plan as described in Section 36-12-15.3 when preparing the annual report described in Subsection (15)(a)(i).

[~~(15)~~](16) (a) If the chief officer of an entity has actual knowledge or reasonable cause to believe that there is misappropriation of the entity's public funds or assets, or another entity officer has actual knowledge or reasonable cause to believe that the chief officer is misappropriating the entity's public funds or assets, the chief officer or, alternatively, the other entity officer, shall immediately notify, in writing:

(i) the office;

(ii) the attorney general, county attorney, or district attorney; and

(iii) (A) for a state government organization, the chief executive officer;

(B) for a political subdivision government organization, the legislative body or governing board; or

(C) for a receiving organization, the governing board or chief executive officer unless the chief executive officer is believed to be misappropriating the funds or assets, in which case the next highest officer of the receiving organization.

(b) As described in Subsection [~~(15)(a)~~](16)(a), the entity chief officer or, if applicable, another entity officer, is subject to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act.

(c) If the Office of the Legislative Auditor General receives a notification under Subsection [~~(15)(a)~~](16)(a) or other information of misappropriation of public funds or assets of an entity, the office shall inform the Audit Subcommittee.

(d) The attorney general, county attorney, or district attorney shall notify, in writing, the Office of the Legislative Auditor General whether the attorney general, county attorney, or district attorney pursued criminal or civil sanctions in the matter.

[~~(16)~~](17) (a) An actor commits interference with a legislative audit if the actor uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with:

(i) a legislative audit action; or

(ii) the office's decisions relating to:

(A) the content of the office's report;

(B) the conclusions reached in the office's report; or

(C) the manner of disclosing the results and findings of the office.

(b) A violation of Subsection [~~(16)(a)~~](17)(a) is a class B misdemeanor.

[~~(17)~~](18) (a) The office may require any current employee, or any applicant for employment, to submit to a fingerprint-based local,

regional, and criminal history background check as an ongoing condition of employment.

(b) An employee or applicant for employment shall provide a completed fingerprint card to the office upon request.

(c) The office shall require that an individual required to submit to a background check under this Subsection [~~(17)~~](18) also provide a signed waiver on a form provided by the office that meets the requirements of Subsection 53-10-108(4).

(d) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the office shall submit to the Bureau of Criminal Identification:

(i) the employee's or applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(ii) a request for all information received as a result of the local, regional, and nationwide background check.

[~~(18)~~](19) Subject to prioritization of the Legislative Audit Subcommittee, the Office of the Legislative Auditor General shall conduct a feasibility study under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4.

Section 2. Section 36-12-15.3 is amended to read:

36-12-15.3 (Effective 05/07/25). Response to audit -- Chief officer -- Entity reporting requirements -- Audit response plan -- Semi-annual update.

(1) As used in this section:

(a) "Alternative action" means a process, practice, or procedure that an entity implements in response to an audit report that is different from the process, practice, or procedure described in a recommendation.

(b) "Audit report" means a written report that the office issues that contains the office's findings and recommendations with respect to an audit of an entity.

(c) "Audit response plan" means a written document that an entity issues that contains the entity's response to an audit report of the entity.

(d) "Audit Subcommittee" means the subcommittee created in Subsection 36-12-8(1)(c).

(e) "Chief officer" means the individual [~~who holds ultimate authority over the management or governance~~]responsible for the day-to-day direction, management, and operation of an entity.

(f) "Entity" means:

(i) the same as that term is defined in Subsection 36-12-15(1); or

(ii) any other person that the office is authorized to audit under any other provision of law.

(g) "Legislative committee" means the committee to which the Audit Subcommittee refers an audit report under Subsection 36-12-8(2)(d)(ii)(C).

(h) "Office" means the Office of the Legislative Auditor General.

(i) "Recommendation" means a process, practice, or procedure described in an audit report that the office proposes an entity implement.

(j) "Reply" means a written document that the office issues that contains the office's response to an entity's audit response plan.

(2) (a) In addition to any other information that the office is required to include or attach to an audit report, the office shall, for each audit report the office issues:

[~~(a)~~](i) subject to Subsection (2)(b), include in the audit report:

[~~(i)~~](A) the identity of the chief officer; and

[~~(ii)~~](B) a notice to the chief officer that the chief officer must comply with the reporting requirements described in this section; and

[~~(b)~~](ii) attach to the audit report:

[~~(i)~~](A) the audit response plan of the entity that is the subject of the audit report; and

[~~(ii)~~](B) at the discretion of the legislative auditor general, a reply to the entity's audit response plan.

(b) To comply with the reporting requirements of this section, the legislative auditor general may:

(i) identify an individual other than the chief officer; or

(ii) if the entity is an entity under the direct supervision and control of the governor or the lieutenant governor, identify with the governor or lieutenant governor or their designee, an individual other than the chief officer to comply with the reporting requirements of this section.

(3) The chief officer of an entity that is the subject of an audit report shall:

(a) prepare an audit response plan that:

(i) is in writing;

(ii) responds to the findings in the audit report; and

(iii) subject to Subsection (4), for each recommendation in the audit report:

(A) describes how the entity will implement the recommendation;

(B) identifies the individual employed by or otherwise affiliated with the entity who is responsible for implementing the recommendation;

(C) establishes a timetable that identifies benchmarks for the entity to implement the recommendation; and

(D) specifies an anticipated deadline by which the entity will fully implement the recommendation; and

(b) sign and submit the audit response plan to the office before the office submits the audit report to the Audit Subcommittee under Subsection 36-12-15(6)(b).

(4) If the chief officer described in Subsection (3) objects to implementing a recommendation in an audit report, the chief officer shall:

(a) prepare an audit response plan in accordance with Subsections (3)(a)(i) and (ii) that:

(i) explains the basis for the objection; and

(ii) (A) identifies an alternative action that the entity will implement; or

(B) specifies that the entity will not implement the recommendation or an alternative action; and

(b) comply with submission requirements described in Subsection (3)(b).

(5) A chief officer implementing an alternative action under Subsection (4)(a)(ii)(A) shall, as it relates to the alternative action, include

in the audit response plan the information described in Subsection (3)(a)(iii).

(6) Subject to Subsection [~~(8)~~](9), if the chief officer of an entity that is the subject of an audit report implements a recommendation under Subsection (3)(a)(iii), or an alternative action under Subsections (4)(a)(ii)(A) and (5), the chief officer shall, no later than 180 days after the day on which the Audit Subcommittee refers the audit report to a legislative committee:

(a) prepare an update to the entity's audit response plan that:

(i) is in writing; and

(ii) describes the entity's progress towards fully implementing:

(A) each recommendation addressed in the entity's audit response plan under Subsection (3)(a)(iii); or

(B) each alternative action addressed in the entity's audit response plan under Subsections (4)(a)(ii)(A) and (5); and

(b) submit the update to the legislative committee and the legislative auditor general.

(7) Subject to Subsection [~~(8)~~](9), after the chief officer described in Subsection (6) complies with the submission requirements described in Subsection (6)(b), the chief officer shall:

(a) continue to update the audit response plan in accordance with Subsection (6)(a); and

(b) submit the update to the legislative committee and the legislative auditor general at least semi-annually.

(8) Upon receiving an audit response plan update under Subsection (6) or (7), the legislative auditor general may inform the chief officer of the following:

(a) (i) if the legislative auditor general agrees or disagrees with the implementation status of a recommendation; and

(ii) if the legislative auditor general disagrees with the implementation status, the basis for the disagreement and an opportunity for the chief officer to provide additional information; and

(b) if the chief officer no longer needs to provide an update on the status of a recommendation.

[~~(8)~~](9) A chief officer's obligation to update an audit response plan under this section terminates when the legislative auditor general reports to the Audit Subcommittee that the entity which is the subject of the audit report has fully implemented:

(a) each recommendation addressed in the entity's audit response plan under Subsection (3)(a)(iii); or

(b) each alternative action addressed in the entity's audit response plan under Subsections (4)(a)(ii)(A) and (5) only if the alternative action has addressed the recommendation identified in the audit report.

Section 3. Section 36-12-15.4 is enacted to read:

36-12-15.4 (Effective 05/07/25). Legislative auditor general -- Review of Utah System of Higher Education.

(1) As used in this section:

(a) "Board" means the Utah Board of Higher Education, created in Section 53B-1-402.

(b) "Institution" means an institution within the Utah System of Higher Education.

(c) "Office" means the Office of the Legislative Auditor General created in Section 36-12-15.

(d) "System" means the Utah System of Higher Education described in Section 53B-1-102.

(2) As directed by the Legislative Audit Subcommittee, the office may:

(a) review and monitor the system, board, and an institution;

(b) identify areas where the system, board, and an institution can enhance performance, effectiveness, and efficiency, or otherwise meet responsibilities set forth for the system in statute; and

(c) establish a list of high-risk programs, operations, and functions in the system that may require executive action, or have capacity for improved efficiency or effectiveness.

(3) Upon request, the system, board, or an institution shall provide to the office information, materials, or resources in accordance with Subsection 36-12-15(8).

(4) The legislative auditor general shall report findings to and regularly update the Legislative Audit Subcommittee and board.

Section 4. Section 53F-2-526 is amended to read:

53F-2-526 (Effective 05/07/25). Excellence in Education and Leadership Supplement.

(1) As used in this section:

(a) "Center" means the Center for the School of the Future at Utah State University established in Section 53B-18-801.

(b) "Eligible teacher" means a teacher who is a top-performing teacher that the center determines using an LEA's assessment methods, including:

(i) student growth or achievement measures;

(ii) professional evaluations;

(iii) parent surveys; and

(iv) other data-driven criteria the LEA establishes and the center verifies for validity.

(c) "Eligible teacher" includes an individual whom an LEA participating in the program employs and who holds:

(i) a license the state board issues; and

(ii) a position that includes a current classroom teaching assignment.

(d) "High poverty school" means the same as the term is defined in Section 53F-2-513.

(e) "LEA" means:

(i) a school district;

(ii) charter school; and

(iii) a regional education service agency.

(f) "Program" means the Excellence in Education and Leadership Supplement created in Subsection (2).

(g) "Tier performance level" means the following levels of performance for a teacher in comparison to all teachers the center

determines in accordance with Subsection (7):

(i) the top 5% of teachers;

(ii) the next 6%-10% of teachers; and

(iii) the next 11%-25% of teachers.

(h) "Top-performing" means the top 25% of teachers in comparison to all teachers the center determines using the methods described in Subsection (1)(b).

(2) Beginning July 1, 2024, there is created a five-year pilot program known as the Excellence in Education and Leadership Supplement to provide a salary supplement to an eligible teacher in recognition for outstanding instructional talent.

(3) (a) No later than December 31, 2024, an LEA shall declare the LEA's intent to participate in the program to the center.

(b) If an LEA declares an intent to participate in the program, the LEA shall:

(i) develop a process for a school principal or the principal's designee to assess a teacher's performance consistent with this section to determine if a teacher is an eligible teacher, including the corresponding tier performance level; and

(ii) create an appeals process for an employee who is not nominated to be an eligible teacher.

(4) No later than April 1, 2025, an LEA shall:

(a) attend a training that the center creates regarding the guidelines for developing a process described in Subsection (3); and

(b) develop and submit for approval the LEA's process described in Subsection (3) to the center.

(5) (a) The center shall review the LEA's process described in Subsection (3) and approve the process or request that the LEA make changes to the submitted process.

(b) If the center requests changes to the LEA's submitted process, the LEA shall work with the center to make necessary changes to receive final approval from the center.

(c) No later than June 30, 2025, the center shall provide final approval or denial of an LEA's process.

(6) Before the start of the 2025-2026 school year, an LEA with an approved process as described in Subsection (5) shall:

(a) ensure each school principal or the principal's designee attends a training that the center creates regarding:

(i) how to effectively use the LEA's approved process to select and submit to the center nominations for eligible teachers, including the corresponding tier performance level; and

(ii) how to protect student and educator data privacy when submitting nominations and applications, as described in Subsection (9)(b)(ii)[~~.~~];

(b) provide information to teachers within the LEA regarding the program and how the school's principal or principal's designee will use the approved LEA process to make nominations of eligible teachers;

(c) ensure each school principal or the principal's designee uses the LEA's approved process to evaluate and select which teachers within the school to nominate as eligible teachers, including the corresponding tier performance level; and

(d) as provided in Subsection (9), submit to the center a list of the nominated eligible teachers for the center to consider.

(7) In assessing if a nominated teacher is an eligible teacher, the center shall create an assessment process that:

(a) uses the methods described in Subsection (1)(b);

(b) calibrates the submissions an LEA submits to determine, for all nominated teachers statewide, which teachers are eligible teachers, including the corresponding tier performance level;

(c) may use additional criteria as determined by the center in consultation with participating LEAs; and

(d) establishes a scoring rubric including the scores required for a designation in each tier performance level.

(8) (a) The center shall collaborate with LEAs to create:

(i) selection and submission guidelines for:

(A) the approval of the LEA's process as described in Subsection (5); and

(B) the list of nominated eligible teachers described in Subsection (6);

(ii) methods to determine student growth and achievement measures for subject areas that do not have standardized assessment data;

(iii) the weightings for each element of the assessment process described in Subsection (7); and

(iv) the trainings described in this section.

(b) The center may provide program related technical assistance to an LEA.

(9) (a) An LEA shall:

(i) apply to the center on behalf of the nominated eligible teachers within the LEA through a process and format that the center determines; and

(ii) ensure a school principal or the principal's designee reevaluates an eligible teacher's designation under this section every three years.

(b) The center shall:

(i) create an application process for an LEA to submit the list of nominated eligible teachers described in Subsection (9)(a);

(ii) coordinate with the state board in the creation of the application process described in Subsection (9)(b)(i) to ensure that any sharing of student and educator data during the application process:

(A) complies with the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99;

(B) complies with Title 53E, Chapter 9, Student Privacy and Data Protection; and

(C) uses disclosure avoidance techniques, including aggregating and otherwise de-identifying data;

(iii) no later than October 1, 2026, determine if a nominated teacher is an eligible teacher through the process described in Subsection (7);

(iv) verify:

(A) the validity of the LEA's process and assessment of an eligible teacher as described in Subsections (4) and (5); and

(B) the nominations described in Subsection (7) with the LEA and school administrators;

(v) certify a list of eligible teachers, including the total amount of funding the LEA receives for the LEA's eligible teachers; and

(vi) provide the list described in Subsection (9)(b)(iv) to the state board.

(10) (a) Subject to legislative appropriations, the state board shall:

(i) disburse funding to an LEA in the amount the center verifies that an LEA qualifies to receive for salary supplements under this section; and

(ii) (A) except as provided in Subsection (10)(a)(ii)(B), allocate 1% of the funds appropriated under this section to the center; and

(B) provide no more than $500,000 to the center each fiscal year from the funds described in Subsection (10)(a)(ii)(A).

(b) The annual salary supplement for an eligible teacher is:

(i) $10,000 for a teacher in the top 5% of teachers;

(ii) $5,000 for a teacher in the next 6%-10% of teachers; and

(iii) $2,000 for a teacher in the next 11%-25% of teachers.

(c) If the eligible teacher is employed at a high poverty school, the eligible teacher shall receive an additional salary supplement that is equal in amount to the eligible teacher's salary supplement described in Subsection (10)(b).

(11) (a) An LEA shall:

(i) use the program funds to provide a salary supplement equal to the amount specified in Subsection (10) for each eligible teacher in each tier performance level; and

(ii) provide the salary supplement in an eligible teacher's regularly occurring compensation in equal amounts through the contracted school years related to the salary supplement award.

(b) An LEA:

(i) may use up to 4% of the money appropriated to the LEA for salary supplements to cover administrative costs associated with implementing the program;

(ii) may use money appropriated to the LEA for the salary supplement for employer-paid benefits; and

(iii) may not include a salary supplement received under this section:

(A) in a retirement calculation; or

(B) as part of retirement contributions.

(c) The salary supplement is not part of an eligible teacher's base pay, and is subject to the eligible teacher's designation as an eligible teacher.

(12) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, an LEA may distribute the funds to each eligible teacher of the same tier of performance level on a pro rata basis.

(13) The center and the state board shall collaborate regarding data sharing and other relevant interactions to facilitate the successful administration of the program.

(14) (a) An eligible teacher that receives a salary supplement under the program has no vested property right in the salary supplement or the designation as an eligible teacher.

(b) An eligible teacher's salary supplement and designation under this section are void if the school principal or principal's designee, LEA, or the center made or certified the designation improperly.

(15) (a) Subject to prioritization of the Audit Subcommittee, unless the state board contracts a private auditor in accordance with Subsection (15)(b), the Office of the Legislative Auditor General established under Section 36-12-15 shall, in any fiscal year:

(i) conduct an audit of the program including:

(A) an evaluation of the implementation of the program; and

(B) the efficacy of the program, including program outcomes; and

(ii) prepare and submit a written report for an audit described in this section in accordance with Subsection 36-12-15[~~(4)(b)(ii)~~](6)(b).

(b) Subject to legislative appropriations, the state board may contract with an external auditor to perform the audit described in this Subsection (15).

(16) (a) The center shall report to the Education Interim Committee no later than the 2024 October meeting the following:

(i) the methodology and process the center develops to achieve the requirements of Subsection (7);

(ii) relevant data and updates resulting from the collaborations described in Subsection (8);

(iii) any recommendations for future legislation; and

(iv) data regarding salary supplement programs, including:

(A) different approaches used to reward teacher performance, including different evaluation methods;

(B) research outlining the effectiveness and impact of different salary supplement amounts on teacher retention; and

(C) other considerations for impactful salary supplement programs in relation to teacher retention.

(b) Beginning November 1, 2026, the center shall provide an annual report to the Education Interim Committee regarding:

(i) the statewide metrics used in accordance with Subsection (7);

(ii) de-identified and aggregated data showing the number of:

(A) salary supplements per school, including total number of eligible teachers in each school;

(B) eligible teachers in high poverty schools;

(C) eligible teachers in each tier performance level;

(D) eligible teachers in subject areas that do not have standardized assessments; and

(E) salary supplement denials per school, including the reasons for a denial;

(iii) proportion of eligible teachers in:

(A) school districts; and

(B) charter schools; and

(iv) teacher retention data for a school where an eligible teacher is employed.

Section 5. Section 59-1-403 is amended to read:

59-1-403 (Effective 05/07/25). Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, or town;

(ii) the military installation development authority created in Section 63H-1-201; or

(iii) the Utah Inland Port Authority created in Section 11-58-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(d) Notwithstanding any other provision of state law, a person described in Subsection (2)(a) may not divulge or make known in any manner any information gained by that person from any return filed with the commission to the extent that the disclosure is prohibited under federal law.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

(A) "GOEO" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of GOEO provide to GOEO all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), GOEO may not request and the commission may not provide to GOEO a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to GOEO, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of GOEO provide to GOEO other tax information.

(B) Before providing other tax information to GOEO, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) GOEO may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from GOEO under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if GOEO received the tax information from the commission in accordance with this Subsection (4)(n).

(B) GOEO may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information GOEO provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah

Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26B-3-106 and 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable, whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(bb) (i) As used in this Subsection (4)(bb), "unclaimed property administrator" means the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii) (A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection (4)(bb)(ii)(A) only for the purpose of returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection (4)(bb).

(cc) Notwithstanding Subsection (2), the commission may, upon request, disclose a taxpayer's state individual income tax information to a program manager of the Utah Fits All Scholarship Program under Section 53F-6-402 if:

(i) the taxpayer consents in writing to the disclosure;

(ii) the taxpayer's written consent includes the taxpayer's name, social security number, and any other information the commission requests that is necessary to verify the identity of the taxpayer; and

(iii) the program manager provides the taxpayer's written consent to the commission.

(dd) Notwithstanding Subsection (2), the commission may provide to the Division of Finance within the Department of Government Operations any information necessary to facilitate a payment from the commission to a taxpayer, including:

(i) the name of the taxpayer entitled to the payment or any other person legally authorized to receive the payment;

(ii) the taxpayer identification number of the taxpayer entitled to the payment;

(iii) the payment identification number and amount of the payment;

(iv) the tax year to which the payment applies and date on which the payment is due;

(v) a mailing address to which the payment may be directed; and

(vi) information regarding an account at a depository institution to which the payment may be directed, including the name of the depository institution, the type of account, the account number, and the routing number for the account.

(ee) Notwithstanding Subsection (2), the commission shall provide the total amount of revenues collected by the commission under

Subsection 59-5-202(5):

(i) at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, to the committee or office for the time period specified by the committee or office; and

(ii) to the Division of Finance for purposes of the Division of Finance administering Subsection 59-5-202(5).

(ff) Notwithstanding Subsection (2), the commission may provide the Department of Agriculture and Food with information from a return filed in accordance with Chapter 31, Cannabinoid Licensing and Tax Act.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), GOEO, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization, an individual described in Subsection (2):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 324
S. B. 157
Passed March 4, 2025
Approved March 25, 2025
Effective May 7, 2025

NONJUDICIAL ADJUSTMENT AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies the provisions of the Indigent Defense Act in relation to nonjudicial adjustments and access to legal counsel.

Highlighted Provisions:

This bill:

- ► prohibits a minor from declining to enter into a nonjudicial adjustment agreement unless the minor has received advice from legal counsel, with exceptions;
- ► modifies the duties of the Indigent Defense Commission to include encouraging the provision of resources for minors to receive access to legal advice when considering a nonjudicial adjustment;
- ► modifies the duties of the Office of Indigent Defense Services to require the office to provide no-cost legal advice for minors considering a nonjudicial adjustment;
- ► permits the Office of Indigent Defense Services to employ or contract with an attorney to provide legal advice to minors considering a nonjudicial adjustment;
- ► creates procedures for giving notice of requirements before declining a nonjudicial adjustment agreement; and
- ► makes clarifying amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-22-204, as last amended by Laws of Utah 2021, Chapter 124
78B-22-404, as last amended by Laws of Utah 2024, Chapter 193
78B-22-452, as last amended by Laws of Utah 2024, Chapter 193
80-6-304, as last amended by Laws of Utah 2023, Chapter 161
80-6-602, as enacted by Laws of Utah 2021, Chapter 261

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-22-204 is amended to read:

78B-22-204. Waiver by a minor.

(1) A minor may not waive the right to be represented by counsel at all stages of court proceedings unless:

[~~(1)~~](a) the minor has consulted with counsel; and

[~~(2)~~](b) the court is satisfied that in light of the minor's unique circumstances and attributes:

[~~(a)~~](i) the minor's waiver is knowing and voluntary; and

[~~(b)~~](ii) the minor understands the consequences of the waiver.

(2) A minor may not decline to enter into a nonjudicial adjustment without first being advised of their right to consult with counsel, consistent with the requirements of Section 80-6-304.

Section 2. Section 78B-22-404 is amended to read:

78B-22-404. Powers and duties of the commission.

(1) The commission shall:

(a) adopt core principles for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code, which principles at a minimum shall address the following:

(i) an indigent defense system shall ensure that in providing indigent defense services:

(A) an indigent individual receives conflict-free indigent defense services; and

(B) there is a separate contract for each type of indigent defense service; and

(ii) an indigent defense system shall ensure an indigent defense service provider has:

(A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;

(B) adequate access to indigent defense resources;

(C) the ability to provide representation to accused individuals in criminal cases at the critical stages of proceedings, and at all stages to indigent individuals in juvenile delinquency and child welfare proceedings;

(D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;

(E) adequate compensation without financial disincentives;

(F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;

(G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and

(H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest;

(b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to the indigent individuals;

(c) emphasize the importance of ensuring constitutionally effective indigent defense services;

(d) encourage members of the judiciary to provide input regarding the delivery of indigent defense services;

(e) oversee individuals and entities involved in providing indigent defense services; [~~and~~]

(f) manage county participation in the Indigent Aggravated Murder Defense Fund created in Section 78B-22-701[~~.~~]; and

(g) develop and oversee the provision of resources for minors to access legal advice when considering a nonjudicial adjustment.

(2) The commission may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part;

(b) assign duties related to indigent defense services to the office to assist the commission with the commission's statutory duties;

(c) request supplemental appropriations from the Legislature to address a deficit in the Indigent Inmate Fund created in Section 78B-22-455; and

(d) request supplemental appropriations from the Legislature to address a deficit in the Child Welfare Parental Representation Fund created in Section 78B-22-804.

Section 3. Section 78B-22-452 is amended to read:

78B-22-452. Duties of the office.

(1) The office shall:

(a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;

(b) assist the commission in performing the commission's statutory duties described in this chapter;

(c) identify and collect data that is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's core principles for effective representation of indigent individuals;

(e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;

(g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent defense inmate who:

(i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as classified in Section 17-50-501;

(ii) is charged with having committed a crime within that state prison; and

(iii) has been appointed counsel in accordance with Section 78B-22-203;

(h) assist the commission in developing and reviewing advisory caseload guidelines and procedures;

(i) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals;

(j) administer the Child Welfare Parental Representation Program in accordance with Part 8, Child Welfare Parental Representation Program;

(k) administer the Indigent Aggravated Murder Defense Fund in accordance with Part 7, Indigent Aggravated Murder Defense Fund;

(l) assign an indigent defense service provider to represent an individual prosecuted for aggravated murder in accordance with Part 7, Indigent Aggravated Murder Defense Fund;

(m) provide access for a minor to receive legal advice, at no cost, in connection with considering a nonjudicial adjustment;

[~~(m)~~](n) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state; and

(iii) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;

[~~(n)~~](o) submit recommendations to the commission for improving indigent defense services in the state;

[~~(o)~~](p) publish an annual report on the commission's website; and

[~~(p)~~](q) perform all other duties assigned by the commission related to indigent defense services.

(2) The office may:

(a) enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office[.]; and

(b) employ or contract with an attorney to provide counsel, at no cost, to any minor considering a nonjudicial adjustment.

(3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404.

Section 4. Section 80-6-304 is amended to read:

80-6-304. Nonjudicial adjustments -- Requirement to seek legal counsel before declination.

(1) For a nonjudicial adjustment, the juvenile probation officer may require a minor to:

(a) pay a financial penalty of no more than $250 to the juvenile court, subject to the terms established under Subsection [~~(4)~~](5);

(b) pay restitution to any victim;

(c) complete community or compensatory service;

(d) attend counseling or treatment with an appropriate provider;

(e) attend substance abuse treatment or counseling;

(f) comply with specified restrictions on activities or associations;

(g) attend victim-offender mediation if requested by the victim; and

(h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.

(2) (a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with Section 80-6-303.5, the juvenile probation officer shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(b) The victim shall be responsible to provide to the juvenile probation officer upon request:

(i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;

(ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

(iii) proof of identification, including home and work address and telephone numbers.

(c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the juvenile probation officer determining restitution based on the best information available.

(3) The juvenile probation officer may not predicate acceptance of an offer of a nonjudicial adjustment on an admission of guilt.

(4) (a) A minor may not decline to enter into a nonjudicial adjustment without first being advised of their right to consult with counsel, subject to the requirements of this section.

(b) If a minor seeks to decline a nonjudicial adjustment, the juvenile probation officer shall inform the minor of:

(i) the minor's right to consult with counsel; and

(ii) the availability of resources for the minor to receive legal advice provided by the Office of Indigent Defense Services created in Section 78B-22-451.

(c) If a minor seeks to decline a nonjudicial adjustment, and also declines to seek the advice of counsel after being informed as required under Subsection (4)(b), the juvenile probation officer shall:

(i) sign an acknowledgment that the juvenile probation officer provided the minor with the information required by Subsection (4)(b);

(ii) have the minor sign an acknowledgment that the minor received the information required by Subsection (4)(b) and knowingly and voluntarily declined to seek the advice of counsel; and

(iii) permit the minor to decline the nonjudicial adjustment.

(d) No provision of this section affects a court's obligation to ensure a minor's right to counsel in the event a petition is filed.

[~~(4)~~](5) (a) The juvenile probation officer may not deny a minor an offer of a nonjudicial adjustment due to a minor's inability to pay a financial penalty under Subsection (1).

(b) The juvenile probation officer shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection (1) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208.

[~~(5)~~](6) (a) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

(b) A juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection [~~(5)(a)~~](6)(a):

(i) for a minor who is:

(A) offered a nonjudicial adjustment for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old; or

(B) referred to a prosecuting attorney for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old; and

(ii) the judge determines that:

(A) the nonjudicial adjustment requires specific treatment for the sexual offense;

(B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and

(C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.

(c) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection [~~(5)(b)~~](6)(b), the judge may extend the nonjudicial adjustment until the minor completes the specific treatment, but the judge may only grant each extension for 90 days at a time.

[~~(6)~~](7) If a minor violates Section 76-10-105, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

Section 5. Section 80-6-602 is amended to read:

80-6-602. Hearings or proceedings for minors -- Prosecuting attorney -- Order for indigent defense -- Custody in the Division of Child and Family Services.

(1) In a hearing or proceeding under this chapter, the juvenile court:

(a) shall admit any person who has a direct interest in the case;

(b) may admit any person whose presence is requested by the minor's parent or guardian; and

(c) shall exclude any other person except as provided in Subsection (2).

(2) In a hearing or proceeding under this chapter for a minor who is 14 years old or older, the juvenile court shall admit any person, unless the hearing or proceeding is closed by the juvenile court upon findings, on the record, for good cause if:

(a) the minor has been charged with an offense that would be a felony if committed by an adult; or

(b) the minor is charged with an offense that would be a class A or B misdemeanor if committed by an adult and the minor has been previously charged with an offense that would be a misdemeanor or felony if committed by an adult.

(3) If more than one minor is alleged to be involved in a violation of a law or ordinance, the proceedings for the violation may be consolidated, except a separate hearing may be held with respect to a disposition for a minor.

(4) The county attorney, or the district attorney if within a prosecution district, shall represent the state in a proceeding under this chapter.

(5) If a minor is facing a proceeding under this chapter, a juvenile court shall:

(a) appoint an indigent defense service provider for the minor in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and

(b) order indigent defense services for the minor in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.

(6) If a minor is facing a proceeding under this chapter, a minor may not decline to enter into a nonjudicial adjustment without first being advised of their right to consult with counsel, subject to the requirements of Subsection 80-6-304(4).

[~~(6)~~](7) A juvenile court may appoint an attorney guardian ad litem under Section 78A-2-803, or as otherwise provided by law, to represent a child under this chapter.

[~~(7)~~](8) A juvenile court may not vest custody of a minor facing a delinquency proceeding under this chapter in the Division of Child and Family Services, except as provided in Chapter 3, Abuse, Neglect, and Dependency Proceedings.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 325
S. B. 162
Passed March 4, 2025
Approved March 25, 2025
Effective July 1, 2025

TALENT CONNECT

Chief Sponsor: Ann Millner
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill establishes a statewide talent portal for high-demand jobs and creates a cooperative education program.

Highlighted Provisions:

This bill:

- ► creates a statewide talent portal for high-demand jobs in Utah;
- ► defines high-demand jobs based on growth rate, wages, and societal impact;
- ► requires a platform that connects Utah employers with qualified candidates from higher education institutions;
- ► mandates mobile access to the talent portal;
- ► requires integration with state labor market data and workforce systems;
- ► establishes regular updates of high-demand job categories based on market trends;
- ► creates requirements for data analytics and employer verification systems;
- ► requires annual reporting on portal metrics and outcomes;
- ► establishes a cooperative education pilot program;
- ► creates a strategic partnerships between Utah universities and engineering efforts;
- ► requires participating employers to provide full-time paid cooperative education work experiences;
- ► establishes a dual mentorship structure with academic and industry advisors;
- ► creates a framework for granting academic credit for cooperative education experiences;
- ► requires development of an electronic management system for program administration;
- ► establishes data collection and analysis requirements for program evaluation;
- ► mandates annual reporting on program effectiveness and workforce impact;
- ► establishes liability and risk management protocols for participating institutions; and
- ► makes technical changes.

Money Appropriated in this Bill:

This bill appropriates $500,000 in operating and capital budgets for fiscal year 2026, all of which is from the Income Tax Fund.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53B-37-101, Utah Code Annotated 1953
53B-37-102, Utah Code Annotated 1953
53B-37-103, Utah Code Annotated 1953
53B-37-104, Utah Code Annotated 1953
53B-37-105, Utah Code Annotated 1953
53B-37-106, Utah Code Annotated 1953
53B-37-107, Utah Code Annotated 1953
53B-37-108, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-37-101 is enacted to read:

CHAPTER 37. Workforce

PART 1. Talent Connect

53B-37-101. Title.

(1) This chapter is known as "Workforce."
(2) This part is known as "Talent Connect."

Section 2. Section 53B-37-102 is enacted to read:
53B-37-102. Definitions.

As used in this chapter:

(1) "Co-op employee" means a student who participates in a cooperative education program and is employed by a participating cooperative education employer.

(2) "Cooperative education employer" means a business or organization participating in the cooperative education program that provides structured work opportunities for students.

(3) "Cooperative education program" or "co-op" means a structured educational pilot program that integrates academic learning with full-time paid work experience aligned with the student's academic discipline and career goals.

(4) "High-demand job" means an occupation or position that:

(a) has a higher than average projected growth rate in Utah;

(b) offers wages at or above the state median wage;

(c) follows star ranking criteria established by the Department of Workforce Services; and

(d) considers occupations that have a high societal demand and impact.

(5) "Participating institution" means the following institutions of higher education:

(a) Weber State University;

(b) University of Utah;

(c) Southern Utah University;

(d) Utah State University;

(e) Utah Tech University; and

(f) Utah Valley University.

(6) "Recent graduate" means a graduate of a program or degree within a year of completion.

(7) "Talent portal" means the Utah High-Demand Talent Portal created in Section 53B-37-103.

(8) "Talent portal administrator" means the Talent, Education, and Industry Alignment Board created in Section 53B-34-102.

(9) "Talent Ready Utah" means the program within the Utah System of Higher Education established in Section 53B-34-103.

Section 3. Section 53B-37-103 is enacted to read:

53B-37-103. Utah High-Demand Talent Portal -- Creation -- Purpose.

(1) There is created the Utah High-Demand Talent Portal within Talent Ready Utah.

(2) The purpose of the talent portal is to:

(a) connect Utah employers with qualified, trained, and educated talent from higher education institutions;

(b) provide students within the Utah System of Higher Education with high-demand and high-wage employment opportunities;

(c) connect recent graduate job seekers with high-demand employment opportunities in Utah;

(d) provide a platform to post high-demand job openings;

(e) highlight skills and qualifications needed for high-demand jobs;

(f) integrate with workforce development, work-based learning;

(g) support career pathway development and promote long-term workforce alignment; and

(h) utilize matchmaking software strategies to intuitively match employers with students across the Utah System of Higher Education.

Section 4. Section 53B-37-104 is enacted to read:

53B-37-104. Talent portal requirements -- Administration -- Labor market data integration.

(1) The talent portal shall:

(a) focus on industries and occupations identified as high-demand in collaboration with Talent Ready Utah, the Governor's Office of Economic Opportunity, and the Department of Workforce Services and in coordination with state labor market data;

(b) provide an intuitive, user-friendly interface for job seekers and employers;

(c) include robust search, filtering, and geolocation options;

(d) offer mobile-optimized access;

(e) allow users to create profiles and upload resumes;

(f) integrate with relevant training, credentialing, and educational resources;

(g) connect prospective talent to industry requirements for posted high-demand jobs;

(h) highlight internships, apprenticeships, and career pathway opportunities;

(i) provide data analytics to employers on job listing performance;

(j) implement security measures to protect user data and verify employer listings; and

(k) be accessible to users with disabilities in compliance with the Americans with Disabilities Act.

(2) In accordance with Subsection (3), the talent portal administrator shall:

(a) partner with:

(i) Talent Ready Utah;

(ii) the Governor's Office of Economic Opportunity;

(iii) the Department of Workforce Services;

(iv) industry associations; and

(v) employers to enhance talent portal offerings;

(b) partner with the State Tax Commission to reconcile that employers registering to utilize the talent portal are businesses registered to do business in the state of Utah and are in good standing;

(c) conduct targeted outreach to promote the talent portal to:

(i) institutions of higher education within the Utah System of Higher Education;

(ii) students; and

(iii) Utah employers;

(d) regularly collect and analyze user feedback to improve the talent portal; and

(e) provide annual reports on talent portal performance metrics, including:

(i) usage statistics;

(ii) placement rates; and

(iii) user demographics.

(3) The talent portal administrator shall:

(a) utilize current labor market data to inform job listings, industry focus, and emerging opportunities;

(b) update high-demand job categories at least annually based on projected growth, wage data, and workforce needs; and

(c) provide labor market insights to users, including salary ranges, career growth trends, and skill requirements.

(4) The talent portal administrator shall ensure that the talent portal has the ability to dynamically adjust to reflect changes in labor market trends and high-demand occupations.

Section 5. Section 53B-37-105 is enacted to read:

53B-37-105. Cooperative Education Program -- Creation -- Purpose.

(1) A cooperative education program is established within the Utah System of Higher Education beginning July 1, 2025 and ending December 31, 2027.

(2) The purpose of the co-op is to:

(a) provide students with structured, credit-bearing cooperative education opportunities that align with academic disciplines, program accreditation requirements, and career outcomes while maintaining full-time student status;

(b) foster partnerships between higher education institutions and employers to offer valuable employment opportunities;

(c) establish clear roles and responsibilities for participating institutions and employers; and

(d) maintain accountability and program effectiveness through regular evaluation.

Section 6. Section 53B-37-106 is enacted to read:

53B-37-106. Cooperative education program -- Requirements -- Administration and oversight.

(1) The following entities shall collaborate to create and implement the co-op:

(a) the Office of the Commissioner of Higher Education;

(b) an engineering focused trade association that the Talent, Education, and Industry Alignment Board created in Section 53B-34-102 selects;

(c) Weber State University;

(d) University of Utah;

(e) Utah State University;

(f) Utah Tech University;

(g) Southern Utah University;

(h) Utah Valley University; and

(i) Talent Ready Utah established in Section 53B-34-103.

(2) The entities listed in Subsection (1) shall collaborate to:

(a) establish program requirements and standards for cooperative education experiences that:

(i) occur during a student's third or fourth academic year;

(ii) are equivalent to two continuous academic terms; and

(iii) align with degree requirements and career pathways;

(b) develop the policies for academic credit recognition;

(c) create program evaluation metrics;

(d) maintain oversight of program implementation; and

(e) focus the program's initial efforts on high-demand jobs in fields that require an engineering degree, including the life-sciences sector.

(3) In accordance with the program components described under Subsection (2), a participating institution shall:

(a) establish admission criteria for the cooperative education program;

(b) create preparatory workshops that address:

(i) career development;

(ii) professional skill building;

(iii) workplace communication; and

(iv) employment preparation;

(c) develop procedures for:

(i) program orientation;

(ii) academic progress monitoring;

(iii) experience documentation; and

(iv) performance evaluation;

(d) assign a cooperative education advisor who will:

(i) provide regular guidance;

(ii) monitor academic alignment;

(iii) coordinate with workplace mentors; and

(iv) assess learning outcomes; and

(e) maintain records of:

(i) placement details;

(ii) student progress;

(iii) completed evaluations; and

(iv) program outcomes.

(4) The engineering focused trade association described in Subsection (1) shall:

(a) identify and recruit qualified employers from the engineering focused trade association's membership;

(b) communicate industry needs to participating institutions;

(c) facilitate employer participation in co-op development; and

(d) promote co-op opportunities within engineering sectors, including the life sciences sector.

(5) The Office of the Commissioner of Higher Education shall establish employment standards that require participating employers to:

(a) provide compensation that:

(i) meets or exceeds minimum wage requirements; and

(ii) reflects industry standards for the position;

(b) schedule work hours that:

(i) total at least 32 hours per week; and

(ii) accommodate academic requirements; and

(c) maintain compliance with:

(i) federal employment laws;

(ii) state employment laws; and

(iii) program participation requirements.

(6) A cooperative education employer shall:

(a) submit to the relevant participating institution:

(i) detailed position descriptions;

(ii) work location information;

(iii) scheduling requirements; and

(iv) supervisor contact details;

(b) provide structured workplace experiences for a cooperative education employee that:

(i) align with academic programs;

(ii) develop professional skills;

(iii) include regular supervision; and

(iv) offer meaningful work assignments;

(c) assign qualified workplace mentors for a cooperative education employee who will:

(i) provide professional guidance;

(ii) monitor work performance;

(iii) coordinate with academic advisors; and

(iv) complete required evaluations; and

(d) conduct regular evaluations and monitoring as directed by the participating institution in consultation with the Office of the Commissioner of Higher Education.

Section 7. Section 53B-37-107 is enacted to read:

53B-37-107. Cooperative education program -- Liability and risk management.

(1) (a) The Utah System of Higher Education and participating institutions are not liable for any act, omission, or conduct of cooperative education employees or cooperative education employers.

(b) A cooperative education employer shall indemnify and hold harmless all participating institutions against claims arising from co-op placements.

(2) The Office of the Commissioner of Higher Education shall:

(a) establish procedures for:

(i) program administration;

(ii) risk management;

(iii) issue resolution; and

(iv) early termination protocols; and

(b) develop policies regarding:

(i) liability coverage;

(ii) workplace safety;

(iii) co-op performance standards; and

(iv) professional conduct requirements for a cooperative education employee.

(3) A participating institution shall:

(a) maintain documentation systems for:

(i) placement agreements;

(ii) performance reports;

(iii) incident records; and

(iv) program evaluations; and

(b) implement procedures for:

(i) issue resolution;

(ii) performance intervention;

(iii) placement modification; and

(iv) program termination.

(4) A cooperative education employer shall:

(a) maintain appropriate insurance coverage;

(b) in accordance with Subsection (1), indemnify participating institutions against claims arising from cooperative education placements;

(c) regarding a cooperative education employee, notify the relevant participating institution of:

(i) performance concerns;

(ii) policy violations;

(iii) workplace incidents; and

(iv) proposed terminations; and

(d) regarding a cooperative education employee, document and report to the relevant participating institution:

(i) workplace injuries;

(ii) safety incidents;

(iii) policy violations; and

(iv) program departures.

Section 8. Section 53B-37-108 is enacted to read:

53B-37-108. Cooperative education program -- Evaluation and reporting.

(1) No later than September 15 of each year, the Office of the Commissioner of Higher Education, in collaboration with the entities described in Subsection 53B-37-106(1), shall prepare an annual report for submission to:

(a) the Talent, Education, and Industry Alignment Board created in Section 53B-34-102;

(b) the Utah Board of Higher Education; and

(c) the Education Interim Committee and the Economic Development and Workforce Services Interim Committee.

(2) The annual report described in Subsection (1) shall:

(a) include:

(i) the number of student placements and cooperative education employers;

(ii) student and cooperative education employer feedback;

(iii) key workforce impact metrics; and

(iv) recommendations for additional on-going resources to scale cooperative education program offerings; and

(b) provide analysis on the co-op's effectiveness in:

(i) enhancing student career readiness;

(ii) addressing Utah workforce needs and retention; and

(iii) improving competency validation practices based on cooperative education employers' input.

Section 9. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 9(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah Board of Higher Education - Talent Ready Utah

From Income Tax Fund, One-time - - -

(3) create promotional materials; and

(4) fund program administration for two years.

Section 10. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 326
S. B. 169
Passed March 6, 2025
Approved March 25, 2025
Effective July 1, 2025

GOVERNMENTAL IMMUNITY ACT AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill amends the Governmental Immunity Act.

Highlighted Provisions:

This bill:

- ► defines a term;
- ► requires a governmental entity to file a statement with the Division of Corporations and Commercial Code containing:
  - • any doing-business-as name the governmental entity utilizes;
  - • the office or agent designated to receive service of a summons and complaint; and
  - • the physical address to which service of a summons and complaint is to be delivered by hand or transmitted by mail;
- ► prohibits a governmental entity from challenging the validity of a notice of claim, or the sufficiency of service of a summons and complaint, if the governmental entity:
  - • fails to file or update the statement described above; and
  - • has actual notice of the notice of claim or the summons and complaint;
- ► if a challenge described above is not prohibited, requires a claimant to prove that the claimant used reasonable diligence in attempting to discover the identity of a governmental entity using a doing-business-as name; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-13-602, as last amended by Laws of Utah 2020, Chapters 354, 381
63G-7-401, as last amended by Laws of Utah 2023, Chapter 16
63G-7-403, as last amended by Laws of Utah 2020, Chapter 53
63G-33-201, as enacted by Laws of Utah 2024, Chapter 511
63L-5-302, as renumbered and amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-602 is amended to read:

11-13-602. Definitions.

As used in this part:

(1) "Asset" means funds, money, an account, real or personal property, or personnel.

(2) (a) "Associated entity" means a taxed interlocal entity that adopts a segment's organizing resolution.

(b) "Associated entity" does not include any other segment.

(3) "Fiduciary duty" means a duty expressly designated as a fiduciary duty of:

(a) a director or an officer of a taxed interlocal entity in:

(i) the organization agreement of the taxed interlocal entity; or

(ii) an agreement executed by the director or the officer and the taxed interlocal entity; or

(b) a director or an officer of a segment in:

(i) the organizing resolution of the segment; or

(ii) an agreement executed by the director or the officer and the segment.

(4) "Governing body" means the body established in an organizing resolution to govern a segment.

(5) "Governmental law" means:

(a) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(b) Title 63A, Chapter 3, Division of Finance;

(c) Title 63G, Chapter 6a, Utah Procurement Code;

(d) a law imposing an obligation on a taxed interlocal entity similar to an obligation imposed by a law described in Subsection (5)(a), (b), or (c);

(e) an amendment to or replacement or renumbering of a law described in Subsection (5)(a), (b), (c), or (d); or

(f) a law superseding a law described in Subsection (5)(a), (b), (c), or (d).

(6) "Indexed office" means the address identified under Subsection [~~63G-7-401(5)(a)(i)~~]63G-7-405(6)(a)(i) by a segment's associated entity in the associated entity's statement described in Subsection [~~63G-7-401(5)~~]63G-7-401(6).

(7) "Organization agreement" means an agreement, as amended, that creates a taxed interlocal entity.

(8) "Organizing resolution" means a resolution described in Subsection 11-13-604(1) that creates a segment.

(9) "Principal county" means the county in which the indexed office of a segment's associated entity is located.

(10) "Project" means:

(a) the same as that term is defined in Section 11-13-103; or

(b) facilities, improvements, or contracts undertaken by a taxed interlocal entity in accordance with Subsection 11-13-204(2).

(11) "Public asset" means:

(a) an asset used by a public entity;

(b) tax revenue;

(c) state funds; or

(d) public funds.

(12) "Segment" means a segment created in accordance with Section 11-13-604.

(13) "Taxed interlocal entity" means:

(a) a project entity that:

(i) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(ii) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than:

(A) a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; or

(B) a grant that is subject to accountability requirements and that the project entity receives for purposes related to a Utah interlocal energy hub, including research and development of technology, financing, construction, installation, operation, and other actions that the project entity may take with respect to a project; and

(iii) does not receive, expend, or have the authority to compel payment from tax revenue; or

(b) an interlocal entity that:

(i) was created before 1981 for the purpose of providing power supply at wholesale to its members;

(ii) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than:

(A) a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; or

(B) a loan, grant, guaranty, transferable tax credit, cost-sharing arrangement, or other funding arrangement for an advanced nuclear power facility, as defined in 26 U.S.C. Sec. 45J(d), for an advanced nuclear reactor, as defined in 42 U.S.C. Sec. 16271(b)(1), or for an advanced nuclear energy facility that is eligible for a guarantee under 42 U.S.C. Sec. 16513; and

(iii) does not receive, expend, or have the authority to compel payment from tax revenue.

(14) (a) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(b) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (14)(a), individually.

(15) "Utah interlocal energy hub" means project entity-owned facilities that:

(a) are located within the state; and

(b) facilitate the coordination of resources and participants in a multi-county or interstate region for:

(i) the generation of energy, including with hydrogen fuel;

(ii) the transmission of energy;

(iii) energy storage, including compressed air energy storage;

(iv) producing environmental benefits; or

(v) the production, storage, or transmission of fuel, including hydrogen fuel.

Section 2. Section 63G-7-401 is amended to read:

63G-7-401. When a claim arises -- Notice of claim requirements -- Governmental entity statement -- Limits on challenging notice of claim or summons and complaint.

(1) As used in this section, "doing-business-as name" means the name of an entity that:

(a) is owned, operated, or controlled by a governmental entity; and

(b) (i) is not the name of the governmental entity; or

(ii) is not a name from which the governmental entity can be identified.

[~~(1)~~](2) (a) Except as provided in Subsection [~~(1)(b)~~](2)(b), a claim arises when the statute of limitations that would apply if the claim were against a private person begins to run.

(b) The statute of limitations does not begin to run until a claimant knew, or with the exercise of reasonable diligence should have known:

(i) that the claimant had a claim against the governmental entity or the governmental entity's employee; and

(ii) the identity of the governmental entity or the name of the employee.

(c) The burden to prove the exercise of reasonable diligence is upon the claimant.

[~~(2)~~](3) Any person having a claim against a governmental entity, or against the governmental entity's employee for an act or omission occurring during the performance of the employee's duties, within the scope of employment, or under color of authority shall file a written notice of claim with the entity before maintaining an action, regardless of whether or not the function giving rise to the claim is characterized as governmental.

[~~(3)~~](4) (a) The notice of claim shall set forth:

(i) a brief statement of the facts;

(ii) the nature of the claim asserted;

(iii) the damages incurred by the claimant so far as the damages are known; and

(iv) if the claim is being pursued against a governmental employee individually as provided in Subsection 63G-7-202(3)(c), the name of the employee.

(b) The notice of claim shall be:

(i) signed by the person making the claim or that person's agent, attorney, parent, or legal guardian, using any form of signature recognized by law as binding; and

(ii) delivered, transmitted, or sent, as provided in Subsection [~~(3)(c)~~](4)(c), to the office of:

(A) the city or town clerk, when the claim is against an incorporated city or town;

(B) the county clerk, when the claim is against a county;

(C) the superintendent or business administrator of the board, when the claim is against a school district or board of education;

(D) the presiding officer or secretary or clerk of the board, when the claim is against a special district or special service district;

(E) the attorney general, when the claim is against the state;

(F) a member of the governing board, the executive director, or executive secretary, when the claim is against any other public board, commission, or body; or

(G) the agent authorized by a governmental entity to receive the notice of claim by the governmental entity under Subsection [~~(5)(c)~~](6)(c).

(c) A notice of claim shall be:

(i) delivered by hand to the physical address provided under Subsection [~~(5)(a)(iii)(A)~~](6)(a)(iv)(A);

(ii) transmitted by mail to the physical address provided under Subsection [~~(5)(a)(iii)(A)~~](6)(a)(iv)(A), according to the requirements of Section 68-3-8.5; or

(iii) sent by electronic mail to the email address provided under Subsection [~~(5)(a)(iii)(B)~~](6)(a)(iv)(B).

(d) A claimant who submits a notice of claim by electronic mail under Subsection [~~(3)(c)(iii)~~](4)(c)(iii) shall contemporaneously send a copy of the notice of claim by electronic mail to the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, who represents the governmental entity.

[~~(4)~~](5) (a) If an injury that may reasonably be expected to result in a claim against a governmental entity is sustained by a claimant who is under the age of majority or mentally incompetent, that governmental entity may file a request with the court for the appointment of a guardian ad litem for the potential claimant.

(b) If a guardian ad litem is appointed, the time for filing a claim under Section 63G-7-402 begins when the order appointing the guardian ad litem is issued.

[~~(5)~~](6) (a) A governmental entity subject to suit under this chapter shall file a statement with the Division of Corporations and Commercial Code within the Department of Commerce containing:

(i) the name and address of the governmental entity;

(ii) any doing-business-as name the governmental entity utilizes;

[~~(ii)~~](iii) the office or agent designated to receive a notice of claim and service of a summons and complaint; and

[~~(iii)~~](iv) (A) the physical address to which a notice of claim is to be delivered by hand or transmitted by mail, for a notice of claim that a claimant chooses to hand deliver or transmit by mail; [~~and~~]

(B) the email address to which a notice of claim is to be sent, for a notice of claim that a claimant chooses to send by email, and the email address of the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, who represents the governmental entity[~~.~~]; and

(C) the physical address to which service of a summons and complaint is to be delivered by hand or transmitted by mail.

(b) A governmental entity shall update the governmental entity's statement as necessary to ensure that the information is accurate.

(c) The Division of Corporations and Commercial Code shall develop a form for governmental entities to complete that provides the information required [~~by Subsection (5)(a)~~]under Subsection (6)(a).

(d) (i) A newly incorporated municipality shall file the statement required [~~by Subsection (5)(a)~~]under Subsection (6)(a) promptly after the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5.

(ii) A newly incorporated special district shall file the statement required [~~by Subsection (5)(a)~~]under Subsection (6)(a) at the time that the written notice is filed with the lieutenant governor under Section 17B-1-215.

(e) A governmental entity may, in the governmental entity's statement, identify an agent authorized to accept notices of claim on behalf of the governmental entity.

[~~(6)~~](7) The Division of Corporations and Commercial Code shall:

(a) maintain an index of the statements required by this section arranged both alphabetically by entity and by county of operation; and

(b) make the indices available to the public both electronically and via hard copy.

[~~(7)~~](8) A governmental entity may not challenge the validity of a notice of claim[~~on the grounds that it~~], or the sufficiency of service of a summons and complaint, on the grounds that the notice of claim or the summons and complaint was not directed and delivered to the proper office or agent, if:

(a) the error in the direction and delivery of the notice of claim or the summons and complaint is caused by the governmental entity's failure to file or update the statement [~~required by Subsection (5).~~]described in Subsection (6)(a); and

(b) the governmental entity had actual notice of the notice of claim or the summons and complaint.

(9) A claimant bears the burden of proving that, despite the claimant's use of reasonable diligence, the claimant could not discover the identity of a governmental entity, if:

(a) the governmental entity asserts a challenge to the validity of a notice of claim, or the sufficiency of service of a summons and complaint, that is not prohibited under Subsection (8); and

(b) the claimant opposes the challenge on the basis of the governmental entity's use of a doing-business-as name.

[~~(8)~~](10) A governmental entity may not challenge the timeliness, under Section 63G-7-402, of a notice of claim if:

(a) (i) the claimant files a notice of claim with the governmental entity:

(A) in accordance with the requirements of this section; and

(B) within 30 days after the expiration of the time for filing a notice of claim under Section 63G-7-402;

(ii) the claimant demonstrates that the claimant previously filed a notice of claim:

(A) in accordance with the requirements of this section;

(B) with an incorrect governmental entity;

(C) in the good faith belief that the claimant was filing the notice of claim with the correct governmental entity;

(D) within the time for filing a notice of claim under Section 63G-7-402; and

(E) no earlier than 30 days before the expiration of the time for filing a notice of claim under Section 63G-7-402; and

(iii) the claimant submits with the notice of claim:

(A) a copy of the previous notice of claim that was filed with a governmental entity other than the correct governmental entity; and

(B) proof of the date the previous notice of claim was filed; or

(b) (i) the claimant delivers by hand, transmits by mail, or sends by email a notice of claim:

(A) to an elected official or executive officer of the correct governmental entity but not to the correct office under Subsection [~~(3)(b)(ii)~~](4)(b)(ii); and

(B) that otherwise meets the requirements of Subsection [~~(3)~~](4); and

(ii) (A) the claimant contemporaneously sends a hard copy or electronic copy of the notice of claim to the office of the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, representing the correct governmental entity; or

(B) the governmental entity does not, within 60 days after the claimant delivers the notice of claim under Subsection [~~(8)(b)(i)~~](10)(b)(i), provide written notification to the claimant of the delivery defect and of the identity of the correct office to which the claimant is required to deliver the notice of claim.

Section 3. Section 63G-7-403 is amended to read:

63G-7-403. Notifying of the receipt of a notice of claim -- Action in district court -- Time for commencing action -- Commencing action after time limit.

(1) Within 60 days after the filing of a notice of claim, the governmental entity, the entity's representative, or the entity's insurance carrier shall inform the claimant in writing:

(a) that the notice of claim has been received; and

(b) if applicable, that the governmental entity believes it is not the correct governmental entity with which the notice of claim should have been filed.

(2) (a) (i) Subject to Subsections (2)(a)(ii) and (b), a claimant may pursue an action in the district court against the governmental entity or an employee of the entity.

(ii) A claimant may not file an action before the date that is 60 days after the claimant's notice of claim is filed.

(b) Subject to Subsection (3), a claimant shall commence the action within two years after the claim arises, as provided in Subsection [~~63G-7-401(1)~~]63G-7-401(2), regardless of whether or not the function giving rise to the claim is characterized as governmental.

(3) (a) As used in this Subsection (3), "claimant" includes a representative of an individual:

(i) who dies before an action is begun under this section; and

(ii) whose cause of action survives the individual's death.

(b) A claimant may commence an action after the time limit described in Subsection (2)(b) if:

(i) the claimant had commenced a previous action within the time limit of Subsection (2)(b);

(ii) the previous action failed or was dismissed for a reason other than on the merits; and

(iii) the claimant commences the new action within one year after the previous action failed or was dismissed.

(c) A claimant may commence a new action under Subsection (3)(b) only once.

Section 4. Section 63G-33-201 is amended to read:

63G-33-201. Free exercise of religion -- Limitations on burdens imposed by government -- Claims or defenses -- Attorney fees and costs.

(1) The free exercise of religion is a fundamental right and applies to all government action, including action that is facially neutral.

(2) Except as provided in Subsection (3):

(a) a government entity may not substantially burden the free exercise of religion of a person, regardless of whether the burden results from a rule of general applicability; and

(b) a person other than a government entity may not seek to apply or enforce government action against another person that substantially burdens the free exercise of religion of the other person, regardless of whether the burden results from a rule of general applicability.

(3) A government entity or government action may substantially burden a person's free exercise of religion only if the government entity, or any other person seeking to enforce government action, demonstrates that the burden on the person's free exercise of religion is:

(a) essential to furthering a compelling governmental interest; and

(b) the least restrictive means of furthering the compelling governmental interest.

(4) A person whose free exercise of religion is burdened in violation of this section:

(a) may assert the violation as a claim or defense in a judicial or administrative proceeding to obtain relief, regardless of whether a government entity is a party to the proceeding; and

(b) is not required to exhaust administrative remedies before bringing a claim, or raising a defense, described in this Subsection (4).

(5) (a) Except as provided in Subsection (5)(b), a person may not bring an action under this section against a government entity described in Subsections 63G-33-101(4)(a)(i) through (iii) unless, at least 60 days before the day on which the person brings the action, the person provides written notice to the government entity, in accordance with Subsections [~~63G-7-401(3)(b)~~]63G-7-401(4)(b) through (d), that:

(i) states that the person intends to bring an action against the entity for a violation of this section;

(ii) describes the government action that has burdened or will burden the person's free exercise of religion; and

(iii) describes the manner in which the government action burdens or will burden the person's free exercise of religion.

(b) Subsection (5)(a) does not apply if the government action alleged in the action:

(i) is ongoing, and complying with Subsection (5)(a) will place an undue hardship on the person or increase the harm suffered by the person; or

(ii) is likely to occur or reoccur before the end of the 60-day period described in Subsection (5)(a).

(6) A person who prevails in an action to enforce the provisions of this section against a government entity is entitled to recover reasonable attorney fees and costs.

Section 5. Section 63L-5-302 is amended to read:

63L-5-302. Notice of claim -- Government's right to accommodate.

(1) A person may not bring an action under Section 63L-5-301 unless, 60 days before bringing the action, the person sends written notice of the intent to bring an action.

(2) The notice shall be addressed to the government entity imposing the land use regulation, and shall be prepared and delivered according to the requirements of Subsection [~~63G-7-401(3)~~]63G-7-401(4).

(3) Mailing of the notice required by Subsection (1) tolls the limitation period for bringing an action under this chapter for a period of 75 days, starting on the day the notice was mailed.

(4) Notwithstanding Subsection (1), a person may bring an action under Section 63L-5-301 before the expiration of the 60-day notice period if:

(a) the imposition of a substantial burden on the person's free exercise of religion by the land use regulation is imminent; and

(b) the person was not informed of and did not otherwise have knowledge of the land use regulation in time to reasonably provide 60 days notice.

(5) (a) A government entity provided with the notice required by Subsection (2) may remedy the substantial burden on the person's free exercise of religion:

(i) before the expiration of the 60-day notice period; or

(ii) in the case of an action properly brought according to Subsection (4), before the adjudication of a court hearing on the action.

(b) Nothing in this section prevents a government entity from providing a remedy after these time periods.

(6) The court may not award compensatory damages, attorney's fees, costs, or other expenses to a person if the substantial burden has been cured by a remedy implemented by the government entity according to Subsection (5)(a).

Section 6. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 327
S. B. 170
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

SCHOOL DISCIPLINE AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill regulates the use of emergency safety interventions on a student in a school.

Highlighted Provisions:

This bill:

- ► consolidates and clarifies existing school physical intervention provisions into a single section of code;
- ► requires the State Board of Education to establish administrative rules for physical intervention in schools;
- ► establishes standards for use of physical restraint in schools;
- ► defines allowed incidences of seclusion in schools;
- ► requires local education agencies to collect and report data on incidents of student confinement;
- ► provides for investigation and enforcement requirements;
- ► outlines liability protections and exceptions;
- ► establishes consequences for violations of the law; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-203, as last amended by Laws of Utah 2024, Chapter 460
53G-8-203, as last amended by Laws of Utah 2024, Chapter 75
80-1-102, as last amended by Laws of Utah 2024, Chapter 256

REPEALS AND REENACTS:

53G-8-301, as renumbered and amended by Laws of Utah 2018, Chapter 3

REPEALS:

53G-8-302, as last amended by Laws of Utah 2019, Chapter 293
53G-8-303, as last amended by Laws of Utah 2022, Chapter 335
53G-8-304, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-8-305, as last amended by Laws of Utah 2019, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-203 is amended to read:

53E-1-203. State Superintendent's Annual Report.

(1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:

(a) the operations, activities, programs, and services of the state board;

(b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and

(c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:

(i) a complete statement of fund balances;

(ii) a complete statement of revenues by fund and source;

(iii) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";

(v) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;

(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

(H) applicable private school data; and

(I) data from statewide assessments described in Section 53E-4-301 for each school and school district;

(vi) statistical information for each school district and charter school regarding:

(A) student attendance by grade level;

(B) the percentage of students chronically absent;

(C) the percentage of student excused absences; and

(D) the percentage of student unexcused absences;

(vii) statistical information regarding incidents of delinquent activity in the schools, at school-related activities, on school buses, and at school bus stops; and

(viii) other statistical and financial information about the school system that the state superintendent considers pertinent.

(2) (a) For the purposes of Subsection (1)(c)(v):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The report shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

(C) the state's public schools aggregated; and

(ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.

(3) For each operation, activity, program, or service provided by the state board, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the state board that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

(i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;

(ii) the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;

(iii) the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;

(iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;

(v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

(vi) the report described in Section 53E-10-308 by the state board and Utah Board of Higher Education on student participation in the concurrent enrollment program;

(vii) the report described in Section 53F-5-506 by the state board on information related to personalized, competency-based learning; [~~and~~]

(viii) the report described in Section 53G-8-203 by the state board on LEAs' policies and procedures related to physical restraint and interventions; and

[~~(viii)~~](ix) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services.

(b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.

(5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the

Legislature.

(6) The state board shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7) (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Section 2. Section 53G-8-203 is amended to read:

53G-8-203. Conduct and discipline policies and procedures.

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(a) provisions governing student conduct, safety, and welfare;

(b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

(c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (1)(b);

(d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section [~~53G-8-302~~]53G-8-301;

(e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

(i) the school;

(ii) school property;

(iii) a person associated with the school; or

(iv) property associated with a person described in Subsection (1)(e)(iii);

(f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;

(g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;

(h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and

(i) procedures for responding to reports received through the SafeUT Crisis Line under Subsection 53B-17-1202(3).

(2) (a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.

(b) (i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through 6.

(ii) The local school board shall receive input from teachers, school administrators, and parents of the affected students before adopting the policy.

(c) The policy described in Subsection (2)(a) shall provide for:

(i) notice to the parent of a student prior to holding the student after school on a particular day; and

(ii) exceptions to the notice provision if detention is necessary for the student's health or safety.

(3) (a) Each LEA shall adopt a policy for responding to possession or use of electronic cigarette products by a student on school property.

(b) The policy described in Subsection (3)(a) shall:

(i) prohibit students from possessing or using electronic cigarette products on school property;

(ii) include policies or procedures for the confiscation or surrender of electronic cigarette products; and

(iii) require a school administrator or school administrator's designee to dispose of or destroy a confiscated electronic cigarette product.

(c) Notwithstanding Subsection (3)(b)(iii), an LEA may release a confiscated electronic cigarette product to local law enforcement if:

(i) a school official has a reasonable suspicion that a confiscated electronic cigarette product contains an illegal substance; and

(ii) local law enforcement requests that the LEA release the confiscated electronic cigarette product to local law enforcement as part of an investigation or action.

(4) (a) Each LEA shall adopt a policy for responding to when a student has committed a serious offense or sexual crime.

(b) The policy described in Subsection (4)(a) shall:

(i) address a serious offense or sexual misconduct related to hazing;

(ii) distinguish procedures for when the crime occurs on school property and off of school property;

(iii) if a student has committed a serious offense or sexual crime, provide a process for a school resource officer to provide input for the LEA to consider regarding the safety risks a student may pose upon reintegration;

(iv) establish a process to inform a school resource officer of any student who is on probation;

(v) create procedures for determining an alternative placement for a student if the student attends the same school as:

(A) the victim of the student's crime; and

(B) an individual who has a protective order against the student; and

(vi) be compliant with state and federal law.

Section 3. Section 53G-8-301 is repealed and re-enacted to read:

PART 3. Emergency Safety Interventions

53G-8-301. Emergency safety interventions -- Appropriate uses -- Penalties.

(1) As used in this section:

(a) "Corporal punishment" means the intentional infliction of physical pain upon the body of a student as a disciplinary measure.

(b) "Emergency safety intervention" means the use of seclusion or physical restraint when a student presents an immediate danger to self or others.

(c) "Physical escort" means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of guiding a student to another location.

(d) "Physical restraint" means a personal restriction that immobilizes or significantly reduces the ability of a student to move the student's arms, legs, body, or head freely.

(e) "School" means a public or private elementary school, secondary school, or preschool.

(f) "Seclusion" means seclusionary time out that is the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving, including:

(i) placing a student in a locked room; or

(ii) placing a student in a room where the door is blocked by furniture or held closed by staff.

(g) "Student" means an individual who is:

(i) under the age of 19 and receiving educational services; or

(ii) under the age of 23 and receiving educational services as an individual with a disability.

(2) (a) A school employee shall first use the least restrictive intervention available to the school employee, including a physical escort, to address circumstances described in Subsection (4).

(b) Nothing in this section prohibits a school employee from subsequently using less restrictive interventions to address circumstances described in Subsection (4).

(3) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to:

(i) establish guidelines and best practices that consider individual student needs related to emergency safety interventions described in Subsection (10)(b);

(ii) establish intervention reporting requirements;

(iii) create school staff training standards that may be included in an existing training;

(iv) develop parental notification procedures;

(v) implement data collection and review processes;

(vi) establish investigation protocols;

(vii) establish data collection and reporting requirements for an LEA regarding:

(A) incidents of seclusion;

(B) alternative interventions used;

(C) student demographic information, including sex, gender, age, grade in school, and applicable disability status; and

(D) incident outcomes.

(b) The state board shall include the information described in Subsection (3)(a) in the State Superintendent's Annual Report described in Section 53E-1-203.

(4) A school employee may use reasonable and necessary physical restraint only:

(a) in self defense;

(b) to obtain possession of a weapon or other dangerous object in the possession or under the control of a student;

(c) to protect a student or another individual from physical injury;

(d) to remove from a situation a student who is violent; or

(e) to protect property from being damaged, when physical safety is at risk.

(5) (a) A school employee may not inflict or cause the infliction of corporal punishment upon a student.

(b) The reporting and investigation requirements of Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports, apply to complaints on corporal punishment.

(c) Evidence of corporal punishment that would qualify as reasonable discipline under Section 76-2-401 is insufficient to establish liability in a civil or criminal action.

(d) Subject to the Rules of Evidence, evidence of corporal punishment that exceeds reasonable discipline under Section 76-2-401 may be used by a court to establish civil or criminal liability.

(6) School authorities shall take prompt and appropriate action, including in-service training and other administrative action, upon confirming a violation of this section.

(7) The Division of Child and Family Services shall maintain all violation reports made in accordance with this section under the confidentiality requirements of Section 80-2-1005.

(8) A school or individual who makes a good faith report or cooperates in an investigation shall receive immunity from civil or criminal liability.

(9) A court with jurisdiction under Title 78A, Judiciary and Judicial Administration may take appropriate action against any employing entity if the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.

(10) A school:

(a) may not:

(i) enforce any rule, policy, or directive that permits acts prohibited by this section;

(ii) sanction an employee who refuses to commit a prohibited act; or

(iii) except as provided in Subsection (10)(b), use seclusion:

(A) as an intervention or disciplinary practice;

(B) for coercion, retaliation, or humiliation; or

(C) due to inadequate staffing or for the staff member's convenience;

(b) for a student in grade 1 or higher, may use seclusion as an emergency safety intervention only when:

(i) the LEA has developed and implemented written policies and procedures that:

(A) describe the circumstances under which a staff member may use seclusion;

(B) describe which staff members are authorized to use seclusion;

(C) describe procedures for monitoring a student that is in seclusion;

(D) describe time limitations on the use of seclusion;

(E) require immediate and continuous review of the decision to use seclusion;

(F) require documenting the use of seclusion;

(G) describe record keeping requirements for records related to the use of seclusion; and

(H) require debriefing of all witnesses, involved staff members, the student who was secluded, and the parent of the student who was secluded;

(ii) a student poses an immediate and significant threat to the student or others;

(iii) less restrictive interventions have failed;

(iv) a staff member who is familiar to the student is actively supervising the student for the duration of the seclusion; and

(v) the use is time-limited to a maximum time of 30 minutes and monitored;

(c) if seclusion was used, shall document the reason for its use, duration, and any alternative strategies attempted; and

(d) shall notify parents immediately, and not to exceed 15 minutes after the use, of any emergency safety intervention used on the parent's child, including seclusion or physical restraint.

(11) An LEA shall collect and report data to the state board annually regarding:

(a) an incident; and

(b) for each incident, the:

(i) duration of an intervention used to respond to the incident;

(ii) stated purpose for any intervention used;

(iii) alternative interventions attempted;

(iv) student demographic information, including sex, gender, age, grade in school, and applicable disability status; and

(v) relevant training offered to staff and if the staff involved received the relevant training without revealing the identity of the staff member.

(12) This section does not apply to:

(a) a law enforcement officer as defined in Section 53-13-103;

(b) a parochial or private school that:

(i) does not receive state funds;

(ii) adopts a policy of exemption from this section; and

(iii) notifies the parents of students in the school of the exemption; or

(c) behavior support intervention which is in compliance with:

(i) Section 76-2-401; and

(ii) state and local rules adopted under Section 53E-7-204.

(13) Any violations of this section, including violations of any standards for seclusion or physical restraint established by the state board pursuant to this section, shall:

(a) constitute an act of unlawful detention and is subject to the penalty described in Section 76-5-304; and

(b) result in a referral to:

(i) local law enforcement; and

(ii) the Utah Professional Practices Advisory Commission established in Section 53E-6-501.

Section 4. Section 80-1-102 is amended to read:

80-1-102. Juvenile Code definitions.

Except as provided in Section 80-6-1103, as used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means, except as provided in Subsection (3)(b):

(i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:

(A) a finding by the juvenile court that the facts alleged in a delinquency petition or criminal information alleging that a minor committed an offense have been proved;

(B) an admission by a minor in the juvenile court as described in Section 80-6-306; or

(C) a plea of no contest by minor in the juvenile court; or

(ii) for all other proceedings under this title, a finding by the juvenile court that the facts alleged in the petition have been proved.

(b) "Adjudication" does not include:

(i) an admission by a minor described in Section 80-6-306 until the juvenile court enters the minor's admission; or

(ii) a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 80-3-307.

(9) "Child placing" means the same as that term is defined in Section 26B-2-101.

(10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.

(11) "Child protection team" means a team consisting of:

(a) the child welfare caseworker assigned to the case;

(b) if applicable, the child welfare caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) if applicable, the law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12) (a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(13) (a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(15) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.

(17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth Services in accordance with

Section 80-5-501, for minors held in detention.

(25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(29) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(30) "Emancipated" means the same as that term is defined in Section 80-7-102.

(31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(34) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(37) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(38) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.

(39) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(45) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(46) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(47) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(50) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(51) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

(52) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

(53) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

(iii) (A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

(55) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

(56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.

(57) (a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(58) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated child custody transfer under Section 78B-24-203; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(59) "Neglected child" means a child who has been subjected to neglect.

(60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, guardian, or custodian.

(61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(62) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.

(63) "Physical abuse" means abuse that results in physical injury or damage to a child.

(64) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(65) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(66) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(67) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

(68) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(69) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(70) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(71) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(72) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.

(73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(74) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(75) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

(76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(78) (a) "Severe type of child abuse or neglect" means, except as provided in Subsection (78)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

(B) sexual behavior with or upon another child that indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with [~~Subsection 53G-8-302(2)~~]Section 53G-8-301 or Section 76-2-401;

(ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

(iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

(79) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (39), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(80) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

(83) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

(f) family risk factors; and

(g) other related considerations.

(84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(85) "Status offense" means an offense that would not be an offense but for the age of the offender.

(86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

(87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred.

(88) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or

(c) the licensing and supervision of a substitute care facility.

(89) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

(90) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(91) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (93)(a) and (b).

(94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(95) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(96) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(97) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

(98) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

Section 5. Repealer.

This bill repeals:

Section 53G-8-302, Prohibition of corporal punishment -- Use of reasonable and necessary physical restraint.

Section 53G-8-303, Investigation of complaint -- Confidentiality -- Immunity.

Section 53G-8-304, Liability.

Section 53G-8-305, Exception.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 328
S. B. 171
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

INDIGENT DEFENSE AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill addresses indigent defense.

Highlighted Provisions:

This bill:

- ► creates the Youth Defense Fund to pay for indigent defense services for a minor referred to the juvenile court for an offense;
- ► requires the Utah Indigent Defense Commission to establish the rules and procedures for an application by a county seeking to participate in the Youth Defense Fund;
- ► requires certain administrative duties from the Office of Indigent Defense Services with regard to the Youth Defense Fund; and
- ► addresses county participation in the Youth Defense Fund.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-22-1101, Utah Code Annotated 1953
78B-22-1102, Utah Code Annotated 1953
78B-22-1103, Utah Code Annotated 1953
78B-22-1104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-22-1101 is enacted to read:

PART 11. Youth Defense Fund

78B-22-1101. Definitions for part.

As used in this part:

(1) "Fund" means the Youth Defense Fund created in Section 78B-22-1102.

(2) "Participating county" means a county that complies with this part for participation in the fund.

Section 2. Section 78B-22-1102 is enacted to read:

78B-22-1102. Establishment of Youth Defense Fund -- Use of fund -- Compensation from fund.

(1) There is established a custodial fund known as the Youth Defense Fund.

(2) The fund consists of:

(a) money received from participating counties as described in Section 78B-22-1104;

(b) appropriations made to the fund by the Legislature as described in Subsection 78B-22-1104(8); and

(c) interest and earnings from the investment of fund money.

(3) The state treasurer shall invest fund money with the earnings and interest accruing to the fund.

(4) The fund shall be used to fulfill the constitutional and statutory mandates for the provision of constitutionally effective defense for juveniles referred to the juvenile court.

(5) Money allocated to or deposited into the fund is used only:

(a) to pay an indigent defense service provider appointed to represent a minor referred to the juvenile court;

(b) for defense resources necessary to effectively represent the minor; and

(c) for costs associated with the management of the fund and indigent defense service providers.

Section 3. Section 78B-22-1103 is enacted to read:

78B-22-1103. Administration of Youth Defense Fund.

(1) The commission shall establish rules and procedures for the application by a county for participation in the fund.

(2) The office shall:

(a) receive, screen, and approve or disapprove the application of a county seeking to participate in the fund;

(b) calculate the amount of the annual contribution to be made to the fund by each participating county;

(c) oversee and approve disbursement of money from the fund; and

(d) negotiate, enter into, and administer a contract with an attorney or entity to provide indigent defense services to a minor referred to the juvenile court in a participating county if the attorney or entity:

(i) is qualified to provide indigent defense services under this chapter; and

(ii) meets the standards consistent for providing indigent defense services under this chapter.

Section 4. Section 78B-22-1104 is enacted to read:

78B-22-1104. County participation in the Youth Defense Fund.

(1) A county may participate in the fund in accordance with the provisions of this section.

(2) A county that does not participate in the fund, or is not current in the county's assessments for the fund, is ineligible to receive indigent defense services provided for by the fund.

(3) The commission may revoke a county's participation in the fund if the county fails to pay the county's assessments when the assessments are due.

(4) To participate in the fund, the legislative body of a county shall:

(a) adopt a resolution that approves participation in the fund and commits the county to fulfilling the assessment requirements; and

(b) submit a certified copy of that resolution together with an application to the commission.

(5) On or before January 15 of each year, a participating county shall contribute to the fund an amount determined by the office.

(6) A participating county may withdraw from participation in the fund upon:

(a) adoption by the county's legislative body of a resolution to withdraw; and

(b) notice to the commission on or before January 1 of the year in which the county intends to withdraw.

(7) A county withdrawing from participation in the fund, or whose participation in the fund has been revoked for failure to pay the county's assessments when the assessments are due, shall forfeit the right to:

(a) any previously paid assessment;

(b) relief from the county's obligation to pay the county's assessment during the period of the county's participation in the fund; and

(c) any benefit from the fund, including reimbursement of costs that accrued after the last day of the period for which the county has paid the county's assessment.

(8) (a) If the fund runs a deficit during a calendar year, the state is responsible for the deficit.

(b) In the calendar year following a deficit year, the office shall increase the amount of the annual assessment that is required for participation in the fund by an amount at least equal to the deficit of the previous calendar year.

(c) In a calendar year in which the fund runs a deficit, or is projected to run a deficit, the office shall request a supplemental appropriation to pay for the deficit from the Legislature in the following general session.

(d) The state shall pay any or all of the reasonable and necessary money for the deficit into the fund.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 329
S. B. 178
Passed February 27, 2025
Approved March 25, 2025
Effective July 1, 2025

DEVICES IN PUBLIC SCHOOLS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Doug Welton

LONG TITLE

General Description:

This bill addresses the use of cellphones, smart watches, or emerging technologies during classroom hours.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► prohibits a student from using a cellphone, smart watch, or emerging technology during classroom hours;
- ► allows a local education agency to create exemptions to the prohibition; and
- ► permits the State Board of Education to create model policies.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53G-7-226, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-7-226 is enacted to read:
53G-7-226. Cellular device prohibition.

(1) As used in this section:

(a) "Cellphone" means a handheld, portable electronic device that is designed to be operated using one or both hands and is capable of transmitting and receiving voice, data, or text communication by means of:

(i) a cellular network;

(ii) a satellite network; or

(iii) any other wireless technology.

(b) "Cellphone" includes:

(i) a smartphone;

(ii) a feature phone;

(iii) a mobile phone;

(iv) a satellite phone; or

(v) a personal digital assistant that incorporates capabilities similar to a smartphone, feature phone, mobile phone, or satellite phone.

(c) "Classroom hours" means:

(i) time during which a student receives scheduled, teacher-supervised instruction that occurs:

(A) in a physical or virtual classroom setting;

(B) during regular school operating hours; and

(C) as part of an approved educational curriculum.

(ii) "Classroom hours" does not include:

(A) lunch periods;

(B) recess;

(C) transit time between classes;

(D) study halls unless directly supervised by a qualified instructor;

(E) after-school activities unless part of an approved extended learning program; or

(F) independent study time occurring outside scheduled instruction.

(d) (i) "Emerging technology" means any other device that has or will be able to act in place of or as an extension of an individual's cellphone.

(ii) "Emerging technology" does not include school provided or required devices.

(e) "Smart watch" means a wearable computing device that closely resembles a wristwatch or other time-keeping device with the

capacity to act in place of or as an extension of an individual's cellphone.

(f) "Smart watch" does not include a wearable device that can only:

(i) tell time;

(ii) monitor an individual's health informatics;

(iii) receive and display notifications or information without the capability to respond; or

(iv) track the individual's physical location.

(2) (a) An LEA:

(i) shall establish a policy that allows a student to use a cellphone, smart watch, or emerging technology:

(A) to respond to an imminent threat to the health or safety of an individual;

(B) to respond to a school-wide emergency;

(C) to use the SafeUT Crisis Line described in Title 53B, Chapter 17, Part 12, SafeUT Crisis Line;

(D) for a student's IEP or Section 504 accommodation plan; or

(E) to address a medical necessity; and

(ii) may establish a policy that provides for other circumstances when a student may use a cellphone, smart watch, or emerging technology.

(b) An LEA may establish policies that:

(i) extend restrictions on student use of cellphones, smart watches, or emerging technologies to non-classroom hours during the school day, including:

(A) lunch periods;

(B) transition times between classes; and

(C) other school-supervised activities; and

(ii) impose additional limitations on the use of cellphones, smart watches, or emerging technologies beyond those required by this section.

(3) Except as provided in Subsection (2), a student may not use a cellphone, smart watch, or emerging technology at a school during classroom hours.

(4) The state board may create one or more model policies regarding when a student may use a student's cellphone, smart watch, or emerging technology in a school during classroom hours consistent with this section.

Section 2. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 330
S. B. 180
Passed February 26, 2025
Approved March 25, 2025
Effective May 7, 2025

LAW ENFORCEMENT USAGE OF ARTIFICIAL INTELLIGENCE

Chief Sponsor: Stephanie Pitcher
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill concerns the use of artificial intelligence by law enforcement.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires a law enforcement agency to have a policy concerning the law enforcement agency's use of generative artificial intelligence;
- ► requires a police report or other law enforcement record to include a disclaimer if the report or record was created wholly or partially by using generative artificial intelligence; and
- ► requires the author of a police report or other law enforcement record that was created wholly or partially by using generative artificial intelligence to certify that the author has read and reviewed the report or record for accuracy.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53-25-601, Utah Code Annotated 1953
53-25-602, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-25-601 is enacted to read:

PART 6. Law Enforcement Agency Procedure Requirements

53-25-601. Definitions.

As used in this part:

(1) "Artificial intelligence" means a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments.

(2) "Generative artificial intelligence" means artificial intelligence technology that is capable of creating content such as text, audio, image, or video based on patterns learned from large volumes of data rather than being explicitly programmed with rules.

Section 2. Section 53-25-602 is enacted to read:

53-25-602. Use of generative artificial intelligence by law enforcement -- Policy -- Requirements.

(1) (a) A law enforcement agency shall have a policy concerning the use of generative artificial intelligence by employees of the law enforcement agency in the course and scope of the law enforcement agency's work.

(b) The policy described in Subsection (1)(a) shall:

(i) include the requirements described in Subsection (2); and

(ii) provide employees of the law enforcement agency with information concerning the use of generative artificial intelligence, including:

(A) which generative artificial intelligence technologies the employees of the law enforcement agency may use;

(B) the uses and tasks for which generative artificial intelligence is permitted;

(C) the importance of reviewing content generated by generative artificial intelligence; and

(D) an acknowledgment that a violation of the policy described in Subsection (1)(a) may result in administrative disciplinary action by the head of the law enforcement agency.

(2) A written police report or other law enforcement record that was created wholly or partially by using generative artificial intelligence shall:

(a) contain within the report or record a disclaimer that the report or record contains content generated by artificial intelligence; and

(b) include a certification by the author of the report or record that the author has read and reviewed the report or record for accuracy.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 331
S. B. 185
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

COMPENSATORY SERVICE IN LIEU OF FINE AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill amends provisions concerning compensatory service in lieu of a criminal fine.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► modifies provisions concerning compensatory service in lieu of a criminal fine; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-301.7, as enacted by Laws of Utah 2018, Chapter 214

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-301.7 is amended to read:

76-3-301.7. Compensatory service.

(1) As used in this section[~~, "compensatory~~]:

(a) "Compensatory service" means service or unpaid work performed by a person, in lieu of the payment of a criminal fine, for:

[~~(a)~~](i) a state or local government agency;

[~~(b)~~](ii) an entity that is approved as a nonprofit organization under Section 501(c) of the Internal Revenue Code; or

[~~(c)~~](iii) any other entity or organization if prior approval is obtained from the court.

(b) "Eligible offense" means a criminal conviction, including a traffic offense.

(2) When a defendant is sentenced to pay a fine for an [~~infraction, class C or class B misdemeanor~~]eligible offense, the court shall consider allowing the defendant to complete compensatory service in lieu of the payment of the fine or account receivable, exclusive of any victim restitution imposed.

(3) A defendant who intends to forfeit bail or who is ordered to pay a fine by the court for an [~~infraction, class C or class B misdemeanor,~~]eligible offense shall be informed by the court of the opportunity to perform compensatory service in lieu of the fine or bail amount.

(4) The court shall credit timely completed compensatory service reported in accordance with Subsection (5) against the fine or bail amount at the rate of [~~$10~~]$12 per hour and shall allow the defendant a reasonable amount of time to complete the service.

(5) (a) The court shall provide the defendant with instructions that inform the organization:

(i) about the requirements in Subsection (5)(b); and

(ii) that making a written false statement to the court about the defendant's compensatory service is punishable as a class B misdemeanor pursuant to Section 76-8-504.

(b) The defendant shall report compensatory service hours to the court in a letter that:

(i) is on the organization's official letterhead and includes contact information for the organization's representative;

(ii) specifies the number of hours for which the defendant provided service;

(iii) contains a brief description of what the service involved; and

(iv) (A) is signed by an authorized representative of the organization; or

[~~(v)~~](B) is in a form otherwise acceptable to the court.

(6) The court may refuse to accept compensatory service:

(a) completed prior to the date of sentencing;

(b) that has been submitted to another court for credit; or

(c) completed at an agency or organization or is a type of service that is specifically prohibited by the court.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 332
S. B. 191
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

PROTECTIVE ORDERS AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Trevor Lee

LONG TITLE

General Description:

This bill addresses protective orders.

Highlighted Provisions:

This bill:

- ► defines terms for cohabitant abuse protective orders;
- ► provides that a court may treat a petition for a protective order as a request for a no-fault cohabitant abuse protective order only if the petitioner and the respondent agree to the order and the terms of the order;
- ► allows a court to grant a no-fault cohabitant abuse protective order if the parties agree to the terms of the order;
- ► addresses the modification of a no-fault cohabitant abuse protective order;
- ► requires a no-fault cohabitant abuse protective order include a credible threat finding;
- ► provides that a no-fault cohabitant abuse protective order may not be introduced as evidence in a civil or criminal proceeding that the respondent committed domestic violence or abuse;
- ► clarifies that a no-fault cohabitant abuse protective order does not prevent a petitioner from obtaining an ex parte cohabitant abuse protective order or a cohabitant abuse protective order;
- ► modifies a cross-reference regarding the provisions of a cohabitant abuse protective order that are civil offenses; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-7-102, as last amended by Laws of Utah 2023, Chapter 170
78B-7-117, as renumbered and amended by Laws of Utah 2020, Chapter 142
78B-7-601, as enacted by Laws of Utah 2020, Chapter 142
78B-7-603, as last amended by Laws of Utah 2023, Chapter 330

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-7-102 is amended to read:

78B-7-102. Definitions.

As used in this chapter:

(1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly causing or attempting to cause another individual physical harm or intentionally or knowingly placing another individual in reasonable fear of imminent physical harm.

(2) "Affinity" means the same as that term is defined in Section 76-1-101.5.

(3) "Child" means an individual who is younger than 18 years old.

[~~(3)~~](4) "Civil protective order" means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders;

(d) Part 6, Cohabitant Abuse Protective Orders; or

(e) Part 11, Workplace Violence Protective Orders.

[~~(4)~~](5) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil Stalking Injunctions.

[~~(5)~~](6) (a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:

(i) is or was a spouse of the other party;

(ii) is or was living as if a spouse of the other party;

(iii) is related by blood or marriage to the other party as the individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;

(iv) has or had one or more children in common with the other party;

(v) is the biological parent of the other party's unborn minor child;

(vi) resides or has resided in the same residence as the other party; or

(vii) is or was in a consensual sexual relationship with the other party.

(b) "Cohabitant" does not include:

(i) the relationship of natural parent, adoptive parent, or step-parent to a minor child; or

(ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.

[~~(6)~~](7) "Consanguinity" means the same as that term is defined in Section 76-1-101.5.

[~~(7)~~](8) "Criminal protective order" means an order issued under Part 8, Criminal Protective Orders.

[~~(8)~~](9) "Criminal stalking injunction" means a stalking injunction issued under Part 9, Criminal Stalking Injunctions.

[~~(9)~~](10) "Court clerk" means a district court clerk.

[~~(10)~~](11) (a) "Dating partner" means an individual who:

(i) (A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7, Emancipation; or

(B) is 18 years old or older; and

(ii) is, or has been, in a dating relationship with the other party.

(b) "Dating partner" does not include an intimate partner.

[~~(11)~~](12) (a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.

(b) "Dating relationship" does not include casual fraternization in a business, educational, or social context.

(c) In determining, based on a totality of the circumstances, whether a dating relationship exists:

(i) all relevant factors shall be considered, including:

(A) whether the parties developed interpersonal bonding above a mere casual fraternization;

(B) the length of the parties' relationship;

(C) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship;

(D) the ongoing expectations of the parties, individual or jointly, with respect to the relationship;

(E) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and

(F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and

(ii) it is not necessary that all, or a particular number, of the factors described in Subsection (11)(c)(i) are found to support the existence of a dating relationship.

(13) "Dating violence" means:

(a) a criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by an individual against a dating partner; or

(b) an attempt, a conspiracy, or a solicitation by an individual to commit a criminal offense involving violence or physical harm against a dating partner of the individual.

[~~(12)~~](14) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(13)~~](15) "Ex parte civil protective order" means an order issued without notice to the respondent under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders;

(d) Part 6, Cohabitant Abuse Protective Orders; or

(e) Part 11, Workplace Violence Protective Orders.

[~~(14)~~](16) "Ex parte civil stalking injunction" means a stalking injunction issued without notice to the respondent under Part 7, Civil Stalking Injunctions.

[~~(15)~~](17) "Foreign protection order" means the same as that term is defined in Section 78B-7-302.

[~~(16)~~](18) "Household animal" means an animal that is tamed and kept as a pet.

[~~(17)~~](19) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

[~~(18)~~](20) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.

(21) "Minor child" means the same as that term is defined in Section 81-1-101.

[~~(19)~~](22) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace Officer Classifications.

[~~(20)~~](23) "Qualifying domestic violence offense" means the same as that term is defined in Section 77-36-1.1.

[~~(21)~~](24) "Respondent" means the individual against whom enforcement of a protective order is sought.

[~~(22)~~](25) "Stalking" means the same as that term is defined in Section 76-5-106.5.

Section 2. Section 78B-7-117 is amended to read:

78B-7-117. Court order for transfer of wireless telephone number.

(1) As used in this section, "wireless service provider" means a provider of commercial mobile service under Section 332(d) of the Federal Telecommunications Act of 1996.

(2) At or after the time that a court issues a sentencing protective order or continuous protective order under Section 78B-7-804 or a cohabitant abuse protective order or no-fault cohabitant abuse protective order under Section 78B-7-603, the court may order the transfer of a wireless telephone number as provided in this section [~~,~~]if:

(a) the perpetrator is the account holder for the wireless telephone number;

(b) the number is assigned to a telephone that is primarily used by the victim or an individual who will reside with the victim during the time that the protective order or the order of protection is in effect; and

(c) the victim requests transfer of the wireless telephone number.

(3) An order transferring a wireless telephone number under this section shall:

(a) direct a wireless service provider to transfer the rights to, and the billing responsibility for, the wireless telephone number to the victim; and

(b) include the wireless telephone number to be transferred, the name of the transferee, and the name of the account holder.

(4) A wireless service provider shall comply with an order issued under this section, unless compliance is not reasonably possible due to:

(a) the account holder having already terminated the account;

(b) differences in network technology that prevent the victim's device from functioning on the network to which the number is to be transferred;

(c) geographic or other service availability constraints; or

(d) other barriers outside the control of the wireless service provider.

(5) A wireless service provider that fails to comply with an order issued under this section shall, within four business days after the day on which the wireless service provider receives the order, provide notice to the victim stating:

(a) that the wireless service provider is not able to reasonably comply with the order; and

(b) the reason that the wireless service provider is not able to reasonably comply with the order.

(6) The victim has full financial responsibility for each wireless telephone number transferred to the victim by an order under this section, beginning on the day on which the wireless telephone number is transferred, including monthly service costs and costs for any mobile device associated with the wireless telephone number.

(7) This section does not preclude a wireless service provider from applying standard requirements for account establishment to the victim when transferring financial responsibility under Subsection (6).

(8) A wireless service provider, and any officer, employee, or agent of the wireless service provider, is not civilly liable for action taken in compliance with an order issued under this section.

Section 3. Section 78B-7-601 is amended to read:

78B-7-601. Definitions.

As used in this part:

(1) "Cohabitant abuse protective order" means an order issued by a court under this part after a hearing on the petition [~~, of~~]for which the petitioner and respondent have been given notice.

(2) "Ex parte cohabitant abuse protective order" means an order issued under this part without notice to the respondent[~~under this part~~].

(3) "No-fault cohabitant abuse protective order" means an order issued under this part by a court, in accordance with Subsection 78B-7-603(4), without a finding by the court that the respondent has committed, or will commit, domestic violence or abuse.

[~~(3)~~](4) "Protective order" means:

(a) a cohabitant abuse protective order; [~~or~~]

(b) an ex parte cohabitant abuse protective order[~~.~~]; or

(c) a no-fault cohabitant abuse protective order.

Section 4. Section 78B-7-603 is amended to read:

78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse protective orders -- Modification of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for a protective order or a petition to modify a protective order that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of a protective order is required, a court may:

(a) without notice, immediately issue an ex parte cohabitant abuse protective order or modify a protective order ex parte as the court considers necessary to protect the petitioner and all parties named to be protected in the petition; or

(b) upon notice, issue a protective order or modify [~~an~~]a protective order after a hearing, regardless of whether the respondent appears.

(2) A court may grant the following relief, without notice[~~in a protective order or a modification issued ex parte~~], in an ex parte cohabitant abuse protective order or an ex parte modification of a protective order:

(a) enjoin the respondent from threatening to commit domestic violence or abuse, committing domestic violence or abuse, or harassing the petitioner or any designated family or household member;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly, with the exception of any parent-time provisions in the ex parte order;

(c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;

(d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay away from the following places and their premises:

(i) the petitioner's residence or any designated family or household member's residence;

(ii) the petitioner's school or any designated family or household member's school;

(iii) the petitioner's or any designated family or household member's place of employment;

(iv) the petitioner's place of worship or any designated family or household member's place of worship; or

(v) any specified place frequented by the petitioner or any designated family or household member;

(e) if the petitioner or designated family or household member attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship, the court:

(i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent from the respondent's school, place of employment, or place of worship; and

(ii) may enter an order governing the respondent's conduct at the respondent's school, place of employment, or place of worship;

(f) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;

(g) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(h) order the respondent to maintain an existing wireless telephone contract or account;

(i) grant to the petitioner or someone other than the respondent temporary custody of a minor child of the parties;

(j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-2-803;

(k) prohibit the respondent from physically injuring, threatening to injure, or taking possession of a household animal that is owned or kept by the petitioner;

(l) prohibit the respondent from physically injuring or threatening to injure a household animal that is owned or kept by the respondent;

(m) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and

(n) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.

(3) A court may grant the following relief in a cohabitant abuse protective order or a modification of [~~an~~]a cohabitant abuse protective order after notice and hearing, regardless of whether the respondent appears:

(a) grant the relief described in Subsection (2); [~~and~~]

(b) order the transfer of a wireless telephone number in accordance with Section 78B-7-117; and

[~~(b)~~](c) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or minor child.

[~~(4) In addition to the relief granted under Subsection (3), the court may order the transfer of a wireless telephone number in accordance with Section 78B-7-117.~~]

(4) (a) A court may treat a petition for a protective order as a request for a no-fault cohabitant abuse protective order only if the petitioner and the respondent agree to the entry of a no-fault cohabitant abuse protective order and the terms of the order.

(b) (i) Except as provided in Subsection (4)(b)(ii), the court may grant a no-fault cohabitant abuse protective order containing any of the relief described in Subsection (2) or (3) to which the parties agree.

(ii) A court may not issue mutual no-fault cohabitant abuse protective orders to opposing parties.

(c) A court may modify a no-fault cohabitant abuse protective order without holding a hearing if the petitioner and the respondent agree to the modification.

(d) If the petitioner and the respondent fail to agree to a modification of a no-fault cohabitant abuse protective order, the court may modify the no-fault cohabitant abuse protective order after holding a hearing and providing notice to the parties of the hearing.

(e) For purposes of 18 U.S.C. Sec. 922(g)(8), a no-fault cohabitant abuse protective order shall include a finding as to whether the respondent represents a credible threat to the physical safety of the petitioner or the petitioner's or respondent's minor child.

(f) (i) If the court issues a no-fault cohabitant abuse protective order as described in this Subsection (4), the no-fault cohabitant abuse protective order may not be introduced in a civil or criminal proceeding as evidence that the respondent committed domestic violence or abuse.

(ii) Subsection (4)(f)(i) does not preclude:

(A) a party from introducing other evidence of domestic violence or abuse in another civil proceeding or a criminal proceeding; or

(B) a court from considering other evidence of abuse and domestic violence in a proceeding regarding custody and parent-time of a minor child as described in Section 81-9-204.

(g) Nothing in this Subsection (4) prevents a petitioner from obtaining an ex parte cohabitant abuse protective order or a cohabitant abuse protective order under this part.

(5) [~~Following the cohabitant abuse protective order hearing~~]Upon issuance of a cohabitant abuse protective order or a no-fault cohabitant abuse protective order, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts to ensure that the [~~cohabitant abuse protective~~]order is understood by the petitioner[~~,~~] and the respondent[~~,~~] if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the [~~cohabitant abuse protective~~]order to the local law enforcement agency or agencies designated by the petitioner;

(d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113; and

(e) if the individual is a respondent or defendant subject to a court order that meets the qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal Identification that includes:

(i) an agency record identifier;

(ii) the individual's name, sex, race, and date of birth;

(iii) the issue date, conditions, and expiration date for the protective order; and

(iv) if available, the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

(6) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil offenses, as follows:

(a) criminal offenses are those under Subsections (2)(a) through (g), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and

(b) civil offenses are those under Subsections (2)(h) through [~~(l)~~](n), Subsection (3)(a)as it refers to Subsections (2)(h) through [~~(l)~~](n), and Subsection [~~(3)(b)~~](3)(c).

(7) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.

(8) (a) The county sheriff that receives the order from the court, under Subsection (5), shall provide expedited service for protective orders issued in accordance with this part, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.

(b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

(9) (a) When [~~an~~]a protective order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.

(10) A court may modify or vacate a protective order or any provisions in the protective order after notice and hearing, except that the criminal provisions of a cohabitant abuse protective order or a no-fault cohabitant abuse protective order may not be vacated within two years of issuance unless the petitioner:

(a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and the petitioner personally appears, in person or through court video conferencing, before the court and gives specific consent to the vacation of the criminal provisions of the cohabitant abuse protective order or no-fault cohabitant abuse protective order; or

(b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the cohabitant abuse protective order or no-fault cohabitant abuse protective order.

(11) A protective order may be modified without a showing of substantial and material change in circumstances.

(12) A civil provision of a protective order described in Subsection (6) may be dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding that is pending between the parties to the protective order action if:

(a) the parties stipulate in writing or on the record to dismiss or modify a civil provision of the protective order; or

(b) the court in the divorce, parentage, custody, or guardianship proceeding finds good cause to dismiss or modify the civil provision.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 333
S. B. 192
Passed March 6, 2025
Approved March 25, 2025
Effective January 1, 2026

COMMERCIAL WIND AND SOLAR INCENTIVES AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill modifies tax credit requirements for certain commercial wind and solar energy systems.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires commercial wind and solar energy systems of 660 or more kilowatts to include energy storage systems to qualify for tax credits; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-7-614, as last amended by Laws of Utah 2024, Chapter 53
59-10-1106, as last amended by Laws of Utah 2024, Chapter 53

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-614 is amended to read:

59-7-614. Clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Adequate energy storage" means an energy storage system that:

(i) is capable of storing electrical energy produced by a commercial energy system;

(ii) can provide at least six hours of the commercial energy system's expected peak daily generation; and

(iii) enables the commercial energy system to meet the requirements of being dispatchable and reliable.

[~~(b)~~](c) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

[~~(c)~~](d) "Clean energy source" means the same as that term is defined in Section 54-17-601.

[~~(d)~~](e) "Commercial energy system" means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

[~~(e)~~](f) "Commercial enterprise" means an entity, the purpose of which is to produce:

(i) electrical, mechanical, or thermal energy for sale from a commercial energy system; or

(ii) hydrogen for sale from a hydrogen production system.

[~~(f)~~](g) (i) "Commercial unit" means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection [~~(1)(f)(i)~~](1)(g)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

[~~(g)~~](h) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(i) "Dispatchable" means the same as that term is defined in Section 79-6-102.

[~~(h)~~](j) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

[~~(i)~~](k) "Geothermal energy" means energy generated by heat that is contained in the earth.

[~~(j)~~](l) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

[~~(k)~~](m) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

[~~(l)~~](n) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that uses:

(i) electricity from a clean energy source to create hydrogen gas from water, regardless of whether the clean energy source is at a separate facility or the same facility as the system of apparatus and equipment; or

(ii) uses renewable natural gas to produce hydrogen gas.

(o) "Interconnection queue" means the list of requests from power generation projects maintained by a transmission provider that are waiting to connect to the electrical grid.

[~~(m)~~](p) "Office" means the Office of Energy Development created in Section 79-6-401.

[~~(n)~~](q) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and the structure's operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(r) "Peak daily generation" means the total electricity generation during the highest generation month of a calendar year, divided by the number of days in that month.

[~~(o)~~](s) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

[~~(p)~~](t) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(u) "Reliable" means the same as that term is defined in Section 79-6-102.

[~~(q)~~](v) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

[~~(r)~~](w) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

[~~(s)~~](x) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit; and

(ii) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed $2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(v) for a system installed on or after January 1, 2024, $0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (4); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (4)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) for a commercial energy system using wind, the system includes adequate energy storage;

[~~(iii)~~](iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (5); and

[~~(iv)~~](v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) For purposes of calculating the tax credit under this Subsection (5), electricity that is stored and later sold may only be counted at the time the electricity is sold from storage.

[~~(c)~~](d) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(e) Notwithstanding Subsection (5)(a)(iii), a commercial energy system is exempt from the energy storage requirement if the system had a position in an interconnection queue or a signed agreement with a transmission provider before January 1, 2025.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that:

(A) uses solar equipment capable of producing a total of 660 or more kilowatts of electricity; and

(B) includes adequate energy storage;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (6); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (6)(b)(ii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) For purposes of calculating the tax credit under this Subsection (6), electricity that is stored and later sold may only be counted at the time the electricity is sold from storage.

[~~(c)~~](d) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(e) Notwithstanding Subsection (6)(a)(i)(B), a commercial energy system is exempt from the energy storage requirement if the system had a position in an interconnection queue or a signed agreement with a transmission provider before January 1, 2025.

(7) (a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7) if:

(i) the taxpayer owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4), (5), or (6) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this Subsection (7); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(8) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system, the commercial energy system, or the hydrogen production system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from clean resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system, the commercial energy system, or the hydrogen production system uses the state's clean and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system, a commercial energy system, or a hydrogen production system meets the requirements of Subsection (8)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the clean energy system was installed.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(10) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(11) A taxpayer may not claim or carry forward a tax credit described in this section in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-7-614.7.

Section 2. Section 59-10-1106 is amended to read:

59-10-1106. Refundable clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system" means the same as that term is defined in Section 59-10-1014.

(b) "Adequate energy storage" means the same as that term is defined in Section 59-7-614.

[~~(b)~~](c) "Biomass system" means the same as that term is defined in Section 59-10-1014.

[~~(c)~~](d) "Commercial energy system" means the same as that term is defined in Section 59-7-614.

[~~(d)~~](e) "Commercial enterprise" means the same as that term is defined in Section 59-7-614.

[~~(e)~~](f) "Commercial unit" means the same as that term is defined in Section 59-7-614.

[~~(f)~~](g) "Direct use geothermal system" means the same as that term is defined in Section 59-10-1014.

(h) "Dispatchable" means the same as that term is defined in Section 79-6-102.

[~~(g)~~](i) "Geothermal electricity" means the same as that term is defined in Section 59-10-1014.

[~~(h)~~](j) "Geothermal energy" means the same as that term is defined in Section 59-10-1014.

[~~(i)~~](k) "Geothermal heat pump system" means the same as that term is defined in Section 59-10-1014.

[~~(j)~~](l) "Hydroenergy system" means the same as that term is defined in Section 59-10-1014.

[~~(k)~~](m) "Hydrogen production system" means the same as that term is defined in Section 59-7-614.

(n) "Interconnection queue" means the same as that term is defined in Section 59-7-614.

[~~(l)~~](o) "Office" means the Office of Energy Development created in Section 79-6-401.

[~~(m)~~](p) "Passive solar system" means the same as that term is defined in Section 59-10-1014.

(q) "Peak daily generation" means the same as that term is defined in Section 59-7-614.

[~~(n)~~](r) "Principal recovery portion" means the same as that term is defined in Section 59-10-1014.

(s) "Reliable" means the same as that term is defined in Section 79-6-102.

[~~(o)~~](t) "Wind system" means the same as that term is defined in Section 59-10-1014.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (3); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant,

estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) for a commercial energy system using wind, the system includes adequate energy storage;

[~~(iii)~~](iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (4); and

[~~(iv)~~](v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsection (4)(b)(ii), a tax credit under this Subsection (4) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) For purposes of calculating the tax credit under this Subsection (4), electricity that is stored and later sold may only be counted at the time the electricity is sold from storage.

[~~(c)~~](d) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(e) Notwithstanding Subsection (4)(a)(iii), a commercial energy system is exempt from the energy storage requirement if the system had a position in an interconnection queue or a signed agreement with a transmission provider before January 1, 2025.

(5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:

(i) the claimant, estate, or trust owns a commercial energy system that:

(A) uses solar equipment capable of producing a total of 660 or more kilowatts of electricity; and

(B) includes adequate energy storage;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (5); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) For purposes of calculating the tax credit under this Subsection (5), electricity that is stored and later sold may only be counted at the time the electricity is sold from storage.

(d) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(e) Notwithstanding Subsection (5)(a)(i)(B), a commercial energy system is exempt from the energy storage requirement if the system had a position in an interconnection queue or a signed agreement with a transmission provider before January 1, 2025.

(6) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the claimant, estate, or trust owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (6) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(7) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the commercial energy system or the hydrogen production system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from clean resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system or the hydrogen production system

uses the state's clean and nonrenewable resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a commercial energy system or a hydrogen production system meets the requirements of Subsection (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a commercial energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the commercial energy system or the hydrogen production system was installed.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(10) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(11) A claimant, estate, or trust may not claim or carry forward a tax credit described in this section in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 59-10-1029.

Section 3. Effective Date.

This bill takes effect for a taxable year beginning on or after January 1, 2026.

CHAPTER 334
S. B. 194
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

DEFENDANT ACCESS TO EVIDENCE AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill addresses a criminal defendant's access to evidence in a county jail.

Highlighted Provisions:

This bill:

- ► requires the county sheriff to ensure that a jail inmate awaiting trial, sentencing, or disposition of criminal charges has:
  - • a space to review discovery and other evidence or documents in the jail inmate's criminal case with the jail inmate's counsel; and
  - • the means to access and review discovery and other evidence or documents in the jail inmate's criminal case;
- ► addresses how the jail inmate may access or review discovery, evidence, or other documents in jail;
- ► provides that a jail inmate's counsel has to ensure that certain discovery, evidence, or other documents are not left with the jail inmate at the jail; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-2, as last amended by Laws of Utah 2024, Chapter 21

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-2 is amended to read:

17-22-2. Sheriff -- General duties -- Access to evidence, discovery, or other documents by jail inmate.

(1) The sheriff shall:

(a) preserve the peace;

(b) make all lawful arrests;

(c) attend in person or by deputy the Supreme Court and the Court of Appeals when required or when the court is held within [~~his~~]the sheriff's county, all courts of record, and court commissioner and referee sessions held within [~~his~~]the sheriff's county, obey their lawful orders and directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration;

(d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;

(e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of jail [~~prisoners in his~~]inmates in the sheriff's custody, or for the custody of jurors;

(f) command the aid of as many inhabitants of the sheriff's county as the sheriff considers necessary in the execution of these duties;

(g) take charge of and keep the county jail and the jail [~~prisoners~~]inmates;

(h) receive and safely keep all persons committed to the sheriff's custody, file and preserve the commitments of those persons in custody, and record the name, age, place of birth, and description of each person committed;

(i) release on the record all attachments of real property when the attachment the sheriff receives has been released or discharged;

(j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the person delivering process or notice showing the names of the parties, title of paper, and the time of receipt;

(k) serve all process and notices as prescribed by law;

(l) if the sheriff makes service of process or notice, certify on the process or notices the manner, time, and place of service, or, if the sheriff fails to make service, certify the reason upon the process or notice, and return them without delay;

(m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public land within [~~his~~]the sheriff's county;

(n) perform as required by any contracts between the county and private contractors for management, maintenance, operation, and construction of county jails entered into under the authority of Section 17-53-311;

(o) for the sheriff of a county of the second through sixth class that enters into an interlocal agreement for law enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law enforcement service as provided in the interlocal agreement;

(p) manage and direct search and rescue services in [~~his~~]the sheriff's county, including emergency medical responders and other related incident response activities;

(q) obtain saliva DNA specimens as required under Section 53-10-404;

(r) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender;

(s) as applicable, select a representative of law enforcement to serve as a member of a child protection team, as defined in Section 80-1-102;

(t) appoint a county security chief in accordance with Section 53-22-103 and ensure the county security chief fulfills the county security chief's duties; [~~and~~]

(u) ensure that a jail inmate who is awaiting trial, sentencing, or disposition of criminal charges has:

(i) a private and confidential space to review discovery and other evidence or documents related to the jail inmate's criminal case with the jail inmate's counsel; and

(ii) the means to access and review discovery and other evidence or documents related to the jail inmate's criminal case, with or without the jail inmate's counsel, including the means to access and review digital, audio, video, or other technological evidence or documents; and

[~~(u)~~](v) perform any other duties that are required by law.

(2) (a) Violation of Subsection (1)(j) is a class C misdemeanor.

(b) Violation of any other subsection under Subsection (1) is a class A misdemeanor.

(3) (a) As used in this Subsection (3):

(i) "Police interlocal entity" means the same as that term is defined in Sections 17-30-3 and 17-30a-102.

(ii) "Police special district" means the same as that term is defined in Section 17-30-3.

(b) Except as provided in Subsections (3)(c) and 11-13-202(4), a sheriff in a county which includes within its boundary a police special district or police interlocal entity, or both:

(i) serves as the chief executive officer of each police special district and police interlocal entity within the county with respect to the provision of law enforcement service within the boundary of the police special district or police interlocal entity, respectively; and

(ii) is subject to the direction of the police special district board of trustees or police interlocal entity governing body, as the case may be, as and to the extent provided by agreement between the police special district or police interlocal entity, respectively, and the sheriff.

(c) Notwithstanding Subsection (3)(b), and except as provided in Subsection 11-13-202(4), if a police interlocal entity or police special district enters an interlocal agreement with a public agency, as defined in Section 11-13-103, for the provision of law enforcement service, the sheriff:

(i) does not serve as the chief executive officer of any interlocal entity created under that interlocal agreement, unless the agreement provides for the sheriff to serve as the chief executive officer; and

(ii) shall provide law enforcement service under that interlocal agreement as provided in the agreement.

(4) (a) A jail inmate may access or review discovery, evidence, or other documents under Subsection (1)(u) with:

(i) technology provided by the jail; or

(ii) technology, including a computer, that is approved by the jail and is provided by the jail inmate's counsel.

(b) If a jail inmate's counsel leaves discovery, evidence, or other documents with the jail inmate at the jail, the jail inmate's counsel shall ensure that the discovery, evidence, or other documents does not include:

(i) any visual depiction of an individual who is younger than 18 years old;

(ii) any personal identifying information of an individual other than the jail inmate;

(iii) any financial information of a person other than the jail inmate;

(iv) any child sexual abuse material as defined in Section 76-5b-103;

(v) any intimate image as defined in Section 76-5b-203; or

(vi) any visual depiction or information for which possession is prohibited, by policy, at the jail.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 335
S. B. 198
Passed February 25, 2025
Approved March 25, 2025
Effective May 7, 2025

FEDERAL GUIDANCE LETTER AMENDMENTS

Chief Sponsor: Keven J. Stratton
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill establishes publication and reporting requirements for federal guidance letters received by state agencies.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires a state agency to publish certain federal guidance letter information received by the state agency on public websites and transmit copies to the Legislature; and
- ► establishes standards for federal guidance letter information published on a state agency's website.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63G-16-301, Utah Code Annotated 1953
63G-16-302, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-16-301 is enacted to read:

PART 3. Federal Guidance Letters

63G-16-301. Definitions.

As used in this part:

(1) "Applicable federal agency" means the federal agency that issued a federal guidance letter.

(2) "Federal agency" means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States government.

(3) (a) "Federal guidance letter" means a written statement by a federal agency, regardless of format, that:

(i) clarifies or provides instruction on:

(A) the federal agency's interpretation of a federal law; or

(B) the federal agency's policies for administering a federal law; and

(ii) is nonbinding and of general applicability.

(b) "Federal guidance letter" does not include:

(i) a written communication between a federal agency and a state agency regarding a specific entity;

(ii) a peer-to-peer communication; or

(iii) a written communication between a federal agency and the State Tax Commission containing guidance related to the protection, storage, or safeguarding of confidential information.

(4) "Federal law" means:

(a) a statute passed by the United States Congress; or

(b) a rule or regulation adopted by a federal agency.

(5) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

Section 2. Section 63G-16-302 is enacted to read:

63G-16-302. Federal guidance letters received by state agencies -- Publication and reporting requirements -- Standards for information published on state agency website.

(1) A state agency shall publish and report federal guidance letters received by the state agency in accordance with this section.

(2) (a) Beginning July 1, 2025, a state agency that receives a federal guidance letter shall:

(i) publish the federal guidance letter on:

(A) the state agency's public website; and

(B) the Utah Open Data Portal Website created in Section 63A-16-107; and

(ii) transmit a copy of the federal guidance letter to:

(A) the Legislative Management Committee; and

(B) the chairs of the Legislature's Federalism Commission.

(b) A state agency shall comply with the requirements of Subsection (2)(a) within 15 days from the date on which the state agency receives the federal guidance letter.

(3) (a) This Subsection (3) applies to a state agency that:

(i) publishes and reports a federal guidance letter in accordance with Subsection (2); and

(ii) receives a written communication from the applicable federal agency indicating that the federal guidance letter has been rescinded.

(b) A state agency described in Subsection (3)(a) shall:

(i) publish the following documents on the websites described in Subsection (2)(a)(i):

(A) the written communication indicating the federal guidance letter's rescission; and

(B) a disclaimer, linked to the federal guidance letter, notifying the public of the federal guidance letter's rescission; and

(ii) transmit to the entities described in Subsection (2)(a)(ii) a copy of the written communication indicating the federal guidance letter's rescission.

(c) A state agency shall comply with the requirements of Subsection (3)(b) within 15 days from the date on which the state agency receives the written communication indicating the federal guidance letter's rescission.

(4) A state agency shall ensure that any information published on the state agency's public website under this section is available:

(a) on a permanent basis;

(b) in a user-friendly manner; and

(c) via a link from the main page of the website.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 336
S. B. 200
Passed March 6, 2025
Approved March 25, 2025
Effective January 1, 2026

WATERCRAFT AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill makes changes to fees associated with boat registration.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► amends uniform statewide fees for boats;
- ► enacts the Boating Grant Tax; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-405.2, as last amended by Laws of Utah 2023, Chapter 159
73-18-2, as last amended by Laws of Utah 2022, Chapter 68
73-18-7, as last amended by Laws of Utah 2022, Chapter 68
73-18-22.3, as enacted by Laws of Utah 2023, Chapter 159

ENACTS:

59-32-101, Utah Code Annotated 1953
59-32-102, Utah Code Annotated 1953
59-32-103, Utah Code Annotated 1953
59-32-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-405.2 is amended to read:

59-2-405.2. Definitions -- Uniform statewide fee on certain tangible personal property -- Distribution of revenues -- Rulemaking authority -- Determining the length of a vessel.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "all-terrain vehicle" means a motor vehicle that:

(A) is an:

(I) all-terrain type I vehicle as defined in Section 41-22-2;

(II) all-terrain type II vehicle as defined in Section 41-22-2; or

(III) all-terrain type III vehicle as defined in Section 41-22-2;

(B) is required to be registered in accordance with Title 41, Chapter 22, Off-highway Vehicles; and

(C) has:

(I) an engine with more than 150 cubic centimeters displacement;

(II) a motor that produces more than five horsepower; or

(III) an electric motor; and

(ii) notwithstanding Subsection (1)(a)(i), "all-terrain vehicle" does not include a snowmobile.

(b) "Camper" means a camper:

(i) as defined in Section 41-1a-102; and

(ii) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration.

(c) (i) "Canoe" means a vessel that:

(A) is long and narrow;

(B) has curved sides; and

(C) is tapered:

(I) to two pointed ends; or

(II) to one pointed end and is blunt on the other end; and

(ii) "canoe" includes:

(A) a collapsible inflatable canoe;

(B) a kayak;

(C) a racing shell;

(D) a rowing scull; or

(E) notwithstanding the definition of vessel in Subsection (1)(cc), a canoe with an outboard motor.

(d) "Dealer" [~~is as~~]means the same as that term is defined in Section 41-1a-102.

(e) "Jon boat" means a vessel that:

(i) has a square bow; and

(ii) has a flat bottom.

(f) "Motor vehicle" [~~is as~~]means the same as that term is defined in Section 41-22-2.

(g) "Other motorcycle" means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation over unimproved terrain;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(h) (i) "Other trailer" means a portable vehicle without motive power that is primarily used:

(A) to transport tangible personal property; and

(B) for a purpose other than a commercial purpose; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(h)(i)(B), the commission may by rule define what constitutes a purpose other than a commercial purpose.

(i) "Outboard motor" is as defined in Section 41-1a-102.

(j) "Park model recreational vehicle" [~~is as~~]means the same as that term is defined in Section 41-1a-102.

(k) "Personal watercraft" means a personal watercraft:

(i) as defined in Section 73-18-2; and

(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(l) (i) "Pontoon" means a vessel that:

(A) is:

(I) supported by one or more floats; and

(II) propelled by either inboard or outboard power; and

(B) is not:

(I) a houseboat; or

(II) a collapsible inflatable vessel; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "houseboat."

(m) "Qualifying adjustment, exemption, or reduction" means an adjustment, exemption, or reduction:

(i) of all or a portion of a qualifying payment;

(ii) granted by a county during the refund period; and

(iii) received by a qualifying person.

(n) (i) "Qualifying payment" means the payment made:

(A) of a uniform statewide fee in accordance with this section:

(I) by a qualifying person;

(II) to a county; and

(III) during the refund period; and

(B) on an item of qualifying tangible personal property; and

(ii) if a qualifying person received a qualifying adjustment, exemption, or reduction for an item of qualifying tangible personal property, the qualifying payment for that qualifying tangible personal property is equal to the difference between:

(A) the payment described in this Subsection (1)(n) for that item of qualifying tangible personal property; and

(B) the amount of the qualifying adjustment, exemption, or reduction.

(o) "Qualifying person" means a person that paid a uniform statewide fee:

(i) during the refund period;

(ii) in accordance with this section; and

(iii) on an item of qualifying tangible personal property.

(p) "Qualifying tangible personal property" means a:

(i) qualifying vehicle; or

(ii) qualifying watercraft.

(q) "Qualifying vehicle" means:

(i) an all-terrain vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(ii) an other motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(iii) a small motor vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(iv) a snowmobile with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters; or

(v) a street motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters.

(r) "Qualifying watercraft" means a:

(i) canoe;

(ii) collapsible inflatable vessel;

(iii) jon boat;

(iv) pontoon;

(v) sailboat; or

(vi) utility boat.

(s) "Refund period" means the time period:

(i) beginning on January 1, 2006; and

(ii) ending on December 29, 2006.

(t) "Sailboat" means a sailboat as defined in Section 73-18-2.

(u) (i) "Small motor vehicle" means a motor vehicle that:

(A) is required to be registered in accordance with Title 41, Motor Vehicles; and

(B) has:

(I) an engine with 150 or less cubic centimeters displacement; or

(II) a motor that produces five or less horsepower; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule develop a process for an owner of a motor vehicle to certify whether the motor vehicle has:

(A) an engine with 150 or less cubic centimeters displacement; or

(B) a motor that produces five or less horsepower.

(v) "Snowmobile" means a motor vehicle that:

(i) is a snowmobile as defined in Section 41-22-2;

(ii) is required to be registered in accordance with Title 41, Chapter 22, Off-highway Vehicles; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(w) "Street-legal all-terrain vehicle" means the same as that term is defined in Section 41-6a-102.

(x) "Street motorcycle" means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation on highways;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(y) "Tangible personal property owner" means a person that owns an item of qualifying tangible personal property.

(z) "Tent trailer" means a portable vehicle without motive power that:

(i) is constructed with collapsible side walls that:

(A) fold for towing by a motor vehicle; and

(B) unfold at a campsite;

(ii) is designed as a temporary dwelling for travel, recreational, or vacation use;

(iii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iv) does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

(aa) (i) Except as provided in Subsection (1)(aa)(ii), "travel trailer" means a travel trailer:

(A) as defined in Section 41-1a-102; and

(B) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(ii) notwithstanding Subsection (1)(aa)(i), "travel trailer" does not include:

(A) a camper; or

(B) a tent trailer.

(bb) (i) "Utility boat" means a vessel that:

(A) has:

(I) two or three bench seating;

(II) an outboard motor; and

(III) a hull made of aluminum, fiberglass, or wood; and

(B) does not have:

(I) decking;

(II) a permanent canopy; or

(III) a floor other than the hull; and

(ii) notwithstanding Subsection (1)(bb)(i), "utility boat" does not include a collapsible inflatable vessel.

(cc) "Vessel" means a vessel:

(i) as defined in Section 73-18-2, including an outboard motor of the vessel; and

(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), beginning on January 1, 2006, the tangible personal property described in Subsection (2)(b) is:

(i) exempt from the tax imposed by Section 59-2-103; and

(ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as provided in this section.

(b) The following tangible personal property applies to Subsection (2)(a) if that tangible personal property is required to be registered with the state:

(i) an all-terrain vehicle;

(ii) a camper;

(iii) an other motorcycle;

(iv) an other trailer;

(v) a personal watercraft;

(vi) a small motor vehicle;

(vii) a snowmobile;

(viii) a street motorcycle;

(ix) a tent trailer;

(x) a travel trailer;

(xi) a park model recreational vehicle; and

(xii) a vessel if that vessel is less than 31 feet in length as determined under Subsection [~~(8).~~](7).

(3) Except as provided in Subsection (4) and for purposes of this section, the uniform statewide fees are:

(a) for a snowmobile:

Age of Snowmobile	Uniform Statewide Fee
$10	12 or more years
$20	9 or more years but less than 12 years
$30	6 or more years but less than 9 years
$35	3 or more years but less than 6 years
$45	Less than 3 years

(b) for an all-terrain vehicle that is not a street-legal all-terrain vehicle or another motorcycle:

Age of All-Terrain Vehicle or Other Motorcycle Uniform Statewide Fee	Uniform Statewide Fee
$4	12 or more years
$8	9 or more years but less than 12 years
$12	6 or more years but less than 9 years
$14	3 or more years but less than 6 years
$18	Less than 3 years

(c) for a street-legal all-terrain vehicle:

Age of Street-Legal All-Terrain Vehicle	Uniform Statewide Fee
$4	12 or more years
$14	9 or more years but less than 12 years
$20	6 or more years but less than 9 years

$28	3 or more years but less than 6 years
$38	Less than 3 years

(d) for a camper or a tent trailer:

Age of Camper or Tent Trailer	Uniform Statewide Fee
$10	12 or more years
$25	9 or more years but less than 12 years
$35	6 or more years but less than 9 years
$50	3 or more years but less than 6 years
$70	Less than 3 years

(e) for an other trailer:

Age of Other Trailer	Uniform Statewide Fee
$10	12 or more years
$15	9 or more years but less than 12 years
$20	6 or more years but less than 9 years
$25	3 or more years but less than 6 years
$30	Less than 3 years

(f) for a personal watercraft:

Age of Personal Watercraft	Uniform Statewide Fee
[~~$10~~]$5	12 or more years
[~~$25~~]$13	9 or more years but less than 12 years
[~~$35~~]$18	6 or more years but less than 9 years
[~~$45~~]$23	3 or more years but less than 6 years
[~~$55~~]$28	Less than 3 years

(g) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
$10	6 or more years
$15	3 or more years but less than 6 years
$25	Less than 3 years

(h) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
$10	12 or more years
$35	9 or more years but less than 12 years
$50	6 or more years but less than 9 years
$70	3 or more years but less than 6 years
$95	Less than 3 years

(i) for a travel trailer or park model recreational vehicle:

Age of Travel Trailer or Park Model Recreational Vehicle	Uniform Statewide Fee
$20	12 or more years
$65	9 or more years but less than 12 years

$90	6 or more years but less than 9 years
$135	3 or more years but less than 6 years
$175	Less than 3 years

(j) [~~$10~~]$5 regardless of the age of the vessel if the vessel is:
(i) less than 15 feet in length;
(ii) a canoe;
(iii) a jon boat; or
(iv) a utility boat;
(k) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age:

Uniform Statewide Fee	Length of Vessel
[~~$15~~]$8	15 feet or more in length but less than 19 feet in length
[~~$25~~]$13	19 feet or more in length but less than 23 feet in length
[~~$40~~]$20	23 feet or more in length but less than 27 feet in length
[~~$75~~]$38	27 feet or more in length but less than 31 feet in length

(l) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:

Age of Vessel	Uniform Statewide Fee
[~~$25~~]$13	12 or more years
[~~$65~~]$33	9 or more years but less than 12 years
[~~$80~~]$40	6 or more years but less than 9 years
[~~$110~~]$55	3 or more years but less than 6 years
[~~$150~~]$75	Less than 3 years

(m) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:

Age of Vessel	Uniform Statewide Fee
[~~$50~~]$25	12 or more years
[~~$120~~]$60	9 or more years but less than 12 years
[~~$175~~]$88	6 or more years but less than 9 years
[~~$220~~]$110	3 or more years but less than 6 years
[~~$275~~]$138	Less than 3 years

(n) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:

Age of Vessel	Uniform Statewide Fee
[~~$100~~]$50	12 or more years
[~~$180~~]$90	9 or more years but less than 12 years
[~~$240~~]$120	6 or more years but less than 9 years
[~~$310~~]$155	3 or more years but less than 6 years
[~~$400~~]$200	Less than 3 years

(o) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:

Age of Vessel	Uniform Statewide Fee
[~~$120~~]$60	12 or more years

[~~$250~~]$125	9 or more years but less than 12 years
[~~$350~~]$175	6 or more years but less than 9 years
[~~$500~~]$250	3 or more years but less than 6 years
[~~$700~~]$350	Less than 3 years

(4) For registrations under Section 41-1a-215.5, the uniform fee for purposes of this section is as follows:

(a) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
$7.75	12 or more years
$27	9 or more years but less than 12 years
$38.50	6 or more years but less than 9 years
$54	3 or more years but less than 6 years
$73	Less than 3 years

(b) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
$7.75	6 or more years
$11.50	3 or more years but less than 6 years
$19.25	Less than 3 years

(5) Notwithstanding Section 59-2-407, tangible personal property subject to the uniform statewide fees imposed by this section that is brought into the state shall, as a condition of registration, be subject to the uniform statewide fees unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(6) (a) [~~Except as provided in Subsection (7), the~~]The revenues collected in each county from the uniform statewide fees imposed by this section shall be distributed by the county to each taxing entity in which each item of tangible personal property subject to the uniform statewide fees is located in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(b) Each taxing entity described in Subsection (6)(a) that receives revenues from the uniform statewide fees imposed by this section shall distribute the revenues in the same proportion in which revenues collected from the ad valorem property tax are distributed.

[~~(7) The commission shall deposit 50% of the revenue collected from the statewide uniform fee on a vessel that is imposed under this section into the Utah Boating Grant Account created in Section 73-18-22.3. The remaining 50% is subject to the requirements of Subsection (6).~~]

[~~(8)~~](7) (a) For purposes of the uniform statewide fee imposed by this section, the length of a vessel shall be determined as provided in this Subsection [~~(8).~~](7).

(b) (i) Except as provided in Subsection [~~(8)(b)(ii),~~](7)(b)(ii), the length of a vessel shall be measured as follows:

(A) the length of a vessel shall be measured in a straight line; and

(B) the length of a vessel is equal to the distance between the bow of the vessel and the stern of the vessel.

(ii) Notwithstanding Subsection [~~(8)(b)(i),~~](7)(b)(i), the length of a vessel may not include the length of:

(A) a swim deck;

(B) a ladder;

(C) an outboard motor; or

(D) an appurtenance or attachment similar to Subsections [~~(8)(b)(ii)(A)~~](7)(b)(ii)(A) through (C) as determined by the commission by rule.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an appurtenance or attachment similar to Subsections [~~(8)(b)(ii)(A)~~](7)(b)(ii)(A) through (C).

(c) The length of a vessel:

(i) (A) for a new vessel, is the length:

(I) listed on the manufacturer's statement of origin if the length of the vessel measured under Subsection [~~(8)(b)~~](7)(b) is equal to the length of the vessel listed on the manufacturer's statement of origin; or

(II) listed on a form submitted to the commission by a dealer in accordance with Subsection [~~(8)(d)~~](7)(d) if the length of the vessel measured under Subsection [~~(8)(b)~~](7)(b) is not equal to the length of the vessel listed on the manufacturer's statement of origin; or

(B) for a vessel other than a new vessel, is the length:

(I) corresponding to the model number if the length of the vessel measured under Subsection [~~(8)(b)~~](7)(b) is equal to the length of the vessel determined by reference to the model number; or

(II) listed on a form submitted to the commission by an owner of the vessel in accordance with Subsection [~~(8)(d)~~](7)(d) if the length of the vessel measured under Subsection [~~(8)(b)~~](7)(b) is not equal to the length of the vessel determined by reference to the model number; and

(ii) (A) is determined at the time of the:

(I) first registration as defined in Section 41-1a-102 that occurs on or after January 1, 2006; or

(II) first renewal of registration that occurs on or after January 1, 2006; and

(B) may be determined after the time described in Subsection [~~(8)(c)(ii)(A)~~](7)(c)(ii)(A) only if the commission requests that a dealer or an owner submit a form to the commission in accordance with Subsection [~~(8)(d).~~](7)(d).

(d) (i) A form under Subsection [~~(8)(c)~~](7)(c) shall:

(A) be developed by the commission;

(B) be provided by the commission to:

(I) a dealer; or

(II) an owner of a vessel;

(C) provide for the reporting of the length of a vessel;

(D) be submitted to the commission at the time the length of the vessel is determined in accordance with Subsection [~~(8)(e)(ii);~~](7)(c)(ii);

(E) be signed by:

(I) if the form is submitted by a dealer, that dealer; or

(II) if the form is submitted by an owner of the vessel, an owner of the vessel; and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection [~~(8)(d)(i)(F)~~](7)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A dealer or an owner that submits a form to the commission under Subsection [~~(8)(c)~~](7)(c) is considered to have given the dealer's or owner's consent to an audit or review by:

(I) the commission;

(II) the county assessor; or

(III) the commission and the county assessor.

(B) The consent described in Subsection [~~(8)(d)(iii)(A)~~](7)(d)(iii)(A) is a condition to the acceptance of any form.

[~~(9)~~](8) (a) A county that collected a qualifying payment from a qualifying person during the refund period shall issue a refund to the qualifying person as described in Subsection [~~(9)(b)~~](8)(b) if:

(i) the difference described in Subsection [~~(9)(b)~~](8)(b) is $1 or more; and

(ii) the qualifying person submitted a form in accordance with Subsections [~~(9)(c)~~](8)(c) and (d).

(b) The refund amount shall be calculated as follows:

(i) for a qualifying vehicle, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying vehicle during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying vehicle; and

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period; and

(ii) for a qualifying watercraft, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying watercraft during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying watercraft;

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period.

(c) Before the county issues a refund to the qualifying person in accordance with Subsection [~~(9)(a)~~](8)(a) the qualifying person shall submit a form to the county to verify the qualifying person is entitled to the refund.

(d) (i) A form under [~~Subsection (9)(c) or (10)~~]Subsection (8)(c) or (9) shall:

(A) be developed by the commission;

(B) be provided by the commission to the counties;

(C) be provided by the county to the qualifying person or tangible personal property owner;

(D) provide for the reporting of the following:

(I) for a qualifying vehicle:

(Aa) the type of qualifying vehicle; and

(Bb) the amount of cubic centimeters displacement;

(II) for a qualifying watercraft:

(Aa) the length of the qualifying watercraft;

(Bb) the age of the qualifying watercraft; and

(Cc) the type of qualifying watercraft;

(E) be signed by the qualifying person or tangible personal property owner; and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection [~~(9)(d)(i)(F)~~](8)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A qualifying person or tangible personal property owner that submits a form to a county under [~~Subsection (9)(c) or~~

~~(10)~~]Subsection (8)(c) or (9) is considered to have given the qualifying person's consent to an audit or review by:

(I) the commission;

(II) the county assessor; or

(III) the commission and the county assessor.

(B) The consent described in Subsection [~~(9)(d)(iii)(A)~~](8)(d)(iii)(A) is a condition to the acceptance of any form.

(e) The county shall make changes to the commission's records with the information received by the county from the form submitted in accordance with Subsection [~~(9)(c).~~](8)(c).

[~~(10)~~](9) A county shall change its records regarding an item of qualifying tangible personal property if the tangible personal property owner submits a form to the county in accordance with Subsection [~~(9)(d).~~](8)(d).

[~~(11)~~](10) (a) For purposes of this Subsection [~~(11),~~](10), "owner of tangible personal property" means a person that was required to pay a uniform statewide fee:

(i) during the refund period;

(ii) in accordance with this section; and

(iii) on an item of tangible personal property subject to the uniform statewide fees imposed by this section.

(b) A county that collected revenues from uniform statewide fees imposed by this section during the refund period shall notify an owner of tangible personal property:

(i) of the tangible personal property classification changes made to this section pursuant to Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1;

(ii) that the owner of tangible personal property may obtain and file a form to modify the county's records regarding the owner's tangible personal property; and

(iii) that the owner may be entitled to a refund pursuant to Subsection [~~(9).~~](8).

Section 2. Section 59-32-101 is enacted to read:

CHAPTER 32. BOATING GRANT TAX

PART 1. Boating Grant Tax

59-32-101. Definitions.

As used in this chapter:

(1) "Canoe" means the same as that term is defined in Section 59-2-405.

(2) "Division" means the Motor Vehicle Division created in Section 41-1a-106.

(3) "Government entity" means the United States, state, county, municipality, or any political subdivision.

(4) "Jon boat" means the same as that term is defined in Section 59-2-405.2.

(5) "Personal watercraft" means the same as that term is defined in Section 73-18-2.

(6) "Pontoon" means the same as that term is defined in Section 59-2-405.2.

(7) "Sailboat" means the same as that term is defined in Section 73-18-2.

(8) "Utility boat" means the same as that term is defined in Section 59-2-405.2.

(9) "Vessel" means the same as that term is defined in Section 73-18-2.

Section 3. Section 59-32-102 is enacted to read:

59-32-102. Imposition.

(1) There is imposed an annual Boating Grant Tax on a vessel required to be registered under Section 73-18-7.

(2) The division shall:

(a) collect the tax imposed in Subsection (1); and

(b) deposit the revenue from the tax imposed in Subsection (1) into the Utah Boating Grant Account created in Section 73-18-22.3.

(3) Except as provided in Section 59-32-104, the Boating Grant Tax is:

(a) for personal watercraft:

Age of Personal Watercraft	Utah Boating Grant Tax
12 or more years	$5
9 or more years but less than 12 years	$12
6 or more years but less than 9 years	$17
3 or more years but less than 6 years	$22
Less than 3 years	$27

(b) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age:

Length of Vessel	Utah Boating Grant Tax
15 feet or more in length but less than 19 feet in length	$7
19 feet or more in length but less than 23 feet in length	$12

23 feet or more in length but less than 27 feet in length	$20
27 feet or more in length but less than 31 feet in length	$37

(c) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:

Age of Vessel	Utah Boating Grant Tax
12 or more years	$12
9 or more years but less than 12 years	$32
6 or more years but less than 9 years	$40
3 or more years but less than 6 years	$55
Less than 3 years	$75

(d) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:

Age of Vessel	Utah Boating Grant Tax
12 or more years	$25
9 or more years but less than 12 years	$60
6 or more years but less than 9 years	$87
3 or more years but less than 6 years	$110
Less than 3 years	$137

(e) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:

Age of Vessel	Utah Boating Grant Tax
12 or more years	$50
9 or more years but less than 12 years	$90
6 or more years but less than 9 years	$120
3 or more years but less than 6 years	$155
Less than 3 years	$200

(f) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:

Age of Vessel	Utah Boating Grant Tax
12 or more years	$60
9 or more years but less than 12 years	$125
6 or more years but less than 9 years	$175
3 or more years but less than 6 years	$250
Less than 3 years	$350

(g) $5 regardless of the age of the vessel if the vessel is:

(i) less than 15 feet in length;

(ii) a canoe;

(iii) a jon boat; or

(iv) a utility boat.

Section 4. Section 59-32-103 is enacted to read:

59-32-103. Exemptions.

Payment of the Boating Grant Tax, as created in Section 59-32-102, under this chapter is not required for:

(1) a vessel owned by a government entity and being operated within the scope of the government entity's duties;

(2) a vessel that:

(a) is already covered by a valid registration issued by vessel's nonresident owner's resident state; and

(b) has not been within the state of Utah in excess of 60 days of the calendar year;

(3) a vessel from a country other than the United States temporarily using the waters of this state; or

(4) a ship's lifeboat.

Section 5. Section 59-32-104 is enacted to read:

59-32-104. Administration.

For the purposes of administering the Boating Grant Tax imposed by this chapter, the length of a vessel shall be determined as provided in Subsections 59-2-405.2(7)(a) through (c).

Section 6. Section 73-18-2 is amended to read:

73-18-2. Definitions.

As used in this chapter:

(1) "Anchored" means a vessel that is temporarily attached to the bed or shoreline of a waterbody by any method and the hull of the vessel is not touching the bed or shoreline.

(2) "Beached" means that a vessel's hull is resting on the bed or shoreline of a waterbody.

(3) "Boat livery" means a person that holds a vessel for renting or leasing.

(4) "Carrying passengers for hire" means to transport persons on vessels or to lead persons on vessels for consideration.

(5) "Commission" means the Outdoor Adventure Commission.

(6) "Consideration" means something of value given or done in exchange for something given or done by another.

(7) "Dealer" means any person who is licensed by the appropriate authority to engage in and who is engaged in the business of buying and selling vessels or of manufacturing them for sale.

(8) "Derelict vessel":

(a) means a vessel that is left, stored, or abandoned upon the waters of this state in a wrecked, junked, or substantially dismantled condition; and

(b) includes:

(i) a vessel left at a Utah port or marina without consent of the agency or other entity administering the port or marine area; and

(ii) a vessel left docked or grounded upon a property without the property owner's consent.

(9) "Division" means the Division of Outdoor Recreation.

(10) "Moored" means long term, on the water vessel storage in an area designated and properly marked by the division or other applicable managing agency.

(11) "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

(12) "Operate" means to navigate, control, or otherwise use a vessel.

(13) "Operator" means the person who is in control of a vessel while it is in use.

(14) "Outfitting company" means any person who, for consideration:

(a) provides equipment to transport persons on all waters of this state; and

(b) supervises a person who:

(i) operates a vessel to transport passengers; or

(ii) leads a person on a vessel.

(15) (a) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a vessel.

(b) "Owner" includes a person entitled to the use or possession of a vessel subject to an interest by another person, reserved or created by agreement and securing payment or performance of an obligation.

(c) "Owner" does not include a lessee under a lease not intended as security.

(16) (a) "Personal watercraft" means a motorboat that is:

[~~(a)~~](i) less than 16 feet in length;

[~~(b)~~](ii) propelled by a water jet pump or other machinery as the motorboat's primary source of motive power; and

[~~(c)~~](iii) designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than sitting or standing inside the vessel.

(b) "Personal watercraft" includes a water jet device as part of the personal water craft vessel if the water jet device is connected to the personal water craft.

(17) "Racing shell" means a long, narrow watercraft:

(a) outfitted with long oars and sliding seats; and

(b) specifically designed for racing or exercise.

(18) "Sailboat" means any vessel having one or more sails and propelled by wind.

(19) "Vessel" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(20) "Wakeless speed" means an operating speed at which the vessel does not create or make a wake or white water trailing the vessel. This speed is not in excess of five miles per hour.

(21) "Water jet device" means a device with which an individual rides a hydro-powered apparatus above the surface of the water while connected to a personal watercraft or other power source that supplies thrust to the water jet device through a hose connecting the two devices.

[~~(21)~~](22) "Waters of this state" means any waters within the territorial limits of this state.

Section 7. Section 73-18-7 is amended to read:

73-18-7. Registration requirements -- Exemptions -- Fee -- Agents -- Records -- Period of registration and renewal -- Expiration -- Notice of transfer of interest or change of address -- Duplicate registration card -- Invalid registration -- Powers of division.

(1) (a) Except as provided by Section 73-18-9, the owner of each motorboat and sailboat on the waters of this state shall register it with the division as provided in this chapter.

(b) A person may not place, give permission for the placement of, operate, or give permission for the operation of a motorboat or sailboat on the waters of this state, unless the motorboat or sailboat is registered as provided in this chapter.

(2) (a) The owner of a motorboat or sailboat required to be registered shall file an application for registration with the division on forms approved by the division.

(b) The owner of the motorboat or sailboat shall sign the application[~~and~~], pay the fee set by the division, and pay the Boating Grant Tax as described in Section 59-32-103, after notifying the commission, in accordance with Section 63J-1-504.

(c) Before receiving a registration card and registration decals, the applicant shall provide the division with a certificate from the county assessor of the county in which the motorboat or sailboat has situs for taxation, stating that:

(i) the property tax on the motorboat or sailboat for the current year has been paid;

(ii) in the county assessor's opinion, the property tax is a lien on real property sufficient to secure the payment of the property tax; or

(iii) the motorboat or sailboat is exempt by law from payment of property tax for the current year.

(d) If the division modifies the fee under Subsection (2)(b), the modification shall take effect on the first day of the calendar quarter after 90 days from the day on which the division provides the State Tax Commission:

(i) notice from the division stating that the division will modify the fee; and

(ii) a copy of the fee modification.

(e) (i) The division may enter into an agreement with the Motor Vehicle Division created in Section 41-1a-106 to administer the registration requirements described in this chapter.

(ii) An individual may request automatic registration renewal as described in Section 41-1a-216.

(3) (a) Upon receipt of the application in the approved form, the division shall record the receipt and issue to the applicant registration decals and a registration card that state the number assigned to the motorboat or sailboat and the name and address of the owner.

(b) The registration card shall be available for inspection on the motorboat or sailboat for which it was issued, whenever that motorboat or sailboat is in operation.

(4) The assigned number shall:

(a) be painted or permanently attached to each side of the forward half of the motorboat or sailboat;

(b) consist of plain vertical block characters not less than three inches in height;

(c) contrast with the color of the background and be distinctly visible and legible;

(d) have spaces or hyphens equal to the width of a letter between the letter and numeral groupings; and

(e) read from left to right.

(5) A motorboat or sailboat with a valid marine document issued by the United States Coast Guard is exempt from the number display requirements of Subsection (4).

(6) The nonresident owner of any motorboat or sailboat already covered by a valid number that has been assigned to it according to federal law or a federally approved numbering system of the owner's resident state is exempt from registration while operating the motorboat or sailboat on the waters of this state unless the owner is operating in excess of the reciprocity period provided for in Subsection 73-18-9(1).

(7) (a) If the ownership of a motorboat or sailboat changes, the new owner shall file a new application form and fee with the division, and the division shall issue a new registration card and registration decals in the same manner as provided for in Subsections (2) and (3).

(b) The division shall reassign the current number assigned to the motorboat or sailboat to the new owner to display on the motorboat or sailboat.

(8) If the United States Coast Guard has in force an overall system of identification numbering for motorboats or sailboats within the United States, the numbering system employed under this chapter by the division shall conform with that system.

(9) (a) The division may authorize any person to act as its agent for the registration of motorboats and sailboats.

(b) A number assigned, a registration card, and registration decals issued by an agent of the division in conformity with this chapter and rules of the division are valid.

(10) (a) The Motor Vehicle Division shall classify all records of the division made or kept according to this section in the same manner that motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records pursuant to Section 41-1a-116.

(11) (a) (i) Each registration, registration card, and decal issued under this chapter shall continue in effect for 12 months, beginning with the first day of the calendar month of registration.

(ii) A registration may be renewed by the owner in the same manner provided for in the initial application.

(iii) The division shall reassign the current number assigned to the motorboat or sailboat when the registration is renewed.

(b) Each registration, registration card, and registration decal expires the last day of the month in the year following the calendar month of registration.

(c) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the motorboat or sailboat is extended to 12 midnight of the next business day.

(d) The division may receive applications for registration renewal and issue new registration cards at any time before the expiration of the registration, subject to the availability of renewal materials.

(e) The new registration shall retain the same expiration month as recorded on the original registration even if the registration has expired.

(f) The year of registration shall be changed to reflect the renewed registration period.

(g) If the registration renewal application is an application generated by the division through its automated system, the owner is not required to surrender the last registration card or duplicate.

(12) (a) An owner shall notify the division of:

(i) the transfer of all or any part of the owner's interest, other than creation of a security interest, in a motorboat or sailboat registered in this state under Subsections (2) and (3); and

(ii) the destruction or abandonment of the owner's motorboat or sailboat.

(b) Notification must take place within 15 days of the transfer, destruction, or abandonment.

(c) (i) The transfer, destruction, or abandonment of a motorboat or sailboat terminates its registration.

(ii) Notwithstanding Subsection (12)(c)(i), a transfer of a part interest that does not affect the owner's right to operate a motorboat or sailboat does not terminate the registration.

(13) (a) A registered owner shall notify the division within 15 days if the owner's address changes from the address appearing on the registration card and shall, as a part of this notification, furnish the division with the owner's new address.

(b) The division may provide in the division's rules for:

(i) the surrender of the registration card bearing the former address; and

(ii) (A) the replacement of the card with a new registration card bearing the new address; or

(B) the alteration of an existing registration card to show the owner's new address.

(14) (a) If a registration card is lost or stolen, the division may collect a fee of $4 for the issuance of a duplicate card.

(b) If a registration decal is lost or stolen, the division may collect a fee of $3 for the issuance of a duplicate decal.

(15) A number other than the number assigned to a motorboat or sailboat or a number for a motorboat or sailboat granted reciprocity under this chapter may not be painted, attached, or otherwise displayed on either side of the bow of a motorboat or sailboat.

(16) A motorboat or sailboat registration and number are invalid if obtained by knowingly falsifying an application for registration.

(17) The division may designate the suffix to assigned numbers, and by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

(a) the display of registration decals;

(b) the issuance and display of dealer numbers and registrations; and

(c) the issuance and display of temporary registrations.

(18) A violation of this section is an infraction.

Section 8. Section 73-18-22.3 is amended to read:

73-18-22.3. Utah Boating Grant Account -- Grant program administered by the Division of Outdoor Recreation.

(1) There is created within the General Fund a restricted account known as the "Utah Boating Grant Account."

(2) The Utah Boating Grant Account shall consist of:

(a) revenue deposited into the Utah Boating Grant Account under [~~Subsection 59-2-405.2(7) from the~~][~~statewide uniform fee on a vessel that is less than 31 feet in length and required to be registered with the state;~~]Section 59-32-102 from the Boating Grant Tax on a vessel that is less than 31 feet in length and required to be registered with the state;

(b) legislative appropriations;

(c) contributions, grants, gifts, transfers, bequests, and donations specifically directed to the Utah Boating Grant Account; and

(d) interest and earnings on the Utah Boating Grant Account.

(3) An entity eligible for a grant funded through the Utah Boating Grant Account is:

(a) a water conservancy district;

(b) a state agency;

(c) a county; or

(d) a municipality, as defined in Section 10-1-104.

(4) Subject to appropriation, money in the Utah Boating Grant Account may be used for:

(a) construction, repair, and replacement of a publicly owned boating facility, including a boat ramp, courtesy dock, or parking lot;

(b) resource protection of waterway shorelines to prevent or minimize erosion created by vessel wave action;

(c) drought access mitigation;

(d) alternative access development for non-motorized vessels to decrease conflicts, congestion, and safety concerns on existing motorboat access ramps;

(e) search and rescue equipment; and

(f) the payment of the administrative costs of the Division of Outdoor Recreation in administering a grant under this section.

(5) The Division of Outdoor Recreation shall administer the grants under this section pursuant to rules made, after notifying the Outdoor Adventure Commission, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The Division of Outdoor Recreation shall consult with the advisory committee described in Section 73-18-3.5 before issuing a grant under this section.

Section 9. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 337
S. B. 202
Passed March 5, 2025
Approved March 25, 2025
Effective January 1, 2026

PROPERTY TAX REVISIONS

Chief Sponsor: Chris H. Wilson
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies provisions in the Property Tax Act.

Highlighted Provisions:

This bill:

- ► requires counties to annually provide the State Tax Commission (commission) with a preliminary assessment book before delivery to the county auditor;
- ► requires the commission to take corrective action upon a county officer's noncompliance with assessment duties;
- ► describes forms of corrective action that the commission may take against a county officer;
- ► requires commission assistance upon a county officer's noncompliance with assessment duties for a certain period of time;
- ► increases the costs paid by counties that request and receive appraisal assistance from the commission;
- ► repeals newspaper publication requirements applicable to certain property tax increase proposals;
- ► requires taxing entities holding a public hearing for certain property tax increase proposals to allow for in-person or virtual participation;
- ► requires the property tax valuation notice provided by county auditors to include taxpayer instructions for appealing a property's valuation;
- ► removes tax payment information from the property tax valuation notice provided by county auditors;
- ► requires the commission to provide education and training to specified county officers in addition to hearing officers;
- ► requires county officers subject to the education and training requirements to complete the education and training before performing valuation-related work;
- ► allows the commission to require education and training for other county officers involved in property valuation;
- ► requires counties to ensure taxpayers have the ability to submit property valuation appeals through electronic means;
- ► requires counties to annually report appeals information to the commission for reporting to the Legislature;
- ► requires the tax notice provided by county treasurers to include information regarding payment options;
- ► requires the Multicounty Appraisal Trust to use trust funds to:
  - • develop and maintain a statewide web portal for uniform access to property characteristics and features;
  - • develop and maintain a statewide web portal for the uniform electronic filing of property valuation appeal applications; and
  - • assist counties in reporting appeals information to the commission;
- ► establishes timing requirements for counties to complete a review of certain applications for farmland and urban farming property tax assessment required after land changes ownership; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-1-210,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 329
59-2-303.1,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 263
59-2-311,
(Effective 01/01/26)
as last amended by Laws of Utah 2019, Chapter 16
59-2-509,
(Effective 05/07/25)
as last amended by Laws of Utah 2002, Chapter 141
59-2-702.5,
(Effective 05/07/25)
as enacted by Laws of Utah 2024, Chapter 263
59-2-703,

(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 263
59-2-704,
(Effective 05/07/25)
as last amended by Laws of Utah 2001, Chapter 9
59-2-919,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 246
59-2-919.1,
(Effective 01/01/26)
as last amended by Laws of Utah 2024, Chapter 246
59-2-919.2,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 246
59-2-1001,
(Effective 01/01/26)
as last amended by Laws of Utah 2018, Chapter 200
59-2-1004,
(Effective 01/01/26)
as last amended by Laws of Utah 2024, Chapters 252, 263 and 353
59-2-1317,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 430
59-2-1602,
(Effective 01/01/26)
as last amended by Laws of Utah 2022, Chapters 239, 451
59-2-1606,
(Effective 01/01/26)
as last amended by Laws of Utah 2024, Chapters 263, 315
59-2-1708,
(Effective 05/07/25)
as enacted by Laws of Utah 2012, Chapter 197

ENACTS:

59-2-331,
(Effective 05/07/25)
Utah Code Annotated 1953
59-2-1018,
(Effective 01/01/26)
Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-1-210 is amended to read:
59-1-210
(Effective 05/07/25)
. General powers and duties.

The powers and duties of the commission are as follows:

(1) to sue and be sued in its own name;

(2) to adopt rules and policies consistent with the Constitution and laws of this state to govern the commission, executive director, division directors, and commission employees in the performance of their duties;

(3) to adopt rules and policies consistent with the Constitution and laws of the state, to govern county boards and officers in the performance of any duty relating to assessment, equalization, and collection of taxes;

(4) to prescribe the use of forms relating to the assessment of property for state or local taxation, the equalization of those assessments, the reporting of property or income for state or local taxation purposes, or for the computation of those taxes and the reporting of any information, statistics, or data required by the commission;

(5) to administer and supervise the tax laws of the state;

(6) to prepare and maintain from year to year a complete record of all lands subject to taxation in this state, and all machinery used in mining and all property or surface improvements upon or appurtenant to mines or mining claims;

(7) to exercise general supervision over county assessors[~~and~~], county boards of equalization[~~including the authority to enforce Section 59-2-303.1~~], and [~~over~~]other county officers in the performance of their duties relating to the assessment of property and collection of taxes, so that all assessments of property are [~~just~~]uniform and equal, according to fair market value, and that the tax burden is distributed without favor or discrimination;

(8) to reconvene any county board of equalization which, when reconvened, may only address business approved by the commission and extend the time for which any county board of equalization may sit for the equalization of assessments;

(9) to confer with, advise, and direct county treasurers, assessors, and other county officers in matters relating to the assessment and

equalization of property for taxation and the collection of taxes;

(10) to provide for and hold annually at such time and place as may be convenient a district or state convention of county assessors, auditors, and other county officers to consider and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative to taxation and methods of assessment, to which county assessors and other officers called to attend shall attend at county expense;

(11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the penalties, liabilities, and punishments of public officers, persons, and officers or agents of corporations for failure or neglect to comply with the statutes governing the reporting, assessment, and taxation of property;

(12) to cause complaints to be made in the proper court seeking removal from office of assessors, auditors, members of county boards, and other assessing, taxing, or disbursing officers, who are guilty of official misconduct or neglect of duty;

(13) to require county attorneys to immediately institute and prosecute actions and proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the laws relating to the assessment and taxation of property in their respective counties;

(14) to require any person to furnish any information required by the commission to ascertain the value and the relative burden borne by all kinds of property in the state, and to require from all state and local officers any information necessary for the proper discharge of the duties of the commission;

(15) to examine all records relating to the valuation of property of any person;

(16) to subpoena witnesses to appear and give testimony and produce records relating to any matter before the commission;

(17) to cause depositions of witnesses to be taken as in civil actions at the request of the commission or any party to any matter or proceeding before the commission;

(18) to authorize any member or employee of the commission to administer oaths and affirmations in any matter or proceeding relating to the exercise of the powers and duties of the commission;

(19) to visit periodically each county of the state, to investigate and direct the work and methods of local assessors and other officials in the assessment, equalization, and taxation of property, and to ascertain whether the law requiring the assessment of all property not exempt from taxation, and the collection of taxes, have been properly administered and enforced;

(20) to carefully examine all cases where evasion or violation of the laws for assessment and taxation of property is alleged, to ascertain whether existing laws are defective or improperly administered;

(21) to furnish to the governor from time to time such assistance and information as the governor requires;

(22) to transmit to the governor and to each member of the Legislature recommendations as to legislation which will correct or eliminate defects in the operation of the tax laws and will equalize the burden of taxation within the state;

(23) to correct any error in any assessment made by it at any time before the tax is due and report the correction to the county auditor, who shall enter the corrected assessment upon the assessment roll;

(24) to compile and publish statistics relating to taxation in the state and prepare and submit an annual budget to the governor for inclusion in the state budget to be submitted to the Legislature;

(25) to perform any further duties imposed by law, and exercise all powers necessary in the performance of its duties;

(26) to adopt a schedule of fees assessed for services provided by the commission, unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the cost of services provided. Each fee established in this manner shall be submitted to and approved by the Legislature as part of the commission's annual appropriations request. The commission may not charge or collect any fee proposed in this manner without approval by the Legislature;

(27) to comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings; and

(28) to distribute the money deposited into the Rural Health Care Facilities Account as required by Section 26B-1-308.

Section 2. Section 59-2-303.1 is amended to read:

59-2-303.1

(Effective 05/07/25)

. Mandatory cyclical appraisals.

(1) For purposes of this section:

[~~(a) "Corrective action" includes:~~]

[~~(i) factoring pursuant to Section 59-2-704;~~]

[~~(ii) notifying the state auditor that the county failed to comply with the requirements of this section; or~~]

[~~(iii) filing a petition for a court order requiring a county to take action.~~]

[~~(b)~~](a) "Mass appraisal system" means a computer assisted mass appraisal system that:

(i) a county assessor uses to value real property; and

(ii) includes at least the following system features:

(A) has the ability to update all parcels of real property located within the county each year;

(B) can be programmed with specialized criteria;

(C) provides uniform and equal treatment of parcels within the same class of real property throughout the county; and

(D) annually updates all parcels of residential real property within the county using accepted valuation methodologies as determined by rule.

[~~(c)~~](b) "Property review date" means the date a county assessor completes a detailed review of the property characteristics of a parcel of real property in accordance with Subsection (3)(a).

(2) (a) The county assessor shall annually update property values of property as provided in Section 59-2-301 based on a systematic review of current market data.

(b) The county assessor shall conduct the annual update described in Subsection (2)(a) by using a mass appraisal system.

(c) The county assessor and the commission shall jointly certify that the county's mass appraisal system meets the requirements:

(i) described in Subsection (1)(b); and

(ii) of the commission.

(3) (a) In addition to the requirements in Subsection (2), the county assessor shall complete a detailed review of property characteristics for each property at least once every five years.

(b) The county assessor shall maintain on the county's mass appraisal system, a record of the last property review date for each parcel of real property located within the county assessor's county.

(c) (i) The county assessor shall maintain on the county's mass appraisal system a parcel's property tax class or category that is used for the purpose of property tax assessment on the annual assessment date.

(ii) The classifications or categories of real property under Subsection (3)(c)(i) shall include, at minimum:

(A) primary residential;

(B) commercial;

(C) vacant land;

(D) secondary residential; and

(E) non-taxable.

(iii) The classifications or categories of real property used by the county assessor, and the classification or category applied to a specific parcel, is public information.

[~~(4) (a) The commission shall take corrective action if the commission determines that:~~]

[~~(i) a county assessor has not satisfactorily followed the current mass appraisal standards, as provided by law;~~]

[~~(ii) the sales-assessment ratio, coefficients of dispersion, or other statistical measures of appraisal performance related to the studies required by Section 59-2-704 are not within the standards provided by law; or~~]

[~~(iii) the county assessor has failed to comply with the requirements of this section.~~]

[~~(b) If a county assessor fails to comply with the requirements of this section for one year, the commission shall assist the county assessor in fulfilling the requirements of Subsections (2) and (3).~~]

[~~(c) If a county assessor fails to comply with the requirements of this section for two consecutive years, the county will lose the county's allocation of the revenue generated statewide from the imposition of the multicounty assessing and collecting levy authorized in Sections 59-2-1602 and 59-2-1603.~~]

[~~(d) If a county loses its allocation of the revenue generated statewide from the imposition of the multicounty assessing and collecting levy described in Subsection (4)(c), the revenue the county would have received shall be distributed to the Multicounty Appraisal Trust created by interlocal agreement by all counties in the state.~~]

[~~(5)~~](4) (a) [~~On or before July 1, 2008, the~~]The county assessor shall prepare a five-year plan to comply with the requirements of Subsections (2) and (3).

(b) The plan shall be available in the county assessor's office for review by the public upon request.

(c) The plan shall be annually reviewed and revised as necessary.

[~~(6)~~](5) (a) A county assessor shall create, maintain, and regularly update a database containing the following information that the county assessor may use to enhance the county's ability to accurately appraise and assess property on an annual basis:

(i) fee and other appraisals;

(ii) property characteristics and features;

(iii) property surveys;

(iv) sales data; and

(v) any other data or information on sales, studies, transfers, changes to property, or property characteristics.

(b) A county assessor may provide access to the information in the database to another county assessor that requests assistance in accordance with Section 59-2-303.

Section 3. Section 59-2-311 is amended to read:

59-2-311

(Effective 01/01/26)

. Completion and delivery of assessment book -- Signed statement required -- Contents of signed statement -- Adjustment of assessment in assessment book -- Delivery of preliminary assessment book to commission.

(1) Before May 22 each year, the county assessor shall complete and deliver the assessment book to the county auditor.

(2) The county assessor shall subscribe and sign a statement in the assessment book substantially as follows:

I, ____, the assessor of ____ County, do swear that before May 22, _____(year), I made diligent inquiry and examination, and either personally or by deputy, established the value of all of the property within the county subject to assessment by me; that the property has been assessed on the assessment book equally and uniformly according to the best of my judgment, information, and belief at its fair market value; that I have faithfully complied with all the duties imposed on the assessor under the revenue laws including the requirements of Section 59-2-303.1; and that I have not imposed any unjust or double assessments through malice or ill will or otherwise, or allowed anyone to escape a just and equal assessment through favor or reward, or otherwise.

(3) Before completing and delivering the assessment book under Subsection (1), the county assessor shall adjust the assessment of property in the assessment book to reflect an adjustment in the taxable value of any property if the adjustment in taxable value is made:

(a) by the county board of equalization in accordance with Section 59-2-1004.5 on or before May 15; or

(b) by the county assessor in accordance with Section 59-2-303.2.

(4) (a) Before completing and delivering the assessment book under Subsection (1), the county assessor shall deliver a preliminary assessment book to the commission on or before May 15 of each year for review by the commission.

(b) The commission shall annually:

(i) review the preliminary assessment book for each county delivered under Subsection (4)(a); and

(ii) track the assessments for each county.

Section 4. Section 59-2-331 is enacted to read:

59-2-331
(Effective 05/07/25)
. Corrective action by commission.

(1) As used in this section:

(a) "County officer" means a county assessor, a member of a county board of equalization, or any other individual who holds a county office.

(b) "Multicounty assessing and collecting levy" means the same as that term is defined in Section 59-2-1601.

(2) The commission shall take corrective action if the commission determines that a county officer has materially failed to perform a duty under this chapter relating to the assessment of property.

(3) Corrective action under Subsection (2) may include one or more of the following actions:

(a) notifying a county officer in writing of the performance issue;

(b) ordering factoring pursuant to Section 59-2-704;

(c) subject to Subsection (4):

(i) recommending the removal of a county officer; or

(ii) filing a petition for a court order requiring a county officer to take action;

(d) reporting suspected misconduct or malfeasance of a county officer to law enforcement agencies, as appropriate; and

(e) taking any other action the commission determines is appropriate to ensure that:

(i) all assessments of property are uniform and equal, according to fair market value; and

(ii) the tax burden is distributed without favor or discrimination.

(4) (a) Before taking a corrective action described in Subsection (3)(c) against a county officer, the commission shall publish notice of the commission's intent to take the corrective action on:

(i) the commission's public website; and

(ii) the Utah Public Notice Website created in Section 63A-16-601.

(b) After taking a corrective action described in Subsection (3)(c) against a county officer, the commission shall provide written notice of the corrective action to:

(i) the county officer subject to the corrective action;

(ii) the county legislative body of the county for which the county officer described in Subsection (4)(b)(i) holds office;

(iii) the state auditor;

(iv) the president of the Senate; and

(v) the speaker of the House of Representatives.

(5) If the commission determines that a county officer has materially failed to perform a duty under this chapter relating to the assessment of property for a period of one year or longer, the commission shall:

(a) assist the county officer in performing the duty required by this chapter; and

(b) charge the county the full amount of the commission's costs in providing assistance under this Subsection (5).

Section 5. Section 59-2-509 is amended to read:
59-2-509
(Effective 05/07/25)
. Change of ownership or legal description.

(1) Subject to the other provisions of this section, land assessed under this part may continue to be assessed under this part if the land continues to comply with the requirements of this part, regardless of whether the land continues to have:

(a) the same owner; or

(b) legal description.

(2) Notwithstanding Subsection (1), land described in Subsection (1) is subject to the rollback tax as provided in Section 59-2-506 if the land is withdrawn from this part.

(3) Notwithstanding Subsection (1), land is withdrawn from this part if:

(a) there is a change in:

(i) the ownership of the land; or

(ii) the legal description of the land; and

(b) after a change described in Subsection (3)(a):

(i) the land does not meet the requirements of Section 59-2-503; [~~or~~]

(ii) an owner of the land fails to submit a new application for assessment as provided in Section 59-2-508[~~.~~] within 120 days after the day on which a change described in Subsection (3)(a) occurs; or

(iii) (A) an owner of the land submits the application required by this section; and

(B) the county denies the application upon review.

[~~(4) An application required by this section shall be submitted within 120 days after the day on which there is a change described in Subsection (3)(a).~~]

(4) Within 30 days from the day on which a county receives an application required by this section, the county shall:

(a) review the application for completion; and

(b) approve or deny the application.

(5) Land under an application required by this section is not withdrawn from this part for the period in which the application is under review by the county.

Section 6. Section 59-2-702.5 is amended to read:

59-2-702.5

(Effective 05/07/25)

. Education and training for county assessors.

(1) (a) The commission shall conduct a program of education and training for county assessors that offers instruction on:

(i) a county assessor's statutory obligations; and

(ii) the practical application of mass appraisal techniques to satisfy a county assessor's statutory obligations.

(b) The commission shall confer a designation of completion upon a county assessor each time that the county assessor completes the program under Subsection (1)(a).

(2) [~~(a)~~] A county assessor shall obtain a designation of completion under Subsection (1)(b) within 12 months after the day on which the county assessor starts a term of office.

[~~(b) If a county assessor fails to obtain a designation of completion, the commission shall take corrective action, as defined in Section 59-2-303.1.~~]

Section 7. Section 59-2-703 is amended to read:

59-2-703

(Effective 05/07/25)

. Commission to assist county assessors -- Appraisers provided upon request -- Costs of services -- Contingency fee arrangements prohibited.

(1) [~~(a) The~~]Except as provided in Section 59-2-331, the commission shall, upon request and pursuant to mutual agreement, provide county assessors with technical assistance and appraisal aid.

[~~(b)~~](a) The commission shall provide certified or licensed appraisers who, upon request of the county assessor and pursuant to mutual agreement, shall perform appraisals of property and other technical services as needed by the county assessor.

[~~(c)~~](b) The commission shall calculate the costs of these services based on the number of days of services rendered.

[~~(d)~~](c) Each county shall pay to the commission [~~50% of~~]an amount equal to the cost of the services that the county receives.

(2) (a) Both the commission and counties may contract with a private firm or an individual to conduct appraisals.

(b) A county assessor may request the private firm or individual conducting appraisals to assist the county assessor in meeting the requirements of Section 59-2-303.1.

(c) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the commission and counties may disclose the name of the taxpayer and the taxpayer's address to the contract appraiser.

(ii) A private appraiser is subject to the confidentiality requirements and penalty provisions provided in Title 63G, Chapter 2, Part 8, Remedies.

(d) (i) Neither the commission nor a county may contract with a private firm or an individual under a contingency fee arrangement to assess property or prosecute or defend an appeal.

(ii) An appraisal that has been prepared on a contingency fee basis may not be allowed in any proceeding before a county board of equalization or the commission.

Section 8. Section 59-2-704 is amended to read:

59-2-704

(Effective 05/07/25)

. Assessment studies -- Sharing of data -- Factoring assessment rates -- Rulemaking.

(1) (a) Each year, to assist in the evaluation of appraisal performance of taxable real property, the commission shall conduct and publish studies to determine the relationship between the market value shown on the assessment roll and the market value of real property in each county.

(b) The studies conducted under this Subsection (1) shall include measurements of uniformity within counties and use statistical methods established by the commission.

(c) County assessors may provide sales information to the commission for purposes of the studies conducted under this Subsection (1).

(d) The commission shall make the sales and appraisal information related to the studies conducted under this Subsection (1) available to the assessors upon request.

(2) (a) The commission shall, each year, order each county to adjust or factor its assessment rates using the most current studies so that the assessment rate in each county is in accordance with that prescribed in Section 59-2-103.

(b) The adjustment or factoring ordered under this Subsection (2) may include an entire county, geographical areas within a county, and separate classes of properties. [~~Where significant value deviations occur, the commission shall also order corrective action.~~]

(3) If the commission determines that sales data in any county is insufficient to perform the studies required under Subsection (1), the commission may conduct appraisals of property within that county.

(4) If a county fails to implement factoring [~~or corrective action~~]ordered under Subsection (2), the commission shall:

(a) implement the factoring[~~or corrective action~~]; and

(b) charge [~~100% of~~]an amount equal to the reasonable implementation costs of the factoring to that county.

(5) If a county disputes the factoring [~~or corrective action~~]ordered under Subsection (2), the matter may be mediated by the Multicounty Appraisal Trust as defined in Section 59-2-1601.

(6) (a) The commission may change the factor for any county which, after a hearing before the commission, establishes that the factor should properly be set at a different level for that county.

(b) The commission shall establish the method, procedure, and timetable for the hearings authorized under this section, including access to information to ensure a fair hearing.

(7) [~~The~~]In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may establish rules to implement this section.

Section 9. Section 59-2-919 is amended to read:

59-2-919

(Effective 05/07/25)

. Notice and public hearing requirements for certain tax increases -- Exceptions -- Audit.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include:

(i) revenue received by a taxing entity from a debt service levy voted on by the public;

(ii) revenue generated by the combined basic rate as defined in Section 53F-2-301; or

(iii) revenue generated by the charter school levy described in Section 53F-2-703.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the dollar amount of additional ad valorem tax revenue that would be generated each year by the proposed increase in the certified tax rate;

(vi) shall include a brief statement of the primary purpose for the proposed tax increase, including the taxing entity's intended use of additional ad valorem tax revenue described in Subsection (3)(c)(v);

(vii) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v);

(viii) shall state the Internet address for the taxing entity's public website;

(ix) may contain other information approved by the commission; and

(x) if sent in calendar year 2024, 2025, or 2026, shall contain:

(A) notice that the taxpayer may request electronic notice as described in Subsection 17-21-6(1)(m); and

(B) instructions describing how to elect to receive a notice as described in Subsection 17-21-6(1)(m).

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than $20,000 in ad valorem tax revenue for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than $20,000 of ad valorem tax revenue.

[~~(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:~~]

[~~(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;~~]

[~~(ii) electronically in accordance with Section 45-1-101; and~~]

[~~(iii) for the taxing entity, as a class A notice under Section 63G-30-102, for at least 14 days before the day on which the taxing entity conducts the public hearing described in Subsection (3)(a)(v) or (4)(b).~~]

[~~(b) The advertisement described in Subsection (6)(a)(i) shall:~~]

[~~(i) be no less than 1/4 page in size;~~]

[~~(ii) use type no smaller than 18 point; and~~]

[~~(iii) be surrounded by a 1/4-inch border.~~]

[~~(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.~~]

[~~(d) It is the intent of the Legislature that:~~]

[~~(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and~~]

[~~(ii) the newspaper or combination of newspapers selected:~~]

[~~(A) be of general interest and readership in the taxing entity; and~~]

[~~(B) not be of limited subject matter.~~]

[~~(c) (i) The advertisement described in Subsection (6)(a)(i) shall:~~]

[~~(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);~~]

[~~(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase; and~~]

[~~(C) state the Internet address for the taxing entity's public website.~~]

[~~(ii) The advertisement described in Subsection (6)(a)(ii) shall:~~]

[~~(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b);~~]

[~~(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase; and~~]

[~~(C) state the Internet address for the taxing entity's public website.~~]

[~~(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.~~]

(6) (a) Before holding the public hearing described in Subsection (3)(a)(v) or (4)(b), a taxing entity proposing a tax rate increase under this section shall publish an advertisement regarding the proposed tax increase:

(i) electronically in accordance with Section 45-1-101; and

(ii) as a class A notice under Section 63G-30-102.

[~~(g)~~](b) The advertisement described in Subsection (6)(a) shall:

(i) be published for at least 14 days before the day on which the taxing entity conducts the public hearing described in Subsection (3)(a)(v) or (4)(b); and

(ii) [~~For purposes of Subsection (3)(a)(iii) or (4)(a), the~~]substantially be in the following form and content[~~of an advertisement shall be substantially as follows~~]:

"NOTICE OF PROPOSED TAX INCREASE

(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from $_____ to $_____, which is $_____ per year.

If the proposed budget is approved, (name of the taxing entity) would receive an additional $_____ in property tax revenue per year as a result of the tax increase.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

The (name of the taxing entity) invites all concerned citizens to a public hearing for the purpose of hearing comments regarding the proposed tax increase and to explain the reasons for the proposed tax increase. You have the option to attend or participate in the public hearing in person or online.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

Virtual Meeting Link: (Internet address for remote participation and live streaming options)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity) or visit (Internet address for the taxing entity's public website)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize a taxing entity's use of a commission-approved direct notice to each taxpayer if:

(i) the direct notice is different and separate from the notice required under Section 59-2-919.1; and

(ii) the taxing entity petitions the commission for the use of a commission-approved direct notice.

[~~(i) the use of a weekly newspaper:~~]

[~~(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and~~]

[~~(B) if the county petitions the commission for the use of the weekly newspaper; or~~]

[~~(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:~~]

[~~(A) the cost of the advertisement would cause undue hardship;~~]

[~~(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and~~]

[~~(C) the taxing entity petitions the commission for the use of a commission approved direct notice.~~]

(8) (a) (i) A fiscal year taxing entity shall, on or before June 1, notify the commission and the county auditor of the date, time, and place of the public hearing described in Subsection (4)(b).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the commission and the county auditor of the date, time, and place of the public hearing described in Subsection (3)(a)(v).

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public; [~~and~~]

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a special district's or special service district's fee implementation or increase, or a combination of these items[~~.~~]; and

(C) available for individuals to attend or participate either in person or remotely through electronic means.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall:

(A) state the dollar amount of additional ad valorem tax revenue that would be generated each year by the proposed increase in the certified tax rate;

(B) explain the reasons for the proposed tax increase, including the taxing entity's intended use of additional ad valorem tax revenue described in Subsection (8)(b)(ii)(A);

(C) if the county auditor compiles the list required by Section 59-2-919.2, present the list at the public hearing and make the list available on the taxing entity's public website; and

(D) provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) The county auditor shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a special district or a special service district, a fee hearing described in Section 17B-1-643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10-5-107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10-6-135.5.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

(10) (a) A county auditor may conduct an audit to verify a taxing entity's compliance with Subsection (8).

(b) If the county auditor, after completing an audit, finds that a taxing entity has failed to meet the requirements of Subsection (8), the county auditor shall prepare and submit a report of the auditor's findings to the commission.

(c) The commission may not certify a tax rate that exceeds a taxing entity's certified tax rate if, on or before September 15 of the year in which the taxing entity is required to hold the public hearing described in Subsection (3)(a)(v) or (4)(b), the commission determines that the taxing entity has failed to meet the requirements of Subsection (8).

Section 10. Section 59-2-919.1 is amended to read:

59-2-919.1

(Effective 01/01/26)

. Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify each owner of real estate who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) except as provided in Subsection (4), be sent to all owners of real property by mail 10 or more days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the taxable value of the property;

(iii) for property assessed by the county assessor:

(A) instructions on how the taxpayer may file an application with the county board of equalization to appeal the valuation or equalization of the property under Section 59-2-1004, including instructions for filing an application through electronic means; and

(B) [~~(A)~~] the deadline for the taxpayer to make an application to appeal the valuation or equalization of the property under Section 59-2-1004; [~~or~~]

[~~(B)~~](iv) for property assessed by the commission[~~,~~]:

(A) instructions on how the taxpayer may file an application with the commission for a hearing on an objection to the valuation or equalization of the property under Section 59-2-1007;

(B) the deadline for the taxpayer to apply to the commission for a hearing on an objection to the valuation or equalization of the property under Section 59-2-1007; and

[~~(iv)~~](C) [~~for a property assessed by the commission,~~]a statement that the taxpayer may not appeal the valuation or equalization of the property to the county board of equalization;

(v) itemized tax information for all applicable taxing entities, including:

(A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and

(B) the dollar amount of the taxpayer's tax liability under the current rate;

(vi) the following, stated separately:

(A) the charter school levy described in Section 53F-2-703;

(B) the multicounty assessing and collecting levy described in Subsection 59-2-1602(2);

(C) the county assessing and collecting levy described in Subsection 59-2-1602(4);

(D) levies for debt service voted on by the public;

(E) levies imposed for special purposes under Section 10-6-133.4;

(F) for a fiscal year that begins on or after July 1, 2023, the combined basic rate as defined in Section 53F-2-301; and

(G) if applicable, the annual payment described in Subsection 63H-1-501(4)(a);

(vii) the tax impact on the property;

(viii) the date, time, and place of the required public hearing for each entity;

(ix) property tax information pertaining to:

(A) taxpayer relief; and

[~~(B) options for payment of taxes;~~]

[~~(C) collection procedures; and~~]

[~~(D)~~](B) the residential exemption described in Section 59-2-103;

(x) information specifically authorized to be included on the notice under this chapter;

(xi) the last property review date of the property as described in Subsection 59-2-303.1(1)(c);

(xii) instructions on how the taxpayer may obtain additional information regarding the valuation of the property, including the characteristics and features of the property, from[~~at least one the following sources~~]:

(A) a website maintained by the county; or

(B) the [~~county assessor's office~~]statewide web portal developed and maintained by the Multicounty Appraisal Trust under Subsection 59-2-1606(5)(a) for uniform access to property characteristics and features; and

(xiii) other information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(viii);

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate; and

(d) for each taxing entity proposing a tax increase, the dollar amount of additional ad valorem tax revenue, as defined in Section 59-2-919, that would be generated each year if the proposed tax increase is approved.

(4) (a) Subject to the other provisions of this Subsection (4), a county auditor may, at the county auditor's discretion, provide the notice required by this section to a taxpayer by electronic means if a taxpayer makes an election, according to procedures determined by the county auditor, to receive the notice by electronic means.

(b) (i) If a notice required by this section is sent by electronic means, a county auditor shall attempt to verify whether a taxpayer receives the notice.

(ii) If receipt of the notice sent by electronic means cannot be verified 14 days or more before the county board of equalization meets and the taxing entity holds a public hearing on a proposed increase in the certified tax rate, the notice required by this section shall also be sent by mail as provided in Subsection (2).

(c) A taxpayer may revoke an election to receive the notice required by this section by electronic means if the taxpayer provides written notice to the county auditor on or before April 30.

(d) An election or a revocation of an election under this Subsection (4):

(i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax; or

(ii) does not alter the requirement that a taxpayer appealing the valuation or the equalization of the taxpayer's real property submit the application for appeal within the time period provided in Subsection 59-2-1004(3).

(e) A county auditor shall provide the notice required by this section as provided in Subsection (2), until a taxpayer makes a new

election in accordance with this Subsection (4), if:

(i) the taxpayer revokes an election in accordance with Subsection (4)(c) to receive the notice required by this section by electronic means; or

(ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

(f) A person is considered to be a taxpayer for purposes of this Subsection (4) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

Section 11. Section 59-2-919.2 is amended to read:

59-2-919.2

(Effective 05/07/25)

. Consolidated advertisement of public hearings.

(1) (a) Except as provided in Subsection (1)(b), on the same day on which a taxing entity provides the notice to the county required under Subsection 59-2-919(8)(a)(i), the taxing entity shall provide to the county auditor the information required by Subsection 59-2-919(8)(a)(i).

(b) A taxing entity is not required to notify the county auditor of the taxing entity's public hearing in accordance with Subsection (1)(a) if the taxing entity is exempt from the notice requirements of Section 59-2-919.

(2) If as of July 22, two or more taxing entities notify the county auditor under Subsection (1), the county auditor shall by no later than July 22 of each year:

(a) compile a list of the taxing entities that notify the county auditor under Subsection (1);

(b) include on the list described in Subsection (2)(a), the following information for each taxing entity on the list:

(i) the name of the taxing entity;

(ii) the date, time, and location of the public hearing described in Subsection 59-2-919(8)(a)(i);

(iii) the average dollar increase on a residence in the taxing entity that the proposed tax increase would generate;

(iv) the average dollar increase on a business in the taxing entity that the proposed tax increase would generate;

(v) the dollar amount of additional ad valorem tax revenue, as defined in Section 59-2-919, that would be generated each year if the proposed tax increase is approved;

(vi) the approximate percentage increase in ad valorem tax revenue for the taxing entity if the proposed tax increase is approved; and

(vii) other information approved by the commission;

(c) provide a copy of the list described in Subsection (2)(a) to each taxing entity that notifies the county auditor under Subsection (1); and

(d) in addition to the requirements of Subsection (3), if the county has a webpage, publish a copy of the list described in Subsection (2)(a) on the county's webpage until December 31.

(3) (a) [~~At~~]Subject to Subsection (3)(b), at least two weeks before any public hearing included in the list under Subsection (2) is held, the county auditor shall publish:

(i) the list compiled under Subsection (2); and

(ii) a statement that:

(A) the list is for informational purposes only;

(B) the list should not be relied on to determine a person's tax liability under this chapter; and

(C) for specific information related to the tax liability of a taxpayer, the taxpayer should review the taxpayer's tax notice received under Section 59-2-919.1.

(b) [~~Except as provided in Subsection (3)(d)(ii), the~~]The information described in Subsection (3)(a) shall be published:

(i) electronically in accordance with Section 45-1-101;

(ii) as a class A notice under Section 63G-30-102; and

[~~(i) in no less than 1/4 page in size;~~]

[~~(ii) except for the heading described in Subsection (3)(b)(iii), in not less than 10-point type;~~]

(iii) under the following heading at the top of the document[~~in not less than 18-point boldface type~~]: "NOTICE OF PROPOSED TAX INCREASES[~~"; and~~]."

[~~(iv) surrounded by a 1/4-inch border.~~]

[~~(c) The published information described in Subsection (3)(a) and published in accordance with Subsection (3)(d)(i) may not be placed in the portion of a newspaper where a legal notice or classified advertisement appears.~~]

[~~(d) A county auditor shall publish the information described in Subsection (3)(a):~~]

[~~(i) (A) in a newspaper or combination of newspapers that are:~~]

[~~(I) published at least one day per week;~~]

[~~(II) of general interest and readership in the county; and~~]

[~~(III) not of limited subject matter; and~~]

[~~(B) once each week for the two weeks preceding the first hearing included in the list compiled under Subsection (2); and~~]

[~~(ii) for two weeks preceding the day of the first hearing included in the list compiled under Subsection (2):~~]

[~~(A) as required in Section 45-1-101; and~~]

[~~(B) for the county, as a class A notice under Section 63G-30-102.~~]

(4) A taxing entity that notifies the county auditor under Subsection (1) shall provide the list described in Subsection (2)(c) to a person:

(a) who attends the public hearing described in Subsection 59-2-919(8)(a)(i) of the taxing entity; or

(b) who requests a copy of the list.

(5) (a) A county auditor shall by no later than 30 days from the day on which the last publication of the information required by Subsection (3)(a) is made:

(i) determine the costs of compiling [~~and publishing~~]the list; and

(ii) charge each taxing entity included on the list an amount calculated by dividing the amount determined under Subsection (5)(a) by the number of taxing entities on the list.

(b) A taxing entity shall pay the county auditor the amount charged under Subsection (5)(a).

(6) The publication of the list under this section does not remove or change the notice requirements of Section 59-2-919 for a taxing entity.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) relating to the publication of a consolidated advertisement which includes the information described in Subsection (2) for a taxing entity that overlaps two or more counties;

(b) relating to the payment required in Subsection (5)(b); and

(c) to oversee the administration of this section and provide for uniform implementation.

Section 12. Section 59-2-1001 is amended to read:

59-2-1001

(Effective 01/01/26)

. County board of equalization -- Public hearings -- Hearing officers -- Notice of decision -- Rulemaking -- Education and training for county officers.

(1) The county legislative body is the county board of equalization and the county auditor is the clerk of the county board of equalization.

(2) (a) The county board of equalization shall adjust and equalize the valuation and assessment of the real and personal property within the county, subject to regulation and control by the commission, as prescribed by law.

(b) The county board of equalization shall meet and hold public hearings each year to examine the assessment roll and equalize the assessment of property in the county, including the assessment for general taxes of all taxing entities located in the county.

(3) (a) Except as provided in Subsection (3)(d), a county board of equalization may:

(i) appoint an appraiser licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, as a hearing officer for the purpose of examining an applicant or a witness; or

(ii) appoint an individual who is not licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, as a hearing officer for the purpose of examining an applicant or a witness if the county board of equalization determines that the individual has competency relevant to the work of a hearing officer, including competency in:

(A) real estate;

(B) finance;

(C) economics;

(D) public administration; or

(E) law.

(b) Except as provided in Subsection (3)(d), [~~beginning on January 1, 2014,~~]a county board of equalization may only allow an individual to serve as a hearing officer for the purposes of examining an applicant or a witness if the individual has completed a course the commission:

(i) develops in accordance with Subsection (3)(c)(i); or

(ii) approves in accordance with Subsection (3)(c)(ii).

(c) (i) [~~On or before January 1, 2014, the~~]The commission shall develop [~~a hearing officer training course~~]and administer a continuing education and training program for hearing officers that includes training in property valuation and administrative law.

(ii) In addition to the [~~course~~]program the commission develops and administers in accordance with Subsection (3)(c)(i), the commission may approve [~~a~~]the continuing education and training program for a hearing officer [~~training course~~]provided by a county or a private entity if the [~~course~~]program includes training in property valuation and administrative law.

(iii) The commission shall ensure that any education and training [~~described in~~]provided to hearing officers under this Subsection (3)(c) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(iv) (A) The commission shall confer a designation of completion upon a hearing officer each time the hearing officer completes the education and training program under Subsection (3)(c)(i) or (ii).

(B) A hearing officer shall obtain a designation of completion as described in Subsection (3)(c)(iv)(A) before the hearing officer acts or performs as a hearing officer.

(d) A county board of equalization may not appoint a person employed by an assessor's office as a hearing officer.

(e) A hearing officer shall transmit the hearing officer's findings to the board, where a quorum shall be required for final action upon any application for exemption, deferral, reduction, or abatement.

(4) (a) The clerk of the board of equalization shall notify the taxpayer, in writing, of any decision of the board.

(b) The decision shall include any adjustment in the amount of taxes due on the property resulting from a change in the taxable value and shall be considered the corrected tax notice.

(5) During the session of the board, the assessor or any deputy whose testimony is needed shall be present and may make any statement or introduce and examine witnesses on questions before the board.

(6) The county board of equalization may make and enforce any rule which is consistent with statute or commission rule and necessary for the government of the board, the preservation of order, and the transaction of business.

(7) (a) In addition to education and training provided to hearing officers under Subsection (3)(c), the commission shall develop and administer an education and training program for county officers whose participation in a county board of equalization is required by Subsection (1), including:

(i) members of a county legislative body; and

(ii) county auditors.

(b) The education and training provided to county officers under this Subsection (7)shall include instruction on:

(i) a county officer's duties and obligations in relation to the county board of equalization;

(ii) property valuation; and

(iii) administrative law.

(c) (i) The commission shall confer a designation of completion upon a county officer described in Subsection (7)(a) each time the county officer completes the education and training program under this Subsection (7).

(ii) A county officer subject to education and training under this Subsection (7) shall obtain a designation of completion as described in Subsection (7)(c)(i) before the county officer participates in a board of equalization process.

(8) The commission may require education and training for county officers involved in property valuation who are not otherwise required to complete an education and training program in accordance with Subsection (3)(c) or (7).

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for administering education and training programs in accordance with this section.

Section 13. Section 59-2-1004 is amended to read:

59-2-1004

(Effective 01/01/26)

. Appeal to county board of equalization -- Real property -- Time period for appeal -- Public hearing requirements -- Decision of board -- Extensions approved by commission -- Appeal to commission.

(1) As used in this section:

(a) "Applicable lien date" means January 1 of the year in which the valuation or equalization of real property is appealed to the county board of equalization.

(b) "Final assessed value" means:

(i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with this section, the value given to the real property by the county board of equalization, including a value based on a stipulation of the parties;

(ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal or the parties have entered a stipulation; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal and the parties have not entered a stipulation; or

(iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

(c) "Inflation adjusted value" means the value of the real property that is the subject of the appeal as calculated by changing the final assessed value for the previous taxable year for the real property by the median property value change.

(d) "Median property value change" means the midpoint of the property value changes for all real property that is:

(i) of the same class of real property as the qualified real property; and

(ii) located within the same county and within the same market area as the qualified real property.

(e) "Property value change" means the percentage change in the fair market value of real property on or after January 1 of the previous year and before January 1 of the current year.

(f) "Qualified real property" means real property:

(i) for which:

(A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with this section or the commission in accordance with Section 59-2-1006;

(B) the appeal described in Subsection (1)(f)(i)(A), resulted in a final assessed value that was lower than the assessed value; and

(C) the assessed value for the current taxable year is higher than the inflation adjusted value; and

(ii) that, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, has not had a qualifying change.

(g) "Qualifying change" means one of the following changes to real property that occurs on or after January 1 of the previous taxable year and before January 1 of the current taxable year:

(i) a physical improvement if, solely as a result of the physical improvement, the fair market value of the physical improvement equals or exceeds the greater of 10% of fair market value of the real property or $20,000;

(ii) a zoning change, if the fair market value of the real property increases solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases solely as a result of the change in the legal description of the real property.

(h) "Qualifying contract" means a contract for the completed sale of residential property that:

(i) involves residential property for which a taxpayer appealed the valuation or equalization to the county board of equalization;

(ii) identifies the final sales price for the residential property described in Subsection (1)(h)(i); and

(iii) is executed within six months before or after the applicable lien date.

(2) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) subject to Subsection (2)(d), filing the application with the county board of equalization within the time period described in Subsection (3); or

(ii) making an application by telephone [~~or other electronic means~~]within the time period described in Subsection (3) if the county legislative body passes a resolution under Subsection (11) authorizing a taxpayer to make an application by telephone[~~or other electronic means~~].

(b) (i) The county board of equalization shall make a rule describing the contents of the application.

(ii) In addition to any information the county board of equalization requires, the application shall include information about:

(A) the burden of proof in an appeal involving qualified real property; and

(B) the process for the taxpayer to learn the inflation adjusted value of the qualified real property.

(c) (i) (A) The county assessor shall notify the county board of equalization of a qualified real property's inflation adjusted value within

15 business days after the date on which the county assessor receives notice that a taxpayer filed an appeal with the county board of equalization.

(B) The county assessor shall notify the commission of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a person dissatisfied with the decision of a county board of equalization files an appeal with the commission.

(ii) (A) A person may not appeal a county assessor's calculation of inflation adjusted value but may appeal the fair market value of a qualified real property.

(B) A person may appeal a determination of whether, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, real property had a qualifying change.

(d) For purposes of Subsection (2)(a), the county board of equalization shall ensure that a taxpayer has the ability to access and file an application to appeal the valuation or equalization of real property through electronic means.

(3) (a) Except as provided in Subsection (3)(b) and for purposes of Subsection (2), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (3)(a).

(4) (a) The taxpayer shall include in the application under Subsection (2)(a):

(i) the taxpayer's estimate of the fair market value of the property and any evidence that may indicate that the assessed valuation of the taxpayer's property is improperly equalized with the assessed valuation of comparable properties; and

(ii) a signed statement of the personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8 if the taxpayer:

(A) appeals the value of multi-tenant residential property assessed in accordance with Section 59-2-301.8; and

(B) intends to contest the value of the personal property located within the multi-tenant residential property.

(b) For an appeal involving qualified real property, the county board of equalization shall presume that the fair market value of the qualified real property is equal to the inflation adjusted value.

(5) Subject to Subsection (6), in reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(6) (a) This Subsection (6) applies only to an appeal to a county board of equalization involving the valuation or equalization of residential property that is not qualified real property.

(b) If a qualifying contract is submitted as evidence in an appeal described in Subsection (6)(a), the only evidence that the county board of equalization or hearing officer may consider to determine that the final sales price identified in the qualifying contract does not provide an accurate or reliable indication of the fair market value of the residential property is evidence of the following, if submitted:

(i) evidence disputing the nature of the qualifying contract as an arms-length transaction;

(ii) evidence demonstrating that changes in market conditions have occurred in the time period between the day on which the qualifying contract was executed and the applicable lien date; or

(iii) evidence demonstrating that a qualifying change to the residential property has occurred in the time period between the day on which the qualifying contract was executed and the applicable lien date.

(c) In determining the fair market value of residential property in an appeal described in Subsection (6)(a), the county board of equalization may not consider any evidence or information other than the evidence submitted to the county board of equalization by the parties in the appeal.

(7) (a) Except as provided in Subsection (7)(b), at least five days before the day on which the county board of equalization holds a public hearing on an appeal:

(i) the county assessor shall provide the taxpayer any evidence the county assessor relies upon in support of the county assessor's valuation; and

(ii) the taxpayer shall provide the county assessor any evidence not previously provided to the county assessor that the taxpayer relies upon in support of the taxpayer's appeal.

(b) (i) The deadline described in Subsection (7)(a) does not apply to evidence that is commercial information as defined in Section 59-1-404, if:

(A) for the purpose of complying with Section 59-1-404, the county assessor requires that the taxpayer execute a nondisclosure agreement before the county assessor discloses the evidence; and

(B) the taxpayer fails to execute the nondisclosure agreement before the deadline described in Subsection (7)(a).

(ii) The county assessor shall disclose evidence described in Subsection (7)(b)(i) as soon as practicable after the county assessor receives the executed nondisclosure agreement.

(iii) The county assessor shall provide the taxpayer a copy of the nondisclosure agreement with reasonable time for the taxpayer to review and execute the agreement before the deadline described in Subsection (7)(a) expires.

(c) If at the public hearing, a party presents evidence not previously provided to the other party, the county board of equalization shall allow the other party to respond to the evidence in writing within 10 days after the day on which the public hearing occurs.

(d) (i) A county board of equalization may adopt rules governing the deadlines described in this Subsection (7), if the rules are no less stringent than the provisions of this Subsection (7).

(ii) A county board of equalization's rule that complies with Subsection (7)(d)(i) controls over the provisions of this subsection.

(8) (a) The county board of equalization shall meet and hold public hearings as described in Section 59-2-1001.

(b) (i) For purposes of this Subsection (8)(b), "significant adjustment" means a proposed adjustment to the valuation of real property that:

(A) is to be made by a county board of equalization; and

(B) would result in a valuation that differs from the original assessed value by at least 20% and $1,000,000.

(ii) When a county board of equalization is going to consider a significant adjustment, the county board of equalization shall:

(A) list the significant adjustment as a separate item on the agenda of the public hearing at which the county board of equalization is going to consider the significant adjustment; and

(B) for purposes of the agenda described in Subsection (8)(b)(ii)(A), provide a description of the property for which the county board of equalization is considering a significant adjustment.

(c) The county board of equalization shall make a decision on each appeal filed in accordance with this section within 60 days after the day on which the taxpayer makes an application.

(d) The commission may approve the extension of a time period provided for in Subsection (8)(c) for a county board of equalization to make a decision on an appeal.

(e) Unless the commission approves the extension of a time period under Subsection (8)(d), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection (8)(c), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting the county legislative body holds after the expiration of the time period described in Subsection (8)(c); and

(ii) hear the appeal at the meeting described in Subsection (8)(e)(i).

(f) The decision of the county board of equalization shall contain:

(i) a determination of the valuation of the property based on fair market value; and

(ii) a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(g) If no evidence is presented before the county board of equalization, the county board of equalization shall presume that the equalization issue has been met.

(h) (i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the county board of equalization shall adjust the valuation of the appealed property to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value established under Subsection (8)(h)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring all comparable properties into conformity with full fair market value.

(9) (a) If the decision of the county board of equalization warrants a refund of any amount of property taxes paid for the tax year for the real property that is the subject of the appeal, the county shall issue the refund directly to the taxpayer that paid the property taxes, or an officer or agent of that taxpayer as identified in the information provided under Subsection (9)(b), regardless of whether the taxpayer is the owner of record of the real property at the time the decision is rendered.

(b) A taxpayer entitled to a refund under this section that is not the owner of record of the real property subject to the appeal shall, within 10 calendar days after the day on which the decision of the county board of equalization is rendered, provide the following information to the county board of equalization:

(i) a statement that the taxpayer is entitled to receive the refund under Subsection (9)(a);

(ii) the name of the taxpayer, or an officer or agent of that taxpayer, entitled to receive the refund;

(iii) the mailing address of the taxpayer, or an officer or agent of that taxpayer, to which the taxpayer requests the refund to be sent; and

(iv) any other information requested by the county board of equalization.

(10) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as described in Section 59-2-1006.

(11) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone [~~or other electronic means~~].

Section 14. Section 59-2-1018 is enacted to read:

59-2-1018

(Effective 01/01/26)

. Reporting of county appeals information.

(1) On or before May 1 of each year, a county board of equalization shall report the following information to the commission:

(a) the number of appeals involving the valuation or equalization of real property for which the county board of equalization issued a decision during the preceding calendar year in accordance with Section 59-2-1004; and

(b) for each appeal described in Subsection (1)(a):

(i) whether the property is residential or commercial;

(ii) the original assessed value of the property; and

(iii) the value given to the property by the county board of equalization.

(2) The commission shall report the appeals information provided by county boards of equalization under Subsection (1) to the Revenue and Taxation Interim Committee on or before July 31 of each year.

Section 15. Section 59-2-1317 is amended to read:

59-2-1317

(Effective 05/07/25)

. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) [~~property tax information pertaining to taxpayer relief, options for payment of taxes,~~]instructions for payment of the taxes and tax notice charges applicable to the property, including the taxpayer's payment options and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a special district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506;

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007;

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section 17D-4-304; and

(I) if applicable, an annual payment to the Military Installation Development Authority or an entity designated by the authority in accordance with Section 63H-1-501;

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) if applicable, the annual payment described in Subsection 63H-1-501(4)(a);

(x) the date the taxes and tax notice charges are due;

(xi) the street address or website at which the taxes and tax notice charges may be paid;

(xii) the date on which the taxes and tax notice charges are delinquent;

(xiii) the penalty imposed on delinquent taxes and tax notice charges;

(xiv) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);

(xv) other information specifically authorized to be included on the notice under this chapter;

(xvi) other property tax information approved by the commission; and

(xvii) if sent in calendar year 2024, 2025, or 2026:

(A) notice that the taxpayer may request electronic notice as described in Subsection 17-21-6(1)(m); and

(B) instructions describing how to elect to receive a notice as described in Subsection 17-21-6(1)(m).

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii) (A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due special district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

Section 16. Section 59-2-1602 is amended to read:

59-2-1602

(Effective 01/01/26)

. Property Tax Valuation Fund -- Statewide levy -- Additional county levy.

(1) (a) There is created a custodial fund known as the "Property Tax Valuation Fund."

(b) The fund consists of:

(i) deposits made and penalties received under Subsection (3); and

(ii) interest on money deposited into the fund.

(c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed and used as provided in Section 59-2-1603.

(2) (a) Each county shall annually impose a multicounty assessing and collecting levy as provided in this Subsection (2).

(b) The tax rate of the multicounty assessing and collecting levy is:

(i) for a calendar year beginning on or after January 1, 2022, and before January 1, 2025,.000015; and

(ii) for a calendar year beginning on or after January 1, 2025, the certified revenue levy rounded up to the sixth decimal place.

(c) The state treasurer shall allocate revenue collected from the multicounty assessing and collecting levy as follows:

(i) 18% of the revenue collected shall be deposited into the Property Tax Valuation Fund, up to $500,000 annually; and

(ii) after the deposit described in Subsection (2)(c)(i), all remaining revenue collected from the multicounty assessing and collecting levy shall be deposited into the Multicounty Appraisal Trust.

(3) (a) The multicounty assessing and collecting levy imposed under Subsection (2) shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

(b) The multicounty assessing and collecting levy is:

(i) exempt from Sections 17C-1-403 through 17C-1-406;

(ii) in addition to and exempt from the maximum levies allowable under Section 59-2-908; and

(iii) exempt from the notice and public hearing requirements of Section 59-2-919.

(c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected from the multicounty assessing and collecting levy.

(ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later than the tenth day of the month following the end of the quarter in which the revenue is collected.

(iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day of the month following the end of the quarter in which the revenue is collected, the county shall pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

(d) The state treasurer shall allocate the penalties received under this Subsection (3) in the same manner as revenue is allocated under Subsection (2)(c).

(4) (a) A county may levy a county additional property tax in accordance with this Subsection (4).

(b) The county additional property tax:

(i) shall be separately stated on the tax notice as a county assessing and collecting levy;

(ii) may not be incorporated into the rate of any other levy;

(iii) is exempt from Sections 17C-1-403 through 17C-1-406; and

(iv) is in addition to and exempt from the maximum levies allowable under Section 59-2-908.

(c) Revenue collected from the county additional property tax shall be used to:

(i) promote the accurate valuation and uniform assessment levels of property as required by Section 59-2-103;

(ii) promote the efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes;

(iii) fund state mandated actions to meet legislative mandates or judicial or administrative orders that relate to promoting:

(A) the accurate valuation of property; and

(B) the establishment and maintenance of uniform assessment levels within and among counties; and

(iv) establish reappraisal programs that:

(A) are adopted by a resolution or ordinance of the county legislative body; and

(B) conform to rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 17. Section 59-2-1606 is amended to read:

59-2-1606

(Effective 01/01/26)

. Statewide property tax system funding for counties -- Disbursements to the Multicounty Appraisal Trust -- Use of funds.

(1) The funds deposited into the Multicounty Appraisal Trust in accordance with Section 59-2-1602 shall be used to provide funding for:

(a) a statewide property tax system that will promote:

(i) the accurate valuation of property;

(ii) the establishment and maintenance of uniform assessment levels among counties within the state;

(iii) efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes; and

(iv) the uniform filing of a signed statement a county assessor requests under Section 59-2-306, including implementation of a statewide electronic filing system; and

(b) property valuation services within the counties.

(2) (a) An association representing at least two-thirds of the counties in the state shall appoint a trustee.

(b) The trustee of the Multicounty Appraisal Trust shall:

(i) determine which projects to fund, including property valuation services within counties; and

(ii) oversee the administration of a statewide property tax system that meets the requirements of Subsection (1)(a).

(3) (a) Subject to Subsection (3)(b), the trustee of the Multicounty Appraisal Trust may, in order to promote the objectives described in Subsection (1), use funds deposited into the Multicounty Appraisal Trust to hire one or more professional appraisers to provide property valuation services within a county of the third, fourth, fifth, or sixth class.

(b) A professional appraiser hired to provide property valuation services under this Subsection (3) shall:

(i) hold an appraiser's certificate or license from the Division of Real Estate in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act; and

(ii) be approved by:

(A) the commission; and

(B) an association representing two or more counties in the state.

(4) (a) Except as provided in Subsection (4)(b), each county shall adopt the statewide property tax system on or before January 1, 2026.

(b) A county is exempt from the requirement in Subsection (4)(a) if:

(i) the county utilizes a computer assisted property tax system for mass appraisal other than the statewide property tax system;

(ii) the county demonstrates to the trustee of the Multicounty Appraisal Trust and to the commission that the property tax system described in Subsection (4)(b)(i) is interoperable with the statewide property tax system; and

(iii) the trustee of the Multicounty Appraisal Trust and the commission approve the county's exemption from the requirement in Subsection (4)(a).

(c) The commission and an association that represents at least two-thirds of the counties in the state shall assist any county adopting the statewide property tax system.

(5) In order to promote the objectives described in Subsection (1), the trustee of the Multicounty Appraisal Trust shall use funds deposited into the Multicounty Appraisal Trust to:

(a) subject to Subsection (6), develop and maintain a statewide web portal for uniform access to property characteristics and features relevant to the valuation of real property;

(b) subject to Subsection (7), develop and maintain a statewide web portal for the uniform electronic filing of an application to appeal the valuation or equalization of real property with a county board of equalization under Section 59-2-1004; and

(c) assist counties with tracking and reporting appeals information to the commission as required by Section 59-2-1018.

(6) (a) The statewide web portal for uniform access to property characteristics and features developed under Subsection (5)(a) shall, at a minimum, specify the following property characteristics and features:

(i) property owner's name;

(ii) parcel or serial number;

(iii) situs address;

(iv) mailing address;

(v) tax area;

(vi) the neighborhood;

(vii) property type;

(viii) land type;

(ix) quality or condition;

(x) year of construction;

(xi) gross living area;

(xii) acreage;

(xiii) market value; and

(xiv) taxable value.

(b) In developing the statewide web portal for uniform access to property characteristics and features under Subsection (5)(a), the Multicounty Appraisal Trust may link the statewide web portal to a web portal maintained by a county for accessing property characteristics and features within the county if the Multicounty Appraisal Trust determines that the county web portal meets the requirements of Subsection (6)(a).

(7) In developing the statewide web portal for the uniform electronic filing of appeal applications under Subsection (5)(b), the Multicounty Appraisal Trust may link the statewide web portal to a web portal maintained by a county for the uniform electronic filing of appeal applications if the Multicounty Appraisal Trust determines that the county web portal provides equivalent functions as the statewide web portal.

Section 18. Section 59-2-1708 is amended to read:

59-2-1708

(Effective 05/07/25)

. Change of ownership or legal description.

(1) Subject to the other provisions of this section, land assessed under this part may continue to be assessed under this part if the land continues to comply with the requirements of this part, regardless of whether the land continues to have the same owner or legal description.

(2) Notwithstanding Subsection (1), land described in Subsection (1) is subject to the rollback tax as provided in Section 59-2-1705 if the land is withdrawn from this part.

(3) Notwithstanding Subsection (1), land is withdrawn from this part if:

(a) there is a change in:

(i) the ownership of the land; or

(ii) the legal description of the land; and

(b) after a change described in Subsection (3)(a):

(i) the land does not meet the requirements of Section 59-2-1703; [~~or~~]

(ii) an owner of the land fails to submit a new application for assessment as provided in Section 59-2-1707[~~.~~] within 120 days after the day on which a change described in Subsection (3)(a) occurs; or

(iii) (A) an owner of the land submits the application required by this section; and

(B) the county denies the application upon review.

(4) Within 30 days from the day on which a county receives an application required by this section, the county shall:

(a) review the application for completion; and

(b) approve or deny the application.

(5) Land under an application required by this section is not withdrawn from this part for the period in which the application is under review by the county.

[~~(4) An application required by this section shall be submitted within 120 days after the day on which there is a change described in Subsection (3)(a).~~]

Section 19. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect for a taxable year beginning on or after January 1, 2026.

(2) The actions affecting the following sections take effect on May 7, 2025:

(a) Section 59-1-210 (Effective 05/07/25);

(b) Section 59-2-303.1 (Effective 05/07/25);

(c) Section 59-2-331 (Effective 05/07/25);

(d) Section 59-2-509 (Effective 05/07/25);

(e) Section 59-2-702.5 (Effective 05/07/25);

(f) Section 59-2-703 (Effective 05/07/25);

(g) Section 59-2-704 (Effective 05/07/25);

(h) Section 59-2-919 (Effective 05/07/25);

(i) Section 59-2-919.2 (Effective 05/07/25);

(j) Section 59-2-1317 (Effective 05/07/25); and

(k) Section 59-2-1708 (Effective 05/07/25).

CHAPTER 338
S. B. 206
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

ESTATE PLANNING AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill addresses issues related to estate planning.

Highlighted Provisions:

This bill:

- ► creates and amends definitions related to estate planning;
- ► addresses the requirements for making a will, including the requirements for testamentary capacity;
- ► amends the rule against perpetuities for a power of appointment;
- ► clarifies the legal standard of proof for a guardianship;
- ► removes the requirement that a person alleged to be incapacitated be present at the guardianship hearing;
- ► allows a trustee to decant a trust in certain circumstances;
- ► addresses the capacity to make a power of attorney;
- ► addresses the capacity to appoint an agent for purposes of an advanced health care directive;
- ► modifies the capacity required for a custodian for Title 75A, Chapter 8, Uniform Transfers to Minors Act;
- ► recodifies Title 75B, Chapter 1, Part 3, Asset Protection Trust;
- ► defines asset protection trust to include an irrevocable trust for which the settlor may be made a beneficiary by the act or action of another person;
- ► provides that an affidavit of solvency for an asset protection trust is discretionary;
- ► provides that a person may only bring a cause of action or claim for relief regarding a fraudulent or voidable transfer for assets transferred to the asset protection trust within the limitations period;
- ► provides that, if a trustee makes multiple transfers to an asset protection trust, a distribution is considered to be made from the most recent transfer;
- ► allows a trustee to convey property held in the asset protection trust to the settlor or beneficiary to secure financing;
- ► provides that the property has to be reconveyed to the trustee within a certain time period to not be considered a transfer for purposes of the limitations period;
- ► includes a coordination clause to address a technical conflict with a cross-reference change if this bill and H.B. 334, Guardianships and Supported Decision-Making Agreements Amendments, both pass and become law;
- ► includes a coordination clause to coordinate technical and substantive changes if this bill and S.B. 100, Estate Planning Recodification, both pass and become law; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

7-5-1, as last amended by Laws of Utah 2013, Chapter 364
75-1-201, as last amended by Laws of Utah 2024, Chapter 364
75-2-205, as last amended by Laws of Utah 2024, Chapter 364
75-2-501, as repealed and reenacted by Laws of Utah 1998, Chapter 39
75-2-1203, as last amended by Laws of Utah 2013, Chapter 364
75-3-303, as last amended by Laws of Utah 2013, Chapter 364
75-3-308, as last amended by Laws of Utah 1998, Chapter 39
75-5-303, as last amended by Laws of Utah 2024, Chapter 113
75-5-304, as last amended by Laws of Utah 2022, Chapter 441
75-7-103, as last amended by Laws of Utah 2020, Chapter 348
75-7-105, as last amended by Laws of Utah 2024, Chapter 364
75-7-107, as last amended by Laws of Utah 2024, Chapter 364
75-7-301, as last amended by Laws of Utah 2024, Chapter 364
75-7-501, as last amended by Laws of Utah 2024, Chapter 364
75-7-505, as last amended by Laws of Utah 2024, Chapter 364
75-7-816, as last amended by Laws of Utah 2024, Chapter 364

75A-2-102, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-2-105, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-101, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-302, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-5-203, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-5-303, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-5-304, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-8-102, as renumbered and amended by Laws of Utah 2024, Chapter 364
75B-1-101, as enacted by Laws of Utah 2024, Chapter 364
75B-1-301, as enacted by Laws of Utah 2024, Chapter 364
75B-1-302, as renumbered and amended by Laws of Utah 2024, Chapter 364

ENACTS:

75-7-812.5, Utah Code Annotated 1953
75B-1-303, Utah Code Annotated 1953
75B-1-304, Utah Code Annotated 1953
75B-1-305, Utah Code Annotated 1953
75B-1-306, Utah Code Annotated 1953
75B-1-307, Utah Code Annotated 1953
75B-1-308, Utah Code Annotated 1953
75B-1-309, Utah Code Annotated 1953
75B-1-310, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

AMENDS:

7-5-1, as last amended by Laws of Utah 2013, Chapter 364
75-7-105, as last amended by Laws of Utah 2024, Chapter 364
75-7-301, as last amended by Laws of Utah 2024, Chapter 364
75-7-501, as last amended by Laws of Utah 2024, Chapter 364
75-7-505, as last amended by Laws of Utah 2024, Chapter 364
75-7-812.5, Utah Code Annotated 1953
75A-5-203, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-5-303, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-5-304, as renumbered and amended by Laws of Utah 2024, Chapter 364
75B-1-101, as enacted by Laws of Utah 2024, Chapter 364
75B-1-302, as renumbered and amended by Laws of Utah 2024, Chapter 364
75B-1-304, Utah Code Annotated 1953
75B-1-308, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-5-1 is amended to read:

7-5-1. Definitions -- Allowable trust companies -- Exceptions.

(1) As used in this chapter:

(a) "Business trust" means an entity engaged in a trade or business that is created by a declaration of trust that transfers property to trustees, to be held and managed by them for the benefit of persons holding certificates representing the beneficial interest in the trust estate and assets.

(b) "Trust business" means, except as provided in Subsection (1)(c), a business in which one acts in any agency or fiduciary capacity, including that of personal representative, executor, administrator, conservator, guardian, assignee, receiver, depositary, or trustee under appointment as trustee for any purpose permitted by law[~~, including the definition of "trust" set forth in Subsection 75-1-201(55)~~].

(c) "Trust business" does not include the following means of holding money, assets, or other property:

(i) money held in a client trust account by an attorney authorized to practice law in this state;

(ii) money held in connection with the purchase or sale of real estate by a person licensed as a principal broker in accordance with Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

(iii) money or other assets held in escrow by a person authorized by the department in accordance with Chapter 22, Regulation of Independent Escrow Agents, or by the Utah Insurance Department to act as an escrow agent in this state;

(iv) money held by a homeowners' association or similar organization to pay maintenance and other related costs for commonly owned property;

(v) money held in connection with the collection of debts or payments on loans by a person acting solely as the agent or representative or otherwise at the sole direction of the person to which the debt or payment is owed, including money held by an escrow agent for payment of taxes or insurance;

(vi) money and other assets held in trust on an occasional or isolated basis by a person who does not represent that the person is engaged in the trust business in Utah;

(vii) money or other assets found by a court to be held in an implied, resulting, or constructive trust;

(viii) money or other assets held by a court appointed conservator, guardian, receiver, trustee, or other fiduciary if:

(A) the conservator, receiver, guardian, trustee, or other fiduciary is responsible to the court in the same manner as a personal representative under Title 75, Chapter 3, Part 5, Supervised Administration, or as a receiver under Rule 66, Utah Rules of Civil Procedure; and

(B) the conservator, trustee, or other fiduciary is a certified public accountant or has qualified for and received a designation as a certified financial planner, chartered financial consultant, certified financial analyst, or similar designation suitable to the court, that evidences the conservator's, trustee's, or other fiduciary's professional competence to manage financial matters;

(ix) money or other assets held by a credit services organization operating in compliance with Title 13, Chapter 21, Credit Services Organizations Act;

(x) money, securities, or other assets held in a customer account in connection with the purchase or sale of securities by a regulated securities broker, dealer, or transfer agent; or

(xi) money, assets, and other property held in a business trust for the benefit of holders of certificates of beneficial interest if the fiduciary activities of the business trust are merely incidental to conducting business in the business trust form.

(d) "Trust company" means an institution authorized to engage in the trust business under this chapter. Only the following may be a trust company:

(i) a Utah depository institution or its wholly owned subsidiary;

(ii) an out-of-state depository institution authorized to engage in business as a depository institution in Utah or its wholly owned subsidiary;

(iii) a corporation, including a credit union service organization, owned entirely by one or more federally insured depository institutions as defined in Subsection 7-1-103(8);

(iv) a direct or indirect subsidiary of a depository institution holding company that also has a direct or indirect subsidiary authorized to engage in business as a depository institution in Utah; and

(v) any other corporation continuously and lawfully engaged in the trust business in this state since before July 1, 1981.

(2) Only a trust company may engage in the trust business in this state.

(3) The requirements of this chapter do not apply to:

(a) an institution authorized to engage in a trust business in another state that is engaged in trust activities in this state solely to fulfill its duties as a trustee of a trust created and administered in another state;

(b) a national bank, federal savings bank, federal savings and loan association, or federal credit union authorized to engage in business as a depository institution in Utah, or any wholly owned subsidiary of any of these, to the extent the institution is authorized by its primary federal regulator to engage in the trust business in this state; or

(c) a state agency that is otherwise authorized by statute to act as a conservator, receiver, guardian, trustee, or in any other fiduciary capacity.

Section 2. Section 75-1-201 is amended to read:

75-1-201. Title definitions.

As used in this title:

(1) "Agent" includes an attorney-in-fact under a durable or nondurable power of attorney, an individual authorized to make decisions concerning another's health care, and an individual authorized to make decisions for another under a natural death act.

(2) "Application" means a written request to the registrar for an order of informal probate or appointment under Chapter 3, Part 3, Informal Probate and Appointment Proceedings.

(3) (a) "Beneficiary," as it relates to trust beneficiaries, includes:

(i) a person who has any present or future interest, vested or contingent; and

(ii) the owner of an interest by assignment or other transfer.

(b) "Beneficiary," as it relates to a charitable trust, includes any person entitled to enforce the trust.

(c) "Beneficiary," as it relates to a beneficiary of a beneficiary designation, means a beneficiary of:

(i) an insurance or annuity policy;

(ii) an account with POD designation;

(iii) a security registered in beneficiary form (TOD);

(iv) a pension, profit-sharing, retirement, or similar benefit plan; or

(v) other nonprobate transfer at death.

(d) "Beneficiary," as it relates to a beneficiary designated in a governing instrument, includes:

(i) a grantee of a deed, a devisee, a trust beneficiary, a beneficiary of a beneficiary designation, a donee, appointee, or taker in default of a power of appointment; and

(ii) a person in whose favor a power of attorney or a power held in any individual, fiduciary, or representative capacity is exercised.

(4) "Beneficiary designation" means a governing instrument naming a beneficiary of an insurance or annuity policy, of an account with POD designation, of a security registered in beneficiary form (TOD), or of a pension, profit-sharing, retirement, or similar benefit plan, or other nonprobate transfer at death.

(5) (a) "Child" includes any individual entitled to take as a child under this title by intestate succession from the parent whose relationship is involved.

(b) "Child" does not include an individual who is only a stepchild, a foster child, a grandchild, or any more remote descendant.

(6) (a) "Claims," in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person, whether arising in contract, in tort, or otherwise, and liabilities of the estate which arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration.

(b) "Claims" does not include estate or inheritance taxes, or demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(7) "Community property with a right of survivorship" means joint tenants with the right of survivorship.

(8) "Conservator" means a person who is appointed by a court to manage the estate of a protected person.

(9) "Court" means any of the courts of record in this state having jurisdiction in matters relating to the affairs of decedents.

(10) "Descendant" means all of an individual's descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in this title.

(11) "Devise," when used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will.

(12) "Devisee" means any person designated in a will to receive a devise. For the purposes of Chapter 3, Probate of Wills and Administration, in the case of a devise to an existing trust or trustee, or to a trustee in trust described by will, the trust or trustee is the devisee, and the beneficiaries are not devisees.

(13) "Disability" means cause for a protective order as described by Section 75-5-401.

(14) "Distributee" means any person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment thereto remaining in his hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For purposes of this provision, "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(15) "Estate" includes the property of the decedent, trust, or other person whose affairs are subject to this title as originally constituted and as it exists from time to time during administration.

(16) "Exempt property" means that property of a decedent's estate which is described in Section 75-2-403.

(17) "Fiduciary" includes a personal representative, guardian, conservator, and trustee.

(18) "Foreign personal representative" means a personal representative of another jurisdiction.

(19) "Formal proceedings" means proceedings conducted before a judge with notice to interested persons.

(20) "General personal representative" does not include a special administrator.

(21) "General power of appointment" means the same as that term is defined in Section 75A-4-102.

[~~(21)~~](22) "Governing instrument" means a deed, will, trust, insurance or annuity policy, account with POD designation, security registered in beneficiary form (TOD), pension, profit-sharing, retirement, or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney, or a dispositive, appointive, or nominative instrument of any similar type.

[~~(22)~~](23) (a) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, or by written instrument as provided in Section 75-5-202.5.

(b) "Guardian" does not include a person who is merely a guardian ad litem.

[~~(23)~~](24) "Heirs," except as controlled by Section 75-2-711, means persons, including the surviving spouse and state, who are entitled under the statutes of intestate succession to the property of a decedent.

[~~(24)~~](25) "Incapacitated" means [~~a judicial determination after proof by clear and convincing evidence that~~]an adult's ability to do the following is functionally impaired to the extent that the individual lacks the ability, even with appropriate technological assistance, to meet the essential requirements for financial protection or physical health, safety, or self-care:

(a) receive and evaluate information;

(b) make and communicate decisions; or

(c) provide for necessities such as food, shelter, clothing, health care, or safety.

[~~(25)~~](26) "Incapacity" means [~~incapacitated~~]the state of being incapacitated.

[~~(26)~~](27) "Informal proceedings" mean a proceeding conducted without notice to interested persons by an officer of the court acting as a registrar for probate of a will or appointment of a personal representative.

[~~(27)~~](28) (a) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person. The meaning of interested person as it relates to particular persons may vary from time to time and is determined according to the particular purposes of, and matter involved in, any proceeding.

(b) "Interested person" includes persons having priority for appointment as personal representative, other fiduciaries representing interested persons, a settlor of a trust, if living, or the settlor's legal representative, if any, if the settlor is living but incapacitated.

[~~(28)~~](29) "Issue" means a descendant of an individual.

[~~(29)~~](30) (a) "Joint tenants with the right of survivorship" includes coowners of property held under circumstances that entitle one or more to the whole of the property on the death of the other.

(b) "Joint tenants with the right of survivorship" does not include forms of coownership registration in which the underlying ownership of each party is in proportion to that party's contribution.

[~~(30)~~](31) "Lease" includes an oil, gas, or other mineral lease.

[~~(31)~~](32) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

[~~(32)~~](33) "Minor" means a person who is under 18 years old.

[~~(33)~~](34) "Minor protected person" means a minor for whom a conservator has been appointed because of minority.

[~~(34)~~](35) "Minor ward" means a minor for whom a guardian has been appointed solely because of minority.

[~~(35)~~](36) "Mortgage" means any conveyance, agreement, or arrangement in which property is used as security.

(37) "Nongeneral power of appointment" means the same as that term is defined in Section 75A-4-102.

[~~(36)~~](38) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of the decedent's death.

[~~(37)~~](39) "Organization" includes a corporation, limited liability company, business trust, estate, trust, partnership, joint venture, association, government or governmental subdivision or agency, or any other legal or commercial entity.

[~~(38)~~](40) (a) "Parent" includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under this title by intestate succession from the child whose relationship is in question.

(b) "Parent" does not include any person who is only a stepparent, foster parent, or grandparent.

[~~(39)~~](41) "Payor" means a trustee, insurer, business entity, employer, government, governmental agency or subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

[~~(40)~~](42) "Person" means an individual or an organization.

[~~(41)~~](43) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

[~~(42)~~](44) "Petition" means a written request to the court for an order after notice.

(45) "Power of appointment" means the same as that term is defined in Section 75A-4-102.

[~~(43)~~](46) "Proceeding" includes action at law and suit in equity.

[~~(44)~~](47) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

[~~(45)~~](48) "Protected person" means a person for whom a conservator has been appointed.

[~~(46)~~](49) "Protective proceeding" means a proceeding described in Section 75-5-401.

[~~(47)~~](50) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[~~(48)~~](51) "Registrar" means the official of the court designated to perform the functions of registrar as provided in Section 75-1-307.

[~~(49)~~](52) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate, and, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt, or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

[~~(50)~~](53) "Settlement," in reference to a decedent's estate, includes the full process of administration, distribution, and closing.

[~~(51)~~](54) "Sign" means, with present intent to authenticate or adopt a record other than a will:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

[~~(52)~~](55) "Special administrator" means a personal representative as described in Sections 75-3-614 through 75-3-618.

[~~(53)~~](56) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or insular possession subject to the jurisdiction of the United States, or a Native American tribe or band recognized by federal law or formally acknowledged by a state.

[~~(54)~~](57) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

[~~(55)~~](58) "Successors" means persons, other than creditors, who are entitled to property of a decedent under the decedent's will or this title.

[~~(56)~~](59) "Supervised administration" means the proceedings described in Chapter 3, Part 5, Supervised Administration.

[~~(57)~~](60) (a) "Survive" means, except for Chapter 6, Part 3, Uniform Transfer on Death Security Registration Act, that an individual has neither predeceased an event, including the death of another individual, nor is considered to have predeceased an event under Section 75-2-104 or 75-2-702.

(b) "Survive" includes its derivatives, such as "survives," "survived," "survivor," and "surviving."

[~~(58)~~](61) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

[~~(59) "Testator" includes an individual of either sex.~~]

(62) "Testator" means an individual, of either sex, who has made a will.

[~~(60)~~](63) (a) "Trust" includes:

(i) a health savings account, as defined in Section 223 of the Internal Revenue Code;

(ii) an express trust, private or charitable, with additions thereto, wherever and however created; or

(iii) a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust.

(b) "Trust" does not include:

(i) a constructive trust;

(ii) a resulting trust;

(iii) a conservatorship;

(iv) a personal representative;

(v) a trust account as defined in Chapter 6, Nonprobate Transfers;

(vi) a custodial arrangement under Title 75A, Chapter 8, Uniform Transfers To Minors Act;

(vii) a business trust providing for certificates to be issued to beneficiaries;

(viii) a common trust fund;

(ix) a voting trust;

(x) a preneed funeral plan under Title 58, Chapter 9, Funeral Services Licensing Act;

(xi) a security arrangement;

(xii) a liquidation trust;

(xiii) a trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind; or

(xiv) any arrangement under which a person is nominee or escrowee for another.

[~~(61)~~](64) "Trustee" includes an original, additional, and successor trustee, and cotrustee, whether or not appointed or confirmed by the court.

[~~(62)~~](65) "Ward" means a person for whom a guardian has been appointed.

[~~(63)~~](66) "Will" includes codicil and any testamentary instrument which merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.

Section 3. Section 75-2-205 is amended to read:

75-2-205. Decedent's nonprobate transfers to others.

Unless excluded under Section 75-2-208, the value of the augmented estate includes the value of the decedent's nonprobate transfers to others, not included under Section 75-2-204, of any of the types described in this section, in the amount provided respectively for each

type of transfer:

(1) Property owned or owned in substance by the decedent immediately before death that passed outside probate at the decedent's death. Property included under this category consists of the property described in this Subsection (1).

(a) (i) Property over which the decedent alone, immediately before death, held a presently exercisable general power of appointment.

(ii) The amount included is the value of the property subject to the power, to the extent the property passed at the decedent's death, by exercise, release, lapse, in default, or otherwise, to or for the benefit of any person other than the decedent's estate or surviving spouse.

(b) (i) The decedent's fractional interest in property held by the decedent in joint tenancy with the right of survivorship.

(ii) The amount included is the value of the decedent's fractional interest, to the extent the fractional interest passed by right of survivorship at the decedent's death to a surviving joint tenant other than the decedent's surviving spouse.

(c) (i) The decedent's ownership interest in property or accounts held in POD, TOD, or co-ownership registration with the right of survivorship.

(ii) The amount included is the value of the decedent's ownership interest, to the extent the decedent's ownership interest passed at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse.

(d) (i) Proceeds of insurance, including accidental death benefits, on the life of the decedent, if the decedent owned the insurance policy immediately before death or if and to the extent the decedent alone and immediately before death held a presently exercisable general power of appointment over the policy or its proceeds.

(ii) The amount included:

(A) is the value of the proceeds, to the extent they were payable at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse; and

(B) may not exceed the greater of the cash surrender value of the policy immediately prior to the death of the decedent or the amount of premiums paid on the policy during the decedent's life.

(2) Property transferred in any of the forms described in this Subsection (2) by the decedent during marriage:

(a) (i) Any irrevocable transfer in which the decedent retained the right to the possession or enjoyment of, or to the income from, the property if and to the extent the decedent's right terminated at or continued beyond the decedent's death.

(ii) An irrevocable transfer in trust which includes a restriction on transfer of the decedent's interest as settlor and beneficiary as described in Section [~~75B-1-302~~]75B-1-303.

(iii) The amount included is the value of the fraction of the property to which the right or restriction related, to the extent the fraction of the property passed outside probate to or for the benefit of any person other than the decedent's estate or surviving spouse.

(b) (i) Any transfer in which the decedent created a power over income or property, exercisable by the decedent alone or in conjunction with any other person, or exercisable by a nonadverse party, to or for the benefit of the decedent, creditors of the decedent, the decedent's estate, or creditors of the decedent's estate.

(ii) The amount included with respect to a power over property is the value of the property subject to the power, and the amount included with respect to a power over income is the value of the property that produces or produced the income, to the extent the power in either case was exercisable at the decedent's death to or for the benefit of any person other than the decedent's surviving spouse or to the extent the property passed at the decedent's death, by exercise, release, lapse, in default, or otherwise, to or for the benefit of any person other than the decedent's estate or surviving spouse.

(iii) If the power is a power over both income and property and Subsection (2)(b)(ii)produces different amounts, the amount included is the greater amount.

(3) Property that passed during marriage and during the two-year period next preceding the decedent's death as a result of a transfer by the decedent if the transfer was of any of the types described in this Subsection (3).

(a) (i) Any property that passed as a result of the termination of a right or interest in, or power over, property that would have been included in the augmented estate under Subsection (1)(a), (b), or (c), or under Subsection (2), if the right, interest, or power had not terminated until the decedent's death.

(ii) The amount included is the value of the property that would have been included under Subsection (1)(a), (b), (c), or Subsection (2) if the property were valued at the time the right, interest, or power terminated, and is included only to the extent the property passed upon termination to or for the benefit of any person other than the decedent or the decedent's estate, spouse, or surviving spouse.

(iii) (A) As used in this Subsection (3)(a), "termination," with respect to a right or interest in property, occurs when the right or interest terminated by the terms of the governing instrument or the decedent transferred or relinquished the right or interest, and, with respect to a power over property, occurs when the power terminated by exercise, release, lapse, default, or otherwise.

(B) With respect to a power described in Subsection (1)(a), "termination" occurs when the power terminated by exercise or release, but not otherwise.

(b) (i) Any transfer of or relating to an insurance policy on the life of the decedent if the proceeds would have been included in the augmented estate under Subsection (1)(d) had the transfer not occurred.

(ii) The amount included:

(A) is the value of the insurance proceeds to the extent the proceeds were payable at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse; and

(B) may not exceed the greater of the cash surrender value of the policy immediately prior to the death of the decedent or the amount of premiums paid on the policy during the decedent's life.

(c) (i) Any transfer of property, to the extent not otherwise included in the augmented estate, made to or for the benefit of a person other than the decedent's surviving spouse.

(ii) The amount included is the value of the transferred property to the extent the aggregate transfers to any one donee in either of the two years exceeded $10,000.

Section 4. Section 75-2-501 is amended to read:

75-2-501. Who may make will -- Testamentary capacity.

[~~An individual 18 or more years of age who is of sound mind may make a will.~~]

(1) An individual may make a will if the individual:

(a) is 18 years old or older; and

(b) has testamentary capacity at the time that the will is executed.

(2) A testator has testamentary capacity under Subsection (1)(b) if the testator:

(a) can identify the testator's family members or other individuals in the testator's life;

(b) understands the testator's relationship to the individuals described in Subsection (2)(a);

(c) understands the nature and extent of the testator's property; and

(d) can form a plan in the testator's mind for the disposition of the testator's property.

(3) A testator is not required to have any knowledge or understanding of the laws of inheritance by intestate succession for the testator to have testamentary capacity under Subsection (2).

(4) There is a rebuttable presumption that testamentary capacity exists at the time that a will was executed even if the testator is subject to a guardianship or conservatorship or is otherwise unable to independently manage the testator's affairs.

Section 5. Section 75-2-1203 is amended to read:

75-2-1203. Validity of nonvested property interest -- Validity of general power of appointment subject to a condition precedent -- Validity of nongeneral or testamentary power of appointment -- Effect of certain "later-of" type language.

(1) A nonvested property interest is invalid unless within 1,000 years after the interest's creation the interest vests or terminates.

(2) A general power of appointment not presently exercisable because of a condition precedent is invalid unless within 1,000 years after the general power of appointment's creation the power of appointment is irrevocably exercised or terminates.

(3) A nongeneral power of appointment or a general testamentary power of appointment is invalid unless within 1,000 years after its creation the power of appointment is irrevocably exercised or terminates.

(4) The language in a governing instrument is inoperative to the extent it produces a period of time that exceeds 1,000 years after if, in measuring a period from the creation of a trust or other property arrangement, the language:

(a) seeks to disallow the vesting or termination of any interest or trust beyond;

(b) seeks to postpone the vesting or termination of any interest or trust until; or

(c) seeks to operate in effect in any similar fashion upon, the later of:

(i) the expiration of a period of time not exceeding 1,000 years; or

(ii) the expiration of a period of time that exceeds or might exceed 1,000 years.

[~~(5) If a nongeneral power of appointment is exercised to create a new presently exercisable general power of appointment, all property interests subject to that new presently exercisable general power of appointment are invalid unless, within 1,000 years after the creation of the new presently exercisable general power of appointment, the property interests that are subject to the new presently exercisable general power of appointment vest or terminate.~~]

[~~(6) If a nongeneral power of appointment is exercised to create a new or successive nongeneral power of appointment or a new or successive testamentary general power of appointment, all property interests subject to the exercise of that new or successive nongeneral or testamentary general power of appointment are invalid unless, within 1,000 years from the time of creation of the original instrument or conveyance creating the original nongeneral power of appointment that is exercised to create a new or successive nongeneral or testamentary general power of appointment, the property interests that are subject to the new or successive nongeneral or testamentary general power of appointment vest or terminate.~~]

(5) If a power of appointment is exercised to create a new power of appointment, all property interests subject to that new power of appointment are invalid unless the property interests that are subject to the new power of appointment vest or terminate within 1,000 years after the creation of the new power of appointment.

Section 6. Section 75-3-303 is amended to read:

75-3-303. Informal probate -- Proof and findings required.

(1) In an informal proceeding for original probate of a will, the registrar shall determine whether:

(a) the application is complete;

(b) the applicant has made oath or affirmation that the statements contained in the application are true to the best of his knowledge and belief;

(c) the applicant appears from the application to be an interested person[~~as defined in Subsection 75-1-201(24)~~];

(d) on the basis of the statements in the application, venue is proper;

(e) an original, duly executed and apparently unrevoked will was presented to the court for electronic storage and electronic filing and is now in the possession of the applicant or the applicant's attorney, or is in the registrar's possession;

(f) any notice required by Section 75-3-204 has been given and that the application is not within Section 75-3-304; and

(g) it appears from the application that the time limit for original probate has not expired.

(2) The application shall be denied if it indicates that a personal representative has been appointed in another county of this state or except as provided in Subsection (4), if it appears that this or another will of the decedent has been the subject of a previous probate order.

(3) A will which appears to have the required signatures and which contains an attestation clause showing that requirements of execution under Section 75-2-502, 75-2-503, or 75-2-506 have been met shall be probated without further proof. In other cases, the registrar may assume execution if the will appears to have been properly executed, or he may accept a sworn statement or affidavit of any person having knowledge of the circumstances of execution, whether or not the person was a witness to the will.

(4) Informal probate of a will which has been previously probated elsewhere may be granted at any time upon written application by any interested person, together with deposit of an authenticated copy of the will and of the statement probating it from the office or court where it was first probated.

(5) A will from a place which does not provide for probate of a will after death and which is not eligible for probate under Subsection (1) above may be probated in this state upon receipt by the registrar of a duly authenticated copy of the will and a duly authenticated certificate of its legal custodian that the copy filed is a true copy and that the will has become operative under the law of the other place.

Section 7. Section 75-3-308 is amended to read:

75-3-308. Informal appointment proceedings -- Proof and findings required.

(1) In informal appointment proceedings, the registrar shall determine whether:

(a) the application for informal appointment of a personal representative is complete;

(b) the applicant has made oath or affirmation that the statements contained in the application are true to the best of his knowledge and belief;

(c) the applicant appears from the application to be an interested person[~~as defined in Subsection 75-1-201(24)~~];

(d) on the basis of the statements in the application, venue is proper;

(e) any will to which the requested appointment relates has been formally or informally probated; but this requirement does not apply to the appointment of a special administrator;

(f) any notice required by Section 75-3-204 has been given; and

(g) from the statements in the application, the person whose appointment is sought has priority entitling him to the appointment.

(2) Unless Section 75-3-612 controls, the application shall be denied if it indicates that a personal representative who has not filed a written statement of resignation as provided in Subsection 75-3-610(3) has been appointed in this or another county of this state, that (unless the applicant is the domiciliary personal representative or his nominee) the decedent was not domiciled in this state, and that a personal representative whose appointment has not been terminated has been appointed by a court in the state of domicile, or that other requirements of this section have not been met.

Section 8. Section 75-5-303 is amended to read:

75-5-303. Procedure for court appointment of a guardian of an incapacitated person.

(1) An incapacitated person or any person interested in the incapacitated person's welfare may petition for a finding of incapacity and appointment of a guardian.

(2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity.

(b) Unless the allegedly incapacitated person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding the cost of which shall be paid by the person alleged to be incapacitated, unless the allegedly incapacitated person and the allegedly incapacitated person's parents are indigent.

(c) If the court determines that the petition is without merit, the attorney fees and court costs shall be paid by the person filing the petition.

(d) If the court appoints the petitioner or the petitioner's nominee as guardian of the incapacitated person, regardless of whether the nominee is specified in the moving petition or nominated during the proceedings, the petitioner shall be entitled to receive from the incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting, or defending the petition.

(3) The legal representation of the incapacitated person by an attorney shall terminate upon the appointment of a guardian, unless:

(a) there are separate conservatorship proceedings still pending before the court subsequent to the appointment of a guardian;

(b) there is a timely filed appeal of the appointment of the guardian or the determination of incapacity; or

(c) upon an express finding of good cause, the court orders otherwise.

(4) The person alleged to be incapacitated may be examined by a physician or physician assistant appointed by the court who shall submit a report in writing to the court and may be interviewed by a visitor sent by the court. The visitor also may interview the person seeking appointment as guardian, visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will be detained or reside if the requested appointment is made, conduct other investigations or observations as directed by the court, and submit a report in writing to the court.

(5) (a) (i) The person alleged to be incapacitated shall be present at the hearing [~~in person~~]and see or hear all evidence bearing upon the person's condition.

(ii) If the person seeking the guardianship requests a waiver of presence of the person alleged to be incapacitated, the court shall order an investigation by a court visitor, the costs of which shall be paid by the person seeking the guardianship.

(b) The investigation by a court visitor is not required if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has:

(i) fourth stage Alzheimer's Disease;

(ii) extended comatosis; or

(iii) (A) an intellectual disability; and

(B) an intelligence quotient score under 25.

(c) The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician and the visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel so requests.

(d) Counsel for the person alleged to be incapacitated [~~, as defined in Subsection 75-1-201(22),~~]is not required if:

(i) the person is the biological or adopted child of the petitioner;

(ii) the value of the person's entire estate does not exceed $20,000 as established by an affidavit of the petitioner in accordance with Section 75-3-1201;

(iii) the person appears in court with the petitioner;

(iv) the person is given the opportunity to communicate, to the extent possible, the person's acceptance of the appointment of petitioner;

(v) no attorney from the state court's list of attorneys who have volunteered to represent respondents in guardianship proceedings is able to provide counsel to the person within 60 days of the date of the appointment described in Subsection (2);

(vi) the court is satisfied that counsel is not necessary in order to protect the interests of the person; and

(vii) the court appoints a visitor under Subsection (4).

Section 9. Section 75-5-304 is amended to read:

75-5-304. Findings -- Limited guardianship preferred -- Order of appointment.

(1) The court may appoint a guardian as requested if the court [~~is satisfied~~]finds, by clear and convincing evidence, that:

(a) the person for whom a guardian is sought is incapacitated; and

(b) the appointment is necessary or desirable as a means of providing continuing care and supervision of the incapacitated person.

(2) (a) (i) The court shall prefer a limited guardianship and may only grant a full guardianship if no other alternative exists.

(ii) If the court does not grant a limited guardianship, a specific finding shall be made that nothing less than a full guardianship is adequate.

(b) (i) An order of appointment of a limited guardianship shall state the limitations of the guardianship.

(ii) Letters of guardianship for a limited guardianship shall state the limitations of the guardianship unless the court determines for good cause shown that a limitation should not be listed in the letters.

(3) (a) Except as provided in Subsection (3)(b), a guardian appointed by will or written instrument, under Section 75-5-301, whose appointment has not been prevented or nullified under Subsection 75-5-301(4), has priority over any guardian who may be appointed by the court.

(b) Upon a finding that the testamentary or instrumental guardian has failed to accept the appointment within 30 days after notice of the guardianship proceeding, the court may:

(i) dismiss the proceeding; or

(ii) enter any other appropriate order.

(4) If the court grants a guardian with the power to make or assist with health care decisions for an incapacitated person, the court shall include in the order of appointment the name of any interested person for whom the guardian must notify of any significant health care or treatment received by the incapacitated person.

Section 10. Section 75-7-103 is amended to read:

75-7-103. Definitions.

(1) [~~In~~]As used in this chapter:

(a) "Action," with respect to an act of a trustee, includes a failure to act.

(b) "Beneficiary" means a person that:

(i) has a present or future beneficial interest in a trust, vested or contingent; or

(ii) in a capacity other than that of trustee, holds a power of appointment over trust property.

(c) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in Subsection 75-7-405(1).

(d) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

(e) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

(f) "Jurisdiction," with respect to a geographic area, includes a state or country.

(g) "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest.

(h) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(i) is a current distributee or permissible distributee of trust income or principal; or

(ii) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(i) "Resident estate" [~~or "resident trust"~~]means:

(i) an estate of a decedent who at death was domiciled in this state;

(ii) a trust, or a portion of a trust, consisting of property transferred by will of a decedent who at [~~his~~]the time of the decedent's death was domiciled in this state; or

(iii) a trust administered in this state.

(j) "Resident trust" means a resident estate.

[~~(i)~~](k) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

[~~(k)~~](l) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

[~~(l)~~](m) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer or encumbrance of a beneficiary's interest.

[~~(m)~~](n) "Terms of a trust" means:

(i) except as otherwise provided in Subsection [~~(1)(m)(ii)~~](1)(n)(ii), the manifestation of the settlor's intent regarding a trust's provisions as:

(A) expressed in the trust instrument; or

(B) established by other evidence that would be admissible in a judicial proceeding;

(ii) the trust's provisions as established, determined, or amended by:

(A) a trustee or trust director in accordance with the applicable law;

(B) court order; or

(C) a nonjudicial settlement agreement under Section 75-7-110.

[~~(n)~~](o) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

(2) Terms not specifically defined in this section have the meanings provided in Section 75-1-201.

Section 11. Section 75-7-105 is amended to read:

75-7-105. Default and mandatory rules.

(1) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

(2) Except as specifically provided in this chapter, the terms of a trust prevail over any provision of this chapter except:

(a) the requirements for creating a trust;

(b) subject to Sections 75-12-109, 75-12-111, and 75-12-112, the duty of a trustee to act in good faith and in accordance with the purposes of the trust;

(c) the requirement that a trust and the terms of the trust be for the benefit of the trust's beneficiaries;

(d) the power of the court to modify or terminate a trust under Sections 75-7-410 through 75-7-416;

(e) the effect of a spendthrift provision, [~~Section 75B-1-302~~]Title 75B, Chapter 1, Part 3, Asset Protection Trust, and the rights of certain creditors and assignees to reach a trust as provided in Part 5, Creditor's Claims - Spendthrift and Discretionary Trusts;

(f) the power of the court under Section 75-7-702 to require, dispense with, or modify or terminate a bond;

(g) the effect of an exculpatory term under Section 75-7-1008;

(h) the rights under Sections 75-7-1010 through 75-7-1013 of a person other than a trustee or beneficiary;

(i) periods of limitation for commencing a judicial proceeding; and

(j) the jurisdiction and venue requirements for an action involving a trust as described in Sections 75-7-203 and 75-7-205.

Section 12. Section 75-7-107 is amended to read:

75-7-107. Governing law.

(1) As used in this section:

(a) "Foreign trust" means a trust that is created in another state or country and valid in the state or country in which the trust is created.

(b) "State law provision" means a provision that the laws of a named state govern the validity, construction, and administration of a trust.

(2) If a trust has a state law provision specifying this state, the validity, construction, and administration of the trust are to be governed by the laws of this state if any administration of the trust is done in this state.

(3) For all trusts created on or after December 31, 2003, if a trust does not have a state law provision, the validity, construction, and administration of the trust are to be governed by the laws of this state if the trust is administered in this state.

(4) A trust shall be considered to be administered in this state if:

(a) the trust states that this state is the place of administration, and any administration of the trust is done in this state; or

(b) the place of business where the fiduciary transacts a major portion of its administration of the trust is in this state.

(5) If a foreign trust is administered in this state as provided in this section, the following provisions are effective and enforceable under the laws of this state:

(a) a provision in the trust that restricts the transfer of trust assets in a manner similar to Section [~~75B-1-302~~]75B-1-303;

(b) a provision that allows the trust to be perpetual; or

(c) a provision that is not expressly prohibited by the law of this state.

(6) A foreign trust that moves its administration to this state is valid whether or not the trust complied with the laws of this state at the time of the trust's creation or after the trust's creation.

(7) Unless otherwise designated in the trust instrument, a trust is administered in this state if it meets the requirements of Subsection (4).

Section 13. Section 75-7-301 is amended to read:

75-7-301. Basic effect.

(1) Notice to a person who may represent and bind another person under this part has the same effect as if notice were given directly to the other person.

(2) The consent of a person who may represent and bind another person under this part is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

(3) Except as otherwise provided in [~~Sections 75-7-411 and 75B-1-302~~]Section 75-7-411 and Title 75B, Chapter 1, Part 3, Asset Protection Trust, a person who under this part may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

Section 14. Section 75-7-501 is amended to read:

75-7-501. Rights of beneficiary's creditor or assignee.

To the extent a beneficiary's interest is not protected by a spendthrift provision or [~~Section 75B-1-302~~]Title 75B, Chapter 1, Part 3, Asset Protection Trust, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to relief as is appropriate under the circumstances.

Section 15. Section 75-7-505 is amended to read:

75-7-505. Creditor's claim against settlor.

Regardless of whether the terms of a trust contain a spendthrift provision, the following rules apply:

(1) During the lifetime of the settlor, the property of a revocable trust is subject to the claims of the settlor's creditors. If a revocable trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(2) (a) With respect to an irrevocable trust other than an irrevocable trust that meets the requirements of [~~Section 75B-1-302~~]Title 75B, Chapter 1, Part 3, Asset Protection Trust, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit.

(b) With respect to an irrevocable trust that has more than one settlor, other than an irrevocable trust that meets the requirements of [~~Section 75B-1-302~~]Title 75B, Chapter 1, Part 3, Asset Protection Trust, the amount a creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(c) Notwithstanding Subsections (2)(a) and (b), a creditor of a settlor may not satisfy the creditor's claim from an irrevocable trust solely because the trustee may make a discretionary distribution reimbursing the settlor for income tax liability of the settlor attributable to the income of the irrevocable trust, when the distribution is:

(i) subject to the discretion of a trustee who is not the settlor;

(ii) subject to the consent of an advisor who is not the settlor; or

(iii) at the direction of an advisor who is not the settlor.

(3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable at the settlor's death, but not property received by the trust as a result of the death of the settlor which is otherwise

exempt from the claims of the settlor's creditors, is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, expenses, and allowances.

Section 16. Section 75-7-812.5 is enacted to read:

75-7-812.5. Discretionary power -- Decanting a trust.

(1) As used in this section:

(a) "Current income beneficiary" means the same as that term is defined in Section 75A-5-102.

(b) "Decanting power" means the power of a trustee as described in Subsection (2)(a):

(i) to distribute income or principal from a first trust to a second trust; or

(ii) to modify the terms of a first trust.

(c) "First trust" means a trust over which a trustee exercises discretion to distribute income or principal to, or for the benefit of, a beneficiary.

(d) "General power to change the trustees" means a beneficiary may, whether alone or in concert with other persons:

(i) name the beneficiary as a trustee; or

(ii) remove a trustee and replace that trustee with a new trustee who is:

(A) the beneficiary; or

(B) a related or subordinate party, as defined in Section 672(c) of the Internal Revenue Code, of the beneficiary.

(e) "Income" means the same as that term is defined in Section 75A-5-102.

(f) "Principal" means the same as that term is defined in Section 75A-5-102.

(g) "Restricted trustee" means a trustee of the first trust if:

(i) the trustee is also a beneficiary of the first trust; or

(ii) a beneficiary of the first trust holds a general power to change the trustees of the first trust.

(h) "Second trust" means:

(i) a trust to which a distribution of income or principal from a first trust is made to the trustee of the trust under Subsection (2)(a)(i); or

(ii) a trust that is modified under Subsection (2)(a)(ii).

(2) (a) If a trustee has discretion under the terms of a trust instrument to distribute income or principal to, or for the benefit of, a beneficiary of a trust, the trustee may:

(i) distribute part or all of the income or principal to a trust governed by a trust instrument that is separate from the trust instrument of the first trust; or

(ii) modify the terms of the trust instrument of the first trust.

(b) A trustee may not exercise the decanting power if the terms of the trust instrument for the first trust expressly prohibit the trustee from:

(i) distributing part or all of the income or principal to a trust governed by a trust instrument that is separate from the trust instrument of the first trust; or

(ii) modifying the terms of the trust instrument of the first trust.

(c) Before a trustee exercises the decanting power to modify the terms of the trust instrument of a first trust, the trustee shall notify all beneficiaries of the trust, in writing, at least 20 days before the day on which the trustee exercises the decanting power.

(3) Before a trustee exercises the decanting power, the trustee shall determine whether distribution or modification is necessary or desirable after taking into account:

(a) the purposes of the first trust;

(b) the terms and conditions of the second trust; and

(c) the consequences of the distribution.

(4) A trustee may only exercise the decanting power if the second trust has a beneficiary that is a beneficiary of the first trust to or for whom:

(a) a trustee has discretion to distribute income or principal from the first trust; or

(b) a trustee may distribute income or principal in the future from the first trust at a time, or upon the happening of an event, that is specified in the trust instrument of the first trust.

(5) Except as provided in Subsection (6), a restricted trustee may not exercise the decanting power if the distribution would have the effect of:

(a) benefiting the restricted trustee as a beneficiary of the first trust, unless the distribution is limited to an ascertainable standard based on or related to health, education, maintenance, or support;

(b) increasing the distributions that can be made from the second trust to a restricted trustee, or to a beneficiary holding a general power to change the trustees of the first trust, compared to the distributions that can be made to the restricted trustee, or to the beneficiary holding a general power to change the trustees, under the first trust, unless the distribution is limited to an ascertainable standard based on or related to health, education, maintenance, or support; or

(c) removing restrictions on a discretionary distribution imposed by the trust instrument of the first trust, unless the trust instrument of the second trust limits distributions of income or principal from the second trust to:

(i) an ascertainable standard based on or related to the health, education, maintenance, or support of a beneficiary; or

(ii) a trust described in 42 U.S.C. Sec. 1396p(d)(4).

(6) Subsection (5) limits a restricted trustee's exercise of the decanting power only if:

(a) at least one restricted trustee is a United States citizen or domiciliary under the Internal Revenue Code;

(b) at least one beneficiary holding a general power to change the trustees of the first trust is a United States citizen or domiciliary under the Internal Revenue Code; or

(c) the first trust owns property that would be subject to United States estate or gift taxes if owned free of the trust by:

(i) the restricted trustee of the first trust if there is a restricted trustee of the first trust; or

(ii) the beneficiary holding a general power to change the trustees of the first trust if there is a beneficiary holding a general power to change the trustees of the first trust.

(7) If a trust contribution has been treated as a gift qualifying for the exclusion from the gift tax described in Section 2503(b) of the Internal Revenue Code, the trust instrument for the second trust shall provide that the beneficiary's remainder interest must vest no later than the day on which the remainder interest would have vested under the terms of the trust instrument for the first trust.

(8) A trustee's exercise of the decanting power as described in Subsection (2):

(a) may not reduce an income interest of a current income beneficiary of:

(i) a trust for which a marital deduction has been taken for federal tax purposes under Section 2056 or 2523 of the Internal Revenue Code or for state tax purposes under a comparable state law;

(ii) a charitable remainder trust under Section 664 of the Internal Revenue Code; or

(iii) a grantor retained annuity or unitrust trust under Section 2702 of the Internal Revenue Code;

(b) does not apply to property of a trust that is subject to a power of withdrawal held by a beneficiary of the trust to whom, or for the benefit of whom, the trustee has authority to distribute income or principal, unless after the distribution of income or principal under Subsection (4) the beneficiary's power of withdrawal is unchanged with respect to the property of a trust;

(c) is not prohibited by:

(i) a spendthrift clause in the first trust; or

(ii) a clause in the trust instrument of the first trust that prohibits amendment or revocation of the trust;

(d) is an exercise of a power of appointment; and

(e) may not be exercised in a manner that would cause the decanting power to be a general power of appointment as described in Section 2041 or 2514 of the Internal Revenue Code.

(9) (a) This section does not preclude the trust instrument of a second trust from granting a power of appointment to a beneficiary of the second trust that is a beneficiary of the first trust.

(b) A power of appointment described in Subsection (9)(a) may include the power to appoint trust property to the holder of the power of appointment, the holder's creditors, the holder's estate, the creditors of the holder's estate, or any other person regardless of whether that person is a beneficiary of the second trust.

(10) This section applies to a trust administered under the laws of this state, including a trust whose governing jurisdiction is transferred to this state.

Section 17. Section 75-7-816 is amended to read:

75-7-816. Recitals when title to real property is in trust -- Failure.

(1) When title to real property is granted to a person as trustee, the terms of the trust may be given either:

(a) in the deed of transfer; or

(b) in an instrument signed by the grantor and recorded in the same office as the grant to the trustee.

(2) If the terms of the trust are not made public as required in Subsection (1), a conveyance from the trustee is absolute in favor of purchasers for value who take the property without notice of the terms of the trust.

(3) The terms of the trust recited in the deed of transfer or the instrument recorded under Subsection (1)(b) shall include:

(a) the name of the trustee;

(b) the address of the trustee; and

(c) the name and date of the trust.

(4) Any real property titled in a trust [~~which~~]that has a restriction on transfer described in Section [~~75B-1-302~~]75B-1-303 shall include in the title the words "asset protection trust."

Section 18. Section 75A-2-102 is amended to read:

75A-2-102. Definitions for chapter.

As used in this chapter:

(1) (a) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise.

(b) "Agent" includes an original agent, coagent, successor agent, and person to which an agent's authority is delegated.

(2) "Beneficiary" means the same as that term is defined in Section 75-1-201.

(3) "Beneficiary designation" means the same as that term is defined in Section 75-1-201.

(4) "Child" means the same as that term is defined in Section 75-1-201.

(5) "Claims" means the same as that term is defined in Section 75-1-201.

(6) "Conservator" means the same as that term is defined in Section 75-1-201.

(7) "Descendant" means the same as that term is defined in Section 75-1-201.

(8) "Durable," with respect to a power of attorney, means not terminated by the principal's incapacity.

(9) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(10) "Estate" means the same as that term is defined in Section 75-1-201.

(11) "Fiduciary" means the same as that term is defined in Section 75-1-201.

(12) "Good faith" means honesty in fact.

(13) "Guardian" means the same as that term is defined in Section 75-1-201.

(14) "Incapacity" means the inability of an individual to manage property or business affairs because the individual:

(a) has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or

(b) is:

(i) missing;

(ii) detained, including incarcerated in a penal system; or

(iii) outside the United States and unable to return.

(15) "Lease" means the same as that term is defined in Section 75-1-201.

(16) "Mortgage" means the same as that term is defined in Section 75-1-201.

(17) "Organization" means the same as that term is defined in Section 75-1-201.

(18) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(19) "Personal representative" means the same as that term is defined in Section 75-1-201.

(20) "Power of attorney" means a writing or other record governed by this chapter that grants authority to an agent to act in the place of the principal [~~, whether or not~~]regardless of whether the term power of attorney is used.

(21) (a) "Presently exercisable general power of appointment," with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors, or the creditors of the principal's estate.

(b) "Presently exercisable general power of appointment" includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period.

(c) "Presently exercisable general power of appointment" does not include a power exercisable in a fiduciary capacity or only by will.

(22) "Principal" means an individual who grants authority to an agent in a power of attorney.

(23) "Property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.

(24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(25) "Security" means the same as that term is defined in Section 75-1-201.

(26) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic sound, symbol, or process.

(27) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(28) (a) "Stocks and bonds" means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner.

(b) "Stocks and bonds" does not include commodity futures contracts and call or put options on stocks or stock indexes.

(29) "Trust" means the same as that term is defined in Section 75-1-201.

(30) "Trustee" means the same as that term is defined in Section 75-1-201.

(31) "Will" means the same as that term is defined in Section 75-1-201.

Section 19. Section 75A-2-105 is amended to read:

75A-2-105. Execution of power of attorney.

[~~(1) (a) A power of attorney shall be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney before a notary public or other individual authorized by the law to take acknowledgments.~~]

(1) (a) A principal may sign a power of attorney, or direct another individual in the principal's conscious presence to sign the principal's name on the power of attorney, if:

(i) the power of attorney is signed before a notary public or other individual authorized by the law to take acknowledgments; and

(ii) the principal has sufficient mental capacity at the time that the power of attorney is executed to understand that the principal is appointing an agent to handle the principal's financial affairs.

(b) A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

(c) A principal's understanding of how an agent will manage the principal's affairs is not required for sufficient mental capacity under Subsection (1)(a)(ii).

(2) (a) If the principal resides or is about to reside in a hospital, assisted living, skilled nursing, or similar facility, at the time of execution of the power of attorney, the principal may not name any agent that is the owner, operator, health care provider, or employee of the hospital, assisted living facility, skilled nursing, or similar residential care facility unless:

[~~(a)~~](i) the agent is the spouse, legal guardian, or next of kin of the principal; or

[~~(b)~~](ii) the agent's authority is strictly limited to the purpose of assisting the principal to establish eligibility for Medicaid.

[~~(3)~~](b) A violation of this Subsection (2) is a violation of Section 76-5-111.4.

Section 20. Section 75A-3-101 is amended to read:

75A-3-101. Definitions for chapter.

As used in this chapter:

(1) "Adult" means an individual who is:

(a) at least 18 years old; or

(b) [~~an emancipated minor~~]under 18 years old and is emancipated.

(2) "Advance health care directive":

(a) includes:

(i) a designation of an agent to make health care decisions for an adult when the adult cannot make or communicate health care decisions; or

(ii) an expression of preferences about health care decisions;

(b) may take one of the following forms:

(i) a written document, voluntarily executed by an adult in accordance with the requirements of this chapter; or

(ii) a witnessed oral statement, made in accordance with the requirements of this chapter; and

(c) does not include an order for life sustaining treatment.

(3) "Agent" means an adult designated in an advance health care directive to make health care decisions for the declarant.

(4) "APRN" means an individual who is:

(a) certified or licensed as an advance practice registered nurse under Subsection 58-31b-301(2)(e);

(b) an independent practitioner; and

(c) acting within the scope of practice for that individual, as provided by law, rule, and specialized certification and training in that individual's area of practice.

(5) "Best interest" means that the benefits to the individual resulting from a treatment outweigh the burdens to the individual resulting from the treatment, taking into account:

(a) the effect of the treatment on the physical, emotional, and cognitive functions of the individual;

(b) the degree of physical pain or discomfort caused to the individual by the treatment or the withholding or withdrawal of treatment;

(c) the degree to which the individual's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the individual by subjecting the individual to humiliation and dependency;

(d) the effect of the treatment on the life expectancy of the individual;

(e) the prognosis of the individual for recovery with and without the treatment;

(f) the risks, side effects, and benefits of the treatment, or the withholding or withdrawal of treatment; and

(g) the religious beliefs and basic values of the individual receiving treatment, to the extent these may assist the decision maker in determining the best interest.

[~~(6) "Capacity to appoint an agent" means that the adult understands the consequences of appointing a particular individual as agent.~~]

[~~(7)~~](6) "Child" means the same as that term is defined in Section 75-1-201.

[~~(8)~~](7) "Declarant" means an adult who has completed and signed or directed the signing of an advance health care directive.

[~~(9)~~](8) "Default surrogate" means the adult who may make decisions for an individual when either:

(a) an agent or guardian has not been appointed; or

(b) an agent is not able, available, or willing to make decisions for an adult.

[~~(10)~~](9) "Emergency medical services provider" means a person that is licensed, designated, or certified under Title 53, Chapter 2d, Emergency Medical Services Act.

[~~(11)~~](10) "Estate" means the same as that term is defined in Section 75-1-201.

[~~(12)~~](11) "Generally accepted health care standards":

(a) is defined only for the purpose of:

(i) this chapter and does not define the standard of care for any other purpose under Utah law; and

(ii) enabling health care providers to interpret the statutory form set forth in Section 75A-3-303; and

(b) means the standard of care that justifies a provider in declining to provide life sustaining care because the proposed life sustaining care:

(i) will not prevent or reduce the deterioration in the health or functional status of an individual;

(ii) will not prevent the impending death of an individual; or

(iii) will impose more burden on the individual than any expected benefit to the individual.

[~~(13)~~](12) "Guardian" means the same as that term is defined in Section 75-1-201.

[~~(14)~~](13) "Health care" means any care, treatment, service, or procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.

[~~(15)~~](14) "Health care decision":

(a) means a decision about an adult's health care made by, or on behalf of, an adult, that is communicated to a health care provider;

(b) includes:

(i) selection and discharge of a health care provider and a health care facility;

(ii) approval or disapproval of diagnostic tests, procedures, programs of medication, and orders not to resuscitate; and

(iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care; and

(c) does not include decisions about an adult's financial affairs or social interactions other than as indirectly affected by the health care decision.

[~~(16)~~](15) "Health care decision making capacity" means an adult's ability to make an informed decision about receiving or refusing health care, including:

(a) the ability to understand the nature, extent, or probable consequences of health status and health care alternatives;

(b) the ability to make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting health care; and

(c) the ability to communicate a decision.

[~~(17)~~](16) "Health care facility" means:

(a) a health care facility as defined in Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(b) private offices of physicians, dentists, and other health care providers licensed to provide health care under Title 58, Occupations and Professions.

[~~(18)~~](17) "Health care provider" means the same as that term is defined in Section 78B-3-403, except that "health care provider" does

not include an emergency medical services provider.

[~~(19)~~](18) "Incapacitated" means the same as that term is defined in Section 75-1-201.

[~~(20)~~](19) "Incapacity" means the same as that term is defined in Section 75-1-201.

[~~(21)~~](20) (a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.

(b) "Life sustaining care" does not include care provided for the purpose of keeping an individual comfortable.

[~~(22)~~](21) "Minor" means an individual who:

(a) is under 18 years old; and

(b) is not [~~an emancipated minor~~]emancipated.

[~~(23)~~](22) "Order for life sustaining treatment" means an order related to life sustaining treatment, on a form designated by the Department of Health and Human Services under Section 75-3-106, that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the individual to whom the order relates.

[~~(24)~~](23) "Parent" means the same as that term is defined in Section 75-1-201.

[~~(25)~~](24) "Personal representative" means the same as that term is defined in Section 75-1-201.

[~~(26)~~](25) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(27)~~](26) "Physician assistant" means an individual licensed as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(28)~~](27) "Reasonably available" means:

(a) readily able to be contacted without undue effort; and

(b) willing and able to act in a timely manner considering the urgency of the circumstances.

(28) "Sign" means the same as that term is defined in Section 75-1-201.

(29) "State" means the same as that term is defined in Section 75-1-201.

(30) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the capacity to make health care decisions, which requires the surrogate to consider:

(a) specific preferences expressed by the adult:

(i) when the adult had the capacity to make health care decisions; and

(ii) at the time the decision is being made;

(b) the surrogate's understanding of the adult's health care preferences;

(c) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(d) to the extent that the preferences described in Subsections (30)(a) through (c) are unknown, the best interest of the adult.

(31) "Surrogate" means a health care decision maker who is:

(a) an appointed agent;

(b) a default surrogate under the provisions of Section 75A-3-203; or

(c) a guardian.

(32) "Trust" means the same as that term is defined in Section 75-1-201.

(33) "Will" means the same as that term is defined in Section 75-1-201.

Section 21. Section 75A-3-302 is amended to read:

75A-3-302. Capacity to complete an advance health care directive.

(1) An adult is presumed to have the capacity to complete an advance health care directive.

(2) An adult who is found to lack health care decision making capacity under the provisions of Section 75A-3-201:

(a) lacks the capacity to give an advance health care directive, including Part II of the form created in Section 75A-3-303, or any other substantially similar form expressing a health care preference; and

(b) may [~~retain the capacity to~~]appoint an agent and complete Part I of the form created in Section 75A-3-303[~~.~~] if the adult understands that the adult is appointing an agent to handle the adult's health care decisions at the time that the adult appoints the agent.

(3) [~~The following factors shall be considered by a health care provider, attorney, or court when determining whether an adult described in Subsection (2)(b) has retained the capacity to appoint an agent~~]A health care provider, an attorney, or a court when determining whether the adult understands that the adult is appointing an agent to handle the adult's health care decisions shall consider:

(a) whether the adult has expressed over time an intent to appoint the same person as agent;

(b) whether the choice of agent is consistent with past relationships and patterns of behavior between the adult and the prospective agent, or, if inconsistent, whether there is a reasonable justification for the change; and

(c) whether the adult's expression of the intent to appoint the agent occurs at times when, or in settings where, the adult has the greatest ability to make and communicate decisions.

(4) An adult's understanding of how the agent will manage the adult's health care decisions is not required for the adult to appoint an agent under Subsection (2)(b).

Section 22. Section 75A-5-203 is amended to read:

75A-5-203. Fiduciary's power to adjust.

(1) Except as otherwise provided in the terms of a trust or this section, a fiduciary, in a record, without court approval, may adjust between income and principal if the fiduciary determines the exercise of the power to adjust will assist the fiduciary to administer the trust or estate impartially.

(2) This section does not create a duty to exercise or consider the power to adjust under Subsection (1) or to inform a beneficiary about the applicability of this section.

(3) A fiduciary that in good faith exercises or fails to exercise the power to adjust under Subsection (1) is not liable to a person affected by the exercise or failure to exercise.

(4) In deciding whether and to what extent to exercise the power to adjust under Subsection (1), a fiduciary shall consider all factors the fiduciary considers relevant, including the relevant factors in Subsection 75A-5-201(5) and the application of Subsection 75A-5-401(9), Section 75A-5-408, and Section 75A-5-413.

(5) A fiduciary may not exercise the power to make an adjustment under Subsection (1) or the power to make a determination that an allocation is insubstantial under Section 75A-5-408 if:

(a) the adjustment or determination would reduce the amount payable to a current income beneficiary from a trust that qualifies for a special tax benefit, except to the extent the adjustment is made to provide for a reasonable apportionment of the total return of the trust between the current income beneficiary and successor beneficiaries;

(b) the adjustment or determination would change the amount payable to a beneficiary, as a fixed annuity or a fixed fraction of the value of the trust assets, under the terms of the trust;

(c) the adjustment or determination would reduce an amount that is permanently set aside for a charitable purpose under the terms of the trust, unless both income and principal are set aside for the charitable purpose;

(d) possessing or exercising the power would cause a person to be treated as the owner of all or part of the trust for federal income tax purposes;

(e) possessing or exercising the power would cause all or part of the value of the trust assets to be included in the gross estate of an individual for federal estate tax purposes;

(f) possessing or exercising the power would cause an individual to be treated as making a gift for federal gift tax purposes;

(g) the fiduciary is not an independent person;

(h) the trust is irrevocable and provides for income to be paid to the settlor and possessing or exercising the power would cause the adjusted principal or income to be considered an available resource or available income under a public-benefit program; or

(i) the trust is a unitrust under Part 3, Unitrust.

(6) If Subsection (5)(d), (e), (f), or (g) applies to a fiduciary:

(a) a co-fiduciary to which Subsections (5)(d) through (g) do not apply may exercise the power to adjust, unless the exercise of the power to adjust by the remaining co-fiduciary or co-fiduciaries is not permitted by the terms of the trust or law other than this chapter; or

(b) (i) if there is no co-fiduciary to which Subsections (5)(d) through (g) do not apply:

(A) except as otherwise provided in Subsection (6)(b)(ii)(A), the fiduciary may appoint a co-fiduciary to which Subsections (5)(d) through (g) do not apply;

(B) except as otherwise provided in Subsection (6)(b)(ii)(B), the appointed co-fiduciary may exercise the power to adjust under Subsection (1); and

(C) the appointed co-fiduciary may be a special fiduciary with limited powers.

(ii) (A) If the appointment of a co-fiduciary is not permitted by the terms of the trust or by a provision of law outside this chapter, a fiduciary may not appoint a co-fiduciary.

(B) If the exercise of the power to adjust by a co-fiduciary is not permitted by the terms of the trust or by a provision of law outside this chapter, the co-fiduciary may not exercise the power to adjust under Subsection (1).

(7) A fiduciary may release or delegate to a co-fiduciary the power to adjust under Subsection (1) if the fiduciary determines that the fiduciary's possession or exercise of the power to adjust will or may:

(a) cause a result described in Subsections (5)(a) through (f) or (h); or

(b) deprive the trust of a tax benefit or impose a tax burden not described in Subsections (5)(a) through (f).

(8) A fiduciary's release or delegation to a co-fiduciary under Subsection (7) of the power to adjust under Subsection (1):

(a) must be in a record;

(b) applies to the entire power to adjust, unless the release or delegation provides a limitation, which may be a limitation to the power to adjust:

(i) from income to principal;

(ii) from principal to income;

(iii) for specified property; or

(iv) in specified circumstances;

(c) for a delegation, may be modified by a redelegation under this subsection by the co-fiduciary to which the delegation is made; and

(d) subject to Subsection (8)(c), is permanent, unless the release or delegation provides a specified period, including a period measured by the life of an individual or the lives of more than one individual.

(9) Terms of a trust that deny or limit the power to adjust between income and principal do not affect the application of this section, unless the terms of the trust expressly deny or limit the power to adjust under Subsection (1).

(10) The exercise of the power to adjust under Subsection (1) in any accounting period may apply to the current accounting period, the immediately preceding accounting period, and one or more subsequent accounting periods.

(11) A description of the exercise of the power to adjust under Subsection (1) shall be:

(a) included in a report, if any, sent to beneficiaries under Subsection 75-7-811(3); or

(b) communicated at least annually to the qualified beneficiaries determined under Subsection [~~75-7-103(1)(h)~~]75-7-103(1)(i).

Section 23. Section 75A-5-303 is amended to read:

75A-5-303. Authority of fiduciary.

(1) A fiduciary, without court approval, by complying with Subsections (2) and (6), may:

(a) convert an income trust to a unitrust if the fiduciary adopts, in a record, a unitrust policy for the trust providing:

(i) that, in administering the trust, the net income of the trust will be a unitrust amount rather than net income determined without regard to this part; and

(ii) the percentage and method used to calculate the unitrust amount;

(b) change the percentage or method used to calculate a unitrust amount for a unitrust if the fiduciary adopts in a record a unitrust policy or an amendment or replacement of a unitrust policy providing changes in the percentage or method used to calculate the unitrust amount; or

(c) convert a unitrust to an income trust if the fiduciary adopts, in a record, a determination that, in administering the trust, the net income of the trust will be net income determined without regard to this part rather than a unitrust amount.

(2) A fiduciary may take an action under Subsection (1) if:

(a) the fiduciary determines that the action will assist the fiduciary to administer a trust impartially;

(b) the fiduciary sends a notice in a record, in the manner required by Section 75A-5-304, describing and proposing to take the action;

(c) the fiduciary sends a copy of the notice under Subsection (2)(b) to each settlor of the trust which is:

(i) if an individual, living; or

(ii) if not an individual, in existence;

(d) at least one member of each class of the qualified beneficiaries determined under Subsection [~~75-7-103(1)(h)~~]75-7-103(1)(i) receiving the notice under Subsection (2)(b) is:

(i) if an individual, legally competent;

(ii) if not an individual, in existence; or

(iii) represented in the manner provided in Subsection 75A-5-304(2); and

(e) the fiduciary does not receive, by the date specified in the notice under Subsection 75A-5-304(4)(e), an objection in a record to the action proposed under Subsection (2)(b) from a person to which the notice under Subsection (2)(b) is sent.

(3) (a) If a fiduciary receives, not later than the date stated in the notice under Subsection 75A-5-304(4)(e), an objection in a record described in Subsection 75A-5-304(4)(d) to a proposed action, the fiduciary or a beneficiary may request that the court:

(i) require the fiduciary to take the proposed action;

(ii) require the fiduciary to take the proposed action with modifications; or

(iii) prevent the proposed action.

(b) A person described in Subsection 75A-5-304(1) may oppose the proposed action in the proceeding under Subsection (3)(a), regardless of whether the person:

(i) consented under Subsection 75A-5-304(3); or

(ii) objected under Subsection 75A-5-304(4)(d).

(4) If, after sending a notice under Subsection (2)(b), a fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify each person described in Subsection 75A-5-304(1) in a record of the decision not to take the action and the reasons for the decision.

(5) If a beneficiary requests in a record that a fiduciary take an action described in Subsection (1) and the fiduciary declines to act or does not act within 90 days after receiving the request, the beneficiary may request the court to direct the fiduciary to take the action requested.

(6) In deciding whether and how to take an action authorized by Subsection (1), or whether and how to respond to a request by a beneficiary under Subsection (5), a fiduciary shall consider all factors relevant to the trust and the beneficiaries, including the relevant factors in Subsection 75A-5-201(5).

(7) For a reason described in Subsection 75A-5-203(7), and in the manner described in Subsection 75A-5-203(8), a fiduciary may:

(a) release or delegate the power to convert an income trust to a unitrust under Subsection (1)(a);

(b) change the percentage or method used to calculate a unitrust amount under Subsection (1)(b); or

(c) convert a unitrust to an income trust under Subsection (1)(c).

Section 24. Section 75A-5-304 is amended to read:

75A-5-304. Notice.

(1) A fiduciary shall send a notice required by Subsection 75A-5-303(2)(b) in a manner authorized under Section 75-7-109 to:

(a) the qualified beneficiaries determined under Subsection [~~75-7-103(1)(h)~~]75-7-103(1)(i);

(b) each person acting, in accordance with Title 75, Chapter 12, Uniform Directed Trust Act, as trust director of the trust; and

(c) each person that is granted a power by the terms of the trust to appoint or remove a trustee or person described in Subsection (1)(b), to the extent the power is exercisable when the person that exercises the power is not then serving as trustee or is a person described in Subsection (1)(b).

(2) The representation provisions of Sections 75-7-301 through 75-7-305 apply to notice under this section.

(3) (a) A person may consent in a record at any time to action proposed under Subsection 75A-5-303(2)(b).

(b) If a person required to receive a notice under Subsection (1) consents under Subsection (3)(a) to not receive the notice, the fiduciary is not required to send the person the notice.

(4) A notice required by Subsection 75A-5-303(2)(b) shall include:

(a) the action proposed under Subsection 75A-5-303(2)(b);

(b) for a conversion of an income trust to a unitrust, a copy of the unitrust policy adopted under Subsection 75A-5-303(1)(a);

(c) for a change in the percentage or method used to calculate the unitrust amount, a copy of the unitrust policy or amendment or replacement of the unitrust policy adopted under Subsection 75A-5-303(1)(b);

(d) a statement that the person to which the notice is sent may object to the proposed action by stating in a record the basis for the objection and sending or delivering the record to the fiduciary;

(e) the date by which the fiduciary shall receive an objection under Subsection (4)(d), which shall be at least 30 days after the date the notice is sent;

(f) the date on which the action is proposed to be taken and the date on which the action is proposed to take effect;

(g) the name and contact information of the fiduciary; and

(h) the name and contact information of a person that may be contacted for additional information.

Section 25. Section 75A-8-102 is amended to read:

CHAPTER 8. UNIFORM TRANSFERS TO MINORS ACT

75A-8-102. Definitions for chapter.

As used in this chapter:

(1) "Adult" means an individual who is 21 years old or older.

(2) "Beneficiary" means the same as that term is defined in Section 75-1-201.

(3) "Benefit plan" means an employer's plan for the benefit of an employee or partner.

(4) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the accounts of others.

(5) "Conservator" means a person appointed or qualified by a court to act as general, limited, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.

(6) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(7) "Custodial property" means:

(a) any interest in property transferred to a custodian under this chapter; and

(b) the income from and proceeds of that interest in property.

(8) "Custodian" means a person so designated under Section 75A-8-110 or a successor or substitute custodian designated under Section 75A-8-119.

(9) "Estate" means the same as that term is defined in Section 75-1-201.

(10) "Fiduciary" means the same as that term is defined in Section 75-1-201.

(11) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

(12) "Guardian" means the same as that term is defined in Section 75-1-201.

[~~(13) "Incapacitated" means the same as that term is defined in Section 75-1-201.~~]

(13) "Incapacitated" means the inability of the individual to manage the property or business affairs of the minor because the individual:

(a) lacks the ability to receive or evaluate information, make decisions, or communicate decisions even with the use of technological assistance;

(b) is missing;

(c) is detained or incarcerated; or

(d) is outside the United States and is unable to return.

(14) "Incapacity" means the [~~same as that term is defined in Section 75-1-201~~]state of being incapacitated.

(15) "Interested person" means the same as that term is defined in Section 75-1-201.

(16) "Legal representative" means an individual's personal representative or conservator.

(17) "Member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(18) "Minor" means an individual who is under 21 years old.

(19) "Parent" means the same as that term is defined in Section 75-1-201.

(20) "Payor" means the same as that term is defined in Section 75-1-201.

(21) "Person" means an individual, corporation, organization as defined in Section 75-1-201, or other legal entity.

(22) "Personal representative" means an executor, administrator, successor personal representative as defined in Section 75-1-201, or special administrator as defined in Section 75-1-201, of a decedent's estate or a person legally authorized to perform substantially the same functions.

(23) "Petition" means the same as that term is defined in Section 75-1-201.

(24) "Property" means the same as that term is defined in Section 75-1-201.

(25) "Record" means the same as that term is defined in Section 75-1-201.

(26) "Security" means the same as that term is defined in Section 75-1-201.

(27) "State" includes any state of the United States, the district of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(28) "Testator" means the same as that term is defined in Section 75-1-201.

(29) "Transfer" means a transaction that creates custodial property under Section 75A-8-109.

(30) "Transferor" means a person who makes a transfer under this chapter.

(31) "Trust" means the same as that term is defined in Section 75-1-201.

(32) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

(33) "Trustee" means the same as that term is defined in Section 75-1-201.

(34) "Will" means the same as that term is defined in Section 75-1-201.

Section 26. Section 75B-1-101 is amended to read:

75B-1-101. Definitions for title.

[~~Reserved.~~]As used in this title:

(1) "Income" means the same as that term is defined in Section 75A-5-102.

(2) "Nongeneral power of appointment" means the same as that term is defined in Section 75A-4-102.

(3) "Principal" means the same as that term is defined in Section 75A-5-102.

(4) "Property" means the same as that term is defined in Section 75-1-201.

(5) "Settlor" means the same as that term is defined in Section 75-7-102.

(6) "Sign" means the same as that term is defined in Section 75-1-201.

(7) "Trust company" means the same as that term is defined in Section 7-5-1.

(8) "Trustee" means the same as that term is defined in Section 75-1-201.

Section 27. Section 75B-1-301 is amended to read:

PART 3. Asset Protection Trust

75B-1-301. Definitions for part.

As used in this part:

(1) "Asset protection trust" means a trust:

(a) that is irrevocable;

(b) of which the settlor:

(i) is a beneficiary; or

(ii) may be made a beneficiary by the act or action of a person other than the settlor; and

(c) meets the requirements of this part.

[~~(1)~~](2) "Creditor" means:

(a) a creditor or other claimant of the settlor existing when the asset protection trust is created; or

(b) a person who subsequently becomes a creditor of the settlor, including whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured:

(i) holding or seeking to enforce a judgment entered by a court or other body having adjudicative authority; or

(ii) with a right to payment.

[~~(2)~~](3) "Domestic support obligation" means:

(a) a child support judgment or order;

(b) a spousal support judgment or order; or

(c) an unsatisfied claim arising from a property division in a divorce proceeding.

[~~(3)~~](4) "Insolvent" means:

(a) having generally ceased to pay debts in the ordinary course of business other than as a result of a bona fide dispute;

(b) being unable to pay debts as they become due; or

(c) being insolvent within the meaning of federal bankruptcy law.

[~~(4)~~](5) "Paid and delivered" does not include the settlor's use or occupancy, as a beneficiary, of real property or personal property owned by the asset protection trust if the use or occupancy is in accordance with the trustee's discretionary authority under the trust instrument.

[~~(5)~~](6) "Personal property" includes intangible and tangible personal property.

[~~(6) "Property" means real property, personal property, and interests in real or personal property.~~]

[~~(7) "Settlor" means a person who transfers property in trust.~~]

[~~(8)~~](7) "Transfer" means any form of transfer of property, including gratuitous transfers, whether by deed, conveyance, or assignment.

[~~(9) "Trust" means the same as that term is defined in Section 75-1-201.~~]

Section 28. Section 75B-1-302 is amended to read:

75B-1-302. Asset protection trust -- Governing law.

(1) [~~If the settlor of an irrevocable trust is also a beneficiary of the trust, and if the requirements of Subsection (3) are satisfied, a~~]A creditor of [~~the~~]a settlor of an asset protection trust may not:

(a) satisfy a claim or liability of the settlor in either law or equity out of the settlor's transfer to the asset protection trust or the settlor's beneficial interest in the asset protection trust;

(b) force or require the trustee to make a distribution to the settlor, as beneficiary; or

(c) require the trustee to pay any distribution directly to the creditor, or otherwise attach the distribution before [~~it~~]the distribution has been paid or delivered by the trustee to the settlor, as beneficiary.

(2) Notwithstanding Subsection (1), [~~nothing in this section~~]this part does not:

(a) [~~prohibits~~]prohibit a creditor from satisfying a claim or liability from the distribution once [~~it~~]the distribution has been paid or delivered by the trustee to the settlor, as beneficiary; or

(b) [~~nullifies or impairs~~]nullify or impair a security interest that was granted by a settlor or a trustee with respect to property that is transferred to the asset protection trust.

(3) A trust is subject to this part if:

(a) the trust is governed by the laws of this state as described in Section 75-7-107; and

(b) the trust meets the requirements of this part.

(4) Notwithstanding Subsection 25-6-402(2), a court of this state has exclusive jurisdiction over an action or claim for relief that is based on a transfer of property to an asset protection trust.

[~~(3) (a) In order for Subsection (1) to apply, the conditions in this Subsection (3) shall be satisfied.~~]

[~~(b) Where this Subsection (3) requires that a provision be included in the trust instrument, no particular language need be used in the trust instrument if the meaning of the trust provision otherwise complies with this Subsection (3).~~]

[~~(c) An agreement or understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention by the settlor of greater rights or authority than is stated in the trust instrument is void.~~]

[~~(d) The trust instrument shall provide that the trust is governed by Utah law and is established pursuant to this section.~~]

[~~(e) The trust instrument shall require that at all times at least one trustee shall be a Utah resident or Utah trust company, as the term "trust company" is defined in Section 7-5-1.~~]

[~~(f) (i) The trust instrument shall provide that neither the interest of the settlor, as beneficiary, nor the income or principal of the trust may be voluntarily or involuntarily transferred by the settlor, as beneficiary.~~]

[~~(ii) The provision shall be considered to be a restriction on the transfer of the settlor's beneficial interest in the trust that is enforceable under applicable nonbankruptcy law within the meaning of 11 U.S.C. Sec. 541(c)(2).~~]

[~~(g) The settlor may not have the ability under the trust instrument, without the consent of a person who has a substantial beneficial interest in the trust, which interest would be adversely affected by the exercise of the power held by the settlor:~~]

[~~(i) to revoke, amend, or terminate all or any part of the trust; or~~]

[~~(ii) to withdraw any property from the trust, except that the settlor, without the approval or consent of any person, may be given the power, under the trust agreement, to substitute assets of substantially equivalent value.~~]

[~~(h) The trust instrument may not provide for any mandatory distributions of either income or principal to the settlor, as beneficiary, except as provided in Subsection (5)(g).~~]

[~~(i) (i) The trust instrument shall require that, at least 30 days before paying and delivering any distribution to the settlor, as beneficiary, the trustee notify in writing every person who has a domestic support obligation against the settlor.~~]

[~~(ii) The trust instrument shall require that the notice state the date the distribution will be paid and delivered and the amount of the distribution.~~]

[~~(j) At the time that the settlor transfers any assets to the trust, the settlor may not be in default of making a payment due under a domestic support obligation.~~]

[~~(k) A transfer of assets to the trust may not render the settlor insolvent.~~]

[~~(l) At the time the settlor transfers any assets to the trust, the settlor may not intend to hinder, delay, or defraud a known creditor by transferring the assets to the trust. A settlor's expressed intention to protect trust assets from the settlor's potential future creditors is not evidence of an intent to hinder, delay, or defraud a known creditor.~~]

[~~(m) Assets transferred to the trust may not be derived from unlawful activities.~~]

[~~(nn) With respect to each transfer of assets to the trust, the settlor shall sign a sworn affidavit stating that at the time of the transfer of the assets to the trust:~~]

[~~(i) the settlor has full right, title, and authority to transfer the assets to the trust;~~]

[~~(ii) the transfer of the assets to the trust will not render the settlor insolvent;~~]

[~~(iii) the settlor does not intend to hinder, delay, or defraud a known creditor by transferring the assets to the trust;~~]

[~~(iv) there is no pending or threatened court action against the settlor, except for a court action identified by the settlor on an attachment to the affidavit;~~]

[~~(v) the settlor is not involved in an administrative proceeding that is reasonably expected to have a material adverse effect on the financial condition of the settlor, except an administrative proceeding identified on an attachment to the affidavit;~~]

[~~(vi) at the time of the transfer of the assets to the trust, the settlor is not in default of a domestic support obligation;~~]

[~~(vii) the settlor does not contemplate filing for relief under the provisions of United States Code, Title 11, Bankruptcy; and~~]

[~~(viii) the assets being transferred to the trust were not derived from unlawful activities.~~]

[~~(4) Failure to satisfy the requirements of Subsection (3) shall result in the consequences described in this Subsection (4).~~]

[~~(a) If any requirement of Subsections (3)(b) through (g) is not satisfied, none of the property held in the trust will at any time have the benefit of the protections described in Subsection (1).~~]

[~~(b) If the trustee does not send the notice required under Subsection (3)(g), the court may authorize any person with a domestic support obligation against the settlor to whom notice was not sent to attach the distribution or future distributions, but the person may not:~~]

[~~(i) satisfy a claim or liability in either law or equity out of the settlor's transfer to the trust or the settlor's beneficial interest in the trust; or~~]

[~~(ii) force or require the trustee to make a distribution to the settlor, as beneficiary.~~]

[~~(c) If any requirement described in Subsections (3)(i) through (l) is not satisfied, the property transferred to the trust that does not satisfy the requirement may not have the benefit of the protections described in Subsection (1).~~]

[~~(d) If the requirement described in Subsection (3)(h) is not satisfied, the property transferred to the trust that does not satisfy the requirement does not have the benefit of the protections described in Subsection (1) with respect to any person with a domestic support obligation.~~]

[~~(e) A creditor of the settlor has the burden of proving that the requirement in Subsection (3)(i) or (j) is not satisfied by clear and convincing evidence.~~]

[~~(5) The provisions of Subsection (1) may apply to a trust even if:~~]

[~~(a) the settlor serves as a cotrustee or as an advisor to the trustee, except that the settlor may not determine whether a discretionary distribution will be made;~~]

[~~(b) the settlor participates in a determination regarding whether a discretionary distribution is made to the settlor by:~~]

[~~(i) requesting a distribution from the trust;~~]

[~~(ii) consulting with the trustees regarding whether a discretionary distribution will be made;~~]

[~~(iii) exercising a right to consent to or veto the distribution under a power described in Subsection (5)(e);~~]

[~~(iv) signing documentation in the settlor's capacity as a cotrustee that implements a distribution when the other trustees use discretionary power to independently authorize a distribution; or~~]

[~~(v) participating in an action authorizing a distribution if the other trustees can authorize the distribution without the settlor's participation.~~]

[~~(c) the settlor has the authority under the terms of the trust instrument to appoint a nonsubordinate advisor or a trust protector who can remove and appoint trustees and who can direct, consent to, or disapprove distributions;~~]

[~~(d) the settlor has the power under the terms of the trust instrument to serve as an investment director or to appoint an investment director under Section 75-7-906;~~]

[~~(c) the trust instrument gives the settlor the power to consent to or veto a distribution from the trust;~~]

[~~(f) the trust instrument gives the settlor an inter vivos or a testamentary nongeneral power of appointment or similar power;~~]

[~~(g) the trust instrument gives the settlor the right to receive the following types of distributions:~~]

[~~(i) income, principal, or both in the discretion of a person, including a trustee, other than the settlor;~~]

[~~(ii) principal, subject to an ascertainable standard set forth in the trust;~~]

[~~(iii) income or principal from a charitable remainder annuity trust or charitable remainder unitrust, as defined in 26 U.S.C. Sec. 664;~~]

[~~(iv) a percentage of the value of the trust each year as determined under the trust instrument, but not exceeding the amount that may be defined as income under 26 U.S.C. Sec. 643(b);~~]

[~~(v) the transferor's potential or actual use of real property held under a qualified personal residence trust, or potential or actual possession of a qualified annuity interest, within the meaning of 26 U.S.C. Sec. 2702 and the accompanying regulations;~~]

[~~(vi) income or principal from a grantor retained annuity trust or grantor retained unitrust that is allowed under 26 U.S.C. Sec. 2702; and~~]

[~~(vii) income from a trust intended to qualify for the federal estate tax or gift tax marital deduction under 26 U.S.C. Sec. 2056(b)(7) or 2523(f);~~]

[~~(h) the trust instrument authorizes the settlor to use real or personal property owned by the trust; or~~]

[~~(i) with respect to the property held in the trust, the settlor may:~~]

[~~(i) give a personal guarantee on a debt or obligation secured by the property;~~]

[~~(ii) make payments, directly or indirectly, on a debt or obligation secured by the property;~~]

[~~(iii) pay property taxes, casualty and liability insurance premiums, homeowner association dues, maintenance expenses, or other similar expenses on the property; or~~]

[~~(iv) pay income tax on income attributable to the portion of property held in the trust, of which the settlor is considered to be the owner under 26 U.S.C. Sees. 671 through 678, which payments will not be considered additional transfers to the trust for purposes of this section.~~]

[~~(6) (a) If a trust instrument contains the provisions described in Subsections (3)(b) through (g), the transfer restrictions prevent a creditor or other person from asserting any cause of action or claim for relief against a trustee of the trust or against others involved in the counseling, drafting, preparation, execution, or funding of the trust for conspiracy to commit fraudulent conveyance or another voidable transfer, aiding and abetting a fraudulent conveyance or another voidable transfer, participation in the trust transaction, or similar cause of action or claim for relief.~~]

[~~(b) For purposes of this Subsection (6), counseling, drafting, preparation, execution, or funding of the trust includes the preparation and funding of a limited partnership, a limited liability company, or other entity if interests in the entity are subsequently transferred to the trust.~~]

[~~(c) The creditor and other person prevented from asserting a cause of action or claim for relief may assert a cause of action against, and are limited to recourse against, only:~~]

[~~(i) the trust and the trust assets; and~~]

[~~(ii) the settlor, to the extent otherwise allowed in this section.~~]

[~~(7) (a) A cause of action or claim for relief under Subsection (3)(i) or (j) is a cause of action or claim for relief under Section 25-6-202 or 25-6-203.~~]

[~~(b) Except as provided in Subsection (7)(a), a cause of action or claim for relief under this section is not a cause of action or claim for relief under Sections 25-6-101through 25-6-407.~~]

[~~(c) Notwithstanding Section 25-6-305, a cause of action or claim for relief regarding a fraudulent conveyance or other voidable transfer of a settlor's assets under this section is extinguished unless the action is brought by a creditor of the settlor who was a creditor of the settlor before the assets in question were transferred to the trust and the action is brought within the earlier of:~~]

[~~(i) the later of two years after the transfer is made, or one year after the transfer is or reasonably could have been discovered by the creditor if the creditor:~~]

[~~(A) can demonstrate, by clear and convincing evidence, that the creditor asserted a specific claim against the settlor before the transfer; or~~]

[~~(B) files another action, other than an action alleging a fraudulent conveyance or other voidable transfer against the settlor that asserts a claim based on an act or omission of the settlor that occurred before the transfer, and the action described in Subsection (7)(c) is filed within two years after the transfer; or~~]

[~~(ii) (A) with respect to a creditor known to the settlor, 120 days after the date on which notice of the transfer is mailed to the creditor, which notice shall state the name and address of the settlor or the settlor's representative, the name and address of the trustee or the trustee's representative, and also describe the assets that were transferred, but does not need to state the value of those assets if the assets are other than cash, and which shall inform the creditor that the creditor is required to bring the creditor's cause of action or claim for relief against the settlor and the trustee within 120 days from the mailing of the notice or be forever barred; or~~]

[~~(B) with respect to a creditor not known to the settlor, 120 days after the date on which notice of the transfer is first published in a newspaper of general circulation in the county in which the settlor then resides, or is published on a public legal notice website as defined in Section 45-1-101, which notice shall state the name of the settlor or the settlor's representative, the address of the settlor or the settlor's representative, the name of the trustee or the trustee's representative, the address of the trustee or the trustee's representative, and also describe the assets that were transferred, but does not need to state the value of those assets.~~]

[~~(8) (a) The notice required in Subsection (7)(c)(ii)(B) shall be published in accordance with the provisions of Section 45-1-101 for three consecutive weeks and inform creditors that they are required to bring a cause of action or claim for relief within 120 days from the first publication of the notice or be forever barred.~~]

[~~(b) Failure to give the notice required in Subsection (7)(c)(ii) to a creditor does not prevent the shortening of the limitations period under Subsection (7)(c)(ii) with respect to another creditor who properly received notice by mail or publication.~~]

[~~(9) (a) A trust is subject to this section if it is governed by Utah law, as provided in Section 75-7-107, and if it otherwise meets the requirements of this section.~~]

[~~(b) A court of this state has exclusive jurisdiction over an action or claim for relief that is based on a transfer of property to a trust that is the subject of this section.~~]

[~~(10) (a) With respect to a trust that is subject to this section, a claim brought by a creditor of a beneficiary who is not the settlor is subject to Section 75-7-501 et. seq.~~]

[~~(b) With respect to an irrevocable trust that is not subject to this section, a claim brought by a creditor of a beneficiary who is the settlor is subject to the provisions of Subsection 75-7-505(2).~~]

[~~(11) If a provision in this section conflicts with a provision in Sections 25-6-101 through 25-6-407, the provision of this section shall supersede the conflicting provision in Sections 25-6-101 through 25-6-407.~~]

[~~(12) Nothing in this section alters rights vested or created under this section before May 14, 2019.~~]

Section 29. Section 75B-1-303 is enacted to read:

75B-1-303. Requirements for asset protection trust.

(1) For the protections described in Subsection 75B-1-302(1) to apply to an asset protection trust, the asset protection trust shall comply with this section.

(2) (a) The trust instrument shall:

(i) provide that the trust is governed by Utah law and is established in accordance with this part;

(ii) require that at all times at least one trustee be a Utah resident or Utah trust company;

(iii) provide that the settlor, as a beneficiary, may not voluntarily or involuntarily transfer:

(A) the income or principal of the asset protection trust; or

(B) any other beneficial interest of the settlor;

(iv) require that the trustee notify in writing every person who has a domestic support obligation against the settlor at least 30 days before paying and delivering any distribution to the settlor as a beneficiary; and

(v) require that the notice described in Subsection (2)(a)(iv) state the date that the distribution will be paid and delivered and the amount of the distribution.

(b) The provision described in Subsection (2)(a)(iii) is considered a restriction on the transfer of the settlor's beneficial interest in the asset protection trust that is enforceable under applicable nonbankruptcy law within the meaning of 11 U.S.C. Sec. 541(c)(2).

(c) (i) If the trustee does not send the notice required under Subsections (2)(a)(iv) and (v), the court may authorize any person with a domestic support obligation against the settlor to whom notice was not sent to attach the distribution or future distributions.

(ii) Notwithstanding Subsection (2)(c)(i), the person described in Subsection (2)(c)(i) may not:

(A) satisfy a claim or liability in either law or equity out of the settlor's transfer to the trust or the settlor's beneficial interest in the trust; or

(B) force or require the trustee to make a distribution to the settlor as a beneficiary.

(d) This Subsection (2) does not require particular language to be used in the trust instrument if the meaning of the trust provision otherwise complies with this section.

(3) The settlor may not have the ability under the trust instrument, without the consent of a person who has a substantial beneficial interest in the trust and whose interest would be adversely affected by the exercise of the power held by the settlor:

(a) to revoke, amend, or terminate all or any part of the trust; or

(b) to withdraw any property from the trust, except that the settlor, without the approval or consent of any person, may be given the power under the trust instrument to substitute assets of substantially equivalent value.

(4) Except as provided in Subsections 75B-1-304(5)(c) and (6), the trust instrument may not provide for any mandatory distributions of either income or principal to the settlor, as a beneficiary.

(5) (a) At the time the settlor transfers any assets to the asset protection trust, the settlor may not:

(i) be in default of making a payment due under a domestic support obligation; or

(ii) intend to hinder, delay, or defraud a known creditor by transferring the assets to the trust.

(b) A settlor's expressed intention to protect assets in the asset protection trust from the settlor's potential future creditors is not evidence of an intent to hinder, delay, or defraud a known creditor under Subsection (5)(a)(ii).

(6) A transfer of assets to the asset protection trust may not:

(a) render the settlor insolvent; or

(b) be derived from unlawful activities.

(7) A creditor of the settlor has the burden of proving that the requirement in Subsection (5)(a)(ii) or (6)(a) is not satisfied by clear and convincing evidence.

(8) (a) If an asset protection trust does not comply with a requirement described in Subsection (2)(a)(i), (2)(a)(ii), (2)(a)(iii), (3), or (4), none of the property held in the asset protection trust will at any time have the benefit of the protections described in Subsection 75B-1-302(1).

(b) If a transfer of assets to an asset protection trust does not comply with the requirement described in Subsection (5)(a)(i), the property transferred to the asset protection trust that does not comply with the requirement does not have the benefit of the protections described in Subsection 75B-1-302(1) with respect to any person with the domestic support obligation.

(c) If a transfer of assets to an asset protection trust does not comply with the requirement described in Subsection (5)(a)(ii) or (6), the property transferred to the trust that does not satisfy the requirement may not have the benefit of the protections described in Subsection 75B-1-302(1).

Section 30. Section 75B-1-304 is enacted to read:

75B-1-304. Application of asset protection trust.

The protections described in Subsection 75B-1-302(1) may apply to an asset protection trust even if:

(1) the settlor serves as a cotrustee or as an advisor to the trustee, except that the settlor may not determine whether a discretionary distribution will be made;

(2) the settlor participates in a determination regarding whether a discretionary distribution is made to the settlor by:

(a) requesting a distribution from the trust;

(b) consulting with the trustees regarding whether a discretionary distribution will be made;

(c) exercising a right to consent to or veto the distribution under a power described in Subsection (5)(a);

(d) signing documentation in the settlor's capacity as a cotrustee that implements a distribution when the other trustees use discretionary power to independently authorize a distribution; or

(e) participating in an action authorizing a distribution if the other trustees can authorize the distribution without the settlor's participation;

(3) the settlor has the authority under the terms of the trust instrument to appoint a nonsubordinate advisor or a trust protector who can remove and appoint trustees and who can direct, consent to, or disapprove distributions;

(4) the settlor has the power under the terms of the trust instrument to serve as an investment director or to appoint an investment director under Section 75-7-906;

(5) the trust instrument gives the settlor:

(a) the power to consent to or veto a distribution from the trust;

(b) an inter vivos or a testamentary nongeneral power of appointment or similar power; or

(c) the right to receive the following types of distributions:

(i) income, principal, or both in the discretion of a person, including a trustee other than the settlor;

(ii) principal, subject to an ascertainable standard set forth in the trust;

(iii) income or principal from a charitable remainder annuity trust or charitable remainder unitrust, as defined in 26 U.S.C. Sec. 664;

(iv) a percentage of the value of the trust each year as determined under the trust instrument, but not exceeding the amount that may be defined as income under 26 U.S.C. Sec. 643(b);

(v) the transferor's potential or actual use of real property held under a qualified personal residence trust, or potential or actual possession of a qualified annuity interest, within the meaning of 26 U.S.C. Sec. 2702 and the accompanying regulations;

(vi) income or principal from a grantor retained annuity trust or grantor retained unitrust that is allowed under 26 U.S.C. Sec. 2702; and

(vii) income from a trust intended to qualify for the federal estate tax or gift tax marital deduction under 26 U.S.C. Sec. 2056(b)(7) or 2523(f);

(6) the trust instrument authorizes the settlor, as a beneficiary, to use real or personal property owned by the trust; or

(7) with respect to the property held in the trust, the settlor may:

(a) give a personal guarantee on a debt or obligation secured by the property;

(b) make payments, directly or indirectly, on a debt or obligation secured by the property;

(c) pay property taxes, casualty and liability insurance premiums, homeowner association dues, maintenance expenses, or other similar expenses on the property; or

(d) pay income tax on income attributable to the portion of property held in the trust, of which the settlor is considered to be the owner under 26 U.S.C. Secs. 671 through 678, which payments will not be considered additional transfers to the trust for purposes of this part.

Section 31. Section 75B-1-305 is enacted to read:

75B-1-305. Illusory agreement.

An agreement or understanding, express or implied, between a settlor and a trustee of an asset protection trust is void if that agreement or understanding attempts to grant or permit the retention by the settlor of greater rights or authority than is stated in the trust instrument.

Section 32. Section 75B-1-306 is enacted to read:

75B-1-306. Affidavit of solvency.

With respect to a transfer of assets to an asset protection trust, a settlor may sign a sworn affidavit stating that at the time of the transfer of the assets to the trust:

(1) the settlor has full right, title, and authority to transfer the assets to the trust;

(2) the transfer of the assets to the trust will not render the settlor insolvent;

(3) the settlor does not intend to hinder, delay, or defraud a known creditor by transferring the assets to the trust;

(4) there is no pending or threatened court action against the settlor, except for a court action identified by the settlor on an attachment to the affidavit;

(5) the settlor is not involved in an administrative proceeding that is reasonably expected to have a material adverse effect on the financial condition of the settlor, except an administrative proceeding identified on an attachment to the affidavit;

(6) at the time of the transfer of the assets to the trust, the settlor is not in default of a domestic support obligation;

(7) the settlor does not contemplate filing for relief under the provisions of United States Code, Title 11, Bankruptcy; and

(8) the assets being transferred to the trust were not derived from unlawful activities.

Section 33. Section 75B-1-307 is enacted to read:

75B-1-307. Limitations on cause of action for asset protection trust.

(1) (a) Except as provided in Subsection (1)(b), a cause of action or claim for relief under this part is not a cause of action or claim for relief under Title 25, Chapter 6, Uniform Voidable Transfers Act.

(b) A cause of action or claim for relief under Subsections 75B-1-303(5)(a) and (6)(a) is a cause of action or claim for relief under Section 25-6-202 or 25-6-203.

(c) A person, including a creditor, may only bring a cause of action under Subsection 75B-1-303(5)(a) or (6)(a) with regard to the portion of the assets transferred to the trustee of the asset protection trust within the time period described in Subsection (2).

(2) Notwithstanding Section 25-6-305, a cause of action or claim for relief regarding a fraudulent conveyance or other voidable transfer of a settlor's assets under this part is extinguished unless the action is brought by a creditor of the settlor who was a creditor of the settlor before the assets in question were transferred to the asset protection trust and the action is brought within the earlier of:

(a) the later of two years after the transfer is made, or one year after the transfer is or reasonably could have been discovered by the creditor if the creditor:

(i) can demonstrate, by clear and convincing evidence, that the creditor asserted a specific claim against the settlor before the transfer; or

(ii) files another action, other than an action alleging a fraudulent conveyance or other voidable transfer against the settlor that asserts a claim based on an act or omission of the settlor that occurred before the transfer, and the action described in this Subsection (2) is filed within two years after the transfer; or

(b) (i) with respect to a creditor known to the settlor, 120 days after the date on which notice of the transfer is mailed to the creditor; or

(ii) with respect to a creditor not known to the settlor, 120 days after the date on which notice of the transfer is first published in a newspaper of general circulation in the county in which the settlor then resides, or is published on a public legal notice website as defined in Section 45-1-101.

(3) A notice described in Subsection (2)(b)(i) shall:

(a) state the name and address of the settlor or the settlor's representative;

(b) state the name and address of the trustee or the trustee's representative;

(c) describe the assets that were transferred, except that the notice does not need to state the value of the assets if the assets are other than cash; and

(d) inform the creditor that the creditor is required to bring the creditor's cause of action or claim for relief against the settlor and the trustee within 120 days from the mailing of the notice or be forever barred.

(4) A notice described in Subsection (2)(b)(ii) shall:

(a) state the name and address of the settlor or the settlor's representative;

(b) state the name and address of the trustee or the trustee's representative;

(c) describe the assets that were transferred, except that the notice does not need to state the value of the assets;

(d) be published in accordance with the provisions of Section 45-1-101 for three consecutive weeks; and

(e) inform creditors that they are required to bring a cause of action or claim for relief within 120 days from the first publication of the notice or be forever barred.

(5) Failure to give the notice required in Subsection (2)(b) to a creditor does not prevent the shortening of the limitations period under Subsection (2)(b) with respect to another creditor who properly received notice by mail or publication.

Section 34. Section 75B-1-308 is enacted to read:

75B-1-308. Claims against beneficiaries of asset protection trust.

(1) With respect to an asset protection trust, a claim brought by a creditor of a beneficiary who is not the settlor is subject to Title 75, Chapter 7, Part 5, Creditor's Claims - Spendthrift and Discretionary Trusts.

(2) With respect to an irrevocable trust that is not subject to this part, a claim brought by a creditor of a beneficiary who is the settlor is subject to the provisions of Subsection 75-7-505(2).

Section 35. Section 75B-1-309 is enacted to read:

75B-1-309. Liability of participant in asset protection trust.

(1) If the settlor signs an affidavit described in Section 75B-1-306, a person, including a creditor, may not assert a cause of action or claim for relief against a trustee of the asset protection trust, or against a person that was involved in the counseling, drafting, preparation, execution, or funding of the asset protection trust, for:

(a) conspiracy to engage in a voidable transfer;

(b) aiding and abetting a voidable transfer;

(c) participation in the trust transaction; or

(d) a similar cause of action or claim for relief described in Subsections (1)(a) through (c).

(2) For purposes of Subsection (1), the counseling, drafting, preparation, execution, or funding of the trust includes the preparation and funding of a limited partnership, a limited liability company, or other entity if interests in the entity are subsequently transferred to the trust.

(3) The creditor or other person prevented from asserting a cause of action or claim for relief described in Subsection (1) may only assert a cause of action against, and is limited to recourse against:

(a) the trust and the trust assets; and

(b) the settlor to the extent otherwise allowed under this part.

Section 36. Section 75B-1-310 is enacted to read:

75B-1-310. Distributions from asset protection trust.

(1) If the settlor makes more than one transfer to an asset protection trust, a distribution by the trustee is considered to be made from the most recent transfer to the trust.

(2) A trustee of an asset protection trust may convey property that is held in trust to a beneficiary of the trust, including the settlor, for the beneficiary to secure financing with a lien or other encumbrance against the property.

(3) If the property described in Subsection (2) is reconveyed to the trustee of the asset protection trust within 60 days after the day on which the lien or other encumbrance is attached, the reconveyance is not considered a transfer to the asset protection trust for purposes of calculating the limitations period under Subsection 75B-1-307(2) or for any other purpose.

Section 37. Effective Date.

This bill takes effect on May 7, 2025.

Section 38. Coordinating S.B. 206 with H.B. 334.

If S.B. 206, Estate Planning Amendments, and H.B. 334, Guardianships and Supported Decision-Making Agreements Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, the changes in H.B. 334 to Subsection 7-5-1(1)(b) not be made.

Section 39. Coordinating S.B. 206 with S.B. 100.

If S.B. 206, Estate Planning Amendments, and S.B. 100, Estate Planning Recodification, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) the references in Subsection 75-7-105(2)(e), Subsections 75-7-505(2)(a) and (b), and Section 75-7-501 in S.B. 206 be changed from "Title 75B, Chapter 1, Part 3, Asset Protection Trust," to "Chapter 1, Part 3, Asset Protection Trust";

(2) the reference in Subsection 75-7-301(3) in S.B. 206 be changed from "Section 75-7-411 and Title 75B, Chapter 1, Part 3, Asset Protection Trust," to "Section 75B-2-411 and Chapter 1, Part 3, Asset Protection Trust";

(3) Section 75-7-812.5 enacted in S.B. 206 be renumbered to Section 75B-2-812.5;

(4) Subsections 75-7-812.5(e) and (f) enacted in S.B. 206 be deleted and the remaining subsections be renumbered accordingly;

(5) the references in Subsections 75A-5-203(11)(b), 75A-5-303(2)(d), and 75A-5-304(1)(a) in S.B. 206 be changed from "Section 75-7-103(1)(i)" to "Subsection 75B-2-103(8)";

(6) Subsections 75B-1-101(5) and (8) enacted in S.B. 206 be deleted and the remaining subsections be renumbered accordingly;

(7) the reference in Subsection 75B-1-302(3) in S.B. 206 be changed from "Section 75-7-107" to "Section 75B-2-107";

(8) the reference in Subsection 75B-1-304(4) in S.B. 206 be changed from "Section 75-7-906" to "Section 75B-2-906"; and

(9) the reference in Subsection 75B-1-308(2) in S.B. 206 be changed from "Subsection 75-7-505(2)" to "Subsection 75B-2-505(2)."

CHAPTER 339
S. B. 207
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

LOCAL IMPACT MITIGATION AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: R. Neil Walter

LONG TITLE

General Description:

This bill enacts a local impact mitigation tax for oil and gas production.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► imposes a local impact mitigation tax on oil and gas that is produced within the state within a certain period and is saved, sold, or transported;
- ► provides for certain exemptions from the tax;
- ► requires quarterly payment of the tax from oil and gas producers;
- ► requires the State Tax Commission to distribute tax revenue within a certain time to the counties from which the revenue was collected;
- ► provides for certain tax revenue distribution requirements for a county that receives tax revenue;
- ► limits the use of tax revenue to certain transportation-related mitigation projects;
- ► requires the State Tax Commission to collect an administrative charge from the collected tax revenue;
- ► prohibits counties from imposing certain oil or gas mitigation fees;
- ► requires any county that receives tax revenue to report to the Legislature regarding the county's use of the tax revenue; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-306, as last amended by Laws of Utah 2024, Chapter 35

ENACTS:

59-32-101, Utah Code Annotated 1953
59-32-102, Utah Code Annotated 1953
59-32-103, Utah Code Annotated 1953
59-32-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-1-306 is amended to read:
59-1-306. Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenue into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.

(1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge the commission administers under:

(a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(c) Section 19-6-714;

(d) Section 19-6-805;

(e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;

(f) Section 59-27-105;

(g) Chapter 31, Cannabinoid Licensing and Tax Act;

(h) Chapter 32, Local Impact Mitigation Tax Act;

[~~(h)~~](i) Section 63H-1-205; or

[~~(i)~~](j) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges.

(2) There is created a restricted account within the General Fund known as the "State Tax Commission Administrative Charge Account."

(3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.

(4) For purposes of this section, the administrative charge is a percentage of revenue the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:

(a) 1.5%; or

(b) an equal percentage of revenue the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.

(5) The commission shall deposit an administrative charge into the restricted account.

(6) Interest earned on the restricted account shall be deposited into the General Fund.

(7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

Section 2. Section 59-32-101 is enacted to read:

CHAPTER 32. LOCAL IMPACT MITIGATION TAX ACT

59-32-101. Definitions.

As used in this chapter:

(1) "Barrel" means an amount equal to 42 gallons of oil at atmospheric pressure and at a temperature of 60 degrees Fahrenheit.

(2) "Condensate" means hydrocarbons, regardless of gravity, that occur naturally in the gaseous phase in the reservoir and are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.

(3) "Crude oil" means hydrocarbons, regardless of gravity, that occur naturally in the liquid phase in the reservoir and are produced at the wellhead in liquid form.

(4) "Development well" means the same at that term is defined in Section 59-5-101.

(5) (a) "Gas" means:

(i) natural gas;

(ii) natural gas liquids; or

(iii) any mixture of natural gas and natural gas liquids.

(b) "Gas" does not include any gaseous or liquid substance processed from coal, oil shale, tar sands, or any other hydrocarbon substance that occurs naturally in solid form.

(6) "MCF" means an amount equal to 1,000 cubic feet of gas at a pressure of 14.73 pounds per square inch and at a temperature of 60 degrees Fahrenheit.

(7) "Natural gas" means hydrocarbons, other than oil and natural gas liquids, that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form.

(8) "Natural gas liquids" means hydrocarbons, regardless of gravity, that are separated from natural gas as liquids in gas processing plants through the process of condensation, absorption, adsorption, or other methods.

(9) (a) "Oil" means:

(i) crude oil;

(ii) condensate; or

(iii) any mixture of crude oil and condensate.

(b) "Oil" does not include any gaseous or liquid substance processed from coal, oil shale, tar sands, or any other hydrocarbon substance that occurs naturally in solid form.

(10) (a) "Oil or gas mitigation fee" means any fee or tax, whether one-time or ongoing, that is imposed by a county on oil or gas producers for purposes of mitigating the direct impacts of oil or gas production on county roads.

(b) "Oil or gas mitigation fee" includes:

(i) a transportation service fee or other fee established under Chapter 27a, County Land Use, Development, and Management Act, meeting the requirements of Subsection (10)(a); and

(ii) an impact fee established under Title 11, Chapter 36a, Impact Fees Act, meeting the requirements of Subsection (10)(a).

(c) "Oil or gas mitigation fee" does not include the tax imposed by this chapter.

(11) "Produced" means extracted at the wellhead.

(12) "Producer" means the operator of the well from which oil or gas is produced.

(13) "Qualifying road" means a paved public road that is:

(a) a class B road as described in Section 72-3-103; or

(b) a class C road as described in Section 72-3-104.

(14) "Qualifying special service district" means a special service district under Title 17D, Chapter 1, Special Service District Act, that provides construction, repair, maintenance, or improvements for public roads.

(15) "Recipient county" means a county that receives revenue collected from the tax imposed by this chapter.

(16) "Stripper well" means the same as that term is defined in Section 59-5-101.

(17) "Wildcat well" means the same as that term is defined in Section 59-5-101.

Section 3. Section 59-32-102 is enacted to read:

59-32-102. Imposition of local impact mitigation tax -- Rate -- Exemptions -- Shipment out-of-state -- Stockpiling -- Relation to other taxes -- Prohibition on county imposition of oil or gas mitigation fee.

(1) (a) Except as provided in Subsection (2), a local impact mitigation tax is imposed at the rate specified in Subsection (1)(b) on the total volume of oil and gas that is:

(i) produced within the state on or after January 1, 2026, and before January 1, 2029; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field from which the oil or gas was produced.

(b) The rate of the tax under this chapter is:

(i) 5 cents per barrel of oil described in Subsection (1)(a); and

(ii) 1/4 cent per MCF of gas described in Subsection (1)(a).

(2) The tax under this chapter does not apply to:

(a) oil or gas produced by the United States;

(b) oil or gas produced by the state or a political subdivision of the state;

(c) oil or gas produced by an Indian or Indian tribe as defined in Section 9-9-101 from land under the jurisdiction of the United States;

(d) oil or gas produced from a stripper well;

(e) oil or gas produced from a wildcat well during the first 12 months of well production;

(f) oil or gas produced from a development well during the first six months of well production; or

(g) gas produced or consumed for the purpose of processing oil or gas to a marketable state by removing natural gas liquids or contaminants.

(3) If oil or gas is shipped outside the state:

(a) the shipment constitutes a sale; and

(b) the oil or gas is subject to the tax imposed by this chapter.

(4) (a) Except as provided in Subsection (4)(b), if oil or gas is stockpiled, the tax under this chapter is not imposed until the oil or gas is:

(i) sold;

(ii) transported; or

(iii) delivered.

(b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax imposed by this chapter.

(5) The tax under this chapter:

(a) is separate from and in addition to all other taxes provided by law, including the severance tax imposed under Chapter 5, Part 1, Oil and Gas Severance Tax;

(b) does not affect the requirements applicable to the severance tax imposed under Chapter 5, Part 1, Oil and Gas Severance Tax, including the requirements for the disposition of severance tax revenue under Sections 59-5-116 and 59-5-119; and

(c) is not a severance tax for purposes of Utah Constitution, Article XIII, Section 5, Subsection (9).

(6) Unless specifically authorized by statute, a county may not impose an oil or gas mitigation fee.

Section 4. Section 59-32-103 is enacted to read:

59-32-103. Payment of tax -- Revenue distribution -- Expenditure of tax revenue -- Administration.

(1) (a) The tax imposed by this chapter shall be paid:

(i) by the producer of oil or gas subject to the tax to the commission; and

(ii) on a quarterly basis on or before the last day of the month following each calendar quarterly period electronically in a manner prescribed by the commission.

(b) For purposes of this Subsection (1), the commission may require necessary information from producers regarding oil or gas production.

(2) The commission shall distribute the revenue collected from the tax under this chapter:

(a) to the county within which the revenue is collected from oil or gas production; and

(b) within 60 days from the date on which the tax is paid.

(3) (a) (i) If a county has created a qualifying special service district, the county treasurer shall transfer the revenue distributed to the county under Subsection (2) to the qualifying special service district.

(ii) A qualifying special service district described in Subsection (3)(a)(i) shall expend the revenue as provided in Subsection (4).

(b) (i) If a county has not created a qualifying special service district, the county treasurer shall deposit the revenue distributed to the county under Subsection (2) into a special revenue fund that is created to hold the revenue and is separate from the county's general fund.

(ii) A county described in Subsection (3)(b)(i) shall expend the revenue as provided in Subsection (4).

(4) The revenue collected from the tax under this chapter may only be expended for transportation projects that mitigate the direct impacts of oil or gas production on qualifying roads located within the recipient county.

(5) The commission shall:

(a) administer, collect, and enforce the tax under this chapter in accordance with Chapter 1, General Taxation Policies; and

(b) retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from the tax under this chapter.

Section 5. Section 59-32-104 is enacted to read:

59-32-104. County report to Legislature.

(1) Each recipient county shall submit a written report to the Natural Resources, Agriculture, and Environment Interim Committee on or before September 1, 2029.

(2) The report described in Subsection (1) shall include:

(a) an accounting of the county's use of revenue received by the county from the tax under this chapter, including information regarding each transportation project for which the revenue has provided funding;

(b) for each transportation project described under Subsection (2)(a):

(i) an explanation as to how the transportation project mitigates the direct impacts of oil or gas production on qualifying roads located within the county; and

(ii) a description of any other funding sources in addition to the revenue from the tax under this chapter; and

(c) any recommendations for legislative action to reauthorize the tax for the purpose described in Subsection 59-32-103(4).

(3) The Natural Resources, Agriculture, and Environment Interim Committee shall:

(a) study any recommendations provided by a recipient county under Subsection (2)(c); and

(b) if the Natural Resources, Agriculture, and Environment Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 340
S. B. 209
Passed March 7, 2025
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EMERGENCY MEDICAL SERVICES

Chief Sponsor: Derrin R. Owens
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill addresses emergency medical services.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes that 911 ambulance services are essential services;
- ► addresses the respective duties of the Department of Health and Human Services, the Department of Public Safety, and the Bureau of Emergency Medical Services (bureau);
- ► where applicable, indicates the proper government agency or division, where an incorrect entity or agency is indicated;
- ► creates the Emergency Medical Services Critical Needs Account;
- ► for an emergency medical services grant in a rural county, increases the maximum allowable amount that the grant recipient may receive for use toward the purchase of vehicles;
- ► directs available but undistributed grant funds at the end of the year to be deposited into the Emergency Medical Services Critical Needs Account created under Section 53-2d-109;
- ► requires the bureau to establish designation requirements for training centers;
- ► modifies a notice requirement to require the bureau to provide a class A notice;
- ► subjects training centers to the disciplinary jurisdiction of the bureau;
- ► subjects an issuance of a notice of violation or order under the Emergency Medical Services Act to Title 63G, Chapter 4, Administrative Procedures Act;
- ► grants investigative authority to the bureau;
- ► makes it a class B misdemeanor to willfully disobey a valid subpoena or cease and desist letter from the bureau; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-48-103, as last amended by Laws of Utah 2024, Chapter 506
26B-1-202, as last amended by Laws of Utah 2024, Chapter 506
26B-3-804, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-4-301, as last amended by Laws of Utah 2024, Chapter 261
26B-4-501, as last amended by Laws of Utah 2024, Chapter 257
26B-5-331, as last amended by Laws of Utah 2024, Chapter 299
26B-5-609, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
26B-7-301, as last amended by Laws of Utah 2024, Chapters 152, 283
41-6a-523, as last amended by Laws of Utah 2023, Chapters 310, 328 and 399
53-2d-101, as last amended by Laws of Utah 2024, Chapters 147, 438 and 506
53-2d-103, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
53-2d-203, as last amended by Laws of Utah 2024, Chapters 162, 277
53-2d-207, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
53-2d-209, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
53-2d-211, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-305, as last amended by Laws of Utah 2024, Chapter 506
53-2d-402, as last amended by Laws of Utah 2024, Chapter 147
53-2d-403, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-404, as last amended by Laws of Utah 2024, Chapter 240

53-2d-405, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-406, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-502, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-505.4, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
53-2d-506, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-603, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
53-2d-604, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-607, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
53-10-405, as last amended by Laws of Utah 2023, Chapters 310, 328
58-67-305, as last amended by Laws of Utah 2024, Chapter 381
58-68-305, as last amended by Laws of Utah 2024, Chapter 381
58-71-305, as last amended by Laws of Utah 2024, Chapter 381
63G-4-102, as last amended by Laws of Utah 2024, Chapter 147
72-10-502, as last amended by Laws of Utah 2023, Chapters 310, 330
77-23-213, as last amended by Laws of Utah 2023, Chapters 310, 330

ENACTS:

53-2d-109, Utah Code Annotated 1953
53-2d-606.5, Utah Code Annotated 1953

REPEALS:

26B-1-235, as renumbered and amended by Laws of Utah 2023, Chapter 305
53-2d-106, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-48-103 is amended to read:

11-48-103. Provision of 911 ambulance services in municipalities and counties -- Essential service.

(1) (a) The governing body of each municipality and county shall, subject to Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers, ensure at least a minimum level of 911 ambulance services are provided:

[~~(a)~~](i) within the territorial limits of the municipality or county;

[~~(b)~~](ii) by a ground ambulance provider, licensed by the Bureau of Emergency Medical Services under Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers; and

[~~(c)~~](iii) in accordance with rules established by the Trauma System and Emergency Medical Services Committee under Section 53-2d-105.

(b) 911 ambulance services are essential services.

(2) A municipality or county may:

(a) subject to Subsection (3), maintain and support 911 ambulance services for the municipality's or county's own jurisdiction; or

(b) contract to:

(i) provide 911 ambulance services to any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(ii) receive 911 ambulance services from any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(iii) jointly provide 911 ambulance services with any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency; or

(iv) contribute toward the support of 911 ambulance services in any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.

(3) (a) A municipality or county that maintains and supports 911 ambulance services for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license as a ground ambulance provider from the Bureau of Emergency Medical Services under Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers.

(b) Sections 53-2d-505 through 53-2d-505.3 do not apply to a license described in Subsection (3)(a).

Section 2. Section 26B-1-202 is amended to read:

26B-1-202. Department authority and duties.

The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for the department's programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section 26B-1-430 with respect to coordination of services for students with a disability;

(14) provide training and educational opportunities for the department's staff;

(15) collect child support payments and any other money due to the department;

(16) apply the provisions of Title 81, Chapter 6, Child Support, to parents whose child lives out of the home in a department licensed or certified setting;

(17) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403, including:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(18) carry out the responsibilities assigned to the department by statute;

(19) examine and audit the expenditures of any public funds provided to a local substance abuse authority, a local mental health authority, a local area agency on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, the department may take steps necessary to ensure continuity of services. For purposes of this Subsection (19) "public funds" means the same as that term is defined in Section 26B-5-101;

(20) in accordance with Subsection 26B-2-104(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(21) within legislative appropriations, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

(22) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department;

(23) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(24) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(25) to the extent authorized under state law or required by federal law, promote and protect the health and wellness of the people within the state;

(26) establish, maintain, and enforce rules authorized under state law or required by federal law to promote and protect the public health or to prevent disease and illness;

(27) investigate the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(28) provide for the detection and reporting of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(29) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes

of injury, sickness, death, and disability within the state;

(30) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(31) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(32) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(33) establish laboratory services necessary to support public health programs and medical services in the state;

(34) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(35) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(36) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Utah Office for Victims of Crime to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(37) investigate the causes of maternal and infant mortality;

(38) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;

[~~(39) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;~~]

[~~(40)~~](39) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

[~~(41)~~](40) conduct health planning for the state;

[~~(42)~~](41) monitor the costs of health care in the state and foster price competition in the health care delivery system;

[~~(43)~~](42) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;

[~~(44)~~](43) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process;

[~~(45)~~](44) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

[~~(46)~~](45) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required by the agency or under this Title 26B, Utah Health and Human Services Code;

[~~(47)~~](46) oversee public education vision screening as described in Section 53G-9-404;

[~~(48)~~](47) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue Alert; and

[~~(49)~~](48) as allowed by state and federal law, share data with the Office of Families that is relevant to the duties described in Subsection 26B-1-243(4), which may include, to the extent available:

(a) demographic data concerning family structures in the state; and

(b) data regarding the family structure associated with:

(i) suicide, depression, or anxiety; and

(ii) various health outcomes.

Section 3. Section 26B-3-804 is amended to read:

26B-3-804. Medicaid ambulance service provider adjustment under fee-for-service rates.

The division shall, if the assessment imposed by this part is approved by the Centers for Medicare and Medicaid Services, for fee-for-service rates effective on or after July 1, 2015, reimburse an ambulance service provider in an amount up to the Emergency Medical Services Ambulance Rates adopted annually by the [~~department~~]Department of Public Safety.

Section 4. Section 26B-4-301 is amended to read:

26B-4-301. Definitions.

As used in this part:

(1) "Bureau" means the Bureau of Emergency Medical Services created in Section 53-2d-102.

[~~(1)~~](2) "Committee" means the Primary Care Grant Committee described in Section 26B-1-410.

[~~(2)~~](3) "Community based organization":

(a) means a private entity; and

(b) includes for profit and not for profit entities.

[~~(3)~~](4) "Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or profession and enables that system, agency, or profession to work effectively in cross-cultural situations.

[~~(4)~~](5) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the office.

[~~(5)~~](6) "Health literacy" means the degree to which an individual has the capacity to obtain, process, and understand health information and services needed to make appropriate health decisions.

[~~(6)~~](7) "Institutional capacity" means the ability of a community based organization to implement public and private contracts.

[~~(7)~~](8) "Medically underserved population" means the population of an urban or rural area or a population group that the committee determines has a shortage of primary health care.

[~~(8) "Office" means the Office of Emergency Medical Services and Preparedness within the department.~~]

(9) "Pregnancy support services" means services that:

(a) encourage childbirth instead of voluntary termination of pregnancy; and

(b) assist pregnant women, or women who may become pregnant, to choose childbirth whether they intend to parent or select adoption for the child.

(10) "Primary care grant" means a grant awarded by the department under Subsection 26B-4-310(1).

(11) (a) "Primary health care" means:

(i) basic and general health care services given when a person seeks assistance to screen for or to prevent illness and disease, or for simple and common illnesses and injuries; and

(ii) care given for the management of chronic diseases.

(b) "Primary health care" includes:

(i) services of physicians, nurses, physician's assistants, and dentists licensed to practice in this state under Title 58, Occupations and Professions;

(ii) diagnostic and radiologic services;

(iii) preventive health services including perinatal services, well-child services, and other services that seek to prevent disease or its consequences;

(iv) emergency medical services;

(v) preventive dental services; and

(vi) pharmaceutical services.

Section 5. Section 26B-4-501 is amended to read:

26B-4-501. Definitions.

As used in this part:

(1) "Controlled substance" means the same as that term is defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) "Critical access hospital" means a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998).

(3) "Designated facility" means:

(a) a freestanding urgent care center;

(b) a general acute hospital; or

(c) a critical access hospital.

(4) "Dispense" means the same as that term is defined in Section 58-17b-102.

(5) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(6) "Emergency contraception" means the use of a substance, approved by the United States Food and Drug Administration, to prevent pregnancy after sexual intercourse.

(7) "Freestanding urgent care center" means the same as that term is defined in Section 59-12-801.

(8) "General acute hospital" means the same as that term is defined in Section 26B-2-201.

(9) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(10) "Health care provider" means:

(a) a physician, as defined in Section 58-67-102;

(b) an advanced practice registered nurse, as defined in Section 58-31b-102;

(c) a physician assistant, as defined in Section 58-70a-102; or

(d) an individual licensed to engage in the practice of dentistry, as defined in Section 58-69-102.

(11) "Increased risk" means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.

(12) "Opiate" means the same as that term is defined in Section 58-37-2.

(13) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the diagnosis or treatment of an opiate-related drug overdose.

(14) "Opiate-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

(15) "Overdose outreach provider" means:

(a) a law enforcement agency;

(b) a fire department;

(c) an emergency medical service provider, as defined in Section [~~26B-4-101~~]53-2d-101;

(d) emergency medical service personnel, as defined in Section [~~26B-4-101~~]53-2d-101;

(e) an organization providing treatment or recovery services for drug or alcohol use;

(f) an organization providing support services for an individual, or a family of an individual, with a substance use disorder;

(g) a certified peer support specialist, as defined in Section 26B-5-610;

(h) an organization providing substance use or mental health services under contract with a local substance abuse authority, as defined

in Section 26B-5-101, or a local mental health authority, as defined in Section 26B-5-101;

(i) an organization providing services to the homeless;

(j) a local health department;

(k) an individual licensed to practice under:

(i) Title 58, Chapter 17b, Pharmacy Practice Act;

(ii) Title 58, Chapter 60, Part 2, Social Worker Licensing Act; or

(iii) Title 58, Chapter 60, Part 5, Substance Use Disorder Counselor Act; or

(l) an individual.

(16) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

(17) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(18) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

(19) "Physician" means the same as that term is defined in Section 58-67-102.

(20) "Practitioner" means:

(a) a physician; or

(b) any other person who is permitted by law to prescribe emergency contraception.

(21) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(22) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(23) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses, that may result in a pregnancy.

(24) "Victim of sexual assault" means any person who presents to receive, or receives, medical care in consequence of being subjected to sexual assault.

Section 6. Section 26B-5-331 is amended to read:

26B-5-331. Temporary commitment -- Requirements and procedures -- Rights.

(1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:

(a) a written application that:

(i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and

(ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding the certification, and that the physician, physician assistant, nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or

(b) a peace officer or a mental health officer:

(i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:

(A) the adult has a mental illness; and

(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

(A) is on a form prescribed by the division;

(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;

(C) states the specific nature of the danger;

(D) provides a summary of the observations upon which the statement of danger is based; and

(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.

(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall:

(a) document the change and release the patient; and

(b) if the patient was admitted under Subsection (1)(b), notify the peace officer or mental health officer of the patient's release.

(3) A patient committed under this section may be held for a maximum of 72 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

(a) as described in Section 26B-5-332, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 26B-5-332(4); or

(b) the patient makes a voluntary application for admission.

(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:

(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the adult meets any of the criteria described in Section [~~26B-4-119~~]53-2d-405;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, physician assistant, nurse practitioner, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the adult is present, if the adult is not transported by ambulance;

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section 53-2d-101.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6) (a) The local mental health authority shall inform an adult patient committed under this section of the reason for commitment.

(b) An adult patient committed under this section has the right to:

(i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice; and

(ii) see and communicate with an attorney.

(7) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.

(b) This section does not create a special duty of care.

(8) (a) A local mental health authority shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the local mental health authority's custody, regardless of whether the individual is discharged by being released, taken into a peace officer's protective custody, transported to a medical facility or other facility, or other circumstances.

(b) Discharge instructions provided under Subsection (8)(a) shall include:

(i) a summary of why the individual was committed to the local mental health authority;

(ii) detailed information about why the individual is being discharged from the local mental health authority's custody;

(iii) a safety plan for the individual based on the individual's mental illness or mental or emotional state;

(iv) notification to the individual's primary care provider, if applicable;

(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

(vi) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

(vii) a copy of any psychiatric advance directive presented to the local mental health authority, if applicable;

(viii) information about how to establish a psychiatric advance directive if one was not presented to the local mental health authority;

(ix) as applicable, information about medications that were changed or discontinued during the commitment;

(x) a list of any screening or diagnostic tests conducted during the commitment;

(xi) a summary of therapeutic treatments provided during the commitment;

(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and

(xiii) information about how to contact the local mental health authority if needed.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (8)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) If an individual refuses to accept discharge instructions, the local mental health authority shall document the refusal in the individual's medical record.

(e) If an individual's discharge instructions include referrals to services under Subsection (8)(b)(v), the local mental health authority shall document those referrals in the individual's medical record.

(f) The local mental health authority shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 7. Section 26B-5-609 is amended to read:

26B-5-609. Department and division duties -- MCOT license creation.

(1) As used in this section:

(a) "Committee" means the Behavioral Health Crisis Response Committee created in Section 63C-18-202.

(b) "Emergency medical service personnel" means the same as that term is defined in Section [~~26B-4-101~~]53-2d-101.

(c) "Emergency medical services" means the same as that term is defined in Section [~~26B-4-101~~]53-2d-101.

(d) "MCOT certification" means the certification created in this part for MCOT personnel and mental health crisis outreach services.

(e) "MCOT personnel" means a licensed mental health therapist or other mental health professional, as determined by the division, who is a part of a mobile crisis outreach team.

(f) "Mental health crisis" means a mental health condition that manifests itself by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious jeopardy to the individual's health or well-being; or

(ii) a danger to others.

(g) (i) "Mental health crisis services" means mental health services and on-site intervention that a person renders to an individual suffering from a mental health crisis.

(ii) "Mental health crisis services" includes the provision of safety and care plans, stabilization services offered for a minimum of 60 days, and referrals to other community resources.

(h) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(i) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that provides mental health crisis services and, based on the individual circumstances of each case, coordinates with local law enforcement, emergency medical service personnel, and other appropriate state or local resources.

(2) To promote the availability of comprehensive mental health crisis services throughout the state, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for MCOT personnel and MCOTs, including:

(a) the standards the division establishes under Subsection (3); and

(b) guidelines for:

(i) credit for training and experience; and

(ii) the coordination of:

(A) emergency medical services and mental health crisis services;

(B) law enforcement, emergency medical service personnel, and mobile crisis outreach teams; and

(C) temporary commitment in accordance with Section 26B-5-331.

(3) (a) The division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the MCOT certification described in Subsection (2); and

(ii) create a statewide MCOT plan that:

(A) identifies statewide mental health crisis services needs, objectives, and priorities; and

(B) identifies the equipment, facilities, personnel training, and other resources necessary to provide mental health crisis services.

(b) The division shall take the action described in Subsection (3)(a) with recommendations from the committee.

(c) The division may delegate the MCOT plan requirement described in Subsection (3)(a)(ii) to a contractor with which the division contracts to provide mental health crisis services.

Section 8. Section 26B-7-301 is amended to read:

26B-7-301. Definitions.

As used in this part:

(1) "Bioterrorism" means:

(a) the intentional use of any microorganism, virus, infectious substance, or biological product to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence, intimidate, or coerce the conduct of government or a civilian population; and

(b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic fevers.

(2) "Dangerous public health condition" means any of the following:

(a) cholera;

(b) pneumonic plague;

(c) severe acute respiratory syndrome;

(d) smallpox;

(e) tuberculosis;

(f) any viral hemorrhagic fever;

(g) measles; or

(h) any infection:

(i) that is new, drug resistant, or reemerging;

(ii) that evidence suggests is likely to cause either high mortality or morbidity; and

(iii) only if the relevant legislative body of the county where the infection is located approves as needing containment.

(3) "Diagnostic information" means a clinical facility's record of individuals who present for treatment, including the reason for the visit, chief complaint, presenting diagnosis, final diagnosis, and any pertinent lab results.

(4) "Epidemic or pandemic disease":

(a) means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy; and

(b) includes diseases designated by the department which have the potential to cause serious illness or death.

(5) "Exigent circumstances" means a significant change in circumstances following the expiration of a public health emergency declared in accordance with this title that:

(a) substantially increases the danger to public safety or health relative to the circumstances in existence when the public health emergency expired;

(b) poses an imminent danger to public safety or health; and

(c) was not known or foreseen and could not have been known or foreseen at the time the public health emergency expired.

(6) "First responder" means:

(a) a law enforcement officer as defined in Section 53-13-103;

(b) emergency medical service personnel as defined in Section [~~26B-4-101~~]53-2d-101;

(c) firefighters; and

(d) public health personnel having jurisdiction over the location where an individual subject to an order of restriction is found.

(7) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(8) "Legislative emergency response committee" means the same as that term is defined in Section 53-2a-203.

(9) "Local food" means the same as that term is defined in Section 4-1-109.

(10) (a) "Order of constraint" means an order, rule, or regulation issued in response to a declared public health emergency under this part, that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

(11) "Order of restriction" means an order issued by a department or a district court which requires an individual or group of individuals who are subject to restriction to submit to an examination, treatment, isolation, or quarantine.

(12) (a) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability.

(b) "Public health emergency" includes an illness or health condition resulting from a natural disaster.

(13) "Public health official" means:

(a) the executive director or the executive director's authorized representative; or

(b) the executive director of a local health department or the executive director's authorized representative.

(14) "Reportable emergency illness and health condition" includes the diseases, conditions, or syndromes designated by the department.

(15) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

(16) "Threat to public health" means a situation where a dangerous public health condition could spread to other individuals.

(17) "Subject to restriction" as applied to an individual, or a group of individuals, means the individual or group of individuals could create a threat to public health.

Section 9. Section 41-6a-523 is amended to read:

41-6a-523. Persons authorized to draw blood -- Immunity from liability.

(1) (a) Only the following, acting at the request of a peace officer, may draw blood to determine its alcohol or drug content:

(i) a physician;

(ii) a physician assistant;

(iii) a registered nurse;

(iv) a licensed practical nurse;

(v) a paramedic;

(vi) as provided in Subsection (1)(b), emergency medical service personnel other than paramedics; or

(vii) a person with a valid permit issued by the [~~Department of Health and Human Services~~]Department of Public Safety under Section [~~26B-1-202~~]53-2d-103.

(b) The Bureau of Emergency Medical Services may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 53-2d-101, are authorized to draw blood under Subsection (1)(a)(vi), based on the type of license under Section 53-2d-402.

(c) Subsection (1)(a) does not apply to taking a urine, breath, or oral fluid specimen.

(2) The following are immune from civil or criminal liability arising from drawing a blood sample from a person whom a peace officer has reason to believe is driving in violation of this chapter, if the sample is drawn in accordance with standard medical practice, and pursuant to a warrant or with the consent of the individual:

(a) a person authorized to draw blood under Subsection (1)(a);

(b) if the blood is drawn at a hospital or other medical facility, the medical facility; or

(c) if the blood is drawn at a law enforcement facility in a secure area not accessible by the public, the law enforcement agency.

Section 10. Section 53-2d-101 is amended to read:

53-2d-101. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 53-2d-404 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 5, Ambulance and Paramedic Providers.

(4) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:

(a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to 21 U.S.C. Sec. 360(k);

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of, or automatically delivers, an electrical impulse through the chest wall and to an individual's heart.

(5) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302;

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

(6) "Bureau" means the Bureau of Emergency Medical Services created in Section 53-2d-102.

(7) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.

(8) "Committee" means the Trauma System and Emergency Medical Services Committee created by Section 53-2d-104.

(9) "Community paramedicine" means medical care:

(a) provided by emergency medical service personnel; and

(b) provided to a patient who is not:

(i) in need of ambulance transportation; or

(ii) located in a health care facility as defined in Section 26B-2-201.

(10) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section [~~26B-4-116~~]53-2d-402.

(11) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 53-2d-402 during transport.

(12) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the bureau.

(13) (a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 53-2d-402.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, [~~other categories established by the committee,~~]and a certified emergency medical dispatcher.

(14) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 53-2d-403(1)(a); and

(c) emergency medical service personnel.

(15) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections (15)(a) through (c).

(16) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 53-2d-404.

(17) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

(18) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 5, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 5, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(19) "Level of service" means the level at which an ambulance provider type of service is licensed as:

(a) emergency medical technician;

(b) advanced emergency medical technician; or

(c) paramedic.

(20) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(21) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

(22) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 53-2d-405; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 53-2d-403.

(23) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 5, Ambulance and Paramedic Providers.

(24) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section [~~26B-4-119~~]53-2d-405.

(25) "Political subdivision" means:

(a) a city or town;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a special district created under Title 17B, Limited Purpose Local Government Entities - Special Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection 53-2d-505.2(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

(26) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.

(27) "Training center" means a person designated by the bureau to provide emergency medical services practitioner training, including:

(a) training for initial licensure; and

(b) continuing medical education under Section 53-2d-402.

[~~(27)~~](28) "Trauma" means an injury requiring immediate medical or surgical intervention.

[~~(28)~~](29) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

[~~(29)~~](30) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

[~~(30)~~](31) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

[~~(31)~~](32) "Type of service" means the category at which an ambulance provider is licensed as:

(a) ground ambulance transport;

(b) ground ambulance interfacility transport; or

(c) both ground ambulance transport and ground ambulance interfacility transport.

Section 11. Section 53-2d-103 is amended to read:

53-2d-103. Bureau duties -- Data sharing.

(1) The bureau shall:

(a) coordinate the emergency medical services within the state;

(b) administer and enforce any programs and applicable rules created under this chapter;

[~~(c) establish a voluntary task force representing a diversity of emergency medical service providers to advise the bureau and the committee on rules;~~]

[~~(d)~~](c) establish an emergency medical service personnel peer review board to [~~advise the bureau concerning discipline of emergency medical service personnel~~]hear matters regarding licensure under this chapter; and

[~~(c)~~](d) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) license ambulance [~~providers~~]agencies and paramedic [~~providers~~]agencies;

(ii) permit ambulances, emergency medical response vehicles, and nonemergency secured behavioral health transport vehicles, including approving an emergency vehicle operator's course in accordance with Section 53-2d-404;

(iii) license emergency medical personnel;

[~~(iii)~~](iv) establish:

(A) the qualifications for membership of the peer review board created by this section;

(B) a process for placing restrictions on a license while an investigation is pending;

(C) the process for the investigation and [~~recommendation by~~]hearings before the peer review board; and

(D) the process for determining the status of a license while [~~a peer review board~~]an investigation is pending;

[~~(iv)~~](v) establish application, submission, and procedural requirements for licenses, designations, and permits; [~~and~~]

[~~(v)~~](vi) establish and implement the programs, plans, and responsibilities as specified in other sections of this chapter[~~.~~]; and

(vii) establish qualifications for individuals permitted to draw blood under Subsections 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), and 77-23-213(3)(a)(vi), and issue permits to qualified individuals.

(2) (a) The bureau shall share data related to the bureau's duties with the Department of Health and Human Services.

(b) The Department of Health and Human Services shall share data related to the bureau's duties with the bureau.

(c) All data collected by the bureau under this chapter is subject to Title 26B, Chapter 8, Part 4, Health Statistics, including data privacy protections.

Section 12. Section 53-2d-109 is enacted to read:

53-2d-109. Emergency Medical Services Critical Needs Account.

(1) There is created within the General Fund a restricted account known as the "Emergency Medical Services Critical Needs Account."

(2) The account shall be funded through deposits of:

(a) interest earned on the account;

(b) appropriations made by the Legislature; and

(c) contributions deposited into the account in accordance with Subsection 53-2d-207(3)(g).

(3) All funds in the account shall be nonlapsing.

(4) The bureau shall:

(a) calculate and allocate for use under Subsection (4)(b) an amount not greater than 25% of the fund balance, quarterly, as of January 1, April 1, July 1, and October 1 of each year; and

(b) use the allocated amount under Subsection (4)(a) to award and fund critical needs grants:

(i) in accordance with the criteria and procedures established by administrative rule; and

(ii) during the three-month period ending on the date of the next quarterly allocation under Subsection (4)(a).

Section 13. Section 53-2d-203 is amended to read:

53-2d-203. Data collection.

(1) As used in this section:

(a) "Clinical health information" means the same as that term is defined in Section 26B-8-411.

(b) "Electronic exchange" means the same as that term is defined in Section 26B-8-411.

(c) "Emergency medical service provider" means the same as that term is defined in Section 53-2d-101.

(d) "Emergency medical services" means the same as that term is defined in Section 53-2d-101.

(e) "Qualified network" means the same as that term is defined in Section 26B-8-411.

(2) The [~~committee~~]bureau shall specify the information that shall be collected for the emergency medical services data system established pursuant to Subsection (3).

(3) (a) The bureau shall establish an emergency medical services data system, which shall provide for the collection, analysis, and reporting of information, as defined by the [~~committee~~]bureau, relating to the response, treatment, and care of patients who use or have used the emergency medical services system.

(b) The [~~committee~~]bureau shall coordinate with the Department of Health and Human Services, to create a report of data collected by the Department of Health and Human Services under Section 26B-8-504 regarding:

(i) appropriate analytical methods;

(ii) the total amount of air ambulance flight charges in the state for a one-year period; and

(iii) of the total number of flights in a one-year period under Subsection (3)(b)(ii):

(A) the number of flights for which a patient had no personal responsibility for paying part of the flight charges;

(B) the number of flights for which a patient had personal responsibility to pay all or part of the flight charges;

(C) the range of flight charges for which patients had personal responsibility under Subsection (3)(b)(iii)(B), including the median

amount for paid patient personal responsibility; and

(D) the name of any air ambulance provider that received a median paid amount for patient responsibility in excess of the median amount for all paid patient personal responsibility during the reporting year.

(c) The bureau may share, within the department, information from the emergency medical services data system that:

(i) relates to traffic incidents; and

(ii) is for the improvement of traffic and public safety.

(d) Information shared under Subsection (3)(c) may not be used for the prosecution of criminal matters.

(e) Subject to the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended:

(i) the [~~department~~]bureau may submit clinical health information about a patient, to a qualified network, via electronic exchange of clinical health information, if:

(A) the electronic exchange of clinical health information meets the standards established by the [~~department~~]Department of Health and Human Services under Section 26B-8-411; and

(B) the clinical health information was collected by an emergency medical service provider performing emergency medical services for the provider's patient;

(ii) in connection with providing emergency medical services to a patient, an emergency medical service provider may, through electronic exchange, access the patient's clinical health information that is pertinent to the emergency medical services provided; and

(iii) an emergency medical service provider may use clinical health information only to provide and improve the quality of the emergency medical service provider's services.

(4) (a) On or before October 1, the [~~department~~]bureau shall make the information in Subsection (3)(b) public and send the information in Subsection (3)(b) to public safety dispatchers and first responders in the state.

(b) Before making the information in Subsection (3)(b) public, the [~~committee~~]bureau shall provide the air ambulance providers named in the report with the opportunity to respond to the accuracy of the information in the report under Section 26B-8-506.

(5) Persons providing emergency medical services:

(a) shall provide information to the [~~department~~]bureau for the emergency medical services data system established pursuant to Subsection (3)(a);

(b) are not required to provide information to the [~~department~~]bureau under Subsection (3)(b); and

(c) may provide information to the [~~department~~]bureau under Subsection (3)(b) or (4)(b).

Section 14. Section 53-2d-207 is amended to read:

53-2d-207. Emergency Medical Services Grant Program.

(1) Funds appropriated to the [~~department~~]bureau for the Emergency Medical Services Grant Program shall be used for improvement of delivery of emergency medical services and administrative costs as described in Subsection (2)(a).

(2) From the total amount of funds appropriated to the bureau under Subsection (1), the bureau shall use:

(a) an amount equal to 50% of the funds:

(i) to provide staff support; and

(ii) for other expenses incurred in:

(A) administration of grant funds; and

(B) other bureau administrative costs under this chapter; and

(b) an amount equal to 50% of the funds to provide emergency medical services grants in accordance with Subsection (3).

(3) (a) A recipient of a grant under this section shall actively provide emergency medical services within the state.

(b) (i) From the total amount of funds used to provide grants under Subsection (3), the bureau shall distribute an amount equal to 21% as per capita block grants for use specifically related to the provision of emergency medical services to nonprofit prehospital emergency medical services providers that are either licensed or designated and to emergency medical services that are the primary emergency medical services for a service area.

(ii) The bureau shall determine the grant amounts by prorating available funds on a per capita basis by county as described in bureau rule.

(c) Subject to Subsections (3)(d) through (f), the [~~committee~~]bureau shall use the remaining grant funds to award competitive grants to licensed emergency medical services providers that provide emergency medical services within counties of the third through sixth class, in accordance with rules made by the [~~committee~~]bureau.

(d) A grant awarded under Subsection (3)(c) shall be used:

(i) for the purchase of equipment, subject to Subsection (3)(e); or

(ii) for the recruitment, training, or retention of licensed emergency medical services providers.

(e) A recipient of a grant under Subsection (3)(c) may not use more than [~~$100,000~~]$200,000 in grant proceeds for the purchase of vehicles.

(f) A grant awarded for the purpose described in Subsection (3)(d)(ii) is ongoing for a period of up to three years.

(g) [~~(i)~~] If, after providing grants under Subsections (3)(c) through (f), any grant funds are unallocated at the end of the fiscal year, the [~~committee~~]bureau shall [~~distribute~~]deposit the unallocated grant funds [~~as per capita block grants as described in Subsection (3)(b)~~]into the Emergency Medical Services Critical Needs Account created under Section 53-2d-109.

[~~(ii) Any grant funds distributed as per capita grants under Subsection(3)(g)(i)are in addition to the amount described in Subsection(3)(b).~~]

Section 15. Section 53-2d-209 is amended to read:

53-2d-209. Regional Emergency Medical Services Liaisons -- Qualifications -- Duties.

(1) As used in this section:

(a) "Liaison" means a regional emergency medical services liaison hired under this section.

(b) "Rural county" means a county of the third, fourth, fifth, or sixth class.

(2) The [~~bureau~~]department, in consultation with the bureau, shall hire five individuals to serve as regional emergency medical services liaisons to:

(a) serve the needs of rural counties in providing emergency medical services in accordance with this chapter;

(b) act as a liaison between the bureau and individuals or entities responsible for emergency medical services in rural counties, including:

(i) emergency medical services providers;

(ii) local officials; and

(iii) local health departments or agencies;

(c) provide support and training to emergency medical services providers in rural counties;

(d) assist rural counties in utilizing state and federal grant programs for financing emergency medical services; and

(e) serve as emergency medical service personnel to assist licensed providers with ambulance staffing needs within rural counties.

(3) Each liaison hired under Subsection (2):

(a) shall reside in a rural county; and

(b) shall be licensed as:

(i) an advanced emergency medical technician as defined in Section 53-2e-101; or

(ii) a paramedic as defined in Section 53-2e-101.

(4) The [~~department~~]bureau shall provide each liaison with a vehicle and other equipment[~~in accordance with rules established by the department~~].

Section 16. Section 53-2d-211 is amended to read:

53-2d-211. Community paramedicine program.

(1) A ground ambulance provider or a designated quick response provider, as designated in accordance with Section 53-2d-403, may develop and implement a community paramedicine program.

(2) (a) Before providing services, a community paramedicine program shall:

(i) implement training requirements as determined by the [~~committee~~]bureau; and

(ii) submit a written community paramedicine operational plan to the bureau that meets requirements established by the [~~committee~~]bureau.

(b) A community paramedicine program shall report data, as determined by the [~~committee~~]bureau, related to community paramedicine to the bureau.

(3) A service provided as part of a community paramedicine program may not be billed to an individual or a health benefit plan as defined in Section 31A-1-301 unless:

(a) the service is provided in partnership with a health care facility as defined in Section 26B-2-201; and

(b) the partnering health care facility is the person that bills the individual or health benefit plan.

(4) Nothing in this section affects any billing authorized under Section 53-2d-503.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 53-2d-105, the [~~committee~~]bureau shall make rules to implement this section.

Section 17. Section 53-2d-305 is amended to read:

53-2d-305. Trauma center designations and guidelines.

(1) The bureau [~~, after seeking the advice of the committee,~~]shall establish by rule:

(a) trauma center designation requirements; and

(b) model state guidelines for triage, treatment, transportation, and transfer of trauma patients to the most appropriate health care facility.

(2) The bureau shall designate as a trauma center each hospital that:

(a) voluntarily requests a trauma center designation; and

(b) meets the applicable requirements established pursuant to Subsection (1).

Section 18. Section 53-2d-402 is amended to read:

53-2d-402. Licensure of emergency medical service personnel.

(1) To promote the availability of comprehensive emergency medical services throughout the state, the [~~committee~~]bureau shall establish:

(a) initial and ongoing licensure and training requirements for emergency medical service personnel in the following categories:

(i) paramedic;

(ii) advanced emergency medical services technician;

(iii) emergency medical services technician;

(iv) emergency medical responder;

(v) behavioral emergency services technician; and

(vi) advanced behavioral emergency services technician;

(b) a method to monitor the certification status and continuing medical education hours for emergency medical dispatchers; and

(c) guidelines for giving credit for out-of-state training and experience.

(2) The bureau shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel;

(b) issue a license and license renewals to emergency medical service personnel other than emergency medical dispatchers; and

(c) verify the certification of emergency medical dispatchers.

(3) The bureau shall coordinate with local mental health authorities described in Section 17-43-301 to develop and authorize initial and ongoing licensure and training requirements for licensure as a:

(a) behavioral emergency services technician; and

(b) advanced behavioral emergency services technician.

(4) As provided in Section 53-2d-602, an individual issued a license or certified under this section may only provide emergency medical services to the extent allowed by the license or certification.

(5) An individual may not be issued or retain a license under this section unless the individual obtains and retains background clearance under Section 53-2d-410.

(6) An individual may not be issued or retain a certification under this section unless the individual obtains and retains background clearance in accordance with Section 53-2d-410.5.

Section 19. Section 53-2d-403 is amended to read:

53-2d-403. Designation of emergency medical service providers, training centers, and nonemergency secured behavioral health transport providers.

(1) To ensure quality emergency medical services, the [~~committee~~]bureau shall establish designation requirements for:

(a) emergency medical service providers in the following categories:

(i) quick response provider;

(ii) resource hospital for emergency medical providers;

(iii) emergency medical service dispatch center;

(iv) emergency patient receiving facilities; and

(v) other types of emergency medical service providers as the [~~committee~~]bureau considers necessary; and

(b) nonemergency secured behavioral health transport providers.

(2) The bureau shall, based on the requirements in Subsection (1), issue designations to emergency medical service providers and nonemergency secured behavioral health transport providers listed in Subsection (1).

(3) As provided in Section 53-2d-602, an entity issued a designation under Subsection (2) may only function and hold itself out in accordance with its designation.

(4) The bureau shall establish designation requirements for training centers that are:

(a) colleges or universities;

(b) vocational schools;

(c) technical colleges;

(d) for profit and non-profit organizations; or

(e) privately owned or operated businesses.

Section 20. Section 53-2d-404 is amended to read:

53-2d-404. Permits for emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

(1) (a) To ensure that emergency medical service vehicles and nonemergency secured behavioral health transport vehicles are adequately staffed, safe, maintained, properly equipped, and safely operated, the [~~committee~~]bureau shall establish permit requirements at levels it considers appropriate in the following categories:

(i) ambulance;

(ii) emergency medical response vehicle; and

(iii) nonemergency secured behavioral health transport vehicle.

(b) The permit requirements under Subsections (1)(a)(i) and (ii) shall include a requirement that every operator of an ambulance or emergency medical response vehicle annually provide proof of the successful completion of an emergency vehicle operator's course approved by the bureau for all ambulances and emergency medical response vehicle operators.

(2) The bureau shall, based on the requirements established in Subsection (1), issue permits to emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

Section 21. Section 53-2d-405 is amended to read:

53-2d-405. Ambulance license required for emergency medical transport.

Except as provided in Section 53-2d-408, only an ambulance operating under a permit issued under Section 53-2d-404 may transport an individual who:

(1) is in an emergency medical condition;

(2) is medically or mentally unstable, requiring direct medical observation during transport;

(3) is physically incapacitated because of illness or injury and in need of immediate transport by emergency medical service personnel;

(4) is likely to require medical attention during transport;

(5) is being maintained on any type of emergency medical electronic monitoring;

(6) is receiving or has recently received medications that could cause a sudden change in medical condition that might require emergency medical services;

(7) requires IV administration or maintenance, oxygen that is not patient-operated, or other emergency medical services during transport;

(8) needs to be immobilized during transport to a hospital, an emergency patient receiving facility, or mental health facility due to a mental or physical condition, unless the individual is in the custody of a peace officer and the primary purpose of the restraint is to prevent escape;

(9) needs to be immobilized due to a fracture, possible fracture, or other medical condition; or

(10) otherwise requires or has the potential to require a level of medical care that the [~~committee~~]bureau establishes as requiring direct medical observation.

Section 22. Section 53-2d-406 is amended to read:

53-2d-406. Medical control.

(1) The [~~committee~~]bureau shall establish requirements for the coordination of emergency medical services rendered by emergency medical service providers, including the coordination between prehospital providers, hospitals, emergency patient receiving facilities, and

other appropriate destinations.

(2) The [~~committee~~]bureau shall establish requirements for the medical supervision of emergency medical service providers to assure adequate physician oversight of emergency medical services and quality improvement.

Section 23. Section 53-2d-502 is amended to read:

53-2d-502. Exclusive geographic service areas.

(1) (a) Each ground ambulance provider license issued under this part shall be for an exclusive geographic service area as described in the license.

(b) Only the licensed ground ambulance provider may respond to an ambulance request that originates within the provider's exclusive geographic service area, except as provided in Subsection (5) and Section 53-2d-516.

(2) (a) Each paramedic provider license issued under this part shall be for an exclusive geographic service area as described in the license.

(b) Only the licensed paramedic provider may respond to a paramedic request that originates within the exclusive geographic service area, except as provided in Subsection (6) and Section 53-2d-516.

(3) Nothing in this section may be construed as either requiring or prohibiting that the formation of boundaries in a given location be the same for a licensed paramedic provider and a licensed ambulance provider.

(4) (a) A licensed ground ambulance or paramedic provider may, as necessary, enter into a mutual aid agreement to allow another licensed provider to give assistance in times of unusual demand[~~, as that term is defined by the committee in rule~~].

(b) A mutual aid agreement shall include a formal written plan detailing the type of assistance and the circumstances under which it would be given.

(c) The parties to a mutual aid agreement shall submit a copy of the agreement to the [~~department~~]bureau.

(d) Notwithstanding this Subsection (4), a licensed provider may not subcontract with another entity to provide services in the licensed provider's exclusive geographic service area.

(5) Notwithstanding Subsection (1), a licensed ground ambulance provider may respond to an ambulance request that originates from the exclusive geographic area of another provider:

(a) pursuant to a mutual aid agreement;

(b) to render assistance on a case-by-case basis to that provider; and

(c) as necessary to meet needs in time of disaster or other major emergency.

(6) Notwithstanding Subsection (2), a licensed paramedic provider may respond to a paramedic request that originates from the exclusive geographic area of another provider:

(a) pursuant to a mutual aid agreement;

(b) to render assistance on a case-by-case basis to that provider; and

(c) as necessary to meet needs in time of disaster or other major emergency.

(7) The bureau may, upon the renewal of a license, align the boundaries of an exclusive geographic area with the boundaries of a political subdivision:

(a) if the alignment is practical and in the public interest;

(b) if each licensed provider that would be affected by the alignment agrees to the alignment; and

(c) taking into consideration the requirements of:

(i) Section 11-48-103; and

(ii) Section 53-2d-508.

Section 24. Section 53-2d-505.4 is amended to read:

53-2d-505.4. Non-911 provider -- Finding of meritorious complaint -- Request for proposals.

(1) (a) This section applies to a non-911 provider license under this chapter.

(b) The bureau shall, in accordance with Subsections (3) and (4):

(i) receive a complaint about a non-911 provider;

(ii) determine whether the complaint has merit;

(iii) issue a finding of:

(A) a meritorious complaint; or

(B) a non-meritorious complaint; and

(iv) forward a finding of a meritorious complaint to the governing body of the political subdivision:

(A) in which the non-911 provider is licensed; or

(B) that provides the non-911 services, if different from Subsection (1)(b)(iv)(A).

(2) (a) A political subdivision that receives a finding of a meritorious complaint from the bureau shall take corrective action that the political subdivision determines is appropriate.

(b) A political subdivision that determines corrective action will not resolve the complaint or is not appropriate shall:

(i) subject to Subsection (2)(c), issue a request for proposal for non-911 service in the geographic service area; or

(ii) (A) make a finding that a request for proposal for non-911 services is appropriate; and

(B) submit the political subdivision's findings to the bureau with a request that the bureau issue a request for proposal in accordance with Section 53-2d-505.5.

(c) A political subdivision that issues a request for proposal under Subsection (2)(b)(i):

(i) may not respond to the request for proposal; and

(ii) shall issue the request for proposal in accordance with Sections 53-2d-505.1 through 53-2d-505.3.

(d) If a political subdivision submits a request to the bureau described in Subsection (2)(b)(ii), the bureau shall issue a request for proposal for non-911 services in accordance with Section 26B-4-159.

(3) The bureau shall make a determination under Subsection (1)(b) if [~~:~~]

[~~(a)~~] the bureau receives a written complaint from any of the following in the geographic service area:

[~~(i)~~](a) a hospital;

[~~(ii)~~](b) a health care facility;

[~~(iii)~~](c) a political subdivision; or

[~~(iv)~~](d) an individual[~~; and~~].

[~~(b) the bureau determines, in accordance with Subsection (1)(b), that the complaint has merit.~~]

(4) (a) If the bureau receives a complaint under Subsection (1)(b), the [~~department~~]bureau shall request a written response from the non-911 provider concerning the complaint.

(b) The bureau shall make a determination under Subsection (1)(b) based on:

(i) the written response from the non-911 provider; and

(ii) other information that the department or bureau may have concerning the quality of service of the non-911 provider.

(c) (i) The bureau's determination under Subsection (1)(b) is not subject to an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(ii) The bureau shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of Subsection (1)(b).

Section 25. Section 53-2d-506 is amended to read:

53-2d-506. Ground ambulance and paramedic licenses -- Parties.

(1) When an applicant approved under Section 53-2d-504 seeks licensure under the provisions of Sections 53-2d-506 through 53-2d-509, the bureau shall:

(a) issue a notice of agency action to the applicant to commence an informal administrative proceeding; and

[~~(b) provide notice of the application to all interested parties; and~~]

[~~(c) publish notice of the application, at the applicant's expense:~~]

[~~(i) once a week for four consecutive weeks, in a newspaper of general circulation in the geographic service area that is the subject of the application; and~~]

[~~(ii) in accordance with Section 45-1-101 for four weeks.~~]

(b) provide a class A notice of the application under Section 63G-30-102.

(2) An interested party has 30 days to object to an application.

(3) If an interested party objects, the presiding officer shall join the interested party as an indispensable party to the proceeding.

(4) The bureau may join the proceeding as a party to represent the public interest.

(5) Others who may be affected by the grant of a license to the applicant may join the proceeding, if the presiding officer determines that they meet the requirement of legal standing.

Section 26. Section 53-2d-603 is amended to read:

53-2d-603. Discipline of emergency medical services personnel.

(1) The bureau may refuse to issue a license or renewal, or revoke, suspend, restrict, or place on probation an individual's license or endorsement if:

(a) the individual does not meet the qualifications for licensure under Section 53-2d-402;

(b) the individual has engaged in conduct [~~, as defined by committee rule,~~]that:

(i) is unprofessional;

(ii) is adverse to the public health, safety, morals, or welfare; or

(iii) would adversely affect public trust in the emergency medical service system;

(c) the individual has violated Section 53-2d-602 or other provision of this chapter;

(d) the individual has violated Section 58-1-509;

(e) a court of competent jurisdiction has determined the individual to be mentally incompetent for any reason; or

(f) the individual is unable to provide emergency medical services with reasonable skill and safety because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated.

(2) (a) An action to revoke, suspend, restrict, or place a license on probation shall be done in:

(i) consultation with the peer review board created in Section 53-2d-103; and

(ii) accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) Notwithstanding Subsection (2)(a), the bureau may issue a cease and desist order under Section 53-2d-607 to immediately suspend an individual's license pending an administrative proceeding to be held within 30 days if there is evidence to show that the individual poses a clear, immediate, and unjustifiable threat or potential threat to the public health, safety, or welfare.

(3) An individual whose license has been suspended, revoked, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with any conditions imposed upon the license by statute, [~~committee~~]rule, or the terms of the suspension, revocation, or restriction.

Section 27. Section 53-2d-604 is amended to read:

53-2d-604. Discipline of designated and licensed providers, and training centers.

(1) The bureau may refuse to issue a license or designation or a renewal, or revoke, suspend, restrict, or place on probation, [~~an~~]a training center, or any emergency medical service provider's license or designation, including the license or designation of a non-911 service provider, if the training center or provider has:

(a) failed to abide by terms of the license or designation;

(b) violated statute or rule;

(c) failed to provide services at the level or in the exclusive geographic service area required by the license or designation;

(d) failed to submit a renewal application in a timely fashion as required by [~~department~~]bureau rule;

(e) failed to follow operational standards established by the [~~committee~~]bureau; or

(f) committed an act in the performance of a professional duty that endangered the public or constituted gross negligence.

(2) (a) An action to revoke, suspend, restrict, or place a license or designation on probation shall be done in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) Notwithstanding Subsection (2)(a), the [~~department~~]bureau may issue a cease and desist order under Section 53-2d-607 to immediately suspend a license or designation pending an administrative proceeding to be held within 30 days if there is evidence to show that the provider or facility poses a clear, immediate, and unjustifiable threat or potential threat to the public health, safety, or welfare.

Section 28. Section 53-2d-606.5 is enacted to read:

53-2d-606.5. Investigative authority of the bureau -- Subpoenas -- Criminal penalty.

(1) In connection with conducting a formal investigation or any matters pending before the peer review board, the bureau may administer oaths and affirmations, subpoena witnesses, take evidence, and require by subpoena duces tecum the production of relevant papers, records, or other documents or information.

(2) A person who willfully disobeys a valid subpoena issued by the bureau is guilty of a class B misdemeanor.

Section 29. Section 53-2d-607 is amended to read:

53-2d-607. Cease and desist letters -- Criminal penalty.

(1) The bureau may issue a cease and desist order to any person who:

[~~(1)~~](a) may be disciplined under Section 53-2d-603 or 53-2d-604; or

[~~(2)~~](b) otherwise violates this chapter or any rules adopted under this chapter.

(c) An individual who willfully disobeys a valid cease and desist letter issued by the bureau is guilty of a class B misdemeanor.

Section 30. Section 53-10-405 is amended to read:

53-10-405. DNA specimen analysis -- Saliva sample to be obtained by agency -- Blood sample to be drawn by professional.

(1) (a) A saliva sample shall be obtained by the responsible agency under Subsection 53-10-404(5).

(b) The sample shall be obtained in a professionally acceptable manner, using appropriate procedures to ensure the sample is adequate for DNA analysis.

(2) (a) A blood sample shall be drawn in a medically acceptable manner by any of the following:

(i) a physician;

(ii) a physician assistant;

(iii) a registered nurse;

(iv) a licensed practical nurse;

(v) a paramedic;

(vi) as provided in Subsection (2)(b), emergency medical service personnel other than paramedics; or

(vii) a person with a valid permit issued by the [~~Department of Health and Human Services~~]Department of Public Safety under Section [~~26B-1-202~~]53-2d-103.

(b) The [~~Department of Health and Human Services~~]Department of Public Safety may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 53-2d-101, are authorized to draw blood under Subsection (2)(a)(vi), based on the type of license under Section 53-2d-402.

(c) A person authorized by this section to draw a blood sample may not be held civilly liable for drawing a sample in a medically acceptable manner.

(3) A test result or opinion based upon a test result regarding a DNA specimen may not be rendered inadmissible as evidence solely because of deviations from procedures adopted by the department that do not affect the reliability of the opinion or test result.

(4) A DNA specimen is not required to be obtained if:

(a) the court or the responsible agency confirms with the department that the department has previously received an adequate DNA specimen obtained from the person in accordance with this section; or

(b) the court determines that obtaining a DNA specimen would create a substantial and unreasonable risk to the health of the person.

Section 31. Section 58-67-305 is amended to read:

58-67-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

(1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;

(2) an individual administering a domestic or family remedy;

(3) (a) (i) a person engaged in the sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited by state or federal law; and

(ii) a person acting in good faith for religious reasons, as a matter of conscience, or based on a personal belief, when obtaining or providing any information regarding health care and the use of any product under Subsection (3)(a)(i); and

(b) Subsection (3)(a) does not:

(i) allow a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition; or

(ii) prohibit providing truthful and non-misleading information regarding any of the products under Subsection (3)(a)(i);

(4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief, without the use of prescription drugs;

(5) an individual authorized by the [~~Department of Health and Human Services~~]Department of Public Safety under Section [~~26B-1-202~~]53-2d-103, to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi);

(6) a medical assistant:

(a) administering a vaccine under the general supervision of a physician; or

(b) under the indirect supervision of a physician, engaging in tasks appropriately delegated by the physician in accordance with the standards and ethics of the practice of medicine, except for:

(i) performing surgical procedures;

(ii) prescribing prescription medications;

(iii) administering anesthesia other than for a local anesthetic for minor procedural use; or

(iv) engaging in other medical practices or procedures as defined by division rule in collaboration with the board;

(7) an individual engaging in the practice of medicine when:

(a) the individual is licensed in good standing as a physician in another state with no licensing action pending and no less than 10 years of professional experience;

(b) the services are rendered as a public service and for a noncommercial purpose;

(c) no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and

(d) the individual does not otherwise engage in unlawful or unprofessional conduct;

(8) an individual providing expert testimony in a legal proceeding; and

(9) an individual who is invited by a school, association, society, or other body approved by the division to conduct a clinic or demonstration of the practice of medicine in which patients are treated, if:

(a) the individual does not establish a place of business in this state;

(b) the individual does not regularly engage in the practice of medicine in this state;

(c) the individual holds a current license in good standing to practice medicine issued by another state, district or territory of the United States, or Canada;

(d) the primary purpose of the event is the training of others in the practice of medicine; and

(e) neither the patient nor an insurer is billed for the services performed.

Section 32. Section 58-68-305 is amended to read:

58-68-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

(1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;

(2) an individual administering a domestic or family remedy;

(3) (a) (i) a person engaged in the lawful sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited by state or federal law; and

(ii) a person acting in good faith for religious reasons, as a matter of conscience, or based on a personal belief, when obtaining or providing any information regarding health care and the use of any product under Subsection (3)(a)(i); and

(b) Subsection (3)(a) does not:

(i) permit a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition; or

(ii) prohibit providing truthful and non-misleading information regarding any of the products under Subsection (3)(a)(i);

(4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief without the use of prescription drugs;

(5) an individual authorized by the [~~Department of Health and Human Services~~]Department of Public Safety under Section [~~26B-1-202~~]53-2d-103, to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi);

(6) a medical assistant:

(a) administering a vaccine under the general supervision of a physician; or

(b) under the indirect supervision of a physician, engaging in tasks appropriately delegated by the physician in accordance with the standards and ethics of the practice of medicine, except for:

(i) performing surgical procedures;

(ii) prescribing prescription medications;

(iii) administering anesthesia other than a local anesthetic for minor procedural use; or

(iv) engaging in other medical practices or procedures as defined by division rule in collaboration with the board;

(7) an individual engaging in the practice of osteopathic medicine when:

(a) the individual is licensed in good standing as an osteopathic physician in another state with no licensing action pending and no less than 10 years of professional experience;

(b) the services are rendered as a public service and for a noncommercial purpose;

(c) no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and

(d) the individual does not otherwise engage in unlawful or unprofessional conduct;

(8) an individual providing expert testimony in a legal proceeding; and

(9) an individual who is invited by a school, association, society, or other body approved by the division in collaboration with the board

to conduct a clinic or demonstration of the practice of medicine in which patients are treated, if:

(a) the individual does not establish a place of business in this state;

(b) the individual does not regularly engage in the practice of medicine in this state;

(c) the individual holds a current license in good standing to practice medicine issued by another state, district or territory of the United States, or Canada;

(d) the primary purpose of the event is the training of others in the practice of medicine; and

(e) neither the patient nor an insurer is billed for the services performed.

Section 33. Section 58-71-305 is amended to read:

58-71-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

(1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;

(2) an individual administering a domestic or family remedy;

(3) a person engaged in the sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited under state or federal law, but this subsection does not:

(a) allow a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition; or

(b) prohibit providing truthful and nonmisleading information regarding any of the products under this subsection;

(4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief, without the use of prescription drugs;

(5) a person acting in good faith for religious reasons as a matter of conscience or based on a personal belief when obtaining or providing information regarding health care and the use of any product under Subsection (3);

(6) an individual authorized by the [~~Department of Health and Human Services~~]Department of Public Safety under Section [~~26B-1-202~~]53-2d-103, to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi);

(7) a naturopathic medical assistant while working under the direct and immediate supervision of a licensed naturopathic physician to the extent the medical assistant is engaged in tasks appropriately delegated by the supervisor in accordance with the standards and ethics of the practice of naturopathic medicine; and

(8) an individual who has completed all requirements for licensure under this chapter except the clinical experience required under Section 58-71-302, for a period of one year while that individual is completing that clinical experience requirement and who is working under the provisions of a temporary license issued by the division.

Section 34. Section 63G-4-102 is amended to read:

63G-4-102. Scope and applicability of chapter.

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) state agency action that determines the legal rights, duties, privileges, immunities, or other legal interests of an identifiable person, including agency action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of the action.

(2) This chapter does not govern:

(a) the procedure for making agency rules, or judicial review of the procedure or rules;

(b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the issuance of a tax assessment, except that this chapter governs an agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of the action;

(c) state agency action relating to extradition, to the granting of a pardon or parole, a commutation or termination of a sentence, or to the rescission, termination, or revocation of parole or probation, to the discipline of, resolution of a grievance of, supervision of, confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction of the Office of Substance Use and Mental Health, or a person on probation or parole, or judicial review of the action;

(d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a student or teacher in a school or educational institution, or judicial review of the action;

(e) an application for employment and internal personnel action within an agency concerning its own employees, or judicial review of the action;

(f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that this chapter governs an agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency action relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of the action;

(h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, and Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action;

(i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency action relating to the distribution or award of a monetary grant to or between governmental units, or for research, development, or the arts, or judicial review of the action;

(k) the issuance of a notice of violation or order under [~~Title 53, Chapter 2d, Emergency Medical Services Act,~~]Title 19, Chapter 2,

Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures;

(m) the initial determination of a person's eligibility for government or public assistance benefits;

(n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration;

(o) a license for use of state recreational facilities;

(p) state agency action under Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603;

(q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action;

(r) state agency action relating to the installation, maintenance, and repair of headgates, caps, values, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;

(s) the issuance and enforcement of an initial order under Section 73-2-25;

(t) (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and

(ii) an action taken by the Division of Securities under a hearing conducted under Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange of securities described in Subsection 61-1-11.1(1);

(u) state agency action relating to water well driller licenses, water well drilling permits, water well driller registration, or water well drilling construction standards, or judicial review of the action;

(v) the issuance of a determination and order under Title 34A, Chapter 5, Utah Antidiscrimination Act;

(w) state environmental studies and related decisions by the Department of Transportation approving state or locally funded projects, or judicial review of the action;

(x) the suspension of operations under Subsection 32B-1-304(3);

(y) the issuance of a determination of violation by the Governor's Office of Economic Opportunity under Section 11-41-104; or

(z) a challenge to an aspect of a distribution management plan under Section 73-33-202.

(3) This chapter does not affect a legal remedy otherwise available to:

(a) compel an agency to take action; or

(b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering a conference with parties and interested persons to:

(i) encourage settlement;

(ii) clarify the issues;

(iii) simplify the evidence;

(iv) facilitate discovery; or

(v) expedite the proceeding; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is governed by this chapter.

(6) This chapter does not preclude an agency from enacting a rule affecting or governing an adjudicative proceeding or from following the rule, if the rule is enacted according to the procedures outlined in Chapter 3, Utah Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.

(7) (a) If the attorney general issues a written determination that a provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of the provision to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening a time period prescribed in this chapter, except the time period established for judicial review.

(10) Notwithstanding any other provision of this section, this chapter does not apply to a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent expressly provided in Section 19-1-301.5.

(11) Subsection (2)(w), regarding action taken based on state environmental studies and policies of the Department of Transportation, applies to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order before May 14, 2019.

Section 35. Section 72-10-502 is amended to read:

72-10-502. Implied consent to chemical tests for alcohol or drugs -- Number of tests -- Refusal -- Person incapable of refusal -- Results of test available -- Who may give test -- Evidence -- Immunity from liability.

(1) (a) A person operating an aircraft in this state consents to a chemical test or tests of the person's breath, blood, urine, or oral fluids:

(i) for the purpose of determining whether the person was operating or in actual physical control of an aircraft while having a blood or breath alcohol content statutorily prohibited under Section 72-10-501, or while under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 72-10-501, if the test is or tests are administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of an aircraft in violation of Section 72-10-501; or

(ii) if the person operating the aircraft is involved in an accident that results in death, serious injury, or substantial aircraft damage.

(b) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) The peace officer may order any or all tests of the person's breath, blood, urine, or oral fluids.

(iii) If an officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(c) (i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) (a) If the person has been placed under arrest and has then been requested by a peace officer to submit to any one or more of the chemical tests provided in Subsection (1) and refuses to submit to any chemical test, the person shall be warned by the peace officer requesting the test that a refusal to submit to the test is admissible in civil or criminal proceedings as provided under Subsection (8).

(b) Following this warning, unless the person immediately requests that the chemical test offered by a peace officer be administered, a test may not be given.

(3) A person who is dead, unconscious, or in any other condition rendering the person incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the consent provided for in Subsection (1), and the test or tests may be administered whether the person has been arrested or not.

(4) Upon the request of the person who was tested, the results of the test or tests shall be made available to that person.

(5) (a) Only the following, acting at the request of a peace officer, may draw blood to determine its alcohol or drug content:

(i) a physician;

(ii) a registered nurse;

(iii) a licensed practical nurse;

(iv) a paramedic;

(v) as provided in Subsection (5)(b), emergency medical service personnel other than paramedics; or

(vi) a person with a valid permit issued by the [~~Department of Health and Human Services~~]Department of Public Safety under Section [~~26B-1-202~~]53-2d-103.

(b) The [~~Department of Health and Human Services~~]Department of Public Safety may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 53-2d-101, are authorized to draw blood under Subsection (5)(a)(v), based on the type of license under Section 53-2d-402.

(c) Subsection (5)(a) does not apply to taking a urine, breath, or oral fluid specimen.

(d) The following are immune from civil or criminal liability arising from drawing a blood sample from a person who a peace officer has reason to believe is flying in violation of this chapter if the sample is drawn in accordance with standard medical practice:

(i) a person authorized to draw blood under Subsection (5)(a); and

(ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

(6) (a) The person to be tested may, at the person's own expense, have a physician of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(7) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(8) If a person under arrest refuses to submit to a chemical test or tests or any additional test under this section, evidence of any refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating or in actual physical control of an aircraft while under the influence of alcohol, any drug, or combination of alcohol and any drug.

(9) The results of any test taken under this section or the refusal to be tested shall be reported to the Federal Aviation Administration by the peace officer requesting the test.

(10) Notwithstanding the provisions of this section, a blood test taken under this section is subject to Section 77-23-213.

Section 36. Section 77-23-213 is amended to read:

77-23-213. Blood testing.

(1) As used in this section:

(a) "Law enforcement purpose" means duties that consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of this state's political subdivisions.

(b) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace Officer Classifications.

(2) A peace officer may require an individual to submit to a blood test for a law enforcement purpose only if:

(a) the individual or legal representative of the individual with authority to give consent gives oral or written consent to the blood test;

(b) the peace officer obtains a warrant to administer the blood test; or

(c) a judicially recognized exception to obtaining a warrant exists as established by the Utah Court of Appeals, Utah Supreme Court, Court of Appeals of the Tenth Circuit, or the Supreme Court of the United States.

(3) (a) Only the following, acting at the request of a peace officer, may draw blood to determine the blood's alcohol or drug content:

(i) a physician;

(ii) a physician assistant;

(iii) a registered nurse;

(iv) a licensed practical nurse;

(v) a paramedic;

(vi) as provided in Subsection (3)(b), emergency medical service personnel other than a paramedic; or

(vii) a person with a valid permit issued by the [~~Department of Health and Human Services~~]Department of Public Safety under Section [~~26B-1-202~~]53-2d-103.

(b) The [~~Department of Health and Human Services~~]Department of Public Safety may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 53-2d-101, are authorized to draw blood under Subsection (3)(a)(vi), based on the type of license under Section 53-2d-402.

(c) The following are immune from civil or criminal liability arising from drawing a blood sample from a person who a peace officer requests, for law enforcement purposes, if the sample is drawn in accordance with standard medical practice:

(i) a person authorized to draw blood under Subsection (3)(a); and

(ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

Section 37. Repealer.

This bill repeals:

Section 26B-1-235, Request for proposal required for non-state supplied services.

Section 53-2d-106, Waiver of rules, education, and licensing requirements.

Section 38. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 341
S. B. 215
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

EMERGENCY MEDICAL SERVICES MODIFICATIONS

Chief Sponsor: Derrin R. Owens
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill addresses ground ambulance interfacility transport services.

Highlighted Provisions:

This bill:

- ► grants authority to and requires municipalities and counties to ensure that a minimum level of ground ambulance interfacility transport services are provided within the respective municipality or county;
- ► requires a municipality or county to conduct a review and evaluation of an emergency medical service provider's services every four years;
- ► requires a municipality or county to request competitive sealed proposals for the purpose of evaluating alternative qualified emergency medical service providers;
- ► removes the Bureau of Emergency Medical Services (bureau) from involvement in the process by which a municipality or county selects emergency medical service providers, except verifying and providing notice that an applicant emergency medical service provider meets minimum requirements;
- ► recognizes the bureau's jurisdiction to discipline non-911 ambulance service providers;
- ► requires a county or municipality to:
  - • offer a first right to provide interfacility transports to the current 911 ambulance service provider; and
  - • conduct formal reviews of 911 service providers and interfacility transport service providers;
- ► grants investigative authority to the bureau;
- ► makes it a class B misdemeanor to willfully disobey a valid subpoena or cease and desist letter from the bureau; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-48-103, as last amended by Laws of Utah 2024, Chapter 506
53-2d-103, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
53-2d-505, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-604, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-607, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

ENACTS:

53-2d-606.5, Utah Code Annotated 1953

REPEALS:

53-2d-505.1, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-505.2, as last amended by Laws of Utah 2023, Chapter 16 and renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-505.3, as last amended by Laws of Utah 2023, Chapter 435 and renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-505.4, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
53-2d-505.5, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-506, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-507, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-508, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-509, as last amended by Laws of Utah 2024, Chapter 147

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-48-103 is amended to read:
11-48-103. Provision of ambulance services in municipalities and counties.

(1) The governing body of each municipality and county has exclusive authority to and shall, subject to Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers, ensure at least a minimum level of 911 ambulance services and ground ambulance interfacility transport services are provided:

(a) within the territorial limits of the municipality or county;

(b) by a ground ambulance provider, licensed by the Bureau of Emergency Medical Services under Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers; and

(c) in accordance with rules established by the Trauma System and Emergency Medical Services Committee under Section 53-2d-105.

(2) (a) A municipality or county may:

[~~(a)~~](i) [~~subject to Subsection (3),~~]provide, maintain, and support 911 ambulance services for the municipality's or county's own jurisdiction; or

[~~(b)~~](ii) [~~contract to:~~]enter into an interlocal agreement or procurement contract with a public or private entity to provide, receive, support, or maintain 911 ambulance services or ground ambulance interfacility transport services, under any arrangement and to any extent that the municipality or county determines.

[~~(i) provide 911 ambulance services to any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;~~]

[~~(ii) receive 911 ambulance services from any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;~~]

[~~(iii) jointly provide 911 ambulance services with any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency; or~~]

[~~(iv) contribute toward the support of 911 ambulance services in any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.~~]

(b) (i) A municipality or county shall enter into an interlocal agreement with a public or private entity for the provision of backup interfacility transport services.

(ii) An interlocal agreement described in Subsection (2)(b)(i) may be used when the primary interfacility transport service provider is unavailable.

(iii) A municipality or county shall share a copy of the interlocal agreement described in Subsection (2)(b)(i) with dispatchers and health care facilities within the municipality's or county's jurisdiction.

(3) (a) Subject to Subsections (3)(b) and (c), at the expiration of a license term under Section 53-2d-501, a county or municipality shall offer a first right to provide interfacility transports for an area to the current 911 ambulance service provider for that area.

(b) If the first right under Subsection (3)(a) is not exercised, the county or municipality shall ensure that 911 ambulance services are provided in accordance with this section.

(c) If the current 911 ambulance service provider under Subsection (3)(a) is not the current interfacility transport provider, the current interfacility provider's license shall remain intact until the later of:

(i) two years after the enactment of this Subsection (3); or

(ii) the day of the next formal review conducted in accordance with Subsection (4).

(4) (a) A county or municipality shall conduct a formal review of 911 service providers and interfacility transport service providers:

(i) in an open and public meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and

(ii) not more than three months prior to the day on which the current license is set to expire under Subsection 53-2d-501(2).

(b) The review under Subsection (4)(a) shall evaluate the cost, quality, and access goals for the county's or municipality's emergency medical services in the geographic area pursuant to rule made by the division.

(c) The county or municipality conducting a review under Section (4)(b) shall issue a formal request for proposals for the purpose of evaluating alternative qualified emergency medical service providers and interfacility transport providers, including for-profit emergency medical service providers, government-operated emergency medical service providers, and quasi-governmental emergency medical service providers.

[~~(3)~~](5) [~~(a)~~] A municipality or county that provides, maintains, and supports 911 ambulance services for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license as a ground ambulance provider from the Bureau of Emergency Medical Services under Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers.

[~~(b) Sections 53-2d-505 through 53-2d-505.3 do not apply to a license described in Subsection (3)(a).~~]

Section 2. Section 53-2d-103 is amended to read:

53-2d-103. Bureau duties -- Data sharing.

(1) The bureau shall:

(a) coordinate the emergency medical services within the state;

(b) administer and enforce any programs and applicable rules created under this chapter;

(c) establish a voluntary task force representing a diversity of emergency medical service providers to advise the bureau and the committee on rules;

(d) establish an emergency medical service personnel peer review board to advise the bureau concerning discipline of emergency medical service personnel under this chapter; and

(e) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) license ambulance providers and paramedic providers;

(ii) permit ambulances, emergency medical response vehicles, and nonemergency secured behavioral health transport vehicles, including approving an emergency vehicle operator's course in accordance with Section 53-2d-404;

(iii) establish:

(A) the qualifications for membership of the peer review board created by this section;

(B) a process for placing restrictions on a license while an investigation is pending;

(C) the process for the investigation and recommendation by the peer review board; and

(D) the process for determining the status of a license while a peer review board investigation is pending;

(iv) establish application, submission, and procedural requirements for licenses, designations, and permits; and

(v) establish and implement the programs, plans, and responsibilities as specified in other sections of this chapter.

(2) (a) The bureau shall share data related to the bureau's duties with the Department of Health and Human Services.

(b) The Department of Health and Human Services shall share data related to the bureau's duties with the bureau.

(c) All data collected by the bureau under this chapter is subject to Title 26B, Chapter 8, Part 4, Health Statistics, including data privacy protections.

Section 3. Section 53-2d-505 is amended to read:

53-2d-505. Ground ambulance and paramedic licenses.

[~~(1)~~] If the bureau determines that the application meets the minimum requirements for licensure under Section 53-2d-504, the bureau shall issue a notice of the approved application to the applicant.

[~~(2) A current license holder responding to a request for proposal under Section 53-2d-505.2is considered an approved applicant for purposes of Section 53-2d-505.2 if the current license holder, prior to responding to the request for proposal, submits the following to the department:~~]

[~~(a) the information described in Subsections 53-2d-504(4)(a)(i) through (iii); and~~]

[~~(b) (i) if the license holder is a private entity, a financial statement, a pro form a budget and necessary letters of credit demonstrating a financial ability to expand service to a new service area; or~~]

[~~(ii) if the license holder is a governmental entity, a letter from the governmental entity's governing body demonstrating the governing body's willingness to financially support the application.~~]

Section 4. Section 53-2d-604 is amended to read:

53-2d-604. Discipline of designated and licensed providers.

(1) The bureau may refuse to issue a license or designation or a renewal, or revoke, suspend, restrict, or place on probation, [~~an~~]any emergency medical service provider's license or designation, including the license or designation of a non-911 service provider, if the provider has:

(a) failed to abide by terms of the license or designation;

(b) violated statute or rule;

(c) failed to provide services at the level or in the exclusive geographic service area required by the license or designation;

(d) failed to submit a renewal application in a timely fashion as required by department rule;

(e) failed to follow operational standards established by the committee; or

(f) committed an act in the performance of a professional duty that endangered the public or constituted gross negligence.

(2) (a) An action to revoke, suspend, restrict, or place a license or designation on probation shall be done in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist order under Section 53-2d-607 to immediately suspend a license or designation pending an administrative proceeding to be held within 30 days if there is evidence to show that the provider or facility poses a clear, immediate, and unjustifiable threat or potential threat to the public health, safety, or welfare.

Section 5. Section 53-2d-606.5 is enacted to read:

53-2d-606.5. Investigative authority of the bureau -- Subpoenas -- Criminal penalty.

(1) In connection with conducting a formal investigation or any matters pending before the peer review board, the bureau may administer oaths and affirmations, subpoena witnesses, take evidence, and require by subpoena duces tecum the production of relevant papers, records, or other documents or information.

(2) A person who willfully disobeys a valid subpoena issued by the bureau is guilty of a class B misdemeanor.

Section 6. Section 53-2d-607 is amended to read:

53-2d-607. Cease and desist letters -- Criminal penalty.

(1) The bureau may issue a cease and desist order to any person who:

[~~(1)~~](a) may be disciplined under Section 53-2d-603 or 53-2d-604; or

[~~(2)~~](b) otherwise violates this chapter or any rules adopted under this chapter.

(2) An individual who willfully disobeys a valid cease and desist letter issued by the bureau is guilty of a class B misdemeanor.

Section 7. Repealer.

This bill repeals:

Section 53-2d-505.1, Selection of provider by political subdivision.

Section 53-2d-505.2, Selection of provider -- Request for competitive sealed proposal -- Public convenience and necessity.

Section 53-2d-505.3, Use of competitive sealed proposals -- Procedure -- Appeal rights.

Section 53-2d-505.4, Non-911 provider -- Finding of meritorious complaint -- Request for proposals.

Section 53-2d-505.5, Use of competitive sealed proposals -- Procedure -- Appeal rights.

Section 53-2d-506, Ground ambulance and paramedic licenses -- Parties.

Section 53-2d-507, Ground ambulance and paramedic licenses -- Proceedings.

Section 53-2d-508, Criteria for determining public convenience and necessity.

Section 53-2d-509, Ground ambulance and paramedic licenses -- Hearing and presiding officers.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 342
S. B. 219
Passed March 5, 2025
Approved March 25, 2025
Effective January 1, 2026

FINANCIAL INSTITUTION TAX AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill modifies the formula for apportioning business income of financial institutions.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► grants rulemaking authority to the State Tax Commission to establish the sales to include in the sales factor fraction for financial institutions; and
- ► provides that sales from Utah investment and trading activities of financial institutions are not sourced to Utah.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-7-317, as last amended by Laws of Utah 2008, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-317 is amended to read:

59-7-317. Sales factor for apportionment of business income -- Transportation revenue of an airline -- Sales of a financial institution.

(1) As used in this section:

(a) (i) "Finance lease" means a lease transaction that is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property.

(ii) "Finance lease" includes a direct financing lease or leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13, Accounting for Leases, or any other lease that is accounted for as a financing lease by a lessor under generally accepted accounting principles.

(b) "Financial institution" means:

(i) a corporation or other business entity registered under state law as a bank holding company, under the Federal Bank Holding Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended;

(ii) a national bank organized and existing as a national bank association in accordance with the National Bank Act, 12 U.S.C. Secs. 21 et seq.;

(iii) a savings association or federal savings bank as defined in 12 U.S.C. Secs. 1813(b)(1) and (2);

(iv) a bank, industrial loan corporation, or thrift institution incorporated or organized under the laws of any state;

(v) a corporation organized under the provisions of 12 U.S.C. Secs. 611 through 631;

(vi) an agency or a branch of a foreign bank as defined in 12 U.S.C. Sec. 3101;

(vii) a production credit association organized under the Federal Farm Credit Act of 1933, if all of the production credit association's stock held by the Federal Production Credit Corporation has been retired;

(viii) a corporation, other than an insurance company taxable under Chapter 9, Taxation of Admitted Insurers, for which voting stock is more than 50% owned, directly or indirectly, by any person described in Subsections (1)(b)(i) through (1)(b)(vii);

(ix) a corporation or other business entity that derives from finance leases more than 50% of the corporation's or the business entity's total gross income for financial accounting purposes:

(A) using the average of the gross income in the current tax year and immediately preceding two tax years; and

(B) disregarding gross income from incidental or occasional transactions; or

(x) another person, other than an insurance company, a credit union exempt from the corporation franchise tax under Section 59-7-102, a real estate broker, or a securities dealer, that derives more than 50% of the person's gross income, excluding non-recurring, extraordinary items, from activities that a person described in Subsections (1)(b)(ii) through (vii) and (1)(b)(ix) is authorized to transact unless the commission excludes the person upon receipt of proof, by clear and convincing evidence, that the income-producing activity of the person is not in substantial competition with the persons described in Subsections (1)(b)(ii) through (vii) and (1)(b)(ix).

(c) (i) "Sales from investment activities and assets and trading activities and assets" means receipts from interest, dividends, a net gain, but not less than zero, or other income from an investment security, a trading account asset, federal funds, a security purchased and sold under an agreement to resell or repurchase, an option, a future contract, a forward contract, equities, a foreign currency transaction, or a

notional principal contract, such as swaps.

(ii) "Sales from investment activities and assets and trading activities and assets" includes:

(A) the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements; and

(B) the amount by which interest, dividends, gains, and other income from foreign currency transactions and trading assets and activities, including assets and activities in the matched book and arbitrage book, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from trading assets and activities.

(iii) "Sales from investment activities and assets and trading activities and assets" does not include:

(A) receipts from the lease of real property;

(B) receipts from the lease of tangible personal property;

(C) interest from a loan secured by real property;

(D) interest from a loan not secured by real property;

(E) a net gain from the sale of a loan;

(F) receipts from a credit card receivable;

(G) a net gain from the sale of a credit card receivable;

(H) a credit card issuer's reimbursement fees;

(I) receipts from a merchant discount;

(J) a loan servicing fee;

(K) receipts from a service; or

(L) other receipts not addressed in Subsection (1)(c)(i) or Subsections (1)(c)(iii)(A) through (K).

(2) Except as provided in [~~Subsection (2)~~]Subsections (3) and (4), the sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

[~~(2)~~](3) The total sales of an airline in this state during the tax period attributable to transportation [~~revenues~~]revenue in this state during the tax period for purposes of the numerator of the fraction described in Subsection (1) shall be calculated by determining the product of:

(a) the total transportation [~~revenues~~]revenue during the tax period of the airline; and

(b) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles.

(4) (a) Except as provided in Subsection (4)(b), the commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish the sales to be included in the sales factor fraction of a financial institution.

(b) In calculating the sales factor of a financial institution:

(i) the numerator may not include sales from investment activities and assets and trading activities and assets; and

(ii) the denominator shall include sales from investment activities and assets and trading activities and assets.

Section 2. Effective Date.

This bill takes effect for a taxable year beginning on or after January 1, 2026.

CHAPTER 343
S. B. 223
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

PUBLIC EDUCATION BULLYING AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill enacts definitions of bullying for the public education code.

Highlighted Provisions:

This bill:

- ► amends the definition of "bullying";
- ► defines the terms "staff bullying" and "student bullying"; and
- ► makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-102, as last amended by Laws of Utah 2022, Chapter 214
53E-3-516, as last amended by Laws of Utah 2024, Chapters 20, 21 and 301
53G-8-801, as last amended by Laws of Utah 2024, Chapter 21
53G-9-601, as last amended by Laws of Utah 2024, Chapter 21
53G-9-606, as last amended by Laws of Utah 2024, Chapter 21

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-102 is amended to read:
53E-1-102. Public education code definitions.

Unless otherwise indicated, as used in this title, Title 53F, Public Education System -- Funding, and Title 53G, Public Education System -- Local Administration:

(1) "Bullying" means the same as that term is defined in Section 53G-9-601.

[~~(1)~~](2) "Charter agreement" means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.

[~~(2)~~](3) "Charter school governing board" means the board that governs a charter school.

[~~(3)~~](4) "District school" means a public school under the control of a local school board.

[~~(4)~~](5) "Individualized education program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

[~~(5)~~](6) "LEA governing board" means:

(a) for a school district, the local school board;

(b) for a charter school, the charter school governing board; or

(c) for the Utah Schools for the Deaf and the Blind, the state board.

[~~(6)~~](7) "Local education agency" or "LEA" means:

(a) a school district;

(b) a charter school; or

(c) the Utah Schools for the Deaf and the Blind.

[~~(7)~~](8) "Local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

[~~(8)~~](9) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.

[~~(9)~~](10) "Parent" means a parent or legal guardian.

[~~(10)~~](11) "Public education code" means:

(a) this title;

(b) Title 53F, Public Education System -- Funding; and

(c) Title 53G, Public Education System -- Local Administration.

[~~(11)~~](12) "Section 504 accommodation plan" means a plan developed in accordance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq., for a student with a disability, to meet the student's educational needs and ensure equitable access to a free appropriate public education.

[~~(12)~~](13) "School nurse" means a registered nurse:

(a) who holds:

(i) a license under Title 58, Chapter 31b, Nurse Practice Act; or

(ii) a multistate license as that term is defined in Section 58-31e-102; and

(b) whose primary role is the care of a defined group of students enrolled in the public school system.

[~~(13)~~](14) "State board" means the State Board of Education.

[~~(14)~~](15) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

Section 2. Section 53E-3-516 is amended to read:

53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.

(1) As used in this section:

(a) "Dangerous weapon" means a firearm or an object that in the manner of the object's use or intended use is capable of causing death or serious bodily injury to an individual.

(b) (i) "Law enforcement action" means a significant law enforcement interaction with a minor.

(ii) "Law enforcement action" includes the following actions against a minor:

(A) a search and seizure;

(B) an arrest;

(C) the issuance of a citation;

(D) the filing of a delinquency petition, indictment, or criminal information;

(E) a referral to the juvenile court; or

(F) use of force by a law enforcement officer.

(c) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(d) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(e) "Minor" means the same as that term is defined in Section 80-1-102.

(f) (i) "School disciplinary action" means an action by a public school to formally discipline a student of that public school.

(ii) "School disciplinary action" includes a suspension or an expulsion.

(g) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

(h) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(i) "School resource officer" means the same as that term is defined in Section 53G-8-701.

(2) The state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

(a) school disciplinary actions;

(b) minors found in possession of a dangerous weapon; and

(c) law enforcement actions.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each school in an LEA:

(a) the number of law enforcement actions, including the following information for each incident:

(i) the reason for the law enforcement action; and

(ii) the type of law enforcement action used;

(b) the number of school disciplinary actions, including the following information for each incident:

(i) the reason for the school disciplinary action;

(ii) the type of school disciplinary action;

(iii) the number of suspensions imposed;

(iv) the average length of suspensions;

(v) the number of days of instruction lost due to suspensions; and

(vi) the number of expulsions;

(c) the number of school resource officers employed;

(d) if applicable, the demographics of an individual student who is subject to, as the following are defined in Section 53G-9-601, student bullying, hazing, cyber-bullying, or retaliation; and

(e) the number of minors found in possession of a dangerous weapon on school grounds while school is in session or during a school-

sponsored activity.

(5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) and (b):

(a) age;

(b) grade level;

(c) race;

(d) sex;

(e) disability status; and

(f) youth in care designation.

(6) Information included in the annual report described in Subsection (2) shall comply with:

(a) Chapter 9, Part 3, Student Data Protection;

(b) Chapter 9, Part 2, Student Privacy; and

(c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).

(8) (a) The state board shall provide the report described in Subsection (2):

(i) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year; and

(ii) to the State Commission on Criminal and Juvenile Justice before January 15 of each year for incidents that occurred during the previous school year.

(b) After submitting the report in accordance with this section, the state board shall supplement the report to the State Commission on Criminal and Juvenile Justice with updated data and information within 30 days after the day on which the state board receives the updated data and information.

Section 3. Section 53G-8-801 is amended to read:

53G-8-801. Definitions.

As used in this section:

[~~(1) "Bullying" means the same as that term is defined in Section 53G-9-601.~~]

[~~(2)~~](1) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

[~~(3)~~](2) "School Safety Center" means the entity established in Section 53G-8-802.

[~~(4)~~](3) "State security chief" means the same as that term is defined in Section 53-22-101.

Section 4. Section 53G-9-601 is amended to read:

53G-9-601. Definitions.

As used in this part:

(1) (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress.

(b) A single act does not constitute abusive conduct.

(2) "Action plan" means a process to address an incident as described in Section 53G-9-605.5.

(3) "Bullying" means [~~a school employee or student intentionally committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:~~]student bullying and staff bullying.

[~~(a) causing physical or emotional harm to the school employee or student;~~]

[~~(b) causing damage to the school employee's or student's property;~~]

[~~(c) placing the school employee or student in reasonable fear of:~~]

[~~(i) harm to the school employee's or student's physical or emotional well-being; or~~]

[~~(ii) damage to the school employee's or student's property;~~]

[~~(d) creating a hostile, threatening, humiliating, or abusive educational environment due to:~~]

[~~(i) the pervasiveness, persistence, or severity of the actions; or~~]

[~~(ii) a power differential between the bully and the target; or~~]

[~~(e) substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.~~]

(4) "Communication" means the conveyance of a message, whether verbal, written, or electronic.

(5) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

(6) (a) "Hazing" means a school employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:

(i) (A) endangers the mental or physical health or safety of a school employee or student;

(B) involves any brutality of a physical nature, including whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(C) involves consumption of any food, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a school employee or student; or

(D) involves any activity that would subject a school employee or student to extreme mental stress, such as sleep deprivation, extended

isolation from social contact, or conduct that subjects a school employee or student to extreme embarrassment, shame, or humiliation; and

(ii) (A) is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for membership in a school or school sponsored team, organization, program, club, or event; or

(B) is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for membership in, a school or school sponsored team, organization, program, club, or event in which the individual who commits the act also participates.

(b) The conduct described in Subsection (6)(a) constitutes hazing, regardless of whether the school employee or student against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

(7) "Incident" means an incident of bullying, cyber-bullying, hazing, or retaliation that is prohibited under this part.

(8) "LEA governing board" means a local school board or charter school governing board.

(9) "Policy" means an LEA governing board policy described in Section 53G-9-605.

(10) "Public education suicide prevention coordinator" means the public education suicide prevention coordinator described in Section 53G-9-702.

(11) "Retaliate" means an act or communication intended:

(a) as retribution against a person for reporting bullying or hazing; or

(b) to improperly influence the investigation of, or the response to, a report of bullying or hazing.

(12) "School" means a public elementary or secondary school, including a charter school.

(13) "School employee" means an individual working in the individual's official capacity as:

(a) a school teacher;

(b) a school staff member;

(c) a school administrator; or

(d) an individual:

(i) who is employed, directly or indirectly, by a school, an LEA governing board, or a school district; [~~and~~]or

(ii) who works on a school campus.

(14) (a) "Staff bullying" means a school employee, with the intent to cause harm, repeatedly committing a written, verbal, or physical act against a student or another school employee, or engaging in a single egregious act toward another employee involving an imbalance of power, that:

(i) creates an environment that a reasonable person would find hostile, threatening, or humiliating; and

(ii) substantially interferes with a student's or employee's educational or professional performance, opportunities, or benefits.

(b) "Staff bullying" does not mean instances of:

(i) ordinary teasing, horseplay, argument, or peer conflict;

(ii) reasonable correction of behavior by a school employee; or

(iii) reasonable coaching strategies and techniques by a school employee who is a coach.

(15) (a) "Student bullying" means one or more students, with the intent to cause harm, repeatedly committing a written, verbal, or physical act against another student, or engaging in a single egregious act toward another student involving an imbalance of power, that:

(i) creates an environment that a reasonable person would find hostile; and

(ii) interferes with a student's educational performance, opportunities, or benefits.

(b) "Student bullying" does not mean instances of:

(i) ordinary teasing, horseplay, argument, or peer conflict;

(ii) reasonable correction of behavior by a school employee; or

(iii) reasonable coaching strategies and techniques by a school employee who is a coach.

[~~(14)~~](16) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 26B-5-611.

[~~(15)~~](17) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

Section 5. Section 53G-9-606 is amended to read:

53G-9-606. Model policy and state board duties.

(1) The state board shall:

(a) create a model policy on bullying, cyber-bullying, hazing, abusive conduct, and retaliation; and

(b) post the model policy described in Subsection (1)(a) on the state board's website.

(2) The state board shall require an LEA governing board to report annually to the state board on:

(a) the LEA governing board's policy, including implementation of the signed statement requirement described in Subsection 53G-9-605(3);

(b) the LEA governing board's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607;

(c) the demographics of an individual student who is subject to student bullying, hazing, cyber-bullying, or retaliation subject to:

(i) Title 53E, Chapter 9, Part 2, Student Privacy;

(ii) Title 53E, Chapter 9, Part 3, Student Data Protection;

(iii) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(iv) 34 C.F.R. Part 99; and

(d) other information related to this part, as determined by the state board.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 344
S. B. 229
Passed February 27, 2025
Approved March 25, 2025
Effective May 7, 2025

ORGAN DONOR AMENDMENTS

Chief Sponsor: Kathleen A. Riebe
House Sponsor: Thomas W. Peterson

LONG TITLE

General Description:

This bill addresses organ donation.

Highlighted Provisions:

This bill:

- ► requires information about the option to register as an organ donor, and instructions for accessing a donor registry, to be provided in connection with individual income tax booklets; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-10-103.1, as last amended by Laws of Utah 2022, Chapter 258

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-10-103.1 is amended to read:

59-10-103.1. Information to be contained on individual income tax returns or booklets.

(1) The commission shall print the phrase "all state income tax dollars support education, children, and individuals with disabilities" on:

(a) the first page of an individual income tax return; and

(b) the cover page of an individual income tax forms and instructions booklet.

(2) The commission shall include on an individual income tax return a statement for a property owner to declare that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence.

(3) The commission shall include in each instruction booklet information about the option to register as a donor, as that term is defined in Section 26B-8-301, and instructions for accessing a donor registry established under Section 26B-8-319.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 345
S. B. 233
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

PROBATE AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies provisions of the Utah Uniform Probate Code.

Highlighted Provisions:

This bill:

- ► enacts within the Utah Uniform Probate Code a separate process for transferring a beneficiary's interest that is purchased by a third party in certain circumstances;
- ► provides a process for the transfer and requirements for written agreements to purchase a beneficiary's interest;
- ► provides for an optional hearing in relation to the transfer; and
- ► provides a penalty for a willful violation of the process.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

75-3-918, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 75-3-918 is enacted to read:

75-3-918. Distribution to a purchaser of interest in a decedent's estate -- Exclusions -- Requirements for filing and agreement contents and form -- Redactions required -- Hearing -- Probate action in another state.

(1) As used in this section:

(a) "Interest" has the same meaning as "estate, trust, or other beneficial interest" as defined in Section 75A-2-211.

(b) "Purchaser of interest" means a person who:

(i) purchases, by means of a written agreement, an interest from a beneficiary in exchange for consideration; and

(ii) regularly engages in, either directly or indirectly, the purchase of beneficial interests in estates in exchange for consideration.

(2) The requirements of this section apply to a distribution from a decedent's estate that is made to a purchaser of interest.

(3) This section does not apply to:

(a) a transferee who is a beneficiary of the estate;

(b) a person who has a claim to distribution from the estate under another instrument or by intestate succession;

(c) a transferee who is the registered domestic partner of the beneficiary, or who is related by blood, marriage, or adoption to the beneficiary or the decedent;

(d) a transaction made under Title 70C, Utah Consumer Credit Code; or

(e) a transferee who is engaged in the business of locating missing or unknown heirs and who acquires an interest from a beneficiary solely in exchange for providing information or services associated with locating the heir or beneficiary.

(4) (a) A written agreement under this section shall:

(i) be printed in 10-point type or larger, including any accompanying documents provided by the purchaser of interest in relation to the written agreement;

(ii) state the amount of consideration paid to the beneficiary;

(iii) provide a description of the transferred interest; and

(iv) if the written agreement so provides, state the amount by which the transferee for value would have its distribution reduced if the beneficial interest assigned is distributed prior to a specified date.

(b) A written agreement under this section may not contain any of the following provisions, and if any such provision is included, the prohibited provision is null and void:

(i) a provision that holds the purchaser of interest harmless, other than for liability arising out of fraud by the beneficiary;

(ii) a provision granting the purchaser of interest agency powers to represent the beneficiary's interest in the decedent's estate beyond the interest to be transferred;

(iii) a provision requiring the beneficiary to pay the purchaser of interest for services that are not related to the written agreement or

for services other than the transfer of interest under the written agreement; or

(iv) a provision permitting the purchaser of interest to have recourse against the beneficiary if the distribution from the estate in satisfaction of the beneficial interest is less than the beneficial interest assigned to the purchaser of interest, other than recourse for any expense or damage arising out of the material breach of the agreement or fraud by the beneficiary.

(c) Before a copy of a written agreement under this section is filed, served, or otherwise publicly distributed as may be required by law, the purchaser of interest shall redact from that copy all information that personally identifies the beneficiary, other than the name and address of the beneficiary.

(5) To request a transfer of the interest as provided under this section, the purchaser of interest shall, not later than 30 days following the date of execution of the written agreement or, if administration of the decedent's estate has not commenced, then within 30 days of issuance of the letters of administration or letters testamentary, but in no event later than 15 days prior to the hearing on the petition for final distribution:

(a) provide a copy of the written agreement to the beneficiary, and if all or some of the negotiation or discussion that resulted in the execution of the written agreement by the beneficiary was conducted in a language other than English, provide the beneficiary with a copy of the written agreement in English, together with a copy of the written agreement translated into the language in which the written agreement was negotiated or discussed;

(b) file a copy of the written agreement that meets the requirements of this section, and that is redacted in accordance with the requirements of Subsection (4)(c), with the court; and

(c) provide notice of the assignment on the personal representative or the attorney of record for the personal representative.

(6) (a) The beneficiary may file a motion in opposition, which motion may also request that the court schedule a hearing, within 10 calendar days of receipt of the written agreement.

(b) The court on its own motion, or in response to a motion under Subsection (6)(a), may inquire into the circumstances surrounding the execution of, and the consideration for, the written agreement to determine that the requirements of this section have been satisfied.

(c) Notice of a hearing on any motion brought under this section shall be served on the beneficiary and on the purchaser of interest at least 15 days before the date of the hearing.

(7) (a) Except as provided in Subsections (7)(b) and (7)(c), if no motion in opposition has been filed under Subsection (6)(a), the court shall allow the transfer.

(b) The court may order distribution under the written agreement, or may order distribution on any terms that the court considers equitable, if the court finds that the purchaser of interest did not substantially comply with the requirements of this section, or if the court finds that any of the following conditions existed at the time of transfer:

(i) fees, charges, or consideration paid or agreed to be paid by the beneficiary were grossly unreasonable; or

(ii) the transfer of the beneficial interest was obtained by duress, fraud, or undue influence.

(c) In addition to any remedy specified in this section, for any willful violation of the requirements of this section found to be committed in bad faith, the court may require the purchaser of interest to pay to the beneficiary up to twice the value paid for the assignment.

(8) If the decedent's estate is not subject to a pending court proceeding under Title 75, Utah Uniform Probate Code, but is the subject of a probate proceeding in another state, the purchaser of interest shall not be required to submit to the court a copy of the written agreement as required under Subsection (5).

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 346
S. B. 237
Passed March 4, 2025
Approved March 25, 2025
Effective May 7, 2025

UTAH COMMUNICATIONS AUTHORITY AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: David Shallenberger

LONG TITLE

General Description:

This bill modifies provisions related to public safety answering points and emergency communications services.

Highlighted Provisions:

This bill:

- ► modifies requirements for agreements between public safety answering points and the Department of Public Safety;
- ► requires the Department of Public Safety to implement and maintain a computer-aided dispatch system by July 1, 2029;
- ► revises the audit requirements for counties that do not meet specified transfer rate standards;
- ► modifies the distribution formula for 911 emergency service charge revenue;
- ► removes references to outdated funding provisions; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

69-2-201,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 507
69-2-202,
(Effective 05/07/25)
as last amended by Laws of Utah 2020, Chapter 368
69-2-203,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 507
69-2-204,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 357
69-2-302,
(Effective 05/07/25)
as enacted by Laws of Utah 2017, Chapter 430

REPEALS:

63H-7a-304.5,
(Effective 01/01/26)
as last amended by Laws of Utah 2024, Chapter 357

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 69-2-201 is amended to read:
69-2-201
(Effective 05/07/25)
. Public safety answering point -- Establishment -- Administration -- Consolidation.

(1) (a) A public agency may:

(i) operate a public safety answering point to provide 911 emergency service to any part of the geographic area within the public agency's jurisdiction;

(ii) subject to Subsection (1)(b), operate a public safety answering point with any other contiguous public agency to provide 911 emergency service to any part of the geographic area within the public agencies' jurisdictions;

(iii) operate a public safety answering point under an agreement with another public agency that existed before January 1, 2017, to provide 911 emergency service to any part of the geographic area within the public agencies' jurisdictions; or

(iv) subject to Subsections (1)(b) and (c), operate a public safety answering point to provide 911 emergency service for all public safety agencies in a non-contiguous county of the fourth, fifth, or sixth class, if the public agency is located in a county of the fourth, fifth, or sixth class.

(b) A public agency that operates a public safety answering point in connection with another public agency shall:

(i) provide for the operation of the public safety answering point by interlocal agreement between the public agencies; and

(ii) submit a copy of the interlocal agreement each year to the director of the Utah Communications Authority.

(c) A public agency that operates a public safety answering point described in Subsection (1)(a)(iv) shall:

(i) promote interoperability among the public agencies served;

(ii) positively impact a large service territory; and

[~~(iii) annually qualify for disbursements as described in Section 63H-7a-304.5; and~~]

[~~(iv)~~](iii) maintain a designation as an emergency medical service dispatch center as described in Section [~~26B-4-117~~]53-2d-403.

(2) Except as provided in Subsection (3), a public agency may not establish a dispatch center or a public safety answering point after January 1, 2017.

(3) (a) A public agency that operates a public safety answering point established before January 1, 2017, may:

(i) continue to operate the public safety answering point; or

(ii) physically consolidate the public safety answering point with another public safety answering point operated by another contiguous public agency or consolidate with a non-contiguous county in accordance with Subsection (1)(a)(iv).

(b) A county may establish a public safety answering point on or after January 1, 2017, if no public safety answering point exists in the county.

(4) A public agency may, in order to provide funding for operating a public safety answering point:

(a) seek funds from the federal or state government;

(b) seek funds appropriated by local governmental taxing authorities to fund a public safety agency; or

(c) seek gifts, donations, or grants from a private person.

(5) (a) Each dispatch center in the state shall enter into an interlocal agreement with the governing authority of a public safety answering point that serves the county for which the dispatch center provides dispatch services.

(b) The agreement listed in Subsection (5)(a) shall[~~provide for~~]:

(i) provide for:

(A) functional consolidation of the dispatch center with the public safety answering point that allows for dispatching to occur without the caller being transferred; and

[~~(ii)~~](B) a plan for the public safety answering point to provide 911 emergency service to the geographic area served by the dispatch center that meets the [~~requirements of Section 63H-7a-304.5.~~]standards in Section 69-2-204; and

(ii) if applicable, comply with Subsection 69-2-202(3).

(6) (a) No public entity may cause or allow a 911 or emergency call box communication to be redirected to any network other than to the 911 emergency service network.

(b) Each public entity shall comply with Subsection (6)(a) on or before July 1, 2019, and thereafter.

(7) A special service district that operates a public safety answering point or a dispatch center:

(a) shall administer the public safety answering point or dispatch center in accordance with Title 17D, Chapter 1, Special Service District Act; and

(b) may raise funds, borrow money, or incur indebtedness for the purpose of maintaining the public safety answering point or the dispatch center in accordance with:

(i) Section 17D-1-105; and

(ii) Section 17D-1-103.

(8) A public safety answering point and dispatch center shall adopt the statewide CAD-to-CAD call handling and 911 call transfer protocol adopted by the Utah Communications Authority board under Subsection 63H-7a-204(17).

Section 2. Section 69-2-202 is amended to read:

69-2-202

(Effective 05/07/25)

. Agreement between Department of Public Safety and public safety answering point for dispatch services -- Agreement for improving dispatch services.

(1) A public safety answering point shall, before providing dispatch services to the Department of Public Safety:

(a) enter into a written agreement with the Department of Public Safety for providing 911 call processing or dispatch services that specifies [~~:~~]

[~~(i)~~] the scope of the services that the public safety answering point will provide[~~; and~~], including:

(i) reducing or eliminating 911 call transfers;

(ii) reducing 911 call response time;

(iii) implementing a CAD-to-CAD call handling system;

(iv) increasing the efficiency of 911 call processing and dispatch services; and

(v) ensuring compliance with Section 69-2-204; and

[~~(ii) the rate that the public safety answering point will charge the Department of Public Safety for dispatch services; and~~]

(b) submit a copy of the agreement to:

(i) the director of the Utah Communications Authority; and

(ii) the commissioner of the Department of Public Safety.

(2) The Department of Public Safety shall, before providing dispatch services to a public agency as a public safety answering point:

(a) enter into a written agreement with the public agency for providing dispatch services that specifies:

(i) the scope of the services that the Department of Public Safety will provide; and

(ii) the rate that the Department of Public Safety will charge the public agency for dispatch services; and

(b) submit a copy of the agreement to:

(i) the director of the Utah Communications Authority; and

(ii) the commissioner of the Department of Public Safety.

(3) On or before July 1, 2029, the Department of Public Safety shall, in coordination with each public safety answering point:

(a) develop and implement a plan and program to connect a CAD-to-CAD system with each public safety answering point that provides 911 call processing services for the department;

(b) ensure the system allows for electronic transfer of 911 communications from a local public safety answering point to:

(i) a Department of Public Safety public safety answering point; or

(ii) a Department of Public Safety dispatch center; and

(c) ensure that transfers of 911 communications described in Subsection (3)(b) comply with the standards established in Section 69-2-204.

(4) A public safety answering point may expend funds for a CAD-to-CAD system in accordance with Section 69-2-301.

[~~(3) (a) As used in this Subsection (3), "single answering point" means a public safety answering point that is the single public safety answering point serving within a county.~~]

[~~(b) No later than December 31, 2020, the Department of Public Safety and a single answering point shall enter into an agreement:~~]

[~~(i) to reduce or eliminate 911 call transfers, reduce 911 call response time, implement a successful CAD-to-CAD call handling system, and increase the efficiency of the dispatch services, within the geographical area served by the single answering point; or~~]

[~~(ii) providing for the single answering point to provide dispatch services to the Department of Public Safety within the geographical area served by the single answering point.~~]

Section 3. Section 69-2-203 is amended to read:

69-2-203

(Effective 05/07/25)

. Audit of public safety answering points within a county -- Reports -- Consequence of failure to comply.

(1) A county that by June 30, 2024, [~~has not achieved~~]failed to achieve a transfer rate, as defined in Section 69-2-204, of 2% or less shall:

(a) utilize a qualified third party to conduct an audit of each public safety answering point within the county; and

(b) require the audit to be completed no later than January 1, 2025.

(2) The audit described in Subsection (1) shall evaluate:

(a) how best to provide the emergency services within the county;

(b) what needs to happen for the PSAPs within the county to achieve a transfer rate, as defined in Section 69-2-204, of 2% or less;

(c) whether the county could provide more cost efficient emergency service or improve public safety by establishing a single public safety answering point for the county; and

(d) the extent to which the dispatch center's policies, procedures, or interlocal agreements cause a PSAP to experience difficulty in meeting the [~~requirements of Section 63H-7a-304.5.~~]standards described in Section 69-2-204.

[~~(3) (a) Each public safety answering point shall participate and cooperate in the audit described in Subsection (1).~~]

[~~(b) A public safety answering point that fails to participate and cooperate in the audit as described in Subsection (1) is ineligible for funding or services provided by the Unified Statewide 911 Emergency Services Account described in Section 63H-7a-304.~~]

[~~(4)~~](3) No later than February 28, 2025, a county required to have an audit conducted under Subsection (1) shall submit to the Utah Communications Authority:

(a) a copy of the audit report; [~~and~~]

(b) a written plan of how and when the [~~county~~]public safety answering point will implement the audit recommendations [~~.~~]and achieve compliance with the standards described in Section 69-2-204; and

(c) on or before January 1 of each year, beginning in 2026 and ending in 2029, submit to the Utah Communications Authority an implementation report that describes:

(i) the progress made in implementing the audit recommendations; and

(ii) the status of achieving compliance with the standards described in Section 69-2-204.

[~~(5) A PSAP in a county that fails to comply with the requirements of this section does not qualify for a distribution of funds under Section 63H-7a-304.5 for the entire calendar year in which the PSAP does not qualify.~~]

Section 4. Section 69-2-204 is amended to read:

69-2-204

(Effective 05/07/25)

. Public safety answering point 911 call processing standards.

(1) As used in this section:

(a) "Transfer rate" means the percentage of 911 calls that are:

(i) received by a public safety answering point during a fiscal year; and

(ii) transferred to another location in the state.

(b) "Transfer rate" does not include transfers from a public safety answering point to:

(i) 988 services[~~or~~];

(ii) poison control[~~.~~]; or

(iii) until July 1, 2029, transfers to a public safety answering point or dispatch center managed by the Department of Public Safety.

(2) A public safety answering point shall:

(a) maintain a transfer rate that is no more than 2%[.];

(b) answer:

(i) 90% of all 911 calls within 15 seconds; and

(ii) 95% of all 911 calls within 20 seconds;

(c) adopt and implement the statewide CAD-to-CAD call handling and 911 call transfer protocol adopted by the Utah Communications Authority board under Section 63H-7a-204;

(d) participate in the Utah Communications Authority's annual interoperability exercise; and

(e) maintain designation as an emergency medical service dispatch center in accordance with Section 53-2d-403.

Section 5. Section 69-2-302 is amended to read:

69-2-302

(Effective 05/07/25)

. Distribution of 911 emergency service charge revenue.

(1) As used in this section:

(a) "Proportional distribution" means the amount of a public safety answering point's proportion of 911 emergency service charge revenue calculated under Subsection (3).

(b) "Proportion of total call volume" means the number of 911 emergency communications that a public safety answering point receives in a year divided by the number of total 911 emergency communications for the state for the year.

(2) The commission shall transmit to a public safety answering point each month an amount equal to the public safety answering point's proportional distribution of funds collected under Section 69-2-402[~~each month to a public safety answering point as follows:~~].

[~~(a) for fiscal years 2018 and 2019 only, an amount equal to the greater of:~~]

[~~(i) the amount of 911 emergency service charge revenue distributed to the public safety answering point for the same month in fiscal year 2017; or~~]

[~~(ii) the public safety answering point's proportional distribution for the month; and~~]

[~~(b) for a fiscal year after fiscal year 2019, the public safety answering point's proportional distribution for the month.~~]

(3) A public safety answering point's proportion of 911 emergency service charge revenue is an amount equal to the total funds collected under Section 69-2-402 for the current month multiplied by the average proportion of total call volume for the public safety answering point over the three years previous to the current year.

(4) (a) For the purpose of the calculation described in Subsection (3), the Utah Communications Authority shall determine for each year:

(i) the number of total 911 emergency communications for the state;

(ii) the number of 911 emergency communications received by each public safety answering point; and

(iii) the average per year, over the last three years before the current year, of total 911 emergency communications for the state and 911 emergency communications received by each public safety answering point in the state.

(b) The Utah Communications Authority shall report the numbers described in Subsection (4)(a) to the commission on or before January 15 of each year.

Section 6. Repealer.

This bill repeals:

Section 63H-7a-304.5, Distributions from 911 account to qualifying PSAPs.

Section 7. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect May 7, 2025.

(2) The actions affecting Section 63H-7a-304.5 take effect on January 1, 2026.

CHAPTER 347
S. B. 241
Passed March 5, 2025
Approved March 25, 2025
Effective March 25, 2025

LIMITED PURPOSE LOCAL GOVERNMENT AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Paul A. Cutler

LONG TITLE

General Description:

This bill modifies provisions affecting special districts.

Highlighted Provisions:

This bill:

- ► defines terms and modifies definitions;
- ► provides that a property owner special district may pledge all or a portion of revenue collected from an impact fee or other fee toward payment of a general obligation bond;
- ► authorizes a basic special district to create a public infrastructure district;
- ► authorizes a basic special district to fund:
  - • the acquisition and construction of certain facilities; and
  - • affordable housing projects;
- ► modifies requirements for determining consent of surface property owners within a public infrastructure district;
- ► modifies provisions related to the appointment or election of board members for a public infrastructure district;
- ► modifies provisions related to the annexation of property to, or withdrawal of property from, a public infrastructure district;
- ► provides that a public entity or private person may not receive funds from any portion of a public infrastructure district's property tax revenue without a resolution of the public infrastructure district's board authorizing the public entity or private person to receive the funds;
- ► modifies the process for a public infrastructure district to issue a bond; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-42-106,
(Effective upon governor's approval)
as last amended by Laws of Utah 2024, Chapter 388
11-42-408,
(Effective upon governor's approval)
as last amended by Laws of Utah 2017, Chapter 470
11-42a-102,
(Effective upon governor's approval)
as last amended by Laws of Utah 2024, Chapters 42, 53 and 438
17B-1-304,
(Effective upon governor's approval)
as last amended by Laws of Utah 2023, Chapters 15, 435
17B-1-1102,
(Effective upon governor's approval)
as last amended by Laws of Utah 2023, Chapter 15
17D-4-102,
(Effective upon governor's approval)
as last amended by Laws of Utah 2024, Chapter 419
17D-4-103,
(Effective upon governor's approval)
as last amended by Laws of Utah 2023, Chapter 15
17D-4-201,
(Effective upon governor's approval)
as last amended by Laws of Utah 2023, Chapters 12, 15 and 259
17D-4-202,

(Effective upon governor's approval)
as last amended by Laws of Utah 2021, Chapters 64, 415 and renumbered and amended by Laws of Utah 2021, Chapter 314
17D-4-203,
(Effective upon governor's approval)
as last amended by Laws of Utah 2023, Chapters 15, 259
17D-4-204,
(Effective upon governor's approval)
as last amended by Laws of Utah 2023, Chapter 15
17D-4-301,
(Effective upon governor's approval)
as last amended by Laws of Utah 2023, Chapters 15, 139
17D-4-302,
(Effective upon governor's approval)
as renumbered and amended by Laws of Utah 2021, Chapter 314
17D-4-303,
(Effective upon governor's approval)
as renumbered and amended by Laws of Utah 2021, Chapter 314
17D-4-305,
(Effective upon governor's approval)
as last amended by Laws of Utah 2024, Chapter 158
67-1a-6.5,
(Effective upon governor's approval)
as last amended by Laws of Utah 2024, Chapter 388

ENACTS:

17B-1-1404,
(Effective upon governor's approval)
Utah Code Annotated 1953
17D-4-104,
(Effective upon governor's approval)
Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-42-106 is amended to read:
11-42-106
(Effective upon governor's approval)
. Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.

(1) A person who contests an assessment or any proceeding to designate an assessment area or levy an assessment may commence a civil action against the local entity to:

(a) set aside a proceeding to designate an assessment area; or

(b) enjoin the levy or collection of an assessment.

(2) (a) Each action under Subsection (1) shall be commenced in the district court with jurisdiction in the county in which the assessment area is located.

(b) (i) Except as provided in Subsection (2)(b)(ii), an action under Subsection (1) may not be commenced against and a summons relating to the action may not be served on the local entity more than 60 days after the effective date of the:

(A) designation resolution or designation ordinance, if the challenge is to the designation of an assessment area;

(B) assessment resolution or ordinance, if the challenge is to an assessment; or

(C) amended resolution or ordinance, if the challenge is to an amendment.

(ii) The period for commencing an action and serving a summons under Subsection (2)(b)(i) is 30 days if:

(A) the designation resolution, assessment resolution, or amended resolution was adopted by a development authority, an infrastructure financing district under Title 17B, Chapter 2a, Part 13, Infrastructure Financing [~~Districts~~]District, or a public infrastructure district [~~created by a development authority~~]under Title 17D, Chapter 4, Public Infrastructure District Act; and

(B) all owners of property within the assessment area or proposed assessment area consent in writing to the designation resolution, assessment resolution, or amended resolution.

(3) (a) An action under Subsection (1) is the exclusive remedy of a person who:

(i) claims an error or irregularity in an assessment or in any proceeding to designate an assessment area or levy an assessment; or

(ii) challenges a bondholder's right to repayment.

(b) A court may not hear any complaint under Subsection (1) that a person was authorized to make but did not make in a protest under Section 11-42-203 or at a hearing under Section 11-42-204.

(c) (i) If a person has not brought a claim for which the person was previously authorized to bring but is otherwise barred from making under Subsection (2)(b), the claim may not be brought later because of an amendment to the resolution or ordinance unless the claim arises from the amendment itself.

(ii) In an action brought pursuant to Subsection (1), a person may not contest a previous decision, proceeding, or determination for which the service deadline described in Subsection (2)(b) has expired by challenging a subsequent decision, proceeding, or determination.

(4) An assessment or a proceeding to designate an assessment area or to levy an assessment may not be declared invalid or set aside

in part or in whole because of an error or irregularity that does not go to the equity or justice of the proceeding or the assessment meeting the requirements of Section 11-42-409.

(5) After the expiration of the period referred to in Subsection (2)(b):

(a) assessment bonds and refunding assessment bonds issued or to be issued with respect to an assessment area and assessments levied on property in the assessment area become at that time incontestable against all persons who have not commenced an action and served a summons as provided in this section; and

(b) a suit to enjoin the issuance or payment of assessment bonds or refunding assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or question in any way the legality of assessment bonds, refunding assessment bonds, or an assessment may not be commenced, and a court may not inquire into those matters.

(6) (a) This section may not be interpreted to insulate a local entity from a claim of misuse of assessment funds after the expiration of the period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (6)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of assessment funds.

(ii) The limitation in Subsection (6)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Section 2. Section 11-42-408 is amended to read:

11-42-408

(Effective upon governor's approval)

. Assessment against government land prohibited -- Exception.

(1) (a) Except as provided in Subsection (2), a local entity may not levy an assessment against property owned by the federal government or a public agency, even if the property benefits from the improvement.

(b) Notwithstanding Subsection (1)(a), a public agency may contract with a local entity:

(i) for the local entity to provide an improvement to property owned by the public agency; and

(ii) to pay for the improvement provided by the local entity.

(c) Nothing in this section may be construed to prevent a local entity from imposing on and collecting from a public agency, or a public agency from paying, a reasonable charge for a service rendered or material supplied by the local entity to the public agency, including a charge for water, sewer, or lighting service.

(2) Notwithstanding Subsection (1):

(a) (i) a local entity may continue to levy and enforce an assessment against property acquired by a public agency within an assessment area if the acquisition occurred after the assessment area was designated; and

[~~(b)~~](ii) property that is subject to an assessment lien at the time it is acquired by a public agency continues to be subject to the lien and to enforcement of the lien if the assessment and interest on the assessment are not paid when due [~~.~~]; or

(b) a local entity may levy and enforce an assessment against property owned by the federal government or a public agency if the federal government or public agency, as applicable, consents in writing to the local entity levying the assessment.

Section 3. Section 11-42a-102 is amended to read:

11-42a-102

(Effective upon governor's approval)

. Definitions.

(1) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(2) (a) "Assessment" means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy efficiency upgrade, a clean energy system, or an electric vehicle charging infrastructure.

(b) "Assessment" does not constitute a property tax but shares the same priority lien as a property tax.

(3) "Assessment fund" means a special fund that a local entity establishes under Section 11-42a-206.

(4) "Benefitted property" means private property within an energy assessment area that directly benefits from improvements.

(5) "Bond" means an assessment bond and a refunding assessment bond.

(6) (a) "Clean energy system" means an energy system that:

(i) produces energy from clean resources, including:

(A) a photovoltaic system;

(B) a solar thermal system;

(C) a wind system;

(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;

(E) a micro-hydro system;

(F) a biofuel system;

(G) energy derived from nuclear fuel; or

(H) any other clean source system that the governing body of the local entity approves; or

(ii) stores energy, including:

(A) a battery storage system; or

(B) any other energy storing system that the governing body or chief executive officer of a local entity approves.

(b) "Clean energy system" includes any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection (6)(a)(i) or (ii).

(c) "Clean energy system" does not include a system described in Subsection (6)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:

(i) (A) existed before the creation of the energy assessment area; and

(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area;

(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter; or

(iii) is a biofuel system.

(7) (a) "Commercial or industrial real property" means private real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) agricultural;

(iv) industrial;

(v) manufacturing;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes:

(i) private real property that is used as or held for dwelling purposes and contains:

(A) more than four rental units; or

(B) one or more owner-occupied or rental condominium units affiliated with a hotel; and

(ii) real property owned by:

(A) the military installation development authority, created in Section 63H-1-201; or

(B) the Utah Inland Port Authority, created in Section 11-58-201.

(8) "Contract price" means:

(a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an improvement, as determined by the owner of the property benefitting from the improvement; or

(b) the amount payable to one or more contractors for the assessment, design, engineering, inspection, and construction of an improvement.

(9) "C-PACE" means commercial property assessed clean energy.

(10) "C-PACE district" means the statewide authority established in Section 11-42a-106 to implement the C-PACE Act in collaboration with governing bodies, under the direction of OED.

(11) "Electric vehicle charging infrastructure" means equipment that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle.

(12) "Energy assessment area" means an area:

(a) within the jurisdictional boundaries of a local entity that approves an energy assessment area or, if the C-PACE district or a state interlocal entity levies the assessment, the C-PACE district or the state interlocal entity;

(b) containing only the commercial or industrial real property of owners who have voluntarily consented to an assessment under this chapter for the purpose of financing the costs of improvements that benefit property within the energy assessment area; and

(c) in which the proposed benefitted properties in the area are:

(i) contiguous; or

(ii) located on one or more contiguous or adjacent tracts of land that would be contiguous or adjacent property but for an intervening right-of-way, including a sidewalk, street, road, fixed guideway, or waterway.

(13) "Energy assessment bond" means a bond:

(a) issued under Section 11-42a-401; and

(b) payable in part or in whole from assessments levied in an energy assessment area.

(14) "Energy assessment lien" means a lien on property within an energy assessment area that arises from the levy of an assessment in accordance with Section 11-42a-301.

(15) "Energy assessment ordinance" means an ordinance that a local entity adopts under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(16) "Energy assessment resolution" means one or more resolutions adopted by a local entity under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(17) "Energy efficiency upgrade" means an improvement that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to reduce energy or water consumption, including:

(i) insulation in:

(A) a wall, roof, floor, or foundation; or

(B) a heating and cooling distribution system;

(ii) a window or door, including:

(A) a storm window or door;

(B) a multiglazed window or door;

(C) a heat-absorbing window or door;

(D) a heat-reflective glazed and coated window or door;

(E) additional window or door glazing;

(F) a window or door with reduced glass area; or

(G) other window or door modifications;

(iii) an automatic energy control system;

(iv) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(v) caulk or weatherstripping;

(vi) a light fixture that does not increase the overall illumination of a building, unless an increase is necessary to conform with the applicable building code;

(vii) an energy recovery system;

(viii) a daylighting system;

(ix) measures to reduce the consumption of water, through conservation or more efficient use of water, including installation of:

(A) low-flow toilets and showerheads;

(B) timer or timing systems for a hot water heater; or

(C) rain catchment systems;

(x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body or executive of a local entity;

(xi) measures or other improvements to effect seismic upgrades;

(xii) structures, measures, or other improvements to provide automated parking or parking that reduces land use;

(xiii) the extension of an existing natural gas distribution company line;

(xiv) an energy efficient elevator, escalator, or other vertical transport device;

(xv) any other improvement that the governing body or executive of a local entity approves as an energy efficiency upgrade; or

(xvi) any improvement that relates physically or functionally to any of the improvements listed in Subsections (17)(b)(i) through (xv).

(18) "Energy system" means a product, system, device, or interacting group of devices that:

(a) produces or stores energy; and

(b) is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as defined in Section 54-2-1.

(19) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a special district, the board of trustees of the special district;

(c) for a special service district:

(i) if no administrative control board has been appointed under Section 17D-1-301, the legislative body of the county, city, town, or metro township that established the special service district; or

(ii) if an administrative control board has been appointed under Section 17D-1-301, the administrative control board of the special service district;

(d) for a public infrastructure district, the board of the public infrastructure district;

[~~(d)~~](e) for the military installation development authority created in Section 63H-1-201, the board, as that term is defined in Section 63H-1-102; and

[~~(e)~~](f) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

(20) "Improvement" means a publicly or privately owned energy efficiency upgrade, clean energy system, or electric vehicle charging infrastructure that:

(a) a property owner has requested; or

(b) has been or is being installed on a property for the benefit of the property owner.

(21) "Incidental refunding costs" means any costs of issuing a refunding assessment bond and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, and the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bond and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of a refunding assessment bond; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bond.

(22) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(23) "Jurisdictional boundaries" means:

(a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and

(b) for each local entity, the boundaries of the local entity.

(24) (a) "Local entity" means:

(i) a county, city, or town;

(ii) a special service district, a special district, or an interlocal entity as that term is defined in Section 11-13-103;

(iii) a public infrastructure district, created under Title 17D, Chapter 4, Public Infrastructure District Act;

[~~(iii)~~](iv) a state interlocal entity;

[~~(iv)~~](v) the military installation development authority, created in Section 63H-1-201;

[~~(v)~~](vi) the Utah Inland Port Authority, created in Section 11-58-201; or

[~~(vi)~~](vii) any political subdivision of the state.

(b) "Local entity" includes the C-PACE district solely in connection with:

(i) the designation of an energy assessment area;

(ii) the levying of an assessment; and

(iii) the assignment of an energy assessment lien to a third-party lender under Section 11-42a-302.

(25) "Local entity obligations" means energy assessment bonds and refunding assessment bonds that a local entity issues.

(26) "OED" means the Office of Energy Development created in Section 79-6-401.

(27) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

(28) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred in connection with an energy assessment area, including:

(a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;

(b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;

(c) publishing and mailing costs;

(d) costs of levying an assessment;

(e) recording costs; and

(f) all other incidental costs.

(29) "Parameters resolution" means a resolution or ordinance that a local entity adopts in accordance with Section 11-42a-201.

(30) "Prior bonds" means the energy assessment bonds refunded in part or in whole by a refunding assessment bond.

(31) "Prior energy assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

(32) "Prior energy assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

(33) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

(34) "Public electrical utility" means a large-scale electric utility as that term is defined in Section 54-2-1.

(35) "Qualifying electric vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas;

(c) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity; and

(d) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (35)(c).

(36) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas or propane;

(c) has a battery capacity that meets or exceeds the battery capacity described in Subsection 30D(b)(3), Internal Revenue Code; and

(d) is fueled by a combination of electricity and:

(i) diesel fuel;

(ii) gasoline; or

(iii) a mixture of gasoline and ethanol.

(37) "Reduced payment obligation" means the full obligation of an owner of property within an energy assessment area to pay an assessment levied on the property after the local entity has reduced the assessment because of the issuance of a refunding assessment bond, in accordance with Section 11-42a-403.

(38) "Refunding assessment bond" means an assessment bond that a local entity issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.

(39) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(40) "Special service district" means the same as that term is defined in Section 17D-1-102.

(41) "State interlocal entity" means:

(a) an interlocal entity created under Chapter 13, Interlocal Cooperation Act, by two or more counties, cities, or towns that collectively represent at least a majority of the state's population; or

(b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes, or other obligations or refunding obligations to finance or refinance projects in the state.

(42) "Third-party lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides loans directly to property owners for improvements authorized under this chapter.

Section 4. Section 17B-1-304 is amended to read:

17B-1-304

(Effective upon governor's approval)

. Appointment procedures for appointed members -- Notice of vacancy.

(1) The appointing authority may, by resolution, appoint persons to serve as members of a special district board by following the procedures established by this section.

(2) (a) In any calendar year when appointment of a new special district board member is required, the appointing authority shall prepare a notice of vacancy that contains:

(i) the positions that are vacant that shall be filled by appointment;

(ii) the qualifications required to be appointed to those positions;

(iii) the procedures for appointment that the governing body will follow in making those appointments; and

(iv) the person to be contacted and any deadlines that a person shall meet who wishes to be considered for appointment to those positions.

(b) The appointing authority shall publish the notice of vacancy for the special district, as a class A notice under Section 63G-30-102, for at least one month before the deadline for accepting nominees for appointment.

(c) The appointing authority may bill the special district for the cost of preparing, printing, and publishing the notice.

(3) (a) After the appointing authority is notified of a vacancy and has satisfied the requirements described in Subsection (2), the appointing authority shall select a person to fill the vacancy from the applicants who meet the qualifications established by law.

(b) The appointing authority shall:

(i) comply with Title 52, Chapter 4, Open and Public Meetings Act, in making the appointment;

(ii) allow any interested persons to be heard; and

(iii) adopt a resolution appointing a person to the special district board.

(c) If no candidate for appointment to fill the vacancy receives a majority vote of the appointing authority, the appointing authority shall select the appointee from the two top candidates by lot.

(4) Persons appointed to serve as members of the special district board serve four-year terms, but may be removed for cause at any time after a hearing by two-thirds vote of the appointing body.

(5) (a) At the end of each board member's term, the position is considered vacant, and, after following the appointment procedures established in this section, the appointing authority may either reappoint the incumbent board member or appoint a new member.

(b) Notwithstanding Subsection (5)(a), a board member may continue to serve until a successor is elected or appointed and qualified in accordance with Subsection 17B-1-303(2)(b).

(6) Notwithstanding any other provision of this section, if the appointing authority appoints one of its own members and that member meets all applicable statutory board member qualifications, the appointing authority need not comply with Subsection (2) or (3).

(7) (a) This section does not apply to the appointment of a member of a public infrastructure district board.

(b) Section 17D-4-202 governs the appointment process for a member of the board of a public infrastructure district.

Section 5. Section 17B-1-1102 is amended to read:

17B-1-1102

(Effective upon governor's approval)

. General obligation bonds.

(1) Except as provided in Subsections (3) and (7), if a district intends to issue general obligation bonds, the district shall first obtain the approval of district voters for issuance of the bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) General obligation bonds shall be secured by a pledge of the full faith and credit of the district, subject to, for a water conservancy district, the property tax levy limits of Section 17B-2a-1006.

(3) A district may issue refunding general obligation bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, without obtaining voter approval.

(4) (a) A special district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the district's general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the district, as determined under Subsection 11-14-301(3)(b), by a number that is:

(i) .05, for a basic special district, except as provided in Subsection (7);

(ii) .004, for a cemetery maintenance district;

(iii) .002, for a drainage district;

(iv) .004, for a fire protection district;

(v) .024, for an improvement district;

(vi) .1, for an irrigation district;

(vii) .1, for a metropolitan water district;

(viii) .0004, for a mosquito abatement district;

(ix) .03, for a public transit district;

(x) .12, for a service area; or

(xi) .05 for a municipal services district.

(b) Bonds or other obligations of a special district that are not general obligation bonds are not included in the limit stated in Subsection (4)(a).

(5) A district may not be considered to be a municipal corporation for purposes of the debt limitation of the Utah Constitution, Article XIV, Section 4.

(6) Bonds issued by an administrative or legal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, may not be considered to be bonds of a special district that participates in the agreement creating the administrative or legal entity.

(7) (a) As used in this Subsection (7), "property owner district" means a special district whose board members are elected by property owners, as provided in Subsection 17B-1-1402(1)(b).

(b) A property owner district may issue a general obligation bond with the consent of:

(i) the owners of all property within the district; and

(ii) all registered voters, if any, within the boundary of the district.

(c) A property owner district may use proceeds from a bond issued under this Subsection (7) to fund:

(i) the acquisition and construction of a system or improvement authorized in:

(A) the district's creation resolution; [~~and~~]or

(B) Part 14, Basic Special District; and

(ii) a connection outside the boundary of the district between systems or improvements within the boundary of the district.

(d) (i) The consent under Subsection (7)(b) is sufficient for any requirement necessary for the issuance of a general obligation bond.

(ii) Beginning on the effective date of this bill, once consent is obtained under Subsection (7)(b), the consent is valid for a period of 10 years.

(e) A general obligation bond issued under this Subsection (7):

(i) shall mature no later than 40 years after the date of issuance; and

(ii) is not subject to the limit under Subsection (4)(a)(i).

(f) (i) A property owner district may not issue a general obligation bond under this Subsection (7) if the issuance will cause the outstanding principal amount of all the district's general obligation bonds to exceed one-half of the market value of all real property within the district.

(ii) Market value under Subsection (7)(f)(i) shall:

(A) be based on the value that the real property will have after all improvements financed by the general obligation bonds are constructed; and

(B) be determined by appraisal by an appraiser who is a member of the Appraisal Institute.

(g) With respect to a general obligation bond issued under this Subsection (7), the board of a property owner district may approve or, by resolution, delegate to one or more officers of the district, the authority to:

(i) approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

(ii) approve and execute a document relating to the issuance of the bond; and

(iii) approve a contract, including a contract with a property owner within the district, related to the acquisition and construction of an improvement, facility, or property to be financed with proceeds from the bond.

(h) (i) A person may commence a lawsuit or other proceeding to contest the legality of the issuance of a general obligation bond issued under this Subsection (7) or any provision relating to the security or payment of the bond if the lawsuit or other proceeding is commenced within 30 days after the publication of:

(A) the resolution authorizing the issuance of the general obligation bond; or

(B) a notice of the bond issuance containing substantially the items required under Subsection 11-14-316(2).

(ii) Following the period described in Subsection (7)(h)(i), no person may bring a lawsuit or other proceeding to contest for any reason the regularity, formality, or legality of a general obligation bond issued under this Subsection (7).

(i) [~~(i)~~] A property owner district that charges and collects an impact fee or other fee on real property [~~at the time the real property is sold may proportionally pay down a general obligation bond issued under this Subsection (7) from the money collected from the impact fee or other fee~~]may pledge all or a portion of the revenue collected from the impact fee or other fee toward payment of a general obligation bond issued under this Subsection (7).

[~~(ii) A property owner district that proportionally pays down a general obligation bond under Subsection (7)(i)(i) shall reduce the property tax rate on the parcel of real property on which the district charged and collected an impact fee or other charge, to reflect the amount of outstanding principal of a general obligation bond issued under this Subsection (7) that was paid down and is attributable to that parcel.~~]

(j) If a property owner fails to pay a property tax that the property owner district imposes in connection with a general obligation bond issued under this Subsection (7), the district may impose a property tax penalty at an annual rate of .07, in addition to any other penalty allowed by law.

Section 6. Section 17B-1-1404 is enacted to read:

17B-1-1404

(Effective upon governor's approval)

. Basic special district authorized to create a public infrastructure district -- Basic special district authorized to fund certain projects and services.

(1) (a) As used in this section, "eligible basic special district" means a basic special district:

(i) created before April 15, 2011;

(ii) that issued limited general obligation bonds in 2024; and

(iii) for which there was not one or more public infrastructure districts within the boundaries of the basic special district as of January 1, 2025.

(2) (a) Subject to Subsection (3), an eligible basic special district may create a public infrastructure district, in accordance with Title 17D, Chapter 4, Public Infrastructure District Act, for any area located within the boundaries of the eligible basic special district.

(b) An eligible basic special district that creates a public infrastructure district is the creating entity for purposes of Title 17D, Chapter 4, Public Infrastructure District Act, and shall receive any petitions required to be submitted to a creating entity.

(3) When a public infrastructure district is created pursuant to this section:

(a) the public infrastructure district shall have the same powers as the eligible basic special district that is the public infrastructure district's creating entity; and

(b) upon creation of the public infrastructure district, the area within the public infrastructure district shall automatically be withdrawn from the eligible basic special district and shall no longer be part of the eligible basic special district.

(4) In addition to the requirements of Section 17D-4-202, an eligible basic special district shall ensure that the governing document for a public infrastructure district created under this section provides for the election of the initial and future boards of the public infrastructure district using the same method as the election of the board of the eligible basic special district.

(5) In addition to the other powers described in this part, an eligible basic special district may:

(a) fund, in whole or in part, the acquisition and construction of a public facility for use by one or more government entities;

(b) transfer the eligible basic special district's ownership interest in a public facility to another political subdivision pursuant to a written agreement between the eligible basic special district and the receiving political subdivision; and

(c) fund, in whole or in part, the acquisition or construction of:

(i) privately owned affordable housing, consisting of single-family dwellings or townhomes;

(ii) facilities for health care, recreation, community arts, or an amphitheater, whether those facilities are publicly or privately owned; and

(iii) a privately owned grocery store, if there is not a grocery store located within the eligible basic special district's boundary.

Section 7. Section 17D-4-102 is amended to read:

17D-4-102

(Effective upon governor's approval)

. Definitions.

As used in this chapter:

(1) "Board" means the board of trustees of a public infrastructure district.

(2) "Creating entity" means the county, municipality, basic special district, or development authority that approves the creation of a public infrastructure district.

(3) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201;

(b) the Point of the Mountain State Land Authority created in Section 11-59-201;

(c) the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201; or

(d) the military installation development authority created in Section 63H-1-201.

(4) "District applicant" means the person proposing the creation of a public infrastructure district.

(5) "Division" means a division of a public infrastructure district:

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

(6) "Governing document" means the document governing a public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Title 17B, Chapter 1, Provisions Applicable to All Special Districts, and this chapter.

(7) (a) "Limited tax bond" means a bond:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by a public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the property tax levy rate limit established under Section 17D-4-303 for any fiscal year, except as provided in Subsection [~~17D-4-301(8)~~]17D-4-301(13).

(b) "Limited tax bond" does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(8) (a) "Municipal advisor" means a person that:

(i) advises a political subdivision on matters related to the issuance of bonds by governmental entities, including the pricing, sales, and marketing of bonds and the procuring of bond ratings, credit enhancement, and insurance with respect to bonds;

(ii) is qualified to provide the advice described in Subsection (8)(a)(i);

(iii) is not an officer or employee of the political subdivision receiving advice;

(iv) has not been engaged to provide underwriting services in connection with a transaction in which the person will provide advice to the political subdivision; and

(v) has experience doing business related to the issuance of bonds in the state.

(b) "Municipal advisor" may include:

(i) an individual who meets the description in Subsection (8)(a); or

(ii) a firm of individuals who collectively meet the description in Subsection (8)(a).

(9) (a) "Public infrastructure and improvements" means:

(i) infrastructure, utilities, improvements, facilities, buildings, or remediation that:

(A) benefit the public and are owned by a public entity or a public or private utility;

(B) benefit the public and are publicly maintained or operated by a public entity; or

(C) are privately owned and are expressly permitted to be acquired or financed by the public infrastructure district's governing document or an agreement between the public infrastructure district and the public infrastructure district's creating entity; and

(ii) publicly or privately owned roads, rights-of-way, trails, parking, or parking structures.

(b) "Public infrastructure and improvements" also means:

[~~(a)~~](i) the same as that term is defined in Section 11-58-102, for a public infrastructure district created by the Utah Inland Port Authority created in Section 11-58-201;

[~~(b)~~](ii) the same as that term is defined in Section 11-70-101, for a public infrastructure district created by the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201; [~~and~~]

[~~(c)~~](iii) the same as that term is defined in Section 63H-1-102, for a public infrastructure district created by the military installation development authority created in Section 63H-1-201[~~.~~];

(iv) for any public infrastructure district created by a development authority, any infrastructure, utilities, improvements, facilities, buildings, or remediation that are privately owned and benefit the public; and

(v) for a public infrastructure district to which tax increment revenue is pledged or distributed, any publicly or privately owned infrastructure, utilities, improvements, facilities, buildings, or remediation that is a permitted use of the tax increment revenue.

(10) (a) "Tax increment revenue" means the difference between the tax revenue generated from or within a specific area and the revenue that would be generated if a base taxable value were used.

(b) "Tax increment revenue" includes any concept substantially the same as the definition in Subsection (10)(a), regardless of the name of the concept.

Section 8. Section 17D-4-103 is amended to read:

17D-4-103

(Effective upon governor's approval)

. Provisions applicable to public infrastructure districts.

(1) A public infrastructure district:

(a) is a body corporate and politic with perpetual succession;

(b) is a quasi-municipal corporation;

(c) is a political subdivision of the state;

(d) is separate and distinct from, and independent of, any other public entity or political subdivision of the state; and

(e) may sue and be sued.

(2) Each public infrastructure district is governed by and has the powers stated in:

(a) this chapter; and

(b) Title 17B, Chapter 1, Provisions Applicable to All Special Districts.

[~~(2)~~](3) This chapter applies only to a public infrastructure district.

[~~(3)~~](4) Except as modified or exempted by this chapter, a public infrastructure district is [~~,~~]:

(a) to the same extent as if the public infrastructure district were a special district, subject to the provisions in:

[~~(a)~~](i) Title 17B, Chapter 1, Provisions Applicable to All Special Districts; and

[~~(b)~~](ii) Title 20A, Election Code[~~,~~]; and

(b) subject to the provisions in Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

[~~(4)~~](5) If there is a conflict between a provision in Title 17B, Chapter 1, Provisions Applicable to All Special Districts, and a provision in this chapter, the provision in this chapter supersedes the conflicting provision in Title 17B, Chapter 1, Provisions Applicable to All Special Districts.

[~~(5)~~](6) The annexation of an unincorporated area by a municipality or the adjustment of a boundary shared by more than one municipality does not affect the boundaries of a public infrastructure district.

Section 9. Section 17D-4-104 is enacted to read:

17D-4-104

(Effective upon governor's approval)

. Conditions where property owner consent is not required.

Any provision of this chapter requiring the consent or signatures of 100% of surface property owners within an applicable area, the consent of any public entity, utility provider, or owners' association that is a property owner within an applicable area is not required if the public entity, utility provider, or owners' association ownership interest within the applicable area is limited to:

(1) an easement;

(2) a right-of-way; or

(3) a public improvement, utility improvement, or related improvement.

Section 10. Section 17D-4-201 is amended to read:

17D-4-201

(Effective upon governor's approval)

. Creation -- Annexation or withdrawal of property.

(1) (a) Except as provided in Subsection (1)(b), Subsection (2), and in addition to the provisions regarding creation of a special district in Title 17B, Chapter 1, Provisions Applicable to All Special Districts, a public infrastructure district may not be created unless [~~:~~]

[~~(i) if there are any registered voters within the applicable area, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and~~]

[~~(ii)~~] a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the applicable area consenting to the creation of the public infrastructure district.

(b) (i) As used in this Subsection (1)(b):

(A) "Military [~~Land~~]land" means the same as that term is defined in Section 63H-1-102.

(B) "Project area" means the same as that term is defined in Section 63H-1-102.

(ii) Notwithstanding Title 17B, Chapter 1, Part 2, Creation of a Special District, and any other provision of this chapter, a development authority may adopt a resolution creating a public infrastructure district if all owners of surface property proposed to be included within the public infrastructure district consent in writing to the creation of the public infrastructure district.

(iii) For purposes of Subsection (1)(b)(ii), if the surface property proposed to be included within the public infrastructure district

includes military land that is within a project area, the owner of the military land within the project area is the lessee of the military land.

(iv) A public infrastructure district created under Subsection (1)(b)(ii) may be created as a subsidiary of the development authority that adopts the resolution creating the public infrastructure district.

(2) (a) The following do not apply to the creation of a public infrastructure district:

(i) Section 17B-1-203;

(ii) Section 17B-1-204;

(iii) Subsection 17B-1-208(2);

(iv) Section 17B-1-212; or

(v) Section 17B-1-214.

(b) The protest period described in Section 17B-1-213 may be waived in whole or in part with the consent of [~~:~~]

[~~(i) 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and~~]

[~~(ii)~~] 100% of the surface property owners within the applicable area approving the creation of the public infrastructure district.

(c) If the protest period is waived under Subsection (2)(b), a resolution approving the creation of the public infrastructure district may be adopted in accordance with Subsection 17B-1-213(5).

(d) A petition meeting the requirements of Subsection (1)[~~:~~]

[~~(i)~~] may be certified under Section 17B-1-209[~~; and~~].

[~~(ii) shall be filed with the lieutenant governor in accordance with Subsection 17B-1-215(1)(b)(iii).~~]

(e) Notwithstanding Subsection 17B-1-215(1)(b), the district applicant shall file the items required by Subsection 17B-1-215(1)(a) with the lieutenant governor within 30 days of the day on which a resolution creating a public infrastructure district is adopted.

(3) [~~(a)~~] Notwithstanding Title 17B, Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district if the following requirements are met:

[~~(i)~~](a) [~~(A)~~](i) adoption of resolutions of the board and the creating entity, each approving of the annexation; or

[~~(B)~~](ii) adoption of a resolution of the board to annex the area, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to annex an area outside of the boundaries of the public infrastructure district without future consent of the creating entity; and

[~~(ii) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the annexation into the public infrastructure district; and~~]

[~~(iii)~~](b) a petition is filed with the [~~creating entity~~]public infrastructure district that contains the signatures of 100% of surface property owners within the area proposed to be annexed, demonstrating the surface property owners' consent to the annexation into the public infrastructure district.

[~~(b) Within 30 days of meeting the requirements of Subsection (3)(a), the board shall file with the lieutenant governor:~~]

[~~(i) a copy of a notice of impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and~~]

[~~(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.~~]

(4) (a) Notwithstanding Title 17B, Chapter 1, Part 5, Withdrawal, property may be withdrawn from a public infrastructure district if the following requirements are met:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the withdrawal; or

(B) adoption of a resolution of the board to withdraw the property, provided that the governing document or creation resolution for the public infrastructure district authorizes the board to withdraw property from the public infrastructure district without further consent from the creating entity; and

[~~(ii) if there are any registered voters within the area proposed to be withdrawn, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the withdrawal from the public infrastructure district; and~~]

[~~(iii)~~](ii) a petition is filed with the [~~creating entity~~]public infrastructure district that contains the signatures of 100% of surface property owners within the area proposed to be withdrawn, demonstrating that the surface property owners consent to the withdrawal from the public infrastructure district.

(b) If any bonds that the public infrastructure district issues are allocable to the area to be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains subject to any taxes, fees, or assessments that the public infrastructure district imposes until the bonds or any associated refunding bonds are paid.

(c) Upon meeting the requirements of [~~Subsections~~]Subsection (3) or (4)(a)[~~and (b)~~], the board shall:

(i) []within 30 days of the day on which a resolution is adopted or a petition is filed under Subsection (3) or (4)(a), file with the lieutenant governor:

(A) a copy of a notice of impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) comply with the requirements of Section 17B-1-512, except:

(A) Subsections 17B-1-512(1)(b) and (c) do not apply; and

(B) [~~,~~]the time periods described in this section govern.

(5) A creating entity may impose limitations on the powers of a public infrastructure district through the governing document.

(6) (a) A public infrastructure district is separate and distinct from the creating entity.

(b) (i) Except as provided in Subsection (6)(b)(ii), any financial burden of a public infrastructure district:

(A) is borne solely by the public infrastructure district; and

(B) is not borne by the creating entity, by the state, or by any municipality, county, or other political subdivision.

(ii) Notwithstanding Subsection (6)(b)(i) and Section 17B-1-216, the governing document may require:

(A) the district applicant to bear the initial costs of the public infrastructure district; and

(B) the public infrastructure district to reimburse the district applicant for the initial costs the creating entity bears.

(iii) Nothing in this Subsection (6) precludes a public infrastructure district from qualifying directly for an impact fee offset, credit, or refund under Title 11, Chapter 36a, Impact Fees Act, regarding any qualifying system improvements financed by the public infrastructure district.

(c) Any liability, judgment, or claim against a public infrastructure district:

(i) is the sole responsibility of the public infrastructure district; and

(ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.

(d) (i) (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any [~~tax,~~]fee [,] or assessment the public infrastructure district imposes.

(B) The creating entity does not bear the responsibility described in Subsection (6)(d)(i)(A).

(ii) A public infrastructure district, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection (6)(d)(i) in accordance with [~~Title 59, Chapter 2, Property Tax Act, or~~]Title 11, Chapter 42, Assessment Area Act.

(7) A creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:

(a) historical performance of the district applicant;

(b) compliance with the creating entity's master plan;

(c) credit worthiness of the district applicant;

(d) plan of finance of the public infrastructure district; and

(e) proposed development within the public infrastructure district.

(8) (a) The creation of a public infrastructure district is subject to the sole discretion of the creating entity responsible for approving or rejecting the creation of the public infrastructure district.

(b) The proposed creating entity bears no liability for rejecting the proposed creation of a public infrastructure district.

Section 11. Section 17D-4-202 is amended to read:

17D-4-202

(Effective upon governor's approval)

. Public infrastructure district board -- Governing document.

(1) (a) The legislative body or board of the creating entity shall appoint the initial members of the board of a public infrastructure district, in accordance with the governing document.

(b) A governing document approved by the legislative body or board of the creating entity may provide for the board of a public infrastructure district to, upon a vacancy on the board, appoint an individual to the board so long as the individual meets the requirements to serve on a public infrastructure district board described in this section.

(c) For public infrastructure districts not described in Subsection (1)(b), and except as provided in Subsection (1)(d):

(i) if there is a vacancy on the board of a public infrastructure district, or a board member provides notice to the legislative body or board of the creating entity of the board member's intention to resign from the board, the legislative body or board of the creating entity shall appoint a replacement board member within 45 days from the day on which the vacancy first occurs or the board member provides notice of the board member's intent to resign; and

(ii) if a legislative body or board of the creating entity fails to fill a vacancy on the board within the time period described in Subsection (1)(c)(i), the board of the public infrastructure district may appoint an individual who is eligible to serve on the board according to the requirements of this section to fill the board vacancy.

(d) If a public infrastructure district board position has transitioned from appointment to election, as described in Subsection (4), and an elected board position becomes vacant, the provisions of Section 20A-1-512 apply to fill the vacancy.

(2) (a) Unless otherwise limited in the governing document and except as provided in Subsection (2)(b), the initial term of each member of the board is four years.

(b) Notwithstanding Subsection (2)(a), approximately half of the members of the initial board shall serve a six-year term so that, after the expiration of the initial term, the term of approximately half the board members expires every two years.

(c) A board may elect that a majority of the board serve an initial term of six years.

(d) After the initial term, the term of each member of the board is four years.

(e) A member of the board who is appointed shall continue to serve on the board of the public infrastructure district until a replacement board member is appointed.

(3) (a) Notwithstanding Subsection 17B-1-302(1)(b), a board member is not required to be a resident within the boundaries of the public infrastructure district if:

(i) all of the surface property owners consent to the waiver of the residency requirement;

(ii) there are no residents within the boundaries of the public infrastructure district;

(iii) no qualified candidate timely files to be considered for appointment to the board; or

(iv) no qualified individual files a declaration of candidacy for a board position in accordance with Subsection 17B-1-306(5).

(b) Except under the circumstances described in Subsection (3)(a)(iii) or (iv), the residency requirement in Subsection 17B-1-302(1)(b) is applicable to any board member elected for a division or board position that has transitioned from an appointed to an elected board member in accordance with this section.

(c) An individual who is not a resident within the boundaries of the public infrastructure district may not serve as a board member unless the individual is:

(i) an owner of land or an agent or officer of the owner of land within the boundaries of the public infrastructure district; and

(ii) a registered voter at the individual's primary residence.

(d) If the creating entity determines that a public infrastructure district is not anticipated to have permanent residents within the public

infrastructure district's boundaries, or is anticipated to be primarily composed of non-residential property or non-primary residential property, a governing document may allow the creating entity to continue to appoint a property owner, or the agent of a property owner, to the public infrastructure district board.

(e) A governing document may allow for a property owner to recommend a property owner or a property owner's agent for appointment to the public infrastructure district board in numbers proportional to the property owner's ownership of land, or value of land, within a public infrastructure district.

(4) (a) A governing document may provide for a transition from legislative body appointment under Subsection (1) to a method of election by registered voters based upon milestones or events that the governing document identifies, including a milestone for each division or individual board position providing that when the milestone is reached:

(i) for a division, the registered voters of the division elect a member of the board in place of an appointed member at the next municipal general election for the board position; or

(ii) for an at large board position established in the governing document, the registered voters of the public infrastructure district elect a member of the board in place of an appointed member at the next municipal general election for the board position.

(b) Regardless of whether a board member is elected under Subsection (4)(a), the position of each remaining board member shall continue to be appointed under Subsection (1) until the member's respective division or board position surpasses the density milestone described in the governing document.

(5) (a) Subject to Subsection (5)(c), the board may, in the board's discretion but no more frequently than every four years, reestablish the boundaries of each division so that each division that has reached a milestone specified in the governing document, as described in Subsection (4)(a), has, as nearly as possible, the same number of eligible voters.

(b) In reestablishing division boundaries under Subsection (5)(a), the board shall consider existing or potential developments within the divisions that, when completed, would increase or decrease the number of eligible voters within the division.

(c) The governing document may prohibit the board from reestablishing, without the consent of the creating entity, the division boundaries as described in Subsection (5)(a).

(6) A public infrastructure district may not compensate a board member for the member's service on the board under Section 17B-1-307 unless the board member is a resident within the boundaries of the public infrastructure district.

(7) A governing document shall:

(a) include a boundary description and a map of the public infrastructure district;

(b) state the number of board members;

(c) describe any divisions of the public infrastructure district;

(d) establish any applicable property tax levy rate limit for the public infrastructure district;

(e) establish any applicable limitation on the principal amount of indebtedness for the public infrastructure district; and

(f) include other information that the public infrastructure district or the creating entity determines to be necessary or advisable.

(8) (a) Except as provided in Subsection (8)(b), the board and the governing body of the creating entity may amend a governing document by each adopting a resolution that approves the amended governing document.

(b) Notwithstanding Subsection (8)(a), any amendment to increase a property tax levy rate limitation requires the consent of [:]

[~~(i)~~] 100% of surface property owners within the boundaries of the public infrastructure district [~~, and~~].

[~~(ii) 100% of the registered voters, if any, within the boundaries of the public infrastructure district.~~]

(9) A board member is not in violation of Section 67-16-9 if the board member:

(a) discloses a business relationship in accordance with Sections 67-16-7 and 67-16-8and files the disclosure with the creating entity:

(i) before any appointment or election; and

(ii) upon any significant change in the business relationship; and

(b) conducts the affairs of the public infrastructure district in accordance with this title and any parameters described in the governing document.

(10) Notwithstanding any other provision of this section, the governing document governs the number, appointment, and terms of board members of a public infrastructure district created by the development authority.

Section 12. Section 17D-4-203 is amended to read:

17D-4-203

(Effective upon governor's approval)

. Public infrastructure district powers.

A public infrastructure district:

(1) has all of the authority conferred upon a special district under Section 17B-1-103; and

(2) may:

(a) issue negotiable bonds to pay:

(i) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

(ii) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area [~~, as defined in Section 11-42a-102~~];

(iii) public improvements related to the provision of housing;

(iv) capital costs related to public transportation;

(v) [~~for a public infrastructure district created by a development authority,~~]the cost of acquiring or financing public infrastructure and improvements; and

(vi) for a public infrastructure district that is a subsidiary of or created by the Utah Inland Port Authority, the costs associated with a remediation project, as defined in Section 11-58-102;

(b) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal

agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

(c) notwithstanding any other provision in code, acquire completed or partially completed improvements, including related design and consulting services and related work product, for fair market value as reasonably determined by:

(i) the board;

(ii) the creating entity, if required in the governing document; or

(iii) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements;

(d) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity; [~~and~~]

(e) for a public infrastructure district created by a development authority, or for a public infrastructure district created by a municipality and located in an urban renewal project area that includes some or all of an inactive industrial site:

(i) (A) operate and maintain public infrastructure and improvements the district acquires or finances; and

(B) use fees, assessments, or taxes to pay for the operation and maintenance of those public infrastructure and improvements; and

(ii) issue bonds under Title 11, Chapter 42, Assessment Area Act; and

(f) for a public infrastructure district that is a subsidiary of or created by the Utah Inland Port Authority, pay for costs associated with a remediation project, as defined in Section 11-58-102, of the Utah Inland Port Authority.

Section 13. Section 17D-4-204 is amended to read:

17D-4-204

(Effective upon governor's approval)

. Relation to other local entities.

(1) Notwithstanding the creation of a public infrastructure district, the creating entity and any other public entity, as applicable, retains all of the entity's authority over all zoning, planning, design specifications and approvals, and permitting within the public infrastructure district.

(2) The inclusion of property within the boundaries of a public infrastructure district does not preclude the inclusion of the property within any other special district.

(3) (a) All infrastructure that is connected to another public entity's system:

(i) belongs to that public entity, regardless of inclusion within the boundaries of a public infrastructure district, unless the public infrastructure district and the public entity otherwise agree; and

(ii) shall comply with the design, inspection requirements, and other standards of the public entity.

(b) A public infrastructure district shall convey or transfer the infrastructure described in Subsection (3)(a) free of liens or financial encumbrances to the public entity at no cost to the public entity.

(4) (a) No public entity or private person shall receive funds from any portion of a public infrastructure district's property tax revenue without a resolution of the public infrastructure district's board authorizing the public entity or private person to receive the funds.

(b) Subsection (4)(a) does not apply to the county's expenses related to collecting property tax in accordance with Title 59, Chapter 2, Part 12, Property Tax Act.

(c) Subsection (4)(a) applies notwithstanding any provision in:

(i) Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(ii) Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(iii) a statute governing a development authority created under Utah Constitution, Article XI; or

(iv) a provision of code related to the collection, distribution, or sharing of tax increment revenue, incremental property tax increases, or actions related to the collection, distribution, or sharing of tax increment revenue or incremental property tax increases.

Section 14. Section 17D-4-301 is amended to read:

17D-4-301

(Effective upon governor's approval)

. Public infrastructure district bonds.

(1) (a) Subject to Subsection (1)(b), a public infrastructure district may issue negotiable bonds or other debt instruments for the purposes described in Section 17D-4-203, as provided in, as applicable:

(i) Title 11, Chapter 14, Local Government Bonding Act;

(ii) Title 11, Chapter 27, Utah Refunding Bond Act;

(iii) Title 11, Chapter 42, Assessment Area Act;

(iv) Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; and

[~~(iv)~~](v) this section.

(b) A public infrastructure district created by a bonding political subdivision, as defined in Section 63C-25-101, may not issue bonds under this part unless the board first:

(i) adopts a parameters resolution for the bonds that sets forth:

(A) the maximum:

(I) amount of bonds;

(II) term; and

(III) interest rate; and

(B) the expected security for the bonds; and

(ii) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(2) A public infrastructure district bond [~~:~~]

[~~(a)~~] shall mature within 40 years of the date of issuance [~~; and~~].

[~~(b) may not be secured by any improvement or facility paid for by the public infrastructure district.~~]

(3) (a) A public infrastructure district may issue a limited tax bond, in the same manner as a general obligation bond:

(i) (A) with the consent of 100% of surface property owners within the boundaries of the public infrastructure district; and [~~100%~~]

(B) with the consent of a majority of the registered voters, if any, within the boundaries of the proposed public infrastructure district as of the day on which the board finds that the consent of a majority of registered voters has been obtained; or

(ii) upon approval of a majority of the registered voters within the boundaries of the public infrastructure district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(b) A limited tax bond described in Subsection (3)(a):

(i) is not subject to the limitation on a general obligation bond described in Subsection 17B-1-1102(4); and

(ii) is subject to a limitation, if any, on the principal amount of indebtedness as described in the governing document.

(c) Unless limited tax bonds are initially purchased exclusively by one or more qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, or an investment grade rating is obtained for the limited tax bonds by one or more nationally recognized rating agencies, the public infrastructure district may only issue limited tax bonds in denominations of not less than $500,000, and in integral multiples above $500,000 of not less than $1,000 each.

(d) (i) Without any further election or consent of property owners or registered voters, a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to a general obligation bond if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the public infrastructure district does not exceed 15% of the fair market value of taxable property in the public infrastructure district securing the general obligation bonds, determined by:

(A) an appraisal from an appraiser who is a member of the Appraisal Institute that is addressed to the public infrastructure district or a financial institution; or

(B) the most recent market value of the property from the assessor of the county in which the property is located.

(ii) The consent to the issuance of a limited tax bond described in Subsection (3)(a) is sufficient to meet any statutory or constitutional election requirement necessary for the issuance of the limited tax bond and any general obligation bond to be issued in place of the limited tax bond upon meeting the requirements of this Subsection (3)(d).

[~~(iii) A general obligation bond resulting from a conversion of a limited tax bond under this Subsection (3)(d) is not subject to the limitation on general obligation bonds described in Subsection 17B-1-1102(4)(a)(xii).~~]

(e) A public infrastructure district that levies a property tax for payment of debt service on a limited tax bond issued under this section is not required to comply with the notice and hearing requirements of Section 59-2-919 unless the rate exceeds the rate established in:

(i) Section 17D-4-303, except as provided in Subsection [~~(8)~~](13);

(ii) the governing document; or

(iii) the documents relating to the issuance of the limited tax bond.

(4) (a) For a public infrastructure district seeking the consent described in Subsection (3)(a)(i)(B), a public infrastructure district may:

(i) post a class A notice under Section 63G-30-102 for at least 30 days; and

(ii) mail a request for consent to each registered voter within the boundaries of the public infrastructure district according to voter registration records.

(b) The request for consent described in Subsection (4)(a)(ii) shall include:

(i) the purpose for the issuance of the bonds;

(ii) the maximum principal amount of the bonds to be issued;

(iii) the maximum tax rate proposed to be pledged for the repayment of the bonds;

(iv) the words "For the issuance of bonds" and "Against the issuance of bonds," with appropriate boxes in which the voter may indicate the voter's choice; and

(v) a return address and phone number where additional information may be obtained from the public infrastructure district.

(c) Any registered voter who does not return the request for consent within 30 days of the day they are mailed to the voter is considered:

(i) non-participatory in the request for consent; and

(ii) shall not be included in a calculation to determine the percentage of registered voters who consent to the issuance of bonds.

(d) If a majority of the registered voters who return the request for consent under this Subsection (4) indicate "For the issuance of bonds," or if no registered voters return the request for consent within the time frame described in Subsection (4)(c), the requirement described in Subsection (3)(a)(i)(B) is met.

(e) Nothing in this Subsection (4):

(i) prevents a public infrastructure district from obtaining the consent of registered voters for the issuance of a bond through another method; or

(ii) shall be interpreted to affect or otherwise interfere with any consents of registered voters obtained before the effective date of this bill.

(5) Nothing in this section shall be interpreted to:

(a) prevent a public infrastructure district from withdrawing property from the public infrastructure district's boundaries where the property owners or registered voters associated with that property do not consent to the issuance of bonds or vote against the issuance of bonds; or

(b) require a public infrastructure district to withdraw property from the public infrastructure district's boundaries where the property owners or registered voters associated with that property do not consent to the issuance of bonds or vote against the issuance of bonds.

(6) (a) Beginning on the effective date of this bill, once consent or approval is obtained under Subsection (3)(a), the consent or approval is valid for a period of 10 years from the day on which the board:

(i) adopts a resolution or ordinance finding that the consent or approval is obtained; and

(ii) publishes a notice of the resolution or ordinance described in Subsection (6)(a)(i) as a class A notice under Section 63G-30-102 for at least 30 days.

(b) The tolling provisions of Section 11-14-301 apply during the 10-year period described in Subsection (6)(a).

(c) After a public infrastructure district obtains consent or approval under Subsection (3)(a), the public infrastructure district does not require any additional consent to or approval of the issuance of bonds, and the subsequent annexation of property to, or withdrawal of property from, the public infrastructure district does not impact:

(i) the validity of already obtained consent or approval;

(ii) the 10-year period described in Subsection (6)(a); or

(iii) any bond issued, or to be issued, pursuant to the consent or approval that was obtained under Subsection (3)(a).

(d) Subsection (6)(a) does not invalidate or alter any consent or approval, or finding of consent or approval, that occurred before the effective date of this bill.

(7) (a) [~~There~~]Except as provided in Subsection (7)(b), there is no limitation on the duration of revenues that a public infrastructure district may receive to cover any shortfall in the payment of principal of and interest on a bond that the public infrastructure district issues.

(b) A public infrastructure governing document or bond documents may limit the duration of time described in Subsection (7)(a).

[~~(5)~~](8) Section 11-42-106 governs any action to challenge an assessment imposed by a public infrastructure district or any proceeding to designate an assessment area conducted by a public infrastructure district.

(9) A public infrastructure district is not a municipal corporation for purposes of the debt limitation of Utah Constitution, Article XIV, Section 4.

[~~(6)~~](10) [~~The~~]Notwithstanding any other provision, the board may [~~,~~]directly or by resolution [~~,~~] delegate to one or more officers of the public infrastructure district the authority to:

(a) in accordance and within the parameters set forth in a resolution adopted in accordance with Section 11-14-302, approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

(b) approve and execute any document or contract relating to the issuance of a bond; and

(c) approve any contract related to the acquisition and construction of the improvements, facilities, or property to be financed with a bond.

(11) (a) Subject to Subsection (11)(b), before a public infrastructure district may issue a limited tax bond or assessment bond, the public infrastructure district shall engage a municipal advisor who, in connection with the issuance of bonds, shall deliver a certificate stating that:

(i) the municipal advisor qualifies to serve as a municipal advisor, as defined in Section 17D-4-102, including the basis for the municipal advisor's qualifications;

(ii) the structure of the limited tax bond or assessment bond the public infrastructure district is about to issue is a reasonable structure, as of the date of the issuance of the limited tax bond or assessment bond, as applicable; and

(iii) the interest rate of the limited tax bond or assessment bond the public infrastructure district is about to offer is a reasonable market rate, as of the date of the issuance of the limited tax bond or assessment bond, as applicable.

(b) The provisions of this Subsection (11) do not apply to a public infrastructure district created by a development authority.

[~~(7)~~](12) (a) Any person may contest the legality of the issuance of a public infrastructure district bond or any provisions for the security and payment of the bond for a period of 30 days after:

(i) [~~publication of~~]posting the resolution authorizing the bond as a class A notice under Section 63G-30-102; or

(ii) [~~publication of~~]posting a notice of bond containing substantially the items required under Subsection 11-14-316(2)as a class A notice under Section 63G-30-102.

(b) After the 30-day period described in Subsection [~~(7)(a)~~](12)(a), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.

[~~(8)~~](13) (a) In the event of any statutory change in the methodology of assessment or collection of property taxes in a manner that reduces the amounts which are devoted or pledged to the repayment of limited tax bonds, a public infrastructure district may charge a rate sufficient to receive the amount of property taxes or assessment the public infrastructure district would have received before the statutory change in order to pay the debt service on outstanding limited tax bonds.

(b) The rate increase described in Subsection [~~(8)(a)~~](13)(a) may exceed the limit described in Section 17D-4-303.

(c) The public infrastructure district may charge the rate increase described in Subsection [~~(8)(a)~~](13)(a) until the bonds, including any associated refunding bonds, or other securities, together with applicable interest, are fully met and discharged.

[~~(9)~~](14) No later than 60 days after the closing of any bonds by a public infrastructure district created by a bonding political subdivision, as defined in Section 63C-25-101, the public infrastructure district shall report the bond issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section 15. Section 17D-4-302 is amended to read:

17D-4-302

(Effective upon governor's approval)

. Fees.

(1) [~~A~~]In addition to any fees authorized by Title 17B, Chapter 1, Provisions Applicable to All Special Districts, a public infrastructure district may charge a fee [~~or other charge~~]for an administrative service that the public infrastructure district provides, to pay some or all of the public infrastructure district's:

[~~(1)~~](a) costs of acquiring, improving, or extending improvements, facilities, or property; or

[~~(2)~~](b) costs associated with the enforcement of a legal remedy.

(2) The board of a public infrastructure district shall establish fees by a fee schedule in ordinance or resolution.

Section 16. Section 17D-4-303 is amended to read:

17D-4-303

(Effective upon governor's approval)

. Limits on public infrastructure district property tax levy -- Notice requirements.

(1) The property tax levy of a public infrastructure district, for all purposes, including payment of debt service on limited tax bonds, may not exceed .015 per dollar of taxable value of taxable property in the district.

(2) The limitation described in Subsection (1) does not apply to the levy by the public infrastructure district to pay principal of and interest on a general obligation bond that the public infrastructure district issues.

(3) (a) Within 30 days after the day on which the lieutenant governor issues a certificate of incorporation for the public infrastructure district under Section 67-1a-6.5, the board shall record a notice with the recorder of the county in which property within the public infrastructure district is located.

(b) The notice described in Subsection (3)(a) shall:

(i) contain a description of the boundaries of the public infrastructure district;

(ii) state that a copy of the governing document is on file at the office of the creating entity;

(iii) state that the public infrastructure district may finance and repay infrastructure and other improvements through the levy of a property tax; and

(iv) state the maximum rate that the public infrastructure district may levy.

(c) The effective date of the public infrastructure district for purposes of assessing property tax is the day on which the notice is recorded in the office of the recorder of each county in which the public infrastructure district is located, as described in Section 59-2-305.5.

(4) If the board fails to record a notice as described in Subsection (3):

(a) the public infrastructure district is still created as of the day the lieutenant governor issues a certificate of incorporation for the public infrastructure district;

(b) any bonds issued by the public infrastructure district are still valid; and

(c) the public infrastructure district may not levy a tax or levy or collect a fee until the board records the notice described in Subsection (3).

Section 17. Section 17D-4-305 is amended to read:

17D-4-305

(Effective upon governor's approval)

. Action to contest tax, fee, or proceeding -- Requirements -- Exclusive remedy -- Bonds, taxes, and fees incontestable.

(1) A person who contests a tax or fee imposed by a public infrastructure district or any proceeding to create a public infrastructure district, levy a tax, or impose a fee may bring a civil action against the public infrastructure district or the creating entity to:

(a) set aside the proceeding; or

(b) enjoin the levy, imposition, or collection of a tax or fee.

(2) The person bringing an action described in Subsection (1):

(a) notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, shall bring the action in the county in which the public infrastructure district is located if the person brings the action in the district court; and

(b) may not bring the action against or serve a summons relating to the action on the public infrastructure district more than 30 days after the [~~effective date of the~~]day on which:

(i) the creation of the public infrastructure district is effective, if the challenge is to the creation of the public infrastructure district; [~~or~~]

(ii) the board of the public infrastructure district adopts a resolution or ordinance establishing a tax or fee, if the challenge is to a tax or fee [~~.~~]; or

(iii) the board of the public infrastructure district adopts a resolution or ordinance annexing property to, or withdrawing property from, the public infrastructure district, if the challenge is to an annexation or withdrawal.

(3) An action under Subsection (1) is the exclusive remedy of a person who:

(a) claims an error or irregularity in a tax or fee or in any proceeding to create a public infrastructure district, levy a tax, or impose a fee; or

(b) challenges a bondholder's right to repayment.

(4) After the expiration of the 30-day period described in Subsection (2)(b):

(a) a bond issued or to be issued with respect to a public infrastructure district and any tax levied or fee imposed becomes incontestable against any person who has not brought an action and served a summons in accordance with this section;

(b) a person may not bring a suit to:

(i) enjoin the issuance or payment of a bond or the levy, imposition, collection, or enforcement of a tax or fee; or

(ii) attack or question in any way the legality of a bond, tax, or fee; and

(c) a court may not inquire into the matters described in Subsection (4)(b).

(5) (a) This section does not insulate a public infrastructure district from a claim of misuse of funds after the expiration of the 30-day period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (5)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of funds.

(ii) The limitation in Subsection (5)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of funds.

(6) If there is a conflict between a provision in Section 17D-4-301 and a provision in this section, the provision in Section 17D-4-301 supersedes the conflicting provision in this section.

Section 18. Section 67-1a-6.5 is amended to read:

67-1a-6.5

(Effective upon governor's approval)

. Certification of local entity boundary actions -- Definitions -- Notice requirements -- Electronic copies -- Filing.

(1) As used in this section:

(a) "Applicable certificate" means:

(i) for the impending incorporation of a city, town, special district, conservation district, [~~or~~]incorporation of a special district from a reorganized special service district, or public infrastructure district, a certificate of incorporation;

(ii) for the impending creation of a county, school district, special service district, community reinvestment agency, or interlocal entity,

a certificate of creation;

(iii) for the impending annexation of territory to an existing local entity, a certificate of annexation;

(iv) for the impending withdrawal or disconnection of territory from an existing local entity, a certificate of withdrawal or disconnection, respectively;

(v) for the impending consolidation of multiple local entities, a certificate of consolidation;

(vi) for the impending division of a local entity into multiple local entities, a certificate of division;

(vii) for the impending adjustment of a common boundary between local entities, a certificate of boundary adjustment; and

(viii) for the impending dissolution of a local entity, a certificate of dissolution.

(b) "Approved final local entity plat" means a final local entity plat, as defined in Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by the county surveyor.

(c) "Approving authority" has the same meaning as defined in Section 17-23-20.

(d) "Boundary action" has the same meaning as defined in Section 17-23-20.

(e) "Center" means the Utah Geospatial Resource Center created under Section 63A-16-505.

(f) "Community reinvestment agency" has the same meaning as defined in Section 17C-1-102.

(g) "Conservation district" has the same meaning as defined in Section 17D-3-102.

(h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.

(i) "Local entity" means a county, city, town, school district, special district, community reinvestment agency, special service district, conservation district, or interlocal entity.

(j) "Notice of an impending boundary action" means a written notice, as described in Subsection (3), that provides notice of an impending boundary action.

(k) "Special district" means the same as that term is defined in Section 17B-1-102.

(l) "Special service district" means the same as that term is defined in Section 17D-1-102.

(2) Within 10 days after receiving a notice of an impending boundary action, the lieutenant governor shall:

(a) (i) issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action meets the requirements of Subsection (3); and

(B) except in the case of an impending local entity dissolution, the notice of an impending boundary action is accompanied by an approved final local entity plat;

(ii) send the applicable certificate to the local entity's approving authority;

(iii) return the original of the approved final local entity plat to the local entity's approving authority;

(iv) send a copy of the applicable certificate and approved final local entity plat to:

(A) the State Tax Commission;

(B) the center; and

(C) the county assessor, county surveyor, county auditor, and county attorney of each county in which the property depicted on the approved final local entity plat is located; and

(v) send a copy of the applicable certificate to the state auditor, if the boundary action that is the subject of the applicable certificate is:

(A) the incorporation or creation of a new local entity;

(B) the consolidation of multiple local entities;

(C) the division of a local entity into multiple local entities; or

(D) the dissolution of a local entity; or

(b) (i) send written notification to the approving authority that the lieutenant governor is unable to issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action does not meet the requirements of Subsection (3); or

(B) the notice of an impending boundary action is:

(I) not accompanied by an approved final local entity plat; or

(II) accompanied by a plat or final local entity plat that has not been approved as a final local entity plat by the county surveyor under Section 17-23-20; and

(ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is unable to issue the applicable certificate.

(3) Each notice of an impending boundary action shall:

(a) be directed to the lieutenant governor;

(b) contain the name of the local entity or, in the case of an incorporation or creation, future local entity, whose boundary is affected or established by the boundary action;

(c) describe the type of boundary action for which an applicable certificate is sought;

(d) be accompanied by a letter from the Utah State Retirement Office, created under Section 49-11-201, to the approving authority that identifies the potential provisions under Title 49, Utah State Retirement and Insurance Benefit Act, that the local entity shall comply with, related to the boundary action, if the boundary action is an impending incorporation or creation of a local entity that may result in the employment of personnel; and

(e) (i) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met; or

(ii) in the case of the dissolution of a municipality, be accompanied by a certified copy of the court order approving the dissolution of the municipality.

(4) The lieutenant governor may require the approving authority to submit a paper or electronic copy of a notice of an impending boundary action and approved final local entity plat in conjunction with the filing of the original of those documents.

(5) (a) The lieutenant governor shall:

(i) keep, index, maintain, and make available to the public each notice of an impending boundary action, approved final local entity

plat, applicable certificate, and other document that the lieutenant governor receives or generates under this section;

(ii) make a copy of each document listed in Subsection (5)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;

(iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a paper copy; and

(iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a certified copy.

(b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (5).

(6) The lieutenant governor's issuance of a certificate of creation for an infrastructure financing district constitutes the state's approval of the creation of the infrastructure financing district.

Section 19. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 348
S. B. 249
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

STUDENT INTEGRATION AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Calvin Roberts

LONG TITLE

General Description:

This bill addresses the integration of a student into a school upon the commission of a crime by the student.

Highlighted Provisions:

This bill:

- ► defines the term, "forcible felony";
- ► addresses a school integration plan for a student who commits a forcible felony; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-8-102, as enacted by Laws of Utah 2018, Chapter 3
53G-8-213, as last amended by Laws of Utah 2024, Chapter 75
53G-8-701.8, as enacted by Laws of Utah 2024, Chapter 21

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-8-102 is amended to read:

53G-8-102. Definitions for chapter.

[~~Reserved~~]As used in this chapter, "forcible felony" means the same as that term is defined in Section 76-2-402.

Section 2. Section 53G-8-213 is amended to read:

53G-8-213. Reintegration plan for student alleged to have committed violent felony or weapon offense.

(1) As used in this section, "multidisciplinary team" means:

(a) the local education agency;

(b) the juvenile court;

(c) the Division of Juvenile Justice and Youth Services;

(d) a school safety and security specialist designated under Section 53G-8-701.6;

(e) school safety and security director designated under Section 53G-8-701.8;

(f) a school resource officer if applicable; and

(g) any other relevant party that should be involved in a reintegration plan.

(2) If a school district receives a notification from the juvenile court or a law enforcement agency that a student was arrested for, charged with, or adjudicated in the juvenile court for a serious offense, the school shall develop a reintegration plan for the student with a multidisciplinary team, the student, and the student's parent or guardian, within five school days after the day on which the school receives a notification.

(3) The school may deny admission to the student until the school completes the reintegration plan under Subsection (2).

(4) The reintegration plan under Subsection (2) shall address:

(a) a behavioral intervention for the student;

(b) a short-term mental health or counseling service for the student;

(c) an academic intervention for the student; and

(d) if the serious offense was directed at a school employee or another student within the school, notification of the reintegration plan to that school employee or student and the student's parent.

(5) A school district may not reintegrate a student into a school where:

(a) a student or staff member has a protective order against the student being reintegrated; or

(b) a student or staff member is the victim of a sexual crime or forcible felony committed by the student being reintegrated.

(6) (a) Notwithstanding Subsection (2), a school district may elect to not integrate a student into a school if the student has committed, or allegedly committed, a forcible felony.

(b) If a school district elects to not integrate a student under Subsection (6)(a), the school district shall provide alternative education options for the student.

[~~(6)~~](7) A reintegration plan under this section is classified as a protected record under Section 63G-2-305.

[~~(7)~~](8) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Section 3. Section 53G-8-701.8 is amended to read:

53G-8-701.8. School safety and security director.

(1) Except as provided in Subsection 53G-8-701.5(3), an LEA shall designate a school safety and security director as the LEA point of contact for the county security chief, local law enforcement, and the state security chief.

(2) A school safety and security director shall:

(a) participate in and satisfy the training requirements, including the annual and biannual requirements, described in:

(i) Section 53-22-105 for school guardians;

(ii) Section 53G-8-702 for school resource officers; and

(iii) Section 53G-8-704 for armed school security guards;

(b) have a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act;

(c) if the designee is an employee of an LEA, participate on the multidisciplinary team the LEA establishes;

(d) coordinate security responses among, if applicable, the following individuals in the LEA that employs the school safety and security director:

(i) school safety and security specialists;

(ii) school resource officers;

(iii) armed school security guards; and

(iv) school guardians; and

(e) collaborate and maintain effective communications with local law enforcement, a county security chief, the LEA, and school-based behavioral and mental health professionals to ensure adherence with all policies, procedures, protocols, rules, and regulations relating to school safety and security.

(3) A school safety and security director:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the LEA that employs the director:

(i) take actions necessary to prevent or abate an active threat;

(ii) temporarily detain an individual when the school safety and security director has reasonable cause to believe the individual has committed or is about to commit a forcible felony[~~, as that term is defined in Section 76-2-402;~~].

(4) Notwithstanding Subsection 76-10-505.5(4), if a school safety and security director is carrying a firearm, the school safety and security director shall carry the school safety and security director's firearm in a concealed manner and may not, unless during an active threat, display or open carry a firearm while on school grounds.

(5) A school may use the services of the school safety and security director on a temporary basis to satisfy the school safety personnel requirement of Subsection 53G-8-701.5(2).

(6) The state security chief shall:

(a) for each school safety and security director, track each school safety and security director by collecting the photograph and the name and contact information for each school safety and security director; and

(b) make the information described in Subsection (6)(a) readily available to each law enforcement agency in the state categorized by LEA.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 349
S. B. 251
Passed March 5, 2025
Approved March 25, 2025
Effective July 1, 2025

COMMERCIAL VEHICLE REGISTRATION AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill addresses registration for new commercial motor vehicles.

Highlighted Provisions:

This bill:

► allows for a conditional registration of a new commercial motor vehicle in certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

41-1a-233, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-233 is enacted to read:

41-1a-233. Conditional registration for new commercial motor vehicles.

(1) As used in this part:

(a) "Manufacturer's statement of origin" means a statement or certificate from the motor vehicle manufacturer that shows:

(i) the date of sale from the manufacturer to the first purchaser;

(ii) the name of the first purchaser;

(iii) a description of the motor vehicle, including the year, make, model, and vehicle identification number; and

(iv) a certification that the motor vehicle was new when sold to the first purchaser.

(b) "Passenger rental car establishment" means an establishment described in NAICS subsector 532111 of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

(c) "Qualified identification number inspector" means the same as it is described in Section 41-1a-802.

(2) The division may issue a conditional registration for a new motor vehicle that is a commercial vehicle if:

(a) the owner:

(i) is a passenger rental car establishment;

(ii) has not received a manufacturer statement of origin;

(iii) is entitled to a manufacturer statement of origin;

(iv) has physical possession of the vehicle; and

(v) has paid all applicable taxes and fees for the vehicle; and

(b) a qualified identification number inspector has:

(i) physically inspected the identification number of the motor vehicle; and

(ii) made a record of the identification number inspection on a form approved by the division.

(3) (a) A conditional registration issued under Subsection (2) shall be in effect for a period of 12 months beginning with the first day of the calendar month of registration and does not expire until the last day of the same month in the following year.

(b) An owner of a vehicle with a conditional registration may not renew the registration until a Utah title is obtained for the vehicle.

(c) A vehicle with a conditional registration under this section may not be sold or transferred without first obtaining a Utah title.

(4) If a Utah title is not issued for a vehicle within 10 months of the beginning of the month in which a conditional registration is issued for the vehicle, the division shall:

(a) revoke the conditional registration for the vehicle; and

(b) not allow the vehicle to be registered in the state until a Utah title is obtained for the vehicle.

(5) A commercial vehicle that is issued a conditional registration as provided in this section is subject to the same fees that would apply to the commercial vehicle if the registration was not a conditional registration.

(6) A person shall submit a request for a conditional registration in a form prescribed by the division.

(7) A conditional registration under this section may not be issued to a vehicle subject to apportioned registration under Section 41-1a-301.

Section 2. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 350
S. B. 256
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

GENERAL GOVERNMENT AND APPROPRIATIONS AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Norman K Thurston

LONG TITLE

General Description:

This bill amends provisions related to government departments and legislative appropriations.

Highlighted Provisions:

This bill:

- ► repeals the Rural Health Care Facilities restricted account;
- ► appropriates money to the State Tax Commission (tax commission) for distribution to certain counties and municipalities to improve the delivery of health care in rural areas of the state;
- ► requires the insurance commissioner to update the state's essential health benefits plan with benefits mandated since January 1, 2012;
- ► allows the insurance commissioner to update the plan described above to incorporate federally mandated benefits under the Patient Protection and Affordable Care Act;
- ► repeals the tax commission's reporting requirements related to the tax commission's collection of the beer excise tax;
- ► authorizes the Labor Commission (commission) to use certain restricted account funds to pay the salary and benefits of a compliance officer for the commission's Division of Occupational Safety and Health;
- ► grants the Department of Government Operations (department) the authority to operate the department as an internal service fund agency to provide certain government-related services;
- ► establishes a process for an internal service fund agency to compensate the agency's employees at a rate that is equivalent to state agency employees by submitting a proposed increased rate schedule to the rate committee after the annual legislative session;
- ► requires the rate committee to convene a meeting within 30 days of receiving the rate schedule described above to review and approve or reject the increased rate schedule;
- ► repeals an outdated reference to the former Department of Administrative Services; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates ($218,900) in restricted fund and account transfers for fiscal year 2025, all of which is from the General Fund.

This bill appropriates ($218,900) in restricted fund and account transfers for fiscal year 2026, all of which is from the General Fund.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-1-308, as last amended by Laws of Utah 2023, Chapter 310 and renumbered and amended by Laws of Utah 2023, Chapter 305
31A-45-403, as enacted by Laws of Utah 2018, Chapter 319
34A-2-701, as last amended by Laws of Utah 2019, Chapter 194
34A-6-301, as last amended by Laws of Utah 2013, Chapter 72
34A-6-302, as renumbered and amended by Laws of Utah 1997, Chapter 375
59-1-210, as last amended by Laws of Utah 2023, Chapter 329
59-15-109, as last amended by Laws of Utah 2024, Chapter 94
63A-1-103, as last amended by Laws of Utah 2021, Chapter 344
63A-1-109.5, as last amended by Laws of Utah 2016, Chapter 193
63A-1-114, as last amended by Laws of Utah 2022, Chapter 169
63B-1-304, as last amended by Laws of Utah 2022, Chapter 421
63J-1-410, as last amended by Laws of Utah 2014, Chapter 236

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-1-308 is amended to read:

26B-1-308. Rural health care funds -- Source of revenues -- Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into the General Fund.

(1) As used in this section:

(a) "Emergency medical services" is as defined in Section 53-2d-101.

(b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.

(c) "Fiscal year" means a one-year period beginning on July 1 of each year.

(d) "Freestanding urgent care center" is as defined in Section 59-12-801.

(e) "Nursing care facility" is as defined in Section 26B-2-201.

(f) "Rural city hospital" is as defined in Section 59-12-801.

(g) "Rural county health care facility" is as defined in Section 59-12-801.

[~~(h) "Rural county hospital" is as defined in Section 59-12-801.~~]

[~~(i) "Rural county nursing care facility" is as defined in Section 59-12-801.~~]

[~~(j)~~](h) "Rural emergency medical services" is as defined in Section 59-12-801.

(i) "Rural health care funds" means money appropriated by the Legislature to improve the delivery of quality health care in rural areas of the state.

[~~(k)~~](j) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

[~~(2) There is created a restricted account within the General Fund known as the "Rural Health Care Facilities Account."~~]

[~~(3) (a) The restricted account shall be funded by amounts appropriated by the Legislature.~~]

[~~(b) Any interest earned on the restricted account shall be deposited into the General Fund.~~]

[~~(4)~~](2) Subject to Subsections [~~(5)~~](3) and [~~(6)~~](4), the State Tax Commission shall for a fiscal year distribute [~~money deposited into the restricted account~~]rural health care funds to each:

(a) county legislative body of a county that, on January 1, 2007, imposes a tax in accordance with Section 59-12-802 and has not repealed the tax; or

(b) city legislative body of a city that, on January 1, 2007, imposes a tax in accordance with Section 59-12-804 and has not repealed the tax.

[~~(5)~~](3) (a) Subject to Subsection [~~(6)~~](4), for purposes of the distribution required by Subsection [~~(4)~~](2), the State Tax Commission shall:

(i) estimate for each county and city described in Subsection [~~(4)~~](2) the amount by which the revenues collected from the taxes imposed under Sections 59-12-802and 59-12-804 for fiscal year 2005-06 would have been reduced had:

(A) the amendments made by Laws of Utah 2007, Chapter 288, Sections 25 and 26, to Sections 59-12-802 and 59-12-804 been in effect for fiscal year 2005-06; and

(B) each county and city described in Subsection [~~(4)~~](2) imposed the tax under Sections 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;

(ii) (A) for fiscal years ending before fiscal year 2018, calculate a percentage for each county and city described in Subsection [~~(4)~~](2) by dividing the amount estimated for each county and city in accordance with Subsection [~~(5)(a)(i)~~](3)(a)(i) by $555,000; and

(B) beginning in fiscal year 2018, calculate a percentage for each county and city described in Subsection [~~(4)~~](2) by dividing the amount estimated for each county and city in accordance with Subsection [~~(5)(a)(i)~~](3)(a)(i) by $218,809.33;

(iii) distribute to each county and city described in Subsection [~~(4)~~](2) an amount equal to the product of:

(A) the percentage calculated in accordance with Subsection [~~(5)(a)(ii)~~](3)(a)(ii); and

(B) the amount appropriated by the Legislature [~~to the restricted account~~]as rural health care funds for the fiscal year.

(b) The State Tax Commission shall make the estimations, calculations, and distributions required by Subsection [~~(5)(a)~~](3)(a) on the basis of data collected by the State Tax Commission.

[~~(6)~~](4) If a county legislative body repeals a tax imposed under Section 59-12-802 or a city legislative body repeals a tax imposed under Section 59-12-804:

(a) the [~~commission~~]State Tax Commission shall determine in accordance with Subsection [~~(5)~~](3) the distribution that, but for this Subsection [~~(6)~~](4), the county legislative body or city legislative body would receive; and

(b) after making the determination required by Subsection [~~(6)(a)~~](4)(a), the [~~commission~~]State Tax Commission shall:

(i) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is October 1:

(A) (I) distribute to the county legislative body or city legislative body 25% of the distribution determined in accordance with Subsection [~~(6)(a)~~](4)(a); and

(II) deposit 75% of the distribution determined in accordance with Subsection [~~(6)(a)~~](4)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection [~~(6)(a)~~](4)(a) into the General Fund;

(ii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is January 1:

(A) (I) distribute to the county legislative body or city legislative body 50% of the distribution determined in accordance with Subsection [~~(6)(a)~~](4)(a); and

(II) deposit 50% of the distribution determined in accordance with Subsection [~~(6)(a)~~](4)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection [~~(6)(a)~~](4)(a) into the General Fund;

(iii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is April 1:

(A) (I) distribute to the county legislative body or city legislative body 75% of the distribution determined in accordance with Subsection [~~(6)(a)~~](4)(a); and

(II) deposit 25% of the distribution determined in accordance with Subsection [~~(6)(a)~~](4)(a) into the General Fund; and

(B) beginning with the first fiscal year after the effective date of the repeal and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection [~~(6)(a)~~](4)(a) into the General Fund; or

(iv) if the effective date of the repeal of a tax imposed under Section 59-12-802 or 59-12-804 is July 1, beginning on that effective date and for each subsequent fiscal year, deposit the entire amount of the distribution determined in accordance with Subsection [~~(6)(a)~~](4)(a) into the General Fund.

[~~(7)~~](5) (a) Subject to Subsection [~~(7)(b)~~](5)(b) and Section 59-12-802, a county legislative body shall distribute the money the county legislative body receives in accordance with Subsection [~~(5)~~](3) or [~~(6)~~](4):

(i) for a county of the third or fourth class, to fund rural county health care facilities in that county; and

(ii) for a county of the fifth or sixth class, to fund:

(A) rural emergency medical services in that county;

(B) federally qualified health centers in that county;

(C) freestanding urgent care centers in that county;

(D) rural county health care facilities in that county;

(E) rural health clinics in that county; or

(F) a combination of Subsections [~~(7)(a)(ii)(A)~~](5)(a)(ii)(A) through (E).

(b) A county legislative body shall distribute the money the county legislative body receives in accordance with Subsection [~~(5) or (6)~~](3) or (4) to a center, clinic, facility, or service described in Subsection [~~(7)(a)~~](5)(a) as determined by the county legislative body.

(c) A center, clinic, facility, or service that receives a distribution in accordance with this Subsection [~~(7)~~](5) shall expend that distribution for the same purposes for which money collected from a tax under Section 59-12-802 may be expended.

[~~(8)~~](6) (a) Subject to Subsection [~~(8)(b)~~](6)(b), a city legislative body shall distribute the money the city legislative body receives in accordance with Subsection [~~(5) or (6)~~](3) or (4) to fund rural city hospitals in that city.

(b) A city legislative body shall distribute a percentage of the money the city legislative body receives in accordance with Subsection [~~(5) or (6)~~](3) or (4) to each rural city hospital described in Subsection [~~(8)(a)~~](6)(a) equal to the same percentage that the city legislative body distributes to that rural city hospital in accordance with Section 59-12-805 for the calendar year ending on the December 31 immediately preceding the first day of the fiscal year for which the city legislative body receives the distribution in accordance with Subsection [~~(5) or (6)~~](3) or (4).

(c) A rural city hospital that receives a distribution in accordance with this Subsection [~~(8)~~](6) shall expend that distribution for the same purposes for which money collected from a tax under Section 59-12-804 may be expended.

[~~(9) Any money remaining in the Rural Health Care Facilities Account at the end of a fiscal year after the State Tax Commission makes the distributions required by this section shall lapse into the General Fund.~~]

Section 2. Section 31A-45-403 is amended to read:

31A-45-403. Essential health benefits.

(1) The state designates the state's own essential health benefits benchmark plan and does not accept a federal determination of the essential health benefits benchmark plan under the PPACA.

(2) [~~Subject to Subsections (3) and (4), the~~]The commissioner shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that designate the essential health benefits benchmark plan for the state.

(3) (a) The commissioner shall update the state's essential health benefits benchmark plan for plan years beginning on January 1, 2027.

(b) The commissioner shall include in the plan described in Subsection (3)(a):

(i) any state mandated health insurance benefit that applies to a health benefit plan effective on or after January 1, 2012, through January 1, 2025; and

(ii) additional benefits mandated by the PPACA.

(4) The commissioner may expand the state's essential health benefits plan if additional benefits are mandated by the PPACA.

[~~(3) Before the commissioner makes rules in accordance with Subsection (2):~~]

[~~(a) the commissioner shall present a summary of the commissioner's planned rules to the Health Reform Task Force; and~~]

[~~(b) the Health Reform Task Force shall recommend whether the commissioner makes rules in accordance with the presented summary.~~]

[~~(4) The essential health benefits plan:~~]

[~~(a) may not include a state mandate if the inclusion of the state mandate would require the state to contribute to premium subsidies under the PPACA; and~~]

[~~(b) may add benefits in addition to the benefits included in a benchmark plan adopted in accordance with this section if the additional benefits are mandated under the PPACA.~~]

Section 3. Section 34A-2-701 is amended to read:

34A-2-701. Premium assessment restricted account for safety.

(1) There is created in the General Fund a restricted account known as the "Workplace Safety Account."

(2) (a) An amount equal to 0.25% of the premium income remitted to the state treasurer pursuant to Subsection 59-9-101(2)(c)(ii) shall be deposited in the Workplace Safety Account in the General Fund for use as provided in this section.

(b) Beginning with fiscal year 2008-09, if the balance in the Workplace Safety Account exceeds $500,000 at the close of a fiscal year, the excess shall be transferred to:

(i) the Employers' Reinsurance Fund, created under Subsection 34A-2-702(1); or

(ii) if the commissioner has made the notification described in Subsection 34A-2-702(7), the Uninsured Employers' Fund created in Section 34A-2-704.

(3) The Legislature shall appropriate from the restricted account money to one or both of the following:

(a) money to the commission for use by the commission to:

(i) improve safety consultation services available to Utah employers; [~~or~~]

(ii) provide for electronic or print media advertising campaigns designed to promote workplace safety; [~~and~~]or

(iii) pay the salary and benefits of an employee of the commission who is an authorized representative of the Division of Occupational Safety and Health under Chapter 6, Part 3, Enforcement; and

(b) subject to Subsection (7), money known as the "Eddie P. Mayne Workplace Safety and Occupational Health Funding Program":

(i) to an institution within the state system of higher education, as defined in Section 53B-1-102; and

(ii) to be expended by an education and research center that is:

(A) affiliated with the institution described in Subsection (3)(b)(i); and

(B) designated as an education and research center by the National Institute for Occupational Safety and Health.

(4) From money appropriated by the Legislature from the restricted account to the commission for use by the commission, the

commission may fund other safety programs or initiatives recommended to it by its state workers' compensation advisory council created under Section 34A-2-107.

(5) (a) The commission shall annually report to the governor, the Legislature, and its state council regarding:

(i) the use of the money appropriated to the commission under Subsection (3) or (4); and

(ii) the impact of the use of the money on the safety of Utah's workplaces.

(b) By no later than August 15 following a fiscal year in which an education and research center receives money from an appropriation under Subsection (3)(b), the education and research center shall report:

(i) to:

(A) the governor;

(B) the Legislature;

(C) the commission; and

(D) the state workers' compensation advisory council created under Section 34A-2-107; and

(ii) regarding:

(A) the use of the money appropriated under Subsection (3)(b); and

(B) the impact of the use of the money on the safety of Utah's workplaces.

(6) The money deposited in the restricted account:

(a) shall be:

(i) used only for the activities described in Subsection (3) or (4); and

(ii) expended according to processes that can be verified by audit; and

(b) may not be used by the commission for:

(i) administrative costs unrelated to the restricted account; or

(ii) any activity of the commission other than the activities of the commission described in Subsection (3) or (4).

(7) The total of appropriations under Subsection (3)(b) may not exceed for a fiscal year an amount equal to 20% of the premium income remitted to the state treasurer pursuant to Subsection 59-9-101(2)(c) and deposited in the Workplace Safety Account during the previous fiscal year.

Section 4. Section 34A-6-301 is amended to read:

34A-6-301. Inspection and investigation of workplace, worker injury, illness, or complaint -- Warrants -- Attendance of witnesses -- Recordkeeping by employers -- Employer and employee representatives -- Request for inspection -- Compilation and publication of reports and information -- Rules.

(1) (a) The division or [~~its representatives~~]the division's authorized representative, upon presenting appropriate credentials to the owner, operator, or agent in charge, may:

(i) enter without delay at reasonable times any workplace where work is performed by an employee of an employer;

(ii) inspect and investigate during regular working hours and at other reasonable times in a reasonable manner any workplace, worker injury, occupational disease, or complaint and all pertinent methods, operations, processes, conditions, structures, machines, apparatus, devices, equipment, and materials in the workplace; and

(iii) question privately any such employer, owner, operator, agent, or employee.

(b) The division, upon an employer's refusal to permit an inspection, may seek a warrant pursuant to the Utah Rules of Criminal Procedure.

(2) (a) The division or [~~its representatives~~]the division's authorized representative may require the attendance and testimony of witnesses and the production of evidence under oath.

(b) Witnesses shall receive fees and mileage in accordance with Section 78B-1-119.

(c) (i) If any person fails or refuses to obey an order of the division to appear, any district court within the jurisdiction of which such person is found, or resides or transacts business, upon the application by the division, shall have jurisdiction to issue to any person an order requiring that person to:

(A) appear to produce evidence if, as, and when so ordered; and

(B) give testimony relating to the matter under investigation or in question.

(ii) Any failure to obey an order of the court described in this Subsection (2)(c) may be punished by the court as a contempt.

(3) (a) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requiring employers:

(i) to keep records regarding activities related to this chapter considered necessary for enforcement or for the development of information about the causes and prevention of occupational accidents and diseases; and

(ii) through posting of notices or other means, to inform employees of their rights and obligations under this chapter including applicable standards.

(b) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requiring employers to keep records regarding any work-related death and injury and any occupational disease as provided in this Subsection (3)(b).

(i) Each employer shall investigate or cause to be investigated all work-related injuries and occupational diseases and any sudden or unusual occurrence or change of conditions that pose an unsafe or unhealthful exposure to employees.

(ii) Each employer shall, within eight hours of occurrence, notify the division of any:

(A) work-related fatality;

(B) disabling, serious, or significant injury; or

(C) occupational disease incident.

(iii) (A) Each employer shall file a report with the Division of Industrial Accidents in accordance with Sections 34A-2-407 and 34A-3-108, after the employer's first knowledge of the occurrence, or after the employee's notification of the same, in the form prescribed by the Division of Industrial Accidents, of any work-related fatality or any work-related injury or occupational disease resulting in:

(I) medical treatment;

(II) loss of consciousness;

(III) loss of work;

(IV) restriction of work; or

(V) transfer to another job.

(B) (I) Each employer shall file a subsequent report with the Division of Industrial Accidents of any previously reported injury or occupational disease that later resulted in death.

(II) The subsequent report shall be filed with the Division of Industrial Accidents in accordance with Sections 34A-2-407 and 34A-3-108.

(iv) A report is not required for minor injuries, such as cuts or scratches that require first aid treatment only, unless a treating physician files, or is required to file, the Physician's Initial Report of Work Injury or Occupational Disease with the Division of Industrial Accidents.

(v) A report is not required:

(A) for occupational diseases that manifest after the employee is no longer employed by the employer with which the exposure occurred; or

(B) where the employer is not aware of an exposure occasioned by the employment which results in a compensable occupational disease as defined by Section 34A-3-103.

(vi) Each employer shall provide the employee with:

(A) a copy of the report submitted to the Division of Industrial Accidents; and

(B) a statement, as prepared by the Division of Industrial Accidents, of the employee's rights and responsibilities related to the industrial injury or occupational disease.

(vii) Each employer shall maintain a record in a manner prescribed by the commission of all work-related fatalities or work-related injuries and of all occupational diseases resulting in:

(A) medical treatment;

(B) loss of consciousness;

(C) loss of work;

(D) restriction of work; or

(E) transfer to another job.

(viii) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this Subsection (3)(b) consistent with nationally recognized rules or standards on the reporting and recording of work-related injuries and occupational diseases.

(c) (i) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requiring employers to keep records regarding exposures to potentially toxic materials or harmful physical agents required to be measured or monitored under Section 34A-6-202.

(ii) (A) The rules made under Subsection (3)(c)(i) shall provide for employees or their representatives:

(I) to observe the measuring or monitoring; and

(II) to have access to the records of the measuring or monitoring, and to records that indicate their exposure to toxic materials or harmful agents.

(B) Each employer shall promptly notify employees being exposed to toxic materials or harmful agents in concentrations that exceed prescribed levels and inform any such employee of the corrective action being taken.

(4) Information obtained by the division shall be obtained with a minimum burden upon employers, especially those operating small businesses.

(5) A representative of the employer and a representative authorized by employees shall be given an opportunity to accompany the division's authorized representative during the physical inspection of any workplace. If there is no authorized employee representative, the division's authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

(6) (a) (i) (A) Any employee or representative of employees who believes that a violation of an adopted safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the division's authorized representative of the violation or danger. The notice shall be:

(I) in writing, setting forth with reasonable particularity the grounds for notice; and

(II) signed by the employee or representative of employees.

(B) A copy of the notice shall be provided the employer or the employer's agent no later than at the time of inspection.

(C) Upon request of the person giving notice, the person's name and the names of individual employees referred to in the notice may not appear in the copy or on any record published, released, or made available pursuant to Subsection (7).

(ii) (A) If upon receipt of the notice the division's authorized representative determines there are reasonable grounds to believe that a violation or danger exists, the authorized representative shall make a special inspection in accordance with this section as soon as practicable to determine if a violation or danger exists.

(B) If the division's authorized representative determines there are no reasonable grounds to believe that a violation or danger exists, the authorized representative shall notify the employee or representative of the employees in writing of that determination.

(b) (i) Prior to or during any inspection of a workplace, any employee or representative of employees employed in the workplace may notify the division or [~~its representative~~]the division's authorized representative of any violation of a standard that they have reason to believe exists in the workplace.

(ii) The division shall:

(A) by rule, establish procedures for informal review of any refusal by [~~a~~]an authorized representative of the division to issue a citation with respect to any alleged violation; and

(B) furnish the employees or representative of employees requesting review a written statement of the reasons for the division's final disposition of the case.

(7) (a) The division may compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under this section, subject to the limitations set forth in Section 34A-6-306.

(b) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out its responsibilities under this chapter, including rules for information obtained under this section, subject to the limitations set forth in Section 34A-6-306.

(8) Any employer who refuses or neglects to make reports, to maintain records, or to file reports with the commission as required by this section is guilty of a class C misdemeanor and subject to citation under Section 34A-6-302 and a civil assessment as provided under Section 34A-6-307, unless the commission finds that the employer has shown good cause for submitting a report later than required by this section.

Section 5. Section 34A-6-302 is amended to read:

34A-6-302. Citations issued by division -- Grounds -- Posting -- Limitation.

(1) (a) If upon inspection or investigation, the division or [~~its~~]the division's authorized representative believes that an employer has violated a requirement of Section 34A-6-201, of any standard, rule, or order issued under Section 34A-6-202, or any rules under this chapter, it shall with reasonable promptness issue a citation to the employer.

(b) Each citation shall:

(i) be in writing; and

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, standard, rule, or order alleged to have been violated.

(c) The citation shall fix a reasonable time for the abatement of the violation. In the case of a review proceeding initiated by the employer in good faith, not for the purpose of delay or avoidance of the penalties, the time for abatement begins to run on the date of the final order of the commission.

(d) The commission may prescribe procedures for the issuance of a notice in lieu of a citation with respect to violations that have no direct or immediate relationship to safety or health.

(2) Each citation issued under this section or a copy shall be prominently posted by the employer, as required by rule, at or near each place a violation referred to in the citation occurred.

(3) A citation may not be issued under this section after the expiration of six months following the occurrence of any violation.

Section 6. Section 59-1-210 is amended to read:

59-1-210. General powers and duties.

The powers and duties of the commission are as follows:

(1) to sue and be sued in its own name;

(2) to adopt rules and policies consistent with the Constitution and laws of this state to govern the commission, executive director, division directors, and commission employees in the performance of their duties;

(3) to adopt rules and policies consistent with the Constitution and laws of the state, to govern county boards and officers in the performance of any duty relating to assessment, equalization, and collection of taxes;

(4) to prescribe the use of forms relating to the assessment of property for state or local taxation, the equalization of those assessments, the reporting of property or income for state or local taxation purposes, or for the computation of those taxes and the reporting of any information, statistics, or data required by the commission;

(5) to administer and supervise the tax laws of the state;

(6) to prepare and maintain from year to year a complete record of all lands subject to taxation in this state, and all machinery used in mining and all property or surface improvements upon or appurtenant to mines or mining claims;

(7) to exercise general supervision over assessors and county boards of equalization including the authority to enforce Section 59-2-303.1, and over other county officers in the performance of their duties relating to the assessment of property and collection of taxes, so that all assessments of property are just and equal, according to fair market value, and that the tax burden is distributed without favor or discrimination;

(8) to reconvene any county board of equalization which, when reconvened, may only address business approved by the commission and extend the time for which any county board of equalization may sit for the equalization of assessments;

(9) to confer with, advise, and direct county treasurers, assessors, and other county officers in matters relating to the assessment and equalization of property for taxation and the collection of taxes;

(10) to provide for and hold annually at such time and place as may be convenient a district or state convention of county assessors, auditors, and other county officers to consider and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative to taxation and methods of assessment, to which county assessors and other officers called to attend shall attend at county expense;

(11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the penalties, liabilities, and punishments of public officers, persons, and officers or agents of corporations for failure or neglect to comply with the statutes governing the reporting, assessment, and taxation of property;

(12) to cause complaints to be made in the proper court seeking removal from office of assessors, auditors, members of county boards, and other assessing, taxing, or disbursing officers, who are guilty of official misconduct or neglect of duty;

(13) to require county attorneys to immediately institute and prosecute actions and proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the laws relating to the assessment and taxation of property in their respective counties;

(14) to require any person to furnish any information required by the commission to ascertain the value and the relative burden borne by all kinds of property in the state, and to require from all state and local officers any information necessary for the proper discharge of the duties of the commission;

(15) to examine all records relating to the valuation of property of any person;

(16) to subpoena witnesses to appear and give testimony and produce records relating to any matter before the commission;

(17) to cause depositions of witnesses to be taken as in civil actions at the request of the commission or any party to any matter or proceeding before the commission;

(18) to authorize any member or employee of the commission to administer oaths and affirmations in any matter or proceeding relating to the exercise of the powers and duties of the commission;

(19) to visit periodically each county of the state, to investigate and direct the work and methods of local assessors and other officials in the assessment, equalization, and taxation of property, and to ascertain whether the law requiring the assessment of all property not

exempt from taxation, and the collection of taxes, have been properly administered and enforced;

(20) to carefully examine all cases where evasion or violation of the laws for assessment and taxation of property is alleged, to ascertain whether existing laws are defective or improperly administered;

(21) to furnish to the governor from time to time such assistance and information as the governor requires;

(22) to transmit to the governor and to each member of the Legislature recommendations as to legislation which will correct or eliminate defects in the operation of the tax laws and will equalize the burden of taxation within the state;

(23) to correct any error in any assessment made by it at any time before the tax is due and report the correction to the county auditor, who shall enter the corrected assessment upon the assessment roll;

(24) to compile and publish statistics relating to taxation in the state and prepare and submit an annual budget to the governor for inclusion in the state budget to be submitted to the Legislature;

(25) to perform any further duties imposed by law, and exercise all powers necessary in the performance of its duties;

(26) to adopt a schedule of fees assessed for services provided by the commission, unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the cost of services provided. Each fee established in this manner shall be submitted to and approved by the Legislature as part of the commission's annual appropriations request. The commission may not charge or collect any fee proposed in this manner without approval by the Legislature;

(27) to comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings; and

(28) to distribute [~~the money deposited into the Rural Health Care Facilities Account~~]money to improve the delivery of quality health care in rural areas of the state, as required by Section 26B-1-308.

Section 7. Section 59-15-109 is amended to read:

59-15-109. Commission to deposit beer tax revenue.

(1) Except as provided in Subsections (2) and (3), the commission shall deposit revenue collected under this chapter as follows:

(a) the greater of the following shall be deposited into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32B-2-403:

(i) an amount calculated by:

(A) determining an amount equal to 50% of the revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made; and

(B) subtracting $30,000 from the amount determined under Subsection (1)(a)(i)(A); or

(ii) $4,350,000; and

(b) the revenue collected in excess of the amount deposited in accordance with Subsection (1)(a) shall be deposited into the General Fund.

(2) The commission shall annually deposit into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32B-2-403 an amount equal to the amount of revenue generated in the current fiscal year by the portion of the tax imposed under Section 59-15-101 that is equal to:

(a) $0.30 per 31-gallon barrel for beer imported or manufactured on or after July 1, 2003; and

(b) a proportionate rate to the rate described in Subsection (2)(a) for:

(i) any quantity of beer other than a 31-gallon barrel; or

(ii) the fractional parts of a 31-gallon barrel.

(3) Beginning fiscal year 2024-25, the commission shall annually deposit into the Alcoholic Beverage Control Act Enforcement Fund created in Section 32B-2-305 an amount equal to the amount of revenue generated in the current fiscal year by the portion of the tax imposed under Section 59-15-101 that exceeds:

(a) $13.10 per 31-gallon barrel for beer imported or manufactured on or after July 1, 2024; and

(b) a proportionate rate to the rate described in Subsection (3)(a) for:

(i) any quantity of beer other than a 31-gallon barrel; or

(ii) the fractional parts of a 31-gallon barrel.

[~~(4) (a) The commission shall notify the entities described in Subsection (4)(b) not later than the September 1 preceding the fiscal year of the deposit of:~~]

[~~(i) the amount of the proceeds of the beer excise tax collected in accordance with this section for the fiscal year two years preceding the fiscal year of deposit; and~~]

[~~(ii) an amount equal to 50% of the amount listed in Subsection (4)(a)(i).~~]

[~~(b) The notification required by Subsection (4)(a) shall be sent to:~~]

[~~(i) the Governor's Office of Planning and Budget; and~~]

[~~(ii) the Legislative Fiscal Analyst.~~]

Section 8. Section 63A-1-103 is amended to read:

63A-1-103. Definitions.

As used in this title:

(1) "Agency" means a board, commission, institution, department, division, officer, council, office, committee, bureau, or other administrative unit of the state, including the agency head, agency employees, or other persons acting on behalf of or under the authority of the agency head, the Legislature, the courts, or the governor, but does not mean a political subdivision of the state, or any administrative unit of a political subdivision of the state.

(2) "Department" means the Department of Government Operations.

(3) "Enterprise business management system" means the software system administered by the department to integrate, streamline, and centralize the department's business operations related to:

(a) the state's accounting system;

(b) payroll and human resources management;

(c) vendor management; and

(d) loan management and servicing.

[~~(3)~~](4) "Executive director" means the executive director of the Department of Government Operations.

Section 9. Section 63A-1-109.5 is amended to read:

63A-1-109.5. Department authority to operate the department, a division, or an office as an internal service fund agency.

(1) Subject to Subsection (2), Section 63A-1-114, and provisions governing internal service funds or internal service fund agencies under Title 63J, Chapter 1, Budgetary Procedures Act, the department may[~~operate a division or office described in Section 63A-1-109 as an internal service fund agency.~~]:

(a) operate the department as an internal service fund agency; or

(b) operate a division or office described in Section 63A-1-109 as an internal service fund agency.

(2) (a) The department may only operate the department as an internal service fund agency for the purpose of providing a service related to the enterprise business management system.

(b) If the department operates the department as an internal service fund agency in accordance with this section, the department shall, before charging a rate, fee, or other amount for a service provided by the department's internal service fund to an executive branch agency, or to a subscriber of services other than an executive branch agency:

(i) submit the proposed rate, fee, or other amount and cost analysis to the rate committee established in Section 63A-1-114; and

(ii) obtain the approval of the Legislature as required under Section 63J-1-410.

Section 10. Section 63A-1-114 is amended to read:

63A-1-114. Rate committee -- Membership -- Duties.

(1) (a) There is created a rate committee consisting of the executive directors, commissioners, or superintendents of seven state agencies, which may include the State Board of Education, that use services and pay rates to one of the department internal service funds, or their designee, that the governor appoints for a two-year term.

(b) The department may not have a representative on the rate committee.

(c) (i) The committee shall elect a chair from the committee's members.

(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the members' service on the committee.

(d) The department shall provide staff services to the committee.

(2) [~~(a) A division described in Section 63A-1-109 that manages an internal service fund shall submit to the committee a proposed rate schedule for services rendered by the division to an executive branch entity or an entity that subscribes to services rendered by the division.~~]A division described in Section 63A-1-109 that operates an internal service fund, or the department, if the department operates an internal service fund under Section 63A-1-109.5, shall submit to the rate committee:

(a) a proposed rate schedule for the goods or services rendered by the department or the division to:

(i) an executive branch entity; or

(ii) an entity that subscribes to a service rendered by the department or the division; and

(b) other information or analysis requested by the rate committee.

[~~(b)~~](3) [~~The~~]Subject to Subsection (4), the committee shall:

[~~(i)~~](a) conduct all meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

[~~(ii)~~](b) meet at least once each calendar year to:

[~~(A)~~](i) discuss the service performance of each internal service fund;

[~~(B)~~](ii) review the proposed rate schedules;

[~~(C)~~](iii) at the rate committee's discretion, []approve, increase, or decrease the rate []schedules described in Subsection [~~(2)(b)(ii)(B)~~](3)(b)(ii); and

[~~(D)~~](iv) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;

[~~(iii)~~](c) recommend a proposed rate schedule for each internal service fund to:

[~~(A)~~](i) the Governor's Office of Planning and Budget; and

[~~(B)~~](ii) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund agency's rates and budget; and

[~~(iv)~~](d) review and approve, increase, or decrease an interim rate when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature.

(4) In addition to the meeting described in Subsection (3)(b), if an internal service fund agency submits a proposed increased rate schedule to the rate committee in accordance with Subsection 63J-1-410(4)(c), the committee shall, no later than 30 days after the day on which the committee receives the increased rate schedule, convene a meeting of the committee to:

(a) review the proposed increased rate schedule; and

(b) at the committee's discretion, approve or reject the proposed increased rate schedule.

[~~(c)~~](5) The committee may in accordance with Subsection 63J-1-410(4), decrease a rate that has been approved by the Legislature.

Section 11. Section 63B-1-304 is amended to read:

63B-1-304. State Building Ownership Authority created -- Members -- Compensation.

(1) There is created a body politic and corporate to be known as the State Building Ownership Authority composed of:

(a) the governor;

(b) the state treasurer; and

(c) the executive director of the Department of Government Operations.

(2) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(3) (a) Upon request, the division shall provide staff support to the State Building Ownership Authority.

(b) The State Building Ownership Authority may seek and obtain independent financial advice, support, and information from the state financial advisor created under Section 67-4-16.

Section 12. Section 63J-1-410 is amended to read:

63J-1-410. Internal service funds -- Governance and review.

(1) For purposes of this section:

(a) "Agency" means a department, division, office, bureau, or other unit of state government, and includes any subdivision of an agency.

(b) "Do not replace vehicles" means a vehicle accounted for in the Division of Fleet Operations for which charges to an agency for its use do not include amounts to cover depreciation or to accumulate assets to replace the vehicle at the end of its useful life.

(c) "Internal service fund agency" means an agency that provides goods or services to other agencies of state government or to other governmental units on a capital maintenance and cost reimbursement basis, and which recovers costs through interagency billings.

(d) "Revolving loan fund" means each of the revolving loan funds defined in Section 63A-3-205.

(2) An internal service fund agency is not subject to this section with respect to its administration of a revolving loan fund.

(3) (a) An internal service fund agency may not bill another agency for services that it provides for each internal service fund operated by the agency, unless the Legislature has:

(i) reviewed and approved each internal service fund's budget request;

(ii) reviewed and approved each internal service fund's rates, fees, and other amounts that it charges those who use its services and included those rates, fees, and amounts in an appropriation act;

(iii) approved the number of full-time [~~, permanent~~]positions of each internal service fund as part of the annual appropriation process;

(iv) [~~review~~]reviewed the number of full-time equivalent contract employees of each internal service fund as part of the annual appropriation process; and

(v) appropriated to the internal service fund agency each internal service fund's estimated revenue based upon the rates and fee structure that are the basis for the estimate.

(b) If an internal service fund agency operates more than one internal service fund within the internal service fund agency, the internal service fund agency shall comply with the review and approval requirements under Subsection (3)(a) for each internal service fund.

(c) If an internal service fund agency operates an internal service fund and does not get the approvals required under Subsection (3)(a) or (4)(b), the internal service fund agency shall rebate all rates, fees, and amounts collected to those who use the services for the rates, fees, and amounts collected that were not approved under Subsection (3)(a) or (4)(b).

(4) (a) Except as provided in [~~Subsection (4)(b)~~]Subsections (4)(b) and (c), an internal service fund agency may not charge rates, fees, and other amounts that exceed the rates, fees, and amounts [~~established~~]approved by the Legislature in [~~the~~]an appropriations act.

(b) (i) An internal service fund agency that begins a new service or introduces a new product between annual general sessions of the Legislature may, for that service or product:

(A) establish and charge an interim rate or amount;

(B) acquire contract employees, if necessary; or

(C) do a combination of Subsections (4)(b)(i)(A) and (B).

(ii) The internal service fund agency shall:

(A) submit the interim rate or amount under Subsection (4)(b)(i) to the Legislature for approval at the next annual general session; and

(B) report any change in the number of contract employees under Subsection (4)(b)(i) to the appropriate legislative appropriations subcommittee for review.

(c) An internal service fund agency may, in a fiscal year, charge rates, fees, and other amounts that exceed the rates, fees, or amounts approved by the Legislature in an appropriations act, if:

(i) during the immediately preceding annual general session, the Legislature appropriates money to each state agency to pay for an increase in the state agency's employee's compensation;

(ii) within 90 days after the day on which the Legislature adjourns the general session sine die, the internal service fund agency submits a proposed increased rate schedule to the rate committee established in Section 63A-1-114 that adjusts the rates, fees, and amounts approved by the Legislature to reflect the percentage increase that the Legislature appropriated for state agency employee compensation under Subsection (4)(c)(i);

(iii) the rate committee approves the proposed increased rate schedule described in Subsection (4)(c)(ii) during the meeting described in Subsection 63A-1-114(4); and

(iv) the internal service fund agency uses all the revenue from the rate schedule increase under this Subsection (4) to increase the internal service fund agency's employee's compensation in an amount equivalent to the state agency employee compensation increase described in Subsection (4)(c)(i).

(5) The internal service fund agency budget request shall separately identify the capital needs and the related capital budget.

(6) In the fiscal year that the accounting change referred to in Subsection 51-5-6(2) is implemented by the Division of Finance, the Division of Finance shall transfer equity created by that accounting change to any internal service fund agency up to the amount needed to eliminate any long-term debt and deficit working capital in the fund.

(7) No new internal service fund agency may be established unless reviewed and approved by the Legislature.

(8) (a) Except as provided in Subsection (8)(f), an internal service fund agency may not acquire capital assets unless legislative approval for acquisition of the assets has been included in an appropriations act for the internal service fund agency.

(b) An internal service fund agency may not acquire capital assets after the transfer mandated by Subsection (6) has occurred unless

the internal service fund agency has adequate working capital.

(c) The internal service fund agency shall provide working capital from the following sources in the following order:

(i) first, from operating revenues to the extent allowed by state rules and federal regulations;

(ii) second, from long-term debt, subject to the restrictions of this section; and

(iii) last, from an appropriation.

(d) (i) To eliminate negative working capital, an internal service fund agency may incur long-term debt from the General Fund or Special Revenue Funds to acquire capital assets.

(ii) The internal service fund agency shall repay all long-term debt borrowed from the General Fund or Special Revenue Funds by making regular payments over the useful life of the asset according to the asset's depreciation schedule.

(e) (i) The Division of Finance may not allow an internal service fund agency's borrowing to exceed 90% of the net book value of the agency's capital assets as of the end of the fiscal year.

(ii) If an internal service fund agency wishes to purchase authorized assets or enter into equipment leases that would increase its borrowing beyond 90% of the net book value of the agency's capital assets, the agency may purchase those assets only with money appropriated from another fund, such as the General Fund or a special revenue fund.

(f) (i) Except as provided in Subsection (8)(f)(ii), capital assets acquired through agency appropriation may not be transferred to any internal service fund agency without legislative approval.

(ii) Vehicles acquired by agencies from appropriated funds or money appropriated to agencies to be used for vehicle purchases may be transferred to the Division of Fleet Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

(iii) Vehicles acquired with funding from sources other than state appropriations or acquired through the federal surplus property donation program may be transferred to the Division of Fleet Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

(iv) Unless otherwise approved by the Legislature, vehicles acquired under Subsection (8)(f)(iii) shall be accounted for as "do not replace" vehicles.

(9) The Division of Finance shall adopt policies and procedures related to the accounting for assets, liabilities, equity, revenues, expenditures, and transfers of internal service funds agencies.

Section 13. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 13(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah State Tax Commission - Rural Health Care Facilities Distribution

From General Fund, One-time - - -

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 5

To General Fund Restricted - Rural Health Care Facilities Fund

From General Fund - - -

CHAPTER 351
S. B. 259
Passed March 7, 2025
Approved March 25, 2025
Effective March 25, 2025

STATE HOLY DAYS

Chief Sponsor: Keven J. Stratton
House Sponsor: Michael J. Petersen

LONG TITLE

General Description:

This bill amends provisions relating to certain days and commemorative periods recognized by the state.

Highlighted Provisions:

This bill:

- ► designates certain days and time periods of special religious significance as state holy days;
- ► provides that a state holy day is not a legal holiday, unless expressly provided otherwise;
- ► designates Easter Sunday as a legal holiday, but one that is not recognized on the preceding Friday or the following Monday; and
- ► provides that a state employee may use the state employee's personal preference day to recognize a state holy day or for any other purpose.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63G-1-301,
(Effective upon governor's approval)
as last amended by Laws of Utah 2022, Chapter 331
63G-1-401,
(Effective upon governor's approval)
as last amended by Laws of Utah 2024, Chapter 377

ENACTS:

63G-1-1101,
(Effective upon governor's approval)
Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-301 is amended to read:
63G-1-301
[~~(Effective 05/04/22)~~**]** (Effective upon governor's approval)
. Legal holidays -- Personal preference day -- Governor authorized to declare additional days.

(1) (a) The following named days are legal holidays in this state:
(i) every Sunday, except as provided in Subsection (1)(e);
(ii) the first Sunday after the first full moon that occurs on or after the spring equinox, called Easter Sunday;
[~~(ii)~~](iii) January 1, called New Year's Day;
[~~(iii)~~](iv) the third Monday of January, called Dr. Martin Luther King, Jr. Day;
[~~(iv)~~](v) the third Monday of February, called Washington and Lincoln Day;
[~~(v)~~](vi) the last Monday of May, called Memorial Day;
[~~(vi)~~](vii) on the day described in Subsection (1)(f), Juneteenth National Freedom Day;
[~~(vii)~~](viii) July 4, called Independence Day;
[~~(viii)~~](ix) July 24, called Pioneer Day;
[~~(ix)~~](x) the first Monday of September, called Labor Day;
[~~(x)~~](xi) the second Monday of October, called Columbus Day;
[~~(xi)~~](xii) November 11, called Veterans Day;
[~~(xii)~~](xiii) the fourth Thursday of November, called Thanksgiving Day;
[~~(xiii)~~](xiv) December 25, called Christmas; and
[~~(xiv)~~](xv) all days which may be set apart by the President of the United States, or the governor of this state by proclamation as days of fast or thanksgiving.

(b) If any of the holidays under Subsections [~~(1)(a)(ii) through (v)~~](1)(a)(iii) through (vi) or Subsections [~~(1)(a)(vii) through (xiv),~~](1)(a)(viii) through (xv) falls on Sunday, then the following Monday shall be the holiday.

(c) If any of the holidays under Subsections [~~(1)(a)(ii) through (v)~~](1)(a)(iii) through (vi) or Subsections [~~(1)(a)(vii) through (xiv)~~](1)(a)(viii) through (xv) falls on Saturday, then the preceding Friday shall be the holiday.

(d) Each employee may select one additional day, called Personal Preference Day, to be scheduled pursuant to rules adopted by the Division of Human Resource Management, which the employee may use to observe a state holy day, as described in Section 63G-1-1101, or any other day the employee chooses to recognize.

(e) For purposes of Utah Constitution, Article VI, Section 16, Subsection (1), regarding the exclusion of state holidays from the 45-day legislative general session, Sunday is not considered a state holiday.

(f) (i) The Juneteenth National Freedom Day holiday is on June 19, if that day is on a Monday.

(ii) If June 19 is on a Tuesday, Wednesday, Thursday, or Friday, the Juneteenth National Freedom Day holiday is on the immediately preceding Monday.

(iii) If June 19 is on a Saturday or Sunday, the Juneteenth National Freedom Day holiday is on the immediately following Monday.

(2) (a) Whenever in the governor's opinion extraordinary conditions exist justifying the action, the governor may:

(i) declare, by proclamation, legal holidays in addition to those holidays under Subsection (1); and

(ii) limit the holidays to certain classes of business and activities to be designated by the governor.

(b) A holiday may not extend for a longer period than 60 consecutive days.

(c) Any holiday may be renewed for one or more periods not exceeding 30 days each as the governor may consider necessary, and any holiday may, by like proclamation, be terminated before the expiration of the period for which it was declared.

Section 2. Section 63G-1-401 is amended to read:

63G-1-401

[~~(Effective 05/01/24)~~**]** (Effective upon governor's approval)

. Commemorative periods.

(1) As used in this section, "commemorative period" means a special observance declared by the governor that annually recognizes and honors a culturally or historically significant day, week, month, or other time period in the state.

(2) (a) The governor may declare a commemorative period by issuing a declaration.

(b) The governor shall maintain a list of all commemorative periods declared by the governor.

(3) (a) The governor's declaration of a commemorative period expires the year immediately following the day on which the governor issues the declaration.

(b) Subsection (3)(a) does not prevent the governor from redeclaring a commemorative period before or after the commemorative period expires.

(4) Notwithstanding Subsections (2) and (3), the following days shall be commemorated annually:

(a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history;

(b) Day of Remembrance for Incarceration of Japanese Americans, on February 19, in remembrance of the incarceration of Japanese Americans during World War II;

(c) Utah State Flag Day, on March 9;

(d) Vietnam Veterans Recognition Day, on March 29;

(e) Utah Railroad Workers Day, on May 10;

(f) Dandy-Walker Syndrome Awareness Day, on May 11;

(g) Armed Forces Day, on the third Saturday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;

(h) Arthrogryposis Multiplex Congenita Awareness Day, on June 30;

(i) Navajo Code Talker Day, on August 14;

(j) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:

(i) encourage individuals to make child safety a priority;

(ii) remember the importance of continued efforts to reunite missing children with their families; and

(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited;

(k) September 11th Day of Remembrance, on September 11, in honor and remembrance of the first responders and persons killed and injured in the terrorist attacks on September 11, 2001;

(l) Constitution Day, on September 17, to invite all Utah adults and Utah school children to read directly from the United States Constitution and other primary sources, and for students to be taught principles from the United States Constitution that include federalism, checks and balances, separation of powers, popular sovereignty, limited government, and the necessary and proper, commerce, and supremacy clauses;

(m) POW/MIA Recognition Day, on the third Friday in September;

[~~(n) Diwali, on the fifteenth day of the Hindu lunisolar month of Kartik, known as Lakshmi puja, or the Hindu festival of lights;~~]

[~~(o)~~](n) Victims of Communism Memorial Day, on November 7;

[~~(p)~~](o) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and

[~~(q)~~](p) Bill of Rights Day, on December 15.

(5) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (4)(g) and (m).

(6) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the

proper home storage and disposal of prescription and over-the-counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(7) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

(8) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(9) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

(10) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(11) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

(12) The month of September shall be commemorated annually as American Founders and Constitution Month to:

(a) encourage all civic, fraternal, and religious organizations, and public and private educational institutions, to recognize and observe this occasion through appropriate programs, teaching, meetings, services, or celebrations in which state, county, and local governmental officials are invited to participate; and

(b) invite all Utah school children to read directly from the United States Constitution and other primary sources, and to be taught principles from the United States Constitution that include federalism, checks and balances, separation of powers, popular sovereignty, limited government, and the necessary and proper, commerce, and supremacy clauses.

(13) The third full week of September shall be commemorated annually as Gang Prevention Awareness Week.

(14) The month of October shall be commemorated annually as Italian-American Heritage Month.

(15) The month of November shall be commemorated annually as American Indian Heritage Month.

(16) The first full week of December shall be commemorated annually as Avalanche Awareness Week to:

(a) educate the public about avalanche awareness and safety;

(b) encourage collaborative efforts to decrease annual avalanche accidents and fatalities; and

(c) honor Utah residents who have lost their lives in avalanches, including those who lost their lives working to prevent avalanches.

Section 3. Section 63G-1-1101 is enacted to read:

PART 11. State Holy Days

63G-1-1101
(Effective upon governor's approval)
. State holy days.

(1) As used in this section, "state holy day" means an annual day or other time period of special religious significance that the state officially recognizes and observes as a holy day under this section.

(2) A state holy day is not a legal holiday or state holiday, unless the state holy day is also designated as a legal holiday under Section 63G-1-301.

(3) The following are state holy days:

(a) Holi, on the last full moon day of the Hindu lunisolar month of Phalguna;

(b) Lunar New Year, from the lunar calendar's first new moon through the lunar calendar's first full moon;

(c) Good Friday, on the Friday preceding Easter Sunday;

(d) Easter Sunday, on the first Sunday after the first full moon that occurs on or after the spring equinox;

(e) Eid al-Fitr, on the first day of the Islamic lunar month of Shawwal;

(f) Passover, for eight days, starting on the fifteenth day of the Hebrew lunisolar month of Nisan;

(g) Vesak Day, on the first full moon of the Hindu lunisolar month of Vaisakha;

(h) Eid al-Adha, on the tenth day of the Islamic lunar month of Dhu al-Hijjah;

(i) Rosh Hashanah, on the first two days of the Hebrew lunisolar month of Tishrei;

(j) Yom Kippur, on the tenth day of the Hebrew lunisolar month of Tishrei;

(k) Diwali, on the fifteenth day of the Hindu lunisolar month of Kartik; and

(l) Christmas, on December 25.

Section 4. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 352
S. B. 260
Passed March 4, 2025
Approved March 25, 2025
Effective May 7, 2025

INDIVIDUAL DIGITAL IDENTITY AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Paul A. Cutler

LONG TITLE

General Description:

This bill enacts provisions related to a state-endorsed digital identity.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes guiding principles for the implementation of a state-endorsed digital identity;
- ► outlines state policy regarding state-endorsed digital identity;
- ► creates requirements for a state-endorsed digital identity program; and
- ► requires the Department of Government Operations to study and make recommendations regarding the implementation of a state-endorsed digital identity.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63A-16-1201, Utah Code Annotated 1953
63A-16-1202, Utah Code Annotated 1953
63A-16-1203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-16-1201 is enacted to read:

PART 12. State-endorsed Digital Identity

63A-16-1201. Definitions.

As used in this part:

(1) "Biometric data" means the same as that term is defined in Section 13-61-101.

(2) "Chief privacy officer" means the chief privacy officer appointed in accordance with Section 63A-19-302.

(3) "Digital identity" means an electronic record that an individual may use to assert the individual's identity.

(4) "Governmental entity" means the same as that term is described in Section 63G-2-103.

(5) (a) "Guardian" means an individual or entity authorized to act on behalf of an individual.

(b) "Guardian" includes:

(i) a representative designated by an individual;

(ii) the parent or legal guardian of an unemancipated minor; or

(iii) the legal guardian of a legally incapacitated individual.

(6) (a) "Identity" means any attribute used to identify or distinguish a specific individual.

(b) "Identity" includes an individual's:

(i) personal data;

(ii) biometric data;

(iii) physical and non-physical characteristics;

(iv) image or likeness;

(v) signature; and

(vi) any other unique physical or digital identifier related to the individual.

(7) "Individual" means the same as that term is described in Section 63G-2-103.

(8) (a) "Mobile communication device" means any wireless communication device with Internet capability capable of displaying or providing a state-endorsed digital identity.

(b) "Mobile communication device" includes a:

(i) cellular telephone; or

(ii) wireless tablet.

(9) "Office" means the Office of Data Privacy created in Section 63A-19-301.

(10) "Person" means the same as that term is defined in Section 63G-2-103.

(11) "Personal data" means the same as that term is defined in Section 63A-19-101.

(12) "Physical identity" means a physical record that an individual may use to prove the individual's identity issued by:

(a) a governmental entity;

(b) the equivalent of a governmental entity in another state;

(c) the federal government; or

(d) another country.

(13) "State-endorsed digital identity" means an individual's digital identity that:

(a) is controlled by the individual; and

(b) has been officially recognized by the state.

(14) "State-endorsed digital identity program" means a state initiative which is designed to develop methods, policies, and procedures to endorse an individual's digital identity.

(15) "System" means the technological infrastructure, processes, and procedures used to create, store, manage, and validate a state-endorsed digital identity.

Section 2. Section 63A-16-1202 is enacted to read:

63A-16-1202. State digital identity policy.

(1) It is the policy of Utah that:

(a) each individual has a unique identity;

(b) the state does not establish an individual's identity;

(c) the state may, in certain circumstances, recognize and endorse an individual's identity;

(d) the state is obligated to respect an individual's privacy interest associated with the individual's identity;

(e) the state is the only governmental entity that may endorse an individual's digital identity for the purpose of establishing a state-endorsed digital identity;

(f) the state may only endorse an individual's digital identity if the state-endorsed digital identity program is expressly authorized by the Legislature;

(g) an individual whose digital identity has been endorsed by the state is entitled to:

(i) choose:

(A) how the individual discloses the individual's state-endorsed digital identity;

(B) to whom the individual discloses the individual's state-endorsed digital identity;

(C) which elements of the individual's state-endorsed digital identity to disclose;

(D) where the individual's state-endorsed digital identity is stored; and

(E) whether to use a state-endorsed digital identity or physical identity to prove the individual's identity;

(ii) allow a governmental entity or a person to use information related to the individual's use of the individual's state-endorsed digital identity for a purpose other than the primary purpose for which the governmental entity or person collected the information; and

(iii) have a guardian obtain or use a state-endorsed digital identity on the individual's behalf;

(h) a governmental entity or person that accepts a state-endorsed digital identity shall:

(i) collect, use, and retain an individual's state-endorsed digital identity in a secure manner; and

(ii) comply with the requirements of this part through technological means;

(i) a governmental entity may not:

(i) convey a material benefit upon an individual for using a state-endorsed digital identity instead of a physical identity; or

(ii) withhold services or benefits from an individual if the individual uses a physical identity or is otherwise unable to use a state-endorsed digital identity; and

(j) a governmental entity or a person may not require an individual to surrender the individual's mobile communication device to verify the individual's identity.

(2) The state may not endorse an individual's digital identity unless:

(a) the state has verified an individual's identity before endorsement;

(b) the state-endorsed digital identity:

(i) incorporates state-of-the-art safeguards for protecting the individual's identity;

(ii) includes methods to establish authenticity;

(iii) is easy for an individual to adopt and use; and

(iv) is compatible with a wide variety of technological systems without sacrificing privacy or security;

(c) the state provides clear information to an individual regarding how the individual may:

(i) maintain and control the individual's state-endorsed digital identity;

(ii) use the individual's state-endorsed digital identity;

(iii) limit access to:

(A) the individual's state-endorsed digital identity; and

(B) any elements of the individual's identity disclosed by the state-endorsed digital identity; and

(iv) obtain a new state-endorsed digital identity if the individual's state-endorsed digital identity is compromised;

(d) the state ensures that when an individual uses a state-endorsed digital identity:

(i) any record of the individual's use:

(A) is only used for the primary purpose for which the individual disclosed the state-endorsed digital identity; and

(B) is not disclosed, shared, or compared by the governmental entity or person receiving the state-endorsed digital identity; and

(ii) the use is free from surveillance, visibility, tracking, or monitoring by any other governmental entity or person; and

(e) the state-endorsed digital identity enables an individual to:

(i) selectively disclose elements of the individual's identity; and

(ii) verify that the individual's age satisfies an age requirement without revealing the individual's age or date of birth.

(3) The state may only revoke or withdraw the state's endorsement of an individual's state-endorsed digital identity if:

(a) the state-endorsed digital identity has been compromised;

(b) the state's endorsement was:

(i) issued in error; or

(ii) based on fraudulent information; or

(c) the individual requests that the state revoke or withdraw the endorsement of the individual's state-endorsed digital identity.

Section 3. Section 63A-16-1203 is enacted to read:

63A-16-1203. Department duties.

(1) The department shall:

(a) explore ways in which the state may implement a state-endorsed digital identity program consistent with the state policy expressed in Section 63A-16-1202;

(b) study and identify best practices regarding the use of a digital identity;

(c) propose policies, procedures, standards, and technology that should be incorporated in the state-endorsed digital identity program;

(d) examine how the state-endorsed digital identity program may be implemented in the most cost-effective manner possible using state resources that are already available; and

(e) evaluate and make recommendations regarding any changes to existing statutes, rules, or policies that may be necessary to facilitate the creation of a state-endorsed digital identity program.

(2) In performing the duties described in Subsection (1), the department shall consult with:

(a) the chief information officer;

(b) the chief privacy officer;

(c) the Utah League of Cities and Towns;

(d) the Utah Association of Counties; and

(e) individuals who have relevant expertise, including representatives from:

(i) governmental entities;

(ii) other states; and

(iii) the private sector.

(3) The department shall report to the Public Utilities, Energy, and Technology Interim Committee regarding the duties described in Subsection (1) and recommendations for the implementation of a state-endorsed digital identity program on or before October 31 of each year.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 353
S. B. 261
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

TOURISM RELATED TAX REPORTING AMENDMENTS

Chief Sponsor: Brady Brammer
House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill deals with reporting requirements for a county that imposes a transient room tax or a tourism, recreation, cultural, convention, and airport facilities tax.

Highlighted Provisions:

This bill:

- ► requires the Office of the Legislative Fiscal Analyst (office) to analyze a county's written report on the county's use of transient room tax revenue and tourism, recreation, cultural, convention, and airport facilities tax revenue and make a determination;
- ► requires the office to provide a summary of the office's analysis to the Revenue and Taxation and Political Subdivisions Interim committees and the state auditor;
- ► requires the state auditor to review the office's determination that a county's written report does not sufficiently demonstrate the county is complying with statutory requirements for a transient room tax or a tourism, recreation, cultural, convention, and airport facilities tax and make an independent finding;
- ► if the state auditor finds the county's written report does not sufficiently demonstrate the county is complying with statutory requirements for a transient room tax or a tourism, recreation, cultural, convention, and airport facilities tax, allows the state auditor to withhold funds generated by a transient room tax or a tourism, recreation, cultural, convention, and airport facilities tax from the county until the county complies with county report requirements; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-31-5.5, as last amended by Laws of Utah 2023, Chapter 479
51-2a-401, as last amended by Laws of Utah 2024, Chapter 158

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-31-5.5 is amended to read:

17-31-5.5. Report by county legislative body -- Content.

(1) The legislative body of each county that imposes a transient room tax under Section 59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall prepare annually a written report in accordance with Subsection (2).

(2) The written report described in Subsection (1) shall include a breakdown of expenditures into the following categories:

(a) for the transient room tax, identification of expenditures for:

(i) establishing and promoting:

(A) recreation;

(B) tourism;

(C) film production; and

(D) conventions;

(ii) acquiring, leasing, constructing, furnishing, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums; and

(E) related facilities;

(iii) acquiring or leasing land required for or related to the purposes listed in Subsection (2)(a)(ii);

(iv) mitigation costs as identified in Subsection 17-31-2(2)(d); and

(v) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds issued to pay for costs referred to in Subsections 17-31-2(2)(e) and (5)(a); and

(b) for the tourism, recreation, cultural, convention, and airport facilities tax, identification of expenditures for:

(i) financing tourism promotion, which means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, product development, and advertising;

(ii) the development, operation, and maintenance of the following facilities as defined in Section 59-12-602:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; and

(E) a tourist facility;

(iii) mitigation costs as identified in Subsection 59-12-603(2)(b); and

(iv) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).

(3) For the transient room tax, the written report described in Subsection (1) shall include a breakdown of each expenditure described in Subsection (2)(a)(i), including:

(a) whether the expenditure was used for in-state and out-of-state promotion efforts;

(b) an explanation of how the expenditure targeted a cost created by tourism; and

(c) an accounting of the expenditure showing that the expenditure was used only for costs directly related to a cost created by tourism.

(4) On or before October 1, the county legislative body shall provide a copy of the annual written report described in Subsection (1) for the previous fiscal year to:

(a) the Utah Office of Tourism within the Governor's Office of Economic Opportunity;

(b) the county's tourism tax advisory board; and

(c) the Office of the Legislative Fiscal Analyst.

(5) (a) On or before December 1 of each year, the Office of the Legislative Fiscal Analyst shall:

(i) analyze each written report received under Subsection (4)(c) to determine if the information in the report sufficiently demonstrates that the county is expending revenue in accordance with the requirements of Sections 17-31-2, 59-12-301, and 59-12-603; and

(ii) provide a summary of the analysis and determination described in Subsection (5)(a)(i) to:

(A) the Revenue and Taxation Interim Committee;

(B) the Political Subdivisions Interim Committee; and

(C) the state auditor.

(b) If the Office of the Legislative Fiscal Analyst determines a county written report does not sufficiently demonstrate that a county is expending revenue in accordance with the requirements of Section 17-31-2, 59-12-301, and 59-12-603, the Office of the Legislative Fiscal Analyst shall include a copy of the county's written report with the summary described in Subsection (5)(a)(ii) to the entities described in Subsections (5)(a)(ii)(A) through (C).

Section 2. Section 51-2a-401 is amended to read:

51-2a-401. Prohibiting access to and withholding funds from an entity that does not comply with the accounting report requirements.

(1) If a political subdivision, interlocal organization, or other local entity does not comply with the accounting report requirements of Section 51-2a-201, the state auditor may:

(a) withhold allocated state funds to pay the cost of the accounting report, in accordance with Subsection (2); or

(b) prohibit financial access, in accordance with Subsection (3).

(2) (a) If the state auditor does not prohibit financial access in accordance with Subsection (3), the state auditor may withhold allocated state funds sufficient to pay the cost of the accounting report from any local entity described in Subsection (1).

(b) If no allocated state funds are available for withholding, the local entity shall reimburse the state auditor for any cost incurred in completing the accounting reports required under Section 51-2a-402.

(c) The state auditor shall release the withheld funds if the local entity meets the accounting report requirements either voluntarily or by action under Section 51-2a-402.

(3) (a) If the state auditor does not withhold funds in accordance with Subsection (2), the state auditor may prohibit any local entity described in Subsection (1) from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the entity access to the account.

(b) The state auditor shall remove the prohibition on accessing funds described in Subsection (3)(a) if the local entity meets the accounting report requirements either voluntarily or by action under Section 51-2a-402.

(4) After receiving a report from the Office of Legislative Fiscal Analyst under Section 17-31-5.5 indicating that a county is not expending revenue in accordance with the requirements of Sections 17-31-2, 59-12-301, and 59-12-603, the state auditor:

(a) shall make an independent finding about the county's written report described in Subsection 17-31-5.5(1); and

(b) if the state auditor confirms the determination of the Office of Legislative Fiscal Analyst, may take the action described in Subsection (3) in regard to revenue generated by the county's imposition of a transient room tax under Section 59-12-301 or the imposition of a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 354
S. B. 263
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

REVISOR'S CORRECTIONS TO UTAH CODE - TITLE 10

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill makes code revisions in Title 10, Utah Municipal Code.

Highlighted Provisions:

This bill:

- ► replaces the term "this act" in Title 10, Utah Municipal Code, with a citation to the relevant title, chapter, or legislation;
- ► replaces certain effective date language with the effective date of the referenced legislation;
- ► establishes subsection structuring within code sections without structure;
- ► repeals obsolete language; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-103, as enacted by Laws of Utah 1977, Chapter 48
10-1-105, as last amended by Laws of Utah 2010, Chapter 378
10-1-106, as enacted by Laws of Utah 1977, Chapter 48
10-1-107, as enacted by Laws of Utah 1977, Chapter 48
10-1-108, as last amended by Laws of Utah 2010, Chapter 378
10-1-109, as last amended by Laws of Utah 2010, Chapter 378
10-1-111, as enacted by Laws of Utah 1977, Chapter 48
10-1-113, as last amended by Laws of Utah 2010, Chapter 378
10-2-603, as last amended by Laws of Utah 1987, Chapter 92
10-2-605, as enacted by Laws of Utah 1977, Chapter 48
10-2-606, as last amended by Laws of Utah 1993, Chapter 227
10-2-612, as enacted by Laws of Utah 1977, Chapter 48
10-2-613, as enacted by Laws of Utah 1977, Chapter 48
10-2-614, as last amended by Laws of Utah 2010, Chapter 378
10-2-705, as last amended by Laws of Utah 2009, Chapter 350
10-2-706, as last amended by Laws of Utah 1993, Chapter 227
10-2-707, as last amended by Laws of Utah 1990, Chapter 59
10-3-603, as enacted by Laws of Utah 1977, Chapter 48
10-3-604, as last amended by Laws of Utah 1981, Chapter 49
10-3-608, as last amended by Laws of Utah 2010, Chapter 378
10-3-610, as enacted by Laws of Utah 1977, Chapter 48
10-3-702, as last amended by Laws of Utah 2010, Chapter 378
10-3-705, as last amended by Laws of Utah 1979, Chapter 38
10-3-706, as enacted by Laws of Utah 1977, Chapter 48
10-3-709, as enacted by Laws of Utah 1977, Chapter 48
10-3-710, as enacted by Laws of Utah 1977, Chapter 48
10-3-713, as enacted by Laws of Utah 1977, Chapter 48
10-3-716, as last amended by Laws of Utah 2006, Chapter 55
10-3-828, as last amended by Laws of Utah 1990, Chapter 59
10-3-903, as enacted by Laws of Utah 1977, Chapter 48
10-3-904, as enacted by Laws of Utah 1977, Chapter 48
10-3-917, as last amended by Laws of Utah 2003, Chapter 292
10-3-1004, as last amended by Laws of Utah 2010, Chapter 378
10-3-1005, as enacted by Laws of Utah 1977, Chapter 48
10-3-1006, as enacted by Laws of Utah 1977, Chapter 48

10-3-1007, as enacted by Laws of Utah 1977, Chapter 48
10-3-1008, as enacted by Laws of Utah 1977, Chapter 48
10-3-1010, as last amended by Laws of Utah 1983, Chapter 29
10-3-1012.5, as last amended by Laws of Utah 2010, Chapter 378
10-3-1104, as enacted by Laws of Utah 1977, Chapter 48
10-3-1107, as last amended by Laws of Utah 1993, Chapter 4
10-5-127, as enacted by Laws of Utah 1983, Chapter 34
10-5-128, as enacted by Laws of Utah 1983, Chapter 34
10-6-102, as enacted by Laws of Utah 1979, Chapter 26
10-6-107, as last amended by Laws of Utah 1981, Chapter 52
10-6-114, as enacted by Laws of Utah 1979, Chapter 26
10-6-115, as enacted by Laws of Utah 1979, Chapter 26
10-6-119, as last amended by Laws of Utah 1999, Chapter 300
10-6-123, as last amended by Laws of Utah 2010, Chapter 378
10-6-126, as enacted by Laws of Utah 1979, Chapter 26
10-6-128, as last amended by Laws of Utah 1999, Chapter 300
10-6-136, as enacted by Laws of Utah 1979, Chapter 26
10-6-143, as enacted by Laws of Utah 1979, Chapter 26
10-6-144, as enacted by Laws of Utah 1979, Chapter 26
10-6-145, as enacted by Laws of Utah 1979, Chapter 26
10-6-146, as enacted by Laws of Utah 1979, Chapter 26
10-7-8, as last amended by Laws of Utah 2005, Chapter 105
10-7-9, as last amended by Laws of Utah 1953, First Special Session, Chapters 2, 2
10-7-14.1, as last amended by Laws of Utah 1953, First Special Session, Chapters 3, 3
10-7-26, as last amended by Laws of Utah 1969, Chapter 27
10-7-27, Utah Code Annotated 1953
10-7-29, Utah Code Annotated 1953
10-7-33, Utah Code Annotated 1953
10-7-65, as last amended by Laws of Utah 1990, Chapter 59
10-7-67, Utah Code Annotated 1953
10-7-72, as last amended by Laws of Utah 2010, Chapter 378
10-7-80, as enacted by Laws of Utah 1965, Chapter 16
10-7-84, as enacted by Laws of Utah 1965, Chapter 16
10-8-92, Utah Code Annotated 1953
10-8-93, as last amended by Laws of Utah 2000, Chapter 133
10-9a-514, as last amended by Laws of Utah 2011, Chapter 14
10-15-2, as enacted by Laws of Utah 1966, Second Special Session, Chapters 2, 2
10-15-3, as last amended by Laws of Utah 1997, Chapter 10
10-15-4, as last amended by Laws of Utah 2010, Chapter 378
10-15-5, as enacted by Laws of Utah 1966, Second Special Session, Chapters 2, 2
10-15-6, as last amended by Laws of Utah 2008, Chapter 360

REPEALS:

10-1-101, as enacted by Laws of Utah 1977, Chapter 48
10-1-102, as enacted by Laws of Utah 1977, Chapter 48
10-1-110, as last amended by Laws of Utah 1993, Chapter 4
10-1-112, as last amended by Laws of Utah 2010, Chapter 378
10-1-114, as last amended by Laws of Utah 2016, Chapter 348
10-1-115, as enacted by Laws of Utah 1977, Chapter 48
10-15-1, as enacted by Laws of Utah 1966, Second Special Session, Chapters 2, 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-1-103 is amended to read:

10-1-103. Construction.

The powers herein delegated to any municipality shall be liberally construed to permit the municipality to exercise the powers granted by this [~~act~~]title except in cases clearly contrary to the intent of the law.

Section 2. Section 10-1-105 is amended to read:

10-1-105. No changes intended.

(1) Unless otherwise specifically provided in this [~~act~~]title, the provisions of this [~~act~~]title may not operate in any way to affect the property or contract rights or other actions which may exist in favor of or against any municipality.

(2) Nor shall this [~~act~~]title operate in any way to change or affect any ordinance, order or resolution in force in any municipality and such ordinances, orders and resolutions which are not repugnant to law, shall continue in full force and effect until repealed or amended.

Section 3. Section 10-1-106 is amended to read:

10-1-106. Scope of title.

This [~~act~~]title shall apply to all municipalities incorporated or existing under the law of the State of Utah except as otherwise specifically excepted by the home rule provisions of Article XI, Section 5 of the Constitution of the State of Utah.

Section 4. Section 10-1-107 is amended to read:

10-1-107. Municipalities.

All municipalities which have been incorporated under any previous act of the United States or of the State of Utah shall be treated as properly incorporated under [~~this act~~]Laws of Utah 1977, Chapter 48.

Section 5. Section 10-1-108 is amended to read:

10-1-108. Cumulative powers -- Powers not in derogation of state agencies.

(1) The provisions of this [~~act or any other act not expressly repealed by Section 10-1-114~~]title or any other act not expressly repealed by Laws of Utah 1977, Chapter 48, Section 1, shall be considered as an alternative or additional power and not as a limitation on any other power granted to or possessed by municipalities.

(2) The provisions of this [~~act~~]title may not be considered as impairing, altering, modifying or repealing any of the jurisdiction or powers possessed by any department, division, commission, board, or office of state government.

Section 6. Section 10-1-109 is amended to read:

10-1-109. Saving clause.

(1) The repeal of the titles, chapters, and sections specified in [~~Section 10-1-114~~]Laws of Utah 1977, Chapter 48, Section 1, do not:

[~~(1)~~](a) affect suits pending or rights existing immediately [~~prior to the effective date of this act~~]before July 1, 1977;

[~~(2)~~](b) impair, avoid, or affect any grant or conveyance made or right acquired or cause of action now existing under any repealed act or amendment thereto; or

[~~(3)~~](c) affect or impair the validity of any bonds or other obligation issued or sold prior to [~~the effective date of this act.~~]July 1, 1977.

(2) The repeal of any validating act or part thereof does not avoid the effect of the validation.

(3) No act repealed by [~~Section 10-1-114~~]Laws of Utah 1977, Chapter 48, Section 1, shall repeal any act or part thereof which embraces the same or similar subject matter as the act repealed.

Section 7. Section 10-1-111 is amended to read:

10-1-111. Existing indebtedness.

Any bond or other evidence of indebtedness issued under the provisions of any act repealed by [~~this act~~]Laws of Utah 1977, Chapter 48, which is outstanding and unpaid as of July 1, 1977, shall be amortized and retired by taxation or revenue in the manner provided by the act under which such indebtedness was incurred, notwithstanding repeal or change of the act.

Section 8. Section 10-1-113 is amended to read:

10-1-113. Severability clause.

If any chapter, part, section, paragraph or subsection of this [~~act~~]title, or the application thereof is held to be invalid, the remainder of this [~~act~~]title is not affected thereby.

Section 9. Section 10-2-603 is amended to read:

10-2-603. Plan of consolidation.

(1) The resolution for consolidation shall have attached a plan approved by the governing bodies, properly executed by the mayors and attested by the recorders setting forth the nature of the obligations, assets, and liabilities of the municipalities to be included within the proposed consolidated municipality.

(2) The plan shall include a list of every public utility or property on which any debt is owed or due, all or any part of which is payable from the revenues of the utility or property, or from taxes which have been levied and which are outstanding at the time the proposed consolidation is to become effective.

(3) The plan shall also specify the rights, duties, and obligations of the proposed consolidated municipality.

Section 10. Section 10-2-605 is amended to read:

10-2-605. Effect of plan of consolidation.

(1) The plan of consolidation shall be subordinate in all respects to the contract rights of all holders of any securities or obligations of the municipality outstanding at the effective date of the consolidation.

(2) The plan shall be available to the public for inspection and copying.

(3) The plan may extend for a period of up to 20 years, except that those provisions necessary for the protection of the holders of any securities or other obligations of any municipalities being consolidated shall extend for such longer time as may be necessary to ensure the payment of the securities and obligations.

(4) Any person may enforce the provisions and terms of the plan during the period in which the plan is effective.

(5) After the expiration of the period of the plan, the rights, duties and obligations stated in the plan shall be governed by the laws of the State of Utah and not by the plan.

(6) The plan shall be effective only if the consolidation is approved by the voters of the respective municipalities to be consolidated.

Section 11. Section 10-2-606 is amended to read:

10-2-606. Public hearings.

(1) The governing body of each municipality in its plan for consolidation shall set a time and place for a public hearing or public hearings which shall be held at least 10 days after the plan of consolidation and the dates of the public hearing have been submitted to the county legislative bodies.

(2) The public hearing may be held jointly or separately by the governing bodies of each municipality to be consolidated.

(3) Any interested person may be heard on any aspect of the proposed consolidation.

(4) One or more certified copies of the plan of consolidation shall be available in the recorder's office of each municipality at least five days prior to the hearing.

Section 12. Section 10-2-612 is amended to read:

10-2-612. New municipality -- Ownership of property -- Indebtedness of original municipalities.

(1) Any consolidated municipality shall be deemed to be a continuation of the merged municipalities, except as herein expressly provided, and shall own all of the assets, property, records, seals, equipment, and be responsible for the liabilities of each and all of the municipalities dissolved by the consolidation.

(2) The new municipality shall require the inhabitants of an original municipality included in the consolidation, by special tax levy, to satisfy any indebtedness incurred by the original municipalities provided inhabitants residing in other parts of the consolidated municipality did not or do not benefit by the revenue or services obtained by the expenditures causing the indebtedness.

(3) The governing body of the consolidated municipality shall be subject to the terms of the consolidation plan.

Section 13. Section 10-2-613 is amended to read:

10-2-613. Governing body until next election.

(1) Until the next regular municipal election, the elected officials of the municipalities consolidated into the consolidated municipality shall constitute the governing body of the municipality.

(2) The governing body shall elect one of their members to serve as mayor of the municipality and may appoint such other officers as deemed necessary to carry out the business of the municipality.

Section 14. Section 10-2-614 is amended to read:

10-2-614. Ordinances, resolutions, and orders.

(1) All ordinances, resolutions and orders, in force in any of the municipalities when it is consolidated, shall remain in full force and effect within the respective areas of the municipalities which existed prior to consolidation insofar as the ordinances, resolutions and orders are not repugnant to law, until repealed or amended, but may not in any case exceed three years.

(2) The governing body of the new municipality shall as soon as possible adopt new ordinances, resolutions and orders for the uniform governance of the new municipality.

Section 15. Section 10-2-705 is amended to read:

10-2-705. Judgment -- Determination of claims.

(1) The vote shall be taken and canvassed in the same manner as in other municipal elections, and return thereof made to the district court.

(2) If the district court finds that a majority of the votes cast favored dissolution, a judgment shall be entered approving the dissolution of the municipality and, upon dissolution, the corporate powers of such municipality shall cease, and the court shall cause notice to be given in a manner to be prescribed by it, requiring all claims against the municipality to be filed in the court within a time fixed in the notice, not exceeding six months, and all claims not so filed shall be forever barred.

(3) At the expiration of the time so fixed the court shall adjudicate claims so filed, which shall be treated as denied, and any citizen of the municipality at the time the vote was taken may appear and defend against any claim so filed, or the court may in its discretion appoint some person for that purpose.

Section 16. Section 10-2-706 is amended to read:

10-2-706. Taxes to meet municipal obligations.

(1) The court shall have power to wind down the affairs of the municipality, to dispose of its property as provided by law, and to make provisions for the payment of all indebtedness thereof and for the performance of its contracts and obligations, and shall order such taxes levied from time to time as may be requisite therefore, which the county legislative body shall levy against the property within the municipality.

(2) The taxes shall be collected by the county treasurer in the manner for collecting other property taxes and shall be paid out under the orders of the court, and the surplus, if any, shall be paid into the school fund for the district in which the taxes were levied.

(3) All municipal property remaining after the winding down of the affairs of the municipality, shall be transferred to the board of education of such school district, which board hereby is empowered to enforce all claims for the same and to have the use of all property so vesting.

Section 17. Section 10-2-707 is amended to read:

10-2-707. Disposition of records.

(1) The books, documents, records, papers, and seal of any dissolved municipality shall be deposited with the county clerk for safekeeping and reference.

(2) All court records of justice court judges shall be deposited with a justice court judge of the county to be designated by the court, and other records with the district court.

(3) The courts respectively have authority to execute and complete all unfinished business standing on the same.

Section 18. Section 10-3-603 is amended to read:

10-3-603. Public records.

(1) The governing body of each municipality shall keep a journal of its proceedings.

(2) The books, records, accounts and documents of each municipality shall be kept at the office of the recorder and approved copies shall be open and available to the public during regular business hours for examination and copying.

(3) The governing body may by resolution establish reasonable charges for providing copies of its public records to individuals, except when by law the municipality must provide the records without cost to the public.

Section 19. Section 10-3-604 is amended to read:

10-3-604. Annual examination of municipal finances -- Publication of results.

(1) At the end of each fiscal year, the governing body of each city of the first and second class shall cause a full and complete examination of all books and accounts of the city to be made by certified public accountants, and shall publish the results of the examination and a detailed and itemized statement of all receipts and disbursements of the city in a summary of their proceedings and expenses during the fiscal year.

(2) The city shall then provide printed copies to the newspapers of the city and to the city recorder who shall provide one copy of it to

any person on request.

Section 20. Section 10-3-608 is amended to read:

10-3-608. Rules of conduct for the public.

(1) The governing body on a two-thirds vote may expel any person who is disorderly during the meeting of the governing body.

(2) This section or any action taken by the governing body pursuant hereto does not preclude prosecution under any other provision of law.

Section 21. Section 10-3-610 is amended to read:

10-3-610. Requiring attendance of witnesses-- Production of evidence.

(1) The governing body of each municipality may require the attendance of any person to give testimony or produce records, documents or things for inspection, copying or examination necessary or useful for the governance of the municipality.

(2) The governing body may by ordinance establish its own procedures for issuing subpoenas to require attendance and production under this section or it may issue subpoenas in its own name in the same manner as is provided in the Utah Rules of Civil Procedure.

Section 22. Section 10-3-702 is amended to read:

10-3-702. Extent of power exercised by ordinance.

(1) The governing body may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by this [~~act~~]title or any other provision of law.

(2) An officer of the municipality may not be convicted of a criminal offense where he relied on or enforced an ordinance he reasonably believed to be a valid ordinance.

(3) It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel.

Section 23. Section 10-3-705 is amended to read:

10-3-705. Requirements as to form -- Effective date.

(1) Ordinances passed or enacted by the governing body shall be signed by the mayor, or if he is absent, by the mayor pro tempore, or by a quorum of the governing body, and shall be recorded before taking effect.

(2) No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of Subsection 10-3-704(1), (2), (3) or (4).

(3) Ordinances which do not have an effective date shall become effective 20 days after publication or posting, or 30 days after final passage by the governing body, whichever is sooner.

Section 24. Section 10-3-706 is amended to read:

10-3-706. Revision of ordinances.

(1) The governing body by resolution may authorize and direct the mayor to appoint, with the advice and consent of the governing body, one or more persons to prepare and submit to the governing body a compilation, revision or codification of municipal ordinances.

(2) The compensation for the service shall be fixed by resolution of the governing body and paid out of the municipal treasury.

Section 25. Section 10-3-709 is amended to read:

10-3-709. Repeal of conflicting provisions -- Title.

(1) Such revision shall be by one ordinance embracing all ordinances of a general and permanent character preserved as changed or added to and perfected by the revision, codification and compilation and shall be a repeal of all ordinances in conflict with the revision, codification and compilation, but all ordinances then enforced shall continue in force after the revision, codification and compilation for the purpose of all rights acquired, fines, penalties and forfeitures and liabilities incurred and actions therefor.

(2) The only title necessary for such ordinance shall be "an ordinance revising, codifying and compiling the general ordinances of the city or town of ____ (inserting the name of the municipality)."

Section 26. Section 10-3-710 is amended to read:

10-3-710. Publication in book, pamphlet, or looseleaf form -- State statutes.

(1) (a) Ordinances revised, codified, compiled and published in book, pamphlet or looseleaf form by authority of the governing body need not be printed or published in any other manner, except that the ordinance adopting the revision, codification or compilation shall be published or posted in the manner provided by law.

(b) Provisions of state law may be adopted by reference.

(2) Any changes necessary to conform those state laws with municipal ordinance shall be noted.

Section 27. Section 10-3-713 is amended to read:

10-3-713. Recording, numbering, and certification of passage.

(1) The municipal recorder shall record, in a book used exclusively for that purpose, all ordinances passed by the governing body.

(2) The recorder shall give each ordinance a number, if the governing body has not already so done.

(3) Immediately following each ordinance, or codification of ordinances, the recorder shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required.

(4) The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage, and publication or posting of the ordinance or codification.

Section 28. Section 10-3-716 is amended to read:

10-3-716. Fines and forfeitures -- Disposition.

(1) All fines, penalties, and forfeitures for the violation of any ordinance, when collected, shall be paid in accordance with Section 51-4-2.

(2) A violation of this section constitutes a class C misdemeanor.

(3) The retention or use of any fine, penalty, or forfeiture by any person for personal use or benefit constitutes a class B misdemeanor, except that if the amount or amounts exceed $1,000 the offense is a class A misdemeanor as defined in the Utah Criminal Code.

Section 29. Section 10-3-828 is amended to read:

10-3-828. Oath -- Filing.

(1) The oath of office required under this part shall be administered by any judge, notary public, or by the recorder of the municipality.

(2) Elected officials shall take their oath of office at 12:00 noon on the first Monday in January following their election or as soon thereafter as is practical.

(3) Appointed officers shall take their oath at any time before entering on their duties.

(4) All oaths of office shall be filed with the recorder of the respective municipality.

Section 30. Section 10-3-903 is amended to read:

10-3-903. City engineer -- Custodian of records of public improvements.

(1) The city engineer's office in cities of the first and the second class shall be an office of record for all maps, plans, plats, profiles, drawings, final estimates, specifications and contracts which in any way relate to the public improvements and engineering affairs of the city.

(2) The city engineer shall be custodian of all drawings and documents above mentioned.

Section 31. Section 10-3-904 is amended to read:

10-3-904. Books and supplies -- Recording -- Filing -- Inspection.

(1) The city engineer's office shall be supplied with all necessary books, cases and supplies for recording and filing as required.

(2) The city engineer shall record and file all drawings and documents pertaining to public lands and improvements.

(3) Those made in his office shall be placed on record as soon as completed and shall then be open for public inspections, and any person copying the same or taking notes therefrom may do so in pencil only.

(4) He shall keep the records and files in good condition and turn the same over to his successor in office.

(5) He shall allow no alteration, mutilation or changes to be made in any matter of record, and shall be held strictly accountable for the same.

Section 32. Section 10-3-917 is amended to read:

10-3-917. Engineer in a city of the third, fourth, or fifth class or town.

(1) The governing body of a city of the third, fourth, or fifth class or a town may by ordinance establish the office of municipal engineer and prescribe the duties and obligations for that office which are consistent with the duties and obligations of the city engineer in cities of the first and second class.

(2) If a city of the third, fourth, or fifth class or town uses the engineer employed by the county in which the municipality is located, the municipality may, by ordinance prescribe for its municipal engineer either the duties of a municipal engineer or, if different, the duties of the county engineer, or a combination of duties.

Section 33. Section 10-3-1004 is amended to read:

10-3-1004. Qualifications of commissioners -- Salary -- Removal.

(1) Not more than two members of the civil service commission shall at any one time be of the same political party.

(2) No member of the civil service commission shall during his tenure of office hold any other public office, or be a candidate for any other public office.

(3) Each member shall receive $25 for each meeting of the commission which he shall attend, but may not receive more than $100 in any one month.

(4) In case of misconduct, inability or willful neglect in the performance of the duties of the office by any member, the member may be removed from office by the board of city commissioners by a majority vote of the entire membership, but the member shall, if he so desires, have opportunity to be heard in defense.

Section 34. Section 10-3-1005 is amended to read:

10-3-1005. Organization of commission -- Secretary -- Offices.

(1) The civil service commission shall organize by selecting one of its members chairman, and shall appoint as secretary one of the available officers or employees of the city, who shall act and serve without additional compensation.

(2) The secretary shall keep a record of all meetings of the civil service commission and of its work and shall perform such other services as the commission may require, and shall have the custody of the books and records of the commission.

(3) The board of city commissioners shall provide suitable accommodations and equipment to enable the civil service commission to attend to its business.

Section 35. Section 10-3-1006 is amended to read:

10-3-1006. Rules and regulations -- Printing and distribution.

(1) The civil service commission shall make all necessary rules and regulations to carry out the purposes of this part and for examinations, appointments and promotions.

(2) All rules and regulations shall be printed by the civil service commission for distribution.

Section 36. Section 10-3-1007 is amended to read:

10-3-1007. Examinations.

(1) All applicants for employment in the classified civil service shall be subject to examination, which shall be public, competitive and free.

(2) Examinations shall be held at such times and places as the civil service commission shall from time to time determine, and shall be for the purpose of determining the qualifications of applicants for positions.

(3) Examinations shall be practical and shall fairly test the fitness in every respect of the persons examined to discharge the duties of the positions to which they seek to be appointed, and shall include tests of physical qualifications and health.

Section 37. Section 10-3-1008 is amended to read:

10-3-1008. Appointments from civil service list -- Probation period.

(1) In all cases the appointing power shall notify the civil service commission of each separate position to be filled, and shall fill such place by the appointment of one of the persons certified by the commission therefor.

(2) Such appointment shall be on probation, and of a character and for a period to be prescribed by the civil service commission.

Section 38. Section 10-3-1010 is amended to read:

10-3-1010. Promotions -- Basis -- Certification of applicants.

(1) The civil service commission shall provide for promotion in the classified civil service on the basis of ascertained merit, seniority in service and standing obtained by competitive examination, and shall provide, in all cases where practicable, that vacancies shall be filled by promotion from the members of the next lower rank as submit themselves for the examination and promotion.

(2) The civil service commission shall certify to the appointing power the names of not more than five applicants having the highest rating for each promotion.

Section 39. Section 10-3-1012.5 is amended to read:

10-3-1012.5. Appeal to Court of Appeals -- Scope of review.

(1) Any final action or order of the commission may be appealed to the Court of Appeals for review.

(2) The notice of appeal shall be filed within 30 days of the issuance of the final action or order of the commission.

(3) The review by Court of Appeals shall be on the record of the commission and shall be for the purpose of determining if the commission has abused its discretion or exceeded its authority.

Section 40. Section 10-3-1104 is amended to read:

10-3-1104. Library personnel -- Monthly wage deductions and matching sums -- Time of inclusion.

(1) (a) The librarians, assistants and employees of any public library may, at the discretion of the board of directors of the library, be included within and participate in the pension, retirement, sickness, disability and death benefit system established under Section 10-3-1103.

(b) In the event the librarian, assistants and employees of the municipality are included within and participate in the system, there shall be deducted from the monthly wage or salary of the librarian, assistants and employees and paid into the system, a percentage of their wage or salary equal to the percentage of the monthly wage or salary of other employees of the municipality which is paid into the system.

(c) Also there shall be paid monthly into the system from the funds of the library a further sum equal to the total amount deducted monthly from the wage or salary of the librarian, assistants and employees and paid into the retirement system.

(2) (a) Where the election by the board of directors of any library for inclusion of its librarian, assistants and employees within the system of any municipality is subsequent to the establishment of the system, the inclusion may begin as of the date of the establishment of the system or as of the date of the election as shall be determined by the board of directors.

(b) If inclusion is as of the date of the establishment of the system, there shall be paid into the system in addition to the subsequent monthly wage deductions and matching sums, a sum equal to the aggregate of monthly payroll deductions and matching sums that would have accrued during the period beginning with the establishment of the system and ending with the election had the librarian, assistants and employees been included within the system from its establishment.

Section 41. Section 10-3-1107 is amended to read:

10-3-1107. Cost of living adjustment -- Price index used.

(1) (a) The governing body of each municipality may, in their discretion, adopt a plan to allow any person who qualifies under this part to receive a cost of living adjustment in that person's monthly retirement allowance.

(b) The adjustment allowed shall be a percentage, not to exceed 100%, of the sum as would restore the full purchasing power of each person's original unmodified pension allowance as it was in the calendar year in which the retirement giving rise to the pension occurred.

(2) The amount necessary to restore the full purchasing power of the original unmodified pension allowance shall be computed from the consumers price index published by the United States Bureau of Labor Statistics.

(3) (a) Adjustments may be effective as of [~~the date of this act~~]July 1, 1977, or at any subsequent date set by the governing body.

(b) A municipality may choose to pay any per cent to the maximum amount provided that such percentage be paid to all qualified persons equally.

Section 42. Section 10-5-127 is amended to read:

10-5-127. Signing of checks -- Determination of sufficiency of account.

(1) The town treasurer, or in his absence a deputy treasurer appointed by the council, shall sign all checks prepared by the town clerk.

(2) Prior to affixing the signature, the treasurer or deputy treasurer shall determine that a sufficient amount is on deposit in the appropriate bank account of the town to honor the check.

(3) The council may also designate any town officer to countersign checks.

Section 43. Section 10-5-128 is amended to read:

10-5-128. Deposit of town funds -- Commingling with personal funds prohibited -- Suspension from office for unauthorized use or profit from town funds.

(1) The treasurer shall promptly deposit all town funds in the appropriate bank accounts of the town.

(2) It shall be unlawful for any person to commingle town funds with his or her own money.

(3) Whenever it shall appear that the treasurer or any officer is making profit out of public money, or is using the same for any purpose not authorized by law, such treasurer or officer shall be suspended from office.

Section 44. Section 10-6-102 is amended to read:

10-6-102. Legislative intent -- Purpose of chapter.

(1) This chapter is intended to provide uniform accounting, budgeting, and financial reporting procedures for cities.

(2) It is the purpose of this chapter to enable cities to make financial plans for both current and capital expenditures, to insure that their executive staffs administer their respective functions in accordance with adopted budgets, to provide the public and investors with information about the financial policies and administration of cities, to provide for the optional use of performance budgeting and related accounting and reporting procedures, and to enable larger cities to evaluate and measure operating performance and provide data

comparable with other cities.

Section 45. Section 10-6-107 is amended to read:

10-6-107. Uniform accounting system.

(1) The accounting records of cities shall be established and maintained, and financial statements prepared from those records in conformance with generally accepted accounting principles promulgated from time to time by authoritative bodies in the United States.

(2) The state auditor shall prescribe in the Uniform Accounting Manual for Utah Cities a uniform system of accounting that conforms to generally accepted accounting principles.

(3) The state auditor shall maintain the manual so that it reflects current generally accepted accounting principles.

Section 46. Section 10-6-114 is amended to read:

10-6-114. Budget -- Public hearing on tentatively adopted budget.

(1) At the time and place advertised, or at any time and place to which the public hearing may be adjourned, the governing body shall hold a public hearing on the budgets tentatively adopted.

(2) All interested persons in attendance shall be given an opportunity to be heard, for or against, the estimates of revenue and expenditures or any item thereof in the tentative budget of any fund.

Section 47. Section 10-6-115 is amended to read:

10-6-115. Budget -- Continuing authority of governing body.

(1) After the conclusion of the public hearing, the governing body may continue to review any tentative budget and may insert such new items or may increase or decrease items of expenditure that were the proper subject of consideration at the public hearing, except there shall be no decrease in the amount appropriated for debt retirement and interest or reduction of any existing deficits, as provided by Section 10-6-117.

(2) It shall also increase or decrease the total anticipated revenue to equal the net change in proposed expenditures in the budget of each fund.

Section 48. Section 10-6-119 is amended to read:

10-6-119. Budgets in effect for budget period -- Amendment -- Filing for public inspection.

(1) Upon final adoption, the budgets shall be in effect for the budget period, subject to later amendment.

(2) A certified copy of the adopted budgets shall be filed in the office of the city auditor or city recorder and shall be available to the public during regular business hours.

Section 49. Section 10-6-123 is amended to read:

10-6-123. Expenditures or encumbrances in excess of appropriations prohibited -- Processing claims.

(1) City officers may not make or incur expenditures or encumbrances in excess of total appropriations for any department in the budget as adopted or as subsequently amended.

(2) Any obligation contracted by any such officer may not be or become valid or enforceable against the city.

(3) No check or warrant to cover any claim against any appropriation shall be drawn until the claim has been processed as provided by this chapter.

Section 50. Section 10-6-126 is amended to read:

10-6-126. Reduction of total budget appropriation of department by resolution -- Notice to governing body.

(1) The total budget appropriation of any department may be reduced for purposes other than transfer to another department by resolution of the governing body at any regular meeting, or special meeting, called for that purpose, if notice of the proposed action is given to all members of the governing body at least five days before such action.

(2) The notice may be waived in writing or orally during attendance at the meeting by any member of the governing body.

Section 51. Section 10-6-128 is amended to read:

10-6-128. Amendment and increase of individual fund budgets.

(1) After the conclusion of the hearing, the governing body, by resolution or ordinance, may amend the budgets of the funds proposed to be increased, so as to make all or part of the increases therein, both estimated revenues and appropriations, which were the proper subject of consideration at the hearing.

(2) Final amendments in the current period to the budgets of any of the funds set forth in Section 10-6-109 shall be adopted by the governing body on or before the last day of the fiscal period.

Section 52. Section 10-6-136 is amended to read:

10-6-136. Increase in appropriations for operating and capital budget funds -- Notice.

(1) The total budget appropriation of any fund described in Section 10-6-135 may be increased by resolution of the governing body at any regular meeting, or special meeting called for that purpose, provided that written notice of the time, place and purpose of the meeting shall have been mailed or delivered to all members of the governing body at least five days prior to the meeting.

(2) The notice may be waived in writing or orally during attendance at the meeting by any member of the governing body.

Section 53. Section 10-6-143 is amended to read:

10-6-143. City treasurer or deputy -- Duties with respect to issuance of checks.

(1) The treasurer, or in his absence a deputy treasurer appointed by the governing body, shall sign all checks prepared by the auditor or recorder.

(2) Prior to affixing the signature, the treasurer or deputy treasurer shall determine that a sufficient amount is on deposit in the appropriate bank account of the city to honor the check.

(3) The governing body may also designate a person, other than the city auditor or the city recorder, to countersign checks.

Section 54. Section 10-6-144 is amended to read:

10-6-144. City treasurer -- Warrants -- Order of payment.

(1) In the absence of appropriate money, as set forth in Section 10-6-140, the treasurer shall pay all warrants in the order in which presented and as money becomes available for payment thereof in the appropriate funds of the city.

(2) The treasurer shall note upon the back of each warrant presented the date of presentation and the date of payment.

Section 55. Section 10-6-145 is amended to read:

10-6-145. City treasurer -- Special assessments -- Application of proceeds.

(1) All money received by the treasurer on any special assessment shall be applied to the payment of the improvement for which the assessment was made.

(2) The money shall be used for the payment of interest and principal on bonds or other indebtedness issued in settlement thereof, and shall be used for no other purpose whatever, except as otherwise provided in Section 10-6-131.

Section 56. Section 10-6-146 is amended to read:

10-6-146. City treasurer -- Deposit of city funds -- Commingling with personal funds unlawful -- Suspension from office.

(1) The treasurer shall promptly deposit all city funds in the appropriate bank accounts of the city.

(2) It shall be unlawful for any person to commingle city funds with his or her own money.

(3) Whenever it shall appear that the treasurer or any other officer is making profit out of public money, or is using the same for any purpose not authorized by law, such treasurer or officer shall be suspended from office.

Section 57. Section 10-7-8 is amended to read:

10-7-8. Resolution on bond issue -- Election as provided by Local Government Bonding Act.

(1) When the board of commissioners, city council or the town board of trustees of any city or town shall have decided that incurring such bonded indebtedness is advisable, it shall by resolution specify the purpose for which the indebtedness is to be created and the amount of bonds which it is proposed to issue, and shall provide for submitting the question of the issue of such bonds to the qualified electors of the city or town at the next general election, or at a special election to be called for that purpose by the board of commissioners, city council or board of trustees in such manner and subject to such conditions as is provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) This section does not require an election for the issuance of refunding bonds or other bonds not required by the Constitution to be voted at an election.

Section 58. Section 10-7-9 is amended to read:

10-7-9. Sale of bonds -- Amount -- Tax levy to pay interest -- Utility rates -- Sinking fund -- Serial or term bonds.

(1) The board of commissioners, city council or board of trustees as the case may be shall provide by ordinance for the issuance and disposal of such bonds; provided, that no such bonds shall be sold for less than their face value.

(2) The board of commissioners, city council or board of trustees shall annually levy on all taxable property within the boundaries of the issuer a sufficient tax to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within the time for which such bonds are issued which levy shall be made without regard to any statutory limitation on the taxing power of such issuer which may now exist or, unless an express contrary provision appears in the statute, which may hereafter be enacted by the legislature; provided, that whenever bonds shall have been issued for the purpose of supplying any city or town with artificial light, water or other public utility the rates or charges for the service of the system or plant so constructed may be made sufficient to meet such payments, in addition to operating and maintenance expenses, and taxes shall be levied to meet any deficiencies.

(3) Water or sewer bonds may be issued for a period not exceeding 40 years; other bonds may be issued for a period not exceeding 20 years.

(4) Such bonds may be either serial or term bonds.

Section 59. Section 10-7-14.1 is amended to read:

10-7-14.1. Declaration of public policy.

(1) Whereas, the purification of drinking water and the treatment of raw sewage are important to public health and welfare and create an unusual need for money with which to create proper facilities for the protection of the people of the state of Utah, it is hereby declared to be the public policy of this state to grant the privilege to municipalities to raise funds to improve the aforementioned health standards, to encourage the municipalities to provide that no waste shall be discharged into any waters of the state of Utah without first being given proper treatment, to provide for the treatment of water to be used for drinking purposes to protect the health of the citizens and to give municipalities the discretion to determine the priority of development of the facilities directed toward the elimination of health hazards and pollution of public waters.

(2) The construction of the facilities herein mentioned shall be given an early priority in those areas where the present welfare of the people is endangered by the lack of such facilities.

Section 60. Section 10-7-26 is amended to read:

10-7-26. Streets and alleys used by railway companies.

(1) As used in this section and in Sections 10-7-27, 10-7-29, 10-7-30, 10-7-31, 10-7-32, and 10-7-33, the terms "railway company" or "street railway company" means any company which owns or operates railway tracks on, along or across a street or alley in any city or town.

(2) (a) Nothing contained in this section or in the sections referred to in Subsection (1) shall be construed to exempt any railway company from keeping every portion of every street and alley used by it and upon or across which tracks shall be constructed at or near the grade of such streets in good and safe condition for public travel, but it shall keep the same planked, paved, macadamized or otherwise in such condition for public travel as the governing body of the city or town may from time to time direct, keeping the plank, pavement or other surface of the street or alley level with the top of the rails of the track.

(b) The portions of the streets or alleys to be so kept and maintained by all such railway companies shall include all the space between their different rails and tracks and also a space outside of the outer rail of each outside track of at least two feet in width, and the tracks herein referred to shall include not only the main tracks but also all sidetracks, crossings and turnouts constructed for the use of such railways.

Section 61. Section 10-7-27 is amended to read:

10-7-27. Street railway companies to restore streets.

(1) Every street railway company shall at its own expense restore the pavement, including the foundation thereof, of every street

disturbed by it in the construction, reconstruction, removal or repair of its tracks, to the same condition as before the disturbance thereof, to the satisfaction of the governing body having charge of such street.

(2) The obligation imposed hereby shall, in cities other than cities of the first class, be in lieu and substitution of any and all other obligations of any such company to pave, repave or repair any street, or to pay any part of the cost thereof, and may be enforced in the same manner as similar obligations are or may be enforced under the laws of this state.

(3) Nothing herein contained shall be considered to relieve any such company from the repayment of any money which has heretofore been advanced or expended by any city for any paving heretofore done under or by virtue of a specific contract or agreement made and entered into between the board of commissioners or the city council of any city and such company providing for the repayment thereof, but the obligation for such repayment shall be and remain enforceable as if this section had not been passed

Section 62. Section 10-7-29 is amended to read:

10-7-29. Railway companies to repave streets.

(1) All railway companies shall be required to pave or repave at their own cost all the space between their different rails and tracks and also a space two feet wide outside of the outer rails of the outside tracks in any city or town, including all sidetracks, crossings and turnouts used by such companies.

(2) Where two or more companies occupy the same street or alley with separate tracks each company shall be responsible for its proportion of the surface of the street or alley occupied by all the parallel tracks as herein required.

(3) Such paving or repaving by such railway companies shall be done at the same time and shall be of the same material and character as the paving or repaving of the streets or alleys upon which the track or tracks are located, unless other material is specially ordered by the municipality.

(4) Such railway companies shall be required to keep that portion of the street which they are herein required to pave or repave in good and proper repair, using for that purpose the same material as the street upon which the track or tracks are laid at the point of repair or such other material as the governing body of the city may require and order; and as streets are hereafter paved or repaved street railway companies shall be required to lay in the best approved manner a rail to be approved by the governing body of the city.

(5) The tracks of all railway companies when located upon the streets or avenues of a city or town shall be kept in repair and safe in all respects for the use of the traveling public, and such companies shall be liable for all damages resulting by reason of neglect to keep such tracks in repair, or for obstructing the streets.

(6) For injuries to persons or property arising from the failure of any such company to keep its tracks in proper repair and free from obstructions such company shall be liable and the city or town shall be exempt from liability.

(7) The word "railway companies" as used in this section shall be taken to mean and include any persons, companies, corporations or associations owning or operating any street or other railway in any city or town.

Section 63. Section 10-7-33 is amended to read:

10-7-33. Delinquent taxes -- Installment payments -- Election and waiver.

(1) It shall be competent for the governing body, upon the written application of any company owning any such railway, to provide that such special taxes shall become delinquent and be payable in installments as in case of taxes levied upon abutting real estate as herein provided, but such application shall be taken and deemed a waiver of any and all objections to such taxes and the validity thereof.

(2) Such application shall be made at or before the final levy of such taxes.

Section 64. Section 10-7-65 is amended to read:

10-7-65. Party plaintiff -- Successive actions permitted.

(1) All actions brought to recover any fine or to enforce any penalty under an ordinance of a city or town shall be brought in the corporate name of the city or town as plaintiff.

(2) No prosecution, recovery, or acquittal for the violation of any such ordinance shall constitute a defense to any other prosecution of the same person for any other violation of any such ordinance although the different causes of action existed at the same time and if united would not have exceeded the jurisdiction of a justice court judge.

Section 65. Section 10-7-67 is amended to read:

10-7-67. Pleading -- Reference to ordinance -- Judgment enforced by imprisonment.

(1) In all actions for the violation of any ordinance it shall be sufficient if the complaint refers to the title and section of the ordinance under which such action is brought.

(2) Any person upon whom any fine or penalty shall be imposed may upon the order of the court before whom the conviction is had be committed to the county jail or the city prison or to such other place as may be provided for the incarceration of offenders until such fine, penalty and costs shall be fully paid.

Section 66. Section 10-7-72 is amended to read:

10-7-72. Appearance by agent of corporation -- Bench warrant for default.

(1) At the time appointed in the summons, the corporation shall appear by agent or attorney and plead thereto the same as a natural person.

(2) In case no appearance is made on or before the hour appointed, the court may issue a bench warrant for the person served as the officer or agent of the corporation, requiring him to be brought forthwith before the court to plead on its behalf.

Section 67. Section 10-7-80 is amended to read:

10-7-80. Development committee -- Appointment of members -- Terms, compensation and expenses, vacancies and removal of members.

(1) The board of city commissioners or council of any city within the state is hereby authorized and empowered to appoint by resolution an unpaid commission of three or more members, to be known as the city resource development committee.

(2) One or more members of the board of city commissioners or council shall be designated by the board of city commissioners or council as members of such committee.

(3) Each of the other members of the committee shall be a resident of the city.

(4) The term of appointed members of the committee shall be two years and until their respective successors have been appointed.

(5) The members of the committee shall serve as such without compensation, except that the board of city commissioners or council may provide for reimbursement of the members of the committee for actual expenses incurred, upon presentation of proper receipts and

vouchers.

(6) The board of city commissioners or council shall provide for the filling of vacancies in the membership of the committee and for the removal of a member for nonperformance of duty or misconduct.

Section 68. Section 10-7-84 is amended to read:

10-7-84. Expenditure of city funds authorized.

The board of city commissioners or council may expend city funds as are deemed advisable to carry out the purposes of this [~~act~~]part.

Section 69. Section 10-8-92 is amended to read:

10-8-92. Joint board -- Membership -- Powers.

When two or more political subdivisions of the state of Utah join together under this [~~act~~]part for the purposes set forth herein, there shall be set up by the political subdivisions so joining, a joint board whose membership shall have equal representation from each of the political subdivisions joining, and which said board shall be empowered with the administration, operation, construction and maintenance of said joint hospital.

Section 70. Section 10-8-93 is amended to read:

10-8-93. Control of funds and disbursements -- Auditing of accounts by county auditor -- Transfer of county tax funds to board to cover deficiencies.

(1) The joint board created pursuant to this [~~act~~]part shall have the custody and control of all funds collected in the joint operation of such hospital and the disbursement thereof; provided that the county auditor of any county participating under the provisions of this [~~act~~]part shall audit the accounts of said board quarterly or at more frequent intervals, if public interest, in the judgment of such auditor requires a more frequent audit.

(2) The county executive of any county participating in the operation and maintenance of hospitals pursuant to this [~~act~~]part may pay over to the joint board of such hospitals any funds yielded by a levy made pursuant to Section 17-53-221 that may be required to cover any deficiencies incurred in the operation and maintenance of such hospital.

Section 71. Section 10-9a-514 is amended to read:

10-9a-514. Manufactured homes.

(1) (a) For purposes of this section, a manufactured home is the same as defined in Section 15A-1-302, except that the manufactured home shall be attached to a permanent foundation in accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection in compliance with the applicable building code.

(b) All appendages, including carports, garages, storage buildings, additions, or alterations shall be built in compliance with the applicable building code.

(2) A manufactured home may not be excluded from any land use zone or area in which a single-family residence would be permitted, provided the manufactured home complies with all local land use ordinances, building codes, and any restrictive covenants, applicable to a single family residence within that zone or area.

(3) A municipality may not:

(a) adopt or enforce an ordinance or regulation that treats a proposed development that includes manufactured homes differently than one that does not include manufactured homes; or

(b) reject a development plan based on the fact that the development is expected to contain manufactured homes.

Section 72. Section 10-15-2 is amended to read:

10-15-2. Legislative findings and purposes.

(1) The Legislature hereby finds and declares that in certain areas in municipalities within the state, and particularly in retail shopping areas thereof, there is need to separate pedestrian travel from vehicular travel and that such separation is necessary to protect the public safety or otherwise to serve the public interest and convenience.

(2) The Legislature further finds and declares that such objectives can, in part, be accomplished by the establishment of pedestrian malls pursuant to this [~~act~~]chapter.

Section 73. Section 10-15-3 is amended to read:

10-15-3. Definitions.

As used in this chapter:

(1) (a) (i) "Intersection street" means any street which meets or crosses a pedestrian mall at a mall intersection but includes only those portions thereof on either side of the mall intersection which lie between the mall intersection and the first intersection of the intersecting street with a public street or highway open to vehicular traffic.

(ii) If any portion of a pedestrian mall terminates on a street at a place thereon other than at a place of intersection with a public street or highway open to vehicular traffic, such intersecting street shall also include that portion of any street which lies between such place of termination and the first intersection of such street with the public street or highway open to vehicular traffic.

(b) "Intersecting street" also includes any other street or portion of a street which the legislative body declares to be such by resolution.

(2) "Legislative body" means the legislative body of the municipality.

(3) "Mall intersection" means any intersection of a street constituting a part of a pedestrian mall with any street which intersection is itself part of a pedestrian mall.

(4) "Municipality" includes every city or town within this state.

(5) "Pedestrian mall" means one or more streets or portions thereof, on which vehicular traffic is, or is to be, restricted in whole or in part and which is, or is to be, used exclusively or primarily for pedestrian travel.

(6) "Street" means any public road, street, highway, alley, lane, court, way, or place of any nature open to the use of the public, excluding state highways.

Section 74. Section 10-15-4 is amended to read:

10-15-4. Powers of legislative body of municipality.

The legislative body of the municipalities of this state shall have the power:

(1) to establish pedestrian malls;

(2) to prohibit, in whole or in part, vehicular traffic on a pedestrian mall;

(3) to pay from the general funds of the municipality, or from other available money, or from the proceeds of assessments levied on land benefited by the establishment of a pedestrian mall, the damages, if any, allowed or awarded to any property owner by reason of the establishment of the pedestrian mall;

(4) to acquire, construct, and maintain on the municipality's streets which are established as a pedestrian mall, improvements of any kind or nature necessary or convenient to the operation of such streets as a pedestrian mall, including paving, sidewalks, curbs, gutters, sewers, drainage works, lighting facilities, fire protection facilities, flood protection facilities, water distribution facilities, vehicular parking areas, retaining walls, landscaping, tree planting, statuaries, fountains, decorative structures, benches, rest rooms, child care facilities, display facilities, information booths, public assembly facilities, and other structures, works or improvements necessary or convenient to serve members of the public using such pedestrian malls, including the reconstruction or relocation of existing municipally owned works, improvements, or facilities on such municipal streets; which foregoing changes or any portions thereof, are referred to in this [~~act~~]chapter as "improvements";

(5) to pay from the general funds of the municipality or other available money, or from the proceeds of assessments levied on property benefited by any such improvements, or from the proceeds of special improvement warrants or bonds, the whole or any portion of the costs of acquisition, construction, and maintenance of such improvements in accordance with the provisions of Title 11, Chapter 42, Assessment Area Act, relating to special improvement assessments; and

(6) to do any and all other acts or things necessary or convenient for the accomplishment of the purposes of this chapter.

Section 75. Section 10-15-5 is amended to read:

10-15-5. Powers of acquisition and improvement.

(1) The legislative body of the municipalities shall also have the power to acquire by gift, purchase, eminent domain, or otherwise, land, real property or rights of way which shall become part of the municipal street established as a pedestrian mall, or which shall otherwise be used by the municipality as a part of, or for purposes connected with, a pedestrian mall, and such lands, real property or rights of way may be improved in the same manner as municipal streets may be improved.

(2) The legislative body shall also have the power to make such improvements on mall intersections and intersecting streets or upon facilities acquired for parking and other related purposes where such improvements are necessary or convenient to the operation of the mall.

(3) The acquisitions and improvements authorized by this section shall be deemed "improvements."

Section 76. Section 10-15-6 is amended to read:

10-15-6. Public hearing -- Finance requirements.

(1) The designation of any street as a "mall" shall be by ordinance passed and published after full investigation and ample public hearing into the necessity and advisability of the creation of a mall.

(2) The ordinance shall designate the manner in which the project is to be financed, and, if financed by levy of special taxes or special improvement warrants or bonds, shall be in accordance with the provisions of Title 11, Chapter 42, Assessment Area Act.

Section 77. Repealer.

This bill repeals:

Section 10-1-101, Short title.

Section 10-1-102, Effective date.

Section 10-1-110, Continuation of prior law.

Section 10-1-112, Headings do not limit sections.

Section 10-1-114, Repealer.

Section 10-1-115, Legislation enacted by Legislature.

Section 10-15-1, Short title.

Section 78. Effective Date.

This bill takes effect on May 7, 2025.

LAWS

of the

STATE OF UTAH, 2025

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CHAPTER 355
S. B. 265
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

UTAH CONSTITUTIONAL SOVEREIGNTY ACT AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Ken Ivory

LONG TITLE

General Description:

This bill modifies provisions in the Utah Constitutional Sovereignty Act.

Highlighted Provisions:

This bill:

- ► expands the definition of "government officer" under the Utah Constitutional Sovereignty Act (Sovereignty Act) to include employees of public school districts and institutions of higher education;
- ► replaces a concurrent resolution with legislation as the format for legislative action under the Sovereignty Act;
- ► modifies the time at which notice is provided to tribal governments regarding legislative action;
- ► addresses requirements for amending or repealing legislation passed under the Sovereignty Act; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-16-201, as enacted by Laws of Utah 2024, Chapter 11
63G-16-202, as enacted by Laws of Utah 2024, Chapter 11

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-16-201 is amended to read:
63G-16-201. Definitions.

As used in this part:

(1) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

(2) "Federal agency" means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States government.

(3) (a) "Federal directive" means:

(i) a statute passed by the United States Congress;

(ii) an executive order by the president of the United States;

(iii) a rule or regulation adopted by a federal agency; or

(iv) an order or action by:

(A) a federal agency; or

(B) an employee or official appointed by the president of the United States.

(b) "Federal directive" does not include any order by the federal government calling the Utah National Guard into the service of the United States.

(4) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (4)(a)(i) or (ii), when acting in the capacity of the position; [~~or~~]

(iv) an individual appointed to or employed in a full-time position by state government, local government, or a board of education, when acting in the capacity of the individual's appointment or employment[~~.~~]; or

(v) an individual employed by:

(A) an institution of higher education described in Section 53B-2-101; or

(B) a school district as defined in Section 53G-11-501.

(b) "Government officer" does not include a member or employee of the legislative branch of state government.

(5) "Local government" means:

(a) a county, city, town, or metro township;

(b) a special district governed by Title 17B, Limited Purpose Local Government Entities - Special Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

Section 2. Section 63G-16-202 is amended to read:

63G-16-202. Legislation invoking state sovereignty -- Requirements -- Amendment or repeal -- Effect of inaction -- Relation to other law.

(1) The Legislature may, by [~~concurrent resolution~~]passing legislation in accordance with this section, prohibit a government officer from enforcing or assisting in the enforcement of a federal directive within the state if the Legislature determines the federal directive violates the principles of state sovereignty[~~in accordance with Subsection (2)~~].

(2) [~~A~~]For purposes of this section, a federal directive violates the principles of state sovereignty if the federal directive restricts or infringes upon:

(a) a power or a right reserved to the state by the Tenth Amendment to the United States Constitution; or

(b) the state's rights or interests to provide for the health, safety, and welfare and promote the prosperity of the state's inhabitants.

(3) [~~A request for a concurrent resolution under Subsection (1) may not be filed~~]The Office of Legislative Research and General Counsel may not open a request for legislation under this section unless:

(a) the request is approved by the speaker of the House of Representatives and the president of the Senate; or

(b) while the Legislature is convened and conducting business on the floor, identical motions to approve the request are made in each chamber of the Legislature and both motions are approved by a two-thirds majority of the members present in each chamber.

(4) The Legislature shall consult with and consider any recommendations provided by the attorney general concerning the potential impact that [~~a concurrent resolution~~]legislation under Subsection (1) may have on current or anticipated litigation.

(5) Upon the [~~filing of a request for a concurrent resolution~~]numbering of legislation under Subsection (1), the Legislature shall provide notice of the [~~concurrent resolution, including the short title and proposed objectives,~~]legislation to the representatives of tribal governments listed in Subsection 9-9-104.5(2)(b).

(6) [~~A concurrent resolution~~]Legislation under Subsection (1) shall:

(a) identify the federal directive the Legislature has determined violates the principles of state sovereignty [~~under~~]in accordance with Subsection (2);

(b) include the information or findings upon which the Legislature has made the determination in Subsection (6)(a);

(c) specify the government officers to which the [~~concurrent resolution~~]legislation applies;

(d) explain the effect that the [~~concurrent resolution~~]legislation will have on the applicability of the federal directive within the state, including a description of any activities or forms of assistance that a government officer specified in Subsection (6)(c) is prohibited from conducting in connection with the enforcement of the federal directive; and

(e) describe any other requirements for a government officer specified in Subsection (6)(c) to comply with the [~~concurrent resolution~~]legislation.

[~~(7) A concurrent resolution under Subsection (1):~~]

[~~(a) takes effect upon adoption and has the force of law; and~~]

[~~(b) after taking effect, may only be terminated by concurrent resolution.~~]

[~~(8) The requirements for filing a request for a concurrent resolution in Subsection (3) apply to a concurrent resolution described in Subsection (7)(b).~~]

(7) After legislation under Subsection (1) is passed, the legislation may be amended or repealed only by legislation opened in accordance with Subsection (3).

[~~(9)~~](8) The inaction of the Legislature in determining that a federal directive violates the principles of state sovereignty by [~~concurrent resolution~~]passing legislation under this section:

(a) does not imply or create a presumption that the federal directive is lawful under the United States Constitution; and

(b) has no effect on the attorney general's authority to pursue any appropriate legal action to challenge the federal directive on the basis of state sovereignty.

[~~(10)~~](9) This section supersedes any conflicting provisions of Utah law.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 356
S. B. 266
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

ETHYLENE OXIDE LITIGATION AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill creates a civil cause of action for ethylene oxide exposure.

Highlighted Provisions:

This bill:

- ► creates an exclusive, civil cause of action for ethylene oxide exposure;
- ► provides immunity from suit to individuals or businesses in the healthcare industry in relation to the use of ethylene oxide, with limited exceptions;
- ► provides requirements and procedures for claims and pleadings;
- ► provides that the enacted chapter is the exclusive remedy for ethylene oxide exposure actions;
- ► provides transitional language;
- ► provides that the enacted chapter supersedes other personal injury or related laws; and
- ► provides that the enacted chapter does not affect workers' compensation claims or programs.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-3-1201, Utah Code Annotated 1953
78B-3-1202, Utah Code Annotated 1953
78B-3-1203, Utah Code Annotated 1953
78B-3-1204, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-3-1201 is enacted to read:

CHAPTER 12. ETHYLENE OXIDE EXPOSURE

78B-3-1201. Definitions.

As used in this part:

(1) (a) "Healthcare industry" means the economic sector composed of entities, organizations, services, individuals, and professionals involved in providing medical care and support to individuals, including maintaining and improving public health, diagnosing and treating diseases, and promoting the well-being of individuals.

(b) "Healthcare industry" includes the manufacturing, sales and distribution, sterilization, storage, and transportation of medical devices.

(2) "State law" includes:

(a) statutes;

(b) regulations;

(c) rules; and

(d) standards that are enacted, promulgated, or established under common law.

Section 2. Section 78B-3-1202 is enacted to read:

78B-3-1202. Requirements for liability for exposure to ethylene oxide -- Limitation on liability.

Notwithstanding any other provision of law, and except as otherwise provided in this part, no person engaged in business in the healthcare industry shall be liable in any ethylene oxide exposure action unless the plaintiff can prove by a preponderance of the evidence that:

(1) in engaging in the business, the person was not in substantial compliance and was not making reasonable efforts in light of all the circumstances to be in substantial compliance with the applicable United States government laws, regulations, or standards related to ethylene oxide in effect at the time of the actual, alleged, feared, or potential exposure to ethylene oxide;

(2) the person engaged in gross negligence or willful misconduct that caused an actual exposure to ethylene oxide; and

(3) the actual exposure to ethylene oxide was the direct and proximate cause of the personal injury of the plaintiff.

Section 3. Section 78B-3-1203 is enacted to read:

78B-3-1203. Claim procedures -- Pleading requirements.

In any ethylene oxide-related action:

(1) the complaint shall:

(a) plead each element of the plaintiff's claim with particularity; and

(b) plead each alleged act or omission constituting gross negligence or willful misconduct that resulted in personal injury, harm, damage, breach, or tort with particularity;

(2) if monetary damages are requested, a plaintiff shall file with the complaint a statement of specific information as to the nature and amount of each element of damages and the factual basis for the damages calculation; and

(3) if a claim is asserted on which the plaintiff may prevail only on proof that the defendant acted with a particular state of mind, a plaintiff shall file with the complaint, with respect to each element of that claim, a statement of the facts giving rise to a strong inference that the defendant acted with the required state of mind.

Section 4. Section 78B-3-1204 is enacted to read:

78B-3-1204. Application and preemption -- Exclusive cause of action -- Transition clause -- Preemption of other law -- Workers' compensation applicability not affected.

(1) This part creates an exclusive cause of action for ethylene oxide exposure actions.

(2) A plaintiff may prevail in an ethylene oxide exposure action only in accordance with the requirements of this part.

(3) The provisions of this part apply to:

(a) any cause of action that is an ethylene oxide exposure action filed before May 7, 2025, and that is pending as of that date; and

(b) any ethylene oxide exposure action filed on or after May 7, 2025.

(4) This part preempts and supersedes any state law that is related to recovery for personal injuries caused by actual, alleged, feared, or potential exposure to ethylene oxide.

(5) Nothing in this part shall be construed to affect the applicability of any state law providing for a workers' compensation scheme or program, or to preempt or supersede an exclusive remedy or defense under such scheme or program.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 357
S. B. 283
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

FUNDS AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill modifies provisions related to state accounts.

Highlighted Provisions:

This bill:

- allows the State Tax Commission to use money in the State Tax Commission Administrative Charge Account to offset general operational expenses;
- provides that the Department of Cultural and Community Engagement disburses money from the Nonprofit Capacity Fund;
- allows the Utah Board of Higher Education to move money across specified line items;
- provides circumstances under which an internal service fund agency may charge a rate, fee, or other charge that is less than the rate, fee, or other charge the Legislature approved;
- prohibits a fee agency from charging a fee amount that is different from the amount the Legislature approved, unless the amount is less than the approved amount and the fee agency satisfies specified notice requirements;
- addresses a fee agency's obligations if the fee agency charges a fee that exceeds the amount the Legislature approved;
- repeals the following unfunded accounts:
  - the Utah Natural Resources Legacy Fund;
  - the Intermountain Weatherization Training Fund; and
  - the Utah Children's Outdoor Recreation and Education Fund;
- repeals the Mathematical Equations Act; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-2a-1102,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapters 34, 471
59-1-306,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 35
59-5-121,
(Effective 05/07/25)
as enacted by Laws of Utah 2023, Chapter 537
59-10-1321,
(Effective 05/07/25)
as enacted by Laws of Utah 2023, Chapter 513
63J-1-206,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 268
63J-1-410,
(Effective 05/07/25)
as last amended by Laws of Utah 2014, Chapter 236
63J-1-504,
(Effective 07/01/25)
as last amended by Laws of Utah 2023, Chapter 428
63J-1-602,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 86
79-2-201,

(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 507
79-7-206,
(Effective 05/07/25)
as enacted by Laws of Utah 2022, Chapter 68

REPEALS:

23A-3-301,
(Effective 05/07/25)
as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-3-302,
(Effective 05/07/25)
as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-3-303,
(Effective 05/07/25)
as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-3-304,
(Effective 05/07/25)
as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-3-305,
(Effective 05/07/25)
as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-3-306,
(Effective 05/07/25)
as renumbered and amended by Laws of Utah 2023, Chapter 103
35A-8-1301,
(Effective 05/07/25)
as last amended by Laws of Utah 2013, Chapter 400
63I-6-101,
(Effective upon governor's approval)
as enacted by Laws of Utah 2015, Chapter 49
63I-6-102,
(Effective upon governor's approval)
as enacted by Laws of Utah 2015, Chapter 49
63I-6-103,
(Effective upon governor's approval)
as enacted by Laws of Utah 2015, Chapter 49
63J-3-206,
(Effective upon governor's approval)
as enacted by Laws of Utah 2015, Chapter 49
79-8-304,
(Effective 05/07/25)
as last amended by Laws of Utah 2022, Chapter 68

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-2a-1102 is amended to read:
53-2a-1102
(Effective 05/07/25)
. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.

(1) As used in this section:

(a) "Assistance card program" means the Utah Search and Rescue Assistance Card Program created within this section.

(b) "Card" means the Search and Rescue Assistance Card issued under this section to a participant.

(c) "Participant" means an individual, family, or group who is registered pursuant to this section as having a valid card at the time search, rescue, or both are provided.

(d) "Program" means the Search and Rescue Financial Assistance Program created within this section.

(e) (i) "Reimbursable base expenses" means those reasonable expenses incidental to search and rescue activities.

(ii) "Reimbursable base expenses" include:

(A) rental for fixed wing aircraft, snowmobiles, boats, and generators;

(B) replacement and upgrade of search and rescue equipment;

(C) training of search and rescue volunteers;

(D) costs of providing life insurance and workers' compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

(E) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(iii) "Reimbursable base expenses" do not include any salary or overtime paid to an individual on a regular or permanent payroll, including permanent part-time employees of any agency of the state.

(f) "Rescue" means search services, rescue services, or both search and rescue services.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The financial program and the assistance card program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under Subsection (11) and under Sections 23A-4-209, 41-22-34, and 73-18-24;

(iii) money deposited under Subsection 59-12-103(13);

(iv) contributions deposited in accordance with Section 41-1a-230.7; and

(v) appropriations made to the program by the Legislature.

(b) Money received from the revenue sources in Subsections (3)(a)(i), (ii), and (iv), and 90% of the money described in Subsection (3)(a)(iii), shall be deposited into the General Fund as a dedicated credit to be used solely for the program.

(c) Ten percent of the money described in Subsection (3)(a)(iii) shall be deposited into the General Fund as a dedicated credit to be used solely to promote the assistance card program.

(d) Funding for the program is nonlapsing.

(4) Subject to Subsections (3)(b) and (c), the director shall use the money described in this section to reimburse counties for all or a portion of each county's reimbursable base expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and

(c) rules made under Subsection (7).

(5) Money described in Subsection (3) may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section:

(a) specifying the costs that qualify as reimbursable base expenses;

(b) defining the procedures of counties to submit expenses and be reimbursed;

(c) defining a participant in the assistance card program, including:

(i) individuals; and

(ii) families and organized groups who qualify as participants;

(d) defining the procedure for issuing a card to a participant;

(e) defining excluded expenses that may not be reimbursed under the program, including medical expenses;

(f) establishing the card renewal cycle for the Utah Search and Rescue Assistance Card Program;

(g) establishing the frequency of review of the fee schedule;

(h) providing for the administration of the program; and

(i) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses based on:

(i) the total qualifying expenses submitted;

(ii) the number of search and rescue incidents per county population;

(iii) the number of victims that reside outside the county; and

(iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

(8) (a) The division shall, in consultation with the Division of Outdoor Recreation, establish the fee schedule of the Utah Search and Rescue Assistance Card Program under Subsection [~~63J-1-504(7)~~]63J-1-504(9).

(b) The division shall provide a discount of not less than 10% of the card fee under Subsection (8)(a) to a person who has paid a fee under Section 23A-4-209, 41-22-34, or 73-18-24 during the same calendar year in which the person applies to be a participant in the assistance card program.

(9) Counties may not bill reimbursable base expenses to an individual for costs incurred for the rescue of an individual, if the individual is a current participant in the Utah Search and Rescue Assistance Card Program at the time of rescue, unless:

(a) the rescuing county finds that the participant acted recklessly in creating a situation resulting in the need for the county to provide rescue services; or

(b) the rescuing county finds that the participant intentionally created a situation resulting in the need for the county to provide rescue services.

(10) (a) There is created the Utah Search and Rescue Assistance Card Program. The program is located within the division.

(b) The program may not be used to cover any expenses, such as medically related expenses, that are not reimbursable base expenses related to the rescue.

(11) (a) To participate in the program, a person shall purchase a search and rescue assistance card from the division by paying the fee as determined by the division in Subsection (8).

(b) The money generated by the fees shall be deposited into the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created in this section.

(c) Participation and payment of fees by a person under Sections 23A-4-209, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the Division of Outdoor Recreation regarding:

(a) administration of the assistance card program; and

(b) outreach and marketing strategies.

(13) Pursuant to Subsection 31A-1-103(7), the Utah Search and Rescue Assistance Card Program under this section is exempt from being considered insurance as that term is defined in Section 31A-1-301.

Section 2. Section 59-1-306 is amended to read:

59-1-306

(Effective 05/07/25)

. Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenue into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.

(1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge the commission administers under:

(a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(c) Section 19-6-714;

(d) Section 19-6-805;

(e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;

(f) Section 59-27-105;

(g) Chapter 31, Cannabinoid Licensing and Tax Act;

(h) Section 63H-1-205; or

(i) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges.

(2) There is created a restricted account within the General Fund known as the "State Tax Commission Administrative Charge Account."

(3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.

(4) For purposes of this section, the administrative charge is a percentage of revenue the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:

(a) 1.5%; or

(b) an equal percentage of revenue the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.

(5) The commission shall deposit an administrative charge into the restricted account.

(6) Interest earned on the restricted account shall be deposited into the General Fund.

(7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges or to offset general operational expenses.

Section 3. Section 59-5-121 is amended to read:

59-5-121

(Effective 05/07/25)

. Severance tax revenue for aviation fuel incentive account.

(1) As used in this section:

(a) "Base revenue year" means the fiscal year designated by the port authority under Subsection (3).

(b) "Incentive account" means the same as that term is defined in Section 11-58-208.

(c) "Incremental revenue" means the amount that is calculated by subtracting the net severance revenue for the base revenue year from the net severance revenue for the applicable incremental revenue year.

(d) "Incremental revenue year" means any of the first 10 consecutive fiscal years immediately following the base revenue year.

(e) "Net severance revenue" means the amount of severance tax revenue collected during a fiscal year under Section 59-5-102, after deducting the amount of severance tax revenue required to be distributed under Sections 51-9-305, 51-9-306, 59-5-116, and 59-5-119.

(f) "Port authority" means the Utah Inland Port Authority created in Section 11-58-201.

(2) Subject to Subsections (3) and (4), for each of the 10 consecutive fiscal years beginning the first incremental revenue year, if incremental revenue is greater than zero, the Division of Finance shall deposit incremental revenue into the incentive account.

(3) (a) The port authority shall designate as the base revenue year the fiscal year that:

(i) begins on or after July 1, 2023; and

(ii) the port authority determines will precede the first fiscal year during which the effects of the aviation fuel incentive program under Section 11-58-208 on the amount of severance tax revenue under Section 59-5-102 are expected to begin to occur.

(b) No later than September 30 of the first incremental revenue year, the port authority shall provide written notification to the Division of Finance of the fiscal year that the port authority designates as the base revenue year.

(4) (a) The Division of Finance may not deposit incremental revenue under Subsection (2) that exceeds $1,000,000 per fiscal year.

(b) The maximum cumulative amount of incremental revenue that the Division of Finance may deposit into the incentive account is $10,000,000.

(c) If the amount of incremental revenue for any incentive year is less than $1,000,000, the Division of Finance shall deposit into the incentive account the amount of incremental revenue available.

Section 4. Section 59-10-1321 is amended to read:

59-10-1321

(Effective 05/07/25)

. Contribution to the Nonprofit Capacity Fund.

(1) (a) There is created an expendable special revenue fund known as the "Nonprofit Capacity Fund."

(b) The fund shall consist of all amounts deposited into the fund in accordance with Subsection (2).

(2) Except as provided in Section 59-10-1304, a resident or nonresident individual who files an income tax return under this chapter may designate on the resident or nonresident individual's income tax return a contribution to be:

(a) deposited into the Nonprofit Capacity Fund; and

(b) expended as provided in Subsection (3).

[~~(3) (a) Each year, the commission shall disburse from the Nonprofit Capacity Fund all money deposited into the fund since the last disbursement.~~]

[~~(b) The commission shall disburse money under Subsection (3)(a) to the Department of Cultural and Community Engagement for the purpose of providing money for grants to nonprofit organizations in the state.~~]

(3) The Department of Cultural and Community Engagement may use the money in the Nonprofit Capacity Fund to provide grants to nonprofit organizations in the state.

Section 5. Section 63J-1-206 is amended to read:

63J-1-206

(Effective 05/07/25)

. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) If the money appropriated to an agency to pay lease payments under the program established in Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

(3) Notwithstanding Subsection (2)(c)(i):

(a) the state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205; and

(b) the Department of Government Operations may transfer money appropriated to another department, agency, institution, or division for the purpose of paying the costs of pay for performance under Section 63A-17-112.

(4) During fiscal years 2026 through 2029, the Utah Board of Higher Education may transfer money from the Utah Board of Higher Education's line item for high-value careers to the operating budgets of institutions of higher education, as defined in Section 53B-3-102, in amounts that are no greater than the amount the Legislature approves.

Section 6. Section 63J-1-410 is amended to read:

63J-1-410

(Effective 05/07/25)

. Internal service funds -- Governance and review.

(1) For purposes of this section:

(a) "Agency" means a department, division, office, bureau, or other unit of state government, and includes any subdivision of an agency.

(b) "Do not replace vehicles" means a vehicle accounted for in the Division of Fleet Operations for which charges to an agency for its use do not include amounts to cover depreciation or to accumulate assets to replace the vehicle at the end of its useful life.

(c) "Internal service fund agency" means an agency that provides goods or services to other agencies of state government or to other governmental units on a capital maintenance and cost reimbursement basis, and which recovers costs through interagency billings.

(d) "Revolving loan fund" means each of the revolving loan funds defined in Section 63A-3-205.

(2) An internal service fund agency is not subject to this section with respect to its administration of a revolving loan fund.

(3) (a) An internal service fund agency may not bill another agency for services that it provides for each internal service fund operated by the agency, unless the Legislature has:

(i) reviewed and approved each internal service fund's budget request;

(ii) reviewed and approved each internal service fund's rates, fees, and other amounts that it charges those who use its services and included those rates, fees, and amounts in an appropriation act;

(iii) approved the number of full-time, permanent positions of each internal service fund as part of the annual appropriation process;

(iv) review the number of full-time equivalent contract employees of each internal service fund as part of the annual appropriation process; and

(v) appropriated to the internal service fund agency each internal service fund's estimated revenue based upon the rates and fee structure that are the basis for the estimate.

(b) If an internal service fund agency operates more than one internal service fund within the internal service fund agency, the internal service fund agency shall comply with the review and approval requirements under Subsection (3)(a) for each internal service fund.

(c) If an internal service fund agency operates an internal service fund and does not get the approvals required under Subsection (3)(a) or [~~(4)(b)~~](4)(c), the internal service fund agency shall rebate all rates, fees, and amounts collected to those who use the services for the rates, fees, and amounts collected that were not approved under Subsection (3)(a) or [~~(4)(b)~~](4)(c).

(4) (a) An internal service fund agency may charge a rate, fee, or other amount that is less than the rate, fee, or other amount established by the Legislature in an appropriations act if the internal service fund agency first reports to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst the internal service fund agency's justification for reducing the rate, fee, or other amount.

(b) Except as provided in Subsection [~~(4)(b)~~](4)(c), an internal service fund agency may not charge rates, fees, and other amounts that exceed the rates, fees, and amounts established by the Legislature in the appropriations act.

[~~(b)~~](c) (i) An internal service fund agency that begins a new service or introduces a new product between annual general sessions of the Legislature may, for that service or product:

(A) establish and charge an interim rate or amount;

(B) acquire contract employees, if necessary; or

(C) do a combination of Subsections [~~(4)(b)(i)(A) and (B)~~](4)(c)(i)(A) and (B).

(ii) The internal service fund agency shall:

(A) submit the interim rate or amount under Subsection [~~(4)(b)(i)~~](4)(c)(i) to the Legislature for approval at the next annual general session; and

(B) report any change in the number of contract employees under Subsection [~~(4)(b)(i)~~](4)(c)(i) to the appropriate legislative appropriations subcommittee for review.

(5) The internal service fund agency budget request shall separately identify the capital needs and the related capital budget.

(6) In the fiscal year that the accounting change referred to in Subsection 51-5-6(2) is implemented by the Division of Finance, the Division of Finance shall transfer equity created by that accounting change to any internal service fund agency up to the amount needed to eliminate any long-term debt and deficit working capital in the fund.

(7) No new internal service fund agency may be established unless reviewed and approved by the Legislature.

(8) (a) Except as provided in Subsection (8)(f), an internal service fund agency may not acquire capital assets unless legislative approval for acquisition of the assets has been included in an appropriations act for the internal service fund agency.

(b) An internal service fund agency may not acquire capital assets after the transfer mandated by Subsection (6) has occurred unless the internal service fund agency has adequate working capital.

(c) The internal service fund agency shall provide working capital from the following sources in the following order:

(i) first, from operating revenues to the extent allowed by state rules and federal regulations;

(ii) second, from long-term debt, subject to the restrictions of this section; and

(iii) last, from an appropriation.

(d) (i) To eliminate negative working capital, an internal service fund agency may incur long-term debt from the General Fund or Special Revenue Funds to acquire capital assets.

(ii) The internal service fund agency shall repay all long-term debt borrowed from the General Fund or Special Revenue Funds by making regular payments over the useful life of the asset according to the asset's depreciation schedule.

(e) (i) The Division of Finance may not allow an internal service fund agency's borrowing to exceed 90% of the net book value of the agency's capital assets as of the end of the fiscal year.

(ii) If an internal service fund agency wishes to purchase authorized assets or enter into equipment leases that would increase its borrowing beyond 90% of the net book value of the agency's capital assets, the agency may purchase those assets only with money appropriated from another fund, such as the General Fund or a special revenue fund.

(f) (i) Except as provided in Subsection (8)(f)(ii), capital assets acquired through agency appropriation may not be transferred to any internal service fund agency without legislative approval.

(ii) Vehicles acquired by agencies from appropriated funds or money appropriated to agencies to be used for vehicle purchases may be transferred to the Division of Fleet Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

(iii) Vehicles acquired with funding from sources other than state appropriations or acquired through the federal surplus property donation program may be transferred to the Division of Fleet Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

(iv) Unless otherwise approved by the Legislature, vehicles acquired under Subsection (8)(f)(iii) shall be accounted for as "do not replace" vehicles.

(9) The Division of Finance shall adopt policies and procedures related to the accounting for assets, liabilities, equity, revenues, expenditures, and transfers of internal service funds agencies.

Section 7. Section 63J-1-504 is amended to read:

63J-1-504

(Effective 07/01/25)

. Fees -- Adoption, procedure, and approval -- Establishing and assessing fees without legislative approval -- Report summarizing fees.

(1) As used in this section:

(a) (i) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(ii) "Agency" does not include:

(A) the Legislature or a committee or staff office of the Legislature; or

(B) the Judiciary, as that term is defined in Section 78A-2-310.

(b) "Agency's cost" means all of a fee agency's direct and indirect costs and expenses for providing the goods or service for which the fee agency charges a fee or for regulating the industry in which the persons paying the fee operate, including:

(i) salaries, benefits, contracted labor costs, travel expenses, training expenses, equipment and material costs, depreciation expense, utility costs, and other overhead costs; and

(ii) costs and expenses for administering the fee.

(c) (i) "Fee agency" means an agency that is authorized to establish and charge a service fee or a regulatory fee.

(ii) "Fee agency" does not include an internal service fund agency as defined in Section 63J-1-410.

(d) "Fee schedule" means the complete list of service fees and regulatory fees charged by a fee agency and the amount of those fees.

(e) "Regulatory fee" means a fee that a fee agency charges to cover the agency's cost of regulating the industry in which the persons paying the fee operate.

(f) "Service fee" means a fee that a fee agency charges to cover the agency's cost of providing the goods or service for which the fee is charged.

(2) (a) A fee agency that charges or intends to charge a service fee or regulatory fee shall adopt a fee schedule.

(b) A service fee or regulatory fee that a fee agency charges shall:

(i) be reasonable and fair;

(ii) reflect and be based on the agency's cost for the fee; and

(iii) be established according to a cost formula determined by the executive director of the Governor's Office of Planning and Budget and the director of the Division of Finance in conjunction with the fee agency seeking to establish the fee.

(3) Except as provided in Subsection [~~(7)~~](9), a fee agency may not:

(a) set fees by rule; or

(b) create, change, or collect any fee unless the fee has been established according to the procedures and requirements of this section.

(4) Each fee agency that is proposing a new fee or proposing to change a fee shall:

(a) present each proposed fee at a public hearing, subject to the requirements of Title 52, Chapter 4, Open and Public Meetings Act;

(b) increase, decrease, or affirm each proposed fee based on the results of the public hearing;

(c) except as provided in Subsection [~~(8)~~](10), submit the fee schedule to the Legislature as part of the agency's annual appropriations request; and

(d) modify the fee schedule as necessary to implement the Legislature's actions.

[~~(5) (a) No later than November 30, 2022, the Governor's Office of Planning and Budget and the Division of Finance shall submit a report to the Infrastructure and General Government Appropriations Subcommittee of the Legislature.~~]

[~~(b) A report under Subsection (5)(a) shall:~~]

[~~(i) provide a summary of:~~]

[~~(A) the types of service fees and regulatory fees included in the fee schedules of all fee agencies;~~]

[~~(B) the methods used by fee agencies to determine the amount of fees;~~]

[~~(C) each estimated agency's cost related to each fee;~~]

[~~(D) whether a fee is intended to cover the agency's cost related to the fee;~~]

[~~(E) whether the fee agency intends to subsidize the fee to cover the agency's cost related to the fee and, if so, the fee agency's justification for the subsidy; and~~]

[~~(F) whether the fee agency set the fee at an amount that exceeds the agency's cost related to the fee and, if so, the fee agency's justification for the excess fee; and~~]

[~~(ii) include any recommendations for improving the process described in this section.~~]

[~~(6)~~](5) (a) A fee agency shall submit the fee agency's fee schedule to the Legislature for the Legislature's approval on an annual basis.

(b) The Legislature may approve, increase or decrease and approve, or reject any fee submitted to it by a fee agency in an appropriations act.

(6) Except as provided in Subsection (8), a fee agency may not charge a fee in an amount that is different from the amount the Legislature approved under Subsection (5).

(7) If a fee agency charges a fee in an amount that exceeds the amount the Legislature approved:

(a) the fee agency shall make all efforts to refund to each payor the amount the payor paid that exceeds the amount the Legislature approved; and

(b) the Division of Finance shall transfer into the General Fund any excess collections not refunded to payors in accordance with Subsection (7)(a).

(8) A fee agency may charge a fee that is less than the fee established by the Legislature in an appropriations act if the fee agency first reports to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst the fee agency's justification for reducing the fee.

[~~(7)~~](9) After conducting the public hearing required by this section, a fee agency may establish and assess fees without first obtaining legislative approval if:

(a) (i) the Legislature creates a new program that is to be funded by fees to be set by the Legislature;

(ii) the new program's effective date is before the Legislature's next annual general session; and

(iii) the fee agency submits the fee schedule for the new program to the Legislature for its approval at a special session, if allowed in the governor's call, or at the next annual general session of the Legislature, whichever is sooner; or

(b) (i) the fee agency proposes to increase or decrease an existing fee for the purpose of adding or removing a transactional fee that is charged or assessed by a non-governmental third party but is included as part of the fee charged by the fee agency;

(ii) the amount of the increase or decrease in the fee is equal to the amount of the transactional fee charged or assessed by the non-governmental third party; and

(iii) the increased or decreased fee is submitted to the Legislature for the Legislature's approval at a special session, if allowed in the governor's call, or at the next annual session of the Legislature, whichever is sooner.

[~~(8)~~](10) (a) A fee agency that intends to change any fee shall submit to the governor, as part of the agency's annual appropriation request a list that identifies:

(i) the title or purpose of the fee;

(ii) the present amount of the fee;

(iii) the proposed new amount of the fee;

(iv) the percent that the fee will have increased if the Legislature approves the higher fee;

(v) the estimated total annual revenue and total estimated annual revenue change that will result from the changed fee;

(vi) the account or fund into which the fee will be deposited;

(vii) the reason for the change in the fee;

(viii) the estimated number of persons to be charged the fee;

(ix) the estimated agency's cost related to the fee;

(x) whether the fee is a service fee or a regulatory fee;

(xi) whether the fee is intended to cover the agency's cost related to the fee;

(xii) whether the fee agency intends to subsidize the fee to cover the agency's cost related to the fee and, if so, the fee agency's justification for the subsidy; and

(xiii) whether the fee agency set the fee at an amount that exceeds the agency's cost related to the fee and, if so, the fee agency's justification for the excess fee.

(b) (i) The governor may review and approve, modify and approve, or reject the fee increases.

(ii) The governor shall transmit the list required by Subsection [~~(8)(a)~~](10)(a), with any modifications, to the legislative fiscal analyst with the governor's budget recommendations.

(c) Bills approving any fee change shall be filed before the beginning of the Legislature's annual general session, if possible.

[~~(9)~~](11) (a) Except as provided in Subsection [~~(9)(b)~~](11)(b), the School and Institutional Trust Lands Administration, established in Section 53C-1-201, is exempt from the requirements of this section.

(b) The following fees of the School and Institutional Trust Lands Administration are subject to the requirements of this section: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

Section 8. Section 63J-1-602 is amended to read:

63J-1-602

(Effective 05/07/25)

. Nonlapsing appropriations.

(1) [~~The appropriations from a fund or account and appropriations to a program that are listed in Section 63J-1-602.1 or 63J-1-602.2 are nonlapsing~~]Each appropriation listed in Section 63J-1-602.1 or 63J-1-602.2 is nonlapsing.

(2) No appropriation from a fund or account or appropriation to a program may be treated as nonlapsing unless:

(a) it is listed in Section 63J-1-602.1 or 63J-1-602.2;

(b) it is designated in a condition of appropriation in the appropriations bill; or

(c) nonlapsing authority is granted under Section 63J-1-603.

(3) Each legislative appropriations subcommittee shall review the accounts and funds that have been granted nonlapsing authority under the provisions of this section or Section 63J-1-603.

(4) Except as provided in Subsection (5), on or before October 1 of each calendar year, an agency shall submit to the legislative appropriations subcommittee with jurisdiction over the agency's budget a report that describes the agency's plan to expend any nonlapsing appropriations, including:

(a) if applicable, the results of the prior year's planned use of the agency's nonlapsing appropriations; and

(b) if the agency plans to save all or a portion of the agency's nonlapsing appropriations over multiple years to pay for an anticipated expense:

(i) the estimated cost of the expense; and

(ii) the number of years until the agency will accumulate the amount required to pay for the expense.

(5) The State Board of Education shall submit the report described in Subsections (4)(a) and (b) on or before October 10 of each calendar year.

Section 9. Section 79-2-201 is amended to read:

79-2-201

(Effective 05/07/25)

. Department of Natural Resources created.

(1) There is created the Department of Natural Resources.

(2) The department comprises the following:

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

(c) Office of Energy Development, created in Section 79-6-401;

(d) Wildlife Board, created in Section 23A-2-301;

(e) Board of the Utah Geological Survey, created in Section 79-3-301;

(f) Water Development Coordinating Council, created in Section 73-10c-3;

(g) Division of Water Rights, created in Section 73-2-1.1;

(h) Division of Water Resources, created in Section 73-10-18;

(i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

(j) Division of Oil, Gas, and Mining, created in Section 40-6-15;

(k) Division of State Parks, created in Section 79-4-201;

(l) Division of Outdoor Recreation, created in Section 79-7-201;

(m) Division of Wildlife Resources, created in Section 23A-2-201;

(n) Utah Geological Survey, created in Section 79-3-201;

(o) Utah Outdoor Recreation Infrastructure Advisory Committee, created in Section 79-7-206;

(p) (i) an advisory council that includes in the advisory council's duties advising on state boating policy, authorized by Section 73-18-3.5; or

(ii) an advisory council that includes in the advisory council's duties advising on off-highway vehicle use, authorized by Section 41-22-10;

(q) Wildlife Board Nominating Committee, created in Section 23A-2-302;

(r) Wildlife Regional Advisory Councils, created in Section 23A-2-303;

(s) Utah Watersheds Council, created in Section 73-10g-304; and

[~~(t) Utah Natural Resources Legacy Fund Board, created in Section 23A-3-305; and~~]

[~~(u)~~](t) Public Lands Policy Coordinating Office created in Section 63L-11-201.

(3) The department shall provide office space, furnishings, and supplies to the Great Salt Lake commissioner appointed under Section 73-32-201, the Office of the Great Salt Lake Commissioner created in Section 73-32-301, and support staff for the Office of the Great Salt Lake Commissioner.

Section 10. Section 79-7-206 is amended to read:

79-7-206

(Effective 05/07/25)

. Utah Outdoor Recreation Infrastructure Advisory Committee.

(1) As used in this section, "committee" means the Utah Outdoor Recreation Infrastructure Advisory Committee created in this section.

(2) (a) There is created within the division the "Utah Outdoor Recreation Infrastructure Advisory Committee" consisting of the following 17 members:

(i) the director of the division, who shall act as chair of the committee;

(ii) the director of the Division of State Parks, or the director of the Division of State Park's designee; and

(iii) the following appointed by the executive director:

(A) one nonvoting representative of a federal land agency;

(B) one nonvoting representative of National Park Service's River, Trails, and Conservation Assistance Program;

(C) one representative of municipal government, recommended by the Utah League of Cities and Towns;

(D) one representative of county government, recommended by the Utah Association of Counties;

(E) two representatives of the outdoor industry;

(F) two representatives of tourism, with one focused in the hotel or lodging sector;

(G) one representative of the healthcare industry;

(H) one representative of multi-ability groups or programs;

(I) one representative of outdoor recreation education programming;

(J) one representative of nonmotorized recreation interests;

(K) one representative of youth conservation or service corps organization; and

(L) two representatives of motorized recreation interests.

(b) At least two of the members of the committee appointed under Subsection (2)(a)(iii) shall represent rural interests.

(3) (a) Except as required by Subsection (3)(b), as terms of committee members appointed under Subsection (2)(a)(iii) expire, the division shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members appointed under Subsection (2)(a)(iii) are staggered so that approximately half of the committee is appointed every two years.

(c) The executive director may remove an appointed member of the advisory committee at any time, with or without cause.

(d) When a vacancy occurs in the membership for any reason, the executive director shall appoint the replacement for the unexpired term in the same manner as the original appointment.

(4) The majority of voting members of the committee constitutes a quorum and an action of the majority of voting members present when a quorum is present is action by the committee.

(5) The division shall provide administrative staff support for the committee.

(6) A member may not receive compensation or benefits for the member's service, but a member appointed under Subsection (2)(a)(iii) may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The committee shall advise and make recommendations to the division regarding:

(a) nonmotorized recreational trails under Chapter 5, Recreational Trails;

(b) grants issued under Chapter 8, Part 2, Recreation Restoration Infrastructure Grant Program;

[~~(c) the administration of the fund created in Section 79-8-304;~~]

[~~(d)~~](c) grants issued under Chapter 8, Part 3, Utah Children's Outdoor Recreation and Education Grant Program; and

[~~(e)~~](d) grants issued under Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant Program.

Section 11. Repealer.

This bill repeals:

Section 23A-3-301, (Effective 05/07/25) Definitions.

Section 23A-3-302, (Effective 05/07/25) Application to mineral estates.

Section 23A-3-303, (Effective 05/07/25) Reporting.

Section 23A-3-304, (Effective 05/07/25) Utah Natural Resources Legacy Fund.

Section 23A-3-305, (Effective 05/07/25) Utah Natural Resources Legacy Fund Board.

Section 23A-3-306, (Effective 05/07/25) Uses of legacy fund.

Section 35A-8-1301, (Effective 05/07/25) Creation and administration.

Section 63I-6-101, (Effective upon governor's approval) Title.

Section 63I-6-102, (Effective upon governor's approval) Definitions.

Section 63I-6-103, (Effective upon governor's approval) Converting a formula into a mathematical equation.

Section 63J-3-206, (Effective upon governor's approval) Appropriations limit formula -- Mathematical equation.

Section 79-8-304, (Effective 05/07/25) Utah Children's Outdoor Recreation and Education Fund -- Uses -- Costs.

Section 12. Effective Date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect May 7, 2025.

(2) (a) The actions affecting sections described in Subsection (2)(b) take effect:

(i) except as provided in Subsection (2)(a)(ii), May 7, 2025; or

(ii) if approved by two-thirds of all members elected to each house:

(A) upon approval by the governor;

(B) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(C) in the case of a veto, the date of veto override.

(b) Subsection (2)(a) applies to the actions affecting the following sections:

(i) Section 63I-6-101 Effective upon governor's approval;

(ii) Section 63J-3-206 Effective upon governor's approval;

(iii) Section 63I-6-103 Effective upon governor's approval; and

(iv) Section 63I-6-102 Effective upon governor's approval.

(3) The actions affecting Section 63J-1-504 Effective 07/01/25 take effect on July 1, 2025.

CHAPTER 358
S. B. 286
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

CRIMINAL PLEA WITHDRAWAL AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill addresses the withdrawal of a plea.

Highlighted Provisions:

This bill:

► amends provisions related to the withdrawal of a plea in a criminal case; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-13-6, as last amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-13-6 is amended to read:

77-13-6. Withdrawal of a plea.

[~~(1) A plea of not guilty may be withdrawn at any time prior to conviction.~~]

[~~(2) (a) A plea of guilty or no contest may be withdrawn only upon leave of the court and a showing that it was not knowingly and voluntarily made.~~]

[~~(b) A request to withdraw a plea of guilty or no contest, except for a plea held in abeyance, shall be made by motion before sentence is announced. Sentence may not be announced unless the motion is denied. For a plea held in abeyance, a motion to withdraw the plea shall be made within 30 days of pleading guilty or no contest.~~]

[~~(c) Any challenge to a guilty plea not made within the time period specified in Subsection (2)(b) shall be pursued under Title 78B, Chapter 9, Postconviction Remedies Act, and Rule 65C, Utah Rules of Civil Procedure.~~]

(1) A defendant may withdraw a plea of not guilty at any time before conviction.

(2) A defendant may only withdraw a plea of guilty or no contest upon:

(a) a leave of the court; and

(b) a showing that the defendant did not knowingly or voluntarily make the plea.

(3) A defendant shall make a motion to withdraw a plea of guilty or no contest in accordance with Rule 11 of the Utah Rules of Criminal Procedure.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 359
S. B. 303
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

PRIVATE INVESTIGATOR REGULATION MODIFICATIONS

Chief Sponsor: Todd Weiler
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill modifies provisions related to licensure of private investigators.

Highlighted Provisions:

This bill:

- ► requires notice of the cancellation of a private investigator's license or disciplinary action against the licensee to an agent sponsoring the licensee;
- ► requires a licensee to complete 16 hours of continuing education to renew a license beginning in 2027;
- ► modifies the information that appears on a licensee's identification card and the circumstances under which a licensee shall provide identifying information to a person verifying validity of the license;
- ► requires the Bail Bond Recovery and Private Investigator Licensure Board to take action when the agent for a licensed agency is incapacitated or dies;
- ► modifies provisions related to disciplinary action against a licensee;
- ► provides the circumstances under which a member may serve more than one term on the Bail Bond Recovery and Private Investigator Licensure Board; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-9-110, as last amended by Laws of Utah 2015, Chapter 170
53-9-111, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 18
53-9-112, as last amended by Laws of Utah 1998, Chapter 212
53-9-115, as last amended by Laws of Utah 2008, Chapter 382
53-9-117, as last amended by Laws of Utah 2011, Chapter 432
53-9-118, as last amended by Laws of Utah 2011, Chapter 432
53-11-104, as last amended by Laws of Utah 2024, Chapter 506

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-9-110 is amended to read:

53-9-110. Application for registrant or apprentice license.

(1) Every application for a registrant or apprentice license shall provide to the bureau:

(a) the full name and address of the applicant;

(b) one passport-size color photograph of the applicant;

(c) the name of the licensed agency for which the applicant will be an employee, apprentice, or contract registrant, if applicable;

(d) authorization of the licensed agency or [~~its~~]licensed agency's designee to employ the apprentice or contract with the registrant, if applicable;

(e) a verified statement of the applicant's experience and qualifications as provided in Section 53-9-108; and

(f) the fee [~~prescribed in~~]required by Section 53-9-111.

(2) An application for a registrant or apprentice license or renewal shall [~~be accompanied by~~]include a surety bond in the amount of $10,000.

(3) The surety bond required by this section shall:

(a) be in effect throughout the entire licensing period; and

(b) provide that the issuer of the surety bond [~~will~~]shall notify the bureau if the surety bond is cancelled or expired.

(4) (a) The bureau shall cancel a license when [~~it~~]the bureau receives notice from the [~~insurer~~]issuer that the surety bond required in Subsection (2) has expired or been cancelled.

(b) The bureau shall notify the licensee [~~shall be notified by the bureau when a license has been cancelled under this Subsection (4)~~]and the licensee's sponsoring agent when the bureau cancels a license under Subsection (4)(a).

(c) The bureau may reinstate a license [~~may be reinstated~~]when the licensee:

(i) files proof of a surety bond for the remainder of the license period; and

(ii) pays the reinstatement fee [~~prescribed in~~]required by Section 53-9-111.

Section 2. Section 53-9-111 is amended to read:

53-9-111. License fees -- Renewal, reinstatement of license -- Deposit of fees in General Fund.

(1) [~~Fees~~]The bureau shall set fees for individual and agency licensure and renewal [~~shall be~~]in accordance with Section 63J-1-504.

(2) (a) The bureau may renew a license granted under this chapter upon receipt of:

(i) a renewal application on forms as [~~prescribed~~]required by the bureau; and

(ii) the fees [~~prescribed in~~]required by Subsection (1).

(b) (i) The renewal of a license requires the filing of:

(A) all certificates of insurance or proof of surety bond as required by this chapter[~~.~~]; and

(B) beginning May 7, 2027, documentation of 16 hours of continuing education.

(ii) [~~Renewal of a license may not be granted~~]The bureau may not renew a license more than 180 days after expiration.

(c) A licensee may not engage in activity subject to this chapter during the period between the date of expiration of the license and the renewal of the license.

(3) (a) The bureau shall renew a suspended license if:

(i) the period of suspension [~~has been completed~~]is complete;

(ii) the bureau has received a renewal application from the applicant on forms [~~prescribed~~]as required by the bureau; and

(iii) the applicant has:

(A) filed all certificates of insurance or proof of surety bond as required by this chapter; and

(B) paid the fees required by this section for renewal, including a delinquency fee if the bureau does not receive the application [~~is not received by the bureau~~]within 30 days [~~of the termination of~~]after the day on which the bureau terminates the suspension.

(b) Renewal of the license does not entitle the licensee, while the license remains suspended and until [~~it~~]the license is reinstated, to engage in activity regulated by this chapter, or in other activity or conduct in violation of the order or judgment by which the license was suspended.

(4) The bureau may not reinstate a revoked license or accept an application for a license from a person whose license has been revoked for at least one year [~~from~~]after the date of revocation.

(5) [~~All~~]The bureau shall deposit fees, except the fingerprint processing fee, collected by the bureau under this section [~~shall be deposited in~~]into the General Fund.

Section 3. Section 53-9-112 is amended to read:

53-9-112. Issuance of license and identification card to applicant -- License period -- Expiration of application -- Transfer of license prohibited.

(1) (a) The commissioner shall issue a license to an applicant who complies with the provisions of this chapter.

(b) Each license issued under this chapter shall:

[~~(a)~~](i) contain the name and address of the licensee[~~and the number of~~], the license, [~~its~~]the license number, and the license's agency, registrant, or apprentice license designation; and

[~~(b)~~](ii) be issued for a period of two years.

(2) On the issuance of a license, an identification card shall:

(a) be issued without charge to the licensee; and

(b) state on [~~its~~]the identification card's face:

(i) whether the bearer holds an agency, registrant, or apprentice license[~~.~~];

(ii) the license number;

(iii) the expiration date; and

(iv) a current photograph of the licensee.

(3) (a) A registrant identification card shall state that the licensee is under the direction of a licensed agency and may not do investigative work independently for the public.

(b) An apprentice identification card shall state that the licensee is under the direct supervision of a licensed agency and may not do investigative work independently for the public.

(4) Upon request by [~~any person~~]a person having reasonable cause to verify the validity of the license, the licensee shall immediately identify the agency name [~~, business address,~~]and the name and phone number of an agent of the licensed agency for which the licensee is an employee or independent contractor.

(5) (a) On notification by the commissioner to an applicant that the license is not complete, or is not ready for issuance pending additional information, the applicant shall complete the application process and provide the additional information within 90 days.

(b) Failure to complete the process shall result in the application being cancelled and all fees forfeited.

(c) Subsequent application by the same applicant requires the payment of all application and license fees [~~prescribed in~~]required by Section 53-9-111.

(6) (a) A licensee shall notify the commissioner of any change in the name or address of [~~his~~]the licensee's business within 60 days of the change[~~and~~].

(b) (i) [~~failure to so notify will result in the automatic suspension of the license.~~]If there is evidence that the licensee knowingly failed to notify the commissioner, the bureau shall suspend the license.

(ii) To relieve the suspension, the licensee [~~must~~]shall apply for reinstatement and pay the fee [~~prescribed in~~]required by Section 53-9-111.

(7) A license issued under this chapter is not transferable or assignable.

Section 4. Section 53-9-115 is amended to read:

53-9-115. Business name and address -- Posting of license -- Advertising -- Incapacitation, death of agent.

(1) As used in this section, "no agent agency" means a licensed agency that has only one agent and for which the agent is incapacitated or dies.

(2) (a) Subject to the provisions of this chapter, a licensee may conduct an investigative business under a name other than the licensee's by:

(i) complying with the requirements of Title 42, Chapter 2, Conducting Business Under Assumed Name; and

(ii) providing a copy of the filed certificate to the commissioner.

(b) Failure to comply with Subsection [~~(1)(a)~~](2)(a) shall result in the suspension of the license.

[~~(2)~~](3) (a) Each licensee shall have at least one physical location from which the agency conducts normal business[~~of the agency is conducted~~].

(b) The address of this location shall be on file with the commissioner at all times and is not a public record [~~pursuant to~~]in accordance with Subsection 63G-2-301(2)(b)(ii).

[~~(3)~~](4) [~~The~~]A licensee shall post the license certificate issued by the commissioner [~~shall be posted~~]in a conspicuous place in the principal office of the licensee.

[~~(4)~~](5) Subject to the provisions of this chapter, a licensee may solicit business through any accepted form of advertising.

(a) Any advertisement shall contain the licensee's name and license number as [~~it appears~~]the name and license number appear on the license certificate.

(b) A licensee may not use false, deceptive, or misleading advertising.

(6) (a) The bureau, after receiving notice, shall allow an agent for an agency licensed under this chapter to act as the agent for a no agent agency until the next scheduled or emergency board meeting, where the board shall consider mitigating circumstances for the no agent agency to remain operating permanently or temporarily.

(b) If the board allows the no agent agency to operate temporarily, the board shall allow sufficient time for the no agent agency to complete investigations that began before the incapacitation or death of the agent.

Section 5. Section 53-9-117 is amended to read:

53-9-117. Authority to investigate complaint -- Filing of complaints -- Response -- Retention of records -- Appeal -- Penalties collected.

(1) The bureau or board may initiate an investigation of any person advertising services or engaged in performing services that require a license under this chapter and shall investigate if a licensee is engaged in activities that do not comply with or are prohibited by this chapter.

(2) The bureau shall enforce the provisions of this chapter without regard to the place or location in which a violation may have occurred, and on the complaint of any person, may investigate any alleged violation of this chapter or the business and business methods of any licensee or applicant for licensure under this chapter.

(3) [~~Complaints~~]A person shall file a complaint against any licensee [~~shall be filed~~]with the bureau in writing on forms [~~prescribed~~]approved by the bureau.

(a) Upon receipt of a complaint, or at the request of the board, the bureau shall assign the complaint to an investigator within the bureau.

(b) The bureau [~~will~~]shall provide a copy of the complaint to the licensee, who shall answer the complaint in writing within 15 working days [~~of~~]after the date on which the bureau sends the complaint [~~is sent~~]to the licensee by certified mail.

(4) In any investigation undertaken by the bureau, each licensee on request shall provide records and truthfully respond to questions concerning activities regulated under this chapter.

(a) [~~These~~]The licensee shall maintain the records [~~shall be maintained~~]for five years at:

(i) the principal place of business of the licensee; or

(ii) [~~at~~]another location [~~approved by~~]the board approves for a person whose license has been terminated, canceled, or revoked.

(b) On request by the bureau, the licensee shall:

(i) during normal business hours or other time acceptable to the parties, make [~~its~~]the licensee's records available immediately to the bureau unless the bureau [~~determines that~~]grants an extension[~~may be granted~~]; and

(ii) provide copies of any business records [~~requested by the bureau~~]the bureau requests.

(5) Upon completion of the investigation, the bureau shall report [~~its~~]the bureau's findings of fact to the board [~~,~~]and shall make a recommendation as to whether disciplinary action is warranted under Section 53-9-118, including whether emergency action should be taken under Subsection (8).

(6) (a) If the bureau recommends disciplinary action, the bureau shall send a notice of [~~the recommendations in~~]a recommendation required by Subsection (5) [~~shall be sent by the bureau~~]to the licensee by certified mail.

(b) The notice shall include the date and time of the meeting where the board will consider the bureau's recommendation.

(c) The board shall give the licensee an opportunity at the meeting to present testimony and evidence in response to the bureau's recommendation.

(7) If the board finds, based on the investigation or hearing, that a violation of Section 53-9-118 has occurred, the board shall send notice of the board's decision [~~shall be sent~~]to:

(a) the licensee at the licensee's most recent address in the bureau's files by certified mail, return receipt requested[~~,~~]; and

(b) the licensee's sponsoring agent if the licensee is an apprentice or a registrant.

(8) Based on information the board receives from the investigation or during a hearing, the board may:

(a) dismiss the complaint if the board finds [~~it~~]the complaint is without merit;

(b) take emergency action;

(c) issue a letter of concern, if applicable;

(d) impose a civil penalty not to exceed $500;

(e) place the license on suspension for a period of not more than 12 months;

(f) revoke the license; and

(g) place all records, evidence findings, and conclusion, and any other information pertinent to the investigation, in a confidential and

protected records section of the licensee's file maintained at the bureau.

(9) A letter of concern issued for a violation of Section 53-9-118 is a document that is retained by the bureau and may be used in future disciplinary actions against a licensee.

(10) (a) Appeal of the board's decision shall be made in writing to the commissioner within 15 days from the date the board mails the board's decision [~~is mailed~~]to the licensee.

(b) The commissioner shall review the board's finding and may affirm, return to the board for reconsideration, reverse, adopt, modify, supplement, amend, or reject the recommendation of the board.

(11) (a) The commissioner shall issue a final written order within 30 days outlining the decision on appeal.

(b) The final order is final agency action for purposes of judicial review under Section 63G-4-402.

(12) (a) If the board finds, based on the bureau's investigation, that the public health, safety, or welfare requires emergency action, the board may order a summary suspension of a license pending proceedings for revocation or other action.

(b) (i) If the board issues a summary suspension order, the board shall issue to the licensee a written notice of the order and indicate the licensee's right to request a formal hearing before the board.

(ii) The board shall mail notice [~~shall be mailed~~]to the licensee by certified mail, return receipt requested.

(c) [~~The licensee's~~]A licensee shall request [~~for~~]a formal hearing [~~shall be~~]in writing and [~~mailed~~]mail the request to the bureau within 30 working days of the date the board mailed the summary suspension [~~was mailed~~]order to the licensee.

(13) All penalties collected under this section shall be deposited [~~in~~]into the General Fund.

Section 6. Section 53-9-118 is amended to read:

53-9-118. Grounds for disciplinary action.

The board may suspend or revoke a licensee's license [~~or registration~~]or deny an application for a license if a person[~~engages in~~]:

(1) engages in fraud or willful misrepresentation in applying for an original license or renewal of an existing license;

(2) [~~using~~]uses any letterhead, advertising, or other printed matter in any manner representing that the licensee is an instrumentality of the federal government, a state, or any political subdivision of a state;

(3) [~~using~~]uses a name different from that under which the licensee is currently licensed for any advertising, solicitation, or contract to secure business unless the name is an authorized fictitious name;

(4) [~~impersonating, permitting, or aiding and abetting~~]impersonates, permits, or aids and abets an employee or independent contractor to impersonate a peace officer or employee of the United States, any state, or a political subdivision of a state;

(5) knowingly [~~violating, advising, encouraging, or assisting~~]violates, advises, encourages, or assists in the violation of any statute, court order, or injunction in the course of a business regulated under this chapter;

(6) [~~falsifying~~]falsifies fingerprints or photographs while operating under this chapter;

(7) [~~conviction~~]is convicted of a felony;

(8) [~~conviction~~]is convicted of any act involving illegally using, carrying, or possessing a dangerous weapon;

(9) [~~conviction~~]is convicted of any act involving moral turpitude;

(10) [~~conviction~~]is convicted of any act of personal violence or force against any person or conviction of threatening to commit any act of personal violence or force against any person;

(11) [~~soliciting~~]solicits business for an attorney in return for compensation;

(12) [~~conviction~~]is convicted of any act constituting dishonesty or fraud;

(13) [~~being~~]is placed on probation, parole, or named in an outstanding arrest warrant;

(14) [~~committing or permitting~~]commits or permits any employee or independent contractor to commit any act during the period when the license is expired or suspended;

(15) willfully [~~neglecting~~]neglects to render to a client services or a report as agreed between the parties and for which the client paid or tendered compensation [~~has been paid or tendered~~]in accordance with the agreement of the parties unless the licensee chooses to withdraw from the case and returns the funds for work not yet completed;

(16) engages in the unauthorized release of information acquired on behalf of a client by a licensee, or [~~its~~]the client's employee or contract agent, as a result of activities regulated under this chapter;

(17) [~~failing~~]fails to cooperate with, [~~misrepresenting to, or refusing~~]misrepresents to, or refuses access to business or investigative records requested by the board or an authorized representative of the bureau engaged in an official investigation [~~pursuant to~~]in accordance with this chapter;

(18) [~~employing or contracting~~]employs or contracts with any unlicensed or improperly licensed person or agency to conduct activities regulated under this chapter if the licensure status was known or could have been ascertained by reasonable inquiry;

(19) [~~permitting, authorizing, aiding~~]permits, authorizes, aids, or in any way [~~assisting~~]assists an employee to conduct services as described in this chapter on an independent contractor basis and not under the authority of the licensed agency;

(20) [~~failure~~]fails to maintain in full force and effect liability or workers' compensation insurance, or a surety bond, if applicable;

(21) [~~conducting~~]conducts private investigation services regulated by this chapter on a revoked or suspended license;

(22) [~~accepting employment, contracting~~]accepts employment, contracts, or in any way [~~engaging~~]engages in employment that has an adverse impact on investigations being conducted on behalf of clients;

(23) [~~advertising~~]advertises in a false, deceptive, or misleading manner;

(24) [~~refusing~~]refuses to display the identification card issued by the bureau to any person having reasonable cause to verify the validity of the license;

(25) [~~committing~~]commits any act of unprofessional conduct;

(26) [~~conviction~~]is convicted of any act of illegally obtaining or disseminating private, controlled, or protected records under Section 63G-2-801; [~~or~~]

(27) fails to notify the bureau of a change of name or address within 60 days of the change; or

[~~(27)~~](28) engages in any other conduct prohibited by this chapter.

Section 7. Section 53-11-104 is amended to read:

53-11-104. Board.

(1) There is established under the Department of Public Safety a Bail Bond Recovery and Private Investigator Licensure Board consisting of eight members appointed by the commissioner.

(2) Each member of the board shall be a citizen of the United States and a resident of this state at the time of appointment:

(a) one member shall be a person who is qualified for and is licensed under this chapter;

(b) one member shall be a person who is qualified for and is licensed under [~~Title 53,~~]Chapter 9, Private Investigator Regulation Act;

(c) one member shall be [~~a~~]an attorney licensed to practice in the state;

(d) one member shall be a chief of police or sheriff;

(e) one member shall be a supervisory investigator from the commissioner's office;

(f) one member shall be an owner of a bail bond surety company;

(g) one member shall be an owner of a private investigator agency; and

(h) one member shall be a public member who:

(i) does not have a financial interest in a bail bond surety or bail bond recovery business;

(ii) does not have a financial interest in a private investigative agency; and

(iii) does not have an immediate family member or a household member, or a personal or professional acquaintance, who is licensed or registered under this chapter or [~~Title 53,~~]Chapter 9, Private Investigator Regulation Act.

(3) (a) As terms of current board members expire, the commissioner shall appoint each new member or reappointed member to a four-year term, except as required by Subsection (3)(b).

(b) The commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) At [~~its~~]the board's first meeting every year, the board shall elect a chair and vice chair from [~~its~~]the board's membership.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance [~~pursuant to~~]in accordance with Sections 63A-3-106 and 63A-3-107.

(7) (a) A member may not serve more than one consecutive term [~~, except that~~]unless:

(i) there is no other qualified applicant; or

(ii) a member is appointed to fill a vacancy or appointed for an initial term of less than four years under Subsection (3)[~~may be reappointed for one additional full term~~].

(b) The commissioner may reappoint a member described in Subsection (7)(a)(ii) for one additional full term.

(8) The commissioner, after a board hearing and recommendation, may remove any member of the board for misconduct, incompetency, or neglect of duty.

(9) Members of the board are immune from suit with respect to all acts done and actions taken in good faith in carrying out the purposes of this chapter.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 360
S. B. 318
Passed March 6, 2025
Approved March 25, 2025
Effective May 7, 2025

PROSECUTORIAL MISCONDUCT AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Karianne Lisonbee

Cosponsor:	Kirk A. Cullimore
Brady Brammer	

LONG TITLE

General Description:

This bill creates a commission to address prosecutorial misconduct.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► provides that certain records of the Prosecutor Conduct Commission are protected;
- ► creates the Prosecutor Conduct Commission (commission) within the State Commission on Criminal and Juvenile Justice;
- ► provides the membership of the commission;
- ► addresses terms, vacancies, and compensation for members of the commission;
- ► allows the commission to select a chair for a two-year term;
- ► addresses staffing for the commission;
- ► addresses the duties and functions of the commission;
- ► addresses the complaint and investigation process for the commission;
- ► allows a prospective employer to inquire as to whether there is a pending investigation regarding a prosecuting attorney;
- ► provides the requirements for a finding of professional misconduct by a prosecuting attorney;
- ► provides reporting requirements when the commission makes a finding of professional misconduct;
- ► enacts an annual reporting requirement to the Legislature regarding complaints and investigations by the commission; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-305, as last amended by Laws of Utah 2024, Chapters 18, 101, 135, 267, 344, and 522
63M-7-101.5, as enacted by Laws of Utah 2024, Chapter 208

ENACTS:

63M-7-1101, Utah Code Annotated 1953
63M-7-1102, Utah Code Annotated 1953
63M-7-1103, Utah Code Annotated 1953
63M-7-1104, Utah Code Annotated 1953
63M-7-1105, Utah Code Annotated 1953
63M-7-1106, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-305 is amended to read:
63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) a research request from a legislator to a legislative staff member and research findings prepared in response to the request;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26B-2-709:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a provider, program, or facility which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a provider, program, or facility;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(65) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(66) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(67) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(68) work papers as defined in Section 31A-2-204;

(69) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(70) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(71) a record described in Section 31A-37-503;

(72) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(73) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (74) or (75), in

the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(78) a record submitted to the Insurance Department under Section 31A-48-103;

(79) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(80) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding;

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest; or

(d) the image is displayed to a person who is permitted to view the image under Section 17-22-30[~~.~~];

(81) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(82) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (82) may not be used to restrict access to a record evidencing a final contract or approval decision;

(83) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (83)(a);

(84) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

(85) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401;

(86) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake; [~~and~~]

(87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is reclassified as public as described in Subsection 13-2-11(4)[~~.~~];

(88) a record of the Utah water agent, appointed under Section 73-10g-702:

(a) concerning a claim to the use of waters;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state, a tribe, the federal government, or other government entity as provided in Title 73, Chapter 10g, Part 6, Utah Water Agent; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water;

(ii) harm the ability of the Utah water agent to negotiate the best terms and conditions regarding the use of water; or

(iii) give an advantage to another state, a tribe, the federal government, or other government entity in negotiations regarding the use of water[~~.~~]; and

(89) a record created or maintained for an investigation of the Prosecutor Conduct Commission, created in Section 63M-7-1102, that contains any personal identifying information of a prosecuting attorney, including:

(a) a complaint, or a document that is submitted or created for a complaint, received by the Prosecutor Conduct Commission; or

(b) a finding by the Prosecutor Conduct Commission.

Section 2. Section 63M-7-101.5 is amended to read:

63M-7-101.5. Definitions for chapter.

As used in this chapter:

(1) "Commission" means, except as provided in Sections 63M-7-901 and 63M-7-1101, the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) "Desistance" means an individual's abstinence from further criminal activity after a previous criminal conviction.

(3) "Intervention" means a program, sanction, supervision, or event that may impact recidivism.

(4) "Recidivism" means a return to criminal activity after a previous criminal conviction.

(5) "Recidivism standard metric" means the number of individuals who are returned to prison for a new conviction within the three years after the day on which the individuals were released from prison.

Section 3. Section 63M-7-1101 is enacted to read:

PART 11. Prosecutor Conduct Commission

63M-7-1101. Definitions for part.

As used in this part:

(1) "Commission" means the Prosecutor Conduct Commission created in Section 63M-7-1102.

(2) "Complaint" means:

(a) a written complaint regarding professional misconduct by a prosecuting attorney; or

(b) an allegation based on reliable information received in any form, from any source, that alleges, or from which a reasonable inference can be drawn that a prosecuting attorney has committed professional misconduct.

(3) "Employer" means:

(a) except as provided in Subsection (3)(b), the attorney general, a district attorney, a county attorney, or a municipal attorney who employs the prosecuting attorney; or

(b) the chief executive officer of the political subdivision that employs the prosecuting attorney if the prosecuting attorney is a district or county attorney or a municipal attorney.

(4) "Investigation" means an inquiry into a complaint.

(5) "Knowingly" means taking an action, or failing to take an action, with the knowledge that the natural or probable consequences are unambiguously prohibited by a legal obligation or professional standard.

(6) "Legal obligation" means an obligation imposed by the Utah Constitution, the Constitution of the United States, a statute, a rule of procedure or evidence, or a local rule.

(7) "Professional misconduct" means conduct committed in the course of a prosecution of a felony offense, a class A misdemeanor offense, or a class B misdemeanor offense that:

(a) purposefully, knowingly, or recklessly violated a clear and unambiguous legal obligation or professional standard for a prosecuting attorney; and

(b) impacted, or reasonably could have impacted, the substantive or procedural due process rights of an individual.

(8) "Professional standard" means a standard of conduct imposed by the Utah Rules of Professional Conduct.

(9) "Prosecuting attorney" means an attorney who brings a criminal prosecution or delinquency proceeding on behalf of this state or a county or municipality of this state.

(10) "Purposefully" means taking an action, or failing to take an action, in order to obtain a result that is unambiguously prohibited by a legal obligation or professional standard.

(11) "Recklessly" means the conduct is a gross deviation from the standard of conduct for an objectively reasonable prosecuting attorney:

(a) after considering the nature and the circumstances of a prosecuting attorney's conduct; and

(b) by taking into account whether the prosecuting attorney knew, or should have known:

(i) based on the prosecuting attorney's experience, of the legal obligation or professional standard; and

(ii) the prosecuting attorney's conduct was substantially likely to violate a legal obligation or professional standard.

Section 4. Section 63M-7-1102 is enacted to read:

63M-7-1102. Prosecutor Conduct Commission -- Members -- Terms -- Compensation -- Staff.

(1) There is created the Prosecutor Conduct Commission within the State Commission on Criminal and Juvenile Justice.

(2) The commission is composed of six members as follows:

(a) an assistant attorney general who prosecutes criminal offenses full-time, appointed by the attorney general with the advice and consent of the Senate;

(b) a county or district attorney, or an assistant county or district attorney, who prosecutes criminal offenses full-time, appointed by the Statewide Association of Prosecutors and Public Attorneys with the advice and consent of the Senate;

(c) a municipal attorney, or an assistant municipal attorney, who prosecutes criminal offenses full-time, appointed by the Statewide Association of Prosecutors and Public Attorneys with the advice and consent of the Senate;

(d) a retired attorney whose primary caseload as an attorney was criminal defense, appointed by the executive director of the Commission on Criminal and Juvenile Justice with the advice and consent of the Senate; and

(e) two retired district or appellate court judges, appointed by the governor with the advice and consent of the Senate.

(3) (a) Except as provided in Subsection (4), a member appointed under Subsection (2) shall serve a four-year term.

(b) A member may serve no more than eight years.

(4) At the time of appointment, the terms of commission members shall be staggered so that approximately half of commission members' terms expire every two years.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the same appointing authority that appointed the member creating the vacancy.

(6) (a) Three members of the commission constitutes a quorum.

(b) If a quorum is present, the action of a majority of the quorum constitutes the action of the commission.

(7) (a) The commission shall elect annually a chair from the commission's membership to serve a two-year term.

(b) A commission member may not serve as chair of the commission for more than three consecutive terms.

(8) The commission shall establish guidelines and procedures for the disqualification of any member from consideration of any matter.

(9) (a) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(b) A member may not receive per diem or reimbursement for travel expenses under Subsection (9)(a) if the member is being paid by a governmental entity while performing the member's service on the commission.

(10) (a) The executive director of the State Commission on Criminal and Juvenile Justice shall hire a director to administer and manage the work of the commission.

(b) With approval by the executive director of the State Commission on Criminal and Juvenile Justice, the director may hire staff to assist the director and commission with the work of the commission.

(11) The commission and the director of the commission shall coordinate with the State Commission on Criminal and Juvenile Justice on budget and administrative support issues for the commission.

Section 5. Section 63M-7-1103 is enacted to read:

63M-7-1103. Functions and duties of the commission.

(1) The commission may:

(a) request that members of the public report instances of professional misconduct by a prosecuting attorney to the commission;

(b) receive, initiate, investigate, or hear complaints as described in Section 63M-7-1104;

(c) report professional misconduct as described in Section 63M-7-1105; and

(d) gather and publish data on claims of professional misconduct by prosecuting attorneys in this state.

(2) To enforce the provisions of this part, the commission may:

(a) administer an oath or affirmation;

(b) issue a subpoena, in accordance with the Utah Rules of Civil Procedure, that requires:

(i) the attendance and testimony of a witness; or

(ii) the production of evidence relevant to the investigation; and

(c) take evidence.

(3) A court shall enforce a subpoena issued by the commission, unless the testimony or evidence sought is privileged or protected information under a law of this state.

(4) The commission shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

Section 6. Section 63M-7-1104 is enacted to read:

63M-7-1104. Complaint and investigation process.

(1) (a) A prosecuting attorney shall report:

(i) any alleged professional misconduct by another prosecuting attorney to that prosecuting attorney's employer; and

(ii) any statement by a judge or magistrate alleging that another prosecuting attorney has committed professional misconduct to that prosecuting attorney's employer.

(b) An employer of a prosecuting attorney shall:

(i) investigate any alleged professional misconduct by a prosecuting attorney; and

(ii) submit a complaint regarding the professional misconduct to the commission if the employer determines that the allegation is substantiated.

(2) An individual may submit a complaint to the commission alleging that a prosecuting attorney has committed professional misconduct.

(3) On a motion by a member of the commission, the commission may initiate an investigation of alleged professional misconduct by a prosecuting attorney if the commission determines that a complaint, if substantiated, would lead to a finding of professional misconduct by the prosecuting attorney.

(4) (a) The commission may dismiss a complaint at any time if the commission determines that the complaint lacks merit.

(b) If a complaint submitted by an individual is dismissed, the commission shall notify the individual who submitted the complaint.

(5) The commission may investigate a complaint even if the prosecuting attorney has retired or resigned.

(6) If the commission moves to initiate an investigation of alleged professional misconduct by a prosecuting attorney, the commission shall:

(a) notify the prosecuting attorney and the prosecuting attorney's employer of the investigation; and

(b) provide the prosecuting attorney with all information necessary to prepare an adequate response or defense, including the identity of the complainant.

(7) If the committee dismisses an investigation after notifying the prosecuting attorney as described in Subsection (4), the commission shall notify the prosecuting attorney of the dismissal.

(8) A prospective employer may inquire of the commission as to whether there is a pending investigation against a prosecuting attorney.

(9) (a) In the course of an investigation, the commission may request that the prosecuting attorney testify before the commission.

(b) The prosecuting attorney's counsel may be present during the prosecuting attorney's testimony.

(c) The prosecuting attorney may present evidence and material relevant to the complaint.

(10) A governmental entity may provide the commission with a record as described in Section 63G-2-206.

(11) (a) A prosecuting agency, and an employee of a prosecuting agency, shall:

(i) cooperate with the commission in an investigation of a prosecuting attorney; and

(ii) respond truthfully to questions posed during the course of an investigation unless:

(A) the information is privileged or protected by statute or court rule; or

(B) the employee asserts the employee's constitutional right to remain silent.

(b) A prosecuting agency may subject an employee to discipline, including termination, if the employee refuses to cooperate with an investigation by the commission.

(c) The dismissal or demotion of a career service employee under Subsection (11)(b) is subject to the requirements of Section 63A-17-306.

Section 7. Section 63M-7-1105 is enacted to read:

63M-7-1105. Finding of professional misconduct -- Reporting of finding.

(1) (a) Upon an investigation under Section 63M-7-1104, the commission may make a finding, by a preponderance of the evidence, that a prosecuting attorney committed professional misconduct.

(b) In determining whether a prosecuting attorney committed professional misconduct under Subsection (1)(a), the commission may consider an affirmative action of the prosecuting attorney or an action that the prosecuting attorney failed to take.

(2) If the commission finds that a prosecuting attorney committed professional misconduct:

(a) the commission shall notify:

(i) the prosecuting attorney's employer of the commission's finding;

(ii) the appropriate law enforcement agency of the commission's finding if the professional misconduct is likely a criminal offense; and

(iii) the Office of Professional Conduct of the commission's finding if the professional misconduct is likely a violation of the Utah Rules of Professional Conduct; and

(b) the commission may disclose a summary of the commission's investigation and finding.

(3) Any documents disclosed under Subsection (2) shall maintain the same classification under Title 63G, Chapter 2, Government Records Access and Management Act.

(4) The commission may not disclose information or evidence under Subsection (2) that is:

(a) protected from disclosure by court order or a legal privilege; or

(b) given after having been issued a warning based on Garrity v. New Jersey, 385 U.S. 493 (1967).

(5) A finding by the commission that a prosecuting attorney committed professional misconduct may only be made public if:

(a) a governmental entity with a record of the finding is required to make the record public under Title 63G, Chapter 2, Government Records Access and Management Act;

(b) the Office of Professional Conduct discloses the commission's finding to the public due to a disciplinary action against the prosecuting attorney as a result of the commission's finding; or

(c) a prosecuting agency brings a criminal prosecution against the prosecuting attorney as a result of the commission's finding.

(6) The commission may not discipline or sanction a prosecuting attorney for any professional misconduct.

Section 8. Section 63M-7-1106 is enacted to read:

63M-7-1106. Annual reporting requirement to Legislature.

(1) Before November 1 of each year, the commission shall report to the Law Enforcement and Criminal Justice Interim Committee and the Judiciary Interim Committee on:

(a) the number of complaints received;

(b) the general nature of the complaints;

(c) the number of complaints dismissed without an investigation;

(d) the number of complaints investigated;

(e) the general findings and outcomes of investigations; and

(f) the name of any prosecuting agency that refused, without reasonable cause, to cooperate in an investigation by the commission.

(2) The commission may not include any personal identifying information regarding a prosecuting attorney in a report described in Subsection (1).

Section 9. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 361
S. B. 323
Passed March 5, 2025
Approved March 25, 2025
Effective May 7, 2025

ASSET AND INVESTMENT REVIEW TASK FORCE

Chief Sponsor: Keven J. Stratton
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill creates the Asset and Investment Review Task Force.

Highlighted Provisions:

This bill:

- ► creates the Asset and Investment Review Task Force (task force);
- ► provides the task force's membership and duties;
- ► addresses vacancies, salaries and expenses, and staffing;
- ► allows the task force to contract with a qualified person to study cash, cash equivalents, and investments held by government entities and analyze investment options for those public funds; and
- ► provides a sunset date for the task force.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-267, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

67-4-20, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-267 is amended to read:
63I-2-267. Repeal dates: Title 67.

[~~Reserved.~~]Section 67-4-20 is repealed January 1, 2026.

Section 2. Section 67-4-20 is enacted to read:
67-4-20. Asset and Investment Review Task Force.

(1) As used in this section, "task force" means the Asset and Investment Review Task Force created in this section.

(2) There is created the Asset and Investment Review Task Force consisting of:

(a) one member of the Senate, appointed by the president of the Senate;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the state auditor or the state auditor's designee;

(d) the state treasurer or the state treasurer's designee;

(e) the commissioner of the Department of Financial Institutions or the commissioner's designee; and

(f) the following members, appointed by the state treasurer:

(i) an individual representing the banking industry;

(ii) an individual representing the credit union industry;

(iii) an individual representing a nonprofit organization that advocates on state tax policy;

(iv) an individual representing municipalities;

(v) an individual representing counties; and

(vi) an individual representing special districts.

(3) The state treasurer or the state treasurer's designee shall chair the task force.

(4) If a vacancy occurs in the membership of the task force described in Subsection (2), the member shall be replaced in the same manner in which the original appointment was made.

(5) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(6) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with:

(a) Section 36-2-2;

(b) Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses; and

(c) Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(7) A member of the task force who is not a legislator:

(a) may not receive compensation for the member's work associated with the task force; and

(b) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(8) The state treasurer's office shall provide staff support to the task force.

(9) (a) The task force shall complete a study that:

(i) identifies public funds that are:

(A) held by a government entity;

(B) cash, cash equivalents, or investments, as those terms are defined under the standards established by the Governmental Accounting Standards Board; and

(C) subject to the provisions of Title 51, Chapter 7, State Money Management Act;

(ii) examines investment strategies for public funds described in Subsection (9)(a)(i), including an analysis of the economic impact of each strategy; and

(iii) makes recommendations regarding public funds described in Subsection (9)(a)(i) and possible investment strategies for the public funds.

(b) (i) Subject to Subsection (9)(b)(ii), the task force may limit the government entities included in the study described in Subsection (9)(a) based on the amount of cash and cash equivalents held by the government entity.

(ii) The task force shall include, at minimum, all government entities holding a total of $1 million or more in cash and cash equivalents.

(10) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state treasurer may contract with a qualified person to perform the study described in Subsection (9).

(11) On or before November 30, 2025, the task force shall submit to the Executive Appropriations Committee the results of the study described in Subsection (9) and any legislative recommendations.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 362
S. B. 327
Passed March 7, 2025
Approved March 25, 2025
Effective July 1, 2025

PUBLIC SECTOR LABOR ORGANIZATION AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill modifies the state labor code.

Highlighted Provisions:

This bill:

- ► defines terms related to public sector labor organizations;
- ► provides that private employees have a right to collectively bargain with their employers;
- ► includes a coordination clause to have the changes to Section 34-32-101 in this bill supersede Section 34-32-101 in H.B. 267, Public Sector Labor Union Amendments, if both pass and become law; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

34-34-16, as enacted by Laws of Utah 1969, Chapter 85

REPEALS AND REENACTS:

34-32-101, as last amended by Laws of Utah 2025, Chapter 10

Utah Code Sections Affected by Coordination Clause:

AMENDS:

34-32-101, as last amended by Laws of Utah 2025, Chapter 10

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-32-101 is repealed and re-enacted to read:

34-32-101. Definitions.

(1) (a) "Labor organization" means an organization of any kind that:

(i) is independent of the public employer; and

(ii) exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of employment.

(b) Except as provided in Subsection (1)(c), "labor organization" includes:

(i) a labor union, an employee council, or a worker committee; or

(ii) an employee association or a union for employees of public sector or private sector employers.

(c) "Labor organization" does not include:

(i) an organization that has entered into a labor agreement or labor protective agreement under the Urban Mass Transportation Act, 49 U.S.C. Sec. 5333(b);

(ii) an organization that is not an employee association or a union for employees that performs a public employer's internal functions, such as human resources or legal services, whether performed directly by the public employer or through a third-party contractor; or

(iii) organizations governed by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq. or the Railroad Labor Act, 45 U.S.C. Sec. 151 et seq.

(2) "Member" means a public employee who is a member of a labor organization.

(3) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, an individual to refrain from voting or to vote for or against any candidate for public office at any caucus, political convention, primary, or election.

(4) "Public employee" means an individual employed by a public employer.

(5) "Public employer" means an employer that is:

(a) the state of Utah or any administrative subunit of the state;

(b) a state institution of higher education; or

(c) a county, a municipality, a special district, a special service district, a local education agency as defined in Section 53E-1-102, or any other political subdivision of the state.

(6) "Public money" means the same as that term is defined in Section 76-1-101.5.

(7) (a) "Public property" means real property, personal property, or intellectual property that is owned, held, or managed by a public employer.

(b) "Public property" includes a website, computer program, record, or data that is owned, held, or managed by a public employer.

(8) "Representative" means a labor organization representative.

(9) (a) "Union activity" means an activity that a labor organization, a member, or a representative performs that relates to:

(i) advocating the general interests of members in wages, benefits, or terms and conditions of employment;

(ii) enforcing the labor organization's internal policies and procedures;

(iii) fulfilling the labor organization's obligations;

(iv) advancing the labor organization's external relations; or

(v) union organizing.

(b) "Union activity" does not include:

(i) advocating for a public employee in a specific employment dispute; or

(ii) performing a public employer's internal functions, such as human resources or legal services, whether performed directly by the public employer or through a third-party contractor that is not an employee association or union.

(10) "Union dues" means dues, fees, assessments, or other money required as a condition of membership or participation in a labor organization.

(11) "Union organizing" means communicating with a public employee in an effort to persuade the public employee to join or support a labor organization.

Section 2. Section 34-34-16 is amended to read:

34-34-16. Right to bargain collectively not denied.

Nothing in this chapter shall be construed to deny the right of private employees to bargain collectively with their employer by and through labor unions, labor organizations or any other type of associations.

Section 3. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect on the same date as H.B. 267, Public Sector Labor Union Amendments.

(2) If H.B. 267, Public Sector Labor Union Amendments, does not go into effect, S.B. 327, Public Sector Labor Organization Amendments, does not go into effect.

Section 4. Coordinating S.B. 327 with H.B. 267.

If S.B. 327, Public Sector Labor Organization Amendments, and H.B. 267, Public Sector Labor Union Amendments, both pass and become law, the Legislature intends that, on the effective date of S.B. 327, the repeal and reenactment of Section 34-32-101 in S.B. 327 supersede the amendments to Section 34-32-101 (renumbered from Section 34-32-1) in H.B. 267.

CHAPTER 363
S. B. 332
Passed March 5, 2025
Approved March 25, 2025
Effective March 25, 2025

ARTIFICIAL INTELLIGENCE REVISIONS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill extends the repeal date of the Artificial Intelligence Policy Act.

Highlighted Provisions:

This bill:

► extends the repeal date of the Artificial Intelligence Policy Act to July 1, 2027.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-213, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-213 is amended to read:

63I-2-213. Repeal dates: Title 13.

(1) Section 13-1-16, Latino Community Support Restricted Account, is repealed July 1, 2024.

(2) Section 13-14-103, Utah Motor Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest, is repealed October 1, 2024.

(3) Section 13-35-103, Utah Powersport Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest, is repealed October 1, 2024.

(4) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program start date, as defined in Section 63G-12-102.

(5) Title 13, Chapter 72, Artificial Intelligence Policy Act, is repealed [~~May~~]July 1, [~~2025~~]2027.

Section 2. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 364
S. B. 340
Passed March 7, 2025
Approved March 25, 2025
Effective May 7, 2025

PROTECTED PERSON AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill enacts provisions relating to the construction of a security improvement to real property belonging to an individual who is certified to be at risk of harm.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes a process for an individual at risk of harm to apply to the commissioner of public safety for certification to construct a security improvement on the individual's property;
- ► requires a land use authority to approve an individual's land use application to construct a security improvement on the individual's real property if the application complies with the state's construction and fire codes;
- ► exempts an individual's security improvement from county or municipal land use regulations;
- ► describes remedies available to an individual if a municipality or county unlawfully conditions, delays, or denies the individual's building permit for a security improvement; and
- ► provides for the confidentiality of records relating to certification of a security improvement or security improvement construction.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-302, as last amended by Laws of Utah 2024, Chapter 234
63G-7-301, as last amended by Laws of Utah 2024, Chapter 234

ENACTS:

53-29-101, Utah Code Annotated 1953
53-29-201, Utah Code Annotated 1953
53-29-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-29-101 is enacted to read:

CHAPTER 29. SECURITY IMPROVEMENTS ACT

PART 1. General Provisions

53-29-101. Definitions.

As used in this chapter:

(1) "Applicant" means an individual who submits an application for certification.

(2) "Application for certification" means an application described in Subsection 53-29-201(1).

(3) "Certifying officer" means the commissioner or an individual the commissioner designates to certify an application for certification.

(4) "Credible threat" means a threat to cause death or serious bodily injury that a state or federal law enforcement agency has confirmed to be authentic.

(5) "Easement holder" means the same as that term is defined in Section 57-13c-101.

(6) "Improvement" means the same as that term is defined in Section 78B-2-225.

(7) "Land use authority" means:

(a) with respect to protected property located within a municipality, the same as that term is defined in Section 10-9a-103; or

(b) with respect to protected property located within an unincorporated area of a county, the same as that term is defined in Section 17-27a-103.

(8) "Protected person" means an individual who:

(a) within the four years preceding the day on which the individual submits an application for certification:

(i) received a credible threat; or

(ii) was physically harmed; and

(b) is at risk of serious bodily injury or death caused by:

(i) the individual who made the credible threat described in Subsection (8)(a)(i) or caused the physical harm described in Subsection (8)(a)(ii); or

(ii) an individual affiliated with the individual who made the credible threat described in Subsection (8)(a)(i) or caused the physical harm described in Subsection (8)(a)(ii).

(9) "Protected property" means real property that is owned or occupied by a protected person.

(10) "Protection certificate" means a written determination described in Subsection 53-29-201(4).

(11) (a) "Security improvement" means an improvement that:

(i) is intended to provide protection for a protected person, or a protected person's immediate family member living at the same residence as the protected person, from the risk of death or serious bodily injury caused by an individual who made a credible threat or caused physical harm to the protected person;

(ii) is constructed within the boundaries of protected property; and

(iii) does not interfere with another property owner's property right.

(b) "Security improvement" includes an improvement described in Subsection (11)(a) that provides safe egress from, or safety within, the protected property, including an underground improvement or an improvement that runs below an easement if the improvement does not damage or interfere with the purpose or use of the easement.

Section 2. Section 53-29-201 is enacted to read:

PART 2. Certification

53-29-201. Certification process.

(1) (a) In accordance with the provisions of this section, an individual may submit an application to a certifying officer for a written determination that each improvement the applicant identifies in the application is a security improvement.

(b) An applicant shall include in an application for certification:

(i) the applicant's name; and

(ii) evidence supporting the applicant's assertion that the applicant is a protected person and that each proposed improvement is a security improvement, including:

(A) a legal description of the real property that the applicant asserts is protected property;

(B) building plans for each proposed security improvement;

(C) if the applicant intends to construct the proposed security improvement beneath an easement, evidence that the applicant provided written notice of the security improvement to each easement holder; and

(D) any other information the department requires.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules:

(a) establishing:

(i) a process for receiving and evaluating applications for certification; and

(ii) the required contents of an application for certification; and

(b) requiring that a certifying officer consult confidentially with a municipal or county building official regarding potential mitigation of any material adverse effects a proposed security improvement would cause if the proposed security improvement would be visible to an individual standing within 500 feet of the protected property.

(3) Within 45 days after the day on which a certifying officer receives an application for certification, the certifying officer shall approve or deny the application for certification.

(4) If the certifying officer approves the application for certification, the certifying officer shall:

(a) provide the applicant with a protection certificate that identifies the protected person, the protected property, and each security improvement; and

(b) within 30 days after the day on which the certifying officer approves the application for certification, notify the applicable police chief or sheriff of the threat made against the protected person.

Section 3. Section 53-29-301 is enacted to read:

PART 3. Security Improvements

53-29-301. Improvements -- Legal remedies.

(1) No later than two years after the day on which a certifying officer issues a protection certificate, the protected person may submit to the applicable land use authority a copy of the protection certificate, together with a building permit application, for the construction of one or more security improvements identified in the protection certificate.

(2) (a) Upon receipt of a building permit application for the construction of a security improvement, the land use authority shall:

(i) review the building permit application for the sole purpose of determining compliance with Title 15A, State Construction and Fire Codes Act; and

(ii) issue a building permit authorizing the construction if the application complies with Title 15A, State Construction and Fire Codes Act.

(b) If a building permit application for the construction of a security improvement complies with Title 15A, State Construction and Fire Codes Act, the land use authority shall authorize construction.

(3) A security improvement is not subject to county or municipal land use regulations, except for regulations regarding the exterior of a building that are imposed under Subsection 53-29-201(2)(b).

(4) (a) If a municipality or county unlawfully conditions, delays, or denies a building permit for a security improvement, the protected person may challenge the municipality's or county's action in court.

(b) In an action under this Subsection (4), the court shall allow a party to file documents under seal to preserve the confidentiality of

the security improvement.

(c) A building permit application for the construction of a security improvement is not subject to Section 10-6-160 or 17-36-55.

Section 4. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);

(cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3); [~~and~~]

(dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004;

(ee) a record relating to a request by a state elected official or state employee who has been threatened to the Division of Technology Services to remove personal identifying information from the open web under Section 63A-16-109; [~~and~~]

(ff) a record including confidential information as that term is defined in Section [~~67-27-105.~~]67-27-106; and

(gg) a record or notice received or generated under Title 53, Chapter 29, Security Improvements Act, relating to:

(i) an application for certification described in Section 53-29-201; or

(ii) a security improvement, including a building permit application or building permit for a security improvement described in Section 53-29-301.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer[]-involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 5. Section 63G-7-301 is amended to read:

63G-7-301. Waivers of immunity.

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Section 63G-7-302, as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;

(j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, kidnap offender, or child abuse offender as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex offender, kidnap offender, or child abuse offender would have been revealed in a background check under Section 53G-11-402;

(k) as to any action brought under Section 78B-6-2303; [~~and~~]

(l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student Legal Representation[~~.~~]; and

(m) as to any action brought under Section 53-29-301.

(3) (a) As used in this Subsection (3):

(i) "Code of conduct" means a code of conduct that:

(A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under [~~age 18~~]18 years old.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the code of conduct to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

(4) (a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 365
S. B. 45
Passed February 20, 2025
Approved March 26, 2025
Effective May 7, 2025

JUVENILE COURT PROCEDURES AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill addresses petitions to modify orders of permanent custody and guardianship.

Highlighted Provisions:

This bill:

- ► describes circumstances under which a parent may file a petition to modify an order of permanent custody and guardianship;
- ► addresses whether a district court or juvenile court retains jurisdiction over an order of permanent custody and guardianship;
- ► provides that a juvenile court shall order a parent to file an order of permanent custody and guardianship with the district court in certain circumstances; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-5-102, as last amended by Laws of Utah 2024, Chapter 158
78A-6-103, as last amended by Laws of Utah 2024, Chapter 366
78A-6-357, as last amended by Laws of Utah 2022, Chapter 334
78A-7-106, as last amended by Laws of Utah 2024, Forth Special Session, Chapter 1
80-3-405, as last amended by Laws of Utah 2023, Chapters 309, 320 and 330

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-5-102 is amended to read:
78A-5-102. Jurisdiction of the district court -- Appeals.

(1) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal.

(2) A district court judge may:

(a) issue all extraordinary writs and other writs necessary to carry into effect the district court judge's orders, judgments, and decrees; and

(b) preside over an action for which the Business and Chancery Court has jurisdiction if:

(i) the district court judge is designated by the presiding officer of the Judicial Council to preside over an action in the Business and Chancery Court as described in Section 78A-1-103.5; and

(ii) a Business and Chancery Court judge is unable to preside over the action due to recusal or disqualification.

(3) The district court has jurisdiction:

(a) over matters of lawyer discipline consistent with the rules of the Supreme Court;

(b) over all matters properly filed in the circuit court prior to July 1, 1996;

(c) to enforce foreign protective orders as described in Subsection 78B-7-303(8);

(d) to enjoin a violation of Title 58, Chapter 37, Utah Controlled Substances Act;

(e) over a petition seeking to terminate parental rights as described in Section 78B-6-112;

(f) except as provided in Subsection 78A-6-103(2)(a)(xiv), over an adoption proceeding; and

(g) to issue a declaratory judgment as described in Title 78B, Chapter 6, Part 4, Declaratory Judgments.

(4) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance with Section 78A-8-106.

(5) The district court has jurisdiction to review:

(a) a municipal administrative proceeding as described in Section 10-3-703.7;

(b) a decision resulting from a formal adjudicative proceeding by the State Tax Commission as described in Section 59-1-601;

(c) except as provided in Section 63G-4-402, a final agency action resulting from an informal adjudicative proceeding as described in Title 63G, Chapter 4, Administrative Procedures Act; and

(d) by trial de novo, a final order of the Department of Transportation resulting from formal and informal adjudicative proceedings

under Title 72, Chapter 7, Part 2, Junkyard Control Act.

(6) The district court has original and exclusive jurisdiction over an action brought under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(7) The district court has exclusive jurisdiction to modify a juvenile court's permanent custody and guardianship order as described in Subsection 78A-6-357(3)(e)(ii).

[~~(7)~~](8) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

(a) there is no justice court with territorial jurisdiction;

(b) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has formed and dissolved, a justice court; or

(c) the offense is included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor by an individual who is 18 years old or older.

[~~(8)~~](9) If a district court has jurisdiction in accordance with Subsection (4), [~~(7)(a)~~](8)(a), or [~~(7)(b)~~](8)(b), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17 years old.

[~~(9)~~](10) The district court has subject matter jurisdiction over an action under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the district court.

[~~(10)~~](11) (a) The district court has subject matter jurisdiction over a criminal action that the justice court transfers to the district court.

(b) Notwithstanding Subsection 78A-7-106(1), the district court has original jurisdiction over any refiled case of a criminal action transferred to the district court if the district court dismissed the transferred case without prejudice.

[~~(11)~~](12) The Supreme Court and Court of Appeals have jurisdiction over an appeal from a final order, judgment, and decree of the district court as described in Sections 78A-3-102 and 78A-4-103.

Section 2. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as provided in Subsection (3), the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Section 53G-8-211.

(2) The juvenile court has original jurisdiction over:

(a) any proceeding concerning:

(i) a child who is an abused child, neglected child, or dependent child;

(ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(iii) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(v) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(vi) the treatment or commitment of a minor who has an intellectual disability;

(vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 81-2-304;

(viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(x) the treatment or commitment of a child with a mental illness;

(xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 26B-5-204;

(xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(xiv) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(xv) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

(A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(B) has run away from home; and

(xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court;

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement;

(c) the extension of a nonjudicial adjustment under Section 80-6-304;

(d) a petition for special findings under Section 80-3-305; and

(e) a referral of a minor for being a habitual truant as defined in Section 53G-8-211.

(3) The juvenile court does not have original jurisdiction over an offense committed by a minor as described in Subsection (1) if:

(a) the district court has original jurisdiction over the offense under Section 78A-5-102.5;

(b) the district court has original jurisdiction over the offense under Subsection [~~78A-5-102(8)~~]78A-5-102(9), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5; or

(c) the justice court has original jurisdiction over the offense under Subsection 78A-7-106(2), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5.

(4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a)(xvi), (b), or (c).

(5) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(8) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(6) and Section 80-6-303.

(9) The juvenile court has jurisdiction to enforce foreign protection orders as described in Subsection 78B-7-303(8).

Section 3. Section 78A-6-357 is amended to read:

78A-6-357. New hearings -- Modification of order or decree -- Requirements for changing or terminating custody, probation, or protective supervision.

(1) If a party seeks a new hearing after an adjudication under Title 80, Utah Juvenile Code, Rule 48 of the Utah Rules of Juvenile Procedure shall govern the matter of granting a new hearing.

(2) (a) Except as provided in Subsection (3), a juvenile court may modify or set aside any order or decree made by the juvenile court.

(b) A modification of an order placing a minor on probation may not:

(i) include an order under Section 80-3-405, 80-6-703, 80-6-704, or 80-6-705; or

(ii) extend supervision over a minor, except in accordance with Section 80-6-712.

(3) (a) A parent or guardian of a child whose legal custody has been transferred by the juvenile court to an individual, agency, or institution may petition the juvenile court for restoration of custody or other modification or revocation of the juvenile court's order or decree, except as provided in Subsections (3)(b), (c), and (d) and for a transfer of legal custody for secure care.

(b) A parent or guardian may only petition the juvenile court under Subsection (3)(a) on the ground that a change of circumstances has occurred that requires modification or revocation in the best interest of the child or the public.

(c) A parent may not file a petition after the parent's parental rights have been terminated in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(d) [~~A~~]Except as provided in Subsection (3)(e), a parent may not file a petition for restoration of custody under this section during the existence of a permanent guardianship established for the child under Subsection 80-3-405(2)(d).

(e) (i) A parent may file a petition to modify an order of permanent custody and guardianship only if:

(A) the order granted permanent custody and guardianship to the child's other parent; and

(B) the petitioning parent can demonstrate that a substantial and material change of circumstance has occurred.

(ii) A parent shall file a petition to modify an order of permanent custody and guardianship in the district court, if:

(A) the juvenile court ordered a parent to file the order in a pending district court case under Subsection 80-3-405(2)(d)(iv); or

(B) a case involving custody, support, or parent-time relating to the child who is the subject of the juvenile court's order is filed in district court subsequent to the juvenile court issuing the permanent custody and guardianship order.

(4) (a) An individual, agency, or institution vested with legal custody of a child may petition the juvenile court for a modification of the custody order on the ground that the change is necessary for the welfare of the child or in the public interest.

(b) The juvenile court shall proceed upon the petition in accordance with this section.

(5) Notice of hearing is required in any case in which the effect of modifying or setting aside an order or decree may be to make any change in the minor's legal custody under Section 80-3-405 or 80-6-703.

(6) (a) Upon the filing of a petition under Subsection (3)(a), the juvenile court shall make a preliminary investigation.

(b) After the preliminary investigation described in Subsection (6)(a), the juvenile court:

(i) may dismiss the petition if the juvenile court finds the alleged change of circumstances, if proved, would not affect the decree; or

(ii) shall conduct a hearing, if the juvenile court finds that further examination of the facts is needed, or if the juvenile court on the juvenile court's own motion determines that the juvenile court's order or decree should be reviewed.

(c) Notice of the hearing described in Subsection (6)(b)(ii) shall be given to all interested persons.

(d) At a hearing under Subsection (6)(b)(ii), the juvenile court may enter an order continuing, modifying, or terminating the juvenile court's order or decree.

(7) Notice of an order terminating probation or protective supervision of a child shall be given to:

(a) the child's parent;

(b) the child's guardian;

(c) the child's custodian; and

(d) if appropriate, to the child.

(8) Notice of an order terminating probation or protective supervision of a minor who is at least 18 years old shall be given to the minor.

Section 4. Section 78A-7-106 is amended to read:

78A-7-106. Original jurisdiction of a justice court -- Territorial jurisdiction -- Transfer of a domestic violence case.

(1) A justice court has original jurisdiction over class B and C misdemeanors, violations of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(2) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by a minor or an adult high school student:

(a) class C misdemeanor and infraction violations described in Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations described in:

(i) Title 23A, Wildlife Resources Act;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3) Notwithstanding Subsection (1) or (2), a justice court does not have original jurisdiction over:

(a) an offense described in Subsection (1) or (2) if:

(i) the district court has exclusive jurisdiction over the offense in accordance with Subsection [~~78A-5-102(8)~~]78A-5-102(9) or Section 78A-5-102.5; or

(ii) the juvenile court has exclusive jurisdiction over the offense in accordance with Section 78A-6-103.5; or

(b) the following offenses committed within the justice court's territorial jurisdiction by a minor or an adult high school student:

(i) class B and C misdemeanor violations described in Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

(ii) a class B misdemeanor violation described in Section 73-18-12.

(4) A justice court has jurisdiction over:

(a) a small claims case under Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court; and

(b) a petition for expungement as described in Title 77, Chapter 40a, Expungement of Criminal Records.

(5) An offense is committed within the territorial jurisdiction of a justice court if:

(a) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(b) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(c) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(d) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(e) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

(f) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(ii) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water;

(iii) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(iv) the offense is committed on or near the boundary of the court's jurisdiction;

(g) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(h) jurisdiction is otherwise specifically provided by law.

(6) If a defendant in a criminal case before a justice court is a minor, the justice court may transfer the case to the juvenile court for further proceedings if the justice court determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(7) (a) If a justice court has jurisdiction over a criminal action involving a domestic violence offense and the criminal action is set for trial, the prosecuting attorney or the defendant may file a notice of transfer in the justice court to transfer the criminal action from the justice court to the district court.

(b) If a prosecuting attorney files a notice of transfer, the prosecuting attorney shall certify in the notice of transfer that the prosecuting attorney, or a representative from the prosecuting attorney's office, has consulted with, or notified, all of the alleged victims about transferring the criminal action to the district court.

(c) The justice court shall transfer a criminal action to the district court if the justice court receives a notice of transfer from:

(i) the defendant as described in Subsection (7)(b); or

(ii) the prosecuting attorney as described in Subsection (7)(b) and the prosecuting attorney's notice of intent complies with Subsection (7)(c).

Section 5. Section 80-3-405 is amended to read:

80-3-405. Dispositions after adjudication.

(1) Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the dispositions described in Subsection (2) at the

dispositional hearing.

(2) (a) (i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.

(ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:

(A) shall give primary consideration to the welfare of the minor;

(B) shall give due consideration to the rights of the parent or parents concerning the minor; and

(C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(b) (i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.

(ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:

(A) shall give primary consideration to the welfare of the minor; and

(B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(c) The juvenile court may order:

(i) protective supervision;

(ii) family preservation;

(iii) sibling visitation; or

(iv) other services.

(d) (i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.

(ii) If a juvenile court enters an order of permanent custody and guardianship with an individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on behalf of the minor against the natural parents of the minor.

(iii) An order under this Subsection (2)(d):

(A) shall remain in effect until the minor is 18 years old;

(B) is not subject to review under Section 78A-6-358; and

(C) may be modified by petition or motion as provided in Section 78A-6-357.

(iv) If the district court has a pending case concerning questions of custody, support, or parent-time, and if the juvenile court grants an order of permanent custody and guardianship with one of the child's parents under this Subsection (2)(d), the juvenile court shall order one of the child's parents to file the order of permanent custody and guardianship with the district court within a reasonable time.

(e) The juvenile court may order a child be committed to the physical custody, as defined in Section 26B-5-401, of a local mental health authority, in accordance with the procedures and requirements of Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(f) (i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).

(g) (i) Subject to Subsection 80-1-102(58)(b) and Section 80-3-304, the juvenile court may order that a minor:

(A) be examined or treated by a mental health therapist, as described in Section 80-3-109; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court shall consider:

(A) the desires of the minor;

(B) the desires of the parent or guardian of the minor if the minor is younger than 18 years old; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(h) The juvenile court may make other reasonable orders for the best interest of the minor.

(3) (a) At the dispositional hearing described in Subsection 80-3-402(3), if a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and

(ii) if parent-time is denied, state the facts that justify the denial.

(b) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (3)(c)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (3)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(4) Upon an adjudication under this chapter, the juvenile court may not:

(a) commit a minor solely on the ground of abuse, neglect, or dependency to the Division of Juvenile Justice and Youth Services;

(b) assume the function of developing foster home services; or

(c) vest legal custody of an abused, neglected, or dependent minor in the division to primarily address the minor's ungovernable or other behavior, mental health, or disability, unless the division:

(i) engages other relevant divisions within the department that are conducting an assessment of the minor and the minor's family's needs;

(ii) based on the assessment described in Subsection (4)(c)(i), determines that vesting custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and

(iii) consents to legal custody of the minor being vested in the division.

(5) The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.

(6) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 366
S. B. 46
Passed February 7, 2025
Approved March 26, 2025
Effective May 7, 2025

YOUTH ELECTRONIC CIGARETTE, MARIJUANA, AND OTHER DRUG PREVENTION PROGRAM SUNSET EXTENSION

Chief Sponsor: Evan J. Vickers
House Sponsor: Jennifer Dailey-Provost

LONG TITLE

General Description:

This bill addresses the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee, and the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account.

Highlighted Provisions:

This bill:

- ► addresses the scope of the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program;
- ► requires the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee to meet at least quarterly;
- ► establishes an order of priority for the various program funding distributions from the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account;
- ► extends the sunset dates for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee and Program;
- ► addresses the ability of the state board to reduce distributions to local education authorities for positive behavior specialists or positive behavior plans, if funding is insufficient to cover the costs of the distributions; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-1-428, as last amended by Laws of Utah 2024, Chapter 245
53G-10-407, as last amended by Laws of Utah 2023, Chapter 98
59-14-807, as last amended by Laws of Utah 2024, Chapter 470
63I-1-226, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-259, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-1-428 is amended to read:

26B-1-428. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee and Program -- Creation -- Membership -- Duties.

(1) As used in this section:

(a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee created in Section 26B-1-204.

(b) "Program" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in this section.

(2) (a) There is created within the department the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program.

(b) In consultation with the committee, the department shall:

(i) establish guidelines for the use of funds appropriated to the program under Subsection 59-14-807(3)(a)(vi);

(ii) ensure that guidelines developed under Subsection (2)(b)(i) are evidence-based and appropriate for the population targeted by the program; and

(iii) subject to appropriations from the Legislature under Subsection 59-14-807(3)(a)(vi), fund statewide initiatives to prevent use of electronic cigarettes, nicotine products, marijuana, and other drugs by youth.

(3) (a) The committee shall[]:

(i) advise the department on:

[~~(i)~~](A) preventing use of electronic cigarettes, marijuana, and other drugs by youth in the state;

[~~(ii)~~](B) developing the guidelines described in Subsection (2)(b)(i); and

[~~(iii)~~](C) implementing the provisions of the program[.]; and

(ii) meet quarterly or more frequently as determined necessary by the department's designee under Subsection (3)(c)(ii).

(b) The executive director shall:

(i) appoint members of the committee; and

(ii) consult with the Utah Substance Use and Mental Health Advisory Committee created in Section 26B-5-801 when making the

appointments under Subsection (3)(b)(i).

(c) The committee shall include, at a minimum:

(i) the executive director of a local health department as defined in Section 26A-1-102, or the local health department executive director's designee;

(ii) one designee from the department;

(iii) one representative from the Department of Public Safety;

(iv) one representative from the behavioral health community; and

(v) one representative from the education community.

(d) A member of the committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(e) The department shall provide staff support to the committee.

(4) On or before October 31 of each year, the department shall report to:

(a) the Health and Human Services Interim Committee regarding:

(i) the use of funds appropriated to the program;

(ii) the impact and results of the program, including the effectiveness of each program funded under Subsection (2)(b)(iii), during the previous fiscal year;

(iii) a summary of the impacts and results on reducing youth use of electronic cigarettes and nicotine products by entities represented by members of the committee, including those entities who receive funding through the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account created in Section 59-14-807; and

(iv) any recommendations for legislation; and

(b) the Utah Substance Use and Mental Health Advisory Committee created in Section 26B-5-801, regarding:

(i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing youth use of electronic cigarettes, nicotine products, marijuana, and other drugs; and

(ii) any collaborative efforts and partnerships established by the program with public and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.

Section 2. Section 53G-10-407 is amended to read:

53G-10-407. Positive behaviors plan -- Positive behaviors specialist stipend -- Reports.

(1) As used in this section:

(a) "Positive behaviors plan" means a plan to address the causes of student use of tobacco, alcohol, electronic cigarette products, and other controlled substances through promoting positive behaviors.

(b) "Positive behaviors specialist" means an individual designated to administer a positive behaviors plan.

(2) (a) A school principal shall:

(i) create a positive behaviors plan based on the input of students, parents, and staff; and

(ii) submit the positive behaviors plan to the LEA governing board for approval.

(b) A positive behaviors plan shall address issues including peer pressure, mental health, and creating meaningful relationships.

(c) A positive behaviors plan may include programs, clubs, service opportunities, and pro-social activities.

(3) Each LEA shall designate one or more employees as a positive behaviors specialist for each school to administer the positive behaviors plan.

(4) (a) [~~Except as provided in~~]Subject to Subsection (4)(b) and Section 53F-2-525, the state board shall distribute annually to each school:

(i) $3,000 as a stipend for the positive behaviors specialists; and

(ii) $1,000 to administer the positive behaviors plan.

(b) Notwithstanding Subsection (4)(a), if funding is insufficient to cover the costs associated with [~~stipends~~]the distributions, the state board may reduce the amount [~~of the stipend~~]distributed.

(5) (a) A positive behaviors specialist shall annually submit a written report to the LEA governing board detailing how the positive behaviors plan was implemented in the prior year.

(b) Except as provided in Subsection 53F-2-525(5), an LEA governing board shall submit an annual report to the state board confirming that each school under the governing board's jurisdiction has an approved positive behaviors plan.

Section 3. Section 59-14-807 is amended to read:

59-14-807. Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account."

(2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account consists of:

(a) revenue collected from the tax imposed by Section 59-14-804;

(b) fees and penalties collected under Section 59-14-810;

(c) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of electronic cigarette products, as defined in Section 76-10-101:

(i) if the total amount of the judgment, settlement, or compromise received by the state exceeds $1,000,000; and

(ii) after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in this

Subsection (2)(c); and

(d) amounts appropriated by the Legislature.

(3) (a) [~~For~~]Subject to Subsections (3)(b) and (c), for each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:

(i) $2,000,000 to the Department of Health and Human Services for enforcement services aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, or other illegal controlled substances to minors, which the Department of Health and Human Services shall allocate to the local health departments using the formula created in accordance with Section 26A-1-116;

(ii) $1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;

(iii) $1,000,000 to the Department of Health and Human Services for enforcement services aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;

(iv) $3,000,000 to the Department of Health and Human Services for community partner prevention programs, which the Department of Health and Human Services shall allocate to the local health departments using the formula created in accordance with Section 26A-1-116;

(v) $1,000,000 to the Department of Health and Human Services for statewide cessation programs and prevention education;

(vi) $2,000,000 to the Department of Health and Human Services for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television; and

(vii) $5,084,200 to the State Board of Education for school-based prevention programs.

[~~(i) $2,000,000, which shall be allocated to the local health departments by the Department of Health and Human Services using the formula created in accordance with Section 26A-1-116;~~]

[~~(ii) $2,000,000 to the Department of Health and Human Services for statewide cessation programs and prevention education;~~]

[~~(iii) $1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;~~]

[~~(iv) $3,000,000, which shall be allocated to the local health departments by the Department of Health and Human Services using the formula created in accordance with Section 26A-1-116;~~]

[~~(v) $5,084,200 to the State Board of Education for school-based prevention programs;~~]

[~~(vi) $2,000,000 to the Department of Health and Human Services for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television; and~~]

[~~(vii)~~](b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the Division of Finance shall make the distributions under Subsection (3)(a):

(i) sequentially in the order of priority the distributions are listed under Subsection (3)(a);

(ii) in full or, if insufficient funds are available to satisfy the next distribution in the sequence, in part; and

(iii) until the available funds in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account are exhausted.

(c) [~~of the money deposited~~]For each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the funds deposited under Section 59-14-810into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:

[~~(A)~~](i) to the commission, in an amount equal to the amount necessary to create and maintain the registry described in Section 59-14-810;

[~~(B)~~](ii) to the Department of Health and Human Services, in an amount necessary for completing duties described in Section 59-14-810; and

[~~(C)~~](iii) to the Department of Health and Human Services, the remainder to be divided among the local health departments for inspection and enforcement described in Sections 26A-1-131 and 59-14-810.

[~~(b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the distribution amounts shall be adjusted proportionately.~~]

(4) (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26B-7-505;

(ii) the labeling requirement described in Section 26B-7-505; and

(iii) the penalty provisions described in Section 26B-7-518.

(b) The Department of Health and Human Services shall use the money received in accordance with [~~Subsection (3)(a)(ii)~~]Subsection (3)(a)(v) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26B-1-428.

(c) The local health departments shall use the money received in accordance with Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(d) The State Board of Education shall use the money received in accordance with Subsection [~~(3)(a)(v)~~](3)(a)(vii) to distribute to local education agencies to pay for:

(i) (A) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);

(B) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

(C) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b); or

(ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.

(5) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account after the distribution described in Subsection (3) may only be used for:

(a) funding commission personnel to enforce compliance with the tax collection requirements of this part; and

(b) programs and activities related to the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

Section 4. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26 through 26B.

(1) Subsection 26B-1-204(2)(g), regarding the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee, is repealed July 1, 2030.

[~~(1)~~](2) Subsection 26B-1-204(2)(h), regarding the Primary Care Grant Committee, is repealed July 1, 2025.

[~~(2)~~](3) Section 26B-1-315, Medicaid ACA Fund, is repealed July 1, 2034.

[~~(3)~~](4) Section 26B-1-318, Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

[~~(4)~~](5) Section 26B-1-402, Rare Disease Advisory Council Grant Program -- Creation -- Reporting, is repealed July 1, 2026.

[~~(5)~~](6) Section 26B-1-409, Utah Digital Health Service Commission -- Creation -- Membership -- Duties, is repealed July 1, 2025.

[~~(6)~~](7) Section 26B-1-410, Primary Care Grant Committee, is repealed July 1, 2025.

[~~(7)~~](8) Section 26B-1-416, Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(8)~~](9) Section 26B-1-417, Brain and Spinal Cord Injury Advisory Committee -- Membership -- Duties, is repealed July 1, 2029.

[~~(9)~~](10) Section 26B-1-422, Early Childhood Utah Advisory Council -- Creation -- Compensation -- Duties, is repealed July 1, 2029.

[~~(10)~~](11) Section 26B-1-425, Utah Health Workforce Advisory Council -- Creation and membership, is repealed July 1, 2027.

[~~(11)~~](12) Section 26B-1-428, Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee and Program -- Creation -- Membership -- Duties, is repealed July 1, [~~2025~~]2030.

[~~(12)~~](13) Section 26B-1-430, Coordinating Council for Persons with Disabilities -- Policy regarding services to individuals with disabilities -- Creation -- Membership -- Expenses, is repealed July 1, 2027.

[~~(13)~~](14) Section 26B-1-432, Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(14)~~](15) Section 26B-2-407, Drinking water quality in child care centers, is repealed July 1, 2027.

[~~(15)~~](16) Subsection 26B-3-107(9), regarding reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(16)~~](17) Section 26B-3-136, Children's Health Care Coverage Program, is repealed July 1, 2025.

[~~(17)~~](18) Section 26B-3-137, Reimbursement for diabetes prevention program, is repealed June 30, 2027.

[~~(18)~~](19) Subsection 26B-3-213(2)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(19)~~](20) Section 26B-3-302, DUR Board -- Creation and membership -- Expenses, is repealed July 1, 2027.

[~~(20)~~](21) Section 26B-3-303, DUR Board -- Responsibilities, is repealed July 1, 2027.

[~~(21)~~](22) Section 26B-3-304, Confidentiality of records, is repealed July 1, 2027.

[~~(22)~~](23) Section 26B-3-305, Drug prior approval program, is repealed July 1, 2027.

[~~(23)~~](24) Section 26B-3-306, Advisory committees, is repealed July 1, 2027.

[~~(24)~~](25) Section 26B-3-307, Retrospective and prospective DUR, is repealed July 1, 2027.

[~~(25)~~](26) Section 26B-3-308, Penalties, is repealed July 1, 2027.

[~~(26)~~](27) Section 26B-3-309, Immunity, is repealed July 1, 2027.

[~~(27)~~](28) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2034.

[~~(28)~~](29) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2034.

[~~(29)~~](30) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[~~(30)~~](31) Section 26B-3-910, Alternative eligibility -- Report -- Alternative Eligibility Expendable Revenue Fund, is repealed July 1, 2028.

[~~(31)~~](32) Section 26B-4-710, Rural residency training program, is repealed July 1, 2025.

[~~(32)~~](33) Subsection 26B-5-112(1)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(33)~~](34) Subsection 26B-5-112(5)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(34)~~](35) Section 26B-5-112.5, Mobile Crisis Outreach Team Grant Program, is repealed December 31, 2026.

[~~(35)~~](36) Section 26B-5-114, Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[~~(36)~~](37) Section 26B-5-118, Collaborative care grant program, is repealed December 31, 2024.

[~~(37)~~](38) Section 26B-5-120, Virtual crisis outreach team grant program, is repealed December 31, 2026.

[~~(38)~~](39) Subsection 26B-5-609(1)(a), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(39)~~](40) Subsection 26B-5-609(3)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(40)~~](41) Subsection 26B-5-610(1)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(41)~~](42) Subsection 26B-5-610(2)(b)(ii), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(42)~~](43) Section 26B-5-612, Integrated behavioral health care grant programs, is repealed December 31, 2025.

[~~(43)~~](44) Title 26B, Chapter 5, Part 7, Utah Behavioral Health Commission, is repealed July 1, 2029.

[~~(44)~~](45) Subsection 26B-5-704(2)(a), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(45)~~](46) Subsection 26B-5-704(2)(b), regarding the Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

[~~(46)~~](47) Title 26B, Chapter 5, Part 8, Utah Substance Use and Mental Health Advisory Committee, is repealed January 1, 2033.

[~~(47)~~](48) Section 26B-7-119, Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(48)~~](49) Section 26B-7-122, Communication Habits to reduce Adolescent Threats Pilot Program, is repealed July 1, 2029.

[~~(49)~~](50) Section 26B-7-123, Report on CHAT campaign, is repealed July 1, 2029.

[~~(50)~~](51) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2026.

Section 5. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates: Title 59.

(1) Subsection 59-7-610(8), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(2) Subsection 59-7-614.10(5), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(3) Section 59-7-624, Targeted business income tax credit, is repealed December 31, 2024.

(4) Subsection 59-10-210(2)(b)(vi), regarding Section 59-10-1112, is repealed December 31, 2024.

(5) Subsection 59-10-1007(8), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(6) Subsection 59-10-1037(5), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(7) Section 59-10-1112, Targeted business income tax credit, is repealed December 31, 2024.

(8) Subsections 59-14-807(3)(a)(iii) and (4)(b), regarding the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee, are repealed July 1, 2030.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 367
S. B. 48
Passed February 20, 2025
Approved March 26, 2025
Effective May 7, 2025

BEHAVIORAL HEALTH AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill modifies licensing provisions for mental health therapists.

Highlighted Provisions:

This bill:

- ► makes a technical correction;
- ► expands the scopes of practice for mental health therapists; and
- ► creates the Mental Health Professionals Education and Enforcement Fund.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-60-102, as last amended by Laws of Utah 2024, Chapter 420

ENACTS:

58-60-118, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-60-102 is amended to read:

58-60-102. Definitions.

As used in this chapter, unless a different meaning is established by definition under a specific section or part:

(1) "Board" means the Behavioral Health Board created in Section 58-60-102.5.

(2) "Client" or "patient" means an individual who consults or is examined or interviewed by an individual licensed under this chapter who is acting in the individual's professional capacity.

(3) "Clinical supervision" means work experience conducted under the supervision of a clinical supervisor, including [~~:~~]

[~~(a)~~] the practice of mental health therapy, direct client care, direct clinical supervision, direct observation, and other duties and activities completed in the course of the day-to-day job functions and work of[~~a~~]:

[~~(i)~~](a) a certified social worker;

[~~(ii)~~](b) an associate marriage and family therapist;

[~~(iii)~~](c) an associate clinical mental health counselor; or

[~~(iv)~~](d) an associate master addiction counselor, wherein the supervisor is available for consultation with the supervisee by personal face-to-face contact, or direct voice contact by telephone, radio, or other means within a reasonable time consistent with the acts and practices in which the supervisee is engaged.

(4) "Clinical supervisor" means an individual who oversees and mentors one or more mental health therapists licensed under this chapter, and who:

(a) (i) is licensed, in good standing, as a mental health therapist;

(ii) is approved or certified in good standing as a supervisor by a national professional organization for social work, mental health counseling, addiction counseling, marriage and family therapy, psychology, medicine, or nursing, or other organization as approved by the division;

(iii) (A) has completed eight or more hours of supervision instruction that meets minimum standards established by the division in rule; or

(B) has completed a graduate course on clinical supervision from an accredited program;

(iv) completes continuing education in clinical supervision, as established by the division in rule; and

(v) provides supervision to no more than the number of individuals to whom the supervisor can reasonably provide clinical supervision by performing the duties and responsibilities of a supervisor, including:

(A) being available to the supervisee for consultation by personal face-to-face contact, or by direct voice contact by telephone, video conference, or other means within a reasonable time frame;

(B) providing instruction, direction, oversight, observation, evaluation, and feedback, to enable the supervisee to acquire the knowledge, skills, techniques, and abilities necessary to engage in the practice of behavioral health care ethically, safely, and competently; and

(C) maintaining routine personal contact with the supervisee; and

(b) (i) is qualified and acting as a valid supervisor, in accordance with applicable law and division rules, as of April 30, 2024; and

(ii) has satisfied the requirements of Subsection (4)(a), as of January 1, 2027.

(5) "Confidential communication" means information obtained by an individual licensed under this chapter, including information obtained by the individual's examination of the client or patient, which is:

(a) (i) transmitted between the client or patient and an individual licensed under this chapter in the course of that relationship; or

(ii) transmitted among the client or patient, an individual licensed under this chapter, and individuals who are participating in the diagnosis or treatment under the direction of an individual licensed under this chapter, including members of the client's or patient's family; and

(b) made in confidence, for the diagnosis or treatment of the client or patient by the individual licensed under this chapter, and by a means not intended to be disclosed to third persons other than those individuals:

(i) present to further the interest of the client or patient in the consultation, examination, or interview;

(ii) reasonably necessary for the transmission of the communications; or

(iii) participating in the diagnosis and treatment of the client or patient under the direction of the mental health therapist.

(6) "Designated examiner" means the same as that term is defined in Section 26B-5-301.

(7) (a) "Direct client care" means the practice of mental health therapy performed as an applicant for licensure.

(b) "Direct client care" includes:

(i) the practice of mental health therapy;

(ii) the utilization of patient-reported progress and outcomes to inform care; and

(iii) direct observation.

(8) (a) "Direct clinical supervision" means an applicant for licensure and the applicant's direct clinical supervisor meeting in real time and in accordance with the applicant for licensure's supervision contract as defined by division rule.

(b) "Direct clinical supervision" includes group supervision.

(9) "Direct clinical supervisor" means the clinical supervisor who has signed the supervision contract with the applicant for licensure.

(10) "Direct observation" means observation of an applicant for licensure's live or recorded direct client care:

(a) (i) by the applicant for licensure's clinical supervisor; or

(ii) by a licensee under Subsection (4)(a) who the applicant for licensure's direct clinical supervisor approves; and

(b) after which the applicant for licensure and the observer under Subsection (10)(a) meet, in-person or electronically, to discuss the direct client care for the purpose of developing the applicant for licensure's clinical knowledge and skill.

(11) "FBI Rap Back System" means the same as that term is defined in Section 53-10-108.

(12) "Group supervision" means an applicant for licensure meeting with the applicant's direct clinical supervisor and at least one of the direct clinical supervisor's other supervised applicants for licensure:

(a) while the clinical supervisor and the applicants:

(i) can see and openly communicate with each other; and

(ii) are present in the same room or via electronic video; and

(b) for the purpose of developing the applicants' clinical knowledge and skill.

(13) "Hypnosis" means, when referring to individuals exempted from licensure under this chapter, a process by which an individual induces or assists another individual into a hypnotic state without the use of drugs or other substances and for the purpose of increasing motivation or to assist the individual to alter lifestyles or habits.

(14) "Individual" means a natural person.

(15) "Mental health therapist" means an individual who is practicing within the scope of practice defined in the individual's respective licensing act and is licensed under this title as:

(a) a physician and surgeon, or osteopathic physician engaged in the practice of mental health therapy;

(b) an advanced practice registered nurse, specializing in psychiatric mental health nursing;

(c) an advanced practice registered nurse intern, specializing in psychiatric mental health nursing;

(d) a psychologist qualified to engage in the practice of mental health therapy;

(e) a certified psychology resident qualifying to engage in the practice of mental health therapy;

(f) a physician assistant specializing in mental health care under Section 58-70a-501.1;

(g) a clinical social worker;

(h) a certified social worker;

(i) a marriage and family therapist;

(j) an associate marriage and family therapist;

(k) a clinical mental health counselor;

(l) an associate clinical mental health counselor;

(m) a master addiction counselor; or

(n) an associate master addiction counselor.

(16) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection (15).

(17) "Practice of mental health therapy" means treatment or prevention of <u>another individual's</u> mental illness <u>or emotional disorder</u>, whether in person or remotely, including:

(a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized in the professions of mental health therapy listed under Subsection (15);

(b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health

therapy listed under Subsection (15);

(c) conveying an opinion as to the validity of an individual's established diagnosis;

[~~(c)~~](d) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional disorder; and

[~~(d)~~](e) engaging in the conduct of professional intervention, including[]:

(i) psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection (15)[~~.~~]; and

(ii) modes of treatment designed to treat interpersonal dysfunction; and

(f) holding oneself out as providing, or has having the skills, experience, or training to competently provide, any of the services described in Subsections (17)(a) through (e).

(18) "Remotely" means communicating via Internet, telephone, or other electronic means that facilitate real-time audio or visual interaction between individuals when they are not physically present in the same room at the same time.

(19) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.

(20) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110, and may be further defined by division rule.

Section 2. Section 58-60-118 is enacted to read:

58-60-118. Mental Health Professionals Education and Enforcement Fund.

(1) There is created an expendable special revenue fund known as the "Mental Health Professionals Education and Enforcement Fund."

(2) The fund consists of money from administrative penalties collected pursuant to this chapter.

(3) The fund shall earn interest, and all interest earned on fund money shall be deposited into the fund.

(4) The director may, with concurrence of the board, make distributions from the fund for the following purposes:

(a) education and training of licensees under this chapter;

(b) education and training of the public or other interested persons in matters concerning the laws governing the practices licensed under this chapter; and

(c) enforcement of this chapter by:

(i) investigating unprofessional or unlawful conduct; and

(ii) providing legal representation to the division when the division takes legal action against a person engaging in unprofessional or unlawful conduct.

(5) If the balance in the fund exceeds $100,000 at the close of any fiscal year, the excess shall be transferred to the General Fund.

(6) The division shall report annually to the appropriate appropriations subcommittee of the Legislature concerning the fund.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 368
S. B. 49
Passed February 12, 2025
Approved March 26, 2025
Effective May 7, 2025

INSURANCE INVESTMENT AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: R. Neil Walter

LONG TITLE

General Description:

This bill repeals and reenacts provisions relating to insurance investments.

Highlighted Provisions:

This bill:

- ► repeals the existing chapter dealing with insurance investments;
- ► defines terms;
- ► establishes a minimum financial security benchmark for insurers;
- ► describes the authorized investments an insurer may make;
- ► establishes prudence evaluation criteria;
- ► requires that an insurer establish and follow a written investment policy;
- ► describes the authorized classes of investments an insurer may make;
- ► establishes the limitation of classes of investments;
- ► requires that an insurer doing business in different currencies have securities in each currency that meet the requirements of this chapter;
- ► prohibits an insurer from making certain types of investments;
- ► establishes the effect of investment restrictions on insurers;
- ► provides insurers guidelines for the required reports and replies under this chapter;
- ► authorizes the commissioner to retain experts when analyzing an insurer's investments;
- ► authorizes the commissioner to issue orders regarding an insurer's investment practices;
- ► describes how a commissioner should conduct an administrative hearing under this chapter;
- ► exempts an investment policy subject to this chapter from the definition of "record" under the Government Records Access and Management Act;
- ► provides the circumstances under which this chapter prevails over any conflicting statute that relates to insurance investments; and
- ► grants the commissioner rulemaking authority regarding insurance investments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-103, as last amended by Laws of Utah 2024, Chapters 18, 465, 509, and 522

ENACTS:

31A-18-109, Utah Code Annotated 1953
31A-18-111, Utah Code Annotated 1953
31A-18-112, Utah Code Annotated 1953
31A-18-113, Utah Code Annotated 1953
31A-18-114, Utah Code Annotated 1953
31A-18-115, Utah Code Annotated 1953
31A-18-116, Utah Code Annotated 1953
31A-18-117, Utah Code Annotated 1953
31A-18-118, Utah Code Annotated 1953

REPEALS AND REENACTS:

31A-18-101, as last amended by Laws of Utah 2008, Chapter 257
31A-18-102, as enacted by Laws of Utah 1985, Chapter 242
31A-18-103, as enacted by Laws of Utah 1985, Chapter 242
31A-18-105, as last amended by Laws of Utah 2008, Chapter 257
31A-18-106, as last amended by Laws of Utah 2011, Chapter 297
31A-18-107, as enacted by Laws of Utah 1985, Chapter 242
31A-18-108, as last amended by Laws of Utah 1999, Chapter 131
31A-18-110, as enacted by Laws of Utah 1985, Chapter 242

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-18-101 is repealed and re-enacted to read:

PART 1. Investments

31A-18-101. Definitions.

As used in this chapter:

(1) "Derivative instrument" means an asset appropriately reported in Schedule DB or a Schedule DC of an insurer's statutory financial statement or successor schedules, in accordance with applicable annual statement instructions or statutory accounting guidelines.

(2) "Derivative transaction" means a transaction involving the use of one or more derivative instruments.

(3) "Income generation" means a derivative transaction involving the writing of covered options, caps, or floors that is intended to generate income or enhance return.

(4) "Lower grade investment" means a rated credit instrument or debt-like preferred stock rated 4, 5, or 6 by the Securities Valuation Office of the NAIC or any successor office.

(5) "Medium grade investment" means a rated credit instrument or debt-like preferred stock rated 3 by the Securities Valuation Office of the NAIC or any successor office.

(6) "Minimum asset requirement" means the sum of an insurer's liabilities and the insurer's minimum financial security benchmark.

(7) "Minimum financial security benchmark" means the amount of financial security an insurer is required to have under Section 31A-18-102.

(8) "Modern Portfolio Theory" means a mathematical framework for assembling a portfolio of assets to maximize the expected return for a given level of risk, taking into consideration a portfolio's overall risk and return.

(9) "NAIC" means the National Association of Insurance Commissioners.

(10) "Replication" means a derivative transaction in which at least one derivative instrument is used to modify the cash flow characteristics of one or more investments held by an insurer so that the aggregate cash flow of the derivative instruments and investments reproduce the cash flow of another investment that has a higher risk-based capital charge than the risk-based capital charge of the original investment or investments.

(11) "Securities valuation office listed mutual fund" means a money market mutual fund or short-term bond fund that:

(a) is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940; and

(b) the NAIC's Securities Valuation Office deems eligible for special reserve and reporting treatment other than as common stock.

Section 2. Section 31A-18-102 is repealed and re-enacted to read:

31A-18-102. Minimum financial security benchmark.

(1) Except as provided in Subsections (2) and (3), the commissioner shall set a minimum financial security benchmark for an insurer that is the greater of:

(a) the authorized control level risk-based capital applicable to the insurer as set forth in Sections 31A-17-601 through 31A-17-613; or

(b) the minimum capital or minimum surplus required by statute or regulation for maintenance of an insurer's certificate of authority.

(2) If an insurer falls below three and one-half times the authorized control level risk capital applicable to the insurer, the commissioner may issue an order, in accordance with the factors described in Subsection (5)(b), specifying a minimum financial security benchmark to apply to the insurer provided the financial security benchmark is at least the applicable amount described in Subsection (1).

(3) The commissioner may establish by rule a minimum financial security benchmark that is a multiple of authorized control level risk-based capital to apply to any class of insurers provided the amount established by the regulation is at least the greater of the applicable amount described in Subsection (1).

(4) The commissioner, when setting an insurer's minimum financial security benchmark as described in Subsection (1), shall set the minimum financial security benchmark at an amount that will provide reasonable security against contingencies affecting the insurer's financial position that are not fully covered by reserves or by reinsurance.

(5) In setting an insurer's minimum financial security benchmark as described in Subsection (1), the commissioner shall consider:

(a) the risks of:

(i) increases in the frequency or severity of losses beyond the levels contemplated by the rates charged;

(ii) increases in expenses beyond those contemplated by the rates charged;

(iii) decreases in the value of or the return on invested assets below the expected values or returns in the insurer's investment plan;

(iv) changes in economic conditions that would modify the insurer's assessment of the need for liquidity and force untimely sale of assets or prevent timely investments;

(v) currency devaluation to which the insurer may be subject; and

(vi) any other contingencies the commissioner identifies that may affect the insurer's operations; and

(b) the following factors:

(i) the most reliable information available regarding the magnitude of the risks described in Subsection (5)(a);

(ii) the extent to which the risks in Subsection (5)(a) are related and whether any dependency is direct or inverse;

(iii) the insurer's recent history of profits or losses;

(iv) the extent of the insurer's protections against the contingencies in other ways than the establishment of surplus, including:

(A) redundancy of premiums;

(B) adjustability of contracts under the insurer's terms;

(C) investment valuation reserves, whether voluntary or mandatory;

(D) appropriate reinsurance;

(E) the use of conservative actuarial assumptions to provide a margin of security;

(F) reserve adjustments in recognition of previous rate inadequacies;

(G) contingency or catastrophe reserves;

(H) diversification of assets; and

(I) underwriting risks;

(v) independent judgment of the soundness of the insurer's operations, as evidenced by the ratings of reliable professional financial reporting services; and

(vi) any other factors the commissioner deems relevant.

Section 3. Section 31A-18-103 is repealed and re-enacted to read:

31A-18-103. Authorized investments.

(1) Subject to the provisions of this chapter, an insurer may, to the same extent as any other person under the laws of this state and the United States:

(a) loan or invest the insurer's funds; and

(b) buy, sell, hold title to, possess, occupy, pledge, convey, manage, protect, insure, and deal with the insurer's investments, property, and other assets.

(2) The board of directors, in handling an insurer's investments, shall:

(a) exercise the judgment and care of a reasonable person in the management of a similar enterprise, not in the context of speculating, but in the context of the permanent disposition of the insurer's funds;

(b) consider the probable income of an investment as well as the probable security of the insurer's capital;

(c) ensure the insurer's investments are of sufficient value, liquidity, and diversity for the insurer to meet the insurer's outstanding obligations based on reasonable assumptions regarding new business production for the insurer's current lines of business; and

(d) consider the prudence evaluation criteria described in Section 31A-18-105.

(3) An insurer shall establish and implement internal controls and procedures that ensure:

(a) compliance with the insurer's investment policies;

(b) the insurer's investment staff and any consultant the insurer uses are reputable and capable;

(c) a periodic evaluation and monitoring process occurs for assessing the effectiveness of investment policy and strategies;

(d) the insurer's management's performance is assessed based on the stated objectives within the investment policy;

(e) the insurer undertakes appropriate analyses of the degree to which asset cash flows adequately meet liability cash flows under different economic environments; and

(f) the insurer conducts the analyses described in Subsection (3)(e) at least annually and makes specific reference to economic conditions.

Section 4. Section 31A-18-105 is repealed and re-enacted to read:

31A-18-105. Prudence evaluation criteria.

(1) An insurer shall consider the following factors to determine whether an investment portfolio or investment policy is prudent:

(a) general economic conditions;

(b) the possible effect of inflation or deflation;

(c) the expected tax consequences of investment decisions or strategies;

(d) the fairness or reasonableness of the terms of an investment considering the investment's:

(i) probable risk and reward characteristics; and

(ii) relationship to the investment portfolio as a whole;

(e) the extent of the diversification of the insurer's investments among:

(i) individual investments;

(ii) classes of investments;

(iii) industry concentrations;

(iv) dates of maturity; and

(v) geographic areas;

(f) the quality and liquidity of investments in the insurer's affiliates;

(g) the investment exposure to:

(i) liquidity risk;

(ii) credit and default risk;

(iii) systemic risk;

(iv) interest rate risk;

(v) call, prepayment, and extension risk;

(vi) exchange rate risk; and

(vii) foreign sovereign risk;

(h) the amount of the insurer's:

(i) assets;

(ii) capital and surplus;

(iii) premium writings;

(iv) insurance in force; and

(v) other appropriate characteristics;

(i) the insurer's reported liabilities;

(j) the matching of the expected cash flows of the insurer's assets and liabilities;

(k) the risk of adverse changes in the insurer's assets and liabilities; and

(l) the adequacy of the insurer's capital and surplus to secure the risks and liabilities of the insurer.

(2) The commissioner shall consider the factors described in Subsection (1) before making a determination that an insurer's investment portfolio or investment policy is not prudent.

Section 5. Section 31A-18-106 is repealed and re-enacted to read:

31A-18-106. Insurer investment policy.

(1) An insurer shall establish and follow a written investment policy for exchanging, holding, selling, or managing an investment.

(2) An insurer's board of directors shall review the written investment policy described in Subsection (1) at least once annually.

(3) The insurer shall include, in the written investment policy described in Subsection (1), at least the following:

(a) policies, procedures, and controls covering all aspects of the investing functions;

(b) quantified goals and objectives regarding the composition of classes of investments, including maximum internal limits;

(c) a method for periodic evaluation of the investment portfolio regarding the investment portfolio's risk and reward characteristics;

(d) professional standards for the individuals making day-to-day investment decisions to ensure that those individuals make those decisions in an ethical and capable manner;

(e) the types of investments an insurer will make and avoid, based on:

(i) the investments' risk and reward characteristics; and

(ii) the insurer's level of experience with the investments;

(f) the relationship of classes of investments to the insurer's insurance products and liabilities;

(g) the manner in which the insurer intends to implement the prudence evaluation criteria described in Section 31A-18-105; and

(h) the level of risk appropriate for the insurer given the level of capitalization and expertise available to the insurer.

(4) Nothing in this section precludes an insurer from the use of modern portfolio theory to manage the insurer's investments.

Section 6. Section 31A-18-107 is repealed and re-enacted to read:

31A-18-107. Protection against currency fluctuations.

(1) An insurer that, in the ordinary course of business, makes payments in more than one currency shall have an investment in securities:

(a) in each of the currencies with which the insurer makes payments; and

(b) in an amount that, independent of all other investments, meets the requirements of this chapter as applied separately to the insurer's obligation in each currency.

(2) The commissioner may exempt an insurer, or a class of insurers, from the requirement described in Subsection (1), if the commissioner determines the obligations an insurer or class of insurers maintains in other currencies are small enough that there is not a significant risk to the financial security of the insurer or the class of insurers from substantial fluctuation in relative currency values.

Section 7. Section 31A-18-108 is repealed and re-enacted to read:

31A-18-108. Prohibited investments.

(1) As used in this section, "government insurer" means a governmental entity that is authorized by statute or rule to provide an arrangement, contract, or plan:

(a) for the transfer of a risk or risks from one or more persons to one or more other persons; or

(b) for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person's risk.

(2) An insurer may not:

(a) invest in:

(i) an investment prohibited by a department rule or statute of this state;

(ii) securities issued by a corporation if one or more of the insurer's officers or directors owns, directly or indirectly, a majority of the corporation's stock with voting power;

(iii) securities issued by an insolvent corporation; or

(iv) any instrument or security that the commissioner finds is designed to evade a limitation or prohibition in this chapter; or

(b) use a derivative instrument for:

(i) replication; or

(ii) any purpose other than hedging or income generation.

(3) A government insurer may not invest public funds in an investment where the sole purpose of the investment is a purpose other than maximizing the risk-adjusted return on the investment.

(4) The commissioner shall allow an insurer a reasonable time, not to exceed five years, to divest of prohibited investments if:

(a) the insurer demonstrates the investment was not prohibited at the time the insurer made the investment;

(b) the insurer made a good faith mistake in making the investment; or

(c) the commissioner determines that the sale of the investment is contrary to the interests of insureds, creditors, or the general public.

Section 8. Section 31A-18-109 is enacted to read:

31A-18-109. Effect of investment restrictions.

(1) (a) An insurer may count an invested asset towards the satisfaction of the minimum asset requirement only to the extent that the insurer invests the invested asset in compliance with this chapter, applicable department rules, and orders issued by the commissioner in compliance with this chapter.

(b) An insurer may count assets other than invested assets towards the satisfaction of the minimum asset requirement at admitted annual statement value.

(2) An investment held as an admitted asset by an insurer and that qualified under this chapter as an admitted asset on May 7, 2025, remains an admitted asset under this chapter.

(3) For purposes of Subsection (1), an insurer may count assets that would not otherwise qualify under this chapter if an insurer acquires the assets in the bona fide enforcement of creditors' rights or in a bona fide workout or settlement of disputed claims for five years after acquisition of the asset.

Section 9. Section 31A-18-110 is repealed and re-enacted to read:

31A-18-110. Authorized classes of investments.

An insurer may count the following classes of investments for the purposes stated in Section 31A-18-109, whether the insurer makes these investments directly or as a participant in a partnership, joint venture, or limited liability company:

(1) cash in the direct possession of the insurer or on deposit with a financial institution regulated by a federal or state agency;

(2) a bond, debt-like preferred stock, and other evidence of indebtedness to:

(a) a government unit in the United States or Canada;

(b) an instrumentality of a government unit in the United States or Canada; or

(c) a private business entity domiciled in the United States or Canada, including asset-backed securities and mutual funds listed by the Securities Valuation Office of the NAIC;

(3) a loan secured by:

(a) a mortgage, trust deed, or other security interest in real property located in the United States or Canada; or

(b) insurance against default issued by:

(i) a government insurance corporation of the United States or Canada; or

(ii) an insurer authorized to do business in this state;

(4) (a) common stock, equity-like preferred stock, or equity interests in any United States or Canadian business entity; or

(b) a share of mutual funds registered with the Securities and Exchange Commission of the United States under the Investment Company Act of 1940, 15 U.S.C. Sec. 80a-1 et seq., other than any mutual fund listed by the Securities Valuation Office of the NAIC;

(5) real property necessary for the convenient transaction of the insurer's business;

(6) real property, including the fixtures, furniture, furnishings, and equipment pertaining to the real property that:

(a) is located in the United States or Canada; and

(b) produces, or after suitable improvement can reasonably be expected to produce substantial income;

(7) a loan, security, or other investment described in Subsections (1) through (6) in a country other than the United States or Canada;

(8) a bond or other evidence of indebtedness to an international development organization of which the United States is a member;

(9) a loan upon the security of the insurer's own policies:

(a) in an amount that is adequately secured by the policies; and

(b) that does not exceed the surrender values of the policies;

(10) tangible personal property under contract of sale or lease with a contractual payment that may be reasonably expected to return the principal of, and provide earnings on, the investments within the tangible personal property's anticipated useful life;

(11) a loan secured by a pledged security or evidence of debt eligible for investment under this section;

(12) other investments the commissioner authorizes by rule; and

(13) for an investment not otherwise permitted by this section, and not specifically prohibited by statute, the lesser of:

(a) excess surplus as that term is defined in Section 31A-1-301; or

(b) 5% of the first $500,000,000 of the insurer's admitted assets plus 10% of the insurer's admitted assets exceeding $500,000,000.

Section 10. Section 31A-18-111 is enacted to read:

31A-18-111. Limitations generally applicable.

(1) For purposes of determining compliance with Section 31A-18-109:

(a) securities of a single issuer and the single issuer's affiliates, other than the government of the United States and subsidiaries authorized under Section 31A-16-102.5, may not exceed:

(i) 5% of admitted assets; or

(ii) 10% of admitted assets, if the securities are secured by real property and the insurer demonstrates a prudent investment policy regarding the investments described in Section 31A-18-105; and

(b) investments in the voting securities of a depository institution, or any company that controls a depository institution, may not exceed 5% of the insurer's admitted assets.

(2) For purposes of Section 31A-18-109, the following limitations on classes of investments apply:

(a) for an investment authorized under Subsection 31A-18-110(2), and an investment authorized by Subsection 31A-18-110(7) that is a type of investment described in Subsection 31A-18-110(2), the aggregate amount of:

(i) medium and lower grade investments may not exceed 20% of the insurer's admitted assets;

(ii) lower grade investments may not exceed 10% of the insurer's admitted assets;

(iii) investments rated 5 or 6 by the Securities Valuation Office of the NAIC, may not exceed 5% of the insurer's admitted assets;

(iv) investments rated 6 by the Securities Valuation Office of the NAIC, may not exceed 1% of the insurer's admitted assets; or

(v) medium and lower grade investments that receive, as cash income, less than the equivalent yield for Treasury issues with a comparative average life, may not exceed 1% of the insurer's admitted assets;

(b) for an investment authorized under Subsection 31A-18-110(3):

(i) 50% of admitted assets, if the insurer is a life insurer; and

(ii) 25% of admitted assets if the insurer is a non-life insurer;

(c) for an investment authorized under Subsection 31A-18-110(4), other than subsidiaries of the type authorized in Section 31A-16-102.5:

(i) 20% of admitted assets, if the insurer is a life insurer; and

(ii) 35% of admitted assets, if the insurer is a non-life insurer;

(d) for an investment authorized under Subsection 31A-18-110(5), 10% of admitted assets;

(e) for an investment authorized under Subsection 31A-18-110(6):

(i) 20% of admitted assets, if the insurer is a life insurer; and

(ii) 10% of admitted assets, if the insurer is a non-life insurer;

(f) for an investment authorized under Subsection 31A-18-110(7), 20% of admitted assets;

(g) for an investment authorized under Subsection 31A-18-110(8), 2% of admitted assets;

(h) for an investment authorized under Subsection 31A-18-110(10), 2% of admitted assets; and

(i) for an investment authorized under Subsection 31A-18-110(11), that is considered an investment in a kind of security or evidence of debt pledged, the investment is subject to the class limitations applicable to the pledged security or evidence of debt.

(3) For purposes of determining compliance with the limitations of this section, the admitted portion of assets of subsidiaries under Section 31A-15-102.5 are deemed to be owned directly by the insurer and any other investors in proportion to the market value, or, if there is no market, the reasonable value of the investors' interest in the subsidiaries.

(4) To the extent an investment exceeds the limitations described in Subsections (1) and (2), the insurer may assign the excess to the investment class authorized in Subsection 31A-18-110(13), until that limit is exhausted.

(5) If the commissioner determines necessary to get a proper evaluation of an insurer's investment portfolio, the commissioner may require that an investment in a mutual fund, pooled investment vehicle, or other investment company be treated, for purposes of this chapter, as if the investor directly owned the investor's proportional share of the assets owned by the mutual fund, pooled investment vehicle, or investment company.

(6) Unless otherwise specified, an investment limitation computed on the basis of an insurer's admitted assets or capital and surplus is the amount the insurer stated on the insurer's statutory balance sheet that the insurer most recently filed with the commissioner.

Section 11. Section 31A-18-112 is enacted to read:

31A-18-112. Reports and replies.

(1) The commissioner may require:

(a) any of the following from a person subject to regulation under this chapter:

(i) statements, reports, and responses to or other information gathered from questionnaires issued by the commissioner;

(ii) evidence corroborating any statement, report, or response provided in accordance with Subsection (1)(a)(i), in a form that the commissioner designates and at reasonable intervals that the commissioner chooses; and

(iii) a full explanation of the programming of any data storage or communication system that the person subject to regulation uses; and

(b) that a person subject to regulation under this chapter make information from any book, record, electronic data processing system, computer, or any other information storage system the person subject to regulation uses available to the commissioner at a reasonable time and in a reasonable manner.

(2) (a) The commissioner may provide forms for a statement, report, or response described in Subsection (1) and specify how to execute or certify the statement, report, or response.

(b) The commissioner shall ensure that forms for a statement, report, or response required by Subsection (1) are consistent, to the extent practicable, with forms required by other jurisdictions.

(3) The commissioner may provide reasonable minimum standards and techniques of accounting and data handling to ensure:

(a) timely and reliable information exist; and

(b) the commissioner's access to the information described in Subsection (3)(a).

(4) The following shall reply promptly, in writing or in another reasonable manner, to a written inquiry from the commissioner in which the commissioner requests a reply:

(a) an officer of an insurer;

(b) a manager or general agent of an insurer subject to this chapter;

(c) an individual controlling or having a contract under which the person has a right to control the insurer, whether exclusively or otherwise; or

(d) an individual with executive authority over or in charge of any segment of the insurer's affairs.

(5) The commissioner may require that any communication made to the commissioner under this section be verified.

(6) A person making a communication to the commissioner, or to an expert or consultant retained by the commissioner, required by this chapter is not subject to damages for the communication in the absence of actual malice.

(7) Notwithstanding Subsection (6), the commissioner may bring an action against any person that provides information required under this chapter that is not truthful or accurate.

Section 12. Section 31A-18-113 is enacted to read:

31A-18-113. Retention of experts.

(1) The commissioner may retain, if the commissioner deems necessary to assist in reviewing the insurer's investments, experts including:

(a) attorneys;

(b) actuaries;

(c) accountants; and

(d) investment specialists.

(2) The commissioner shall:

(a) direct and maintain control of the individuals retained under Subsection (1); and

(b) ensure that the individuals described in Subsection (1) operate in solely an advisory capacity for the commissioner.

Section 13. Section 31A-18-114 is enacted to read:

31A-18-114. Commissioner's orders.

(1) If the commissioner determines that an insurer's practices do not meet the provisions of this chapter, the commissioner may order, after notification to the insurer of the commissioner's findings, the insurer to make changes necessary to comply with the provisions in this chapter.

(2) If the commissioner determines that due to the financial condition, current investment practice, or current investment plan of an insurer, the interests of insureds, creditors, or the general public are or may be endangered, the commissioner may:

(a) impose reasonable additional restrictions on the admissibility or valuation of investments; or

(b) impose restrictions on the investment practices of an insurer, including prohibition or divestment.

(3) If an insurer demonstrates that a law of a country other than the United States requires the insurer to invest in an asset as a condition for doing business in that country, the commissioner may count that asset towards the insurer's compliance with the minimum asset requirement if the commissioner finds that counting the asset does not endanger the interests of the insureds, creditors, or the general public.

(4) (a) If an insurer demonstrates the financial security of an insurer and the competence of the insurer's management and advisor in a way that satisfies the commissioner, the commissioner may issue an order, after a hearing, adjusting the limitations of classes of investment described in Section 31A-18-111 for that insurer if the commissioner is satisfied that the interests of the insureds, creditors, and the public are sufficiently protected in other ways.

(b) The increase authorized by the commissioner to the amount an insurer may invest in any or all asset classes may not exceed, in value, 10% of the insurer's liabilities.

Section 14. Section 31A-18-115 is enacted to read:

31A-18-115. Administrative hearings.

An insurer may request a hearing if the insurer is directly aggrieved by the commissioner issuing an order or rule or failing to comply with the provisions of this chapter.

Section 15. Section 31A-18-116 is enacted to read:

31A-18-116. Confidentiality of information.

The investment policy, or information related to the investment policy provided to the commissioner for review, is not a record under Title 63G, Chapter 2, Government Records Access and Management Act, except as provided in Sections 31A-16-105 and 31A-16-107.5, Chapter 27a, Part 3, Rehabilitation, and Chapter 27a, Part 4, Liquidation.

Section 16. Section 31A-18-117 is enacted to read:

31A-18-117. Conflicts of laws and other standards.

(1) Except as provided in Subsection (2), the provisions of this chapter apply if there is a conflict between this chapter and another provision of state statute.

(2) Chapter 16, Insurance Holding Companies, purporting to authorize an insurer to make a particular investment, supersedes this chapter.

(3) An insurer shall value the insurer's assets in accordance with the valuation standards of the NAIC to the extent those standards remain consistent with the statutes of this state or the rules or orders of the commissioner.

Section 17. Section 31A-18-118 is enacted to read:

31A-18-118. Rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules interpreting and implementing the provisions of this chapter.

Section 18. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, special district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking, except for the Water District Water Development Council created pursuant to Section 11-13-228;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Personal identifying information" means the same as that term is defined in Section 63A-12-100.5.

(19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.

(20) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(21) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(22) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(23) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(24) "Reasonable search" means a search that is:

(a) reasonable in scope and intensity; and

(b) not unreasonably burdensome for the government entity.

(25) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not include:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar;

(x) a note prepared by the originator for the originator's own use or for the sole use of an individual for whom the originator is working;

(xi) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xii) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xiii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiv) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xvi) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvii) child sexual abuse material, as defined by Section 76-5b-103;

(xviii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201;

(xix) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702;

(xx) any item described in Subsection (25)(a) that is:

(A) described in Subsection 63G-2-305(17), (18), or (23)(b); and

(B) shared between any of the following entities:

(I) the Division of Risk Management;

(II) the Office of the Attorney General;

(III) the governor's office; or

(IV) the Legislature; [~~or~~]

(xxi) the email address that a candidate for elective office provides to a filing officer under Subsection 20A-9-201(5)(c)(ii) or 20A-9-203(4)(c)(iv)[~~-~~]; or

(xxii) except as provided in Sections 31A-16-105, 31A-16-107.5, and 27a-3-303, an investment policy, or information related to an investment policy, provided to the insurance commissioner as described in Title 31A, Chapter 18, Investments.

(26) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(27) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(28) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(29) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(30) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(31) "State archivist" means the director of the state archives.

(32) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

(33) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 19. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 369
H. B. 219
Passed March 4, 2025
Approved March 26, 2025
Effective July 1, 2025

CHARTER SCHOOL FUNDING REVISIONS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies provisions in the Charter School Credit Enhancement Program.

Highlighted Provisions:

This bill:

- ► modifies criteria for qualifying charter schools under the Charter School Credit Enhancement Program;
- ► expands evaluation standards for charter school operating history;
- ► specifies financial metrics for program qualification;
- ► establishes additional requirements for annual program certification;
- ► establishes credit rating-based maintenance fees for participating charter schools;
- ► creates parameters for state appropriation repayment procedures; and
- ► makes technical changes.

Money Appropriated in this Bill:

This bill appropriates $4,000,000 in restricted fund and account transfers for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-5-606, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-5-609, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-5-606 is amended to read:

53G-5-606. Charter School Credit Enhancement Program -- Standards for the designation of qualifying charter schools -- Debt service reserve fund requirements.

(1) There is created the Charter School Credit Enhancement Program to assist a qualifying charter [~~schools~~]school in obtaining favorable financing by providing a means of replenishing a qualifying charter school's debt service reserve fund.

(2) The authority shall establish standards for a charter school to be designated as a qualifying charter school.

(3) In accordance with Subsection (4), in establishing the standards described in Subsection (2) the authority shall consider:

[~~(a) whether a charter school has received an investment grade rating, independent of any rating enhancement resulting from the issuance of bonds pursuant to the credit enhancement program;~~]

[~~(b) the location of the charter school's project;~~]

[~~(c) the operating history of the charter school;~~]

[~~(d)~~](a) the financial strength of the qualifying charter school, as demonstrated by:

(i) debt service coverage ratios;

(ii) days cash on hand; and

(iii) other financial metrics as determined by the authority; and

[~~(e)~~](b) any other criteria the authority determines are relevant.

(4) Excepted as provided in Subsection (12), based on a qualifying charter school's credit rating from at least one nationally recognized rating agency, the authority shall:

(a) for a rating of investment grade:

(i) approve a qualifying charter school for a bond issuance pursuant to this section; and

(ii) waive the annual maintenance fee;

(b) for a rating of BB+ or equivalent rating:

(i) approve a qualifying charter school for a bond issuance pursuant to this section; and

(ii) assess an annual maintenance fee of 0.15% of outstanding debt;

(c) for a rating of BB or equivalent rating:

(i) apply the standards described in Subsection (3) in determining whether to approve a qualifying charter school for a bond issuance

pursuant to this section; and

(ii) if the qualifying charter is approved in accordance with Subsection (4)(c)(i), assess an annual maintenance fee of 0.25% of outstanding debt; and

(d) adjust any maintenance fee described in this Subsection (4) to reflect a change in the qualifying charter school's credit rating.

[~~(4)~~](5) The bonds [~~issued by the authority~~]the authority issues for a qualifying charter school are not an indebtedness of the state or of the authority but are special obligations payable solely from:

(a) the revenues or other funds pledged by the qualifying charter school; and

(b) amounts appropriated by the Legislature pursuant to Subsection [~~(9)~~](10).

[~~(5)~~](6) The authority shall notify the authorizer of a charter school that the charter school is participating in the credit enhancement program if the authority:

(a) designates the charter school as a qualifying charter school; and

(b) issues bonds for the qualifying charter school under the credit enhancement program described in this section.

[~~(6)~~](7) One or more debt service reserve funds shall be established for a qualifying charter school with respect to bonds issued pursuant to the credit enhancement program.

[~~(7)~~](8) (a) Except as provided in Subsection [~~(7)(b)~~](8)(b), money in a debt service reserve fund may not be withdrawn from the debt service reserve fund if the amount withdrawn would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement.

(b) So long as the applicable bonds issued under the credit enhancement program remain outstanding, money in a debt service reserve fund may be withdrawn in an amount that would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement if the money is withdrawn for the purpose of:

(i) paying the principal of, redemption price of, or interest on a bond when due and if no other money of the qualifying charter school is available to make the payment, as determined by the authority; or

(ii) paying any redemption premium required to be paid when the bonds are redeemed prior to maturity if no bonds will remain outstanding upon payment from the funds in the qualifying charter school's debt service reserve fund.

[~~(8)~~](9) Money in a qualifying charter school's debt service reserve fund that exceeds the debt service reserve fund requirement may be withdrawn by the qualifying charter school.

[~~(9)~~](10) (a) The authority shall annually, on or before December 1, certify to the governor the amount, if any, required to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements, which certification shall include:

(i) detailed calculations supporting the certified amount; and

(ii) a report on the current status of each qualifying charter school's debt service reserve fund.

(b) The governor shall request from the Legislature an appropriation of the certified amount to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.

(c) The Legislature may appropriate money to the authority to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.

(d) A qualifying charter school that receives money from an appropriation to restore amounts on deposit in a debt service reserve fund to the debt service reserve fund requirement, shall repay the state at the time and in the manner as the authority shall require, provided that:

(i) the repayment schedule shall not exceed five years from the date of the appropriation;

(ii) the authority shall establish a minimum annual repayment amount; and

(iii) the authority shall provide annual reports to the Legislature on the status of all outstanding repayment obligations.

[~~(10)~~](11) The authority may create and establish other funds for its purposes.

(12) The authority shall waive the annual maintenance fee for a qualifying charter school that:

(a) received bond issuance approval on or before July 1, 2025; and

(b) has obtained an investment grade credit rating from at least one nationally recognized rating agency.

Section 2. Section 53G-5-609 is amended to read:

53G-5-609. Limitation on participation in Charter School Credit Enhancement Program.

(1) In accordance with Subsection (2), on or before January 1 of each year, the authority shall determine the credit enhancement program's bond issuance limitation.

(2) The authority may not issue bonds for a qualifying charter school under the credit enhancement program if the total par amount outstanding under the program would exceed an amount equal to the product of:

(a) [~~1.3~~]2.0;

(b) an amount equal to the quotient of:

(i) annual charter school enrollment; divided by

(ii) annual state enrollment; and

(c) the total par amount then outstanding under the school bond guarantee program established in Chapter 4, Part 8, School District Bond Guaranty.

Section 3. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 3(a). Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To Charter School Reserve Account
From Public Education Economic Stabilization Restricted Account, One-time - - - - - - - - - - - - - - - - - - - 4,000,000
Schedule of Programs:
Charter School Reserve Account - 4,000,000

Section 4. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 370
H. B. 209
Passed March 5, 2025
Approved March 26, 2025
Effective May 7, 2025

HOMESCHOOL AMENDMENTS

Chief Sponsor: Nicholeen P. Peck
Senate Sponsor: Daniel McCay

Cosponsor:	Colin W. Jack	Michael J. Petersen
Cheryl K. Acton	Trevor Lee	Mark A. Strong
Kay J. Christofferson	Nicholeen P. Peck	Raymond P. Ward

LONG TITLE

General Description:

This bill amends provisions related to home school affidavits.

Highlighted Provisions:

This bill:

- ► clarifies when notification to homeschool is required from parents;
- ► removes the requirement for parents to submit an affidavit for students who begin homeschooling at the start of an academic year;
- ► removes the requirement for parents to attest to criminal background history;
- ► establishes procedures for local school boards to process letters of intent;
- ► removes liability from local school boards after student unenrollment; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-6-204, as last amended by Laws of Utah 2024, Chapters 113, 386

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-204 is amended to read:

53G-6-204. School-age children exempt from school attendance.

(1) (a) A local school board or charter school governing board may excuse a school-age child from attendance for any of the following reasons:

(i) a school-age child over 16 years old may receive a partial release from school to enter employment, or attend a trade school, if the school-age child has completed grade 8; or

(ii) on an annual basis, a school-age child may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age child has already completed the work required for graduation from high school;

(B) the school-age child is in a physical or mental condition, certified by a competent physician or physician assistant if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age child's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age child over 16 years old is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age child from attendance as provided by this Subsection (1) shall issue a certificate that the child is excused from attendance during the time specified on the certificate.

[~~(2) (a) (i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or attempted felony offense of which an individual is convicted, or to which an individual pleads guilty or no contest, for conduct that constitutes any of the following:~~]

[~~(A) child abuse under Section 76-5-109;~~]

[~~(B) aggravated child abuse under Section 76-5-109.2;~~]

[~~(C) child abandonment under Section 76-5-109.3;~~]

[~~(D) commission of domestic violence in the presence of a child under Section 76-5-114;~~]

[~~(E) child abuse homicide under Section 76-5-208;~~]

[~~(F) child kidnapping under Section 76-5-301.1;~~]

[~~(G) human trafficking of a child under Section 76-5-308.5;~~]

[~~(H) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in Title 76, Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;~~]

[~~(I) sexual exploitation of a minor under Section 76-5b-201;~~]

[~~(J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or~~]

[~~(K) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (2)(a)(i).~~]

[~~(ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a school-age child from attendance, if the school-age child's parent or legal guardian files a signed affidavit with the school-age child's school district of residence, as defined in Section 53G-6-302, that:~~]

[~~(A) the school-age child will attend a home school; and~~]

[~~(B) the parent or legal guardian assumes sole responsibility for the education of the school-age child, except to the extent the school-age child is dual enrolled in a public school as provided in Section 53G-6-702.~~]

[~~(iii) If a parent or legal guardian has been convicted of child abuse or if a court of competent jurisdiction has made a substantiated finding of child abuse against the parent or legal guardian:~~]

[~~(A) the parent or legal guardian may not assume responsibility for the education of a school-age child under Subsection (2)(a)(ii); and~~]

[~~(B) the local school board may not accept the affidavit described in Subsection (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to home school the child.~~]

[~~(iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit described in Subsection (2)(a)(ii).~~]

[~~(b) A signed affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:~~]

[~~(i) the school-age child attends a home school;~~]

[~~(ii) the school district where the affidavit was filed remains the school-age child's district of residence; and~~]

[~~(iii) the parent or legal guardian who filed the signed affidavit has not been convicted of child abuse or been the subject of a substantiated finding of child abuse by a court of competent jurisdiction.~~]

[~~(c) A parent or legal guardian of a school-age child who attends a home school is solely responsible for:~~]

[~~(i) the selection of instructional materials and textbooks;~~]

[~~(ii) the time, place, and method of instruction; and~~]

[~~(iii) the evaluation of the home school instruction.~~]

[~~(d) A local school board may not:~~]

[~~(i) require a parent or legal guardian of a school-age child who attends a home school to maintain records of instruction or attendance;~~]

[~~(ii) require credentials for individuals providing home school instruction;~~]

[~~(iii) inspect home school facilities; or~~]

[~~(iv) require standardized or other testing of home school students.~~]

[~~(e) Upon the request of a parent or legal guardian, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent or legal guardian in achieving college and career readiness through home schooling.~~]

[~~(f) A local school board that excuses a school-age child from attendance under this Subsection (2) shall annually issue a certificate stating that the school-age child is excused from attendance for the specified school year.~~]

[~~(g) A local school board shall issue a certificate excusing a school-age child from attendance:~~]

[~~(i) within 30 days after receipt of a signed affidavit filed by the school-age child's parent or legal guardian under this Subsection (2); and~~]

[~~(ii) on or before August 1 each year thereafter unless:~~]

[~~(A) the school-age child enrolls in a school within the school district;~~]

[~~(B) the school-age child's parent or legal guardian notifies the school district that the school-age child no longer attends a home school; or~~]

[~~(C) the school-age child's parent or legal guardian notifies the school district that the school-age child's school district of residence has changed.~~]

[~~(3) A parent or legal guardian who is eligible to file and files a signed affidavit under Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).~~]

(2) (a) A parent or legal guardian of a school-age child who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(b) A local school board may not:

(i) require a parent or legal guardian of a school-age child who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(c) Upon the request of a parent or legal guardian, a local school board shall identify the knowledge, skills, and competencies a student

is recommended to attain by grade level and subject area to assist the parent or legal guardian in achieving college and career readiness through home schooling.

(3) When a parent withdraws an enrolled school-age child from school for the purpose of home-schooling, or chooses not to enroll a school-age child, the parent shall provide a one-time initial notification, that may include a letter of intent, to the local school board of the school-age child's district of residence.

(4) A local school board may not require a notification described in Subsection (3) if a parent of a school-age child provided a notification to the local school board on or before May 7, 2025, including through a home-school affidavit.

(5) Upon receiving the notification in Subsection (3):

(a) the local school board shall:

(i) maintain a record of the notification; and

(ii) acknowledge receipt of the notification to the parent within 30 days; and

(b) the local school board and school of enrollment are not liable for the education or services of the school-age child.

[~~(4)~~](6) (a) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or legal guardian of a child attending a home school.

(b) The exemptions in this section apply regardless of whether:

(i) a parent or legal guardian provides education instruction to the parent's or legal guardian's child alone or in cooperation with other parents or legal guardians similarly exempted under this section; or

(ii) the parent or legal guardian makes payment for educational services the parent's or legal guardian's child receives.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 371
H. B. 228
Passed February 28, 2025
Approved March 26, 2025
Effective May 7, 2025

PUBLIC EDUCATION IMMUNIZATION AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions regarding a student's immunization record.

Highlighted Provisions:

This bill:

- ► removes provisions about the expiration of a vaccination exemption form;
- ► requires a school to provide a student's immunization record to a new school when the school transmits a transferring student's school record; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-9-303, as last amended by Laws of Utah 2023, Chapter 328
53G-9-306, as last amended by Laws of Utah 2022, Chapter 329

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-9-303 is amended to read:

53G-9-303. Grounds for exemption from required vaccines -- Renewal.

(1) A student is exempt from the requirement to receive a vaccine required under Section 53G-9-305 if the student qualifies for a medical or personal exemption from the vaccination under Subsection (2) or (3).

(2) A student qualifies for a medical exemption from a vaccination required under Section 53G-9-305 if the student's legally responsible individual provides to the student's school:

(a) a completed vaccination exemption form; and

(b) a written notice signed by a licensed health care provider stating that, due to the physical condition of the student, administration of the vaccine would endanger the student's life or health.

(3) A student qualifies for a personal exemption from a vaccination required under Section 53G-9-305 if the student's legally responsible individual provides to the student's school a completed vaccination exemption form, stating that the student is exempt from the vaccination because of a personal or religious belief.

(4) [~~(a)~~] A vaccination exemption form [~~submitted~~]that an individual submits under this section [~~is~~]remains:

(a) valid for as long as the student remains [~~at the school to which the form first is presented.~~]enrolled in the public education system; and

(b) part of the student's permanent school record, including if the student transfers schools, in accordance with Section 53G-9-306.

[~~(b) If the student changes schools before the student is old enough to enroll in kindergarten, the vaccination exemption form accepted as valid at the student's previous school is valid until the earlier of the day on which:~~]

[~~(i) the student enrolls in kindergarten; or~~]

[~~(ii) the student turns six years old.~~]

[~~(c) If the student changes schools after the student is old enough to enroll in kindergarten but before the student is eligible to enroll in grade 7, the vaccination exemption form accepted as valid at the student's previous school is valid until the earlier of the day on which:~~]

[~~(i) the student enrolls in grade 7; or~~]

[~~(ii) the student turns 12 years old.~~]

[~~(d) If the student changes schools after the student is old enough to enroll in grade 7, the vaccination exemption form accepted as valid at the student's previous school is valid until the student completes grade 12.~~]

[~~(e) Notwithstanding Subsections (4)(b) and (c), a vaccination exemption form obtained through completion of the online education module created in Section 26B-7-118 is valid for at least two years.~~]

(5) An LEA that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (1) to participate in an in-person learning option based upon the student's vaccination status.

(6) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

Section 2. Section 53G-9-306 is amended to read:

53G-9-306. Immunization record part of student's record -- School review process at enrollment -- Transfer.

(1) Each school:

(a) shall request an immunization record for each student at the time the student enrolls in the school;

(b) may not charge a fee related to receiving or reviewing an immunization record or a vaccination exemption form; and

(c) shall retain an immunization record for each enrolled student as part of the student's permanent school record.

(2) (a) Within five business days after the day on which a student enrolls in a school, an individual designated by the school principal or administrator shall:

(i) determine whether the school has received an immunization record for the student;

(ii) review the student's immunization record to determine whether the record complies with Subsection 53G-9-302(1); and

(iii) identify any deficiencies in the student's immunization record.

(b) If the school has not received a student's immunization record or there are deficiencies in the immunization record, the school shall:

(i) place the student on conditional enrollment, in accordance with Section 53G-9-308; and

(ii) within five days after the day on which the school places the student on conditional enrollment, provide the notice described in Subsection 53G-9-308(3).

(3) A school from which a student transfers shall provide the student's immunization record to the student's new school:

(a) upon request of the student's legally responsible individual[.]; or

(b) if the school has not transferred the record upon a request under Subsection (3)(a), when the school transfers any of the student's records to the new school.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 372
H. B. 222
Passed February 27, 2025
Approved March 26, 2025
Effective May 7, 2025

ACCESS TO TRAFFIC ACCIDENT EVIDENCE

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to accident reports and other related records and the disclosure of those records to an attorney representing a person involved in the accident.

Highlighted Provisions:

This bill:

- ► amends definitions and defines terms;
- ► provides for disclosure of certain records and certain unredacted records relevant to an accident to an attorney representing a person involved in the accident;
- ► provides for the disclosure of certain protected records to an attorney representing a person involved in a relevant accident and defines liability if such a record is unlawfully shared publicly; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-404, as last amended by Laws of Utah 2023, Chapters 328, 402 and 522

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-404 is amended to read:

41-6a-404. Accident reports -- When confidential -- Insurance policy information -- Use as evidence -- Penalty for false information.

(1) As used in this section:

(a) (i) "Accident report" means the written report required of the investigating peace officer, including accompanying data and any later supplements, which describes the site, location, and manner of occurrence of an accident, the persons and vehicles involved, and any other pertinent data that may be useful in the determination of the causes of the accident.

(ii) "Accident report" may include:

(A) a police report;

(B) a motor vehicle collision report;

(C) a reportable accident report;

(D) a driving under the influence report;

(E) an animal control report;

(F) any witness statement or witness recording;

(G) an ambulance medical record or bill;

(H) any accompanying photograph, body camera video, dash camera video, and supplemental report; and

(I) other information, recording, and drawing generated in the investigation of an accident.

[~~(a)~~](b) "Accompanying data" means all materials gathered by the investigating peace officer in an accident investigation including:

(i) the identity of witnesses and, if known, contact information;

(ii) witness statements;

(iii) photographs[~~and videotapes~~];

(iv) surveillance, body camera, dash camera, and any other video footage;

[~~(iv)~~](v) diagrams; and

[~~(v)~~](vi) field notes.

[~~(b)~~](c) "Agent" means:

(i) a person's attorney that has been formally engaged in anticipation of litigation or trial, or in active litigation or trial, whether the representation is for a civil or criminal matter;

(ii) a person's insurer;

(iii) a general acute hospital, as defined in Section 26B-2-201, that:

(A) has an emergency room; and

(B) is providing or has provided emergency services to the person in relation to the accident; or

(iv) any other individual or entity with signed permission from the person to receive the person's accident report.

(d) "Protected record" means the same as that term is defined in Section 63G-2-305.

(e) "Unredacted accident report" means an accident report for which the accident report, accompanying data, written material, audio recording, video recording, photograph, or any other portion of the accident report has not been redacted, blacked out, blurred, cropped, clipped, or otherwise modified.

(2) (a) Except as provided in Subsections (3) and [~~(7)~~](8), all accident reports required in this part to be filed with the department:

(i) are without prejudice to the reporting individual;

(ii) are protected and for the confidential use of the department or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(iii) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(b) An investigating peace officer shall include in an accident report an indication as to whether the accident occurred on a highway designated as a livestock highway in accordance with Section 72-3-112 if the accident resulted in the injury or death of livestock.

(3) (a) Subject to the provisions of this section, the department or the responsible law enforcement agency employing the peace officer that investigated the accident shall disclose an unredacted accident report, containing the information described in Subsection 41-6a-402(4)(c), to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i)and (ii);

(iv) subject to Subsection (3)(d), a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator who:

(A) represents an individual described in Subsections (3)(a)(i) through (iii); and

(B) demonstrates that the representation of the individual described in Subsections (3)(a)(i) through (iii) is directly related to the accident that is the subject of the accident report.

(b) The responsible law enforcement agency employing the peace officer that investigated the accident:

(i) shall in compliance with Subsection (3)(a):

(A) disclose an accident report; or

(B) upon written request disclose an accident report and its accompanying data within 10 business days from receipt of a written request for disclosure;

(ii) may withhold an accident report, and any of its accompanying data if disclosure would jeopardize an ongoing criminal investigation or criminal prosecution; or

(iii) may redact an individual's phone number or address from the accident report, if the disclosure of the information may endanger the life or physical safety of the individual, including when the individual is under witness protection.

(c) In accordance with Subsection (3)(a), the department or the responsible law enforcement agency employing the investigating peace officer shall disclose whether any person or vehicle involved in an accident reported under this section was covered by a vehicle insurance policy, and the name of the insurer.

(d) Information provided to a member of the press or broadcast news media under Subsection (3)(a)(iv) may only include:

(i) the name, age, sex, and city of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (3)(d)(i).

(e) The department shall disclose to any requesting person the following vehicle accident history information, excluding personal identifying information, in bulk electronic form:

(i) any vehicle identifying information that is electronically available, including the make, model year, and vehicle identification number of each vehicle involved in an accident;

(ii) the date of the accident; and

(iii) any electronically available data which describes the accident, including a description of any physical damage to the vehicle.

(f) The department may establish a fee under Section 63J-1-504 based on the fair market value of the information for providing bulk vehicle accident history information under Subsection (3)(e).

(4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section may not be used as evidence in any civil or criminal trial arising out of an accident.

(b) (i) Upon demand of any party to the trial or upon demand of any court, the department shall furnish a certificate showing that a specified accident report has or has not been made to the department in compliance with law.

(ii) If the report has been made, the certificate furnished by the department shall show:

(A) the date, time, and location of the accident;

(B) subject to Subsections (4)(b)(iv) and (v), the name, phone number, and address of each person involved in the accident, including a witness of the accident;

(C) the owners of the vehicles involved; and

(D) the investigating peace officers.

(iii) The reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection [~~(5)~~](6).

(iv) If a witness requests that the witness's address and phone number be excluded from the accident report, the investigating officer shall:

(A) exclude the witness's address and phone number from the accident report; and

(B) create a separate record of the witness's address and phone number.

(v) The record described in Subsection (4)(b)(iv) is discoverable in a lawsuit by a party that was involved in the accident if the lawsuit arises from the accident.

(5) (a) Except as provided in Subsections (5)(c) and (d), for an agent that requests a protected record that is part of an accident report that is relevant to that civil or criminal matter to which the accident report pertains, the responsible law enforcement agency shall provide the protected record in unredacted form if the attorney agent:

(i) requests the protected record in writing;

(ii) provides a letter of representation stating that:

(A) the attorney has been engaged to represent the individual in a matter relevant to the accident report; and

(B) the protected record will only be used as evidence in an active matter in anticipation of litigation or trial, or in active litigation or trial related to the accident report; and

(iii) pays the relevant fees required by the responsible law enforcement agency.

(b) An attorney described in Subsection (5)(a) that releases a protected record for any purpose not described in Subsection (5)(a)(ii)(B) is liable for the unlawful disclosure and subject to the penalties described in Section 63G-2-801.

(c) For a protected record that is part of an accident report that contains video data, the responsible law enforcement agency may redact video data that is not relevant to the accident report.

(d) A law enforcement agency is not required to disclose as part of an accident report any information for which disclosure is prohibited under Section 53-10-108.

[~~(5)~~](6) A person who gives information in reports as required in this part knowing or having reason to believe that the information is false is guilty of a class A misdemeanor.

[~~(6)~~](7) The department and the responsible law enforcement agency employing the investigating peace officer may charge a reasonable fee determined by the department under Section 63J-1-504 for the cost incurred in disclosing an accident report or an accident report and any of its accompanying data under Subsections (3)(a) and (b).

[~~(7)~~](8) (a) The Office of State Debt Collection, the Division of Risk Management, and the Department of Transportation may, in the performance of the regular duties of each respective division or department, disclose an accident report to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) an owner of a vehicle involved in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsection [~~(7)(a)(i)~~](8)(a)(i) or (ii); or

(iv) an insurer that provides motor vehicle insurance to a person described in Subsection [~~(7)(a)(i)~~](8)(a)(i) or (iii).

(b) A disclosure under Subsection [~~(7)(a)~~](8)(a) does not change the classification of the record as a protected record under Section 63G-2-305.

[~~(8)~~](9) (a) A person may not knowingly obtain an accident report described in this part if the person is not described in Subsection (3).

(b) A person may not knowingly use information in an accident report to market services, including marketing for legal representation.

(c) A person who violates this Subsection [~~(8)~~](9) is guilty of a class A misdemeanor.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 373
H. B. 229
Passed February 21, 2025
Approved March 26, 2025
Effective May 7, 2025

TRANSPORTATION FUNDS AMENDMENTS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to corridor preservation to include fixed guideway public transit facilities for corridor preservation.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► amends provisions related to corridor preservation to include fixed guideway public transit facilities for corridor preservation; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-1-102, as last amended by Laws of Utah 2023, Chapter 22
72-1-203, as last amended by Laws of Utah 2024, Chapter 517
72-2-117, as last amended by Laws of Utah 2023, Chapter 39
72-2-117.5, as last amended by Laws of Utah 2019, Chapter 479
72-5-103, as last amended by Laws of Utah 2001, Chapter 79
72-5-401, as last amended by Laws of Utah 2018, Chapter 424

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-1-102 is amended to read:
72-1-102. Definitions.

As used in this title:

(1) "Circulator alley" means a publicly owned passageway:

(a) with a right-of-way width of 20 feet or greater;

(b) located within a master planned community;

(c) established by the city having jurisdictional authority as part of the street network for traffic circulation that may also be used for:

(i) garbage collection;

(ii) access to residential garages; or

(iii) access rear entrances to a commercial establishment; and

(d) constructed with a bituminous or concrete pavement surface.

(2) "Commission" means the Transportation Commission created under Section 72-1-301.

(3) "Construction" means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.

(4) "Department" means the Department of Transportation created in Section 72-1-201.

(5) "Executive director" means the executive director of the department appointed under Section 72-1-202.

(6) "Farm tractor" has the meaning set forth in Section 41-1a-102.

(7) "Federal aid primary highway" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(8) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(9) (a) "Fixed guideway capital development" means a project to construct or reconstruct a public transit fixed guideway facility that will add capacity to a fixed guideway public transit facility.

(b) "Fixed guideway capital development" includes:

(i) a project to strategically double track commuter rail lines; and

(ii) a project to develop and construct public transit facilities and related infrastructure pertaining to the Point of the Mountain State Land Authority created in Section 11-59-201.

(10) "Greenfield" means the same as that term is defined in Section 17C-1-102.

(11) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.

(12) "Highway authority" means the department or the legislative, executive, or governing body of a county or municipality.

(13) "Housing and transit reinvestment zone" means the same as that term is defined in Section 63N-3-602.

(14) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.

(15) "Interstate system" means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.

(16) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(17) "Limited-access facility" means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(18) "Master planned community" means a land use development:

(a) designated by the city as a master planned community; and

(b) comprised of a single development agreement for a development larger than 500 acres.

(19) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.

(20) "Municipality" has the same meaning set forth in Section 10-1-104.

(21) "National highway systems highways" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(22) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section 72-9-501.

(b) "Port-of-entry" includes inspection and checking stations and weigh stations.

(23) "Port-of-entry agent" means a person employed at a port-of-entry to perform the duties specified in Section 72-9-501.

(24) "Public transit" means the same as that term is defined in Section 17B-2a-802.

(25) "Public transit facility" means a fixed guideway, transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

(26) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to state transportation purposes.

(27) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(28) "Semitrailer" has the meaning set forth in Section 41-1a-102.

(29) "SR" means state route and has the same meaning as state highway as defined in this section.

(30) "State highway" means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act.

(31) "State transportation purposes" has the meaning set forth in Section 72-5-102.

(32) "State transportation systems" means all streets, alleys, roads, highways, pathways, and thoroughfares of any kind, including connected structures, airports, aerial corridor infrastructure, spaceports, public transit facilities, and all other modes and forms of conveyance used by the public.

(33) "Trailer" has the meaning set forth in Section 41-1a-102.

(34) (a) "Transportation corridor" means the path or proposed path of a transportation facility that exists or that may exist in the future.

(b) "Transportation corridor" may include:

(i) the land occupied or that may be occupied by a transportation facility; and

(ii) any other land that may be needed for expanding, operating, or controlling access to the transportation facility.

(35) "Transportation facility" means:

(a) a highway; or

(b) a fixed guideway.

[~~(34)~~](36) "Transportation reinvestment zone" means a transportation reinvestment zone created pursuant to Section 11-13-227.

[~~(35)~~](37) "Truck tractor" has the meaning set forth in Section 41-1a-102.

[~~(36)~~](38) "UDOT" means the Utah Department of Transportation.

[~~(37)~~](39) "Vehicle" has the same meaning set forth in Section 41-1a-102.

Section 2. Section 72-1-203 is amended to read:

72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants and advisers -- Salaries.

(1) The executive director shall appoint the following deputy directors, who shall serve at the discretion of the executive director:

(a) the deputy director of engineering and operation, who shall be a registered professional engineer in the state, and who shall be the chief engineer of the department; and

(b) the deputy director of planning and investment.

(2) As assigned by the executive director, the deputy directors described in Subsection (1) may assist the executive director with the

following departmental responsibilities:

(a) project development, including statewide standards for project design and construction, right-of-way, materials, testing, structures, and construction;

(b) oversight of the management of the region offices described in Section 72-1-205;

(c) operations and traffic management;

(d) oversight of operations of motor carriers and ports;

(e) transportation systems safety;

(f) aeronautical operations;

(g) equipment for department engineering and maintenance functions;

(h) oversight and coordination of planning, including:

(i) development of statewide strategic initiatives for planning across all modes of transportation;

(ii) coordination with metropolitan planning organizations and local governments;

(iii) coordination with a large public transit district, including planning, project development, outreach, programming, environmental studies and impact statements, construction, and impacts on public transit operations; and

(iv) transportation corridor and area planning;

(i) asset management;

(j) programming and prioritization of transportation projects;

(k) fulfilling requirements for environmental studies and impact statements;

(l) resource investment, including identification, development, and oversight of public-private partnership opportunities;

(m) data analytics services to the department;

(n) transportation corridor preservation;

(o) employee development;

(p) maintenance planning;

(q) oversight and facilitation of the negotiations and integration of public transit providers described in Section 17B-2a-827;

(r) oversight and supervision of any fixed guideway capital development project within the boundaries of a large public transit district for which any state funds are expended, including those responsibilities described in Subsections (2)(a), (h), (j), (k), and (l), and the implementation and enforcement of any federal grant obligations associated with fixed guideway capital development project funding; and

(s) other departmental responsibilities as determined by the executive director.

(3) The executive director shall ensure that the same deputy director does not oversee or supervise both the fixed guideway capital development responsibilities described in Subsection (2)(r) and the department's fixed guideway rail safety responsibilities, including the responsibilities described in Section 72-1-214.

Section 3. Section 72-2-117 is amended to read:

72-2-117. Marda Dillree Corridor Preservation Fund -- Distribution -- Repayment -- Rulemaking.

(1) There is created the Marda Dillree Corridor Preservation Fund within the Transportation Fund.

(2) The fund shall be funded from the following sources:

(a) motor vehicle rental tax imposed under Section 59-12-1201;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) interest earnings on cash balances;

(e) all money collected for repayments and interest on fund money;

(f) all money collected from rents and sales of real property acquired with fund money; and

(g) proceeds from general obligation bonds, revenue bonds, or other obligations as authorized by Title 63B, Bonds.

(3) (a) The commission shall authorize the expenditure of fund money to allow the department to acquire real property or any interests in real property for state, county, and municipal transportation corridors subject to:

(i) money available in the fund;

(ii) rules made under Subsection (6); and

(iii) Subsection (8).

(b) Fund money may be used to pay interest on debts incurred in accordance with this section.

(4) Administrative costs for transportation corridor preservation shall be paid from the fund.

(5) (a) The department:

(i) may apply to the commission under this section for money from the Marda Dillree Corridor Preservation Fund for a specified transportation corridor project, including for county and municipal projects; and

(ii) shall repay the fund money authorized for the project to the fund as required under Subsection (6).

(b) The department may request and the commission may approve the expenditure of money from the fund to pay the costs of staff and overhead costs to administer the fund.

(6) The commission shall:

(a) administer the Marda Dillree Corridor Preservation Fund to:

(i) preserve transportation corridors;

(ii) promote long-term statewide transportation planning;

(iii) save on acquisition costs; and

(iv) promote the best interests of the state in a manner which minimizes impact on prime agricultural land;

(b) prioritize fund money based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of transportation corridors by the use of local planning and zoning processes;

(iv) the availability of other public and private matching funds for a project; and

(v) the cost-effectiveness of the preservation projects;

(c) designate high priority transportation corridor preservation projects in cooperation with a metropolitan planning organization;

(d) administer the program for the purposes provided in this section;

(e) prioritize fund money in accordance with this section; and

(f) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(i) the procedures for the awarding of fund money;

(ii) the procedures for the department to apply for transportation corridor preservation money for projects; and

(iii) repayment conditions of the money to the fund from the specified project funds.

(7) (a) The proceeds from any bonds or other obligations secured by revenues of the Marda Dillree Corridor Preservation Fund shall be used for:

(i) the acquisition of real property in hardship cases; and

(ii) any of the purposes authorized for funds in the Marda Dillree Corridor Preservation Fund under this section.

(b) The commission shall pledge the necessary part of the revenues of the Marda Dillree Corridor Preservation Fund to the payment of principal of and interest on the bonds or other obligations.

(8) (a) [~~The~~]Except for the acquisition of a transportation corridor for a fixed guideway, the department may not apply for money under this section unless the highway authority has an access management policy or ordinance in effect that meets the requirements under Subsection (8)(b).

(b) The access management policy or ordinance shall:

(i) be for the purpose of balancing the need for reasonable access to land uses with the need to preserve the smooth flow of traffic on the highway system in terms of safety, capacity, and speed; and

(ii) include provisions:

(A) limiting the number of conflict points at driveway locations;

(B) separating conflict areas;

(C) reducing the interference of through traffic;

(D) spacing at-grade signalized intersections; and

(E) providing for adequate on-site circulation and storage.

(c) The department shall develop a model access management policy or ordinance that meets the requirements of this Subsection (8) for the benefit of a county or municipality under this section.

(9) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing a transportation corridor preservation advisory council.

(b) The transportation corridor preservation advisory council shall:

(i) assist with and help coordinate the transportation corridor preservation efforts of the department and local governments;

(ii) provide recommendations and priorities concerning transportation corridor preservation and the use of fund money to the department and to the commission; and

(iii) include members designated by each metropolitan planning organization in the state to represent local governments that are involved with transportation corridor preservation through official maps and planning.

Section 4. Section 72-2-117.5 is amended to read:

72-2-117.5. Definitions -- Local Highway and Transportation Corridor Preservation Fund -- Disposition of fund money.

(1) As used in this section:

(a) "Council of governments" means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

(b) "Metropolitan planning organization" has the same meaning as defined in Section 72-1-208.5.

(2) There is created the Local Highway and Transportation Corridor Preservation Fund within the Transportation Fund.

(3) The fund shall be funded from the following sources:

(a) a local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) all money collected from rents and sales of real property acquired with fund money;

(e) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds; and

(f) sales and use tax revenues deposited into the fund in accordance with Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act.

(4) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(c) The State Tax Commission shall allocate the revenues:

(i) provided under Subsection (3)(a) to each county imposing a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222;

(ii) provided under Subsection 59-12-2217(2) to each county imposing a county option sales and use tax for transportation; and

(iii) provided under Subsection (3)(f) to each county of the second class or city or town within a county of the second class that imposes the sales and use tax authorized by Section 59-12-2218.

(d) The department shall distribute the funds allocated to each county, city, or town under Subsection (4)(c) to each county, city, or town.

(e) The money allocated and distributed under this Subsection (4):

(i) shall be used for the purposes provided in this section for each county, city, or town;

(ii) is allocated to each county, city, or town as provided in this section with the condition that the state will not be charged for any asset purchased with the money allocated and distributed under this Subsection (4), unless there is a written agreement in place with the department prior to the purchase of the asset stipulating a reimbursement by the state to the county, city, or town of no more than the original purchase price paid by the county, city, or town; and

(iii) is considered a local matching contribution for the purposes described under Section 72-2-123 if used on a state highway.

(f) Administrative costs of the department to implement this section shall be paid from the fund.

(5) (a) A highway authority may acquire real property or any interests in real property for state, county, and municipal [~~highway or public transit~~]transportation corridors subject to:

(i) money available in the fund to each county under Subsection (4); and

(ii) the provisions of this section.

(b) Fund money may be used to pay interest on debts incurred in accordance with this section.

(c) (i) (A) Fund money may be used to pay maintenance costs of properties acquired under this section but limited to a total of 5% of the purchase price of the property.

(B) Any additional maintenance cost shall be paid from funds other than under this section.

(C) Revenue generated by any property acquired under this section is excluded from the limitations under this Subsection (5)(c)(i).

(ii) Fund money may be used to pay direct costs of acquisition of properties acquired under this section.

(d) Fund money allocated and distributed under Subsection (4) may be used by a county highway authority for countywide transportation or public transit planning if:

(i) the county's planning focus area is outside the boundaries of a metropolitan planning organization;

(ii) the transportation planning is part of the county's continuing, cooperative, and comprehensive process for transportation or public transit planning, transportation corridor preservation, right-of-way acquisition, and project programming;

(iii) no more than four years allocation every 20 years to each county is used for transportation planning under this Subsection (5)(d); and

(iv) the county otherwise qualifies to use the fund money as provided under this section.

(e) (i) Subject to Subsection (11), fund money allocated and distributed under Subsection (4) may be used by a county highway authority for transportation [~~or public transit~~]corridor planning that is part of the transportation corridor elements of an ongoing work program of transportation or public transit projects.

(ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the direction of:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(f) (i) A county, city, or town that imposes a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222 may elect to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund.

(ii) If a county, city, or town elects to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund, a local highway authority shall repay the fund money authorized for the project to the fund.

(iii) A county, city, or town that elects to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund shall establish repayment conditions of the money to the fund from the specified project funds.

(g) (i) Subject to the restrictions in Subsections (5)(g)(ii) and (iii), fund money may be used by a county of the third, fourth, fifth, or sixth class or by a city or town within a county of the third, fourth, fifth, or sixth class for:

(A) the construction, operation, or maintenance of a class B road or class C road; or

(B) the restoration or repair of survey monuments associated with transportation infrastructure.

(ii) A county, city, or town may not use more than 50% of the current balance of fund money allocated to the county, city, or town for the purposes described in Subsection (5)(g)(i).

(iii) A county, city, or town may not use more than 50% of the fund revenue collections allocated to a county, city, or town in the current fiscal year for the purposes described in Subsection (5)(g)(i).

(6) (a) (i) The Local Highway and Transportation Corridor Preservation Fund shall be used to preserve [~~highway and public transit~~]transportation corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land.

(ii) The Local Highway and Transportation Corridor Preservation Fund shall only be used to preserve a [~~highway or public transit~~]transportation corridor that is right-of-way:

(A) in a county of the first or second class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5;

(IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

(V) a transit facility as defined in Section 17B-2a-802; or

(B) in a county of the third, fourth, fifth, or sixth class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5;

(IV) a major collector highway as defined in Section 72-4-102.5;

(V) a minor collector road as defined in Section 72-4-102.5; or

(VI) a transit facility as defined in Section 17B-2a-802.

(iii) The Local Highway and Transportation Corridor Preservation Fund may not be used for a [~~highway~~]transportation corridor that is primarily a recreational trail as defined under Section 79-5-102.

(b) A highway authority shall authorize the expenditure of fund money after determining that the expenditure is being made in accordance with this section from applications that are:

(i) endorsed by the council of governments; and

(ii) for a right-of-way purchase for a [~~highway or public transit~~]transportation corridor authorized under Subsection (6)(a)(ii).

(7) (a) (i) A council of governments shall establish a council of governments endorsement process which includes prioritization and application procedures for use of the money allocated to each county under this section.

(ii) The endorsement process under Subsection (7)(a)(i) may include review or endorsement of the preservation project by:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(b) All fund money shall be prioritized by each highway authority and council of governments based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of transportation corridors by the use of local planning and zoning processes;

(iv) the availability of other public and private matching funds for a project;

(v) the cost-effectiveness of the preservation projects;

(vi) long and short-term maintenance costs for property acquired; and

(vii) whether the transportation [~~or public transit~~]corridor is included as part of:

(A) the county and municipal master plan; and

(B) (I) the statewide long range plan; or

(II) the regional transportation plan of the area metropolitan planning organization if one exists for the area.

(c) The council of governments shall:

(i) establish a priority list of [~~highway and public transit~~]transportation corridor preservation projects within the county;

(ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for approval; and

(iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the members of the county legislative body.

(d) A county's council of governments may only submit one priority list described in Subsection (7)(c)(i) per calendar year.

(e) A county legislative body may only consider and approve one priority list described in Subsection (7)(c)(i) per calendar year.

(8) (a) Unless otherwise provided by written agreement with another highway authority or public transit district, the highway authority that holds the deed to the property is responsible for maintenance of the property.

(b) The transfer of ownership for property acquired under this section from one highway authority to another shall include a recorded deed for the property and a written agreement between the highway authorities or public transit district.

(9) (a) The proceeds from any bonds or other obligations secured by revenues of the Local Highway and Transportation Corridor Preservation Fund shall be used for the purposes authorized for funds under this section.

(b) The highway authority shall pledge the necessary part of the revenues of the Local Highway and Transportation Corridor Preservation Fund to the payment of principal and interest on the bonds or other obligations.

(10) (a) A highway authority may not expend money under this section to purchase a right-of-way for a state highway unless the highway authority has:

(i) a transportation corridor property acquisition policy or ordinance in effect that meets department requirements for the acquisition of real property or any interests in real property under this section; and

(ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(8).

(b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written agreement with the department for the department to acquire real property or any interests in real property on behalf of the local highway authority under this section.

(11) The county shall ensure, to the extent possible, that the fund money allocated and distributed to a city or town in accordance with Subsection (4) is expended:

(a) to fund a project or service as allowed by this section within the city or town to which the fund money is allocated;

(b) to pay debt service, principal, or interest on a bond or other obligation as allowed by this section if that bond or other obligation is:

(i) secured by money allocated to the city or town; and

(ii) issued to finance a project or service as allowed by this section within the city or town to which the fund money is allocated;

(c) to fund transportation planning as allowed by this section within the city or town to which the fund money is allocated; or

(d) for another purpose allowed by this section within the city or town to which the fund money is allocated.

(12) Notwithstanding any other provision in this section, any amounts within the fund allocated to a public transit district or for a public transit corridor may only be derived from the portion of the fund that does not include constitutionally restricted sources related to the operation of a motor vehicle on a public highway or proceeds from an excise tax on liquid motor fuel to propel a motor vehicle.

Section 5. Section 72-5-103 is amended to read:

72-5-103. Acquisition of rights-of-way and other real property -- Title to property acquired.

(1) The department may acquire any real property or interests in real property necessary for temporary, present, or reasonable future state transportation purposes by gift, agreement, exchange, purchase, condemnation, or otherwise.

(2) (a) (i) Title to real property acquired by the department or the counties, cities, and towns by gift, agreement, exchange, purchase,

condemnation, or otherwise for highway rights-of-way or other transportation purposes may be in fee simple or any lesser estate or interest.

(ii) [~~Title~~]As determined by the department, title to real property acquired by the department for a public transit project [~~shall~~]may be transferred to the public transit district responsible for the project.

(iii) A public transit district shall cover all costs associated with any condemnation on its behalf.

(b) If the highway is a county road, city street under joint title as provided in Subsection 72-3-104(3), or right-of-way described in Title 72, Chapter 5, Part 3, Rights-Of-Way Across Federal Lands Act, title to all interests in real property less than fee simple held under this section is held jointly by the state and the county, city, or town holding the interest.

(3) A transfer of land bounded by a highway on a right-of-way for which the public has only an easement passes the title of the person whose estate is transferred to the middle of the highway.

Section 6. Section 72-5-401 is amended to read:

72-5-401. Definitions.

As used in this part:

[~~(1) "Corridor" means the path or proposed path of a transportation facility, including a public transit facility, that exists or that may exist in the future, and may include the land occupied or to be occupied by a transportation facility, and any other land that may be needed for expanding a transportation facility or for controlling access to it.~~]

[~~(2)~~](1) "Corridor preservation" means planning or acquisition processes intended to:

(a) protect or enhance the capacity of existing transportation corridors; and

(b) protect the availability of proposed transportation corridors in advance of the need for and the actual commencement of the transportation facility construction.

[~~(3)~~](2) "Development" means:

(a) the subdividing of land;

(b) the construction of improvements, expansions, or additions; or

(c) any other action that will appreciably increase the value of and the future acquisition cost of land.

[~~(4)~~](3) "Official map" means a map, drawn by government authorities and recorded in county recording offices that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) for counties and municipalities may be adopted as an element of the general plan, pursuant to Title 17, Chapter 27a, Part 4, General Plan, or Title 10, Chapter 9a, Part 4, General Plan.

[~~(5)~~](4) "Taking" means an act or regulation, either by exercise of eminent domain or other police power, whereby [~~government~~]a government entity puts private property to public use or restrains use of private property for public purposes, and that requires compensation to be paid to private property owners.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 374
H. B. 233
Passed March 7, 2025
Approved March 26, 2025
Effective July 1, 2025

SCHOOL CURRICULUM AMENDMENTS

Chief Sponsor: Nicholeen P. Peck
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill restricts certain entities from involvement in health education in public schools.

Highlighted Provisions:

This bill:

- ► defines terms; and
- ► prohibits a local education agency from allowing entities that perform elective abortions to provide health-related instruction or materials in public schools.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53G-10-409, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-10-409 is enacted to read:

53G-10-409. Prohibition on instruction by an elective abortion provider or affiliate.

(1) As used in this section:

(a) "Abortion" means the same as that term is defined in Section 76-7-301.

(b) "Affiliate" means an entity with a legal relationship to another entity, where the entities establish:

(i) common ownership, management, or control;

(ii) a franchise or similar agreement; or

(iii) a license agreement permitting the use of a brand name, trademark, service mark, or other identification.

(c) "Debranded maturation curriculum" means a puberty or maturation education program that excludes all corporate, organizational, or third-party branding, logos, sponsorships, or materials associated with an elective abortion entity.

(2) An LEA may not allow an entity employee, representative, or affiliate that performs elective abortions or provides debranded maturation curriculum to:

(a) deliver instruction or programs on all health or health related topics in a school that receives state funding; or

(b) provide materials or media on a health topic for distribution or display in a school that receives state funding, if the materials or media are created by, funded by, donated by, or bear the identifying mark of the entity or the entity's affiliate.

(3) (a) In accordance with Section 53E-3-401, the state board may:

(i) impose a monetary penalty on an LEA that violates this section; and

(ii) withhold funds allocated under Title 53F, Chapter 2, State Funding -- Minimum School Program, for continued noncompliance.

(b) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce a penalty imposed under Subsection (3)(a).

Section 2. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 375
H. B. 249
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

NUCLEAR POWER AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill creates the Nuclear Energy Consortium and the Utah Energy Council, establishes a process for designating energy development zones, and creates the Energy Development Investment Fund.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates the Nuclear Energy Consortium within the Office of Energy Development (office) and establishes its membership and duties;
- ► creates the Utah Energy Council within the office and establishes its membership and duties;
- ► modifies the duties and name of the Utah San Rafael Energy Lab Board;
- ► establishes a process for designating electrical energy development zones;
- ► creates the Electrical Energy Development Investment Fund and provides for its administration;
- ► establishes authorized uses of fund money; and
- ► includes a coordination clause to coordinate between this bill and H.B. 70, Decommissioned Asset Disposition Amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

59-2-924, as last amended by Laws of Utah 2024, Chapter 258
63I-1-279, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
79-6-102, as last amended by Laws of Utah 2024, Chapters 88, 493
79-6-1001, as enacted by Laws of Utah 2024, Chapter 496
79-6-1003, as enacted by Laws of Utah 2024, Chapter 496
79-6-1004, as enacted by Laws of Utah 2024, Chapter 496

ENACTS:

79-6-1101, Utah Code Annotated 1953
79-6-1102, Utah Code Annotated 1953
79-6-1103, Utah Code Annotated 1953
79-6-1104, Utah Code Annotated 1953
79-6-1105, Utah Code Annotated 1953
79-6-1106, Utah Code Annotated 1953
79-6-1201, Utah Code Annotated 1953
79-6-1202, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

AMENDS:

79-6-1103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(v) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

(vi) for a host local government, the same as that term is defined in Section 63N-2-502;

(vii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-602;

(viii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 10-9a-1001 or Section 17-27a-1201; [~~or~~]

(ix) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-1601[~~.~~]; or

(x) for an electrical energy development zone created under Section 79-6-1104, the value of the property within an electrical energy development zone, as shown on the assessment roll last equalized before the creation of the electrical development zone, as that term is defined in Section 79-6-1104.

(e) "Centrally assessed benchmark value" means an amount equal to the average year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous three calendar years, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity;

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the amount calculated by multiplying:

(A) the difference between the taxable value for the current year and the base taxable value of the property that is located within a project area; and

(B) the number that represents the percentage of enhanced property tax revenue, as defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(v) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority;

(vi) for a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone;

(vii) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government;

(viii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a home ownership promotion zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the home ownership promotion zone; [~~or~~]

(ix) for a first home investment zone created pursuant to Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a first home investment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the first home investment zone[~~.~~]; or

(x) for an electrical energy development zone created under Section 79-6-1104, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within the electrical energy developmental zone; and

(B) the number that represents the percentage of the tax increment that is paid to a community reinvestment agency and the Electrical Energy Development Investment Fund created in Section 79-6-1105.

(o) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is

no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, an amount equal to the incremental value that is no longer provided to the Utah Fairpark Area Investment and Restoration District;

(iv) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment;

(v) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation;

(vi) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone as tax increment;

(vii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, an amount equal to the incremental value that is no longer provided to a home ownership promotion zone as tax increment; or

(viii) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount equal to the incremental value that is no longer provided to a first home investment zone as tax increment.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in [~~Section~~]Sections 11-58-102 [~~,~~]and 79-6-1104.

(u) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

(v) "Tax increment" means:

(i) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(ii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602;

(iii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, the same as that term is defined in Section 10-9a-1001 or Section 17-27a-1201; or

(iv) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, the same as that term is defined in Section 63N-3-1601.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely

for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 2. Section 63I-1-279 is amended to read:

63I-1-279. Repeal dates: Title 79.

(1) Subsection 79-2-201(2)(o), regarding the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(2) Subsection 79-2-201(2)(p)(i), regarding an advisory council created by the Division of Outdoor Recreation to advise on boating policies, is repealed July 1, 2029.

(3) Subsection 79-2-201(2)(q), regarding the Wildlife Board Nominating Committee, is repealed July 1, 2028.

(4) Subsection 79-2-201(2)(r), regarding regional advisory councils for the Wildlife Board, is repealed July 1, 2028.

(5) Section 79-7-206, Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(6) Title 79, Chapter 7, Part 7, Private Maintenance, is repealed July 1, 2029.

(7) Title 79, Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

(8) Title 79, Chapter 6, Part 12, Nuclear Energy Consortium, is repealed July 1, 2027.

Section 3. Section 79-6-102 is amended to read:

79-6-102. Definitions.

As used in this chapter:

(1) "Adequate" means an amount of energy sufficient to continuously meet demand from under normal conditions, not including planned outages and temporary service disruptions.

(2) "Affordable" means priced to be accessible to the population without causing financial strain or compromising basic needs, quality of life, or well-being.

(3) "Clean" means minimizing adverse environmental impact and able to meet state standards for environmental quality.

(4) "Consortium" means the Nuclear Energy Consortium created in Section 79-6-1201.

(5) "Council" means the Utah Energy Council established in Section 79-6-1101.

(6) "Director" means the director of the office.

[~~(4)~~](7) "Dispatchable" means available for use on demand and generally available to be delivered at a time and quantity of the operator's choosing.

[~~(5)~~](8) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

(9) "Electrical energy development zone" means a geographic area designated by the council under Section 79-6-1104 for baseload electrical energy infrastructure development.

[~~(6)~~](10) "Gas corporation" means the same as that term is defined in Section 54-2-1.

[~~(7)~~](11) "Intermittent" means available for use on a variable basis that is dependent on elements outside of the control of the operator.

[~~(8)~~](12) "Office" means the Office of Energy Development created in Section 79-6-401.

[~~(9)~~](13) (a) "Reliable" means supporting a system generally able to provide a continuous supply and the resiliency to withstand sudden or unexpected disturbances.

(b) "Reliable" includes, for systems delivering electricity, the ability to provide electricity at the proper voltage and frequency.

[~~(10)~~](14) "Secure" means protected against disruption, tampering, and external interference.

[~~(11)~~](15) "Sustainable" means domestically sourced and able to provide affordable, reliable energy in adequate quantities for current and future generations without compromising economic prosperity or environmental health.

[~~(12)~~](16) "Governmental entity" means:

(a) any department, agency, board, commission, or other instrumentality of the state; or

(b) a political subdivision of the state.

Section 4. Section 79-6-1001 is amended to read:

79-6-1001. Definitions.

As used in this part:

(1) "Board" means the [~~Utah San Rafael Energy Lab Board~~]Utah Energy Research Board established in Section 79-6-1003.

(2) "Council" means the Utah Energy Council established in Section 79-6-1101.

[~~(2)~~](3) "Director" means the director of the Office of Energy Development as defined in Section 79-6-401.

[~~(3)~~](4) "Fund" means the Utah Energy Research Fund established in Section 79-6-1002.

(5) "Institute" means the Utah Advanced Nuclear and Energy Institute established as a partnership between the state, the Idaho National Laboratory, and public and private institutions of higher education located in the state.

[~~(4)~~](6) "Lab" means the Utah San Rafael Energy Lab established in Section 79-6-1004.

[~~(5)~~](7) "Lab director" means the director appointed under Section 79-6-1004 to oversee the lab.

[~~(6)~~](8) "Project proposal" means a formal written submission to the board applying for approval of a specific research initiative conducted at the lab.

[~~(7)~~](9) "Office" means the Office of Energy Development as defined in Section 79-6-401.

Section 5. Section 79-6-1003 is amended to read:

79-6-1003. Utah Energy Research Board -- Duties -- Expenses.

(1) There is established in the office the [~~Utah San Rafael Energy Lab Board~~]Utah Energy Research Board that is composed of the following [~~nine~~]voting board members:

(a) the director, or the director's designee, who shall serve as the chair of the board;

[~~(b) the president of the University of Utah or the president's designee;~~]

[~~(c) the president of Utah State University or the president's designee;~~]

(b) the president, or the president's designee, of each public and private university in the state that is classified as a Research 1 institution by the Carnegie Classification of Institutions of Higher Education;

[~~(d)~~](c) the commissioner of higher education, as described in Section 53B-1-408, or the commissioner's designee;

[~~(e)~~](d) one member, who is not a legislator, with experience in the non-regulated energy industry appointed by the speaker of the House of Representatives;

[~~(f)~~](e) one member, who is not a legislator, with experience in energy commercialization appointed by the president of the Senate;

[~~(g)~~](f) one member appointed by the governor who resides in a county of the third, fourth, fifth, or sixth class as described in Section 17-50-501; [~~and~~]

[~~(h)~~](g) one member appointed by the director representing the Idaho National Laboratory; and

(h) two members appointed by the [~~office~~]director with relevant expertise in energy research and development.

(2) (a) The term of an appointed board member is four years.

(b) Notwithstanding Subsection (2)(a), the person making an appointment shall, at the time of appointment or reappointment, adjust the length of board member terms to ensure the terms of board members are staggered so that approximately half of the board is constituted of new members every two years.

(c) The person who appoints a member under Subsection (1) may remove an appointee who was appointed by the person for cause.

(d) The person who appoints a member under Subsection (1) shall fill a vacancy on the board in the same manner as provided in Subsection (1).

(e) An individual appointed to fill a vacancy shall serve the remaining unexpired term.

(f) Unless removed for cause under Subsection (2)(c) a board member shall serve until a successor is appointed.

(3) (a) A majority of the board constitutes a quorum.

(b) A majority vote of the quorum is required for an action to be taken by the board.

(4) The board shall:

(a) oversee and supervise the management of:

(i) the lab; and

(ii) the institute;

(b) appoint directors for the lab and institute, who shall serve at the pleasure of the board;

(c) establish reasonable compensation for:

(i) the lab director; and

(ii) the institute director;

(d) develop and implement:

(i) bylaws to govern the lab; and

(ii) bylaws to govern the institute;

(e) establish policies for:

(i) joint appointments between the Idaho National Laboratory and public and private institutions of higher education;

(ii) research partnerships between institutions;

(iii) technology commercialization; and

(iv) workforce development initiatives;

(f) foster innovation and support technological development in the energy sector by collaborating with industry leaders, researchers, entrepreneurs, investors, and other stakeholders;

[~~(b)~~](g) identify areas of economic growth and workforce development opportunities related to emerging energy technologies and solutions;

[~~(c)~~](h) seek potential investors and partners from the technology, finance, and business sectors to support innovative research and early-stage ventures focused on developing commercially viable energy technologies in the state;

[~~(d) in consultation with the lab, identify and prioritize high-impact research projects for the lab aligned to the state's energy policy goals;~~]

[~~(e)~~](i) develop evaluation criteria for approving project proposals, with input from the lab director, including:

(i) alignment with state energy policy priorities;

(ii) commercialization potential;

(iii) economic impact; and

(iv) other relevant factors as determined by the board;

[~~(f) recommend allocation of lab resources for project proposals;~~]

[~~(g)~~](j) approve providing matching grants to applicants under the Utah Energy Research Grant Program created in Section 79-6-403; and

[~~(h) consult with relevant stakeholders for input on energy research priorities and potential collaborations.~~]

(k) make recommendations to the council regarding funding allocations for:

(i) research projects;

(ii) facility operations;

(iii) workforce development programs; and

(iv) technology commercialization initiatives;

(l) administer the funds allocated by the council to the board;

(m) coordinate energy research activities between:

(i) the lab;

(ii) the institute;

(iii) public and private institutions of higher education;

(iv) the Idaho National Laboratory; and

(v) industry partners;

(n) review and approve annual reports from the lab and institute directors;

(o) report annually to:

(i) the governor;

(ii) the Public Utilities, Energy, and Technology Interim Committee; and

(iii) the Education Interim Committee;

(p) engage with industry partners to:

(i) identify research needs;

(ii) develop workforce programs;

(iii) commercialize technologies; and

(iv) secure additional funding sources;

(q) coordinate with federal agencies on:

(i) research initiatives;

(ii) grant opportunities; and

(iii) regulatory compliance;

(r) provide quarterly reports to the Utah Energy Council regarding:

(i) ongoing research projects and the research projects' alignment with state energy goals;

(ii) potential commercialization opportunities;

(iii) emerging technologies and the potential impact on the state's energy landscape; and

(iv) recommendations for policy changes or initiatives to support energy innovation; and

(s) coordinate with the council on:

(i) strategic planning for statewide energy research initiatives;

(ii) identifying priority research areas that align with state energy policy;

(iii) developing frameworks for public-private partnerships in energy research; and

(iv) establishing metrics for measuring research outcomes and impact.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The board shall meet at least quarterly and may hold additional meetings as necessary to review project proposals.

Section 6. Section 79-6-1004 is amended to read:

79-6-1004. Utah San Rafael Energy Lab established -- Lab director.

(1) There is established within the office a program and facility known as the Utah San Rafael Energy Lab to facilitate innovative energy research and development projects.

(2) The lab shall:

(a) receive and evaluate project proposals;

(b) submit recommendations to the board for approval regarding specific project proposals based on the lab's evaluation;

(c) conduct innovative energy technology research and development projects that have commercialization potential and support the state's energy policy goals;

(d) enter into financial contracts with entities seeking to use the lab, with revenues deposited into the Utah Energy Research Fund created in Section 79-6-1002;

(e) assess the viability of emerging energy solutions for deployment within the state, considering:

(i) cost-effectiveness;

(ii) dispatchability;

(iii) sustainability;

(iv) reliability; and

(v) environmental impact;

(f) provide analysis and recommendations to policymakers regarding energy system planning, infrastructure needs, and the value of different energy initiatives being considered within the state; and

(g) collaborate with universities, industry partners, entrepreneurs, community representatives, and other research entities.

[~~(3) (a) The director shall appoint a full-time lab director with the consent of the board to oversee the day-to-day operations of the lab.~~]

[~~(b) The lab director shall report to the director.~~]

[~~(c) As funding allows, the office may employ staff to support the lab's operations.~~]

Section 7. Section 79-6-1101 is enacted to read:

PART 11. Utah Energy Council

79-6-1101. Utah Energy Council -- Creation and purpose.

(1) There is created within the office the Utah Energy Council.

(2) The purpose of the council is to facilitate the development of baseload electrical energy generation and transmission projects within the state, including:

(a) power plants;

(b) transmission lines;

(c) energy storage facilities; and

(d) related infrastructure.

Section 8. Section 79-6-1102 is enacted to read:

79-6-1102. Council composition -- Appointment -- Terms -- Staffing.

(1) The council shall be composed of:

(a) the director or the director's designee, who shall serve as chair of the council;

(b) two individuals appointed by the governor;

(c) one individual appointed by the president of the Senate; and

(d) one individual appointed by the speaker of the House of Representatives.

(2) (a) Except as provided in Subsection (2)(b), a council member appointed under Subsection (1):

(i) shall serve a four-year term;

(ii) may be removed by the appointing authority;

(iii) may be reappointed; and

(iv) continues to serve until the member's successor is appointed and qualified.

(b) Initial terms for the appointed council members shall be staggered as follows:

(i) one member appointed by the governor under Subsection (1)(b) shall serve a two-year term;

(ii) one member appointed by the governor under Subsection (1)(b) shall serve a three-year term;

(iii) the member appointed by the president of the Senate under Subsection (1)(c) shall serve a four-year term; and

(iv) the member appointed by the speaker of the House of Representatives under Subsection (1)(d) shall serve a two-year term.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the relevant appointing authority for the unexpired term.

(4) (a) A majority of council members constitutes a quorum for conducting council business.

(b) A majority vote of the quorum present is required for any action taken by the council.

(5) The council shall meet:

(a) at least quarterly; and

(b) at the call of the chair or a majority of the council members.

(6) (a) A council member who is not a legislator may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a council member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The office shall provide staff support to the council.

Section 9. Section 79-6-1103 is enacted to read:

79-6-1103. Council powers and duties.

(1) The council shall:

(a) coordinate and facilitate baseload electrical energy project development, including:

(i) site identification and permitting;

(ii) early site preparation work;

(iii) infrastructure improvements;

(iv) project financing assistance; and

(v) stakeholder coordination;

(b) assess and facilitate electrical energy infrastructure development by:

(i) evaluating infrastructure needs and opportunities;

(ii) coordinating with transmission and pipeline developers;

(iii) supporting utility planning efforts; and

(iv) coordinating with federal agencies;

(c) establish and implement:

(i) strategic plans for energy development;

(ii) frameworks for stakeholder engagement;

(iii) processes for designating electrical energy development zones; and

(iv) criteria for evaluating proposed electrical energy development zones;

(d) review and approve:

(i) research project proposals from the board; and

(ii) funding allocations recommended by the board;

(e) consult with state land use authorities regarding:

(i) identification of state lands suitable for electrical energy development;

(ii) designation of electrical energy development zones; and

(iii) opportunities for coordinated development of electrical energy projects on state lands;

(f) administer the Electrical Energy Development Investment Fund created in Section 79-6-1105;

(g) make recommendations regarding electrical energy policy to state and local governments;

(h) identify and recommend solutions to barriers affecting electrical energy development;

(i) assess and address potential public health impacts of electrical energy development zones;

(j) enter into contracts necessary to fulfill the council's duties; and

(k) report annually by October 31 to the Public Utilities, Energy, and Technology Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee regarding:

(i) the council's activities;

(ii) energy development opportunities;

(iii) infrastructure needs;

(iv) the status of designated electrical energy development zones;

(v) recommendations for how the property tax differential revenue collected under Section 79-6-1104 should be divided and distributed between the state, counties, and municipalities;

(vi) investment decisions made by the council; and

(vii) recommended policy changes.

(2) The council shall negotiate with the applicable county or municipality regarding the distribution of property tax differential revenue collected under Section 79-6-1104.

(3) Any portion of the property tax differential that is not distributed to the council shall be distributed to the applicable county or municipality for impact mitigation and affordable housing.

(4) (a) The portion of the property tax differential that is distributed to the municipality shall be used for:

(i) at least 10% of the total distribution shall be used for affordable housing programs; and

(ii) the remaining portion shall be used to mitigate impacts within the municipality resulting from electrical energy development.

(b) The portion of the property tax differential that is distributed to the county shall be used for:

(i) at least 10% of the total distribution shall be placed in a registered non-profit established to administer housing programs on behalf of an association representing 10 or more counties in the state; and

(ii) the remaining portion shall be used to mitigate impacts within the county resulting from electrical energy development.

Section 10. Section 79-6-1104 is enacted to read:

79-6-1104. Electrical energy development zones -- Property tax differential.

(1) As used in this section:

(a) "Base taxable value" means the value of property within an electrical energy development zone, as shown on the assessment roll last equalized before the creation of the electrical energy development zone.

(b) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(c) "Community reinvestment project area" means the same as that term is defined in Section 17C-1-102.

(d) "Municipal power project" means an electrical energy project that:

(i) is operated by or on behalf of a municipality; and

(ii) exclusively serves customers within that municipality's jurisdictional boundaries.

(e) "Property tax differential" means the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from an electrical energy development zone, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(f) "State land use authority" means:

(i) the Utah Inland Port Authority created in Section 11-58-201;

(ii) the Military Installation Development Authority created in Section 63H-1-201;

(iii) the School and Institutional Trust Lands Administration created in Section 53C-1-201; or

(iv) any other land use authority created by the state that has jurisdiction over state lands.

(2) (a) Except as provided in Subsection (2)(b), a county or municipality may not offer financial incentives for a baseload electrical energy project that is not located within a designated electrical energy development zone.

(b) Subsection (2)(a) does not apply to:

(i) financial incentives offered for:

(A) a municipal power project; or

(B) an electrical energy project that exclusively utilizes intermittent resources; or

(ii) an electrical energy project for which a project area plan has been approved before July 1, 2026.

(3) A county or municipality may:

(a) pass a resolution declaring an intent to establish within the county or municipality boundaries an energy development zone;

(b) enter into an interlocal agreement with the council outlining each parties' responsibilities relating to an energy development zone; and

(c) apply to the council for the designation of an electrical energy development zone by submitting:

(i) a description of the proposed boundaries of the electrical energy development zone;

(ii) an assessment of existing electrical energy infrastructure within and proximate to the proposed electrical energy development zone;

(iii) a development plan that includes:

(A) proposed electrical energy development projects;

(B) anticipated infrastructure improvements;

(C) projected economic benefits to the county; and

(D) evidence of local support including any interlocal agreement entered into between the county or municipality and the council, as applicable;

(iv) if the applicant is a municipality, evidence of coordination with the county in which the proposed electrical energy development zone is located, including any interlocal agreement entered into between the county or municipality and the council, as applicable;

(v) if the applicant is a county and any portion of the proposed electrical energy development zone is within the boundaries of a municipality, evidence of an agreement with the municipality regarding the establishment of the electrical energy development zone; and

(vi) any other information required by the council.

(4) A state land use authority may:

(a) propose an electrical energy development zone within lands under its jurisdiction; and

(b) apply to the council for the designation of an electrical energy development zone by submitting:

(i) a description of the proposed boundaries of the electrical energy development zone;

(ii) an assessment of existing electrical energy infrastructure within and proximate to the proposed electrical energy development zone;

(iii) a development plan that includes:

(A) proposed electrical energy development projects;

(B) anticipated infrastructure improvements; and

(C) projected economic benefits;

(iv) evidence that the proposed zone is consistent with applicable land use plans and regulations; and

(v) any other information required by the council.

(5) The council shall:

(a) approve an application for electrical energy development zone designation if the application demonstrates:

(i) the proposed electrical energy development zone includes land suitable for electrical energy development based on:

(A) access to electrical energy resources;

(B) proximity to existing or planned transmission infrastructure;

(C) adequate transportation access; and

(D) sufficient land area for proposed development; and

(ii) the development plan:

(A) aligns with state energy policy under Section 79-6-301;

(B) includes realistic timelines and milestones;

(C) identifies specific infrastructure improvements; and

(D) quantifies projected economic benefits;

(b) make a determination on an application within 60 days of submission;

(c) provide written notice to the county or municipality explaining the basis for approval or denial;

(d) if an electrical energy development zone overlaps with an area designated by a community reinvestment agency as a community reinvestment project area as of May 7, 2025, enter into an agreement with the community reinvestment agency to determine the percentage division of the property tax differential between:

(i) the Electrical Energy Development Investment Fund; and

(ii) the community reinvestment agency; and

(e) if an electrical energy development zone overlaps with an inland port project, enter into an agreement with the Utah Inland Port Authority to determine the percentage division of the property tax differential between:

(i) the Electrical Energy Development Investment Fund; and

(ii) the Utah Inland Port Authority created in Section 11-58-201.

(6) Within 30 days after the council designates an electrical energy development zone:

(a) the county auditor shall certify to the council the base taxable value of property within the electrical energy development zone; and

(b) the county shall transmit to the council copies of the property tax assessment rolls for all property within the electrical energy development zone.

(7) (a) Each year, the county auditor shall:

(i) determine the amount of the property tax differential for the electrical energy development zone by comparing:

(A) the current assessed value of property within the electrical energy development zone; and

(B) the base taxable value of property within the electrical energy development zone;

(ii) inform the county treasurer of the property tax differential amount; and

(iii) provide notice to the council of the amount calculated under this Subsection (7)(a).

(b) The county treasurer shall transfer the property tax differential to the council for deposit into the Electrical Energy Development Investment Fund created in Section 79-6-1105, subject to any agreements entered into under Subsections (5)(d) and (5)(e).

(c) The county treasurer shall make distributions required under this section:

(i) at the same time as regular annual property tax distributions; and

(ii) using the same method as other property tax distributions.

(8) For property tax differential not subject to Subsection (5)(d) the council may enter into agreements with taxing entities regarding the allocation of the property tax differential.

Section 11. Section 79-6-1105 is enacted to read:

79-6-1105. Electrical Energy Development Investment Fund.

(1) There is created an expendable special revenue fund known as the "Electrical Energy Development Investment Fund."

(2) The fund consists of property tax differential revenue collected under Section 79-6-1104.

(3) The council shall:

(a) administer the fund; and

(b) use fund money only as authorized under Section 79-6-1106.

Section 12. Section 79-6-1106 is enacted to read:

79-6-1106. Authorized uses of fund money.

The council may use fund money to:

(1) facilitate electrical energy infrastructure development within the state, including:

(a) transmission and distribution lines;

(b) pipeline development;

(c) energy storage facilities;

(d) generation facilities; and

(e) related infrastructure;

(2) provide matching funds for federal energy development grants;

(3) support energy workforce development programs;

(4) provide incentives for electrical energy development projects; and

(5) pay for administrative expenses related to the council's duties.

Section 13. Section 79-6-1201 is enacted to read:

PART 12. Nuclear Energy Consortium

79-6-1201. Nuclear Energy Consortium.

(1) There is created the Nuclear Energy Consortium to advise the office and the Legislature on nuclear energy development in the state.

(2) The consortium consists of:

(a) one member of the Senate, appointed by the president of the Senate;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the following members or designees:

(i) the director of the Office of Energy Development, who shall serve as chair;

(ii) the executive director of the Department of Environmental Quality;

(iii) the chair of the Public Service Commission; and

(iv) the executive director of the Department of Natural Resources; and

(d) additional members with expertise in nuclear energy development appointed by the director, including representatives from areas or entities such as:

(i) public and private institutions of higher education;

(ii) the Idaho National Laboratory;

(iii) the Nuclear Regulatory Commission;

(iv) other federal entities as determined by the director;

(v) nuclear fuel mining and milling;

(vi) nuclear fuel manufacturing;

(vii) nuclear technology providers;

(viii) utility companies;

(ix) energy off-takers;

(x) workforce development;

(xi) nuclear safety;

(xii) research and development; and

(xiii) nuclear waste management.

(3) (a) A member appointed under Subsection (2)(a) may be removed by the president of the Senate.

(b) A member appointed under Subsection (2)(b) may be removed by the speaker of the House of Representatives.

(c) A member appointed under Subsection (2)(d) may be removed by the director.

(4) The consortium shall meet at least quarterly.

(5) A majority of consortium members constitutes a quorum for conducting consortium business.

(6) The office shall provide staff support to the consortium.

(7) A consortium member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 14. Section 79-6-1202 is enacted to read:

79-6-1202. Consortium duties.

(1) The consortium shall:

(a) provide knowledge and expertise to assist the office regarding nuclear energy technologies, safety, and development; and

(b) develop recommendations regarding policy pertaining to:

(i) nuclear energy development in the state;

(ii) incentives for nuclear energy related industries in the state including industrial process applications and other beneficial uses of nuclear technology;

(iii) partnerships between entities engaged in or supporting nuclear energy development, including public and private sector collaboration; and

(iv) the appropriate regulatory framework for nuclear energy development in the state.

(2) The office shall report annually on duties performed by the consortium on or before November 30 to the Public Utilities, Energy, and Technology Interim Committee.

Section 15. Effective Date.

This bill takes effect on May 7, 2025.

Section 16. Coordinating H.B. 249 with H.B. 70.

If H.B. 249, Nuclear Power Amendments, and H.B. 70, Decommissioned Asset Disposition Amendments, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) Section 79-6-1104 enacted in H.B. 70 be renumbered to Section 79-6-1107;

(2) Section 79-6-1103 enacted in H.B. 249 and H.B. 70 be amended to read:

"(1) The council shall:

(a) coordinate and facilitate electrical energy project development, including:

(i) site identification and permitting;

(ii) early site preparation work;

(iii) infrastructure improvements;

(iv) project financing assistance; and

(v) stakeholder coordination;

(b) assess and facilitate electrical energy infrastructure development by:

(i) evaluating infrastructure needs and opportunities;

(ii) coordinating with transmission and pipeline developers;

(iii) supporting utility planning efforts; and

(iv) coordinating with federal agencies;

(c) establish and implement:

(i) strategic plans for energy development;

(ii) frameworks for stakeholder engagement;

(iii) processes for designating electrical energy development zones; and

(iv) criteria for evaluating proposed electrical energy development zones;

(d) review and approve:

(i) research project proposals from the board; and

(ii) funding allocations recommended by the board;

(e) consult with state land use authorities regarding:

(i) identification of state lands suitable for electrical energy development;

(ii) designation of electrical energy development zones; and

(iii) opportunities for coordinated development of electrical energy projects on state lands;

(f) administer the Electrical Energy Development Investment Fund created in Section 79-6-1105;

(g) make recommendations regarding electrical energy policy to state and local governments;

(h) identify and recommend solutions to barriers affecting electrical energy development;

(i) assess and address potential public health impacts of electrical energy development zones;

(j) enter into contracts necessary to fulfill the council's duties;

(k) report annually by October 31 to the Public Utilities, Energy, and Technology Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee regarding:

(i) the council's activities;

(ii) energy development opportunities;

(iii) infrastructure needs;

(iv) the status of designated electrical energy development zones;

(v) recommendations for how the property tax differential revenue collected under Section 79-6-1104 should be divided and distributed between the state, counties, and municipalities;

(vi) investment decisions made by the council; and

(vii) recommended policy changes;

(l) create and implement a strategic plan for a decommissioned asset, taking into consideration:

(i) the state energy policy, as provided in Section 79-6-301;

(ii) reliability of electrical generation; and

(iii) economic viability;

(m) establish policies and procedures for the management of a decommissioned asset;

(n) administer contracts for the management and operations of a decommissioned asset;

(o) enter into contracts necessary for the operation and management of a decommissioned asset;

(p) acquire, hold, and dispose of property related to a decommissioned asset;

(q) select an operator for a decommissioned asset as provided in Section 79-6-1107; and

(r) report annually to the Legislative Management Committee regarding:

(i) the status and progress of the asset transfer;

(ii) operational and financial status of the asset under council control;

(iii) status of the operator contract;

(iv) environmental compliance status; and

(v) recommendations for legislation.

(2) The council shall negotiate with the applicable county or municipality regarding the distribution of property tax differential revenue collected under Section 79-6-1104.

(3) Any portion of the property tax differential that is not distributed to the council shall be distributed to the applicable county or municipality for impact mitigation and affordable housing.

(4)(a) The portion of the property tax differential that is distributed to the municipality shall be used for:

(i) at least 10% of the total distribution shall be used for affordable housing programs; and

(ii) the remaining portion shall be used to mitigate impacts within the municipality resulting from electrical energy development.

(b) The portion of the property tax differential that is distributed to the county shall be used for:

(i) at least 10% of the total distribution shall be placed in a registered non-profit established to administer housing programs on behalf of an association representing 10 or more counties in the state; and

(ii) the remaining portion shall be used to mitigate impacts within the county resulting from electrical energy development.

(5) If the council acquires a project entity asset under Section 11-13-318, the council shall enter into an agreement with the project entity that:

(a) provides for the transfer, disposition, and future operation of the asset; and

(b) ensures the transfer, disposition, and future operation does not interfere with the project entity's ownership or operation of electrical generation facilities powered by natural gas, hydrogen, or a combination of natural gas and hydrogen."; and

(3) Subsection 79-6-1104(4) enacted in H.B. 70 be amended to read:

"(4) In evaluating proposals, the council shall consider:

(a) operational efficiency metrics from similar facilities;

(b) proposed operational cost structure;

(c) economic considerations;

(d) reliability and availability guarantees;

(e) environmental compliance history and plans;

(f) workplace safety record and plans;

(g) local economic benefit commitments;

(h) proposed timeline for assuming operations; and

(i) the long term power needs of the state and residents of the state.".

CHAPTER 376
H. B. 258
Passed February 27, 2025
Approved March 26, 2025
Effective May 7, 2025

MEDICARE SUPPLEMENT INSURANCE AMENDMENTS

Chief Sponsor: Jake Fitisemanu
Senate Sponsor: Luz Escamilla

Cosponsor:	Sahara Hayes	Angela Romero
Gay Lynn Bennion	Ashlee Matthews	David Shallenberger
Jennifer Dailey-Provost	Verona Mauga	Andrew Stoddard
Rosalba Dominguez	Carol S. Moss	
Steve Eliason	Hoang Nguyen	

LONG TITLE

General Description:

This bill amends provisions regarding Medicare supplement insurance coverage.

Highlighted Provisions:

This bill:

► defines terms;
► allows enrollees of Medicare supplement insurance plans to select comparable or lower tier plans; and
► does not allow an issuer to deny coverage based on medical underwriting when selecting a comparable or lower tier plan.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-620, as last amended by Laws of Utah 2024, Chapter 120

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-620 is amended to read:
31A-22-620. Medicare Supplement Insurance Minimum Standards Act.

(1) As used in this section:

(a) "Applicant" means:

(i) in the case of an individual Medicare supplement insurance policy, the person who seeks to contract for insurance benefits; and

(ii) in the case of a group Medicare supplement insurance policy, the proposed certificate holder.

(b) "Certificate" means any certificate delivered or issued for delivery in this state under a group Medicare supplement insurance policy.

(c) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the issuer.

(d) "Enrollee" means an individual enrolled in Medicare supplement insurance.

[~~(d)~~](e) "Issuer" includes insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity delivering, or issuing for delivery in this state, Medicare supplement insurance policies or certificates.

[~~(e)~~](f) "Policy form" means the form on which the policy is delivered or issued for delivery by the issuer.

(2) (a) Except as otherwise specifically provided, this section applies to:

(i) all Medicare supplement insurance policies delivered or issued for delivery in this state on or after the effective date of this section;

(ii) all certificates issued under group Medicare supplement insurance policies, that have been delivered or issued for delivery in this state on or after the effective date of this section; and

(iii) policies or certificates that were in force prior to the effective date of this section, with respect to requirements for benefits, claims payment, and policy reporting practice under Subsection (3)(d), and loss ratios under Subsection (4).

(b) This section does not apply to a policy of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or a combination of employers and labor unions, for employees or former employees or a combination of employees and former employees, or for members or former members of the labor organizations, or a combination of members and former members of labor organizations.

(c) This section does not prohibit, nor does it apply to insurance policies or health care benefit plans, including group conversion

policies, provided to Medicare eligible persons that are not marketed or held out to be Medicare supplement insurance policies or benefit plans.

(3) (a) A Medicare supplement insurance policy or certificate in force in the state may not contain benefits that duplicate benefits provided by Medicare.

(b) Notwithstanding any other provision of law of this state, a Medicare supplement policy or certificate may not exclude or limit benefits for loss incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than: "A condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage."

(c) The commissioner shall adopt rules to establish specific standards for policy provisions of Medicare supplement insurance policies and certificates. The standards adopted shall be in addition to and in accordance with applicable laws of this state. A requirement of this title relating to minimum required policy benefits, other than the minimum standards contained in this section, may not apply to Medicare supplement insurance policies and certificates. The standards may include:

(i) terms of renewability;

(ii) initial and subsequent conditions of eligibility;

(iii) nonduplication of coverage;

(iv) probationary periods;

(v) benefit limitations, exceptions, and reductions;

(vi) elimination periods;

(vii) requirements for replacement;

(viii) recurrent conditions; and

(ix) definitions of terms.

(d) The commissioner shall adopt rules establishing minimum standards for benefits, claims payment, marketing practices, compensation arrangements, and reporting practices for Medicare supplement insurance policies and certificates.

(e) The commissioner may adopt rules to conform Medicare supplement insurance policies and certificates to the requirements of federal law and regulations, including:

(i) requiring refunds or credits if the policies do not meet loss ratio requirements;

(ii) establishing a uniform methodology for calculating and reporting loss ratios;

(iii) assuring public access to policies, premiums, and loss ratio information of issuers of Medicare supplement insurance;

(iv) establishing a process for approving or disapproving policy forms and certificate forms and proposed premium increases;

(v) establishing a policy for holding public hearings prior to approval of premium increases;

(vi) establishing standards for Medicare select policies and certificates; and

(vii) nondiscrimination for genetic testing or genetic information.

(f) The commissioner may adopt rules that prohibit policy provisions not otherwise specifically authorized by statute that, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed to be insured under a Medicare supplement insurance policy or certificate.

(g) (i) Each year, beginning on an enrollee's birthday and ending 60 days later, an issuer shall allow an enrollee that is enrolled in one of the issuer's Medicare supplement insurance plans to choose a different Medicare supplement insurance plan that is:

(A) offered by the issuer; and

(B) considered a comparable or lower tier plan than the enrollee's current plan.

(ii) An issuer may not deny enrollment based on medical underwriting when an enrollee selects a plan in accordance with Subsection (3)(g)(i).

(4) Medicare supplement insurance policies shall return to policyholders benefits that are reasonable in relation to the premium charged. The commissioner shall make rules to establish minimum standards for loss ratios of Medicare supplement insurance policies on the basis of incurred claims experience, or incurred health care expenses where coverage is provided by a health maintenance organization on a service basis rather than on a reimbursement basis, and earned premiums in accordance with accepted actuarial principles and practices.

(5) (a) To provide for full and fair disclosure in the sale of Medicare supplement insurance, a Medicare supplement insurance policy or certificate may not be delivered in this state unless an outline of coverage is delivered to the applicant at the time application is made.

(b) The commissioner shall prescribe the format and content of the outline of coverage required by Subsection (5)(a).

(c) For purposes of this section, "format" means style arrangements and overall appearance, including such items as the size, color, and prominence of type and arrangement of text and captions. The outline of coverage shall include:

(i) a description of the principal benefits and coverage provided in the policy;

(ii) a statement of the renewal provisions, including any reservation by the issuer of a right to change premiums; and disclosure of the existence of any automatic renewal premium increases based on the policyholder's age; and

(iii) a statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(d) The commissioner may make rules for captions or notice if the commissioner finds that the rules are:

(i) in the public interest; and

(ii) designed to inform prospective insureds that particular insurance coverages are not Medicare supplement coverages, for all accident and health insurance policies sold to persons eligible for Medicare, other than:

(A) a Medicare supplement insurance policy; or

(B) a disability income policy.

(e) The commissioner may prescribe by rule a standard form and the contents of an informational brochure for persons eligible for Medicare, that is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by rule that the informational brochure be provided concurrently with delivery of the outline of coverage to any prospective insureds eligible for Medicare. With respect to direct response insurance policies, the commissioner may require by rule that the prescribed brochure be provided upon request to any prospective insureds eligible for Medicare, but in no event later than the time of policy delivery.

(f) The commissioner may adopt reasonable rules to govern the full and fair disclosure of the information in connection with the replacement of accident and health policies, subscriber contracts, or certificates by persons eligible for Medicare.

(6) Notwithstanding Subsection (1), Medicare supplement insurance policies and certificates shall have a notice prominently printed on the first page of the policy or certificate, or attached to the front page, stating in substance that the applicant has the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Any refund made pursuant to this section shall be paid directly to the applicant by the issuer in a timely manner.

(7) Every issuer of Medicare supplement insurance policies or certificates in this state shall provide a copy of any Medicare supplement insurance advertisement intended for use in this state, whether through written or broadcast medium, to the commissioner for review.

(8) The commissioner may adopt rules:

(a) []to conform Medicare and Medicare supplement insurance policies and certificates to the marketing requirements of federal law and regulation[.]; or

(b) to implement Medicare supplement insurance open enrollment as described in Subsection (3)(g).

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 377
H. B. 260
Passed March 5, 2025
Approved March 26, 2025
Effective July 1, 2025

FIRST CREDENTIAL PROGRAM

Chief Sponsor: Val L. Peterson
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill replaces the PRIME program to create the First Credential program.

Highlighted Provisions:

This bill:

- ► requires designated pathway development positions to perform certain duties;
- ► repeals the PRIME program;
- ► establishes a first credential program;
- ► requires development of a master plan for scaling credentialing programs;
- ► establishes a master credential list of approved industry-recognized credentials;
- ► ensures credits are transferable to higher education institutions and technical colleges;
- ► provides a scholarship for students who complete the first credential program;
- ► requires annual review and updates based on labor market needs;
- ► provides a grant for implementation and incentives for outcomes;
- ► mandates partnerships between schools, employers, and apprenticeship programs;
- ► promotes stackable credentials that lead to career advancement;
- ► coordinates language with other legislation contingent upon passage;
- ► defines terms; and
- ► makes technical changes.

Money Appropriated in this Bill:

This bill appropriates $3,000,000 in operating and capital budgets for fiscal year 2026, including:

- $1,000,000 from Income Tax Fund; and
- $2,000,000 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

53B-10-106, as last amended by Laws of Utah 2023, Chapter 453

ENACTS:

53E-10-310, Utah Code Annotated 1953

REPEALS:

53E-10-309, as last amended by Laws of Utah 2024, Chapter 29

Utah Code Sections Affected by Coordination Clause:

AMENDS:

53E-10-310, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-10-106 is amended to read:

53B-10-106. Pathways development.

(1) The board shall develop and implement a plan that creates clear educational pathways:

(a) from a technical college described in Subsection 53B-1-102(1)(b) to a degree-granting institution;

(b) in course work leading to a qualifying job or a qualifying degree as described in Section 53B-10-203; and

(c) for high schools that offer criminal justice or protective services pathways programs, including information on:

(i) available concurrent enrollment classes in subjects described in Section 53B-8-112.5; and

(ii) scholarship opportunities for careers as peace officers as defined in Section 53B-8c-102.

(2) The plan shall maximize efficiencies in transferring earned credit and help align academic programs with workforce needs.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules necessary to establish:

(a) a plan described in this section[.]; and

(b) the job requirements related to regional pathway coordinators funded by the Legislature related to this section and as described in Subsection (4).

(4) Under the direction of the Office of the Commissioner of Higher Education, regional pathway coordinators shall:

(a) collaborate with regional secondary and postsecondary professionals in:

(i) concurrent enrollment;

(ii) career and technical education; and

(iii) workforce development;

(b) coordinate regional responsibilities with the professionals described in Subsection (4)(a) for programming that aligns work between:

(i) the statewide college and career mapping efforts;

(ii) the Utah First Credential program described in Section 53E-10-310; and

(iii) related pathway initiatives, including those described in this section;

(c) support implementation of:

(i) the Utah First Credential program described in Section 53E-10-310; and

(ii) future programming aligned with updates related to and within the Utah First Credential program described in Section 53E-10-310;

(d) as the Office of the Commissioner of Higher Education requests, contribute to the development of:

(i) the Utah First Credential Master Plan described in Section 53E-10-310;

(ii) the master credential list described in Section 53E-10-310; and

(iii) related Utah First Credential program elements described in Section 53E-10-310, including:

(A) alignment of the first credential framework with college and career mapping;

(B) regional needs assessments;

(C) landscape analyses;

(D) definitions and assessment tools; and

(E) statewide reporting frameworks; and

(e) provide required reporting on institutional and regional outcomes related to key performance indicators the Office of the Commissioner of Higher Education establishes.

Section 2. Section 53E-10-310 is enacted to read:

53E-10-310. Utah First Credential program.

(1) As used in this section:

(a) "Eligible institution" means a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Subsection 53B-2-101(1).

(b) "First credential" means a certificate awarded by the state board to an eligible student who meets the criteria described in Subsection (7).

(c) "Industry-recognized credential" means a credential that is:

(i) developed and offered by, or endorsed by, a nationally recognized industry association or organization representing a sizable portion of the industry sector;

(ii) sought or accepted by employers within the industry or sector as a recognized, preferred, or required credential for recruitment, screening, hiring, retention, or advancement purposes; and

(iii) regularly reviewed, updated, and validated by the issuing body to ensure ongoing alignment with industry standards and labor market needs.

(d) "Master credential list" means the list of approved industry-recognized credentials maintained by the state board in accordance with this section.

(e) "Program" means the first credential program described in this section.

(f) "Technical college" means the same as that term is defined in Section 53B-1-101.5.

(2) The commissioner of higher education, the state superintendent of public instruction, and the governor's education advisor shall establish the First Credential Oversight Committee comprised of:

(a) representatives from industries, including:

(i) members of professional associations or trade groups; and

(ii) employers from high-demand sectors as the state board determines in collaboration with the Utah Board of Higher Education and the Department of Workforce Services;

(b) representatives from education including:

(i) members from the state board;

(ii) LEA administrators, such as a superintendent or charter school director;

(iii) professionals from institutions of higher education, including technical colleges;

(iv) career and technical education specialists; and

(v) Talent Ready Utah; and

(c) workforce development experts, including representatives from the Department of Workforce Services.

(3) The state board shall staff the First Credential Oversight Committee.

(4) The First Credential Oversight Committee shall develop a first credential master plan, which shall include:

(a) a framework for developing and maintaining the master credential list;

(b) a comprehensive needs assessment framework that evaluates:

(i) resources available through institutions of higher education, including:

(A) faculty expertise and availability;

(B) facilities and equipment;

(C) existing certification programs; and

(D) potential for program expansion;

(ii) industry partnership opportunities, including:

(A) geographical proximity to potential partners;

(B) willingness of local industries to participate;

(C) capacity for work-based learning placements; and

(D) alignment between industry needs and educational capabilities;

(iii) general resource availability, including:

(A) current funding streams and potential funding sources;

(B) existing technology infrastructure;

(C) qualified personnel and staffing needs; and

(D) professional development requirements;

(c) credential approval processes;

(d) methods for ensuring industry demand alignment;

(e) wage considerations for occupations associated with approved credentials;

(f) clear definitions of industry-recognized credentials;

(g) strategies for promoting stackability and sequencing of credentials;

(h) approaches to ensure regional relevance of credentials;

(i) mechanisms for collaboration between educational institutions, industry partners, and workforce development agencies;

(j) strategies for continuous evaluation and improvement of the program;

(k) the creation of a credentials review committee, including membership and duties;

(l) in accordance with Subsection (17), an established framework of planning, implementation, and student outcome performance funding for an LEA administering first credential programming;

(m) a weighted system for the master credential list that:

(i) assigns higher values to credentials based on:

(A) alignment with high-demand, high-wage occupations;

(B) incorporation of multiple learning pathways, including coursework, apprenticeships, internships, work-based learning, and related service opportunities;

(C) industry recognition and portability; and

(D) stackability with other credentials or degrees;

(ii) uses the weighted values to:

(A) determine incentive funding levels;

(B) prioritize program expansion support; and

(C) guide student career planning; and

(n) guidelines for LEAs to procure industry-recognized certification program licenses, including:

(i) verification that certifications appear on the master credential list;

(ii) requirement for competency-based assessments in proctored environments;

(iii) documentation of local industry endorsement; and

(iv) alignment with state and federal computer science initiatives where applicable, including the Computer Science for Utah Grant Program described in Section 53B-34-106.

(5) In accordance with the Utah First Credential Master Plan, the state board shall:

(a) ensure that the credentials review committee membership reflects a balance of perspectives and expertise;

(b) develop an online application and submission system for credentialing organizations and providers to submit programs for inclusion in the master credential list;

(c) establish and maintain the master credential list based on the recommendations of the credentials review committee;

(d) develop clear mechanisms for students to understand how earning one credential can lead to higher-level certifications or degrees; and

(e) foster partnerships between high schools, technical colleges, employers, and apprenticeship programs to ensure students have access to meaningful work-based learning opportunities.

(6) The state board shall:

(a) automatically include on the initial master credential list any existing credential that:

(i) meets the definition of industry-recognized credential under this section; and

(ii) is currently recognized by the state board or Utah Board of Higher Education as of July 1, 2024; and

(b) review all automatically included credentials within one year to ensure ongoing compliance with program requirements.

(7) The state board shall award a first credential certificate to an eligible student who completes one of the following:

(a) concurrent enrollment courses, composed of:

(i) between 12 and 18 core general education credits, or as industry standards dictate, with courses from different general education categories; or

(ii) a prescribed set of courses as the Utah Board of Higher Education designates;

(b) an industry-recognized credential included on the master credential list;

(c) 300 hours of completion through a youth apprenticeship program that:

(i) is described in Sections 35A-6-102 and 35A-6-104.5; and

(ii) includes courses that fulfill the requirements for an industry-recognized credential included on the master credential list;

(d) completion of a technical college certificate; or

(e) completion of a Career and Technical Education Pathway program.

(8) The Utah Board of Higher Education shall ensure that credits earned for a first credential certificate are:

(a) accepted and transferable to institutions of higher education, including technical colleges;

(b) applicable towards relevant degree programs; and

(c) recognized by relevant industries as adequate preparation for employment.

(9) Subject to legislative appropriations, the Utah Board of Higher Education shall award a first credential scholarship to each student who earns a first credential certificate.

(10) The first credential scholarship may be used at the following institutions:

(a) a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Subsection 53B-2-101(1); or

(b) a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

(11) The Utah Board of Higher Education shall annually determine the first credential scholarship amount based on:

(a) the number of eligible students; and

(b) appropriations made by the Legislature.

(12) A student may use the first credential scholarship for:

(a) tuition and fees;

(b) books and supplies; or

(c) other educational expenses as the Utah Board of Higher Education determines.

(13) The Utah Board of Higher Education shall ensure the scholarship is valid for use within three years from the date the student graduates from high school.

(14) A student may earn the first credential scholarship in addition to any other state-sponsored scholarships for which the student may be eligible.

(15) The first credential oversight committee shall present the master plan described in Subsection (4) to the Education Interim Committee by the November 2025 interim committee meeting.

(16) Every three years, the First Credential Oversight Committee shall:

(a) review the Utah First Credential Master Plan;

(b) as needed, create a list of recommendations and update the Utah First Credential Master Plan;

(c) report the list of recommendations and the updated Utah First Credential Master Plan to:

(i) the state board;

(ii) the Utah Board of Higher Education;

(iii) the Department of Workforce Services;

(iv) the Education Interim Committee; and

(v) the Economic Development and Workforce Services Interim Committee.

(17) (a) The state board shall administer a first credential grant program for an LEA and award a grant in accordance with the following process.

(b) The First Credential Oversight Committee shall establish:

(i) a needs assessment tool that evaluates:

(A) an LEA's current first credential offering;

(B) an LEA's capacity to develop or expand a first credential pathway;

(C) resources and support needed for a first credential program, including resources available through institutions of higher education, industry partnership opportunities, and general resource availability; and

(D) each potential barrier to implementation; and

(ii) a continuum of need to place each applying LEA.

(c) An LEA seeking a first credential grant shall submit to the First Credential Oversight Committee:

(i) a completed needs assessment; and

(ii) a grant application that contains:

(A) current first credential data, including current credentials offered;

(B) preliminary goals for creating or expanding first credential opportunities within the LEA; and

(C) if applicable, plans for procurement of industry certification program licenses, including certification details and alignment with master credential list, documentation of employer endorsements, assessment and proctoring procedures, and integration with existing computer science programs.

(d) The First Credential Oversight Committee shall:

(i) review each submitted application and needs assessment;

(ii) assign the LEA a placement on the continuum of need; and

(iii) provide to the LEA a specific requirement for an implementation plan based on:

(A) the LEA's continuum placement;

(B) each identified area for growth;

(C) each available resource; and

(D) each additional factor the First Credential Oversight Committee determines relevant.

(e) An LEA shall submit to the First Credential Oversight Committee an implementation plan that includes:

(i) specific goals for expanding a first credential opportunity;

(ii) each implementation step and timeline;

(iii) a detailed cost projection; and

(iv) each additional element the committee requires based on the needs assessment results.

(f) The First Credential Oversight Committee shall:

(i) review the implementation plan;

(ii) direct technical assistance to the LEA in accordance with the LEA's implementation plan;

(iii) provide feedback to the LEA to improve the implementation plan;

(iv) approve each implementation plan that meets the established criteria; and

(v) award an implementation grant for each approved plan.

(g) Subject to legislative appropriations, the state board shall:

(i) award an incentive grant to an LEA that:

(A) has implemented an approved plan;

(B) increases the number of students who earn a first credential certificate; and

(C) achieves each established implementation goal; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the First Credential Oversight Committee, establish by rule:

(A) tiers for incentive grant awards;

(B) performance metrics for continued funding;

(C) reporting requirements for a grant recipient;

(D) requirements for reporting certification program outcomes and industry alignment;

(E) procedures for coordinating with computer science initiative grants; and

(F) guidelines for certification program procurement and implementation.

(18) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Utah Board of Higher Education and the Department of Workforce Services, the state board shall make rules to implement the provisions of this section.

Section 3. Repealer.

This bill repeals:

Section 53E-10-309, Utah PRIME Program -- LAUNCH certificate -- TRANSFORM certificate.

Section 4. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 4(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah Board of Higher Education - Student Assistance

From Income Tax Fund, One-time - 1,000,000

Schedule of Programs:

Prime Pilot Program Amendments - 1,000,000

The Legislature intends that the Utah System of Higher Education uses $1,000,000 one-time appropriation for:

(1) providing scholarship funding to students completing the student's first credential; and

(2) creating completion incentives for a student who completes a technical college certificate.

ITEM 2

To State Board of Education - System Standards & Accountability

From Public Education Economic Stabilization Restricted Account, One-time - 2,000,000

Schedule of Programs:

[~~Teaching and Learning~~ - - - - - - - - - - - - - - - - - - -

(b) findings shall be presented to the October 2025 Education Interim meeting.

(2) $500,000 one-time appropriation for the development of the approved master credential list to:

(a) outline targeted industry clusters, skill clusters, credential naming, and approved providers or certifiers;

(b) establish a credential review committee; and

(c) create new first credentials and endorsements.

(3) $1,000,000 one-time appropriation for K-12 performance incentives to:

(a) establish a mechanism for incentivizing first credential completers; and

(b) implement a weighted system where a school can earn performance dollars based on the quantity and quality of the first credentials earned by students enrolled at the school.

Section 5. Effective Date.

This bill takes effect on July 1, 2025.

Section 6. Coordinating H.B. 260 with H.B. 447.

If H.B. 260, First Credential Program, and H.B. 447, Statewide Catalyst Campus Model, both pass and become law, the Legislature intends that, on July 1, 2025:

(1) Subsection 53E-3-507.1(1)(a) enacted in H.B. 447 be amended to read:

"(a) "Catalyst center" means a program or facility operated by an LEA that:

(i) provides learning experiences and instruction that replicate professional environments and workplace practices, including experiences obtained through the Utah First Credential program described in Section 53E-10-310;

(ii) provides profession-based learning experiences by partnering with local industry, business, and community organizations to develop and implement student projects that address specific needs or objectives identified by those partners;

(iii) aligns programs with high-skill, high-demand career pathways and postsecondary education opportunities;

(iv) incorporates industry-standard tools, technologies, and methods into instruction and student work;

(v) prioritizes student activities and profession-based learning projects to build durable professional skills aligned with industry standards and needs;

(vi) facilitates mentorship and participation by industry professionals to guide a student and evaluate the student's work;

(vii) includes an advisory board composed of industry, postsecondary, and community representatives to review program direction and ensure alignment with workforce needs; and

(viii) establishes programs or activities that address gaps in training or resources within the local or regional workforce."; and

(2) Subsections 53E-10-310(1) and (2) enacted in H.B. 260 be amended to read:

"(1) As used in this section:

(a) "Eligible institution" means a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Subsection 53B-2-101(1).

(b) "First credential" means a certificate awarded by the state board to an eligible student who meets the criteria described in Subsection (7).

(c) (i) "Industry-recognized credential" means a credential that is:

(A) developed and offered by, or endorsed by, a nationally recognized industry association or organization representing a sizable portion of the industry sector;

(B) sought or accepted by employers within the industry or sector as a recognized, preferred, or required credential for recruitment, screening, hiring, retention, or advancement purposes; and

(C) regularly reviewed, updated, and validated by the issuing body to ensure ongoing alignment with industry standards and labor market needs.

(ii) "Industry-recognized credential" may also include a credential offered through a catalyst center as described in Section 53E-3-507.1.

(d) "Master credential list" means the list of approved industry-recognized credentials maintained by the state board in accordance with this section.

(e) "Program" means the first credential program described in this section.

(f) "Technical college" means the same as that term is defined in Section 53B-1-101.5.

(2) The commissioner of higher education, the state superintendent of public instruction, and the governor's education advisor shall establish the First Credential Oversight Committee comprised of:

(a) representatives from industries, including:

(i) members of professional associations or trade groups; and

(ii) employers from high-demand sectors as the state board determines in collaboration with the Utah Board of Higher Education and the Department of Workforce Services;

(b) representatives from education including:

(i) members from the state board;

(ii) the director of the Catalyst Center Grant Program described in Section 53E-3-507.1;

(iii) LEA administrators, such as a superintendent or charter school director;

(iv) professionals from institutions of higher education, including technical colleges;

(v) career and technical education specialists; and

(vi) Talent Ready Utah; and

(c) workforce development experts, including representatives from the Department of Workforce Services.".

CHAPTER 378
H. B. 261
Passed March 7, 2025
Approved March 26, 2025
Effective January 1, 2026

TOWING MODIFICATIONS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to the towing and impoundment of vehicles.

Highlighted Provisions:

This bill:

- ► amends provisions related to impounded or towed vehicles to allow a state impound yard or tow yard to release a vehicle to certain individuals beside the owner if certain requirements are met;
- ► requires a private property owner who contracts with a tower to patrol a parking lot to publish information about the agreement with the tower for the public to view;
- ► allows signage for towing and parking restrictions to remain valid if the signage substantially conforms with the statutory standards;
- ► requires a tow truck motor carrier or impound yard to allow an individual to remove personal items from a vehicle if the individual has paid the towing fee;
- ► requires a tow truck motor carrier to provide to the Department of Transportation information about each towing dispatch rotation that includes the tow truck motor carrier;
- ► allows the Department of Transportation to require the removal from a towing dispatch rotation a tow truck motor carrier that has violated relevant towing laws and regulations;
- ► prohibits a local government from imposing a maximum rate that deviates from the towing rates established by the Department of Transportation in administrative rule; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-6a-1406, as last amended by Laws of Utah 2024, Chapters 134, 319 and 380
72-9-601, as last amended by Laws of Utah 2017, Chapter 298
72-9-602, as last amended by Laws of Utah 2017, Chapter 298
72-9-603, as last amended by Laws of Utah 2024, Chapter 134
72-9-604, as last amended by Laws of Utah 2024, Chapter 134

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-1406 is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is impounded as provided under Section 41-1a-1101, 41-6a-210, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be impounded to a state impound yard.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (11).

(4) (a) A report described in this Subsection (4) is required for a vehicle, vessel, or outboard motor that is impounded as described in Subsection (1).

(b) Before noon on the next business day after the date of the removal of the vehicle, vessel, or outboard motor, a report of the impoundment shall be sent to the Motor Vehicle Division, in an electronic format approved by the Motor Vehicle Division, by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(c) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the case number designated by the peace officer, law enforcement agency number, or government entity;

(v) the license number, temporary permit number, or other identification number issued by a state agency;

(vi) the date, time, and place of impoundment;

(vii) the reason for removal or impoundment;

(viii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

(ix) the place where the vehicle, vessel, or outboard motor is stored.

(d) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission shall make rules to establish proper format and information required on the form described in this Subsection (4).

(ii) The State Tax Commission shall ensure that the form described in this Subsection (4) is provided in an electronic format.

(e) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5) (a) A report described in this Subsection (5) is required for any vehicle, vessel, or outboard motor that is removed, except for:

(i) a vehicle, vessel, or outboard motor that is impounded for a reason described in Subsection (1); or

(ii) a vehicle, vessel, or outboard motor for which a removal is performed in accordance with Section 72-9-603.

(b) For a removal described in Subsection (5)(a), the relevant law enforcement officer shall provide documentation to the tow truck operator or tow truck motor carrier that includes:

(i) the name and badge number of the peace officer;

(ii) the name and originating agency identifier of the law enforcement agency; and

(iii) the case number designated by the law enforcement officer or law enforcement agency.

(c) For a removal described in Subsection (5)(a), before noon on the next business day following the date of the removal of the vehicle, vessel, or outboard motor, the tow truck operator or tow truck motor carrier shall send to the Motor Vehicle Division in an electronic format approved by the Motor Vehicle Division:

(i) the report described in Subsection (4); or

(ii) the report described in Subsection (5)(d).

(d) For a removal described in Subsection (5)(a), if the tow truck operator or tow truck motor carrier does not provide the report described in Subsection (4), the tow truck operator or tow truck motor carrier shall provide a report to the Motor Vehicle Division that includes:

(i) the name and badge number of the relevant peace officer;

(ii) the name and originating agency identifier of the law enforcement agency;

(iii) the law enforcement agency case number;

(iv) subject to Subsection (5)(e), the vehicle identification number and the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date and time of the removal of the vehicle, vessel, or outboard motor; and

(vi) the reason for the removal of the vehicle, vessel, or outboard motor.

(e) If either the vehicle identification number or the license number, temporary permit number, or other identification number issued by a state agency is not available, the report shall include:

(i) as much information as is available from both the vehicle identification number and the license plate number of the vehicle, vessel, or outboard motor; and

(ii) a description of the vehicle, vessel, or outboard motor, including the color, make, model, and model year of the vehicle, vessel, or outboard motor.

(f) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (5), a tow truck motor carrier may not:

(i) collect any fee associated with the removal; or

(ii) begin charging storage fees.

(g) A vehicle, vessel, or outboard motor removed under this Subsection (5) shall be removed to:

(i) a state impound yard; or

(ii) a location that has been requested by the registered owner at the time of removal, if payment is made to the tow truck motor carrier or tow truck operator at the time of removal.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission may make rules to establish proper format and information required on the form described in [~~Subsection (5)(c)~~]Subsection (5)(d), including submission in an electronic format.

(6) (a) Except as provided in Subsection (6)(d) and upon receipt of a report described in Subsection (4) or (5), the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

(i) the registered owner;

(ii) any lien holder; or

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection (6)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (6)(d) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (6)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division is not required to give notice under this Subsection (6) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(e) (i) The Motor Vehicle Division shall disclose the information in the report described in Subsection (4) and Subsection 72-9-603(1)(a)(i) to a designated agent as defined in Section 41-12a-802 regarding a tow that was initiated:

(A) by law enforcement; or

(B) without the vehicle owner's consent.

(ii) The Motor Vehicle Division may rely on the information provided by the tow truck operator or tow truck motor carrier to determine if a tow meets the criteria described in Subsections (6)(e)(i)(A) and (B).

(iii) The designated agent may disclose information received regarding a tow described in Subsections (6)(e)(i)(A) and (B) to the vehicle owner and to the vehicle owner's verified insurance company.

(iv) The designated agent may not disclose information to a vehicle owner's insurance company if the tow does not meet the criteria described in Subsections (6)(e)(i)(A) and (B).

(7) (a) The vehicle, vessel, or outboard motor impounded or removed to a state impound yard as described in this section shall be released after a party described in Subsection (6)(a) or (7)(f):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded or removed vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527 or Subsection 41-1a-1101(3), pays:

(A) an administrative impound fee of $425; and

(B) in addition to the administrative fee described in Subsection [~~(6)(a)(iv)(A)~~](7)(a)(iv)(A), an administrative testing fee of $30; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b) (i) [~~$29~~]Twenty-nine dollars of the administrative impound fee assessed under Subsection (7)(a)(iv)(A) shall be dedicated credits to the Motor Vehicle Division.

(ii) One-hundred and forty-seven dollars of the administrative impound fee assessed under Subsection (7)(a)(iv)(A) shall be deposited into the Department of Public Safety Restricted Account created in Section 53-3-106.

(iii) Twenty dollars of the administrative impound fee assessed under Subsection (7)(a)(iv)(A) shall be deposited into the Brain and Spinal Cord Injury Fund created in Section 26B-1-318.

(iv) After the distributions described in Subsections (7)(b)(i) through (iii), the remainder of the administrative impound fee assessed under Subsection (7)(a)(iv)(A) shall be deposited into the General Fund.

(v) The administrative testing fee described in Subsection [~~(6)(a)(iv)(B)~~](7)(a)(iv)(B) shall be deposited into the State Laboratory Drug Testing Account created in Section 26B-1-304.

(c) The administrative impound fee and the administrative testing fee assessed under Subsection (7)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection (6)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (7).

(f) In addition to the parties described in Subsection (6)(a), the vehicle, vessel, or outboard motor impounded or removed to a state impound yard as described in this section shall be released to an individual that is not described in Subsection (6)(a) if the individual:

(i) (A) satisfies the requirements of Subsections (7)(a)(i) and (7)(a)(iii) through (v);

(B) presents the individual's driver license or other government-issued identification; and

(C) demonstrates that the individual has authority granted by a person described in Subsection (6)(a) to obtain and operate the vehicle; or

(ii) is a tow truck operator or tow truck motor carrier that:

(A) demonstrates that the tow truck operator or tow truck motor carrier has authority granted by a person described in Subsection (6)(a) to obtain and operate the vehicle, vessel, or outboard motor;

(B) provides a towing certificate issued by the Department of Transportation pursuant to Section 72-9-602;

(C) pays all towing and storage fees; and

(D) obtains or presents an impound release for the vehicle, vessel, or outboard motor pursuant to Subsection (7)(a).

(8) (a) For an impounded or a removed vehicle, vessel, or outboard motor not claimed by a party described in Subsection (6)(a) or

(7)(f) within the time prescribed by Section 41-1a-1103, the Motor Vehicle Division shall issue a certificate of sale for the impounded or removed vehicle, vessel, or outboard motor as described in Section 41-1a-1103.

(b) The date of impoundment or removal is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(9) A party described in Subsection (6)(a) that pays all fees and charges incurred in the impoundment or removal of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(10) (a) As used in this Subsection (10), "life essential item" means the same as that term is defined in Subsection 72-9-603(13).

(b) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(c) Towing fees are a possessory lien on the vehicle, vessel, or outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard motor.

(d) Except for a vehicle, vessel, or outboard motor being held as evidence, a tow truck operator, a tow truck motor carrier, or an impound yard shall allow a person described in Subsection (6)(a) or an individual described in Subsection (7)(f)(i) to take possession of any life essential item within the vehicle, vessel, or outboard motor during normal business hours regardless of whether the towing, impound fees, or storage fees have been paid.

(e) Except for a vehicle, vessel, or outboard motor being held as evidence, upon payment of the towing fee, a tow truck operator, a tow truck motor carrier, or an impound yard shall allow a person described in Subsection (6)(a) or an individual described in Subsection (7)(f)(i) to enter the vehicle, vessel, or outboard motor during normal business hours and remove personal property not attached to the vehicle, vessel, or outboard motor.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(12) (a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (12)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 2. Section 72-9-601 is amended to read:

72-9-601. Tow truck motor carrier requirements -- Authorized towing certificates.

(1) In addition to the requirements of this chapter, a tow truck motor carrier shall:

(a) ensure that all the tow truck motor carrier's tow truck operators are properly:

(i) trained to operate tow truck equipment;

(ii) licensed, as required under Title 53, Chapter 3, Uniform Driver License Act; and

(iii) complying with the requirements under Sections 41-6a-1406 and 72-9-603;

(b) ensure that all the tow truck motor carrier's tow truck operators:

(i) have cleared the criminal background check required in Subsections 72-9-602(2) and (3); and

(ii) obtain and maintain a valid medical examiner's certificate under 49 C.F.R. Sec. 391.45; [~~and~~]

(c) obtain and display a current authorized towing certificate for the tow truck motor carrier, and each tow truck and tow truck operator, as required under Section 72-9-602[~~.~~]; and

(d) provide to the department, at least once per calendar quarter, information indicating each towing entity dispatch and rotation service of which the tow truck motor carrier is part.

(2) A tow truck motor carrier may only perform a towing service described in Section 41-6a-1406, 41-6a-1407, or 72-9-603, with a tow truck and tow truck operator that has a current authorized towing certificate under this part.

Section 3. Section 72-9-602 is amended to read:

72-9-602. Towing inspections, investigations, and certification -- Equipment requirements -- Consumer information.

(1) (a) The department shall inspect, investigate, and certify tow truck motor carriers, tow trucks, and tow truck operators to ensure compliance with this chapter and compliance with Sections 41-6a-1406 and 41-6a-1407.

(b) The inspection, investigation, and certification shall be conducted prior to any tow truck operation and at least every two years thereafter.

(c) (i) The department shall issue an authorized towing certificate for each tow truck motor carrier, tow truck, and tow truck operator that complies with this part and rules made by the department in accordance with Subsection (6).

(ii) The authorized towing certificate described in this section shall expire two years from the month of issuance.

(d) The department may charge a biennial fee established under Section 63J-1-504 to cover the cost of the inspection, investigation, and certification required under this part.

(2) (a) To qualify for an authorized towing certificate described in Subsection (1), a tow truck operator shall:

(i) submit to a fingerprint-based criminal background check, as described in Subsection (3); and

(ii) obtain and maintain a valid medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(b) For each tow truck operator employed, a tow truck motor carrier shall:

(i) maintain records of the updated background checks and a valid medical examiner's certificate, as required under this section; and

(ii) biennially, make the records described in Subsection (2)(b)(i) available to the department.

(3) (a) Before a tow truck motor carrier may hire an individual as a tow truck operator and receive an authorized towing certificate from the department as required in Subsection (2), the tow truck motor carrier shall require the individual to submit to the Department of Public Safety:

(i) a fingerprint card in a form acceptable to the Department of Public Safety; and

(ii) consent to a state and regional fingerprint background check by the Bureau of Criminal Identification.

(b) The Bureau of Criminal Identification shall:

(i) check the fingerprints submitted under this section against the applicable state and regional criminal records databases;

(ii) report the results of the background check to the requesting tow truck motor carrier;

(iii) maintain a separate file of fingerprints submitted under this part for search by future submissions to the local and regional criminal records databases, including latent prints; and

(iv) establish a privacy risk mitigation strategy to ensure that the entity only receives notifications for the individuals with whom the entity maintains an authorizing relationship.

(c) (i) Except for an individual hired as a tow truck operator before July 1, 2017, the department shall deny an individual's authorized towing certification, and the individual may not operate a tow truck in this state, if the individual has been convicted of any felony offense within the previous two years.

(ii) The department may deny or revoke the authorized towing certification of a tow truck motor carrier that employs an individual who fails to comply with the background check required in this section.

(4) The department shall make available to the public electronically accessible consumer protection information, including a list of all tow truck motor carriers that are currently certified by the department.

(5) The department may deny a tow truck motor carrier's certification if the department has evidence that a tow truck motor carrier's tow truck operator fails to provide copies of the Utah Consumer Bill of Rights Regarding Towing to vehicle owners, as required under Section 72-9-603.

(6) (a) If the department determines that a tow truck motor carrier has violated a provision of this part or an administrative rule made pursuant to this part, the department may:

(i) deny or revoke a tow truck motor carrier's certification under this part;

(ii) impose a civil penalty up to $2,000 for each violation; and

(iii) require the removal of the tow truck motor carrier from a towing dispatch rotation as described in Section 72-9-604.

(b) If the department requires the removal of a tow truck motor carrier from a towing dispatch rotation, contract, or request for proposal as described in Section 72-9-604, the department shall:

(i) notify the Department of Public Safety and any relevant towing entity, as that term is defined in Section 72-9-604, of the removal; and

(ii) notify the tow truck motor carrier of the removal.

(c) A notice described in Subsection (6)(b) shall:

(i) identify the tow truck motor carrier; and

(ii) specify how long the tow truck motor carrier is required to be removed from the towing dispatch rotation.

[~~(6)~~](7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the inspection, investigation, and certification procedures described in this section.

Section 4. Section 72-9-603 is amended to read:

72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle title restrictions -- Rules for maximum rates and certification.

(1) Except for a tow truck service that was ordered by a peace officer, a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor:

(i) provide relevant information to the impound vehicle service system database administered by the Motor Vehicle Division, including:

(A) the date and time of the removal of the vehicle, vessel, or outboard motor;

(B) a description of the vehicle, vessel, or outboard motor; and

(C) the vehicle identification number or vessel or outboard motor identification number; and

(ii) contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

(A) location of the vehicle, vessel, or outboard motor;

(B) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(C) reasons for the removal of the vehicle, vessel, or outboard motor;

(D) person who requested the removal of the vehicle, vessel, or outboard motor; and

(E) description, including the identification number, license number, or other identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

(b) except for a vehicle, vessel, or outboard motor that has been retrieved by the owner or operator, within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of each party described in Subsection 41-6a-1406(6)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the current address, notifying the party of the:

(i) location of the vehicle, vessel, or outboard motor;

(ii) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(iii) reasons for the removal of the vehicle, vessel, or outboard motor;

(iv) person who requested the removal of the vehicle, vessel, or outboard motor;

(v) a description, including its identification number and license number or other identification number issued by a state agency; and

(vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

(c) upon initial contact with the owner or operator whose vehicle, vessel, or outboard motor was removed, provide the owner or operator with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection (16)(e).

(2) Until the tow truck operator or tow truck motor carrier reports the information required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound yard may not:

(a) collect any fee associated with the removal; or

(b) begin charging storage fees.

(3) (a) Except as provided in Subsection (3)(b) or (9), a tow truck operator or tow truck motor carrier may not perform a tow truck service at the request or direction of a private property owner or the property owner's agent unless:

(i) the owner or a lien holder of the vehicle, vessel, or outboard motor consents to the tow truck service; or

(ii) the property owner erects signage that meets the requirements of:

(A) Subsection (4)(b)(ii); and

(B) Subsection (7) or (8).

(b) Subsections (7) through (9) do not apply to the removal of a vehicle, vessel, or outboard motor:

(i) from a location where parking is prohibited by law, including:

(A) a designated fire lane;

(B) within 15 feet of a fire hydrant, unless the vehicle is parked in a marked parking stall or space; or

(C) a marked parking stall or space legally designated for disabled persons;

(ii) from a location where it is reasonably apparent that the location is not open to parking;

(iii) from a location where all public access points are controlled by:

(A) a permanent gate, door, or similar feature allowing the vehicle to access the facility; or

(B) a parking attendant;

(iv) from a location that materially interferes with access to private property;

(v) from the property of a detached single-family dwelling or duplex; or

(vi) pursuant to a legal repossession.

(4) (a) A private property owner may, subject to the requirements of a local ordinance, enforce parking restrictions by:

(i) authorizing a tow truck motor carrier to patrol and monitor the property and enforce parking restrictions on behalf of the property owner in accordance with Subsection (7);

(ii) enforcing parking restrictions as needed by requesting a tow from a tow truck motor carrier on a case-by-case basis in accordance with Subsection (8); or

(iii) requesting a tow from a tow truck motor carrier after providing 24-hour written notice in accordance with Subsection (9).

(b) (i) Any agreement between a private property owner and tow truck motor carrier authorizing the tow truck motor carrier to patrol and monitor the property under Subsection (4)(a)(i) shall include specific terms and conditions for the tow truck motor carrier to remove a vehicle, vessel, or outboard motor from the property.

(ii) In addition to the signage described in Subsection (7) or (8), a private property owner who allows public parking shall erect appropriate signage on the property indicating clear instructions for parking at the property.

(iii) Where a single parking area includes abutting parcels of property owned by two or more private property owners who enforce different parking restrictions under Subsection (7) or (8), each property owner shall, in addition to the requirements under Subsection (7) or (8), erect signage as required by this section:

(A) at each entrance to the property owner's parcel from another property owner's parcel; and

(B) if there is no clearly defined entrance between one property owner's parcel and another property owner's parcel, at intervals of 40 feet or less along the line dividing the property owner's parcel from the other property owner's parcel.

(iv) Where there is no clearly defined entrance to a parking area from a highway, the property owner shall erect signage as required by this section at intervals of 40 feet or less along any portion of a property line where a vehicle, vessel, or outboard motor may enter the parking area.

(5) Nothing in Subsection (3) or (4) restricts the ability of a private property owner from, subject to the provisions of this section, instituting and enforcing regulations for parking at the property.

(6) In addition to any other powers provided by law, a political subdivision or state agency may:

(a) enforce parking restrictions in accordance with Subsections (7) through (9) on property that is:

(i) owned by the political subdivision or state agency;

(ii) located outside of the public right-of-way; and

(iii) open to public parking; and

(b) request or direct a tow truck service in order to abate a public nuisance on private property over which the political subdivision or state agency has jurisdiction.

(7) For private property where parking is enforced under Subsection (4)(a)(i), the property owner shall ensure that each entrance to the property has [~~the following~~]signs located on the property and clearly visible to the driver of a vehicle entering the property that substantially comply with the following, as determined by the department:

(a) a top sign that is 24 inches tall by 18 inches wide and has:

(i) a blue, reflective background with a 1/2 inch white border;

(ii) two-inch, white letters at the top of the sign with the capitalized words "Lot is Patrolled";

(iii) a white towing logo that is six inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and an entire vehicle being towed; and

(iv) two-inch, white letters at the bottom of the sign with the capitalized words "Towing Enforced"; and

(b) a bottom sign that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and has:

(i) a top half that is red background with white, reflective letters indicating:

(A) who is authorized to park or restricted from parking at the property; and

(B) any type of vehicle prohibited from parking at the property; and

(ii) a bottom half that has a white, reflective background with red letters indicating:

(A) the name and telephone number of the tow truck motor carrier that the property owner has authorized to patrol the property; and

(B) the Internet web address "tow.utah.gov".

(8) (a) For private property where parking is enforced under Subsection (4)(a)(ii):

[~~(a)~~](i) a tow truck motor carrier may not:

[~~(i)~~](A) patrol and monitor the property;

[~~(ii)~~](B) perform a tow truck service without the written or verbal request of the property owner or the property owner's agent; or

[~~(iii)~~](C) act as the property owner's agent to request a tow truck service[~~; and~~].

(b) For private property where parking is enforced under Subsection (4)(a)(ii), the property owner shall ensure that each entrance to the property has a clearly visible sign located on the property that substantially follows the following format, as determined by the department:

(i) the sign is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and has:

[~~(i)~~](A) at the top of the sign, a blue background with a white, reflective towing logo that is at least four inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and an entire vehicle being towed;

[~~(ii)~~](B) immediately below the towing logo described in Subsection [~~(8)(b)(i)~~](8)(b)(i)(A), a blue background with white, reflective letters at least two inches tall with the capitalized words "Towing Enforced";

[~~(iii)~~](C) in the middle of the sign, a red background with white, reflective letters at least one inch tall indicating[~~:~~]

[~~(A)~~] who is authorized to park or restricted from parking at the property[~~;~~], and

[~~(B)~~] any type of vehicle prohibited from parking at the property; and

[~~(iv)~~](ii) at the bottom of the sign, a white, reflective background with red letters at least one inch tall indicating:

(A) either[~~:~~]

[~~(I)~~] the name and telephone number of the property owner or the property owner's agent who is authorized to request a tow truck service[~~;~~], or

[~~(II)~~] the name and telephone number of the tow truck motor carrier that provides tow truck services for the property; and

(B) the Internet web address "tow.utah.gov".

(c) If a dispute arises regarding whether a sign required under this section substantially complies with the requirements of this section, the department shall determine whether the sign substantially complies.

(9) (a) For private property without signage substantially meeting the requirements of Subsection (7) or (8), as determined by the department, the property owner may request a tow truck motor carrier to remove a vehicle, vessel, or outboard motor from the private property 24 hours after the property owner or the property owner's agent affixes a written notice to the vehicle, vessel, or outboard motor in accordance with this Subsection (9).

(b) The written notice described in Subsection (9)(a) shall:

(i) indicate the exact time when the written notice is affixed to the vehicle, vessel, or outboard motor;

(ii) warn the owner of the vehicle, vessel, or outboard motor that the vehicle, vessel, or outboard motor will be towed from the property if it is not removed within 24 hours after the time indicated in Subsection (9)(b)(i);

(iii) be at least four inches tall and four inches wide; and

(iv) be affixed to the vehicle, vessel, or outboard motor at a conspicuous location on the driver's side window of the vehicle, vessel, or outboard motor.

(c) A property owner may authorize a tow truck motor carrier to act as the property owner's agent for purposes of affixing the written notice described in Subsection (9)(a) to a vehicle, vessel, or outboard motor.

(10) The department shall publish on the department Internet website the signage requirements and written notice requirements and illustrated or photographed examples of the signage and written notice requirements described in Subsections (7) through (9).

(11) It is an affirmative defense to any claim, based on the lack of notice, that arises from the towing of a vehicle, vessel, or outboard motor from private property that the property had signage meeting the requirements of:

(a) Subsection (4)(b)(ii); and

(b) Subsection (7) or (8).

(12) [~~The~~]An individual described in Subsection 41-6a-1406(7)(f)(i) or a party described in Subsection 41-6a-1406(6)(a) with an interest in a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the tow truck service and storage fees set in accordance with Subsection (16); and

(b) the administrative impound fee set in Section 41-6a-1406, if applicable.

(13) (a) As used in this Subsection (13), "life essential item" means:

(i) prescription medication;

(ii) medical equipment;

(iii) shoes;

(iv) coats;

(v) food and water;

(vi) child safety seats;

(vii) government-issued photo identification; and

(viii) human remains.

[~~(a)~~](b) The fees under Subsection (12) are a possessory lien on the vehicle, vessel, or outboard motor[~~and any nonlife essential items contained in the vehicle, vessel, or outboard motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid~~].

(c) Towing fees are a possessory lien on the vehicle, vessel, or outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard motor.

(d) Except for a vehicle, vessel, or outboard motor being held as evidence, a tow truck operator, a tow truck motor carrier, or an impound yard shall allow a party described in Subsection 41-6a-1406(6)(a) with an interest in the vehicle, vessel, or outboard motor or an individual described in Subsection 41-6a-1406(7)(f)(i) to take possession of any life essential item within the vehicle, vessel, or outboard motor during normal business hours regardless of whether the towing, impound fees, or storage fees have been paid.

(e) Except for a vehicle, vessel, or outboard motor being held as evidence, upon payment of the towing fee, a tow truck operator, a tow truck motor carrier, or an impound yard shall allow a party described in Subsection 41-6a-1406(6)(a) with an interest in the vehicle, vessel, or outboard motor or an individual described in Subsection 41-6a-1406(7)(f)(i) to enter the vehicle, vessel, or outboard motor during normal business hours and remove personal property not attached to the vehicle, vessel, or outboard motor.

[~~(b)~~](f) The tow truck operator or tow truck motor carrier shall securely store the vehicle, vessel, or outboard motor and items described in Subsection (13)(a) in an approved state impound yard until a party described in Subsection 41-6a-1406(6)(a) with an interest in the vehicle, vessel, or outboard motor:

(i) pays the fees described in Subsection (12); and

(ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

(14) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party described in Subsection 41-6a-1406(6)(a) with an interest in the vehicle, vessel, or outboard motor or an individual described in Subsection 41-6a-1406(7)(f)(i) does not, within 30 days after notice has been sent under Subsection (1)(b):

(i) pay the fees described in Subsection (12); and

(ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

(b) A person may not request a transfer of title to an abandoned vehicle, vessel, or outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

(15) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current fees, rates, and acceptable forms of payment for tow truck service and storage of a vehicle in accordance with rules established under Subsection (16).

(b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or any service rendered, performed, or supplied in connection with a tow truck service under Subsection (1).

(16) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall:

(a) subject to the restriction in Subsection (17), set maximum rates that:

(i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:

(A) a peace officer dispatch call;

(B) a motor vehicle division call; and

(C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal;

(ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection (16)(a)(i); and

(iii) an impound yard may charge for the after-hours release of a vehicle, vessel, or outboard motor stored as a result of one of the conditions described in Subsection (16)(a)(i);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling;

(c) specify the form and content of the posting and disclosure of fees and rates charged and acceptable forms of payment by a tow truck motor carrier or impound yard;

(d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the information required under Subsection (1)(a)(i) and providing notice of the removal to each party described in Subsection 41-6a-1406(6)(a) with an interest in the vehicle, vessel, or outboard motor as required in Subsection (1)(b);

(e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains specific information regarding:

(i) a vehicle owner's or operator's rights and responsibilities if the owner's vehicle is towed;

(ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(iii) identifies the maximum rates that an impound yard may charge for the storage of vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(f) set a maximum rate for an after-hours fee allowed under Subsection (19)(b).

(17) An impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:

(a) the vehicle, vessel, or outboard motor is being held as evidence; and

(b) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection 41-6a-1406(6)(a) or an individual described in Subsection 41-6a-1406(7)(f)(i), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(18) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by the department in rules made under Subsection (16).

(ii) In addition to the maximum rates established under Subsection (16) and when []receiving payment by credit card or debit card, a tow truck operator, a tow truck motor carrier, or an[] impound yard may charge a [~~credit~~]card processing fee of 3% of the transaction total.

(b) A tow truck motor carrier may not be required to maintain insurance coverage at a higher level than required in rules made pursuant to Subsection (16).

(19) When a tow truck motor carrier or impound lot is in possession of a vehicle, vessel, or outboard motor as a result of a tow service that was performed without the consent of the owner, and that was not ordered by a peace officer or a person acting on behalf of a law enforcement agency, the tow truck motor carrier or impound yard shall make personnel available:

(a) by phone 24 hours a day, seven days a week; and

(b) to release the impounded vehicle, vessel, or outboard motor to the owner within one hour of when the owner calls the tow truck motor carrier or impound yard.

(20) A tow truck motor carrier or a tow truck operator may not:

(a) share contact or other personal information of an owner of a vehicle, vessel, or outboard motor or a party described in Subsection 41-6a-1406(6)(a) for which the tow truck motor carrier or tow truck operator has performed a tow service; and

(b) receive payment for referring a person for whom the tow truck motor carrier or tow truck operator has performed a tow service to another service, including:

(i) a lawyer referral service;

(ii) a medical provider;

(iii) a funding agency;

(iv) a marketer for any service described in Subsections (20)(b)(i) through (iii);

(v) a marketer for any other service; or

(vi) a third party vendor.

Section 5. Section 72-9-604 is amended to read:

72-9-604. Preemption of local authorities -- Tow trucks.

(1) As used in this section:

(a) "Abandoned" means a vehicle, vessel, or outboard motor for which a party described in Subsection 41-6a-1406(6)(a) with an interest in the vehicle, vessel, or outboard motor does not, within 30 days after notice that the vehicle, vessel, or outboard motor was towed by a towing entity:

(i) pay the relevant fees; and

(ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

(b) "Towing entity" means:

(i) a political subdivision of this state;

(ii) a state agency;

(iii) an interlocal agency created under Title 11, Chapter 13, Interlocal Cooperation Act; or

(iv) a special service district created under Title 17D, Chapter 1, Special Service District Act.

(2) (a) Notwithstanding any other provision of law, a political subdivision of this state may neither enact nor enforce any ordinance, regulation, or rule pertaining to a tow truck motor carrier, tow truck operator, or tow truck that:

(i) conflicts with:

[~~(i)~~](A) any provision of this part;

[~~(ii)~~](B) Section 41-6a-1401;

[~~(iii)~~](C) Section 41-6a-1407; or

[~~(iv)~~](D) rules made by the department under this part[~~.~~]; or

(ii) imposes a maximum rate that deviates from the maximum rates set in rules made by the department pursuant to Subsection 72-9-603(16).

(b) A county or municipal legislative governing body may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if the county or municipality:

(i) is holding the vehicle, vessel, or outboard motor as evidence; and

(ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(3) A tow truck motor carrier that has a county or municipal business license for a place of business located within that county or municipality may not be required to obtain another business license in order to perform a tow truck service in another county or municipality if there is not a business location in the other county or municipality.

(4) A county or municipal legislative or governing body may not require a tow truck motor carrier, tow truck, or tow truck operator that has been issued a current, authorized towing certificate by the department, as described in Section 72-9-602, to obtain an additional towing certificate.

(5) A county or municipal legislative body may require an annual tow truck safety inspection in addition to the inspections required under Sections 53-8-205 and 72-9-602 if:

(a) no fee is charged for the inspection; and

(b) the inspection complies with federal motor carrier safety regulations.

(6) (a) A tow truck shall be subject to only one annual safety inspection under Subsection (5)(b).

(b) A county or municipality that requires the additional annual safety inspection shall accept the same inspection performed by another county or municipality.

(7) (a) (i) If a towing entity uses a towing dispatch vendor described in Section 53-1-106.2, the towing entity may charge a fee to cover costs associated with the use of a dispatch vendor as described in Section 53-1-106.2.

(ii) Except as provided in Subsection (8), a fee described in Subsection (7)(a)(i) may not exceed the actual costs of the dispatch vendor contracted to provide the dispatch service.

(b) (i) Except as provided in Subsection (7)(b)(ii), if a towing entity does not use a towing dispatch vendor described in Section 53-1-106.2, the towing entity may not charge a fee to cover costs associated with providing towing dispatch and rotation service.

(ii) A special service district created under Title 17D, Chapter 1, Special Service District Act, that charges a dispatch fee on or before January 1, 2023, may continue to charge a fee related to dispatch costs.

(iii) Except as provided in Subsection (8), a fee described in Subsection (7)(b)(ii) may not exceed an amount reasonably reflective to the actual costs of providing the towing dispatch and rotation service.

(c) A towing entity may not charge a fee described in Subsection (7)(a)(i) or (7)(b)(ii) unless the relevant governing body of the towing entity has approved the fee amount.

(d) In addition to fees set by the department in rules made in accordance with Subsection 72-9-603(16), a tow truck operator or a tow truck motor carrier may pass through a fee described in this Subsection (7) to owners, lien holders, or insurance providers of towed vehicles,

vessels, or outboard motors.

(8) (a) In addition to the fees described in Subsection (7), a tow truck operator or tow truck motor carrier may charge an additional fee to absorb unrecovered costs of abandoned vehicles related to the fees described in Subsections (7)(a)(i) and (7)(b)(ii).

(b) Beginning May 3, 2023, and ending on June 30, 2025, a tow truck operator or tow truck motor carrier may charge a fee described in Subsection (8)(a) in an amount not to exceed an amount greater than 25% of the relevant fee described in Subsection (7)(a)(i) or (7)(b)(ii).

(c) (i) Beginning January 1, 2025, and annually thereafter, the towing entity shall, based on data provided by the State Tax Commission, determine the percentage of vehicles, vessels, or outboard motors that were abandoned during the previous year by:

(A) determining the total number of vehicles, vessels, or outboard motors that were towed as part of a towing entity's towing rotation during the previous calendar year that were also abandoned; and

(B) dividing the number described in Subsection (8)(c)(i)(A) by the total number of vehicles, vessels, or outboard motors that were towed as part of the towing entity's towing rotation during the previous calendar year.

(ii) No later than March 31, 2025, and each year thereafter, the towing entity shall publish:

(A) the relevant fee amount described in Subsection (7)(a)(i) or (7)(b)(ii); and

(B) the percentage described in Subsection (8)(c)(i).

(iii) Beginning on July 1, 2025, and each year thereafter, a tow truck operator or a tow truck motor carrier may charge a fee authorized in Subsection (8)(a) in an amount equal to the percentage described in Subsection (8)(c)(i) multiplied by the relevant fee amount described in Subsection (7)(a)(i) or (7)(b)(ii).

(d) A tow truck operator or tow truck motor carrier shall list on a separate line on the towing invoice any fee described in this Subsection (8).

(9) A towing entity may not require a tow truck operator who has received an authorized towing certificate from the department to submit additional criminal background check information for inclusion of the tow truck motor carrier on a rotation.

(10) If a tow truck motor carrier is dispatched as part of a towing rotation, the tow truck operator that responds may not respond to the location in a tow truck that is owned by a tow truck motor carrier that is different than the tow truck motor carrier that was dispatched.

(11) If a towing entity receives a notice from the department as described in Subsection 72-9-602(6), the towing entity shall remove the tow truck motor carrier from the towing entity's towing rotation, contract, or request for proposal as provided in the notice from the department.

Section 6. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 379
H. B. 265
Passed March 5, 2025
Approved March 26, 2025
Effective March 26, 2025

HIGHER EDUCATION STRATEGIC REINVESTMENT

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Ann Millner

Cosponsor:	Jon Hawkins	David Shallenberger
Carl R. Albrecht	Michael L. Kohler	Troy Shelley
Stewart E. Barlow	Jason B. Kyle	Rex P. Shipp
Bridger Bolinder	Trevor Lee	Jordan D. Teuscher
Walt Brooks	A. Cory Maloy	R. Neil Walter
Kristen Chevrier	Logan J. Monson	Christine F. Watkins
Tyler Clancy	Clinton D. Okerlund	Douglas R. Welton
Paul A. Cutler	Michael J. Petersen	Stephen L. Whyte
Ariel Defay	Calvin Roberts	Ryan D. Wilcox
Doug Fiefia	Jake Sawyer	

LONG TITLE

General Description:

This bill enacts and amends provisions regarding the strategic approach of and investment in certain programs in the higher education system.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires certain reporting to and a study by the Higher Education Appropriations Subcommittee;
- ► provides for disbursement of certain reinvestment funds that are dedicated to a given degree-granting institution for reallocation to certain strategic investments under certain circumstances;
- ► requires each degree-granting institution to create a strategic reinvestment plan to reallocate funding from certain programs and divisions of the institution to certain programs and divisions that merit additional investment;
- ► requires the Utah Board of Higher Education (board) to report to the Higher Education Appropriations Subcommittee and the Executive Appropriations Subcommittee regarding each institution's strategic reinvestment plan and execution of the plan over the upcoming three fiscal years;
- ► authorizes declining use of reinvestment funds to phase out reduced or eliminated programs or divisions of institutions over the upcoming three fiscal years;
- ► limits the number of credit hours a degree-granting institution may require between general education and degree-specific requirements;
- ► requires the board to develop a process to grant conditional approval of accelerated three-year degrees;
- ► allows the board to transfer certain appropriations as an exception to the prohibition on line-item transfers in the Budgetary Procedures Act;
- ► coordinates with H.B. 51, Higher Education Reporting Amendments, to address subcommittee reports; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53B-1-301, as last amended by Laws of Utah 2024, Chapter 3
53B-16-102, as last amended by Laws of Utah 2024, Chapter 378
63J-1-206, as last amended by Laws of Utah 2024, Chapter 268

ENACTS:

53B-7-107, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

AMENDS:

53B-1-301, as last amended by Laws of Utah 2024, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-1-301 is amended to read:

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

(b) the reports described in Sections 34A-2-202.5, 53B-30-206, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(c) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(d) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Opportunity on targeted jobs;

(e) the reports described in Section 53B-7-705 by the board on performance;

(f) the report described in Section 53B-8-201 by the board on the Opportunity Scholarship Program;

(g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

(h) the report described in Section 53B-13a-103 by the board on the Utah Promise Program;

(i) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

(j) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals;

(k) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council; and

(l) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals; and

(c) the board's report regarding each institution's strategic reinvestment plan described in Section 53B-7-107.

[~~(c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202.~~]

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) an appropriation recommendation described in Section 53B-1-118 regarding compliance with Subsections 53B-1-118(5) and (14);

(b) as required by Section [~~53B-7-703~~]53B-7-706, the review of performance funding described in Section [~~53B-7-703~~]53B-7-706;

(c) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

(d) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

(4) Beginning in the 2025 legislative interim, in consultation with the board, the Higher Education Appropriations Subcommittee shall study a re-design of:

(a) the performance funding model described in Chapter 7, Part 7, Performance Funding, to better ensure:

(i) institutional alignment with the statewide system of higher education and the institution's mission within the statewide system; and

(ii) investment in meeting localized and statewide workforce demands and securing post-graduation employment outcomes; and

(b) enrollment-based funding, including, for technical colleges, funding distribution models that:

(i) include equivalent funding value for secondary and adult students; and

(ii) reflect the full responsibility of the technical college's statutorily-required services.

Section 2. Section 53B-7-107 is enacted to read:

53B-7-107. Higher education strategic reinvestment.

(1) As used in this section:

(a) "Reinvestment funds" means the amount of money the Legislature appropriates to the board for strategic reinvestment in accordance with this section.

(b) "Strategic reinvestment plan" means a plan described in Subsection (3) that each degree-granting institution develops to reallocate reinvestment funds to certain strategic investments.

(2) The board may transfer to a degree-granting institution the reinvestment funds dedicated to the institution if:

(a) for the 2026 fiscal year:

(i) the respective degree-granting institution provides to the board the institution's strategic reinvestment plan;

(ii) the board approves the institution's strategic reinvestment plan; and

(iii) after receiving a report from the board regarding the strategic reinvestment plan in the meeting of the Executive Appropriations Committee in September 2025, the Executive Appropriations Committee makes a determination that the relevant institution's strategic reinvestment plan satisfies the requirements of this section; and

(b) for each of the 2027 and 2028 fiscal years:

(i) the respective degree-granting institution provides to the board a report on the institution's progress in executing the institution's strategic reinvestment plan; and

(ii) after receiving a report from the board regarding the institution's execution of the strategic reinvestment plan in the meeting of the Executive Appropriations Committee in September of 2026 and 2027, respectively, the Executive Appropriations Committee makes a determination that the relevant institution has progressed in executing the institution's strategic reinvestment plan in accordance with this section.

(3) Each degree-granting institution shall:

(a) prepare and submit the institution's strategic reinvestment plan in accordance with Subsections (3)(b) and (c) based on:

(i) demonstrated enrollment data;

(ii) completion rate and timely completion;

(iii) discipline-related professional outcomes, including placement, employment, licensure, and wage outcomes;

(iv) current and future localized and statewide workforce demands;

(v) program-level cost; and

(vi) the institution's mission and role within the statewide system;

(b) in consultation with the board, develop a strategic reinvestment plan that:

(i) identifies programs, courses, degrees, departments, colleges, or other divisions of the institution, operational efficiencies, and other components of the institution's instruction and administrative functions, including dean positions and other administration positions, that merit further investment;

(ii) identifies programs, courses, degrees, departments, colleges or other divisions of the institution, operational inefficiencies, and other components of the institution's instruction and administrative functions, including dean positions and other administration positions, that the institution will reduce or eliminate to shift resources, in an amount at least equal to the amount of reinvestment funds dedicated to the institution, to the strategic investments described in Subsection (3)(b)(i);

(iii) retains a core general education curricula that enables students to acquire critical thinking, problem solving, citizenship, communication, and other durable skills; and

(iv) includes an accounting demonstrating the reallocation of resources from the reduced or eliminated items described in Subsection (3)(b)(ii) to the strategic investments described in Subsection (3)(b)(i) in the following amounts:

(A) for fiscal year 2026, at least 30% of the total of the reinvestment funds dedicated to the institution;

(B) for fiscal year 2027, at least 70% of the total of the amount of reinvestment funds dedicated to the institution; and

(C) for fiscal year 2028, 100% of the total of the reinvestment funds dedicated to the institution; and

(c) before a date that the board identifies in each of 2026 and 2027, submit to the board a report on the institution's progress in executing the institution's strategic reinvestment plan, which may include modifications to the plan if the modified plan meets the requirements of this section.

(4) The board shall:

(a) during the 2025 fiscal year:

(i) establish standards for the reallocations described in the strategic reinvestment plans; and

(ii) provide guidance to the institutions of higher education on metrics and evaluative processes for the institutions to use in analyzing programs and budgets to develop the strategic reinvestment plan;

(b) review each institution's strategic reinvestment plan and approve plans that meet the requirements of this section; and

(c) report on each institution's strategic reinvestment plan to:

(i) in August of 2025, 2026, and 2027, the Higher Education Appropriations Subcommittee; and

(ii) in September of 2025, 2026, and 2027, the Executive Appropriations Committee.

(5) (a) Each year, after receiving the board report described in Subsection (4)(c)(i), the Higher Education Appropriations Subcommittee shall make a recommendation to the Executive Appropriations Committee regarding each institution's strategic reinvestment plan and compliance with this section.

(b) Each year, after receiving the board report described in Subsection (4)(c)(ii), the Executive Appropriations Committee shall make a determination, for each institution individually, regarding:

(i) for fiscal year 2026, whether the institution's strategic reinvestment plan satisfies the requirements of this section; and

(ii) for each of fiscal years 2027 and 2028, whether the institution has progressed in executing the institution's strategic reinvestment plan in accordance with this section.

(6) (a) A degree-granting institution may use reinvestment funds:

(i) for the strategic investments described in Subsection (3)(b)(i); and

(ii) for the reduced or eliminated items described in Subsection (3)(b)(ii) in the following amounts:

(A) for fiscal year 2026, no more than 70% of the total of the reinvestment funds dedicated to the institution; and

(B) for fiscal year 2027, no more than 30% of the total of the reinvestment funds dedicated to the institution.

(b) A degree-granting institution may not supplant or supplement the cost of a reduced or eliminated item described in Subsection (3)(b)(ii):

(i) through a tuition increase; or

(ii) with any state funds, except in fiscal year 2028, to the extent necessary to allow a student to complete the student's academic program as outlined in the institution's approved strategic reinvestment plan.

(7) If a degree-granting institution fails to reallocate resources in accordance with the institution's reinvestment plan and this section, in preparing the higher education budgets immediately following the institution's failure, the Executive Appropriations Committee shall reduce appropriations for the institution's instruction and administration in an amount equal to the amount the institution failed to properly reallocate.

(8) (a) Each degree-granting institution shall:

(i) establish policies specifically to effectuate the strategic reinvestment plan, and that address the following:

(A) reduction or elimination of positions and other personnel decisions; and

(B) internal institutional procedures regarding the reduction, elimination, creation, or modification of programs, courses, degrees, departments, colleges, or other divisions of the institution;

(ii) ensure that the policies described in this Subsection (8)(a):

(A) create operational efficiencies in carrying out the strategic reinvestment plan;

(B) assist the institution to meet the timeframes described in this section and the strategic reinvestment plan; and

(C) are consistent with the guidance the board provides in accordance with Subsection (4)(a); and

(iii) prepare the policies described in this Subsection (8)(a) in consultation with the board.

(b) An institution's policies described in Subsection (8)(a) may supersede the following that are inconsistent with the strategic reinvestment plan or the goals of the plan:

(i) an existing policy, procedure, or timeframe of the institution; and

(ii) a board policy, if the board determines that superseding the policy is necessary or appropriate.

(c) Notwithstanding any other provision of this title, an institution may act in accordance with the policies described in this Subsection (8).

Section 3. Section 53B-16-102 is amended to read:

53B-16-102. Changes in curriculum -- Substantial alterations in institutional operations -- Program approval -- Periodic review of programs -- Career and technical education curriculum changes.

(1) As used in this section:

(a) "Institution of higher education" means an institution described in Section 53B-1-102.

(b) "Program of instruction" means a program of curriculum that leads to the completion of a degree, diploma, certificate, or other credential.

(2) (a) Under procedures and policies approved by the board and developed in consultation with each institution of higher education, each institution of higher education may make such changes in the institution of higher education's curriculum as necessary to better effectuate the institution of higher education's primary role; and

(b) subject to Subsection (2)(a), an institution of higher education's faculty shall establish and have primary responsibility for the curriculum of a course within a program of instruction at the institution.

(3) The board shall establish criteria for whether an institution of higher education may approve a new program of instruction, including criteria related to whether:

(a) the program of instruction meets identified workforce needs;

(b) the institution of higher education is maximizing collaboration with other institutions of higher education to provide for efficiency in offering the program of instruction;

(c) the new program of instruction is within the institution of higher education's mission and role; and

(d) the new program of instruction meets other criteria determined by the board.

(4) (a) Except as board policy permits, an institution of higher education may not establish a branch, extension center, college, or professional school.

(b) The president of an institution of higher education may, with the approval of the institution of higher education's board of trustees, establish a new program of instruction that meets the criteria described in Subsection (3), subject to board review for pathway articulation.

[~~(5)~~](c) [~~(a)~~] An institution of higher education shall notify the board of a proposed new program of instruction, including how the proposed new program of instruction meets the criteria described in Subsection (3).

[~~(b)~~](d) The board shall establish procedures and guidelines for institutional boards of trustees to consider an institutional proposal for a new program of instruction described in Subsection (4)(b).

(5) (a) (i) Except as provided in Subsection (5)(a)(ii), a degree-granting institution may not offer a degree with a credit-hour requirement, comprising general education and degree-specific requirements, that exceeds 120 total credit hours.

(ii) The board may authorize a degree-granting institution to exceed the credit-hour limit described in Subsection (5)(a)(i) if the relevant degree:

(A) is required for professional licensure; or

(B) has a nationally recognized accreditation standard that mandates a higher credit-hour minimum, including circumstances where additional coursework is necessary to protect public health, safety, and welfare.

(b) The board shall develop a process to grant conditional approval of accelerated three-year degrees to allow for the implementation of an accelerated degree upon accreditation.

(6) The president of an institution of higher education may discontinue a program of instruction in accordance with criteria that the president and the institution of higher education's board of trustees establish.

(7) (a) The board shall conduct a periodic review of all new programs of instruction, including those funded by gifts, grants, and contracts, no later than two years after the first cohort to begin the program of instruction completes the program of instruction.

(b) The board may conduct a periodic review of any program of instruction at an institution of higher education, including a program of instruction funded by a gift, grant, or contract.

(c) The board shall conduct:

(i) at least once every [~~seven~~]five years, at least one review described in Subsection (7)(b) of each program of instruction at each institution; and

(ii) annually, a qualitative and quantitative review of academic disciplines across the system, including enrollment, graduation rates, and workforce placement, ensuring that the board conducts a review of all disciplines within the system at least once every [~~seven~~]five years.

(d) Following a review described in this Subsection (7) that finds that a program is underperforming, as the board defines, across the system of higher education or at an individual institution, and after providing the relevant institution of higher education an opportunity to respond to the board's review of a given program of instruction, the board[~~may~~]:

(i) shall modify, consolidate, or terminate the program of instruction[-]; and

(ii) may require an institution to develop a performance improvement plan and annually report back to the board regarding the plan.

(e) The board shall:

(i) develop qualitative and quantitative standards for program review under this Subsection (7); and

(ii) ensure the application of the standards the board develops under Subsection (7)(e)(i) in each program review.

(8) In making decisions related to career and technical education curriculum changes, the board shall coordinate on behalf of the boards of trustees of higher education institutions a review of the proposed changes by the State Board of Education to ensure an orderly and systematic career and technical education curriculum that eliminates overlap and duplication of course work with high schools and technical colleges.

(9) The board shall demonstrate compliance with Subsection (7) by:

(a) creating a list of programs and corresponding review schedules;

(b) upon request of the Higher Education Appropriations Subcommittee, providing the list described in Subsection (9)(a); and

(c) providing a written report on or before October 1 to the Higher Education Appropriations Subcommittee of each year regarding relevant findings from the reviews conducted under Subsection (7).

(10) On or before October 1, 2026, if the Higher Education Appropriations Subcommittee finds the board to be out of compliance with Subsection (9), the Legislature shall:

(a) deduct 10% of the appropriation described in Section 53B-7-703 for the following fiscal year; and

(b) deduct an additional 10% of the appropriation described in Section 53B-7-703 for each subsequent year of noncompliance up to a maximum deduction of 30%.

Section 4. Section 63J-1-206 is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) If the money appropriated to an agency to pay lease payments under the program established in Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

(3) Notwithstanding Subsection (2)(c)(i):

(a) the state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205; [~~and~~]

(b) the Utah Board of Higher Education may transfer reinvestment funds, as defined in Section 53B-7-107, to a degree-granting institution, in accordance with the process described in Section 53B-7-107; and

[~~(b)~~](c) the Department of Government Operations may transfer money appropriated to another department, agency, institution, or division for the purpose of paying the costs of pay for performance under Section 63A-17-112.

Section 5. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

Section 6. Coordinating H.B. 265 with H.B. 51.

If H.B. 265, Higher Education Strategic Reinvestment, and H.B. 51, Higher Education Reporting Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 53B-1-301(2) be amended to read:

"(2) In accordance with applicable provisions and Section 68-3-14, the following occasional [~~reports are~~]report is due to the Higher Education Appropriations Subcommittee: the board's report regarding each institution's strategic reinvestment plan described in Section 53B-7-107.

[~~(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;~~]

[~~(b) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals; and~~]

[~~(c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202.~~]".

CHAPTER 380
H. B. 281
Passed March 7, 2025
Approved March 26, 2025
Effective July 1, 2025

HEALTH CURRICULUM AND PROCEDURES AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Kirk A. Cullimore

Cosponsor:
Katy Hall

LONG TITLE

General Description:

This bill amends provisions regarding health instruction and physical and mental health procedures in the public education system.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires any health care provider to obtain informed parental consent before providing or facilitating telehealth or another health care service to a student within a public school;
- ► establishes requirements for certain restricted services, including:
  - • identifying who may and may not provide a restricted service; and
  - • requiring informed parental consent and certain parental notification;
- ► ensures that a local or state rule or policy does not create an exemption for otherwise prohibited endorsement, promotion, or disparagement of a certain religious belief or viewpoint;
- ► modifies required health instruction, including:
  - • establishing statutory purposes for the curriculum the state board establishes;
  - • adding situational awareness and the "success sequence";
  - • reorganizing duties and prohibitions regarding instruction, discussion, and advocacy of certain concepts;
- ► amends the effect of prior informed written parental consent and the allowable subjects in sex education instruction; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-10-202,
(Effective 07/01/25)
as last amended by Laws of Utah 2023, Chapter 294
53G-10-402,
(Effective 07/01/26)
as last amended by Laws of Utah 2024, Chapters 20, 507
53G-10-403,
(Effective 07/01/26)
as last amended by Laws of Utah 2019, Chapter 293

ENACTS:

53G-9-214,
(Effective 07/01/25)
Utah Code Annotated 1953
53G-9-901,
(Effective 07/01/25)
Utah Code Annotated 1953
53G-9-902,
(Effective 07/01/25)
Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-9-214 is enacted to read:

53G-9-214

(Effective 07/01/25)

. Health care services in public schools.

Except as provided in Part 9, Mental Health Services in Public Schools, before a health care provider, as defined in Section 58-80a-102, may provide or facilitate a health care service in a public school that is not traditionally available to a student in a public school, the health care provider shall obtain the informed written or verbal consent of the student's parent for the health care service.

Section 2. Section 53G-9-901 is enacted to read:

PART 9. Mental Health Services in Public Schools

53G-9-901

(Effective 07/01/25)

. Definitions.

As used in this part:

(1) "Authorized personnel" means an individual:

(a) (i) who holds a license:

(A) as a school psychologist, as defined in Section 53F-5-218;

(B) as a school social worker, as defined in Section 53F-5-218;

(C) under Title 58, Chapter 61, Psychologist Licensing Act;

(D) under Title 58, Chapter 60, Part 2, Social Worker Licensing Act;

(E) under Title 58, Chapter 60, Part 3, Marriage and Family Therapist Licensing Act; or

(F) under Title 58, Chapter 60, Part 4, Clinical Mental Health Counselor Licensing Act; or

(ii) whom an individual described in Subsection (1)(a)(i) supervises, to the extent the individual's actions fall within the scope of the supervision; and

(b) whom an LEA or school employs, engages by contract, or engages by agreement, to support students' mental health through a restricted service in accordance with the scope of the individual's license or certification described in Subsection (1)(a).

(2) (a) "Restricted service" means a mental health service that takes place in a school setting.

(b) "Restricted service" does not include:

(i) describing basic stress-management strategies;

(ii) informing students and parents of the availability of a restricted service; or

(iii) engaging in generalized crisis response, which does not include one-on-one therapy, in accordance with the state board's or the LEA's crisis response protocols.

Section 3. Section 53G-9-902 is enacted to read:

53G-9-902

(Effective 07/01/25)

. Informed parental consent required -- Parental notification required.

(1) Except as provided in a student's IEP or Section 504 accommodation plan:

(a) an individual who is not authorized personnel may not provide a restricted service; and

(b) authorized personnel may not provide a restricted service:

(i) outside the scope of the relevant license; or

(ii) with other students present.

(2) For authorized personnel to provide a restricted service:

(a) the relevant LEA, school, or authorized personnel shall obtain informed written parental consent before the first session of a restricted service in a given school year, using a standard form that includes:

(i) fields for at least the following information:

(A) the name of the student;

(B) the name of the individual giving informed consent; and

(C) the name of each authorized personnel who has authority under the informed written consent to provide a restricted service;

(ii) a statement that the authorized personnel will provide information about the restricted service in accordance with Subsection (2)(b), including that the parent has the right to opt out of receiving notifications at any time; and

(iii) a statement that authorized personnel will adhere to the topics or issues the parent identifies, in collaboration with authorized personnel, for discussion or exclusion with the student under Subsection (3)(a), except that the authorized personnel may address topics if the omission would compromise the student's immediate safety, the omission would violate mandatory reporting obligations, or, based on behaviors or statements the authorized personnel observes, the authorized personnel determines a need to assess the student's safety; and

(b) unless the student's parent opts out of receiving notifications from the authorized personnel under this Subsection (2)(b), within one business day after each session of a restricted service, the authorized personnel shall provide to the student's parent:

(i) notice that the restricted service took place; and

(ii) a description of the topic of the restricted service.

(3) (a) (i) When obtaining the informed written parental consent described in Subsection (2)(a), the LEA, school, or authorized personnel shall, through consultation with the parent, provide the parent an opportunity to identify topics or issues the parent intends the authorized personnel to address or to not address with the student.

(ii) Except as described in Subsection (3)(a)(iii), authorized personnel may not address a topic or issue for which a parent has expressly

stated an intent for authorized personnel to not address with the student under this Subsection (3)(a).

(iii) Subsection (3)(a)(ii) does not apply if:

(A) an omission within a restricted service would compromise the student's immediate safety; or

(B) the student discloses information that creates a duty on the authorized personnel to make a mandatory report for the purpose of discussing the information with the student to the extent necessary to make the report, including for suspected cases of child abuse or neglect under Section 80-2-602, abuse of a student under Section 53E-6-701, or any other legally mandated duty to report an incident.

(b) (i) The requirement to obtain prior informed written parental consent before providing a restricted service described in Subsection (2)(a) does not apply in a case in which a delay to contact a parent would create an immediate serious risk of suicide or serious bodily injury, as defined in Section 76-1-101.5, to the student or to another individual.

(ii) For a circumstance described in Subsection (3)(b)(i), the LEA, school, or authorized personnel shall notify a parent in accordance with Section 53G-9-604.

(c) A student's IEP or Section 504 accommodation plan that includes a restricted service satisfies the informed parental consent requirement described in Subsection (2)(a).

(4) (a) The state board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the application of this section to the actions of educators and staff in the public education system.

(b) The state board shall, in consultation with the Department of Health and Human Services, provide guidance to authorized personnel, educators, and school support staff on conduct and practices that constitute and do not constitute a restricted service.

(5) Nothing in this part authorizes an individual to take an action that exceeds the scope of the individual's license or certification.

(6) This section does not apply to a service a student accesses through the SafeUT Crisis Line established in Section 53B-17-1202.

Section 4. Section 53G-10-202 is amended to read:

53G-10-202

(Effective 07/01/25)

. Maintaining constitutional freedom in the public schools.

(1) Except as provided in this section and in Section 53G-10-206, any instructional activity, performance, or display which includes examination of or presentations about religion, political or religious thought or expression, or the influence thereof on music, art, literature, law, politics, history, or any other element of the curriculum, including the comparative study of religions, which is designed to achieve academic educational objectives included within the context of a course or activity and conducted in accordance with applicable rules or policies of the state and LEA governing boards, may be undertaken in the public schools.

(2) No aspect of cultural heritage, political theory, moral theory, or societal value shall be included within or excluded from public school curricula for the primary reason that it affirms, ignores, or denies religious belief, religious doctrine, a religious sect, or the existence of a spiritual realm or supreme being.

(3) Public schools may not sponsor or deny the practice of prayer or religious devotionals.

(4) School officials and employees may not[~~use their positions~~], regardless of a school, LEA, or state board rule or policy, use the official's or employee's position to endorse, promote, or disparage a particular religious, denominational, sectarian, agnostic, or atheistic belief or viewpoint.

Section 5. Section 53G-10-402 is amended to read:

53G-10-402

(Effective 07/01/26)

. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.

(1) As used in this section:

(a) "LEA governing board" means a local school board or charter school governing board.

(b) "Refusal skills" means instruction:

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another individual;

(iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances; and

[~~(iv) in sexual harassment; and~~]

[~~(v)~~](iv) informing a student that a student may not consent to criminally prohibited activities or activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual, regardless of whether the image is of the individual who transmits the image or of another individual.

(c) "Situational awareness" means instruction in a student's ability to:

(i) observe the student's environment, including:

(A) increasing awareness; and

(B) noticing details and changes in the environment; and

(ii) respond in unsafe situations, including how to seek help.

(d) "Success sequence" means a three-prong framework for youth and young adults that encourages:

(i) completing at least a high school education and pursuing further educational opportunities;

(ii) obtaining full-time employment; and

(iii) having children within a healthy and stable family and marriage.

[~~(2) (a) The state board shall establish curriculum requirements under Section 53E-3-501that include instruction in:~~]

[~~(i) community and personal health;~~]

[~~(ii) physiology;~~]

[~~(iii) personal hygiene;~~]

[~~(iv) prevention of communicable disease;~~]

[~~(v) refusal skills; and~~]

[~~(vi) the harmful effects of pornography.~~]

[~~(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that, and instruction shall:~~]

[~~(i) stress the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases;~~]

[~~(ii) stress personal skills that encourage individual choice of abstinence and fidelity;~~]

[~~(iii) prohibit instruction in:~~]

[~~(A) the intricacies of intercourse, sexual stimulation, or erotic behavior;~~]

[~~(B) the advocacy of premarital or extramarital sexual activity; or~~]

[~~(C) the advocacy or encouragement of the use of contraceptive methods or devices; and~~]

[~~(iv) except as provided in Subsection (2)(d), allow instruction to include information about contraceptive methods or devices that stresses effectiveness, limitations, risks, and information on state law applicable to minors obtaining contraceptive methods or devices.~~]

[~~(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for an LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) that:~~]

[~~(i) require the LEA governing board to report on the materials selected and the LEA governing board's compliance with Subsection (2)(h); and~~]

[~~(ii) provide for an appeal and review process of the LEA governing board's adoption of instructional materials.~~]

[~~(d) The state board may not require an LEA to teach or adopt instructional materials that include information on contraceptive methods or devices.~~]

[~~(e) (i) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.~~]

[~~(ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.~~]

[~~(f) The state board shall recommend instructional materials for use in the curricula required under Subsection (2)(a).~~]

[~~(g) An LEA governing board may choose to adopt:~~]

[~~(i) the instructional materials recommended under Subsection (2)(f); or~~]

[~~(ii) other instructional materials in accordance with Subsection (2)(h).~~]

[~~(h) An LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) shall:~~]

[~~(i) ensure that the materials comply with state law and board rules;~~]

[~~(ii) base the adoption of the materials on the recommendations of the LEA governing board's Curriculum Materials Review Committee;~~]

[~~(iii) adopt the instructional materials in an open and regular meeting of the LEA governing board for which prior notice is given to parents of students who attend the respective schools; and~~]

[~~(iv) give parents an opportunity to express the parents' views and opinions on the materials at the meeting described in Subsection (2)(h)(iii).~~]

(2) (a) In accordance with Section 53E-3-501, the state board shall establish health curriculum requirements:

(i) for the purpose of:

(A) equipping students with practical safety skills regarding sexual abuse, trafficking, and harassment;

(B) promoting respect for humankind and individual responsibility;

(C) fostering character development and decision- making through the success sequence; and

(D) encouraging healthy personal and family relationships; and

(ii) that include instruction in:

(A) the success sequence;

(B) community and personal health, including personal hygiene and the prevention of communicable disease;

(C) physiology;

(D) human development;

(E) marriage and safe dating practices;

(F) refusal skills;

(G) resilience;

(H) situational awareness;

(I) the harmful effects of pornography; and

(J) the consequences of behaviors that pose a risk to individual health or of failure under the success sequence.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(i) ensure that instruction stresses the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for:

(A) maintaining mental, physical, and social health, including reducing stress;

(B) eliminating risks associated with sexual activity, including preventing pregnancy and certain communicable diseases; and

(C) achieving the success sequence;

(ii) ensure that instruction stresses personal skills that encourage abstinence, the return to abstinence, and fidelity;

(iii) prohibit instruction or discussion, regardless of parental consent or intent to receive the prohibited instruction, in or regarding:

(A) the intricacies of sexual stimulation or erotic behavior;

(B) the advocacy of premarital or extramarital sexual activity;

(C) the advocacy or encouragement of the use of contraceptive methods or devices; and

(D) any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult, including as a response to a spontaneous question from a student; and

(iv) subject to Subsection (2)(c), allow instruction to include information about contraceptive methods or devices, not including abortion or any abortive methods, that stresses effectiveness, failure rates for youth, limitations, risks, and information on state law applicable to minors obtaining contraceptive methods or devices.

(c) (i) As used in this Subsection (2), "contraceptive methods or devices" does not include abortion or any abortive methods.

(ii) Notwithstanding the allowance for instruction about contraceptive methods or devices in Subsection (2)(b):

(A) the state board may not require an LEA to teach or adopt instructional materials that include information on contraceptive methods or devices; and

(B) the instruction may not demonstrate or otherwise depict the use of a contraceptive method or device.

(d) The state board shall:

(i) recommend instructional materials for use in the curricula required under Subsection (2)(a); and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for an LEA governing board that adopts alternative instructional materials under Subsection (2)(e) to:

(A) require the LEA governing board to report on the materials the governing board selects and the governing board's compliance with Subsection (2)(e); and

(B) provide for an appeal and review process of the LEA governing board's adoption of instructional materials.

(e) (i) An LEA governing board may choose to adopt:

(A) the instructional materials recommended under Subsection (2)(d); or

(B) alternative instructional materials in accordance with Subsection (2)(e)(ii).

(ii) An LEA governing board that adopts instructional materials under Subsection (2)(e)(i) shall:

(A) ensure that the materials comply with state law and state board rules;

(B) base the adoption of the materials on the recommendations of the LEA governing board's Curriculum Materials Review Committee;

(C) adopt the instructional materials in an open and regular meeting of the LEA governing board for which parents of students who attend the respective schools receive prior notice; and

(D) give parents an opportunity to express the parents' views and opinions on the materials at the meeting described in Subsection (2)(e)(ii)(C).

(f) At the request of the state board, the Department of Health and Human Services shall provide recommendations to the state board as the state board develops the curriculum, rules, or programs described in this Subsection (2).

(3) [~~(a)~~] A student shall receive the instruction [~~in the courses~~]described in Subsection (2) on at least two occasions [~~during the period that begins with~~]between the beginning of grade [~~8~~]7 and the end of grade 12.

[~~(b) At the request of the state board, the Department of Health and Human Services shall cooperate with the state board in developing programs to provide instruction in those areas.~~]

(4) (a) The state board shall[~~adopt~~], in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that:

(i) provide [~~that~~]for the compliance with the parental consent requirements of Sections 76-7-322[~~and 76-7-323 are complied with~~]; and

(ii) require advance notice to a student's parent [~~to be notified in advance and have~~]that provides an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The state board shall [~~also~~]provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(5) (a) In [~~keeping with the requirements of~~]accordance with Section 53G-10-204 and Subsection (2)(b)(iii), and because school employees and volunteers serve as examples to students, school employees or volunteers acting in an official capacity may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school employee's or volunteer's official capacity if:

(i) the employee or volunteer knew or should have known that the employee's or volunteer's action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) [~~that~~]the employee's or volunteer's action [~~does result~~]results in a material and substantial interference or disruption in the normal activities of the school.

(c) The state board or an LEA governing board may not allow training of school employees or volunteers that [~~support~~]supports or [~~encourage~~]encourages criminal conduct.

(d) The state board shall [~~adopt~~], in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules implementing this [~~section~~]Subsection (5).

(e) Nothing in this section limits the ability or authority of the state board or an LEA governing board to enact and enforce rules or take actions that are otherwise lawful [~~,~~]regarding an educator's, employee's, or volunteer's qualifications or behavior evidencing unfitness for duty.

(6) Except as provided in Section 53G-10-202, an individual may not teach or provide instruction on political, atheistic, sectarian, religious, or denominational doctrine [~~may not be taught~~]in the public schools.

(7) (a) An LEA governing board and an LEA governing board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) An LEA governing board shall:

(i) (A) []provide appropriate professional development for the LEA governing board's teachers, counselors, and school administrators to enable the teachers, counselors, and school administrators to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205[~~,~~]; and

(B) distribute appropriate written materials on the values, character traits, and conduct described in Subsection (7)(b)(i) to each individual receiving the professional development[~~:~~]; and

[~~(c)~~](ii) [~~An LEA governing board shall~~]make the written materials described in Subsection (7)(b) available to classified employees, students, and students' parents.

[~~(d)~~](c) [~~In order to~~]To assist an LEA governing board in providing the professional development required under Subsection (7)(b), the state board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas [~~referred to~~]described in Subsection (7)(b) to develop and disseminate model teacher professional development programs that an LEA governing board may use to train the individuals [~~referred to~~]described in Subsection (7)(b) to effectively teach the values and qualities of character [~~referenced~~]described in Subsection (7)(b).

[~~(e)~~](d) In accordance with [~~the provisions of~~]Subsection (5)(c), professional development may not support or encourage criminal conduct.

(8) An LEA governing board shall review every two years:

(a) LEA governing board policies on instruction described in this section;

(b) for a local school board, data for each county [~~that~~]in which the school district is located[~~in~~], or, for a charter school governing board, data for the county in which the charter school is located, on the following:

(i) teen pregnancy;

(ii) child sexual abuse; and

(iii) sexually transmitted diseases and sexually transmitted infections; and

(c) the number of pornography complaints or other instances reported within the jurisdiction of the LEA governing board.

(9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

Section 6. Section 53G-10-403 is amended to read:

53G-10-403

(Effective 07/01/26)

. Required parental consent for sex education instruction.

(1) As used in this section:

(a) (i) "Sex education instruction" means, for the purpose of the parental consent requirement in this section, any course material, unit, class, lesson, activity, or presentation that, as the focus of the discussion, provides instruction or information to a student about:

(A) sexual abstinence;

(B) human [~~sexuality~~]development, including puberty and maturation;

(C) human [~~reproduction~~]reproductive processes, including conception, fetal development, pregnancy, and birth;

(D) human reproductive anatomy [~~;~~]and

[~~(E)~~] physiology;

[~~(F) pregnancy;~~]

[~~(G)~~](E) healthy dating practices, marriage, and parenthood, in accordance with the success sequence as defined in Section 53G-10-402;

[~~(H) childbirth;~~]

[~~(I) parenthood;~~]

(F) adoption in accordance with Section 53G-10-404;

[~~(J)~~](G) [~~contraception~~]information about contraceptive methods or devices in accordance with Subsections 53G-10-402(2)(b) and (c);

[~~(K) HIV/AIDS;~~]

[~~(L)~~](H) chronic, infectious, and acute diseases and conditions of the reproductive system, including sexually transmitted infections and diseases; or

[~~(M)~~](I) refusal skills, as defined in Section 53G-10-402.

(ii) "Sex education instruction" does not include:

(A) child sexual abuse prevention instruction described in Section 53G-9-207[~~.~~]; or

(B) instruction in refusal skills or situational awareness, as those terms are defined in Section 53G-10-402.

(b) "School" means the same as that term is defined in Section 53G-10-205.

(2) (a) A school shall obtain prior written consent from a student's parent before the school may provide sex education instruction to the student.

(b) A school may not provide:

(i) sex education instruction to a student without the prior written consent described in Subsection (2)(a); or

(ii) any instruction related to sex that is not:

(A) described in the definition of sex education and subject to the prior written consent described in Subsection (2)(a); or

(B) otherwise provided for or described in Section 53G-10-402.

(3) If a student's parent chooses not to have the student participate in sex education instruction, a school shall:

(a) waive the requirement for the student to participate in the sex education instruction; or

(b) provide the student with a reasonable alternative to the sex education instruction requirement that does not include the content described in Subsection (1)(a).

(4) In cooperation with the student's teacher or school, a parent [~~shall take responsibility for the parent's student's~~]is responsible for the sex education instruction of the parent's student if a school:

(a) waives the student's sex education instruction requirement [~~in~~]under Subsection (3)(a); or

(b) provides the student with a reasonable alternative to the sex education instruction requirement [~~described in~~]under Subsection (3)(b).

(5) A school, an LEA governing board, or the state board may not penalize a student's academic or citizenship performance [~~may not be penalized~~]if the student's parent chooses not to have the student participate in sex education instruction as described in Subsection (3).

Section 7. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect July 1, 2025.

(2) The actions affecting the following sections take effect on July 1, 2026:

(a) Section 53G-10-402 (Effective 07/01/26); and

(b) Section 53G-10-403 (Effective 07/01/26).

CHAPTER 381
H. B. 300
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

AMENDMENTS TO ELECTION LAW

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions relating to elections.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the lieutenant governor to:
  - • develop a procedure to evaluate voter registration records based on addresses to identify potential anomalies;
  - • develop procedures to investigate the validity of a voter registration when a ballot mailed by the county clerk is returned as undeliverable; and
  - • register with the Systematic Alien Verification for Entitlements program;
- ► requires the lieutenant governor to seek to enter into an agreement with the federal courts where, in exchange for receiving certain information from the state for the purpose of maintaining federal jury lists, the courts will notify the state of individuals who are disqualified from jury service due to criminal convictions or non-citizen status;
- ► for voting by mail:
  - • requires a registered voter who has a Utah driver license or a state identification card to place to last four digits of the card's number on the return envelope, and permits a voter to enter the last four digits of the voter's social security number as an alternate form of identification;
  - • until 2029, permits a voter's identity to be verified using signature comparison, if the voter doesn't enter the digits described in the preceding paragraph;
  - • beginning in 2029, provides that if a voter does not have a Utah driver license, a Utah state identification card, or a social security card, the voter may provide identification by including a photocopy of certain forms of identification in the return envelope;
  - • beginning in 2029, if a voter does not have a type of identification described in the preceding two paragraphs, requires the voter to vote in person, unless the voter qualifies for certain exceptions;
- ► subject to certain exceptions, provides that, beginning in 2029, a voter will not receive a ballot by mail unless the voter requests to receive a ballot by mail;
- ► provides that a request to receive a ballot by mail remains in effect for eight years unless the voter takes certain action that results in termination of the request;
- ► provides that a voter may request, or renew a request, to receive a ballot by mail when the person:
  - • registers to vote;
  - • makes a request online;
  - • applies to receive or renew a Utah driver license or Utah state identification card; or
  - • votes at a polling place;
- ► amends voter registration forms relating to:
  - • requesting to receive ballot notifications; and
  - • requesting to receive a mailed ballot;
- ► modifies requirements for an individual to assist a voter to vote at a polling place;
- ► modifies a return envelope consistent with the requirements of this bill and to provide certain warnings to a voter;
- ► modifies provisions relating to obtaining and returning an emergency ballot;
- ► modifies provisions for the processing of ballots, consistent with the provisions of this bill;
- ► creates an exception to the requirement that the bulk of ballots initially mailed to voters must be mailed from a location in Utah, if the jurisdiction mailing the ballots is assigned to a United States Postal Service area distribution center outside of Utah;
- ► expands the duties of the lieutenant governor in relation to maintaining the voter registration database; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates $2,000,000 in operating and capital budgets for fiscal year 2026, all of which is from the General Fund.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-102, as last amended by Laws of Utah 2024, Chapter 438
20A-2-104, as last amended by Laws of Utah 2023, Chapters 327, 406
20A-2-108, as last amended by Laws of Utah 2023, Chapter 406

20A-2-204, as last amended by Laws of Utah 2023, Chapter 237
20A-2-206, as last amended by Laws of Utah 2023, Chapter 297
20A-2-502, as renumbered and amended by Laws of Utah 2023, Chapter 297
20A-2-503, as renumbered and amended by Laws of Utah 2023, Chapter 297
20A-2-505, as last amended by Laws of Utah 2023, Chapters 327, 406 and renumbered and amended by Laws of Utah 2023, Chapter 297
20A-3a-106, as enacted by Laws of Utah 2023, Chapter 297
20A-3a-201, as last amended by Laws of Utah 2022, Chapter 18
20A-3a-202, as last amended by Laws of Utah 2023, Chapters 56, 106 and 297
20A-3a-203, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-3a-204, as last amended by Laws of Utah 2022, Chapter 156
20A-3a-208, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-3a-301, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-3a-401, as last amended by Laws of Utah 2024, Chapter 477
20A-3a-401.5, as last amended by Laws of Utah 2023, Chapter 297
20A-3a-402, as last amended by Laws of Utah 2022, Chapter 380
20A-3a-601, as last amended by Laws of Utah 2020, Chapter 95 and renumbered and amended by Laws of Utah 2020, Chapter 31
20A-3a-603, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-4-105, as last amended by Laws of Utah 2022, Chapter 380
20A-5-102, as last amended by Laws of Utah 2022, Chapters 18, 170
20A-5-403, as last amended by Laws of Utah 2023, Chapter 15
20A-6-105, as last amended by Laws of Utah 2023, Chapter 406
20A-6-108, as enacted by Laws of Utah 2022, Chapter 156
20A-7-106, as enacted by Laws of Utah 2024, Chapter 442
20A-7-609, as last amended by Laws of Utah 2023, Chapter 107
20A-7-609.5, as last amended by Laws of Utah 2020, Chapter 31
20A-9-808, as last amended by Laws of Utah 2020, Chapter 31
20A-21-201, as last amended by Laws of Utah 2024, Chapter 17

ENACTS:

20A-3a-202.5, Utah Code Annotated 1953
63G-10-304, Utah Code Annotated 1953

REPEALS:

20A-3a-101, as enacted by Laws of Utah 2020, Chapter 31
53-3-801, as enacted by Laws of Utah 1993, Chapter 234

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-102 is amended to read:
20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on ballots and tabulates the results.

(3) (a) "Ballot" means the storage medium, including a paper, mechanical, or electronic storage medium, that records an individual voter's vote.

(b) "Ballot" does not include a record to tally multiple votes.

(4) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(5) "Bind," "binding," or "bound" means securing more than one piece of paper together using staples or another means in at least three places across the top of the paper in the blank space reserved for securing the paper.

(6) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(7) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(8) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(9) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(10) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(11) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election

officer.

(12) "Convention" means the political party convention at which party officers and delegates are selected.

(13) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(14) "Counting judge" means a poll worker designated to count the ballots during election day.

(15) "Counting room" means a suitable and convenient private place or room for use by the poll workers and counting judges to count ballots.

(16) "County officers" means those county officers that are required by law to be elected.

(17) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for voting by mail, military-overseas voting, or emergency voting; or

(ii) any early voting or early voting period as provided under Chapter 3a, Part 6, Early Voting.

(18) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a special district office in accordance with Subsection 20A-1-206(3)(b)(ii).

(19) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a special district election.

(20) "Election Assistance Commission" means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(21) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(22) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(23) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the special district clerk or chief executive officer for:

(i) a special district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(24) "Election official" means any election officer, election judge, or poll worker.

(25) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(26) "Election returns" includes:

(a) the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form; and

(b) the record, described in Subsection [~~20A-3a-401(8)(c)~~]20A-3a-401(10)(c), of voters contacted to cure a ballot.

(27) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(28) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-505(4)(c)(i) or (ii).

(29) "Judicial office" means the office filled by any judicial officer.

(30) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(31) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a special district election, and a bond election.

(32) "Local political subdivision" means a county, a municipality, a special district, or a local school district.

(33) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(34) "Manual ballot" means a paper document produced by an election officer on which an individual records an individual's vote by directly placing a mark on the paper document using a pen or other marking instrument.

(35) "Mechanical ballot" means a record, including a paper record, electronic record, or mechanical record, that:

(a) is created via electronic or mechanical means; and

(b) records an individual voter's vote cast via a method other than an individual directly placing a mark, using a pen or other marking instrument, to record an individual voter's vote.

(36) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102; or

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6).

(37) "Municipal general election" means the election held in municipalities and, as applicable, special districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(38) "Municipal legislative body" means the council of the city or town in any form of municipal government.

(39) "Municipal office" means an elective office in a municipality.

(40) "Municipal officers" means those municipal officers that are required by law to be elected.

(41) "Municipal primary election" means an election held to nominate candidates for municipal office.

(42) "Municipality" means a city or town.

(43) "Official ballot" means the ballots distributed by the election officer for voters to record their votes.

(44) "Official endorsement" means the information on the ballot that identifies:

(a) the ballot as an official ballot;

(b) the date of the election; and

(c) (i) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(ii) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii).

(45) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(46) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(47) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(48) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(49) "Polling place" means a building where voting is conducted.

(50) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(51) "Presidential Primary Election" means the election established in Chapter 9, Part 8, Presidential Primary Election.

(52) "Primary convention" means the political party conventions held during the year of the regular general election.

(53) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(54) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

(55) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(56) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(57) (a) "Public figure" means an individual who, due to the individual being considered for, holding, or having held a position of prominence in a public or private capacity, or due to the individual's celebrity status, has an increased risk to the individual's safety.

(b) "Public figure" does not include an individual:

(i) elected to public office; or

(ii) appointed to fill a vacancy in an elected public office.

(58) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the individual was elected.

(59) "Receiving judge" means the poll worker that checks the voter's name in the official register at a polling place and provides the voter with a ballot.

(60) "Registration form" means a form by which an individual may register to vote under this title.

(61) "Regular ballot" means a ballot that is not a provisional ballot.

(62) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(63) "Regular primary election" means the election, held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(64) "Resident" means a person who resides within a specific voting precinct in Utah.

(65) "Return envelope" means the envelope, described in Subsection 20A-3a-202(4), provided to a voter with a manual ballot:

(a) into which the voter places the manual ballot after the voter has voted the manual ballot in order to preserve the secrecy of the

voter's vote; and

(b) that includes the voter affidavit and a place for the voter's signature.

(66) "Sample ballot" means a mock ballot similar in form to the official ballot, published as provided in Section 20A-5-405.

(67) "Special district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(68) "Special district officers" means those special district board members who are required by law to be elected.

(69) "Special election" means an election held as authorized by Section 20A-1-203.

(70) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(71) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(72) "Tabulation system" means a device or system designed for the sole purpose of tabulating votes cast by voters at an election.

(73) "Ticket" means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

(74) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(75) "Vacancy" means:

(a) except as provided in Subsection (75)(b), the absence of an individual to serve in a position created by state constitution or state statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause[]; or

(b) in relation to a candidate for a position created by state constitution or state statute, the removal of a candidate due to the candidate's death, resignation, or disqualification.

(76) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

[~~(ii)~~](iii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

[~~(iii)~~](iv) a currently valid Utah permit to carry a concealed weapon;

[~~(iv)~~](v) a currently valid United States passport; or

[~~(v)~~](vi) a currently valid United States military identification card;

(b) one of the following identification cards, regardless of whether [~~or not~~]the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (76)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) before January 1, 2029, an original or copy of a current utility bill[~~or a legible copy thereof~~], dated [~~within the~~]no more than 90 calendar days before the date of the election;

(ii) before January 1, 2029, an original or copy of a bank or other financial account statement, [~~or a legible copy thereof~~]dated no more than 90 calendar days before the date of the election;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) an original or copy of a check issued by the state or the federal government[~~or a legible copy thereof~~], dated no more than 90 calendar days before the date of the election;

(vi) an original or copy of a paycheck from the voter's employer, [~~or a legible copy thereof~~]dated no more than 90 calendar days before the date of the election;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(77) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and

requirements of this title.

(78) "Vote by mail" means to vote, using a manual ballot that is mailed to the voter, by:

(a) mailing the ballot to the location designated in the mailing; or

(b) depositing the ballot in a ballot drop box designated by the election officer.

(79) "Voter" means an individual who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(80) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(81) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(82) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting enclosure or curtain; or

(b) a voting device that is free standing.

(83) "Voting device" means any device provided by an election officer for a voter to vote a mechanical ballot.

(84) "Voting precinct" means the smallest geographical voting unit, established under Chapter 5, Part 3, Duties of the County and Municipal Legislative Bodies.

(85) "Watcher" means an individual who complies with the requirements described in Section 20A-3a-801 to become a watcher for an election.

(86) "Write-in ballot" means a ballot containing any write-in votes.

(87) "Write-in vote" means a vote cast for an individual, whose name is not printed on the ballot, in accordance with the procedures established in this title.

Section 2. Section 20A-2-104 is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

(1) As used in this section:

(a) "Candidate for public office" means an individual:

(i) who files a declaration of candidacy for a public office;

(ii) who files a notice of intent to gather signatures under Section 20A-9-408; or

(iii) employed by, under contract with, or a volunteer of, an individual described in Subsection (1)(a)(i) or (ii) for political campaign purposes.

(b) "Dating violence" means the same as that term is defined in Section 78B-7-402 and the federal Violence Against Women Act of 1994, as amended.

(c) "Domestic violence" means the same as that term is defined in Section 77-36-1 and the federal Violence Against Women Act of 1994, as amended.

(d) "Hash Code" means a code generated by applying an algorithm to a set of data to produce a code that:

(i) uniquely represents the set of data;

(ii) is always the same if the same algorithm is applied to the same set of data; and

(iii) cannot be reversed to reveal the data applied to the algorithm.

(e) "Protected individual" means an individual:

(i) who submits a withholding request form with the individual's voter registration record, or to the lieutenant governor or a county clerk, if the individual indicates on the form that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence;

(ii) who submits a withholding request form with the individual's voter registration record, or to the lieutenant governor or a county clerk, if the individual indicates on the form and provides verification that the individual, or an individual who resides with the individual, is a law enforcement officer, a member of the armed forces as defined in Section 20A-1-513, a public figure, or protected by a protective order or protection order; or

(iii) whose voter registration record was classified as a private record at the request of the individual before May 12, 2020.

(2) (a) An individual applying for voter registration, or an individual preregistering to vote, shall complete a voter registration form in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Are you a citizen of the United States of America? Yes No

If you checked "no" to the above question, do not complete this form.

Will you be 18 years of age on or before election day? Yes No

If you checked "no" to the above question, are you 16 or 17 years of age and preregistering to vote? Yes No

If you checked "no" to both of the prior two questions, do not complete this form.

Name of Voter

_____

First Middle Last

Utah Driver License or Utah Identification Card []Number_____

Date of Birth _____

Street Address of Principal Place of Residence

_____

City County State Zip Code

Telephone Number (optional) _____

Email Address (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)_____

_____

City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)

□ Unaffiliated (no political party preference) □ Other (Please specify)_____

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

_____

Voter's Signature

_____(month/day/year).

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that identifying information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this

registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

_____

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to $2,500.

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER[~~BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR~~], IN ACCORDANCE WITH THE REQUIREMENTS OF LAW.

[~~TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.~~]

FOR OFFICIAL USE ONLY

Type of I.D. _____

Voting Precinct _____

Voting I.D. Number _____

(b) The voter registration form described in Subsection (2)(a) shall include[]:

(i) a section in substantially the following form:

"---

BALLOT NOTIFICATIONS

[~~If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:~~

~~_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.~~]

Do you consent to receive communications about the status of your ballot and other official communications, by text, at the phone number you provided above? Yes No

--- "; and

(ii) no later than November 5, 2025, the following, immediately after the question described in Subsection (2)(b)(i):

"Indicate below how you want to vote in upcoming elections:

_____ Mail a ballot to me.

_____ Do not mail a ballot to me. I will vote in person."

(c) (i) Except as provided under Subsection (2)(c)(ii), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(ii) The county clerk may transfer a superseded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section 26B-8-501, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party;

(vi) a candidate for public office, or an employee, independent contractor, or volunteer of a candidate for public office;

(vii) a person described in Subsections (4)(a)(i) through (vi) who, after obtaining a year of birth from the list of registered voters:

(A) provides the year of birth only to a person described in Subsections (4)(a)(i)through [~~(vii)~~](vi);

(B) verifies that the person described in Subsection (4)(a)(vii)(A) is a person described in Subsections (4)(a)(i) through [~~(vii)~~](vi);

(C) ensures, using industry standard security measures, that the year of birth may not be accessed by a person other than a person described in Subsections (4)(a)(i) through [~~(vii)~~](vi);

(D) verifies that each person described in Subsections (4)(a)(ii) through (iv) to whom the person provides the year of birth will only use the year of birth to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(E) verifies that each person described in Subsection (4)(a)(i) to whom the person provides the year of birth will only use the year of birth in the person's capacity as a government official or government employee; and

(F) verifies that each person described in Subsection (4)(a)(v) or (vi) to whom the person provides the year of birth will only use the year of birth for a political purpose of the political party or candidate for public office; or

(viii) a person described in Subsection (4)(a)(v) or (vi) who, after obtaining information under Subsection (4)(n) and (o):

(A) provides the information only to another person described in Subsection (4)(a)(v) or (vi);

(B) verifies that the other person described in Subsection (4)(a)(viii)(A) is a person described in Subsection (4)(a)(v) or (vi);

(C) ensures, using industry standard security measures, that the information may not be accessed by a person other than a person described in Subsection (4)(a)(v) or (vi); and

(D) verifies that each person described in Subsection (4)(a)(v) or (vi) to whom the person provides the information will only use the information for a political purpose of the political party or candidate for public office.

(b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person under this section, include, with the list, the years of birth of the registered voters, if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the years of birth;

(D) a list of the purposes for which the qualified person may use the year of birth of a registered voter that is obtained from the list of registered voters;

(E) a statement that the year of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the year of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(c) The lieutenant governor or a county clerk:

(i) may not disclose the year of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

(A) is not a qualified person or a person described in Subsection (4)(l); or

(B) will provide or use the year of birth in a manner prohibited by law; and

(ii) may not disclose information under Subsections (4)(n) or (o) to a person that the lieutenant governor or county clerk reasonably believes:

(A) is not a person described in Subsection (4)(a)(v) or (vi); or

(B) will provide or use the information in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person, or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(h) to a person other than:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee; or

(ii) subject to Subsection (4)(e), a person described in Subsection (4)(a)(v) or (vi) for a political purpose.

(e) (i) Except as provided in Subsection (4)(e)(ii), when disclosing a record or information under Subsection (4)(d)(ii), the lieutenant governor or county clerk shall exclude the information described in Subsection 63G-2-302(1)(j), other than the year of birth.

(ii) If disclosing a record or information under Subsection (4)(d)(ii) in relation to the voter registration record of a protected individual, the lieutenant governor or county clerk shall comply with Subsections (4)(n) through (p).

(f) The lieutenant governor or a county clerk may not disclose a withholding request form, described in Subsections (7) and (8), submitted by an individual, or information obtained from that form, to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

(g) A person is guilty of a class A misdemeanor if the person:

(i) obtains from the list of registered voters, under false pretenses, the year of birth of a registered voter or information described in Subsection (4)(n) or (o);

(ii) uses or provides the year of birth of a registered voter, or information described in Subsection (4)(n) or (o), that is obtained from the list of registered voters in a manner that is not permitted by law;

(iii) obtains a voter registration record described in Subsection 63G-2-302(1)(k)under false pretenses;

(iv) uses or provides information obtained from a voter registration record described in Subsection 63G-2-302(1)(k) in a manner that is not permitted by law;

(v) unlawfully discloses or obtains a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8); or

(vi) unlawfully discloses or obtains information from a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8).

(h) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter:

(i) submits a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private;

(ii) requests on the voter's voter registration form that the voter's voter registration record be classified as a private record; or

(iii) submits a withholding request form described in Subsection (7) and any required verification.

(i) Except as provided in Subsections (4)(d)(ii) and (e)(ii), the lieutenant governor or a county clerk may not disclose to a person described in Subsection (4)(a)(v) or (vi) a voter registration record, or information obtained from a voter registration record, if the record is withheld under Subsection (7).

(j) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who violates a provision of this section, in an amount equal to the greater of:

(i) the product of 30 and the square root of the total number of:

(A) records obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(B) records from which information is obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(ii) $200.

(k) A qualified person may not obtain, provide, or use the year of birth of a registered voter, if the year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a government official or government employee who obtains, provides, or uses the year of birth in the government official's or government employee's capacity as a government official or government employee;

(ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or uses the year of birth only to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(iii) is a qualified person described in Subsection (4)(a)(v) or (vi) and obtains, provides, or uses the year of birth for a political purpose of the political party or candidate for public office; or

(iv) is a qualified person described in Subsection (4)(a)(vii) and obtains, provides, or uses the year of birth to provide the year of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

(l) The lieutenant governor or a county clerk may provide a year of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.

(m) A person described in Subsection (4)(a)(v) or (vi) may not use or disclose information from a voter registration record for a purpose other than a political purpose.

(n) Notwithstanding Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person described in Subsection (4)(a)(v) or (vi), include, from the record of a voter whose record is withheld under Subsection (7), the information described in Subsection (4)(o), if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person described in Subsection (4)(a)(v) or (vi); and

(ii) the qualified person described in Subsection (4)(a)(v) or (vi) signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the information;

(D) a list of the purposes for which the qualified person may use the information;

(E) a statement that the information may not be provided or used for a purpose other than a purpose described under Subsection (4)(n)(ii)(D);

(F) a statement that if the person obtains the information under false pretenses, or provides or uses the information in a manner that is prohibited by law, the person is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the information in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(o) Except as provided in Subsection (4)(p), the information that the lieutenant governor or a county clerk is required to provide, under

Subsection (4)(n), from the record of a protected individual is:

(i) a single hash code, generated from a string of data that includes both the voter's voter identification number and residential address;

(ii) the voter's residential address;

(iii) the voter's mailing address, if different from the voter's residential address;

(iv) the party affiliation of the voter;

(v) the precinct number for the voter's residential address;

(vi) the voter's voting history; and

(vii) a designation of which age group, of the following age groups, the voter falls within:

(A) 25 or younger;

(B) 26 through 35;

(C) 36 through 45;

(D) 46 through 55;

(E) 56 through 65;

(F) 66 through 75; or

(G) 76 or older.

(p) The lieutenant governor or a county clerk may not disclose:

(i) information described in Subsection (4)(o) that, due to a small number of voters affiliated with a particular political party, or due to another reason, would likely reveal the identity of a voter if disclosed; or

(ii) the address described in Subsection (4)(o)(iii) if the lieutenant governor or the county clerk determines that the nature of the address would directly reveal sensitive information about the voter.

(q) A qualified person described in Subsection (4)(a)(v) or (vi), may not obtain, provide, or use the information described in Subsection (4)(n) or (o), except to the extent that the qualified person uses the information for a political purpose of a political party or candidate for public office.

(5) When political parties not listed on the voter registration form qualify as registered political parties under [~~Title 20A, Chapter 8, Political Party Formation and Procedures~~]Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks of the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

(6) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that an individual may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

(7) The lieutenant governor or a county clerk shall withhold from a person, other than a person described in Subsection (4)(a)(i), the voter registration record, and information obtained from the voter registration record, of a protected individual.

(8) (a) The lieutenant governor shall design and distribute the withholding request form described in Subsection (7) to each election officer and to each agency that provides a voter registration form.

(b) An individual described in Subsection (1)(e)(i) is not required to provide verification, other than the individual's attestation and signature on the withholding request form, that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence.

(c) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for providing the verification described in Subsection (1)(e)(ii).

(9) An election officer or an employee of an election officer may not encourage an individual to submit, or discourage an individual from submitting, a withholding request form.

(10) (a) The lieutenant governor shall make and execute a plan to provide notice to registered voters who are protected individuals, that includes the following information:

(i) that the voter's classification of the record as private remains in effect;

(ii) that certain non-identifying information from the voter's voter registration record may, under certain circumstances, be released to political parties and candidates for public office;

(iii) that the voter's name, driver license or identification card number, social security number, email address, phone number, and the voter's day, month, and year of birth will remain private and will not be released to political parties or candidates for public office;

(iv) that a county clerk will only release the information to political parties and candidates in a manner that does not associate the information with a particular voter; and

(v) that a county clerk may, under certain circumstances, withhold other information that the county clerk determines would reveal identifying information about the voter.

(b) The lieutenant governor may include in the notice described in this Subsection (10) a statement that a voter may obtain additional information on the lieutenant governor's website.

(c) The plan described in Subsection (10)(a) may include providing the notice described in Subsection (10)(a) by:

(i) publication on the Utah Public Notice Website, created in Section 63A-16-601;

(ii) publication on the lieutenant governor's website or a county's website;

(iii) posting the notice in public locations;

(iv) publication in a newspaper;

(v) sending notification to the voters by electronic means;

(vi) sending notice by other methods used by government entities to communicate with citizens; or

(vii) providing notice by any other method.

(d) The lieutenant governor shall provide the notice included in a plan described in this Subsection (10) before June 16, 2023.

Section 3. Section 20A-2-108 is amended to read:

20A-2-108. Driver license or state identification card registration form -- Transmittal of information.

(1) As used in this section, "qualifying form" means:

(a) a driver license application form; or

(b) a state identification card application form.

(2) The lieutenant governor and the Driver License Division shall design each qualifying form to include:

(a) (i) the following question, which an applicant is required to answer: "Do you authorize the use of information in this form for voter registration purposes? YES____ NO____"; and

(ii) no later than November 5, 2025, the following:

"Indicate below how you want to vote in upcoming elections:

_____ Mail a ballot to me.

_____ Do not mail a ballot to me. I will vote in person.";

(b)

the following statement:

"PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that identifying information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order."; and

(c) a section in substantially the following form:

"----------

BALLOT NOTIFICATIONS

~~[If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:~~

~~_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.]~~

Do you consent to receive communications about the status of your ballot and other official communications, by text, at the phone number you provided above? Yes No

---------- ".

(3) The lieutenant governor and the Driver License Division shall ensure that a qualifying form contains:

(a) a place for an individual to affirm the individual's citizenship, voting eligibility, and Utah residency, and that the information provided in the form is true;

(b) a records disclosure that is similar to the records disclosure on a voter registration form described in Section 20A-2-104;

(c) a statement that if an applicant declines to register or preregister to vote, the fact that the applicant has declined to register or preregister will remain confidential and will be used only for voter registration purposes;

(d) a statement that if an applicant does register or preregister to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(e) if the applicant answers "yes" to the question described in Subsection (2)(a), a space where an individual may, if desired:

(i) indicate the individual's desired political affiliation from a listing of each registered political party, as defined in Section 20A-8-101;

(ii) specify a political party that is not listed under Subsection (3)(e)(i) with which the individual desires to affiliate; or

(iii) indicate that the individual does not wish to affiliate with a political party.

Section 4. Section 20A-2-204 is amended to read:

20A-2-204. Registering to vote when applying for or renewing a driver license or other qualifying form.

(1) As used in this section, "voter registration form" means, when an individual named on a qualifying form, as defined in Section 20A-2-108, answers "yes" to the question described in Subsection [~~20A-2-108(2)(a)~~]20A-2-108(2)(a)(i), the information on the qualifying form that can be used for voter registration purposes.

(2) (a) Except as provided in Subsection (2)(b), a citizen who is qualified to vote may register to vote, and a citizen who is qualified to preregister to vote may preregister to vote, by answering "yes" to the question described in Subsection [~~20A-2-108(2)(a)~~]20A-2-108(2)(a)(i) and completing the voter registration form.

(b) A citizen who is a program participant in the Safe at Home Program created in Section 77-38-602 is not eligible to register to vote as described in Subsection (2)(a), but is eligible to register to vote by any other means described in this part.

(3) The Driver License Division shall:

(a) assist an individual in completing the voter registration form unless the individual refuses assistance;

(b) electronically transmit each address change to the lieutenant governor within five days after the day on which the division receives the address change; and

(c) within five days after the day on which the division receives a voter registration form, electronically transmit the form to the Office of the Lieutenant Governor, including the following for the individual named on the form:

(i) the name, date of birth, driver license or state identification card number, last four digits of the social security number, Utah residential address, place of birth, and signature;

(ii) a mailing address, if different from the individual's Utah residential address;

(iii) an email address and phone number, if available;

(iv) the desired political affiliation, if indicated;

(v) an indication of whether the individual requested that the individual's voter registration record be classified as a private record under Subsection 20A-2-108(2)(b); and

(vi) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted with the form.

(4) Upon receipt of an individual's voter registration form from the Driver License Division under Subsection (3), the lieutenant governor shall:

(a) enter the information into the statewide voter registration database; and

(b) if the individual requests on the individual's voter registration form that the individual's voter registration record be classified as a private record or the individual submits a withholding request form described in Subsections 20A-2-104(7) and (8) and any required verification, classify the individual's voter registration record as a private record.

(5) The county clerk of an individual whose information is entered into the statewide voter registration database under Subsection (4) shall:

(a) ensure that the individual meets the qualifications to be registered or preregistered to vote; and

(b) (i) if the individual meets the qualifications to be registered to vote:

(A) ensure that the individual is assigned to the proper voting precinct; and

(B) send the individual the notice described in Section 20A-2-304; or

(ii) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

(6) (a) When the county clerk receives a correctly completed voter registration form under this section, the clerk shall:

(i) comply with the applicable provisions of this Subsection (6); or

(ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.

(b) If the county clerk receives a correctly completed voter registration form under this section no later than 5 p.m. or, if submitting the form electronically, midnight, 11 calendar days before the date of an election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote:

(A) enter the individual's name on the list of registered voters for the voting precinct in which the individual resides; and

(B) notify the individual that the individual is registered to vote in the upcoming election; and

(iii) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.

(c) If the county clerk receives a correctly completed voter registration form under this section after the deadline described in Subsection (6)(b), the county clerk shall, unless the individual named in the form is preregistering to vote:

(i) accept the application for registration of the individual;

(ii) process the voter registration form; and

(iii) unless the individual is preregistering to vote, and except as provided in Subsection 20A-2-207(6), inform the individual that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.

(7) (a) If the county clerk determines that an individual's voter registration form received from the Driver License Division is incorrect

because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote, the county clerk shall mail notice to the individual stating that the individual has not been registered or preregistered because of an error, because the registration form is incomplete, or because the individual does not meet the qualifications to be registered to vote.

(b) If a county clerk believes, based upon a review of a voter registration form, that an individual, who knows that the individual is not legally entitled to register or preregister to vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer the form to the county attorney for investigation and possible prosecution.

Section 5. Section 20A-2-206 is amended to read:

20A-2-206. Electronic registration -- Requesting to receive a ballot by mail.

(1) The lieutenant governor shall create and maintain an electronic system that is publicly available on the Internet for an individual to[]:

(a) apply for voter registration or preregistration[.]; or

(b) beginning no later than July 1, 2025, request to receive a ballot by mail.

(2) [An]The electronic system [for voter registration or preregistration]described in Subsection (1) shall require, to register to vote, the applicant to:

[(a) that an applicant have a valid driver license or identification card, issued under Title 53, Chapter 3, Uniform Driver License Act, that reflects the applicant's current principal place of residence;]

(a) enter the applicant's name, address, date of birth, driver license number or state identification card number, and any other information determined to be necessary by the lieutenant governor;

(b) [that the applicant]provide the information required by Section 20A-2-104, except that the applicant's signature may be obtained in the manner described in Subsections (2)(d) and (5);

(c) [that the applicant]attest to the truth of the information provided; and

(d) [that the applicant]authorize the lieutenant governor's and county clerk's use of the applicant's:

(i) driver license or identification card signature, obtained under Title 53, Chapter 3, Uniform Driver License Act, for voter registration or preregistration purposes; or

(ii) signature on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-502, for voter registration or preregistration purposes.

(3) Notwithstanding Section 20A-2-104, an applicant using the electronic system [for voter registration or preregistration created under this section]described in Subsection (1)is not required to complete a printed registration form.

(4) A system created and maintained under this section shall provide to an individual who is registering to vote the notices concerning a voter's presentation of identification [contained in Subsection 20A-2-104(1)]described in Subsection 20A-2-104(2).

(5) The lieutenant governor shall, in relation to an individual who is registering to vote:

(a) obtain a digital copy of the applicant's driver license signature or identification card signature from the Driver License Division; or

(b) ensure that the applicant's signature is [already]on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-502.

(6) The lieutenant governor shall send the information described in Subsections (2) and (5)to the county clerk for the county in which the applicant's principal place of residence is found for further action as required by Section 20A-2-304 after:

(a) receiving all information from an applicant; and

(b) (i) receiving all information from the Driver License Division, if applicable; [or]and

(ii) ensuring that the applicant's signature is [already]on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-502.

(7) The lieutenant governor may use additional security measures to ensure the accuracy and integrity of [an electronically submitted voter registration]information submitted electronically under this section.

(8) If an individual applies to register under this section no later than 11 calendar days before the date of an election, the county clerk shall:

(a) accept and process the voter registration form;

(b) unless the individual named in the form is preregistering to vote:

(i) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

(ii) notify the individual that the individual is registered to vote in the upcoming election; and

(c) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.

(9) If an individual applies to register under this section after the deadline described in Subsection (8), the county clerk shall, unless the individual is preregistering to vote:

(a) accept the application for registration; and

(b) except as provided in Subsection 20A-2-207(6), if possible, promptly inform the individual that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, [or]on election day, in accordance with Section 20A-2-207.

(10) The lieutenant governor shall provide a means by which a registered voter shall sign the application form.

(11) For an individual who is registering to vote or is already registered to vote, the electronic system described in Subsection (1) shall include the following:

"Indicate below how you want to vote in upcoming elections:

_____ Mail a ballot to me.

_____ Do not mail a ballot to me. I will vote in person."

Section 6. Section 20A-2-502 is amended to read:

20A-2-502. Statewide voter registration system -- Maintenance and update of system -- Record security -- List of incarcerated felons -- Public document showing compliance by county clerks.

(1) The lieutenant governor shall:

(a) develop, manage, and maintain a statewide voter registration system to be used by county clerks to maintain an updated statewide voter registration database in accordance with this section and rules made under Section 20A-2-507;

(b) except as provided in Subsection (2)(c), regularly update the system with information relevant to voter registration, as follows:

(i) on at least a weekly basis, information received from the Driver License Division in relation to:

(A) voter registration;

(B) a registered voter's change of address; or

(C) a registered voter's change of name;

(ii) on at least a weekly basis, the information described in Subsection 26B-8-114(11) from the state registrar, regarding deceased individuals;

(iii) on at least a monthly basis, the information described in Subsection (3), received from the Department of Corrections regarding incarcerated individuals;

(iv) on at least a monthly basis, information received from other states, including information received under an agreement described in Subsection (2); and

(v) within 31 days after receiving information relevant to voter registration, other than the information described in Subsections (1)(b)(i) through [~~(v)~~](iv);

(c) regularly monitor the system to ensure that each county clerk complies with the requirements of this part and rules made under Section 20A-2-507;

(d) establish matching criteria and security measures for identifying a change described in Subsection (1)(b) to ensure the accuracy of a voter registration record; [~~and~~]

(e) on at least a monthly basis:

(i) use the matching criteria and security measures described in Subsection (1)(d) to compare information in the database to identify duplicate data, contradictory data, and changes in data;

(ii) notify the applicable county clerk of the data identified; and

(iii) notify the county clerk of the county in which a voter's principal place of residence is located of a change in a registered voter's principal place of residence or name[~~-~~];

(f) before April 1, 2026, develop a procedure to evaluate voter registration based on addresses to identify potential anomalies, including eight or more voters at a single-family home address;

(g) develop procedures to investigate the validity of a voter registration when a ballot mailed by the county clerk is returned by the post office as undeliverable;

(h) before June 1, 2026, register with the Systematic Alien Verification for Entitlements program, operated by the United States Department of Homeland Security; and

(i) as part of maintaining the voter registration database, analyze the database at least 90 calendar days before the day of each regular primary election and each regular general election to ensure the accuracy of the voter registration record, and to inform county clerks of action needed, by identifying errors in the database, including errors based on:

(i) change of incarceration status;

(ii) the death of a voter;

(iii) duplicate voters;

(iv) identical identification numbers used by multiple voters; or

(v) other reasons identified by the lieutenant governor that would render a voter ineligible to vote.

(2) (a) Subject to Subsection (2)(b), the lieutenant governor may cooperate or enter into an agreement with a governmental entity or another state to share information and increase the accuracy of the database.

(b) For a record shared under Subsection (2)(a), the lieutenant governor shall ensure:

(i) that the record is only used to maintain the accuracy of the database;

(ii) compliance with Section 63G-2-206; and

(iii) that the record is secure from unauthorized use by employing data encryption or another similar technology security system.

(c) The lieutenant governor is not required to comply with an updating requirement described in Subsection (1)(b) to the extent that the person responsible to provide the information to the lieutenant governor fails to provide the information.

(3) (a) The lieutenant governor shall maintain a current list of all incarcerated felons in Utah.

(b) The Department of Corrections shall provide the lieutenant governor's office with:

(i) the name and last-known address of each individual who:

(A) was convicted of a felony in a Utah state court; and

(B) is currently incarcerated for commission of a felony; and

(ii) the name of each convicted felon who has been released from incarceration.

(4) The lieutenant governor shall seek to enter into an agreement with the federal courts to provide that, in exchange for receiving information from the state's voter registration list or from a list maintained by the Driver License Division to use in relation to federal juries, the federal courts will notify the lieutenant governor or a county clerk when an individual disclosed from one of the lists is disqualified from jury service due to a conviction or non-citizenship.

[~~(4)~~](5) The lieutenant governor shall maintain on the lieutenant governor's website a document that:

(a) describes the utilities and tools within the system that a county clerk is required to run;

(b) describes the actions, if any, that a county clerk is required to take in relation to the results of running a utility or tool;

(c) lists, by date, the recurring deadlines by which a county clerk must comply with Subsection [~~(4)(a) or (b)~~](5)(a) or (b); and

(d) indicates, by county:

(i) whether the county clerk timely complies with each deadline described in Subsection [~~(4)(c)~~](5)(c); and

(ii) if the county clerk fails to timely comply with a deadline described in Subsection [~~(4)(c)~~](5)(c), whether the county clerk subsequently complies with the deadline and the date on which the county clerk complies.

Section 7. Section 20A-2-503 is amended to read:

20A-2-503. County clerk's responsibilities -- Updating voter registration.

(1) (a) Each county clerk shall use the system to record or modify all voter registration records.

(b) A county clerk shall:

(i) at the time the county clerk enters a voter registration record into the system, run the system's voter identification verification tool in relation to the record; and

(ii) in accordance with rules made under Section 20A-2-507, regularly report to the lieutenant governor the information described in Subsection 20A-2-502(4).

(2) A county clerk who receives notification from the lieutenant governor, as provided in Subsection 20A-2-502(1)(e), of a change in a registered voter's principal place of residence or name may verify the change with the registered voter.

(3) Unless the county clerk verifies that a change described in Subsection (2) is incorrect, the county clerk shall:

(a) change the voter registration record to show the registered voter's current name and address; and

(b) notify the registered voter of the change to the voter registration record.

(4) A county clerk shall, in accordance with rules made under Section 20A-2-507:

(a) on at least a monthly basis, run the duplicate voter utility and take the action required to resolve potential duplicate data identified by the utility; and

(b) every December, run the annual maintenance utility.

(5) (a) If a voter does not vote in any election during the period beginning on the date of any regular general election and ending on the day after the date of the next regular general election, and the county clerk has not sent the voter a notice described in Section 20A-2-505during the period, the county clerk shall, within 14 days after the day on which the county clerk runs the annual maintenance utility, send to the voter a preaddressed return form in substantially the following form:

"VOTER REGISTRATION ADDRESS"

To ensure the address on your voter registration is correct, please complete and return this form if your address has changed. What is your current street address?

_____

Street City County State ZIP

_____

Signature of Voter

(b) The county clerk shall mail the form described in Subsection (5)(a) with a postal service that will notify the county clerk if the voter has changed the voter's address.

(6) A county clerk shall comply with the procedures described in Subsections 20A-2-502(1)(f) and (g).

Section 8. Section 20A-2-505 is amended to read:

20A-2-505. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) does not vote in an election during the period beginning on the date of the notice described in Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) does not respond to the notice described in Subsection (3).

(2) (a) Within 31 days after the day on which a county clerk obtains information that a voter's address has changed, if it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice described in Subsection (3).

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice described in Subsection (3), printed on a postage prepaid, preaddressed return form.

(3) (a) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

_____

Street City County State Zip

What is your current phone number (optional)?_____

What is your current email address (optional)?_____

If you have not changed your residence, or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk before 5 p.m. no later than 30 days before the date of the election. If you fail to return this form within that time:

- you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

- if you fail to vote at least once, from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

_____

Signature of Voter

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that identifying information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order."

(b) The form described in Subsection (3)(a) shall also include[]:

(i) a section in substantially the following form:

"----------

BALLOT NOTIFICATIONS

[~~If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box,~~][~~by indicating here:~~

~~_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.~~]

Do you consent to receive communications about the status of your ballot and other official communications, by text, at the phone number you provided above? Yes No

---------- "; and

(ii) no later than November 5, 2025, the following, immediately after the question described in Subsection (3)(b)(i):

"Indicate below how you want to vote in upcoming elections:

_____ Mail a ballot to me.

_____ Do not mail a ballot to me. I will vote in person."

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election or the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election or the 90 days before a regular general election if:

(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter dies.

(c) (i) After a county clerk mails a notice under this section, the county clerk shall, unless otherwise prohibited by law, list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk shall, unless otherwise prohibited by law, list that voter as inactive.

(iii) An inactive voter may vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to:

(A) send routine mailings to an inactive voter; or

(B) count inactive voters when dividing precincts and preparing supplies.

(5) The lieutenant governor shall make available to a county clerk United States Social Security Administration data received by the lieutenant governor regarding deceased individuals.

(6) A county clerk shall, within [~~ten~~]10 business days after the day on which the county clerk receives the information described in Subsection (5) or Subsections 26B-8-114(11)and (12) relating to a decedent whose name appears on the official register, remove the decedent's name from the official register.

(7) Ninety days before each primary and general election the lieutenant governor shall compare the information the lieutenant governor has received under Subsection 26B-8-114(11) with the official register of voters to ensure that all deceased voters have been removed from the official register.

Section 9. Section 20A-3a-106 is amended to read:

20A-3a-106. Rulemaking authority relating to conducting an election.

The director of elections, within the Office of the Lieutenant Governor, may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for:

(1) a return envelope[~~described in Subsection 20A-3a-202(4)~~], to ensure uniformity and security of the envelopes;

(2) complying with the signature comparison audit requirements described in Section 20A-3a-402.5; or

(3) conducting and documenting the identity verification process described in Subsection 20A-3a-401(7)(b).

Section 10. Section 20A-3a-201 is amended to read:

20A-3a-201. Voting methods.

(1) [~~Except for an election conducted entirely by mail under Section 20A-7-609.5, a~~]A voter may vote as follows:

(a) by mail;

(b) at a polling place during early voting hours;

(c) at a polling place on election day when the polls are open;

(d) if the voter is an individual with a disability, by voting remotely, via a mechanical ballot or via electronic means if approved by the election officer;

(e) electronically or via a federal write-in absentee ballot if the voter is a covered voter, as defined in Section 20A-16-102; or

(f) by emergency ballot, in accordance with Part 3, Emergency Ballots.

(2) A voter may not vote at a polling place if the voter voted by mail or in a manner described in Subsections (1)(d) through (f).

Section 11. Section 20A-3a-202 is amended to read:

20A-3a-202. Conducting election in person and by mail -- Mailing ballots to voters -- Exceptions.

(1) (a) Except as otherwise provided for an election conducted entirely by mail under Section 20A-7-609.5, an election officer shall administer an election primarily by mail, in accordance with this section.

(b) An individual who did not provide valid voter identification at the time the voter registered to vote shall provide valid voter identification before voting.

(2) An election officer who administers an election:

(a) shall in accordance with Subsection (3), no sooner than 21 days before election day and no later than seven days before election day, mail to [~~each active voter within a voting precinct~~]the applicable voters, in accordance with Subsection 20A-3a-202.5(3), and subject to Subsection 20A-3a-202.5(4):

(i) a manual ballot;

(ii) a return envelope;

(iii) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted;

(iv) [~~for an election administered by a county clerk,~~]information regarding the location and hours of operation of any election day voting center at which the voter may vote or a website address where the voter may view this information; and

[~~(v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling place or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the ballot, the voter will be unable to vote in that election because there will be no polling place for the voting precinct on the day of the election; and~~]

[~~(vi)~~](v) instructions on how a voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5;

(b) may not mail a ballot under this section to:

(i) an inactive voter, unless the inactive voter requests a manual ballot; or

(ii) a voter whom the election officer is prohibited from sending a ballot under [~~Subsection (9)(c)(ii)~~]Subsection 20A-3a-202.5(4);

(c) shall, on the outside of the envelope in which the election officer mails the ballot, include instructions for returning the ballot if the individual to whom the election officer mails the ballot does not live at the address to which the ballot is sent;

(d) shall provide a method of accessible voting to a voter with a disability who is not able to vote by mail; and

(e) shall include, on the election officer's website and with each ballot mailed, instructions regarding how a voter described in Subsection (2)(d) may vote.

(3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail the manual ballot to the address:

(i) provided at the time of registration or updated by the voter after the time of registration; or

(ii) if, at or after the time of registration, the voter files an alternate address request form described in Subsection (3)(b), the alternate address indicated on the form.

(b) The lieutenant governor shall make available to voters an alternate address request form that permits a voter to request that the election officer mail the voter's ballot to a location other than the voter's residence.

(c) A voter shall provide the completed alternate address request form to the election officer no later than 11 days before the day of the election.

(d) Beginning on November 5, 2025, through December 31, 2028, an election officer shall include, with each ballot mailed to a voter, a separate paper document containing the following statements:

"WARNING

If you have a valid Utah driver license or a valid Utah state identification card, failure to provide the last four digits of the license or card number may result in your ballot not being counted. You also have the option of providing the last four digits of your social security number as identification. If you do not have any of these identification types, your ballot will still be counted if your signature on the affidavit on this envelope matches your signature on file with the election officer.

NOTICE

Beginning in 2029, you will not receive a ballot by mail unless you request to receive a ballot by mail. You may request to receive a ballot by mail at [insert a uniform resource locator where the voter can make the request online]. If you are unable to make a request online, contact your county clerk's office at the following number for instructions on how to make the request in person or by mail [insert phone number here].".

(e) Beginning on January 1, 2029, an election officer shall include, with each ballot mailed to a voter, a separate paper document containing the following statement:

"WARNING

If you have a valid Utah driver license or a valid Utah state identification card, failure to provide the last four digits of your license or card number will result in your ballot not being counted.

If you do not have a license or card described above, you may enter the last four digits of your social security number as identification, or include a photocopy of one of the following in the return envelope:

a currently valid identification card that is issued by the state or a branch, department, or agency of the United States;

a currently valid Utah permit to carry a concealed weapon;

a currently valid United States passport;

a currently valid United States military identification card; or

a currently valid tribal identification card, Bureau of Indian Affairs card, or tribal treaty card.

If you do not have any of the forms of identification listed above, you must vote in person at a polling place, unless you qualify for an exemption from this requirement. You may obtain information regarding an exemption at [insert a uniform resource locator where the voter can view this information] or by calling [insert a phone number that a voter may call to access this information]."

(4) The return envelope shall include:

(a) the name, official title, and post office address of the election officer on the front of the envelope;

(b) subject to Subsection (9), beginning on or before January 1, 2026, a place for the voter to enter the last four digits of the voter's Utah driver license number, Utah state identification card number, or social security number;

(c) the following statement:

"IMPORTANT: See the warning and notice enclosed with your ballot.";

[~~(b)~~](d) a space where a voter may write an email address and phone number by which the election officer may contact the voter if the voter's ballot is rejected; and

[~~(c)~~](e) a printed affidavit in substantially the following form:

"County of ____State of ____

I, ____, solemnly swear that: I am a qualified resident voter of the ____ voting precinct in ____ County, Utah and that I am entitled to vote in this election. I am not a convicted felon currently incarcerated for commission of a felony.

_____

Signature of Voter [~~", and~~]

WARNING

The above affidavit must be signed by the voter to whom the ballot is addressed. It is a FELONY for any other individual to sign the above affidavit, even if the voter to whom the ballot is addressed gives permission for another to sign the affidavit for the voter."

[~~(d) a warning that the affidavit must be signed by the individual to whom the ballot was sent and that the ballot will not be counted if the signature on the affidavit does not match the signature on file with the election officer of the individual to whom the ballot was sent.~~]

(5) If the election officer determines that the voter [~~is required to show~~]has not yet provided valid voter identification with the voter's voter registration, the election officer may:

(a) mail a ballot to the voter;

(b) instruct the voter to [~~include~~]enclose a copy of the voter's valid voter identification [~~with the return ballot~~]in the return envelope; and

(c) provide instructions to the voter on how the voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

(6) An election officer who administers an election shall:

(a) (i) before the election, obtain the signatures of each voter qualified to vote in the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(7) Upon receipt of a returned ballot, the election officer shall review and process the ballot under Section 20A-3a-401.

(8) A county that administers an election:

(a) shall provide at least one election day voting center in accordance with Part 7, Election Day Voting Center, and at least one additional election day voting center for every 5,000 active voters in the county who[~~have requested to not receive a ballot by mail~~], under Section 20A-3a-202.5, will not receive a ballot by mail;

(b) shall ensure that each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section 20A-3a-601, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604; and

(d) is not required to pay return postage for a [~~ballot~~]return envelope.

(9) A return envelope shall be designed in a manner that the information described in Subsections (4)(b) and (d), and the voter's signature, is covered from view after the return envelope is sealed.

[~~(9) (a) An individual may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.~~]

[~~(b) An individual shall submit the request described in Subsection (9)(a) to the election officer before 5 p.m. no later than 60 days before an election if the individual does not wish to receive a ballot by mail in that election.~~]

[~~(c) An election officer who receives a request from an individual under Subsection (9)(a):~~]

[~~(i) shall remove the individual's name from the list of voters who will receive a ballot by mail; and~~]

[~~(ii) may not send the individual a ballot by mail for:~~]

[~~(A) the next election, if the individual submits the request described in Subsection (9)(a) before the deadline described in Subsection (9)(b); or~~]

[~~(B) an election after the election described in Subsection (9)(c)(ii)(A).~~]

[~~(d) An individual who submits a request under Subsection (9)(a) may resume the individual's receipt of a ballot by mail by submitting a written request to the election officer.~~]

Section 12. Section 20A-3a-202.5 is enacted to read:

20A-3a-202.5. Receiving a ballot by mail -- Making a request -- Termination or expiration of a request -- Renewing a request.

(1) As used in this section, "request to receive a ballot by mail" means to make a request as described in Subsection (2).

(2) An individual may request to receive a ballot by mail by:

(a) making the request on a voter registration form;

(b) making the request when the individual applies for or renews the individual's driver license or state identification card;

(c) making the request via the electronic system described in Section 20A-2-206; or

(d) making the request when the voter votes in person.

(3) An election officer shall, when mailing ballots to voters under Section 20A-3a-202, mail a ballot to each registered voter who:

(a) for an election held before January 1, 2029, is an active voter, unless the voter requests to stop receiving a ballot by mail; or

(b) except as provided in Subsection (4), for an election held on or after January 1, 2029:

(i) is an active voter; and

(ii) has, in accordance with Subsection (2), made a request to receive a ballot by mail.

(4) For an election held on or after January 1, 2029, an election officer may not mail a ballot to an individual who:

(a) following the individual's most recent request to receive a ballot by mail:

(i) requests to stop receiving ballots by mail; or

(ii) does not vote in an election during a period that includes two consecutive regular general elections; or

(b) has not, within eight years before the day on which the election officer mails the bulk of the ballots for an election, made a request to receive a ballot by mail.

(5) This section may not be applied in a manner that conflicts with Chapter 16, Uniform Military and Overseas Voters Act.

Section 13. Section 20A-3a-203 is amended to read:

20A-3a-203. Voting at a polling place.

(1) [~~Except as provided in Section 20A-7-609.5, a~~]A registered voter may vote at a polling place in an election in accordance with this

section.

(2) (a) The voter shall give the voter's name, and, if requested, the voter's residence, to one of the poll workers.

(b) The voter shall present valid voter identification to one of the poll workers[.], as follows:

(i) the voter shall present a currently valid Utah driver license or Utah state identification card;

(ii) if the voter does not have the type of identification described in Subsection (2)(b)(i), the voter shall present:

(A) a currently valid identification card issued by the state, or a branch, department, or agency of the United States;

(B) a currently valid Utah permit to carry a concealed weapon;

(C) a currently valid United States passport;

(D) a currently valid United States military identification card; or

(E) a valid tribal identification card, Bureau of Indian Affairs card, or tribal treaty card; or

(iii) if the voter does not have the type of identification described in Subsection (2)(b)(i) or (ii), the voter shall present other valid voter identification.

(c) If the poll worker is not satisfied that the voter has presented valid voter identification in accordance with Subsection (2)(b), the poll worker shall:

(i) indicate on the official register that the voter was not properly identified;

(ii) issue the voter a provisional ballot;

(iii) notify the voter that the voter will have until the close of normal office hours on Monday after the day of the election to present valid voter identification:

(A) to the county clerk at the county clerk's office; or

(B) to an election officer who is administering the election; and

(iv) follow the procedures and requirements of Section 20A-3a-205.

(d) If the person's right to vote is challenged as provided in Section 20A-3a-803, the poll worker shall follow the procedures and requirements of Section 20A-3a-205.

(3) A poll worker shall check the official register to determine[~~whether~~]:

(a) whether a voter is registered to vote; and

(b) if the election is a regular primary election or a presidential primary election, whether a voter's party affiliation designation in the official register allows the voter to vote the ballot that the voter requests.

(4) (a) Except as provided in Subsection (5), if the voter's name is not found on the official register, the poll worker shall follow the procedures and requirements of Section 20A-3a-205.

(b) If, in a regular primary election or a presidential primary election, the official register does not affirmatively identify the voter as being affiliated with a registered political party or if the official register identifies the voter as being "unaffiliated," the voter shall be considered to be "unaffiliated."

(5) In a regular primary election or a presidential primary election:

(a) if a voter's name is not found on the official register, and if it is not unduly disruptive to the election process, the poll worker may attempt to contact the county clerk's office to request oral verification of the voter's registration; and

(b) if oral verification is received from the county clerk's office, the poll worker shall:

(i) record the verification on the official register;

(ii) determine the voter's party affiliation and the ballot that the voter is qualified to vote; and

(iii) except as provided in Subsection (6), comply with Subsection (3).

(6) (a) Except as provided in Subsection (6)(b), if, in a regular primary election or a presidential primary election, the voter's political party affiliation listed in the official register does not allow the voter to vote the ballot that the voter requested, the poll worker shall inform the voter of that fact and inform the voter of the ballot or ballots that the voter's party affiliation does allow the voter to vote.

(b) If, in a regular primary election or a presidential primary election, the voter is listed in the official register as unaffiliated, or if the official register does not affirmatively identify the voter as either unaffiliated or affiliated with a registered political party, and the voter, as an unaffiliated voter, is not authorized to vote the ballot that the voter requests, the poll worker shall:

(i) ask the voter if the voter wishes to vote another registered political party ballot that the voter, as unaffiliated, is authorized to vote, or remain unaffiliated; and

(ii) (A) if the voter wishes to vote another registered political party ballot that the unaffiliated voter is authorized to vote, the poll worker shall proceed as required by Subsection (3); or

(B) if the voter wishes to remain unaffiliated and does not wish to vote another ballot that unaffiliated voters are authorized to vote, the poll worker shall instruct the voter that the voter may not vote.

(7) Except as provided in Subsection (6)(b)(ii)(B), and subject to the other provisions of Subsection (6), if the poll worker determines that the voter is registered, a poll worker shall:

(a) direct the voter to sign the voter's name in the official register;

(b) provide to the voter the ballot that the voter is qualified to vote; and

(c) allow the voter to enter the voting booth.

(8) (a) The official register shall include the statement described in Subsection (8)(b):

(i) at the top of each page of the register where a voter signs the register; or

(ii) adjacent to the place where each voter signs the register.

(b) The statement described in Subsection (8)(a) shall appear as follows:

AFFIDAVIT

By signing this register I am signing an affidavit where, UNDER PENALTY OF PERJURY, I affirm that the identification I presented to the poll worker is valid voter identification that accurately identifies me as the person indicated.

(9) A voter who votes at a polling place may submit a request to a poll worker that a ballot be mailed to the voter in upcoming elections.

Section 14. Section 20A-3a-204 is amended to read:

20A-3a-204. Marking a manual ballot -- Returning a ballot by mail, at an election officer's office, or via a ballot drop box -- Depositing a ballot received by mail at a polling place.

(1) To vote [~~by mail~~]a manual ballot:

(a) except as provided in Subsection [~~(6)~~](7), the voter shall prepare the voter's manual ballot by marking the appropriate space with a mark opposite the name of each candidate of the voter's choice for each office to be filled;

(b) if a ballot proposition is submitted to a vote of the people, the voter shall mark the appropriate space with a mark opposite the answer the voter intends to make;

(c) except as provided in Subsection [~~(6)~~](7), the voter shall record a write-in vote in accordance with Subsection 20A-3a-206(1); and

(d) except as provided in Subsection [~~(6)~~](7), a mark is not required opposite the name of a write-in candidate[~~; and~~].

(2) Before returning a ballot mailed to the voter,

[~~(c)~~] the voter shall:

[~~(i)~~](a) complete and sign the affidavit on the return envelope;

(b) enter the last four digits of the voter's Utah driver license or Utah state identification card;

(c) beginning on January 1, 2029, if the voter does not have a Utah driver license or Utah state identification card:

(i) write the last four digits of the voter's social security card on the return envelope; or

(ii) include in the return envelope a photocopy of one of the following forms of identification for the voter:

(A) a currently valid identification card issued by the state, or a branch, department, or agency of the United States;

(B) a currently valid Utah permit to carry a concealed weapon;

(C) a currently valid United States passport;

(D) a currently valid United States military identification card; or

(E) a valid tribal identification card, Bureau of Indian Affairs card, or tribal treaty card;

[~~(ii)~~](d) place the voted ballot in the return envelope;

[~~(iii) if required, place a copy of the voter's valid voter identification in the return envelope;~~]

(e) if required by the election officer because the voter has not yet provided valid voter identification with the voter's voter registration record, include a copy of the voter's valid voter identification with the ballot inside the return envelope;

[~~(iv)~~](f) securely seal the return envelope; and

[~~(v)~~](g) [~~(A)~~] if returning the ballot by mail, attach postage, if necessary, and deposit the return envelope in the mail[~~; or~~].

[~~(B) place the return envelope in a ballot drop box, designated by the election officer, for the precinct where the voter resides.~~]

[~~(2)~~](3) (a) Except as otherwise provided in Section 20A-16-404, to be valid, a ballot that is mailed must be [~~:~~]received by the election officer on or before 8 p.m. on election day.

[~~(i) clearly postmarked before election day, or otherwise clearly marked by the post office as received by the post office before election day; and~~]

[~~(ii) received in the office of the election officer before noon on the day of the official canvass following the election.~~]

(b) Except as provided in Subsection [~~(2)(c)~~](3)(c), to be valid, a ballot returned by a method other than by mail shall, before [~~the polls close~~]8 p.m. on election day, be[~~deposited in~~]:

(i) deposited in a ballot box at a polling place; [~~or~~]

(ii) deposited in a ballot drop box designated by an election officer for the jurisdiction to which the ballot relates[~~.~~]; or

(iii) otherwise received by the election officer.

(c) An election officer may, but is not required to, forward a ballot deposited in a ballot drop box in the wrong jurisdiction to the correct jurisdiction.

(d) An election officer shall ensure that a voter who is, at or before 8 p.m. [~~,~~]on election day:

(i) in line at a ballot drop box, with a sealed return envelope containing a ballot in the voter's possession, is allowed to deposit the ballot in the ballot drop box[~~.~~]; or

(ii) in line at a polling place, is allowed to vote.

[~~(3)~~](4) (a) Except as provided in Subsection [~~(4)~~](6), to vote at a polling place the voter shall, after complying with Subsections (1)(a) through (d):

[~~(a)~~](i) sign the official register or pollbook; and

[~~(b)~~](ii) [~~(i)~~] place the ballot in the ballot box; or

[~~(ii)~~](b) [~~if~~]If the ballot that a voter votes at a polling place is a provisional ballot, the voter shall place the ballot in the provisional ballot envelope, complete the information printed on the provisional ballot envelope, and deposit the provisional ballot envelope in the provisional ballot box.

[~~(4)~~](5) (a) An individual with a disability may vote a mechanical ballot at a polling place.

(b) An individual other than an individual with a disability may vote a mechanical ballot at a polling place if permitted by the election officer.

[~~(5)~~](6) To vote a mechanical ballot, the voter shall:

(a) make the selections according to the instructions provided for the voting device; and

(b) subject to Subsection [~~(6)~~](7), record a write-in vote by:

(i) selecting the appropriate position for entering a write-in candidate; and

(ii) using the voting device to enter the name of the valid write-in candidate for whom the voter wishes to vote.

[~~(6)~~](7) To vote in an instant runoff voting race under [~~Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot~~

~~Project~~]Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, a voter:

(a) shall indicate, as directed on the ballot, the name of the candidate who is the voter's first preference for the office; and

(b) may indicate, as directed on the ballot, the names of the remaining candidates in order of the voter's preference.

[~~(7)~~](8) A voter who votes at a polling place:

(a) shall mark and cast or deposit the ballot without delay and shall leave the voting area after voting; and

(b) may not:

(i) occupy a voting booth occupied by another, except as provided in Section 20A-3a-208;

(ii) remain within the voting area more than 10 minutes; or

(iii) occupy a voting booth for more than five minutes if all booths are in use and other voters are waiting to occupy a voting booth.

[~~(8)~~](9) If the official register shows any voter as having voted, that voter may not reenter the voting area during that election unless that voter is an election official or watcher.

[~~(9)~~](10) A poll worker may not, at a polling place, allow more than four voters more than the number of voting booths into the voting area at one time unless those excess voters are:

(a) election officials;

(b) watchers; or

(c) assisting voters with a disability.

Section 15. Section 20A-3a-208 is amended to read:

20A-3a-208. Assisting disabled, illiterate, or blind voters.

(1) Any voter who has a disability, or is blind, unable to read or write, unable to read or write the English language, or is physically unable to enter a polling place, may be given assistance by an individual of the voter's choice.

(2) The individual giving assistance under this section shall inform a poll worker of the individual's name and the reason the individual is providing assistance.

[~~(2)~~](3) The individual providing assistance may not be:

(a) the voter's employer;

(b) an agent of the employer;

(c) an officer or agent of the voter's union; or

(d) a candidate.

[~~(3)~~](4) The person providing assistance may not request, persuade, or otherwise induce the voter to vote for or vote against any particular candidate or issue or release any information regarding the voter's selection.

Section 16. Section 20A-3a-301 is amended to read:

20A-3a-301. Emergency ballots -- Hospitalized voter returning ballot my mail without standard identification.

(1) As used in this section, "hospitalized voter" means a registered voter who:

(a) is[]:

(i) hospitalized[~~or otherwise confined to a medical or~~];

(ii) confined in hospice care, a treatment facility, or a long-term care institution facility; or

(iii) due to age or illness, is restricted in the ability to travel from the voter's permanent or temporary residence; and

[~~(b) does not have a manual ballot in the voter's immediate possession;~~]

[~~(c)~~](b) is able to vote a manual ballot[~~; and~~].

[~~(d) is not able to acquire a manual ballot without the assistance of another individual.~~]

(2) A hospitalized voter who has not received a ballot by mail, or does not have possession of a ballot sent to the voter by may, in accordance with this section, obtain a manual ballot to use as an emergency ballot and vote at any time after the election officer mails manual ballots to the majority of voters and before the close of polls on election day.

(3) [~~(a) Any~~]An individual may obtain an emergency ballot application, a manual ballot, and a [~~manual ballot~~]return envelope from the election officer on behalf of a hospitalized voter by[]:

(a) requesting a ballot and application in person at the election officer's office during business hours[~~,~~];

(b) presenting valid voter identification for the individual requesting the ballot on the hospitalized voter's behalf; and

(c) signing a statement, created by the lieutenant governor, where the individual, under penalty of perjury:

(i) identifies the individual;

(ii) identifies the hospitalized voter and explains the reason the hospitalized voter qualifies as an exempt voter; and

(iii) states that the individual:

(A) is obtaining the ballot at the request of the hospitalized voter;

(B) will not request, persuade, or otherwise induce the voter to vote for or vote against any particular candidate or issue;

(C) will not release any information regarding the voter's votes; and

(D) will not alter the voter's votes.

[~~(b) The election officer shall require the individual to sign a statement identifying the individual and the hospitalized voter.~~]

(4) To vote, [~~the~~]a hospitalized voter described in Subsection (2)shall[]:

(a) complete the emergency ballot application [~~,~~]and enclose the application in the return envelope;

(b) complete, and sign the affidavit on, the [~~manual ballot~~]return envelope[~~,~~];

(c) mark the voter's votes on the manual ballot[~~,~~];

(d) if the voter did not provide the last four digits of the voter's Utah driver license, Utah state identification card, or social security number:

(i) include in the return envelope a photocopy of a type of identification described in Subsection 20A-3a-204(2)(c)(ii); or

(ii) if the voter does not have a type of identification described in Subsection 20A-3a-204(2)(c)(ii), include in the return envelope another type of valid voter identification;

(e) place the manual ballot into the envelope[~~,~~]; and

(f) seal the envelope unless a different method is authorized under Section 20A-1-308.

(5) [~~To~~]For a ballot described in Subsection (4) to be counted, the emergency voter application and the sealed manual ballot envelope must be returned to the election officer's office in accordance with the requirements of this chapter.

(6) An election officer shall design an emergency ballot application and ensure that the application includes the check box and statement described in Subsection 20A-3a-401(7)(d)(v).

(7) Beginning on January 1, 2029, a hospitalized voter who receives a ballot by mail may, if the voter is unable to provide the digits described in Subsection 20A-3a-401(4)(b)(i), return the ballot by mail by including in the return envelope:

(a) a photocopy of a type of identification described in Subsection 20A-3a-204(2)(c)(ii); or

(b) if the voter does not have a type of identification described in Subsection 20A-3a-204(2)(c)(ii):

(i) a photocopy of another type of valid voter identification; and

(ii) a document showing that the voter is a hospitalized voter.

Section 17. Section 20A-3a-401 is amended to read:

20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box -- Disposition -- Notice -- Disclosures relating to unresolved ballots.

(1) This section governs ballots returned by mail[~~or~~], via a ballot drop box, or by other legal means.

(2) [~~(a)~~] Poll workers shall [~~open~~]process return envelopes containing manual ballots that are in the custody of the poll workers in accordance with this section.

[~~(b) The poll workers shall, first, compare the signature of the voter on the affidavit of the return envelope to the signature of the voter in the voter registration records.~~]

[~~(3) After complying with Subsection (2), the poll workers shall determine whether:~~]

[~~(a) the signatures correspond;~~]

[~~(b) the affidavit is sufficient;~~]

[~~(c) the voter is registered to vote in the correct precinct;~~]

[~~(d) the voter's right to vote the ballot has been challenged;~~]

[~~(e) the voter has already voted in the election;~~]

[~~(f) the voter is required to provide valid voter identification; and~~]

[~~(g) if the voter is required to provide valid voter identification, whether the voter has provided valid voter identification.~~]

(3) Poll workers shall examine a return envelope to make the determinations described in Subsection (4).

(4) [~~(a)~~] The poll workers shall take the action described in Subsection [~~(4)(b)~~](5)(a) if the poll workers determine:

(a) for an election held before January 1, 2029:

(i) that the return envelope contains the last four digits of the voter's Utah driver license number, Utah state identification card number, or social security number; or

(ii) if the return envelope does not contain the digits described in Subsection (4)(a)(i), that:

[~~(i)~~](A) in accordance with the rules made under Subsection [~~(11):~~](13),

[~~(A) that~~] the signature on the affidavit of the return envelope is reasonably consistent with the individual's signature in the voter registration records; or

(B) for an individual who checks the box described in Subsection [~~(5)(c)(v), that~~](7)(d)(v), the signature is verified by alternative means;

(b) for an election held on or after January 1, 2029:

(i) that the return envelope contains the last four digits of the voter's Utah driver license number, Utah state identification card number, or social security number;

(ii) if the return envelope does not contain the digits described in Subsection (4)(b)(i), that the voter included in the return envelope a copy of the identification described in Subsection 20A-3a-204(2)(c)(ii); or

(iii) for a voter described in Subsection 20A-3a-301(7), that the voter complied with Subsection 20A-3a-301(7);

[~~(ii)~~](c) that the affidavit is sufficient;

[~~(iii)~~](d) that the voter is registered to vote in the correct precinct;

[~~(iv)~~](e) that the voter's right to vote the ballot has not been challenged;

[~~(v)~~](f) that the voter has not already voted in the election; and

[~~(vi)~~](g) for a voter [~~required to provide valid voter identification, that the voter has provided valid voter identification~~]who has not yet provided valid voter identification with the voter's voter registration, whether the voter has provided valid voter identification with the return envelope.

[~~(b)~~](5) (a) If the poll workers make all of the findings described in Subsection [~~(4)(a)~~](4), the poll workers shall:

(i) remove the manual ballot from the return envelope in a manner that does not destroy the affidavit on the return envelope;

(ii) ensure that the ballot [~~does not unfold and is not otherwise~~]is not examined in connection with the return envelope; and

(iii) place the ballot with the other ballots to be counted.

[~~(c)~~](b) If the poll workers do not make all of the findings described in Subsection [~~(4)(a)~~](4), the poll workers shall:

(i) disallow the vote;

(ii) except as provided in Subsection (6), without opening the return envelope, record the ballot as "rejected" and state the reason for the rejection; and

(iii) except as provided in Subsection (6), place the return envelope, unopened, with the other rejected return envelopes.

(6) A poll worker may open a return envelope, if necessary, to determine compliance with Subsection (4)(b)(ii), (4)(b)(iii), or (4)(g).

[~~(5)~~](7) (a) If the poll workers reject an individual's ballot because the poll workers determine that the return envelope does not comply with Subsection (4), the election officer shall:

(i) contact the individual in accordance with Subsection (8); and

(ii) inform the individual:

(A) that the identification information provided on the return envelope is in question;

(B) how the individual may resolve the issue; and

(C) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (7)(d).

(b) [~~(a)~~] If, under Subsection (4)(a)(ii)(A), the poll workers reject an individual's ballot because the poll workers determine, in accordance with rules made under Subsection [~~(11)~~](13), that the signature on the return envelope is not reasonably consistent with the individual's signature in the voter registration records, the election officer shall:

(i) contact the individual in accordance with Subsection [~~(6)~~](8); and

(ii) inform the individual:

(A) that the individual's signature is in question;

(B) how the individual may resolve the issue; and

(C) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection [~~(5)(c)~~](7)(d).

[~~(b)~~](c) The election officer shall ensure that the notice described in Subsection [~~(5)(a)~~](7)(a) or (b) includes:

(i) when communicating the notice by mail, a printed copy of the affidavit described in Subsection [~~(5)(c)~~](7)(d) and a courtesy reply envelope;

(ii) when communicating the notice electronically, a link to a copy of the affidavit described in Subsection [~~(5)(c)~~](7)(d) or information on how to obtain a copy of the affidavit; or

(iii) when communicating the notice by phone, either during a direct conversation with the voter or in a voicemail, arrangements for the voter to receive a copy of the affidavit described in Subsection [~~(5)(c)~~](7)(d), either in person from the clerk's office, by mail, or electronically.

[~~(c)~~](d) An affidavit described in Subsection [~~(5)(a)(ii)(C)~~](7)(a)(ii)(C) or (7)(b)(ii)(C)shall include:

(i) an attestation that the individual voted the ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit;

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the information in the affidavit and the individual's signature on the affidavit for voter identification purposes; and

(v) a check box accompanied by language in substantially the following form: "I am a voter with a qualifying disability under the Americans with Disabilities Act that impacts my ability to sign my name consistently. I can provide appropriate documentation upon request. To discuss accommodations, I can be contacted at _____".

[~~(d)~~](e) In order for an individual described in Subsection [~~(5)(a)~~](7)(a) or (b) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection [~~(5)(c)~~](7)(d) to the election officer.

[~~(e)~~](f) An election officer who receives a signed affidavit under Subsection [~~(5)(d)~~](7)(e) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-502;

(ii) if the election officer receives the affidavit no later than 5 p.m. three days before the day on which the canvass begins, count the individual's ballot; and

(iii) if the check box described in Subsection [~~(5)(c)(v)~~](7)(d)(v) is checked, comply with the rules described in Subsection [~~(11)(c)~~](13)(c).

[~~(6)~~](8) (a) The election officer shall, within two business days after the day on which an individual's ballot is rejected, notify the individual of the rejection and the reason for the rejection, by phone, mail, email, or[~~SMS~~], if consent is obtained, text message, unless:

(i) the ballot is cured within one business day after the day on which the ballot is rejected; or

(ii) the ballot is rejected because the ballot is received late or for another reason that cannot be cured.

(b) If an individual's ballot is rejected for a reason described in Subsection [~~(6)(a)(ii)~~](8)(a)(ii), the election officer shall notify the individual of the rejection and the reason for the rejection by phone, mail, email, or[~~SMS~~], if consent is obtained, text message, within the later of:

(i) 30 days after the day of the rejection; or

(ii) 30 days after the day of the election.

(c) The election officer may, when notifying an individual by phone under this Subsection [~~(6)~~](8), use auto-dial technology.

[~~(7)~~](9) An election officer may not count the ballot of an individual whom the election officer contacts under Subsection [~~(5) or (6)~~](7) or (8) unless, no later than 5 p.m. three days before the day on which the canvass begins, the election officer:

(a) receives a signed affidavit from the individual under Subsection [~~(5)~~](7); or

(b) (i) contacts the individual;

(ii) if the election officer has reason to believe that an individual, other than the voter to whom the ballot was sent, signed the ballot affidavit, informs the individual that it is unlawful to sign a ballot affidavit for another person, even if the person gives permission;

(iii) verifies the identity of the individual by:

(A) requiring the individual to provide at least two types of personal identifying information for the individual; and

(B) comparing the information provided under Subsection [~~(7)(b)(iii)(A)~~](9)(b)(iii)(A) to records relating to the individual that are in the possession or control of an election officer; and

(iv) documenting the verification described in Subsection [~~(7)(b)(iii)~~](9)(b)(iii), by recording:

(A) the name and voter identification number of the individual contacted;

(B) the name of the individual who conducts the verification;

(C) the date and manner of the communication;

(D) the type of personal identifying information provided by the individual;

(E) a description of the records against which the personal identifying information provided by the individual is compared and verified; and

(F) other information required by the lieutenant governor.

[~~(8)~~](10) The election officer shall:

(a) retain and preserve the return envelopes in the manner provided by law for the retention and preservation of ballots voted at that election;

(b) retain and preserve the documentation described in Subsection [~~(7)(b)(iv)~~](9)(b)(iv); and

(c) if the election officer complies with Subsection [~~(8)(b)~~](10)(b) by including the documentation in the voter's voter registration record, make, retain, and preserve a record of the name and voter identification number of each voter contacted under Subsection [~~(7)(b)~~](9)(b).

[~~(9)~~](11) (a) The election officer shall record the following in the database used to verify signatures:

(i) any initial rejection of a ballot under Subsection [~~(4)(c)~~](5)(b), within one business day after the day on which the election officer rejects the ballot; and

(ii) any resolution of a rejection of a ballot under Subsection [~~(7)~~](9), within one business day after the day on which the ballot rejection is resolved.

(b) An election officer shall include, in the canvass report, a final report of the disposition of all rejected and resolved ballots, including, for ballots rejected, the following:

(i) the number of ballots rejected because the voter did not sign the voter's ballot; and

(ii) the number of ballots rejected because the voter's signatures on the ballot, and in records on file, do not correspond.

[~~(10)~~](12) Willful failure to comply with this section constitutes willful neglect of duty under Section 20A-5-701.

[~~(11)~~](13) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) criteria and processes for use by poll workers in determining if a signature corresponds with the signature on file for the voter under [~~Subsections (3)(a) and (4)(a)(i)(A)~~]Subsection (4)(a)(ii)(A);

(b) training and certification requirements for election officers and employees of election officers regarding the criteria and processes described in Subsection [~~(11)(a)~~](13)(a); and

(c) in compliance with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Secs. 12131 through 12165, an alternative means of verifying the identity of an individual who checks the box described in Subsection [~~(5)(c)(v)~~](7)(d)(v).

[~~(12)~~](14) Subject to Subsection [~~(13)~~](15), if, in response to a request, and in accordance with the requirements of law, an election officer discloses the name or address of voters whose ballots have been rejected and not yet resolved, the election officer shall:

(a) make the disclosure within two business days after the day on which the request is made;

(b) respond to each request in the order the requests were made; and

(c) make each disclosure in a manner, and within a period of time, that does not reflect favoritism to one requestor over another.

[~~(13)~~](15) A disclosure described in Subsection [~~(12)~~](14) may not include the name or address of a protected individual, as defined in Subsection 20A-2-104(1).

Section 18. Section 20A-3a-401.5 is amended to read:

20A-3a-401.5. Ballot tracking system.

(1) As used in this section:

(a) "Ballot tracking system" means the system described in this section to track and confirm the status of trackable ballots.

(b) "Change in the status" includes:

(i) when a trackable ballot is mailed to a voter;

(ii) when an election official receives a voted trackable ballot; and

(iii) when a voted trackable ballot is counted.

(c) "Trackable ballot" means a manual ballot that is:

(i) mailed to a voter in accordance with Section 20A-3a-202;

[~~(ii) deposited in the mail by a voter in accordance with Section 20A-3a-204; or~~]

[~~(iii) deposited in a ballot drop box by a voter in accordance with Section 20A-3a-204.~~]

(ii) cast at a polling place in accordance with Section 20A-3a-203;

(iii) returned to a polling place in accordance with Section 20A-3a-204;

(iv) returned to a ballot drop box in accordance with Section 20A-3a-204;

(v) returned to an election officer's office in accordance with Section 20A-3a-204; or

(vi) returned by mail in accordance with Section 20A-3a-401.

(d) "Voter registration database" means the database, as defined in Section 20A-2-501.

(2) The lieutenant governor shall operate and maintain a statewide or locally based system to track and confirm when there is a change in the status of a trackable ballot.

(3) If a voter elects to receive electronic notifications regarding the status of the voter's trackable ballot, the ballot tracking system shall, when there is a change in the status of the voter's trackable ballot:

(a) send a text message notification to the voter if the voter's information in the voter registration database includes a mobile telephone number;

(b) send an email notification to the voter if the voter's information in the voter registration database includes an email address; and

(c) send a notification by another electronic means directed by the lieutenant governor.

(4) The lieutenant governor shall ensure that the ballot tracking system and the state-provided website described in Section 20A-7-801 automatically share appropriate information to ensure that a voter is able to confirm the status of the voter's trackable ballot via the state-provided website free of charge.

(5) The ballot tracking system shall include a toll-free telephone number or other offline method by which a voter can confirm the status of the voter's trackable ballot.

(6) The lieutenant governor shall ensure that the ballot tracking system:

(a) is secure from unauthorized use by employing data encryption or other security measures; and

(b) is only used for the purposes described in this section.

Section 19. Section 20A-3a-402 is amended to read:

20A-3a-402. Custody of ballots voted at a polling place -- Disposition -- Counting ballots -- Release of tally.

(1) [~~(a)~~] For ballots voted at a polling place:

[~~(b)~~](a) the election officer shall deliver all return envelopes containing valid ballots and valid provisional ballots that are in the election officer's custody to the counting center before noon on the day of the official canvass following the election;

[~~(c)~~](b) valid ballots, including valid provisional ballots, may be processed and counted:

(i) by the election officer, or poll workers acting under the supervision of the election officer, before the date of the canvass; and

(ii) at the canvass, by the election officer or poll workers, acting under the supervision of the official canvassers of the election;

[~~(d)~~](c) when processing ballots, the election officer and poll workers shall comply with the procedures and requirements of [~~Section 20A-3a-401~~]this part in opening envelopes, verifying signatures if applicable, confirming eligibility of the ballots, and depositing ballots in preparation for counting; and

[~~(e)~~](d) all valid ballots, including valid provisional ballots have been deposited, the ballots shall be counted in the usual manner.

(2) (a) After the polls close on the date of the election, the election officer shall publicly release the results of all ballots, including provisional ballots, that have been counted on or before the date of the election.

(b) Except as provided in Subsection (2)(c), on each day, beginning on the day after the date of the election and ending on the day before the date of the canvass, the election officer shall publicly release the results of all ballots, including provisional ballots, counted on that day.

(c) (i) If complying with Subsection (2)(b) on a particular day will likely result in disclosing a vote cast by an individual voter, the election officer shall request permission from the lieutenant governor to delay compliance for the minimum number of days necessary to protect against disclosure of the voter's vote.

(ii) The lieutenant governor shall grant a request made under Subsection (2)(c)(i) if the lieutenant governor finds that the delay is necessary to protect against disclosure of a voter's vote.

(d) On the date of the canvass, the election officer shall provide a tally of all ballots, including provisional ballots, counted, and the resulting tally shall be added to the official canvass of the election.

Section 20. Section 20A-3a-601 is amended to read:

20A-3a-601. Early voting.

(1) [~~Except as provided in Section 20A-7-609.5:~~]

(a) [~~an~~]An individual who is registered to vote may vote at a polling place before the election date in accordance with this section[~~; and~~].

(b) [~~except~~]Except as provided in Subsection 20A-2-207(6), an individual who is not registered to vote may register to vote and vote at a polling place before the election date in accordance with this section if the individual:

(i) is otherwise legally entitled to vote the ballot; and

(ii) casts a provisional ballot in accordance with Section 20A-2-207.

(2) Except as provided in Section 20A-1-308 or Subsection (3), the early voting period:

(a) begins on the date that is 14 days before the date of the election; and

(b) continues through the Friday before the election if the election date is a Tuesday.

(3) (a) An election officer may extend the end of the early voting period to the day before the election date if the election officer provides notice of the extension in accordance with Section 20A-3a-604.

(b) For a municipal election, the municipal clerk may reduce the early voting period described in this section if:

(i) the municipal clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the municipal clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604.

(c) For a county election, the county clerk may reduce the early voting period described in this section if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604.

(4) Except as provided in Section 20A-1-308, during the early voting period, the election officer:

(a) for a local special election, a municipal primary election, and a municipal general election:

(i) shall conduct early voting on a minimum of four days during each week of the early voting period; and

(ii) shall conduct early voting on the last day of the early voting period; and

(b) for all other elections:

(i) shall conduct early voting on each weekday; and

(ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

(5) Except as specifically provided in this Part 6, Early Voting, or Section 20A-1-308, early voting shall be administered in accordance with the requirements of this title.

Section 21. Section 20A-3a-603 is amended to read:

20A-3a-603. Early voting polling places.

(1) Except as provided in Section 20A-1-308[~~or 20A-7-609.5~~], the election officer shall designate one or more polling places for early voting, as follows:

(a) at least one polling place shall be open on each day that polls are open during the early voting period;

(b) each polling place shall comply with the requirements for polling places under Chapter 5, Election Administration;

(c) for all elections other than local special elections, municipal primary elections, and municipal general elections, at least 10% of the voting devices at a polling place shall be accessible for individuals with disabilities in accordance with Public Law 107-252, the Help America Vote Act of 2002; and

(d) each polling place shall be located in a government building or office, unless the election officer determines that, in the area designated by the election officer, there is no government building or office available that:

(i) can be scheduled for use during early voting hours;

(ii) has the physical facilities necessary to accommodate early voting requirements;

(iii) has adequate space for voting equipment, poll workers, and voters; and

(iv) has adequate security, public accessibility, and parking.

(2) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Section 20A-3a-604:

(i) if necessary, change the location of an early voting place; or

(ii) if the election officer determines that the number of early voting polling places is insufficient due to the number of registered voters who are voting, designate additional polling places during the early voting period.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of an early voting polling place or designates an additional early voting polling place, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of the changed early voting polling place or the additional early voting polling place:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of an early voting polling place, at the new location and, if possible, the old location; and

(B) for an additional early voting polling place, at the additional early voting polling place.

(3) Except as provided in Section 20A-1-308, for each regular general election and regular primary election, counties of the first class shall ensure that the early voting polling places are approximately proportionately distributed based on population within the county.

Section 22. Section 20A-4-105 is amended to read:

20A-4-105. Standards and requirements for evaluating voter's ballot choice.

(1) (a) An election officer shall ensure that when a question arises regarding a vote recorded on a manual ballot, two counting judges jointly adjudicate the ballot, except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, in accordance with the requirements of this section.

(b) If the counting judges disagree on the disposition of a vote recorded on a ballot that is adjudicated under this section, the counting judges may not count the vote.

(c) An election officer shall store adjudicated ballots separately from other ballots to enable a court to review the ballots if the election is challenged in court.

(2) Except as provided in Subsection (10), Subsection [~~20A-3a-204(6)~~]20A-3a-204(7), or Part 6, Municipal Alternate Voting Methods Pilot Project, if a voter marks more names than there are individuals to be elected to an office, or if the counting judges cannot determine a voter's choice for an office, the counting judges may not count the voter's vote for that office.

(3) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges shall count a defective or incomplete mark on a manual ballot if:

(a) the defective or incomplete mark []is in the proper place; and

(b) there is no other mark or cross on the ballot indicating the voter's intent to vote other than as indicated by the incomplete or defective mark.

(4) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges may not reject a ballot marked by the voter because of marks on the ballot other than those marks allowed by this section unless the extraneous marks on a ballot show an intent by an individual to mark the individual's ballot so that the individual's ballot can be identified.

(5) (a) In counting the ballots, the counting judges shall give full consideration to the intent of the voter.

(b) The counting judges may not invalidate a ballot because of mechanical or technical defects in voting or failure on the part of the voter to follow strictly the rules for balloting required by Chapter 3a, Voting.

(6) The counting judges may not reject a ballot because of an error in:

(a) stamping or writing an official endorsement; or

(b) delivering the wrong ballots to a polling place.

(7) The counting judges may not count a manual ballot that does not have the official endorsement by an election officer.

(8) The counting judges may not count a ballot proposition vote or candidate vote for which the voter is not legally entitled to vote, as defined in Section 20A-4-107.

(9) If the counting judges discover that the name of a candidate is misspelled on a ballot, or that the initial letters of a candidate's given name are transposed or omitted in whole or in part on a ballot, the counting judges shall count a voter's vote for the candidate if it is apparent that the voter intended to vote for the candidate.

(10) The counting judges shall count a vote for the president and the vice president of any political party as a vote for the presidential electors selected by the political party.

(11) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, in counting the valid write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the counting judges shall count the valid write-in vote as being the obvious intent of the voter.

Section 23. Section 20A-5-102 is amended to read:

20A-5-102. Voting instructions.

(1) Each election officer shall:

(a) print instructions for voters;

(b) ensure that the instructions are printed in English, and any other language required under the Voting Rights Act of 1965, as amended, in large clear type; and

(c) ensure that the instructions inform voters:

(i) about how to obtain, and how to return, ballots for voting;

(ii) about special political party affiliation requirements for voting in a regular primary election or presidential primary election;

(iii) about how to prepare ballots cast at a polling place for deposit in the ballot box;

(iv) about how to prepare a mailed ballot for return;

[~~(iv)~~](v) about how to record write-in votes;

[~~(v)~~](vi) about how to obtain a new ballot in the place of one spoiled by accident or mistake;

[~~(vi)~~](vii) about how to obtain assistance in marking ballots;

[~~(vii)~~](viii) about obtaining a new ballot if the voter's ballot is defaced;

[~~(viii)~~](ix) that identification marks or the spoiling or defacing of a ballot will make it invalid;

[~~(ix)~~](x) about how to obtain and vote a provisional ballot;

[~~(x)~~](xi) about whom to contact to report election fraud;

[~~(xi)~~](xii) about applicable federal and state laws regarding:

(A) voting rights and the appropriate official to contact if the voter alleges that the voter's rights have been violated; and

(B) prohibitions on acts of fraud and misrepresentation;

[~~(xii)~~](xiii) about procedures governing mail-in registrants and first-time voters; and

[~~(xiii)~~](xiv) about the date of the election and the hours that the polls are open on election day.

(2) Each election officer shall:

(a) provide the election judges of each voting precinct with sufficient instruction cards to instruct voters in the preparation of the voters' ballots; and

(b) direct the election judges to post:

(i) general voting instructions in each voting booth;

(ii) at least three instruction cards at other locations in the polling place; and

(iii) at least one sample ballot at the polling place.

Section 24. Section 20A-5-403 is amended to read:

20A-5-403. Polling places -- Booths -- Ballot boxes -- Inspections -- Arrangements.

(1) [~~Except as provided in Section 20A-7-609.5, each~~]An election officer shall:

(a) designate polling places for each voting precinct in the jurisdiction; and

(b) obtain the approval of the county or municipal legislative body or special district governing board for those polling places.

(2) (a) For each polling place, the election officer shall provide:

(i) an American flag;

(ii) a sufficient number of voting booths or compartments;

(iii) the voting devices, voting booths, ballots, ballot boxes, and any other records and supplies necessary to enable a voter to vote;

(iv) the constitutional amendment cards required by Part 1, Election Notices and Instructions;

(v) the instructions required by Section 20A-5-102; and

(vi) a sign, to be prominently displayed in the polling place, indicating that valid voter identification is required for every voter before the voter may vote and listing the forms of identification that constitute valid voter identification.

(b) Each election officer shall ensure that:

(i) each voting booth is at a convenient height for writing, and is arranged so that the voter can prepare the voter's ballot screened from observation;

(ii) there are a sufficient number of voting booths or voting devices to accommodate the voters at that polling place; and

(iii) there is at least one voting booth or voting device that is configured to accommodate persons with disabilities.

(c) Each county clerk shall provide a ballot box for each polling place that is large enough to properly receive and hold the ballots to be cast.

(3) (a) All polling places shall be physically inspected by each county clerk to ensure access by a person with a disability.

(b) Any issues concerning inaccessibility to polling places by a person with a disability discovered during the inspections referred to in Subsection (3)(a) or reported to the county clerk shall be:

(i) forwarded to the Office of the Lieutenant Governor; and

(ii) within six months of the time of the complaint, the issue of inaccessibility shall be either:

(A) remedied at the particular location by the county clerk;

(B) the county clerk shall designate an alternative accessible location for the particular precinct; or

(C) if no practical solution can be identified, file with the Office of the Lieutenant Governor a written explanation identifying the

reasons compliance cannot reasonably be met.

(4) (a) The municipality in which the election is held shall pay the cost of conducting each municipal election, including the cost of printing and supplies.

(b) (i) Costs assessed by a county clerk to a municipality under this section may not exceed the actual costs incurred by the county clerk.

(ii) The actual costs shall include:

(A) costs of or rental fees associated with the use of election equipment and supplies; and

(B) reasonable and necessary administrative costs.

(5) The county clerk shall make detailed entries of all proceedings had under this chapter.

(6) (a) Each county clerk shall, to the extent possible, ensure that the amount of time that an individual waits in line before the individual can vote at a polling place in the county, or return a mailed ballot to a polling place in the county, does not exceed 30 minutes.

(b) The lieutenant governor may require a county clerk to submit a line management plan before the next election if an individual waits in line at a polling place in the county, or return a mailed ballot to a polling place in the county, longer than 30 minutes before the individual can vote.

(c) The lieutenant governor may consider extenuating circumstances in deciding whether to require the county clerk to submit a plan described in Subsection (6)(b).

(d) The lieutenant governor shall review each plan submitted under Subsection (6)(b) and consult with the county clerk submitting the plan to ensure, to the extent possible, that the amount of time an individual waits in line before the individual can vote at a polling place in the county, or return a mailed ballot to a polling place in the county, does not exceed 30 minutes.

Section 25. Section 20A-6-105 is amended to read:

20A-6-105. Provisional ballot envelopes.

(1) Each election officer shall ensure that provisional ballot envelopes are printed in substantially the following form:

(a) the envelope shall include the following statement:

"AFFIRMATION

Are you a citizen of the United States of America? Yes No

Will you be 18 years old on or before election day? Yes No

If you checked "no" in response to either of the two above questions, do not complete this form.

Name of Voter _____

First Middle Last

Driver License or Identification Card Number _____

State of Issuance of Driver License or Identification Card Number _____

Date of Birth _____

Street Address of Principal Place of Residence

_____

City County State Zip Code

Telephone Number (optional) _____

Email Address (optional)_____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)

_____

City County State Zip Code

Voting Precinct (if known) _____

I, (please print your full name)_____do solemnly swear or affirm:

That I am eligible to vote in this election; that I have not voted in this election in any other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to vote in this precinct; and

Subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of Utah, residing at the above address; and that I am at least 18 years old and have resided in Utah for the 30 days immediately before this election.

Signed _____

Dated _____

In accordance with Section 20A-3a-506, wilfully providing false information above is a class B misdemeanor under Utah law and is

punishable by imprisonment and by fine.

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that identifying information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

_____

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to $2,500.";

(b) the following statement shall appear after the statement described in Subsection (1)(a):

"BALLOT NOTIFICATIONS

Do you consent to receive communications about the status of your ballot and other official communications, by text, at the phone number you provided above? Yes No "; and

(c) no later than November 5, 2025, after the statement described in Subsection (1)(b), the following:

"Indicate below how you want to vote in upcoming elections:

_____ Mail a ballot to me.

_____ Do not mail a ballot to me. I will vote in person."

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number;

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted; and

(d) an insert containing written instructions on how a voter may sign up to receive ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

Section 26. Section 20A-6-108 is amended to read:

20A-6-108. Requirements for printing and mailing ballots.

(1) [~~Before January 2023, the~~]The director of elections within the Office of the Lieutenant Governor shall, in consultation with county clerks, make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing minimum requirements that a vendor must meet to be eligible to print ballots to be used in an election.

(2) [~~Beginning on the effective date of the rules described in Subsection (1)~~]Except as provided in Subsection (3), an election officer shall ensure that, when the bulk of ballots are initially mailed to voters, the ballots are mailed from a location in Utah.

(3) If the election officer's jurisdiction is located in an area that is assigned to a United States Postal Service area distribution center located outside of Utah, the election officer may deliver ballots directly to the assigned area distribution center for delivery to voters.

Section 27. Section 20A-7-106 is amended to read:

20A-7-106. Petition signature or removal for an individual with a disability.

(1) If a voter who desires to sign a petition is, due to a qualifying disability under the Americans with Disabilities Act, unable to fill out the signature sheet or to sign the voter's name consistently, the voter may:

(a) inform the individual gathering signatures that, due to a qualifying disability under the Americans with Disabilities Act, the voter is unable to fill out the signature sheet or to sign the voter's name consistently; and

(b) direct the individual gathering signatures to:

(i) fill out the form on the signature sheet with the information provided by the voter; and

(ii) in place of the registered voter's signature:

(A) place the initials "AV" to indicate that the county clerk must use an alternate verification process to verify the validity of the voter's signature; and

(B) place next to the initials described in Subsection (1)(b)(ii)(A) a phone number, email address, or other method that the county clerk may use to contact the voter to verify the identity of the voter.

(2) If a voter who desires to remove the voter's signature from a petition is, due to a qualifying disability under the Americans with Disabilities Act, unable to sign the voter's name consistently, the voter may, instead of signing the statement described in Section 20A-1-1003:

(a) place the initials "AV" to indicate that the county clerk must use an alternate verification process to verify the validity of the voter's signature; and

(b) include in the statement a phone number, email address, or other method that the county clerk may use to contact the voter to verify the identity of the voter.

(3) The alternate verification process described in this section includes:

(a) the process described in Subsection [~~20A-3a-401(7)(b)~~]20A-3a-401(9)(b); or

(b) another process established by rule, made by the director of elections within the Office of the Lieutenant Governor, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 28. Section 20A-7-609 is amended to read:

20A-7-609. Form of ballot -- Manner of voting.

(1) The local clerk shall ensure that the number and ballot title are presented upon the official ballot with, immediately adjacent to them, the words "For" and "Against," each word presented with an adjacent square in which the elector may indicate the elector's vote.

(2) (a) Except as provided in Subsection (2)(c)(i)[~~or Section 20A-7-609.5~~], and unless the county legislative body calls a special election, the county clerk shall ensure that county referenda that have qualified for the ballot appear on the next regular general election ballot.

(b) Except as provided in Subsection (2)(c)(ii)[~~or Section 20A-7-609.5~~], and unless the municipal legislative body calls a special election, the municipal recorder or clerk shall ensure that municipal referenda that have qualified for the ballot appear on the next regular municipal election ballot.

(c) (i) [~~Except as provided in Section 20A-7-609.5, if~~]If a local law passes after January 30 of the year in which there is a regular general election, the county clerk shall ensure that a county referendum that has qualified for the ballot appears on the ballot at the second regular general election immediately following the passage of the local law unless the county legislative body calls a special election.

(ii) [~~Except as provided in Section 20A-7-609.5, if~~]If a local law passes after January 30 of the year in which there is a municipal general election, the municipal recorder or clerk shall ensure that a municipal referendum that has qualified for the ballot appears on the ballot at the second municipal general election immediately following the passage of the local law unless the municipal legislative body calls a special election.

(3) (a) (i) A voter desiring to vote in favor of the law that is the subject of the referendum shall mark the square adjacent to the word "For."

(ii) The law that is the subject of the referendum is effective if a majority of voters mark "For."

(b) (i) A voter desiring to vote against the law that is the subject of the referendum shall mark the square following the word "Against."

(ii) The law that is the subject of the referendum is not effective if a majority of voters mark "Against."

Section 29. Section 20A-7-609.5 is amended to read:

20A-7-609.5. Election on referendum challenging local tax law conducted entirely by mail.

(1) An election officer may administer an election on a referendum challenging a local tax law entirely by mail.

(2) For purposes of an election conducted under this section, the election officer shall:

(a) designate as the election day the day that is 30 days after the day on which the election officer complies with Subsection (2)(b); and

(b) subject to Subsection (6), within 30 days after the day on which the referendum described in Subsection (1) qualifies for the ballot, mail to each registered voter within the voting precincts to which the local tax law applies:

(i) a manual ballot;

(ii) a statement that there will be no polling place for the election;

(iii) a statement specifying the election day described in Subsection (2)(a);

(iv) a [~~business reply mail envelope~~]return envelope;

(v) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order

for the voter's vote to be counted;

(vi) a warning, on a separate page of colored paper in boldface print, indicating that if the voter fails to follow the instructions included with the manual ballot, the voter will be unable to vote in that election because there will be no polling place for the election; and

(vii) (A) a copy of the proposition information pamphlet relating to the referendum if a proposition information pamphlet relating to the referendum was published under Section 20A-7-401.5; or

(B) a website address where an individual may view a copy of the proposition information pamphlet described in Subsection (2)(b)(vii)(A).

(3) An election officer who administers an election under this section shall:

(a) (i) obtain, in person, the signatures of each voter within that voting precinct before the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(4) (a) Upon receiving a returned manual ballot under this section, the election officer shall compare the signature on each return envelope with the voter's signature that is maintained on file and verify that the signatures are the same.

(b) If the election officer questions the authenticity of the signature on the return envelope, the election officer shall immediately contact the voter to verify the signature.

(c) If there is not a signature on the return envelope or if the election officer determines that the signature on the return envelope does not match the voter's signature that is maintained on file, the election officer shall:

(i) disqualify the ballot; and

(ii) notify the voter of the disqualification and the reason for the disqualification.

(5) The following provisions do not apply to an election described in this section:

(a) Section 20A-3a-201;

(b) Subsection 20A-3a-202(2)(a)(iv);

(c) Section 20A-3a-203;

(d) Section 20A-3a-601;

(e) Section 20A-3a-603;

(f) Section 20A-3a-702;

(g) Section 20A-5-403; or

(h) Subsection 20A-7-609(2).

(6) Notwithstanding Section 20A-3a-202.5, for an election described in this section, the election officer shall send a ballot by mail to all registered voters in the jurisdiction.

Section 30. Section 20A-9-808 is amended to read:

20A-9-808. Voting.

Voting in a presidential primary election shall be conducted in accordance with the procedures of [~~Section 20A-3a-203~~]Chapter 3a, Part 2, Voting Procedures.

Section 31. Section 20A-21-201 is amended to read:

20A-21-201. Electronic signature gathering for an initiative, a referendum, or candidate qualification.

(1) [~~(a)~~] After filing a petition for a statewide initiative or a statewide referendum, and before gathering signatures, the sponsors shall, after consulting with the Office of the Lieutenant Governor, sign a form provided by the Office of the Lieutenant Governor indicating whether the sponsors will gather signatures manually[~~or~~], electronically, or both.

[~~(b) If the sponsors indicate, under Subsection (1)(a), that the sponsors will gather signatures electronically:~~]

[~~(i) in relation to a statewide initiative, signatures for that initiative:~~]

[~~(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-215, 20A-7-216, and 20A-7-217; and~~]

[~~(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-204; and~~]

[~~(ii) in relation to a statewide referendum, signatures for that referendum:~~]

[~~(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-313, 20A-7-314, and 20A-7-315; and~~]

[~~(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-304.~~]

[~~(c) If the sponsors indicate, under Subsection (1)(a), that the sponsors will gather signatures manually:~~]

[~~(i) in relation to a statewide initiative, signatures for that initiative:~~]

[~~(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-204; and~~]

[~~(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-215, 20A-7-216, and 20A-7-217; and~~]

[~~(ii) in relation to a statewide referendum, signatures for that referendum:~~]

[~~(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-304; and~~]

[~~(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-313, 20A-7-314, and 20A-7-315.~~]

(2) [~~(a)~~] After filing a petition for a local initiative or a local referendum, and before gathering signatures, the sponsors shall, after consulting with the local clerk's office, sign a form provided by the local clerk's office indicating whether the sponsors will gather signatures manually[~~or~~], electronically, or both.

[~~(b) If the sponsors indicate, under Subsection (2)(a), that the sponsors will gather signatures electronically:~~]

[~~(i) in relation to a local initiative, signatures for that initiative:~~]

[~~(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-514, 20A-7-515, and 20A-~~

~~7-516; and~~]

[~~(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-504; and~~]

[~~(ii) in relation to a local referendum, signatures for that referendum:~~]

[~~(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-614, 20A-7-615, and 20A-7-616; and~~]

[~~(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-604.~~]

[~~(c) If the sponsors indicate, under Subsection (2)(a), that the sponsors will gather signatures manually:~~]

[~~(i) in relation to a local initiative, signatures for that initiative:~~]

[~~(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-504; and~~]

[~~(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-514, 20A-7-515, and 20A-7-516; and~~]

[~~(ii) in relation to a local referendum, signatures for that referendum:~~]

[~~(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-604; and~~]

[~~(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-614, 20A-7-615, and 20A-7-616.~~]

(3) [~~(a)~~] After a candidate files a notice of intent to gather signatures to qualify for a ballot, and before gathering signatures, the candidate shall, after consulting with the election officer, sign a form provided by the election officer indicating whether the candidate will gather signatures manually[~~or~~], electronically, or both.

[~~(b) If a candidate indicates, under Subsection (3)(a), that the candidate will gather signatures electronically, signatures for the candidate:~~]

[~~(i) may only be gathered and submitted using the electronic candidate qualification process; and~~]

[~~(ii) may not be gathered or submitted using the manual candidate qualification process.~~]

[~~(c) If a candidate indicates, under Subsection (3)(a), that the candidate will gather signatures manually, signatures for the candidate:~~]

[~~(i) may only be gathered and submitted using the manual candidate qualification process; and~~]

[~~(ii) may not be gathered or submitted using the electronic candidate qualification process.~~]

(4) To gather a signature electronically, a signature-gatherer shall:

(a) use a device provided by the signature-gatherer or a sponsor of the petition that:

(i) is approved by the lieutenant governor;

(ii) except as provided in Subsection (4)(a)(iii), does not store a signature or any other information relating to an individual signing the petition in any location other than the location used by the website to store the information;

(iii) does not, on the device, store a signature or any other information relating to an individual signing the petition except for the minimum time necessary to upload information to the website;

(iv) does not contain any applications, software, or data other than those approved by the lieutenant governor; and

(v) complies with cyber-security and other security protocols required by the lieutenant governor;

(b) use the approved device to securely access a website designated by the lieutenant governor, directly, or via an application designated by the lieutenant governor; and

(c) while connected to the website, present the approved device to an individual considering signing the petition and, while the signature-gatherer is in the physical presence of the individual:

(i) wait for the individual to reach each screen presented to the individual on the approved device; and

(ii) wait for the individual to advance to each subsequent screen by clicking on the acknowledgement at the bottom of the screen.

(5) Each screen shown on an approved device as part of the signature-gathering process shall appear as a continuous electronic document that, if the entire document does not appear on the screen at once, requires the individual viewing the screen to, before advancing to the next screen, scroll through the document until the individual reaches the end of the document.

(6) After advancing through each screen required for the petition, the signature process shall proceed as follows:

(a) except as provided in Subsection (6)(b):

(i) the individual desiring to sign the petition shall present the individual's driver license or state identification card to the signature-gatherer;

(ii) the signature-gatherer shall verify that the individual pictured on the driver license or state identification card is the individual signing the petition;

(iii) the signature-gatherer shall scan or enter the driver license number or state identification card number through the approved device; and

(iv) immediately after the signature-gatherer complies with Subsection (6)(a)(iii), the website shall determine whether the individual desiring to sign the petition is eligible to sign the petition;

(b) if the individual desiring to sign the petition is unable to provide a driver license or state identification card to the signature gatherer:

(i) the individual may present other valid voter identification;

(ii) if the valid voter identification contains a picture of the individual, the signature-gatherer shall verify that the individual pictured is the individual signing the petition;

(iii) if the valid voter identification does not contain a picture of the individual, the signature-gatherer shall, to the extent reasonably practicable, use the individual's address or other available means to determine whether the identification relates to the individual presenting the identification;

(iv) the signature-gatherer shall scan an image of the valid voter identification and immediately upload the image to the website; and

(v) the individual:

(A) shall enter the individual's address; and

(B) may, at the discretion of the individual, enter the individual's date of birth or age after the individual clicks on the screen acknowledging that they have read and understand the following statement, "Birth date or age information is not required, but may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature

if you change your address before your signature is verified or if the information you provide does not match your voter registration records."; and

(c) after completing the process described in Subsection (6)(a) or (b), the screen shall:

(i) except for a petition to qualify a candidate for the ballot, give the individual signing the petition the opportunity to enter the individual's email address after the individual reads the following statement, "If you provide your email address, you may receive an email with additional information relating to the petition you are signing."; and

(ii) (A) if the website determines, under Subsection (6)(a)(iv), that the individual is eligible to sign the petition, permit the individual to enter the individual's name as the individual's electronic signature and, immediately after the signature-gather timely complies with Subsection (10), certify the signature; or

(B) if the individual provides valid voter identification under Subsection (6)(b), permit the individual to enter the individual's name as the individual's electronic signature.

(7) If an individual provides valid voter identification under Subsection (6)(b), the county clerk shall, within seven days after the day on which the individual submits the valid voter identification, certify the signature if:

(a) the individual is eligible to sign the petition;

(b) the identification provided matches the information on file; and

(c) the signature-gatherer timely complies with Subsection (10).

(8) For each signature submitted under this section, the website shall record:

(a) the information identifying the individual who signs;

(b) the date the signature was collected; and

(c) the name of the signature-gatherer.

(9) An individual who is a signature-gatherer may not sign a petition unless another individual acts as the signature-gatherer when the individual signs the petition.

(10) Except for a petition for a candidate to seek the nomination of a registered political party, each individual who gathers a signature under this section shall, within one business day after the day on which the individual gathers a signature, electronically sign and submit the following statement to the website:

"VERIFICATION OF SIGNATURE-GATHERER

State of Utah, County of ____

I, _____, of _____, hereby state, under penalty of perjury, that:

I am at least 18 years old;

All the signatures that I collected on [Date signatures were gathered] were signed by individuals who professed to be the individuals whose signatures I gathered, and each of the individuals signed the petition in my presence;

I did not knowingly make a misrepresentation of fact concerning the law or proposed law to which the petition relates;

I believe that each individual has signed the individual's name and written the individual's residence correctly, that each signer has read and understands the law to which the petition relates, and that each signer is registered to vote in Utah;

Each signature correctly reflects the date on which the individual signed the petition; and

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it."

(11) Except for a petition for a candidate to seek the nomination of a registered political party:

(a) the county clerk may not certify a signature that is not timely verified in accordance with Subsection (10); and

(b) if a signature certified by a county clerk under Subsection (6)(c)(ii)(A) is not timely verified in accordance with Subsection (10), the county clerk shall:

(i) revoke the certification;

(ii) remove the signature from the posting described in Subsection 20A-7-217(4), [~~20A-7-315(3)~~]20A-7-315(4), 20A-7-516(4), or [~~20A-7-616(3)~~]20A-7-616(4); and

(iii) update the totals described in Subsections 20A-7-217(5)(a)(ii), 20A-7-315(5)(a)(ii), 20A-7-516(5)(a)(ii), and 20A-7-616(5)(a)(ii).

(12) For a petition for a candidate to seek the nomination of a registered political party, each individual who gathers a signature under this section shall, within one business day after the day on which the individual gathers a signature, electronically sign and submit the following statement to the lieutenant governor in the manner specified by the lieutenant governor:

"VERIFICATION OF SIGNATURE-GATHERER

State of Utah, County of ____

I, _____, of _____, hereby state that:

I am at least 18 years old;

All the signatures that I collected on [Date signatures were gathered] were signed by individuals who professed to be the individuals whose signatures I gathered, and each of the individuals signed the petition in my presence;

I believe that each individual has signed the individual's name and written the individual's residence correctly and that each signer is registered to vote in Utah; and

Each signature correctly reflects the date on which the individual signed the petition."

(13) For a petition for a candidate to seek the nomination of a registered political party, the election officer may not certify a signature that is not timely verified in accordance with Subsection (12).

Section 32. Section 63G-10-304 is enacted to read:

63G-10-304. Legislative review and approval of action settlement agreement related to election law.

(1) As used in this section, "election law" means:

(a) a provision of Title 20A, Election Code; or

(b) a provision relating to elections or voting contained in any portion of the Utah Constitution, the Utah Code, or a Utah administrative rule.

(2) (a) Before legally binding the state by executing an action settlement agreement that might limit the application or enforcement of an election law, an agency shall submit the proposed action settlement agreement, including all terms that are material to the settlement:

(i) to the governor for the governor's approval or rejection; and

(ii) if the governor approves the proposed action settlement agreement, to the Legislative Management Committee for the committee's review in accordance with Subsection (3).

(b) If the governor rejects the action settlement agreement the agency may not execute the agreement.

(3) The Legislative Management Committee shall review an action settlement agreement submitted under Subsection (2)(a)(ii) and may:

(a) recommend that the agency execute the settlement agreement;

(b) recommend that the agency reject the settlement agreement; or

(c) refer the matter to the entire Legislature.

(4) (a) If the Legislative Management Committee refers a matter to the entire Legislature under Subsection (3)(c), the agency may not execute the settlement agreement unless the Legislature approves the settlement agreement at a special session of the Legislature or a general session of the Legislature.

(b) If, under Subsection (4)(a), the Legislature approves the action settlement agreement, the agency may execute the agreement.

(c) If, under Subsection (4)(a), the Legislature rejects the action settlement agreement, the agency may not execute the agreement.

(5) If an agency executes an action settlement agreement without complying with, and waiting for completion of the action described in, the applicable provisions of this section:

(a) the governor may issue an executive order declaring the action settlement agreement void; or

(b) the Legislature may pass a joint resolution declaring the action settlement agreement void.

Section 33. Repealer.

This bill repeals:

Section 20A-3a-101, Title.

Section 53-3-801, Short title.

Section 34. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 34(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office - Governor's Office Operations

From General Fund, One-time - - -

CHAPTER 382
H. B. 344
Passed February 28, 2025
Approved March 26, 2025
Effective March 26, 2025

SCHOOL FEES AMENDMENTS

Chief Sponsor: Mark A. Strong
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to school fees.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires a local education agency (LEA) to, beginning for the 2026-2027 school year:
  - • ensure that a student has at least one option at the student's school to complete all required courses and credits without paying a fee or a waiver; and
  - • clearly disclose any fee related to a course or activity in the description of the course or activity in the LEA's registration materials;
- ► prohibits an LEA from:
  - • charging a student a fee for certain non-fee courses; or
  - • charging a general fee or charging or increasing a fee to a student to supplement or supplant a fee the LEA is prohibited from charging;
- ► allows an LEA to charge a student a fee for certain expenses, under certain circumstances, including for:
  - • expenses beyond the common delivery of instruction;
  - • fee courses;
  - • instructional supplies;
  - • extracurricular activities;
  - • a discretionary project; and
  - • other additional expenses;
- ► repeals duplicative language regarding fees for textbooks; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-7-501, as last amended by Laws of Utah 2024, Chapters 20, 497
53G-7-502, as last amended by Laws of Utah 2024, Chapter 497
53G-7-505, as last amended by Laws of Utah 2019, Chapters 223, 293

REPEALS AND REENACTS:

53G-7-503, as last amended by Laws of Utah 2024, Chapter 497

REPEALS:

53G-7-506, as renumbered and amended by Laws of Utah 2024, Chapter 497

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-7-501 is amended to read:
53G-7-501. Definitions.

As used in this part:

[~~(1) "Co-curricular activity" means an activity, a course, or a program that:~~]

[~~(a) is an extension of a curricular activity;~~]

[~~(b) is included in an instructional plan and supervised or conducted by a teacher or education professional;~~]

[~~(c) is conducted outside of regular school hours;~~]

[~~(d) is provided, sponsored, or supported by an LEA; and~~]

[~~(e) includes a required regular school day activity, course, or program.~~]

(1) (a) "Common education expense" means an expense an LEA incurs that is related to the delivery of instruction for all courses, unrelated to a specific course, program, or activity.

(b) "Common education expense" includes the employment of educators and staff, the provision of capital facilities, and operation and maintenance costs.

(2) (a) ["~~Curricular activity~~"]"Course" means an activity, a course, or a program that an LEA:

[~~(a)~~](i) [~~is intended~~]intends to deliver instruction;

[~~(b)~~](ii) [~~is provided, sponsored, or supported by an LEA~~]provides, sponsors, or supports; and

[~~(c)~~](iii) [~~is conducted only~~]conducts primarily during school hours.

(b) "Course" includes a course in which a student is required to enroll as a condition of participation in a separate extracurricular activity.

(3) "Discretionary project" means a project that a student completes in lieu of or in addition to a required classroom project in accordance with Section 53G-7-503.

[~~(3)~~](4) "Elementary school" means a school that provides instruction to students in grades kindergarten, 1, 2, 3, 4, 5, or 6.

[~~(4)~~](5) (a) "Elementary school student" means a student enrolled in an elementary school.

(b) "Elementary school student" does not include a secondary school student.

[~~(5)~~](6) (a) "Extracurricular activity" means an activity [~~, a course,~~]or a program that[~~is~~]:

[~~(i) not directly related to delivering required instruction;~~]

[~~(ii)~~](i) is not a [~~curricular activity or co-curricular activity~~]course; and

(ii) an LEA provides, sponsors, or supports.

[~~(iii) provided, sponsored, or supported by an LEA.~~]

(b) "Extracurricular activity" does not include a noncurricular club as defined in Section 53G-7-701.

[~~(6)~~](7) (a) "Fee" means a charge, expense, deposit, rental, or payment:

(i) regardless of how an LEA terms, describes, requests, or requires the charge, expense, deposit, rental, or payment[~~is termed, described, requested, or required~~], directly or indirectly;

(ii) in the form of money, goods, or services; and

(iii) that is a condition to a student's full participation in or admission to an activity, course, or program that [~~is provided, sponsored, or supported by~~]an LEA provides, sponsors, or supports.

(b) "Fee" includes:

[~~(i) charges or expenditures for a school field trip or activity trip, including related transportation, food, lodging, and admission charges;~~]

[~~(ii)~~](i) payments [~~made~~]to a third party that provides a part of a school activity, class, or program; and

[~~(iii) charges or expenditures for classroom instructional equipment or supplies;~~]

[~~(iv) charges or expenditures for school activity clothing; and~~]

[~~(v)~~](ii) a fine other than a fine described in Subsection [~~(6)(c)(i)~~](7)(c)(i).

(c) "Fee" does not include:

(i) a student fine [~~specifically approved by an LEA~~]that an LEA approves for:

(A) failing to return school property;

(B) losing, wasting, or damaging private or school property through intentional, careless, or irresponsible behavior, [~~or~~]including defacing or damaging school property as described in Section 53G-8-212; or

(C) improper use of school property, including a parking violation;

(ii) a payment for school breakfast or lunch;

(iii) a deposit that[~~is~~]:

(A) is a pledge securing the return of school property; and

(B) [~~refunded~~]the LEA or school refunds upon the return of the school property;

(iv) a charge for insurance, unless the insurance is required for a student to participate in an activity, course, or program; or

(v) money or another item of monetary value [~~raised by~~]that a student or the student's family raises through fundraising.

(8) "Fee course" means a course that is not a non-fee course.

[~~(7)~~](9) (a) "Fundraising" means an activity or event [~~provided, sponsored, or supported by an LEA that~~]that:

(i) an LEA provides, sponsors, or supports; and

(ii) uses students to generate funds or raise money to:

[~~(i)~~](A) provide financial support to a school or a school's class, group, team, or program; or

[~~(ii)~~](B) benefit a particular charity or for other charitable purposes.

(b) "Fundraising" does not include an alternative method of raising revenue without students.

[~~(8)~~](10) (a) "Instructional equipment[~~or supplies~~]" means an activity-, course-, or program-related [~~supply or~~]tool that:

(i) a student is required to use as part of an activity, course, or program in a secondary school; and

(ii) becomes the property of the student upon exiting the activity, course, or program[~~; and~~].

[~~(iii) is subject to a fee waiver.~~]

(b) "Instructional equipment[~~or supplies~~]" does not include:

(i) school equipment[~~-~~];

(ii) an instructional supply; or

(iii) a personal student supply for a secondary student.

(11) (a) "Instructional supply" means a non-reusable or a consumable material or supply that is necessary to use, expend, or deplete as a component or element of an activity, course, or program in a secondary school.

(b) "Instructional supply" does not include a personal student supply for a secondary student.

(12) "Non-fee course" means a course that results in course credit or a course grade within the core standards the state board establishes under Section 53E-4-202 and other statutory requirements for:

(a) English language arts;

(b) health education;

(c) mathematics;

(d) science; and

(e) social studies.

(13) (a) "Personal student supply" means, for a secondary student, an object, tool, material, or supply that:

(i) is the personal property of the student;

(ii) regardless of the use of the supply in the instructional process, individuals not enrolled in the course or activity also commonly purchase and use; and

(iii) has a high probability of regular use in activities other than school-sponsored activities.

(b) "Personal student supply" includes pencils, papers, notebooks, crayons, scissors, and basic clothing.

[~~(9)~~](14) (a) "School activity clothing" means special shoes or items of clothing that:

(i) [~~(A) that~~]meet specific requirements, including requesting a specific brand, fabric, or imprint;

[~~(B)~~](ii) [~~that~~]a school requires a student to provide and to wear for an activity-, course-, or program-related activity; and

[~~(C)~~](iii) (A) [~~that~~]the student rents while participating in the activity; or

(B) become the property of the student upon exiting the activity, course, or program[~~; and~~].

[~~(ii) that are required to be worn by a student for an activity-, course-, or a program-related activity.~~]

(b) "School activity clothing" does not include:

(i) a school uniform; or

(ii) clothing that is commonly found in students' homes.

[~~(10)~~](15) "School equipment" means a machine, equipment, facility, or tool that:

(a) is durable;

(b) is reusable;

[~~(c) is consumable;~~]

[~~(d)~~](c) [~~is owned by a secondary school~~]a secondary school owns; and

[~~(e)~~](d) a student uses as part of an activity, course, or program in a secondary school.

[~~(11)~~](16) (a) "School uniform" means special shoes or an item of clothing that:

(i) (A) [~~that meet~~]meets specific requirements, including a requested specific color, style, fabric, or imprint; and

(B) [~~that~~]a school requires a student to provide and wear during school attendance; and

(ii) [~~that is worn by a student for a curricular activity~~]is the property of the student.

(b) "School uniform" does not include school activity clothing.

[~~(12)~~](17) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

[~~(13)~~](18) "Secondary school student":

(a) means a student enrolled in a secondary school; and

(b) includes a student in grade 6 if the student attends a secondary school.

[~~(14)~~](19) (a) "Textbook" means instructional material necessary for participation in an activity, course, or program, regardless of the format of the material.

(b) "Textbook" includes:

(i) a hardcopy book or printed pages of instructional material, including a consumable workbook; or

(ii) computer hardware, software, or digital content.

(c) "Textbook" does not include school equipment, instructional equipment, or instructional supplies.

[~~(15)~~](20) "Waiver" means a full release from:

(a) a requirement to pay a fee; and [~~from~~]

(b) any provision in lieu of fee payment.

Section 2. Section 53G-7-502 is amended to read:

53G-7-502. Schools to be free.

(1) Except as otherwise provided in this public education code, and in accordance with Utah Constitution, Article X, Section 2, the public education system shall be free to an individual:

[~~(1)~~](a) between five and 18 years old who is a resident; and

[~~(2)~~](b) over 18 years old who is domiciled in the state of Utah and has not completed requirements for a high school diploma.

(2) (a) Beginning for the 2026-2027 school year, except as provided in Subsection (2)(b), each LEA that awards credit toward graduation shall ensure that each school has at least one option for each graduation requirement that:

(i) fulfills the graduation requirement; and

(ii) does not require the payment or waiver of any fee.

(b) Subsection (2)(a) does not apply to a charter school that only offers one of the following for a given graduation requirement:

(i) an Advanced Placement course;

(ii) an International Baccalaureate course; or

(iii) a concurrent enrollment course, as described in Section 53E-10-302.

(c) Nothing in this Subsection (2) requires an LEA or a school to provide, without a fee or fee waiver:

(i) a specific activity, course, or program; or

(ii) the student's preferred activity, course, or program.

Section 3. Section 53G-7-503 is repealed and re-enacted to read:

53G-7-503. Fees -- Prohibitions -- Voluntary supplies -- Enforcement -- Penalties.

(1) An LEA may only charge a fee that:

(a) this part authorizes;

(b) the LEA governing board notices and authorizes in accordance with Section 53G-7-505;

(c) is for a service or good that has a direct benefit to the student paying the fee so as to not be general in nature;

(d) is directly related to the expense the LEA incurs for providing a student the relevant activity, course, or program rather than being general in nature;

(e) is equal to or less than the expense described in Subsection (1)(d); and

(f) does not supplant or subsidize a fee the LEA is prohibited from charging, including the normal expense of delivering instruction in a course.

(2) Beginning with the 2025-2026 school year, an LEA:

(a) except as provided in Subsection (2)(b), may not charge a secondary student a fee for:

(i) an expense related to a non-fee course;

(ii) a textbook;

(iii) school equipment; or

(iv) a common education expense;

(b) subject to Subsections (1) and (2)(a), may charge a secondary student a fee for:

(i) relating to a non-fee course or a fee course, for:

(A) instructional equipment;

(B) a school field trip or activity trip or performance, including related transportation, food, lodging, and admission charges or participation fees;

(C) school activity clothing;

(D) a discretionary project as described in Subsection (3); or

(E) a competency remediation program in accordance with Section 53G-9-803;

(ii) an expense related to a course, activity, or program that is a fee course, including:

(A) instructional supplies;

(B) the life-cycle replacement costs for school equipment directly related to the fee course;

(C) a musical instrument rental;

(D) licensing fees for fine arts intellectual property; or

(E) participating in a driver education course described in Section 53G-10-503;

(iii) an expense related to the following post-secondary-related courses, including tuition, college credit, an exam, or a textbook, as described in Section 53G-7-506:

(A) an Advanced Placement course;

(B) an International Baccalaureate course; or

(C) a concurrent enrollment course, as described in Section 53E-10-302;

(iv) an extracurricular activity, including the life-cycle replacement costs for school equipment directly related to the extracurricular activity;

(v) open enrollment application processing in accordance with Section 53G-6-402; or

(vi) charter school application processing in accordance with Section 53G-6-503; and

(c) may charge a secondary student or an individual a fee for an adult education course in accordance with Section 53E-10-202.

(3) For a course requiring the completion of a project for a grade or credit:

(a) a secondary student may request to complete a discretionary project in lieu of a required course activity or project if the discretionary project demonstrates the intended core competencies of the required course activity or project;

(b) nothing prohibits a student from completing a discretionary project in addition to a required classroom project;

(c) an LEA may require a student at any grade level to provide materials or pay an additional fee for a discretionary project or a project in which the student engages in addition to a required classroom project; and

(d) nothing in this section entitles a student to an approval of the student's request described in Subsection (3)(a).

(4) (a) An LEA may not require a fee for:

(i) elementary school activities that are part of the regular school day; or

(ii) for supplies a student uses during the regular elementary school day.

(b) An elementary school or elementary school teacher:

(i) may compile and provide to an elementary school student's parent a suggested list of supplies for use during the regular school day so that a parent may furnish, only on a voluntary basis, the listed supplies for student use; and

(ii) shall ensure that the list described in Subsection (4)(b)(i) includes the following language before identifying the supplies:

"NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."

(5) (a) Notwithstanding Section 53E-3-401, if the state board finds that an LEA has violated a provision of this part, the state board shall impose corrective action against the LEA, including:

(i) requiring an LEA to repay the fee the LEA improperly charged;

(ii) withholding state funds; or

(iii) suspending the LEA's authority to charge fees for an amount of time the state board specifies.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(i) that require notice and an opportunity to be heard for an LEA affected by a state board action described in this Subsection (5); and

(ii) to administer this Subsection (5).

Section 4. Section 53G-7-505 is amended to read:

53G-7-505. Approval and notice of student fees and waivers.

(1) An LEA governing board shall annually:

(a) adopt fee policies and a fee schedule; and

(b) provide the fee schedule to each student and parent.

(2) For the fee schedule, the LEA governing board shall:

(a) before approving the fee schedule, provide at least two opportunities for the public to comment on the proposed fee schedule;

(b) encourage public participation in the development of the fee schedule; and

(c) approve the fee schedule in a regularly scheduled public meeting.

(3) (a) The fee schedule shall include the following:

(i) a specific amount for each fee on the fee schedule;

(ii) if a student is responsible for multiple fees related to one activity, class, or program, a clear and easy to understand delineation of each fee and the fee total for each activity, class, or program;

(iii) the LEA's fee waiver policy, including an easily understandable statement informing a parent that a student:

(A) may be eligible to have one or more fees waived; and

(B) may appeal the LEA's decision if the LEA denies a request for a fee waiver; and

(iv) a corresponding spending plan for each fee.

(b) The LEA shall:

(i) publish the fee schedule on each of the LEA's school's websites; and

(ii) [~~include a copy of the LEA's fee schedule with~~]beginning for the 2026-2027 school year, clearly identify any fee for each activity, course, or program alongside the description of the activity, course, or program in the LEA's registration materials.

Section 5. Repealer.

This bill repeals:

Section 53G-7-506, State policy on providing free textbooks.

Section 6. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 383
H. B. 26
Passed February 14, 2025
Approved March 26, 2025
Effective May 7, 2025

ROAD JURISDICTION AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies the Designation of State Highways Act.

Highlighted Provisions:

This bill:

► removes certain roads as state highways; and
► modifies the description of certain state highways.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-4-116, as last amended by Laws of Utah 2023, Chapter 220
72-4-123, as last amended by Laws of Utah 2024, Chapter 440
72-4-125, as last amended by Laws of Utah 2022, Chapter 83
72-4-134, as last amended by Laws of Utah 2008, Chapter 57
72-4-135, as last amended by Laws of Utah 2004, Chapter 27

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-4-116 is amended to read:

72-4-116. State highways -- SR-101 to SR-110.

State highways include:

(1) SR-101. From Wellsville on Route 23 easterly through Hyrum to the Hardware Ranch with a stub connection to the visitors' center and parking area.

(2) SR-102. From Route 83 east of Lampo Junction northeasterly through Penrose to Thatcher; then easterly through Tremonton and Deweyville to Route 38.

(3) SR-103. From Route 126 in Clearfield easterly on 650 North Street in Clearfield to the on and off access ramps on the east side of Route 15.

(4) SR-104. From Route 126 easterly on Wilson Lane, Twentieth Street, and Twenty-first Street in Ogden to Route 204.

(5) SR-105. From Route 67 east on Parrish Lane in Centerville to Route 106.

(6) SR-106. From .21 miles west of Route 15 east on 400 North Street in Bountiful; then northerly to Sheppard Lane in Farmington; then west on Sheppard Lane to Route 89.

[~~(7) SR-107. From Route 110 west of West Point easterly on 300 North through West Point to 3000 West.~~]

[~~(8)~~](7) SR-108. From the I-15 north bound on- and off-ramps at the Hill Field South Gate Interchange in Layton west to Syracuse; then north into Weber County; then northeasterly to Route 126.

[~~(9)~~](8) SR-109. From Route 126 in Layton easterly via Gentile Street and Oak Hills Drive to East Side Drive east of Route 89.

[~~(10)~~](9) SR-110. From Route 127 west of Syracuse north to Route 37 west of Clinton.

Section 2. Section 72-4-123 is amended to read:

72-4-123. State highways -- SR-171 to SR-180.

State highways include:

(1) SR-171. From Route 111 at Eighty-fourth West Street and Thirty-fifth South Street easterly on Thirty-fifth South Street and Thirty-third South Street to Route 215 at the east-side belt route.

(2) SR-172. From 6200 South north on 5600 West to Route 80.

(3) SR-173. From Route 111 southeast of Magna easterly through Kearns and Murray to Route 89 at 5300 South Street in Murray.

(4) SR-174. From Intermountain Power Plant main gate southeasterly to Route 6 south of Lynndyl.

(5) SR-175. From Route 89 westerly on 11400 South to Route 154.

(6) SR-176. From Route 114 westerly and northerly on Vineyard Connector to [~~Main Street~~]mile 2.35 at Lighthouse Lane in Vineyard.

(7) SR-177. From the on-ramps of Route 15 and Route 67 in Farmington westerly and northerly to Route 193 in West Point.

(8) SR-178. From the southbound on and off ramps of Route 15 east on 800 South in Payson to Route 198.

(9) SR-179. From Route 138 near Grantsville northerly via Midvalley Highway to Route 80 in Tooele County.

(10) SR-180. From Route 15 southeast of American Fork northerly on Fifth East Street to Route 89 in American Fork.

Section 3. Section 72-4-125 is amended to read:

72-4-125. State highways -- SR-191, SR-193, SR-194, SR-196, SR-198 to SR-200.

State highways include:

(1) SR-191. From the Utah-Arizona state line south of Bluff northerly through Blanding, Monticello, and Moab to Route 70 at Crescent Junction; then beginning again from Route 6 north of Helper northerly through Indian Canyon to Route 40 at Duchesne; then beginning again from Route 40 at Vernal northerly through Greendale Junction and Dutch John to the Utah-Wyoming state line.

(2) SR-193. From [~~3000 West~~]Route 110 in West Point easterly through Syracuse, Clearfield, and Layton, past the south entrance to Hill Air Force Base to Route 89.

(3) SR-194. From Route 68 in Lehi easterly via 2100 North; then northerly via 1200 West to 2250 North and Powell Way.

(4) SR-196. From Route 199 near the control gate at Dugway Proving Grounds northerly via the Skull Valley Road to the west bound on and off ramps of Route 80 at the Rowley Junction Interchange.

(5) SR-198. From Route 15 northbound ramps of the North Santaquin Interchange northeasterly through Spring Lake, to 100 North in Payson; then easterly and northeasterly through Salem to 300 South in Spanish Fork; then easterly and southeasterly to Route 6 at Moark Junction.

(6) SR-199. From Route 196 north of the Dugway Proving Grounds main gate northeasterly through Clover to Route 36.

(7) SR-200. From Route 61 in Lewiston, approximately three miles west of Route 91, north to the Utah-Idaho state line.

Section 4. Section 72-4-134 is amended to read:

72-4-134. State highways -- SR-282, SR-284 to SR-287, SR-289, and SR-290.

State highways include:

(1) SR-282. At University of Utah.

(a) From 500 South Street north on Campus Center Drive to South Campus Drive.

(b) From University Street and 400 South Street easterly and northeasterly on South Campus Drive to Wasatch Drive.

(c) From Foothill Boulevard Route 186 northerly on Wasatch Drive to South Medical Drive.

(d) From Wasatch Drive northerly on South Medical Drive and West Medical Drive to North Campus Drive; then south and southwest to University Street and 100 South Street.

(2) SR-284. At Weber State University in Ogden.

(a) From 4100 South Street northerly on the peripheral road to Edvalson Street; then northwesterly and westerly on 3700 South Street to Route 203, Harrison Boulevard.

(b) From Route 203 easterly on 4100 South Street to Taylor Avenue.

(c) Campus North Road from the north-south peripheral road easterly on Edvalson Street to Foothill Drive.

(d) From Route 203, Harrison Boulevard, easterly on 3850 South Street to north-south peripheral road.

(e) From Route 203, Harrison Boulevard, easterly on 4000 South Street to the north-south peripheral road.

(3) SR-285. The Institute for the Deaf. From Twentieth Street in Ogden northwesterly to Monroe Avenue.

(4) SR-286. From Route 235 to and including a peripheral road at the State Industrial School in Ogden.

(5) SR-287. From Route 140 [~~northerly to the Utah State Prison Vehicle Direction Station~~]in Bluffdale northerly via Pony Express Road to Bitterbrush Lane in Draper.

(6) SR-289. At College of Southern Utah. From Route 130 in Cedar City westerly on Center Street to 1150 West Street; then south to Second South Street; then east to Third West Street; then north to Center Street, providing a peripheral road around the College of Southern Utah.

(7) SR-290. At Snow College. From Route 89 in Ephraim easterly on First North Street to Fourth East Street; then south to Center Street; then west to Route 89, providing a peripheral road around Snow College.

Section 5. Section 72-4-135 is amended to read:

72-4-135. State highways -- SR-291 to SR-294, SR-296, SR-298.

State highways include:

(1) SR-291. The Institute for the Blind. From Route 203, Harrison Boulevard, near Seventh Street in Ogden easterly and southerly to the hospital, including the loop on the southwest side of the hospital.

(2) SR-292. At Salt Lake Community College.

(a) From 2200 West Street easterly on 4520 South for 0.17 miles; beginning again at 0.47 miles easterly on 4520 South to Route 68.

(b) From Route 68 westerly on 4600 South for 0.80 miles; then northerly on 1900 West to 4520 South.

(c) From 4600 South northerly paralleling Route 68 to 4520 South.

(d) From 2200 West easterly on Bruin Boulevard to Route 68.

(3) SR-293. At State Capitol Building. All roads and parking areas within the capitol grounds.

(4) SR-294. At State Mental Hospital. From the main gate on Center Street in Provo easterly to the administration building.

(5) SR-296. At American Fork Training School. From 700 North in American Fork northerly.

(6) SR-298. Roads at the Browning Armory in South Ogden used for automotive drivers' ability tests including parking areas.

[~~(7) SR-299. Those roads used for drivers' tests at 2780 West and 4700 South in Salt Lake County.~~]

Section 6. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 384
H. B. 341
Passed March 5, 2025
Approved March 26, 2025
Effective May 7, 2025

HIGHER EDUCATION REVISIONS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends the application of Title 53B, State System of Higher Education.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► exempts private institutions of higher education from the provisions in Title 53B, Utah System of Higher Education, unless expressly stated otherwise;
- ► allows the University of Utah to teach certain medical students from out-of-state; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53B-1-113,
(Effective 05/07/25)
as last amended by Laws of Utah 2019, Chapter 324
53B-8-105,
(Effective 05/07/25)
as last amended by Laws of Utah 2022, Chapter 370
53B-8-112.5,
(Effective 05/07/25)
as enacted by Laws of Utah 2023, Chapter 453
53B-8-116,
(Effective 05/07/25)
as last amended by Laws of Utah 2020, Chapter 196
53B-8-117,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 39
53B-8-201,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 378
53B-8a-102.5,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 374
53B-8a-103,
(Effective 05/07/25)
as last amended by Laws of Utah 2021, Chapter 84
53B-8a-106,
(Effective 05/07/25)
as last amended by Laws of Utah 2015, Chapter 94
53B-8a-107,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 242
53B-8a-201,
(Effective 05/07/25)
as last amended by Laws of Utah 2018, Chapters 292, 306 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
53B-8a-204,
(Effective 05/07/25)

as last amended by Laws of Utah 2020, Chapter 365
53B-10-101,
(Effective 05/07/25)
as last amended by Laws of Utah 2022, Chapter 370
53B-13-111,
(Effective 05/07/25)
as enacted by Laws of Utah 1987, Chapter 167
53B-13a-102,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 254
53B-13b-102,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 254
53B-13c-101,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 254
53B-16-105,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 254
53B-16-401,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 68
53B-17-901,
(Effective 05/07/25)
as last amended by Laws of Utah 2020, Chapter 365
53B-20-107,
(Effective 05/07/25)
as enacted by Laws of Utah 2024, Chapter 96
53B-28-102,
(Effective 05/07/25)
as enacted by Laws of Utah 2017, Chapter 188

ENACTS:

53B-1-103,
(Effective 05/07/25)
Utah Code Annotated 1953
53B-17-904,
(Effective upon governor's approval)
Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-1-103 is enacted to read:
53B-1-103
(Effective 05/07/25)
. Application to private institutions.

(1) (a) As used in this title, "private postsecondary educational institution" means an institution that:

(i) does not receive direct funding through state appropriations; and

(ii) provides higher education programs.

(b) "Private postsecondary educational institution" includes:

(i) a private nonprofit college or university; and

(ii) a private for-profit college or university.

(2) Except as expressly provided, the provisions of this title do not apply to a private postsecondary educational institution.

Section 2. Section 53B-1-113 is amended to read:
53B-1-113
(Effective 05/07/25)
. Education loan notifications.

(1) As used in this section:

(a) "Borrower" means:

(i) an individual enrolled in an eligible postsecondary institution who receives an education loan; or

(ii) an individual, including a parent or legal guardian, who receives an education loan to fund education expenses of an individual enrolled in an eligible postsecondary institution.

(b) "Education loan" means a loan made to a borrower that is:

(i) made directly by a federal or state program; or

(ii) insured or guaranteed under a federal or state program.

(c) "Eligible postsecondary institution" means a public or [~~private postsecondary institution~~]private postsecondary educational institution that:

(i) is located in Utah; and

(ii) participates in federal student assistance programs under the Higher Education Act of 1965, Title IV, 20 U.S.C. Sec. 1070 et seq.

(2) Annually, on or before July 1, an eligible postsecondary institution that receives information about a borrower's education loan shall:

(a) notify the borrower that the borrower has an education loan;

(b) direct the borrower to the National Student Loan Data System described in 20 U.S.C. Sec. 1092b to receive information about the borrower's education loan; and

(c) provide the borrower information on how the borrower can access an online repayment calculator.

(3) An eligible postsecondary institution does not incur liability for information provided to a borrower in accordance with this section.

Section 3. Section 53B-8-105 is amended to read:

53B-8-105

(Effective 05/07/25)

. New Century scholarships -- High school requirements.

(1) Notwithstanding the provisions of this section, the board may not accept a new application for a scholarship described in this section on or after August 15, 2021.

(2) As used in this section:

(a) "Complete the requirements for an associate degree" means that a student:

(i) (A) completes all the required courses for an associate degree from a higher education institution within the state system of higher education that offers associate degrees; and

(B) applies for the associate degree from the institution; or

(ii) completes equivalent requirements described in Subsection (2)(a)(i)(A) from a higher education institution within the state system of higher education that offers baccalaureate degrees but does not offer associate degrees.

(b) "Fee" means a fee approved by the board.

(3) (a) The board shall award New Century scholarships.

(b) The board shall develop and approve the math and science curriculum described under Subsection (4)(a)(ii).

(4) (a) In order to qualify for a New Century scholarship, a student in Utah schools shall complete the requirements for an:

(i) associate degree; or

(ii) approved math and science curriculum.

(b) The requirements under Subsection (4)(a) shall be completed:

(i) by the day on which the student's class graduates from high school; and

(ii) with at least a 3.0 grade point average.

(c) In addition to the requirements in Subsection (4)(a), a student in Utah shall:

(i) complete the high school graduation requirements of:

(A) a public high school established by the State Board of Education and the student's school district or charter school; or

(B) a private high school in the state that is accredited by a regional accrediting body approved by the board; and

(ii) complete high school with at least a 3.5 cumulative high school grade point average.

(5) Notwithstanding Subsection (4), for a student who does not receive a high school grade point average, the student shall:

(a) complete the requirements for an associate degree:

(i) by June 15 of the year the student completes high school; and

(ii) with at least a 3.0 grade point average; and

(b) score a composite ACT score of 26 or higher.

(6) (a) To be eligible for the scholarship, a student:

(i) shall submit an application to the board with:

(A) an official college transcript showing college courses the student has completed to complete the requirements for an associate degree; and

(B) if applicable, an official high school transcript or, if applicable, a copy of the student's ACT scores;

(ii) shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid;

(iii) if applicable, shall meet the application deadlines as established by the board under Subsection (11); and

(iv) shall demonstrate, in accordance with rules described in Subsection (6)(b), the completion of a Free Application for Federal Student Aid.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding the completion of the Free Application for Federal Student Aid described in Subsection (6)(a)(iv), including:

(i) provisions for students or parents to opt out of the requirement due to:

(A) financial ineligibility for any potential grant or other financial aid;

(B) personal privacy concerns; or

(C) other reasons the board specifies; and

(ii) direction for applicants to financial aid advisors.

(7) (a) The scholarship may be used at a:

(i) higher education institution within the state system of higher education that offers baccalaureate programs; or

(ii) if the scholarship holder applies for the scholarship on or before October 1, 2019, [~~private, nonprofit college or university in the state accredited by the Northwest Association of Schools and Colleges~~]private postsecondary educational institution that offers baccalaureate programs.

(b) (i) Subject to Subsection (7)(e), the total value of the scholarship is up to $5,000, allocated over a time period described in Subsection (7)(c), as prescribed by the board.

(ii) The board may increase the scholarship amount described in Subsection (7)(b)(i) by an amount not to exceed the average percentage tuition increase approved by the board for institutions in the state system of higher education.

(c) The scholarship is valid for the shortest of the following time periods:

(i) two years of full-time equivalent enrollment;

(ii) 60 credit hours; or

(iii) until the student meets the requirements for a baccalaureate degree.

(d) (i) A scholarship holder shall enroll full-time at a higher education institution by no later than the fall term immediately following the student's high school graduation date or receive an approved deferral from the board.

(ii) The board may grant a deferral or leave of absence to a scholarship holder, but the scholarship holder may only receive scholarship money within five years of the student's high school graduation date.

(e) For a scholarship for which a student applies after October 1, 2019:

(i) the board shall reduce the amount of the scholarship holder's scholarship so that the total amount of state aid awarded to the scholarship holder, including tuition or fee waivers or the scholarship, does not exceed the cost of the scholarship holder's tuition and fees; and

(ii) the scholarship holder may only use the scholarship for tuition and fees.

(8) The board may cancel a New Century scholarship at any time if the student fails to:

(a) register for at least 15 credit hours per semester;

(b) maintain a 3.3 grade point average for two consecutive semesters; or

(c) make reasonable progress toward the completion of a baccalaureate degree.

(9) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the General Fund to the board for the costs associated with the New Century Scholarship Program authorized under this section.

(b) It is understood that the appropriation is offset in part by the state money that would otherwise be required and appropriated for these students if they were enrolled in a four-year postsecondary program at a state-operated institution.

(c) Notwithstanding Subsections (3)(a) and (7), if the appropriation under Subsection (9)(a) is insufficient to cover the costs associated with the New Century Scholarship Program, the board may reduce the scholarship amount.

(d) If money appropriated under this section is available after New Century scholarships are awarded, the board shall use the money for the Utah Promise Program created in Section 53B-13a-103.

(10) (a) The board shall adopt policies establishing an application process and an appeal process for a New Century scholarship.

(b) The board shall disclose on all applications and related materials that the amount of the scholarship is subject to funding and may be reduced, in accordance with Subsection (9)(c).

(c) The board shall require an applicant for a New Century scholarship to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is a noncitizen who is eligible to receive federal student aid.

(d) The certification under this Subsection (10) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(11) The board may set deadlines for receiving New Century scholarship applications and supporting documentation.

(12) A student may not receive both a New Century scholarship and an Opportunity scholarship established in Section 53B-8-201.

Section 4. Section 53B-8-112.5 is amended to read:

53B-8-112.5

(Effective 05/07/25)

. Karen Mayne Public Safety Officer Scholarship Program.

(1) As used in this section:

(a) "Peace officer" means the same as that term is defined in Section 53B-8c-102.

(b) "POST" means the Peace Officer Standards and Training Division created in Section 53-6-103.

(c) "Program" means the Karen Mayne Public Safety Officer Scholarship Program that this section creates.

(2) This section creates the Karen Mayne Public Safety Officer Scholarship Program.

(3) (a) Subject to legislative appropriations, the board shall award a scholarship to a qualified applicant who:

(i) is a high school graduate;

(ii) submits an application to the board with a copy of the student's high school diploma;

(iii) when eligible, enrolls in a basic training course at a state certified academy as defined in Section 53-6-202;

(iv) subject to Subsection (3)(b), is enrolled in a qualifying post-secondary program from:

(A) an institution of higher education within the state system of higher education, described in Section 53B-1-102; or

(B) [~~a private, nonprofit institution of higher education in the state that is accredited by the Northwest Commission on Colleges and Universities~~]a private postsecondary educational institution; and

(v) commits to working as a peace officer for no less than five years after the day on which POST certifies the scholarship recipient.

(b) For purposes of Subsection (3)(a)(iv), the board shall determine the programs that qualify for a scholarship award, including criminal justice, police administration, criminology, social sciences, and other disciplines.

(4) (a) The board shall determine the amount of a scholarship award, ensuring that the amount does not exceed the combined cost of tuition, fees, and required textbooks.

(b) A scholarship award described in Subsection (4)(a) is limited to:

(i) POST training and certification in accordance with Title 53, Chapter 6, Peace Officer Standards and Training Act; and

(ii) a maximum of four academic years in a post-secondary program.

(5) The board shall design the scholarship program to ensure that participating institutions combine state or federal loans or grants, internships, student employment, and family and individual contributions toward financing the cost of attendance.

(6) A scholarship recipient shall:

(a) notify the board of the scholarship recipient's POST certification within 15 days after the day on which POST certifies the scholarship recipient;

(b) submit verification of the scholarship recipient's employment to the board within 15 days after the day on which the scholarship recipient is employed as a peace officer, including:

(i) the employer's name, address, and telephone number;

(ii) the date of the scholarship recipient's hiring; and

(iii) the scholarship recipient's job title; and

(c) notify the board within 15 days after the day on which the employer terminates the scholarship recipient.

(7) (a) The board may require a scholarship recipient to repay the full amount of the scholarship award that the scholarship recipient received under the program, including money paid for tuition, fees, and required textbooks, if the scholarship recipient fails to:

(i) meet the requirements for POST certification as described in Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act;

(ii) work as a peace officer for five years after the day on which POST certifies the scholarship recipient; or

(iii) subject to Subsection (3), earn a degree in a post-secondary program.

(b) Notwithstanding Subsection (7)(a), a scholarship recipient is not required to repay any amount of the scholarship award if the scholarship recipient:

(i) is unable to secure employment as a peace officer within 12 months after the day on which the scholarship recipient is POST certified; and

(ii) provides documentation from a prospective employer that the scholarship recipient was not extended an offer of employment.

(8) The board may use up to 2% of the money appropriated for the scholarship program for administrative costs.

(9) (a) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving scholarship applications and supporting documentation;

(ii) establish an application process and appeal process for the program;

(iii) establish policies and procedures for cancellation or repayment of scholarship awards if the scholarship recipient fails to meet the requirements under this section;

(iv) collaborate with POST and other law enforcement and correction agencies to provide high school students information on law enforcement careers; and

(v) notify POST when a student receives a scholarship under the program.

(b) The board shall include a disclosure on all applications and materials related to the program that the amount of the awarded scholarship may be subject to funding availability or reduction in accordance with Subsection (10).

(10) If an appropriation under this section is insufficient to cover the costs associated with the program, the board may:

(a) reduce the amount of a scholarship award; and

(b) distribute scholarship awards on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

Section 5. Section 53B-8-116 is amended to read:

53B-8-116

(Effective 05/07/25)

. Terrel H. Bell Education Scholarship Program -- Scholarship requirements -- Rulemaking.

(1) As used in this section:

(a) "Approved program" means a program that:

(i) is a teacher preparation program that:

(A) meets the standards described in Section 53E-6-302; and

(B) provides enhanced clinical experiences; or

(ii) prepares an individual to become:

(A) a speech-language pathologist; or

(B) another licensed professional providing services in a public school to students with disabilities.

(b) "Eligible institution" means a Utah institution that offers an approved program and is:

(i) []a public postsecondary educational institution; or

(ii) [~~private institution of higher education in Utah that offers an approved program.~~]a private postsecondary educational institution.

(c) "High needs area" means a subject area or field in public education that has a high need for teachers or other employees, as determined in accordance with Subsections (6) and (7).

(d) "Scholarship" means a scholarship described in this section.

(2) Subject to future budget constraints, the Legislature shall annually appropriate money to the board for the Terrel H. Bell Education Scholarship Program to be distributed to eligible institutions to award scholarships to incentivize students to work in public education in Utah.

(3) (a) Subject to the prioritization described in Subsection (3)(b), an eligible institution may award a scholarship to an individual who:

(i) meets the academic standards described in Subsection (6);

(ii) is enrolled in at least six credit hours at the eligible institution;

(iii) declares an intent to:

(A) apply to and complete an approved program at the eligible institution; and

(B) work in a Utah public school; and

(iv) demonstrates, in accordance with rules described in Subsection (6)(b), the completion of a Free Application for Federal Student Aid.

(b) An eligible institution shall prioritize awarding of scholarships:

(i) first, to first generation students who intend to work in any area in a Utah public school;

(ii) second, to students who:

(A) are not first generation students; and

(B) intend to work in a high needs area in a Utah public school; and

(iii) last, to other students who meet the requirements described in Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), an eligible institution may award a scholarship to an individual for an amount up to the cost of resident tuition, fees, and books for the number of credit hours in which the individual is enrolled each semester.

(b) An eligible institution that is a [~~private institution~~]private postsecondary educational institution may not award a scholarship for an amount of money that exceeds the average scholarship amount granted by a public institution of higher education.

(5) (a) Except as provided in Subsection (5)(b), an eligible institution may award a scholarship to an individual for up to four consecutive years.

(b) An eligible institution may grant a scholarship recipient a leave of absence.

(c) An eligible institution may cancel a scholarship if:

(i) the scholarship recipient fails to make reasonable progress toward completion of the approved program, as determined by the eligible institution; or

(ii) the eligible institution determines with reasonable certainty that the scholarship recipient does not intend to work in a Utah public school.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:

(a) that establish:

(i) requirements related to an eligible institution's administration of a scholarship;

(ii) a process for an individual to apply to an eligible institution to receive a scholarship;

(iii) in accordance with Subsection (3)(a), requirements related to eligibility for a scholarship, including required academic standards;

(iv) in accordance with Subsection (3)(b), requirements related to prioritization of scholarships, including determination of:

(A) whether a student is a first generation student; and

(B) high needs areas; and

(v) criteria to determine whether an individual intends to work in a Utah public school; and

(b) regarding the completion of the Free Application for Federal Student Aid described in Subsection (3)(a)(iv), including:

(i) provisions for students or parents to opt out of the requirement due to:

(A) financial ineligibility for any potential grant or other financial aid;

(B) personal privacy concerns; or

(C) other reasons the board specifies; and

(ii) direction for applicants to financial aid advisors.

(7) The board shall consult with the State Board of Education to determine:

(a) whether a teacher preparation program provides enhanced clinical experiences; and

(b) which subject areas and fields are high needs areas.

(8) The board may use up to 5% of money appropriated for the purposes described in this section to promote the scholarships described in this section.

Section 6. Section 53B-8-117 is amended to read:

53B-8-117

(Effective 05/07/25)

. First Responder Mental Health Services Grant Program.

(1) As used in this section:

(a) "First responder" means an individual who works in Utah as:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) an emergency medical technician, as defined in Section 53-2e-101;

(iii) an advanced emergency medical technician, as defined in Section 53-2e-101;

(iv) a paramedic, as defined in Section 53-2e-101;

(v) a firefighter, as defined in Section 34A-3-113;

(vi) a dispatcher, as defined in Section 53-6-102;

(vii) a correctional officer, as defined in Section 53-13-104;

(viii) a special function officer, as defined in Section 53-13-105, employed by a local sheriff;

(ix) a search and rescue worker under the supervision of a local sheriff;

(x) a forensic interviewer or victim advocate employed by a children's justice center established in accordance with Section 67-5b-102;

(xi) a credentialed criminal justice system victim advocate as defined in Section 77-38-403 who responds to incidents with a law enforcement officer;

(xii) a crime scene investigator technician;

(xiii) a wildland firefighter;

(xiv) an investigator or prosecutor of cases involving sexual crimes against children; or

(xv) a civilian employee of a first responder agency who has been authorized to view or otherwise access information concerning crimes, accidents, or other traumatic events.

(b) "First responder agency" means the same as that term is defined in Section 53-21-101.

(c) "First responder volunteer" means:

(i) an individual who donates services as a first responder to a first responder agency located in Utah without pay or other compensation except:

(A) expenses that the individual actually and reasonably incurs as the supervising first responder agency approves; and

(B) health insurance that a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program described in Section 26-8a-603receives; or

(ii) a volunteer firefighter who is not regularly employed as a firefighter service employee, but who:

(A) has received training in firefighter techniques and skills;

(B) continues to receive regular firefighter training; and

(C) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.

(d) "Retiree" means the same as that term is defined in Section 49-11-102.

(2) This section creates the First Responder Mental Health Services Grant Program.

(3) Subject to legislative appropriations and Subsection (8), the board shall award a grant to an applicant who:

(a) is a first responder, a first responder volunteer, or a retiree who worked as a first responder in the state; and

(b) is seeking a post-secondary degree or certification to become a mental health therapist, as that term is defined in Section 58-60-102, from:

(i) an institution of higher education within the state system of higher education, described in Section 53B-1-102; or

(ii) a [~~private, nonprofit institution of higher education in the state that is accredited by the Northwest Commission on Colleges and Universities~~]private postsecondary educational institution.

(4) (a) Subject to Subsection (4)(b), the board may award a qualified applicant a grant in an amount that is equal to the difference between:

(i) the total cost of tuition and fees for the program in which the recipient is enrolled; and

(ii) the total value of all other grants, tuition waivers, fee waivers, and scholarships that the recipient receives to attend the institution.

(b) A grant award under Subsection (4)(a) is limited to:

(i) a maximum of $6,000 each academic year; and

(ii) a maximum of four academic years.

(5) The board shall design the program to ensure that institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance.

(6) The board shall:

(a) select two periods during each calendar year to accept applications for the program; and

(b) accept applications for no fewer than 30 days during each period described in Subsection (6)(a).

(7) (a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving grant applications and supporting documentation; and

(ii) establish the application process and an appeal process for the First Responder Mental Health Services Grant Program.

(b) The board shall include a disclosure on all applications and related materials that the amount of the awarded grants may be subject to funding or be reduced, in accordance with Subsection (8).

(8) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Income Tax Fund to the board for the costs associated with the First Responder Mental Health Services Grant Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the First Responder Mental Health Services Grant Program, the board may:

(i) reduce the amount of a grant; or

(ii) distribute grants on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

Section 7. Section 53B-8-201 is amended to read:

53B-8-201

(Effective 05/07/25)

. Opportunity Scholarship Program.

(1) As used in this section:

(a) "Eligible institution" means:

(i) a degree-granting institution of higher education within the state system of higher education; or

(ii) a [~~private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities~~]private, nonprofit institution of higher education in the state.

(b) "Eligible student" means a student who:

(i) applies to the board in accordance with the rules described in Subsection (5);

(ii) is enrolled in an eligible institution; and

(iii) meets the criteria established by the board in rules described in Subsection (5).

(c) "Fee" means:

(i) for an eligible institution that is a degree-granting institution, a fee approved by the board; or

(ii) for an eligible institution that is a technical college, a fee approved by the eligible institution.

(d) "Program" means the Opportunity Scholarship Program described in this section.

(2) (a) Subject to legislative appropriations, the board shall annually distribute money for the Opportunity Scholarship Program described in this section to each eligible institution to award as Opportunity scholarships to eligible students.

(b) The board shall annually determine the amount of an Opportunity scholarship based on:

(i) the number of eligible students in the state; and

(ii) money available for the program.

(c) The board may not use more than 3% of the money appropriated to the program for administrative costs and overhead.

(3) (a) Except as provided in this Subsection (3), an eligible institution shall provide to an eligible student an Opportunity scholarship in the amount determined by the board described in Subsection (2)(b).

(b) For an Opportunity scholarship for which an eligible student applies on or before July 1, 2019, an eligible institution may reduce the amount of the Opportunity scholarship based on other state aid awarded to the eligible student for tuition and fees.

(c) For an Opportunity scholarship for which an eligible student applies after July 1, 2019:

(i) an eligible institution shall reduce the amount of the Opportunity scholarship so that the total amount of state aid awarded to the eligible student, including tuition or fee waivers and the Opportunity scholarship, does not exceed the cost of the eligible student's tuition and fees; and

(ii) the eligible student may only use the Opportunity scholarship for tuition and fees.

(d) An institution described in Subsection (1)(a)(ii) may not award an Opportunity scholarship to an eligible student in an amount that exceeds the average total cost of tuition and fees among the eligible institutions described in Subsection (1)(a)(i).

(e) If the allocation for an eligible institution described in Subsection (1)(a)(ii) is insufficient to provide the amount described in Subsection (2)(b) to each eligible student, the eligible institution may reduce the amount of an Opportunity scholarship.

(4) The board may:

(a) audit an eligible institution's administration of Opportunity scholarships;

(b) require an eligible institution to repay to the board money distributed to the eligible institution under this section that is not provided to an eligible student as an Opportunity scholarship; and

(c) require an eligible institution to enter into a written agreement with the board in which the eligible institution agrees to provide the board with access to information and data necessary for the purposes of the program.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

(a) requirements related to an eligible institution's administration of Opportunity scholarships;

(b) a process for a student to apply to the board to determine the student's eligibility for an Opportunity scholarship;

(c) criteria to determine a student's eligibility for an Opportunity scholarship, including:

(i) minimum secondary education academic performance standards; and

(ii) the completion of a Free Application for Federal Student Aid or a process approved by the board in lieu of the Free Application for Federal Student Aid;

(d) a requirement for each eligible institution to annually report to the board on all Opportunity scholarships awarded by the eligible institution; and

(e) a process for a student to apply to the board for an Opportunity scholarship who would have likely received the scholarship but for an irreconcilable error in the application process described in Subsection (5)(b).

(6) The board shall annually report on the program to the Higher Education Appropriations Subcommittee.

(7) The State Board of Education, a school district, or a public high school shall cooperate with the board and eligible institutions to facilitate the program, including by exchanging relevant data where allowed by law.

Section 8. Section 53B-8a-102.5 is amended to read:

53B-8a-102.5

(Effective 05/07/25)

. Definitions for part.

As used in this part:

(1) "Administrative fund" means the money used to administer the Utah Educational Savings Plan.

(2) "Board" means the Utah Education Savings Board of Trustees created in Section 53B-8a-105.

(3) "Endowment fund" means the endowment fund established under Section 53B-8a-107, which is held as a separate fund within the Utah Educational Savings Plan.

(4) "Executive director" means the administrator appointed to administer and manage the Utah Educational Savings Plan.

(5) "Federally insured depository institution" means an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation and the National Credit Union Administration.

(6) "Grantor trust" means a trust, the income of which is for the benefit of the grantor under Section 677, Internal Revenue Code.

(7) "Higher education costs" means qualified higher education expenses as defined in Section 529(e)(3), Internal Revenue Code.

(8) "Eligible educational institution" means the same as that term is defined in Section 529(e)(5), Internal Revenue Code.

[~~(8)~~](9) "Owner of the grantor trust" means one or more individuals who are treated as an owner of a trust under Section 677, Internal Revenue Code, if that trust is a grantor trust.

[~~(9)~~](10) "Program fund" means the program fund created under Section 53B-8a-107, which is held as a separate fund within the Utah Educational Savings Plan.

[~~(10)~~](11) "Qualified investment" means an amount invested in accordance with an account agreement established under this part.

[~~(11)~~](12) "Tuition and fees" means the quarterly or semester charges imposed to attend an institution of higher education and required

as a condition of enrollment.

Section 9. Section 53B-8a-103 is amended to read:

53B-8a-103

(Effective 05/07/25)

. Creation of Utah Educational Savings Plan -- Powers and duties of plan -- Certain exemptions.

(1) There is created the Utah Educational Savings Plan, which may also be known and do business as:

(a) the Utah Educational Savings Plan Trust; or

(b) another related name.

(2) The plan:

(a) is a non-profit, self-supporting agency that administers a public trust;

(b) shall administer the various programs, funds, trusts, plans, functions, duties, and obligations assigned to the plan:

(i) consistent with sound fiduciary principles; and

(ii) subject to review of the board; and

(c) shall be known as and managed as a qualified tuition program in compliance with Section 529, Internal Revenue Code, that is sponsored by the state.

(3) The plan may:

(a) make and enter into contracts necessary for the administration of the plan payable from plan money, including:

(i) contracts for goods and services; and

(ii) contracts to engage personnel, with demonstrated ability or expertise, including consultants, actuaries, managers, counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice;

(b) adopt a corporate seal and change and amend the corporate seal;

(c) invest money within the program, administrative, and endowment funds in accordance with the provisions under Section 53B-8a-107;

(d) enter into agreements with account owners, any [~~institution of higher education~~]eligible educational institution, any federal or state agency, or other entity as required to implement this chapter;

(e) solicit and accept any grants, gifts, legislative appropriations, and other money from the state, any unit of federal, state, or local government, or any other person, firm, partnership, or corporation for deposit to the administrative fund, endowment fund, or the program fund;

(f) make provision for the payment of costs of administration and operation of the plan;

(g) carry out studies and projections to advise account owners regarding:

(i) present and estimated future higher education costs; and

(ii) levels of financial participation in the plan required to enable account owners to achieve their educational funding objective;

(h) participate in federal, state, local governmental, or private programs;

(i) create public and private partnerships, including investment or management relationships with other 529 plans or entities;

(j) promulgate, impose, and collect administrative fees and charges in connection with transactions of the plan, and provide for reasonable service charges;

(k) procure insurance:

(i) against any loss in connection with the property, assets, or activities of the plan; and

(ii) indemnifying any member of the board from personal loss or accountability arising from liability resulting from a member's action or inaction as a member of the plan's board;

(l) administer outreach efforts to:

(i) market and publicize the plan and the plan's products to existing and prospective account owners; and

(ii) encourage economically challenged populations to save for post-secondary education;

(m) adopt, trademark, and copyright names and materials for use in marketing and publicizing the plan and the plan's products;

(n) administer the funds of the plan;

(o) sue and be sued in the plan's own name;

(p) own institutional accounts in the plan to establish and administer:

(i) scholarship programs; or

(ii) other college savings incentive programs, including programs designed to enhance the savings of low income account owners investing in the plan; and

(q) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this chapter.

(4) (a) Except as provided in Subsection (4)(b), the plan is exempt from the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

(b) (i) The annual audited financial statements of the plan described in Section 53B-8a-111 are public records.

(ii) Financial information that is provided by the plan to the state auditor and posted on the public finance website established by the state auditor in accordance with Section 67-3-12 is a public record.

(5) The plan is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 6a, Utah Procurement Code.

Section 10. Section 53B-8a-106 is amended to read:

53B-8a-106

(Effective 05/07/25)

. Account agreements.

The plan may enter into account agreements with account owners on behalf of beneficiaries under the following terms and agreements:

(1) (a) An account agreement may require an account owner to agree to invest a specific amount of money in the plan for a specific period of time for the benefit of a specific beneficiary, not to exceed an amount determined by the executive director.

(b) Account agreements may be amended to provide for adjusted levels of payments based upon changed circumstances or changes in educational plans.

(c) An account owner may make additional optional payments as long as the total payments for a specific beneficiary do not exceed the total estimated higher education costs as determined by the executive director.

(d) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified investment that a corporation that is an account owner may subtract from unadjusted income for a taxable year in accordance with Title 59, Chapter 7, Corporate Franchise and Income Taxes, is $1,710 for each individual beneficiary for the taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2010.

(e) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified investment that may be used as the basis for claiming a tax credit in accordance with Section 59-10-1017, is:

(i) subject to Subsection (1)(e)(iv), for a resident or nonresident estate or trust that is an account owner, $1,710 for each individual beneficiary for the taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2010;

(ii) subject to Subsection (1)(e)(iv), for a resident or nonresident individual that is an account owner, other than a husband and wife who are account owners and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, $1,710 for each individual beneficiary for the taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2010;

(iii) subject to Subsection (1)(e)(iv), for a husband and wife who are account owners and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, $3,420 for each individual beneficiary:

(A) for the taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2010; and

(B) regardless of whether the plan has entered into:

(I) a separate account agreement with each spouse; or

(II) a single account agreement with both spouses jointly; or

(iv) for a grantor trust:

(A) if the owner of the grantor trust has a single filing status or head of household filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(e)(ii); or

(B) if the owner of the grantor trust has a joint filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(e)(iii).

(f) (i) For taxable years beginning on or after January 1, 2011, the executive director shall annually increase the maximum amount of a qualified investment described in Subsections (1)(d) and (1)(e)(i) and (ii), by a percentage equal to the increase in the consumer price index for the preceding calendar year.

(ii) After making an increase required by Subsection (1)(f)(i), the executive director shall:

(A) round the maximum amount of the qualified investments described in Subsections (1)(d) and (1)(e)(i) and (ii) increased under Subsection (1)(f)(i) to the nearest 10 dollar increment; and

(B) increase the maximum amount of the qualified investment described in Subsection (1)(e)(iii) so that the maximum amount of the qualified investment described in Subsection (1)(e)(iii) is equal to the product of:

(I) the maximum amount of the qualified investment described in Subsection (1)(e)(ii) as rounded under Subsection (1)(f)(ii)(A); and

(II) two.

(iii) For purposes of Subsections (1)(f)(i) and (ii), the executive director shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(g) For taxable years beginning on or after January 1, 2011, the executive director shall keep the previous year's maximum amount of a qualified investment described in Subsections (1)(d) and (1)(e)(i) and (ii) if the consumer price index for the preceding calendar year decreases.

(2) (a) Beneficiaries designated in account agreements must be designated after birth and before age 19 for an account owner to:

(i) subtract a qualified investment from income under Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) use a qualified investment as the basis for claiming a tax credit in accordance with Section 59-10-1017.

(b) Account owners may designate a beneficiary age 19 or older, but investments for that beneficiary are not eligible to be:

(i) subtracted from income under Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) used as the basis for claiming a tax credit in accordance with Section 59-10-1017.

(3) Each account agreement shall state clearly that there are no guarantees regarding money in the plan as to the return of principal and that losses could occur.

(4) Each account agreement shall provide that:

(a) a contributor to, or designated beneficiary under, an account agreement may not direct the investment of any contributions or earnings on contributions;

(b) any part of the money in any account may not be used as security for a loan; and

(c) an account owner may not borrow from the plan.

(5) The execution of an account agreement by the plan may not guarantee in any way that higher education costs will be equal to projections and estimates provided by the plan or that the beneficiary named in any account agreement will:

(a) be admitted to an [~~institution of higher education~~]eligible educational institution;

(b) if admitted, be determined a resident for tuition purposes by the [~~institution of higher education~~]eligible educational institution;

(c) be allowed to continue attendance at the [~~institution of higher education~~]eligible educational institution following admission; or

(d) graduate from the [~~institution of higher education~~]eligible educational institution.

(6) A beneficiary may be changed as permitted by the rules and regulations of the board upon written request of the account owner prior to the date of admission of any beneficiary under an account agreement by an [~~institution of higher education~~]eligible educational institution so long as the substitute beneficiary is eligible for participation.

(7) An account agreement may be freely amended throughout the term of the account agreement in order to enable an account owner

to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters as authorized by rule.

(8) Each account agreement shall provide that:

(a) the account agreement may be canceled upon the terms and conditions, and upon payment of the fees and costs set forth and contained in the board's rules and regulations; and

(b) the executive director may amend the agreement unilaterally and retroactively, if necessary, to maintain the plan as a qualified tuition program under Section 529, Internal Revenue Code.

Section 11. Section 53B-8a-107 is amended to read:

53B-8a-107

(Effective 05/07/25)

. Program, administrative, and endowment funds -- Investment and payments from funds -- Proxy voting -- State treasurer access.

(1) The plan shall segregate money received by the plan into three funds, the program fund, the administrative fund, and the endowment fund.

(2) The board shall:

(a) invest the plan in a manner that is consistent with the prudent investor rule for trustees established in Title 75, Chapter 7, Part 9, Utah Uniform Prudent Investor Act;

(b) in accordance with the board's fiduciary responsibilities, make investment decisions with the sole purpose of maximizing the risk-adjusted return on the investments; and

(c) to the extent practicable:

(i) (A) retain the right to vote investor proxies; or

(B) if the investments are commingled with another investor's funds, request the right to vote investor proxies; and

(ii) ensure proxy voting is exercised to maximize risk-adjusted returns for the exclusive benefit of beneficiaries.

(3) Transfers may be made from the program fund to the administrative fund to pay operating costs:

(a) associated with administering the plan and as required under Sections 53B-8a-103through 53B-8a-105; and

(b) as included in the budget approved by the board.

(4) (a) All money paid by account owners in connection with account agreements shall be deposited as received into separate accounts within the program fund which shall be invested and accounted for separately.

(b) Money accrued by account owners in the program fund may be used for:

(i) payments to any [~~institution of higher education~~]eligible educational institution;

(ii) payments to the account owner or beneficiary;

(iii) transfers to another 529 plan; or

(iv) other expenditures or transfers made in accordance with the account agreement.

(5) (a) All money received by the plan from the proceeds of gifts and other endowments for the purposes of the plan shall be:

(i) deposited, according to the nature of the donation, as received into the endowment fund or the administrative fund; and

(ii) invested and accounted for separately.

(b) Any gifts, grants, or donations made by any governmental unit or any person, firm, partnership, or corporation to the plan for deposit to the endowment fund or the administrative fund is a grant, gift, or donation to the state for the accomplishment of a valid public eleemosynary, charitable, and educational purpose and is not included in the income of the donor for Utah tax purposes.

(c) The endowment fund or the administrative fund may be used to enhance the savings of low income account owners investing in the plan, for scholarships, or for other college savings incentive programs as approved by the board.

(d) Transfers may be made between the endowment fund and the administrative fund upon approval by the board.

(e) Endowment fund earnings not accruing to a beneficiary under an account agreement, not transferred to the administrative fund, or not otherwise approved by the board for expenditure, shall be reinvested in the endowment fund.

(6) Subsection (2) does not prohibit the board from offering individual account owners a variety of voluntary investment options that have different risk profiles and investment objectives.

(7) (a) The board shall make proxy voting records available to the state treasurer upon the state treasurer's request.

(b) The state treasurer is subject to the same restrictions on disclosure of the proxy voting records as the board.

Section 12. Section 53B-8a-201 is amended to read:

53B-8a-201

(Effective 05/07/25)

. Definitions.

As used in this part:

(1) "529 savings account" means a tax-advantaged method of saving for higher education costs on behalf of a particular individual that:

(a) meets the requirements of Section 529, Internal Revenue Code; and

(b) is managed by the plan.

(2) "Child" means an individual less than 20 years of age.

(3) "Community partner" means a nonprofit organization that provide services to a child who is economically disadvantaged or a family member, legal guardian, or legal custodian of a child who is economically disadvantaged.

(4) "Donation" means a gift, grant, donation, or any other conveyance of money by a person other than the Legislature that is not made directly for the benefit or on behalf of a particular individual.

(5) "Economically disadvantaged" means that a child is:

(a) experiencing intergenerational poverty;

(b) a member or foster child of a family with an annual income at or below 185% of the federal poverty level;

(c) living with a legal custodian or legal guardian with an annual family income at or below 185% of the federal poverty level; or

(d) living with a legal custodian or legal guardian who can attest that the child or the child's household is receiving services benefitting low-income households or individuals.

(6) "Eligible individual" means an individual who:

(a) is under 20 years of age and is a resident of Utah;

(b) is economically disadvantaged; and

(c) receives, or has a family member, a foster family member, or a legal custodian or legal guardian who receives, services from a community partner.

(7) "Federal poverty level" means the poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(8) "Higher education costs" means the same as that term is defined in Section 53B-8a-102.5, except that the expenses must be incurred at:

(a) a credit-granting [~~institution of higher education~~]eligible educational institution within the state system of higher education;

(b) a [~~private, nonprofit college or university in the state that is accredited by the Northwestern Association of Schools and Colleges~~]private postsecondary educational institution; or

(c) a technical college.

(9) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(10) "Program" means the Student Prosperity Savings Program created in Section 53B-8a-202.

Section 13. Section 53B-8a-204 is amended to read:

53B-8a-204

(Effective 05/07/25)

. Distribution of program money -- Application process -- Prioritization -- Account agreements.

(1) The plan shall distribute money in the program by creating a 529 savings account for an eligible individual identified by a community partner.

(2) (a) (i) The plan shall carry out the responsibility described in Subsection (1) by establishing a process in which a community partner may apply for an allocation of program money to designate for eligible individuals.

(ii) The Utah Board of Higher Education shall establish the application process for a community partner to apply for an allocation of program money.

(iii) The application process described in Subsection (2)(a)(ii) shall include:

(A) the criteria for a community partner to apply for an allocation of program money;

(B) the criteria that the plan will use to prioritize applications if the dollar amounts requested in the applications exceed the dollar amount available;

(C) the requirements for establishing a 529 savings account in the name of an eligible individual; and

(D) the roles and responsibilities of a community partner that makes a successful application for an allocation of program money.

(b) (i) A community partner that receives an allocation of program money shall enter into a contract with the plan.

(ii) The contract described in Subsection (2)(b)(i) shall:

(A) define the roles and responsibilities of the community partner and the plan with regard to the community partner's allocation of program money; and

(B) specify that the individual the community partner identifies to receive a portion of the community partner's allocation is an eligible individual.

(3) If the plan approves a community partner's application for an allocation of program money, the plan may not promise or otherwise encumber the allocation to any other person unless the allocation is forfeited under Subsection (5)(b)(ii).

(4) (a) A community partner shall identify each eligible individual who will receive a portion of the community partner's allocation of program money.

(b) After a community partner identifies an eligible individual to receive a portion of the community partner's allocation, the community partner shall notify the plan of:

(i) the amount of the community partner's allocation that shall transfer to a 529 savings account in the name of the identified eligible individual; and

(ii) the amount, if any, that the community partner will be contributing in accordance with Part 1, Utah Educational Savings Plan, to the 529 savings account on behalf of the identified eligible individual.

(5) (a) Upon receiving the information described in Subsection (4)(b), the plan shall establish a 529 savings account for the identified eligible individual, with the community partner as the account owner.

(b) The community partner shall inform the beneficiary that:

(i) within three years after the day on which the beneficiary graduates from high school, the beneficiary shall enroll in:

(A) a credit-granting [~~institution of higher education~~]eligible educational institution within the state system of higher education;

(B) a [~~private, nonprofit college or university in the state that is accredited by the Northwestern Association of Schools and Colleges~~]private postsecondary educational institution; or

(C) a technical college; and

(ii) if the beneficiary fails to enroll within three years after the day on which the beneficiary graduates from high school, any money that remains in the 529 savings account shall be returned to the program.

(c) After entering into the account agreement described in Subsection (5)(a), the plan shall deposit into the beneficiary's 529 savings account the amount of the allocation described in Subsection (4)(b)(i).

Section 14. Section 53B-10-101 is amended to read:

53B-10-101

(Effective 05/07/25)

. Terrel H. Bell Teaching Incentive Loans program -- Eligible students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet requirements -- Duration of incentive loans.

(1) (a) Notwithstanding the provisions of this section, the board may not award an incentive loan described in this section on or after July 1, 2019.

(b) The provisions of this section apply to an incentive loan described in this section that was awarded before July 1, 2019.

(2) (a) A Terrel H. Bell Teaching Incentive Loans program is established to recruit and train superior candidates for teaching in Utah's public school system as a component of the teacher quality continuum referred to in Subsections 53E-2-302(7) and 53E-6-103(2)(a).

(b) Under the program, the incentive loans may be used in any of Utah's state-operated institutions of higher education or at a [~~private institution of higher education~~]private postsecondary educational institution in Utah that offers a state-approved teacher education program.

(3) (a) The board shall award the incentive loans to college students who have been admitted to, or have made application to and are prepared to enter into, a program preparing students for licensure and who declare an intent to complete the prescribed course of instruction and to teach in this state in accordance with the priorities described under Subsection (6)(c).

(b) The incentive loan may be canceled at any time by the institution of attendance if:

(i) the student fails to make reasonable progress toward completion of licensing requirements; or

(ii) it appears to be a reasonable certainty that the student does not intend to teach in Utah.

(c) The board may grant leaves of absence to incentive loan holders.

(d) The board may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, criteria and procedures under which the board may forgive a loan made under this section.

(4) The board may require an incentive loan recipient who fails to complete the requirements for licensing without good cause to repay all tuition and fees provided by the loan, together with appropriate interest.

(5) (a) The board may require an incentive loan recipient who does not work in the state's public school system or a private school within the state within two years after graduation to repay all tuition and fees provided by the loan, together with appropriate interest, unless waived for good cause.

(b) (i) A recipient who does not teach for a term equal to the number of years of the incentive loan within a reasonable period of time after graduation shall repay a graduated portion of the tuition and fees based upon the uncompleted term.

(ii) One year of teaching is credit for one year's tuition and fees.

(c) All repayments made under this Subsection (5) are for use in the Terrel H. Bell Education Scholarship Program described in Section 53B-8-116.

(6) (a) Each incentive loan is valid for up to four years of full-time equivalent enrollment, or until requirements for licensing or advanced licensing have been met, whichever is less.

(b) (i) Incentive loans apply to both tuition and fees in amounts and are subject to conditions approved by the board, based upon criteria developed to ensure that all recipients of the loans will pursue an education career within the state.

(ii) An incentive loan for tuition and fees at a [~~private institution~~]private postsecondary educational institution may not exceed the average scholarship amounts granted for tuition and fees at public institutions of higher education within the state.

(c) Incentive loans shall be awarded in accordance with prioritized critical areas of need for teaching expertise within the state, as determined by the State Board of Education's criticality index and school district priorities based upon data provided by the school district, and may include preparing persons as:

(i) a special education teacher;

(ii) a speech or language pathologist; or

(iii) another licensed professional providing services in the public schools to pupils with disabilities.

Section 15. Section 53B-13-111 is amended to read:

53B-13-111

(Effective 05/07/25)

. Loans or purchase of obligations -- Rules -- Options -- Repayment of federally insured loans.

(1) The board may purchase obligations from lenders or make loans to eligible borrowers, out of money available to the board for loans. The board shall promulgate rules for determining the needs of the respective borrowers for loans and for the purpose of making loans or purchasing obligations. The amount of an obligation purchased by the board or of a loan made by the board to an eligible borrower, whether enrolled or to be enrolled in a [~~private institution~~]private postsecondary educational institution or a tax-supported public institution, is determined by the board upon the basis of substantially similar standards and guides set forth in the board's rules. The board, in determining the needs of eligible borrowers for guaranteed loans, may consider the amount of assistance available to the students.

(2) When the board purchases an obligation or makes a loan, and again immediately before a repayment schedule on the loan or obligation is signed by the borrower, the board shall cause a written statement to be delivered to the borrower describing in detail whether an option exists and, if so, who may exercise the option, under what conditions the option may be exercised, and what options are available relating to the following:

(a) the term of the loan;

(b) the repayment period on the loan;

(c) an extension of the term or repayment period on the loan and the conditions of repayment under the extension;

(d) a deferment or forbearance on the repayment of the loan or on interest accruing on the loan, whether interest is to be paid during the deferment or forbearance, and the terms of repayment after the deferment or forbearance;

(e) the period of time between installment payments on the loan and whether graduated or unequal installment payments may be made;

(f) the minimum annual payment on the loan, and if more than one loan is taken from the board or if the borrower takes or has taken an educational loan from another source, the availability of consolidation, transfer, or assignment of the loans and the minimum annual payment on the aggregate of the loans;

(g) the granting of an interview before or at the time the borrower signs a repayment schedule; and

(h) the revision or renegotiation of the repayment schedule on the loan after repayment has commenced, or if other educational loans from the board or another source are taken after the repayment has commenced.

(3) On obligations purchased or loans made by the board which are federally insured loans, the board may establish variable repayment schedules conforming to the need and documented income levels of borrowers, if the schedules are not inconsistent with federal laws, rules, or regulations governing the insured loans. A borrower making payments on a loan may request and be granted a revised repayment term or schedule based upon the established variable repayment schedules.

Section 16. Section 53B-13a-102 is amended to read:

53B-13a-102

(Effective 05/07/25)

. Definitions.

As used in this chapter:

(1) (a) "Cost of attendance" means the estimated costs associated with attending an institution, as established by the institution in accordance with board policies.

(b) "Cost of attendance" includes costs payable to the institution, other direct educational expenses, transportation, and living expenses while attending the institution.

(2) (a) "Eligible student" means a financially needy student who is:

(i) unconditionally admitted to and enrolled at a Utah postsecondary institution on at least a half-time basis, as defined by the board, in an eligible postsecondary program leading to a defined education or training objective, as defined by the board;

(ii) making satisfactory academic progress, as defined by the institution in published policies or rules, toward an education or training objective; and

(iii) (A) a resident student under Section 53B-8-102 and rules of the board; or

(B) exempt from paying the nonresident portion of total tuition under Section 53B-8-106.

(b) "Eligible student" does not include a graduate student.

(3) "Financially needy student" means a student who demonstrates the financial inability to meet all or a portion of the cost of attendance at an institution for any period of attendance as defined by the board, after considering the student's expected family contribution.

(4) "Fiscal year" means the fiscal year of the state.

(5) "Partner award" means a financial award described in Section 53B-13a-106.

(6) "Program" means the Utah Promise Program.

(7) "Promise partner" means an employer that participates in the program described in Section 53B-13a-106.

(8) "Utah postsecondary institution" or "institution" means:

(a) an institution of higher education listed in Section 53B-1-102; or

(b) a Utah [~~private, nonprofit postsecondary institution that is accredited by an accrediting organization that the United States Department of Education recognizes~~]private, nonprofit postsecondary educational institution.

Section 17. Section 53B-13b-102 is amended to read:

53B-13b-102

(Effective 05/07/25)

. Definitions.

As used in this chapter:

(1) "Federal program" means a veterans educational assistance program established in:

(a) United States Code, Title 10, Chapter 1606, Educational Assistance for Members of the Selected Reserve;

(b) United States Code, Title 38, Chapter 30, All-Volunteer Force Educational Assistance Program;

(c) United States Code, Title 38, Chapter 31, Training and Rehabilitation for Veterans with Service-Connected Disabilities;

(d) United States Code, Title 38, Chapter 32, Post-Vietnam Era Veterans' Educational Assistance; or

(e) United States Code, Title 38, Chapter 33, Post-9/11 Educational Assistance.

(2) "Institution of higher education" or "institution" means:

(a) an institution of higher education listed in Subsection 53B-2-101(1); or

(b) a [~~private, nonprofit, postsecondary institution located in Utah that is accredited by an accrediting organization that the United States Department of Education recognizes~~]private postsecondary educational institution.

(3) "Program" means the Veterans Tuition Gap Program created in this chapter.

(4) (a) "Qualifying military veteran" means a veteran, as defined in Section 68-3-12.5, who:

(i) is a resident student under Section 53B-8-102 and rules of the board;

(ii) is accepted into an institution and enrolled in a program leading to a bachelor's degree;

(iii) (A) has exhausted the federal benefit under a federal program; or

(B) demonstrates that the veteran no longer qualifies to receive federal benefits under any federal program; and

(iv) has not completed a bachelor's degree.

(b) "Qualifying military veteran" does not include a family member.

Section 18. Section 53B-13c-101 is amended to read:

53B-13c-101

(Effective 05/07/25)

. Definitions.

As used in this chapter:

(1) (a) "Cost of attendance" means the estimated costs associated with taking an online course, as established by an eligible institution in accordance with board policies.

(b) "Cost of attendance" includes tuition, costs payable to the eligible institution, and other direct educational expenses related to taking an online course.

(2) "Eligible institution" means an institution that offers a postsecondary level course of instruction using digital technology.

(3) "Eligible student" means a financially needy student who is:

(a) at least 26 years old;

(b) enrolled in an online course at an eligible institution;

(c) pursuing:

(i) an online postsecondary degree program in a field where there is a demonstrated industry need; or

(ii) an online non-degree program that is designed to meet industry needs and leads to a certificate or another recognized educational credential; and

(d) a resident student under Section 53B-8-102 and rules the board establishes.

(4) "Financially needy student" means a student who demonstrates the financial inability to meet all or a portion of the cost of attendance at an eligible institution as defined by the board, after utilizing family and personal resources, federal assistance, and scholarships.

(5) "Fiscal year" means the fiscal year of the state.

(6) "Institution" means:

(a) an institution described in Section 53B-1-102; or

(b) a Utah [~~private, nonprofit postsecondary institution that is accredited by an accrediting organization that the United States Department of Education recognizes~~]private postsecondary educational institution.

(7) "Online course" means a postsecondary level course of instruction offered by an eligible institution using digital technology.

(8) "Program" means the Adult Learners Grant Program established in Section 53B-13c-102.

(9) "Tuition" means tuition and fees at the rate charged for residents of the state.

Section 19. Section 53B-16-105 is amended to read:

53B-16-105

(Effective 05/07/25)

. Common course numbering -- Transferability of credits -- Agreement with competency-based general education provider -- Policies.

(1) As used in this section:

(a) "Accredited institution" means an institution that:

(i) offers a competency-based postsecondary general education course online or in person; and

(ii) is accredited by an organization that the United States Department of Education recognizes.

(b) "Articulation agreement" means an agreement between the board and a provider that allows a student to transfer credit awarded by the provider for a general education course to any institution of higher education.

(c) "Competency-based" means a system where a student advances to higher levels of learning when the student demonstrates competency of concepts and skills regardless of time, place, or pace.

(d) "Competency-based general education provider" or "provider" means a [~~private institution~~]private postsecondary educational institution that:

(i) offers a postsecondary competency-based general education course online or in person;

(ii) awards academic credit; and

(iii) does not award degrees, including associates degrees or baccalaureate degrees.

(e) "Credit for prior learning" means the same as that term is defined in Section 53B-16-110.

(f) "Institution of higher education" means an institution described in Section 53B-1-102.

(2) The board shall:

(a) facilitate articulation and the seamless transfer of courses, programs, and credit for prior learning within the Utah System of Higher Education;

(b) provide for the efficient and effective progression and transfer of students within the Utah System of Higher Education;

(c) avoid the unnecessary duplication of courses;

(d) communicate ways in which a student may earn credit for prior learning; and

(e) allow a student to proceed toward the student's educational objectives as rapidly as the student's circumstances permit.

(3) The board shall develop, coordinate, and maintain a transfer and articulation system that:

(a) maintains a course numbering system that assigns common numbers to specified courses of similar level with similar curricular content, rigor, and standards;

(b) allows a student to track courses that transfer among institutions of higher education;

(c) allows a student to transfer courses from a provider with which the board has an articulation agreement to any institution of higher education;

(d) allows a student to transfer competency-based general education courses from an accredited institution to an institution of higher education;

(e) improves program planning;

(f) increases communication and coordination between institutions of higher education;

(g) facilitates student acceleration and the transfer of students and credits between institutions of higher education; and

(h) if the system includes a software or data tool:

(i) provides predictive analysis that models probabilities of student success; and

(ii) develops tailored strategies to best support students.

(4) (a) The board shall identify general education courses in the humanities, social sciences, arts, physical sciences, and life sciences

with uniform prefixes and common course numbers.

(b) A degree-granting institution shall annually identify institution courses that satisfy requirements of courses described in Subsection (4)(a).

(c) A degree-granting institution shall accept a course described in Subsection (3)(c), (3)(d), or (4)(a) toward filling specific area requirements for general education or lower division courses that transfer to baccalaureate majors.

(5) (a) The board shall:

(i) identify technical education programs with common names, descriptions, lengths, and objectives; and

(ii) within technical education programs, common course names, descriptions, length, and objectives allowing for customization of electives to meet regional industry demand.

(b) The commissioner shall appoint committees of faculty members from technical education committees to recommend aligned programs and courses that will satisfy graduation requirements.

(6) (a) The board shall identify common prerequisite courses and course substitutions for degree programs across degree-granting institutions.

(b) The commissioner shall appoint committees of faculty members from the degree-granting institutions to recommend appropriate courses of similar content and numbering that will satisfy requirements for lower division courses that transfer to baccalaureate majors.

(c) A degree-granting institution shall annually identify institution courses that satisfy requirements of courses described in Subsection (6)(a).

(d) A degree-granting institution shall accept a course described in Subsection (3)(c), (3)(d), or (6)(a) toward filling graduation requirements.

(7) (a) (i) The board shall seek proposals from providers to enter into articulation agreements.

(ii) A proposal described in Subsection (7)(a)(i) shall include the general education courses that the provider intends to include in an articulation agreement.

(b) The board shall:

(i) evaluate each general education course included in a proposal described in Subsection (7)(a) to determine whether the course is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education; and

(ii) if the board determines that a course included in a provider's proposal is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education, enter into an articulation agreement with the provider.

(8) The board shall establish policies to administer the policies and requirements described in this section.

(9) The board shall include information demonstrating that institutions of higher education are complying with the provisions of this section and the policies established in accordance with Subsection (8) in the annual report described in Section 53B-1-402.

Section 20. Section 53B-16-401 is amended to read:

53B-16-401

(Effective 05/07/25)

. Definitions.

As used in this part:

(1) (a) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through an institution of higher education, provides interns with training and work experience in activities related to the entity's ongoing business activities.

(b) "Cooperating employer" also means an institution of higher education that provides the work experience segment of an intern's work experience and career exploration program.

(2) "Institution of higher education" means any:

(a) component of the state system of higher education, as defined under Section 53B-1-102, that is authorized by the board to offer internship programs; and

(b) [~~private institution of higher education~~]private postsecondary educational institution which offers internship programs under this part.

(3) "Intern" means a student enrolled in a work experience and career exploration program under Section 53B-16-402:

(a) that an institution of higher education sponsors;

(b) involves both classroom instruction and work experience with a cooperating employer; and

(c) for which the student receives no compensation.

(4) "Internship" means the work experience segment of an intern's work experience and career exploration program that:

(a) an institution of higher education sponsors under a written agreement with a cooperating employer; and

(b) an intern performs under the direct supervision of a cooperating employer.

Section 21. Section 53B-17-901 is amended to read:

53B-17-901

(Effective 05/07/25)

. Admissions -- Increase authorized.

(1) Beginning with the 2013-14 school year and subject to Subsection (2), the University of Utah School of Medicine may increase the number of students admitted by 40 students for a total of 122 students admitted annually.

(2) Beginning with the 2013-14 school year, no fewer than 82% of the students admitted annually shall:

(a) meet the qualifications of a resident student for the purpose of tuition in accordance with:

(i) Section 53B-8-102;

(ii) board policy on determining resident status; and

(iii) University of Utah policy on determining resident status;

(b) have graduated from a public or [~~private college or university~~]private postsecondary educational institution located in Utah; or

(c) have graduated from a public or private high school located in Utah.

Section 22. Section 53B-17-904 is enacted to read:

53B-17-904

(Effective upon governor's approval)

. Agreement for out-of-state students.

Notwithstanding any other provision of this part, the University of Utah School of Medicine may, to teach a medical student from another state or an institution outside the state, enter into an agreement with:

(1) a state entity from the other state; or

(2) the institution of higher education outside the state.

Section 23. Section 53B-20-107 is amended to read:

53B-20-107

(Effective 05/07/25)

. Powers of chief administrative officer to order individuals off an institution of higher education's property.

(1) As used in this section:

(a) "Chief administrative officer" means the president of an institution or an individual designated by the president.

(b) "Institution of higher education" means:

(i) a state institution of higher education as defined in Section 53B-3-102; or

(ii) a [~~private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education~~]private postsecondary educational institution.

(2) It is the purpose of this section to:

(a) supplement and clarify the power vested in the governing board of each institution of higher education; and

(b) regulate, conduct, and enforce law and order on property owned, operated, or controlled by each institution of higher education.

(3) A chief administrative officer may order an individual to leave property that is owned, operated, or controlled by an institution of higher education if:

(a) the individual acts, or if the chief administrative officer has reasonable cause to believe that the individual intends to act, to:

(i) cause injury to an individual;

(ii) cause damage to property;

(iii) commit a crime;

(iv) interfere with the peaceful conduct of the activities of the institution of higher education;

(v) violate a rule or regulation of the institution of higher education if that rule or regulation is not in conflict with state law; or

(vi) disrupt the institution of higher education, the institution's pupils, or the institution of higher education's activities; or

(b) the individual is reckless as to whether the individual's actions will cause fear for the safety of another individual.

(4) (a) If a law enforcement agency or security department of an institution of higher education lacks sufficient manpower to deal effectively with a condition of unrest existing or developing on a campus or related facility of the institution of higher education in the judgment of the chief administrative officer, the chief administrative officer may call for assistance from the county sheriff of the county, a city law enforcement agency, or the Department of Public Safety.

(b) Upon receipt of the request under Subsection (4)(a), the county sheriff, a city law enforcement agency, or the Department of Public Safety must render all necessary assistance without expense to the institution of higher education.

(c) All personnel while rendering assistance to the institution of higher education shall serve under the general direction of the chief administrative officer.

(5) Nothing in this section shall limit:

(a) the right or duty of a local law enforcement agency to enforce the law which the local law enforcement agency had prior to this enactment; or

(b) the right of a state or local law enforcement agency to enforce the laws of this state.

Section 24. Section 53B-28-102 is amended to read:

53B-28-102

(Effective 05/07/25)

. Definitions.

As used in this chapter, "institution" means a Utah institution that is a private postsecondary educational institution or a public [~~or private postsecondary~~]institution[~~that is located in Utah~~], including an institution of higher education listed in Section 53B-1-102.

Section 25. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect May 7, 2025.

(2) The actions affecting Section 53B-17-904 (Effective upon governor's approval) take effect:

(a) except as provided in Subsection (2)(b), May 7, 2025; or

(b) if approved by two-thirds of all members elected to each house:

(i) upon approval by the governor;

(ii) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(iii) in the case of a veto, the date of veto override.

CHAPTER 385
H. B. 37
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

UTAH HOUSING AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill deals with housing development and housing policy.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► modifies the minimum population for incorporation of a new town;
- ► authorizes a municipality or county to authorize additional housing density in exchange for certain requirements;
- ► authorizes a municipality or county to offer incentives in an area approved for single-family or multi-family residential units to promote owner-occupied, affordable housing;
- ► modifies requirements for a moderate income housing plan and a moderate income housing report;
- ► authorizes a special district to provide the operation of a propane system within its boundaries;
- ► authorizes the Division of Housing and Community Development to make rules regarding the content and form of a moderate income housing report;
- ► requires the Governor's Office of Planning and Budget (GOPB) to develop a state housing plan by December 31, 2025;
- ► requires GOPB to submit an annual written report on the implementation of the state housing plan to the Political Subdivisions Interim Committee; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2a-201.5, as last amended by Laws of Utah 2024, Chapters 342, 518 and 534
10-9a-102, as last amended by Laws of Utah 2019, Chapter 384
10-9a-403, as last amended by Laws of Utah 2024, Chapters 431, 537
10-9a-408, as last amended by Laws of Utah 2024, Chapters 413, 438
10-9a-535, as enacted by Laws of Utah 2022, Chapter 355
17-27a-102, as last amended by Laws of Utah 2022, Chapter 307
17-27a-403, as last amended by Laws of Utah 2024, Chapters 381, 431
17-27a-408, as last amended by Laws of Utah 2024, Chapters 381, 413
17-27a-531, as enacted by Laws of Utah 2022, Chapter 355
17B-1-202, as last amended by Laws of Utah 2024, Chapters 53, 388
35A-8-202, as last amended by Laws of Utah 2021, Chapter 281
72-1-304, as last amended by Laws of Utah 2024, Chapter 517
72-2-124, as last amended by Laws of Utah 2024, Chapters 498, 501

ENACTS:

10-9a-403.2, Utah Code Annotated 1953
10-9a-403.3, Utah Code Annotated 1953
17-27a-403.1, Utah Code Annotated 1953
17-27a-403.2, Utah Code Annotated 1953
63J-4-402, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2a-201.5 is amended to read:
10-2a-201.5. Qualifications for incorporation.

(1) (a) An area may incorporate as a town in accordance with this part if the area:

(i) (A) is contiguous; or

(B) is a community council area;

(ii) has a population of at least [~~100~~]75 people, but fewer than 1,000 people; and

(iii) is not already part of a municipality.

(b) A preliminary municipality may transition to, and incorporate as, a town, in accordance with Section 10-2a-510.

(c) An area may incorporate as a city in accordance with this part if the area:

(i) (A) is contiguous; or

(B) is a community council area;

(ii) has a population of 1,000 people or more; and

(iii) is not already part of a municipality.

(2) (a) An area may not incorporate under this part if:

(i) the area has a population of fewer than 100 people; or

(ii) except as provided in Subsection (2)(b), the area has an average population density of fewer than seven people per square mile.

(b) Subsection (2)(a)(ii) does not prohibit incorporation of an area if:

(i) noncompliance with Subsection (2)(a)(ii) is necessary to connect separate areas that share a demonstrable community interest; and

(ii) the area is contiguous.

(3) An area incorporating under this part may not include land owned by the United States federal government unless:

(a) the area, including the land owned by the United States federal government, is contiguous; and

(b) (i) incorporating the land is necessary to connect separate areas that share a demonstrable community interest; or

(ii) excluding the land from the incorporating area would create an unincorporated island within the proposed municipality.

(4) (a) Except as provided in Subsection (4)(b), an area incorporating under this part may not include some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the request for a feasibility study, described in Section 10-2a-202, relating to the incorporating area; and

(ii) is still pending on the date the request for the feasibility study described in Subsection (4)(a)(i) is filed.

(b) A feasibility request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:

(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

(ii) the feasibility request complies with Subsections 10-2a-202(1), (3), (4), and (5) with respect to excluding the proposed annexation area from the area proposed for incorporation; and

(iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to not be contiguous.

(c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider each feasibility request to which Subsection (4)(b) applies as not proposing the incorporation of an area proposed for annexation.

(5) (a) An area incorporating under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of the parcel gives written consent to exclude part of the parcel.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (5)(a) if owned by the same owner.

Section 2. Section 10-9a-102 is amended to read:

10-9a-102. Purposes -- General land use authority.

(1) The purposes of this chapter are to:

(a) provide for the health, safety, and welfare;

(b) promote the prosperity;

(c) improve the morals, peace, good order, comfort, convenience, and aesthetics of each municipality and each municipality's present and future inhabitants and businesses;

(d) protect the tax base;

(e) secure economy in governmental expenditures;

(f) foster the state's agricultural and other industries;

(g) protect both urban and nonurban development;

(h) protect and ensure access to sunlight for solar energy devices;

(i) provide fundamental fairness in land use regulation;

(j) facilitate orderly growth,[~~and~~]allow growth in a variety of housing types, and contribute toward housing affordability; and

(k) protect property values.

(2) To accomplish the purposes of this chapter, a municipality may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the municipality considers necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:

(a) uses;

(b) density;

(c) open spaces;

(d) structures;

(e) buildings;

(f) energy efficiency;

(g) light and air;

(h) air quality;

(i) transportation and public or alternative transportation;

(j) infrastructure;

(k) street and building orientation;

(l) width requirements;

(m) public facilities;

(n) fundamental fairness in land use regulation; and

(o) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.

(3) (a) Any ordinance, resolution, or rule enacted by a municipality pursuant to its authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(b) A municipality may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the municipality demonstrates that the regulation:

(i) is necessary for the purposes of this chapter;

(ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and

(iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

Section 3. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of the planning commission's intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) except for a city of the fifth class or a town, is coordinated to integrate the land use element with the water use and preservation element; and

(D) except for a city of the fifth class or a town, accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the municipality during the next five years;

(B) for a [~~town~~]municipality that is not a specified municipality, may include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii);

(C) for a specified municipality, as defined in Section 10-9a-408, that does not have a fixed guideway public transit station, shall include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii) or at least one of the moderate income housing strategies described in Subsections (2)(b)(iii)(X) through (CC);

(D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed guideway public transit station, shall include:

(I) []a recommendation to implement five or more of the moderate income housing strategies described in Subsection (2)(b)(iii), of which one shall be the moderate income housing strategy described in Subsection [~~(2)(b)(iii)(W),~~](2)(b)(iii)(U) and one shall be a moderate income housing strategy described in Subsection (2)(b)(iii)(G) [~~,~~]or (H)[~~, or (Q),~~]; or

(II) a recommendation to implement the moderate income housing strategy described in Subsection (2)(b)(iii)(U), one of the moderate income housing strategies described in Subsections (2)(b)(iii)(X) through (CC), and one moderate income housing strategy described in Subsection (2)(b)(iii); and

(E) for a specified municipality, as defined in Section 10-9a-408, shall include an implementation plan as provided in Subsection (2)(c); and

(iv) except for a city of the fifth class or a town, a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the municipality to modify the municipality's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a [~~town~~]municipality that is not a specified municipality, may include, and for a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a [~~town~~]municipality that is not a specified municipality, may include, and for a specified municipality as defined in Section 10-9a-408, shall include a recommendation to implement the required number of any of the following moderate income housing strategies as specified in Subsection (2)(a)(iii):

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or, notwithstanding Section 10-9a-535, establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

[~~(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;~~]

[~~(R) create a home ownership promotion zone pursuant to Part 10, Home Ownership Promotion Zone for Municipalities;~~]

[~~(S)~~](Q) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

[~~(T)~~](R) create a program to transfer development rights for moderate income housing;

[~~(U)~~](S) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

[~~(V)~~](T) develop a moderate income housing project for residents who are disabled or 55 years old or older;

[~~(W)~~](U) develop and adopt a station area plan in accordance with Section 10-9a-403.1;

[~~(X)~~](V) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones;

[~~(Y) create a first home investment zone in accordance with Title 63N, Chapter 3, Part 16, First Home Investment Zone Act; and~~]

[~~(Z)~~](W) demonstrate implementation of any other program or strategy to address the housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing; [~~and~~]

(X) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(Y) create a home ownership promotion zone pursuant to Part 10, Home Ownership Promotion Zone for Municipalities;

(Z) create a first home investment zone in accordance with Title 63N, Chapter 3, Part 16, First Home Investment Zone Act;

(AA) approve a project that receives funding from, or qualifies to receive funding from, the Utah Homes Investment Program created in Title 51, Chapter 12, Utah Homes Investment Program;

(BB) adopt or approve a qualifying affordable home ownership density bonus for single-family residential units, as described in

Section 10-9a-403.2; and

(CC) adopt or approve a qualifying affordable home ownership density bonus for multi-family residential units, as described in Section 10-9a-403.3; and

(iv) shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(iii).

(c) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the municipality for implementation.

(ii) The timeline described in Subsection (2)(c)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the municipality, whether one-time or ongoing; and

(B) provide flexibility for the municipality to make adjustments as needed.

(d) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(e) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the municipality's region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(f) In drafting the water use and preservation element, the planning commission:

(i) shall consider:

(A) applicable regional water conservation goals recommended by the Division of Water Resources; and

(B) if Section 73-10-32 requires the municipality to adopt a water conservation plan pursuant to Section 73-10-32, the municipality's water conservation plan;

(ii) shall include a recommendation for:

(A) water conservation policies to be determined by the municipality; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(iii) shall review the municipality's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(iv) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(v) shall consult with the public water system or systems serving the municipality with drinking water regarding how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(vi) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and the water use and preservation element may affect the Great Salt Lake;

(vii) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing development such as modification of existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(viii) for a town, may include, and for another municipality, shall include, a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 4. Section 10-9a-403.2 is enacted to read:

10-9a-403.2. Affordable home ownership density bonus for single-family residential units.

(1) As used in this section:

(a) "Affordable housing" means a dwelling:

(i) offered for sale to an owner-occupier at a purchase price affordable to a household with a gross income of no more than 120% of area median income for the county in which the residential unit is offered for sale; or

(ii) offered for rent at a rental price affordable to a household with a gross income of no more than 80% of area median income for the county in which the residential unit is offered for rent.

(b) "Owner-occupier" means an individual who owns, solely or jointly, a housing unit in which the individual lives as the individual's primary residence.

(c) "Qualifying affordable home ownership single-family density bonus" means:

(i) for an area with an underlying zoning density of less than six residential units per acre, municipal approval of a density at least six residential units per acre; or

(ii) for an area with an underlying zoning density of six residential units per acre or more, municipal approval of a density at least 0.5 residential units per acre greater than the underlying zoning density for the area.

(2) If a municipality approves a qualifying affordable home ownership single-family density bonus, either through a zoning ordinance or a development agreement, the municipality may adopt requirements for the qualifying affordable home ownership single-family density bonus area to ensure:

(a) at least 60% of the total single-family residential units be deed-restricted to owner-occupancy for at least five years;

(b) at least 25% of the total single-family residential units qualify as affordable housing;

(c) at least 25% of the single-family residential units per acre to be no larger than 1,600 square feet; or

(d) the applicant creates a preferential qualifying buyer program in which a single-family residential unit is initially offered for sale, for up to 30 days, to a category of preferred qualifying buyers established by the municipality, in accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

(3) A municipality may offer additional incentives in a qualifying affordable home ownership single-family density bonus area approved for single-family residential units to promote owner-occupied, affordable housing.

Section 5. Section 10-9a-403.3 is enacted to read:

10-9a-403.3. Affordable home ownership density bonus for multi-family residential units.

(1) As used in this section:

(a) "Affordable housing" means the same as that term is defined in Section 10-9a-403.2.

(b) "Owner-occupier" means the same as that term is defined in Section 10-9a-403.2.

(c) "Qualifying affordable home ownership multi-family density bonus" means municipal approval of a density of at least 20 residential units per acre.

(2) If a municipality approves a qualifying affordable home ownership multi-family density bonus, either through a zoning ordinance or a development agreement, the municipality may adopt requirements for the qualifying affordable home ownership multi-family density bonus area to ensure:

(a) at least 20% more residential units per acre than are otherwise allowed in the area;

(b) at least 60% of the total units in the multi-family residential building be deed-restricted to owner-occupancy for at least five years;

(c) at least 25% of the total units in the multi-family residential building qualify as affordable housing;

(d) at least 25% of the total units in a multi-family residential building to be no larger than 1,600 square feet; or

(e) the applicant creates a preferential qualifying buyer program in which a unit in a multi-family residential building is initially offered for sale, for up to 30 days, to a category of preferred qualifying buyers established by the municipality, in accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

(3) A municipality may offer additional incentives in a qualifying affordable home ownership multi-family density bonus area for multi-family residential units to promote owner-occupied, affordable housing.

Section 6. Section 10-9a-408 is amended to read:

10-9a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified municipality's general plan as provided in Subsection 10-9a-403(2)(c).

(c) "Initial report" or "initial moderate income housing report" means the one-time report described in Subsection (2).

(d) "Moderate income housing strategy" means a strategy described in Subsection 10-9a-403(2)(b)(iii).

(e) "Report" means an initial report or a subsequent progress report.

(f) "Specified municipality" means:

(i) a city of the first, second, third, or fourth class; or

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class.

(g) "Subsequent progress report" means the annual report described in Subsection (3).

(2) (a) The legislative body of a specified municipality shall submit an initial report to the division.

(b) (i) This Subsection (2)(b) applies to a municipality that is not a specified municipality as of January 1, 2023.

(ii) As of January 1, if a municipality described in Subsection (2)(b)(i) changes from one class to another or grows in population to qualify as a specified municipality, the municipality shall submit an initial plan to the division on or before August 1 of the first calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.

(c) The initial report shall:

(i) identify each moderate income housing strategy selected by the specified municipality for continued, ongoing, or one-time implementation, restating the exact language used to describe the moderate income housing strategy in Subsection 10-9a-403(2)(b)(iii); and

(ii) include an implementation plan.

(3) (a) After the division approves a specified municipality's initial report under this section, the specified municipality shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified municipality is required to submit the initial report.

(b) The subsequent progress report shall include:

(i) subject to Subsection (3)(c), a description of each action, whether one-time or ongoing, taken by the specified municipality during the previous 12-month period to implement the moderate income housing strategies identified in the initial report for implementation;

(ii) a description of each land use regulation or land use decision made by the specified municipality during the previous 12-month period to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified municipality's efforts to implement the moderate income housing strategies;

(iii) a description of any barriers encountered by the specified municipality in the previous 12-month period in implementing the moderate income housing strategies;

(iv) information regarding the number of internal and external or detached accessory dwelling units located within the specified municipality for which the specified municipality:

(A) issued a building permit to construct; or

(B) issued a business license or comparable license or permit to rent;

(v) the number of residential dwelling units that have been entitled that have not received a building permit as of the submission date of the progress report;

(vi) shapefiles, or website links if shapefiles are not available, to current maps and tables related to zoning;

(vii) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(viii) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.

(c) For purposes of describing actions taken by a specified municipality under Subsection (3)(b)(i), the specified municipality may include an ongoing action taken by the specified municipality prior to the 12-month reporting period applicable to the subsequent progress report if the specified municipality:

(i) has already adopted an ordinance, approved a land use application, made an investment, or approved an agreement or financing that substantially promotes the implementation of a moderate income housing strategy identified in the initial report; and

(ii) demonstrates in the subsequent progress report that the action taken under Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified municipality's implementation plan.

(d) A specified municipality's report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before May 1 of the year in which the report is required.

(4) Within 90 days after the day on which the division receives a specified municipality's report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (5), review the report to determine compliance with this section.

(5) (a) An initial report [~~does not comply~~]complies with this section [~~unless~~]if the report:

(i) includes the information required under Subsection (2)(c);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) [~~subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies~~]if the specified municipality has a fixed guideway public transit station:

(I) five or more of the moderate income housing strategies described in Subsection 10-9a-403(2)(b)(iii), of which one shall be the moderate income housing strategy described in Subsection 10-9a-403(2)(b)(iii)(U) and one shall be a moderate income housing strategy described in Subsection 10-9a-403(2)(b)(iii)(G) or (H); or

(II) the moderate income housing strategy described in Subsection 10-9a-403(2)(b)(iii)(U), one of the moderate income housing strategies described in Subsections 10-9a-403(2)(b)(iii)(X) through (CC), and one moderate income strategy described in Subsection 10-9a-403(2)(b)(iii);and

(iii) is in a form approved by the division.

(b) A subsequent progress report [~~does not comply~~]complies with this section [~~unless~~]if the report:

(i) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) [~~subject to the requirements of Subsection 10-9a-403(2)(a)(iii)(D), five or more moderate income housing strategies~~]if the specified municipality has a fixed guideway public transit station[~~;~~]:

(I) five or more of the moderate income housing strategies described in Subsection 10-9a-403(2)(b)(iii), of which one shall be the moderate income housing strategy described in Subsection 10-9a-403(2)(b)(iii)(U) and one shall be a moderate income housing strategy described in Subsection 10-9a-403(2)(b)(iii)(G) or (H); or

(II) the moderate income housing strategy described in Subsection 10-9a-403(2)(b)(iii)(U), one of the moderate income housing strategies described in Subsections 10-9a-403(2)(b)(iii)(X) through (CC), and one moderate income housing strategy described in Subsection 10-9a-403(2)(b)(iii);

(ii) is in a form approved by the division; and

(iii) provides sufficient information for the division to:

(A) assess the specified municipality's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified municipality's implementation plan;

(C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies;

(D) identify how the market has responded to the specified municipality's selected moderate income housing strategies; and

(E) identify any barriers encountered by the specified municipality in implementing the selected moderate income housing strategies.

(c) (i) Notwithstanding the requirements of Subsection (5)(a)(ii)(A) or (b)(i)(A), if a specified municipality without a fixed guideway public transit station implements or is implementing, by ordinance or development agreement, one of the following moderate income housing strategies, the division shall consider that one moderate income housing strategy to be the equivalent of three moderate income housing strategies:

(A) a housing and transit reinvestment zone, as described in Subsection 10-9a-403(2)(b)(iii)(X);

(B) a home ownership promotion zone, as described in Subsection 10-9a-403(2)(b)(iii)(Y);

(C) a first home investment zone, described in Subsection 10-9a-403(2)(b)(iii)(Z);

(D) the approval of a project described in Subsection 10-9a-403(2)(b)(iii)(AA);

(E) a qualifying affordable home ownership density bonus for single-family residential units, as described in Subsection 10-9a-403(2)(b)(iii)(BB); or

(F) a qualifying affordable home ownership density bonus for multi-family residential units, as described in Subsection 10-9a-403(2)(b)(iii)(CC).

(ii) If the division considers one moderate income housing strategy described in Subsection (5)(c)(i) as the equivalent of three moderate income housing strategies, the division shall also consider the specified municipality compliant with the reporting requirement described in this section for:

(A) the year in which the specified municipality submits the initial report or subsequent report; and

(B) two subsequent reporting years.

(6) (a) A specified municipality qualifies for priority consideration under this Subsection (6) if the specified municipality's report:

(i) complies with this section; and

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) five or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) six or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station.

(b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within the boundaries of a specified municipality described in Subsection (6)(a) until the Department of Transportation receives notice from the division under Subsection (6)(e).

(c) Upon determining that a specified municipality qualifies for priority consideration under this Subsection (6), the division shall send a notice of prioritization to the legislative body of the specified municipality and the Department of Transportation.

(d) The notice described in Subsection (6)(c) shall:

(i) name the specified municipality that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration; and

(iii) state the basis for the division's determination that the specified municipality qualifies for priority consideration.

(e) The division shall notify the legislative body of a specified municipality and the Department of Transportation in writing if the division determines that the specified municipality no longer qualifies for priority consideration under this Subsection (6).

(7) (a) If the division, after reviewing a specified municipality's report, determines that the report does not comply with this section, the division shall send a notice of noncompliance to the legislative body of the specified municipality.

(b) A specified municipality that receives a notice of noncompliance may:

(i) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(c) The notice described in Subsection (7)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified municipality has an opportunity to:

(A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of compliance is sent; or

(B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

(iii) state that failure to take action under Subsection (7)(c)(ii) will result in the specified municipality's ineligibility for funds under Subsection (9).

(d) For purposes of curing the deficiencies in a report under this Subsection (7), if the action needed to cure the deficiency as described by the division requires the specified municipality to make a legislative change, the specified municipality may cure the deficiency by making that legislative change within the 90-day cure period.

(e) (i) If a specified municipality submits to the division a corrected report in accordance with Subsection (7)(b)(i) and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified municipality within 30 days after the day on which the corrected report is submitted.

(ii) A specified municipality that receives a second notice of noncompliance may submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent.

(iii) The notice described in Subsection (7)(e)(i) shall:

(A) state that the specified municipality has an opportunity to submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; and

(B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the specified municipality's ineligibility for funds under Subsection (9).

(8) (a) A specified municipality that receives a notice of noncompliance under Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(b) Within 90 days after the day on which the division receives a request for an appeal, an appeal board consisting of the following three members shall review and issue a written decision on the appeal:

(i) one individual appointed by the Utah League of Cities and Towns;

(ii) one individual appointed by the Utah Homebuilders Association; and

(iii) one individual appointed by the presiding member of the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified municipality is a member.

(c) The written decision of the appeal board shall either uphold or reverse the division's determination of noncompliance.

(d) The appeal board's written decision on the appeal is final.

(9) (a) A specified municipality is ineligible for funds under this Subsection (9) if:

(i) the specified municipality fails to submit a report to the division;

(ii) after submitting a report to the division, the division determines that the report does not comply with this section and the specified municipality fails to:

(A) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent;

(iii) after submitting to the division a corrected report to cure the deficiencies in a previously submitted report, the division determines that the corrected report does not comply with this section and the specified municipality fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection (8), the appeal board issues a written decision upholding the division's determination of noncompliance.

(b) The following apply to a specified municipality described in Subsection (9)(a) until the division provides notice under Subsection (9)(e):

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the boundaries of the specified municipality in accordance with Subsection 72-2-124(5);

(ii) beginning with a report submitted in 2024, the specified municipality shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $250 per day that the specified municipality:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (7); and

(iii) beginning with the report submitted in 2025, the specified municipality shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $500 per day that the specified municipality, in a consecutive year:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (7).

(c) Upon determining that a specified municipality is ineligible for funds under this Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the division shall send a notice of ineligibility to the legislative body of the specified municipality, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (9)(c) shall:

(i) name the specified municipality that is ineligible for funds;

(ii) describe the funds for which the specified municipality is ineligible to receive;

(iii) describe the fee the specified municipality is required to pay under Subsection (9)(b), if applicable; and

(iv) state the basis for the division's determination that the specified municipality is ineligible for funds.

(e) The division shall notify the legislative body of a specified municipality and the Department of Transportation in writing if the division determines that the provisions of this Subsection (9) no longer apply to the specified municipality.

(f) The division may not determine that a specified municipality that is required to pay a fee under Subsection (9)(b) is in compliance with the reporting requirements of this section until the specified municipality pays all outstanding fees required under Subsection (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(10) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 7. Section 10-9a-535 is amended to read:

10-9a-535. Moderate income housing.

(1) A municipality may only require the development of a certain number of moderate income housing units as a condition of approval of a land use application if:

(a) the municipality and the applicant enter into a written agreement regarding the number of moderate income housing units; [~~or~~]

(b) the municipality provides incentives for an applicant who agrees to include moderate income housing units in a development[~~.~~]; or

(c) the municipality offers or approves, and an applicant accepts, an incentive described in Section 10-9a-403.2 or 10-9a-403.3.

(2) If an applicant does not agree to participate in the development of moderate income housing units under Subsection (1)(a) or (b), a municipality may not take into consideration the applicant's decision in the municipality's determination of whether to approve or deny a land use application.

(3) Notwithstanding Subsections (1) and (2), a municipality that imposes a resort community sales and use tax as described in Section 59-12-401, may require the development of a certain number of moderate income housing units as a condition of approval of a land use application if the requirement is in accordance with an ordinance enacted by the municipality before January 1, 2022.

Section 8. Section 17-27a-102 is amended to read:

17-27a-102. Purposes -- General land use authority -- Limitations.

(1) (a) The purposes of this chapter are to:

(i) provide for the health, safety, and welfare;

(ii) promote the prosperity;

(iii) improve the morals, peace, good order, comfort, convenience, and aesthetics of each county and each county's present and future inhabitants and businesses;

(iv) protect the tax base;

(v) secure economy in governmental expenditures;

(vi) foster the state's agricultural and other industries;

(vii) protect both urban and nonurban development;

(viii) protect and ensure access to sunlight for solar energy devices;

(ix) provide fundamental fairness in land use regulation;

(x) facilitate orderly growth, [~~and~~]allow growth in a variety of housing types, and contribute toward housing affordability; and

(xi) protect property values.

(b) Subject to Subsection (4) and Section 11-41-103, to accomplish the purposes of this chapter, a county may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the county considers necessary or appropriate for the use and development of land within the unincorporated area of the county or a designated mountainous planning district, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:

(i) uses;

(ii) density;

(iii) open spaces;

(iv) structures;

(v) buildings;

(vi) energy-efficiency;

(vii) light and air;

(viii) air quality;

(ix) transportation and public or alternative transportation;

(x) infrastructure;

(xi) street and building orientation and width requirements;

(xii) public facilities;

(xiii) fundamental fairness in land use regulation; and

(xiv) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.

(2) Each county shall comply with the mandatory provisions of this part before any agreement or contract to provide goods, services, or municipal-type services to any storage facility or transfer facility for high-level nuclear waste, or greater than class C radioactive waste, may be executed or implemented.

(3) (a) Any ordinance, resolution, or rule enacted by a county pursuant to its authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(b) A county may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the county demonstrates that the regulation:

(i) is necessary for the purposes of this chapter;

(ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and

(iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(4) (a) This Subsection (4) applies to development agreements entered into on or after May 5, 2021.

(b) A provision in a county development agreement is unenforceable if the provision requires an individual or an entity, as a condition for issuing building permits or otherwise regulating development activities within an unincorporated area of the county, to initiate a process for a municipality to annex the unincorporated area in accordance with Title 10, Chapter 2, Part 4, Annexation.

(c) Subsection (4)(b) does not affect or impair the enforceability of any other provision in the development agreement.

Section 9. Section 17-27a-403 is amended to read:

17-27a-403. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of the planning commission's intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) is coordinated to integrate the land use element with the water use and preservation element; and

(D) accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) for a specified county as defined in Section 17-27a-408, a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(B) selects three or more moderate income housing strategies described in [~~Subsection(2)(b)(ii)~~]Subsections (2)(b)(ii)(A) through (V), or one moderate income housing strategy described in Subsections (2)(b)(ii)(W) through (BB), for implementation; and

(C) includes an implementation plan as provided in Subsection [~~(2)(c)~~](2)(g);

(iv) a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3); and

(v) a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the county to modify the county's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the county, an employer that provides contracted services for the county, or any other public employer that operates within the county;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

[~~(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;~~]

[~~(R) create a home ownership promotion zone pursuant to Part 12, Home Ownership Promotion Zone for Counties;~~]

[~~(S)~~](Q) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

[~~(T)~~](R) create a program to transfer development rights for moderate income housing;

[~~(U)~~](S) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

[~~(V)~~](T) develop a moderate income housing project for residents who are disabled or 55 years old or older;

[~~(W)~~](U) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; [~~and~~]

[~~(X)~~](V) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing[~~.~~];

(W) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(X) create a home ownership investment zone in accordance with Part 12, Home Ownership Promotion Zone for Counties;

(Y) create a first home investment zone in accordance with Title 63N, Chapter 3, Part 16, First Home Investment Zone Act;

(Z) approve a project that receives funding from, or qualifies to receive funding from, the Utah Homes Investment Program created in Title 51, Chapter 12, Utah Homes Investment Program;

(AA) adopt or approve an affordable home ownership density bonus for single-family residential units, as described in Section 17-27a-403.1; and

(BB) adopt or approve an affordable home ownership density bonus for multi-family residential units, as described in Section 17-27a-403.2.

(c) If a specified county, as defined in Section 17-27a-408, has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified county shall include as part of the specified county's recommended strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy described in Subsection [~~(2)(b)(ii)(Q)~~](2)(b)(ii)(W).

(d) The planning commission shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(ii).

(e) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

(f) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the county's region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

(g) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the county for implementation.

(ii) The timeline described in Subsection (2)(g)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and

(B) provide flexibility for the county to make adjustments as needed.

(h) In drafting the water use and preservation element, the planning commission:

(i) shall consider applicable regional water conservation goals recommended by the Division of Water Resources;

(ii) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and water use and preservation element may affect the Great Salt Lake;

(iii) shall notify the community water systems serving drinking water within the unincorporated portion of the county and request feedback from the community water systems about how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(iv) shall consider the potential opportunities and benefits of planning for regionalization of public water systems;

(v) shall consult with the Department of Agriculture and Food for information and technical resources regarding the potential benefits of agriculture conservation easements and potential implementation of agriculture water optimization projects that would support regional water conservation goals;

(vi) shall notify an irrigation or canal company located in the county so that the irrigation or canal company can be involved in the protection and integrity of the irrigation or canal company's delivery systems;

(vii) shall include a recommendation for:

(A) water conservation policies to be determined by the county; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(viii) shall review the county's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(ix) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(x) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(xi) shall include a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 10. Section 17-27a-403.1 is enacted to read:

17-27a-403.1. Affordable home ownership density bonus for single-family residential units.

(1) As used in this section:

(a) "Affordable housing" means the same as that term is defined in Section 10-9a-403.2.

(b) "Owner-occupier" means the same as that term is defined in Section 10-9a-403.2.

(c) "Qualifying affordable home ownership single-family density bonus" means:

(i) for an area with an underlying zoning density of less than six residential units per acre, county approval of a density at least six residential units per acre; or

(ii) for an area with an underlying zoning density of six residential units per acre or more, county approval of a density at least 0.5 residential units per acre greater than the underlying zoning density for the area.

(2) If a county approves a qualifying affordable home ownership single-family density bonus, either through a zoning ordinance or a development agreement, the county may adopt requirements for the qualifying affordable home ownership single-family density bonus area to ensure:

(a) at least 60% of the total single-family residential units be deed-restricted to owner-occupancy for at least five years;

(b) at least 25% of the total single-family residential units qualify as affordable housing;

(c) at least 25% of the single-family residential units per acre to be no larger than 1,600 square feet; or

(d) the applicant creates a preferential qualifying buyer program in which a single-family residential unit is initially offered for sale, for up to 30 days, to a category of preferred qualifying buyers established by the county, in accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

(3) A county may offer additional incentives in a qualifying affordable home ownership single-family density bonus area approved for single-family residential units to promote owner-occupied, affordable housing.

Section 11. Section 17-27a-403.2 is enacted to read:

17-27a-403.2. Affordable home ownership density bonus for multi-family residential units.

(1) As used in this section:

(a) "Affordable housing" means the same as that term is defined in Section 10-9a-403.2.

(b) "Owner-occupier" means the same as that term is defined in Section 10-9a-403.2.

(c) "Qualifying affordable home ownership multi-family density bonus" means county approval of a density of at least 20 residential units per acre.

(2) If a county approves a qualifying affordable home ownership multi-family density bonus, either through a zoning ordinance or a development agreement, the county may adopt requirements for the qualifying affordable home ownership multi-family density bonus area to ensure:

(a) at least 20% more residential units per acre than are otherwise allowed in the area;

(b) at least 60% of the total units in the multi-family residential building be deed-restricted to owner-occupancy for at least five years;

(c) at least 25% of the total units in the multi-family residential building qualify as affordable housing;

(d) at least 25% of the total units in a multi-family residential building to be no larger than 1,600 square feet; or

(e) the applicant creates a preferential qualifying buyer program in which a unit in a multi-family residential building is initially offered for sale, for up to 30 days, to a category of preferred qualifying buyers established by the county, in accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

(3) A county may offer additional incentives in a qualifying affordable home ownership multi-family density bonus area for multi-family residential units to promote owner-occupied, affordable housing.

Section 12. Section 17-27a-408 is amended to read:

17-27a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified county's general plan as provided in Subsection 17-27a-403(2)(g).

(c) "Initial report" means the one-time moderate income housing report described in Subsection (2).

(d) "Moderate income housing strategy" means a strategy described in Subsection 17-27a-403(2)(b)(ii).

(e) "Report" means an initial report or a subsequent report.

(f) "Specified county" means a county of the first, second, or third class, which has a population of more than 5,000 in the county's unincorporated areas.

(g) "Subsequent progress report" means the annual moderate income housing report described in Subsection (3).

(2) (a) The legislative body of a specified county shall annually submit an initial report to the division.

(b) (i) This Subsection (2)(b) applies to a county that is not a specified county as of January 1, 2023.

(ii) As of January 1, if a county described in Subsection (2)(b)(i) changes from one class to another or grows in population to qualify as a specified county, the county shall submit an initial plan to the division on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.

(c) The initial report shall:

(i) identify each moderate income housing strategy selected by the specified county for continued, ongoing, or one-time implementation, using the exact language used to describe the moderate income housing strategy in Subsection 17-27a-403(2)(b)(ii); and

(ii) include an implementation plan.

(3) (a) After the division approves a specified county's initial report under this section, the specified county shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified county is required to submit the initial report.

(b) The subsequent progress report shall include:

(i) subject to Subsection (3)(c), a description of each action, whether one-time or ongoing, taken by the specified county during the previous 12-month period to implement the moderate income housing strategies identified in the initial report for implementation;

(ii) a description of each land use regulation or land use decision made by the specified county during the previous 12-month period to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;

(iii) a description of any barriers encountered by the specified county in the previous 12-month period in implementing the moderate income housing strategies;

(iv) the number of residential dwelling units that have been entitled that have not received a building permit as of the submission date of the progress report;

(v) shapefiles, or website links if shapefiles are not available, to current maps and tables related to zoning;

(vi) information regarding the number of internal and external or detached accessory dwelling units located within the specified county for which the specified county:

(A) issued a building permit to construct; or

(B) issued a business license or comparable license or permit to rent;

(vii) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(viii) any recommendations on how the state can support the specified county in implementing the moderate income housing strategies.

(c) For purposes of describing actions taken by a specified county under Subsection (3)(b)(i), the specified county may include an ongoing action taken by the specified county prior to the 12-month reporting period applicable to the subsequent progress report if the specified county:

(i) has already adopted an ordinance, approved a land use application, made an investment, or approved an agreement or financing that substantially promotes the implementation of a moderate income housing strategy identified in the initial report; and

(ii) demonstrates in the subsequent progress report that the action taken under Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified county's implementation plan.

(d) A specified county's report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before May 1 of the year in which the report is required.

(4) Within 90 days after the day on which the division receives a specified county's report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified county is located, and, if the unincorporated area of the specified county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (5), review the report to determine compliance with this section.

(5) (a) An initial report [~~does not comply~~]complies with this section [~~unless~~]if the report:

(i) includes the information required under Subsection (2)(c);

(ii) subject to Subsection (5)(c), demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies described in Subsection 17-27a-403(2)(b)(ii)(A) though (V) or at least one moderate income housing strategy described in Subsections 17-27a-403(2)(b)(ii)(W) through (BB); and

(iii) is in a form approved by the division.

(b) A subsequent progress report [~~does not comply~~]complies with this section [~~unless~~]if the report:

(i) subject to Subsection (5)(c), demonstrates to the division that the specified county made plans to implement or is implementing three or more moderate income housing strategies described in Subsection 17-27a-403(2)(b)(ii)(A) though (V) or at least one moderate

income housing strategy described in Subsections 17-27a-403(2)(b)(ii)(W) through (BB);

(ii) is in a form approved by the division; and

(iii) provides sufficient information for the division to:

(A) assess the specified county's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified county's implementation plan;

(C) identify a clear correlation between the specified county's land use decisions and efforts to implement the moderate income housing strategies;

(D) identify how the market has responded to the specified county's selected moderate income housing strategies; and

(E) identify any barriers encountered by the specified county in implementing the selected moderate income housing strategies.

(c) (i) This Subsection (5)(c) applies to a specified county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

(ii) [~~In addition to the requirements of Subsections (5)(a) and (b), a~~]A report for a specified county described in Subsection (5)(c)(i) [~~does not comply~~]complies with this section [~~unless~~]if the report demonstrates to the division that the specified county:

(A) made plans to implement the moderate income housing strategy described in Subsection [~~17-27a-403(2)(b)(ii)(Q)~~]17-27a-403(2)(b)(ii)(W); [~~and~~]

(B) made plans to implement or is implementing three or more moderate income housing strategies described in Subsection 17-27a-403(2)(b)(ii)(A) though (V) or at least one moderate income housing strategy described in Subsections 17-27a-403(2)(b)(ii)(W) through (BB); and

[~~(B)~~](C) is in compliance with Subsection 63N-3-603(8).

(d) If a specified county initial report or subsequent progress report demonstrates the county plans to implement or is implementing at least one moderate income housing strategy described in Subsections 17-27a-403(2)(b)(ii)(W) through (BB), the division shall also consider the specified county compliant with the reporting requirement described in this section for:

(i) the year in which the specified county submits the report; and

(ii) two subsequent reporting years.

(6) (a) A specified county qualifies for priority consideration under this Subsection (6) if the specified county's report:

(i) complies with this section; and

(ii) demonstrates to the division that the specified county made plans to implement five or more moderate income housing strategies.

(b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within the unincorporated areas of a specified county described in Subsection (6)(a) until the Department of Transportation receives notice from the division under Subsection (6)(e).

(c) Upon determining that a specified county qualifies for priority consideration under this Subsection (6), the division shall send a notice of prioritization to the legislative body of the specified county and the Department of Transportation.

(d) The notice described in Subsection (6)(c) shall:

(i) name the specified county that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified county qualifies to receive priority consideration; and

(iii) state the basis for the division's determination that the specified county qualifies for priority consideration.

(e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the specified county no longer qualifies for priority consideration under this Subsection (6).

(7) (a) If the division, after reviewing a specified county's report, determines that the report does not comply with this section, the division shall send a notice of noncompliance to the legislative body of the specified county.

(b) A specified county that receives a notice of noncompliance may:

(i) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(c) The notice described in Subsection (7)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified county has an opportunity to:

(A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

(iii) state that failure to take action under Subsection (7)(c)(ii) will result in the specified county's ineligibility for funds and fees owed under Subsection (9).

(d) For purposes of curing the deficiencies in a report under this Subsection (7), if the action needed to cure the deficiency as described by the division requires the specified county to make a legislative change, the specified county may cure the deficiency by making that legislative change within the 90-day cure period.

(e) (i) If a specified county submits to the division a corrected report in accordance with Subsection (7)(b)(i), and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified county.

(ii) A specified county that receives a second notice of noncompliance may request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent.

(iii) The notice described in Subsection (7)(e)(i) shall:

(A) state that the specified county has an opportunity to submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; and

(B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the specified county's ineligibility for funds under

Subsection (9).

(8) (a) A specified county that receives a notice of noncompliance under Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(b) Within 90 days after the day on which the division receives a request for an appeal, an appeal board consisting of the following three members shall review and issue a written decision on the appeal:

(i) one individual appointed by the Utah Association of Counties;

(ii) one individual appointed by the Utah Homebuilders Association; and

(iii) one individual appointed by the presiding member of the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified county is a member.

(c) The written decision of the appeal board shall either uphold or reverse the division's determination of noncompliance.

(d) The appeal board's written decision on the appeal is final.

(9) (a) A specified county is ineligible for funds and owes a fee under this Subsection (9) if:

(i) the specified county fails to submit a report to the division;

(ii) after submitting a report to the division, the division determines that the report does not comply with this section and the specified county fails to:

(A) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent;

(iii) after submitting to the division a corrected report to cure the deficiencies in a previously submitted report, the division determines that the corrected report does not comply with this section and the specified county fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection (8), the appeal board issues a written decision upholding the division's determination of noncompliance.

(b) The following apply to a specified county described in Subsection (9)(a) until the division provides notice under Subsection (9)(e):

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the unincorporated areas of the specified county in accordance with Subsection 72-2-124(6);

(ii) beginning with the report submitted in 2024, the specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $250 per day that the specified county:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (7); and

(iii) beginning with the report submitted in 2025, the specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $500 per day that the specified county, for a consecutive year:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (7).

(c) Upon determining that a specified county is ineligible for funds under this Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the division shall send a notice of ineligibility to the legislative body of the specified county, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (9)(c) shall:

(i) name the specified county that is ineligible for funds;

(ii) describe the funds for which the specified county is ineligible to receive;

(iii) describe the fee the specified county is required to pay under Subsection (9)(b), if applicable; and

(iv) state the basis for the division's determination that the specified county is ineligible for funds.

(e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the provisions of this Subsection (9) no longer apply to the specified county.

(f) The division may not determine that a specified county that is required to pay a fee under Subsection (9)(b) is in compliance with the reporting requirements of this section until the specified county pays all outstanding fees required under Subsection (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(10) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 13. Section 17-27a-531 is amended to read:

17-27a-531. Moderate income housing.

(1) A county may only require the development of a certain number of moderate income housing units as a condition of approval of a land use application if:

(a) the county and the applicant enter into a written agreement regarding the number of moderate income housing units; [~~or~~]

(b) the county provides incentives for an applicant who agrees to include moderate income housing units in a development[~~-~~]; or

(c) the county offers or approves, and an applicant accepts, an incentive described in Section 17-27a-403.1 or 17-27a-403.2.

(2) If an applicant does not agree to participate in the development of moderate income housing units under Subsection (1)(a) or (b), a county may not take into consideration the applicant's decision in the county's determination of whether to approve or deny a land use application.

(3) Notwithstanding Subsections (1) and (2), a county of the third class, which has a ski resort located within the unincorporated area of the county, may require the development of a certain number of moderate income housing units as a condition of approval of a land use application if the requirement is in accordance with an ordinance enacted by the county before January 1, 2022.

Section 14. Section 17B-1-202 is amended to read:

17B-1-202. Special district may be created -- Services that may be provided -- Limitations.

(1) (a) A special district may be created as provided in this part to provide within its boundaries service consisting of:

(i) the operation of an airport;

(ii) the operation of a cemetery;

(iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;

(iv) garbage collection and disposal;

(v) health care, including health department or hospital service;

(vi) the operation of a library;

(vii) abatement or control of mosquitos and other insects;

(viii) the operation of parks or recreation facilities or services;

(ix) the operation of a sewage system;

(x) the operation of a propane system;

[~~(x)~~](xi) the construction and maintenance of a right-of-way, including:

(A) a curb;

(B) a gutter;

(C) a sidewalk;

(D) a street;

(E) a road;

(F) a water line;

(G) a sewage line;

(H) a storm drain;

(I) an electricity line;

(J) a communications line;

(K) a natural gas line; or

(L) street lighting;

[~~(xi)~~](xii) transportation, including public transit and providing streets and roads;

[~~(xii)~~](xiii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;

[~~(xiii)~~](xiv) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;

[~~(xiv)~~](xv) law enforcement service;

[~~(xv)~~](xvi) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;

[~~(xvi)~~](xvii) the control or abatement of earth movement or a landslide;

[~~(xvii)~~](xviii) the operation of animal control services and facilities;

[~~(xviii)~~](xix) an energy efficiency upgrade, a clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; or

[~~(xix)~~](xx) the financing of infrastructure, as provided in Chapter 2a, Part 13, Infrastructure Financing Districts.

(b) Each special district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

(c) A groundwater management plan described in Subsection [~~(1)(a)(xiii)~~](1)(a)(xiv) may include the banking of groundwater rights by a special district in a critical management area as defined in Section 73-5-15 following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.

(i) A special district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).

(ii) A groundwater right held by a special district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

(iii) (A) A special district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).

(B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.

(iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the special district is subject to Section 73-1-4.

(v) A special district created in accordance with Subsection [~~(1)(a)(xiii)~~](1)(a)(xiv) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

(2) As used in this section:

(a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.

(b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a

sewage system, collection and treatment.

(3) (a) A special district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).

(b) Subsection (3)(a) may not be construed to prohibit a special district from providing more than four services if, before April 30, 2007, the special district was authorized to provide those services.

(4) (a) Except as provided in Subsection (4)(b), a special district may not be created to provide and may not after its creation provide to an area the same service that may already be provided to that area by another political subdivision, unless the other political subdivision gives its written consent.

(b) For purposes of Subsection (4)(a), a special district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:

(i) sewage system; or

(ii) water system.

(5) (a) Except for a special district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a special district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

(b) The area of a special district need not be contiguous.

(6) For a special district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:

(a) paramedic service; and

(b) emergency service, including hazardous materials response service.

(7) A special district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection [~~(1)(a)(x)~~](1)(a)(xi) on or after May 11, 2010.

(8) A special district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection [~~(1)(a)(xii)~~](1)(a)(xiii) on or after May 10, 2011.

(9) A special district may not be created under this chapter for two years after the date on which a special district is dissolved as provided in Section 17B-1-217 if the special district proposed for creation:

(a) provides the same or a substantially similar service as the dissolved special district; and

(b) is located in substantially the same area as the dissolved special district.

(10) An infrastructure financing district may not be created unless the estimated cost of the public infrastructure and improvements to be constructed within the boundary of the proposed infrastructure financing district exceeds $1,000,000, as certified under Subsection 17B-1-208(1)(c).

(11) (a) Except as provided in Subsection (11)(b), the inclusion of an area within an infrastructure financing district does not affect whether the area may be included within another special district.

(b) An infrastructure financing district may not include an area included within another infrastructure financing district.

Section 15. Section 35A-8-202 is amended to read:

35A-8-202. Powers and duties of division.

(1) The division shall:

(a) assist local governments and citizens in the planning, development, and maintenance of necessary public infrastructure and services;

(b) cooperate with, and provide technical assistance to, counties, cities, towns, regional planning commissions, area-wide clearinghouses, zoning commissions, parks or recreation boards, community development groups, community action agencies, and other agencies created for the purpose of aiding and encouraging an orderly, productive, and coordinated development of the state and its political subdivisions;

(c) assist the governor in coordinating the activities of state agencies which have an impact on the solution of community development problems and the implementation of community plans;

(d) serve as a clearinghouse for information, data, and other materials which may be helpful to local governments in discharging their responsibilities and provide information on available federal and state financial and technical assistance;

(e) carry out continuing studies and analyses of the problems faced by communities within the state and develop such recommendations for administrative or legislative action as appear necessary;

(f) assist in funding affordable housing;

(g) support economic development activities through grants, loans, and direct programs financial assistance;

(h) certify project funding at the local level in conformance with federal, state, and other requirements;

(i) utilize the capabilities and facilities of public and private universities and colleges within the state in carrying out its functions; and

(j) assist and support local governments, community action agencies, and citizens in the planning, development, and maintenance of home weatherization, energy efficiency, and antipoverty activities.

(2) The division may:

(a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

(b) if any federal program requires the expenditure of state funds as a condition to participation by the state in any fund, property, or service, with the governor's approval, expend whatever funds are necessary out of the money provided by the Legislature for the use of the department;

(c) in accordance with Part 9, Domestic Violence Shelters, assist in developing, constructing, and improving shelters for victims of domestic violence, as described in Section 77-36-1, through loans and grants to nonprofit and governmental entities; [~~and~~]

(d) assist, when requested by a county or municipality, in the development of accessible housing[~~.~~]; and

(e) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the form and content of a moderate income housing report, as described in Sections 10-9a-408 and 17-27a-408, to:

(i) ensure consistency across reporting political subdivisions; and

(ii) promote better potential analysis of report data.

Section 16. Section 63J-4-402 is enacted to read:

63J-4-402. State housing plan.

(1) The office shall develop a state housing plan by December 31, 2025.

(2) (a) The office shall partner with the Legislature, municipal and county governments, the home building industry and related stakeholders, and the general public in the development of the state housing plan described in Subsection (1).

(b) In developing the state housing plan, the office may develop regional housing plans within the state housing plan.

(3) The state housing plan shall:

(a) prioritize collaboration over preemption and collaboration across private and public sectors;

(b) promote a holistic and regional approach to housing;

(c) enable connected communities and center-based development;

(d) acknowledge cross-issue policy alignment;

(e) maintain a long-range vision;

(f) promote opportunity and inclusivity;

(g) recognize complex market forces; and

(h) consider rural and urban contexts.

(4) The state housing plan shall include data and metrics:

(a) about actual and potential housing production;

(b) about actual and potential infrastructure capacity, maintenance, and development; and

(c) allowing the office to measure success of the state housing plan over time.

(5) In gathering data and developing metrics, the office may analyze moderate income housing reports received by the Division of Housing and Community Development and:

(a) determine which, if any, of the moderate income housing strategies described in Subsections 10-9a-403(2)(b)(iii) and 17-27a-403(2)(b)(ii) are correlated with an increase in the supply of moderate income housing, either built or entitled to be built, in the political subdivision that implements the moderate income housing strategy; and

(b) draw conclusions regarding any data trends identified by the office as meaningful or significant.

(6) By no later than October 1 of each year, the office shall provide a written report on the development and implementation of the state housing plan to the Political Subdivisions Interim Committee.

Section 17. Section 72-1-304 is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;

(ii) paved pedestrian or paved nonmotorized transportation projects described in Section 72-2-124;

(iii) public transit projects that directly add capacity to the public transit systems within the state, not including facilities ancillary to the public transit system; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or public transit district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or public transit district nominates a project for prioritization by the commission, the local government or public transit district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or public transit district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or public transit district will provide the percentage of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or public transit district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the percentage of costs required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

(3) (a) When prioritizing a public transit project that increases capacity, the commission:

(i) may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802; and

(ii) shall give priority consideration to projects that are within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(b) When prioritizing a transportation project that increases capacity, the commission may give priority consideration to projects that are:

(i) part of a transportation reinvestment zone created under Section 11-13-227 if:

(A) the state is a participant in the transportation reinvestment zone; or

(B) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system; or

(ii) within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(c) If the department receives a notice of prioritization for a municipality as described in Subsection [~~10-9a-408(5)~~]10-9a-408(6), or a notice of prioritization for a county as described in Subsection [~~17-27a-408(5)~~]17-27a-408(6), the commission may give priority consideration to transportation projects that are within the boundaries of the municipality or the unincorporated areas of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that the municipality or county no longer qualifies for prioritization under this Subsection (3)(c).

(4) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(6) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (5).

Section 18. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) subject to Subsection (4)(c), two lanes on U-111 from Herriman Parkway to South Jordan Parkway;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(c) (i) Construction related to the project described in Subsection (4)(a)(ix)(D) may not commence until a right-of-way not owned by a federal agency that is required for the realignment and extension of U-111, as described in the department's 2023 environmental study related to the project, is dedicated to the department.

(ii) Notwithstanding Subsection (4)(c)(i), if a right-of-way is not dedicated for the project as described in Subsection (4)(c)(i) on or before October 1, 2024, the department may proceed with the project, except that the project will be limited to two lanes on U-111 from Herriman Parkway to 11800 South.

(5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection [~~10-9a-408(7)~~]10-9a-408(9), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (5) no longer applies to the municipality.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection [~~17-27a-408(7)~~]17-27a-408(9), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (6) no longer applies to the county.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) transfers of local option sales and use tax revenue as described in Subsection 59-12-2220(11)(b) or (c);

(v) private contributions; and

(vi) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the commission may prioritize money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304;

(ii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility; or

(iii) up to $500,000 per year, to be used for a public transit study.

(e) (i) Subject to Subsections (9)(g), (h), and (i), the commission may only prioritize money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 30% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 30% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(g) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(b):

(i) the commission may prioritize money from the fund for public transit projects, operations, or maintenance within the county of the first class; and

(ii) Subsection (9)(e) does not apply.

(h) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(c):

(i) the commission may prioritize public transit projects, operations, or maintenance in the county from which the revenue was generated; and

(ii) Subsection (9)(e) does not apply.

(i) The requirement to provide funds equal to or greater than 30% of the costs needed for the project described in Subsection (9)(e) does not apply to a public transit capital development project or pedestrian or nonmotorized transportation project that the department proposes.

(j) In accordance with Part 3, Public Transit Innovation Grants, the commission may prioritize money from the fund for public transit innovation grants, as defined in Section 72-2-401, for public transit capital development projects requested by a political subdivision within a public transit district.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

(e) The department may use up to 2% of the revenue deposited into the account under Subsection 59-12-103(7)(b) to contract with local governments as necessary for public safety enforcement related to the Cottonwood Canyons of Salt Lake County.

(11) (a) There is created in the Transportation Investment Fund of 2005 the Active Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature; and

(iii) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The executive director may only use fund money to pay the costs needed for:

(i) the planning, design, construction, maintenance, reconstruction, or renovation of paved pedestrian or paved nonmotorized trail projects that:

(A) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(B) serve a regional purpose; and

(C) are part of an active transportation plan approved by the department or the plan described in Subsection (11)(d)(ii);

(ii) the development of a plan for a statewide network of paved pedestrian or paved nonmotorized trails that serve a regional purpose; and

(iii) the administration of the fund, including staff and overhead costs.

(12) (a) As used in this Subsection (12), "commuter rail" means the same as that term is defined in Section 63N-3-602.

(b) There is created in the Transit Transportation Investment Fund the Commuter Rail Subaccount.

(c) The subaccount shall be funded by:

(i) contributions deposited into the subaccount in accordance with Section 59-12-103;

(ii) appropriations into the subaccount by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(d) (i) The subaccount shall earn interest.

(ii) All interest earned on money in the subaccount shall be deposited into the subaccount.

(e) As prioritized by the commission through the prioritization process adopted under Section 72-1-304 or as directed by the Legislature, the department may only use money from the subaccount for projects that improve the state's commuter rail infrastructure, including the building or improvement of grade-separated crossings between commuter rail lines and public highways.

(f) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

Section 19. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 386
H. B. 345
Passed February 20, 2025
Approved March 26, 2025
Effective May 7, 2025

STATE PARK ROAD AMENDMENTS

Chief Sponsor: Jake Sawyer
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill adds descriptions of highways related to state park access.

Highlighted Provisions:

This bill:

► adds descriptions of highways near certain state parks.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-3-204, as last amended by Laws of Utah 2024, Chapter 517
72-3-206, as last amended by Laws of Utah 2024, Chapter 517

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-3-204 is amended to read:

72-3-204. State park access highways -- Hyrum State Park to Painted Rocks.

State park access highways include:

(1) HYRUM STATE PARK. Access to Hyrum State Park is at the pay gate in Cache County at 405 West 300 South in Hyrum and proceeds northerly on 400 West to State Highway 101. No access road is defined.

(2) FRONTIER HOMESTEAD STATE PARK MUSEUM. Access to Frontier Homestead State Park Museum is at the parking area and museum in Iron County at milepoint 3.1 on State Highway 130 at 585 North Main St. in Cedar City. No access road is defined.

(3) FRONTIER HOMESTEAD STATE PARK (OLD IRON TOWN HISTORIC SITE). Access to Old Iron Town begins at the junction of a county road and State Highway 56, 19.0 miles west of Cedar City, and proceeds southwesterly 2.7 miles to the parking lot for Old Iron Town and is under the jurisdiction of Iron County.

(4) JORDAN RIVER OFF-HIGHWAY VEHICLE STATE PARK. Access to Jordan River Off-highway Vehicle State Park begins in Salt Lake County at 2100 North and proceeds northerly on Rose Park Lane, a distance of 1.25 miles to the park entrance and is under the jurisdiction of Salt Lake County.

(5) JORDANELLE STATE PARK (HAILSTONE MARINA). Access to the Jordanelle State Park Hailstone Marina begins in Wasatch County at State Highway 40 and proceeds southeasterly on State Highway 319 a distance of 1.2 miles to the marina parking area at the park and is under the jurisdiction of UDOT.

(6) JORDANELLE STATE PARK (ROCK CLIFF NATURE CENTER). Access to the Jordanelle State Park Rock Cliff Nature Center begins in Wasatch County at State Highway 32 and proceeds northwesterly on a county road a distance of 0.6 miles to the parking area at the park and is under the jurisdiction of the county.

(7) JORDANELLE STATE PARK (ROSS CREEK). Access to Jordanelle State Park Ross Creek begins in Wasatch County at State Highway 189 and proceeds southerly on a county road a distance of 0.1 miles to the parking area at the park and is under the jurisdiction of the county.

(8) KODACHROME BASIN STATE PARK. Access to the Kodachrome Basin State Park begins in Kane County at State Highway 12 and proceeds southeasterly on a county road 10.1 miles to the parking area at Kodachrome Lodge and is under the jurisdiction of Kane County.

(9) LOST CREEK STATE PARK. Access to the Lost Creek State Park begins in Morgan County at the Interstate Highway 84 interchange at Exit 111 and proceeds easterly along Croydon Road to Lost Creek Road, then northerly on Lost Creek Road to Lost Creek State Park terminating at the north most point of Lost Creek Reservoir. The access road is under the jurisdiction of Morgan County.

[~~(9)~~](10) MILLSITE STATE PARK. Access to the Millsite State Park begins in Emery County at State Highway 10 and proceeds northwesterly on a county road (L122) a distance of 4.6 miles to the parking area at the park and is under the jurisdiction of Emery County.

[~~(10)~~](11) OTTER CREEK STATE PARK. Access to the Otter Creek State Park is at the pay gate/contact station in Piute County at milepoint 6.4 on State Highway 22. No access road is defined.

[~~(11)~~](12) PAINTED ROCKS (YUBA EAST SHORE). Access to the Painted Rocks Yuba East Shore begins in Sanpete County at State Highway 28 and proceeds westerly on a county road a distance of 2.0 miles to the parking/boat launch area at the park and is under the jurisdiction of Sanpete County.

Section 2. Section 72-3-206 is amended to read:

72-3-206. State park access highways -- Steinaker State Park to Yuba State Park.

State park access highways include:

(1) STEINAKER STATE PARK. Access to the Steinaker State Park begins in Uintah County at State Highway 191 and proceeds northwesterly on State Highway 301 a distance of 2.0 miles to the boat ramp at the park and is under the jurisdiction of UDOT.

(2) TERRITORIAL STATEHOUSE STATE PARK. Access to the Territorial Statehouse State Park is at the parking area in Millard County at milepoint 1.0 on State Highway 100. No access road is defined.

(3) THIS IS THE PLACE HERITAGE PARK. Access to This Is The Place Heritage Park is at the park entrance in Salt Lake County at 2601 East Sunnyside Avenue in Salt Lake City. No access road is defined.

(4) UTAH FIELD HOUSE OF NATURAL HISTORY STATE PARK. Access to Utah Field House of Natural History State Park is at the parking area in Uintah County at milepoint 145.1 on State Highway 40 at 496 East Main in Vernal. No access road is defined.

(5) UTAH LAKE STATE PARK. Access to the Utah Lake State Park begins in Utah County at State Highway 114 and proceeds westerly on a county road a distance of 2.5 miles to the pay gate at the park and is under the jurisdiction of Utah County.

(6) UTAHRAPTOR STATE PARK. Access to the Utahraptor State Park is at the park entrance in Grand County at milepoint 138.6 on U.S. Highway 191. No access road is defined.

[~~(6)~~](7) WASATCH MOUNTAIN STATE PARK (East Access). The East Access to the Wasatch Mountain State Park begins at the Summit-Wasatch County line and proceeds westerly on Guardsman Pass Road, a county road, a distance of .9 miles; then southeasterly on Pine Canyon Road, a county road, a distance of 7.3 miles to the campground entrance. The East Access is under the jurisdiction of Wasatch County.

[~~(7)~~](8) WASATCH MOUNTAIN STATE PARK (South Access). The South Access to the Wasatch Mountain State Park begins in Wasatch County at State Route 40 and proceeds westerly on Federal Route 3130 via River Road, Burgi Lane, and Cari Lane, county and city roads, a distance of 4.3 miles to State Highway 222; then northerly on State Highway 222, a distance of 1.3 miles to the campground entrance. The South Access is under the jurisdiction of Wasatch County and Midway City.

[~~(8)~~](9) WASATCH MOUNTAIN STATE PARK (West Access). The West Access to the Wasatch Mountain State Park begins at the Salt Lake-Wasatch County line and proceeds easterly on Guardsman Pass Road, a county road, a distance of 1.7 miles; then southeasterly on Pine Canyon Road, a county road, a distance of 7.3 miles to the campground entrance. The West Access is under the jurisdiction of Wasatch County.

[~~(9)~~](10) WASATCH MOUNTAIN (Soldier Hollow). Access to Soldier Hollow begins in Wasatch County at State Highway 113 and proceeds westerly on Tate Lane, a county road; then southwesterly on Soldier Hollow Lane to the parking area and clubhouse.

[~~(10)~~](11) WASATCH MOUNTAIN (Cascade Springs). Access to Cascade Springs begins in Wasatch County at the junction of Tate Lane and Stringtown Road, county roads, and proceeds northerly on Stringtown Road; then southwesterly on Cascade Springs Drive to the parking area. The access is under the jurisdiction of Wasatch County.

[~~(11)~~](12) WILLARD BAY STATE PARK (South). Access to the Willard Bay State Park South begins in Box Elder County at a county road and proceeds northwesterly on State Highway 312 a distance of 0.5 miles to the marina parking at the park and is under the jurisdiction of UDOT.

[~~(12)~~](13) WILLARD BAY STATE PARK (North). Access to the Willard Bay State Park North begins in Box Elder County at Interstate Highway 15 and proceeds southwesterly on State Highway 315 a distance of 1.0 miles to the marina parking at the park and is under the jurisdiction of UDOT.

[~~(13)~~](14) YUBA STATE PARK. Access to the Yuba State Park begins in Juab County at Interstate Highway 15 and proceeds southerly on county road (L203) a distance of 4.1 miles to the pay gate at the park and is under the jurisdiction of Juab County.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 387
H. B. 355
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

MINING AND CRITICAL INFRASTRUCTURE MATERIALS AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses mining and critical infrastructure materials operations.

Highlighted Provisions:

This bill:

- ► modifies definitions;
- ► changes vested critical infrastructure materials use provisions including making them more similar to vested mining provisions;
- ► addresses operations on new land for critical infrastructure materials uses and for mining uses;
- ► addresses critical dates;
- ► amends provisions related to vested mining operations;
- ► repeals study requirements; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-901, as enacted by Laws of Utah 2019, Chapter 227
10-9a-902, as enacted by Laws of Utah 2019, Chapter 227
10-9a-903, as enacted by Laws of Utah 2019, Chapter 227
10-9a-905, as enacted by Laws of Utah 2019, Chapter 227
17-27a-1001, as enacted by Laws of Utah 2019, Chapter 227
17-27a-1002, as enacted by Laws of Utah 2019, Chapter 227
17-27a-1003, as enacted by Laws of Utah 2019, Chapter 227
17-27a-1005, as enacted by Laws of Utah 2019, Chapter 227
17-41-101, as last amended by Laws of Utah 2024, Chapter 70
17-41-402, as last amended by Laws of Utah 2019, Chapter 227
17-41-502, as enacted by Laws of Utah 2009, Chapter 376
78B-6-1101, as last amended by Laws of Utah 2021, Chapter 207

REPEALS:

17-41-102, as enacted by Laws of Utah 2024, Chapter 87

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-901 is amended to read:

10-9a-901. Definitions.

As used in this part:

(1) "Commercial quantities," for purposes of this section, means critical infrastructure materials:

(a) extracted or processed by a commercial enterprise in the ordinary course of business; and

(b) in a sufficient amount that the critical infrastructure materials introduction into commerce would create a reasonable expectation of profit.

(2) "Contiguous land" means surface or subsurface land that shares a common boundary and is not separated by a highway as defined in Section 41-6a-102.

(3) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

[~~(2)~~](4) "Critical infrastructure materials [~~operations~~]use" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

[~~(3)~~](5) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials [~~operations~~]use; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials [~~operations~~]use.

(6) "Existing legal use" means a critical infrastructure materials use that has operated in accordance with:

(a) a legal nonconforming use that has not been abandoned for more than 24 consecutive months; or

(b) a permit issued by the applicable political subdivision.

(7) "New land" means surface or subsurface land that a critical infrastructure materials operator gains ownership or control of on or before January 1, 2026, regardless of whether that land is included in any applicable permit issued by a political subdivision or a legal nonconforming use.

[~~(4)~~](8) "Vested critical infrastructure materials [~~operations~~]use" means a critical infrastructure materials [~~operations operating in accordance with a legal nonconforming use or a permit issued by the municipality that existed or was conducted or otherwise engaged in before.~~]use by a critical infrastructure materials operator that is an existing legal use.

[~~(a) a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations; and~~]

[~~(b) January 1, 2019.~~]

Section 2. Section 10-9a-902 is amended to read:

10-9a-902. Vested critical infrastructure materials use -- Presumption.

(1) (a) [~~Critical~~]A critical infrastructure materials [~~operations operating in accordance with a legal nonconforming use or a permit issued by the municipality are conclusively~~]use is presumed to be a vested critical infrastructure materials [~~operations~~]use if the critical infrastructure materials [~~operations permitted by the municipality, existed or was conducted or otherwise engaged in before January 1, 2019 and before when a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations.~~]use meets the definition of vested critical infrastructure materials use in Section 10-9a-901.

(b) A person claiming that a vested critical infrastructure materials [~~operations has been~~]use has not been established has the burden of proof to show by the preponderance of the evidence that the vested critical infrastructure materials [~~operations~~]use has not been established.

(2) A vested critical infrastructure materials [~~operations~~]use:

(a) runs with the land; and

(b) may be changed to another critical infrastructure materials [~~operations conducted within the scope of a legal nonconforming use or the permit for the vested critical infrastructure materials operations~~]use without losing its status as a vested critical infrastructure materials [~~operations~~]use.

(3) The present or future boundary of the critical infrastructure materials use of a critical infrastructure materials operator with a vested critical infrastructure materials use does not limit:

(a) the scope of rights of a critical infrastructure materials operator with a vested critical infrastructure material use; or

(b) the protection for a critical infrastructure materials protection area.

(4) (a) A critical infrastructure operator with a vested critical infrastructure materials use shall file a declaration for recording in the office of the recorder of the county in which the vested critical infrastructure materials use is located.

(b) A declaration under Subsection (4)(a) shall:

(i) contain a legal description of the land included within the vested critical infrastructure materials use; and

(ii) provide notice of the vested critical infrastructure materials use.

Section 3. Section 10-9a-903 is amended to read:

10-9a-903. Rights of a critical infrastructure materials operator with a vested critical infrastructure materials use.

(1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a critical infrastructure materials [~~operations~~]use adopted after the establishment of the critical infrastructure materials [~~operations~~]use, the rights of a critical infrastructure materials operator with a vested critical infrastructure materials [~~operations~~]use include with respect to that existing legal use the right to:

(a) progress, extend, enlarge, grow, or expand the vested critical infrastructure materials use to any contiguous land that the critical infrastructure materials operator owns or controls before May 7, 2025;

(b) expand the vested critical infrastructure materials use to new land that is contiguous land to the surface or subsurface land on which the critical infrastructure materials operator has a vested critical infrastructure materials use, including the surface or subsurface land under Subsection (1)(a);

[~~(1)~~](c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings [~~; and~~]on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025;

(d) on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025:

(i) increase production or volume;

(ii) alter the method of extracting or processing, including with respect to the vested use, the right to stockpile or hold in reserve critical infrastructure materials, to recycle, and to batch and mix concrete and asphalt; and

(iii) extract or process a different or additional critical infrastructure material than previously extracted or processed on the surface or subsurface land; and

[~~(2)~~](e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily or permanently, all or any part of the critical infrastructure materials [~~operations~~]use.

(2) (a) As used in this Subsection (2), "applicable legislative body" means the legislative body of each:

(i) county in whose unincorporated area the new land to be included in the vested critical infrastructure materials use is located; or

(ii) municipality in which the new land to be included in the critical infrastructure materials use is located.

(b) A critical infrastructure materials operator with a vested critical infrastructure materials use is presumed to have a right to expand the vested critical infrastructure materials use to new land.

(c) Before expanding a vested critical infrastructure materials use to new land, a critical infrastructure materials operator shall provide written notice:

(i) of the critical infrastructure materials operator's intent to expand the vested critical infrastructure materials use; and

(ii) to each applicable legislative body.

(d) (i) An applicable legislative body shall:

(A) hold a public meeting or hearing at the applicable legislative body's next available meeting that is no later than 30 days after receiving the notice under Subsection (2)(c); and

(B) provide reasonable, advance, written notice of the intended expansion of the vested critical infrastructure materials use and the public meeting or hearing to each owner of the surface estate of the new land.

(ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide sufficient public notice of the critical infrastructure materials operator's intent to expand the vested critical infrastructure materials use to the new land.

(e) After the public meeting or hearing under Subsection (2)(d)(i), a critical infrastructure materials operator may expand a vested critical infrastructure materials use to new land without any action by an applicable legislative body, unless the applicable legislative body finds by the preponderance of the evidence on the record that the expansion to new land will endanger the public health, safety, and welfare. If the applicable legislative body makes the finding of endangerment described in this Subsection (2)(e), Subsection (4) applies.

(3) If a critical infrastructure materials operator expands a vested critical infrastructure materials use to new land, as authorized under this section:

(a) the critical infrastructure materials operator's rights under the vested critical infrastructure materials use with respect to land on which the vested critical infrastructure materials use occurs apply with equal force after the expansion to the new land; and

(b) the critical infrastructure materials protection area that includes land on which the vested critical infrastructure materials use occurs is expanded to include the new land.

(4) (a) If the applicable legislative body makes the finding of endangerment described in Subsection (2)(e):

(i) the critical infrastructure materials operator shall submit to the applicable legislative body the critical infrastructure materials operator's plan for expansion under this section;

(ii) by no later than 90 days after receipt of the plan for expansion described in Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:

(A) evidence that the expansion to new land will endanger the public health, safety, and welfare; and

(B) proposed measures to mitigate the endangerment of the public health, safety, and welfare; and

(iii) the applicable legislative body shall hold a public hearing by no later than 30 days after the date the applicable legislative body complies with Subsection (4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).

(b) The applicable legislative body may impose mitigation measures under this Subsection (4) that are reasonable and do not exceed requirements imposed by permits issued by a state agency such as an air quality permit.

(c) A political subdivision may not prohibit the expansion of a vested critical infrastructure materials use if the critical infrastructure materials operator agrees to comply with the mitigation measures described in Subsection (4)(b).

(d) The process under this Subsection (4) is not a land use application or conditional use application under this chapter.

Section 4. Section 10-9a-905 is amended to read:

10-9a-905. Abandonment of a vested critical infrastructure materials use.

(1) A critical infrastructure materials operator may abandon some or all of a vested critical infrastructure materials [~~operations~~]use only as provided in this section.

(2) To abandon some or all of a vested critical infrastructure materials [~~operations~~]use, a critical infrastructure materials operator shall record a written declaration of abandonment with the recorder of the county in which the vested critical infrastructure materials [~~operations~~]use being abandoned is located.

(3) The written declaration of abandonment under Subsection (2) shall specify the vested critical infrastructure materials [~~operations~~]use or the portion of the vested critical infrastructure materials [~~operations~~]use being abandoned.

Section 5. Section 17-27a-1001 is amended to read:

17-27a-1001. Definitions.

As used in this part:

(1) "Commercial quantities," for purposes of this section, means critical infrastructure materials:

(a) extracted or processed by a commercial enterprise in the ordinary course of business; and

(b) in a sufficient amount that the critical infrastructure materials introduction into commerce would create a reasonable expectation of profit.

(2) "Contiguous land" means surface or subsurface land that shares a common boundary and is not separated by a highway as defined in Section 41-6a-102.

(3) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

[~~(2)~~](4) "Critical infrastructure materials [~~operations~~]use" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

[~~(3)~~](5) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials [~~operations~~]use; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials [~~operations~~]use.

(6) "Existing legal use" means a critical infrastructure materials use that has operated in accordance with:

(a) a legal nonconforming use that has not been abandoned for more than 24 consecutive months; or

(b) a permit issued by the applicable political subdivision.

(7) "New land" means surface or subsurface land that a critical infrastructure materials operator gains ownership or control of on or before January 1, 2026, regardless of whether that land is included in any applicable permit issued by a political subdivision or a legal nonconforming use.

[~~(4)~~](8) "Vested critical infrastructure materials [~~operations~~]use" means a critical infrastructure materials operations [~~operating in~~

~~accordance with a legal nonconforming use or a permit issued by the county that existed or was conducted or otherwise engaged in before:~~]

[~~(a) a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations; and~~]

[~~(b) January 1, 2019~~]use by a critical infrastructure materials operator that is an existing legal use.

Section 6. Section 17-27a-1002 is amended to read:

17-27a-1002. Vested critical infrastructure materials use-- Presumption.

(1) (a) [~~Critical~~]A critical infrastructure materials [~~operations operating in accordance with a legal nonconforming use or a permit issued by the county are conclusively~~]use is presumed to be a vested critical infrastructure materials [~~operations~~]use if the critical infrastructure materials [~~operations permitted by the county, existed or was conducted or otherwise engaged in before January 1, 2019 and before when a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations.~~]use meets the definition of vested critical infrastructure materials use as defined in Section 17-27a-1001.

(b) A person claiming that a vested critical infrastructure materials [~~operations has been~~]use has not been established has the burden of proof to show by the preponderance of the evidence that the vested critical infrastructure materials [~~operations has been~~]use has not been established.

(2) A vested critical infrastructure materials [~~operations~~]use:

(a) runs with the land; and

(b) may be changed to another critical infrastructure materials [~~operations conducted within the scope of a legal nonconforming use or the permit for the vested critical infrastructure materials operations~~]use without losing its status as a vested critical infrastructure materials [~~operations~~]use.

(3) The present or future boundary of the critical infrastructure materials use of a critical infrastructure materials operator with a vested critical infrastructure materials use does not limit:

(a) the scope of rights of a critical infrastructure materials operator with a vested critical infrastructure material use; or

(b) the protection for a critical infrastructure materials protection area.

(4) (a) A critical infrastructure operator with a vested critical infrastructure materials use shall file a declaration for recording in the office of the recorder of the county in which the vested critical infrastructure materials use is located.

(b) A declaration under Subsection (4)(a) shall:

(i) contain a legal description of the land included within the vested critical infrastructure materials use; and

(ii) provide notice of the vested critical infrastructure materials use.

Section 7. Section 17-27a-1003 is amended to read:

17-27a-1003. Rights of a critical infrastructure materials operator with a vested critical infrastructure materials use.

(1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a critical infrastructure materials [~~operations~~]use adopted after the establishment of the critical infrastructure materials [~~operations~~]use, the rights of a critical infrastructure materials operator with a vested critical infrastructure materials [~~operations~~]use include with respect to that existing legal use the right to:

(a) progress, extend, enlarge, grow, or expand the vested critical infrastructure materials use to any contiguous land that the critical infrastructure materials operator owns or controls before May 7, 2025;

(b) expand the vested critical infrastructure materials use to new land that is contiguous land to the surface or subsurface land on which the critical infrastructure materials operator has a vested critical infrastructure materials use, including the surface or subsurface land under Subsection (1)(a);

[~~(1)~~](c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings[~~; and~~], on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025;

(d) on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025:

(i) increase production or volume;

(ii) alter the method of extracting or processing, including with respect to the vested use, the right to stockpile or hold in reserve critical infrastructure materials, to recycle, and to batch and mix concrete and asphalt; and

(iii) extract or process a different or additional critical infrastructure material than previously extracted or processed on the surface or subsurface land; and

[~~(2)~~](e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily or permanently, all or any part of the critical infrastructure materials [~~operations~~]use.

(2) (a) As used in this Subsection (2), "applicable legislative body" means the legislative body of each:

(i) county in whose unincorporated area the new land to be included in the vested critical infrastructure materials use is located; or

(ii) municipality in which the new land to be included in the critical infrastructure use is located.

(b) A critical infrastructure materials operator with a vested critical infrastructure materials use is presumed to have a right to expand the vested critical infrastructure materials use to new land.

(c) Before expanding a vested critical infrastructure materials use to new land, a critical infrastructure materials operator shall provide written notice:

(i) of the critical infrastructure materials operator's intent to expand the vested critical infrastructure materials use; and

(ii) to each applicable legislative body.

(d) (i) An applicable legislative body shall:

(A) hold a public meeting or hearing at the applicable legislative body's next available meeting that is no later than 30 days after receiving the notice under Subsection (2)(c); and

(B) provide reasonable, advance, written notice of the intended expansion of the vested critical infrastructure materials use and the public meeting or hearing to each owner of the surface estate of the new land.

(ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide sufficient public notice of the critical infrastructure materials operator's intent to expand the vested critical infrastructure materials use to the new land.

(e) After the public meeting or hearing under Subsection (2)(d)(i), a critical infrastructure materials operator may expand a vested

critical infrastructure materials use to new land without any action by an applicable legislative body, unless the applicable legislative body finds by the preponderance of the evidence on the record that the expansion to new land will endanger the public health, safety, and welfare. If the applicable legislative body makes the finding of endangerment described in this Subsection (2)(e), Subsection (4) applies.

(3) If a critical infrastructure materials operator expands a vested critical infrastructure materials use to new land, as authorized under this section:

(a) the critical infrastructure materials operator's rights under the vested critical infrastructure materials use with respect to land on which the vested critical infrastructure materials use occurs apply with equal force after the expansion to the new land; and

(b) the critical infrastructure materials protection area that includes land on which the vested critical infrastructure materials use occurs is expanded to include the new land.

(4) (a) If the applicable legislative body makes the finding of endangerment described in Subsection (2)(e):

(i) the critical infrastructure materials operator shall submit to the applicable legislative body the critical infrastructure materials operator's plan for expansion under this section;

(ii) by no later than 90 days after receipt of the plan for expansion described in Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:

(A) evidence that the expansion to new land will endanger the public health, safety, and welfare; and

(B) proposed measures to mitigate the endangerment of the public health, safety, and welfare; and

(iii) the applicable legislative body shall hold a public hearing by no later than 30 days after the date the applicable legislative body complies with Subsection (4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).

(b) The applicable legislative body may impose mitigation measures under this Subsection (4) that are reasonable and do not exceed requirements imposed by permits issued by a state agency such as an air quality permit.

(c) A political subdivision may not prohibit the expansion of a vested critical infrastructure materials use if the critical infrastructure materials operator agrees to comply with the mitigation measures described in Subsection (4)(b).

(d) The process under this Subsection (4) is not a land use application or conditional use application under this chapter.

Section 8. Section 17-27a-1005 is amended to read:

17-27a-1005. Abandonment of a vested critical infrastructure materials use.

(1) A critical infrastructure materials operator may abandon some or all of a vested critical infrastructure materials [~~operations~~]use only as provided in this section.

(2) To abandon some or all of a vested critical infrastructure materials [~~operations~~]use, a critical infrastructure materials operator shall record a written declaration of abandonment with the recorder of the county in which the vested critical infrastructure materials [~~operations~~]use being abandoned is located.

(3) The written declaration of abandonment under Subsection (2) shall specify the vested critical infrastructure materials [~~operations~~]use or the portion of the vested critical infrastructure materials [~~operations~~]use being abandoned.

Section 9. Section 17-41-101 is amended to read:

17-41-101. Definitions.

As used in this chapter:

(1) "Advisory board" means:

(a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section 17-41-201;

(b) for an industrial protection area, the industrial protection area advisory board created as provided in Section 17-41-201; and

(c) for a critical infrastructure materials protection area, the critical infrastructure materials protection area advisory board created as provided in Section 17-41-201.

(2) (a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.

(b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

(3) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(4) "Applicable legislative body" means:

(a) with respect to a proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the land proposed to be included in the relevant protection area is located, if the land is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the land proposed to be included in the relevant protection area is located; and

(b) with respect to an existing agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the relevant protection area is located, if the relevant protection area is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the relevant protection area is located.

(5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(6) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

(7) "Critical infrastructure materials operations" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

(8) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials operation; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.

(9) "Critical infrastructure materials protection area" means a geographic area created under the authority of this chapter on or after

May 14, 2019, that is granted the specific legal protections contained in this chapter.

(10) "Crops, livestock, and livestock products" includes:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

(ii) grains and feed crops;

(iii) livestock as defined in Section 59-2-102;

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

(11) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.

(12) "Industrial protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(13) "Mine operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that, [~~as of~~]before January 1, 2019:

(a) owns, controls, or manages a mining use under a large mine permit issued by the division or the board; and

(b) has produced commercial quantities of a mineral deposit from the mining use.

(14) "Mineral deposit" means the same as that term is defined in Section 40-8-4.

(15) "Mining protection area" means land where a vested mining use occurs, including each surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or controls on January 1, 2026.

(16) "Mining use":

(a) means:

(i) the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(ii) the use of the surface and subsurface and groundwater and surface water of an area in connection with the activities described in Subsection (16)(a)(i) that have been, are being, or will be conducted; and

(b) includes, whether conducted on-site or off-site:

(i) any sampling, staking, surveying, exploration, or development activity;

(ii) any drilling, blasting, excavating, or tunneling;

(iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(iv) any removal, transportation, extraction, beneficiation, or processing of ore;

(v) any smelting, refining, autoclaving, or other primary or secondary processing operation;

(vi) the recovery of any mineral left in residue from a previous extraction or processing operation;

(vii) a mining activity that is identified in a work plan or permitting document;

(viii) the use, operation, maintenance, repair, replacement, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(x) the construction of a storage, factory, processing, or maintenance facility; and

(xi) an activity described in Subsection 40-8-4(19)(a).

(17) (a) "Municipal" means of or relating to a city or town.

(b) "Municipality" means a city or town.

(18) "New land" means surface or subsurface land or mineral estate that a mine operator gains ownership or control of, whether that land or mineral estate is included in the mine operator's large mine permit.

(19) "Off-site" means the same as that term is defined in Section 40-8-4.

(20) "On-site" means the same as that term is defined in Section 40-8-4.

(21) "Planning commission" means:

(a) a countywide planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within the unincorporated part of the county and not within a planning advisory area;

(b) a planning advisory area planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a planning advisory area; or

(c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a city or town.

(22) "Political subdivision" means a county, city, town, school district, special district, or special service district.

(23) "Proposal sponsors" means the owners of land in agricultural production, industrial use, or critical infrastructure materials operations who are sponsoring the proposal for creating an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

(24) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(25) "Unincorporated" means not within a city or town.

(26) "Vested mining use" means a mining use:

(a) by a mine operator; and

(b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

Section 10. Section 17-41-402 is amended to read:

17-41-402. Limitations on local regulations.

(1) A political subdivision within which an agriculture protection area, industrial protection area, or critical infrastructure materials protection area is created or with a mining protection area within its boundary shall encourage the continuity, development, and viability of agriculture use, industrial use, critical infrastructure materials operations, or mining use, within the relevant protection area by not enacting a local law, ordinance, or regulation that, unless the law, ordinance, or regulation bears a direct relationship to public health or safety, would unreasonably restrict:

(a) in the case of an agriculture protection area, a farm structure or farm practice;

(b) in the case of an industrial protection area, an industrial use of the land within the area;

(c) in the case of a critical infrastructure materials protection area, critical infrastructure materials operations; or

(d) in the case of a mining protection area, a mining use within the protection area.

(2) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within an agriculture protection area unless the political subdivision receives written approval for the change from all the landowners within the agriculture protection area affected by the change.

(3) Except as provided by Section 19-4-113, a political subdivision may not change the zoning designation of or a zoning regulation affecting land within an industrial protection area unless the political subdivision receives written approval for the change from all the landowners within the industrial protection area affected by the change.

(4) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within a critical infrastructure materials protection area unless the political subdivision receives written approval for the change from each critical infrastructure materials operator within the relevant area.

(5) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within a mining protection area unless the political subdivision receives written approval for the change from each mine operator within the area.

(6) A county, city, or town may not:

(a) adopt, enact, or amend an existing land use regulation, ordinance, or regulation that would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials operations [~~, including~~]with a vested critical infrastructure materials [~~operations~~]use as defined in Section 10-9a-901 or 17-27a-1001; or

(b) initiate proceedings to amend the county's, city's, or town's land use ordinances as described in Subsection 10-9a-509(1)(a)(ii) or 17-27a-508(1)(a)(ii) as it regards the rights of a critical infrastructure materials operator with a vested critical infrastructure materials use.

Section 11. Section 17-41-502 is amended to read:

17-41-502. Rights of a mine operator with a vested mining use -- Expanding vested mining use.

(1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a mining use adopted after the establishment of the mining use, the rights of a mine operator with a vested mining use include the rights to:

(a) progress, extend, enlarge, grow, or expand the vested mining use to any surface or subsurface land or mineral estate that the mine operator owns or controls;

(b) expand the vested mining use to any new land that:

(i) is contiguous and related in mineralization to surface or subsurface land or a mineral estate that the mine operator already owns or controls;

(ii) contains minerals that are part of the same mineral trend as the minerals that the mine operator already owns or controls; or

(iii) is a geologic offshoot to surface or subsurface land or a mineral estate that the mine operator already owns or controls;

(c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings on any surface or subsurface land or mineral estate that the mine operator owns or controls;

(d) increase production or volume, alter the method of mining or processing, and mine or process a different or additional mineral than previously mined or owned on any surface or subsurface land or mineral estate that the mine operator owns or controls; and

(e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily or permanently, all or any part of the mining use.

(2) (a) As used in this Subsection (2), "applicable legislative body" means the legislative body of each:

(i) county in whose unincorporated area the new land to be included in the vested mining use is located; and

(ii) municipality in which the new land to be included in the vested mining use is located.

(b) A mine operator with a vested mining use is presumed to have a right to expand the vested mining use to new land.

(c) Before expanding a vested mining use to new land, a mine operator shall provide written notice:

(i) of the mine operator's intent to expand the vested mining use; and

(ii) to each applicable legislative body.

(d) (i) An applicable legislative body shall:

(A) hold a public meeting or hearing at its next available meeting that is more than 10 days after receiving the notice under Subsection (2)(c); and

(B) provide reasonable, advance, written notice:

(I) of:

(Aa) the intended expansion of the vested mining use; and

(Bb) the public meeting or hearing; and

(II) to each owner of the surface estate of the new land.

(ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide sufficient public notice of the mine operator's intent to expand the vested mining use to the new land.

(e) After the public meeting or hearing under Subsection (2)(d)(ii), a mine operator may expand a vested mining use to new land

without any action by an applicable legislative body, unless the applicable legislative body finds that there is clear and convincing evidence in the record that the expansion to new land will imminently endanger the public health, safety, and welfare. If the applicable legislative body makes the finding of endangerment described in this Subsection (2)(e), Subsection (4) applies.

(3) If a mine operator expands a vested mining use to new land, as authorized under this section:

(a) the mine operator's rights under the vested mining use with respect to land on which the vested mining use occurs apply with equal force after the expansion to the new land; and

(b) the mining protection area that includes land on which the vested mining use occurs is expanded to include the new land.

(4) (a) If the applicable legislative body makes the finding of endangerment described in Subsection (2)(e):

(i) the mining operator shall submit to the applicable legislative body the mining operator's plan for expansion under this section;

(ii) by no later than 30 days after receipt of the plan for expansion described in Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:

(A) evidence that the expansion to new land will endanger the public health, safety, and welfare; and

(B) proposed measures to mitigate the endangerment of the public health, safety, and welfare; and

(iii) the applicable legislative body shall hold a public hearing by no later than 30 days after the date the applicable legislative body complies with Subsection (4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).

(b) The applicable legislative body may impose mitigation measures under this Subsection (4) that are reasonable and do not exceed requirements imposed by permits issued by a state agency such as an air quality permit.

(c) A political subdivision may not prohibit the expansion of a vested mining use if the mining operator agrees to comply with the mitigation measures described in Subsection (4)(b).

(d) The process under this Subsection (4) is not a land use application or conditional use application under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, or Chapter 27a, County Land Use, Development, and Management Act.

Section 12. Section 78B-6-1101 is amended to read:

78B-6-1101. Definitions -- Nuisance -- Right of action -- Agriculture operations.

(1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action.

(2) A nuisance may include the following:

(a) drug houses and drug dealing as provided in Section 78B-6-1107;

(b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;

(c) criminal activity committed in concert with three or more persons as provided in Section 76-3-203.1;

(d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) party houses that frequently create conditions defined in Subsection (1); and

(g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.

(3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

(a) drifts in more than once in each of two or more consecutive seven-day periods; and

(b) creates any of the conditions under Subsection (1).

(4) Subsection (3) does not apply to:

(a) a residential rental unit available for temporary rental, such as for a vacation, or available for only 30 or fewer days at a time; or

(b) a hotel or motel room.

(5) Subsection (3) does not apply to a unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.

(6) An action may be brought by a person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.

(7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.

(8) "Critical infrastructure materials operations" means the same as [~~that term~~]the term "critical infrastructure materials use" is defined in Section 10-9a-901.

(9) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

Section 13. Repealer.

This bill repeals:

Section 17-41-102, Study of critical infrastructure materials operations and related mining.

Section 14. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 388
H. B. 40
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

SCHOOL SAFETY AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill modifies school safety provisions.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► modifies communication device requirements for new construction to post-completion determination;
- ► revises screening and training requirements for school safety personnel;
- ► adjusts school safety personnel provisions;
- ► changes safety assessment deadlines and frequency;
- ► establishes a school safety foundation for certain purposes;
- ► creates compliance supports;
- ► modifies certain administrative structures within the school safety program; and
- ► makes technical changes.

Money Appropriated in this Bill:

This bill appropriates $25,000,000 in operating and capital budgets for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

15A-5-203, as last amended by Laws of Utah 2024, Chapters 21, 381
53-22-102, as last amended by Laws of Utah 2024, Chapter 21
53-22-103, as last amended by Laws of Utah 2024, Chapter 21
53-22-104.1, as enacted by Laws of Utah 2024, Chapter 21
53-22-104.2, as enacted by Laws of Utah 2024, Chapter 21
53-22-105, as enacted by Laws of Utah 2024, Chapter 21
53-22-106, as enacted by Laws of Utah 2024, Chapter 21
53B-28-401, as last amended by Laws of Utah 2024, Chapters 65, 378
53B-28-403, as enacted by Laws of Utah 2021, Chapter 332
53E-1-201, as last amended by Laws of Utah 2024, Chapters 3, 460 and 525
53G-5-202, as last amended by Laws of Utah 2024, Chapter 63
53G-5-205, as last amended by Laws of Utah 2024, Chapter 63
53G-8-102, as enacted by Laws of Utah 2018, Chapter 3
53G-8-701, as last amended by Laws of Utah 2024, Chapter 21
53G-8-701.5, as repealed and reenacted by Laws of Utah 2024, Chapter 21
53G-8-701.6, as enacted by Laws of Utah 2024, Chapter 21
53G-8-701.8, as enacted by Laws of Utah 2024, Chapter 21
53G-8-704, as enacted by Laws of Utah 2024, Chapter 21
53G-8-802, as last amended by Laws of Utah 2024, Chapter 23
53G-8-803, as last amended by Laws of Utah 2024, Chapter 21
53G-8-805, as enacted by Laws of Utah 2024, Chapter 21
53G-9-207, as last amended by Laws of Utah 2024, Chapter 520
53G-9-703, as last amended by Laws of Utah 2024, Chapter 20
63I-1-253, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

53-22-108, Utah Code Annotated 1953
53-22-109, Utah Code Annotated 1953
53-25-601, Utah Code Annotated 1953

REPEALS:

53F-4-208, as enacted by Laws of Utah 2023, Chapter 383

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 15A-5-203 is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows:" An authority having jurisdiction over a structure built in accordance with the requirements of the International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection 65A-8-203(4)(a) and Utah Administrative Code, R652-122-1300, Minimum Standards for County Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet;

(iv) the total floor area of all floor levels within the exterior walls of the dwelling unit exceeds 10,000 square feet; or

(v) the total floor area of all floor levels within the exterior walls of the dwelling unit is double the average of the total floor area of all floor levels of unsprinkled homes in the subdivision that are no larger than 10,000 square feet.

(vi) Exception: A single family dwelling does not require a fire sprinkler system if the dwelling:

(A) is located outside the wildland urban interface;

(B) is built in a one-lot subdivision; and

(C) has 50 feet of defensible space on all sides that limits the propensity of fire spreading from the dwelling to another property."

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: "Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure."

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a full fire-flow requirement is impractical."

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows:

"507.1.2 Pre-existing subdivision lots.

The requirements for a pre-existing subdivision lot shall not exceed the requirements described in Section 501.5."

(e) In IFC, Chapter 5, Section 507.5.1, here required, a new exception is added: "3. One interior and one detached accessory dwelling unit on a single residential lot."

(f) (i) IFC, Chapter 5, Section 510.1, Emergency responder communication coverage in new buildings, is amended by adding: "When required by the fire code official, unless the new building is a public school as that term is defined in Section 53G-9-205.1 or a private school, [~~then~~]if determined by the fire code official to be necessary after construction of the new building is completed, then the fire code official shall require," at the beginning of the first paragraph.

(ii) For public and private schools, an initial radio coverage test must be conducted by a qualified professional using appropriate testing equipment, and a report of the results must be submitted to the fire code official. Subsequent routine testing may be conducted by the fire code official using basic equipment. The fire code official may require additional professional testing if routine testing indicates potential issues with radio coverage.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) IFC, Chapter 6, Section 604.6.1, Elevator key location, is deleted and rewritten as follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The elevator key box shall be accessed using a 6049 numbered key."

(b) IFC, Chapter 6, Section 606.1, General, is amended as follows: On line three, after the word "Code", add the words "and NFPA 96".

(c) IFC, Chapter 6, Section 607.2, a new exception 5 is added as follows: "5. A Type 1 hood is not required for a cooking appliance in a microenterprise home kitchen, as that term is defined in Utah Code, Section 26B-7-401, for which the operator obtains a permit in accordance with Section 26B-7-416."

(3) IFC, Chapter 7, Fire and Smoke Protection Features, Section 702.5, is deleted.

Section 2. Section 53-22-102 is amended to read:

53-22-102. State security chief -- Creation -- Appointment.

(1) There is created within the department a state security chief.

(2) The state security chief:

(a) is appointed by the commissioner with the approval of the governor;

(b) is subject to the supervision and control of the commissioner;

(c) may be removed at the will of the commissioner;

(d) shall be qualified by experience and education to:

(i) enforce the laws of this state relating to school safety;

(ii) perform duties prescribed by the commissioner; and

(iii) enforce rules made under this chapter.

(3) The state security chief shall:

(a) establish building and safety standards for all public and private schools, including:

(i) coordinating with the State Board of Education to establish the required minimum safety and security standards for all public and private school facilities, including:

(A) limited entry points, including, if applicable, secured entry points for specific student grades or groups;

(B) video surveillance of entrances when school is in session;

(C) [~~ground level~~]subject to Subsection (6), exterior windows surrounding only the immediate entryways and only interior windows of a classroom entrance or instructional area protected by security [~~film~~]glazing or ballistic windows;

(D) internal classroom door locks;

(E) bleed kits and first aid kits;

(F) exterior cameras on entrances, parking areas, and campus grounds; and

(G) fencing around playgrounds or supervised parameters using existing and adequate staffing to monitor in consultation with the county security chief;

(ii) establishing a schedule or timeline for existing buildings to come into compliance with this section;

(iii) creating a process to examine plans and specifications for construction or remodeling of a school building, in accordance with Section 53E-3-706;

(iv) recommending to the commissioner the denial or revocation a public or private school's occupancy permit for a building if:

(A) the building does not meet the standards established in this section; and

(B) after consultation with the local governing board, the building remains non-compliant with the standards established in this section;

(v) creating minimum standards for radio communication equipment in every school; and

(vi) establishing a process to approve the safety and security criteria the state superintendent of public instruction establishes for building inspectors described in Section 53E-3-706;

(b) oversee the implementation of the school safety personnel requirements described in Section 53G-8-701.5, including:

(i) in consultation with a county security chief, overseeing the school guardian program described in Section 53-22-105, including approving and coordinating the relevant training programs;

(ii) establishing an application process for approved alternatives to the school safety personnel requirements described in Section 53G-8-701.5;

(iii) selecting training requirements for school safety and security specialists in consultation with the State Board of Education as described in Section 53G-8-701.6;

(iv) as required by Section 53G-8-701.8, tracking each school safety and security director for a local education agency and ensuring that the contact information for the school safety and security directors is readily available to the local law enforcement agency of relevant jurisdiction; and

(v) reviewing and approving the State Board of Education's school resource officer training program as described in Section 53G-8-702;

(c) oversee the creation of school safety trainings, protocols, and incident responses, including:

(i) in consultation with the State Board of Education, defining what constitutes an "active threat" and "developmentally appropriate" for purposes of the emergency response training described in Section 53G-8-803;

(ii) in consultation with the Office of Substance Abuse and Mental Health, establishing or selecting an adolescent mental health and de-escalation training for school safety personnel;

(iii) consulting with the School Safety Center to develop the model critical incident response that all schools and law enforcement will use during a threat, including:

(A) standardized response protocol terminology for use throughout the state, including what constitutes a threat;

(B) protocols for planning and safety drills, including drills required in a school before the school year begins;

(C) integration and appropriate use of a panic alert device described in Subsection 53G-8-805;

(D) the establishment of incident command for a threat or safety incident, including which entity and individual runs the incident command;

(E) the required components for a communication plan to be followed during an incident or threat;

(F) reunification plan protocols, including the appropriate design and use of an incident command by others responding to or involved in an incident; and

(G) recommendations for safety equipment for schools, including amounts and types of first aid supplies;

(iv) reviewing and suggesting any changes to the response plans and training under Section 53G-8-803;

(v) creating the official standard response protocol described in Section 53G-8-803 for use by schools and law enforcement for school safety incidents; and

(vi) establishing a manner for any security personnel described in Section 53G-8-701.5 to be quickly identified by law enforcement during an incident;

(d) in consultation with the School Safety Center established in Section 53G-8-802:

(i) create a process to receive and analyze the school safety needs assessments described in Section 53G-8-701.5; and

(ii) establish a required data reporting system for public schools to report serious and non-serious threats and other data related to threat assessment that the state security chief determines to be necessary; and

(e) fulfill any other duties and responsibilities determined by the commissioner.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department, in consultation with the state security chief, shall make rules to fulfill the duties described in this section.

(5) The state security chief may delegate duties under this section to a sworn department member with the approval of the commissioner.

(6) (a) A school building shall come into compliance with window protection requirements in Subsection (3)(a) by:

(i) for schools located in a county of the first or second class, secure exterior windows surrounding only the immediate entryways by July 1, 2035;

(ii) for schools located in a county of the third, fourth, fifth, or sixth class, secure exterior windows surrounding only the immediate entryways by July 1, 2040; and

(iii) for all schools, secure only interior windows of a classroom entrance or instructional area from the floor, by July 1, 2040.

(b) The state security chief may grant an extension to the timelines in this Subsection (6) if requested by a local education agency.

Section 3. Section 53-22-103 is amended to read:

53-22-103. County sheriff responsibilities -- Coordination.

(1) Each county sheriff shall identify an individual as a county security chief within the sheriff's office to coordinate security responsibilities, protocols, and required trainings between the state security chief, the county sheriff's office, and the corresponding police chiefs whose jurisdiction includes a public school within the county.

(2) The county security chief shall:

(a) in collaboration with the school safety and security specialist described in Section 53G-8-701.6 and a member of the local law enforcement agency of relevant jurisdiction as described in Section 53-25-601:

(i) [~~conduct, or coordinate~~]administer or coordinate with a designee from the local law enforcement agency of relevant jurisdiction to [~~conduct~~]participate in, by any appropriate means the county security chief determines, the school safety needs assessment described in Section 53G-8-701.5; and

(ii) [~~conduct a building safety evaluation at least annually using~~]review the results of the school safety needs assessment to recommend and implement improvements to school facilities, policies, procedures, protocols, rules, and regulations relating to school safety and security;

(b) collaborate and maintain effective communications regarding school safety with each:

(i) school safety and security specialist in the county security chief's county, as described in Section 53G-8-701.6;

(ii) school safety and security director in the county security chief's county, as described in Section 53G-8-701.8; and

(iii) local law enforcement agency within the county;

(c) administer with the corresponding police chiefs whose jurisdiction includes a public school, the trainings described in Sections 53-22-105 and 53G-8-704, including:

(i) assessing if an individual is capable of the duties and responsibilities that the trainings cover; and

(ii) denying an individual the ability to be a school safety personnel described in Section 53G-8-701.5 if the county security chief finds the individual is not capable of the duties and responsibilities that the trainings cover; and

(d) in conjunction with the state security chief, administer the school guardian program established in Section 53-22-105 at any school participating in the program in the county security chief's county.

Section 4. Section 53-22-104.1 is amended to read:

53-22-104.1. School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration.

(1) There is created a School Security Task Force composed of the following members:

(a) the House chair and vice chair of the House Law Enforcement and Criminal Justice Standing Committee during the 2024 General Session, with the House chair serving as the co-chair of the task force;

(b) two members from the Senate, whom the president of the Senate selects and one of whom the president of the Senate appoints as co-chair of the task force;

(c) the state security chief;

(d) one member of the State Board of Education, whom the chair of State Board of Education selects;

(e) a member of the School Safety Center or designee, whom the state security chief selects;

(f) the director of the Utah Division of Juvenile Justice Youth Services or the director's designee;

(g) a member of the Utah School Superintendents Association, whom the chairs select;

(h) the Commissioner of Higher Education or the commissioner's designee;

(i) a school security expert, whom the state security chief selects;

(j) the chief information security officer described in Section 63A-16-210 or the chief's designee;

(k) the director of a school safety foundation established under Section 53-22-108 or the director's designee;

[~~(h)~~](l) one member of the Chiefs of Police Association from a county of the first or second class;

[~~(i)~~](m) one member of the Sheriff's Association from a county of the third, fourth, fifth, or sixth class, whom the president of the association selects;

[~~(j)~~](n) one county security chief, whom the state security chief selects;

[~~(k)~~](o) a school safety and security director, whom the chairs select;

[~~(l)~~](p) a school resource officer, whom the state security chief selects; and

[~~(m)~~](q) a member of the SafeUT and School Safety Commission, whom the chairs select.

(2) The task force shall:

(a) review school safety updates;

(b) study possible recommendations for minimum cybersecurity standards for local education agencies;

[~~(b)~~](c) consult with the Education Advisory Board created in Section 53-22-104.2; and

[~~(c)~~](d) develop legislation recommendations as necessary.

(3) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(4) The Office of Legislative Research and General Counsel shall provide staff for the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with:

(i) Section 36-2-2;

(ii) Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses; and

(iii) Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator may not receive compensation for the member's work associated with the task force but may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance in accordance with Sections 63A-3-106and 63A-3-107.

Section 5. Section 53-22-104.2 is amended to read:

53-22-104.2. The School Security Task Force -- Public Education Advisory Board.

(1) There is created an advisory board to the task force called the Public Education Advisory Board.

(2) The advisory board shall consist of the following members:

(a) the state security chief, who acts as chair of the advisory board;

(b) the construction and facility specialist at the State Board of Education;

(c) the director of school safety and student services at the State Board of Education or the director's designee;

(d) a school nurse, whom the state security chief selects;

(e) a school district technology director, whom the director of school safety and student services selects;

[~~(c)~~](f) a superintendent from a county of the fourth, fifth, or sixth class, whom the state security chief selects;

[~~(d)~~](g) a superintendent from a county of the first, second, or third class, whom the state security chief selects;

[~~(e)~~](h) a charter school director [~~from~~]who is employed in a county of the fourth, fifth, or sixth class, whom the state security chief selects;

[~~(f)~~](i) a charter school director from a county of the first, second, or third class, whom the state security chief selects;

[~~(g)~~](j) the president of the Utah School Boards Association or the president's designee;

[~~(h)~~](k) a parent representative from a school community council or parent teacher organization, whom the state security chief selects;

[~~(i)~~](l) a facilities manager from an LEA in a county of the fourth, fifth, or sixth class, whom the state security chief selects;

[~~(j)~~](m) a facilities manager from an LEA in county of the first, second, or third class, whom the state security chief selects;

[~~(k)~~](n) a representative of private schools, whom the state security chief selects; and

[~~(l)~~](o) a member of the Office of Substance Abuse and Mental Health, whom the state security chief selects.

(3) The advisory board's purpose is to:

(a) review and provide input on official business of the task force;

(b) provide recommendations and suggestions for the task force's consideration; and

(c) study and evaluate the policies, procedures, and programs implemented for school safety and provide proactive information regarding the implementation.

(4) (a) A majority of the members of the advisory board constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory board.

(5) (a) The advisory board shall select two members to serve as co-chairs.

(b) The co-chairs are responsible for the call and conduct of meetings.

(6) The staff of the state security chief shall provide staff for the advisory board.

(7) A member of the advisory board who is not a legislator may not receive compensation for the member's work associated with the task force but may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 6. Section 53-22-105 is amended to read:

53-22-105. School guardian program.

(1) As used in this section:

(a) "Annual training" means an annual four-hour training that:

(i) a county security chief or a designee administers in coordination with personnel from local law enforcement of relevant jurisdiction as described in Section 53-25-601(2)(b);

(ii) the state security chief approves;

(iii) can be tailored to local needs;

(iv) allows an individual to practice and demonstrate firearms proficiency at a firearms range using the firearm the individual carries for self defense and defense of others;

(v) includes the following components:

(A) firearm safety, including safe storage of a firearm;

(B) de-escalation tactics;

(C) the role of mental health in incidents; and

(D) disability awareness and interactions; and

(vi) contains other training needs as determined by the state security chief.

(b) "Biannual training" means a twice-yearly training that:

(i) is at least four hours, unless otherwise approved by the state security chief;

(ii) a county security chief or a designee administers in coordination with personnel from local law enforcement of relevant jurisdiction as described in Section 53-25-601(2)(b);

(iii) the state security chief approves;

(iv) can be tailored to local needs; and

(v) through which a school guardian at a school or simulated school environment:

(A) receives training on the specifics of the building or buildings of the school, including the location of emergency supplies and security infrastructure; and

(B) participates in a live-action practice plan with school administrators in responding to active threats at the school; and

(vi) shall be taken with at least three months in between the two trainings.

(c) "Firearm" means the same as that term is defined in Section 76-10-501.

(d) "Initial training" means an in-person training that:

(i) a county security chief or a designee administers in coordination with personnel from local law enforcement of relevant jurisdiction as described in Section 53-25-601(2)(b);

(ii) the state security chief approves;

(iii) can be tailored to local needs; and

(iv) provides:

(A) training on general familiarity with the types of firearms that can be concealed for self-defense and defense of others;

(B) training on the safe loading, unloading, storage, and carrying of firearms in a school setting;

(C) training at a firearms range with instruction regarding firearms fundamentals, marksmanship, the demonstration and explanation of the difference between sight picture, sight alignment, and trigger control, and a recognized pistol course;

(D) current laws dealing with the lawful use of a firearm by a private citizen, including laws on self-defense, defense of others, transportation of firearms, and concealment of firearms;

(E) coordination with law enforcement officers in the event of an active threat;

(F) basic trauma first aid;

(G) the appropriate use of force, emphasizing the de-escalation of force and alternatives to using force;

(H) situational response evaluations, including:

(I) protecting and securing a crime or accident scene;

(II) notifying law enforcement;

(III) controlling information; and

(IV) other training that the county sheriff, designee, or department deems appropriate.

(e) "Program" means the school guardian program created in this section.

(f) (i) "School employee" means an employee of a school whose duties and responsibilities require the employee to be physically present at a school's campus while school is in session.

(ii) "School employee" does not include a principal, teacher, or individual whose primary responsibilities require the employee to be primarily present in a classroom to teach, care for, or interact with students, unless:

(A) the principal, teacher, or individual is employed at a school with [~~100~~]350 or fewer students;

(B) the principal, teacher, or individual is employed at a school with adjacent campuses as determined by the state security chief; or

(C) as provided in Subsection 53G-8-701.5(3).

(g) "School guardian" means a school employee who meets the requirements of Subsection (3).

(2) (a) (i) There is created within the department the school guardian program[~~:~~].

(ii) [~~the~~]The state security chief shall oversee the school guardian program[~~:~~].

(iii) [~~the~~]The applicable county security chief shall administer the school guardian program in each county.

(b) The state security chief shall ensure that the school guardian program includes:

(i) initial training;

(ii) biannual training; and

(iii) annual training.

(c) A county sheriff may partner or contract with:

(i) another county sheriff to support the respective county security chiefs in jointly administering the school guardian program in the relevant counties; and

(ii) a local law enforcement agency of relevant jurisdiction to provide the:

(A) initial training;

(B) biannual training; and

(C) annual training.

(3) (a) A school employee that volunteers to participate is eligible to join the program as a school guardian if:

(i) the school administrator approves the volunteer school employee to be designated as a school guardian;

(ii) the school employee satisfactorily completes initial training within six months before the day on which the school employee joins the program;

(iii) the school employee holds a valid concealed carry permit issued under [~~Title 53,~~]Chapter 5, Part 7, Concealed Firearm Act;

(iv) the school employee certifies to the sheriff of the county where the school is located that the school employee has undergone the training in accordance with Subsection (3)(a)(ii) and intends to serve as a school guardian; and

(v) the school employee[~~successfully completes a mental health screening selected by the state security chief in collaboration with the Office of Substance Abuse and Mental Health established in Section 26B-5-102.~~]:

(A) completes an initial "fit to carry" assessment the Department of Health and Human Services approves and a provider administers; and

(B) maintains compliance with mental health screening requirements consistent with law enforcement standards.

(b) After joining the program a school guardian shall complete annual training and biannual training to retain the designation of a school guardian in the program.

(4) The state security chief shall:

(a) for each school that participates in the program, track each school guardian at the school by collecting the photograph and the name and contact information for each guardian;

(b) make the information described in Subsection (4)(a) readily available to each law enforcement agency in the state categorized by school; and

(c) provide each school guardian with a one-time stipend of $500.

(5) A school guardian:

(a) may store the school guardian's firearm on the grounds of a school only if:

(i) the firearm is stored in a biometric gun safe;

(ii) the biometric gun safe is located in the school guardian's office; and

(iii) the school guardian is physically present on the grounds of the school while the firearm is stored in the safe;

(b) shall carry the school guardian's firearm in a concealed manner; and

(c) may not, unless during an active threat, display or open carry a firearm while on school grounds.

(6) Except as provided in Subsection (5)(c), this section does not prohibit an individual who has a valid concealed carry permit but is not participating in the program from carrying a firearm on the grounds of a public school or charter school under Subsection 76-10-505.5(4).

(7) A school guardian:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the school where the school guardian is employed:

(i) take actions necessary to prevent or abate an active threat; and

(ii) temporarily detain an individual when the school guardian has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402.

(8) A school may designate a single volunteer or multiple volunteers to participate in the school guardian program to satisfy the school safety personnel requirements of Section 53G-8-701.5.

(9) The department may adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules to administer this section.

(10) A school guardian who has active status in the guardian program is not liable for any civil damages or penalties if the school guardian:

(a) when carrying or storing a firearm:

(i) is acting in good faith; and

(ii) is not grossly negligent; or

(b) threatens, draws, or otherwise uses a firearm reasonably believing the action to be necessary in compliance with Section 76-2-402.

(11) A school guardian shall file a report described in Subsection (12) if, during the performance of the school guardian's duties, the school guardian points a firearm at an individual.

(12) (a) A report described in Subsection (11) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the state security chief.

(b) A school guardian shall submit a report required under Subsection (11) to the school administrator, school safety and security director, and the state security chief within 48 hours after the incident.

(c) The school administrator, school safety and security director, and the state security chief shall consult and review the report submitted under Subsection (12)(b).

(13) The requirements of Subsections (11) and (12) do not apply to a training exercise.

(14) A school guardian may have the designation of school guardian revoked at any time by the school principal, county sheriff, or state security chief.

(15) (a) Any information or record created detailing a school guardian's participation in the program is:

(i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) available only to:

(A) the state security chief;

(B) administrators at the school guardian's school;

(C) if applicable, other school safety personnel described in Section 53G-8-701.5;

(D) a local law enforcement agency that would respond to the school in case of an emergency; and

(E) the individual designated by the county sheriff in accordance with Section 53-22-103 of the county of the school where the school guardian in the program is located.

(b) The information or record described in Subsection (15)(a) includes information related to the school guardian's identity and activity within the program as described in this section and any personal identifying information of a school guardian participating in the program collected or obtained during initial training, annual training, and biannual training.

(c) An individual who intentionally or knowingly provides the information described in Subsection (15)(a) to an individual or entity not listed in Subsection (15)(a)(ii) is guilty of a class B misdemeanor.

Section 7. Section 53-22-106 is amended to read:

53-22-106. Substantial threats against a school reporting requirements -- Exceptions.

(1) As used in this section, "substantial threat" means a threat made with serious intent to cause harm.

(2) Except as provided in Subsection (3), if a state employee or person in a position of special trust as defined in Section 76-5-404.1, including an individual licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah Medical Practice Act, has reason to believe a substantial threat against a school, school employee, or student attending a school or is aware of circumstances that would reasonably result in a substantial threat against a school, school employee, or student attending a school, the state employee or person in a position of special trust shall immediately report the suspected substantial threat to:

[~~(a) the state security chief;~~]

[~~(b)~~](a) the local education agency that the substantial threat would impact; [~~or~~]

[~~(c)~~](b) [~~to~~]the nearest peace officer or law enforcement agency[~~.~~]; and

(c) the state security chief.

(3) (a) (i) If the state security chief, a peace officer, or law enforcement agency receives a report under Subsection (2), the state security chief, peace officer, or law enforcement agency shall immediately notify the local education agency that the substantial threat would impact.

(ii) If the local education agency that the substantial threat would impact receives a report under Subsection (2), the local education agency that the substantial threat would impact shall immediately notify the appropriate local law enforcement agency and the state security chief.

(b) (i) A local education agency that the substantial threat would impact shall coordinate with the law enforcement agency on the law enforcement agency's investigation of the report described in Subsection (1).

(ii) If a law enforcement agency undertakes an investigation of a report under Subsection (2), the law enforcement agency shall provide a final investigatory report to the local education agency that the substantial threat would impact upon request.

(4) Subject to Subsection (5), the reporting requirement described in Subsection (2) does not apply to:

(a) a member of the clergy with regard to any confession an individual makes to the member of the clergy while functioning in the ministerial capacity of the member of the clergy if:

(i) the individual made the confession directly to the member of the clergy;

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of the confession; and

(iii) the member of the clergy does not have the consent of the individual making the confession to disclose the content of the confession; or

(b) an attorney, or an individual whom the attorney employs, if:

(i) the knowledge or belief of the substantial threat arises from the representation of a client; and

(ii) if disclosure of the substantial threat would not reveal the substantial threat to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(5) (a) When a member of the clergy receives information about the substantial threat from any source other than a confession, the member of the clergy shall report the information even if the member of the clergy also received information about the substantial threat from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (4) does not exempt the individual from any other actions required by law to prevent further substantial threats or actual harm related to the substantial threat.

(6) The physician-patient privilege does not:

(a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under this section; or

(b) constitute grounds for excluding evidence in a judicial or administrative proceeding resulting from a report under this section.

Section 8. Section 53-22-108 is enacted to read:

53-22-108. School safety foundation.

(1) As used in this section:

(a) "Authorized foundation" means a nonprofit foundation that:

(i) meets the requirements of this section; and

(ii) the state security chief authorizes in consultation with the School Safety Center created in Section 53G-8-802.

(b) "School safety product" means equipment, technology, service, or material that enhances school safety and security.

(2) The state security chief may approve a nonprofit foundation to be an authorized foundation if the foundation:

(a) maintains status as a nonprofit organization under 26 U.S.C. Sec. 501(c)(3);

(b) has operated continuously in the state for three or more years;

(c) maintains a primary mission focused on school safety;

(d) operates under a board of directors that includes:

(i) a law enforcement representative;

(ii) an educator or school administrator; and

(iii) an emergency management professional;

(e) demonstrates financial stability through:

(i) an annual independent audit;

(ii) maintained reserves; and

(iii) a clean financial record; and

(f) provides evidence of:

(i) successful project management;

(ii) an existing relationship with an educational institution; and

(iii) knowledge of school safety requirements described in federal and state law.

(3) A foundation seeking authorization shall submit to the state security chief:
(a) a written application that demonstrates compliance with Subsection (2);
(b) a financial record for the previous three years;
(c) a current board member qualification;
(d) a proposed school safety initiative; and
(e) an internal procurement policy for purchases not made from a state cooperative contract.
(4) The state security chief shall:
(a) review an application within 60 days;
(b) request additional information if needed;
(c) issue a written decision; and
(d) maintain a public record of an authorized foundation, including records related to the approval process of an authorized foundation.
(5) An authorized foundation may:
(a) use a state cooperative contract in accordance with Section 63G-6a-2105;
(b) make a bulk purchase of a school safety product; and
(c) in coordination with the state security chief and the School Safety Center:
(i) facilitate a donation of a school safety product; and
(ii) distribute a product to a school.
(6) An authorized foundation shall:
(a) follow Title 63G, Chapter 6a, Utah Procurement Code, when utilizing a state cooperative contract;
(b) maintain separate accounting for a school safety purchase;
(c) by August 1 of each year, submit an annual report to the state security chief that includes:
(i) any product procured through a state cooperative contract;
(ii) the annual independent audit required in Subsection (2)(e);
(iii) all schools served;
(iv) the total value of a donation facilitated; and
(v) a compliance certification; and
(d) renew authorization every three years.
(7) The state security chief:
(a) may revoke authorization if the authorized foundation:
(i) fails to maintain a requirement of this section;
(ii) engages in financial mismanagement; or
(iii) submits false information in a report required by this section; and
(b) shall, before revoking authorization:
(i) provide written notice to the foundation;
(ii) allow a 30-day period to remedy the violation;
(iii) provide an opportunity for a hearing; and
(iv) issue a final written decision.
(8) Authorization under this section does not:
(a) create state liability;
(b) imply state endorsement;
(c) override a local procurement requirement; and
(d) exempt the foundation from an applicable law.

Section 9. Section 53-22-109 is enacted to read:
53-22-109. School safety -- Compliance.

(1) As used in this section:
(a) "Compliance issue" means a violation of a school safety requirement under:
(i) this chapter; or
(ii) rules established in accordance with this chapter.
(b) "Tiered system of support" means an escalating system of:
(i) technical assistance;
(ii) intervention; and
(iii) corrective action.
(2) The state security chief shall, in collaboration with the School Safety Center:
(a) establish a tiered system of support for a compliance issue;
(b) develop implementation procedures for the system; and
(c) define criteria for:
(i) evaluating a compliance issue;
(ii) assigning an appropriate tier; and

(iii) monitoring progress.

(3) In establishing the system under Subsection (2), the state security chief and School Safety Center shall consider:

(a) severity of the compliance issue;

(b) risk to student and staff safety;

(c) available technical assistance resources;

(d) local education agency capacity; and

(e) required corrective action timelines.

Section 10. Section 53-25-601 is enacted to read:

PART 6. Requirements for School Safety

53-25-601. Requirements for school safety.

(1) As used in this section:

(a) "Local law enforcement agency" means the law enforcement agency with primary jurisdiction over a school's physical location.

(b) "School safety needs assessment" means the assessment required under Section 53G-8-701.5.

(c) "Security camera system" means the system described in Section 53G-8-805.

(2) Each local law enforcement agency shall:

(a) as coordinated with the county security chief described in Section 53-22-103, allocate adequate personnel to participate in the school safety needs assessments with a school's school safety and security specialist as required by Section 53G-8-701.5 for each school within the local law enforcement's jurisdiction;

(b) if a school within the local law enforcement agency's jurisdiction elects to satisfy the requirements described in Subsection 53G-8-701.5(2)(a)(ii) by employing school guardians, assign adequate personnel time as the county security chief determines to assist the county security chief in administering the trainings required under Section 53-22-105;

(c) ensure the school safety and security specialist for each school has all relevant information collected by the county security chief or the local law enforcement agency to submit the completed assessments to the School Safety Center created in Section 53G-8-802 by October 15 of each year;

(d) coordinate with each school within the local law enforcement's jurisdiction to obtain and maintain access to school security camera systems as described in Section 53G-8-805; and

(e) coordinate with the relevant county security chiefs as specified in Sections 53-22-103and 53-22-105.

Section 11. Section 53B-28-401 is amended to read:

53B-28-401. Campus safety plans and training -- Institution duties -- Governing board duties.

(1) As used in this section:

(a) "Covered offense" means:

(i) sexual assault;

(ii) domestic violence;

(iii) dating violence; or

(iv) stalking.

(b) "Institution" means an institution of higher education described in Section 53B-1-102.

(c) "Student organization" means a club, group, sports team, fraternity or sorority, or other organization:

(i) of which the majority of members is composed of students enrolled in an institution; and

(ii) (A) that is officially recognized by the institution; or

(B) seeks to be officially recognized by the institution.

(2) An institution shall develop a campus safety plan that addresses:

(a) where an individual can locate the institution's policies and publications related to a covered offense;

(b) institution and community resources for a victim of a covered offense;

(c) the rights of a victim of a covered offense, including the measures the institution takes to ensure, unless otherwise provided by law, victim confidentiality throughout all steps in the reporting and response to a covered offense;

(d) how the institution informs the campus community of a crime that presents a threat to the campus community;

(e) availability, locations, and methods for requesting assistance of security personnel on the institution's campus;

(f) guidance on how a student may contact law enforcement for incidents that occur off campus;

(g) institution efforts related to increasing campus safety, including efforts related to the institution's increased response in providing services to victims of a covered offense, that:

(i) the institution made in the preceding 18 months; and

(ii) the institution expects to make in the upcoming 24 months;

(h) coordination and communication between institution resources and organizations, including campus law enforcement;

(i) institution coordination with local law enforcement or community resources, including coordination related to a student's safety at an off-campus location; and

(j) how the institution requires a student organization to provide the campus safety training as described in Subsection (5).

(3) An institution shall:

(a) prominently post the institution's campus safety plan on the institution's website and each of the institution's campuses; and

(b) annually update the institution's campus safety plan.

(4) An institution shall develop a campus safety training curriculum that addresses:

(a) awareness and prevention of covered offenses, including information on institution and community resources for a victim of a covered offense;

(b) bystander intervention; and

(c) sexual consent.

(5) An institution shall require a student organization, in order for the student organization to receive or maintain official recognition by the institution, to annually provide campus safety training, using the curriculum described in Subsection (4), to the student organization's members.

[~~(6) An institution shall report annually to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee, at or before the committees' November meetings, on crime statistics aggregated by housing facility as described in Subsection 53B-28-403(2).~~]

Section 12. Section 53B-28-403 is amended to read:

53B-28-403. Student housing crime reporting.

(1) As used in this section:

(a) "Campus law enforcement" means an institution's police department.

(b) "Crime statistics" means the number of each of the crimes in 34 C.F.R. Sec. 668.46(c)(1) that are reported to a local police agency or campus law enforcement, listed by type of crime.

(c) "Institution" means an institution of higher education described in Section 53B-2-101.

(d) (i) "Institution noncampus housing facility" means a building or property that:

(A) is used for housing students;

(B) is not part of the institution's campus; and

(C) the institution owns, manages, controls, or leases;

(ii) "Institution noncampus housing facility" includes real property that is adjacent to, and is used in direct support of, the building or property described in Subsection (1)(d)(i).

(e) "Local law enforcement agency" means a state or local law enforcement agency other than campus law enforcement.

(f) (i) "On-campus housing facility" means a building or property that is:

(A) used for housing students; and

(B) part of the institution's campus.

(ii) "On-campus housing facility" includes real property that is:

(A) adjacent to the on-campus housing facility; and

(B) used in direct support of the on-campus housing facility.

(g) "Student housing" means:

(i) an institution noncampus housing facility;

(ii) an on-campus housing facility; or

(iii) a student organization noncampus housing facility.

(h) "Student organization" means the same as that term is defined in Section 53B-28-401.

(i) "Student organization noncampus housing facility" means a building or property that:

(i) is used for housing students;

(ii) is not part of the institution's campus; and

(iii) (A) a student organization owns, manages, controls, or leases; or

(B) is real property that is adjacent to the student organization noncampus housing facility and is used in direct support of the noncampus housing facility.

(2) An institution with the types of housing facilities described in this Subsection (2) shall:

(a) create a report of crime statistics aggregated by:

(i) on-campus housing facility, identified and listed individually using the institution's system for inventorying institution facilities;

(ii) institution noncampus housing facility, identified and listed individually using the institution's system for inventorying institution facilities; and

(iii) student organization noncampus housing facilities, identified and listed individually using the institution's system for identifying student organization noncampus housing facilities; and

(b) [~~include the report described in Subsection (2)(a) in the report described in Subsection 53B-28-401(6).~~]report annually to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee, at or before the committee's November meetings, on crime statistics aggregated by housing facility as described in Subsection(2)(a).

(3) An institution that does not have the types of housing described in Subsection (2) shall report the crime statistics as required by 20 U.S.C. Section 1092(f), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, to the entities specified in Subsection (2).

(4) Upon request from an institution, a local law enforcement agency shall provide to the institution crime statistics for each student housing facility over which the local law enforcement agency has jurisdiction.

[~~(4)~~](5) Except as provided in Section 53B-28-303, when campus law enforcement receives a complaint or report of a crime that campus law enforcement reasonably determines occurred outside of campus law enforcement's jurisdiction, campus law enforcement shall share any record of the complaint or report with the local law enforcement agency with jurisdiction.

Section 13. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(e) the reports described in Section [~~53B-28-401~~]53B-28-403 by the Utah Board of Higher Education regarding activities related to campus safety;

(f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(h) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(i) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(j) the report described in Section 53F-2-522 regarding mental health screening programs;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

(m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

(n) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

(o) the report described in Section 53F-5-405 by the state board regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;

(p) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

(q) the report described in Section 53G-7-221 by the state board regarding innovation plans;

(r) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) in 2027, 2030, 2033, and 2035, the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

(b) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(c) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(d) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(e) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(f) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

(g) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

(h) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the state board, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 14. Section 53G-5-202 is amended to read:

53G-5-202. Status and powers of State Charter School Board.

(1) The State Charter School Board may:

(a) enter into contracts;

(b) sue and be sued; and

(c) (i) at the discretion of the charter school, provide administrative services to, or perform other school functions for, charter schools authorized by the State Charter School Board; and

(ii) charge fees for the provision of services or functions.

(2) The state board shall:

(a) approve the State Charter School Board's annual budget; and

(b) otherwise grant autonomy to the State Charter School Board to manage the State Charter School Board's budget.

(3) The State Charter School Board shall assign an existing employee to be the charter liaison described in Section 53G-8-802.

(4) The charter school liaison described in Section 53G-8-802 shall coordinate with a safety liaison from each authorizer to provide required trainings, information, and other relevant school safety needs as the School Safety Center determines.

Section 15. Section 53G-5-205 is amended to read:

53G-5-205. Charter school authorizers -- Power and duties -- Charter application minimum standard.

(1) The following entities are eligible to authorize charter schools:

(a) the State Charter School Board;

(b) a local school board; or

(c) an institution of higher education board of trustees, as that term is defined in Section 53G-5-102.

(2) A charter school authorizer shall:

(a) authorize and promote the establishment of charter schools;

(b) before an application for charter school authorization is submitted to a charter school authorizer, review and evaluate the proposal to support and strengthen the charter school authorization proposal;

(c) review and evaluate the performance of charter schools authorized by the authorizer and hold a charter school accountable for the performance measures established in the charter school's charter agreement;

(d) assist charter schools in understanding and carrying out the charter school's charter obligations; [~~and~~]

(e) provide technical support to charter schools and persons seeking to establish charter schools by:

(i) identifying and promoting successful charter school models;

(ii) facilitating the application and approval process for charter school authorization; or

(iii) directing charter schools and persons seeking to establish charter schools to sources of funding and support[~~.~~]; and

(f) designate an existing employee to coordinate with the charter school liaison described in Section 53G-5-202.

(3) A charter school authorizer may:

(a) make recommendations to the Legislature on legislation pertaining to charter schools;

(b) make recommendations to the state board on charter school rules and charter school funding; or

(c) provide technical support, as requested, to another charter school authorizer relating to charter schools.

(4) Within 60 days after the day on which an authorizer approves an application for a new charter school, the state board may direct an authorizer to do the following if the authorizer or charter school applicant failed to follow statutory or state board rule requirements made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) reconsider the authorizer's approval of an application for a new charter school; and

(b) correct deficiencies in the charter school application or authorizer's application process as described in statute or state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, before approving the new application.

(5) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing minimum standards that a charter school authorizer is required to apply when evaluating a charter school application.

(6) The minimum standards described in Subsection (5) shall include:

(a) reasonable consequences for an authorizer that fails to comply with statute or state board rule;

(b) a process for an authorizer to review:

(i) the skill and expertise of a proposed charter school's governing board; and

(ii) the functioning operation of the charter school governing board of an authorized charter school;

(c) a process for an authorizer to review the financial viability of a proposed charter school and of an authorized charter school;

(d) a process to evaluate:

(i) how well an authorizer's authorized charter school complies with the charter school's charter agreement;

(ii) whether an authorizer's authorized charter school maintains reasonable academic and education standards; and

(iii) standards that an authorizer is required to meet to demonstrate the authorizer's capacity to oversee and evaluate the charter schools the authorizer authorizes.

Section 16. Section 53G-8-102 is amended to read:

53G-8-102. Definitions.

[~~Reserved~~]As used in this chapter:

(1) "Climate" means the perceptions and experiences of students, staff, parents, and the community regarding the school's environment and the resources that support the experiences.

(2) "Culture" means the beliefs, values, and practices that shape how a school functions and influences student learning and well-being through policies, procedures, and safety protocols.

(3) "K-12 School Campus" means an LEA governed property or building where K-12 students gather daily for instructional purposes and has an assigned administrator.

(4) "Physical Space" means the way in which a building is designed and structured to promote safety including the minimum safety and security standards as described in Section 53-22-102.

(5) "School safety" means the physical space, culture, and climate of a school.

Section 17. Section 53G-8-701 is amended to read:

53G-8-701. Definitions.

As used in this part:

(1) "Armed school security guard" means the same as that term is defined in Section [~~53G-8-804~~]53G-8-704.

(2) "County security chief" means the same as that term is defined in Section 53-22-101.

(3) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(4) "Public school" means the same as that term is defined in Section 53G-9-205.1.

(5) "School guardian" means the same as that term is defined in Section 53-22-106.

(6) "School is in session" means the same as that term is defined in Section 53E-3-516.

(7) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with or whose law enforcement agency contracts with an LEA to provide law enforcement services for the LEA.

(8) "School safety and security director" means an individual whom an LEA designates in accordance with Section 53G-8-701.8.

(9) "School safety and security specialist" means a school employee designated under Section 53G-8-701.6who is responsible for supporting school safety initiatives.

(10) "School [~~safety center"~~]Safety Center" means the same as that term is defined in Section 53G-8-801.

(11) "State security chief" means the same as that term is defined in Section 53-22-101.

Section 18. Section 53G-8-701.5 is amended to read:

53G-8-701.5. School safety needs assessment -- School safety personnel -- Alternative requirements.

(1) (a) [~~No~~]In accordance with Subsections (1)(c) through (e), no later than [~~December 31, 2024~~]October 15 of an applicable year, an LEA shall:

(i) ensure a school safety needs assessment the state security chief selects in collaboration with the school safety center is conducted in accordance with Subsection (1)(b) for each school or K-12 campus within the LEA to determine the needs and deficiencies regarding:

(A) appropriate school safety personnel, including necessary supports, training, and policy creation for the personnel;

(B) physical building security and safety, including required upgrades to facilities and safety technology[~~; and~~];

(C) a school's current threat and emergency response protocols, including any emergency response agreements with local law enforcement;

(D) cardiac emergency preparedness, including an inventory of whether automated external defibrillators are present and accessible, maintenance status, and current staff training offerings; and

(E) compliance with universal access key box requirements under Section 53G-8-805; and

(ii) report the results of the school safety needs assessment for each school within the LEA to the state security chief and the School Safety Center.

(b) (i) The school safety specialist described in Section 53G-8-701.6, in collaboration with the county security chief[~~or designee described in Section 53-22-103~~], and with the local law enforcement of relevant jurisdiction over the school as described in Section 53-25-601, shall conduct the school safety needs assessment for each school.

(ii) A school safety and security director may fulfill the role of a school safety and security specialist in conducting the school safety needs assessment.

[~~(c) In collaboration with the School Safety Center described in Section 53G-8-802, the state security chief described in Section 53-22-102 shall create a school safety needs assessment that an LEA shall use to ensure compliance with this Subsection (1).~~]

(c) The school safety needs assessment required under Subsection (1)(a)(i) shall be conducted at least once every three years for each school or K-12 campus.

(d) An LEA may implement a rotating or staggered schedule for conducting school safety needs assessments among the buildings within the LEA, provided that:

(i) each school within a K-12 campus is assessed at least once every three years; and

(ii) the LEA documents the rotating or staggered assessment schedule and shares this schedule with the state security chief, the School Safety Center, the county security chief, and the local law enforcement of relevant jurisdiction as described in Section 53-25-601.

(e) The LEA shall update the assessment schedule as necessary to ensure compliance with the three-year assessment requirement under Subsection (1)(c).

[~~(d)~~](f) The state board shall use the results of the school safety needs assessment for each school within an LEA to award a grant to an LEA in accordance with Section 53F-5-220.

[~~(e)~~](g) Any information or record detailing a school's needs assessment results is:

(i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) available only to:

(A) the state security chief;

(B) the School Safety Center;

(C) members of an LEA governing board;

(D) administrators of the LEA and school the needs assessment concerns;

(E) only to the extent necessary to award a grant under Section 53F-5-220, the state board;

(F) the applicable school safety personnel described in Subsection (2);

(G) a local law enforcement agency that would respond to the school in case of an emergency; and

(H) the county security chief.

[~~(f)~~](h) An individual who intentionally or knowingly provides the information described in Subsection [~~(1)(e)~~](1)(g) to an individual or entity not listed in Subsection [~~(1)(e)(ii)~~](1)(g)(ii) is guilty of a class B misdemeanor.

(2) (a) An LEA shall ensure each school within the LEA has the following school safety personnel:

(i) a school safety and security specialist described in Section 53G-8-701.6; and

(ii) based on the results of the needs assessment described in Subsection (1), at least one of the following:

(A) a school resource officer;

(B) a school guardian; or

(C) an armed school security guard.

(b) In addition to the school safety personnel described in Subsection (2)(a), an LEA shall designate a school safety and security director described in Section 53G-8-701.8.

(c) [~~If a school has more than 350 students enrolled at the school, the~~]The same individual may [~~not~~]serve in more than one of the roles listed in Subsections (2)(a) and (b) if the school notifies the School Safety Center and the state security chief of the decision to have the same individual serve in multiple roles as described in this Subsection (2).

(d) An LEA may implement the requirements of Subsection (2)(a)(ii) before the LEA has completed the school safety needs assessment described in Subsection (1).

(e) The state security chief in consultation with the School Safety Center shall establish a timeline for an LEA to comply with the school safety personnel requirements of this Subsection (2).

(3) (a) An LEA, school administrator, or private school may apply to the state security chief for an approved alternative to the requirements described in:

(i) Section 53-22-105;

(ii) this section;

(iii) Section 53G-8-701.6;

(iv) Section 53G-8-701.8; and

(v) Section 53G-8-704.

(b) In approving or denying an application described in Subsection (3)(a), the state security chief may consider factors that impact a school or LEA's ability to adhere to the requirements of this section, including the school or LEA's:

(i) population size;

(ii) staffing needs or capacity;

(iii) geographic location;

(iv) available funding; or

(v) general demonstration of need for an alternative to the requirements of this section.

(4) A private school shall identify an individual at the private school to serve as the safety liaison with the local law enforcement of relevant jurisdiction and the state security chief.

Section 19. Section 53G-8-701.6 is amended to read:

53G-8-701.6. School safety and security specialist.

(1) As used in this section, "principal" means the chief administrator at a public school, including:

(a) a school principal;

(b) a charter school director; or

(c) the superintendent of the Utah Schools for the Deaf and the Blind.

(2) (a) Subject to Subsection (2)(b) and except as provided in Subsection 53G-8-701.5(3), every campus within an LEA shall designate a school safety and security specialist from the employees of the relevant campus.

(b) The school safety and security specialist:

(i) may not be a principal; and

(ii) may be the school safety and security director at one campus within the LEA.

(3) The school safety and security specialist shall:

(a) report directly to the principal;

(b) oversee school safety and security practices to ensure a safe and secure school environment for students and staff;

(c) ensure adherence with all policies, procedures, protocols, rules, and regulations relating to school safety and security through collaborating and maintaining effective communications with the following as applicable:

(i) the principal;

(ii) school staff;

(iii) the school resource officer;

(iv) the armed school security guard;

(v) the school guardian;

(vi) local law enforcement;

(vii) the county security chief;

(viii) the school safety and security director;

(ix) the LEA; and

(x) school-based behavioral and mental health professionals;

(d) in collaboration with the county security chief [~~or designee described in Section 53-22-103~~]and with the local law enforcement of relevant jurisdiction over the school as described in Section 53-25-601:

(i) conduct the school safety needs assessment described in Section 53G-8-701.5;

(ii) in accordance with Sections 53-25-601 and 53G-8-701.5, submit the completed assessments to the School Safety Center created in Section 53G-8-802 by October 15 of each year; and

[~~(ii)~~](iii) [~~conduct a building safety evaluation at least annually using~~]review the results of the school safety needs assessment to recommend and implement improvements to school facilities, policies, procedures, protocols, rules, and regulations relating to school safety and security;

(e) [~~if the specialist is also an employee of an LEA,~~]participate on the multidisciplinary team that the [~~LEA~~]school establishes;

(f) conduct a behavioral threat assessment when the school safety and security specialist deems necessary using an evidence-based tool the state security chief recommends in consultation with the school safety center and the Office of Substance [~~Abuse~~]Use and Mental Health;

(g) regularly monitor and report to the principal, local law enforcement, and, if applicable, the LEA superintendent or designee, security risks for the school resulting from:

(i) issues with school facilities; or

(ii) the implementation of practices, policies, procedures, and protocols relating to school safety and security;

(h) coordinate with local first responder agencies to implement and monitor safety and security drills in accordance with policy and applicable procedures and protocols;

(i) ensure that school staff, and, when appropriate, students, receive training on and remain current on the school's safety and security procedures and protocols;

(j) following an event where security of the school has been significantly compromised, organize a debriefing with the individuals listed in Subsection (3)(c) following the recommendations from the state security chief, in collaboration with the School Safety Center, regarding strengthening school safety and security practices, policies, procedures, and protocols;

(k) abide by any LEA, school, or law enforcement agency policy outlining the chain of command;

(l) during an emergency, coordinate with the following individuals as applicable, the:

(i) school resource officer;

(ii) school guardians;

(iii) armed school security guards;

(iv) school administrators; and

(v) responding law enforcement officers;

(m) follow any LEA, school, or law enforcement agency student privacy policies, including state and federal privacy laws;

(n) participate in an annual training the state security chief selects in consultation with the School Safety Center; and

(o) remain current on:

(i) a comprehensive school guideline the state security chief selects;

(ii) the duties of a school safety and security specialist described in this Subsection (3); and

(iii) the school's emergency response plan.

(4) During an active emergency at the school, the school safety and security specialist is subordinate to any responding law enforcement officers.

Section 20. Section 53G-8-701.8 is amended to read:

53G-8-701.8. School safety and security director.

(1) Except as provided in Subsection 53G-8-701.5(3), an LEA shall designate a school safety and security director as the LEA point of contact for the county security chief, local law enforcement, and the state security chief.

(2) A school safety and security director shall:

(a) participate in and satisfy the training requirements [~~, including the annual and biannual requirements, described in~~]as follows:

(i) only once, the training requirements described in Section 53-22-105 for school guardians;

(ii) [~~Section 53G-8-702 for~~]the school resource [~~officers~~]officer and administrator training the state security chief approves in consultation with the School Safety Center; and

[~~(iii) Section 53G-8-704 for armed school security guards;~~]

[~~(b) have a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act;~~]

[~~(c)~~](b) if serving as a backup school guardian, satisfy all requirements described in 53-22-105;

(c) if the designee is an employee of an LEA, participate on the multidisciplinary team the LEA establishes;

(d) coordinate security responses among, if applicable, the following individuals in the LEA that employs the school safety and security director:

(i) school safety and security specialists;

(ii) school resource officers;

(iii) armed school security guards; and

(iv) school guardians; and

(e) collaborate and maintain effective communications with local law enforcement, a county security chief, the LEA, and school-based behavioral and mental health professionals to ensure adherence with all policies, procedures, protocols, rules, and regulations relating to school safety and security.

(3) A school safety and security director:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the LEA that employs the director:

(i) take actions necessary to prevent or abate an active threat; and

(ii) temporarily detain an individual when the school safety and security director has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402[~~;~~].

(4) Notwithstanding Subsection 76-10-505.5(4), if a school safety and security director is carrying a firearm, the school safety and security director shall carry the school safety and security director's firearm in a concealed manner and may not, unless during an active threat, display or open carry a firearm while on school grounds.

(5) A school may use the services of the school safety and security director on a temporary basis to satisfy the school safety personnel requirement of Subsection 53G-8-701.5(2).

(6) The state security chief shall:

(a) for each school safety and security director, track each school safety and security director by collecting the photograph and the name and contact information for each school safety and security director; and

(b) make the information described in Subsection (6)(a) readily available to each law enforcement agency in the state categorized by LEA.

Section 21. Section 53G-8-704 is amended to read:

53G-8-704. Contracts between an LEA and a contract security company for armed school security guards.

(1) As used in this section:

(a) "Armed private security officer" means the same as that term is defined in Section 58-63-102.

(b) "Armed school security guard" means an armed private security officer who[~~is~~]:

(i) is licensed as an armed private security officer under Title 58, Chapter 63, Security Personnel Licensing Act; and

(ii) has met the requirements described in Subsection (4)(a).

(c) "Contract security company" means the same as that term is defined in Section 58-63-102.

(d) "State security chief" means the same as that term is defined in Section 53-22-102.

(2) (a) An LEA may use an armed school security guard to satisfy the school safety personnel requirements of Section 53G-8-701.5.

(b) An LEA that uses an armed school security guard under Subsection (2)(a) shall contract with a contract security company to provide armed school security guards at each school within the LEA.

(3) The contract described in Subsection (2)(b) shall include a detailed description of:

(a) the rights of a student under state and federal law with regard to:

(i) searches;

(ii) questioning;

(iii) arrests; and

(iv) information privacy;

(b) job assignment and duties of an armed school security guard, including:

(i) the school to which an armed school security guard will be assigned;

(ii) the hours an armed school security guard is present at the school;

(iii) the point of contact at the school that an armed school security guard will contact in case of an emergency;

(iv) specific responsibilities for providing and receiving information;

(v) types of records to be kept, and by whom; and

(vi) training requirements; and

(c) other expectations of the contract security company in relation to school security at the LEA.

(4) (a) In addition to the requirements for licensure under Title 58, Chapter 63, Security Personnel Licensing Act, an armed private security officer may only serve as an armed school security guard under a contract described in Subsection (2)(b) if the armed private security officer:

(i) has a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act; [~~and~~]

(ii) has undergone training from a county security chief or local law enforcement agency regarding:

(A) the safe loading, unloading, storage, and carrying of firearms in a school setting;

(B) the role of armed security guards in a school setting; and

(C) coordination with law enforcement and school officials during an active threat[~~.~~];

(iii) completes an initial "fit to carry" assessment the Department of Health and Human Services approves and a provider administers; and

(iv) maintains compliance with mental health screening requirements consistent with law enforcement standards.

(b) An armed school security guard that meets the requirements of Subsection (4)(a) shall, in order to remain eligible to be assigned as an armed school security guard at any school under a contract described in Subsection (2)(b), participate in and satisfy the training requirements of the initial, annual, and biannual trainings as defined in Section 53-22-105.

(5) An armed school security guard may conceal or openly carry a firearm at the school at which the armed school security guard is employed under the contract described in Subsection (2)(b).

(6) An LEA that enters a contract under this section shall inform the state security chief and the relevant county security chief of the contract and provide the contact information of the contract security company employing the armed security guard for use during an emergency.

(7) The state security chief shall:

(a) for each LEA that contracts with a contract security company under this section, track each contract security company providing armed school security guards by name and the contact information for use in case of an emergency; and

(b) make the information described in Subsection (7)(a) readily available to each law enforcement agency in the state by school.

(8) An armed school security guard shall file a report described in Subsection (9) if, during the performance of the armed school security guard's duties, the armed school security guard:

(a) points a firearm at an individual; or

(b) aims a conductive energy device at an individual and displays the electrical current.

(9) (a) A report described in Subsection (8) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the state security chief.

(b) An armed school security guard shall submit a report required under Subsection (8) to the school administrator, school safety and security director, and the state security chief within 48 hours after the incident.

(c) The school administrator, school safety and security director, and the state security chief shall consult and review the report submitted under Subsection (9)(b).

Section 22. Section 53G-8-802 is amended to read:

53G-8-802. State Safety and Support Program -- State board duties -- LEA duties.

(1) There is created the School Safety Center.

(2) The School Safety Center shall:

(a) develop in conjunction with the Office of Substance Use and Mental Health and the state security chief model student safety and support policies for an LEA, including:

(i) requiring an evidence-based behavior threat assessment that includes [~~:~~]

[~~(A)~~] recommended interventions with an individual whose behavior poses a threat to school safety; [~~and~~]

[~~(B) establishes defined roles for a multidisciplinary team and school safety personnel described in Title 53G, Chapter 8, Part 7, School Safety Personnel, including:~~]

(ii) procedures for referrals to law enforcement; and

(iii) procedures for referrals to a community services entity, a family support organization, or a health care provider for evaluation or treatment;

(b) provide training in consultation with the state security chief:

(i) in school safety;

(ii) in evidence-based approaches to improve school climate and address and correct bullying behavior;

(iii) in evidence-based approaches in identifying an individual who may pose a threat to the school community;

(iv) in evidence-based approaches in identifying an individual who may be showing signs or symptoms of mental illness;

(v) on permitted disclosures of student data to law enforcement and other support services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

(vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections 53E-9-203 and 53E-9-305; and

(vii) for administrators on rights and prohibited acts under:

(A) Chapter 9, Part 6, Bullying and Hazing;

(B) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.;

(C) Title IX of Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(D) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.; and

(E) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.;

(c) conduct and disseminate evidence-based research on school safety concerns;

(d) disseminate information on effective school safety initiatives;

(e) encourage partnerships between public and private sectors to promote school safety;

(f) provide technical assistance to an LEA in the development and implementation of school safety initiatives;

(g) in conjunction with the state security chief, make available to an LEA the model critical incident response training program a school and law enforcement agency shall use during a threat;

(h) provide space for the public safety liaison described in Section 53-1-106 and the school-based mental health specialist described in Section 26B-5-102;

(i) collaborate with the state security chief to determine appropriate application of school safety requirements in Utah Code to an online school;

(j) create a model school climate survey that may be used by an LEA to assess stakeholder perception of a school environment;

(k) in accordance with Section 53G-5-202, establish a charter school liaison including defined responsibilities for charter school communication and coordination with the School Safety Center; and

(l) assist a foundation described in Section 53-22-108 in distributing school safety products if a foundation seeks assistance;

(m) [~~and~~]establishes defined roles for a multidisciplinary team and school safety personnel described in Chapter 8, Part 7, School Safety Personnel;

[~~(k)~~](n) assist LEAs in implementing and maintaining universal access key box requirements under Section 53G-8-805;

(o) in consultation with the state security chief, select a system to track relevant data, including the tracking required in Sections 53-22-105, 53G-8-701.5, 53G-8-701.8, and 53G-8-704; and

(p) collect aggregate data and school climate survey results from an LEA that administers the model school climate survey described in Subsection [~~(2)(i)~~](2)(j).

(3) Nothing in this section requires:

(a) an individual to respond to a school climate survey; or

(b) an LEA to use the model school climate survey or any specified questions in the model school climate survey described in Subsection [~~(2)(i)~~](2)(j).

(4) The state board shall require an LEA to:

(a) (i) if an LEA administers a school climate survey, review school climate data for each school within the LEA; and

(ii) based on the review described in Subsection (4)(a)(i):

(A) revise practices, policies, and training to eliminate harassment and discrimination in each school within the LEA;

(B) adopt a plan for harassment- and discrimination-free learning; and

(C) host outreach events or assemblies to inform students and parents of the plan adopted under Subsection (4)(a)(ii)(B);

(b) no later than September 1 of each school year, send a notice to each student, parent, and LEA staff member stating the LEA's commitment to maintaining a school climate that is free of harassment and discrimination; and

(c) report to the state board annually on the LEA's implementation of the plan under Subsection (4)(a)(ii)(B) and progress.

Section 23. Section 53G-8-803 is amended to read:

53G-8-803. Standard response protocol to active threats in schools.

The state security chief described in Section 53-22-102, in consultation with the School Safety Center, shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) in accordance with the standard response protocol established by the state security chief, require an LEA or school to develop emergency preparedness plans and emergency response plans for use during an emergency that include developmentally appropriate training for students and adults regarding:

(a) active threats;

(b) emergency preparedness;

(c) cardiac emergency preparedness;

[~~(c)~~](d) drills as required under Subsection 15A-5-202.5 and by the state security chief; and

[~~(d)~~](e) standard response protocols coordinated with community stakeholders; and

(2) identify the necessary components of emergency preparedness and response plans, including underlying standard response protocols and emerging best practices for an emergency.

Section 24. Section 53G-8-805 is amended to read:

53G-8-805. Panic alert device -- Security cameras -- Key box.

(1) As used in this section:

(a) "Universal access key box" means a UL Standard 1037 compliant secure container designed to store and protect emergency access keys and devices.

(b) "Emergency responder" means law enforcement, fire service, or emergency medical personnel authorized by local authorities to respond to school emergencies.

[~~(1)~~](2) In accordance with the results of the school safety needs assessment described in Section 53G-8-701.5, an LEA shall provide [~~a staff person~~]the lead teacher in each classroom with a wearable panic alert device that [~~allows for immediate contact with emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments~~]shall communicate directly with public safety answering points.

[~~(2)~~](3) An LEA shall ensure, before the school year begins, all school building personnel receive training on the protocol and appropriate use of the panic alert device described in Subsection [~~(1)~~](2).

[~~(3)~~](4) An LEA shall:

(a) ensure all security cameras within a school building are accessible by:

(i) a local law enforcement agency; and

(ii) public safety answering points;

(b) coordinate with a local law enforcement agency to establish appropriate access protocols[~~.~~]; and

(c) physically mark all hallways and doorways consistent with the incident response method or system the state security chief creates.

[~~(4)~~]

(5) A school building shall include universal access key boxes that:

(a) are installed at main entry points;

(b) contain master keys and access devices providing complete access to all areas of the school;

(c) are accessible only to authorized emergency responders;

(d) are electronically monitored for tampering; and

(e) are weather-resistant and vandal-resistant.

(6) An LEA shall:

(a) maintain universal access key boxes by:

(i) conducting quarterly inspections;

(ii) updating contents within 24 hours of any lock or access control changes;

(iii) maintaining current key and access device inventories;

(iv) documenting all inspections and updates; and

(v) immediately replacing any damaged or malfunctioning boxes;

(b) coordinate with local emergency responders to:

(i) determine optimal box placement;

(ii) establish access protocols;

(iii) maintain current emergency contact information; and

(iv) conduct annual reviews of box usage and effectiveness;

(c) include universal access key box locations and protocols in:

(i) school emergency response plans;

(ii) building schematic diagrams provided to emergency responders; and

(iii) school safety and security training materials.

(7) The state board shall:

(a) establish standards for:

(i) box installation and placement;

(ii) access control and monitoring;

(iii) maintenance schedules; and

(iv) compliance verification;

(b) in direct coordination with the state security chief, ensure new construction or major remodeling of a school building shall include the installation of automated external defibrillators in appropriate locations as the state board determines; and

(c) provide technical assistance to LEAs implementing this section.

(8) Nothing in this section:

(a) affects requirements for fire department key boxes under applicable building or fire codes; or

(b) restricts additional security measures implemented by LEAs that exceed these requirements.

(9) This section is not subject to the restrictions in Section 41-6a-2003.

Section 25. Section 53G-9-207 is amended to read:

53G-9-207. Child sexual abuse prevention.

(1) As used in this section:

(a) (i) "Age-appropriate instructional material" means materials that provide instruction on:

(A) the responsibility of adults for the safety of children;

(B) how to recognize uncomfortable inner feelings;

(C) how to say no and leave an uncomfortable situation;

(D) how to set clear boundaries;

(E) the risks of sharing intimate images or personal information through electronic means; and

[~~(E)~~](F) the importance of discussing uncomfortable situations with parents and other trusted adults.

(ii) "Age-appropriate instructional material" does not include materials that:

(A) invites a student to share personal experiences about abuse during instruction;

(B) gives instruction regarding consent as described in Section 76-5-406; or

(C) includes sexually explicit language or depictions.

(b) "Alternative provider" means a provider other than the provider selected by the state board under Subsection (8) that provides the training and instruction described in Subsection (4) with instructional materials approved under Subsection (2).

(c) "School personnel" means the same as that term is defined in Section 53G-9-203.

(d) "Sexual extortion" means the criminal offense described in Section 76-5b-204.

(2) The state board shall approve, in partnership with the Department of Health and Human Services, age-appropriate instructional materials for the training and instruction described in Subsections (3)(a) and (4).

(3) (a) An LEA shall provide, once every three years, training and instruction on child sexual abuse and human trafficking prevention and awareness to:

(i) school personnel in elementary and secondary schools on:

(A) responding to a disclosure of child sexual abuse in a supportive, appropriate manner;

(B) identifying children who are victims or may be at risk of becoming victims of human trafficking or commercial sexual exploitation; and

(C) the mandatory reporting requirements described in Sections 53E-6-701 and 80-2-602;

(D) appropriate responses to incidents of sexual extortion, including connecting victims with support services; and

(ii) parents of elementary school students on:

(A) recognizing warning signs of a child who is being sexually abused or who is a victim or may be at risk of becoming a victim of human trafficking or commercial sexual exploitation; [~~and~~]

(B) effective, age-appropriate methods for discussing the topic of child sexual abuse with a child[~~.~~]; and

(C) resources available for victims of sexual extortion.

(b) An LEA:

(i) shall use the instructional materials approved by the state board under Subsection (2) to provide the training and instruction under Subsections (3)(a) and (4); or

(ii) may use instructional materials the LEA creates to provide the instruction and training described in Subsections (3)(a) and (4), if the LEA's instructional materials are approved by the state board under Subsection (2).

(4) (a) In accordance with Subsections (4)(b) and (5), an LEA may provide instruction on child sexual abuse and human trafficking prevention and awareness to elementary school students using age-appropriate curriculum.

(b) An LEA that provides the instruction described in Subsection (4)(a) shall use the instructional materials approved by the state board under Subsection (2) to provide the instruction.

(5) (a) An elementary school student may not be given the instruction described in Subsection (4) unless the parent of the student is:

(i) notified in advance of the:

(A) instruction and the content of the instruction; and

(B) parent's right to have the student excused from the instruction;

(ii) given an opportunity to review the instructional materials before the instruction occurs; and

(iii) allowed to be present when the instruction is delivered.

(b) Upon the written request of the parent of an elementary school student, the student shall be excused from the instruction described in Subsection (4).

(c) Participation of a student requires compliance with Sections 53E-9-202 and 53E-9-203.

(6) An LEA may determine the mode of delivery for the training and instruction described in Subsections (3) and (4).

(7) Upon request of the state board, an LEA shall provide evidence of compliance with this section.

(8) The state board shall select a provider to provide the training and instruction described in Subsection (4), including requiring the provider selected to:

(a) engage in outreach efforts to support more schools to participate in the training and instruction;

(b) provide materials for the instruction involving students in accordance with Subsection (4);

(c) provide an outline of how many LEAs, schools, and students the provider could service; and

(d) submit a report to the state board that includes:

(i) information on the LEAs the provider engaged with in the outreach efforts, including:

(A) how many schools within an LEA increased instructional offerings for training and instruction; and

(B) the reasons why an LEA chose to participate or not in the offered training or instruction;

(ii) the number of schools and students that received the training and instruction;

(iii) budgetary information regarding how the provider utilized any funds the state board allocated; and

(iv) additional information the state board requests.

(9) Subject to legislative appropriation, there is created a grant program to support an LEA that chooses to use an alternative provider other than the provider selected by the state board under Subsection (8) to provide the training and instruction described in Subsection (4).

(10) The state board shall:

(a) establish a process to select alternative providers for an LEA to use, including:

(i) an application process for a provider to become an alternative provider;

(ii) required criteria for a provider to become an alternative provider; and

(iii) relevant timelines;

(b) create a process for an LEA to receive a grant award described in Subsection (9), including:

(i) an application process;

(ii) relevant timelines; and

(iii) a scoring rubric and corresponding formula for determining a grant amount; and

(c) make grant awards on a first come first served basis until the state board distributes all appropriated funds.

(11) An LEA that receives a grant award described in Subsection (10)(b) shall:

(a) use the grant award to cover the costs needed for implementation of the training or instruction described in Subsection (4); and

(b) upon request of the state board, provide an itemized list of the uses of the grant award.

Section 26. Section 53G-9-703 is amended to read:

53G-9-703. Parent education -- Mental health -- Bullying -- Safety.

(1) (a) Except as provided in Subsection (3), a school district shall offer a seminar for parents of students who attend school in the school district that:

(i) is offered at no cost to parents;

(ii) (A) if in person, begins at or after 6 p.m.; [~~or~~]

(B) if in person, takes place on a Saturday; or

(C) may be conducted at anytime online and recorded if the recording is made available on the school district's website, including the parent portal created in Section 53G-6-806.

(iii) (A) is held in at least one school located in the school district; or

(B) is provided through a virtual platform; and

(iv) covers the topics described in Subsection (2).

(b) (i) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(ii) Notwithstanding Subsection (1)(b)(i), a school district may not be required to offer more than three seminars.

(c) A school district may:

(i) develop the district school's own curriculum for the seminar described in Subsection (1)(a); or

(ii) use the curriculum developed by the state board under Subsection (2).

(d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.

(2) The state board shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;

(iv) Internet safety, including pornography addiction; [~~and~~]

(v) the SafeUT Crisis Line established in Section 53B-17-1202; and

(vi) resources related to the topics described in this Subsection (2); and

(b) provide the curriculum, including resources and training, to school districts upon request.

(3) (a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the state board and provide the reasons why the local school board chose not to offer the parent seminar.

Section 27. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.

(2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

(5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

(6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.

(7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

(8) Section 53-5-703, Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

(9) Section 53-11-104, Board, is repealed July 1, 2029.

[~~(10) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.~~]

[~~(11) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.~~]

[~~(12)~~](10) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(13)~~](11) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.

[~~(14)~~](12) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(15)~~](13) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(16)~~](14) Section 53B-17-1203, SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.

[~~(17)~~](15) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(18)~~](16) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

[~~(19)~~](17) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.

[~~(20)~~](18) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(21)~~](19) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(22)~~](20) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(23)~~](21) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(24)~~](22) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(25)~~](23) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(26)~~](24) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

[~~(27)~~](25) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

[~~(28)~~](26) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(29)~~](27) Subsection 53E-7-207(7), regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(30)~~](28) Section 53F-2-420, Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(31)~~](29) Section 53F-5-214, Grant for professional learning, is repealed July 1, 2025.

[~~(32)~~](30) Section 53F-5-215, Elementary teacher preparation grant, is repealed July 1, 2025.

[~~(33)~~](31) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is repealed July 1, 2025.

[~~(34)~~](32) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(35)~~](33) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(36)~~](34) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(37)~~](35) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

Section 28. Repealer.

This bill repeals:

Section 53F-4-208, State board procurement for school security software.

Section 29. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 29(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Contracted Initiatives and Grants

From Public Education Economic Stabilization Restricted Account, One-time - - - - - - - - - - - - - - - - - - 25,000,000

Schedule of Programs:

School Safety and Support Grant Program - 25,000,000

The Legislature intends $25,000,000 for the School Safety and Support Grant Program in this item be used as follows, for:

(1) supporting general grants to local education agencies prioritized by need as the school security task force described in Section 53-22-104.1 determines in coordination with the state security chief and the school safety center;

(2) research expenses supporting the work of the school security task force as the co-chairs of the task force authorize;

(3) targeted grants to local education agencies for needs reported in the local education agencies' school safety needs assessments described in Section 53G-8-701.5; and

(4) the state board to use up to $500,000 for the administration of the multi-tiered system of support for compliance issues as described in Section 53-22-109, if:

(a) the state board determines the ongoing costs associated with the administration of the multi-tiered system of support for compliance issues; and

(b) the state board reports the ongoing costs to the Education Interim Committee no later than September 1, 2026.

Section 30. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 389
H. B. 42
Passed March 4, 2025
Approved March 26, 2025
Effective July 1, 2025

ENGLISH LEARNER AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill provides emergency funding to schools experiencing a significant increase in English language learner enrollment.

Highlighted Provisions:

This bill:

- ► defines a term;
- ► provides a local education agency (LEA) with emergency funding if enrollment of students learning English meets or exceeds a threshold;
- ► requires the state board to oversee an application process and distribute emergency funds; and
- ► instructs an LEA on the use of emergency funds.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-2-314, as last amended by Laws of Utah 2022, Chapter 409

ENACTS:

53F-2-315, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-314 is amended to read:

53F-2-314. Weighted pupil units for students who are at-risk.

(1) As used in this section:

(a) "At risk" means that a public education student:

(i) scores below proficient on a state board or LEA approved assessment; or

(ii) meets an LEA governing board's approved definition of an at-risk student.

(b) "Limited English proficiency" means that an English learner student received a score of 1-4 on an English language proficiency assessment.

(2) (a) Additional weighted pupil units for students who are at-risk are computed based on the number of students within each LEA on October 1 of the previous school year as follows, added to a base of five WPUs for each LEA:

(i) for the fiscal year beginning on July 1, 2021:

(A) for each student who is eligible to receive free or reduced price lunch, .05 additional weighted pupil units; and

(B) for each student with limited English proficiency, .025 additional weighted pupil units; and

(ii) for each fiscal year after the fiscal year described in Subsection (2)(a)(i), the additional weighed pupil units shall increase, subject to the approval of the Executive Appropriations Committee, by amounts that the Public Education Appropriations Subcommittee recommends in the subcommittee's evaluation and recommendations described in Section 53E-1-202.2, up to:

(A) for each student who is eligible to receive free or reduced price lunch, .3 total weighted pupil units; and

(B) for each student with limited English proficiency, up to .1 total weighted pupil units.

(b) Funding for a student who falls within both Subsections (2)(a)(i)(A) and (B) shall be computed under both weighting factors.

(3) An LEA governing board shall use money distributed under this section to improve the academic achievement of students who are at-risk.

(4) The state board may use nonlapsing funds remaining under this section from a prior school year to provide the emergency funding described in Section 53F-2-315.

[~~(4)~~](5) (a) Annually, an LEA shall provide the following information to the state board:

(i) a report of the LEA's use of funds allocated under this section through the annual financial reporting process; and

(ii) the LEA's outcome data or a report of intervention effectiveness related to the use of the LEA's use of funds allocated under this section.

(b) The state board shall monitor the learning outcomes resulting from the LEA's use of funds under this section.

Section 2. Section 53F-2-315 is enacted to read:

53F-2-315. Emergency funding for schools with increased enrollment of students learning English.

(1) As used in this section, "student learning English" means a student, currently enrolled at a public elementary or secondary educational institution, whose most recent score on an English language proficiency assessment is the lowest score available under the given assessment.

(2) (a) An LEA may receive emergency funding from the state board if enrollment, at a school within the LEA, of students learning English increases by:

(i) 75% or more above the previous three-year average enrollment for students learning English in the school; and

(ii) 30 or more students above the previous three-year average enrollment for students learning English in the school.

(b) An LEA shall ensure that an application the LEA submits under Subsection (3)(a):

(i) demonstrates substantial need for the emergency funding;

(ii) includes the percentage by which the school's student learning English enrollment exceeds the previous three-year average for the school; and

(iii) demonstrates that the school has insufficient existing funds to adequately support the increased student learning English enrollment.

(3) The state board shall:

(a) establish and oversee the application process to award emergency funding;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, create rules to:

(i) determine a method for measuring an increase in enrollment at a school; and

(ii) identify a school that meets the threshold requirement described in Subsection (2)(a); and

(c) subject to the availability of funds or legislative appropriations, prioritize applications and distribute funding based on:

(i) the greatest percentage increase in students learning English enrollment in the school; and

(ii) the severity of the financial need of the school.

(4) An LEA shall use emergency funds received under this section to:

(a) provide training or certification to teachers on the instruction of a student learning English;

(b) reduce the number of students learning English in a class;

(c) hire an aide to assist with students learning English in the classroom; or

(d) provide other resources specific to the needs of a student learning English.

(5) An LEA may not use emergency funding received under this section for administrative expenses.

(6) (a) The state board shall draw the emergency funding described in Subsection (2)(a) from nonlapsing funds remaining in the at-risk weighted pupil unit described in Section 53F-2-314.

(b) The state board may not draw, from the at-risk weighted pupil unit, more than $500,000, per fiscal year, for the emergency funding described in this section.

Section 3. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 390
H. B. 51
Passed February 10, 2025
Approved March 26, 2025
Effective May 7, 2025

HIGHER EDUCATION REPORTING AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill eliminates several reporting requirements.

Highlighted Provisions:

This bill:

► eliminates several reporting requirements relating to higher education; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-2-202.5, as last amended by Laws of Utah 2021, Chapter 425
52-4-103, as last amended by Laws of Utah 2024, Chapters 392, 522
53B-1-301, as last amended by Laws of Utah 2024, Chapter 3
53B-1-402, as last amended by Laws of Utah 2024, Chapters 144, 378
53B-8a-111, as last amended by Laws of Utah 2019, Chapter 324
53B-8d-104, as enacted by Laws of Utah 2001, Chapter 279
53B-17-201, as last amended by Laws of Utah 2013, Chapter 457
53B-30-206, as renumbered and amended by Laws of Utah 2021, Chapter 425
59-9-102.5, as last amended by Laws of Utah 2022, Chapter 477
63B-10-301, as last amended by Laws of Utah 2022, Chapter 447

REPEALS:

53B-29-203, as enacted by Laws of Utah 2020, Chapter 403

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-2-202.5 is amended to read:

34A-2-202.5. Offset for occupational health and safety related donations.

(1) As used in this section:

(a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in Title 53B, Chapter 30, Part 2, Rocky Mountain Center for Occupational and Environmental Health.

(b) "Qualified donation" means a donation that is:

(i) cash;

(ii) given directly to an occupational health and safety center; and

(iii) given exclusively for the purpose of:

(A) supporting graduate level education and training in fields of:

(I) safety and ergonomics;

(II) industrial hygiene;

(III) occupational health nursing;

(IV) occupational injury prevention; and

(V) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Self-insured employer" is a self-insured employer as defined in Section 34A-2-201.5that is required to pay the assessment imposed under Section 34A-2-202.

(2) (a) A self-insured employer may offset against the assessment imposed under Section 34A-2-202 an amount equal to the lesser of:

(i) the total of qualified donations made by the self-insured employer in the calendar year for which the assessment is calculated; and

(ii) .20% of the self-insured employer's total calculated premium calculated under Subsection 34A-2-202(1)(d) for the calendar year for which the assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a self-insured employer a receipt for any qualified donation made by the self-insured employer to the occupational health and safety center; and

(b) expend money received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii)[~~; and~~].

[~~(c) in conjunction with the report required by Section 59-9-102.5, report to the Office of the Legislative Fiscal Analyst for review by the Higher Education Appropriations Subcommittee by no later than August 15 of each year:~~]

[~~(i) the qualified donations received by the occupational health and safety center in the previous calendar year; and~~]

[~~(ii) the expenditures during the previous calendar year of qualified donations received by the occupational health and safety center.~~]

Section 2. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means:

(a) the physical location where the public body conducting an electronic meeting under Section 52-4-207 normally conducts meetings of the public body; or

(b) a location other than the location described in Subsection (1)(a) that is reasonably as accessible to the public as the location described in Subsection (1)(a).

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) "Electronic meeting" means a meeting that some or all public body members attend through an electronic video, audio, or both video and audio connection, as provided in Section 52-4-207.

(4) "Fiduciary or commercial information" means information:

(a) related to any subject if disclosure:

(i) would conflict with a fiduciary obligation; or

(ii) is prohibited by insider trading provisions; or

(b) that is commercial in nature including:

(i) account owners or borrowers;

(ii) demographic data;

(iii) contracts and related payments;

(iv) negotiations;

(v) proposals or bids;

(vi) investments;

(vii) management of funds;

(viii) fees and charges;

(ix) plan and program design;

(x) investment options and underlying investments offered to account owners;

(xi) marketing and outreach efforts;

(xii) financial plans; or

(xiii) reviews and audits[~~excluding the final report required under Section 53B-8a-111~~].

(5) "Meeting" means a gathering:

(a) of a public body or specified body;

(b) with a quorum present; and

(c) that is convened:

(i) by an individual:

(A) with authority to convene the public body or specified body; and

(B) following the process provided by law for convening the public body or specified body; and

(ii) for the express purpose of acting as a public body or specified body to:

(A) receive public comment about a relevant matter;

(B) deliberate about a relevant matter; or

(C) take action upon a relevant matter.

(6) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(7) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more individuals;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:

(A) consists of two or more individuals;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.

(b) "Public body" includes:

(i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103, except for the Water District Water Development Council created pursuant to Section 11-13-228;

(ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102;

(iii) the Utah Independent Redistricting Commission; and

(iv) a project entity, as that term is defined in Section 11-13-103.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, a sifting committee, or an administrative staff committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;

(iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed interlocal entity is not a project entity; or

(v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee.

(8) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(9) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(10) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(11) (a) "Relevant matter" means a matter that is within the scope of the authority of a public body or specified body.

(b) "Relevant matter" does not include, for a public body with both executive and legislative responsibilities, a managerial or operational matter.

(12) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (7)(c)(ii) or (7)(c)(v).

Section 3. Section 53B-1-301 is amended to read:

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

(b) the report described in Section 53B-30-206;

[~~(b) the reports described in Sections 34A-2-202.5, 53B-30-206, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;~~]

(c) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(d) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Opportunity on targeted jobs;

(e) the reports described in Section 53B-7-705 by the board on performance;

(f) the report described in Section 53B-8-201 by the board on the Opportunity Scholarship Program;

[~~(g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;~~]

[~~(h)~~](g) the report described in Section 53B-13a-103 by the board on the Utah Promise Program;

[~~(i) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;~~]

[~~(j) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals;~~]

[~~(k)~~](h) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council; and

[~~(l)~~](i) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

[~~(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education~~

~~Appropriations Subcommittee:~~]

[~~(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;~~]

[~~(b) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals; and~~]

[~~(c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202.~~]

[~~(3)~~](2) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) an appropriation recommendation described in Section 53B-1-118 regarding compliance with Subsections 53B-1-118(5) and (14); and

(b) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703[~~:~~].

[~~(c) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and~~]

[~~(d) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.~~]

Section 4. Section 53B-1-402 is amended to read:

53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.

(1) (a) There is established the Utah Board of Higher Education, which:

(i) is the governing board for the institutions of higher education;

(ii) controls, oversees, and regulates the Utah System of Higher Education in a manner consistent with the purpose of this title and the specific powers and responsibilities granted to the board.

(b) (i) The University of Utah shall provide administrative support for the board.

(ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's independence, including in relation to the powers and responsibilities granted to the board.

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize data-driven retrospective and prospective system priorities, including:

(i) quality;

(ii) affordability;

(iii) access and equity;

(iv) completion;

(v) workforce alignment and preparation for high-quality jobs; and

(vi) economic growth;

(b) establish system policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

(ii) performance on measures of operational efficiency;

(d) collect and analyze data including economic data, demographic data, and data related to the metrics;

(e) govern data quality and collection across institutions;

(f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;

(g) assess an institution's performance in accomplishing the institution's mission and role;

(h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;

(i) perform the following duties related to an institution of higher education president, including:

(i) hiring an institution of higher education president in accordance with Section 53B-2-102;

(ii) through the commissioner and the board's executive committee:

(A) providing support and guidance to an institution of higher education president; and

(B) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities;

(iii) setting the terms of employment for an institution of higher education president, including performance-based compensation, through an employment contract or another method of establishing employment; and

(iv) establishing, through a public process, a statewide succession plan to develop potential institution presidents from within the system;

(j) create and implement a strategic finance plan for higher education, including by:

(i) establishing comprehensive budget and finance priorities for academic education and technical education;

(ii) allocating statewide resources to institutions;

(iii) setting tuition for each institution;

(iv) administering state financial aid programs;

(v) administering performance funding in accordance with Chapter 7, Part 7, Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

(k) create and annually report to the Higher Education Appropriations Subcommittee on a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs;

(vii) coordinating work-based learning; and

(viii) emphasizing the system priorities and metrics described in Subsections (2)(a) and (c);

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and

(iv) other responsibilities determined by the board;

(n) delegate to an institution of higher education president management of the institution of higher education;

(o) consult with an institution of higher education board of trustees or institution of higher education president before acting on matters pertaining to the institution of higher education;

(p) maximize efficiency throughout the Utah System of Higher Education by identifying and establishing shared administrative services, beginning with:

(i) commercialization;

(ii) services for compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(iii) information technology services; and

(iv) human resources, payroll, and benefits administration;

(q) develop strategies for providing higher education, including career and technical education, in rural areas;

(r) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives, beginning with common applications and direct admissions;

(s) provide ongoing quality review of programs;

(t) before each annual legislative general session, provide to the Higher Education Appropriations Subcommittee a prioritization of all projects and proposals for which the board or an institution of higher education seeks an appropriation; and

(u) coordinate with the Department of Corrections to establish educational programs for inmates as described in Section 64-13-6.

(3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:

(a) the Education Interim Committee;

(b) the Higher Education Appropriations Subcommittee;

(c) the governor; and

(d) each institution of higher education.

(4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education, to the governor and to the Education Interim Committee by [~~October 31~~]December 1 of each year, including information detailing:

(a) how institutions of higher education are meeting the career and technical education needs of secondary students;

(b) how the system emphasized high demand, high wage, and high skill jobs in business and industry;

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.

(6) The board may not take action relating to merging a technical college with another institution of higher education without legislative approval.

(7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(9) The board shall demonstrate compliance with Subsection (2)(p) by providing to the Higher Education Appropriations Subcommittee:

(a) on or before October 1, 2024, evidence of implementation of at least one shared administrative service;

(b) on or before October 1, 2025, evidence of implementation of at least two shared administrative services; and

(c) on or before October 1, 2026, evidence of implementation of at least three shared administrative services.

(10) If the Higher Education Appropriations Subcommittee finds the board to be out of compliance with Subsection (9), the Legislature shall:

(a) deduct 10% of the appropriation described in Section 53B-7-703 for the following fiscal year; and

(b) deduct an additional 10% of the appropriation described in Section 53B-7-703 for each subsequent year of noncompliance up to a maximum deduction of 30%.

Section 5. Section 53B-8a-111 is amended to read:

53B-8a-111. Annual audit of financial statements.

[~~(1)~~] The financial statements of the plan shall be audited annually by the state auditor or the state auditor's designee and reported in accordance with generally accepted accounting principles.

[~~(2) The plan shall submit to the governor and the Higher Education Appropriations Subcommittee:~~]

[~~(a) upon request, any studies or evaluations of the plan;~~]

[~~(b) upon request, a summary of the benefits provided by the plan including the number of participants and beneficiaries in the plan; and~~]

[~~(c) upon request, any other information which is relevant in order to make a full, fair, and effective disclosure of the operations of the plan.~~]

Section 6. Section 53B-8d-104 is amended to read:

53B-8d-104. Notice of tuition waiver approval -- Annual appropriation.

(1) Upon receiving an application under Section 53B-8d-103, the division shall determine whether the applicant and the courses for which tuition waiver is sought meet the requirements of Section 53B-8d-103 and, if so, shall approve the application and notify the higher education institution that the application has been approved.

(2) The division shall provide the necessary forms and applications and cooperate with the state's institutions of higher education in developing efficient procedures for the implementation of this chapter.

(3) The division shall reimburse the state's institutions of higher education for any tuition waived under this chapter.

[~~(4) The division shall annually report to the Legislature's Higher Education Appropriations Subcommittee on the number of individuals for whom tuition has been waived at each institution and the total amounts reimbursed by the division under this chapter for the fiscal year.~~]

[~~(5)~~](4) The Legislature may annually appropriate the funds necessary to implement this chapter, including money to offset the reimbursement of tuition waivers.

Section 7. Section 53B-17-201 is amended to read:

53B-17-201. Proceeds from federal land grants for a Miners' Hospital for Disabled Miners.

[~~(1)~~] There is appropriated to the University of Utah all funds, assets, and revenues which have been, or will be, derived from the sale or other disposition of those lands conveyed to the state of Utah by those federal grants for a Miners' Hospital for Disabled Miners contained in Section 12 of the Enabling Act and in Chapter 280, Public Laws of the Seventieth Congress, 2nd Session (Act of February 20, 1929) which funds, assets, and revenues now are, or in the future will be, in the custody and control of the School and Institutional Trust Lands Board of Trustees.

[~~(2) The University of Utah shall report annually to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and the Higher Education Appropriations Subcommittee the following information regarding the administration and operation of the Miners' Hospital for Disabled Miners described in Subsection (1):~~]

[~~(a) for each of the five previous fiscal years:~~]

[~~(i) an income statement showing all revenue sources and expense categories;~~]

[~~(ii) total number of patients served; and~~]

[~~(iii) the types of service or care given to patients; and~~]

[~~(b) how the University of Utah plans to administer and operate the Miners' Hospital for Disabled Miners in the future.~~]

Section 8. Section 53B-30-206 is amended to read:

53B-30-206. Reporting requirements.

(1) [~~(a)~~] The board, through the director and the board chair, shall provide by no later than July 1 of each year, a written report to the president of the University of Utah, the president of Weber State University, and the Education Interim Committee.

[~~(b)~~](2) The report required under [~~this~~]Subsection (1) shall:

[~~(i)~~](a) summarize the center's activities and accomplishments in the immediate proceeding calendar year; and

[~~(ii)~~](b) provide information and the board's advice and recommendations on how the state, university, and the center can:

[~~(A)~~](i) improve workplace health and safety; and

[~~(B)~~](ii) contribute to economic growth and development in Utah and the surrounding region.

[~~(2) (a) If the center receives in a fiscal year money from the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program provided for in Section 34A-2-701, the center shall provide a written report:~~]

[~~(i) in conjunction with the reports described in Sections 34A-2-202.5 and 59-9-102.5;~~]

[~~(ii) that accounts for the expenditure of money received in the fiscal year by the center from the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program including impact on workplace safety in Utah; and~~]

[~~(iii) that includes a preliminary statement as to money the center will request from the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program for the fiscal year following the day on which the report is provided.~~]

[~~(b) A report provided under this Subsection (2) meets the reporting requirements under Subsection 34A-2-701(5)(b)(i)(B).~~]

Section 9. Section 59-9-102.5 is amended to read:

59-9-102.5. Offset for occupational health and safety related donations.

(1) As used in this section:

(a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in Title 53B, Chapter 30, Part 2, Rocky Mountain Center for Occupational and Environmental Health.

(b) "Qualified donation" means a donation that is:

(i) cash;

(ii) given directly to an occupational health and safety center; and

(iii) given exclusively for the purpose of:

(A) supporting undergraduate or graduate level education and training in fields of:

(I) safety and ergonomics;

(II) industrial hygiene;

(III) occupational health nursing;

(IV) occupational injury prevention; and

(V) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Workers' compensation insurer" means an admitted insurer writing workers' compensation insurance in this state that is required to pay the premium assessment imposed under Subsection 59-9-101(2).

(2) (a) A workers' compensation insurer may offset against the premium assessment imposed under Subsection 59-9-101(2) an amount equal to the lesser of:

(i) the total of qualified donations made by the workers' compensation insurer in the calendar year for which the premium assessment is calculated; and

(ii) .20% of the workers' compensation insurer's total workers' compensation premium income as defined in Subsection 59-9-101(2)(b) in the calendar year for which the premium assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a workers' compensation insurer a receipt for any qualified donation made by the workers' compensation insurer to the occupational health and safety center; and

(b) expend money received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii)[~~; and~~].

[~~(c) in conjunction with the report required by Section 34A-2-202.5, report to the Office of the Legislative Fiscal Analyst for review by the Higher Education Appropriations Subcommittee by no later than August 15 of each year:~~]

[~~(i) the qualified donations received by the occupational health and safety center in the previous calendar year; and~~]

[~~(ii) the expenditures during the previous calendar year of qualified donations received by the occupational health and safety center.~~]

Section 10. Section 63B-10-301 is amended to read:

63B-10-301. Revenue bond authorizations.

(1) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $8,281,000 for the construction of an expansion of the Department of Alcoholic Beverage Services warehouse together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is the intent of the Legislature that enhanced revenues of the Department of Alcoholic Beverage Services be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (1).

(2) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $957,100 for the acquisition of a site and construction of a store in the western part of Salt Lake County for the Department of Alcoholic Beverage Services together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is the intent of the Legislature that enhanced revenues of the Department of Alcoholic Beverage Services be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (2).

(3) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $1,497,700 for the acquisition of a site and construction of a store in the southern part of Salt Lake County for the Department of Alcoholic Beverage Services together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is the intent of the Legislature that enhanced revenues of the Department of Alcoholic Beverage Services be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (3).

(4) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $100,000,000 for the acquisition and construction of a cancer clinical research hospital facility adjacent to the University of Utah Medical Center, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Division of Facilities Construction and Management and the University of Utah to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that the University of Utah lease land to the State Building Ownership Authority for the construction of a cancer clinical research hospital facility adjacent to the University of Utah Medical Center.

(d) The anticipated revenue sources for repayment of any obligation created under authority of this section are:

(i) the institutional funds of the University of Utah, including the University's annual distribution of tobacco settlement funds from the state; and

(ii) donations from the Huntsman Cancer Foundation and other donors.

[~~(e) By September 1 of each year of the existence of this revenue bond, the University of Utah shall give an annual report regarding the status of the bond and the bond payments to the Legislative Fiscal Analyst. This report shall be reviewed by the Higher Education Appropriations Subcommittee and the Capital Facilities Appropriation Subcommittee.~~]

(5) It is the intent of the Legislature that:

(a) the Board of [~~Regents~~]Higher Education, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the University of Utah, other

than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping an expansion of the University Hospital;

(b) University Hospital revenues be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to $25,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(6) It is the intent of the Legislature that:

(a) the Board of [~~Regents~~]Higher Education, on behalf of Salt Lake Community College, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Salt Lake Community College to borrow money on the credit, revenues, and reserves of Salt Lake Community College, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping the remodel of the cafeteria and expansion of the Student Center;

(b) student fees be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to $6,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(7) It is the intent of the Legislature that:

(a) the Board of [~~Regents~~]Higher Education, on behalf of Dixie College, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie College to borrow money on the credit, revenues, and reserves of Dixie College, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping an expansion of the Gardner Student Center;

(b) student fees be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to $1,500,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

Section 11. Repealer.

This bill repeals:

Section 53B-29-203, Reporting requirement.

Section 12. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 391
H. B. 360
Passed March 7, 2025
Approved March 26, 2025
Effective July 1, 2025

HOUSING ATTAINABILITY AMENDMENTS

Chief Sponsor: Stephen L. Whyte
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to affordable housing.

Highlighted Provisions:

This bill:

- ► modifies and defines terms;
- ► provides that a closed meeting may be held under certain circumstances by a political subdivision;
- ► provides that a city of the first or second class, under certain conditions, may qualify for funds from the Utah Homes Investment Program (program) to rehabilitate attainable homes within the city of the first or second class boundaries;
- ► extends the sunset date for the program by one year;
- ► allows for certain uses of school surplus lands for affordable housing;
- ► provides that among the trustees appointed to the Utah Housing Corporation that no more than two trustees are from the same county;
- ► repeals the sunset date for the Utah Housing Corporation;
- ► provides that the Department of Transportation may make rules regarding the sale of surplus real property to a state agency under certain conditions;
- ► allows the Utah Housing Corporation to return deposits made by the state treasurer for loan financing for certain attainable homes upon certain conditions;
- ► makes technical and conforming changes; and
- ► provides a coordination clause with H.B. 412, Boards and Commissions Revisions, regarding Section 63H-8-201.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

51-12-101, as enacted by Laws of Utah 2024, Chapter 510
51-12-201, as enacted by Laws of Utah 2024, Chapter 510
51-12-202, as enacted by Laws of Utah 2024, Chapter 510
51-12-203, as enacted by Laws of Utah 2024, Chapter 510
51-12-204, as enacted by Laws of Utah 2024, Chapter 510
52-4-205, as last amended by Laws of Utah 2024, Chapters 135, 288, 506, and 524
53G-4-902, as renumbered and amended by Laws of Utah 2018, Chapter 3
63H-8-201, as last amended by Laws of Utah 2024, Chapter 443
63I-1-251, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-1-263, as last amended by Laws of Utah 2024, Third Special Session, Chapter 4
63I-1-272, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63L-12-101, as enacted by Laws of Utah 2022, Chapter 406
72-2-134, as enacted by Laws of Utah 2024, Chapter 510
72-5-117, as last amended by Laws of Utah 2023, Chapter 219

Utah Code Sections Affected by Coordination Clause:

AMENDS:

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-12-101 is amended to read:
51-12-101. Definitions.

As used in this chapter:

(1) "Attainable home" means a residence that costs the purchaser no more than the amount a qualifying residential unit may be purchased in accordance with [~~Subsection 63H-8-501(6)(c)~~]Section 63H-8-501 at the time the state treasurer deposits with a qualified depository.

(2) "City of the first class" means the same as that term is defined in Section 10-2-301.

(3) "City of the second class" means the same as that term is defined in Section 10-2-301.

[~~(2)~~](4) "Fund" means the Transportation Infrastructure General Fund Support Subfund created in Section 72-2-134.

[~~(3)~~](5) "Political subdivision" means:

(a) the municipality in which the attainable home is located; or

(b) the county, if the attainable home is located in an unincorporated portion of the county.

[~~(4)~~](6) "Qualified depository" means:

(a) the same as that term is defined in Section 51-7-3[~~.~~]; or

(b) the Utah Housing Corporation as described in Title 63H, Chapter 8, Utah Housing Corporation Act.

[~~(5)~~](7) (a) "Qualified project" means a new construction housing development project in the state for which the developer:

(i) commits to:

(A) offering for sale no fewer than 60% of the total units within the project as attainable homes;

(B) including in the deed of sale for an attainable home a restriction, in favor of the political subdivision, that the attainable home be [~~owner occupied~~]owner-occupied for no fewer than five years; and

(C) having a plan to provide information to potential buyers of attainable homes about the First-Time Homebuyer Assistance Program created in Section 63H-8-502; and

(ii) executes a valid agreement with the political subdivision or the Utah Housing Corporation to develop housing meeting the requirements of Subsections [~~(5)(a)(i)(A) and (B).~~](7)(a)(i)(A) and (B).

(b) "Qualified project" includes infrastructure within the housing development project.

(c) "Qualified project" includes a project by a city of the first or second class that commits to:

(i) receiving no more than $10,000,000 in deposits within one year from the day on which the city of the first or second class enters into a loan agreement with the qualified depository described in Subsection (6)(b) for a project as an attainable home;

(ii) using the deposit to acquire and rehabilitate single-family homes within the city limits of the city of the first or second class boundaries;

(iii) offering for sale the rehabilitated single-family home as an attainable home, including in the deed of sale for an attainable home a restriction, in favor of the city of the first or second class, that the attainable home be owner-occupied for no fewer than five years; and

(iv) expanding an existing effort to acquire and rehabilitate single-family homes as described in Subsections (7)(c)(ii) and (iii).

Section 2. Section 51-12-201 is amended to read:

51-12-201. Investment opportunities.

(1) A qualified depository may request the state treasurer to make a deposit in the qualified depository if the qualified depository:

(a) has identified and approved for financing a qualified project; and

(b) requests no more than 100% of the financing for a qualified project.

(2) Subject to Subsection (3), the state treasurer shall approve the qualified depository's request for deposit:

(a) unless the state treasurer determines the qualified depository does not merit deposit under fiduciary duties and prudent investment practices within the parameters of this chapter;

(b) in an amount that is equal to the lesser of:

(i) the deposit amount requested;

(ii) $60,000,000; or

(iii) 50% of the qualified depository's maximum amount of public deposits determined in accordance with Section 51-7-18.1; and

(c) as sufficient money becomes available in the fund and in accordance with Subsection 72-2-134(4)(a).

(3) The state treasurer may not approve a request for deposit after December 31, [~~2025~~]2027.

(4) The state treasurer shall notify Utah Housing Corporation of any qualified projects for which the state treasurer makes a deposit in a qualified depository.

Section 3. Section 51-12-202 is amended to read:

51-12-202. Terms of deposit.

(1) The state treasurer shall enter into a deposit agreement with an approved qualified depository in accordance with Section 51-12-201.

(2) The deposit agreement shall provide that the qualified depository:

(a) shall offer loan financing to a developer or city of the first or second class of a qualified project at a rate no higher than 150 basis points above the federal funds effective rate at the time of the deposit;

(b) shall return the amount of deposit:

(i) with interest at a rate equal to the greater of:

(A) the federal funds effective rate at the time of the deposit minus 200 basis points; or

(B) 0.5%; and

(ii) at the earlier of:

(A) 24 months from the day on which the deposit is made;

(B) repayment of the loan financing;

(C) the sale of the last home in the qualified project; or

(D) June 30, [~~2027~~]2028;

(c) is responsible for return of the amount of the deposit with accrued interest regardless of the completion of the qualified project or the repayment of the qualified depository's loan to the developer or city of the first or second class of the qualified project; and

(d) shall report to the state treasurer the total number of housing units and the number of attainable homes each qualified project created.

(3) (a) Notwithstanding the provisions of Subsections (2)(b)(ii) and (2)(c), for a deposit made to the Utah Housing Corporation, the Utah Housing Corporation shall return the amount of the deposit with accrued interest when the Utah Housing Corporation has received:

(i) repayment of the loan financing; or

(ii) proceeds from the sale or other disposition of the homes in the qualified project.

(b) The Utah Housing Corporation may return the deposit later than the time period described in Subsection (2)(b)(ii)(A) or (D) without penalty.

[~~(3)~~](4) A qualified depository may return the deposit earlier than the time period described in Subsection (2)(b)(ii) without penalty.

[~~(4)~~](5) The state treasurer shall deposit the return of the amount of the deposit, including interest, into the fund.

Section 4. Section 51-12-203 is amended to read:

51-12-203. Penalty.

A developer, city of the first or second class, or a qualified depository that fails to comply with the terms of deposit is disqualified from subsequent participation in the Utah Homes Investment Program.

Section 5. Section 51-12-204 is amended to read:

51-12-204. Exception to credit union lending requirements.

Notwithstanding any provision of Title 7, Chapter 9, Utah Credit Union Act, or any other applicable statute requiring membership in the credit union by a borrower, a state or federally chartered credit union may make a loan to a developer or city of the first or second class of a qualified project and may request a deposit in accordance with Sections 51-12-201and 51-12-202.

Section 6. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state or a political subdivision, if public discussion would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under [~~Subsection 52-4-204(1)(a)(iii)(C)~~]Section 52-4-204;

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Savings Board of Trustees and its appointed board of directors, discussing fiduciary or commercial information;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business;

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments;

(r) considering a loan application, if public discussion of the loan application would disclose:

(i) nonpublic personal financial information; or

(ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business financial information the disclosure of which would reasonably be expected to result in unfair competitive injury to the person submitting the information;

(s) a discussion of the board of the Point of the Mountain State Land Authority, created in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as defined in Section 11-59-102; or

(t) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 26B-1-506(1)(a), and a response to the report described in Subsection 26B-1-506(2);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 26B-1-506(1)(a), and a response to the report described in Subsection 26B-1-506(2); or

(ii) review and discuss an individual case, as described in [~~Subsection 36-33-103(2)~~]Section 36-33-103;

(c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(d) a meeting of the Compassionate Use Board established in Section 26B-1-421 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26B-1-421;

(e) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(81);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(f) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

(i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and

(ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection 63G-2-305(82); and

(g) a meeting of a project entity if:

(i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

(A) disclose the appraisal or estimated value of the project entity asset under consideration; or

(B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;

(ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;

(iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(iv) failing to close the meeting would prevent the project entity from getting the best price on the market.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 7. Section 53G-4-902 is amended to read:

53G-4-902. Purchase of surplus property.

(1) An eligible entity may purchase, and each school district shall sell, surplus property as provided in this section.

(2) (a) Upon declaring land to be surplus property, each school district shall give written notice to each eligible entity in which the surplus property is located.

(b) Each notice under Subsection (2)(a) shall:

(i) state that the school district has declared the land to be surplus property; and

(ii) describe the surplus property.

(3) Subject to Subsection (4), an eligible entity may purchase the surplus property by paying the school district the purchase price.

(4) (a) The legislative body of each eligible entity desiring to purchase surplus property under this section shall:

(i) within 90 days after the eligible entity receives notice under Subsection (2), adopt a resolution declaring the intent to purchase the surplus property and deliver a copy of the resolution to the school district; and

(ii) within 90 days after delivering a copy of the resolution under Subsection (4)(a)(i) to the school district, deliver to the school district an earnest money offer to purchase the surplus property at the purchase price.

(b) If an eligible entity fails to comply with either of the requirements under Subsection (4)(a) within the applicable time period, the eligible entity forfeits the right to purchase the surplus property.

(5) (a) An eligible entity may waive [~~its~~]the eligible entity's right to purchase surplus property under this part by submitting a written waiver to the school district.

(b) If an eligible entity submits a waiver under Subsection (5)(a), the school district has no further obligation under this part to sell the surplus property to the eligible entity.

(6) Surplus property acquired by an eligible entity may not be used for any purpose other than:

(a) a county, city, or town hall;

(b) a park or other open space;

(c) a cultural center or community center;

(d) a facility for the promotion, creation, or retention of public or private jobs within the state through planning, design, development, construction, rehabilitation, business relocation, or any combination of these, within a county, city, or town;

(e) office, industrial, manufacturing, warehousing, distribution, parking, or other public or private facilities, or other improvements that benefit the state or a county, city, or town; [~~or~~]

(f) a facility for a charter school under Chapter 5, Charter Schools[~~.~~]; or

(g) the sale, use, or lease for moderate income housing, as defined in Section 63L-12-101.

(7) (a) A school district that sells surplus property under this part may use proceeds from the sale only for bond debt reduction or school district capital facilities.

(b) Each school district that sells surplus property under this part shall place all proceeds from the sale that are not used for bond debt reduction in a capital facilities fund of the school district for use for school district capital facilities.

Section 8. Section 63H-8-201 is amended to read:

63H-8-201. Creation -- Trustees -- Terms -- Vacancies -- Chair -- Powers -- Quorum -- Per diem and expenses -- Annual conflict of interest disclosure statement -- Penalties.

(1) (a) There is created an independent body politic and corporate, constituting a public corporation, known as the "Utah Housing Corporation."

(b) The corporation may also be known and do business as the:

(i) Utah Housing Finance Association; and

(ii) Utah Housing Finance Agency in connection with a contract entered into when that was the corporation's legal name.

(c) No other entity may use the names described in Subsections (1)(a) and (b) without the express approval of the corporation.

(2) The corporation is governed by a board of trustees composed of the following nine trustees:

(a) the executive director of the Department of Workforce Services or the executive director's designee;

(b) the commissioner of the Department of Financial Institutions or the commissioner's designee;

(c) the state treasurer or the treasurer's designee; and

(d) six public trustees, who are private citizens of the state, as follows:

(i) two people who represent the mortgage lending industry;

(ii) two people who represent the home building and real estate industry; and

(iii) two people who represent the public at large.

(3) The governor shall:

(a) appoint the six public trustees of the corporation with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies; and

(b) ensure that [~~:~~]

[~~(i)~~] among the six public trustees[~~are from different counties~~], no more than two are from the same county and all are residents of the state[~~; and~~].

[~~(ii) not more than three of the public trustees are members of the same political party.~~]

(4) (a) Except as required by Subsection (4)(b), the governor shall appoint the six public trustees to terms of office of four years each.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of corporation trustees are staggered so that approximately half of the board is appointed every two years.

(5) (a) A public trustee of the corporation may be removed from office for cause either by the governor or by an affirmative vote of six trustees of the corporation.

(b) When a vacancy occurs in the board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(c) A public trustee shall hold office for the term of appointment and until the trustee's successor has been appointed and qualified.

(d) A public trustee is eligible for reappointment but may not serve more than two full consecutive terms.

(6) (a) The governor shall select the chair of the corporation.

(b) The trustees shall elect from among their number a vice chair and other officers they may determine.

(7) (a) Five trustees of the corporation constitute a quorum for transaction of business.

(b) An affirmative vote of at least five trustees is necessary for any action to be taken by the corporation.

(c) A vacancy in the board of trustees does not impair the right of a quorum to exercise all rights and perform all duties of the corporation.

(8) A trustee may not receive compensation or benefits for the trustee's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(9) A trustee shall, no sooner than January 1 and no later than January 31 of each year during which the trustee holds office on the board of trustees:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the board of trustees.

(10) (a) No later than 10 business days after the date on which the trustee submits the written disclosure statement described in Subsection (9) to the administrator or clerk of the board of trustees, the administrator or clerk shall:

(i) post a copy of the written disclosure statement on the corporation's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (10)(a)(i).

(b) The administrator or clerk shall ensure that the trustee's written disclosure statement remains posted on the corporation's website until the trustee leaves office.

(11) The administrator or clerk of the board of trustees shall take the action described in Subsection (12) if:

(a) a trustee fails to timely file the written disclosure statement described in Subsection (9); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(12) If a circumstance described in Subsection (11) occurs, the administrator or clerk of the board of trustees shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the trustee of the violation and direct the trustee to submit an amended written disclosure statement correcting the problem.

(13) (a) It is unlawful for a trustee to fail to submit or amend a written disclosure statement within seven days after the day on which the trustee receives the notice described in Subsection (12).

(b) A trustee who violates Subsection (13)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the board of trustees shall report a violation of Subsection (13)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (13)(b), the administrator or clerk of the board of trustees shall impose a civil fine of $100 against a member who violates Subsection (13)(a).

(14) The administrator or clerk of the board shall deposit a fine collected under this section into the corporation's account to pay for the costs of administering this section.

(15) In addition to the written disclosure statement described in Subsection (9), a trustee described in Subsection (2)(d) shall also comply with the conflict of interest provisions described in Section 63G-24-301.

Section 9. Section 63I-1-251 is amended to read:

63I-1-251. Repeal dates: Title 51.

(1) Subsection 51-7-2(1)(p), regarding the Transportation Infrastructure General Fund Support Subfund, is repealed July 1, [~~2027~~]2028.

(2) Title 51, Chapter 12, Utah Homes Investment Program, is repealed July 1, [~~2027~~]2028.

Section 10. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63O.

[~~(1) Subsection 63A-5b-405(5), regarding prioritizing and allocating capital improvement funding, is repealed July 1, 2024.~~]

[~~(2)~~](1) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

[~~(3) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.~~]

[~~(4)~~](2) Title 63C, Chapter 18, Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(5) Title 63C, Chapter 23, Education and Mental Health Coordinating Committee, is repealed December 31, 2024.~~]

[~~(6)~~](3) Title 63C, Chapter 25, State Finance Review Commission, is repealed July 1, 2027.

[~~(7)~~](4) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

[~~(8)~~](5) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

[~~(9)~~](6) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed July 1, 2028.

[~~(10)~~](7) Section 63G-6a-805, Purchase from community rehabilitation programs, is repealed July 1, 2026.

[~~(11)~~](8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

[~~(12)~~](9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2029.

[~~(13) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.~~]

[~~(14)~~](10) Subsection 63J-1-602.2(16), related to the Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program, is repealed July 1, 2029.

[~~(15)~~](11) Subsection 63J-1-602.2(26), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(16)~~](12) Section 63L-11-204, Canyon resource management plan, is repealed July 1, 2025.

[~~(17)~~](13) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(18)~~](14) Title 63M, Chapter 7, Part 7, Domestic Violence Offender Treatment Board, is repealed July 1, 2027.

[~~(19)~~](15) Section 63M-7-902, Creation -- Membership -- Terms -- Vacancies -- Expenses, is repealed July 1, 2029.

[~~(20)~~](16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(21)~~](17) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2030.

[~~(22)~~](18) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(23)~~](19) Subsection 63N-2-511(1)(b), regarding the Board of Tourism Development, is repealed July 1, 2025.

[~~(24)~~](20) Section 63N-2-512, Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(25)~~](21) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(26)~~](22) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(27)~~](23) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2028.

[~~(28)~~](24) Section 63N-4-804, which creates the Rural Opportunity Advisory Committee, is repealed July 1, 2027.

[~~(29)~~](25) Subsection 63N-4-805(5)(b), regarding the Rural Employment Expansion Program, is repealed July 1, 2028.

[~~(30)~~](26) Subsection 63N-7-101(1), regarding the Board of Tourism Development, is repealed July 1, 2025.

[~~(31)~~](27) Subsection 63N-7-102(3)(c), regarding a requirement for the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed July 1, 2025.

[~~(32)~~](28) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed July 1, 2025.

Section 11. Section 63I-1-272 is amended to read:

63I-1-272. Repeal dates: Title 72.

(1) Section 72-2-134, Transportation Infrastructure General Fund Support Subfund, is repealed July 1, [~~2027~~]2028.

(2) Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January 2, 2030.

Section 12. Section 63L-12-101 is amended to read:

63L-12-101. Definitions.

As used in this chapter:

(1) "Governmental entity" means:

(a) an agency, as that term is defined in Section 63G-10-102;

(b) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(c) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202; or

(d) a political subdivision, as that term is defined in Section 63L-11-102.

(2) "Grant" means:

(a) to convey, in whole or in part, with or without consideration; and

(b) to contract or partner with an entity for the development of moderate income housing.

[~~(2)~~](3) [~~"Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.~~]"Moderate income housing" means a dwelling that is:

(a) offered for sale to an owner-occupier at a purchase price affordable to a household with a gross income of no more than 120% of the area median income for the county in which the residential unit is offered for sale and is deed restricted for no fewer than five years; or

(b) offered for rent at a rental price affordable to a household with a gross income of no more than 80% of the area median income for the county in which the residential unit is offered for rent.

[~~(3)~~](4) "Municipality" means the same as that term is defined in Section 10-1-104.

(5) "Owner-occupier" means an individual who owns, solely or jointly, a housing unit in which the individual lives as the individual's primary residence.

Section 13. Section 72-2-134 is amended to read:

72-2-134. Transportation Infrastructure General Fund Support Subfund.

(1) There is created within the Transportation Investment Fund of 2005 a subfund known as the "Transportation Infrastructure General Fund Support Subfund."

(2) The subfund consists of:

(a) appropriations by the Legislature;

(b) interest earned on the subfund; and

(c) returns of the amounts of deposit with accrued interest made in accordance with Section 51-12-202.

(3) (a) The subfund shall earn interest.

(b) Interest earned on money in the subfund shall be deposited into the subfund.

(4) (a) The state treasurer shall deposit up to $300,000,000 from the subfund in accordance with Title 51, Chapter 12, Utah Homes Investment Program.

(b) Notwithstanding Subsection (4)(a), the state treasurer may otherwise invest funds described in Subsection (4)(a) if funds are available after qualified projects are approved under Section 51-12-201.

(5) On June 30, [~~2027~~]2028, the Division of Finance shall transfer any balance in the subfund into the Transportation Investment Fund of 2005.

Section 14. Section 72-5-117 is amended to read:

72-5-117. Rulemaking for sale of real property -- Licensed or certified appraisers -- Exceptions.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the department buys, sells, or exchanges real property, the department shall make rules to ensure that the value of the real property is congruent with the proposed price and other terms of the purchase, sale, or exchange.

(2) The rules:

(a) shall establish procedures for determining the value of the real property;

(b) may provide that an appraisal, as defined under Section 61-2g-102, demonstrates the real property's value;

(c) may require that the appraisal be completed by a state-certified general appraiser, as defined under Section 61-2g-102; [~~and~~]

(d) may provide for the sale or exchange of real property, with or without charge, to a large public transit district if the executive director enters into an agreement with the large public transit district and determines that the real property:

(i) is within the boundaries of a station area that has a station area plan certified by a metropolitan planning organization in accordance with Section 10-9a-403.1;

(ii) is part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802;

(iii) is adjacent to a completed fixed guideway capital development that was overseen by the department; or

(iv) will only be used by the large public transit district in a manner that the executive director determines will provide a benefit to the state transportation system[~~.~~]; and

(e) may provide for a sale of surplus real property to a state agency or an independent entity, as defined in Section 63E-1-102, that administers public interests in housing for a pre-entitlement appraised value the payment of which may be deferred until after the development of owner-occupied housing.

(3) Subsection (1) does not apply to the purchase, sale, or exchange of real property, or to an interest in real property:

(a) that is under a contract or other written agreement before May 5, 2008; or

(b) with a value of less than $100,000, as estimated by the state agency.

Section 15. Effective Date.

This bill takes effect on July 1, 2025.

Section 16. Coordinating H.B. 360 with H.B. 412.

If H.B. 360, Housing Attainability Amendments, and H.B. 412, Boards and Commissions Revisions, both pass and become law, the Legislature intends that, on July 1, 2025, the amendments to Subsection 63H-8-201(3)(b) in H.B. 360 supersede the amendments to Subsection 63H-8-201(3)(b) in H.B. 412.

CHAPTER 392
H. B. 357
Passed March 7, 2025
Approved March 26, 2025
Effective July 1, 2025

MEDICAL CANNABIS MODIFICATIONS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill amends provisions related to medical cannabis.

Highlighted Provisions:

This bill:

- ► repeals provisions related to qualified medical providers and limited medical providers in the medical cannabis program;
- ► allows certain health care providers to recommend medical cannabis without first registering with the Department of Health and Human Services;
- ► modifies labeling requirements for medical cannabis;
- ► amends provisions related to medical cannabis recommendation;
- ► modifies continuing education requirements related to medical cannabis;
- ► moves enforcement of advertising and payment requirements related to medical cannabis from the Department of Health and Human Services to the Division of Professional Licensing; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-41a-102, as last amended by Laws of Utah 2024, Chapters 217, 238 and 240
4-41a-301, as last amended by Laws of Utah 2024, Chapter 217
4-41a-602, as last amended by Laws of Utah 2024, Chapter 217
4-41a-1101, as last amended by Laws of Utah 2024, Chapter 217
26B-1-435, as last amended by Laws of Utah 2024, Chapters 238, 240
26B-2-203, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-4-201, as last amended by Laws of Utah 2024, Chapters 217, 240
26B-4-202, as last amended by Laws of Utah 2024, Chapters 217, 240
26B-4-203, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-204, as last amended by Laws of Utah 2024, Chapter 217
26B-4-205, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-213, as last amended by Laws of Utah 2024, Chapters 217, 240
26B-4-214, as last amended by Laws of Utah 2024, Chapter 240
26B-4-231, as last amended by Laws of Utah 2024, Chapter 238
26B-4-245, as last amended by Laws of Utah 2024, Chapters 217, 240
53B-17-903, as last amended by Laws of Utah 2023, Chapter 328
58-5a-102, as last amended by Laws of Utah 2024, Chapter 458
58-31b-305, as last amended by Laws of Utah 2023, Chapter 329
58-31b-502, as last amended by Laws of Utah 2024, Chapter 237
58-67-304, as last amended by Laws of Utah 2023, Chapters 301, 329
58-67-502, as last amended by Laws of Utah 2024, Chapter 237
58-68-304, as last amended by Laws of Utah 2023, Chapters 301, 329
58-68-502, as last amended by Laws of Utah 2024, Chapter 237
58-70a-303, as last amended by Laws of Utah 2023, Chapter 329
58-70a-503, as last amended by Laws of Utah 2024, Chapter 237
80-4-109, as last amended by Laws of Utah 2023, Chapters 273, 317 and 330 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 330

ENACTS:

58-1-513, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-102 is amended to read:

4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoid;

(f) toxins; or

(g) foreign matter.

(2) "Advertise" or "advertising" means information provided by a person in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

(3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(4) (a) "Anticompetitive business practice" means any practice that reduces the amount of competition in the medical cannabis market that would be considered an attempt to monopolize, as defined in Section 76-10-3103.

(b) "Anticompetitive business practice" may include:

(i) agreements that may be considered unreasonable when competitors interact to the extent that they are:

(A) no longer acting independently; or

(B) when collaborating are able to wield market power together;

(ii) monopolizing or attempting to monopolize trade by:

(A) acting to maintain or acquire a dominant position in the market; or

(B) preventing new entry into the market; or

(iii) other conduct outlined in rule.

(5) (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(6) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(7) "Cannabis" means the same as that term is defined in Section 26B-4-201.

(8) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural cannabinoid or artificially derived cannabinoid in an artificially derived cannabinoid's purified state.

(9) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

(10) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

(11) "Cannabis cultivation facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.

(12) "Cannabis derivative product" means a product made using cannabis concentrate.

(13) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

(14) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

(15) "Cannabis processing facility agent" means an individual who

holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

(16) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

(17) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(18) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(19) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(20) "Closed-door medical cannabis pharmacy" means a facility operated by a home delivery medical cannabis pharmacy for delivering cannabis or a medical cannabis product.

(21) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(22) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

(23) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility:

(i) the medical cannabis cardholder's home address; or

(ii) an address designated by the medical cannabis cardholder that:

(A) is the medical cannabis cardholder's workplace; and

(B) is not a community location; or

(b) for a medical cannabis cardholder that is a facility, the facility's address.

(24) "Department" means the Department of Agriculture and Food.

(25) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(26) "Government issued photo identification" means the same as that term is defined in Section 26B-4-201, including expired identification in accordance with Section 26B-4-244.

(27) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.

(28) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

(29) "Independent cannabis testing laboratory agent" means an individual who holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.

(30) "Inventory control system" means a system described in Section 4-41a-103.

(31) "Licensing board" or "board" means the Cannabis Production Establishment and Pharmacy Licensing Advisory Board created in Section 4-41a-201.1.

(32) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.

(33) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.

(34) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 4-41a-1201; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

(35) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

(36) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

(37) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.

(38) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

(39) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

(40) "Medical cannabis shipment" means a shipment of medical cannabis that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

(41) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.

(42) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

(43) "Pharmacy ownership limit" means an amount equal to 30% of the total number of medical cannabis pharmacy licenses issued by the department rounded down to the nearest whole number.

(44) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(45) "Qualified medical provider" means the same as that term is defined in Section 26B-4-201.~~]

[~~(46)~~](45) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

[~~(47)~~](46) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(48)~~](47) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

[~~(49)~~](48) "State electronic verification system" means the system described in Section 26B-4-202.

[~~(50)~~](49) "Targeted marketing" means the promotion of a cannabis product, medical cannabis brand, or a medical cannabis device using any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

(b) an in-person marketing event that is:

(i) held inside a medical cannabis pharmacy; and

(ii) in an area where only a medical cannabis cardholder may access the event;

(c) other marketing material that is physically available or digitally displayed in a medical cannabis pharmacy; or

(d) a leaflet a medical cannabis pharmacy places in the opaque package or box that is provided to an individual when obtaining medical cannabis:

(i) in the medical cannabis pharmacy;

(ii) at the medical cannabis pharmacy's drive-through pick up window; or

(iii) in a medical cannabis shipment.

[~~(51)~~](50) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

[~~(52)~~](51) "THC analog" means the same as that term is defined in Section 4-41-102.

[~~(53)~~](52) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

[~~(54)~~](53) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 2. Section 4-41a-301 is amended to read:

4-41a-301. Cannabis production establishment agent -- Registration.

(1) An individual may not act as a cannabis production establishment agent unless the department registers the individual as a cannabis production establishment agent, regardless of whether the individual is a seasonal, temporary, or permanent employee.

(2) The following individuals, regardless of the individual's status as a [~~qualified medical provider~~]recommending medical provider, may not serve as a cannabis production establishment agent, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:

(a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis pharmacy, a medical cannabis courier, a cannabis processing facility, or a cannabis cultivation facility.

(4) (a) The department shall, within 15 business days after the day on which the department receives a complete application from a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to the prospective agent if the prospective agent:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) which cannabis production establishment agent designations the applicant desires; and

(C) the submission required under Subsection (4)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) Each prospective agent described in Subsection (4)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal Identification.

(5) (a) The department shall designate, on an individual's cannabis production establishment agent registration card the type of cannabis production establishment for which the individual is authorized to act as an agent.

(b) When issuing a card under Subsection (5)(a) the department:

(i) may issue a cannabis production establishment agent registration card that contains both a cannabis processing facility designation and a cannabis cultivator facility designation; and

(ii) if the cannabis production establishment agent registration card will contain an independent cannabis testing laboratory designation, may not include any other designations.

(6) A cannabis production establishment agent shall comply with:

(a) a certification standard that the department develops; or

(b) a certification standard that the department has reviewed and approved.

(7) (a) The department shall ensure that the certification standard described in Subsection (6) includes training:

(i) in Utah medical cannabis law;

(ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

(iii) for a cannabis processing facility agent, in cannabis processing, manufacturing safety procedures for items for human consumption, and sanitation best practices; and

(iv) for an independent cannabis testing laboratory agent, in cannabis testing best practices.

(b) The department shall review the training described in Subsection (7)(a) annually or as often as necessary to ensure compliance with this section.

(8) For an individual who holds or applies for a cannabis production establishment agent registration card:

(a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; and

(b) the department shall revoke or refuse to issue the card if the individual is convicted under state or federal law of:

(i) a felony in the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(9) (a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.

(b) A cannabis production establishment agent may renew the agent's registration card if the agent:

(i) is eligible for a cannabis production establishment registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(10) A cannabis production establishment shall:

(a) maintain a list of each employee that holds a cannabis production establishment agent registration card; and

(b) provide the list to the department upon request.

Section 3. Section 4-41a-602 is amended to read:

4-41a-602. Cannabis product -- Labeling and child-resistant packaging.

(1) For any cannabis product that a cannabis processing facility processes or produces and for any raw cannabis that the facility packages, the facility shall:

(a) label the cannabis or cannabis product with a label that:

(i) clearly and unambiguously states that the cannabis product or package contains cannabis;

(ii) clearly displays the amount of total composite tetrahydrocannabinol, cannabidiol, and any known cannabinoid that is greater than 1% of the total cannabinoids contained in the cannabis or cannabis product as determined under Subsection 4-41a-701(4);

(iii) has a unique identification number that:

(A) is connected to the inventory control system; and

(B) identifies the unique cannabis product manufacturing process the cannabis processing facility used to manufacture the cannabis product;

(iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;

(v) does not display an image, word, or phrase that the facility knows or should know appeals to children; and

(vi) discloses each active or potentially active ingredient, in order of prominence, and possible allergen; and

(b) package the raw cannabis or cannabis product in a medicinal dosage form in a container that:

(i) is tamper evident and tamper resistant;

(ii) does not appeal to children;

(iii) does not mimic a candy container;

(iv) complies with child-resistant effectiveness standards that the United States Consumer Product Safety Commission establishes;

(v) includes a warning label that states:

[~~(A) for a container labeled before July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider.";~~]

[~~(B) for a container labeled on or after July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."; or~~]

[~~(C)~~](A) for a container labeled on or after January 1, 2024, "WARNING: Cannabis has intoxicating effects, may be addictive, and

may increase risk of mental illness. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."; [~~and~~]or

(B) for a container labeled on or after January 1, 2026, "WARNING: Cannabis use by pregnant or breastfeeding women, may result in fetal injury, preterm birth, or developmental problems for the child. Cannabis may be addictive and may increase risk of mental illness. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."; and

(vi) for raw cannabis or a cannabis product sold in a vaporizer cartridge labeled on or after May 3, 2023, includes a warning label that states:

(A) "WARNING: Vaping of cannabis-derived products has been associated with lung injury."; and

(B) "WARNING: Inhalation of cannabis smoke has been associated with lung injury.".

(2) To ensure that a cannabis product that a cannabis processing facility processes or produces has a medical rather than recreational disposition, the facility may not produce or process a product whose logo, product name, or brand name includes terms related to recreational marijuana, including "weed," "pot," "reefer," "grass," "hash," "ganja," "Mary Jane," "high," "haze," "stoned," "joint," "bud," "smoke," "euphoria," "dank," "doobie," "kush," "frost," "cookies," "rec," "bake," "blunt," "combust," "bong," "budtender," "dab," "blaze," "toke," or "420."

(3) For any cannabis or cannabis product that the cannabis processing facility processes into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape, the facility shall:

(a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and

(b) include on the label described in Subsection (1)(a) a warning about the risks of over-consumption.

(4) For any cannabis product that contains an artificially derived cannabinoid, the cannabis processing facility shall ensure that the label clearly:

(a) identifies each artificially derived cannabinoid; and

(b) identifies that each artificially derived cannabinoid is an artificially derived cannabinoid.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:

(a) shall make rules to establish:

(i) a standard labeling format that:

(A) complies with the requirements of this section; and

(B) ensures inclusion of a pharmacy label; and

(ii) additional requirements on packaging for cannabis and cannabis products to ensure safety and product quality; and

(b) may make rules to further define standards regarding images, words, phrases, or containers that may appeal to children under Subsection (1)(a)(v) or (1)(b)(ii).

Section 4. Section 4-41a-1101 is amended to read:

4-41a-1101. Operating requirements -- General.

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 4-41a-1001; and

(ii) in accordance with the operating plan provided to the department under Section 4-41a-1001 and, if applicable, Section 4-41a-1004.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

(b) except as provided in Subsection (4):

(i) possesses a valid:

(A) medical cannabis pharmacy agent registration card;

(B) pharmacy medical provider registration card; or

(C) medical cannabis card;

(ii) is an employee of the department performing an inspection under Section 4-41a-1103; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(5) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 4-41a-1102(2).

(7) Except for an emergency situation described in Subsection 26B-4-213(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(8) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

(9) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each

recommendation underlying a transaction:

(i) the recommending medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection (9)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the recommending medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the requirement to provide the following information under Subsection (9)(b)(i) if the information is already provided on the product label that a cannabis production establishment affixes:

(A) a unique identification number;

(B) directions for use and cautionary statements;

(C) amount and cannabinoid content; and

(D) a suggested use date.

(iii) If the size of a medical cannabis container does not allow sufficient space to include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis pharmacy may provide the following information described in Subsection (9)(b)(i) on a supplemental label attached to the container or an informational enclosure that accompanies the container:

(A) the cannabinoid content;

(B) the suggested use date; and

(C) any other requirements that the department determines.

(iv) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (9)(b)(i).

(10) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a [~~limited medical provider~~]recommending medical provider in accordance with Subsections 26B-4-204(1)(b) [~~through (d)~~]and (c):

(i) for a written order or an electronic order under circumstances that the department determines, contact the [~~limited medical provider~~]recommending medical provider or the [~~limited medical provider's~~]recommending medical provider's office to verify the validity of the recommendation; and

(ii) for an order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (10)(a)(i) or an electronic order that is not subject to verification under Subsection (10)(a)(i), enter the [~~limited medical provider's~~]recommending medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26B-4-213(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

(c) unless the medical cannabis cardholder has had a consultation under Subsection 26B-4-231(5), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(11) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis or cannabis residue from a medical cannabis device in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis by:

(i) rendering the deposited medical cannabis unusable and unrecognizable before transporting deposited medical cannabis from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) A medical cannabis pharmacy:

(a) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(b) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(c) shall ensure that a pharmacy medical provider described in Subsection (12)(a) works onsite during all business hours;

(d) shall designate one pharmacy medical provider described in Subsection (12)(a) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy; and

(e) shall allow the pharmacist-in-charge to determine which cannabis and cannabis products the medical cannabis pharmacy maintains in the medical cannabis pharmacy's inventory.

(13) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section 5. Section 26B-1-435 is amended to read:

26B-1-435. Medical Cannabis Policy Advisory Board creation -- Membership -- Duties.

(1) There is created within the department the Medical Cannabis Policy Advisory Board.

(2) (a) The advisory board shall consist of the following members:

(i) appointed by the executive director:

(A) a [~~qualified medical provider~~]recommending medical provider who has recommended medical cannabis to at least 100 patients before being appointed;

(B) a medical research professional;

(C) a mental health specialist;

(D) an individual who represents an organization that advocates for medical cannabis patients;

(E) an individual who holds a medical cannabis patient card; and

(F) a member of the general public who does not hold a medical cannabis card; and

(ii) appointed by the commissioner of the Department of Agriculture and Food:

(A) an individual who owns or operates a licensed cannabis cultivation facility, as defined in Section 4-41a-102;

(B) an individual who owns or operates a licensed medical cannabis pharmacy; and

(C) a law enforcement officer.

(b) The commissioner of the Department of Agriculture and Food shall ensure that at least one individual appointed under Subsection (2)(a)(ii)(A) or (B) also owns or operates a licensed cannabis processing facility.

(3) (a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a four year term.

(b) When appointing the initial membership of the advisory board, the executive director and the commissioner of the Department of Agriculture and Food shall coordinate to appoint four advisory board members to serve a term of two years to ensure that approximately half of the board is appointed every two years.

(4) (a) If an advisory board member is no longer able to serve as a member, a new member shall be appointed in the same manner as the original appointment.

(b) A member appointed in accordance with Subsection (4)(a) shall serve for the remainder of the unexpired term of the original appointment.

(5) (a) A majority of the advisory board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory board.

(c) For a term lasting one year, the advisory board shall annually designate members of the advisory board to serve as chair and vice-chair.

(d) When designating the chair and vice-chair, the advisory board shall ensure that at least one individual described Subsection (2)(a)(i) is appointed as chair or vice-chair.

(6) An advisory board member may not receive compensation or benefits for the member's service on the advisory board but may receive per diem and reimbursement for travel expenses incurred as an advisory board member in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department shall:

(a) provide staff support for the advisory board; and

(b) assist the advisory board in conducting meetings.

(8) The advisory board may recommend:

(a) to the department or the Department of Agriculture and Food changes to current or proposed medical cannabis rules or statutes; and

(b) to the appropriate legislative committee whether the advisory board supports a change to medical cannabis statutes.

(9) The advisory board shall:

(a) review any draft rule that is authorized under this chapter or Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) consult with the Department of Agriculture and Food regarding the issuance of an additional:

(i) cultivation facility license under Section 4-41a-205; or

(ii) pharmacy license under Section 4-41a-1005;

(c) consult with the department regarding cannabis patient education;

(d) consult regarding the reasonableness of any fees set by the department or the Department of Agriculture and Food that pertain to the medical cannabis program; and

(e) consult regarding any issue pertaining to medical cannabis when asked by the department or the Utah Department of Agriculture and Food.

Section 6. Section 26B-2-203 is amended to read:

26B-2-203. Services required -- General acute hospitals -- Specialty hospitals.

(1) General acute hospitals and specialty hospitals shall remain open and be continuously ready to receive patients 24 hours of every day in a year and have an attending medical staff consisting of one or more physicians licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) A specialty hospital shall provide on-site all basic services required of a general acute hospital that are needed for the diagnosis, therapy, or rehabilitation offered to or required by patients admitted to or cared for in the facility.

(3) (a) A home health agency shall provide at least licensed nursing services or therapeutic services directly through the agency employees.

(b) A home health agency may provide additional services itself or under arrangements with another agency, organization, facility, or individual.

(4) Beginning January 1, 2023, a hospice program shall provide at least one [~~qualified medical provider~~]recommending medical provider, as that term is defined in Section 26B-4-201, for the treatment of hospice patients.

Section 7. Section 26B-4-201 is amended to read:

26B-4-201. Definitions.

As used in this part:

(1) "Active tetrahydrocannabinol" means THC, any THC analog, and tetrahydrocannabinolic acid.

(2) "Administration of criminal justice" means the performance of detection, apprehension, detention, pretrial release, post-trial release, prosecution, and adjudication.

(3) "Advertise" means information provided by a person in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

(4) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(5) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(6) "Cannabis" means marijuana.

(7) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

(8) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.

(9) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(10) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

(11) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

(12) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26B-4-213(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

(13) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

(14) "Delivery address" means the same as that term is defined in Section 4-41a-102.

(15) "Department" means the Department of Health and Human Services.

(16) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section 26B-4-214; or

(b) (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26B-4-214(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26B-4-214(1)(b)(ii).

(17) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

(18) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

(19) "Government issued photo identification" means any of the following forms of identification:

(a) a valid state-issued driver license or identification card;

(b) a valid United States federal-issued photo identification, including:

(i) a United States passport;

(ii) a United States passport card;

(iii) a United States military identification card; or

(iv) a permanent resident card or alien registration receipt card; or

(c) a foreign passport.

(20) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.

(21) "Inventory control system" means the system described in Section 4-41a-103.

(22) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection [~~26B-4-230(5)~~]26B-4-231(5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

(23) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

[~~(24) "Limited medical provider" means an individual who:~~]

[~~(a) meets the recommending qualifications; and~~]

[~~(b) has no more than 15 patients with a valid medical cannabis patient card as a result of the individual's recommendation, in accordance with Subsection 26B-4-204(1)(b).~~]

[~~(25)~~](24) "Marijuana" means the same as that term is defined in Section 58-37-2.

[~~(26)~~](25) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

[~~(27)~~](26) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

[~~(28)~~](27) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in Subsection (16)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26B-4-214(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26B-4-214(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

[~~(29)~~](28) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

[~~(30)~~](29) "Medical cannabis courier" means the same as that term is defined in Section 4-41a-102.

[~~(31)~~](30) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

[~~(32)~~](31) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(33)~~](32) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(34)~~](33) "Medical cannabis pharmacy" means a person that:

(a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or

(ii) possesses medical cannabis or a medical cannabis device; and

(b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.

[~~(35)~~](34) "Medical cannabis pharmacy agent" means an individual who holds a valid medical cannabis pharmacy agent registration card issued by the department.

[~~(36)~~](35) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

[~~(37)~~](36) "Medical cannabis shipment" means the same as that term is defined in Section 4-41a-102.

[~~(38)~~](37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

[~~(39)~~](38) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension that does not exceed 30 milliliters;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape;

(I) a resin or wax;

(J) an aerosol;

(K) a suppository preparation; or

(L) a soft or hard confection that is a uniform rectangular cuboid or uniform spherical shape, is homogeneous in color and texture, and each piece is a single serving; or

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis flower in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque bag or box that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and a barcode that provides information connected to an inventory control system.

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection [~~(39)(a)(ii)~~](38)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection [~~(39)(a)(ii)~~](38)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection [~~(39)(a)(ii)~~](38)(a)(ii), except as provided in Subsection [~~(39)(b)~~](38)(b);

(ii) any unprocessed cannabis flower in a container described in Subsection [~~(39)(a)(ii)~~](38)(a)(ii) after the legal use termination date;

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch;

(iv) a liquid suspension that is branded as a beverage;

(v) a substance described in Subsection [~~(39)(a)(i)~~](38)(a)(i) or (ii) if the substance is not measured in grams, milligrams, or milliliters; or

(vi) a substance that contains or is covered to any degree with chocolate.

[~~(40)~~](39) "Nonresident patient" means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26B-4-203.

[~~(41)~~](40) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26B-4-219.

[~~(42)~~](41) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a recommending medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

[~~(43) "Qualified medical provider" means an individual:~~]

[~~(a) who meets the recommending qualifications; and~~]

[~~(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26B-4-204.~~]

[~~(44)~~](42) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26B-1-310.

[~~(45)~~](43) "Qualifying condition" means a condition described in Section 26B-4-203.

[~~(46)~~](44) "Recommend" or "recommendation" means, for a recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient's eligibility for a medical cannabis card; and

(b) may include, at the recommending medical provider's discretion, directions of use, with or without dosing guidelines.

[~~(47)~~](45) "Recommending medical provider" [~~means a qualified medical provider or a limited medical provider~~]means an individual who:

(a) meets the recommending qualifications[~~.~~];

(b) completes four hours of continuing medical education specific to medical cannabis through formal or informal sources; and

(c) every two years, provides an acknowledgment to the department that the individual completed four hours of continuing medical education.

[~~(48)~~](46) "Recommending qualifications" means that an individual:

(a) (i) has the authority to write a prescription;

(ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(49)~~](47) "State central patient portal" means the website the department creates, in accordance with Section 26B-4-236, to facilitate

patient safety, education, and an electronic medical cannabis order.

[~~(50)~~](48) "State electronic verification system" means the system described in Section 26B-4-202.

[~~(51)~~](49) "Targeted marketing" means the promotion by a [~~qualified medical provider~~]recommending medical provider, medical clinic, or medical office that employs a [~~qualified medical provider~~]recommending medical provider of a medical cannabis recommendation service using any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

(b) an in-person marketing event that is held in an area where only an individual who is at least 21 years old may access the event;

(c) other marketing material that is physically or digitally displayed in the office of the medical clinic or office that employs a [~~qualified medical provider~~]recommending medical provider; or

(d) a leaflet that a [~~qualified medical provider~~]recommending medical provider, medical clinic, or medical office that employs a [~~qualified medical provider~~]recommending medical provider shares with an individual who is at least 21 years old.

[~~(52)~~](50) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

[~~(53)~~](51) "THC analog" means the same as that term is defined in Section 4-41-102.

Section 8. Section 26B-4-202 is amended to read:

26B-4-202. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Division of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall ensure that the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until:

(i) the relevant [~~qualified medical provider~~]recommending medical provider completes the associated medical cannabis recommendation; or

(ii) [~~for a medical cannabis card related to a limited medical provider's recommendation,~~]the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26B-4-213;

(c) allows a [~~qualified medical provider~~]recommending medical provider, or an employee described in Subsection (3) acting on behalf of the [~~qualified medical provider~~]recommending medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the [~~qualified medical provider~~]recommending medical provider has a provider-patient relationship; and

(B) for whom the [~~qualified medical provider~~]recommending medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the [~~qualified medical provider~~]recommending medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a [~~qualified medical provider~~]recommending medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit; and

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(d) allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection 4-41a-1101(10)(a), to:

(i) access the electronic verification system to review the history within the system of a patient with whom the provider or agent is interacting, limited to read-only access for medical cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge authorizes add and edit access;

(ii) record a patient's recommendation from a [~~limited medical provider~~]recommending medical provider, including any directions of use, dosing guidelines, or caregiver indications from the [~~limited medical provider~~]recommending medical provider;

(iii) record a [~~limited medical provider's~~]recommending medical provider's renewal of the provider's previous recommendation; and

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(e) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(f) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this part;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; and

(iii) the Division of Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(g) provides access to and interaction with the state central patient portal;

(h) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection 4-41a-1102(3)(a)(ii) to the controlled substance database;

(i) provides access to state or local law enforcement only to verify the validity of an individual's medical cannabis card for the administration of criminal justice and through a database used by law enforcement; and

(j) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3) (a) An employee of a [~~qualified medical provider~~]recommending medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the [~~qualified medical provider~~]recommending medical provider if:

(i) the [~~qualified medical provider~~]recommending medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the [~~qualified medical provider~~]recommending medical provider;

(ii) the [~~qualified medical provider~~]recommending medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a [~~qualified medical provider~~]recommending medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the [~~qualified medical provider~~]recommending medical provider if:

(i) the [~~qualified medical provider~~]recommending medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the [~~qualified medical provider~~]recommending medical provider;

(ii) the [~~qualified medical provider~~]recommending medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) A prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26B-4-222; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(9) (a) Except as provided in Subsections (9)(c) and (9)(e), a person may not knowingly and intentionally use, release, publish, or

otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) A law enforcement officer who uses the database used by law enforcement to access information in the electronic verification system for a reason that is not the administration of criminal justice is guilty of a class B misdemeanor.

(d) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(e) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(f) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 9. Section 26B-4-203 is amended to read:

26B-4-203. Qualifying condition.

(1) By designating a particular condition under Subsection (2) for which the use of medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively state that:

(a) current scientific evidence clearly supports the efficacy of a medical cannabis treatment for the condition; or

(b) a medical cannabis treatment will treat, cure, or positively affect the condition.

(2) For the purposes of this part, each of the following conditions is a qualifying condition:

(a) HIV or acquired immune deficiency syndrome;

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer;

(e) cachexia;

(f) persistent nausea that is not significantly responsive to traditional treatment, except for nausea related to:

(i) pregnancy;

(ii) cannabis-induced cyclical vomiting syndrome; or

(iii) cannabinoid hyperemesis syndrome;

(g) Crohn's disease or ulcerative colitis;

(h) epilepsy or debilitating seizures;

(i) multiple sclerosis or persistent and debilitating muscle spasms;

(j) post-traumatic stress disorder that is being treated and monitored by a licensed mental health therapist, as that term is defined in Section 58-60-102, and that:

(i) has been diagnosed by a healthcare provider or mental health provider employed or contracted by the United States Veterans Administration, evidenced by copies of medical records from the United States Veterans Administration that are included as part of the [~~qualified medical provider's~~]recommending medical provider's pre-treatment assessment and medical record documentation; or

(ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of the patient, by a provider who is:

(A) a licensed board-eligible or board-certified psychiatrist;

(B) a licensed psychologist with a master's-level degree;

(C) a licensed clinical social worker with a master's-level degree;

(D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing specialty and who has completed the clinical practice requirements in psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302(5)(g); or

(E) a licensed physician assistant who is qualified to specialize in mental health care under Section 58-70a-501.1;

(k) autism;

(l) a terminal illness when the patient's remaining life expectancy is less than six months;

(m) a condition resulting in the individual receiving hospice care;

(n) a rare condition or disease that:

(i) affects less than 200,000 individuals in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and

(ii) is not adequately managed despite treatment attempts using:

(A) conventional medications other than opioids or opiates; or

(B) physical interventions;

(o) pain lasting longer than two weeks that is not adequately managed, in the [~~qualified medical provider's~~]recommending medical provider's opinion, despite treatment attempts using:

(i) conventional medications other than opioids or opiates; or

(ii) physical interventions;

(p) pain that is expected to last for two weeks or longer for an acute condition, including a surgical procedure, for which a medical professional may generally prescribe opioids for a limited duration, subject to Subsection 26B-4-213(5)(c); and

(q) a condition that the Compassionate Use Board approves under Section 26B-1-421, on an individual, case-by-case basis.

Section 10. Section 26B-4-204 is amended to read:

26B-4-204. Treatment recommendation.

(1) (a) (i) [~~Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.~~]A recommending medical provider may recommend medical cannabis.

(ii) Notwithstanding Subsection (1)(a)(i), a [~~qualified medical provider~~]recommending medical provider who is a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a medical cannabis treatment except within the course and scope of a practice of podiatry, as that term is defined in Section 58-5a-102.

[~~(b) An individual who meets the recommending qualifications may recommend a medical cannabis treatment as a limited medical provider without registering under Subsection (1)(a) if:~~]

[~~(i) the individual recommends the use of medical cannabis to the patient through an order described in Subsection (1)(c) after:~~]

[~~(A) a face-to-face visit for an initial recommendation or the renewal of a recommendation for a patient for whom the limited medical provider did not make the patient's original recommendation; or~~]

[~~(B) a visit using telehealth services for a renewal of a recommendation for a patient for whom the limited medical provider made the patient's original recommendation; and~~]

[~~(ii) the individual's recommendation or renewal would not cause the total number of the individual's patients who have a valid medical cannabis patient card or provisional patient card resulting from the individual's recommendation to exceed 15.~~]

[~~(c)~~](b) [~~The individual described in Subsection (1)(b) shall~~]A recommending medical provider may communicate the individual's recommendation through an order for the medical cannabis pharmacy to record the individual's recommendation or renewal in the state electronic verification system under the individual's recommendation that:

(i) (A) the individual or the individual's employee sends electronically to a medical cannabis pharmacy; or

(B) the individual gives to the patient in writing for the patient to deliver to a medical cannabis pharmacy; and

(ii) may include:

(A) directions of use or dosing guidelines; and

(B) an indication of a need for a caregiver in accordance with Subsection 26B-4-213(3)(c).

[~~(d)~~](c) If the [~~limited medical provider~~]recommending medical provider gives the patient a written recommendation to deliver to a medical cannabis pharmacy under Subsection [~~(1)(c)(i)(B), the limited medical provider~~](1)(b)(i)(B), the recommending medical provider shall ensure that the document includes all of the information that is included on a prescription the provider would issue for a controlled substance, including:

(i) the date of issuance;

(ii) the provider's name, address and contact information, controlled substance license information, and signature; and

(iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.

[~~(e)~~](d) In considering making a recommendation as a [~~limited medical provider~~]recommending medical provider, an individual may consult information that the department makes available on the department's website for recommending providers.

[~~(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:~~]

[~~(i) provides to the department the individual's name and address;~~]

[~~(ii) provides to the department an acknowledgment that the individual has completed four hours of continuing education related to medical cannabis;~~]

[~~(iii) provides to the department evidence that the individual meets the recommending qualifications;~~]

[~~(iv) for an applicant on or after November 1, 2021, provides to the department the information described in Subsection (10)(a); and~~]

[~~(v) pays the department a fee in an amount that:~~]

[~~(A) the department sets, in accordance with Section 63J-1-504; and~~]

[~~(B) does not exceed $300 for an initial registration.~~]

[~~(b) The department may not register an individual as a qualified medical provider if the individual is:~~]

[~~(i) a pharmacy medical provider; or~~]

[~~(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.~~]

[~~(3) (a) An individual shall complete the continuing education related to medical cannabis in the following amounts:~~]

[~~(i) for an individual as a condition precedent to registration, four hours; and~~]

[~~(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.~~]

[~~(b)~~](2) (a) The department may, in consultation with the Division of Professional Licensing, develop continuing education related to medical cannabis.

[~~(c)~~](b) The continuing education described in this Subsection [~~(3)~~](2) may discuss:

(i) the provisions of this part;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis based on the qualifying condition underlying a medical cannabis recommendation.

[~~(4)~~](3) (a) Except as provided in Subsection [~~(4)(b)~~](3)(b), a [~~qualified medical provider~~]recommending medical provider may not recommend a medical cannabis treatment to more than 1.5% of the total amount of medical cannabis patient cardholders.

(b) If a [~~qualified medical provider~~]recommending medical provider receives payment from an insurance plan for services provided under this chapter, then the patient whose insurance plan was billed does not count toward the 1.5% patient cap described in Subsection [~~(4)(a)~~](3)(a).

[~~(5)~~](4) A recommending medical provider may recommend medical cannabis to an individual under this part only in the course of a provider-patient relationship after the recommending medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

[~~(6) (a) Except as provided in Subsections (6)(b) and (c), a person may not advertise that the person or the person's employee recommends a medical cannabis treatment.~~]

[~~(b) Notwithstanding Subsection (6)(a) and Section 4-41a-109, a qualified medical provider, medical clinic, or medical office that employs a qualified medical provider may advertise only the following:~~]

[~~(i) a green cross;~~]

[~~(ii) the provider's or clinic's name and logo;~~]

[~~(iii) a qualifying condition that the individual treats;~~]

[~~(iv) that the qualified medical provider, medical clinic, or medical office evaluates patients for medical cannabis recommendations;~~]

[~~(v) a scientific study regarding medical cannabis use; or~~]

[~~(vi) contact information.~~]

[~~(c) Notwithstanding Subsection (6)(a) and Section 4-41a-109, qualified medical provider, medical clinic, or medical office that employs a qualified medical provider may engage in targeted marketing, as determined by the department through rule, for advertising medical cannabis recommendation services.~~]

[~~(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.~~]

[~~(b) The department shall renew a qualified medical provider's registration card if the provider:~~]

[~~(i) applies for renewal;~~]

[~~(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license under the recommending qualifications;~~]

[~~(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;~~]

[~~(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and~~]

[~~(v) pays the department a fee in an amount that:~~]

[~~(A) the department sets, in accordance with Section 63J-1-504; and~~]

[~~(B) does not exceed $50 for a registration renewal.~~]

[~~(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.~~]

[~~(9) A recommending medical provider may not:~~]

[~~(a) receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:~~]

[~~(i) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;~~]

[~~(ii) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or~~]

[~~(iii) a recommending medical provider or pharmacy medical provider; or~~]

[~~(b) provide a medical cannabis recommendation at a medical clinic or medical office that is violating the advertising limitations described in Subsection (6).~~]

[~~(10)~~](5) (a) [~~Each quarter, a qualified medical provider shall report to the department, in a manner designated by the department:~~]The department shall host a recommending provider contact list on the department's website that contains the information described in Subsection (5)(b).

[~~(i) if applicable, that the qualified medical provider or the entity that employs the qualified medical provider represents online or on printed material that the qualified medical provider is a qualified medical provider or offers medical cannabis recommendations to patients; and~~]

[~~(ii) (A) for cash payment without insurance, the fee amount that the qualified medical provider or the entity that employs the qualified medical provider charges a patient for a medical cannabis recommendation as an actual cash rate; and~~]

[~~(B) whether the qualified medical provider or the entity that employs the qualified medical provider bills insurance.~~]

(b) [~~The department shall:~~]A recommending medical provider that elects to be included on the contact list shall provide the department the following:

[~~(i) ensure that the following information related to qualified medical providers and entities described in Subsection (10)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (10)(b)(ii):~~]

[~~(A)~~](i) the name of the [~~qualified medical provider~~]recommending medical provider and, if applicable, the name of the entity that employs the [~~qualified medical provider~~]recommending medical provider;

[~~(B)~~](ii) the address of the [~~qualified medical provider's~~]recommending medical provider's office or, if applicable, the entity that employs the [~~qualified medical provider~~]recommending medical provider; and

[~~(C)~~](iii) (A) the fee amount [~~described in Subsection (10)(a)(ii)(A); and~~]charged by the recommending medical provider; or

(B) whether the recommending medical provider or entity that employs the recommending medical provider bills insurance.

[~~(ii)~~](c) The department shall share data collected under this Subsection [~~(10)~~](5) with the state auditor for use in the health care price transparency tool[~~described in Section 67-3-11~~].

Section 11. Section 26B-4-205 is amended to read:

26B-4-205. Standard of care -- Physicians and pharmacists not liable -- No private right of action.

(1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:

(a) civil or criminal liability; or

(b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act.

(2) The limitations of liability described in Subsection (1) apply to:

[~~(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act:~~]

[~~(i) (A) whom the department has registered as a qualified medical provider; or~~]

[~~(B) who makes a recommendation as a limited medical provider; and~~]

[~~(ii)~~](a) a recommending medical provider who recommends treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a patient in accordance with this part; and

(b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

(i) whom the department has registered as a pharmacy medical provider; and

(ii) who dispenses, in a medical cannabis pharmacy, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this part.

(3) Nothing in this section or part reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:

(a) who may have a qualifying condition; and

(b) (i) for whom the individual described in Subsection [~~(2)(a)(i) or (ii)~~](2)(a) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or

(ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.

(4) (a) As used in this Subsection (4), "healthcare facility" means a health care facility as defined in Section 26B-2-201.

(b) A healthcare facility may adopt restrictions on the possession, use, and storage of medical cannabis on the premises of the healthcare facility by a medical cannabis cardholder who resides at or is actively receiving treatment or care at the healthcare facility.

(c) An employee or agent of a healthcare facility described in this Subsection (4) is not subject to civil or criminal liability for carrying out employment duties, including:

(i) providing or supervising care to a medical cannabis cardholder; or

(ii) in accordance with a caregiver designation under Section 26B-4-214 for a medical cannabis cardholder residing at the healthcare facility, purchasing, transporting, or possessing medical cannabis for the relevant patient and in accordance with the designation.

(d) Nothing in this section requires a healthcare facility to adopt a restriction under Subsection (4)(b).

Section 12. Section 26B-4-213 is amended to read:

26B-4-213. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1) (a) Subject to Section 26B-4-246, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26B-4-214 submits an application in accordance with this section or Section 26B-4-214, the department shall:

(i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

(iv) issue a medical cannabis caregiver card to an individual described in Subsection 26B-4-214(4).

(b) (i) Upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection 4-41a-1101(10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's recommending medical provider recommends a medical cannabis

treatment, the individual petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(E) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26B-4-215.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's recommending medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26B-4-214.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) If the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26B-4-214(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's government issued photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a recommending medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the recommending medical provider recommends, the recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or [~~, for a limited medical provider,~~]through the order described in Subsections [~~26B-4-204(1)(c) and (d)~~]26B-4-204(1)(b) and (c).

(ii) If a recommending medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance;

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-1-301, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

[~~(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a recommending medical provider shall:~~]

[~~(a) visit with the patient face-to-face for an initial recommendation unless the patient:~~]

[~~(i) prefers a virtual visit; and~~]

[~~(ii) (A) is on hospice or has a terminal illness according to the patient's medical provider; or~~]

[~~(B) is a resident of an assisted living facility, as defined in Section 26B-2-201, or a nursing care facility, as defined in Section 26B-2-201;~~]

[~~(b)~~](4) (a) Except as provided in Subsection (4)(b), a recommending medical provider may not recommend medical cannabis to a patient through a virtual visit.

(b) A recommending medical provider may recommend medical cannabis to a patient through a virtual visit if the patient:

(i) is on hospice or has a terminal illness according to the patient's medical provider;

(ii) is a resident of an assisted living facility, as defined in Section 26B-2-201, or a nursing care facility, as defined in Section 26B-2-201;

(iii) has previously received a medical cannabis recommendation from the recommending medical provider through a face-to-face visit; or

(iv) is a current patient of the recommending medical provider and has met with the recommending medical provider face-to-face previously.

(c) A recommending medical provider shall:

(i) before recommending or renewing a recommendation for medical cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

[~~(i)~~](A) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's government issued photo identification described in Subsection (3)(a);

[~~(ii)~~](B) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian [~~in:~~]accessible to the recommending medical provider including in the controlled substance database created in Section 58-37f-201; and

[~~(A) for a qualified medical provider, the state electronic verification system; and~~]

[~~(B) the controlled substance database created in Section 58-37f-201; and~~]

[~~(iii)~~](C) consider the recommendation in light of the patient's qualifying condition, history of substance use or opioid use disorder, and history of medical cannabis and controlled substance use during a visit with the patient; and

[~~(c)~~](ii) state in the recommending medical provider's recommendation that the patient:

[~~(i)~~](A) suffers from a qualifying condition, including the type of qualifying condition; and

[~~(ii)~~](B) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the recommending medical provider determines; or

(ii) one year from the day the card is issued.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26B-4-203 expires after one year.

(ii) The recommending medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26B-4-203 if the medical cannabis cardholder no longer has the terminal illness.

(c) A medical cannabis card that the department issues in relation to acute pain as described in Section 26B-4-203 expires 30 days after the day on which the department first issues a conditional or full medical cannabis card.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26B-1-421.

(b) The recommending medical provider who made the underlying recommendation for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card through phone or video conference with the cardholder, at the recommending medical provider's discretion.

(c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b) shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this part and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this part and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use medical cannabis or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of medical cannabis or a medical cannabis device.

(8) (a) The department may revoke a medical cannabis card that the department issues under this section if:

(i) the recommending medical provider withdraws the medical provider's recommendation for medical cannabis; or

(ii) the cardholder:

(A) violates this part; or

(B) is convicted under state or federal law of, after March 17, 2021, a drug distribution offense.

(b) The department may not refuse to issue a medical cannabis card to a patient solely based on a prior revocation under Subsection (8)(a)(i).

(9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26B-4-203(1); and

(c) other relevant warnings and safety information that the department determines.

(10) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(11) (a) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(12) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section 26B-4-201, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 13. Section 26B-4-214 is amended to read:

26B-4-214. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.

(1) (a) A cardholder described in Section 26B-4-213 may designate, through the state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder.

(b) (i) A cardholder described in Section 26B-4-213 may designate one of the following types of facilities as one of the caregivers described in Subsection (1)(a):

(A) for a patient or resident, an assisted living facility, as that term is defined in Section 26B-2-201;

(B) for a patient or resident, a nursing care facility, as that term is defined in Section 26B-2-201; or

(C) for a patient, a general acute hospital, as that term is defined in Section 26B-2-201.

(ii) A facility may:

(A) assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b); and

(B) receive a medical cannabis shipment from a medical cannabis pharmacy or a medical cannabis courier on behalf of the medical cannabis cardholder within the facility who designated the facility as a caregiver.

(iii) The department shall make rules to regulate the practice of facilities and facility employees serving as designated caregivers under this Subsection (1)(b).

(c) A parent or legal guardian described in Subsection 26B-4-213(2)(d), in consultation with the minor and the minor's [~~qualified medical provider~~]recommending medical provider, may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the minor, if the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section 26B-4-213.

(d) (i) Upon the entry of a caregiver designation under Subsection (1)(c) by a patient with a terminal illness described in Section 26B-4-203, the department shall issue to the designated caregiver an electronic conditional medical cannabis caregiver card, in accordance with this Subsection (1)(d).

(ii) A conditional medical cannabis caregiver card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis caregiver card application, or revokes the conditional medical cannabis caregiver card under 26B-4-246.

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):

(a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;

(b) in accordance with this part, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver; and

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis.

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsections (5)(b) and (3)(c)(i).

(c) If a cardholder described in Section 26B-4-213 designates an individual as a caregiver who already holds a medical cannabis caregiver card, the individual with the medical cannabis caregiver card:

(i) shall report to the department the information required of applicants under Subsection (5)(b) regarding the new designation;

(ii) if the individual makes the report described in Subsection (3)(c)(i), is not required to file an application for another medical cannabis caregiver card;

(iii) may receive an additional medical cannabis caregiver card in relation to each additional medical cannabis patient who designates the caregiver; and

(iv) is not subject to an additional background check.

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26B-4-215;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26B-4-213(9).

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26B-4-213 who designated the applicant;

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder; and

(iv) any additional information that the department requests to assist in matching the application with the designating medical cannabis patient.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26B-4-213 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26B-4-213 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26B-4-213 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26B-4-213 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 14. Section 26B-4-231 is amended to read:

26B-4-231. Partial filling -- Pharmacy medical provider directions of use.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the recommending medical provider recommends, if the recommending medical provider recommended specific dosing guidelines.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the recommending medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing guidelines, subject to the dosing limits in Subsection 4-41a-1102(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing guidelines for the partial fill under Subsection 4-41a-1102(5) or (6); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

(5) If a recommending medical provider recommends treatment with medical cannabis but wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:

(a) the recommending medical provider shall provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a [~~limited medical~~

~~provider~~]recommending medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:

(i) information regarding the qualifying condition underlying the recommendation;

(ii) information regarding prior treatment attempts with medical cannabis; and

(iii) portions of the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:

(i) review pertinent medical records, including the recommending medical provider documentation described in Subsection (5)(a); and

(ii) after completing the review described in Subsection (5)(b)(i) and consulting with the recommending medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the recommending medical provider;

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

Section 15. Section 26B-4-245 is amended to read:

26B-4-245. Purchasing and use limitations.

(1) An individual with a medical cannabis card:

(a) may purchase, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis in a medicinal dosage form; and

(ii) a cannabis product in a medicinal dosage form;

(b) may not purchase:

(i) except as provided in Subsection (2), more medical cannabis than described in Subsection (1)(a); or

(ii) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection 26B-4-231(5), any medical cannabis; and

(c) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection 26B-4-231(5), has not recommended.

(2) (a) A [~~qualified medical provider~~]recommending medical provider may petition the department to waive the 28-day period limit described in Subsection (1)(a) for a medical cannabis cardholder if the medical cannabis cardholder:

(i) has been diagnosed with a terminal illness;

(ii) has a life expectancy of six months or less; and

(iii) needs the waiver for palliative purposes.

(b) The department shall:

(i) consult with the Compassionate Use Board to determine whether the waiver should be granted;

(ii) issue a response to the petition within 10 days from the day on which the petition is received.

(c) The department may waive the 28-day period limit for no more than 180 days.

(d) A petition described in this Subsection (2) may be combined with the petition described in Subsection 26B-1-421(6).

Section 16. Section 53B-17-903 is amended to read:

53B-17-903. Education in pain treatment.

The University of Utah School of Medicine shall ensure that any licensed physicians who oversee fellowship training to specialize in pain treatment are [~~qualified medical providers~~]recommending medical providers, as that term is defined in Section 26B-4-201.

Section 17. Section 58-1-513 is enacted to read:

58-1-513. Recommending medical provider cannabis advertisement -- Payment restriction -- Unprofessional conduct.

(1) As used in this section:

(a) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

(b) "Targeted marketing" means the same as that term is defined in Section 26B-4-201.

(2) (a) Except as provided in Subsections (2)(b) and (c), a person may not advertise that the person or the person's employee recommends a medical cannabis treatment.

(b) Notwithstanding Subsection (2)(a) and Section 4-41a-109, a recommending medical provider, medical clinic, or medical office that employs a recommending medical provider may advertise only the following:

(i) a green cross;

(ii) the provider's or clinic's name and logo;

(iii) a qualifying condition that the individual treats;

(iv) that the recommending medical provider, medical clinic, or medical office evaluates patients for medical cannabis recommendations;

(v) a scientific study regarding medical cannabis use; or

(vi) contact information.

(c) Notwithstanding Subsection (2)(a) and Section 4-41a-109, a recommending medical provider, medical clinic, or medical office that employs a recommending medical provider may engage in targeted marketing, as determined by the Department of Health and Human Services through rule, for advertising medical cannabis recommendation services.

(3) (a) A recommending medical provider may not:

(i) receive any compensation or benefit for the recommending medical provider's medical cannabis treatment recommendation from:

(A) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(B) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(C) a recommending medical provider or pharmacy medical provider; or

(ii) provide a medical cannabis recommendation at a medical clinic or medical office that is violating the advertising limitations described in Subsection (2).

(b) A violation of Subsection (3)(a) is unprofessional conduct.

Section 18. Section 58-5a-102 is amended to read:

58-5a-102. Definitions.

In addition to the definitions under Section 58-1-102, as used in this chapter:

(1) "Assisted living facility" means the same as that term is defined in Section 26B-2-201.

(2) "Board" means the Podiatric Physician Board created in Section 58-5a-201.

(3) "Indirect supervision" means the same as that term is defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Medical assistant" means an unlicensed individual working under the indirect supervision of a licensed podiatric physician and engaging in specific tasks assigned by the licensed podiatric physician in accordance with the standards and ethics of the podiatry profession.

(5) "Practice of podiatry" means, subject to Section 58-5a-103, the diagnosis and treatment of conditions affecting the human foot and ankle and their manifestations of systemic conditions, and wound debridement on the limbs and torso, by all appropriate and lawful means.

(6) "Unlawful conduct" includes:

(a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

(b) for an individual who is not licensed under this chapter:

(i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor, foot specialist, or D.P.M.; or

(ii) implying or representing that the individual is qualified to practice podiatry.

(7) (a) "Unprofessional conduct" includes, for an individual licensed under this chapter:

(i) the conduct that constitutes unprofessional conduct under Section 58-1-501;

(ii) communicating to a third party, without the consent of the patient, information the individual acquires in treating the patient, except as necessary for professional consultation regarding treatment of the patient;

(iii) allowing the individual's name or license to be used by an individual who is not licensed to practice podiatry under this chapter;

(iv) except as described in Section 58-5a-306, employing, directly or indirectly, any unlicensed individual to practice podiatry;

(v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs the individual's ability to practice podiatry;

(vi) unlawfully prescribing, selling, or giving away any prescription drug, including controlled substances, as defined in Section 58-37-2;

(vii) gross incompetency in the practice of podiatry;

(viii) willfully and intentionally making a false statement or entry in hospital records, medical records, or reports;

(ix) willfully making a false statement in reports or claim forms to governmental agencies or insurance companies with the intent to secure payment not rightfully due;

(x) willfully using false or fraudulent advertising;

(xi) conduct the division defines as unprofessional conduct by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(xii) falsely making an entry in, or altering, a medical record with the intent to conceal:

(A) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(B) conduct described in Subsections (7)(a)(i) through (xi) or Subsection 58-1-501(1); or

(xiii) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(b) "Unprofessional conduct" does not include, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when [~~registered as a qualified medical provider or acting as a limited medical provider, as those terms are~~]acting as a recommending medical provider, as that term is defined in Section 26B-4-201, recommending the use of medical cannabis within the scope of [~~a~~]practice of podiatry.

Section 19. Section 58-31b-305 is amended to read:

58-31b-305. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license or certification under this chapter in accordance with a two-year renewal cycle established by rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles the division administers.

(2) The division shall renew the license of a licensee who, at the time of renewal:

(a) completes and submits an application for renewal in a form prescribed by the division;

(b) pays a renewal fee established by the division under Section 63J-1-504;

(c) views a suicide prevention video described in Section 58-1-601 and submits proof in the form required by the division; and

(d) meets continuing competency requirements as established by rule.

(3) In addition to the renewal requirements under Subsection (2), a person licensed as an advanced practice registered nurse shall be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of that qualification or if licensed prior to July 1, 1992, meet the requirements established by rule.

(4) In addition to the requirements described in Subsections (2) and (3), an advanced practice registered nurse licensee specializing in psychiatric mental health nursing who, as of the day on which the division originally issued the licensee's license had not completed the division's clinical practice requirements in psychiatric and mental health nursing, shall, to qualify for renewal:

(a) if renewing less than two years after the day on which the division originally issued the license, demonstrate satisfactory progress

toward completing the clinical practice requirements; or

(b) have completed the clinical practice requirements.

(5) Each license or certification automatically expires on the expiration date shown on the license or certification unless renewed in accordance with Section 58-1-308.

[~~(6) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (2)(d)continuingeducation that an advanced practice registered nurse completes in accordance with Section 26B-4-204.~~]

Section 20. Section 58-31b-502 is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(m) failure to pay a penalty imposed by the division;

(n) violating Section 58-31b-801;

(o) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(p) performing or inducing an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the person licensed or certified under the provisions of this chapter is found guilty of a crime in connection with the violation;

(q) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (n) or Subsection 58-1-501(1);

(r) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(s) for an advance practice registered nurse, designating a child as do not resuscitate without parental consent.

(2) "Unprofessional conduct" does not include, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when [~~registered as aqualified medical provider, or acting as a limited medical provider, as those terms are~~]acting as a recommending medical provider, as that term is defined in Section 26B-4-201, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 21. Section 58-67-304 is amended to read:

58-67-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(i);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal

under this section are increased or decreased proportionally.

(3) (a) An application to renew a license under this chapter shall:

(i) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(ii) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious physical risk of substantial impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(b) The statement in Subsection (3)(a)(ii) shall be modified, if necessary, to ensure compliance with the definitions and requirements of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a, Abortion Prohibition.

(4) In order to assist the Department of Health and Human Services in fulfilling the department's responsibilities relating to the licensing of a health care facility and the enforcement of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a, Abortion Prohibition, if a physician responds positively to the question described in Subsection (3)(a)(i) the division shall, within 30 days after the day on which the division renews the physician's license under this chapter, inform the Department of Health and Human Services in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a)(i).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with [~~Sections 26B-4-204 and~~]Section 26B-4-219.

Section 22. Section 58-67-502 is amended to read:

58-67-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(d) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(e) performing or inducing an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter is found guilty of a crime in connection with the violation;

(f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1);

(g) performing, or causing to be performed, upon an individual who is less than 18 years old:

(i) a primary sex characteristic surgical procedure; or

(ii) a secondary sex characteristic surgical procedure; or

(h) designating a child as do not resuscitate without parental consent.

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

(i) when [~~registered as a qualified medical provider or acting as a limited medical provider, as those terms are~~]acting as a recommending medical provider, as that term is defined in Section 26B-4-201, recommending the use of medical cannabis; or

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26B-4-201, providing pharmacy medical provider services in a medical cannabis pharmacy.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 23. Section 58-68-304 is amended to read:

58-68-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(i);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(j); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) (a) An application to renew a license under this chapter shall:

(i) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(ii) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious physical risk of substantial impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(b) The statement in Subsection (3)(a)(ii) shall be modified, if necessary, to ensure compliance with the definitions and requirements of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a, Abortion Prohibition.

(4) In order to assist the Department of Health and Human Services in fulfilling the department's responsibilities relating to the licensing of a health care facility and the enforcement of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a, Abortion Prohibition, if a physician responds positively to the question described in Subsection (3)(a)(i), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health and Human Services in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a)(i).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with [~~Sections 26B-4-204 and~~]Section 26B-4-219.

Section 24. Section 58-68-502 is amended to read:

58-68-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5;

(d) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(e) performing or inducing an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter is found guilty of a crime in connection with the violation;

(f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1);

(g) performing or causing to be performed, upon an individual who is less than 18 years old:

(i) a primary sex characteristic surgical procedure; or

(ii) a secondary sex characteristic surgical procedure; or

(h) designating a child as do not resuscitate without parental consent.

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

(i) when [~~registered as aqualified medical provideror acting as a limited medical provider, as those terms are~~]acting as a recommending medical provider, as that term is defined in Section 26B-4-201, recommending the use of medical cannabis; or

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26B-4-201, providing pharmacy medical provider services in a medical cannabis pharmacy.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 25. Section 58-70a-303 is amended to read:

58-70a-303. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensee shall show compliance with continuing education renewal requirements.

(3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

[~~(4) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (2)continuingeducation that a physician assistant completes in accordance with Section 26B-4-204.~~]

Section 26. Section 58-70a-503 is amended to read:

58-70a-503. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

(b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

(d) in a practice that has physician assistant ownership interests, failure to allow a physician the independent final decision making authority on treatment decisions for the physician's patient;

(e) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1);

(g) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(h) designating a child as do not resuscitate without parental consent.

(2) (a) "Unprofessional conduct" does not include, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when [~~registered as aqualified medical provideror acting as a limited medical provider, as those terms are~~]acting as a recommending medical provider, as that term is defined in Section 26B-4-201, recommending the use of medical cannabis.

(b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2)(a).

Section 27. Section 80-4-109 is amended to read:

80-4-109. Consideration of cannabis during proceedings.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26B-4-201.

(b) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

(c) (i) "Chronic" means repeated or patterned.

(ii) "Chronic" does not mean an isolated incident.

(d) "Directions of use" means the same as that term is defined in Section 26B-4-201.

(e) "Dosing guidelines" means the same as that term is defined in Section 26B-4-201.

(f) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.

(g) "Medical cannabis cardholder" means the same as that term is defined in Section 26B-4-201.

(h) " [~~Qualified~~]Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

(2) In a proceeding under this chapter in which the juvenile court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's [~~qualified medical provider~~]recommending medical provider or through a consultation described in Subsection [~~26B-4-230(5)~~]26B-4-231(5).

(3) In a proceeding under this chapter, a parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of a child unless there is evidence showing that:

(a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), a parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of a child if:

(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's [~~qualified medical provider~~]recommending medical provider or through a consultation described in Subsection [~~26B-4-230(5)~~]26B-4-231(5); or

(b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(5) Subsection (3) does not prohibit a finding of abuse or neglect of a child and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

Section 28. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 393
H. B. 53
Passed March 3, 2025
Approved March 26, 2025
Effective May 7, 2025

LITTER CLEANUP AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses unsecured loads, litter, and landfills.

Highlighted Provisions:

This bill:

- ► establishes the Litter Abatement Expendable Special Revenue Fund;
- ► modifies penalties for certain offenses;
- ► requires reporting for certain entities;
- ► imposes a landfill fine for an unsecured load; and
- ► defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1712, as last amended by Laws of Utah 2008, Chapter 22
41-6a-1713, as last amended by Laws of Utah 2015, Chapter 412
53-8-105, as last amended by Laws of Utah 2024, Chapter 425
72-1-201, as last amended by Laws of Utah 2024, Chapter 517
72-7-409, as last amended by Laws of Utah 2021, Chapter 327

ENACTS:

72-2-135, Utah Code Annotated 1953
72-7-410, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-1712 is amended to read:

41-6a-1712. Destructive or injurious materials on highways -- Throwing lighted material from moving vehicle -- Enforcement officers.

(1) As used in this section, "lighted material" means an item that is flaming, burning, or smoking, including lighted charcoal, fireworks, matches, tobacco, cigars, or cigarettes.

(2) A person may not throw, deposit, or discard, or permit to be dropped, thrown, deposited, or discarded on any public road or highway in the state, whether under state, county, municipal, or federal ownership, any plastic container, glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage, paper or paper products, or any other substance which would or could:

(a) create a safety or health hazard on the public road or highway; or

(b) mar or impair the scenic aspect or beauty of the public road or highway.

[~~(2)~~](3) A person who drops, throws, deposits, or discards, or permits to be dropped, thrown, deposited, or discarded, on any public road or highway any destructive, injurious, or unsightly material shall:

(a) immediately remove the material or cause it to be removed; and

(b) deposit the material in a receptacle designed to receive the material.

[~~(3)~~](4) A person distributing commercial handbills, leaflets, or other advertising shall take whatever measures are reasonably necessary to keep the material from littering public roadways or highways.

[~~(4)~~](5) A person removing a wrecked or damaged vehicle from a public road or highway shall remove any glass or other injurious substance dropped from the vehicle on the road or highway.

[~~(5)~~](6) A person may not throw any lighted material from a moving vehicle.

[~~(6)~~](7) Except as provided in Section 72-7-409, any person transporting loose cargo by truck, trailer, or other motor vehicle shall secure the cargo in a reasonable manner to prevent the cargo from littering or spilling on both public and private property or public roadways.

[~~(7)~~](8) A law enforcement officer as defined in Section 53-13-103, within the law enforcement officer's jurisdiction:

(a) shall enforce the provisions of this section;

(b) may issue citations to a person who violates any of the provisions of this section; and

(c) may serve and execute all warrants, citations, and other process issued by any court in enforcing this section.

[~~(8)~~](9) A municipality within its corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Section 2. Section 41-6a-1713 is amended to read:

41-6a-1713. Penalty for littering on a highway.

(1) [~~A person~~]Except as provided in Subsection (3), an individual who violates any of the provisions of Section 41-6a-1712 is guilty of an infraction and shall be fined:

(a) not less than $200 for a violation; or

(b) not less than $500 for a second or subsequent violation within three years of a previous violation of this section.

(2) The sentencing judge may require that the offender devote at least eight hours in cleaning up:

(a) litter caused by the offender; and

(b) existing litter from a safe area designated by the sentencing judge.

(3) An individual who violates Subsection 41-6a-1712(6) is guilty of a class C misdemeanor.

Section 3. Section 53-8-105 is amended to read:

53-8-105. Duties of Highway Patrol.

(1) In addition to the duties in this chapter, the Highway Patrol shall:

(a) enforce the state laws and rules governing use of the state highways;

(b) regulate traffic on all highways and roads of the state;

(c) assist the governor in an emergency or at other times at his discretion;

(d) in cooperation with federal, state, and local agencies, enforce and assist in the enforcement of all state and federal laws related to the operation of a motor carrier on a highway, including all state and federal rules and regulations;

(e) inspect certain vehicles to determine road worthiness and safe condition as provided in Section 41-6a-1630;

(f) upon request, assist with any condition of unrest existing or developing on a campus or related facility of an institution of higher education;

(g) assist the Alcoholic Beverage Services Commission in an emergency to enforce the state liquor laws;

(h) provide security and protection for both houses of the Legislature while in session as the speaker of the House of Representatives and the president of the Senate find necessary;

(i) enforce the state laws and rules governing use of capitol hill; and

(j) carry out the following for the Supreme Court and the Court of Appeals:

(i) provide security and protection to those courts when in session in the capital city of the state;

(ii) execute orders issued by the courts; and

(iii) carry out duties as directed by the courts.

(2) (a) The division and the department shall annually:

(i) evaluate the inventory of new and existing state highways, in coordination with relevant local law enforcement agencies, to determine which law enforcement agency is best suited to patrol and enforce state laws and regulate traffic on each state highway; and

(ii) before October 1 of each year, report to the Transportation Interim Committee and the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

(A) significant changes to the patrol and enforcement responsibilities resulting from the evaluation described in Subsection (2)(a)(i); and

(B) any budget request necessary to accommodate additional patrol and enforcement responsibilities.

(b) The division and the department shall, before July 1 of each year, coordinate with the Department of Transportation created in Section 72-1-201 regarding patrol and enforcement responsibilities described in Subsection (2)(a) and incident management services on state highways.

(3) (a) A district court and a justice court shall collect and maintain data regarding violations in Sections 41-6a-1712, 41-6a-1713, and 72-7-409.

(b) Each court shall transmit dispositions described in Subsection (3)(a) electronically to the department.

Section 4. Section 72-1-201 is amended to read:

72-1-201. Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems;

(b) provide administration for state transportation systems and programs;

(c) implement the transportation policies of the state;

(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of the department, state transportation systems, and programs;

(i) jointly with the commission annually report to the Transportation Interim Committee, by November 30 of each year, as to the

operation, maintenance, condition, mobility, safety needs, and wildlife and livestock mitigation for state transportation systems;

(j) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(k) study and make recommendations to the Legislature on potential managed lane use and implementation on selected transportation systems within the state;

(l) before July 1 of each year, coordinate with the Utah Highway Patrol Division created in Section 53-8-103 regarding:

(i) future highway projects that will add additional capacity to the state transportation system;

(ii) potential changes in law enforcement responsibilities due to future highway projects; and

(iii) incident management services on state highways; [~~and~~]

(m) provide public transit services, in consultation with any relevant public transit provider[~~.~~]; and

(n) implement a public service campaign as described in Section 72-2-135, in coordination with relevant stakeholders including permitted landfills and transfer stations, to generate public awareness regarding the importance of proper transportation and disposal of waste and maintaining clean roads and highways.

(2) (a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.

(b) Nothing in this section shall be construed as:

(i) creating a private right of action; or

(ii) expanding or changing the department's common law duty as described in Subsection (2)(a) for liability purposes.

Section 5. Section 72-2-135 is enacted to read:

72-2-135. Litter Abatement Expendable Special Revenue Fund.

(1) There is created an expendable special revenue fund, known as the "Litter Abatement Expendable Special Revenue Fund."

(2) The fund shall consist of:

(a) the landfill minimum fine for an unsecured load as described in Section 72-7-410; and

(b) interest earnings on cash balances.

(3) The department shall use money in the fund:

(a) for litter cleanup efforts on or near highways, including highways near waste management facilities and other high-litter areas the department identifies;

(b) for a public service campaign to generate awareness regarding the importance of proper transportation and disposal of waste, the negative impact of littering, and the need to maintain clean highways;

(c) for increased enforcement of Sections 41-6a-1712, 41-6a-1713, and 72-7-410; and

(d) for the department's costs in administering the account.

Section 6. Section 72-7-409 is amended to read:

72-7-409. Loads on vehicles -- Limitations -- Confining, securing, and fastening load required -- Penalty.

(1) As used in this section:

(a) "Agricultural product" means any raw product which is derived from agriculture, including silage, hay, straw, grain, manure, and other similar product.

(b) (i) "Unsecured load" means the contents of a vehicle, operated on a highway, not sufficiently covered, confined, fastened, or otherwise secured in a way to prevent the contents from escaping the vehicle.

(ii) "Unsecured load" includes materials such as dirt, sand, gravel, rock fragments, pebbles, crushed base, aggregate, any other similar material, or scrap metal or other loose material on any portion of the vehicle not designed to carry the material.

(c) "Vehicle" means the same as that term is defined in Section 41-1a-102.

(2) Except as provided in Subsections (3) through (5), a person may not:

(a) operate a vehicle with an unsecured load on any highway; or

(b) operate a vehicle carrying trash or garbage without a covering over the entire load.

(3) (a) A vehicle carrying dirt, sand, gravel, rock fragments, pebbles, crushed base, aggregate, any other similar material, or scrap metal shall have a covering over the entire load unless:

(i) the highest point of the load does not extend above the top of any exterior wall or sideboard of the cargo compartment of the vehicle; and

(ii) the outer edges of the load are at least six inches below the top inside edges of the exterior walls or sideboards of the cargo compartment of the vehicle.

(b) The following material is exempt from the provisions of Subsection (3)(a):

(i) hot mix asphalt;

(ii) construction debris or scrap metal if the debris or scrap metal is a size and in a form not susceptible to being blown out of the vehicle;

(iii) material being transported across a highway between two parcels of property that would be contiguous but for the highway that is being crossed; and

(iv) material listed under Subsection (3)(a) that is enclosed on all sides by containers, bags, or packaging.

(c) A chemical substance capable of coating or bonding a load so that the load is confined on a vehicle, may be considered a covering for purposes of Subsection (3)(a) so long as the chemical substance remains effective at confining the load.

(4) Subsection (2) does not apply to a vehicle or implement of husbandry carrying an agricultural product, if the agricultural product is:

(a) being transported in a manner which is not a hazard or a potential hazard to the safe operation of the vehicle or to other highway

users; and

(b) loaded in a manner that only allows minimal spillage.

(5) (a) An authorized vehicle performing snow removal services on a highway is exempt from the requirements of this section.

(b) This section does not prohibit the necessary spreading of any substance connected with highway maintenance, construction, securing traction, or snow removal.

(6) (a) Any person suspected of operating a vehicle with an unsecured load on a highway may be issued a warning.

(b) Any person who violates this section is guilty of:

(i) an infraction, if the violation creates a hazard but does not lead to a motor vehicle accident;

(ii) a class B misdemeanor, if the violation creates a hazard that leads to a motor vehicle accident; or

(iii) a class A misdemeanor, if the violation creates a hazard that leads to a motor vehicle accident that results in the serious bodily injury or death of a person.

(c) A person who violates a provision of this section shall be fined not less than:

(i) $200 for a violation; or

(ii) $500 for a second or subsequent violation within six years of a previous violation of this section.

(d) A person who violates a provision of this section while operating a commercial vehicle as defined in Section 72-9-102 shall be fined:

(i) not less than $500 for a violation; or

(ii) $1,000 for a second or subsequent violation within six years of a previous violation of this section.

(7) As resources and opportunities allow, the department shall implement programs or activities that increase public awareness on the importance of properly securing loads.

Section 7. Section 72-7-410 is enacted to read:

72-7-410. Public landfill litter abatement fine.

(1) As used in this section:

(a) "Landfill" means a landfill or transfer station that is permitted by the Department of Environmental Quality.

(b) "Securely covered" means that the content of a load is completely covered by a solid barrier which will prevent the load from blowing, spilling, or falling from the vehicle.

(2) A driver utilizing a landfill shall ensure that the vehicle's load is securely covered from the destination of origin until the driver deposits the load at the landfill.

(3) (a) A landfill shall collect a $10 minimum fine for a vehicle in violation of Subsection (2), beginning no later than July 1, 2026.

(b) Five dollars of the fine described in Subsection (3)(a) shall be collected by the Department of Environmental Quality and deposited into the Litter Abatement Expendable Special Revenue Fund created in Section 72-2-135.

(c) The remainder of the fine described in Subsection (3)(a) shall be retained by the collecting landfill.

(d) The minimum fine described in Subsection (3)(a) does not preclude a landfill from imposing an additional or higher fine or fee for an unsecured load.

(e) A landfill may impose an additional penalty for a driver who repeatedly violates Subsection (2).

(4) The Department of Environmental Quality may retain its associated administrative costs from the funds described in Subsection (3)(b).

(5) A landfill shall provide an annual report to the Department of Environmental Quality on or before March 1 regarding violations of Subsection (2).

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 394
H. B. 76
Passed March 3, 2025
Approved March 26, 2025
Effective May 7, 2025

PUBLIC EDUCATION REVISIONS

Chief Sponsor: Tracy J. Miller
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill amends provisions and programs regarding the operation of the public education system.

Highlighted Provisions:

This bill:

- ► removes duplicative language regarding a college and career readiness plan;
- ► amends the Teacher Salary Supplement Program and the upcoming replacement Salary Supplement for Highly Needed Educators program to allow a local education agency (LEA) that experiences a carry forward or leftover balance to increase the amount the LEA provides to teachers under certain circumstances;
- ► adds the Utah Schools for the Deaf and the Blind as an LEA that may participate in the Salary Supplement for Highly Needed Educators program;
- ► increases the portion of appropriated funding the State Board of Education (state board) is statutorily authorized to expend for administrative costs for early literacy software, including the cost of an independent software evaluator;
- ► amends provisions regarding kindergarten to:
  - • allow a child to enroll in kindergarten if the child moves to Utah after having enrolled in kindergarten in another state with different age requirements for enrollment; and
  - • repeal a requirement for the state board to create a process for an LEA to follow when an enrolled student in public school is not toilet-trained;
- ► amends provisions regarding early learning plans to:
  - • reduce requirements for the plans that LEAs submit to the state board; and
  - • repeal a requirement for the state board to use a digital platform to communicate with LEAs regarding early learning;
- ► amends provisions related to school fees to ensure that a school is not prohibited from charging a fee for a fine arts course; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill contains a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-2-304,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 69
53F-2-504,
(Effective 05/07/25) (Superseded 07/01/25)
as last amended by Laws of Utah 2024, Chapter 468
53F-2-504,
(Effective 07/01/25)
as repealed and reenacted by Laws of Utah 2024, Chapter 374
53F-4-203,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 20
53G-4-402,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapters 67, 476
53G-7-203,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 354
53G-7-218,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 460
53G-7-503,
(Effective 05/07/25)

as last amended by Laws of Utah 2024, Chapter 497

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-2-304 is amended to read:

53E-2-304

(Effective 05/07/25)

. School district and individual school powers -- Plan for college and career readiness definition.

(1) In order to acquire and develop the characteristics listed in Section 53E-2-302, each school district and each public school within its respective district shall implement a comprehensive system of accountability in which students advance through public schools by demonstrating competency in the core standards for Utah public schools through the use of diverse assessment instruments such as authentic assessments, projects, and portfolios.

(2) (a) Each school district and public school shall:

(i) develop and implement programs integrating technology into the curriculum, instruction, and student assessment;

(ii) in accordance with Subsection (5) and beginning July 1, 2025:

(A) provide an environment to all educators, school staff, and students that does not pose a predictable threat of serious bodily injury to the educators, school staff, or students;

(B) provide an education to all students in which the students' classroom is not disrupted by a pattern of behavior that interferes substantially and materially with classroom instruction; and

(C) provide an environment to all educators, school staff, and students that is free from repeated verbal or physical sexual harassment or sexual assault;

(iii) provide for teacher and parent involvement in policymaking at the school site;

(iv) implement a public school choice program to give parents, students, and teachers greater flexibility in designing and choosing among programs with different focuses through schools within the same district and other districts, subject to space availability, demographics, and legal and performance criteria;

(v) establish strategic planning at both the district and school level and site-based decision making programs at the school level;

(vi) provide opportunities for each student to acquire and develop academic and occupational knowledge, skills, and abilities;

(vii) participate in ongoing research and development projects primarily at the school level aimed at improving the quality of education within the system; and

(viii) involve business and industry in the education process through the establishment of partnerships with the business community at the district and school level.

(b) (i) As used in this section, "plan for college and career readiness" means a plan developed by a student and the student's parent, in consultation with school counselors, teachers, and administrators that:

(A) is initiated at the beginning of grade 7;

(B) identifies a student's skills and objectives;

(C) maps out a strategy to guide a student's course selection; and

(D) links a student to post-secondary options, including higher education and careers.

(ii) Each local school board, in consultation with school personnel, parents, and school community councils or similar entities shall establish policies to provide for the effective implementation of [~~an individual learning plan or~~]a plan for college and career readiness for each student at the school site.

(iii) The policies shall include guidelines and expectations for:

(A) recognizing the student's accomplishments, strengths, and progress toward meeting student achievement standards as defined in the core standards for Utah public schools;

(B) planning, monitoring, and managing education and career development; and

(C) involving students, parents, and school personnel in preparing and implementing an individual learning plan and a plan for college and career readiness.

(iv) A parent may request a conference with school personnel in addition to an individual learning plan or a plan for college and career readiness conference established by local school board policy.

(v) Time spent during the school day to implement an individual learning plan or a plan for college and career readiness is considered part of the school term described in Section 53F-2-102.

(3) A school district or public school may submit proposals to modify or waive rules or policies of a supervisory authority within the public education system in order to acquire or develop the characteristics listed in Section 53E-2-302.

(4) (a) Each school district and public school shall make an annual report to its patrons on its activities under this section.

(b) The reporting process shall involve participation from teachers, parents, and the community at large in determining how well the district or school is performing.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to ensure implementation of the requirements described in Subsection (2)(a)(ii).

(6) Nothing in this section creates a private right of action or constitutes a waiver of immunity under Section 63G-7-301.

Section 2. Section 53F-2-504 is amended to read:

53F-2-504

(Effective 05/07/25) (Superseded 07/01/25)

. Teacher Salary Supplement Program.

(1) As used in this section:

(a) "Eligible teacher" means a teacher who:

(i) has a qualifying educational background or qualifying teaching background;

(ii) has a supplement-approved assignment that corresponds to the teacher's qualifying educational background or qualifying teaching background;

(iii) qualifies for the teacher's supplement-approved assignment in accordance with state board rule; and

(iv) (A) is a new employee; or

(B) has not received an unsatisfactory rating on the teacher's three most recent evaluations.

(b) "Field of computer science" means:

(i) computer science; or

(ii) computer information technology.

(c) "Field of science" means:

(i) integrated science;

(ii) chemistry;

(iii) physics;

(iv) physical science; or

(v) general science.

(d) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade 7 or 8 integrated science course, chemistry course, or physics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of science;

(iii) for a teacher who is assigned a computer science course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(iv) for a teacher who is assigned to teach special education, a bachelor's degree major, master's degree, or doctoral degree in special education.

(e) "Qualifying teaching background" means:

(i) the teacher has been teaching the same supplement-approved assignment in Utah public schools for at least 10 years; or

(ii) the teacher has a professional deaf education license issued by the state board.

(f) "Supplement-approved assignment" means an assignment to teach:

(i) a secondary school level mathematics course;

(ii) integrated science in grade 7 or 8;

(iii) chemistry;

(iv) physics;

(v) computer science;

(vi) special education; or

(vii) deaf education.

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to the Teacher Salary Supplement Program to maintain annual salary supplements for eligible teachers provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(3) (a) The annual salary supplement for an eligible teacher who is assigned full-time to a supplement-approved assignment is:

(i) for a fiscal year beginning before July 1, 2023, $4,100 and funded through an appropriation described in Subsection (2); and

(ii) for a fiscal year beginning on or after July 1, 2023, the amount equal to:

(A) the amount of the annual salary supplement in the preceding fiscal year; and

(B) a percentage increase that is equal to the percentage increase in the value of the WPU in the preceding fiscal year.

(b) An eligible teacher who is assigned part-time to a supplement-approved assignment shall receive a partial salary supplement based on the number of hours worked in the supplement-approved assignment.

(4) The state board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher is an eligible teacher;

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and

(d) certify a list of eligible teachers.

(5) An eligible teacher shall apply to the state board, as provided by the board to receive the salary supplement authorized in this section in accordance with state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) The state board shall establish and administer an appeal process for a teacher to follow if the teacher applies for a salary supplement and does not receive a salary supplement under Subsection (8).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying educational background on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(ii) A teacher shall provide transcripts and other documentation to the state board in order for the state board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying teaching background on the basis that the teacher has a qualifying teaching background.

(ii) The teacher shall provide to the state board evidence to verify that the teacher has a qualifying teaching background.

(7) (a) The state board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts, charter schools, and regional education service agencies for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The state board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Program shall be used by a school district, charter school, or regional education service agencies to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher.

(b) The salary supplement is part of an eligible teacher's base pay, subject to eligible teacher's qualification as an eligible teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the state board may distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

(10) An LEA may increase the amount of funds the LEA provides to the LEA's teachers under the program if the LEA:

(a) first ensures proper distribution of funds the LEA receives under the program to the LEA's teachers; and

(b) experiences a carry forward or leftover balance.

Section 3. Section 53F-2-504 is amended to read:

53F-2-504

(Effective 07/01/25)

. Salary Supplement for Highly Needed Educators.

(1) As used in this section:

(a) "Eligible teacher" means a teacher who:

(i) has a qualifying assignment;

(ii) qualifies for the teacher's assignment in accordance with an LEA's policy described in Subsection (2); and

(iii) (A) is a new employee; or

(B) has not received an unsatisfactory rating on the teacher's three most recent evaluations.

(b) "High-needs area" means at least two and up to five teaching assignments that an LEA designates in a policy as challenging to fill or retain.

(c) "Program" means the Salary Supplement for Highly Needed Educators program.

(d) "Qualifying assignment" means a teacher who is assigned to a high-needs area.

(2) (a) An LEA shall create a policy describing the administration of the Salary Supplement for Highly Needed Educators program within the LEA, including:

(i) identifying the LEA's high-needs areas;

(ii) the amount of the salary supplement;

(iii) establishing an appeals process for a teacher to follow if the teacher does not receive a salary supplement, including:

(A) allowing a teacher to appeal eligibility as an eligible teacher with a qualifying assignment on the basis that the teacher has a teaching assignment that is substantially equivalent to a high-needs area; and

(B) requiring a teacher to provide transcripts and other documentation to the LEA governing board in order for the LEA governing board to determine if the teacher is an eligible teacher with a qualifying teaching background;

(iv) a process for determining if a teacher is an eligible teacher, including a verification process; and

(v) a process for certifying a list of eligible teachers to be awarded a salary supplement under this section.

(b) An LEA shall update the policy described in Subsection (2)(a) annually and provide notice of any changes to teachers within the LEA.

(3) Subject to legislative appropriations and an LEA having the policy described in Subsection (2), the state board shall allocate funding appropriated for the Salary Supplements for Highly Needed Educators program in accordance with this section by:

(a) for charter schools:

(i) distributing an amount that is equal to the product of:

(A) charter school enrollment on October 1 in the prior year, or, for a new charter school, projected enrollment for a charter school in the charter school's first year of operations, divided by enrollment on October 1 in public schools statewide in the prior year; and

(B) the total amount available for distribution; and

(ii) allocating to each charter school:

(A) an equally divided portion of 20% of the amount described in Subsection (3)(a)(i); and

(B) 80% of the amount described in Subsection (3)(a)(i) on a per-student basis; and

(b) for school districts and the Utah Schools for the Deaf and the Blind:

(i) distributing the remainder of funds available for distribution after the distribution to charter schools under Subsection (3)(a)(i) by allocating to each school district:

(A) an equally divided portion of 20% of the amount described in Subsection (3)(b)(i); and

(B) 80% of the amount described in Subsection (3)(b)(i) on a per-student basis.

(c) An LEA shall use funds described in Subsections (3)(a) and (3)(b) to pay the LEA's proportional part of an eligible teacher's salary supplement if:

(i) the eligible teacher is an employee of a regional education service agency, as defined in Section 53G-4-410; and

(ii) the LEA is a member of the regional education service agency that employs the eligible teacher.

(4) (a) An LEA shall include employer-paid benefits in the amount of each salary supplement.

(b) Employer-paid benefits are an addition to the salary supplement amount established by an LEA under Subsection (2).

(5) The salary supplement is part of an eligible teacher's base pay, subject to eligible teacher's qualification as an eligible teacher every year, semester, or quarter.

(6) The state board shall annually report to the Education Interim Committee:

(a) which teaching assignments LEAs have designated as high-needs; and

(b) the number of eligible teachers.

(7) An LEA may increase the amount of funds the LEA provides to the LEA's teachers under the program if the LEA:

(a) first ensures proper distribution of funds the LEA receives under the program to the LEA's teachers; and

(b) experiences a carry forward or leftover balance.

Section 4. Section 53F-4-203 is amended to read:

53F-4-203

(Effective 05/07/25)

. Early interactive reading software -- Independent evaluator.

(1) Subject to legislative appropriations, the state board shall distribute funds to public schools based on enrollment for students in kindergarten through grade 3 to purchase personalized interactive reading software.

(2) A public school that receives funds described in Subsection (1) shall use the funds for a student in kindergarten or grade 1, 2, or 3:

(a) for intervention for the student if the student is reading below grade level; or

(b) for advancement beyond grade level for the student if the student is reading at or above grade level.

(3) (a) On or before August 1 of each year, the state board shall select and contract with an independent evaluator, through a request for proposals process, to act as an independent contractor to evaluate early interactive reading software provided under this section.

(b) The state board shall ensure that a contract with an independent evaluator requires the independent evaluator to:

(i) evaluate a student's learning gains as a result of using early interactive reading software provided under Subsection (1);

(ii) for the evaluation under Subsection (3)(b)(i), use an assessment that is not developed by a provider of early interactive reading software; and

(iii) determine the extent to which a public school uses the early interactive reading software.

(c) The state board and the independent evaluator selected under Subsection (3)(a) shall submit a report on the results of the evaluation in accordance with Section 53E-1-201.

(4) An LEA may acquire an analytical software program that:

(a) monitors, for an individual school, early intervention interactive reading software use and the associated impact on student performance; and

(b) analyzes the information gathered under Subsection (4)(a) to prescribe individual school usage time to maximize the beneficial impact on student performance.

(5) The state board:

(a) may use up to [~~4%~~]6% of the appropriation provided under Subsection (1):

(i) to contract with an independent evaluator selected under Subsection (3)(a); and

(ii) for administrative costs associated with this section; and

(b) shall distribute at least [~~96%~~]94% of funds under this section to LEAs in accordance with Subsection (1).

(6) Nothing in this section or in Section 53E-4-307 or 53G-11-303 requires a reading software product to demonstrate the statistically significant effect size described in Subsection 53G-11-303(1)(a) in order to be used as an instructional material.

Section 5. Section 53G-4-402 is amended to read:

53G-4-402

(Effective 05/07/25)

. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the special districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every student achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment, and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the school board members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by students residing within the district and students residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) A local school board may enter into cooperative agreements with other local school boards to provide educational services that best utilize resources for the overall operation of the school districts, including shared transportation services.

(7) A local school board shall ensure that an agreement under Subsection (6):

(a) is signed by the president of the local school board of each participating district;

(b) specifies the resource being shared;

(c) includes a mutually agreed upon pro rata cost;

(d) includes the duration of the agreement; and

(e) is filed with the state board.

(8) (a) Except as provided in Section 53E-3-905 and Subsection (8)(b), a local school board may enroll children in school who are at least five years old before September 2 of the year in which admission is sought.

(b) A local school board may enroll a child in kindergarten who does not meet the age requirement described in Subsection (8)(a) if the child:

(i) moves to Utah from a different state in which the child, during the relevant school year:

(A) was a resident; and

(B) was enrolled in kindergarten in accordance with the previous state's age requirements for kindergarten enrollment; and

(ii) transfers to the enrolling school after the beginning of the same school year.

(9) A local school board:

(a) may establish and support school libraries; and

(b) shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any material the parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the LEA uses or through a separate platform; and

(ii) (A) for a school district with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a school district with fewer than 1,000 enrolled students, no later than August 1, 2026.

(10) A local school board may collect damages for the loss, injury, or destruction of school property.

(11) A local school board may authorize guidance and counseling services for students and the student's parents before, during, or following school enrollment.

(12) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(13) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents, or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(14) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) The contributions made under Subsection (14)(a) are not subject to appropriation by the Legislature.

(15) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(16) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(17) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(18) A local school board may hold school on legal holidays other than Sundays.

(19) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (19).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others, and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) in consultation with the Utah Safety Council and the Division of Family Health [~~Services~~], provide training to all students in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection (19)(c).

(20) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on school vehicles, and in connection with school-related activities or events.

(b) The local school board shall ensure that the plan:

(i) includes prevention, intervention, and response components;

(ii) is consistent with the school discipline and conduct policies required for school districts under Chapter 8, Part 2, School Discipline and Conduct Plans;

(iii) requires professional learning for all district and school building staff on the staff's roles in the emergency response plan;

(iv) provides for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (20)(a); and

(v) includes procedures to notify a student who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (20)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and the student's parents and local law enforcement and public safety representatives.

(21) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (21)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (21).

(22) (a) A local school board shall approve an LEA's policies and procedures that an LEA develops to ensure that students have non-electronic notification of and access to:

(i) school activities and events, including:

(A) schedule changes;

(B) extracurricular activities; and

(C) sporting events; and

(ii) the emergency response plans described in Subsections (20) and (21).

(b) Notwithstanding Subsection (22)(a), an LEA may provide electronic notification of and access to school activities and events as described in Subsections (22)(a)(i) and (ii) if:

(i) (A) the school provides each student with an electronic device; and

(B) the electronic device is capable of receiving electronic notification of and access to school activities and events as described in Subsections (22)(a)(i) and (ii); or

(ii) an emergency, unforeseen circumstance, or other incident arises and an LEA cannot reasonably provide timely non-electronic notification.

(c) An LEA may not require the use of a privately owned electronic device to complete course work.

(23) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(24) (a) As used in this subsection, "special enrollment program" means a full-day academic program in which a parent opts to enroll the parent's student and that is offered at a specifically designated school within an LEA, including:

(i) gifted or advanced learning programs; or

(ii) dual language immersion programs.

(b) Before closing a school, changing the boundaries of a school, or changing or closing the location of a special enrollment program, a local school board shall:

(i) at a local school board meeting, make and approve a motion to initiate the notification required under Subsections (24)(b)(ii) through (iv);

(ii) on or before 90 days before the day on which the local school board approves the school closure or at least 30 days before the day on which the local school board approves a school boundary change, provide notice that the local school board is considering the closure or boundary change to:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents and also by mail, using the United States Postal Service, to the parents at each known address;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents and also by mail, using the United States Postal Service, to the parents at each known address; and

(C) the governing council and the mayor of the municipality in which the school is located;

(iii) provide an opportunity for public comment on the proposed school closure during at least two public local school board meetings;

(iv) provide an opportunity for public comment on the proposed school boundary change during one public local school board meeting; and

(v) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing in accordance with Subsection (24)(c).

(c) A local school board shall:

(i) ensure that the notice of a public hearing required under Subsection (24)(b)(v)indicates the:

(A) name of the school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) if feasible, hold the public hearing at the location of the school that is under consideration for closure;

(iii) for at least 10 days before the day on which the public hearing occurs, publish the notice of public hearing occurs, publish the notice of the public hearing for the school district in which the school is located, as a class A notice under Section 63G-30-102; and

(iv) at least 30 days before the day on which the public hearing occurs, provide notice of the public hearing in the same manner as the notice of consideration under Subsection (24)(b)(ii).

(d) A motion made under Subsection (24)(b) shall name each school under consideration for closure in a separate motion.

(e) For a school closure, a local school board shall complete the process described in this Subsection (24) on or before December 31 of the calendar year preceding the beginning of the school year in which a school closure takes effect.

(f) (i) For a school boundary change, a local school board shall complete the process described in this Subsection (24) no more than 60 days after the day on which the local school board votes to approve a school closure.

(ii) Parents of students enrolled in a school affected by a boundary change shall have at least 30 days after the day on which the local school board votes to approve a school boundary change to request an out of area enrollment request in accordance with Chapter 6, Part 4, School District Enrollment.

(25) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(26) A local school board may establish or partner with a certified youth court in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

(27) (a) As used in this Subsection (27):

(i) "Learning material" means any learning material or resource used to deliver or support a student's learning, including textbooks, reading materials, videos, digital materials, websites, and other online applications.

(ii) (A) "Instructional material" means learning material that a local school board adopts and approves for use within the LEA.

(B) "Instructional material" does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class or another class with required instructional material that is not subject to selection by the local school board.

(iii) "Supplemental material" means learning material that:

(A) an educator selects for classroom use; and

(B) a local school board has not considered and adopted, approved, or prohibited for classroom use within the LEA.

(b) A local school board shall:

(i) make instructional material that the school district uses readily accessible and available for a parent to view;

(ii) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection (27)(b)(i); and

(iii) include on the school district's website information about how to access the information described in Subsection (27)(b)(i).

(c) In selecting and approving instructional materials for use in the classroom, a local school board shall:

(i) establish an open process, involving educators and parents of students enrolled in the LEA, to review and recommend instructional materials for board approval; and

(ii) ensure that under the process described in Subsection (27)(c)(i), the board:

(A) before the meetings described in Subsection (27)(c)(ii)(B), posts the recommended learning material online to allow for public review or, for copyrighted material, makes the recommended learning material available at the LEA for public review;

(B) before adopting or approving the recommended instructional materials, holds at least two public meetings on the recommendation that provides an opportunity for educators whom the LEA employs and parents of students enrolled in the LEA to express views and opinions on the recommendation; and

(C) adopts or approves the recommended instructional materials in an open and regular board meeting.

(d) A local school board shall adopt a supplemental materials policy that provides flexible guidance to educators on the selection of supplemental materials or resources that an educator reviews and selects for classroom use using the educator's professional judgment, including whether any process or permission is required before classroom use of the materials or resources.

(e) If an LEA contracts with another party to provide online or digital materials, the LEA shall include in the contract a requirement that the provider give notice to the LEA any time that the provider makes a material change to the content of the online or digital materials, excluding regular informational updates on current events.

(f) Nothing in this Subsection (27) requires a local school board to review all learning materials used within the LEA.

Section 6. Section 53G-7-203 is amended to read:

53G-7-203

(Effective 05/07/25)

. Kindergartens -- Establishment -- Funding -- Assessment.

(1) Kindergartens are an integral part of the state's public education system.

(2) (a) Each LEA governing board shall provide kindergarten classes free of charge for kindergarten children residing within the district or attending the charter school.

(b) Each LEA governing board shall:

(i) provide a half-day kindergarten option for a student that comprises the minimum standards for half-day kindergarten that the state board establishes, in accordance with Subsection (4)(a)(iii), if the student's parent requests a half-day option; and

(ii) (A) inform parents of the availability of the option to register for a designated full-curriculum half-day kindergarten option at the time of all kindergarten registration, by email, posters, or other announcements when a parent requests kindergarten registration; and

(B) provide the option to register for a designated half-day kindergarten option at the time of registration;

(iii) provide a dedicated kindergarten class specifically designated as a half-day kindergarten class when enrollment of half-day kindergarten students at an individual school or a regional school exceeds a minimum of 18 students;

(iv) when enrollment of half-day kindergarten students at an individual school exceeds a minimum of 18 students, designate the school as a half-day kindergarten provider for the improvement of recruiting teachers that prefer half-day teaching;

(v) inform parents regarding the additional educational resources and opportunities available to parents who select the half-day kindergarten option; and

(vi) ensure that a half-day kindergarten student who is registered in a class that includes full-day kindergarten students receives instruction that at least meets the minimum standards for half-day kindergarten that the state board establishes, in accordance with Subsection (4)(a)(iii).

(c) Nothing in this Subsection (2):

(i) allows an LEA governing board to require a student to participate in a full-day kindergarten program;

(ii) modifies the non-compulsory status of kindergarten under [~~Title 53G,~~]Chapter 6, Part 2, Compulsory Education; or

(iii) requires a student who only attends a half day of kindergarten to participate in dual enrollment under Section 53G-6-702.

(3) Kindergartens established under Subsection (2) shall receive state money under Title 53F, Public Education System -- Funding.

(4) (a) The state board shall:

(i) develop and collect data from a kindergarten assessment that the board selects by rule;

(ii) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the administration of and reporting regarding the assessment described in Subsection (4)(a)(i); and

(iii) establish minimum standards for half-day kindergarten.

(b) An LEA shall:

(i) administer the assessment described in Subsection (4)(a) to each kindergarten student; and

(ii) report to the state board the results of the assessment described in Subsection (4)(b)(i) in relation to each kindergarten student in the LEA.

(5) The state board shall require LEAs to report average daily membership for all kindergarten students who attend kindergarten on a schedule that is equivalent in length to the schedule for grades 1 through 3 with the October 1 data described in Section 53F-2-302.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to:

(a) beginning with the [~~2024-2025~~]2025-2026 school year, require a student to be toilet trained before being enrolled in [~~kindergarten~~]public school;

(b) establish requirements for an LEA's [~~kindergarten~~]enrollment process to include assurances from a parent that the parent's student is toilet trained; and

[~~(c) create a process for an LEA to follow when an enrolled student in kindergarten is found to not be toilet trained, including:~~]

[~~(i) referring the student and the student's parent to a school social worker or counselor for additional family supports and resources;~~]

[~~(ii) allowing a parent or the parent's adult designee to aid in toilet training as needed; and~~]

[~~(iii) when needed, reintegration of a student once the student has become toilet trained; and~~]

[~~(d)~~](c) create exemptions from the requirement in Subsection (6)(a) for a student who is not able to be toilet trained before [~~kindergarten~~]enrolling because of a condition that is subject to federal child find requirements or described in an IEP or Section 504 accommodation plan.

Section 7. Section 53G-7-218 is amended to read:

53G-7-218

(Effective 05/07/25)

. Establishment of early learning plan.

(1) A local school board of a school district or a charter school governing board of a charter school that serves students in any of kindergarten or grades 1 through 3 shall annually submit to the state board an early learning plan that includes [~~:~~]

[~~(a)~~] the early mathematics plan described in Section 53E-3-521, including:

[~~(i)~~](a) a growth goal for the school district or charter school that:

[~~(A)~~](i) is based upon student learning gains as measured by the mathematics benchmark assessment described in Section 53E-4-307.5; and

[~~(B)~~](ii) includes the target that the state board establishes under Section 53E-3-521; and

[~~(ii)~~](b) [~~one goal~~]two goals that:

[~~(A)~~](i) [~~is~~]are specific to the school district or charter school;

[~~(B)~~](ii) [~~is~~]are measurable;

[~~(C)~~](iii) [~~addresses~~]address current performance gaps in student mathematics proficiency based on data; and

[~~(D)~~](iv) [~~includes~~]include specific strategies for improving outcomes[~~; and~~].

[~~(b) one additional goal related to literacy or mathematics that:~~]

[~~(i) is specific to the school district or charter school;~~]

[~~(ii) is measurable;~~]

[~~(iii) addresses current performance gaps in student literacy or mathematics proficiency based on data; and~~]

[~~(iv) includes specific strategies for improving outcomes.~~]

[~~(2) A local school board or charter school governing board shall approve a plan described in Subsection (1) in a public meeting before submitting the plan to the state board.~~]

[~~(3)~~](2) (a) The state board shall:

(i) provide model plans that a local school board or a charter school governing board may use;

(ii) develop uniform standards for acceptable growth goals that a local school board or a charter school governing board adopts for a school district or charter school under this section; and

(iii) review and approve or disapprove a plan submitted under this section.

(b) Notwithstanding Subsection [~~(3)(a)~~](2)(a), a local school board or a charter school governing board may develop the board's own plan.

[~~(4)~~](3) The state board shall:

(a) develop strategies to provide support for a school district or charter school that fails to meet:

(i) the growth goal related to the state mathematics target described in Subsection [~~(1)(a)(i)~~](1)(a); and

(ii) one of the goals specific to the school district or charter school described in Subsection [~~(1)(a)(ii) or~~](1)(b); and

(b) provide increasing levels of support to a school district or charter school that fails to meet the combination of goals described in Subsection [~~(4)(a) for two consecutive years~~](3)(a).

[~~(5) (a) The state board shall use a digital reporting platform to provide information to school districts and charter schools about interventions that increase proficiency in literacy and mathematics.~~]

[~~(b) The digital reporting platform described in Subsection (5)(a) shall include performance information for a school district or charter school on the goals described in Subsection (1).~~]

Section 8. Section 53G-7-503 is amended to read:

53G-7-503

(Effective 05/07/25)

. Fees -- Prohibitions -- Voluntary supplies -- Enforcement -- Penalties.

(1) An LEA may only charge a fee if the fee is:

(a) authorized under this part; and

(b) noticed by the LEA governing board in accordance with Section 53G-7-505.

(2) (a) An LEA may not require a fee for elementary school activities that are part of the regular school day or for supplies used during the regular school day.

(b) An elementary school or elementary school teacher may compile and provide to an elementary school student's parent a suggested list of supplies for use during the regular school day so that a parent may furnish, only on a voluntary basis, those supplies for student use.

(c) A list provided to an elementary school student's parent in accordance with Subsection (2)(b) shall include and be preceded by the following language:

"NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."

(3) Beginning with the 2025-2026 school year:

(a) an LEA may not charge a secondary student a fee for a curricular activity or a co-curricular activity [~~that~~]if the activity is expressly required for the instruction of established core standards as described in Section 53E-4-202 or 53E-4-204, [~~and that is not an elective,~~] except for the following:

(i) an elective, including a course for which a student earns credit toward a fine arts requirement under the standards described in Subsection 53E-4-204(2);

[~~(i)~~](ii) instructional equipment or supplies;

[~~(ii)~~](iii) a driver education course described in Section 53G-10-503;

[~~(iii)~~](iv) a payment for a fee for:

(A) open enrollment application processing in accordance with Section 53G-6-402;

(B) charter school application processing in accordance with Section 53G-6-503; or

(C) competency remediation programs in accordance with Section 53G-9-803;

[~~(iv)~~](v) a fee described in Subsection [~~(5)~~](4);

[~~(v)~~](vi) a music instrument rental; or

[~~(vi)~~](vii) school activity clothing;

(b) for that portion of a co-curricular activity that is during regular school hours, an LEA may only charge a secondary student for the fees described in Subsection (3)(a); and

(c) an LEA may charge a secondary student a fee for a co-curricular activity or extracurricular activity, including the life-cycle replacement costs for school equipment directly related to the co-curricular or extracurricular activity.

(4) An LEA may charge a secondary student:

(a) or an individual, a fee for an adult education course in accordance with Section 53E-10-202; or

(b) a fee for tuition, college credit, an exam, or a textbook, as described in Section 53G-7-506, for:

(i) an Advanced Placement course;

(ii) an International Baccalaureate course; or

(iii) a concurrent enrollment course, as described in Section 53E-10-302.

(5) An LEA may not charge a fee, except as provided in Subsection (3)(c):

(a) for school equipment; or

(b) that is general in nature and for a service or good that does not have a direct benefit to the student paying the fee.

(6) An LEA governing board shall authorize each fee individually.

(7) (a) If an LEA imposes a fee under this part, the fee shall be equal to or less than the expense incurred by the LEA in providing for a student the activity, course, or program for which the LEA imposes the fee.

(b) An LEA may not impose an additional fee or increase a fee to supplant or subsidize another fee, including a fee to supplant or subsidize an expense that the LEA incurs for:

(i) a curricular activity; or

(ii) an expense for the portion of a co-curricular activity that occurs during regular school hours.

(8) Notwithstanding Section 53E-3-401, if the state board finds that an LEA has violated a provision of this part, the state board shall impose corrective action against the LEA, which may include:

(a) requiring an LEA to repay improperly charged fees;

(b) withholding state funds; or

(c) suspending the LEA's authority to charge fees for an amount of time specified by the state board.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(a) that require notice and an opportunity to be heard for an LEA affected by a state board action described in this Subsection (9); and

(b) to administer this Subsection (9).

Section 9. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect on May 7, 2025.

(2) The actions affecting Section 53F-2-504 (Effective 7/1/2025) take effect on July 1, 2025.

CHAPTER 395
H. B. 361
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

DRUG OVERDOSE TRAINING AMENDMENTS

Chief Sponsor: Jason E. Thompson
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill addresses training and education concerning drug overdose recognition.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the Division of Integrated Healthcare within the Department of Health and Human Services to create training and educational materials regarding recognizing a drug overdose;
- ► requires an alcohol training and education seminar to include, for certain trainees, the drug overdose training and educational materials created by the Division of Integrated Healthcare;
- ► provides that the receipt of the drug overdose training and educational materials does not create or increase liability for the individual who receives them or the individual's employer; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-5-102, as last amended by Laws of Utah 2024, Chapters 250, 420
26B-5-205, as last amended by Laws of Utah 2023, Chapter 371 and renumbered and amended by Laws of Utah 2023, Chapter 308

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-5-102 is amended to read:

26B-5-102. Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.

(1) (a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(c) There is created the Office of Substance Use and Mental Health within the division.

(d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance use by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance use;

(iii) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance use disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance use, mental health, and physical health;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;

(vii) evaluate the effectiveness of programs described in this Subsection (2);

(viii) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the

influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member;

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 26B-5-313; and

(v) to the extent authorized and in accordance with statute, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) create a certification for targeted case management;

(B) establish training and certification requirements;

(C) specify the types of services each certificate holder is qualified to provide;

(D) specify the type of supervision under which a certificate holder is required to operate; and

(E) specify continuing education and other requirements for maintaining or renewing certification;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance use and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance use and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance use services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(h); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

(k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);

(l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism in accordance with the metrics and requirements described in Section 63M-7-102;

(m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division to provide treatment;

(n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);

(o) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; [~~and~~]

(p) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services[~~.~~]; and

(q) create training and educational materials regarding recognizing a drug overdose.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 2. Section 26B-5-205 is amended to read:

26B-5-205. Alcohol training and education seminar.

(1) As used in this section:

(a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.

(b) "Licensee" means a person who is:

(i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act; and

(B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or

(ii) a business that is:

(A) a new or renewing licensee licensed by a city, town, or county; and

(B) engaged in the retail sale of beer for consumption off the premises of the licensee.

(c) "Licensee staff" means a retail manager, retail staff, an off-premise retail manager, or off-premise retail staff.

(d) "Off-premise beer retailer" is as defined in Section 32B-1-102.

(e) "Off-premise retail manager" means the same as that term is defined in Section 32B-1-701.

(f) "Off-premise retail staff" means the same as that term is defined in Section 32B-1-701.

(g) "Retail manager" means the same as that term is defined in Section 32B-1-701.

(h) "Retail staff" means the same as that term is defined in Section 32B-1-701.

(i) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2) (a) This section applies to licensee staff.

(b) An individual who does not have a valid record that the individual has completed an alcohol training and education seminar shall:

(i) complete an alcohol training and education seminar before the day on which the individual begins work as licensee staff of a licensee; and

(ii) pay a fee []to the seminar provider that is equal to or greater than the amount established under Subsection (4)(h).

(c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2)to act as licensee staff.

(d) A record that licensee staff has completed an alcohol training and education seminar is valid for three years after the day on which the record is issued.

(e) To be considered as having completed an alcohol training and education seminar, an individual shall:

(i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or

(ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).

(f) (i) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program.

(ii) In developing the requirements by rule the division shall consider whether to require:

(A) authentication that the an individual accurately identifies the individual as taking the online course or test;

(B) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;

(C) measures to track the actual time an individual taking the online course or test is actively engaged online;

(D) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;

(E) a test to meet quality standards, including randomization of test questions and maximum time limits to take a test;

(F) a seminar provider to have a system to reduce fraud as to who completes an online course or test, such as requiring a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;

(G) measures for the division to audit online courses or tests;

(H) measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;

(I) a seminar provider to track the Internet protocol address or similar electronic location of an individual who takes an online course or test;

(J) an individual who takes an online course or test to use an e-signature; or

(K) a seminar provider to invalidate a certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test.

(3) (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:

(i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;

(ii) engage in any activity that would constitute managing operations at the premises of a licensee that engages in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) A licensee that violates Subsection (3)(a) is subject to Section 32B-1-702.

(4) The division shall:

(a) (i) provide alcohol training and education seminars; or

(ii) certify one or more seminar providers;

(b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:

(i) (A) alcohol as a drug; and

(B) alcohol's effect on the body and behavior;

(ii) recognizing the problem drinker or signs of intoxication;

(iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage Services;

(iv) dealing with the problem customer, including ways to terminate sale or service; and

(v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee[~~,~~]:

(A) alternative means of transportation to get the customer safely home; and

(B) the drug overdose training and educational materials created pursuant to Subsection 26B-5-102(2)(q);

(c) recertify each seminar provider every three years;

(d) monitor compliance with the curriculum described in Subsection (4)(b);

(e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;

(f) provide the information described in Subsection (4)(e) on request to:

(i) the Department of Alcoholic Beverage Services;

(ii) law enforcement; or

(iii) a person licensed by the state or a local government to sell an alcoholic product;

(g) provide the Department of Alcoholic Beverage Services on request a list of any seminar provider certified by the division; and

(h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.

(5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) establish criteria for certifying and recertifying a seminar provider; and

(b) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.

(6) A seminar provider shall:

(a) obtain recertification by the division every three years;

(b) ensure that an instructor used by the seminar provider:

(i) follows the curriculum established under this section; and

(ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;

(c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:

(i) the curriculum established under this section; and

(ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and

(ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and

(f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.

(7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:

(i) suspend the certification of the seminar provider for a period not to exceed 90 days after the day on which the suspension begins;

(ii) revoke the certification of the seminar provider;

(iii) require the seminar provider to take corrective action regarding an instructor; or

(iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).

(b) The division may certify a seminar provider whose certification is revoked:

(i) no sooner than 90 days after the day on which the certification is revoked; and

(ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

(8) An individual's receipt of the training and educational materials described in Subsection (4)(b)(v)(B) does not place any additional responsibility or liability on the individual or the individual's employer, and shall not be construed to increase or create liability or responsibility for the individual or the individual's employer.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 396
H. B. 84
Passed February 28, 2025
Approved March 26, 2025
Effective May 7, 2025

VACCINE AMENDMENTS

Chief Sponsor: Trevor Lee
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill addresses vaccines or vaccine material.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► designates food intended for human consumption that intentionally contains a vaccine or vaccine material as a drug; and
- ► makes technical amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-7-108, as renumbered and amended by Laws of Utah 2023, Chapter 308
58-37-2, as last amended by Laws of Utah 2024, Chapter 35

ENACTS:

4-5-107, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-5-107 is enacted to read:

4-5-107. Food containing vaccine.

(1) As used in this section, "vaccine or vaccine material" means a substance that is:

(a) intended for use in humans to stimulate the production of antibodies and provide immunity against disease;

(b) prepared from the causative agent of a disease, the disease's products, or a synthetic substitute treated to act as an antigen without including the disease; and

(c) authorized or approved by the United States Food and Drug Administration.

(2) A food intended for human consumption that intentionally contains a vaccine or vaccine material is considered a drug for purposes of this chapter, Section 26B-7-108, and Title 58, Chapter 37, Utah Controlled Substances Act.

Section 2. Section 26B-7-108 is amended to read:

26B-7-108. Rules for sale of drugs, cosmetics, and medical devices.

(1) The department shall [~~establish~~]make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and enforce the rules for the sale or distribution of human drugs, cosmetics, and medical devices.

(2) Food intended for human consumption that intentionally contains a vaccine or vaccine material is considered a human drug for purposes of this section as provided in Section 4-5-107.

(3) The rules adopted under this section shall be no more stringent than those established by federal law.

Section 3. Section 58-37-2 is amended to read:

58-37-2. Definitions.

(1) As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or

(ii) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or practitioner but does not include a motor carrier, public warehouseman, or employee of any of them.

(c) "Consumption" means ingesting or having any measurable amount of a controlled substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a controlled substance.

(d) "Continuing criminal enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or

other legal entity, and any union or groups of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities created or maintained for the purpose of engaging in conduct which constitutes the commission of episodes of activity made unlawful by [~~Chapter 37, Utah Controlled Substances Act~~]this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise.

(e) "Control" means to add, remove, or change the placement of a drug, substance, or immediate precursor under Section 58-37-3.

(f) (i) "Controlled substance" means a drug or substance:

(A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

(B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513;

(C) that is a controlled substance analog; or

(D) listed in Section 58-37-4.2.

(ii) "Controlled substance" does not include:

(A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B, Alcoholic Beverage Control Act;

(B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(C) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which:

(I) are not otherwise regulated by law; and

(II) may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(g) (i) "Controlled substance analog" means:

(A) a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513;

(B) a substance [~~which~~]that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

(C) A substance [~~which~~]that, with respect to a particular individual, is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ii) "Controlled substance analog" does not include:

(A) a controlled substance currently scheduled in Schedules I through V of Section 58-37-4;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent the conduct with respect to the substance is permitted by the exemption;

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

(E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench, or plea, whether guilty or no contest, for any offense proscribed by:

(A) [~~Chapter 37, Utah Controlled Substances Act~~]this chapter;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act; or

(ii) for any offense under the laws of the United States and any other state which, if committed in this state, would be an offense under:

(A) [~~Chapter 37, Utah Controlled Substances Act~~]this chapter;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act.

(i) "Counterfeit substance" means:

(i) any controlled substance or container or labeling of any controlled substance that:

(A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance which falsely purports to be a controlled substance distributed by any other manufacturer, distributor, or dispenser; and

(B) a reasonable person would believe to be a controlled substance distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled

substance; or

(ii) any substance other than under Subsection (1)(i)(i) that:

(A) is falsely represented to be any legally or illegally manufactured controlled substance; and

(B) a reasonable person would believe to be a legal or illegal controlled substance.

(j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not an agency relationship exists.

(k) "Department" means the Department of Commerce.

(l) "Depressant or stimulant substance" means:

(i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid;

(ii) a drug which contains any quantity of:

(A) amphetamine or any of its optical isomers;

(B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or

(C) any substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found and by regulation designated habit-forming because of its stimulant effect on the central nervous system;

(iii) lysergic acid diethylamide; or

(iv) any drug which contains any quantity of a substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(m) "Dispense" means the delivery of a controlled substance by a pharmacist to an ultimate user pursuant to the lawful order or prescription of a practitioner, and includes distributing to, leaving with, giving away, or disposing of that substance as well as the packaging, labeling, or compounding necessary to prepare the substance for delivery.

(n) "Dispenser" means a pharmacist who dispenses a controlled substance.

(o) "Distribute" means to deliver other than by administering or dispensing a controlled substance or a listed chemical.

(p) "Distributor" means a person who distributes controlled substances.

(q) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(r) (i) "Drug" means:

(A) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(B) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(C) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(D) substances intended for use as a component of any substance specified in Subsections (1)(r)(i)(A), (B), and (C).

(ii) "Drug" does not include dietary supplements.

(iii) "Drug" includes a food intended for human consumption that intentionally contains a vaccine or vaccine material as provided in Section 4-5-107.

(s) "Drug dependent person" means any individual who unlawfully and habitually uses any controlled substance to endanger the public morals, health, safety, or welfare, or who is so dependent upon the use of controlled substances as to have lost the power of self-control with reference to the individual's dependency.

(t) (i) "Food" means:

[~~(i)~~](A) any nutrient or substance of plant, mineral, or animal origin other than a drug as specified in this chapter, and normally ingested by human beings; and

[~~(ii)~~](B) foods for special dietary uses as exist by reason of a physical, physiological, pathological, or other condition including [~~but not limited to~~]the conditions of disease, convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and overweight; uses for supplying a particular dietary need which exist by reason of age including [~~but not limited to~~]the ages of infancy and childbirth, and also uses for supplementing and for fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for use of a food.

(ii) Any particular use of a food is a special dietary use regardless of the nutritional purposes.

(u) "Immediate precursor" means a substance which the Attorney General of the United States has found to be, and by regulation designated as being, the principal compound used or produced primarily for use in the manufacture of a controlled substance, or which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(v) "Indian" means a member of an Indian tribe.

(w) "Indian religion" means [~~any~~]a religion:

(i) the origin and interpretation of which is from within a traditional Indian culture or community; and

(ii) [~~which~~]that is practiced by Indians.

(x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, which is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of their status as Indians.

(y) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

(z) "Manufacturer" includes any person who packages, repackages, or labels any container of any controlled substance, except pharmacists who dispense or compound prescription orders for delivery to the ultimate consumer.

(aa) (i) "Marijuana" means all species of the genus cannabis and all parts of the genus, whether growing or not, including:

(A) seeds;

(B) resin extracted from any part of the plant, including the resin extracted from the mature stalks;

(C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, seeds, or resin;

(D) any synthetic equivalents of the substances contained in the plant cannabis sativa or any other species of the genus cannabis which are chemically indistinguishable and pharmacologically active; and

(E) any component part or cannabinoid extracted or isolated from the plant, including extracted or isolated tetrahydrocannabinols.

(ii) "Marijuana" does not include:

(A) the mature stalks of the plant;

(B) fiber produced from the stalks;

(C) oil or cake made from the seeds of the plant;

(D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil or cake;

(E) the sterilized seed of the plant which is incapable of germination;

(F) any compound, mixture, or preparation approved by the federal Food and Drug Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq. that is not listed in a schedule of controlled substances in Section 58-37-4 or in the federal Controlled Substances Act, Title II, P.L. 91-513; or

(G) transportable industrial hemp concentrate as that term is defined in Section 4-41-102.

(bb) "Money" means officially issued coin and currency of the United States or any foreign country.

(cc) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(i) opium, coca leaves, and opiates;

(ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(iii) opium poppy and poppy straw; or

(iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the substance, which is chemically identical with any of the substances referred to in Subsection (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

(dd) "Negotiable instrument" means documents, containing an unconditional promise to pay a sum of money, which are legally transferable to another party by endorsement or delivery.

(ee) "Opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(ff) "Opium poppy" means the plant of the species papaver somniferum L., except the seeds of the plant.

(gg) "Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

(hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ii) "Possession" or "use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of controlled substances and includes individual, joint, or group possession or use of controlled substances. For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of any substances with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over [~~it~~]the controlled substance.

(jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(kk) "Prescribe" means to issue a prescription:

(i) orally or in writing; or

(ii) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(ll) "Prescription" means an order issued:

(i) by a licensed practitioner, in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(ii) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(mm) "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of property.

(oo) "State" means the state of Utah.

(pp) "Ultimate user" means any person who lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administration to an animal owned by the person or a member of the person's household.

(2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah Criminal Code, shall apply.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 397
H. B. 363
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

MATERNAL AND INFANT AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill addresses newborn infant testing.

Highlighted Provisions:

This bill:

- ► requires the Department of Corrections and the county jails to ensure that each female individual admitted to a correctional facility is tested for pregnancy;
- ► amends the membership of the Correctional Postnatal and Early Childhood Advisory Board (the board);
- ► extends the repeal date of the board;
- ► requires the Department of Health and Human Services (department) to publish a privacy consent form pertaining to newborn infant testing;
- ► requires that the privacy consent form be provided to a newborn infant's parent or guardian prior to conducting a newborn infant heelstick screen;
- ► makes hearing loss a required newborn infant test, regardless of the number of annual births that occur at the hospital or setting where the infant was born;
- ► provides for giving a parent or guardian the option to consent to the department's retention policy for biological samples or genetic data collected through newborn infant testing;
- ► requires the department to destroy a biological sample or any genetic data collected through newborn infant testing; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-8, as last amended by Laws of Utah 2023, Chapters 119, 420
26B-4-319, as renumbered and amended by Laws of Utah 2023, Chapter 307
63I-1-264, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
64-13-46, as last amended by Laws of Utah 2024, Chapter 182
64-13-46.1, as renumbered and amended by Laws of Utah 2024, Chapter 182

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-8 is amended to read:

17-22-8. Care of prisoners -- Funding of services -- Private contractor.

(1) As used in this section, "medication assisted treatment plan" means a prescription plan to use buprenorphine, methadone, or naltrexone to treat substance use withdrawal symptoms or an opioid use disorder.

(2) Except as provided in Subsection (7), a sheriff shall:

(a) receive each individual committed to jail by competent authority;

(b) provide each prisoner with necessary food, clothing, and bedding in the manner prescribed by the county legislative body;

(c) provide each prisoner medical care when:

(i) the prisoner's symptoms evidence a serious disease or injury;

(ii) the prisoner's disease or injury is curable or may be substantially alleviated; and

(iii) the potential for harm to the person by reason of delay or the denial of medical care would be substantial;

(d) provide each prisoner, as part of the intake process, with the option of continuing any of the following medically prescribed methods of contraception:

(i) an oral contraceptive;

(ii) an injectable contraceptive;

(iii) a patch;

(iv) a vaginal ring; or

(v) an intrauterine device, if the prisoner was prescribed the intrauterine device because the prisoner experiences serious and persistent

adverse effects when using the methods of contraception described in Subsections (2)(d)(i) and (ii); [~~and~~]

(e) cooperate with medical personnel to continue a medication assisted treatment plan for an inmate if the inmate was an active client before arrest and commitment[~~.~~]; and

(f) ensure that each female prisoner younger than 50 years old who has been incarcerated for longer than 72 hours on a state or local criminal offense is offered, which the prisoner may reject, a test for pregnancy.

(3) A sheriff may provide the generic form of a contraceptive described in Subsection (2)(d)(i) or (ii).

(4) A sheriff shall follow the provisions of Section 64-13-46 if a prisoner is pregnant or in postpartum recovery[~~, including the reporting requirements in Subsection 64-13-45(2)(c)~~].

(5) (a) Except as provided in Section 17-22-10 and Subsection (5)(b), the expense incurred in providing the services required by this section to prisoners shall be paid from the county treasury.

(b) The expense incurred in providing the services described in Subsection (2)(d) to prisoners shall be paid by the Department of Health and Human Services.

(6) A medication used for a medication assisted treatment plan under Subsection (2)(e):

(a) shall be administered to an inmate in accordance with the inmate's prescription under the direction of the sheriff;

(b) may be paid for by a county; and

(c) may be left or stored at a jail at the discretion of the sheriff.

(7) If the county executive contracts with a private contractor to provide the services required by this section, the sheriff shall provide only those services required of the sheriff by the contract between the county and the private contractor.

Section 2. Section 26B-4-319 is amended to read:

26B-4-319. Testing of newborn infants.

(1) (a) Except in the case where parents object on the grounds that they are members of a specified, well-recognized religious organization whose teachings are contrary to the tests required by this section, a newborn infant shall be tested for:

[~~(a)~~](i) phenylketonuria (PKU);

[~~(b)~~](ii) other heritable disorders which may result in an intellectual or physical disability or death and for which:

[~~(i)~~](A) a preventive measure or treatment is available; and

[~~(ii)~~](B) there exists a reliable laboratory diagnostic test method;

[~~(c) (i) an infant born in a hospital with 100 or more live births annually, hearing loss; and~~]

[~~(ii) an infant born in a setting other than a hospital with 100 or more live births annually, hearing loss; and~~]

(iii) hearing loss; and

[~~(d)~~](iv) critical congenital heart defects using pulse oximetry.

(b) (i) Prior to conducting newborn infant testing under this section, information shall be provided to the newborn infant's parent or guardian explaining relevant facts and information about newborn infant testing and sample storage under this section.

(ii) Prior to conducting a newborn infant heelstick screen under this section, a copy of the privacy consent form described in Subsection (5) shall be provided to the newborn infant's parent or guardian.

(iii) The department may retain, in accordance with the department's retention policy, a biological sample and any genetic data, as those terms are defined in Section 13-60-102, collected under this section, only if a parent or guardian consents to the retention policy on the privacy consent form.

(c) A biological sample and any genetic data collected under this section shall be destroyed:

(i) according to the department's retention policy; or

(ii) if the newborn infant's parent or guardian does not consent to the department's retention policy, upon completion of the newborn infant's testing under this section.

(2) In accordance with Section 26B-1-209, the department may charge fees for:

(a) materials supplied by the department to conduct tests required under Subsection (1);

(b) tests required under Subsection (1) conducted by the department;

(c) laboratory analyses by the department of tests conducted under Subsection (1); and

(d) the administrative cost of follow-up contacts with the parents or guardians of tested infants.

(3) Tests for hearing loss described in Subsection (1) shall be based on one or more methods approved by the Newborn Hearing Screening Committee created in Section 26B-1-432, including:

(a) auditory brainstem response;

(b) automated auditory brainstem response; and

(c) evoked otoacoustic emissions.

(4) Results of tests for hearing loss described in Subsection (1) shall be reported to:

(a) the department; and

(b) when results of tests for hearing loss under Subsection (1) suggest that additional diagnostic procedures or medical interventions are necessary:

(i) a parent or guardian of the infant;

(ii) an early intervention program administered by the department in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1431 et seq.; and

(iii) the Utah Schools for the Deaf and the Blind, created in Section 53E-8-201.

(5) The department shall publish a privacy consent form containing:

(a) relevant facts and information about:

(i) the purposes for which the department retains biological samples or any genetic data obtained through newborn infant testing; and

(ii) the department's retention policy for biological samples or any genetic data obtained through newborn infant testing; and

(b) the option for a parent or guardian to indicate consent to the department's retention policy.

Section 3. Section 63I-1-264 is amended to read:

63I-1-264. Repeal dates: Title 64.

Section 64-13-46.1, Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, [~~2025~~]2027.

Section 4. Section 64-13-46 is amended to read:

64-13-46. Pregnant inmates.

(1) As used in this section:

(a) "Postpartum recovery" means, as determined by the pregnant inmate's physician, the period immediately following delivery, including the entire period the inmate is in the hospital or health care facility after birth.

(b) "Restraints" means any physical restraint or mechanical device used to control the movement of an inmate's body or limbs, including flex cuffs, soft restraints, shackles, or a convex shield.

(c) (i) "Shackles" means metal restraints, including leg irons, belly chains, or a security or tether chain.

(ii) "Shackles" does not include hard metal handcuffs.

(2) The department shall ensure that each female inmate younger than 50 years old is offered, which the inmate may reject, a test for pregnancy upon admission, or within a reasonable time after admission, to a correctional facility.

[~~(2)~~](3) Subject to Subsections [~~(3) and (4)~~](4) and (5), if the staff of a correctional facility knows or has reason to believe that an inmate is pregnant or is in postpartum recovery, the staff shall, when restraining the inmate at any time or location, use the least restrictive restraints necessary to ensure the safety and security of the inmate and others.

[~~(3)~~](4) A correctional staff member may not use restraints on an inmate during the third trimester of pregnancy, labor, or childbirth unless a correctional staff member makes an individualized determination that there are compelling grounds to believe that the inmate presents:

(a) an immediate and serious risk of harm to the inmate, the inmate's infant, medical staff, correctional staff, or the public; or

(b) a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.

[~~(4)~~](5) Notwithstanding Subsection [~~(3)~~](4), under no circumstances may shackles, leg restraints, or waist restraints be used on an inmate during the third trimester of pregnancy, labor, childbirth, or postpartum recovery.

[~~(5)~~](6) Correctional staff present during labor or childbirth shall:

(a) be stationed in a location that offers the maximum privacy to the inmate, while taking into consideration safety and security concerns; and

(b) be female, if practicable.

[~~(6)~~](7) If a correctional staff member authorizes restraints under Subsection [~~(2) or (3)~~](3) or (4), the correctional staff member shall make a written record of the authorization and use of the restraints that includes:

(a) an explanation of the grounds for the correctional staff member's authorization on the use of restraints;

(b) the type of restraints that were used; and

(c) the length of time the restraints were used.

[~~(7)~~](8) The record described in Subsection [~~(6)~~](7):

(a) shall be retained by the correctional facility for five years;

(b) shall be available for public inspection with individually identifying information redacted; and

(c) may not be considered a medical record under state or federal law.

[~~(8)~~](9) For a minimum of 48 hours after an inmate has given birth, a correctional facility shall, if directed by the inmate's physician, allow the infant to remain with the inmate at the health care facility.

[~~(9)~~](10) A correctional facility shall provide:

(a) an inmate who is pregnant, or who has given birth within the past six weeks, access to a social worker to help the inmate:

(i) arrange childcare;

(ii) establish a reunification plan; and

(iii) establish a substance abuse treatment plan, if needed; and

(b) an inmate in postpartum recovery access to postpartum care for up to 12 weeks as determined by the inmate's physician.

[~~(10)~~](11) The department may not create or operate a nursery in a correctional facility to provide space for a female inmate and the inmate's child.

Section 5. Section 64-13-46.1 is amended to read:

64-13-46.1. Correctional Postnatal and Early Childhood Advisory Board -- Duties -- Rulemaking.

(1) As used in this part:

(a) "Advisory board" means the Correctional Postnatal and Early Childhood Advisory Board.

(b) "Correctional facility" means a facility operated by the department or a county sheriff that houses inmates in a secure setting.

(c) "Incarcerated mother" means an inmate who:

(i) has recently given birth before entering a correctional facility;

(ii) is pregnant and incarcerated in a correctional facility; or

(iii) has given birth while incarcerated in a correctional facility.

(2) The advisory board shall consist of the following members:

(a) two individuals from the department, appointed by the executive director;

(b) one individual appointed by the Board of Pardons and Parole;

(c) one individual appointed by the president of the Utah Sheriffs' Association;

(d) one individual representing the Administrative Office of the Courts appointed by the Judicial Council;

(e) one individual appointed by the Statewide Association of Public Attorneys and Prosecutors;

(f) one individual appointed by the Utah Association of Criminal Defense Lawyers; and

[~~(d)~~](g) four individuals appointed by the executive director of the Department of Health and Human Services, including:

(i) [~~two~~]one pediatric healthcare [~~providers~~]provider;

(ii) one individual with expertise in early childhood development;

(iii) one individual employed by the Division of Child and Family Services; and

[~~(iii)~~](iv) one individual with experience advocating for incarcerated women.

(3) [~~(a) Except as provided in Subsection (3)(b), a member of the advisory board shall be appointed for a four-year term.~~]

[~~(b) A member that is appointed to complete an unexpired term may complete the unexpired term and serve a subsequent four-year term.~~]

[~~(c) Appointments and reappointments may be staggered so that one-fourth of the advisory board changes each year.~~]

[~~(d)~~] The advisory board shall annually elect a chair and co-chair of the board from among the members of the board[~~to serve a two-year term~~].

(4) The advisory board shall meet at least bi-annually, or more frequently as determined by the executive director, the chair, or three or more members of the advisory board.

(5) A majority of the board constitutes a quorum and a vote of the majority of the members present constitutes an action of the advisory board.

(6) A member of the advisory board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(7) The advisory board shall:

(a) review research regarding childhood development and best practices for placing infants and incarcerated mothers in a diversion program not located in a correctional facility;

(b) study the costs of implementing a diversion program for infants and incarcerated mothers removed from a correctional facility;

(c) create a provisional plan for implementing a diversion program for infants and incarcerated mothers removed from a correctional facility; and

(d) advise and make recommendations to the department and county sheriffs regarding rules and policies for placing an infant or incarcerated mother in a diversion program not located in a correctional facility.

(8) On or before November 30 [~~, 2024~~]of each year, the advisory board shall provide a report of the advisory board's research and study under Subsections (7)(a) through (c), including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the [~~Executive Offices and~~]Criminal Justice Appropriations Subcommittee.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 398
H. B. 365
Passed March 5, 2025
Approved March 26, 2025
Effective May 7, 2025

MENTAL HEALTH CARE STUDY AMENDMENTS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill requires the Department of Health and Human Services to issue a request for proposals to conduct a study.

Highlighted Provisions:

This bill:

► requires the Department of Health and Human Services to issue a request for proposals to conduct a study on wait times and barriers for a child to see a therapist.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26B-5-613, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-5-613 is enacted to read:

26B-5-613. Mental health access study.

(1) The department shall issue a request for proposals for a person to conduct a comprehensive study of wait times and barriers to accessing pediatric mental health care in Utah, which shall:

(a) measure and analyze the average time between a child's initial referral to a mental health appointment and the date of the first available appointment;

(b) identify factors affecting wait times, including:

(i) geographic location;

(ii) insurance type;

(iii) provider availability;

(iv) specialty care needs; and

(v) other relevant barriers to access;

(c) compare wait times across different:

(i) geographic regions of the state;

(ii) types of mental health providers;

(iii) practice settings; and

(iv) payment models;

(d) include both quantitative and qualitative data collection methods; and

(e) survey parents regarding experiences accessing care.

(2) The person selected for the study shall:

(a) develop appropriate methods to collect data while protecting patient privacy;

(b) comply with all applicable state and federal privacy laws; and

(c) ensure all data is deidentified before inclusion in any reports.

(3) The person selected for the study shall submit to the Health and Human Services Interim Committee and the Behavioral Health Commission created Section 26B-5-702:

(a) a preliminary report of findings before May 31, 2026; and

(b) a final report, including policy recommendations, before May 31, 2027.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 399
H. B. 368
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

LOCAL LAND USE AMENDMENTS

Chief Sponsor: Stephen L. Whyte
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies provisions related to land use.

Highlighted Provisions:

This bill:

- ► defines terms and modifies definitions;
- ► clarifies and modifies statutes regarding municipal annexation and municipal boundary adjustments;
- ► renumbers and amends Title 10, Chapter 2, Part 4, Annexation, to Title 10, Chapter 2, Part 8, Annexation and Title 10, Chapter 2, Part 9, Municipal Boundary Adjustments;
- ► renumbers and amends the process by which a municipality or county conducts certain plan reviews;
- ► modifies notice requirements before a public hearing on a proposed land use regulation;
- ► provides that a municipality or county may not require a private individual or entity, including a community association or homeowners association, to permanently maintain or be responsible for a public access amenity or water utility unless certain conditions apply;
- ► modifies the process by which a municipality or county inspects and approves or rejects the performance of warranty work;
- ► modifies a municipality's or county's process in regulating landscaping;
- ► modifies the process for a municipality or county to allow transferable development rights;
- ► creates a process by which an applicant may submit an identical floor plan to a municipality for an expedited review;
- ► provides that a municipality or county may not require a public hearing for a request for a variance or another land use appeal;
- ► modifies the ability of a municipality or county to enforce an ordinance by withholding a building permit or certificate of occupancy;
- ► modifies the State Fire Code Act;
- ► modifies provisions related to special districts and land use;
- ► establishes a process by which a person may convey real property by deed to a public entity; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2-510,
(Effective 05/07/25)
as last amended by Laws of Utah 2010, Chapter 378
10-2a-103,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 342
10-2a-107,
(Effective 05/07/25)
as enacted by Laws of Utah 2024, Chapter 342
10-2a-201.5,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapters 342, 518 and 534
10-2a-205,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapters 342, 518
10-2a-205.5,
(Effective 05/07/25)
as enacted by Laws of Utah 2024, Chapter 342
10-2a-207,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapters 224, 435 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 224 and further amended by Revisor Instructions, Laws of Utah 2023, Chapter 224

10-2a-210,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 342
10-2a-501,
(Effective 05/07/25) (Repealed 01/01/31)
as enacted by Laws of Utah 2024, Chapter 534
10-2a-506,
(Effective 05/07/25) (Repealed 01/01/31)
as enacted by Laws of Utah 2024, Chapter 534
10-6-103,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 438
10-8-14,
(Effective 05/07/25)
as last amended by Laws of Utah 2019, Chapter 99
10-9a-103,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 464
10-9a-205,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 435
10-9a-508,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapters 255, 478
10-9a-509,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 415
10-9a-509.5,
(Effective 05/07/25)
as last amended by Laws of Utah 2020, Chapter 126
10-9a-509.7,
(Effective 05/07/25)
as last amended by Laws of Utah 2012, Chapter 231
10-9a-510,
(Effective 05/07/25)
as last amended by Laws of Utah 2021, Chapter 35
10-9a-529,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 464
10-9a-536,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 415
10-9a-604.5,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 415
10-9a-701,
(Effective 05/07/25)
as last amended by Laws of Utah 2021, Chapter 385
10-9a-802,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 415
15A-1-105,
(Effective 05/07/25)
as enacted by Laws of Utah 2024, Chapter 375
15A-3-203,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 505
15A-5-205.6,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 95
17-27a-102,
(Effective 05/07/25)
as last amended by Laws of Utah 2022, Chapter 307
17-27a-103,
(Effective 05/07/25)

as last amended by Laws of Utah 2024, Chapter 464
17-27a-205,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 435
17-27a-508,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 415
17-27a-509,
(Effective 05/07/25)
as last amended by Laws of Utah 2021, Chapter 35
17-27a-509.5,
(Effective 05/07/25)
as last amended by Laws of Utah 2019, Chapter 384
17-27a-509.7,
(Effective 05/07/25)
as last amended by Laws of Utah 2012, Chapter 231
17-27a-532,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 415
17-27a-604.5,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 415
17-27a-701,
(Effective 05/07/25)
as last amended by Laws of Utah 2021, Chapter 385
17-27a-802,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 415
17B-1-119,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 15
17B-1-503,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 15
17B-1-512,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 342
17B-2a-1106,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapters 342, 438
23A-13-304,
(Effective 05/07/25)
as renumbered and amended by Laws of Utah 2023, Chapter 103
26B-1-429,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 529
53-2d-514,
(Effective 05/07/25)
as renumbered and amended by Laws of Utah 2023, Chapters 307, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
54-3-30,
(Effective 05/07/25)
as last amended by Laws of Utah 2014, Chapter 55
54-3-31,
(Effective 05/07/25)
as last amended by Laws of Utah 2014, Chapters 55, 189
57-1-1,
(Effective 05/07/25)
as last amended by Laws of Utah 2004, Chapter 249
59-12-208.1,
(Effective 05/07/25)
as last amended by Laws of Utah 2012, Chapter 254
59-12-355,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 263

59-12-403,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 471
59-12-806,
(Effective 05/07/25)
as last amended by Laws of Utah 2012, Chapter 254
59-12-1302,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 471
59-12-1402,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 471
59-12-2102,
(Effective 05/07/25)
as enacted by Laws of Utah 2008, Chapter 323
63A-5b-305,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 435

ENACTS:

10-2-802,
(Effective 05/07/25)
Utah Code Annotated 1953
10-2-901,
(Effective 05/07/25)
Utah Code Annotated 1953
10-2-902,
(Effective 05/07/25)
Utah Code Annotated 1953
10-2-904,
(Effective 05/07/25)
Utah Code Annotated 1953
10-2-905,
(Effective 05/07/25)
Utah Code Annotated 1953
10-9a-508.1,
(Effective 05/07/25)
Utah Code Annotated 1953
10-9a-541,
(Effective 05/07/25)
Utah Code Annotated 1953
17-27a-309,
(Effective 05/07/25)
Utah Code Annotated 1953
17-27a-508.1,
(Effective 05/07/25)
Utah Code Annotated 1953
17-27a-536,
(Effective 05/07/25)
Utah Code Annotated 1953
57-1-48,
(Effective 05/07/25)
Utah Code Annotated 1953

RENUMBERS AND AMENDS:

10-2-801,
(Effective 05/07/25)
(Renumbered from 10-2-401, as last amended by Laws of Utah 2023, Chapters 16, 478)
10-2-803,
(Effective 05/07/25)
(Renumbered from 10-2-401.5, as last amended by Laws of Utah 2021, Chapter 112)
10-2-804,
(Effective 05/07/25)
(Renumbered from 10-2-402, as last amended by Laws of Utah 2023, Chapters 224, 478)
10-2-805,
(Effective 05/07/25)

(Renumbered from 10-2-402.5, as enacted by Laws of Utah 2021, Chapter 112)
10-2-806,
(Effective 05/07/25)
(Renumbered from 10-2-403, as last amended by Laws of Utah 2024, Chapter 415)
10-2-807,
(Effective 05/07/25)
(Renumbered from 10-2-405, as last amended by Laws of Utah 2024, Chapter 438)
10-2-808,
(Effective 05/07/25)
(Renumbered from 10-2-406, as last amended by Laws of Utah 2023, Chapters 16, 435)
10-2-809,
(Effective 05/07/25)
(Renumbered from 10-2-409, as last amended by Laws of Utah 2001, Chapter 206)
10-2-810,
(Effective 05/07/25)
(Renumbered from 10-2-407, as last amended by Laws of Utah 2023, Chapters 435, 478)
10-2-811,
(Effective 05/07/25)
(Renumbered from 10-2-415, as last amended by Laws of Utah 2023, Chapter 435)
10-2-812,
(Effective 05/07/25)
(Renumbered from 10-2-418, as last amended by Laws of Utah 2023, Chapters 16, 435)
10-2-813,
(Effective 05/07/25)
(Renumbered from 10-2-425, as last amended by Laws of Utah 2024, Chapters 342, 438)
10-2-814,
(Effective 05/07/25)
(Renumbered from 10-2-429, as enacted by Laws of Utah 2024, Chapter 342)
10-2-815,
(Effective 05/07/25)
(Renumbered from 10-2-422, as repealed and reenacted by Laws of Utah 1997, Chapter 389)
10-2-816,
(Effective 05/07/25)
(Renumbered from 10-2-420, as repealed and reenacted by Laws of Utah 1997, Chapter 389)
10-2-817,
(Effective 05/07/25)
(Renumbered from 10-2-421, as last amended by Laws of Utah 2021, Chapter 54)
10-2-903,
(Effective 05/07/25)
(Renumbered from 10-2-419, as last amended by Laws of Utah 2023, Chapters 16, 139, 327, and 435)
10-9a-542,
(Effective 05/07/25)
(Renumbered from 10-6-160, as last amended by Laws of Utah 2024, Chapter 375)
17-27a-537,
(Effective 05/07/25)
(Renumbered from 17-36-55, as last amended by Laws of Utah 2024, Chapter 375)

REPEALS:

10-2-408,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 478
10-2-409.5,
(Effective 05/07/25)
as enacted by Laws of Utah 2001, Chapter 206
10-2-410,
(Effective 05/07/25)
as last amended by Laws of Utah 2001, Chapter 206
10-2-411,
(Effective 05/07/25)
as last amended by Laws of Utah 2015, Chapter 352
10-2-412,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 16
10-2-413,
(Effective 05/07/25)

as last amended by Laws of Utah 2023, Chapter 16
10-2-414,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 16
10-2-416,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 478
10-2-417,
(Effective 05/07/25)
as repealed and reenacted by Laws of Utah 1997, Chapter 389
10-2-426,
(Effective 05/07/25)
as last amended by Laws of Utah 2001, Chapter 206
10-2-428,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 16
10-5-132,
(Effective 05/07/25)
as last amended by Laws of Utah 2021, First Special Session, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-510 is amended to read:
10-2-510
(Effective 05/07/25)
. Boundary adjustment procedure not affected.

This part may not be construed to abrogate, modify, or replace the boundary adjustment procedure provided in Section [~~10-2-419~~]10-2-903.

Section 2. Section 10-2-801, which is renumbered from Section 10-2-401 is renumbered and amended to read:

PART 8. Annexation

[~~10-2-401~~]10-2-801
(Effective 05/07/25)
. Definitions.

[~~(1)~~] As used in this part:

[~~(a)~~](1) "Affected area" means an annexed area or area proposed for annexation.

(2) "Affected entity" means:

[~~(i)~~](a) a county of the first or second class in whose unincorporated area the area proposed for annexation is located;

[~~(ii)~~](b) a county of the third, fourth, fifth, or sixth class in whose unincorporated area the area proposed for annexation is located, if the area includes residents or commercial or industrial development;

[~~(iii)~~](c) a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, whose boundary includes any part of an area proposed for annexation;

[~~(iv)~~](d) a school district whose boundary includes any part of an area proposed for annexation, if the boundary is proposed to be adjusted as a result of the annexation; and

[~~(v)~~](e) a municipality whose boundaries are within 1/2 mile of an area proposed for annexation.

[~~(b)~~](3) "Annexation action" means:

(a) the enactment of an ordinance annexing an unincorporated area;

(b) the enactment of an ordinance approving a boundary adjustment by each of the municipalities involved in the boundary adjustment; or

(c) an automatic annexation that occurs on July 1, 2027, under Subsection 10-2-814(2)(b).

(4) "Annexation petition" means a petition under Section [~~10-2-403~~]10-2-806 proposing the annexation to a municipality of a contiguous, unincorporated area that is contiguous to the municipality.

(5) "Annexing municipality" means:

(a) the municipality that annexes an unincorporated area; or

(b) the municipality to which an unincorporated island is automatically annexed under Section 10-2-814.

(6) "Applicable legislative body" means:

(a) the legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary; or

(b) the legislative body of a municipality to which an unincorporated island is automatically annexed under Section 10-2-814.

[~~(c) "Commission" means a boundary commission established under Section 10-2-409for the county in which the property that is proposed for annexation is located.~~]

[~~(d)~~](7) "Expansion area" means the unincorporated area that is identified in an annexation policy plan under Section [~~10-2-401.5~~]10-2-803 as the area that the municipality anticipates annexing in the future.

[~~(e)~~](8) "Feasibility consultant" means a person or firm with expertise in the processes and economics of local government.

[~~(f)~~](9) "Mining protection area" means the same as that term is defined in Section 17-41-101.

(10) "Municipal records officer" means a:

(a) city recorder; or

(b) town clerk.

[~~(g)~~](11) "Municipal selection committee" means a committee in each county composed of the mayor of each municipality within that county.

(12) "Owner of real property" means:

(a) the record title owner according to the records of the county recorder on the date of the filing of the petition or protest; or

(b) the lessee of military land, as defined in Section 63H-1-102, if the area proposed for annexation includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

[~~(h) "Planning advisory area" means the same as that term is defined in Section 17-27a-306.~~]

[~~(i)~~](13) "Private," with respect to real property, means not owned by:

(a) the United States or any agency of the federal government[~~,~~];

(b) the state[~~,~~];

(c) a county[~~,~~];

(d) a municipality[~~,~~];

(e) a school district[~~,~~];

(f) a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts[~~,~~];

(g) a special service district under Title 17D, Chapter 1, Special Service District Act[~~,~~]; or

(h) any other political subdivision or governmental entity of the state.

[~~(j)~~](14) [~~(i)~~](a) "Rural real property" means a group of contiguous tax parcels, or a single tax parcel, that:

[~~(A)~~](i) are under common ownership;

[~~(B)~~](ii) consist of no less than 1,000 total acres;

[~~(C)~~](iii) are zoned for manufacturing or agricultural purposes; and

[~~(D)~~](iv) do not have a residential unit density greater than one unit per acre.

[~~(ii)~~](b) "Rural real property" includes any portion of private real property, if the private real property:

[~~(A)~~](i) qualifies as rural real property under Subsection [~~(1)(j)(i)~~](14)(a); and

[~~(B)~~](ii) consists of more than 1,500 total acres.

[~~(k)~~](15) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.

[~~(l)~~](16) "Unincorporated peninsula" means an unincorporated area:

[~~(i)~~](a) that is part of a larger unincorporated area;

[~~(ii)~~](b) that extends from the rest of the unincorporated area of which it is a part;

[~~(iii)~~](c) that is surrounded by land that is within a municipality, except where the area connects to and extends from the rest of the unincorporated area of which it is a part; and

[~~(iv)~~](d) whose width, at any point where a straight line may be drawn from a place where it borders a municipality to another place where it borders a municipality, is no more than 25% of the boundary of the area where it borders a municipality.

[~~(m)~~](17) "Urban development" means:

[~~(i)~~](a) a housing development with more than 15 residential units and an average density greater than one residential unit per acre; or

[~~(ii)~~](b) a commercial or industrial development for which cost projections exceed $750,000 for all phases.

[~~(2) For purposes of this part:~~]

[~~(a) the owner of real property shall be:~~]

[~~(i) except as provided in Subsection (2)(a)(ii), the record title owner according to the records of the county recorder on the date of the filing of the petition or protest; or~~]

[~~(ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed for annexation includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and~~]

[~~(b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the petition or protest.~~]

[~~(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or majority of the total private land area within an area to sign a petition or protest:~~]

[~~(a) a parcel of real property may not be included in the calculation of the required percentage or majority unless the petition or protest is signed by:~~]

[~~(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or~~]

[~~(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;~~]

[~~(b) the signature of a person signing a petition or protest in a representative capacity on behalf of an owner is invalid unless:~~]

[~~(i) the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and~~]

[~~(ii) the person provides documentation accompanying the petition or protest that substantiates the person's representative capacity; and~~]

[~~(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner.~~]

Section 3. Section 10-2-802 is enacted to read:

10-2-802

(Effective 05/07/25)

. Valuation of private real property -- Determining consent to petition or protest by owners of real property.

(1) For purposes of this part and Part 9, Municipal Boundary Adjustments, the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the petition or protest.

(2) For purposes of each provision of this part and Part 9, Municipal Boundary Adjustments, that require an owner of private real property covering a percentage or majority of the total private land area within an area to sign a petition or protest:

(a) a parcel of real property may not be included in the calculation of the required percentage or majority unless the petition or protest is signed by:

(i) except as provided in Subsection (2)(a)(ii), owners of real property representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants in the entirety, 50% of the number of owners of real property within that parcel; and

(b) subject to Subsection (2)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner of real property.

Section 4. Section 10-2-803, which is renumbered from Section 10-2-401.5 is renumbered and amended to read:

[~~10-2-401.5~~]10-2-803

(Effective 05/07/25)

. Annexation policy plan.

(1) [~~No municipality may annex an unincorporated area located within a specified county unless the municipality has adopted an annexation policy plan as provided in this section.~~]Except as provided in Subsection (9), before a municipality may annex an unincorporated area:

(a) the municipality's planning commission shall prepare and recommend to the legislative body an annexation policy plan, as described in Subsections (2) through (4); and

(b) a municipal legislative body shall adopt a recommended annexation policy plan, as described in Subsection (6).

[~~(2) To adopt an annexation policy plan:~~]

[~~(a) the planning commission shall:~~]

[~~(i) prepare a proposed annexation policy plan that complies with Subsection (3);~~]

[~~(ii) hold a public meeting to allow affected entities to examine the proposed annexation policy plan and to provide input on it;~~]

[~~(iii) provide notice of the public meeting under Subsection (2)(a)(ii) to each affected entity at least 14 days before the meeting;~~]

[~~(iv) accept and consider any additional written comments from affected entities until 10 days after the public meeting under Subsection (2)(a)(ii);~~]

[~~(v) before holding the public hearing required under Subsection (2)(a)(vi), make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on input provided at or within 10 days after the public meeting under Subsection (2)(a)(ii);~~]

[~~(vi) hold a public hearing on the proposed annexation policy plan;~~]

[~~(vii) provide reasonable public notice, including notice to each affected entity, of the public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the hearing;~~]

[~~(viii) make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on public input provided at the public hearing; and~~]

[~~(ix) submit the planning commission's recommended annexation policy plan to the municipal legislative body; and~~]

[~~(b) the municipal legislative body shall:~~]

[~~(i) hold a public hearing on the annexation policy plan recommended by the planning commission;~~]

[~~(ii) provide reasonable notice, including notice to each affected entity, of the public hearing at least 14 days before the date of the hearing;~~]

[~~(iii) after the public hearing under Subsection (2)(b)(ii), make any modifications to the recommended annexation policy plan that the legislative body considers appropriate; and~~]

[~~(iv) adopt the recommended annexation policy plan, with or without modifications.~~]

[~~(3)~~](2) (a) Each proposed annexation policy plan shall include:

[~~(a)~~](i) a map of the expansion area which may include territory located outside the county in which the municipality is located;

[~~(b)~~](ii) a statement of the specific criteria that will guide the municipality's decision whether or not to grant future annexation petitions, addressing matters relevant to those criteria including:

[~~(i)~~](A) the character of the community;

[~~(ii)~~](B) the need for municipal services in developed and undeveloped unincorporated areas;

[~~(iii)~~](C) the municipality's plans for extension of municipal services;

[~~(iv)~~](D) how the services will be financed;

[~~(v)~~](E) an estimate of the tax consequences to residents both currently within the municipal boundaries and in the expansion area; and

[~~(vi)~~](F) the interests of all affected entities; and

[~~(c)~~](iii) justification for excluding from the expansion area any area containing urban development within 1/2 mile of the municipality's boundary; and

[~~(d)~~](b) In addition to the requirements described in Subsection (2)(a), a recommended annexation policy plan shall also include a statement addressing any comments made by affected entities at or within 10 days after the public meeting [~~under Subsection (2)(a)(ii)~~]described in Subsection (4)(d).

[~~(4)~~](3) In [~~developing, considering, and adopting an~~]preparing a proposed annexation policy plan, the planning commission [~~and municipal legislative body~~]shall:

(a) attempt to avoid gaps between or overlaps with the expansion areas of other municipalities;

(b) consider population growth projections for the municipality and adjoining areas for the next 20 years;

(c) consider current and projected costs of infrastructure, urban services, and public facilities necessary:

(i) to facilitate full development of the area within the municipality; and

(ii) to expand the infrastructure, services, and facilities into the area being considered for inclusion in the expansion area;

(d) consider, in conjunction with the municipality's general plan, the need over the next 20 years for additional land suitable for residential, commercial, and industrial development;

(e) consider the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in the municipality; and

(f) be guided by the principles set forth in Subsection [~~10-2-403(5)~~]10-2-806(5).

(4) Before presenting a recommended annexation policy plan to a municipal legislative body, the planning commission shall:

(a) prepare a proposed annexation policy plan, as described in Subsections (2)(a) and (3);

(b) hold a public meeting to allow affected entities to examine the proposed annexation policy plan and to provide comments on the proposed annexation policy plan;

(c) provide notice of the public meeting under Subsection (4)(b):

(i) as a class A notice, as described in Section 63G-30-102; and

(ii) to each affected entity at least 14 days before the day of the meeting;

(d) accept and consider any additional written comments from affected entities for 10 days following the public meeting under Subsection (4)(b);

(e) if the planning commission receives comments from affected entities under Subsection (4)(b) or written comments under (4)(d):

(i) if appropriate, make modifications to the proposed annexation policy plan; and

(ii) modify the proposed annexation policy plan to include the statement required by Subsection (2)(b);

(f) hold a public hearing on the proposed annexation policy plan, including any new modifications to the proposed annexation policy plan under Subsection (4)(e);

(g) provide notice of the public hearing described in Subsection (4)(f):

(i) as class A notice, as described in Section 63G-30-102; and

(ii) to each affected entity at least 14 days before the day of the hearing;

(h) make any final modifications to the proposed annexation policy plan, as appropriate, based on public input provided at the public hearing; and

(i) submit the planning commission's recommended annexation policy plan to the municipal legislative body.

(5) A municipal legislative body may reject a recommended annexation plan or adopt a recommended annexation plan as described in Subsection (6).

(6) To adopt a recommended annexation plan, a municipal body shall:

(a) hold a public hearing on the annexation policy plan recommended by the planning commission;

(b) provide notice of the public hearing described in Subsection (6)(a):

(i) as class A notice, as described in Section 63G-30-102; and

(ii) to each affected entity at least 14 days before the day of the hearing;

(c) after the public hearing, make modifications to the recommended annexation policy plan, as appropriate; and

(d) adopt the recommended annexation policy plan, with or without modifications.

[~~(5)~~](7) Within 30 days after adopting [~~an~~]a recommended or modified annexation policy plan, the municipal legislative body shall submit a copy of the adopted annexation policy plan to the legislative body of each county in which any of the municipality's expansion area is located.

[~~(6)~~](8) Nothing in this chapter may be construed to prohibit or restrict two or more municipalities [~~in specified counties~~]from negotiating and cooperating with respect to defining each municipality's expansion area under an annexation policy plan.

(9) (a) This section does not apply to a municipality engaged in an automatic annexation under Section 10-2-814.

(b) A municipality is not required to comply with the provisions of this section for an annexation petition that is pending on May 7, 2025.

Section 5. Section 10-2-804, which is renumbered from Section 10-2-402 is renumbered and amended to read:

[~~10-2-402~~]10-2-804

(Effective 05/07/25)

. Annexation -- Limitations.

(1) [~~(a)~~] A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

[~~(b)~~](2) Except as provided in Subsection [~~(1)(c),~~](3), a municipality may not annex an unincorporated area [~~may not be annexed to a municipality~~]unless:

[~~(i)~~](a) the unincorporated area is a contiguous area;

[~~(ii)~~](b) the unincorporated area is contiguous to the municipality;

[~~(iii)~~](c) annexation will not leave or create an unincorporated island or unincorporated peninsula:

[~~(A)~~](i) except as provided in Subsection [~~10-2-418(3)~~]10-2-812(2);

[~~(B)~~](ii) except where an unincorporated island or peninsula existed before the annexation, if the annexation will reduce the size of the unincorporated island or peninsula; or

[~~(C)~~](iii) unless the county and municipality have otherwise agreed; and

[~~(iv)~~](d) [~~for an area located in a specified county,~~]the area is within the proposed annexing municipality's expansion area, as specified in an annexation policy plan adopted as described in Section 10-2-803.

[~~(c)~~](3) A municipality may annex an unincorporated area within a specified county that does not meet the requirements of Subsection [~~(1)(b)~~](2), leaving or creating an unincorporated island or unincorporated peninsula, if:

[~~(i)~~](a) the area is within the annexing municipality's expansion area;

[~~(ii)~~](b) the [~~specified~~]county in which the area is located and the annexing municipality agree to the annexation;

[~~(iii)~~](c) the area is not within the area of another municipality's annexation policy plan, unless the other municipality agrees to the annexation; and

[~~(iv)~~](d) the annexation is for the purpose of providing municipal services to the area.

[~~(2)~~](4) Except as provided in Section [~~10-2-418~~]10-2-812, a municipality may not annex an unincorporated area unless a petition under Section [~~10-2-403~~]10-2-806 is filed requesting annexation.

[~~(3)~~](5) (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section [~~10-2-403~~]10-2-806.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection [~~(3)(a)~~](5)(a) if owned by the same owner.

[~~(4)~~](6) A municipality may not annex an unincorporated area [~~in a specified county~~]for the sole purpose of acquiring municipal revenue or to [~~retard~~]hinder the capacity of another municipality to annex the same or a related area unless the annexing municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.

[~~(5) (a) As used in this subsection, "expansion area urban development" means:~~]

[~~(i) for a specified county, urban development within a city or town's expansion area; or~~]

[~~(ii) for a county of the first class, urban development within a city or town's expansion area that:~~]

[~~(A) consists of 50 or more acres;~~]

[~~(B) requires the county to change the zoning designation of the land on which the urban development is located; and~~]

[~~(C) does not include commercial or industrial development that is located within a mining protection area as defined in Section 17-41-101, regardless of whether the commercial or industrial development is for a mining use as defined in Section 17-41-101.~~]

[~~(b) A county legislative body may not approve expansion area urban development unless:~~]

[~~(i) the county notifies the city or town of the proposed development; and~~]

[~~(ii) (A) the city or town consents in writing to the development;~~]

[~~(B) within 90 days after the county's notification of the proposed development, the city or town submits to the county a written objection to the county's approval of the proposed development and the county responds in writing to the city or town's objection; or~~]

[~~(C) the city or town fails to respond to the county's notification of the proposed development within 90 days after the day on which the county provides the notice.~~]

[~~(6)~~](7) (a) As used in this Subsection [~~(6)~~](7), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

(b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.

(c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection [~~(6)(b)~~](7)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.

[~~(7)~~](8) (a) As used in this Subsection [~~(7),~~](8):

(i) "Authority" means the same as that term is defined in Section 63H-1-102.

(ii) [~~"project~~]"Project area" means [~~a project area as defined in Section 63H-1-102that is in a project area plan as defined in Section 63H-1-102 adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act~~]the same as that term is defined in Section 63H-1-102.

(b) A municipality may not annex an unincorporated area located within a project area without the authority's approval.

(c) [~~(i) Except as provided in Subsection (7)(c)(ii), the Military Installation Development Authority~~]The authority may petition for annexation of the following areas to a municipality as if the [~~Military Installation Development Authority~~]authority was the sole private property owner within the area:

[~~(A)~~](i) an area within a project area;

[~~(B)~~](ii) an area that is contiguous to a project area and within the boundaries of a military installation;

[~~(C)~~](iii) an area owned by the [~~Military Installation Development Authority~~]authority; and

[~~(D)~~](iv) an area that is contiguous to an area owned by the [~~Military Installation Development Authority~~]authority that the [~~Military Installation Development Authority~~]authority plans to add to an existing project area.

[~~(ii) If any portion of an area annexed under a petition for annexation filed by the Military Installation Development Authority is located in a specified county:~~]

[~~(A) the annexation process shall follow the requirements for a specified county; and~~]

[~~(B) the provisions of Section 10-2-402.5 do not apply.~~]

[~~(8)~~](9) (a) [~~A~~]Except as provided in Subsection (9)(b), a municipality may not annex an unincorporated area if:

[~~(a)~~](i) the unincorporated area is proposed for incorporation in:

[~~(i)~~](A) a feasibility study conducted under Section 10-2a-205; or

[~~(ii)~~](B) a supplemental feasibility study conducted under Section 10-2a-206; and

[~~(b)~~](ii) the county clerk completes the second public hearing on the proposed incorporation under Subsection 10-2a-207(4).

(b) If an unincorporated area proposed for incorporation, as described in Subsection (9)(a)(i), does not incorporate within three years from the day on which the county clerk completes the second public hearing on the proposed municipality, a municipality may annex the unincorporated area.

Section 6. Section 10-2-805, which is renumbered from Section 10-2-402.5 is renumbered and amended to read:

[~~10-2-402.5~~]10-2-805

(Effective 05/07/25)

. Cross-county annexation -- Requirements.

(1) As used in this section:

(a) "Affected county" means the county in which an area proposed for cross-county annexation is located.

(b) "Affected municipality" means a municipality:

(i) located in an affected county; and

(ii) whose expansion area includes the area proposed for cross-county annexation.

(c) "Applicant" means a person intending to file an annexation petition proposing a cross-county annexation.

(d) "Cross-county annexation" means the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located.

(e) "Specified public utility" means the same as that term is defined in Section 10-9a-103.

(2) An applicant may not file a petition under Section [~~10-2-403 proposing~~]10-2-806 that proposes a cross-county annexation unless:

(a) the applicant sends a written notice of intent to file a petition proposing a cross-county annexation to the legislative body of each affected municipality describing:

(i) the area proposed for cross-county annexation; and

(ii) the proposed annexing municipality;

(b) the proposed annexing municipality adopts or amends the municipality's annexation policy plan under Section [~~10-2-401.5~~]10-2-803 to include the area proposed for cross-county annexation within the proposed annexing municipality's expansion area;

(c) the applicant files a request to approve the proposed cross-county annexation with the legislative body of the affected county:

(i) no sooner than 90 days after the day on which the applicant sends the written notice described in Subsection (2)(a) to each affected municipality; and

(ii) no later than 180 days after the day on which the applicant sends the written notice described in Subsection (2)(a) to each affected municipality;

(d) a feasibility consultant conducts a feasibility study in accordance with Subsection (3), unless the feasibility study is waived under Subsection (3)(b); and

(e) the legislative body of the affected county:

(i) holds a public hearing in accordance with Subsection (4); and

(ii) adopts the resolution described in Subsection (4)(a)(iii)(A).

(3) (a) Within 60 days after the day on which a legislative body of an affected county receives the request described in Subsection (2)(c), or within a time period longer than 60 days if agreed to by the legislative body of the affected county and the applicant, the legislative body of the affected county and the applicant shall jointly select and engage a feasibility consultant to:

(i) conduct a feasibility study on the proposed cross-county annexation; and

(ii) submit written results of the feasibility study to the legislative body of the affected county and the applicant no later than 90 days after the day on which the feasibility consultant is engaged to conduct the feasibility study.

(b) The legislative body of the affected county may waive the requirement for a feasibility study under Subsection (3)(a).

(c) The feasibility study under Subsection (3)(a) shall determine:

(i) whether the proposed cross-county annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;

(ii) the fiscal impact of the proposed cross-county annexation on:

(A) the affected county;

(B) affected municipalities;

(C) specified public utilities that serve the area proposed for cross-county annexation; and

(D) affected entities;

(iii) the estimated cost that the proposed annexing municipality would incur to provide governmental services in the area proposed for cross-county annexation during the current fiscal year;

(iv) the estimated revenue that the proposed annexing municipality would receive from the area proposed for cross-county annexation during the current fiscal year; and

(v) (A) each entity that has provided municipal-type services in the area proposed for cross-county annexation;

(B) the methods under which each entity described in Subsection (3)(c)(v)(A) has provided municipal-type services in the area proposed for cross-county annexation; and

(C) the feasibility of the proposed annexing municipality providing municipal-type services in the area proposed for cross-county annexation.

(d) For purposes of Subsection (3)(c)(iv), the feasibility consultant shall assume that the ad valorem property tax rate on property within the area proposed for cross-county annexation is the same property tax rate that the proposed annexing municipality currently imposes on property within the municipality.

(e) The applicant and the affected county shall share equally the feasibility consultant fees and expenses.

(4) (a) A legislative body of an affected county shall hold, within 30 days after the day on which the legislative body receives the written results of the feasibility study under Subsection (3)(a) or waives the requirement for a feasibility study under Subsection (3)(b), a public hearing to:

(i) determine whether the requirements described in Subsections (2)(a) and (b) have been met;

(ii) consider the results of the feasibility study under Subsection (3)(a), unless the feasibility study is waived under Subsection (3)(b); and

(iii) (A) adopt a resolution approving the proposed cross-county annexation; or

(B) adopt a resolution rejecting the proposed cross-county annexation.

(b) The legislative body of the affected county shall send, at least 15 days before the day on which the public hearing described in Subsection (4)(a) occurs, written notice of the public hearing to:

(i) the applicant;

(ii) each residence within, and to each owner of real property located within:

(A) the area proposed for cross-county annexation; and

(B) 300 feet of the area proposed for cross-county annexation;

(iii) the legislative body of:

(A) the proposed annexing municipality; and

(B) the county in which the proposed annexing municipality is located;

(iv) each specified public utility that serves the area proposed for cross-county annexation;

(v) each affected municipality; and

(vi) each affected entity.

(c) At the public hearing described in Subsection (4)(a), the legislative body of the affected county shall allow the individuals present to speak to the proposed cross-county annexation.

(d) A legislative body of an affected county may not adopt a resolution rejecting a proposed cross-county annexation under this section unless the legislative body determines that:

(i) the requirements described in Subsections (2)(a) and (b) have not been met; or

(ii) the results of the feasibility study under Subsection (3)(a) show that:

(A) the proposed cross-county annexation would impose a substantial burden on the affected county;

(B) the estimated revenue under Subsection (3)(c)(iv) exceeds the estimated cost to provide governmental services under Subsection (3)(c)(iii) by more than 5%; or

(C) it would not be feasible for the proposed annexing municipality to provide municipal-type services in the area proposed for cross-county annexation.

(e) A legislative body of an affected county that adopts a resolution rejecting a proposed cross-county annexation under this section shall provide to the applicant a written explanation of the legislative body's decision.

(f) A legislative body of an affected county may adopt a resolution approving a proposed cross-county annexation under this section regardless of the results of a feasibility study under Subsection (3)(a).

(5) (a) A party adversely affected by a legislative body of an affected county's decision under Subsection (4)(a) may, within 30 days after the day on which the legislative body [~~issues the legislative body's decision~~]adopts a resolution approving or rejecting a cross-county annexation, file a petition for review of the decision in the district court with jurisdiction in the affected county.

(b) The district court shall defer to the legislative body of the affected county's decision under Subsection (4)(a) unless the court determines that the decision is arbitrary, capricious, or unlawful.

(6) Section [~~10-2-418~~]10-2-812 does not apply to a cross-county annexation unless consented to by all affected counties.

Section 7. Section 10-2-806, which is renumbered from Section 10-2-403 is renumbered and amended to read:

[~~10-2-403~~]10-2-806

(Effective 05/07/25)

. Annexation petition -- Requirements -- Notice required before filing.

(1) Except as provided in Section [~~10-2-418~~]10-2-812 and except for an automatic annexation under Section [~~10-2-429~~]10-2-814, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1), the person [~~or persons~~]intending to file a petition shall:

(A) file with the [~~city recorder or town clerk~~]municipal records officer of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to file a petition to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person [~~or persons~~]who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person [~~or persons~~]who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the [~~applicable city recorder or town clerk~~]municipal records officer of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of all of the rural real property within the area proposed for annexation; and

(C) covers 100% of all of the private land area within the area proposed for annexation if the area is within a migratory bird production area created under Title 23A, Chapter 13, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor in accordance with Section 17-23-20, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes a cross-county annexation, as defined in Section [~~10-2-402.5~~]10-2-805, be accompanied by a copy of the resolution described in Subsection [~~10-2-402.5(4)(a)(iii)(A)~~]10-2-805(4)(a)(iii)(A); and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing special districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(6) On the date of filing, the petition [~~sponsors~~]contact sponsor shall deliver or mail a copy of the petition to the county clerk of the county in which the area proposed for annexation is located.

(7) A property owner who signs an annexation petition may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the [~~city recorder or town clerk~~]municipal records officer no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection [~~10-2-405(2)(c)(i)~~]10-2-807(2)(c)(i).

Section 8. Section 10-2-807, which is renumbered from Section 10-2-405 is renumbered and amended to read:

[~~10-2-405~~]10-2-807

(Effective 05/07/25)

. Acceptance or denial of an annexation petition -- Petition certification process -- Modified petition.

(1) (a) (i) A municipal legislative body may:

(A) subject to Subsection (1)(a)(ii), deny a petition filed under Section [~~10-2-403~~]10-2-806; or

(B) accept the petition for further consideration under this part.

(ii) A petition shall be considered to have been accepted for further consideration under this part if a municipal legislative body fails to [~~act to~~]deny or accept the petition under Subsection (1)(a)(i):

(A) in the case of a city of the first or second class, within 14 days after the [~~filing of the~~]petition is filed; or

(B) in the case of a city of the third, fourth, or fifth class or a town, at the next regularly scheduled meeting of the municipal legislative body that is at least 14 days after the date the petition was filed.

(b) If a municipal legislative body denies a petition under Subsection (1)(a)(i), it shall, within five days after the denial, mail written notice of the denial to:

(i) the contact sponsor; and

(ii) the county clerk of the county in which the area proposed for annexation is located.

(2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i)(B) or is considered to have accepted the petition under Subsection (1)(a)(ii), the [~~city recorder or town clerk, as the case may be,~~]municipal records officer shall, within 30 days after [~~that~~]the day of acceptance:

(a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the area proposed for annexation is located the records the [~~city recorder or town clerk~~]municipal records officer needs to determine whether the petition meets the requirements of Subsections [~~10-2-403(3)~~]10-2-806(3) and (4);

(b) with the assistance of the municipal attorney, determine whether the petition meets the requirements of Subsections [~~10-2-403(3)~~]10-2-806(3) and (4); and

(c) (i) if the [~~city recorder or town clerk~~]municipal records officer determines that the petition meets [~~those requirements~~]the requirements described in Subsection (2)(b), certify the petition and mail or deliver written notification [~~of the certification to~~]to:

(A) the municipal legislative body[~~,~~];

(B) the contact sponsor[~~,~~]; and

(C) the county legislative body; or

(ii) if the [~~city recorder or town clerk~~]municipal records officer determines that the petition fails to meet [~~any of those requirements~~]a requirement described in Subsection (2)(b), reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to:

(A) the municipal legislative body[~~,~~];

(B) the contact sponsor[~~,~~]; and

(C) the county legislative body.

(3) The day the municipal records officer mails or delivers written notification of the certification, as described in Subsection (2)(c)(i), is the day of certification.

[~~(3)~~](4) (a) (i) If the [~~city recorder or town clerk~~]municipal records officer rejects a petition under Subsection (2)(c)(ii), the petition sponsor may modify the petition [~~may be modified~~]to correct the deficiencies for which it was rejected and [~~then refiled~~]refile the petition with the [~~city recorder or town clerk, as the case may be~~]municipal records officer.

(ii) A signature on an annexation petition filed under Section [~~10-2-403~~]10-2-806 may be used toward fulfilling the signature requirement of Subsection [~~10-2-403(2)(b)~~]10-2-806(2)(b) for the petition as modified under Subsection [~~(3)(a)(i)~~](4)(a)(i).

(b) If a petition is refiled under Subsection [~~(3)(a)~~](4)(a) after having been rejected by the [~~city recorder or town clerk~~]municipal records officer under Subsection (2)(c)(ii), the refiled petition shall be treated as a newly filed petition under Subsection [~~10-2-403(1)~~]10-2-806(1).

[~~(4)~~](5) Any vote by a municipal legislative body to deny a petition under this part may be recalled and set for reconsideration by a majority of the voting members of the municipal legislative body.

[~~(5)~~](6) Each county assessor, clerk, surveyor, and recorder shall provide copies of records that a [~~city recorder or town clerk~~]municipal records officer requests under Subsection (2)(a).

Section 9. Section 10-2-808, which is renumbered from Section 10-2-406 is renumbered and amended to read:

[~~10-2-406~~]10-2-808

(Effective 05/07/25)

. Notice of certification -- Providing notice of petition.

(1) (a) [~~After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)(c)(i),~~]After the day of certification as described in Subsection 10-2-807(3) and within the time described in Subsection (1)(b), the municipal legislative body shall provide notice:

[~~(a)~~](i) for the area proposed for annexation and [~~the~~]any unincorporated area within 1/2 mile of the area proposed for annexation, as a class B notice under Section 63G-30-102[~~, no later than 10 days after the day on which the municipal legislative body receives the notice of certification~~]; and

[~~(b)~~](ii) [~~within 20 days after the day on which the municipal legislative body receives the notice of certification,~~]by mailing written notice to each affected entity.

(b) The municipal legislative body shall provide the notice:

(i) described in Subsection (1)(a)(i) no later than 10 days after the day of certification; and

(ii) described in Subsection (1)(a)(ii) no later than 20 days after the day of certification.

(2) The notice described in Subsection (1) shall:

(a) state that a petition has been filed with the municipality proposing the annexation of an area to the municipality;

(b) state the [~~date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i)~~]day of certification;

(c) describe the area proposed for annexation in the annexation petition;

(d) state that the complete annexation petition is available for inspection and copying at the office of the [~~city recorder or town clerk~~]municipal records officer;

(e) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, [~~within the time required under Subsection 10-2-407(2)(a)(i),~~]no later than 30 days after the day of certification:

(i) a written protest to the annexation petition is filed with the boundary commission; and

(ii) a copy of the written protest is delivered to the [~~city recorder or town clerk~~]municipal records officer of the proposed annexing municipality;

(f) (i) state the address of the boundary commission [~~or,~~]where a protest to the annexation petition may be filed; or

(ii) if a boundary commission has not yet been created in the county, the address of the county clerk, where a protest to the annexation petition may be filed;

(g) provide brief instructions on how to file a protest to the annexation petition or a link to a webpage that contains instructions on how to file a protest to the annexation petition;

(h) state that the area proposed for annexation to the municipality will also automatically be annexed to a special district providing fire protection, paramedic, and emergency services or a special district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the proposed annexing municipality is entirely within the boundaries of a special district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the area proposed to be annexed to the municipality is not already within the boundaries of the special district; and

[~~(h)~~](i) state that the area proposed for annexation to the municipality will be automatically withdrawn from a special district providing fire protection, paramedic, and emergency services or a special district providing law enforcement service, as the case may be, as provided in Subsection 17B-1-502(2), if:

(i) the petition proposes the annexation of an area that is within the boundaries of a special district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the proposed annexing municipality is not within the boundaries of the special district.

(3) [~~(a)~~] The statement required by Subsection (2)(e) shall state the deadline for filing a written protest in terms of the actual date[~~rather than~~], not by reference to the statutory citation.

[~~(b) In addition to the requirements under Subsection (2), a notice under Subsection (1)for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:~~]

[~~(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;~~]

[~~(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and~~]

[~~(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.~~]

Section 10. Section 10-2-809, which is renumbered from Section 10-2-409 is renumbered and amended to read:

[~~10-2-409~~]10-2-809

(Effective 05/07/25)

. Boundary commission -- Creation -- Members -- Terms -- Chair -- Boundary commission quorum -- Municipal selection committee.

(1) The legislative body of each county:

(a) may create a boundary commission on its own initiative at any time; and

(b) shall create a boundary commission within 30 days of the filing of a protest under Section [~~10-2-407~~]10-2-810.

(2) A boundary commission shall hear and decide, according to the provisions of this part, any protest filed under Section 10-2-810 with respect to an area that is located within the boundary commission's county.

(3) Each boundary commission shall be composed of:

(a) in a county with two or more municipalities:

(i) two members who are elected county officers, appointed by:

[~~(A) (I)~~](A) in a county [~~of the first class~~]operating under a form of government in which the executive and legislative functions are separated, the county executive with the advice and consent of the county legislative body; or

[~~(II)~~](B) in a county [~~of the first class~~]operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body; [~~or~~]

[~~(B) in a specified county, the county legislative body;~~]

(ii) two members who are elected municipal officers from separate municipalities within the county, appointed by the municipal selection committee described in Subsection (13); and

(iii) three members who are residents of the county, none of whom is a county or municipal elected officer, appointed by the four other members of the boundary commission; and

(b) in a county with only one municipality:

(i) two members who are county elected officers, appointed by the county legislative body;

(ii) one member who is a municipal elected officer, appointed by the governing body of the municipality; and

(iii) two members who are residents of the county, neither of whom is a county or municipal elected officer, appointed by the other three members of the boundary commission.

[~~(3)~~](4) At the expiration of the term of each member appointed under this section, the member's successor shall be appointed by the same body that appointed the member whose term is expiring, as provided in this section.

(5) (a) Except as provided in Subsection (5)(b), the term of each member of a boundary commission:

(i) is approximately four years; and

(ii) begins and expires on the first Monday of January of the applicable year.

(b) Notwithstanding Subsection (5)(a), the terms of the first members of a boundary commission shall be staggered by lot so that:

(i) on a seven-member commission described in Subsection (3)(a), the term of one member is approximately one year, the term of two members is approximately two years, the term of two members is approximately three years, and the term of two members is approximately four years; and

(ii) on a five-member commission described in Subsection (3)(b), the term of two members is approximately two years and the term of the other three members is approximately four years.

(c) A vacancy on a boundary commission shall be filled for the remaining unexpired term in the same manner that the predecessor member was appointed, as described in Subsection (3).

(6) (a) (i) The members of a boundary commission shall elect a chair from the eligible membership of the boundary commission.

(ii) A member of a boundary commission is eligible to serve as chair if the member has at least two years remaining in the member's term.

(b) The term of a boundary commission chair is two years from the day on which the chair is elected.

(7) (a) A majority of the members of the boundary commission constitutes a quorum.

(b) Boundary commission action requires a majority vote of the members of the boundary commission.

(8) (a) A member of the boundary commission is disqualified from hearing and deciding a protest if the boundary commission member owns any property within the area proposed for annexation that is the subject of the protest.

(b) In the event a member of the boundary commission is disqualified as described in Subsection (8)(a), the body that appointed the disqualified member of the boundary commission shall appoint an alternate member of the boundary commission to hear and decide the protest.

(9) In considering a protest filed under Section 10-2-810, the boundary commission may:

(a) adopt and enforce rules of procedure for the orderly and fair conduct of boundary commission proceedings;

(b) authorize a member of the boundary commission to administer oaths, if necessary in the performance of the boundary commission's duties;

(c) employ staff or retain professional or consulting services reasonably necessary to enable the commission to carry out the boundary commission's duties;

(d) incur reasonable and necessary expenses in order to carry out the boundary commission's duties; and

(e) request any additional information from the sponsor of the protest that the boundary commission considers necessary to make a determination.

(10) The legislative body of each county shall, with respect to the boundary commission in that county:

(a) furnish the boundary commission with any necessary office space, equipment, and supplies;

(b) pay necessary operating expenses incurred by the boundary commission; and

(c) reimburse the reasonable and necessary expenses incurred by each member appointed under Subsection (2), unless otherwise provided by interlocal agreement.

(11) Each county legislative body or municipal legislative body shall reimburse the reasonable and necessary expenses incurred by a boundary commission member who is a county or municipal elected officer, respectively.

(12) The boundary commission may request, and a relevant county or municipality shall provide, records, information, or any other relevant material necessary to enable the boundary commission to hear and decide a protest.

(13) (a) A municipal selection committee consists of the municipal executive of each municipality in the county.

(b) (i) In a county with an odd number of municipalities, a majority of the members of a municipal selection committee constitutes a quorum.

(ii) In a county with an even number of municipalities, half of the members of the municipal selection committee constitutes a quorum.

(c) A legislative body that creates a boundary commission described in Subsection (3)(a) shall, at the same time the legislative body creates the boundary commission as described in Subsection (1), notify the municipal selection committee of the obligation to select the members described in Subsection (3)(a)(ii).

Section 11. Section 10-2-810, which is renumbered from Section 10-2-407 is renumbered and amended to read:

[~~10-2-407~~]10-2-810

(Effective 05/07/25)

. Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed -- Public hearing and notice.

(1) A protest to an annexation petition under Section [~~10-2-403~~]10-2-806 may only be filed by:

(a) the legislative body or governing board of an affected entity;

(b) an owner of rural real property located within the area proposed for annexation; or

[~~(c) for a proposed annexation of an area within a county of the first class, an owner of private real property that:~~]

[~~(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;~~]

[~~(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and~~]

[~~(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation; or~~]

[~~(d)~~](c) an owner of private real property located in a mining protection area.

(2) Each protest under Subsection (1) shall:

[~~(a) be filed:~~]

[~~(i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and~~]

[~~(ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or~~]

[~~(B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed~~

~~for annexation is located;~~]

[~~(b)~~](a) be filed with the county clerk of the county in which the area proposed for annexation is located;

(b) state each reason for the protest of the annexation petition and [~~, if the area proposed to be annexed is located in a specified county,~~] justification for the protest under the standards established in this [~~chapter~~]part;

[~~(c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and~~]

[~~(d)~~](c) contain any information that the county boundary commission requires or the party filing the protest considers relevant to the protest; and

(d) contain the name and address of a contact person who is to receive notices sent by the boundary commission with respect to the protest proceedings.

(3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the [~~city recorder or town clerk~~]municipal records officer of the proposed annexing municipality.

(4) Each county clerk who receives a protest under Subsection [~~(2)(a)(ii)(B)~~](2)(a) shall:

(a) immediately notify the county legislative body of the protest; and

(b) deliver the protest to the boundary commission within five days after:

(i) receipt of the protest, if the boundary commission has previously been created; or

(ii) creation of the boundary commission under [~~Subsection 10-2-409(1)(b)~~]Section 10-2-809, if the boundary commission has not previously been created.

(5) (a) If a protest is filed under this section:

(i) the municipal legislative body may, at [~~its~~]the next regular municipal legislative meeting [~~after expiration of the deadline under Subsection (2)(a)(i)~~]occurring within 30 days of the day of certification, as described in Subsection 10-2-807(3), deny the annexation petition; or

(ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may [~~take no~~]not take further action on the annexation petition until after receipt of the boundary commission's notice of its decision on the protest under Section [~~10-2-416~~]10-2-811.

(b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(i) the contact sponsor of the annexation petition;

(ii) the boundary commission; and

(iii) each entity that filed a protest.

(6) (a) A protest may not be filed later than 30 days after the day of certification, as described in Subsection 10-2-807(3).

(b) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (7), approve the annexation petition.

(7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall:

(a) hold a public hearing; and

(b) provide notice of the public hearing by publishing the notice for the municipality and the area proposed for annexation, as a class B notice under Section 63G-30-102, for at least seven days before the date of the public hearing.

[~~(8) (a) Subject to Subsection (8)(b), only a person or entity that is described in Subsection (1) has standing to challenge an annexation in district court.~~]

[~~(b) A person or entity described in Subsection (1) may only bring an action in district court to challenge an annexation if the person or entity has timely filed a protest as described in Subsection (2) and exhausted the administrative remedies described in this section.~~]

Section 12. Section 10-2-811, which is renumbered from Section 10-2-415 is renumbered and amended to read:

[~~10-2-415~~]10-2-811

(Effective 05/07/25)

. Public hearing of protest -- Notice -- Decision -- Municipal legislative action -- Judicial review.

[~~(1) (a) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days after the day on which the commission receives the feasibility study or supplemental feasibility study results.~~]

[~~(b) At the public hearing described in Subsection (1)(a), the commission shall:~~]

[~~(i) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;~~]

[~~(ii) allow those present to ask questions of the feasibility consultant regarding the study results; and~~]

[~~(iii) allow those present to speak to the issue of annexation.~~]

[~~(2) The commission shall provide notice of the public hearing described in Subsection (1)(a) for the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality, as a class B notice under Section 63G-30-102, for at least two weeks before the date of the public hearing.~~]

[~~(3) The notice described in Subsection (2) shall:~~]

[~~(a) be entitled, "notice of annexation hearing";~~]

[~~(b) state the name of the annexing municipality;~~]

[~~(c) describe the area proposed for annexation; and~~]

[~~(d) specify the following sources where an individual may obtain a copy of the feasibility study conducted in relation to the proposed annexation:~~]

[~~(i) if the municipality has a website, the municipality's website;~~]

[~~(ii) a municipality's physical address; and~~]

[~~(iii) a mailing address and telephone number.~~]

[~~(4) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.~~]

[~~(5) For at least 14 days before the date of a hearing described in Subsection (4), the commission chair shall provide notice of the hearing, for the area proposed for annexation, as a class B notice under Section 63G-30-102.~~]

[~~(6)~~](1) (a) Except as provided in Subsection (1)(b), the boundary commission for each county shall hear and decide, according to the provisions of this part, each protest timely filed under Section 10-2-810.

(b) If the municipal legislative body has already denied the petition for annexation that is the subject of the protest under Subsection 10-2-810(5)(a), the boundary commission shall take no further action on the protest.

(2) In regard to a protest described in Subsection (1)(a), the boundary commission shall:

(a) schedule a public hearing on the protest no later than 30 days from the day on which the time for filing a protest expired; and

(b) except as provided in Subsection (5), hold the public hearing on the protest.

(3) At least 14 days before the day of a hearing described in Subsection (2), the boundary commission shall provide notice of the public hearing:

(a) (i) by posting one notice, and at least one additional notice per 2,000 residents within the area proposed for annexation, in places reasonably likely to give notice of the public hearing; and

(ii) by mailing notice to each resident within, and each owner of property located within, the area proposed for annexation;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for 14 days before the day of the public hearing;

(c) if the annexing municipality has a website, by providing notice to the municipal records officer to post on the municipality's website for 14 days before the day of the public hearing; and

(d) by posting notice on the county's website for 14 days before the day of the public hearing.

(4) Each notice described in Subsection [~~(5)~~](3) shall:

(a) state the date, time, and place of the hearing;

(b) briefly summarize the nature of the protest; and

(c) state that a copy of the protest is on file at:

(i) the boundary commission's office, if the boundary commission has a physical office; or

(ii) the county recorder's office.

[~~(7)~~](5) The boundary commission may [~~continue~~]postpone a scheduled public hearing[~~under Subsection (4) from time to time~~], but no [~~continued~~]postponed hearing may be held later than 60 days after the original hearing date.

[~~(8)~~](6) In considering [~~protests~~]a protest, the boundary commission shall consider whether the proposed annexation:

(a) complies with the requirements of[~~Sections 10-2-402 and 10-2-403~~]:

(i) Section 10-2-804;

(ii) Section 10-2-806; and

(iii) the annexation policy plan of the proposed annexing municipality, as described in Section 10-2-803;

(b) conflicts with the annexation policy plan of another municipality; and

(c) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.

(7) After the public hearing required by this section, the boundary commission:

(a) shall, within 30 days, issue a written decision on the protest filed under Section 10-2-810;

(b) shall send a copy of the written decision described in Subsection (7)(a) to:

(i) the legislative body of the county in which the area proposed for annexation is located;

(ii) the legislative body of the proposed annexing municipality;

(iii) the sponsor of the annexation petition; and

(iv) the contact person for the protest; and

(c) may:

(i) recommend approval of the proposed annexation, either with or without conditions; or

(ii) recommend denying the proposed annexation.

[~~(9)~~](8) (a) The boundary commission shall record each public hearing under this section by electronic means.

(b) [~~A~~]The record of a boundary commission proceeding includes:

(i) then transcription of the recording under Subsection (8)(a)[~~(9)(a),~~];

(ii) the feasibility study, if applicable[~~,~~];

(iii) information received at the hearing[~~,~~]; and

(iv) the written decision of the boundary commission[~~shall constitute the record of the hearing~~].

(9) Except as provided in Subsection (12), upon receipt of the boundary commission's written decision under Subsection (7), the legislative body of the annexing municipality shall take action no earlier than 30 days after but no later than 60 days after receipt of the boundary commission's written decision to:

(a) deny the annexation petition; or

(b) subject to Subsection (10), approve the annexation petition, with or without any conditions recommended by the boundary commission.

(10) A municipal legislative body shall exclude from an annexation:

(a) rural real property, unless the owner of the rural real property has signed the annexation petition or otherwise gives written consent to the inclusion of the owner's property to the annexation; and

(b) private real property located within a mining protection area, unless the owner of the private property located in the mining protection area has signed the annexation petition or otherwise gives written consent to the inclusion of the owner's property to the annexation.

(11) (a) As used in this subsection, "party" means:

(i) an annexing municipality;

(ii) the contact sponsor of an annexation petition; or

(iii) the contact person for a protest.

(b) A party may seek review of a boundary commission's written decision in the state district court with jurisdiction over the county in which the boundary commission is established by filing a petition for review of the written decision within 20 days of receiving the boundary commission's written decision.

(c) A party that files a petition for review under Subsection (11)(b) shall provide notice of the filing to the legislative body of the annexing municipality, unless the annexing municipality is the party that filed a petition for review.

(d) The district court shall consider the record described in Subsection (8)(b) and affirm the boundary commission's written decision unless the court determines the boundary commission's written decision is arbitrary or capricious.

(12) The legislative body of an annexing municipality is excused from complying with the requirements of Subsection (9) until judicial review is concluded.

Section 13. Section 10-2-812, which is renumbered from Section 10-2-418 is renumbered and amended to read:

[~~10-2-418~~]10-2-812

(Effective 05/07/25)

. Annexation of an island or peninsula without a petition -- Notice -- Hearing.

[~~(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.~~]

[~~(2)~~](1) Notwithstanding Subsection [~~10-2-402(2)~~]10-2-804(4), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) for an unincorporated area within the expansion area of more than one municipality, each municipality agrees to the annexation; and

(b) (i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(B) the majority of each island or peninsula consists of residential or commercial development;

(C) the area proposed for annexation requires the delivery of municipal-type services; and

(D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(B) the municipality has provided one or more municipal-type services to the area for at least one year;

(iii) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) [~~for an area outside of the county of the first class proposed for annexation,~~]no more than 50 acres; or

(iv) (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

(B) the area to be annexed is located in the expansion area of a municipality; and

(C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed after the public hearing.

[~~(3)~~](2) Notwithstanding Subsection [~~10-2-402(1)(b)(iii)~~]10-2-804(2)(c), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection [~~(5)(a)~~](3)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection [~~(2)(b)~~](1)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection [~~(2)(b)(ii)~~](1)(b)(ii) relating to the number of residents.

[~~(4) (a) This Subsection (4) applies only to an annexation within a county of the first class.~~]

[~~(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (4)(d), to the recorder of the annexing municipality.~~]

[~~(c) For purposes of Subsection (4)(b), the majority of private property owners is property owners who own:~~]

[~~(i) the majority of the total private land area within the area proposed for annexation; and~~]

[~~(ii) private real property equal to at least 1/2 the value of private real property within the area proposed for annexation.~~]

[~~(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:~~

~~"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(d).".~~]

[~~(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (5)(b).~~]

[~~(5)~~](3) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection

[~~(5)(a)~~](3)(a).

[~~(6)~~](4) A legislative body described in Subsection [~~(5)~~](3) shall provide notice of a public hearing described in Subsection [~~(5)(b)~~](3)(b):

(a) for at least three weeks before the day of the public hearing, for the municipality and the area proposed for annexation, as a class B notice under Section 63G-30-102; and

(b) by sending written notice to:

(i) the board of each special district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located.

[~~(7)~~](5) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection [~~(6)~~](4):

(i) states that the municipal legislative body has adopted a resolution indicating the municipality's intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing described in Subsection [~~(5)(b)~~](3)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the requirements of Subsection [~~(8)(b)~~](6)(b) or (c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing described in Subsection [~~(5)(b)~~](3)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection [~~(6)(a)~~](4)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection [~~(5)(a)~~](3)(a).

[~~(8)~~](6) (a) Except as provided in Subsections [~~(8)(b)(i)~~](6)(b)(i) and [~~(8)(c)(i)~~](6)(c)(i), upon conclusion of the public hearing described in Subsection [~~(5)(b)~~](3)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection [~~(8)(a)~~](6)(a), upon conclusion of the public hearing described in Subsection [~~(5)(b)~~](3)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection [~~(8)(a)~~](6)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section [~~10-2-425~~]10-2-813 of an annexation approved by an ordinance adopted under Subsection [~~(8)(b)(i)~~](6)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection [~~(8)(a)~~](6)(a), upon conclusion of the public hearing described in Subsection [~~(5)(b)~~](3)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection [~~(8)(a)~~](6)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection [~~(8)(c)(i)(B)~~](6)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection [~~(8)(c)(i)~~](6)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection [~~(8)(c)(i)~~](6)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section [~~10-2-425~~]10-2-813 of an annexation approved by an ordinance adopted under Subsection [~~(8)(c)(i)~~](6)(c)(i), the area annexed is conclusively presumed to be validly annexed.

[~~(9)~~](7) (a) Except as provided in Subsections [~~(8)(b)(i)~~](6)(b)(i) and [~~(8)(c)(i)~~](6)(c)(i), if protests are timely filed under Subsection [~~(8)(a)~~](6)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection [~~(9)(a)~~](7)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection [~~(2)(b)~~](1)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection [~~(3)~~](2) to annex some or all of the remaining portion of the unincorporated island.

(8) Nothing in this section prohibits a municipal legislative body from excluding from a proposed annexation any property that is the subject of a protest, or excluding from a proposed annexation any property for any other reason, and proceeding with the annexation of the non-excluded property if:

(a) the non-excluded property complies with Subsection (1); and

(b) the requirements of Subsection (2) are met.

Section 14. Section 10-2-813, which is renumbered from Section 10-2-425 is renumbered and amended to read:

[~~10-2-425~~]10-2-813

(Effective 05/07/25)

. Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.

[~~(1) As used in this section:~~]

[~~(a) "Annexation action" means:~~]

[~~(i) the enactment of an ordinance annexing an unincorporated area;~~]

[~~(ii) an election approving an annexation under Section 10-2a-404;~~]

[~~(iii) the enactment of an ordinance approving a boundary adjustment by each of the municipalities involved in the boundary adjustment; or~~]

[~~(iv) an automatic annexation that occurs on July 1, 2027 under Subsection 10-2-429(2)(b).~~]

[~~(b) "Applicable legislative body" means:~~]

[~~(i) the legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary; or~~]

[~~(ii) the legislative body of a municipality to which an unincorporated island is automatically annexed under Section 10-2-429.~~]

[~~(2)~~](1) An applicable legislative body shall:

(a) within 60 days after an annexation action, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3);

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(iii) if applicable, a copy of [~~an agreement~~]a resolution under Subsection [~~10-2-429(2)(a)(ii)~~]10-2-814(2)(a)(ii);

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county the original notice of an impending boundary action, the original certificate of annexation or boundary adjustment, the original approved final local entity plat, and a certified copy of the ordinance approving the annexation or boundary adjustment; or

(ii) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

(A) submit to the recorder of one of [~~those~~]the affected counties the original notice of impending boundary action, the original certificate of annexation or boundary adjustment, and the original approved final local entity plat;

(B) submit to the recorder of each other affected county a certified copy of the documents listed in Subsection [~~(2)(b)(ii)(A)~~](1)(b)(ii)(A); and

(C) submit a certified copy of the ordinance approving the annexation or boundary adjustment to each county described in Subsections [~~(2)(b)(ii)(A)~~](1)(b)(ii)(A) and (B); and

(c) concurrently with Subsection [~~(2)(b)~~](1)(b):

(i) send notice of the annexation or boundary adjustment to each affected entity; and

(ii) in accordance with Section 53-2d-514, file with the Bureau of Emergency Medical Services:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary, if applicable; and

(B) a copy of the approved final local entity plat.

[~~(3)~~](2) If an annexation under this part or a boundary adjustment under [~~this part~~]Part 9, Municipal Boundary Adjustments, also causes an automatic annexation to a special district under Section 17B-1-416 or an automatic withdrawal from a special district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the special district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

[~~(4)~~](3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection [~~(5)~~](4).

[~~(5)~~](4) An annexation under this part or a boundary adjustment under [~~this part~~]Part 9, Municipal Boundary Adjustments, is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section [~~10-2-418~~]10-2-812:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection [~~(2)~~](1) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

(B) the requirements of Subsection [~~(2)~~](1) are met before that January 1; and

(b) subject to Subsection [~~(6)~~](5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

[~~(6) (a) As used in this Subsection (6):~~]

[~~(i) "Affected area" means:~~]

[~~(A) in the case of an annexation, the annexed area; and~~]

[~~(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.~~]

[~~(ii) "Annexing municipality" means:~~]

[~~(A) in the case of an annexation, the municipality that annexes an unincorporated area or the municipality to which an unincorporated island is automatically annexed under Section 10-2-429; and~~]

[~~(B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.~~]

[~~(b)~~](5) (a) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

[~~(c)~~](b) Until the documents listed in Subsection [~~(2)(b)(i)~~](1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

Section 15. Section 10-2-814, which is renumbered from Section 10-2-429 is renumbered and amended to read:

[~~10-2-429~~]10-2-814

(Effective 05/07/25)

. Automatic annexations in a county of the first class.

(1) As used in this section:

(a) "Most populous bordering municipality" means the municipality with the highest population of any municipality that shares a common border with an unincorporated island.

(b) "Unincorporated island" means an area that is:

(i) within a county of the first class;

(ii) not within a municipality; and

(iii) completely surrounded by land that is within one or more municipalities within the county of the first class.

(2) (a) Notwithstanding any other provision of this part, on July 1, 2027, an unincorporated island is automatically annexed to:

(i) the most populous bordering municipality, except as provided in Subsection (2)(a)(ii); or

(ii) a municipality other than the most populous bordering municipality if:

(A) the other municipality shares a common border with the unincorporated island; and

(B) the other municipality and the most populous bordering municipality each adopt a resolution agreeing that the unincorporated island should be annexed to the other municipality.

(b) The effective date of an annexation under Subsection (2)(a) is governed by Section [~~10-2-425~~]10-2-813.

Section 16. Section 10-2-815, which is renumbered from Section 10-2-422 is renumbered and amended to read:

[~~10-2-422~~]10-2-815

(Effective 05/07/25)

. Conclusive presumption of annexation.

An area annexed to a municipality under this part shall be conclusively presumed to have been validly annexed if:

(1) the municipality has levied and the taxpayers within the area have paid property taxes for more than one year after annexation; and

(2) no resident of the area has contested the annexation in a court of proper jurisdiction during the year following annexation.

Section 17. Section 10-2-816, which is renumbered from Section 10-2-420 is renumbered and amended to read:

[~~10-2-420~~]10-2-816

(Effective 05/07/25)

. Bonds not affected by annexations -- Payment of property taxes.

(1) [~~A boundary adjustment or~~]An annexation under this part may not jeopardize or endanger any general obligation or revenue bond.

(2) A bondholder may require the payment of property taxes from any area that:

(a) was included in the taxable value of the municipality or other governmental entity issuing the bond at the time the bond was issued; and

(b) is no longer within the boundaries of the municipality or other governmental entity issuing the bond due to [~~the boundary adjustment or~~]an annexation.

Section 18. Section 10-2-817, which is renumbered from Section 10-2-421 is renumbered and amended to read:

[~~10-2-421~~]10-2-817

(Effective 05/07/25)

. Electric utility service in annexed area -- Reimbursement for value of facilities -- Liability -- Arbitration.

(1) As used in this section:

(a) "Commission" means the Public Service Commission established in Section 54-1-1.

(b) "Current replacement cost" means the cost the transferring party would incur to construct the facility at the time of transfer using the transferring party's:

(i) standard estimating rates and standard construction methodologies for the facility; and

(ii) standard estimating process.

(c) "Depreciation" means an amount calculated:

(i) based on:

(A) the life and depreciation mortality curve most recently set for the type of facility in the depreciation rates set by the commission or other governing regulatory authority for the electrical corporation; or

(B) a straight-line depreciation rate that represents the expended life if agreed to by the transferring and receiving parties; and

(ii) to include the gross salvage value of the type of facility based on the latest depreciation life approved by the commission or other governing regulatory authority for the electrical corporation, with a floor at the gross salvage value of the asset and in no case less than zero.

(d) "Electrical corporation" means:

(i) an entity as defined in Section 54-2-1; or

(ii) an improvement district system described in Subsection 17B-2a-403(1)(a)(iv).

(e) "Facility" means electric equipment or infrastructure used to serve an electric customer, above ground or underground, including:

(i) a power line, transformer, switch gear, pole, wire, guy anchor, conductor, cable, or other related equipment; or

(ii) a right-of-way, easement, or any other real property interest or legal right or interest used to operate and maintain the electric equipment or infrastructure.

(f) "Facility transfer" means the transfer of a facility from a transferring party to a receiving party in accordance with Subsection (3).

(g) "Lost or stranded facility" means a facility that is currently used by a transferring party that will no longer be used, whether in whole or in part, as a result of a facility transfer.

(h) "Receiving party" means a municipality or electrical corporation to whom a facility is transferred.

(i) "Transferring party" means a municipality or electrical corporation that transfers a facility.

(2) (a) If an electric customer in an area being annexed by a municipality receives electric service from an electrical corporation that is not an improvement district system described in Subsection 17B-2a-403(1)(a)(iv), the municipality may not, without the agreement of the electrical corporation, furnish municipal electric service to any electric customer in the annexed area until the municipality has reimbursed the electrical corporation for the value of each facility used to serve any electric customer within the annexed area, including the value of any facility owned by a wholesale electric cooperative affiliated with the electrical corporation, dedicated to provide service to the annexed area.

(b) If an electric customer in an area being annexed by a municipality receives electric service from an electrical corporation that is an improvement district system described in Subsection 17B-2a-403(1)(a)(iv), the municipality may not, without the agreement of the electrical corporation, furnish municipal electric service to the electric customer until the municipality has reimbursed the electric corporation for the value of the facility used to serve the electric customer within the annexed area.

(3) The following procedures [~~shall~~]apply if a municipality transfers a facility to an electrical corporation in accordance with Section 10-8-14 or if an electrical corporation transfers a facility to a municipality in accordance with Subsection (2), Section 54-3-30, or 54-3-31:

(a) [~~The~~]the transferring party shall provide a written estimate of the transferring party's cost of preparing the inventory required in Subsection (3)(c) to the receiving party no later than 60 days after the date of notice from the receiving party[~~.~~];

(b) (i) [~~The~~]the receiving party shall pay the estimated cost of preparing the inventory to the transferring party no later than 60 days after the day that the receiving party receives the written estimate[~~.~~]; or

(ii) [~~If~~]if the actual cost of preparing the inventory differs from the estimated cost, the transferring party shall include the difference between the actual cost and the estimated cost in the reimbursement described in Subsection (5)[~~.~~];

(c) [~~Except~~]except as provided in Subsection (3)(f), the transferring party shall prepare, in accordance with Subsection (4), and deliver the inventory to the receiving party no later than 180 days after the day that the transferring party receives the payment specified in Subsection (3)(b)[~~.~~];

(d) (i) [~~At~~]at any time, the parties may by agreement correct or update the inventory[~~.~~]; or

(ii) [~~If~~]if the parties are unable to reach an agreement on an updated inventory, they shall:

(A) proceed with the facility transfer and reimbursement based on the inventory as submitted in accordance with Subsection (3)(c); and

(B) resolve their dispute as provided in Subsection (6)[~~.~~];

(e) [~~Except~~]except as provided in Subsection (3)(f), the parties shall complete each facility transfer and reimbursement contemplated by this Subsection (3) no later than 180 days after the date that the transferring party delivers the inventory to the receiving party in accordance with Subsection (3)(c)[~~.~~]; and

(f) [~~The~~]the periods specified in Subsections (3)(c) and (e) may be extended for up to an additional 90 days by agreement of the parties.

(4) (a) The inventory prepared by a transferring party in accordance with Subsection (3)(c) shall include an identification of each facility to be transferred and the amount of reimbursement as provided in Subsection (5).

(b) The transferring party may not include in the inventory a facility that the transferring party removed from service for at least 36 consecutive months prior to the date of the inventory, unless the facility was taken out of service as a result of an action by the receiving party.

(5) (a) Unless otherwise agreed by the parties, the reimbursement for the transfer of each facility shall include:

(i) the cost of preparing the inventory as provided in Subsection (3)(b);

(ii) subject to Subsection (5)(b)(i), the value of each transferred facility calculated by the current replacement cost of the facility less depreciation based on facility age;

(iii) the cost incurred by the transferring party for:

(A) the physical separation of each facility from its system, including the cost of any facility constructed or installed that is necessary for the transferring party to continue to provide reliable electric service to its remaining customers;

(B) administrative, engineering, and record keeping expenses incurred by the transferring party for the transfer of each facility to the receiving party, including any difference between the actual cost of preparing the inventory and the estimated cost of preparing the inventory; and

(C) reimbursement for any tax consequences to the transferring party resulting from each facility transfer;

(iv) the value of each lost or stranded facility of the transferring party based on the valuation formula described in Subsection (5)(a)(ii) or as otherwise agreed by the parties;

(v) the diminished value of each transferring party facility that will not be transferred based on the percentage of the facility that will no longer be used as a result of the facility transfer; and

(vi) the transferring party's book value of a right-of-way or easement transferred with each facility.

(b) (i) (A) The receiving party may review the estimation of the current replacement costs of each facility, including the wage rates, material costs, overhead assumptions, and other pricing used to establish the estimation of the current replacement costs of the facility.

(B) Prior to reviewing the estimation, the receiving party shall enter into a nondisclosure agreement acceptable to the transferring party.

(C) The nondisclosure agreement shall restrict the use of the information provided by the transferring party solely for the purpose of reviewing the estimation of the current replacement cost and preserve the confidentiality of the information to prevent any effect on a competitive bid received by either party.

(ii) (A) If the age of a facility may be readily determined by the transferring party, the transferring party shall use that age to determine the facility's depreciation.

(B) If the age of a facility cannot be readily determined, the transferring party shall estimate the age of the facility based on the average remaining life approved for the same type of facility in the most current depreciation rates set by the commission or other governing regulatory authority for the electrical corporation.

(c) (i) (A) A transferring party that transfers a facility in accordance with this section shall, upon delivery of a document conveying title to the receiving party, transfer the facility without any express or implied warranties.

(B) A receiving party that receives a facility in accordance with this section shall, upon receipt of a document conveying title, accept the facility in its existing condition and assume any and all liability, fault, risk, or potential loss arising from or related to the facility.

(ii) Notwithstanding Subsection (5)(c)(i), if, within six months after the date that any oil filled equipment is transferred, the receiving party discovers that a transferred oil filled equipment contains polychlorinated biphenyl, the transferring party shall reimburse the receiving party for the cost of testing and disposal of that oil filled equipment.

(6) (a) If the parties cannot agree on each facility to be transferred or the respective reimbursement amount, the parties shall:

(i) proceed with the facility transfer and the reimbursement based on the inventory as submitted by the transferring party in accordance with Subsection (3)(c) and in accordance with the schedule provided in Subsection (3)(e); and

(ii) submit the dispute for mediation or arbitration.

(b) The parties shall share equally in the costs of mediation or arbitration.

(c) If the parties are unable to resolve the dispute through mediation or arbitration, either party may bring an action in the state court of jurisdiction.

(d) The arbitrator, or state court if the parties cannot agree on arbitration, shall determine each facility to be transferred and the amount to be reimbursed in accordance with Subsection (5).

(e) If the arbitrator or state court determines that:

(i) a transferring party transferred a facility that should not have been transferred, the receiving party shall return the facility;

(ii) a party did not transfer a facility that should have been transferred, the party that should have transferred the facility shall transfer the facility to the party to whom the facility should have been transferred;

(iii) the amount reimbursed by the receiving party is insufficient, the receiving party shall pay the difference to the transferring party; or

(iv) the amount reimbursed by the receiving party is more than the amount that should have been reimbursed, the transferring party shall pay the difference to the receiving party.

(7) Unless otherwise agreed upon in writing by the parties:

(a) a party shall transfer a facility to be transferred in accordance with Subsection (6)(e) no later than 60 days after the day that the arbitrator or court issues a determination unless the parties mutually agree to a longer time to complete the transfer; and

(b) a party shall:

(i) pay an amount required to be paid in accordance with Subsection (6)(e) no later than 30 days after the day that the arbitrator or court issues a determination; and

(ii) include interest in the payment at the overall rate of return on the rate base most recently authorized by the commission or other governing regulatory agency for the electrical corporation from the date the reimbursement was originally paid until the difference is paid.

(8) (a) Nothing in this section limits the availability of other damages under law arising by virtue of an agreement between the municipality and the electrical corporation.

(b) Notwithstanding Subsection (8)(a), a party described in this section is not entitled to an award for:

(i) damages that are indirect, incidental, punitive, exemplary, or consequential;

(ii) lost profits; or

(iii) other business interruption damages.

(9) Nothing in this section or Section 10-8-14, 54-3-30, or 54-3-31 applies to a transfer of facilities from an electrical corporation to a municipality in accordance with a decision by a municipality that did not previously provide electric service and seeks to commence providing electric service to a customer currently served by an electrical corporation within the municipal boundary.

(10) The provisions of this section apply to any annexation under this part.

Section 19. Section 10-2-901 is enacted to read:

PART 9. Municipal Boundary Adjustments

10-2-901
(Effective 05/07/25)
. Definitions.

As used in this part:

(1) "Affected area" means any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.

(2) "Annexing municipality" means a municipality whose boundary includes an affected area as a result of a boundary adjustment.

(3) "Municipal records officer" means the same as that term is defined in Section 10-2-801.

(4) "Owner of real property" means the same as that term is defined in Section 10-2-801.

Section 20. Section 10-2-902 is enacted to read:
10-2-902

(Effective 05/07/25)

. Valuation of private real property -- Determining consent to petition or protest by owners of real property.

(1) For purposes of implementing the provisions of this part, the value of private real property shall be determined according to the provisions of Section 10-2-802.

(2) For purposes of implementing the provisions of this part requiring an owner of private real property to sign a petition or protest, determining the appropriate individual to sign the petition or protest shall be determined according to the provisions of Section 10-2-802.

Section 21. Section 10-2-903, which is renumbered from Section 10-2-419 is renumbered and amended to read:

[~~10-2-419~~]10-2-903

(Effective 05/07/25)

. Municipal boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust [~~their~~]the common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).

(3) A legislative body described in Subsection (2) shall provide notice of a public hearing described in Subsection (2)(b):

(a) for the municipality, as a class B notice under Section 63G-30-102, for at least three weeks before the day of the public hearing; and

(b) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

(i) the title holder of any state-owned real property described in this Subsection (3)(b); and

(ii) the Utah State Developmental Center Board, created under Section 26B-1-429, if any state-owned real property described in this Subsection (3)(b) is associated with the Utah State Developmental Center.

(4) The notice described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection (3)(b);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a special district providing fire protection, paramedic, and emergency services or a special district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a special district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the special district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a special district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a special district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the special district.

(5) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the [~~city recorder or town clerk~~]municipal records officer by a person described in Subsection (3)(b)(i) or (ii).

(6) The municipal legislative body of an annexing municipality shall, in regards to an affected area, comply with the requirements of Section [~~10-2-425~~]10-2-813 in regards to the filing of notice and plat and recording a boundary adjustment as if the boundary adjustment were an annexation.

(7) (a) An ordinance adopted under Subsection (5) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (5).

(b) The effective date of a boundary adjustment under this section is governed by Section [~~10-2-425~~]10-2-813.

Section 22. Section 10-2-904 is enacted to read:

10-2-904

(Effective 05/07/25)

. Bonds not affected by municipal boundary adjustment -- Payment of property taxes.

(1) A boundary adjustment under this part may not jeopardize or endanger any general obligation or revenue bond.

(2) A bondholder may require the payment of property taxes from any area that:

(a) was included in the taxable value of the municipality or other governmental entity issuing the bond at the time the bond was issued; and

(b) is no longer within the boundaries of the municipality or other governmental entity issuing the bond due to a boundary adjustment.

Section 23. Section 10-2-905 is enacted to read:

10-2-905

(Effective 05/07/25)

. Municipal boundary adjustment effect on local districts and special service districts.

(1) a local district under Title 17B, Limited Purpose Local Government Entities -- Special Districts; or

(2) a special service district under Title 17D, Chapter 1, Special Service District Act.

Section 24. Section 10-2a-103 is amended to read:

10-2a-103

(Effective 05/07/25)

. Incorporation of a contiguous area -- Incorporation of a community council area -- Incorporation involving more than one county.

(1) (a) An unincorporated contiguous area of a county not within a municipality may incorporate as a municipality as provided in this chapter.

(b) Two or more unincorporated islands, as defined in Section [~~10-2-429~~]10-2-814, that are not contiguous with each other may incorporate as a municipality, as provided in this chapter, if:

(i) those unincorporated islands are part of a community council area; and

(ii) a feasibility request for the proposed incorporation of the community council area is submitted under Section 10-2a-202 no later than May 1, 2025.

(2) If a proposed incorporation relates to an area in more than one county:

(a) the individual who files the feasibility request shall file the request with each county containing a portion of the area proposed for incorporation; and

(b) the counties shall work together, in accordance with direction given by the lieutenant governor, to complete the actions required by this chapter.

Section 25. Section 10-2a-107 is amended to read:

10-2a-107

(Effective 05/07/25)

. Effect of incorporation of community council area.

(1) As used in this section:

(a) "Service area" means the area for which a service provider provided municipal services to an unincorporated island immediately before the incorporation of a community council municipality that includes the previously unincorporated island.

(b) "Service provider" means a special district or other provider of municipal services that, before the incorporation of a community council municipality, provided service to the service area.

(c) "Unincorporated island" means the same as that term is defined in Section [~~10-2-429~~]10-2-814.

(2) An incorporation of a community council municipality does not affect the boundary of any service provider, subject to any future change in the boundary as provided by applicable law.

(3) All roads and other utilities that before incorporation of a community council municipality were under the jurisdiction of the county in which the community council municipality is located become, upon incorporation, under the jurisdiction of the community council municipality.

Section 26. Section 10-2a-201.5 is amended to read:

10-2a-201.5

(Effective 05/07/25)

. Qualifications for incorporation.

(1) (a) An area may incorporate as a town in accordance with this part if the area:

(i) (A) is contiguous; or

(B) is a community council area;

(ii) has a population of at least 100 people, but fewer than 1,000 people; and

(iii) is not already part of a municipality.

(b) A preliminary municipality may transition to, and incorporate as, a town, in accordance with Section 10-2a-510.

(c) An area may incorporate as a city in accordance with this part if the area:

(i) (A) is contiguous; or

(B) is a community council area;

(ii) has a population of 1,000 people or more; and

(iii) is not already part of a municipality.

(2) (a) An area may not incorporate under this part if:

(i) the area has a population of fewer than 100 people; or

(ii) except as provided in Subsection (2)(b), the area has an average population density of fewer than seven people per square mile.

(b) Subsection (2)(a)(ii) does not prohibit incorporation of an area if:

(i) noncompliance with Subsection (2)(a)(ii) is necessary to connect separate areas that share a demonstrable community interest; and

(ii) the area is contiguous.

(3) An area incorporating under this part may not include land owned by the United States federal government unless:

(a) the area, including the land owned by the United States federal government, is contiguous; and

(b) (i) incorporating the land is necessary to connect separate areas that share a demonstrable community interest; or

(ii) excluding the land from the incorporating area would create an unincorporated island within the proposed municipality.

(4) (a) Except as provided in Subsection (4)(b), an area incorporating under this part may not include some or all of an area proposed for annexation in an annexation petition under Section [~~10-2-403~~]10-2-806 that:

(i) was filed before the filing of the request for a feasibility study, described in Section 10-2a-202, relating to the incorporating area; and

(ii) is still pending on the date the request for the feasibility study described in Subsection (4)(a)(i) is filed.

(b) A feasibility request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:

(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

(ii) the feasibility request complies with Subsections 10-2a-202(1), (3), (4), and (5) with respect to excluding the proposed annexation area from the area proposed for incorporation; and

(iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to not be contiguous.

(c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider each feasibility request to which Subsection (4)(b) applies as not proposing the incorporation of an area proposed for annexation.

(5) (a) An area incorporating under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of the parcel gives written consent to exclude part of the parcel.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (5)(a) if owned by the same owner.

Section 27. Section 10-2a-205 is amended to read:

10-2a-205

(Effective 05/07/25)

. Feasibility study -- Feasibility study consultant -- Qualifications for proceeding with incorporation.

(1) (a) The lieutenant governor shall, within 10 days after the day on which the lieutenant governor certifies a feasibility request under Subsection 10-2a-204(5)(a):

(i) estimate the cost of a feasibility study under this section; and

(ii) provide the estimated cost to the feasibility request sponsors.

(b) The feasibility request sponsors shall pay to the lieutenant governor the amount of the estimated cost under Subsection (1)(a) of a feasibility study conducted on or after May 1, 2024.

(c) Within 90 days after the feasibility request sponsors pay the estimated feasibility study cost under Subsection (1)(a), the lieutenant governor shall, in accordance with Subsection (2), engage a feasibility consultant to conduct a feasibility study.

(2) The lieutenant governor shall:

(a) select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah Procurement Code;

(b) ensure that the feasibility consultant:

(i) has expertise in the processes and economics of local government;

(ii) is independent of and not affiliated with a sponsor of the feasibility request or the county in which the proposed municipality is located; and

(iii) for a feasibility study for the proposed incorporation of a community council area, has expertise in the processes and economics of a municipal services district providing municipal services to an unincorporated island, as defined in Section [~~10-2-429~~]10-2-814; and

(c) require the feasibility consultant to:

(i) submit a draft of the feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection (3)(c) within 90 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study;

(ii) allow each person to whom the consultant provides a draft under Subsection (2)(c)(i) to review and provide comment on the draft;

(iii) submit a completed feasibility study, including a one-page summary of the results, to the following within 120 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the feasibility study:

(A) the lieutenant governor;

(B) the county legislative body of the county in which the incorporation is proposed;

(C) the contact sponsor; and

(D) each person to whom the consultant provided a draft under Subsection (2)(c)(i); and

(iv) attend the public hearings described in Section 10-2a-207 to present the feasibility study results and respond to questions from the public.

(3) (a) The feasibility study shall include:

(i) an analysis of the population and population density within the area proposed for incorporation and the surrounding area;

(ii) the current and projected five-year demographics and tax base within the boundaries of the proposed municipality and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) subject to Subsection (3)(b), the current and five-year projected cost of providing municipal services to the proposed municipality, including administrative costs;

(iv) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed municipality;

(v) an analysis of the risks and opportunities that might affect the actual costs described in Subsection (3)(a)(iii) or revenues described

in Subsection (3)(a)(iv) of the newly incorporated municipality;

(vi) an analysis of new revenue sources that may be available to the newly incorporated municipality that are not available before the area incorporates, including an analysis of the amount of revenues the municipality might obtain from those revenue sources;

(vii) the projected tax burden per household of any new taxes that may be levied within the proposed municipality within five years after incorporation;

(viii) the fiscal impact of the municipality's incorporation on unincorporated areas, other municipalities, special districts, special service districts, and other governmental entities in the county; and

(ix) if the county clerk excludes property from, or includes property in, the proposed municipality under Section 10-2a-204.5, an update to the map and legal description described in Subsection 10-2a-202(3)(c).

(b) (i) In calculating the projected costs under Subsection (3)(a)(iii), the feasibility consultant shall assume the proposed municipality will provide a level and quality of municipal services that fairly and reasonably approximate the level and quality of municipal services that are provided to the area of the proposed municipality at the time the feasibility consultant conducts the feasibility study.

(ii) In calculating the current cost of a municipal service under Subsection (3)(a)(iii), the feasibility consultant shall consider:

(A) the amount it would cost the proposed municipality to provide the municipal service for the first five years after the municipality's incorporation; and

(B) the current municipal service provider's present and five-year projected cost of providing the municipal service.

(iii) In calculating costs under Subsection (3)(a)(iii), the feasibility consultant shall account for inflation and anticipated growth.

(c) In conducting the feasibility study, the feasibility consultant shall consult with the following before submitting a draft of the feasibility study under Subsection (2)(c)(i):

(i) if the proposed municipality will include lands owned by the United States federal government, the entity within the United States federal government that has jurisdiction over the land;

(ii) if the proposed municipality will include lands owned by the state, the entity within state government that has jurisdiction over the land;

(iii) each entity that provides a municipal service to a portion of the proposed municipality; and

(iv) each other special service district that provides services to a portion of the proposed municipality.

(4) If the five-year projected revenues calculated under Subsection (3)(a)(iv) exceed the five-year projected costs calculated under Subsection (3)(a)(iii) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(5) (a) Except as provided in Subsection (5)(b), if the results of the feasibility study, or a supplemental feasibility study described in Section 10-2a-206, show that the average annual amount of revenue calculated under Subsection (3)(a)(iv) does not exceed the average annual cost calculated under Subsection (3)(a)(iii) by more than 5%, the process to incorporate the area that is the subject of the feasibility study or supplemental feasibility study may not proceed.

(b) The process to incorporate an area described in Subsection (5)(a) may proceed if a subsequent supplemental feasibility study conducted under Section 10-2a-206 for the proposed incorporation demonstrates compliance with Subsection (5)(a).

(6) If the results of the feasibility study or revised feasibility study do not comply with Subsection (5), and if requested by the sponsors of the request, the feasibility consultant shall, as part of the feasibility study or revised feasibility study, make recommendations regarding how the boundaries of the proposed municipality may be altered to comply with Subsection (5).

(7) The lieutenant governor shall post a copy of the feasibility study, and any supplemental feasibility study described in Section 10-2a-206, on the lieutenant governor's website and make a copy available for public review at the lieutenant governor's office.

Section 28. Section 10-2a-205.5 is amended to read:

10-2a-205.5

(Effective 05/07/25)

. Additional feasibility consultant considerations for proposed incorporation of community council area -- Additional feasibility study requirements.

(1) As used in this section:

(a) "Applicable community council" means the community council that represents the community council area that is proposed to be incorporated.

(b) "Request sponsors" means the sponsors of a feasibility request relating to the proposed incorporation of a community council area.

(2) Subsections 10-2a-205(3)(a) and (b) do not apply to a feasibility study for a proposed incorporation of a community council area.

(3) A feasibility consultant conducting a feasibility study for a proposed incorporation of a community council area shall consider:

(a) population and population density within the community council area;

(b) current and five-year projections of demographics and economic base in the community council area, including household size and income, commercial and industrial development, and public facilities;

(c) projected population growth in the community council area during the next five years;

(d) subject to Subsection (4)(a), the present and five-year projections of the cost, including overhead, of providing the same or a similar service in the community council area as is provided by the municipal services district, including a comparison of:

(i) the estimated cost if the municipal services district continues to provide service;

(ii) the estimated cost if the community council municipality provides service directly or through a contract with another service provider; and

(iii) the estimated cost if an unincorporated island within the community council area is annexed under Section [~~10-2-429~~]10-2-814 and the annexing municipality provides service;

(e) subject to Subsection (4)(a), evaluating the present and five-year projections of the cost, including overhead, of a municipal services district providing municipal services to the community council area, comparing those costs assuming that the community council area is included in the service area of the municipal services district with those costs assuming that the community council area is excluded from the service area of the municipal services district;

(f) a projection of any new taxes per household that may be levied within the community council municipality within five years after incorporation;

(g) the fiscal impact that the community council area's incorporation will have on other municipalities and unincorporated areas served by the municipal services district, including any rate increase that may become necessary to maintain required coverage ratios for the municipal services district's debt if, after incorporation:

(i) the municipal services district continues to provide service to the community council area; or

(ii) the community council area provides service directly or through contract with another service provider;

(h) the physical and other assets that will be required by the municipal services district to provide, without interruption or diminution of service, the same or a similar service to the community council municipality upon incorporation;

(i) the physical and other assets that will no longer be required by the municipal services district to continue to provide the current level of service to the remainder of the service area without the community council area if the community council area incorporates and provides services directly or through contract with another service provider;

(j) the number and classification of municipal services district employees who will no longer be required to serve the remaining portions of the service area if a community council area provides service directly or through contract with another service provider upon incorporation, including the dollar amount of the wages, salaries, and benefits attributable to the employees and the estimated cost associated with termination of the employees if the community council municipality does not employ the employees;

(k) if the community council municipality will provide service directly or through another service provider, the effects of maintaining as a base, for a period of three years, the existing schedule of pay and benefits for municipal services district employees who may be transferred to the employment of the community council municipality or to another service provider with which the community council municipality contracts for service; and

(l) any other factor that the feasibility consultant considers relevant to the cost of providing municipal services as a result of a community council area's incorporation or the annexation of one or more unincorporated islands under Section [~~10-2-429~~]10-2-814.

(4) (a) For purposes of Subsections (3)(d) and (e):

(i) the feasibility consultant shall assume a level and quality of service to be provided in the future to the community council municipality that fairly and reasonably approximates the level and quality of service that the municipal services district provides to the community council area at the time of the feasibility study;

(ii) in determining the present-value cost of a service that the municipal services district provides, the feasibility consultant shall consider:

(A) the cost to the community council municipality of providing the service for the first five years after incorporation;

(B) the municipal services district's present and five-year projected cost of providing the same service to the community council area;

(C) the present and five-year projected cost of providing the same or a similar service to the community council area if service is provided by a municipality to which one or more unincorporated islands are annexed under Section [~~10-2-429~~]10-2-814;

(D) evaluate and detail the expected cost savings and qualitative benefits that result from a service provider other than the proposed municipality providing some municipal services;

(E) incorporate into the overall cost projection for the proposed municipality the potential for municipal services to be provided by a service provider other than the proposed municipality; and

(F) evaluate and detail projected costs for municipal services based on the proposed municipality providing municipal services as compared to service providers other than the proposed municipality providing municipal services funded by those other service providers; and

(iii) the feasibility consultant shall consider inflation and anticipated population growth in calculating the cost of providing service.

(b) A feasibility consultant may not consider an allocation of municipal services district assets or a transfer of municipal services district employees to the extent that the allocation or transfer would impair the municipal services district's ability to continue to provide the current level of service to the remainder of the municipal services district's service area without the community council area, unless the municipal services district consents to the allocation or transfer.

(5) (a) A feasibility consultant shall prepare a written report of the results of the feasibility study.

(b) A report under Subsection (5)(a) shall:

(i) contain a recommendation as to whether the proposed incorporation of the community council area is functionally and financially feasible for the community council area;

(ii) include any conditions the feasibility consultant determines are required to be satisfied to make the incorporation functionally and financially feasible; and

(iii) compare the costs of incorporation to the costs of the unincorporated islands within the community council area being annexed under Section [~~10-2-429~~]10-2-814.

(c) (i) Before finalizing a written report under this Subsection (5), the feasibility consultant shall provide a copy of a draft feasibility study report to the request sponsors and the county for their review and comments.

(ii) Based on comments provided under Subsection (5)(c)(i), a feasibility consultant may adjust the draft feasibility study report before finalizing the report.

(6) Upon completion of the feasibility study and preparation of a written report, the feasibility consultant shall deliver a copy of the report to:

(a) the applicable community council;

(b) the request sponsors;

(c) the municipal services district that provides service to the community council area;

(d) the county in which the community council area is located; and

(e) each municipality that borders any part of the community council area.

(7) (a) (i) If the request sponsors or the county in which the community council area is located disagrees with any aspect of a feasibility study report or, if applicable, a feasibility study report modified under Subsection (7)(c), the request sponsors or county may, within 20 business days after receiving a copy of the report under Subsection (6) or a copy of a modified feasibility study report under Subsection (7)(c)(ii), submit to the feasibility consultant a written objection detailing the disagreement.

(ii) Request sponsors who submit a written objection under Subsection (7)(a)(i) shall simultaneously deliver a copy of the objection to the county.

(iii) A county that submits a written objection under Subsection (7)(a)(i) shall simultaneously deliver a copy of the objection to the request sponsors.

(b) (i) The request sponsors or a county may, within 10 business days after receiving an objection under Subsection (7)(a)(i), submit to the feasibility consultant a written response to the objection.

(ii) The request sponsors who submit a response under Subsection (7)(b)(i) shall simultaneously deliver a copy of the response to the county.

(iii) A county that submits a response under Subsection (7)(b)(i) shall simultaneously deliver a copy of the response to the request sponsors.

(c) If an objection is filed under Subsection (7)(a)(i), the feasibility consultant shall, within 20 business days after the expiration of the deadline under Subsection (7)(b)(i) for submitting a response to an objection:

(i) (A) modify the feasibility study report; or

(B) explain in writing why the feasibility consultant is not modifying the feasibility study report; and

(ii) deliver the modified feasibility study report or written explanation to:

(A) the request sponsors;

(B) the municipal services district that provides service to the community council area;

(C) the county in which the community council area is located; and

(D) each municipality that borders any part of the community council area.

(d) Within seven days after the expiration of the deadline under Subsection (7)(a)(i) for submitting an objection or, if an objection is submitted, within seven days after receiving a modified feasibility study report or written explanation under Subsection (7)(c), but at least 30 days before a public hearing under Subsection (9), the applicable community council shall:

(i) make a copy of the report available to the public at the primary office of the applicable community council; and

(ii) post a copy of the report on the website of the applicable community council, if the applicable community council has a website.

(8) (a) A feasibility study report or, if a feasibility study report is modified under Subsection (7), a modified feasibility study report may not be challenged unless the basis of the challenge is that the report results from collusion or fraud.

(b) Subsection (8)(a) does not apply to an objection to a feasibility study report or a modified feasibility study report under Subsection (7).

(9) (a) Following the expiration of the deadline under Subsection (7)(a)(i) for submitting an objection, or, if an objection is submitted under Subsection (7)(a)(i), following the applicable community council's receipt of the modified feasibility study report or written explanation under Subsection (7)(c), the applicable community council shall, at the applicable community council's next regular meeting, schedule at least one public hearing to be held:

(i) within the following 60 days; and

(ii) for the purpose of allowing:

(A) the feasibility consultant to present the results of the feasibility study; and

(B) the public to become informed about the feasibility study results, to ask the feasibility consultant questions about the feasibility study, and to express the public's views about the proposed incorporation of the community council area.

(b) At a public hearing under Subsection (9)(a), the applicable community council shall:

(i) provide a copy of the feasibility study for public review; and

(ii) allow the public to:

(A) ask the feasibility consultant questions about the feasibility study; and

(B) express the public's views about the advantages and disadvantages of the proposed incorporation as compared to a potential annexation under Section [~~10-2-429~~]10-2-814.

(c) (i) The applicable community council shall publish notice of a hearing under Subsection (9)(a), as a class A notice under Section 63G-30-102, for three consecutive weeks immediately before the public hearing.

(ii) A notice under Subsection (9)(c)(i) shall state:

(A) the date, time, and location of the public hearing; and

(B) that a copy of the feasibility study report may be obtained, free of charge, at the office of the applicable community council or, if applicable, on the applicable community council's website.

(10) A community council area may not incorporate if the feasibility study concludes that incorporation of the community council area is not functionally and financially feasible.

(11) Notwithstanding any other provision of this part:

(a) the lieutenant governor shall pay the fees and costs of a feasibility consultant using funds from the Municipal Incorporation Expendable Special Revenue Fund under Section 10-2a-220; and

(b) if the community council area incorporates as a municipality, the newly incorporated municipality shall pay incorporation costs to the lieutenant governor and county as provided in Section 10-2a-220.

(12) Unless the request sponsors and county agree otherwise, conditions that a feasibility study report indicates are necessary to be met for the incorporation of the community council area to be functionally and financially feasible for the proposed community council municipality are binding on the community council municipality and county if the incorporation occurs.

Section 29. Section 10-2a-207 is amended to read:

10-2a-207

(Effective 05/07/25)

. Additional public hearings on feasibility study results -- Notice of hearings.

(1) As used in this section, "specified landowner" means the same as that term is defined in Section 10-2a-204.5.

(2) If the results of the feasibility study or supplemental feasibility study comply with Subsection 10-2a-205(5)(a), the county clerk shall, after receipt of the results of the feasibility study or supplemental feasibility study, conduct additional public hearings in accordance with this section.

(3) (a) If an area proposed for incorporation is approved for annexation after the feasibility study or supplemental feasibility study is conducted but before the county clerk conducts the second public hearing under Subsection (4), the county clerk may not conduct the second public hearing under Subsection (4) unless:

(i) the sponsors of the feasibility study file a modified feasibility request in accordance with Section 10-2a-206; and

(ii) the results of the supplemental feasibility study comply with Subsection 10-2a-205(5)(a).

(b) For purposes of Subsection (3)(a), an area is approved for annexation if a municipal legislative body:

(i) approves an annexation petition proposing the annexation of an area that is part of the area proposed for incorporation under Section [~~10-2-407 or 10-2-408~~]10-2-810 or 10-2-811; or

(ii) adopts an ordinance approving the annexation of an area that is part of the area proposed for incorporation under Section [~~10-2-418~~]10-2-812.

(4) The county clerk shall conduct the second public hearing:

(a) within 60 days after the day on which the county clerk receives the results under Subsection (2) or (3)(a)(ii);

(b) at a location approved by the lieutenant governor within or near the proposed municipality; and

(c) to allow the feasibility consultant to present the results of the feasibility study and inform the public about the results.

(5) The county clerk shall:

(a) conduct an additional public hearing following each occasion when, after the day of the second public hearing, the county clerk receives the results of a supplemental feasibility study that comply with Subsection 10-2a-205(5); and

(b) hold the public hearing described in Subsection (5)(a):

(i) within 30 days after the day on which the county clerk receives the results of the supplemental feasibility study;

(ii) at a location approved by the lieutenant governor within or near the proposed municipality;

(iii) to inform the public that the feasibility presented to the public at the preceding public hearing does not apply; and

(iv) to allow the feasibility consultant to present the results of the supplemental feasibility study and inform the public about the results.

(6) At each public hearing required under this section, the county clerk shall:

(a) provide a map or plat of the boundary of the proposed municipality;

(b) provide a copy of the applicable feasibility study for public review;

(c) allow members of the public to express views about the proposed incorporation, including views about the proposed boundaries; and

(d) allow the public to ask the feasibility consultant questions about the applicable feasibility study.

(7) The county clerk shall publish notice of each public hearing required under this section, and Section 10-2a-204.3, for the proposed municipality, as a class B notice under Section 63G-30-102, for at least three weeks before the day of the public hearing.

(8) (a) Except as provided in Subsection (8)(b), for a hearing described in this section, the notice described in Subsection (7) shall:

(i) include the feasibility study summary described in Subsection 10-2a-205(2)(c)(iii); and

(ii) indicate that a full copy of the feasibility study is available on the county's website and for inspection at the county clerk's office.

(b) Instead of publishing the feasibility summary under Subsection (8)(a)(i), the county clerk may publish a statement that specifies the following sources where a resident within, or the owner of real property located within, the proposed municipality, may view or obtain a copy of the feasibility study:

(i) the lieutenant governor's website;

(ii) the county's website;

(iii) the physical address of the county clerk's office; and

(iv) a mailing address and telephone number.

Section 30. Section 10-2a-210 is amended to read:

10-2a-210

(Effective 05/07/25)

. Incorporation election -- Notice of election -- Voter information pamphlet.

(1) (a) If the county clerk certifies a petition for incorporation under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition for incorporation to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the county clerk certifies the petition for incorporation.

(b) (i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county legislative body shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall provide notice of the election for the area proposed to be incorporated, as a class B notice under Section 63G-30-102, for at least three weeks before the day of the election.

(3) (a) The notice described in Subsection (2) shall include:

(i) a statement of the contents of the petition for incorporation;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(b), the feasibility study summary described in Subsection 10-2a-205(2)(c)(iii) and a statement that a full copy of the study is available on the county's website and for inspection at the county offices.

(b) Instead of including the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in the area proposed to be incorporated may view or obtain a copy of the feasibility study:

(i) the county's website;

(ii) the physical address of the county clerk office; and

(iii) a mailing address and telephone number.

(4) (a) In addition to the notice described in Subsection (2), the county clerk shall publish and distribute, before the incorporation election is held, a voter information pamphlet:

(i) in accordance with the procedures and requirements of Section 20A-7-402;

(ii) in consultation with the lieutenant governor; and

(iii) in a manner that the county clerk determines is adequate, subject to Subsections (4)(a)(i) and (ii).

(b) The voter information pamphlet described in Subsection (4)(a):

(i) shall inform the public of the proposed incorporation; and

(ii) may include written statements, printed in the same font style and point size, from proponents and opponents of the proposed incorporation.

(5) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who is a resident, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

(6) (a) Subject to Subsection (6)(b), if a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

(b) (i) As used in this Subsection (6)(b):

(A) "Approving separate area" means a separate area in which a majority of those voting in an incorporation election for the incorporation of a community council area vote in favor of incorporation.

(B) "Separate area" means an unincorporated island, as defined in Section [~~10-2-429~~]10-2-814, that is within a community council area.

(ii) If a majority of those within a separate area voting in an incorporation election for the incorporation of a community council area vote against incorporation, that separate area is excluded from the incorporation.

(iii) Approving separate areas are incorporated as a municipality if the combined total population within all approving separate areas is at least 80% of the population within the community council area.

Section 31. Section 10-2a-501 is amended to read:

10-2a-501

(Effective 05/07/25) (Repealed 01/01/31)

. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.

(2) "Board," in relation to a preliminary municipality, means the same as a council described in Section 10-3b-402.

(3) "Board chair," in relation to a preliminary municipality, means the same as a mayor described in Section 10-3b-402.

(4) "Contiguous" means the same as that term is defined in Section 10-2a-102.

(5) "Feasibility consultant" means a person or firm:

(a) with expertise in the processes and economics of local government; and

(b) who is independent of, and not affiliated with, a county or a sponsor of a petition to incorporate a preliminary municipality under this part.

(6) "Feasibility request" means a request, described in Section 10-2a-502, for a feasibility study for the proposed incorporation of a preliminary municipality.

(7) "Initial landowners" means the persons who owned the land within the proposed preliminary municipality area when the person filed the feasibility request under Section 20A-1-501.

(8) "Municipal service" means the same as that term is defined in Section 10-2a-102.

(9) "Pending annexation area" means an area proposed for annexation in an annexation petition described in Section [~~10-2-403~~]10-2-806 that is filed before, and is still pending when, a person files the applicable request for a feasibility study under Section 10-2a-502.

(10) "Primary sponsor contact" means:

(a) in relation to a feasibility request:

(i) the individual designated as the primary sponsor contact for a feasibility request under Subsection 10-2a-502(5)(c); or

(ii) an individual designated, in writing, by the initial landowners if a replacement primary sponsor contact is needed; or

(b) in relation to a petition for incorporation of a preliminary municipality:

(i) the individual designated as the primary sponsor contact for a petition for incorporation of a preliminary municipality under Subsection 10-2a-507(1)(d); or

(ii) an individual designated, in writing, by the initial landowners if a replacement primary sponsor contact is needed.

(11) "Private," in relation to real property, means taxable real property.

(12) "Proposed preliminary municipality area" means the area proposed for incorporation as a preliminary municipality in a feasibility request.

(13) "System infrastructure" means, as shown on the map or plat described in Subsection 10-2a-502(5)(e) for the proposed preliminary municipal area:

(a) the main thoroughfares within the proposed preliminary municipal area, including the roads that connect the proposed preliminary municipality area to an existing road outside the proposed preliminary municipality area; and

(b) the main lines that will connect a utility to the proposed preliminary municipality area, including the stubs that will connect the main lines to the development in the proposed preliminary municipality area.

Section 32. Section 10-2a-506 is amended to read:

10-2a-506

(Effective 05/07/25) (Repealed 01/01/31)

. Public hearings on feasibility study results -- Notice of hearings.

(1) If the results of the feasibility study or supplemental feasibility study comply with Subsection 10-2a-504(4), the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, conduct public hearings in accordance with this section.

(2) (a) If a portion of the proposed preliminary municipality area is approved for annexation after the feasibility study or supplemental feasibility study is conducted but before the lieutenant governor conducts a public hearing under Subsection (4), the lieutenant governor may not conduct the public hearing under Subsection (4) unless:

(i) the sponsors of the feasibility study file a modified feasibility request in accordance with Section 10-2a-505; and

(ii) the results of the supplemental feasibility study comply with Subsection 10-2a-504(4).

(b) For purposes of Subsection (2)(a), an area is approved for annexation if a municipal legislative body:

(i) approves an annexation petition proposing the annexation of an area that is part of the proposed preliminary municipality area under Section [~~10-2-407 or 10-2-408~~]10-2-810 or 10-2-811; or

(ii) adopts an ordinance approving the annexation of an area that is part of the proposed preliminary municipality area under Section [~~10-2-418~~]10-2-812.

(3) The lieutenant governor shall conduct a public hearing:

(a) within 60 days after the day on which the lieutenant governor receives the results under Subsection (1) or (2)(a)(ii);

(b) at a location within or near the proposed preliminary municipality; and

(c) to allow the feasibility consultant to present the results of the feasibility study and inform the public about the results.

(4) The lieutenant governor shall:

(a) conduct an additional public hearing following each occasion when, after the day of the initial public hearing, the lieutenant governor receives the results of a supplemental feasibility study that comply with Subsection 10-2a-504(4); and

(b) hold the public hearing described in Subsection (4)(a):

(i) within 30 days after the day on which the lieutenant governor receives the results of the supplemental feasibility study;

(ii) at a location within or near the proposed preliminary municipality;

(iii) to inform the public that the feasibility presented to the public at the preceding public hearing does not apply; and

(iv) to allow the feasibility consultant to present the results of the supplemental feasibility study and inform the public about the results.

(5) At each public hearing required under this section, the lieutenant governor shall:

(a) provide a map or plat of the boundary of the proposed preliminary municipality;

(b) provide a copy of the applicable feasibility study for public review;

(c) allow members of the public to express views about the proposed preliminary municipality, including views about the proposed boundaries; and

(d) allow the public to ask the feasibility consultant questions about the applicable feasibility study.

(6) The lieutenant governor shall publish notice of each public hearing required under this section for the proposed preliminary municipality area, as a class B notice under Section 63G-30-102, for at least three weeks before the day of the public hearing.

(7) (a) Except as provided in Subsection (7)(b), for a hearing described in this section, the notice described in Subsection [~~(7)~~](6) shall:

(i) include the feasibility study summary described in Subsection 10-2a-504(2)(c)(iii); and

(ii) indicate that a full copy of the feasibility study is available on the lieutenant governor's website and for inspection at the lieutenant governor's office.

(b) Instead of publishing the feasibility summary under Subsection (7)(a)(i), the lieutenant governor may publish a statement that specifies the following sources where a person may view or obtain a copy of the feasibility study:

(i) the lieutenant governor's website;

(ii) the lieutenant governor's office; and

(iii) a mailing address and telephone number.

Section 33. Section 10-6-103 is amended to read:

10-6-103

(Effective 05/07/25)

. Applicability.

This chapter applies to all cities, including charter cities.

Section 34. Section 10-8-14 is amended to read:

10-8-14

(Effective 05/07/25)

. Utility and telecommunications services -- Service beyond municipal limits -- Retainage -- Notice of service and agreement.

(1) As used in this section, "public telecommunications service facilities" means the same as that term is defined in Section 10-18-102.

(2) A municipality may:

(a) construct, maintain, and operate waterworks, sewer collection, sewer treatment systems, gas works, electric light works, telecommunications lines, cable television lines, public transportation systems, or public telecommunications service facilities;

(b) authorize the construction, maintenance and operation of the works or systems listed in Subsection (2)(a) by others;

(c) purchase or lease the works or systems listed in Subsection (2)(a) from any person or corporation; and

(d) sell and deliver the surplus product or service capacity of any works or system listed in Subsection (2)(a), not required by the municipality or the municipality's inhabitants, to others beyond the limits of the municipality, except the sale and delivery of:

(i) retail electricity beyond the municipal boundary is governed by Subsections (3) through (8);

(ii) cable television services or public telecommunications services is governed by Subsection (12); and

(iii) water is governed by Sections 10-7-14 and 10-8-22.

(3) If any payment on a contract with a private person, firm, or corporation to construct waterworks, sewer collection, sewer treatment systems, gas works, electric works, telecommunications lines, cable television lines, public transportation systems, or public telecommunications service facilities is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

(4) (a) Except as provided in Subsection (4)(b), (6), or (10), a municipality may not sell or deliver the electricity produced or distributed by the municipality's electric works constructed, maintained, or operated in accordance with Subsection (2) to a retail customer located beyond the municipality's municipal boundary.

(b) A municipality that provides retail electric service to a customer beyond the municipality's municipal boundary on or before June 15, 2013, may continue to serve that customer if:

(i) on or before December 15, 2013, the municipality provides the electrical corporation, as defined in Section 54-2-1, that is obligated by the municipality's certificate of public convenience and necessity to serve the customer with an accurate and complete verified written notice described in Subsection (4)(c) that identifies each customer served by the municipality beyond the municipality's municipal boundary;

(ii) no later than June 15, 2014, the municipality enters into a written filing agreement for the provision of electric service with the electrical corporation; and

(iii) the Public Service Commission approves the written filing agreement in accordance with Section 54-4-40.

(c) The municipality shall include in the written notice required in Subsection (4)(b)(i) for each customer:

(i) the customer's meter number;

(ii) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;

(iii) the customer's class of service; and

(iv) a representation that the customer was receiving service from the municipality on or before June 15, 2013.

(5) The written filing agreement entered into in accordance with Subsection (4)(b)(ii) shall require the following:

(a) The municipality shall provide electric service to a customer identified in accordance with Subsection (4)(b)(i) unless the municipality and the electrical corporation subsequently agree in writing that the electrical corporation will provide electric service to the customer.

(b) If a customer who is located outside the municipal boundary and who is not identified in accordance with Subsection (4)(b)(i) requests service from the municipality after June 15, 2013, the municipality may not provide that customer electric service unless the municipality submits a request to and enters into a written agreement with the electric corporation in accordance with Subsection (6).

(6) (a) A municipality may submit to the electrical corporation a request to provide electric service to an electric customer described in Subsection (5)(b).

(b) If a municipality submits a request, the electrical corporation shall respond to the request within 60 days.

(c) If the electrical corporation agrees to allow the municipality to provide electric service to the customer:

(i) the electrical corporation and the municipality shall enter into a written agreement;

(ii) the municipality shall agree in the written agreement to subsequently transfer service to the customer described in Subsection (5)(b) if the electrical corporation notifies, in writing, the municipality that the electrical corporation has installed a facility capable of providing electric service to the customer; and

(iii) the municipality may provide the service if:

(A) except as provided in Subsection (6)(c)(iii)(B), the Public Service Commission approves the agreement in accordance with Section 54-4-40; or

(B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.

(d) The municipality or the electrical corporation may terminate the agreement for the provision of electric service if the Public Service Commission imposes a condition authorized in Section 54-4-40 that is a material change to the agreement.

(7) If the municipality and electrical corporation make a transfer described in Subsection (6)(c)(ii):

(a) (i) the municipality shall transfer the electric service customer to the electrical corporation; and

(ii) the electrical corporation shall provide electric service to the customer; and

(b) the municipality shall transfer a facility in accordance with and for the value as provided in Section [~~10-2-421~~]10-2-817.

(8) (a) In accordance with Subsection (8)(b), the municipality shall establish a reasonable mechanism for resolving potential future complaints by an electric customer located outside the municipality's municipal boundary.

(b) The mechanism shall require:

(i) that the rates and conditions of service for a customer outside the municipality's boundary are at least as favorable as the rates and conditions of service for a similarly situated customer within the municipality's boundary; and

(ii) if the municipality provides a general rebate, refund, or other payment to a customer located within the municipality's boundary, that the municipality also provide the same general rebate, refund, or other payment to a similarly situated customer located outside the municipality's boundary.

(9) The municipality is relieved of any obligation to transfer a customer described in Subsection (5)(b) or facility used to serve the customer in accordance with Subsection (6)(c)(ii) if the municipality annexes the property on which the customer is being served.

(10) (a) A municipality may provide electric service outside of the municipality's municipal boundary to a facility that is solely owned and operated by the municipality for municipal service.

(b) A municipality's provision of electric service to a facility that is solely owned and operated by the municipality does not expand the municipality's electric service area.

(11) Nothing in this section expands or diminishes the ability of a municipality to enter into a wholesale electrical sales contract with another municipality that serves electric customers to sell and deliver wholesale electricity to the other municipality.

(12) A municipality's actions under this section related to works or systems involving public telecommunications services or cable television services are subject to the requirements of Chapter 18, Municipal Cable Television and Public Telecommunications Services Act.

Section 35. Section 10-9a-103 is amended to read:

10-9a-103

(Effective 05/07/25)

. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Building code adoption cycle" means the period of time beginning the day on which a specific edition of a construction code from a nationally recognized code authority is adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day before a new edition of a construction code is adopted and effective in Title 15A, State Construction and Fire Codes Act.

(9) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

[~~(9)~~](10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

[~~(10)~~](11) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

[~~(11)~~](12) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

[~~(12)~~](13) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

[~~(13)~~](14) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

[~~(14)~~](15) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection [~~(14)(a)(i)~~](15)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection [~~(14)(a)(i)~~](15)(a)(i); and

(B) used in support of the purposes of a building described in Subsection [~~(14)(a)(i)~~](15)(a)(i); or

(ii) a therapeutic school.

[~~(15)~~](16) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of

fire protection and suppression services for the subject property.

[~~(16)~~](17) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

[~~(17)~~](18) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

[~~(18)~~](19) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

[~~(19)~~](20) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

[~~(20)~~](21) "Home-based microschool" means the same as that term is defined in Section 53G-6-201.

[~~(21)~~](22) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

[~~(22)~~](23) (a) "Identical plans" means [~~building~~]floor plans submitted to a municipality that:

[~~(a)~~](i) are [~~clearly marked as "identical plans"~~]submitted within the same building code adoption cycle as floor plans that were previously approved by the municipality;

[~~(b)~~](ii) [~~are substantially identical to building~~]have no structural differences from floor plans that were previously [~~submitted to and reviewed and~~]approved by the municipality; and

[~~(c)~~](iii) describe a building that:

[~~(i)~~](A) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

[~~(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;~~]

[~~(iii)~~](B) has a substantially identical floor plan [~~identical to the building~~]to a floor plan previously [~~submitted to and reviewed and~~]approved by the municipality; and

[~~(iv)~~](C) does not require any [~~additional~~]engineering or analysis beyond a review to confirm the submitted floor plans are substantially identical to a floor plan previously approved by the municipality or a review of the site plan and associated geotechnical reports for the site.

(b) "Identical plans" include floor plans that are oriented differently as the floor plan that was previously approved by the municipality.

[~~(23)~~](24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

[~~(24)~~](25) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

[~~(25)~~](26) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

[~~(26)~~](27) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required public landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines, based on accepted industry standards and for good cause, that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

[~~(27)~~](28) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

[~~(28)~~](29) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

[~~(29)~~](30) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

[~~(30)~~](31) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

[~~(31)~~](32) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

[~~(32)~~](33) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit; or

(b) a land use application.

[~~(33)~~](34) "Land use permit" means a permit issued by a land use authority.

[~~(34)~~](35) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, engineering or development standard, specification for public improvement, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

[~~(35)~~](36) "Legislative body" means the municipal council.

[~~(36)~~](37) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

[~~(37)~~](38) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

[~~(38)~~](39) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision or a subdivision amendment.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(39)~~](40) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

[~~(40)~~](41) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.

[~~(41)~~](42) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

[~~(42)~~](43) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

[~~(43)~~](44) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[~~(44)~~](45) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

[~~(45)~~](46) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[~~(46)~~](47) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

[~~(47)~~](48) "Parcel" means any real property that is not a lot.

[~~(48)~~](49) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(49)~~](50) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(50)~~](51) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

[~~(51)~~](52) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

[~~(52)~~](53) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[~~(53)~~](54) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, special district, special service district, or other political subdivision of the state; or

(d) a charter school.

[~~(54)~~](55) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(55)~~](56) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(56)~~](57) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(57)~~](58) "Receiving zone" means an area [~~of a municipality~~]that [~~the~~]a municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(58)~~](59) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

[~~(59)~~](60) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

[~~(60)~~](61) "Residential roadway" means a public local residential road that:

(a) will serve primarily to provide access to adjacent primarily residential areas and property;

(b) is designed to accommodate minimal traffic volumes or vehicular traffic;

(c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;

(d) has a posted speed limit of 25 miles per hour or less;

(e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;

(f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

[~~(61)~~](62) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(62)~~](63) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(63)~~](64) "Sending zone" means an area [~~of a municipality~~]that [~~the~~]a municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[~~(64)~~](65) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[~~(65)~~](66) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(66)~~](67) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(67)~~](68) "State" includes any department, division, or agency of the state.

[~~(68)~~](69) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection [~~(68)(c)~~](69)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat;

(ix) a deed or easement for a road, street, or highway purpose; or

(x) any other division of land authorized by law.

[~~(69)~~](70) (a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(i) vacates all or a portion of the subdivision;

(ii) alters the outside boundary of the subdivision;

(iii) changes the number of lots within the subdivision;

(iv) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(v) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a lot line adjustment, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

[~~(70)~~](71) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

[~~(71)~~](72) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~(72)~~](73) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~(73)~~](74) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~(74)~~](75) "Unincorporated" means the area outside of the incorporated area of a city or town.

[~~(75)~~](76) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[~~(76)~~](77) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 36. Section 10-9a-205 is amended to read:

10-9a-205

(Effective 05/07/25)

. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each municipality shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing; and

(b) (i) provided for the area directly affected by the land use ordinance change, as a class B notice under Section 63G-30-102, for at least 10 calendar days before the day of the public hearing[-]; or

(ii) if the proposed land use ordinance adoption or modification is ministerial in nature, as described in Subsections (6)(a) and (b), provided as a class A notice under Section 63G-30-102 for at least 10 calendar days before the day of the public hearing.

(3) In addition to the notice requirements described in Subsections (1) and (2), for any proposed modification to the text of a zoning code, the notice posted in accordance with Subsection (2) shall:

(a) include:

(i) a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; or

(ii) a direct link to the municipality's webpage where a person can find a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; and

(b) be provided to any person upon written request.

(4) Each notice of a public meeting under Subsection (1)(b) shall be provided for the municipality, as a class A notice under Section 63G-30-102, for at least 24 hours before the meeting.

(5) (a) A municipality shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within a proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the municipality will be provided to the municipal legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 10-9a-502.

(c) If a municipality mails notice to a property owner in accordance with Subsection (2)(b)(i) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (5) may be included in or part of the notice described in Subsection (2)(b)(i) rather than sent separately.

(6) (a) For purpose of the notice requirements in Subsection (2)(b) only, a proposed land use ordinance is ministerial in nature if the proposed land use ordinance is to:

(i) bring the municipality's land use ordinances into compliance with a state or federal law;

(ii) adopt a municipal land use update that affects:

(A) an entire zoning district; or

(B) multiple zoning districts;

(iii) adopt a non-substantive, clerical text amendment to an existing land use ordinance;

(iv) recodify the municipality's existing land use ordinances; or

(v) designate or define an affected area for purposes of a boundary adjustment or annexation.

(b) A proposed land use ordinance may include more than one of the purposes described in Subsection (6)(a) and remain ministerial in nature.

(c) If a proposed land use ordinance includes an adoption or modification not described in Subsection (6)(a):

(i) the proposed land use ordinance is not ministerial in nature, even if the proposed land use ordinance also includes a change or modification described in Subsection (6)(a); and

(ii) the notice requirements of Subsection (2)(b)(i) apply.

Section 37. Section 10-9a-508 is amended to read:

10-9a-508

(Effective 05/07/25)

. Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A municipality may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:

(a) an essential link exists between a legitimate governmental interest and each exaction; and

(b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) If a land use authority imposes an exaction for another governmental entity:

(a) the governmental entity shall request the exaction; and

(b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.

(3) (a) (i) Subject to the requirements of this Subsection (3), a municipality shall base an exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.

(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base an exaction for a culinary water interest on:

(A) consideration of the system-wide minimum sizing standards established for the culinary water authority by the Division of Drinking Water pursuant to Section 19-4-114; and

(B) the number of equivalent residential connections associated with the culinary water demand for each specific development proposed in the development's land use application, applying lower exactions for developments with lower equivalent residential connections as demonstrated by at least five years of usage data for like land uses within the municipality.

(iii) A municipality may impose an exaction for a culinary water interest that results in less water being exacted than would otherwise be exacted under Subsection (3)(a)(ii) if the municipality, at the municipality's sole discretion, determines there is good cause to do so.

(iv) (A) A municipality shall make public the methodology used to comply with Subsection (3)(a)(ii)(B).

(B) A land use applicant may appeal to the municipality's governing body an exaction calculation used by the municipality under Subsection (3)(a)(ii).

(C) A land use applicant may present data and other information that illustrates a need for an exaction recalculation and the municipality's governing body shall respond with due process.

(v) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.

(b) A municipality may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).

(4) (a) If a municipality plans to dispose of surplus real property that was acquired under this section and has been owned by the municipality for less than 15 years, the municipality shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the municipality.

(b) A person to whom a municipality offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the municipality's offer.

(c) If a person to whom a municipality offers to reconvey property declines the offer, the municipality may offer the property for sale.

(d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community reinvestment agency.

(5) (a) A municipality may not, as part of an infrastructure improvement, require the installation of pavement on a residential roadway at a width in excess of 32 feet.

(b) Subsection (5)(a) does not apply if a municipality requires the installation of pavement in excess of 32 feet:

(i) in a vehicle turnaround area;

(ii) in a cul-de-sac;

(iii) to address specific traffic flow constraints at an intersection, mid-block crossings, or other areas;

(iv) to address an applicable general or master plan improvement, including transportation, bicycle lanes, trails, or other similar improvements that are not included within an impact fee area;

(v) to address traffic flow constraints for service to or abutting higher density developments or uses that generate higher traffic volumes, including community centers, schools, and other similar uses;

(vi) as needed for the installation or location of a utility which is maintained by the municipality and is considered a transmission line or requires additional roadway width;

(vii) for third-party utility lines that have an easement preventing the installation of utilities maintained by the municipality within the roadway;

(viii) for utilities over 12 feet in depth;

(ix) for roadways with a design speed that exceeds 25 miles per hour;

(x) as needed for flood and stormwater routing;

(xi) as needed to meet fire code requirements for parking and hydrants; or

(xii) as needed to accommodate street parking.

(c) Nothing in this section shall be construed to prevent a municipality from approving a road cross section with a pavement width less than 32 feet.

(d) (i) A land use applicant may appeal a municipal requirement for pavement in excess of 32 feet on a residential roadway.

(ii) A land use applicant that has appealed a municipal specification for a residential roadway pavement width in excess of 32 feet may request that the municipality assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(iii) Unless otherwise agreed by the applicant and the municipality, the panel described in Subsection (5)(d)(ii) shall consist of the following three experts:

(A) one licensed engineer, designated by the municipality;

(B) one licensed engineer, designated by the land use applicant; and

(C) one licensed engineer, agreed upon and designated by the two designated engineers under Subsections (5)(d)(iii)(A) and (B).

(iv) A member of the panel assembled by the municipality under Subsection (5)(d)(ii) may not have an interest in the application that is the subject of the appeal.

(v) The land use applicant shall pay:

(A) 50% of the cost of the panel; and

(B) the municipality's published appeal fee.

(vi) The decision of the panel is a final decision, subject to a petition for review under Subsection (5)(d)(vii).

(vii) Pursuant to Section 10-9a-801, a land use applicant or the municipality may file a petition for review of the decision with the district court within 30 days after the date that the decision is final.

Section 38. Section 10-9a-508.1 is enacted to read:

10-9a-508.1

(Effective 05/07/25)

. Private maintenance of public access amenities prohibited.

(1) As used in this section:

(a) "Public access amenity" means a physical feature like a trail or recreation area that a municipality designates for public access and use.

(b) "Retail water line" means the same as that term is defined in Section 11-8-4.

(c) "Sewer lateral" means the same as that term is defined in Section 11-8-4.

(d) (i) "Water utility" means a main line or other integral part of a sewer or water utility service.

(ii) "Water utility" does not include a retail water line, privately owned water utility, or sewer lateral.

(2) A municipality may not require a private individual or entity, including a community association or homeowners association, to maintain and be responsible for a public access amenity or water utility in perpetuity unless:

(a) the public access amenity is the property located adjacent to the private property owned by the private individual or entity to the curb line of the street, including park strips and sidewalks; or

(b) the private individual or entity agreed to maintain or be responsible for the public access amenity or water utility in perpetuity in a covenant, utility service agreement, development agreement, or other agreement between the municipality and the private individual or entity.

Section 39. Section 10-9a-509 is amended to read:

10-9a-509

(Effective 05/07/25)

. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or

(B) during the 12 months prior to the municipality processing the application, or multiple applications of the same type, are impaired or prohibited under the terms of a temporary land use regulation adopted under Section 10-9a-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

(e) Unless a phasing sequence is required in an executed development agreement, a municipality shall, without regard to any other separate and distinct land use application, accept and process a complete land use application.

(f) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(g) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 10-9a-509(1)(a)(ii); or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(h) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a municipal ordinance; or

(vii) in a municipal specification for residential roadways in effect at the time a residential subdivision was approved.

(i) Except as provided in Subsection (1)(j) or (k), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(j) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable local ordinance[~~that the legislative body adopts under this chapter~~].

(k) A municipality may not conduct a final inspection required before issuing a certificate of occupancy for a residential unit that is within the boundary of an infrastructure financing district, as defined in Section 17B-1-102, until the applicant for the certificate of occupancy provides adequate proof to the municipality that any lien on the unit arising from the infrastructure financing district's assessment against the unit under Title 11, Chapter 42, Assessment Area Act, has been released after payment in full of the infrastructure financing district's assessment against that unit.

(l) A municipality:

(i) may require the submission of a private landscaping plan, as defined in Section 10-9a-604.5, before landscaping is installed; and

(ii) may not withhold an applicant's building permit or certificate of occupancy because the applicant has not submitted a private landscaping plan.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

(6) (a) After issuance of a building permit, a municipality may not:

(i) change or add to the requirements expressed in the building permit, unless the change or addition is:

(A) requested by the building permit holder; or

(B) necessary to comply with an applicable state building code; or

(ii) revoke the building permit or take action that has the effect of revoking the building permit.

(b) Subsection (6)(a) does not prevent a municipality from issuing a building permit that contains an expiration date defined in the building permit.

Section 40. Section 10-9a-509.5 is amended to read:

10-9a-509.5

(Effective 05/07/25)

. Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

(1) (a) Each municipality shall, in a timely manner, determine whether a land use application is complete for the purposes of subsequent, substantive land use authority review.

(b) After a reasonable period of time to allow the municipality diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the municipality provide a written determination either that the application is:

(i) complete for the purposes of allowing subsequent, substantive land use authority review; or

(ii) deficient with respect to a specific, objective, ordinance-based application requirement.

(c) Within 30 days of receipt of an applicant's request under this section, the municipality shall either:

(i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application shall be supplemented by specific additional information identified in the notice; or

(ii) accept the application as complete for the purposes of further substantive processing by the land use authority.

(d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

(e) (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection [~~(1)(a)~~](1)(b).

(ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).

(f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).

(ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.

(2) (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.

(b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

(c) Within 45 days from the date of service of the written request described in Subsection (2)(b):

(i) except as provided in Subsection (2)(c)(ii), the land use authority shall take final action, approving or denying the application; and

(ii) if a landowner petitions for a land use regulation, a legislative body shall take final action by approving or denying the petition.

(d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

(e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority is required to take final action under Subsection (2)(c).

(3) (a) As used in this Subsection (3), an "infrastructure improvement category" includes:

(i) a culinary water system;

(ii) a sanitary sewer system;

(iii) a storm water system;

(iv) a transportation system;

(v) a secondary and irrigation water system;

(vi) public landscaping; or

(vii) public parks, trails, or open space.

(b) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the municipality's adopted standards.

[~~(b)~~](c) (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.

(ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection [~~(3)(b)(i)~~](3)(c)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is

impeded by winter weather conditions.

(iii) [~~The~~]Except as provided in Subsection (3)(c)(iv), (3)(d), or (3)(e), the land use authority shall accept or reject the performance of warranty work within[~~45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions~~]:

(A) for a city of a first, second, third, or fourth class, 15 days after the day on which the land use authority receives an applicant's written request under Subsection (3)(c)(i); and

(B) for a city of the fifth class or a town, 30 days after the day on which the land use authority receives an applicant's written request under Subsection (3)(c)(i).

(iv) If winter weather conditions do not reasonably permit a full and complete inspection of warranty work within the relevant time period described in Subsection (3)(c)(iii) so the land use authority is able to accept or reject the warranty work, the land use authority shall:

(A) notify the applicant in writing before the end of the applicable time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) that, because of winter weather conditions, the land use authority will require additional time to accept or reject the performance of warranty work; and

(B) complete the inspection of the performance of warranty work and provide the applicant with an acceptance or rejection as soon as practicable.

[~~(c)~~](d) If a land use authority rejects an applicant's performance of warranty work three times, the municipality may take 15 days in addition to the relevant time period described in Subsection (3)(c)(iii) for subsequent inspections of the applicant's warranty work.

(e) (i) If extraordinary circumstances do not permit a land use authority to complete inspection of warranty work within the relevant time period described in Subsection (3)(c)(iii) so the land use authority is able to accept or reject the warranty work, the land use authority shall:

(A) notify the applicant in writing before the end of the applicable time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) that, because of the extraordinary circumstances, the land use authority requires additional time to accept or reject the performance of warranty work; and

(B) complete the inspection of the performance of warranty work and provide the applicant with an acceptance or rejection within 30 days after the day on which the relevant time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) ends.

(ii) The following situations constitute extraordinary circumstances for purposes of Subsection (3)(e)(i):

(A) the land use authority is processing a request for inspection that substantially exceeds the normal scope of inspection the municipality is customarily required to perform;

(B) the applicant has provided two or more written requests described in Subsection (3)(c)(i) within the same 30-day time period; or

(C) the land use authority is processing an unusually large number of written requests described in Subsection (3)(c)(i) to accept or reject subdivision improvements or performance of warranty work.

(f) (i) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the municipality's adopted standards, the land use authority shall, within 15 days of the day on which the land use authority makes the determination, comprehensively and with specificity list the reasons for the land use authority's determination.

(ii) If the land use authority fails to provide an applicant with the list described in Subsection (3)(f)(i) within the required time period:

(A) the applicant may send written notice to the land use authority requesting the list within five days; and

(B) if the applicant does not receive the list within five days from the day on which the applicant provides the land use authority with written notice as described in Subsection (3)(f)(ii)(A), the applicant may demand, and the land use authority shall provide, a reimbursement equal to 20% of the applicant's improvement completion assurance or security for the warranty work within each infrastructure improvement category.

(g) Subject to the provisions of Section 10-9a-604.5:

(i) within 15 days of the day on which the land use authority determines that an infrastructure improvement within a certain infrastructure improvement category, as described in Subsection (3)(a), meets the municipality's adopted standards for that category of infrastructure improvement and an applicant submits complete as-built drawings to the land use authority, whichever occurs later, the land use authority shall return to the applicant 90% of the applicant's improvement completion assurance allocated toward that infrastructure improvement category; and

(ii) within 15 days of the day on which the warranty period expires and the land use authority determines that an infrastructure improvement within a certain infrastructure improvement category, as described in Subsection (3)(a), meets the municipality's adopted standards for that category of infrastructure improvement, the land use authority shall return to the applicant the remaining 10% of the applicant's improvement completion assurance allocated toward that infrastructure improvement category, plus any remaining portion of a bond described in Subsection 10-9a-604.5(5)(b).

(h) The following acts under this Subsection (3) are administrative acts:

(i) a municipality's return of an applicant's improvement completion assurance, or any portion of an improvement completion assurance, within a category of infrastructure improvements, to the applicant; and

(ii) a municipality's return of an applicant's security for an improvement warranty, or any portion of security for an improvement warranty, within a category of infrastructure improvements, to the applicant.

(4) Subject to Section 10-9a-509, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.

(5) There shall be no money damages remedy arising from a claim under this section.

Section 41. Section 10-9a-509.7 is amended to read:

10-9a-509.7

(Effective 05/07/25)

. Transferable development rights.

(1) A municipality may adopt an ordinance:

(a) designating sending zones and receiving zones located wholly within the municipality;

(b) designating a sending zone if the area described in the sending zone is located, at least in part, within the municipality, and the area described in the sending zone that is located outside the municipality complies with Subsection (2);

(c) designating a receiving zone if the area described in the receiving zone is located, at least in part, within the municipality, and the area described in the receiving zone that is located outside the municipality complies with Subsection (2);and

[~~(b)~~](d) allowing the transfer of a transferable development right from a sending zone to a receiving zone.

(2) A municipality may adopt an ordinance designating a sending zone or receiving zone that is located, in part, in another municipality or unincorporated county if the legislative body of every municipality or county with land inside the sending zone or receiving zone adopts an ordinance designating the sending zone or receiving zone.

[~~(2)~~](3) A municipality may not allow the use of a transferable development right unless the municipality adopts an ordinance described in Subsection (1).

Section 42. Section 10-9a-510 is amended to read:

10-9a-510

(Effective 05/07/25)

. Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

(1) A municipality may [~~not~~]impose or collect a fee for reviewing or approving the plans for a commercial or residential building[~~that exceeds~~], not to exceed the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the municipality charges for a building permit fee for that building.

(2) (a) Subject to Subsection [~~(1)~~](2)(b), a municipality may impose and collect [~~only~~]a [~~nominal~~]fee for reviewing and approving identical [~~floor~~]plan

(i) the actual cost of performing the plan review; or

(ii) 30% of the fee that would be imposed and collected under Subsection (1).

(b) A municipality may impose and collect a fee for reviewing an original plan, as defined in Section 10-9a-541, that an applicant submits with the intent that the original plan be used as the basis for a future identical plan submission, the same as any other plan review fee under Subsection (1).

(3) A municipality may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, and appurtenance to connect to the municipal water, sewer, storm water, power, or other utility system.

(4) A municipality may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review.

(5) (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the municipality shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the municipality shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the municipality to create the calculation method described in Subsection (5)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed; and

(iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A municipality shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:

(i) regulation;

(ii) processing an application;

(iii) issuing a permit; or

(iv) delivering the service for which the applicant or owner paid the fee.

(6) A municipality may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

(b) subject to Subsection (3), a hookup fee; and

(c) an impact fee for a public facility listed in Subsection 11-36a-102(17)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a municipality:

(a) Subsections (5) and (6);

(b) Section 10-9a-508; and

(c) Section 10-9a-509.5.

Section 43. Section 10-9a-529 is amended to read:

10-9a-529

(Effective 05/07/25)

. Specified public utility located in a municipal utility easement.

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:

(1) with the consent of a municipality; and

(2) that is located within a municipal utility easement described in Subsections [~~10-9a-103(42)(a)~~]10-9a-103(43)(a) through (e).

Section 44. Section 10-9a-536 is amended to read:

10-9a-536
(Effective 05/07/25)
. Water wise landscaping -- Municipal landscaping regulations.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) "Private landscaping plan" means the same as that term is defined in Section 10-9a-604.5.

[~~(d)~~](e) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

[~~(e)~~](f) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A municipality may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality from requiring a property owner to:

(i) comply with a site plan review, private landscaping plan review, or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the municipality, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to municipal operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A municipality may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

(4) A municipality may require a seller of a newly constructed residence to inform the first buyer of the newly constructed residence of a municipal ordinance requiring water wise landscaping.

(5) A municipality shall report to the Division of Water Resources the existence, enactment, or modification of an ordinance, resolution, or policy that implements regional-based water use efficiency standards established by the Division of Water Resources by rule under Section 73-10-37.

(6) A municipality may enforce a municipal landscaping ordinance in compliance with this section.

Section 45. Section 10-9a-541 is enacted to read:
10-9a-541
(Effective 05/07/25)
. Identical plan review -- Process -- Indexing of plans -- Prohibitions.

(1) As used in this section:

(a) "Business day" means Monday, Tuesday, Wednesday, Thursday, or Friday, unless the day falls on a federal, state, or municipal holiday.

(b) "Nonidentical plan" means a plan that does not meet the definition of an identical plan in Section 10-9a-103.

(c) "Original plan" means a floor plan that an applicant intends to:

(i) replicate in the future; and

(ii) use as the basis for the submission of an identical plan.

(2) An applicant may submit, and a municipality shall review, an identical plan as described in this section.

(3) At the time of submitting an identical plan for review to a municipality, an applicant shall:

(a) mark the floor plan as "identical plans";

(b) identify in writing:

(i) the building permit number the municipality issued for the original plan:

(A) that was previously approved by the municipality; and

(B) to which the submitted floor plan qualifies as an identical plan; or

(ii) the identifying index number assigned by the municipality to the original plan, as described in Subsection (5)(b); and

(c) identify the site on which the applicant intends to implement the identical plan.

(4) Beginning May 7, 2025, an applicant that intends to submit an identical plan for review to a municipality shall:

(a) indicate, at the time of submitting an original plan to the municipality for review and approval, that the applicant intends to use the original plan as the basis for submitting a future identical plan if the original plan is approved by the municipality; and

(b) identify:

(i) the name or other identifier of the original plan; and

(ii) the zone the building will be located in, if the municipality approves the original plan.

(5) Upon approving an original plan and receiving the information described in Subsection (4), a municipality shall:

(a) file and index the original plan for future reference against an identical plan later submitted under Subsection (2); and

(b) provide the applicant with an identifying index number for the original plan.

(6) A municipality that receives a submission under Subsection (2) shall review and compare the submitted identical plan to the original plan to ensure:

(a) the identical plan and original plan are substantially identical; and

(b) no structural changes have been made from the original plan.

(7) Nothing in this section prohibits a municipality from conducting a site review and requiring geological analysis of the proposed site identified by the applicant under Subsection (3)(c).

(8) A municipality shall:

(a) review a submitted identical plan for compliance with this section; and

(b) approve or reject the identical plan within five business days after the day on which the identical plan was submitted under Subsection (2).

(9) An applicant that submits a nonidentical plan to a municipality as an identical plan, with knowledge that the nonidentical plan does not qualify as an identical plan and with intent to deceive the municipality:

(a) may be fined by the municipality receiving the submission of the nonidentical plan:

(i) in an amount not to exceed three times the building permit fee, if the municipality approved the nonidentical plan as an identical plan before discovering the submission did not qualify as an identical plan; or

(ii) in an amount equal to the building permit fee that would have been issued for the nonidentical plan, if the municipality did not approve the nonidentical plan before discovering the submission did not qualify as an identical plan; and

(b) is prohibited from submitting an identical plan for review and approval under this section for a period of two years from the day on which the municipality discovers the nonidentical plan identified as an identical plan in the applicant's submission did not qualify as an identical plan.

(10) A municipality may impose a criminal penalty, as described in Section 10-3-703, for an applicant that knowingly violates the prohibition described in Subsection (9)(b).

Section 46. Section 10-9a-542, which is renumbered from Section 10-6-160 is renumbered and amended to read:

[~~10-6-160~~]10-9a-542

(Effective 05/07/25)

. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Automated review" means a computerized process used to conduct a plan review, including through the use of software and algorithms to assess compliance with an applicable building code, regulation, or ordinance to ensure that a plan meets all of a municipality's required criteria for approval.

(b) "Business day" means [~~a day other than Saturday, Sunday, or a legal holiday~~]the same as that term is defined in Section 10-9a-541.

[~~(b)~~](c) "Construction project" means:

(i) the same as that term is defined in Section 38-1a-102[~~,~~]; or

(ii) any work requiring a permit for construction of or on a one- or two-family dwelling, a townhome, or other residential structure built under the State Construction Code and State Fire Code.

[~~(c)~~](d) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

[~~(d) "Planning review" means a review to verify that a city has approved the following elements of a construction project:~~]

[~~(i) zoning;~~]

[~~(ii) lot sizes;~~]

[~~(iii) setbacks;~~]

[~~(iv) easements;~~]

[~~(v) curb and gutter elevations;~~]

[~~(vi) grades and slopes;~~]

[~~(vii) utilities;~~]

[~~(viii) street names;~~]

[~~(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and~~]

[~~(x) subdivision.~~]

(e) (i) "Plan review" means all of the reviews and approvals of a plan that a [~~city~~]municipality, including all relevant divisions or departments within a municipality, requires [~~to obtain~~]before issuing a building permit[~~from the city~~], with a scope that may not exceed a

review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project [~~received a planning review~~]complies with local ordinances;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

[~~(F) that the construction project complies with federal, state, and local storm water protection laws;~~]

[~~(G)~~](F) that the construction project received a structural review;

[~~(H)~~](G) the total square footage for each building level of finished, garage, and unfinished space; and

[~~(I)~~](H) that the plans include a printed statement indicating that, before the disturbance of land and during the actual construction, the applicant will comply with applicable federal, state, an local laws an ordinances[~~and the state construction codes~~], including any storm water protection laws and ordinances.

(ii) "Plan review" does not mean a review of[~~a document~~]:

(A) a document required to be re-submitted for a construction project other than a construction project for a one[~~to~~]-or two-family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) a document submitted as part of a deferred submittal when requested by the applicant and approved by the building official; [~~or~~]

(C) a document that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party[~~,~~]; or

(D) a storm water permit.

(f) "Screening period" means the three business days following the day on which an applicant submits an application.

(g) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

[~~(g)~~](h) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

(i) "Storm water permit" means the same as that term is defined in Section 19-5-108.5.

[~~(h)~~](j) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection [~~(1)(h)(i)~~](1)(j)(i), a review that a licensed engineer conducts.

[~~(i)~~](k) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a [~~city~~]municipality collects a fee for the inspection of a construction project, the [~~city~~]municipality shall ensure that the construction project receives a prompt inspection as described in Subsection (2)(b).

(b) If a [~~city~~]municipality cannot provide a building inspection within three business days after the day on which the [~~city~~]municipality receives the request for the inspection, the building permit applicant may engage a third-party inspection firm from the third-party inspection firm list described in Section 15A-1-105.

(c) Notwithstanding Subsection (2)(b), if an applicant requests that an inspection take place on a date that is more than three days from the day on which the applicant requests the inspection, the [~~city~~]municipality shall conduct the inspection on the date requested.

(d) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3) (a) (i) A municipality that receives an application for a plan review shall determine if the application is complete, as described in Subsection (12), within the screening period.

(ii) If the municipality determines an application for a plan review is complete as described in Subsection (12) within the screening period, the municipality shall begin the plan review process described in Subsection (4).

(b) If the municipality determines that an application for a plan review is not complete as described in Subsection (12), and if the municipality notifies the applicant of the municipality's determination:

(i) before 5 p.m. on the last day of the screening period, the municipality may:

(A) pause the screening period until the applicant ensures the application meets the requirements of Subsection (12); or

(B) reject the incomplete application; or

(ii) after 5 p.m. on the last day of the screening period, the municipality may not pause the screening period and shall begin the plan review process described in Subsection (4).

(c) If an application is rejected as described in Subsection (3)(b)(i)(B) and an applicant resubmits the application, the resubmission begins a new screening period in which the municipality shall review the resubmitted application to determine if the application is complete

as described in Subsection (12).

(d) If the municipality gives notice of an incomplete application after 5 p.m. on the last day of the screening period, the municipality:

(i) shall immediately notify the applicant that the municipality has determined the application is not complete and the basis for the determination;

(ii) may not, except as provided in Subsection (3)(d)(iii), pause the relevant time period described in Subsection (4); and

(iii) may pause the relevant time period described in Subsection (4)(a) or (b) as described in Subsection (4)(c).

[~~(3)~~](4) (a) [~~A city~~]Except as provided in Subsection (7), once a municipality determines an application is complete, or proceeds to review an incomplete application for plan review under Subsection (3)(b)(ii), the municipality shall complete a plan review of a construction project for a one[~~to~~]- or two-family dwelling or townhome by no later than 14 business days after the day on which the [~~applicant submits a complete building permit application to the city~~]screening period for the application ends.

(b) [~~A city~~]Except as provided in Subsection (7), once a municipality determines an application is complete, or proceeds to review an incomplete application for plan review under Subsection (3)(b)(ii), the municipality shall complete a plan review of a construction project for a residential structure built under the [~~International Building~~]State Construction Code [~~, not including~~]that is not a one- or two-family dwelling, townhome, or a lodging establishment, by no later than 21 business days after the day on which the [~~applicant submits a complete building permit application to the city~~]screening period for the application ends.

[~~(c) (i) Subject to Subsection (3)(c)(ii), if a city does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the city complete the plan review.~~]

[~~(ii) If an applicant makes a request under Subsection (3)(c)(i), the city shall perform the plan review no later than:~~]

[~~(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or~~]

[~~(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.~~]

[~~(d)~~](c) If a municipality gives notice of an incomplete application as described in Subsection (3)(d), the municipality:

(i) may pause the time period described in Subsection (4)(a) or (b):

(A) within the last five days of the relevant time period; and

(B) until the applicant provides the municipality with the information necessary to consider the application complete under Subsection (12); and

(ii) shall resume the relevant time period upon receipt of the information necessary to consider the application complete; and

(iii) may, if necessary, use five additional days beginning the day on which the municipality receives the information described in Subsection (4)(c)(ii) to consider whether the application meets the requirements for a building permit, even if the five additional days extend beyond the relevant time period described in Subsection 4(a) or (b).

(d) If, at the conclusion of plan review, the municipality determines the application meets the requirements for a building permit, the municipality shall approve the application and, subject to Subsection (10)(b), issue the building permit to the applicant.

(5) (a) A municipality may utilize another government entity to determine if an application is complete or perform a plan review, in whole or in part.

(b) A municipality that utilizes another government entity to determine if an application is complete or perform a plan review, as described in Subsection (5)(a), shall:

(i) notify any other government entities, including water providers, within 24 hours of receiving any building permit application; and

(ii) provide the government entity all documents necessary to determine if an application is complete or perform a plan review, in whole or in part, as requested by the municipality.

(6) A government entity determining if an application is complete or performing a plan review, in whole or in part, as requested by a municipality, shall:

(a) comply with the requirements of this chapter; and

(b) notify the municipality within the screening period whether the application, or a portion of the application, is complete.

(7) An applicant may:

[~~(i)~~](a) waive the plan review time requirements described in [~~this Subsection (3)~~]Subsection (4); or

[~~(ii)~~](b) with the [~~city's~~]municipality's written consent, establish an alternative plan review time requirement.

[~~(4)~~](8) (a) A [~~city~~]municipality may not enforce a requirement to have a plan review if:

[~~(a)~~](i) the [~~city~~]municipality does not complete the plan review within the relevant time period described in Subsection [~~(3)(a) or (b)~~](4); and

[~~(b)~~](ii) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(b) If a municipality is prohibited from enforcing a requirement to have a plan review under Subsection (8)(a), the municipality shall return to the applicant the plan review fee.

[~~(5)~~](9) (a) A [~~city~~]municipality may attach to a reviewed plan a list that includes:

(i) items with which the [~~city~~]municipality is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(b) A [~~city~~]municipality may not require an applicant to redraft a plan if the city requests minor changes to the plan that the list described in Subsection [~~(5)(a)~~](9)(a) identifies.

(c) A [~~city~~]municipality may only require a single resubmittal of plans for a one- or two-family dwelling or townhome if [~~the resubmission is required to address deficiencies identified by a third-party review of a geotechnical report or geological report~~]deficiencies in the plan would affect the site plan interaction or footprint of the design.

[~~(6)~~](10) (a) If a [~~city~~]municipality charges a fee for a building permit, the [~~city~~]municipality may not refuse payment of the fee at the time the applicant submits [~~a building permit~~]an application under Subsection (3).

(b) If a municipality charges a fee for a building permit and does not require the fee for a building permit be included in an application for plan review, upon approval of an application for plan review under Subsection (4)(d), the municipality may require the applicant to pay the fee for the building permit before the municipality issues the building permit.

[~~(7)~~](11) A [~~city~~]municipality may not limit the number of [~~building permit~~]applications submitted under Subsection (3).

[~~(8)~~](12) For purposes of Subsection (3), [~~a building permit~~]an application for plan review is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) existing and proposed utilities, including water[~~meter and sewer lateral location~~], sewer, and subsurface drainage facilities;

(J) street names;

(K) driveway locations;

(L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors[~~and~~], windows, and egress;

(iii) foundation, structural, and framing detail; [~~and~~]

(iv) electrical, mechanical, and plumbing design;

(v) a licensed architect's or structural engineer's stamp, when required by law; and

(vi) fire suppression details, when required by fire code;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the city; [~~and~~]

(g) a statement indicating[~~that actual construction will comply with applicable local ordinances and building codes.~~]:

(i) before land disturbance occurs on the subject property, the applicant will obtain a storm water permit; and

(ii) during actual construction, the applicant shall comply with applicable local ordinances and building codes; and

(h) the fees, if any, established by ordinance for the municipality to perform a plan review.

(13) A municipality may, at the municipality's discretion, utilize automated review to fulfill, in whole or in part, the municipality's obligation to conduct a plan review described in this section.

Section 47. Section 10-9a-604.5 is amended to read:

10-9a-604.5

(Effective 05/07/25)

. Subdivision plat recording or development activity before required landscaping or infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) As used in this section[~~,~~]:

(a) "Private landscaping plan" means a proposal:

(i) to install landscaping on a lot owned by a private individual or entity; and

(ii) submitted to a municipality by the private individual or entity, or on behalf of a private individual or entity, that owns the lot.

(b) [~~"public~~]"Public landscaping improvement" means landscaping that an applicant is required to install to comply with published installation and inspection specifications for public improvements that:

[~~(a)~~](i) will be dedicated to and maintained by the municipality; or

[~~(b)~~](ii) are associated with and proximate to trail improvements that connect to planned or existing public infrastructure.

(2) A land use authority shall establish objective inspection standards for acceptance of a public landscaping improvement or infrastructure improvement that the land use authority requires.

(3) (a) [~~Before~~]Except as provided in Subsection (3)(d) or (e), before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required public landscaping improvements or infrastructure improvements; or

(ii) post an improvement completion assurance for any required public landscaping improvements or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall in accordance with Subsection (5) provide completion assurance for:

(i) completion of 100% of the required public landscaping improvements or infrastructure improvements; or

(ii) if the municipality has inspected and accepted a portion of the public landscaping improvements or infrastructure improvements, 100% of the incomplete or unaccepted public landscaping improvements or infrastructure improvements.

(c) A municipality shall:

(i) establish a minimum of two acceptable forms of completion assurance;

(ii) (A) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this [~~title,~~]chapter and any local ordinances; and

(B) if a municipality accepts cash deposits as a form of completion assurance and the applicant elects to post a cash deposit as a form of completion assurance, place the cash deposit in an interest-bearing account upon receipt and return any earned interest to the applicant with the return of the completion assurance according to the conditions of this chapter and any local ordinances;

(iii) establish a system for the partial release of an improvement completion assurance as portions of required public landscaping improvements or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iv) issue or deny a building permit in accordance with Section 10-9a-802 based on the installation of public landscaping improvements or infrastructure improvements.

(d) A municipality may not require an applicant to post an improvement completion assurance for:

(i) public landscaping improvements or an infrastructure improvement that the municipality has previously inspected and accepted;

(ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation;

(iii) in a municipality where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the municipality requires to be private; [~~or~~]

(iv) landscaping improvements that are not public landscaping improvements, unless the landscaping improvements and completion assurance are required under the terms of a development agreement[~~.~~];

(v) a private landscaping plan;

(vi) landscaping improvements or infrastructure improvements that an applicant elects to install at the applicant's own risk:

(A) before the plat is recorded;

(B) pursuant to inspections required by the municipality for the infrastructure improvement; and

(C) pursuant to final civil engineering plan approval by the municipality; or

(vii) any individual public landscaping improvement or individual infrastructure improvement when the individual public landscaping improvement or individual infrastructure improvement is also included as part of a separate improvement completion assurance.

(e) (i) A municipality may not:

(A) prohibit an applicant from installing a public landscaping improvement or an infrastructure improvement when the municipality has approved final civil engineering plans for the development activity or plat for which the public landscaping improvement or infrastructure improvement is required; or

(B) require an applicant to sign an agreement, release, or other document inconsistent with this chapter as a condition of posting an improvement completion assurance, security for an improvement warranty, or receiving a building permit.

(ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and infrastructure improvements that are installed by an applicant are subject to inspection by the municipality in accordance with the municipality's adopted inspection standards.

(f) (i) Each improvement completion assurance and improvement warranty posted by an applicant with a municipality shall be independent of any other improvement completion assurance or improvement warranty posted by the same applicant with the municipality.

(ii) Subject to Section 10-9a-509.5, if an applicant has posted a form of security with a municipality for more than one infrastructure improvement or public landscaping improvement, the municipality may not withhold acceptance of an applicant's required subdivision improvements, public landscaping improvement, infrastructure improvements, or the performance of warranty work for the same applicant's failure to complete a separate subdivision improvement, public landscaping improvement, infrastructure improvement, or warranty work under a separate improvement completion assurance or improvement warranty.

(4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or other entitlement benefit not currently available under the existing zone, a municipality may require a completion assurance bond for landscaped amenities and common area that are dedicated to and maintained by a homeowners association.

(b) Any agreement regarding a completion assurance bond under Subsection (4)(a) between the applicant and the municipality shall be memorialized in a development agreement.

(c) A municipality may not require a completion assurance bond for or dictate who installs or is responsible for the cost of the landscaping of residential lots or the equivalent open space surrounding single-family attached homes, whether platted as lots or common area.

(5) The sum of the improvement completion assurance required under Subsections (3) and (4) may not exceed the sum of:

(a) 100% of the estimated cost of the public landscaping improvements or infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's bid; and

(b) 10% of the amount of the bond to cover administrative costs incurred by the municipality to complete the improvements, if necessary.

(6) (a) [~~At any time before a municipality accepts a public landscaping improvement or infrastructure improvement,~~]Upon an applicant's written request that the land use authority accept or reject the applicant's installation of required subdivision improvements or performance of warranty work as set forth in Section 10-9a-509.5, and for the duration of each improvement warranty period, the municipality may require the applicant to:

[~~(a)~~](i) execute an improvement warranty for the improvement warranty period; and

[~~(b)~~](ii) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:

[~~(i)~~](A) municipal engineer's original estimated cost of completion; or

[~~(ii)~~](B) applicant's reasonable proven cost of completion.

[~~(7)~~](b) A municipality may not require the payment of the deposit of the improvement warranty assurance described in Subsection (6)(a)(i) for an infrastructure improvement or public landscaping improvement before the applicant indicates through written request that

the applicant has completed the infrastructure improvement or public landscaping improvement.

(7) When a municipality accepts an improvement completion assurance for public landscaping improvements or infrastructure improvements for a development in accordance with Subsection (3)(c)(ii), the municipality may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

(8) A municipality may not require the submission of a private landscaping plan as part of an application for a building permit.

[~~(8)~~](9) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 48. Section 10-9a-701 is amended to read:

10-9a-701

(Effective 05/07/25)

. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) (a) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities.

(b) An appeal authority described in Subsection (1)(a) shall hear and decide:

(i) requests for variances from the terms of land use ordinances;

(ii) appeals from land use decisions applying land use ordinances; and

(iii) appeals from a fee charged in accordance with Section 10-9a-510.

(c) An appeal authority described in Subsection (1)(a) may not hear an appeal from the enactment of a land use regulation.

(2) As a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision, in accordance with local ordinance.

(3) An appeal authority described in Subsection (1)(a):

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a municipality may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority the municipality designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that the adversely affected party can raise in district court;

(d) not require a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of an appealing party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) A municipality may not require a public hearing for a request for a variance or land use appeal.

(6) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of the members of the board, body, or panel of any meeting or hearing of the board, body, or panel;

(b) provide each of the members of the board, body, or panel with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of the members of the board, body, or panel is present; and

(d) act only upon the vote of a majority of the convened members of the board, body, or panel.

Section 49. Section 10-9a-802 is amended to read:

10-9a-802

(Effective 05/07/25)

. Enforcement -- Limitations on a municipality's ability to enforce an ordinance by withholding a permit or certificate.

(1) (a) A municipality or an adversely affected party may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A municipality need only establish the violation to obtain the injunction.

(2) (a) Except as provided in Subsections (3) [~~and (4)~~]though (6), a municipality may enforce the municipality's ordinance by withholding a building permit or certificate of occupancy.

(b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.

(c) A municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A municipality may require an applicant to maintain and repair a temporary fire apparatus road during the construction of a structure accessed by the temporary fire apparatus road in accordance with the municipality's adopted standards.

(e) A municipality may require temporary signs to be installed at each street intersection once construction of a new roadway allows passage by a motor vehicle.

(f) A municipality may adopt and enforce any appendix of the International Fire Code, 2021 Edition.

[~~(d)~~]

(3) (a) A municipality may not deny an applicant a building permit or certificate of occupancy because the applicant has not completed

an infrastructure improvement:

(i) [~~that is not~~]unless the infrastructure improvement is essential to meet the requirements for the issuance of a building permit or certificate of occupancy under [~~the building code and fire code~~]Title 15A, State Construction and Fire Codes Act; and

(ii) for which the municipality has accepted an improvement completion assurance for a public landscaping improvement, as defined in Section 10-9a-604.5, or an infrastructure improvement for the development.

(b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6, infrastructure improvement that is essential means:

(i) for a building permit:

(A) operable fire hydrants installed in a manner that is consistent with the municipality's adopted engineering standards; and

(B) for temporary roads used during construction, a properly compacted road base installed in a manner consistent with the municipality's adopted engineering standards;

(ii) for a certificate of occupancy, at the discretion of the municipality, at least one of the following:

(A) a permanent road;

(B) a temporary road covered with asphalt or concrete; or

(C) another method for accessing a structure consistent with Appendix D of the International Fire Code; and

(iii) public infrastructure necessary for the health, life, and safety of the occupant.

(c) A municipality may not adopt an engineering standard that requires an applicant to install a permanent road or a temporary road with asphalt or concrete before receiving a building permit.

[~~(3)~~](4) A municipality may not deny an applicant a building permit or certificate of occupancy [~~based on the lack of completion of a~~]for failure to:

(a) submit a private landscaping plan, as defined in Section 10-9a-604.5; or

(b) complete a landscaping improvement that is not a public landscaping improvement, as defined in Section 10-9a-604.5.

[~~(4)~~](5) A municipality may not withhold a building permit based on the lack of completion of a portion of a public sidewalk to be constructed within a public right-of-way serving a lot where a single-family or two-family residence or town home is proposed in a building permit application if an improvement completion assurance has been posted for the incomplete portion of the public sidewalk.

[~~(5)~~](6) A municipality may not prohibit the construction of a single-family or two-family residence or town home, withhold recording a plat, or withhold acceptance of a public landscaping improvement, as defined in Section 10-9a-604.5, or an infrastructure improvement based on the lack of installation of a public sidewalk if an improvement completion assurance has been posted for the public sidewalk.

[~~(6)~~](7) A municipality may not redeem an improvement completion assurance securing the installation of a public sidewalk sooner than 18 months after the date the improvement completion assurance is posted.

[~~(7)~~](8) A municipality shall allow an applicant to post an improvement completion assurance for a public sidewalk separate from an improvement completion assurance for:

(a) another infrastructure improvement; or

(b) a public landscaping improvement, as defined in Section 10-9a-604.5.

[~~(8)~~](9) A municipality may withhold a certificate of occupancy for a single-family or two-family residence or town home until the portion of the public sidewalk to be constructed within a public right-of-way and located immediately adjacent to the single-family or two-family residence or town home is completed and accepted by the municipality.

Section 50. Section 15A-1-105 is amended to read:

15A-1-105

(Effective 05/07/25)

. Third-party inspection firms.

(1) As used in this section:

(a) "Building permit applicant" means a person who applies to a local regulator for a building permit.

(b) "Inspection" means a physical examination of all aspects of a structure to ensure compliance with the State Construction Code.

(c) "Local regulator" means the same as that terms is defined in Section 15A-1-102.

(d) "Third-party inspection firm" means an entity that is:

(i) licensed under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act;

(ii) independent, but may include a building inspector for an adjacent city or county; and

(iii) included on the local regulator's third-party inspection firm list.

(e) "Third-party inspection firm list" means a list of:

(i) for a first, second, third, or fourth class county, or a municipality located within a first, second, third, or fourth class county, three or more third-party inspection firms approved by the local regulator; or

(ii) for a fifth or sixth class county, or a municipality located within a fifth or sixth class county, one or more third-party inspection firms approved by the local regulator.

(2) (a) Subject to the provisions of this section and Subsections [~~10-6-160(2)~~]10-9a-542(2) and [~~17-36-55(2)~~]17-27a-537(2), after submitting a request for inspection, a building permit applicant may engage a third-party inspection firm from the local regulator's third-party inspection firm list to conduct or complete an inspection for the scope of work identified under the original request for inspection.

(b) If a building permit applicant wishes to engage a third-party inspection firm in accordance with Subsection (2)(a), the building permit applicant shall first notify the local regulator of the third-party inspection firm the building permit applicant intends to engage.

(c) Upon completing the inspection, the third-party inspection firm shall submit the inspection report to the local regulator.

(d) (i) The local regulator shall pay the cost of the inspection to the third-party inspection firm after the local regulator receives the third-party inspection report indicating the third-party inspection firm completed the inspection.

(ii) This section does not require a local regulator to pay for an inspection that exceeds the scope of work identified under the original request for inspection.

(3) (a) The local regulator shall issue a certificate of occupancy to the building permit applicant if the third-party inspection firm:

(i) completes the inspection; and

(ii) submits the inspection report to the local regulator.

(b) The local regulator shall promptly issue the certificate of occupancy or letter of completion after the third-party inspection firm submits the final inspection report to the local regulator as described in Subsection (3)(a)(ii).

(4) A local regulator is not liable for any inspection performed by a third-party inspection firm.

Section 51. Section 15A-3-203 is amended to read:

15A-3-203

(Effective 05/07/25)

. Amendments to Chapters 6 through 15 of IRC.

(1) IRC, Section R609.4.1, is deleted.

(2) In IRC, Section N1101.4 (R102.1.1), a new section N1101.4.1 (R102.1.1) is added as follows: "N1101.4.1 National Green Building Standard. Buildings complying with ICC 700-2020 National Green Building Standard and achieving the Gold rating level for the energy efficiency category shall be deemed to exceed the energy efficiency required by this code. The building shall also meet the requirements identified in table N1105.2 and the building thermal envelope efficiency is greater than or equal to levels of efficiency and solar heat gain coefficients (SHGC) in Tables N1102.2.2 and N1102.1.3 of the 2009 IRC."

(3) In IRC, Section N1101.5 (R103.2), all words after the words "herein governed." are deleted and replaced with the following: "Construction documents include all documentation required for building permits shall include only those items specified in Subsection [~~10-5-132(8)~~]10-9a-542(8) or 17-27a-537(8) of the Utah [~~Municipal~~]Code."

(4) In IRC, Section N1101.10.3 (R303.1.3) the following changes are made:

(a) The following is added at the end of the first sentence "or EN 14351-1:2006+A1:2010."

(b) The word "accredited" is replaced with "approved" in the third sentence.

(c) The following sentence is added after the third sentence: "A conversion factor of 5.678 shall be used to convert from U values expressed in SI units: ()/53678=."

(d) After "NFRC 200" the following words are added: "or EN 14351-1:2006+A1:2010," and in the sentence the word "accredited" is replaced with the word "approved."

(e) The following new sentence shall be inserted immediately prior to the last sentence: "Total Energy Transmittance values may be substituted for SHGC, and Luminous Transmission values may be substituted for VT."

(5) In IRC, Section N1101.12 (R303.3), all wording after the first sentence is deleted.

(6) In IRC, Section N1101.13 (R401.2), in the first sentence, the words "Section N1101.13.5 and" are deleted.

(7) In IRC, Section N1101.13.5 (R401.2.5) is deleted.

(8) In IRC, Section N1101.14 (R401.3) Number 7, the words "and the compliance path used" are deleted.

(9) In IRC, Table N1102.1.2 (R402.1.2):

(a) in the column titled Fenestration U-Factor the following changes are made:

(i) in the row titled "Climate Zone 3" delete 0.30 and replace it with 0.32;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 0.30 and replace it with 0.32; and

(iii) in the row titled "Climate Zone 6" delete 0.30 and replace it with 0.32;

(b) in the column titled "Glazed Fenestration SHGC", the following change is made: in the row titled "Climate Zone 3" delete 0.25 and replace it with 0.35;

(c) in the column titled "Ceiling U-Factor" the following changes are made:

(i) in the row titled "Climate Zone 3" delete 0.026 and replace it with 0.030;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 0.024 and replace it with 0.026; and

(iii) in the row titled "Climate Zone 6" delete 0.024 and replace it with 0.026;

(d) in the column titled "Wood Frame Wall U Factor", the following changes are made:

(i) in the row titled "Climate Zone 3" delete 0.060 and replace it with 0.060;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 0.045 and replace it with 0.060; and

(iii) in the row titled "Climate Zone 6" delete 0.045 and replace it with 0.060;

(e) in the column titled "Basement Wall U-Factor" the following changes are made:

(i) in the row titled "Climate Zone 5 and Marine 4" delete 0.050 and replace it with 0.075; and

(ii) in the row titled "Climate Zone 6" delete 0.50 and replace it with 0.065; and

(f) in the column titled "Crawl Space Wall U-Factor" the following changes are made:

(i) in the row titled "Climate Zone 5 and Marine 4" delete 0.055 and replace it with 0.078; and

(ii) in the row titled "Climate Zone 6" delete 0.55 and replace it with 0.065.

(10) In IRC, Table N1102.1.3 (R402.1.3), the following changes are made:

(a) in the column titled "Wood Frame Walls R-Value" a new footnote indicator "j" is added and at the bottom of the footnotes the following footnote "j" is added: "j. In climate zone 3B and 5B, an R-15, and in climate zone 6, an R-20 shall be acceptable where air-impermeable insulation is installed in the cavity space, exterior continuous insulation, or some combination thereof; and the tested house air leakage is a maximum of 2.0 ACH50"; and

(b) add a new footnote "k" as follows: "k. Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in Zones 5 through 8 when overall window glazing has 0.30 U-factor or lower, minimum heating equipment efficiency is for gas 95 AFUE, or for oil, 84 AFUE, and all other components requirements are met."

(11) In IRC, Table N1102.1.3 (R402.1.3) the following changes are made:

(a) in the column titled "Fenestration U-Factor" the following changes are made:

(i) in the row titled "Climate Zone 3" delete 0.30 and replace it with 0.32;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 0.30 and replace it with 0.32; and

(iii) in the row titled "Climate Zone 6" delete 0.30 and replace it with 0.32;

(b) in the column titled "Glazed Fenestration SHGC" the following change is made: in the row titled "Climate Zone 3" delete 0.25 and replace it with 0.35;

(c) in the Column R-Value the following changes are made:

(i) in the row titled "Climate Zone 3" delete 49 and replace it with 38;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 60 and replace it with 49; and

(iii) in the row titled "Climate Zone 6" delete 60 and replace it with 49;

(d) in the Column titled "Wood Frame Wall R-Value" the following changes are made:

(i) in the row titled "Climate Zone 3" delete all values and replace with 20+Oci or 13+5ci or 015ci;

(ii) in the row titled "Climate Zone 5 or Marine 4" delete all values and replace with 21+Oci or 15+5ci or 0+15ci; and

(iii) in the row titled "Climate Zone 6" delete all values and replace with 21+Oci or 15+5ci or 0+15ci;

(e) in the column titled "Basement Wall R Value" the following changes are made:

(i) in the row titled "Climate Zone 5 or Marine 4" delete all values and replace with 15+Oci or 0+11ci or 11+5ci; and

(ii) in the row titled "Climate Zone 6" delete all values and replace with 19+Oci or 0+13ci or 11+5ci;

(f) in the column titled "Slab R Value and Depth" the following changes are made:

(i) in the row titled "Climate Zone 3" delete 10ci. 2 ft and replace it with NR; and

(ii) in the row titled "Climate Zone 5 & Marine 4" delete 4 ft and replace it with 2 ft; and

(g) in the column titled "Crawl Space Wall R-Value" the following changes are made:

(i) in the row titled "Climate Zone 5 or Marine 4" delete all values and replace with 15+Oci or 0+11ci or 11+5ci; and

(ii) in the row titled "Climate Zone 6" delete all values and replace with 19+Oci or 0+13ci or 0+11+5ci.

(12) In IRC, a new subsection N1102.1.5.1 (R402.1.5.1) is added as follows: "1102.1.5.1 (R402.1.5.1) RESCheck 2012 Utah Energy Conservation Code. Compliance with section N1102.1.5 (R402.1.5) may be satisfied using the software RESCheck 2012 Utah Energy Conservation Code, which shall satisfy the R-value and U-factor requirements of N1102.1, N1102.2, and N1102.3, provided the following conditions are met:

(a) in "Climate Zone 5 and 6" the software result shall show 5% better than code; and

(b) in "Climate Zone 3", the software result shall show 5% better than code when software inputs for window U-factor .65 and window SHGC=0.40, notwithstanding actual windows installed shall conform to requirements of Tables N1102.1.2 (R402.1.2) and N1102.1.3 (R402.1.3)."

(13) In IRC, Sections N1102.2.1 (R402.2.1), a new Section N1102.2.1.1 is added as follows:

"N1102.2.1.1. Unvented attic and unvented enclosed rafter assemblies. Unvented attic and unvented enclosed rafter assemblies conforming to Section R806.5 shall be provided with an R-value of R-22 (maximum U-Factor of 0.045) in Climate Zone 3-B or an R-value of R-26 (maximum U-factor of 0.038) in Climate Zones 5-B and 6-B shall be permitted provided all the following conditions are met:

1. The unvented attic assembly complies with the requirements of the International Residential Code, R806.5.

2. The house shall attain a blower door test result 2.5ACH 50.

3. The house shall require a whole house mechanical ventilation system that does not rely solely on a negative pressure strategy (must be positive, balanced or hybrid).

4. Where insulation is installed below the roof deck and the exposed portion of roof rafters are not already covered by the R-20 depth of the air-impermeable insulation, the exposed portion of the roof rafters shall be wrapped (covered) by minimum R-3 unless directly covered by drywall/finished ceiling. Roof rafters are not required to be covered by minimum R-3 if a continuous insulation is installed above the roof deck.

5. Indoor heating, cooling and ventilation equipment (including ductwork) shall be inside the building thermal envelope."

(14) In IRC, Section N1102.2.9.1 (R402.2.9.1) the numeral (i) is added before the words "cut at a 45 degree" and the following is added after the words "exterior wall": "or (ii) lowered from top of slab 4" when a 4" thermal break material such as, but not limited to, felt or asphalt impregnated fiber board, with a minimum thickness of 1/4" is installed at the upper 4" of slab".

(15) In IRC, Section N1102.4.1 (R402.4.1), in the first sentence, the word "and" is deleted and replaced with the word "or."

(16) In IRC, Section N1102.4.1.1 (R402.4.1.1), the last sentence is deleted and replaced with the following: "Where allowed by the code official, the builder may certify compliance to components criteria for items which may not be inspected during regularly scheduled inspections."

(17) In IRC, Table N1102.4.1.1 (R402.4.1.1) in the column titled "COMPONENT, the following changes are made:

(a) In the row "Rim Joists" the word "exterior" in the first sentence is deleted, and the second sentence is deleted.

(b) In the row "Electrical/phone box on the exterior walls" the last sentence is deleted and replaced with: "Alternatively, close cell foam, caulking or gaskets may be used, or air sealed boxes may be installed."

(18) In IRC, Section N1102.4.1.2 (R402.4.1.2), the following changes are made:

(a) In the fourth sentence, the word "third" is deleted.

(b) The following sentence is added after the fourth sentence: "The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed training provided by Blower Door Test equipment manufacturers or other comparable training."

(c) In the first Exception the second sentence is deleted.

(19) IRC, Section N1103.3.3 (R403.3.3), is deleted.

[~~(a) on or after January 1, 2017, and before January 1, 2019, with the following: "Exception: The duct air leakage test is not required~~

~~forsystems with all air handlers and at least 65% of all ducts (measured by length) located entirely within the building thermal envelope.";~~]

(20) IRC Section N1103.3.3.1 (R403.3.3.1) is deleted.

(21) In IRC, Section N1103.3.5 (R403.3.5), [~~the~~]the following changes are made:

(a) a second Exception is added as follows: "A duct leakage test shall not be required for any system designed such that no air handlers or ducts are located within unconditioned attics."; and

(b) the following is added at the end of the section: "The following parties shall be approved to conduct testing:

(i) Parties certified by BPT or RESNET; and

(ii) Licensed contractors who have completed training provided by Duct Test equipment manufacturers or other comparable training."

(22) In IRC, Section N1103.3.6 (R403.3.6) the following changes are made:

(a) in Subsection 1:

(i) the number 4.0 is changed to 6.0;

(ii) the number 113.3 is changed to 170;

(iii) the number 3.0 is changed to 5.0; and

(iv) the number 85 is changed to 141;

(b) in Subsection 2:

(i) the number 4.0 is changed to 5.0; and

(ii) the number 113.3 is changed to 141; and

(c) Subsection 3 is deleted.

(23) In IRC, Section N1103.3.7 (R403.3.7) the words "or plenums" are deleted.

(24) In IRC, Section N1103.5.1.1 (R403.5.1.1) the words "Where installed" are added at the beginning of the first sentence.

(25) In IRC, Section N1103.5.2 (R403.5.2) the following change is made, Subsections 5 and 6 are deleted and Subsection 7 is renumbered to 5.

(26) IRC, Section N1103.6.2 (R403.6.2), is deleted and replaced with the following: "N1103.6.2 (R403.6.2) Whole-house mechanical ventilation system fan efficacy. Fans used to provide whole-house mechanical ventilation shall meet the efficacy requirements of Table N1103.6.2 (R403.6.2).

Exception: Where an air handler that is integral to tested and listed HVAC equipment is used to provide whole-house mechanical ventilation, the air handler shall be powered by an electronically commutated motor."

(27) In IRC, Section N1103.6.2 (R403.6.2), the table is deleted and replaced with the following:

"TABLE N1103.6.2 (R403.6.2)",

MECHANICAL VENTILATION SYSTEM FAN EFFICACY

FAN LOCATION	AIR FLOW RATE MINI-MUM (CFM)	MINIMUM EFFICACY (CFM/WATT)	AIR FLOW RATE MAXI-MUM (CFM)
HRV or ERV	Any	1.2 cfm/watt	Any
Range hoods	Any	2.8 cfm/watt	Any
In-line fan	Any	2.8 cfm/watt	Any
Bathroom, utility room	10	1.4 cfm/watt	90
Bathroom, utility room	90	2.8 cfm/watt	Any"

(28) IRC, Section N1103.6.3 (R403.6.3) is deleted.

(29) In IRC, Section N1103.7 (R403.7) the word "approved" is deleted in the first sentence and the following is added after the word "methodologies": "complying with N1103.7.1 (R403.7.1)".

(30) A new IRC, Section N1103.7.1 (R403.7.1) is added as follows: "N1103.7.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

(31) In IRC, Section N1104.1 (R404.1), the word "All" is replaced with "Not less than 90 percent of the lamps in".

(32) IRC, Section N1104.1.1 (R404.1.1) is deleted.

(33) IRC, Section N1104.2 (R404.2) is deleted.

(34) IRC, Section N1104.3 (R404.3) is deleted.

(35) In IRC, section N1105.2 (R405.2) the following changes are made:

(a) In Subsection 3, the words "approved by the code official" are deleted; and

(b) In Subsection 3, the following words are added at the end of the sentence: "when applicable and readily available".

(36) In IRC, Section N1106.3 (R406.3) "Building thermal envelope" is deleted, and replaced with "Building thermal envelope and on-

site renewables. The proposed total building thermal envelope UA, which is the sum of U-factor times assembly area, shall be less than or equal to the building thermal envelope UA using the prescriptive U-factors from Table N1102.1.2 multiplied by 1.15 in accordance with Equation 11-4. The area-weighted maximum fenestration SHGC permitted in Climate Zones 0 through 3 shall be: 0.30.UAProposed design =1.15xUAPrescriptive reference design (Equation 11-4)."

(37) In IRC, Section N1106.3.1 (R406.3.1) is deleted.

(38) In IRC, Section N1106.3.2 (R403.3.2) is deleted.

(39) In IRC, Section N1106.4 (R406.4) the following changes are made:

(a) In the first sentence, the words "in accordance with Equation 11-5" are deleted and replaced with: "permitted to be calculated using the minimum total air exchange rate for the rated home (Qtot) and for the index adjustment factor in accordance with Equation 11.5.";

(b) In equation 11-5, the words "Ventilation rate, CFM" are deleted and replaced with: "Qtot"; and

(c) In the last sentence the number "5" is deleted and replaced with "15".

(40) In IRC N1106.5, in the column titled "ENERGY RATING INDEX" of Table R406.5, the following changes are made:

(a) In the row for "Climate Zone 3", "51" is deleted and replaced with "65";

(b) In the row for "Climate Zone 5", "55" is deleted and replaced with "69"; and

(c) In the row for "Climate Zone 6", "54" is deleted and replaced with "68".

(41) In IRC, Section N1108 (R408) is deleted.

(42) In IRC, Section M1401.3 the word "approved" is deleted in the first sentence and the following is added after the word methodologies ", complying with M1401.3.1".

(43) A new IRC, Section M1401.3.1, is added as follows: "M1401.3.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

(44) In IRC, Section M1402.1, the following is added at the end of the second sentence: "or UL/CSA 60335-2-40."

(45) In IRC, Section M1403.1, the characters "/ANCE" are deleted.

(46) IRC, Section M1411.9, is deleted.

(47) In IRC, Section M1412.1, the characters "/ANCE" are deleted.

(48) In IRC, Section M1413.1, the characters "/ANCE" are deleted.

Section 52. Section 15A-5-205.6 is amended to read:

15A-5-205.6

(Effective 05/07/25)

. Amendments and additions to Chapter 33 of IFC.

(1) IFC, Chapter 33, Section 3311.1, Required access, is deleted and rewritten as follows:

"3311.1 Required access.

3311.1.1 Approved vehicle access. Approved vehicle access for fire fighting shall be provided as described in Chapter 5 of this code to all construction or demolition sites.

3311.1.2 Fire department connections. Vehicle access shall be provided to within 100 feet of temporary or permanent fire department connections.

3311.1.3 Type of access. Vehicle access shall be provided by either temporary or permanent roads.

3311.3.1 Temporary road requirements. Temporary roads shall be constructed with a minimum of site specific required structural fill for permanent roads and road base, or other approved material complying with local standards.

3311.3.2 Reports. Compaction reports may be required. An engineer's review and certification of a temporary fire department access road is not required.

3311.3.3 Local jurisdictions. [~~If an improvement completion assurance has been posted in accordance with Section 10-9a-604.5, a~~]A local jurisdiction may not require:

(a) []permanent roads, or asphalt or concrete on temporary roads [~~,~~]before final approval of the structure served by the road; or

(b) permanent roads, or asphalt and concrete on temporary roads, during construction of the structure served by the road.

3311.1.4 Maintenance. Temporary roads shall be maintained until permanent fire apparatus access roads are available.

3311.1.5 Time line. Temporary or permanent fire department access roads shall be functional before construction above the foundation begins and before an appreciable amount of combustible construction materials are on site."

(2) IFC, Chapter 33, Section 3311.2, Key boxes, is deleted.

(3) Notwithstanding IFC 3311.3.1, a temporary road that meets the requirements of Section 10-9a-802 or 17-27a-802, and any local regulation adopted in accordance with Section 10-9a-802 or 17-27a-802, may be constructed.

Section 53. Section 17-27a-102 is amended to read:

17-27a-102

(Effective 05/07/25)

. Purposes -- General land use authority -- Limitations.

(1) (a) The purposes of this chapter are to:

(i) provide for the health, safety, and welfare;

(ii) promote the prosperity;

(iii) improve the morals, peace, good order, comfort, convenience, and aesthetics of each county and each county's present and future inhabitants and businesses;

(iv) protect the tax base;

(v) secure economy in governmental expenditures;

(vi) foster the state's agricultural and other industries;

(vii) protect both urban and nonurban development;

(viii) protect and ensure access to sunlight for solar energy devices;

(ix) provide fundamental fairness in land use regulation;

(x) facilitate orderly growth and allow growth in a variety of housing types; and

(xi) protect property values.

(b) Subject to Subsection (4) and Section 11-41-103, to accomplish the purposes of this chapter, a county may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the county considers necessary or appropriate for the use and development of land within the unincorporated area of the county or a designated mountainous planning district, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:

(i) uses;

(ii) density;

(iii) open spaces;

(iv) structures;

(v) buildings;

(vi) energy-efficiency;

(vii) light and air;

(viii) air quality;

(ix) transportation and public or alternative transportation;

(x) infrastructure;

(xi) street and building orientation and width requirements;

(xii) public facilities;

(xiii) fundamental fairness in land use regulation; and

(xiv) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.

(2) Each county shall comply with the mandatory provisions of this part before any agreement or contract to provide goods, services, or municipal-type services to any storage facility or transfer facility for high-level nuclear waste, or greater than class C radioactive waste, may be executed or implemented.

(3) (a) Any ordinance, resolution, or rule enacted by a county pursuant to its authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(b) A county may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the county demonstrates that the regulation:

(i) is necessary for the purposes of this chapter;

(ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and

(iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(4) (a) This Subsection (4) applies to development agreements entered into on or after May 5, 2021.

(b) A provision in a county development agreement is unenforceable if the provision requires an individual or an entity, as a condition for issuing building permits or otherwise regulating development activities within an unincorporated area of the county, to initiate a process for a municipality to annex the unincorporated area in accordance with [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 8, Annexation.

(c) Subsection (4)(b) does not affect or impair the enforceability of any other provision in the development agreement.

Section 54. Section 17-27a-103 is amended to read:

17-27a-103

(Effective 05/07/25)

. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owner's association, public utility, or the Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) "Building code adoption cycle" means the period of time beginning the day on which a specific edition of a construction code from a nationally recognized code authority is adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day before a new edition of a construction code is adopted and effective in Title 15A, State Construction and Fire Codes Act.

[~~(7)~~](8) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

[~~(8)~~](9) "Chief executive officer" means the person or body that exercises the executive powers of the county.

[~~(9)~~](10) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

[~~(10)~~](11) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

[~~(11)~~](12) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

[~~(12)~~](13) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

[~~(13)~~](14) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

[~~(14)~~](15) (a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

[~~(15)~~](16) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

[~~(16)~~](17) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection [~~(16)(a)(i)~~](17)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection [~~(16)(a)(i)~~](17)(a)(i); and

(B) used in support of the purposes of a building described in Subsection [~~(16)(a)(i)~~](17)(a)(i); or

(ii) a therapeutic school.

[~~(17)~~](18) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

[~~(18)~~](19) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

[~~(19)~~](20) "Gas corporation" has the same meaning as defined in Section 54-2-1.

[~~(20)~~](21) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

[~~(21)~~](22) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

[~~(22)~~](23) "Home-based microschool" means the same as that term is defined in Section 53G-6-201.

[~~(23)~~](24) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

[~~(24)~~](25) (a) "Identical plans" means [~~building~~]floor plans submitted to a county that:

[~~(a)~~](i) are [~~clearly marked as "identical plans"~~]submitted within the same building code adoption cycle as floor plans that were previously approved by the county;

[~~(b)~~](ii) [~~are substantially identical building~~]have no structural differences from floor plans that were previously [~~submitted to and reviewed and~~] approved by the county; and

[~~(c)~~](iii) describe a building that:

[~~(i)~~](A) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

[~~(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;~~]

[~~(iii)~~](B) has a substantially identical floor plan [~~identical to the building~~]to a floor plan previously [~~submitted to and reviewed and~~]approved by the county; and

[~~(iv)~~](C) does not require any [~~additional~~]engineering or analysis beyond a review to confirm the submitted floor plans are substantially identical to a floor plan previously approved by the county or a review of the site plan and associated geotechnical reports for the site.

(b) "Identical plans" include floor plans that are oriented differently as the floor plan that was previously approved by the county.

[~~(25)~~](26) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

[~~(26)~~](27) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

[~~(27)~~](28) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

[~~(28)~~](29) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required public landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines, based on accepted industry standards and for good cause, that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

[~~(29)~~](30) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

[~~(30)~~](31) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

[~~(31)~~](32) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

[~~(32)~~](33) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

[~~(33)~~](34) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

[~~(34)~~](35) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

[~~(35)~~](36) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

[~~(36)~~](37) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

[~~(37)~~](38) "Land use permit" means a permit issued by a land use authority.

[~~(38)~~](39) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, engineering or development standard, specification for public improvement, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

[~~(39)~~](40) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

[~~(40)~~](41) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

[~~(41)~~](42) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 17-27a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision or a subdivision amendment.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(42)~~](43) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

[~~(43)~~](44) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.

[~~(44)~~](45) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household

income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

[~~(45)~~](46) "Mountainous planning district" means an area designated by a county legislative body in accordance with Section 17-27a-901.

[~~(46)~~](47) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[~~(47)~~](48) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

[~~(48)~~](49) "Nonconforming use" means a use of land that:

(a) legally existed before the current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[~~(49)~~](50) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

[~~(50)~~](51) "Parcel" means any real property that is not a lot.

[~~(51)~~](52) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(52)~~](53) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(53)~~](54) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

[~~(54)~~](55) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

[~~(55)~~](56) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

[~~(56)~~](57) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[~~(57)~~](58) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, special district, special service district, or other political subdivision of the state; or

(d) a charter school.

[~~(58)~~](59) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(59)~~](60) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(60)~~](61) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(61)~~](62) "Receiving zone" means an unincorporated area [~~of a county~~]that [~~the~~]a county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(62)~~](63) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

[~~(63)~~](64) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

[~~(64)~~](65) "Residential roadway" means a public local residential road that:

(a) will serve primarily to provide access to adjacent primarily residential areas and property;

(b) is designed to accommodate minimal traffic volumes or vehicular traffic;

(c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;

(d) has a posted speed limit of 25 miles per hour or less;

(e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;

(f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

[~~(65)~~](66) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(66)~~](67) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(67)~~](68) "Sending zone" means an unincorporated area [~~of a county~~]that [~~the~~]a county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[~~(68)~~](69) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

[~~(69)~~](70) (a) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(b) "Special district" includes a governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[~~(70)~~](71) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(71)~~](72) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(72)~~](73) "State" includes any department, division, or agency of the state.

[~~(73)~~](74) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection [~~(73)(c)~~](74)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 17-27a-523 if no new lot is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 17-27a-523 and 17-27a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat;

(x) a deed or easement for a road, street, or highway purpose; or

(xi) any other division of land authorized by law.

[~~(74)~~](75) (a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(i) vacates all or a portion of the subdivision;

(ii) alters the outside boundary of the subdivision;

(iii) changes the number of lots within the subdivision;

(iv) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(v) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a lot line adjustment, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

[~~(75)~~](76) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

[~~(76)~~](77) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~(77)~~](78) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~(78)~~](79) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~(79)~~](80) "Unincorporated" means the area outside of the incorporated area of a municipality.

[~~(80)~~](81) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[~~(81)~~](82) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 55. Section 17-27a-205 is amended to read:

17-27a-205

(Effective 05/07/25)

. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing; and

(b) (i) [~~published~~]provided for the area affected by the land use ordinance changes, as a class B notice under Section 63G-30-102, for at least 10 calendar days before the day of the public hearing; or

(ii) if the proposed land use ordinance adoption or modification is ministerial in nature, as described in Subsections (6)(a) and (b), provided as a class A notice under Section 63G-30-102 for at least 10 calendar days before the day of the public hearing.

(3) In addition to the notice requirements described in Subsections (1) and (2), for any proposed modification to the text of a zoning code, the notice posted in accordance with Subsection (2) shall:

(a) include:

(i) a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; or

(ii) a direct link to the county's webpage where a person can find a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; and

(b) be provided to any person upon written request.

(4) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be published for the county, as a class A notice under Section 63G-30-102, for at least 24 hours.

(5) (a) A county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the county will be provided to the county legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 17-27a-502.

(c) If a county mails notice to a property owner under Subsection (2)(b)(i) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (5) may be included in or part of the notice described in Subsection (2)(b)(i) rather than sent separately.

(6) (a) A proposed land use ordinance is ministerial in nature if the proposed land use ordinance change is to:

(i) bring the county's land use ordinances into compliance with a state or federal law;

(ii) adopt a county land use update that affects:

(A) an entire zoning district; or

(B) multiple zoning districts;

(iii) adopt a non-substantive, clerical text amendment to an existing land use ordinance;

(iv) recodify the county's existing land use ordinances; or

(v) designate or define an affected area for purposes of a boundary adjustment or annexation.

(b) A proposed land use ordinance may include more than one of the purposes described in Subsection (6)(a) and remain ministerial in nature.

(c) If a proposed land use ordinance includes an adoption or modification not described in Subsection (6)(a):

(i) the proposed land use ordinance is not ministerial in nature, even if the proposed land use ordinance also includes a change or modification described in Subsection (6)(a); and

(ii) the notice requirements of Subsection (2)(b)(i) apply.

Section 56. Section 17-27a-309 is enacted to read:

17-27a-309

(Effective 05/07/25)

. Urban development in municipal expansion area -- Requirements.

(1) For purposes of this section, "urban development" means the same as the term is defined in Section 10-2-801.

(2) A county legislative body may approve urban development within an adopted expansion area of a municipality if the county notifies the municipality of the proposed urban development, and:

(a) the municipality consents in writing to the proposed urban development; or

(b) the municipality fails to respond to the county's notification of the proposed urban development within 90 days after the day on which the county provides the notice.

(3) If a municipality responds to the county's notice under Subsection (2) within 90 days after the county's notification of the proposed urban development to object to the proposed urban development, the county may approve the urban development if the county responds to the municipality's objection in writing.

Section 57. Section 17-27a-508 is amended to read:

17-27a-508

(Effective 05/07/25)

. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or

(B) during the 12 months prior to the county processing the application or multiple applications of the same type, the application is impaired or prohibited under the terms of a temporary land use regulation adopted under Section 17-27a-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) Unless a phasing sequence is required in an executed development agreement, a county shall, without regard to any other separate and distinct land use application, accept and process a complete land use application.

(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(f) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a county ordinance in effect on the date that the applicant submits a complete application, subject to Subsection (1)(a)(ii); or

(iii) a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(g) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a county ordinance; or

(vii) in a county specification for residential roadways in effect at the time a residential subdivision was approved.

(h) Except as provided in Subsection (1)(i) or (j), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(i) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable local ordinance[~~that the legislative body adopts under this chapter~~].

(j) A county may not conduct a final inspection required before issuing a certificate of occupancy for a residential unit that is within the boundary of an infrastructure financing district, as defined in Section 17B-1-102, until the applicant for the certificate of occupancy provides adequate proof to the county that any lien on the unit arising from the infrastructure financing district's assessment against the unit under Title 11, Chapter 42, Assessment Area Act, has been released after payment in full of the infrastructure financing district's assessment against that unit.

(k) A county:

(i) may require the submission of a private landscaping plan, as defined in Section 17-27a-604.5, before landscaping is installed; and

(ii) may not withhold an applicant's building permit or certificate of occupancy because the applicant has not submitted a private landscaping plan.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(4).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

(6) (a) After issuance of a building permit, a county may not:

(i) change or add to the requirements expressed in the building permit, unless the change or addition is:

(A) requested by the building permit holder; or

(B) necessary to comply with an applicable state building code; or

(ii) revoke the building permit or take action that has the effect of revoking the building permit.

(b) Subsection (6)(a) does not prevent a county from issuing a building permit that contains an expiration date defined in the building permit.

Section 58. Section 17-27a-508.1 is enacted to read:

17-27a-508.1

(Effective 05/07/25)

. Private maintenance of public access amenities prohibited.

(1) As used in this section:

(a) "Public access amenity" means a physical feature like a trail or recreation area that a municipality designates for public access and use.

(b) "Retail water line" means the same as that term is defined in Section 11-8-4.

(c) "Sewer lateral" means the same as that term is defined in Section 11-8-4.

(d) (i) "Water utility" means a main line or other integral part of a sewer or water utility service.

(ii) "Water utility" does not include a retail water line or sewer lateral.

(2) A county may not require a private individual or entity, including a community association or homeowners association, to maintain and be responsible for a public access amenity or water utility in perpetuity unless:

(a) the public access amenity is the property located adjacent to the private property owned by the private individual or entity to the curb line of the street, including park strips and sidewalks; or

(b) the private individual or entity agreed to maintain or be responsible for the public access amenity or water utility in perpetuity in a covenant, utility service agreement, development agreement, or other agreement between the county and the private individual or entity.

Section 59. Section 17-27a-509 is amended to read:

17-27a-509

(Effective 05/07/25)

. Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

(1) A county may [~~not~~]impose or collect a fee for reviewing or approving the plans for a commercial or residential building[~~that exceeds~~], not to exceed the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the county charges for a building permit fee for that building.

(2) (a) Subject to Subsection [~~(1)~~](2)(b), a county may impose and collect [~~only~~]a [~~nominal~~]fee for reviewing and approving identical [~~floor~~]plans, as described in Section 17-27a-536, not to exceed the lesser of:

(i) the actual cost of performing the plan review; or

(ii) 30% of the fee that would be imposed and collected under Subsection (1).

(b) A county may impose and collect a fee for reviewing an original plan, as defined in Section 17-27a-536, that an applicant submits with the intent that the original plan be used as the basis for a future identical plan submission, the same as any other plan review fee under Subsection (1).

(3) A county may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the county water, sewer, storm water, power, or other utility system.

(4) A county may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review.

(5) (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the county shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the county shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the county to create the calculation method described in Subsection (5)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed; and

(iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A county shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:

(i) regulation;

(ii) processing an application;

(iii) issuing a permit; or

(iv) delivering the service for which the applicant or owner paid the fee.

(6) A county may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

(b) subject to Subsection (3), a hookup fee; and

(c) an impact fee for a public facility listed in Subsection 11-36a-102(17)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a county:

(a) Subsections (5) and (6);

(b) Section 17-27a-507; and

(c) Section 17-27a-509.5.

Section 60. Section 17-27a-509.5 is amended to read:

17-27a-509.5

(Effective 05/07/25)

. Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

(1) (a) Each county shall, in a timely manner, determine whether a land use application is complete for the purposes of subsequent, substantive land use authority review.

(b) After a reasonable period of time to allow the county diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the county provide a written determination either that the application is:

(i) complete for the purposes of allowing subsequent, substantive land use authority review; or

(ii) deficient with respect to a specific, objective, ordinance-based application requirement.

(c) Within 30 days of receipt of an applicant's request under this section, the county shall either:

(i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application must be supplemented by specific additional information identified in the notice; or

(ii) accept the application as complete for the purposes of further substantive processing by the land use authority.

(d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

(e) (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).

(ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).

(f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).

(ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.

(2) (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.

(b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

(c) Within 45 days from the date of service of the written request described in Subsection (2)(b):

(i) except as provided in Subsection (2)(c)(ii), the land use authority shall take final action, approving or denying the application; and

(ii) if a landowner petitions for a land use regulation, a legislative body shall take final action by approving or denying the petition.

(d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

(e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority should have taken final action under Subsection (2)(c).

(3) (a) As used in this Subsection (3), an "infrastructure improvement category" includes a:

(i) culinary water system;

(ii) sanitary sewer system;

(iii) storm water system;

(iv) transportation system;

(v) secondary and irrigation water system;

(vi) public landscaping; or

(vii) public parks, trails, or open space.

(b) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the county's adopted standards.

[~~(b)~~](c) (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.

(ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection [~~(3)(b)(i)~~](3)(c)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.

(iii) [~~The~~]Except as provided in Subsection (3)(c)(iv), (3)(d), or (3)(e), the land use authority shall accept or reject the performance of warranty work within[~~45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.~~]:

(A) for a county of a first, second, or third class, 15 days after the day on which the land use authority receives an applicant's written request under Subsection (3)(c)(i); and

(B) for a county of the fourth, fifth, or sixth class, 30 days after the day on which the land use authority receives an applicant's written request under Subsection (3)(c)(i).

(iv) If winter weather conditions do not reasonably permit a full and complete inspection of warranty work within the time periods described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) so the land use authority is able to accept or reject the warranty work, the land use authority shall:

(A) notify the applicant in writing before the end of the applicable time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) that, because of winter weather conditions, the land use authority will require additional time to accept or reject the performance of warranty work; and

(B) complete the inspection of the performance of warranty work and provide the applicant with an acceptance or rejection as soon as practicable.

(d) If a land use authority rejects an applicant's performance of warranty work three times, the county may take 15 days in addition to the relevant time period described in Subsection (3)(c)(iii) for subsequent inspections of the applicant's warranty work.

(e) (i) If extraordinary circumstances do not permit a land use authority to complete inspection of warranty work within the relevant time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) so the land use authority is able to accept or reject the warranty work, the land use authority shall:

(A) notify the applicant in writing before the end of the applicable time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) that, because of the extraordinary circumstances, the land use authority will require additional time to accept or reject the performance of warranty work; and

(B) complete the inspection of the performance of warranty work and provide the applicant with an acceptance or rejection within 30 days after the day on which the relevant time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) ends.

(ii) The following situations constitute extraordinary circumstances for purposes of Subsection (3)(e)(i):

(A) the land use authority is processing a request for inspection that substantially exceeds the normal scope of inspection the county is customarily required to perform;

(B) the applicant has provided two or more written requests described in Subsection (3)(c)(i) within the same 30-day time period; or

(C) the land use authority is processing an unusually large number of written requests described in Subsection (3)(c)(i) to accept or reject subdivision improvements or performance of warranty work.

[~~(e)~~](f) (i) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the county's adopted standards, the land use authority shall, within 15 days of the day on which the land use authority makes the determination, comprehensively and with specificity list the reasons for the land use authority's determination.

(ii) If the land use authority fails to provide an applicant with the list described in Subsection (3)(f)(i) within the required time period:

(A) the applicant may send written notice to the land use authority requesting the list within five days; and

(B) if the applicant does not receive the list within five days from the day on which the applicant provides the land use authority with written notice as described in Subsection (3)(f)(ii)(A), the applicant may demand, and the land use authority shall provide, a reimbursement equal to 20% of the applicant's improvement completion assurance or security for the warranty work within each infrastructure improvement category.

(g) Subject to the provisions of Section 10-9a-604.5:

(i) within 15 days of the day on which the land use authority determines that an infrastructure improvement within a certain infrastructure improvement category, as described in Subsection (3)(a), meets the county's adopted standards for that category of infrastructure improvement and an applicant submits complete as-built drawings to the land use authority, whichever occurs later, the land use authority shall return to the applicant 90% of the applicant's improvement completion assurance allocated toward that infrastructure improvement category; and

(ii) within 15 days of the day on which the warranty period expires and the land use authority determines that an infrastructure improvement within a certain infrastructure improvement category, as described in Subsection (3)(a), meets the county's adopted standards for that category of infrastructure improvement, the land use authority shall return to the applicant the remaining 10% of the applicant's improvement completion assurance allocated toward that infrastructure improvement category, plus any remaining portion of a bond described in Subsection 10-9a-604.5(5)(b).

(h) The following acts under this Subsection (3) are administrative acts:

(i) a county's return of an applicant's improvement completion assurance, or any portion of an improvement completion assurance, within a category of infrastructure improvements, to the applicant; and

(ii) a county's return of an applicant's security for an improvement warranty, or any portion of security for an improvement warranty, within a category of infrastructure improvements, to the applicant.

(4) Subject to Section 17-27a-508, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.

(5) There shall be no money damages remedy arising from a claim under this section.

Section 61. Section 17-27a-509.7 is amended to read:

17-27a-509.7

(Effective 05/07/25)

. Transferable development rights.

(1) A county may adopt an ordinance:

(a) designating sending zones and receiving zones located wholly within the unincorporated area of the county;

(b) designating a sending zone if the area described in the sending zone is located, at least in part, within the unincorporated county, and the area described in the sending zone that is located outside the county complies with Subsection (2);

(c) designating a receiving zone if the area described in the receiving zone is located, at least in part, within the unincorporated county, and the area described in the receiving zone that is located outside the county complies with Subsection (2); and

[~~(b)~~](d) allowing the transfer of a transferable development right from a sending zone to a receiving zone.

(2) A county may adopt an ordinance designating a sending zone or receiving zone that is located, in part, in a municipality or unincorporated area of another county, if the legislative body of every municipality or county with land inside the sending zone or receiving zone adopts an ordinance designating the sending zone or receiving zone.

[~~(2)~~](3) A county may not allow the use of a transferable development right unless the county adopts an ordinance described in Subsection (1).

Section 62. Section 17-27a-532 is amended to read:

17-27a-532

(Effective 05/07/25)

. Water wise landscaping -- County landscaping regulations.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) "Private landscaping plan" means the same as that term is defined in Section 17-27a-604.5.

[~~(d)~~](e) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

[~~(e)~~](f) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a county from requiring a property owner to:

(i) comply with a site plan review, private landscaping plan review, or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the county, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to county operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A county may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

(4) A county may require a seller of a newly constructed residence within the unincorporated area of the county to inform the first buyer of the newly constructed residence of a county ordinance requiring water wise landscaping.

(5) A county shall report to the Division of Water Resources the existence, enactment, or modification of an ordinance, resolution, or policy that implements regional-based water use efficiency standards established by the Division of Water Resources by rule under Section 73-10-37.

(6) A county may enforce a county landscaping ordinance in compliance with this section.

Section 63. Section 17-27a-536 is enacted to read:

17-27a-536

(Effective 05/07/25)

. Identical plan review -- Process -- Indexing of plans -- Prohibitions.

(1) As used in this section:

(a) "Business day" means Monday, Tuesday, Wednesday, Thursday, or Friday, unless the day falls on a federal, state, or county holiday.

(b) "Nonidentical plan" means a plan that does not meet the definition of an identical plan in Section 17-27a-103.

(c) "Original plan" means the same as that term is defined in Section 10-9a-541.

(2) An applicant may submit, and a county shall review, an identical plan as described in this section.

(3) At the time of submitting an identical plan for review to a county, an applicant shall:

(a) mark the floor plan as "identical plans";

(b) identify in writing:

(i) the building permit number the county issued for the original plan:

(A) that was previously approved by the county; and

(B) to which the submitted floor plan qualifies as an identical plan; or

(ii) the identifying index number assigned by the county to the original plan, as described in Subsection (5)(b); and

(c) identify the site on which the applicant intends to implement the identical plan.

(4) Beginning May 7, 2025, an applicant that intends to submit an identical plan for review to a county shall:

(a) indicate, at the time of submitting an original plan to the county for review and approval, that the applicant intends to use the original plan as the basis for submitting a future identical plan if the original plan is approved by the county; and

(b) identify:

(i) the name or other identifier of the original plan; and

(ii) the zone the building will be located in, if the county approves the original plan.

(5) Upon approving an original plan and receiving the information described in Subsection (4), a county shall:

(a) file and index the original plan for future reference against an identical plan later submitted under Subsection (2); and

(b) provide the applicant with an identifying index number for the original plan.

(6) A county that receives a submission under Subsection (2) shall review and compare the submitted identical plan to the original plan to ensure:

(a) the identical plan and original plan are substantially identical; and

(b) no structural changes have been made from the original plan.

(7) Nothing in this section prohibits a county from conducting a site review and requiring geological analysis of the proposed site identified by the applicant under Subsection (3)(c).

(8) A county shall:

(a) review a submitted identical plan for compliance with this section; and

(b) approve or reject the identical plan within five business days after the day on which the identical plan was submitted under Subsection (2).

(9) An applicant that submits a nonidentical plan to a county as an identical plan, with knowledge that the nonidentical plan does not qualify as an identical plan and with intent to deceive the county:

(a) may be fined by the county receiving the submission of the nonidentical plan:

(i) in an amount not to exceed three times the building permit fee, if the county approved the nonidentical plan as an identical plan before discovering the submission did not qualify as an identical plan; or

(ii) in an amount equal to the building permit fee that would have been issued for the nonidentical plan, if the county did not approve the nonidentical plan before discovering the submission did not qualify as an identical plan; and

(b) is prohibited from submitting an identical plan for review and approval under this section for a period of two years from the day on which the county discovers the nonidentical plan identified as an identical plan in the applicant's submission did not qualify as an identical plan.

(10) A county may impose a criminal penalty, as described in Section 17-53-223, for an applicant that knowingly violates the prohibition described in Subsection (9)(b).

Section 64. Section 17-27a-537, which is renumbered from Section 17-36-55 is renumbered and amended to read:

[~~17-36-55~~]17-27a-537

(Effective 05/07/25)

. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Automated review" means a computerized process used to conduct a plan review, including through the use of software and algorithms to assess compliance with an applicable building code, regulation, or ordinance to ensure that a plan meets all of a county's required criteria for approval.

(b) "Business day" means [~~a day other than Saturday, Sunday, or a legal holiday~~]the same as that term is defined in Section 17-27a-536.

[~~(b)~~](c) "Construction project" means:

(i) the same as that term is defined in Section 38-1a-102[~~,~~]; or

(ii) any work requiring a permit for construction of or on a one- or two-family dwelling, a townhome, or other residential structure built under the State Construction Code and State Fire Code.

[~~(c)~~](d) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

[~~(d) "Planning review" means a review to verify that a county has approved the following elements of a construction project:~~]

[~~(i) zoning;~~]

[~~(ii) lot sizes;~~]

[~~(iii) setbacks;~~]

[~~(iv) easements;~~]

[~~(v) curb and gutter elevations;~~]

[~~(vi) grades and slopes;~~]

[~~(vii) utilities;~~]

[~~(viii) street names;~~]

[~~(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and~~]

[~~(x) subdivision.~~]

(e) (i) "Plan review" means all of the reviews and approvals of a plan that a county, including all relevant divisions or departments within a county, requires [~~to obtain~~]before issuing a building permit[~~from the county~~],with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project [~~received a planning review~~]complies with local ordinances;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

[~~(F) that the construction project complies with federal, state, and local storm water protection laws;~~]

[~~(G)~~](F) that the construction project received a structural review;

[~~(H)~~](G) the total square footage for each building level of finished, garage, and unfinished space; and

[~~(I)~~](H) that the plans include a printed statement indicating that, before the disturbance of land and during the actual construction, the applicant will comply with applicable federal, state, and local laws and ordinances[~~and the state construction codes.~~], including any storm water protection laws and ordinances.

(ii) "Plan review" does not mean a review of[~~a document~~]:

(A) a document required to be re-submitted for a construction project other than a construction project for a one[~~to~~]-or two-family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) a document submitted as part of a deferred submittal when requested by the applicant and approved by the building official; [~~or~~]

(C) a document that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party[~~,~~]; or

(D) a storm water permit.

(f) "Screening period" means the three business days following the day on which an applicant submits an application.

(g) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

[~~(g)~~](h) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

(i) "Storm water permit" means the same as that term is defined in Section 19-5-108.5.

[~~(h)~~](j) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection [~~(1)(h)(i)~~](1)(j)(i), a review that a licensed engineer conducts.

[~~(i)~~](k) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a county collects a fee for the inspection of a construction project, the county shall ensure that the construction project receives a prompt inspection.

(b) If a county cannot provide a building inspection within three business days after the day on which the county receives the request for the inspection, the applicant may engage an inspection with a third-party inspection firm from the third-party inspection firm list, as described in Section 15A-1-105.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3) (a) (i) A county that receives an application for a plan review shall determine if the application is complete, as described in Subsection (12), within the screening period.

(ii) If the county determines an application for a plan review is complete, as described in Subsection (12), within the screening period, the county shall begin the plan review process described in Subsection (4).

(b) If the county determines that an application for a plan review is not complete as described in Subsection (12), and if the county notifies the applicant of the county's determination:

(i) before 5 p.m. on the last day of the screening period, the county may:

(A) pause the screening period until the applicant ensures the application meets the requirements of Subsection (12); or

(B) reject the incomplete application; or

(ii) after 5 p.m. on the last day of the screening period, the county may not pause the screening period and shall begin the plan review process described in Subsection (4).

(c) If an application is rejected as described in Subsection (3)(b)(i)(B) and an applicant resubmits the application, the resubmission begins a new screening period in which the county shall review the resubmitted application to determine if the application is complete as described in Subsection (12).

(d) If the county gives notice of an incomplete application after 5 p.m. on the last day of the screening period, the county:

(i) shall immediately notify the applicant that the county has determined the application is not complete and the basis for the determination;

(ii) may not, except as provided in Subsection (3)(d)(iii), pause the relevant time period described in Subsection (4); and

(iii) may pause the relevant time period described in Subsection (4)(a) or (b) as described in Subsection (4)(c).

[~~(3)~~](4) (a) [~~A~~]Except as provided in Subsection (7), once a county determines an application for plan review is complete, or proceeds to review an incomplete application for plan review under Subsection (3)(b)(ii), the county shall complete a plan review of a construction project for a one[~~to~~]- or two-family dwelling or townhome by no later than 14 business days after the day on which the [~~applicant submits a complete building permit application to the county~~]screening period for the application ends.

(b) [~~A~~]Except as provided in Subsection (7), once a county determines an application for plan review is complete, or proceeds to

review an incomplete application for plan review under Subsection (3)(b)(ii), the county shall complete a plan review of a construction project for a residential structure built under the [~~International Building~~]State Construction Code [~~, not including~~]that is not a one- or two-family dwelling, townhome, or a lodging establishment, by no later than 21 business days after the day on which the [~~applicant submits a complete building permit application to the county~~]screening period for the application ends.

[~~(c) (i) Subject to Subsection (3)(c)(ii), if a county does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the county complete the plan review.~~]

[~~(ii) If an applicant makes a request under Subsection (3)(c)(i), the county shall perform the plan review no later than:~~]

[~~(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or~~]

[~~(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.~~]

[~~(d)~~](c) If a county gives notice of an incomplete application as described in Subsection (3)(d), the county:

(i) may pause the time period described in Subsection (4)(a) or (b):

(A) within the last five days of the relevant time period; and

(B) until the applicant provides the county with the information necessary to consider the application complete under Subsection (12);

(ii) shall resume the relevant time period upon receipt of the information necessary to consider the application complete; and

(iii) may, if necessary, use five additional days beginning the day on which the county receives the information described in Subsection (4)(c)(ii) to consider whether the application meets the requirements for a building permit, even if the five additional days extend beyond the relevant time period described in Subsection 4(a) or (b).

(d) If, at the conclusion of plan review, the county determines the application meets the requirements for a building permit, the county shall approve the application and, subject to Subsection (10)(b), issue the building permit to the applicant.

(5) (a) A county may utilize another government entity to determine if an application is complete or perform a plan review, in whole or in part.

(b) A county that utilizes another government entity to determine if an application is complete or perform a plan review, as described in Subsection (5)(a), shall:

(i) notify any other government entities, including water providers, within 24 hours of receiving any building permit application; and

(ii) provide the government entity all documents necessary to determine if an application is complete or perform a plan review, in whole or in part, as requested by the county.

(6) A government entity determining if an application is complete or performing a plan review, in whole or in part, as requested by a county, shall:

(a) comply with the requirements of this chapter; and

(b) notify the county within the screening period whether the application, or a portion of the application, is complete.

(7) An applicant may:

[~~(i)~~](a) waive the plan review time requirements described in [~~this Subsection (3)~~]Subsection (4); or

[~~(ii)~~](b) with the county's written consent, establish an alternative plan review time requirement.

[~~(4)~~](8) (a) A county may not enforce a requirement to have a plan review if:

[~~(a)~~](i) the county does not complete the plan review within the relevant time period described in Subsection [~~(3)(a) or (b)~~](4); and

[~~(b)~~](ii) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(b) If a county is prohibited from enforcing a requirement to have a plan review under Subsection (8)(a), the county shall return to the applicant the plan review fee.

[~~(5)~~](9) (a) A county may attach to a reviewed plan a list that includes:

(i) items with which the county is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(b) A county may not require an applicant to redraft a plan if the county requests minor changes to the plan that the list described in Subsection [~~(5)(a)~~](9)(a) identifies.

(c) A county may require a single resubmittal of plans for a one- or two-family dwelling or townhome if [~~the resubmission is required to address deficiencies identified by a third-party review of a geotechnical report or geological report~~]deficiencies in the plan would affect the site plan interaction or footprint of the design.

[~~(6)~~](10) (a) If a county charges a fee for a building permit, the county may not refuse payment of the fee at the time the applicant submits [~~a building permit~~]an application under Subsection (3).

(b) If a county charges a fee for a building permit and does not require the fee for a building permit be included in an application for plan review, upon approval of an application for plan review under Subsection (4)(d), the county may require the applicant to pay the fee for the building permit before the county issues the building permit.

[~~(7)~~](11) A county may not limit the number of [~~building permit~~]applications submitted under Subsection (3).

[~~(8)~~](12) For purposes of Subsection (3), [~~a building permit~~]an application for plan review is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) existing and proposed utilities, including water[~~meter and sewer lateral location~~], sewer, and subsurface drainage facilities;

(J) street names;

(K) driveway locations;

(L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors[~~and~~], windows, and egress;

(iii) foundation, structural, and framing detail; [~~and~~]

(iv) electrical, mechanical, and plumbing design;

(v) a licensed architect's or structural engineer's stamp, when required by law; and

(vi) fire suppression details, when required by fire code;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the county; [~~and~~]

(g) a statement indicating that[~~actual construction will comply with applicable local ordinances and building codes.~~]:

(i) before land disturbance occurs on the subject property, the applicant will obtain a storm water permit; and

(ii) during actual construction, the applicant shall comply with applicable local ordinances and building codes; and

(h) the fees, if any, established by ordinance for the county to perform a plan review.

(13) A county may, at the county's discretion, utilize automated review to fulfill, in whole or in part, the county's obligation to conduct plan review described in this section.

Section 65. Section 17-27a-604.5 is amended to read:

17-27a-604.5

(Effective 05/07/25)

. Subdivision plat recording or development activity before required infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) As used in this section[~~,~~]:

(a) "Private landscaping plan" means a proposal:

(i) to install landscaping on a lot owned by a private individual or entity; and

(ii) submitted to a county by the private individual or entity, or on behalf of a private individual or entity, that owns the lot.

(b) " [~~public~~]Public landscaping improvement" means landscaping that an applicant is required to install to comply with published installation and inspection specifications for public improvements that:

[~~(a)~~](i) will be dedicated to and maintained by the county; or

[~~(b)~~](ii) are associated with and proximate to trail improvements that connect to planned or existing public infrastructure.

(2) A land use authority shall establish objective inspection standards for acceptance of a required public landscaping improvement or infrastructure improvement.

(3) (a) [~~Before~~]Except as provided in Subsection (3)(d) or (3)(e), before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required public landscaping improvements or infrastructure improvements; or

(ii) post an improvement completion assurance for any required public landscaping improvements or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall in accordance with Subsection (5) provide completion assurance for:

(i) completion of 100% of the required public landscaping improvements or infrastructure improvements; or

(ii) if the county has inspected and accepted a portion of the public landscaping improvements or infrastructure improvements, 100% of the incomplete or unaccepted public landscaping improvements or infrastructure improvements.

(c) A county shall:

(i) establish a minimum of two acceptable forms of completion assurance;

(ii) (A) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this [~~title,~~]chapter and any local ordinances; and

(B) if a county accepts cash deposits as a form of completion assurance and an applicant elects to post a cash deposit as a form of completion assurance, place the cash deposit in an interest-bearing account upon receipt and return any earned interest to the applicant with the return of the completion assurance according to the conditions of this chapter and any local ordinances;

(iii) establish a system for the partial release of an improvement completion assurance as portions of required public landscaping improvements or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iv) issue or deny a building permit in accordance with Section 17-27a-802 based on the installation of public landscaping

improvements or infrastructure improvements.

(d) A county may not require an applicant to post an improvement completion assurance for:

(i) public landscaping improvements or infrastructure improvements that the county has previously inspected and accepted;

(ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation;

(iii) in a county where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the county requires to be private; [~~or~~]

(iv) landscaping improvements that are not public landscaping improvements, unless the landscaping improvements and completion assurance are required under the terms of a development agreement[~~.~~];

(v) a private landscaping plan;

(vi) landscaping improvements or infrastructure improvements that an applicant elects to install at the applicant's own risk:

(A) before the plat is recorded;

(B) pursuant to inspections required by the county for the infrastructure improvement; and

(C) pursuant to final civil engineering plan approval by the county; or

(vii) any individual public landscaping improvement or individual infrastructure improvement when the individual public landscaping improvement or individual infrastructure improvement is also included as part of a separate improvement completion assurance.

(e) (i) A county may not:

(A) prohibit an applicant from installing a public landscaping improvement or an infrastructure improvement when the municipality has approved final civil engineering plans for the development activity or plat for which the public landscaping improvement or infrastructure improvement is required; or

(B) require an applicant to sign an agreement, release, or other document inconsistent with this chapter as a condition of posting an improvement completion assurance, security for an improvement warranty, or receiving a building permit.

(ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and infrastructure improvements that are installed by an applicant are subject to inspection by the county in accordance with the county's adopted inspection standards.

(f) (i) Each improvement completion assurance and improvement warranty posted by an applicant with a county shall be independent of any other improvement completion assurance or improvement warranty posted by the same applicant with the county.

(ii) Subject to Section 10-9a-509.5, if an applicant has posted a form of security with a county for more than one infrastructure improvement or public landscaping improvement, the county may not withhold acceptance of an applicant's required subdivision improvements, public landscaping improvement, infrastructure improvements, or the performance of warranty work for the same applicant's failure to complete a separate subdivision improvement, public landscaping improvement, infrastructure improvement, or warranty work under a separate improvement completion assurance or improvement warranty.

(4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or other entitlement benefit not currently available under the existing zone, a county may require a completion assurance bond for landscaped amenities and common area that are dedicated to and maintained by a homeowners association.

(b) Any agreement regarding a completion assurance bond under Subsection (4)(a) between the applicant and the county shall be memorialized in a development agreement.

(c) A county may not require a completion assurance bond for or dictate who installs or is responsible for the cost of the landscaping of residential lots or the equivalent open space surrounding single-family attached homes, whether platted as lots or common area.

(5) The sum of the improvement completion assurance required under Subsections (3) and (4) may not exceed the sum of:

(a) 100% of the estimated cost of the public landscaping improvements or infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's bid; and

(b) 10% of the amount of the bond to cover administrative costs incurred by the county to complete the improvements, if necessary.

(6) (a) [~~At any time before a county accepts a public landscaping improvement or infrastructure improvement~~]Upon an applicant's written request that the land use authority accept or reject the applicant's installation of required subdivision improvements or performance of warranty work as set forth in Section 17-27a-509.5, and for the duration of each improvement warranty period, the land use authority may require the applicant to:

[~~(a)~~](i) execute an improvement warranty for the improvement warranty period; and

[~~(b)~~](ii) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the county, in the amount of up to 10% of the lesser of the:

[~~(i)~~](A) county engineer's original estimated cost of completion; or

[~~(ii)~~](B) applicant's reasonable proven cost of completion.

(b) A county may not require the payment of the deposit of the improvement warranty assurance described in Subsection (6)(a) for an infrastructure improvement or public landscaping improvement before the applicant indicates through written request that the applicant has completed the infrastructure improvement or public landscaping improvement.

(7) When a county accepts an improvement completion assurance for public landscaping improvements or infrastructure improvements for a development in accordance with Subsection (3)(c)(ii) (A), the county may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

(8) A county may not require the submission of a private landscaping plan as part of an application for a building permit.

[~~(8)~~](9) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 66. Section 17-27a-701 is amended to read:

17-27a-701

(Effective 05/07/25)

. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) (a) Each county adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities.

(b) An appeal authority shall hear and decide:

(i) requests for variances from the terms of land use ordinances;

(ii) appeals from land use decisions applying land use ordinances; and

(iii) appeals from a fee charged in accordance with Section 17-27a-509.

(c) An appeal authority may not hear an appeal from the enactment of a land use regulation.

(2) As a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision, in accordance with local ordinance.

(3) An appeal authority described in Subsection (1)(a):

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a county may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority the county designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that the adversely affected party can raise in district court;

(d) not require a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of an appealing party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) A county may not require a public hearing for a request for a variance or land use appeal.

(6) If the county establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of the members of the board, body, or panel of any meeting or hearing of the board, body, or panel;

(b) provide each of the members of the board, body, or panel with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of the members of the board, body, or panel is present; and

(d) act only upon the vote of a majority of the convened members of the board, body, or panel.

Section 67. Section 17-27a-802 is amended to read:

17-27a-802

(Effective 05/07/25)

. Enforcement -- Limitations on a county's ability to enforce an ordinance by withholding a permit or certificate.

(1) (a) A county or an adversely affected party may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A county need only establish the violation to obtain the injunction.

(2) (a) Except as provided in Subsections (3) [~~and (4)~~]through (6), a county may enforce the county's ordinance by withholding a building permit or certificate of occupancy.

(b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a county without approval of a building permit.

(c) The county may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A county may require an applicant to install a permanent road, cover a temporary road with asphalt or concrete, or create another method for servicing a structure that is consistent with Appendix D of the International Fire Code, before receiving a certificate of occupancy for that structure.

(e) A county may require an applicant to maintain and repair a temporary fire apparatus road during the construction of a structure accessed by the temporary fire apparatus road in accordance with the county's adopted standards.

(f) A county may require temporary signs to be installed at each street intersection once construction of new roadway allows passage by a motor vehicle.

(g) A county may adopt and enforce any appendix of the International Fire Code, 2021 Edition.

(3) (a) A county may not deny an applicant a building permit or certificate of occupancy because the applicant has not completed an infrastructure improvement:

(i) [~~that is not~~]unless the infrastructure improvement is essential to meet the requirements for the issuance of a building permit or certificate of occupancy under [~~the building code and fire code~~]Title 15A, State Construction and Fire Codes Act; and

(ii) for which the county has accepted an improvement completion assurance for a public landscaping improvement, as defined in Section 17-27a-604.5, or an infrastructure improvement for the development.

(b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6, infrastructure improvement that is essential means:

(i) operable fire hydrants installed in a manner that is consistent with the county's adopted engineering standards; and

(ii) for temporary roads used during construction, a properly compacted road base installed in a manner consistent with the county's adopted engineering standards.

(c) A county may not adopt an engineering standard that requires an applicant to install a permanent road or a temporary road with asphalt or concrete before receiving a building permit.

[~~(3)~~](4) A county may not deny an applicant a building permit or certificate of occupancy [~~based on the lack of completion of a~~]for failure to:

(a) submit a private landscaping plan, as defined in Section 17-27a-604.5; or

(b) complete a landscaping improvement that is not a public landscaping improvement, as defined in Section 17-27a-604.5.

[~~(4)~~](5) A county may not withhold a building permit based on the lack of completion of a portion of a public sidewalk to be constructed within a public right-of-way serving a lot where a single-family or two-family residence or town home is proposed in a building permit application if an improvement completion assurance has been posted for the incomplete portion of the public sidewalk.

[~~(5)~~](6) A county may not prohibit the construction of a single-family or two-family residence or town home, withhold recording a plat, or withhold acceptance of a public landscaping improvement, as defined in Section 17-27a-604.5, or an infrastructure improvement based on the lack of installation of a public sidewalk if an improvement completion assurance has been posted for the public sidewalk.

[~~(6)~~](7) A county may not redeem an improvement completion assurance securing the installation of a public sidewalk sooner than 18 months after the date the improvement completion assurance is posted.

[~~(7)~~](8) A county shall allow an applicant to post an improvement completion assurance for a public sidewalk separate from an improvement completion assurance for:

(a) another infrastructure improvement; or

(b) a public landscaping improvement, as defined in Section 17-27a-604.5.

[~~(8)~~](9) A county may withhold a certificate of occupancy for a single-family or two-family residence or town home until the portion of the public sidewalk to be constructed within a public right-of-way and located immediately adjacent to the single-family or two-family residence or town home is completed and accepted by the county.

Section 68. Section 17B-1-119 is amended to read:

17B-1-119

(Effective 05/07/25)

. Duty to comply with local land use provisions -- Requirements before providing a service.

[~~A special district shall comply with Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, and Title 17, Chapter 27a, County Land Use, Development, and Management Act, as applicable, if~~]

(1) (a) If a land use authority consults with or allows [~~the~~]a special district to participate in any way in a land use authority's land use development review or approval process[~~.~~], the special district shall comply with Title 10, Chapter 9a, Municipal Land Use and Development Act, or Title 17, Chapter 27a, County Land Use and Development Act, as applicable to the land use authority.

(b) The compliance required under Subsection (1)(a) is not limited to the special district's participation in the land use authority's review or approval process.

(2) (a) Before a special district begins providing a service to a service applicant, the service applicant shall provide the special district with an improvement assurance and an improvement assurance warranty.

(b) A special district that has not received an improvement assurance and an improvement assurance warranty from a service applicant may not begin providing service to the service applicant.

Section 69. Section 17B-1-503 is amended to read:

17B-1-503

(Effective 05/07/25)

. Withdrawal or boundary adjustment with municipal approval.

(1) A municipality and a special district whose boundaries adjoin or overlap may adjust the boundary of the special district to include more or less of the municipality, including the expansion area identified in the annexation policy plan adopted by the municipality under Section [~~10-2-401.5~~]10-2-803, in the special district by following the same procedural requirements as set forth in Section 17B-1-417 for boundary adjustments between adjoining special districts.

(2) (a) Notwithstanding any other provision of this title, a municipality annexing all or part of an unincorporated island or peninsula under Title 10, Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of Municipalities, that overlaps a municipal services district organized under Chapter 2a, Part 11, Municipal Services District Act, may petition to withdraw the area from the municipal services district in accordance with this Subsection (2).

(b) For a valid withdrawal described in Subsection (2)(a):

(i) the annexation petition under Section [~~10-2-403~~]10-2-806 or a separate consent, signed by owners of at least 60% of the total private land area, shall state that the signers request the area to be withdrawn from the municipal services district; and

(ii) the legislative body of the municipality shall adopt a resolution, which may be the resolution adopted in accordance with Subsection [~~10-2-418(5)(a)~~]10-2-812(3)(a), stating the municipal legislative body's intent to withdraw the area from the municipal services district.

(c) The board of trustees of the municipal services district shall consider the municipality's petition to withdraw the area from the municipal services district within 90 days after the day on which the municipal services district receives the petition.

(d) The board of trustees of the municipal services district:

(i) may hold a public hearing in accordance with the notice and public hearing provisions of Section 17B-1-508;

(ii) shall consider information that includes any factual data presented by the municipality and any owner of private real property who signed a petition or other form of consent described in Subsection (2)(b)(i); and

(iii) identify in writing the information upon which the board of trustees relies in approving or rejecting the withdrawal.

(e) The board of trustees of the municipal services district shall approve the withdrawal, effective upon the annexation of the area into the municipality or, if the municipality has already annexed the area, as soon as possible in the reasonable course of events, if the board of trustees makes a finding that:

(i) (A) the loss of revenue to the municipal services district due to a withdrawal of the area will be offset by savings associated with no longer providing municipal-type services to the area; or

(B) if the loss of revenue will not be offset by savings resulting from no longer providing municipal-type services to the area, the municipality agreeing to terms and conditions, which may include terms and conditions described in Subsection 17B-1-510(5), can mitigate or eliminate the loss of revenue;

(ii) the annexation petition under Section [~~10-2-403~~]10-2-806, or a separate petition meeting the same signature requirements, states that the signers request the area to be withdrawn from the municipal services district; or

(iii) the following have consented in writing to the withdrawal:

(A) owners of more than 60% of the total private land area; or

(B) owners of private land equal in assessed value to more than 60% of the assessed value of all private real property within the area proposed for withdrawal have consented in writing to the withdrawal.

(f) If the board of trustees of the municipal services district does not make any of the findings described in Subsection (2)(e), the board of trustees may approve or reject the withdrawal based upon information upon which the board of trustees relies and that the board of trustees identifies in writing.

(g) (i) If a municipality annexes an island or a part of an island before May 14, 2019, the legislative body of the municipality may initiate the withdrawal of the area from the municipal services district by adopting a resolution that:

(A) requests that the area be withdrawn from the municipal services district; and

(B) a final local entity plat accompanies, identifying the area proposed to be withdrawn from the municipal services district.

(ii) (A) Upon receipt of the resolution and except as provided in Subsection (2)(g)(ii)(B), the board of trustees of the municipal services district shall approve the withdrawal.

(B) The board of trustees of the municipal services district may reject the withdrawal if the rejection is based upon a good faith finding that lost revenues due to the withdrawal will exceed expected cost savings resulting from no longer serving the area.

(h) (i) Based upon a finding described in Subsection (e) or (f):

(A) the board of trustees of the municipal services district shall adopt a resolution approving the withdrawal; and

(B) the chair of the board shall sign a notice of impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3).

(ii) The annexing municipality shall deliver the following to the lieutenant governor:

(A) the resolution and notice of impending boundary action described in Subsection (2)(g)(i);

(B) a copy of an approved final local entity plat as defined in Section 67-1a-6.5; and

(C) any other documentation required by law.

(i) (i) Once the lieutenant governor has issued an applicable certificate as defined in Section 67-1a-6.5, the municipality shall deliver the certificate, the resolution and notice of impending boundary action described in Subsection (2)(h)(i), the final local entity plat as defined in Section 67-1a-6.5, and any other document required by law, to the recorder of the county in which the area is located.

(ii) After the municipality makes the delivery described in Subsection (2)(i)(i), the area, for all purposes, is no longer part of the municipal services district.

(j) The annexing municipality and the municipal services district may enter into an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, stating:

(i) the municipality's and the district's duties and responsibilities in conducting a withdrawal under this Subsection (2); and

(ii) any other matter respecting an unincorporated island that the municipality surrounds on all sides.

(3) After a boundary adjustment under Subsection (1) or a withdrawal under Subsection (2)is complete:

(a) the special district shall, without interruption, provide the same service to any area added to the special district as provided to other areas within the special district; and

(b) the municipality shall, without interruption, provide the same service that the special district previously provided to any area withdrawn from the special district.

(4) No area within a municipality may be added to the area of a special district under this section if the area is part of a special district that provides the same wholesale or retail service as the first special district.

Section 70. Section 17B-1-512 is amended to read:

17B-1-512

(Effective 05/07/25)

. Filing of notice and plat -- Recording requirements -- Contest period -- Judicial review.

(1) (a) Within the time specified in Subsection (1)(b), the board of trustees shall file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The board of trustees shall file the documents listed in Subsection (1)(a):

(i) within 10 days after adopting a resolution approving a withdrawal under Section 17B-1-510;

(ii) on or before January 31 of the year following the board of trustees' receipt of a notice or copy described in Subsection (1)(c), if the board of trustees receives the notice or copy between July 1 and December 31; or

(iii) on or before the July 31 following the board of trustees' receipt of a notice or copy described in Subsection (1)(c), if the board of trustees receives the notice or copy between January 1 and June 30.

(c) The board of trustees shall comply with the requirements described in Subsection (1)(b)(ii) or (iii) after:

(i) receiving:

(A) a notice under Subsection [~~10-2-425(3)~~]10-2-813(2) of an automatic withdrawal under Subsection 17B-1-502(2);

(B) a copy of the municipal legislative body's resolution approving an automatic withdrawal under Subsection 17B-1-502(3)(a); or

(C) notice of a withdrawal of a municipality from a special district under Section 17B-1-502; or

(ii) entering into an agreement with a municipality under Subsection 17B-1-505(5)(a)(ii)(A) or (5)(b).

(d) Upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5, the board shall:

(i) if the withdrawn area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of withdrawal; and

(III) approved final local entity plat; and

(B) if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b); or

(ii) if the withdrawn area is located within the boundaries of more than a single county, submit:

(A) the original of the documents listed in Subsections (1)(d)(i)(A)(I), (II), and (III) and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to one of those counties; and

(B) a certified copy of the documents listed in Subsections (1)(d)(i)(A)(I), (II), and (III) and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other county.

(2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5 for a withdrawal under Section 17B-1-510, for an automatic withdrawal under Subsection 17B-1-502(3), or for the withdrawal of a municipality from a special district under Section 17B-1-505, the withdrawal shall be effective, subject to the conditions of the withdrawal resolution, if applicable.

(b) An automatic withdrawal under Subsection 17B-1-502(3) shall be effective upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5.

(3) (a) The special district may provide for the publication of any resolution approving or denying the withdrawal of an area:

(i) in a newspaper of general circulation in the area proposed for withdrawal; and

(ii) as required in Section 45-1-101.

(b) In lieu of publishing the entire resolution, the special district may publish a notice of withdrawal or denial of withdrawal, containing:

(i) the name of the special district;

(ii) a description of the area proposed for withdrawal;

(iii) a brief explanation of the grounds on which the board of trustees determined to approve or deny the withdrawal; and

(iv) the times and place where a copy of the resolution may be examined, which shall be at the place of business of the special district, identified in the notice, during regular business hours of the special district as described in the notice and for a period of at least 30 days after the publication of the notice.

(4) Any sponsor of the petition or receiving entity may contest the board's decision to deny a withdrawal of an area from the special district by submitting a request, within 60 days after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of trustees based its decision to deny the withdrawal.

(5) Within 60 days after the request under Subsection (4) is submitted to the board of trustees, the board may consider the suggestions for mitigation and adopt a resolution approving or denying the request in the same manner as provided in Section 17B-1-510 with respect to the original resolution denying the withdrawal and file a notice of the action as provided in Subsection (1).

(6) (a) Any person in interest may seek judicial review of:

(i) the board of trustees' decision to withdraw an area from the special district;

(ii) the terms and conditions of a withdrawal; or

(iii) the board's decision to deny a withdrawal.

(b) Judicial review under this Subsection (6) shall be initiated by filing an action in the district court in the county in which a majority of the area proposed to be withdrawn is located:

(i) if the resolution approving or denying the withdrawal is published under Subsection (3), within 60 days after the publication or after the board of trustees' denial of the request under Subsection (5);

(ii) if the resolution is not published pursuant to Subsection (3), within 60 days after the resolution approving or denying the withdrawal is adopted; or

(iii) if a request is submitted to the board of trustees of a special district under Subsection (4), and the board adopts a resolution under Subsection (5), within 60 days after the board adopts a resolution under Subsection (5) unless the resolution is published under Subsection (3), in which event the action shall be filed within 60 days after the publication.

(c) A court in which an action is filed under this Subsection (6) may not overturn, in whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

(i) the court finds the board of trustees' decision to be arbitrary or capricious; or

(ii) the court finds that the board materially failed to follow the procedures set forth in this part.

(d) A court may award costs and expenses of an action under this section, including reasonable attorney fees, to the prevailing party.

(7) After the applicable contest period under Subsection (4) or (6), no person may contest the board of trustees' approval or denial of withdrawal for any cause.

Section 71. Section 17B-2a-1106 is amended to read:

17B-2a-1106

(Effective 05/07/25)

. Municipal services district board of trustees -- Governance.

(1) Notwithstanding any other provision of law regarding the membership of a special district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2) (a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:

(i) subject to Subsection (2)(b), a member of that municipality's governing body;

(ii) one member of the county council of the county in which the municipal services district is located; and

(iii) the total number of board members is not required to be an odd number.

(b) A member described in Subsection (2)(a)(i) shall be designated by the municipal legislative body.

(3) (a) As used in this Subsection (3):

(i) "District participant" means:

(A) the county that created a municipal services district under Section 17B-2a-1105; or

(B) a municipality that is part of the municipal services district.

(ii) "Proportionate amount" means, for each district participant, the amount that is attributable to the district participant in proportion to the total amount attributable to all district participants.

(iii) "Trigger date" means the earliest of:

(A) the effective date of an annexation of an unincorporated island, as defined in Section [~~10-2-429~~]10-2-814, that occurs under Title 10, Chapter 2, [~~Part 4~~]Part 8, Annexation, excluding an automatic annexation under Section [~~10-2-429~~]10-2-814;

(B) the effective date of an incorporation of a community council area, as defined in Section 10-2a-102; and

(C) the effective date of an automatic annexation under Section [~~10-2-429~~]10-2-814.

(b) For a board of trustees described in Subsection (2), each board member's vote is weighted:

(i) until the trigger date, using the proportion of the municipal services district population that resides:

(A) for each member described in Subsection (2)(a)(i), within that member's municipality; and

(B) for the member described in Subsection (2)(a)(ii), within the unincorporated county; and

(ii) beginning the trigger date:

(A) 60% according to the proportionate amount of the combined total of sales tax revenue and revenue for B and C roads under Section 72-2-108;

(B) 30% according to the proportionate amount of weighted mileage, as defined in Section 72-2-108; and

(C) 10% according to the proportionate amount of population.

(4) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(5) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(6) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

Section 72. Section 23A-13-304 is amended to read:

23A-13-304

(Effective 05/07/25)

. Annexation restrictions.

A municipality may annex real property within a migratory bird production area as provided by [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 8, Annexation.

Section 73. Section 26B-1-429 is amended to read:

26B-1-429

(Effective 05/07/25)

. Utah State Developmental Center Board -- Creation -- Membership -- Duties -- Powers.

(1) There is created the Utah State Developmental Center Board within the department.

(2) The board is composed of nine members as follows:

(a) the director of the Division of Services for People with Disabilities or the director's designee;

(b) the superintendent of the developmental center or the superintendent's designee;

(c) the executive director or the executive director's designee;

(d) a resident of the Utah State Developmental Center selected by the superintendent; and

(e) five members appointed or reappointed by the governor with the advice and consent of the Senate as follows:

(i) three members of the general public; and

(ii) two members who are parents or guardians of individuals who receive services at the Utah State Developmental Center.

(3) In making appointments to the board, the governor shall ensure that:

(a) no more than three members have immediate family residing at the Utah State Developmental Center; and

(b) members represent a variety of geographic areas and economic interests of the state.

(4) (a) The governor shall appoint each member described in Subsection (2)(e) for a term of four years.

(b) An appointed member may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(c) Notwithstanding the requirements of Subsections (4)(a) and (b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(d) Appointed members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 120 days after the formal expiration of a term.

(e) When a vacancy occurs in the membership for any reason, the governor shall, with the advice and consent of the Senate, appoint a replacement for the unexpired term.

(5) (a) The director shall serve as the chair.

(b) The board shall appoint a member to serve as vice chair.

(c) The board shall hold meetings quarterly or as needed.

(d) Five members are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members

present shall be the action of the board.

(e) The chair shall be a non-voting member except that the chair may vote to break a tie vote between the voting members.

(6) An appointed member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The board shall adopt bylaws governing the board's activities.

(b) Bylaws shall include procedures for removal of a member who is unable or unwilling to fulfill the requirements of the member's appointment.

(8) The board shall:

(a) act for the benefit of the Utah State Developmental Center and the Division of Services for People with Disabilities;

(b) advise and assist the Division of Services for People with Disabilities with the division's functions, operations, and duties related to the Utah State Developmental Center, described in Sections 26B-6-402, 26B-6-403, 26B-6-502, 26B-6-504, and 26B-6-506;

(c) administer the Utah State Developmental Center Miscellaneous Donation Fund, as described in Section 26B-1-330;

(d) administer the Utah State Developmental Center Long-Term Sustainability Fund, as described in Section 26B-1-331;

(e) approve the sale, lease, or other disposition of real property or water rights associated with the Utah State Developmental Center, as described in Subsection 26B-6-507(2); and

(f) within 21 days after the day on which the board receives the notice required under Subsection [~~10-2-419(3) (b)~~]10-2-903(3)(b), provide a written opinion regarding the proposed boundary adjustment to:

(i) the director of the Division of Facilities and Construction Management; and

(ii) the Legislative Management Committee.

Section 74. Section 53-2d-514 is amended to read:

53-2d-514

(Effective 05/07/25)

. Annexations.

(1) A municipality shall comply with the provisions of this section if the municipality is licensed under this chapter and desires to provide service to an area that is:

(a) included in a petition for annexation under [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 8, Annexation; and

(b) currently serviced by another provider licensed under this chapter.

(2) (a) (i) At least 45 days prior to approving a petition for annexation, the municipality shall certify to the bureau that by the time of the approval of the annexation the municipality can meet or exceed the current level of service provided by the existing licensee for the annexed area by meeting the requirements of Subsections (2)(b)(ii)(A) through (D); and

(ii) no later than three business days after the municipality files a petition for annexation in accordance with Section [~~10-2-403~~]10-2-806, provide written notice of the petition for annexation to:

(A) the existing licensee providing service to the area included in the petition of annexation; and

(B) the bureau.

(b) (i) After receiving a certification under Subsection (2)(a), but prior to the municipality approving a petition for annexation, the bureau may audit the municipality only to verify the requirements of Subsections (2)(b)(ii)(A) through (D).

(ii) If the bureau elects to conduct an audit, the bureau shall make a finding that the municipality can meet or exceed the current level of service provided by the existing licensee for the annexed area if the bureau finds that the municipality has or will have by the time of the approval of the annexation:

(A) adequate trained personnel to deliver basic and advanced life support services;

(B) adequate apparatus and equipment to deliver emergency medical services;

(C) adequate funding for personnel and equipment; and

(D) appropriate medical controls, such as a medical director and base hospital.

(iii) The bureau shall submit the results of the audit in writing to the municipal legislative body.

(3) (a) If the bureau audit finds that the municipality meets the requirements of Subsection (2)(b)(ii), the bureau shall issue an amended license to the municipality and all other affected licensees to reflect the municipality's new boundaries after the bureau receives notice of the approval of the petition for annexation from the municipality in accordance with Section [~~10-2-425~~]10-2-813.

(b) (i) Notwithstanding the provisions of Subsection 63G-4-102(2)(k), if the bureau audit finds that the municipality fails to meet the requirements of Subsection (2)(b)(ii), the municipality may request an adjudicative proceeding under the provisions of Title 63G, Chapter 4, Administrative Procedures Act. The municipality may approve the petition for annexation while an adjudicative proceeding requested under this Subsection (3)(b)(i) is pending.

(ii) The bureau shall conduct an adjudicative proceeding when requested under Subsection (3)(b)(i).

(iii) Notwithstanding the provisions of Sections 53-2d-504 through 53-2d-509, in any adjudicative proceeding held under the provisions of Subsection (3)(b)(i), the bureau bears the burden of establishing that the municipality cannot, by the time of the approval of the annexation, meet the requirements of Subsection (2)(b)(ii).

(c) If, at the time of the approval of the annexation, an adjudicative proceeding is pending under the provisions of Subsection (3)(b)(i), the bureau shall issue amended licenses if the municipality prevails in the adjudicative proceeding.

Section 75. Section 54-3-30 is amended to read:

54-3-30

(Effective 05/07/25)

. Electric utility service within a provider municipality -- Electrical corporation prohibited as provider -- Exceptions -- Notice and

agreement -- Transfer of customer.

(1) This section applies to an electrical corporation that intends to provide electric service to a customer:

(a) who is located within the municipal boundary of a municipality that provides electric service; and

(b) who is not described in Subsection 54-3-31(2).

(2) (a) If an electrical corporation is authorized by the commission to provide electric service to a customer in an area adjacent to a municipality, and the municipality provides electric service to a customer located within its municipal boundary, the electrical corporation may not provide electric service to a customer within the municipal boundary unless:

(i) the electrical corporation has entered into a written agreement with the municipality authorizing the electrical corporation to provide electric service:

(A) to a specified customer or to customers located within a specified area

within the municipal boundary; and

(B) in accordance with the terms and conditions of the electrical corporation's tariffs and regulations approved by the commission, or approved by the governing board for an electrical cooperative that meets the requirements of Subsection 54-7-12(7); and

(ii) (A) except as provided in Subsection (2)(a)(ii)(B), the commission approves the agreement in accordance with Section 54-4-40; or

(B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.

(b) The municipality or the electrical corporation may terminate the agreement for the provision of electric service if the commission imposes a condition authorized in Section 54-4-40 that is a material change to the agreement.

(3) An electrical corporation that enters into an agreement described in Subsection (2)(a) shall transfer service to a customer described in Subsection (2):

(a) at the conclusion of a term specified in the agreement; or

(b) upon termination of the agreement by the electrical corporation in accordance with Subsection (4).

(4) Unless otherwise agreed in writing by the electrical corporation and the municipality, the electrical corporation may terminate an agreement entered into in accordance with Subsection (2)(a) by giving written notice of termination to the municipality:

(a) no earlier than two years before the day of termination; or

(b) within a period of time shorter than two years if otherwise agreed to with the municipality.

(5) Upon termination of an agreement in accordance with Subsection (3)(a), (3)(b), or (4):

(a) (i) the electrical corporation shall transfer the electric service customer to the municipality; and

(ii) the municipality shall provide electric service to the customer; and

(b) the electrical corporation shall transfer a facility in accordance with and for the value as provided in Section [~~10-2-421~~]10-2-817.

(6) This section may not be construed to modify or terminate any written franchise agreement or other agreement that expressly provides for electric service by an electrical corporation to a customer within a municipality that was entered into between an electrical corporation and a municipality on or before June 15, 2013.

Section 76. Section 54-3-31 is amended to read:

54-3-31

(Effective 05/07/25)

. Electric utility service within a provider municipality -- Electrical corporation authorized as continuing provider for service provided on or before June 15, 2013 -- Notice of service and agreement -- Transfer of customer.

(1) This section applies to an electrical corporation that:

(a) (i) provides electric service to a customer on or before June 15, 2013, within the municipal boundary of a municipality that provides electric service; or

(ii) provides electric service to a customer within an area:

(A) established by an agreement dated on or before June 15, 2013, with a municipality; and

(B) within the municipal boundary of a municipality that provides electric service; and

(b) intends to continue providing service to that customer.

(2) Notwithstanding Section 54-3-30, if an electrical corporation provides electric service to a customer as described in Subsection (1), and the municipality provides electric service to another customer within its municipal boundary, the electrical corporation may continue to provide electric service to the customer within the municipality's boundary after the termination of, or in the absence of, a written agreement, if:

(a) the electrical corporation provides, on or before December 15, 2013, the municipality with an accurate and complete verified written notice, in accordance with Subsection (3), identifying each customer within the municipality served by the electrical corporation on or before June 15, 2013;

(b) the electrical corporation enters into a written agreement with the municipality:

(i) (A) prior to the termination of any prior written agreement; or

(B) in the absence of a written agreement; and

(ii) no later than June 15, 2014; and

(c) (i) except as provided in Subsection (2)(c)(ii), the commission approves the agreement in accordance with Section 54-4-40; or

(ii) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.

(3) The written notice provided in accordance with Subsection (2)(a) shall include for each customer:

(a) the customer's meter number;

(b) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;

(c) the customer's class of service; and

(d) a representation that the customer was receiving service from the electrical corporation on or before June 15, 2013.

(4) The agreement entered into in accordance with Subsection (2) shall require the following:

(a) The electrical corporation is the exclusive electric service provider to a customer identified in the notice described in Subsection (2)(a) unless the municipality and electrical corporation subsequently agree, in writing, that the municipality may provide electric service to the identified customer.

(b) If a customer who is located within the municipal boundary and who is not identified in Subsection (2)(a) requests service after June 15, 2013, from the electrical corporation, the electrical corporation may not provide that customer electric service unless the electrical corporation subsequently submits a request to and enters into a written agreement with the municipality in accordance with Section 54-3-30.

(5) (a) Unless otherwise agreed in writing by the electrical corporation and the municipality, the electrical corporation may terminate an agreement entered into in accordance with Subsection (2)(b) by giving written notice of termination to the municipality:

(i) no earlier than two years before the day of termination; or

(ii) within a period of time shorter than two years if otherwise agreed to with the municipality.

(b) Upon termination of an agreement in accordance with Subsection (5)(a):

(i) (A) the electrical corporation shall transfer an electric service customer located within the municipality to the municipality; and

(B) the municipality shall provide electric service to the customer; and

(ii) the electrical corporation shall transfer a facility in accordance with and for the value as provided in Section [~~10-2-421~~]10-2-817.

(6) This section may not be construed to modify or terminate any written franchise agreement or other agreement that expressly provides for electric service by an electrical corporation to a customer within a municipality that was entered into between an electrical corporation and a municipality on or before June 15, 2013.

Section 77. Section 57-1-1 is amended to read:

57-1-1

(Effective 05/07/25)

. Definitions.

As used in this title:

(1) "Certified copy" means a [~~copy~~]duplicate of a document:

(a) certified by its custodian to be a true and correct copy of the document[~~or the copy of the document maintained by the custodian, where the document or copy is~~]; or

(b) maintained under the authority of the United States, the state[~~of Utah or any of its political subdivisions~~], a political subdivision of the state, another state, a court of record, a foreign government, or an Indian tribe.

(2) "Document" means every instrument in writing, including every conveyance, affecting, purporting to affect, describing, or otherwise concerning any right, title, or interest in real property, except wills and leases for a term not exceeding one year.

(3) "Indian tribe" means the same as that term is defined in Section 9-9-101.

(4) "Person" means an individual, corporation, business trust, estate, trust, public entity, or any other legal or commercial entity.

(5) "Public entity" means:

(a) the United States, including an agency of the United States;

(b) the state, including an agency or department of the state;

(c) a political subdivision, including a county, municipality, school district, special district, special service district, community reinvestment agency, or interlocal cooperation entity; or

(d) an Indian tribe.

(6) "Public entity affidavit" means a notarized affidavit:

(a) signed by an authorized employee or officer of a public entity; and

(b) evidencing consent to a conveyance of real property by deed to the public entity.

[~~(3)~~](7) "Real property" or "real estate" means any right, title, estate, or interest in land, including:

(a) all nonextracted minerals located in, on, or under the land[~~,~~];

(b) all buildings, fixtures and improvements on the land[~~,~~]; and

(c) all water rights, rights-of-way, easements, rents, issues, profits, income, tenements, hereditaments, possessory rights, claims [~~,~~]including mining claims, privileges, and appurtenances belonging to, used, or enjoyed with the land or any part of the land.

[~~(4)~~](8) "Stigmatized" means:

(a) the site or suspected site of a homicide, other felony, or suicide;

(b) the dwelling place of a person infected, or suspected of being infected, with the Human Immunodeficiency Virus, or any other infectious disease that the [~~Utah~~]Department of Health and Human Services, created in Section 26B-1-201, determines cannot be transferred by occupancy of a dwelling place; or

(c) property that has been found to be contaminated, and that the local health department has subsequently found to have been decontaminated in accordance with Title 19, Chapter 6, Part 9, Illegal Drug Operations Site Reporting and Decontamination Act.

Section 78. Section 57-1-48 is enacted to read:

57-1-48

(Effective 05/07/25)

. Conveyance by deed to a public entity.

(1) A grantor may convey real property by deed to a public entity, and a public entity may accept real property conveyed by deed from a grantor, as described in this section.

(2) Real property conveyed to a public entity shall be conveyed by:

(a) if the conveyance is between two public entities, recording a deed conveying real property;

(b) if there is no purchaser for a property offered at a tax sale, complying with the procedure described in Section 59-2-1351.3; and

(c) if the grantor is not a public entity:

(i) recording a deed conveying real property along with a public entity affidavit that complies with Subsection (4); or

(ii) recording a deed that has been notarized and signed by:

(A) the grantor of the property; and

(B) an authorized representative of the public entity.

(3) A conveyance of real property by deed that is recorded in a county recorder's office after July 1, 2025, is voidable by the public entity intended to receive the real property until the earlier of the day on which:

(a) a public entity affidavit approving the transfer is recorded; or

(b) the deed conveying the real property is signed by an authorized employee or officer of the public entity.

(4) A public entity affidavit shall be in substantially the following form:

"PUBLIC ENTITY AFFIDAVIT

I, _____(insert name), being of legal age and authorized by _____ (name of public entity), hereafter "public entity," being first duly sworn, depose and state as follows:

The public entity consents to the conveyance of real property by deed from _____ (name of grantor(s)). By signing this Public Entity Affidavit, the public entity accepts the ownership of the real property described in the attached legal description.

The public entity does not guarantee or provide an opinion as to the proper form or validity of any conveyance document related to the real property described in the attached legal description.

This Public Entity Affidavit is intended to evidence that the public entity consents to _____ (name of grantor(s)) conveying the real property described in the attached legal description to the public entity."

Section 79. Section 59-12-208.1 is amended to read:

59-12-208.1

(Effective 05/07/25)

. Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) For purposes of this section:

(a) "Annexation" means an annexation to:

(i) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

(ii) a city or town under [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 8, Annexation.

(b) "Annexing area" means an area that is annexed into a county, city, or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county, city, or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the county, city, or town will enact or repeal a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Section 59-12-204.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under Section 59-12-204.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment or repeal of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) the rate of the tax described in Subsection (3)(b)(i).

(c) (i) The enactment of a tax takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Section 59-12-204.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under Section 59-12-204.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 80. Section 59-12-355 is amended to read:

59-12-355

(Effective 05/07/25)

. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 8, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c), if, on or after July 1, 2004, a city or town enacts or repeals a tax or changes the rate of a tax under this part, or if the Point of the Mountain State Land Authority imposes or repeals a tax under Subsection 59-12-352(6) or changes the rate of the tax, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

(3) (a) Except as provided in Subsection (3)(c), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Section 81. Section 59-12-403 is amended to read:

59-12-403

(Effective 05/07/25)

. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 8, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (5).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

Section 82. Section 59-12-806 is amended to read:

59-12-806

(Effective 05/07/25)

. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) For purposes of this section:

(a) "Annexation" means an annexation to:

(i) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

(ii) a city under [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 8, Annexation.

(b) "Annexing area" means an area that is annexed into a county or city.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a county or city enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county or city.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the county or city will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the county or city enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-802; or

(II) Section 59-12-804.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Section 59-12-802; or

(B) Section 59-12-804.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county or city that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the county or city enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-802; or

(II) Section 59-12-804.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Section 59-12-802; or

(B) Section 59-12-804.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of a tax under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 83. Section 59-12-1302 is amended to read:

59-12-1302

(Effective 05/07/25)

. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount that does not exceed 1%.

(2) A town may impose a tax as provided in this part if the town imposed a license fee or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.

(3) A town imposing a tax under this section shall:

(a) except as provided in Subsection (4), impose the tax on the transactions described in Subsection 59-12-103(1) located within the town; and

(b) provide an effective date for the tax as provided in Subsection (5).

(4) (a) A town may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food ingredients.

(b) For purposes of this Subsection (4), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) A town imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a town under [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 8, Annexation.

(ii) "Annexing area" means an area that is annexed into a town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(e)(ii)(A), the rate of the tax.

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue,

an enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) The commission shall:

(a) distribute the revenue generated by the tax under this section to the town imposing the tax; and

(b) except as provided in Subsection (8), administer, collect, and enforce the tax authorized under this section in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) A tax under this section is not subject to Subsections 59-12-205(2) through (5).

Section 84. Section 59-12-1402 is amended to read:

59-12-1402

(Effective 05/07/25)

. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations in that city or town; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A city or town legislative body may not impose a tax under this section:

(i) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(ii) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) Except as provided in Subsection (6), the election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) Subject to Section 59-12-1403, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to finance cultural facilities, recreational facilities, and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for cultural facilities, recreational facilities, or zoological facilities;

(b) to finance ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a) within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational facilities; or

(ii) botanical organizations, cultural organizations, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical organizations, cultural organizations, or zoological organizations; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be:

(i) administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this section.

(b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the tax shall be levied for a period of 10 years.

(ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or after July 1, 2011, the tax shall be reauthorized for a ten-year period.

(c) A tax under this section is not subject to Subsections 59-12-205(2) through (5).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 8, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1) an opinion question to the city's or town's residents.

Section 85. Section 59-12-2102 is amended to read:

59-12-2102

(Effective 05/07/25)

. Definitions.

As used in this part:

(1) "Annexation" means an annexation to a city or town under [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 8, Annexation.

(2) "Annexing area" means an area that is annexed into a city or town.

Section 86. Section 63A-5b-305 is amended to read:

63A-5b-305

(Effective 05/07/25)

. Duties and authority of director.

(1) The director shall:

(a) administer the division's duties and responsibilities;

(b) report all property acquired by the state, except property acquired by an institution of higher education or the trust lands administration, to the director of the Division of Finance for inclusion in the state's financial records;

(c) after receiving the notice required under Subsection [~~10-2-419(3)(b)~~]10-2-903(3)(b), file a written protest at or before the public hearing under Subsection [~~10-2-419(2)(b)~~]10-2-903(2)(b), if:

(i) it is in the best interest of the state to protest the boundary adjustment; or

(ii) the Legislature instructs the director to protest the boundary adjustment; and

(d) take all other action that the director is required to take under this chapter or other applicable statute.

(2) The director may:

(a) create forms and make policies necessary for the division or director to perform the division or director's duties;

(b) (i) hire or otherwise procure assistance and service, professional, skilled, or otherwise, necessary to carry out the director's duties under this chapter; and

(ii) expend funds provided for the purpose described in Subsection (2)(b)(i) through annual operation budget appropriations or from other nonlapsing project funds;

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary for the division or director to perform the division or director's duties; and

(d) take all other action necessary for carrying out the purposes of this chapter.

Section 87. Repealer.

This bill repeals:

Section 10-2-408, Denying or approving the annexation petition -- Notice of approval.

Section 10-2-409.5, Municipal selection committee.

Section 10-2-410, Boundary commission member terms -- Staggered terms -- Chair --

Section 10-2-411, Disqualification of commission member -- Alternate member.

Section 10-2-412, Boundary commission authority -- Expenses -- Records.

Section 10-2-413, Feasibility consultant -- Feasibility study -- Modifications to

Section 10-2-414, Modified annexation petition -- Supplemental feasibility study.

Section 10-2-416, Commission decision -- Time limit -- Limitation on approval of
Section 10-2-417, District court review -- Notice.
Section 10-2-426, Division of municipal-type services revenues.
Section 10-2-428, Neither annexation nor boundary adjustment has an effect on the
Section 10-5-132, Fees collected for construction approval -- Approval of plans.

Section 88. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 400
H. B. 379
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

POPULATION DATA AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses population data.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► in circumstances where a population estimate is available from the Utah Population Committee and the United States Bureau of the Census, requires the use of the census or census estimate only if the Utah Population Committee estimate is unavailable;
- ► requires the Utah Population Committee to annually provide an adjusted sub-county population estimate for each municipality and unincorporated area within the state;
- ► requires government entities to share information with the Utah Population Committee that is necessary for the committee to prepare population estimates; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-2-602,
(Effective 05/07/25)
as last amended by Laws of Utah 2018, Chapter 330
10-2-711,
(Effective 05/07/25)
as last amended by Laws of Utah 2018, Chapter 330
10-9a-103,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 464
10-9a-302,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 438
17-27a-103,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 464
17-27a-302,
(Effective 05/07/25)
as last amended by Laws of Utah 2021, Chapter 385
17-50-502,
(Effective 05/07/25)
as last amended by Laws of Utah 2019, Chapter 14
17B-2a-802,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 498
26B-3-301,
(Effective 05/07/25)
as renumbered and amended by Laws of Utah 2023, Chapter 306
59-1-403,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapters 25, 35
59-12-205,
(Effective 07/01/25)

as last amended by Laws of Utah 2024, Chapter 535
59-12-401,
(Effective 07/01/25)
as last amended by Laws of Utah 2024, Chapter 419
59-12-402,
(Effective 07/01/25)
as last amended by Laws of Utah 2024, Chapter 419
59-12-405,
(Effective 07/01/25)
as last amended by Laws of Utah 2019, Chapter 245
59-12-603,
(Effective 07/01/25)
as last amended by Laws of Utah 2024, Chapter 274
59-12-1102,
(Effective 07/01/25)
as last amended by Laws of Utah 2023, Chapters 435, 471
59-12-2206,
(Effective 05/07/25)
as last amended by Laws of Utah 2023, Chapter 471
59-12-2219,
(Effective 07/01/25)
as last amended by Laws of Utah 2024, Chapter 498
59-12-2220,
(Effective 07/01/25)
as last amended by Laws of Utah 2024, Chapters 498, 501
63C-20-102,
(Effective 05/07/25)
as enacted by Laws of Utah 2018, Chapter 330
63C-20-104,
(Effective 05/07/25)
as enacted by Laws of Utah 2018, Chapter 330
63C-20-105,
(Effective 05/07/25)
as last amended by Laws of Utah 2021, Chapter 382
67-1a-2,
(Effective 05/07/25)
as last amended by Laws of Utah 2024, Chapter 438
72-2-108,
(Effective 07/01/25)
as last amended by Laws of Utah 2024, Chapter 438
72-2-133,
(Effective 07/01/25)
as enacted by Laws of Utah 2023, Chapter 372
73-5-8.5,
(Effective 05/07/25)
as enacted by Laws of Utah 2023, Chapter 248
78B-1-110,
(Effective 05/07/25)
as last amended by Laws of Utah 2018, Chapter 330

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-602 is amended to read:
10-2-602
(Effective 05/07/25)
. Contents of resolution or petition.

(1) The resolution of the governing body or the petition of the electors shall include:

(a) a statement fully describing each of the areas to be included within the consolidated municipality;

(b) the name of the proposed consolidated municipality; and

(c) the names of the municipalities to be consolidated.

(2) (a) The resolution or petition shall state the population of each of the municipalities within the area of the proposed consolidated municipality and the total population of the proposed consolidated municipality.

(b) [~~(i)~~] The population [~~figure~~]for each municipality under Subsection (2)(a) shall be derived from:

(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available, the most recent official census or census estimate of the United States Bureau of the Census.

[~~(ii) If the population figure is not available from the United States Bureau of the Census, the population figure shall be derived from the estimate from the Utah Population Committee.~~]

Section 2. Section 10-2-711 is amended to read:

10-2-711

(Effective 05/07/25)

. Dissolution by the county legislative body.

(1) (a) A municipality having fewer than 50 residents may be dissolved on application to the district court by the county legislative body of the county where the municipality is located.

(b) [~~(i)~~] The population [~~figure~~]for each municipality under Subsection (1)(a) shall be derived from:

(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available, the most recent official census or census estimate of the United States Bureau of the Census.

[~~(ii) If the population figure is not available from the United States Bureau of the Census, the population figure shall be derived from the estimate from the Utah Population Committee.~~]

(2) Notice of the application shall be served on the municipality in the manner prescribed by law or by publication in the manner provided by law if the municipal authorities cannot be served.

(3) The district court may enter an order approving the dissolution of the municipality on a finding that the existence of the municipality serves no valid municipal purpose, its existence is a sham, or on a clear and convincing showing that the best interests of the community would be served by the dissolution.

(4) If the municipality is dissolved, the district court shall wind down the affairs and dissolve the municipality as quickly as possible in the same manner as is provided in [~~Sections 10-2-705 through 10-2-709~~]Part 7, Dissolution of Municipalities.

Section 3. Section 10-9a-103 is amended to read:

10-9a-103

(Effective 05/07/25)

. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(13) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(14) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

(ii) a therapeutic school.

(15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(16) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(20) "Home-based microschool" means the same as that term is defined in Section 53G-6-201.

(21) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(22) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(23) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(24) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights,

lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(25) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(26) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(27) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(28) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(29) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(30) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(31) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(32) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit; or

(b) a land use application.

(33) "Land use permit" means a permit issued by a land use authority.

(34) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(35) "Legislative body" means the municipal council.

(36) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

(37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(38) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels

in accordance with Section 10-9a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision or a subdivision amendment.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(39) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section [~~59-12-2219~~]59-12-2202.

(40) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.

(41) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(42) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

(43) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(44) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(45) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(46) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

(47) "Parcel" means any real property that is not a lot.

(48) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(49) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(50) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

(51) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

(52) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(53) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, special district, special service district, or other political subdivision of the state; or

(d) a charter school.

(54) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(55) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(56) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(57) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(58) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(59) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(60) "Residential roadway" means a public local residential road that:

(a) will serve primarily to provide access to adjacent primarily residential areas and property;

(b) is designed to accommodate minimal traffic volumes or vehicular traffic;

(c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;

(d) has a posted speed limit of 25 miles per hour or less;

(e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;

(f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

(61) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(62) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(63) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(64) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(65) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(66) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(67) "State" includes any department, division, or agency of the state.

(68) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (68)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition

violates an applicable land use ordinance;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat;

(ix) a deed or easement for a road, street, or highway purpose; or

(x) any other division of land authorized by law.

(69) (a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(i) vacates all or a portion of the subdivision;

(ii) alters the outside boundary of the subdivision;

(iii) changes the number of lots within the subdivision;

(iv) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(v) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a lot line adjustment, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

(70) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(71) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(72) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(73) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(74) "Unincorporated" means the area outside of the incorporated area of a city or town.

(75) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(76) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 4. Section 10-9a-302 is amended to read:
10-9a-302

(Effective 05/07/25)

. Planning commission powers and duties -- Training requirements.

(1) The planning commission shall review and make a recommendation to the legislative body for:

(a) a general plan and amendments to the general plan;

(b) land use regulations, including:

(i) ordinances regarding the subdivision of land within the municipality; and

(ii) amendments to existing land use regulations;

(c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

(d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

(e) application processes that:

(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) land use applicant and adversely affected party to require formal consideration of any application by a land use authority;

(B) land use applicant or adversely affected party to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section 10-9a-404.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

(5) Nothing in this section limits the right of a municipality to initiate or propose the actions described in this section.

(6) (a) (i) This Subsection (6) applies to:

(A) a city of the first, second, third, or fourth class; and

(B) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class.

(ii) The population [~~figures~~]for each city described in Subsection (6)(a)(i) shall be derived from:

[~~(A) the most recent official census or census estimate of the United States Census Bureau; or~~]

[~~(B) if a population figure is not available under Subsection (6)(a)(ii)(A), an estimate of the Utah Population Committee~~]

(A) an estimate of the Utah Population Committee created in Section 63C-20-103; or

(B) if the Utah Population Committee estimate is not available, the most recent official census or census estimate of the United States Bureau of the Census.

(b) A municipality described in Subsection (6)(a)(i) shall ensure that each member of the municipality's planning commission completes four hours of annual land use training as follows:

(i) one hour of annual training on general powers and duties under [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]this chapter; and

(ii) three hours of annual training on land use, which may include:

(A) appeals and variances;

(B) conditional use permits;

(C) exactions;

(D) impact fees;

(E) vested rights;

(F) subdivision regulations and improvement guarantees;

(G) land use referenda;

(H) property rights;

(I) real estate procedures and financing;

(J) zoning, including use-based and form-based; and

(K) drafting ordinances and code that complies with statute.

(c) A newly appointed planning commission member may not participate in a public meeting as an appointed member until the member completes the training described in Subsection (6)(b)(i).

(d) A planning commission member may qualify for one completed hour of training required under Subsection (6)(b)(ii) if the member attends, as an appointed member, 12 public meetings of the planning commission within a calendar year.

(e) A municipality shall provide the training described in Subsection (6)(b) through:

(i) municipal staff;

(ii) the Utah League of Cities and Towns; or

(iii) a list of training courses selected by:

(A) the Utah League of Cities and Towns; or

(B) the Division of Real Estate created in Section 61-2-201.

(f) A municipality shall, for each planning commission member:

(i) monitor compliance with the training requirements in Subsection (6)(b); and

(ii) maintain a record of training completion at the end of each calendar year.

Section 5. Section 17-27a-103 is amended to read:

17-27a-103
(Effective 05/07/25)
. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owner's association, public utility, or the Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(9) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(11) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

(12) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(13) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(14) (a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(15) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

(16) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from

preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

(ii) a therapeutic school.

(17) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(18) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(19) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(20) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

(21) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(22) "Home-based microschool" means the same as that term is defined in Section 53G-6-201.

(23) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(24) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

(25) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(26) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(27) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(28) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(29) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

(30) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(31) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(32) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(33) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(34) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(35) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(36) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(37) "Land use permit" means a permit issued by a land use authority.

(38) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(39) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(40) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(41) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 17-27a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision or a subdivision amendment.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(42) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section [~~59-12-2219~~]59-12-2202.

(43) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.

(44) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(45) "Mountainous planning district" means an area designated by a county legislative body in accordance with Section 17-27a-901.

(46) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(47) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(48) "Nonconforming use" means a use of land that:

(a) legally existed before the current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(49) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(50) "Parcel" means any real property that is not a lot.

(51) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(52) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(53) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(54) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

(55) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

(56) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(57) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, special district, special service district, or other political subdivision of the state; or

(d) a charter school.

(58) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(59) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(60) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(61) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(62) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603,

or 57-8-13.

(63) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(64) "Residential roadway" means a public local residential road that:

(a) will serve primarily to provide access to adjacent primarily residential areas and property;

(b) is designed to accommodate minimal traffic volumes or vehicular traffic;

(c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;

(d) has a posted speed limit of 25 miles per hour or less;

(e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;

(f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

(65) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(66) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(67) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(68) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

(69) (a) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(b) "Special district" includes a governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(70) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(71) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(72) "State" includes any department, division, or agency of the state.

(73) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (73)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 17-27a-523 if no new lot is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 17-27a-523 and 17-27a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat;

(x) a deed or easement for a road, street, or highway purpose; or

(xi) any other division of land authorized by law.

(74) (a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(i) vacates all or a portion of the subdivision;

(ii) alters the outside boundary of the subdivision;

(iii) changes the number of lots within the subdivision;

(iv) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(v) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a lot line adjustment, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

(75) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(76) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(77) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(78) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(79) "Unincorporated" means the area outside of the incorporated area of a municipality.

(80) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(81) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 6. Section 17-27a-302 is amended to read:

17-27a-302

(Effective 05/07/25)

. Planning commission powers and duties -- Training requirements.

(1) Each countywide, planning advisory area, or mountainous planning district planning commission shall, with respect to the unincorporated area of the county, the planning advisory area, or the mountainous planning district, review and make a recommendation to the county legislative body for:

(a) a general plan and amendments to the general plan;

(b) land use regulations, including:

(i) ordinances regarding the subdivision of land within the county; and

(ii) amendments to existing land use regulations;

(c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

(d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

(e) application processes that:

(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) land use applicant and adversely affected party to require formal consideration of any application by a land use authority;

(B) land use applicant or adversely affected party to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section 17-27a-404.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

(5) Nothing in this section limits the right of a county to initiate or propose the actions described in this section.

(6) (a) (i) This Subsection (6) applies to a county that:

(A) is a county of the first, second, or third class; and

(B) has a population in the county's unincorporated areas of 5,000 or more.

(ii) The population [~~figure~~]for each county described in Subsection (6)(a)(i) shall be derived from:

[~~(A) the most recent official census or census estimate of the United States Census Bureau; or~~]

[~~(B) if a population figure is not available under Subsection (6)(a)(ii)(A), an estimate of the Utah Population Committee~~]

(A) an estimate of the Utah Population Committee created in Section 63C-20-103; or

(B) if the Utah Population Committee estimate is not available, the most recent official census or census estimate of the United States Bureau of the Census.

(b) A county described in Subsection (6)(a)(i) shall ensure that each member of the county's planning commission completes four hours of annual land use training as follows:

(i) one hour of annual training on general powers and duties under Title 17, Chapter 27a, County Land Use, Development, and Management Act; and

(ii) three hours of annual training on land use, which may include:

(A) appeals and variances;

(B) conditional use permits;

(C) exactions;

(D) impact fees;

(E) vested rights;

(F) subdivision regulations and improvement guarantees;

(G) land use referenda;

(H) property rights;

(I) real estate procedures and financing;

(J) zoning, including use-based and form-based; and

(K) drafting ordinances and code that complies with statute.

(c) A newly appointed planning commission member may not participate in a public meeting as an appointed member until the member completes the training described in Subsection (6)(b)(i).

(d) A planning commission member may qualify for one completed hour of training required under Subsection (6)(b)(ii) if the member attends, as an appointed member, 12 public meetings of the planning commission within a calendar year.

(e) A county shall provide the training described in Subsection (6)(b) through:

(i) county staff;

(ii) the Utah Association of Counties; or

(iii) a list of training courses selected by:

(A) the Utah Association of Counties; or

(B) the Division of Real Estate created in Section 61-2-201.

(f) A county shall, for each planning commission member:

(i) monitor compliance with the training requirements in Subsection (6)(b); and

(ii) maintain a record of training completion at the end of each calendar year.

Section 7. Section 17-50-502 is amended to read:

17-50-502

(Effective 05/07/25)

. Change of class of county.

(1) Each county shall retain its classification under Section 17-50-501 until changed as provided in this section.

(2) The lieutenant governor shall monitor the population figure for each county as shown on:

[~~(a) each official census or census estimate of the United States Bureau of the Census; or~~]

[~~(b) if the population figure for a county is not available from the United States Bureau of the Census, the population estimate from the Utah Population Committee~~]

(a) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(b) if the Utah Population Committee estimate is not available, the census or census estimate of the United States Bureau of the Census.

(3) After July 1, 2021, if the applicable population figure under Subsection (2) indicates that a county's population has increased beyond the limit for its current class, the lieutenant governor shall:

(a) prepare a certificate indicating the class in which the county belongs based on the increased population figure; and

(b) within 10 days after preparing the certificate, deliver a copy of the certificate to the county legislative body and, if the county has an executive that is separate from the legislative body, the executive of the county whose class was changed.

(4) A county's change in class is effective on the date of the lieutenant governor's certificate under Subsection (3).

Section 8. Section 17B-2a-802 is amended to read:

17B-2a-802

(Effective 05/07/25)

. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.

(a) "Affordable housing" may include housing occupied or reserved for occupancy by households that meet specific area median income targets or ranges of area median income targets.

(b) "Affordable housing" does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.

(2) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(3) (a) "Chief executive officer" means a person appointed by the board of trustees of a small public transit district to serve as chief executive officer.

(b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(4) "Confidential employee" means a person who, in the regular course of the person's duties:

(a) assists in and acts in a confidential capacity in relation to other persons who formulate, determine, and effectuate management policies regarding labor relations; or

(b) has authorized access to information relating to effectuating or reviewing the employer's collective bargaining policies.

(5) "Council of governments" means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

(6) "Department" means the Department of Transportation created in Section 72-1-201.

(7) "Executive director" means a person appointed by the board of trustees of a large public transit district to serve as executive director.

(8) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(9) "Fixed guideway capital development" means the same as that term is defined in Section 72-1-102.

(10) (a) "General manager" means a person appointed by the board of trustees of a small public transit district to serve as general manager.

(b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public transit district.

(11) "Large public transit district" means a public transit district that provides public transit to an area that includes:

(a) more than 65% of the population of the state based on:

(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available for each county, municipality, and unincorporated area that comprise the district, the most recent official census or census estimate of the United States [~~Census Bureau~~]Bureau of the Census; and

(b) two or more counties.

(12) (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

(13) "Managerial employee" means a person who is:

(a) engaged in executive and management functions; and

(b) charged with the responsibility of directing, overseeing, or implementing the effectuation of management policies and practices.

(14) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(15) "Multicounty district" means a public transit district located in more than one county.

(16) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

(17) (a) "Public transit" means regular, continuing, shared-ride, surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.

(b) "Public transit" does not include transportation services provided by:

(i) chartered bus;

(ii) sightseeing bus;

(iii) taxi;

(iv) school bus service;

(v) courtesy shuttle service for patrons of one or more specific establishments; or

(vi) intra-terminal or intra-facility shuttle services.

(18) "Public transit district" means a special district that provides public transit services.

(19) "Public transit innovation grant" means the same as that term is defined in Section 72-2-401.

(20) "Small public transit district" means any public transit district that is not a large public transit district.

(21) "Station area plan" means a plan developed and adopted by a municipality in accordance with Section 10-9a-403.1.

(22) (a) "Supervisor" means a person who has authority, in the interest of the employer, to:

(i) hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or

(ii) adjust another employee's grievance or recommend action to adjust another employee's grievance.

(b) "Supervisor" does not include a person whose exercise of the authority described in Subsection (22)(a):

(i) is of a merely routine or clerical nature; and

(ii) does not require the person to use independent judgment.

(23) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

(24) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

(25) "Transit-oriented development" means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a large public transit district.

(26) "Transit-supportive development" means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a large public transit district.

Section 9. Section 26B-3-301 is amended to read:

26B-3-301

(Effective 05/07/25)

. Definitions.

As used in this part:

(1) "Appropriate and medically necessary" means, regarding drug prescribing, dispensing, and patient usage, that it is in conformity with the criteria and standards developed in accordance with this part.

(2) "Board" means the Drug Utilization Review Board created in Section 26B-3-302.

(3) "Certified program" means a nursing care facility program with Medicaid certification.

(4) "Compendia" means resources widely accepted by the medical profession in the efficacious use of drugs, including "American Hospital Formulary Service Drug Information," "U.S. Pharmacopeia - Drug Information," "A.M.A. Drug Evaluations," peer-reviewed medical literature, and information provided by manufacturers of drug products.

(5) "Counseling" means the activities conducted by a pharmacist to inform Medicaid recipients about the proper use of drugs, as required by the board under this part.

(6) "Criteria" means those predetermined and explicitly accepted elements used to measure drug use on an ongoing basis in order to determine if the use is appropriate, medically necessary, and not likely to result in adverse medical outcomes.

(7) "Drug-disease contraindications" means that the therapeutic effect of a drug is adversely altered by the presence of another disease condition.

(8) "Drug-interactions" means that two or more drugs taken by a recipient lead to clinically significant toxicity that is characteristic of one or any of the drugs present, or that leads to interference with the effectiveness of one or any of the drugs.

(9) "Drug Utilization Review" or "DUR" means the program designed to measure and assess, on a retrospective and prospective basis, the proper use of outpatient drugs in the Medicaid program.

(10) "Intervention" means a form of communication utilized by the board with a prescriber or pharmacist to inform about or influence prescribing or dispensing practices.

(11) "Medicaid certification" means the right of a nursing care facility, as a provider of a nursing care facility program, to receive Medicaid reimbursement for a specified number of beds within the facility.

(12) (a) "Nursing care facility" means the following facilities licensed by the department under Chapter 2, Part 2, Health Care Facility Licensing and Inspection:

(i) skilled nursing facilities;

(ii) intermediate care facilities; and

(iii) an intermediate care facility for people with an intellectual disability.

(b) "Nursing care facility" does not mean a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998).

(13) "Nursing care facility program" means the personnel, licenses, services, contracts, and all other requirements that shall be met for a nursing care facility to be eligible for Medicaid certification under this part and division rule.

(14) "Overutilization" or "underutilization" means the use of a drug in such quantities that the desired therapeutic goal is not achieved.

(15) "Pharmacist" means a person licensed in this state to engage in the practice of pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act.

(16) "Physical facility" means the buildings or other physical structures where a nursing care facility program is operated.

(17) "Physician" means a person licensed in this state to practice medicine and surgery under []Section 58-67-301 or osteopathic medicine under Section 58-68-301.

(18) "Prospective DUR" means that part of the drug utilization review program that occurs before a drug is dispensed, and that is designed to screen for potential drug therapy problems based on explicit and predetermined criteria and standards.

(19) "Retrospective DUR" means that part of the drug utilization review program that assesses or measures drug use based on an historical review of drug use data against predetermined and explicit criteria and standards, on an ongoing basis with professional input.

(20) "Rural county" means a county with a population of less than 50,000, as determined by, to the extent not otherwise required by federal law:

[~~(a) the most recent official census or census estimate of the United States Bureau of the Census; or~~]

[~~(b) the most recent population estimate for the county from the Utah Population Committee, if a population figure for the county is not available under Subsection (20)(a).~~]

(a) the most recent population estimate for the county from the Utah Population Committee created in Section 63C-20-103; or

(b) if the Utah Population Committee estimate is not available, the most recent census or census estimate of the United States Bureau of the Census.

(21) "Service area" means the boundaries of the distinct geographic area served by a certified program as determined by the division in accordance with this part and division rule.

(22) "Standards" means the acceptable range of deviation from the criteria that reflects local medical practice and that is tested on the Medicaid recipient database.

(23) "SURS" means the Surveillance Utilization Review System of the Medicaid program.

(24) "Therapeutic appropriateness" means drug prescribing and dispensing based on rational drug therapy that is consistent with criteria and standards.

(25) "Therapeutic duplication" means prescribing and dispensing the same drug or two or more drugs from the same therapeutic class where periods of drug administration overlap and where that practice is not medically indicated.

(26) "Urban county" means a county that is not a rural county.

Section 10. Section 59-1-403 is amended to read:

59-1-403

(Effective 05/07/25)

. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, or town;

(ii) the military installation development authority created in Section 63H-1-201; or

(iii) the Utah Inland Port Authority created in Section 11-58-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

(A) "GOEO" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of GOEO provide to GOEO all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), GOEO may not request and the commission may not provide to GOEO a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to GOEO, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of GOEO provide to GOEO other tax information.

(B) Before providing other tax information to GOEO, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) GOEO may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from GOEO under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if GOEO received the tax information from the commission in accordance with this Subsection (4)(n).

(B) GOEO may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information GOEO provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26B-3-106 and 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable, whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(bb) (i) As used in this Subsection (4)(bb), "unclaimed property administrator" means the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii) (A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection (4)(bb)(ii)(A) only for the purpose of

returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection (4)(bb).

(cc) Notwithstanding Subsection (2), the commission may, upon request, disclose a taxpayer's state individual income tax information to a program manager of the Utah Fits All Scholarship Program under Section 53F-6-402 if:

(i) the taxpayer consents in writing to the disclosure;

(ii) the taxpayer's written consent includes the taxpayer's name, social security number, and any other information the commission requests that is necessary to verify the identity of the taxpayer; and

(iii) the program manager provides the taxpayer's written consent to the commission.

(dd) Notwithstanding Subsection (2), the commission may provide to the Division of Finance within the Department of Government Operations any information necessary to facilitate a payment from the commission to a taxpayer, including:

(i) the name of the taxpayer entitled to the payment or any other person legally authorized to receive the payment;

(ii) the taxpayer identification number of the taxpayer entitled to the payment;

(iii) the payment identification number and amount of the payment;

(iv) the tax year to which the payment applies and date on which the payment is due;

(v) a mailing address to which the payment may be directed; and

(vi) information regarding an account at a depository institution to which the payment may be directed, including the name of the depository institution, the type of account, the account number, and the routing number for the account.

(ee) Notwithstanding Subsection (2), the commission shall provide the total amount of revenues collected by the commission under Subsection 59-5-202(5):

(i) at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, to the committee or office for the time period specified by the committee or office; and

(ii) to the Division of Finance for purposes of the Division of Finance administering Subsection 59-5-202(5).

(ff) Notwithstanding Subsection (2), the commission may provide the Department of Agriculture and Food with information from a return filed in accordance with Chapter 31, Cannabinoid Licensing and Tax Act.

(gg) Notwithstanding Subsection (2), the commission may provide aggregated information to the Utah Population Committee, created in Section 63C-20-103, if the Utah Population Committee requests the information in accordance with Section 63C-20-105.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), GOEO, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization, an individual described in Subsection (2):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 11. Section 59-12-205 is amended to read:

59-12-205

(Effective 07/01/25)

. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) (a) Except as provided in Subsections (3) and (4) and subject to Subsection (5):

(i) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(ii) (A) except as provided in Subsections (2)(a)(ii)(B), (C), and (D), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(B) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201;

(C) beginning July 1, 2024, 20% of each dollar collected from the sales and use tax authorized by this part within a project area under

Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201; and

(D) 50% of each dollar collected from the sales and use tax authorized by this part within the lake authority boundary, as defined in Section 11-65-101, shall be distributed to the Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter following the creation of the Utah Lake Authority.

(b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before July 1, 2022.

(3) (a) As used in this Subsection (3):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (3)(b) equal to the amount described in Subsection (3)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(4) (a) For purposes of this Subsection (4):

(i) "Annual local contribution" means the lesser of $275,000 or an amount equal to 2.55% of the participating local government's tax revenue distribution amount under Subsection (2)(a)(i) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality certified in accordance with Section 35A-16-404.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a)(i) to a participating local government, shall:

(i) adjust a participating local government's tax revenue distribution under Subsection (2)(a)(i) by:

(A) subtracting an amount equal to one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution; and

(B) if applicable, reducing the amount described in Subsection (4)(b)(i)(A) by an amount equal to one-twelfth of $250 for each bed that is available at all homeless shelters located within the boundaries of the participating local government, as reported to the commission by the Office of Homeless Services in accordance with Section 35A-16-405; and

(ii) deposit the resulting amount described in Subsection (4)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3), the commission shall apply the provisions of this Subsection (4) after the commission applies the provisions of Subsection (3).

(5) (a) As used in this Subsection (5):

(i) "Annual dedicated sand and gravel sales tax revenue" means an amount equal to the total revenue an establishment described in NAICS Code 327320, Ready-Mix Concrete Manufacturing, of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, collects and remits under this part for a calendar year.

(ii) "Sand and gravel" means sand, gravel, or a combination of sand and gravel.

(iii) "Sand and gravel extraction site" means a pit, quarry, or deposit that:

(A) contains sand and gravel; and

(B) is assessed by the commission in accordance with Section 59-2-201.

(iv) "Ton" means a short ton of 2,000 pounds.

(v) "Tonnage ratio" means the ratio of:

(A) the total amount of sand and gravel, measured in tons, sold during a calendar year from all sand and gravel extraction sites located within a county, city, or town; to

(B) the total amount of sand and gravel, measured in tons, sold during the same calendar year from sand and gravel extraction sites statewide.

(b) For purposes of calculating the ratio described in Subsection (5)(a)(v), the commission shall:

(i) use the gross sales data provided to the commission as part of the commission's property tax valuation process; and

(ii) if a sand and gravel extraction site operates as a unit across municipal or county lines, apportion the reported tonnage among the counties, cities, or towns based on the percentage of the sand and gravel extraction site located in each county, city, or town, as approximated by the commission.

(c) (i) [~~Beginning July 2023, and each July thereafter~~]Each July, the commission shall distribute from total collections under this part an amount equal to the annual dedicated sand and gravel sales tax revenue for the preceding calendar year to each county, city, or town in the same proportion as the county's, city's, or town's tonnage ratio for the preceding calendar year.

(ii) The commission shall ensure that the revenue distributed under this Subsection (5)(c) is drawn from each jurisdiction's collections in proportion to the jurisdiction's share of total collections for the preceding 12-month period.

(d) A county, city, or town shall use revenue described in Subsection (5)(c) for class B or class C roads.

(6) (a) Population figures for purposes of this section shall be based on[~~the most recent official census or census estimate of the United States Bureau of the Census.~~], to the extent not otherwise required by federal law:

(i) the most recent estimate from the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available for each municipality and unincorporated area, the adjusted sub-county population estimate provided by the Utah Population Committee in accordance with Section 63C-20-104.

[~~(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.~~]

[~~(c)~~](b) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 12. Section 59-12-401 is amended to read:

59-12-401

(Effective 07/01/25)

. Resort communities tax authority for cities, towns, military installation development authority, and fairpark district -- Base -- Rate -- Collection fees.

(1) (a) In addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent [~~census~~]population may impose a sales and use tax of up to 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:

(i) (A) the sale of a motor vehicle, an aircraft, a watercraft, a modular home, a manufactured home, or a mobile home;

(B) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(C) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients; or

(ii) transactions that occur in the district sales tax area, as defined in Subsection (4), if the fairpark district, as defined in Subsection (4), has imposed a tax under Subsection (4).

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city or town imposing a tax under this section shall impose the tax on the purchase price or the sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) (a) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section on the transactions described in Subsection 59-12-103(1) located within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a city or a town.

(b) For purposes of calculating the permanent [~~census~~]population within a project area, the board, as defined in Section 63H-1-102, shall:

(i) use the actual number of permanent residents within the project area as determined by the board;

(ii) include in the calculation of transient room capacity the number, as determined by the board, of approved high-occupancy lodging units, recreational lodging units, special lodging units, and standard lodging units, even if the units are not constructed;

(iii) adopt a resolution verifying the population number; and

(iv) provide the commission any information required in Section 59-12-405.

(c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may impose the sales and use tax under this section if there are no permanent residents.

(4) (a) As used in this Subsection (4):

(i) "District sales tax area" means the same as that term is defined in Section 11-70-101.

(ii) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(iii) "Fairpark district board" means the board of the fairpark district.

(b) The fairpark district, by resolution of the fairpark district board, may impose a tax under this section, as though the fairpark district were a city or town, on transactions described in Subsection 59-12-103(1):

(i) located within the district sales tax area; and

(ii) that occur on or after October 1, 2024.

(c) For purposes of calculating the permanent [~~census~~]population within the district sales tax area, the fairpark district board shall:

(i) use the actual number of permanent residents within the district sales tax area as determined by the fairpark district board;

(ii) include in the calculation of transient room capacity the number, as determined by the fairpark district board, of approved high-occupancy lodging units, recreational lodging units, special lodging units, and standard lodging units, even if the units are not constructed;

(iii) adopt a resolution verifying the population number; and

(iv) provide the commission any information required in Section 59-12-405.

(d) Notwithstanding Subsection (1)(a), the fairpark district may impose the sales and use tax under this section if there are no permanent residents within the district sales tax area.

(5) For purposes of this section, population shall be based on, to the extent not otherwise required by federal law:

(a) the most recent estimate from the Utah Population Committee created in Section 63C-20-103; or

(b) if the Utah Population Committee estimate is not available for each municipality and unincorporated area, the adjusted sub-county population estimate provided by the Utah Population Committee in accordance with Section 63C-20-104.

Section 13. Section 59-12-402 is amended to read:

59-12-402

(Effective 07/01/25)

. Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Prohibition of military installation development authority imposition of tax.

(1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in

Section 59-12-405 is greater than or equal to 66% of the municipality's permanent [~~census~~]population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

(i) (A) the sale of a motor vehicle, an aircraft, a watercraft, a modular home, a manufactured home, or a mobile home;

(B) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(C) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients; or

(ii) transactions that occur in the district sales tax area, as defined in Subsection 59-12-401(4), if the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, has imposed a tax under Subsection (8).

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A municipality imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:

(a) pass a resolution approving the tax; and

(b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).

(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:

(a) hold the additional resort communities sales tax election during:

(i) a regular general election; or

(ii) a municipal general election; and

(b) post notice of the election for the municipality, as a class A notice under Section 63G-30-102, for at least 15 days before the day on which the election is held.

(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.

(6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

(7) Subject to Subsection 63H-1-203(1), a military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may impose an additional resort communities sales tax under this section.

(8) The Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, may impose an additional resort communities tax under this section on transactions that occur:

(a) within the district sales tax area, as defined in Subsection 59-12-401(4); and

(b) that occur on or after October 1, 2024.

(9) For purposes of this section, population shall be based on, to the extent not otherwise required by federal law:

(a) the most recent estimate from the Utah Population Committee created in Section 63C-20-103; or

(b) if the Utah Population Committee estimate is not available for each municipality and unincorporated area, the adjusted sub-county population estimate provided by the Utah Population Committee in accordance with Section 63C-20-104.

Section 14. Section 59-12-405 is amended to read:

59-12-405

(Effective 07/01/25)

. Definitions -- Municipality filing requirements for lodging unit capacity -- Failure to meet eligibility requirements -- Notice to municipality -- Municipality authority to impose tax.

(1) As used in this section:

(a) "High-occupancy lodging unit" means each bedroom in a:

(i) hostel; or

(ii) a unit similar to a hostel as determined by the commission by rule.

(b) "High-occupancy lodging unit capacity of a municipality" means the product of:

(i) the total number of high-occupancy lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and

(ii) four.

(c) "Recreational lodging unit" means each site in a:

(i) campground that:

(A) is issued a business license by the municipality in which the campground is located; and

(B) provides the following hookups:

(I) water;

(II) sewer; and

(III) electricity; or

(ii) recreational vehicle park that provides the following hookups:

(A) water;

(B) sewer; and

(C) electricity; or

(iii) unit similar to Subsection (1)(c)(i) or (ii) as determined by the commission by rule.

(d) "Recreational lodging unit capacity of a municipality" means the product of:

(i) the total number of recreational lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and

(ii) four.

(e) "Special lodging unit" means a lodging unit:

(i) that is a:

(A) high-occupancy lodging unit;

(B) recreational lodging unit; or

(C) standard lodging unit;

(ii) for which the commission finds that in determining the capacity of the lodging unit the lodging unit should be multiplied by a number other than a number described in:

(A) for a high-occupancy lodging unit, Subsection (1)(b)(ii);

(B) for a recreational lodging unit, Subsection (1)(d)(ii); or

(C) for a standard lodging unit, Subsection (1)(i)(ii); and

(iii) for which the municipality in which the lodging unit is located files a written request with the commission for the finding described in Subsection (1)(e)(ii).

(f) "Special lodging unit capacity of a municipality" means the sum of the special lodging unit numbers for all of the special lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3).

(g) "Special lodging unit number" means the number by which the commission finds that a special lodging unit should be multiplied in determining the capacity of the special lodging unit.

(h) "Standard lodging unit" means each bedroom in:

(i) a hotel;

(ii) a motel;

(iii) a bed and breakfast establishment;

(iv) an inn;

(v) a condominium that is:

(A) part of a rental pool; or

(B) regularly rented out for a time period of less than 30 consecutive days;

(vi) a property used as a residence that is:

(A) part of a rental pool; or

(B) regularly rented out for a time period of less than 30 consecutive days; or

(vii) a unit similar to Subsections (1)(h)(i) through (vi) as determined by the commission by rule.

(i) "Standard lodging unit capacity of a municipality" means the product of:

(i) the total number of standard lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and

(ii) three.

(j) "Transient room capacity" means the sum of:

(i) the high-occupancy lodging unit capacity of a municipality;

(ii) the recreational lodging unit capacity of a municipality;

(iii) the special lodging unit capacity of a municipality; and

(iv) the standard lodging unit capacity of a municipality.

(2) A municipality that imposes a tax under this part shall provide the commission the following information as provided in this section:

(a) the high-occupancy lodging unit capacity of the municipality;

(b) the recreational lodging unit capacity of the municipality;

(c) the special lodging unit capacity of the municipality; and

(d) the standard lodging unit capacity of the municipality.

(3) A municipality shall file with the commission the information required by Subsection (2):

(a) on a form provided by the commission; and

(b) on or before:

(i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, the day on which the municipality provides the notice required by Section 59-12-403 to the commission; or

(ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, July 1 of each year.

(4) If the commission determines that a municipality that files the form described in Subsection (3) has a transient room capacity that

is less than 66% of the municipality's permanent [~~census~~]population, the commission shall notify the municipality in writing:

(a) that the municipality's transient room capacity is less than 66% of the municipality's permanent [~~census~~]population; and

(b) (i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, within 30 days after the day on which the municipality provides the notice to the commission; or

(ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, on or before September 1.

(5) (a) For a municipality that does not impose a tax under Section 59-12-401 on the day on which the municipality files the form described in Subsection (3), if the commission provides written notice described in Subsection (4) to the municipality, the municipality may not impose a tax under this part until the municipality meets the requirements of this part to enact the tax.

(b) For a municipality that is not required by Section 59-12-403 to provide notice to the commission, if the commission provides written notice described in Subsection (4) to the municipality for three consecutive calendar years, the municipality may not impose a tax under this part:

(i) beginning on July 1 of the year after the year during which the commission provided written notice described in Subsection (4):

(A) to the municipality; and

(B) for the third consecutive calendar year; and

(ii) until the municipality meets the requirements of this part to enact the tax.

(6) For purposes of this section, population for each municipality shall be based on, to the extent not otherwise required by federal law:

(a) the most recent estimate from the Utah Population Committee created in Section 63C-20-103; or

(b) if the Utah Population Committee estimate is not available for each municipality and unincorporated area, the adjusted sub-county population estimate provided by the Utah Population Committee in accordance with Section 63C-20-104.

Section 15. Section 59-12-603 is amended to read:

59-12-603

(Effective 07/01/25)

. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

(iii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food;

(iv) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i); and

(v) if a county legislative body of any county imposes a tax under Subsection (1)(a)(i), a tax at the same rate applies to car sharing of less than 30 days, except for car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement.

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(c), a county may use revenue from the imposition of a tax under Subsection (1) for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) (i) In addition to the uses described in Subsection (2)(a) and subject to Subsection (2)(b)(ii), a county of the fourth, fifth, or sixth class or a county with a population density of fewer than 15 people per square mile may expend the revenue from the imposition of a tax under Subsections (1)(a)(i) and (ii) on the following activities to mitigate the impacts of tourism:

(A) solid waste disposal;

(B) search and rescue activities;

(C) law enforcement activities;

(D) emergency medical services; or

(E) fire protection services.

(ii) A county may only expend the revenue as outlined in Subsection (2)(b)(i) if the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) has prioritized the use of revenue to mitigate the impacts of tourism.

(c) A county of the first class shall expend at least $450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect a tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) (a) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

[~~(a)~~](i) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

[~~(b)~~](ii) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(b) Population for purposes of this Subsection (8) shall be based on, to the extent not otherwise required by federal law:

(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available, the most recent census or census estimate of the United States Bureau of the Census.

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 16. Section 59-12-1102 is amended to read:

59-12-1102

(Effective 07/01/25)

. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) The county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public

hearings; and

(B) for the county, as a class A notice under Section 63G-30-102, for two weeks before the day on which the first of the two public hearings is held.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least $75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is $75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(e) Population for each county for purposes of this Subsection (3) shall be based on, to the extent not otherwise required by federal law:

(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available, the most recent census or census estimate of the United States Bureau of the Census.

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (5).

(c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (3) have been made; and

(B) the commission retains the amount required by Subsection (5).

(5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (5)(b) for the county; and

(ii) $6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 17. Section 59-12-2206 is amended to read:

59-12-2206

(Effective 05/07/25)

. Administration, collection, and enforcement of a sales and use tax under this part -- Transmission of revenue monthly by electronic funds transfer -- Transfer of revenue to a public transit district or eligible political subdivision.

(1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a sales and use tax imposed under this part.

(2) The commission shall administer, collect, and enforce a sales and use tax imposed under this part in accordance with:

(a) the same procedures used to administer, collect, and enforce a tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(3) A sales and use tax under this part is not subject to Subsections 59-12-205(2) through (5).

(4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another provision of this part, the state treasurer shall transmit revenue collected within a county, city, or town from a sales and use tax under this part to the county, city, or town legislative body monthly by electronic funds transfer.

(5) (a) Subject to Section 59-12-2207, and except as provided in Subsection (5)(b), the state treasurer shall transfer revenue collected within a county, city, or town from a sales and use tax under this part directly to a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, or an eligible political subdivision as defined in Section [~~59-12-2219~~]59-12-2202, if the county, city, or town legislative body:

(i) provides written notice to the commission and the state treasurer requesting the transfer; and

(ii) designates the public transit district or eligible political subdivision to which the county, city, or town legislative body requests the state treasurer to transfer the revenue.

(b) The commission shall transmit a portion of the revenue collected within a county, city, or town from a sales and use tax under this part that would be transferred to a public transit district or an eligible political subdivision under Subsection (5)(a) to the county, city, or town to fund public transit fixed guideway safety oversight under Section 72-1-214 if the county, city, or town legislative body:

(i) provides written notice to the commission and the state treasurer requesting the transfer; and

(ii) specifies the amount of revenue required to be transmitted to the county, city, or town.

Section 18. Section 59-12-2219 is amended to read:

59-12-2219

(Effective 07/01/25)

. County option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.

(1) Subject to the other provisions of this part, and subject to Subsection (13), a county legislative body may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) Subject to Subsection (9), the commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (3) through (8).

(3) If the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(b) .10% shall be distributed as provided in Subsection (6); and

(c) .05% shall be distributed to the county legislative body.

(4) If the entire boundary of a county that imposes a sales and use tax under this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single large public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (6); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (6); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (4)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (6); and

(ii) .15% shall be distributed to the county legislative body.

(5) For a county not described in Subsection (3) or (4), if a county of the second, third, fourth, fifth, or sixth class imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be distributed as provided in Subsection (6);

(ii) .10% shall be distributed as provided in Subsection (7); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be distributed as provided in Subsection (6);

(ii) .10% shall be distributed as provided in Subsection (7); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (6); and

(ii) .15% shall be distributed to the county legislative body.

(6) (a) Subject to Subsection (6)(b), the commission shall make the distributions required by Subsections (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) as follows:

(i) 50% of the total revenue collected under Subsections (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties and cities that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the location of the transaction as determined under Sections 59-12-211through 59-12-215.

(b) (i) Population for purposes of this Subsection (6) shall be [~~determined on the basis of the most recent official census or census estimate of the United States Bureau of the Census.~~]based on, to the extent not otherwise required by federal law:

(A) the most recent estimate from the Utah Population Committee created in Section 63C-20-103; or

(B) if the Utah Population Committee estimate is not available for each municipality and unincorporated area, the adjusted sub-county population estimate provided by the Utah Population Committee in accordance with Section 63C-20-104.

(ii) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from an estimate from the Utah Population Committee.

(7) (a) (i) Subject to the requirements in Subsections (7)(b) and (c), a county legislative body:

(A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county,

and in compliance with the requirements for changing an allocation under Subsection (7)(e), allocate the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or

(B) for a county that imposes a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(ii) If a county described in Subsection (7)(a)(i)(A) does not allocate the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) in accordance with Subsection (7)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) to:

(A) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(B) an eligible political subdivision within the county.

(b) If a county legislative body allocates the revenue as described in Subsection (7)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) to:

(i) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(ii) an eligible political subdivision within the county.

(c) Notwithstanding Section 59-12-2208, the opinion question described in Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this Subsection (7).

(d) The commission shall make the distributions required by Subsection (5)(a)(ii) or (5)(b)(ii) as follows:

(i) the percentage specified by a county legislative body shall be distributed in accordance with a resolution adopted by a county legislative body under Subsection (7)(a) to an eligible political subdivision or a public transit district within the county; and

(ii) except as provided in Subsection (7)(a)(ii), if a county legislative body allocates less than 100% of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) to a public transit district or an eligible political subdivision, the remainder of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) not allocated by a county legislative body through a resolution under Subsection (7)(a) shall be distributed as follows:

(A) 50% of the revenue as provided in Subsection (6); and

(B) 50% of the revenue to the county legislative body.

(e) If a county legislative body seeks to change an allocation specified in a resolution under Subsection (7)(a), the county legislative body may change the allocation by:

(i) adopting a resolution in accordance with Subsection (7)(a) specifying the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision;

(ii) obtaining approval to change the allocation of the sales and use tax by a majority of all the members of the county legislative body; and

(iii) subject to Subsection (7)(f):

(A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (7)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with Subsection (7)(e) and approved by the county legislative body in accordance with Subsection (7)(e)(ii).

(g) (i) If a county makes an allocation by adopting a resolution under Subsection (7)(a) or changes an allocation by adopting a resolution under Subsection (7)(e), the allocation shall take effect on the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice meeting the requirements of Subsection (7)(g)(ii) from the county.

(ii) The notice described in Subsection (7)(g)(i) shall state:

(A) that the county will make or change the percentage of an allocation under Subsection (7)(a) or (e); and

(B) the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(8) (a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.

(b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the eligible political subdivision intends to provide public transit service within the county.

(9) (a) (i) Notwithstanding Subsections (3) through (8), for a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute all of the sales and use tax revenue collected by the county before June 30, 2019, to the county for the purposes described in Subsection (9)(a)(ii).

(ii) For any revenue collected by a county pursuant to Subsection (9)(a)(i) before June 30, 2019, the county may expend that revenue for:

(A) reducing transportation related debt;

(B) a regionally significant transportation facility; or

(C) a public transit project of regional significance.

(b) For a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute the sales and use tax revenue collected by the county on or after July 1, 2019, as described in Subsections (3) through (8).

(c) For a county that has not imposed a sales and use tax under this section before June 30, 2019, if the entire boundary of that county is annexed into a large public transit district, and if the county imposes a sales and use tax under this section on or after July 1, 2019, the commission shall distribute the sales and use tax revenue collected by the county as described in Subsections (3) through (8).

(10) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes

in accordance with Subsection (3)(a), (4)(a)(i), (4)(b)(i), or (7)(d)(i), for a purpose described in Section 59-12-2212.2.

(11) (a) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection (3)(a), (4)(a)(i), (4)(b)(i), or (7)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

(b) As provided in Section 59-12-2212.2, for the .10% designated for public transit described in Subsection (3)(a) that is not contractually obligated for debt service, beginning on July 1, 2025, a public transit district shall make available to the Department of Transportation an amount equal to 10% of the .10% to be used for public transit innovation grants as provided in Title 72, Chapter 2, Part 3, Public Transit Innovation Grants.

(12) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(13) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (13)(a), any sales and use tax imposed under this section by passage of a county ordinance on or before June 30, 2022, may remain in effect.

(14) (a) Beginning on July 1, 2020, and subject to Subsection (15), if a county has not imposed a sales and use tax under this section, subject to the provisions of this part, the legislative body of a city or town described in Subsection (14)(b) may impose a .25% sales and use tax on the transactions described in Subsection 59-12-103(1) within the city or town.

(b) The following cities or towns may impose a sales and use tax described in Subsection (14)(a):

(i) a city or town that has been annexed into a public transit district; or

(ii) an eligible political subdivision.

(c) If a city or town imposes a sales and use tax as provided in this section, the commission shall distribute the sales and use tax revenue collected by the city or town as follows:

(i) .125% to the city or town that imposed the sales and use tax, to be distributed as provided in Subsection (6); and

(ii) .125%, as applicable, to:

(A) the public transit district in which the city or town is annexed; or

(B) the eligible political subdivision for public transit services.

(d) If a city or town imposes a sales and use tax under this section and the county subsequently imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the city or town as described in Subsection (14)(c).

(15) (a) (i) Notwithstanding any other provision in this section, if a city or town legislative body wishes to impose a sales and use tax under this section, the city or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) A city or town legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (15)(a), any sales and use tax imposed under this section by passage of an ordinance by a city or town legislative body on or before June 30, 2022, may remain in effect.

Section 19. Section 59-12-2220 is amended to read:

59-12-2220

(Effective 07/01/25)

. County option sales and use tax to fund highways or a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the entire boundary of a county is annexed into a large public transit district; and

(ii) the maximum amount of sales and use tax authorizations allowed pursuant to Section 59-12-2203 and authorized under the following sections has been imposed:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision; or

(ii) a city or town within the boundary of the county is an eligible political subdivision; or

(c) a county legislative body of a county not described in Subsection (1)(a) or (1)(b) may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of .2%.

(3) (a) The commission shall distribute sales and use tax revenue collected under this section as determined by a county legislative

body as described in Subsection (3)(b).

(b) If a county legislative body imposes a sales and use tax as described in this section, the county legislative body may elect to impose a sales and use tax revenue distribution as described in Subsection (4), (5), (6), or (7), depending on the class of county, and presence and type of a public transit provider in the county.

(4) If a county legislative body imposes a sales and use tax as described in this section, and the entire boundary of the county is annexed into a large public transit district, and the county is a county of the first class, the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(5) If a county legislative body imposes a sales and use tax as described in this section and the entire boundary of the county is annexed into a large public transit district, and the county is a county not described in Subsection (4), the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(6) (a) Except as provided in Subsection (12)(c), if the entire boundary of a county that imposes a sales and use tax as described in this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district, or if the city or town is an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the county as provided in Subsection (6)(b) or (c).

(b) For a city, town, or portion of the county described in Subsection (6)(a) that is annexed into the single public transit district, or an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the portion of the county that is within a public transit district or eligible political subdivision as follows:

(i) .05% to a public transit provider as described in Subsection (11);

(ii) .075% to the cities and towns as provided in Subsection (8); and

(iii) .075% to the county legislative body.

(c) Except as provided in Subsection (12)(c), for a city, town, or portion of the county described in Subsection (6)(a) that is not annexed into a single public transit district or eligible political subdivision in the county, the commission shall distribute the sales and use tax revenue collected within that portion of the county as follows:

(i) .08% to the cities and towns as provided in Subsection (8); and

(ii) .12% to the county legislative body.

(7) For a county without a public transit service that imposes a sales and use tax as described in this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .08% to the cities and towns as provided in Subsection (8); and

(b) .12% to the county legislative body.

(8) (a) Subject to Subsections (8)(b) and (c), the commission shall make the distributions required by Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection (8) shall be [~~determined on the basis of the most recent official census or census estimate of the United States Census Bureau.~~]based on, to the extent not otherwise required by federal law:

(A) the most recent estimate from the Utah Population Committee created in Section 63C-20-103; or

(B) if the Utah Population Committee estimate is not available for each municipality and unincorporated area, the adjusted sub-county population estimate provided by the Utah Population Committee in accordance with Section 63C-20-104.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c) (i) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a city or town is ineligible for funds in accordance with Subsection 10-9a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that city or town would have received under Subsection (8)(a) to cities or towns to which Subsection 10-9a-408(7) does not apply.

(ii) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a county is ineligible for funds in accordance with Subsection 17-27a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that county would have received under Subsection (8)(a) to counties to which Subsection 17-27a-408(7) does not apply.

(9) If a public transit service is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit provider that the public transit service has been organized.

(10) (a) Except as provided in Subsection (10)(b), a county, city, or town that received distributions described in Subsections (4)(b), (4)(c), (5)(b), (5)(c), (6)(b)(ii), (6)(b)(iii), (6)(c), and (7) may only expend those funds for a purpose described in Section 59-12-2212.2.

(b) If a county described in Subsection (1)(a) that is a county of the first class imposes the sales and use tax authorized in this section, the county may also use funds distributed in accordance with Subsection (4)(c) for public safety purposes.

(11) (a) Subject to Subsections (11)(b), (c), and (d), revenue designated for public transit as described in this section may be used for

capital expenses and service delivery expenses of:

(i) a public transit district;

(ii) an eligible political subdivision; or

(iii) another entity providing a service for public transit or a transit facility within the relevant county, as those terms are defined in Section 17B-2a-802.

(b) (i) (A) If a county of the first class imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit within a county of the first class as described in Subsection (4)(a) shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121.

(B) Revenue deposited into the County of the First Class Highway Projects Fund created in Section 72-2-121 as described in Subsection (11)(b)(i)(A) may be used for public transit innovation grants as provided in Title 72, Chapter 2, Part [~~3~~]4, Public Transit Innovation Grants.

(ii) If a county of the first class imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(b)(i), for revenue designated for public transit as described in Subsection (4)(a):

(A) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9).

(c) (i) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit as described in Subsection (5)(a) shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(ii) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(c)(i), for the revenue that is designated for public transit in Subsection (5)(a):

(A) 50% shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9); and

(B) 50% shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(d) Except as provided in Subsection (12)(c), for a county that imposes a sales and use tax under this section, for revenue designated for public transit as described in Subsection (6)(b)(i), the revenue shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(12) (a) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(b) If a county passes an ordinance to impose a sales and use tax as described in this section, the sales and use tax shall take effect on the first day of the calendar quarter after a 90-day period that begins on the date the commission receives written notice from the county of the passage of the ordinance.

(c) A county that imposed the local option sales and use tax described in this section before January 1, 2023, may maintain that county's distribution allocation in place as of January 1, 2023.

(13) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county, city, or town budgeted for transportation or public transit as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection (13)(a) does not apply to a designated transportation or public transit capital or reserve account a county, city, or town established before the date the tax becomes effective.

Section 20. Section 63C-20-102 is amended to read:

63C-20-102

(Effective 05/07/25)

. Definitions.

As used in this chapter[~~, "committee"~~]:

(1) "Adjusted sub-county population estimate" means:

(a) a municipality's or an unincorporated area's population estimate from the United States Bureau of the Census; multiplied by

(b) the corresponding Utah Population Committee county raking factor.

(2) "Committee" means the Utah Population Committee created by this chapter.

(3) "Utah Population Committee county raking factor" means:

(a) a county's population estimate from the Committee; divided by

(b) the county's population estimate from the United States Bureau of the Census.

Section 21. Section 63C-20-104 is amended to read:

63C-20-104

(Effective 05/07/25)

. Committee duties.

The committee shall:

(1) prepare annual population estimates for the total population of the state and each county in the state;

(2) review and comment on the methodologies and population estimates for all geographic levels for the state that the United States Bureau of the Census produces;

(3) prepare place estimates for new political subdivision annexations and incorporations in the state;

(4) prepare additional demographic estimates for the state that may include estimates related to race, ethnicity, age, sex, religious affiliation, or economic status; [~~and~~]

(5) publish the estimates described in Subsections (1), (3), and (4) on the committee's website; and

(6) no later than 90 days after the day on which the United States Bureau of the Census releases annual population estimates, provide to the State Tax Commission and Department of Transportation the adjusted sub-county population estimate for each municipality and unincorporated area within the state.

Section 22. Section 63C-20-105 is amended to read:

63C-20-105

(Effective 05/07/25)

. State data and use of committee estimates -- Compliance.

(1) Except as provided in Subsection (2), and unless otherwise provided in statute or rule, if an executive branch entity, legislative branch entity, or independent entity is required to perform an action or make a determination based on a population estimate, the entity shall use a population estimate that the committee produces, if available.

(2) (a) The Governor's Office of Planning and Budget may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to use a population estimate other than a population estimate that the committee produces.

(b) For the purpose of creating a revenue estimate, the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst are not required to use a population estimate that the committee produces.

(c) For redistricting purposes, a legislative branch entity shall give priority to a population estimate that is produced by the United States Bureau of the Census.

(3) A newly incorporated political subdivision shall provide the committee with a list of residential building permits issued within the boundaries of the political subdivision since the last decennial census.

(4) (a) Subject to any confidentiality restrictions imposed under federal law, the committee may request information from a governmental entity, as that term is defined in Section 63G-2-103, that is necessary to the performance of the committee's duties under this chapter.

(b) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a governmental entity shall comply with a request under Subsection (4)(a) if the governmental entity has or can reasonably obtain the information that the committee requests.

(c) Before a governmental entity provides information requested under this Subsection (4), the governmental entity and the committee may enter into an agreement that addresses:

(i) the timing and format of the requested information;

(ii) the sharing of a record otherwise classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act; or

(iii) any other restriction or limitation related to the requested information.

Section 23. Section 67-1a-2 is amended to read:

67-1a-2

(Effective 05/07/25)

. Duties enumerated.

(1) The lieutenant governor shall:

(a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:

(i) as the head of any one department, if so qualified, with the advice and consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;

(ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;

(iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;

(iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;

(v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and

(vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;

(b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;

(c) serve as the chief election officer of the state as required by Subsection (2);

(d) keep custody of the Great Seal of the State of Utah;

(e) keep a register of, and attest, the official acts of the governor;

(f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and

(g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2) (a) As the chief election officer, the lieutenant governor shall:

(i) exercise oversight, and general supervisory authority, over all elections;

(ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;

(iii) establish uniformity in the election ballot;

(iv) (A) prepare election information for the public as required by law and as determined appropriate by the lieutenant governor; and

(B) make the information described in Subsection (2)(a)(iv)(A) available to the public and to news media, on the Internet, and in other forms as required by law and as determined appropriate by the lieutenant governor;

(v) receive and answer election questions and maintain an election file on opinions received from the attorney general;

(vi) maintain a current list of registered political parties as defined in Section 20A-8-101;

(vii) maintain election returns and statistics;

(viii) certify to the governor the names of individuals nominated to run for, or elected to, office;

(ix) ensure that all voting equipment purchased by the state complies with the requirements of Sections 20A-5-302, 20A-5-802, and 20A-5-803;

(x) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:

(A) voting on election day;

(B) early voting;

(C) the transmittal or voting of an absentee ballot or military-overseas ballot;

(D) the counting of an absentee ballot or military-overseas ballot; or

(E) the canvassing of election returns; and

(xi) exercise all other election authority, and perform other election duties, as provided in Title 20A, Election Code.

(b) As chief election officer, the lieutenant governor:

(i) shall oversee all elections, and functions relating to elections, in the state;

(ii) shall, in accordance with Section 20A-1-105, take action to enforce compliance by an election officer with legal requirements relating to elections; and

(iii) may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election officials by Title 20A, Election Code.

(3) (a) The lieutenant governor shall:

(i) determine a new municipality's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter 2a, Part 2, Incorporation of a Municipality, based on the municipality's population using the population estimate from the Utah Population Committee; and

(ii) (A) prepare a certificate indicating the class in which the new municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the municipality's legislative body.

(b) The lieutenant governor shall:

(i) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information for each municipality from:

(A) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(B) [~~each official~~]if the Utah Population Committee estimate is not available, the census or census estimate of the United States Bureau of the Census; [~~or~~]and

[~~(B) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census; and~~]

(ii) (A) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body.

(c) The lieutenant governor shall monitor the population of each municipality using population information from:

(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) [~~each official~~]if the Utah Population Committee estimate is not available, the census or census estimate of the United States Bureau of the Census[~~; or~~].

[~~(ii) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census.~~]

(d) If the applicable population figure under Subsection (3)(b) or (c) indicates that a municipality's population has increased beyond the population for its current class, the lieutenant governor shall:

(i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and

(ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

(e) (i) If the applicable population figure under Subsection (3)(b) or (c) indicates that a municipality's population has decreased below the population for its current class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.

(ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:

(A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

Section 24. Section 72-2-108 is amended to read:

72-2-108

(Effective 07/01/25)

. Apportionment of funds available for use on class B and class C roads -- Bonds.

(1) For purposes of this section:

(a) "Eligible county" means a county of the fifth class, as described in Section 17-50-501, that received a distribution for fiscal year 2015 that was reapportioned to include money in addition to the amount calculated under Subsection (2), and the portion of the distribution derived from the calculation under Subsection (2) was less than 60% of the total distribution.

(b) "Graveled road" means a road:

(i) that is:

(A) graded; and

(B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;

(ii) that has an improved surface; and

(iii) that has a wearing surface made of:

(A) gravel;

(B) broken stone;

(C) slag;

(D) iron ore;

(E) shale; or

(F) other material that is:

(I) similar to a material described in Subsection (1)(b)(iii)(A) through (E); and

(II) coarser than sand.

(c) "Paved road" includes:

(i) a graveled road with a chip seal surface; and

(ii) a circulator alley.

(d) "Road mile" means a one-mile length of road, regardless of:

(i) the width of the road; or

(ii) the number of lanes into which the road is divided.

(e) "Weighted mileage" means the sum of the following:

(i) paved road miles multiplied by five; and

(ii) all other road type road miles multiplied by two.

(2) (a) Subject to the provisions of Subsections (2)(b) and (3) through (7), funds appropriated for class B and class C roads shall be apportioned among counties and municipalities in the following manner:

[~~(a)~~](i) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

[~~(b)~~](ii) 50% in the ratio that the population of a county or municipality bears to the total population of the state[~~as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Committee~~].

(b) To the extent not otherwise required by federal law, population shall be based on:

(i) the most recent estimate from the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available for each municipality and unincorporated area, the adjusted sub-county population estimate provided by the Utah Population Committee in accordance with Section 63C-20-104.

(3) For purposes of Subsection (2)(b), "the population of a county" means:

(a) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 14% of the total population of that county, including municipalities; and

(b) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:

(i) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:

(A) 14%; and

(B) the actual percentage of population outside the corporate limits of municipalities in that county; and

(ii) the population apportioned to the county shall be 14% of the total population of that county, including incorporated municipalities.

(4) For an eligible county, the department shall reapportion the funds under Subsection (2) to ensure that the county or municipality receives, for a fiscal year beginning on or after July 1, 2018, an amount equal to the greater of:

(a) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or

(b) (i) the amount apportioned to the county or municipality for class B and class C roads through the apportionment formula under Subsection (2) or this Subsection (4) in the prior fiscal year; plus

(ii) the amount calculated as described in Subsection (6).

(5) (a) The department shall decrease proportionately as provided in Subsection (5)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4) does not apply.

(b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection (5)(a) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4).

(6) (a) In addition to the apportionment adjustments made under Subsection (4), a county or municipality that qualifies for reapportioned money under Subsection (4) shall receive an amount equal to the amount apportioned to the eligible county or municipality under Subsection (4) for class B and class C roads in the prior fiscal year multiplied by the percentage increase or decrease in the total funds available for class B and class C roads between the prior fiscal year and the fiscal year that immediately preceded the prior fiscal year.

(b) The adjustment under Subsection (6)(a) shall be made in the same way as provided in Subsections (5)(a) and (b).

(7) (a) If a county or municipality does not qualify for a reapportionment under Subsection (4) in the current fiscal year but previously qualified for a reapportionment under Subsection (4) on or after July 1, 2017, the county or municipality shall receive an amount equal to the greater of:

(i) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or

(ii) the amount apportioned to the county or municipality for class B and class C roads in the prior fiscal year.

(b) The adjustment under Subsection (7)(a) shall be made in the same way as provided in Subsections (5)(a) and (b).

(8) The governing body of any municipality or county may issue bonds redeemable up to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

Section 25. Section 72-2-133 is amended to read:

72-2-133

(Effective 07/01/25)

. Rural Transportation Infrastructure Fund -- Creation -- Uses.

(1) As used in this section:

(a) "Graveled road" means the same as that term is defined in Section 72-2-108.

(b) "Paved road" means the same as that term is defined in Section 72-2-108.

(c) "Qualifying county" means a county that:

(i) is a county of the third through sixth class;

(ii) has imposed a local option sales and use tax pursuant to:

(A) Section 59-12-2217;

(B) Section 59-12-2218; or

(C) Section 59-12-2219; and

(iii) has not imposed a local option sales and use tax pursuant to Section 59-12-2220on or before January 1, 2023.

(d) "Qualifying municipality" means a municipality located within a qualifying county.

(e) "Qualifying recipient" means qualifying county or a qualifying municipality.

(f) "Road mile" means the same as that term is defined in Section 72-2-108.

(g) "Weighted mileage" means the same as that term is defined in Section 72-2-108.

(2) There is created in the Transportation Fund an expendable special revenue fund called the Rural Transportation Infrastructure Fund.

(3) The Rural Transportation Infrastructure Fund shall be funded by:

(a) deposits into the fund as described in [~~Subsection 41-1a-1201(10)~~]Subsection 41-1a-1201(9);

(b) appropriations by the Legislature; and

(c) other deposits into the fund.

(4) The department shall administer the fund.

(5) (a) Beginning on January 1, 2024, and subject to Subsection (5)(b), the department shall annually distribute revenue in the fund among qualifying recipients in the following manner:

[~~(a)~~](i) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

[~~(b)~~](ii) 50% in the ratio that the population of a county or municipality bears to the total population of the state.

(b) [~~as of the last official federal census or the United States Census Bureau estimate, whichever is most recent, except that if population estimates are not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Committee.~~]To the extent not otherwise required by federal law, population shall be based on:

(i) the most recent estimate from the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available for each municipality and unincorporated area, the adjusted sub-county population estimate provided by the Utah Population Committee in accordance with Section 63C-20-104.

(6) A qualifying recipient may only use funds distributed as described in this section in the same manner as class B and class C road funds distributed in accordance with Section 72-2-108.

(7) (a) Before November 1 of each year, the State Tax Commission shall notify the department and indicate which counties are qualifying counties.

(b) After receiving the notification described in Subsection (7)(a), the department shall distribute funds for the following year to the municipalities and counties that were identified as qualifying recipients in the notification described in Subsection (7)(a).

Section 26. Section 73-5-8.5 is amended to read:

73-5-8.5

(Effective 05/07/25)

. Per capita consumptive use.

(1) As used in this section:

(a) "Community water system" means a public water system that serves residents year-round.

(b) (i) "Metered secondary water" means secondary water metered by a secondary water supplier either at the supply side when introduced into the secondary water supplier's distribution system or metered at the meter of the end user.

(ii) "Metered secondary water" does not include:

(A) water lost in the secondary water supplier's system before being delivered to an end user; or

(B) water delivered to an end user who is not a commercial, industrial, institutional, or residential user.

(c) "Per capita consumptive use" means a valid representation of total water consumed divided by the total population for a given area.

(d) "Publicly owned treatment works" means a facility for the treatment of pollutants owned by the state, the state's political subdivisions, or other public entity.

(e) "Reporting district" means a water conservancy district that serves wholesale water to a retail water supplier located in whole or in part in a county of the first or second class.

(f) "Retail water supplier" means a person that:

(i) supplies water for human consumption and other domestic uses to an end user; and

(ii) has more than 500 service connections.

(g) "Secondary water" means the same as that term is defined in Section 73-10-34.

(h) "Secondary water supplier" means the same as that term is defined in Section 73-10-34.

(i) "Total population" means the permanent population of a given area subject to a population adjustment described in Subsection (5).

(j) "Total water consumed" means total water supplied to commercial, industrial, institutional, and residential users in a given area minus return flow.

(k) "Total water supplied" means the total amount of water delivered to commercial, industrial, institutional, and residential users in a given area as metered secondary water or metered drinking water.

(l) "Water conservancy district" means an entity formed under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act.

(2) State agencies and political subdivisions shall use per capita consumptive use for reporting municipal and industrial water use in counties of the first and second class to provide another method to:

(a) track progress in water conservation; and

(b) ensure efficient public water supply management.

(3) (a) The Division of Water Resources shall designate the reporting district that shall calculate the per capita consumptive use for each county of the first or second class, except that the Division of Water Resources may only require a reporting district calculate the per capita consumptive use for a county in which the reporting district provides wholesale water to a retail water supplier.

(b) Beginning with a calculation of per capita consumptive use for calendar year 2023, a reporting district shall annually provide the Division of Water Rights a calculation of per capita consumptive use for the one or more counties designated under Subsection (3)(a).

(4) In determining per capita consumptive use, a reporting district:

(a) shall use reliable and timely information about water used for municipal and industrial purposes, including water used in commercial, industrial, institutional, and residential settings; and

(b) may not be required:

(i) to use the same methodology as another reporting district; or

(ii) to adopt or follow the definition of "water being conserved" that is adopted under Section 73-10-32.

(5) In determining total population, a reporting district shall rely on, to the extent not otherwise required by federal law:

(a) (i) an estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available, the most recent census [~~, a~~]or census estimate of the United States Bureau of the Census; and

(b) [~~, or an estimate of the Utah Population Committee, together with~~]an adjustment to population based on locally significant effects of a non-permanent population, including:

[~~(a)~~](i) transient but consistently recurring non-resident population associated with secondary residences or visitors; and

[~~(b)~~](ii) daytime population changes.

(6) In determining return flow, a reporting district:

(a) shall obtain relevant data associated with discharges from publicly owned treatment works; and

(b) may include water flow returning to the natural environment from the use of drinking water, secondary water, or other water used for outdoor irrigation if the flow is capable of being measured or otherwise determined with a reasonable degree of certainty.

(7) In determining total water supplied, a reporting district shall:

(a) select the community water systems serving a population of 3,300 or more whose data the reporting district will use in preparing the report of per capita consumptive use;

(b) only rely on data that:

(i) is reliable; and

(ii) the reporting district is able to obtain for both metered drinking water and metered secondary water; and

(c) make reasonable efforts to ensure that the water use data relied upon in the reporting district's report is the same as the water use data reported by the community water systems to the Division of Water Rights under Section 73-5-8.

(8) A reporting district shall include in the reporting district's report of per capita consumptive use an explanation of how the reporting district determines:

(a) total water supplied;

(b) return flow; and

(c) total population.

(9) A reporting district shall annually file the reporting district's per capita consumptive use report with the Division of Water Rights on or before July 1.

(10) (a) Except as provided in Subsection (10)(b), this section may not be construed to prohibit the Division of Water Resources from:

(i) adopting regional water conservation goals as described in Section 73-10-32; or

(ii) calculating, publishing, or disseminating diverted water use information or per capita consumptive use from community water systems in counties of the third, fourth, fifth, or sixth class.

(b) A state agency or a political subdivision of the state may not calculate, publish, or disseminate a:

(i) statewide per capita consumptive use number; or

(ii) per capita consumptive use number for a first class or second class county that is different from a number reported by a reporting district pursuant to this section.

(c) This section may not be construed to prohibit a retail water supplier from using or publishing the retail water supplier's own water consumptive use numbers for the efficient management of the retail water supplier's system.

Section 27. Section 78B-1-110 is amended to read:

78B-1-110

(Effective 05/07/25)

. Limitations on jury service.

(1) In any two-year period, a person may not:

(a) be required to serve on more than one grand jury;

(b) be required to serve as both a grand and trial juror;

(c) be required to attend court as a trial juror more than one court day, except if necessary to complete service in a particular case; or

(d) if summoned for jury service and the summons is complied with as directed, be selected for the prospective jury list more than once.

(2) (a) Subsection (1)(d) does not apply to counties of the fourth, fifth, and sixth class and counties of the third class with populations up to 75,000.

(b) [~~(i) All population figures~~]The population for each county used for this section shall be derived from, to the extent not otherwise required by federal law:

(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available, the most recent [~~official~~]census or census estimate of the United States Bureau of the Census.

[~~(ii) If population estimates are not available from the United States Bureau of the Census, population figures shall be derived from the estimate of the Utah Population Committee.~~]

Section 28. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect May 7, 2025.

(2) The actions affecting the following sections take effect on July 1, 2025:

(a) Section 72-2-133 (Effective 07/01/25);

(b) Section 72-2-108 (Effective 07/01/25);

(c) Section 59-12-1102 (Effective 07/01/25);

(d) Section 59-12-2219 (Effective 07/01/25);

(e) Section 59-12-2220 (Effective 07/01/25);

(f) Section 59-12-603 (Effective 07/01/25);

(g) Section 59-12-402 (Effective 07/01/25);

(h) Section 59-12-401 (Effective 07/01/25);

(i) Section 59-12-405 (Effective 07/01/25); and

(j) Section 59-12-205 (Effective 07/01/25).

CHAPTER 401
H. B. 380
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

PRESUMPTION OF STATE JURISDICTION AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill addresses state sovereignty and establishes a presumption of state jurisdiction.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes the principles of state sovereignty, including the presumption that jurisdiction over subject matters not enumerated to the federal government in the United States Constitution remains with the state;
- ► provides that any presumption against state jurisdiction may be overcome only by federal demonstration of specific constitutional authorization;
- ► places the burden on the federal government in jurisdictional conflicts between the state and federal government; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-16-101, as enacted by Laws of Utah 2012, Chapter 38

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-16-101 is amended to read:

63G-16-101. Principles of state sovereignty -- Presumption of state subject matter jurisdiction -- Resolution of jurisdictional conflicts.

(1) As used in this section:

(a) "Commission" means the Federalism Commission created in Section 63C-4a-302.

(b) "State entity" means:

(i) any department, agency, board, commission, or other instrumentality of the state; or

(ii) a political subdivision of the state.

[~~(1)~~](2) Pursuant to the Ninth and Tenth Amendments of the [~~Constitution of the United States of America, the state of Utah does solemnly affirm its state~~]United States Constitution, Utah solemnly affirms the state's sovereignty and fully and unconditionally reserves and asserts all rights and powers, directly and indirectly related to those rights and powers.

[~~(2)~~](3) [~~This~~]The affirmation, reservation, and assertion of state sovereignty under Subsection (2) includes rights and claims of set-off by the state [~~of Utah~~]for any amounts [~~it~~]the state claims to have been inequitably or unlawfully caused or imposed by the federal government.

(4) The federal government is a government of limited jurisdiction and power.

(5) (a) The state has general governing authority under the state's inherent police power jurisdiction over all governing matters within the state affecting public welfare, safety, health, and morality, as recognized under the Tenth Amendment to the United States Constitution.

(b) The subject areas within the state's police powers jurisdiction under Subsection (5)(a) include, without limitation:

(i) natural resources;

(ii) water resources and water rights;

(iii) agriculture;

(iv) education; and

(v) energy resources.

(6) The federalism canon, as prescribed by the United States Supreme Court, requires courts to presume that federal law does not preempt state law because of the sovereignty the states enjoy under the United States Constitution, as amended.

(7) The balance of governing jurisdiction and power protects the diversity of the states and ensures the self-governing voice of the people.

(8) (a) Jurisdiction over all governing subject matters arising within the state is presumed to reside with the state except as otherwise enumerated in the United States Constitution, as amended.

(b) The presumption of state jurisdiction under this Subsection (8) may only be overcome if the federal government demonstrates that jurisdiction over the subject matter in question is specifically enumerated to the federal government under the United States Constitution,

as amended.

(c) If a conflict arises whereby the federal government asserts jurisdiction over subject matters not enumerated under the United States Constitution, as amended, the federal government bears the burden of establishing federal jurisdiction over the subject matter through coordination with the state.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 402
H. B. 390
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

RELIGIOUS EXPRESSION IN HIGHER EDUCATION

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill protects student organizations' rights on a higher education campus.

Highlighted Provisions:

This bill:

- ► adds protections for student organizations;
- ► establishes definitions for protected activities and benefits;
- ► modifies institutional duties regarding student organization rights;
- ► amends provisions on free expression policies; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-27-202, as enacted by Laws of Utah 2017, Chapter 440
53B-27-204, as enacted by Laws of Utah 2017, Chapter 440
53B-27-501, as enacted by Laws of Utah 2021, Chapter 125

ENACTS:

53B-27-203.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-27-202 is amended to read:
53B-27-202. Definitions.

As used in this part[~~, "expressive~~]:
(1) "Benefit" means:
(a) recognition by an institution;
(b) registration by an institution;
(c) the use of an institution's facility for meeting or speaking purposes;
(d) the use of communication channels; or
(e) funding sources that are otherwise available to other student organizations at an institution.
(2) "Expressive activity" means an activity that includes:
[~~(1)~~](a) peacefully assembling, protesting, or speaking;
[~~(2)~~](b) distributing literature;
[~~(3)~~](c) carrying a sign; [~~or~~]
[~~(4)~~](d) circulating a petition[~~.~~]; or
(e) otherwise participating in speech or conduct protected by:
(i) the First Amendment to the United States Constitution; or
(ii) Utah Constitution, Article I, Sections 4 and 15.
(3) "Student organization" means a student organized group that is:
(a) officially recognized, or seeking official recognition, by an institution as a student club; and
(b) comprised of students that receive, or are seeking to receive, benefits available to student clubs from the institution.

Section 2. Section 53B-27-203.5 is enacted to read:
53B-27-203.5. Religious, political, and ideological student organizations -- Protection from discrimination.

An institution may not deny any benefit or privilege that is available to any student organization, or discriminate against, a religious, political, or ideological student organization:

(1) because such student organization is religious, political, or ideological;

(2) on the basis of protected expressive activity engaged in by the student organization or the student organization's members; or

(3) based on a requirement that a leader of the student organization:

(a) affirm or adhere to the sincerely held beliefs of the student organization;

(b) comply with a standard of conduct the student organization establishes; or

(c) further the mission, purpose, or standards of conduct of the student organization, as these are defined by the student organization.

Section 3. Section 53B-27-204 is amended to read:

53B-27-204. Cause of action.

(1) The following persons may bring an action in a state court of competent jurisdiction to enjoin a violation of this part or to recover compensatory damages, reasonable court costs, or reasonable attorney fees:

(a) the attorney general; or

(b) a person claiming that the person's [~~expressive~~]rights, as described in this part, were violated.

(2) In an action brought under this part, if the court finds a violation of this part, the court:

(a) shall enjoin the violation;

(b) shall, if a person whose [~~expressive~~]rights, as described in this part, were violated brought the action, award the person:

(i) at least $500 for an initial violation; and

(ii) if the person notifies the institution of the violation, $50 for each day the violation continues after the notification; and

(c) may award a prevailing plaintiff:

(i) compensatory damages;

(ii) reasonable court costs; or

(iii) reasonable attorney fees.

(3) Notwithstanding Title 63G, Chapter 7, Governmental Immunity Act of Utah, an institution that violates this part is not immune from suit or liability for the violation.

Section 4. Section 53B-27-501 is amended to read:

53B-27-501. Free expression policies.

(1) As used in this section, "free expression policy" means an institution's policy, regulation, or other expectation related to student expression.

(2) An institution shall:

(a) publish the institution's free expression policies:

(i) in the institution's student handbook; and

(ii) on the institution's website;

(b) include information about the institution's free expression policies in an orientation program for students enrolled in the institution; and

(c) develop a program, procedures, and materials to ensure that an individual who has responsibility for the discipline or education of a student at the institution understands the institution's free expression policies.

(3) An individual described in Subsection (2)(c) includes an institution:

(a) administrator;

(b) campus police officer;

(c) residence life official; and

(d) faculty member.

(4) An institution shall ensure that a free expression policy is consistent with the provisions of this chapter [~~.~~]and ensure the policy is:

(a) viewpoint-neutral in text and application; and

(b) respects a student organization's rights, as described in this part.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 403
H. B. 404
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

GOVERNMENT EMPLOYMENT AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill amends provisions related to government employment.

Highlighted Provisions:

This bill:

- ► allows an independent entity to opt into participating in the pay for performance management system;
- ► amends which employees of eligible agencies may participate in the pay for performance management system;
- ► repeals Section 63A-17-111; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-17-106, as last amended by Laws of Utah 2024, Chapter 397
63A-17-112, as last amended by Laws of Utah 2024, Chapter 397
63A-17-301, as last amended by Laws of Utah 2024, Chapter 397

REPEALS:

63A-17-111, as enacted by Laws of Utah 2021, Chapter 192

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-17-106 is amended to read:

63A-17-106. Responsibilities of the director.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

(2) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.

(3) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.

(4) Statewide human resource management rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.

(5) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.

(6) The director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;

(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(i) perform duties assigned by the governor, executive director, or statute;

(j) make rules for human resource management, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

(l) conduct research and planning activities to:

(i) determine and prepare for future state human resource needs;

(ii) develop methods for improving public human resource management; and

(iii) propose needed policy changes to the governor;

(m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;

(n) establish compensation policies and procedures for early voluntary retirement;

(o) confer with the heads of other agencies about human resource policies and procedures;

(p) submit an annual report to the executive director, the governor, and the Legislature; and

(q) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

(7) (a) After consultation with the executive director, the governor, and the heads of other agencies, the director shall establish and coordinate statewide training programs, including training described in Subsection (7)(e).

(b) The programs developed under this Subsection (7) shall have application to more than one agency.

(c) The division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(d) The division shall ensure that any training program described in this Subsection (7) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(e) (i) As used in this Subsection (7)(e):

(A) "Employee" []means [~~the same as that term is defined in Section 63A-17-112~~]an employee included in an agency's pay for performance policy adopted in accordance with Section 63A-17-112.

(B) "Supervisor" means an individual in a position at an agency, as defined in Section 63A-17-112, that requires the regular supervision and performance evaluation of an employee.

(ii) A supervisor shall attend the training:

(A) within six months of being promoted or hired to the position of supervisor; and

(B) at least annually.

(iii) A supervisor's completion of training and effective use of training information and principles shall be considered in an evaluation of the supervisor's job performance.

(iv) The training shall include:

(A) effective employee management and evaluation methods based on the pay for performance management system described in Section 63A-17-112;

(B) instruction to improve supervisor and employee communications;

(C) best practices for recognizing and retaining high-performing employees;

(D) best practices for addressing poor-performing employees; and

(E) any other information and principles identified by the division to improve management or organizational effectiveness.

(8) (a) (i) The division may collect fees for training as authorized by this Subsection (8).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

(9) Rules described in Subsection (6)(j) shall provide for at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 2. Section 63A-17-112 is amended to read:

63A-17-112. Pay for performance management system -- Employees paid for performance.

(1) As used in this section:

(a) (i) "Agency" means, except as provided in Subsection [~~(1)(a)(ii)~~](1)(a)(iii), the same as that term is defined in Section 63A-17-102.

(ii) "Agency" includes an independent entity that has decided to participate in the pay for performance management system in accordance with Subsection (6)(a).

[~~(ii)~~](iii) "Agency" does not include:

(A) []the State Board of Education[~~,~~];

(B) []the Office of the State Treasurer[~~,~~];

(C) []Office of the State Auditor[~~,~~];

(D) []Office of the State Attorney General[~~,~~];

(E) []Utah System of Higher Education[~~,~~];

(F) []the Legislature[~~,~~];

(G) the judiciary[~~,~~]; or [~~,~~]

(H) [~~as defined in Section 63E-1-102,~~]an independent entity that chooses not to participate in the pay for performance management system under this section.

(b) (i) "Employee" means an employee of an agency.

(ii) "Employee" [~~does not include~~]includes the following individuals only if the agency employing the individuals determines that the individuals may participate in the agency's pay for performance policy:

[~~(A) an individual in a schedule AB position, as described in Section 63A-17-301;~~]

[~~(B)~~](A) an individual in a position that is not eligible to receive a retirement benefit under Title 49, Utah State Retirement and Insurance Benefit Act; or

[~~(C)~~](B) an individual that an agency hires for a time-limited position that will last fewer than 12 consecutive months.

(c) "Independent entity" means the same as that term is defined in Section 63E-1-102.

[~~(c)~~](d) "Pay for performance" means a plan for incentivizing an employee to meet or exceed production or performance goals, in which the plan is well-defined before work begins, specific goals and targets for the employee are determined, and measurement procedures are in place.

[~~(d)~~](e) "Pay for performance management system" means the system described in Subsection (2).

(2) The division shall [~~establish and~~]make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [~~make rules~~]for the administration of a pay for performance management system.

(3) The pay for performance management system shall include:

(a) guidelines and criteria for an agency to adopt pay for performance policies and administer pay based on an employee's performance in furtherance of the agency's mission;

(b) employee performance ratings;

(c) requirements for written employee performance standards and expectations;

(d) supervisor verbal and written feedback based on the standards of performance and behavior outlined in an employee's performance plan; and

(e) quarterly written evaluation of an employee's performance.

(4) In consultation with the division, [~~no later than July 1, 2023,~~]each agency shall:

(a) adopt and maintain pay for performance policies based on the performance management system; and

(b) subject to available funds and as necessary, adjust an employee's wage to reflect:

(i) subject to Subsection (5), [~~for a classified service employee,~~]the salary range [~~of the position classified plan~~]for the employee's position; and

(ii) an increase, decrease, or no change in the employee's wage:

(A) commensurate to an employee's performance as reflected by the employee's evaluation conducted in accordance with the pay for performance management system; and

(B) in an amount that is in accordance with the guidelines and criteria established for a wage change in the pay for performance management system.

(5) [~~In~~]The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [~~the division shall make rules~~]authorizing [~~a classified service~~]an employee to receive a wage that exceeds the salary range of the [~~classified service~~]employee's position [~~classified plan~~]if warranted based on the [~~classified~~]employee's performance rating.

(6) (a) An independent entity may participate in the pay for performance management system by providing written notice to the division that:

(i) states the intent of the independent entity to participate in the system; and

(ii) indicates that the independent entity agrees to comply with Subsection (6)(b).

(b) An independent entity participating in the pay for performance management system shall comply with:

(i) the provisions of this section; and

(ii) the rules and policies of the division relating to participation in the pay for performance management system.

Section 3. Section 63A-17-301 is amended to read:

63A-17-301. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as provided in Subsection (3)(d), the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

(i) the office and at the residence of the governor;

(ii) the Public Lands Policy Coordinating Office;

(iii) the Office of the State Auditor; and

(iv) the Office of the State Treasurer;

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;

(f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(g) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the division; or

(B) educators as defined by Section 53E-8-102;

(h) schedule AN includes employees of the Legislature;

(i) schedule AO includes employees of the judiciary;

(j) schedule AP includes all judges in the judiciary;

(k) schedule AQ includes:

(i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;

(ii) a water commissioner appointed under Section 73-5-1;

(iii) other local officials serving in an ex officio capacity; and

(iv) officers, faculty, and other employees of state universities and other state institutions of higher education;

(l) schedule AR includes employees in positions that involve responsibility:

(i) for determining policy;

(ii) for determining the way in which a policy is carried out; or

(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the director;

(m) schedule AS includes any other employee:

(i) whose appointment is required by statute to be career service exempt;

(ii) whose agency is not subject to this chapter; or

(iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;

(n) schedule AT includes employees of the Division of Technology Services, designated as executive/professional positions by the director of the Division of Technology Services with the concurrence of the director of the division;

(o) schedule AU includes patients and inmates employed in state institutions;

(p) employees of the Department of Workforce Services, designated as schedule AW:

(i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or

(ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the director of the division;

(q) subject to Subsection (6), schedule AX includes employees in positions that:

(i) require the regular supervision and performance evaluation of one or more other employees; and

(ii) are not designated exempt from career service under any other schedule described in this Subsection (1); and

(r) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the division by administrative rule.

(2) The civil service shall consist of two schedules as follows:

(a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of:

(i) all positions filled through competitive selection procedures as defined by the director; or

(ii) positions filled through a division approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71A, Chapter 2, Veterans Preference.

(3) (a) The director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the director before changing the schedule assignment and tenure rights of any position.

(c) Unless the director's decision is reversed by the governor, when the director denies an agency's request, the director's decision is final.

(d) (i) An agency may file a request with the division[-]:

(A) to keep a position scheduled as a schedule B position as a schedule B position; or

(B) to reschedule a position that is scheduled as a schedule A position as a schedule B position.

(ii) The division shall review a request filed under Subsection (3)(d)(i) and approve the request only if the exception is necessary to conform to a requirement imposed as a condition precedent to receipt of federal funds or grant of a tax benefit under federal law.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be

established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the director.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the division.

(6) (a) An employee who is hired for a schedule AX position on or after July 1, 2022, is exempt from career service status.

(b) An employee who before July 1, 2022, is a career service employee employed in a schedule B position that is rescheduled to a schedule AX position on July 1, 2022, shall maintain the employee's career service status for the duration of the employee's employment in the same position unless the employee voluntarily converts to career service exempt status before July 1, 2023.

(c) (i) Subject to Subsection (6)(c)(ii), an employee is exempt from career service status if:

(A) before July 1, 2022, the employee was a probationary employee in a schedule B position and had not completed the probationary period; and

(B) on July 1, 2022, the schedule B position in which the probationary employee is employed is rescheduled as a scheduled AX position.

(ii) An employee described in Subsection (6)(c)(i):

(A) is not a probationary employee on or after July 1, 2022; and

(B) is exempt from career service status on and after July 1, 2022, unless the employee changes employment to a schedule B position.

(d) The division shall disseminate to each employee described in Subsection (6)(b) information on financial and other incentives for voluntary conversion to career-service exempt status.

(e) An agency [~~, as defined in Section 63A-17-112,~~]may adopt a policy, created in consultation with the division, for agency review of recommendations that schedule AX employees be suspended, demoted, or dismissed from employment.

Section 4. Repealer.

This bill repeals:

Section 63A-17-111, Teleworking progress report.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 404
H. B. 410
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

CHILD CARE AMENDMENTS

Chief Sponsor: Tracy J. Miller
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions relating to child care.

Highlighted Provisions:

This bill:

- ► provides that the time employed as a preschool teacher in a child care program is equivalent to the time employed in a public school or accredited private school for purposes of relicensing;
- ► authorizes the use of housing and transit reinvestment zone funds to include construction or expansion of child care facilities within the zone; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-6-201, as last amended by Laws of Utah 2024, Chapter 51
63N-3-607, as last amended by Laws of Utah 2024, Chapter 521

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-6-201 is amended to read:

53E-6-201. State board licensure.

(1) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a system for educator licensing that includes:

(a) an associate educator license that permits an individual to provide educational services in a public school while working to meet the requirements of a professional educator license;

(b) a professional educator license that permits an individual to provide educational services in a public school after demonstrating that the individual meets licensure requirements established in state board rule;

(c) an LEA-specific educator license issued by the state board at the request of an LEA's governing body that is valid for an individual to provide educational services in the requesting LEA's schools;

(d) beginning in the 2023-2024 school year, a provider-specific license issued by the state board at the request of an authorized online course provider described in [~~Subsection~~]Section 53F-4-504 that:

(i) is valid for an individual to provide educational services to a student enrolled in an online course described in Section 53F-4-503; and

(ii) contains eligibility criteria that is no more stringent than the requirements for a license described in Subsection (1)(c); and

(e) beginning in the 2029-2030 school year, the creation or modification of licenses if any are created or modified under Section 53G-6-206.

(2) An individual employed in a position that requires licensure by the state board shall hold the license that is appropriate to the position.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), the state board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to rank, endorse, or otherwise classify licenses and establish the criteria for obtaining, retaining, and reinstating licenses.

(ii) The state board may not make licensure contingent upon passage of a pedagogical performance assessment.

(iii) The state board shall consider employment duration as a preschool teacher in a child care program, as that term is defined in Section 26B-2-401, as equivalent to employment duration in a district school, charter school, or accredited private school for purposes of relicensing.

(b) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the state board requirements for retaining a license is exempt from tuition, except for a semester registration fee established by the Utah Board of Higher Education, if:

(i) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and

(ii) enrollments are determined by each institution under rules and guidelines established by the Utah Board of Higher Education in accordance with findings of fact that space is available for the educator's enrollment.

Section 2. Section 63N-3-607 is amended to read:

63N-3-607. Payment, use, and administration of revenue from a housing and transit reinvestment zone.

(1) A municipality or public transit county may receive and use tax increment and housing and transit reinvestment zone funds in accordance with this part.

(2) (a) A county that collects property tax on property located within a housing and transit reinvestment zone shall, in accordance with Section 59-2-1365, distribute to the municipality or public transit county any tax increment the municipality or public transit county is authorized to receive up to the maximum approved by the housing and transit reinvestment zone committee.

(b) Tax increment distributed to a municipality or public transit county in accordance with Subsection (2)(a) is not revenue of the taxing entity or municipality or public transit county.

(c) (i) Tax increment paid to the municipality or public transit county are housing and transit reinvestment zone funds and shall be administered by an agency created by the municipality or public transit county within which the housing and transit reinvestment zone is located.

(ii) Before an agency may receive housing and transit reinvestment zone funds from the municipality or public transit county, the municipality or public transit county and the agency shall enter into an interlocal agreement with terms that:

(A) are consistent with the approval of the housing and transit reinvestment zone committee; and

(B) meet the requirements of Section 63N-3-603.

(3) (a) A municipality or public transit county and agency shall use housing and transit reinvestment zone funds within, or for the direct benefit of, the housing and transit reinvestment zone.

(b) If any housing and transit reinvestment zone funds will be used outside of the housing and transit reinvestment zone, there must be a finding in the approved proposal for a housing and transit reinvestment zone that the use of the housing and transit reinvestment zone funds outside of the housing and transit reinvestment zone will directly benefit the housing and transit reinvestment zone.

(4) (a) A municipality or public transit county shall use housing and transit reinvestment zone funds to achieve the purposes described in Subsections 63N-3-603(1) and (2), by paying all or part of the costs of any of the following:

[~~(a)~~](i) income targeted housing costs;

[~~(b)~~](ii) structured parking within the housing and transit reinvestment zone;

[~~(c)~~](iii) enhanced development costs;

[~~(d)~~](iv) horizontal construction costs;

[~~(e)~~](v) vertical construction costs;

[~~(f)~~](vi) property acquisition costs within the housing and transit reinvestment zone; [~~or~~]

[~~(g)~~](vii) the costs of the municipality or public transit county to create and administer the housing and transit reinvestment zone, which may not exceed 2% of the total housing and transit reinvestment zone funds, plus the costs to complete the gap analysis described in Subsection 63N-3-604(2)[~~.~~]; or

(viii) subject to Subsection (4)(b), costs for the construction or expansion of child care facilities within the boundary of the housing and transit reinvestment zone.

(b) A municipality or public transit county may not use more than 1% of the total housing and transit reinvestment zone funds to pay costs described in Subsection (4)(a)(viii).

(5) Housing and transit reinvestment zone funds may be paid to a participant, if the agency and participant enter into a participation agreement [~~which~~]that requires the participant to utilize the housing and transit reinvestment zone funds as allowed in this section.

(6) Housing and transit reinvestment zone funds may be used to pay all of the costs of bonds issued by the municipality or public transit county in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.

(7) A municipality or public transit county may create one or more public infrastructure districts within the housing and transit reinvestment zone under Title 17D, Chapter 4, Public Infrastructure District Act, and pledge and utilize the housing and transit reinvestment zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 405
H. B. 91
Passed February 10, 2025
Approved March 26, 2025
Effective May 7, 2025

TECHNICAL COLLEGE AMENDMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill amends provisions relating to capital development projects for technical colleges.

Highlighted Provisions:

This bill:

► amends provisions relating to construction plan approval for technical colleges.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-2a-112, as last amended by Laws of Utah 2023, Chapter 254

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-2a-112 is amended to read:

53B-2a-112. Technical colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.

(1) As used in this section, "higher education institution" means:

(a) Utah State University for:

(i) Bridgerland Technical College;

(ii) Tooele Technical College; and

(iii) Uintah Basin Technical College;

(b) Weber State University for:

(i) Ogden-Weber Technical College; and

(ii) Davis Technical College;

(c) Utah Valley University for Mountainland Technical College;

(d) Southern Utah University for Southwest Technical College; and

(e) Utah Tech University for Dixie Technical College.

(2) A technical college may enter into agreements:

(a) with other higher education institutions to cultivate cooperative relationships; or

(b) with other public and higher education institutions to enhance career and technical education within the technical college's region.

(3) Before a technical college develops new instructional facilities, the technical college shall give priority to:

(a) maintaining the technical college's existing instructional facilities for both secondary and adult students;

(b) coordinating with the president of the technical college's degree-granting partner and entering into any necessary agreements to provide career and technical education to secondary and adult students that:

(i) maintain and support existing higher education career and technical education programs; and

(ii) maximize the use of existing higher education facilities; and

(c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.

(4) (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the board, a technical college shall:

(i) ensure that all available instructional facilities are maximized in accordance with Subsections (3)(a) through (c); and

(ii) coordinate the request with the president of the technical college's degree-granting partner, if applicable.

(b) The Division of Facilities Construction and Management shall make a finding that the requirements of this section are met before the Division of Facilities Construction and Management may consider a funding request from the board pertaining to new capital facilities and land purchases for a technical college.

(c) A technical college may not construct, approve the construction of, [~~plan for the design or construction of,~~]or consent to the

construction of a career and technical education facility without approval of the Legislature.

(5) Before acquiring new fiscal and administrative support structures, a technical college shall:

(a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of education in the region;

(b) determine the feasibility of using existing systems; and

(c) with the approval of the technical college board of trustees and the board, use the existing systems.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 406
H. B. 422
Passed March 3, 2025
Approved March 26, 2025
Effective March 26, 2025

MUNICIPALITY REGULATION OF OPEN HOUSE AMENDMENTS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill prohibits a municipality from regulating an open house.

Highlighted Provisions:

This bill:

- ► defines the term "open house";
- ► provides that the governing body of a municipality may not regulate an open house differently than a residential use;
- ► provides that any ordinance regulating an open house differently than a residential use is void; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-3-702, as last amended by Laws of Utah 2010, Chapter 378

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-702 is amended to read:

10-3-702. Extent of power exercised by ordinance.

(1) As used in this section, "open house" means an event held by a homeowner, including an event in association with a real estate agent, architect, builder, or developer, to showcase a home, including the outdoor landscaping around the home.

(2) (a) [~~The~~]Except as provided in Subsection (2)(b), the governing body of a municipality may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by this act or any other provision of law.

(b) (i) The governing body of a municipality may not regulate an open house differently than a residential use.

(ii) Any ordinance regulating an open house differently than a residential use is void.

(3) (a) An officer of the municipality may not be convicted of a criminal offense where [~~he~~]the officer relied on or enforced an ordinance [~~he~~]the officer reasonably believed to be a valid ordinance.

(b) It shall be a defense [~~to~~]in any action for punitive damages [~~that~~]over the enforcement of an invalid ordinance if the official:

(i) acted in good faith in enforcing an ordinance; or

(ii) [~~that he~~]enforced an ordinance on advice of legal counsel.

Section 2. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 407
H. B. 106
Passed March 5, 2025
Approved March 26, 2025
Effective May 7, 2025

INCOME TAX REVISIONS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends income tax provisions.

Highlighted Provisions:

This bill:

- ► amends the corporate franchise and income tax rates;
- ► amends the individual income tax rate;
- ► enacts nonrefundable corporate and individual income tax credits for employer-provided child care;
- ► allows a taxpayer to claim the nonrefundable child tax credit for child dependents under one year old and up to five years old; and
- ► makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-104, as last amended by Laws of Utah 2024, Chapter 255
59-7-201, as last amended by Laws of Utah 2024, Chapter 255
59-10-104, as last amended by Laws of Utah 2024, Chapter 255
59-10-1002.2, as last amended by Laws of Utah 2023, Chapters 460, 462
59-10-1047, as last amended by Laws of Utah 2024, Chapter 235

ENACTS:

59-7-627, Utah Code Annotated 1953
59-10-1048, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-104 is amended to read:
59-7-104. Tax -- Minimum tax.

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable income for the taxable year for the privilege of exercising the corporation's corporate franchise or for the privilege of doing business in the state.

(2) The tax shall be [~~4.55~~]4.5% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is $100.

Section 2. Section 59-7-201 is amended to read:
59-7-201. Tax -- Minimum tax.

(1) There is imposed upon each corporation, except a corporation that is exempt under Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year that is derived from sources within this state other than income for any period that the corporation is required to include in the corporation's tax base under Section 59-7-104.

(2) The tax imposed by Subsection (1) shall be [~~4.55~~]4.5% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than $100.

Section 3. Section 59-7-627 is enacted to read:
59-7-627. Nonrefundable tax credits for employer-provided child care.

(1) As used in this section:

(a) (i) "Qualified child care expenditure" means an amount paid or incurred for the operating costs of a qualified child care facility of the employer, whether the employer operates the qualified child care facility or contracts with a third party provider to provide child care services at the qualified child care facility.

(ii) "Qualified child care expenditure" includes costs related to training employees and providing increased compensation to employees with higher levels of child care training.

(b) "Qualified child care facility" means center based child care as that term is defined in Section 26B-2-401 that is located in the state.

(c) "Qualified construction expenditure" means an amount paid or incurred to acquire, construct, rehabilitate, or expand property:

(i) for a qualified child care facility of the employer; and

(ii) with respect to which the employer is allowed a deduction for depreciation, or amortization in lieu of depreciation.

(d) "Qualifying taxpayer" means a taxpayer that:

(i) is an employer; and

(ii) qualifies for and claims the federal employer-provided child care tax credit described in Section 45F, Internal Revenue Code, for the current taxable year.

(e) "Recapture event" means an employer fails to operate a qualified child care facility for which the employer claims a tax credit under this section as a child care facility for at least five consecutive taxable years after the taxable year on which the employer first claims a tax credit under this section.

(f) "Third party provider" means:

(i) a new child care provider; or

(ii) an existing child care provider that can perform the contract without reducing the provider's existing child care services.

(2) (a) A qualifying taxpayer may claim a nonrefundable tax credit equal to 20% of the qualified construction expenditures the qualifying taxpayer incurred during the taxable year.

(b) A qualifying taxpayer may carry forward, to the next five taxable years, the amount of the qualifying taxpayer's tax credit described in this Subsection (2) that exceeds the qualifying taxpayer's income tax liability for the taxable year.

(3) (a) (i) Subject to Subsection (3)(a)(ii), a qualifying taxpayer may claim a nonrefundable tax credit equal to 10% of the qualified child care expenditures the qualifying taxpayer incurred during the taxable year.

(ii) A qualifying taxpayer may claim a tax credit under this Subsection (3) for qualified child care expenditures only if the qualifying taxpayer claims a tax credit under Subsection (2) for the current taxable year or a previous taxable year.

(b) A qualifying taxpayer may not carry forward or carry back the tax credit described in this Subsection (3) that exceeds the qualifying taxpayer's income tax liability for the taxable year.

(4) (a) (i) If a recapture event happens within two taxable years after the first taxable year in which the qualifying taxpayer claims a tax credit under this section, a qualifying taxpayer shall repay 100% of the tax credit a qualifying taxpayer receives under this section for any taxable year.

(ii) If a recapture event happens more than two taxable years but fewer than three taxable years after the first taxable year in which the qualifying taxpayer claims a tax credit under this section, a qualifying taxpayer shall repay 75% of the tax credit a qualifying taxpayer receives under this section for any taxable year.

(iii) If a recapture event happens more than three taxable years but fewer than four taxable years after the first taxable year in which the qualifying taxpayer claims a tax credit under this section, a qualifying taxpayer shall repay 50% of the tax credit a qualifying taxpayer receives under this section for any taxable year.

(iv) If a recapture event happens more than four taxable years but fewer than five taxable years after the first taxable year in which the qualifying taxpayer claims a tax credit under this section, a qualifying taxpayer shall repay 25% of the tax credit a qualifying taxpayer receives under this section for any taxable year.

(b) A qualifying taxpayer shall make a payment for a recapture event for the taxable year in which the recapture event occurs.

Section 4. Section 59-10-104 is amended to read:

59-10-104. Tax basis -- Tax rate -- Exemption.

(1) A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) [~~4.55~~]4.5%.

(3) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Section 5. Section 59-10-1002.2 is amended to read:

59-10-1002.2. Apportionment of tax credits.

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, 59-10-1024, 59-10-1028, 59-10-1042, 59-10-1043, 59-10-1044, 59-10-1046, [~~or~~]59-10-1047, or 59-10-1048 may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, [~~or~~]59-10-1028, or 59-10-1048 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident estate or trust; and

(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Section 6. Section 59-10-1047 is amended to read:

59-10-1047. Nonrefundable child tax credit.

(1) As used in this section:

(a) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) "Modified adjusted gross income" means the sum of the following for a claimant or, if the claimant's federal individual income tax return is allowed a joint filing status, the claimant and the claimant's spouse:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) "Qualifying child" means an individual:

(i) with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year; and

(ii) who is [~~at least one year old and younger than five~~]under six years old on the last day of the claimant's taxable year.

(f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(2) Subject to [~~Subsection~~]Section59-10-1002.2, a claimant may claim a nonrefundable tax credit of $1,000 for each qualifying child.

(3) A claimant may not carry forward or carry back the amount of the tax credit that exceeds the claimant's tax liability.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by $.10 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, $27,000;

(b) for a federal individual income tax return that is allowed a single filing status or head of household filing status, $43,000; and

(c) for a federal individual income tax return that is allowed a joint filing status, $54,000.

Section 7. Section 59-10-1048 is enacted to read:

59-10-1048. Nonrefundable tax credits for employer-provider child care.

(1) As used in this section:

(a) "Qualified child care expenditure" means the same as that term is defined in Section 59-7-627.

(b) "Qualified child care facility" means the same as that term is defined in Section 59-7-627.

(c) "Qualified construction expenditure" means the same as that term is defined in Section 59-7-627.

(d) "Qualifying claimant" means a claimant, estate, or trust that:

(i) is an employer; and

(ii) qualifies for and claims the federal employer-provided child care tax credit described in Section 45F, Internal Revenue Code, for the current taxable year.

(e) "Recapture event" means the same as that term is defined in Section 59-7-627.

(f) "Third party provider" means the same as that term is defined in Section 59-7-627.

(2) (a) A qualifying claimant may claim a nonrefundable tax credit equal to 20% of the qualified construction expenditures the qualifying claimant incurred during the taxable year.

(b) A qualifying claimant may carry forward, to the next five taxable years, the amount of the qualifying claimant's tax credit described in this Subsection (2) that exceeds the qualifying claimant's income tax liability for the taxable year.

(3) (a) (i) Subject to Subsection (3)(a)(ii), a qualifying claimant may claim a nonrefundable tax credit equal to 10% of the qualified child care expenditures the qualifying claimant incurred during the taxable year.

(ii) A qualifying claimant may claim a tax credit under this Subsection (3) for qualified child care expenditures only if the qualifying claimant claims a tax credit under Subsection (2) for the current taxable year or a previous taxable year.

(b) A qualifying claimant may not carry forward or carry back the tax credit described in this Subsection (3) that exceeds the qualifying claimant's income tax liability for the taxable year.

(4) (a) (i) If a recapture event happens within two taxable years after the first taxable year in which the qualifying claimant claims a tax credit under this section, a qualifying claimant shall repay 100% of the tax credit a qualifying claimant receives under this section for any taxable year.

(ii) If a recapture event happens more than two taxable years but fewer than three taxable years after the first taxable year in which the qualifying claimant claims a tax credit under this section, a qualifying claimant shall repay 75% of the tax credit a qualifying claimant receives under this section for any taxable year.

(iii) If a recapture event happens more than three taxable years but fewer than four taxable years after the first taxable year in which the qualifying claimant claims a tax credit under this section, a qualifying claimant shall repay 50% of the tax credit a qualifying claimant receives under this section for any taxable year.

(iv) If a recapture event happens more than four taxable years but fewer than five taxable years after the first taxable year in which the qualifying claimant claims a tax credit under this section, a qualifying claimant shall repay 25% of the tax credit a qualifying claimant receives under this section for any taxable year.

(b) A qualifying claimant shall make a payment for a recapture event for the taxable year in which the recapture event occurs.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

Section 9. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2025.

CHAPTER 408
H. B. 424
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

SCHOOL ACTIVITY ELIGIBILITY COMMISSION AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill amends provisions regarding the School Activity Eligibility Commission (commission).

Highlighted Provisions:

This bill:

- ► broadens the scope of available appointees to the commission;
- ► modifies quorum requirements for the commission;
- ► modifies a requirement to establish certain baseline ranges;
- ► provides that an eligibility determination of the commission is for a given school year;
- ► provides a standard of proof for eligibility determinations of the commission;
- ► prohibits public schools from participating with an athletic association that does not provide administrative staff support to the commission;
- ► provides for the scheduling of commission meetings throughout the school year with certain submission deadlines and ad hoc meetings for students who do not meet certain deadlines; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-6-1001, as last amended by Laws of Utah 2023, Chapter 340
53G-6-1003, as last amended by Laws of Utah 2024, Chapter 524
53G-6-1004, as last amended by Laws of Utah 2024, Chapter 524
53G-7-1102, as last amended by Laws of Utah 2024, Chapter 46

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-1001 is amended to read:

53G-6-1001. Definitions.

As used in this part:

(1) "Athletic association" means an association, as that term is defined in Section 53G-7-1101.

(2) "Birth certificate" means an official record of an individual's date of birth, place of birth, sex, and parentage, including a supplementary certificate of birth or birth certificate amendment and amendment history as provided in Sections 26B-8-110 and 26B-8-111.

(3) "Commission" means the School Activity Eligibility Commission created in Section 53G-6-1003.

(4) "Does not correspond with the sex designation" means that a student's sex designation for an interscholastic activity in which a student seeks participation does not correspond with the sex designation on the student's birth certificate or an amendment, including the amendment history, to the student's birth certificate that the Division of Vital Records and Statistics provides.

(5) "Female-designated" means that an interscholastic activity is designated specifically for female students.

(6) "Gender-designated" means that an interscholastic activity or facility is designated specifically for female or male students.

(7) "Gender identity" means the same as that term is defined in Section 34A-5-102.

(8) "Interscholastic activity" means an activity in which a student represents the student's school in the activity in competition against another school.

(9) "Male-designated" means that an interscholastic activity is designated specifically for male students.

(10) "Student" means a student who is enrolled in a public school that participates in interscholastic activities.

(11) "Unamended birth certificate" means a birth certificate:

(a) with no amendment history; or

(b) with an amendment history that:

(i) does not include gender-related amendments; or

(ii) includes gender-related amendments that only:

(A) correct an error or omission resulting from a scrivener's error under Subsection 26B-8-107(2); or

(B) correct a misidentification of birth sex for an intersex individual under Subsection 26B-8-107(2).

Section 2. Section 53G-6-1003 is amended to read:

53G-6-1003. School Activity Eligibility Commission -- Baseline range.

(1) There is created the School Activity Eligibility Commission.

(2) (a) The commission shall consist of the following members:

(i) the following two members whom the president of the Senate appoints:

(A) a mental health professional; and

(B) a statistician with expertise in the analysis of medical data;

(ii) the following two members whom the speaker of the House of Representatives appoints:

(A) a [~~board-certified~~]physician with expertise in gender identity healthcare, including an endocrinologist, a family medicine physician, or a pediatrician; and

(B) a sports physiologist, an exercise physiologist, a sports medicine physician, a pediatrician with experience in youth sports, or an orthopedist or orthopedic surgeon;

(iii) the following two members whom the governor appoints:

(A) a representative of an athletic association; and

(B) an athletic trainer who serves student athletes on the collegiate level; and

(iv) one ad hoc member, serving on a case-by-case basis, who is:

(A) appointed by the athletic association in which the relevant student's school competes; and

(B) a certified high school coach or official who coaches or officiates in a separate region or classification from the relevant student's school and in the sport in which the relevant student seeks eligibility.

(b) An athletic association may prepare and communicate the association's sport-specific appointments described in Subsection (2)(a)(iv) in preparation for student requests in a given sport.

(3) (a) A member of the commission described in Subsections (2)(a)(i) through (iii) shall serve an initial term of one year, subject to reappointment for subsequent terms of two years.

(b) If a vacancy occurs in the membership of the commission, the individual responsible for the appointment of the vacant seat as described in Subsection (2) shall fill the vacancy in the same manner as the original appointment.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii)[~~,~~]:

(A) all members of the commission constitute a quorum of the commission for a meeting to determine the eligibility of a student[~~.~~]; and

[~~(ii)~~](B) [~~All~~]all members of the commission described in Subsections (2)(a)(i) through (iii) constitute a quorum for any meeting other than the meeting described in Subsection (4)(a)(i).

(ii) The commission satisfies the quorum requirements described in Subsection (4)(a)(i) if no more than one of the commission positions described in Subsections (2)(a)(i) through (iii) is vacant.

(b) An action of a majority of a quorum constitutes an action of the commission.

(5) A majority of the commission members described in Subsections (2)(a)(i) through (iii) shall elect a chair from among the members described in Subsections (2)(a)(i) through (iii) to:

(a) schedule meetings of the commission;

(b) set the agenda of commission meetings; and

(c) facilitate discussion among the commission's members.

(6) A commission member:

(a) may not receive compensation or benefits for the member's service on the commission; and

(b) may receive per diem and reimbursement for travel expenses that the commission member incurs as a commission member at the rates that the Division of Finance establishes under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(7) The [~~commission may enter into an agreement with an athletic association to~~]Department of Government Operations shall provide administrative staff support to the commission.

(8) (a) The commission shall, to the extent possible based on the available evidence, establish a baseline range of physical characteristics for students participating in a specific gender-designated activity at a specific age to provide the context for the evaluation of an individual student's eligibility for a given gender-designated interscholastic activity under Section 53G-6-1004.

(b) In creating the baseline ranges described in Subsection (8)(a), the commission shall include the physical characteristics for the age and gender group in a given gender-designated interscholastic activity that are relevant to the specific interscholastic activity.

(c) The physical characteristics described in Subsection (8)(b) may include height, weight, physical characteristics relevant to the application of the standard described in Subsection 53G-6-1004(3), or the extent of physical characteristics affected by puberty, giving consideration to the practicability of considering the physical characteristic when making an assessment of an individual student's eligibility under Section 53G-6-1004.

(9) The following records that relate to the application or analysis of or determination under this part regarding the eligibility of a specific student shall be classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act:

(a) any record of the commission, including any communication between an athletic association and the commission; and

(b) any record that a school or LEA possesses.

(10) Members of the commission are immune from suit with respect to all acts done and actions taken in good faith in carrying out the purposes of this part.

(11) The commission has no authority in relation to eligibility questions other than participation in a gender-designated interscholastic activity under this part.

Section 3. Section 53G-6-1004 is amended to read:

53G-6-1004. Eligibility for interscholastic activities.

(1) (a) Notwithstanding any state board rule or policy of an athletic association, and except as provided in Subsections (1)(b) and (c):

(i) once a student has obtained the eligibility approval of the commission under Subsection (2), unless otherwise prohibited by federal law or a policy of an LEA, school, or athletic association that governs the relevant interscholastic athletic activity, the student [~~may~~]is eligible under this part to participate in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's unamended birth certificate for the given school year; and

(ii) if a student does not obtain the eligibility approval of the commission under Subsection (2), the student may not participate in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's unamended birth certificate.

(b) A student [~~who has undergone or is undergoing a gender transition shall obtain the eligibility approval of the commission under Subsection (2) to~~]may only participate in a gender-designated interscholastic activity that [~~corresponds with the student's gender identity~~]does not correspond with the student's sex, as defined in Section 68-3-12.5, if the student obtains the eligibility approval of the commission under Subsection (2).

(c) Nothing in this [~~subsection~~]part prohibits a student from participating in a gender-designated interscholastic activity in accordance with 34 C.F.R. Sec. 106.41(b).

(2) (a) When a student registers with an athletic association to participate in a gender-designated interscholastic activity:

(i) a student who has undergone or is undergoing a gender transition shall notify the athletic association of the student's transition and the need for the commission's eligibility approval as described in Subsection (1)(b);

(ii) the athletic association shall notify the commission of:

(A) a student for whom an eligibility determination of the commission is required due to the sex designation on the student's unamended birth certificate not corresponding with the gender designation of the gender-designated interscholastic activity in which the student seeks to participate or the student's notice of a gender transition under Subsection (1)(a)(ii); and

(B) the association's ad hoc appointment to the commission described in Subsection 53G-6-1003(2)(a)(iv); and

(iii) the athletic association shall notify the student described in this Subsection (2)(a) regarding the process for determining the student's eligibility for the activity under this section.

(b) The commission shall:

(i) (A) schedule at least three non-public meetings throughout the school year to consider any student eligibility notifications described in Subsection (2)(a) the commission has received at least 14 days before the date of each meeting; and

(B) give notice of each scheduled meeting and the associated 14-day deadline to the relevant athletic association; and

[~~(i)~~](ii) (A) if the commission receives a notification described in Subsection (2)(a) after the 14-day deadline described in Subsection (2)(b)(i), schedule [~~a~~]an ad hoc non-public meeting to consider [~~a~~]the given student's eligibility[~~to be held within 30 days after the day on which the commission receives the notification described in Subsection (2)(a)~~], occurring within 60 days after the day on which the commission receives the notification; and

[~~(ii)~~](B) [~~notify~~]give notice of the ad hoc meeting to the relevant athletic association and the [~~student's parents or legal guardians of the scheduled meeting~~]parents of each student seeking an eligibility determination.

(c) Before the meeting described in Subsection (2)(b):

(i) the student for whom the commission has scheduled the meeting or the student's parent or guardian is not required but may submit to the commission any information the student wishes to disclose to the commission that may be relevant to the commission's eligibility determination, including information regarding:

(A) the gender-designated interscholastic activities for which the student seeks eligibility;

(B) the gender-designated interscholastic activities in which the student has previously participated; and

(C) the student's physical characteristics or medical treatments that support the student's eligibility for the specific gender-designated interscholastic activity;

(ii) the commission may request additional evidence from the student that is:

(A) limited to the extent possible to protect the student's privacy; and

(B) only directly relevant to the commission's eligibility determination; and

(iii) the commission may offer the student a voucher to cover the cost of a diagnostic assessment if the commission makes a request for medical information under Subsection (2)(c)(ii) for which the student's insurance does not provide coverage or reimbursement for the diagnostic that:

(A) would provide the requested information; and

(B) is not free or otherwise readily available to the student.

(d) During the meeting described in Subsection (2)(b):

(i) only the following individuals may be present or participate electronically:

(A) the student for whom the commission is meeting to make an eligibility determination;

(B) the student's parents or guardians;

(C) the members and necessary staff of the commission; and

(D) any medical professionals or other witnesses the student chooses to include to support the student's eligibility;

(ii) attendees may participate in person or electronically; and

(iii) the commission shall:

(A) hear the information that supports the student's eligibility;

(B) deliberate the facts relevant to the student's physical characteristics and eligibility in camera or otherwise after temporarily excusing from the meeting the student, the student's parents or legal guardians, and any medical professionals or other witnesses whom the student includes; and

(C) render the commission's eligibility determination in accordance with Subsection (3) or request additional information and schedule an additional commission meeting to be held within 30 days of the meeting and in accordance with this Subsection (2)(d) to discuss the additional information and render the commission's eligibility determination.

(e) The commission may not address the commission's application or analysis of or determination under this part regarding the eligibility of a specific student in a public meeting or public communication.

(3) (a) In making an eligibility determination, the commission, after considering whether the student's assertion of a gender identity is consistent with the statutory definition of gender identity as that term is defined in Section 34A-5-102, including the implications for the student's mental health of participating in the gender-designated interscholastic activity, shall:

(i) make a determination based on a preponderance of the evidence regarding whether, when measured against the relevant baseline range described in Subsection 53G-6-1003(8), granting the student's eligibility would:

(A) present a substantial safety risk to the student or others that is significantly greater than the inherent risks of the given activity; or

(B) likely give the student a material competitive advantage, as the commission defines, when compared to students of the same age competing in the relevant gender-designated activity, including consideration of the student's previous history of participation in gender-designated interscholastic activities; and

(ii) record the commission's decision and rationale in writing and provide the written decision to the athletic commission within 30 days after the day on which the commission renders an eligibility decision under this Subsection (3)(a) in a meeting described in Subsection (2)(b).

(b) Upon receipt of the commission's determination and rationale under Subsection (3)(a), the athletic commission shall notify the student and the relevant school or LEA of the commission's determination and rationale.

(c) A school or LEA shall comply with the commission's determination under this Subsection (3).

(d) An eligibility determination of the commission only applies for the relevant school year.

(4) (a) Notwithstanding any other provision of law and except as provided in Subsections (3)(b) and (4)(b), the commission may not disclose:

(i) the name of a student whose eligibility the commission will consider, is considering, or has considered; or

(ii) the commission's determination regarding a student's eligibility.

(b) The commission shall disclose the commission's determination of a student's eligibility for a given gender-designated interscholastic activity to the relevant athletic association, only for the purpose of confirming whether the student is eligible for the interscholastic activity.

(c) (i) Notwithstanding any other provision of law, an athletic association may not disclose the information described in Subsections (4)(a)(i) and (ii).

(ii) Nothing in this Subsection (4) prohibits an athletic association from affirming that a student is eligible if the eligibility of a student is questioned.

Section 4. Section 53G-7-1102 is amended to read:

53G-7-1102. Public schools prohibited from membership.

(1) A public school may not be a member of or pay dues to an association that:

(a) is not in compliance with:

(i) this part;

(ii) Title 52, Chapter 4, Open and Public Meetings Act;

(iii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(iv) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(b) does not collect each student's unamended birth certificate[], as that term is defined in Section 53G-6-1001, or subject to Subsection (3), equivalent documentation, as described in Subsection (2)(a), to determine eligibility as a condition of the association's registration process for an athletic team, event, or category; or

(c) does not require a student to provide the student's date of birth and sex as a condition of the registration process for an athletic team, event, or category.

(2) (a) For a student who is not a United States citizen and who is unable to provide [~~a~~]an unamended birth certificate, as that term is defined in Section 53G-6-1001, the association may collect the student's:

(i) state-issued identification document, including a driver's license or passport; or

(ii) federally recognized identification document, including a document that the Department of Homeland Security issues.

(b) If a student who is not a United States citizen is unable to provide a document under Subsection (2)(a), the association may collect other reliable proof of a student's date of birth and sex, including:

(i) an affidavit from the student's parent or legal guardian attesting:

(A) to the student's date of birth and sex; and

(B) that the parent or legal guardian is unable to obtain a document described in Subsection (2)(a); and

(ii) one of the following:

(A) a religious, hospital, or physician certificate;

(B) verified school records;

(C) verified immunization records; or

(D) documentation from a social service provider.

(3) (a) Subsection (1)(b) does not apply to an association for a student who is a homeless child or youth, as defined in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. Sec. 11431 et seq.

(b) For a student who is a homeless child or youth, including an unaccompanied homeless child or youth, an association may collect:

(i) an affidavit from the student's parent or guardian, or the student if the student is an unaccompanied homeless child or youth, indicating that the student does not meet the necessary requirements to obtain a document described in Subsection (2)(a); and

(ii) a document described in Subsection (2)(b)(ii).

(4) Nothing in this section limits or impairs an LEA's requirement to verify a student's initial review of eligibility to participate in an athletic team, event, or category under applicable state or federal law or state board rule, including the student's:

(a) residency status;

(b) age;

(c) sex, verified by the student's unamended birth certificate, as that term is defined in Section 53G-6-1001;

(d) academic requirements; or

(e) school enrollment capacity.

(5) Unless otherwise specified, an association's compliance with or an association employee or officer's compliance with the provisions described in Subsection (1) does not alter:

(a) the association's public or private status; or

(b) the public or private employment status of the employee or officer.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 409
H. B. 124
Passed February 19, 2025
Approved March 26, 2025
Effective July 1, 2025

EDUCATION INDUSTRY EMPLOYEE PRIVACY

Chief Sponsor: Trevor Lee
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill provides for the personal privacy of local education agency employees.

Highlighted Provisions:

This bill:

- ► enacts restrictions on a local education agency (LEA) selling or transferring certain contact information without consent;
- ► prohibits requiring use of certain technologies on personal devices;
- ► requires an LEA to provide accommodations for mandatory technology use under certain circumstances;
- ► allows an employee to file written complaints with the State Board of Education about violations;
- ► permits the State Board of Education to investigate complaints; and
- ► allows for consequences for violations.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53G-10-207, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-10-207 is enacted to read:

53G-10-207. Personal privacy for employee.

(1) As used in this section:

(a) "Employee" means:

(i) "administrative personnel" as that term is defined in Section 53G-10-206; and

(ii) "instructional personnel" as that term is defined in Section 53G-10-206.

(b) "LEA" means the same as that term is defined in Section 53E-1-102.

(c) "Required technology" means an application, software, or other technologies for work-related duties without which an employee could not reasonably complete necessary or essential job functions or engage in emergency situations.

(d) "Work-related contact information" means:

(i) private or work-provided phone numbers used for work purposes;

(ii) email addresses an employer provides or uses primarily for work functions;

(iii) work mail addresses, including physical addresses, post office boxes, and other mailing details used to send or receive work-related communications or documents;

(iv) logins, usernames, access codes, passwords, or other credentials used to access accounts, systems, documents, records, or services provided in relation to an employee's job duties; and

(v) messaging accounts, forum memberships, directory listings, distribution lists, committee or group enrollments.

(2) (a) Except as provided in Sections 53G-7-224 and 63G-2-204, an LEA or the state board may not sell or otherwise transfer an employee's work-related contact information to a third party if the sale or transfer is an isolated or standalone transaction.

(b) To the extent allowed by law, an LEA shall publicly disclose a records request, and any fees charged, for the information described in Subsection (2)(a).

(3) Except as provided in Section 53G-7-224, an LEA or the state board may not distribute an employee's work-related contact information in a manner that would interfere with an employee's ability to access or use work-related accounts, contacts, email lists, or other contact information resources necessary to perform the employee's job duties.

(4) An LEA may not require an employee to download, install, access, or otherwise use required technology on a personally owned electronic device if use of the required technology contains terms, conditions, or data sharing provisions that would allow for access to data or information outside of the required technology.

(5) If an LEA requires an employee to use required technology that the employee reasonably finds to contain objectionable terms and conditions, the LEA shall provide reasonable accommodations to the impacted employee to avoid mandatory use on the employee's personal device.

(6) An LEA shall provide a reasonable accommodation under Subsection (5) that allows required use without accessing an employee's personal device, including providing the required technology:

(a) via an LEA-owned and provided electronic device such as a computer, phone, or tablet;

(b) through a secure virtual or remote desktop environment not requiring installation or access credentials on a personal device; or

(c) through similar means that do not obligate personal device use.

(7) An LEA may not take adverse action against an employee for exercising rights under this section and requesting reasonable accommodations.

(8) An employee may file a written complaint with the state board alleging violations of this chapter.

(9) The state board shall investigate any complaint alleging violations under this section and take licensure or corrective action if the state board determines that action is necessary.

Section 2. Effective date.

This bill takes effect on July 1, 2025.

CHAPTER 410
H. B. 428
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

PROPERTY TAX CHANGES

Chief Sponsor: Jill Koford
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill modifies provisions related to property tax.

Highlighted Provisions:

This bill:

- ► requires the minimum basic tax rate imposed by school districts to be certified by consensus between the State Tax Commission, the Governor's Office of Planning and Budget, and the Office of the Legislative Fiscal Analyst;
- ► allows for the use of money in the Public Education Economic Stabilization Restricted Account to fund certain shortfalls in the basic school program; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-301, as last amended by Laws of Utah 2024, Chapters 124, 460
53F-9-204, as last amended by Laws of Utah 2024, Chapter 322

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-301 is amended to read:
53F-2-301. Minimum basic tax rate for a fiscal year that begins after July 1, 2022.

(1) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to $75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic rate; and

(ii) set annually by the Legislature in Subsection (2)(a).

(e) "Minimum basic tax rate" means a tax rate certified by consensus between the commission, the Governor's Office of Planning and Budget, and the Office of the Legislative Fiscal Analyst that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (2)(a).

(f) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(g) "WPU value amount" means an amount:

(i) that is equal to the product of:

(A) the WPU value increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the immediately preceding fiscal year; and

(ii) set annually by the Legislature in Subsection (3)(a).

(h) "WPU value increase limit" means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

(i) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value

amount described in Subsection (3)(a).

(2) (a) The minimum basic local amount for the fiscal year that begins on July 1, 2024, is $759,529,000 in revenue statewide.

(b) The preliminary estimate of the minimum basic tax rate for a fiscal year that begins on July 1, 2024, is .001429.

(3) (a) The WPU value amount for the fiscal year that begins on July 1, 2024, is $29,240,600 in revenue statewide.

(b) The preliminary estimate of the WPU value rate for the fiscal year that begins on July 1, 2024, is .000055.

(4) (a) On or before June 22, the commission, the Governor's Office of Planning and Budget, and the Office of the Legislative Fiscal Analyst shall by consensus certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (2)(b) and the estimate of the WPU value rate provided in Subsection (3)(b) are based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (4)(a)(i) and the certified WPU value rate described in Subsection (4)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(5) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, each local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (5).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (5).

(6) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of revenue generated by the school district by the following:

(i) the combined basic rate; and

(ii) the basic levy increment rate.

(b) (i) If the difference described in Subsection (6)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (6)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(7) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302; and

(b) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

Section 2. Section 53F-9-204 is amended to read:

53F-9-204. Public Education Economic Stabilization Restricted Account.

(1) There is created within the Uniform School Fund a restricted account known as the "Public Education Economic Stabilization Restricted Account."

(2) (a) Except as provided in Subsection (2)(b), the account shall be funded from the following revenue sources:

(i) 15% of the difference between, as determined by the Office of the Legislative Fiscal Analyst:

(A) the estimated amount of ongoing Income Tax Fund and Uniform School Fund revenue available for the Legislature to appropriate for the next fiscal year; and

(B) the amount of ongoing appropriations from the Income Tax Fund and Uniform School Fund in the current fiscal year; and

(ii) other appropriations as the Legislature may designate.

(b) If the appropriation described in Subsection (2)(a) would cause the ongoing appropriations to the account to exceed 11% of Uniform School Fund appropriations described in Section 53F-9-201.1 for the same fiscal year, the Legislature shall appropriate only those funds necessary to ensure that the ongoing appropriations to the account equal 11% of Uniform School Fund appropriations for that fiscal year.

(3) Subject to the availability of ongoing appropriations to the account, in accordance with Utah Constitution, Article X, Section 5, Subsection (4), the ongoing appropriation to the account shall be used to fund:

(a) except for a year described in Subsection (3)(b) or (c), one-time appropriations to the public education system; [~~and~~]

(b) the Minimum School Program for a year in which Income Tax Fund revenue and Uniform School Fund revenue are insufficient to fund:

(i) ongoing appropriations to the public education system; and

(ii) enrollment growth and inflation estimates, as defined in Section 53F-9-201.1[~~.~~]; and

(c) the minimum basic local amount as defined in Section 53F-2-301 for a year in which the minimum basic tax rate, as defined in Section 53F-2-301, is insufficient to generate the amount described in Subsection 53F-2-301(2)(a).

(4) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(5) On or before December 31, 2023, and every three years thereafter, the Office of the Legislative Fiscal Analyst shall:

(a) review the percentages described in Subsections (2)(a)(i) and (2)(b); and

(b) recommend to the Executive Appropriations Subcommittee any changes based on the review described in Subsection (5)(a).

(6) In preparing budget bills for a given fiscal year, the Executive Appropriations Committee shall make the one-time appropriations described in Subsection (3)(a) by appropriating at least the lesser of 10% of the total amount of the one-time appropriations; or

(a) the cost of providing 32 paid professional hours for teachers in accordance with Section 53F-7-203; and

(b) the amount to make the distribution required under Section 53F-2-527.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 411
S. B. 57
Passed March 5, 2025
Approved March 26, 2025
Effective May 7, 2025

NEWBORN RELINQUISHMENT AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends provisions related to the safe relinquishment of a newborn child.

Highlighted Provisions:

This bill:

► amends the definition of "newborn child" as that term is used in provisions concerning the safe relinquishment of a newborn child.

Money Appropriated in this Bill:

This bill appropriates $104,000 in operating and capital budgets for fiscal year 2026, all of which is from the General Fund.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-4-501, as last amended by Laws of Utah 2023, Chapter 330

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 80-4-501 is amended to read:

80-4-501. Definitions.

As used in this part:

(1) "Hospital" means a general acute hospital, as that term is defined in Section 26B-2-201, that is:

(a) equipped with an emergency room;

(b) open 24 hours a day, seven days a week; and

(c) employs full-time health care professionals who have emergency medical services training.

(2) "Newborn child" means a child who is approximately [~~30~~]90 days old or younger, as determined within a reasonable degree of medical certainty.

Section 2. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 2(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health and Human Services - Children, Youth, & Families
From General Fund - - -

CHAPTER 412
H. B. 127
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

SEXUAL CRIME AMENDMENTS

Chief Sponsor: Mark A. Strong
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill addresses the sentence length for the crimes of rape, object rape, and forcible sodomy.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► amends the length of a sentence for the crimes of rape, object rape, and forcible sodomy if the actor committed the crime against an incapacitated individual; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-406, as last amended by Laws of Utah 2024, Chapter 96
76-5-402, as last amended by Laws of Utah 2022, Chapter 181
76-5-402.2, as last amended by Laws of Utah 2022, Chapter 181
76-5-403, as last amended by Laws of Utah 2022, Chapter 181

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-406 is amended to read:

76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

(1) Notwithstanding Sections 76-3-201 and 77-18-105 and Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, except as provided in Section 76-5-406.5 or Subsection 77-16a-103(6) or (7), probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for an individual who commits a capital felony or a first degree felony involving:

(a) aggravated murder as described in Section 76-5-202;

(b) murder as described in Section 76-5-203;

(c) child kidnapping as described in Section 76-5-301.1;

(d) aggravated kidnapping as described in Subsection 76-5-302(3)(b);

(e) rape as described in Subsection 76-5-402(3)(b), (3)(c), (3)(d), or (4);

(f) rape of a child as described in Section 76-5-402.1;

(g) object rape as described in Subsection 76-5-402.2(3)(b), (3)(c), (3)(d), or (4);

(h) object rape of a child as described in Section 76-5-402.3;

(i) forcible sodomy as described in Subsection 76-5-403(3)(b), (3)(c), (3)(d), or (4);

(j) sodomy on a child as described in Section 76-5-403.1;

(k) forcible sexual abuse as described in Subsection 76-5-404(3)(b)(i) or (ii);

(l) aggravated sexual abuse of a child as described in Section 76-5-404.3;

(m) aggravated sexual assault as described in Section 76-5-405; or

(n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).

(2) Except for an offense before the district court in accordance with Section 80-6-502 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the defendant:

(a) was under 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

Section 2. Section 76-5-402 is amended to read:

76-5-402. Rape.

(1) (a) As used in this section, "incapacitated individual" means:

(i) an individual 14 years old or older with:

(A) an intellectual disease or defect;

(B) a physical disease or defect;

(C) a neurological disease or defect; or

(D) a cognitive disease or defect; and

(ii) as a result of the disease or defect described in Subsection (1)(a)(i), the individual is unable to meet two or more of the following requirements:

(A) appraise the nature of an act of sexual intercourse;

(B) resist or escape an act of sexual intercourse; or

(C) report an act of sexual intercourse committed against the individual.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits rape if the actor has sexual intercourse with another individual without the individual's consent.

(b) Any sexual penetration, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(c) This section applies whether or not the actor is married to the individual.

(3) A violation of Subsection (2) is a felony of the first degree, punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b)[~~or~~], (c), or (d), not less than five years and which may be for life;

(b) except as provided in Subsection (3)(c), (3)(d), or (4)(a), 10 years and which may be for life if the trier of fact finds that the act committed by the actor described in Subsection (2) was committed against an incapacitated individual;

[~~(b)~~](c) except as provided in Subsection [~~(3)(c) or (4)~~](3)(d) or (4)(b), 15 years and which may be for life, if the trier of fact finds that:

(i) during the course of the commission of the rape the defendant caused serious bodily injury to the victim; or

(ii) at the time of the commission of the rape, the defendant was younger than 18 years old and was previously convicted of a grievous sexual offense; or

[~~(c)~~](d) life without parole, if the trier of fact finds that at the time of the commission of the rape the defendant was previously convicted of a grievous sexual offense.

(4) (a) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than six years and which may be for life.

(b) If, when imposing a sentence under Subsection [~~(3)(b)~~](3)(c), a court finds that a lesser term than the term described in Subsection [~~(3)(b)~~](3)(c) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

[~~(a)~~](i) 10 years and which may be for life; or

[~~(b)~~](ii) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply when a defendant is sentenced under Subsection (3)(a) or [~~(c)~~](d).

(6) Imprisonment under Subsection (3)(b), (3)(c), (3)(d), or (4) is mandatory in accordance with Section 76-3-406.

Section 3. Section 76-5-402.2 is amended to read:

76-5-402.2. Object rape.

(1) (a) As used in this section, "incapacitated individual" means the same as that term is defined in Section 76-5-402.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits object rape if:

(a) the actor:

(i) acts without an individual's consent;

(ii) causes the penetration, however slight, of the genital or anal opening of the individual by:

(A) a foreign object;

(B) a substance;

(C) an instrument;

(D) a device; or

(E) a part of the human body other than the mouth or genitals; and

(iii) (A) intends to cause substantial emotional or bodily pain to the individual; or

(B) intends to arouse or gratify the sexual desire of any individual; and

(b) the individual described in Subsection (2)(a)(i) is 14 years old or older.

(3) A violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b)[~~or~~], (c), or (d), not less than five years and which may be for life;

(b) except as provided in Subsection (3)(c), (3)(d), or (4)(a), 10 years and which may be for life if the trier of fact finds that the act committed by the actor described in Subsection (2) was committed against an incapacitated individual;

[~~(b)~~](c) except as provided in Subsection [~~(3)(c) or (4),~~](3)(d) or (4)(b), 15 years and which may be for life, if the trier of fact finds that:

(i) during the course of the commission of the object rape the defendant caused serious bodily injury to the victim; or

(ii) at the time of the commission of the object rape, the defendant was younger than 18 years old and was previously convicted of a grievous sexual offense; or

[~~(c)~~](d) life without parole, if the trier of fact finds that at the time of the commission of the object rape, the defendant was previously convicted of a grievous sexual offense.

(4) (a) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than six years and which may be for life.

(b) If, when imposing a sentence under Subsection [~~(3)(b)~~](3)(c), a court finds that a lesser term than the term described in Subsection [~~(3)(b)~~](3)(c) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

[~~(a)~~](i) 10 years and which may be for life; or

[~~(b)~~](ii) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply if a defendant is sentenced under Subsection (3)(a) or [~~(c)~~](d).

(6) Imprisonment under Subsection (3)(b), (3)(c), (3)(d), or (4) is mandatory in accordance with Section 76-3-406.

Section 4. Section 76-5-403 is amended to read:

76-5-403. Forcible sodomy.

(1) (a) As used in this section[~~,~~]:

(i) "Incapacitated individual" means the same as that term is defined in Section 76-5-402.

(ii) [~~"sodomy"~~]"Sodomy" means engaging in any sexual act with an individual who is 14 years old or older involving the genitals of one individual and the mouth or anus of another individual.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits forcible sodomy when the actor commits sodomy upon another individual without the other individual's consent.

(b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b)[~~or~~],(c), or (d), not less than five years and which may be for life;

(b) except as provided in Subsection (3)(c), (3)(d), or (4)(a), 10 years and which may be for life if the trier of fact finds that the act committed by the actor described in Subsection (2) was committed against an incapacitated individual;

[~~(b)~~](c) except as provided in Subsection [~~(3)(c) or (4)~~](3)(d) or (4)(b), 15 years and which may be for life, if the trier of fact finds that:

(i) during the course of the commission of the forcible sodomy the defendant caused serious bodily injury to the victim; or

(ii) at the time of the commission of the [~~rape~~]forcible sodomy, the defendant was younger than 18 years old and was previously convicted of a grievous sexual offense; or

[~~(c)~~](d) life without parole, if the trier of fact finds that at the time of the commission of the forcible sodomy the defendant was previously convicted of a grievous sexual offense.

(4) (a) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than six years and which may be for life.

(b) If, when imposing a sentence under Subsection [~~(3)(b)~~](3)(c), a court finds that a lesser term than the term described in Subsection [~~(3)(b)~~](3)(c) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

[~~(a)~~](i) 10 years and which may be for life; or

[~~(b)~~](ii) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply when a defendant is sentenced under Subsection (3)(a) or [~~(c)~~](d).

(6) Imprisonment under Subsection (3)(b), (3)(c), (3)(d), or (4) is mandatory in accordance with Section 76-3-406.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 413
H. B. 462
Passed March 5, 2025
Approved March 26, 2025
Effective July 1, 2025

RURAL SCHOOL FUNDING AMENDMENTS

Chief Sponsor: Tiara Auxier
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill creates the Rural School Sports Facilities Grant Program.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates the Rural School Sports Facilities Grant Program to fund the construction or refurbishment of sports facilities in rural public schools;
- ► requires the Utah State Board of Education to administer the program;
- ► allows a local education agency to apply for funds from the program;
- ► requires the state board to report on the program upon request; and
- ► makes technical changes.

Money Appropriated in this Bill:

This bill appropriates $4,390,000 in operating and capital budgets for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-1-201, as last amended by Laws of Utah 2024, Chapters 3, 460 and 525
53F-9-204, as last amended by Laws of Utah 2024, Chapter 322

ENACTS:

53F-10-303, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(e) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(h) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(i) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(j) the report described in Section 53F-2-522 regarding mental health screening programs;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

(m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

(n) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

(o) the report described in Section 53F-5-405 by the state board regarding an evaluation of a partnership that receives a grant to

improve educational outcomes for students who are low income;

(p) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

(q) the report described in Section 53G-7-221 by the state board regarding innovation plans;

(r) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) in 2027, 2030, 2033, and 2035, the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

(b) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(c) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(d) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(e) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(f) upon request, the report described in Section 53F-10-303 by the state board regarding the Rural School Sports Facilities Grant Program;

[~~(f)~~](g) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

[~~(g)~~](h) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

[~~(h)~~](i) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the state board, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 2. Section 53F-9-204 is amended to read:

53F-9-204. Public Education Economic Stabilization Restricted Account.

(1) There is created within the Uniform School Fund a restricted account known as the "Public Education Economic Stabilization Restricted Account."

(2) (a) Except as provided in Subsection (2)(b), the account shall be funded from the following revenue sources:

(i) 15% of the difference between, as determined by the Office of the Legislative Fiscal Analyst:

(A) the estimated amount of ongoing Income Tax Fund and Uniform School Fund revenue available for the Legislature to appropriate for the next fiscal year; and

(B) the amount of ongoing appropriations from the Income Tax Fund and Uniform School Fund in the current fiscal year; and

(ii) other appropriations as the Legislature may designate.

(b) If the appropriation described in Subsection (2)(a) would cause the ongoing appropriations to the account to exceed 11% of Uniform School Fund appropriations described in Section 53F-9-201.1 for the same fiscal year, the Legislature shall appropriate only those funds necessary to ensure that the ongoing appropriations to the account equal 11% of Uniform School Fund appropriations for that fiscal year.

(3) Subject to the availability of ongoing appropriations to the account, in accordance with Utah Constitution, Article X, Section 5, Subsection (4), the ongoing appropriation to the account shall be used to fund:

(a) except for a year described in Subsection (3)(b), one-time appropriations to the public education system; and

(b) the Minimum School Program for a year in which Income Tax Fund revenue and Uniform School Fund revenue are insufficient to fund:

(i) ongoing appropriations to the public education system; and

(ii) enrollment growth and inflation estimates, as defined in Section 53F-9-201.1.

(4) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(5) On or before December 31, 2023, and every three years thereafter, the Office of the Legislative Fiscal Analyst shall:

(a) review the percentages described in Subsections (2)(a)(i) and (2)(b); and

(b) recommend to the Executive Appropriations Subcommittee any changes based on the review described in Subsection (5)(a).

(6) In preparing budget bills for a given fiscal year, the Executive Appropriations Committee shall make the one-time appropriations described in Subsection (3)(a) by appropriating at least the lesser of 10% of the total amount of the one-time appropriations; or

(a) the cost of providing 32 paid professional hours for teachers in accordance with Section 53F-7-203; [~~and~~]

(b) the amount to make the distribution required under Section 53F-2-527[~~.~~]; and

(c) the cost of the Rural School Sports Facilities Grant Program described in Section 53F-10-303.

Section 3. Section 53F-10-303 is enacted to read:

53F-10-303. Rural School Sports Facilities Grant Program.

(1) As used in this section:

(a) "Eligible school" means a public school within a school district:

(i) located in a county of the fourth, fifth, or sixth class, as defined in Section 17-50-501; or

(ii) with fewer than 3,000 students enrolled in the school district.

(b) "Program" means the Rural School Sports Facilities Grant Program created in Subsection (2).

(c) "Sports facility" means an indoor or outdoor facility primarily designed and used for athletic activities, physical education, or school-sponsored sports programs.

(2) There is created the Rural School Sports Facilities Grant Program to provide funding to an eligible school for the construction or refurbishment of a sports facility.

(3) The state board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:

(i) create an application process for a school district to apply for program funds;

(ii) select a school to receive program funds in accordance with Subsection (3)(b); and

(iii) establish a system to distribute program funds to a school the state board selects to receive program funds through the program; and

(b) subject to legislative appropriations, prioritize applications and distribute program funds to an eligible school based on:

(i) the greatest need for program funds;

(ii) the financial feasibility of a sports facility construction or refurbishment project; and

(iii) the potential benefit program funds may have on the community.

(4) (a) A school district with jurisdiction over an eligible school may submit an application to receive program funds under this section.

(b) In the school district's application, the school district shall:

(i) identify an eligible school within the school district that wishes to receive program funds;

(ii) evidence the need for construction or refurbishment of a sports facility;

(iii) describe the proposed sports facility project; and

(iv) estimate a budget and timeline for the completion of the sports facility project.

(5) A school district to which the state board awards program funds shall submit a report to the state board, by December 31 each year while construction is ongoing, detailing:

(a) how a school is using program funds to complete the sports facility project;

(b) budget and timeline updates related to the construction or refurbishment of the sports facility; and

(c) the progress of the construction or refurbishment of a sports facility.

(6) Subject to legislative appropriations, the state board may award up to $500,000 to each eligible school the state board selects under the program.

(7) Upon request of the Education Interim Committee, the state board shall report to the Education Interim Committee on:

(a) the number of applications the state board accepts;

(b) the dollar amount of program funds the state board awards under this section;

(c) the implementation of the program; and

(d) the use of program funds.

Section 4. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 4(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - School Building Programs - Public Education Capital Projects

From Public Education Economic Stabilization Restricted Account, One-time - - - - - - - - - - - - - - - - - - - 4,390,000

Schedule of Programs:

Small District Athletic Facilities Grants - 4,390,000

ITEM 2

To State Board of Education - Contracted Initiatives and Grants

Section 5. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 414
S. B. 64
Passed February 28, 2025
Approved March 26, 2025
Effective May 7, 2025

MEDICAL CANNABIS AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill amends provisions related to medical cannabis.

Highlighted Provisions:

This bill:

- ► amends surveillance requirements;
- ► allows the Cannabis Production Establishment and Pharmacy Licensing Advisory Board (licensing board) to renew or approve medical cannabis courier licenses;
- ► allows the licensing board to renew licenses as necessary instead of only in December;
- ► allows a cannabis processing facility to operate at a second location under certain circumstances;
- ► amends reporting requirements;
- ► limits the number of licenses that the Department of Agriculture and Food (department) may issue for cannabis processing facilities;
- ► allows the department to issue letters of concern;
- ► prohibits a medical cannabis pharmacy from allowing the recommendation of medical cannabis near the pharmacy under certain circumstances;
- ► removes the requirement that pharmacy and courier agent registration cards include the agent's employer on the card;
- ► allows for medical cannabis cardholders to bring their own opaque bag or box to transport medical cannabis from the pharmacy;
- ► requires medical cannabis pharmacies and couriers to report a change in ownership at least 45 days before the change occurs;
- ► requires qualified medical provider employee proxies to complete a course on health information privacy;
- ► removes certain information from the medical cannabis card;
- ► repeals provisions related to the Division of Finance and the medical cannabis program;
- ► aligns continuing education provisions of qualified medical providers and pharmacy medical providers;
- ► authorizes the creation of patient product information inserts;
- ► moves the repeal date for the Cannabis Research Review Board earlier one year;
- ► extends the repeal date for the Medical Cannabis Governance Structure Working Group;
- ► includes a coordination clause with H.B. 21, Criminal Code Recodification and Cross References, to align a definition and cross reference; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-41a-102, as last amended by Laws of Utah 2024, Chapters 217, 238 and 240
4-41a-103, as last amended by Laws of Utah 2023, Chapter 327
4-41a-201, as last amended by Laws of Utah 2024, Chapter 217
4-41a-201.1, as last amended by Laws of Utah 2024, Chapter 217
4-41a-204, as last amended by Laws of Utah 2023, Chapter 327
4-41a-205, as last amended by Laws of Utah 2020, Chapter 12
4-41a-401, as last amended by Laws of Utah 2024, Chapter 217
4-41a-801, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
4-41a-802, as last amended by Laws of Utah 2024, Chapter 217
4-41a-1001, as last amended by Laws of Utah 2024, Chapters 217, 238 and 240
4-41a-1005, as last amended by Laws of Utah 2024, Chapter 217
4-41a-1101, as last amended by Laws of Utah 2024, Chapter 217
4-41a-1102, as last amended by Laws of Utah 2024, Chapters 217, 240
4-41a-1106, as last amended by Laws of Utah 2024, Chapter 217
4-41a-1202, as last amended by Laws of Utah 2024, Chapters 217, 240
4-41a-1204, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

26B-1-435, as last amended by Laws of Utah 2024, Chapters 238, 240
26B-4-201, as last amended by Laws of Utah 2024, Chapters 217, 240
26B-4-202, as last amended by Laws of Utah 2024, Chapters 217, 240
26B-4-204, as last amended by Laws of Utah 2024, Chapter 217
26B-4-213, as last amended by Laws of Utah 2024, Chapters 217, 240
26B-4-219, as last amended by Laws of Utah 2024, Chapter 507
26B-4-222, as last amended by Laws of Utah 2024, Chapter 240
26B-4-243, as enacted by Laws of Utah 2023, Chapter 281
63I-2-204, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-226, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-236, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

REPEALS:

4-41a-108, as renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
4-41a-801.1, as renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

Utah Code Sections Affected by Coordination Clause:

AMENDS:

4-41a-102, as last amended by Laws of Utah 2024, Chapters 217, 238 and 240

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-102 is amended to read:
4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoid;

(f) toxins; or

(g) foreign matter.

(2) "Advertise" or "advertising" means information provided by a person in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

(3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(4) (a) "Anticompetitive business practice" [~~means any practice that reduces the amount of competition in the medical cannabis market that would be considered an attempt to monopolize, as defined in Section 76-10-3103~~]means any practice that is an illegal anticompetitive activity under Section 76-10-3104.

(b) "Anticompetitive business practice" may include:

(i) agreements that may be considered unreasonable when competitors interact to the extent that they are:

(A) no longer acting independently; or

(B) when collaborating are able to wield market power together;

(ii) monopolizing or attempting to monopolize trade by:

(A) acting to maintain or acquire a dominant position in the market; or

(B) preventing new entry into the market; or

(iii) other conduct outlined in rule.

(5) (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(6) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(7) "Cannabis" means the same as that term is defined in Section 26B-4-201.

(8) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural cannabinoid or artificially derived cannabinoid in an artificially derived cannabinoid's purified state.

(9) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

(10) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

(11) "Cannabis cultivation facility agent" means an individual who a cannabis cultivation facility designation.

(12) "Cannabis derivative product" means a product made using cannabis concentrate.

(13) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

(14) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

(15) "Cannabis processing facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

(16) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

(17) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(18) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(19) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(20) "Closed-door medical cannabis pharmacy" means a facility operated by a home delivery medical cannabis pharmacy for delivering cannabis or a medical cannabis product.

(21) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(22) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

(23) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility:

(i) the medical cannabis cardholder's home address; or

(ii) an address designated by the medical cannabis cardholder that:

(A) is the medical cannabis cardholder's workplace; and

(B) is not a community location; or

(b) for a medical cannabis cardholder that is a facility, the facility's address.

(24) "Department" means the Department of Agriculture and Food.

(25) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(26) "Government issued photo identification" means the same as that term is defined in Section 26B-4-201, including expired identification in accordance with Section 26B-4-244.

(27) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.

(28) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

(29) "Independent cannabis testing laboratory agent" means an individual who holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.

(30) "Inventory control system" means a system described in Section 4-41a-103.

(31) "Licensing board" or "board" means the Cannabis Production Establishment and Pharmacy Licensing Advisory Board created in Section 4-41a-201.1.

(32) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.

(33) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.

(34) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 4-41a-1201; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

(35) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

(36) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

(37) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.

(38) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

(39) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

(40) "Medical cannabis shipment" means a shipment of medical cannabis that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

(41) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.

(42) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

(43) "Patient product information insert" means the same as that term is defined in Section 26B-4-201.

[~~(43)~~](44) "Pharmacy ownership limit" means an amount equal to 30% of the total number of medical cannabis pharmacy licenses issued by the department rounded down to the nearest whole number.

[~~(44)~~](45) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(45)~~](46) "Qualified medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(46)~~](47) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

[~~(47)~~](48) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(48)~~](49) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

[~~(49)~~](50) "State electronic verification system" means the system described in Section 26B-4-202.

[~~(50)~~](51) "Targeted marketing" means the promotion of a cannabis product, medical cannabis brand, or a medical cannabis device using any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

(b) an in-person marketing event that is:

(i) held inside a medical cannabis pharmacy; and

(ii) in an area where only a medical cannabis cardholder may access the event;

(c) other marketing material that is physically available or digitally displayed in a medical cannabis pharmacy; or

(d) a leaflet a medical cannabis pharmacy places in the opaque package or box that is provided to an individual when obtaining medical cannabis:

(i) in the medical cannabis pharmacy;

(ii) at the medical cannabis pharmacy's drive-through pick up window; or

(iii) in a medical cannabis shipment.

[~~(51)~~](52) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

(53) "Tier one cannabis processing facility" means a cannabis processing facility that is able to:

(a) create cannabis concentrate;

(b) create cannabis derivative product; and

(c) package and label medical cannabis.

(54) "Tier two cannabis processing facility" means a cannabis processing facility that is able to package and label medical cannabis only if the medical cannabis is a cannabis plant product.

[~~(52)~~](55) "THC analog" means the same as that term is defined in Section 4-41-102.

[~~(53)~~](56) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

[~~(54)~~](57) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 2. Section 4-41a-103 is amended to read:

4-41a-103. Inventory control system.

(1) Each cannabis production establishment and each medical cannabis pharmacy shall maintain an inventory control system that meets the requirements of this section.

(2) A cannabis production establishment and a medical cannabis pharmacy shall ensure that the inventory control system maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

(b) maintains in real time a record of the amount of cannabis and cannabis products in the possession of the establishment or pharmacy; and

[~~(c) includes a video recording system that:~~]

[~~(i) tracks all handling and processing of cannabis or a cannabis product in the establishment or pharmacy;~~]

[~~(ii) is tamper proof; and~~]

[~~(iii) stores a video record for at least 45 days; and~~]

[~~(d)~~](c) preserves compatibility with the state electronic verification system described in Section 26B-4-202.

(3) A cannabis production establishment and a medical cannabis pharmacy shall allow the following to access the cannabis production establishment's or the medical cannabis pharmacy's inventory control system at any time:

(a) the department; and

(b) the Department of Health and Human Services[~~; and~~].

[~~(c) a financial institution that the Division of Finance validates, in accordance with Subsection (6).~~]

(4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.

(b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.

(6) (a) The department may provide reports from the inventory control system to a financial institution to allow them to reconcile transactions and other financial activity of cannabis production establishments, medical cannabis pharmacies, and medical cannabis couriers that use financial services that the financial institution provides.

(b) A report:

(i) may only include information related to financial transactions; and

(ii) may not include any identifying patient information.

[~~(6) (a) The Division of Finance shall, in consultation with the state treasurer:~~]

[~~(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:~~]

[~~(A) establish a process for validating financial institutions for access to an inventory control system in accordance with Subsections (3)(c) and (6)(b); and~~]

[~~(B) establish qualifications for the validation described in Subsection (6)(a)(i)(A);~~]

[~~(ii) review applications the Division of Finance receives in accordance with the process established under Subsection (6)(a)(i);~~]

[~~(iii) validate a financial institution that meets the qualifications described in Subsection (6)(a)(i); and~~]

[~~(iv) provide a list of validated financial institutions to the department and the Department of Health and Human Services.~~]

[~~(b) A financial institution that the Division of Finance validates under Subsection (6)(a):~~]

[~~(i) may only access an inventory control system for the purpose of reconciling transactions and other financial activity of cannabis production establishments, medical cannabis pharmacies, and medical cannabis couriers that use financial services that the financial institution provides;~~]

[~~(ii) may only access information related to financial transactions; and~~]

[~~(iii) may not access any identifying patient information.~~]

Section 3. Section 4-41a-201 is amended to read:

4-41a-201. Cannabis production establishment -- License.

(1) Except as provided in Subsection (14), a person may not operate a cannabis production establishment without a license that the department issues under this chapter.

(2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205, for a licensing process that the department initiates after March 17, 2021, the department, through the licensing board, shall issue licenses in accordance with Section 4-41a-201.1.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(iii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the licensing board:

(i) subject to Subsection (2)(c), a proposed name and each address[~~or, for a cannabis cultivation facility, addresses of no more than two facility locations~~], located in a zone described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;

(ii) the name and address of any individual who has:

(A) for a publicly traded company, a financial or voting interest of 10% or greater in the proposed cannabis production establishment;

(B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or

(C) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department or licensing board approves;

(iv) a statement that the applicant will obtain and maintain a liquid cash account with a financial institution or a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) $100,000 for each cannabis cultivation facility for which the applicant applies; or

(B) $50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) If the licensing board approves an application for a license under this section and Section 4-41a-201.1:

(a) the applicant shall pay the [~~departmentan~~]department an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) (a) Except as provided in [~~Subsection (4)(b)~~]this Subsection (4), a cannabis production establishment shall obtain a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The licensing board may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(c) A cannabis cultivation facility may operate at two addresses under a single license.

(d) A tier one cannabis processing facility may operate at a second address under the same tier one license if:

(i) the second address is co-located at a cannabis cultivation facility operated by the same licensee; and

(ii) the licensee pays a fee of $70,000 for the second location.

(e) An applicant for a tier two cannabis processing facility license that has a cannabis cultivation facility license and intends to process cannabis at the cannabis cultivation facility shall pay a fee of $25,000 for the tier two cannabis processing facility license.

(5) If the licensing board receives more than one application for a cannabis production establishment within the same city or town, the licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The licensing board may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The licensing board may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony in the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(8) (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under this title, the licensing board may give consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license if:

(i) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(ii) the licensing board finds multiple other factors, in addition to the existing license, that support granting the new license.

(9) The licensing board may revoke a license under this part:

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the licensing board issues the initial license;

(b) after the third of the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter;

(f) if, after a change of ownership described in Subsection (15)(b), the board determines that the cannabis production establishment no longer meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter;

(g) for an independent cannabis testing laboratory, if the independent cannabis testing laboratory fails to substantially meet the performance standards described in Subsection (14)(b); or

(h) if, following an investigation conducted pursuant to Subsection 4-41a-201.1(11), the board [~~identifies~~]finds that the licensee has participated in an anticompetitive business [~~practices~~]practice.

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the licensing board issues the license.

(b) If a licensee fails to submit to the licensing board a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the licensing board may revoke the licensee's license.

(11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

(12) The department shall begin accepting applications under this part on or before January 1, 2020.

(13) (a) The department's authority, and consequently the licensing board's authority, to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(14) (a) Notwithstanding this section, the department:

(i) may operate or partner with a research university to operate an independent cannabis testing laboratory;

(ii) if the department operates or partners with a research university to operate an independent cannabis testing laboratory, may not cease operating or partnering with a research university to operate the independent cannabis testing laboratory unless:

(A) the department issues at least two licenses to independent cannabis testing laboratories; and

(B) the department has ensured that the licensed independent cannabis testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical cannabis market; and

(iii) after ceasing department or research university operations under Subsection (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any time if:

(A) fewer than two licensed independent cannabis testing laboratories are operating; or

(B) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.

(b) (i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish performance standards for the operation of an independent cannabis testing laboratory, including deadlines for testing completion.

(ii) A license that the department issues to an independent cannabis testing laboratory is contingent upon substantial satisfaction of the performance standards described in Subsection (14)(b)(i), as determined by the board.

(15) (a) A cannabis production establishment license is not transferable or assignable.

(b) If the ownership of a cannabis production establishment changes by 50% or more:

(i) the cannabis production establishment shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the board shall:

(A) conduct the application review described in Section 4-41a-201.1; and

(B) award a license to the cannabis production establishment for the remainder of the term of the cannabis production establishment's license before the ownership change if the cannabis production establishment meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; and

(iii) if the board approves the license application, notwithstanding Subsection (3), the cannabis production establishment shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 4. Section 4-41a-201.1 is amended to read:

4-41a-201.1. Cannabis Production Establishment and Pharmacy Licensing Advisory Board -- Composition -- Duties.

(1) There is created within the department the Cannabis Production Establishment and Pharmacy Licensing Advisory Board.

(2) The commissioner shall:

(a) appoint the members of the [~~board~~]licensing board;

(b) submit the name of each individual that the commissioner appoints under Subsection (2)(a) to the governor for confirmation or rejection; and

(c) if the governor rejects an appointee that the commissioner submits under Subsection (2)(b), appoint another individual in accordance with this Subsection (2).

(3) (a) Except as provided in Subsection [~~(3)(c)~~](3)(b), the [~~board~~]licensing board shall consist of the following eight members:

(i) the following seven voting members whom the commissioner appoints:

(A) one member of the public;

(B) one member with knowledge and experience in the pharmaceutical or nutraceutical manufacturing industry;

(C) one member representing law enforcement;

(D) one member whom an organization representing medical cannabis patients recommends;

(E) a chemist who has experience with cannabis and who is associated with a research university;

(F) a pharmacist who is not associated with the medical cannabis industry; and

(G) an accountant; and

(ii) the commissioner or the commissioner's designee as a non-voting member, except to cast a deciding vote in the event of a tie.

(b) The commissioner may appoint a ninth member to the [~~board~~]licensing board who has a background in the cannabis cultivation and processing industry.

(c) The commissioner or the commissioner's designee shall serve as the chair of the [~~board~~]licensing board.

(d) An individual is not eligible for appointment to be a member of the [~~board~~]licensing board if the individual:

(i) has any commercial or ownership interest in a cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier;

(ii) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier; or

(iii) is employed or contracted to lobby on behalf of any cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier.

(4) (a) Except as provided in Subsection (4)(b), a voting [~~board~~]licensing board member shall serve a term of four years, beginning July 1 and ending June 30.

(b) Notwithstanding Subsection (4)(a), for the initial appointments to the [~~board~~]licensing board, the commissioner shall stagger the length of the terms of [~~board~~]licensing board members to ensure that the commissioner appoints two or three [~~board~~]licensing board members every two years.

(c) As a [~~board~~]licensing board member's term expires:

(i) the [~~board~~]licensing board member is eligible for reappointment; and

(ii) the commissioner shall make an appointment, in accordance with Subsection (2), for the new term before the end of the member's term.

(d) When a vacancy occurs on the [~~board~~]licensing board for any reason other than the expiration of a [~~board~~]licensing board member's term, the commissioner shall appoint a replacement to the vacant position, in accordance with Subsection (2), for the unexpired term.

(e) In making appointments, the commissioner shall ensure that no two members of the [~~board~~]licensing board are employed by or represent the same company or nonprofit organization.

(f) The commissioner may remove a [~~board~~]licensing board member for cause, neglect of duty, inefficiency, or malfeasance.

(5) (a) (i) Five members of the [~~board~~]licensing board constitute a quorum of the [~~board~~]licensing board.

(ii) An action of the majority of the [~~board~~]licensing board members when a quorum is present constitutes an action of the [~~board~~]licensing board.

(b) The department shall provide staff support to the [~~board~~]licensing board.

(c) A member of the [~~board~~]licensing board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106and 63A-3-107.

(6) The [~~board~~]licensing board shall:

(a) meet as called by the chair to review cannabis production establishment [~~and~~], medical cannabis pharmacy, and medical cannabis courier license applications;

(b) review each license application for compliance with:

(i) this chapter; and

(ii) department rules;

(c) conduct a public hearing to consider the license application;

(d) approve the department's license application forms and checklists; and

(e) make a determination on each license application.

(7) The [~~board~~]licensing board shall hold a public hearing to review a cannabis production establishment's or medical cannabis pharmacy's license if the establishment:

(a) changes ownership by an interest of 20% or more;

(b) changes or adds a location;

(c) upgrades to a different licensing tier under department rule;

(d) changes extraction or formulation standard operating procedures;

(e) adds an industrial hemp processing or cultivation license to the same location as the cannabis production establishment's processing facility; or

(f) as necessary based on the recommendation of the department.

(8) In a public hearing held under Subsection (7), the [~~board~~]licensing board may consider the following in determining whether to approve a request to change pharmacy locations:

(a) medical cannabis availability, quality, and variety;

(b) whether geographic dispersal among licensees is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders;

(c) the extent to which the pharmacy can increase efficiency and reduce the cost to patients of medical cannabis; and

(d) the factors listed in Subsection 4-41a-1004(7).

(9) In a public hearing held pursuant to Subsection (7), the [~~board~~]licensing board may not approve a request to change a medical cannabis pharmacy location outside of the pharmacy's current region established under Subsection 4-41a-1005(1)(c)(ii)(A).

(10) (a) The [~~board~~]licensing board shall meet [~~annually in December~~]as necessary to consider cannabis production establishment[~~and~~], medical cannabis pharmacy, and medical cannabis courier license renewal applications.

(b) During the meeting described in Subsection (10)(a):

(i) a representative from each applicant for renewal shall:

(A) attend in person or electronically; or

(B) submit information before the meeting, as the [~~board~~]licensing board may require, for the [~~board's~~]licensing board's consideration;

(ii) the [~~board~~]licensing board shall consider, for each cannabis cultivation facility seeking renewal, information including:

(A) the amount of biomass the licensee produced during the current calendar year;

(B) the amount of biomass the licensee projects to produce during the following year;

(C) the amount of hemp waste the licensee currently holds;

(D) the current square footage or acres of growing area the licensee uses; and

(E) the square footage or acres of growing area the licensee projects to use in the following year;

(iii) the [~~board~~]licensing board shall consider, for each cannabis processing facility seeking renewal, information including:

(A) methods and procedures for extraction;

(B) standard operating procedures; and

(C) a complete listing of the medical dosage forms that the licensee produces; and

(iv) the [~~board~~]licensing board shall consider, for each cannabis pharmacy seeking renewal, information including:

(A) product availability, quality, and variety;

(B) the pharmacy's operating procedures and practices; and

(C) the factors listed in Subsection 4-41a-1003(1).

(c) Following consideration of the information provided under Subsection (10)(b), the [~~board~~]licensing board may elect to approve, deny, or issue conditional approval of a cannabis production establishment or pharmacy license renewal application.

(d) The information a licensee or license applicant provides to the [~~board~~]licensing board for a license determination constitutes a protected record under Subsection 63G-2-305(1) or (2) if the applicant or licensee provides the [~~board~~]licensing board with the information regarding business confidentiality required in Section 63G-2-309.

(11) (a) In cooperation with the attorney general, the [~~board~~]licensing board may investigate information received by the department indicating that a licensee is potentially engaging in anticompetitive business practices.

(b) In investigating potential anticompetitive business practices under this section, the attorney general may issue civil investigative demands as set forth in Section 76-10-3107.

(12) The department shall:

(a) provide staff support for the licensing board;

(b) assist the licensing board in conducting meetings; and

(c) review all submitted applications for completion and accuracy.

Section 5. Section 4-41a-204 is amended to read:

4-41a-204. Operating plan.

(1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of [~~the~~]each proposed facility[~~or, for a cannabis cultivation facility, no more than two facility locations~~], including a floor plan and an architectural elevation;

(b) a description of the credentials and experience of:

(i) each officer, director, and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26B-4-202;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

(g) for a cannabis cultivation facility, the information described in Subsection (2);

(h) for a cannabis processing facility, the information described in Subsection (3); and

(i) for an independent cannabis testing laboratory, the information described in Subsection (4).

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:

(i) cannabis cultivation practices, including the facility's intended pesticide use and fertilizer use; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.

(b) Except as provided in Subsection (2)(c)(i) or (c)(ii), a cannabis cultivation facility may not:

(i) for a facility that cultivates cannabis only indoors, use more than 100,000 total square feet of cultivation space;

(ii) for a facility that cultivates cannabis only outdoors, use more than four acres for cultivation; and

(iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).

(c) (i) Each licensee may apply to the department for:

(A) a one-time, permanent increase of up to 20% of the limitation on the cannabis cultivation facility's cultivation space; or

(B) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on the cannabis cultivation facility's cultivation space.

(ii) After conducting a review equivalent to the review described in Subsection 4-41a-205(2)(a), if the department determines that

additional cultivation is needed, the department may:

(A) grant the one-time, permanent increase described in Subsection (2)(c)(i)(A); or

(B) grant the short-term increase described in Subsection (2)(c)(i)(B).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b), the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation.

(e) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor cultivation that:

(i) does not exceed, in estimated cultivation yield, the aggregate limitations described in Subsection (2)(b)(i) or (ii); and

(ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

(f) (i) The department may authorize a cannabis cultivation facility to operate at no more than two separate locations.

(ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two cannabis cultivation facility locations combined may not exceed the cultivation limitations described in this Subsection (2).

(3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:

(a) offered variety of cannabis product;

(b) cannabinoid extraction method;

(c) cannabinoid extraction equipment;

(d) processing equipment;

(e) processing techniques; and

(f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:

(a) cannabis and cannabis product testing capability;

(b) cannabis and cannabis product testing equipment; and

(c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

(5) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

Section 6. Section 4-41a-205 is amended to read:

4-41a-205. Number of licenses -- Cannabis cultivation facilities.

(1) Except as provided in Subsection (2)(a), the department shall issue at least five but not more than eight licenses to operate a cannabis cultivation facility.

(2) (a) The department may issue a number of licenses to operate a cannabis cultivation facility that, in addition to the licenses described in Subsection (1), does not cause the total number of licenses to exceed 15 if the department determines, in consultation with the Department of Health and Human Services and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(b) If the recipient of one of the initial licenses described in Subsection (1) ceases operations for any reason or otherwise abandons the license, the department may but is not required to grant the vacant license to another applicant based on an analysis as described in Subsection (2)(a).

(3) If there are more qualified applicants than the number of available licenses for cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the applicants and award the limited number of licenses described in Subsections (1) and (2) to the applicants that best demonstrate:

(a) experience with establishing and successfully operating a business that involves:

(i) complying with a regulatory environment;

(ii) tracking inventory; and

(iii) training, evaluating, and monitoring employees;

(b) an operating plan that will best ensure the safety and security of patrons and the community;

(c) positive connections to the local community; and

(d) the extent to which the applicant can increase efficiency and reduce the cost to patients of medical cannabis.

(4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

(5) The licensing board may not issue more than 18 tier one cannabis processing facility licenses.

Section 7. Section 4-41a-401 is amended to read:

4-41a-401. Cannabis production establishment -- General operating requirements.

(1) (a) A cannabis production establishment shall operate in accordance with the operating plan described in Sections 4-41a-201 and 4-41a-204.

(b) A cannabis production establishment shall notify the department before a change in the cannabis production establishment's operating plan.

(c) (i) If a cannabis production establishment changes the cannabis production establishment's operating plan, the establishment shall ensure that the new operating plan complies with this chapter.

(ii) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to:

(A) review a change notification described in Subsection (1)(b);

(B) identify for the cannabis production establishment each point of noncompliance between the new operating plan and this chapter;

(C) provide an opportunity for the cannabis production establishment to address each identified point of noncompliance; and

(D) suspend or revoke a license if the cannabis production establishment fails to cure the noncompliance.

(2) A cannabis production establishment shall operate:

(a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid cannabis production establishment agent registration card issued under Section 4-41a-301; and

(b) at the physical address provided to the department under Section 4-41a-201.

(3) A cannabis production establishment may not employ an individual who is younger than 21 years old.

(4) A cannabis production establishment may not employ an individual who has been convicted, under state or federal law, of:

(a) a felony in the preceding 10 years; or

(b) after December 3, 2018, a misdemeanor for drug distribution.

(5) A cannabis production establishment may authorize an individual who is at least 18 years old and is not a cannabis production establishment agent to access the cannabis production establishment if the cannabis production establishment:

(a) tracks and monitors the individual at all times while the individual is at the cannabis production establishment; and

(b) maintains a record of the individual's access, including arrival and departure.

(6) A cannabis production establishment shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the cannabis production establishment; and

(ii) provides notice of an unauthorized entry to law enforcement when the cannabis production establishment is closed; and

(c) a lock or equivalent restrictive security feature on any area where the cannabis production establishment stores cannabis or a cannabis product.

(7) (a) A cannabis production establishment shall maintain a video surveillance system that:

(i) tracks all handling and processing of cannabis or a cannabis product in the establishment;

(ii) is tamper proof; and

(iii) stores a video record for at least 45 days.

(b) A cannabis production establishment shall provide the department access to the video surveillance system upon request.

Section 8. Section 4-41a-801 is amended to read:

4-41a-801. Enforcement -- Fine -- Citation.

(1) (a) If a person that is a cannabis production establishment, [~~or~~]a cannabis production establishment agent, a medical cannabis pharmacy, a medical cannabis pharmacy agent, or a medical cannabis courier, violates this chapter, the department may:

[~~(a)~~](i) revoke the person's license or [~~cannabis production establishment~~]agent registration card;

[~~(b)~~](ii) decline to renew the person's license or [~~cannabis production establishment~~]agent registration card; [~~or~~]

[~~(c)~~](iii) assess the person an administrative penalty that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~.~~]; or

(iv) provide a letter of concern in accordance with Subsection (8).

(b) Except for a violation that threatens public health or for the third violation of the same rule or statute in a 24-month period, the department shall issue a letter of concern before taking other administrative action under this section.

(2) The department shall deposit an administrative penalty imposed under this section into the General Fund.

(3) (a) The department may take an action described in Subsection (3)(b) if the department concludes, upon investigation, that, for a person that is a cannabis production establishment[~~or~~], a cannabis production establishment agent, a medical cannabis pharmacy, a medical cannabis pharmacy agent, or a medical cannabis courier:

(i) the person has violated the provisions of this chapter, a rule made under this chapter, or an order issued under this chapter; or

(ii) the person produced cannabis or a cannabis product batch that contains a substance, other than cannabis, that poses a significant threat to human health.

(b) If the department makes the determination about a person described in Subsection (3)(a), the department [~~shall~~]may:

(i) issue the person a written administrative citation;

(ii) attempt to negotiate a stipulated settlement;

(iii) seize, embargo, or destroy the cannabis or cannabis product batch;

(iv) order the person to cease and desist from the action that creates a violation; [~~and~~]or

(v) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(4) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, for a fine amount not already specified in law, assess the person, who is not an individual, a fine of up to $5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) The department may not revoke a [~~cannabis production establishment's~~]license without first directing the [~~cannabis production establishment~~]licensee to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(6) If within 20 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(7) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or [~~cannabis production establishment~~]agent registration card; or

(b) suspend, revoke, or place on probation the person's license or [~~cannabis production establishment~~]registration card.

(8) (a) A letter of concern shall describe:

(i) the violation including the statute or rule being violated;

(ii) possible options to remedy the issue; and

(iii) possible consequences for not remedying the violation.

(b) Under a letter of concern, the department shall provide the person at least 30 days to remedy the violation.

(c) If the person fails to remedy the violation described in a letter of concern, the department may take other enforcement action as described in this section.

(d) If a letter of concern is resolved without an enforcement action being taken under Subsection (8)(c), the department may not report that a letter of concern was issued to the licensing board.

[~~(8)~~](9) (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, or where civil and criminal penalties are provided for violations of Section 76-10-31, if an individual:

(i) violates a provision of this chapter, the individual is:

(A) guilty of an infraction; and

(B) subject to a $100 fine; or

(ii) intentionally or knowingly violates a provision of this chapter or violates this chapter three or more times, the individual is:

(A) guilty of a class B misdemeanor; and

(B) subject to a $1,000 fine.

(b) An individual who is guilty of a violation described in Subsection [~~(8)(a)~~](9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection [~~(8)(a)~~](9)(a).

[~~(9)~~](10) Nothing in this section prohibits:

(a) the department from referring potential criminal activity to law enforcement[~~.~~]; or

(b) the attorney general from investigating or prosecuting individuals or businesses for violations of Title 76, Chapter 10, Part 31, Utah Antitrust Act.

Section 9. Section 4-41a-802 is amended to read:

4-41a-802. Report.

(1) At or before the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications that the department receives under this chapter;

(b) the number of each type of [~~cannabis production facility~~]license that the department [~~licenses~~]issues in each county;

(c) the amount of cannabis that licensees grow;

(d) the amount of cannabis that licensees manufacture into cannabis products;

(e) the number of licenses the department revokes under this chapter;

(f) the department's operation of an independent cannabis testing laboratory under Section 4-41a-201, including:

(i) the cannabis and cannabis products the department tested; and

(ii) the results of the tests the department performed;

(g) the expenses incurred and revenues generated under this chapter; [~~and~~]

(h) the total quantity of medical cannabis shipments;

(i) the number of overall purchases of medical cannabis from each medical cannabis pharmacy; and

[~~(h)~~](j) an analysis of product availability in medical cannabis pharmacies in consultation with the Department of Health and Human Services.

(2) The department may not include personally identifying information in the report described in this section.

(3) The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 10. Section 4-41a-1001 is amended to read:

4-41a-1001. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not:

(a) operate as a medical cannabis pharmacy without a license that the department issues under this part;

(b) obtain a medical cannabis pharmacy license if obtaining the license would cause the person to exceed the pharmacy ownership limit;

(c) obtain a partial ownership share of a medical cannabis pharmacy if obtaining the partial ownership share would cause the person to exceed the pharmacy ownership limit; or

(d) enter into any contract or agreement that allows the person to directly or indirectly control the operations of a medical cannabis pharmacy if the person's control of the medical cannabis pharmacy would cause the person to effectively exceed the pharmacy ownership limit.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 4-41a-1005, the [~~department shall issue a license to operate a medical cannabis pharmacy through the licensing board created under Section 4-41a-201.1~~]licensing board shall issue a license to operate a medical cannabis pharmacy.

(ii) The [~~department~~]licensing board may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the [~~department~~]licensing board:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 10% or greater in the proposed medical cannabis pharmacy;

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;

(iii) for each application that the applicant submits to the department, a statement from the applicant that the applicant will obtain and maintain:

(A) a performance bond in the amount of $100,000 issued by a surety authorized to transact surety business in the state; or

(B) a liquid cash account in the amount of $100,000 with a financial institution;

(iv) an operating plan that:

(A) complies with Section 4-41a-1004;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this part and with a relevant municipal or county law that is consistent with Section 4-41a-1106; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The [~~department~~]licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to cite the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The [~~department~~]licensing board may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant complies with the bond or liquid cash requirement described in Subsection (2)(b)(iii).

(e) If the [~~department~~]licensing board receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(f) In considering the issuance of a medical cannabis pharmacy license under this section, the [~~department~~]licensing board may consider the extent to which the pharmacy can increase efficiency and reduce cost to patients of medical cannabis.

(3) If the [~~department~~]licensing board selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504;

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii); and

(c) charge the licensee a fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

(4) The [~~department~~]licensing board may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony in the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5) (a) If an applicant for a medical cannabis pharmacy license under this section holds another license under this chapter, the [~~department~~]licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under this section, the [~~department~~]licensing board may give consideration to the applicant's status as a holder of the license if:

(i) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(ii) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

(6) The [~~licensing board~~]licensing board may revoke a license under this part:

(a) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the department's intent to award a license to the medical cannabis pharmacy;

(b) after the third of the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(c) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(e) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter;

(f) if, after a change of ownership described in Subsection [~~(11)(c)~~](10)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; or

(g) if through an investigation conducted under Subsection 4-41a-201.1(11) and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the [~~board~~]licensing board finds that the licensee has participated in anticompetitive business practices.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed

medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Production Enterprise Fund.

[~~(9) The department shall begin accepting applications under this part on or before March 1, 2020.~~]

[~~(10)~~](9) (a) The [~~department's~~]licensing board's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

[~~(11)~~](10) (a) A medical cannabis pharmacy license is not transferable or assignable.

(b) A medical cannabis pharmacy shall report in writing to the department no later than [~~10~~]45 business days before the date of any change of ownership of the medical cannabis pharmacy.

(c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

(i) concurrent with the report described in Subsection [~~(11)(b)~~](10)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the [~~department~~]licensing board shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the department's cost of conducting the application review.

Section 11. Section 4-41a-1005 is amended to read:

4-41a-1005. Maximum number of licenses.

(1) (a) Except as provided in Subsection (1)(b) or (d), if a sufficient number of applicants apply, the department shall issue up to 15 medical cannabis pharmacy licenses in accordance with this section.

(b) If an insufficient number of qualified applicants apply for the available number of medical cannabis pharmacy licenses, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.

(ii) The department shall:

(A) divide the state into no less than four geographic regions, set by the department in rule;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.

(iii) In issuing a 15th license under Subsection (1), the department shall ensure that the license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah, Carbon, Sevier, Emery, Grand, or San Juan County.

(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Health and Human Services and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i); and

(B) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A).

(2) (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

(i) evaluate each applicant and award the license to the applicant that best demonstrates:

(A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(B) an operating plan that will best ensure the safety and security of patrons and the community;

(C) positive connections to the local community;

(D) the suitability of the proposed location and the location's accessibility for qualifying patients;

(E) the extent to which the applicant can increase efficiency and reduce the cost of medical cannabis for patients; and

(F) a strategic plan described in Subsection 4-41a-1004(7) that has a comparatively high likelihood of success; and

(ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to[~~:~~]

[~~(i)~~] operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates[~~; and~~].

[~~(ii) accept payments through:~~]

[~~(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 4-41a-108; or~~]

[~~(B) a financial institution in accordance with Subsection 4-41a-108(4).~~]

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

Section 12. Section 4-41a-1101 is amended to read:

4-41a-1101. Operating requirements -- General.

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 4-41a-1001; and

(ii) in accordance with the operating plan provided to the department under Section 4-41a-1001 and, if applicable, Section 4-41a-1004.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

(b) except as provided in Subsection (4):

(i) possesses a valid:

(A) medical cannabis pharmacy agent registration card;

(B) pharmacy medical provider registration card; or

(C) medical cannabis card;

(ii) is an employee of the department performing an inspection under Section 4-41a-1103; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(5) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 4-41a-1102(2).

(7) Except for an emergency situation described in Subsection [~~26B-4-213(3)(e)~~]26B-4-213(3)(b), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(8) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

(9) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the recommending medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection (9)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the recommending medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the requirement to provide the following information under Subsection (9)(b)(i) if the information is already provided on the product label that a cannabis production establishment affixes:

(A) a unique identification number;

(B) directions for use and cautionary statements;

(C) amount and cannabinoid content; and

(D) a suggested use date.

(iii) If the size of a medical cannabis container does not allow sufficient space to include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis pharmacy may provide the following information described in Subsection (9)(b)(i) on a supplemental label attached to the container or an informational enclosure that accompanies the container:

(A) the cannabinoid content;

(B) the suggested use date; and

(C) any other requirements that the department determines.

(iv) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (9)(b)(i).

(10) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a limited medical provider in accordance with Subsections 26B-4-204(1)(b) through (d):

(i) for a written order or an electronic order under circumstances that the department determines, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and

(ii) for an order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (10)(a)(i) or an electronic order that is not subject to verification under Subsection (10)(a)(i), enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26B-4-213(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

(c) unless the medical cannabis cardholder has had a consultation under Subsection 26B-4-231(5), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(11) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis or cannabis residue from a medical cannabis device in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis by:

(i) rendering the deposited medical cannabis unusable and unrecognizable before transporting deposited medical cannabis from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) A medical cannabis pharmacy:

(a) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(b) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(c) shall ensure that a pharmacy medical provider described in Subsection (12)(a) works onsite during all business hours;

(d) shall designate one pharmacy medical provider described in Subsection (12)(a) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy; [~~and~~]

(e) shall allow the pharmacist-in-charge to determine which cannabis and cannabis products the medical cannabis pharmacy maintains in the medical cannabis pharmacy's inventory[~~.~~];

(f) shall maintain a video surveillance system that:

(i) tracks all handling of medical cannabis in the pharmacy;

(ii) is tamper proof; and

(iii) stores a video record for at least 45 days;

(g) shall provide the department access to the video surveillance system upon request;

(h) if a patient product information insert is available, shall provide a patient who purchases a medical cannabis product the medical cannabis product's patient product information insert using any of the following methods:

(i) a physical document;

(ii) an email message;

(iii) a text message; or

(iv) a quick response code; and

(i) may not allow a recommending medical provider to recommend medical cannabis as part of an event that:

(i) is a temporary gathering, market, clinic, or promotional event;

(ii) operates in a temporary tent or structure; and

(iii) is held within 500 feet of the medical cannabis pharmacy's property line.

(13) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section 13. Section 4-41a-1102 is amended to read:

4-41a-1102. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

(1) (a) A medical cannabis pharmacy may not sell a product other than:

[~~(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;~~]

[~~(ii)~~](i) [~~a cannabis product in a medicinal dosage form~~]medical cannabis that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

[~~(iii)~~](ii) a medical cannabis device; or

[~~(iv)~~](iii) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card; or

(B) a Department of Health and Human Services registration described in Subsection 26B-4-213(10); and

(ii) a corresponding government issued photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device or medical cannabis to an individual described in Subsection 26B-4-213(2)(a)(i)(B) or to a minor described in Subsection 26B-4-213(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26B-1-421(5).

(2) A medical cannabis pharmacy:

(a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) except for a medical cannabis cardholder approved under Subsection 26B-4-245(2), more medical cannabis than described in Subsection (2)(a); or

(ii) any medical cannabis to an individual whose recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection 26B-4-231(5).

(3) (a) A medical cannabis pharmacy shall:

(i) (A) access the state electronic verification system before dispensing [~~cannabis or a cannabis product~~]medical cannabis to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and

(B) if the verification in Subsection (3)(a)(i)(A) indicates that the individual has met the maximum amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;

(ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;

(iv) package any medical cannabis [~~that is~~]in a container that:

(A) complies with Subsection 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26B-4-201; and

(B) is tamper-resistant and tamper-evident; [~~and~~]

[~~(C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public;~~]

(v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption; and

(vi) beginning January 1, 2024, for [~~a cannabis product~~]medical cannabis that is cannabis flower, vaporizer cartridges, or concentrate, provide the product's terpene profiles collected under Subsection 4-41a-701(4) at or before the point of sale.

(b) A medical cannabis cardholder transporting or possessing the container described in Subsection (3)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.

(c) A medical cannabis pharmacy shall provide an opaque bag or box for the medical cannabis cardholder to use in transporting the medical cannabis in public if the medical cannabis cardholder does not provide an opaque bag or box.

(4) (a) Except as provided in Subsection (4)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(5) (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i) [~~,~~]or (ii)[~~, or (iii)~~].

(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

(6) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this chapter or Title 26B, Utah Health and Human Services Code.

Section 14. Section 4-41a-1106 is amended to read:

4-41a-1106. Medical cannabis pharmacy agent -- Registration.

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers

the individual as a medical cannabis pharmacy agent.

(2) A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.

(3) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) Each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

[~~(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.~~]

[~~(5)~~](4) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(6)~~](5) The department shall ensure that the certification standard described in Subsection [~~(5)~~](4) includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

[~~(7)~~](6) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony within the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

[~~(8)~~](7) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

[~~(9)~~](8) (a) As a condition precedent to registration and renewal of a medical cannabis pharmacy agent registration card, a medical cannabis pharmacy agent shall:

(i) complete at least one hour of continuing education regarding patient privacy and federal health information privacy laws that is offered by the department under Subsection [~~(9)(b)~~](8)(b) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and the Board of Pharmacy.

(b) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection [~~(9)~~](8).

(c) The pharmacist-in-charge described in Section 26B-4-219 shall ensure that each medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to the state electronic verification system is in compliance with this Subsection [~~(9)~~](8).

(d) A medical cannabis pharmacy agent may not access the electronic verification system following the termination of the medical cannabis pharmacy agent's employment.

[~~(10)~~](9) A medical cannabis pharmacy shall:

(a) maintain a list of employees that have a medical cannabis pharmacy agent registration card; and

(b) provide the list to the department upon request.

Section 15. Section 4-41a-1202 is amended to read:

4-41a-1202. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the [~~department~~]licensing board issues under this section.

(3) (a) Subject to Subsections (5) and (6), the [~~department~~]licensing board shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the [~~department~~]licensing board:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 10% or greater in the proposed medical cannabis courier; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(4) If the [~~department~~]licensing board determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(i).

(5) The [~~department~~]licensing board may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(i):

(a) has been convicted under state or federal law of:

(i) a felony in the preceding 10 years; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(6) The [~~department~~]licensing board may revoke a license under this part if:

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this chapter three times;

(c) an individual described in Subsection (3)(b)(i) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(d) after a change of ownership described in Subsection (14)(c), the [~~department~~]licensing board determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter.

(7) The department shall deposit the proceeds of a fee imposed by this section [~~in~~]into the Qualified Production Enterprise Fund.

(8) The [~~department's~~]licensing board's authority to issue a license under this section is plenary and is not subject to review.

(9) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 10% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(10) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (9) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (9) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and

latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(11) The department shall:

(a) assess an individual who submits fingerprints under Subsection (9) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (11)(a) to the Bureau of Criminal Identification.

(12) The [~~department~~]licensing board shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(13) A person applying for a medical cannabis courier license shall submit to the [~~department~~]licensing board a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

(14) (a) A medical cannabis courier license is not transferable or assignable.

(b) A medical cannabis courier shall report in writing to the department no later than [~~10~~]45 business days before the date of any change of ownership of the medical cannabis courier.

(c) If the ownership of a medical cannabis courier changes by 50% or more:

(i) concurrent with the report described in Subsection (14)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);

(ii) within 30 days of the submission of the application, the [~~department~~]licensing board shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis courier for the remainder of the term of the medical cannabis courier's license before the ownership change if the medical cannabis courier meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter; and

(iii) if the [~~department~~]licensing board approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the [~~board~~]licensing board's cost of conducting the application review.

(15) (a) Except as provided in Subsection(15)(b), a person may not advertise regarding the transportation of medical cannabis.

(b) Notwithstanding Subsection (14)(a) and subject to Section 4-41a-109, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:

(i) a green cross;

(ii) the pharmacy's or courier's name and logo; and

(iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

Section 16. Section 4-41a-1204 is amended to read:

4-41a-1204. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a medical cannabis courier agent unless the department registers the individual as a medical cannabis courier agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis courier on behalf of a medical cannabis courier agent, register and issue a medical cannabis courier agent registration card to the prospective agent if the medical cannabis courier:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and address of the medical cannabis courier;

(C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

(D) the submission required under Subsection (2)(b);

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution; and

(iii) pays the department a fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) Each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b)against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

[~~(3) The department shall designate on an individual's medical cannabis courier agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.~~]

[~~(4)~~](3) (a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection [~~(4)(a)~~](3)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the medical cannabis shipment process; and

(iii) medical cannabis courier agent best practices.

[~~(5)~~](4) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis courier agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

[~~(6)~~](5) The department may revoke or refuse to issue or renew the medical cannabis courier agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony within the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

[~~(7)~~](6) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:

(a) the agent is on the premises of the medical cannabis courier, a medical cannabis pharmacy, or a delivery address; and

(b) the agent is handling a medical cannabis shipment.

[~~(8)~~](7) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection [~~(7)~~](6):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment that the agent is engaging in illegal activity.

[~~(9)~~](8) (a) A medical cannabis courier agent who violates Subsection [~~(7)~~](6) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection [~~(9)(a)~~](8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection [~~(9)(a)~~](8)(a).

[~~(10)~~](9) A medical cannabis courier shall:

(a) maintain a list of employees who have a medical cannabis courier agent card; and

(b) provide the list to the department upon request.

Section 17. Section 26B-1-435 is amended to read:

26B-1-435. Medical Cannabis Policy Advisory Board creation -- Membership -- Duties.

(1) There is created within the department the Medical Cannabis Policy Advisory Board.

(2) (a) The advisory board shall consist of the following members:

(i) appointed by the executive director:

(A) a qualified medical provider who has recommended medical cannabis to at least 100 patients before being appointed;

(B) a medical research professional;

(C) a mental health specialist;

(D) an individual who represents an organization that advocates for medical cannabis patients;

(E) an individual who holds a medical cannabis patient card; and

(F) a member of the general public who does not hold a medical cannabis card; and

(ii) appointed by the commissioner of the Department of Agriculture and Food:

(A) an individual who owns or operates a licensed cannabis cultivation facility, as defined in Section 4-41a-102;

(B) an individual who owns or operates a licensed medical cannabis pharmacy; and

(C) a law enforcement officer.

(b) The commissioner of the Department of Agriculture and Food shall ensure that at least one individual appointed under Subsection (2)(a)(ii)(A) or (B) also owns or operates a licensed cannabis processing facility.

(3) (a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a four year term.

(b) When appointing the initial membership of the advisory board, the executive director and the commissioner of the Department of Agriculture and Food shall coordinate to appoint four advisory board members to serve a term of two years to ensure that approximately half of the board is appointed every two years.

(4) (a) If an advisory board member is no longer able to serve as a member, a new member shall be appointed in the same manner as the original appointment.

(b) A member appointed in accordance with Subsection (4)(a) shall serve for the remainder of the unexpired term of the original appointment.

(5) (a) A majority of the advisory board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory board.

(c) For a term lasting one year, the advisory board shall annually designate members of the advisory board to serve as chair and vice-chair.

(d) When designating the chair and vice-chair, the advisory board shall ensure that at least one individual described Subsection (2)(a)(i) is appointed as chair or vice-chair.

(6) An advisory board member may not receive compensation or benefits for the member's service on the advisory board but may receive per diem and reimbursement for travel expenses incurred as an advisory board member in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department shall:

(a) provide staff support for the advisory board; and

(b) assist the advisory board in conducting meetings.

(8) The advisory board may recommend:

(a) to the department or the Department of Agriculture and Food changes to current or proposed medical cannabis rules or statutes; and

(b) to the appropriate legislative committee whether the advisory board supports a change to medical cannabis statutes.

(9) The advisory board shall:

(a) review any draft rule that is authorized under [~~this chapter~~]Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) consult with the Department of Agriculture and Food regarding the issuance of an additional:

(i) cultivation facility license under Section 4-41a-205; or

(ii) pharmacy license under Section 4-41a-1005;

(c) consult with the department regarding cannabis patient education;

(d) consult regarding the reasonableness of any fees set by the department or the Department of Agriculture and Food that pertain to the medical cannabis program; and

(e) consult regarding any issue pertaining to medical cannabis when asked by the department or the Utah Department of Agriculture and Food.

Section 18. Section 26B-4-201 is amended to read:

26B-4-201. Definitions.

As used in this part:

(1) "Active tetrahydrocannabinol" means THC, any THC analog, and tetrahydrocannabinolic acid.

(2) "Administration of criminal justice" means the performance of detection, apprehension, detention, pretrial release, post-trial release, prosecution, and adjudication.

(3) "Advertise" means information provided by a person in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

(4) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(5) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(6) "Cannabis" means marijuana.

(7) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

(8) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.

(9) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(10) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

(11) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

(12) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26B-4-213(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

(13) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

(14) "Delivery address" means the same as that term is defined in Section 4-41a-102.

(15) "Department" means the Department of Health and Human Services.

(16) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section 26B-4-214; or

(b) (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26B-4-214(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26B-4-214(1)(b)(ii).

(17) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

(18) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

(19) "Government issued photo identification" means any of the following forms of identification:

(a) a valid state-issued driver license or identification card;

(b) a valid United States federal-issued photo identification, including:

(i) a United States passport;

(ii) a United States passport card;

(iii) a United States military identification card; or

(iv) a permanent resident card or alien registration receipt card; or

(c) a foreign passport.

(20) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.

(21) "Inventory control system" means the system described in Section 4-41a-103.

(22) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection 26B-4-230(5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

(23) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

(24) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card as a result of the individual's recommendation, in accordance with Subsection 26B-4-204(1)(b).

(25) "Marijuana" means the same as that term is defined in Section 58-37-2.

(26) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(27) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

(28) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in Subsection (16)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26B-4-214(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26B-4-214(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

(29) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

(30) "Medical cannabis courier" means the same as that term is defined in Section 4-41a-102.

(31) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

(32) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

(33) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

(34) "Medical cannabis pharmacy" means a person that:

(a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or

(ii) possesses medical cannabis or a medical cannabis device; and

(b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.

(35) "Medical cannabis pharmacy agent" means an individual who holds a valid medical cannabis pharmacy agent registration card issued by the department.

(36) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

(37) "Medical cannabis shipment" means the same as that term is defined in Section 4-41a-102.

(38) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(39) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension that does not exceed 30 milliliters;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape;

(I) a resin or wax;

(J) an aerosol;

(K) a suppository preparation; or

(L) a soft or hard confection that is a uniform rectangular cuboid or uniform spherical shape, is homogeneous in color and texture, and each piece is a single serving; or

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis flower in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque bag or box that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and a barcode that provides information connected to an inventory control system.

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection (39)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection (39)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection (39)(a)(ii), except as provided in Subsection (39)(b);

(ii) any unprocessed cannabis flower in a container described in Subsection (39)(a)(ii) after the legal use termination date;

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch;

(iv) a liquid suspension that is branded as a beverage;

(v) a substance described in Subsection (39)(a)(i) or (ii) if the substance is not measured in grams, milligrams, or milliliters; or

(vi) a substance that contains or is covered to any degree with chocolate.

(40) "Nonresident patient" means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district,

territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26B-4-203.

(41) "Patient product information insert" means a single page document or webpage that contains information about a medical cannabis product regarding:

(a) how to use the product;

(b) common side effects;

(c) serious side effects;

(d) dosage;

(e) contraindications;

(f) safe storage;

(g) information on when a product should not be used; and

(h) other information the department deems appropriate in consultation with the cannabis processing facility that created the product.

[~~(41)~~](42) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26B-4-219.

[~~(42)~~](43) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a recommending medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

[~~(43)~~](44) "Qualified medical provider" means an individual:

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26B-4-204.

[~~(44)~~](45) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26B-1-310.

[~~(45)~~](46) "Qualifying condition" means a condition described in Section 26B-4-203.

[~~(46)~~](47) "Recommend" or "recommendation" means, for a recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient's eligibility for a medical cannabis card; and

(b) may include, at the recommending medical provider's discretion, directions of use, with or without dosing guidelines.

[~~(47)~~](48) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

[~~(48)~~](49) "Recommending qualifications" means that an individual:

(a) (i) has the authority to write a prescription;

(ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(49)~~](50) "State central patient portal" means the website the department creates, in accordance with Section 26B-4-236, to facilitate patient safety, education, and an electronic medical cannabis order.

[~~(50)~~](51) "State electronic verification system" means the system described in Section 26B-4-202.

[~~(51)~~](52) "Targeted marketing" means the promotion by a qualified medical provider, medical clinic, or medical office that employs a qualified medical provider of a medical cannabis recommendation service using any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

(b) an in-person marketing event that is held in an area where only an individual who is at least 21 years old may access the event;

(c) other marketing material that is physically or digitally displayed in the office of the medical clinic or office that employs a qualified medical provider; or

(d) a leaflet that a qualified medical provider, medical clinic, or medical office that employs a qualified medical provider shares with an individual who is at least 21 years old.

[~~(52)~~](53) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

[~~(53)~~](54) "THC analog" means the same as that term is defined in Section 4-41-102.

Section 19. Section 26B-4-202 is amended to read:

26B-4-202. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Division of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall ensure that the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until:

(i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or

(ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26B-4-213;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit; and

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(d) allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection 4-41a-1101(10)(a), to:

(i) access the electronic verification system to review the history within the system of a patient with whom the provider or agent is interacting, limited to read-only access for medical cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge authorizes add and edit access;

(ii) record a patient's recommendation from a limited medical provider, including any directions of use, dosing guidelines, or caregiver indications from the limited medical provider;

(iii) record a limited medical provider's renewal of the provider's previous recommendation; and

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(e) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(f) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this part;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; and

(iii) the Division of Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(g) provides access to and interaction with the state central patient portal;

(h) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection 4-41a-1102(3)(a)(ii) to the controlled substance database;

(i) provides access to state or local law enforcement only to verify the validity of an individual's medical cannabis card for the administration of criminal justice and through a database used by law enforcement; and

(j) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3) (a) An employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(c) Every two years, an employee described in Subsections (3)(a) and (3)(b) shall complete at least one hour of education regarding health information privacy laws that is offered by the department or an accredited or approved education provider that the department recognizes before the department may grant the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) A prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26B-4-222; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(9) (a) Except as provided in Subsections (9)(c) and (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) A law enforcement officer who uses the database used by law enforcement to access information in the electronic verification system for a reason that is not the administration of criminal justice is guilty of a class B misdemeanor.

(d) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(e) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(f) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 20. Section 26B-4-204 is amended to read:

26B-4-204. Qualified medical provider registration -- Continuing education -- Treatment recommendation -- Limited medical provider.

(1) (a) (i) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a medical cannabis treatment except within the course and scope of a practice of podiatry, as that term is defined in Section 58-5a-102.

(b) An individual who meets the recommending qualifications may recommend a medical cannabis treatment as a limited medical

provider without registering under Subsection (1)(a) if:

(i) the individual recommends the use of medical cannabis to the patient through an order described in Subsection (1)(c) after:

(A) a face-to-face visit for an initial recommendation or the renewal of a recommendation for a patient for whom the limited medical provider did not make the patient's original recommendation; or

(B) a visit using telehealth services for a renewal of a recommendation for a patient for whom the limited medical provider made the patient's original recommendation; and

(ii) the individual's recommendation or renewal would not cause the total number of the individual's patients who have a valid medical cannabis patient card or provisional patient card resulting from the individual's recommendation to exceed 15.

(c) The individual described in Subsection (1)(b) shall communicate the individual's recommendation through an order for the medical cannabis pharmacy to record the individual's recommendation or renewal in the state electronic verification system under the individual's recommendation that:

(i) (A) the individual or the individual's employee sends electronically to a medical cannabis pharmacy; or

(B) the individual gives to the patient in writing for the patient to deliver to a medical cannabis pharmacy; and

(ii) may include:

(A) directions of use or dosing guidelines; and

(B) an indication of a need for a caregiver in accordance with Subsection [~~26B-4-213(3)(e)~~]26B-4-213(3)(b).

(d) If the limited medical provider gives the patient a written recommendation to deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical provider shall ensure that the document includes all of the information that is included on a prescription the provider would issue for a controlled substance, including:

(i) the date of issuance;

(ii) the provider's name, address and contact information, controlled substance license information, and signature; and

(iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.

(e) In considering making a recommendation as a limited medical provider, an individual may consult information that the department makes available on the department's website for recommending providers.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department an acknowledgment that the individual has completed four hours of continuing education related to medical cannabis;

(iii) provides to the department evidence that the individual meets the recommending qualifications;

(iv) for an applicant on or after November 1, 2021, provides to the department the information described in Subsection (10)(a); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

(3) (a) An individual shall complete the continuing education related to medical cannabis in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) The department may, in consultation with the Division of Professional Licensing, develop continuing education related to medical cannabis.

(c) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this part;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not recommend a medical cannabis treatment to more than 1.5% of the total amount of medical cannabis patient cardholders.

(b) If a qualified medical provider receives payment from an insurance plan for services provided under this chapter, then the patient whose insurance plan was billed does not count toward the 1.5% patient cap described in Subsection (4)(a).

(5) A recommending medical provider may recommend medical cannabis to an individual under this part only in the course of a provider-patient relationship after the recommending medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsections (6)(b) and (c), a person may not advertise that the person or the person's employee recommends a medical cannabis treatment.

(b) Notwithstanding Subsection (6)(a) and Section 4-41a-109, a qualified medical provider, medical clinic, or medical office that employs a qualified medical provider may advertise only the following:

(i) a green cross;

(ii) the provider's or clinic's name and logo;

(iii) a qualifying condition that the individual treats;

(iv) that the qualified medical provider, medical clinic, or medical office evaluates patients for medical cannabis recommendations;

(v) a scientific study regarding medical cannabis use; or

(vi) contact information.

(c) Notwithstanding Subsection (6)(a) and Section 4-41a-109, qualified medical provider, medical clinic, or medical office that employs a qualified medical provider may engage in targeted marketing, as determined by the department through rule, for advertising medical cannabis recommendation services.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license under the recommending qualifications;

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A recommending medical provider may not:

(a) receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(i) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(ii) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(iii) a recommending medical provider or pharmacy medical provider; or

(b) provide a medical cannabis recommendation at a medical clinic or medical office that is violating the advertising limitations described in Subsection (6).

(10) (a) Each quarter, a qualified medical provider shall report to the department, in a manner designated by the department:

(i) if applicable, that the qualified medical provider or the entity that employs the qualified medical provider represents online or on printed material that the qualified medical provider is a qualified medical provider or offers medical cannabis recommendations to patients; and

(ii) (A) for cash payment without insurance, the fee amount that the qualified medical provider or the entity that employs the qualified medical provider charges a patient for a medical cannabis recommendation as an actual cash rate; and

(B) whether the qualified medical provider or the entity that employs the qualified medical provider bills insurance.

(b) The department shall:

(i) ensure that the following information related to qualified medical providers and entities described in Subsection (10)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (10)(b)(ii):

(A) the name of the qualified medical provider and, if applicable, the name of the entity that employs the qualified medical provider;

(B) the address of the qualified medical provider's office or, if applicable, the entity that employs the qualified medical provider; and

(C) the fee amount described in Subsection (10)(a)(ii)(A); and

(ii) share data collected under this Subsection (10) with the state auditor for use in the health care price transparency tool described in Section 67-3-11.

Section 21. Section 26B-4-213 is amended to read:

26B-4-213. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1) (a) Subject to Section 26B-4-246, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26B-4-214 submits an application in accordance with this section or Section 26B-4-214, the department shall:

(i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

(iv) issue a medical cannabis caregiver card to an individual described in Subsection 26B-4-214(4).

(b) (i) Upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection 4-41a-1101(10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's recommending medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(E) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26B-4-215.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's recommending medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26B-4-214.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) If the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26B-4-214(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's government issued photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

[~~(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).~~]

[~~(c)~~](b) (i) If a recommending medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the recommending medical provider recommends, the recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or, for a limited medical provider, through the order described in Subsections 26B-4-204(1)(c) and (d).

(ii) If a recommending medical provider makes the indication described in Subsection [~~(3)(c)(i)~~](3)(b)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance;

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-1-301, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection [~~(3)(c)(ii)(B)~~](3)(b)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a recommending medical provider shall:

(a) visit with the patient face-to-face for an initial recommendation unless the patient:

(i) prefers a virtual visit; and

(ii) (A) is on hospice or has a terminal illness according to the patient's medical provider; or

(B) is a resident of an assisted living facility, as defined in Section 26B-2-201, or a nursing care facility, as defined in Section 26B-2-201;

(b) before recommending or renewing a recommendation for medical cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's government issued photo identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) for a qualified medical provider, the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition, history of substance use or opioid use disorder, and history of medical cannabis and controlled substance use during a visit with the patient; and

(c) state in the recommending medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the recommending medical provider determines; or

(ii) one year from the day the card is issued.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26B-4-203 expires after one year.

(ii) The recommending medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26B-4-203 if the medical cannabis cardholder no longer has the terminal illness.

(c) A medical cannabis card that the department issues in relation to acute pain as described in Section 26B-4-203 expires 30 days after the day on which the department first issues a conditional or full medical cannabis card.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26B-1-421.

(b) The recommending medical provider who made the underlying recommendation for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card through phone or video conference with the cardholder, at the recommending medical provider's discretion.

(c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b) shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this part and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this part and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use medical cannabis or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of medical cannabis or a medical cannabis device.

(8) (a) The department may revoke a medical cannabis card that the department issues under this section if:

(i) the recommending medical provider withdraws the medical provider's recommendation for medical cannabis; or

(ii) the cardholder:

(A) violates this part; or

(B) is convicted under state or federal law of, after March 17, 2021, a drug distribution offense.

(b) The department may not refuse to issue a medical cannabis card to a patient solely based on a prior revocation under Subsection (8)(a)(i).

(9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26B-4-203(1); and

(c) other relevant warnings and safety information that the department determines.

(10) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(11) (a) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(12) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section 26B-4-201, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 22. Section 26B-4-219 is amended to read:

26B-4-219. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) The pharmacist-in-charge shall determine which cannabis and cannabis products the medical cannabis pharmacy maintains in the medical cannabis pharmacy's inventory.

(c) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) [~~a report detailing the completion of the continuing education requirement described in Subsection (3);~~]an acknowledgment that the individual has completed four hours of continuing education related to medical cannabis; and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a recommending medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

[~~(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:~~]

[~~(i) complete continuing education:~~]

[~~(A) regarding the topics described in Subsection (3)(d); and~~]

[~~(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and~~]

[~~(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and:~~]

[~~(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy; or~~]

[~~(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Medical Licensing Board.~~]

[~~(c)~~](b) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (3).

[~~(d)~~](c) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this part;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of medical cannabis based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(5) (a) Except as provided in Subsection (5)(b), a person may not advertise that the person or another person dispenses medical cannabis.

(b) Notwithstanding Subsection (5)(a) and Section 4-41a-109, a registered pharmacy medical provider may advertise the following:

(i) a green cross;

(ii) that the person is registered as a pharmacy medical provider and dispenses medical cannabis; or

(iii) a scientific study regarding medical cannabis use.

(6) (a) The department may revoke a pharmacy medical provider's registration for a violation of this chapter.

(b) The department may inspect patient records held by a medical cannabis pharmacy to ensure a pharmacy medical provider is practicing in accordance with this chapter and applicable rules.

Section 23. Section 26B-4-222 is amended to read:

26B-4-222. Report.

(1) By the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients; and

[~~(g) the number of license applications and renewal license applications received;~~]

[~~(h) the number of licenses the department has issued in each county;~~]

[~~(i) the number of licenses the department has revoked;~~]

[~~(j) the quantity of medical cannabis shipments that the state central patient portal facilitates;~~]

[~~(k) the number of overall purchases of medical cannabis and medical cannabis products from each medical cannabis pharmacy;~~]

[~~(l)~~](g) the expenses [~~incurred~~]and revenues [~~generated from the medical cannabis program; and~~]of the Qualified Patient Enterprise Fund created in Section 26B-1-310.

[~~(m) an analysis of product availability in medical cannabis pharmacies in consultation with the Department of Agriculture and Food.~~]

(2) The report shall include information provided by the Center for Medical Cannabis Research described in Section 53B-17-1402.

(3) The department may not include personally identifying information in the report described in this section.

(4) The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 24. Section 26B-4-243 is amended to read:

26B-4-243. Guidance for treatment with medical cannabis.

The department, in consultation with the Center for Medical Cannabis Research created in Section 53B-17-1402, shall:

(1) develop evidence-based guidance for treatment with medical cannabis based on the latest medical research that shall include:

(a) for each qualifying condition, a summary of the latest medical research regarding the treatment of the qualifying condition with medical cannabis;

(b) risks, contraindications, side effects, and adverse reactions that are associated with medical cannabis use; and

(c) potential drug interactions between medical cannabis and medications that have been approved by the United States Food and Drug Administration; [~~and~~]

(2) educate recommending medical providers, pharmacy medical providers, medical cannabis cardholders, and the public regarding:

(a) the evidence-based guidance for treatment with medical cannabis described in Subsection (1)(a);

(b) relevant warnings and safety information related to medical cannabis use; and

(c) other topics related to medical cannabis use as determined by the department[~~.~~]; and

(3) develop patient product information inserts for medical cannabis products:

(a) in consultation with the cannabis processing facility that created the product; and

(b) that do not contain proprietary information about the product.

Section 25. Section 63I-2-204 is amended to read:

63I-2-204. Repeal dates: Title 4.

(1) Section 4-11-117, Beekeeping working group -- Development of standards, is repealed May 1, 2025.

(2) Subsection 4-41a-102(6), regarding the Cannabis Research Review Board, is repealed July 1, [~~2026~~]2025.

(3) Section 4-46-104, Transition, is repealed July 1, 2024.

Section 26. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26 through 26B.

(1) Section 26B-1-241, Tardive dyskinesia, is repealed July 1, 2024.

(2) Section 26B-1-302, National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account, is repealed July 1, 2024.

(3) Section 26B-1-309, Medicaid Restricted Account, is repealed July 1, 2024.

(4) Section 26B-1-313, Cancer Research Restricted Account, is repealed July 1, 2024.

(5) Section 26B-1-420, Cannabis Research Review Board, is repealed July 1, [~~2026~~]2025.

(6) Subsection 26B-1-421(9)(a), regarding a report to the Cannabis Research Review Board, is repealed July 1, [~~2026~~]2025.

(7) Section 26B-1-423, Rural Physician Loan Repayment Program Advisory Committee -- Membership -- Compensation -- Duties, is repealed July 1, 2026.

(8) Section 26B-2-243, Data collection and reporting requirements concerning incidents of abuse, neglect, or exploitation, is repealed July 1, 2027.

(9) Section 26B-3-142, Long-acting injectables, is repealed July 1, 2024.

(10) Subsection 26B-3-215(5), regarding reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(11) Subsection 26B-4-201(5), regarding the Cannabis Research Review Board, is repealed July 1, [~~2026~~]2025.

(12) Subsection 26B-4-212(1)(b), regarding the Cannabis Research Review Board, is repealed July 1, [~~2026~~]2025.

(13) Section 26B-4-702, Creation of Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(14) Subsection 26B-4-703(3)(b), regarding per diem and expenses for the Rural Physician Loan Repayment Program Advisory Committee, is repealed July 1, 2026.

(15) Subsection 26B-4-703(3)(c), regarding expenses for the Rural Physician Loan Repayment Program, is repealed July 1, 2026.

(16) Subsection 26B-4-703(6)(b), regarding recommendations from the Rural Physician Loan Repayment Program Advisory Committee, is repealed July 1, 2026.

(17) Section 26B-5-117, Early childhood mental health support grant program, is repealed January 2, 2025.

(18) Section 26B-5-302.5, Study concerning civil commitment and the Utah State Hospital, is repealed July 1, 2025.

(19) Section 26B-6-414, Respite care services, is repealed July 1, 2025.

(20) Section 26B-7-120, Invisible condition alert program education and outreach, is repealed July 1, 2025.

Section 27. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates: Title 36.

(1) Section 36-12-8.2, Medical cannabis governance structure working group, is repealed July 1, [~~2025~~]2026.

(2) Section 36-29-107.5, Murdered and Missing Indigenous Relatives Task Force -- Creation -- Membership -- Quorum -- Compensation -- Staff -- Vacancies -- Duties -- Interim report, is repealed November 30, 2024.

(3) Section 36-29-109, Utah Broadband Center Advisory Commission, is repealed November 30, 2027.

(4) Section 36-29-110, Blockchain and Digital Innovation Task Force, is repealed November 30, 2024.

Section 28. Repealer.

This bill repeals:

Section 4-41a-108, Payment provider for electronic medical cannabis transactions.

Section 4-41a-801.1, Enforcement for medical cannabis pharmacies and couriers -- Fine -- Citation.

Section 29. Effective Date.

This bill takes effect on May 7, 2025.

Section 30. Coordinating S.B. 64 with H.B. 21.

If S.B. 64, Medical Cannabis Amendments, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 4-41a-102(4)(a) be amended to read:

""Anticompetitive business practice" [~~means any practice that reduces the amount of competition in the medical cannabis market that would be considered an attempt to monopolize, as defined in Section 76-10-3103~~]means any practice that is an illegal anticompetitive business activity under Section 76-16-510. ".

CHAPTER 415
S. B. 70
Passed February 28, 2025
Approved March 26, 2025
Effective May 7, 2025

CONSUMER REPORTING AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill establishes limitations on information that a consumer reporting agency may provide.

Highlighted Provisions:

This bill:

- ► establishes prohibitions on what information a consumer reporting agency may provide;
- ► provides exceptions to the prohibitions on what information a consumer reporting agency may provide; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-45-102, as last amended by Laws of Utah 2015, Chapter 191

ENACTS:

13-45-601, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-45-102 is amended to read:

13-45-102. Definitions.

As used in this chapter:

(1) "Consumer" means an individual who is not a protected consumer.

(2) [~~"Consumer reporting agency" means a person who, for fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating information concerning a consumer's credit or other information for the purpose of furnishing a credit report to another person.~~]"Consumer reporting agency" means a person who, for a monetary fee, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing credit or consumer reports to third persons.

(3) "Consumer who is subject to a protected consumer security freeze" means an individual:

(a) for whom a credit reporting agency placed a security freeze under Section 13-45-503; and

(b) who, on the day on which a request for the removal of the security freeze is submitted under Section 13-45-504, is not a protected consumer.

(4) "Credit report" means a consumer report, as defined in the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681a, that is used or collected in whole or part for the purpose of serving as a factor in establishing a consumer's eligibility for credit for personal, family, or household purposes.

(5) "File" means the same as that term is [~~as~~]defined in 15 U.S.C. Sec. 1681a.

(6) "Incapacitated person" means an individual who is incapacitated, as defined in Section 75-1-201.

(7) "Normal business hours" means Sunday through Saturday, between the hours of 6:00 a.m. and 9:30 p.m., Mountain Standard or Mountain Daylight Time.

(8) (a) "Personal information" means personally identifiable financial information:

(i) provided by a consumer to another person;

(ii) resulting from any transaction with the consumer or any service performed for the consumer; or

(iii) otherwise obtained by another person.

(b) "Personal information" does not include:

(i) publicly available information, as that term is defined [~~by the regulations prescribed under 15 U.S.C. Sec. 6804~~]in Section 13-61-101; or

(ii) any list, description, or other grouping of consumers, and publicly available information [~~pertaining to the consumers~~]relating to a consumer, that is derived without using any nonpublic personal information.

(c) Notwithstanding Subsection (8)(b), "personal information" includes any list, description, or other grouping of consumers, and publicly available information [~~pertaining to the consumers~~]relating to a consumer, that is derived using any nonpublic personal information other than publicly available information.

(9) (a) "Proper identification" [~~has the same meaning as~~]means the same as that term is defined in 15 U.S.C. Sec. 1681h(a)(1)[~~.~~];

(b) [~~and~~]"Proper identification" includes:

[~~(a)~~](i) the consumer's full name, including first, last, and middle names and any suffix;

[~~(b)~~](ii) any name the consumer previously used;

[~~(c)~~](iii) the consumer's current and recent full addresses, including street address, any apartment number, city, state, and ZIP code;

[~~(d)~~](iv) the consumer's Social Security number; and

[~~(e)~~](v) the consumer's date of birth.

(10) "Protected consumer" means an individual who, at the time a request for a security freeze is made, is:

(a) [~~less than~~]under16 years [~~of age~~]old;

(b) an incapacitated person; or

(c) a protected person.

(11) "Protected person" means the same as that term is defined in Section 75-5b-102.

(12) "Record" means a compilation of information that:

(a) identifies a protected consumer;

(b) is created by a consumer reporting agency solely for the purpose of complying with this section; and

(c) may not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(13) "Representative" means a person [~~who~~]that provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

(14) (a) "Sufficient proof of authority" means documentation that shows that a person has authority to act on behalf of a protected consumer.

(b) "Sufficient proof of authority" includes:

(i) a court order;

(ii) a lawfully executed power of attorney; or

(iii) a written, notarized statement signed by the person that expressly describes the person's authority to act on behalf of the protected consumer.

(15) (a) "Sufficient proof of identification" means information or documentation that identifies a protected consumer or a representative.

(b) "Sufficient proof of identification" includes:

(i) a Social Security number or a copy of a Social Security card issued by the United States Social Security Administration;

(ii) a certified or official copy of a birth certificate; or

(iii) a copy of a government issued driver license or identification card.

Section 2. Section 13-45-601 is enacted to read:

13-45-601. Consumer reporting agency -- Prohibitions.

(1) Except as provided in Subsection (2), a consumer reporting agency may not report information relating to:

(a) an arrest not resulting in a conviction;

(b) a criminal charge not resulting in a conviction;

(c) an expunged conviction; or

(d) a pardoned conviction.

(2) A consumer reporting agency may report:

(a) a pending criminal charge; or

(b) an arrest that has not reached a final disposition.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 416
H. B. 131
Passed February 12, 2025
Approved March 26, 2025
Effective May 7, 2025

TALENT READY UTAH PROGRAM AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill clarifies the allowed membership of an advisory council and types of talent initiatives.

Highlighted Provisions:

This bill:

► clarifies the allowed membership of an advisory council and types of talent initiatives.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-34-110, as enacted by Laws of Utah 2024, Chapter 378

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-34-110 is amended to read:

53B-34-110. Talent advisory councils.

(1) As used in this section:

(a) "Advisory council" means an advisory council the talent board creates under Subsection (10).

(b) "Institution of higher education" means the same as the term is defined in Section 53B-1-102.

(c) "Talent initiative" means an initiative the board creates under Subsection (2).

(2) (a) Subject to legislative appropriations and in accordance with the proposal process and other provisions of this section, the board shall develop and oversee one or more talent initiatives that include providing funding for expanded programs at an institution of higher education related to the talent initiative.

(b) The board shall ensure that a talent initiative the board creates:

(i) uses a name for the talent initiative that reflects the area the initiative is targeting;

(ii) contains an outline of the disciplines, industries, degrees, certifications, credentials, and types of skills the talent initiative will target; and

(iii) uses a corresponding advisory council created in Subsection (10).

(3) In creating a talent initiative, the board shall facilitate collaborations between an institution of higher education and participating employers that:

(a) create expanded, multidisciplinary programs or stackable credential programs offered at a technical college, undergraduate, or graduate level of study; and

(b) prepare students to be workforce participants in jobs requiring skills related to a talent initiative.

(4) (a) An institution of higher education seeking to partner with one or more participating employers to create a program related to a talent initiative shall submit a proposal to the talent board through a process the talent board creates.

(b) An institution of higher education shall submit a proposal that contains:

(i) a description of the proposed program, including:

(A) implementation timelines for the program;

(B) a demonstration of how the program will be responsive to the talent needs related to the talent initiative;

(C) an outline of relevant industry involvement that includes at least one participating employer that partners with the institution of higher education; and

(D) an explanation of how the program addresses an unmet regional workforce need related to a talent initiative;

(ii) an estimate of:

(A) projected student enrollment and completion rates for a program;

(B) the academic credit or credentials that a program will provide; and

(C) occupations for which a graduate will qualify;

(iii) evidence that each participating employer is committed to participating and contributing to the program by providing any combination of:

(A) instruction;

(B) curriculum review;

(C) feedback regarding effectiveness of program graduates as employees;

(D) work-based learning opportunities; or

(E) mentoring;

(iv) a description of any resources a participating employer will provide within the program; and

(v) the amount of funding requested for the program, including:

(A) the justification for the funding; and

(B) the cost per student served as estimated under Subsection (4)(b)(ii).

(5) In reviewing a proposal, the talent board shall provide a proposal to the relevant advisory council described in Subsections (10) and (11).

(6) The relevant advisory council shall:

(a) review and prioritize each proposal the advisory council receives; and

(b) recommend to the talent board whether the proposal should be funded and the funding amount based on:

(i) the quality and completeness of the elements of the proposal described in Subsection (4)(b);

(ii) to what extent the proposed program:

(A) would expand the capacity to meet state or regional workforce needs related to the talent initiative;

(B) would integrate industry-relevant competencies with disciplinary expertise;

(C) would incorporate internships or significant project experiences, including team-based experiences;

(D) identifies how industry professionals would participate in elements described in Subsection (4)(b)(iii); and

(E) would be cost effective; and

(iii) other relevant criteria as the relevant advisory council and the talent board determines.

(7) The board shall review the recommendations of an advisory council and may provide funding for a program related to a talent initiative using the criteria described in Subsection (6)(b).

(8) In a form that the board approves, each institution of higher education that receives funding shall annually provide written information to the board regarding the activities, successes, and challenges related to administering the program related to the talent initiative, including:

(a) specific entities that received funding under this section;

(b) the amount of funding provided to each entity;

(c) the number of participating students in each program;

(d) the number of graduates of the program;

(e) the number of graduates of the program employed in jobs requiring skills related to the talent initiative; and

(f) progress and achievements relevant to the implementation timeline submitted under Subsection (4)(b)(i)(A).

(9) On or before October 1 of each year, the board shall provide an annual written report containing the information described in Subsection (8) to the:

(a) Education Interim Committee; and

(b) Higher Education Appropriations Subcommittee.

(10) The talent board shall create a talent advisory council for each talent initiative created under Subsection (2) to make recommendations to the board regarding the administration of a talent initiative including:

(a) a deep technology initiative;

(b) a life sciences workforce initiative;

(c) engineering and computer technology; and

[~~(c)~~](d) health professions initiatives including a nursing initiative.

(11) An advisory council shall consist of the following members:

(a) a minimum of four members who have extensive experience in the talent initiative's subject matter from the private sector whom the chair of the talent board appoints and the board approves;

(b) a representative of the board described in Section 53B-1-402 whom the chair of the board appoints;

(c) a representative of the Governor's Office of Economic Opportunity whom the executive director of the Governor's Office of Economic Opportunity appoints;

(d) a representative from Talent Ready Utah;

(e) one member of the Senate whom the president of the Senate appoints;

(f) one member of the House of Representatives whom the speaker of the House of Representatives appoints; and

(g) any other specialized industry experts whom a majority of the advisory council may invite to participate as needed as nonvoting members.

(12) Talent Ready Utah shall provide staff support for an advisory council.

(13) (a) Two advisory council members appointed under Subsection (11)(a) shall serve an initial term of two years.

(b) Except as described in Subsection (13)(a), all other advisory council members shall serve an initial term of four years.

(c) Successor advisory council members upon appointment or reappointment shall each serve a term of four years.

(d) When a vacancy occurs in the membership for any reason, the initial appointing authority shall appoint a replacement for the unexpired term.

(e) An advisory council member may not serve more than two consecutive terms.

(14) A vote of a majority of the advisory council members constitutes an action of the advisory council.

(15) The duties of the advisory council include reviewing, prioritizing, and making recommendations to the board regarding proposals for funding under the talent initiative created in accordance with Subsection (2) for which the council was created.

(16) An advisory council member may not receive compensation or benefits for the member's service, but an advisory council member who is not a legislator may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(17) The board may discontinue a talent initiative and the related talent advisory council by majority vote.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 417
S. B. 65
Passed March 5, 2025
Approved March 26, 2025
Effective May 7, 2025

MEDICATION ASSISTED TREATMENT AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses the use of medical assisted treatment in certain human services programs.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the Office of Licensing within the Department of Health and Human Services to establish and enforce rules concerning the use of medication assisted treatment in certain residential treatment programs and recovery residences; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-2-101, as last amended by Laws of Utah 2024, Chapters 240, 267, 307, and 438
26B-2-117, as renumbered and amended by Laws of Utah 2023, Chapter 305

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-2-101 is amended to read:

26B-2-101. Definitions.

As used in this part:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

(2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(3) "Applicant" means a person that applies for an initial license or a license renewal under this part.

(4) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection [~~(40)(a)~~](42)(a); or

(B) provides the treatment or services described in Subsection [~~(40)(a)~~](42)(a) on a limited basis, as described in Subsection (5)(b)(ii).

(b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more grades from kindergarten through

grade 12.

(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection [~~(40)(a)~~](42)(a) on a limited basis if:

(A) the treatment or services described in Subsection [~~(40)(a)~~](42)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [~~(40)(a)~~](42)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection [~~(40)(a)~~](42)(a).

(c) "Boarding school" does not include a therapeutic school.

(6) "Certification" means a less restrictive level of licensure issued by the department.

(7) "Child" means an individual under 18 years old.

(8) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(9) "Child-placing agency" means a person that engages in child placing.

(10) "Client" means an individual who receives or has received services from a licensee.

(11) (a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

(12) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(13) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(14) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(15) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background check approval issued by the office.

(16) "Director" means the director of the office.

(17) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(18) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(19) "Elder adult" means a person 65 years old or older.

(20) "Emergency safety intervention" means a tactic used to protect staff or a client from being physically injured, utilized by an appropriately trained direct care staff and only performed in accordance with a nationally or regionally recognized curriculum in the least restrictive manner to restore staff or client safety.

(21) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

(22) "Health benefit plan" means the same as that term is defined in Section [~~31A-22-634~~]31A-1-301.

(23) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(24) "Health insurer" means[~~the same as that term is defined in Section 31A-22-615.5.~~]:

(a) an insurer who offers health care insurance as that term is defined in Section 31A-1-301;

(b) health benefits offered to state employees under Section 49-20-202; and

(c) a workers' compensation insurer:

(i) authorized to provide workers' compensation insurance in the state; or

(ii) that is a self-insured employer as defined in Section 34A-2-201.5.

(25) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school;

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102; or

(iii) a short-term relief care provider.

(26) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(27) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(28) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(29) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

(30) "Licensee" means an individual or a human services program licensed by the office.

(31) "Local government" means a city, town, or county.

(32) "Medication assisted treatment" means the use of a prescribed medication approved by the United States Food and Drug Administration, such as buprenorphine, methadone, or naltrexone, to treat substance use withdrawal symptoms or a substance use disorder.

[~~(32)~~](33) "Minor" means child.

[~~(33)~~](34) "Office" means the Office of Licensing within the department.

[~~(34)~~](35) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

[~~(35)~~](36) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

[~~(36)~~](37) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

[~~(37)~~](38) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

(39) "Qualifying residential treatment program" means a residential treatment program that is licensed under this part and:

(a) is operated as a nonprofit corporation or foreign nonprofit corporation, as those terms are defined in Section 16-6a-102; or

(b) receives any local, state, or federal government funding, government grant money, or any other form of government assistance to operate or provide services or training in the ordinary course of business.

(40) "Qualifying recovery residence" means a recovery residence that is licensed under this part and:

(a) is operated as a nonprofit corporation or foreign nonprofit corporation, as those terms are defined in Section 16-6a-102; or

(b) receives any local, state, or federal government funding, government grant money, or any other form of government assistance to operate or provide services or training in the ordinary course of business.

[~~(38)~~](41) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

[~~(39)~~](42) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[~~(40)~~](43) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[~~(41)~~](44) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

[~~(42)~~](45) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

[~~(43)~~](46) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

[~~(44)~~](47) "Short-term relief care provider" means an individual who:

(a) provides short-term and temporary relief care to a foster parent:

(i) for less than six consecutive nights; and

(ii) in the short-term relief care provider's home;

(b) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

(c) is direct access qualified, as that term is defined in Section 26B-2-120;

(d) has been approved to provide short-term relief care by the department;

(e) is not reimbursed by the department for the temporary relief care provided; and

(f) is not an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster child.

[~~(45)~~](48) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[~~(46)~~](49) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

[~~(47)~~](50) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [~~(47)(a)~~](49)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

[~~(48)~~](51) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[~~(49)~~](52) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~(50)~~](53) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(51)~~](54) (a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for the program's services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

[~~(52)~~](55) (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 2. Section 26B-2-117 is amended to read:

26B-2-117. Licensing residential treatment programs and recovery residences -- Notification of local government.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules that establish categories of residential treatment and recovery residence licenses based on differences in the types of residential treatment programs and recovery residences.

(b) The categories referred to in Subsection (1)(a) may be based on differences in:

(i) services offered;

(ii) types of clients served;

(iii) risks posed to the community; or

(iv) other factors that make regulatory differences advisable.

(2) Subject to the requirements of federal and state law, and pursuant to the authority granted by Section 26B-2-104, the office shall establish and enforce rules that:

(a) (i) relate generally to all categories of residential treatment program and recovery residence licenses; and

[~~(b)~~](ii) relate to specific categories of residential treatment program and recovery residence licenses on the basis of the regulatory needs, as determined by the office, of residential treatment programs and recovery residences within those specific categories[~~.~~];

(b) preclude each qualified residential treatment program and each qualified recovery residence from refusing to accept a client based solely on the client's use of medication assisted treatment consistent with the recommendation of a licensed prescriber or provider;

(c) require each qualified residential treatment program and each qualified recovery residence to allow a client to receive medication assisted treatment as recommended by a licensed prescriber or provider; and

(d) require that each Medicaid provider contract with a qualified residential treatment program or a qualified recovery residence includes a provision obligating the provider to comply with rules enacted pursuant to Subsections (2)(b) and (c), subject to the sanctions provided pursuant to Subsection 26B-3-108(6).

(3) (a) Beginning July 1, 2014, the office shall charge an annual licensing fee, set by the office in accordance with the procedures described in Section 63J-1-504, to a recovery residence in an amount that will pay for the cost of the licensing and inspection requirements described in this section and in Section 26B-2-104.

(b) The office shall deposit the licensing fees described in this section in the General Fund as a dedicated credit to be used solely to pay for the cost of the licensing and inspection requirements described in this section and in Section 26B-2-104.

(4) Before submitting an application for a license to operate a residential treatment program, the applicant shall serve notice of its intent to operate a residential treatment program on the governing body of:

(a) the city in which the residential treatment program will be located; or

(b) if the residential treatment program will be located in the unincorporated area of a county, the county in which the residential treatment program will be located.

(5) The notice described in Subsection (4) shall include the following information relating to the residential treatment program:

(a) an accurate description of the residential treatment program;

(b) the location where the residential treatment program will be operated;

(c) the services that will be provided by the residential treatment program;

(d) the type of clients that the residential treatment program will serve;

(e) the category of license for which the residential treatment program is applying to the office;

(f) the name, telephone number, and address of a person that may be contacted to make inquiries about the residential treatment program; and

(g) any other information that the office may require by rule.

(6) When submitting an application for a license to operate a residential treatment program, the applicant shall include with the application:

(a) a copy of the notice described in Subsection (4); and

(b) proof that the applicant served the notice described in Subsection (4) on the governing body described in Subsection (4).

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 418
S. B. 71
Passed March 5, 2025
Approved March 26, 2025
Effective May 7, 2025

SOCIAL SECURITY TAX REVISIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Walt Brooks

Cosponsor:
Heidi Balderree

LONG TITLE

General Description:

This bill modifies the individual income tax credit for social security benefits.

Highlighted Provisions:

This bill:

► expands eligibility for the social security benefits tax credit by increasing the thresholds for the income-based phaseout; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-1042, as last amended by Laws of Utah 2023, Chapter 459

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-10-1042 is amended to read:
59-10-1042. Nonrefundable tax credit for social security benefits.

(1) As used in this section:

(a) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) "Modified adjusted gross income" means the sum of the following for a claimant or, if the claimant's return under this chapter is allowed a joint filing status, the claimant and the claimant's spouse:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(f) "Social security benefit" means an amount received by a claimant as a monthly benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

(2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each claimant on a return that receives a social security benefit may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:

(a) the percentage listed in Subsection 59-10-104(2); and

(b) the claimant's social security benefit that is included in [~~adjusted gross income on the claimant's federal income tax return~~]the claimant's state taxable income for the taxable year.

(3) A claimant may not:

(a) carry forward or carry back the amount of a tax credit under this section that exceeds the claimant's tax liability for the taxable year; or

(b) claim a tax credit under this section for a taxable year if a tax credit under Section 59-10-1019 is claimed on the claimant's return for the same taxable year.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by $.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, [~~$37,500~~]$45,000;

(b) for a federal individual income tax return that is allowed a single filing status, [~~$45,000~~]$54,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, [~~$75,000~~]$90,000; or

(d) for a return under this chapter that is allowed a joint filing status, [~~$75,000~~]$90,000.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for claiming the tax credit described in this section.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

Section 3. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2025.

CHAPTER 419
H. B. 144
Passed February 27, 2025
Approved March 26, 2025
Effective May 7, 2025

SCHOOL DISTRICT CONTRACTING AMENDMENTS

Chief Sponsor: Ariel Defay
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill enacts provisions related to federal contracts and settlement agreements with a local education agency.

Highlighted Provisions:

This bill:

- ► prohibits a local education agency from contracting with the United States Department of Justice unless the attorney general's office reviews the contract or settlement agreement;
- ► requires the attorney general's office to review each proposed contract or settlement agreement; and
- ► allows the Utah State Board of Education and the attorney general's office to make recommendations regarding the contract or settlement agreement.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-7-226, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-7-226 is enacted to read:

53G-7-226. Review of contracts and settlement agreements between local education agencies and the United States Department of Justice.

(1) An LEA or LEA governing board may not enter into a contract or settlement agreement with the United States Department of Justice unless the attorney general's office first reviews the contract or settlement agreement.

(2) The attorney general's office shall:

(a) review each proposed contract or settlement agreement between the United States Department of Justice and an LEA or LEA governing board; and

(b) disclose the content of the settlement agreement or contract to the state board.

(3) The attorney general's office and the state board may make recommendations regarding the contract or settlement agreement.

(4) This section does not require the attorney general's office or the state board to enforce the terms or conditions of any contract or settlement agreement reviewed under this section.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 420
H. B. 142
Passed February 28, 2025
Approved March 26, 2025
Effective May 7, 2025

SERVICE MEMBER AND VETERAN AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill addresses in-state tuition at a state institution of higher education for certain individuals.

Highlighted Provisions:

This bill:

► removes the residency requirement for in-state tuition at a state institution of higher education for:
- active military members;
- military veterans;
- family members of active military members; and
- family members of military veterans; and

► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-8-102, as last amended by Laws of Utah 2024, Chapters 144, 378 and 481

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-8-102 is amended to read:

53B-8-102. Definitions -- Resident student status -- Exceptions.

(1) As used in this section:

(a) "Eligible person" means an individual who is entitled to post-secondary educational benefits under Title 38 U.S.C., Veterans' Benefits.

(b) "Immediate family member" means an individual's spouse or dependent child.

(c) "Inmate" means the same as that term is defined in Section 64-13-1.

(d) "Military service member" means an individual who:

(i) is serving on active duty in the United States Armed Forces[~~within the state of Utah~~];

(ii) is a member of a reserve component of the United States Armed Forces[~~assigned in Utah~~]; or

(iii) is a member of the Utah National Guard[~~; or~~].

[~~(iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned outside of Utah pursuant to federal permanent change of station orders.~~]

(e) "Military veteran" [~~has the same meaning as~~]means a veteran as that term is defined in Section 68-3-12.5.

(f) "Parent" means a student's biological or adoptive parent.

(2) The meaning of "resident student" is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3) (a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student's name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student's name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military service member, if the military service member provides:

(i) the military service member's current United States military identification card;

(ii) a leave and earning statement of the military service member;

(iii) the military service member's military orders;

(iv) documentation of enlistment by the military service member; or

(v) a statement from the military service member's current commander stating that the military service member is currently serving in the military; [~~and~~]

[~~(ii) (A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah; or~~]

[~~(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a);~~]

(b) a military service member's immediate family member, if the military service member's immediate family member provides:

(i) [~~(A) the military service member's current United States military identification card~~]any of the documentation described in Subsection (8)(a); or

[~~(B)~~](ii) the immediate family member's current United States military identification card; [~~and~~]

[~~(ii) (A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah;~~]

[~~(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a); or~~]

[~~(C) evidence that the immediate family member completed at least one year of grades 9 through 12 at a local education agency, as defined in Section 53E-1-102, within the state while the military service member was assigned in Utah, regardless of the service member's current assignment.~~]

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides [~~:~~]

[~~(i)~~] evidence of an honorable or general discharge;

[~~(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;~~]

[~~(iii) objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:~~]

[~~(A) a Utah voter registration card;~~]

[~~(B) a Utah driver license or identification card;~~]

[~~(C) a Utah vehicle registration;~~]

[~~(D) evidence of employment in Utah;~~]

[~~(E) a rental agreement showing the military veteran's name and Utah address; or~~]

[~~(F) utility bills showing the military veteran's name and Utah address;~~]

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides [~~:~~]

[~~(i)~~] evidence of the military veteran's honorable or general discharge;

[~~(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and~~]

[~~(iii) objective evidence that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah, which may include one of the items described in Subsection (8)(c)(iii);~~]

(e) a foreign service member as defined in the Foreign Service Family Act of 2021 who is either:

(i) domiciled in Utah, recognizing the individual may not be physically present in the state due to an assignment; or

(ii) assigned to a duty station in Utah if the foreign service member provides:

(A) evidence of the foreign service member's status;

(B) a statement from the foreign service member's current commander, or equivalent, stating that the foreign service member is assigned in Utah; or

(C) evidence that the foreign service member is domiciled in Utah;

(f) a foreign service member's immediate family member if the foreign service member is either:

(i) domiciled in Utah, recognizing the individual may not be physically present in the state due to an assignment; or

(ii) assigned to a duty station in Utah if the foreign service member provides:

(A) evidence of the foreign service member's status;

(B) a statement from the foreign service member's current commander, or equivalent, stating that the foreign service member is assigned in Utah; or

(C) evidence that the foreign service member is domiciled in Utah;

(g) an eligible person who provides:

(i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits; and

(ii) a signed written declaration that the eligible person will use the Veteran Benefits under Title 38 U.S.C.; [~~and~~]

[~~(iii) objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include one of the items described in Subsection (8)(c)(iii);~~]

(h) an alien who provides:

(i) evidence that the alien is a special immigrant visa recipient;

(ii) evidence that the alien has been granted refugee status, humanitarian parole, temporary protected status, or asylum; or

(iii) evidence that the alien has submitted in good faith an application for refugee status, humanitarian parole, temporary protected status, or asylum under United States immigration law; or

(i) an inmate:

(i) during the time the inmate is enrolled in the course; and

(ii) for one year after the day on which the inmate is released from a correctional facility as defined in Section 64-13-1.

(9) [~~(a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:~~]

[~~(i) a current Utah voter registration card;~~]

[~~(ii) a valid Utah driver license or identification card;~~]

[~~(iii) a current Utah vehicle registration;~~]

[~~(iv) a copy of a Utah income tax return, in the military service member's or military service member's spouse's name, filed as a resident in accordance with Section 59-10-502; or~~]

[~~(v) proof that the military service member or military service member's spouse owns a home in Utah, including a property tax notice for property owned in Utah.~~]

[~~(b)~~](a) Aliens who are present in the United States on visitor, student, or other visas not listed in Subsection (8)(h) or [~~(9)(c)~~](9)(b), which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

[~~(c)~~](b) Aliens who have been granted or have applied for permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14) (a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15) (a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency

standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16) (a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) A foreign service member or the foreign service member's immediate family member deemed eligible for resident student status under Subsection (8)(e) or (f) shall retain the eligibility for resident student status if the foreign service member or immediate family member maintains continuous enrollment even in the case of a change in domicile or duty station.

(18) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

(19) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 421
S. B. 82
Passed February 26, 2025
Approved March 26, 2025
Effective May 7, 2025

AUTOPSY PHOTO AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Nicholeen P. Peck

LONG TITLE

General Description:

This bill addresses the sharing of autopsy photographs or videos.

Highlighted Provisions:

This bill:

► defines a term; and

► with exceptions, criminalizes the sharing of non-public photographs or videos of a decedent that are part of the medical examiner's record.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-8-217, as last amended by Laws of Utah 2024, Chapter 240

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-8-217 is amended to read:

26B-8-217. Records of medical examiner -- Confidentiality.

(1) For purposes of this section, "deidentify" means to remove personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent.

(2) The medical examiner shall maintain complete, original records for the medical examiner record, which shall:

(a) be properly indexed, giving the name, if known, or otherwise identifying every individual whose death is investigated;

(b) indicate the place where the body was found;

(c) indicate the date of death;

(d) indicate the cause and manner of death;

(e) indicate the occupation of the decedent, if available;

(f) include all other relevant information concerning the death; and

(g) include a full report and detailed findings of the autopsy or report of the investigation.

[~~(2)~~](3) (a) Upon written request from an individual described in Subsections [~~(2)(a)(i)~~](3)(a)(i) through (iv), the medical examiner shall provide a copy of the autopsy report, toxicology report, lab reports, investigative reports, documents generated by the medical examiner related to any report, and any other specifically requested portions of the medical examiner record, if any, to any of the following:

(i) a decedent's immediate relative;

(ii) a decedent's legal representative;

(iii) a physician or physician assistant who attended the decedent during the year before the decedent's death; or

(iv) a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction, as necessary for the performance of the attorney or official's professional duties.

(b) Subject to Subsection [~~(2)(c)~~](3)(c), upon written request from the director or a designee of the director of an entity described in Subsections [~~(2)(b)(i)~~](3)(b)(i) through (iv), the medical examiner may provide a copy of any medical examiner report or other portions of the medical examiner's record described in Subsection [~~(2)(a)~~](3)(a), to any of the following entities as necessary for performance of the entity's official purposes:

(i) a local health department;

(ii) a local mental health authority;

(iii) a public health authority; or

(iv) another state or federal governmental agency.

(c) The medical examiner may provide a copy of a report or portion of the medical examiner's record described in Subsection [~~(2)(a)~~](3)(a), if the report or portion of the medical examiner's record relates to an issue of public health or safety, as further defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(3)~~](4) Reports provided under Subsection [~~(2)~~](3) may not include records that the medical examiner obtains from a third party in the course of investigating the decedent's death.

[~~(4)~~](5) (a) The medical examiner may provide a medical examiner record to a researcher who:

[~~(a)~~](i) has an advanced degree;

[~~(b)~~](ii) [~~(i)~~](A) is affiliated with an accredited college or university, a hospital, or another system of care, including an emergency medical response or a local health agency; or

[~~(ii)~~](B) is part of a research firm contracted with an accredited college or university, a hospital, or another system of care;

[~~(c)~~](iii) requests a medical examiner record for a research project or a quality improvement initiative that will have a public health benefit, as determined by the department; and

[~~(d)~~](iv) provides to the medical examiner an approval from:

[~~(i)~~](A) the researcher's sponsoring organization; and

[~~(ii)~~](B) the Utah Department of Health and Human Services Institutional Review Board.

[~~(5)~~](b) Records provided under Subsection [~~(4)~~](5)(a) may not include a third party record, unless:

[~~(a)~~](i) a court has ordered disclosure of the third party record; and

[~~(b)~~](ii) disclosure is conducted in compliance with state and federal law.

[~~(6)~~](c) (i) A person who obtains a medical examiner record under Subsection [~~(4)~~](5)(a) shall:

[~~(a)~~](A) maintain the confidentiality of the medical examiner record [~~by removing personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent~~]and deidentify the medical examiner record before using the medical examiner record in research;

[~~(b)~~](B) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;

[~~(c)~~](C) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;

[~~(d)~~](D) destroy a medical examiner record and the data abstracted from the medical examiner record at the conclusion of the research for which the person requested the medical examiner record;

[~~(e)~~](E) reimburse the medical examiner, as provided in Section 26B-1-209, for any costs incurred by the medical examiner in providing a medical examiner record;

[~~(f)~~](F) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and

[~~(g)~~](G) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical examiner record and all data obtained from the medical examiner record.

(ii) A person who fails to comply with the requirements of Subsections (5)(c)(i)(A) through (D) is guilty of a class B misdemeanor.

(6) (a) Except as provided in Subsections (6)(b) and (c), it is a class B misdemeanor for a person who receives a photograph or video of a decedent under Subsection (3) of this section to knowingly share, publish, or otherwise distribute or make available to another person a photograph or video of a decedent if the photograph or video:

(i) is part of the medical examiner's record; and

(ii) is not in the public domain at the time that the person shared, published, distributed, or otherwise made the photograph or video available.

(b) Subsection (6) does not apply to an employee or contractor of the Office of the Medical Examiner who, in the course of performing or assisting with the duties of the Office of the Medical Examiner, and in accordance with any applicable department rules, shares, publishes, distributes, or makes available:

(i) a photograph or video of a decedent for consultation with other professionals in determining cause and manner of the decedent's death; or

(ii) a deidentified photograph or video of a decedent for:

(A) training and services authorized under Section 26B-8-222;

(B) research;

(C) presentations and publication for academic or educational purposes; or

(D) other purposes provided by law.

(c) Subsection (6) does not apply to:

(i) a member, a contractor, or an employee of a law enforcement agency or prosecutorial agency who, in the course of performing or assisting with the duties of the agency, shares, publishes, distributes, or makes available a deidentified photograph or video of a decedent for the purposes of training;

(ii) an individual who shares or makes available a photograph or video of a decedent for the purposes of adjudicating a claim in an administrative or judicial proceeding; or

(iii) an individual who shares, publishes, distributes, or makes available a photograph or video of a decedent pursuant to lawful subpoena, court order, or the Government Records Access and Management Act.

(7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consideration of applicable state and federal law, to establish permissible uses and disclosures of a medical examiner record or other record obtained under this section.

(8) Except as provided in this chapter or ordered by a court, the medical examiner may not disclose any part of a medical examiner record.

[~~(9) A person who obtains a medical examiner record under Subsection (4) is guilty of a class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a) through (d).~~]

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 422
S. B. 78
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

HOMELESS INDIVIDUALS PROTECTION AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill creates the homeless service provider ombudsman within the Office of Homeless Services.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates the homeless services provider ombudsman (ombudsman) within the Office of Homeless Services (office);
- ► describes the duties and functions of the ombudsman;
- ► authorizes the office to make rules to implement and carry out the ombudsman's duties and functions; and
- ► provides for a sunset review after five years.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-16-208, as enacted by Laws of Utah 2024, Chapter 338
63I-1-235, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

35A-16-801, Utah Code Annotated 1953
35A-16-802, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-16-208 is amended to read:
35A-16-208. Reporting requirements -- Outcome measures.

(1) (a) The office shall report, for the state and for each local homeless council:

(i) the state's year-to-date progress toward reaching a functional zero level of homelessness for each type of homelessness and subpopulation, including:

(A) the number of individuals who are homeless for the first time;

(B) the number of individuals who returned to homelessness after having exited homelessness within the two previous years;

(C) the number of individuals who remained homeless since the last report;

(D) the number of individuals experiencing homelessness since the last report by household type;

(E) the number of individuals who exited by exit destination; and

(F) the number of individuals who are experiencing homelessness for the first time plus the number of individuals who are returning to homelessness minus the number of individuals who are exiting homelessness;

(ii) the percentage of individuals experiencing homelessness who:

(A) have a mental health disorder;

(B) have a substance use disorder;

(C) have a chronic health condition;

(D) have a physical disability;

(E) have a developmental disability;

(F) have HIV/AIDS;

(G) are survivors of domestic violence;

(H) are veterans; and

(I) are unaccompanied youth 24 years old or younger;

(iii) the number of individuals who exited homeless services since the last report by:

(A) type of homelessness;

(B) subpopulation; and

(C) exit destination; [~~and~~]

(iv) the progress, by project type, on each goal established in accordance with Subsection (3)[~~.~~]; and

(v) the data provided by the homeless services provider ombudsman as described in Section 35A-16-802.

(b) The reports described in this Subsection (1) shall contain aggregated, de-identified information.

(2) The office shall report the data described in Subsection (1):

(a) in the annual report required by Section 35A-16-203;

(b) on or before October 1 of each year, through an oral presentation to the Economic Development and Workforce Services Interim Committee; and

(c) on a data dashboard for the public with specific additional data points recommended by the board.

(3) The board and the local homeless councils shall jointly establish quarterly goals for each project type.

(4) The board and the local homeless councils shall jointly make annual progress reports identifying:

(a) the percentage of clients screened for social needs;

(b) the percentage of clients subsequently referred to community-based providers who can:

(i) address the client's needs;

(ii) follow-up on status of addressing the client's needs; and

(iii) report back to the referring entity;

(c) the number of youth receiving parent or guardian bereavement support services; and

(d) the number of clients with:

(i) a successful exit;

(ii) an unsuccessful exit;

(iii) a neutral exit; and

(iv) continued enrollment in the project.

Section 2. Section 35A-16-801 is enacted to read:

PART 8. Homeless Services Provider Ombudsman

35A-16-801. Homeless services provider ombudsman -- Definitions -- Creation -- Appointment -- Qualifications.

(1) As used in this part:

(a) "Client" means the same at that term is defined in Section 35A-16-102.

(b) "Complainant" means a person who initiates a complaint with the ombudsman.

(c) "Complaint" means a complaint regarding an act or omission by a service provider with respect to a particular client.

(d) "Office" means the Office of Homeless Services described in Chapter 16, Part 2, Office of Homeless Services.

(e) "Ombudsman" means the homeless services provider ombudsman appointed under this section.

(f) "Service provider" means the same as that term is defined in Section 35A-16-102.

(2) (a) There is created within the office the position of homeless services provider ombudsman to investigate complaints made against service providers by or on behalf of individuals experiencing homelessness.

(b) The executive director of the department shall:

(i) appoint an ombudsman who has:

(A) recognized executive and administrative capacity; and

(B) experience in human welfare, and in state laws and policies governing vulnerable populations; and

(ii) select the ombudsman solely with regard to qualifications and fitness to discharge the duties of the ombudsman.

(c) The ombudsman shall:

(i) serve at the pleasure of the executive director of the department; and

(ii) devote full-time to the duties described in this part.

Section 3. Section 35A-16-802 is enacted to read:

35A-16-802. Homeless services provider ombudsman -- Powers and duties -- Reporting requirements.

(1) The ombudsman shall:

(a) provide training and information to public agencies, private entities, individuals, service providers, and other interested parties across the state regarding:

(i) the role and duties of the ombudsman;

(ii) the rights and privileges of an individual experiencing homelessness;

(iii) services available in the state to an individual experiencing homelessness; and

(iv) how to submit a complaint; and

(b) develop a website to provide the information described in this Subsection (1) in a form that is easily accessible.

(2) The ombudsman may:

(a) decline to investigate a complaint or continue an investigation of a complaint;

(b) conduct an investigation on the ombudsman's own initiative;

(c) conduct further investigation upon the request of the complainant; or

(d) recommend that a complainant pursue other available remedies before pursuing a complaint with the ombudsman.

(3) (a) A service provider shall display an ombudsman program information poster containing the information described in Subsection

(1) in a location that is easily visible to all clients, volunteers, and staff members.

(b) The office is responsible for providing the posters, which shall include a phone number and a link to the website described in Subsection (1)(b).

(4) After the ombudsman receives a complaint, the ombudsman shall notify the complainant and the office:

(a) whether the ombudsman will investigate the complaint; and

(b) if the ombudsman decides not to investigate the complaint, the reason for the decision.

(5) (a) If the ombudsman decides to investigate a complaint, the ombudsman shall determine whether a service provider's act or omission with respect to a particular client:

(i) is contrary to state or federal law;

(ii) places a client's health or safety at risk;

(iii) is made without an adequate statement of reason; or

(iv) is based on irrelevant, immaterial, or erroneous grounds.

(b) If the ombudsman determines, after completing the investigation described in Subsection (5)(a), that a service provider's act or omission violates state or federal law, the ombudsman shall:

(i) prepare a written report of the findings and recommendations, as described in Subsection (6), if any, of each investigation;

(ii) provide a copy of the report to the claimant; and

(iii) provide a copy of the report and recommendations, if any, to the office and the appropriate county or district attorney or the attorney general.

(6) The ombudsman may make recommendations to the office to consider:

(a) policies or procedures that may need to be addressed, modified, or canceled; or

(b) any other recommendations necessary to carry out the purposes of this part.

(7) (a) On or before October 1 of each year, the ombudsman shall provide a written report to the office for inclusion in the office's annual report described in Section 35A-16-208.

(b) The written report shall include:

(i) the total number of complaints filed with the ombudsman;

(ii) the number of complaints the ombudsman investigated;

(iii) reoccurring themes among complaints, if any; and

(iv) any recommendations described in Subsection (6).

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules to implement this part.

(b) The rules described in Subsection (8)(a) shall include a maximum time within which the ombudsman is required to respond to and complete an investigation of a complaint under Subsections (4) and (5).

(9) Subsection (2)(d) does not prevent a complainant from making a complaint directly with the ombudsman before pursuing any other available remedies provided for in state or federal law.

Section 4. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates: Title 35A.

(1) Subsection 35A-1-202(2)(d), regarding the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, Creation of committee, is repealed July 1, 2026.

(3) Subsection 35A-4-502(5), regarding the Employment Advisory Council, is repealed July 1, 2029.

(4) Title 35A, Chapter 9, Part 6, Education Savings Incentive Program, is repealed July 1, 2028.

(5) Section 35A-13-303, State Rehabilitation Advisory Council, is repealed July 1, 2034.

(6) Section 35A-16-206, Utah Homeless Network Steering Committee, is repealed July 1, 2027.

(7) Section 35A-16-207, Duties of the steering committee, is repealed July 1, 2027.

(8) Title 35A, Chapter 16, Part 8, Homeless Services Provider Ombudsman, is repealed July 1, 2030.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 423
S. B. 96
Passed February 19, 2025
Approved March 26, 2025
Effective May 7, 2025

ADVANCED AIR MOBILITY AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill addresses provisions related to advanced air mobility.

Highlighted Provisions:

This bill:

- ► directs the Department of Transportation to conduct a community outreach and education campaign;
- ► directs the Department of Transportation to develop an advanced air mobility toolkit;
- ► defines terms and modifies definitions related to advanced air mobility; and
- ► makes other technical changes related to advanced air mobility.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-10-102, as last amended by Laws of Utah 2024, Chapter 483
72-10-109, as last amended by Laws of Utah 2024, Chapters 483, 485

ENACTS:

72-1-218, Utah Code Annotated 1953
72-10-703, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-1-218 is enacted to read:

72-1-218. Advanced air mobility community outreach.

The department shall conduct a community outreach and public education campaign that:

(1) educates the public regarding advanced air mobility, including:

(a) the information and findings of relevant studies and reports that the department conducts;

(b) potential use cases;

(c) potential benefits as a form of transportation;

(d) state-driven advanced air mobility initiatives;

(e) potential impacts on the economy, including job creation and other new opportunities; and

(f) potential phasing for establishing a robust advanced air mobility system;

(2) provides and coordinates opportunities for the public to observe real world demonstrations;

(3) coordinates with local advanced air mobility industry leaders and other groups in the state that are promoting and planning for advanced air mobility; and

(4) provides information on how advanced air mobility could benefit and otherwise impact communities.

Section 2. Section 72-10-102 is amended to read:

72-10-102. Definitions.

As used in this chapter:

(1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air navigation.

(2) (a) "Advanced air mobility system" means a system that transports individuals and property using piloted and unpiloted aircraft, including electric aircraft and electric vertical takeoff and landing aircraft, in controlled or uncontrolled airspace.

(b) "Advanced air mobility system" includes each component of a system described in Subsection (2)(a), including:

(i) the aircraft, including payload;

(ii) communications equipment;

(iii) navigation equipment;

(iv) controllers;

(v) support equipment;

(vi) an authoritative supplemental data service provider;

(vii) flight information exchange; and

[~~(vi)~~](viii) remote and autonomous functions.

(3) "Aerial transit corridor" means an airspace volume defining a three-dimensional route segment with performance requirements to operate within or to cross where tactical air traffic control separation services are not provided.

(4) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair, or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or other air navigation facilities.

(5) "Aeronautics instructor" means any individual engaged in giving or offering to give instruction in aeronautics, flying, or ground subjects, either with or without:

(a) compensation or other reward;

(b) advertising the occupation;

(c) calling [~~his~~]the instructor's facilities an air school, or any equivalent term; or

(d) employing or using other instructors.

(6) "Aircraft" means any contrivance now known or in the future invented, used, or designed for navigation of or flight in the air.

(7) "Air instruction" means the imparting of aeronautical information by any aviation instructor or in any air school or flying club.

(8) "Airport" means any area of land, water, or both, that:

(a) is used or is made available for landing and takeoff;

(b) provides facilities for the shelter, supply, and repair of aircraft, and handling of passengers and cargo;

(c) meets the minimum requirements established by the department as to size and design, surface, marking, equipment, and operation; and

(d) includes all areas shown as part of the airport in the current airport layout plan as approved by the Federal Aviation Administration.

(9) "Airport authority" means a political subdivision of the state, other than a county or municipality, that is authorized by statute to operate an airport.

(10) "Airport operator" means a municipality, county, or airport authority that owns or operates a commercial airport.

(11) (a) "Airport revenue" means:

(i) all fees, charges, rents, or other payments received by or accruing to an airport operator for any of the following reasons:

(A) revenue from air carriers, tenants, lessees, purchasers of airport properties, airport permittees making use of airport property and services, and other parties;

(B) revenue received from the activities of others or the transfer of rights to others relating to the airport, including revenue received:

(I) for the right to conduct an activity on the airport or to use or occupy airport property;

(II) for the sale, transfer, or disposition of airport real or personal property, or any interest in that property, including transfer through a condemnation proceeding;

(III) for the sale of, or the sale or lease of rights in, mineral, natural, or agricultural products or water owned by the airport operator to be taken from the airport; and

(IV) for the right to conduct an activity on, or for the use or disposition of, real or personal property or any interest in real or personal property owned or controlled by the airport operator and used for an airport-related purpose but not located on the airport; or

(C) revenue received from activities conducted by the airport operator whether on or off the airport, which is directly connected to the airport operator's ownership or operation of the airport; and

(ii) state and local taxes on aviation fuel.

(b) "Airport revenue" does not include amounts received by an airport operator as passenger facility fees pursuant to 49 U.S.C. Sec. 40117.

(12) "Air school" means any person engaged in giving, offering to give, or advertising, representing, or holding [~~himself~~]itself out as giving, with or without compensation or other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these subjects.

(13) "Airworthiness" means conformity with requirements prescribed by the Federal Aviation Administration regarding the structure or functioning of aircraft, engine, parts, or accessories.

(14) "Authoritative supplemental data service provider" means a third party provider of unmanned aircraft system traffic management services that is approved by the department and supplies specialized data to an unmanned aircraft system service supplier or to an unmanned aircraft system operator for a variety of uses.

[~~(14)~~](15) "Civil aircraft" means any aircraft other than a public aircraft.

[~~(15)~~](16) "Commercial aircraft" means aircraft used for commercial purposes.

[~~(16)~~](17) "Commercial airport" means a landing area, landing strip, or airport that may be used for commercial operations.

[~~(17)~~](18) "Commercial flight operator" means a person who conducts commercial operations.

[~~(18)~~](19) "Commercial operations" means:

(a) any operations of an aircraft for compensation or hire or any services performed incidental to the operation of any aircraft for which a fee is charged or compensation is received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, and the operation of aircraft for hunting and fishing; or

(b) the brokering or selling of any of these services; but

(c) does not include any operations of aircraft as common carriers certificated by the federal government or the services incidental to those operations.

[~~(19)~~](20) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

[~~(20)~~](21) "Dealer" means any person who is actively engaged in the business of flying for demonstration purposes, or selling or exchanging aircraft, and who has an established place of business.

[~~(21)~~](22) "Experimental aircraft" means:

(a) any aircraft designated by the Federal Aviation Administration or the military as experimental and used solely for the purpose of experiments, or tests regarding the structure or functioning of aircraft, engines, or their accessories; and

(b) any aircraft designated by the Federal Aviation Administration as:

(i) being custom or amateur built; and

(ii) used for recreational, educational, or display purposes.

[~~(22)~~](23) "Flight" means any kind of locomotion by aircraft while in the air.

(24) "Flight information exchange" means a model or system that allows for the consistent exchange of flying data between an unmanned aircraft system traffic management system and an unmanned aircraft system operator or aircraft to facilitate the coordination of flights.

[~~(23)~~](25) "Flying club" means five or more persons who for neither profit nor reward own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

[~~(24)~~](26) "Glider" means an aircraft heavier than air, similar to an airplane, but without a power plant.

[~~(25)~~](27) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or overhauls aircraft, engines, or accessories.

[~~(26)~~](28) "Navigable airspace" means the same as that term is defined in 49 U.S.C. Sec. 40102.

[~~(27)~~](29) "Parachute jumper" means any person who has passed the required test for jumping with a parachute from an aircraft, and has passed an examination showing that [~~he~~]the jumper possesses the required physical and mental qualifications for the jumping.

[~~(28)~~](30) "Parachute rigger" means any person who has passed the required test for packing, repairing, and maintaining parachutes.

[~~(29)~~](31) "Passenger aircraft" means aircraft used for transporting persons, in addition to the pilot or crew, with or without their necessary personal belongings.

[~~(30)~~](32) "Person" means any individual, corporation, limited liability company, or association of individuals.

[~~(31)~~](33) "Pilot" means any person who operates the controls of an aircraft while in-flight.

[~~(32)~~](34) "Primary glider" means any glider that has a gliding angle of less than 10 to one.

[~~(33)~~](35) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision, including the government of the United States, of the District of Columbia, and of any state, territory, or insular possession of the United States, but not including any government-owned aircraft engaged in carrying persons or goods for commercial purposes.

[~~(34)~~](36) "Reckless flying" means the operation or piloting of any aircraft recklessly, or in a manner as to endanger the property, life, or body of any person, due regard being given to the prevailing weather conditions, field conditions, and to the territory being flown over.

[~~(35)~~](37) "Registration number" means the number assigned by the Federal Aviation Administration to any aircraft, whether or not the number includes a letter or letters.

[~~(36)~~](38) "Roadable aircraft" means an aircraft capable of taking off and landing from a suitable airfield and is also designed to be driven on a highway as a conveyance.

[~~(37)~~](39) "Secondary glider" means any glider that has a gliding angle between 10 to one and 16 to one, inclusive.

[~~(38)~~](40) "Soaring glider" means any glider that has a gliding angle of more than 16 to one.

(41) "Unmanned aircraft system service supplier" means a service supplier that:

(a) relays flight information between an unmanned aircraft system operator and a flight management system; and

(b) provides information that supports unmanned aircraft system operations and assists with strategic deconfliction by an unmanned aircraft system traffic management system.

[~~(39)~~](42) "Unmanned aircraft" means an aircraft that is:

(a) capable of sustaining flight; and

(b) operated with no possible direct human intervention from on or within the aircraft.

[~~(40)~~](43) "Unmanned aircraft system" means the entire system used to operate an unmanned aircraft, including:

(a) the unmanned aircraft, including payload;

(b) communications equipment;

(c) navigation equipment;

(d) controllers;

(e) support equipment; and

(f) autopilot functionality.

[~~(41)~~](44) "Unmanned aircraft system traffic management" means a traffic management ecosystem for uncontrolled operations, including unmanned aircraft systems, that is separate from, but complementary to, the Federal Aviation Administration's air traffic management system.

[~~(42)~~](45) "Vertiport" means an area of land, or a structure, used or intended to be used for electric, hydrogen, and hybrid vertical aircraft landings and takeoffs, including associated buildings and facilities.

Section 3. Section 72-10-109 is amended to read:

72-10-109. Certificate of registration of aircraft required -- Exceptions.

(1) Except as provided in Subsection (2), a person may not operate, pilot, or navigate, or cause or authorize to be operated, piloted, or navigated within this state any civil aircraft operating in this state for 181 or more days within any consecutive 12-month period unless the aircraft has a current certificate of registration issued by the department.

(2) The state registration requirement under Subsection (1) does not apply to:

(a) aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of the registered aircraft;

(b) a non-passenger-carrying flight solely for inspection or test purposes authorized by the Federal Aviation Administration to be made without the certificate of registration; or

(c) aircraft operating under 14 C.F.R. Part 121, with a maximum takeoff weight exceeding 35,000 pounds.

(3) Beginning on January 1, 2025, a person may not operate in this state an unmanned aircraft system or an advanced air mobility

aircraft for commercial operation for which certification is required under [~~14 C.F.R. Part 107 or 135~~]federal rule unless the aircraft has a current certificate of registration issued by the department.

(4) The department shall, on or before December 31 of each calendar year, provide to the State Tax Commission a list of each aircraft for which a current certificate of registration is issued by the department under Subsection (1).

Section 4. Section 72-10-703 is enacted to read:

72-10-703. Advanced air mobility toolkit.

(1) As used in this section, "political subdivision" means the same as that term is defined in Section 72-10-401.

(2) On or before July 1, 2026, the department shall:

(a) develop a toolkit for a political subdivision to address advanced air mobility, including:

(i) model ordinances governing advanced air mobility;

(ii) best practices; and

(iii) available resources that can assist the political subdivision in developing and implementing advanced air mobility policy;

(b) regularly maintain and update the toolkit; and

(c) make the toolkit publicly available on the department's website.

(3) The department may not require a political subdivision to adopt or implement any portion of the advanced air mobility toolkit.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 424
H. B. 184
Passed February 24, 2025
Approved March 26, 2025
Effective July 1, 2025

SCHOOL TRUST LAND AMENDMENTS

Chief Sponsor: Tracy J. Miller
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill streamlines the School LAND Trust Program by shifting responsibilities and improving transparency.

Highlighted Provisions:

This bill:

- ► clarifies action plans and the implementation of action plans;
- ► adds a requirement to train on the Open and Public Meetings Act;
- ► expands the list of entities to receive training on the School LAND Trust Program;
- ► refines the process for reviewing school compliance with the program;
- ► adds new responsibilities for the state superintendent; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-7-1206, as last amended by Laws of Utah 2024, Chapter 20

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-7-1206 is amended to read:

53G-7-1206. School LAND Trust Program.

(1) As used in this section:

(a) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.

(b) "Council" means a school community council or a charter trust land council.

(c) "LAND trust plan" means a school's plan to use School LAND Trust Program money to implement a component of the school's success plan.

(d) "School community council" means a council established at a district school in accordance with Section 53G-7-1202.

(e) "Teacher and student success plan" or "success plan" means the same as that term is defined in Section 53G-7-1301.

(2) This section creates the School LAND (Learning And Nurturing Development) Trust Program under the state board to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a district school or charter school's teacher and student success plan; and

(b) involve parents of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.

(3) To receive an allocation under Section 53F-2-404:

(a) a district school shall have established a school community council in accordance with Section 53G-7-1202;

(b) a charter school shall have established a charter trust land council in accordance with Section 53G-7-1205; and

(c) the school's principal shall provide a signed, written assurance that the school is in compliance with Subsection (3)(a) or (b).

(4) (a) A council shall create a program to use the school's allocation distributed under Section 53F-2-404 to implement a component of the school's success plan, including:

(i) the school's identified most critical academic needs;

(ii) a recommended [~~course of~~]action plan to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment that the school will need to implement [~~a component of the school's success plan~~]the action plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how [~~the school intends to spend the school's allocation of funds under this section~~]each proposed expenditure in the action plan will be used to implement a component of the action plan to enhance or improve academic excellence at the school.

(b) (i) A council shall create and vote to adopt a LAND trust plan in a meeting of the council at which a quorum is present.

(ii) If a majority of the quorum votes to adopt a LAND trust plan, the LAND trust plan is adopted.

(c) A council shall:

(i) post a LAND trust plan that is adopted in accordance with Subsection (4)(b) on the School LAND Trust Program reporting website; and

(ii) include with the LAND trust plan a report noting the number of council members who voted for or against the approval of the LAND trust plan and the number of council members who were absent for the vote.

(d) (i) The local school board of a district school shall approve or disapprove a LAND trust plan.

(ii) If a local school board disapproves a LAND trust plan:

(A) the local school board shall provide a written explanation of why the LAND trust plan was disapproved and request the school community council who submitted the LAND trust plan to revise the LAND trust plan; and

(B) the school community council shall submit a revised LAND trust plan in response to a local school board's request under Subsection (4)(d)(ii)(A).

(iii) Once a LAND trust plan has been approved by a local school board, a school community council may amend the LAND trust plan, subject to a majority vote of the school community council and local school board approval.

(e) A charter trust land council's LAND trust plan is subject to approval by the:

(i) charter school governing board; and

(ii) budget officer whom the charter school governing board appoints.

(5) (a) A district school or charter school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's [~~program~~]plan and responsibilities; and

(iii) meet state board reporting requirements regarding financial and performance accountability of the program.

(b) (i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program reporting website before the council submits a plan for the following year.

(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents of students who attend the school.

(6) An LEA shall record the LEA's expenditures of School LAND Trust Program funds through a financial reporting system that the board identifies to assist schools in developing the annual report described in Subsection (5)(b).

(7) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

(8) (a) The state board shall provide annual training opportunities to the entities described in Subsection (8)(b) on:

(i) the School LAND Trust Program; [~~and~~]

(ii) [~~(A)~~] the responsibilities and formation of:

(A) a school community council consistent with Section 53G-7-1202; or

(B) a charter trust land council [~~.~~]consistent with Section 53G-7-1205; and

(iii) as applicable, council responsibilities as described in Section 53G-7-1203.

(b) The state board shall provide the training to:

(i) a local school board or a charter school governing board;

(ii) a district business administrator or a charter business official;

[~~(ii)~~](iii) a school district or a charter school; and

[~~(iii)~~](iv) a school community council.

(9) The state board shall annually review [~~each~~]a school's compliance with applicable law, including rules adopted by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by:

(a) reading each School LAND [~~trust~~]Trust Program plan submitted; [~~and~~]

(b) reviewing proposed expenditures to be made from School LAND Trust Program money[~~.~~]; and

(c) conducting an annual compliance review of an LEA using a sample of schools.

(10) The superintendent shall calculate and initiate the annual School LAND Trust distribution to schools through the state board's finance system to each LEA as outlined in Section 53F-2-404.

(11) The superintendent shall administer the School LAND Trust website to provide transparency and accountability to school communities and the public of School LAND Trust plans, reports, and expenditures of trust distributions.

[~~(10)~~](12) The state board shall designate a staff member who administers the School LAND Trust Program [~~:~~]

[~~(a)~~] to serve as a member of the Land Trusts Protection and Advocacy Committee created under Section 53D-2-202[~~; and~~].

[~~(b) who may coordinate with the Land Trusts Protection and Advocacy Office director, appointed under Section 53D-2-203, to attend meetings or events within the School and Institutional Trust System, as defined in Section 53D-2-102, that relate to the School LAND Trust Program.~~]

Section 2. Effective date.

This bill takes effect on July 1, 2025.

CHAPTER 425
S. B. 86
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

WORKPLACE PROTECTION AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This bill amends provisions relating to employment.

Highlighted Provisions:

This bill:

► amends the definition of sexual harassment.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-5-102, as last amended by Laws of Utah 2024, Chapter 158
34A-5-114, as enacted by Laws of Utah 2024, Chapter 95

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-5-102 is amended to read:

34A-5-102. Definitions -- Unincorporated entities -- Joint employers -- Franchisors.

(1) As used in this chapter:

(a) "Affiliate" means the same as that term is defined in Section 16-6a-102.

(b) "Apprenticeship" means a program for the training of apprentices including a program providing the training of those persons defined as apprentices by Section 35A-6-102.

(c) "Bona fide occupational qualification" means a characteristic applying to an employee that:

(i) is necessary to the operation; or

(ii) is the essence of the employee's employer's business.

(d) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(e) "Director" means the director of the division.

(f) "Disability" means a physical or mental disability as defined and covered by the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

(g) "Division" means the Division of Antidiscrimination and Labor.

(h) "Employee" means a person applying with or employed by an employer.

(i) (i) "Employer" means:

(A) the state;

(B) a political subdivision;

(C) a board, commission, department, institution, school district, trust, or agent of the state or a political subdivision of the state; or

(D) a person employing [~~15~~]15 or more employees within the state for each working day in each of 20 calendar weeks or more in the current or preceding calendar year.

(ii) "Employer" does not include:

(A) a religious organization, a religious corporation sole, a religious association, a religious society, a religious educational institution, or a religious leader, when that individual is acting in the capacity of a religious leader;

(B) any corporation or association constituting an affiliate, a wholly owned subsidiary, or an agency of any religious organization, religious corporation sole, religious association, or religious society; or

(C) the Boy Scouts of America or its councils, chapters, or subsidiaries.

(j) "Employment agency" means a person:

(i) undertaking to procure employees or opportunities to work for any other person; or

(ii) holding the person out to be equipped to take an action described in Subsection (1)(j)(i).

(k) "Federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

(l) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(m) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(n) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(o) "Gender identity" has the meaning provided in the Diagnostic and Statistical Manual (DSM-5). A person's gender identity can be shown by providing evidence, including, but not limited to, medical history, care or treatment of the gender identity, consistent and uniform assertion of the gender identity, or other evidence that the gender identity is sincerely held, part of a person's core identity, and not being asserted for an improper purpose.

(p) "Joint apprenticeship committee" means an association of representatives of a labor organization and an employer providing, coordinating, or controlling an apprentice training program.

(q) "Labor organization" means an organization that exists for the purpose in whole or in part of:

(i) collective bargaining;

(ii) dealing with employers concerning grievances, terms or conditions of employment; or

(iii) other mutual aid or protection in connection with employment.

(r) "National origin" means the place of birth, domicile, or residence of an individual or of an individual's ancestors.

(s) "On-the-job-training" means a program designed to instruct a person who, while learning the particular job for which the person is receiving instruction:

(i) is also employed at that job; or

(ii) may be employed by the employer conducting the program during the course of the program, or when the program is completed.

(t) "Person" means:

(i) one or more individuals, partnerships, associations, corporations, legal representatives, trusts or trustees, or receivers;

(ii) the state; and

(iii) a political subdivision of the state.

(u) "Pregnancy, childbirth, or pregnancy-related conditions" includes breastfeeding or medical conditions related to breastfeeding.

(v) "Presiding officer" means the same as that term is defined in Section 63G-4-103.

(w) "Prohibited employment practice" means a practice specified as discriminatory, and therefore unlawful, in Section 34A-5-106.

(x) "Religious leader" means an individual who is associated with, and is an authorized representative of, a religious organization or association or a religious corporation sole, including a member of clergy, a minister, a pastor, a priest, a rabbi, an imam, or a spiritual advisor.

(y) "Retaliate" means the taking of adverse action by an employer, employment agency, labor organization, apprenticeship program, on-the-job training program, or vocational school against one of its employees, applicants, or members because the employee, applicant, or member:

(i) opposes an employment practice prohibited under this chapter; or

(ii) files charges, testifies, assists, or participates in any way in a proceeding, investigation, or hearing under this chapter.

(z) "Sexual orientation" means an individual's actual or perceived orientation as heterosexual, homosexual, or bisexual.

(aa) "Undue hardship" means an action that requires significant difficulty or expense when considered in relation to factors such as the size of the entity, the entity's financial resources, and the nature and structure of the entity's operation.

(bb) "Unincorporated entity" means an entity organized or doing business in the state that is not:

(i) an individual;

(ii) a corporation; or

(iii) publicly traded.

(cc) "Vocational school" means a school or institution conducting a course of instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to pursue a manual, technical, industrial, business, commercial, office, personal services, or other nonprofessional occupations.

(2) (a) For purposes of this chapter, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

(i) "active manager";

(ii) "directly or indirectly holds at least an 8% ownership interest"; and

(iii) "subject to supervision or control in the performance of work."

(3) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(4) (a) For purposes of this chapter, a franchisor is not considered to be an employer of:

(i) a franchisee; or

(ii) a franchisee's employee.

(b) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (4) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee

not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

(5) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an action under this chapter in the judicial district in which the asserted unfair employment practice occurs if the action is brought in the district court.

Section 2. Section 34A-5-114 is amended to read:

34A-5-114. Limitations on enforceability of nondisclosure and non-disparagement clauses -- Retaliation prohibited.

(1) As used in this section:

(a) "Confidentiality clause" means a nondisclosure clause or a non-disparagement clause.

(b) "Employee" means a current or a former employee.

(c) "Nondisclosure clause" means an agreement between an employee and employer that [~~:~~]

[~~(i)~~] prevents, or has the effect of preventing, an employee from disclosing or discussing:

[~~(A)~~](i) sexual assault;

[~~(B)~~](ii) allegations of sexual assault;

[~~(C)~~](iii) sexual harassment; or

[~~(D)~~](iv) allegations of sexual harassment.

(d) "Non-disparagement clause" means an agreement between an employee and employer that prohibits, or has the effect of prohibiting, an employee from making a negative statement that is:

(i) about the employer; and

(ii) related to:

(A) a claim of sexual assault or sexual harassment;

(B) a sexual assault dispute; or

(C) a sexual harassment dispute.

(e) "Post-employment restrictive covenant" means the same as that term is defined in Section 34-51-102.

(f) "Proprietary information" means an employer's business plan or customer information.

(g) "Retaliate" means taking an adverse action against an employee because the employee made an allegation of sexual harassment or assault, including:

(i) discharge;

(ii) suspension;

(iii) demotion; or

(iv) discrimination in the terms, conditions, or privileges of employment.

(h) "Sexual assault" means:

(i) conduct that would constitute a violation of 18 U.S.C. Secs. 2241 through 2244; or

(ii) criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(i) "Sexual assault dispute" means a dispute between an employer and the employer's employee relating to alleged sexual assault.

[~~(j) "Sexual harassment" means conduct that is a violation of:~~]

[~~(i) Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et seq.; or~~]

[~~(ii) Subsection 34A-5-106(1)(a)(i) prohibiting harassment on the basis of sex, sexual orientation, or gender.~~]

(j) "Sexual harassment" means harassment on the basis of sex, sexual orientation, or gender, as prohibited in:

(i) Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et seq.; or

(ii) Subsection 34A-5-106(1)(a)(i).

(k) "Sexual harassment dispute" means a dispute between an employer and the employer's employee relating to alleged sexual harassment.

(2) (a) A confidentiality clause regarding sexual misconduct, as a condition of employment, is against public policy and is void and unenforceable.

(b) After an employee makes an allegation of sexual harassment or sexual assault, an employer of any sized business, regardless of Subsection 34-5-102(1)(i)(D):

(i) may not retaliate against the employee because the employee made an allegation of sexual harassment or assault; or

(ii) may not retaliate based on an employee's refusal to enter into a confidentiality clause or an employment contract that, as a condition of employment, contains a confidentiality clause.

(c) An employee may, within three business days after the day on which the employee agrees to a settlement agreement that includes a confidentiality clause regarding sexual misconduct, withdraw from the settlement agreement.

(3) An employer who attempts to enforce a confidentiality clause in violation of this section:

(a) is liable for all costs, including reasonable attorney fees, resulting from legal action to enforce the confidentiality clause; and

(b) is not entitled to monetary damages resulting from a breach of a confidentiality clause.

(4) This section does not:

(a) prohibit an agreement between an employee who alleges sexual assault or sexual harassment and an employer from containing a nondisclosure clause, a non-disparagement clause, or any other clause prohibiting disclosure of:

(i) the amount of a monetary settlement; or

(ii) at the request of the employee, facts that could reasonably lead to the identification of the employee;

(b) prohibit an employer from requiring an employee to:

(i) sign a post-employment restrictive covenant; or

(ii) agree not to disclose an employer's non-public trade secrets, proprietary information, or confidential information that does not involve illegal acts;

(c) authorize an employee to:

(i) disclose data otherwise protected by law or legal privilege; or

(ii) knowingly make statements or disclosures that are false or made with reckless disregard of the truth;

(d) prohibit an employee from discussing sexual misconduct or allegations of sexual misconduct in a civil or criminal case when subpoenaed if the sexual misconduct or allegations of sexual misconduct are against the individual whom the employee alleged engaged in sexual misconduct;

(e) permit a disclosure that would violate state or federal law; or

(f) limit other grounds that may exist at law or in equity for the unenforceability of a confidentiality clause.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 426
S. B. 119
Passed February 28, 2025
Approved March 26, 2025
Effective September 1, 2025

DOMESTIC RELATIONS RECODIFICATION

Chief Sponsor: Todd Weiler
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill recodifies and amends statutes related to domestic relations.

Highlighted Provisions:

This bill:

- ► clarifies the jurisdiction of the juvenile and district courts with regard to adoptions;
- ► clarifies and coordinates definitions related to domestic relations;
- ► recodifies and amends Title 78B, Chapter 15, Utah Uniform Parentage Act, to Title 81, Chapter 5, Uniform Parentage Act, including changing the term, "support-enforcement agency" to "child support services agency";
- ► recodifies and amends Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act, to Title 81, Chapter 8, Uniform Interstate Family Support Act, including:
  - • defining terms to coordinate with the definitions in Title 81, Chapter 5, Uniform Parentage Act; and
  - • changing the term, "support-enforcement agency" to "child support services agency";
- ► recodifies Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act, to Title 81, Chapter 10, Uniform Deployed Parents Custody, Parent-time, and Visitation Act;
- ► recodifies Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, to Title 81, Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act;
- ► recodifies Title 78B, Chapter 6, Part 1, Utah Adoption Act, to Title 81, Chapter 13, Adoption;
- ► clarifies provisions regarding adoption, including:
  - • definitions related to adoption;
  - • access to adoption records by a potential birth father that is allowed to intervene in an adoption proceeding;
  - • that a petitioner's home includes a temporary place of abode in certain circumstances;
  - • clarifying the time periods associated with adoption; and
  - • requirements for adopting an adult;
- ► allows an adoption proceeding to be brought in a judicial district rather than a county;
- ► repeals a requirement requiring a petition for adoption of a minor child to be filed within 30 days of the minor child being placed in the home of the prospective adoptive parents;
- ► repeals a statute requiring a person filing a petition for the adoption of an alien child to include written evidence of lawful admission of the alien child;
- ► recodifies Title 78B, Chapter 24, Uniform Unregulated Child Custody Transfer Act, to Title 81, Chapter 14, Uniform Unregulated Child Custody Transfer Act;
- ► includes a coordination clause to address a technical conflict with a reference if this bill and H.B. 329, Homeless Services Amendments, both pass and become law;
- ► includes a coordination clause to coordinate changes to statutes related to adoption documents if this bill and H.B. 129, Adoption Records Access Amendments, both pass and become law;
- ► includes a coordination clause to modify a definition due to the repeal of a statute if this bill and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law;
- ► includes a coordination clause to address inconsistent terminology if this bill and H.B. 141, Adoption Modifications, both pass and become law;
- ► includes a coordination clause to address inconsistent terminology if this bill and H.B. 283, Child and Family Services Amendments, both pass and become law; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

10-3-1103, as last amended by Laws of Utah 2022, Chapters 166, 177
17-33-5, as last amended by Laws of Utah 2022, Chapters 166, 177
26B-1-202, as last amended by Laws of Utah 2024, Chapter 506
26B-2-104, as last amended by Laws of Utah 2024, Chapters 240, 307

26B-2-127, as last amended by Laws of Utah 2023, Chapter 466 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-3-108, as last amended by Laws of Utah 2024, Chapter 284
26B-5-316, as last amended by Laws of Utah 2024, Chapter 366
26B-6-411, as last amended by Laws of Utah 2024, Chapter 366
26B-8-101, as last amended by Laws of Utah 2024, Chapter 366
26B-8-102, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-104, as last amended by Laws of Utah 2024, Chapter 295
26B-8-110, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-119, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-125, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-128, as last amended by Laws of Utah 2023, Chapter 289 and renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-131, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-9-101, as last amended by Laws of Utah 2024, Chapter 366
26B-9-104, as last amended by Laws of Utah 2024, Chapter 366
26B-9-108, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-205, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-206, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-207, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-209, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-213, as last amended by Laws of Utah 2024, Chapter 366
26B-9-230, as last amended by Laws of Utah 2024, Chapter 366
35A-3-308, as last amended by Laws of Utah 2023, Chapter 328
53-10-108, as last amended by Laws of Utah 2023, Chapter 328
53B-1-119, as enacted by Laws of Utah 2024, Chapter 378
53G-11-209, as enacted by Laws of Utah 2024, Chapter 48
58-60-112, as last amended by Laws of Utah 2024, Chapter 366
63A-17-106, as last amended by Laws of Utah 2024, Chapter 397
63J-1-602.1, as last amended by Laws of Utah 2024, Chapters 88, 501
63J-1-602.2, as last amended by Laws of Utah 2024, Chapters 241, 285, 425, and 467
75-2-114, as last amended by Laws of Utah 2014, Chapter 142
75-5-209, as last amended by Laws of Utah 2021, Chapter 262
76-5-301.2, as enacted by Laws of Utah 2023, Chapter 125
76-7-102, as last amended by Laws of Utah 2022, Chapter 217
77-38b-102, as last amended by Laws of Utah 2024, Chapter 330
78A-5-102, as last amended by Laws of Utah 2024, Chapter 158
78A-5a-103, as last amended by Laws of Utah 2024, Chapters 158, 366
78A-6-103, as last amended by Laws of Utah 2024, Chapter 366
78A-6-104, as last amended by Laws of Utah 2024, Chapter 366
78A-6-356, as last amended by Laws of Utah 2024, Chapter 366
78A-6-358, as last amended by Laws of Utah 2023, Chapter 115
78A-6-359, as last amended by Laws of Utah 2022, Chapter 442
78B-3-205, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-3-416, as last amended by Laws of Utah 2024, Chapter 366
78B-22-201, as last amended by Laws of Utah 2022, Chapter 281
78B-22-901, as last amended by Laws of Utah 2023, Chapter 229
78B-22-903, as last amended by Laws of Utah 2023, Chapter 229
80-1-102, as last amended by Laws of Utah 2024, Chapter 256
80-2-503.5, as last amended by Laws of Utah 2024, Chapter 276
80-2-702, as last amended by Laws of Utah 2022, Chapter 308 and renumbered and amended by Laws of Utah 2022, Chapter 334 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 334
80-2-802, as last amended by Laws of Utah 2023, Chapter 330
80-2-803, as last amended by Laws of Utah 2023, Chapter 330
80-2-906, as last amended by Laws of Utah 2024, Chapter 366
80-2-909, as last amended by Laws of Utah 2024, Chapter 267
80-2-1005, as last amended by Laws of Utah 2023, Chapter 330
80-2a-101, as enacted by Laws of Utah 2022, Chapter 334 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 334
80-2a-201, as last amended by Laws of Utah 2023, Chapter 320
80-2a-304, as last amended by Laws of Utah 2022, Chapter 287 and renumbered and amended by Laws of Utah 2022, Chapter 334
80-3-102, as last amended by Laws of Utah 2022, Chapters 287, 334
80-3-107, as last amended by Laws of Utah 2022, Chapter 335
80-3-204, as last amended by Laws of Utah 2023, Chapter 330
80-3-301, as last amended by Laws of Utah 2023, Chapter 309
80-3-302, as last amended by Laws of Utah 2023, Chapters 309, 330
80-3-307, as last amended by Laws of Utah 2023, Chapters 309, 320
80-3-405, as last amended by Laws of Utah 2023, Chapters 309, 320 and 330

80-3-409, as last amended by Laws of Utah 2024, Chapter 240
80-3-502, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-4-104, as last amended by Laws of Utah 2024, Chapter 293
80-4-106, as last amended by Laws of Utah 2022, Chapter 334
80-4-203, as last amended by Laws of Utah 2022, Chapter 335
80-4-302, as last amended by Laws of Utah 2023, Chapter 330
80-4-307, as last amended by Laws of Utah 2024, Chapter 98
80-4-502, as last amended by Laws of Utah 2023, Chapter 139
80-7-102, as renumbered and amended by Laws of Utah 2021, Chapter 261
81-1-101, as enacted by Laws of Utah 2024, Chapter 366
81-1-202, as enacted by Laws of Utah 2024, Chapter 366
81-4-404, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-202, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-203, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-204, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-208, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-209, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-303, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-305, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-402, as renumbered and amended by Laws of Utah 2024, Chapter 366

ENACTS:

81-5-105, Utah Code Annotated 1953
81-13-201, Utah Code Annotated 1953
81-13-204, Utah Code Annotated 1953
81-13-301, Utah Code Annotated 1953
81-13-304, Utah Code Annotated 1953
81-13-305, Utah Code Annotated 1953
81-13-306, Utah Code Annotated 1953
81-13-401, Utah Code Annotated 1953
81-13-501, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

81-5-102, (Renumbered from 78B-15-102, as last amended by Laws of Utah 2024, Chapter 366)
81-5-103, (Renumbered from 78B-15-103, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-104, (Renumbered from 78B-15-104, as last amended by Laws of Utah 2023, Chapter 330)
81-5-201, (Renumbered from 78B-15-201, as last amended by Laws of Utah 2017, Chapter 156)
81-5-202, (Renumbered from 78B-15-202, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-203, (Renumbered from 78B-15-203, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-204, (Renumbered from 78B-15-204, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-301, (Renumbered from 78B-15-301, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-302, (Renumbered from 78B-15-302, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-303, (Renumbered from 78B-15-303, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-304, (Renumbered from 78B-15-304, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-305, (Renumbered from 78B-15-305, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-306, (Renumbered from 78B-15-306, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-307, (Renumbered from 78B-15-307, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-308, (Renumbered from 78B-15-308, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-309, (Renumbered from 78B-15-309, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-310, (Renumbered from 78B-15-310, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-311, (Renumbered from 78B-15-311, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-312, (Renumbered from 78B-15-312, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-313, (Renumbered from 78B-15-313, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-401, (Renumbered from 78B-15-401, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-402, (Renumbered from 78B-15-402, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-403, (Renumbered from 78B-15-403, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-404, (Renumbered from 78B-15-404, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-405, (Renumbered from 78B-15-405, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-406, (Renumbered from 78B-15-406, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-407, (Renumbered from 78B-15-407, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-408, (Renumbered from 78B-15-408, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-409, (Renumbered from 78B-15-409, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-410, (Renumbered from 78B-15-410, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-501, (Renumbered from 78B-15-501, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-502, (Renumbered from 78B-15-502, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-503, (Renumbered from 78B-15-503, as renumbered and amended by Laws of Utah 2008, Chapter 3)

81-5-504, (Renumbered from 78B-15-504, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-505, (Renumbered from 78B-15-505, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-506, (Renumbered from 78B-15-506, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-507, (Renumbered from 78B-15-507, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-508, (Renumbered from 78B-15-508, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-509, (Renumbered from 78B-15-509, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-510, (Renumbered from 78B-15-510, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-511, (Renumbered from 78B-15-511, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-601, (Renumbered from 78B-15-601, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-602, (Renumbered from 78B-15-602, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-603, (Renumbered from 78B-15-603, as last amended by Laws of Utah 2024, Chapter 366)
81-5-604, (Renumbered from 78B-15-604, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-605, (Renumbered from 78B-15-605, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-606, (Renumbered from 78B-15-606, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-607, (Renumbered from 78B-15-607, as last amended by Laws of Utah 2017, Chapter 156)
81-5-608, (Renumbered from 78B-15-608, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-609, (Renumbered from 78B-15-609, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-610, (Renumbered from 78B-15-610, as last amended by Laws of Utah 2024, Chapter 366)
81-5-611, (Renumbered from 78B-15-611, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-612, (Renumbered from 78B-15-612, as last amended by Laws of Utah 2021, Chapter 262)
81-5-613, (Renumbered from 78B-15-613, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-614, (Renumbered from 78B-15-614, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-615, (Renumbered from 78B-15-615, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-616, (Renumbered from 78B-15-616, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-617, (Renumbered from 78B-15-617, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-618, (Renumbered from 78B-15-618, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-619, (Renumbered from 78B-15-619, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-620, (Renumbered from 78B-15-620, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-621, (Renumbered from 78B-15-621, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-622, (Renumbered from 78B-15-622, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-623, (Renumbered from 78B-15-623, as last amended by Laws of Utah 2024, Chapter 366)
81-5-701, (Renumbered from 78B-15-701, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-702, (Renumbered from 78B-15-702, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-703, (Renumbered from 78B-15-703, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-704, (Renumbered from 78B-15-704, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-705, (Renumbered from 78B-15-705, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-706, (Renumbered from 78B-15-706, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-707, (Renumbered from 78B-15-707, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-708, (Renumbered from 78B-15-708, as enacted by Laws of Utah 2015, Chapter 159)
81-5-801, (Renumbered from 78B-15-801, as last amended by Laws of Utah 2024, Chapter 367)
81-5-802, (Renumbered from 78B-15-802, as last amended by Laws of Utah 2024, Chapter 367)
81-5-803, (Renumbered from 78B-15-803, as last amended by Laws of Utah 2024, Chapter 367)
81-5-804, (Renumbered from 78B-15-804, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-805, (Renumbered from 78B-15-805, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-806, (Renumbered from 78B-15-806, as last amended by Laws of Utah 2024, Chapter 367)
81-5-807, (Renumbered from 78B-15-807, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-808, (Renumbered from 78B-15-808, as last amended by Laws of Utah 2024, Chapter 367)
81-5-809, (Renumbered from 78B-15-809, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-901, (Renumbered from 78B-15-901, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-5-902, (Renumbered from 78B-15-902, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-102, (Renumbered from 78B-14-102, as last amended by Laws of Utah 2024, Chapter 381)
81-8-103, (Renumbered from 78B-14-103, as last amended by Laws of Utah 2023, Chapter 330)
81-8-104, (Renumbered from 78B-14-104, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-105, (Renumbered from 78B-14-105, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
81-8-201, (Renumbered from 78B-14-201, as last amended by Laws of Utah 2015, Chapter 45)
81-8-202, (Renumbered from 78B-14-202, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-203, (Renumbered from 78B-14-203, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-204, (Renumbered from 78B-14-204, as last amended by Laws of Utah 2015, Chapter 45)
81-8-205, (Renumbered from 78B-14-205, as last amended by Laws of Utah 2015, Chapter 45)
81-8-206, (Renumbered from 78B-14-206, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-207, (Renumbered from 78B-14-207, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended

by Laws of Utah 2011, Chapter 412)
81-8-208, (Renumbered from 78B-14-208, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-209, (Renumbered from 78B-14-209, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-210, (Renumbered from 78B-14-210, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-211, (Renumbered from 78B-14-211, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-301, (Renumbered from 78B-14-301, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-302, (Renumbered from 78B-14-302, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-303, (Renumbered from 78B-14-303, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-304, (Renumbered from 78B-14-304, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-305, (Renumbered from 78B-14-305, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-306, (Renumbered from 78B-14-306, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-307, (Renumbered from 78B-14-307, as last amended by Laws of Utah 2015, Chapter 45)
81-8-308, (Renumbered from 78B-14-308, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-309, (Renumbered from 78B-14-309, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-310, (Renumbered from 78B-14-310, as last amended by Laws of Utah 2015, Chapter 45)
81-8-311, (Renumbered from 78B-14-311, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-312, (Renumbered from 78B-14-312, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-313, (Renumbered from 78B-14-313, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-314, (Renumbered from 78B-14-314, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-315, (Renumbered from 78B-14-315, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-316, (Renumbered from 78B-14-316, as last amended by Laws of Utah 2015, Chapter 45)
81-8-317, (Renumbered from 78B-14-317, as last amended by Laws of Utah 2015, Chapter 45)
81-8-318, (Renumbered from 78B-14-318, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-319, (Renumbered from 78B-14-319, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-401, (Renumbered from 78B-14-401, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-402, (Renumbered from 78B-14-402, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and renumbered and amended by Laws of Utah 2011, Chapter 412)
81-8-501, (Renumbered from 78B-14-501, as last amended by Laws of Utah 2023, Chapter 330)
81-8-502, (Renumbered from 78B-14-502, as last amended by Laws of Utah 2015, Chapter 45)
81-8-503, (Renumbered from 78B-14-503, as last amended by Laws of Utah 2015, Chapter 45)
81-8-504, (Renumbered from 78B-14-504, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-505, (Renumbered from 78B-14-505, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-506, (Renumbered from 78B-14-506, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-507, (Renumbered from 78B-14-507, as last amended by Laws of Utah 2015, Chapter 45)
81-8-601, (Renumbered from 78B-14-601, as last amended by Laws of Utah 2015, Chapter 45)
81-8-602, (Renumbered from 78B-14-602, as last amended by Laws of Utah 2015, Chapter 45)
81-8-603, (Renumbered from 78B-14-603, as last amended by Laws of Utah 2015, Chapter 45)
81-8-604, (Renumbered from 78B-14-604, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-605, (Renumbered from 78B-14-605, as last amended by Laws of Utah 2023, Chapter 330)
81-8-606, (Renumbered from 78B-14-606, as last amended by Laws of Utah 2015, Chapter 45)
81-8-607, (Renumbered from 78B-14-607, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-608, (Renumbered from 78B-14-608, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-609, (Renumbered from 78B-14-609, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-610, (Renumbered from 78B-14-610, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-611, (Renumbered from 78B-14-611, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended

by Laws of Utah 2011, Chapter 412)
81-8-612, (Renumbered from 78B-14-612, as last amended by Laws of Utah 2015, Chapter 45)
81-8-613, (Renumbered from 78B-14-613, as last amended by Laws of Utah 2016, Chapter 348)
81-8-614, (Renumbered from 78B-14-614, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-615, (Renumbered from 78B-14-615, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-616, (Renumbered from 78B-14-616, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
81-8-701, (Renumbered from 78B-14-701.5, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
81-8-702, (Renumbered from 78B-14-702, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
81-8-703, (Renumbered from 78B-14-703, as last amended by Laws of Utah 2023, Chapter 330)
81-8-704, (Renumbered from 78B-14-704, as last amended by Laws of Utah 2023, Chapter 330)
81-8-705, (Renumbered from 78B-14-705, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
81-8-706, (Renumbered from 78B-14-706, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
81-8-707, (Renumbered from 78B-14-707, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
81-8-708, (Renumbered from 78B-14-708, as last amended by Laws of Utah 2015, Chapter 45)
81-8-709, (Renumbered from 78B-14-709, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
81-8-710, (Renumbered from 78B-14-710, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
81-8-711, (Renumbered from 78B-14-711, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
81-8-712, (Renumbered from 78B-14-712, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
81-8-713, (Renumbered from 78B-14-713, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
81-8-801, (Renumbered from 78B-14-801, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-802, (Renumbered from 78B-14-802, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-8-901, (Renumbered from 78B-14-901, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)
81-8-902, (Renumbered from 78B-14-902, as last amended by Laws of Utah 2015, Chapter 45)
81-10-101, (Renumbered from 78B-20-102, as last amended by Laws of Utah 2023, Chapter 44)
81-10-102, (Renumbered from 78B-20-103, as enacted by Laws of Utah 2016, Chapter 292)
81-10-103, (Renumbered from 78B-20-104, as enacted by Laws of Utah 2016, Chapter 292)
81-10-104, (Renumbered from 78B-20-105, as enacted by Laws of Utah 2016, Chapter 292)
81-10-105, (Renumbered from 78B-20-106, as enacted by Laws of Utah 2016, Chapter 292)
81-10-106, (Renumbered from 78B-20-107, as last amended by Laws of Utah 2023, Chapter 44)
81-10-201, (Renumbered from 78B-20-201, as last amended by Laws of Utah 2017, Chapter 224)
81-10-202, (Renumbered from 78B-20-202, as enacted by Laws of Utah 2016, Chapter 292)
81-10-203, (Renumbered from 78B-20-203, as enacted by Laws of Utah 2016, Chapter 292)
81-10-204, (Renumbered from 78B-20-204, as enacted by Laws of Utah 2016, Chapter 292)
81-10-205, (Renumbered from 78B-20-205, as last amended by Laws of Utah 2017, Chapter 224)
81-10-301, (Renumbered from 78B-20-301, as enacted by Laws of Utah 2016, Chapter 292)
81-10-302, (Renumbered from 78B-20-302, as last amended by Laws of Utah 2022, Chapter 373)
81-10-303, (Renumbered from 78B-20-303, as enacted by Laws of Utah 2016, Chapter 292)
81-10-304, (Renumbered from 78B-20-304, as enacted by Laws of Utah 2016, Chapter 292)
81-10-305, (Renumbered from 78B-20-305, as enacted by Laws of Utah 2016, Chapter 292)
81-10-306, (Renumbered from 78B-20-306, as enacted by Laws of Utah 2016, Chapter 292)
81-10-307, (Renumbered from 78B-20-307, as enacted by Laws of Utah 2016, Chapter 292)
81-10-308, (Renumbered from 78B-20-308, as enacted by Laws of Utah 2016, Chapter 292)
81-10-309, (Renumbered from 78B-20-309, as enacted by Laws of Utah 2016, Chapter 292)
81-10-310, (Renumbered from 78B-20-310, as enacted by Laws of Utah 2016, Chapter 292)
81-10-311, (Renumbered from 78B-20-311, as last amended by Laws of Utah 2022, Chapter 373)
81-10-401, (Renumbered from 78B-20-401, as last amended by Laws of Utah 2017, Chapter 224)
81-10-402, (Renumbered from 78B-20-402, as enacted by Laws of Utah 2016, Chapter 292)
81-10-403, (Renumbered from 78B-20-403, as last amended by Laws of Utah 2024, Chapter 366)
81-10-404, (Renumbered from 78B-20-404, as last amended by Laws of Utah 2024, Chapter 366)
81-10-501, (Renumbered from 78B-20-501, as enacted by Laws of Utah 2016, Chapter 292)
81-10-502, (Renumbered from 78B-20-502, as enacted by Laws of Utah 2016, Chapter 292)
81-10-503, (Renumbered from 78B-20-503, as enacted by Laws of Utah 2016, Chapter 292)

81-11-101, (Renumbered from 78B-13-102, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-102, (Renumbered from 78B-13-103, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-103, (Renumbered from 78B-13-104, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-104, (Renumbered from 78B-13-105, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-105, (Renumbered from 78B-13-106, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-106, (Renumbered from 78B-13-107, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-107, (Renumbered from 78B-13-108, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-108, (Renumbered from 78B-13-109, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-109, (Renumbered from 78B-13-110, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-110, (Renumbered from 78B-13-111, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-111, (Renumbered from 78B-13-112, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-201, (Renumbered from 78B-13-201, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-202, (Renumbered from 78B-13-202, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-203, (Renumbered from 78B-13-203, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-204, (Renumbered from 78B-13-204, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-205, (Renumbered from 78B-13-205, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-206, (Renumbered from 78B-13-206, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-207, (Renumbered from 78B-13-207, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-208, (Renumbered from 78B-13-208, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-209, (Renumbered from 78B-13-209, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-210, (Renumbered from 78B-13-210, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-301, (Renumbered from 78B-13-301, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-302, (Renumbered from 78B-13-302, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-303, (Renumbered from 78B-13-303, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-304, (Renumbered from 78B-13-304, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-305, (Renumbered from 78B-13-305, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-306, (Renumbered from 78B-13-306, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-307, (Renumbered from 78B-13-307, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-308, (Renumbered from 78B-13-308, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-309, (Renumbered from 78B-13-309, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-310, (Renumbered from 78B-13-310, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-311, (Renumbered from 78B-13-311, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-312, (Renumbered from 78B-13-312, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-313, (Renumbered from 78B-13-313, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-314, (Renumbered from 78B-13-314, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-315, (Renumbered from 78B-13-315, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-316, (Renumbered from 78B-13-316, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-317, (Renumbered from 78B-13-317, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-11-318, (Renumbered from 78B-13-318, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-12-101, (Renumbered from 78B-16-102, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-12-102, (Renumbered from 78B-16-103, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-12-103, (Renumbered from 78B-16-104, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-12-104, (Renumbered from 78B-16-105, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-12-105, (Renumbered from 78B-16-106, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-12-106, (Renumbered from 78B-16-107, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-12-107, (Renumbered from 78B-16-108, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-12-108, (Renumbered from 78B-16-109, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-12-109, (Renumbered from 78B-16-110, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-12-110, (Renumbered from 78B-16-111, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-12-111, (Renumbered from 78B-16-112, as renumbered and amended by Laws of Utah 2008, Chapter 3)
81-13-101, (Renumbered from 78B-6-103, as last amended by Laws of Utah 2024, Chapter 261)
81-13-102, (Renumbered from 78B-6-105, as last amended by Laws of Utah 2024, Chapter 158)
81-13-103, (Renumbered from 78B-6-141, as last amended by Laws of Utah 2021, Chapter 262)
81-13-104, (Renumbered from 78B-6-106, as last amended by Laws of Utah 2017, Chapter 148)
81-13-105, (Renumbered from 78B-6-142, as last amended by Laws of Utah 2023, Chapter 330)
81-13-106, (Renumbered from 78B-6-121.5, as enacted by Laws of Utah 2015, Chapter 183)
81-13-202, (Renumbered from 78B-6-102, as last amended by Laws of Utah 2019, Chapter 335)
81-13-203, (Renumbered from 78B-6-117, as last amended by Laws of Utah 2022, Chapters 185, 430)
81-13-205, (Renumbered from 78B-6-112, as last amended by Laws of Utah 2024, Chapter 158)
81-13-206, (Renumbered from 78B-6-109, as last amended by Laws of Utah 2010, Chapter 237)
81-13-207, (Renumbered from 78B-6-110, as last amended by Laws of Utah 2023, Chapter 401)
81-13-208, (Renumbered from 78B-6-110.1, as last amended by Laws of Utah 2017, Chapter 148)
81-13-209, (Renumbered from 78B-6-110.5, as last amended by Laws of Utah 2019, Chapter 491)
81-13-210, (Renumbered from 78B-6-134, as last amended by Laws of Utah 2017, Chapter 148)
81-13-211, (Renumbered from 78B-6-119, as last amended by Laws of Utah 2024, Chapter 261)

81-13-212, (Renumbered from 78B-6-120, as last amended by Laws of Utah 2024, Chapter 261)
81-13-213, (Renumbered from 78B-6-121, as last amended by Laws of Utah 2024, Chapter 261)
81-13-214, (Renumbered from 78B-6-124, as last amended by Laws of Utah 2023, Chapter 330)
81-13-215, (Renumbered from 78B-6-133, as last amended by Laws of Utah 2024, Chapter 260)
81-13-216, (Renumbered from 78B-6-146, as enacted by Laws of Utah 2013, Chapter 438)
81-13-217, (Renumbered from 78B-6-140, as last amended by Laws of Utah 2024, Chapters 250, 261)
81-13-218, (Renumbered from 78B-6-136, as last amended by Laws of Utah 2012, Chapter 340)
81-13-219, (Renumbered from 78B-6-136.5, as last amended by Laws of Utah 2024, Chapter 261)
81-13-220, (Renumbered from 78B-6-138, as last amended by Laws of Utah 2021, Chapter 262)
81-13-302, (Renumbered from 78B-6-115, as last amended by Laws of Utah 2021, Chapter 65)
81-13-303, (Renumbered from 78B-6-116, as last amended by Laws of Utah 2015, Chapter 137)
81-13-402, (Renumbered from 78B-6-131, as last amended by Laws of Utah 2023, Chapter 330)
81-13-403, (Renumbered from 78B-6-128, as last amended by Laws of Utah 2024, Chapter 261)
81-13-404, (Renumbered from 78B-6-129, as last amended by Laws of Utah 2012, Chapter 340)
81-13-405, (Renumbered from 78B-6-130, as last amended by Laws of Utah 2017, Chapter 280)
81-13-502, (Renumbered from 78B-6-104, as last amended by Laws of Utah 2010, Chapter 237)
81-13-503, (Renumbered from 78B-6-143, as last amended by Laws of Utah 2017, Chapter 417)
81-13-504, (Renumbered from 78B-6-144, as last amended by Laws of Utah 2015, Chapter 137)
81-13-505, (Renumbered from 78B-6-144.5, as enacted by Laws of Utah 2015, Chapter 137)
81-14-101, (Renumbered from 78B-24-101, as enacted by Laws of Utah 2022, Chapter 326)
81-14-102, (Renumbered from 78B-24-102, as enacted by Laws of Utah 2022, Chapter 326)
81-14-201, (Renumbered from 78B-24-201, as enacted by Laws of Utah 2022, Chapter 326)
81-14-202, (Renumbered from 78B-24-202, as enacted by Laws of Utah 2022, Chapter 326)
81-14-203, (Renumbered from 78B-24-203, as last amended by Laws of Utah 2023, Chapter 330)
81-14-204, (Renumbered from 78B-24-204, as enacted by Laws of Utah 2022, Chapter 326)
81-14-205, (Renumbered from 78B-24-205, as enacted by Laws of Utah 2022, Chapter 326)
81-14-301, (Renumbered from 78B-24-301, as enacted by Laws of Utah 2022, Chapter 326)
81-14-302, (Renumbered from 78B-24-302, as enacted by Laws of Utah 2022, Chapter 326)
81-14-303, (Renumbered from 78B-24-303, as enacted by Laws of Utah 2022, Chapter 326)
81-14-304, (Renumbered from 78B-24-304, as enacted by Laws of Utah 2022, Chapter 326)
81-14-305, (Renumbered from 78B-24-305, as enacted by Laws of Utah 2022, Chapter 326)
81-14-306, (Renumbered from 78B-24-306, as enacted by Laws of Utah 2022, Chapter 326)
81-14-307, (Renumbered from 78B-24-307, as last amended by Laws of Utah 2024, Chapter 240)
81-14-308, (Renumbered from 78B-24-308, as last amended by Laws of Utah 2024, Chapter 240)
81-14-401, (Renumbered from 78B-24-401, as enacted by Laws of Utah 2022, Chapter 326)
81-14-402, (Renumbered from 78B-24-402, as enacted by Laws of Utah 2022, Chapter 326)
81-14-403, (Renumbered from 78B-24-403, as enacted by Laws of Utah 2022, Chapter 326)
81-14-404, (Renumbered from 78B-24-404, as enacted by Laws of Utah 2022, Chapter 326)

REPEALS:

78B-6-101, as enacted by Laws of Utah 2008, Chapter 3
78B-6-107, as last amended by Laws of Utah 2022, Chapter 335
78B-6-108, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-111, as last amended by Laws of Utah 2015, Chapter 194
78B-6-113, as last amended by Laws of Utah 2023, Chapter 330
78B-6-114, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-118, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-120.1, as last amended by Laws of Utah 2021, Chapter 65
78B-6-122, as last amended by Laws of Utah 2024, Chapter 261
78B-6-122.5, as enacted by Laws of Utah 2010, Chapter 237
78B-6-123, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-125, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-126, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-127, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-137, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-139, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-145, as last amended by Laws of Utah 2012, Chapter 340
78B-7-101, as last amended by Laws of Utah 2020, Chapter 142
78B-13-101, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-14-101, as last amended by Laws of Utah 2015, Chapter 45
78B-15-101, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-105, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-106, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-107, as last amended by Laws of Utah 2023, Chapter 330
78B-15-108, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-15-109, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-110, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-111, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-112, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-113, as last amended by Laws of Utah 2024, Chapter 366
78B-15-114, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-115, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-16-101, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-20-101, as enacted by Laws of Utah 2016, Chapter 292

Utah Code Sections Affected by Coordination Clause:

AMENDS:

26B-2-104, as last amended by Laws of Utah 2024, Chapters 240, 307
26B-8-125, as renumbered and amended by Laws of Utah 2023, Chapter 306
78B-6-128, (Renumbered from 78B-6-128, as last amended by Laws of Utah 2024, Chapter 261)
78B-6-141, (Renumbered from 78B-6-141, as last amended by Laws of Utah 2021, Chapter 262)
80-2-1005, as last amended by Laws of Utah 2023, Chapter 330
81-13-201, Utah Code Annotated 1953
81-13-204, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-1103 is amended to read:
10-3-1103. Sickness, disability, and death benefits.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of the gestational age or the duration of the pregnancy.

(2) The governing body of each municipality may maintain as to all elective or appointive officers and employees, including heads of departments, a system for the payment of health, dental, hospital, medical, disability and death benefits to be financed and administered in a manner and payable upon the terms and conditions as the governing body of the municipality may by ordinance or resolution prescribe.

(3) The governing bodies of the municipalities may create and administer personnel benefit programs separately or jointly with other municipalities or other political subdivisions of the State of Utah or associations thereof.

(4) The governing body of each municipality shall, by ordinance or resolution, provide for at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section [~~78B-6-103~~]81-13-101, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with [~~Title 78B, Chapter 15, Part 8, Gestational Agreement~~]Title 81, Chapter 5, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 2. Section 17-33-5 is amended to read:
17-33-5. Office of personnel management -- Director -- Appointment and responsibilities -- Personnel rules.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

(2) (a) (i) Each county executive shall:

(A) create an office of personnel management, administered by a director of personnel management; and

(B) ensure that the director is a person with proven experience in personnel management.

(ii) Except as provided in Subsection (2)(b), the position of director of personnel management shall be:

(A) a merit position; and

(B) filled as provided in Subsection (2)(a)(iii).

(iii) Except as provided in Subsection (2)(b), the career service council shall:

(A) advertise and recruit for the director position in the same manner as for merit positions;

(B) select three names from a register; and

(C) submit those names as recommendations to the county legislative body.

(iv) Except as provided in Subsection (2)(b), the county legislative body shall select a person to serve as director of the office of personnel management from the names submitted to it by the career service council.

(b) (i) Effective for appointments made after May 1, 2006, and as an alternative to the procedure under Subsections (2)(a)(ii), (iii), and (iv) and at the county executive's discretion, the county executive may appoint a director of personnel management with the advice and consent of the county legislative body.

(ii) The position of each director of personnel management appointed under this Subsection (2)(b) shall be a merit exempt position.

(iii) A director of personnel management appointed under this Subsection (2)(b) may be terminated by the county executive with the consent of the county legislative body.

(3) The director of personnel management shall:

(a) encourage and exercise leadership in the development of expertise in personnel administration within the several departments, offices, and agencies in the county service and make available the facilities of the office of personnel management to this end;

(b) advise the county legislative and executive bodies on the use of human resources;

(c) develop and implement programs for the improvement of employee effectiveness, such as training, safety, health, counseling, and welfare;

(d) investigate periodically the operation and effect of this law and of the policies made under it and report findings and recommendations to the county legislative body;

(e) establish and maintain records of all employees in the county service, setting forth as to each employee class, title, pay or status, and other relevant data;

(f) make an annual report to the county legislative body and county executive regarding the work of the department; and

(g) apply and carry out this law and the policies under it and perform any other lawful acts that are necessary to carry out the provisions of this law.

(4) (a) (i) The director shall recommend personnel rules for the county.

(ii) The county legislative body may:

(A) recommend personnel rules for the county; and

(B) approve, amend, or reject personnel rules before they are adopted.

(b) The rules shall provide for:

(i) recruiting efforts to be planned and carried out in a manner that assures open competition, with special emphasis to be placed on recruiting efforts to attract minorities, women, persons with a disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or other groups that are substantially underrepresented in the county work force to help assure they will be among the candidates from whom appointments are made;

(ii) the establishment of job related minimum requirements wherever practical, that all successful candidates shall be required to meet in order to be eligible for consideration for appointment or promotion;

(iii) selection procedures that include consideration of the relative merit of each applicant for employment, a job related method of determining the eligibility or ineligibility of each applicant, and a valid, reliable, and objective system of ranking eligible applicants according to their qualifications and merit;

(iv) certification procedures that insure equitable consideration of an appropriate number of the most qualified eligible applicants based on the ranking system;

(v) appointments to positions in the career service by selection from the most qualified eligible applicants certified on eligible lists established in accordance with Subsections (4)(b)(iii) and (iv);

(vi) noncompetitive appointments in the occasional instance where there is evidence that open or limited competition is not practical, such as for unskilled positions that have no minimum job requirements;

(vii) limitation of competitions at the discretion of the director for appropriate positions to facilitate employment of qualified applicants with a substantial physical or mental impairment, or other groups protected by Title VII of the Civil Rights Act;

(viii) permanent appointment for entry to the career service that shall be contingent upon satisfactory performance by the employee during a period of six months, with the probationary period extendable for a period not to exceed six months for good cause, but with the condition that the probationary employee may appeal directly to the council any undue prolongation of the period designed to thwart merit principles;

(ix) temporary, provisional, or other noncareer service appointments, which may not be used as a way of defeating the purpose of the career service and may not exceed 270 days;

(x) lists of eligible applicants normally to be used, if available, for filling temporary positions, and short term emergency appointments to be made without regard to the other provisions of law to provide for maintenance of essential services in an emergency situation where normal procedures are not practical, these emergency appointments not to exceed 270 days;

(xi) promotion and career ladder advancement of employees to higher level positions and assurance that all persons promoted are qualified for the position;

(xii) recognition of the equivalency of other merit processes by waiving, at the discretion of the director, the open competitive examination for placement in the career service positions of those who were originally selected through a competitive examination process in another governmental entity, the individual in those cases, to serve a probationary period;

(xiii) preparation, maintenance, and revision of a position classification plan for all positions in the career service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class, the compensation plan, in order to maintain a high quality public work force, to take into account the responsibility and difficulty of the work, the comparative pay and benefits needed to compete in the labor market and to stay in proper alignment with other similar governmental units, and other factors;

(xiv) keeping records of performance on all employees in the career service and requiring consideration of performance records in determining salary increases, any benefits for meritorious service, promotions, the order of layoffs and reinstatements, demotions, discharges, and transfers;

(xv) establishment of a plan governing layoffs resulting from lack of funds or work, abolition of positions, or material changes in duties or organization, and governing reemployment of persons so laid off, taking into account with regard to layoffs and reemployment the relative ability, seniority, and merit of each employee;

(xvi) establishment of a plan for resolving employee grievances and complaints with final and binding decisions;

(xvii) establishment of disciplinary measures such as suspension, demotion in rank or grade, or discharge, measures to provide for presentation of charges, hearing rights, and appeals for all permanent employees in the career service to the career service council;

(xviii) establishment of a procedure for employee development and improvement of poor performance;

(xix) establishment of hours of work, holidays, and attendance requirements in various classes of positions in the career service;

(xx) establishment and publicizing of fringe benefits such as insurance, retirement, and leave programs; and

(xxi) any other requirements not inconsistent with this law that are proper for its enforcement.

(5) Rules adopted pursuant to Subsection (4)(b)(xx) shall provide for at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section [~~78B-6-103~~]81-13-101, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with [~~Title 78B, Chapter 15, Part 8, Gestational Agreement~~]Title 81, Chapter 5, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 3. Section 26B-1-202 is amended to read:

26B-1-202. Department authority and duties.

The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for the department's programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section 26B-1-430 with respect to coordination of services for students with a disability;

(14) provide training and educational opportunities for the department's staff;

(15) collect child support payments and any other money due to the department;

(16) apply the provisions of Title 81, Chapter 6, Child Support, and Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support, to parents whose child lives out of the home in a department licensed or certified setting;

(17) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403, including:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(18) carry out the responsibilities assigned to the department by statute;

(19) examine and audit the expenditures of any public funds provided to a local substance abuse authority, a local mental health authority, a local area agency on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, the department may take steps necessary to ensure continuity of services. For purposes of this Subsection (19) "public funds" means the same as that term is defined in Section 26B-5-101;

(20) in accordance with Subsection 26B-2-104(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(21) within legislative appropriations, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions

within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

(22) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department;

(23) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(24) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(25) to the extent authorized under state law or required by federal law, promote and protect the health and wellness of the people within the state;

(26) establish, maintain, and enforce rules authorized under state law or required by federal law to promote and protect the public health or to prevent disease and illness;

(27) investigate the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(28) provide for the detection and reporting of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(29) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(30) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(31) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(32) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(33) establish laboratory services necessary to support public health programs and medical services in the state;

(34) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(35) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(36) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Utah Office for Victims of Crime to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(37) investigate the causes of maternal and infant mortality;

(38) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;

(39) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;

(40) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(41) conduct health planning for the state;

(42) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(43) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;

(44) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process;

(45) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

(46) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required by the agency or under this Title 26B, Utah Health and Human Services Code;

(47) oversee public education vision screening as described in Section 53G-9-404;

(48) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue Alert; and

(49) as allowed by state and federal law, share data with the Office of Families that is relevant to the duties described in Subsection 26B-1-243(4), which may include, to the extent available:

(a) demographic data concerning family structures in the state; and

(b) data regarding the family structure associated with:

(i) suicide, depression, or anxiety; and

(ii) various health outcomes.

Section 4. Section 26B-2-104 is amended to read:

26B-2-104. Division responsibilities.

(1) Subject to the requirements of federal and state law, the office shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for licensees, that shall be limited to:

(A) fire safety;

(B) food safety;

(C) sanitation;

(D) infectious disease control;

(E) safety of the:

(I) physical facility and grounds; and

(II) area and community surrounding the physical facility;

(F) transportation safety;

(G) emergency preparedness and response;

(H) the administration of medical standards and procedures, consistent with the related provisions of this title;

(I) staff and client safety and protection;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

(ii) basic health and safety standards for therapeutic schools, that shall be limited to:

(A) fire safety, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(B) food safety;

(C) sanitation;

(D) infectious disease control, except that the standards are limited to:

(I) those required by law or rule under this title, or Title 26A, Local Health Authorities; and

(II) requiring a separate room for clients who are sick;

(E) safety of the physical facility and grounds, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(F) transportation safety;

(G) emergency preparedness and response;

(H) access to appropriate medical care, including:

(I) subject to the requirements of law, designation of a person who is authorized to dispense medication; and

(II) storing, tracking, and securing medication;

(I) staff and client safety and protection that permits the school to provide for the direct supervision of clients at all times;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

(iii) procedures and standards for permitting a licensee to:

(A) provide in the same facility and under the same conditions as children, residential treatment services to a person 18 years old or older who:

(I) begins to reside at the licensee's residential treatment facility before the person's 18th birthday;

(II) has resided at the licensee's residential treatment facility continuously since the time described in Subsection (1)(a)(iii)(A)(I);

(III) has not completed the course of treatment for which the person began residing at the licensee's residential treatment facility; and

(IV) voluntarily consents to complete the course of treatment described in Subsection (1)(a)(iii)(A)(III); or

(B) (I) provide residential treatment services to a child who is:

(Aa) at least 12 years old or, as approved by the office, younger than 12 years old; and

(Bb) under the custody of the department, or one of its divisions; and

(II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I), residential treatment services to a person who is:

(Aa) at least 18 years old, but younger than 21 years old; and

(Bb) under the custody of the department, or one of its divisions;

(iv) minimum administration and financial requirements for licensees;

(v) guidelines for variances from rules established under this Subsection (1);

(vi) ethical standards, as described in [~~Subsection 78B-6-106(3)~~]Section 81-13-104, and minimum responsibilities of a child-placing agency that provides adoption services and that is licensed under this part;

(vii) what constitutes an "outpatient treatment program" for purposes of this part;

(viii) a procedure requiring a licensee to provide an insurer the licensee's records related to any services or supplies billed to the insurer,

and a procedure allowing the licensee and the insurer to contact the Insurance Department to resolve any disputes;

(ix) a protocol for the office to investigate and process complaints about licensees;

(x) a procedure for a licensee to:

(A) report the use of a restraint or seclusion within one business day after the day on which the use of the restraint or seclusion occurs; and

(B) report a critical incident within one business day after the day on which the incident occurs;

(xi) guidelines for the policies and procedures described in Sections 26B-2-109 and 26B-2-123;

(xii) a procedure for the office to review and approve the policies and procedures described in Sections 26B-2-109 and 26B-2-123; and

(xiii) a requirement that each human services program publicly post information that informs an individual how to submit a complaint about a human services program to the office;

(b) enforce rules relating to the office;

(c) issue licenses in accordance with this part;

(d) if the United States Department of State executes an agreement with the office that designates the office to act as an accrediting entity in accordance with the Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to provide intercountry adoption services pursuant to:

(i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and

(ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L. No. 106-279;

(e) make rules to implement the provisions of Subsection (1)(d);

(f) conduct surveys and inspections of licensees and facilities in accordance with Section 26B-2-107;

(g) collect licensure fees;

(h) notify licensees of the name of a person within the department to contact when filing a complaint;

(i) investigate complaints regarding any licensee or human services program;

(j) have access to all records, correspondence, and financial data required to be maintained by a licensee;

(k) have authority to interview any client, family member of a client, employee, or officer of a licensee;

(l) have authority to deny, condition, revoke, suspend, or extend any license issued by the department under this part by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act;

(m) cooperate with the Division of Child and Family Services to condition, revoke, or suspend the license of a foster home when a child welfare caseworker from the Division of Child and Family Services identifies a safety concern with the foster home;

(n) electronically post notices of agency action issued to a human services program, with the exception of a foster home, on the office's website, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and

(o) upon receiving a local government's request under Section 26B-2-118, notify the local government of new human services program license applications, except for foster homes, for human services programs located within the local government's jurisdiction.

(2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a licensee to establish and comply with an emergency response plan that requires clients and staff to:

(a) immediately report to law enforcement any significant criminal activity, as defined by rule, committed:

(i) on the premises where the licensee operates its human services program;

(ii) by or against its clients; or

(iii) by or against a staff member while the staff member is on duty;

(b) immediately report to emergency medical services any medical emergency, as defined by rule:

(i) on the premises where the licensee operates its human services program;

(ii) involving its clients; or

(iii) involving a staff member while the staff member is on duty; and

(c) immediately report other emergencies that occur on the premises where the licensee operates its human services program to the appropriate emergency services agency.

Section 5. Section 26B-2-127 is amended to read:

26B-2-127. Child placing licensure requirements -- Prohibited acts -- Consortium.

(1) As used in this section:

(a) (i) "Advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business.

(ii) "Advertisement" includes a statement or representation described in Subsection (1)(a)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(b) "Birth parent" means the same as that term is defined in Section [~~78B-6-103~~]81-13-101.

(c) "Clearly and conspicuously disclose" means the same as that term is defined in Section 13-11a-2.

(d) (i) "Matching advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange described in Subsection (3)(a)(ii).

(ii) "Matching advertisement" includes a statement or representation described in Subsection (1)(d)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(2) (a) Subject to Section [~~78B-24-205~~]81-14-205, a person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the office in accordance with this part.

(b) If a child-placing agency's license is suspended or revoked in accordance with this part, the care, control, or custody of any child who is in the care, control, or custody of the child-placing agency shall be transferred to the Division of Child and Family Services.

(3) (a) (i) An attorney, physician, or other person may assist:

(A) a birth parent to identify or locate a prospective adoptive parent who is interested in adopting the birth parent's child; or

(B) a prospective adoptive parent to identify or locate a child to be adopted.

(ii) A payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may not be made for the assistance described in Subsection (3)(a)(i).

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i);

(ii) cause, permit, or allow any sign or marking indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), on or in any building or structure;

(iii) announce, cause, permit, or allow an announcement indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or television, or an Internet website relating to a business;

(iv) announce, cause, permit, or allow a matching advertisement; or

(v) announce, cause, permit, or allow an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i) as part of, or related to, other adoption-related services by using any of the following terms:

(A) "comprehensive";

(B) "complete";

(C) "one-stop";

(D) "all-inclusive"; or

(E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the office shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the office.

(4) A person who intentionally or knowingly violates Subsection (2) or (3) is guilty of a third degree felony.

(5) This section does not preclude payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings, except that a child-placing agency may not:

(a) charge or accept payment for services that were not actually rendered; or

(b) charge or accept payment from a prospective adoptive parent for medical or hospital expenses that were paid for by public funds.

(6) In accordance with federal law, only an agent or employee of the Division of Child and Family Services or of a licensed child-placing agency may certify to United States Citizenship and Immigration Services that a family meets the preadoption requirements of the Division of Child and Family Services.

(7) A licensed child-placing agency or an attorney practicing in this state may not place a child for adoption, either temporarily or permanently, with an individual who would not be qualified for adoptive placement under Sections [~~78B-6-102, 78B-6-117, and 78B-6-137~~]81-13-202, 81-13-203, and 81-13-402.

(8) (a) A child-placing agency, as that term is defined in Section 63G-20-102, that serves a resident of the state who is a birth mother or a prospective adoptive parent must be a member of a statewide consortium of licensed child-placing agencies that, together, serve all birth mothers lawfully seeking to place a child for adoption and all qualified prospective adoptive parents.

(b) The department shall receive and investigate any complaint against a consortium of licensed child-placing agencies.

Section 6. Section 26B-3-108 is amended to read:

26B-3-108. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Optional dental services costs and delivery -- Internal audits -- Health opportunity accounts.

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) (a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

(i) the standards used by the department for determining eligibility for Medicaid services;

(ii) the services and benefits to be covered by the Medicaid program;

(iii) reimbursement methodologies for providers under the Medicaid program; and

(iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26B-8-411 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social Services Appropriations Subcommittee when the department:

(i) implements a change in the Medicaid State Plan;

(ii) initiates a new Medicaid waiver;

(iii) initiates an amendment to an existing Medicaid waiver;

(iv) applies for an extension of an application for a waiver or an existing Medicaid waiver;

(v) applies for or receives approval for a change in any capitation rate within the Medicaid program; or

(vi) initiates a rate change that requires public notice under state or federal law.

(b) The report required by Subsection (3)(a) shall:

(i) be submitted to the Social Services Appropriations Subcommittee prior to the department implementing the proposed change; and

(ii) include:

(A) a description of the department's current practice or policy that the department is proposing to change;

(B) an explanation of why the department is proposing the change;

(C) the proposed change in services or reimbursement, including a description of the effect of the change;

(D) the effect of an increase or decrease in services or benefits on individuals and families;

(E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and

(F) the fiscal impact of the proposed change, including:

(I) the effect of the proposed change on current or future appropriations from the Legislature to the department;

(II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;

(III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and

(IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

(4) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.

(5) The department may, in its discretion, contract with other qualified agencies for services in connection with the administration of the Medicaid program, including:

(a) the determination of the eligibility of individuals for the program;

(b) recovery of overpayments; and

(c) consistent with Section 26B-3-1113, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7) (a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited into the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(b) In accordance with Section 63J-1-602.2, sanctions collected under this Subsection (7) are nonlapsing.

(8) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Part 9, Utah Children's Health Insurance Program, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9) (a) As used in this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or has a disability is eligible for a service or benefit under this chapter, the department shall use 100% of the federal poverty level as:

(i) the allowable income standard for eligibility for services or benefits; and

(ii) the allowable income standard for eligibility as a result of spend down.

(10) The department shall conduct internal audits of the Medicaid program.

(11) (a) (i) The department shall apply for, and if approved, implement an amendment to the state plan under this Subsection (11) for benefits for:

(A) medically needy pregnant women;

(B) medically needy children; and

(C) medically needy parents and caretaker relatives.

(ii) The department may implement the eligibility standards of Subsection (11)(b) for eligibility determinations made on or after the date of the approval of the amendment to the state plan.

(b) In determining whether an applicant is eligible for benefits described in Subsection (11)(a)(i), the department shall:

(i) disregard resources held in an account in a savings plan created under Title 53B, Chapter 8a, Utah Educational Savings Plan, if the beneficiary of the account is:

(A) under the age of 26; and

(B) living with the account owner, as that term is defined in Section 53B-8a-102, or temporarily absent from the residence of the account owner; and

(ii) include withdrawals from an account in the Utah Educational Savings Plan as resources for a benefit determination, if the withdrawals were not used for qualified higher education costs as that term is defined in Section 53B-8a-102.5.

(12) (a) The department may not deny or terminate eligibility for Medicaid solely because an individual is:

(i) incarcerated; and

(ii) not an inmate as defined in Section 64-13-1.

(b) Subsection (12)(a) does not require the Medicaid program to provide coverage for any services for an individual while the individual is incarcerated.

(13) The department is a party to, and may intervene at any time in, any judicial or administrative action:

(a) to which the Department of Workforce Services is a party; and

(b) that involves medical assistance under this chapter.

(14) (a) The department may not deny or terminate eligibility for Medicaid solely because a birth mother, as that term is defined in Section [~~78B-6-103~~]81-13-101, considers an adoptive placement for the child or proceeds with an adoptive placement of the child.

(b) A health care provider, as that term is defined in Section 26B-3-126, may not decline payment by Medicaid for covered health and medical services provided to a birth mother, as that term is defined in Section [~~78B-6-103~~]81-13-101, who is enrolled in Utah's Medicaid program and who considers an adoptive placement for the child or proceeds with an adoptive placement of the child.

Section 7. Section 26B-5-316 is amended to read:

26B-5-316. Responsibility for cost of care.

(1) The division shall estimate and determine, as nearly as possible, the actual expense per annum of caring for and maintaining a patient in the state hospital, and that amount or portion of that amount shall be assessed to and paid by the applicant, patient, spouse, parents, child or children who are of sufficient financial ability to do so, or by the guardian of the patient who has funds of the patient that may be used for that purpose.

(2) In addition to the expenses described in Subsection (1), parents are responsible for the support of their child while the child is in the care of the state hospital in accordance with [~~Title 26B,~~]Chapter 9, Recovery Services and Administration of Child Support, [~~and~~]Title 81, Chapter 6, Child Support, and Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support.

Section 8. Section 26B-6-411 is amended to read:

26B-6-411. Parent liable for cost and support of minor -- Guardian liable for costs.

(1) Parents of a person who receives services or support from the division, who are financially responsible, are liable for the cost of the actual care and maintenance of that person and for the support of the child in accordance with [~~Title 81, Chapter 6, Child Support, and~~]Chapter 9, Part 1, Office of Recovery Services, Title 81, Chapter 6, Child Support, and Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support, until the person reaches 18 years old.

(2) A guardian of a person who receives services or support from the division is liable for the cost of actual care and maintenance of that person, regardless of his age, where funds are available in the guardianship estate established on his behalf for that purpose. However, if the person who receives services is a beneficiary of a trust created in accordance with Section 26B-6-412, or if the guardianship estate meets the requirements of a trust described in that section, the trust income prior to distribution to the beneficiary, and the trust principal are not subject to payment for services or support for that person.

(3) If, at the time a person who receives services or support from the division is discharged from a facility or program owned or operated by or under contract with the division, or after the death and burial of a resident of the developmental center, there remains in the custody of the division or the superintendent any money paid by a parent or guardian for the support or maintenance of that person, it shall be repaid upon demand.

Section 9. Section 26B-8-101 is amended to read:

26B-8-101. Definitions.

As used in this part:

(1) "Adoption document" means [~~an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate~~]the same as that term is defined in Section 81-13-101.

(2) "Alien child" means an individual:

(a) who is younger than 16 years old; and

(b) who is not considered a citizen or national of the United States by the United States Citizenship and Immigration Services.

[~~(2)~~](3) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by sex and reproductive organ anatomy, chromosomal makeup, and endogenous hormone profiles.

[~~(3)~~](4) "Certified nurse midwife" means an individual who:

(a) is licensed to practice as a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(4)~~](5) "Custodial funeral service director" means a funeral service director who:

(a) is employed by a licensed funeral establishment; and

(b) has custody of a dead body.

[~~(5)~~](6) "Dead body" means a human body or parts of a human body from the condition of which it reasonably may be concluded that death occurred.

[~~(6)~~](7) "Decedent" means the same as a dead body.

[~~(7)~~](8) "Dead fetus" means a product of human conception, other than those circumstances described in Subsection 76-7-301(1):

(a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and

(b) that was not born alive.

[~~(8) "Declarant father" means a male who claims to be the genetic father of a child, and, along with the biological mother, signs a voluntary declaration of paternity to establish the child's paternity.~~]

(9) "Declarant father" means the same as that term is defined in Section 81-5-102.

[~~(9)~~](10) "Dispositioner" means:

(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the dispositioner; or

(b) the next of kin of the decedent, if:

(i) (A) a person has not been designated as described in Subsection [~~(9)(a)~~](10)(a); or

(B) the person described in Subsection [~~(9)(a)~~](10)(a) is unable or unwilling to exercise the right and duty described in Subsection [~~(9)(a)~~](10)(a); and

(ii) the next of kin voluntarily acts as the dispositioner.

[~~(10)~~](11) "Fetal remains" means:

(a) an aborted fetus as that term is defined in Section 26B-2-232; or

(b) a miscarried fetus as that term is defined in Section 26B-2-233.

[~~(11)~~](12) "File" means the submission of a completed certificate or other similar document, record, or report as provided under this part for registration by the state registrar or a local registrar.

[~~(12)~~](13) "Funeral service director" means the same as that term is defined in Section 58-9-102.

[~~(13)~~](14) "Health care facility" means the same as that term is defined in Section 26B-2-201.

[~~(14)~~](15) "Health care professional" means a physician, physician assistant, nurse practitioner, or certified nurse midwife.

[~~(15)~~](16) "Intersex individual" means an individual who:

(a) is born with external biological sex characteristics that are irresolvably ambiguous;

(b) is born with 46, XX chromosomes with virilization;

(c) is born with 46, XY chromosomes with undervirilization;

(d) has both ovarian and testicular tissue; or

(e) has been diagnosed by a physician, based on genetic or biochemical testing, with abnormal:

(i) sex chromosome structure;

(ii) sex steroid hormone production; or

(iii) sex steroid hormone action for a male or female.

[~~(16)~~](17) "Licensed funeral establishment" means:

(a) if located in Utah, a funeral service establishment, as that term is defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act; or

(b) if located in a state, district, or territory of the United States other than Utah, a funeral service establishment that complies with the licensing laws of the jurisdiction where the establishment is located.

[~~(17)~~](18) "Live birth" means the birth of a child who shows evidence of life after the child is entirely outside of the mother.

[~~(18)~~](19) "Local registrar" means a person appointed under Subsection 26B-8-102(3)(b).

[~~(19)~~](20) "Nurse practitioner" means an individual who:

(a) is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(20)~~](21) "Office" means the Office of Vital Records and Statistics within the department.

[~~(21)~~](22) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(22)~~](23) "Physician assistant" means an individual who:

(a) is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(23)~~](24) "Presumed father" means the same as that term is defined in Section [~~78B-15-102~~]81-5-102.

[~~(24)~~](25) "Registration" or "register" means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.

[~~(25)~~](26) "State registrar" means the state registrar of vital records appointed under Section 26B-8-102.

[~~(26)~~](27) "Vital records" means:

(a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;

(b) amendments to any of the registered certificates or reports described in Subsection [~~(26)(a)~~](27)(a);

(c) an adoption document; and

(d) other similar documents.

[~~(27)~~](28) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

Section 10. Section 26B-8-102 is amended to read:

26B-8-102. Department duties and authority.

(1) As used in this section:

(a) "Compact" means the Compact for Interstate Sharing of Putative Father Registry Information created in Section [~~78B-6-121.5~~]81-13-106, effective on May 10, 2016.

(b) "Putative father":

(i) means the same as that term is as defined in Section [~~78B-6-121.5~~]81-13-106; and

(ii) includes an unmarried biological father.

(c) "State registrar" means the state registrar of vital records appointed under Subsection (2)(e).

(d) "Unmarried biological father" means the same as that term is defined in Section [~~78B-6-103~~]81-13-101.

(2) The department shall:

(a) provide offices properly equipped for the preservation of vital records made or received under this part;

(b) establish a statewide vital records system for the registration, collection, preservation, amendment, and certification of vital records and other similar documents required by this part and activities related to them, including the tabulation, analysis, and publication of vital statistics;

(c) prescribe forms for certificates, certification, reports, and other documents and records necessary to establish and maintain a statewide system of vital records;

(d) prepare an annual compilation, analysis, and publication of statistics derived from vital records; and

(e) appoint a state registrar to direct the statewide system of vital records.

(3) The department may:

(a) divide the state from time to time into registration districts; and

(b) appoint local registrars for registration districts who under the direction and supervision of the state registrar shall perform all duties required of them by this part and department rules.

(4) The state registrar appointed under Subsection (2)(e) shall, with the input of Utah stakeholders and the Uniform Law Commission, study the following items for the state's implementation of the compact:

(a) the feasibility of using systems developed by the National Association for Public Health Statistics and Information Systems, including the State and Territorial Exchange of Vital Events (STEVE) system and the Electronic Verification of Vital Events (EVVE) system, or similar systems, to exchange putative father registry information with states that are parties to the compact;

(b) procedures necessary to share putative father information, located in the confidential registry maintained by the state registrar, upon request from the state registrar of another state that is a party to the compact;

(c) procedures necessary for the state registrar to access putative father information located in a state that is a party to the compact, and share that information with persons who request a certificate from the state registrar;

(d) procedures necessary to ensure that the name of the mother of the child who is the subject of a putative father's notice of commencement, filed pursuant to Section [~~78B-6-121~~]81-13-213, is kept confidential when a state that is a party to the compact accesses this state's confidential registry through the state registrar; and

(e) procedures necessary to ensure that a putative father's registration with a state that is a party to the compact is given the same effect as a putative father's notice of commencement filed pursuant to Section [~~78B-6-121~~]81-13-213.

Section 11. Section 26B-8-104 is amended to read:

26B-8-104. Birth registrations -- Execution and registration requirements.

(1) As used in this section:

(a) "Birthing facility" means a:

(i) general acute hospital as defined in Section 26B-2-201; or

(ii) birthing center as defined in Section 26B-2-201.

(b) "Designated administrator" means an individual who has been designated by a birthing facility to submit a birth registration on behalf of the birthing facility.

(2) (a) The office shall register a birth if a birth registration is completed and filed in accordance with this section.

(b) Once a birth is registered, the office shall provide a birth certificate upon request in accordance with all state laws.

(3) (a) For each live birth that occurs in a birthing facility, the designated administrator, attending physician, or nurse midwife shall:

(i) obtain and enter the information required under this part in the electronic birth registration system no later than 10 days from the day on which the birth occurred;

(ii) provide the parent the opportunity to review the information to ensure accuracy; and

(iii) submit the birth registration.

(b) (i) The date, time, place of birth, and required medical information shall be certified by the designated administrator.

(ii) The designated administrator shall enter the attending physician's, physician assistant's, or nurse midwife's name and transmit the birth registration to the local registrar for each birth that occurs in a birth facility.

(iii) The information contained in the birth registration about the parents shall be provided and certified by the mother or father or, in their incapacity or absence, by a person with knowledge of the facts.

(4) (a) (i) For a live birth that occurs outside a birthing facility, the birth registration shall be completed and filed by the physician, physician assistant, nurse, nurse practitioner, certified nurse midwife, or other person primarily responsible for providing assistance to the mother at the birth no later than 10 days from the day on which the birth occurred.

(ii) If the birth occurred without assistance from an individual described in Subsection (4)(a)(i), the presumed or declarant father or the mother of the child shall complete and file the birth registration.

(b) The birth registration shall be completed as fully as possible and shall include the date, time, and place of birth, and the mother's name.

(5) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the designated administrator shall:

(i) provide the birth mother and declarant father, if present, with:

(A) a voluntary declaration of paternity form published by the state registrar;

(B) oral and written notice to the birth mother and declarant father of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the declaration; and

(C) the opportunity to sign the declaration;

(ii) witness the signature of a birth mother or declarant father in accordance with Section [~~78B-15-302~~]81-5-302 if the signature occurs at the facility;

(iii) enter the declarant father's information on the original birth certificate, but only if the mother and declarant father have signed a voluntary declaration of paternity or a court or administrative agency has issued an adjudication of paternity; and

(iv) file the completed declaration with the original birth certificate.

(b) If there is a presumed father, the voluntary declaration will only be valid if the presumed father also signs the voluntary declaration.

(c) The state registrar shall file the information provided on the voluntary declaration of paternity form with the original birth certificate and may provide certified copies of the declaration of paternity as otherwise provided under [~~Title 78B, Chapter 15, Utah Uniform Parentage Act~~]Title 81, Chapter 5, Uniform Parentage Act.

(6) (a) The state registrar shall publish a form for the voluntary declaration of paternity, a description of the process for filing a voluntary declaration of paternity, and of the rights and responsibilities established or effected by that filing, in accordance with [~~Title 78B, Chapter 15, Utah Uniform Parentage Act~~]Title 81, Chapter 5, Uniform Parentage Act.

(b) Information regarding the form and services related to voluntary paternity establishment shall be made available to birthing facilities and to any other entity or individual upon request.

(7) The name of a declarant father may only be included on the birth certificate of a child of unmarried parents if:

(a) the mother and declarant father have signed a voluntary declaration of paternity; or

(b) a court or administrative agency has issued an adjudication of paternity.

(8) Voluntary declarations of paternity, adjudications of paternity by judicial or administrative agencies, and voluntary rescissions of paternity shall be filed with and maintained by the state registrar for the purpose of comparing information with the state case registry maintained by the Office of Recovery Services pursuant to Section 26B-9-104.

(9) The department may notify the Division of Professional Licensing that an individual who is required to complete a birth registration under Subsection (4)(a)(i) has failed to register a birth if:

(a) the department has notified the individual that the individual is required by state law to complete the birth registration; and

(b) the individual is a physician, physician assistant, nurse, nurse practitioner, or certified nurse midwife.

Section 12. Section 26B-8-110 is amended to read:

26B-8-110. Supplementary certificate of birth.

(1) An individual born in this state may request the state registrar to register a supplementary birth certificate for the individual if:

(a) the individual is legally recognized as a child of the individual's [~~natural~~]parents when the individual's [~~natural~~]parents are subsequently married;

(b) the individual's parentage has been determined by a state court of the United States or a Canadian provincial court with jurisdiction; or

(c) the individual has been legally adopted, as a child or as an adult, under the law of this state, any other state, or any province of Canada.

(2) The application for registration of a supplementary birth certificate may be made by:

(a) the individual requesting registration under Subsection (1) if the individual is of legal age;

(b) a legal representative; or

(c) any agency authorized to receive children for placement or adoption under the laws of this or any other state.

(3) (a) The state registrar shall require that an applicant submit identification and proof according to department rules.

(b) In the case of an adopted individual, that proof may be established by order of the court in which the adoption proceedings were held.

(4) (a) After the supplementary birth certificate is registered, any information disclosed from the record shall be from the supplementary birth certificate.

(b) Access to the original birth certificate and to the evidence submitted in support of the supplementary birth certificate are not open to inspection except upon the order of a Utah district court or as described in Section [~~78B-6-141 or Section 78B-6-144~~]81-13-103 or 81-13-504.

Section 13. Section 26B-8-119 is amended to read:

26B-8-119. Petition for establishment of unregistered birth or death -- Court procedure.

(1) A person holding a direct, tangible, and legitimate interest as described in Subsection 26B-8-125(3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth or death that is not registered or for which a certified copy of the registered birth or death certificate is not obtainable. The person shall verify the petition and file the petition in the Utah court for the county where:

(a) the birth or death is alleged to have occurred;

(b) the person resides whose birth is to be established; or

(c) the decedent named in the petition resided at the date of death.

(2) In order for the court to have jurisdiction, the petition shall:

(a) allege the date, time, and place of the birth or death; and

(b) state either that no certificate of birth or death has been registered or that a copy of the registered certificate cannot be obtained.

(3) The court shall set a hearing for five to 10 days after the day on which the petition is filed.

(4) (a) If the time and place of birth or death are in question, the court shall hear available evidence and determine the time and place of the birth or death.

(b) If the time and place of birth or death are not in question, the court shall determine the time and place of birth or death to be those alleged in the petition.

(5) A court order under this section shall be made on a form prescribed and furnished by the department and is effective upon the filing of a certified copy of the order with the state registrar.

(6) (a) For purposes of this section, the birth certificate of an adopted alien child [~~, as defined in Section 78B-6-108,~~]is considered to be unobtainable if the alien child was born in a country that is not recognized by department rule as having an established vital records registration system.

(b) If the adopted alien child was born in a country recognized by department rule, but a person described in Subsection (1) is unable to obtain a certified copy of the birth certificate, the state registrar shall authorize the preparation of a birth certificate if the state registrar receives a written statement signed by the registrar of the alien child's birth country stating a certified copy of the birth certificate is not available.

Section 14. Section 26B-8-125 is amended to read:

26B-8-125. Inspection of vital records.

(1) As used in this section:

(a) "Designated legal representative" means an attorney, physician, funeral service director, genealogist, or other agent of the subject, or an immediate family member of the subject, who has been delegated the authority to access vital records.

(b) "Drug use intervention or suicide prevention effort" means a program that studies or promotes the prevention of drug overdose deaths or suicides in the state.

(c) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

(d) "Pre-existing parent" means the same as that term is defined in Section 81-13-101.

(2) (a) The vital records shall be open to inspection, but only in compliance with the provisions of this part, department rules, and Sections [~~78B-6-141 and 78B-6-144~~]81-13-103 and 81-13-504.

(b) It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this part, department rule, [~~Section 78B-6-141, or Section 78B-6-144~~]Section 81-13-103, or Section 81-13-504.

(c) [~~(i)~~] An adoption document is open to inspection as provided in Section [~~78B-6-141 or Section 78B-6-144~~]81-13-103 or 81-13-504.

[~~(ii) A birth parent may not access an adoption document under Subsection 78B-6-141(3).~~]

(d) A custodian of vital records may permit inspection of a vital record or issue a certified copy of a record or a part of a record when the custodian is satisfied that the applicant has demonstrated a direct, tangible, and legitimate interest.

(3) Except as provided in Subsection (4), a direct, tangible, and legitimate interest in a vital record is present only if:

(a) the request is from:

(i) the subject;

(ii) an immediate family member of the subject;

(iii) the guardian of the subject;

(iv) a designated legal representative of the subject; or

(v) a person, including a child-placing agency as defined in Section [~~78B-6-103~~]81-13-101, with whom a child has been placed pending finalization of an adoption of the child;

(b) the request involves a personal or property right of the subject of the record;

(c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;

(d) the request is for a drug use intervention or suicide prevention effort or a statistical or medical research program and prior consent has been obtained from the state registrar; or

(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

(4) (a) Except as provided in [~~Title 78B, Chapter 6, Part 1, Utah Adoption Act~~]Title 81, Chapter 13, Adoption, a parent, or an immediate family member of a parent [~~, who~~]may not be considered as having a direct, tangible, and legitimate interest under this section in a vital record for which the subject is a child if the parent or family member does not have legal or physical custody of, or visitation or parent-time rights for[~~a~~], the child:

(i) because of the termination of parental rights under Title 80, Chapter 4, Termination and Restoration of Parental Rights[~~, or~~]; or

(ii) by virtue of consenting to or relinquishing a child for adoption [~~pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest under this section~~]as described in Title 81, Chapter 13, Adoption.

(b) Except as provided in Subsection (2)(d), a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest under this section.

(5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make the following records available to the public:

(a) except as provided in Subsection 26B-8-110(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

(b) a death record if 50 years or more have passed since the date of death; and

(c) a vital record not subject to Subsection (5)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.

(6) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections [~~78B-6-141 and 78B-6-144~~]81-13-103 and 81-13-504.

(7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for the inspection of adoption documents under Subsection [~~78B-6-141(4)~~]81-13-103(6);

(b) for a [~~birth~~]pre-existing parent's election to permit identifying information about the [~~birth~~]pre-existing parent to be made available [~~, under Section 78B-6-141~~]as described in Section 81-13-103;

(c) for the release of information by the mutual-consent, voluntary adoption registry [~~, under Section 78B-6-144~~]as described in Section 81-13-504;

(d) for collecting fees and donations under Section [~~78B-6-144.5~~]81-13-505; and

(e) for the review and approval of a request described in Subsection (3)(d).

Section 15. Section 26B-8-128 is amended to read:

26B-8-128. Divorce or adoption -- Duty of court clerk to file certificates or reports.

(1) For each adoption, annulment of adoption, divorce, and annulment of marriage ordered or decreed in this state, the clerk of the court shall prepare a divorce certificate or report of adoption on a form furnished by the state registrar or, for a report of adoption, the state of the child's birth.

(2) The petitioner shall provide the clerk of the court with the information necessary to prepare the certificate or report under Subsection (1), including the form furnished by the child's state of birth if the child was born in another state.

(3) The clerk shall:

(a) prepare the certificate or report under Subsection (1); and

(b) complete the remaining entries for the certificate or report immediately after the decree or order becomes final.

(4) On or before the 15th day of each month, the clerk shall forward the divorce certificates and reports of adoption under Subsection (1) completed by the clerk during the preceding month to the state registrar, except for reports of adoption provided to an attorney or child-placing agency under Subsection (5)(b).

(5) (a) In addition to the report of adoption that the clerk forwards to the state registrar under Subsection (4), the clerk shall also provide an original report of adoption under Subsection (1), upon request, to the attorney who is providing representation of a party to the adoption, or the child-placing agency, as defined in Section [~~78B-6-103~~]81-13-101, that is placing the child.

(b) If the child was born in another state, the clerk of court shall prepare and provide one original report of adoption, upon request, to the attorney who is providing representation of a party to the adoption, or the child-placing agency that is placing the child, and the attorney or child-placing agency shall be responsible for submitting the report to the state of the child's birth.

(c) If the attorney or child-placing agency does not request an original report of adoption under Subsection (5)(a) or (b), the clerk shall forward the report of adoption to the state registrar pursuant to Subsection (4).

(d) If, pursuant to Subsection (5)(a), an original report of adoption is provided to the attorney or the child-placing agency, as defined in Section [~~78B-6-103~~]81-13-101, the attorney or the child-placing agency shall immediately provide the report of adoption to the state registrar.

Section 16. Section 26B-8-131 is amended to read:

26B-8-131. Birth certificate for foreign adoptees.

Upon presentation of a court order of adoption and an order establishing the fact, time, and place of birth under Section 26B-8-119, the department shall prepare a birth certificate for an individual who:

(1) was adopted under the laws of this state; and

(2) was at the time of adoption, as a child or as an adult, considered an alien child or [~~adult for whom the court received documentary evidence of lawful admission under Section 78B-6-108~~]an adult born in another country.

Section 17. Section 26B-9-101 is amended to read:

26B-9-101. Definitions.

As used in this part:

(1) "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

(2) "Alleged father" means the same as that term is defined in Section 81-5-102.

[~~(2)~~](3) "Assistance" means public assistance.

(4) "Birth mother" means the same as that term is defined in Section 81-5-102.

[~~(3)~~](5) "Child" means the same as that term is defined in Section 81-6-101.

[~~(4)~~](6) (a) "Child support" means a base child support award as defined in Section 81-6-101, or a financial award for uninsured monthly medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, all arrearages that accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(b) "Child support" includes obligations ordered by a tribunal for the support of a spouse or former spouse with whom the child resides if the spousal support is collected with the child support.

[~~(5)~~](7) "Child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651, et seq.

[~~(6)~~](8) "Director" means the director of the Office of Recovery Services.

[~~(7)~~](9) "Financial institution" means:

(a) a depository institution as defined in Section 7-1-103 or the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(c);

(b) an institution-affiliated party as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(u);

(c) any federal credit union or state credit union as defined in the Federal Credit Union Act, 12 U.S.C. Sec. 1752, including an institution-affiliated party of such a credit union as defined in 12 U.S.C. Sec. 1786(r);

(d) a broker-dealer as defined in Section 61-1-13; or

(e) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the state.

[~~(8)~~](10) "Financial record" means the same as that term is defined in the Right to Financial Privacy Act of 1978, 12 U.S.C. Sec. 3401.

[~~(9)~~](11) (a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, or contract payment, or denominated as advances on future wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

(b) "Income" includes:

(i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(ii) interest and dividends;

(iii) periodic payments made under pension or retirement programs or insurance policies of any type;

(iv) unemployment compensation benefits;

(v) workers' compensation benefits; and

(vi) disability benefits.

[~~(10)~~](12) "IV-D" means Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.

[~~(11)~~](13) "IV-D child support services" means child support services.

[~~(12)~~](14) "New hire registry" means the centralized new hire registry created in Section 35A-7-103.

[~~(13)~~](15) "Obligee" means an individual, this state, another state, or other comparable jurisdiction to whom a debt is owed or who is

entitled to reimbursement of child support or public assistance.

[~~(14)~~](16) "Obligor" means a person, firm, corporation, or the estate of a decedent owing money to this state, to an individual, to another state, or other comparable jurisdiction in whose behalf this state is acting.

[~~(15)~~](17) "Office" means the Office of Recovery Services.

(18) "Parentage" means the same as that term is defined in Section 81-5-102.

[~~(16)~~](19) "Public assistance" means:

(a) services or benefits provided under Title 35A, Chapter 3, Employment Support Act;

(b) medical assistance provided under Chapter 3, Part 1, Health Care Assistance;

(c) foster care maintenance payments under Part E of Title IV of the Social Security Act, 42 U.S.C. Sec. 670, et seq.;

(d) SNAP benefits as defined in Section 35A-1-102; or

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

[~~(17)~~](20) "State case registry" means the central, automated record system maintained by the office and the central, automated district court record system maintained by the Administrative Office of the Courts, that contains records which use standardized data elements, such as names, Social Security numbers and other uniform identification numbers, dates of birth, and case identification numbers, with respect to:

(a) each case in which services are being provided by the office under the state IV-D child support services plan; and

(b) each support order established or modified in the state on or after October 1, 1998.

Section 18. Section 26B-9-104 is amended to read:

26B-9-104. Duties of the Office of Recovery Services.

(1) The office has the following duties:

(a) except as provided in Subsection (2), to provide child support services if:

(i) the office has received an application for child support services;

(ii) the state has provided public assistance; or

(iii) a child lives out of the home in the protective custody, temporary custody, or custody or care of the state;

(b) for the purpose of collecting child support, to carry out the obligations of the department contained in:

(i) this chapter;

[~~(ii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;~~]

[~~(iii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and~~]

(ii) Title 81, Chapter 5, Uniform Parentage Act;

[~~(iv)~~](iii) Title 81, Chapter 6, Child Support;

(iv) Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support; and

(v) Title 81, Chapter 8, Uniform Interstate Family Support Act;

(c) to collect money due the department which could act to offset expenditures by the state;

(d) to cooperate with the federal government in programs designed to recover health and social service funds;

(e) to collect civil or criminal assessments, fines, fees, amounts awarded as restitution, and reimbursable expenses owed to the state or any of its political subdivisions, if the office has contracted to provide collection services;

(f) to implement income withholding for collection of child support in accordance with Part 3, Income Withholding in IV-D Cases;

(g) to enter into agreements with financial institutions doing business in the state to develop and operate, in coordination with such financial institutions, a data match system in the manner provided for in Section 26B-9-208;

(h) to establish and maintain the state case registry in the manner required by the Social Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:

(i) the amount of monthly or other periodic support owed under the order, and other amounts, including arrearages, interest, late payment penalties, or fees, due or overdue under the order;

(ii) any amount described in Subsection (1)(h)(i) that has been collected;

(iii) the distribution of collected amounts;

(iv) the birth date of any child for whom the order requires the provision of support; and

(v) the amount of any lien imposed with respect to the order pursuant to this part;

(i) to contract with the Department of Workforce Services to establish and maintain the new hire registry created under Section 35A-7-103;

(j) to determine whether an individual who has applied for or is receiving cash assistance or Medicaid is cooperating in good faith with the office as required by Section 26B-9-213;

(k) to finance any costs incurred from collections, fees, General Fund appropriation, contracts, and federal financial participation; and

(l) to provide notice to a noncustodial parent in accordance with Section 26B-9-207 of the opportunity to contest the accuracy of allegations by a custodial parent of nonpayment of past-due child support, prior to taking action against a noncustodial parent to collect the alleged past-due support.

(2) The office may not provide child support services to the Division of Child and Family Services for a calendar month when the child to whom the child support services relate is:

(a) in the custody of the Division of Child and Family Services; and

(b) lives in the home of a custodial parent of the child for more than seven consecutive days, regardless of whether:

(i) the greater than seven consecutive day period starts during one month and ends in the next month; and

(ii) the child is living in the home on a trial basis.

(3) The Division of Child and Family Services is not entitled to child support, for a child to whom the child support relates, for a calendar month when child support services may not be provided under Subsection (2).

Section 19. Section 26B-9-108 is amended to read:

26B-9-108. Director -- Powers of office -- Representation by county attorney or attorney general -- Receipt of grants -- Rulemaking and enforcement.

(1) The director of the office shall be appointed by the executive director.

(2) The office has power to administer oaths, certify to official acts, issue subpoenas, and to compel witnesses and the production of books, accounts, documents, and evidence.

(3) The office has the power to seek administrative and judicial orders to require an obligor who owes past-due support and is obligated to support a child receiving public assistance to participate in appropriate work activities if the obligor is unemployed and is not otherwise incapacitated.

(4) The office has the power to enter into reciprocal child support enforcement agreements with foreign countries consistent with federal law and cooperative enforcement agreements with Indian Tribes.

(5) The office has the power to pursue through court action the withholding, suspension, and revocation of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or orders relating to [~~paternity~~]parentage or child support proceedings pursuant to Section 78B-6-315.

(6) (a) It is the duty of the attorney general or the county attorney of any county in which a cause of action can be filed, to represent the office.

(b) Neither the attorney general nor the county attorney represents or has an attorney-client relationship with the obligee or the obligor in carrying out the duties arising under this chapter.

(7) The office, with department approval, is authorized to receive any grants or stipends from the federal government or other public or private source designed to aid the efficient and effective operation of the recovery program.

(8) The office may adopt, amend, and enforce rules as may be necessary to carry out the provisions of this chapter.

Section 20. Section 26B-9-205 is amended to read:

26B-9-205. Expedited procedures for establishing parentage or establishing, modifying, or enforcing a support order.

(1) The office may, without the necessity of initiating an adjudicative proceeding or obtaining an order from any other judicial or administrative tribunal, take the following actions related to the establishment of [~~paternity~~]parentage or the establishment, modification, or enforcement of a support order, and to recognize and enforce the authority of state agencies of other states to take the following actions:

(a) require a child, a birth mother, and an alleged father to submit to genetic testing;

(b) subpoena financial or other information needed to establish, modify, or enforce a support order, including:

(i) the name, address, and employer of a person who owes or is owed support that appears on the customer records of public utilities and cable television companies; and

(ii) information held by financial institutions on such things as the assets and liabilities of a person who owes or is owed support;

(c) require a public or private employer to promptly disclose information to the office on the name, address, date of birth, social security number, employment status, compensation, and benefits, including health insurance, of any person employed as an employee or contractor by the employer;

(d) require an insurance organization subject to Title 31A, Insurance Code, or an insurance administrator of a self-insured employer to promptly disclose to the office health insurance information pertaining to an insured or an insured's dependents, if known;

(e) obtain access to information in the records and automated databases of other state and local government agencies, including:

(i) marriage, birth, and divorce records;

(ii) state and local tax and revenue records providing information on such things as residential and mailing addresses, employers, income, and assets;

(iii) real and titled personal property records;

(iv) records concerning occupational and professional licenses and the ownership and control of corporations, partnerships, and other business entities;

(v) employment security records;

(vi) records of agencies administering public assistance programs;

(vii) motor vehicle department records; and

(viii) corrections records;

(f) upon providing notice to the obligor and obligee, direct an obligor or other payor to change the payee to the office if support has been assigned to the office under Section 35A-7-108 or if support is paid through the office pursuant to the Social Security Act, 42 U.S.C. Sec. 654B;

(g) order income withholding in accordance with Part 3, Income Withholding in IV-D Cases;

(h) secure assets to satisfy past-due support by:

(i) intercepting or seizing periodic or lump-sum payments from:

(A) a state or local government agency, including unemployment compensation, workers' compensation, and other benefits; and

(B) judgments, settlements, and lotteries;

(ii) attaching and seizing assets of an obligor held in financial institutions;

(iii) attaching public and private retirement funds, if the obligor presently:

(A) receives periodic payments; or

(B) has the authority to withdraw some or all of the funds; and

(iv) imposing liens against real and personal property in accordance with this section and Section 26B-9-214; and

(i) increase monthly payments in accordance with Section 26B-9-219.

(2) (a) When taking action under Subsection (1), the office shall send notice under this Subsection (2)(a) to the person or entity who is required to comply with the action if not a party to a case receiving IV-D services.

(b) The notice described in Subsection (2)(a) shall include:

(i) the authority of the office to take the action;

(ii) the response required by the recipient;

(iii) the opportunity to provide clarifying information to the office under Subsection (2)(c);

(iv) the name and telephone number of a person in the office who can respond to inquiries; and

(v) the protection from criminal and civil liability extended under Subsection (7).

(c) The recipient of a notice sent under this Subsection (2) shall promptly comply with the terms of the notice and may, if the recipient believes the office's request is in error, send clarifying information to the office setting forth the basis for the recipient's belief.

(3) The office shall in any case in which it requires genetic testing under Subsection (1)(a):

(a) consider clarifying information if submitted by the obligee and alleged father;

(b) proceed with testing as the office considers appropriate;

(c) pay the cost of the tests, subject to recoupment from the alleged father if [~~paternity~~]parentage is established;

(d) order a second test if the original test result is challenged, and the challenger pays the cost of the second test in advance; and

(e) require that the genetic test is:

(i) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the United States Department of Health and Human Services; and

(ii) performed by a laboratory approved by such an accreditation body.

(4) The office may impose a penalty against an entity for failing to provide information requested in a subpoena issued under Subsection (1) as follows:

(a) $25 for each failure to provide requested information; or

(b) $500 if the failure to provide requested information is the result of a conspiracy between the entity and the obligor to not supply the requested information or to supply false or incomplete information.

(5) (a) Unless a court or administrative agency has reduced past-due support to a sum certain judgment, the office shall provide concurrent notice to an obligor in accordance with Section 26B-9-207 of:

(i) any action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 26B-9-208(1)(b) if Subsection (5)(b)(iii) does not apply; and

(ii) the opportunity of the obligor to contest the action and the amount claimed to be past-due by filing a written request for an adjudicative proceeding with the office within 15 days of notice being sent.

(b) (i) Upon receipt of a notice of levy from the office for an action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 26B-9-208(1)(b), a person in possession of personal property of the obligor shall:

(A) secure the property from unauthorized transfer or disposition as required by Section 26B-9-215; and

(B) surrender the property to the office after 21 days of receiving the notice unless the office has notified the person to release all or part of the property to the obligor.

(ii) Unless released by the office, a notice of levy upon personal property shall be:

(A) valid for 60 days; and

(B) effective against any additional property which the obligor may deposit or transfer into the possession of the person up to the amount of the levy.

(iii) If the property upon which the office imposes a levy is insufficient to satisfy the specified amount of past-due support and the obligor fails to contest that amount under Subsection (5)(a)(ii), the office may proceed under Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 26B-9-208(1)(b) against additional property of the obligor until the amount specified and the reasonable costs of collection are fully paid.

(c) Except as provided in Subsection (5)(b)(iii), the office may not disburse funds resulting from action requiring notice under Subsection (5)(a)(i) until:

(i) 21 days after notice was sent to the obligor; and

(ii) the obligor, if the obligor contests the action under Subsection (5)(a)(ii), has exhausted the obligor's administrative remedies and, if appealed to a district court, the district court has rendered a final decision.

(d) Before intercepting or seizing any periodic or lump-sum payment under Subsection (1)(h)(i)(A), the office shall:

(i) comply with Subsection 59-10-529(4)(a); and

(ii) include in the notice required by Subsection 59-10-529(4)(a) reference to Subsection (1)(h)(i)(A).

(e) If Subsection (5)(a) or (5)(d) does not apply, an action against the real or personal property of the obligor shall be in accordance with Section 26B-9-214.

(6) All information received under this section is subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(7) No employer, financial institution, public utility, cable company, insurance organization, its agent or employee, or related entity may be civilly or criminally liable for providing information to the office or taking any other action requested by the office pursuant to this section.

(8) The actions the office may take under Subsection (1) are in addition to the actions the office may take pursuant to Part 3, Income Withholding in IV-D Cases.

Section 21. Section 26B-9-206 is amended to read:

26B-9-206. Issuance or modification of administrative order -- Compliance with court order -- Authority of office -- Stipulated agreements -- Notification requirements.

(1) Through an adjudicative proceeding the office may issue or modify an administrative order that:

(a) determines [~~paternity~~]parentage;

(b) determines whether an obligor owes support;

(c) determines temporary orders of child support upon clear and convincing evidence of [~~paternity~~]parentage in the form of genetic

test results or other evidence;

(d) requires an obligor to pay a specific or determinable amount of present and future support;

(e) determines the amount of past-due support;

(f) orders an obligor who owes past-due support and is obligated to support a child receiving public assistance to participate in appropriate work activities if the obligor is unemployed and is not otherwise incapacitated;

(g) imposes a penalty authorized under this chapter;

(h) determines an issue that may be specifically contested under this chapter by a party who timely files a written request for an adjudicative proceeding with the office; and

(i) renews an administrative judgment.

(2) (a) An abstract of a final administrative order issued under this section or a notice of judgment-lien under Section 26B-9-214 may be filed with the clerk of any district court.

(b) Upon a filing under Subsection (2)(a), the clerk of the court shall:

(i) docket the abstract or notice in the judgment docket of the court and note the time of receipt on the abstract or notice and in the judgment docket; and

(ii) at the request of the office, place a copy of the abstract or notice in the file of a child support action involving the same parties.

(3) If a judicial order has been issued, the office may not issue an order under Subsection (1) that is not based on the judicial order, except:

(a) the office may establish a new obligation in those cases in which the juvenile court has ordered the parties to meet with the office to determine the support pursuant to Section 78A-6-356; or

(b) the office may issue an order of current support in accordance with the child support guidelines if the conditions of Subsection [~~78B-14-207(2)(c)~~]81-8-207(2)(c) are met.

(4) The office may proceed under this section in the name of this state, another state under Section 26B-9-209, any department of this state, the office, or the obligee.

(5) The office may accept voluntary acknowledgment of a support obligation and enter into stipulated agreements providing for the issuance of an administrative order under this part.

(6) The office may act in the name of the obligee in endorsing and cashing any drafts, checks, money orders, or other negotiable instruments received by the office for support.

(7) The obligor shall, after a notice of agency action has been served on the obligor in accordance with Section 63G-4-201, keep the office informed of:

(a) the obligor's current address;

(b) the name and address of current payors of income;

(c) availability of or access to health insurance coverage; and

(d) applicable health insurance policy information.

Section 22. Section 26B-9-207 is amended to read:

26B-9-207. Filing of location information -- Service of process.

(1) (a) Upon the entry of an order in a proceeding to establish [~~paternity~~]parentage or to establish, modify, or enforce a support order, each party shall file identifying information and shall update that information as changes occur:

(i) with the court or administrative agency that conducted the proceeding; and

(ii) after October 1, 1998, with the state case registry.

(b) The identifying information required under Subsection (1)(a) shall include the person's Social Security number, driver's license number, residential and mailing addresses, telephone numbers, the name, address, and telephone number of employers, and any other data required by the Secretary of the United States Department of Health and Human Services.

(c) In any subsequent child support action involving the office or between the parties, state due process requirements for notice and service of process shall be satisfied as to a party upon:

(i) a sufficient showing that diligent effort has been made to ascertain the location of the party; and

(ii) delivery of notice to the most recent residential or employer address filed with the court, administrative agency, or state case registry under Subsection (1)(a).

(2) (a) The office shall provide individuals who are applying for or receiving services under this chapter or who are parties to cases in which services are being provided under this chapter:

(i) with notice of all proceedings in which support obligations might be established or modified; and

(ii) with a copy of any order establishing or modifying a child support obligation, or in the case of a petition for modification, a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination.

(b) Notwithstanding Subsection (2)(a)(ii), notice in the case of an interstate order shall be provided in accordance with Section [~~78B-14-614~~]81-8-614.

(3) Service of all notices and orders under this part shall be made in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the Utah Rules of Civil Procedure, or this section.

(4) Consistent with Title 63G, Chapter 2, Government Records Access and Management Act, the office shall adopt procedures to classify records to prohibit the unauthorized use or disclosure of information relating to a proceeding to:

(a) establish [~~paternity~~]parentage; or

(b) establish or enforce support.

(5) (a) The office shall, upon written request, provide location information available in its files on a custodial or noncustodial parent to the other party or the other party's legal counsel provided that:

(i) the party seeking the information produces a copy of the parent-time order signed by the court;

(ii) the information has not been safeguarded in accordance with Section 454 of the Social Security Act;

(iii) the party whose location is being sought has been afforded notice in accordance with this section of the opportunity to contest release of the information;

(iv) the party whose location is being sought has not provided the office with a copy of a protective order, a current court order prohibiting disclosure, a current court order limiting or prohibiting the requesting person's contact with the party or child whose location is being sought, a criminal order, an administrative order pursuant to Section 80-2-707, or documentation of a pending proceeding for any of the above; and

(v) there is no other state or federal law that would prohibit disclosure.

(b) "Location information" shall consist of the current residential address of the custodial or noncustodial parent and, if different and known to the office, the current residence of any children who are the subject of the parent-time order. If there is no current residential address available, the person's place of employment and any other location information shall be disclosed.

(c) For the purposes of this section, "reason to believe" under Section 454 of the Social Security Act means that the person seeking to safeguard information has provided to the office a copy of a protective order, current court order prohibiting disclosure, current court order prohibiting or limiting the requesting person's contact with the party or child whose location is being sought, criminal order signed by a court of competent jurisdiction, an administrative order pursuant to Section 80-2-707, or documentation of a pending proceeding for any of the above.

(d) Neither the state, the department, the office nor its employees shall be liable for any information released in accordance with this section.

(6) Custodial or noncustodial parents or their legal representatives who are denied location information in accordance with Subsection (5) may serve the Office of Recovery Services to initiate an action to obtain the information.

Section 23. Section 26B-9-209 is amended to read:

26B-9-209. Support collection services requested by agency of another state.

(1) In accordance with [~~Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act~~]Title 81, Chapter 8, Uniform Interstate Family Support Act, the office may proceed to issue or modify an order under Section 26B-9-206 to collect under this part from an obligor who is located in or is a resident of this state regardless of the presence or residence of the obligee if:

(a) support collection services are requested by an agency of another state that is operating under Part IV-D of the Social Security Act; or

(b) an individual applies for services.

(2) The office shall use high-volume automated administrative enforcement, to the same extent it is used for intrastate cases, in response to a request made by another state's IV-D child support agency to enforce support orders.

(3) A request by another state shall constitute a certification by the requesting state:

(a) of the amount of support under the order of payment of which is in arrears; and

(b) that the requesting state has complied with procedural due process requirements applicable to the case.

(4) The office shall give automated administrative interstate enforcement requests the same priority as a two-state referral received from another state to enforce a support order.

(5) The office shall promptly report the results of the enforcement procedures to the requesting state.

(6) As required by the Social Security Act, 42 U.S.C. Sec. 666(a)(14), the office shall maintain records of:

(a) the number of requests for enforcement assistance received by the office under this section;

(b) the number of cases for which the state collected support in response to those requests; and

(c) the amount of support collected.

Section 24. Section 26B-9-213 is amended to read:

26B-9-213. Duties of obligee after assignment of support rights.

(1) An obligee whose rights to support have been assigned under Section 35A-3-108 as a condition of eligibility for public assistance has the following duties:

(a) Unless a good cause or other exception applies, the obligee shall, at the request of the office:

(i) cooperate in good faith with the office by providing the name and other identifying information of the other parent of the obligee's child for the purpose of:

(A) establishing [~~paternity~~]parentage; or

(B) establishing, modifying, or enforcing a child support order;

(ii) supply additional necessary information and appear at interviews, hearings, and legal proceedings; and

(iii) submit the obligee's child and [~~himself~~]the obligee to judicially or administratively ordered genetic testing.

(b) The obligee may not commence an action against an obligor or file a pleading to collect or modify support without the office's written consent.

(c) The obligee may not do anything to prejudice the rights of the office to establish [~~paternity~~]parentage, enforce provisions requiring health insurance, or to establish and collect support.

(d) The obligee may not agree to allow the obligor to change the court or administratively ordered manner or amount of payment of past, present, or future support without the office's written consent.

(2) (a) The office shall determine and redetermine, when appropriate, whether an obligee has cooperated with the office as required by Subsection (1)(a).

(b) If the office determines that an obligee has not cooperated as required by Subsection (1)(a), the office shall:

(i) forward the determination and the basis for it to the Department of Workforce Services, which shall inform the department of the determination, for a determination of whether compliance by the obligee should be excused on the basis of good cause or other exception; and

(ii) send to the obligee:

(A) a copy of the notice; and

(B) information that the obligee may, within 15 days of notice being sent:

(I) contest the office's determination of noncooperation by filing a written request for an adjudicative proceeding with the office; or

(II) assert that compliance should be excused on the basis of good cause or other exception by filing a written request for a good cause

exception with the Department of Workforce Services.

(3) The office's right to recover is not reduced or terminated if an obligee agrees to allow the obligor to change the court or administratively ordered manner or amount of payment of support regardless of whether that agreement is entered into before or after public assistance is furnished on behalf of a child.

(4) (a) If an obligee receives direct payment of assigned support from an obligor, the obligee shall immediately deliver that payment to the office.

(b) (i) If an obligee agrees with an obligor to receive payment of support other than in the court or administratively ordered manner and receives payment as agreed with the obligor, the obligee shall immediately deliver the cash equivalent of the payment to the office.

(ii) If the amount delivered to the office by the obligee under Subsection (4)(b)(i) exceeds the amount of the court or administratively ordered support due, the office shall return the excess to the obligee.

(5) (a) If public assistance furnished on behalf of a child is terminated, the office may continue to provide [~~paternity~~]parentage establishment and support collection services.

(b) Unless the obligee notifies the office to discontinue these services, the obligee is considered to have accepted and is bound by the rights, duties, and liabilities of an obligee who has applied for those services.

Section 25. Section 26B-9-230 is amended to read:

26B-9-230. Right to judicial review.

(1) (a) Within 30 days of notice of any administrative action on the part of the office to establish [~~paternity~~]parentage or establish, modify or enforce a child support order, the obligor may file a petition for de novo review with the district court.

(b) For purposes of Subsection (1)(a), notice includes:

(i) notice actually received by the obligor in accordance with Section 26B-9-207;

(ii) participation by the obligor in the proceedings related to the establishment of the [~~paternity~~]parentage or the modification or enforcement of child support; or

(iii) receiving a paycheck in which a reduction has been made for child support.

(2) The petition shall name the office and all other appropriate parties as respondents and meet the form requirements specified in Section 63G-4-402.

(3) A copy of the petition shall be served upon the Child and Family Support Division of the Office of Attorney General.

(4) (a) If the petition is regarding the amount of the child support obligation established in accordance with Title 81, Chapter 6, Child Support, the court may issue a temporary order for child support until a final order is issued.

(b) The petitioner may file an affidavit stating the amount of child support reasonably believed to be due and the court may issue a temporary order for that amount. The temporary order shall be valid for 60 days, unless extended by the court while the action is being pursued.

(c) If the court upholds the amount of support established in Subsection (4)(a), the petitioner shall be ordered to make up the difference between the amount originally ordered in Subsection (4)(a) and the amount temporarily ordered under Subsection (4)(b).

(d) This Subsection (4) does not apply to an action for the court-ordered modification of a judicial child support order.

(5) (a) The court may, on its own initiative and based on the evidence before it, determine whether the petitioner violated Rule 11 of the Utah Rules of Civil Procedure by filing the action.

(b) If the court determines that Rule 11 of the Utah Rules of Civil Procedure was violated, it shall, at a minimum, award to the office attorney fees and costs for the action.

(6) Nothing in this section precludes the obligor from seeking administrative remedies as provided in this chapter.

Section 26. Section 35A-3-308 is amended to read:

35A-3-308. Adoption services -- Printed information -- Supports provided.

(1) The department may provide assistance under this section to an applicant who is pregnant and is not receiving cash assistance at the beginning of the third trimester of pregnancy.

(2) For a pregnant applicant, the department shall:

(a) refer the applicant for appropriate prenatal medical care, including maternal health services provided under Title 26B, Chapter 7, Part 1, Health Promotion and Risk Reduction;

(b) inform the applicant of free counseling about adoption from licensed child placement agencies and licensed attorneys; and

(c) offer the applicant the adoption information packet described in Subsection (3).

(3) The department shall publish an adoption information packet that:

(a) is easy to understand;

(b) contains geographically indexed materials on the public and private organizations that provide adoption assistance;

(c) lists the names, addresses, and telephone numbers of licensed child placement agencies and licensed attorneys who place children for adoption;

(d) explains that private adoption is legal and that the law permits adoptive parents to reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to pregnancy; and

(e) describes the services available to the applicant under this section.

(4) (a) A recipient remains eligible for assistance under this section, even though the recipient relinquishes a child for adoption, if the adoption is in accordance with Sections [~~78B-6-120 through 78B-6-122~~]81-13-212 and 81-13-213.

(b) The assistance provided under this section may include:

(i) reimbursement for expenses associated with care and confinement during pregnancy as provided in Subsection (5); and

(ii) for a maximum of 12 months from the date of relinquishment, coordination of services to assist the recipient in:

(A) receiving appropriate educational and occupational assessment and planning;

(B) enrolling in appropriate education or training programs, including high school completion and adult education programs;

(C) enrolling in programs that provide assistance with job readiness, employment counseling, finding employment, and work skills;

(D) finding suitable housing;

(E) receiving medical assistance, under Title 26B, Chapter 3, Health Care - Administration and Assistance, if the recipient is otherwise eligible; and

(F) receiving counseling and other mental health services.

(5) (a) Except as provided in Subsection (5)(b), a recipient under this section is eligible to receive an amount equal to the maximum monthly amount of cash assistance paid under this part to one person for up to 12 consecutive months from the date of relinquishment.

(b) If a recipient is otherwise eligible to receive cash assistance under this part, the recipient is eligible to receive an amount equal to the increase in cash assistance the recipient would have received but for the relinquishment for up to 12 consecutive months from the date of relinquishment.

(6) (a) To remain eligible for assistance under this section, a recipient shall:

(i) with the cooperation of the department, develop and implement an employment plan that includes goals for achieving self-sufficiency and that describes the action the recipient will take concerning education and training to achieve full-time employment;

(ii) if the recipient does not have a high school diploma, enroll in high school or an alternative to high school and demonstrate progress toward graduation; and

(iii) make a good faith effort to meet the goals of the employment plan as described in Section 35A-3-304.

(b) Cash assistance provided to a recipient before the recipient relinquishes a child for adoption is part of the state plan.

(c) Assistance provided under Subsection (5):

(i) shall be provided for with state funds; and

(ii) may not be counted when determining subsequent eligibility for cash assistance under this chapter.

(d) The time limit provisions of Section 35A-3-306 apply to cash assistance provided under the state plan.

(e) The department shall monitor a recipient's compliance with this section.

(f) Except for Subsection (6)(b), Subsections (2) through (6) are excluded from the state plan.

Section 27. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "Clone" means to copy a subscription or subscription data from a rap back system, including associated criminal history record information, from a qualified entity to another qualified entity.

(b) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(c) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(d) "Volunteer Employee Criminal History System" or "VECHS" means a system that allows the bureau and the Federal Bureau of Investigation to provide criminal history record information to a qualifying entity, including a non-governmental qualifying entity.

(e) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Except as provided in Subsection (17), dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for the qualifying entity's own employees or volunteers and individuals who have applied for employment with or to serve as a volunteer for the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections [~~78B-6-128 and 78B-6-130~~]81-13-403 and 81-13-405;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

(i) employees;

(ii) applicants for employment;

(iii) volunteers; and

(iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

(i) cabinet members;

(ii) judicial applicants; and

(iii) members of boards, committees, and commissions appointed by the governor;

(j) the office of the lieutenant governor for the purpose of conducting a background check on an individual applying to be a notary public under Section 46-1-3;

(k) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(l) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(k) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a signed waiver from the person whose information is requested.

(b) The waiver shall notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check; and

(ii) the fee required by Subsection (15).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check and a nationwide background check shall provide to the bureau:

(i) personal identifying information for the subject of the background check;

(ii) a fingerprint card for the subject of the background check; and

(iii) the fee required by Subsection (15).

(e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) may only be:

(i) available to individuals involved in the hiring or background investigation of the job applicant, employee, notary applicant, or as authorized under federal or state law;

(ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision or for considering a notary applicant under Section 46-1-3; and

(iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (j) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

(g) (i) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) that obtains background check information shall provide the subject of the background check an opportunity to:

(A) request a copy of the information received; and

(B) respond to and challenge the accuracy of any information received.

(ii) An individual who is the subject of a background check and who receives a copy of the information described in Subsection (4)(g)(i) may use the information only for the purpose of reviewing, responding to, or challenging the accuracy of the information.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(i) The division or the division's employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (j).

(5) (a) Except as provided in Subsection (5)(b), (c), (d), or (e), or as otherwise authorized under state law, criminal history record information obtained from division files may be used only for the purposes for which the information was provided.

(b) A criminal history provided to an agency under Subsection (2)(f) may be provided by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 26B-6-410(5), provide a criminal history record to the state agency or the agency's designee.

(e) Criminal history record information obtained from a national source may be disseminated if the dissemination is authorized by a policy issued by the Criminal Justice Information Services Division or other federal law.

(6) (a) A qualifying entity under Subsection (2)(c) may submit fingerprints to the bureau and the Federal Bureau of Investigation for a local and national background check under the provisions of the National Child Protection Act of 1993, 42 U.S.C. Sec. 5119 et seq.

(b) A qualifying entity under Subsection (2)(c) that submits fingerprints under Subsection (6)(a):

(i) shall meet all VECHS requirements for using VECHS; and

(ii) may only submit fingerprints for an employee, volunteer, or applicant who has resided in Utah for the seven years before the day on which the qualifying entity submits the employee's, volunteer's, or applicant's fingerprints.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so the information cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(g):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to a criminal justice agency's needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the bureau of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

(i) the WIN Database rap back system, or any successor system;

(ii) the FBI Rap Back System; or

(iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2) may only make a request under Subsection (13)(a) if the entity:

(i) has the authority through state or federal statute or federal executive order;

(ii) obtains a signed waiver from the individual whose fingerprints are being registered; and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h), (i), or (j), the Division of Human Resource Management, in accordance with Title 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Chapter 10, Part 2, Bureau of Criminal Identification.

(17) (a) Except as provided in Subsection (18), if an individual has an active FBI Rap Back System subscription with a qualifying entity, the division may, upon request from another qualifying entity, clone the subscription to the requesting qualifying entity if:

(i) the requesting qualifying entity requests the clone:

(A) for the purpose of evaluating whether the individual should be permitted to obtain or retain a license for, or serve as an employee or volunteer in a position in which the individual is responsible for, the care, treatment, training, instruction, supervision, or recreation of children, the elderly, or individuals with disabilities; or

(B) for the same purpose as the purpose for which the original qualifying entity requested the criminal history record information;

(ii) the requesting qualifying entity is expressly authorized by statute to obtain criminal history record information for the individual who is the subject of the request;

(iii) before requesting the clone, the requesting qualifying entity obtains a signed waiver, containing the information described in Subsection (4)(b), from the individual who is the subject of the request;

(iv) the requesting qualifying entity or the individual pays any applicable fees set by the division in accordance with Section 63J-1-504; and

(v) the requesting qualifying entity complies with the requirements described in Subsection (4)(g).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules regulating the process described in this Subsection (17).

(18) (a) Subsection (17) does not apply unless the Federal Bureau of Investigation approves the use of the FBI Rap Back System for the purpose described in Subsection (17)(a)(i) under the conditions described in Subsection (17).

(b) Subsection (17) does not apply to the extent that implementation of the provisions of Subsection (17) are contrary to the requirements of the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.

(19) (a) Information received by a qualifying entity under Subsection (17) may only be disclosed and used as described in Subsection (4)(e).

(b) A person who disseminates or uses information received under Subsection (17) for a purpose other than those described in Subsection (4)(e) is subject to the penalties described in this section and is also subject to civil liability.

(c) A qualifying entity is not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (17).

Section 28. Section 53B-1-119 is amended to read:

53B-1-119. Bereavement leave for miscarriage and stillbirth.

(1) As used in this section "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

(2) An institution shall adopt policies providing at least three work days of paid bereavement leave for an employee following the end of the employee's pregnancy by way of miscarriage or stillbirth or following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(a) the employee is the individual's spouse or partner;

(b) the employee is the individual's former spouse or partner and the employee would have been a biological parent of a child born as a result of the pregnancy;

(c) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section [~~78B-6-103~~]81-13-101, of a child born as a result of the pregnancy; or

(d) under a valid gestational agreement in accordance with [~~Title 78B, Chapter 15, Part 8, Gestational Agreement~~]Title 81, Chapter 5, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 29. Section 53G-11-209 is amended to read:

53G-11-209. Paid leave -- Parental leave -- Postpartum recovery leave -- Leave sharing -- Rulemaking.

(1) As used in this section:

(a) (i) Paid leave hours" means leave hours an LEA provides to an LEA employee who accrues paid leave benefits in accordance with the LEA's leave policies.

(ii) "Paid leave hours" includes annual, vacation, sick, paid time off, or any other type of leave an employee may take while still receiving compensation.

(iii) "Paid leave hours" is not limited parental leave or postpartum recovery leave.

(b) "Parental leave" means leave hours an LEA provides to a parental leave eligible employee.

(c) "Parental leave eligible employee" means an LEA employee who accrues paid leave benefits in accordance with the LEA's leave policies and is:

(i) a birth parent as defined in Section [~~73B-6-103~~]81-13-101;

(ii) legally adopting a minor child, unless the individual is the spouse of the pre-existing parent;

(iii) the intended parent of a child born under a validated gestational agreement in accordance with [~~Title 78B, Chapter 15, Part 8, Gestational Agreement~~]Title 81, Chapter 5, Part 8, Gestational Agreement; or

(iv) appointed the legal guardian of a minor child or incapacitated adult.

(d) "Postpartum recovery leave" means leave hours a state employer provides to a postpartum recovery leave eligible employee to recover from childbirth.

(e) "Postpartum recovery leave eligible employee" means an employee:

(i) who accrues paid leave benefits in accordance with the LEA's leave policies; and

(ii) who gives birth to a child.

(f) "Qualified employee" means:

(i) a parental leave eligible employee; or

(ii) a postpartum recovery leave eligible employee.

(g) "Retaliatory action" means to do any of the following regarding an employee:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount to which the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections [~~(1)(f)(i)~~](1)(g)(i) through (iv).

(2) Beginning July 1, 2025, an LEA:

(a) shall develop leave policies that provide for the use and administration of parental leave and postpartum recovery leave by a qualified employee under this section in a manner that is not more restrictive than the parental and postpartum recovery leave available to state employees under Section 63A-17-511; [~~and~~]

(b) may develop leave policies that provide a mechanism for leave sharing between employees of the same LEA or school for all types of leave including, sick leave, annual leave, parental leave, and postpartum recovery leave;

(c) shall allow a parental leave eligible employee and a postpartum recovery leave eligible employee who is part-time or who works in excess of a 40-hour work week or the equivalent of a 40-hour work week to use the amount of postpartum recovery leave available under this section on a pro rata basis; and

(d) shall provide each employee written information regarding:

(i) a qualified employee's right to use parental leave or postpartum recovery leave under this section; and

(ii) the availability of and process for using or contributing to the leave sharing mechanism described in Subsection (2)(b).

(3) An LEA may not take retaliatory action against a qualified employee for using parental leave or postpartum recovery leave in accordance with this section.

(4) An LEA may not charge parental leave or postpartum recovery leave against paid leave hours to which a qualified employee is entitled as described in Subsection (6).

(5) An LEA or school may use leave bank sharing and other efforts to mitigate incurred costs of compliance with this section including coordinating with other LEAs or schools to share approaches or policies designed to fulfill the requirements of this section in a cost effective manner.

(6) An LEA may provide leave that exceeds the benefits of the state leave policies described in this section.

Section 30. Section 58-60-112 is amended to read:

58-60-112. Reporting of unprofessional or unlawful conduct -- Immunity from liability -- Reporting conduct of court-appointed therapist.

(1) Upon learning of an act of unlawful or unprofessional conduct as defined in Section 58-60-102 by a person licensed under this chapter or an individual not licensed under this chapter and engaged in acts or practices regulated under this chapter, that results in disciplinary action by a licensed health care facility, professional practice group, or professional society, or that results in a significant adverse impact upon the public health, safety, or welfare, the following shall report the conduct in writing to the division within 10 days after learning of the disciplinary action or the conduct unless the individual or person knows it has been reported:

(a) a licensed health care facility or organization in which an individual licensed under this chapter engages in practice;

(b) an individual licensed under this chapter; and

(c) a professional society or organization whose membership is individuals licensed under this chapter and which has the authority to discipline or expel a member for acts of unprofessional or unlawful conduct.

(2) Any individual reporting acts of unprofessional or unlawful conduct by an individual licensed under this chapter is immune from liability arising out of the disclosure to the extent the individual furnishes the information in good faith and without malice.

(3) (a) As used in this Subsection (3):

(i) "Court-appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.

(ii) "Domestic case" means a proceeding under:

(A) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

[~~(B) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;~~]

[~~(C) Title 78B, Chapter 15, Utah Uniform Parentage Act;~~]

[~~(D)~~](B) Title 81, Chapter 4, Dissolution of Marriage; [~~or~~]

(C) Title 81, Chapter 5, Uniform Parentage Act;

[~~(E)~~](D) Title 81, Chapter 9, Custody, Parent-time, and Visitation[~~.~~]; or

(E) Title 81, Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

(b) If a court appoints a court-appointed therapist in a domestic case, a party to the domestic case may not file a report against the court-appointed therapist for unlawful or unprofessional conduct during the pendency of the domestic case, unless:

(i) the party has requested that the court release the court-appointed therapist from the appointment; and

(ii) the court finds good cause to release the court-appointed therapist from the appointment.

Section 31. Section 63A-17-106 is amended to read:

63A-17-106. Responsibilities of the director.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

(2) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.

(3) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.

(4) Statewide human resource management rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.

(5) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.

(6) The director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;

(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(i) perform duties assigned by the governor, executive director, or statute;

(j) make rules for human resource management, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

(l) conduct research and planning activities to:

(i) determine and prepare for future state human resource needs;

(ii) develop methods for improving public human resource management; and

(iii) propose needed policy changes to the governor;

(m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;

(n) establish compensation policies and procedures for early voluntary retirement;

(o) confer with the heads of other agencies about human resource policies and procedures;

(p) submit an annual report to the executive director, the governor, and the Legislature; and

(q) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

(7) (a) After consultation with the executive director, the governor, and the heads of other agencies, the director shall establish and coordinate statewide training programs, including training described in Subsection (7)(e).

(b) The programs developed under this Subsection (7) shall have application to more than one agency.

(c) The division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(d) The division shall ensure that any training program described in this Subsection (7) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(e) (i) As used in this Subsection (7)(e):

(A) "Employee" means the same as that term is defined in Section 63A-17-112.

(B) "Supervisor" means an individual in a position at an agency, as defined in Section 63A-17-112, that requires the regular supervision and performance evaluation of an employee.

(ii) A supervisor shall attend the training:

(A) within six months of being promoted or hired to the position of supervisor; and

(B) at least annually.

(iii) A supervisor's completion of training and effective use of training information and principles shall be considered in an evaluation of the supervisor's job performance.

(iv) The training shall include:

(A) effective employee management and evaluation methods based on the pay for performance management system described in Section 63A-17-112;

(B) instruction to improve supervisor and employee communications;

(C) best practices for recognizing and retaining high-performing employees;

(D) best practices for addressing poor-performing employees; and

(E) any other information and principles identified by the division to improve management or organizational effectiveness.

(8) (a) (i) The division may collect fees for training as authorized by this Subsection (8).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

(9) Rules described in Subsection (6)(j) shall provide for at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section [~~78B-6-103~~]81-13-101, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with [~~Title 78B, Chapter 15, Part 8, Gestational Agreement~~]Title 81, Chapter 5, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 32. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Native American Repatriation Restricted Account created in Section 9-9-407.

(2) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Title 9, Chapter 23, Pete Suazo Utah Athletic Commission Act.

(3) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(4) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(5) The Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17.

(6) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(7) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(8) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26B-3-906.

(9) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26B-7-111.

(10) The Technology Development Restricted Account created in Section 31A-3-104.

(11) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(12) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(13) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(14) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(15) The State Mandated Insurer Payments Restricted Account created in Section 31A-30-118.

(16) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(17) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

[~~(18) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.~~]

[~~(19)~~](18) The School Readiness Restricted Account created in Section 35A-15-203.

[~~(20)~~](19) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

[~~(21)~~](20) The Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

[~~(22)~~](21) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

[~~(23)~~](22) The Oil and Gas Conservation Account created in Section 40-6-14.5.

[~~(24)~~](23) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

[~~(25)~~](24) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

[~~(26)~~](25) The License Plate Restricted Account created by Section 41-1a-122.

[~~(27)~~](26) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

[~~(28)~~](27) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[~~(29)~~](28) The Response, Recovery, and Post-disaster Mitigation Restricted Account created in Section 53-2a-1302.

[~~(30)~~](29) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[~~(31)~~](30) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[~~(32)~~](31) The DNA Specimen Restricted Account created in Section 53-10-407.

[~~(33)~~](32) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[~~(34)~~](33) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[~~(35)~~](34) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[~~(36)~~](35) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[~~(37)~~](36) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[~~(38)~~](37) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~(39)~~](38) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[~~(40)~~](39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[~~(41)~~](40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[~~(42)~~](41) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~(43)~~](42) The Relative Value Study Restricted Account created in Section 59-9-105.

[~~(44)~~](43) The Cigarette Tax Restricted Account created in Section 59-14-204.

[~~(45)~~](44) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[~~(46)~~](45) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[~~(47)~~](46) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

[~~(48)~~](47) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

[~~(49)~~](48) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(50)~~](49) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~(51)~~](50) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~(52)~~](51) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[~~(53)~~](52) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~(54)~~](53) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(55)~~](54) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(56)~~](55) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(57)~~](56) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(58)~~](57) The following funds or accounts created in Section 72-2-124:

(a) Transportation Investment Fund of 2005;

(b) Transit Transportation Investment Fund;

(c) Cottonwood Canyons Transportation Investment Fund;

(d) Active Transportation Investment Fund; and

(e) Commuter Rail Subaccount.

[~~(59)~~](58) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(60)~~](59) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(61)~~](60) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(62)~~](61) Award money under the State Asset Forfeiture Grant Program, as provided under Section 77-11b-403.

[~~(63)~~](62) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(64)~~](63) Fees for certificate of admission created under Section 78A-9-102.

[~~(65)~~](64) Funds collected for adoption document access as provided in Sections [~~78B-6-141, 78B-6-144, and 78B-6-144.5~~]81-13-103, 81-13-504, and 81-13-505.

[~~(66)~~](65) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(67)~~](66) The Utah Geological Survey Restricted Account created in Section 79-3-403.

[~~(68)~~](67) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(69)~~](68) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 33. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The primary care grant program created in Section 26B-4-310.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(12) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(16) The Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program created in Section 26B-7-122.

(17) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(18) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(19) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

(20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(21) The Emergency Medical Services Grant Program in Section 53-2d-207.

(22) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(23) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(24) Innovation grants under Section 53G-10-608, except as provided in Subsection [~~53G-10-608(6)~~]53G-10-608(3).

(25) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The State Capitol Preservation Board created by Section 63O-2-201.

(28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) County correctional facility reimbursement program for state probationary inmates and state parole inmates as described in Section 64-13e-104.

(34) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(35) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(36) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(37) The Traffic Noise Abatement Program created in Section 72-6-112.

(38) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(39) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(40) A state rehabilitative employment program, as provided in Section 78A-6-210.

(41) The Utah Geological Survey, as provided in Section 79-3-401.

(42) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(43) Adoption document access as provided in Sections [~~78B-6-141, 78B-6-144, and 78B-6-144.5~~]81-13-103, 81-13-504, and 81-13-505.

(44) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(45) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(46) The State Tax Commission for reimbursing counties for deferrals in accordance with Section 59-2-1802.5.

(47) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 34. Section 75-2-114 is amended to read:

75-2-114. Parent and child relationship.

(1) (a) Except as provided in Subsections (2) and (3), for purposes of intestate succession by, through, or from a person, an individual is the child of the individual's natural parents, regardless of their marital status.

(b) The parent and child relationship may be established as provided in [~~Title 78B, Chapter 15, Utah Uniform Parentage Act~~]Title 81, Chapter 5, Uniform Parentage Act.

(2) An adopted individual is the child of the adopting parent or parents and not of the natural parents, but adoption of a child by the spouse of either natural parent has no effect on the relationship between the child and that natural parent.

(3) Inheritance from or through a child by either natural parent or the child's kindred is precluded unless that natural parent has openly treated the child as the natural parent's, and has not refused to support the child.

Section 35. Section 75-5-209 is amended to read:

75-5-209. Powers and duties of guardian of minor -- Residual parental rights and duties -- Adoption of a ward.

(1) For purposes of this section, "residual parental rights and duties" is as defined in Section 80-1-102.

(2) Except as provided in Subsection (4)(a), a guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of the parent's unemancipated minor, including the powers and responsibilities described in Subsection (3).

(3) A guardian of a minor:

(a) must take reasonable care of the personal effects of the guardian's ward;

(b) must commence protective proceedings if necessary to protect other property of the guardian's ward;

(c) subject to Subsection (4)(b), may receive money payable for the support of the ward to the ward's parent, guardian, or custodian under the terms of a:

(i) statutory benefit or insurance system;

(ii) private contract;

(iii) devise;

(iv) trust;

(v) conservatorship; or

(vi) custodianship;

(d) subject to Subsection (4)(b), may receive money or property of the ward paid or delivered by virtue of Section 75-5-102;

(e) except as provided in Subsection (4)(c), must exercise due care to conserve any excess money or property described in Subsection (3)(d) for the ward's future needs;

(f) unless otherwise provided by statute, may institute proceedings to compel the performance by any person of a duty to:

(i) support the ward; or

(ii) pay sums for the welfare of the ward;

(g) is empowered to:

(i) facilitate the ward's education, social, or other activities; and

(ii) subject to Subsection (4)(d), authorize medical or other professional care, treatment, or advice;

(h) may consent to the:

(i) marriage of the guardian's ward, if specifically authorized by a court to give this consent; or

(ii) adoption of the guardian's ward if the:

(A) guardian of the ward is specifically authorized by a court to give this consent; and

(B) parental rights of the ward's parents have been terminated; and

(i) must report the condition of the minor and of the minor's estate that has been subject to the guardian's possession or control:

(i) as ordered by court on petition of any person interested in the minor's welfare; or

(ii) as required by court rule.

(4) (a) Notwithstanding Subsection (2), a guardian of a minor is not:

(i) legally obligated to provide from the guardian's own funds for the ward; and

(ii) liable to third persons by reason of the guardian's relationship for acts of the ward.

(b) Sums received under Subsection (3)(c) or (d):

(i) may not be used for compensation for the services of a guardian, except as:

(A) approved by court order; or

(B) determined by a duly appointed conservator other than the guardian; and

(ii) shall be applied to the ward's current needs for support, care, and education.

(c) Notwithstanding Subsection (3)(e), if a conservator is appointed for the estate of the ward, the excess shall be paid over at least annually to the conservator.

(d) A guardian of a minor is not, by reason of giving the authorization described in Subsection (3)(g)(ii), liable for injury to the minor

resulting from the negligence or acts of third persons, unless it would have been illegal for a parent to have given the authorization.

(5) A parent of a minor for whom a guardian is appointed retains residual parental rights and duties.

(6) If a parent of a minor for whom a guardian is appointed consents to the adoption of the minor, the guardian is entitled to:

(a) receive notice of the adoption proceeding pursuant to Section [~~78B-6-110~~]81-13-207;

(b) intervene in the adoption; and

(c) present evidence to the court relevant to the best interest of the [~~child pursuant to Subsection 78B-6-110(11)~~]minor as described in Subsection 81-13-207(11).

(7) If a minor for whom a guardian is appointed is adopted subsequent to the appointment, the guardianship shall terminate when the adoption is finalized.

Section 36. Section 76-5-301.2 is amended to read:

76-5-301.2. Parental kidnapping.

(1) (a) As used in this section:

(i) "Child" means an individual under 18 years old.

(ii) "Custody" means court-ordered physical custody of a child entered by a court.

(iii) "Parent" means an individual:

(A) recognized as a biological parent or adoptive parent; or

(B) that has established a parent-child relationship under Section [~~78B-15-201~~]81-5-201.

(iv) "Parent-time" means court-ordered parent-time or visitation entered by a court.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) A parent commits parental kidnapping of the parent's child if the parent:

(a) takes, entices, conceals, detains, or withholds the child from an individual entitled to custody of the child;

(b) intends to interfere with the custody of the child; and

(c) (i) has never had a right to physical custody of the child;

(ii) has never been granted parent-time with the child;

(iii) has had all rights to physical custody of the child terminated by a court; or

(iv) at the time of the parent's action under Subsection (2)(a), had parent-time with the child terminated or suspended by a court.

(3) (a) A violation of Subsection (2) is a third degree felony.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if, during the course of parental kidnapping, the parent removes, causes the removal, or directs the removal of the child from the state.

(4) In addition to the affirmative defenses described in Section 76-5-305, it is an affirmative defense to the crime of parental kidnapping that:

(a) the parent acted under a reasonable belief that the action described in Subsection (2)(a) was:

(i) necessary to protect the child from imminent serious bodily injury, or death;

(ii) authorized by law; or

(iii) taken with the consent of:

(A) the individual entitled to custody of the child; or

(B) a custodian, guardian, caretaker, or other individual lawfully acting in place of the individual entitled to custody of the child; or

(b) (i) the parent acted under a reasonable belief that the action described in Subsection (2)(a) was necessary to protect the child from abuse, including sexual abuse; and

(ii) before taking the action described in Subsection (2)(a), the parent reports to law enforcement the parent's intention to engage in the action and the basis for the parent's belief described in Subsection (4)(b)(i).

Section 37. Section 76-7-102 is amended to read:

76-7-102. Incest -- Definitions -- Penalty.

(1) As used in this section:

(a) "Provider" means a person who provides or makes available his seminal fluid or her human egg.

(b) "Related person" means a person related to the provider or actor as an ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin, and includes:

(i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

(ii) the relationship of parent and child by adoption; and

(iii) the relationship of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(2) (a) An actor is guilty of incest when, under circumstances not amounting to rape, rape of a child, or aggravated sexual assault, the actor knowingly and intentionally:

(i) engages in conduct under Subsection (2)(b)(i), (ii), (iii), or (iv); or

(ii) provides a human egg or seminal fluid under Subsection (2)(b)(v).

(b) Conduct referred to under Subsection (2)(a) is:

(i) sexual intercourse between the actor and a person the actor knows has kinship to the actor as a related person;

(ii) the insertion or placement of the provider's seminal fluid into the vagina, cervix, or uterus of a related person by means other than sexual intercourse;

(iii) providing or making available his seminal fluid for the purpose of insertion or placement of the fluid into the vagina, cervix, or uterus of a related person by means other than sexual intercourse;

(iv) a woman 18 years of age or older who:

(A) knowingly allows the insertion of the seminal fluid of a provider into her vagina, cervix, or uterus by means other than sexual intercourse; and

(B) knows that the seminal fluid is that of a person with whom she has kinship as a related person; or

(v) providing the actor's sperm or human egg that is used to conduct in vitro fertilization, or any other means of fertilization, with the human egg or sperm of a person who is a related person.

(c) This Subsection (2) does not prohibit providing a fertilized human egg if the provider of the fertilizing sperm is not a related person regarding the person providing the egg.

(3) Incest is a third degree felony.

(4) A provider under this section is not a donor under Section [~~78B-15-702~~]81-5-702.

Section 38. Section 77-38b-102 is amended to read:

77-38b-102. Definitions.

As used in this chapter:

(1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(3) (a) "Conviction" means:

(i) a plea of:

(A) guilty;

(B) guilty with a mental condition; or

(C) no contest; or

(ii) a judgment of:

(A) guilty; or

(B) guilty with a mental condition.

(b) "Conviction" does not include:

(i) a plea in abeyance until a conviction is entered for the plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(4) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(5) "Criminal conduct" means:

(a) any misdemeanor or felony offense of which the defendant is convicted; or

(b) any other criminal behavior for which the defendant admits responsibility to the court with or without an admission of committing the criminal behavior.

(6) "Deceased victim" means an individual whose death is proximately caused by the criminal conduct of the defendant.

(7) (a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, criminal conduct.

(b) "Defendant" does not include a minor, as defined in Section 80-1-102, who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 80, Chapter 6, Juvenile Justice.

(8) "Department" means the Department of Corrections.

(9) (a) "Dependent" means an individual for whom a deceased victim, or a permanently impaired victim, had a legal obligation to provide dependent support at the time of the criminal conduct by the defendant.

(b) "Dependent" includes:

(i) a child:

(A) who is younger than 18 years old; and

(B) for whom a deceased victim, or a permanently impaired victim, is the [~~adoptive or biological parent or legal~~]parent or legal guardian;

(ii) an unborn child who has a parent-child relationship with a deceased victim, or a permanently impaired victim, in accordance with [~~Title 78B, Chapter 15, Utah Uniform Parentage Act~~]Title 81, Chapter 5, Uniform Parentage Act; or

(iii) an incapacitated individual for whom a deceased victim, or a permanently impaired victim, is the [~~adoptive or biological parent or the legal~~]parent or legal guardian.

(10) "Dependent support" means the financial obligation of an individual to provide for the routine needs of a dependent, including food, clothing, health care, safety, or shelter.

(11) "Diversion agreement" means an agreement entered into by the prosecuting attorney and the defendant that suspends criminal proceedings before conviction on the condition that a defendant agree to participate in a rehabilitation program, pay restitution to the victim, or fulfill some other condition.

(12) "Incapacitated" or "incapacitation" means the individual is:

(a) mentally or physically impaired to the extent that the individual is permanently unable to gain employment and provide basic necessities, including food, clothing, health care, safety, or shelter; and

(b) reliant on a parent, legal guardian, or other relative or person to provide basic necessities for the individual.

(13) "Incapacitated individual" means an individual who is incapacitated.

(14) "Legal guardian" means an individual appointed by a court to make decisions regarding a child or an incapacitated individual.

(15) "Life expectancy" means the number of months an individual is or was expected to live considering medical records and experiential data for the individual.

(16) "Office" means the Office of State Debt Collection created in Section 63A-3-502.

(17) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

(18) (a) "Pecuniary damages" means all demonstrable economic injury, losses, and expenses regardless of whether the economic

injury, losses, and expenses have yet been incurred.

(b) "Pecuniary damages" does not include punitive damages or pain and suffering damages.

(19) "Permanently impaired victim" means an incapacitated individual whose incapacitation is proximately caused by the criminal conduct of the defendant.

(20) "Plea agreement" means an agreement entered between the prosecuting attorney and the defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

(21) "Plea disposition" means an agreement entered into between the prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.

(22) "Plea in abeyance" means an order by a court, upon motion of the prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against the defendant nor imposing sentence upon the defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement.

(23) "Plea in abeyance agreement" means an agreement entered into between the prosecuting attorney and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

(24) "Restitution" means the payment of pecuniary damages to a victim.

(25) "Unborn child" means a human fetus or embryo in any stage of gestation from fertilization until birth.

(26) (a) "Victim" means any person who has suffered pecuniary damages that are proximately caused by the criminal conduct of the defendant.

(b) "Victim" includes:

(i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes a payment to, or on behalf of, a victim under Section 63M-7-519;

(ii) the estate of a deceased victim;

(iii) a dependent; or

(iv) a parent, spouse, intimate partner as defined in 18 U.S.C. Sec. 921, child, or sibling of a victim.

(c) "Victim" does not include a codefendant or accomplice.

Section 39. Section 78A-5-102 is amended to read:

78A-5-102. Jurisdiction of the district court -- Appeals.

(1) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal.

(2) A district court judge may:

(a) issue all extraordinary writs and other writs necessary to carry into effect the district court judge's orders, judgments, and decrees; and

(b) preside over an action for which the Business and Chancery Court has jurisdiction if:

(i) the district court judge is designated by the presiding officer of the Judicial Council to preside over an action in the Business and Chancery Court as described in Section 78A-1-103.5; and

(ii) a Business and Chancery Court judge is unable to preside over the action due to recusal or disqualification.

(3) The district court has jurisdiction:

(a) []over matters of lawyer discipline consistent with the rules of the Supreme Court;

(b) over all matters properly filed in the circuit court prior to July 1, 1996;

(c) to enforce foreign protective orders as described in Subsection 78B-7-303(8);

(d) to enjoin a violation of Title 58, Chapter 37, Utah Controlled Substances Act;

(e) over a petition seeking to terminate parental rights as described in Section [~~78B-6-112~~]81-13-205;

(f) except as provided in Subsection 78A-6-103(2)(a)(xiv) or (xv), an adoption proceeding; and

(g) to issue a declaratory judgment as described in Title 78B, Chapter 6, Part 4, Declaratory Judgments.

(4) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance with Section 78A-8-106.

(5) The district court has jurisdiction to review:

(a) a municipal administrative proceeding as described in Section 10-3-703.7;

(b) a decision resulting from a formal adjudicative proceeding by the State Tax Commission as described in Section 59-1-601;

(c) except as provided in Section 63G-4-402, a final agency action resulting from an informal adjudicative proceeding as described in Title 63G, Chapter 4, Administrative Procedures Act; and

(d) by trial de novo, a final order of the Department of Transportation resulting from formal and informal adjudicative proceedings under Title 72, Chapter 7, Part 2, Junkyard Control Act.

(6) The district court has original and exclusive jurisdiction over an action brought under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(7) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

(a) there is no justice court with territorial jurisdiction;

(b) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has formed and dissolved, a justice court; or

(c) the offense is included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor by an individual who is 18 years old or older.

(8) If a district court has jurisdiction in accordance with Subsection (4), (7)(a), or (7)(b), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17 years old.

(9) The district court has subject matter jurisdiction over an action under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the

juvenile court transfers the action to the district court.

(10) (a) The district court has subject matter jurisdiction over a criminal action that the justice court transfers to the district court.

(b) Notwithstanding Subsection 78A-7-106(1), the district court has original jurisdiction over any refiled case of a criminal action transferred to the district court if the district court dismissed the transferred case without prejudice.

(11) If the juvenile court has concurrent jurisdiction under Subsection 78A-6-104(1)(a)(i) over a parentage action filed in the district court, the district court may transfer jurisdiction over the parentage action to the juvenile court.

[~~(11)~~](12) The Supreme Court and Court of Appeals have jurisdiction over an appeal from a final order, judgment, and decree of the district court as described in Sections 78A-3-102 and 78A-4-103.

Section 40. Section 78A-5a-103 is amended to read:

78A-5a-103. Concurrent jurisdiction of the Business and Chancery Court -- Exceptions.

(1) The Business and Chancery Court has jurisdiction, concurrent with the district court, over an action:

(a) seeking monetary damages of at least $300,000 or seeking solely equitable relief; and

(b) (i) with a claim arising from:

(A) a breach of a contract;

(B) a breach of a fiduciary duty;

(C) a dispute over the internal affairs or governance of a business organization;

(D) the sale, merger, or dissolution of a business organization;

(E) the sale of substantially all of the assets of a business organization;

(F) the receivership or liquidation of a business organization;

(G) a dispute over liability or indemnity between or among owners of the same business organization;

(H) a dispute over liability or indemnity of an officer or owner of a business organization;

(I) a tortious or unlawful act committed against a business organization, including an act of unfair competition, tortious interference, or misrepresentation or fraud;

(J) a dispute between a business organization and an insurer regarding a commercial insurance policy;

(K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

(L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade Secrets Act;

(M) the misappropriation of intellectual property;

(N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or confidentiality agreement, regardless of whether the agreement is oral or written;

(O) a relationship between a franchisor and a franchisee;

(P) the purchase or sale of a security or an allegation of security fraud;

(Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous organization;

(R) a violation of Title 76, Chapter 10, Part 31, Utah Antitrust Act; or

(S) a contract with a forum selection clause for a chancery, business, or commercial court of this state or any other state;

(ii) with a malpractice claim concerning services that a professional provided to a business organization;

(iii) that is a shareholder derivative action; or

(iv) seeking a declaratory judgment as described in Title 78B, Chapter 6, Part 4, Declaratory Judgments.

(2) Except as provided in Subsection (3), the Business and Chancery Court may exercise supplemental jurisdiction over any claim in an action that is within the jurisdiction of the Business and Chancery Court under Subsection (1) if the claim arises from the same set of facts or circumstances as the action.

(3) The Business and Chancery Court may not exercise supplemental jurisdiction over:

(a) any claim arising from:

(i) a consumer contract;

(ii) a personal injury, including a personal injury relating to or arising out of health care rendered or which should have been rendered by the health care provider;

(iii) a violation of Title 13, Chapter 7, Civil Rights;

(iv) Title 20A, Election Code;

(v) Title 63G, Chapter 4, Administrative Procedures Act;

[~~(vi) Title 78B, Chapter 6, Part 1, Utah Adoption Act;~~]

[~~(vii)~~](vi) Title 78B, Chapter 6, Part 5, Eminent Domain;

[~~(viii)~~](vii) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, unless the claim is brought against a commercial tenant;

[~~(ix)~~](viii) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions; and

[~~(x) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;~~]

[~~(xi) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;~~]

[~~(xii) Title 78B, Chapter 15, Utah Uniform Parentage Act;~~]

[~~(xiii) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act;~~]

[~~(xiv) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act;~~]

[~~(xv)~~](ix) Title 81, Utah Domestic Relations Code; [~~or~~]

(b) any action in which a governmental entity is a party; or

(c) any criminal matter, unless the criminal matter is an act or omission of contempt that occurs in an action before the Business and Chancery Court.

(4) Notwithstanding Subsection (3), the Business and Chancery Court may exercise supplemental jurisdiction over a claim that is barred under Subsection (3):

(a) if the claim is a compulsory counterclaim;

(b) if there would be a material risk of inconsistent outcomes if the claim were tried in a separate action; or

(c) solely to resolve a request for a provisional remedy related to the claim before the Business and Chancery Court transfers the claim as described in Subsection (5).

(5) If an action contains a claim for which the Business and Chancery Court may not exercise supplemental jurisdiction under this section, the Business and Chancery Court shall bifurcate the action and transfer any claim for which the Business and Chancery Court does not have jurisdiction to a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(6) Before the Business and Chancery Court transfers a claim as described in Subsection (5), the Business and Chancery Court may resolve:

(a) all claims for which the Business and Chancery Court has jurisdiction; and

(b) any request for a provisional remedy related to a claim that is being transferred.

Section 41. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as provided in Subsection (3), the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Section 53G-8-211.

(2) The juvenile court has original jurisdiction over:

(a) any proceeding concerning:

(i) a child who is an abused child, neglected child, or dependent child;

(ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(iii) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(v) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(vi) the treatment or commitment of a minor who has an intellectual disability;

(vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 81-2-304;

(viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(x) the treatment or commitment of a child with a mental illness;

(xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 26B-5-204;

(xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(xiv) [~~adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act,~~]an adoption of a child under Title 81, Chapter 13, Adoption, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(xv) an adoption of an adult if the adoption arises from a case where the juvenile court has continuing jurisdiction over the adult;

[~~(xv)~~](xvi) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

(A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(B) has run away from home; and

[~~(xvi)~~](xvii) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court;

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement;

(c) the extension of a nonjudicial adjustment under Section 80-6-304;

(d) a petition for special findings under Section 80-3-305; and

(e) a referral of a minor for being a habitual truant as defined in Section 53G-8-211.

(3) The juvenile court does not have original jurisdiction over an offense committed by a minor as described in Subsection (1) if:

(a) the district court has original jurisdiction over the offense under Section 78A-5-102.5;

(b) the district court has original jurisdiction over the offense under Subsection 78A-5-102(8), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5; or

(c) the justice court has original jurisdiction over the offense under Subsection 78A-7-106(2), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5.

(4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection [~~(2)(a)(xvi)~~](2)(a)(xvii), (b), or (c).

(5) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under [~~Title 80, Chapter 6, Part 5, Transfer to District Court~~]Title 80, Chapter 6, Part 5, Minor Tried as an Adult.

(7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(8) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(6) and Section 80-6-303.

(9) The juvenile court has jurisdiction to enforce foreign protection orders as described in Subsection 78B-7-303(8).

Section 42. Section 78A-6-104 is amended to read:

78A-6-104. Concurrent jurisdiction of the juvenile court -- Transfer of a protective order.

(1) (a) The juvenile court has jurisdiction, concurrent with the district court:

(i) to establish [~~paternity~~]parentage, or to order testing for purposes of establishing [~~paternity~~]parentage, for a child in accordance with [~~Title 78B, Chapter 15, Utah Uniform Parentage Act~~]Title 81, Chapter 5, Uniform Parentage Act, when a proceeding is initiated under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights, that involves the child;

(ii) over a petition to modify a minor's birth certificate if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103; and

(iii) over questions of custody, support, and parent-time of a minor if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103.

(b) If the juvenile court obtains jurisdiction over a [~~paternity~~]parentage action under Subsection (1)(a)(i), the juvenile court may:

(i) retain jurisdiction over the [~~paternity~~]parentage action until [~~paternity~~]parentage of the child is adjudicated; or

(ii) transfer jurisdiction over the [~~paternity~~]parentage action to the district court.

(2) (a) The juvenile court has jurisdiction, concurrent with the district court or the justice court otherwise having jurisdiction, over a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed:

(i) an offense under Section 32B-4-403, unlawful sale, offer for sale, or furnishing to a minor;

(ii) an offense under Section 53G-6-202, failure to comply with compulsory education requirements;

(iii) an offense under Section 80-2-609, failure to report;

(iv) a misdemeanor offense under Section 76-5-303, custodial interference;

(v) an offense under Section 76-4-206, contributing to the delinquency of a minor; or

(vi) an offense under Section 80-5-601, harboring a runaway.

(b) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a).

(3) (a) When a support, custody, or parent-time award has been made by a district court in a divorce action or other proceeding, and the jurisdiction of the district court in the case is continuing, the juvenile court may acquire jurisdiction in a case involving the same child if the child comes within the jurisdiction of the juvenile court under Section 78A-6-103.

(b) (i) The juvenile court may, by order, change the custody subject to Subsection [~~81-9-204(5)~~]81-9-204(4), support, parent-time, and visitation rights previously ordered in the district court as necessary to implement the order of the juvenile court for the safety and welfare of the child.

(ii) An order by the juvenile court under Subsection (3)(b)(i) remains in effect so long as the juvenile court continues to exercise jurisdiction.

(c) If a copy of the findings and order of the juvenile court under this Subsection (3) are filed with the district court, the findings and order of the juvenile court are binding on the parties to the divorce action as though entered in the district court.

(4) This section does not deprive the district court of jurisdiction to:

(a) appoint a guardian for a child;

(b) determine the support, custody, and parent-time of a child upon writ of habeas corpus; or

(c) determine a question of support, custody, and parent-time that is incidental to the determination of an action in the district court.

(5) A juvenile court may transfer a petition for a protective order for a child to the district court if the juvenile court has entered an ex parte protective order and finds that:

(a) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child who is the object of the petition;

(b) the district court has a petition pending or an order related to custody or parent-time entered under Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, [~~Title 78B, Chapter 15, Utah Uniform Parentage Act, or~~]Title 81, Chapter 4, Part 4, Divorce, or Title 81, Chapter 5, Uniform Parentage Act, in which the petitioner and the respondent are parties; and

(c) the best interests of the child will be better served in the district court.

Section 43. Section 78A-6-356 is amended to read:

78A-6-356. Child support obligation when custody of a child is vested in an individual or institution.

(1) As used in this section:

(a) "Office" means the Office of Recovery Services.

(b) "State custody" means that a child is in the custody of a state department, division, or agency, including secure care.

(2) Under this section, a juvenile court may not issue a child support order against an individual unless:

(a) the individual is served with notice that specifies the date and time of a hearing to determine the financial support of a specified child;

(b) the individual makes a voluntary appearance; or

(c) the individual submits a waiver of service.

(3) Except as provided in Subsection (11), when a juvenile court places a child in state custody or if the guardianship of the child has been granted to another party and an agreement for a guardianship subsidy has been signed by the guardian, the juvenile court:

(a) shall order the child's parent, guardian, or other obligated individual to pay child support for each month the child is in state custody or cared for under a grant of guardianship;

(b) shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 81, Chapter 6, Child Support, and Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support; and

(c) may refer the establishment of a child support order to the office.

(4) When a juvenile court chooses to refer a case to the office to determine support obligation amounts in accordance with Title 81, Chapter 6, Child Support, the juvenile court shall:

(a) make the referral within three working days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(b) inform the child's parent, guardian, or other obligated individual of:

(i) the requirement to contact the office within 30 days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(ii) the penalty described in Subsection (6) for failure to contact the office.

(5) Liability for child support ordered under Subsection (3) shall accrue:

(a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which the juvenile court holds the hearing described in Subsection (2)(a) if there is no existing child support order for the child; or

(b) beginning on the day the child is removed from the child's home, including time spent in detention or sheltered care, if the child is removed after having been returned to the child's home from state custody.

(6) (a) If the child's parent, guardian, or other obligated individual contacts the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a), the child support order may not include a judgment for past due support for more than two months.

(b) Notwithstanding Subsections (5) and (6)(a), the juvenile court may order the liability of support to begin to accrue from the date of the proceeding referenced in Subsection (3) if:

(i) the court informs the child's parent, guardian, or other obligated individual, as described in Subsection (4)(b), and the parent, guardian, or other obligated individual fails to contact the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a); and

(ii) the office took reasonable steps under the circumstances to contact the child's parent, guardian, or other obligated individual within 30 days after the last day on which the parent, guardian, or other obligated individual was required to contact the office to facilitate the establishment of a child support order.

(c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken reasonable steps if the office:

(i) has a signed, returned receipt for a certified letter mailed to the address of the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established; or

(ii) has had a documented conversation, whether by telephone or in person, with the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established.

(7) In collecting arrears, the office shall comply with Section 26B-9-219 in setting a payment schedule or demanding payment in full.

(8) (a) Unless a court orders otherwise, the child's parent, guardian, or other obligated individual shall pay the child support to the office.

(b) The clerk of the juvenile court, the office, or the department and the department's divisions shall have authority to receive periodic payments for the care and maintenance of the child, such as social security payments or railroad retirement payments made in the name of or for the benefit of the child.

(9) An existing child support order payable to a parent or other individual shall be assigned to the department as provided in Section 26B-9-111.

(10) (a) Subsections (4) through (9) do not apply if legal custody of a child is vested by the juvenile court in an individual.

(b) (i) If legal custody of a child is vested by the juvenile court in an individual, the court may order the child's parent, guardian, or other obligated individual to pay child support to the individual in whom custody is vested.

(ii) In the same proceeding, the juvenile court shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 81, Chapter 6, Child Support, and Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support.

(11) The juvenile court may not order an individual to pay child support for a child in state custody if:

(a) the individual's only form of income is a government-issued disability benefit;

(b) the benefit described in Subsection (11)(a) is issued because of the individual's disability, and not the child's disability; and

(c) the individual provides the juvenile court and the office evidence that the individual meets the requirements of Subsections (11)(a) and (b).

(12) (a) The child's parent or another obligated individual is not responsible for child support for the period of time that the child is removed from the child's home by the Division of Child and Family Services if:

(i) the juvenile court finds that there were insufficient grounds for the removal of the child; and

(ii) the child is returned to the home of the child's parent or guardian based on the finding described in Subsection (12)(a)(i).

(b) If the juvenile court finds insufficient grounds for the removal of the child under Subsection (12)(a), but that the child is to remain in state custody, the juvenile court shall order that the child's parent or another obligated individual is responsible for child support beginning on the day on which it became improper to return the child to the home of the child's parent or guardian.

(13) After the juvenile court or the office establishes an individual's child support obligation ordered under Subsection (3), the office shall waive the obligation without further order of the juvenile court if:

(a) the individual's child support obligation is established in accordance with a low income table described in Title 81, Chapter 6, Part 3, Child Support Tables; or

(b) the individual's only source of income is a means-tested, income replacement payment of aid, including:

(i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program; or

(ii) cash benefits received under General Assistance, social security income, or social security disability income.

Section 44. Section 78A-6-358 is amended to read:

78A-6-358. Period of effect for a judgment, decree, or order by a juvenile court.

(1) A judgment, order, or decree of the juvenile court is no longer in effect after a minor is 21 years old, except:

(a) for an order of commitment to the Utah State Developmental Center or to the custody of the Division of Substance Abuse and Mental Health;

(b) for an adoption under Subsection 78A-6-103(2)(a)(xiv) or (xv);

(c) for an order permanently terminating the rights of a parent, guardian, or custodian under Title 80, Chapter 4, Termination and Restoration of Parental Rights;

(d) for a permanent order of custody and guardianship under Subsection 80-3-405(2)(d);

(e) an order establishing [~~paternity~~]parentage under Subsection 78A-6-104(1)(a)(i); and

(f) as provided in Subsection (2).

(2) If the juvenile court enters a judgment or order for a minor for whom the juvenile court has extended continuing jurisdiction over the minor's case until the minor is 25 years old under Section 80-6-605, the juvenile court's judgment or order is no longer in effect after the minor is 25 years old.

Section 45. Section 78A-6-359 is amended to read:

78A-6-359. Appeals.

(1) An appeal to the Court of Appeals may be taken from any order, decree, or judgment of the juvenile court.

(2) (a) An appeal of right from an order, decree, or judgment by a juvenile court related to a proceeding under [~~Title 78B, Chapter 6, Part 1, Utah Adoption Act,~~]Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, [~~and~~]Title 80, Chapter 4, Termination and Restoration of Parental Rights, and Title 81, Chapter 13, Adoption, shall be filed within 15 days after the day on which the juvenile court enters the order, decree, or judgment.

(b) A notice of appeal must be signed by appellant's counsel, if any, and by appellant, unless the appellant is a child or state agency.

(c) If an appellant fails to timely sign a notice of appeal, the appeal shall be dismissed.

(3) An order for a disposition from the juvenile court shall include the following information:

(a) notice that the right to appeal described in Subsection (2)(a) is time sensitive and must be taken within 15 days after the day on which the juvenile court enters the order, decree, or judgment appealed from;

(b) the right to appeal within the specified time limits;

(c) the need for the signature of the parties on a notice of appeal in an appeal described in Subsection (2)(a); and

(d) the need for each party to maintain regular contact with the [~~the~~]party's counsel and to keep the party's counsel informed of the party's whereabouts.

(4) If a party is not present in the courtroom, the juvenile court shall provide a statement containing the information provided in Subsection (3) to the party at the party's last known address.

(5) The juvenile court shall inform each party's counsel at the conclusion of the proceedings that, if an appeal is filed, appellate counsel must represent the party throughout the appellate process unless appellate counsel is not appointed under the Utah Rules of Appellate Procedure, Rule 55.

(6) During the pendency of an appeal under Subsection (2)(a), a party shall maintain regular contact with the party's appellate counsel, if any, and keep the party's appellate counsel informed of the party's whereabouts.

(7) (a) In all other appeals of right, the appeal shall be taken within 30 days after the day on which the juvenile court enters the order, decree, or judgment.

(b) A notice of appeal under Subsection (7)(a) must be signed by appellant's counsel, if any, or by appellant.

(8) The attorney general shall represent the state in all appeals under this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Title 80, Chapter 4, Termination and Restoration of Parental Rights, and Title 80, Chapter 6, Juvenile Justice.

(9) Unless the juvenile court stays the juvenile court's order, the pendency of an appeal does not stay the order or decree appealed from in a minor's case, unless otherwise ordered by the Court of Appeals, if suitable provision for the care and custody of the minor involved is made pending the appeal.

(10) Access to the record on appeal is governed by Title 63G, Chapter 2, Government Records Access and Management Act.

Section 46. Section 78B-3-205 is amended to read:

78B-3-205. Acts submitting person to jurisdiction.

Notwithstanding Section 16-10a-1501, any person or personal representative of the person, whether or not a citizen or resident of this state, who, in person or through an agent, does any of the following enumerated acts is subject to the jurisdiction of the courts of this state as to any claim arising out of or related to:

(1) the transaction of any business within this state;

(2) contracting to supply services or goods in this state;

(3) the causing of any injury within this state whether tortious or by breach of warranty;

(4) the ownership, use, or possession of any real estate situated in this state;

(5) contracting to insure any person, property, or risk located within this state at the time of contracting;

(6) with respect to actions of divorce, separate maintenance, or child support, having resided, in the marital relationship, within this state notwithstanding subsequent departure from the state; or the commission in this state of the act giving rise to the claim, so long as that act is not a mere omission, failure to act, or occurrence over which the defendant had no control; or

(7) the commission of sexual intercourse within this state which gives rise to a [~~paternity suit under Title 78B, Chapter 15, Utah Uniform Parentage Act~~]parentage action under Title 81, Chapter 5, Uniform Parentage Act, to determine [~~paternity~~]parentage for the purpose of establishing responsibility for child support.

Section 47. Section 78B-3-416 is amended to read:

78B-3-416. Division to provide panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license fees.

(1) (a) The division shall provide a hearing panel in alleged medical liability cases against health care providers as defined in Section 78B-3-403, except dentists or dental care providers.

(b) (i) The division shall establish procedures for prelitigation consideration of medical liability claims for damages arising out of the provision of or alleged failure to provide health care.

(ii) The division may establish rules necessary to administer the process and procedures related to prelitigation hearings and the conduct of prelitigation hearings in accordance with Sections 78B-3-416 through 78B-3-420.

(c) The proceedings are informal, nonbinding, and are not subject to Title 63G, Chapter 4, Administrative Procedures Act, but are compulsory as a condition precedent to commencing litigation.

(d) Proceedings conducted under authority of this section are confidential, privileged, and immune from civil process.

(e) The division may not provide more than one hearing panel for each alleged medical liability case against a health care provider.

(2) (a) The party initiating a medical liability action shall file a request for prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78B-3-412.

(b) The request shall include a copy of the notice of intent to commence action. The request shall be mailed to all health care providers named in the notice and request.

(3) (a) As used in this Subsection (3):

(i) "Court-appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.

(ii) "Domestic case" means a proceeding under:

(A) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

[~~(B) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;~~]

[~~(C) Title 78B, Chapter 15, Utah Uniform Parentage Act;~~]

[~~(D)~~](B) Title 81, Chapter 4, Dissolution of Marriage; [~~or~~]

(C) Title 81, Chapter 5, Uniform Parentage Act;

[~~(E)~~](D) Title 81, Chapter 9, Custody, Parent-time, and Visitation[~~.~~]; or

(E) Title 81, Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

(iii) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(b) If a court appoints a court-appointed therapist in a domestic case, a party to the domestic case may not file a request for a prelitigation panel review for a malpractice action against the court-appointed therapist during the pendency of the domestic case, unless:

(i) the party has requested that the court release the court-appointed therapist from appointment; and

(ii) the court finds good cause to release the court-appointed therapist from the appointment.

(c) If a party is prohibited from filing a request for a prelitigation panel review under Subsection (3)(b), the applicable statute of limitations tolls until the earlier of:

(i) the court releasing the court-appointed therapist from appointment as described in Subsection (3)(b); or

(ii) the court entering a final order in the domestic case.

(4) (a) The filing of a request for prelitigation panel review under this section tolls the applicable statute of limitations until the later of:

(i) 60 days following the division's issuance of:

(A) an opinion by the prelitigation panel; or

(B) a certificate of compliance under Section 78B-3-418; or

(ii) the expiration of the time for holding a hearing under Subsection (4)(b)(ii).

(b) The division shall:

(i) send any opinion issued by the panel to all parties by regular mail; and

(ii) complete a prelitigation hearing under this section within:

(A) 180 days after the filing of the request for prelitigation panel review; or

(B) any longer period as agreed upon in writing by all parties to the review.

(c) If the prelitigation hearing has not been completed within the time limits established in Subsection (4)(b)(ii), the claimant shall:

(i) file an affidavit of merit under the provisions of Section 78B-3-423; or

(ii) file an affidavit with the division within 180 days of the request for pre-litigation review, in accordance with Subsection (4)(d), alleging that the respondent has failed to reasonably cooperate in scheduling the hearing.

(d) If the claimant files an affidavit under Subsection (4)(c)(ii):

(i) within 15 days of the filing of the affidavit under Subsection (4)(c)(ii), the division shall determine whether either the respondent or the claimant failed to reasonably cooperate in the scheduling of a pre-litigation hearing; and

(ii) (A) if the determination is that the respondent failed to reasonably cooperate in the scheduling of a hearing, and the claimant did not fail to reasonably cooperate, the division shall, issue a certificate of compliance for the claimant in accordance with Section 78B-3-418; or

(B) if the division makes a determination other than the determination in Subsection (4)(d)(ii)(A), the claimant shall file an affidavit

of merit in accordance with Section 78B-3-423, within 30 days of the determination of the division under this Subsection (4).

(e) (i) The claimant and any respondent may agree by written stipulation that no useful purpose would be served by convening a prelitigation panel under this section.

(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under Section 78B-3-418, as it concerns the stipulating respondent, and stating that the claimant has complied with all conditions precedent to the commencement of litigation regarding the claim.

(5) The division shall provide for and appoint an appropriate panel or panels to hear complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of medical liability. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of panel hearings;

(b) (i) one or more members who are licensed health care providers listed under Section 78B-3-403, who are practicing and knowledgeable in the same specialty as the proposed defendant, and who are appointed by the division in accordance with Subsection (6); or

(ii) in claims against only a health care facility or the facility's employees, one member who is an individual currently serving in a health care facility administration position directly related to health care facility operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel hearings.

(6) (a) Each person listed as a health care provider in Section 78B-3-403 and practicing under a license issued by the state, is obligated as a condition of holding that license to participate as a member of a medical liability prelitigation panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

(b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.

(c) A licensee whom the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000.

(d) A licensee whom the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000, and is guilty of unprofessional conduct.

(e) All fines collected under Subsections (6)(c) and (d) shall be deposited into the Physicians Education Fund created in Section 58-67a-1.

(f) The director of the division may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(g) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a fine.

(h) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.

(7) Each person selected as a panel member shall certify, under oath, that [~~he~~]the member has no bias or conflict of interest with respect to any matter under consideration.

(8) A member of the prelitigation hearing panel may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) (a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.

Section 48. Section 78B-22-201 is amended to read:

78B-22-201. Right to counsel.

(1) A court shall advise the following of the individual's right to counsel no later than the individual's first court appearance:

(a) an adult charged with a criminal offense the penalty for which includes the possibility of incarceration regardless of whether actually imposed;

(b) a parent or legal guardian facing an action initiated by the state under:

(i) Title 78A, Chapter 6, Part 4a, Adult Criminal Proceedings;

(ii) Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; or

(iii) Title 80, Chapter 4, Termination and Restoration of Parental Rights;

(c) a parent or legal guardian facing an action initiated by any party under:

(i) Section [~~78B-6-112~~]81-13-205; or

(ii) Title 80, Chapter 4, Termination and Restoration of Parental Rights; or

(d) an individual described in this Subsection (1), who is appealing a conviction or other final court action.

(2) If an individual described in Subsection (1) does not knowingly and voluntarily waive the right to counsel, the court shall determine whether the individual is indigent under Section 78B-22-202.

Section 49. Section 78B-22-901 is amended to read:

78B-22-901. Definitions.

As used in this part:

(1) (a) "Appellate defense services" means the representation of an indigent individual:

(i) described in Subsection 78B-22-201(1)(d) or who is party to an appeal under Section 77-18a-1;

(ii) in an action or on appeal for postconviction relief under Chapter 9, Postconviction Remedies Act; or

(iii) in an appeal of right from an action for the termination or restoration of parental rights under [~~Chapter 6, Part 1, Utah Adoption Act,~~]Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, [~~or~~]Title 80, Chapter 4, Termination and Restoration of Parental Rights, or Title 81, Chapter 13, Adoption.

(b) "Appellate defense services" does not include the representation of an indigent individual:

(i) facing an appeal in a case where the indigent individual was prosecuted for aggravated murder; or

(ii) in an action or appeal for postconviction relief under Chapter 9, Postconviction Remedies Act, if the indigent individual has been sentenced to death.

(2) "Division" means the Indigent Appellate Defense Division created in Section 78B-22-902.

Section 50. Section 78B-22-903 is amended to read:

78B-22-903. Powers and duties of the division.

(1) The division shall:

(a) provide appellate defense services:

(i) for an appeal under Section 77-18a-1, in counties of the third, fourth, fifth, and sixth class;

(ii) for an action or an appeal for postconviction relief under Chapter 9, Postconviction Remedies Act, if the court appoints the division to represent the indigent individual; and

(iii) for an appeal of right from an action for the termination or restoration of parental rights under [~~Chapter 6, Part 1, Utah Adoption Act,~~]Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, [~~or~~]Title 80, Chapter 4, Termination and Restoration of Parental Rights, or Title 81, Chapter 13, Adoption; and

(b) provide appellate defense services in accordance with the core principles adopted by the commission under Section 78B-22-404 and any other state and federal standards for appellate defense services.

(2) Upon consultation with the executive director and the commission, the division shall:

(a) adopt a budget for the division;

(b) adopt and publish on the commission's website:

(i) appellate performance standards;

(ii) case weighting standards; and

(iii) any other relevant measures or information to assist with appellate defense services; and

(c) if requested by the commission, provide a report to the commission on:

(i) the provision of appellate defense services by the division;

(ii) the caseloads of appellate attorneys; and

(iii) any other information relevant to appellate defense services in the state.

(3) If the division provides appellate defense services to an indigent individual in an indigent defense system, the division shall provide notice to the district court and the indigent defense system that the division intends to be appointed as counsel for the indigent individual.

(4) The office shall assist with providing training and continual legal education on appellate defense to indigent defense service providers in counties of the third, fourth, fifth, and sixth class.

Section 51. Section 80-1-102 is amended to read:

80-1-102. Juvenile Code definitions.

Except as provided in Section 80-6-1103, as used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's [~~natural~~]parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means, except as provided in Subsection (3)(b):

(i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:

(A) a finding by the juvenile court that the facts alleged in a delinquency petition or criminal information alleging that a minor committed an offense have been proved;

(B) an admission by a minor in the juvenile court as described in Section 80-6-306; or

(C) a plea of no contest by minor in the juvenile court; or

(ii) for all other proceedings under this title, a finding by the juvenile court that the facts alleged in the petition have been proved.

(b) "Adjudication" does not include:

(i) an admission by a minor described in Section 80-6-306 until the juvenile court enters the minor's admission; or

(ii) a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 80-3-307.

(9) "Child placing" means the same as that term is defined in Section 26B-2-101.

(10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.

(11) "Child protection team" means a team consisting of:

(a) the child welfare caseworker assigned to the case;

(b) if applicable, the child welfare caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) if applicable, the law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12) (a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(13) (a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(15) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.

(17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth Services in accordance with Section 80-5-501, for minors held in detention.

(25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(29) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(30) "Emancipated" means the same as that term is defined in Section 80-7-102.

(31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(34) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(37) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(38) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.

(39) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(45) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(46) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(47) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(50) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(51) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

(52) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

(53) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

(iii) (A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

(55) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

(56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.

[~~(57) (a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.~~]

[~~(b) "Natural parent" includes the minor's noncustodial parent.~~]

[~~(58)~~](57) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated child custody transfer under Section [~~78B-24-203~~]81-14-203; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

[~~(59)~~](58) "Neglected child" means a child who has been subjected to neglect.

[~~(60)~~](59) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, guardian, or custodian.

[~~(61)~~](60) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(61) (a) "Parent" means, except as provided in Section 80-3-302, an individual with a parent-child relationship to a minor under Section 81-5-201.

(b) "Parent" includes the minor's noncustodial parent as defined in Section 81-1-101.

(62) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.

(63) "Physical abuse" means abuse that results in physical injury or damage to a child.

(64) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(65) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(66) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(67) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

(68) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(69) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(70) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(71) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(72) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.

(73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(74) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(75) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

(76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(78) (a) "Severe type of child abuse or neglect" means, except as provided in Subsection (78)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

(B) sexual behavior with or upon another child that indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with Subsection 53G-8-302(2) or Section 76-2-401;

(ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

(iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

(79) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (39), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(80) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

(83) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

(f) family risk factors; and

(g) other related considerations.

(84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(85) "Status offense" means an offense that would not be an offense but for the age of the offender.

(86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

(87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred [].

(88) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or

(c) the licensing and supervision of a substitute care facility.

(89) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

(90) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(91) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (93)(a) and (b).

(94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(95) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(96) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(97) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

(98) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

Section 52. Section 80-2-503.5 is amended to read:

80-2-503.5. Psychotropic medication oversight program -- Behavioral health service rates.

(1) As used in this section:

(a) "Advanced practice registered nurse" means an individual licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

(b) "Division" means the Division of Integrated Healthcare created in Section 26B-1-204.

(c) "HIPAA" means 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996, as amended.

(d) "Physician assistant" means an individual licensed to practice as a physician assistant in this state under Title 58, Chapter 70a, Utah Physician Assistant Act.

(e) "Psychotropic medication" means medication prescribed to affect or alter thought processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or behavior medication.

(f) "Qualifying minor" means a minor committed to the Division of Juvenile Justice and Youth Services under Section 80-6-703.

(2) The division shall, through contract with the University of Utah or another qualified third party, operate a psychotropic medication oversight program for children in foster care and qualifying minors to ensure that each foster child and qualifying minor is prescribed psychotropic medication consistent with the foster child's or qualifying minor's needs and consistent with clinical best practices.

(3) The division shall operate an oversight team to manage the psychotropic medication oversight program, composed of at least the following individuals:

(a) a physician assistant with pediatric mental health experience, or an advanced practice registered nurse with pediatric mental health experience, contracted with the division;

(b) a child psychiatrist contracted with the division;

(c) a data analyst contracted with the division; and

(d) an individual with care coordination experience.

(4) The oversight team shall monitor foster children and qualifying minors:

(a) six years old or younger who are being prescribed one or more psychotropic medications;

(b) seven years old or older who are being prescribed two or more psychotropic medications; and

(c) who are prescribed one or more antipsychotic medications.

(5) The division shall establish a business associate agreement with the oversight team by which the oversight team shall, upon request, be given information or records related to the foster child's or qualifying minor's health care history, including psychotropic medication history and mental and behavioral health history, from:

(a) the division's Medicaid pharmacy program;

(b) the department's written and electronic records and databases;

(c) the foster child's current or past caseworker, or the qualifying minor's current or past case manager;

(d) the foster child or qualifying minor; or

(e) the foster child's or qualifying minor's:

(i) current or past health care provider;

(ii) [~~natural~~]parents; or

(iii) foster parents.

(6) The oversight team may review and monitor the following information about a foster child or qualifying minor:

(a) the foster child's or qualifying minor's history;

(b) the foster child's or qualifying minor's health care, including psychotropic medication history and mental or behavioral health history;

(c) whether there are less invasive treatment options available to meet the foster child's or qualifying minor's needs;

(d) the dosage or dosage range and appropriateness of the foster child's or qualifying minor's psychotropic medication;

(e) the short-term or long-term risks associated with the use of the foster child's or qualifying minor's psychotropic medication; or

(f) the reported benefits of the foster child's or qualifying minor's psychotropic medication.

(7) (a) On at least a quarterly basis, the oversight team shall:

(i) review the medical and mental or behavioral health history for each foster child and qualifying minor overseen by the program;

(ii) based on the review under Subsection (7)(a)(i), document the oversight team's findings and recommendations; and

(iii) make written recommendations concerning the foster child's or qualifying minor's psychotropic medication and the foster child's or qualifying minor's mental or behavioral health, including any recommendation for psychotherapy treatment.

(b) The oversight team's recommendations described in Subsection (7)(a) shall be provided to the foster child's current caseworker or the qualifying minor's current case manager, the foster child's or qualifying minor's parent or guardian, and the foster child's or qualifying minor's current health care providers, in accordance with rules adopted pursuant to Subsection (8) and in compliance with HIPAA and other relevant state and federal privacy laws.

(c) The member of the oversight team described in Subsection (3)(d) shall:

(i) provide the recommendations described in Subsection (7)(a) in writing and verbally, or as otherwise provided in rules adopted pursuant to Subsection (8), to the foster child's or qualifying minor's current health care providers; and

(ii) on at least a semiannual basis, follow up with the foster child's or qualifying minor's current health care providers to document whether recommendations made by the oversight team have been implemented.

(d) A foster child's caseworker or qualifying minor's case manager shall maintain a confidential record of recommendations provided under Subsection (7)(b).

(8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section, including the rules described in Subsection (7)(b).

(9) The division shall report regarding the psychotropic medication oversight program:

(a) to the Child Welfare Legislative Oversight Panel by October 1 of each even numbered year; and

(b) orally to the Health and Human Services Interim Committee, at least once every two years at or before the October interim meeting.

(10) The oversight team shall report:

(a) quarterly to the division regarding the number of foster children and qualifying minors reviewed and the number of recommendations made; and

(b) annually to the division regarding outcomes for foster children and qualifying minors overseen by the program.

(11) Beginning on July 1, 2024, the department shall pay for outpatient behavioral health services for children in foster care and qualifying minors at a rate no lower than the standard Medicaid fee schedule.

Section 53. Section 80-2-702 is amended to read:

80-2-702. Division post-removal investigation -- Supported or unsupported reports -- Convening of child protection team -- Cooperation with law enforcement -- Close of investigation.

(1) If a child is taken into protective custody in accordance with Section 80-2a-202 or 80-3-204 or the division takes any other action that requires a shelter hearing under Subsection 80-3-301(1), the division shall immediately initiate an investigation of:

(a) the circumstances of the child; and

(b) the grounds upon which the decision to place the child into protective custody was made.

(2) The division's investigation under Subsection (1) shall conform to reasonable professional standards and include:

(a) a search for and review of any records of past reports of abuse or neglect involving:

(i) the same child;

(ii) any sibling or other child residing in the same household as the child; and

(iii) the alleged perpetrator;

(b) with regard to a child who is five years old or older, a personal interview with the child:

(i) outside of the presence of the alleged perpetrator; and

(ii) conducted in accordance with the requirements of Section 80-2-704;

(c) if a parent or guardian is located, an interview with at least one of the child's parents or guardian;

(d) an interview with the person who reported the abuse, unless the report was made anonymously;

(e) if possible and appropriate, interviews with other third parties who have had direct contact with the child, including:

(i) school personnel; and

(ii) the child's health care provider;

(f) an unscheduled visit to the child's home, unless:

(i) there is a reasonable basis to believe that the reported abuse was committed by a person who:

(A) is not the child's parent; and

(B) does not live in the child's home or otherwise have access to the child in the child's home; or

(ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and

(g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or failure to meet the child's medical needs, a medical examination, obtained no later than 24 hours after the child is placed in protective custody.

(3) The division may rely on a written report of a prior interview rather than conducting an additional interview under Subsection (2), if:

(a) law enforcement:

(i) previously conducted a timely and thorough investigation regarding the alleged abuse, neglect, or dependency; and

(ii) produced a written report;

(b) the investigation described in Subsection (3)(a)(i) included one or more of the interviews described in Subsection (2); and

(c) the division finds that an additional interview is not in the best interest of the child.

(4) (a) (i) The division shall:

(A) make a determination after the division's investigation under Subsection (1)regarding whether the report is supported, unsupported, or without merit; and

(B) base the determination on the facts of the case at the time the report is made.

(ii) The division's determination of whether a report is supported or unsupported may be based on the child's statements alone.

(b) The division may not:

(i) use the inability to identify or locate the perpetrator as a basis for:

(A) determining that a report is unsupported; or

(B) closing the case; or

(ii) determine a case is unsupported or identify a case as unsupported solely because the perpetrator is an out-of-home perpetrator.

(5) The division shall maintain protective custody of the child if the division finds that one or more of the following conditions exist:

(a) the child does not have a [~~natural~~]parent, guardian, or responsible relative who is able and willing to provide safe and appropriate care for the child;

(b) (i) shelter of the child is a matter of necessity for the protection of the child; and

(ii) there are no reasonable means by which the child can be protected in:

(A) the child's home; or

(B) the home of a responsible relative;

(c) there is substantial evidence that the parent or guardian is likely to flee the jurisdiction of the juvenile court; or

(d) the child has left a previously court ordered placement.

(6) Within 24 hours after receipt of a child into protective custody, excluding weekends and holidays, the division shall:

(a) convene a child protection team in accordance with Section 80-2-706; and

(b) prepare the testimony and evidence that will be required of the division at the shelter hearing, in accordance with Section 80-3-301.

(7) The division shall cooperate with a law enforcement investigation and with the members of a child protection team, if applicable, regarding the alleged perpetrator.

(8) The division may not close an investigation solely on the grounds that the division is unable to locate the child until all reasonable efforts have been made to locate the child and family members including:

(a) visiting the home at times other than normal work hours;

(b) contacting local schools;

(c) contacting local, county, and state law enforcement agencies; and

(d) checking public assistance records.

Section 54. Section 80-2-802 is amended to read:

80-2-802. Division child placing and adoption services -- Restrictions on placement of a child.

(1) Except as provided in Subsection (3), the division may provide adoption services and, as a licensed child-placing agency under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities, engage in child placing in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights.

(2) The division shall base the division's decision for placement of an adoptable child for adoption on the best interest of the adoptable child.

(3) The division may not:

(a) in accordance with Subsection 26B-2-127(6), place a child for adoption, either temporarily or permanently, with an individual who does not qualify for adoptive placement under Sections [~~78B-6-102, 78B-6-117, and 78B-6-137~~]81-13-202, 81-13-203, and 81-13-402;

(b) consider a potential adoptive parent's willingness or unwillingness to enter a postadoption contact agreement under Section [~~78B-6-146~~]81-13-216 as a condition of placing a child with a potential adoptive parent; or

(c) except as required under the Indian Child Welfare Act, 25 U.S.C. Secs. 1901 through 1963, base the division's decision for placement of an adoptable child on the race, color, ethnicity, or national origin of either the child or the potential adoptive parent.

(4) The division shall establish a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing that, subject to Subsection (3) and Section [~~78B-6-117~~]81-13-402, priority of placement shall be provided to a family in which a couple is legally married under the laws of the state.

(5) Subsections (3) and (4) do not limit the placement of a child with the child's [~~biological or adoptive parent, a relative,~~]parent or relative or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Section 55. Section 80-2-803 is amended to read:

80-2-803. Division promotion of adoption -- Adoption research and informational pamphlet.

The division shall:

(1) actively promote the adoption of all children in the division's custody who have a final plan for termination of parental rights under Section 80-3-409 or a primary permanency plan of adoption;

(2) develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children;

(3) obtain information or conduct research regarding prior adoptive families to determine what families may do to be successful with an adoptive child;

(4) make the information or research described in Subsection (3) available to potential adoptive parents;

(5) prepare a pamphlet that explains the information that a child-placing agency is required to provide a potential adoptive parent under Section [~~78B-24-303~~]81-14-303;

(6) regularly distribute copies of the pamphlet described in Subsection (5) to child-placing agencies; and

(7) respond to an inquiry made as a result of the notice provided by a child-placing agency under Section [~~78B-24-303~~]81-14-303.

Section 56. Section 80-2-906 is amended to read:

80-2-906. Financial responsibility for child placed under Interstate Compact.

(1) Financial responsibility for a child placed under the provisions of the Interstate Compact on the Placement of Children shall, in the first instance, be determined in accordance with the provisions of Article V of the compact.

(2) In the event of partial or complete default of performance under the compact, the provisions of Title 81, Chapter 6, Child Support, and Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support, may also be invoked.

Section 57. Section 80-2-909 is amended to read:

80-2-909. Existing authority for child placement continues.

Any person who, under any law of this state other than this part or the Interstate Compact on the Placement of Children established under Section 80-2-905, has authority to make or assist in making the placement of a child, shall continue to have the ability lawfully to make or assist in making that placement, and the provisions of Sections 26B-2-127, 26B-2-131, 26B-2-132, and 26B-2-708, Subsections 80-2-802(3)(a) and (4) and 80-2-803(1), (2), and (5) through (7), and [~~Title 78B, Chapter 6, Part 1, Utah Adoption Act~~]Title 81, Chapter 13, Adoption, continue to apply.

Section 58. Section 80-2-1005 is amended to read:

80-2-1005. Classification of reports of alleged abuse or neglect -- Confidential identity of a person who reports -- Access -- Admitting reports into evidence -- Unlawful release and use -- Penalty.

(1) Except as otherwise provided in this chapter or Chapter 2a, Removal and Protective Custody of a Child, a report made under Part 6, Child Abuse and Neglect Reports, and any other information in the possession of the division obtained as a result of the report is a private, protected, or controlled record under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection team;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) the subject of the report, the [~~natural~~]parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;

(g) an office of the public prosecutor or the public prosecutor's deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Individual, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an

opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections [~~78B-6-128 and 78B-6-130~~]81-13-403 and 81-13-405;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the department or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services described in Subsection [~~26B-5-211(2)(p)~~]26B-5-102(2)(p).

(2) In accordance with Section 80-2-608 and except as provided in Section 80-2-611, the division and a law enforcement agency shall ensure the anonymity of the person who makes the initial report under Part 6, Child Abuse and Neglect Reports, and any other person involved in the division's or law enforcement agency's subsequent investigation of the report.

(3) Notwithstanding any other provision of law, excluding Section 80-3-107, but including this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Title 63G, Chapter 2, Government Records Access and Management Act, if the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

(a) identify the referent;

(b) impede a criminal investigation; or

(c) endanger an individual's safety.

(4) A child-placing agency or person who receives a report from the division under Subsection (1)(m) may provide the report to:

(a) the subject of the report;

(b) a person who is performing a preplacement adoptive evaluation in accordance with Sections [~~78B-6-128 and 78B-6-130~~]81-13-403 and 81-13-405;

(c) to a licensed child-placing agency; or

(d) an attorney seeking to facilitate an adoption.

(5) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.

(6) (a) Except as provided in Subsection (6)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

(A) under Subsection (1)(f); or

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

(ii) describes a parent of the child as the alleged perpetrator; and

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b) (i) After a motion to admit the report described in Subsection (6)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection (6)(b)(i), the court may receive the report into evidence upon a finding on the record of good cause.

(7) (a) A person may not:

(i) willfully permit, or aid and abet, the release of data or information in the possession of the division or contained in the Management Information System in violation of this part or Part 6, Child Abuse and Neglect Reports; or

(ii) if the person is not listed in Subsection (1), request another person to obtain or release a report or other information that the other person obtained under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who violates Subsection (7)(a)(i), or violates Subsection (7)(a)(ii) knowing the person's actions are a violation of Subsection (7)(a)(ii), is guilty of a class C misdemeanor.

Section 59. Section 80-2a-101 is amended to read:

80-2a-101. Definitions.

(1) "Custody" means the same as that term is defined in Section 80-2-102.

(2) "Division" means the Division of Child and Family Services created in Section 80-2-201.

(3) "Friend" means an adult who:

(a) has an established relationship with the child or a family member of the child; and

(b) is not the [~~natural~~]parent of the child.

(4) "Nonrelative" means an individual who is not a noncustodial parent or relative.

(5) "Relative" means an adult who:

(a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

(b) is the first cousin of the child's parent;

(c) is a permanent guardian or [~~natural~~]parent of the child's sibling; or

(d) in the case of a child who is an Indian child, is an extended family member as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.

(6) "Sibling" means the same as that term is defined in Section 80-2-102.

(7) "Temporary custody" means the same as that term is defined in Section 80-2-102.

Section 60. Section 80-2a-201 is amended to read:

80-2a-201. Rights of parents -- Children's rights -- Interest and responsibility of state.

(1) (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A fundamentally fair process must be provided to parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's child by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's [~~natural~~]parent.

(b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's child is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. Before an adjudication of unfitness, government action in relation to a parent and the parent's child may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's parent share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's parent are adversaries.

(c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's [~~natural~~]parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's [~~natural~~]parents. Additionally, the integrity of the family unit and the right of a parent to conceive and raise the parent's child are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.

(d) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's child; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(e) It is the public policy of this state that:

(i) a parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child;

(ii) a parent retains the right to have contact with the parent's child when the child is placed outside of the parent's home, and parent-time should be ordered by a court so long as the contact is not contrary to the best interest of the child; and

(iii) a child has the right to have contact with the child's sibling when the child is placed outside of the home and apart from the child's sibling, and sibling visits should be ordered by a court unless the contact would be contrary to the safety or well-being of the child.

(f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).

(2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect. Therefore, the state, as parens patriae, has an interest in and responsibility to protect a child whose parent abuses the child or does not adequately provide for the child's welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the state may take action for the welfare and protection of the parent's child.

(3) When the division intervenes on behalf of an abused, neglected, or dependent child, the division shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout the division's involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.

(4) If circumstances within the family pose a threat to the child's immediate safety or welfare, the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with Chapter 3, Abuse, Neglect, and Dependency Proceedings, and when safe and appropriate, return the child to the child's parent or as a last resort, pursue another permanency plan.

(5) In determining and making reasonable efforts with regard to a child, under Section 80-2a-302, both the division's and the juvenile court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the juvenile court.

(6) In accordance with Subsections 80-2a-302(4) and 80-3-301(12), in cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the state has no duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

(7) (a) In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide in-home services, if appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division may pursue a foster placement only if in-home services fail or are otherwise insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services and kinship placement fail and cannot be corrected. The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child.

(b) If the use or continuation of reasonable efforts, as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(c) Subject to the parental rights recognized and protected under this section, if, because of a parent's conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in Chapter 4, Termination and Restoration of Parental Rights, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent's rights should be terminated.

(8) The state's right to direct or intervene in the provision of medical or mental health care for a child is subject to Subsections [~~80-1-102(58)(b)(i)~~]80-1-102(57)(b)(i) through (iii) and Sections 80-3-109 and 80-3-304.

Section 61. Section 80-2a-304 is amended to read:

80-2a-304. Removal of a child from foster family placement -- Procedural due process.

(1) (a) The Legislature finds that, except with regard to a child's [~~natural~~]parent or guardian, a foster family has a very limited but recognized interest in the foster family's familial relationship with a foster child who has been in the care and custody of the foster family and in making determinations regarding removal of a child from a foster home, the division may not dismiss the foster family as a mere collection of unrelated individuals.

(b) The Legislature finds that children in the temporary custody and custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.

(c) For the reasons described in Subsections (1)(a) and (b), the division shall provide procedural due process for a foster family before removal of a foster child from the foster family's home, regardless of the length of time the child has been in the foster family's home, unless removal is for the purpose of:

(i) returning the child to the child's [~~natural~~]parent or guardian;

(ii) immediately placing the child in an approved adoptive home;

(iii) placing the child with a relative who obtained custody or asserted an interest in the child within the preference period described in Subsection 80-3-302(7); or

(iv) placing an Indian child in accordance with placement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

(2) (a) The division shall maintain and utilize due process procedures for removal of a foster child from a foster home, in accordance with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(b) The procedures described in Subsection (2)(a) shall include requirements for:

(i) personal communication with, and a written explanation of the reasons for the removal to, the foster parents before removal of the child; and

(ii) an opportunity for foster parents to:

(A) present the foster parents' information and concerns to the division; and

(B) request a review, to be held before removal of the child, by a third party neutral fact finder or if the child is placed with the foster parents for a period of at least two years, request a review, to be held before removal of the child, by the juvenile court judge currently assigned to the child's case or, if the juvenile court judge currently assigned to the child's case is not available, another juvenile court judge.

(c) If the division determines that there is a reasonable basis to believe that the child is in danger or that there is a substantial threat of danger to the health or welfare of the child, the division shall place the child in emergency foster care during the pendency of the procedures described in this Subsection (2), instead of making another foster care placement.

(3) (a) If the division removes a child from a foster home based on the child's statement alone, the division shall initiate and expedite the processes described in Subsection (2).

(b) The division may not take formal action with regard to the foster parent's license until after the processes described in Subsection (2), in addition to any other procedure or hearing required by law, are completed.

(4) If a complaint is made to the division by a foster child against a foster parent, the division shall, within 30 business days after the day on which the complaint is received, provide the foster parent with information regarding the specific nature of the complaint, the time and place of the alleged incident, and who was alleged to have been involved.

(5) If the division places a child in a foster home, the division shall provide the foster parents with:

(a) notification of the requirements of this section;

(b) a written description of the procedures enacted by the division under Subsection (2) and how to access the procedures; and

(c) written notification of the foster parents' ability to petition the juvenile court directly for review of a decision to remove a foster child who, subject to Section 80-3-502, has been in the foster parents' custody for 12 months or longer.

(6) This section does not apply to the removal of a child based on a foster parent's request for the removal.

(7) It is unlawful for a person, with the intent to avoid compliance with the requirements of this section, to:

(a) take action, or encourage another to take action, against the license of a foster parent; or

(b) remove a child from a foster home before the child is placed with the foster parents for two years.

(8) The division may not remove a foster child from a foster parent who is a relative of the child on the basis of the age or health of the foster parent without determining:

(a) by clear and convincing evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would not be another relative of the child; or

(b) by a preponderance of the evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would be another relative of the child.

Section 62. Section 80-3-102 is amended to read:

80-3-102. Definitions.

As used in this chapter:

(1) "Abuse, neglect, or dependency petition" means a petition filed in accordance with this chapter to commence proceedings in a juvenile court alleging that a child is:

(a) abused;

(b) neglected; or

(c) dependent.

(2) "Custody" means the same as that term is defined in Section 80-2-102.

(3) "Division" means the Division of Child and Family Services created in Section 80-2-201.

(4) "Friend" means an adult who:

(a) has an established relationship with the child or a family member of the child; and

(b) is not the [~~natural~~]parent of the child.

(5) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

(6) "Relative" means an adult who:

(a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

(b) is a first cousin of the child's parent;

(c) is a permanent guardian or [~~natural~~]parent of the child's sibling; or

(d) in the case of a child who is an Indian child, is an extended family member as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.

(7) "Sibling" means the same as that term is defined in Section 80-2-102.

(8) "Sibling visitation" means the same as that term is defined in Section 80-2-102.

(9) "Temporary custody" means the same as that term is defined in Section 80-2-102.

Section 63. Section 80-3-107 is amended to read:

80-3-107. Disclosure of records -- Record sharing.

(1) (a) Except as provided in Subsections (1)(c) through (e), in an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 80-3-301, or the filing of an abuse, neglect, or dependency petition, each party to the proceeding shall provide in writing to any other party or the other party's counsel any information that the party:

(i) plans to report to the juvenile court at the proceeding; or

(ii) could reasonably expect would be requested of the party by the juvenile court at the proceeding.

(b) A party providing the disclosure required under Subsection (1)(a) shall make the disclosure:

(i) for a dispositional hearing under Part 4, Adjudication, Disposition, and Permanency, no less than five days before the day on which the dispositional hearing is held; and

(ii) for all other proceedings, no less than five days before the day on which the proceeding is held.

(c) The division is not required to provide a court report or a child and family plan described in Section 80-3-307 to each party to the proceeding if:

(i) the information is electronically filed with the juvenile court; and

(ii) each party to the proceeding has access to the electronically filed information.

(d) If a party to a proceeding obtains information after the deadline described in Subsection (1)(b), the information is exempt from the disclosure required under Subsection (1)(a) if the party certifies to the juvenile court that the information was obtained after the deadline.

(e) Subsection (1)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(2) (a) Except as provided in Subsection (2)(b), and notwithstanding any other provision of law:

(i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and

(ii) if the [~~natural~~]parent of a child is not represented by counsel, the [~~natural~~]parent shall have access to the records described in Subsection (2)(a)(i).

(b) The disclosures described in Subsection (2)(a) are not required if:

(i) subject to Subsection (2)(c), the division or other state or local public agency did not originally create the record being requested;

(ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any individual who provided substitute care for the child;

(iii) disclosure of the record would jeopardize the anonymity of the individual making the initial report of abuse or neglect or any others involved in the subsequent investigation;

(iv) disclosure of the record would jeopardize the life or physical safety of an individual who has been a victim of domestic violence; or

(v) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.

(c) If a disclosure is denied under Subsection (2)(b)(i), the division shall inform the individual making the request:

(i) of the existence of all records in the possession of the division or any other state or local public agency;

(ii) of the name and address of the individual or agency that originally created the record; and

(iii) that the individual making the request must seek access to the record from the individual or agency that originally created the record.

Section 64. Section 80-3-204 is amended to read:

80-3-204. Protective custody of a child after a petition is filed -- Grounds.

(1) When an abuse, neglect, or dependency petition is filed, the juvenile court shall apply, in addressing the petition, the least restrictive means and alternatives available to accomplish a compelling state interest and to prevent irretrievable destruction of family life as described in Subsections 80-2a-201(1) and (7)(a) and Section 80-4-104.

(2) After an abuse, neglect, or dependency petition is filed, if the child who is the subject of the petition is not in protective custody, a juvenile court may order that the child be removed from the child's home or otherwise taken into protective custody if the juvenile court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

(a) (i) there is an imminent danger to the physical health or safety of the child; and

(ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;

(b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and

(ii) there are no less restrictive means available by which the child's emotional health may be protected without removing the child

from the custody of the child's parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other individual known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child's support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) subject to Subsection [~~80-1-102(58)(b)~~]80-1-102(57)(b) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(i) (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or

(ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child's [~~natural~~]parent:

(i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(l) an infant is an abandoned infant, as defined in Section 80-4-203;

(m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child's welfare is otherwise endangered.

(3) (a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact is prima facie evidence that the child cannot safely remain in the custody of the child's parent.

(b) For purposes of Subsection (2)(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (2)(c) or Subsection (3)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by an individual known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact is prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(4) (a) For purposes of Subsection (2), if the division files an abuse, neglect, or dependency petition, the juvenile court shall consider the division's safety and risk assessments described in Section 80-2-403 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.

(b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 80-2-403 to the juvenile court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 80-3-301.

(5) In the absence of one of the factors described in Subsection (2), a juvenile court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian;

(c) disability of the parent or guardian, as defined in Section 57-21-2; or

(d) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26B-4-201.

(6) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in detention, unless the child may be admitted to detention under Chapter 6, Part 2, Custody and Detention.

(7) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 80-2a-202.

(8) (a) Except as provided in Subsection (8)(b), a juvenile court and the division may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (8)(a), a juvenile court or the division may remove a child under conditions that would otherwise be prohibited under Subsection (8)(a) if failure to take an action described under Subsection (8)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 65. Section 80-3-301 is amended to read:

80-3-301. Shelter hearing -- Court considerations.

(1) A juvenile court shall hold a shelter hearing to determine the temporary custody of a child within 72 hours, excluding weekends

and holidays, after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in protective custody;

(c) emergency placement under Subsection 80-2a-202(5);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a motion for expedited placement in temporary custody is filed under Section 80-3-203.

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the individual to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf an abuse, neglect, or dependency petition is brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding is instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after the day on which the child is removed from the child's home, or the day on which a motion for expedited placement in temporary custody under Section 80-3-203 is filed, on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) Notwithstanding Section 80-3-104, the following individuals shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the child welfare caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the juvenile court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other individual with relevant knowledge;

(ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and

(iii) in accordance with Subsections 80-3-302(7)(c) and (d), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The juvenile court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or the requesting party's counsel; and

(iii) may in the juvenile court's discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in protective custody, the division shall report to the juvenile court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 80-3-302(7)(c) and (d), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized to present relevant evidence under this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.

(b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in protective custody, the juvenile court shall order that the child be returned to the custody of the parent or guardian unless the juvenile court finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 80-2a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health

or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by:

(A) a parent or guardian;

(B) a member of the parent's household or the guardian's household; or

(C) an individual known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the parent or guardian is unable to have physical custody of the child;

(vii) the child is without any provision for the child's support;

(viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(ix) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(x) subject to Subsection [~~80-1-102(58)(b)(i)~~]80-1-102(57)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(xi) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xii) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiv) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xv) the child's [~~natural~~]parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed the child to be in the physical care of an individual after the parent received actual notice that the individual physically abused, sexually abused, or sexually exploited the child, that fact is prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The juvenile court shall make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that the services be provided by the division.

(b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).

(11) If the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section 80-2a-302, was appropriate.

(12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the juvenile court and the division do not have any duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.

(14) (a) If a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which the decision is based.

(b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which the decision is based.

(15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter, Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child.

Section 66. Section 80-3-302 is amended to read:

80-3-302. Shelter hearing -- Placement of a child.

(1) As used in this section:

(a) "Asserted an interest" means to communicate, verbally or in writing, to the division or the court, that the relative or friend is interested in becoming a placement for the child.

[~~(b) (i) "Natural parent," notwithstanding Section 80-1-102, means:~~]

[~~(A) a biological or adoptive mother of the child;~~]

[~~(B) an adoptive father of the child; or~~]

[~~(C) a biological father of the child who:~~]

[~~(I) was married to the child's biological mother at the time the child was conceived or born; or~~]

[~~(II) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal of the child or voluntary surrender of the child by the custodial parent.~~]

(b) (i) "Parent" does not include an unmarried biological father, as defined in Section 81-13-101, who has not strictly complied with Sections 81-13-212 and 81-13-213 before the removal of the child or voluntary surrender of the child by the custodial parent.

(ii) [~~"Natural parent" includes the individuals described in Subsection (1)(b)~~]"Parent" includes, except as provided in Subsection (1)(b)(i), an individual with a parent-child relationship to the child under Section 81-5-201 regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

(2) (a) At the shelter hearing, if the juvenile court orders that a child be removed from the custody of the child's parent in accordance with Section 80-3-301, the juvenile court shall first determine whether there is another [~~natural~~]parent with whom the child was not residing at the time the events or conditions that brought the child within the juvenile court's jurisdiction occurred, who desires to assume custody of the child.

(b) Subject to Subsection (7), if another [~~natural~~]parent requests custody under Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile court finds that the placement would be unsafe or otherwise detrimental to the child.

(c) The juvenile court:

(i) shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement;

(ii) shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 80-3-305, and check the Management Information System for any previous reports of abuse or neglect received by the division regarding the parent at issue;

(iii) may order the division to conduct any further investigation regarding the safety and appropriateness of the placement; and

(iv) may place the child in the temporary custody of the division, pending the juvenile court's determination regarding the placement.

(d) The division shall report the division's findings from an investigation under Subsection (2)(c), regarding the child in writing to the juvenile court.

(3) If the juvenile court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the juvenile court;

(b) the juvenile court may order:

(i) that the parent take custody subject to the supervision of the juvenile court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the juvenile court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The juvenile court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child's best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed with a relative under Subsections (6) through (9); or

(d) the child should be placed in the temporary custody of the division.

(5) (a) Legal custody of the child is not affected by an order entered under Subsection (2) or (3).

(b) To affect a previous court order regarding legal custody, the party shall petition the court for modification of legal custody.

(6) Subject to Subsection (7), if, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the juvenile court:

(a) shall, at that time, determine whether there is a relative or a friend who is able and willing to care for the child, which may include asking a child, who is of sufficient maturity to articulate the child's wishes in relation to a placement, if there is a relative or friend with whom the child would prefer to reside;

(b) may order the division to conduct a reasonable search to determine whether there are relatives or friends who are willing and appropriate, in accordance with the requirements of this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to provide information regarding relatives or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the temporary custody of the division pending the determination under Subsection (6)(a).

(7) (a) (i) Subject to Subsection (7)(b), and if the provisions of this section are satisfied, the division and the juvenile court shall give preferential consideration to a relative's or a friend's request for placement of the child, if the placement is in the best interest of the child.

(ii) If a relative or friend verbally communicates to the division or court that the relative or friend is interested in becoming a placement for the child, the division or court shall make a written record of the communication and include that written record in the report the division submits at the initial dispositional hearing, a report the division submits under Section 80-3-408, or the court's legal file.

(b) (i) (A) The preferential consideration that the juvenile court or division initially grants a friend under Subsection (7)(a)(i) expires 120 days after the day on which the shelter hearing occurs.

(B) After the day on which the time period described in Subsection (7)(b)(i)(A) expires, the division or the juvenile court may not grant preferential consideration to a friend, who has not obtained custody or asserted an interest in the child.

(ii) (A) Until eight months after the day on which the shelter hearing occurs, the preferential consideration that the juvenile court or division grants a relative under Subsection (7)(a)(i) is a rebuttable presumption that placement of the child with a relative is in the best interest of the child.

(B) After the rebuttable presumption described in Subsection (7)(b)(ii)(A) expires, the juvenile court or division shall give preferential consideration to a relative's request for placement of the child, if the placement is in the best interest of the child considering the totality of the circumstances.

(C) If a relative asserts an interest in becoming a placement for the child more than one year after the day on which the shelter hearing occurs, the juvenile court may not give the relative the preferential consideration described in Subsection (7)(b)(ii)(B).

(c) The following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing and able to care for the child:

(i) a noncustodial parent of the child;

(ii) a relative of the child;

(iii) subject to Subsection (7)(d), a friend if the friend is a licensed foster parent; and

(iv) other placements that are consistent with the requirements of law.

(d) In determining whether a friend is a willing, able, and appropriate placement for a child, the juvenile court or the division:

(i) subject to Subsections (7)(d)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.

(e) (i) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent, the department shall fully cooperate to expedite the licensing process for the friend.

(ii) If the friend described in Subsection (7)(e)(i) becomes licensed as a foster parent within the time frame described in Subsection (7)(b)(i), the juvenile court shall determine whether it is in the best interest of the child to place the child with the friend.

(8) (a) If a relative or friend who is willing to cooperate with the child's permanency goal is identified under Subsection (6)(a), the juvenile court:

(i) shall make a specific finding regarding:

(A) the fitness of that relative or friend as a placement for the child; and

(B) the safety and appropriateness of placement with the relative or friend; and

(ii) may not consider a request for guardianship or adoption of the child by an individual who is not a relative of the child, or prevent the division from placing the child in the custody of a relative of the child in accordance with this part, until after the day on which the juvenile court makes the findings under Subsection (8)(a)(i).

(b) In making the finding described in Subsection (8)(a), the juvenile court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative, conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 80-2a-301(4) and (6);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 80-3-305;

(iv) visit the relative's or friend's home;

(v) check the Management Information System for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the juvenile court; and

(vii) provide sufficient information so that the juvenile court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

(c) The division may determine to conduct, or the juvenile court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement described in Subsection (8)(a).

(d) The division shall complete and file the division's assessment regarding placement with a relative or friend under Subsections (8)(a) and (b) as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

(9) (a) The juvenile court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation under Subsection (8), and the juvenile court's determination regarding the appropriateness of the placement.

(b) The juvenile court shall ultimately base the juvenile court's determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

(10) If a juvenile court places a child described in Subsection (6) with the child's relative or friend:

(a) the juvenile court shall:

(i) order the relative or friend take custody, subject to the continuing supervision of the juvenile court;

(ii) provide for reasonable parent-time with the parent or parents from whose custody the child is removed, unless parent-time is not in the best interest of the child; and

(iii) conduct a periodic review no less often than every six months, to determine whether:

(A) placement with a relative or friend continues to be in the child's best interest;

(B) the child should be returned home; or

(C) the child should be placed in the custody of the division;

(b) the juvenile court may enter an order:

(i) requiring the division to provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being; or

(ii) that the juvenile court considers necessary for the protection and best interest of the child; and

(c) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the juvenile court.

(11) No later than 12 months after the day on which the child is removed from the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

(12) The time limitations described in Section 80-3-406, with regard to reunification efforts, apply to a child placed with a previously noncustodial parent under Subsection (2) or with a relative or friend under Subsection (6).

(13) (a) If the juvenile court awards temporary custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 80-3-305; and

(ii) if the results of the criminal background check described in Subsection (13)(a)(i) would prohibit the relative from having direct access to the child under Section 26B-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after the day on which the child is taken into physical custody under Subsection (13)(a)(ii)(A), give written notice to the juvenile court, and all parties to the proceedings, of the division's action.

(b) Subsection (13)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection (13)(a) on the relative.

(14) If the juvenile court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the juvenile court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child.

(15) (a) If a child reenters the temporary custody or the custody of the division and the child is not placed with an individual who is a parent, relative, or friend, the division shall:

(i) notify the child's former foster parents; and

(ii) upon a determination of the former foster parents' willingness and ability to safely and appropriately care for the child, give the former foster parents preference for placement of the child.

(b) If, after the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a married couple, unless it is in the best interests of the child to place the child with a single foster parent.

(16) In determining the placement of a child, the juvenile court and the division may not take into account, or discriminate against, the religion of an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with an individual or family of the same religion as the child.

(17) If the juvenile court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the child's wishes.

(18) This section does not guarantee that an identified relative or friend will receive custody of the child.

(19) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 67. Section 80-3-307 is amended to read:

80-3-307. Child and family plan developed by division -- Parent-time and relative visitation.

(1) The division shall develop and finalize a child's child and family plan no more than 45 days after the day on which the child enters the temporary custody of the division.

(2) (a) The division may use an interdisciplinary team approach in developing a child and family plan.

(b) The interdisciplinary team described in Subsection (2)(a) may include representatives from the following fields:

(i) mental health;

(ii) education; or

(iii) if appropriate, law enforcement.

(3) (a) The division shall involve all of the following in the development of a child's child and family plan:

(i) both of the child's [~~natural~~]parents, unless the whereabouts of a parent are unknown;

(ii) the child;

(iii) the child's foster parents; and

(iv) if appropriate, the child's stepparent.

(b) Subsection (3)(a) does not prohibit any other party not listed in Subsection (3)(a) or a party's counsel from being involved in the development of a child's child and family plan if the party or counsel's participation is otherwise permitted by law.

(c) In relation to all information considered by the division in developing a child and family plan, the division shall give additional weight and attention to the input of the child's natural and foster parents upon the involvement of the child's natural and foster parents under Subsections (3)(a)(i) and (iii).

(d) (i) The division shall make a substantial effort to develop a child and family plan with which the child's parents agree.

(ii) If a parent does not agree with a child and family plan:

(A) the division shall strive to resolve the disagreement between the division and the parent; and

(B) if the disagreement is not resolved, the division shall inform the court of the disagreement.

(4) A copy of the child and family plan shall, immediately upon completion, or as soon as reasonably possible thereafter, be provided to:

(a) the guardian ad litem;

(b) the child's [~~natural~~]parents; and

(c) the child's foster parents.

(5) A child and family plan shall:

(a) specifically provide for the safety of the child, in accordance with federal law;

(b) clearly define what actions or precautions will, or may be, necessary to provide for the health, safety, protection, and welfare of the child;

(c) be specific to each child and the child's family, rather than general;

(d) include individualized expectations and contain specific time frames;

(e) except as provided in Subsection (6), address problems that:

(i) keep a child in the child's placement; and

(ii) keep a child from achieving permanence in the child's life;

(f) be designed to:

(i) minimize disruption to the normal activities of the child's family, including employment and school; and

(ii) as much as practicable, help the child's parent maintain or obtain employment; and

(g) set forth, with specificity, at least the following:

(i) the reason the child entered into protective custody or the division's temporary custody or custody;

(ii) documentation of:

(A) the reasonable efforts made to prevent placement of the child in protective custody or the division's temporary custody or custody; or

(B) the emergency situation that existed and that prevented the reasonable efforts described in Subsection (5)(g)(ii)(A), from being made;

(iii) the primary permanency plan for the child, as described in Section 80-3-406, and the reason for selection of the plan;

(iv) the concurrent permanency plan for the child, as described in Section 80-3-406, and the reason for the selection of the plan;

(v) if the plan is for the child to return to the child's family:

(A) specifically what the parents must do in order to enable the child to be returned home;

(B) specifically how the requirements described in Subsection (5)(g)(v)(A) may be accomplished; and

(C) how the requirements described in Subsection (5)(g)(v)(A) will be measured;

(vi) the specific services needed to reduce the problems that necessitated placing the child in protective custody or the division's temporary custody or custody;

(vii) the name of the individual who will provide for and be responsible for case management for the division;

(viii) subject to Subsection (10), a parent-time schedule between the [~~natural~~]parent and the child;

(ix) subject to Subsection (7), the health and mental health care to be provided to address any known or diagnosed mental health needs of the child;

(x) if residential treatment rather than a foster home is the proposed placement, a requirement for a specialized assessment of the child's health needs including an assessment of mental illness and behavior and conduct disorders;

(xi) social summaries that include case history information pertinent to case planning; and

(xii) subject to Subsection (12), a sibling visitation schedule.

(6) For purposes of Subsection (5)(e), a child and family plan may only include requirements that:

(a) address findings made by the court; or

(b) (i) are requested or consented to by a parent or guardian of the child; and

(ii) are agreed to by the division and the guardian ad litem.

(7) (a) Subject to Subsection (7)(b), in addition to the information required under Subsection (5)(g)(ix), a child and family plan shall include a specialized assessment of the medical and mental health needs of a child, if the child:

(i) is placed in residential treatment; and

(ii) has medical or mental health issues that need to be addressed.

(b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate medical or mental health diagnosis of the parent's child from a licensed practitioner of the parent's choice.

(8) (a) The division shall train the division's employees to develop child and family plans that comply with:

(i) federal mandates; and

(ii) the specific needs of the particular child and the child's family.

(b) The child's natural parents, foster parents, and if appropriate, stepparents, shall be kept informed of and supported to participate in important meetings and procedures related to the child's placement.

(9) If the division documents to the court that there is a compelling reason that adoption, reunification, guardianship, and a placement described in Subsection 80-3-301(6)(e) are not in the child's best interest, the court may order another planned permanent living arrangement in accordance with federal law.

(10) (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a court order issued in accordance with Subsection 80-3-406(9).

(b) Notwithstanding Subsection (10)(a), the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(i) protect the physical safety of the child;

(ii) protect the life of the child; or

(iii) consistent with Subsection (10)(c), prevent the child from being traumatized by contact with the parent.

(c) In determining whether the condition of the parent described in Subsection (10)(b) will traumatize a child, the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(i) the child's fear of the parent; and

(ii) the nature of the alleged abuse or neglect.

(11) If a child is in the division's temporary custody or custody, the division shall consider visitation with the child's grandparent if:

(a) the division determines the visitation to be in the best interest of the child;

(b) there are no safety concerns regarding the behavior or criminal background of the grandparent;

(c) allowing the grandparent visitation would not compete with or undermine the child's reunification plan;

(d) there is a substantial relationship between the grandparent and child; and

(e) the grandparent visitation will not unduly burden the foster parents.

(12) (a) The division shall incorporate into the child and family plan reasonable efforts to provide sibling visitation if:

(i) siblings are separated due to foster care or adoptive placement;

(ii) the sibling visitation is in the best interest of the child for whom the child and family plan is developed; and

(iii) the division has consent for sibling visitation from the guardian of the sibling.

(b) The division shall obtain consent for sibling visitation from the sibling's guardian if the criteria of Subsections (12)(a)(i) and (ii) are met.

Section 68. Section 80-3-405 is amended to read:

80-3-405. Dispositions after adjudication.

(1) Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the dispositions described in Subsection (2) at the dispositional hearing.

(2) (a) (i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.

(ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:

(A) shall give primary consideration to the welfare of the minor;

(B) shall give due consideration to the rights of the parent or parents concerning the minor; and

(C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(b) (i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.

(ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:

(A) shall give primary consideration to the welfare of the minor; and

(B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(c) The juvenile court may order:

(i) protective supervision;

(ii) family preservation;

(iii) sibling visitation; or

(iv) other services.

(d) (i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.

(ii) If a juvenile court enters an order of permanent custody and guardianship with an individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on behalf of the minor against the [~~natural~~]parents of the minor.

(iii) An order under this Subsection (2)(d):

(A) shall remain in effect until the minor is 18 years old;

(B) is not subject to review under Section 78A-6-358; and

(C) may be modified by petition or motion as provided in Section 78A-6-357.

(e) The juvenile court may order a child be committed to the physical custody, as defined in Section 26B-5-401, of a local mental health authority, in accordance with the procedures and requirements of Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(f) (i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).

(g) (i) Subject to Subsection [~~80-1-102(58)(b)~~]80-1-102(57)(b) and Section 80-3-304, the juvenile court may order that a minor:

(A) be examined or treated by a mental health therapist, as described in Section 80-3-109; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court shall consider:

(A) the desires of the minor;

(B) the desires of the parent or guardian of the minor if the minor is younger than 18 years old; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(h) The juvenile court may make other reasonable orders for the best interest of the minor.

(3) (a) At the dispositional hearing described in Subsection 80-3-402(3), if a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and

(ii) if parent-time is denied, state the facts that justify the denial.

(b) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (3)(c)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (3)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(4) Upon an adjudication under this chapter, the juvenile court may not:

(a) commit a minor solely on the ground of abuse, neglect, or dependency to the Division of Juvenile Justice and Youth Services;

(b) assume the function of developing foster home services; or

(c) vest legal custody of an abused, neglected, or dependent minor in the division to primarily address the minor's ungovernable or other behavior, mental health, or disability, unless the division:

(i) engages other relevant divisions within the department that are conducting an assessment of the minor and the minor's family's needs;

(ii) based on the assessment described in Subsection (4)(c)(i), determines that vesting custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and

(iii) consents to legal custody of the minor being vested in the division.

(5) The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.

(6) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 69. Section 80-3-409 is amended to read:

80-3-409. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) If reunification services are ordered under Section 80-3-406, with regard to a minor who is in the custody of the division, the juvenile court shall hold a permanency hearing no later than 12 months after the day on which the minor is initially removed from the minor's home.

(b) If reunification services are not ordered at the dispositional hearing, the juvenile court shall hold a permanency hearing within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services are ordered in accordance with Section 80-3-406, the juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the juvenile court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the minor's [~~natural~~]parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor.

(3) In making a determination under Subsection (2)(a), the juvenile court shall:

(a) review and consider:

(i) the report prepared by the division;

(ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by the minor's attorney guardian ad litem;

(iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);

(iv) any evidence regarding the efforts or progress demonstrated by the parent; and

(v) the extent to which the parent cooperated and used the services provided; and

(b) attempt to keep the minor's sibling group together if keeping the sibling group together is:

(i) practicable; and

(ii) in accordance with the best interest of the minor.

(4) With regard to a case where reunification services are ordered by the juvenile court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the juvenile court shall, unless the time for the provision of reunification services is extended under Subsection (7):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the juvenile court under Section 80-3-406; and

(c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) The juvenile court may order another planned permanent living arrangement other than reunification for a minor who is 16 years old or older upon entering the following findings:

(a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 80-3-301(6)(e);

(b) the division has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Section 80-2-308;

(c) the minor prefers another planned permanent living arrangement; and

(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the juvenile court may not extend reunification services beyond 12 months after the day on which the minor is initially removed from the minor's home, in accordance with the provisions of Section 80-3-406.

(7) (a) Subject to Subsection (7)(b), the juvenile court may extend reunification services for no more than 90 days if the juvenile court finds, by a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any reunification services beyond 15 months after the day on which the minor is initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the juvenile court to extend services for the parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the juvenile court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the juvenile court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the minor;

(ii) the juvenile court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

(iii) the juvenile court specifies the time period in which it is likely that reunification will occur.

(d) A juvenile court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a juvenile court shall take into consideration the status of the minor siblings of the minor.

(8) (a) At the permanency hearing, if a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and

(ii) if parent-time is denied, state the facts that justify the denial.

(b) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (8)(c)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (8)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(9) The juvenile court may, in the juvenile court's discretion:

(a) enter any additional order that the juvenile court determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (8); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor is terminated.

(10) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the day on which the permanency hearing is held.

(b) If the division opposes the plan to terminate parental rights, the juvenile court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 80-4-203(2).

(11) (a) Any party to an action may, at any time, petition the juvenile court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the juvenile court so determines, the juvenile court shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(12) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a juvenile court's ability to terminate reunification services at any time before a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time before a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections 80-2a-201 and 80-4-104.

(13) (a) Subject to Subsection (13)(b), if a petition for termination of parental rights is filed before the date scheduled for a permanency hearing, the juvenile court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (13)(a), if the juvenile court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the juvenile court shall first make a finding regarding whether reasonable efforts have been made by the division to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 80-3-406.

(c) The juvenile court shall make a decision on a petition for termination of parental rights within 18 months after the day on which the minor is initially removed from the minor's home.

(14) (a) If a juvenile court determines that a minor will not be returned to a parent of the minor, the juvenile court shall consider appropriate placement options inside and outside of the state.

(b) In considering appropriate placement options under Subsection (14)(a), the juvenile court shall provide preferential consideration to a relative's request for placement of the minor.

(15) (a) In accordance with Section 80-3-108, if a minor 14 years old or older desires an opportunity to address the juvenile court or testify regarding permanency or placement, the juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.

(b) If the juvenile court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the minor's wishes.

(16) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement

unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 70. Section 80-3-502 is amended to read:

80-3-502. Review of foster care removal -- Foster parent's standing.

(1) With regard to a minor in the custody of the division who is the subject of a petition alleging abuse, neglect, or dependency, and who has been placed in foster care with a foster family, the Legislature finds that:

(a) except with regard to the minor's [~~natural~~]parents, a foster family has a very limited but recognized interest in its familial relationship with the minor; and

(b) minors in the custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.

(2) For the reasons described in Subsection (1), the Legislature finds that, except with regard to the minor's [~~natural~~]parents, procedural due process protections must be provided to a foster family prior to removal of a foster minor from the foster home.

(3) (a) A foster parent who has had a foster minor in the foster parent's home for 12 months or longer may petition the juvenile court for a review and determination of the appropriateness of a decision by the division to remove the minor from the foster home, unless the removal was for the purpose of:

(i) returning the minor to the minor's [~~natural~~]parent or legal guardian;

(ii) immediately placing the minor in an approved adoptive home;

(iii) placing the minor with a relative who obtained custody or asserted an interest in the minor within the preference period described in Subsection 80-3-302(8); or

(iv) placing an Indian child in accordance with placement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

(b) The foster parent may petition the juvenile court under this section without exhausting administrative remedies within the division.

(c) The juvenile court may order the division to place the minor in a specified home, and shall base the juvenile court's determination on the best interest of the minor.

(4) The requirements of this section do not apply to the removal of a minor based on a foster parent's request for that removal.

Section 71. Section 80-4-104 is amended to read:

80-4-104. Judicial process for termination -- Parent unfit or incompetent -- Best interest of child.

(1) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's child. For this reason, the termination of family ties by the state may only be done for compelling reasons.

(2) The juvenile court shall provide a fundamentally fair process to a parent if a party moves to terminate the parent's parental rights.

(3) If the party moving to terminate parental rights is a governmental entity, the juvenile court shall find that any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's child are supported by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests.

(4) (a) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's child is recognized, protected, and does not cease to exist simply because:

(i) a parent may fail to be a model parent; or

(ii) the parent's child is placed in the temporary custody of the state.

(b) The juvenile court should give serious consideration to the fundamental right of a parent to rear the parent's child, and concomitantly, of the right of the child to be reared by the child's [~~natural~~]parent.

(5) At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life.

(6) Before an adjudication of unfitness, government action in relation to a parent and a parent's child may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest.

(7) Until parental unfitness is established and the children suffer, or are substantially likely to suffer, serious detriment as a result, the child and the child's parent share a vital interest in preventing erroneous termination of their relationship and the juvenile court may not presume that a child and the child's parents are adversaries.

(8) (a) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's [~~natural~~]parents.

(b) A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's [~~natural~~]parents.

(c) Additionally, the integrity of the family unit and the right of parents to conceive and raise their children are constitutionally protected.

(d) For these reasons, the juvenile court should only transfer custody of a child from the child's [~~natural~~]parent for compelling reasons and when there is a jurisdictional basis to do so.

(9) The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution of this state and of the United States, and is a fundamental public policy of this state.

(10) (a) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide for, and reasonably discipline the parent's child; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(b) It is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child.

(c) The interests of the state favor preservation and not severance of natural familial bonds in situations where a positive, nurturing

parent-child relationship can exist, including extended family association and support.

(11) This chapter provides a judicial process for voluntary and involuntary severance of the parent-child relationship, designed to safeguard the rights and interests of all parties concerned and promote their welfare and that of the state.

(12) (a) Wherever possible, family life should be strengthened and preserved, but if a parent is found, by reason of the parent's conduct or condition, to be unfit or incompetent based upon any of the grounds for termination described in this part, the juvenile court shall then consider the welfare and best interest of the child of paramount importance in determining whether termination of parental rights shall be ordered.

(b) In determining whether termination is in the best interest of the child, and in finding, based on the totality of the circumstances, that termination of parental rights, from the child's point of view, is strictly necessary to promote the child's best interest, the juvenile court shall consider, among other relevant factors, whether:

(i) sufficient efforts were dedicated to reunification in accordance with Section 80-4-301; and

(ii) pursuant to Section 80-3-302,the efforts to place the child with a relative who has, or is willing to come forward to care for the child, were given due weight.

Section 72. Section 80-4-106 is amended to read:

80-4-106. Individuals entitled to be present at proceedings -- Legal representation -- Attorney general responsibilities.

(1) (a) The parties shall be advised of the parties' right to counsel, including the appointment of counsel for a parent or guardian facing any action initiated by a private party under this chapter or under Section [~~78B-6-112~~]81-13-205 for termination of parental rights.

(b) If a parent or guardian is the subject of a petition for the termination of parental rights, the juvenile court shall:

(i) appoint an indigent defense service provider for a parent or guardian determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and

(ii) order indigent defense services for the parent or guardian who is determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.

(c) In any action under this chapter, a guardian ad litem, as defined in Section 78A-2-801, shall represent the child in accordance with Sections 78A-2-803 and 80-3-104.

(2) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall, in accordance with Section 80-2-303, enforce this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, relating to the termination of parental rights.

(3) (a) The juvenile court shall admit any individual to a hearing unless the juvenile court makes a finding upon the record that the individual's presence at the hearing would:

(i) be detrimental to the best interest of a child who is a party to the proceeding;

(ii) impair the fact-finding process; or

(iii) be otherwise contrary to the interests of justice.

(b) The juvenile court may exclude an individual from a hearing under Subsection (3)(a) on the juvenile court's own motion or by motion of a party to the proceeding.

Section 73. Section 80-4-203 is amended to read:

80-4-203. Mandatory petition for termination of parental rights.

(1) For purposes of this section, "abandoned infant" means a child who is 12 months old or younger and whose parent or parents:

(a) although having legal custody of the child, fail to maintain physical custody of the child without making arrangements for the care of the child;

(b) have failed to:

(i) maintain physical custody; and

(ii) exhibit the normal interest of a [~~natural~~]parent without just cause; or

(c) are unwilling to have physical custody of the child.

(2) Except as provided in Subsection (3), notwithstanding any other provision of this chapter, Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child, the division shall file a petition for termination of parental rights with regard to:

(a) an abandoned infant; or

(b) the child of a parent, whenever a court has determined that the parent has:

(i) committed murder or child abuse homicide of another child of that parent;

(ii) committed manslaughter of another child of that parent;

(iii) aided, abetted, attempted, conspired, or solicited to commit murder, child abuse homicide, or manslaughter against another child of that parent; or

(iv) committed a felony assault or abuse that results in serious physical injury to:

(A) another child of that parent; or

(B) the other parent of the child.

(3) The division is not required to file a petition for termination of parental rights under Subsection (2) if:

(a) the child is being cared for by a relative;

(b) the division has:

(i) documented in the child's child and family plan a compelling reason for determining that filing a petition for termination of parental rights is not in the child's best interest; and

(ii) made that child and family plan available to the juvenile court for the juvenile court's review; or

(c) (i) the juvenile court has previously determined, in accordance with the provisions and limitations of Sections 80-2a-201, 80-2a-302, 80-3-301, and 80-3-406, that reasonable efforts to reunify the child with the child's parent or parents were required; and

(ii) the division has not provided, within the time period specified in the child and family plan, services that had been determined to be necessary for the safe return of the child.

Section 74. Section 80-4-302 is amended to read:

80-4-302. Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a [~~natural~~]parent, without just cause; or

(d) have abandoned an infant, as described in Section 80-4-203.

(2) In determining whether a parent or parents are unfit or have neglected a child the juvenile court shall consider:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;

(f) a history of violent behavior;

(g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201; or

(h) any other circumstance, conduct, or condition that the court considers relevant in the determination of whether a parent or parents are unfit or have neglected the child.

(3) Notwithstanding Subsection (2)(c), the juvenile court may not discriminate against a parent because of or otherwise consider the parent's lawful possession or consumption of cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in Section 26B-4-201 or a medical cannabis device, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(4) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

(5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

(6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

(7) The following circumstances are prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 75. Section 80-4-307 is amended to read:

80-4-307. Voluntary relinquishment -- Irrevocable.

(1) The individual consenting to termination of parental rights or voluntarily relinquishing parental rights shall sign the consent or relinquishment, or confirm a consent or relinquishment previously signed by the individual, under oath before:

(a) a judge of any court that has jurisdiction over proceedings for termination of parental rights in this state or any other state, or a public officer appointed by that court for the purpose of taking consents or relinquishments; or

(b) except as provided in Subsection (2), any person authorized to take consents or relinquishments under Subsections [~~78B-6-124(1)~~]81-13-214(1) and (2).

(2) Only the juvenile court is authorized to take consents or relinquishments from a parent who has any child who is in the custody of a state agency or who has a child who is otherwise under the jurisdiction of the juvenile court.

(3) (a) The court, appointed officer, or other authorized person shall certify to the best of that person's information and belief that the individual executing the consent or relinquishment, or confirming a consent or relinquishment previously signed by the individual, has read and understands the consent or relinquishment and has signed the consent or relinquishment freely and voluntarily.

(b) A consent or relinquishment is not effective until the consent or relinquishment is certified pursuant to Subsection (3)(a).

(4) A consent or relinquishment that has been certified pursuant to Subsection (3)(a) is effective against the consenting or relinquishing individual and may not be revoked.

(5) (a) The requirements and processes described in Section 80-4-104, Sections 80-4-301 through 80-4-304, and Part 2, Petition for Termination of Parental Rights, do not apply to a voluntary relinquishment or consent for termination of parental rights.

(b) When determining voluntary relinquishment or consent for termination of parental rights, the juvenile court need only find that the relinquishment or termination is in the child's best interest.

(6) (a) There is a presumption that voluntary relinquishment or consent for termination of parental rights is not in the child's best

interest where it appears to the juvenile court that the primary purpose for relinquishment or consent for termination is to avoid a financial support obligation.

(b) The presumption described in Subsection (6)(a) may be rebutted if the juvenile court finds the relinquishment or consent to termination of parental rights will facilitate the establishment of stability and permanency for the child.

(7) Upon granting a voluntary relinquishment the juvenile court may make orders relating to the child's care and welfare that the juvenile court considers to be in the child's best interest.

Section 76. Section 80-4-502 is amended to read:

80-4-502. Safe relinquishment of a newborn child -- Termination of parental rights -- Affirmative defense.

(1) (a) A parent or a parent's designee may safely relinquish a newborn child at a hospital in accordance with this part and retain complete anonymity, so long as the newborn child has not been subject to abuse or neglect.

(b) Safe relinquishment of a newborn child who has not otherwise been subject to abuse or neglect shall not, in and of itself, constitute neglect, and the newborn child may not be considered a neglected child so long as the relinquishment is carried out in substantial compliance with this part.

(2) (a) Personnel employed by a hospital shall accept a newborn child who is relinquished under this part, and may presume that the individual relinquishing is the newborn child's parent or the parent's designee.

(b) The person receiving the newborn child may request information regarding the parent and newborn child's medical histories, and identifying information regarding the nonrelinquishing parent of the newborn child.

(c) If the newborn child's parent or the parent's designee provides the person receiving the newborn child with any of the information described in Subsection (2)(b) or any other personal items, the person shall provide the information or personal items to the division.

(d) Personnel employed by the hospital shall:

(i) provide any necessary medical care to the newborn child;

(ii) notify the division of receipt of the newborn child as soon as possible, but no later than 24 hours after receipt of the newborn child; and

(iii) prepare a birth certificate or foundling birth certificate if parentage is unknown for the newborn child and file the certificate with the Office of Vital Records and Statistics within the Department of Health and Human Services.

(e) A hospital and personnel employed by a hospital are immune from any civil or criminal liability arising from accepting a newborn child if the personnel employed by the hospital substantially comply with the provisions of this part and medical treatment is administered according to standard medical practice.

(3) The division shall assume care and protective custody of the newborn child immediately upon notice from the hospital.

(4) So long as the division determines there is no abuse or neglect of the newborn child, neither the newborn child nor the child's parents are subject to:

(a) the investigation provisions contained in Section 80-2-701; or

(b) the provisions of Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(5) (a) Unless identifying information relating to the nonrelinquishing parent of the newborn child is provided, the division shall:

(i) work with local law enforcement and the Bureau of Criminal Identification within the Department of Public Safety in an effort to ensure that the newborn child has not been identified as a missing child;

(ii) immediately place or contract for placement of the newborn child in a potential adoptive home and, within 10 days after the day on which the child is received, file a petition for termination of parental rights in accordance with this chapter;

(iii) direct the Office of Vital Records and Statistics within the Department of Health and Human Services to conduct a search for:

(A) a birth certificate for the newborn child; and

(B) unmarried biological fathers in the registry maintained by the Office of Vital Records and Statistics in accordance with [~~Title 78B, Chapter 15, Part 4, Registry~~]Title 81, Chapter 5, Part 4, Registry; and

(iv) provide notice to each potential father identified on the registry described in Subsection (5)(a)(iii) in accordance with [~~Title 78B, Chapter 15, Part 4, Registry~~]Title 81, Chapter 5, Part 4, Registry.

(b) (i) If no individual has affirmatively identified himself or herself within two weeks after the day on which notice under Subsection (5)(a)(iv) is complete and established paternity by scientific testing within as expeditious a time frame as practicable, a hearing on the petition for termination of parental rights shall be scheduled and notice provided in accordance with this chapter.

(ii) If a nonrelinquishing parent is not identified, relinquishment of a newborn child under this part is considered grounds for termination of parental rights of both the relinquishing and nonrelinquishing parents under Section 80-4-301.

(6) If at any time before the day on which the newborn child is adopted, the juvenile court finds it is in the best interest of the newborn child, the court shall deny the petition for termination of parental rights.

(7) The division shall provide for, or contract with a child-placing agency to provide for expeditious adoption of the newborn child.

(8) So long as the individual relinquishing a newborn child is the newborn child's parent or designee, and there is no abuse or neglect, safe relinquishment of a newborn child in substantial compliance with this part is an affirmative defense to any potential criminal liability for abandonment or neglect relating to the relinquishment.

Section 77. Section 80-7-102 is amended to read:

80-7-102. Definitions.

As used in this chapter:

(1) "Emancipation" or "emancipated" means a legal status created by court order that allows a minor to:

(a) live independent of the minor's parents or guardian; and

(b) exercise the same rights as an adult under Subsection 80-7-105(1).

(2) "Guardian" has the same meaning as in Section 75-1-201.

(3) "Minor" means an individual who is 16 years old or older.

[~~(4) "Parent" means a natural parent as defined in Section 80-1-102.~~]

Section 78. Section 81-1-101 is amended to read:

TITLE 81. UTAH DOMESTIC RELATIONS CODE

81-1-101. Definitions for title.

As used in this title:

[~~(1) "Child" means, except as provided in Section 81-6-101, a biological or adopted child of any age.~~]

(1) "Child" means, except as provided in Sections 81-5-102, 81-6-101, 81-8-102, and 81-10-101, a son or daughter of any age.

(2) "Court" means:

(a) a judge; or

(b) a court commissioner if the court commissioner has authority to hear the matter under Section 78A-5-107 or the Utah Rules of Judicial Administration.

(3) "Custodial parent" means:

(a) a parent awarded primary physical custody of a minor child by a court order;

(b) if both parents have joint physical custody:

(i) the parent awarded more overnights each year by a court order; or

(ii) the parent designated as the custodial parent by a court order; or

(c) if there is no court order, the parent with whom the minor child resides more than one-half of the calendar year without regard to any temporary parent-time.

(4) "Minor child" means, except as provided in Section 81-6-101, a child who is younger than 18 years old and is not emancipated.

(5) "Noncustodial parent" means the parent who is not the custodial parent regardless of any designation of joint legal custody.

(6) "Parent" means[~~a parent~~], except as provided in Section 81-13-211, an individual with an established parent-child relationship as described in Section [~~78B-15-201~~]81-5-201.

Section 79. Section 81-1-202 is amended to read:

81-1-202. Court records in a domestic relations action.

(1) (a) In an action under this title, [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act, or Title 78B, Chapter 15, Utah Uniform Parentage Act,~~]a party may file a motion to have the records of the action other than the final judgment, order, or decree, classified as private.

(b) If the court finds that there are substantial interests favoring restricting access that clearly outweigh the interests favoring access, the court may classify the records of the action, or any part of the records of the action, other than the final order, judgment, or decree, as private.

(c) An order classifying part of the records of the action as private does not apply to subsequent filings.

(d) The record of an action is private until the court determines it is possible to release the record without prejudice to the interests that justified the closure.

(2) (a) Any interested person may petition the court to permit access to a record classified as private as described in Subsection (1).

(b) The interested person described in Subsection (2)(a) shall serve the petition on the parties to the closure order.

(3) A party shall place the social security number of any individual, who is the subject of an action under this title, in the records relating to the matter.

Section 80. Section 81-4-404 is amended to read:

81-4-404. Allegations of child abuse or child sexual abuse in a divorce proceeding -- Investigation.

(1) When an allegation of child abuse or child sexual abuse is made in a divorce proceeding, or a request for modification of a divorce decree, that implicates a party, the court, after making an inquiry, may order that an investigation be conducted by the Division of Child and Family Services in accordance with Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.

(2) A final award of custody or parent-time may not be rendered until a report on that investigation, consistent with Section 80-2-1005, is received by the court.

(3) The Division of Child and Family Services shall conduct an investigation described in Subsection (1) within 30 days of the court's notice and request for an investigation.

(4) In reviewing a report described in Subsection (2), the court shall comply with Sections 78A-2-703, 78A-2-705, and [~~78B-15-612~~]81-5-612.

Section 81. Section 81-5-102, which is renumbered from Section 78B-15-102 is renumbered and amended to read:

CHAPTER 5. UNIFORM PARENTAGE ACT

PART 1. General Provisions

[~~78B-15-102~~]81-5-102. Definitions for chapter.

As used in this chapter:

(1) "Adjudicated father" means a man who has been adjudicated by a tribunal to be the father of a child.

(2) "Alleged father" means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined.

(3) (a) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse.

(b) "Assisted reproduction" includes:

(i) intrauterine insemination;

(ii) donation of eggs;

(iii) donation of embryos;

(iv) in vitro fertilization and transfer of embryos; [~~and~~]or

(v) intracytoplasmic sperm injection.

[~~(4) "Birth expenses" means all medical costs associated with the birth of a child, including the related expenses for the biological mother during her pregnancy and delivery.~~]

[~~(5)~~](4) (a) "Birth mother" means the [~~biological mother of a child~~]woman that gives birth to the child.

(b) "Birth mother" does not include a gestational mother.

[~~(6)~~](5) "Child" means an individual of any age whose parentage may be determined under this chapter.

(6) "Child support" means the same as that term is defined in Section 81-6-101.

(7) "Child support services agency" means a public official or agency authorized under Title IV-D of the Social Security Act that has the authority to seek:

(a) enforcement of support orders or laws relating to the duty of support;

(b) establishment or modification of child support;

(c) determination of parentage; or

(d) location of child-support obligors and their income and assets.

[~~(7)~~](8) "Commence" means to file the initial pleading seeking an adjudication of parentage in the appropriate tribunal of this state.

[~~(8)~~](9) "Declarant father" means a male who[~~,~~]:

(a) along with the [~~biological~~]birth mother, claims to be the genetic father of a child[~~,~~];and

(b) signs a voluntary declaration of paternity to establish the man's [~~paternity~~]parentage.

[~~(9)~~](10) "Determination of parentage" means the establishment of the parent-child relationship by:

(a) the signing of a valid declaration of paternity under Part 3, Voluntary Declaration of Paternity[~~Act,~~]; or

(b) adjudication by a tribunal.

[~~(10)~~](11) (a) "Donor" means an individual who produces eggs or sperm used for assisted reproduction, whether or not for consideration.

(b) "Donor" does not include:

(i) a husband who provides sperm, or a wife who provides eggs, to be used for assisted reproduction by the wife;

(ii) a woman who gives birth to a child by means of assisted reproduction, except as otherwise provided in Part 8, Gestational Agreement; [~~or~~]

(iii) a parent under Part 7, Assisted Reproduction[~~, or~~]; or

(iv) an intended parent under Part 8, Gestational Agreement.

[~~(11)~~](12) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of the individual's ancestry or that is so identified by other information.

[~~(12)~~](13) "Financial support" means:

(a) a base child support award as defined in Section 81-6-101[~~,~~];

(b) all past-due support [~~which~~]that accrues under an order for current periodic payments[~~,~~]; and

(c) sum certain judgments for past-due support.

[~~(13)~~](14) (a) "Genetic testing" means an analysis of genetic markers to exclude or identify a man as the father or a woman as the mother of a child.

(b) "Genetic testing" includes an analysis of one or a combination of the following:

(i) deoxyribonucleic acid; or

(ii) blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

[~~(14)~~](15) "Gestational mother" means [~~an adult woman who~~]a woman who:

(a) is 18 years old or older; and

(b) gives birth to a child under a gestational agreement.

[~~(15)~~](16) "Man" means a male individual of any age.

[~~(16) "Medical support" means a provision in a support order that requires the purchase and maintenance of appropriate insurance for health and dental expenses of dependent children, and assigns responsibility for uninsured medical expenses.~~]

[~~(17) "Parent" means an individual who has established a parent-child relationship under Section 78B-15-201.~~]

(17) "Obligee" means the same as that term is defined in Section 81-6-101.

(18) "Obligor" means the same as that term is defined in Section 81-6-101.

(19) "Parentage" means a parent-child relationship.

[~~(18)~~](20) (a) "Parent-child relationship" means the legal relationship between a child and a parent of the child as described in Section 81-5-201.

(b) "Parent-child relationship" includes:

(i) the mother-child relationship[~~and~~]; or

(ii) the father-child relationship.

[~~(19)~~](21) [~~"Paternity~~]"Parentage index" means the likelihood of paternity calculated by computing the ratio between:

(a) the likelihood that the tested man is the father, based on the genetic markers of the tested man and child, conditioned on the hypothesis that the tested man is the father of the child; and

(b) the likelihood that the tested man is not the father, based on the genetic markers of the tested man and child, conditioned on the hypothesis that the tested man is not the father of the child and that the father is of the same ethnic or racial group as the tested man.

[~~(20)~~](22) "Presumed father" means a man who, by operation of law under Section [~~78B-15-204~~]81-5-204, is recognized as the father of a child until that status is rebutted or confirmed [~~as set forth in~~]in accordance with this chapter.

[~~(21)~~](23) "Probability of [~~paternity~~]parentage" means the measure, for the ethnic or racial group to which the alleged father belongs, of the probability that the man in question is the father of the child, compared with a random, unrelated man of the same ethnic or racial

group, expressed as a percentage incorporating the [~~paternity~~]parentage index and a prior probability.

[~~(22)~~](24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[~~(23)~~](25) "Signatory" means an individual who authenticates a record and is bound by [~~its~~]the record's terms.

[~~(24)~~](26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory, Native American Tribe, or insular possession subject to the jurisdiction of the United States.

(27) "Support" means the same as that term is defined in Section 81-6-101.

[~~(25) "Support-enforcement agency" means a public official or agency authorized under Title IV-D of the Social Security Act which has the authority to seek:~~]

[~~(a) enforcement of support orders or laws relating to the duty of support;~~]

[~~(b) establishment or modification of child support;~~]

[~~(c) determination of parentage; or~~]

[~~(d) location of child-support obligors and their income and assets.~~]

[~~(26)~~](28) "Tribunal" means a court of law, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

(29) "Unmarried biological father" means the same as that term is defined in Section 81-13-101.

Section 82. Section 81-5-103, which is renumbered from Section 78B-15-103 is renumbered and amended to read:

[~~78B-15-103~~]81-5-103. Scope -- Choice of law -- Determination of maternity.

(1) This chapter applies to determinations of parentage in this state.

(2) The tribunal shall apply the law of this state to adjudicate the parent-child relationship.

(3) The applicable law may not depend upon:

(a) the place of birth of the child; or

(b) the past or present residence of the child.

[~~(3)~~](4) This chapter may not create, enlarge, or diminish parental rights or duties under other laws of this state.

(5) The provisions of this chapter relating to a determination of paternity also apply to a determination of maternity.

Section 83. Section 81-5-104, which is renumbered from Section 78B-15-104 is renumbered and amended to read:

[~~78B-15-104~~]81-5-104. Authority of Office of Recovery Services -- Duty of attorney general and county attorney.

[~~(1) (a) Except as provided in Subsection 78A-6-104(1)(a)(i), the district court has original jurisdiction over any action brought under this chapter.~~]

[~~(b) If the juvenile court has concurrent jurisdiction under Subsection 78A-6-104(1)(a)(i)over a paternity action filed in the district court, the district court may transfer jurisdiction over the paternity action to the juvenile court.~~]

[~~(2)~~](1) The Office of Recovery Services is authorized to establish [~~paternity~~]parentage in accordance with this chapter, Title 26B, Chapter 9, Recovery Services and Administration of Child Support, and Title 63G, Chapter 4, Administrative Procedures Act.

(2) Whenever the state commences an action under this chapter, the attorney general, or the county attorney of the county where the obligee resides, shall represent the state.

(3) The attorney general or the county attorney does not represent or have an attorney-client relationship with the obligee or the obligor in carrying out the duties under this chapter.

[~~(3) A court shall, without adjudicating paternity, dismiss a petition that is filed under this chapter by an unmarried biological father if he is not entitled to consent to the adoption of the child under Sections 78B-6-121 and 78B-6-122.~~]

Section 84. Section 81-5-105 is enacted to read:

81-5-105. General requirements for parentage action or settlement -- Filing parentage with the Office of Vital Records and Statistics.

(1) A court shall, without adjudicating parentage, dismiss a petition that is filed under this chapter by an unmarried biological father if the unmarried biological father is not entitled to consent to the adoption of the child as described in Section 81-13-213.

(2) The standard of proof in a trial to establish parentage is "by clear and convincing evidence."

(3) Utah Rule of Civil Procedure 55, Default, applies to a parentage action commenced under this chapter.

(4) An agreement of settlement with an alleged father is binding only when approved by the tribunal.

(5) If a parentage action is brought under this chapter, the obligor's liabilities for past support are limited to the period of four years preceding the commencement of an action.

(6) (a) If the tribunal determines that an alleged father is a parent of the child, the tribunal may upon the tribunal's own motion, or upon motion of the alleged father, order parent-time rights in accordance with Title 81, Chapter 9, Custody, Parent-time, and Visitation, as the tribunal considers appropriate under the circumstances.

(b) Parent-time rights may not be granted to an alleged father if the child has been subsequently adopted.

(7) A party to an action under this chapter has a continuing obligation to keep the tribunal informed of the party's current address.

(8) A proceeding under this chapter is subject to other laws of this state governing the health, safety, privacy, and liberty of a child or other individual who could be jeopardized by disclosure of identifying information, including address, telephone number, place of employment, social security number, the child's day-care facility, or school.

(9) An adjudication of parentage or declaration of paternity shall be filed with the Office of Vital Records and Statistics in accordance with Section 26B-8-104.

Section 85. Section 81-5-201, which is renumbered from Section 78B-15-201 is renumbered and amended to read:

PART 2. Parent and Child Relationship

[~~78B-15-201~~]81-5-201. Establishment of parent-child relationship.

(1) (a) The mother-child relationship is established between a woman and a child by:

(i) the woman's having given birth to the child, except as otherwise provided in Part 8, Gestational Agreement;

(ii) an adjudication of the woman's maternity;

(iii) adoption of the child by the woman;

(iv) an adjudication confirming the woman as a parent of a child born to a gestational mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable under other law; or

(v) an unrebutted presumption of maternity of the child established in the same manner as under Section [~~78B-15-204~~]81-5-204.

(b) In this chapter, the presumption of maternity shall be treated the same as a presumption of paternity as established in Subsection [~~78B-15-201(2)(a)~~](2)(a).

(2) The father-child relationship is established between a man and a child by:

(a) an unrebutted presumption of the man's paternity of the child under Section [~~78B-15-204~~]81-5-204;

(b) an effective declaration of paternity by the man under [~~Part 3, Voluntary Declaration of Paternity Act~~]Part 3, Voluntary Declaration of Paternity, unless the declaration has been rescinded or successfully challenged;

(c) an adjudication of the man's paternity;

(d) adoption of the child by the man;

(e) the man having consented to assisted reproduction by a woman under Part 7, Assisted Reproduction, which resulted in the birth of the child; or

(f) an adjudication confirming the man as a parent of a child born to a gestational mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable under other law.

Section 86. Section 81-5-202, which is renumbered from Section 78B-15-202 is renumbered and amended to read:

[~~78B-15-202~~]81-5-202. No discrimination based on marital status.

A child born to parents who are not married to each other whose [~~paternity~~]parentage has been determined under this chapter has the same rights under the law as a child born to parents who are married to each other.

Section 87. Section 81-5-203, which is renumbered from Section 78B-15-203 is renumbered and amended to read:

[~~78B-15-203~~]81-5-203. Consequences of establishment of parentage.

Unless parental rights are terminated, a parent-child relationship established under this chapter applies for all purposes, except as otherwise specifically provided by other law of this state.

Section 88. Section 81-5-204, which is renumbered from Section 78B-15-204 is renumbered and amended to read:

[~~78B-15-204~~]81-5-204. Presumption of parentage.

(1) A man is presumed to be the father of a child if:

(a) [~~he and the mother~~]the man and the birth mother of the child are married to each other and the child is born during the marriage;

(b) [~~he and the mother~~]the man and the birth mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation;

(c) before the birth of the child, [~~he and the mother~~]the man and the birth mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days after [~~its~~]the marriage's termination by death, annulment, declaration of invalidity, or divorce or after a decree of separation; or

(d) after the birth of the child, [~~he and the mother~~]the man and the birth mother of the child married each other in apparent compliance with law, whether or not the marriage is, or could be declared, invalid, [~~he voluntarily asserted his paternity~~]the man voluntarily asserted the man's parentage of the child, and there is no other presumptive father of the child, and:

(i) the assertion is in a record filed with the Office of Vital Records and Statistics;

(ii) [~~he~~]the man agreed to be and is named as the child's father on the child's birth certificate; or

(iii) [~~he~~]the man promised in a record to support the child as his own.

(2) A presumption of [~~paternity~~]parentage established under this section may only be rebutted in accordance with Section [~~78B-15-607~~]81-5-607.

(3) If a child has an adjudicated father, the results of genetic testing are inadmissable to challenge [~~paternity except as set forth in Section 78B-15-607~~]parentage except as described in Section 81-5-607.

Section 89. Section 81-5-301, which is renumbered from Section 78B-15-301 is renumbered and amended to read:

PART 3. Voluntary Declaration of Paternity

[~~78B-15-301~~]81-5-301. Declaration of paternity.

The birth mother of a child and a man claiming to be the genetic father of the child may sign a declaration of paternity to establish the paternity of the child.

Section 90. Section 81-5-302, which is renumbered from Section 78B-15-302 is renumbered and amended to read:

[~~78B-15-302~~]81-5-302. Execution of declaration of paternity.

(1) A declaration of paternity described in Section 81-5-301 must:

(a) be in a record;

(b) be signed, or otherwise authenticated, under penalty of perjury, by the birth mother and by the declarant father;

(c) be signed by the birth mother and declarant father in the presence of two witnesses who are not related by blood or marriage; [~~and~~]

(d) state that the child whose paternity is being declared:

(i) does not have a presumed father, or has a presumed father whose full name is stated; and

(ii) does not have another declarant or adjudicated father;

(e) state whether there has been genetic testing and, if so, that the declarant man's claim of paternity is consistent with the results of the testing; and

(f) state that the signatories understand that the declaration is the equivalent of a legal finding of paternity of the child and that a challenge to the declaration is permitted only under the limited circumstances described in Section [~~78B-15-307~~]81-5-307.

(2) If [~~either~~]the birth mother or the declarant father is a minor child, the voluntary declaration must also be signed by that [~~minor's~~]minor child's parent or legal guardian.

(3) A declaration of paternity is void if [~~it~~]the declaration of paternity:

(a) states that another man is a presumed father, unless a denial of paternity signed or otherwise authenticated by the presumed father is filed with the Office of Vital Records and Statistics in accordance with Section [~~78B-15-303~~]81-5-303;

(b) states that another man is a declarant or adjudicated father; or

(c) falsely denies the existence of a presumed, declarant, or adjudicated father of the child.

(4) A presumed father may sign or otherwise authenticate [~~an acknowledgment of paternity~~]a declaration of paternity.

(5) The declaration of paternity shall be:

(a) in a form prescribed by the Office of Vital Records [~~and shall be~~]and Statistics; and

(b) accompanied with a written and verbal notice of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the declaration.

(6) The [~~Social Security~~]social security number of any [~~person~~]individual who is subject to declaration of paternity shall be placed in the records relating to the matter.

(7) (a) The declaration of paternity shall become an amendment to the original birth certificate.

(b) The original certificate and the declaration shall be marked as to be distinguishable.

(c) The declaration may be included as part of subsequently issued certified copies of the birth certificate.

(d) Alternatively, electronically issued copies of a certificate may reflect the amended information and the date of the amendment only.

(8) (a) A declaration of paternity may be completed and signed any time after the birth of the child.

(b) A declaration of paternity may not be signed or filed after consent to or relinquishment for adoption has been signed.

(9) A declaration of paternity shall be considered effective when filed and entered into a database established and maintained by the Office of Vital Records and Statistics.

Section 91. Section 81-5-303, which is renumbered from Section 78B-15-303 is renumbered and amended to read:

[~~78B-15-303~~]81-5-303. Denial of paternity.

(1) A presumed or declarant father may sign a denial of [~~his paternity~~]the presumed or declarant father's paternity.

(2) The denial is valid only if:

[~~(1)~~](a) a declaration of paternity signed, or otherwise authenticated, by another man is filed [~~pursuant to Section 78B-15-305~~]in accordance with Section 81-5-305;

[~~(2)~~](b) the denial is in a form prescribed by and filed with the Office of Vital Records [~~,~~]and Statistics and is signed, or otherwise authenticated, under penalty of perjury; and

[~~(3)~~](c) the presumed or declarant father has not previously:

[~~(a)~~](i) declared [~~his~~]the presumed or declarant father's paternity, unless the previous declaration has been rescinded [~~pursuant to Section 78B-15-306~~]in accordance with Section 81-5-306 or successfully challenged [~~pursuant to Section 78B-15-307~~]in accordance with Section 81-5-307; or

[~~(b)~~](ii) been adjudicated to be the father of the child.

Section 92. Section 81-5-304, which is renumbered from Section 78B-15-304 is renumbered and amended to read:

[~~78B-15-304~~]81-5-304. Rules for declaration and denial of paternity.

(1) (a) A declaration of paternity and a denial of paternity shall be contained in a single document.

(b) If the declaration [~~and denial~~]of paternity and the denial of paternity are both necessary, neither is valid until both are signed and filed.

(2) A declaration of paternity or a denial of paternity may not be signed before the birth of the child.

(3) Subject to Subsection (1), a declaration of paternity or denial of paternity takes effect on the birth of the child or the filing of the document with the Office of Vital Records and Statistics, whichever occurs later.

(4) A declaration of paternity or denial of paternity signed by a minor and by the minor's parent or legal guardian is valid if [~~it~~]the declaration of paternity or the denial of paternity is otherwise in compliance with this chapter.

Section 93. Section 81-5-305, which is renumbered from Section 78B-15-305 is renumbered and amended to read:

[~~78B-15-305~~]81-5-305. Effect of declaration or denial of paternity.

(1) Except as otherwise provided in Sections [~~78B-15-306~~]81-5-306 and [~~78B-15-307~~]81-5-307, a valid declaration of paternity filed with the Office of Vital Records and Statistics is equivalent to a legal finding of [~~paternity~~]parentage of a child and confers upon the declarant father all of the rights and duties of a parent.

(2) (a) When a declaration of paternity is filed, [~~it~~]the declaration of paternity shall be recognized as a basis for a child support order without any further requirement or proceeding regarding the establishment of [~~paternity~~]parentage.

[~~(a)~~](b) The liabilities of the declarant father include [~~, but are not limited to,~~]the reasonable expense of the birth mother's pregnancy and confinement and for the education, necessary support, and any funeral expenses for the child.

[~~(b)~~](c) When a father declares paternity, [~~his~~]the father's liability under Subsection (2)(a) for past amounts due is limited to the period of four years immediately preceding the date that the voluntary declaration of paternity was filed.

(3) (a) Except as otherwise provided in Sections [~~78B-15-306~~]81-5-306 and [~~78B-15-307~~]81-5-307, a valid denial of paternity by a presumed or declarant father filed with the Office of Vital Records and Statistics in conjunction with a valid declaration of paternity is equivalent to a legal finding of the [~~nonpaternity~~]nonparentage of the presumed or declarant father and discharges the presumed or declarant father from all rights and duties of a parent.

(b) If a valid denial of paternity is filed with the Office of Vital Records [~~, the declarant or presumed father~~]and Statistics, the presumed or declarant father may not recover child support [~~he~~]that was paid prior to the time of filing.

Section 94. Section 81-5-306, which is renumbered from Section 78B-15-306 is renumbered and amended to read:

[~~78B-15-306~~]81-5-306. Proceeding for rescission.

(1) A signatory may rescind a declaration of paternity or denial of paternity by filing a voluntary rescission document with the Office of Vital Records and Statistics in a form prescribed by the [~~office~~]Office of Vital Records and Statistics before the earlier of:

(a) 60 days after the effective date of the declaration or denial, as provided in Sections [~~78B-15-303~~]81-5-303 and [~~78B-15-304~~]81-5-304; or

(b) the date of notice of the first adjudicative proceeding to which the signatory is a party, before a tribunal to adjudicate an issue relating to the child, including a proceeding that establishes support.

(2) Upon receiving a voluntary rescission document from a signatory under Subsection (1), the Office of Vital Records and Statistics shall provide notice of the rescission, by mail, to the other signatory at the last-known address of that signatory.

Section 95. Section 81-5-307, which is renumbered from Section 78B-15-307 is renumbered and amended to read:

[~~78B-15-307~~]81-5-307. Challenge after expiration of period for rescission.

(1) After the period for rescission under Section [~~78B-15-306~~]81-5-306 has expired, a signatory of a declaration of paternity or denial of paternity [~~, or a support-enforcement~~]or a child support services agency, may commence a proceeding to challenge the declaration or denial only on the basis of fraud, duress, or material mistake of fact.

(2) A party challenging a declaration of paternity or denial of paternity has the burden of proof.

(3) A challenge brought on the basis of fraud or duress may be commenced at any time.

(4) (a) A challenge brought on the basis of a material mistake of fact may be commenced within four years after the declaration is filed with the Office of Vital Records and Statistics.

(b) For the purposes of this Subsection (4), if the declaration of paternity was filed with the Office of Vital Records [~~prior to~~]and Statistics before May 1, 2005, a challenge may be brought within four years after May 1, 2005.

(5) For purposes of Subsection (4), genetic test results that exclude a declarant father or that rebuttably identify another man as the father in accordance with Section [~~78B-15-505~~]81-5-505 constitute a material mistake of fact.

Section 96. Section 81-5-308, which is renumbered from Section 78B-15-308 is renumbered and amended to read:

[~~78B-15-308~~]81-5-308. Procedure for rescission or challenge.

(1) Every signatory to a declaration of paternity and any related denial of paternity must be made a party to a proceeding to rescind or challenge the declaration or denial.

(2) For the purpose of rescission of, or challenge to, a declaration of paternity or denial of paternity, a signatory submits to personal jurisdiction of this state by signing the declaration or denial, effective upon the filing of the document with the Office of Vital Records and Statistics.

(3) Except for good cause shown, during the pendency of a proceeding to rescind or challenge a declaration of paternity or denial of paternity, the tribunal may not suspend the legal responsibilities of a signatory arising from the declaration, including the duty to pay child support.

(4) A proceeding to rescind or to challenge a declaration of paternity or denial of paternity must be conducted in the same manner as a proceeding to adjudicate parentage under Part 6, Adjudication of Parentage.

(5) At the conclusion of a proceeding to rescind or challenge a declaration of paternity or denial of paternity, the tribunal shall order the Office of Vital Records and Statistics to amend the birth record of the child, if appropriate.

(6) If the declaration is rescinded, the declarant father may not recover child support [~~he~~]that was paid prior to the entry of an order of rescission.

Section 97. Section 81-5-309, which is renumbered from Section 78B-15-309 is renumbered and amended to read:

[~~78B-15-309~~]81-5-309. Ratification barred.

A tribunal or administrative agency conducting a judicial or administrative proceeding may not ratify an unchallenged declaration of paternity.

Section 98. Section 81-5-310, which is renumbered from Section 78B-15-310 is renumbered and amended to read:

[~~78B-15-310~~]81-5-310. Full faith and credit.

A tribunal of this state shall give full faith and credit to a declaration of paternity or denial of paternity effective in another state if the declaration or denial has been signed and is otherwise in compliance with the law of the other state.

Section 99. Section 81-5-311, which is renumbered from Section 78B-15-311 is renumbered and amended to read:

[~~78B-15-311~~]81-5-311. Forms for declaration, denial, or rescission.

(1) To facilitate compliance with this part, the Office of Vital Records and Statistics shall prescribe forms for the declaration [~~, denial, and rescission of paternity~~]of paternity, the denial of paternity, and the rescission of a declaration of paternity.

(2) A valid declaration of paternity or denial of paternity is not affected by a later modification of the prescribed form.

Section 100. Section 81-5-312, which is renumbered from Section 78B-15-312 is renumbered and amended to read:

[~~78B-15-312~~]81-5-312. Release of information.

The Office of Vital Records and Statistics may release information relating to the declaration of paternity or denial of paternity to a signatory of the declaration or denial and to tribunals and federal, tribal, and state [~~support-enforcement~~]child support services agencies of this state or another state.

Section 101. Section 81-5-313, which is renumbered from Section 78B-15-313 is renumbered and amended to read:

[~~78B-15-313~~]81-5-313. Rulemaking by Office of Vital Records and Statistics.

The Office of Vital Records and Statistics may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, to implement this part.

Section 102. Section 81-5-401, which is renumbered from Section 78B-15-401 is renumbered and amended to read:

PART 4. Registry

[~~78B-15-401~~]81-5-401. Maintenance of records.

(1) The Office of Vital Records and Statistics shall register the following records [~~which~~]that are filed with the office:

(a) all declarations of paternity;

(b) all judicial and administrative determinations of [~~paternity~~]parentage; and

(c) all notices of proceedings to establish [~~paternity which are filed pursuant to Sections 78B-6-110, 78B-6-120, 78B-6-121, and 78B-6-122~~]parentage that are filed in accordance with Sections 81-13-207, 81-13-212, and 81-13-213.

(2) A notice of initiation of [~~paternity~~]parentage proceedings may not be accepted into the registry unless accompanied by a copy of the pleading [~~which~~]that has been filed with the court to establish [~~paternity~~]parentage.

(3) A notice of initiation of [~~paternity~~]parentage proceedings may not be filed if another man is the adjudicated or declarant father.

Section 103. Section 81-5-402, which is renumbered from Section 78B-15-402 is renumbered and amended to read:

[~~78B-15-402~~]81-5-402. Effect of registration.

(1) An unmarried biological father who desires to be notified of a proceeding for adoption of a child must file a notice of the initiation of [~~paternity~~]parentage proceedings as required by Sections [~~78B-6-110, 78B-6-120, 78B-6-121, and 78B-6-122~~]81-13-207, 81-13-212, and 81-13-213.

(2) A registrant shall promptly notify the registry in a record of any change in the information registered.

(3) The Office of Vital Records and Statistics shall incorporate all new information received into its records but need not affirmatively seek to obtain current information for incorporation in the registry.

Section 104. Section 81-5-403, which is renumbered from Section 78B-15-403 is renumbered and amended to read:

[~~78B-15-403~~]81-5-403. Notice of proceeding.

Notice of an adoption proceeding shall be given to [~~unmarried biological fathers pursuant to Section 78B-6-110~~]an unmarried biological father as described in Section 81-13-207.

Section 105. Section 81-5-404, which is renumbered from Section 78B-15-404 is renumbered and amended to read:

[~~78B-15-404~~]81-5-404. Required form.

(1) (a) The Office of Vital Records and Statistics shall prepare a form to be filed with the agency.

(b) The form shall require the signature of the registrant and state that the form is signed under penalty of perjury.

(2) The form shall also state that:

(a) a timely filing of notice of the initiation of [~~paternity proceedings which~~]parentage proceedings that is filed pursuant to Subsection [~~78B-15-402(1)~~]81-5-402(1) entitles the registrant to notice of a proceeding for adoption of the child;

(b) a timely filing does not commence a proceeding to establish [~~paternity~~]parentage;

(c) the information disclosed on the form may be used against the registrant to establish [~~paternity~~]parentage;

(d) services to assist in establishing [~~paternity~~]parentage of a child who is not placed for adoption are available to the registrant through the Office of Recovery Services;

(e) the registrant should also file in another state if conception or birth of the child occurred in the other state;

(f) information on registries of other states is available from the Office of Vital Records and Statistics; and

(g) procedures exist to remove the filing of a proceeding to establish [~~paternity~~]parentage if the proceeding is dismissed, or if a finding of [~~paternity~~]parentage is rescinded or set aside under this chapter.

Section 106. Section 81-5-405, which is renumbered from Section 78B-15-405 is renumbered and amended to read:

[~~78B-15-405~~]81-5-405. Furnishing of information -- Confidentiality.

(1) (a) The Office of Vital Records and Statistics shall send a copy of the filing to a person or entity [~~set forth~~]described in Subsection (2), who has requested a copy.

(b) The copy of the filing shall be sent to the most recent address provided by the requestor.

(2) Information contained in records [~~which~~]that are filed pursuant to Section [~~78B-15-401~~]81-5-401 is confidential and may be released on request only to:

(a) a tribunal or a person designated by the tribunal;

(b) the birth mother of the child who is the subject of the filing;

(c) an agency authorized by other law to receive the information;

(d) a licensed child-placing agency;

(e) the Office of Recovery Services, the Office of the Attorney General, or a [~~support enforcement~~]child support services agency of another state or tribe;

(f) a party or the party's attorney of record in a proceeding under this chapter or in a proceeding for adoption of, or for termination of parental rights regarding, a child who is the subject of the filing; and

(g) the registry of [~~paternity~~]parentage in another state.

Section 107. Section 81-5-406, which is renumbered from Section 78B-15-406 is renumbered and amended to read:

[~~78B-15-406~~]81-5-406. Penalty for releasing information.

A person who intentionally or knowingly, releases confidential information from the Office of Vital Records [~~which is filed pursuant to Section 78B-15-401~~]and Statistics that is filed in accordance with Section 81-5-401 to a person or agency not authorized to receive the information under Section [~~78B-15-405~~]81-5-405 is guilty of a class B misdemeanor.

Section 108. Section 81-5-407, which is renumbered from Section 78B-15-407 is renumbered and amended to read:

[~~78B-15-407~~]81-5-407. Removal of registration -- Rulemaking authority.

The Office of Vital Records and Statistics may remove a registration in accordance with rules adopted by the [~~office~~]Office of Vital Records and Statistics in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 109. Section 81-5-408, which is renumbered from Section 78B-15-408 is renumbered and amended to read:

[~~78B-15-408~~]81-5-408. Fees for registry.

(1) A fee may not be charged to remove a registration.

(2) Except as otherwise provided in Subsection (3), the Office of Vital Records and Statistics may charge a reasonable fee for registering records pursuant to Section [~~78B-15-401~~]81-5-401, making a search of the registry, and for furnishing a certificate.

(3) The Office of Recovery Services, the Office of the Attorney General, and [~~support-enforcement~~]child support services agencies of other states or tribes may not be required to pay the fee authorized by Subsection (2).

Section 110. Section 81-5-409, which is renumbered from Section 78B-15-409 is renumbered and amended to read:

[~~78B-15-409~~]81-5-409. Search of records -- Certificate.

(1) Upon the request of an individual, tribunal, or agency identified in Section [~~78B-15-405~~]81-5-405, the Office of Vital Records and Statistics shall search its records for any registration made [~~pursuant to Section 78B-15-401~~]in accordance with Section 81-5-401 and furnish to the requestor a certificate of search [~~which~~]that shall be signed on behalf of the [~~office~~]Office of Vital Records and Statistics and state that:

(a) a search has been made of the records of the Office of Vital Records and Statistics; and

(b) a registration containing the information required to identify the registrant:

(i) has been found and is attached to the certificate of search; or

(ii) has not been found.

(2) A petitioner shall file the certificate of search with the tribunal in connection with a proceeding for adoption.

Section 111. Section 81-5-410, which is renumbered from Section 78B-15-410 is renumbered and amended to read:

[~~78B-15-410~~]81-5-410. Admissibility of information.

A certificate of search of the registry of [~~paternity~~]parentage in this or another state is admissible in a proceeding for adoption of a child and, if relevant, in other legal proceedings.

Section 112. Section 81-5-501, which is renumbered from Section 78B-15-501 is renumbered and amended to read:

PART 5. Genetic Testing

[~~78B-15-501~~]81-5-501. Scope of part.

This part governs genetic testing of an individual to determine parentage, whether the individual:

(1) voluntarily submits to testing; or

(2) is tested pursuant to an order of a tribunal or a [~~support-enforcement~~]child support services agency.

Section 113. Section 81-5-502, which is renumbered from Section 78B-15-502 is renumbered and amended to read:

[~~78B-15-502~~]81-5-502. Order for testing.

(1) Upon the motion of any party to the action, except as otherwise provided in this part and Part 6, Adjudication of Parentage, the tribunal shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:

(a) alleging [~~paternity~~]parentage and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or

(b) denying [~~paternity~~]parentage and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.

(2) If a request for genetic testing of a child is made before birth, the tribunal may not order in-utero testing.

(3) If two or more [~~men~~]individuals are subject to an order for genetic testing, the testing may be ordered concurrently or sequentially.

Section 114. Section 81-5-503, which is renumbered from Section 78B-15-503 is renumbered and amended to read:

[~~78B-15-503~~]81-5-503. Requirements for genetic testing.

(1) Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:

(a) the American Association of Blood Banks, or a successor to its functions;

(b) the American Society for Histocompatibility and Immunogenetics, or a successor to its functions; or

(c) an accrediting body designated by the federal Secretary of Health and Human Services.

(2) (a) A specimen used in genetic testing may consist of one or more samples, or a combination of samples, of blood, buccal cells, bone, hair, or other body tissue or fluid.

(b) The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.

Section 115. Section 81-5-504, which is renumbered from Section 78B-15-504 is renumbered and amended to read:

[~~78B-15-504~~]81-5-504. Report of genetic testing.

(1) (a) A report of genetic testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory.

(b) A report made under the requirements of this part is self-authenticating.

(2) Documentation from the testing laboratory of the following information is sufficient to establish a reliable chain of custody that allows the results of genetic testing to be admissible without testimony:

(a) the names and photographs of the individuals whose specimens have been taken;

(b) the names of the individuals who collected the specimens;

(c) the places and dates the specimens were collected;

(d) the names of the individuals who received the specimens in the testing laboratory;

(e) the dates the specimens were received; and

(f) the fingerprints of the individuals whose specimens have been taken.

Section 116. Section 81-5-505, which is renumbered from Section 78B-15-505 is renumbered and amended to read:

[~~78B-15-505~~]81-5-505. Genetic testing results -- Rebuttal.

(1) Under this chapter, a man is presumed to be identified as the father of a child if the genetic testing complies with this part and the results disclose that:

(a) the man has at least a 99% probability of [~~paternity~~]parentage, using a prior probability of 0.50, as calculated by using the combined [~~paternity~~]parentage index obtained in the testing; and

(b) a combined [~~paternity~~]parentage index of at least 100 to 1.

(2) A man identified under Subsection (1) as the father of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this part [~~which~~]that:

(a) excludes the man as a genetic father of the child; or

(b) identifies another man as the possible father of the child.

(3) (a) If an issue is raised as to whether the appropriate ethnic or racial group database was used by the testing laboratory, the testing laboratory will be asked to rerun the test using the correct ethnic or racial group database.

(b) If the testing laboratory does not have an adequate database, another testing laboratory may be engaged to perform the calculations.

(4) If a presumption of [~~paternity~~]parentage is not rebutted by a second test, the tribunal shall issue an order establishing [~~paternity~~]parentage.

Section 117. Section 81-5-506, which is renumbered from Section 78B-15-506 is renumbered and amended to read:

[~~78B-15-506~~]81-5-506. Costs of genetic testing.

(1) Subject to assessment of costs under Part 6, Adjudication of Parentage, the cost of initial genetic testing shall be advanced:

(a) by a [~~support-enforcement~~]child support services agency in a proceeding in which the [~~support-enforcement~~]child support services agency is providing services;

(b) by the individual who made the request;

(c) as agreed by the parties; or

(d) as ordered by the tribunal.

(2) In cases in which the cost is advanced by the [~~support-enforcement~~]child support services agency, the agency may seek reimbursement from a man who is rebuttably identified as the father of the child.

Section 118. Section 81-5-507, which is renumbered from Section 78B-15-507 is renumbered and amended to read:

[~~78B-15-507~~]81-5-507. Additional genetic testing.

(1) The tribunal shall order additional genetic testing upon the request of a party who contests the result of the original testing.

(2) If the previous genetic testing identified a man as the father of the child under Section [~~78B-15-505~~]81-5-505, the tribunal may not order additional testing unless the party provides advance payment for the testing.

(3) If the tribunal orders a second genetic test in accordance with this section, the additional testing must be completed within 45 days of the tribunal's order or the requesting party's objection to the first test will be automatically denied.

(4) If failure to complete the test occurs because of noncooperation of the birth mother or unavailability of the child, the time will be tolled.

Section 119. Section 81-5-508, which is renumbered from Section 78B-15-508 is renumbered and amended to read:

[~~78B-15-508~~]81-5-508. Genetic testing when specimens not available.

(1) Subject to Subsection (2), if a genetic-testing specimen is not available from a man who may be the father of a child, for good cause and under extraordinary circumstances the tribunal considers to be just, the tribunal may order the following individuals to submit specimens for genetic testing:

(a) the parents of the man;

(b) brothers and sisters of the man;

(c) other children of the man and their mothers; and

(d) other relatives of the man necessary to complete genetic testing.

(2) Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

Section 120. Section 81-5-509, which is renumbered from Section 78B-15-509 is renumbered and amended to read:

[~~78B-15-509~~]81-5-509. Deceased individual.

For good cause shown, the tribunal may order genetic testing of a deceased individual.

Section 121. Section 81-5-510, which is renumbered from Section 78B-15-510 is renumbered and amended to read:

[~~78B-15-510~~]81-5-510. Identical brothers.

(1) The tribunal may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child.

(2) If each brother satisfies the requirements as the identified father of the child under Section [~~78B-15-505~~]81-5-505 without consideration of another identical brother being identified as the father of the child, the tribunal may rely on nongenetic evidence to adjudicate which brother is the father of the child.

Section 122. Section 81-5-511, which is renumbered from Section 78B-15-511 is renumbered and amended to read:

[~~78B-15-511~~]81-5-511. Confidentiality of genetic testing.

Release of the report of genetic testing for parentage is controlled by Title 63G, Chapter 2, Government Records Access and Management Act.

Section 123. Section 81-5-601, which is renumbered from Section 78B-15-601 is renumbered and amended to read:

PART 6. Adjudication of Parentage

[~~78B-15-601~~]81-5-601. Definitions for part -- Proceeding authorized.

(1) As used in this part, "divorce" includes an annulment.

[~~(1)~~](2) An adjudicative proceeding may be maintained to determine the parentage of a child.

(3) A judicial proceeding is governed by the [~~rules of civil procedure~~]Utah Rules of Civil Procedure.

(4) An administrative proceeding is governed by Title 63G, Chapter 4, Administrative Procedures Act.

[~~(2) For the purposes of this part, "divorce" also includes an annulment.~~]

Section 124. Section 81-5-602, which is renumbered from Section 78B-15-602 is renumbered and amended to read:

[~~78B-15-602~~]81-5-602. Standing to maintain proceeding.

Subject to [~~Part 3, Voluntary Declaration of Paternity Act~~]Part 3, Voluntary Declaration of Paternity, and Sections [~~78B-15-607 and 78B-15-609~~]81-5-607 and 81-5-609, a proceeding to adjudicate parentage may be maintained by:

(1) the child;

(2) the birth mother of the child;

(3) a man whose paternity of the child is to be adjudicated;

(4) the [~~support enforcement~~]child support services agency or other governmental agency authorized by other law;

(5) an authorized adoption agency or licensed child-placing agency;

(6) a representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor child; or

(7) an intended parent under Part 8, Gestational Agreement.

Section 125. Section 81-5-603, which is renumbered from Section 78B-15-603 is renumbered and amended to read:

[~~78B-15-603~~]81-5-603. Parties to proceeding.

The following individuals shall be joined as parties in a proceeding to adjudicate parentage:

(1) the birth mother of the child;

(2) a man whose paternity of the child is to be adjudicated; and

(3) the state in accordance with Section 81-6-106.

Section 126. Section 81-5-604, which is renumbered from Section 78B-15-604 is renumbered and amended to read:

[~~78B-15-604~~]81-5-604. Personal jurisdiction.

(1) An individual may not be adjudicated to be a parent unless the tribunal has personal jurisdiction over the individual.

(2) A tribunal of this state having jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the conditions prescribed in Section [~~78B-14-201~~]81-8-201 are fulfilled, or the individual has signed a declaration of paternity.

(3) Lack of jurisdiction over one individual does not preclude the tribunal from making an adjudication of parentage binding on another individual over whom the tribunal has personal jurisdiction.

Section 127. Section 81-5-605, which is renumbered from Section 78B-15-605 is renumbered and amended to read:

[~~78B-15-605~~]81-5-605. Venue for a parentage proceeding.

[~~Venue for a judicial proceeding to adjudicate parentage is in the county of this state~~]

(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring a proceeding to adjudicate parentage in the county in which:

[~~(1)~~](a) the child resides or is found;

[~~(2)~~](b) the respondent resides or is found if the child does not reside in this state; or

[~~(3)~~](c) a proceeding for probate or administration of the presumed or alleged father's estate has been commenced.

(2) Subsection (1) does not apply to a proceeding brought in the Business and Chancery Court.

Section 128. Section 81-5-606, which is renumbered from Section 78B-15-606 is renumbered and amended to read:

[~~78B-15-606~~]81-5-606. No limitation -- Child having no declarant or adjudicated father.

(1) A proceeding to adjudicate the parentage of a child having no declarant or adjudicated father may be commenced at any time.

(2) If initiated after the child becomes an adult, only the child may initiate the proceeding.

Section 129. Section 81-5-607, which is renumbered from Section 78B-15-607 is renumbered and amended to read:

[~~78B-15-607~~]81-5-607. Limitation -- Child having presumed father.

(1) [~~Paternity~~]

(a) Parentage of a child conceived or born during a marriage with a presumed father, as described in Subsection [~~78B-15-204(1)(a), (b), or (c),~~]81-5-204(1)(a), (b), or (c) may be raised by the presumed father, [~~the mother, or a support enforcement agency~~]the birth mother, or a child support services agency at any time before filing an action for divorce or in the pleadings at the time of the divorce of the parents.

[~~(a)~~]

(b) (i) If the issue is raised prior to the adjudication, genetic testing may be ordered by the tribunal in accordance with Section [~~78B-15-608~~]81-5-608.

(ii) Failure of the birth mother of the child to appear for testing may result in an order allowing a motherless calculation of [~~paternity~~]parentage.

(iii) Failure of the birth mother to make the child available may not result in a determination that the presumed father is not the father, but shall allow for appropriate proceedings to compel the cooperation of the birth mother.

(iv) If the question of [~~paternity~~]parentage has been raised in the pleadings in a divorce and the tribunal addresses the issue and enters an order, the parties are estopped from raising the issue again, and the order of the tribunal may not be challenged on the basis of material mistake of fact.

[~~(b)~~](c) If the presumed father seeks to rebut the presumption of [~~paternity~~]parentage, then denial of a motion seeking an order for genetic testing or a decision to disregard genetic test results shall be based on a preponderance of the evidence.

[~~(c)~~](d) If the birth mother seeks to rebut the presumption of [~~paternity~~]parentage, the birth mother has the burden to show by a preponderance of the evidence that it would be in the best interests of the child to disestablish the parent-child relationship.

[~~(d)~~]

(e) (i) If a [~~support enforcement agency~~]child support services agency seeks to rebut the presumption of parentage and the [~~presumptive parent~~]presumed father opposes the rebuttal, the agency's request shall be denied.

(ii) Otherwise, the denial of the agency's motion seeking an order for genetic testing or a decision to disregard genetic test results shall be based on a preponderance of the evidence, taking into account the best interests of the child.

(2) For the presumption outside of marriage described in Subsection [~~78B-15-204(1)(d)~~]81-5-204(1)(d), the presumption may be rebutted at any time if the tribunal determines that the presumed father and the birth mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception.

(3) The presumption may be rebutted by:

(a) genetic test results that exclude the presumed father;

(b) genetic test results that rebuttably identify another man as the father in accordance with Section [~~78B-15-505~~]81-5-505;

(c) evidence that the presumed father and the birth mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception; or

(d) an adjudication under this part.

(4) There is no presumption to rebut if the presumed father was properly served and there has been a final adjudication of the issue.

Section 130. Section 81-5-608, which is renumbered from Section 78B-15-608 is renumbered and amended to read:

[~~78B-15-608~~]81-5-608. Authority to deny motion for genetic testing or disregard test results.

(1) In a proceeding to adjudicate the parentage of a child having a presumed father or to challenge the [~~paternity~~]parentage of a child having a declarant father, the tribunal may deny a motion seeking an order for genetic testing of the birth mother, the child, and the presumed or declarant father, or if testing has been completed, the tribunal may disregard genetic test results that exclude the presumed or declarant father if the tribunal determines that:

(a) the conduct of the birth mother or the presumed or declarant father estops that party from denying parentage; and

(b) it would be inequitable to disrupt the [~~father~~]parent-child relationship between the child and the presumed or declarant father.

(2) In determining whether to deny a motion seeking an order for genetic testing or to disregard genetic test results under this section, the tribunal shall consider the best interest of the child, including the following factors:

(a) the length of time between the proceeding to adjudicate parentage and the time that the presumed or declarant father was placed on notice that [~~he~~]the presumed or declarant father might not be the genetic father of the child;

(b) the length of time during which the presumed or declarant father has assumed the role of [~~father~~]parent of the child;

(c) the facts surrounding the presumed or declarant father's discovery of [~~his possible nonpaternity~~]the father's possible nonparentage;

(d) the nature of the relationship between the child and the presumed or declarant father;

(e) the age of the child;

(f) the harm that may result to the child if presumed or declared [~~paternity~~]parentage is successfully disestablished;

(g) the nature of the relationship between the child and any alleged father;

(h) the extent to which the passage of time reduces the chances of establishing the [~~paternity of another man~~]parentage of another individual and a child-support obligation in favor of the child; and

(i) other factors that may affect the equities arising from the disruption of the [~~father~~]parent-child relationship between the child and the presumed or declarant father or the chance of other harm to the child.

(3) If the tribunal denies a motion seeking an order for genetic testing or disregards genetic test results that exclude the presumed or declarant father, [~~it~~]the tribunal shall issue an order adjudicating the presumed or declarant father to be the father of the child.

Section 131. Section 81-5-609, which is renumbered from Section 78B-15-609 is renumbered and amended to read:

[~~78B-15-609~~]81-5-609. Limitation -- Child having declarant father.

(1) If a child has a declarant father, a signatory to the declaration of paternity or denial of [~~paternity or a support-enforcement~~]parentage or a child support services agency may commence a proceeding seeking to rescind the declaration or denial or challenge the [~~paternity~~]parentage of the child only within the time allowed under Section [~~78B-15-306or 78B-15-307~~]81-5-306 or 81-5-307.

(2) A proceeding under this section is subject to the application of the principles of estoppel established in Section [~~78B-15-608~~]81-5-608.

Section 132. Section 81-5-610, which is renumbered from Section 78B-15-610 is renumbered and amended to read:

[~~78B-15-610~~]81-5-610. Joinder of judicial proceedings -- Court reliance of custody and parent-time standards.

(1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, legal separation or separate maintenance, probate or administration of an estate, or other appropriate proceeding.

(2) A respondent may not join a proceeding described in Subsection (1) with a proceeding to adjudicate parentage brought under [~~Title~~

~~78B, Chapter 14, Utah Uniform Interstate Family Support Act~~]Chapter 8, Uniform Interstate Family Support Act.

(3) A court may determine issues of custody, parent-time, visitation, and child support in accordance with [~~Title 81,~~]Chapter 6, Child Support, Chapter 7, Payment and Enforcement of Spousal and Child Support, and [~~Title 81,~~]Chapter 9, Custody, Parent-time, and Visitation.

(4) (a) If a parentage action is determining issues of custody or parent-time for a child and the parents of the child are not married, the parties shall attend the mandatory parenting course described in Subsection 81-9-103(1)(b) within:

(i) for the petitioner, 60 days after the day on which the petition is filed; and

(ii) for the respondent, 30 days after the day on which the respondent is served.

(b) The clerk of the court shall provide notice to a petitioner that the petitioner is required to attend the parenting course.

(c) A petition shall include information regarding the parenting course when the petition is served on the respondent.

(d) The court may not grant a final custody or parent-time order in a parentage action until:

(i) both parties have attended the parenting course; and

(ii) both parties have presented a certificate of course completion to the court.

(5) For a party that is unable to pay the costs of the parenting course, and before the court enters an order for custody or parent-time in the parentage action, the court shall:

(a) make a final determination of indigency; and

(b) order the party to pay the costs of the parenting course if the court determines the party is not indigent.

(6) (a) Notwithstanding Subsection (4), the court may waive the requirement that the parties attend the parenting course, on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, or feasible, or in the best interest of the parties.

(b) If the requirement is waived, the court may proceed with entering a final custody or parent-time order.

Section 133. Section 81-5-611, which is renumbered from Section 78B-15-611 is renumbered and amended to read:

[~~78B-15-611~~]81-5-611. Proceeding before birth.

(1) A proceeding to determine parentage may be commenced before the birth of the child, but may not be concluded until after the birth of the child.

(2) The following actions may be taken before the birth of the child:

[~~(1)~~](a) service of process;

[~~(2)~~](b) discovery; and

[~~(3)~~](c) except as prohibited by Section [~~78B-15-502~~]81-5-502, collection of specimens for genetic testing.

Section 134. Section 81-5-612, which is renumbered from Section 78B-15-612 is renumbered and amended to read:

[~~78B-15-612~~]81-5-612. Minor child as party -- Representation.

(1) A minor child is a permissible party, but is not a necessary party to a proceeding under this part.

(2) The tribunal may appoint an attorney guardian ad litem under Sections 78A-2-703 and 78A-2-803, or a private attorney guardian ad litem under Section 78A-2-705, to represent [~~a minor or~~]a minor child or an incapacitated child if the child is a party.

Section 135. Section 81-5-613, which is renumbered from Section 78B-15-613 is renumbered and amended to read:

[~~78B-15-613~~]81-5-613. Admissibility of results of genetic testing -- Expenses.

(1) (a) Except as otherwise provided in Subsection (3), a record of a genetic-testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within 14 days after its receipt by the objecting party and cites specific grounds for exclusion.

(b) Unless a party files a timely objection, testimony shall be in affidavit form.

(c) The admissibility of the report is not affected by whether the testing was performed:

[~~(a)~~](i) voluntarily or pursuant to an order of the tribunal; or

[~~(b)~~](ii) before or after the commencement of the proceeding.

(2) (a) A party objecting to the results of genetic testing may call one or more genetic-testing experts to testify in person or by telephone, video conference, deposition, or another method approved by the tribunal.

(b) Unless otherwise ordered by the tribunal, the party offering the testimony bears the expense for the expert testifying.

(3) If a child has a presumed or declarant father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:

(a) [~~pursuant to Section 78B-15-503~~]in accordance with Section 81-5-503;

(b) within the time periods [~~set forth~~]described in this chapter; [~~and~~]

(c) pursuant to a tribunal order or administrative process; or

(d) with the consent of both the mother and the presumed or declarant father.

(4) If a child has an adjudicated father, the results of genetic testing are inadmissible to challenge [~~paternity~~]parentage except as set forth in Sections [~~78B-15-607 and 78B-15-608~~]81-5-607 and 81-5-608.

(5) Copies of bills for genetic testing and for prenatal and postnatal health care for the birth mother and child which are furnished to the adverse party not less than 10 days before the date of a hearing are admissible to establish:

(a) the amount of the charges billed; and

(b) that the charges were reasonable, necessary, and customary.

Section 136. Section 81-5-614, which is renumbered from Section 78B-15-614 is renumbered and amended to read:

[~~78B-15-614~~]81-5-614. Consequences of failing to submit to genetic testing.

(1) An order for genetic testing is enforceable by contempt.

(2) If an individual whose [~~paternity~~]parentage is being determined fails to submit to genetic testing ordered by the tribunal, the tribunal for that reason may adjudicate parentage contrary to the position of that individual.

(3) (a) Genetic testing of the birth mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined.

(b) If the birth mother is unavailable or fails to submit to genetic testing, the tribunal may order the testing of the child and every man who is potentially the father of the child.

Section 137. Section 81-5-615, which is renumbered from Section 78B-15-615 is renumbered and amended to read:
[~~78B-15-615~~]81-5-615. Admission of parentage authorized.

(1) A respondent in a proceeding to adjudicate parentage may admit to the [~~paternity~~]parentage of a child by filing a pleading to that effect or by admitting [~~paternity~~]parentage under penalty of perjury when making an appearance or during a hearing.

(2) If the tribunal finds that the admission of [~~paternity~~]parentage satisfies the requirements of this section and finds that there is no reason to question the admission, the tribunal shall issue an order adjudicating the child to be the child of the man admitting [~~paternity~~]parentage.

Section 138. Section 81-5-616, which is renumbered from Section 78B-15-616 is renumbered and amended to read:
[~~78B-15-616~~]81-5-616. Temporary order.

(1) In a proceeding under this part, the tribunal shall issue a temporary order for support of a child if the order is appropriate and the individual ordered to pay support is:

(a) a presumed father of the child;

(b) petitioning to [~~have his paternity adjudicated~~]be adjudicated a parent;

(c) identified as the father through genetic testing under Section [~~78B-15-505~~]81-5-505;

(d) an alleged father who has failed to submit to genetic testing;

(e) shown by clear and convincing evidence to be the father of the child; or

(f) the birth mother of the child.

(2) A temporary tribunal order may include provisions for custody and visitation as provided by other laws of this state.

Section 139. Section 81-5-617, which is renumbered from Section 78B-15-617 is renumbered and amended to read:
[~~78B-15-617~~]81-5-617. Requirements for adjudication of parentage.

[~~The tribunal shall apply the following rules to adjudicate the paternity of a child:~~]

(1) [~~The paternity of a child having a presumed, declarant, or adjudicated father may be disproved only by~~]In an adjudication of the parentage of a child, the tribunal may only disprove the parentage of a child having a presumed father, declarant father, or adjudicated father if there are admissible results of genetic testing excluding that man as the father of the child or identifying another man as the father of the child.

(2) Unless the results of genetic testing are admitted to rebut other results of genetic testing, [~~a man identified as the father~~]or except as provided in Section 81-5-608, the tribunal shall adjudicate a man identified as the father of a child under Section [~~78B-15-505 must be adjudicated~~]81-5-505 as the father of the child[~~, unless an exception is granted under Section 78B-15-608~~].

(3) If the tribunal finds that genetic testing under Section [~~78B-15-505 neither identifies nor excludes a man as the father~~]81-5-505 does not identify or exclude a man as the father of a child, the tribunal:

(a) may not dismiss the proceeding[~~. In that event, the tribunal~~]; and

(b) shall order further testing.

(4) Unless the results of genetic testing are admitted to rebut other results of genetic testing, [~~a man properly excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child~~]or except as provided in Section 81-5-608, the tribunal shall adjudicate a man properly excluded as the father of a child by genetic testing to not be the father of the child.

Section 140. Section 81-5-618, which is renumbered from Section 78B-15-618 is renumbered and amended to read:
[~~78B-15-618~~]81-5-618. Adjudication of parentage -- Jury trial prohibited.

A jury trial is prohibited to adjudicate [~~paternity~~]parentage of a child.

Section 141. Section 81-5-619, which is renumbered from Section 78B-15-619 is renumbered and amended to read:
[~~78B-15-619~~]81-5-619. Adjudication of parentage -- Hearings -- Inspection of records.

(1) On request of a party and for good cause shown, the tribunal may close a proceeding under this part.

(2) A final order in a proceeding under this part is available for public inspection.

(3) Other papers and records are available only with the consent of the parties or on order of the tribunal for good cause.

Section 142. Section 81-5-620, which is renumbered from Section 78B-15-620 is renumbered and amended to read:
[~~78B-15-620~~]81-5-620. Adjudication of parentage -- Order on default.

The tribunal shall issue an order adjudicating the [~~paternity~~]parentage of a man who:

(1) after service of process, is in default; and

(2) is found by the tribunal to be the father of a child.

Section 143. Section 81-5-621, which is renumbered from Section 78B-15-621 is renumbered and amended to read:
[~~78B-15-621~~]81-5-621. Adjudication of parentage -- Dismissal for want of prosecution.

(1) The tribunal may issue an order dismissing a proceeding commenced under this chapter for want of prosecution only without prejudice.

(2) An order of dismissal for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

Section 144. Section 81-5-622, which is renumbered from Section 78B-15-622 is renumbered and amended to read:
[~~78B-15-622~~]81-5-622. Order adjudicating parentage.

(1) The tribunal shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.

(2) An order adjudicating parentage must identify the child by name and date of birth.

(3) (a) Except as otherwise provided in Subsection (4), the tribunal may assess filing fees, reasonable attorney fees, fees for genetic testing, other costs, necessary travel, and other reasonable expenses incurred in a proceeding under this part.

(b) The tribunal may award attorney fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.

(4) The tribunal may not assess fees, costs, or expenses against the [~~support enforcement~~]child support services agency of this state or another state, except as provided by law.

(5) On request of a party and for good cause shown, the tribunal may order that the name of the child be changed.

(6) If the order of the tribunal is at variance with the child's birth certificate, the tribunal shall order the Office of Vital Records and Statistics to issue an amended birth registration.

Section 145. Section 81-5-623, which is renumbered from Section 78B-15-623 is renumbered and amended to read:

[~~78B-15-623~~]81-5-623. Binding effect of determination of parentage.

(1) Except as otherwise provided in Subsection (2), a determination of parentage is binding on:

(a) all signatories to a declaration or denial of paternity as provided in Part 3, Voluntary Declaration of Paternity [~~Act~~]; and

(b) all parties to an adjudication by a tribunal acting under circumstances that satisfy the jurisdictional requirements of Section [~~78B-14-201~~]81-8-201.

(2) A child is not bound by a determination of parentage under this chapter unless:

(a) the determination was based on an unrescinded declaration of paternity and the declaration is consistent with the results of genetic testing;

(b) the adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown; or

(c) the child was a party or was represented in the proceeding determining parentage by a guardian ad litem.

(3) In a proceeding to dissolve a marriage, the tribunal is considered to have made an adjudication of the parentage of a child if the question of [~~paternity~~]parentage is raised and the tribunal adjudicates according to [~~Part 6, Adjudication of Parentage,~~]this part and the final order:

(a) expressly identifies a child as a "child of the marriage," "issue of the marriage," or similar words indicating that the husband is the father of the child; or

(b) provides for support of the child by the husband unless [~~paternity~~]parentage is specifically disclaimed in the order.

(4) The tribunal is not considered to have made an adjudication of the parentage of a child if the child was born at the time of entry of the order and other children are named as children of the marriage, but that child is specifically not named.

(5) Once the [~~paternity~~]parentage of a child has been adjudicated, an individual who was not a party to the [~~paternity~~]parentage proceeding may not challenge the [~~paternity~~]parentage, unless:

(a) the party seeking to challenge can demonstrate a fraud upon the tribunal;

(b) the challenger can demonstrate by clear and convincing evidence that the challenger did not know about the adjudicatory proceeding or did not have a reasonable opportunity to know of the proceeding; and

(c) there would be harm to the child to leave the order in place.

(6) A party to an adjudication of [~~paternity~~]parentage may challenge the adjudication only under law of this state relating to appeal, vacation of judgments, or other judicial review.

(7) A party to an adjudication may not bring a challenge under Subsection (6) if the party committed the fraud.

Section 146. Section 81-5-701, which is renumbered from Section 78B-15-701 is renumbered and amended to read:

PART 7. Assisted Reproduction

[~~78B-15-701~~]81-5-701. Scope.

This part does not apply to the birth of a child conceived by means of sexual intercourse [~~,~~]or as result of a gestational agreement [~~as provided in~~]described in Part 8, Gestational Agreement.

Section 147. Section 81-5-702, which is renumbered from Section 78B-15-702 is renumbered and amended to read:

[~~78B-15-702~~]81-5-702. Parental status of donor.

A donor is not a parent of a child conceived by means of assisted reproduction.

Section 148. Section 81-5-703, which is renumbered from Section 78B-15-703 is renumbered and amended to read:

[~~78B-15-703~~]81-5-703. Husband's parentage of child of assisted reproduction.

If a husband provides sperm for, or consents to, assisted reproduction by his wife as provided in Section [~~78B-15-704, he~~]81-5-704, the husband is the father of a resulting child born to his wife.

Section 149. Section 81-5-704, which is renumbered from Section 78B-15-704 is renumbered and amended to read:

[~~78B-15-704~~]81-5-704. Consent to assisted reproduction.

(1) (a) A consent to assisted reproduction by a married woman must be in a record signed by the woman and her husband.

(b) [~~This requirement~~]The requirement described in Subsection (1)(a) does not apply to the donation of eggs for assisted reproduction by another woman.

(2) Failure of the husband to sign a consent required by Subsection (1), before or after the birth of the child, does not preclude a finding that the husband is the father of a child born to [~~his wife if the wife and husband~~]the married woman if the married woman and the married woman's husband openly treat the child as their own.

Section 150. Section 81-5-705, which is renumbered from Section 78B-15-705 is renumbered and amended to read:

[~~78B-15-705~~]81-5-705. Limitation on husband's dispute of paternity.

(1) Except as otherwise provided in Subsection (2), the husband of a wife who gives birth to a child by means of assisted reproduction may not challenge [~~his~~]the husband's paternity of the child unless:

(a) within two years after learning of the birth of the child [~~he~~]the husband commences a proceeding to adjudicate [~~his~~]the husband's paternity; and

(b) the tribunal finds that [~~he~~]the spouse did not consent to the assisted reproduction, before or after the birth of the child.

(2) A proceeding to adjudicate paternity may be maintained at any time if the tribunal determines that:

(a) the husband did not provide sperm for, or before or after the birth of the child consent to, assisted reproduction by [~~his~~]the husband's wife;

(b) the husband and the birth mother of the child have not cohabited since the probable time of assisted reproduction; and

(c) the husband never openly treated the child as [~~his~~]the husband's own.

(3) The limitation provided in this section applies to a marriage declared invalid after assisted reproduction.

Section 151. Section 81-5-706, which is renumbered from Section 78B-15-706 is renumbered and amended to read:

[~~78B-15-706~~]81-5-706. Effect of dissolution of marriage.

(1) If a marriage is dissolved before placement of eggs, sperm, or an embryo, the former spouse is not a parent of the resulting child unless the former spouse consented in a record that if assisted reproduction were to occur after a divorce, the former spouse would be a parent of the child.

(2) The consent of the former spouse to assisted reproduction may be revoked by that individual in a record at any time before placement of eggs, sperm, or embryos.

Section 152. Section 81-5-707, which is renumbered from Section 78B-15-707 is renumbered and amended to read:

[~~78B-15-707~~]81-5-707. Parental status of deceased spouse.

If a spouse dies before placement of eggs, sperm, or an embryo, the deceased spouse is not a parent of the resulting child unless the deceased spouse consented in a record that if assisted reproduction were to occur after death, the deceased spouse would be a parent of the child.

Section 153. Section 81-5-708, which is renumbered from Section 78B-15-708 is renumbered and amended to read:

[~~78B-15-708~~]81-5-708. Access to identifying information and medical history.

(1) A person conceived through assisted reproduction who is at least 18 years [~~of age~~]old shall be provided, upon the person's request, access to the nonidentifying medical history of the donor who assisted in the reproduction process that resulted in the person's birth.

(2) Under no circumstance may a person who donated to a fertility clinic for the purpose of assisted reproduction be liable for financial support to the child conceived through assisted reproduction or the child's parent.

(3) Except as provided in this section, a donor's request to remain anonymous shall be given full deference.

Section 154. Section 81-5-801, which is renumbered from Section 78B-15-801 is renumbered and amended to read:

PART 8. Gestational Agreement

[~~78B-15-801~~]81-5-801. Gestational agreement authorized.

(1) A prospective gestational mother, the prospective gestational mother's spouse if the prospective gestational mother is married, a donor or the donors, and the intended parents may enter into a written agreement providing that:

(a) the prospective gestational mother agrees to pregnancy by means of assisted reproduction;

(b) the prospective gestational mother, the prospective gestational mother's spouse if the prospective gestational mother is married, and the donors relinquish all rights and duties as the parents of a child conceived through assisted reproduction; and

(c) the intended parents become the parents of the child.

(2) The intended gestational mother may not currently be receiving Medicaid or any other state assistance.

(3) (a) The intended parents shall be married.

(b) Both intended parents must be parties to the gestational agreement.

(4) A gestational agreement is enforceable only if validated as provided in Section [~~78B-15-803~~]81-5-803.

(5) A gestational agreement does not apply:

(a) to the birth of a child conceived by means of sexual intercourse; or

(b) if neither intended parent is a donor.

(6) The parties to a gestational agreement shall be 21 years old or older.

(7) The gestational mother's eggs may not be used in the assisted reproduction procedure.

(8) If the gestational mother is married, the gestational mother's spouse's sperm or eggs may not be used in the assisted reproduction procedure.

Section 155. Section 81-5-802, which is renumbered from Section 78B-15-802 is renumbered and amended to read:

[~~78B-15-802~~]81-5-802. Requirements of petition.

(1) The intended parents and the prospective gestational mother may file a petition in the district tribunal to validate a gestational agreement.

(2) A petition to validate a gestational agreement may not be maintained unless either the mother or intended parents have been residents of this state for at least 90 days.

(3) The prospective gestational mother's spouse, if the prospective gestational mother is married, must join in the petition.

(4) A copy of the gestational agreement must be attached to the petition.

Section 156. Section 81-5-803, which is renumbered from Section 78B-15-803 is renumbered and amended to read:

[~~78B-15-803~~]81-5-803. Hearing to validate gestational agreement.

(1) If the requirements of Subsection (2) are satisfied, a tribunal may issue an order validating the gestational agreement and declaring that the intended parents will be the parents of a child born during the term of the agreement.

(2) The tribunal may issue an order under Subsection (1) only on finding that:

(a) the residence requirements of Section [~~78B-15-802~~]81-5-802 have been satisfied and the parties have submitted to the jurisdiction of the tribunal under the jurisdictional standards of this part;

(b) unless waived by the tribunal, a home study of the intended parents has been conducted in accordance with [~~Sections 78B-6-128 through 78B-6-131~~]Chapter 13, Part 4, Placement of a Minor Child or Vulnerable Adult for Adoption, and the intended parents meet the standards of fitness applicable to adoptive parents;

(c) all parties have participated in counseling with a licensed mental health professional as evidenced by a certificate:

(i) signed by the licensed mental health professional that affirms that all parties have discussed options and consequences of the agreement; and

(ii) presented to the tribunal;

(d) all parties have voluntarily entered into the agreement and understand the agreement's terms;

(e) the prospective gestational mother has had at least one pregnancy and delivery and the prospective gestational mother's bearing another child will not pose an unreasonable health risk to the unborn child or to the physical or mental health of the prospective gestational mother;

(f) adequate provision has been made for all reasonable health-care expense associated with the gestational agreement until the birth of the child, including responsibility for all reasonable health-care expense if the agreement is terminated;

(g) the consideration, if any, paid to the prospective gestational mother is reasonable;

(h) all the parties to the agreement are 21 years old or older;

(i) the gestational mother's eggs are not being used in the assisted reproduction procedure; and

(j) if the gestational mother is married, the gestational mother's spouse's sperm or eggs are not being used in the assisted reproduction procedure.

(3) Whether to validate a gestational agreement is within the discretion of the tribunal, subject only to review for abuse of discretion.

Section 157. Section 81-5-804, which is renumbered from Section 78B-15-804 is renumbered and amended to read:

[~~78B-15-804~~]81-5-804. Inspection of records.

The proceedings, records, and identities of the individuals to a gestational agreement under this part are subject to inspection under the confidentiality standards applicable to adoptions as provided under other laws of this state.

Section 158. Section 81-5-805, which is renumbered from Section 78B-15-805 is renumbered and amended to read:

[~~78B-15-805~~]81-5-805. Exclusive, continuing jurisdiction.

Subject to the jurisdictional standards of Section [~~78B-13-201~~]81-11-201, the tribunal conducting a proceeding under this part has exclusive, continuing jurisdiction of all matters arising out of the gestational agreement until a child born to the gestational mother during the period governed by the agreement attains the age of 180 days.

Section 159. Section 81-5-806, which is renumbered from Section 78B-15-806 is renumbered and amended to read:

[~~78B-15-806~~]81-5-806. Termination of gestational agreement.

(1) After issuance of an order under this part, but before the prospective gestational mother becomes pregnant by means of assisted reproduction, the prospective gestational mother, the prospective gestational mother's spouse, or either of the intended parents may terminate the gestational agreement only by giving written notice of termination to all other parties.

(2) The tribunal for good cause shown also may terminate the gestational agreement.

(3) (a) An individual who terminates an agreement shall file notice of the termination with the tribunal.

(b) On receipt of the notice, the tribunal shall vacate the order issued under this part.

(c) An individual who does not notify the tribunal of the termination of the agreement is subject to appropriate sanctions.

(4) A prospective gestational mother, or the prospective gestational mother's spouse if married, is not liable to the intended parents for terminating an agreement [~~pursuant to~~]in accordance with this section.

Section 160. Section 81-5-807, which is renumbered from Section 78B-15-807 is renumbered and amended to read:

[~~78B-15-807~~]81-5-807. Parentage under validated gestational agreement.

(1) (a) Upon birth of a child to a gestational mother, the intended parents shall file notice with the tribunal that a child has been born to the gestational mother within 300 days after assisted reproduction.

(b) [~~Thereupon~~]If the intended parents file a notice described in Subsection (1)(a), the tribunal shall issue an order:

[~~(a)~~](i) confirming that the intended parents are the parents of the child;

[~~(b)~~](ii) if necessary, ordering that the child be surrendered to the intended parents; and

[~~(c)~~](iii) directing the Office of Vital Records and Statistics to issue a birth certificate naming the intended parents as parents of the child.

(2) If the parentage of a child born to the gestational mother is in dispute as not the result of an assisted reproduction, the tribunal shall order genetic testing to determine the parentage of the child.

Section 161. Section 81-5-808, which is renumbered from Section 78B-15-808 is renumbered and amended to read:

[~~78B-15-808~~]81-5-808. Gestational agreement -- Miscellaneous provisions.

(1) A gestational agreement may provide for payment of consideration.

(2) A gestational agreement may not limit the right of the gestational mother to make decisions to safeguard the gestational mother's health or that of the embryo or fetus.

(3) After the issuance of an order under this part, subsequent marriage of the gestational mother does not affect the validity of a gestational agreement, and the gestational mother's spouse's consent to the agreement is not required, nor is the gestational mother's spouse a presumed parent of the resulting child.

Section 162. Section 81-5-809, which is renumbered from Section 78B-15-809 is renumbered and amended to read:

[~~78B-15-809~~]81-5-809. Effect of nonvalidated gestational agreement.

(1) A gestational agreement, whether in a record or not, which is not validated by a tribunal is not enforceable.

(2) If a birth results under a gestational agreement that is not judicially validated as provided in this part, the parent-child relationship is determined as provided in Part 2, Parent and Child Relationship.

(3) (a) The individuals who are parties to a nonvalidated gestational agreement as intended parents may be held liable for support of the resulting child, even if the agreement is otherwise unenforceable.

(b) The liability under this Subsection (3) includes assessing all expenses and fees as provided in Section [~~78B-15-622~~]81-5-622.

Section 163. Section 81-5-901, which is renumbered from Section 78B-15-901 is renumbered and amended to read:

PART 9. Applicability Provisions

[~~78B-15-901~~]81-5-901. Uniformity of application and construction of this chapter.

(1) This chapter is a uniform law.

(2) In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to [~~its~~]the uniform law's subject matter among the states that enact [~~it~~]this uniform law.

Section 164. Section 81-5-902, which is renumbered from Section 78B-15-902 is renumbered and amended to read:

[~~78B-15-902~~]81-5-902. Transitional provision.

A proceeding to adjudicate parentage [~~which~~]that was commenced before May 1, 2005, is governed by the law in effect at the time the proceeding was commenced.

Section 165. Section 81-8-102, which is renumbered from Section 78B-14-102 is renumbered and amended to read:

CHAPTER 8. UNIFORM INTERSTATE FAMILY SUPPORT ACT

PART 1. General Provisions

[~~78B-14-102~~]81-8-102. Definitions for chapter.

As used in this chapter:

(1) "Alleged father" means the same as that term is defined in Section 81-5-102.

(2) "Birth mother" means the same as that term is defined in Section 81-5-102.

[~~(1)~~](3) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

[~~(2)~~](4) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(5) "Child support services agency" means a public official, governmental entity, or private agency authorized to:

(a) seek enforcement of support orders or laws relating to the duty of support;

(b) seek establishment or modification of child support;

(c) request determination of parentage of a child;

(d) attempt to locate obligors or their assets; or

(e) request determination of the controlling child support order.

[~~(3)~~](6) "Convention" means the convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

[~~(4)~~](7) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

[~~(5)~~](8) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

(a) which has been declared under the law of the United States to be a foreign reciprocating country;

(b) which has established a reciprocal arrangement for child support with this state as provided in Section [~~78B-14-308~~]81-8-308;

(c) which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter; or

(d) in which the convention is in force with respect to the United States.

[~~(6)~~](9) "Foreign support order" means a support order of a foreign tribunal.

[~~(7)~~](10) (a) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. [~~The term~~]

(b) "Foreign tribunal" includes a competent authority under the convention.

[~~(8)~~](11) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

[~~(9)~~](12) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

[~~(10)~~](13) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other source of income as defined in Section 26B-9-101, to withhold support from the income of the obligor.

[~~(11)~~](14) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

[~~(12)~~](15) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

[~~(13)~~](16) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

[~~(14)~~](17) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining

parentage of a child.

[~~(15)~~](18) "Law" includes decisional and statutory law and rules and regulations having the force of law.

[~~(16)~~](19) "Obligee" means:

(a) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

(b) a foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

(c) an individual seeking a judgment determining parentage of the individual's child; or

(d) a person who is a creditor in a proceeding under Part 7, Support Proceedings Under Convention.

[~~(17)~~](20) "Obligor" means an individual who, or the estate of a decedent that:

(a) owes or is alleged to owe a duty of support;

(b) is alleged but has not been adjudicated to be a parent of a child;

(c) is liable under a support order; or

(d) is a debtor in a proceeding under Part 7, Support Proceedings Under Convention.

[~~(18)~~](21) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.

[~~(19)~~](22) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(23) "Presumed father" means the same as that term is defined in Section 81-5-102.

[~~(20)~~](24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[~~(21)~~](25) "Register" means to file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country.

[~~(22)~~](26) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.

[~~(23)~~](27) "Responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.

[~~(24)~~](28) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

[~~(25)~~](29) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

[~~(26)~~](30) (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. [~~The term~~]

(b) "State" includes an Indian nation or tribe.

[~~(27) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:~~]

[~~(a) seek enforcement of support orders or laws relating to the duty of support;~~]

[~~(b) seek establishment or modification of child support;~~]

[~~(c) request determination of parentage of a child;~~]

[~~(d) attempt to locate obligors or their assets; or~~]

[~~(e) request determination of the controlling child support order.~~]

[~~(28)~~](31) (a) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. [~~The term may include~~]

(b) "Support order" includes related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney fees, and other relief.

[~~(29)~~](32) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

Section 166. Section 81-8-103, which is renumbered from Section 78B-14-103 is renumbered and amended to read:

[~~78B-14-103~~]81-8-103. State tribunal and child support services agency.

(1) [~~The district court~~]A court with jurisdiction under Title 78A, Judiciary and Judicial Administration, and the Utah Department of Health and Human Services are the tribunals of this state.

(2) The Utah Department of Health and Human Services is the state [~~support enforcement agency~~]child support services agency.

Section 167. Section 81-8-104, which is renumbered from Section 78B-14-104 is renumbered and amended to read:

[~~78B-14-104~~]81-8-104. Remedies cumulative.

(1) Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.

(2) This chapter does not:

(a) provide the exclusive method of establishing or enforcing a support order under the law of this state; or

(b) grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or parent-time in a proceeding under this chapter.

Section 168. Section 81-8-105, which is renumbered from Section 78B-14-105 is renumbered and amended to read:

[~~78B-14-105~~]81-8-105. Application of chapter to residents of foreign countries and foreign support proceedings.

(1) A tribunal of this state shall apply Part 1, General Provisions, Part 2, Jurisdiction, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order and, as applicable, Part 7, Support Proceedings Under Convention,

to a support proceeding involving:

(a) a foreign support order;

(b) a foreign tribunal; or

(c) an obligee, obligor, or child residing in a foreign country.

(2) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of Part 1, General Provisions, Part 2, Jurisdiction, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order.

(3) (a) Part 7, Support Proceedings Under Convention, applies only to a support proceeding under the convention.

(b) In a proceeding, if a provision of Part 7, Support Proceedings Under Convention is inconsistent with Part 1, General Provisions, Part 2, Jurisdiction, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order, Part 7, Support Proceedings Under Convention, controls.

Section 169. Section 81-8-201, which is renumbered from Section 78B-14-201 is renumbered and amended to read:

PART 2. Jurisdiction

[~~78B-14-201~~]81-8-201. Bases for jurisdiction over nonresident.

(1) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual, or the individual's guardian or conservator, if:

(a) the individual is personally served with notice within this state;

(b) the individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(c) the individual resided with the child in this state;

(d) the individual resided in this state and provided prenatal expenses or support for the child;

(e) the child resides in this state as a result of the acts or directives of the individual;

(f) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

(g) the individual asserted parentage of a child in the putative father registry maintained in this state by the [~~state registrar of vital records in the Department of Health pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act~~]Office of Vital Records and Statistics in accordance with Chapter 13, Adoption; or

(h) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

(2) The bases of personal jurisdiction set forth in Subsection (1) or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of Section [~~78B-14-611~~]81-8-611 are met, or, in the case of a foreign support order, unless the requirements of Section [~~78B-14-615~~]81-8-615 are met.

Section 170. Section 81-8-202, which is renumbered from Section 78B-14-202 is renumbered and amended to read:

[~~78B-14-202~~]81-8-202. Duration of personal jurisdiction.

Personal jurisdiction acquired by a tribunal of this state in a proceeding under this chapter or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify [~~its~~]the tribunal's order or continuing jurisdiction to enforce [~~its~~]the tribunal's order [~~as provided by Sections 78B-14-205, 78B-14-206, and 78B-14-211~~]as described in Sections 81-8-205, 81-8-206, and 81-8-211.

Section 171. Section 81-8-203, which is renumbered from Section 78B-14-203 is renumbered and amended to read:

[~~78B-14-203~~]81-8-203. Initiating and responding tribunal of state.

Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated in another state or a foreign country.

Section 172. Section 81-8-204, which is renumbered from Section 78B-14-204 is renumbered and amended to read:

[~~78B-14-204~~]81-8-204. Simultaneous proceedings in another state.

(1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or a foreign country only if:

(a) the petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country;

(b) the contesting party timely challenges the exercise of jurisdiction in the other state or the foreign country; and

(c) if relevant, this state is the home state of the child.

(2) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if:

(a) the petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(b) the contesting party timely challenges the exercise of jurisdiction in this state; and

(c) if relevant, the other state or foreign country is the home of the child.

Section 173. Section 81-8-205, which is renumbered from Section 78B-14-205 is renumbered and amended to read:

[~~78B-14-205~~]81-8-205. Continuing, exclusive jurisdiction to modify child support order.

(1) A tribunal of this state that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order, and:

(a) at the time of the filing of a request for modification, this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify [~~its~~]the tribunal's order.

(2) A tribunal of this state that has issued a child support order consistent with the law of this state may not exercise continuing, exclusive jurisdiction to modify the order if:

(a) all of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

(b) [~~its~~]the tribunal's order is not the controlling order.

(3) If a tribunal of another state has issued a child support order [~~pursuant to~~]in accordance with the Uniform Interstate Family Support Act or a law substantially similar to the act, [~~which~~]that modifies a child support order of a tribunal of this state, [~~tribunals~~]a tribunal of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

(4) A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

Section 174. Section 81-8-206, which is renumbered from Section 78B-14-206 is renumbered and amended to read:

[~~78B-14-206~~]81-8-206. Continuing jurisdiction to enforce child support order.

(1) A tribunal of this state that has issued a child support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to enforce:

(a) the order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction [~~pursuant to~~]in accordance with the Uniform Interstate Family Support Act; or

(b) a money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.

(2) A tribunal of this state having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

Section 175. Section 81-8-207, which is renumbered from Section 78B-14-207 is renumbered and amended to read:

[~~78B-14-207~~]81-8-207. Determination of controlling child-support order.

(1) If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and shall be so recognized.

(2) If a proceeding is brought under this chapter, and two or more child support orders have been issued by tribunals of this state, another state, or a foreign country with regard to the same obligor and same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls and shall be recognized:

(a) If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls.

(b) If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child controls, or if an order has not been issued in the current home state of the child, the order most recently issued controls.

(c) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state shall issue a child support order, which controls.

(3) (a) If two or more child support orders have been issued for the same obligor and same child, upon request of a party who is an individual or that is a [~~support enforcement~~]child support services agency, a tribunal of this state having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under Subsection (2).

(b) The request under Subsection (3)(a) may be filed with a registration for enforcement or registration for modification pursuant to Part 6, Registration, Enforcement, and Modification of Support Order, or may be filed as a separate proceeding.

(4) (a) A request to determine which is the controlling order shall be accompanied by a copy of every child support order in effect and the applicable record of payments.

(b) The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(5) The tribunal that issued the controlling order under Subsection (1), (2), or (3) has continuing jurisdiction to the extent provided in Section [~~78B-14-205 or 78B-14-206~~]81-8-205 or 81-8-206.

(6) A tribunal of this state that determines by order which is the controlling order under Subsection (2)(a), (b), or (3) that issues a new controlling order under Subsection (2)(c), shall state in that order:

(a) the basis upon which the tribunal made [~~its~~]the tribunal's determination;

(b) the amount of prospective support, if any; and

(c) the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by Section [~~78B-14-209~~]81-8-209.

(7) (a) Within 30 days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of [~~it~~]the order in each tribunal that issued or registered an earlier order of child support.

(b) A party or [~~support enforcement~~]child support services agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises.

(c) The failure to file does not affect the validity or enforceability of the controlling order.

(8) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made [~~pursuant to~~]in accordance with this section shall be recognized in proceedings under this chapter.

Section 176. Section 81-8-208, which is renumbered from Section 78B-14-208 is renumbered and amended to read:

[~~78B-14-208~~]81-8-208. Child support orders for two or more obligees.

In responding to registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state or a foreign country, a tribunal of this state shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this state.

Section 177. Section 81-8-209, which is renumbered from Section 78B-14-209 is renumbered and amended to read:

[~~78B-14-209~~]81-8-209. Credit for payments.

A tribunal of this state shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this or another state or foreign country.

Section 178. Section 81-8-210, which is renumbered from Section 78B-14-210 is renumbered and amended to read:

[~~78B-14-210~~]81-8-210. Application of chapter to nonresident subject to personal jurisdiction.

(1) A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this chapter, under other law of this state relating to a support order, or recognizing a foreign support order may:

(a) receive evidence from outside this state [~~pursuant to Section 78B-14-316,~~]in accordance with Section 81-8-316;

(b) communicate with a tribunal outside this state [~~pursuant to Section 78B-14-317,~~]in accordance with Section 81-8-317; and

(c) obtain discovery through a tribunal outside this state [~~pursuant to Section 78B-14-318~~]in accordance with Section 81-8-318.

(2) In all other respects, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order, do not apply and the tribunal shall apply the procedural and substantive law of this state.

Section 179. Section 81-8-211, which is renumbered from Section 78B-14-211 is renumbered and amended to read:

[~~78B-14-211~~]81-8-211. Continuing, exclusive jurisdiction to modify spousal support order.

(1) A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

(2) A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(3) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as:

(a) an initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or

(b) a responding tribunal to enforce or modify [~~its~~]the tribunal's own spousal support order.

Section 180. Section 81-8-301, which is renumbered from Section 78B-14-301 is renumbered and amended to read:

PART 3. Civil Provisions of General Application

[~~78B-14-301~~]81-8-301. Proceedings under chapter.

(1) Except as otherwise provided in this chapter, this part applies to all proceedings under this chapter.

(2) An individual petitioner or a [~~support enforcement~~]child support services agency may initiate a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or a foreign country [~~which~~]that has or can obtain personal jurisdiction over the respondent.

Section 181. Section 81-8-302, which is renumbered from Section 78B-14-302 is renumbered and amended to read:

[~~78B-14-302~~]81-8-302. Action by parent who is under 18 years old.

A [~~minor parent~~]parent who is under 18 years old, or a guardian or other legal representative of [~~a minor~~]the parent, may maintain a proceeding on behalf of or for the benefit of the [~~minor's~~]parent's child.

Section 182. Section 81-8-303, which is renumbered from Section 78B-14-303 is renumbered and amended to read:

[~~78B-14-303~~]81-8-303. Application of law of state.

Except as otherwise provided in this chapter, a responding tribunal of this state shall:

(1) apply the procedural and substantive law generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

Section 183. Section 81-8-304, which is renumbered from Section 78B-14-304 is renumbered and amended to read:

[~~78B-14-304~~]81-8-304. Duties of initiating tribunal.

(1) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward the petition and its accompanying documents:

(a) to the responding tribunal or appropriate [~~support enforcement~~]child support services agency in the responding state; or

(b) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) (a) If requested by the responding tribunal, a tribunal of this state shall issue a certificate or other document and make findings required by the law of the responding state.

(b) If the responding tribunal is in a foreign country, upon request, the tribunal of this state shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding foreign tribunal.

Section 184. Section 81-8-305, which is renumbered from Section 78B-14-305 is renumbered and amended to read:

[~~78B-14-305~~]81-8-305. Duties and powers of responding tribunal.

(1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly [~~pursuant to Subsection 78B-14-301(2), it~~]in accordance with Subsection 81-8-301(2), the responding tribunal shall cause the petition or pleading to

be filed and notify the petitioner where and when [~~it~~]the petition or pleading was filed.

(2) A responding tribunal of this state, to the extent not prohibited by other law, may do one or more of the following:

(a) establish or enforce a support order, modify a child support order, determine the controlling child support order, or determine parentage of a child;

(b) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(c) order income withholding;

(d) determine the amount of any arrearages and specify a method of payment;

(e) enforce orders by civil or criminal contempt, or both;

(f) set aside property for satisfaction of the support order;

(g) place liens and order execution on the obligor's property;

(h) order an obligor to keep the tribunal informed of the obligor's current residential address, electronic mail address, telephone number, employer, address of employment, and telephone number at the place of employment;

(i) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(j) order the obligor to seek appropriate employment by specified methods;

(k) award reasonable attorney fees and other fees and costs; and

(l) grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for parent-time.

(5) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

(6) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

Section 185. Section 81-8-306, which is renumbered from Section 78B-14-306 is renumbered and amended to read:

[~~78B-14-306~~]81-8-306. Inappropriate tribunal.

If a petition or comparable pleading is received by an inappropriate tribunal of this state, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner where and when the pleading was sent.

Section 186. Section 81-8-307, which is renumbered from Section 78B-14-307 is renumbered and amended to read:

[~~78B-14-307~~]81-8-307. Duties of child support services agency.

(1) A [~~support enforcement~~]child support services agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(2) A [~~support enforcement~~]child support services agency of this state that is providing services to the petitioner shall:

(a) take all steps necessary to enable an appropriate tribunal of this state, another state, or a foreign country to obtain jurisdiction over the respondent;

(b) request an appropriate tribunal to set a date, time, and place for a hearing;

(c) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) within 10 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(e) within 10 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(f) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) A [~~support enforcement~~]child support services agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:

(a) to ensure that the order to be registered is the controlling order; or

(b) if two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(4) A [~~support enforcement~~]child support services agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(5) A [~~support enforcement~~]child support services agency of this state shall issue or request a tribunal of this state to issue a child support order and an income-withholding order that redirects payment of current support, arrears, and interest if requested to do so by a [~~support enforcement~~]child support services agency of another state [~~pursuant to Section 78B-14-319~~]in accordance with Section 81-8-319.

(6) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a [~~support enforcement~~]child support services agency or the attorney for the agency and the individual being assisted by the agency.

Section 187. Section 81-8-308, which is renumbered from Section 78B-14-308 is renumbered and amended to read:

[~~78B-14-308~~]81-8-308. Duty of attorney general.

(1) If the attorney general determines that the [~~support enforcement~~]child support services agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform [~~its~~]the agency's duties under this chapter or may provide those services directly to the individual.

(2) The attorney general may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

Section 188. Section 81-8-309, which is renumbered from Section 78B-14-309 is renumbered and amended to read:
[~~78B-14-309~~]81-8-309. Private counsel.

An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

Section 189. Section 81-8-310, which is renumbered from Section 78B-14-310 is renumbered and amended to read:
[~~78B-14-310~~]81-8-310. Duties of state information agency.

(1) The Office of Recovery Services is the state information agency under this chapter.

(2) The state information agency shall:

(a) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

(c) forward to the appropriate tribunal in the county in this state in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from another state or a foreign country; and

(d) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver licenses, and Social Security.

Section 190. Section 81-8-311, which is renumbered from Section 78B-14-311 is renumbered and amended to read:
[~~78B-14-311~~]81-8-311. Pleadings and accompanying documents.

(1) (a) In a proceeding under this chapter, a petitioner seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or a foreign country shall file a petition.

(b) Unless otherwise ordered under Section [~~78B-14-312~~]81-8-312, the petition or accompanying documents shall provide, so far as known, the name, residential address, and [~~Social Security~~]social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, [~~Social Security~~]social security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined.

(c) Unless filed at the time of registration, the petition shall be accompanied by a copy of any support order known to have been issued by another tribunal.

(d) The petition may include any other information that may assist in locating or identifying the respondent.

(2) (a) The petition shall specify the relief sought.

(b) The petition and accompanying documents shall conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a [~~support enforcement~~]child support services agency.

Section 191. Section 81-8-312, which is renumbered from Section 78B-14-312 is renumbered and amended to read:
[~~78B-14-312~~]81-8-312. Nondisclosure of information in exceptional circumstances.

(1) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public.

(2) After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

Section 192. Section 81-8-313, which is renumbered from Section 78B-14-313 is renumbered and amended to read:
[~~78B-14-313~~]81-8-313. Costs and fees.

(1) The petitioner may not be required to pay a filing fee or other costs.

(2) (a) If an obligee prevails, a responding tribunal of this state may assess against an obligor filing fees, reasonable attorney fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses.

(b) The tribunal may not assess fees, costs, or expenses against the obligee or the [~~support enforcement~~]child support services agency of either the initiating or the responding state or a foreign country, except as provided by law.

(c) Attorney fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name.

(d) Payment of support owed to the obligee has priority over fees, costs, and expenses.

(3) (a) The tribunal shall order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay.

(b) In a proceeding under Part 6, Registration, Enforcement, and Modification of Support Order, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Section 193. Section 81-8-314, which is renumbered from Section 78B-14-314 is renumbered and amended to read:
[~~78B-14-314~~]81-8-314. Limited immunity of petitioner.

(1) Participation by a petitioner in a proceeding under this chapter before a responding tribunal, whether in person, by private attorney, or through services provided by the [~~support enforcement~~]child support services agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(2) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.

(3) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while present in this state to participate in the proceeding.

Section 194. Section 81-8-315, which is renumbered from Section 78B-14-315 is renumbered and amended to read:
[~~78B-14-315~~]81-8-315. Nonparentage as defense.

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense

to a proceeding under this chapter.

Section 195. Section 81-8-316, which is renumbered from Section 78B-14-316 is renumbered and amended to read:

[~~78B-14-316~~]81-8-316. Special rules of evidence and procedure.

(1) The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

(2) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.

(3) (a) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal.

(b) The copy is evidence of facts asserted in it and is admissible to show whether payments were made.

(4) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the birth mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(5) Documentary evidence transmitted from outside this state to a tribunal of this state by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(6) (a) In a proceeding under this chapter, a tribunal of this state shall permit a party or witness residing outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location.

(b) A tribunal of this state shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

(7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(8) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

(9) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

(10) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

Section 196. Section 81-8-317, which is renumbered from Section 78B-14-317 is renumbered and amended to read:

[~~78B-14-317~~]81-8-317. Communications between tribunals.

(1) A tribunal of this state may communicate with a tribunal outside this state in a record, or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding.

(2) A tribunal of this state may furnish similar information by similar means to a tribunal outside this state.

Section 197. Section 81-8-318, which is renumbered from Section 78B-14-318 is renumbered and amended to read:

[~~78B-14-318~~]81-8-318. Assistance with discovery.

A tribunal of this state may:

(1) request a tribunal outside this state to assist in obtaining discovery; and

(2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal outside this state.

Section 198. Section 81-8-319, which is renumbered from Section 78B-14-319 is renumbered and amended to read:

[~~78B-14-319~~]81-8-319. Receipt and disbursement of payments.

(1) (a) A [~~support enforcement~~]child support services agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order.

(b) The agency or tribunal shall furnish to a requesting party or tribunal of another state or a foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.

(2) If neither the obligor, nor the obligee who is an individual, nor the child resides in this state, upon request from the [~~support enforcement~~]child support services agency of this state or another state, the Office of Recovery Services or a tribunal of this state shall:

(a) direct that the support payment be made to the [~~support enforcement~~]child support services agency in the state in which the obligee is receiving services; and

(b) issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(3) The [~~support enforcement~~]child support services agency of this state receiving redirected payments from another state pursuant to a law similar to Subsection (2) shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

Section 199. Section 81-8-401, which is renumbered from Section 78B-14-401 is renumbered and amended to read:

PART 4. Establishment of Support Order or Determination of Parentage

[~~78B-14-401~~]81-8-401. Establishment of support order.

(1) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:

(a) the individual seeking the order resides outside this state; or

(b) the [~~support enforcement~~]child support services agency seeking the order is located outside this state.

(2) The tribunal may issue a temporary child support order if the tribunal determines that an order is appropriate and the individual ordered to pay is:

(a) a presumed father of the child;

(b) petitioning to have [~~his paternity~~]the individual's parentage adjudicated;

(c) identified as the father of the child through genetic testing;

(d) an alleged father who has declined to submit to genetic testing;

(e) shown by clear and convincing evidence to be the father of the child;

(f) [~~an acknowledged~~]a declarant father, as defined in Section 81-5-102, determined in accordance with [~~Title 78B, Chapter 15, Part 3, Voluntary Declaration of Paternity Act~~]Chapter 5, Part 3, Voluntary Declaration of Paternity;

(g) the birth mother of the child; or

(h) an individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders [~~pursuant to Section 78B-14-305~~]in accordance with Section 81-8-305.

Section 200. Section 81-8-402, which is renumbered from Section 78B-14-402 is renumbered and amended to read:

[~~78B-14-402~~]81-8-402. Proceeding to determine parentage.

A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage brought under this chapter or a law or procedure substantially similar to this chapter.

Section 201. Section 81-8-501, which is renumbered from Section 78B-14-501 is renumbered and amended to read:

PART 5. Enforcement of Support Order Without Registration

[~~78B-14-501~~]81-8-501. Employer's receipt of income-withholding order of another state.

An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the [~~support-enforcement~~]child support services agency, to the person defined as the obligor's employer under Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases, without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

Section 202. Section 81-8-502, which is renumbered from Section 78B-14-502 is renumbered and amended to read:

[~~78B-14-502~~]81-8-502. Employer's compliance with income-withholding order of another state.

(1) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(2) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

(3) Except as otherwise provided in Subsection (4) and Section [~~78B-14-503~~]81-8-503, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(a) the duration and amount of periodic payments of current child support, stated as a sum certain;

(b) the person designated to receive payments and the address to which the payments are to be forwarded;

(c) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health [~~insurance~~]care coverage for the child under a policy available through the obligor's employment;

(d) the amount of periodic payments of fees and costs for a [~~support-enforcement~~]child support services agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(e) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(4) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(a) the employer's fee for processing an income withholding order;

(b) the maximum amount permitted to be withheld from the obligor's income; and

(c) the times within which the employer must implement the withholding order and forward the child support payment.

Section 203. Section 81-8-503, which is renumbered from Section 78B-14-503 is renumbered and amended to read:

[~~78B-14-503~~]81-8-503. Employer's compliance with two or more income-withholding orders.

If an obligor's employer receives two or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for the withholding and allocating income withheld for two or more child support obligees.

Section 204. Section 81-8-504, which is renumbered from Section 78B-14-504 is renumbered and amended to read:

[~~78B-14-504~~]81-8-504. Immunity from civil liability.

An employer that complies with an income withholding order issued in another state in accordance with this part is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

Section 205. Section 81-8-505, which is renumbered from Section 78B-14-505 is renumbered and amended to read:

[~~78B-14-505~~]81-8-505. Penalties for noncompliance.

An employer that willfully fails to comply with an income withholding order issued in another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

Section 206. Section 81-8-506, which is renumbered from Section 78B-14-506 is renumbered and amended to read:

[~~78B-14-506~~]81-8-506. Contest by obligor.

(1) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state by registering the order in a tribunal of this state and filing a contest to that order as provided in Part 6, Registration, Enforcement, and Modification of Support Order, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this state.

(2) The obligor shall give notice of the contest to:

(a) a [~~support-enforcement~~]child support services agency providing services to the obligee;

(b) each employer that has directly received an income-withholding order relating to the obligor; and

(c) the person designated to receive payments in the income-withholding order or if no person is designated, to the obligee.

Section 207. Section 81-8-507, which is renumbered from Section 78B-14-507 is renumbered and amended to read:

[~~78B-14-507~~]81-8-507. Administrative enforcement of orders.

(1) A party or [~~support enforcement~~]child support services agency seeking to enforce a support order or an income-withholding order, or both, issued in another state, or seeking to enforce a foreign support order, may send the documents required for registering the order to a [~~support enforcement~~]child support services agency of this state.

(2) (a) (i) Upon receipt of the documents, the [~~support enforcement~~]child support services agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both.

(ii) If the obligor does not contest administrative enforcement, the order need not be registered.

(b) If the obligor contests the validity or administrative enforcement of the order, the [~~support enforcement~~]child support services agency shall register the order [~~pursuant to~~]in accordance with this chapter.

Section 208. Section 81-8-601, which is renumbered from Section 78B-14-601 is renumbered and amended to read:

PART 6. Registration, Enforcement, and Modification of Support Order

[~~78B-14-601~~]81-8-601. Registration of order for enforcement.

A support order or income-withholding order issued in another state, or a foreign support order, may be registered in this state for enforcement.

Section 209. Section 81-8-602, which is renumbered from Section 78B-14-602 is renumbered and amended to read:

[~~78B-14-602~~]81-8-602. Procedure to register order for enforcement.

(1) Except as otherwise provided in Section [~~78B-14-706~~]81-8-706, a support order or income-withholding order of another state, or a foreign support order, may be registered in this state by sending the following records to the appropriate tribunal in this state:

(a) a letter of transmittal to the tribunal requesting registration and enforcement;

(b) two copies, including one certified copy, of the order to be registered, including any modification of the order;

(c) a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(d) the name of the obligor and, if known:

(i) the obligor's address and [~~Social Security~~]social security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor in this state not exempt from execution; and

(e) except as otherwise provided in Section [~~78B-14-312~~]81-8-312, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state, or a foreign support order, together with one copy of the documents and information, regardless of their form.

(3) (a) A petition or comparable pleading seeking a remedy that shall be affirmatively sought under law of this state may be filed at the same time as the request for registration or later.

(b) The pleading shall specify the grounds for the remedy sought.

(4) If two or more orders are in effect, the person requesting registration shall:

(a) furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

(b) specify the order alleged to be the controlling order, if any; and

(c) specify the amount of consolidated arrears, if any.

(5) (a) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification.

(b) The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

Section 210. Section 81-8-603, which is renumbered from Section 78B-14-603 is renumbered and amended to read:

[~~78B-14-603~~]81-8-603. Effect of registration for enforcement.

(1) A support order or income-withholding order issued in another state, or a foreign support order, is registered when the order is filed in the registering tribunal of this state.

(2) A registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(3) Except as otherwise provided in this chapter, a tribunal of this state shall recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction.

Section 211. Section 81-8-604, which is renumbered from Section 78B-14-604 is renumbered and amended to read:

[~~78B-14-604~~]81-8-604. Choice of law.

(1) Except as otherwise provided in Subsection (4), the law of the issuing state or foreign country governs:

(a) the nature, extent, amount, and duration of current payments under a registered support order;

(b) the computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

(c) the existence and satisfaction of other obligations under the support order.

(2) In a proceeding for arrears under a registered support order, the statute of limitation of this state or of the issuing state or foreign country, whichever is longer, applies.

(3) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state or a foreign country registered in this state.

(4) After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

Section 212. Section 81-8-605, which is renumbered from Section 78B-14-605 is renumbered and amended to read:

[~~78B-14-605~~]81-8-605. Notice of registration of order.

(1) (a) When a support order or income-withholding order issued in another state, or a foreign support order, is registered, the registering tribunal of this state shall notify the nonregistering party.

(b) The notice shall be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) A notice shall inform the nonregistering party:

(a) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) that a hearing to contest the validity or enforcement of the registered order shall be requested within 20 days after notice, unless the registered order is under Section [~~78B-14-707~~]81-8-707;

(c) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(d) of the amount of any alleged arrearages.

(3) If the registering party asserts that two or more orders are in effect, a notice shall also:

(a) identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;

(b) notify the nonregistering party of the right to a determination of which is the controlling order;

(c) state that the procedures provided in Subsection (2) apply to the determination of which is the controlling order; and

(d) state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(4) Upon registration of an income-withholding order for enforcement, the [~~support enforcement~~]child support services agency or the registering tribunal shall notify the obligor's employer [~~pursuant to~~]in accordance with Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases.

Section 213. Section 81-8-606, which is renumbered from Section 78B-14-606 is renumbered and amended to read:

[~~78B-14-606~~]81-8-606. Procedure to contest validity or enforcement of registered support order.

(1) (a) A nonregistering party seeking to contest the validity or enforcement of a registered support order in this state shall request a hearing within the time required by Section [~~78B-14-605~~]81-8-605.

(b) The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to Section [~~78B-14-607~~]81-8-607.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered support order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

Section 214. Section 81-8-607, which is renumbered from Section 78B-14-607 is renumbered and amended to read:

[~~78B-14-607~~]81-8-607. Contest of registration or enforcement.

(1) A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(a) the issuing tribunal lacked personal jurisdiction over the contesting party;

(b) the order was obtained by fraud;

(c) the order has been vacated, suspended, or modified by a later order;

(d) the issuing tribunal has stayed the order pending appeal;

(e) there is a defense under the law of this state to the remedy sought;

(f) full or partial payment has been made;

(g) the statute of limitation under Section [~~78B-14-604~~]81-8-604 precludes enforcement of some or all of the alleged arrearages; or

(h) the alleged controlling order is not the controlling order.

(2) (a) If a party presents evidence establishing a full or partial defense under Subsection (1), a tribunal may stay enforcement of a registered support order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders.

(b) An uncontested portion of the registered support order may be enforced by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under Subsection (1) to the validity or enforcement of a registered support order, the registering tribunal shall issue an order confirming the order.

Section 215. Section 81-8-608, which is renumbered from Section 78B-14-608 is renumbered and amended to read:

[~~78B-14-608~~]81-8-608. Confirmed order.

Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Section 216. Section 81-8-609, which is renumbered from Section 78B-14-609 is renumbered and amended to read:

[~~78B-14-609~~]81-8-609. Procedure to register child support order of another state for modification.

(1) A party or [~~support enforcement~~]child support services agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in Sections [~~78B-14-601 through 78B-14-608~~]81-8-601 through 81-8-608 if the order has not been registered.

(2) A petition for modification may be filed at the same time as a request for registration, or later.

(3) The pleading shall specify the grounds for modification.

Section 217. Section 81-8-610, which is renumbered from Section 78B-14-610 is renumbered and amended to read:
[~~78B-14-610~~]81-8-610. Effect of registration for modification.

A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered support order may be modified only if the requirements of Section [~~78B-14-611 or 78B-14-613~~]81-8-611 or 81-8-613 have been met.

Section 218. Section 81-8-611, which is renumbered from Section 78B-14-611 is renumbered and amended to read:
[~~78B-14-611~~]81-8-611. Modification of child support order of another state.

(1) If Section [~~78B-14-613~~]81-8-613 does not apply, upon petition a tribunal of this state may modify a child support order issued in another state which is registered in this state if, after notice and hearing, the tribunal finds that:

(a) the following requirements are met:

(i) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;

(ii) a petitioner who is a nonresident of this state seeks modification; and

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) this state is the residence of the child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction.

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(3) (a) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support.

(b) If two or more tribunals have issued child support orders for the same obligor and same child, the order that controls and shall be so recognized under Section [~~78B-14-207~~]81-8-207 establishes the aspects of the support order [~~which~~]that are nonmodifiable.

(4) (a) In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support.

(b) The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

(5) On issuance of an order by a tribunal of this state modifying a child support order issued in another state, the tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

(6) Notwithstanding Subsections (1) through (5) and Subsection [~~78B-14-201(2)~~]81-8-201(2), a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:

(a) one party resides in another state; and

(b) the other party resides outside the United States.

Section 219. Section 81-8-612, which is renumbered from Section 78B-14-612 is renumbered and amended to read:
[~~78B-14-612~~]81-8-612. Recognition of order modified in another state.

If a child support order issued by a tribunal of this state is modified by a tribunal of another state that assumed jurisdiction [~~pursuant to~~]in accordance with the Uniform Interstate Family Support Act, a tribunal of this state:

(1) may enforce [~~its~~]the tribunal's order that was modified only as to arrears and interest accruing before the modification;

(2) may provide appropriate relief for violations of [~~its~~]the tribunal's order which occurred before the effective date of the modification; and

(3) shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

Section 220. Section 81-8-613, which is renumbered from Section 78B-14-613 is renumbered and amended to read:
[~~78B-14-613~~]81-8-613. Jurisdiction to modify child support order of another state when individual parties reside in this state.

(1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(2) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of this part, Part 1, General Provisions, and Part 2, Jurisdiction, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, Part 7, Support Proceedings Under Convention, and Part 8, Rendition, do not apply.

Section 221. Section 81-8-614, which is renumbered from Section 78B-14-614 is renumbered and amended to read:
[~~78B-14-614~~]81-8-614. Notice to issuing tribunal of modification.

(1) Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered.

(2) A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises.

(3) The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

Section 222. Section 81-8-615, which is renumbered from Section 78B-14-615 is renumbered and amended to read:
[~~78B-14-615~~]81-8-615. Jurisdiction to modify child support order of foreign country.

(1) Except as otherwise provided in Section [~~78B-14-711~~]81-8-711, if a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a child support order otherwise required of the individual [~~pursuant to Section 78B-14-611~~]in accordance with Section 81-8-611 has been given or whether the

individual seeking modification is a resident of this state or of the foreign country.

(2) An order issued by a tribunal of this state modifying a foreign child support order [~~pursuant to~~]in accordance with this section is the controlling order.

Section 223. Section 81-8-616, which is renumbered from Section 78B-14-616 is renumbered and amended to read:

[~~78B-14-616~~]81-8-616. Procedure to register child support order of foreign country for modification.

(1) A party or [~~support enforcement~~]child support services agency seeking to modify, or to modify and enforce, a foreign child support order not under the convention may register that order in this state under Sections [~~78B-14-601 through 78B-14-608~~]81-8-601 through 81-8-608 if the order has not been registered.

(2) A petition for modification may be filed at the same time as a request for registration, or at another time.

(3) The petition shall specify the grounds for modification.

Section 224. Section 81-8-701, which is renumbered from Section 78B-14-701.5 is renumbered and amended to read:

PART 7. Support Proceedings Under Convention

[~~78B-14-701.5~~]81-8-701. Definitions for part.

As used in this part:

(1) "Application" means a request under the convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United States or a foreign country described in Subsection [~~78B-14-102(5)(d)~~]81-8-102(8)(d) to perform the functions specified in the convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in Subsection [~~78B-14-102(5)(d)~~]81-8-102(8)(d).

(4) "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in Subsection [~~78B-14-102(5)(d)~~]81-8-102(8)(d) to perform the functions specified in the convention.

(6) "Foreign support agreement":

(a) means an agreement for support in a record that:

(i) is enforceable as a support order in the country of origin;

(ii) has been:

(A) formally drawn up or registered as an authentic instrument by a foreign tribunal; or

(B) authenticated by, or concluded, registered, or filed with a foreign tribunal; and

(iii) may be reviewed and modified by a foreign tribunal; and

(b) includes a maintenance arrangement or authentic instrument under the convention.

(7) "United States central authority" means the Secretary of the United States Department of Health and Human Services.

Section 225. Section 81-8-702, which is renumbered from Section 78B-14-702 is renumbered and amended to read:

[~~78B-14-702~~]81-8-702. Applicability.

(1) This part applies only to a support proceeding under the convention.

(2) In such a proceeding, if a provision of this part is inconsistent with Part 1, General Provisions, Part 2, Jurisdiction, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order, this part controls.

Section 226. Section 81-8-703, which is renumbered from Section 78B-14-703 is renumbered and amended to read:

[~~78B-14-703~~]81-8-703. Relationship of Department of Health and Human Services to United States central authority.

The Utah Department of Health and Human Services is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

Section 227. Section 81-8-704, which is renumbered from Section 78B-14-704 is renumbered and amended to read:

[~~78B-14-704~~]81-8-704. Initiation by Department of Health and Human Services of support proceeding under convention.

(1) In a support proceeding under this part, the Utah Department of Health and Human Services shall:

(a) transmit and receive applications; and

(b) initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

(2) The following support proceedings are available to an obligee under the convention:

(a) recognition or recognition and enforcement of a foreign support order;

(b) enforcement of a support order issued or recognized in this state;

(c) establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;

(d) establishment of a support order if recognition of a foreign support order is refused under Subsection [~~78B-14-708(2)(b)~~]81-8-708(2)(b), (d), or (i);

(e) modification of a support order of a tribunal of this state; and

(f) modification of a support order of a tribunal of another state or a foreign country.

(3) The following support proceedings are available under the convention to an obligor against which there is an existing support order:

(a) recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;

(b) modification of a support order of a tribunal of this state; and

(c) modification of a support order of a tribunal of another state or a foreign country.

(4) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the convention.

Section 228. Section 81-8-705, which is renumbered from Section 78B-14-705 is renumbered and amended to read:

[~~78B-14-705~~]81-8-705. Direct request.

(1) (a) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child.

(b) In the proceeding, the law of this state applies.

(2) (a) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement.

(b) In the proceeding, Sections [~~78B-14-706 through 78B-14-713~~]81-8-706 through 81-8-713 apply.

(3) In a direct request for recognition and enforcement of a convention support order or foreign support agreement:

(a) a security, bond, or deposit is not required to guarantee the payment of costs and expenses; and

(b) an obligee or obligor that in the issuing country has benefitted from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.

(4) A petitioner filing a direct request is not entitled to assistance from the [~~Department of Human Services~~]Utah Department of Health and Human Services.

(5) This part does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

Section 229. Section 81-8-706, which is renumbered from Section 78B-14-706 is renumbered and amended to read:

[~~78B-14-706~~]81-8-706. Registration of convention support order.

(1) Except as otherwise provided in this part, a party who is an individual or a [~~support enforcement~~]child support services agency seeking recognition of a convention support order shall register the order in this state as provided in Part 6, Registration, Enforcement, and Modification of Support Order.

(2) Notwithstanding Section [~~78B-14-311~~]81-8-311 and Subsection [~~78B-14-602(1)~~]81-8-602(1), a request for registration of a convention support order shall be accompanied by:

(a) a complete text of the support order or an abstract or extract of the support order drawn up by the issuing foreign tribunal, which may be in the form recommended by the Hague Conference on Private International Law;

(b) a record stating that the support order is enforceable in the issuing country;

(c) if the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(d) a record showing the amount of arrears, if any, and the date the amount was calculated;

(e) a record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(f) if necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(3) A request for registration of a convention support order may seek recognition and partial enforcement of the order.

(4) A tribunal of this state may vacate the registration of a convention support order without the filing of a contest under Section [~~78B-14-707~~]81-8-707 only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(5) The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a convention support order.

Section 230. Section 81-8-707, which is renumbered from Section 78B-14-707 is renumbered and amended to read:

[~~78B-14-707~~]81-8-707. Contest of registered convention support order.

(1) Except as otherwise provided in this part, Sections [~~78B-14-605 through 78B-14-608~~]81-8-605 through 81-8-608 apply to a contest of a registered convention support order.

(2) A party contesting a registered convention support order shall file a contest not later than 30 days after notice of the registration, but if the contesting party does not reside in the United States, the contest shall be filed not later than 60 days after notice of the registration.

(3) If the nonregistering party fails to contest the registered convention support order by the time specified in Subsection (2), the order is enforceable.

(4) (a) A contest of a registered convention support order may be based only on grounds set forth in Section [~~78B-14-708~~]81-8-708.

(b) The contesting party bears the burden of proof.

(5) In a contest of a registered convention support order, a tribunal of this state:

(a) is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(b) may not review the merits of the order.

(6) A tribunal of this state deciding a contest of a registered convention support order shall promptly notify the parties of [~~its~~]the tribunal's decision.

(7) A challenge or appeal, if any, does not stay the enforcement of a convention support order unless there are exceptional circumstances.

Section 231. Section 81-8-708, which is renumbered from Section 78B-14-708 is renumbered and amended to read:

[~~78B-14-708~~]81-8-708. Recognition and enforcement of registered convention support order.

(1) Except as otherwise provided in Subsection (2), a tribunal of this state shall recognize and enforce a registered convention support order.

(2) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:

(a) recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(b) the issuing tribunal lacked personal jurisdiction consistent with Section [~~78B-14-201~~]81-8-201;

(c) the order is not enforceable in the issuing country;

(d) the order was obtained by fraud in connection with a matter of procedure;

(e) a record transmitted in accordance with Section [~~78B-14-706~~]81-8-706 lacks authenticity or integrity;

(f) a proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(g) the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this chapter in this state;

(h) payment, to the extent alleged arrears have been paid in whole or in part;

(i) in a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(i) if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(ii) if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(j) the order was made in violation of Section [~~78B-14-711~~]81-8-711.

(3) If a tribunal of this state does not recognize a convention support order under Subsection (2)(b), (d), or (i):

(a) the tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order; and

(b) the [~~Department of Human Services~~]Utah Department of Health and Human Services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under Section [~~78B-14-704~~]81-8-704.

Section 232. Section 81-8-709, which is renumbered from Section 78B-14-709 is renumbered and amended to read:

[~~78B-14-709~~]81-8-709. Partial enforcement.

(1) If a tribunal of this state does not recognize and enforce a convention support order in its entirety, [~~it~~]the tribunal shall enforce any severable part of the order.

(2) An application or direct request may seek recognition and partial enforcement of a convention support order.

Section 233. Section 81-8-710, which is renumbered from Section 78B-14-710 is renumbered and amended to read:

[~~78B-14-710~~]81-8-710. Foreign support agreement.

(1) Except as otherwise provided in Subsections (3) and (4), a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.

(2) An application or direct request for recognition and enforcement of a foreign support agreement shall be accompanied by:

(a) a complete text of the foreign support agreement; and

(b) a record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(3) A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(4) In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if [~~it~~]the tribunal finds:

(a) recognition and enforcement of the agreement is manifestly incompatible with public policy;

(b) the agreement was obtained by fraud or falsification;

(c) the agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state, or a foreign country if the support order is entitled to recognition and enforcement under this chapter in this state; or

(d) the record submitted under Subsection (2) lacks authenticity or integrity.

(5) A proceeding for recognition and enforcement of a foreign support agreement shall be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

Section 234. Section 81-8-711, which is renumbered from Section 78B-14-711 is renumbered and amended to read:

[~~78B-14-711~~]81-8-711. Modification of convention child support order.

(1) A tribunal of this state may not modify a convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless:

(a) the obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(b) the foreign tribunal lacks or refuses to exercise jurisdiction to modify [~~its~~]the foreign tribunal's support order or issue a new support order.

(2) If a tribunal of this state does not modify a convention child support order because the order is not recognized in this state, Subsection [~~78B-14-708(3)~~]81-8-708(3) applies.

Section 235. Section 81-8-712, which is renumbered from Section 78B-14-712 is renumbered and amended to read:

[~~78B-14-712~~]81-8-712. Personal information -- Limit on use.

Personal information gathered or transmitted under this part may be used only for the purposes for which it was gathered or transmitted.

Section 236. Section 81-8-713, which is renumbered from Section 78B-14-713 is renumbered and amended to read:

[~~78B-14-713~~]81-8-713. Record in original language -- English translation.

A record filed with a tribunal of this state under this part shall be in the original language and, if not in English, shall be accompanied by an English translation.

Section 237. Section 81-8-801, which is renumbered from Section 78B-14-801 is renumbered and amended to read:

PART 8. Rendition

[~~78B-14-801~~]81-8-801. Definitions for part -- Grounds for rendition.

(1) [~~For purposes of~~]As used in this part, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

(2) The governor of this state may:

(a) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(b) on the demand of the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(3) A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Section 238. Section 81-8-802, which is renumbered from Section 78B-14-802 is renumbered and amended to read:

[~~78B-14-802~~]81-8-802. Conditions of rendition.

(1) Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least 60 days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

(2) (a) If, under this chapter or a law substantially similar to this chapter, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective.

(b) If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(3) (a) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand.

(b) If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

Section 239. Section 81-8-901, which is renumbered from Section 78B-14-901 is renumbered and amended to read:

PART 9. Applicability Provisions

[~~78B-14-901~~]81-8-901. Uniformity of application and construction.

(1) This chapter is a uniform act.

(2) In applying and construing [~~it~~]this chapter, consideration shall be given to the need to promote uniformity of the law with respect to [~~its~~]this uniform law's subject matter among states that enact [~~it~~]this uniform law.

Section 240. Section 81-8-902, which is renumbered from Section 78B-14-902 is renumbered and amended to read:

[~~78B-14-902~~]81-8-902. Transitional provision.

This chapter applies to proceedings begun on or after July 1, 2015:

(1) to establish a support order or determine parentage of a child; or

(2) to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.

Section 241. Section 81-9-202 is amended to read:

81-9-202. Advisory guidelines for a custody and parent-time arrangement.

(1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304, the following advisory guidelines are suggested to govern a custody and parent-time arrangement between parents.

(2) A parent-time schedule mutually agreed upon by both parents is preferable to a court-imposed solution.

(3) A parent-time schedule shall be used to maximize the continuity and stability of the minor child's life.

(4) Each parent shall give special consideration to make the minor child available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the minor child or in the life of either parent which may inadvertently conflict with the parent-time schedule.

(5) (a) The court shall determine the responsibility for the pick up, delivery, and return of the minor child when the parent-time order is entered.

(b) The court may change the responsibility described in Subsection (5)(a) at any time a subsequent modification is made to the parent-time order.

(c) If the noncustodial parent will be providing transportation, the custodial parent shall:

(i) have the minor child ready for parent-time at the time the minor child is to be picked up; and

(ii) be present at the custodial home or make reasonable alternate arrangements to receive the minor child at the time the minor child is returned.

(d) If the custodial parent will be transporting the minor child, the noncustodial parent shall:

(i) be at the appointed place at the time the noncustodial parent is to receive the minor child; and

(ii) have the minor child ready to be picked up at the appointed time and place or have made reasonable alternate arrangements for the custodial parent to pick up the minor child.

(6) A parent may not interrupt regular school hours for a school-age minor child for the exercise of parent-time.

(7) The court may:

(a) make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents; and

(b) increase the parent-time allowed to the noncustodial parent but may not diminish the standardized parent-time provided in Sections 81-9-302 and 81-9-304.

(8) The court may make alterations in the parent-time schedule to reasonably accommodate the distance between the parties and the expense of exercising parent-time.

(9) A parent may not withhold parent-time or child support due to the other parent's failure to comply with a court-ordered parent-time schedule.

(10) (a) The custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school, social, sports, and community functions in which the minor child is participating or being honored.

(b) The noncustodial parent is entitled to attend and participate fully in the functions described in Subsection (10)(a).

(c) The noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records.

(d) A parent shall immediately notify the other parent in the event of a medical emergency.

(11) Each parent shall provide the other with the parent's current address and telephone number, email address, and other virtual parent-time access information within 24 hours of any change.

(12) (a) Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the minor child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available.

(b) If the parents cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available by taking into consideration:

(i) the best interests of the minor child;

(ii) each parent's ability to handle any additional expenses for virtual parent-time; and

(iii) any other factors the court considers material.

(13) (a) Parental care is presumed to be better care for the minor child than surrogate care.

(b) The court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able to transport the minor child, to provide the child care.

(c) Child care arrangements existing during the marriage are preferred as are child care arrangements with nominal or no charge.

(14) Each parent shall:

(a) provide all surrogate care providers with the name, current address, and telephone number of the other parent; and

(b) provide the noncustodial parent with the name, current address, and telephone number of all surrogate care providers unless the court for good cause orders otherwise.

(15) (a) Each parent is entitled to an equal division of major religious holidays celebrated by the parents.

(b) The parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the minor child on the religious holiday.

(16) If the minor child is on a different parent-time schedule than a sibling, based on Sections 81-9-302 and 81-9-304, the parents should consider if an upward deviation for parent-time with all the minor children so that parent-time is uniform between school aged and nonschool aged children, is appropriate.

(17) (a) When one or both parents are servicemembers or contemplating joining a uniformed service, the parents should resolve issues of custodial responsibility in the event of deployment as soon as practicable through reaching a voluntary agreement pursuant to Section [~~78B-20-201~~]81-10-201 or through court order obtained pursuant to this part.

(b) Service members shall ensure their family care plan reflects orders and agreements entered and filed pursuant to [~~Title 78B, Chapter 20,~~]Chapter 10, Uniform Deployed Parents Custody, Parent-time, and Visitation Act.

(18) A parent shall immediately notify the other parent if:

(a) the parent resides with an individual or provides an individual with access to the minor child; and

(b) the parent knows that the individual:

(i) is required to register as a sex offender [~~or~~], a kidnap offender, or a child abuse offender for an offense against a minor child under Title 77, Chapter 41, [~~Sex and Kidnap Offender Registry~~]Sex, Kidnap, and Child Abuse Offender Registry; or

[~~(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or~~]

[~~(iii)~~](ii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses;

(C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections [~~(18)(b)(iii)(A)~~](18)(b)(ii)(A) through (D).

(19) (a) For emergency purposes, whenever the minor child travels with a parent, the parent shall provide the following information to the other parent:

(i) an itinerary of travel dates;

(ii) destinations;

(iii) places where the minor child or traveling parent can be reached; and

(iv) the name and telephone number of an available third person who would be knowledgeable of the minor child's location.

(b) Unchaperoned travel of a minor child under the age of five years is not recommended.

Section 242. Section 81-9-203 is amended to read:

81-9-203. Custody and parent-time proceedings -- Requirements for parenting plan.

(1) In a custody or parent-time proceeding that is not a divorce action, the court may require the parents to attend the mandatory educational course described in Section [~~81-4-106~~]81-4-105.

(2) (a) In a proceeding between parents regarding the custody or parent-time for a minor child, the parent shall file and serve a proposed parenting plan at the time of the filing of the parent's original petition or at the time of filing the parent's answer or counterclaim.

(b) In a proceeding in which a parent seeks to modify custody provisions or a parenting plan, the parent shall file the proposed parenting plan with the petition to modify or the answer or counterclaim to the petition to modify.

(c) A parent who desires joint legal custody shall file a proposed parenting plan in accordance with this section.

(3) If a parent files a proposed parenting plan in compliance with this section, the parent may move the court for an order of default to adopt the plan if the other parent fails to file a proposed parenting plan as required by this section.

(4) A parent may file and serve an amended proposed parenting plan according to the Utah Rules of Civil Procedure.

(5) The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.

(6) (a) Both parents may submit a parenting plan which has been agreed upon.

(b) The parents shall attach a verified statement to the parenting plan that is signed by both parents.

(7) If the parents file inconsistent parenting plans, the court may appoint a guardian ad litem to represent the best interests of the minor child, who may, if necessary, file a separate parenting plan reflecting the best interests of the minor child.

(8) (a) If a parent is a service member, the parenting plan shall be consistent with Subsection (16).

(b) If a parent becomes a service member after a parenting plan is adopted, the parents shall amend the existing parenting plan as soon as practical to comply with Subsection (16).

(9) The objectives of a parenting plan are to:

(a) provide for the minor child's physical care;

(b) maintain the minor child's emotional stability;

(c) provide for the minor child's changing needs as the minor child grows and matures in a way that minimizes the need for future modifications to the parenting plan;

(d) set forth the authority and responsibilities of each parent with respect to the minor child consistent with the definitions outlined in this chapter;

(e) minimize the minor child's exposure to harmful parental conflict;

(f) encourage the parents, where appropriate, to meet the responsibilities to their minor child through agreements in the parenting plan rather than relying on judicial intervention; and

(g) protect the best interests of the minor child.

(10) (a) The parenting plan shall contain:

(i) provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the minor child;

(ii) provisions addressing notice and parent-time responsibilities in the event of the relocation of a party; and

(iii) a process for resolving disputes, unless precluded or limited by statute.

(b) A dispute resolution process under Subsection (10)(a)(iii) may include:

(i) counseling;

(ii) mediation or arbitration by a specified individual or agency; or

(iii) court action.

(c) In the dispute resolution process under Subsection (10)(b):

(i) preference shall be given to the provisions in the parenting plan;

(ii) parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;

(iii) a written record shall be prepared of any agreement reached in counseling or mediation and provided to each party;

(iv) if arbitration becomes necessary, a written record shall be prepared and a copy of the arbitration award shall be provided to each party;

(v) if the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court may award attorney fees and financial sanctions to the prevailing parent;

(vi) the district court has the right of review from the dispute resolution process; and

(vii) the provisions of this Subsection (10)(c) shall be set forth in any final decree or order.

(11) (a) Subject to the other provisions of this Subsection (11), the parenting plan shall allocate decision-making authority to one or both parties regarding the minor child's education, healthcare, and religious upbringing.

(b) The parties may incorporate an agreement related to the care and growth of the minor child in these specified areas or in other areas into the plan that are consistent with parenting functions and the criteria outlined in Subsection (9).

(c) Regardless of the allocation of decision-making in the parenting plan, a parent may make emergency decisions affecting the health or safety of the minor child.

(d) A minor child's education plan shall designate the following:

(i) the home residence for purposes of identifying the appropriate school or another specific plan that provides for where the minor child will attend school;

(ii) which parent has authority to make education decisions for the minor child if the parents cannot agree; and

(iii) whether one or both parents have access to the minor child during school and authority to check the minor child out of school.

(e) If an education provision is not included in the parenting plan:

(i) a parent with sole physical custody shall make the decisions listed in Subsection (11)(d);

(ii) in the event of joint physical custody when one parent has custody a majority of the time as described in Subsection 81-9-205(10):

(A) the parent having the minor child the majority of the time shall make the decisions listed in Subsections (11)(d)(i) and (ii); and

(B) both parents with joint physical custody shall have access to the minor child during school and authority to check the child out of school; or

(iii) in the event of joint physical custody when the parents have custody an equal amount of time:

(A) the court shall determine how the decisions listed in Subsections (11)(d)(i) and (ii) are made; and

(B) both parents with joint physical custody shall have access to the minor child during school and authority to check the minor child out of school.

(12) Each parent may make decisions regarding the day-to-day care and control of the minor child while the minor child is residing with that parent.

(13) When mutual decision-making is designated but cannot be achieved, the parties shall make a good faith effort to resolve the issue through the dispute resolution process.

(14) The parenting plan shall include a residential schedule that designates in which parent's home a minor child shall reside on given days of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions.

(15) (a) If a parent fails to comply with a provision of the parenting plan or a child support order, the other parent's obligations under the parenting plan or the child support order are not affected.

(b) Failure to comply with a provision of the parenting plan or a child support order may result in a finding of contempt of court.

(16) (a) If a parent is a service member, the parenting plan shall contain provisions that address the foreseeable parenting and custodial issues likely to arise in the event of notification of deployment or other contingency, including long-term deployments, short-term deployments, death, incapacity, and noncombatant evacuation operations.

(b) The provisions in the parenting plan described in Subsection (16)(a) shall comport substantially with the requirements of an agreement made pursuant to Section [~~78B-20-201~~]81-10-201.

Section 243. Section 81-9-204 is amended to read:

81-9-204. Custody and parent-time of a minor child -- Custody factors -- Preferences.

(1) In a proceeding between parents in which the custody and parent-time of a minor child is at issue, the court shall consider the best interests of the minor child in determining any form of custody and parent-time.

(2) The court shall determine whether an order for custody or parent-time is in the best interests of the minor child by a preponderance of the evidence.

(3) In determining any form of custody and parent-time under Subsection (1), the court shall consider:

(a) for each parent, and in accordance with Section 81-9-104, evidence of domestic violence, physical abuse, or sexual abuse involving the minor child, the parent, or a household member of the parent;

(b) whether the parent has intentionally exposed the minor child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201; and

(c) whether custody and parent-time would endanger the minor child's health or physical or psychological safety.

(4) In determining the form of custody and parent-time that is in the best interests of the minor child, the court may consider, among other factors the court finds relevant, the following for each parent:

(a) evidence of psychological maltreatment;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the minor child, including the minor child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the minor child and the other parent, except that, if the court determines that the parent is acting to protect the minor child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) the past conduct and demonstrated moral character of the parent as described in Subsection (9);

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) the parent's reason for having relinquished custody or parent-time in the past;

(h) duration and depth of desire for custody or parent-time;

(i) the parent's religious compatibility with the minor child;

(j) the parent's financial responsibility;

(k) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the minor child's best interests;

(l) who has been the primary caretaker of the minor child;

(m) previous parenting arrangements in which the minor child has been happy and well-adjusted in the home, school, and community;

(n) the relative benefit of keeping siblings together;

(o) the stated wishes and concerns of the minor child, taking into consideration the minor child's cognitive ability and emotional maturity;

(p) the relative strength of the minor child's bond with the parent, meaning the depth, quality, and nature of the relationship between

the parent and the minor child; and

(q) any other factor the court finds relevant.

(5) (a) A minor child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the minor child be heard and there is no other reasonable method to present the minor child's testimony.

(b) (i) The court may inquire and take into consideration the minor child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the minor child's custody or parent-time otherwise.

(ii) The desires of a minor child who is 14 years old or older shall be given added weight, but is not the single controlling factor.

(c) (i) If an interview with a minor child is conducted by the court in accordance with Subsection (5)(b), the interview shall be conducted by the court in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a minor child is the only method to ascertain the minor child's desires regarding custody.

(6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the minor child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the minor child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under [~~Title 78B, Chapter 6, Part 1, Utah Adoption Act~~]Chapter 13, Adoption.

(7) This section does not establish:

(a) a preference for either parent solely because of the gender of the parent; or

(b) a preference for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the minor child.

(8) When an issue before the court involves custodial responsibility in the event of a deployment of a parent who is a service member and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections [~~78B-20-306 through 78B-20-309~~]81-10-306 through 81-10-309.

(9) In considering the past conduct and demonstrated moral standards of each party under Subsection (4)(d) or any other factor a court finds relevant, the court may not:

(a) (i) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or

(ii) discriminate against a parent because of the parent's status as a:

(A) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;

(C) medical cannabis courier agent, as that term is defined in Section 26B-4-201; or

(D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(b) discriminate against a parent based upon the parent's agreement or disagreement with a minor child of the couple's:

(i) assertion that the minor child's gender identity is different from the minor child's biological sex; or

(ii) practice of having or expressing a different gender identity than the minor child's biological sex.

(10) (a) The court shall consider evidence of domestic violence if evidence of domestic violence is presented.

(b) The court shall consider as primary, the safety and well-being of the minor child and the parent who experiences domestic violence.

(c) A court shall consider an order issued by a court in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or substantiated potential harm to the minor child.

(d) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section 81-9-209.

(11) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the minor child:

(a) it is in the best interest of the minor child to have frequent, meaningful, and continuing access to each parent following separation or divorce;

(b) each parent is entitled to and responsible for frequent, meaningful, and continuing access with the parent's minor child consistent with the minor child's best interests; and

(c) it is in the best interest of the minor child to have both parents actively involved in parenting the minor child.

(12) Notwithstanding any other provision of this chapter, the court may not grant custody or parent-time of a minor child to a parent convicted of a sexual offense, as defined in Section 77-37-2, that resulted in the conception of the minor child unless:

(a) the nonconvicted biological parent, or the legal guardian of the minor child, consents to custody or parent-time and the court determines it is in the best interest of the minor child to award custody or parent-time to the convicted parent; or

(b) after the date of the conviction, the convicted parent and the nonconvicted parent cohabit and establish a mutual custodial environment for the minor child.

(13) A denial of custody or parent-time under Subsection (12) does not:

(a) terminate the parental rights of the parent denied parent-time or custody; or

(b) affect the obligation of the convicted parent to financially support the minor child.

Section 244. Section 81-9-208 is amended to read:

81-9-208. Modification or termination of a custody or parent-time order -- Noncompliance with a parent-time order.

(1) The court has continuing jurisdiction to make subsequent changes to modify:

(a) custody of a minor child if there is a showing of a substantial and material change in circumstances since the entry of the order; and

(b) parent-time for a minor child if there is a showing that there is a change in circumstances since the entry of the order.

(2) A substantial and material change in circumstances under Subsection (1)(a) includes a showing by a parent that the other parent:

(a) resides with an individual or provides an individual with access to the minor child; and

(b) knows that the individual:

(i) is required to register as a sex offender [~~or~~], a kidnap offender, or a child abuse offender for an offense against a minor child under Title 77, Chapter 41, [~~Sex and Kidnap Offender Registry~~]Sex, Kidnap, and Child Abuse Offender Registry; or

[~~(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or~~]

[~~(iii)~~](ii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses;

(C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections [~~(2)(b)(iii)(A)~~](2)(b)(ii)(A) through (D).

(3) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal custody or joint physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that there has been a substantial and material change in the circumstances of the minor child or one or both parents or joint legal or physical custodians since the entry of the order to be modified;

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child; and

(c) (i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 81-9-205(8); or

(ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 81-9-205(13) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.

(4) (a) In determining whether the best interest of a minor child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors described in Sections 81-9-204 and 81-9-205.

(b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:

(i) a substantial and material change of circumstance has occurred; and

(ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child.

(c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the minor child is thriving, happy, and well-adjusted.

(5) The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Section 81-9-204.

(6) The court may modify the terms and conditions of the existing order in accordance with this chapter and may order the parents to file a parenting plan in accordance with Section 81-9-203.

(7) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 81-9-203.

(8) If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are service members, and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections [~~78B-20-306 through 78B-20-309~~]81-10-306 through 81-10-309.

(9) If the court finds that an action to modify custody or parent-time is filed or answered frivolously and, in a manner, designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

(10) If a petition to modify custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action if the court determines that the petition was without merit and not asserted or defended against in good faith.

(11) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court:

(a) may award to the prevailing party:

(i) actual attorney fees incurred;

(ii) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, including:

(A) court costs;

(B) child care expenses;

(C) transportation expenses actually incurred;

(D) lost wages, if ascertainable; or

(E) counseling for a parent or a minor child if ordered or approved by the court; or

(iii) any other appropriate equitable remedy; and

(b) shall award reasonable make-up parent-time to the prevailing party, unless make-up parent-time is not in the best interest of the minor child.

Section 245. Section 81-9-209 is amended to read:

81-9-209. Notice of relocation -- Effect of relocation on parent-time schedule.

(1) As used in this section, "relocation" means moving 150 miles or more from the residence of the other parent.

(2) The relocating parent shall provide written notice to the other parent at least 60 days before the day on which the relocating parent intends to relocate.

(3) The written notice of relocation under Subsection (2) shall contain statements affirming:

(a) the parent-time provisions in Subsection (9) or a parent-time schedule approved by both parties will be followed; and

(b) that a parent will not interfere with the other's parental rights pursuant to court ordered parent-time arrangements or the parent-time schedule approved by both parties.

(4) The court shall, upon motion of any party or upon the court's own motion, schedule a hearing with notice to:

(a) review the notice of relocation and the relevant parent-time schedule under Section [~~81-8-302 or 81-8-304~~]81-9-302 or 81-9-304; and

(b) make appropriate orders regarding the parent-time schedule and costs for parent-time transportation.

(5) In a hearing to review the notice of relocation, the court shall, in determining if the relocation of a custodial parent is in the best interest of the minor child, consider any other factors that the court considers relevant to the determination.

(6) If the court determines that relocation is not in the best interest of the minor child, and the custodial parent relocates, the court may order a change of custody.

(7) (a) If the court finds that the relocation is in the best interest of the minor child, the court shall determine the parent-time schedule and allocate the transportation costs that will be incurred for the minor child to visit the noncustodial parent.

(b) In making a determination under Subsection (7)(a), the court shall consider:

(i) the reason for the parent's relocation;

(ii) the additional costs or difficulty to both parents in exercising parent-time;

(iii) the economic resources of both parents; and

(iv) other factors the court considers necessary and relevant.

(8) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regard to the application of this section.

(9) Unless otherwise ordered by the court, upon the relocation of one of the parties, the following schedule is the minimum parent-time the noncustodial parent is entitled to a minor child who is five to 18 years old:

(a) in years ending in an odd number, the minor child shall spend the following holidays with the noncustodial parent:

(i) Thanksgiving holiday beginning Wednesday until Sunday; and

(ii) Spring break, if applicable, beginning the last day of school before the holiday until the day before school resumes;

(b) in years ending in an even number, the minor child shall spend the following holidays with the noncustodial parent:

(i) the entire winter school break period; and

(ii) the Fall school break beginning the last day of school before the holiday until the day before school resumes;

(c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive weeks; and

(d) one weekend per month, at the option and expense of the noncustodial parent.

(10) For extended parent-time under Subsection (9)(c), the minor child should be returned to the custodial home no later than seven days before school begins, except that this week is counted when determining the amount of parent-time to be divided between the parents for the summer or off-track period.

(11) (a) The court may also set a parent-time schedule for a minor child who is younger than five years old.

(b) The schedule shall take into consideration the following:

(i) the age of the minor child;

(ii) the developmental needs of the minor child;

(iii) the distance between the parents' homes;

(iv) the travel arrangements and cost;

(v) the level of attachment between the minor child and the noncustodial parent; and

(vi) any other factors relevant to the best interest of the minor child.

(12) The noncustodial parent's monthly weekend entitlement is subject to the following restrictions.

(a) (i) If the noncustodial parent has not designated a specific weekend for parent-time, the noncustodial parent shall receive the last weekend of each month unless a holiday assigned to the custodial parent falls on that particular weekend.

(ii) If a holiday assigned to the custodial parent falls on the last weekend of the month, the noncustodial parent is entitled to the next to the last weekend of the month.

(b) If a noncustodial parent's extended parent-time or parent-time over a holiday extends into or through the first weekend of the next month, that weekend shall be considered the noncustodial parent's monthly weekend entitlement for that month.

(c) If a minor child is out of school for teacher development days or snow days after the minor child begins the school year, or other days not included in the list of holidays in Subsection (9) and those days are contiguous with the noncustodial parent's monthly weekend parent-time, those days shall be included in the weekend parent-time.

(13) The custodial parent is entitled to all parent-time not specifically allocated to the noncustodial parent.

(14) In the event finances and distance preclude the exercise of minimum parent-time for the noncustodial parent during the school year, the court should consider awarding more time for the noncustodial parent during the summer time if it is in the best interests of the [~~the~~]minor child.

(15) (a) Upon the motion of any party, the court may order uninterrupted parent-time with the noncustodial parent for a minimum of 30 days during extended parent-time, unless the court finds it is not in the best interest of the minor child.

(b) If the court orders uninterrupted parent-time during a period not covered by this section, the court shall specify in its order which parent is responsible for the minor child's travel expenses.

(16) (a) Unless otherwise ordered by the court the relocating party shall be responsible for all the minor child's travel expenses relating to Subsections (9)(a) and (b) and 1/2 of the minor child's travel expenses relating to Subsection (9)(c), provided the noncustodial parent is current on all support obligations.

(b) If the noncustodial parent has been found in contempt for not being current on all support obligations, the noncustodial parent is responsible for all of the minor child's travel expenses under Subsection (9), unless the court rules otherwise.

(c) A responsible party shall make a reimbursement to the other for the minor child's travel expenses within 30 days of receipt of documents detailing those expenses.

(17) The court may apply this provision to any preexisting decree of divorce.

(18) Any action under this section may be set for an expedited hearing.

(19) A parent who fails to comply with the notice of relocation in Subsection (2) is in contempt of the court's order.

Section 246. Section 81-9-303 is amended to read:

81-9-303. Optional schedule for parent-time for a minor child five to 18 years old.

(1) (a) The optional parent-time schedule in this section applies to a minor child who is five to 18 years old.

(b) For purposes of calculating child support, the optional parent-time schedule in this section is 145 overnights.

(c) Any impact on child support shall be consistent with joint physical custody.

(2) The parents and the court may consider the increased parent-time schedule in this section as a minimum parent-time schedule when the parties agree or the noncustodial parent can demonstrate:

(a) the noncustodial parent has been actively involved in the minor child's life;

(b) the parties can communicate effectively regarding the minor child or the noncustodial parent has a plan to accomplish effective communications regarding the minor child;

(c) the noncustodial parent has the ability to facilitate the increased parent-time;

(d) the increased parent-time would be in the best interest of the minor child; and

(e) any other factor the court considers relevant.

(3) In determining whether a noncustodial parent has been actively involved in the minor child's life, the court shall consider:

(a) demonstrated responsibility in caring for the minor child;

(b) involvement in childcare;

(c) presence or volunteer efforts in the minor child's school and at extracurricular activities;

(d) assistance with the minor child's homework;

(e) involvement in preparation of meals, bath time, and bedtime for the minor child;

(f) bonding with the minor child; and

(g) any other factor the court considers relevant.

(4) In determining whether a noncustodial parent has the ability to facilitate the increased parent-time, the court shall consider:

(a) the geographic distance between the residences of the parents and the distance between the parents' residences and the minor child's school;

(b) the noncustodial parent's ability to assist with after school care;

(c) the health of the minor child and the noncustodial parent in accordance with Subsection [~~81-9-204(5)~~]81-9-204(4);

(d) flexibility of employment or another schedule of the noncustodial parent;

(e) ability to provide appropriate playtime with the minor child;

(f) history and ability of the noncustodial parent to implement a flexible schedule for the minor child;

(g) physical facilities of the noncustodial parent's residence; and

(h) any other factor the court considers relevant.

(5) If the parties agree or the court enters an order for the optional parent-time schedule under this section, a parenting plan in compliance with Section 81-9-203 shall be filed with any order incorporating the optional parent-time schedule described in Subsection (6).

(6) The following schedule is considered the optional parent-time to which the noncustodial parent is entitled to the minor child:

(a) (i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending the following day upon delivering the minor child to school or at 8 a.m. if there is no school; or

(ii) at the election of the noncustodial parent, one weekday specified by the noncustodial parent or the court:

(A) beginning at the time the minor child's school is regularly dismissed until the following day upon delivering the minor child to school or at 8 a.m. if there is no school; or

(B) if there is no school, the noncustodial parent is available to be with the minor child, and in accommodation with the custodial parent's work schedule, beginning at 8 a.m. and ending on the following day upon delivering the minor child to school or at 8 a.m. if there is no school;

(b) (i) beginning the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Monday upon delivering the minor child to school or at 8 a.m. if there is no school; or

(ii) at the election of the noncustodial parent, beginning the first weekend after the entry of the decree, alternating weekends:

(A) beginning at the time the minor child's school is regularly dismissed on Friday and ending on Monday upon delivering the minor child to school or at 8 a.m. if there is no school; or

(B) if there is no school, the noncustodial parent is available to be with the minor child, and in accommodation with the custodial parent's work schedule, beginning on Friday at 9 a.m. and ending on Monday upon delivering the minor child to school or at 8 a.m. if there is no school;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (15); and

(d) extended parent-time with the minor child when school is not in session for summer break in accordance with Subsection (7).

(7) (a) For extended parent-time with the minor child under Subsection (6)(d) and at the election of the noncustodial parent, the

noncustodial parent is entitled up to four weeks of parent-time with the minor child, which may be consecutive, when school is not in session for summer break.

(b) For the four weeks of extended parent-time for a noncustodial parent under Subsection (7)(a):

(i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the noncustodial parent; and

(ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent-time.

(c) A custodial parent is entitled to uninterrupted parent-time with the minor child for two weeks, which may be consecutive, when school is not in session for summer break.

(8) (a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of parent-time for summer break under Subsection (7).

(b) For the notification requirement under Subsection (8)(a):

(i) in odd-numbered years:

(A) the noncustodial parent shall provide notice to the custodial parent by May 1; and

(B) the custodial parent shall provide notice to the noncustodial parent by May 15; and

(ii) in even-numbered years:

(A) the custodial parent shall provide notice to the noncustodial parent by May 1; and

(B) the noncustodial parent shall provide notice to the custodial parent by May 15.

(c) (i) If a parent fails to provide a notification within the time periods described in Subsection (8)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.

(ii) If both parents fail to provide notice within the time periods described in Subsection (8)(b), the first parent to provide notice may determine the schedule for summer break for the other parent.

(d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under Subsection (7)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent-time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted extended parent-time.

(9) (a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the minor child's schedule.

(b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(10) (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection (15);

(ii) the holiday schedule for the minor child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (7) and takes the minor child away from that parent's residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection (15) that is not Father's Day, Mother's Day, or the minor child's birthday;

(iv) extended parent-time under Subsection (7); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the minor child's birthday may bring other siblings along for the minor child's birthday.

(11) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the minor child for parent-time if the custodial parent is aware of the identity of the individual and the noncustodial parent will be with the minor child by 7 p.m.

(12) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the minor child's attendance at school for that school day.

(13) If there is more than one minor child and the minor children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the minor children may remain together for the holiday period beginning the first evening that all minor children's schools are dismissed for the holiday and ending the evening before any minor child returns to school.

(14) If there is a minor child five to 18 years old and a minor child under five years old and both minor children are the children of the parties, the parents and the court should consider an upward deviation for parent-time with all the minor children so that parent-time is uniform based on a schedule under this section.

(15) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday

Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the minor child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering of the minor child to school on the day following Dr. Martin Luther King Jr. Day; or (b) at 8 a.m. on the day following Dr. Martin Luther King Jr. Day if there is no school.	Odd years	Even years
President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the minor child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the minor child to school on the day following President's Day; or (b) at 8 a.m. on the day following President's Day if there is no school.	Even years	Odd years
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends: (a) upon delivering the minor child to school on the day following the end of spring break; or (b) at 8 a.m. on the day following the end of spring break if there is no school.	Odd years	Even years

Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the minor child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the minor child to school on the day following Memorial Day; or (b) at 8 a.m. on the day following Memorial Day if there is no school.	Even years	Odd years
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent designated in the order.	All years if custodial parent is the mother or other parent designated in the order.
Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial parent is the father or other parent designated in the order.	All years if custodial parent is the father or other parent designated in the order.
Juneteenth National Freedom Day	(1) Holiday begins at: (a) 6 p.m. on the day before Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is not Father's Day; or (b) 9 a.m. on Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is Father's Day. (2) Holiday ends at 6 p.m. on the day following Juneteenth National Freedom Day.	Even years	Odd years
Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years

Labor Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the minor child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the minor child to school on the day following Labor Day; or (b) at 8 a.m. on the day following Labor Day if there is no school.	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends: (a) upon delivering the minor child to school on the day following the end of fall break; or (b) at 8 a.m. on the day following the end of fall break if there is no school.	Odd years	Even years
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years

Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the minor child to school on the Monday following Thanksgiving; or (b) at 8 a.m. on the Monday following Thanksgiving if there is no school.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m. on the day that school dismisses for winter break; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends upon delivering the minor child to school on the day that school resumes after the winter break.	Even years	Odd years
Day of Minor Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years

Day Before or After Minor Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years

Section 247. Section 81-9-305 is amended to read:

81-9-305. Equal parent-time schedule.

(1) (a) A court may order the equal parent-time schedule described in this section if the court determines that:

(i) the equal parent-time schedule is in the minor child's best interest;

(ii) each parent has been actively involved in the minor child's life; and

(iii) each parent can effectively facilitate the equal parent-time schedule.

(b) To determine whether each parent has been actively involved in the minor child's life, the court shall consider:

(i) each parent's demonstrated responsibility in caring for the minor child;

(ii) each parent's involvement in child care;

(iii) each parent's presence or volunteer efforts in the minor child's school and at extracurricular activities;

(iv) each parent's assistance with the minor child's homework;

(v) each parent's involvement in preparation of meals, bath time, and bedtime for the minor child;

(vi) each parent's bond with the minor child; and

(vii) any other factor the court considers relevant.

(c) To determine whether each parent can effectively facilitate the equal parent-time schedule, the court shall consider:

(i) the geographic distance between the residence of each parent and the distance between each residence and the minor child's school;

(ii) each parent's ability to assist with the minor child's after school care;

(iii) the health of the minor child and each parent, consistent with Subsection [~~81-9-204(5)~~]81-9-204(4);

(iv) the flexibility of each parent's employment or other schedule;

(v) each parent's ability to provide appropriate playtime with the minor child;

(vi) each parent's history and ability to implement a flexible schedule for the minor child;

(vii) physical facilities of each parent's residence; and

(viii) any other factor the court considers relevant.

(2) (a) If the parties agree to or the court orders the equal parent-time schedule described in this section, a parenting plan in accordance with Section 81-9-203 shall be filed with an order incorporating the equal parent-time schedule.

(b) An order under this section shall result in 182 overnights per year for one parent, and 183 overnights per year for the other parent.

(c) Under the equal parent-time schedule, a parent is not considered to have the minor child the majority of the time for the purposes of Subsection 81-9-203(11)(e)(ii) or 81-9-205(10).

(d) Child support for the equal parent-time schedule shall be consistent with Section 81-6-206.

(e) A court shall determine which parent receives 182 overnights and which parent receives 183 overnights for parent-time.

(3) (a) Unless the parents agree otherwise and subject to a holiday, the equal parent-time schedule is as follows:

(i) one parent shall exercise parent-time starting Monday morning and ending Wednesday morning;

(ii) the other parent shall exercise parent-time starting Wednesday morning and ending Friday morning; and

(iii) each parent shall alternate weeks exercising parent-time starting Friday morning and ending Monday morning.

(b) The child exchange shall take place:

(i) at the time the minor child's school begins; or

(ii) if school is not in session, at 9 a.m.

(4) (a) The parents may create a holiday schedule.

(b) If the parents are unable to create a holiday schedule under Subsection (4)(a), the court shall:

(i) order the holiday schedule described in Section 81-9-302 or 81-9-304; and

(ii) designate which parent shall exercise parent-time for each holiday described in Section 81-9-302 or 81-9-304.

(5) (a) Each year, a parent may designate two consecutive weeks to exercise uninterrupted parent-time during the summer when school is not in session.

(b) (i) One parent may make a designation at any time and the other parent may make a designation after May 1.

(ii) A parent shall make a designation at least 30 days before the day on which the designated two-week period begins.

(c) The court shall designate which parent may make the earlier designation described in Subsection (5)(b)(i) for an even numbered year with the other parent allowed to make the earlier designation in an odd numbered year.

(d) The two consecutive weeks described in Subsection (5)(a) take precedence over all holidays except for Mother's Day and Father's Day.

Section 248. Section 81-9-402 is amended to read:

81-9-402. Custody and visitation for individuals other than a parent -- Venue.

(1) (a) In accordance with Section 80-2a-201, it is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of a minor child of the parent.

(b) There is a rebuttable presumption that a parent's decisions are in the minor child's best interests.

(2) A court may find the presumption in Subsection (1) rebutted and grant custodial or visitation rights to an individual other than a parent who, by clear and convincing evidence, establishes that:

(a) the individual has intentionally assumed the role and obligations of a parent;

(b) the individual and the minor child have formed a substantial emotional bond and created a parent-child type relationship;

(c) the individual substantially contributed emotionally or financially to the minor child's well being;

(d) the assumption of the parental role is not the result of a financially compensated surrogate care arrangement;

(e) the continuation of the relationship between the individual and the minor child is in the minor child's best interest;

(f) the loss or cessation of the relationship between the individual and the minor child would substantially harm the minor child; and

(g) the parent:

(i) is absent; or

(ii) is found by a court to have abused or neglected the minor child.

(3) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, or Section 78A-6-350, an individual shall file a verified petition, or a petition supported by an affidavit, for custodial or visitation rights to the minor child in the juvenile court if a matter is pending in the juvenile court, or in the district court in the county where the minor child:

(a) currently resides; or

(b) lived with a parent or an individual other than a parent who acted as a parent within six months before the commencement of the action.

(4) An individual may file a petition under this section in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court involving custody of or visitation with a minor child.

(5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information described in Section [~~78B-13-209~~]81-11-209.

(6) An individual may not file a petition under this section against a parent who is actively serving outside the state in any branch of the military.

(7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the Utah Rules of Civil Procedure on all of the following:

(a) the minor child's biological, adopted, presumed, declarant, and adjudicated parents;

(b) any individual who has court-ordered custody or visitation rights;

(c) the minor child's guardian;

(d) the guardian ad litem, if one has been appointed;

(e) an individual or agency that has physical custody of the minor child or that claims to have custody or visitation rights; and

(f) any other individual or agency that has previously appeared in any action regarding custody of or visitation with the minor child.

(8) The court may order a custody evaluation to be conducted in any proceeding brought under this section.

(9) The court may enter temporary orders in a proceeding brought under this section pending the entry of final orders.

(10) Except as provided in Subsection (11), a court may not grant custody of a minor child under this section to an individual:

(a) who is not the parent of the minor child; and

(b) who, before a custody order is issued, is convicted, pleads guilty, or pleads no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(i) child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114;

(ii) child abuse homicide, as described in Section 76-5-208;

(iii) child kidnapping, as described in Section 76-5-301.1;

(iv) human trafficking of a child, as described in Section 76-5-308.5;

(v) sexual abuse of a minor, as described in Section 76-5-401.1;

(vi) rape of a child, as described in Section 76-5-402.1;

(vii) object rape of a child, as described in Section 76-5-402.3;

(viii) sodomy on a child, as described in Section 76-5-403.1;

(ix) sexual abuse of a child, as described in Section 76-5-404.1, or aggravated sexual abuse of a child, as described in Section 76-5-404.3;

(x) sexual exploitation of a minor, as described in Section 76-5b-201;

(xi) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1; or

(xii) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (10).

(11) (a) As used in this Subsection (11), "disqualifying offense" means an offense listed in Subsection (10) that prevents a court from granting custody except as provided in this Subsection (11).

(b) An individual described in Subsection (10) may only be considered for custody of a minor child if the following criteria are met by clear and convincing evidence:

(i) the individual is a relative, as defined in Section 80-3-102, of the minor child;

(ii) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(iii) during the 10 years before the day on which the individual files a petition with the court seeking custody the individual has not been convicted, plead guilty, or plead no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the minor child;

(iv) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(v) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the minor child currently or at any time in the future when considering all of the following:

(A) the minor child's age;

(B) the minor child's gender;

(C) the minor child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a minor child who is 12 years old or older;

(F) any available assessments, including custody evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(vi) the individual can provide evidence of the following:

(A) the relationship with the minor child is of long duration;

(B) that an emotional bond exists with the minor child; and

(C) that custody by the individual who has committed the disqualifying offense ensures the best interests of the minor child are met;

(vii) (A) there is no other responsible relative known to the court who has or likely could develop an emotional bond with the minor child and does not have a disqualifying offense; or

(B) if there is a responsible relative known to the court that does not have a disqualifying offense, Subsection (11)(d) applies; and

(viii) that the continuation of the relationship between the individual with the disqualifying offense and the minor child could not be sufficiently maintained through any type of visitation if custody were given to the relative with no disqualifying offense described in Subsection (11)(d).

(c) The individual with the disqualifying offense bears the burden of proof regarding why placement with that individual is in the best interest of the minor child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to the court who does not have a disqualifying offense:

(i) preference for custody is given to a relative who does not have a disqualifying offense; and

(ii) before the court may place custody with the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final decision on custody has not been made and to a case filed on or after March 25, 2017.

Section 249. Section 81-10-101, which is renumbered from Section 78B-20-102 is renumbered and amended to read:

CHAPTER 10. UNIFORM DEPLOYED PARENTS CUSTODY, PARENT-TIME, AND VISITATION ACT

PART 1. General Provisions

[~~78B-20-102~~]81-10-101. Definitions for chapter.

As used in this chapter:

(1) "Adult" means an individual who [~~has attained~~]is at least 18 years old or is an emancipated minor child.

(2) (a) "Caretaking authority" means the right to live with and care for a child on a day-to-day basis.

(b) "Caretaking authority" includes physical custody, parent-time, right to access, and visitation.

(3) "Child" means:

(a) [~~an unemancipated individual who has not attained 18 years old~~]a minor child; or

(b) an adult son or daughter by birth or adoption, or under the law of this state other than this chapter, who is the subject of a court order concerning custodial responsibility.

(4) "Court" means a tribunal, including an administrative agency, authorized under the law of this state other than this chapter to make, enforce, or modify a decision regarding custodial responsibility.

(5) (a) "Custodial responsibility" includes all powers and duties relating to caretaking authority and decision-making authority for a child. [~~The term~~]

(b) "Custodial responsibility" includes physical custody, legal custody, parent-time, right to access, visitation, and authority to grant limited contact with a child.

(6) (a) "Decision-making authority" means the power to make important decisions regarding a child, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel. [~~The term~~]

(b) "Decision-making authority" does not include the power to make decisions that necessarily accompany a grant of caretaking authority.

(7) "Deploying parent" means a service member who is deployed or has been notified of impending deployment and is:

(a) a parent of a child under the law of this state other than this chapter; or

(b) an individual who has custodial responsibility for a child under the law of this state other than this chapter.

(8) "Deployment" means the movement or mobilization of a service member for more than 90 days but less than 18 months pursuant to uniformed service orders that:

(a) are designated as unaccompanied;

(b) do not authorize dependent travel; or

(c) otherwise do not permit the movement of family members to the location to which the service member is deployed.

(9) "Family care plan" means a formal written contingency plan mandated by regulation of the various departments and components of the uniformed service that requires certain service member parents of minor children to plan in advance for the smooth, rapid transfer of parental responsibilities to designees during the absence of the service member due to death, incapacity, short-term absences, long-term absences, including deployments, or noncombatant evacuation operations.

(10) "Family member" means a sibling, aunt, uncle, cousin, stepparent, or grandparent of a child, or an individual recognized to be in a familial relationship with a child under the law of this state other than this chapter.

(11) (a) "Limited contact" means the authority of a nonparent to visit a child for a limited time.

(b) "Limited contact" includes authority to take the child to a place other than the residence of the child.

(12) "Nonparent" means an individual other than a deploying parent or other parent.

(13) "Other parent" means an individual who, in common with a deploying parent, is:

(a) a parent of a child under the law of this state other than this chapter; or

(b) an individual who has custodial responsibility for a child under the law of this state other than this chapter.

(14) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) "Return from deployment" means the conclusion of a service member's deployment as specified in uniformed service orders.

(16) " Service member" means a member of a uniformed service.

(17) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(18) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(19) "Uniformed service" means:

(a) active and reserve components of the United States armed forces;

(b) the United States Merchant Marine;

(c) the commissioned corps of the United States Public Health Service;

(d) the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(e) the National Guard of a state.

Section 250. Section 81-10-102, which is renumbered from Section 78B-20-103 is renumbered and amended to read:

[~~78B-20-103~~]81-10-102. Remedies for noncompliance.

In addition to other remedies under the law of this state other than this chapter, if a court finds that a party to a proceeding under this chapter has acted in bad faith or intentionally failed to comply with this chapter or a court order issued under this chapter, the court may assess reasonable attorney fees and costs against the party and order other appropriate relief.

Section 251. Section 81-10-103, which is renumbered from Section 78B-20-104 is renumbered and amended to read:

[~~78B-20-104~~]81-10-103. Jurisdiction.

(1) A court may issue an order regarding custodial responsibility under this chapter only if the court has jurisdiction under [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act~~]Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

(2) If a court has issued a temporary order regarding custodial responsibility pursuant to Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act~~]Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act, during the deployment.

(3) If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that order temporarily by agreement pursuant to Part 2, Agreement Addressing Custodial Responsibility During Deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act~~]Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

(4) If a court in another state has issued a temporary order regarding custodial responsibility as a result of impending or current deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act~~]Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

(5) This section does not prevent a court from exercising temporary emergency jurisdiction under [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act~~]Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

Section 252. Section 81-10-104, which is renumbered from Section 78B-20-105 is renumbered and amended to read:

[~~78B-20-105~~]81-10-104. Notification required of deploying parent.

(1) (a) Except as otherwise provided in Subsection (4) and subject to Subsection (3), a deploying parent shall in a record notify the other parent of a pending deployment not later than seven days after receiving notice of deployment unless reasonably prevented from doing so by the circumstances of service.

(b) If the circumstances of service prevent giving notification within the seven days, the deploying parent shall give the notification as soon as reasonably possible.

(2) (a) Except as otherwise provided in Subsection (4) and subject to Subsection (3), each parent shall in a record provide the other parent with a plan for fulfilling that parent's share of custodial responsibility during deployment.

(b) Each parent shall provide the plan as soon as reasonably possible after notification of deployment is given under Subsection (1).

(3) (a) If a court order currently in effect prohibits disclosure of the address or contact information of the other parent, notification of deployment under Subsection (1), or notification of a plan for custodial responsibility during deployment under Subsection (2), may be made only to the issuing court.

(b) If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent.

(c) The court shall keep confidential the address or contact information of the other parent.

(4) Notification in a record under Subsection (1) or (2) is not required if the parents are living in the same residence and both parents have actual notice of the deployment or plan.

(5) In a proceeding regarding custodial responsibility, a court may consider the reasonableness of a parent's efforts to comply with this section.

Section 253. Section 81-10-105, which is renumbered from Section 78B-20-106 is renumbered and amended to read:

[~~78B-20-106~~]81-10-105. Duty to notify of change of address.

(1) (a) Except as otherwise provided in Subsection (2), an individual to whom custodial responsibility has been granted during deployment pursuant to Part 2, Agreement Addressing Custodial Responsibility During Deployment, or Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, shall notify the deploying parent and any other individual with custodial responsibility of a child of any change of the individual's mailing address or residence until the grant is terminated.

(b) The individual shall provide notice to any court that has issued a custody or child support order concerning the child, which is in effect.

(2) (a) If a court order currently in effect prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been granted, a notification under Subsection (1) may be made only to the court that issued the order.

(b) The court shall keep confidential the mailing address or residence of the individual to whom custodial responsibility has been granted.

Section 254. Section 81-10-106, which is renumbered from Section 78B-20-107 is renumbered and amended to read:

[~~78B-20-107~~]81-10-106. General consideration in custody proceeding of parent's military service.

In a proceeding for custodial responsibility of a child of a service member, a court may not consider a parent's past deployment or possible future deployment in itself in determining the best interest of the child but may consider any significant impact on the best interest of the child of the parent's past or possible future deployment.

Section 255. Section 81-10-201, which is renumbered from Section 78B-20-201 is renumbered and amended to read:

PART 2. Agreement Addressing Custodial Responsibility During Deployment

[~~78B-20-201~~]81-10-201. Form of agreement.

(1) (a) The parents of a child may enter into a temporary agreement under this part granting custodial responsibility during deployment.

(b) When the parents of a child include one or more servicemembers, the parents should enter into an agreement granting custodial responsibility before notice of deployment, but may also enter into an agreement granting custodial responsibility following notice of deployment.

(2) An agreement under Subsection (1) shall be:

(a) in writing; and

(b) signed by both parents and any nonparent to whom custodial responsibility is granted.

(3) Subject to Subsection (4), an agreement under Subsection (1), if feasible, shall:

(a) identify the destination, duration, and conditions of the deployment that is the basis for the agreement if the deployment has been noticed;

(b) specify the allocation of caretaking authority among the deploying parent, the other parent, and any nonparent;

(c) specify any decision-making authority that accompanies a grant of caretaking authority;

(d) specify any grant of limited contact to a nonparent;

(e) if under the agreement custodial responsibility is shared by the other parent and a nonparent, or by other nonparents, provide a process to resolve any dispute that may arise;

(f) specify the frequency, duration, and means, including electronic means, by which the deploying parent will have contact with the child, any role to be played by the other parent in facilitating the contact, and the allocation of any costs of contact;

(g) specify the contact between the deploying parent and child during the time the deploying parent is on leave or is otherwise available;

(h) acknowledge that any party's child-support obligation cannot be modified by the agreement, and that changing the terms of the obligation during deployment requires modification in the appropriate court;

(i) provide that the agreement will terminate according to the procedures under Part 4, Return from Deployment, after the deploying parent returns from deployment; and

(j) if the agreement is required to be filed pursuant to Section [~~78B-20-205~~]81-10-205, specify which parent is required to file the agreement.

(4) The omission of any of the items specified in Subsection (3) does not invalidate an agreement under this section.

(5) A servicemember shall ensure that the servicemember's family care plan reflects orders and agreements entered and filed [~~pursuant to~~]in accordance with this chapter.

Section 256. Section 81-10-202, which is renumbered from Section 78B-20-202 is renumbered and amended to read:

[~~78B-20-202~~]81-10-202. Nature of authority created by agreement.

(1) (a) An agreement under this part is temporary and terminates pursuant to Part 4, Return from Deployment, after the deploying parent returns from deployment, unless the agreement has been terminated before that time by court order or modification under Section [~~78B-2-203~~]81-10-203.

(b) The agreement may not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom custodial responsibility is given.

(2) A nonparent who has caretaking authority, decision-making authority, or limited contact by an agreement under this part has standing to enforce the agreement until it has been terminated by court order, by modification under Section [~~78B-20-203~~]81-10-203, or under Part 4, Return from Deployment.

Section 257. Section 81-10-203, which is renumbered from Section 78B-20-203 is renumbered and amended to read:

[~~78B-20-203~~]81-10-203. Modification of agreement.

(1) By mutual consent, the parents of a child may modify an agreement regarding custodial responsibility made [~~pursuant to~~]in accordance with this part.

(2) If an agreement is modified under Subsection (1) before deployment of a deploying parent, the modification shall be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

(3) If an agreement is modified under Subsection (1) during deployment of a deployed parent, the modification shall be agreed to in a record by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

Section 258. Section 81-10-204, which is renumbered from Section 78B-20-204 is renumbered and amended to read:

[~~78B-20-204~~]81-10-204. Power of attorney.

(1) A deploying parent, by power of attorney, may delegate all or part of custodial responsibility to an adult nonparent for the period of deployment if no other parent possesses custodial responsibility under the law of this state other than this chapter or if a court order currently in effect prohibits contact between the child and the other parent.

(2) The deploying parent may revoke the power of attorney by signing a revocation of the power.

Section 259. Section 81-10-205, which is renumbered from Section 78B-20-205 is renumbered and amended to read:

[~~78B-20-205~~]81-10-205. Filing agreement or power of attorney with court.

(1) (a) An agreement or power of attorney under this part shall be filed within a reasonable time with any court that has entered an order on custodial responsibility or child support that is in effect concerning the child who is the subject of the agreement or power.

(b) The case number and heading of the pending case concerning custodial responsibility or child support shall be provided to the court with the agreement or power.

(2) Notwithstanding Subsection (1), failure to file an agreement or power of attorney does not invalidate an otherwise valid agreement or power of attorney.

Section 260. Section 81-10-301, which is renumbered from Section 78B-20-301 is renumbered and amended to read:

PART 3. Judicial Procedure for Granting Custodial Responsibility During Deployment

[~~78B-20-301~~]81-10-301. Definitions for part.

[~~In~~]As used in this part, "close and substantial relationship" means a relationship in which a significant bond exists between a child and a nonparent.

Section 261. Section 81-10-302, which is renumbered from Section 78B-20-302 is renumbered and amended to read:

[~~78B-20-302~~]81-10-302. Proceeding for temporary custody -- Order.

(1) (a) After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue a temporary order granting custodial responsibility unless prohibited by Section 39A-6-105 and the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521 and 522.

(b) A court may not issue a permanent order granting custodial responsibility without the consent of the deploying parent.

(2) (a) At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment.

(b) The motion shall be filed in a pending proceeding for custodial responsibility in a court with jurisdiction under Section [~~78B-20-104~~]81-10-103 or, if there is no pending proceeding in a court with jurisdiction under Section [~~78B-20-104~~]81-10-103, in a new action for granting custodial responsibility during deployment.

Section 262. Section 81-10-303, which is renumbered from Section 78B-20-303 is renumbered and amended to read:

[~~78B-20-303~~]81-10-303. Expedited hearing.

If a motion to grant custodial responsibility is filed under Subsection [~~78B-20-302(2)~~]81-10-302(2) before a deploying parent deploys, the court shall conduct an expedited hearing.

Section 263. Section 81-10-304, which is renumbered from Section 78B-20-304 is renumbered and amended to read:

[~~78B-20-304~~]81-10-304. Testimony by electronic means.

In a proceeding under this part, a party or witness who is not reasonably available to appear personally may appear, provide testimony, and present evidence by electronic means unless the court finds good cause to require a personal appearance.

Section 264. Section 81-10-305, which is renumbered from Section 78B-20-305 is renumbered and amended to read:

[~~78B-20-305~~]81-10-305. Effect of prior judicial order or agreement.

In a proceeding for a grant of custodial responsibility [~~pursuant to~~]in accordance with this part, the following rules apply:

(1) a prior judicial order designating custodial responsibility in the event of deployment is binding on the court unless the circumstances meet the requirements of the law of this state other than this chapter for modifying a judicial order regarding custodial responsibility; and

(2) the court shall enforce a prior written agreement between the parents for designating custodial responsibility in the event of deployment, including an agreement executed under Part 2, Agreement Addressing Custodial Responsibility During Deployment, unless the court finds that the agreement is contrary to the best interest of the child.

Section 265. Section 81-10-306, which is renumbered from Section 78B-20-306 is renumbered and amended to read:

[~~78B-20-306~~]81-10-306. Grant of caretaking or decision-making authority to nonparent.

(1) On motion of a deploying parent and in accordance with the law of this state other than this chapter, if it is in the best interest of the child a court may grant caretaking authority to a nonparent who is an adult family member of the child with whom the child has a close and substantial relationship.

(2) Unless a grant of caretaking authority to a nonparent under Subsection (1) is agreed to by the other parent, the grant is limited to an amount of time not greater than:

(a) the amount of time granted to the deploying parent under a permanent custody order, but the court may add unusual travel time necessary to transport the child; or

(b) in the absence of a permanent custody order that is currently in effect, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, but the court may add unusual travel time necessary to transport the child.

(3) (a) A court may grant part of a deploying parent's decision-making authority, if the deploying parent is unable to exercise that authority, to a nonparent who is an adult family member of the child with whom the child has a close and substantial relationship.

(b) If a court grants the authority to a nonparent, the court shall specify the decision-making powers granted, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel.

Section 266. Section 81-10-307, which is renumbered from Section 78B-20-307 is renumbered and amended to read:

[~~78B-20-307~~]81-10-307. Grant of limited contact.

On motion of a deploying parent, and in accordance with the law of this state other than this chapter, unless the court finds that the contact would be contrary to the best interest of the child, a court shall grant limited contact to a nonparent who is a family member of the child or an individual with whom the child has a close and substantial relationship.

Section 267. Section 81-10-308, which is renumbered from Section 78B-20-308 is renumbered and amended to read:

[~~78B-20-308~~]81-10-308. Nature of authority created by temporary custody order.

(1) (a) A grant of authority under this part is temporary and terminates under Part 4, Return from Deployment, after the return from deployment of the deploying parent, unless the grant has been terminated before that time by court order.

(b) The grant may not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom it is granted.

(2) A nonparent granted caretaking authority, decision-making authority, or limited contact under this part has standing to enforce the grant until it is terminated by court order or under Part 4, Return from Deployment.

Section 268. Section 81-10-309, which is renumbered from Section 78B-20-309 is renumbered and amended to read:

[~~78B-20-309~~]81-10-309. Content of temporary custody order.

(1) An order granting custodial responsibility under this part shall:

(a) designate the order as temporary; and

(b) identify to the extent feasible the destination, duration, and conditions of the deployment.

(2) If applicable, an order for custodial responsibility under this part shall:

(a) specify the allocation of caretaking authority, decision-making authority, or limited contact among the deploying parent, the other parent, and any nonparent;

(b) if the order divides caretaking or decision-making authority between individuals, or grants caretaking authority to one individual and limited contact to another, provide a process to resolve any dispute that may arise;

(c) provide for liberal communication between the deploying parent and the child during deployment, including through electronic means, unless contrary to the best interest of the child, and allocate any costs of communications;

(d) provide for liberal contact between the deploying parent and the child during the time the deploying parent is on leave or otherwise available, unless contrary to the best interest of the child;

(e) provide for reasonable contact between the deploying parent and the child after return from deployment until the temporary order is terminated, even if the time of contact exceeds the time the deploying parent spent with the child before entry of the temporary order; and

(f) provide that the order will terminate [~~pursuant to~~]in accordance with Part 4, Return from Deployment, after the deploying parent returns from deployment.

Section 269. Section 81-10-310, which is renumbered from Section 78B-20-310 is renumbered and amended to read:

[~~78B-20-310~~]81-10-310. Order for child support.

If a court has issued an order granting caretaking authority under this part, or an agreement granting caretaking authority has been executed under Part 2, Agreement Addressing Custodial Responsibility During Deployment, the court may enter a temporary order for child support consistent with the law of this state other than this chapter if the court has jurisdiction under [~~Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act~~]Chapter 8, Uniform Interstate Family Support Act.

Section 270. Section 81-10-311, which is renumbered from Section 78B-20-311 is renumbered and amended to read:

[~~78B-20-311~~]81-10-311. Modifying or terminating grant of custodial responsibility to nonparent.

(1) (a) Except for an order under Section [~~78B-20-305~~]81-10-305, except as otherwise provided in Subsection (2), and consistent with Section 39A-6-105 and the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521 and 522, on motion of a deploying parent, other parent, or any nonparent to whom caretaking authority, decision-making authority, or limited contact has been granted, the court may modify or terminate the grant if the modification or termination is consistent with this part and it is in the best interest of the child.

(b) A modification is temporary and terminates [~~pursuant to~~]in accordance with Part 4, Return from Deployment, after the deploying parent returns from deployment, unless the grant has been terminated before that time by court order.

(2) On motion of a deploying parent, the court shall terminate a grant of limited contact.

Section 271. Section 81-10-401, which is renumbered from Section 78B-20-401 is renumbered and amended to read:

PART 4. Return from Deployment

[~~78B-20-401~~]81-10-401. Procedure for terminating temporary grant of custodial responsibility established by agreement.

(1) At any time after return from deployment, a temporary agreement granting custodial responsibility under Part 2, Agreement Addressing Custodial Responsibility During Deployment, may be terminated by an agreement to terminate signed by the deploying parent and the other parent.

(2) A temporary agreement under Part 2, Agreement Addressing Custodial Responsibility During Deployment, granting custodial responsibility terminates:

(a) if an agreement to terminate under Subsection (1) specifies a date for termination, on that date; or

(b) if the agreement to terminate does not specify a date, on the date the agreement to terminate is signed by the deploying parent and the other parent.

(3) In the absence of an agreement under Subsection (1) to terminate, a temporary agreement granting custodial responsibility terminates under Part 2, Agreement Addressing Custodial Responsibility During Deployment, 30 days after the deploying parent gives notice to the other parent that the deploying parent returned from deployment.

(4) (a) If a temporary agreement granting custodial responsibility was filed with a court [~~pursuant to Section 78B-20-205~~]in accordance with Section 81-10-205, an agreement to terminate the temporary agreement shall also be filed with that court within a reasonable time after the signing of the agreement.

(b) The case number and heading of the case concerning custodial responsibility or child support shall be provided to the court with the agreement to terminate.

Section 272. Section 81-10-402, which is renumbered from Section 78B-20-402 is renumbered and amended to read:

[~~78B-20-402~~]81-10-402. Consent procedure for terminating temporary grant of custodial responsibility established by court order.

(1) At any time after a deploying parent returns from deployment, the deploying parent and the other parent may file with the court an agreement to terminate a temporary order for custodial responsibility issued under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment.

(2) After an agreement has been filed, the court shall issue an order terminating the temporary order effective on the date specified in the agreement.

(3) If a date is not specified, the order is effective immediately.

Section 273. Section 81-10-403, which is renumbered from Section 78B-20-403 is renumbered and amended to read:

[~~78B-20-403~~]81-10-403. Visitation before termination of temporary grant of custodial responsibility.

After a deploying parent returns from deployment until a temporary agreement or order for custodial responsibility established under Part 2, Agreement Addressing Custodial Responsibility During Deployment, or a provision of a court order specifying temporary custodial responsibility during deployment issued under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, or [~~Title 81,~~]Chapter 9, Custody, Parent-time, and Visitation, is terminated, the court shall issue a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interest of the child, even if the time of contact exceeds the time the deploying parent spent with the child before deployment.

Section 274. Section 81-10-404, which is renumbered from Section 78B-20-404 is renumbered and amended to read:

[~~78B-20-404~~]81-10-404. Termination by operation of law of temporary grant of custodial responsibility established by court order.

(1) If an agreement between the parties to terminate a court order for temporary custodial responsibility during deployment under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, or to terminate a provision of an order for temporary custodial responsibility during deployment entered under [~~Title 81,~~]Chapter 9, Custody, Parent-time, and Visitation, has not been filed, the temporary order terminates 30 days after the day on which the deploying parent gives notice to the other parent and any nonparent granted custodial responsibility that the deploying parent has returned from deployment.

(2) A proceeding seeking to prevent termination of a temporary order for custodial responsibility is governed by the law of this state other than this chapter.

Section 275. Section 81-10-501, which is renumbered from Section 78B-20-501 is renumbered and amended to read:

PART 5. Applicability Provisions

[~~78B-20-501~~]81-10-501. Uniformity of application and construction.

In applying and construing this [~~uniform act~~]chapter, consideration shall be given to the need to promote uniformity of the law with respect to [~~its~~]this uniform law's subject matter among states that enact [~~it~~]this uniform law.

Section 276. Section 81-10-502, which is renumbered from Section 78B-20-502 is renumbered and amended to read:

[~~78B-20-502~~]81-10-502. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 277. Section 81-10-503, which is renumbered from Section 78B-20-503 is renumbered and amended to read:

[~~78B-20-503~~]81-10-503. Savings clause.

This chapter does not affect the validity of a temporary court order concerning custodial responsibility during deployment that was entered before May 10, 2016.

Section 278. Section 81-11-101, which is renumbered from Section 78B-13-102 is renumbered and amended to read:

CHAPTER 11. UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT

PART 1. General Provisions

[~~78B-13-102~~]81-11-101. Definitions for chapter.

As used in this chapter:

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision.

[~~(2) "Child" means an individual under 18 years of age and not married.~~]

[~~(3)~~](2) (a) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or parent-time with respect to a minor child. [~~The term~~]

(b) "Child custody determination" includes a permanent, temporary, initial, and modification order. [~~The term~~]

(c) "Child custody determination" does not include an order relating to child support or other monetary obligation of an individual.

[~~(4)~~](3) (a) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or parent-time with respect to a minor child is an issue. [~~The term~~]

(b) "Child custody proceeding" includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. [~~The term~~]

(c) "Child custody proceeding" does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Part 3, Enforcement.

[~~(5)~~](4) "Commencement" means the filing of the first pleading in a proceeding.

[~~(6)~~](5) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.

[~~(7)~~](6) "Home state" means:

(a) if the minor child is six months old or older, the state in which a minor child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding[~~. In the case of a child less than six~~

~~months of age, the term means~~], including any period of temporary absence of the parent or the person acting as a parent during that time period; or

(b) if the minor child is younger than six months old, the state in which the minor child lived from birth with [~~any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.~~]a parent or a person acting as parent, including any period of temporary absence of the parent or the person acting as a parent during that time period.

[~~(8)~~](7) "Initial determination" means the first child custody determination concerning a particular minor child.

[~~(9)~~](8) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this chapter.

[~~(10)~~](9) "Issuing state" means the state in which a child custody determination is made.

[~~(11)~~](10) "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same minor child, whether or not it is made by the court that made the previous determination.

[~~(12)~~](11) "Person" includes government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

[~~(13)~~](12) "Person acting as a parent" means a person, other than a parent, who:

(a) has physical custody of the minor child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

(b) has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

[~~(14)~~](13) "Physical custody" means the physical care and supervision of a minor child.

[~~(15)~~](14) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

[~~(16)~~](15) "Tribe" means an Indian tribe, or band, or Alaskan Native village which is recognized by federal law or formally acknowledged by a state.

[~~(17)~~](16) "Writ of assistance" means an order issued by a court authorizing law enforcement officers to take physical custody of a minor child.

Section 279. Section 81-11-102, which is renumbered from Section 78B-13-103 is renumbered and amended to read:

[~~78B-13-103~~]81-11-102. Proceedings governed by other law.

(1) [~~For purposes of~~]As used in this section, "adoption proceeding" means any proceeding under [~~Title 78B, Chapter 6, Part 1, Utah Adoption Act~~]Chapter 13, Adoption.

(2) This chapter does not govern:

(a) an adoption proceeding; or

(b) a proceeding pertaining to the authorization of emergency medical care for a minor child.

Section 280. Section 81-11-103, which is renumbered from Section 78B-13-104 is renumbered and amended to read:

[~~78B-13-104~~]81-11-103. Application to Indian tribes.

(1) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. 1901 et seq., is not subject to this chapter to the extent that it is governed by the Indian Child Welfare Act.

(2) A court of this state shall treat a tribe as a state of the United States for purposes of Part 1, General Provisions, and Part 2, Jurisdiction.

(3) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this chapter shall be recognized and enforced under the provisions of Part 3, Enforcement.

Section 281. Section 81-11-104, which is renumbered from Section 78B-13-105 is renumbered and amended to read:

[~~78B-13-105~~]81-11-104. International application of chapter.

(1) A court of this state shall treat a foreign country as a state of the United States for purposes of applying Part 1, General Provisions, and Part 2, Jurisdiction.

(2) A child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter shall be recognized and enforced under Part 3, Enforcement.

(3) The court need not apply the provisions of this chapter when the child custody law of the other country violates fundamental principles of human rights.

Section 282. Section 81-11-105, which is renumbered from Section 78B-13-106 is renumbered and amended to read:

[~~78B-13-106~~]81-11-105. Binding force of child custody determination.

(1) A child custody determination made by a court of this state that had jurisdiction under this chapter binds all persons who have:

(a) (i) been served in accordance with the laws of this state or notified in accordance with Section [~~78B-13-108 or who have~~]81-11-107; or

(ii) submitted to the jurisdiction of the court[~~, and who have~~]; and

(b) been given an opportunity to be heard.

(2) The determination is conclusive as to [~~them~~]the persons described in Subsection (1) as to all decided issues of law and fact except to the extent the determination is modified.

Section 283. Section 81-11-106, which is renumbered from Section 78B-13-107 is renumbered and amended to read:

[~~78B-13-107~~]81-11-106. Priority.

If a question of existence or exercise of jurisdiction under this chapter is raised in a child custody proceeding, the question, upon request of a party, shall be given priority on the calendar and handled expeditiously.

Section 284. Section 81-11-107, which is renumbered from Section 78B-13-108 is renumbered and amended to read:

[~~78B-13-108~~]81-11-107. Notice to persons outside state.

(1) (a) Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for the service of process or by the law of the state in which the service is made.

(b) Notice shall be given in a manner reasonably calculated to give actual notice, but may be by publication if other means are not effective.

(2) Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

(3) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Section 285. Section 81-11-108, which is renumbered from Section 78B-13-109 is renumbered and amended to read:

[~~78B-13-109~~]81-11-108. Appearance and limited immunity.

(1) A party to a child custody proceeding who is not subject to personal jurisdiction in this state and is a responding party under Part 2, Jurisdiction, a party in a proceeding to modify a child custody determination under Part 2, Jurisdiction, or a petitioner in a proceeding to enforce or register a child custody determination under Part 3, Enforcement, may appear and participate in the proceeding without submitting to personal jurisdiction over the party for another proceeding or purpose.

(2) (a) A party is not subject to personal jurisdiction in this state solely by being physically present for the purpose of participating in a proceeding under this chapter.

(b) If a party is subject to personal jurisdiction in this state on a basis other than physical presence, the party may be served with process in this state.

(c) If a party present in this state is subject to the jurisdiction of another state, service of process allowable under the laws of that state may be accomplished in this state.

(3) The immunity granted by this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in this state.

Section 286. Section 81-11-109, which is renumbered from Section 78B-13-110 is renumbered and amended to read:

[~~78B-13-110~~]81-11-109. Communication between courts.

(1) As used in this section:

(a) "Record" means information that is inscribed on a tangible medium or that which is stored in an electronic or other medium and is retrievable in perceivable form.

(b) "Record" includes:

(i) notes or transcripts of a court reporter who listened to a conference call between the courts;

(ii) an electronic recording of a telephone call;

(iii) a memorandum or an electronic record of the communication between the courts; or

(iv) a memorandum or an electronic record made by a court after the communication.

[~~(1)~~](2) A court of this state may communicate with a court in another state concerning a proceeding arising under this chapter.

[~~(2)~~](3) (a) The court may allow the parties to participate in the communication.

(b) If the parties are not able to participate in the communication, the parties shall be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

[~~(3)~~](4) (a) A communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties.

(b) A record need not be made of that communication.

[~~(4)~~](5) (a) Except as provided in Subsection [~~(3)~~](4), a record shall be made of the communication.

(b) The parties shall be informed promptly of the communication and granted access to the record.

[~~(5) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that which is stored in an electronic or other medium and is retrievable in perceivable form. A record includes notes or transcripts of a court reporter who listened to a conference call between the courts, an electronic recording of a telephone call, a memorandum or an electronic record of the communication between the courts, or a memorandum or an electronic record made by a court after the communication.~~]

Section 287. Section 81-11-110, which is renumbered from Section 78B-13-111 is renumbered and amended to read:

[~~78B-13-111~~]81-11-110. Taking testimony in another state.

(1) (a) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the minor child, by deposition or other means allowable in this state for testimony taken in another state.

(b) The court on [~~its~~]the court's own motion may:

(i) order that the testimony of a person be taken in another state; and [~~may~~]

(ii) prescribe the manner in which and the terms upon which the testimony is taken.

(2) (a) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state.

(b) A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(3) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

Section 288. Section 81-11-111, which is renumbered from Section 78B-13-112 is renumbered and amended to read:

[~~78B-13-112~~]81-11-111. Cooperation between courts -- Preservation of records.

(1) A court of this state may request the appropriate court of another state to:

(a) hold an evidentiary hearing;

(b) order a person to produce or give evidence under procedures of that state;

(c) order that an evaluation be made with respect to the custody of a minor child involved in a pending proceeding;

(d) forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and

(e) order a party to a child custody proceeding or any person having physical custody of the minor child to appear in the proceeding with or without the minor child.

(2) Upon request of a court of another state, a court of this state may:

(a) hold a hearing or enter an order described in Subsection (1); or

(b) order a person in this state to appear alone or with the minor child in a custody proceeding in another state.

(3) (a) A court of this state may condition compliance with a request under Subsection (2)(b) upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.

(b) If [~~the person~~]an individual who has physical custody of the minor child cannot be served or fails to obey the order, or it appears the order will be ineffective, the court may issue a warrant of arrest against [~~the person to secure his~~]the individual to secure the individual's appearance with the minor child in the other state.

(4) Travel and other necessary and reasonable expenses incurred under Subsections (1) and (2) may be assessed against the parties according to the law of this state.

(5) (a) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the [~~child attains 18 years of age~~]minor child is 18 years old.

(b) Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of these records.

Section 289. Section 81-11-201, which is renumbered from Section 78B-13-201 is renumbered and amended to read:

PART 2. Jurisdiction

[~~78B-13-201~~]81-11-201. Initial child custody jurisdiction.

(1) Except as otherwise provided in Section [~~78B-13-204~~]81-11-204, a court of this state has jurisdiction to make an initial child custody determination only if:

(a) this state is the home state of the minor child on the date of the commencement of the proceeding, or was the home state of the minor child within six months before the commencement of the proceeding and the minor child is absent from this state but a parent or person acting as a parent continues to live in this state;

(b) a court of another state does not have jurisdiction under Subsection (1)(a), or a court of the home state of the minor child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under Section [~~78B-13-207 or 78B-13-208;~~]81-11-207 or 81-11-208, and:

(i) the minor child and the minor child's parents, or the minor child and at least one parent or a person acting as a parent have a significant connection with this state other than mere physical presence; and

(ii) substantial evidence is available in this state concerning the minor child's care, protection, training, and personal relationships;

(c) all courts having jurisdiction under Subsection (1)(a) or (b) have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the minor child under Section [~~78B-13-207 or 78B-13-208~~]81-11-207 or 81-11-208; or

(d) no state would have jurisdiction under Subsection (1)(a), (b), or (c).

(2) Subsection (1) is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

(3) Physical presence of, or personal jurisdiction over, a party or a minor child is neither necessary nor sufficient to make a child custody determination.

Section 290. Section 81-11-202, which is renumbered from Section 78B-13-202 is renumbered and amended to read:

[~~78B-13-202~~]81-11-202. Exclusive, continuing jurisdiction.

(1) Except as otherwise provided in Section [~~78B-13-204~~]81-11-204, a court of this state that has made a child custody determination consistent with Section [~~78B-13-201 or 78B-13-203~~]81-11-201 or 81-11-203 has exclusive, continuing jurisdiction over the determination until:

(a) a court of this state determines that [~~neither~~]the minor child, the minor child and one parent, [~~nor~~]and the minor child and a person acting as a parent do not have a significant connection with this state and that substantial evidence is no longer available in this state concerning the minor child's care, protection, training, and personal relationships; or

(b) a court of this state or a court of another state determines that [~~neither the child, nor a parent, nor~~]the minor child, a parent, and any person acting as a parent [~~presently resides~~]do not presently reside in this state.

(2) A court of this state that has exclusive, continuing jurisdiction under this section may decline to exercise [~~its~~]the court's jurisdiction if the court determines that it is an inconvenient forum under Section [~~78B-13-207~~]81-11-207.

(3) A court of this state that has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if [~~it~~]the court has jurisdiction to make an initial determination under Section [~~78B-13-201~~]81-11-201.

Section 291. Section 81-11-203, which is renumbered from Section 78B-13-203 is renumbered and amended to read:

[~~78B-13-203~~]81-11-203. Jurisdiction to modify determination.

Except as otherwise provided in Section [~~78B-13-204~~]81-11-204, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under Subsection [~~78B-13-201(1)(a)~~]81-11-201(1)(a) or (b) and:

(1) the court of the other state determines [~~it~~]the court no longer has exclusive, continuing jurisdiction under Section [~~78B-13-202~~]81-11-202 or that a court of this state would be a more convenient forum under Section [~~78B-13-207~~]81-11-207; or

(2) a court of this state or a court of the other state determines that [~~neither the child, nor a parent, nor~~]the minor child, a parent, and any person acting as a parent presently [~~resides~~]do not reside in the other state.

Section 292. Section 81-11-204, which is renumbered from Section 78B-13-204 is renumbered and amended to read:

[~~78B-13-204~~]81-11-204. Temporary emergency jurisdiction.

(1) A court of this state has temporary emergency jurisdiction if the minor child is present in this state and the minor child has been abandoned or it is necessary in an emergency to protect the minor child because the minor child, or a sibling or parent of the minor child, is subjected to or threatened with mistreatment or abuse.

(2) (a) If there is no previous child custody determination that is entitled to be enforced under this chapter, and if no child custody

proceeding has been commenced in a court of a state having jurisdiction under Sections [~~78B-13-201 through 78B-13-203~~]81-11-201 through 81-11-203, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under Sections [~~78B-13-201 through 78B-13-203~~]81-11-201 through 81-11-203.

(b) If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under Sections [~~78B-13-201 through 78B-13-203~~]81-11-201 through 81-11-203, a child custody determination made under this section becomes a final determination, if:

[~~(a)~~](i) it so provides; and

[~~(b)~~](ii) this state becomes the home state of the minor child.

(3) (a) If there is a previous child custody determination that is entitled to be enforced under this chapter, or a child custody proceeding has been commenced in a court of a state having jurisdiction under Sections [~~78B-13-201 through 78B-13-203~~]81-11-201 through 81-11-203, any order issued by a court of this state under this section shall specify in the order a period of time which the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under Sections [~~78B-13-201 through 78B-13-203~~]81-11-201 through 81-11-203.

(b) The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

(4) (a) A court of this state that has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced, or a child custody determination has been made, by a court of a state having jurisdiction under Sections [~~78B-13-201 through 78B-13-203~~]81-11-201 through 81-11-203, shall immediately communicate with the other court.

(b) A court of this state that is exercising jurisdiction [~~pursuant to Sections 78B-13-201through 78B-13-203~~]in accordance with Sections 81-11-201 through 81-11-203, upon being informed that a child custody proceeding has been commenced, or a child custody determination has been made by a court of another state under a statute similar to this section shall immediately communicate with the court of that state.

(c) The purpose of the communication is to resolve the emergency, protect the safety of the parties and the minor child, and determine a period for the duration of the temporary order.

Section 293. Section 81-11-205, which is renumbered from Section 78B-13-205 is renumbered and amended to read:

[~~78B-13-205~~]81-11-205. Notice -- Opportunity to be heard -- Joinder.

(1) Before a child custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of Section [~~78B-13-108~~]81-11-107 shall be given to all persons entitled to notice under the law of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the minor child.

(2) This chapter does not govern the enforceability of a child custody determination made without notice and an opportunity to be heard.

(3) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by the law of this state as in child custody proceedings between residents of this state.

Section 294. Section 81-11-206, which is renumbered from Section 78B-13-206 is renumbered and amended to read:

[~~78B-13-206~~]81-11-206. Simultaneous proceedings.

(1) Except as otherwise provided in Section [~~78B-13-204~~]81-11-204, a court of this state may not exercise its jurisdiction under this chapter if at the time of the commencement of the proceeding a proceeding concerning the custody of the minor child had been previously commenced in a court of another state having jurisdiction substantially in conformity with this chapter, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under Section [~~78B-13-207~~]81-11-207.

(2) (a) Except as otherwise provided in Section [~~78B-13-204~~]81-11-204, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties [~~pursuant to Section 78B-13-209~~]in accordance with Section 81-11-209.

(b) If the court determines that a child custody proceeding was previously commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the court of this state shall stay [~~its~~]the court's proceeding and communicate with the court of the other state.

(c) If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(3) (a) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state.

(b) If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

[~~(a)~~](i) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

[~~(b)~~](ii) enjoin the parties from continuing with the proceeding for enforcement; or

[~~(c)~~](iii) proceed with the modification under conditions it considers appropriate.

Section 295. Section 81-11-207, which is renumbered from Section 78B-13-207 is renumbered and amended to read:

[~~78B-13-207~~]81-11-207. Inconvenient forum.

(1) (a) A court of this state that has jurisdiction under this chapter to make a child custody determination may decline to exercise its jurisdiction at any time if [~~it~~]the court determines that [~~it~~]the court is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum.

(b) The issue of inconvenient forum may be raised upon the court's own motion, request of another court, or motion of a party.

(2) (a) Before determining whether [~~it~~]the court is an inconvenient forum, a court of this state shall consider whether it is appropriate that a court of another state exercise jurisdiction.

(b) [~~For this purpose~~]In making a determination under Subsection (2)(a), the court shall:

(i) allow the parties to submit information [~~and shall~~]; and

(ii) consider all relevant factors, including:

[~~(a)~~](A) whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties

and the minor child;

[~~(b)~~](B) the length of time the minor child has resided outside this state;

[~~(c)~~](C) the distance between the court in this state and the court in the state that would assume jurisdiction;

[~~(d)~~](D) the relative financial circumstances of the parties;

[~~(e)~~](E) any agreement of the parties as to which state should assume jurisdiction;

[~~(f)~~](F) the nature and location of the evidence required to resolve the pending litigation, including the testimony of the minor child;

[~~(g)~~](G) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

[~~(h)~~](H) the familiarity of the court of each state with the facts and issues of the pending litigation.

(3) If a court of this state determines that [~~it~~]the court is an inconvenient forum and that a court of another state is a more appropriate forum, [~~it~~]the court shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(4) A court of this state may decline to exercise [~~its~~]the court's jurisdiction under this chapter if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

Section 296. Section 81-11-208, which is renumbered from Section 78B-13-208 is renumbered and amended to read:

[~~78B-13-208~~]81-11-208. Jurisdiction declined by reason of conduct.

(1) Except as otherwise provided in Section [~~78B-13-204~~]81-11-204 or by other law of this state, if a court of this state has jurisdiction under this chapter because a person invoking the jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise [~~its~~]the court's jurisdiction unless:

(a) the parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(b) a court of the state otherwise having jurisdiction under Sections [~~78B-13-201through 78B-13-203~~]81-11-201 through 81-11-203 determines that this state is a more appropriate forum under Section [~~78B-13-207~~]81-11-207; or

(c) no other state would have jurisdiction under Sections [~~78B-13-201 through 78B-13-203~~]81-11-201 through 81-11-203.

(2) If a court of this state declines to exercise [~~its~~]the court's jurisdiction [~~pursuant to~~]in accordance with Subsection (1), [~~it~~]the court may fashion an appropriate remedy to ensure the safety of the minor child and prevent a repetition of the wrongful conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under Sections [~~78B-13-201 through 78B-13-203~~]81-11-201 through 81-11-203.

(3) (a) If a court dismisses a petition or stays a proceeding because it declines to exercise [~~its jurisdiction pursuant to~~]the court's jurisdiction in accordance with Subsection (1), [~~it~~]the court shall charge the party invoking the jurisdiction of the court with necessary and reasonable expenses including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the award would be clearly inappropriate.

(b) The court may not assess fees, costs, or expenses against this state except as otherwise provided by law other than this chapter.

Section 297. Section 81-11-209, which is renumbered from Section 78B-13-209 is renumbered and amended to read:

[~~78B-13-209~~]81-11-209. Information to be submitted to court.

(1) (a) In a child custody proceeding, each party, in [~~its~~]the party's first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the minor child's present address, the places where the minor child has lived during the last five years, and the names and present addresses of the persons with whom the minor child has lived during that period.

(b) The pleading or affidavit shall state whether the party:

[~~(a)~~](i) has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or parent-time with the minor child and, if so, identify the court, the case number of the proceeding, and the date of the child custody determination, if any;

[~~(b)~~](ii) knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court and the case number and the nature of the proceeding; and

[~~(c)~~](iii) knows the names and addresses of any person not a party to the proceeding who has physical custody of the minor child or claims rights of legal custody or physical custody of, or parent-time with, the minor child and, if so, the names and addresses of those persons.

(2) If the information required by Subsection (1) is not furnished, the court, upon [~~its~~]the court's own motion or that of a party, may stay the proceeding until the information is furnished.

(3) (a) If the declaration as to any of the items described in Subsection (1) is in the affirmative, the declarant shall give additional information under oath as required by the court.

(b) The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(4) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(5) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or minor child would be put at risk by the disclosure of identifying information, that information shall be sealed and not disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or minor child and determines that the disclosure is in the interest of justice.

Section 298. Section 81-11-210, which is renumbered from Section 78B-13-210 is renumbered and amended to read:

[~~78B-13-210~~]81-11-210. Appearance of parties and child.

(1) (a) A court of this state may order a party to a child custody proceeding who is in this state to appear before the court personally with or without the minor child.

(b) The court may order any person who is in this state and who has physical custody or control of the minor child to appear physically with the minor child.

(2) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given [~~pursuant to Section 78B-13-108~~]in accordance with Section 81-11-107 include a statement directing the party to appear personally with or without the minor child and declaring that failure to appear may result in a decision adverse to the party.

(3) The court may enter any orders necessary to ensure the safety of the minor child and of any person ordered to appear under this section.

(4) If a party to a child custody proceeding who is outside this state is directed to appear under Subsection (2) or desires to appear personally before the court with or without the minor child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the minor child.

Section 299. Section 81-11-301, which is renumbered from Section 78B-13-301 is renumbered and amended to read:

PART 3. Enforcement

[~~78B-13-301~~]81-11-301. Definitions for part.

As used in this part:

(1) "Petitioner" means a person who seeks enforcement of a child custody determination or enforcement of an order for the return of the minor child under the Hague Convention on the Civil Aspects of International Child Abduction.

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of a child custody determination or enforcement of an order for the return of the minor child under the Hague Convention on the Civil Aspects of International Child Abduction.

Section 300. Section 81-11-302, which is renumbered from Section 78B-13-302 is renumbered and amended to read:

[~~78B-13-302~~]81-11-302. Scope -- Hague Convention Enforcement.

This chapter may be invoked to enforce:

(1) a child custody determination; and

(2) an order for the return of the minor child made under the Hague Convention on the Civil Aspects of International Child Abduction.

Section 301. Section 81-11-303, which is renumbered from Section 78B-13-303 is renumbered and amended to read:

[~~78B-13-303~~]81-11-303. Duty to enforce.

(1) A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction that was in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter.

(2) (a) A court may utilize any remedy available under other law of this state to enforce a child custody determination made by a court of another state.

(b) The procedure provided by this part does not affect the availability of other remedies to enforce a child custody determination.

Section 302. Section 81-11-304, which is renumbered from Section 78B-13-304 is renumbered and amended to read:

[~~78B-13-304~~]81-11-304. Temporary parent-time.

(1) A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(a) a parent-time schedule made by a court of another state; or

(b) the parent-time provisions of a child custody determination of another state that does not provide for a specific parent-time schedule.

(2) (a) If a court of this state makes an order under Subsection (1)(b), [~~it~~]the court shall specify in the order a period that [~~it~~]the court considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Part 2, Jurisdiction.

(b) The order remains in effect until an order is obtained from the other court or the period expires.

Section 303. Section 81-11-305, which is renumbered from Section 78B-13-305 is renumbered and amended to read:

[~~78B-13-305~~]81-11-305. Registration of child custody determination.

(1) A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the district court in this state:

(a) a letter or other document requesting registration;

(b) two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(c) except as otherwise provided in Section [~~78B-13-209~~]81-11-209, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or parent-time in the child custody determination sought to be registered.

(2) On receipt of the documents required by Subsection (1), the registering court shall:

(a) cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(b) serve notice upon [~~the persons named pursuant to Subsection (1)(c) and provide them~~]a person named as described in Subsection (1)(c) and provide the person with an opportunity to contest the registration in accordance with this section.

(3) The notice required by Subsection (2)(b) shall state:

(a) that a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;

(b) that a hearing to contest the validity of the registered determination shall be requested within 20 days after service of notice; and

(c) that failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(4) (a) A person seeking to contest the validity of a registered order shall request a hearing within 20 days after service of the notice.

(b) At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

[~~(a)~~](i) the issuing court did not have jurisdiction under Part 2, Jurisdiction;

[~~(b)~~](ii) the child custody determination sought to be registered has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction; or

[~~(c)~~](iii) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of Section [~~78B-13-108~~]81-11-107 in the proceedings before the court that issued the order for which registration is sought.

(5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served shall be notified of the confirmation.

(6) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter which could have been asserted at the time of registration.

Section 304. Section 81-11-306, which is renumbered from Section 78B-13-306 is renumbered and amended to read:
[~~78B-13-306~~]81-11-306. Enforcement of registered determination.

(1) A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.

(2) A court of this state shall recognize and enforce, but may not modify except in accordance with Part 2, Jurisdiction, a registered child custody determination of another state.

Section 305. Section 81-11-307, which is renumbered from Section 78B-13-307 is renumbered and amended to read:
[~~78B-13-307~~]81-11-307. Simultaneous proceedings.

(1) If a proceeding for enforcement under this part has been or is commenced in this state and a court of this state determines that a proceeding to modify the determination has been commenced in another state having jurisdiction to modify the determination under Part 2, Jurisdiction, the enforcing court shall immediately communicate with the modifying court.

(2) The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Section 306. Section 81-11-308, which is renumbered from Section 78B-13-308 is renumbered and amended to read:
[~~78B-13-308~~]81-11-308. Expedited enforcement of child custody determination.

(1) (a) A petition under this part shall be verified.

(b) Certified copies of all orders sought to be enforced and of the order confirming registration, if any, shall be attached to the petition.

(c) A copy of a certified copy of an order may be attached instead of the original.

(2) A petition for enforcement of a child custody determination shall state:

(a) whether the court that issued the determination identified the jurisdictional basis [~~it~~]the court relied upon in exercising jurisdiction and, if so, what the basis was;

(b) whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision shall be enforced under this chapter or federal law and, if so, identify the court, the case number of the proceeding, and the action taken;

(c) whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court and the case number and the nature of the proceeding;

(d) the present physical address of the minor child and the respondent, if known; and

(e) whether relief in addition to the immediate physical custody of the minor child and attorney fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(3) If the child custody determination has been registered and confirmed under Section [~~78B-13-305~~]81-11-305, the petition shall also state the date and place of registration.

(4) The court shall issue an order directing the respondent to appear with or without the minor child at a hearing and may enter any orders necessary to ensure the safety of the parties and the minor child.

(5) (a) The hearing shall be held on the next judicial day following service of process unless that date is impossible.

(b) In that event, the court shall hold the hearing on the first day possible.

(c) The court may extend the date of hearing at the request of the petitioner.

(6) The order shall:

(a) state the time and place of the hearing[~~and shall~~]; and

(b) advise the respondent that at the hearing the court will order the delivery of the child and the payment of fees, costs, and expenses under Section [~~78B-13-312, and may~~]81-11-312.

(7) The order may set an additional hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(a) the child custody determination has not been registered and confirmed under Section [~~78B-13-305~~]81-11-305, and that:

(i) the issuing court did not have jurisdiction under Part 2, Jurisdiction;

(ii) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction, or federal law; or

(iii) the respondent was entitled to notice, but notice was not given in accordance with the standards of Section [~~78B-13-108~~]81-11-107 in the proceedings before the court that issued the order for which enforcement is sought; or

(b) the child custody determination for which enforcement is sought was registered and confirmed under Section [~~78B-13-305~~]81-11-305, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction, or federal law.

Section 307. Section 81-11-309, which is renumbered from Section 78B-13-309 is renumbered and amended to read:
[~~78B-13-309~~]81-11-309. Service of petition and order.

Except as otherwise provided in Section [~~78B-13-311~~]81-11-311, the petition and order shall be served, by any method authorized by the law of this state, upon respondent and any person who has physical custody of the minor child.

Section 308. Section 81-11-310, which is renumbered from Section 78B-13-310 is renumbered and amended to read:
[~~78B-13-310~~]81-11-310. Hearing and order.

(1) Unless the court enters a temporary emergency order [~~pursuant to Section 78B-13-204~~]in accordance with Section 81-11-204, upon a finding that a petitioner is entitled to the physical custody of the minor child immediately, the court shall order the minor child delivered to the petitioner unless the respondent establishes that:

(a) the child custody determination has not been registered and confirmed under Section [~~78B-13-305~~]81-11-305, and that:

(i) the issuing court did not have jurisdiction under Part 2, Jurisdiction;

(ii) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction, or federal law; or

(iii) the respondent was entitled to notice, but notice was not given in accordance with the standards of Section [~~78B-13-108~~]81-11-107 in the proceedings before the court that issued the order for which enforcement is sought; or

(b) the child custody determination for which enforcement is sought was registered and confirmed under Section [~~78B-13-305~~]81-11-305, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction, or federal law.

(2) The court shall award the fees, costs, and expenses authorized under Section [~~78B-13-312~~]81-11-312 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(3) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and minor child may not be invoked in a proceeding under this chapter.

Section 309. Section 81-11-311, which is renumbered from Section 78B-13-311 is renumbered and amended to read:

[~~78B-13-311~~]81-11-311. Writ to take physical custody of child.

(1) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a writ of assistance to take physical custody of the minor child if the minor child is likely to suffer serious imminent physical harm or removal from this state.

(2) (a) If the court, upon the testimony of the petitioner or other witness, finds that the minor child is likely to suffer serious imminent physical harm or be imminently removed from this state, [~~it~~]the court may issue a writ of assistance to take physical custody of the minor child.

(b) The petition shall be heard within 72 hours after the writ is executed.

(c) The writ shall include the statements required by Subsection [~~78B-13-308(2)~~]81-11-308(2).

(3) A writ to take physical custody of a minor child shall:

(a) recite the facts upon which a conclusion of serious imminent physical harm or removal from the jurisdiction is based;

(b) direct law enforcement officers to take physical custody of the minor child immediately; and

(c) provide for the placement of the minor child pending final relief.

(4) The respondent shall be served with the petition, writ, and order immediately after the minor child is taken into physical custody.

(5) (a) A writ of assistance to take physical custody of a minor child is enforceable throughout this state.

(b) If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, [~~it~~]the court may authorize law enforcement officers to enter private property to take physical custody of the minor child.

(c) If required by the exigency of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(6) The court may impose conditions upon placement of a minor child to ensure the appearance of the minor child and the minor child's custodian.

Section 310. Section 81-11-312, which is renumbered from Section 78B-13-312 is renumbered and amended to read:

[~~78B-13-312~~]81-11-312. Costs, fees, and expenses.

(1) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(2) The court may not assess fees, costs, or expenses against a state except as otherwise provided by law other than this chapter.

Section 311. Section 81-11-313, which is renumbered from Section 78B-13-313 is renumbered and amended to read:

[~~78B-13-313~~]81-11-313. Recognition and enforcement.

A court of this state shall accord full faith and credit to an order made consistently with this chapter which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court authorized to do so under Part 2, Jurisdiction.

Section 312. Section 81-11-314, which is renumbered from Section 78B-13-314 is renumbered and amended to read:

[~~78B-13-314~~]81-11-314. Appeals.

(1) An appeal may be taken from an order in a proceeding under this chapter in accordance with expedited appellate procedures in other civil cases.

(2) Unless the court enters a temporary emergency order under Section [~~78B-13-204~~]81-11-204, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

Section 313. Section 81-11-315, which is renumbered from Section 78B-13-315 is renumbered and amended to read:

[~~78B-13-315~~]81-11-315. Role of prosecutor or attorney general.

(1) In a case arising under this chapter or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor or [~~Attorney General~~]attorney general may take any lawful action, including resort to a proceeding under this chapter or any other available civil proceeding to locate a minor child, obtain the return of a minor child, or enforce a child custody determination if there is:

(a) an existing child custody determination;

(b) a request from a court in a pending child custody case;

(c) a reasonable belief that a criminal statute has been violated; or

(d) a reasonable belief that the minor child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(2) A prosecutor or attorney general acts on behalf of the court and may not represent any party to a child custody determination.

Section 314. Section 81-11-316, which is renumbered from Section 78B-13-316 is renumbered and amended to read:

[~~78B-13-316~~]81-11-316. Role of law enforcement.

At the request of a prosecutor or the attorney general acting under Section [~~78B-13-315~~]81-11-315, a law enforcement officer may take any lawful action reasonably necessary to locate a minor child or a party and assist a prosecutor or attorney general with responsibilities under Section [~~78B-13-315~~]81-11-315.

Section 315. Section 81-11-317, which is renumbered from Section 78B-13-317 is renumbered and amended to read:

[~~78B-13-317~~]81-11-317. Costs and expenses.

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or attorney general and law enforcement officers under Section [~~78B-13-315 or 78B-13-316~~]81-11-315 or 81-11-316.

Section 316. Section 81-11-318, which is renumbered from Section 78B-13-318 is renumbered and amended to read:

[~~78B-13-318~~]81-11-318. Transitional provision.

A motion or other request for relief made in a child custody or enforcement proceeding [~~which~~]that was commenced before [~~the effective date of this chapter~~]July 1, 2000, is governed by the law in effect at the time the motion or other request was made.

Section 317. Section 81-12-101, which is renumbered from Section 78B-16-102 is renumbered and amended to read:

CHAPTER 12. UNIFORM CHILD ABDUCTION PREVENTION ACT

[~~78B-16-102~~]81-12-101. Definitions for chapter.

[~~In~~]As used in this chapter:

(1) "Abduction" means the wrongful removal or wrongful retention of a minor child.

[~~(2) "Child" means an unemancipated individual who is less than 18 years of age.~~]

[~~(3)~~](2) (a) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a minor child. [~~The term~~]

(b) "Child custody determination" includes a permanent, temporary, initial, and modification order.

[~~(4)~~](3) (a) "Child custody proceeding" means a proceeding in which legal custody, physical custody, visitation, or parent-time with respect to a minor child is at issue. [~~The term~~]

(b) "Child custody proceeding" includes a proceeding for divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, or protection from domestic violence.

[~~(5)~~](4) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.

[~~(6)~~](5) "Petition" includes a motion or [~~its~~]the motion's equivalent.

[~~(7)~~](6) "Record" means information inscribed on a tangible medium or stored in an electronic or other medium and is retrievable in perceivable form.

[~~(8)~~](7) (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. [~~The term~~]

(b) "State" includes a federally recognized Indian tribe or nation.

[~~(9)~~](8) (a) "Travel document" means records relating to a travel itinerary, including travel tickets, passes, reservations for transportation, or accommodations. [~~The term~~]

(b) "Travel document" does not include a passport or visa.

[~~(10)~~](9) "Wrongful removal" means the taking of a minor child that breaches rights of custody, visitation, or parent-time given or recognized under the law of this state.

[~~(11)~~](10) "Wrongful retention" means the keeping or concealing of a minor child that breaches rights of custody, visitation, or parent-time given or recognized under the law of this state.

Section 318. Section 81-12-102, which is renumbered from Section 78B-16-103 is renumbered and amended to read:

[~~78B-16-103~~]81-12-102. Cooperation and communication among courts.

Sections [~~78B-13-110, 78B-13-111, and 78B-13-112~~]81-11-109, 81-11-110, and 81-11-111 apply to cooperation and communications among courts in proceedings under this chapter.

Section 319. Section 81-12-103, which is renumbered from Section 78B-16-104 is renumbered and amended to read:

[~~78B-16-104~~]81-12-103. Actions for abduction prevention measures.

(1) A court on [~~its~~]the court's own motion may order abduction prevention measures in a child custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the minor child.

(2) A party to a child custody determination or another individual or entity having a right under the law of this state or any other state to seek a child custody determination for the minor child may file a petition seeking abduction prevention measures to protect the minor child under this chapter.

(3) A prosecutor or public authority designated under Section [~~78B-13-315~~]81-11-315 may seek a warrant to take physical custody of a minor child under Section [~~78B-16-109~~]81-12-108 or other appropriate prevention measures.

Section 320. Section 81-12-104, which is renumbered from Section 78B-16-105 is renumbered and amended to read:

[~~78B-16-105~~]81-12-104. Jurisdiction.

(1) A petition under this chapter may be filed only in a court that has jurisdiction to make a child custody determination with respect to the minor child at issue under [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act~~]Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

(2) A court of this state has temporary emergency jurisdiction under Section [~~78B-13-204~~]81-11-204 if the court finds a credible risk of abduction.

Section 321. Section 81-12-105, which is renumbered from Section 78B-16-106 is renumbered and amended to read:

[~~78B-16-106~~]81-12-105. Contents of petition.

(1) (a) A petition under this chapter must be verified and include a copy of any existing child custody determination, if available.

(b) The petition must specify the risk factors for abduction, including the relevant factors described in Section [~~78B-16-107~~]81-12-106.

(2) Subject to Subsection [~~78B-13-209(5)~~]81-11-209(5), if reasonably ascertainable, the petition must contain:

(a) the name, date of birth, and gender of the minor child;

(b) the customary address and current physical location of the minor child;

(c) the identity, customary address, and current physical location of the respondent;

(d) a statement of whether a prior action to prevent abduction or domestic violence has been filed by a party or other individual or entity having custody of the minor child, and the date, location, and disposition of the action;

(e) a statement of whether a party to the proceeding has been arrested for a crime related to domestic violence, stalking, or child abuse or neglect, and the date, location, and disposition of the case; and

(f) any other information required to be submitted to the court for a child custody determination under Section [~~78B-13-209~~]81-11-209.

Section 322. Section 81-12-106, which is renumbered from Section 78B-16-107 is renumbered and amended to read:

[~~78B-16-107~~]81-12-106. Factors to determine risk of abduction.

(1) In determining whether there is a credible risk of abduction of a minor child, the court shall consider any evidence that the petitioner or respondent:

(a) has previously abducted or attempted to abduct the minor child;

(b) has threatened to abduct the minor child;

(c) has recently engaged in activities that may indicate a planned abduction, including:

(i) abandoning employment;

(ii) selling a primary residence;

(iii) terminating a lease;

(iv) closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting any unusual financial activities;

(v) applying for a passport or visa or obtaining travel documents for the respondent, a family member, or the minor child; or

(vi) seeking to obtain the minor child's birth certificate or school or medical records;

(d) has engaged in domestic violence, stalking, or child abuse or neglect;

(e) has refused to follow a child custody determination;

(f) lacks strong familial, financial, emotional, or cultural ties to the state or the United States;

(g) has strong familial, financial, emotional, or cultural ties to another state or country;

(h) is likely to take the minor child to a country that:

(i) is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted minor child;

(ii) is a party to the Hague Convention on the Civil Aspects of International Child Abduction but:

(A) the Hague Convention on the Civil Aspects of International Child Abduction is not in force between the United States and that country;

(B) is noncompliant according to the most recent compliance report issued by the United States Department of State; or

(C) lacks legal mechanisms for immediately and effectively enforcing a return order under the Hague Convention on the Civil Aspects of International Child Abduction;

(iii) poses a risk that the minor child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the minor child or because of human rights violations committed against [~~children~~]a minor child;

(iv) has laws or practices that would:

(A) enable the respondent, without due cause, to prevent the petitioner from contacting the minor child;

(B) restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status, or religion; or

(C) restrict the minor child's ability legally to leave the country after the minor child reaches the age of majority because of a minor child's gender, nationality, or religion;

(v) is included by the United States Department of State on a current list of state sponsors of terrorism;

(vi) does not have an official United States diplomatic presence in the country; or

(vii) is engaged in active military action or war, including a civil war, to which the minor child may be exposed;

(i) is undergoing a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in the United States legally;

(j) has had an application for United States citizenship denied;

(k) has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a [~~Social Security~~]social security card, a driver license, or other government-issued identification card or has made a misrepresentation to the United States government;

(l) has used multiple names to attempt to mislead or defraud; or

(m) has engaged in any other conduct the court considers relevant to the risk of abduction.

(2) In the hearing on a petition under this chapter, the court shall consider any evidence that the respondent believed in good faith that the respondent's conduct was necessary to avoid imminent harm to the minor child or respondent and any other evidence that may be relevant to whether the respondent may be permitted to remove or retain the minor child.

Section 323. Section 81-12-107, which is renumbered from Section 78B-16-108 is renumbered and amended to read:

[~~78B-16-108~~]81-12-107. Provisions and measures to prevent abduction.

(1) If a petition is filed under this chapter, the court may enter an order [~~which~~]that must include:

(a) the basis for the court's exercise of jurisdiction;

(b) the manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding;

(c) a detailed description of each party's custody and visitation rights and residential arrangements for the minor child;

(d) a provision stating that a violation of the order may subject the party in violation to civil and criminal penalties; and

(e) identification of the minor child's country of habitual residence at the time of the issuance of the order.

(2) (a) If, at a hearing on a petition under this chapter or on the court's own motion, the court after reviewing the evidence finds a credible risk of abduction of the minor child, the court shall enter an abduction prevention order.

(b) The order must include the provisions required by Subsection (1) and measures and conditions, including those in Subsections (3), (4), and (5), that are reasonably calculated to prevent abduction of the minor child, giving due consideration to the custody, visitation, and parent-time rights of the parties.

(c) The court shall consider the age of the minor child, the potential harm to the minor child from an abduction, the legal and practical difficulties of returning the minor child to the jurisdiction if abducted, and the reasons for the potential abduction, including evidence of domestic violence, stalking, or child abuse or neglect.

(3) An abduction prevention order may include one or more of the following:

(a) an imposition of travel restrictions that require that a party traveling with the minor child outside a designated geographical area provide the other party with the following:

(i) the travel itinerary of the minor child;

(ii) a list of physical addresses and telephone numbers at which the minor child can be reached at specified times; and

(iii) copies of all travel documents;

(b) a prohibition of the respondent directly or indirectly:

(i) removing the minor child from this state, the United States, or another geographic area without permission of the court or the petitioner's written consent;

(ii) removing or retaining the minor child in violation of a child custody determination;

(iii) removing the minor child from school or a child-care or similar facility; or

(iv) approaching the minor child at any location other than a site designated for supervised visitation;

(c) a requirement that a party to register the order in another state as a prerequisite to allowing the child to travel to that state;

(d) with regard to the minor child's passport:

(i) a direction that the petitioner place the minor child's name in the United States Department of State's Child Passport Issuance Alert Program;

(ii) a requirement that the respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the minor child's name, including a passport issued in the name of both the parent and the minor child; and

(iii) a prohibition upon the respondent from applying on behalf of the minor child for a new or replacement passport or visa;

(e) as a prerequisite to exercising custody, visitation, or parent-time, a requirement that the respondent provide:

(i) to the United States Department of State Office of Children's Issues and the relevant foreign consulate or embassy, an authenticated copy of the order detailing passport and travel restrictions for the minor child;

(ii) to the court:

(A) proof that the respondent has provided the information in Subsection (3)(e)(i); and

(B) an acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, or passport issued, on behalf of the minor child;

(iii) to the petitioner, proof of registration with the United States Embassy or other United States diplomatic presence in the destination country and with the Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that convention is in effect between the United States and the destination country, unless one of the parties objects; and

(iv) a written waiver under the Privacy Act, 5 U.S.C. Section 552a, with respect to any document, application, or other information pertaining to the minor child authorizing its disclosure to the court and the petitioner; and

(f) upon the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child custody determination issued in the United States.

(4) In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that:

(a) limit visitation or require that visitation with the minor child by the respondent be supervised until the court finds that supervision is no longer necessary and order the respondent to pay the costs of supervision;

(b) require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the reasonable expenses of recovery of the minor child, including reasonable attorney fees and costs if there is an abduction; and

(c) require the respondent to obtain education on the potentially harmful effects to the minor child from abduction.

(5) To prevent imminent abduction of a minor child, a court may:

(a) issue a warrant to take physical custody of the minor child under Section [~~78B-16-109~~]81-12-108 or the law of this state other than this chapter;

(b) direct the use of law enforcement to take any action reasonably necessary to locate the minor child, obtain return of the minor child, or enforce a custody determination under this chapter or the law of this state other than this chapter; or

(c) grant any other relief allowed under the law of this state other than this chapter.

(6) The remedies provided in this chapter are cumulative and do not affect the availability of other remedies to prevent abduction.

Section 324. Section 81-12-108, which is renumbered from Section 78B-16-109 is renumbered and amended to read:

[~~78B-16-109~~]81-12-108. Warrant to take physical custody of a minor child.

(1) If a petition under this chapter contains allegations, and the court finds that there is a credible risk that the minor child is imminently likely to be wrongfully removed, the court may issue an ex parte warrant to take physical custody of the minor child.

(2) (a) The respondent on a petition under Subsection (1) must be afforded an opportunity to be heard at the earliest possible time after the ex parte warrant is executed, but not later than the next judicial day unless a hearing on that date is impossible.

(b) In that event, the court shall hold the hearing on the first judicial day possible.

(3) An ex parte warrant under Subsection (1) to take physical custody of a minor child must:

(a) recite the facts upon which a determination of a credible risk of imminent wrongful removal of the minor child is based;

(b) direct law enforcement officers to take physical custody of the minor child immediately;

(c) state the date and time for the hearing on the petition; and

(d) provide for the safe interim placement of the minor child pending further order of the court.

(4) If feasible, before issuing a warrant and before determining the placement of the minor child after the warrant is executed, the court may order a search of the relevant databases of the National Crime Information Center system and similar state databases to determine if either the petitioner or respondent has a history of domestic violence, stalking, or child abuse or neglect.

(5) The petition and warrant must be served on the respondent when or immediately after the minor child is taken into physical custody.

(6) (a) A warrant to take physical custody of a minor child, issued by this state or another state, is enforceable throughout this state.

(b) If the court finds that a less intrusive remedy will not be effective, [~~it~~]the court may authorize law enforcement officers to enter private property to take physical custody of the minor child.

(c) If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.

(7) If the court finds, after a hearing, that a petitioner sought an ex parte warrant under Subsection (1) for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorney fees, costs, and other reasonable expenses and losses arising out of the issuance of the ex parte warrant.

(8) This chapter does not affect the availability of relief allowed under the law of this state other than this chapter.

Section 325. Section 81-12-109, which is renumbered from Section 78B-16-110 is renumbered and amended to read:

[~~78B-16-110~~]81-12-109. Duration of abduction prevention order.

An abduction prevention order remains in effect until the earliest of:

(1) the time stated in the order;

(2) the emancipation of the minor child;

(3) the minor child's attaining 18 years [~~of age~~]old; or

(4) the time the order is modified, revoked, vacated, or superseded by a court with jurisdiction under Sections [~~78B-13-201 through 78B-13-203~~]81-11-201 through 81-11-203.

Section 326. Section 81-12-110, which is renumbered from Section 78B-16-111 is renumbered and amended to read:

[~~78B-16-111~~]81-12-110. Uniformity of application and construction.

(1) This chapter is a uniform act.

(2) In applying and construing [~~it~~]this chapter, consideration must be given to the need to promote uniformity of the law with respect to [~~its~~]this uniform law's subject matter among states that enact [~~it~~]this uniform law.

Section 327. Section 81-12-111, which is renumbered from Section 78B-16-112 is renumbered and amended to read:

[~~78B-16-112~~]81-12-111. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of the act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

Section 328. Section 81-13-101, which is renumbered from Section 78B-6-103 is renumbered and amended to read:

CHAPTER 13. ADOPTION

PART 1. General Provisions

[~~78B-6-103~~]81-13-101. Definitions for chapter.

As used in this [~~part~~]chapter:

[~~(1) "Adoptee" means a person who:~~]

[~~(a) is the subject of an adoption proceeding; or~~]

[~~(b) has been legally adopted.~~]

(1) "Adoptee" means:

(a) a child adoptee; or

(b) an adult adoptee.

(2) "Adoption" means [~~the judicial act that~~]the process by which an individual seeks to:

(a) [~~creates the~~]create the legal relationship of parent and child where [~~it~~]the relationship did not previously exist; and

(b) except as provided in Subsections [~~78B-6-138(2) and (4), terminates~~]81-13-220(2) and (4) and Subsections 81-13-306(2) and (4), terminate the parental rights of any other [~~person~~]individual with respect to the child.

(3) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

(4) "Adoption proceeding" means any proceeding under this [~~part~~]chapter.

(5) "Adoption service provider" means:

(a) a child-placing agency;

(b) a licensed counselor who has at least one year of experience providing professional social work services to:

(i) adoptive parents;

(ii) prospective adoptive parents; or

(iii) birth parents; or

(c) the Office of Licensing within the Department of Health and Human Services.

(6) "Adoptive parent" means an individual who has legally adopted an adoptee.

(7) "Adult" means an individual who is 18 years old or older.

[~~(8) "Adult adoptee" means an adoptee who is 18 years old or older and was adopted as a minor.~~]

(8) "Adult adoptee" means an individual:

(a) who is an adult and is the subject of an adoption proceeding; or

(b) who was adopted when the individual was an adult.

(9) "Adult sibling" means [~~an~~]an individual:

(a) who is a child adoptee's brother or sister[~~,~~];

(b) who is 18 years old or older; and

(c) whose birth [~~mother or father~~]parent is the same as that of the child adoptee.

[~~(10) "Birth mother" means the biological mother of a child.~~]

(10) "Birth mother" means the same as that term is defined in Section 81-5-102.

(11) "Birth parent" means:

[~~(a) a birth mother;~~]

[~~(b) a man whose paternity of a child is established;~~]

(a) an individual that has a parent-child relationship with an adoptee as described in Section 81-5-201;

[~~(c)~~](b) a man who:

(i) has been identified as the father of [~~a child by the child's~~]an adoptee by the adoptee's birth mother; and

(ii) has not denied paternity; or

[~~(d)~~](c) an unmarried biological father.

(12) "Child adoptee" means an individual:

(a) who is a minor child and is the subject of an adoption proceeding; or

(b) who was adopted when the individual was a minor child.

[~~(12)~~](13) "Child-placing agency" means an agency licensed to place [~~children~~]a minor child for adoption under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities.

[~~(13)~~](14) "Cohabiting" means residing with another [~~person~~]individual and being involved in a sexual relationship with that [~~person~~]individual.

[~~(14)~~](15) "Division" means the Division of Child and Family Services, within the Department of Health and Human Services, created in Section 80-2-201.

[~~(15)~~](16) "Extra-jurisdictional child-placing agency" means an agency licensed to place children for adoption by a district, territory, or state of the United States, other than Utah.

[~~(16)~~](17) "Genetic and social history" means a comprehensive report, when obtainable, that contains the following information on an adoptee's birth parents, aunts, uncles, and grandparents:

(a) medical history;

(b) health status;

(c) cause of and age at death;

(d) height, weight, and eye and hair color;

(e) ethnic origins;

(f) where appropriate, levels of education and professional achievement; and

(g) religion, if any.

[~~(17)~~](18) "Health history" means a comprehensive report of the adoptee's health status at the time of placement for adoption, and medical history, including neonatal, psychological, physiological, and medical care history.

[~~(18)~~](19) "Identifying information" means information that is in the possession of the office and that contains:

(a) the name and address of:

(i) a pre-existing parent[~~or an adult adoptee, or~~]; or

(ii) a child adoptee who is 18 years old or older; or

(b) other specific information that by itself or in reasonable conjunction with other information may be used to identify a pre-existing parent or [~~an adult adoptee~~]child adoptee, including information on a birth certificate or in an adoption document.

[~~(19)~~](20) "Licensed counselor" means an individual who is licensed by the state, or another state, district, or territory of the United States as a:

(a) certified social worker;

(b) clinical social worker;

(c) psychologist;

(d) marriage and family therapist;

(e) clinical mental health counselor; or

(f) an equivalent licensed professional of another state, district, or territory of the United States.

[~~(20)~~](21) "Man" means a male individual [~~, regardless of~~]of any age.

[~~(21) "Mature adoptee" means an adoptee who is adopted when the adoptee is an adult.~~]

(22) "Office" means the Office of Vital Records and Statistics within the Department of Health and Human Services operating under Title 26B, Chapter 8, Part 1, Vital Statistics.

[~~(23) "Parent," for purposes of Subsection 78B-6-112(6) and Section 78B-6-119, means any person described in Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment for adoption is required under Sections 78B-6-120 through 78B-6-122.~~]

[~~(24)~~](23) "Potential birth father" means a man who:

(a) is identified by a birth mother as a potential biological father of the birth mother's minor child, but whose genetic paternity has not been established; and

(b) was not married to the [~~biological~~]birth mother of the minor child described in Subsection [~~(24)(a)~~](23)(a) at the time of the minor child's conception or birth.

[~~(25) "Pre-existing parent" means:~~]

[~~(a) a birth parent; or~~]

[~~(b) an individual who, before an adoption decree is entered, is, due to an earlier adoption decree, legally the parent of the child being adopted.~~]

(24) (a) "Pre-existing parent" means an individual who is an adoptee's birth parent before an adoption decree is entered for the adoptee.

(b) "Pre-existing parent" includes an individual who is legally the parent of the adoptee, due to an earlier adoption decree, before an adoption decree is entered for the adoptee.

[~~(26)~~](25) "Prospective adoptive parent" means an individual who seeks to adopt an adoptee.

[~~(27)~~](26) "Relative" means:

(a) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a minor child, or first cousin of a minor child's parent; [~~and~~]or

(b) in the case of [~~a child defined as~~]a minor child who is an "Indian child" under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, an "extended family member" as defined by that statute.

[~~(28)~~](27) "Unmarried biological father" means a man who:

(a) is the biological father of a minor child; and

(b) was not married to the [~~biological~~]birth mother of the minor child described in Subsection [~~(28)(a)~~](27)(a) at the time of the minor child's conception or birth.

(28) "Vulnerable adult" means:

(a) an individual who is 65 years old or older; or

(b) an adult who has a mental or physical impairment that substantially affects that adult's ability to:

(i) provide personal protection;

(ii) provide necessities such as food, shelter, clothing, or medical or other health care;

(iii) obtain services necessary for health, safety, or welfare;

(iv) carry out the activities of daily living;

(v) manage the adult's own resources; or

(vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

Section 329. Section 81-13-102, which is renumbered from Section 78B-6-105 is renumbered and amended to read:

[~~78B-6-105~~]81-13-102. Venue for an adoption proceeding.

(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an adoption proceeding in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration:

(a) in the [~~county~~]judicial district where the prospective adoptive parent resides;

(b) if the prospective adoptive parent is not a resident of this state, in the [~~county~~]judicial district where:

(i) the adoptee was born;

(ii) the adoptee resides on the day on which the petition is filed; or

(iii) a parent of the proposed adoptee resides on the day on which the petition is filed if the proposed adoptee is a minor child; or

(c) if the adoption proceeding is brought in the juvenile court, as described in Subsection 78A-6-103(2)(a)(xiv) or (xv), in accordance with Section 78A-6-350.

(2) All orders, decrees, agreements, and notices in an adoption proceeding shall be filed with the clerk of the court where the adoption proceeding is commenced under Subsection (1).

[~~(3) A petition for adoption:~~]

[~~(a) may be filed before the birth of a child;~~]

[~~(b) may be filed before or after the adoptee is placed in the home of the petitioner for the purpose of adoption; and~~]

[~~(c) shall be filed no later than 30 days after the day on which the adoptee is placed in the home of the petitioners for the purpose of adoption, unless:~~]

[~~(i) the time for filing has been extended by the court; or~~]

[~~(ii) the adoption is arranged by a child-placing agency in which case the agency may extend the filing time.~~]

[~~(4)~~](3) (a) If a person whose consent for the adoption is required under Section [~~78B-6-120 or 78B-6-121~~]81-13-212 or 81-13-213 cannot be found within the state, the fact of the [~~minor's~~]adoptee's presence within the state shall confer jurisdiction on the court in proceedings under this chapter as to such absent person [~~, provided that~~]if due notice has been given in accordance with the Utah Rules of Civil Procedure.

(b) The notice may not include the name of:

(i) a prospective adoptive parent; or

(ii) an unmarried birth mother without [~~her~~]the unmarried birth mother's consent.

[~~(5) Service of notice described in Subsection (6) shall vest the court with jurisdiction over the person served in the same manner and to the same extent as if the person served was served personally within the state.~~]

[~~(6)~~](4) (a) In the case of service outside the state, service completed not less than five days before the time set in the notice for appearance of the person served is sufficient to confer jurisdiction.

(b) Service of notice described in Subsection (4)(a) shall vest the court with jurisdiction over the person served in the same manner and to the same extent as if the person served was served personally within the state.

[~~(7)~~](5) Computation of periods of time not otherwise [~~set forth~~]described in this section shall be made in accordance with the Utah Rules of Civil Procedure.

Section 330. Section 81-13-103, which is renumbered from Section 78B-6-141 is renumbered and amended to read:

[~~78B-6-141~~]81-13-103. Court hearings -- Adoption documents -- Motion to intervene.

(1) (a) Notwithstanding Section 80-4-106, [~~court hearings in adoption cases may be closed to the public~~]the court may close to the public any court hearing regarding an adoption upon the request of a party to the [~~adoption petition and upon court approval~~]petition for adoption.

(b) In a closed hearing, the court may only admit the following individuals[~~may be admitted~~]:

(i) a party to the proceeding;

(ii) the adoptee;

(iii) a representative of an agency having custody of the adoptee;

(iv) in a hearing to relinquish parental rights, the individual whose rights are to be relinquished and invitees of that individual to provide emotional support;

(v) in a hearing on the termination of parental rights, the individual whose rights may be terminated;

(vi) in a hearing on a petition to intervene, the proposed intervenor;

(vii) in a hearing to finalize an adoption, invitees of the petitioner; and

(viii) other individuals for good cause, upon order of the court.

(2) [~~An~~]Except as provided in Subsections (3) through (6), an adoption document and any other documents filed in connection with a petition for adoption are sealed.

(3) A person may only inspect and copy the documents described in Subsection (2):

(a) if the adoption proceeding is pending and the person is a party to the adoption proceeding;

(b) within 180 days after the day on which the final decree of adoption is entered if the person is a party to the adoption proceeding;

(c) if the court enters an order expressly permitting the inspection or copying the documents after the person filed a motion to intervene and the motion to intervene was granted on appeal;

(d) if the court enters an order expressly permitting the inspection or copying of the documents after good cause is shown;

(e) if the office is permitted to release the documents to the person as described in Section 81-13-504;

(f) when the documents becomes public 100 years after the day on which the final decree of adoption was entered;

(g) when the birth certificate becomes public 100 years after the day on which the adoptee was born; or

(h) if the person is permitted access to the documents under Subsection (6)(a) or (7).

(4) A person who files a motion to intervene in an adoption proceeding:

(a) is not a party to the adoption proceeding, unless the motion to intervene is granted; and

(b) subject to Subsection (5), may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.

(5) If the court enters an order under Subsection (3)(c) or a potential birth father is made a party to the adoption proceeding upon a motion to intervene, the court shall:

(a) prohibit the person described in Subsection (3)(c) or the potential birth father from inspecting a document described in Subsection (2) that contains identifying information of an adoptive or prospective adoptive parent; and

(b) permit the person described in Subsection (3)(c) or the potential birth father to review a copy of the document described in Subsection (5)(a) after the identifying information of the adoptive or prospective adoptive parent is redacted from the document.

[~~(3) The documents described in Subsection (2) may only be open to inspection and copying:~~]

[~~(a) in accordance with Subsection (5)(a), by a party to the adoption proceeding:~~]

[~~(i) while the proceeding is pending; or~~]

[~~(ii) within six months after the day on which the adoption decree is entered;~~]

[~~(b) subject to Subsection (5)(b), if a court enters an order permitting access to the documents by an individual who has appealed the denial of that individual's motion to intervene;~~]

[~~(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;~~]

[~~(d) as provided under Section 78B-6-144;~~]

[~~(e) when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered;~~]

[~~(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;~~]

[~~(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b); or~~]

[~~(h) to an adult adoptee, to the extent permitted under Subsection (4).~~]

[~~(4)~~](6) [~~(a) An adult adoptee that was born in the state may access an adoption document associated with the adult adoptee's adoption without a court order:~~]

[~~(i) to the extent that a birth parent consents under Subsection (4)(b); or~~]

[~~(ii) if the birth parents listed on the original birth certificate are deceased.~~]

(a) A child adoptee may access an adoption document associated with the child adoptee's adoption without a court order if:

(i) the child adoptee is 18 years old or older;

(ii) the child adoptee was born in this state; and

(iii) (A) a pre-existing parent consents as described in Subsection (6)(b); or

(B) the pre-existing parents listed on the original birth certificate are deceased.

(b) A [~~birth~~]pre-existing parent may:

(i) provide consent to allow the access described in Subsection [~~(4)(a)~~](6)(a) by electing, electronically or on a written form provided by the office, allowing the [~~birth~~]pre-existing parent to elect to:

(A) allow the office to provide the [~~adult~~]child adoptee with the contact information of the [~~birth~~]pre-existing parent that the [~~birth~~]pre-existing parent indicates;

(B) allow the office to provide the [~~adult~~]child adoptee with the contact information of an intermediary that the [~~birth~~]pre-existing parent indicates;

(C) prohibit the office from providing any contact information to the [~~adult~~]child adoptee; or

(D) allow the office to provide the [~~adult~~]child adoptee with a noncertified copy of the original birth certificate; and

(ii) at any time, file, electronically or on a written document with the office, to:

(A) change the election described in Subsection [~~(4)(b)~~](6)(b); or

(B) elect to make other information about the birth parent, including an updated medical history, available for inspection by [~~an adult~~]a child adoptee.

[~~(c) A birth parent may not access any identifying information or an adoption document under this Subsection (4).~~]

[~~(d)~~](c) If two [~~birth~~]pre-existing parents are listed on the original birth certificate and only one [~~birth~~]pre-existing parent consents under Subsection [~~(4)(b)~~](6)(a) or is deceased, the office may redact the name of the other [~~birth~~]pre-existing parent.

(7) An adult adoptee, or the adoptive parent of the adult adoptee, may inspect an adoption document associated with the adult adoptee's adoption without a court order, unless the final decree of adoption is entered by the juvenile court.

(8) A pre-existing parent may not access the documents described in Subsection (2) or any identifying information under Subsection (6).

[~~(5) (a) An individual who files a motion to intervene in an adoption proceeding:~~]

[~~(i) is not a party to the adoption proceeding, unless the motion to intervene is granted; and~~]

[~~(ii) may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.~~]

[~~(b) An order described in Subsection (3)(b) shall:~~]

[~~(i) prohibit the individual described in Subsection (3)(b) from inspecting a document described in Subsection (2) that contains identifying information of the adoptive or prospective adoptive parent; and~~]

[~~(ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a document described in Subsection (5)(b)(i) after the identifying information described in Subsection (5)(b)(i) is redacted from the document.~~]

Section 331. Section 81-13-104, which is renumbered from Section 78B-6-106 is renumbered and amended to read:

[~~78B-6-106~~]81-13-104. Responsibility for own actions -- Fraud or misrepresentation.

(1) Each parent of [~~a child~~]an adoptee conceived or born outside of marriage is responsible for [~~his or her~~]the parent's own actions and is not excused from strict compliance with the provisions of this chapter based upon any action, statement, or omission of the other parent or third parties.

(2) (a) Any person injured by fraudulent representations or actions in connection with an adoption is entitled to pursue civil or criminal penalties in accordance with existing law.

(b) A fraudulent representation is not a defense to strict compliance with the requirements of this chapter and is not a basis for dismissal of a petition for adoption, vacation of an adoption decree, or an automatic grant of custody to the offended party.

(c) [~~Custody determinations~~]For a child adoptee, a custody determination shall be based on the best interests of the [~~child,~~]child adoptee in accordance with the provisions of Section [~~78B-6-133~~]81-13-215.

(3) A child-placing agency and the employees of a child-placing agency may not:

(a) employ any device, scheme, or artifice to defraud;

(b) engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person;

(c) materially and intentionally misrepresent facts or information; or

(d) request or require a prospective adoptive parent to grant, as a condition of or in connection with entering into an agreement with a child-placing agency, a release of either the prospective adoptive parent's claims or the [~~adoptive child's~~]adoptee's claims against the child-placing agency regarding any of the following:

(i) criminal misconduct;

(ii) ethical violations, as established by the Office of Licensing's administrative rules;

(iii) bad faith;

(iv) intentional torts;

(v) fraud;

(vi) gross negligence associated with care of the [~~child~~]adoptee, as described in Subsection [~~78B-6-134(3)~~]81-13-210(2);

(vii) future misconduct that may arise before the adoption is finalized;

(viii) breach of contract; or

(ix) gross negligence.

(4) Subsection (3) does not prohibit a release of claims against a child-placing agency or a child-placing agency's employees for liability arising from the acts or the failure to act of a third party.

Section 332. Section 81-13-105, which is renumbered from Section 78B-6-142 is renumbered and amended to read:

[~~78B-6-142~~]81-13-105. Adoption order from foreign country.

(1) Except as otherwise provided by federal law, an adoption order rendered to a resident of this state that is made by a foreign country shall be recognized by the courts of this state and enforced as if the order were rendered by a court in this state.

(2) [~~A person~~]An individual who adopts [~~a child~~]an adoptee in a foreign country may register the order in this state.

(3) A petition for registration of a foreign adoption order may be combined with a petition for a name change.

(4) If the court finds that the foreign adoption order meets the requirements of Subsection (1), the court shall order the [~~state registrar~~]office to:

(a) file the order[~~pursuant to Section 78B-6-137~~]; and

(b) file a certificate of birth for the [~~child pursuant to~~]adoptee in accordance with Section 26B-8-131.

[~~(3)~~](5) If a clerk of the court is unable to establish the fact, time, and place of birth from the documentation provided, a person holding a direct, tangible, and legitimate interest as described in Subsection 26B-8-125(3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth [~~pursuant to~~]in accordance with Subsection 26B-8-119(1).

Section 333. Section 81-13-106, which is renumbered from Section 78B-6-121.5 is renumbered and amended to read:

[~~78B-6-121.5~~]81-13-106. Compact for Interstate Sharing of Putative Father Registry Information -- Severability clause.

COMPACT FOR INTERSTATE SHARING

OF PUTATIVE FATHER REGISTRY INFORMATION

ARTICLE I

PURPOSE

This compact enables the sharing of putative father registry information collected by a state that is a party to the compact with all other states that are parties to the compact.

ARTICLE II

DEFINITIONS

(1) "Putative father" means a man who may be the biological father of a child because the man had a sexual relationship with a woman to whom he is not married.

(2) "Putative father registry" mean a registry of putative fathers maintained and used by a state as part of its legal process for protecting a putative father's rights.

(3) "State" includes a state, district, or territory of the United States.

ARTICLE III

ENTRY, WITHDRAWAL, AND AMENDMENTS

(1) A state is a party to this compact upon enactment of this compact by the state into state law.

(2) Upon providing at least 60 days' notice of withdrawal from this compact to each party to the compact and repealing the compact from state law, a state is no longer party to this compact.

(3) This compact is amended upon enactment of the amendment into state law by each party to the compact.

ARTICLE IV

INTERSTATE SHARING OF PUTATIVE FATHER REGISTRY INFORMATION

(1) A party to this compact shall communicate information in its putative father registry about a specific putative father to any other party to this compact in a timely manner upon request by the other party.

(2) A party to this compact is not required to have a putative father registry in order to request putative father registry information from another party to the compact.

(3) Putative father registry information requested by a party to this compact from another party to this compact is subject to the laws of the requesting party governing the privacy, retention, and authorized uses of putative father information or, if the requesting party does not have a putative father registry, the laws of the party supplying the information governing the privacy, retention, and authorized uses of putative father information.

(4) Notwithstanding Article IV, Subsection (3) of this compact, the request for or receipt of putative father registry information by a party to this compact from another party to this compact does not affect the application of the requesting party's laws, including laws regarding adoption or the protection of a putative father's rights, except as explicitly provided by the requesting party's laws.

(5) Failure by a party to this compact to provide accurate putative father registry information in a timely manner to another party to this compact upon request does not affect application of the requesting party's laws, including laws governing adoption and the protection of a putative father's rights, except as explicitly provided by the requesting party's laws.

(6) Each party to this compact shall work with every other party to this compact to facilitate the timely communication of putative father registry information between compact parties upon request.

ARTICLE V

SEVERABILITY

The provisions of this compact are severable. If any provision of this compact or the application of any provision of this compact to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction for a state that is a member of this compact, the remainder of this compact shall be given effect within that state without the invalid provision or application. If a provision of this compact is severed in one or more states as a result of one or more court decisions, the provision shall remain in force in all other states that are parties to this compact.

Section 334. Section 81-13-201 is enacted to read:

PART 2. Adoption of a Minor Child

81-13-201. Definitions for part.

As used in this part, "sexual offense" means:

(1) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses; or

(2) an offense under the laws of the state where the minor child was conceived that is substantially similar to an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses.

Section 335. Section 81-13-202, which is renumbered from Section 78B-6-102 is renumbered and amended to read:

[~~78B-6-102~~]81-13-202. Legislative intent and findings -- Best interest of the minor child -- Interests of each party.

(1) It is the intent and desire of the Legislature that in every adoption of a minor child that the best interest of the minor child should govern and be of foremost concern in the court's determination.

(2) The court shall make a specific finding regarding the best interest of the [~~child~~]minor child, taking into consideration information provided to the court pursuant to the requirements of this chapter relating to the health, safety, and welfare of the minor child and the moral climate of the potential adoptive placement.

(3) The Legislature finds that the rights and interests of all parties affected by an adoption proceeding must be considered and balanced in determining what constitutional protections and processes are necessary and appropriate.

(4) (a) The Legislature specifically finds that it is not in a minor child's best interest to be adopted by a person or persons who are cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state.

(b) Nothing in this section limits or prohibits the court's placement of a minor child with a single adult who is not cohabiting or a person who is a relative of the minor child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(5) The Legislature also finds that:

(a) the state has a compelling interest in providing a stable and permanent [~~homes for adoptive children~~]home for a child adoptee in a prompt manner, in preventing the disruption of [~~adoptive placements~~]an adoptive placement, and in holding parents accountable for meeting the needs of [~~children~~]a child adoptee;

(b) an unmarried birth mother, faced with the responsibility of making crucial decisions about the future of a newborn child, is entitled to privacy, and has the right to make timely and appropriate decisions regarding her future and the future of the newborn child, and is entitled to assurance regarding the permanence of an adoptive placement;

(c) [~~adoptive children have~~]a child adoptee has a right to permanence and stability in [~~adoptive placements~~]an adoptive placement;

(d) adoptive parents have a constitutionally protected liberty and privacy interest in retaining custody of [~~an adopted child~~]a child adoptee;

(e) an unmarried biological father has an inchoate interest that acquires constitutional protection only when [~~he~~]the unmarried biological father demonstrates a timely and full commitment to the responsibilities of parenthood, both during pregnancy and upon the

[~~child's~~]child adoptee's birth; and

(f) the state has a compelling interest in requiring [~~unmarried biological fathers~~]an unmarried biological father to demonstrate commitment by providing appropriate medical care and financial support and by establishing legal [~~paternity,~~]parentage in accordance with the requirements of this chapter.

(6) (a) In enacting this chapter, the Legislature has prescribed the conditions for determining whether an unmarried biological father's action is sufficiently prompt and substantial to require constitutional protection.

(b) If an unmarried biological father fails to grasp the opportunities to establish a relationship with [~~his child~~]the child adoptee that are available to [~~him, his biological~~]the unmarried biological father, the unmarried biological father's parental interest may be lost entirely, or greatly diminished in constitutional significance by [~~his~~]the unmarried biological father's failure to timely exercise [~~it~~]the unmarried biological father's parental interest, or by [~~his~~]the unmarried biological father's failure to strictly comply with the available legal steps to substantiate [~~it~~]the parental interest.

(c) (i) A certain degree of finality is necessary in order to facilitate the state's compelling interest.

(ii) The Legislature finds that the interests of the state, the birth mother, the child adoptee, and the adoptive parents described in this section outweigh the interest of an unmarried biological father who does not timely grasp the opportunity to establish and demonstrate a relationship with [~~his child~~]the child adoptee in accordance with the requirements of this chapter.

(d) (i) The Legislature finds no practical way to remove all risk of fraud or misrepresentation in adoption proceedings, and has provided a method for absolute protection of an unmarried biological father's rights by compliance with the provisions of this chapter.

(ii) In balancing the rights and interests of the state, and of all parties affected by fraud, specifically the child adoptee, the adoptive parents, and the unmarried biological father, the Legislature has determined that the unmarried biological father is in the best position to prevent or ameliorate the effects of fraud and that, therefore, the burden of fraud shall be borne by [~~him~~]the unmarried biological father.

(e) An unmarried biological father has the primary responsibility to protect [~~his~~]the unmarried biological father's rights.

(f) An unmarried biological father is presumed to know that the child adoptee may be adopted without [~~his~~]the unmarried biological father's consent unless [~~he~~]the unmarried biological father strictly complies with the provisions of this chapter, manifests a prompt and full commitment to [~~his~~]the unmarried biological father's parental responsibilities, and establishes paternity.

(7) The Legislature finds that an unmarried birth mother has:

(a) a right of privacy with regard to [~~her~~]the unmarried birth mother's pregnancy and adoption plan[~~, and therefore has~~];

(b) no legal obligation to disclose the identity of an unmarried biological father [~~prior to~~]before or during an adoption proceeding[~~, and has~~]; and

(c) no obligation to volunteer information to the court with respect to the father.

Section 336. Section 81-13-203, which is renumbered from Section 78B-6-117 is renumbered and amended to read:

[~~78B-6-117~~]81-13-203. Who may adopt -- Adoption of a minor child.

[~~(1) A minor child may be adopted by an adult individual, in accordance with this section and this part.~~]

(1) An adult may adopt a minor child in accordance with this section and this chapter.

(2) [~~A~~]Except as otherwise provided in this section and subject to the placement requirements described in Section 81-13-403, a minor child may be adopted by:

(a) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or

(b) [~~subject to Subsections (3) and (4), a single adult~~]an adult who is not married.

(3) [~~A child may not be adopted by an individual who~~]If an adult is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state, the adult may not adopt a minor child unless the individual is a relative of the minor child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

[~~(4) To provide a child who is in the custody of the division with the most beneficial family structure, when a child in the custody of the division is placed for adoption, the division or child-placing agency shall place the child with a married couple, unless:~~]

[~~(a) there are no qualified married couples who:~~]

[~~(i) have applied to adopt a child;~~]

[~~(ii) are willing to adopt the child; and~~]

[~~(iii) are an appropriate placement for the child;~~]

[~~(b) the child is placed with a relative of the child;~~]

[~~(c) the child is placed with an individual who has already developed a substantial relationship with the child;~~]

[~~(d) the child is placed with an individual who:~~]

[~~(i) is selected by a parent or former parent of the child, if the parent or former parent consented to the adoption of the child; and~~]

[~~(ii) the parent or former parent described in Subsection (4)(d)(i):~~]

[~~(A) knew the individual with whom the child is placed before the parent consented to the adoption; or~~]

[~~(B) became aware of the individual with whom the child is placed through a source other than the division or the child-placing agency that assists with the adoption of the child; or~~]

[~~(e) it is in the best interests of the child to place the child with a single adult.~~]

(4) A married adult who is lawfully separated from the married adult's spouse may not adopt a minor child without the consent of the married adult's spouse if the spouse is capable of giving consent.

(5) An adult may not adopt a minor child unless:

(a) the adult is at least 10 years older than the minor child; or

(b) at least one adult of a married couple is at least 10 years older than the minor child if a married couple is adopting the minor child.

[~~(5)~~](6) Except as provided in Subsection [~~(6)~~](7), an adult may not adopt a minor child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes[~~any of the following~~]:

(a) child abuse, as described in Section 76-5-109;

(b) child abuse homicide, as described in Section 76-5-208;

(c) child kidnapping, as described in Section 76-5-301.1;

(d) human trafficking of a child, as described in Section 76-5-308.5;

(e) sexual abuse of a minor, as described in Section 76-5-401.1;

(f) rape of a child, as described in Section 76-5-402.1;

(g) object rape of a child, as described in Section 76-5-402.3;

(h) sodomy on a child, as described in Section 76-5-403.1;

(i) sexual abuse of a child, as described in Section 76-5-404.1[~~, or~~];

(j) aggravated sexual abuse of a child, as described in Section 76-5-404.3;

[~~(j)~~](k) sexual exploitation of a minor, as described in Section 76-5b-201;

[~~(k)~~](l) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1;

[~~(l)~~](m) aggravated child abuse, as described in Section 76-5-109.2;

[~~(m)~~](n) child abandonment, as described in Section 76-5-109.3;

[~~(n)~~](o) commission of domestic violence in the presence of a child, as described in Section 76-5-114; or

[~~(o)~~](p) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection [~~(5)~~](6).

[~~(6)~~](7) (a) [~~For purpose of~~]As used in this Subsection [~~(6)~~](7), "disqualifying offense" means an offense listed in Subsection [~~(5)~~](6) that prevents a court from considering [~~an individual~~]an adult for adoption of a minor child except as provided in this Subsection [~~(6)~~](7).

(b) An [~~individual~~]adult described in Subsection [~~(5)~~](6) may only be considered for adoption of a minor child if the following criteria are met by clear and convincing evidence:

(i) at least 10 years have elapsed from the day on which the [~~individual~~]adult is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(ii) during the 10 years before the day on which the [~~individual~~]adult files a petition with the court seeking adoption, the [~~individual~~]adult has not been convicted, pleaded guilty, or pleaded no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the minor child;

(iii) the [~~individual~~]adult can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(iv) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the minor child currently or at any time in the future when considering all of the following:

(A) the minor child's age;

(B) the minor child's gender;

(C) the minor child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a minor child who is 12 years old or older;

(F) any available assessments, including custody evaluations, home studies, pre-placement adoptive evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(v) the [~~individual~~]adult can provide evidence of all of the following:

(A) the relationship with the minor child is of long duration;

(B) that an emotional bond exists with the minor child; and

(C) that adoption by the individual who has committed the disqualifying offense ensures the best interests of the minor child are met; and

(vi) the adoption is by:

(A) a stepparent whose spouse is the adoptee's parent and consents to the adoption; or

(B) subject to Subsection [~~(6)(d)~~](7)(d), a relative of the minor child, as defined in Section 80-3-102, and there is not another relative without a disqualifying offense filing an adoption petition.

(c) The [~~individual~~]adult with the disqualifying offense bears the burden of proof regarding why adoption with that [~~individual~~]adult is in the best interest of the minor child over another responsible relative or equally situated [~~individual~~]adult who does not have a disqualifying offense.

(d) If there is an alternative responsible relative who does not have a disqualifying offense filing an adoption petition[~~, the following applies~~]:

(i) preference for adoption shall be given to a relative who does not have a disqualifying offense; and

(ii) before the court may grant adoption to the [~~individual~~]adult who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

[~~(7)~~](8) Subsections [~~(5) and (6)~~](6) and (7) apply to a case pending on March 25, 2017, for which a final decision on adoption has not been made and to a case filed on or after March 25, 2017.

Section 337. Section 81-13-204 is enacted to read:

81-13-204. Petition for adoption of a minor child.

(1) A person may bring a petition for adoption of a minor child:

(a) before the birth of the minor child; or

(b) before or after the minor child is placed in the home of the adoptive parent for the purpose of adoption.

(2) (a) Except as provided in Subsection (2)(c), a petition for adoption of a minor child shall state whether the minor child was born in another state.

(b) If the minor child was born in another state, the petition and the court's final decree of adoption shall state that the requirements of

Title 80, Chapter 2, Part 9, Interstate Compact on Placement of Children, have been complied with.

(c) This Subsection (2) does not apply if the prospective adoptive parent is not required to complete a preplacement adoptive evaluation under Section 81-13-404.

(3) In any adoption proceeding involving an "Indian child," as defined in 25 U.S.C. Sec. 1903, a child-placing agency and a petitioner shall comply with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Section 338. Section 81-13-205, which is renumbered from Section 78B-6-112 is renumbered and amended to read:

[~~78B-6-112~~]81-13-205. Petition to terminate parental rights of a minor child.

(1) A party may bring a petition seeking to terminate parental rights [~~in the child~~]of a minor child for the purpose of facilitating the adoption of the minor child in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(2) A petition to terminate parental rights under this section may be:

(a) joined with a proceeding on an adoption petition; or

(b) filed as a separate proceeding before or after a petition to adopt the minor child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.

(b) A court may not terminate parental rights [~~in a~~]of a minor child if the minor child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.

(5) The court may terminate an individual's parental rights [~~in a~~]of a minor child if:

(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the minor child, in accordance with:

(i) the requirements of this chapter; or

(ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section [~~78B-6-120 or 78B-6-121~~]81-13-212 or 81-13-213;

(c) the individual:

(i) received notice of the adoption proceeding relating to the minor child under Section [~~78B-6-110~~]81-13-207; and

(ii) failed to file a motion for relief, under Subsection [~~78B-6-110(6)~~]81-13-207(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;

(d) the court finds, under Section [~~78B-15-607~~]81-5-607, that the individual is not a parent of the minor child; or

(e) the individual's parental rights are terminated on grounds described in Title 80, Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best interests of the minor child.

(6) The court shall appoint an indigent defense service provider in accordance with Title 78B, Chapter 22, Indigent Defense Act, to represent a parent, as defined in Section 81-13-211, who faces any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or whose parental rights are subject to termination under this section.

(7) If a county incurs expenses in providing indigent defense services to an indigent individual facing any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or termination of parental rights under this section, the county may apply for reimbursement from the Utah Indigent Defense Commission in accordance with Section 78B-22-406.

(8) A petition filed under this section is subject to the procedural requirements of this chapter.

Section 339. Section 81-13-206, which is renumbered from Section 78B-6-109 is renumbered and amended to read:

[~~78B-6-109~~]81-13-206. Determination of rights in an adoption proceeding for a minor child.

(1) (a) Any interested person may petition a court [~~having~~]with jurisdiction over [~~adoption proceedings~~]an adoption proceeding of a minor child for a determination of the rights and interests of any person who may claim an interest in [~~a child under this part~~]the minor child under this part.

(b) The petition described in Subsection (1) may be filed at any time before the finalization of the adoption, including before:

(i) the minor child's birth;

(ii) a petition for adoption is filed; or

(iii) a petition to terminate parental rights is filed.

(2) If a petition for adoption or a petition to terminate parental rights has been filed [~~in district court~~]in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, the petitioner or any interested person may, without filing a separate petition, move the court for a determination of the rights and interests of any person who may claim an interest in [~~a child under this part~~]the minor child under this chapter.

Section 340. Section 81-13-207, which is renumbered from Section 78B-6-110 is renumbered and amended to read:

[~~78B-6-110~~]81-13-207. Notice of an adoption proceeding for a minor child.

[~~(1) (a) An unmarried biological father, by virtue of the fact that he has engaged in a sexual relationship with a woman:~~]

[~~(i) is considered to be on notice that a pregnancy and an adoption proceeding regarding the child may occur; and~~]

[~~(ii) has a duty to protect his own rights and interests.~~]

[~~(b) An unmarried biological father is entitled to actual notice of a birth or an adoption proceeding with regard to his child only as provided in this section or Section 78B-6-110.5.~~]

[~~(2)~~](1) [~~Notice of an adoption proceeding shall be served~~]A petitioner in an adoption proceeding described in Section 81-13-204, 81-13-205, or 81-13-206 shall serve a notice of the adoption proceeding on each of the following persons:

(a) any person or agency whose consent or relinquishment is required under Section [~~78B-6-120 or 78B-6-121~~]81-13-212 or 81-13-213, unless that right has been terminated by:

(i) waiver;

(ii) relinquishment;

(iii) actual or implied consent; or

(iv) judicial action;

(b) any person who has initiated a [~~paternity~~]parentage proceeding and filed notice of that action with the [~~state registrar of vital statistics within the Department of Health and Human Services,~~]the office in accordance with Subsection (3);

(c) any legally appointed custodian or guardian of the child adoptee;

(d) the petitioner's spouse [~~, if any, only if~~]if the petitioner is married and the petitioner's spouse has not joined in the petition;

(e) the child adoptee's spouse [~~, if any~~]if the child adoptee is married;

(f) any [~~person who, prior to~~]individual who, before the time the birth mother executes [~~her~~]the birth mother's consent for adoption or relinquishes the child adoptee for adoption, is recorded on the birth certificate as the [~~child's father~~]child adoptee's parent, with the knowledge and consent of the birth mother;

(g) [~~a person~~]any individual who is:

(i) openly living in the same household with the child adoptee at the time the consent is executed or relinquishment made; and

(ii) holding [~~himself~~]the individual out to be the [~~child's father~~]child adoptee's parent; and

(h) [~~any person~~]an individual who is married to the [~~child's~~]child adoptee's birth mother at the time [~~she~~]the birth mother executes [~~her~~]the birth mother's consent to the adoption or relinquishes the child adoptee for adoption, unless the court finds that the mother's spouse is not the [~~child's father~~]child adoptee's parent under Section [~~78B-15-607~~]81-5-607.

(2) (a) Except as provided in Subsections (2)(b) and (c), the petitioner may serve the notice described in Subsection (1) at any time after the petition for the adoption proceeding is filed.

(b) The petitioner may not serve the notice described in Subsection (2)(a) on a birth mother before the birth mother has given birth to the minor child who is the subject of the petition.

(c) The petitioner shall serve the notice described in Subsection (1) at least 30 days prior to the final dispositional hearing.

(3) (a) An unmarried biological father, by virtue of the fact that the unmarried biological father has engaged in a sexual relationship with a woman:

(i) is considered to be on notice that a pregnancy and an adoption proceeding regarding a minor child may occur; and

(ii) has a duty to protect the unmarried biological father's own rights and interests.

(b) An unmarried biological father is entitled to actual notice of a birth or an adoption proceeding with regard to the unmarried biological father's minor child only as provided in this section or Section 81-13-209.

[~~(a)~~](c) In order to preserve any right to notice, an unmarried biological father shall, consistent with Subsection [~~(3)(d)~~](3)(f):

(i) initiate proceedings in a [~~district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act~~]court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to establish parentage under Chapter 5, Uniform Parentage Act; and

(ii) file a notice of commencement of the proceedings described in Subsection [~~(3)(a)(i) with the office of vital statistics within the Department of Health and Human Services~~](3)(c)(i) with the office.

[~~(b) If the unmarried, biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in trial pursuant to Section 78B-3a-201.~~]

(d) Notwithstanding Section 81-13-102 or Title 78B, Chapter 3a, Venue for Civil Actions, an unmarried biological father may initiate an action described in Subsection (3)(c) in any county if the unmarried biological father does not know the county in which the birth mother resides.

[~~(c)~~](e) The Department of Health and Human Services shall provide forms for the purpose of filing the notice described in Subsection [~~(3)(a)(ii)~~](3)(c)(ii), and make those forms available in the office of the county health department in each county.

[~~(d)~~](f) When the [~~state registrar of vital statistics~~]office receives a completed form, the [~~registrar~~]office shall:

(i) record the date and time the form was received; and

(ii) immediately enter the information provided by the unmarried biological father in the confidential registry [~~established by Subsection 78B-6-121(3)(c)~~]described in Subsection 81-13-213(4)(c).

[~~(c)~~](g) [~~The action and notice described in Subsection (3)(a):~~]

(i) [~~may be filed~~]An unmarried biological father may file the action and notice described in Subsection (3)(c) before or after the minor child's birth[~~; and~~].

(ii) [~~shall be filed prior to~~]An unmarried biological father shall file the action and notice described in Subsection (3)(c) before the mother's:

(A) execution of consent to adoption of the minor child; or

(B) relinquishment of the minor child for adoption.

(h) Notwithstanding Subsection (2)(b), an unmarried biological father is not entitled to notice of an adoption proceeding in a case where it is shown that the minor child was conceived as a result of conduct that constitutes a sexual offense, regardless of whether the unmarried biological father is formally charged with or convicted of the sexual offense.

(4) Notice provided in accordance with this section need not disclose the name of the birth mother of the minor child who is the subject of an adoption proceeding.

(5) The notice required by this section:

[~~(a) may be served at any time after the petition for adoption is filed, but may not be served on a birth mother before she has given birth to the child who is the subject of the petition for adoption;~~]

[~~(b) shall be served at least 30 days prior to the final dispositional hearing;~~]

[~~(c)~~](a) shall specifically state that the person served shall fulfill the requirements of Subsection (6)(a) within 30 days after the day on which the person receives service if the person intends to intervene in or contest the adoption;

[~~(d)~~](b) shall state the consequences, described in Subsection (6)(b), for failure of a person to file a motion for relief within 30 days after the day on which the person is served with notice of an adoption proceeding;

[~~(e)~~](c) is not required to include, [~~nor~~]or be accompanied by, a summons or a copy of the petition for adoption;

[~~(f)~~](d) shall state where the person may obtain a copy of the petition for adoption; and

[~~(g)~~](e) shall indicate the right to the appointment of counsel for a party whom the court determines is indigent and at risk of losing

the party's parental rights.

(6) (a) A person who has been served with notice of an adoption proceeding and who wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:

(i) within 30 days after the day on which the person was served with notice of the adoption proceeding;

(ii) setting forth specific relief sought; and

(iii) accompanied by a memorandum specifying the factual and legal grounds upon which the motion is based.

(b) A person who fails to fully and strictly comply with all of the requirements described in Subsection (6)(a) within 30 days after the day on which the person was served with notice of the adoption proceeding:

(i) waives any right to further notice in connection with the adoption;

(ii) forfeits all rights in relation to the adoptee; and

(iii) is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee.

(7) [~~Service of notice under this section shall be made as follows:~~]

(a) (i) Subject to Subsection [~~(5)(c), service on~~](5)(c), the petitioner shall serve a person whose consent is necessary under Section [~~78B-6-120 or 78B-6-121 shall be~~]81-13-212 or 81-13-213 in accordance with [~~the provisions of~~]the Utah Rules of Civil Procedure.

(ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court shall designate the content of the notice regarding the identity of the parties.

(iii) The notice described in this Subsection (7)(a) may not include the name of a person seeking to adopt the adoptee.

(b) (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice is required under this section, service by certified mail, return receipt requested, is sufficient.

(ii) If the service described in Subsection (7)(b)(i) cannot be completed after two attempts, the court may issue an order providing for service by publication, posting, or by any other manner of service.

(c) Notice to [~~a person~~]an individual, who has initiated a [~~paternity~~]parentage proceeding and filed notice of that action with the [~~state registrar of vital statistics in the Department of Health and Human Services~~]office in accordance with the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at the last address filed with the [~~registrar~~]office.

(8) The notice required by this section may be waived in writing by the person entitled to receive notice.

(9) Proof of service of notice on all persons for whom notice is required by this section shall be filed with the court before the final dispositional hearing on the adoption.

(10) Notwithstanding any other provision of law, neither the notice of an adoption proceeding nor any process in that proceeding is required to contain the name of the person or persons seeking to adopt the child adoptee.

(11) Except as to those persons whose consent to an adoption is required under Section [~~78B-6-120 or 78B-6-121~~]81-13-212 or 81-13-213, the sole purpose of notice under this section is to enable the person served to:

(a) intervene in the adoption; and

(b) present evidence to the court relevant to the best interest of the child adoptee.

Section 341. Section 81-13-208, which is renumbered from Section 78B-6-110.1 is renumbered and amended to read:

[~~78B-6-110.1~~]81-13-208. Prebirth notice to birth father of intent to place a minor child for adoption.

(1) As used in this section, "birth father" means:

(a) a potential [~~biological~~]birth father; or

(b) an unmarried biological father.

(2) Before the birth of a minor child, the following [~~individuals~~]persons may notify a birth father of the minor child that the birth mother of the minor child is considering an adoptive placement for the minor child:

(a) the minor child's birth mother;

(b) a licensed child-placing agency;

(c) an attorney representing a prospective adoptive parent of the minor child; or

(d) an attorney representing the birth mother of the minor child.

(3) Providing a birth father with notice under Subsection (2) does not obligate the birth mother of the minor child to proceed with an adoptive placement of the minor child.

(4) The notice described in Subsection (2) shall include the name, address, and telephone number of the person providing the notice [~~, and shall include~~]and the following information:

(a) the birth mother's intent to place the minor child for adoption;

(b) that the mother has named the person receiving this notice as a potential birth father of [~~her child~~]the minor child;

(c) the requirements to contest the adoption, including taking the following steps within 30 days after the day on which the notice is served:

(i) initiating proceedings to establish or assert paternity in a [~~district court of Utah~~]court with jurisdiction under Title 78A, Judiciary and Judicial Administration, within 30 days after the day on which notice is served, including filing an affidavit stating:

(A) that the birth father is fully able and willing to have full custody of the minor child;

(B) the birth father's plans to care for the minor child; and

(C) that the birth father agrees to pay for child support and expenses incurred in connection with the pregnancy and birth of the minor child; and

(ii) filing a notice of commencement of [~~paternity~~]parentage proceedings with the [~~state registrar of vital statistics within the Utah Department of Health~~]office;

(d) the consequences for failure to comply with Subsection (4)(c), including that:

(i) the birth father's ability to assert the right, if any, to consent or refuse to consent to the adoption is irrevocably lost;

(ii) the birth father will lose the ability to assert the right to contest any future adoption of the minor child; and

(iii) the birth father will lose the right, if any, to notice of any adoption proceedings related to the minor child;

(e) that the birth father may consent to the adoption, if any, within 30 days after the day on which the notice is received, and that [~~his~~]the birth father's consent is irrevocable; and

(f) that no communication between the birth mother of the minor child and the birth father changes the rights and responsibilities of the birth father described in the notice.

(5) If [~~the recipient of the notice described in Subsection (2)~~]a birth father does not fully and strictly comply with the requirements of Subsection (4)(c) within 30 days after the day on which [~~he~~]the birth father receives the notice, [~~he~~]the birth father will lose:

(a) the ability to assert the right to consent or refuse to consent to an adoption of the minor child described in the notice;

(b) the ability to assert the right to contest any future adoption of the minor child described in the notice; and

(c) the right to notice of any adoption proceedings relating to the minor child described in the notice.

(6) If [~~an individual~~]a person described in Subsection (2) chooses to notify a birth father under this section, the notice shall be served on a birth father in a manner consistent with the Utah Rules of Civil Procedure or by certified mail.

Section 342. Section 81-13-209, which is renumbered from Section 78B-6-110.5 is renumbered and amended to read:

[~~78B-6-110.5~~]81-13-209. Declaration regarding each potential birth father for out-of-state birth mother and adoptive parents-- Putative father registry -- Notice to potential birth father.

(1) The procedural and substantive requirements of this section [~~shall be~~]are required only to the extent that [~~they~~]the requirements do not exceed the requirements of the state of conception or the birth mother's state of residence.

[~~(1) (a) For a child who is six months of age or less at the time the child is placed with prospective adoptive parents, the birth mother shall sign, and the adoptive parents shall file with the court, a declaration regarding each potential birth father, in accordance with this section, before or at the time a petition for adoption is filed with the court, if, at any point during the time period beginning at the conception of the child and ending at the time the mother executes consent to adoption or relinquishment of the child for adoption, neither the birth mother nor at least one of the adoptive parents has resided in the state for 90 total days or more, as described in Subsection (1)(c).~~]

(2) (a) For a child adoptee who is six months old or younger at the time that the child adoptee is placed with the prospective adoptive parents and subject to the rights of a birth mother described in Subsection 81-13-202(7), the birth mother shall sign, and the prospective adoptive parents shall file with the court, a declaration regarding each potential birth father before or at the time a petition for adoption is filed with the court.

(b) A declaration is not required under Subsection (2)(a) if the birth mother or one of the adoptive parents has resided in the state for 90 total days or more at any point during the time period beginning at the conception of the child adoptee and ending at the time that the birth mother executes consent to the adoption or relinquishment of the child adoptee for adoption.

[~~(b)~~](3) The child-placing agency or prospective adoptive parents shall search the putative father registry of each state where the birth mother believes the child adoptee may have been conceived and each state where the birth mother lived during her pregnancy, if the state has a putative father registry, to determine whether a potential birth father registered with the state's putative father registry.

[~~(c)~~](4) In determining whether the 90-day requirement described in Subsection (2) is satisfied, the following apply:

[~~(i)~~](a) the 90 days are not required to be consecutive;

[~~(ii)~~](b) no absence from the state may be for more than seven consecutive days;

[~~(iii)~~](c) any day on which the individual is absent from the state does not count toward the total 90-day period; and

[~~(iv)~~](d) the 90-day period begins and ends during a period that is no more than 120 consecutive days.

[~~(2)~~](5) The declaration filed under Subsection [~~(1)~~](2) regarding a potential birth father shall include, for each potential birth father, the following information:

(a) if known, the potential birth father's name, date of birth, social security number, and address;

(b) with regard to a state's putative father registry in each state described in Subsection [~~(1)(b)~~](3):

(i) whether the state has a putative father registry; and

(ii) for each state that has a putative father registry, with the declaration, a certificate or written statement from the state's putative father registry that a search of the state's putative father registry was made and disclosing the results of the search;

(c) whether the potential birth father was notified of:

(i) the birth mother's pregnancy;

(ii) the fact that he is a potential birth father; or

(iii) the fact that the birth mother intends to consent to adoption or relinquishment of the child adoptee for adoption [~~;~~]in Utah;

(d) each state where the birth mother lived during the pregnancy;

(e) if known, the state in which the child adoptee was conceived;

(f) whether the birth mother informed the potential birth father that she was traveling to or planning to reside in Utah;

(g) whether the birth mother has contacted the potential birth father while she was located in Utah;

(h) whether, and for how long, the potential birth father has ever lived with the child adoptee;

(i) whether the potential birth father has given the birth mother money or offered to pay for any of [~~her~~]the birth mother's expenses during pregnancy or the [~~child's~~]child adoptee's birth;

(j) whether the potential birth father has offered to pay child support;

(k) if known, whether the potential birth father has taken any legal action to establish paternity of the child adoptee, either in Utah or in any other state, and, if known, what action [~~he~~]the potential birth father has taken; and

(l) whether the birth mother has ever been involved in a domestic violence matter with the potential birth father.

[~~(3)~~](6) Except as provided in Subsection [~~(5)~~](8), based on the declaration regarding the potential birth father, the court shall order the birth mother to serve a potential birth father notice that she intends to consent or has consented to adoption or relinquishment of the child adoptee for adoption, if the court finds that the potential birth father:

(a) has taken sufficient action to demonstrate an interest in the child adoptee;

(b) has taken sufficient action to attempt to preserve [~~his~~]the potential birth father's legal rights as a birth father, including by filing a legal action to establish [~~paternity~~]parentage or filing with a state's putative father registry; or

(c) does not know, and does not have a reason to know, that:

(i) the mother or child adoptee are present in Utah;

(ii) the mother intended to give birth to the child adoptee in Utah;

(iii) the child adoptee was born in Utah; or

(iv) the mother intends to consent to adoption or relinquishment of the child adoptee for adoption in Utah.

[~~(4)~~](7) Notice under this section shall be made in accordance with Subsections [~~78B-6-110(7) through (11).~~]81-13-207(7) through (11).

[~~(5)~~](8) A court may only order the notice requirements in Subsection [~~(3)~~](6) to the extent that they do not exceed the notice requirements of:

(a) the state of conception; or

(b) the birth mother's state of residence.

Section 343. Section 81-13-210, which is renumbered from Section 78B-6-134 is renumbered and amended to read:

[~~78B-6-134~~]81-13-210. Custody pending final decree.

[~~(1) (a) A licensed child-placing agency, or a petitioner if the petition for adoption is filed before a child's birth, may seek an order establishing that the agency or petitioner shall have temporary custody of the child from the time of birth.~~]

[~~(b) The court shall grant an order for temporary custody under Subsection (1)(a) upon determining that:~~]

[~~(i) the birth mother or both birth parents consent to the order;~~]

[~~(ii) the agency or petitioner is willing and able to take custody of the child; and~~]

[~~(iii) an order will be in the best interest of the child.~~]

[~~(c) The court shall vacate an order if, prior to the child's birth, the birth mother or birth parents withdraw their consent.~~]

[~~(2)~~](1) Except as otherwise provided by the court, once a petitioner has received the adoptee into [~~his~~]the petitioner's home and a petition for adoption has been filed, the petitioner is entitled to the custody and control of the child adoptee and is responsible for the care, maintenance, and support of the adoptee, including any necessary medical or surgical treatment, pending further order of the court.

[~~(3)~~](2) (a) Once [~~a child~~]a child adoptee has been placed with, relinquished to, or ordered into the custody of a child-placing agency for purposes of adoption, the agency shall have custody and control of the child adoptee and is responsible for [~~his~~]the child adoptee's care, maintenance, and support.

(b) [~~The~~]Subject to Subsection (3)(c), the child-placing agency may delegate the responsibility for care, maintenance, and support, including any necessary medical or surgical treatment, to the petitioner once the petitioner has received the [~~child into his home. However, until~~]child adoptee into the petitioner's home, including a temporary place of abode for the petitioner.

(c) Until the final decree of adoption is entered by the court, the child-placing agency has the right to the custody and control of the child adoptee.

(3) (a) A licensed child-placing agency, or a petitioner if the petition of adoption is filed before a child adoptee's birth, may seek an order establishing that the child-placing agency or petitioner shall have temporary custody of the child adoptee from the time of the child adoptee's birth.

(b) The court shall grant an order for temporary custody under Subsection (3)(a) upon determining that:

(i) the birth mother or both birth parents consent to the order;

(ii) the child-placing agency or petitioner is willing and able to take custody of the child adoptee; and

(iii) an order will be in the best interest of the child adoptee.

(c) The court shall vacate an order if, before the child adoptee's birth, the birth mother or both birth parents withdraw consent to the order.

Section 344. Section 81-13-211, which is renumbered from Section 78B-6-119 is renumbered and amended to read:

[~~78B-6-119~~]81-13-211. Counseling for parents.

(1) As used in this section, "parent" means a person described in Subsections 81-13-212(1)(b) through (f) for whom the consent or relinquishment of a minor child for the adoption is required.

[~~(1)~~](2) Subject to Subsection [~~(2)(a)~~](3)(a), before relinquishing a minor child to a child-placing agency, or consenting to the adoption of a child adoptee, a parent of the child adoptee has the right to participate in, or elect to participate in, counseling:

(a) by a licensed counselor or an adoption service provider selected by the parent participating in the counseling;

(b) for up to three sessions of at least 50 minutes per session completed [~~prior to~~]before relinquishing a child adoptee or within [~~three months~~]120 days following the relinquishment of a child adoptee; and

(c) subject to Subsection [~~(2)(b)~~](3)(b), at the expense of the:

(i) child-placing agency; or

(ii) prospective adoptive parents.

[~~(2)~~](3) (a) Notwithstanding Subsection [~~(1)~~](2), a parent who has the right to participate in the counseling [~~described in this section~~]under Subsection (2) may waive that right.

(b) Notwithstanding Subsection [~~(1)(c)~~](2)(c), the total amount required to be paid by a child-placing agency or the prospective adoptive parents for the counseling described in Subsection [~~(1)~~](2) may not exceed $400, unless an agreement for a greater amount is signed by:

(i) the parent who receives the counseling; and

(ii) the child-placing agency or prospective adoptive parents.

[~~(3)~~](4) Before a parent relinquishes a child adoptee to a child-placing agency, or consents to the adoption of a child adoptee, the parent shall be informed of the right described in Subsection (1) by the:

(a) child-placing agency;

(b) prospective adoptive parents; or

(c) representative of a person described in Subsection [~~(3)(a)~~](4)(a) or (b).

[~~(4)~~](5) If the parent who is entitled to the counseling as described in Subsection (1) elects to attend one or more counseling sessions following the relinquishment of a child adoptee:

(a) the parent of the child adoptee shall inform the child-placing agency or prospective adoptive parents of this election prior to relinquishing the child adoptee to a child-placing agency or consenting to the adoption of the child adoptee; and

(b) the parent of the child adoptee and the child-placing agency or attorney representing a prospective adoptive parent of the child adoptee shall enter into an agreement to pay for the counseling in accordance with this section.

[~~(5)~~](6) (a) Subject to Subsections [~~(3)(b)~~](4)(b) and (c), before the day on which a final decree of adoption is entered, a statement shall be filed with the court that:

(i) is signed by each parent who:

(A) relinquishes the parent's parental rights; or

(B) consents to the adoption; and

(ii) states that, before the parent took the action described in Subsection [~~(5)(a)(i)(A)~~](6)(a)(i)(A) or (B), the parent was advised of the parent's right to participate in the counseling described in this section at the expense of the:

(A) child-placing agency; or

(B) prospective adoptive parents.

(b) The statement described in Subsection [~~(5)(a)~~](6)(a) may be included in the document that:

(i) relinquishes the parent's parental rights; or

(ii) consents to the adoption.

(c) Failure by a person to give the notice described in Subsection [~~(3)~~](4), or pay for the counseling described in this section:

(i) shall not constitute grounds for invalidating a:

(A) relinquishment of parental rights; or

(B) consent to adoption; and

(ii) shall give rise to a cause of action for the recovery of damages suffered, if any, by the parent or guardian who took the action described in Subsection [~~(5)(c)(i)(A)~~](6)(c)(i)(A) or (B) against the person required to:

(A) give the notice described in Subsection [~~(3)~~](4); or

(B) pay for the counseling described in this section.

Section 345. Section 81-13-212, which is renumbered from Section 78B-6-120 is renumbered and amended to read:

[~~78B-6-120~~]81-13-212. Necessary consent to adoption or relinquishment for adoption of a minor child -- Implied consent.

(1) Except as provided in Subsection [~~(2), consent to adoption of a child, or relinquishment of a child for adoption, is required from~~](2), the following persons are required to consent to an adoption of a minor child, or to relinquishment of a minor child, before an adoption of the minor child is granted:

(a) [~~the adoptee, if the adoptee is more than 12 years old,~~]if the child adoptee is 12 years old or older, the child adoptee unless the child adoptee does not have the mental capacity to consent;

(b) a man or woman who:

(i) by operation of law under Section [~~78B-15-204~~]81-5-204, is recognized as the father or mother of the proposed adoptee, unless:

(A) the presumption is rebutted under Section [~~78B-15-607~~]81-5-607;

(B) at the time of the marriage, the man or woman knew or reasonably should have known that the marriage to the mother of the proposed child adoptee was or could be declared invalid; or

(C) the man or woman was not married to the mother of the proposed child adoptee until after the mother consented to adoption, or relinquishment for adoption, of the proposed child adoptee; or

(ii) is the [~~father~~]parent of the child adoptee by a previous legal adoption;

(c) the birth mother of the child adoptee;

(d) [~~a biological parent~~]an individual who has been adjudicated to be the [~~child's biological father by a court of competent jurisdiction prior to the~~]child adoptee's parent by a court with jurisdiction before the birth mother's execution of consent to adoption or [~~her~~]the birth mother's relinquishment of the child adoptee for adoption;

(e) consistent with Subsection (3), [~~a biological parent~~]an individual who has executed and filed a voluntary declaration of paternity with the [~~state registrar of vital statistics within the Department of Health in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, prior to the~~]office in accordance with Chapter 5, Uniform Parentage Act, before the birth mother's execution of consent to adoption or [~~her~~]the birth mother's relinquishment of the child adoptee for adoption;

(f) an unmarried biological father [~~, of an~~]of the child adoptee, whose consent is not required under Subsection (1)(d) or (1)(e), [~~only if he~~]only if the unmarried biological father fully and strictly complies with the requirements of [~~Sections 78B-6-121 and 78B-6-122~~]Section 81-13-213; and

(g) the person or agency to whom an adoptee has been relinquished and that is placing the child adoptee for adoption.

(2) [~~(a) The consent of a person described in Subsections (1)(b) through (g) is not required if the adoptee is 18 years old or older.~~]

[~~(b)~~] The consent or relinquishment of [~~a person~~]an individual described in Subsections [~~(1)(b) through (f)~~](1)(b) through (f) is not required if the [~~person's~~]individual's parental rights relating to the child adoptee have been terminated by a court.

(3) For purposes of Subsection (1)(e), a voluntary declaration of paternity is considered filed when [~~it~~]the voluntary declaration is entered into a database that:

(a) can be accessed by the Department of Health and Human Services; and

(b) is designated by the [~~state registrar of vital statistics~~]office as the official database for voluntary declarations of paternity.

(4) (a) Except as provided in Subsection (4)(b), a person described in Subsection (1) may execute a consent or relinquishment at any time, including before the birth of the child adoptee.

(b) A birth mother may not consent to the adoption of the child adoptee, or relinquish control or custody of the child adoptee, until at least 24 hours after the birth of the child adoptee.

(c) A child adoptee may not execute a consent to an adoption until the child adoptee is at least 12 years old.

(5) (a) A birth parent who is younger than 18 years old has the power to:

(i) consent to the adoption of the birth parent's minor child; and

(ii) relinquish the birth parent's control or custody of the minor child for adoption.

(b) The consent or relinquishment described in Subsection (5)(a) is valid and has the same force and effect as a consent or relinquishment executed by a birth parent who is an adult.

(c) A birth parent, who is younger than 18 years old and has executed a consent or relinquishment, cannot revoke that consent or relinquishment upon reaching 18 years old or otherwise becoming emancipated.

(6) A consent or relinquishment is effective when the consent or relinquishment is signed and may not be revoked.

(7) (a) As used in this Subsection (7):

(i) "Abandonment" means failure of a birth parent, with reasonable knowledge of the pregnancy, to offer and provide financial and emotional support to the birth mother for a period of 180 days before the day on which the child adoptee is born.

(ii) "Emotional support" means a pattern of statements or actions that indicate to a reasonable person that a birth parent intends to provide for the physical and emotional well-being of an unborn child adoptee.

(b) A consent or relinquishment required by Subsection (1) may be implied by any of the following acts:

(i) abandonment;

(ii) leaving the child adoptee with a third party for 30 consecutive days without providing the third party with the birth parent's identification;

(iii) knowingly leaving the child adoptee with another person for 180 consecutive days without providing for support, communicating, or otherwise maintaining a substantial relationship with the child adoptee; or

(iv) receiving notification of a pending adoption proceeding as described in Section 81-13-207, or of a termination proceeding described in Section 81-13-205, and failing to respond as required.

(c) For purposes of this Subsection (7), a court may not:

(i) determine that a birth parent abandoned the birth mother if the birth parent failed to provide financial or emotional support because the birth mother refused to accept support; or

(ii) find that the birth parent failed to provide emotional support if the individual's failure was due to impossibility of performance.

(d) Implied consent under this Subsection (7) may not be withdrawn.

(e) Nothing in this Subsection (7) negates the requirements of Section 81-13-213 for an unmarried biological father.

Section 346. Section 81-13-213, which is renumbered from Section 78B-6-121 is renumbered and amended to read:

[~~78B-6-121~~]81-13-213. Consent of unmarried biological father.

(1) As used in this section, "qualifying circumstance" means that, at any point during the time period beginning at the conception of the child adoptee and ending at the time that the birth mother executes a consent to adoption or relinquishment of the child adoptee for adoption:

(a) the child adoptee or the child adoptee's birth mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state;

(b) the birth mother intended to give birth to the child adoptee in the state;

(c) the child adoptee was born in the state; or

(d) the birth mother intended to execute a consent to adoption or relinquishment of the child adoptee for adoption in the state or under the laws of the state.

[~~(1)~~](2) Except as provided in [~~Subsections (2)(a) and 78B-6-122(1)~~]Subsections (3)(a) and (8), and subject to Subsections [~~(5) and (6), with regard to a child who is placed with prospective adoptive parents more than six months after birth,~~](6) and (7), the consent of an unmarried biological father to the adoption of a child adoptee, who is placed with prospective adoptive parents more than 180 days after birth, is not required unless the unmarried biological father:

(a) (i) developed a substantial relationship with the child adoptee by:

(A) visiting the child adoptee monthly, unless the unmarried biological father was physically or financially unable to visit the child adoptee on a monthly basis; or

(B) engaging in regular communication with the child adoptee or with the person or authorized agency that has lawful custody of the child adoptee;

(ii) took some measure of responsibility for the child adoptee and the [~~child's~~]child adoptee's future; and

(iii) demonstrated a full commitment to the responsibilities of parenthood by financial support of the child adoptee of a fair and reasonable sum in accordance with the unmarried biological father's ability; or

(b) (i) if the child adoptee is younger than one year old, openly lived with the child adoptee immediately preceding placement of the child adoptee with the prospective adoptive parents for a period of at least 180 days during the period of time beginning on the day on which the child adoptee is born and ending on the day on which the child adoptee is placed with prospective adoptive parents;

(ii) if the child adoptee is one year old or older, openly lived with the child adoptee immediately preceding placement of the child adoptee with the prospective adoptive parents for a period of at least 180 days during the one-year period immediately preceding the day on which the child adoptee is placed with prospective adoptive parents; or

(iii) openly held himself out to be the father of the child adoptee during the 180-day period described in Subsection (2)(b)(i) or (ii).

[~~(b) (i) openly lived with the child:~~]

[~~(A) (I) if the child is one year old or older, for a period of at least six months during the one-year period immediately preceding the day on which the child is placed with prospective adoptive parents; or~~]

[~~(II) if the child is less than one year old, for a period of at least six months during the period of time beginning on the day on which the child is born and ending on the day on which the child is placed with prospective adoptive parents; and~~]

[~~(B) immediately preceding placement of the child with prospective adoptive parents; and~~]

[~~(ii) openly held himself out to be the father of the child during the six-month period described in Subsection (1)(b)(i)(A).~~]

[~~(2)~~](3) (a) If an unmarried biological father was prevented from complying with [~~a requirement of Subsection (1)~~]a requirement described in Subsection (2) by the person or authorized agency having lawful custody of the child adoptee, the unmarried biological father is not required to comply with that requirement.

(b) The subjective intent of an unmarried biological father, whether expressed or otherwise, that is unsupported by evidence that the requirements in Subsection [~~(1)~~](2) have been met, shall not preclude a determination that the unmarried biological father failed to meet the requirements of Subsection [~~(1)~~](2).

[~~(3)~~](4) Except as provided in [~~Subsections (6) and 78B-6-122(1)~~]Subsections (7) and (8), and subject to Subsection [~~(5), with regard to a child who is six months old or less at the time the child is placed with prospective adoptive parents,~~](6), the consent of an unmarried biological father to the adoption of a child adoptee, who is 180 days old or younger at the time that the child adoptee is placed with the prospective adoptive parents, is not required unless, [~~prior to the time the mother executes her~~]before the time that the birth mother executes the birth mother's consent for adoption or relinquishes the child adoptee for adoption, the unmarried biological father:

(a) initiates proceedings in [~~a district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to establish parentage under Chapter 5, Uniform Parentage Act;

(b) files with the court that is presiding over the [~~paternity~~]parentage proceeding a sworn affidavit:

(i) stating that [~~he~~]the unmarried biological father is fully able and willing to have full custody of the child adoptee;

(ii) setting forth [~~his~~]the unmarried biological father's plans for care of the child adoptee; and

(iii) agreeing to a court order of child support and the payment of expenses incurred in connection with the birth mother's pregnancy and the [~~child's~~]child adoptee's birth;

(c) consistent with Subsection [~~(4)~~](5), files notice of the commencement of [~~paternity proceedings,~~]parentage proceedings described in Subsection [~~(3)(a)~~](4)(a), with the [~~state registrar of vital statistics within the Department of Health and Human Services,~~]office in a confidential registry established by the [~~department~~]office for that purpose; and

(d) offered to pay and paid, during the pregnancy and after the [~~child's~~]child adoptee's birth, a fair and reasonable amount of the expenses incurred in connection with the birth mother's pregnancy and the [~~child's~~]child adoptee's birth, in accordance with [~~his~~]the unmarried biological father's financial ability, unless:

(i) [~~he~~]the unmarried biological father did not have actual knowledge of the pregnancy;

(ii) [~~he~~]the unmarried biological father was prevented from paying the expenses by the person or authorized agency having lawful custody of the child adoptee; or

(iii) the birth mother refused to accept the unmarried biological father's offer to pay the expenses described in this Subsection [~~(3)(d)~~](4)(d).

[~~(4)~~](5) (a) The notice described in Subsection [~~(3)(c)~~](4)(c) is considered filed when received by the [~~state registrar of vital statistics~~]office.

(b) If the unmarried biological father fully complies with the requirements of Subsection [~~(3)~~](4), and an adoption of the child adoptee is not completed, the unmarried biological father shall, without any order of the court, be legally obligated for a reasonable amount of child support, pregnancy expenses, and child birth expenses, in accordance with [~~his~~]the unmarried biological father's financial ability.

[~~(5)~~](6) Unless [~~his~~]the unmarried biological father's ability to assert the right to consent has been lost for failure to comply with Section [~~78B-6-110.1~~]81-13-208, or lost under another provision of Utah law, an unmarried biological father shall have at least one business day after the [~~child's~~]child adoptee's birth to fully and strictly comply with the requirements of Subsection [~~(3)~~](4).

[~~(6)~~](7) [~~Consent~~]The consent of an unmarried biological father to the adoption of a child adoptee is not required under this section if:

(a) the court determines, in accordance with the requirements and procedures of Title 80, Chapter 4, Termination and Restoration of Parental Rights, that the unmarried biological father's rights should be terminated, based on the petition of any interested party;

(b) (i) a voluntary declaration of paternity declaring the unmarried biological father to be the father of the child adoptee is rescinded under Section [~~78B-15-306~~]81-5-306; and

(ii) the unmarried biological father fails to comply with Subsection [~~(3)~~](4) within 10 business days after the day that notice of the rescission described in Subsection [~~(6)(b)(i)~~](7)(b)(i) is mailed by the [~~Office of Vital Records within the Department of Health and Human Services~~]office as provided in Section [~~78B-15-306~~]81-5-306; or

(c) the unmarried biological father is notified under Section [~~78B-6-110.1~~]81-13-208 and fails to preserve [~~his~~]the unmarried biological father's rights in accordance with the requirements of [~~that section~~]Section 81-13-208.

(8) Notwithstanding Subsections (2) and (4), the consent of an unmarried biological father to the adoption of a child adoptee is required if:

(a) (i) the unmarried biological father did not know, and through the exercise of reasonable diligence could not have known, before the time the birth mother executed a consent to adoption or relinquishment of the child adoptee for adoption that a qualifying circumstance existed;

(ii) before the birth mother executed a consent to adoption or relinquishment of the child adoptee for adoption, the unmarried biological father fully complied with the requirements to establish parental rights and duties in the child adoptee, and to preserve the right to notice of a proceeding in connection with the adoption of the child adoptee, imposed by:

(A) the last state where the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that the birth mother resided in before the birth mother executed the consent to adoption or relinquishment of the child adoptee for adoption; or

(B) the state where the child adoptee was conceived; and

(iii) the unmarried biological father has demonstrated, based on the totality of the circumstances, a full commitment to the unmarried biological father's parental responsibilities as described in Subsection (9); or

(b) (i) the unmarried biological father knew, or through the exercise of reasonable diligence should have known, before the time the birth mother executed a consent to adoption or relinquishment of the child adoptee for adoption that a qualifying circumstance existed; and

(ii) the unmarried biological father complied with the requirements of Subsections (2) through (7) before the later of:

(A) 20 days after the day that the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that a qualifying circumstance existed; or

(B) the time that the birth mother executed a consent to adoption or relinquishment of the child adoptee for adoption.

(9) When determining whether an unmarried biological father has demonstrated a full commitment to the unmarried biological father's parental responsibilities for purposes of Subsection (8)(a)(iii), a court shall consider the totality of the circumstances, including, if applicable:

(a) the efforts the unmarried biological father has taken to discover the location of the child adoptee or the child adoptee's birth mother;

(b) whether the unmarried biological father has expressed and demonstrated an interest in taking responsibility for the child adoptee;

(c) whether, and to what extent, the unmarried biological father has developed, or attempted to develop, a relationship with the child adoptee;

(d) whether the unmarried biological father offered to provide and, unless the offer was rejected, did provide, financial support for the

child adoptee or the child adoptee's birth mother;

(e) whether, and to what extent, the unmarried biological father has communicated, or attempted to communicate, with the child adoptee or the child adoptee's birth mother;

(f) whether the unmarried biological father has timely filed legal proceedings to establish the unmarried biological father's parentage of, and take responsibility for, the child adoptee; and

(g) whether the unmarried biological father has timely filed a notice with a public official or agency relating to:

(i) the unmarried biological father's parentage of the child adoptee;

(ii) legal proceedings to establish the unmarried biological father's parentage of the child adoptee; or

(iii) other evidence that shows whether the unmarried biological father has demonstrated a full commitment to the unmarried biological father's parental responsibilities.

(10) An unmarried biological father who does not fully and strictly comply with the requirements of this section is considered to have waived and surrendered any right in relation to the child adoptee, including the right to:

(a) notice of any judicial proceeding in connection with the adoption of the child adoptee; and

(b) consent, or refuse to consent, to the adoption of the child adoptee.

(11) Notwithstanding any other provision of this section, the consent of an unmarried biological father is not required in a case where it is shown that the child adoptee was conceived as a result of conduct that constitutes a sexual offense, regardless of whether the unmarried biological father is formally charged with or convicted of the sexual offense.

[~~(7)~~](12) Unless the child adoptee is conceived or born within a marriage, the petitioner in an adoption proceeding shall, [~~prior to~~]before entrance of a final decree of adoption, file with the court a certificate from the [~~state registrar of vital statistics within the Department of Health and Human Services~~]office, stating:

(a) that a diligent search has been made of the registry of notices from unmarried biological fathers described in Subsection [~~(3)(d)~~](4)(c); and

(b) (i) that no filing has been found pertaining to the unmarried biological father of the child adoptee in question; or

(ii) if a filing is found, the name of the [~~putative~~]unmarried biological father and the time and date of filing.

(13) Unless an individual who is an unmarried biological father has fully and strictly complied with the requirements of this section and Section 81-13-212, an out-of-state order that adjudicates parentage, or an out-of-state declaration or acknowledgment of paternity:

(a) only has the effect of establishing that the individual is an unmarried biological father of the child adoptee to whom the order, declaration, or acknowledgment relates; and

(b) does not entitle the individual to:

(i) notice of any judicial proceeding related to the adoption of the child adoptee;

(ii) the right to consent, or refuse to consent, to the adoption of the child adoptee; or

(iii) the right to custody of, control over, or visitation with the child adoptee.

Section 347. Section 81-13-214, which is renumbered from Section 78B-6-124 is renumbered and amended to read:

[~~78B-6-124~~]81-13-214. Persons who may take consents and relinquishments.

(1) [~~A consent or relinquishment by a birth mother or an adoptee shall be signed before~~]A birth mother shall sign a consent or relinquishment, or a child adoptee shall sign a consent, before:

(a) a judge of any court that has jurisdiction over adoption proceedings;

(b) subject to Subsection (6), a person appointed by the judge described in Subsection (1)(a) to take consents or relinquishments; or

(c) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments [~~;~~]if the consent or relinquishment grants legal custody of the child adoptee to a child-placing agency or an extra-jurisdictional child-placing agency.

(2) If the consent or relinquishment of a birth mother or child adoptee is taken out of state[~~it shall be signed~~], the birth mother or child adoptee shall sign the consent or relinquishment before:

(a) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments [~~;~~]if the consent or relinquishment grants legal custody of the child adoptee to a child-placing agency or an extra-jurisdictional child-placing agency;

(b) subject to Subsection (6), a person authorized or appointed to take consents or relinquishments by a court of this state that has jurisdiction over adoption proceedings;

(c) a court that has jurisdiction over adoption proceedings in the state where the consent or relinquishment is taken; or

(d) a person authorized [~~, under the laws of the state where the consent or relinquishment is taken,~~]to take consents or relinquishments of a birth mother or child adoptee under the laws of the state where the consent or relinquishment is taken.

(3) [~~The~~]A person described in Subsection 81-13-211(1) that is not the birth mother or the child adoptee may sign a consent or relinquishment [~~of any other person or agency as required by Section 78B-6-120 may be signed before a Notary Public~~]before a notary public or any person authorized to take a consent or relinquishment under Subsection (1) or (2).

(4) A person, authorized by Subsection (1) or (2) to take consents or relinquishments, shall certify to the best of [~~his~~]the person's information and belief that the person executing the consent or relinquishment has read and understands the consent or relinquishment and has signed [~~it~~]the consent or relinquishment freely and voluntarily.

(5) A person executing a consent or relinquishment is entitled to receive a copy of the consent or relinquishment.

(6) A signature described in Subsection (1)(b), (1)(c), (2)(a), or (2)(b), shall be:

(a) notarized; or

(b) witnessed by two individuals who are not members of the birth mother's or the child adoptee's immediate family.

(7) Except as provided in Subsection 26B-2-127(2), a transfer of relinquishment from one child-placing agency to another child-placing agency shall be signed before a [~~Notary Public~~]notary public.

Section 348. Section 81-13-215, which is renumbered from Section 78B-6-133 is renumbered and amended to read:

[~~78B-6-133~~]81-13-215. Contested adoption of a minor child -- Rights of parties -- Determination of custody.

(1) If [~~a person~~]an individual whose consent for an adoption of a minor child is required [~~pursuant to Subsection 78B-6-120(1)(b)~~]as

described in Subsection 81-13-212(1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine whether proper grounds exist for the termination of that [~~person's rights pursuant to the provisions of~~]individual's rights in accordance with this chapter or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(2) (a) If there are proper grounds to terminate the [~~person's~~]individual's parental rights, the court shall order that the [~~person's~~]individual's rights be terminated.

(b) If there are not proper grounds to terminate the [~~person's~~]individual's parental rights, the court shall:

(i) dismiss the adoption petition;

(ii) conduct an evidentiary hearing to determine who should have custody of the minor child; and

(iii) award custody of the minor child in accordance with the minor child's best interest.

(c) Termination of [~~a person's~~]an individual's parental rights does not terminate the right of a relative of the parent to seek adoption of the minor child.

(3) Evidence considered at the custody hearing may include:

(a) evidence of psychological or emotional bonds that the minor child has formed with a third person, including the prospective adoptive parent; and

(b) any detriment that a change in custody may cause the minor child.

(4) If the court dismisses the adoption petition, the fact that [~~a person~~]an individual relinquished a minor child for adoption or consented to the adoption may not be considered as evidence in a custody proceeding described in this section, or in any subsequent custody proceeding, that it is not in the minor child's best interest for custody to be awarded to such person or that:

(a) the [~~person~~]individual is unfit or incompetent to be a parent;

(b) the [~~person~~]individual has neglected or abandoned the minor child;

(c) the [~~person~~]individual is not interested in having custody of the minor child; or

(d) the [~~person~~]individual has forfeited the [~~person's~~]individual's parental presumption.

(5) Any custody order entered [~~pursuant to~~]under this section may also:

(a) include provisions for:

(i) parent-time; or

(ii) visitation by an interested third party, including the prospective adoptive parent; and

(b) provide for the financial support of the minor child.

(6) (a) If a person [~~or entity~~]whose consent is required for an adoption under Subsection [~~78B-6-120(1)(a)~~]81-13-212(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary hearing and award custody as [~~set forth~~]described in Subsection (2).

(b) The court may also finalize the adoption if doing so is in the best interest of the minor child.

(7) (a) A person may not contest an adoption after the final decree of adoption is entered, if that person:

(i) was a party to the adoption proceeding;

(ii) was served with notice of the adoption proceeding; or

(iii) executed a consent to the adoption or relinquishment for adoption.

(b) No person may contest an adoption after one year from the day on which the final decree of adoption is entered.

(c) The limitations on contesting an adoption action, described in this Subsection (7), apply to all attempts to contest an adoption:

(i) regardless of whether the adoption is contested directly or collaterally; and

(ii) regardless of the basis for contesting the adoption, including claims of fraud, duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of jurisdiction.

(d) The limitations on contesting an adoption action, described in this Subsection (7), do not prohibit a timely appeal of:

(i) a final decree of adoption; or

(ii) a decision in an action challenging an adoption, if the action was brought within the time limitations described in Subsections (7)(a) and (b).

(8) A court that has jurisdiction over a minor child for whom more than one petition for adoption is filed shall grant a hearing only under the following circumstances:

(a) to a petitioner:

(i) with whom the minor child is placed;

(ii) who has custody or guardianship of the minor child;

(iii) who has filed a written statement with the court within [~~eight months~~]240 days after the day on which the shelter hearing is held:

(A) requesting immediate placement of the minor child with the petitioner; and

(B) expressing the petitioner's intention of adopting the minor child;

(iv) who is a relative with whom the minor child has a significant and substantial relationship and who was unaware, within [~~the first eight months~~]240 days after the day on which the shelter hearing is held, of the minor child's removal from the minor child's parent; or

(v) who is a relative with whom the minor child has a significant and substantial relationship and, in a case where the minor child is not placed with a relative or is placed with a relative that is unable or unwilling to adopt the minor child:

(A) was actively involved in the minor child's child welfare case with the division or the juvenile court while the minor child's parent engaged in reunification services; and

(B) filed a written statement with the court that includes the information described in Subsections (8)(a)(iii)(A) and (B) within 30 days after the day on which the court terminated reunification services; or

(b) if the minor child:

(i) has been in the current placement for less than 180 days before the day on which the petitioner files the petition for adoption; or

(ii) is placed with, or is in the custody or guardianship of, an individual who previously informed the division or the court that the individual is unwilling or unable to adopt the minor child.

(9) (a) If the court grants a hearing on more than one petition for adoption, there is a rebuttable presumption that it is in the best interest of a minor child to be placed for adoption with a petitioner:

(i) who has fulfilled the requirements [~~described in Title 78B, Chapter 6, Part 1, Utah Adoption Act~~]of this chapter; and

(ii) (A) with whom the minor child has continuously resided for [~~six months~~]180 days;

(B) who has filed a written statement with the court within [~~eight months~~]240 days after the day on which the shelter hearing is held, as described in Subsection (8)(a)(iii); or

(C) who is a relative described in Subsection (8)(a)(iv).

(b) The court may consider other factors relevant to the best interest of the minor child to determine whether the presumption is rebutted.

(c) The court shall weigh the best interest of the minor child uniformly between petitioners if more than one petitioner satisfies a rebuttable presumption condition described in Subsection (9)(a).

(10) Nothing in this section shall be construed to prevent the division or the minor child's guardian ad litem from appearing or participating in any proceeding for a petition for adoption.

(11) The division shall use best efforts to provide a known relative with timely information relating to the relative's rights or duties under this section.

Section 349. Section 81-13-216, which is renumbered from Section 78B-6-146 is renumbered and amended to read:

[~~78B-6-146~~]81-13-216. Postadoption contact agreement.

(1) As used in this section:

(a) "Postadoption contact agreement" means a document, agreed upon prior to the finalization of an adoption of a minor child in the custody of the division, that outlines the relationship between an adoptive parent, birth parent, or other birth relative, and [~~an adopted child~~]the minor child after the finalization of adoption.

(b) "Other birth relative" means a grandparent, stepparent, sibling, stepsibling, aunt, or uncle of the [~~prospective adoptive child~~]child adoptee.

(2) (a) Notwithstanding any other provision in this chapter, if a child adoptee in the custody of the division is placed for adoption, the prospective adoptive parent and birth parent, or other birth relative, may enter into a postadoption contact agreement as provided in this section.

(b) A birth parent is not required to be a party to a postadoption contact agreement in order to permit an open adoption agreement between a prospective adoptive parent and another birth relative of the child adoptee.

(3) In order to be legally enforceable, a postadoption contact agreement shall be:

(a) approved by the court before the finalization of the adoption, with the court making a specific finding that the agreement is in the best interest of the child adoptee;

(b) signed by each party claiming a right or obligation in the agreement; and

(c) if the [~~adopted child~~]child adoptee is 12 years old or older, approved by the child adoptee.

(4) A postadoption contact agreement shall:

(a) describe:

(i) visits, if any, that shall take place between the birth parent, other birth relative, adoptive parent, and [~~adopted child~~]child adoptee;

(ii) the degree of supervision, if any, that shall be required during a visit between a birth parent, other birth relative, and [~~adopted child~~]child adoptee;

(iii) the information, if any, that shall be provided to a birth parent, or other birth relative, about the [~~adopted child~~]child adoptee and how often that information shall be provided;

(iv) the grounds, if any, on which the adoptive parent may:

(A) decline to permit visits, described in Subsection (4)(a)(i), between the birth parent, or other birth relative, and [~~adopted child~~]child adoptee; or

(B) cease providing the information described in Subsection (4)(a)(iii) to the birth parent or other birth relative; and

(b) state that following the adoption, the court shall presume that the adoptive parent's judgment about the best interest of the child adoptee is correct in any action seeking to enforce, modify, or terminate the agreement.

(5) A postadoption contact agreement may not limit the adoptive parent's ability to move out of state.

(6) A postadoption contact agreement may only be modified with the consent of the adoptive parent.

(7) In an action seeking enforcement of a postadoption contact agreement:

(a) an adoptive parent's judgment about the best interest of the child adoptee is entitled to a presumption of correctness;

(b) if the party seeking to enforce the postadoption contact agreement successfully rebuts the presumption described in Subsection (7)(a), the court shall consider whether:

(i) the parties performed the duties outlined in the open adoption agreement in good faith;

(ii) there is a reasonable alternative that fulfills the spirit of the open adoption agreement without ordering mandatory compliance with the open adoption agreement; and

(iii) enforcement of the open adoption agreement is in the best interest of the [~~adopted child~~]child adoptee; and

(c) the court shall order the parties to attend mediation, if the presumption in Subsection (7)(a) is successfully rebutted and mediation is in the [~~child's~~]child adoptee's best interest.

(8) An open adoption agreement that has been found not to be in the best interest of the [~~adopted child~~]child adoptee shall not be enforced.

(9) Violation of an open adoption agreement is not grounds:

(a) to set aside an adoption; or

(b) for an award of money damages.

(10) Nothing in this section shall be construed to mean that an open adoption agreement is required before an adoption may be finalized.

(11) Refusal or failure to agree to a postadoption contact agreement is not admissible in any adoption proceeding.

(12) The court that approves a postadoption contact agreement retains jurisdiction over modification, termination, and enforcement of an approved postadoption contact agreement.

Section 350. Section 81-13-217, which is renumbered from Section 78B-6-140 is renumbered and amended to read:

[~~78B-6-140~~]81-13-217. Affidavit regarding fees and expenses before final decree of adoption of a minor child.

(1) (a) Except as provided in Subsection (5), before the date that a final decree of adoption for a child adoptee is entered, a prospective adoptive parent or, if the child adoptee was placed by a child-placing agency, the person or agency placing the child adoptee shall file with the court an affidavit regarding fees and expenses on a form prescribed by the Judicial Council in accordance with Subsection (2).

(b) An affidavit filed pursuant to Subsection (1)(a) shall be signed by each prospective adoptive parent and, if the child adoptee was placed by a child-placing agency, the person or agency placing the child adoptee.

(c) The court shall review an affidavit filed under this section for completeness and compliance with the requirements of this section.

(d) The results of the court's review under Subsection (1)(c) shall be noted in the court's record.

(2) (a) The Judicial Council shall prescribe a uniform form for the affidavit described in Subsection (1).

(b) The uniform affidavit form shall require itemization of the following items in connection with the adoption:

(i) all legal expenses that have been or will be paid to or on behalf of the preexisting parents of the child adoptee, including the source of payment;

(ii) all maternity expenses that have been or will be paid to or on behalf of the preexisting parents of the child adoptee, including the source of payment;

(iii) all medical or hospital expenses that have been or will be paid to or on behalf of the preexisting parents of the child adoptee, including the source of payment;

(iv) all living expenses that have been or will be paid to or on behalf of the preexisting parents of the child adoptee, including the source of payment;

(v) fees paid by the prospective adoptive parent or parents in connection with the adoption;

(vi) all gifts, property, or other items that have been or will be provided to the preexisting parents, including the source and approximate value of the gifts, property, or other items;

(vii) all public funds used for any medical or hospital costs in connection with the:

(A) pregnancy;

(B) delivery of the child adoptee; or

(C) care of the child adoptee; and

(viii) if a child-placing agency placed the child adoptee:

(A) a description of services provided to the prospective adoptive parents or preexisting parents in connection with the adoption;

(B) all expenses associated with matching the prospective adoptive parent or parents and the birth mother;

(C) all expenses associated with advertising; and

(D) any other agency fees or expenses paid by an adoptive parent that are not itemized under one of the other categories described in this Subsection (2)(b), including a description of the reason for the fee or expense.

(c) The uniform affidavit form shall require:

(i) a statement of the state of residence of the:

(A) birth mother or the preexisting parents; and

(B) prospective adoptive parent or parents;

(ii) a declaration that Section 76-7-203 has not been violated; and

(iii) if the affidavit includes an itemized amount for both of the categories described in Subsections (2)(b)(iii) and (vii), a statement explaining why certain medical or hospital expenses were paid by a source other than public funds.

(d) To satisfy the requirement of Subsection (1)(a), the court shall accept an affidavit that is submitted in a form accepted by the Office of Licensing within the Department of Health and Human Services if the affidavit contains the same information and is in a reasonably equivalent format as the uniform affidavit form prescribed by the Judicial Council.

(3) (a) If a child-placing agency, that is licensed by this state, placed the child adoptee, the child-placing agency shall provide a copy of the affidavit described in Subsection (1) to the Office of Licensing within the Department of Health and Human Services.

(b) Before August 30 of each even-numbered year, the Office of Licensing within the Department of Health and Human Services shall provide a written report to the Health and Human Services Interim Committee and to the Judicial Council regarding the cost of adoptions in the state that includes:

(i) the total number of affidavits provided to the Office of Licensing during the previous year;

(ii) for each of the categories described in Subsection (2)(b):

(A) the average amount disclosed on affidavits submitted during the previous year; and

(B) the range of amounts disclosed on affidavits submitted during the previous year;

(iii) the average total amount disclosed on affidavits submitted during the previous year;

(iv) the range of total amounts disclosed on affidavits submitted during the previous year; and

(v) any recommended legislation that may help reduce the cost of adoptions.

(c) The Health and Human Services Interim Committee shall, based on information in reports provided under Subsection (3)(b) and in consultation with a consortium described in Subsection 26B-2-127(8), consider:

(i) what constitutes reasonable fees and expenses related to adoption; and

(ii) the standards that may be used to determine whether fees and expenses related to adoption are reasonable in a specific case.

(4) The Judicial Council shall make a copy of each report provided by the Office of Licensing under Subsection (3)(b) available to each court that may be required to review an affidavit under Subsection (1)(c).

(5) This section does not apply if the prospective adoptive parent is the legal spouse of a preexisting parent.

Section 351. Section 81-13-218, which is renumbered from Section 78B-6-136 is renumbered and amended to read:

[~~78B-6-136~~]81-13-218. Final decree of adoption of a minor child -- Agreement by adoptive parent or parents.

(1) (a) Before entering a final decree of adoption, the court shall examine separately each person appearing before the court in accordance with this chapter.

(b) If the court is satisfied that the interests of the child adoptee will be promoted by the adoption, the court shall enter a final decree of adoption in accordance with Section 81-13-219 declaring that:

(i) the child adoptee is adopted by the adoptive parent or parents; and

(ii) the child adoptee is regarded and treated in all respects as the child of the adoptive parent or parents.

[~~(1)~~](2) Except as provided in Subsection [~~(2)~~](3), before the court enters a final decree of adoption of a child adoptee:

(a) the prospective adoptive parent or parents and the child adoptee being adopted shall appear before the appropriate court; and

(b) the prospective adoptive parent or parents shall execute an agreement stating that the child adoptee shall be adopted and treated in all respects as the adoptive parent's or parents' own lawful child.

[~~(2)~~](3) [~~Except as provided in Subsection 78B-6-115(4), a~~]The court may waive the requirement described in Subsection [~~(1)(a)~~](2)(a) if:

(a) the adoption is not contested;

(b) the prospective adoptive parent or parents:

(i) execute an agreement stating that the child adoptee shall be adopted and treated in all respects as the parent's or parents' own lawful child;

(ii) have the agreement described in Subsection [~~(2)(b)(i)~~](3)(b)(i) notarized; and

(iii) file the agreement described in Subsection [~~(2)(b)(i)~~](3)(b)(i) with the court; and

(c) all requirements of this chapter to obtain a final decree of adoption are otherwise complied with.

(4) At the time that a final decree of adoption is entered, the child adoptee may take the family name of the adoptive parent or parents.

(5) After a final decree of adoption is entered, the adoptive parent or parents and the child adoptee shall:

(a) sustain the legal relationship of a parent and child; and

(b) have all the rights and be subject to all the duties of a parent-child relationship.

Section 352. Section 81-13-219, which is renumbered from Section 78B-6-136.5 is renumbered and amended to read:

[~~78B-6-136.5~~]81-13-219. Timing of entry of final decree of adoption of a minor child -- Posthumous adoption of a minor child.

(1) (a) Except as provided in Subsection (1)(b) or (2), [~~a final decree of adoption may not be entered~~]the court may not enter a final decree of adoption for a child adoptee until the earlier of:

[~~(a)~~](i) when the child adoptee has lived in the home of the prospective adoptive parent for [~~three months~~]90 days; or

[~~(b)~~](ii) when the child adoptee has been placed for adoption with the prospective adoptive parent for [~~three months~~]90 days.

(b) Notwithstanding Subsection (1)(a), the court may enter a final decree of adoption at an earlier or later time than described in Subsection (1) if the court finds that there is good cause.

(2) (a) If the prospective adoptive parent is the spouse of the pre-existing parent, [~~a final decree of adoption may not be entered until the child~~]the court may not enter a final decree of adoption for a child adoptee until the child adoptee has lived in the home of that prospective adoptive parent for [~~six months, unless, based on a finding of good cause, the court orders that the final decree of adoption may be entered at an earlier time~~]180 days.

(b) Notwithstanding Subsection (2)(a), the court may enter a final decree of adoption at an earlier time than described in Subsection (2)(a) if the court finds that there is good cause.

[~~(b) The court may, based on a finding of good cause, order that the final decree of adoption be entered at a later time than described in Subsection (1).~~]

(3) The court [~~has authority to~~]may enter a final decree of adoption for a child adoptee after [~~a child's~~]the child adoptee's death upon the request of the prospective adoptive parent or parents of the child adoptee if:

(a) the child adoptee dies during the time that the child adoptee is placed in the home of a prospective adoptive parent or parents for the purpose of adoption; or

(b) the prospective adoptive parent is the spouse of a preexisting parent of the child adoptee and the child adoptee lived with the prospective adoptive parent before the [~~child's~~]child adoptee's death.

(4) The court may enter a final decree of adoption for a child adoptee declaring that [~~a child~~]the child adoptee is adopted by:

(a) both a deceased and a surviving adoptive parent if after the child adoptee is placed in the home of the [~~child's~~]child adoptee's prospective adoptive parents:

(i) one of the prospective adoptive parents dies;

(ii) the surviving prospective adoptive parent requests that the court enter the decree; and

(iii) the decree is entered after the child adoptee has lived in the home of the surviving prospective adoptive parent for at least [~~three months~~]180 days; or

(b) a spouse of a preexisting parent if after the child adoptee has lived with the spouse of the preexisting parent:

(i) the preexisting parent, or the spouse of the preexisting parent, dies;

(ii) the preexisting parent, or the spouse of the preexisting parent, requests that the court enter the decree; and

(iii) the child adoptee has lived in the same home as the spouse of the preexisting parent for at least [~~six months~~]180 days.

(5) Upon request of a surviving preexisting parent, or a surviving parent for whom adoption of a child adoptee has been finalized, the court may enter a final decree of adoption declaring that a child adoptee is adopted by a deceased adoptive parent who was the spouse of the surviving parent at the time of the prospective adoptive parent's death.

(6) The court may enter a final decree of adoption declaring that a child adoptee is adopted by both deceased prospective adoptive parents if:

(a) both of the prospective adoptive parents die after the child adoptee is placed in the prospective adoptive parents' home; and

(b) it is in the best interests of the child adoptee to enter the decree.

(7) Nothing in this section shall be construed to grant any rights to the pre-existing parents of a child adoptee to assert any interest in the child adoptee during the [~~three-month or six-month~~]time periods described in this section.

Section 353. Section 81-13-220, which is renumbered from Section 78B-6-138 is renumbered and amended to read:

[~~78B-6-138~~]81-13-220. Effect of adoption of a minor child on pre-existing parent.

(1) A pre-existing parent of [~~an adopted child~~]a child adoptee:

(a) is released from all parental rights and duties toward and all responsibilities for the [~~adopted child~~]child adoptee, including residual parental rights and duties, as defined in Section 80-1-102[~~, and~~]; and

(b) has no further parental rights or duties with regard to [~~that adopted child~~]the child adoptee at the earlier of:

[~~(a)~~](i) the time the pre-existing parent's parental rights are terminated; or

[~~(b)~~](ii) except as provided in Subsection (2), and subject to Subsections (3) and (4), the time the final decree of adoption is entered.

(2) The parental rights and duties of a pre-existing parent who, at the time the child adoptee is adopted, is lawfully married to the [~~person adopting the child~~]individual adopting the child adoptee are not released under Subsection (1)(b).

(3) The parental rights and duties of a pre-existing parent who, at the time the child adoptee is adopted, is not lawfully married to the [~~person adopting the child~~]individual adopting the child adoptee are released under Subsection (1)(b).

(4) (a) Notwithstanding the provisions of this section, the court may allow a prospective adoptive parent to adopt a child adoptee without releasing the pre-existing parent from parental rights and duties under Subsection (1)(b), if:

(i) the pre-existing parent and the prospective adoptive parent were lawfully married at some time during the [~~child's~~]child adoptee's life;

(ii) the pre-existing parent consents to the prospective adoptive parent's adoption of the [~~child.~~]child adoptee or is unable to consent because the pre-existing parent is deceased or incapacitated;

(iii) notice of the adoption proceeding is provided in accordance with Section [~~78B-6-110~~]81-13-207;

(iv) consent to the adoption is provided in accordance with [~~Section 78B-6-120~~]Section 81-13-212; and

(v) the court finds that it is in the best interest of the child adoptee to grant the adoption without releasing the pre-existing parent from parental rights and duties.

(b) This Subsection (4) does not permit a child adoptee to have more than two [~~natural parents, as that term is defined in Section 80-1-102~~]parents.

(5) This section may not be construed as terminating any child support obligation of a parent incurred before the adoption.

Section 354. Section 81-13-301 is enacted to read:

PART 3. Adoption of an Adult

81-13-301. Definitions for part.

Reserved.

Section 355. Section 81-13-302, which is renumbered from Section 78B-6-115 is renumbered and amended to read:

[~~78B-6-115~~]81-13-302. Who may adopt an adult.

[~~(1) As used in this section, "vulnerable adult" means:~~]

[~~(a) an individual who is 65 years old or older; or~~]

[~~(b) an adult who is 18 years old or older, and who has a mental or physical impairment that substantially affects that adult's ability to:~~]

[~~(i) provide personal protection;~~]

[~~(ii) provide necessities such as food, shelter, clothing, or medical or other health care;~~]

[~~(iii) obtain services necessary for health, safety, or welfare;~~]

[~~(iv) carry out the activities of daily living;~~]

[~~(v) manage the adult's own resources; or~~]

[~~(vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.~~]

[~~(2) Subject to this section and Section 78B-6-117, any adult may be adopted by another adult.~~]

[~~(3) The following provisions of this part apply to the adoption of an adult just as though the individual being adopted were a minor:~~]

[~~(a) (i) Section 78B-6-108;~~]

[~~(ii) Section 78B-6-114;~~]

[~~(iii) Section 78B-6-116;~~]

[~~(iv) Section 78B-6-118;~~]

[~~(v) Section 78B-6-124;~~]

[~~(vi) Section 78B-6-136;~~]

[~~(vii) Section 78B-6-137;~~]

[~~(viii) Section 78B-6-138;~~]

[~~(ix) Section 78B-6-139;~~]

[~~(x) Section 78B-6-141; and~~]

[~~(xi) Section 78B-6-142;~~]

[~~(b) Subsections 78B-6-105(1)(a), (1)(b)(i), (1)(b)(ii), (2), and (7), except that the juvenile court does not have jurisdiction over a proceeding for adoption of an adult, unless the adoption arises from a case where the juvenile court has continuing jurisdiction over the mature adoptee; and~~]

[~~(c) if the mature adoptee is a vulnerable adult, Sections 78B-6-128 through 78B-6-131, regardless of whether the mature adoptee resides, or will reside, with the adopters, unless the court, based on a finding of good cause, waives the requirements of those sections.~~]

[~~(4) Before a court enters a final decree of adoption of a mature adoptee, the mature adoptee and the prospective adoptive parent or parents shall appear before the court presiding over the adoption proceeding and execute consent to the adoption.~~]

[~~(5) No provision of this part, other than those listed or described in this section or Section 78B-6-117, apply to the adoption of an adult.~~]

(1) Except as provided in Subsections (2) and (3), an adult may adopt another adult.

(2) A married adult who is lawfully separated from the married adult's spouse may not adopt another adult without the consent of the married adult's spouse if the spouse is capable of giving consent.

(3) An individual adopting an adult may not adopt the adult unless:

(a) the individual is at least 10 years older than the adult; or

(b) at least one individual of a married couple is at least 10 years older than the adult if a married couple is adopting the adult.

(4) The placement requirements described in Part 4, Placement of a Minor Child or Vulnerable Adult for Adoption, apply to an adult adoptee that is a vulnerable adult regardless of whether the adult adoptee resides, or will reside, with the adoptive parents, unless the court waives the placement requirements upon a finding of good cause.

Section 356. Section 81-13-303, which is renumbered from Section 78B-6-116 is renumbered and amended to read:

[~~78B-6-116~~]81-13-303. Notice of adoption of an adult.

[~~(1) (a) Consent to the adoption of an adult is required from:~~]

[~~(i) the mature adoptee;~~]

[~~(ii) any person who is adopting the adult;~~]

[~~(iii) the spouse of a person adopting the adult; and~~]

[~~(iv) any legally appointed guardian or custodian of the adult adoptee.~~]

[~~(b) No person, other than a person described in Subsection (1)(a), may consent, or withhold consent, to the adoption of an adult.~~]

[~~(2)~~](1) (a) Except as provided in Subsection [~~(2)(b), notice of a proceeding for the adoption of an adult shall be served on each person described in Subsection (1)(a)and the spouse of the mature adoptee.~~](1)(c), a petitioner in an adoption proceeding shall serve notice of the proceeding on:

(i) the adult adoptee;

(ii) the spouse of the petitioner if the petitioner is married;

(iii) any legally appointed guardian or custodian of the adult adoptee; and

(iv) the spouse of the adult adoptee if the adult adoptee is married.

(b) The petitioner shall serve the notice described in Subsection (1)(a) at least 30 days before the day on which the adoption is finalized.

[~~(b)~~](c) The notice described in Subsection [~~(2)(a)~~](1)(a) may be waived, in writing, by the person entitled to receive notice.

[~~(3)~~](2) The notice described in Subsection [~~(2)~~](1):

[~~(a) shall be served at least 30 days before the day on which the adoption is finalized;~~]

[~~(b)~~](a) shall specifically state that the person served must respond to the petition within 30 days of service if the person intends to intervene in the adoption proceeding;

[~~(c)~~](b) shall state the name of the [~~person to be adopted~~]adult adoptee;

[~~(d)~~](c) may not state the name of a person adopting the [~~mature~~]adult adoptee, unless the person consents, in writing, to disclosure of the person's name;

[~~(e)~~](d) with regard to a person described in Subsection (1)(a):

(i) except as provided in Subsection [~~(2)(b)~~](2)(a), shall be in accordance with the provisions of the Utah Rules of Civil Procedure; and

(ii) may not be made by publication; and

[~~(f)~~](e) with regard to the spouse of the [~~mature~~]adult adoptee, may be made:

(i) in accordance with the provisions of the Utah Rules of Civil Procedure;

(ii) by certified mail, return receipt requested; or

(iii) by publication, posting, or other means if:

(A) the service described in Subsection [~~(3)(f)(ii)~~](2)(e)(ii) cannot be completed after two attempts; and

(B) the court issues an order providing for service by publication, posting, or other means.

[~~(4)~~](3) Proof of service of the notice on each person to whom notice is required by this section shall be filed with the court before the adoption is finalized.

[~~(5)~~](4) (a) Any person who is served with notice of a proceeding for the adoption of an adult adoptee and who wishes to intervene in the adoption shall file a motion in the adoption proceeding:

(i) within 30 days after the day on which the person is served with notice of the adoption proceeding;

(ii) that sets forth the specific relief sought; and

(iii) that is accompanied by a memorandum specifying the factual and legal grounds upon which the motion is made.

(b) A person who fails to file the motion described in Subsection [~~(5)(a)~~](4)(a) within the time described in Subsection [~~(5)(a)(i)~~](4)(a)(i):

(i) waives any right to further notice of the adoption proceeding; and

(ii) is barred from intervening in, or bringing or maintaining any action challenging, the adoption proceeding.

[~~(6)~~](5) Except as provided in Subsection [~~(7)~~](6), after a court enters a final decree of adoption of an adult adoptee, the [~~mature~~]adult adoptee shall:

(a) serve notice of the finalization of the adoption, [~~pursuant to~~]in accordance with the Utah Rules of Civil Procedure, on each person who was a legal parent of the adult adoptee before the final decree of adoption described in this Subsection [~~(6)~~](5) was entered; and

(b) file with the court proof of service of the notice described in Subsection [~~(6)(a)~~](5)(a).

[~~(7)~~](6) A court may [~~, based on a finding of good cause,~~]waive the notification requirement described in Subsection [~~(6)~~](5) upon a finding of good cause.

Section 357. Section 81-13-304 is enacted to read:

81-13-304. Necessary consent to adoption of an adult -- Persons who may take consents.

(1) The following persons are required to consent to an adoption of an adult adoptee before the adoption is granted:

(a) the adult adoptee;

(b) any individual who is adopting the adult adoptee;

(c) the spouse of the individual adopting the adult adoptee if the individual is married; and

(d) any legally appointed guardian or custodian of the adult adoptee.

(2) An adult adoptee shall sign a consent before:

(a) the court with jurisdiction over the adoption proceeding; or

(b) a person appointed by the court to take the consent.

(3) If the consent of the adult adoptee is taken out of state, the adult adoptee shall sign the consent before:

(a) a person authorized or appointed to take a consent by a court of this state that has jurisdiction over adoption proceedings;

(b) a court that has jurisdiction over adoption proceedings in the state where the consent is taken; or

(c) a person authorized, under the laws of the state where the consent is taken, to take a consent of the adult adoptee.

(4) A person other than the adult adoptee may sign the consent before a notary or any person authorized to take the consent as described in Subsection (2) or (3).

(5) A person authorized by Subsection (2) or (3) to take a consent shall certify to the best of the person's information and belief that the person executing the consent has read and understands the consent and has signed the consent freely and voluntarily.

(6) A person executing a consent is entitled to receive a copy of the consent.

(7) A signature described in Subsection (2)(b) or (3)(a), shall be:

(a) notarized; or

(b) witnessed by two individuals who are not members of the adult adoptee's immediate family.

Section 358. Section 81-13-305 is enacted to read:

81-13-305. Final decree of adoption of an adult -- Agreement by adoptive parent or parents.

(1) Before entering a final decree of adoption of an adult adoptee, the court shall examine separately each person appearing before the court in accordance with this chapter.

(2) If the court is satisfied that the interests of the adult adoptee will be promoted by the adoption, the court shall enter a final decree of adoption declaring that:

(a) the adult adoptee is adopted by the adoptive parent or parents; and

(b) the adult adoptee is regarded and treated in all respects as the child of the adoptive parent or parents.

(3) Before the court enters a final decree of adoption of an adult adoptee, the prospective adoptive parent or parents and the adult adoptee shall:

(a) appear before the court;

(b) execute a consent to the adoption as described in Section 81-13-304; and

(c) execute an agreement stating that the adult adoptee shall be adopted and treated in all respects as the adoptive parent's or parents' own lawful child.

(4) When a final decree of adoption is entered, the adult adoptee may take the family name of the adoptive parent or parents.

(5) After a final decree of adoption is entered, the adoptive parent or parents and the adult adoptee shall:

(a) sustain the legal relationship of a parent and child; and

(b) have all the rights and be subject to all the duties of a parent-child relationship.

Section 359. Section 81-13-306 is enacted to read:

81-13-306. Effect of adoption of an adult on pre-existing parent.

(1) A pre-existing parent of an adult adoptee:

(a) is released from all parental rights and duties toward and all responsibilities for the adult adoptee, including residual parental rights and duties, as defined in Section 80-1-102; and

(b) has no further parental rights or duties with regard to the adult adoptee at the earlier of:

(i) the time the pre-existing parent's parental rights are terminated; or

(ii) except as provided in Subsection (2), and subject to Subsections (3) and (4), the time the final decree of adoption is entered.

(2) The parental rights and duties of a pre-existing parent who, at the time the adult adoptee is adopted, is lawfully married to the individual adopting the adult adoptee are not released under Subsection (1)(b).

(3) The parental rights and duties of a pre-existing parent who, at the time the adult adoptee is adopted, is not lawfully married to the individual adopting the adult adoptee are released under Subsection (1)(b).

(4) (a) Notwithstanding the provisions of this section, the court may allow a prospective adoptive parent to adopt an adult adoptee without releasing the pre-existing parent from parental rights and duties under Subsection (1)(b) if:

(i) the pre-existing parent and the prospective adoptive parent were lawfully married at some time during the adult adoptee's life;

(ii) the pre-existing parent consents to the prospective adoptive parent's adoption of the adult adoptee or is unable to consent because the pre-existing parent is deceased or incapacitated;

(iii) notice of the adoption proceeding is provided in accordance with Section 81-13-303;

(iv) consent to the adoption is provided in accordance with Section 81-13-304; and

(v) the court finds that it is in the best interest of the adult adoptee to grant the adoption without releasing the pre-existing parent from parental rights and duties.

(b) This Subsection (4) does not permit an adult adoptee to have more than two parents.

(5) This section may not be construed as terminating any child support obligation of a parent incurred before the adoption.

Section 360. Section 81-13-401 is enacted to read:

PART 4. Placement of a Minor Child or Vulnerable Adult for Adoption

81-13-401. Definitions for part.

Reserved.

Section 361. Section 81-13-402, which is renumbered from Section 78B-6-131 is renumbered and amended to read:

[~~78B-6-131~~]81-13-402. Placement of an adoptee in custody of state -- Priority placement.

(1) To provide a minor child, who is in the legal custody of the division, with the most beneficial family structure when the minor child is placed for adoption, the division or child-placing agency shall place the minor child with a married couple, unless:

(a) there are no qualified married couples who:

(i) have applied to adopt a minor child;

(ii) are willing to adopt the minor child; and

(iii) are an appropriate placement for the minor child;

(b) the minor child is placed with a relative of the minor child;

(c) the minor child is placed with an individual who has already developed a substantial relationship with the minor child;

(d) the minor child is placed with an individual who:

(i) is selected by a birth parent of the minor child, or a parent whose parental rights to the minor child have been terminated, if the parent consented to the adoption of the minor child; and

(ii) the parent described in Subsection (1)(d)(i):

(A) knew the individual with whom the minor child is placed before the parent consented to the adoption; or

(B) became aware of the individual with whom the minor child is placed through a source other than the division or the child-placing agency that assists with the adoption of the minor child; or

(iii) it is in the best interests of the minor child to place the minor child with a single adult.

[~~(1)~~](2) Notwithstanding Sections [~~78B-6-128 through 78B-6-130~~]81-13-403 through 81-13-405, and except as provided in Subsection [~~(2), a child~~](3), an adoptee, who is a minor child or vulnerable adult in the legal custody of the state, may not be placed with a prospective foster parent or a prospective adoptive parent, unless, before the [~~child~~]adoptee is placed with the prospective foster parent or the prospective adoptive parent:

(a) a fingerprint based [~~FBI~~]Federal Bureau of Investigation national criminal history records check is conducted on the prospective foster parent, prospective adoptive parent, and any other adult residing in the household;

(b) the Department of Health and Human Services conducts a check of the child abuse and neglect registry in each state where the prospective foster parent or prospective adoptive parent resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect;

(c) the Department of Health and Human Services conducts a check of the child abuse and neglect registry of each state where each adult living in the home of the prospective foster parent or prospective adoptive parent described in Subsection [~~(1)(b)~~](2)(b) resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(d) each person required to undergo a background check described in this section passes the background check, pursuant to the provisions of Section 26B-2-120.

[~~(2)~~](3) The requirements under Subsection [~~(1)~~](2) do not apply to the extent that:

(a) federal law or rule permits otherwise; or

(b) the requirements would prohibit the division or a court from placing [~~a child~~]an adoptee, who is a minor child or vulnerable adult in the legal custody of the state, with:

(i) a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303; or

(ii) a relative, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection [~~(1)~~](2).

(4) When an adoption petition is to be finalized in this state with regard to any prospective adoptive parent who is not a resident of this state at the time an adoptee, who is a minor child or vulnerable adult, is placed in the prospective adoptive parent's home, the prospective adoptive parent shall comply with Sections 81-13-403 through 81-13-405.

Section 362. Section 81-13-403, which is renumbered from Section 78B-6-128 is renumbered and amended to read:

[~~78B-6-128~~]81-13-403. Preplacement adoptive evaluations -- Exceptions.

(1) (a) Except as otherwise provided in this section, [~~a child~~]an adoptee, who is a minor child or vulnerable adult, may not be placed in an adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive parent and the prospective adoptive home, has been conducted in accordance with the requirements of this section.

(b) Except as provided in Section [~~78B-6-131~~]81-13-402, the court may, at any time, authorize temporary placement of [~~a child~~]an adoptee, who is a minor child or vulnerable adult, in a prospective adoptive home pending completion of a preplacement adoptive evaluation described in this section.

(c) (i) Subsection (1)(a) does not apply if a [~~pre-existing parent~~]birth parent has legal custody of the [~~child to be adopted~~]adoptee and the prospective adoptive parent is related to [~~that child~~]the adoptee or the [~~pre-existing parent~~]birth parent as a stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the court otherwise requests the preplacement adoption.

(ii) The prospective adoptive parent described in this Subsection (1)(c) shall obtain the information described in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the adoption.

(d) (i) The preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of [~~a child~~]the adoptee with the prospective adoptive parent.

(ii) If the prospective adoptive parent has previously received custody of [~~a child~~]an adoptee, who is a minor child or vulnerable adult, for the purpose of adoption, the preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately

preceding the placement of [~~a child~~]an adoptee, who is a minor child or vulnerable adult, with the prospective adoptive parent and after the placement of the previous [~~child~~]adoptee with the prospective adoptive parent.

(2) The preplacement adoptive evaluation shall include:

(a) a criminal history background check regarding each prospective adoptive parent and any other adult living in the prospective home, prepared no earlier than 18 months immediately preceding placement of the [~~child~~]adoptee in accordance with the following:

(i) if the [~~child~~]adoptee is in state custody, each prospective adoptive parent and any other adult living in the prospective home shall submit fingerprints to the Department of Health and Human Services, which shall perform a criminal history background check in accordance with Section 26B-2-120; or

(ii) subject to Subsection (3), if the [~~child~~]adoptee is not in state custody, an adoption service provider or an attorney representing a prospective adoptive parent shall submit fingerprints from the prospective adoptive parent and any other adult living in the prospective home to:

(A) the [~~Criminal and Technical Services Division of Public Safety~~]Bureau of Criminal Identification within the Department of Public Safety for a regional and nationwide background check[~~, to~~];

(B) the Office of Background Processing within the Department of Health and Human Services for a background check in accordance with Section 26B-2-120[~~, or to~~];or

(C) the Federal Bureau of Investigation;

(b) a report containing all information regarding reports and investigations of child abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other adult living in the prospective home, obtained no earlier than 18 months immediately preceding the day on which the [~~child~~]adoptee is placed in the prospective home, pursuant to waivers executed by each prospective adoptive parent and any other adult living in the prospective home, that:

(i) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is a resident of Utah, is prepared by the Department of Health and Human Services from the records of the Department of Health and Human Services; or

(ii) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is not a resident of Utah, prepared by the Department of Health and Human Services, or a similar agency in another state, district, or territory of the United States, where each prospective adoptive parent and any other adult living in the prospective home resided in the five years immediately preceding the day on which the [~~child~~]adoptee is placed in the prospective adoptive home;

(c) in accordance with Subsection (6), a home study conducted by an adoption service provider that is:

(i) an expert in family relations approved by the court;

(ii) a certified social worker;

(iii) a clinical social worker;

(iv) a marriage and family therapist;

(v) a psychologist;

(vi) a social service worker, if supervised by a certified or clinical social worker;

(vii) a clinical mental health counselor; or

(viii) an Office of Licensing employee within the Department of Health and Human Services who is trained to perform a home study; and

(d) in accordance with Subsection (7), if the [~~child to be adopted is a child who~~]adoptee is in the custody of any public child welfare agency [~~, and is a child who~~]and has a special need as defined in Section 80-2-801, the preplacement adoptive evaluation shall be conducted by the Department of Health and Human Services or a child-placing agency that has entered into a contract with the department to conduct the preplacement adoptive evaluations for [~~children~~]adoptees with special needs.

(3) For purposes of Subsection (2)(a)(ii), subject to Subsection (4), the criminal history background check described in Subsection (2)(a)(ii) shall be submitted in a manner acceptable to the court that will:

(a) preserve the chain of custody of the results; and

(b) not permit tampering with the results by a prospective adoptive parent or other interested party.

(4) In order to comply with Subsection (3), the manner in which the criminal history background check is submitted shall be approved by the court.

(5) Except as provided in Subsection [~~78B-6-131(2)~~]81-13-402(3), and in addition to the other requirements of this section, [~~before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent,~~]the Department of Health and Human Services shall comply with Section [~~78B-6-131~~]81-13-402 before an adoptee, who is a minor child or vulnerable adult in state custody, is placed with a prospective foster parent or a prospective adoptive parent.

(6) (a) An individual described in Subsections (2)(c)(i) through (vii) shall be licensed to practice under the laws of:

(i) this state; or

(ii) the state, district, or territory of the United States where the prospective adoptive parent or other person living in the prospective adoptive home resides.

(b) [~~Neither the~~]The Department of Health and Human Services[~~nor~~], or any of the department's divisions, may not proscribe who qualifies as an expert in family relations or who may conduct a home study under Subsection (2)(c).

(c) The home study described in Subsection (2)(c) shall be a written document that contains the following:

(i) a recommendation to the court regarding the suitability of the prospective adoptive parent for placement of [~~a child~~]an adoptee who is a minor child or vulnerable adult;

(ii) a description of in-person interviews with the prospective adoptive parent, the prospective adoptive parent's children, and other individuals living in the home;

(iii) a description of character and suitability references from at least two individuals who are not related to the prospective adoptive parent and with at least one individual who is related to the prospective adoptive parent;

(iv) a medical history and a doctor's report, based upon a doctor's physical examination of the prospective adoptive parent, made within two years before the date of the application; and

(v) a description of an inspection of the home to determine whether sufficient space and facilities exist to meet the needs of the [~~child~~]adoptee and whether basic health and safety standards are maintained.

(7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the responsibility of the adopting parent.

(8) The person conducting the preplacement adoptive evaluation shall, in connection with the preplacement adoptive evaluation,

provide the prospective adoptive parent with literature approved by the [~~Division of Child and Family Services~~]division relating to adoption, including information relating to:

(a) the adoption process;

(b) developmental issues that may require early intervention; and

(c) community resources that are available to the prospective adoptive parent.

(9) A copy of the preplacement adoptive evaluation shall be filed with the court.

(10) A home study completed for the purposes of foster care licensing in accordance with Title 80, Chapter 2, Part 3, Division Responsibilities, shall be accepted by the court for a proceeding under this part.

Section 363. Section 81-13-404, which is renumbered from Section 78B-6-129 is renumbered and amended to read:

[~~78B-6-129~~]81-13-404. Postplacement adoptive evaluations.

(1) Except as provided in Subsections (2) and (3), a postplacement evaluation shall be conducted and submitted to the court [~~prior to~~]before the final hearing in an adoption proceeding for a minor child or a vulnerable adult.

(2) The postplacement evaluation under Subsection (1) shall include:

(a) verification of the allegations of fact contained in the petition for adoption;

(b) an evaluation of the progress of the [~~child's~~]adoptee's placement in the adoptive home; and

(c) a recommendation regarding whether the adoption is in the best interest of the [~~child~~]adoptee.

[~~(2)~~](3) The exemptions from and requirements for evaluations, described in Subsections [~~78B-6-128(1)(c)~~]81-13-403(1)(c), (2)(c), (6), and (8), also apply to postplacement adoptive evaluations.

[~~(3)~~](4) Upon the request of the petitioner, the court may waive the postplacement adoptive evaluation, unless [~~it~~]the court determines that it is in the best interest of the [~~child~~]adoptee to require the postplacement evaluation.

Section 364. Section 81-13-405, which is renumbered from Section 78B-6-130 is renumbered and amended to read:

[~~78B-6-130~~]81-13-405. Preplacement and postplacement adoptive evaluations -- Review by court.

(1) (a) If the person conducting the preplacement adoptive evaluation or postplacement adoptive evaluation disapproves the adoptive placement, the court may dismiss the petition for adoption.

(b) Upon request by a prospective adoptive parent, the court shall:

(i) order that an additional preplacement adoptive evaluation or postplacement adoptive evaluation be conducted[~~, and shall~~]; and

(ii) hold a hearing on the suitability of the adoption, including testimony of interested parties.

(2) Before finalization of a petition for adoption the court shall review and consider the information and recommendations contained in the preplacement adoptive evaluation and postplacement adoptive evaluation described in Sections [~~78B-6-128 and 78B-6-129~~]81-13-403 and 81-13-404.

(3) With respect to the home study required as part of the preplacement adoptive evaluation described in Subsection [~~78B-6-128(2)(c)~~]81-13-403(2)(c), a court may review and consider information other than the information contained in the home study described in Subsection [~~78B-6-128(6)(c)~~]81-13-403(6)(c).

Section 365. Section 81-13-501 is enacted to read:

PART 5. Post Adoption

81-13-501. Definitions for part.

Reserved.

Section 366. Section 81-13-502, which is renumbered from Section 78B-6-104 is renumbered and amended to read:

[~~78B-6-104~~]81-13-502. Applicability of part.

(1) Sections [~~78B-6-143~~]81-13-503 through [~~78B-6-145~~]81-13-505 do not apply to [~~adoptions~~]an adoption of a minor child by a stepparent whose spouse is the adoptee's parent.

(2) Sections [~~78B-6-143~~]81-13-503 through [~~78B-6-145~~]81-13-505 apply only to [~~adoptions of adoptees~~]an adoption of an adoptee born in this state.

Section 367. Section 81-13-503, which is renumbered from Section 78B-6-143 is renumbered and amended to read:

[~~78B-6-143~~]81-13-503. Nonidentifying health history of adoptee filed with office -- Limited availability.

(1) (a) Upon finalization of an adoption in this state of a minor child, the person who proceeded on behalf of the petitioner for adoption, or a child-placing agency if an agency is involved in the adoption, shall file a report with the office, in the form established by the office.

(b) The report described in Subsection (1)(a) shall include a detailed health history, and a genetic and social history of the adoptee.

(2) The report described in Subsection (1)(a) may not contain identifying information or any information that identifies the adoptee's [~~birth~~]pre-existing parents or members of their families.

(3) When the report described in Subsection (1)(a) is filed, a duplicate report shall be provided to the adoptive parents.

(4) The report described in Subsection (1)(a) shall only be available upon request, and upon presentation of positive identification, to the following persons:

(a) the adoptive parents;

(b) in the event of the death of the adoptive parents, the adoptee's legal guardian;

(c) the adoptee;

(d) in the event of the death of the adoptee, the adoptee's spouse [~~,~~]if the spouse is the parent or guardian of the adoptee's child;

(e) the adoptee's child or descendant;

(f) the adoptee's [~~birth~~]pre-existing parent; and

(g) the adoptee's adult sibling.

(5) No identifying information or information that identifies a [~~birth~~]pre-existing parent or the [~~birth~~]pre-existing parent's family may be disclosed under this section.

(6) The actual cost of providing information under this section shall be paid by the person requesting the information.

(7) A child-placing agency may provide a copy of the report described in Subsection (1)(a)and information in the child-placing agency's files, except identifying information, to [~~an adult adoptee, a birth~~]a child adoptee who is 18 years old or older, a pre-existing parent, or an adoptive parent.

(8) Notwithstanding Subsection (7), identifying information may be released to the extent that the individual who is the subject of the information provides written authorization of the information's release.

Section 368. Section 81-13-504, which is renumbered from Section 78B-6-144 is renumbered and amended to read:

[~~78B-6-144~~]81-13-504. Mutual-consent, voluntary adoption registry -- Procedures -- Fees.

(1) As used in this section, "adopted individual" means a child adoptee who is 18 years old or older.

[~~(1)~~](2) The office shall establish a mutual-consent, voluntary adoption registry.

(3) (a) An [~~adult adoptee~~]adopted individual or a [~~birth~~]pre-existing parent of an [~~adult adoptee~~]adopted individual, upon presentation of positive identification, may request identifying information from the office, in the form established by the office.

(b) A court [~~of competent jurisdiction~~]or a child-placing agency may accept that request from the [~~adult adoptee or birth~~]adopted individual or pre-existing parent, in the form provided by the office, and transfer that request to the office.

(c) The [~~adult adoptee or birth~~]adopted individual or pre-existing parent is responsible for notifying the office of any change in information contained in the request.

[~~(b)~~](d) Except as otherwise provided in this [~~part~~]chapter, the office may only release identifying information to an [~~adult adoptee or birth~~]adopted individual or pre-existing parent when [~~it~~]the office receives requests from both the [~~adoptee and the adoptee's birth~~]adopted individual and the adopted individual's pre-existing parent.

[~~(c)~~](e) After matching the request of an [~~adult adoptee~~]adopted individual with that of at least one of the [~~adoptee's birth~~]adopted individual's pre-existing parents, the office shall notify both the [~~adult adoptee~~]adopted individual and the [~~birth~~]pre-existing parent that the requests have been matched, and disclose the identifying information to those parties. [~~However, if that adult adoptee~~]

(f) Notwithstanding Subsection (3)(c) or (d), if an adopted individual has a sibling of the same [~~birth~~]pre-existing parent who is under [~~the age of 18 years,~~]18 years old and who was raised in the same family setting as the [~~adult adoptee~~]adopted individual, the office may not disclose the requested identifying information to that [~~adult adoptee~~]adopted individual or the [~~adoptee's birth~~]adopted individual's pre-existing parent.

[~~(2)~~](4) (a) [~~Adult adoptees and adult siblings of adult adoptees~~]An adopted individual or an adult sibling of an adopted individual, upon presentation of positive identification, may request identifying information from the office [~~,~~]in the form established by the office.

(b) A court [~~of competent jurisdiction~~]or a child-placing agency may accept that request from the [~~adult adoptee~~]adopted individual or adult sibling [~~,~~]in the form provided by the office, and transfer that request to the office.

(c) The [~~adult adoptee~~]adopted individual or adult sibling is responsible for notifying the office of any change in information contained in the request.

[~~(b)~~](d) The office may only release identifying information to an [~~adult adoptee~~]adopted individual or adult sibling when [~~it~~]the office receives requests from both the [~~adult adoptee~~]adopted individual and the [~~adult adoptee's~~]adopted individual's adult sibling.

[~~(c)~~](e) After matching the request of an [~~adult adoptee~~]adopted individual with that of the [~~adoptee's~~]adopted individual's adult sibling, if the office determines that the office has sufficient information to make that match, the office shall notify both the [~~adult adoptee~~]adopted individual and the adopted individual's adult sibling that the requests have been matched, and disclose the identifying information to those parties.

[~~(d)~~](5) After receiving a request for information from an [~~adult adoptee and a birth~~]adopted individual and a pre-existing parent under this section, the office shall:

[~~(i)~~](a) search the office's vital records for the [~~adult adoptee's birth~~]adopted individual's pre-existing parent; and

[~~(ii)~~](b) if the search described in Subsection [~~(2)(d)(i)~~](5)(a) reveals that the [~~birth~~]pre-existing parent who had requested information under this section is dead, inform the [~~adult adoptee~~]adopted individual that the [~~birth~~]pre-existing parent is dead and disclose the identity of the [~~birth~~]pre-existing parent.

[~~(e)~~](6) The office shall attempt to notify an individual who requests information under this section:

[~~(i)~~](a) of the results of the initial search for a match; and

[~~(ii)~~](b) if the initial search does not produce a match, that the office will keep the request on file and will attempt to notify the individual in the event of a match.

[~~(3)~~](7) Information registered with the office under this section is available only to a registered [~~adult adoptee~~]adopted individual and the [~~adoptee's registered birth~~]adopted individual's pre-existing parent or registered adult sibling [~~;~~]under the terms of this section.

[~~(4)~~](8) [~~Except as provided in Section 78B-6-141, the~~]The office may not disclose information regarding a [~~birth~~]pre-existing parent who has not registered a request with the office.

[~~(5)~~](9) Nothing in this section limits the disclosure of information in accordance with Section [~~78B-6-141~~]81-13-103.

Section 369. Section 81-13-505, which is renumbered from Section 78B-6-144.5 is renumbered and amended to read:

[~~78B-6-144.5~~]81-13-505. Adoption information -- Adoption records fees.

(1) (a) The office may not disclose information maintained or filed with the office under this chapter unless the disclosure is permitted by this chapter or by a court order.

(b) Any person who discloses information obtained from the office's voluntary adoption registry in violation of this part, or knowingly allows that information to be disclosed in violation of this chapter, is guilty of a class A misdemeanor.

[~~(1)~~](2) (a) The office shall, in accordance with Section 63J-1-504, establish a fee to be paid by an individual who requests information or other services under Section [~~78B-6-141 or Section 78B-6-144~~]81-13-103 or 81-13-504, and to cover the costs related to providing the information, services, and improvements described in Subsection (2).

(b) The office may accept donations or grants from public or private entities to cover the costs related to providing the information, services, and improvements described in Subsection (2).

[~~(2)~~](3) The office shall deposit fees and donations collected under Subsection [~~(1)~~](2) into the General Fund as dedicated credits and

may be used only to:

(a) fund, automate, and improve the provision of services described in Sections [~~78B-6-141 and 78B-6-144~~]81-13-103 and 81-13-504; or

(b) implement means of maximizing potential matches for the services described in Sections [~~78B-6-141 and 78B-6-144~~]81-13-103 and 81-13-504, including the use of broad search terms and methods.

Section 370. Section 81-14-101, which is renumbered from Section 78B-24-101 is renumbered and amended to read:

CHAPTER 14. UNIFORM UNREGULATED CHILD CUSTODY TRANSFER ACT

PART 1. General Provisions

[~~78B-24-101~~]81-14-101. Definitions.

As used in this chapter:

[~~(1) "Child" means an unemancipated individual under 18 years old.~~]

[~~(2)~~](1) (a) "Child-placing agency" means a person with authority under other law of this state to identify or place a minor child for adoption.

(b) "Child-placing agency" does not include a parent of a minor child.

[~~(3)~~](2) "Custody" means the exercise of physical care and supervision of a minor child.

[~~(4)~~](3) (a) "Intercountry adoption" means an adoption or placement for adoption of a minor child who resides in a foreign country at the time of adoption or placement.

(b) "Intercountry adoption" includes an adoption finalized in the minor child's country of residence or in a state.

[~~(5) "Parent" means an individual recognized as a parent under other law of this state.~~]

[~~(6)~~](4) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

[~~(7)~~](5) "Record" means information:

(a) inscribed on a tangible medium; or

(b) stored in an electronic or other medium and retrievable in perceivable form.

[~~(8)~~](6) (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States.

(b) "State" includes a federally recognized Indian tribe.

Section 371. Section 81-14-102, which is renumbered from Section 78B-24-102 is renumbered and amended to read:

[~~78B-24-102~~]81-14-102. Limitations on applicability.

This chapter does not apply to custody of an Indian child, as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, to the extent governed by the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 through 1963.

Section 372. Section 81-14-201, which is renumbered from Section 78B-24-201 is renumbered and amended to read:

PART 2. Prohibition of Unregulated Custody Transfer

[~~78B-24-201~~]81-14-201. Definitions for part.

As used in this part:

(1) "Guardian" means a person recognized as a guardian under other law of this state.

(2) "Intermediary" means a person that assists or facilitates a transfer of custody of a minor child, whether or not for compensation.

Section 373. Section 81-14-202, which is renumbered from Section 78B-24-202 is renumbered and amended to read:

[~~78B-24-202~~]81-14-202. Applicability.

This part does not apply to a transfer of custody of a minor child by a parent or guardian of the minor child to:

(1) a parent of the minor child;

(2) a stepparent of the minor child;

(3) an adult who is related to the minor child by blood, marriage, or adoption;

(4) an adult who, at the time of the transfer, had a close relationship with the minor child or the parent or guardian of the minor child for a substantial period, and whom the parent or guardian reasonably believed, at the time of the transfer, to be a fit custodian of the minor child;

(5) an Indian custodian, as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, of the minor child; or

(6) a member of the minor child's customary family unit recognized by the minor child's indigenous group.

Section 374. Section 81-14-203, which is renumbered from Section 78B-24-203 is renumbered and amended to read:

[~~78B-24-203~~]81-14-203. Prohibited custody transfer.

(1) Except as provided in Subsection (2), a parent or guardian of a minor child, or an individual with whom a minor child has been placed for adoption, may not transfer custody of the minor child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the minor child.

(2) A parent or guardian of a minor child or an individual with whom a minor child has been placed for adoption may transfer custody of the minor child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the minor child only through:

(a) adoption or guardianship;

(b) judicial award of custody;

(c) placement by or through a child-placing agency;

(d) other judicial or tribal action; or

(e) safe relinquishment under Title 80, Chapter 4, Part 5, Safe Relinquishment of a Newborn Child.

(3) (a) A person may not receive custody of a minor child, or act as an intermediary in a transfer of custody of a minor child, if the person knows or reasonably should know the transfer violates Subsection (1).

(b) This subsection does not apply if the person as soon as practicable after the transfer, notifies the Division of Child and Family Services of the transfer or takes appropriate action to establish custody under Subsection (2).

(4) A violation of this section is a class B misdemeanor.

(5) A violation of Subsection (1) is not established solely because a parent or guardian that transfers custody of a minor child does not regain custody.

Section 375. Section 81-14-204, which is renumbered from Section 78B-24-204 is renumbered and amended to read:

[~~78B-24-204~~]81-14-204. Authority and responsibility of the Division of Child and Family Services.

(1) If the Division of Child and Family Services has a reasonable basis to believe that a person has transferred or will transfer custody of a minor child in violation of Subsection [~~78B-24-203(1)~~]81-14-203(1), the Division of Child and Family Services may conduct a home visit as provided by other law of this state and take appropriate action to protect the welfare of the minor child.

(2) If the Division of Child and Family Services conducts a home visit for a minor child adopted or placed through an intercountry adoption, the Division of Child and Family Services shall:

(a) prepare a report on the welfare and plan for permanent placement of the minor child; and

(b) provide a copy of the report to the United States Department of State.

(3) This chapter does not prevent the Division of Child and Family Services from taking appropriate action under law of this state.

Section 376. Section 81-14-205, which is renumbered from Section 78B-24-205 is renumbered and amended to read:

[~~78B-24-205~~]81-14-205. Prohibited soliciting or advertising.

(1) A person may not solicit or advertise to:

(a) find a person to which to make a transfer of custody in violation of Subsection [~~78B-24-203(1)~~]81-14-203(1);

(b) identify a minor child for a transfer of custody in violation of Subsection [~~78B-24-203(3)~~]81-14-203(3); or

(c) act as an intermediary in a transfer of custody in violation of Subsection [~~78B-24-203(3)~~]81-14-203(3).

(2) A violation of this section is a class B misdemeanor.

Section 377. Section 81-14-301, which is renumbered from Section 78B-24-301 is renumbered and amended to read:

PART 3. Information and Guidance

[~~78B-24-301~~]81-14-301. Definitions for part.

As used in this part, "prospective adoptive parent" means an individual who has been approved or permitted under other law of this state to adopt a minor child.

Section 378. Section 81-14-302, which is renumbered from Section 78B-24-302 is renumbered and amended to read:

[~~78B-24-302~~]81-14-302. Scope.

This part applies to placement for adoption of a minor child who:

(1) has been or is in foster or institutional care;

(2) previously has been adopted in a state;

(3) has been or is being adopted under the law of a foreign country;

(4) has come or is coming to a state from a foreign country to be adopted;

(5) is not a citizen of the United States;

(6) has an attachment or trauma-related disorder; or

(7) suffered from prenatal exposure to alcohol or drugs.

Section 379. Section 81-14-303, which is renumbered from Section 78B-24-303 is renumbered and amended to read:

[~~78B-24-303~~]81-14-303. General adoption information.

(1) Within a reasonable time before a child-placing agency places a minor child for adoption with a prospective adoptive parent, the child-placing agency shall provide or cause to be provided to the prospective adoptive parent general adoption information.

(2) The information under Subsection (1) shall address:

(a) possible physical, mental, emotional, and behavioral issues concerning:

(i) identity, loss, and trauma that a minor child might experience before, during, or after adoption; and

(ii) a minor child leaving familiar ties and surroundings;

(b) the effect that access to resources, including health insurance, might have on the ability of an adoptive parent to meet the needs of a minor child;

(c) causes of disruption of an adoptive placement or dissolution of an adoption and resources available to help avoid disruption or dissolution; and

(d) prohibitions under Sections [~~78B-24-203 and 78B-24-205~~]81-14-203 and 81-14-205.

Section 380. Section 81-14-304, which is renumbered from Section 78B-24-304 is renumbered and amended to read:

[~~78B-24-304~~]81-14-304. Information about a minor child.

(1) (a) Except as prohibited by other law of this state, within a reasonable time before a child-placing agency places a minor child for adoption with a prospective adoptive parent, the agency shall provide or cause to be provided to the prospective adoptive parent information specific to the minor child that is known or reasonably obtainable by the child-placing agency and material to the prospective adoptive parents informed decision to adopt the minor child.

(b) The information under Subsection (1)(a) shall include:

(i) the minor child's family, cultural, racial, religious, ethnic, linguistic, and educational background;

(ii) the minor child's physical, mental, emotional, and behavioral health;

(iii) circumstances that may adversely affect the minor child's physical, mental, emotional, or behavioral health;

(iv) the minor child's medical history, including immunizations;

(v) the medical history of the minor child's genetic parents and siblings;

(vi) the history of an adoptive or out-of-home placement of the minor child and the reason the adoption or placement ended;

(vii) the minor child's United States immigration status;

(viii) medical, therapeutic, and educational resources, including language-acquisition training, available to the adoptive parent and minor child after placement or adoption to assist in responding effectively to physical, mental, emotional, or behavioral issues; and

(ix) available records relevant to the information in Subsections (1)(b)(i) through (viii).

(2) If, before an adoption is finalized, additional information under Subsection (1) that is material to a prospective adoptive parent's informed decision to adopt the minor child becomes known or reasonably obtainable by the child-placing agency, the child-placing agency shall provide the information to the prospective adoptive parent.

(3) If, after an adoption is finalized, additional information under Subsection (1) becomes known to the child-placing agency, the child-placing agency shall make a reasonable effort to provide the information to the adoptive parent.

Section 381. Section 81-14-305, which is renumbered from Section 78B-24-305 is renumbered and amended to read:

[~~78B-24-305~~]81-14-305. Guidance and instruction.

(1) A child-placing agency placing a minor child for adoption shall provide or cause to be provided to the prospective adoptive parent guidance and instruction specific to the minor child to help prepare the parent to respond effectively to needs of the child [~~which~~]that are known or reasonably ascertainable by the child-placing agency.

(2) The guidance and instruction under Subsection (1) shall address, if applicable:

(a) the potential effect on the minor child of:

(i) previous adoption or out-of-home placement;

(ii) multiple previous adoptions or out-of-home placements;

(iii) trauma, insecure attachment, fetal alcohol exposure, or malnutrition;

(iv) neglect, abuse, drug exposure, or similar adversity;

(v) separation from a sibling or significant caregiver; and

(vi) a difference in ethnicity, race, or cultural identity between the minor child and the prospective adoptive parent or other minor child of the parent;

(b) information available from the federal government on the process for the child to acquire United States citizenship; and

(c) any other matter the child-placing agency considers material to the adoption.

(3) The guidance and instruction under Subsection (1) shall be provided:

(a) for adoption of a minor child residing in the United States, a reasonable time before the adoption is finalized; or

(b) for an intercountry adoption, in accordance with federal law.

Section 382. Section 81-14-306, which is renumbered from Section 78B-24-306 is renumbered and amended to read:

[~~78B-24-306~~]81-14-306. Information about financial assistance and support services.

On request of a minor child who was placed for adoption or the minor child's adoptive parent, the child-placing agency placing the minor child or the Division of Child and Family Services shall provide information about how to obtain financial assistance or support services:

(1) to assist the minor child or parent to respond effectively to adjustment, behavioral, and other challenges; and

(2) to help preserve the placement or adoption.

Section 383. Section 81-14-307, which is renumbered from Section 78B-24-307 is renumbered and amended to read:

[~~78B-24-307~~]81-14-307. Child-placing agency compliance.

(1) The Division of Licensing and Background Checks, created in Section 26B-2-103, may investigate an allegation that a child-placing agency has failed to comply with this part and commence an action for injunctive or other relief or initiate administrative proceedings against the child-placing agency to enforce this part.

(2) (a) The Office of Licensing may initiate a proceeding to determine whether a child-placing agency has failed to comply with this part.

(b) If the Office of Licensing finds that the child-placing agency has failed to comply, the Office of Licensing may suspend or revoke the child-placing agency's license or take other action permitted by law of the state.

Section 384. Section 81-14-308, which is renumbered from Section 78B-24-308 is renumbered and amended to read:

[~~78B-24-308~~]81-14-308. Rulemaking by Division of Licensing and Background Checks.

The Division of Licensing and Background Checks, created in Section 26B-2-103, may adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Sections [~~78B-24-303, 78B-24-304, 78B-24-305, and 78B-24-306~~]81-14-303, 81-14-304, 81-14-305, and 81-14-306.

Section 385. Section 81-14-401, which is renumbered from Section 78B-24-401 is renumbered and amended to read:

PART 4. Applicability and Severability Provisions

[~~78B-24-401~~]81-14-401. Uniformity of application and construction.

In applying and construing this [~~uniform act~~]chapter, a court shall consider the promotion of uniformity of the law among jurisdictions that enact the uniform act.

Section 386. Section 81-14-402, which is renumbered from Section 78B-24-402 is renumbered and amended to read:

[~~78B-24-402~~]81-14-402. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

Section 387. Section 81-14-403, which is renumbered from Section 78B-24-403 is renumbered and amended to read:

[~~78B-24-403~~]81-14-403. Transitional provisions.

(1) Part 2, Prohibition of Unregulated Custody Transfer, applies to:

(a) a transfer of custody on or after May 4, 2022; and

(b) soliciting or advertising on or after May 4, 2022.

(2) Part 3, Information and Guidance, applies to placement of a minor child for adoption more than 60 days after May 4, 2022.

Section 388. Section 81-14-404, which is renumbered from Section 78B-24-404 is renumbered and amended to read:

[~~78B-24-404~~]81-14-404. Severability.

If a provision of this chapter or the provision's application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.

Section 389. Repealer.

This bill repeals:

Section 78B-6-101, Title.

Section 78B-6-107, Compliance with the Interstate Compact on Placement of Children -- Compliance with the Indian Child Welfare Act.

Section 78B-6-108, Alien child -- Evidence of lawful admission to United States required.

Section 78B-6-111, Criminal sexual offenses.

Section 78B-6-113, Prospective adoptive parent not a resident -- Preplacement requirements.

Section 78B-6-114, Adoption by married persons -- Consent.

Section 78B-6-118, Relative ages.

Section 78B-6-120.1, Implied consent.

Section 78B-6-122, Qualifying circumstance.

Section 78B-6-122.5, Effect of out-of-state paternity adjudication, declaration, or acknowledgment.

Section 78B-6-123, Power of a minor to consent or relinquish.

Section 78B-6-125, Time period prior to birth mother's consent.

Section 78B-6-126, When consent or relinquishment effective.

Section 78B-6-127, Parents whose rights have been terminated.

Section 78B-6-137, Decree of adoption -- Best interest of child -- Legislative findings.

Section 78B-6-139, Name and status of adopted child.

Section 78B-6-145, Restrictions on disclosure of information -- Violations -- Penalty.

Section 78B-7-101, Title.

Section 78B-13-101, Title.

Section 78B-14-101, Title.

Section 78B-15-101, Title.

Section 78B-15-105, Protection of participants.

Section 78B-15-106, Determination of maternity.

Section 78B-15-107, Effect.

Section 78B-15-108, Obligation to provide address.

Section 78B-15-109, Limitation on recovery from the obligor.

Section 78B-15-110, Duty of attorney general and county attorney.

Section 78B-15-111, Default judgment.

Section 78B-15-112, Standard of proof.

Section 78B-15-113, Parent-time rights of father.

Section 78B-15-114, Social Security number in tribunal records.

Section 78B-15-115, Settlement agreements.

Section 78B-16-101, Title.

Section 78B-20-101, Title.

Section 390. Effective Date.

This bill takes effect on September 1, 2025.

Section 391. Coordinating S.B. 119 with H.B. 329.

If S.B. 119, Domestic Relations Recodification, and H.B. 329, Homeless Services Amendments, both pass and become law, the Legislature intends that, on September 1, 2025, the reference in Subsection 26B-2-104(1)(a)(vi) be changed from "Subsection 78B-6-106(3)" to "Section 81-13-104.".

Section 392. Coordinating S.B. 119 with H.B. 129.

If S.B. 119, Domestic Relations Recodification, and H.B. 129, Adoption Records Access Amendments, both pass and become law, the Legislature intends that, on September 1, 2025:

(1) Subsection 26B-8-125(7) be amended to read:

"(7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for the inspection of adoption documents under Subsection [~~78B-6-141(4)~~]81-13-103(3);

[~~(b) for a birth parent's election to permit identifying information about the birth parent to be made available, under Section 78B-6-141;~~]

[~~(c)~~](b) for the release of information by the mutual-consent, voluntary adoption registry [~~, under Section 78B-6-144~~]as described in Section 81-13-504;

[~~(d)~~](c) for collecting fees and donations under Section [~~78B-6-144.5~~]81-13-505; and

[~~(e)~~](d) for the review and approval of a request described in Subsection [~~(3)(d).~~](3)(c).";

(2) Section 81-13-103 (renumbered from Section 78B-6-141) in S.B. 119 be amended to read:

"[~~78B-6-141~~]81-13-103**. Court hearings -- Adoption documents -- Motion to intervene**.

(1)(a) Notwithstanding Section 80-4-106, [~~court hearings in adoption cases may be closed to the public~~]the court may close to the public any court hearing regarding an adoption upon the request of a party to the [~~adoption petition and upon court approval~~]petition for adoption.

(b) In a closed hearing, the court may only admit the following individuals[~~may be admitted~~]:

(i) a party to the proceeding;

(ii) the adoptee;

(iii) a representative of an agency having custody of the adoptee;

(iv) in a hearing to relinquish parental rights, the individual whose rights are to be relinquished and invitees of that individual to provide emotional support;

(v) in a hearing on the termination of parental rights, the individual whose rights may be terminated;

(vi) in a hearing on a petition to intervene, the proposed intervenor;

(vii) in a hearing to finalize an adoption, invitees of the petitioner; and

(viii) other individuals for good cause, upon order of the court.

(2) [~~An~~]Except as provided in Subsections (3) through (7), an adoption document and any other documents filed in connection with a petition for adoption are sealed.

[~~(3) The documents described in Subsection (2) may only be open to inspection and copying:~~]

[~~(a) in accordance with Subsection (5)(a), by a party to the adoption proceeding:~~]

[~~(i) while the proceeding is pending; or~~]

[~~(ii) within six months after the day on which the adoption decree is entered;~~]

[~~(b) subject to Subsection (5)(b), if a court enters an order permitting access to the documents by an individual who has appealed the denial of that individual's motion to intervene;~~]

[~~(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;~~]

[~~(d) as provided under Section 78B-6-144;~~]

[~~(e) when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered;~~]

[~~(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;~~]

[~~(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b); or~~]

[~~(h) to an adult adoptee, to the extent permitted under Subsection (4).~~]

[~~(4)(a) An adult adoptee that was born in the state may access an adoption document associated with the adult adoptee's adoption without a court order:~~]

[~~(i) to the extent that a birth parent consents under Subsection (4)(b); or~~]

[~~(ii) if the birth parents listed on the original birth certificate are deceased.~~]

[~~(b) A birth parent may:~~]

[~~(i) provide consent to allow the access described in Subsection (4)(a) by electing, electronically or on a written form provided by the office, allowing the birth parent to elect to:~~]

[~~(A) allow the office to provide the adult adoptee with the contact information of the birth parent that the birth parent indicates;~~]

[~~(B) allow the office to provide the adult adoptee with the contact information of an intermediary that the birth parent indicates;~~]

[~~(C) prohibit the office from providing any contact information to the adult adoptee;~~]

[~~(D) allow the office to provide the adult adoptee with a noncertified copy of the original birth certificate; and~~]

[~~(ii) at any time, file, electronically or on a written document with the office, to:~~]

[~~(A) change the election described in Subsection (4)(b); or~~]

[~~(B) elect to make other information about the birth parent, including an updated medical history, available for inspection by an adult adoptee.~~]

[~~(c) A birth parent may not access any identifying information or an adoption document under this Subsection (4).~~]

[~~(d) If two birth parents are listed on the original birth certificate and only one birth parent consents under Subsection (4)(b) or is deceased, the office may redact the name of the other birth parent.~~]

[~~(5)(a) An individual who files a motion to intervene in an adoption proceeding:~~]

[~~(i) is not a party to the adoption proceeding, unless the motion to intervene is granted; and~~]

[~~(ii) may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.~~]

[~~(b) An order described in Subsection (3)(b) shall:~~]

[~~(i) prohibit the individual described in Subsection (3)(b) from inspecting a document described in Subsection (2) that contains identifying information of the adoptive or prospective adoptive parent; and~~]

[~~(ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a document described in Subsection (5)(b)(i) after the identifying information described in Subsection (5)(b)(i) is redacted from the document.~~]

(3) A person may only inspect and copy the documents described in Subsection (2):

(a) if the adoption proceeding is pending and the person is a party to the adoption proceeding;

(b) within 180 days after the day on which the final decree of adoption is entered if the person is a party to the adoption proceeding;

(c) if the court enters an order expressly permitting the inspection or copying the documents after the person filed a motion to intervene and the motion to intervene was granted on appeal;

(d) if the court enters an order expressly permitting the inspection or copying of the documents after good cause is shown;

(e) if the office is permitted to release the documents to the person as described in Section 81-13-504;

(f) when the documents becomes public 100 years after the day on which the final decree of adoption was entered;

(g) when the birth certificate becomes public 100 years after the day on which the adoptee was born; or

(h) if the person is permitted access to the documents under Subsection (6) or (7).

(4) A person who files a motion to intervene in an adoption proceeding:

(a) is not a party to the adoption proceeding, unless the motion to intervene is granted; and

(b) subject to Subsection (5), may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.

(5) If the court enters an order under Subsection (3)(c) or a potential birth father is made a party to the adoption proceeding upon a motion to intervene, the court shall:

(a) prohibit the person described in Subsection (3)(c) or the potential birth father from inspecting a document described in Subsection (2) that contains identifying information of an adoptive or prospective adoptive parent; and

(b) permit the person described in Subsection (3)(c) or the potential birth father to review a copy of the document described in Subsection (5)(a) after the identifying information of the adoptive or prospective adoptive parent is redacted from the document.

(6) (a) A child adoptee, who is 18 years old or older, may access an adoption document associated with the child adoptee's adoption without a court order, unless there is a court order sealing the documents as described in this Subsection (6).

(b) For a birth parent of a child adoptee, the birth parent may bring a petition in a court before the child adoptee reaches 18 years old to keep the documents described in Subsection (2) sealed for 10 years after the day on which the child adoptee reaches 18 years old.

(c) If the court grants a birth parent's petition under Subsection (6)(b), the birth parent may bring a petition, every 10 years and before the court order expires, to keep the documents sealed for an additional 10 years.

(d) The court may only grant a petition under Subsection (6)(b) or (6)(c) if:

(i) access to the documents described in Subsection (2) would place the birth parent in reasonable fear of harm; or

(ii) there is good cause to prevent access to the documents described in Subsection (2) that is similar to the good cause described in Subsection (6)(d)(i).

(7) An adult adoptee, or the adoptive parent of the adult adoptee, may inspect an adoption document associated with the adult adoptee's adoption without a court order, unless the final decree of adoption is entered by the juvenile court.

(8) A pre-existing parent may not access the documents described in Subsection (2)."; and

(3) the changes to Section 78B-6-141 in H.B. 129 not be made.

Section 393. Coordinating S.B. 119 with H.B. 21.

If S.B. 119, Domestic Relations Recodification, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on September 1, 2025, Section 81-13-201 in S.B. 119 be amended to read:

"**81-13-201. Definitions for part**.

As used in this part:

(1) "Sexual offense" means:

(a) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses; or

(b) an offense under the laws of the state where the minor child was conceived that is substantially similar to an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(2) "Sexual offense" does not include:

(a) an offense described in Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or

(b) an offense under the laws of the state where the minor child was conceived that is substantially similar to an offense described in Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.".

Section 394. Coordinating S.B. 119 with H.B. 141.

If S.B. 119, Domestic Relations Recodification, and H.B. 141, Adoption Modifications, both pass and become law, the Legislature intends that, on September 1, 2025, Subsection 81-13-403(1)(c)(i) (renumbered from Section 78B-6-128) in S.B. 119 be amended to read:

"(c)(i) Unless the court otherwise requests the preplacement adoption evaluation, Subsection (1)(a) does not apply if:

(A) a [~~pre-existing parent~~]birth parent has legal custody of the [~~child to be adopted~~]adoptee and the prospective adoptive parent is related to [~~that child~~]the adoptee or the [~~pre-existing parent~~]birth parent as a stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin[~~, unless the court otherwise requests the preplacement adoption.~~];

(B) a birth parent has or had legal custody of the adoptee, the prospective adoptive parent was previously married to the birth parent, and the prospective adoptive parent has lived with the adoptee for at least 180 days before the day on which the petition for adoption was filed; or

(C) the adoptee has lived in the adoptive home with the prospective adoptive parent for at least one year before the day on which the petition for adoption was filed and the court finds that the adoption is in the best interest of the adoptee.".

Section 395. Coordinating S.B. 119 with H.B. 283.

If S.B. 119, Domestic Relations Recodification, and H.B. 283, Child and Family Services Amendments, both pass and become law, the Legislature intends that, on September 1, 2025, Subsection 80-2-1005(1)(e) be amended to read:

"(e) the subject of the report, the [~~natural~~]parents of the child, an individual who has been awarded permanent custody and guardianship of the child, and the guardian ad litem; ".

CHAPTER 427
H. B. 191
Passed March 6, 2025
Approved March 26, 2025
Effective July 1, 2025

HIGH SCHOOL CREDIT AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill addresses the use of an instructional packet to receive credit in public high schools.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► allows a local education agency to award a high school student credit for a course completed through the packet method if the packet meets certain requirements;
- ► requires the State Board of Education to review and approve packets;
- ► creates a sunset for a certain report;
- ► makes technical and conforming changes; and
- ► creates a reporting requirement.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-1-201, as last amended by Laws of Utah 2024, Chapters 3, 460 and 525
53E-3-501, as last amended by Laws of Utah 2023, Chapter 527
63I-2-253, as last amended by Laws of Utah 2024, Third Special Session, Chapters 5, 5

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(e) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(h) the report described in Section 53E-3-501 by the state board on students in an LEA who receive academic credit through the packet method;

[~~(h)~~](i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

[~~(i)~~](j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

[~~(j)~~](k) the report described in Section 53F-2-522 regarding mental health screening programs;

[~~(k)~~](l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

[~~(l)~~](m) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

[~~(m)~~](n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

[~~(n)~~](o) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

[~~(o)~~](p) the report described in Section 53F-5-405 by the state board regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;

[~~(p)~~](q) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

[~~(q)~~](r) the report described in Section 53G-7-221 by the state board regarding innovation plans; and

[~~(r)~~](s) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) in 2027, 2030, 2033, and 2035, the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

(b) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(c) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(d) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(e) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(f) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

(g) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

(h) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the state board, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 2. Section 53E-3-501 is amended to read:

53E-3-501. State board to establish miscellaneous minimum standards for public schools.

(1) The state board shall establish rules and minimum standards for the public schools that are consistent with this public education code, including rules and minimum standards governing the following:

(a) (i) the qualification and certification of educators and ancillary personnel who provide direct student services;

(ii) required school administrative and supervisory services; and

(iii) the evaluation of instructional personnel;

(b) (i) access to programs;

(ii) attendance;

(iii) competency levels;

(iv) graduation requirements; and

(v) discipline and control;

(c) (i) school accreditation;

(ii) the academic year;

(iii) alternative and pilot programs;

(iv) curriculum and instruction requirements; and

(v) school libraries;

(d) services to:

(i) persons with a disability as defined by and covered under:

(A) the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102;

(B) the Rehabilitation Act of 1973, 29 U.S.C. Sec. 705(20)(A); and

(C) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1401(3); and

(ii) other special groups;

(e) (i) state reimbursed bus routes;

(ii) bus safety and operational requirements; and

(iii) other transportation needs;

(f) (i) school productivity and cost effectiveness measures;

(ii) federal programs;

(iii) school budget formats; and

(iv) financial, statistical, and student accounting requirements; and

(g) data collection and reporting by LEAs.

(2) Except as provided in Subsection (3), the state board shall determine if:

(a) the minimum standards have been met; and

(b) required reports are properly submitted.

(3) When the state board makes a request of an LEA under Subsection (1)(f) or (g), the state board shall include:

(a) the justification for the requested information;

(b) a statement confirming that the information is not available elsewhere;

(c) a deadline by which the LEA must provide the information in accordance with state board rule; and

(d) penalties, including withholding of funds, for non-compliance in accordance with state and federal law.

(4) The state board may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.

(5) (a) A technical college listed in Section 53B-2a-105 shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the state board.

(b) A school district may grant a high school diploma to a student participating in a course described in Subsection (5)(a) that is provided by a technical college listed in Section 53B-2a-105.

(6) (a) As used in this Subsection (6), "generally accepted accounting principles" means a common framework of accounting rules and standards for financial reporting promulgated by the Governmental Accounting Standards Board.

(b) Subject to Subsections (6)(c) and (d), the state board shall ensure the rules and standards described in Subsections (1)(f) and (g) allow for an LEA to make adjustments to the LEA's general entry ledger, in accordance with generally accepted accounting principles, to accurately reflect the LEA's use of funds for allowable costs and activities:

(i) during a fiscal year; and

(ii) at the close of a fiscal year.

(c) If the state board determines under Subsection (2) that an LEA has not met the minimum standards described in Subsection (1)(f) or (g) or has not properly submitted a required report, the state board shall allow the LEA an opportunity to cure the relevant defect through an adjustment described in Subsection (6)(b).

(d) An LEA may not, in an adjustment described in Subsection [](6)(b), reflect the use of restricted federal or state funds for a cost or activity that is not an allowable cost or activity for the restricted funds.

(7) (a) As used in this Subsection (7):

(i) (A) "Comparable course" means a course that fulfills the same graduation credit requirements as a course for which a student seeks to improve a grade.

(B) "Comparable course" does not include a course a student completes through the packet method.

(ii) "Grade replacement" means credit a student earns by retaking a teacher-led course for a letter grade to improve a previous grade, which:

(A) may raise the student's grade point average if the new grade is higher; and

(B) replaces the lower grade on the student's transcript.

(iii) "Original credit" means credit a student earns through the successful completion of a course for the first time.

(iv) "Packet" means a collection of instructional materials and assessments used to receive credit through the packet method.

(v) "Packet method" means an educational approach where:

(A) a high school student receives a collection of instructional materials from an institution, organization, or LEA;

(B) the high school student works through the materials independently with minimal or no direct instruction from a teacher; and

(C) assessment is primarily based on completion of assignments within the instructional materials.

(vi) "Replacement credit" means a pass-fail credit a student earns for a course the student did not pass or complete, which:

(A) does not affect the student's grade point average; and

(B) allows the student to fulfill high school graduation requirements.

(b) An LEA may award a grade for original credit or replacement credit through the packet method if the packet adheres to the standards prescribed in state board rule and:

(i) the LEA approves the packet for use as an instructional material in accordance with:

(A) Subsection 53G-4-402(27) for a district school; or

(B) Section 53G-5-404 for a charter school; or

(ii) the state board recommends the packet after going through the state instructional materials process described in Title 53E, Chapter 4, Part 4, State Instructional Materials.

(c) An LEA may not use the packet method, or classify a packet as original credit, to improve a previous course grade of a high school student as described in Subsection (7)(d).

(d) A high school student may improve a grade through grade replacement by:

(i) repeating a course one or more times; or

(ii) enrolling in and completing a comparable course that is teacher-led.

(e) The state board shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules or policies that:

(A) establish standards for the use of the packet method to award original credit and replacement credit;

(B) include alignment with core standards the state board establishes under Sections 53E-3-501 and 53E-4-202; and

(C) maintain a comprehensive list of state board approved packets in the state board's Recommended Instructional Materials System on the state board's website; and

(ii) report annually to the Education Interim Committee the number of students in each LEA who receive academic credit through the packet method.

(f) An LEA shall:

(i) assign a distinct course name and number for credit earned through the packet method to easily identify the use of the packet method on a student transcript; and

(ii) track and record the number of packets an LEA uses to award original credit or replacement credit each school year.

Section 3. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118, Public Safety Honoring Heroes Restricted Account -- Creation -- Funding -- Distribution of funds by the commissioner, is repealed July 1, 2024.

(3) Section 53-1-120, Utah Law Enforcement Memorial Support Restricted Account -- Creation -- Funding -- Distribution of funds by the commissioner, is repealed July 1, 2024.

(4) Section 53-2a-303, Statewide mutual aid committee, is repealed October 1, 2024.

(5) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed July 1, 2026.

(6) Section 53-2d-101.1, Contracting authority -- Rulemaking authority, is repealed July 1, 2024.

(7) Section 53-2d-107, Air Ambulance Committee -- Membership -- Duties, is repealed July 1, 2024.

(8) Section 53-2d-302, Trauma system advisory committee, is repealed October 1, 2024.

(9) Section 53-7-109, Firefighter Support Restricted Account, is repealed July 1, 2024.

(10) Section 53-9-104, Board -- Creation-- Qualifications -- Appointments -- Terms -- Immunity, is repealed October 1, 2024.

(11) Section 53-9-105, Powers and duties of the board, is repealed October 1, 2024.

(12) Section 53-9-106, Meetings -- Hearings, is repealed October 1, 2024.

(13) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(14) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

(15) Section 53-25-103, Airport dangerous weapon possession reporting requirements, is repealed December 31, 2031.

(16) Section 53B-8-114, Continuation of previously authorized scholarships, is repealed July 1, 2024.

(17) Section 53B-10-101, Terrel H. Bell Teaching Incentive Loans program -- Eligible students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet requirements -- Duration of incentive loans, is repealed July 1, 2027.

(18) Subsection 53E-3-501(7)(e)(ii), regarding a report on the packet method, is repealed July 1, 2028.

[~~(18)~~](19) Subsection 53F-2-504(6), regarding a report on the Salary Supplement for Highly Needed Educators, is repealed July 1, 2026.

[~~(19)~~](20) Section 53F-2-524, Teacher bonuses for extra assignments, is repealed July 1, 2024.

[~~(20)~~](21) Section 53F-5-221, Management of energy and water use pilot program, is repealed July 1, 2028.

[~~(21)~~](22) Section 53F-5-222, Mentoring and Supporting Teacher Excellence and Refinement Pilot Program, is repealed July 1, 2028.

[~~(22)~~](23) Section 53F-5-223, Stipends for Future Educators Grant Program, is repealed July 1, 2028.

[~~(23)~~](24) Section 53F-9-401, Autism Awareness Restricted Account, is repealed July 1, 2024.

[~~(24)~~](25) Section 53F-9-403, Kiwanis Education Support Fund, is repealed July 1, 2024.

[~~(25)~~](26) Subsection 53G-11-502(1), regarding implementation of the educator evaluation process, is repealed July 1, 2029.

[~~(26)~~](27) Section 53G-11-506, Establishment of educator evaluation program -- Joint committee, is repealed July 1, 2029.

[~~(27)~~](28) Section 53G-11-507, Components of educator evaluation program, is repealed July 1, 2029.

[~~(28)~~](29) Section 53G-11-508, Summative evaluation timelines -- Review of summative evaluations, is repealed July 1, 2029.

[~~(29)~~](30) Section 53G-11-509, Mentor for provisional educator, is repealed July 1, 2029.

[~~(30)~~](31) Section 53G-11-510, State board to describe a framework for the evaluation of educators, is repealed July 1, 2029.

[~~(31)~~](32) Section 53G-11-511, Rulemaking for privacy protection, is repealed July 1, 2029.

[~~(32)~~](33) Subsection 53G-11-520(1), regarding optional alternative educator evaluation processes, is repealed July 1, 2029.

[~~(33)~~](34) Subsection 53G-11-520(2), regarding an exception from educator evaluation process requirements, is repealed July 1, 2029.

Section 4. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 428
S. B. 115
Passed February 27, 2025
Approved March 26, 2025
Effective May 7, 2025

SUBSTANCE USE DISORDER REVISIONS

Chief Sponsor: Jen Plumb
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses substance use disorder screening in state correctional facilities and county jails.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires state correctional facilities and county jails to:
  - • screen inmates for substance use disorders;
  - • report data related to the screenings; and
  - • use the screenings to assist with treatment and programming decisions for inmates; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-8, as last amended by Laws of Utah 2023, Chapters 119, 420
17-22-32, as last amended by Laws of Utah 2024, Chapter 245

ENACTS:

26B-4-901, Utah Code Annotated 1953
26B-4-902, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-8 is amended to read:

17-22-8. Care of prisoners -- Funding of services -- Private contractor.

(1) As used in this section, "medication assisted treatment plan" means a prescription plan to use prescribed medication approved by the Food and Drug Administration, such as buprenorphine, methadone, or naltrexone to treat substance use withdrawal symptoms or an opioid use disorder.

(2) Except as provided in Subsection (7), a sheriff shall:

(a) receive each individual committed to jail by competent authority;

(b) provide each prisoner with necessary food, clothing, and bedding in the manner prescribed by the county legislative body;

(c) provide each prisoner medical care when:

(i) the prisoner's symptoms evidence a serious disease or injury;

(ii) the prisoner's disease or injury is curable or may be substantially alleviated; and

(iii) the potential for harm to the person by reason of delay or the denial of medical care would be substantial;

(d) provide each prisoner, as part of the intake process, with the option of continuing any of the following medically prescribed methods of contraception:

(i) an oral contraceptive;

(ii) an injectable contraceptive;

(iii) a patch;

(iv) a vaginal ring; or

(v) an intrauterine device, if the prisoner was prescribed the intrauterine device because the prisoner experiences serious and persistent adverse effects when using the methods of contraception described in Subsections (2)(d)(i) and (ii); [~~and~~]

(e) (i) within 30 days after an inmate is committed to jail, use an evidence-based screening tool to screen each inmate for substance use disorders; and

(ii) use the results of the screening to assist with providing programming and treatment options for the inmate; and

(f) cooperate with medical personnel to continue a medication assisted treatment plan for an inmate if the inmate was an active client before arrest and commitment.

(3) A sheriff may provide the generic form of a contraceptive described in Subsection (2)(d)(i) or (ii).

(4) A sheriff shall follow the provisions of Section 64-13-46 if a prisoner is pregnant or in postpartum recovery, including the reporting requirements in Subsection 64-13-45(2)(c).

(5) (a) Except as provided in Section 17-22-10 and Subsection (5)(b), the expense incurred in providing the services required by this section to prisoners shall be paid from the county treasury.

(b) The expense incurred in providing the services described in Subsection (2)(d) to prisoners shall be paid by the Department of Health and Human Services.

(6) A medication used for a medication assisted treatment plan under Subsection [~~(2)(e)~~](2)(f):

(a) shall be administered to an inmate in accordance with the inmate's prescription under the direction of the sheriff;

(b) may be paid for by a county; and

(c) may be left or stored at a jail at the discretion of the sheriff.

(7) If the county executive contracts with a private contractor to provide the services required by this section, the sheriff shall provide only those services required of the sheriff by the contract between the county and the private contractor.

Section 2. Section 17-22-32 is amended to read:

17-22-32. County jail reporting requirements.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of a county jail.

(ii) "In-custody death" includes an inmate death that occurs while the inmate is:

(A) being transported for medical care; or

(B) receiving medical care outside of a county jail.

(c) "Inmate" means an individual who is processed or booked into custody or housed in a county jail in the state.

(d) "Opiate" means the same as that term is defined in Section 58-37-2.

(2) Each county jail shall submit a report to the commission before June 15 of each year that includes, for the preceding calendar year:

(a) the average daily inmate population each month;

(b) the number of inmates in the county jail on the last day of each month who identify as each race or ethnicity included in the Standards for Transmitting Race and Ethnicity published by the Untied States Federal Bureau of Investigation;

(c) the number of inmates booked into the county jail;

(d) the number of inmates held in the county jail each month on behalf of each of the following entities:

(i) the Bureau of Indian Affairs;

(ii) a state prison;

(iii) a federal prison;

(iv) the United States Immigration and Customs Enforcement; and

(v) any other entity with which a county jail has entered a contract to house inmates on the entity's behalf;

(e) the number of inmates that are denied pretrial release and held in the custody of the county jail while the inmate awaited final disposition of the inmate's criminal charges;

(f) for each inmate booked into the county jail:

(i) the name of the agency that arrested the inmate;

(ii) the date and time the inmate was booked into and released from the custody of the county jail;

(iii) if the inmate was released from the custody of the county jail, the reason the inmate was released from the custody of the county jail;

(iv) if the inmate was released from the custody of the county jail on a financial condition, whether the financial condition was set by a county sheriff or a court;

(v) the number of days the inmate was held in the custody of the county jail before disposition of the inmate's criminal charges;

(vi) whether the inmate was released from the custody of the county jail before final disposition of the inmate's criminal charges; and

(vii) the state identification number of the inmate;

(g) the number of in-custody deaths that occurred at the county jail;

(h) for each in-custody death:

(i) the name, gender, race, ethnicity, age, and known or suspected medical diagnosis or disability, if any, of the deceased;

(ii) the date, time, and location of death;

(iii) the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and

(iv) a brief description of the circumstances surrounding the death;

(i) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(g);

(j) the county jail's policy for notifying an inmate's next of kin after the inmate's in-custody death;

(k) the county jail policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates;

(ii) that relate to the county jail's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(iii) that relate to screening, assessment, and treatment of an inmate for a substance use or mental health disorder[~~; and~~], including the policies, procedures, and protocols that implement the requirements described in Subsection 17-22-8(2)(e);

(l) (i) the number of inmates whose screening described in Subsection 17-22-8(2)(e) indicated the presence of a substance use disorder; and

(ii) of the inmates whose screening indicated the presence of a substance use disorder, the number of inmates who received medication pursuant to a medication assisted treatment plan, as that term is defined in Section 17-22-8; and

(m) any report the county jail provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) (a) Subsection (2) does not apply to a county jail if the county jail:

(i) collects and stores the data described in Subsection (2); and

(ii) enters into a memorandum of understanding with the commission that allows the commission to access the data described in Subsection (2).

(b) The memorandum of understanding described in Subsection (3)(a)(ii) shall include a provision to protect any information related to an ongoing investigation and comply with all applicable federal and state laws.

(c) If the commission accesses data from a county jail in accordance with Subsection (3)(a), the commission may not release a report prepared from that data, unless:

(i) the commission provides the report for review to:

(A) the county jail; and

(B) any arresting agency that is named in the report; and

(ii) (A) the county jail approves the report for release;

(B) the county jail reviews the report and prepares a response to the report to be published with the report; or

(C) the county jail fails to provide a response to the report within four weeks after the day on which the commission provides the report to the county jail.

(4) The commission shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law;

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Committee before November 1 of each year; and

(d) submit the compilation to the protection and advocacy agency designated by the governor before November 1 of each year.

(5) The commission may not provide access to or use a county jail's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

(6) A report including only the names and causes of death of deceased inmates and the facility in which they were being held in custody shall be made available to the public.

Section 3. Section 26B-4-901 is enacted to read:

PART 9. Inmate Health

26B-4-901. Definitions.

As used in this part:

(1) "Correctional facility" means a facility operated to house inmates in a secure or nonsecure setting:

(a) by the Department of Corrections; or

(b) under a contract with the Department of Corrections.

(2) "Division" means the Division of Correctional Health Services.

(3) "Inmate" means an individual who is:

(a) committed to the custody of the Department of Corrections; and

(b) housed at a correctional facility or at a county jail at the request of the Department of Corrections.

(4) "Medication assisted treatment" means the use of a prescribed medication approved by the Food and Drug Administration, such as buprenorphine, methadone, or naltrexone, to treat substance use withdrawal symptoms or an opioid use disorder.

(5) "Substance use disorder" means the same as that term is defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

Section 4. Section 26B-4-902 is enacted to read:

26B-4-902. Substance use disorder screening.

(1) Within 30 days after an inmate is committed to the custody of the Department of Corrections, the division shall use an evidence-based screening tool to screen the inmate for substance use disorders.

(2) If the screening described in Subsection (1) indicates the presence of a substance use disorder, the division, in coordination with the correctional facility where the inmate is housed, and as appropriate and available, may:

(a) make medication assisted treatment available to the inmate; and

(b) place the inmate in programs designed to assist individuals with a substance use disorder.

(3) Before October 1 each year, the division shall provide a report to the Health and Human Services Interim Committee regarding actions taken pursuant to this section in the preceding fiscal year, including:

(a) the number of inmates who were screened;

(b) the number of inmates whose screening indicated the presence of a substance use disorder; and

(c) of the inmates whose screening indicated the presence of a substance use disorder, the number of inmates who received medication assisted treatment.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 429
S. B. 9
Passed March 5, 2025
Approved March 26, 2025
Effective July 1, 2025

REVENUE BOND AND CAPITAL FACILITIES AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Douglas R. Welton

LONG TITLE

General Description:

This bill enacts provisions relating to 2025 revenue bonds.

Highlighted Provisions:

This bill:

- ► expresses the Legislature's intent relating to the Utah Board of Higher Education's issuance, sale, and delivery of revenue bonds to finance the construction of:
  - • the Huntsman Cancer Institute Vineyard Campus Facility; and
  - • the 800 East Residence Hall project at Utah State University; and
- ► expresses the Legislature's intent relating to the State Building Ownership Authority's issuance of obligations to finance a warehouse facility and club store for the Department of Alcoholic Beverage Services.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

63B-34-101, Utah Code Annotated 1953
63B-34-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63B-34-101 is enacted to read:

CHAPTER 34. 2025 BONDING AND FINANCING AUTHORIZATIONS

PART 1. 2025 Bonding and Financing Authorizations

63B-34-101. Revenue bond authorizations -- Utah Board of Higher Education.

(1) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Huntsman Cancer Institute Vineyard Campus Facility;

(b) the University of Utah use clinical revenues and other non-state revenues of the University of Utah Health Sciences as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) may not exceed $65,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Huntsman Cancer Institute Vineyard Campus Facility subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the 800 East Residence Hall project;

(b) Utah State University use student housing rental fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (2);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) may not exceed $100,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the 800 East Residence Hall project subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request additional state funds for operation and maintenance costs or capital improvements.

Section 2. Section 63B-34-102 is enacted to read:

63B-34-102. Revenue bond authorizations -- State Building Ownership Authority.

The Legislature intends that:

(1) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $85,000,000 for a warehouse facility and club store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(2) the Department of Alcoholic Beverage Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this section;

(3) the Department of Alcoholic Beverage Services may request operation and maintenance funding from sales revenues; and

(4) before the State Building Ownership Authority takes any action under this section, the Department of Alcoholic Beverage Services, the Division of Facilities and Construction Management, and the state treasurer jointly provide to the Executive Appropriations Committee and the Governor's Office of Planning and Budget a report that describes the plans related to the potential action, including facility specifications, construction cost, operations and maintenance projections, and expected terms of finance.

Section 3. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 430
S. B. 120
Passed February 20, 2025
Approved March 26, 2025
Effective May 7, 2025

CONTROLLED SUBSTANCES MODIFICATIONS

Chief Sponsor: Jen Plumb
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses gabapentin.

Highlighted Provisions:

This bill:

► with respect to gabapentin, exempts veterinarians from the provisions of the Utah Controlled Substances Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

58-37-6.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-37-6.1 is enacted to read:

58-37-6.1. Veterinary exemption for gabapentin.

A veterinarian licensed under Chapter 28, Veterinary Practice Act, who is prescribing, administering, or dispensing gabapentin within the veterinarian's scope of practice, is exempt from the requirements of this chapter.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 431
H. B. 195
Passed March 5, 2025
Approved March 26, 2025
Effective May 7, 2025

FIREARM RETENTION AMENDMENTS

Chief Sponsor: Matt MacPherson
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill address the retention in evidence of seized firearms.

Highlighted Provisions:

This bill:

- ► prohibits a plea in abeyance from allowing a condition of the plea that the defendant forfeits the defendant's firearms in certain circumstances;
- ► requires firearms seized by law enforcement from an individual as a result of the individual committing a criminal offense to be returned to the individual if the individual may lawfully possess the firearm and is not charged with a crime that would make the individual a restricted person;
- ► contains a coordination clause to coordinate technical changes between this bill, H.B. 21, Criminal Code Recodification and Cross References, and H.B. 133, Dangerous Weapons Amendments; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-10-529, as last amended by Laws of Utah 2024, Chapter 332
77-2a-2, as last amended by Laws of Utah 2024, Chapter 208
77-11a-402, as last amended by Laws of Utah 2024, Chapter 332

Utah Code Sections Affected by Coordination Clause:

AMENDS:

77-11a-402, as last amended by Laws of Utah 2024, Chapter 332

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-529 is amended to read:

76-10-529. Possession of firearms, other dangerous weapons, or explosives in airport secure areas prohibited -- Punishment limitations -- Reporting requirement.

(1) (a) As used in this section:

(i) "Airport authority" has the same meaning as defined in Section 72-10-102.

(ii) "Explosive" is the same as defined for "explosive, chemical, or incendiary device" in Section 76-10-306.

(iii) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(b) Terms defined in Sections 76-1-101.5 and 76-10-501 apply to this section.

(2) (a) Within a secure area of an airport established pursuant to this section, an actor, including an actor licensed to carry a concealed firearm under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is guilty of:

(i) a class A misdemeanor if the actor knowingly or intentionally possesses a firearm or other dangerous weapon;

(ii) subject to Subsection (5), an infraction if the actor recklessly or with criminal negligence possesses a firearm or other dangerous weapon; or

(iii) a violation of Section 76-10-306 if the actor transports, possesses, distributes, or sells an explosive, chemical, or incendiary device.

(b) Subsection (2)(a) does not apply to:

(i) individuals exempted under Section 76-10-523; and

(ii) a member of the state or federal military forces while engaged in the performance of the member's official duties.

(3) An airport authority, county, municipality, or other entity regulating an airport may:

(a) establish a secure area located beyond the main area where the public generally buys tickets, checks and retrieves luggage; and

(b) use reasonable means, including mechanical, electronic, x-ray, or another device, to detect firearms, other dangerous weapons, or explosives concealed in baggage or upon the person of an individual attempting to enter the secure area.

(4) At least one notice shall be prominently displayed at each entrance to a secure area in which a firearm, other dangerous weapon,

or explosive is restricted.

(5) (a) An actor who violates Subsection (2)(a)(ii) on a first offense may receive a written warning for the offense and may not receive a citation or any other form of punishment.

(b) An actor who violates Subsection (2)(a)(ii) on a second or subsequent offense may receive a written warning or a citation.

(6) (a) Except as provided in Subsection (6)(d), if a law enforcement officer issues a citation to an actor for an infraction as a result of the actor's conduct described in Subsection (2)(a)(ii), or provides an oral or written warning for that conduct, the law enforcement officer shall:

(i) if the law enforcement officer is able to confirm that the actor may lawfully possess the firearm or other dangerous weapon, allow the actor, at the actor's option, to:

(A) temporarily surrender custody of the firearm or other dangerous weapon into the custody of the law enforcement agency so that the firearm or other dangerous weapon may be retrieved by the actor at a later date; or

(B) exit the secure area of the airport with the firearm or other dangerous weapon; or

(ii) if the law enforcement officer is unable to confirm that the actor may lawfully possess the firearm or other dangerous weapon, or the airport authority under Subsection (6)(d) prohibits the procedure described in Subsection (6)(a)(i), take temporary custody of the firearm or other dangerous weapon so that the firearm or other dangerous weapon may be retrieved by the actor at a later date if legally permitted to do so.

(b) If a law enforcement officer takes temporary custody of a firearm or other dangerous weapon under Subsection (6)(a):

(i) at the time the firearm or other dangerous weapon is obtained from the actor, the law enforcement officer, or another law enforcement officer, or an employee who works in the secure area of the airport, shall provide the actor with written instructions on how, when, and where the actor may retrieve the actor's firearm or other dangerous weapon; and

(ii) within three business days from the time when the law enforcement officer receives the firearm or other dangerous weapon, the law enforcement agency shall determine whether the actor is legally permitted to possess the firearm or other dangerous weapon, and if so, ensure that the firearm or other dangerous weapon is available for the actor to retrieve.

(c) An unclaimed firearm or other dangerous weapon that is surrendered into the custody of a law enforcement agency under this Subsection (6) may be disposed of pursuant to Section 77-11d-105, disposition of unclaimed property.

(d) An airport authority may implement a policy that prohibits the law enforcement agency with jurisdiction over the airport from utilizing the procedure described in Subsection (6)(a)(i).

(7) (a) An actor's firearm that is confiscated based on a violation of Subsection (2)(a)(i) shall be returned to the actor in accordance with Subsection [~~77-11a-402(1)(b) -~~]77-11a-402(2).

(b) In accordance with Subsection 77-11b-102(5), a firearm seized under Subsection (2)(a)(i) is not subject to forfeiture if the actor may lawfully possess the firearm.

(c) In a prosecution brought under this section, a prosecutor may not condition a plea on the forfeiture of a firearm.

(8) An airport authority, county, municipality, or other entity regulating an airport or with local jurisdiction over an airport may not:

(a) charge, cite, or prosecute an actor with a different offense under the Utah Code, local ordinance, or another state or local law or regulation for conduct described in Subsection (2)(a)(ii);

(b) assess a civil penalty for conduct described in Subsection (2)(a)(i) or (ii); or

(c) enact a regulation, ordinance, or law covering conduct described in Subsection (2).

(9) A law enforcement agency that issues a written warning, citation, or referral for prosecution under this section shall record and report the information as required under Section 53-25-103.

Section 2. Section 77-2a-2 is amended to read:

77-2a-2. Plea in abeyance agreement -- Negotiation -- Contents -- Terms of agreement -- Waiver of time for sentencing.

(1) At any time after acceptance of a plea of guilty or no contest but before entry of judgment of conviction and imposition of sentence, the court may, upon motion of both the prosecuting attorney and the defendant, hold the plea in abeyance and not enter judgment of conviction against the defendant nor impose sentence upon the defendant within the time periods contained in Rule 22(a), Utah Rules of Criminal Procedure.

(2) A defendant shall be represented by counsel during negotiations for a plea in abeyance and at the time of acknowledgment and affirmation of any plea in abeyance agreement unless the defendant knowingly and intelligently waives the defendant's right to counsel.

(3) A defendant has the right to be represented by counsel at any court hearing relating to a plea in abeyance agreement.

(4) (a) Any plea in abeyance agreement entered into between the prosecution and the defendant and approved by the court shall, subject to Subsection (7), include a full, detailed recitation of the requirements and conditions agreed to by the defendant and the reason for requesting the court to hold the plea in abeyance.

(b) If the plea is to a felony or any combination of misdemeanors and felonies, the agreement shall be in writing and shall, before acceptance by the court, be executed by the prosecuting attorney, the defendant, and the defendant's counsel in the presence of the court.

(5) (a) Except as provided in Subsection (5)(b), a plea may not be held in abeyance for a period longer than 18 months if the plea is to any class of misdemeanor or longer than three years if the plea is to any degree of felony or to any combination of misdemeanors and felonies.

(b) (i) For a plea in abeyance agreement that the Department of Corrections supervises, the plea may not be held in abeyance for a period longer than the initial term of probation required under the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, if the initial term of probation is shorter than the period required under Subsection (5)(a).

(ii) Subsection (5)(b)(i) does not:

(A) apply to a plea that is held in abeyance in a drug court created under Title 78A, Chapter 5, Part 2, Drug Court, or a problem solving court approved by the Judicial Council; or

(B) prohibit court supervision of a plea in abeyance agreement after the day on which the Department of Corrections supervision described in Subsection (5)(b)(i) ends and before the day on which the plea in abeyance agreement ends.

(6) Notwithstanding Subsection (5), a plea may be held in abeyance for up to two years if the plea is to any class of misdemeanor and the plea in abeyance agreement includes a condition that the defendant participate in a problem solving court approved by the Judicial Council.

(7) A plea in abeyance agreement may not:

(a) []be approved unless the defendant, before the court, and any written agreement, knowingly and intelligently waives time for sentencing as designated in Rule 22(a), Utah Rules of Criminal Procedure; or

(b) notwithstanding any other provision of law, include as part of the requirements and conditions agreed to by the defendant that the defendant will forfeit a firearm owned by the defendant if the offense the defendant will plea to is not an offense that would make the defendant a restricted person under Section 76-10-503 or federal law.

Section 3. Section 77-11a-402 is amended to read:

77-11a-402. Disposition of seized property and contraband -- Return of seized property.

(1) [~~(a)~~] Except as provided in Subsection [~~(1)(b)~~](2), if a prosecuting attorney determines that seized property no longer needs to be retained as evidence under Chapter 11c, Retention of Evidence, the prosecuting attorney may:

[~~(i)~~](a) petition the court to apply the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;

[~~(ii)~~](b) petition the court for an order transferring ownership of weapons to the agency with custody for the agency's use and disposal in accordance with Section 77-11a-403if the owner:

[~~(A)~~](i) is the individual who committed the offense for which the weapon was seized; or

[~~(B)~~](ii) may not lawfully possess the weapon; or

[~~(iii)~~](c) notify the agency with custody of the property or contraband that:

[~~(A)~~](i) the property may be returned to the owner in accordance with Section 77-11a-301 if the owner may lawfully possess the property; or

[~~(B)~~](ii) the contraband may be disposed of or destroyed.

[~~(b)~~](2) (a) If [~~a~~]an individual is charged with a crime that would not make the individual a restricted person under Section 76-10-503 or federal law if convicted and the prosecuting attorney determines that [~~a~~]any firearm seized from [~~an~~]the individual as a result of [~~an~~]the offense [~~committed under Subsection 76-10-529(2)(a)(i)~~]allegedly committed by the individual no longer needs to be retained for court proceedings, the prosecuting attorney shall notify the agency with custody of the firearm that the [~~property~~]firearm shall be returned to the individual if the individual may lawfully possess the firearm.

(b) This Subsection (2) does not prohibit a law enforcement agency from performing a background check on an individual described in Subsection (2)(a) to determine if the individual may lawfully possess firearms.

[~~(2)~~](3) Before returning a firearm to an individual, the agency returning the firearm shall confirm, through the Bureau of Criminal Identification, that the individual is eligible to lawfully possess and receive firearms.

[~~(3)~~](4) (a) Except as provided in Subsection [~~(3)(b)~~](4)(b), if the agency is unable to locate the owner of the property or the owner is not entitled to lawfully possess the property, the agency may:

(i) apply the property to a public interest use;

(ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(iii) destroy the property if the property is unfit for a public interest use or for sale.

(b) If the property described in Subsection [~~(3)(a)~~](4)(a) is a firearm, the agency shall dispose of the firearm in accordance with Section 77-11a-403.

[~~(4)~~](5) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:

(a) permission to apply the property or the proceeds to public interest use; and

(b) the designation and approval of the public interest use of the property or the proceeds.

[~~(5)~~](6) If a peace officer seizes property that at the time of seizure is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

Section 4. Effective date.

This bill takes effect on May 7, 2025.

Section 5. Coordinating H.B. 195 with H.B. 128 and H.B. 21.

If H.B. 195, Firearm Retention Amendments, passes and becomes law, and if either or both H.B. 21, Criminal Code Recodification and Cross References, or H.B. 128, Dangerous Weapons Recodification and Cross References, also pass and become law, the amendments to Section 77-11a-402 in H.B. 195 supersede the amendments to Section 77-11a-402 in H.B. 128 and H.B. 21.

CHAPTER 432
S. B. 13
Passed February 4, 2025
Approved March 26, 2025
Effective January 1, 2026

PROPERTY TAX REIMBURSEMENT AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Joseph Elison

LONG TITLE

General Description:

This bill provides for reimbursement of property taxes.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► allows certain rental businesses to charge a fee on the rental of heavy equipment for reimbursement of property taxes (recovery fee);
- ► requires recovery fees to be separately itemized and clarifies that recovery fees are not subject to sales and use tax;
- ► prohibits a rental business from charging a recovery fee to a governmental entity;
- ► requires the State Tax Commission to coordinate with county assessors and the Multicounty Appraisal Trust to conduct a study on the recovery fee rate and provide a report with recommendations to the Legislature; and
- ► requires county assessors and the Multicounty Appraisal Trust to share requested information with the State Tax Commission for purposes of conducting the study.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

59-2-2001, Utah Code Annotated 1953
59-2-2002, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-2001 is enacted to read:

PART 20. Recovery Fee for Rental of Heavy Equipment

59-2-2001. Definitions.

As used in this part:

(1) (a) "Heavy equipment" means tangible personal property that:

(i) is owned by a qualified rental business for purposes of renting;

(ii) is utilized or designed for construction, earthmoving, or industrial operations; and

(iii) is portable and transferable to the location in which the heavy equipment is used.

(b) "Heavy equipment" includes:

(i) lift equipment;

(ii) material handling equipment;

(iii) cranes;

(iv) pumps;

(v) generators;

(vi) compressors;

(vii) portable power equipment;

(viii) heating, ventilation, and air conditioning equipment;

(ix) portable worksite offices and containers;

(x) tank trailers; and

(xi) self-propelled equipment.

(2) "Multicounty Appraisal Trust" means the same as that term is defined in Section 59-2-1601.

(3) "Qualified rental business" means a business entity located in this state:

(a) that is classified within one of the following NAICS codes of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Code 532310, General Rental Centers; or

(ii) NAICS Code 532412, Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing; and

(b) for which 51% or more of the business entity's total annual revenue is derived from the rental of heavy equipment.

(4) "Recovery fee" means the fee authorized in Subsection 59-2-2002(1).

(5) "Rental" means the same as the terms "lease" or "rental" are defined in Section 59-12-102.

(6) (a) "Rental charge" means the amount charged to a renter by a qualified rental business for the rental of heavy equipment.

(b) "Rental charge" does not include any additional charges separate from the actual cost of the rental transaction, including costs required for delivery, insurance, or a waiver of liability.

(7) "Renter" means the person to which a qualified rental business rents heavy equipment.

Section 2. Section 59-2-2002 is enacted to read:

59-2-2002. Recovery fee for rental of heavy equipment -- Commission study and report.

(1) A qualified rental business may charge to a renter a fee in an amount equal to 1.5% of the rental charge for each item of heavy equipment rented in this state.

(2) A recovery fee under Subsection (1):

(a) shall be separately stated on the invoice or receipt for the rental transaction; and

(b) is not subject to a sales and use tax under Chapter 12, Sales and Use Tax Act.

(3) A qualified rental business may not charge a recovery fee to a renter that is a governmental entity as defined in Section 59-2-511.

(4) Any amount of recovery fees collected by a qualified rental business during a calendar year shall be used as reimbursement for property taxes paid by the qualified rental business on heavy equipment in the same calendar year.

(5) (a) The commission shall:

(i) in coordination with county assessors and the Multicounty Appraisal Trust, conduct a study to determine the need for adjustment to the rate authorized under Subsection (1) for purposes of property tax reimbursement; and

(ii) on or before September 30, 2027, provide to the Revenue and Taxation Interim Committee an electronic report of the results of the study required under Subsection (5)(a)(i), including any recommendations, based on information received by the commission, for legislative changes to the rate authorized under Subsection (1).

(b) A county assessor or the Multicounty Appraisal Trust shall, upon request by the commission, provide to the commission any information necessary to complete the study required under Subsection (5)(a)(i).

Section 3. Effective date.

This bill takes effect on January 1, 2026.

CHAPTER 433
H. B. 204
Passed March 4, 2025
Approved March 26, 2025
Effective July 1, 2025

STIPENDS FOR FUTURE EDUCATORS GRANT PROGRAM AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill amends provisions regarding the Stipends for Future Educators Grant Program (program).

Highlighted Provisions:

This bill:

- ► provides that a student teacher is eligible for the program regardless of the institution at which the student teacher is enrolled;
- ► limits the availability of program funds if the student teacher receives funding from another state program;
- ► provides for one-time funding from a certain account in certain circumstances;
- ► requires the State Board of Education to annually report the anticipated cost of certain one-time appropriations to the Office of the Legislative Fiscal Analyst; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-5-223, as enacted by Laws of Utah 2024, Chapter 449
53F-9-204, as last amended by Laws of Utah 2024, Chapter 322

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-5-223 is amended to read:
53F-5-223. Stipends for Future Educators Grant Program.

(1) As used in this section:

(a) "Eligible student teacher" means a student teacher who:

(i) is enrolled in an educator preparation program that leads to a [~~Utah~~]professional level educator license[~~; and~~], regardless of whether the student teacher is enrolled at a state institution described in Section 53B-1-102, or another public or private institution within the state or another state;

(ii) works at an LEA within the state as a full-time student teacher to meet the educator preparation program requirements[.]; and

(iii) signs an affidavit demonstrating the student teacher's intent to work in Utah and pursue a Utah professional level educator license.

(b) "License" means the same as that term is defined in Section 53E-6-102.

(c) "Program" means the Stipends for Future Educators Grant Program described in Subsection (2).

(2) This section creates the Stipends for Future Educators Grant Program.

(3) Subject to legislative appropriations, the state board shall award a grant to an eligible student teacher who:

(a) submits an application to the state board;

(b) is enrolled and in good standing in an educator preparation program leading to a Utah professional level educator license;

(c) seeks to obtain the student teacher's first Utah professional level educator license;

(d) has not received a grant award under the program or funding from another state program regarding the student teaching; and

(e) does not receive compensation during the student teaching experience from:

(i) an LEA, unless the eligible student teacher works as a substitute teacher or in an extracurricular activity;

(ii) a work service program offered through the Department of Workforce Services; or

(iii) the Grow Your Own Educator Pipeline Program as described in Section 53F-5-218.

(4) The state board shall determine the amount of the grant award.

(5) The state board may, subject to legislative appropriations and the number of applicants:

(a) reduce the amount of the grant award; and

(b) distribute grant awards on a pro rata basis.

Section 2. Section 53F-9-204 is amended to read:
53F-9-204. Public Education Economic Stabilization Restricted Account.

(1) There is created within the Uniform School Fund a restricted account known as the "Public Education Economic Stabilization Restricted Account."

(2) (a) Except as provided in Subsection (2)(b), the account shall be funded from the following revenue sources:

(i) 15% of the difference between, as determined by the Office of the Legislative Fiscal Analyst:

(A) the estimated amount of ongoing Income Tax Fund and Uniform School Fund revenue available for the Legislature to appropriate for the next fiscal year; and

(B) the amount of ongoing appropriations from the Income Tax Fund and Uniform School Fund in the current fiscal year; and

(ii) other appropriations as the Legislature may designate.

(b) If the appropriation described in Subsection (2)(a) would cause the ongoing appropriations to the account to exceed 11% of Uniform School Fund appropriations described in Section 53F-9-201.1 for the same fiscal year, the Legislature shall appropriate only those funds necessary to ensure that the ongoing appropriations to the account equal 11% of Uniform School Fund appropriations for that fiscal year.

(3) Subject to the availability of ongoing appropriations to the account, in accordance with Utah Constitution, Article X, Section 5, Subsection (4), the ongoing appropriation to the account shall be used to fund:

(a) except for a year described in Subsection (3)(b), one-time appropriations to the public education system; and

(b) the Minimum School Program for a year in which Income Tax Fund revenue and Uniform School Fund revenue are insufficient to fund:

(i) ongoing appropriations to the public education system; and

(ii) enrollment growth and inflation estimates, as defined in Section 53F-9-201.1.

(4) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(5) On or before December 31, 2023, and every three years thereafter, the Office of the Legislative Fiscal Analyst shall:

(a) review the percentages described in Subsections (2)(a)(i) and (2)(b); and

(b) recommend to the Executive Appropriations Subcommittee any changes based on the review described in Subsection (5)(a).

(6) In preparing budget bills for a given fiscal year, the Executive Appropriations Committee shall make the one-time appropriations described in Subsection (3)(a) by appropriating at least the lesser of 10% of the total amount of the one-time appropriations [~~;~~]or:

(a) the cost of providing 32 paid professional hours for teachers in accordance with Section 53F-7-203; [~~and~~]

(b) the amount to make the distribution required under Section 53F-2-527[~~.~~]; and

(c) the cost of the Stipends for Future Educators Grant Program described in Section 53F-5-223.

(7) No later than October 15 of each year, the state board shall report to the Office of the Legislative Fiscal Analyst an estimated cost for each of the one-time appropriations described in Subsection (6).

Section 3. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 434
S. B. 133
Passed March 6, 2025
Approved March 26, 2025
Effective July 1, 2025

METAL PURCHASE AND THEFT AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill concerns the purchase and theft of metal including catalytic converters.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► clarifies language concerning catalytic converter purchases in the Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- ► creates the criminal offense of metal or catalytic converter theft;
- ► removes penalty provisions concerning metal or catalytic converter theft from certain generally applicable criminal theft statutes due to the creation of the metal or catalytic converter theft offense;
- ► updates industry definition for metal regulation requirements and offenses;
- ► adds the new metal or catalytic converter theft offense to the offenses concerning pattern of unlawful activity; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-32a-104.7, as enacted by Laws of Utah 2022, Chapter 201
76-6-404, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-405, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-406, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-602, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-1402, as last amended by Laws of Utah 2015, Chapter 108
76-10-1602, as last amended by Laws of Utah 2024, Chapter 96
78B-3-108, as last amended by Laws of Utah 2023, Chapter 111

ENACTS:

76-6-415, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-32a-104.7 is amended to read:

13-32a-104.7. Database information from catalytic converter purchasers -- Penalties.

(1) As soon as practicable, but no later than January 1, 2023, a catalytic converter purchaser shall document information for each catalytic converter purchase as required under this section and upload the information to the central database under Section 13-32a-106.

(2) A catalytic converter purchaser shall document the following information regarding a catalytic converter purchase:

(a) the date and time of the catalytic converter purchase;

(b) the following information regarding the individual selling the catalytic converter:

(i) the individual's:

(A) full name and date of birth as they appear on the individual's identification;

(B) residence address;

(C) telephone number; and

(D) signature on a certificate stating that the individual has the legal right to sell the catalytic converter;

(ii) the type of identification the individual presents under Subsection (2)(b)(i)(A)and the unique number on the identification;

(iii) a color digital photograph or still video of the individual taken at the time of the sale, or a clearly legible photocopy of the individual's identification; and

(iv) except as provided in Subsection (3), an electronic or tangible legible fingerprint of the individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the individual with a notation identifying the finger fingerprinted and the

reason why the right index fingerprint is unavailable;

(c) the amount paid for the catalytic converter;

(d) the full name of the individual conducting the purchase on behalf of the catalytic converter purchaser or the initials or unique identifying employee number, if the catalytic converter purchaser maintains a record of the initials or unique identifying employee number of the individual;

(e) an accurate description of the catalytic converter, with available identifying marks, including:

(i) if available, the name, brand name, number, serial number, model number, manufacturer information, and size of the catalytic converter;

(ii) any marks of identification or indicia of ownership on the catalytic converter;

(iii) the weight of the catalytic converter, if the payment is based on weight; and

(iv) other unique identifying characteristics of the catalytic converter; and

(f) a color, digital photograph of the catalytic converter.

(3) If the individual selling a catalytic converter to the catalytic converter purchaser in a catalytic converter purchase previously has sold one or more catalytic converters to the catalytic converter purchaser, the catalytic converter purchaser is not required to obtain the fingerprint under Subsection (2)(b)(iv).

(4) A catalytic converter purchaser may not accept a catalytic converter if, upon inspection, it is apparent that the serial number or identifying characteristics have been intentionally defaced on the catalytic converter.

(5) The division shall establish standards and criteria for fingerprint legibility under Subsection (2)(b)(iv) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

(7) A dealer, as defined in Section 76-6-1402, that [~~purchases~~]makes a catalytic converter purchase under this section shall comply with Title 76, Chapter 6, Part 14, Regulation of Metal Dealers.

Section 2. Section 76-6-404 is amended to read:

76-6-404. Theft -- Elements.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft if the actor obtains or exercises unauthorized control over another person's property with a purpose to deprive the person of the person's property.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

[~~(ii) the property is:~~]

[~~(A) a catalytic converter as defined under Section 76-6-1402; or~~]

[~~(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;~~]

[~~(iii)~~](ii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection [~~(3)(b)(iii)(A)~~](3)(b)(ii)(A) or (B);

[~~(iv)~~](iii) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

[~~(v)~~](iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections [~~(3)(b)(iii)(A) through (3)(b)(iii)(C)~~](3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections [~~(3)(b)(iii)(A) through (3)(b)(iii)(C)~~](3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 3. Section 76-6-405 is amended to read:

76-6-405. Theft by deception.

(1) (a) As used in this section, "puffing" means an exaggerated commendation of wares or worth in a communication addressed to an

individual, group, or the public.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits theft by deception if the actor obtains or exercises control over property of another person:

(i) by deception; and

(ii) with a purpose to deprive the other person of property.

(b) The deception described in Subsection (2)(a)(i) and the deprivation described in Subsection (2)(a)(ii) may occur at separate times.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000; or

(ii) property stolen is a firearm or an operable motor vehicle;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

[~~(ii) the property:~~]

[~~(A) is a catalytic converter as defined under Section 76-6-1402; or~~]

[~~(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;~~]

[~~(iii)~~](ii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection [~~(3)(b)(iii)(A) or (B)~~](3)(b)(ii)(A) or (B);

[~~(iv)~~](iii) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

[~~(v)~~](iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections [~~(3)(b)(iii)(A) through (3)(b)(iii)(C)~~](3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections [~~(3)(b)(iii)(A) through (3)(b)(iii)(C)~~](3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

(4) Theft by deception does not occur when there is only:

(a) falsity as to matters having no pecuniary significance; or

(b) puffing by statements unlikely to deceive an ordinary person in the group addressed.

Section 4. Section 76-6-406 is amended to read:

76-6-406. Theft by extortion.

(1) (a) As used in this section, extortion occurs when an actor threatens to:

(i) cause physical harm in the future to the person threatened, to any other person, or to property at any time;

(ii) subject the person threatened or any other person to physical confinement or restraint;

(iii) engage in other conduct constituting a crime;

(iv) accuse any person of a crime or expose any person to hatred, contempt, or ridicule;

(v) reveal any information sought to be concealed by the person threatened;

(vi) testify, provide information, or withhold testimony or information with respect to a person's legal claim or defense;

(vii) take action as an official against anyone or anything, or withhold official action, or cause such action or withholding;

(viii) bring about or continue a strike, boycott, or other similar collective action to obtain property that is not demanded or received for the benefit of the group that the actor purports to represent; or

(ix) do any other act which would not in itself substantially benefit the actor but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft by extortion if the actor obtains or exercises control over the property of another person by extortion and with a purpose to deprive the person of the person's property.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds $5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

[~~(ii) the property is:~~]

[~~(A) a catalytic converter as defined under Section 76-6-1402; or~~]

[~~(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;~~]

[~~(iii)~~](ii) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection [~~(3)(b)(iii)(A) or (B)~~](3)(b)(ii)(A) or (B);

[~~(iv)~~](iii) (A) the value of property is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

[~~(v)~~](iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections [~~(3)(b)(iii)(A) through (3)(b)(iii)(C)~~](3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections [~~(3)(b)(iii)(A) through (3)(b)(iii)(C)~~](3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

(4) (a) A person who is adversely impacted by the conduct prohibited in Subsection (2)may bring a civil action for equitable relief and damages.

(b) In accordance with Section 78B-2-305, a person who brings an action under Subsection (4)(a) shall commence the action within three years after the day on which the cause of action arises.

Section 5. Section 76-6-415 is enacted to read:

76-6-415. Metal or catalytic converter theft.

(1) (a) As used in this section:

(i) "Catalytic converter" means the same as that term is defined in Section 76-6-1402.

(ii) "Ferrous metal" means the same as that term is defined in Section 76-6-1402.

(iii) (A) "Metal" means nonferrous metal, ferrous metal, or regulated metal.

(B) "Metal" includes suspect metal items.

(C) "Metal" does not include jewelry.

(iv) "Nonferrous metal" means the same as that term is defined in Section 76-6-1402.

(v) "Regulated metal" means the same as that term is defined in Section 76-6-1402.

(vi) "Suspect metal items" means the same as that term is defined in Section 76-6-1402.

(b) Terms defined in Sections 76-1-101.5 and 76-6-401 apply to this section.

(2) An actor commits metal or catalytic converter theft if the actor obtains or exercises unauthorized control over another person's metal or catalytic converter with a purpose to deprive the person of the person's metal or catalytic converter.

(3) A violation of Subsection (2) is:

(a) a second degree felony if:

(i) the value of the metal is or exceeds $5,000; or

(ii) the metal is stolen from the person of another;

(b) a third degree felony if:

(i) the value of the property is or exceeds $1,500 but is less than $5,000;

(ii) the property is:

(A) a catalytic converter; or

(B) 25 pounds or more of a suspect metal item if the value is less than $5,000 and the suspect metal item is made of or contains aluminum or copper and is not a lead battery;

(iii) the value of the metal is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

(iv) (A) the value of the metal is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the actor has committed any theft within the past five years; and

(C) the actor has received written notice from the merchant prohibiting the actor from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the metal stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of the metal is less than $500;

(B) the theft occurs on a property where the actor has committed any theft within the past five years; and

(C) the actor has received written notice from the merchant prohibiting the actor from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the metal stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 6. Section 76-6-602 is amended to read:

76-6-602. Retail theft.

(1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.

(2) An actor commits retail theft if the actor knowingly:

(a) takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment with the intention of:

(i) retaining the merchandise; or

(ii) depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of the merchandise;

(b) (i) alters, transfers, or removes any label, price tag, marking, indicia of value, or any other markings which aid in determining value of any merchandise displayed, held, stored, or offered for sale, in a retail mercantile establishment; and

(ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of the merchandise;

(c) transfers any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment from the container in or on which the merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of the merchandise;

(d) under-rings with the intention of depriving the merchant of the retail value of the merchandise; or

(e) removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use, or benefit of the shopping cart.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the merchandise or shopping cart is or exceeds $5,000;

(ii) merchandise stolen is a firearm or an operable motor vehicle; or

(b) a third degree felony if:

(i) the value of the merchandise is or exceeds $1,500 but is less than $5,000;

[~~(ii) the merchandise is:~~]

[~~(A) a catalytic converter as defined under Section 76-6-1402; or~~]

[~~(B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than $5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;~~]

[~~(iii)~~](ii) the value of the merchandise or shopping cart is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection [~~(3)(b)(iii)(A) or (B)~~](3)(b)(ii)(A) or (B);

[~~(iv)~~](iii) (A) the value of merchandise or shopping cart is or exceeds $500 but is less than $1,500;

(B) the theft occurs in a retail mercantile establishment or on the premises of a retail mercantile establishment where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or

[~~(v)~~](iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections [~~(3)(b)(iii)(A) through (3)(b)(iii)(C)~~](3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

(i) the value of the merchandise or shopping cart stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of merchandise or shopping cart is less than $500;

(B) the theft occurs in a retail mercantile establishment or premises of a retail mercantile establishment where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections [~~(3)(b)(iii)(A) through (3)(b)(iii)(C)~~](3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the merchandise or shopping cart stolen is less than $500 and the theft is not an offense under Subsection (3)(c).

Section 7. Section 76-6-1402 is amended to read:

76-6-1402. Definitions.

As used in this part:

(1) "Catalytic converter" means a motor vehicle exhaust system component that reduces vehicle emissions by breaking down harmful exhaust emissions.

(2) "Dealer" means:

(a) a scrap metal processor or secondary metals dealer or recycler, but does not include:

(i) junk dealers as defined in Section 76-6-1402;

(ii) solid waste management facilities as defined in Section 19-6-502; or

(iii) the following businesses that are authorized to accept delivery of used lead batteries for recycling under Sections 19-6-603, 19-6-604, and 19-6-605:

(A) retailers;

(B) wholesalers;

(C) battery manufacturers; and

(D) secondary lead smelters.

(b) a metals refiner.

(3) "Ferrous metal" means a metal that contains significant quantities of iron or steel.

(4) "Identification" means a form of positive identification issued by a state of the United States or the United States federal government that:

(a) contains a numerical identifier and a photograph of the person identified;

(b) provides the date of birth of the person identified; and

(c) includes a state identification card, a state driver license, a United States military identification card, or a United States passport.

(5) "Junk dealer" means all persons, firms, or corporations engaged in the business of purchasing or selling secondhand or castoff material, including ropes, cordage, bottles, bagging, rags, rubber, paper, and other like materials, but not including regulated metal.

(6) "Local law enforcement agency" means the law enforcement agency that has jurisdiction over the area where the dealer's business is located.

(7) "Metals refiner" means an individual or business that refines or melts any regulated metal, but does not include an individual or business that primarily uses ore, concentrate, or other primary materials in refining, melting, or producing any regulated metal.

(8) "Nonferrous metal":

(a) means a metal that does not contain significant quantities of iron or steel; and

(b) includes copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

(9) (a) "Regulated metal" means any item composed primarily of nonferrous metal, except as provided in Subsection (9)(c).

(b) "Regulated metal" includes:

(i) aluminum, brass, copper, lead, chromium, tin, nickel, or alloys of these metals, except under Subsection (9)(c), and lead that is a part of an automotive or industrial lead battery;

(ii) property that is a regulated metal and that is owned by, and also identified by marking or other means as the property of:

(A) a telephone, cable, electric, water, or other utility; or

(B) a railroad company;

(iii) unused and undamaged building construction materials made of metal or alloy, including:

(A) copper pipe, tubing, or wiring; and

(B) aluminum wire, siding, downspouts, or gutters;

(iv) oil well rigs, including any part of the rig;

(v) nonferrous materials, stainless steel, and nickel; and

(vi) irrigation pipe.

(c) "Regulated metal" does not include:

(i) ferrous metal, except as provided in Subsection (9)(b)(ii) or (iv);

(ii) household-generated recyclable materials;

(iii) items composed wholly of light iron or sheet steel;

(iv) aluminum beverage containers; or

(v) containers used solely for containing food.

(10) "Scrap metal processor" means any person:

(a) who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel, or nonferrous scrap into

prepared grades; and

(b) whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.

(11) "Secondary metals dealer or recycler" means any person who:

(a) is engaged in the business of purchasing, collecting, or soliciting regulated metal; or

(b) operates or maintains a facility where regulated metal is purchased or kept for shipment, sale, transfer, or salvage.

(12) "Suspect metal items" are the following items made of regulated metal:

(a) manhole covers and sewer grates;

(b) gas meters and water meters;

(c) traffic signs, street signs, aluminum street light poles, communications transmission towers, and guard rails;

(d) grave site monument vases and monument plaques;

(e) any monument plaque;

(f) brass or bronze bar stock and bar ends;

(g) ingots;

(h) nickel and nickel alloys containing greater than 50% nickel;

(i) #1 and #2 copper as defined by the most recent [~~institute of Scrap Recycling Industries, Inc., Scrap Specifications Circular~~]materials specifications circular issued by the Recycled Materials Association;

(j) unused and undamaged building materials, including:

(i) greenline copper;

(ii) copper pipe, tubing, or wiring; and

(iii) aluminum wire, siding, downspouts, or gutters;

(k) catalytic converters;

(l) automotive and industrial lead batteries; []and

(m) wire that has been burned or that has the appearance of having been burned.

Section 8. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) an act prohibited by the criminal provisions under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or Section 23A-5-311;

(d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

(e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;

(i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault under Section 76-5-102;

(k) aggravated assault under Section 76-5-103;

(l) a threat of terrorism under Section 76-5-107.3;

(m) a criminal homicide offense under Section 76-5-201;

(n) kidnapping under Section 76-5-301;

(o) aggravated kidnapping under Section 76-5-302;

(p) human trafficking for labor under Section 76-5-308;

(q) human trafficking for sexual exploitation under Section 76-5-308.1;

(r) human smuggling under Section 76-5-308.3;

(s) human trafficking of a child under Section 76-5-308.5;
(t) benefiting from trafficking and human smuggling under Section 76-5-309;
(u) aggravated human trafficking under Section 76-5-310;
(v) sexual exploitation of a minor under Section 76-5b-201;
(w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
(x) arson under Section 76-6-102;
(y) aggravated arson under Section 76-6-103;
(z) causing a catastrophe under Section 76-6-105;
(aa) burglary under Section 76-6-202;
(bb) aggravated burglary under Section 76-6-203;
(cc) burglary of a vehicle under Section 76-6-204;
(dd) manufacture or possession of an instrument for burglary or theft under Section 76-6-205;
(ee) robbery under Section 76-6-301;
(ff) aggravated robbery under Section 76-6-302;
(gg) theft under Section 76-6-404;
(hh) theft by deception under Section 76-6-405;
(ii) theft by extortion under Section 76-6-406;
(jj) receiving stolen property under Section 76-6-408;
(kk) theft of services under Section 76-6-409;
(ll) metal or catalytic converter theft under Section 76-6-415;
[~~(ll)~~](mm) forgery under Section 76-6-501;
[~~(mm)~~](nn) unlawful use of financial transaction card under Section 76-6-506.2;
[~~(nn)~~](oo) unlawful acquisition, possession, or transfer of financial transaction card under Section 76-6-506.3;
[~~(oo)~~](pp) financial transaction card offenses under Section 76-6-506.6;
[~~(pp)~~](qq) deceptive business practices under Section 76-6-507;
[~~(qq)~~](rr) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods under Section 76-6-508;
[~~(rr)~~](ss) bribery of a labor official under Section 76-6-509;
[~~(ss)~~](tt) defrauding creditors under Section 76-6-511;
[~~(tt)~~](uu) acceptance of deposit by insolvent financial institution under Section 76-6-512;
[~~(uu)~~](vv) unlawful dealing with property by fiduciary under Section 76-6-513;
[~~(vv)~~](ww) bribery or threat to influence contest under Section 76-6-514;
[~~(ww)~~](xx) making a false credit report under Section 76-6-517;
[~~(xx)~~](yy) criminal simulation under Section 76-6-518;
[~~(yy)~~](zz) criminal usury under Section 76-6-520;
[~~(zz)~~](aaa) insurance fraud under Section 76-6-521;
[~~(aaa)~~](bbb) retail theft under Section 76-6-602;
[~~(bbb)~~](ccc) computer crimes under Section 76-6-703;
[~~(ccc)~~](ddd) identity fraud under Section 76-6-1102;
[~~(ddd)~~](eee) mortgage fraud under Section 76-6-1203;
[~~(eee)~~](fff) sale of a child under Section 76-7-203;
[~~(fff)~~](ggg) bribery to influence official or political actions under Section 76-8-103;
[~~(ggg)~~](hhh) threat to influence official or political action under Section 76-8-104;
[~~(hhh)~~](iii) receiving bribe or bribery by public servant under Section 76-8-105;
[~~(iii)~~](jjj) receiving bribe for endorsement of person as a public servant under Section 76-8-106;
[~~(jjj)~~](kkk) bribery for endorsement of person as public servant under Section 76-8-106.1;
[~~(kkk)~~](lll) official misconduct based on unauthorized act or failure of duty under Section 76-8-201;
[~~(lll)~~](mmm) official misconduct concerning inside information under Section 76-8-202;
[~~(mmm)~~](nnn) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;
[~~(nnn)~~](ooo) acceptance of bribe or bribery to prevent criminal prosecution under Section 76-8-308;
[~~(ooo)~~](ppp) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;
[~~(ppp)~~](qqq) making a false or inconsistent material statement under Section 76-8-502;
[~~(qqq)~~](rrr) making a false or inconsistent statement under Section 76-8-503;
[~~(rrr)~~](sss) making a written false statement under Section 76-8-504;
[~~(sss)~~](ttt) tampering with a witness under Section 76-8-508;
[~~(ttt)~~](uuu) retaliation against a witness, victim, or informant under Section 76-8-508.3;
[~~(uuu)~~](vvv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
[~~(vvv)~~](www) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
[~~(www)~~](xxx) tampering with evidence under Section 76-8-510.5;
[~~(xxx)~~](yyy) falsification or alteration of a government record under Section 76-8-511, if the record is a record described in Title 20A,

Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;

[~~(yyy)~~](zzz) public assistance fraud by an applicant for public assistance under Section 76-8-1203.1;

[~~(zzz)~~](aaaa) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;

[~~(aaaa)~~](bbbb) public assistance fraud by a provider under Section 76-8-1203.5;

[~~(bbbb)~~](cccc) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;

[~~(cccc)~~](dddd) false statement to obtain or increase unemployment compensation under Section 76-8-1301;

[~~(dddd)~~](eeee) false statement to prevent or reduce unemployment compensation or liability under Section 76-8-1302;

[~~(eeee)~~](ffff) unlawful failure to comply with Employment Security Act requirements under Section 76-8-1303;

[~~(ffff)~~](gggg) unlawful use or disclosure of employment information under Section 76-8-1304;

[~~(gggg)~~](hhhh) intentionally or knowingly causing one animal to fight with another under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

[~~(hhhh)~~](iiii) possession, use, or removal of explosives, chemical, or incendiary devices or parts under Section 76-10-306;

[~~(iiii)~~](jjjj) delivery to common carrier, mailing, or placement on premises of an incendiary device under Section 76-10-307;

[~~(jjjj)~~](kkkk) possession of a deadly weapon with intent to assault under Section 76-10-507;

[~~(kkkk)~~](llll) unlawful marking of pistol or revolver under Section 76-10-521;

[~~(llll)~~](mmmm) alteration of number or mark on pistol or revolver under Section 76-10-522;

[~~(mmmm)~~](nnnn) forging or counterfeiting trademarks, trade name, or trade device under Section 76-10-1002;

[~~(nnnn)~~](oooo) selling goods under counterfeited trademark, trade name, or trade devices under Section 76-10-1003;

[~~(oooo)~~](pppp) sales in containers bearing registered trademark of substituted articles under Section 76-10-1004;

[~~(pppp)~~](qqqq) selling or dealing with article bearing registered trademark or service mark with intent to defraud under Section 76-10-1006;

[~~(qqqq)~~](rrrr) gambling under Section 76-10-1102;

[~~(rrrr)~~](ssss) gambling fraud under Section 76-10-1103;

[~~(ssss)~~](tttt) gambling promotion under Section 76-10-1104;

[~~(tttt)~~](uuuu) possessing a gambling device or record under Section 76-10-1105;

[~~(uuuu)~~](vvvv) confidence game under Section 76-10-1109;

[~~(vvvv)~~](wwww) distributing pornographic material under Section 76-10-1204;

[~~(wwww)~~](xxxx) inducing acceptance of pornographic material under Section 76-10-1205;

[~~(xxxx)~~](yyyy) dealing in harmful material to a minor under Section 76-10-1206;

[~~(yyyy)~~](zzzz) distribution of pornographic films under Section 76-10-1222;

[~~(zzzz)~~](aaaaa) indecent public displays under Section 76-10-1228;

[~~(aaaaa)~~](bbbbb) prostitution under Section 76-10-1302;

[~~(bbbbb)~~](ccccc) aiding prostitution under Section 76-10-1304;

[~~(ccccc)~~](ddddd) exploiting prostitution under Section 76-10-1305;

[~~(ddddd)~~](eeeee) aggravated exploitation of prostitution under Section 76-10-1306;

[~~(eeeee)~~](fffff) communications fraud under Section 76-10-1801;

[~~(fffff)~~](ggggg) an act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

[~~(ggggg)~~](hhhhh) vehicle compartment for contraband under Section 76-10-2801;

[~~(hhhhh)~~](iiiii) an act prohibited by the criminal provisions of the laws governing taxation in this state; or

[~~(iiiii)~~](jjjjj) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 9. Section 78B-3-108 is amended to read:

78B-3-108. Shoplifting -- Merchant's rights -- Civil liability for shoplifting by adult or minor -- Criminal conviction not a prerequisite for civil liability -- Written notice required for penalty demand.

(1) As used in this section:

(a) "Merchandise" has the same meaning as provided in Section 76-6-601.

(b) "Merchant" has the same meaning as provided in Section 76-6-601.

(c) "Minor" has the same meaning as provided in Section 76-6-601.

(d) "Premises" has the same meaning as "retail mercantile establishment" found in Section 76-6-601.

(2) (a) A merchant may request an individual on the merchant's premises to place or keep in full view any merchandise the individual may have removed, or which the merchant has reason to believe the individual may have removed, from its place of display or elsewhere, whether for examination, purchase, or for any other reasonable purpose.

(b) The merchant may not be criminally or civilly liable for having made the request.

(3) (a) A merchant who has reason to believe that an individual has committed any of the offenses listed in Subsection [~~76-6-404(3)(b)(iii)(A), (B), or (C)~~]76-6-404(3)(b)(ii)(A), (B), or (C) and that the merchant can recover the merchandise by taking the individual into custody and detaining the individual may, for the purpose of attempting to recover the merchandise or for the purpose of informing a peace officer of the circumstances of the detention, take the individual into custody and detain the individual in a reasonable manner and for a reasonable length of time.

(b) Neither the merchant nor the merchant's employee may be criminally or civilly liable for false arrest, false imprisonment, slander, or unlawful detention or for any other type of claim or action unless the custody and detention are unreasonable under all the circumstances.

(4) (a) A merchant may prohibit an individual who has committed any of the offenses listed in Subsection [~~76-6-404(3)(b)(iii)~~]76-6-404(3)(b)(ii) from reentering the premises on which the individual has committed the offense.

(b) The merchant shall give written notice of this prohibition to the individual under Subsection (4)(a). The notice may be served by:

(i) delivering a copy to the individual personally;

(ii) sending a copy through registered or certified mail addressed to the individual at the individual's residence or usual place of business;

(iii) leaving a copy with an individual of suitable age and discretion at either location under Subsection (4)(b)(ii) and mailing a copy to the individual at the individual's residence or place of business if the individual is absent from the residence or usual place of business; or

(iv) affixing a copy in a conspicuous place at the individual's residence or place of business.

(c) The individual serving the notice may authenticate service with the individual's signature, the method of service, and legibly documenting the date and time of service.

(5) An adult who commits any of the offenses listed in Subsection [~~76-6-404(3)(b)(iii)(A), (B), or (C)~~]76-6-404(3)(b)(ii)(A), (B), or (C) is also liable in a civil action for:

(a) actual damages;

(b) a penalty to the merchant in the amount of the retail price of the merchandise not to exceed $1,000; and

(c) an additional penalty as determined by the court of not less than $100 nor more than $500, plus court costs and reasonable attorney fees.

(6) A minor who commits any of the offenses listed in Subsection [~~76-6-404(3)(b)(iii)(A), (B), or (C)~~]76-6-404(3)(b)(ii)(A), (B), or (C) and the minor's parents or legal guardian are jointly and severally liable in a civil action to the merchant for:

(a) actual damages;

(b) a penalty to be remitted to the merchant in the amount of the retail price of the merchandise not to exceed $500 plus an additional penalty as determined by the court of not less than $50 nor more than $500; and

(c) court costs and reasonable attorney fees.

(7) A parent or guardian is not liable for damages under this section if the parent or guardian made a reasonable effort to restrain the wrongful taking and reported it to the merchant involved or to the law enforcement agency having primary jurisdiction once the parent or guardian knew of the minor's unlawful act. A report is not required under this section if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the merchant involved.

(8) A conviction in a criminal action for any of the offenses listed in Subsection [~~76-6-404(3)(b)(iii)(A), (B), or (C)~~]76-6-404(3)(b)(ii)(A), (B), or (C) is not a condition precedent to a civil action authorized under Subsection (5) or (6).

(9) (a) A merchant demanding payment of a penalty under Subsection (5) or (6) shall give written notice to the individual or individuals from whom the penalty is sought. The notice shall state:

"IMPORTANT NOTICE: The payment of any penalty demanded of you does not prevent criminal prosecution under a related criminal provision."

(b) This notice shall be boldly and conspicuously displayed, in at least the same size type as is used in the demand, and shall be sent with the demand for payment of the penalty described in Subsection (5) or (6).

(10) The provision of Section 78B-8-201 requiring that compensatory or general damages be awarded in order to award punitive damages does not prohibit an award of a penalty under Subsection (5) or (6) whether or not restitution has been paid to the merchant either prior to or as part of a civil action.

Section 10. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 435
H. B. 196
Passed February 28, 2025
Approved March 26, 2025
Effective May 7, 2025

VEHICLE TRACTION AMENDMENTS

Chief Sponsor: Gay Lynn Bennion
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses a highway authority's ability to regulate a controlled-access highway.

Highlighted Provisions:

This bill:

► clarifies that a highway authority may limit traffic under certain conditions; and
► grants rulemaking authority.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-715, as last amended by Laws of Utah 2019, Chapter 431

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-715 is amended to read:

41-6a-715. Controlled-access highways -- Prohibiting use by class or type of traffic -- Traffic-control devices.

(1) A highway authority may regulate or prohibit the use of [~~any~~]a controlled-access highway within [~~its respective~~]the highway authority's jurisdiction by any class or [~~kind~~]type of traffic [~~which is found to be~~]that the highway authority determines is incompatible with the normal and safe movement of traffic.

(2) [~~A~~]For the safe movement of traffic during predicted or existing adverse weather conditions, a highway authority may restrict traffic on a highway to [~~specific vehicle equipment of capabilities due to weather conditions for the safe movement of traffic.~~]vehicles with specific equipment or capabilities.

(3) [~~The~~]A highway authority shall erect and maintain traffic-control devices [~~on the controlled-access highway on which the regulations or prohibitions are applicable.~~]to inform the public of any regulations, prohibitions, or restrictions implemented in accordance with this section.

(4) The Department of Transportation may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this section, including:

(a) describing regulations or prohibitions on the use of a controlled-access highway in accordance with Subsection (1); and

(b) describing what specific equipment or capabilities are required for vehicles during predicted or existing adverse weather conditions in accordance with Subsection (2).

(5) For a highway within the jurisdiction of a county or municipal highway authority, the highway authority may enact ordinances to implement provisions of this section, including:

(a) describing regulations or prohibitions on the use of a controlled-access highway in accordance with Subsection (1); and

(b) describing what specific equipment or capabilities are required for vehicles during predicted or existing adverse weather conditions in accordance with Subsection (2).

(6) When a highway authority has provided notice to the public through a traffic-control device in accordance with Subsection (3), an individual is guilty of an infraction if:

(a) the individual fails to follow regulations or prohibitions on the use of a controlled-access highway as described in Subsection (1); and

(b) the individual operates a vehicle without specific equipment or capabilities during predicted or adverse weather conditions as described in Subsection (2).

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 436
H. B. 198
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

HIGHWAY EXPANSION IMPACTS ON SIGNAGE AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill amends provisions related to the relocation of a billboard due to road construction or other highway changes.

Highlighted Provisions:

This bill:

► amends provisions related to the relocation of a billboard if the billboard was obstructed or impacted by the widening, construction, reconstruction, or other improvements appurtenant to the relevant highway.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-7-510, as last amended by Laws of Utah 2008, Chapter 3
72-7-510.5, as last amended by Laws of Utah 2009, Chapter 170
72-7-513, as last amended by Laws of Utah 1999, Chapter 72

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-7-510 is amended to read:

72-7-510. Existing outdoor advertising not in conformity with part -- Procedure -- Eminent domain -- Compensation -- Relocation.

(1) As used in this section, "nonconforming sign" means a sign that has been erected in a zone or area other than commercial or industrial or where outdoor advertising is not permitted under this part.

(2) (a) The department may acquire by gift, purchase, agreement, exchange, or eminent domain, any existing outdoor advertising and all property rights pertaining to the outdoor advertising which were lawfully in existence on May 9, 1967, and which by reason of this part become nonconforming.

(b) If the department, or any town, city, county, governmental entity, public utility, or any agency or the United States Department of Transportation under this part, prevents the maintenance as defined in Section 72-7-502, or requires that maintenance of an existing sign be discontinued, the sign in question shall be considered acquired by the entity and just compensation will become immediately due and payable.

(c) Eminent domain shall be exercised in accordance with the provision of Title 78B, Chapter 6, Part 5, Eminent Domain.

(3) (a) Just compensation shall be paid for outdoor advertising and all property rights pertaining to the same, including the right of the landowner upon whose land a sign is located, acquired through the processes of eminent domain.

(b) For the purposes of this part, just compensation shall include the consideration of damages to remaining properties, contiguous and noncontiguous, of an outdoor advertising sign company's interest, which remaining properties, together with the properties actually condemned, constituted an economic unit.

(c) The department is empowered to remove signs found in violation of Section 72-7-508 without payment of any compensation.

(4) Except as specifically provided in this section or Section 72-7-513, this part may not be construed to permit a person to place or maintain any outdoor advertising adjacent to any interstate or primary highway system which is prohibited by law or by any town, city, or county ordinance. Any town, city, county, governmental entity, or public utility which requires the removal, relocation, alteration, change, or termination of outdoor advertising shall pay just compensation as defined in this part and in Title 78B, Chapter 6, Part 5, Eminent Domain.

(5) Except as provided in Section 72-7-508, no sign shall be required to be removed by the department nor sign maintenance as described in this section be discontinued unless at the time of removal or discontinuance there are sufficient funds, from whatever source, appropriated and immediately available to pay the just compensation required under this section and unless at that time the federal funds required to be contributed under 23 U.S.C., Sec. 131, if any, with respect to the outdoor advertising being removed, have been appropriated and are immediately available to this state.

(6) (a) If any outdoor advertising use, structure, or permit may not be continued because of the widening, construction, or reconstruction along an interstate, federal aid primary highway existing as of June 1, 1991, or national highway systems highway, the owner shall have the option to relocate and remodel the use, structure, or permit to another location:

(i) within the same municipality or unincorporated county:

[~~(i)~~](A) on the same property;

[~~(ii)~~](B) on adjacent property;

(C) on either side of the same highway; or

[~~(iii) on the same highway within 5280 feet of the previous location, which may be extended 5280 feet outside the areas described in Subsection 72-7-505(3)(c)(i)(A), on either side of the same highway; or~~]

[~~(iv)~~](D) mutually agreed upon by the owner and the county or municipality in which the use, structure, or permit is located[~~.~~]; or

(ii) within a different municipality or unincorporated county mutually agreed upon by the owner and the different municipality or county.

(b) The relocation under Subsection (6)(a) shall be in a commercial or industrial zoned area or where outdoor advertising is permitted under this part.

(c) The county or municipality in which the use or structure is located or is to be relocated as described in Subsection (6)(a) shall, if necessary, provide for the relocation and remodeling by ordinance for a special exception to its zoning ordinance.

(d) The relocated and remodeled use or structure may be:

(i) erected to a height and angle to make it clearly visible to traffic on the main-traveled way of the highway to which it is relocated or remodeled;

(ii) the same size and at least the same height as the previous use or structure, but the relocated use or structure may not exceed the size and height permitted under this part;

(iii) relocated to a comparable vehicular traffic count.

(7) (a) The governmental entity, quasi-governmental entity, or public utility that causes the need for the outdoor advertising relocation or remodeling as provided in Subsection (6)(a) shall pay the costs related to the relocation, remodeling, or acquisition.

(b) If a governmental entity prohibits the relocation and remodeling as provided in Subsection [~~(6)(a)~~](6)(a)(i), it shall pay just compensation as provided in Subsection (3).

Section 2. Section 72-7-510.5 is amended to read:

72-7-510.5. Height adjustments for outdoor advertising signs.

(1) If the view and readability of an outdoor advertising sign, including a sign that is a nonconforming sign as defined in Section 72-7-510, a noncomplying structure as defined in Sections 10-9a-103 and 17-27a-103, or a nonconforming use as defined in Sections 10-9a-103 and 17-27a-103 is obstructed due to a noise abatement or safety measure, grade change, construction, directional sign, highway widening, or aesthetic improvement made by an agency of this state, along an interstate, federal aid primary highway existing as of June 1, 1991, national highway systems highway, or state highway or by an improvement created on real property subsequent to the department's disposal of the property under Section 72-5-111, the owner of the sign may:

(a) adjust the height of the sign; [~~or~~]

(b) if the sign is located along an interstate, federal aid primary highway existing as of June 1, 1991, or national highway systems highway, relocate the sign to either side of the same highway, within the same municipality or unincorporated county, if the sign complies with the spacing requirements under Section 72-7-505 and is in a commercial or industrial zone;

(c) if the sign is located along a state highway, relocate the sign to either side of the same highway, within the same municipality or unincorporated county, to a point within one mile of the sign's prior location, if the sign complies with the spacing requirements under Section 72-7-505 and is located in a commercial or industrial zone; or

(d) relocate the sign to a location that is mutually agreed upon by the owner and:

(i) the same municipality or unincorporated county in which the obstructed sign is located; or

(ii) any other municipality or unincorporated county.

[~~(b) relocate the sign to a point within 500 feet of its prior location, if the sign complies with the spacing requirements under Section 72-7-505 and is in a commercial or industrial zone.~~]

(2) A height adjusted sign under this section does not constitute a substantial change to the sign.

(3) The county or municipality in which the [~~outdoor advertising~~]obstructed sign is located or is to be relocated shall, if necessary, provide for the height adjustment or relocation by ordinance for a special exception to its zoning ordinance.

(4) (a) The height adjusted sign:

(i) may be erected:

(A) to a height to make the entire advertising content of the sign clearly visible; and

(B) to an angle to make the entire advertising content of the sign clearly visible; and

(ii) shall be the same size as the previous sign.

(b) The provisions of Subsection (4)(a) are an exception to the height requirements under Section 72-7-505.

Section 3. Section 72-7-513 is amended to read:

72-7-513. Relocation on state highways.

(1) As used in this section, "state highway" means those highways designated as state highways in [~~Title 72, Chapter 4, Designation of State Highways Act~~]Chapter 4, Designation of State Highways Act, on July 1, 1999, and any subsequently designated state highway.

(2) If any outdoor advertising use or structure may not be continued because of the widening, construction, or reconstruction along a state highway, the owner shall have the option to relocate and remodel the use or structure to another location:

(a) within the same municipality or unincorporated county:

[~~(a)~~](i) on the same property;

[~~(b)~~](ii) on adjacent property;

[~~(c)~~](iii) on either side of the same highway if the new location is within [~~2640 feet~~]one mile of the previous location[~~on either side of the same highway~~]; or

[~~(d)~~](iv) another location mutually agreed upon by the owner and the county or municipality in which the use, structure, or permit is located[~~.~~]; or

(b) another location mutually agreed upon by the owner and another municipality or county.

(3) The relocation under Subsection (2) shall be in a commercial or industrial zoned area or where outdoor advertising is permitted under this part.

(4) The county or municipality in which the use or structure is located or is to be relocated under Subsection (2) shall, if necessary, provide for the relocation and remodeling by ordinance for a special exception to its zoning ordinance.

(5) The relocated and remodeled use or structure may be:

(a) erected to a height and angle to make it clearly visible to traffic on the main-traveled way of the highway to which it is relocated or remodeled;

(b) the same size and at least the same height as the previous use or structure, but the relocated use or structure may not exceed the size and height permitted under this part;

(c) relocated to a comparable vehicular traffic count.

(6) (a) The governmental entity, quasi-governmental entity, or public utility that causes the need for the outdoor advertising relocation or remodeling as provided in Subsection (2) shall pay the costs related to the relocation, remodeling, or acquisition.

(b) If a governmental entity prohibits the relocation and remodeling as provided in Subsection (2)(a)[~~, (b), or (c)~~], it shall pay just compensation as provided in Subsection 72-7-510(3).

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 437
S. B. 16
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

PROPERTY TAX NOTICE AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies the property tax valuation notice requirements.

Highlighted Provisions:

This bill:

- ► provides that the county discretionary deferral program is available to an indigent individual;
- ► requires a county auditor to include on the property tax valuation notice:
  - a statement that a property owner who is 65 years old or older, disabled, or experiencing an extreme hardship, may be eligible for a deferral on the property owner's primary residence; and
  - a telephone number to obtain information about how to apply for a deferral;
- ► makes technical corrections; and
- ► includes a coordination clause to provide that the changes to S.B. 197, Property Tax Amendments, supersede the changes to this bill.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-919.1, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2024, Chapter 246
59-2-1802, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 241

Utah Code Sections Affected by Coordination Clause:

AMENDS:

59-2-919.1, as last amended by Laws of Utah 2024, Chapter 246

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-919.1 is amended to read:

59-2-919.1 (Effective 05/07/25) (Applies beginning 01/01/25). Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify each owner of real estate who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) except as provided in Subsection [~~(4)~~](5), be sent to all owners of real property by mail 10 or more days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the taxable value of the property;

(iii) (A) the deadline for the taxpayer to make an application to appeal the valuation or equalization of the property under Section 59-2-1004; or

(B) for property assessed by the commission, the deadline for the taxpayer to apply to the commission for a hearing on an objection to the valuation or equalization of the property under Section 59-2-1007;

(iv) for a property assessed by the commission, a statement that the taxpayer may not appeal the valuation or equalization of the property to the county board of equalization;

(v) itemized tax information for all applicable taxing entities, including:

(A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and

(B) the dollar amount of the taxpayer's tax liability under the current rate;

(vi) the following, stated separately:

(A) the charter school levy described in Section 53F-2-703;

(B) the multicounty assessing and collecting levy described in Subsection 59-2-1602(2);

(C) the county assessing and collecting levy described in Subsection 59-2-1602(4);

(D) levies for debt service voted on by the public;

(E) levies imposed for special purposes under Section 10-6-133.4;

(F) [~~for a fiscal year that begins on or after July 1, 2023,~~]the combined basic rate as defined in Section 53F-2-301; and

(G) if applicable, the annual payment described in Subsection 63H-1-501(4)(a);

(vii) the tax impact on the property;

(viii) the date, time, and place of the required public hearing for each entity;

(ix) property tax information pertaining to:

(A) taxpayer relief;

(B) options for payment of taxes;

(C) collection procedures; and

(D) the residential exemption described in Section 59-2-103;

(x) information specifically authorized to be included on the notice under this chapter;

(xi) the last property review date of the property as described in Subsection 59-2-303.1(1)(c);

(xii) instructions on how the taxpayer may obtain additional information regarding the valuation of the property, including the characteristics and features of the property, from at least one the following sources:

(A) a website maintained by the county; or

(B) the county assessor's office; and

(xiii) other information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(viii);

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate; and

(d) for each taxing entity proposing a tax increase, the dollar amount of additional ad valorem tax revenue, as defined in Section 59-2-919, that would be generated each year if the proposed tax increase is approved.

(4) In addition to any other tax relief information required under Subsection (2)(c)(ix)(A), a notice sent to a residential property shall:

(a) state, "If you are 65 years old or older, disabled, or experiencing extreme hardship, and this property is your primary residence, you may be eligible to defer payment of this property tax."; and

(b) include a telephone number, or a website address on which a telephone number is prominently listed, that the property owner may call to obtain additional information about applying for a deferral.

[~~(4)~~](5) (a) Subject to the other provisions of this Subsection [~~(4)~~](5), a county auditor may provide, at the county auditor's discretion, [~~provide~~]the notice required by this section to a taxpayer by electronic means if a taxpayer makes an election, according to procedures determined by the county auditor, to receive the notice by electronic means.

(b) (i) If a county auditor sends a notice required by this section [~~is sent~~]by electronic means, [~~a~~]the county auditor shall attempt to verify whether a taxpayer receives the notice.

(ii) If the county auditor cannot verify receipt of the notice sent by electronic means [~~cannot be verified~~]14 days or more before the county board of equalization meets and the taxing entity holds a public hearing on a proposed increase in the certified tax rate, the county auditor shall send the notice required by this section [~~shall also be sent~~]by mail as provided in Subsection (2).

(c) A taxpayer may revoke an election to receive the notice required by this section by electronic means if the taxpayer provides written notice to the county auditor on or before April 30.

(d) An election or a revocation of an election under this Subsection [~~(4)~~](5):

(i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax; or

(ii) does not alter the requirement that a taxpayer appealing the valuation or the equalization of the taxpayer's real property submit the application for appeal within the time period provided in Subsection 59-2-1004(3).

(e) A county auditor shall provide the notice required by this section as provided in Subsection (2), until a taxpayer makes a new election in accordance with this Subsection [~~(4)~~](5), if:

(i) the taxpayer revokes an election in accordance with Subsection [~~(4)(c)~~](5)(c) to receive the notice required by this section by electronic means; or

(ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

(f) A person is considered to be a taxpayer for purposes of this Subsection [~~(4)~~](5) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

Section 2. Section 59-2-1802 is amended to read:

59-2-1802 (Effective 05/07/25). Tax and tax notice charge deferral -- County discretion to grant deferral -- Creation of lien and due date.

(1) (a) In accordance with this part and after receiving an application and giving notice to the taxpayer, a county may grant a deferral to an owner who is an indigent individual on residential property.

(b) In determining whether to grant an application for a deferral under this section, a county shall consider an asset transferred to a relative by an applicant for deferral, if the transfer took place during the three years before the day on which the applicant applied for deferral.

(2) A county may grant a deferral described in Subsection (1) at any time:

(a) after the holder of each mortgage or trust deed outstanding on the property gives written approval of the application; and

(b) if the applicant is not the owner of income-producing assets that could be liquidated to pay the tax.

(3) (a) Taxes and tax notice charges deferred under this part accumulate with interest and applicable recording fees as a lien against the residential property.

(b) A lien described in this Subsection (3) has the same legal status as a lien described in Section 59-2-1325.

(c) To release the lien described in this Subsection (3), an owner shall pay the total amount subject to the lien:

(i) upon the owner selling or otherwise disposing of the residential property; or

(ii) when the residential property is no longer the owner's primary residence.

(d) (i) Notwithstanding Subsection (3)(c), an owner that receives a deferral does not have to pay the deferred taxes, deferred tax notice charges, or applicable recording fees when the residential property transfers:

(A) to the owner's surviving spouse as a result of the owner's death; or

(B) between the owner and a trust described in Section 59-2-1805 for which the owner is the grantor.

(ii) After the residential property transfers to the owner's surviving spouse, the deferred taxes, deferred tax notice charges, and applicable recording fees are due:

(A) upon the surviving spouse selling or otherwise disposing of the residential property; or

(B) when the residential property is no longer the surviving spouse's primary residence.

(e) When the deferral period ends:

(i) the lien becomes due and subject to the collection procedures described in Section 59-2-1331; and

(ii) the date of levy is the date that the deferral period ends.

(4) (a) If a county grants an owner more than one deferral for the same single-family residence, the county is not required to submit for recording more than one lien.

(b) Each subsequent deferral relates back to the date of the initial lien filing.

(5) (a) For each residential property for which the county grants a deferral, the treasurer shall maintain a record that is an itemized account of the total amount of deferred property taxes and deferred tax notice charges subject to the lien.

(b) The record described in this Subsection (5) is the official record of the amount of the lien.

(6) Taxes and tax notice charges deferred under this part bear interest at a rate equal to 50% of the rate described in Subsections 59-2-1331(2)(c) and (d).

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

Section 4. Retrospective operation.

This bill has retrospective operation to January 1, 2025.

Section 5. Coordinating S.B. 16 with S.B. 197.

If S.B. 16, Property Tax Notice Amendments, and S.B. 197, Property Tax Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, the changes to Section 59-2-919.1 in S.B. 197 supersede the amendments to Section 59-2-919.1 in S.B. 16.

CHAPTER 438
S. B. 17
Passed January 31, 2025
Approved March 26, 2025
Effective May 7, 2025

SERVICES FOR DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill addresses certain benefits for a United States Department of Defense employee and the employee's family.

Highlighted Provisions:

This bill:

- ► provides certain exemptions from occupational and professional licensure in a variety of occupations and professions for:
  - • a United States Department of Defense employee if the employee has a valid license in another jurisdiction; and
  - • a spouse of a United States Department of Defense employee if the spouse has a valid license in another jurisdiction;
- ► provides in-state residency for tuition purposes at an institution of higher education for a United States Department of Defense employee and the employee's family;
- ► addresses k-12 requirements for a child of a United States Department of Defense employee;
- ► contains a coordination clause to coordinate technical changes between this bill and H.B. 142, Service Member and Veteran Amendments; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-1-109, as last amended by Laws of Utah 2024, Chapter 152
4-1-111, as enacted by Laws of Utah 2018, Chapter 462
13-1-15, as enacted by Laws of Utah 2018, Chapter 462
31A-23a-102, as last amended by Laws of Utah 2015, Chapters 244, 330
31A-23a-104, as last amended by Laws of Utah 2018, Chapter 462
31A-26-102, as last amended by Laws of Utah 2021, Chapter 252
31A-26-202, as last amended by Laws of Utah 2018, Chapter 462
53-9-102, as last amended by Laws of Utah 2024, Chapter 506
53-9-122, as last amended by Laws of Utah 2019, Chapter 136
53B-8-102, as last amended by Laws of Utah 2024, Chapters 144, 378 and 481
53E-6-102, as last amended by Laws of Utah 2024, Chapter 20
53E-6-204, as last amended by Laws of Utah 2019, Chapter 186
53G-1-103, as last amended by Laws of Utah 2020, Chapter 161 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 161
53G-6-306, as last amended by Laws of Utah 2023, Chapter 44
53G-6-402, as last amended by Laws of Utah 2024, Chapter 67
53G-6-502, as last amended by Laws of Utah 2023, Chapter 44
58-1-102, as last amended by Laws of Utah 2024, Chapter 486
58-1-307, as last amended by Laws of Utah 2023, Chapters 310, 328
61-1-32, as enacted by Laws of Utah 2018, Chapter 462
61-2f-102, as last amended by Laws of Utah 2024, Chapter 227
61-2f-202, as last amended by Laws of Utah 2022, Chapter 204

ENACTS:

53E-3-1201, Utah Code Annotated 1953
53E-3-1202, Utah Code Annotated 1953
53E-3-1203, Utah Code Annotated 1953
53E-3-1204, Utah Code Annotated 1953
53E-3-1205, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

AMENDS:

53B-8-102, as last amended by Laws of Utah 2024, Chapters 144, 378 and 481

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-1-109 is amended to read:

4-1-109. General definitions.

As used in this title:

(1) "Agricultural product" or "product of agriculture" means any product that is derived from agriculture, including any product derived from aquaculture as defined in Section 4-37-103.

(2) "Agriculture" means the science and art of the production of plants and animals useful to man, including the preparation of plants and animals for human use and disposal by marketing or otherwise.

(3) "Commissioner" means the commissioner of agriculture and food.

(4) "Department" means the Department of Agriculture and Food created in Chapter 2, Administration.

(5) "Dietary supplement" means the same as that term is defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

(6) "DOD civilian" means the same as that term is defined in Section 53B-8-102.

[~~(6)~~](7) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept for profit.

[~~(7)~~](8) "Local food" means an agricultural product or livestock that is:

(a) produced, processed, and distributed for sale or consumption within the state; and

(b) sold to an end consumer within the state.

[~~(8)~~](9) "Organization" means a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

[~~(9)~~](10) "Person" means a natural person or individual, corporation, organization, or other legal entity.

Section 2. Section 4-1-111 is amended to read:

4-1-111. Exemptions from licensure.

Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this title, subject to the stated circumstances and limitations, without being licensed under this title:

(1) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(2) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(3) the spouse of an individual serving in the armed forces of the United States or the spouse of a DOD civilian while the individual or DOD civilian is stationed within this state, if:

(a) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(b) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 3. Section 13-1-15 is amended to read:

13-1-15. Exemptions from licensure.

(1) As used in this section, "DOD civilian" means the same as that term is defined in Section 53B-8-102.

(2) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this title, subject to the stated circumstances and limitations, without being licensed under this title:

[~~(1)~~](a) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

[~~(2)~~](b) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

[~~(3)~~](c) the spouse of an individual serving in the armed forces of the United States or the spouse of a DOD civilian while the individual or DOD civilian is stationed within this state, if:

[~~(a)~~](i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

[~~(b)~~](ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 4. Section 31A-23a-102 is amended to read:

31A-23a-102. Definitions.

As used in this chapter:

(1) "Bail bond producer" is as defined in Section 31A-35-102.

(2) "Designated home state" means the state or territory of the United States or the District of Columbia:

(a) in which an insurance producer, limited lines producer, consultant, managing general agent, or reinsurance intermediary licensee does not maintain the licensee's principal:

(i) place of residence; or

(ii) place of business;

(b) if the resident state, territory, or District of Columbia of the licensee does not license for the line of authority sought, the licensee has qualified for the license as if the person were a resident in the state, territory, or District of Columbia described in Subsection (2)(a),

including an applicable:

(i) examination requirement;

(ii) fingerprint background check requirement; and

(iii) continuing education requirement; and

(c) if the licensee has designated the state, territory, or District of Columbia as the designated home state.

(3) "DOD civilian" means the same as that term is defined in Section 53B-8-102.

[~~(3)~~](4) "Home state" means:

(a) a state or territory of the United States or the District of Columbia in which an insurance producer, limited lines producer, consultant, managing general agent, or reinsurance intermediary licensee:

(i) maintains the licensee's principal:

(A) place of residence; or

(B) place of business; and

(ii) is licensed to act as a resident licensee; or

(b) if the resident state, territory, or the District of Columbia described in Subsection [~~(3)(a)~~](4)(a) does not license for the line of authority sought, a state, territory, or the District of Columbia:

(i) in which the licensee is licensed;

(ii) in which the licensee is in good standing; and

(iii) that the licensee has designated as the licensee's designated home state.

[~~(4)~~](5) "Insurer" is as defined in Section 31A-1-301, except that the following persons or similar persons are not insurers for purposes of Part 7, Producer Controlled Insurers:

(a) a risk retention group as defined in:

(i) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499;

(ii) the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.; and

(iii) Chapter 15, Part 2, Risk Retention Groups Act;

(b) a residual market pool;

(c) a joint underwriting authority or association; and

(d) a captive insurer.

[~~(5)~~](6) "License" is defined in Section 31A-1-301.

[~~(6)~~](7) (a) "Managing general agent" means a person that:

(i) manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office;

(ii) acts as an agent for the insurer whether it is known as a managing general agent, manager, or other similar term;

(iii) produces and underwrites an amount of gross direct written premium equal to, or more than, 5% of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year:

(A) with or without the authority;

(B) separately or together with an affiliate; and

(C) directly or indirectly; and

(iv) (A) adjusts or pays claims in excess of an amount determined by the commissioner; or

(B) negotiates reinsurance on behalf of the insurer.

(b) Notwithstanding Subsection [~~(6)(a)~~](7)(a), the following persons may not be considered as managing general agent for the purposes of this chapter:

(i) an employee of the insurer;

(ii) a United States manager of the United States branch of an alien insurer;

(iii) an underwriting manager that, pursuant to contract:

(A) manages all the insurance operations of the insurer;

(B) is under common control with the insurer;

(C) is subject to Chapter 16, Insurance Holding Companies; and

(D) is not compensated based on the volume of premiums written; and

(iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney.

[~~(7)~~](8) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning a substantive benefit, term, or condition of the contract if the person engaged in that act:

(a) sells insurance; or

(b) obtains insurance from insurers for purchasers.

[~~(8)~~](9) "Reinsurance intermediary" means:

(a) a reinsurance intermediary-broker; or

(b) a reinsurance intermediary-manager.

[~~(9)~~](10) "Reinsurance intermediary-broker" means a person other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the insurer.

[~~(10)~~](11) (a) "Reinsurance intermediary-manager" means a person who:

(i) has authority to bind or who manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office; and

(ii) acts as an agent for the reinsurer whether the person is known as a reinsurance intermediary-manager, manager, or other similar term.

(b) Notwithstanding Subsection [~~(10)(a)~~](11)(a), the following persons may not be considered reinsurance intermediary-managers for the purpose of this chapter with respect to the reinsurer:

(i) an employee of the reinsurer;

(ii) a United States manager of the United States branch of an alien reinsurer;

(iii) an underwriting manager that, pursuant to contract:

(A) manages all the reinsurance operations of the reinsurer;

(B) is under common control with the reinsurer;

(C) is subject to Chapter 16, Insurance Holding Companies; and

(D) is not compensated based on the volume of premiums written; and

(iv) the manager of a group, association, pool, or organization of insurers that:

(A) engage in joint underwriting or joint reinsurance; and

(B) are subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.

[~~(11)~~](12) "Resident" is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(12)~~](13) "Sell" means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

[~~(13)~~](14) "Solicit" means:

(a) attempting to sell insurance;

(b) asking or urging a person to apply for:

(i) a particular kind of insurance; and

(ii) insurance from a particular insurance company;

(c) advertising insurance, including advertising for the purpose of obtaining leads for the sale of insurance; or

(d) holding oneself out as being in the insurance business.

[~~(14)~~](15) "Terminate" means:

(a) the cancellation of the relationship between:

(i) an individual licensee or agency licensee and a particular insurer; or

(ii) an individual licensee and a particular agency licensee; or

(b) the termination of:

(i) an individual licensee's or agency licensee's authority to transact insurance on behalf of a particular insurance company; or

(ii) an individual licensee's authority to transact insurance on behalf of a particular agency licensee.

[~~(15)~~](16) "Title examination" means a license subline of authority in conjunction with the title insurance line of authority that allows a person to issue title insurance commitments or policies on behalf of a title insurer.

[~~(16)~~](17) "Title marketing representative" means a person who:

(a) represents a title insurer in soliciting, requesting, or negotiating the placing of:

(i) title insurance; or

(ii) escrow services; and

(b) does not have a title examination or escrow license as provided in Section 31A-23a-106.

[~~(17)~~](18) "Uniform application" means the version of the National Association of Insurance Commissioners' uniform application for resident and nonresident producer licensing at the time the application is filed.

[~~(18)~~](19) "Uniform business entity application" means the version of the National Association of Insurance Commissioners' uniform business entity application for resident and nonresident business entities at the time the application is filed.

Section 5. Section 31A-23a-104 is amended to read:

31A-23a-104. Application for individual license -- Application for agency license.

(1) This section applies to an initial or renewal license as a:

(a) producer;

(b) surplus lines producer;

(c) limited line producer;

(d) consultant;

(e) managing general agent; or

(f) reinsurance intermediary.

(2) (a) Subject to Subsection (2)(b), to obtain or renew an individual license, an individual shall:

(i) file an application for an initial or renewal individual license with the commissioner on forms and in a manner the commissioner prescribes; and

(ii) except as provided in Subsection (6), pay a license fee that is not refunded if the application:

(A) is denied; or

(B) is incomplete when filed and is never completed by the applicant.

(b) An application described in this Subsection (2) shall provide:

(i) information about the applicant's identity;

(ii) the applicant's Social Security number;

(iii) the applicant's personal history, experience, education, and business record;

(iv) whether the applicant is 18 years [~~of age~~]old or older;

(v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23a-105 or 31A-23a-111;

(vi) if the application is for a resident individual producer license, certification that the applicant complies with Section 31A-23a-203.5; and

(vii) any other information the commissioner reasonably requires.

(3) The commissioner may require a document reasonably necessary to verify the information contained in an application filed under this section.

(4) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.

(5) (a) Subject to Subsection (5)(b), to obtain or renew an agency license, a person shall:

(i) file an application for an initial or renewal agency license with the commissioner on forms and in a manner the commissioner prescribes; and

(ii) pay a license fee that is not refunded if the application:

(A) is denied; or

(B) is incomplete when filed and is never completed by the applicant.

(b) An application described in Subsection (5)(a) shall provide:

(i) information about the applicant's identity;

(ii) the applicant's federal employer identification number;

(iii) the designated responsible licensed individual;

(iv) the identity of the owners, partners, officers, and directors;

(v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23a-105 or 31A-23a-111; and

(vi) any other information the commissioner reasonably requires.

(6) The following individuals are exempt from paying a license fee:

(a) an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(i) the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the individual is in good standing in the state or jurisdiction of licensure; and

(b) the spouse of an individual serving in the armed forces of the United States <u>or the spouse of a DOD civilian</u> while the individual <u>or DOD civilian</u> is stationed within this state, if:

(i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 6. Section 31A-26-102 is amended to read:

31A-26-102. Definitions.

As used in this chapter, unless expressly provided otherwise:

(1) "Company adjuster" means a person employed by an insurer who negotiates or settles claims on behalf of the insurer or an affiliated insurer.

(2) "Designated home state" means the state or territory of the United States or the District of Columbia:

(a) in which an insurance adjuster does not maintain the adjuster's principal:

(i) place of residence; or

(ii) place of business;

(b) if the resident state, territory, or District of Columbia of the adjuster does not license adjusters for the line of authority sought, the adjuster has qualified for the license as if the person were a resident in the state, territory, or District of Columbia described in Subsection (2)(a), including an applicable:

(i) examination requirement;

(ii) fingerprint background check requirement; and

(iii) continuing education requirement; and

(c) that the adjuster has designated as the insurance adjuster's designated home state.

<u>(3) "DOD civilian" means the same as that term is defined in Section 53B-8-102.</u>

[~~(3)~~]<u>(4)</u> "Home state" means:

(a) a state or territory of the United States or the District of Columbia in which an insurance adjuster:

(i) maintains the adjuster's principal:

(A) place of residence; or

(B) place of business; and

(ii) is licensed to act as a resident adjuster; or

(b) if the resident state, territory, or the District of Columbia described in Subsection [~~(3)(a)~~]<u>(4)(a)</u> does not license adjusters for the

line of authority sought, a state, territory, or the District of Columbia:

(i) in which the adjuster is licensed;

(ii) in which the adjuster is in good standing; and

(iii) that the adjuster has designated as the adjuster's designated home state.

[~~(4)~~](5) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201, who engages in insurance adjusting as a representative of one or more insurers.

[~~(5)~~](6) "Insurance adjusting" or "adjusting" means directing or conducting the investigation, negotiation, or settlement of a claim under an insurance policy, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

[~~(6)~~](7) (a) "Organization" means a person other than a natural person.

(b) "Organization" includes a sole proprietorship by which a natural person does business under an assumed name.

[~~(7)~~](8) "Portable electronics insurance" means the same as that term is defined in Section 31A-22-1802.

[~~(8)~~](9) "Public adjuster" means a person required to be licensed under Section 31A-26-201, who engages in insurance adjusting as a representative of insureds and claimants under insurance policies.

Section 7. Section 31A-26-202 is amended to read:

31A-26-202. Application for license.

(1) (a) The application for a license as an independent adjuster or public adjuster shall be:

(i) made to the commissioner on forms and in a manner the commissioner prescribes; and

(ii) except as provided in Subsection (4), accompanied by the applicable fee, which is not refunded if the application is denied.

(b) The application shall provide:

(i) information about the applicant's identity, including:

(A) the applicant's:

(I) Social Security number; or

(II) federal employer identification number;

(B) the applicant's personal history, experience, education, and business record;

(C) if the applicant is a natural person, whether the applicant is 18 years [~~of age~~]old or older; and

(D) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-25-208; and

(ii) any other information as the commissioner reasonably requires.

(2) The commissioner may require documents reasonably necessary to verify the information contained in the application.

(3) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.

(4) The following individuals are exempt from paying a license fee:

(a) an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(i) the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the individual is in good standing in the state or jurisdiction of licensure; and

(b) the spouse of an individual serving in the armed forces of the United States or the spouse of a DOD civilian while the individual or DOD civilian is stationed within this state, if:

(i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 8. Section 53-9-102 is amended to read:

53-9-102. Definitions.

In this chapter, unless otherwise stated:

(1) "Adequate records" means records containing, at a minimum, sufficient information to identify the client, the dates of service, the fee for service, the payments for service, the type of service given, and copies of any reports that may have been made.

(2) "Advertising" means the submission of bids, contracting or making known by any public notice, publication, or solicitation of business, directly or indirectly, that services regulated under this chapter are available for consideration.

(3) "Agency" means a person who holds an agency license pursuant to this chapter, and includes one who employs an individual for wages and salary, and withholds all legally required deductions and contributions, or contracts with a registrant or an apprentice on a part-time or case-by-case basis to conduct an investigation on behalf of the agency.

(4) "Applicant" means any person who has submitted a completed application and all required fees.

(5) "Apprentice" means a person who holds an apprentice license pursuant to this chapter, has not met the requirements for registration, and works under the direct supervision and guidance of an agency.

(6) "Board" means the Bail Bond Recovery and Private Investigator Licensure Board created in Section 53-11-104.

(7) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(8) "Commissioner" means the commissioner of the Department of Public Safety.

(9) "Conviction" means an adjudication of guilt by a federal, state, or local court resulting from trial or plea, including a plea of no contest, regardless of whether the imposition of sentence was suspended.

(10) "Department" means the Department of Public Safety.

(11) "Direct supervision" means that the agency or employer:

(a) is responsible for, and authorizes, the type and extent of work assigned;

(b) reviews and approves all work produced by the apprentice before it goes to the client;

(c) closely supervises and provides direction and guidance to the apprentice in the performance of his assigned work; and

(d) is immediately available to the apprentice for verbal contact, including by electronic means.

(12) "DOD civilian" means the same as that term is defined in Section 53B-8-102.

[~~(12)~~](13) "Emergency action" means a summary suspension of a license pending revocation, suspension, or probation in order to protect the public health, safety, or welfare.

[~~(13)~~](14) "Employee" means an individual who works for an agency or other employer, is listed on the agency's or employer's payroll records, and is under the agency's or employer's direction and control. An employee is not an independent contractor.

[~~(14)~~](15) "Identification card" means a card issued by the commissioner to a qualified applicant for an agency, registrant, or apprentice license.

[~~(15)~~](16) "Letter of concern" means an advisory letter to notify a licensee that while there is insufficient evidence to support probation, suspension, or revocation of a license, the department informs the licensee of the need to modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the department may result in further disciplinary action against the licensee.

[~~(16)~~](17) "Licensee" means a person to whom an agency, registrant, or apprentice license is issued by the department.

[~~(17)~~](18) (a) "Private investigator or private detective" means any person, except collection agencies and credit reporting agencies, who, for consideration, engages in business or accepts employment to conduct any investigation for the purpose of obtaining information with reference to:

(i) crime, wrongful acts, or threats against the United States or any state or territory of the United States;

(ii) the identity, reputation, character, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, or transactions of any person or group of persons;

(iii) the credibility of witnesses or other persons;

(iv) the whereabouts of missing persons or owners of abandoned property;

(v) the causes and origin of, or responsibility for a fire, libel, slander, a loss, an accident, damage, or an injury to real or personal property;

(vi) the business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the trial preparation;

(vii) the prevention, detection, and removal of installed devices for eavesdropping or observation;

(viii) the business of "skip tracing" persons who have become delinquent in their lawful debts, either when hired by an individual, collection agency, or through the direct purchase of the debt from a financial institution or entity owning the debt or judgment; or

(ix) serving civil process.

(b) "Private investigator or private detective" does not include:

(i) any person or employee conducting an investigation on the person's or employee's own behalf or on behalf of the employer if the employer is not a private investigator under this chapter;

(ii) an employee of an attorney licensed to practice law in this state; or

(iii) a currently licensed certified public accountant or CPA as defined in Section 58-26a-102.

[~~(18)~~](19) "Qualifying party" means the individual meeting the qualifications under this chapter for a private investigator license.

[~~(19)~~](20) "Registrant" means any person who holds a registrant license pursuant to this chapter. The registrant performs private investigative work either as an employee on an employer's payroll or, on a contract with an agency, part-time, or case-by-case basis, with a minimum amount of direction.

[~~(20)~~](21) "Restructuring" means any change in the legal status of a business.

[~~(21)~~](22) "Unprofessional conduct" means any of the following:

(a) engaging or offering to engage by fraud or misrepresentation in any activities regulated by this chapter;

(b) aiding or abetting a person who is not licensed pursuant to this chapter in representing that person as a private investigator or registrant in this state;

(c) gross negligence in the practice of a private investigator or registrant;

(d) failing or refusing to maintain adequate records and investigative findings on a subject of investigation or a client;

(e) committing a felony or a misdemeanor involving any crime that is grounds for denial, suspension, or revocation of an agency, registrant, or apprentice license. In all cases, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission of the crime; or

(f) making a fraudulent or untrue statement to the bureau, board, department, or its investigators, staff, or consultants.

Section 9. Section 53-9-122 is amended to read:

53-9-122. Exemptions from licensure.

Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this chapter, subject to the stated circumstances and limitations, without being licensed under this title:

(1) an individual licensed under the laws of this state, other than under this chapter, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(2) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(3) the spouse of an individual serving in the armed forces of the United States or the spouse of a DOD civilian while the individual or DOD civilian is stationed within this state, if:

(a) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(b) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 10. Section 53B-8-102 is amended to read:

53B-8-102. Definitions -- Resident student status -- Exceptions.

(1) As used in this section:

(a) "DOD civilian" means an employee of the United States Department of Defense who is assigned to perform the employee's duties at a military organization based in Utah.

[~~(a)~~](b) "Eligible person" means an individual who is entitled to post-secondary educational benefits under Title 38 U.S.C., Veterans' Benefits.

[~~(b)~~](c) "Immediate family member" means an individual's spouse or dependent child.

[~~(c)~~](d) "Inmate" means the same as that term is defined in Section 64-13-1.

[~~(d)~~](e) "Military service member" means an individual who:

(i) is serving on active duty in the United States Armed Forces within the state of Utah;

(ii) is a member of a reserve component of the United States Armed Forces assigned in Utah;

(iii) is a member of the Utah National Guard; or

(iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned outside of Utah pursuant to federal permanent change of station orders.

[~~(e)~~](f) "Military veteran" has the same meaning as veteran in Section 68-3-12.5.

[~~(f)~~](g) "Parent" means a student's biological or adoptive parent.

(2) The meaning of "resident student" is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3) (a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student's name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student's name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military service member, if the military service member provides:

(i) the military service member's current United States military identification card; and

(ii) (A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah; or

(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a);

(b) a military service member's immediate family member, if the military service member's immediate family member provides:

(i) (A) the military service member's current United States military identification card; or

(B) the immediate family member's current United States military identification card; and

(ii) (A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah;

(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a); or

(C) evidence that the immediate family member completed at least one year of grades 9 through 12 at a local education agency, as defined in Section 53E-1-102, within the state while the military service member was assigned in Utah, regardless of the service member's current assignment[~~.~~];

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

(E) a rental agreement showing the military veteran's name and Utah address; or

(F) utility bills showing the military veteran's name and Utah address;

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge;

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah, which may include one of the items described in Subsection (8)(c)(iii);

(e) a foreign service member as defined in the Foreign Service Family Act of 2021 who is either:

(i) domiciled in Utah, recognizing the individual may not be physically present in the state due to an assignment; or

(ii) assigned to a duty station in Utah if the foreign service member provides:

(A) evidence of the foreign service member's status;

(B) a statement from the foreign service member's current commander, or equivalent, stating that the foreign service member is assigned in Utah; or

(C) evidence that the foreign service member is domiciled in Utah;

(f) a foreign service member's immediate family member if the foreign service member is either:

(i) domiciled in Utah, recognizing the individual may not be physically present in the state due to an assignment; or

(ii) assigned to a duty station in Utah if the foreign service member provides:

(A) evidence of the foreign service member's status;

(B) a statement from the foreign service member's current commander, or equivalent, stating that the foreign service member is assigned in Utah; or

(C) evidence that the foreign service member is domiciled in Utah;

(g) an eligible person who provides:

(i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;

(ii) a signed written declaration that the eligible person will use the Veteran Benefits under Title 38 U.S.C.; and

(iii) objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include one of the items described in Subsection (8)(c)(iii);

(h) an alien who provides:

(i) evidence that the alien is a special immigrant visa recipient;

(ii) evidence that the alien has been granted refugee status, humanitarian parole, temporary protected status, or asylum; or

(iii) evidence that the alien has submitted in good faith an application for refugee status, humanitarian parole, temporary protected status, or asylum under United States immigration law; [~~or~~]

(i) an inmate:

(i) during the time the inmate is enrolled in the course; and

(ii) for one year after the day on which the inmate is released from a correctional facility as defined in Section 64-13-1[~~.~~];

(j) a DOD civilian, if the DOD civilian provides:

(i) the DOD civilian's current United States Department of Defense identification card; and

(ii) (A) a statement from the DOD civilian's current commander, or equivalent, stating that the DOD civilian is assigned in Utah; or

(B) evidence that the DOD civilian is domiciled in Utah, as described in Subsection (9)(a); or

(k) a DOD civilian's immediate family member, if the DOD civilian's immediate family member provides:

(i) the DOD civilian's current United States Department of Defense identification card; and

(ii) (A) a statement from the DOD civilian's current commander, or equivalent, stating that the DOD civilian is assigned in Utah; or

(B) evidence that the DOD civilian is domiciled in Utah, as described in Subsection (9)(a).

(9) (a) The evidence described in Subsection (8)(a)(ii)(B)[~~or~~], (8)(b)(ii)(B), (8)(j)(ii)(B), or (8)(k)(ii)(B) includes:

(i) a current Utah voter registration card;

(ii) a valid Utah driver license or identification card;

(iii) a current Utah vehicle registration;

(iv) a copy of a Utah income tax return, in the name of the military service [~~member's or~~]member, military service member's [~~spouse's name~~]spouse, DOD civilian, or DOD civilian's spouse filed as a resident in accordance with Section 59-10-502; or

(v) proof that the military service member[~~or~~], military service member's spouse, DOD civilian, or DOD civilian's spouse owns a home in Utah, including a property tax notice for property owned in Utah.

(b) Aliens who are present in the United States on visitor, student, or other visas not listed in Subsection (8)(h) or (9)(c), which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(c) Aliens who have been granted or have applied for permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14) (a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15) (a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16) (a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) A foreign service member or the foreign service member's immediate family member deemed eligible for resident student status under Subsection (8)(e) or (f) shall retain the eligibility for resident student status if the foreign service member or immediate family member maintains continuous enrollment even in the case of a change in domicile or duty station.

(18) A DOD civilian or the DOD civilian's immediate family member deemed eligible for resident student status under Subsection (8)(j) or (k) shall retain the eligibility for resident student status if the DOD civilian or the DOD civilian's immediate family member maintains continuous enrollment even in the case of a change in domicile or duty station.

[~~(18)~~](19) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

[~~(19)~~](20) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

Section 11. Section 53E-3-1201 is enacted to read:

PART 12. Education Opportunity for Children of United States Department of Defense Employees

53E-3-1201. Definitions.

As used in this part:

(1) "DOD civilian" means the same as that term is defined in Section 53B-8-102.

(2) "Child of a DOD civilian family" means a school-aged child, enrolled in kindergarten through grade 12, in the household of a currently serving DOD civilian.

(3) "Deployment" means the period one month prior to the DOD civilian's departure from the DOD civilian's home station on orders through six months after return to the DOD civilian's home station.

(4) (a) "Educational record" means an official record, file, or data directly related to a student and maintained by a school or an LEA.

(b) "Educational record" includes records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance, and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

(5) (a) "Extracurricular activity" means a voluntary activity sponsored by a school or an LEA or an organization sanctioned by the LEA.

(b) "Extracurricular activity" includes preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

(6) (a) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense.

(b) "Military installation" includes a leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory of the United States.

(c) "Military installation" does not include a facility used primarily for civil works, rivers and harbors projects, or flood control projects.

(7) "Sending state" means the state from which a child of a DOD civilian family is sent, brought, or caused to be sent or brought.

(8) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory of the United States.

(9) "Transferring student" means a child of a DOD civilian family who is seeking to be enrolled in a school in Utah.

Section 12. Section 53E-3-1202 is enacted to read:

53E-3-1202. Transferring student enrollment, records, and immunization.

(1) (a) Subject to Subsection (2), when a school receives the unofficial education record of a transferring student from a school in a sending state, the school shall enroll and appropriately place the transferring student based on the information provided in the unofficial educational record pending receipt and validation of the transferring student's official educational records.

(b) At the time a transferring student is enrolled and conditionally placed based on the student's unofficial educational records under Subsection (1)(a), the school shall request the student's official educational record from the school in the sending state.

(2) (a) A school enrolling a transferring student under this section shall enroll the transferring student at the same grade level the transferring student has been enrolled at in the school in the sending state regardless of the transferring student's age.

(b) A transferring student that has satisfactorily completed a prerequisite grade level in a school in the sending state shall be eligible for enrollment in the next highest grade level regardless of the transferring student's age.

(3) (a) A school enrolling a transferring student under this section shall give the student 30 days from the day on which the student is enrolled in the school for the student to obtain any immunization that is required by the school.

(b) If the required immunization described in Subsection (3)(a) encompasses a series of immunizations, the initial immunization in the series satisfies the requirement for the student to be immunized within 30 days from the day on which the student is enrolled in the school as required under Subsection (3)(a).

Section 13. Section 53E-3-1203 is enacted to read:

53E-3-1203. Course placement -- Extracurricular activities.

(1) As used in this section:

(a) "Course placement" means placing a transferring student in an educational course or program provided by a school.

(b) "Educational course or program" means the following courses or programs:

(i) honors, international baccalaureate, advanced placement, vocational, technical, career pathways, and English as a second language courses; and

(ii) gifted and talented programs.

(2) (a) A school that enrolls a transferring student as described in Section 53E-3-1202 shall, when determining course placement for the transferring student, place the transferring student in educational courses or programs based on the transferring student's course placement in the sending state's school or educational assessments conducted at the school in the sending state.

(b) Subsection (2)(a) does not prohibit the school from performing additional evaluations after the transferring student is enrolled to ensure appropriate placement and continued enrollment of the student in the educational course or program.

(3) When a school makes a course placement determination under this section, the school shall attempt to the best of the school's ability to ensure the continuance of the transferring student's academic program from the transferring student's previous school and place the transferring student in academically and career challenging courses.

(4) (a) In compliance with the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., a school

that enrolls a transferring student with disabilities shall provide comparable services to the transferring student based on the transferring student's current IEP.

(b) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. Sec. 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. Secs. 12131-12165, a school that enrolls a transferring student with disabilities shall make reasonable accommodations and modifications to address the needs of the transferring student, subject to an existing Section 504 accommodation plan, to provide the transferring student with equal access to education.

(c) Subsection (4)(b) does not preclude the school from performing additional evaluations after the transferring student is enrolled to ensure appropriate placement of the transferring student.

(5) An LEA's administrative officials may waive requirements or other prerequisites for any course placement in an educational course or program under this section.

(6) An LEA shall facilitate the opportunity for a transferring student to be included in extracurricular activities, regardless of application deadlines, to the extent the transferring student is otherwise qualified to participate in the extracurricular activities.

Section 14. Section 53E-3-1204 is enacted to read:

53E-3-1204. Parental consent -- Tuition.

(1) Power of attorney lawfully executed under Title 75, Chapter 9, Uniform Power of Attorney Act, is sufficient for the purposes of enrollment and other actions requiring parental participation or consent.

(2) An LEA may not charge local tuition to a transferring student placed in the care of a non-custodial parent or other individual standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

(3) A transferring student, placed in the care of a non-custodial parent or other individual standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the student was enrolled while residing with the custodial parent.

Section 15. Section 53E-3-1205 is enacted to read:

53E-3-1205. Graduation -- Waiver -- Exit exams -- Senior year transfers.

(1) To facilitate the on-time graduation from high school of a transferring student an LEA shall:

(a) (i) waive specific courses required for graduation if similar coursework has been satisfactorily completed by the transferring student in a school in a sending state; or

(ii) if the LEA does not waive a specific course requirement under Subsection (1)(a), provide an alternative means of acquiring the required coursework so that the transferring student may graduate on time; and

(b) accept:

(i) exit or end-of-course exams required for graduation from the transferring student's school in the sending state;

(ii) national norm-referenced achievement tests; or

(iii) subject to Subsection (2), alternative testing, in lieu of testing requirements for graduation.

(2) If a transferring student is enrolling in a school in the LEA in the transferring student's senior year of high school and the LEA cannot accommodate the alternative testing described in Subsection (1)(b)(iii), the LEA shall, if the transferring student otherwise meets the graduation requirements of the transferring student's school in the sending state, use the LEA's best efforts to request and receive a receipt of a high school graduation diploma for the transferring student from the transferring student's school in the sending state.

(3) If an LEA denies a waiver under Subsection (1)(a) the LEA shall provide a reasonable justification for the denial to the transferring student.

Section 16. Section 53E-6-102 is amended to read:

53E-6-102. Definitions.

As used in this chapter:

(1) "Certificate" means a license issued by a governmental jurisdiction outside the state.

(2) "DOD civilian" means the same as that term is defined in Section 53B-8-102.

[~~(2)~~](3) "Educator" means:

(a) a person who holds a license;

(b) a teacher, counselor, administrator, librarian, or other person required, under rules of the state board, to hold a license; or

(c) a person who is the subject of an allegation which has been received by an LEA, the state board, or UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure.

[~~(3)~~](4) "License" means an authorization issued by the state board that permits the holder to serve in a professional capacity in the public schools.

[~~(4)~~](5) "National Board certification" means a current certificate issued by the National Board for Professional Teaching Standards.

[~~(5)~~](6) "School" means a public or private entity that provides educational services to a minor child.

[~~(6)~~](7) "UPPAC" means the Utah Professional Practices Advisory Commission.

Section 17. Section 53E-6-204 is amended to read:

53E-6-204. Exemptions from licensure.

(1) Except as otherwise provided by statute or rule, a spouse of an individual serving in the armed forces of the United States or the spouse of a DOD civilian while the individual or DOD civilian is stationed within this state may work as an educator without being licensed under this title if:

[~~(1)~~](a) the spouse holds a valid educator license issued by any other state or jurisdiction recognized by the state board; and

[~~(2)~~](b) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

(2) For an active military member, eligible military spouse, DOD civilian, or spouse of a DOD civilian who holds a license that is not unencumbered, as that term is defined in Section 53E-6-1101, the receiving state shall grant an equivalent license or licenses that, in the receiving state's sole discretion, is equivalent to the license or licenses held by the teacher in the sending state, except where the receiving state does not have an equivalent license.

Section 18. Section 53G-1-103 is amended to read:

53G-1-103. Definitions.

As used in this title[~~,~~]:

(1) "DOD civilian" means the same as that term is defined in Section 53B-8-102.

(2) [~~"electronic~~]"Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(3) "Military service member" means the same as that term is defined in Section 53B-8-102.

Section 19. Section 53G-6-306 is amended to read:

53G-6-306. Permitting attendance by nonresident of the state -- Tuition.

(1) As used in this section:

(a) "Armed forces" means the same as that term is defined in Section 68-3-12.5.

(b) "Eligible student" means a student who is a dependent child of a member of the uniformed services or a DOD civilian who is:

(i) (A) relocating to the state and does not reside in the state during an LEA's enrollment period; or

(B) relocating out of the state during the school year; and

(ii) (A) on permanent change of station orders; or

(B) relocating for a civilian assignment or position.

(c) "Nonresident child" means a child residing outside the state.

(d) "Provisional enrollment" means enrollment in a public school by an eligible student:

(i) before the eligible student relocates to the state; or

(ii) after the eligible student's parent relocates out of the state, but before the eligible student relocates out of the state.

(e) "Uniformed services" means:

(i) the same as that term is defined in Section 68-3-12.5;

(ii) the reserve components of the armed forces; and

(iii) the national guard of a state.

(2) (a) An LEA may permit a nonresident child to attend school within the district, giving priority to a child of a [~~military service~~]member [~~, as that term is defined in Section 53B-8-102~~]of the uniformed services or a DOD civilian.

(b) With the exception of a child enrolled under Section 53G-6-707, a nonresident child is not included for the purpose of apportionment of state funds.

(3) (a) An LEA shall charge a nonresident child who enrolls in a school within the LEA tuition in an amount at least equal to the per capita cost of the school program in which the nonresident child enrolls unless the LEA, in open meeting, determines to waive the charge for that nonresident child in whole or in part.

(b) The official minutes of the meeting described in Subsection (3)(a) shall reflect the LEA's determination to waive the charge described in Subsection (3)(a).

(4) (a) Notwithstanding anything to the contrary in Subsection (3), an LEA shall allow an eligible student to:

(i) provisionally enroll in a public school in the LEA at the same time and in the same manner as individuals who reside in the state; or

(ii) provisionally enroll in virtual education options that the LEA provides in the same manner as an individual residing in the state.

(b) An LEA may not require proof of residency from an eligible student at the time the eligible student applies to enroll in a public school in the LEA.

(c) An LEA shall require proof of residence within 10 days after the eligible student's first day of residence in the state.

Section 20. Section 53G-6-402 is amended to read:

53G-6-402. Open enrollment options -- Procedures -- Processing fee -- Continuing enrollment.

(1) Each local school board is responsible for providing educational services consistent with Utah state law and rules of the state board for each student who resides in the district and, as provided in this section through Section 53G-6-407 and to the extent reasonably feasible, for any student who resides in another district in the state and desires to attend a school in the district, giving priority to a child of a military service member [~~, as that term is defined in 53B-8-102~~]or a child of a DOD civilian.

(2) (a) A school is open for enrollment of nonresident students if the enrollment level is at or below the open enrollment threshold.

(b) If a school's enrollment falls below the open enrollment threshold, the local school board shall allow a nonresident student to enroll in the school.

(3) A local school board may allow enrollment of nonresident students in a school that is operating above the open enrollment threshold.

(4) (a) A local school board shall adopt policies describing procedures for nonresident students to follow in applying for entry into the district's schools.

(b) Those procedures shall provide, as a minimum, for:

(i) distribution to interested parties of information about the school or school district and how to apply for admission;

(ii) use of standard application forms prescribed by the state board;

(iii) (A) submission of applications from November 15 through the first Friday in February by those seeking admission during the early enrollment period for the following year; or

(B) submission of applications from August 1 through November 1 by those seeking admission during the early enrollment period for the following year in a school district described in Subsection 53G-6-401(1)(b);

(iv) submission of applications by those seeking admission during the late enrollment period;

(v) notwithstanding any other provision of this part or Part 3, School District Residency, submission of applications for at least 30 days after the day on which a school boundary change takes effect for those affected by the school boundary change;

(vi) written notification to the student's parent of acceptance or rejection of an application:

(A) within six weeks after receipt of the application by the district or by March 31, whichever is later, for applications submitted during

the early enrollment period;

(B) within two weeks after receipt of the application by the district or by the Friday before the new school year begins, whichever is later, for applications submitted during the late enrollment period for admission in the next school year;

(C) within two weeks after receipt of the application by the district, for applications submitted during the late enrollment period for admission in the current year; and

(D) within two weeks after receipt of the application by the district, for applications submitted by students affected by a school district boundary change;

(vii) written notification to the resident school for intradistrict transfers or the resident district for interdistrict transfers upon acceptance of a nonresident student for enrollment; and

(viii) written notification to the parents of each student that resides within the school district and other interested parties of the revised early enrollment period described in Subsection 53G-6-401(1)(b) if:

(A) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(B) the grade reconfiguration described in Subsection (4)(b)(viii)(A) will be implemented in the next school year.

(c) (i) Notwithstanding the dates established in Subsection (4)(b) for submitting applications and notifying parents of acceptance or rejection of an application, a local school board may delay the dates if a local school board is not able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school due to:

(A) school construction or remodeling;

(B) drawing or revision of school boundaries; or

(C) other circumstances beyond the control of the local school board.

(ii) The delay may extend no later than four weeks beyond the date the local school board is able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school.

(5) A school district may charge a one-time $5 processing fee, to be paid at the time of application.

(6) An enrolled nonresident student shall be permitted to remain enrolled in a school, subject to the same rules and standards as resident students, without renewed applications in subsequent years unless one of the following occurs:

(a) the student graduates;

(b) the student is no longer a Utah resident;

(c) the student is suspended or expelled from school;

(d) except for a student described in Subsection (6)(e), the district determines that enrollment within the school will exceed the school's open enrollment threshold; or

(e) for a child of a military service member [~~, as that term is defined in Section 53B-8-102,~~]or a child of a DOD civilian who moves from temporary to permanent housing outside of the relevant school district boundaries following a permanent change of station:

(i) in kindergarten through grade 10, the student completes the current school year; or

(ii) in grades 11 and 12, the student graduates.

(7) (a) Determination of which nonresident students will be excluded from continued enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in the school, with those most recently enrolled being excluded first and the use of a lottery system when multiple nonresident students have the same number of school days in the school.

(b) Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15 of the current school year.

(8) The parent of a student enrolled in a school that is not the student's school of residence may withdraw the student from that school for enrollment in another public school by submitting notice of intent to enroll the student in:

(a) the district of residence; or

(b) another nonresident district.

(9) Unless provisions have previously been made for enrollment in another school, a nonresident district releasing a student from enrollment shall immediately notify the district of residence, which shall enroll the student in the resident district and take such additional steps as may be necessary to ensure compliance with laws governing school attendance.

(10) (a) Except as provided in Subsection (10)(c), a student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an open enrollment option under this section may not transfer to a different school during the same school year by exercising an open enrollment option under this section.

(b) The restriction on transfers specified in Subsection (10)(a) does not apply to a student transfer made for health or safety reasons.

(c) A local school board may adopt a policy allowing a student to exercise an open enrollment option more than once in a school year.

(11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school that is not the student's school of residence, because school bus service is not provided between the student's neighborhood and school of residence for safety reasons:

(a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and

(b) shall be allowed to attend the middle school, junior high school, or high school into which the school's students feed until the student graduates from high school.

(12) Notwithstanding any other provision of this part or Part 3, School District Residency, a student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services, to comply with the provisions of 42 U.S.C. [~~Section~~]Sec. 675.

Section 21. Section 53G-6-502 is amended to read:

53G-6-502. Eligible students.

(1) As used in this section:

(a) "At capacity" means operating above the school's open enrollment threshold.

(b) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(c) "Open enrollment threshold" means the same as that term is defined in Section 53G-6-401.

(d) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

(e) "School of residence" means the same as that term is defined in Section 53G-6-401.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53G-6-503.

(3) (a) A charter school shall enroll:

(i) a foster child residing in the same residence as an individual who is enrolled in the charter school; and

(ii) an eligible student other than a child described in Subsection (3)(a)(i) who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications described in Subsection (3)(a)(ii) exceeds the capacity of a program, class, grade level, or the charter school, the charter school shall select students on a random basis, except as provided in Subsections (4) through (8).

(4) A charter school may give an enrollment preference to:

(a) a child or grandchild of an individual who has actively participated in the development of the charter school;

(b) a child or grandchild of a member of the charter school governing board;

(c) a sibling of an individual who was previously or is presently enrolled in the charter school;

(d) a child of an employee of the charter school;

(e) a student articulating between charter schools offering similar programs that are governed by the same charter school governing board;

(f) a student articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board;

(g) an individual seeking enrollment in a charter school if:

(i) the individual's sibling is a student enrolled in a charter school; and

(ii) the charter school where the individual is seeking enrollment has an articulation agreement with the charter school where the sibling is enrolled that the State Charter School Board approves;

(h) a student who resides within up to a two-mile radius of the charter school and whose school of residence is at capacity;

(i) a child of a military service member[~~as defined in Section 53B-8-102~~];

(j) a child of a DOD civilian; or

[~~(j)~~](k) for the 2022-2023 school year, a student who withdraws from the charter school to attend an online school or home school for the 2020-2021 or 2021-2022 school years due to the COVID-19 emergency.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding Subsection (4)(h), a charter school that is approved by the state board after May 13, 2014, and is located in a high growth area as defined in Section 53G-6-504 shall give an enrollment preference to a student who resides within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53G-6-504(7)(b).

(6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(8) A charter school may weight the charter school's lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

(a) low-income students;

(b) students with disabilities;

(c) English language learners;

(d) migrant students;

(e) neglected or delinquent students; and

(f) homeless students.

(9) A charter school may not discriminate in the charter school's admission policies or practices on the same basis as other public schools may not discriminate in admission policies and practices.

Section 22. Section 58-1-102 is amended to read:

58-1-102. Definitions.

As used in this title:

(1) "Ablative procedure" means the same as that term is defined in Section 58-67-102.

(2) "Cosmetic medical procedure":

(a) means the same as that term is defined in Section 58-67-102; and

(b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual licensed under this title if the individual's scope of practice includes the authority to operate or perform surgical procedures.

(3) "Cryolipolysis" means a nonablative fat reduction procedure that uses cold temperature to reduce fat deposits in certain areas of the body.

(4) "Department" means the Department of Commerce.

(5) "Director" means the director of the Division of Professional Licensing.

(6) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(7) "DOD civilian" means the same as that term is defined in Section 53B-8-102.

[~~(7)~~](8) "Executive director" means the executive director of the Department of Commerce.

[~~(8)~~](9) "Licensee" includes any holder of a license, certificate, registration, permit, student card, or apprentice card authorized under this title.

[~~(9)~~](10) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection [~~(8)(a)(i)~~](10)(a)(i), nonablative procedure includes hair removal and cryolipolysis.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within their scope of practice.

[~~(10)~~](11) "Pain clinic" means:

(a) a clinic that advertises its primary purpose is the treatment of chronic pain; or

(b) a clinic in which greater than 50% of the clinic's annual patient population receive treatment primarily for non-terminal chronic pain using Schedule II-III controlled substances.

[~~(11)~~](12) "Superficial procedure" means a procedure that is expected or intended to temporarily alter living skin tissue and may excise or remove stratum corneum but have no appreciable risk of damage to any tissue below the stratum corneum.

[~~(12)~~](13) "Telemedicine service" means the same as that term is defined in Section 26B-4-704.

[~~(13)~~](14) "Unlawful conduct" means the same as that term is defined in Subsection 58-1-501(1).

[~~(14)~~](15) "Unprofessional conduct" means the same as that term is defined in Subsection 58-1-501(2).

Section 23. Section 58-1-307 is amended to read:

58-1-307. Exemptions from licensure.

(1) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of their occupation or profession, subject to the stated circumstances and limitations, without being licensed under this title:

(a) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the individual holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division;

(b) a student engaged in activities constituting the practice of a regulated occupation or profession while in training in a recognized school approved by the division to the extent the activities are supervised by qualified faculty, staff, or designee and the activities are a defined part of the training program;

(c) an individual engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program approved by the division while under the supervision of qualified individuals;

(d) an individual residing in another state and licensed to practice a regulated occupation or profession in that state, who is called in for a consultation by an individual licensed in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, society, or other body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a regulated occupation or profession if the individual does not establish a place of business or regularly engage in the practice of the regulated occupation or profession in this state;

(f) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(g) an individual licensed in a health care profession in another state who performs that profession while attending to the immediate needs of a patient for a reasonable period during which the patient is being transported from outside of this state, into this state, or through this state;

(h) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the practitioner may only attend to the needs of the athletic team or group, including all individuals who travel with the team or group in any capacity except as a spectator;

(i) an individual licensed and in good standing in another state, who is in this state:

(i) temporarily, under the invitation and control of a sponsoring entity;

(ii) for a reason associated with a special purpose event, based upon needs that may exceed the ability of this state to address through its licensees, as determined by the division; and

(iii) for a limited period of time not to exceed the duration of that event, together with any necessary preparatory and conclusionary periods; and

(j) the spouse of an individual serving in the armed forces of the United States or the spouse of a DOD civilian while the individual or DOD civilian is stationed within this state, provided:

(i) the spouse holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division; and

(ii) the license is current and the spouse is in good standing in the state of licensure.

(2) (a) A practitioner temporarily in this state who is exempted from licensure under Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the practitioner derives authority to practice.

(b) Violation of a limitation imposed by this section constitutes grounds for removal of exempt status, denial of license, or other disciplinary proceedings.

(3) An individual who is licensed under a specific chapter of this title to practice or engage in an occupation or profession may engage in the lawful, professional, and competent practice of that occupation or profession without additional licensure under other chapters of this title, except as otherwise provided by this title.

(4) Upon the declaration of a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the president of the United States or other federal official requesting public health-related activities, the division in collaboration with the relevant board may:

(a) suspend the requirements for permanent or temporary licensure of individuals who are licensed in another state for the duration of

the emergency while engaged in the scope of practice for which they are licensed in the other state;

(b) modify, under the circumstances described in this Subsection (4) and Subsection (5), the scope of practice restrictions under this title for individuals who are licensed under this title as:

(i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure Compact - Revised;

(iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

(iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b, Pharmacy Practice Act;

(v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

(vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist Practice Act; and

(vii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(c) suspend the requirements for licensure under this title and modify the scope of practice in the circumstances described in this Subsection (4) and Subsection (5) for medical services personnel or paramedics required to be licensed under Section 53-2d-402;

(d) suspend requirements in Subsections 58-17b-620(3) through (6) which require certain prescriptive procedures;

(e) exempt or modify the requirement for licensure of an individual who is activated as a member of a medical reserve corps during a time of emergency as provided in Section 26A-1-126;

(f) exempt or modify the requirement for licensure of an individual who is registered as a volunteer health practitioner as provided in Title 26B, Chapter 4, Part 8, Uniform Emergency Volunteer Health Practitioners Act; and

(g) in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exempt or modify the requirements for licensure of an individual engaged in one or more of the construction trades described in Chapter 55, Utah Construction Trades Licensing Act.

(5) Individuals exempt under Subsection (4)(c) and individuals operating under modified scope of practice provisions under Subsection (4)(b):

(a) are exempt from licensure or subject to modified scope of practice for the duration of the emergency;

(b) must be engaged in the distribution of medicines or medical devices in response to the emergency or declaration; and

(c) must be employed by or volunteering for:

(i) a local or state department of health; or

(ii) a host entity as defined in Section 26B-4-801.

(6) In accordance with the protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health and Human Services or a local health department shall coordinate with public safety authorities as defined in Subsection 26B-7-323(1) and may:

(a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance to prevent or treat a disease or condition that gave rise to, or was a consequence of, the emergency; or

(b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance:

(i) if necessary, to replenish a commercial pharmacy in the event that the commercial pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication is exhausted; or

(ii) for dispensing or direct administration to treat the disease or condition that gave rise to, or was a consequence of, the emergency by:

(A) a pharmacy;

(B) a prescribing practitioner;

(C) a licensed health care facility;

(D) a federally qualified community health clinic; or

(E) a governmental entity for use by a community more than 50 miles from a person described in Subsections (6)(b)(ii)(A) through (D).

(7) In accordance with protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health and Human Services shall coordinate the distribution of medications:

(a) received from the strategic national stockpile to local health departments; and

(b) from local health departments to emergency personnel within the local health departments' geographic region.

(8) The Department of Health and Human Services shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing, and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance in the event of a declaration of a national, state, or local emergency. The protocol shall establish procedures for the Department of Health and Human Services or a local health department to:

(a) coordinate the distribution of:

(i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance received by the Department of Health and Human Services from the strategic national stockpile to local health departments; and

(ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication received by a local health department to emergency personnel within the local health department's geographic region;

(b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance to the contact of a patient without a patient-practitioner relationship, if the contact's condition is the same as that of the physician's or physician assistant's patient; and

(c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication to an individual who:

(i) is working in a triage situation;

(ii) is receiving preventative or medical treatment in a triage situation;

(iii) does not have coverage for the prescription in the individual's health insurance plan;

(iv) is involved in the delivery of medical or other emergency services in response to the declared national, state, or local emergency; or

(v) otherwise has a direct impact on public health.

(9) The Department of Health and Human Services shall give notice to the division upon implementation of the protocol established under Subsection (8).

Section 24. Section 61-1-32 is amended to read:

61-1-32. Exemptions from licensure.

(1) As used in this section, "DOD civilian" means the same as that term is defined in Section 53B-8-102.

(2) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this chapter, subject to the stated circumstances and limitations, without being licensed under this chapter:

[~~(1)~~](a) an individual licensed under the laws of this state, other than under this chapter, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

[~~(2)~~](b) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

[~~(3)~~](c) the spouse of an individual serving in the armed forces of the United States or the spouse of a DOD civilian while the individual or DOD civilian is stationed within this state, if:

[~~(a)~~](i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

[~~(b)~~](ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 25. Section 61-2f-102 is amended to read:

61-2f-102. Definitions.

As used in this chapter:

(1) "Associate broker" means an individual who is:

(a) employed or engaged as an independent contractor by or on behalf of a principal broker to perform an act described in Subsection [~~(20)~~](21) for valuable consideration; and

(b) licensed under this chapter as an associate broker.

(2) "Branch broker" means an associate broker who manages a principal broker's branch office under the supervision of the principal broker.

(3) "Branch office" means a principal broker's real estate brokerage office that is not the principal broker's main office.

(4) "Business day" means a day other than:

(a) a Saturday;

(b) a Sunday; or

(c) a federal or state holiday.

(5) "Business opportunity" means the sale, lease, or exchange of any business that includes an interest in real estate.

(6) "Commission" means the Real Estate Commission established under this chapter.

(7) "Concurrence" means the entities given a concurring role must jointly agree for action to be taken.

(8) "Condominium homeowners' association" means the condominium unit owners acting as a group in accordance with declarations and bylaws.

(9) (a) "Condominium hotel" means one or more condominium units that are operated as a hotel.

(b) "Condominium hotel" does not mean a hotel consisting of condominium units, all of which are owned by a single entity.

(10) "Condominium unit" means the same as that term is defined in Section 57-8-3.

(11) "Director" means the director of the Division of Real Estate.

(12) "Division" means the Division of Real Estate.

(13) "DOD civilian" means the same as that term is defined in Section 53B-8-102.

[~~(13)~~](14) "Dual broker" means a principal broker of a real estate sales brokerage who obtains from the division a dual broker license in order to function as the principal broker of a property management company that is a separate entity from the real estate sales brokerage.

[~~(14)~~](15) "Entity" means:

(a) a corporation;

(b) a partnership;

(c) a limited liability company;

(d) a company;

(e) an association;

(f) a joint venture;

(g) a business trust;

(h) a trust; or

(i) any organization similar to an entity described in Subsections (14)(a) through (h).

[~~(15)~~](16) "Executive director" means the director of the Department of Commerce.

[~~(16)~~](17) "Foreclosure rescue" means, for compensation or with the expectation of receiving valuable consideration, to:

(a) engage, or offer to engage, in an act that:

(i) the person represents will assist a borrower in preventing a foreclosure; and

(ii) relates to a transaction involving the transfer of title to residential real property; or

(b) as an employee or agent of another person:

(i) solicit, or offer that the other person will engage in an act described in Subsection (16)(a); or

(ii) negotiate terms in relationship to an act described in Subsection (16)(a).

[~~(17)~~](18) "Loan modification assistance" means, for compensation or with the expectation of receiving valuable consideration, to:

(a) act, or offer to act, on behalf of a person to:

(i) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

(A) an increase or decrease in an interest rate;

(B) a change to the type of interest rate;

(C) an increase or decrease in the principal amount of the residential mortgage loan;

(D) a change in the number of required period payments;

(E) an addition of collateral;

(F) a change to, or addition of, a prepayment penalty;

(G) an addition of a cosigner; or

(H) a change in persons obligated under the existing residential mortgage loan; or

(ii) substitute a new residential mortgage loan for an existing residential mortgage loan; or

(b) as an employee or agent of another person:

(i) solicit, or offer that the other person will engage in an act described in Subsection [~~(17)(a)~~](18)(a); or

(ii) negotiate terms in relationship to an act described in Subsection [~~(17)(a)~~](18)(a).

[~~(18)~~](19) "Main office" means the address which a principal broker designates with the division as the principal broker's primary brokerage office.

[~~(19)~~](20) "Person" means an individual or entity.

[~~(20)~~](21) "Principal broker" means an individual who is licensed or required to be licensed as a principal broker under this chapter who:

(a) sells or lists for sale real estate, including real estate being sold as part of a foreclosure rescue, or a business opportunity with the expectation of receiving valuable consideration;

(b) buys, exchanges, or auctions real estate, an option on real estate, a business opportunity, or an improvement on real estate with the expectation of receiving valuable consideration;

(c) advertises, offers, attempts, or otherwise holds the individual out to be engaged in the business described in Subsection [~~(20)(a)~~](21)(a) or (b);

(d) is employed by or on behalf of the owner of real estate or by a prospective purchaser of real estate and performs an act described in Subsection [~~(20)(a)~~](21)(a), whether the individual's compensation is at a stated salary, a commission basis, upon a salary and commission basis, or otherwise;

(e) with the expectation of receiving valuable consideration, manages property owned by another person;

(f) advertises or otherwise holds the individual out to be engaged in property management;

(g) with the expectation of receiving valuable consideration, assists or directs in the procurement of prospects for or the negotiation of a transaction listed in Subsections [~~(20)(a)~~](21)(a) and (e);

(h) except for a mortgage lender, title insurance producer, or an employee of a mortgage lender or title insurance producer, assists or directs in the closing of a real estate transaction with the expectation of receiving valuable consideration;

(i) engages in foreclosure rescue; or

(j) advertises, offers, attempts, or otherwise holds the person out as being engaged in foreclosure rescue.

[~~(21)~~](22) (a) "Property management" means engaging in, with the expectation of receiving valuable consideration, the management of real estate owned by another person or advertising or otherwise claiming to be engaged in property management by:

(i) advertising for, arranging, negotiating, offering, or otherwise attempting or participating in a transaction calculated to secure the rental or leasing of real estate;

(ii) collecting, agreeing, offering, or otherwise attempting to collect rent for the real estate and accounting for and disbursing the money collected; or

(iii) authorizing expenditures for repairs to the real estate.

(b) "Property management" does not include:

(i) hotel or motel management;

(ii) rental of tourist accommodations, including hotels, motels, tourist homes, condominiums, condominium hotels, mobile home park accommodations, campgrounds, or similar public accommodations for a period of less than 30 consecutive days, and the management activities associated with these rentals; or

(iii) the leasing or management of surface or subsurface minerals or oil and gas interests, if the leasing or management is separate from a sale or lease of the surface estate.

[~~(22)~~](23) "Property management sales agent" means a sales agent who:

(a) is affiliated with a dual broker through the dual broker's property management company; and

(b) is designated by the dual broker as a property management sales agent.

[~~(23)~~](24) "Real estate" includes leaseholds and business opportunities involving real property.

[~~(24)~~](25) (a) "Regular salaried employee" means an individual who performs a service for wages or other remuneration, whose employer withholds federal employment taxes under a contract of hire, written or oral, express or implied.

(b) "Regular salaried employee" does not include an individual who performs services on a project-by-project basis or on a commission basis.

[~~(25)~~](26) "Reinstatement" means restoring a license that has expired or has been suspended.

[~~(26)~~](27) "Reissuance" means the process by which a licensee may obtain a license following revocation of the license.

[~~(27)~~](28) "Renewal" means extending a license for an additional licensing period on or before the date the license expires.

[~~(28)~~](29) "Sales agent" means an individual who is:

(a) affiliated with a principal broker, either as an independent contractor or an employee as provided in Section 61-2f-303, to perform for valuable consideration an act described in Subsection [~~(20)~~](21); and

(b) licensed under this chapter as a sales agent.

[~~(29)~~](30) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.

Section 26. Section 61-2f-202 is amended to read:

61-2f-202. Exempt persons and transactions.

(1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not required for:

(i) a person who as owner or lessor performs an act described in Subsection [~~61-2f-102(20)~~]61-2f-102(21) with reference to real estate owned or leased by that person;

(ii) a regular salaried employee of the owner or lessor of real estate who, with reference to nonresidential real estate owned or leased by the employer, performs an act described in Subsection [~~61-2f-102(20)(b)~~]61-2f-102(21)(b) or (c);

(iii) a regular salaried employee of the owner of real estate who performs property management services with reference to real estate owned by the employer, except that the employee may only manage real estate for one employer;

(iv) an individual who performs property management services for the apartments at which that individual resides in exchange for free or reduced rent on that individual's apartment;

(v) a regular salaried employee of a condominium homeowners' association who manages real estate subject to the declaration of condominium that established the condominium homeowners' association, except that the employee may only manage real estate for one condominium homeowners' association;

(vi) a regular salaried employee of a licensed property management company or real estate brokerage who performs support services, as prescribed by rule, for the property management company or real estate brokerage; or

(vii) in the event a principal broker dies, is incapacitated, or is unable to perform the duties of a principal broker, an individual qualified and designated as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division, as an acting principal broker:

(A) in relation to each transaction pending on the day on which the principal broker dies, becomes incapacitated, or becomes unable to perform the duties of a principal broker, including the distribution of compensation for each transaction; and

(B) until the day on which each transaction described in Subsection (1)(a)(vii)(A) is completed.

(b) Subsection (1)(a) does not exempt from licensing:

(i) an employee engaged in the sale of real estate regulated under:

(A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; or

(B) Title 57, Chapter 19, Timeshare and Camp Resort Act;

(ii) an employee engaged in the sale of cooperative interests regulated under Title 57, Chapter 23, Real Estate Cooperative Marketing Act; or

(iii) an individual whose interest as an owner or lessor is obtained by that individual or transferred to that individual for the purpose of evading the application of this chapter, and not for another legitimate business reason.

(2) A license under this chapter is not required for:

(a) an isolated transaction or service by an individual holding an unsolicited, duly executed power of attorney from a property owner;

(b) subject to Subsection 61-2f-401(5), services rendered by an attorney admitted to practice law in this state in performing the attorney's duties as an attorney;

(c) a receiver, trustee in bankruptcy, administrator, executor, or an individual acting under order of a court;

(d) a trustee or employee of a trustee under a deed of trust or a will;

(e) a public utility, officer of a public utility, or regular salaried employee of a public utility, unless performance of an act described in Subsection [~~61-2f-102(20)~~]61-2f-102(21) is in connection with the sale, purchase, lease, or other disposition of real estate or investment in real estate unrelated to the principal business activity of that public utility;

(f) a regular salaried employee or authorized agent working under the oversight of the Department of Transportation when performing an act on behalf of the Department of Transportation in connection with one or more of the following:

(i) the acquisition of real estate pursuant to Section 72-5-103;

(ii) the disposal of real estate pursuant to Section 72-5-111;

(iii) services that constitute property management; or

(iv) the leasing of real estate; and

(g) a regular salaried employee of a county, city, or town when performing an act on behalf of the county, city, or town:

(i) in accordance with:

(A) if a regular salaried employee of a city or town:

(I) Title 10, Utah Municipal Code; or

(II) Title 11, Cities, Counties, and Local Taxing Units; and

(B) if a regular salaried employee of a county:

(I) Title 11, Cities, Counties, and Local Taxing Units; and

(II) Title 17, Counties; and

(ii) in connection with one or more of the following:

(A) the acquisition of real estate, including by eminent domain;

(B) the disposal of real estate;

(C) services that constitute property management; or

(D) the leasing of real estate.

(3) A license under this chapter is not required for an individual registered to act as a broker-dealer, agent, or investment adviser under the Utah and federal securities laws in the sale or the offer for sale of real estate if:

(a) (i) the real estate is a necessary element of a "security" as that term is defined by the Securities Act of 1933 and the Securities Exchange Act of 1934; and

(ii) the security is registered for sale in accordance with:

(A) the Securities Act of 1933; or

(B) Title 61, Chapter 1, Utah Uniform Securities Act; or

(b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec. 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation D, Rule 506, 17 C.F.R. Sec. 230.506; and

(ii) the selling agent and the purchaser are not residents of this state.

(4) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this chapter, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an individual licensed under the laws of this state, other than under this chapter, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(b) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(c) the spouse of an individual serving in the armed forces of the United States or the spouse of a DOD civilian while the individual or DOD civilian is stationed within this state, if:

(i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

(5) As used in this section, "owner" does not include:

(a) a person who holds an option to purchase real property;

(b) a mortgagee;

(c) a beneficiary under a deed of trust;

(d) a trustee under a deed of trust; or

(e) a person who owns or holds a claim that encumbers any real property or an improvement to the real property.

(6) The commission, with the concurrence of the division, may provide, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the circumstances under which a person or transaction qualifies for an exemption that is described in this section.

Section 27. Effective date.

This bill takes effect on May 7, 2025.

Section 28. Coordinating S.B. 17 with H.B. 142.

If S.B. 17, Services for Department of Defense Civilian Employees, and H.B. 142, Service Member and Veteran Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, Subsection 53 B-8-102(9)(a) in S.B. 17 and H.B. 142 be amended to read:

"(9)(a) The evidence described in Subsection [~~(8)(a)(ii)(B) or (8)(b)(ii)(B)~~](8)(j)(ii)(B) or (8)(k)(ii)(B) includes:

_____(i) a current Utah voter registration card;

_____(ii) a valid Utah driver license or identification card;

_____(iii) a current Utah vehicle registration;

_____(iv) a copy of a Utah income tax return, in the [~~military service member's or military service member's spouse's name~~]name of the DOD civilian or DOD civilian's spouse, filed as a resident in accordance with Section 59-10-502; or

_____(v) proof that the [~~military service member or military service member's spouse~~]DOD civilian or DOD civilian's spouse owns a home in Utah, including a property tax notice for property owned in Utah.".

CHAPTER 439
S. B. 134
Passed February 27, 2025
Approved March 26, 2025
Effective January 1, 2026

HEALTH CARE DECISIONS ACT AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill enacts the Uniform Health Care Decisions Act.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► enacts the Uniform Health Care Decisions Act;
- ► enacts provisions related to advance health care directives including mental health care directives;
- ► creates an optional form;
- ► enacts provisions related to allowing a health care provider to be a surrogate for health care decision making in limited circumstances;
- ► enacts provisions related to liability and immunity regarding health care decision making;
- ► repeals provisions related to advance-health care directives not contained in the Uniform Health Care Decisions Act;
- ► renumbers sections pertaining to orders for life sustaining treatment; and
- ► makes conforming and technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

75A-9-101, Utah Code Annotated 1953
75A-9-102, Utah Code Annotated 1953
75A-9-103, Utah Code Annotated 1953
75A-9-104, Utah Code Annotated 1953
75A-9-105, Utah Code Annotated 1953
75A-9-106, Utah Code Annotated 1953
75A-9-107, Utah Code Annotated 1953
75A-9-108, Utah Code Annotated 1953
75A-9-109, Utah Code Annotated 1953
75A-9-110, Utah Code Annotated 1953
75A-9-111, Utah Code Annotated 1953
75A-9-112, Utah Code Annotated 1953
75A-9-113, Utah Code Annotated 1953
75A-9-114, Utah Code Annotated 1953
75A-9-115, Utah Code Annotated 1953
75A-9-116, Utah Code Annotated 1953
75A-9-117, Utah Code Annotated 1953
75A-9-118, Utah Code Annotated 1953
75A-9-119, Utah Code Annotated 1953
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75A-9-123, Utah Code Annotated 1953
75A-9-124, Utah Code Annotated 1953
75A-9-125, Utah Code Annotated 1953
75A-9-126, Utah Code Annotated 1953
75A-9-127, Utah Code Annotated 1953
75A-9-128, Utah Code Annotated 1953
75A-9-129, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26B-2-801, (Renumbered from 75A-3-101, as renumbered and amended by Laws of Utah 2024, Chapter 364)
26B-2-802, (Renumbered from 75A-3-106)

REPEALS:

75A-3-102, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-103, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-104, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-105, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-107, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-201, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-202, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-203, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-204, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-205, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-206, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-207, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-208, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-301, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-302, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-303, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-304, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-305, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-306, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-307, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-308, as renumbered and amended by Laws of Utah 2024, Chapter 364
75A-3-309, as renumbered and amended by Laws of Utah 2024, Chapter 364

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-2-801, which is renumbered from Section 75A-3-101 is renumbered and amended to read:

PART 8. Order for Life Sustaining Treatment

[~~75A-3-101~~]26B-2-801. Definitions.

As used in this chapter:

(1) "Adult" means an individual who is:

(a) at least 18 years old; or

(b) an emancipated minor.

[~~(2) "Advance health care directive":~~]

[~~(a) includes:~~]

[~~(i) a designation of an agent to make health care decisions for an adult when the adult cannot make or communicate health care decisions; or~~]

[~~(ii) an expression of preferences about health care decisions;~~]

[~~(b) may take one of the following forms:~~]

[~~(i) a written document, voluntarily executed by an adult in accordance with the requirements of this chapter; or~~]

[~~(ii) a witnessed oral statement, made in accordance with the requirements of this chapter; and~~]

[~~(c) does not include an order for life sustaining treatment.~~]

[~~(3) "Agent" means an adult designated in an advance health care directive to make health care decisions for the declarant.~~]

[~~(4)~~](2) "APRN" means an individual who is:

(a) certified or licensed as an advance practice registered nurse under Subsection 58-31b-301(2)(e);

(b) an independent practitioner; and

(c) acting within the scope of practice for that individual, as provided by law, rule, and specialized certification and training in that individual's area of practice.

(3) "Capacity" means the same as that term is defined in Section 75A-9-101.

[~~(5) "Best interest" means that the benefits to the individual resulting from a treatment outweigh the burdens to the individual resulting from the treatment, taking into account:~~]

[~~(a) the effect of the treatment on the physical, emotional, and cognitive functions of the individual;~~]

[~~(b) the degree of physical pain or discomfort caused to the individual by the treatment or the withholding or withdrawal of treatment;~~]

[~~(c) the degree to which the individual's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the individual by subjecting the individual to humiliation and dependency;~~]

[~~(d) the effect of the treatment on the life expectancy of the individual;~~]

[~~(e) the prognosis of the individual for recovery with and without the treatment;~~]

[~~(f) the risks, side effects, and benefits of the treatment, or the withholding or withdrawal of treatment; and~~]

[~~(g) the religious beliefs and basic values of the individual receiving treatment, to the extent these may assist the decision maker in determining the best interest.~~]

[~~(6) "Capacity to appoint an agent" means that the adult understands the consequences of appointing a particular individual as agent.~~]

[~~(7) "Child" means the same as that term is defined in Section 75-1-201.~~]

[~~(8) "Declarant" means an adult who has completed and signed or directed the signing of an advance health care directive.~~]

[~~(9) "Default surrogate" means the adult who may make decisions for an individual when either:~~]

[~~(a) an agent or guardian has not been appointed; or~~]

[~~(b) an agent is not able, available, or willing to make decisions for an adult.~~]

[~~(10)~~](4) "Emergency medical services provider" means a person that is licensed, designated, or certified under Title 53, Chapter 2d, Emergency Medical Services Act.

[~~(11) "Estate" means the same as that term is defined in Section 75-1-201.~~]

[~~(12) "Generally accepted health care standards":~~]

[~~(a) is defined only for the purpose of:~~]

[~~(i) this chapter and does not define the standard of care for any other purpose under Utah law; and~~]

[~~(ii) enabling health care providers to interpret the statutory form set forth in Section 75A-3-303; and~~]

[~~(b) means the standard of care that justifies a provider in declining to provide life sustaining care because the proposed life sustaining care:~~]

[~~(i) will not prevent or reduce the deterioration in the health or functional status of an individual;~~]

[~~(ii) will not prevent the impending death of an individual; or~~]

[~~(iii) will impose more burden on the individual than any expected benefit to the individual.~~]

[~~(13)~~](5) "Guardian" means the same as that term is defined in Section 75-1-201.

[~~(14)~~](6) "Health care" means [~~any care, treatment, service, or procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition~~]the same as that term is defined in Section 75A-9-101.

[~~(15) "Health care decision":~~]

[~~(a) means a decision about an adult's health care made by, or on behalf of, an adult, that is communicated to a health care provider;~~]

[~~(b) includes:~~]

[~~(i) selection and discharge of a health care provider and a health care facility;~~]

[~~(ii) approval or disapproval of diagnostic tests, procedures, programs of medication, and orders not to resuscitate; and~~]

[~~(iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care; and~~]

[~~(c) does not include decisions about an adult's financial affairs or social interactions other than as indirectly affected by the health care decision.~~]

[~~(16) "Health care decision making capacity" means an adult's ability to make an informed decision about receiving or refusing health care, including:~~]

[~~(a) the ability to understand the nature, extent, or probable consequences of health status and health care alternatives;~~]

[~~(b) the ability to make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting health care; and~~]

[~~(c) the ability to communicate a decision.~~]

[~~(17) "Health care facility" means:~~]

[~~(a) a health care facility as defined in Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and~~]

[~~(b) private offices of physicians, dentists, and other health care providers licensed to provide health care under Title 58, Occupations and Professions.~~]

[~~(18)~~](7) "Health care provider" means the same as that term is defined in Section 78B-3-403, except that "health care provider" does not include an emergency medical services provider.

[~~(19) "Incapacitated" means the same as that term is defined in Section 75-1-201.~~]

[~~(20) "Incapacity" means the same as that term is defined in Section 75-1-201.~~]

[~~(21)~~](8) (a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.

(b) "Life sustaining care" does not include care provided for the purpose of keeping an individual comfortable.

[~~(22)~~](9) "Minor" means an individual who:

(a) is under 18 years old; and

(b) is not an emancipated minor.

[~~(23)~~](10) "Order for life sustaining treatment" means an order related to life sustaining treatment, on a form designated by the Department of Health and Human Services under Section [~~75-3-106~~]26B-2-802, that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the individual to whom the order relates.

[~~(24)~~](11) "Parent" means the same as that term is defined in Section 75-1-201.

[~~(25) "Personal representative" means the same as that term is defined in Section 75-1-201.~~]

[~~(26)~~](12) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(27)~~](13) "Physician assistant" means an individual licensed as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(28) "Reasonably available" means:~~]

[~~(a) readily able to be contacted without undue effort; and~~]

[~~(b) willing and able to act in a timely manner considering the urgency of the circumstances.~~]

[~~(29) "State" means the same as that term is defined in Section 75-1-201.~~]

[~~(30)~~](14) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the capacity to make health care decisions, which requires the surrogate to consider:

(a) specific preferences expressed by the adult:

(i) when the adult had the capacity to make health care decisions; and

(ii) at the time the decision is being made;

(b) the surrogate's understanding of the adult's health care preferences;

(c) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(d) to the extent that the preferences described in Subsections [~~(30)(a)~~](14)(a) through (c) are unknown, the best interest of the adult.

[~~(31)~~](15) "Surrogate" means [~~a health care decision maker who is:~~]the same as that term is defined in Section 75A-9-101.

[~~(a) an appointed agent;~~]

[~~(b) a default surrogate under the provisions of Section 75A-3-203; or~~]

[~~(c) a guardian~~].

[~~(32) "Trust" means the same as that term is defined in Section 75-1-201.~~]

[~~(33) "Will" means the same as that term is defined in Section 75-1-201.~~]

Section 2. Section 26B-2-802, which is renumbered from Section 75A-3-106 is renumbered and amended to read:

[~~75A-3-106~~]26B-2-802. Order for life sustaining treatment.

(1) An order for life sustaining treatment may be created by or on behalf of an individual as described in this section.

(2) An order for life sustaining treatment shall, in consultation with the individual authorized to consent to the order pursuant to this section, be prepared by:

(a) the physician, APRN, or physician assistant of the individual to whom the order for life sustaining treatment relates; or

(b) a health care provider who:

(i) is acting under the supervision of an individual described in Subsection (2)(a); and

(ii) is:

(A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; or

(D) another health care provider, designated by rule as described in Subsection (10).

(3) An order for life sustaining treatment shall be signed:

(a) personally, by the physician, APRN, or physician assistant of the individual to whom the order for life sustaining treatment relates; and

(b) (i) if the individual to whom the order for life sustaining treatment relates is an adult with [~~health care decision making~~]capacity, by:

(A) the individual; or

(B) an adult who is directed by the individual to sign the order for life sustaining treatment on behalf of the individual;

(ii) if the individual to whom the order for life sustaining treatment relates is an adult who lacks [~~health care decision making~~]capacity, by:

(A) the surrogate with the highest priority under Section [~~75A-3-206~~]75A-9-111;

(B) the majority of the class of surrogates with the highest priority under Section [~~75A-3-206~~]75A-9-111; or

(C) an individual directed to sign the order for life sustaining treatment by, and on behalf of, the individuals described in Subsection (3)(b)(ii)(A) or (B); or

(iii) if the individual to whom the order for life sustaining treatment relates is a minor, by a parent or guardian of the minor.

(4) If an order for life sustaining treatment relates to a minor and directs that life sustaining treatment be withheld or withdrawn from the minor, the order shall include a certification by two physicians that, in their clinical judgment, an order to withhold or withdraw life sustaining treatment is in the best interest of the minor.

(5) An order for life sustaining treatment:

(a) shall be in writing, on a form designated by the Department of Health and Human Services;

(b) shall state the date on which the order for life sustaining treatment was made;

(c) may specify the level of life sustaining care to be provided to the individual to whom the order relates; and

(d) may direct that life sustaining care be withheld or withdrawn from the individual to whom the order relates.

(6) A health care provider or emergency medical service provider, licensed or certified under Title 53, Chapter 2d, Emergency Medical Services Act, is immune from civil or criminal liability, and is not subject to discipline for unprofessional conduct, for:

(a) complying with an order for life sustaining treatment in good faith; or

(b) providing life sustaining treatment to an individual when an order for life sustaining treatment directs that the life sustaining treatment be withheld or withdrawn.

(7) To the extent that the provisions of an order for life sustaining treatment described in this section conflict with the provisions of an advance health care directive made under Section [~~75A-3-301~~]75A-9-906, the provisions of the order for life sustaining treatment take precedence.

(8) An adult, or a parent or guardian of a minor, may revoke an order for life sustaining treatment by:

(a) orally informing emergency service personnel;

(b) writing "void" across the order for life sustaining treatment form;

(c) burning, tearing, or otherwise destroying or defacing:

(i) the order for life sustaining treatment form; or

(ii) a bracelet or other evidence of the order for life sustaining treatment;

(d) asking another adult to take the action described in this Subsection (8) on the individual's behalf;

(e) signing or directing another adult to sign a written revocation on the individual's behalf;

(f) stating, in the presence of an adult witness, that the individual wishes to revoke the order; or

(g) completing a new order for life sustaining treatment.

(9) (a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks [~~health care decision making~~]capacity may only revoke an order for life sustaining treatment if the revocation is consistent with the substituted judgment standard.

(b) Except as provided in Subsection (9)(c), a surrogate who has authority under this section to sign an order for life sustaining treatment may revoke an order for life sustaining treatment, in accordance with Subsection (9)(a), by:

(i) signing a written revocation of the order for life sustaining treatment; or

(ii) completing and signing a new order for life sustaining treatment.

(c) A surrogate may not revoke an order for life sustaining treatment during the period of time beginning when an emergency service provider is contacted for assistance, and ending when the emergency ends.

(10) (a) The Department of Health and Human Services shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) create the forms and systems described in this section; and

(ii) develop uniform instructions for the form established in Section [~~75A-3-303~~]75A-9-110.

(b) The Department of Health and Human Services may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to designate health care professionals, in addition to those described in Subsection (2)(b)(ii), who may prepare an order for life sustaining treatment.

(c) The Department of Health and Human Services may assist others with training of health care professionals regarding this chapter.

(11) (a) Notwithstanding any other provision of this section:

(i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to any signature required on the order for life sustaining treatment; and

(ii) a verbal confirmation satisfies the requirement for a signature from an individual under Subsection (3)(b)(ii) or (iii), if:

(A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the order for life sustaining treatment in person or electronically would require significant difficulty or expense; and

(B) a licensed health care provider witnesses the verbal confirmation and signs the order for life sustaining treatment attesting that the health care provider witnessed the verbal confirmation.

(b) The health care provider described in Subsection (11)(a)(ii)(B):

(i) may not be the same individual who signs the order for life sustaining treatment under Subsection (3)(a); and

(ii) shall verify, in accordance with HIPAA as defined in Section 26B-3-126, the identity of the individual who is providing the verbal confirmation.

Section 3. Section 75A-9-101 is enacted to read:

CHAPTER 9. UNIFORM HEALTH CARE DECISIONS ACT

75A-9-101. Definitions.

As used in this chapter:

(1) (a) "Advance health care directive" means a power of attorney for health care, health care instruction, or both.

(b) "Advance health care directive" includes an advance mental health care directive.

(2) "Advance mental health care" directive means a power of attorney for health care, health care instruction, or both, created under Section 75A-9-108.

(3) (a) "Agent" means an individual appointed under a power of attorney for health care to make a health care decision for the individual who made the appointment.

(b) "Agent" includes a co-agent or alternate agent appointed under Section 75A-9-119.

(4) "Capacity" means having capacity under Section 75A-9-102.

(5) "Cohabitant" means each of two individuals who have been living together as a couple for at least one year after each became an adult or was emancipated and who are not married to each other.

(6) "Default surrogate" means an individual authorized under Section 75A-9-111 to make a health care decision for another individual.

(7) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(8) "Emergency medical services provider" means a person that is licensed, designated, or certified under Title 53, Chapter 2d, Emergency Medical Services Act.

(9) "Family member" means a spouse, adult child, parent, or grandparent, or an adult descendant of a spouse, child, parent, or grandparent.

(10) (a) "Guardian" means a person appointed under other law by a court to make decisions regarding the personal affairs of an individual, which may include health care decisions.

(b) "Guardian" does not include a guardian ad litem.

(11) (a) "Health care" means care or treatment or a service or procedure to maintain, monitor, diagnose, or otherwise affect an individual's physical or mental illness, injury, or condition.

(b) "Health care" includes mental health care.

(12) "Health care decision" means a decision made by an individual or the individual's surrogate regarding the individual's health care, including:

(a) selection or discharge of a health care professional or health care institution;

(b) approval or disapproval of a diagnostic test, surgical procedure, medication, therapeutic intervention, or other health care; and

(c) direction to provide, withhold, or withdraw artificial nutrition or hydration, mechanical ventilation, or other health care.

(13) "Health care institution" means a facility or agency licensed, certified, or otherwise authorized or permitted by other law to provide health care in this state in the ordinary course of business.

(14) (a) "Health care instruction" means a direction, whether or not in a record, made by an individual that indicates the individual's goals, preferences, or wishes concerning the provision, withholding, or withdrawal of health care.

(b) "Health care instruction" includes a direction intended to be effective if a specified condition arises.

(15) "Health care professional" means a physician or other individual licensed, certified, or otherwise authorized or permitted by other law of this state to provide health care in this state in the ordinary course of business or the practice of the physician's or individual's profession.

(16) "Individual" means an adult or emancipated minor.

(17) "Mental health care" means care or treatment or a service or procedure to maintain, monitor, diagnose, or otherwise affect an individual's mental illness or other psychiatric, psychological, or psychosocial condition.

(18) "Nursing home" means a nursing facility as defined in Section 1919(a)(1) of the Social Security Act, 42 U.S.C. Sec. 1396r(a)(1), as amended or skilled nursing facility as defined in Section 1819(a)(1) of the Social Security Act, 42 U.S.C. Sec. 1395i3(a)(1), as amended.

(19) "Person" means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(20) "Person interested in the welfare of the individual" means:

(a) the individual's surrogate;

(b) a family member of the individual;

(c) the cohabitant of the individual;

(d) a public entity providing health care case management or protective services to the individual;

(e) a person appointed under other law to make decisions for the individual under a power of attorney for finances; or

(f) a person that has an ongoing personal or professional relationship with the individual, including a person that has provided educational or health care services or supported decision making to the individual.

(21) "Physician" means an individual licensed to practice as a physician or osteopath under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(22) "Power of attorney for health care" means a record in which an individual appoints an agent to make health care decisions for the individual.

(23) "Reasonably available" means being able to be contacted without undue effort and being willing and able to act in a timely manner considering the urgency of an individual's health care situation. When used to refer to an agent or default surrogate, the term includes being willing and able to comply with the duties under Section 75A-9-116in a timely manner considering the urgency of an individual's health care situation.

(24) "Record" means information:

(a) inscribed on a tangible medium; or

(b) stored in an electronic or other medium and retrievable in perceivable form.

(25) "Responsible health care professional" means:

(a) a health care professional designated by an individual or the individual's surrogate to have primary responsibility for the individual's health care or for overseeing a course of treatment; or

(b) in the absence of a designation under Subsection (25)(a) or, if the professional designated under Subsection (25)(a) is not reasonably available, a health care professional who has primary responsibility for overseeing the individual's health care or for overseeing a course of treatment.

(26) "Sign" means, with present intent to authenticate or adopt a record:

(a) execute or adopt a tangible symbol; or

(b) attach to or logically associate with the record an electronic symbol, sound, or process.

(27) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, any other territory or possession subject to the jurisdiction of the United States, or a federally recognized Indian tribe.

(28) "Supported decision making" means assistance, from one or more persons of an individual's choosing, that helps the individual make or communicate a decision, including by helping the individual understand the nature and consequences of the decision.

(29) "Surrogate" means:

(a) an agent;

(b) a default surrogate; or

(c) a guardian authorized to make health care decisions.

Section 4. Section 75A-9-102 is enacted to read:

75A-9-102. Capacity.

(1) An individual has capacity for the purpose of this chapter if the individual:

(a) is willing and able to communicate a decision independently or with appropriate services, technological assistance, supported decision making, or other reasonable accommodation; and

(b) in making or revoking:

(i) a health care decision, understands the nature and consequences of the decision, including the primary risks and benefits of the decision;

(ii) a health care instruction, understands the nature and consequences of the instruction, including the primary risks and benefits of the choices expressed in the instruction; and

(iii) an appointment of an agent under a health care power of attorney or identification of a default surrogate under Section 75A-9-111, recognizes the identity of the individual being appointed or identified and understands the general nature of the relationship of the individual making the appointment or identification with the individual being appointed or identified.

(2) The right of an individual who has capacity to make a decision about the individual's health care is not affected by whether the individual creates or revokes an advance health care directive.

Section 5. Section 75A-9-103 is enacted to read:

75A-9-103. Presumption of capacity -- Overcoming presumption.

(1) An individual is presumed to have capacity to make or revoke a health care decision, health care instruction, and power of attorney for health care unless:

(a) a court has found the individual lacks capacity to do so; or

(b) the presumption is rebutted under Subsection (2).

(2) Subject to Sections 75A-9-104 and 75A-9-105, a presumption under Subsection (1) may be rebutted by a finding that the individual lacks capacity:

(a) subject to Subsection (3), made on the basis of a contemporaneous examination by any of the following:

(i) a physician;

(ii) a psychologist licensed or otherwise authorized to practice in this state;

(iii) an individual with training and expertise in the finding of lack of capacity who is licensed or otherwise authorized to practice in this state as:

(A) a physician assistant; or

(B) an advanced practice registered nurse; or

(iv) a responsible health care professional not described in Subsections (2)(a)(i) through (iii) if:

(A) the individual about whom the finding is to be made is experiencing a health condition requiring a decision regarding health care treatment to be made promptly to avoid loss of life or serious harm to the health of the individual; and

(B) an individual described in Subsections (2)(a)(i) through (iii) is not reasonably available;

(b) made in accordance with accepted standards of the profession and the scope of practice of the individual making the finding and to a reasonable degree of certainty; and

(c) documented in a record signed by the individual making the finding that includes an opinion of the cause, nature, extent, and probable duration of the lack of capacity.

(3) The finding under Subsection (2) may not be made by:

(a) a family member of the individual presumed to have capacity;

(b) the cohabitant of the individual or a descendant of the cohabitant; or

(c) the individual's surrogate, a family member of the surrogate, or a descendant of the surrogate.

(4) If the finding under Subsection (2) was based on a condition the individual no longer has or a responsible health care professional subsequently has good cause to believe the individual has capacity, the individual is presumed to have capacity unless a court finds the individual lacks capacity or the presumption is rebutted under Subsection (2).

Section 6. Section 75A-9-104 is enacted to read:

75A-9-104. Notice of finding of lack of capacity -- Right to object.

(1) As soon as reasonably feasible, an individual who makes a finding under Subsection 75A-9-103(2) shall inform the individual about whom the finding was made or the individual's responsible health care professional of the finding.

(2) As soon as reasonably feasible, a responsible health care professional who is informed of a finding under Subsection 75A-9-103(2) shall inform the individual about whom the finding was made and the individual's surrogate.

(3) An individual found under Subsection 75A-9-103(2) to lack capacity may object to the finding:

(a) by orally informing a responsible health care professional;

(b) in a record provided to a responsible health care professional or the health care institution in which the individual resides or is receiving care; or

(c) by another act that clearly indicates the individual's objection.

(4) If the individual objects under Subsection (3), the finding under Subsection 75A-9-103(2) is not sufficient to rebut a presumption of capacity in Subsection 75A-9-103(1) and the individual must be treated as having capacity unless:

(a) the individual withdraws the objection;

(b) a court finds the individual lacks the presumed capacity;

(c) the individual is experiencing a health condition requiring a decision regarding health care treatment to be made promptly to avoid imminent loss of life or serious harm to the health of the individual; or

(d) subject to Subsection (5), the finding is confirmed by a second finding made by an individual authorized under Subsection 75A-9-103(2)(a) who:

(i) did not make the first finding;

(ii) is not a family member of the individual who made the first finding; and

(iii) is not the cohabitant of the individual who made the first finding or a descendant of the cohabitant.

(5) A second finding that the individual lacks capacity under Subsection (4)(d) is not sufficient to rebut the presumption of capacity if the individual is requesting the provision or continuation of life-sustaining treatment and the finding is being used to make a decision to withhold or withdraw the treatment.

(6) As soon as reasonably feasible, a health care professional who is informed of an objection under Subsection (3) shall:

(a) communicate the objection to a responsible health care professional; and

(b) document the objection and the date of the objection in the individual's medical record or communicate the objection and the date of the objection to an administrator with responsibility for medical records of the health care institution providing health care to the individual, who shall document the objection and the date of the objection in the individual's medical record.

Section 7. Section 75A-9-105 is enacted to read:

75A-9-105. Judicial review of finding of lack of capacity.

(1) An individual found under Subsection 75A-9-103(2) to lack capacity, a responsible health care professional, the health care institution providing health care to the individual, or a person interested in the welfare of the individual may petition the court in the county in which the individual resides or is located to determine whether the individual lacks capacity.

(2) (a) The court in which a petition under Subsection (1) is filed shall appoint legal counsel to represent the individual if the individual does not have legal counsel.

(b) The court shall hear the petition as soon as possible.

(c) As soon as possible the court shall determine whether the individual lacks capacity.

(d) The court may determine the individual lacks capacity only if the court finds by clear and convincing evidence that the individual lacks capacity.

Section 8. Section 75A-9-106 is enacted to read:

75A-9-106. Health care instructions.

(1) An individual may create a health care instruction that expresses the individual's preferences for future health care, including preferences regarding:

(a) health care professionals or health care institutions;

(b) how a health care decision will be made and communicated;

(c) persons that should or should not be consulted regarding a health care decision;

(d) a person to serve as guardian for the individual if one is appointed; and

(e) an individual to serve as a default surrogate.

(2) A health care professional to whom an individual communicates or provides an instruction under Subsection (1) shall document the instruction and the date of the instruction in the individual's medical record or communicate the instruction and date of the instruction to an administrator with responsibility for medical records of the health care institution providing health care to the individual, who shall document the instruction and the date of the instruction in the individual's medical record.

(3) A health care instruction made by an individual that conflicts with an earlier health care instruction made by the individual, including an instruction documented in a medical order, revokes the earlier instruction to the extent of the conflict.

(4) A health care instruction may be in the same record as a power of attorney for health care.

Section 9. Section 75A-9-107 is enacted to read:

75A-9-107. Power of attorney for health care.

(1) An individual may create a power of attorney for health care to appoint an agent to make health care decisions for the individual.

(2) An individual is disqualified from acting as agent for an individual who lacks capacity to make health care decisions if:

(a) a court finds that the potential agent poses a danger to the individual's well-being, even if the court does not issue a protective order against the potential agent; or

(b) the potential agent is an owner, operator, employee, or contractor of a nursing home or assisted living facility in which the individual resides or is receiving care, unless the owner, operator, employee, or contractor is a family member of the individual, the cohabitant of the individual, or a descendant of the cohabitant.

(3) A health care decision made by an agent is effective without judicial approval.

(4) A power of attorney for health care must be in a record, signed by the individual creating the power, and signed by an adult witness who:

(a) reasonably believes the act of the individual to create the power of attorney is voluntary and knowing;

(b) is not:

(i) the agent appointed by the individual;

(ii) the agent's spouse or cohabitant; or

(iii) if the individual resides or is receiving care in a nursing home or assisted living facility, the owner, operator, employee, or contractor of the nursing home or assisted living facility; and

(c) is present when the individual signs the power of attorney or when the individual represents that the power of attorney reflects the individual's wishes.

(5) A witness under Subsection (4) is considered present if the witness and the individual are:

(a) physically present in the same location;

(b) using electronic means that allow for real time audio and visual transmission and communication in real time to the same extent as if the witness and the individual were physically present in the same location; or

(c) able to speak to and hear each other in real time through audio connection if:

(i) the identity of the individual is personally known to the witness; or

(ii) the witness is able to authenticate the identity of the individual by receiving accurate answers from the individual that enable the authentication.

(6) A power of attorney for health care may include a health care instruction.

Section 10. Section 75A-9-108 is enacted to read:

75A-9-108. Advance mental health care directive.

(1) (a) An individual may create an advance health care directive that addresses only mental health care for the individual.

(b) The directive may include a health care instruction, a power of attorney for health care, or both.

(2) A health care instruction under this section may include the individual's:

(a) general philosophy and objectives regarding mental health care; or

(b) specific goals, preferences, and wishes regarding the provision, withholding, or withdrawal of a form of mental health care, including:

(i) preferences regarding professionals, programs, and facilities;

(ii) admission to a mental-health facility, including duration of admission;

(iii) preferences regarding medications;

(iv) refusal to accept a specific type of mental health care, including a medication; and

(v) preferences regarding crisis intervention.

(3) A power of attorney for health care under this section may appoint an agent to make decisions only for mental health care.

Section 11. Section 75A-9-109 is enacted to read:

75A-9-109. Relationship of advance mental health care directive and other advance health care directive.

(1) If a direction in an advance mental health care directive of an individual conflicts with a direction in another advance health care directive of the individual, the later direction revokes the earlier direction to the extent of the conflict.

(2) (a) An appointment of an agent to make decisions only for mental health care for an individual does not revoke an earlier appointment of an agent to make other health care decisions for the individual.

(b) A later appointment revokes the authority of an agent under the earlier appointment to make decisions about mental health care unless otherwise specified in the power of attorney making the later appointment.

(3) An appointment of an agent to make health care decisions for an individual other than decisions about mental health care made after appointment of an agent authorized to make only mental health care decisions does not revoke the appointment of the agent authorized to make only mental health care decisions.

Section 12. Section 75A-9-110 is enacted to read:

75A-9-110. Optional form.

The following form may be used to create an advance health care directive:

ADVANCE HEALTH CARE DIRECTIVE

HOW YOU CAN USE THIS FORM

You can use this form if you wish to name someone to make health care decisions for you in case you cannot make decisions for yourself. This is called giving the person a power of attorney for health care. This person is called your Agent.

You can also use this form to state your wishes, preferences, and goals for health care, and to say if you want to be an organ donor after you die.

YOUR NAME AND DATE OF BIRTH

Name:

Date of birth:

PART A: NAMING AN AGENT

This part lets you name someone else to make health care decisions for you. You may leave any item blank.

1. NAMING AN AGENT

I want the following person to make health care decisions for me if I cannot make decisions for myself:

Name:

Optional contact information (it is helpful to include information such as address, phone, and email):

2. NAMING AN ALTERNATE AGENT

I want the following person to make health care decisions for me if I cannot and my Agent is not able or available to make them for me:

Name:

Optional contact information (it is helpful to include information such as address, phone, and email):

3. LIMITING YOUR AGENT'S AUTHORITY

I give my Agent the power to make all health care decisions for me if I cannot make those decisions for myself, except the following:

(If you do not add a limitation here, your Agent will be able to make all health care decisions that an Agent is permitted to make under state law.)

PART B: HEALTH CARE INSTRUCTIONS

This part lets you state your priorities for health care and to state types of health care you do and do not want.

1. INSTRUCTIONS ABOUT LIFE-SUSTAINING TREATMENT

This section gives you the opportunity to say how you want your Agent to act while making decisions for you. You may mark or initial each choice. You also may leave any choice blank.

Treatment. Medical treatment needed to keep me alive but not needed for comfort or any other purpose should (mark or initial all that apply):

(____) Always be given to me. (If you mark or initial this choice, you should not mark or initial other choices in this "treatment" section.)

(____) Not be given to me if I have a condition that is not curable and is expected to cause my death soon, even if treated.

(____) Not be given to me if I am unconscious and I am not expected to be conscious again.

(____) Not be given to me if I have a medical condition from which I am not expected to recover that prevents me from communicating

with people I care about, caring for myself, and recognizing family and friends.

(____) Other (write what you want or do not want):

Food and liquids. If I can't swallow and staying alive requires me to get food or liquids through a tube or other means for the rest of my life, then food or liquids should (mark or initial all that apply):

(____) Always be given to me. (If you mark or initial this choice, you should not mark or initial other choices in this food and liquids section.)

(____) Not be given to me if I have a condition that is not curable and is expected to cause me to die soon, even if treated.

(____) Not be given to me if I am unconscious and am not expected to be conscious again.

(____) Not be given to me if I have a medical condition from which I am not expected to recover that prevents me from communicating with people I care about, caring for myself, and recognizing family and friends.

(____) Other (write what you want or do not want):

Pain relief. If I am in significant pain, care that will keep me comfortable but is likely to shorten my life should (mark or initial all that apply):

(____) Always be given to me. (If you mark or initial this choice, you should not mark or initial other choices in this pain relief section.)

(____) Never be given to me. (If you mark or initial this choice, you should not mark or initial other choices in this pain relief section.)

(____) Be given to me if I have a condition that is not curable and is expected to cause me to die soon, even if treated.

(____) Be given to me if I am unconscious and am not expected to be conscious again.

(____) Be given to me if I have a medical condition from which I am not expected to recover that prevents me from communicating with people I care about, caring for myself, and recognizing family and friends.

(____) Other (write what you want or do not want):

2. MY PRIORITIES

You can use this section to indicate what is important to you, and what is not important to you. This information can help your Agent make decisions for you if you cannot. It also helps others understand your preferences.

You may mark or initial each choice. You also may leave any choice blank.

Staying alive as long as possible even if I have substantial physical limitations is:

(____) Very important

(____) Somewhat important

(____) Not important

Staying alive as long as possible even if I have substantial mental limitations is:

(____) Very important

(____) Somewhat important

(____) Not important

Being free from significant pain is:

(____) Very important

(____) Somewhat important

(____) Not important

Being independent is:

(____) Very important

(____) Somewhat important

(____) Not important

Having my Agent talk with my family before making decisions about my care is:

(____) Very important

(____) Somewhat important

(____) Not important

Having my Agent talk with my friends before making decisions about my care is:

(____) Very important

(____) Somewhat important

(____) Not important

3. OTHER INSTRUCTIONS

You can write in this section more information about your goals, values, and preferences for treatment, including care you want or do not want. You can also use this section to name anyone who you do not want to make decisions for you under any conditions.

PART C: OPTIONAL SPECIAL POWERS AND GUIDANCE

This part lets you give your Agent additional powers and provide more guidance about your wishes. You may mark or initial each choice. You also may leave any choice blank.

1. OPTIONAL SPECIAL POWERS

My Agent can do the following things ONLY if I have marked or initialed them below:

(____) Admit me as a voluntary patient to a facility for mental health treatment for up to _____ days (write in the number of days you want like 7, 14, 30, or another number).

(If I do not mark or initial this choice, my Agent MAY NOT admit me as a voluntary patient to this type of facility.)

(____) Place me in a nursing home for more than 100 days even if my needs can be met somewhere else, I am not terminally ill, and I object.

(If I do not mark or initial this choice, my Agent MAY NOT do this.)

2. ACCESS TO MY HEALTH INFORMATION

My Agent may obtain, examine, and share information about my health needs and health care if I am not able to make decisions for myself. If I mark or initial below, my Agent may also do that at any time my Agent thinks it will help me.

(____) I give my Agent permission to obtain, examine, and share information about my health needs and health care whenever my Agent thinks it will help me.

3. FLEXIBILITY FOR MY AGENT

Mark or initial below if you want to give your Agent flexibility in following instructions you provide in this form. If you do not, your Agent must follow the instructions even if your Agent thinks something else would be better for you.

(____) I give my Agent permission to be flexible in applying these instructions if my Agent thinks it would be in my best interest based on what my Agent knows about me.

4. NOMINATION OF GUARDIAN

You can say who you would want as your guardian if you needed one. A guardian is a person appointed by a court to make decisions for someone who cannot make decisions. Filling this out does NOT mean you want or need a guardian.

If a court appoints a guardian to make personal decisions for me, I want the court to choose:

(____) My Agent named in this form. If my Agent cannot be a guardian, I want the Alternate Agent named in this form.

(____) Other (write who you would want and their contact information):

PART D: ORGAN DONATION

This part lets you donate your organs after you die. You may leave any item blank.

1. DONATION

You may mark or initial only one choice.

(____) I donate my organs, tissues, and other body parts after I die, even if it requires maintaining treatments that conflict with other instructions I have put in this form, EXCEPT for those I list below (list any body parts you do NOT want to donate):

(____) I do not want my organs, tissues, or body parts donated to anybody for any reason. (If you mark or initial this choice, you should skip the purpose of donation section.)

2. PURPOSE OF DONATION

You may mark or initial all that apply. (If you do not mark or initial any of the purposes below, your donation can be used for all of them.)

Organs, tissues, or body parts that I donate may be used for:

(____) Transplant

(____) Therapy

(____) Research

(____) Education

(____) All of the above

PART E: SIGNATURES

YOUR SIGNATURE

Sign your name:

Today's date:

City/Town/Village and State (optional):

SIGNATURE OF A WITNESS

You need a witness if you are using this form to name an Agent. The witness must be an adult and cannot be the person you are naming as Agent or the Agent's spouse or someone the Agent lives with as a couple. If you live or are receiving care in a nursing home, the witness cannot be an employee or contractor of the home or someone who owns or runs the home.

Name of Witness:

Signature of Witness: (Only sign as a witness if you think the person signing above is doing it voluntarily.)

Date witness signed:

PART F: INFORMATION FOR AGENTS

1. If this form names you as an Agent, you can make decisions about health care for the person who named you when the person cannot make their own.

2. If you make a decision for the person, follow any instructions the person gave, including any in this form.

3. If you do not know what the person would want, make the decision that you think is in the person's best interest. To figure out what is in the person's best interest, consider the person's values, preferences, and goals if you know them or can learn them. Some of these preferences may be in this form. You should also consider any behavior or communication from the person that indicates what the person currently wants.

4. If this form names you as an Agent, you can also get and share the person's health information. But unless the person has said so in this form, you can get or share this information only when the person cannot make decisions about the person's health care.

Section 13. Section 75A-9-111 is enacted to read:

75A-9-111. Default surrogate.

(1) A default surrogate may make a health care decision for an individual who lacks capacity to make health care decisions and for whom an agent, or guardian authorized to make health care decisions, has not been appointed or is not reasonably available.

(2) Unless the individual has an advance health care directive that indicates otherwise, a member of the following classes, in descending order of priority, who is reasonably available and not disqualified under Section 75A-9-113, may act as a default surrogate for the individual:

(a) an adult the individual has identified, other than in a power of attorney for health care, to make a health care decision for the individual if the individual cannot make the decision;

(b) the individual's spouse unless:

(i) a petition for annulment, divorce, dissolution of marriage, legal separation, or termination has been filed and not dismissed or withdrawn;

(ii) a decree of annulment, divorce, dissolution of marriage, legal separation, or termination has been issued;

(iii) the individual and the spouse have agreed in a record to a legal separation; or

(iv) the spouse has willfully deserted the individual for more than one year;

(c) the individual's adult child or parent;

(d) the individual's cohabitant;

(e) the individual's adult sibling;

(f) the individual's adult grandchild or grandparent;

(g) an adult not listed in Subsections (2)(a) through (f) who has assisted the individual with supported decision making routinely during the preceding six months;

(h) the individual's adult stepchild not listed in Subsections (2)(a) through (g) whom the individual actively parented during the stepchild's minor years and with whom the individual has an ongoing relationship;

(i) an adult not listed in Subsections (2)(a) through (h) who has exhibited special care and concern for the individual and is familiar with the individual's personal values; or

(j) a physician designated in accordance with Subsection (6).

(3) (a) A responsible health care professional may require an individual who assumes authority to act as a default surrogate to provide a declaration in a record under penalty of perjury stating facts and circumstances reasonably sufficient to establish the authority.

(b) The Department of Health and Human Services shall create a uniform form to be used in accordance with Subsection (3)(a).

(4) If a responsible health care professional reasonably determines that an individual who assumed authority to act as a default surrogate is not willing or able to comply with a duty under Section 75A-9-116 or fails to comply with the duty in a timely manner, the professional may recognize the individual next in priority under Subsection (2) as the default surrogate.

(5) A health care decision made by a default surrogate is effective without judicial approval.

(6) If an individual resides in or is receiving care in a health care institution, and is determined to lack capacity to make a health care decision, the responsible health care professional may designate a willing physician to make the decision on behalf of the individual if:

(a) the responsible health care professional, or person acting under the supervision of the responsible health care professional, after using best efforts cannot identify and locate:

(i) an agent who has been appointed by the individual to make health care decisions;

(ii) a guardian authorized to make health care decisions for the individual; or

(iii) a default surrogate under Subsections (2)(a) through (i);

(b) (i) the responsible health care professional has consulted with and obtained a consensus on the designation with the medical ethics committee of the health care institution where the individual resides or is receiving care; or

(ii) if no medical ethics committee exists within the health care institution, has consulted with and obtained consensus from a similar entity utilized by the health care institution;

(c) the physician designated to act as default surrogate under this subsection is not:

(i) providing health care to the individual;

(ii) under the actual or constructive authority of the responsible health care professional;

(iii) a family member or cohabitant of the responsible health care professional; or

(iv) disqualified from acting as default surrogate under Section 75A-9-113;

(d) the responsible health care professional informs the individual of the designation of a willing physician, the identity of the designated physician, and of the individual's right to object to the designation; and

(e) the identity of the physician designated by the responsible health care professional is documented in the individual's medical record.

(7) The power of a physician designated under Subsection (6) to act as default surrogate terminates if:

(a) a person listed in Subsections (2)(a) through (i) is identified and located and is reasonably available and willing to serve as default surrogate;

(b) the individual no longer is residing in or receiving care from the health care institution; or

(c) the conditions in Subsection (1) do not exist.

(8) If the authority of the responsible health care professional to make the designation under Subsection (6) or the authority of the physician designated by the responsible health care professional to make a health care decision for the individual terminates for any reason, including a reason designated in Subsection (7), the responsible health care professional shall document the termination and the reason in the individual's medical record.

(9) In making a health care decision on behalf of the individual, a physician designated to act as default surrogate under Subsection (6):

(a) shall comply with the duties of a default surrogate set forth in Section 75A-9-116; and

(b) may consult with the medical ethics committee or similar entity and rely on the committee or entity's evaluation of the individual's best interest if the goals, preferences, and wishes of the individual regarding a health care decision are not known or reasonably ascertainable by the physician.

Section 14. Section 75A-9-112 is enacted to read:

75A-9-112. Disagreement among default surrogates.

(1) A default surrogate who assumes authority under Section 75A-9-111 shall inform a responsible health care professional if two or more members of a class under Subsection 75A-9-111(2) have assumed authority to act as default surrogates and the members do not agree on a health care decision.

(2) A responsible health care professional shall comply with the decision of a majority of the members of the class with highest priority under Subsection 75A-9-111(2) who have communicated their views to the professional and the professional reasonably believes are acting consistent with their duties under Section 75A-9-116.

(3) (a) If a responsible health care professional is informed that the members of the class who have communicated their views to the professional are evenly divided concerning the health care decision, the default surrogate who assumes authority under Section 75A-9-111 shall make a reasonable effort to solicit the views of members of the class who are reasonably available but have not yet communicated their views to the professional.

(b) The professional, after the solicitation, shall comply with the decision of a majority of the members who have communicated their views to the professional and the professional reasonably believes are acting consistent with their duties under Section 75A-9-116.

(4) If the class remains evenly divided after the effort is made under Subsection (3), the health care decision must be made as provided by other law of this state regarding the treatment of an individual who is found to lack capacity.

Section 15. Section 75A-9-113 is enacted to read:

75A-9-113. Disqualification to act as default surrogate.

(1) (a) An individual for whom a health care decision would be made may disqualify another individual from acting as default surrogate for the first individual.

(b) The disqualification must be in a record signed by the first individual or communicated verbally or nonverbally to the individual being disqualified, another individual, or a responsible health care professional.

(c) Disqualification under this subsection is effective even if made by an individual who lacks capacity to make an advance directive if the individual clearly communicates a desire that the individual being disqualified not make health care decisions for the individual.

(2) An individual is disqualified from acting as a default surrogate for an individual who lacks capacity to make health care decisions if:

(a) a court finds that the potential default surrogate poses a danger to the individual's well-being, even if the court does not issue a protective order against the potential surrogate;

(b) the potential default surrogate is an owner, operator, employee, or contractor of a nursing home or assisted living facility in which the individual is residing or receiving care unless the owner, operator, employee, or contractor is a family member of the individual, the cohabitant of the individual, or a descendant of the cohabitant; or

(c) the potential default surrogate refuses to provide a timely declaration under Subsection 75A-9-111(3).

Section 16. Section 75A-9-114 is enacted to read:

75A-9-114. Revocation.

(1) An individual may revoke the appointment of an agent, the designation of a default surrogate, or a health care instruction in whole or in part, unless:

(a) a court finds the individual lacks capacity to do so; or

(b) the individual is found under Subsection 75A-9-103(2) to lack capacity to do so and, if the individual objects to the finding, the finding is confirmed under Subsection 75A-9-104(4)(d).

(2) Revocation under Subsection (1) may be by any act of the individual that clearly indicates that the individual intends to revoke the appointment, designation, or instruction, including an oral statement to a health care professional.

(3) Except as provided in Section 75A-9-109, an advance health care directive of an individual that conflicts with another advance health care directive of the individual revokes the earlier directive to the extent of the conflict.

(4) Unless otherwise provided in an individual's advance health care directive appointing an agent, the appointment of a spouse of an individual as agent for the individual is revoked if:

(a) a petition for annulment, divorce, dissolution of marriage, legal separation, or termination has been filed and not dismissed or withdrawn;

(b) a decree of annulment, divorce, dissolution of marriage, legal separation, or termination has been issued;

(c) the individual and the spouse have agreed in a record to a legal separation; or

(d) the spouse has willfully deserted the individual for more than one year.

Section 17. Section 75A-9-115 is enacted to read:

75A-9-115. Validity of advance health care directive -- Conflict with other law.

(1) An advance health care directive created outside this state is valid if it complies with:

(a) the law of the state specified in the directive or, if a state is not specified, the state in which the individual created the directive; or

(b) this chapter.

(2) A person may assume without inquiry that an advance health care directive is genuine, valid, and still in effect, and may implement and rely on it, unless the person has good cause to believe the directive is invalid or has been revoked.

(3) An advance health care directive, revocation of a directive, or a signature on a directive or revocation may not be denied legal effect or enforceability solely because it is in electronic form.

(4) Evidence relating to an advance health care directive, revocation of a directive, or a signature on a directive or revocation may not be excluded in a proceeding solely because the evidence is in electronic form.

(5) This chapter does not affect the validity of an electronic record or signature that is valid under Title 46, Chapter 4, Uniform Electronic Transactions Act.

(6) If this chapter conflicts with other law of this state relating to the creation, execution, implementation, or revocation of an advance health care directive, this chapter prevails.

Section 18. Section 75A-9-116 is enacted to read:

75A-9-116. Duties of agent or default surrogate.

(1) An agent or default surrogate has a fiduciary duty to the individual for whom the agent or default surrogate is acting when exercising or purporting to exercise a power under Section 75A-9-117.

(2) An agent or default surrogate shall make a health care decision in accordance with the direction of the individual in an advance health care directive and other goals, preferences, and wishes of the individual to the extent known or reasonably ascertainable by the agent or default surrogate.

(3) If there is not a direction in an advance health care directive and the goals, preferences, and wishes of the individual regarding a health care decision are not known or reasonably ascertainable by the agent or default surrogate, the agent or default surrogate shall make the decision in accordance with the agent's or default surrogate's determination of the individual's best interest.

(4) In determining the individual's best interest under Subsection (3), the agent or default surrogate shall:

(a) give primary consideration to the individual's contemporaneous communications, including verbal and nonverbal expressions;

(b) consider the individual's values to the extent known or reasonably ascertainable by the agent or default surrogate; and

(c) consider the risks and benefits of the potential health care decision.

(5) As soon as reasonably feasible, an agent or default surrogate who is informed of a revocation of an advance health care directive or disqualification of the agent or default surrogate shall communicate the revocation or disqualification to a responsible health care professional.

Section 19. Section 75A-9-117 is enacted to read:

75A-9-117. Powers of agent and default surrogate.

(1) (a) Except as provided in Subsection (3), the power of an agent or default surrogate commences when the individual is found under Subsection 75A-9-103(2) or by a court to lack capacity to make a health care decision.

(b) The power ceases if the individual later is found to have capacity to make a health care decision, or the individual objects under Subsection 75A-9-104(3) to the finding of lack of capacity under Subsection 75A-9-103(2).

(c) The power resumes if:

(i) the power ceased because the individual objected under Subsection 75A-9-104(3); and

(ii) the finding of lack of capacity is confirmed under Subsection 75A-9-104(4)(d) or a court finds that the individual lacks capacity to make a health care decision.

(2) An agent or default surrogate may request, receive, examine, copy, and consent to the disclosure of medical and other health care information about the individual if the individual would have the right to request, receive, examine, copy, or consent to the disclosure of the information.

(3) A power of attorney for health care may provide that the power of an agent under Subsection (1) commences on appointment.

(4) (a) If no other person is authorized to do so, an agent or default surrogate may apply for public or private health insurance and benefits on behalf of the individual.

(b) An agent or default surrogate who may apply for insurance and benefits does not, solely by reason of the power, have a duty to apply for the insurance or benefits.

(5) An agent or default surrogate may not consent to voluntary admission of the individual to a facility for mental health treatment unless:

(a) voluntary admission is specifically authorized by the individual in an advance health care directive in a record; and

(b) the admission is for no more than the maximum of the number of days specified in the directive.

(6) Except as provided in Subsection (7), an agent or default surrogate may not consent to placement of the individual in a nursing home if the placement is intended to be for more than 100 days if:

(a) an alternative living arrangement is reasonably feasible;

(b) the individual objects to the placement; or

(c) the individual is not terminally ill.

(7) If specifically authorized by the individual in an advance health care directive in a record, an agent or default surrogate may consent to placement of the individual in a nursing home for more than 100 days even if:

(a) an alternative living arrangement is reasonably feasible;

(b) the individual objects to the placement; and

(c) the individual is not terminally ill.

Section 20. Section 75A-9-118 is enacted to read:

75A-9-118. Limitations on powers.

(1) If an individual has a long-term disability requiring routine treatment by artificial nutrition, hydration, or mechanical ventilation and a history of using the treatment without objection, an agent or default surrogate may not consent to withhold or withdraw the treatment unless:

(a) the treatment is not necessary to sustain the individual's life or maintain the individual's well-being;

(b) the individual has expressly authorized the withholding or withdrawal in a health care instruction that has not been revoked; or

(c) the individual has experienced a major reduction in health or functional ability from which the individual is not expected to recover, even with other appropriate treatment, and the individual has not:

(i) given a direction inconsistent with withholding or withdrawal; or

(ii) communicated by verbal or nonverbal expression a desire for artificial nutrition, hydration, or mechanical ventilation.

(2) A default surrogate may not make a health care decision if, under other law of this state, the decision:

(a) may not be made by a guardian; or

(b) may be made by a guardian only if the court appointing the guardian specifically authorizes the guardian to make the decision.

Section 21. Section 75A-9-119 is enacted to read:

75A-9-119. Co-agents -- Alternate agent.

(1) (a) An individual in a power of attorney for health care may appoint multiple individuals as co-agents.

(b) Unless the power of attorney provides otherwise, each co-agent may exercise independent authority.

(2) An individual in a power of attorney for health care may appoint one or more individuals to act as alternate agents if a predecessor agent resigns, dies, becomes disqualified, is not reasonably available, or otherwise is unwilling or unable to act as agent.

(3) Unless the power of attorney provides otherwise, an alternate agent has the same authority as the original agent:

(a) at any time the original agent is not reasonably available or is otherwise unwilling or unable to act, for the duration of the unavailability, unwillingness, or inability to act; or

(b) if the original agent and all other predecessor agents have resigned or died or are disqualified from acting as agent.

Section 22. Section 75A-9-120 is enacted to read:

75A-9-120. Duties of health care professional, responsible health care professional, and health care institution.

(1) A responsible health care professional who is aware that an individual has been found to lack capacity to make a decision shall make a reasonable effort to determine if the individual has a surrogate.

(2) If possible before implementing a health care decision made by a surrogate, a responsible health care professional as soon as reasonably feasible shall communicate to the individual the decision made and the identity of the surrogate.

(3) A responsible health care professional who makes or is informed of a finding that an individual lacks capacity to make a health care decision or no longer lacks capacity, or that other circumstances exist that affect a health care instruction or the authority of a surrogate, as soon as reasonably feasible, shall:

(a) document the finding or circumstance in the individual's medical record; and

(b) if possible, communicate to the individual and the individual's surrogate the finding or circumstance and that the individual may object under Subsection 75A-9-104(3) to the finding under Subsection 75A-9-103(2).

(4) A responsible health care professional who is informed that an individual has created or revoked an advance health care directive, or that a surrogate for an individual has been appointed, designated, or disqualified, shall:

(a) document the information as soon as reasonably feasible in the individual's medical record; and

(b) if evidence of the directive, revocation, appointment, designation, or disqualification is in a record, request a copy and, on receipt, cause the copy to be included in the individual's medical record.

(5) Except as provided in Subsections (6) and (7), a health care professional or health care institution providing health care to an

individual shall comply with:

(a) a health care instruction given by the individual regarding the individual's health care;

(b) a reasonable interpretation by the individual's surrogate of an instruction given by the individual; and

(c) a health care decision for the individual made by the individual's surrogate in accordance with Sections 75A-9-116 and 75A-9-117 to the same extent as if the decision had been made by the individual at a time when the individual had capacity.

(6) A health care professional or a health care institution may refuse to provide health care consistent with a health care instruction or health care decision if:

(a) the instruction or decision is contrary to a policy of the health care institution providing care to the individual that is based expressly on reasons of conscience and the policy was timely communicated to the individual or to the individual's surrogate;

(b) the care would require health care that is not available to the professional or institution; or

(c) compliance with the instruction or decision would:

(i) require the professional to provide care that is contrary to the professional's religious belief or moral conviction if other law permits the professional to refuse to provide care for that reason;

(ii) require the professional or institution to provide care that is contrary to generally accepted health care standards applicable to the professional or institution; or

(iii) violate a court order or other law.

(7) A health care professional or health care institution that refuses to provide care under Subsection (6) shall:

(a) as soon as reasonably feasible, inform the individual, if possible, and the individual's surrogate of the refusal;

(b) immediately make a reasonable effort to transfer the individual to another health care professional or health care institution that is willing to comply with the instruction or decision; and

(c) either:

(i) if care is refused under Subsection (6)(a) or (b), provide life-sustaining care and care needed to keep or make the individual comfortable, consistent with accepted medical standards to the extent feasible, until a transfer is made; or

(ii) if care is refused under Subsection (6)(c), provide life-sustaining care and care needed to keep or make the individual comfortable, consistent with accepted medical standards, until a transfer is made or, if the professional or institution reasonably believes that a transfer cannot be made, for at least 10 days after the refusal.

Section 23. Section 75A-9-121 is enacted to read:

75A-9-121. Decision by guardian.

(1) A guardian may refuse to comply with or revoke the individual's advance health care directive only if the court appointing the guardian expressly orders the noncompliance or revocation.

(2) Unless a court orders otherwise, a health care decision made by an agent appointed by an individual subject to guardianship prevails over a decision of the guardian appointed for the individual.

Section 24. Section 75A-9-122 is enacted to read:

75A-9-122. Immunity.

(1) A health care professional or health care institution acting in good faith is not subject to civil or criminal liability or to discipline for unprofessional conduct for:

(a) complying with a health care decision made for an individual by another person if compliance is based on a reasonable belief that the person has authority to make the decision, including a decision to withhold or withdraw health care;

(b) refusing to comply with a health care decision made for an individual by another person if the refusal is based on a reasonable belief that the person lacked authority or capacity to make the decision;

(c) complying with an advance health care directive based on a reasonable belief that the directive is valid;

(d) refusing to comply with an advance health care directive based on a reasonable belief that the directive is not valid, including a reasonable belief that the directive was not made by the individual or, after its creation, was substantively altered by a person other than the individual who created it; or

(e) determining that an individual who otherwise might be authorized to act as an agent or default surrogate is not reasonably available.

(2) An agent, default surrogate, or individual with a reasonable belief that the individual is an agent or a default surrogate is not subject to civil or criminal liability or to discipline for unprofessional conduct for a health care decision made in a good faith effort to comply with Section 75A-9-116.

Section 25. Section 75A-9-123 is enacted to read:

75A-9-123. Prohibited conduct -- Damages.

(1) A person may not:

(a) intentionally falsify, in whole or in part, an advance health care directive;

(b) for the purpose of frustrating the intent of the individual who created an advance health care directive or with knowledge that doing so is likely to frustrate the intent:

(i) intentionally conceal, deface, obliterate, or delete the directive or a revocation of the directive without consent of the individual who created or revoked the directive; or

(ii) intentionally withhold knowledge of the existence or revocation of the directive from a responsible health care professional or health care institution providing health care to the individual who created or revoked the directive;

(c) coerce or fraudulently induce an individual to create, revoke, or refrain from creating or revoking an advance health care directive or a part of a directive; or

(d) require or prohibit the creation or revocation of an advance health care directive as a condition for providing health care.

(2) An individual who is the subject of conduct prohibited under Subsection (1), or the individual's estate, has a cause of action against a person that violates Subsection (1) for statutory damages of $25,000 or actual damages resulting from the violation, whichever is greater.

(3) Subject to Subsection (4), an individual who makes a health care instruction, or the individual's estate, has a cause of action against

a health care professional or health care institution that intentionally violates Section 75A-9-120 for statutory damages of $50,000 or actual damages resulting from the violation, whichever is greater.

(4) A health care professional who is an emergency medical services provider is not liable under Subsection (3) for a violation of Subsection 75A-9-120(5) if:

(a) the violation occurs in the course of providing care to an individual experiencing a health condition for which the emergency medical services provider reasonably believes the care was appropriate to avoid imminent loss of life or serious harm to the individual;

(b) the failure to comply is consistent with accepted standards of the profession of the emergency medical services provider; and

(c) the provision of care does not begin in a health care institution in which the individual resides or was receiving care.

(5) In an action under this section, a prevailing plaintiff may recover reasonable attorney fees, court costs, and other reasonable litigation expenses.

(6) A cause of action or remedy under this section is in addition to any cause of action or remedy under other law.

Section 26. Section 75A-9-124 is enacted to read:

75A-9-124. Effect of copy -- Certified physical copy.

(1) A physical or electronic copy of an advance health care directive, revocation of an advance health care directive, or appointment, designation, or disqualification of a surrogate has the same effect as the original.

(2) An individual may create a certified physical copy of an advance health care directive or revocation of an advance health care directive that is in electronic form by affirming under penalty of perjury that the physical copy is a complete and accurate copy of the directive or revocation.

Section 27. Section 75A-9-125 is enacted to read:

75A-9-125. Judicial relief.

(1) On petition of an individual, the individual's surrogate, a health care professional or health care institution providing health care to the individual, or a person interested in the welfare of the individual, the court may:

(a) enjoin implementation of a health care decision made by an agent or default surrogate on behalf of the individual, on a finding that the decision is inconsistent with Section 75A-9-116 or 75A-9-117;

(b) enjoin an agent from making a health care decision for the individual, on a finding that the individual's appointment of the agent has been revoked or the agent:

(i) is disqualified under Subsection 75A-9-107(2);

(ii) is unwilling or unable to comply with Section 75A-9-116; or

(iii) poses a danger to the individual's well-being;

(c) enjoin another individual from acting as a default surrogate, on a finding that the other individual:

(i) acting as a default surrogate did not comply with Section 75A-9-111;

(ii) is disqualified under Section 75A-9-113;

(iii) is unwilling or unable to comply with Section 75A-9-116;

(iv) poses a danger to the first individual's well-being; or

(d) order implementation of a health care decision made:

(i) by and for the individual; or

(ii) by an agent or default surrogate who is acting in compliance with the powers and duties of the agent or default surrogate.

(2) In this chapter, advocacy for the withholding or withdrawal of health care or mental health care from an individual is not itself evidence that an agent or default surrogate, or a potential agent or default surrogate, poses a danger to the individual's well-being.

(3) A proceeding under this chapter is governed by the Utah Rules of Civil Procedure and shall be expedited by the court.

Section 28. Section 75A-9-126 is enacted to read:

75A-9-126. Construction.

(1) This chapter does not authorize mercy killing, assisted suicide, or euthanasia.

(2) This chapter does not affect other law of this state governing treatment for mental illness of an individual involuntarily committed under Section 26B-5-332.

(3) Death of an individual caused by withholding or withdrawing health care in accordance with this chapter does not constitute a suicide or homicide or legally impair or invalidate a policy of insurance or an annuity providing a death benefit, notwithstanding any term of the policy or annuity.

(4) This chapter does not create a presumption concerning the intention of an individual who has not created an advance health care directive.

(5) An advance health care directive created before, on, or after January 1, 2026, shall be interpreted in accordance with law of this state, excluding the state's choice-of-law rules, at the time the directive is implemented.

Section 29. Section 75A-9-127 is enacted to read:

75A-9-127. Uniformity of application and construction.

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

Section 30. Section 75A-9-128 is enacted to read:

75A-9-128. Saving provision.

(1) An advance health care directive created before January 1, 2026, is valid if it complies with this chapter or complied at the time of creation with the law of the state in which it was created.

(2) This chapter does not affect the validity or effect of an act done before January 1, 2026.

(3) An individual who assumed authority to act as default surrogate before January 1, 2026, may continue to act as default surrogate until the individual for whom the default surrogate is acting has capacity or the default surrogate is disqualified, whichever occurs first.

Section 31. Section 75A-9-129 is enacted to read:

75A-9-129. Transitional provision.

This chapter applies to an advance health care directive created before, on, or after January 1, 2026.

Section 32. Repealer.

This bill repeals:

Section 75A-3-102, Intent statement.

Section 75A-3-103, Effect of chapter.

Section 75A-3-104, Provisions cumulative with existing law.

Section 75A-3-105, Severability.

Section 75A-3-107, Judicial relief.

Section 75A-3-201, Capacity to make health care decisions -- Presumption -- Overcoming presumption.

Section 75A-3-202, Effect of current health care preferences -- Health care decision making.

Section 75A-3-203, Default surrogates.

Section 75A-3-204, Surrogate decision making -- Scope of authority.

Section 75A-3-205, Health care decisions by guardian.

Section 75A-3-206, Priority of decision makers.

Section 75A-3-207, Notification to health care provider -- Obligations of health care providers -- Liability.

Section 75A-3-208, Personal representative status.

Section 75A-3-301, Advance health care directive -- Appointment of agent -- Powers of agent.

Section 75A-3-302, Capacity to complete an advance health care directive.

Section 75A-3-303, Optional form for advance health care directive.

Section 75A-3-304, Presumption of validity of advance health care directive.

Section 75A-3-305, Advance health care directive effect on insurance policies.

Section 75A-3-306, Advance health care directive effect during pregnancy.

Section 75A-3-307, Revocation of advance health care directive.

Section 75A-3-308, Illegal destruction or falsification of advance health care directive.

Section 75A-3-309, Reciprocity of advance health care directive -- Application of former provisions of law.

Section 33. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 440
S. B. 23
Passed February 10, 2025
Approved March 26, 2025
Effective May 7, 2025

FIRST HOME INVESTMENT ZONE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill modifies provisions affecting first home investment zones.

Highlighted Provisions:

This bill:

- ► modifies definitions;
- ► clarifies owner-occupancy requirements in a first home investment zone;
- ► clarifies how extraterritorial homes may be included in density and owner-occupancy requirements for a first home investment zone; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63N-3-1601, as enacted by Laws of Utah 2024, Chapter 537
63N-3-1602, as enacted by Laws of Utah 2024, Chapter 537

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-3-1601 is amended to read:

63N-3-1601. Definitions.

(1) "Affordable housing" means:

(a) for homes that are not owner occupied, housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the county median gross income [~~of the applicable municipal statistical area~~]for households of the same size; or

(b) (i) for homes that are owner occupied, housing that is priced at 80% of the county median home price[~~,~~]; or

(ii) for homes that are owner occupied, housing that is priced at 80% of the zip code median home price if:

(A) the proposal described in Section 63N-3-1603 demonstrates that a deviation from the county median home price will achieve the objectives described in Subsection 63N-3-1602(1); and

(B) the zip code median home price is based upon county property tax assessment data.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means the same as that term is defined in Section 63N-3-602.

(4) "Base year" means[~~ the same as that term is defined in Section 63N-3-602.~~], for each tax increment collection period triggered within a proposed first home investment zone area, the calendar year prior to the calendar year the tax increment begins to be collected for those parcels triggered for that collection period.

(5) (a) "Developable area" means [~~the same as that term is defined in Section 63N-3-602.~~]the portion of land within a first home investment zone available for development and construction of business and residential uses.

(b) "Developable area" does not include portions of land within a first home investment zone that are allocated to:

(i) parks;

(ii) recreation facilities;

(iii) open spaces;

(iv) trails;

(v) parking;

(vi) roadway facilities; or

(vii) other public facilities.

(6) "Dwelling unit" means the same as that term is defined in Section 63N-3-602.

(7) "Extraterritorial home" means a dwelling unit that is included as part of the first home investment zone proposal that:

(a) is located within the municipality proposing the first home investment zone but outside the boundary of the first home investment zone;

(b) is part of a development with a density of at least six units per acre;

(c) is not located within an existing housing and transit reinvestment zone or an area that could be included in a housing and transit reinvestment zone;

(d) has not been issued a building permit by the municipality as of the date of the approval of the first home investment zone; and

(e) is required to be owner occupied for no less than 25 years.

(8) "First home investment zone" means a first home investment zone created in accordance with this part.

(9) "Home" means a dwelling unit.

(10) "Housing and transit reinvestment zone" means the same as that term is defined in Section 63N-3-602.

(11) "Housing and transit reinvestment zone committee" means the housing and transit reinvestment zone committee described in Section 63N-3-605.

(12) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(13) "Mixed use development" means the same as that term is defined in Section 63N-3-603.

(14) "Moderate income housing plan" means the same as that term is defined in Section 11-41-102.

(15) "Municipality" means the same as that term is defined in Section 10-1-104.

(16) "Owner occupied" means private real property that is:

(a) used for a single-family residential purpose; and

(b) required to be occupied by the owner of the real property for no less than 25 years.

(17) "Project area" means the same as that term is defined in Section 17C-1-102.

(18) (a) "Project improvements" means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) "Project improvements" does not mean system improvements.

(19) "State Tax Commission" means the State Tax Commission created in Section 59-1-201.

(20) (a) "System improvements" means existing and future public facilities that are designed to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

(21) (a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a first home investment zone designated in the first home investment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include property tax revenue from:

(i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2); or

(ii) a county additional property tax described in Subsection 59-2-1602(4).

(22) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

(23) "Unencumbered annual community reinvestment agency revenue" means tax increment revenue received by the agency for purposes identified in Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, that:

(a) have not been designated or restricted for future qualified uses as approved by the agency board related to a specific project area; and

(b) do not have a date certain by which the tax increment revenues will be used.

Section 2. Section 63N-3-1602 is amended to read:

63N-3-1602. Applicability, requirements, and limitations on a first home investment zone.

(1) A first home investment zone created pursuant to this part shall promote the following objectives:

(a) encouraging efficient development and opportunities for home ownership by providing a variety of housing options, including affordable housing and for sale, owner-occupied housing;

(b) improving availability of housing options;

(c) overcoming development impediments and market conditions that render a development cost prohibitive absent the proposal and incentives;

(d) conserving water resources through efficient land use;

(e) improving air quality by reducing fuel consumption and motor vehicle trips;

(f) encouraging transformative mixed-use development;

(g) strategic land use and municipal planning in major transit investment corridors as described in Subsection 10-9a-403(2);

(h) increasing access to employment and educational opportunities;

(i) increasing access to child care; and

(j) improving efficiencies in parking and transportation, including walkability of communities, street and path interconnectivity within the proposed development and connections to surrounding communities, and access to roadways, public transportation, and active transportation.

(2) In order to accomplish the objectives described in Subsection (1), a municipality or county that initiates the process to create a first home investment zone as described in this part shall ensure that the proposal for a first home investment zone includes:

(a) subject to Subsection (3), a minimum of 30 housing units per acre;

(i) [-]in at least 51% of the developable area within the first home investment zone; and

(ii) of which 50% must be owner occupied;

(b) a mixed use development;

(c) a requirement that at least 25% of homes within the first home investment zone remain owner occupied for at least 25 years from the date of original purchase;

(d) for homes inside the first home investment zone, a requirement that at least 12% of the owner occupied homes and 12% of the homes that are not owner occupied are affordable housing; [~~and~~]

(e) a requirement that at least 20% of the extraterritorial homes are affordable housing[~~.~~]; and

(f) except for extraterritorial homes, the number of homes that result from multiplying the number of housing units described in Subsection (2)(a) by the developable area described in Subsection (2)(a)(i) may be intermingled with other mixed uses within the first home investment zone.

(3) (a) Subject to Subsection (3)(b), to satisfy the requirements described in Subsection (2)(a), a first home investment zone may include an extraterritorial home to count toward the required density and owner-occupancy of the first home investment zone by:

(i) [~~(A) taking~~]adding the total number of extraterritorial homes related to the first home investment zone to the total number of homes within the first home investment zone; and

[~~(B) adding the total number under Subsection (3)(a)(i)(A) to the number of homes within the first home investment zone; and~~]

(ii) dividing the [~~total~~]sum described in Subsection (3)(a)(i) by a number equal to 51% of the total number of developable acres [~~with~~]within the first home investment zone.

(b) Extraterritorial homes may account for no more than half of the total homes to calculate density within a first home investment zone.

(4) (a) If a municipality proposes a first home investment zone, the proposal shall comply with the limitations described in this Subsection (4).

(b) A first home investment zone may not be less than 10 acres and no more than 100 acres of developable area in size.

(c) (i) Except as provided in Subsection (4)(c)(ii), a first home investment zone is required to be one contiguous area.

(ii) While considering a first home investment zone proposal as described in Section 63N-3-1605, the housing and transit reinvestment zone committee may consider and approve a first home investment zone that is not one contiguous area if:

(A) the municipality provides evidence in the proposal showing that the deviation from the contiguity requirement will enhance the ability of the first home investment zone to achieve the objectives described in Subsection (1); and

(B) the housing and transit reinvestment zone committee determines that the deviation is reasonable and circumstances justify deviation from the contiguity requirement.

(iii) The first home investment zone area contiguity is not affected by roads or other rights-of-way.

(d) (i) A first home investment zone proposal may propose the capture of a maximum of 60% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years within a 45-year period not to exceed the tax increment amount approved in the first home investment zone proposal.

(ii) A first home investment zone proposal may not propose or include triggering more than three tax increment collection periods during the applicable 25-year period.

(iii) Subject to Subsection (4)(d)(iv), a municipality shall ensure that the required affordable housing units are included proportionally in each phase of the first home investment zone development.

(iv) A municipality may allow a first home investment zone to be phased and developed in a manner to provide more of the required affordable housing units in early phases of development.

(e) If a municipality proposes a first home investment zone, commencement of the collection of tax increment, for all or a portion of the first home investment zone, is triggered by providing notice as described in Subsection (5).

(f) A municipality may restrict homes within a first home investment zone and related extraterritorial homes from being used as a short-term rental.

(g) A municipality shall ensure that affordable housing within a first home investment zone and related extraterritorial homes that are reserved as affordable housing are spread throughout the overall development.

(h) A municipality shall ensure that at least 80% of extraterritorial homes included in a first home investment zone proposal are single-family detached homes.

(i) A municipality shall include in a first home investment zone proposal:

(i) an affordable housing plan, which may include deed restrictions, to ensure the affordable housing required in the proposal will continue to meet the definition of affordable housing at least throughout the entire term of the first home investment zone; and

(ii) an owner occupancy plan, which may include deed restrictions, to ensure the owner occupancy requirements in the proposal will continue to meet the definition of owner occupancy at least throughout the entire term of the first home investment zone.

(j) A municipality shall include in the first home investment zone proposal evidence to demonstrate how the first home investment zone proposal complies with the municipality's moderate income housing plan and general plan.

(5) Notice of commencement of collection of tax increment shall be sent by mail or electronically to the following entities no later than January 1 of the year for which the tax increment collection is proposed to commence:

(a) the State Tax Commission;

(b) the State Board of Education;

(c) the state auditor;

(d) the auditor of the county in which the first home investment zone is located;

(e) each taxing entity affected by the collection of tax increment from the first home investment zone;

(f) the assessor of the county in which the first home investment zone is located; and

(g) the Governor's Office of Economic Opportunity.

(6) A first home investment zone proposal may not include a proposal to capture sales and use tax increment.

(7) A municipality may not propose a first home investment zone in a county of the first class if the limitation described in Subsection 63N-3-603(7)(c) has been reached.

(8) A municipality may not propose a first home investment zone in a location that is eligible for a housing and transit reinvestment zone.

(9) A municipality may not propose a first home investment zone if the municipality's community reinvestment agency, based on the

most recent annual comprehensive financial report, retains cash and cash equivalent assets of more than 20% of ongoing and unencumbered annual community reinvestment agency revenue.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 441
S. B. 31
Passed March 4, 2025
Approved March 26, 2025
Effective May 7, 2025

REFUGEE SERVICES AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill creates the Refugee Services Office within the Department of Workforce Services.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates the Refugee Services Office (office) within the Department of Workforce Services;
- ► describes the duties and functions of the office; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-1-202, as last amended by Laws of Utah 2021, Chapter 281
35A-3-103, as last amended by Laws of Utah 2023, Chapter 328

ENACTS:

35A-3-801, Utah Code Annotated 1953
35A-3-802, Utah Code Annotated 1953
35A-3-803, Utah Code Annotated 1953
35A-3-804, Utah Code Annotated 1953
35A-3-805, Utah Code Annotated 1953
35A-3-806, Utah Code Annotated 1953

REPEALS:

35A-3-701, as renumbered and amended by Laws of Utah 2015, Chapter 221
35A-3-702, as renumbered and amended by Laws of Utah 2015, Chapter 221

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-1-202 is amended to read:

35A-1-202. Divisions -- Creation -- Duties -- Workforce Appeals Board, councils, Child Care Advisory Committee, and economic service areas.

(1) There is created within the department the following divisions:
(a) the Workforce Development Division to administer the development and implementation of employment assistance programs;
(b) the Workforce Research and Analysis Division;
(c) the Unemployment Insurance Division to administer Chapter 4, Employment Security Act;
(d) the Eligibility Services Division to administer public assistance eligibility;
(e) the Division of Adjudication to adjudicate claims or actions in accordance with this title;
(f) the Housing and Community Development Division, which is described in Sections 35A-8-201 and 35A-8-202;
(g) the Utah State Office of Rehabilitation, which is described in Section 35A-13-103;[~~ and~~]
(h) the Office of Homeless Services, which is described in Section 35A-16-202[~~.~~];
(i) the Office of Child Care, which is described in Sections 35A-3-202 and 35A-3-203; and
(j) the Refugee Services Office, which is described in Chapter 3, Part 8, Refugee Services.
(2) In addition to the divisions created under Subsection (1), within the department are the following:
(a) the Workforce Appeals Board created in Section 35A-1-205;
(b) the State Workforce Development Board created in Section 35A-1-206;
(c) the Employment Advisory Council created in Section 35A-4-502;

(d) the Child Care Advisory Committee created in Section 35A-3-205; and

(e) the economic service areas created in accordance with Chapter 2, Economic Service Areas.

Section 2. Section 35A-3-103 is amended to read:

35A-3-103. Department responsibilities.

The department shall:

(1) administer public assistance programs assigned by the Legislature and the governor;

(2) determine eligibility for public assistance programs in accordance with the requirements of this chapter;

(3) cooperate with the federal government in the administration of public assistance programs;

(4) administer state employment services;

(5) provide for the compilation of necessary or desirable information, statistics, and reports;

(6) perform other duties and functions required by law;

(7) monitor the application of eligibility policy;

(8) develop personnel training programs for effective and efficient operation of the programs administered by the department;

(9) provide refugee resettlement services in accordance with Section [~~35A-3-701~~]35A-3-803;

(10) provide child care assistance for children in accordance with Part 2, Office of Child Care;

(11) provide services that enable an applicant or recipient to qualify for affordable housing in cooperation with:

(a) the Utah Housing Corporation;

(b) the Housing and Community Development Division; and

(c) local housing authorities;

(12) administer the Medicaid Eligibility Quality Control function in accordance with 42 C.F.R. Sec. 431.812; and

(13) conduct non-clinical eligibility hearings and issue final decisions in adjudicative proceedings, including expedited appeals as defined in 42 C.F.R. Sec. 431.224, for medical assistance eligibility under:

(a) Title 26B, Chapter 3, Health Care - Administration and Assistance; or

(b) Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program.

Section 3. Section 35A-3-801 is enacted to read:

PART 8. Refugee Services

35A-3-801. Definitions.

As used in this part:

(1) "Director" means the director of the Refugee Services Office.

(2) "Office" means the Refugee Services Office created in Section 35A-3-802.

(3) "Refugee" means a person who is lawfully present in the United States and who meets the definition of a refugee under the Immigration and Nationality Act, 8 U.S.C. Sec. 1101(a)(42), and related federal regulations.

Section 4. Section 35A-3-802 is enacted to read:

35A-3-802. Refugee Services Office - Creation.

(1) There is created within the department a Refugee Services Office.

(2) The office shall be administered by a director who shall be appointed by the executive director and who may be removed from that position at the will of the executive director.

Section 5. Section 35A-3-803 is enacted to read:

35A-3-803. Functions and duties of office -- Annual report.

(1) The office shall:

(a) provide refugee resettlement services to eligible refugees pursuant to federal regulations;

(b) operate a refugee cash assistance program;

(c) provide administrative support services to any refugee advisory committee;

(d) work collaboratively with community partners for the delivery of services to refugees;

(e) coordinate with the department to include in the annual written report, described in Section 35A-1-109, information regarding refugee services; and

(f) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with state and federal law establishing the eligibility requirements for refugee case assistance.

(2) The office may apply for, accept, or expend gifts or donations from public or private sources.

Section 6. Section 35A-3-804 is enacted to read:

35A-3-804. Duties of director.

(1) The director shall:

(a) enforce rules made by the department regulating the use of services provided by the office; and

(b) supervise office staff and prepare an annual work plan.

(2) The director may apply for, accept, and expend donations from public or private sources to assist the office in fulfilling its statutory obligations.

Section 7. Section 35A-3-805 is enacted to read:

35A-3-805. Refugee services fund -- Use of money -- Committee and director duties -- Restrictions.

(1) There is created an expendable special revenue fund, known as the "Refugee Services Fund."

(2) The director shall administer the fund with input from the department and any advisory committee involved with the provision of refugee services within the department.

(3) (a) Money shall be deposited into the fund from legislative appropriations, federal grants, private foundations, and individual donors.

(b) The director shall encourage a refugee who receives services funded under Subsection (8) to be a donor to the fund when the refugee's financial situation improves sufficiently to make a donation.

(4) Except for money restricted to a specific use under federal law or by a donor, the director may not spend money from the fund without the input described in Subsection (2).

(5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, and all interest or other earnings derived from the fund money shall be deposited into the fund.

(6) Money in the fund may not be used by the director for administrative expenses.

(7) If the department establishes a refugee services advisory committee referenced in Subsection (2), the committee may:

(a) advise the director on refugee services needs in the state and on relevant operational aspects of any grant or revenue collection program established under this part;

(b) recommend specific refugee projects to the director;

(c) recommend policies and procedures for administering the fund;

(d) make recommendations on grants made from the fund for refugee services activities authorized under this section;

(e) advise the director on the criteria by which grants from the fund shall be made;

(f) recommend the order approved projects should be funded;

(g) make recommendations regarding the distribution of money from the fund in accordance with federal or donor restrictions; and

(h) have joint responsibility to solicit public and private funding for the fund.

(8) The director may use fund money to:

(a) train an existing refugee organization to develop its capacity to operate professionally and effectively and to become an independent, viable organization; or

(b) provide grants to refugee organizations and other entities identified in Subsection (9) to assist them:

(i) with case management;

(ii) in meeting emergency housing needs for refugees;

(iii) in providing English language services;

(iv) in providing interpretive services;

(v) in finding and maintaining employment for refugees;

(vi) in collaborating with the state's public education system to improve the involvement of refugee parents in assimilating their children into public schools;

(vii) in meeting the health and mental health needs of refugees;

(viii) in providing or arranging for child care services; or

(ix) in administering refugee services.

(9) The director, with the input described in Subsection (2), may grant fund money for refugee services outlined in Subsection (8) through a request for proposal process to:

(a) local governments;

(b) nonprofit community, charitable, or neighborhood-based organizations or private for-profit organizations involved with providing or arranging for the provision of refugee services; or

(c) regional or statewide nonprofit organizations.

(10) (a) The director shall enter into a written agreement with each entity that successfully applies for a grant.

(b) The agreement shall include specific terms for each grant consistent with the provisions of this section, including the structure, amount, and nature of the grant.

(11) The director shall monitor the activities of the recipients of grants issued from the fund on an annual basis to ensure compliance with the terms and conditions imposed on the recipient by the fund.

(12) The director shall require an entity that receives a grant under this section to provide periodic accounting of how the money was used.

(13) As part of the annual written report described in Section 35A-1-109, the director shall report the status of the fund, including programs and services funded by the fund.

Section 8. Section 35A-3-806 is enacted to read:

35A-3-806. Continuation of refugee services.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to provide for the administration and coordination of services to refugees beyond the time period refugee assistance is provided or funded by the federal government, including the provisions of:

(a) services to address emergency needs;

(b) English language training; and

(c) services for victims of domestic violence.

(2) The director shall administer and coordinate services under this section:

(a) with input from the department and any office or advisory committee involved with the provision of refugee services within the department; and

(b) in accordance with any state and federal requirements related to the provision of services to refugees.

Section 9. Repealer.

This bill repeals:

Section 35A-3-702, Continuation of refugee services.

Section 35A-3-701, Refugee services fund -- Use of money -- Committee and director duties -- Restrictions.

Section 10. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 442
S. B. 42
Passed February 5, 2025
Approved March 26, 2025
Effective May 7, 2025

CONSUMER PROTECTION AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends provisions relating to consumer protection.

Highlighted Provisions:

This bill:

- ► describes the award a court must issue when granting a judgment in favor of the Division of Consumer Protection (division);
- ► clarifies what constitutes a deceptive and unconscionable sales practice;
- ► clarifies the division's rulemaking and investigatory authority;
- ► allows the division to request that a court order disgorgement of money under certain circumstances;
- ► clarifies the factors a court considers when issuing a fine;
- ► clarifies that a government agency may bring an enforcement action for defective construction; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-6, as last amended by Laws of Utah 2024, Chapter 102
13-11-2, as enacted by Laws of Utah 1973, Chapter 188
13-11-3, as last amended by Laws of Utah 2004, Chapter 55
13-11-4, as last amended by Laws of Utah 2024, Chapters 102, 186
13-11-5, as enacted by Laws of Utah 1973, Chapter 188
13-11-6, as last amended by Laws of Utah 2024, Chapter 158
13-11-7, as last amended by Laws of Utah 2024, Chapter 101
13-11-8, as enacted by Laws of Utah 1973, Chapter 188
13-11-9, as enacted by Laws of Utah 1973, Chapter 188
13-11-16, as last amended by Laws of Utah 1997, Chapter 296
13-11-17, as last amended by Laws of Utah 2018, Chapter 276
13-11-18, as enacted by Laws of Utah 1973, Chapter 188
13-11-19, as last amended by Laws of Utah 2018, Chapter 276
13-11-20, as last amended by Laws of Utah 2010, Chapter 378
13-11-21, as last amended by Laws of Utah 2024, Chapter 222
13-11-22, as enacted by Laws of Utah 1973, Chapter 188
78B-4-513, as enacted by Laws of Utah 2008, Chapter 280

REPEALS:

13-11-17.5, as enacted by Laws of Utah 1987, Chapter 105

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-6 is amended to read:

13-2-6. Enforcement powers.

(1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division shall have authority to convene administrative hearings, issue cease and desist orders, and impose fines under all the chapters identified in Section 13-2-1.

(2) A person who intentionally violates a final cease and desist order entered by the division of which the person has notice is guilty of a third degree felony.

(3) If the division has reasonable cause to believe that a person has violated or is violating any chapter listed in Section 13-2-1, the division may promptly issue the alleged violator a citation signed by the division's director or the director's designee.

(a) Each citation shall be in writing and shall:

(i) set forth with particularity the nature of the violation, including a reference to the statutory or administrative rule provision violated;

(ii) state that a request for review of the citation shall be made in writing and be received by the division no more than 20 calendar days after the day on which the division issues the citation;

(iii) state the consequences of failing to make a timely request for review; and

(iv) state all other information required by Subsection 63G-4-201(2).

(b) In computing a time period under this section, the following days may not be included:

(i) the day on which the division issues a citation; and

(ii) the day on which the division receives a request for review of a citation.

(c) (i) Except as provided in Subsection (3)(c)(iii), if the presiding officer finds that there is not substantial evidence that the recipient violated a chapter listed in Section 13-2-1:

(A) the citation may not become final; and

(B) the division shall immediately vacate the citation and promptly notify the recipient in writing.

(ii) Except as provided in Subsection (3)(c)(iv), if the presiding officer finds that there is substantial evidence that the recipient violated a chapter listed in Section 13-2-1:

(A) the citation shall become final; and

(B) the division may enter a cease and desist order against the recipient.

(iii) For a citation issued for a violation of Chapter 41, Price Controls During Emergencies Act, if the presiding officer finds that there is not clear and convincing evidence that the recipient violated the chapter:

(A) the citation may not become final; and

(B) the division shall immediately vacate the citation and promptly notify the recipient in writing.

(iv) For a citation issued for a violation of Chapter 41, Price Controls During Emergencies Act, if the presiding officer finds that there is clear and convincing evidence that the recipient violated the chapter:

(A) the citation shall become final; and

(B) the division may enter a cease and desist order against the recipient.

(d) (i) A citation issued under this chapter may be personally served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure.

(ii) A citation also may be served by first-class mail, postage prepaid.

(e) (i) If the recipient fails to make a request for review within 20 calendar days after the day on which the division issues the citation, the citation shall become the final order of the division.

(ii) The period to contest the citation may be extended by the director for good cause shown.

(f) If the chapter violated allows for an administrative fine, after a citation becomes final, the director may impose the administrative fine.

(4) (a) A person who has violated, is violating, or has attempted to violate a chapter identified in Section 13-2-1 is subject to the division's jurisdiction if:

(i) the violation or attempted violation is committed wholly or partly within the state;

(ii) conduct committed outside the state constitutes an attempt to commit a violation within the state; or

(iii) transactional resources located within the state are used by the offender to directly or indirectly facilitate a violation or attempted violation.

(b) As used in this section, "transactional resources" means:

(i) a mail drop or mail box, regardless of whether the mail drop or mail box is located on the premises of a United States Post Office;

(ii) a telephone or facsimile transmission device;

(iii) an Internet connection by a resident or inhabitant of this state with a resident- or nonresident-maintained Internet site;

(iv) a business office or private residence used for a business-related purpose;

(v) an account with or services of a financial institution;

(vi) the services of a common or private carrier; or

(vii) the use of a city, county, or state asset or facility, including a road or highway.

(5) The director or the director's designee, for the purposes outlined in a chapter administered by the division, may administer oaths, issue subpoenas, compel the attendance of witnesses, conduct audits, compel sworn responses to written questions, or compel the production of papers, books, accounts, documents, or evidence.

(6) (a) An administrative action filed under this chapter or a chapter listed in Section 13-2-1 shall be commenced no later than 10 years after the day on which the alleged violation occurs.

(b) A civil action filed under this chapter or a chapter listed in Section 13-2-1 shall be commenced no later than five years after the day on which the alleged violation occurs.

(c) The provisions of this Subsection (6) control over the provisions of Title 78B, Chapter 2, Statutes of Limitations.

(7) When granting a judgment in the division's favor in connection with the division's exercise of any authority described in Section 13-2-5 or 13-2-6, a court shall award:

(a) reasonable attorney fees;

(b) court costs;

(c) costs of investigation; and

(d) any other relief the court deems appropriate.

Section 2. Section 13-11-2 is amended to read:

13-11-2. Construction and purposes of act.

This act shall be construed liberally to promote the following policies:

(1) to simplify, clarify, and modernize the law governing consumer sales practices;

(2) to protect consumers from suppliers who commit deceptive and unconscionable sales practices, including by disgorging money or any thing of value obtained in violation of this chapter;

(3) to encourage the development of fair consumer sales practices;

(4) to make state regulation of consumer sales practices [~~not inconsistent~~]consistent with the policies of the Federal Trade Commission Act relating to consumer protection;

(5) to make uniform the law, including the administrative rules, with respect to the subject of this [~~act~~]chapter among those states [~~which~~]that enact similar laws; and

(6) to recognize and protect suppliers [~~who~~]that in good faith comply with the provisions of this [~~act~~]chapter.

Section 3. Section 13-11-3 is amended to read:

13-11-3. Definitions.

As used in this chapter:

(1) "Charitable solicitation" means any request directly or indirectly for money, credit, property, financial assistance, or any other thing of value on the plea or representation that it will be used for a charitable purpose. A charitable solicitation may be made in any manner, including:

(a) any oral or written request, including a telephone request;

(b) the distribution, circulation, or posting of any handbill, written advertisement, or publication; or

(c) the sale of, offer or attempt to sell, or request of donations for any book, card, chance, coupon, device, magazine, membership, merchandise, subscription, ticket, flower, flag, button, sticker, ribbon, token, trinket, tag, souvenir, candy, or any other article in connection with which any appeal is made for any charitable purpose, or where the name of any charitable organization or movement is used or referred to as an inducement or reason for making any purchase donation, or where, in connection with any sale or donation, any statement is made that the whole or any part of the proceeds of any sale or donation will go to or be donated to any charitable purpose. A charitable solicitation is considered complete when made, whether or not the organization or person making the solicitation receives any contribution or makes any sale.

(2) (a) "Consumer transaction" means a sale, lease, assignment, award by chance, or other written or oral transfer or disposition of goods, services, or other property, both tangible and intangible (except securities and insurance) to, or apparently to, a person for:

(i) primarily personal, family, or household purposes; or

(ii) purposes that relate to a business opportunity that requires:

(A) expenditure of money or property by the person described in Subsection (2)(a); and

(B) the person described in Subsection (2)(a) to perform personal services on a continuing basis and in which the person described in Subsection (2)(a) has not been previously engaged.

(b) "Consumer transaction" includes:

(i) any of the following with respect to a transfer or disposition described in Subsection (2)(a):

(A) an offer;

(B) a solicitation;

(C) an agreement; or

(D) performance of an agreement; or

(ii) a charitable solicitation.

(3) [~~"Enforcing authority" ~~]"Division" means the Division of Consumer Protection.

(4) "Final judgment" means a judgment, including any supporting opinion, that determines the rights of the parties and concerning which appellate remedies have been exhausted or the time for appeal has expired.

[~~(5) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, cooperative, or any other legal entity.~~]

[~~(6)~~](5) "Supplier" means a seller, lessor, assignor, offeror, broker, or other person who regularly solicits, engages in, or enforces consumer transactions, whether or not [~~he~~]the person deals directly with the consumer.

(6) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.

Section 4. Section 13-11-4 is amended to read:

13-11-4. Deceptive act or practice by supplier.

(1) [~~A deceptive act or practice by a supplier in connection with a consumer transaction violates this chapter whether it occurs before, during, or after the transaction~~]A supplier that engages in a deceptive act or practice in connection with a consumer transaction violates this chapter, whether the deceptive act or practice occurs before, during, or after the transaction.

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier[~~ knowingly or intentionally~~]:

(a) indicates that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits, if [~~it~~]the subject has not;

(b) indicates that the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if [~~it~~]the subject is not;

(c) indicates that the subject of a consumer transaction is new, or unused, if [~~it~~]the subject is not, or has been used to an extent that is materially different from the fact;

(d) indicates that the subject of a consumer transaction is available to the consumer for a reason that does not exist, including any of the following reasons falsely used in an advertisement:

(i) "going out of business";

(ii) "bankruptcy sale";

(iii) "lost our lease";

(iv) "building coming down";

(v) "forced out of business";

(vi) "final days";

(vii) "liquidation sale";

(viii) "fire sale";

(ix) "quitting business"; or

(x) an expression similar to any of the expressions in Subsections (2)(d)(i) through (ix);

(e) indicates that the subject of a consumer transaction has been supplied in accordance with a previous representation, if [~~it~~]the subject has not;

(f) indicates that the subject of a consumer transaction will be supplied in greater quantity than the supplier intends;

(g) indicates that replacement or repair is needed, if [~~it~~]the replacement or repair is not;

(h) indicates that a specific price advantage exists, if [~~it~~]the specific price advantage does not;

(i) indicates that the supplier has a sponsorship, approval, license, certification, or affiliation the supplier does not have;

(j) (i) indicates that a consumer transaction involves or does not involve a warranty, a disclaimer of warranties, particular warranty terms, or other rights, remedies, or obligations, if the representation is false; or

(ii) fails to honor a warranty or a particular warranty term;

(k) indicates that the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if receipt of the benefit is contingent on an event occurring after the consumer enters into the transaction;

(l) after receipt of payment for goods or services, fails to ship the goods or furnish the services within the time advertised or otherwise represented or, if no specific time is advertised or represented, fails to ship the goods or furnish the services within 30 days, unless within the applicable time period the supplier provides the buyer with the option to:

(i) cancel the sales agreement and receive a refund of all previous payments to the supplier if the refund is mailed or delivered to the buyer within 10 business days after the day on which the seller receives written notification from the buyer of the buyer's intent to cancel the sales agreement and receive the refund; or

(ii) extend the shipping date to a specific date proposed by the supplier;

(m) except as provided in Subsection (3)(b), fails to furnish a notice meeting the requirements of Subsection (3)(a) of the purchaser's right to cancel a direct solicitation sale within three business days of the time of purchase if:

(i) the sale is made other than at the supplier's established place of business pursuant to the supplier's personal contact, whether through mail, electronic mail, facsimile transmission, telephone, or any other form of direct solicitation; and

(ii) the sale price exceeds $25;

(n) promotes, offers, or grants participation in a pyramid scheme as defined under Title 76, Chapter 6a, Pyramid Scheme Act;

(o) in connection with a charitable solicitation:

(i) falsely indicates that:

(A) the supplier is affiliated with a charitable organization;

(B) the supplier is an employee, officer, or representative of a public safety agency;

(C) the supplier has sponsorship or approval of a given charitable organization;

(D) a charitable contribution will be provided to a given charitable organization;

(E) providing a charitable contribution has an additional benefit, including a tax benefit; or

(F) the recipient of the solicitation has previously contributed to a given charitable organization;

(ii) uses a fictitious name or a name the supplier is not authorized to use; or

(iii) with intent to deceive:

(A) uses a name that is substantially similar to that of another charitable organization; or

(B) falsely indicates that a charitable contribution will be used for a particular purpose;

(p) if a consumer indicates the consumer's intention of making a claim for a motor vehicle repair against the consumer's motor vehicle insurance policy:

(i) commences the repair without first giving the consumer oral and written notice of:

(A) the total estimated cost of the repair; and

(B) the total dollar amount the consumer is responsible to pay for the repair, which dollar amount may not exceed the applicable deductible or other copay arrangement in the consumer's insurance policy; or

(ii) requests or collects from a consumer an amount that exceeds the dollar amount a consumer was initially told the consumer was responsible to pay as an insurance deductible or other copay arrangement for a motor vehicle repair under Subsection (2)(p)(i), even if that amount is less than the full amount the motor vehicle insurance policy requires the insured to pay as a deductible or other copay arrangement, unless:

(A) the consumer's insurance company denies that coverage exists for the repair, in which case, the full amount of the repair may be charged and collected from the consumer; or

(B) the consumer misstates, before the repair is commenced, the amount of money the insurance policy requires the consumer to pay as a deductible or other copay arrangement, in which case, the supplier may charge and collect from the consumer an amount that does not exceed the amount the insurance policy requires the consumer to pay as a deductible or other copay arrangement;

(q) includes in any contract, receipt, or other written documentation of a consumer transaction, or any addendum to any contract, receipt, or other written documentation of a consumer transaction, any confession of judgment or any waiver of any of the rights to which a consumer is entitled under this chapter;

(r) charges a consumer for a consumer transaction or a portion of a consumer transaction that has not previously been agreed to by the consumer;

(s) solicits or enters into a consumer transaction with [~~a person~~]an individual who lacks the mental ability to comprehend the nature and consequences of:

(i) the consumer transaction; or

(ii) the [~~person's~~]individual's ability to benefit from the consumer transaction;

(t) solicits for the sale of a product or service by providing a consumer with an unsolicited check or negotiable instrument the presentment or negotiation of which obligates the consumer to purchase a product or service, unless the supplier is:

(i) a depository institution under Section 7-1-103;

(ii) an affiliate of a depository institution; or

(iii) an entity regulated under Title 7, Financial Institutions Act;

(u) sends an unsolicited mailing to a person that appears to be a billing, statement, or request for payment for a product or service the person has not ordered or used, or that implies that the mailing requests payment for an ongoing product or service the person has not received or requested;

(v) issues a gift certificate, instrument, or other record in exchange for payment to provide the bearer, upon presentation, goods or services in a specified amount without printing in a readable manner on the gift certificate, instrument, packaging, or record any expiration date or information concerning a fee to be charged and deducted from the balance of the gift certificate, instrument, or other record;

(w) misrepresents the geographical origin or location of the supplier's business;

(x) fails to comply with the restrictions of Section 15-10-201 on automatic renewal provisions;

(y) violates Section 13-59-201;

(z) fails to comply with the restrictions of Subsection 13-54-202(2); or

(aa) states or implies that a registration or application administered or enforced by the division is an endorsement, sanction, or approval by the division or a governmental agency or office.

(3) (a) The notice required by Subsection (2)(m) shall:

(i) be a conspicuous statement written in dark bold with at least 12-point type on the first page of the purchase documentation; and

(ii) read as follows: "YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY (or time period reflecting the supplier's cancellation policy but not less than three business days) AFTER THE DATE OF THE TRANSACTION OR RECEIPT OF THE PRODUCT, WHICHEVER IS LATER."

(b) A supplier is exempt from the requirements of Subsection (2)(m) if the supplier's cancellation policy:

(i) is communicated to the buyer; and

(ii) offers greater rights to the buyer than Subsection (2)(m).

(4) (a) A gift certificate, instrument, or other record that does not print an expiration date in accordance with Subsection (2)(v) does not expire.

(b) A gift certificate, instrument, or other record that does not include printed information concerning a fee to be charged and deducted from the balance of the gift certificate, instrument, or other record is not subject to the charging and deduction of the fee.

(c) Subsections (2)(v) and (4)(b) do not apply to a gift certificate, instrument, or other record useable at multiple, unaffiliated sellers of goods or services if an expiration date is printed on the gift certificate, instrument, or other record.

Section 5. Section 13-11-5 is amended to read:

13-11-5. Unconscionable act or practice by supplier.

(1) [~~An~~]A supplier that commits an unconscionable act or practice [~~by a supplier~~]in connection with a consumer transaction violates this [~~act~~]chapter whether [~~it~~]the unconscionable act or practice occurs before, during, or after the transaction.

(2) (a) The unconscionability of an act or practice is a question of law for [~~the~~]a court with jurisdiction.

(b) If it is claimed or appears to the court that an act or practice may be unconscionable, the parties shall be given a reasonable opportunity to present evidence as to [~~its~~]the act or practice's setting, purpose, and effect to aid the court in making [~~its~~]the court's determination.

(3) In determining whether an act or practice is unconscionable, the court shall consider the circumstances [~~which~~]that the supplier knew or had reason to know.

Section 6. Section 13-11-6 is amended to read:

13-11-6. Service of process.

(1) In addition to any other method provided by rule or statute, personal jurisdiction over a supplier may be acquired in a civil action or proceeding instituted in a court [~~of this state~~]with jurisdiction by the service of process as provided in Subsection (3).

(2) (a) A supplier that engages in any act or practice in this state governed by this chapter, or engages in a consumer transaction subject to this chapter, may designate an agent upon whom service of process may be made in the state.

(b) A supplier shall make a designation of an agent under Subsection (2)(a) [~~shall be~~]in writing and [~~filed~~]file the designation with the Division of Corporations and Commercial Code.

(c) An agent designated under this Subsection (2) shall be a resident of or a corporation authorized to do business in the state.

(3) (a) Subject to Subsection (3)(b), process upon a supplier may be served as provided in Section 16-17-301 if:

(i) a designation is not made and filed under Subsection (2); or

(ii) process cannot be served in the state upon the designated agent.

(b) Service upon a supplier is not effective unless the plaintiff promptly mails a copy of the process and pleadings by registered or certified mail to the [~~defendant~~]supplier at the [~~defendant's~~]supplier's last reasonably ascertainable address.

(c) The plaintiff shall file an affidavit of compliance with this section:

(i) with the clerk of the court; and

(ii) on or before the return day of the process, if any, or within any future time the court allows.

Section 7. Section 13-11-7 is amended to read:

13-11-7. Duties of division -- Civil penalty for violation of restraining or injunctive orders.

(1) The [~~enforcing authority~~]division shall:

(a) enforce this chapter throughout the state;

(b) cooperate with state and local officials, officials of other states, and officials of the federal government in the administration of comparable statutes;

(c) inform consumers and suppliers on a continuing basis of the provisions of this chapter and of acts or practices that violate this chapter[-];

(d) receive and act on complaints; and

(e) maintain a public file of final judgments rendered under this chapter that have been either reported officially or made available for public dissemination under Subsection (1)(c), final consent judgments, and to the extent the [~~enforcing authority~~]division considers appropriate, assurances of voluntary compliance.

(2) (a) On motion of the [~~enforcing authority~~]division, or on [~~its~~]the court's own motion, the court may impose a civil penalty of not more than $5,000 for each day a temporary restraining order, preliminary injunction, or permanent injunction issued under this chapter is violated, if the supplier received notice of the restraining or injunctive order.

(b) Civil penalties imposed under this section shall be paid to the General Fund.

Section 8. Section 13-11-8 is amended to read:

13-11-8. Powers of division.

[~~(1) The enforcing authority~~]In addition to the authority described in Sections 13-2-5 and 13-2-6, the division may conduct research, hold public hearings, make inquiries, and publish studies relating to consumer sales acts or practices.

[~~(2) The enforcing authority shall adopt substantive rules that prohibit with specificity acts or practices that violate Section 13-11-4 and appropriate procedural rules.~~]

Section 9. Section 13-11-9 is amended to read:

13-11-9. Rule-making requirements.

[~~(1) In addition to complying with other rule-making requirements imposed by this act, the enforcing authority shall:~~]

[~~(a) adopt as a rule a description of the organization of his office, stating the general course and method of operation of his office and method whereby the public may obtain information or make submissions or requests;~~]

[~~(b) adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of the forms and instructions used by the enforcing authority of his office; and~~]

[~~(c) make available for public inspection all rules, written statements of policy, and interpretations formulated, adopted, or used by the enforcing authority in discharging his functions.~~]

[~~(2) A rule of the enforcing authority is invalid, and may not be invoked by the enforcing authority for any purpose, until it has been made available for public inspection under Subsection (1). This provision does not apply to a person who has knowledge of a rule before engaging in an act or practice that violates this act.~~]In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules that specify acts or practices that violate Subsection 13-11-4(1).

Section 10. Section 13-11-16 is amended to read:

13-11-16. Investigatory powers of the division.

(1) If [~~, by his own inquiries or as a result of complaints, the enforcing authority~~]the division has reason to believe that a person has engaged in, is engaging in, or is about to engage in an act or practice that violates this [~~act, he~~]chapter, the division may [~~administer oaths and affirmations, subpoena witnesses or matter, and collect evidence~~]investigate and otherwise act in accordance with Sections 13-2-5 and 13-2-6 and other provisions of this chapter.

(2) (a) If the matter that the [~~enforcing authority~~]division subpoenas is located outside this state, the person subpoenaed may either make [~~it~~]the matter available to the [~~enforcing authority~~]division at a convenient location within the state or pay the reasonable and necessary expenses for the [~~enforcing authority~~]division or [~~his~~]the division's representative to examine the matter at the place where [~~it~~]the matter is located.

(b) The [~~enforcing authority~~]division may designate representatives, including officials of the state in which the matter is located, to inspect the matter on [~~his~~]the division's behalf, and [~~he~~]may respond to similar requests from officials of other states.

(3) Upon failure of a person without lawful excuse to obey a subpoena and upon reasonable notice to all persons affected, the [~~enforcing authority~~]division may apply to the court for an order compelling compliance.

(4) In the event a witness asserts a privilege against self-incrimination, testimony and evidence from the witness may be compelled [~~pursuant to~~]in accordance with Title 77, Chapter 22b, Grants of Immunity.

Section 11. Section 13-11-17 is amended to read:

13-11-17. Actions by the division.

(1) The [~~enforcing authority~~]division may bring an action in a court [~~of competent~~]with jurisdiction to:

(a) obtain a declaratory judgment that an act or practice violates this chapter;

(b) enjoin, in accordance with the principles of equity, a supplier [~~who~~]that has violated, is violating, or is otherwise likely to violate this chapter;

(c) order disgorgement of money or any thing of value received in violation of this chapter;

(d) recover, for each violation, restitution for actual damages, or obtain relief under Subsection (2)(b), on behalf of impacted consumers[~~, who complained to the enforcing authority within a reasonable time after it instituted proceedings under this chapter~~]; and

[~~(d)~~](e) obtain a fine in an amount determined after considering the factors in Subsection (6).

(2) (a) The [~~enforcing authority~~]division may bring a class action on behalf of consumers for the actual damages caused by an act or practice specified as violating this chapter in a rule adopted by the [~~enforcing authority~~]division under [~~Subsection 13-11-8(2)~~]Section 13-11-9 before the consumer transactions on which the action is based, or declared to violate Section 13-11-4 or 13-11-5 by final judgment of courts of general jurisdiction and appellate courts of this state that was either reported officially or made available for public dissemination under Subsection 13-11-7(1)(c) by the [~~enforcing authority~~]division 10 days before the consumer transactions on which the action is based, or, with respect to a supplier who agreed to [~~it~~]a consent judgment, was prohibited specifically by the terms of a consent judgment that became final before the consumer transactions on which the action is based.

(b) (i) On motion of the [~~enforcing authority~~]division and without bond in an action under this Subsection (2), the court may make appropriate orders, including appointment of a master or receiver or sequestration of assets, but only if it appears that the defendant is threatening or is about to remove, conceal, or dispose of the defendant's property to the damage of persons for whom relief is requested.

(ii) An appropriate order described in Subsection (2)(b)(i) may include an order to:

(A) reimburse consumers found to have been damaged;

(B) carry out a transaction in accordance with consumers' reasonable expectations;

(C) strike or limit the application of unconscionable clauses of contracts to avoid an unconscionable result;

(D) impose a fine in an amount determined after considering the factors listed in Subsection (6); or

(E) grant other appropriate relief.

[~~(ii)~~](iii) The court may assess the expenses of a master or receiver against a supplier.

(c) If an act or practice that violates this chapter unjustly enriches a supplier and damages can be computed with reasonable certainty, damages recoverable on behalf of consumers who cannot be located with due diligence shall be transferred to the state treasurer [~~pursuant to~~]in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(d) If a supplier shows by a preponderance of the evidence that a violation of this chapter resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, recovery under this Subsection (2) is limited to the amount, if any, by which the supplier was unjustly enriched by the violation.

(3) (a) (i) The [~~enforcing authority~~]division may terminate an investigation or an action other than a class action upon acceptance of the supplier's written assurance of voluntary compliance with this chapter.[-]

(ii) Acceptance of an assurance may be conditioned on a commitment to reimburse consumers or take other appropriate corrective action.

(b) (i) An assurance is not evidence of a prior violation of this chapter.[-]

(ii) Unless an assurance has been rescinded by agreement of the parties or voided by a court for good cause, subsequent failure to comply with the terms of an assurance is prima facie evidence of a violation.

(4) (a) In addition to other penalties and remedies set out under this chapter, and in addition to [~~its~~]the division's other enforcement powers under Chapter 2, Division of Consumer Protection, the division director may issue a cease and desist order and impose an administrative fine of up to $2,500 for each violation of this chapter.

(b) All money received through fines imposed under this section shall be deposited in the Consumer Protection Education and Training Fund created by Section 13-2-8.

(5) (a) Within 30 days after agency review or, if appealed to a court with jurisdiction, 30 days after judicial review of a final division order imposing an administrative fine, the supplier on whom the fine is imposed shall pay the fine in full.

(b) The unpaid amount of a fine is increased by 10%:

(i) if the fine has not been paid in full within 60 days after the final division order imposing the fine; and

(ii) unless the division waives the 10% increase in a stipulated payment plan.

(6) A court shall determine the fine imposed under Subsection [~~(1)(d)~~](1)(e) or Subsection [~~(2)(b)(i)(D) shall be determined~~](2)(b)(ii)(D) after considering the following factors:

(a) the seriousness, nature, circumstances, extent, and persistence of the conduct constituting the violation, including whether the supplier acted knowingly or intentionally to deceive;

(b) the harm to other persons resulting either directly or indirectly from the violation;

(c) cooperation by the supplier in an inquiry or investigation conducted by the [~~enforcing authority~~]division concerning the violation;

(d) efforts by the supplier to prevent occurrences of the violation;

(e) efforts by the supplier to mitigate the harm caused by the violation, including a reimbursement made to a consumer injured by the act of the supplier;

(f) the history of previous violations by the supplier;

(g) the need to deter the supplier or other suppliers from committing the violation in the future;[~~ and~~]

(h) whether the individual harmed by the violation was a vulnerable adult; and

[~~(h)~~](i) other matters as justice may require.

Section 12. Section 13-11-18 is amended to read:

13-11-18. Noncompliance by supplier subject to other state supervision -- Cooperation of division and other official or agency.

(1) (a) If the [~~enforcing authority~~]division receives a complaint or other information relating to noncompliance with this [~~act~~]chapter by a supplier [~~who~~]that is subject to other supervision in this state, the [~~enforcing authority~~]division shall inform the official or agency having that supervision.[-]

(b) The [~~enforcing authority~~]division may request information about [~~suppliers~~]a supplier from the official or agency.

(2) (a) The [~~enforcing authority~~]division and any other official or agency in this state having supervisory authority over a supplier shall consult and assist each other in maintaining compliance with this [~~act~~]chapter.

(b) Within the scope of [~~their~~]the division's authority, [~~they~~]the division and any other official or agency in this state may jointly or separately make investigations, prosecute suits, and take other official action [~~they consider~~]the division considers appropriate.

Section 13. Section 13-11-19 is amended to read:

13-11-19. Actions by consumer.

(1) Whether [~~he~~]a consumer seeks or is entitled to damages or otherwise has an adequate remedy at law, [~~a~~]the consumer may bring an action to:

(a) obtain a declaratory judgment that an act or practice violates this chapter; and

(b) enjoin, in accordance with the principles of equity, a supplier [~~who~~]that has violated, is violating, or is likely to violate this chapter.

(2) A consumer who suffers loss as a result of a violation of this chapter may recover[~~, but not in a class action,~~]actual damages [~~or $2,000, whichever is greater,~~]plus court costs, but not in a class action except as provided in this section.

(3) Whether a consumer seeks or is entitled to recover damages or has an adequate remedy at law, [~~he~~]the consumer may bring a class action for declaratory judgment, an injunction, and appropriate ancillary relief against an act or practice that violates this chapter.

(4) (a) A consumer who suffers loss as a result of a violation of this chapter may bring a class action for the actual damages caused by an act or practice specified as violating this chapter by a rule adopted by the [~~enforcing authority~~]division under [~~Subsection 13-11-8(2)~~]Section 13-11-9 before the consumer transactions on which the action is based, or declared to violate Section 13-11-4 or 13-11-5 by a final judgment of the appropriate court or courts of general jurisdiction and appellate courts of this state that was either officially reported or made available for public dissemination under Subsection 13-11-7(1)(c) by the [~~enforcing authority~~]division 10 days before the

consumer transactions on which the action is based, or with respect to a supplier who agreed to [~~it~~]a consent judgment, was prohibited specifically by the terms of a consent judgment [~~which~~]that became final before the consumer transactions on which the action is based.

(b) If an act or practice that violates this chapter unjustly enriches a supplier and the damages can be computed with reasonable certainty, damages recoverable on behalf of consumers who cannot be located with due diligence shall be transferred to the state treasurer [~~pursuant to~~]in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(c) If a supplier shows by a preponderance of the evidence that a violation of this chapter resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, recovery under this section is limited to the amount, if any, in which the supplier was unjustly enriched by the violation.

(5) Except for services performed by the [~~enforcing authority~~]division, the court may award to the prevailing party a reasonable attorney's fee limited to the work reasonably performed if:

(a) the consumer complaining of the act or practice that violates this chapter has brought or maintained an action [~~he~~]the consumer knew to be groundless; or a supplier has committed an act or practice that violates this chapter; and

(b) an action under this section has been terminated by a judgment or required by the court to be settled under Subsection 13-11-21(1)(a).

(6) Except for consent judgment entered before testimony is taken, a final judgment in favor of the [~~enforcing authority~~]division under Section 13-11-17 is admissible as prima facie evidence of the facts on which [~~it~~]an action is based in later proceedings under this section against the same person or a person in privity with [~~him~~]the person against which the judgment is entered.

(7) When a judgment under this section becomes final, the prevailing party shall mail a copy to the [~~enforcing authority~~]division for inclusion in the public file maintained under Subsection 13-11-7(1)(e).

Section 14. Section 13-11-20 is amended to read:

13-11-20. Class actions.

(1) An action may be maintained as a class action under this act only if:

(a) the class is so numerous that joinder of all members is impracticable;

(b) there are questions of law or fact common to the class;

(c) the claims or defenses of the representative parties are typical of the claims or defenses of the class;

(d) the representative parties will fairly and adequately protect the interests of the class; and

(e) [~~either:~~]

(i) the prosecution of separate actions by or against individual members of the class would create a risk of:

(A) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class; or

(B) adjudications with respect to individual members of the class that would as a practical matter dispose of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect [~~their~~]the other members' interests;[~~ or~~]

(ii) the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole; or

(iii) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

(2) The matters pertinent to the findings under Subsection (1)(e)(iii) include:

(a) the interest of members of the class in individually controlling the prosecution or defense of separate actions;

(b) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class;

(c) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and

(d) the difficulties likely to be encountered in the management of a class action.

(3) (a) As soon as practicable after the commencement of an action brought as a class action, the court shall determine by order whether [~~it~~]the action is to be so maintained.

(b) An order under this subsection may be conditional, and [~~it~~]the order may be amended before decision on the merits.

(4) (a) In a class action maintained under Subsection (1)(e), the court may direct to the members of the class the best notice practicable under the circumstances, including individual notice to each member who can be identified through reasonable effort.

(b) The notice shall advise each member that:

[~~(a)~~](i) the court will exclude [~~him~~]the member from the class, unless [~~he~~]the member requests inclusion, by a specified date;

[~~(b)~~](ii) the judgment, whether favorable or not, will include all members who request inclusion; and

[~~(c)~~](iii) a member who requests inclusion may, if [~~he~~]the member desires, enter an appearance through [~~his~~]counsel.

(5) When appropriate, an action may be brought or maintained as a class action with respect to particular issues, or a class may be divided into subclasses and each subclass treated as a class.

(6) In the conduct of a class action the court may make appropriate orders:

(a) determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument;

(b) requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in the manner the court directs to some or all of the members or to the [~~enforcing authority~~]division of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether [~~they~~]the members consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action;

(c) imposing conditions on the representative parties or on intervenors;

(d) requiring that the pleadings be amended to eliminate allegations as to representation of absent persons, and that the action proceed accordingly; or

(e) dealing with similar procedural matters.

(7) (a) A class action may not be dismissed or compromised without approval of the court.

(b) Notice of the proposed dismissal or compromise shall be given to all members of the class as the court directs.

(8) (a) The judgment in an action maintained as a class action under Subsection (1)(e)(i)or (ii), whether or not favorable to the class, shall describe those whom the court finds to be members of the class.[-]

(b) The judgment in a class action under Subsection (1)(e)(iii), whether or not favorable to the class, shall specify or describe [~~those~~]the members to whom the notice provided in Subsection (4) was directed, and who have requested inclusion, and whom the court finds to be members of the class.

Section 15. Section 13-11-21 is amended to read:

13-11-21. Settlement of class action -- Complaint in class action delivered to enforcing authority.

(1) (a) (i) (A) A defendant in a class action may file a written [~~offer of settlement~~]settlement offer.[-]

(B) If [~~it~~]the settlement offer is not accepted within a reasonable time by a plaintiff class representative, the defendant may file an affidavit reciting the rejection.

(ii) (A) The court may determine that the settlement offer has enough merit to present to the members of the class.[-]

(B) If the court [~~so determines~~]determines that the settlement offer merits presenting, the court shall order a hearing to determine whether the settlement offer should be approved.

(iii) The court shall provide at least 60 days advance notice of the hearing:

(A) to the [~~enforcing authority~~]division; and

(B) to the extent practicable, to each member who can be identified through reasonable effort.

(iv) The notice described in Subsection (1)(a)(iii) shall specify the terms of the settlement offer and a reasonable period within which members of the class who request [~~it~~]to be included in the class are entitled to be included in the class.

(v) (A) The statute of limitations for [~~those who~~]the members that are excluded [~~pursuant to~~]in accordance with this Subsection [~~(1)(a)(v)~~](1)(a)(v)(A) is tolled for the period the class action has been pending, plus an additional year.[-]

(B) Within 60 days of receipt of the notice required by this Subsection (1)(a), the [~~enforcing authority~~]division may intervene in the class action for the limited purpose of objecting to the [~~offer of settlement~~]settlement offer.

(b) (i) If a member who has previously lost an opportunity to be excluded from the class is excluded at [~~his~~]the member's request in response to notice of the settlement offer [~~of settlement~~] during the period specified under Subsection (1)(a), [~~he~~]the member may not thereafter participate in a class action for damages respecting the same consumer transaction, unless the court later disapproves the settlement offer [~~of settlement~~] or approves a settlement materially different from that proposed in the original settlement offer [~~of settlement~~].

(ii) After the expiration of the period of limitations, a member of the class is not entitled to be excluded from [~~it~~]the class.

(c) (i) If the court later approves the settlement offer [~~of settlement~~], including changes, if any, required by the court in the interest of a just settlement of the action, [~~it~~]the court shall enter judgment, which is binding on all persons who are then members of the class.[-]

(ii) If the court disapproves the settlement offer or approves a settlement materially different from that proposed in the original settlement offer, notice shall be given to a person who was excluded from the action at [~~his~~]the person's request in response to notice of the settlement offer under Subsection (1)(a), and [~~he~~]the person is entitled to rejoin the class and, in the case of the approval, participate in the settlement.

(2) (a) On the commencement of a class action under Section 13-11-19, the class representative shall mail by certified mail with return receipt requested or personally serve a copy of the complaint on the [~~enforcing authority~~]division.[-]

(b) Within 180 days after the receipt of a copy of the complaint, but not thereafter, the [~~enforcing authority~~]division may intervene in the class action for purposes of participation as an interested party in litigation of the class action.

Section 16. Section 13-11-22 is amended to read:

13-11-22. Exemptions from application of act.

(1) This act does not apply to:

(a) an act or practice required or specifically permitted by or under state or federal law[~~, or by or under state law~~];

(b) a publisher, broadcaster, printer, or other person engaged in the dissemination of information or the reproduction of printed or pictorial matter so far as the information or matter has been disseminated or reproduced on behalf of others without actual knowledge that it violated this act;

(c) claim for personal injury or death or claim for damage to property other than the property that is the subject of the consumer transaction;

(d) credit terms of a transaction otherwise subject to this act; or

(e) any public utility subject to the regulating jurisdiction of the Public Service Commission of the state of Utah.

(2) A person alleged to have violated this act has the burden of showing the applicability of this section.

Section 17. Section 78B-4-513 is amended to read:

78B-4-513. Cause of action for defective construction.

(1) Except as provided in Subsection (2), an action for defective design or construction is limited to breach of the contract, whether written or otherwise, including both express and implied warranties.

(2) An action for defective design or construction may include damage to other property or physical personal injury if the damage or injury is caused by the defective design or construction.

(3) For purposes of Subsection (2), property damage does not include:

(a) the failure of construction to function as designed; or

(b) diminution of the value of the constructed property because of the defective design or construction.

(4) Except as provided in Subsections (2) and (6), an action for defective design or construction may be brought only by a person in privity of contract with the original contractor, architect, engineer, or [~~the~~]real estate developer.

(5) If a person in privity of contract sues for defective design or construction under this section, nothing in this section precludes the person from bringing, in the same suit, another cause of action to which the person is entitled based on an intentional or willful breach of a duty existing in law.

(6) Nothing in this section precludes[-]:

(a) a person from assigning a right under a contract to another person, including to a subsequent owner or a homeowners association[-]; or

(b) a government agency from bringing an enforcement action in accordance with any other statute for matters involving defective construction.

Section 18. Repealer.

This bill repeals:

Section 13-11-17.5, Costs and attorney's fees.

Section 19. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 443
S. B. 44
Passed February 20, 2025
Approved March 26, 2025
Effective May 7, 2025

PROFESSIONAL LICENSURE AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends provisions related to professional licensure.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► standardizes the requirements for a criminal background check for licensure in certain professions;
- ► clarifies the circumstances under which the Division of Professional Licensing (division) revokes a license, as that revocation applies to a criminal background check;
- ► renames the Physicians Education Fund to the Physicians Education and Enforcement Fund (fund);
- ► authorizes the director of the division to make distributions from the fund under certain circumstances;
- ► requires that the division deposit administrative penalties imposed for unprofessional or unlawful conduct into the fund; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-301.5, as last amended by Laws of Utah 2024, Chapter 420
58-5a-302, as last amended by Laws of Utah 2020, Chapter 339
58-16a-302, as last amended by Laws of Utah 2022, Chapter 415
58-17b-303, as last amended by Laws of Utah 2020, Chapter 339
58-17b-304, as last amended by Laws of Utah 2020, Chapter 339
58-17b-305, as last amended by Laws of Utah 2020, Chapter 339
58-17b-306, as last amended by Laws of Utah 2024, Chapter 210
58-24b-302, as last amended by Laws of Utah 2020, Chapter 339
58-31b-302, as last amended by Laws of Utah 2023, Chapters 223, 284
58-42a-302, as last amended by Laws of Utah 2022, Chapter 221
58-44a-302, as last amended by Laws of Utah 2022, Chapters 415, 438
58-47b-302, as last amended by Laws of Utah 2024, Chapter 137
58-55-302, as last amended by Laws of Utah 2024, Chapter 507
58-60-205, as last amended by Laws of Utah 2024, Chapters 103, 420
58-60-305, as last amended by Laws of Utah 2024, Chapter 420
58-60-405, as last amended by Laws of Utah 2024, Chapter 420
58-60-506, as last amended by Laws of Utah 2024, Chapter 420
58-61-304, as last amended by Laws of Utah 2024, Chapter 420
58-63-302, as last amended by Laws of Utah 2023, Chapter 223
58-64-302, as last amended by Laws of Utah 2023, Chapter 223
58-67-302, as last amended by Laws of Utah 2023, Chapter 329
58-67-503, as last amended by Laws of Utah 2022, Chapter 415
58-67a-1, as last amended by Laws of Utah 2013, Chapter 400
58-68-302, as last amended by Laws of Utah 2023, Chapter 329
58-68-503, as last amended by Laws of Utah 2022, Chapter 415
58-69-302, as last amended by Laws of Utah 2020, Chapter 339
58-70a-302, as last amended by Laws of Utah 2023, Chapter 222
58-70b-302, as last amended by Laws of Utah 2023, Chapter 139
58-71-302, as last amended by Laws of Utah 2023, Chapter 249
58-71-402, as last amended by Laws of Utah 2022, Chapter 415
58-73-302, as last amended by Laws of Utah 2022, Chapter 415

REPEALS:

58-17b-307, as last amended by Laws of Utah 2023, Chapter 223
58-24b-302.1, as enacted by Laws of Utah 2018, Chapter 318
58-42a-302.1, as enacted by Laws of Utah 2022, Chapter 221
58-44a-302.1, as enacted by Laws of Utah 2022, Chapter 438
58-47b-302.1, as enacted by Laws of Utah 2023, Chapter 225
58-55-302.1, as enacted by Laws of Utah 2023, Chapter 223
58-60-103.1, as last amended by Laws of Utah 2024, Chapters 103, 420
58-61-304.1, as last amended by Laws of Utah 2024, Chapter 420
58-63-302.1, as enacted by Laws of Utah 2023, Chapter 223
58-64-302.1, as enacted by Laws of Utah 2023, Chapter 223
58-67-302.1, as enacted by Laws of Utah 2018, Chapter 318
58-68-302.1, as enacted by Laws of Utah 2018, Chapter 318
58-70a-301.1, as enacted by Laws of Utah 2023, Chapter 222

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-301.5 is amended to read:
58-1-301.5. Division access to Bureau of Criminal Identification records -- Criminal background check requirement.

(1) As used in this section, "applicant" means an individual applying for licensure or certification, or with respect to a license or certification, applying for renewal, reinstatement, or relicensure or recertification, as required in:

(a) Section 58-5a-302;

(b) Section 58-16a-302;

(c) Section 58-17b-303;

(d) Section 58-17b-304;

(e) Section 58-17b-305;

(f) Section 58-17b-306;

(g) Section 58-24b-302;

(h) Section 58-31b-302;

(i) Section 58-42a-302;

(j) Section 58-44a-302;

(k) Section 58-47b-302;

(l) Section 58-55-302;

(m) Section 58-60-205;

(n) Section 58-60-305;

(o) Section 58-60-405;

(p) Section 58-60-506;

(q) Section 58-61-304;

(r) Section 58-63-302;

(s) Section 58-64-302;

(t) Section 58-67-302;

(u) Section 58-68-302;

(v) Section 58-69-302;

(w) Section 58-70a-302;

(x) Section 58-70b-302;

(y) Section 58-71-302; or

(z) Section 58-73-302.

[~~(1)~~](2) The division shall have direct access to local files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of [~~individuals who are applying for licensure or certification, or with respect to a license or certification, renewal, reinstatement, or relicensure or recertification, as required in:~~]an applicant.

[~~(a) Sections 58-17b-306 and 58-17b-307;~~]

[~~(b) Sections 58-24b-302 and 58-24b-302.1;~~]

[~~(c) Section 58-31b-302;~~]

[~~(d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy Practice Act;~~]

[~~(e) Section 58-44a-302.1;~~]

[~~(f) Sections 58-47b-302 and 58-47b-302.1;~~]

[~~(g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm company agents, and Section 58-55-302.1;~~]

[~~(h) Sections 58-60-103.1, 58-60-205, 58-60-305, 58-60-405, and 58-60-506 of Chapter 60, Mental Health Professional Practice Act;~~]

[~~(i) Sections 58-61-304 and 58-61-304.1;~~]

[~~(j) Sections 58-63-302 and 58-63-302.1;~~]

[~~(k) Sections 58-64-302 and 58-64-302.1;~~]

[~~(l) Sections 58-67-302 and 58-67-302.1;~~]

[~~(m) Sections 58-68-302 and 58-68-302.1; and~~]

[~~(n) Sections 58-70a-301.1 and 58-70a-302, of Chapter 70a, Utah Physician Assistant Act.~~]

[~~(2)~~](3) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes[~~-~~]:

(i) convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition; and

(ii) criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

[~~(3)~~](4) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(5) To fulfill an applicable criminal background check requirement, an applicant shall:

(a) submit fingerprints in a form acceptable to the division at the time the applicant files a license application; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(6) (a) Upon receiving fingerprints from an applicant in accordance with Subsection (5), the division shall:

(i) collect from each applicant submitting fingerprints in accordance with this section:

(A) the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108; and

(B) the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(ii) submit from each applicant the fingerprints and the fees described in Subsection (6)(a)(i) to the Bureau of Criminal Identification; and

(iii) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(b) The fees described in Subsection (6)(a)(i) are in addition to other fees authorized by this chapter.

(7) In accordance with the requirements of Section 53-10-108, the Bureau of Criminal Identification shall:

(a) check the fingerprints submitted under Subsection (5)(a) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(8) (a) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required under this section demonstrates, after the applicant is licensed, that the applicant failed to accurately disclose a criminal history, the division may provide notice to the applicant that the license is immediately and automatically revoked.

(b) An individual whose license has been revoked in accordance with Subsection (8)(a) is entitled to a hearing to challenge the revocation.

(c) The division shall conduct the hearing described in this Subsection (8) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Section 2. Section 58-5a-302 is amended to read:

58-5a-302. Qualifications to practice podiatry.

An applicant for licensure to practice podiatry shall:

(1) submit an application in a form [~~as prescribed by~~]the division approves;

(2) pay a fee as determined by the department under Section 63J-1-504;

(3) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a podiatric physician, as evidenced by having received an earned degree of doctor of podiatric medicine from a podiatry school or college accredited by the Council on Podiatric Medical Education;

(4) if licensed on or after July 1, 2015, satisfy the division and board that the applicant:

(a) has successfully completed 24 months of resident training in a program approved by the Council on Podiatric Medical Education; or

(b) (i) has successfully completed 12 months of resident training in a program approved by the Council on Podiatric Medical Education after receiving a degree of doctor of podiatric medicine as required under Subsection (3);

(ii) has been accepted in, and is successfully participating in, progressive resident training in a Council on Podiatric Medical Education approved program within Utah, in the applicant's second or third year of postgraduate training; and

(iii) has agreed to surrender to the division the applicant's license as a podiatric physician without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as a podiatric physician will be automatically revoked by the division if the applicant fails to continue in good standing in a Council on Podiatric Medical Education approved progressive resident training program within the state;[~~ and~~]

(5) pass examinations required by rule[~~.~~]; and

(6) (a) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(b) meet any other standard related to the criminal background check described in Subsection (6)(a), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) disclose any criminal history the division requests on a form the division approves.

Section 3. Section 58-16a-302 is amended to read:

58-16a-302. Qualifications for licensure.

An applicant for licensure as an optometrist shall:

(1) submit an application in a form [~~prescribed by~~]the division approves;

(2) pay a fee as determined by the division under Section 63J-1-504;

(3) (a) [~~(a)~~](i) be a doctoral graduate of a recognized school of optometry accredited by the American Optometric Association's Accreditation Council on Optometric Education; or

[~~(b)~~](ii) be a graduate of a school of optometry located outside the United States that meets the criteria that would qualify the school for accreditation under Subsection (3)(a), as demonstrated by the applicant for licensure; or

[~~(4)~~](b) if the applicant graduated from a recognized school of optometry [~~prior to~~]before July 1, 1996, have successfully completed a course of study satisfactory to the division, in consultation with the board, in general and ocular pharmacology and emergency medical care;

[~~(5)~~](4) have passed examinations [~~approved by~~]the division, in consultation with the board, approves and that include:

(a) a standardized national optometry examination;

(b) a standardized clinical examination; and

(c) a standardized national therapeutics examination;[~~and~~]

[~~(6)~~](5) meet with the board and representatives of the division, if requested by either party, for the purpose of evaluating the applicant's qualifications for licensure[~~.~~]; and

(6) (a) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(b) meet any other standard related to the criminal background check described in Subsection (6)(a), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) disclose any criminal history the division requests on a form the division approves.

Section 4. Section 58-17b-303 is amended to read:

58-17b-303. Qualifications for licensure as a pharmacist.

(1) An applicant for licensure as a pharmacist shall:

(a) submit an application in a form [~~prescribed by~~]the division approves;

(b) pay a fee as determined by the department under Section 63J-1-504;

[~~(c) complete a criminal background check and be free from criminal convictions as described in Section 58-1-501;~~]

(c) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(c)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves;

(d) have no physical or mental condition of a nature [~~which~~]that prevents the applicant from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the public;

(e) have graduated and received a professional entry degree from a school or college of pharmacy which is accredited by the Accreditation Council on Pharmacy Education;

(f) have completed an internship meeting standards established by division rule made in collaboration with the board; and

(g) have successfully passed examinations required by division rule made in collaboration with the board.

(2) An applicant for licensure as a pharmacist whose pharmacy education was completed at a foreign pharmacy school shall, in addition to the requirements under Subsections (1)(a)through (d), (f), and (g), obtain a certification of equivalency from a credentialing agency required by division rule made in collaboration with the board.

(3) An applicant for a license by endorsement as a pharmacist under this section shall:

(a) submit a written application in the form prescribed by the division;

(b) pay the fee determined by the department under Section 63J-1-504;

(c) [~~complete a criminal background check and be free from criminal convictions as described in Section 58-1-501;~~]

(i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (3)(c)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves;

(d) have no physical or mental condition of a nature which prevents the applicant from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the public;

(e) have lawfully practiced as a licensed pharmacist a minimum of 2,000 hours in the four years immediately preceding the date of application;

(f) produce satisfactory evidence of completing the professional education required under Subsection (1);

(g) be currently licensed in good standing as a pharmacist in another state, territory, or possession of the United States;

(h) produce satisfactory evidence that the examination requirements are or were at the time the license was issued, equal to those of this state; and

(i) pass the jurisprudence examination prescribed by division rule made in collaboration with the board.

Section 5. Section 58-17b-304 is amended to read:

58-17b-304. Qualifications for licensure of pharmacy intern.

An applicant for licensure as a pharmacy intern shall:

(1) submit an application in a form[~~prescribed by~~] the division approves;

(2) pay a fee determined by the department under Section 63J-1-504;

[~~(3) complete a criminal background check and be free from criminal convictions as described in Section 58-1-501;~~]

(3) (a) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(b) meet any other standard related to the criminal background check described in Subsection (3)(a), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) disclose any criminal history the division requests on a form the division approves;

(4) have no physical or mental condition of a nature [~~which~~]that prevents the applicant from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the public;

(5) meet the preliminary educational qualifications required by division rule made in collaboration with the board; and

(6) meet one of the following educational criteria:

(a) be a current pharmacy student, a resident, or fellow in a program approved by division rule made in collaboration with the board; or

(b) have graduated from a foreign pharmacy school and received certification of equivalency from a credentialing agency approved by division rule made in collaboration with the board.

Section 6. Section 58-17b-305 is amended to read:

58-17b-305. Qualifications for licensure of pharmacy technician.

(1) An applicant for licensure as a pharmacy technician shall:

(a) submit an application in a form [~~prescribed by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

[~~(c) complete a criminal background check and be free from criminal convictions as described in Section 58-1-501;~~]

(c) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(c)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves;

(d) have no physical or mental condition of a nature [~~which~~]that prevents the applicant from engaging in practice as a pharmacy technician with reasonable skill, competency, and safety to the public;

(e) have completed a program and curriculum of education and training, meeting standards established by division rule made in collaboration with the board; and

(f) successfully complete the examinations requirement within the time periods established by division rule made in collaboration with the board.

(2) A pharmacist whose license has been denied, revoked, suspended, or restricted for disciplinary purposes is not eligible to be a licensed pharmacy technician while on probation with the division.

Section 7. Section 58-17b-306 is amended to read:

58-17b-306. Qualifications for licensure as a pharmacy.

(1) Each applicant for licensure under this section, except for those applying for a class D license, shall:

(a) submit a written application in the form[~~prescribed by~~] the division approves;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) satisfy the division that the applicant, and each owner, officer, or manager of the applicant[~~have~~], has not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this section indicates there is cause to believe that issuing a license to the applicant is inconsistent with the interest of the public's health, safety, or welfare;

(d) demonstrate the licensee's operations will be in accordance with all federal, state, and local laws relating to the type of activity engaged in by the licensee, including regulations of the Federal Drug Enforcement Administration and Food and Drug Administration;

(e) maintain operating standards established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(f) (i) for each pharmacy license, ensure that the [~~pharmacist in charge~~]pharmacist-in-charge, as defined by the division[~~, submits fingerprint cards and consents to a fingerprint background check in accordance with Section 58-17b-307~~]consents to, and completes, a criminal background check, described in Section 58-1-301.5;

(ii) meets any other standard related to the criminal background check described in Subsection (1)(f)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) discloses any criminal history the division requests on a form the division approves; and

(g) acknowledge the division's authority to inspect the licensee's business premises pursuant to Section 58-17b-103.

(2) Each applicant applying for a class D license shall:

(a) submit a written application in the form[~~prescribed by~~] the division approves;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) present to the division verification of licensure in the state where physically located and verification that such license is in good standing;

(d) satisfy the division that the applicant and each of the applicant's pharmacy managers has not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this section, indicates there is cause to believe that issuing a license to the applicant is inconsistent with the interest of the public's health, safety, or welfare;

(e) for each pharmacy manager[~~, submit fingerprint cards and consent to a fingerprint background check in accordance with Section 58-17b-307;~~]:

(i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (2)(e)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves;

(f) provide a statement of the scope of pharmacy services that will be provided and a detailed description of the protocol as described by rule by which pharmacy care will be provided, including any collaborative practice arrangements with other health care practitioners;

(g) sign an affidavit attesting that any healthcare practitioners employed by the applicant and physically located in Utah have the appropriate license issued by the division and in good standing;

(h) sign an affidavit attesting that the applicant will abide by the pharmacy laws and regulations of the jurisdiction in which the pharmacy is located; and

(i) if an applicant engages in compounding, submit the most recent inspection report:

(i) conducted within two years before the application for licensure; and

(ii) (A) conducted as part of the National Association of Boards of Pharmacy Verified Pharmacy Program; or

(B) performed by the state licensing agency of the state in which the applicant is a resident and in accordance with the National Association of Boards of Pharmacy multistate inspection blueprint program.

(3) (a) Each license issued under this section shall be associated with a single, specific address.

(b) By rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall allow a licensee to update, by request to the division, the address associated with the licensee under Subsection (3)(a), to a new address if the licensee requests the change of address at least 90 days before the day on which the licensee begins operating at the new address.

Section 8. Section 58-24b-302 is amended to read:

58-24b-302. Licensure.

(1) An applicant for a license as a physical therapist shall:

(a) complete the application process, including payment of fees;

(b) submit proof of graduation from a professional physical therapist education program that is accredited by a recognized accreditation agency;

(c) pass a licensing examination:

(i) after complying with Subsection (1)(b); or

(ii) if the applicant is in the final term of a professional physical therapist education program that is accredited by a recognized accreditation agency;

(d) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

(e) (i) [~~consent to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~]consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(e)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves; and

(f) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) An applicant for a license as a physical therapist assistant shall:

(a) complete the application process, including payment of fees set by the division, in accordance with Section 63J-1-504, to recover the costs of administering the licensing requirements relating to physical therapist assistants;

(b) submit proof of graduation from a physical therapist assistant education program that is accredited by a recognized accreditation agency;

(c) pass a licensing examination approved by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) after the applicant complies with Subsection (2)(b); or

(ii) if the applicant is in the final term of a physical therapist assistant education program that is accredited by a recognized accreditation agency;

(d) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

(e) (i) [~~submit to, and pass, a criminal background check, in accordance with Section 58-24b-302.1 and standards established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~]consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (2)(e)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves; and

(f) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An applicant for a license as a physical therapist who is educated outside of the United States shall:

(a) complete the application process, including payment of fees;

(b) (i) provide satisfactory evidence that the applicant graduated from a professional physical therapist education program that is accredited by a recognized accreditation agency; or

(ii) (A) provide satisfactory evidence that the applicant graduated from a physical therapist education program that prepares the applicant to engage in the practice of physical therapy, without restriction;

(B) provide satisfactory evidence that the education program described in Subsection (3)(b)(ii)(A) is recognized by the government entity responsible for recognizing a physical therapist education program in the country where the program is located; and

(C) pass a credential evaluation to ensure that the applicant has satisfied uniform educational requirements;

(c) after complying with Subsection (3)(b), pass a licensing examination;

(d) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

(e) (i) [~~consent to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~]consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (3)(e)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves; and

(f) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) The division shall issue a license to [~~a person~~]an individual who holds a current unrestricted license to practice physical therapy in a state, district, or territory of the United States of America, other than Utah, if the [~~person~~]individual:

(a) completes the application process, including payment of fees;

(b) is able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

[~~(c) consents to a criminal background check in accordance with Section 58-24b-302.1and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~]

(c) (i) consents to, and completes, a criminal background check, described in Section 58-1-301.5;

(ii) meets any other standard related to the criminal background check described in Subsection (4)(c)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) discloses any criminal history the division requests on a form the division approves; and

(d) meets any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in an internship in physical therapy, unless the [~~person~~]individual is:

(i) certified by the division; or

(ii) exempt from licensure under Section 58-24b-304.

(b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is participating in the supervised clinical training program for the purpose of becoming a physical therapist or a physical therapist assistant.

Section 9. Section 58-31b-302 is amended to read:

58-31b-302. Qualifications for licensure or certification -- Criminal background checks.

(1) An applicant for certification as a medication aide shall:

(a) submit an application to the division on a form [~~prescribed by~~]the division approves;

(b) pay a fee to the division as determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) have a current certification as a nurse aide, in good standing, from the Department of Health and Human Services;

(e) have a minimum of 2,000 hours of experience within the two years [~~prior to~~]before application, working as a certified nurse aide in a long-term care facility or another health care facility that is designated by the division in collaboration with the board;

(f) obtain letters of recommendation from a health care facility administrator and one licensed nurse familiar with the applicant's work practices as a certified nurse aide;

(g) be in a condition of physical and mental health that will permit the applicant to practice safely as a medication aide certified;

(h) have completed an approved education program or an equivalent as determined by the division in collaboration with the board;

(i) have passed the examinations as required by division rule made in collaboration with the board; and

(j) meet with the board, if requested, to determine the applicant's qualifications for certification.

(2) An applicant for licensure as a licensed practical nurse shall:

(a) submit to the division an application in a form [~~prescribed by~~]the division approves;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will permit the applicant to practice safely as a licensed practical nurse;

(e) have completed an approved practical nursing education program or an equivalent as determined by the board;

(f) have passed the examinations as required by division rule made in collaboration with the board; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(3) An applicant for a registered nurse apprentice license shall:

(a) submit to the division an application form [~~prescribed by~~]the division approves;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will allow the applicant to practice safely as a registered nurse apprentice;

(e) as determined by an approved registered nursing education program, be:

(i) in good standing with the program; and

(ii) in the last semester, quarter, or competency experience;

(f) have written permission from the program in which the applicant is enrolled; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(4) An applicant for licensure as a registered nurse shall:

(a) submit to the division an application form [~~prescribed by~~]the division approves;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will allow the applicant to practice safely as a registered nurse;

(e) have completed an approved registered nursing education program;

(f) have passed the examinations as required by division rule made in collaboration with the board; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(5) [~~Applicants~~]An applicant for licensure as an advanced practice registered nurse shall:

(a) submit to the division an application on a form [~~prescribed by~~]the division approves;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) be in a condition of physical and mental health [~~which will allow~~]that allows the applicant to practice safely as an advanced practice registered nurse;

(d) hold a current registered nurse license in good standing issued by the state or be qualified at the time for licensure as a registered nurse;

(e) (i) have earned a graduate degree in:

(A) an advanced practice registered nurse nursing education program; or

(B) a related area of specialized knowledge as determined appropriate by the division in collaboration with the board; or

(ii) have completed a nurse anesthesia program in accordance with Subsection (5)(f)(ii);

(f) have completed:

(i) course work in patient assessment, diagnosis and treatment, and pharmacotherapeutics from an education program approved by the division in collaboration with the board; or

(ii) a nurse anesthesia program which is approved by the Council on Accreditation of Nurse Anesthesia Educational Programs;

(g) to practice within the psychiatric mental health nursing specialty, demonstrate, as described in division rule, that the applicant, after completion of a doctorate or master's degree required for licensure, is in the process of completing the applicant's clinical practice requirements in psychiatric mental health nursing, including in psychotherapy;

(h) have passed the examinations as required by division rule made in collaboration with the board;

(i) be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of the certification; and

(j) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(6) [~~For each~~]Each applicant for licensure or certification under this chapter, except an applicant under Subsection 58-31b-301(2)(b), shall:

[~~(a) the applicant shall:~~]

[~~(i) submit fingerprint cards in a form acceptable to the division at the time the application is filed; and~~]

[~~(ii) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application;~~]

[~~(b) the division shall:~~]

[~~(i) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;~~]

[~~(ii) submit from each applicant the fingerprint card and the fees described in this Subsection (6)(b) to the Bureau of Criminal Identification; and~~]

[~~(iii) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant; and~~]

[~~(c) the Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:~~]

[~~(i) check the fingerprints submitted under Subsection (6)(b) against the applicable state and regional criminal records databases;~~]

[~~(ii) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and~~]

[~~(iii) provide the results from the state, regional, and nationwide criminal history background checks to the division.~~]

(a) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(b) meet any other standard related to the criminal background check described in Subsection (6)(a), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) disclose any criminal history the division requests on a form the division approves.

[~~(7) For purposes of conducting the criminal background checks required in Subsection (6), the division shall have direct access to criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.~~]

[~~(8) (a) (i) Any new nurse license or certification issued under this section shall be conditional, pending completion of the criminal background check.~~]

[~~(ii) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check discloses the applicant has failed to accurately disclose a criminal history, the license or certification shall be immediately and automatically revoked upon notice to the licensee by the division.~~]

[~~(b) (i) An individual whose conditional license or certification has been revoked under Subsection (8)(a) is entitled to a postrevocation hearing to challenge the revocation.~~]

[~~(ii) A postrevocation hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.~~]

[~~(9)~~](7) If an individual has been charged with a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the individual has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation, the division shall act upon the license as required under Section 58-1-401.

[~~(10)~~](8) If an individual has been charged with a felony other than a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the individual has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation, the division shall determine whether the felony disqualifies the individual for licensure under this chapter and act upon the license, as required, in accordance with Section 58-1-401.

[~~(11) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.~~]

Section 10. Section 58-42a-302 is amended to read:

58-42a-302. Qualifications for licensure.

(1) An applicant for licensure as an occupational therapist shall:

(a) submit an application in a form [~~as prescribed by~~]the division approves;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) graduate with a bachelor's or graduate degree for the practice of occupational therapy from an education program accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, a predecessor organization, or an equivalent organization as determined by division rule;

(d) if applying for licensure on or after July 1, 2015, complete a minimum of 24 weeks of supervised fieldwork experience;

(e) pass an examination approved by the division in consultation with the board and administered by the National Board for Certification in Occupational Therapy, or by another nationally recognized credentialing body as approved by division rule, to demonstrate knowledge of the practice, skills, theory, and professional ethics related to occupational therapy; and

[~~(f) if the applicant is applying to participate in the Occupational Therapy Licensure Compact under Chapter 42b, Occupational Therapy Licensure Compact, consent to a criminal background check in accordance with Section 58-42a-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(f) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(f)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves.

(2) [~~All applicants~~]An applicant for licensure as an occupational therapy assistant shall:

(a) submit an application in a form [~~as prescribed by~~]the division approves;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) graduate from an educational program for the practice of occupational therapy as an occupational therapy assistant that is accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, a predecessor organization, or an equivalent organization as determined by division rule;

(d) if applying for licensure on or after July 1, 2015, complete a minimum of 16 weeks of supervised fieldwork experience;

(e) pass an examination approved by the division in consultation with the board and administered by the National Board for Certification in Occupational Therapy, or by another nationally recognized credentialing body as approved by division rule, to demonstrate knowledge of the practice, skills, theory, and professional ethics related to occupational therapy; and

[~~(f) if the applicant is applying to participate in the Occupational Therapy Licensure Compact under Chapter 42b, Occupational Therapy Licensure Compact, consent to a criminal background check in accordance with Section 58-42a-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(f) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (2)(f)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves.

(3) Notwithstanding the other requirements of this section, the division may issue a license as an occupational therapist or as an occupational therapy assistant to an applicant who:

(a) consents to a criminal background check in accordance with Section 58-42a-302 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) (i) meets the requirements of receiving a license by endorsement under Section 58-1-302; or

(ii) has been licensed in a state, district, or territory of the United States, or in a foreign country, where the education, experience, or examination requirements are not substantially equal to the requirements of this state, if the applicant passes the applicable examination described in Subsection (1)(e) or (2)(e).

Section 11. Section 58-44a-302 is amended to read:

58-44a-302. Qualifications for licensure.

(1) An applicant for licensure as a nurse midwife shall:

(a) submit an application in a form [~~as prescribed by~~]the division approves;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) at the time of application for licensure hold a license in good standing as a registered nurse in Utah, or be at that time qualified for a license as a registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(d) have completed:

(i) a certified nurse midwifery education program accredited by the Accreditation Commission for Midwifery Education and approved by the division; or

(ii) a nurse midwifery education program located outside of the United States which is approved by the division and is equivalent to a program accredited by the Accreditation Commission for Midwifery Education, as demonstrated by a graduate's being accepted to sit for the national certifying examination administered by the Accreditation Commission for Midwifery Education or its designee;

(e) have passed examinations established by the division rule in collaboration with the board within two years after completion of the approved education program required under Subsection (1)(d); and

[~~(f) complete and pass a criminal background check in accordance with Section 58-44a-302.1.~~]

(f) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(f)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves.

(2) For purposes of Subsection (1)(d), as of January 1, 2010, an applicant shall have completed a graduate degree, including post-master's certificate, in nurse midwifery from the accredited education program or the accredited education program's equivalent.[~~:~~]

Section 12. Section 58-47b-302 is amended to read:

58-47b-302. License classifications -- Qualifications for licensure.

(1) The division shall issue licenses under this chapter in the classifications of:

(a) massage therapist;

(b) massage apprentice;

(c) massage assistant; and

(d) massage assistant in-training.

(2) An applicant for licensure as a massage therapist shall:

(a) submit an application in a form [~~prescribed by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be 18 years old or older;

(d) have either:

(i) (A) graduated from a school of massage having a curriculum that meets standards established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) completed equivalent education and training in compliance with division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) completed a massage apprenticeship program consisting of a minimum of 1,000 hours of supervised training and in accordance with standards established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(e) pass:

(i) the Federation of State Massage Therapy Boards Massage and Bodywork Licensing Examination; or

(ii) any other examination established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An applicant for licensure as a massage apprentice shall:

(a) submit an application in a form [~~prescribed by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be 18 years old or older;

(d) provide satisfactory evidence to the division that the applicant will practice as a massage apprentice only under the direct supervision of a licensed massage therapist in good standing who, for at least 6,000 hours, has engaged in the lawful practice of massage therapy as a licensed massage therapist; and

(e) pass an examination as required by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) An applicant for licensure as a massage assistant shall:

(i) submit an application in a form [~~prescribed by~~]the division approves;

(ii) pay a fee determined by the department in accordance with Section 63J-1-504;

(iii) be 18 years old or older;

(iv) subject to Subsection (4)(b), complete at least 300 hours of education and training approved by division rule made accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(v) provide satisfactory evidence to the division that the applicant will practice as a massage assistant only under the indirect supervision of a massage therapy supervisor; and

(vi) pass an examination as required by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The 300-hour education and training requirement described in Subsection (4)(a) shall include:

(i) at least 150 hours of education and training while the applicant is:

(A) enrolled in massage school; or

(B) licensed as a massage assistant in-training and under the direct supervision of a massage therapist in good standing who, for at least 6,000 hours, has engaged in the lawful practice of massage therapy; and

(ii) at least 150 hours of education and training while the applicant is:

(A) enrolled in massage school; or

(B) licensed as a massage assistant in-training and under the indirect supervision of a massage therapist in good standing who, for at least 6,000 hours, has engaged in the lawful practice of massage therapy.

(5) An applicant for licensure as a massage assistant in-training shall:

(a) submit an application in a form [~~prescribed by~~]the division approves;

(b) pay a fee determined by the department in accordance with Section 63J-1-504;

(c) be 18 years old or older; and

(d) provide satisfactory evidence to the division that the applicant will practice as a massage assistant in-training under the supervision of a massage therapist for a period of no more than six months for the purpose of satisfying the requirements described in Subsections (4)(a)(iv) and (4)(b) for licensure as a massage assistant.

(6) (a) A massage therapist may supervise at one time up to six individuals licensed as a massage apprentice or massage assistant in-training.

(b) A massage therapy supervisor may supervise at one time up to six individuals licensed as a massage assistant.

(7) A new massage therapist, massage apprentice, massage assistant, or massage assistant in-training applicant shall[~~- submit to and pass a criminal background check in accordance with Section 58-47b-302.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]:

(a) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(b) meet any other standard related to the criminal background check described in Subsection (7)(a), that the division establishes by

rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) disclose any criminal history the division requests on a form the division approves.

Section 13. Section 58-55-302 is amended to read:

58-55-302. Qualifications for licensure.

(1) Each applicant for a license under this chapter shall:

(a) submit an application [~~prescribed by~~]the division approves;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) meet the examination requirements established by this section and by rule by the commission with the concurrence of the director, which requirements include:

(i) for licensure as an apprentice electrician, apprentice plumber, or specialty contractor, no division-administered examination is required;

(ii) for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, the only required division-administered examination is a division-administered examination that covers information from the 25-hour course described in Subsection (1)(e)(iii), which course may have been previously completed as part of applying for any other license under this chapter, and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law course described in Subsection (1)(e)(iv); and

(iii) if required [~~in~~]by Section 58-55-304 and the applicant is a business entity, that an individual qualifier[~~, must~~] pass the required division-administered examination[~~, if the applicant is a business entity~~];

(d) [~~if an~~]for licensure as an apprentice, identify the proposed supervisor of the apprenticeship;

(e) [~~if an applicant for a contractor's license~~]for licensure as a contractor:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of:

(A) except as provided in Subsection (2)(a), and except that no employment experience is required for licensure as a specialty contractor, two years full-time paid employment experience in the construction industry, which employment experience, unless more specifically described in this section, may be related to any contracting classification and does not have to include supervisory experience; and

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 25-hour course [~~established by rule by~~]that the commission with the concurrence of the director[~~, which~~] establishes by rule, that is taught by an approved prelicensure course provider, and which [~~course~~]may include:

(A) construction business practices;

(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals;

(D) other aspects of business and construction principles considered important by the commission with the concurrence of the director; and

(E) for no additional fee, a provider-administered examination at the end of the 25-hour course;

(iv) if the applicant is applying for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, other than an applicant who completed the 25-hour course described in Subsection (1)(e)(iii) before July 1, 2019, complete a five-hour business and law course[~~-~~]:

(A) [~~established by rule by~~]that the commission, with the concurrence of the director, establishes by rule; and

(B) [~~which~~]that is taught by an approved prelicensure course provider[~~, if an applicant for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was completed before July 1, 2019, the applicant does not need to take the business and law course~~];

(v) (A) for licensure as a residential electrical contractor, be a licensed master electrician [~~if an applicant for an electrical contractor's license~~]or a licensed master residential electrician[~~, if an applicant for a residential electrical contractor's license~~];

(B) for licensure as an electrical contractor, be a licensed master electrician;

[~~(B)~~](C) for licensure as a residential plumbing contractor, be a licensed master plumber [~~if an applicant for a plumbing contractor's license~~]or a licensed master residential plumber [~~, if an applicant for a residential plumbing contractor's license; or~~];

(D) for licensure as a plumbing contractor, be a licensed master plumber; or

[~~(C)~~](E) for licensure as an elevator contractor, be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic[~~, if an applicant for an elevator contractor's license; and~~];

(vi) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and social security number or other satisfactory evidence of the applicant's identity permitted under rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) whether the individual will engage in a construction trade; and

(vii) the applicant or, if the applicant is a business entity as described in Section 58-55-304, an individual qualifier and each individual with at least a 10% voting interest in the business entity shall:

(A) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(B) meet any other standard related to the criminal background check described in Subsection (1)(e)(vii)(A), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(C) disclose any criminal history the division requests on a form the division approves; and

(f) [~~if an applicant~~]for licensure as a construction trades instructor[~~, license~~], satisfy any additional requirements [~~established by rule~~]the division establishes by rule.

(2) (a) If the applicant for a contractor's license described in Subsection (1) is a building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory evidence of two years of full-time paid employment experience as a building inspector, which shall include at least one year of full-time experience as a licensed combination inspector.

(b) The applicant shall file the following with the division before the division issues the license:

(i) proof of workers' compensation insurance [~~which~~]that covers employees of the applicant in accordance with applicable Utah law;

(ii) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and

(iii) proof of registration as required by applicable law with the:

(A) Department of Commerce;

(B) Division of Corporations and Commercial Code;

(C) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(D) State Tax Commission; and

(E) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), [~~applicants~~]an applicant shall comply with the following requirements to be licensed in the following classifications:

(a) (i) [~~A~~]a master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master plumber[~~.~~];

(ii) [~~An~~]an individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately [~~prior to~~]before May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303[~~.~~]; and

(iii) [~~An~~]an individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately [~~prior to~~]before May 5, 2008, is on or after May 5, 2008:

(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303; and

(B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303[~~.~~];

(b) [~~A~~]a master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master residential plumber[~~.~~];

(c) [~~A~~]a journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Electricians and Plumbers Licensing Board; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman plumber[~~.~~];

(d) [~~A~~]a residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;

(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman plumber[~~.~~];

(e) [~~The~~]the conduct of a licensed apprentice [~~plumbers~~]plumber and [~~their~~]the licensed apprentice plumber's licensed [~~supervisors~~]supervisor shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

(ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed apprentice plumber may work without supervision for a period not to exceed eight hours in any 24-hour period; and

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio

of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor[~~.~~];

(f) [~~A~~]a master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master electrician[~~.~~];

(g) [~~A~~]a master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a master residential electrician[~~.~~];

(h) [~~A~~]a journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians and Plumbers Licensing Board; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman electrician[~~.~~];

(i) [~~A~~]a residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman electrician[~~.~~];

(j) [~~The~~]the conduct of a licensed apprentice [~~electricians~~]electrician and [~~their~~]the licensed apprentice electrician's licensed [~~supervisors~~]supervisor shall be in accordance with the following:

(i) a licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician;

(ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed apprentice electrician may work without supervision for a period not to exceed eight hours in any 24-hour period;

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor; and

(iv) a licensed supervisor may have up to three licensed apprentice electricians on a residential project, or more if established by rules made by the commission, in concurrence with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~.~~];

(k) [~~An~~]an alarm company applicant shall:

(i) have a qualifying agent who:

(A) is an alarm company officer, alarm company owner, alarm company proprietor, an alarm company trustee, or other responsible management personnel;

(B) demonstrates 6,000 hours of experience in the alarm company business;

(C) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(D) passes an examination component[~~ established by rule by~~] the commission, with the concurrence of the director, establishes by rule;

(ii) [~~provide the name, address, date of birth, social security number, fingerprint card, and consent to a background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for~~]require that each alarm company officer, alarm company owner, alarm company proprietor, alarm company trustee, and responsible management personnel with direct responsibility for managing operations of the applicant within the state[~~;~~]:

(A) provide the applicant's name, address, date of birth, social security number, and fingerprints to the division;

(B) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(C) meet any other standard related to the criminal background check described in Subsection (2)(k)(ii)(B), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(D) disclose any criminal history the division requests on a form the division approves;

(iii) document that none of the [~~persons~~]individuals described in Subsection (3)(k)(ii):

(A) have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; or

(B) are currently suffering from habitual drunkenness or from drug addiction or dependence;

(iv) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts [~~to be~~]established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(v) meet with the division and board[~~.~~];

(l) [~~Each~~]an applicant for licensure as an alarm company agent shall:

(i) submit an application in a form [~~prescribed by~~]the division approves accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

[~~(iii) submit to and pass a criminal background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~]

(iii) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(A) meet any other standard related to the criminal background check described in this Subsection (3)(l)(iii), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) disclose any criminal history the division requests on a form the division approves;

(iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

(vi) meet with the division and board if requested by the division or the board[~~.~~]; and

(m) [~~(i) Each applicant for licensure as an elevator mechanic shall:~~]

(i) an applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and repair;[~~and~~]

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council[~~.~~]; and

(ii) [~~(A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:~~]

(A) if an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may

[~~(I)~~] notify the division of the unavailability of licensed personnel[~~;~~] and

[~~(II)~~] request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A)[~~.~~]; and

(B) [~~(I) The~~]if an elevator contractor requests that the division issue a temporary elevator license as described in Subsection (3)(m)(ii)(A), the division may issue a temporary elevator mechanic license to an individual certified under Subsection [~~(3)(m)(ii)(A)(II)~~](3)(m)(ii)(A) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504[~~.~~] and

[~~(II) The division~~]shall specify the time period for which the license is valid and may renew the license for an additional time period upon [~~its~~]the division's determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent under this section and Section [~~58-55-302.1~~]58-1-301.5.

(5) (a) [~~An~~]The division shall deny an application for licensure under this chapter[~~shall be denied~~] if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity [~~which~~]that has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application; or

(iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) [~~An~~]The appropriate licensing board shall review an application for licensure under this chapter [~~shall be reviewed by the appropriate licensing board prior to~~]before approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity [~~which~~]that has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (5)(a)(ii)(B) in any entity [~~which~~]that has

had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application.

(6) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection (6)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection (6)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection (6) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format [~~prescribed by~~]the division approves and that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection (1)(e)(vi);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504if the ownership status report indicates there is a change described in Subsection (6)(b)(i).

(c) The division may audit, at any time,[~~audit~~] an ownership status report under this Subsection (6):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or Subsection 58-55-502(8) or (9).

(7) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection (7)(a)(i), an ownership status report containing the information that would be required under Subsection (6) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection (7)(a)(i) or an ownership status report described in Subsection [~~(7)(a)(i)~~](7)(a)(ii) an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

(8) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (6) or (7) and the owners of the unincorporated entity for any purpose, including income tax withholding.

(9) (a) A social security number provided under Subsection (1)(e)(vi) or (3)(k)(ii) is a private record under Subsection 63G-2-302(1)(i).

(b) The division may designate an applicant's evidence of identity under Subsection (1)(e)(vi) as a private record in accordance with Section 63G-2-302.

Section 14. Section 58-60-205 is amended to read:

58-60-205. Qualifications for licensure or certification as a clinical social worker, certified social worker, and social service worker.

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form [~~provided by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

(d) if required under federal law for any licensee as a clinical social worker to qualify as an eligible professional under CMS rules for Medicare payment, document completion of:

(i) not less than 3,000 hours of clinical supervision, which includes hours accrued under Subsection (1)(e); or

(ii) not less than two years of clinical supervision;

(e) document successful completion of not less than 1,200 direct client care hours:

(i) obtained after completion of the education requirements under Subsection (1)(c);

(ii) subject to Subsection (1)(e)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor;

(iii) not less than 25 of which are direct observation hours; and

(iv) not more than 25 of which are group supervision hours accrued concurrently with more than one other applicant for licensure;

(f) document successful completion of not less than two hours of training in suicide prevention, obtained after completion of the education requirements under Subsection (1)(c) via a course that the division designates as approved;

(g) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by

rule under Section 58-1-203;

(h) (i) pass the examination requirement established by rule under Section 58-1-203; or

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

(B) document successful completion of not less than 500 additional direct client care hours, at least 25 of which are direct clinical supervision hours, and at least five of which are direct observation hours;

(C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

(D) submit to the division a recommendation letter from another licensed mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor; and

(i) (i) [~~consent to a criminal background check in accordance with Section 58-60-103.1and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~]consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(i)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves.

(2) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form [~~provided by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203; and

[~~(d) consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(d) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (2)(d)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves.

(3) An applicant for licensure as a social service worker shall:

(a) submit an application on a form[~~provided by~~] the division approves;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

(ii) a master's degree in a field approved by the division in collaboration with the board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

(II) human growth and development; and

(III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection (3); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum.

(4) The division shall ensure that the rules for an examination described under Subsection (1)(h)(i) allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

Section 15. Section 58-60-305 is amended to read:

58-60-305. Qualifications for licensure.

(1) [~~All applicants~~]An applicant for licensure as a marriage and family [~~therapists~~]therapist shall:

(a) submit an application on a form [~~provided by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of a [~~masters~~]master's or doctorate degree in marriage and family therapy from:

(i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or

(ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;

(d) if required under federal law for any licensee as a marriage and family therapist to qualify as an eligible professional under CMS rules for Medicare payment, document completion of:

(i) not less than 3,000 hours of clinical supervision, which includes hours accrued under Subsection [~~(2)(e)~~](1)(e); or

(ii) not less than two years of clinical supervision;

(e) document successful completion of not less than 1,200 direct client care hours:

(i) obtained after completion of the education requirements under Subsection (1)(c);

(ii) subject to Subsection (1)(e)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor obtained after completion of the education requirements under Subsection (1)(c);

(iii) not less than 25 of which are direct observation hours; and

(iv) not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;

(f) document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(c) via a course that the division designates as approved;

(g) (i) pass the examination requirement [~~established by~~]the division establishes by rule under Section 58-1-203; or

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

(B) document successful completion of not less than 500 additional direct client care hours, not less than 25 of which are direct clinical supervision hours, and not less than five of which are direct observation hours by a mental health therapist or supervisor;

(C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

(D) submit to the division a recommendation letter from another licensed mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor; and

[~~(h) consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(h) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(h)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves.

(2) [~~All applicants~~]An applicant for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections (1)(a) through (c) and (h).

Section 16. Section 58-60-405 is amended to read:

58-60-405. Qualifications for licensure.

(1) An applicant for licensure as a clinical mental health counselor shall:

(a) submit an application on a form [~~provided by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of:

(i) a master's or doctorate degree conferred to the applicant in:

(A) clinical mental health counseling, clinical rehabilitation counseling, counselor education and supervision from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs; or

(B) clinical mental health counseling or an equivalent field from a program affiliated with an institution that has accreditation that is recognized by the Council for Higher Education Accreditation; and

(ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i);

(d) if required under federal law for any licensee as a clinical mental health counselor to qualify as an eligible professional under CMS rules for Medicare payment, document completion of:

(i) not less than 3,000 hours of clinical supervision, which includes hours accrued under Subsection (1)(e); or

(ii) not less than two years of clinical supervision;

(e) document successful completion of not less than 1,200 direct client care hours:

(i) obtained after completion of the education requirements under Subsection (1)(c);

(ii) subject to Subsection (1)(e)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor;

(iii) not less than 25 of which are direct observation hours; and

(iv) not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;

(f) document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(c) via a course that the division designates as approved;

(g) (i) pass the examination requirement [~~established by~~]the division establishes by rule under Section 58-1-203; or

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

(B) document successful completion of not less than 500 additional direct client care hours, not less than 25 of which are direct clinical supervision hours, and not less than five of which are direct observation hours by a clinical supervisor;

(C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

(D) submit to the division a recommendation letter from another licensed mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor; and

[~~(h) consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(h) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(h)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves.

(2) An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a) through (c) and (h).

(3) Notwithstanding Subsection (1)(c), an applicant satisfies the education requirement described in Subsection (1)(c) if the applicant submits documentation verifying:

(a) satisfactory completion of a doctoral or master's degree from an educational program in rehabilitation counseling accredited by the Council for Accreditation of Counseling and Related Educational Programs;

(b) satisfactory completion of at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i); and

(c) that the applicant received a passing score that is valid and in good standing on:

(i) the National Counselor Examination; and

(ii) the National Clinical Mental Health Counseling Examination.

Section 17. Section 58-60-506 is amended to read:

58-60-506. Qualifications for licensure.

(1) Subject to Subsection (2), an applicant for licensure as master addiction counselor based on education, training, and experience shall:

(a) submit an application on a form [~~provided by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(d) via a course that the division designates as approved;

(d) produce a certified transcript from an accredited institution of higher education that meets standards established by division rule under Section 58-1-203, verifying the satisfactory completion of:

(i) a doctoral or master's degree in:

(A) substance use disorders or addiction counseling and treatment; or

(B) a counseling subject approved by the division in collaboration with the board, which may include social work, mental health counseling, marriage and family therapy, psychology, or medicine;

(ii) an associate's degree or higher, or 18 credit hours, in substance use disorder or addiction counseling and treatment from a regionally accredited institution of higher education;

(e) if required under federal law for any licensee as a master addiction counselor to qualify as an eligible professional under CMS rules for Medicare payment, document completion of:

(i) not less than 3,000 hours of clinical supervision, which includes hours accrued under Subsection (1)(g); or

(ii) not less than two years of clinical supervision;

(f) document successful completion of not less than 1,200 direct client care hours:

(i) obtained after completion of the education requirements under Subsection (1)(d)(ii);

(ii) subject to Subsection (1)(f)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor;

(iii) not less than 25 of which are direct observation hours; and

(iv) not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;

(g) if the applicant for licensure produces a transcript described in Subsection (1)(d)(ii), evidence completion of an additional 200 hours of direct client care hours in substance use disorder or addiction treatment;

(h) (i) pass the examination requirement [~~established by~~]the division establishes by rule under Section 58-1-203; or

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

(B) document successful completion of not less than 500 additional direct client care hours, not less than 25 of which are direct clinical supervision hours, and not less than five of which are direct observation hours by a clinical supervisor;

(C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

(D) submit to the division a recommendation letter from another licensed mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor; and

[~~(i) consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(i) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(i)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves.

(2) In lieu of the requirements under Subsections (1)(d) through (i), an applicant for licensure as master addiction counselor may document current certification in good standing as:

(a) a master addiction counselor by the National Certification Commission for Addiction Professionals;

(b) a master addiction counselor by the National Board for Certified Counselors; or

(c) an equivalent certification as under Subsections (2)(a) and (b), as determined in rule made by the division in collaboration with the board.

(3) An applicant for licensure as an associate master addiction counselor shall satisfy the requirements under Subsections (1)(a) through (c) and (i).

(4) Subject to Subsection (5), an applicant for licensure as an advanced substance use disorder counselor shall:

(a) submit an application on a form [~~provided by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) (i) produce certified transcripts verifying satisfactory completion of:

(A) a bachelor's degree or higher, from a regionally accredited institution of higher learning, in substance use disorders, addiction, or related counseling subjects, including social work, mental health counseling, marriage and family counseling, or psychology; or

(B) two academic years of study in a master's of addiction counseling curriculum and practicum approved by the National Addictions Studies Accreditation Commission;

(ii) document completion of at least 500 hours of supervised experience while licensed as a substance use disorder counselor under this section, which the applicant may complete while completing the education requirements under Subsection (1)(c)(i); and

(iii) satisfy examination requirements established by the division in rule.

(5) [~~The~~]An applicant for licensure as an advanced substance use disorder counselor may satisfy the requirements of Subsection (4)(c) [~~may be satisfied~~]by providing official verification of current certification in good standing:

(a) (i) as a National Certified Addiction Counselor Level II (NCAC II) from the National Certification Commission for Addiction Professionals (NCC AP); or

(ii) as an Advanced Alcohol & Drug Counselor (AADC), from the International Certification and Reciprocity Consortium; or

(b) of substantive equivalence to the certifications under Subsection (5)(a), as determined by division rule made in consultation with the board.

(6) In accordance with division rules, an applicant for licensure as a substance use disorder counselor shall produce:

(a) certified transcripts from an accredited institution that:

(i) meet division standards;

(ii) verify satisfactory completion of an associate's degree or equivalent as defined by the division in rule; and

(iii) verify the completion of prerequisite courses established by division rules;

(b) documentation of the applicant's completion of a substance use disorder education program that includes:

(i) completion of at least 200 hours of substance use disorder related education;

(ii) included in the 200 hours described in Subsection (6)(b)(i), a minimum of two hours of training in suicide prevention via a course that the division designates as approved; and

(iii) completion of a supervised practicum of at least 200 hours; and

(c) documentation of the applicant's completion of at least 2,000 hours of supervised experience in substance use disorder treatment that:

(i) meets division standards; and

(ii) is performed within a two-year period after the applicant's completion of the substance use disorder education program described in Subsection (6)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.

Section 18. Section 58-61-304 is amended to read:

58-61-304. Qualifications for licensure by examination or endorsement.

(1) An applicant for licensure as a psychologist based upon education, clinical training, and examination shall:

(a) submit an application on a form [~~provided by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts of credit verifying satisfactory completion of a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board;

(d) have completed a minimum of 4,000 hours of psychology training as defined by division rule under Section 58-1-203 under the supervision of a psychologist supervisor approved by the division in collaboration with the board;

(e) to be qualified to engage in mental health therapy, document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of a master's level of education in psychology, which training may be included as part of the 4,000 hours of training required in Subsection (1)(d), and for which documented evidence demonstrates not less than one hour of supervision for each 40 hours of supervised training was obtained under the direct supervision of a psychologist, as defined by rule;

(f) pass the examination requirement established by division rule under Section 58-1-203;

[~~(g) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~]

(g) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) disclose any criminal history the division requests on a form the division approves; and

(iii) meet any other standard related to the criminal background check described in Subsection (1)(g)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(h) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(2) An applicant for licensure as a psychologist by endorsement based upon licensure in another jurisdiction shall:

(a) submit an application on a form [~~provided by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) not have any disciplinary action pending or in effect against the applicant's psychologist license in any jurisdiction;

(d) have passed the Utah Psychologist Law and Ethics Examination established by division rule;

(e) provide satisfactory evidence the applicant is currently licensed in another state, district, or territory of the United States, or in any other jurisdiction approved by the division in collaboration with the board;

(f) provide satisfactory evidence the applicant has actively practiced psychology in that jurisdiction for not less than 2,000 hours or one year, whichever is greater;

(g) provide satisfactory evidence that:

(i) the education, supervised experience, examination, and all other requirements for licensure in that jurisdiction at the time the

applicant obtained licensure were substantially equivalent to the licensure requirements for a psychologist in Utah at the time the applicant obtained licensure in the other jurisdiction; or

(ii) the applicant is:

(A) a current holder of Board Certified Specialist status in good standing from the American Board of Professional Psychology;

(B) currently credentialed as a health service provider in psychology by the National Register of Health Service Providers in Psychology; or

(C) currently holds a Certificate of Professional Qualification (CPQ) granted by the Association of State and Provincial Psychology Boards;

[~~(h) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~]

(h) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (2)(h)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves; and

(i) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(3) (a) An applicant for certification as a psychology resident shall comply with the provisions of Subsections (1)(a), (b), (c), (g), and (h).

(b) (i) An individual's certification as a psychology resident is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the board that the individual is making reasonable progress toward passing the qualifying examination or is otherwise on a course reasonably expected to lead to licensure as a psychologist.

(ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

(4) An applicant for certification as a certified prescribing psychologist based upon education, clinical training, and examination shall:

(a) have authority to engage in the practice of psychology under Subsection 58-61-301;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) demonstrate by official transcript, or other official evidence satisfactory to the division, that the applicant:

(i) has completed a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board;

(ii) has completed a master's degree in clinical psychopharmacology from an institution of higher learning whose master's program, at the time the applicant received the master's degree, included at least 30 credit hours of didactics coursework over no less than four semesters, met approval criteria established by division rule made in consultation with the board and includes the following core areas of instruction:

(A) neuroscience, pharmacology, psychopharmacology, physiology, and pathophysiology;

(B) appropriate and relevant physical and laboratory assessment;

(C) basic sciences, including general biology, microbiology, cell and molecular biology, human anatomy, human physiology, biochemistry, and genetics, as part of or [~~prior to~~]before enrollment in a master's degree in clinical psychopharmacology; and

(D) any other areas of instruction determined necessary by the division, in collaboration with the board, as established by division rule; and

(iii) has completed postdoctoral supervised training, as defined by division rule made in consultation with the board, in prescribing psychology under the direction of a licensed physician, including:

(A) not less than 4,000 hours of supervised clinical training throughout a period of at least two years; and

(B) for an applicant for a prescription certificate who specializes in the psychological care of children 17 years old or younger, persons 65 years old or older, or persons with comorbid medical conditions, at least one year prescribing psychotropic medications to those populations, as certified by the applicant's supervising licensed physician;

(d) have passed:

(i) the Psychopharmacology Examination for Psychologists developed by the Association of State and Provincial Psychology Boards, or [~~its~~]the association's successor organization; or

(ii) an equivalent examination as defined by the division in rule;

(e) not have any disciplinary action pending or in effect against the applicant's psychologist license or other professional license authorizing the applicant to prescribe in any jurisdiction;

[~~(f) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~]

(f) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (4)(f)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves;

(g) commit to maintaining professional liability insurance while acting as a certified prescribing psychologist; and

(h) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(5) An applicant for certification as a certified prescribing psychologist by endorsement based upon licensure in another jurisdiction shall:

(a) submit an application on a form [~~provided by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) not have any disciplinary action pending or in effect against the applicant's psychologist license or other professional license authorizing the applicant to prescribe in any jurisdiction;

(d) have passed the Utah Psychologist Law and Ethics Examination established by division rule;

(e) provide satisfactory evidence that the applicant is currently licensed as a prescribing psychologist in another state, district, or territory of the United States, or in any other jurisdiction approved by the division in collaboration with the board;

(f) provide satisfactory evidence that the applicant has actively practiced as a prescribing psychologist in that jurisdiction for not less

than 4,000 hours or two years, whichever is greater;

(g) provide satisfactory evidence that the applicant has satisfied the education, supervised experience, examination, and all other requirements for licensure as a prescribing psychologist in that jurisdiction at the time the applicant obtained licensure were substantially equivalent to the licensure requirements for a certified prescribing psychologist in Utah at the time the applicant obtained licensure in the other jurisdiction;

[~~(h) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~]

(h) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (5)(h)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves;

(i) commit to maintaining professional liability insurance while acting as a certified prescribing psychologist; and

(j) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(6) An applicant for certification as a provisional prescribing psychologist shall:

(a) have authority to engage in the practice of psychology under Section 58-61-301;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) demonstrate by official transcript, or other official evidence satisfactory to the division, that the applicant:

(i) has completed a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board; and

(ii) has completed a master's degree in clinical psychopharmacology from an institution of higher learning whose master's program, at the time the applicant received the master's degree, met approval criteria established by division rule made in consultation with the board and includes the following core areas of instruction:

(A) neuroscience, pharmacology, psychopharmacology, physiology, and pathophysiology;

(B) appropriate and relevant physical and laboratory assessment;

(C) basic sciences, including general biology, microbiology, cell and molecular biology, human anatomy, human physiology, biochemistry, and genetics, as part of or [~~prior to~~]before enrollment in a master's degree in clinical psychopharmacology; and

(D) any other areas of instruction determined necessary by the division, in collaboration with the board, as established by division rule;

(d) have no disciplinary action pending or in effect against the applicant's psychologist license or other professional license authorizing the applicant to prescribe in any jurisdiction;

[~~(e) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~]

(e) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (6)(e)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves;

(f) commit to maintaining professional liability insurance while acting as a provisional prescribing psychologist;

(g) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure; and

(h) satisfy any further requirements, as established by the division in rule.

(7) An applicant for licensure as a licensed school psychological practitioner shall:

(a) submit an application on a form [~~provided by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts of credit verifying satisfactory completion of a master's degree or equivalent certification program approved by the division that:

(i) consists of at least 60 semester hours or 90 quarter hours in school psychology at an accredited institution; and

(ii) includes training in at least the following topics:

(A) understanding the organization, administration, and operation of schools, the major roles of personnel employed in schools, and curriculum development;

(B) directing psychological and psycho-educational assessments and intervention [~~2-118including~~]including all areas of exceptionality;

(C) individual and group intervention and remediation techniques, including consulting, behavioral methods, counseling, and primary prevention;

(D) understanding the ethical and professional practice and legal issues related to [~~2-122the~~]the work of school psychologists;

(E) social psychology, including interpersonal relations, communications, and consultation with students, parents, and professional personnel;

(F) coordination and work with community-school relations and multicultural education programs and assessments; and

(G) the use and evaluation of tests and measurements, developmental psychology, affective and cognitive processes, social and biological bases of behavior, personality, and psychopathology;

(d) provide evidence demonstrating that the applicant has:

(i) completed a one school year internship, or the equivalent, with a minimum of 1,200 clock hours in school psychology, at least 600 hours of which shall be in a school setting or a setting with an educational component; and

(ii) completed at least five years of successful experience as a school psychologist in the state; and

(e) provide a recommendation from:

(i) the institution that the applicant attended under Subsection (4)(c); and

(ii) one or more local education agencies, as defined in Section 53E-1-102, that employed the applicant as a school psychologist for

the period described in Subsection (4)(d)(ii).

Section 19. Section 58-63-302 is amended to read:

58-63-302. Qualifications for licensure.

(1) Each applicant for licensure as an armored car company or a contract security company shall:

(a) submit an application in a form [~~prescribed by~~]the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have a qualifying agent who:

(i) meets with the division and the board and demonstrates that the applicant and the qualifying agent meet the requirements of this section;

(ii) is a resident of the state;

(iii) is responsible management personnel or a company owner of the applicant;

(iv) exercises material day-to-day authority in the conduct of the applicant's business by making substantive technical and administrative decisions and whose primary employment is with the applicant;

(v) is not concurrently acting as a qualifying agent or employee of another armored car company or contract security company and is not engaged in any other employment on a regular basis;

(vi) is not involved in any activity that would conflict with the qualifying agent's duties and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's performance under this chapter does not jeopardize the health or safety of the general public;

(vii) is not an employee of a government agency;

(viii) passes an examination component established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ix) (A) demonstrates 6,000 hours of compensated experience as a manager, supervisor, or administrator of an armored car company or a contract security company; or

(B) demonstrates 6,000 hours of supervisory experience acceptable to the division in collaboration with the board with a federal, United States military, state, county, or municipal law enforcement agency;

(d) [~~provide the name, address, date of birth, social security number, fingerprint card, and consent to a criminal background check in accordance with Section 58-63-302.1and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for~~]require that each company officer, company owner, company proprietor, company trustee, and responsible management personnel with direct responsibility for managing operations of the applicant within the state:

(i) provide name, address, date of birth, social security number, and fingerprints; and

(ii) (A) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(B) meet any other standard related to the criminal background check described in Subsection (1)(d)(ii)(A), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(C) disclose any criminal history the division requests on a form the division approves;

(e) have company officers, company owners, company proprietors, company trustees, and responsible management personnel who have not been convicted of:

(i) a felony; or

(ii) a crime that when considered with the duties and responsibilities of a contract security company or an armored car company by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(f) document that none of the [~~persons~~]individuals described in Subsection (1)(e):

(i) have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; or

(ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

(g) file and maintain with the division evidence of:

(i) comprehensive general liability insurance in a form and in amounts established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law;

(iii) registration with the Division of Corporations and Commercial Code; and

(iv) registration as required by applicable law with the:

(A) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(B) State Tax Commission; and

(C) Internal Revenue Service; and

(h) meet with the division and board if requested by the division or board.

(2) Each applicant for licensure as an armed private security officer:

(a) shall submit an application in a form[~~prescribed by~~] the division approves;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) may not have been convicted of:

(i) a felony; or

(ii) a crime that when considered with the duties and responsibilities of an armed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

(e) may not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(f) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(g) shall successfully complete basic education and training requirements established by rule by the division in collaboration with the

board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight hours of classroom or online curriculum;

(h) shall successfully complete firearms training requirements established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of 12 hours of training;

(i) shall pass the examination requirement established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(j) [~~shall submit to and pass a background check in accordance with Section 58-63-302.1and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~]shall:

(i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(j)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves; and

(k) shall meet with the division and board if requested by the division or the board.

(3) Each applicant for licensure as an unarmed private security officer:

(a) shall submit an application in a form [~~prescribed by~~]the division approves;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) may not have been convicted of:

(i) a felony; or

(ii) a crime that when considered with the duties and responsibilities of an unarmed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) may not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall successfully complete basic education and training requirements established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight hours of classroom or online curriculum;

(g) shall pass the examination requirement established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(h) [~~shall submit to and pass a background check in accordance with Section 58-63-302.1and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~]shall:

(i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(h)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves; and

(i) shall meet with the division and board if requested by the division or board.

(4) Each applicant for licensure as an armored car security officer:

(a) shall submit an application in a form[~~prescribed by~~] the division approves;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) may not have been convicted of:

(i) a felony; or

(ii) a crime that when considered with the duties and responsibilities of an armored car security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

(e) may not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(f) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(g) shall successfully complete basic education and training requirements established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(h) shall successfully complete firearms training requirements established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(i) shall pass the examination requirements established by rule by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(j) [~~shall submit to and pass a background check in accordance with Section 58-63-302.1and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~]shall:

(i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (4)(j)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves; and

(k) shall meet with the division and board if requested by the division or the board.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make a rule establishing when the division shall request a Federal Bureau of Investigation records' review for an applicant who is applying for licensure or licensure renewal under this chapter.

Section 20. Section 58-64-302 is amended to read:

58-64-302. Qualifications for licensure.

(1) [~~Each~~]An applicant for licensure as a deception detection examiner:

(a) shall submit an application in a form [~~prescribed by~~]the division approves;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) may not have been convicted of a felony or any other crime that when considered with the duties and responsibilities of a deception detection examiner is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a [~~four year~~]four-year university or college meeting standards [~~established by~~]the division establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as being equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

(g) shall have successfully completed a training program in detection deception meeting criteria [~~established by rule made by~~]the division establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(h) [~~shall submit to and pass a background check in accordance with Section 58-64-302.1and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~]shall:

(i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(h)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves; and

(i) shall have performed satisfactorily as a licensed deception detection intern for a period of not less than one year and shall have satisfactorily conducted not less than 100 deception detection examinations under the supervision of a licensed deception detection examiner.

(2) [~~Each~~]An applicant for licensure as a deception detection intern:

(a) shall submit an application in a form [~~prescribed by~~]the division approves;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) may not have been convicted of a felony or any other crime that when considered with the duties and responsibilities of a deception detection intern is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a [~~four year~~]four-year university or college meeting standards [~~established by~~]the division establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule [~~made by~~]the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

(g) shall have successfully completed a training program in detection deception meeting criteria established by rule [~~made by~~]the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(h) [~~shall submit to and pass a background check in accordance with Section 58-64-302.1and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~]shall:

(i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (2)(h)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves; and

(i) shall provide the division with an intern supervision agreement in a form [~~prescribed by~~]the division approves under which:

(i) a licensed deception detection examiner agrees to supervise the intern; and

(ii) the applicant agrees to be supervised by that licensed deception detection examiner.

(3) [~~Each~~]An applicant for licensure as a deception detection examination administrator:

(a) shall submit an application in a form[~~prescribed by~~] the division approves;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) may not have been convicted of a felony or any other crime that when considered with the duties and responsibilities of a deception detection examination administrator is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have earned an associate degree from a state-accredited university or college or have an equivalent number of years' work experience;

(g) [~~shall submit to and pass a background check in accordance with Section 58-64-302.1and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~]shall:

(i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (3)(g)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves; and

(h) shall have successfully completed a training program and have obtained certification in deception detection examination administration provided by the manufacturer of a scientific or technology-based software application solution that [~~is approved by~~]the director approves.

Section 21. Section 58-67-302 is amended to read:

58-67-302. Qualifications for licensure.

(1) An applicant for licensure as a physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form [~~prescribed by~~]the division approves, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service [~~approved by~~]the division in collaboration with the board approves;

(b) pay a fee determined by the department under Section 63J-1-504;

[~~(c) if the applicant is applying to participate in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal background check in accordance with Section 58-67-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~]

(c) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(c)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves;

(d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of medicine from an LCME accredited medical school or college; or

(ii) if the applicant graduated from a medical school or college located outside the United States or [~~its~~]the United States' territories, submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;

(e) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in a program approved by the ACGME, the Royal College of Physicians and Surgeons, the College of Family Physicians of Canada, or any similar body in the United States or Canada approved by the division in collaboration with the board; or

(ii) (A) has successfully completed 12 months of resident training in an ACGME approved program after receiving a degree of doctor of medicine as required under Subsection (1)(d);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as a physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as a physician and surgeon [~~will~~]may be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME approved progressive resident training program within the state;

(f) pass the licensing examination sequence required by division rule made in collaboration with the board;

(g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

(h) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure;

(i) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

(j) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as a physician and surgeon by endorsement who is currently licensed to practice medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district, or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of medicine in any state, district, or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through (d), (1)(e)(i), and (1)(g) through (j);

(d) have passed the licensing examination sequence required in Subsection (1)(f) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to [~~its~~]the board's own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines to [~~its~~]the board's satisfaction, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents [~~its~~]the investigation's or action's resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice history review, and comprehensive assessments, if requested by the division in collaboration with the board; and

(g) produce satisfactory evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the division processes the applicant's application for licensure [~~is being processed by the division, provided~~]if:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division [~~has issued~~]issues a temporary license;

(e) the temporary license is [~~only~~]issued for only one year from the date of issuance and may not be extended or renewed[~~ beyond the duration of one year from issuance~~]; and

(f) the temporary license expires immediately and [~~prior to~~]before the expiration of one year from issuance, upon notification from the division that the division denied the applicant's application for licensure by endorsement[~~ is denied~~].

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the day on which the applicant satisfies the requirements of Subsection (3).

(5) The division may not require the following requirements for licensure:

(a) a post-residency board certification; or

(b) a cognitive test when the physician reaches a specified age, unless:

(i) the screening is based on evidence of cognitive changes associated with aging that are relevant to physician performance;

(ii) the screening is based on principles of medical ethics;

(iii) physicians are involved in the development of standards for assessing competency;

(iv) guidelines, procedures, and methods of assessment, which may include cognitive screening, are relevant to physician practice and to the physician's ability to perform the tasks specifically required in the physician's practice environment;

(v) the primary driver for establishing assessment results is the ethical obligation of the profession to the health of the public and patient safety;

(vi) the goal of the assessment is to optimize physician competency and performance through education, remediation, and modifications to a physician's practice environment or scope;

(vii) a credentialing committee determines that public health or patient safety is directly threatened, the screening permits a physician to retain the right to modify the physician's practice environment to allow the physician to continue to provide safe and effective care;

(viii) guidelines, procedures, and methods of assessment are transparent to physicians and physicians' representatives, if requested by a physician or a physician's representative, and physicians are made aware of the specific methods used, performance expectations and standards against which performance will be judged, and the possible outcomes of the screening or assessment;

(ix) education or remediation practices that result from screening or assessment procedures are:

(A) supportive of physician wellness;

(B) ongoing; and

(C) proactive; and

(x) procedures and screening mechanisms that are distinctly different from for cause assessments do not result in undue cost or burden to senior physicians providing patient care.

Section 22. Section 58-67-503 is amended to read:

58-67-503. Penalties and administrative actions for unlawful and unprofessional conduct.

(1) Any person [~~who~~]that violates the unlawful conduct provisions of Section 58-67-501 or Section 58-1-501 is guilty of a third degree felony.

(2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:

(i) assessing administrative penalties; or

(ii) taking other appropriate administrative action.

(b) [~~A~~]The division shall deposit a monetary administrative penalty imposed under this section [~~shall be deposited~~]into the Physician Education and Enforcement Fund created in Section 58-67a-1.

(3) If a licensee [~~has been~~]is convicted of unlawful conduct, described in Section 58-67-501, before an administrative proceeding regarding the same conduct, the division may not assess an additional administrative fine under this chapter for the same conduct.

(4) (a) If the division concludes that an individual has violated provisions of Section 58-67-501, Section 58-67-502, Chapter 1, Division of Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:

(i) issue a citation to the individual;

(ii) attempt to negotiate a stipulated settlement; or

(iii) (A) notify the individual that the division will commence an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act[~~, will be commenced~~]; and

(B) invite the individual [~~is invited~~]to appear.

(b) The division may take the following action against an individual who is in violation of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:

(i) assess a fine of up to $10,000 per single violation or up to $2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or

(ii) order to cease and desist from the behavior that constitutes a violation of the provisions described in Subsection (4)(a).

(c) [~~An~~]The division may not suspend or revoke an individual's license [~~may not be suspended or revoked~~]through a citation.

(d) Each citation issued under this section shall:

(i) be in writing;

(ii) clearly describe or explain:

(A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(B) that the recipient must notify the division in writing within 20 calendar days from the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation within the time specified in the citation; and

(iii) be served in accordance with the Utah Rules of Civil Procedure.

(e) (i) If the individual to whom [~~the citation is issued~~]the division issues the citation fails to request a hearing to contest the citation within 20 calendar days from the day on which the division serves the citation[~~is served~~], the citation[~~-~~]:

(A) becomes the final order of the division; and

(B) [~~-~~]is not subject to further agency review.

(ii) [~~The~~]The division may extend the period to contest the citation [~~may be extended by the division~~]for cause.

(f) The division may refuse to issue or renew or suspend, revoke, or place on probation the license of an individual who fails to comply with a citation after the citation becomes final.

(g) The failure of an applicant for licensure to comply with a citation after [~~it~~]the citation becomes final is [~~a ground~~]grounds for denial of license.

(h) [~~No citation may be issued~~]The division may not issue a citation under this section after the expiration of one year following the date on which the division receives the report of the violation that is the subject of the citation[~~, is reported to the division~~].

(5) (a) The director may collect a penalty imposed under this section that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 23. Section 58-67a-1 is amended to read:

58-67a-1. Physicians Education and Enforcement Fund.

(1) There is created an expendable special revenue fund known as the "Physicians Education and Enforcement Fund."[~~ to receive and account for revenue and expenditures for making education available to physicians and surgeons, osteopathic physicians and surgeons, and naturopathic physicians, concerning the requirements of Title 58, Occupations and Professions, division rules, and requirements under Title 58, Chapter 37, Utah Controlled Substances Act, and division rules made under that chapter.~~]

(2) [~~Administrative~~]The division shall deposit penalties ordered and collected [~~pursuant to~~]under this section [~~shall be deposited in the account~~]into the Physicians Education and Enforcement Fund.

(3) The [~~fund~~]Physicians Education and Enforcement Fund shall earn interest, and the division shall deposit all interest earned on account money [~~shall be deposited~~]into the account.

(4) The director, with the concurrence of the board, may make distributions from the fund for the following purposes:

(a) [~~to make available~~]education and training[~~-~~]:

(i) that covers:

(A) the requirements of this title;

(B) division rules related to this title;

(C) the requirements of Chapter 37, Utah Controlled Substances Act; and

(D) any division rules related to Chapter 37, Utah Controlled Substances Act; and

(ii) that the division makes available for[~~-~~]:

(A) physicians and surgeons[~~,~~];

(B) osteopathic physicians and surgeons[~~, and~~];

(C) [~~-~~]naturopathic physicians[~~,~~];

(D) division staff; and

(E) members of the board; and

(b) enforcement of Chapter 67, Utah Medical Practice Act, Chapter 68, Utah Osteopathic Medical Practice Act, and Chapter 71, Naturopathic Physician Practice Act, by:

(i) investigating unprofessional or unlawful conduct;

(ii) obtaining legal representation for the division to bring an action against a person engaging in unprofessional or unlawful conduct; and

(iii) monitoring compliance of renewal requirements.

(5) If the balance in the fund exceeds $100,000 at the close of any fiscal year, the [~~excess shall be transferred~~]division shall transfer any amount that exceeds $100,000 to the General Fund.

(6) The division shall report on the fund annually to the appropriate appropriations subcommittee of the Legislature.

Section 24. Section 58-68-302 is amended to read:

58-68-302. Qualifications for licensure.

(1) An applicant for licensure as an osteopathic physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form [~~prescribed by~~]the division approves, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

[~~(c) if the applicant is applying to participate in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal background check in accordance with Section 58-68-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~]

(c) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(c)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves;

(d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as an osteopathic physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of osteopathic medicine from an AOA approved medical school or college; or

(ii) submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board, if the applicant is graduated from an osteopathic medical school or college located outside of the United States or its territories which at the time of the applicant's graduation, met criteria for accreditation by the AOA;

(e) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine required under Subsection (1)(d); or

(ii) (A) has successfully completed 12 months of resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine as required under Subsection (1)(d);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME or AOA approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as an osteopathic physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME or AOA approved progressive resident training program within the state;

(f) pass the licensing examination sequence required by division rule, as made in collaboration with the board;

(g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board, if requested by the board;

(h) meet with the board and representatives of the division, if requested for the purpose of evaluating the applicant's qualifications for licensure;

(i) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

(j) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as an osteopathic physician and surgeon by endorsement who is currently licensed to practice osteopathic medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of osteopathic medicine in any state, district or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the day on which the applicant applied for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through (d), (1)(e)(i), and (1)(g) through (j);

(d) have passed the licensing examination sequence required in Subsection (1)(f) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to [~~its~~]the board's own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice review history, and physical and psychological assessments, if requested by the division in collaboration with the board; and

(g) produce evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the division processes the applicant's application for licensure [~~is being processed by the division, provided~~]if:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the health care facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division [~~has issued~~]issues a temporary license;

(e) the temporary license is [~~only~~]issued for only one year from the date of issuance and may not be extended or renewed[~~ beyond the duration of one year from issuance~~]; and

(f) the temporary license expires immediately and [~~prior to~~]before the expiration of one year from issuance, upon notification from the division that the division denied the applicant's application for licensure by endorsement[~~ is denied~~].

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require a:

(a) post-residency board certification; or

(b) a cognitive test when the physician reaches a specified age, unless the test reflects the standards described in Subsections 58-67-302(5)(b)(i) through (x).

Section 25. Section 58-68-503 is amended to read:

58-68-503. Penalties and administrative actions for unlawful and unprofessional conduct.

(1) Any person [~~who~~]that violates the unlawful conduct provisions of Section 58-68-501 or Section 58-1-501 is guilty of a third degree felony.

(2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:

(i) assessing administrative penalties; or

(ii) taking any other appropriate administrative action.

(b) [~~A~~]The division shall deposit a monetary administrative penalty imposed under this section [~~shall be deposited~~]into the Physician Education and Enforcement Fund [~~described~~]created in Section 58-67a-1.

(3) If a licensee is convicted of unlawful conduct, described in Section 58-68-501, before an administrative proceeding regarding the same conduct, [~~the licensee may not be assessed~~]the division may not assess an additional administrative fine under this chapter for the same conduct.

(4) (a) If the division concludes that an individual has violated the provisions of Section 58-68-501, Section 58-68-502, Chapter 1, Division of Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:

(i) issue a citation to the individual;

(ii) attempt to negotiate a stipulated settlement; or

(iii) (A) notify the individual that the division will commence an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act[~~, will be commenced~~]; and

(B) [-]invite the individual [~~is invited~~]to appear.

(b) The division may take the following action against an individual who [~~is in violation of~~]violates a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:

(i) assess a fine of up to $10,000 per single violation or $2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or

(ii) order to cease and desist from the behavior that constitutes a violation of provisions described in Subsection (4)(a).

(c) Except for an administrative fine and a cease and desist order, the division may not assess the licensure sanctions cited in Section 58-1-401[~~may not be assessed~~]through a citation.

(d) Each citation issued under this section shall:

(i) be in writing;

(ii) clearly describe or explain:

(A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(B) that the recipient must notify the division in writing within 20 calendar days from the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation within the time specified in the

citation; and

(iii) be served in accordance with the requirements of the Utah Rules of Civil Procedure.

(e) (i) If the individual to whom [~~the citation is issued~~]the division issues the citation fails to request a hearing to contest the citation within 20 calendar days from the day on which the citation is served, the citation becomes the final order of the division and is not subject to further agency review.

(ii) [~~The~~]The division may extend the period to contest the citation [~~, may be extended by the division~~]for cause.

(f) The division may refuse to issue or renew or suspend, revoke, or place on probation the license of an individual who fails to comply with a citation after the citation becomes final.

(g) The failure of an applicant for licensure to comply with a citation after [~~it~~]the citation becomes final is [~~a ground~~]grounds for denial of a license.

(h) [~~No citation may be issued~~]The division may not issue a citation under this section after the expiration of one year following the date on which the division receives the report of the violation that is the subject of the citation[~~, is reported to the division~~].

(5) (a) The director may collect a penalty imposed under this section that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 26. Section 58-69-302 is amended to read:

58-69-302. Qualifications -- Licensure as a dentist -- Licensure as a dental hygienist.

(1) An applicant for licensure as a dentist, except as provided in Subsection (2), shall:

(a) submit an application in a form [~~as prescribed by~~]the division approves;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a dentist as evidenced by having received an earned doctor's degree in dentistry from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;

(d) pass the National Board Dental Examinations as administered by the Joint Commission on National Dental Examinations of the American Dental Association;

(e) pass any regional dental clinical licensure examination approved by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(f) pass any other examinations regarding applicable law, rules, or ethics as established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; [~~and~~]

(h) meet with the board if requested by the board or division for the purpose of examining the applicant's qualifications for licensure[~~.~~]; and

(i) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(i)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division provides.

(2) An applicant for licensure as a dentist qualifying under the endorsement provision of Section 58-1-302 shall:

(a) be currently licensed in good standing with an unrestricted license in another jurisdiction described in Section 58-1-302;

(b) document having met all requirements for licensure under Subsection (1) except Subsection (1)(c); and

(c) document having been successfully engaged in clinical practice as a dentist for not less than 6,000 hours in the five years immediately preceding the date of application for licensure in Utah.

(3) [~~An~~]Except as provided in Subsection (4), an applicant for licensure as a dental hygienist[~~, except as set forth in Subsection (4),~~] shall:

(a) submit an application in a form [~~as prescribed by~~]the division approves;

(b) pay a fee as determined by the department pursuant to Section 63J-1-504;

(c) be a graduate holding a certificate or degree in dental hygiene from a school accredited by the Commission on Dental Accreditation of the American Dental Association;

(d) pass the National Board Dental Hygiene Examination as administered by the Joint Commission on National Dental Examinations of the American Dental Association;

(e) pass an examination consisting of practical demonstrations in the practice of dental hygiene and written or oral examination in the theory and practice of dental hygiene as established by division rule made in collaboration with the board;

(f) pass any other examinations regarding applicable law, rules, and ethics as established by rule by division rule made in collaboration with the board;

(g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; [~~and~~]

(h) meet with the board if requested by the board or division for the purpose of examining the applicant's qualifications for licensure[~~.~~]; and

(i) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (3)(i)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division provides.

(4) An applicant for licensure as a dental hygienist qualifying under the endorsement provision of Section 58-1-302 shall:

(a) be currently licensed in another jurisdiction set forth in Section 58-1-302;

(b) (i) document having met all requirements for licensure under Subsection (3)except, an applicant having received licensure in another state or jurisdiction [~~prior to~~]before 1962, the year when the National Board Dental Hygiene Examinations were first administered, shall document having passed a state administered examination acceptable to the division in collaboration with the board; or

(ii) document having obtained licensure in another state or jurisdiction upon which licensure by endorsement is based [~~by~~]upon meeting requirements [~~which~~]that were equal to licensure requirements in Utah at the time the applicant obtained licensure in the other state or jurisdiction; and

(c) document having been successfully engaged in practice as a dental hygienist for not less than 2,000 hours in the two years immediately preceding the date of application for licensure in Utah.

Section 27. Section 58-70a-302 is amended to read:

58-70a-302. Qualifications for licensure.

Each applicant for licensure as a physician assistant shall:

(1) submit an application in a form[~~, prescribed by~~] the division approves;

(2) pay a fee determined by the department under Section 63J-1-504;

(3) have successfully completed a physician assistant program accredited by:

(a) the Accreditation Review Commission on Education for the Physician Assistant; or

(b) if [~~prior to~~]before January 1, 2001, either the:

(i) Committee on Accreditation of Allied Health Education Programs; or

(ii) Committee on Allied Health Education and Accreditation;

(4) have passed the licensing examinations required by division rule made in collaboration with the board;

(5) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure; and

[~~(6) if the applicant is applying to participate in the PA Licensure Compact under Chapter 70c, PA Licensure Compact, consent to a criminal background check in accordance with Section 58-70a-301.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(6) (a) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(b) meet any other standard related to the criminal background check described in Subsection (6)(a), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) disclose any criminal history the division requests on a form the division provides.

Section 28. Section 58-70b-302 is amended to read:

58-70b-302. Qualifications for licensure.

Each applicant for licensure as an anesthesiologist assistant under this chapter shall:

(1) submit an application on a form [~~established by~~]the division approves;

(2) pay a fee determined by the division under Section 63J-1-504;

(3) provide satisfactory documentation of having graduated from a program certified by the Commission on Accreditation of Allied Health Education Programs or the commission's successor organization;

(4) within 12 months of completing the training under Subsection (3), pass the certification exam offered by the National Commission for Certification of Anesthesiologist Assistants;[~~ and~~]

(5) have the certification described in Subsection (4) at the time of the application and maintain the certification throughout the term of the license[~~.~~]; and

(6) (a) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(b) meet any other standard related to the criminal background check described in Subsection (6)(a), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) disclose any criminal history the division requests on a form the division approves.

Section 29. Section 58-71-302 is amended to read:

58-71-302. Qualifications for licensure.

(1) [~~An~~]Except as provided in Subsection (2), an applicant for licensure as a naturopathic physician[~~, except as set forth in Subsection (2),~~] shall:

(a) submit an application in a form [~~prescribed by~~]the division approves, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant; and

(ii) a record of professional liability claims made against the applicant and settlements paid by or [~~in~~]on behalf of the applicant;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a naturopathic physician, as evidenced by having received an earned degree of doctor of naturopathic medicine from:

(i) a naturopathic medical school or college accredited by the Council of Naturopathic Medical Education or [~~its~~]the successor organization approved by the division;

(ii) a naturopathic medical school or college that is a candidate for accreditation by the Council of Naturopathic Medical Education or [~~its~~]the successor organization, and is approved by the division, upon a finding there is reasonable expectation the school or college [~~will~~]shall be accredited; or

(iii) a naturopathic medical school or college which, at the time of the applicant's graduation, met current criteria for accreditation by the Council of Naturopathic Medical Education or [~~its~~]the successor organization approved by the division;

(d) provide satisfactory documentation of having successfully completed, after successful completion of the education requirements

[~~set forth~~]described in Subsection (1)(c), 12 months of clinical experience in naturopathic medicine in a residency program recognized by the division and associated with an accredited school or college of naturopathic medicine, and under the preceptorship of a licensed naturopathic physician, physician and surgeon, or osteopathic physician;

(e) pass the licensing examination sequence required by division rule;

(f) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the division if requested by the division;[~~and~~]

(g) meet with representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure[~~.~~]; and

(h) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(h)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves.

(2) (a) In accordance with Subsection (2)(b), an applicant for licensure as a naturopathic physician under the endorsement provision of Section 58-1-302 shall:

(i) meet the requirements of Section 58-1-302;

(ii) document having met all requirements for licensure under Subsection (1) except the clinical experience requirement of Subsection (1)(d);

(iii) have passed the examination requirements established under Subsection (1)(e)that:

(A) the applicant has not passed in connection with licensure in another state or jurisdiction; and

(B) are available to the applicant to take without requiring additional professional education;

(iv) have been actively engaged in the practice of a naturopathic physician for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah; and

(v) meet with representatives of the division for the purpose of evaluating the applicant's qualifications for licensure.

(b) The division may rely, either wholly or in part, on one or more credentialing associations designated by division rule to document and certify in writing to the satisfaction of the division that an applicant has met each of the requirements of this Subsection (2), including the requirements of Section 58-1-302, and that:

(i) the applicant holds a current license;

(ii) the education, experience, and examination requirements of the foreign country or the state, district, or territory of the United States that issued the applicant's license are, or were at the time the license was issued, equal to those of this state for licensure as a naturopathic physician; and

(iii) the applicant has produced evidence satisfactory to the division of the applicant's qualifications, identity, and good standing as a naturopathic physician.

Section 30. Section 58-71-402 is amended to read:

58-71-402. Authority to assess penalty -- Penalty deposited into Physician Education and Enforcement Fund.

(1) After a proceeding [~~pursuant to~~]in accordance with Title 63G, Chapter 4, Administrative Procedures Act, and Title 58, Chapter 1, Division of Professional Licensing Act, the division may impose administrative penalties of up to $10,000 for acts of unprofessional conduct or unlawful conduct under this chapter.

(2) The division shall deposit an administrative penalty imposed under this section into the Physician Education and Enforcement Fund created in Section 58-67a-1.

[~~(2)~~](3) Assessment of a penalty under this section does not affect any other action the division [~~is authorized to~~]may take regarding a license issued under this chapter.

Section 31. Section 58-73-302 is amended to read:

58-73-302. Qualifications for licensure.

(1) Each applicant for licensure as a chiropractic physician, other than [~~those~~]an applicant applying for a license based on licensure as a chiropractor or chiropractic physician in another jurisdiction, shall:

(a) submit an application in a form[~~prescribed by~~] the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) demonstrate satisfactory completion of at least two years of general study in a college or university;

(d) demonstrate having earned a degree of doctor of chiropractic from a chiropractic college or university that at the time the degree was conferred was accredited by the Council on Chiropractic Education, Inc., or an equivalent chiropractic accrediting body recognized by the United States Department of Education and by the division rule made in collaboration with the board;

(e) demonstrate successful completion of:

(i) the National Chiropractic Boards:

(A) Parts I and II;

(B) Written Clinical Competency Examination; and

(C) Physiotherapy;

(ii) the Utah Chiropractic Law and Rules Examination; and

(iii) a practical examination approved by the division in collaboration with the board; [~~and~~]

(f) meet with the board, if requested, for the purpose of reviewing the applicant's qualifications for licensure[~~.~~]; and

(g) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (1)(g)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division approves.

(2) Each applicant for licensure as a chiropractic physician based on licensure as a chiropractor or chiropractic physician in another jurisdiction shall:

(a) submit an application in the form[~~ prescribed by~~] the division approves;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) demonstrate having obtained licensure as a chiropractor or chiropractic physician in another state under education requirements which were equivalent to the education requirements in this state to obtain a chiropractor or chiropractic physician license at the time the applicant obtained the license in the other state;

(d) demonstrate successful completion of:

(i) the Utah Chiropractic Law and Rules Examination; and

(ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board of Chiropractic Examiners;

(e) have been actively engaged in the practice of chiropractic for not less than two years immediately preceding application for licensure in [~~this state; and~~]Utah;

(f) meet with the board, if requested, for the purpose of reviewing the applicant's qualifications for licensure[-]; and

(g) (i) consent to, and complete, a criminal background check, described in Section 58-1-301.5;

(ii) meet any other standard related to the criminal background check described in Subsection (2)(g)(i), that the division establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) disclose any criminal history the division requests on a form the division provides.

Section 32. Repealer.

This bill repeals:

Section 58-44a-302.1, Background checks.

Section 58-70a-301.1, Criminal background check.

Section 58-68-302.1, Qualifications for licensure -- Criminal background check.

Section 58-67-302.1, Qualifications for licensure -- Criminal background check.

Section 58-64-302.1, Criminal background check.

Section 58-63-302.1, Criminal background check.

Section 58-61-304.1, Criminal background check.

Section 58-60-103.1, Criminal background check.

Section 58-55-302.1, Criminal background check.

Section 58-47b-302.1, Criminal background check.

Section 58-42a-302.1, Criminal background check.

Section 58-24b-302.1, Criminal background check.

Section 58-17b-307, Qualification for licensure -- Criminal background checks.

Section 33. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 444
S. B. 139
Passed February 27, 2025
Approved March 26, 2025
Effective May 7, 2025

MINERAL RIGHTS AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill modifies provisions relating to information provided on the Office of the Property Rights Ombudsman's website about eminent domain and mineral rights.

Highlighted Provisions:

This bill:

► requires that information about eminent domain and mineral rights be provided on the Office of the Property Rights Ombudsman's website.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-43-203, as last amended by Laws of Utah 2018, Chapter 215

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-43-203 is amended to read:

13-43-203. Office of the Property Rights Ombudsman -- Duties.

(1) The Office of the Property Rights Ombudsman shall:

(a) develop and maintain expertise in and understanding of takings, eminent domain, and land use law;

(b) clearly identify the specific information that is prepared for distribution to property owners whose land is being acquired under the provisions of Section 78B-6-505;

(c) assist state agencies and local governments in developing the guidelines required by Title 63L, Chapter 4, Constitutional Takings Issues Act;

(d) at the request of a state agency or local government, assist the state agency or local government, in analyzing actions with potential takings implications or other land use issues;

(e) advise real property owners who:

(i) have a legitimate potential or actual takings claim against a state or local government entity or have questions about takings, eminent domain, and land use law; or

(ii) own a parcel of property that is landlocked, as to the owner's rights and options with respect to obtaining access to a public street;

(f) identify state or local government actions that have potential takings implications and, if appropriate, advise those state or local government entities about those implications;

(g) provide information to private citizens, civic groups, government entities, and other interested parties about takings, eminent domain, and land use law and their rights, including a right to just compensation, and responsibilities under the takings, eminent domain, or land use laws through seminars and publications, and by other appropriate means;

(h) (i) [~~provide the information described in Section 78B-6-505 on the Office of the Property Rights Ombudsman's website in a form that is easily accessible; and~~]provide, in a form that is easily accessible, the following information on the Office of the Property Rights Ombudsman's website:

(A) the information described in Section 78B-6-505;

(B) an explanation of the term, "fee simple title";

(C) an explanation of the implications for a property owner when fee simple title is taken through eminent domain;

(D) an explanation that eminent domain may include taking a recorded interest held in real property, including a mineral right;

(E) an explanation that a property owner may be compensated for a recorded interest in real property, including a mineral right; and

(F) an explanation that a property owner can request a separate valuation for a recorded interest in real property; and

(ii) ensure that the information described in Subsection (1)(h)(i) is current; and

(i) (i) provide education and training regarding:

(A) the drafting and application of land use laws and regulations; and

(B) land use dispute resolution; and

(ii) use any money transmitted in accordance with Subsection 15A-1-209(5) to pay for any expenses required to provide the education and training described in Subsection (1)(i)(i), including grants to a land use training organization that:

(A) the Land Use and Eminent Domain Advisory Board, created in Section 13-43-202, selects and proposes; and

(B) the property rights ombudsman and the executive director of the Department of Commerce jointly approve.

(2) (a) Neither the Office of the Property Rights Ombudsman nor its individual attorneys may represent private parties, state agencies, local governments, or any other individual or entity in a legal action that arises from or relates to a matter addressed in this chapter.

(b) An action by an attorney employed by the Office of the Property Rights Ombudsman, by a neutral third party acting as mediator or arbitrator under Section 13-43-204, or by a neutral third party rendering an advisory opinion under Section 13-43-205 or 13-43-206, taken within the scope of the duties set forth in this chapter, does not create an attorney-client relationship between the Office of the Property Rights Ombudsman, or the office's attorneys or appointees, and an individual or entity.

(3) No member of the Office of the Property Rights Ombudsman nor a neutral third party rendering an advisory opinion under Section 13-43-205 or 13-43-206, may be compelled to testify in a civil action filed concerning the subject matter of any review, mediation, or arbitration by, or arranged through, the office.

(4) (a) Except as provided in Subsection (4)(b), evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action.

(b) Subsection (4)(a) does not apply to:

(i) actions brought under authority of Title 78A, Chapter 8, Small Claims Courts;

(ii) a judicial confirmation or review of the arbitration itself as authorized in Title 78B, Chapter 11, Utah Uniform Arbitration Act;

(iii) actions for de novo review of an arbitration award or issue brought under the authority of Subsection 13-43-204(3)(a)(i); or

(iv) advisory opinions provided for in Sections 13-43-205 and 13-43-206.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 445
S. B. 146
Passed March 4, 2025
Approved March 26, 2025
Effective July 1, 2025

GLUCAGON AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill amends provisions related to the storage and administration of glucagon kits in public and private schools.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► makes technical changes;
- ► allows a school to stock glucagon kits;
- ► allows a qualified adult to administer a glucagon kit to a student experiencing hypoglycemia;
- ► establishes a standing prescription for a school to obtain glucagon kits;
- ► exempts certain parties from civil liability when administering or prescribing a glucagon kit; and
- ► establishes training for the use and storage of a glucagon kit.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-4-401, as last amended by Laws of Utah 2024, Chapter 311
26B-4-406, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-409, as last amended by Laws of Utah 2024, Chapter 311
26B-4-410, as last amended by Laws of Utah 2024, Chapter 311
26B-4-411, as renumbered and amended by Laws of Utah 2023, Chapter 307
58-17b-1002, as last amended by Laws of Utah 2023, Chapter 329
58-17b-1003, as enacted by Laws of Utah 2020, Chapter 372
58-17b-1004, as last amended by Laws of Utah 2023, Chapter 329
58-17b-1005, as last amended by Laws of Utah 2024, Chapter 507
58-17b-1006, as enacted by Laws of Utah 2020, Chapter 372
58-17b-1007, as enacted by Laws of Utah 2020, Chapter 372

ENACTS:

26B-4-412, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-4-401 is amended to read:
26B-4-401. Definitions.

As used in this part:

(1) "Agent" means a coach, teacher, employee, representative, or volunteer.

(2) (a) "Amateur sports organization" means, except as provided in Subsection (2)(b):

(i) a sports team;

(ii) a public or private school;

(iii) a public or private sports league;

(iv) a public or private sports camp; or

(v) any other public or private organization that organizes, manages, or sponsors a sporting event for its members, enrollees, or attendees.

(b) "Amateur sports organization" does not include a professional:

(i) team;

(ii) league; or

(iii) sporting event.

(3) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.

(a) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(b) Causes of anaphylaxis may include insect sting, food allergy, drug reaction, and exercise.

(4) "Asthma action plan" means a written plan:

(a) developed with a school nurse, a student's parent or guardian, and the student's health care provider to help control the student's asthma; and

(b) signed by the student's:

(i) parent or guardian; and

(ii) health care provider.

(5) "Asthma emergency" means an episode of respiratory distress that may include symptoms such as wheezing, shortness of breath, coughing, chest tightness, or breathing difficulty.

(6) "Child" means an individual who is under [~~the age of 18~~]18 years old.

(7) "Department health care provider" means a health care provider who is acting in the capacity of a health care provider during employment for the department.

(8) "Epinephrine auto-injector" means a portable, disposable drug delivery device that contains a measured, single dose of epinephrine that is used to treat a person suffering a potentially fatal anaphylactic reaction.

(9) "Glucagon authorization" means the same as that term is defined in Section 53G-9-504.

(10) "Glucagon kit" means a medical device that contains a premeasured dose of glucagon for the emergency treatment of hypoglycemia.

[~~(9)~~](11) "Health care provider" means an individual who is licensed as:

(a) a physician under Title 58, Chapter 67, Utah Medical Practice Act;

(b) a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(c) an advanced practice registered nurse under Section 58-31b-302; or

(d) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(12) "Hypoglycemia" means a potentially life threatening condition resulting from abnormally low blood glucose levels.

[~~(10)~~](13) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

[~~(11)~~](14) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

[~~(12)~~](15) "Physician" means the same as that term is defined in Section 58-67-102.

[~~(13)~~](16) "Public school" means a district school or a charter school.

[~~(14)~~](17) "Qualified adult" means a person who:

(a) is at least 18 years old; and

(b) (i) for purposes of administering an epinephrine auto-injector, has successfully completed the training program established in Section 26B-4-407;

(ii) for purposes of administering a glucagon kit, has successfully completed the training program established in Section 26B-4-412; and

[~~(ii)~~](iii) for purposes of administering stock albuterol, has successfully completed the training program established in Section 26B-4-408.

[~~(15)~~](18) "Qualified epinephrine auto-injector entity":

(a) means a facility or organization that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience anaphylaxis; and

(b) includes:

(i) recreation camps;

(ii) an education facility, school, or university;

(iii) a day care facility;

(iv) youth sports leagues;

(v) amusement parks;

(vi) food establishments;

(vii) places of employment; and

(viii) recreation areas.

(19) "Qualified glucagon kit entity" means a public or private school that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience a diabetic emergency.

[~~(16)~~](20) "Qualified health care provider" means a health care provider who:

(a) is licensed under Title 58, Occupations and Professions; and

(b) may evaluate and manage a concussion within the health care provider's scope of practice.

[~~(17)~~](21) "Qualified stock albuterol entity" means a public or private school that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience an asthma emergency.

[~~(18)~~](22) (a) "Sporting event" means any of the following athletic activities that is organized, managed, or sponsored by an organization:

(i) a game;

(ii) a practice;

(iii) a sports camp;

(iv) a physical education class;

(v) a competition; or

(vi) a tryout.

(b) "Sporting event" does not include:

(i) the issuance of a lift ticket or pass by a ski resort, the use of the ticket or pass, or a ski or snowboarding class or school at a ski resort, unless the skiing or snowboarding is part of a camp, team, or competition that is organized, managed, or sponsored by the ski resort;

(ii) as applied to a government entity, merely making available a field, facility, or other location owned, leased, or controlled by the government entity to an amateur sports organization or a child, regardless of whether the government entity charges a fee for the use; or

(iii) free play or recess taking place during school hours.

[~~(19)~~](23) "Stock albuterol" means a prescription inhaled medication:

(a) used to treat asthma; and

(b) that may be delivered through a device, including:

(i) an inhaler; or

(ii) a nebulizer with a mouthpiece or mask.

[~~(20)~~](24) "Traumatic head injury" means an injury to the head arising from blunt trauma, an acceleration force, or a deceleration force, with one of the following observed or self-reported conditions attributable to the injury:

(a) transient confusion, disorientation, or impaired consciousness;

(b) dysfunction of memory;

(c) loss of consciousness; or

(d) signs of other neurological or neuropsychological dysfunction, including:

(i) seizures;

(ii) irritability;

(iii) lethargy;

(iv) vomiting;

(v) headache;

(vi) dizziness; or

(vii) fatigue.

Section 2. Section 26B-4-406 is amended to read:

26B-4-406. Voluntary participation.

(1) Sections 26B-4-406 through [~~26B-4-411~~]26B-4-412 do not create a duty or standard of care for:

(a) a person to be trained in the use and storage of epinephrine auto-injectors, glucagon kits, or stock albuterol; or

(b) except as provided in Subsection (5), a qualified epinephrine auto-injector entity to store epinephrine auto-injectors, a qualified glucagon kit entity to store glucagon kits on its premises, or a qualified stock albuterol entity to store stock albuterol on its premises.

(2) Except as provided in Subsections (3) and (5), a decision by a person to successfully complete a training program under Section 26B-4-407[~~or~~], 26B-4-408, or 26B-4-412 and to make emergency epinephrine auto-injectors, glucagon kits, or stock albuterol available under the provisions of Sections 26B-4-406 through [~~26B-4-411~~]26B-4-412 is voluntary.

(3) A school, school board, or school official may not prohibit or dissuade a teacher or other school employee at a primary or secondary school in the state, either public or private, from:

(a) completing a training program under Section 26B-4-407[~~or~~], 26B-4-408, or 26B-4-412;

(b) possessing or storing an epinephrine auto-injector, glucagon kit, or stock albuterol on school property if:

(i) the teacher or school employee is a qualified adult; and

(ii) the possession and storage is in accordance with the training received under Section 26B-4-407[~~or~~], 26B-4-408, or 26B-4-412; or

(c) administering an epinephrine auto-injector, glucagon kit, or stock albuterol to any person, if:

(i) the teacher or school employee is a qualified adult; and

(ii) the administration is in accordance with the training received under Section 26B-4-407[~~or~~], 26B-4-408, or 26B-4-412.

(4) A school, school board, or school official may encourage a teacher or other school employee to volunteer to become a qualified adult.

(5) (a) Each primary or secondary school in the state, both public and private, shall make an emergency epinephrine auto-injector available to any teacher or other school employee who:

(i) is employed at the school; and

(ii) is a qualified adult.

(b) This section does not require a school described in Subsection (5)(a) to keep more than one emergency epinephrine auto-injector on the school premises, so long as it may be quickly accessed by a teacher or other school employee, who is a qualified adult, in the event of an emergency.

(6) (a) Each primary or secondary school in the state, both public and private, may make a glucagon kit available to any school employee who:

(i) is employed at the school; and

(ii) is a qualified adult.

(b) A qualified adult may administer a glucagon kit to a student who:

(i) has a diagnosis of diabetes by a health care provider;

(ii) has a glucagon authorization on file with the school; and

(iii) is showing symptoms of hypoglycemia.

(c) This Subsection (6) does not relieve a student's parent or guardian from providing a student's medication or create an expectation that a school will have a glucagon kit available.

[~~(6)~~](7) (a) Each primary or secondary school in the state, both public and private, may make stock albuterol available to any school employee who:

(i) is employed at the school; and

(ii) is a qualified adult.

(b) A qualified adult may administer stock albuterol to a student who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan.

(c) This Subsection [~~(6)~~](7) may not be interpreted to relieve a student's parent or guardian of providing a student's medication or create an expectation that a school will have stock albuterol available.

[~~(7)~~](8) No school, school board, or school official shall retaliate or otherwise take adverse action against a teacher or other school employee for:

(a) volunteering under Subsection (2);

(b) engaging in conduct described in Subsection (3); or

(c) failing or refusing to become a qualified adult.

Section 3. Section 26B-4-409 is amended to read:

26B-4-409. Authority to obtain and use an epinephrine auto-injector, glucagon kit, or stock albuterol.

(1) The school district physician, a department health care provider, the medical director of the local health department, or the local emergency medical services director may provide a prescription for the following if requested by a qualified adult, who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse:

(a) epinephrine auto-injectors for use in accordance with this part;

(b) a glucagon kit for use in accordance with this part; or

[~~(b)~~](c) stock albuterol for use in accordance with this part.

(2) (a) A qualified adult may obtain an epinephrine auto-injector for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(b) A qualified adult may obtain a glucagon kit for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

[~~(b)~~](c) A qualified adult may obtain stock albuterol for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(3) A qualified adult:

(a) may immediately administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician or physician assistant is not immediately available; and

(b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-407 after administering an epinephrine auto-injector.

(4) If a school nurse is not immediately available, a qualified adult:

(a) may immediately administer a glucagon kit to an individual who:

(i) has a diagnosis of diabetes by a health care provider;

(ii) has a glucagon authorization on file with the school; and

(iii) is showing symptoms of hypoglycemia; and

(b) shall initiate appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-412 after administering a glucagon kit.

(5) If a school nurse is not immediately available, a qualified adult:

(a) may immediately administer stock albuterol to an individual who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan; and

(b) shall initiate appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-408 after administering stock albuterol.

[~~(5)~~](6) (a) A qualified entity that complies with Subsection [~~(5)(b)~~](6)(b), [~~or~~](c), or (d), may obtain a supply of epinephrine auto-injectors, glucagon kits, or stock albuterol, respectively, from a pharmacist under Section 58-17b-1004, or a pharmacy intern under Section 58-17b-1004 for:

(i) storing:

(A) the epinephrine auto-injectors on the qualified epinephrine auto-injector entity's premises;

(B) the glucagon kits on the qualified glucagon kit entity's premises; and

[~~(B)~~](C) stock albuterol on the qualified stock albuterol entity's premises; and

(ii) use by a qualified adult in accordance with [~~Subsection (3) or (4).~~]Subsections (3) through (5).

(b) A qualified epinephrine auto-injector entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of an epinephrine auto-injector available to a qualified adult; and

(ii) store epinephrine auto-injectors in accordance with the standards established by the department in Section 26B-4-411.

(c) A qualified glucagon kit entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of a glucagon kit available to a qualified adult; and

(ii) store a glucagon kit in accordance with the standards established by the department in Section 26B-4-411.

[~~(c)~~](d) A qualified stock albuterol entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of stock albuterol available to a qualified adult; and

(ii) store stock albuterol in accordance with the standards established by the department in Section 26B-4-411.

Section 4. Section 26B-4-410 is amended to read:

26B-4-410. Immunity from liability.

(1) The following, if acting in good faith, are not liable in any civil or criminal action for any act taken or not taken under the authority of Sections 26B-4-406 through [~~26B-4-411~~]26B-4-412 with respect to an anaphylactic reaction, diabetic emergency, or asthma emergency:

(a) a qualified adult;

(b) a physician, physician assistant, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs;

(c) a person who conducts training described in Section 26B-4-407[~~, or~~], 26B-4-408, or 26B-4-412;

(d) a qualified epinephrine auto-injector entity;

(e) a qualified glucagon kit entity;

[~~(e)~~](f) a qualified stock albuterol entity;

[~~(f)~~](g) the department;

[~~(g)~~](h) a local health department;

[~~(h)~~](i) a local education agency; and

[~~(i)~~](j) a local emergency medical services entity.

(2) Section 53G-9-502 does not apply to the administration of an epinephrine auto-injector, glucagon kit, or stock albuterol in accordance with this part.

(3) This section does not eliminate, limit, or reduce any other immunity from liability or defense against liability that may be available under state law.

Section 5. Section 26B-4-411 is amended to read:

26B-4-411. Administrative rulemaking authority.

The department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) establish and approve training programs in accordance with Sections 26B-4-407[~~, and~~], 26B-4-408, and 26B-4-412;

(2) establish a procedure for determining who is eligible for training as a qualified adult under Subsection 26B-4-407(6)(b)(v); and

(3) establish standards for storage of:

(a) emergency auto-injectors by a qualified epinephrine auto-injector entity under Section 26B-4-407;

(b) a glucagon kit by a qualified glucagon kit entity under Section 26B-4-412; and

[~~(b)~~](c) stock albuterol by a qualified stock albuterol entity under Section 26B-4-408.

Section 6. Section 26B-4-412 is enacted to read:

26B-4-412. Training in use and storage of a glucagon kit.

(1) (a) Each primary and secondary school in the state, both public and private, shall make initial and annual refresher training regarding the storage and emergency use of a glucagon kit available to a teacher or school employee who volunteers to become a qualified adult.

(b) The department shall provide the training described in Subsection (1)(a).

(2) A person who provides training under Subsection (1) or (5) shall include in the training:

(a) techniques for recognizing symptoms of a hypoglycemic emergency;

(b) standards and procedures for the storage and emergency use of a glucagon kit;

(c) emergency follow-up procedures, and contacting, if possible, the student's parent; and

(d) written materials covering the information required under this Subsection (2).

(3) A qualified adult shall retain for reference the written materials prepared in accordance with Subsection (2)(d).

(4) A public or private school shall permit a student to possess and self-administer diabetes medication in accordance with Section 53G-9-506.

(5) The department:

(a) shall approve educational programs conducted by other persons to train:

(i) people under Subsection (5)(b), regarding the proper use and storage of a glucagon kit; and

(ii) a qualified glucagon kit entity regarding the proper storage and emergency use of a glucagon kit; and

(b) may conduct educational programs to train people regarding the use of and storage of a glucagon kit.

Section 7. Section 58-17b-1002 is amended to read:

58-17b-1002. Definitions.

As used in this part:

(1) "Epinephrine auto-injector" means the same as that term is defined in Section 26B-4-401.

(2) "Glucagon kit" means the same as that term is defined in Section 26B-4-401.

[~~(2)~~](3) "Local health department" means the same as that term is defined in Section 26A-1-102.

[~~(3)~~](4) "Physician" means the same as that term is defined in Section 58-67-102.

[~~(4)~~](5) "Qualified adult" means the same as that term is defined in Section 26B-4-401.

[~~(5)~~](6) "Qualified epinephrine auto-injector entity" means the same as that term is defined in Section 26B-4-401.

[~~(6)~~](7) "Qualified stock albuterol entity" means the same as that term is defined in Section 26B-4-401.

[~~(7)~~](8) "Stock albuterol" means the same as that term is defined in Section 26B-4-401.

Section 8. Section 58-17b-1003 is amended to read:

58-17b-1003. Voluntary participation.

This part does not create a duty or standard of care for a person to prescribe or dispense an epinephrine auto-injector, glucagon kit, or stock albuterol.

Section 9. Section 58-17b-1004 is amended to read:

58-17b-1004. Authorization to dispense an epinephrine auto-injector, glucagon kit, and stock albuterol pursuant to a standing order.

(1) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy intern may dispense an epinephrine auto-injector:

(a) (i) to a qualified adult for use in accordance with Title 26B, Chapter 4, Part 4, School Health; or

(ii) to a qualified epinephrine auto-injector entity for use in accordance with Title 26B, Chapter 4, Part 4, School Health;

(b) pursuant to a standing prescription drug order made in accordance with Section 58-17b-1005;

(c) without any other prescription drug order from a person licensed to prescribe an epinephrine auto-injector; and

(d) in accordance with the dispensing guidelines in Section 58-17b-1006.

(2) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy intern may dispense a glucagon kit:

(a) (i) to a qualified adult for use in accordance with Title 26B, Chapter 4, Part 4, School Health; or

(ii) to a qualified glucagon kit entity for use in accordance with Title 26B, Chapter 4, Part 4, School Health;

(b) pursuant to a standing prescription drug order made in accordance with Section 58-17b-1005;

(c) without any other prescription drug order from a person licensed to prescribe a glucagon kit; and

(d) in accordance with the dispensing guidelines in Section 58-17b-1006.

[~~(2)~~](3) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy intern may dispense stock albuterol:

(a) (i) to a qualified adult for use in accordance with Title 26B, Chapter 4, Part 4, School Health; or

(ii) to a qualified stock albuterol entity for use in accordance with Title 26B, Chapter 4, Part 4, School Health;

(b) pursuant to a standing prescription drug order made in accordance with Section 58-17b-1005;

(c) without any other prescription drug order from a person licensed to prescribe stock albuterol; and

(d) in accordance with the dispensing guidelines in Section 58-17b-1006.

Section 10. Section 58-17b-1005 is amended to read:

58-17b-1005. Standing prescription drug orders for epinephrine auto-injectors, glucagon kits, and stock albuterol.

(1) As used in this section:

(a) "Epinephrine protocol" means a protocol that:

(i) requires a physician to specify the persons, by professional license number, authorized to dispense the epinephrine auto-injector;

(ii) requires a physician to review at least annually the dispensing practices of the persons authorized by the physician to dispense the epinephrine auto-injector;

(iii) requires those authorized by a physician to dispense the epinephrine auto-injector to make and retain a record of each dispensing, including:

(A) the name of the qualified adult or qualified epinephrine auto-injector entity to whom the epinephrine auto-injector is dispensed;

(B) a description of the epinephrine auto-injector dispensed; and

(C) other relevant information; and

(iv) is approved by the division through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Medical Licensing Board created in Section 58-67-201 and the board.

(b) "Glucagon kit protocol" means a protocol that:

(i) requires a physician to specify the persons, by professional license number, authorized to dispense the glucagon kit;

(ii) requires a physician to review at least annually the dispensing practices of the persons authorized by the physician to dispense the glucagon kit;

(iii) requires those authorized by the physician to dispense the glucagon kit to make and retain a record of each dispensing, including:

(A) the name of the qualified adult or qualified glucagon kit entity to whom the glucagon kit is dispensed;

(B) a description of the glucagon kit dispensed; and

(C) other relevant information; and

(iv) is approved by the division through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Medical Licensing Board created in Section 58-67-201 and the board.

[~~(b)~~](c) "Stock albuterol protocol" means a protocol that:

(i) requires a physician to specify the persons, by professional license number, authorized to dispense the stock albuterol;

(ii) requires a physician to review at least annually the dispensing practices of the persons authorized by the physician to dispense the stock albuterol;

(iii) requires those authorized by the physician to dispense the stock albuterol to make and retain a record of each dispensing, including:

(A) the name of the qualified adult or qualified stock albuterol entity to whom the stock albuterol is dispensed;

(B) a description of the stock albuterol dispensed; and

(C) other relevant information; and

(iv) is approved by the division through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Medical Licensing Board created in Section 58-67-201 and the board.

(2) Under Section 58-17b-1004, the Department of Health and Human Services shall have a physician acting in the physician's capacity as an employee of the Department of Health and Human Services issue a standing prescription drug order authorizing the dispensing of:

(a) an epinephrine auto-injector in accordance with an epinephrine protocol;

(b) a glucagon kit in accordance with a glucagon kit protocol; and

[~~(b)~~](c) stock albuterol in accordance with a stock albuterol protocol.

(3) Under Section 58-17b-1004, a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of:

(a) an epinephrine auto-injector in accordance with an epinephrine protocol;

(b) a glucagon kit in accordance with a glucagon kit protocol; or

[~~(b)~~](c) stock albuterol in accordance with a stock albuterol protocol.

Section 11. Section 58-17b-1006 is amended to read:

58-17b-1006. Guidelines for dispensing an epinephrine auto-injector, glucagon kit, and stock albuterol.

(1) A pharmacist or pharmacy intern who dispenses an epinephrine auto-injector under this part shall, at a minimum, provide patient counseling to the qualified adult or qualified epinephrine auto-injector entity to whom the epinephrine auto-injector is dispensed regarding:

(a) the appropriate administration and storage of the epinephrine auto-injector;

(b) potential side effects and risks of the epinephrine auto-injector; and

(c) when to seek emergency medical attention.

(2) A pharmacist or pharmacy intern who dispenses a glucagon kit under this part shall, at minimum, provide patient counseling to the qualified adult or qualified glucagon kit entity to whom the glucagon kit is dispensed regarding:

(a) the appropriate administration and storage of the glucagon kit;

(b) potential side effects and risks of the glucagon kit; and

(c) when to seek emergency medical attention.

[~~(2)~~](3) A pharmacist or pharmacy intern who dispenses stock albuterol under this part shall, at a minimum, provide patient counseling to the qualified adult or qualified stock albuterol entity to whom the stock albuterol is dispensed regarding:

(a) the appropriate administration and storage of the stock albuterol;

(b) potential side effects and risks of the stock albuterol; and

(c) when to seek emergency medical attention.

Section 12. Section 58-17b-1007 is amended to read:

58-17b-1007. Limited civil liability.

[~~(1)~~] A physician who issues a standing prescription drug order in accordance with Subsection [~~58-17b-1005(1)~~]58-17b-1005(2) is not liable, under this part, for any civil damages for acts or omissions resulting from the dispensing of[~~ an~~]:

(1) an epinephrine auto-injector[~~ under this part.~~];

(2) a glucagon kit; or

[~~(2)~~](3) [~~A physician who issues a standing prescription drug order in accordance with Subsection 58-17b-1005(2) is not liable for any civil damages for acts or omissions resulting from the dispensing of~~]stock albuterol[~~ under this part~~].

Section 13. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 446
S. B. 142
Passed March 5, 2025
Approved March 26, 2025
Effective May 7, 2025

APP STORE ACCOUNTABILITY ACT

Chief Sponsor: Todd Weiler
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill enacts provisions governing app store operations and creates requirements for age verification and parental consent.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires app store providers to:
  - • verify a user's age category;
  - • obtain parental consent for minor accounts;
  - • notify users and parents of significant changes;
  - • share age category and consent data with developers; and
  - • protect age verification data;
- ► prohibits app store providers from:
  - • enforcing contracts against minors without parental consent; and
  - • misrepresenting parental content disclosures;
- ► requires developers to:
  - • verify age category and consent status through app stores; and
  - • notify app stores of significant changes;
- ► prohibits developers from:
  - • enforcing contracts against minors without verified parental consent; and
  - • misrepresenting parental content disclosures;
- ► designates violations of certain provisions as deceptive trade practices;
- ► requires the Division of Consumer Protection to establish standards for age verification methods;
- ► creates a private right of action for parents of harmed minors;
- ► provides a safe harbor for compliant developers; and
- ► includes a severability clause.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

13-75-101, (Effective 05/07/25) Utah Code Annotated 1953
13-75-201, (Effective 05/06/26) Utah Code Annotated 1953
13-75-202, (Effective 05/06/26) Utah Code Annotated 1953
13-75-301, (Effective 05/07/25) Utah Code Annotated 1953
13-75-401, (Effective 12/31/26) Utah Code Annotated 1953
13-75-402, (Effective 05/07/25) Utah Code Annotated 1953
13-75-403, (Effective 05/07/25) Utah Code Annotated 1953
13-75-404, (Effective 05/07/25) Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-75-101 is enacted to read:

CHAPTER 75. APP STORE ACCOUNTABILITY ACT

PART 1. General Provisions

13-75-101 (Effective 05/07/25). Definitions.

As used in this chapter:

(1) "Age category" means one of the following categories of individuals based on age:

(a) "child" which means an individual who is under 13 years old;

(b) "younger teenager" which means an individual who is at least 13 years old and under 16 years old;

(c) "older teenager" which means an individual who is at least 16 years old and under 18 years old; or

(d) "adult" which means an individual who is at least 18 years old.

(2) "Age category data" means information about a user's age category that is:

(a) collected by an app store provider; and

(b) shared with a developer.

(3) "Age rating" means a classification that provides an assessment of the suitability of an app's content for different age groups.

(4) "App" means a software application or electronic service that a user may run or direct on a mobile device.

(5) "App store" means a publicly available website, software application, or electronic service that allows users to download apps from third-party developers onto a mobile device.

(6) "App store provider" means a person that owns, operates, or controls an app store that allows users in the state to download apps onto a mobile device.

(7) "Content description" means a description of the specific content elements that informed an app's age rating.

(8) "Developer" means a person that owns or controls an app made available through an app store in the state.

(9) "Division" means the Division of Consumer Protection, established in Section 13-2-1.

(10) "Knowingly" means to act with actual knowledge or to act with knowledge fairly inferred based on objective circumstances.

(11) "Minor" means an individual under 18 years old.

(12) "Minor account" means an account with an app store provider that:

(a) is established by an individual who the app store provider has determined is under 18 years old through the app store provider's age verification methods; and

(b) requires affiliation with a parent account.

(13) "Mobile device" means a phone or general purpose tablet that:

(a) provides cellular or wireless connectivity;

(b) is capable of connecting to the Internet;

(c) runs a mobile operating system; and

(d) is capable of running apps through the mobile operating system.

(14) "Mobile operating system" means software that:

(a) manages mobile device hardware resources;

(b) provides common services for mobile device programs;

(c) controls memory allocation; and

(d) provides interfaces for applications to access device functionality.

(15) "Parent" means, with respect to a minor, any of the following individuals who have legal authority to make decisions on behalf of the minor:

(a) an individual with a parent-child relationship under Section 78B-15-201;

(b) a legal guardian; or

(c) an individual with legal custody.

(16) "Parent account" means an account with an app store provider that:

(a) is verified to be established by an individual who the app store provider has determined is at least 18 years old through the app store provider's age verification methods; and

(b) may be affiliated with one or more minor accounts.

(17) "Parental consent disclosure" means the following information that an app store provider is required to provide to a parent before obtaining parental consent:

(a) if the app store provider has an age rating for the app or in-app purchase, the app's or in-app purchase's age rating;

(b) if the app store provider has a content description for the app or in-app purchase, the app's or in-app purchase's content description;

(c) a description of:

(i) the personal data collected by the app from a user; and

(ii) the personal data shared by the app with a third party; and

(d) if personal data is collected by the app, the methods implemented by the developer to protect the personal data.

(18) "Significant change" means a material modification to an app's terms of service or privacy policy that:

(a) changes the categories of data collected, stored, or shared;

(b) alters the app's age rating or content descriptions;

(c) adds new monetization features, including:

(i) in-app purchases; or

(ii) advertisements; or

(d) materially changes the app's:

(i) functionality; or

(ii) user experience.

(19) "Verifiable parental consent" means authorization that:

(a) is provided by an individual who the app store provider has verified is an adult;

(b) is given after the app store provider has clearly and conspicuously provided the parental consent disclosure to the individual; and
(c) requires the parent to make an affirmative choice to:
(i) grant consent; or
(ii) decline consent.

Section 2. Section 13-75-201 is enacted to read:

PART 2. App Store Provider and Developer Requirements

13-75-201 (Effective 05/06/26). App store provider requirements.

(1) An app store provider shall:
(a) at the time an individual who is located in the state creates an account with the app store provider:
(i) request age information from the individual; and
(ii) verify the individual's age category using:
(A) commercially available methods that are reasonably designed to ensure accuracy; or
(B) an age verification method or process that complies with rules made by the division under Section 13-75-301;
(b) if the age verification method or process described in Subsection (1)(a) determines the individual is a minor:
(i) require the account to be affiliated with a parent account; and
(ii) obtain verifiable parental consent from the holder of the affiliated parent account before allowing the minor to:
(A) download an app;
(B) purchase an app; or
(C) make an in-app purchase;
(c) after receiving notice of a significant change from a developer:
(i) notify the user of the significant change; and
(ii) for a minor account:
(A) notify the holder of the affiliated parent account; and
(B) obtain renewed verifiable parental consent;
(d) provide to a developer, in response to a request authorized under Section 13-75-202:
(i) age category data for a user located in the state; and
(ii) the status of verified parental consent for a minor located in the state;
(e) notify a developer when a parent revokes parental consent; and
(f) protect personal age verification data by:
(i) limiting collection and processing to data necessary for:
(A) verifying a user's age;
(B) obtaining parental consent; or
(C) maintaining compliance records; and
(ii) transmitting personal age verification data using industry-standard encryption protocols that ensure:
(A) data integrity; and
(B) data confidentiality.
(2) An app store provider may not:
(a) enforce a contract or terms of service against a minor unless the app store provider has obtained verifiable parental consent;
(b) knowingly misrepresent the information in the parental consent disclosure; or
(c) share personal age verification data except:
(i) between an app store provider and a developer as required by this chapter; or
(ii) as required by law.

Section 3. Section 13-75-202 is enacted to read:

13-75-202 (Effective 05/06/26). Developer requirements.

(1) A developer shall:
(a) verify through the app store's data sharing methods:
(i) the age category of users located in the state; and
(ii) for a minor account, whether verifiable parental consent has been obtained;
(b) notify app store providers of a significant change to the app;
(c) use age category data received from an app store provider to:
(i) enforce any developer-created age-related restrictions;
(ii) ensure compliance with applicable laws and regulations; and
(iii) implement any developer-created safety-related features or defaults;
(d) request personal age verification data or parental consent:
(i) at the time a user:
(A) downloads an app; or
(B) purchases an app;

(ii) when implementing a significant change to the app; or

(iii) to comply with applicable laws or regulations.

(2) A developer may request personal age verification data or parental consent:

(a) no more than once during each 12-month period to verify:

(i) accuracy of user age verification data; or

(ii) continued account use within the verified age category;

(b) when there is reasonable suspicion of:

(i) account transfer; or

(ii) misuse outside the verified age category; or

(c) at the time a user creates a new account with the developer.

(3) When implementing any developer-created safety-related features or defaults, a developer shall use the lowest age category indicated by:

(a) age verification data provided by an app store provider; or

(b) age data independently collected by the developer.

(4) A developer may not:

(a) enforce a contract or terms of service against a minor unless the developer has verified through the app store provider that verifiable parental consent has been obtained;

(b) knowingly misrepresent any information in the parental consent disclosure; or

(c) share age category data with any person.

Section 4. Section 13-75-301 is enacted to read:

PART 3. Division Rulemaking

13-75-301 (Effective 05/07/25). Division rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing processes and means by which an app store provider may verify whether an account holder is a minor in accordance with Subsection 13-75-201(1)(a)(ii).

Section 5. Section 13-75-401 is enacted to read:

PART 4. Enforcement and Safe Harbor

13-75-401 (Effective 12/31/26). Enforcement.

(1) A violation of Subsection 13-75-201(2)(b) or Subsection 13-75-202(4)(b) constitutes a deceptive trade practice under Section 13-11a-3.

(2) (a) Only a minor, or the parent of that minor, who has been harmed by a violation of Subsection 13-75-201(2) may bring a civil action against an app store provider.

(b) Only a minor, or the parent of that minor, who has been harmed by a violation of Subsection 13-75-202(4) may bring a civil action against a developer.

(3) In an action described in Subsection (2), the court shall award a prevailing parent:

(a) the greater of:

(i) actual damages; or

(ii) $1,000 for each violation;

(b) reasonable attorney fees; and

(c) litigation costs.

Section 6. Section 13-75-402 is enacted to read:

13-75-402 (Effective 05/07/25). Safe harbor.

(1) A developer is not liable for a violation of this chapter if the developer demonstrates that the developer:

(a) relied in good faith on:

(i) personal age verification data provided by an app store provider; and

(ii) notification from an app store provider that verifiable parental consent was obtained if the personal age verification data indicates that the user is a minor; and

(b) complied with the requirements described in Section 13-75-202.

(2) For purposes of setting the age category of an app and providing content description disclosures to an app store provider, a developer complies with Subsection 13-75-202(4)(b) if the developer:

(a) uses widely adopted industry standards to determine:

(i) the app's age category; and

(ii) the content description disclosures; and

(b) applies those standards consistently and in good faith.

(3) The safe harbor described in this section:

(a) applies only to actions brought under this chapter; and

(b) does not limit a developer or app store provider's liability under any other applicable law.

(4) Nothing in this chapter shall displace any other available remedies or rights authorized under the laws of this state or the United States.

Section 7. Section 13-75-403 is enacted to read:

13-75-403 (Effective 05/07/25). Severability.

(1) If any provision of this chapter or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application.

(2) The provisions of this chapter are severable.

Section 8. Section 13-75-404 is enacted to read:

13-75-404 (Effective 05/07/25). Application and limitations.

Nothing in this chapter shall be construed to:

(1) prevent an app store provider or developer from taking reasonable measures to:

(a) block, detect, or prevent distribution to minors of:

(i) unlawful material;

(ii) obscene material; or

(iii) other harmful material;

(b) block or filter spam;

(c) prevent criminal activity; or

(d) protect app store or app security;

(2) require an app store provider to disclose user information to a developer beyond:

(a) age category; or

(b) verification of parental consent status;

(3) allow an app store provider or developer to implement measures required by this chapter in a manner that is:

(a) arbitrary;

(b) capricious;

(c) anticompetitive; or

(d) unlawful;

(4) require an app store provider or developer to obtain parental consent for an app that:

(a) provides direct access to emergency services, including:

(i) 911;

(ii) crisis hotlines; or

(iii) emergency assistance services legally available to minors;

(b) limits data collection to information necessary to provide emergency services in compliance with 15 U.S.C. Sec. 6501 et seq., Children's Online Privacy Protection Act;

(c) provides access without requiring:

(i) account creation; or

(ii) collection of unnecessary personal information; and

(d) is operated by or in partnership with:

(i) a government entity;

(ii) a nonprofit organization; or

(iii) an authorized emergency service provider; or

(5) require a developer to collect, retain, reidentify, or link any information beyond what is:

(a) necessary to verify age categories and parental consent status as required by this chapter; and

(b) collected, retained, reidentified, or linked in the developer's ordinary course of business.

Section 9. Effective Date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect May 7, 2025.

(2) The actions affecting the following sections take effect on May 6, 2026:

(a) Section 13-75-201 (Effective 05/06/26); and

(b) Section 13-75-202 (Effective 05/06/26).

(3) The actions affecting Section 13-75-401 (Effective 12/31/26) take effect on December 31, 2026.

CHAPTER 447
S. B. 177
Passed February 27, 2025
Approved March 26, 2025
Effective May 7, 2025

CHILD WELFARE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill amends provisions related to child safety and welfare.

Highlighted Provisions:

This bill:

- ► creates a process by which a child in the state's custody may use a Division of Child and Family Services' address for purposes of a driver license;
- ► amends definitions for the Juvenile Code;
- ► amends provisions regarding the time and circumstances under which a person may seek review of certain child abuse or neglect findings;
- ► addresses the evidence that a juvenile court shall hear at a shelter hearing;
- ► addresses what a juvenile court considers when determining whether reunification services are appropriate; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-1-211, as renumbered and amended by Laws of Utah 2022, Chapter 255
26B-2-120, as last amended by Laws of Utah 2024, Chapter 234
26B-2-121, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-240, as last amended by Laws of Utah 2024, Chapter 310
53-2d-410, as last amended by Laws of Utah 2024, Chapter 147
53-3-104, as last amended by Laws of Utah 2024, Chapter 106
78A-6-103, as last amended by Laws of Utah 2024, Chapter 366
80-1-102, as last amended by Laws of Utah 2024, Chapter 256
80-2-707, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-708, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-1002, as last amended by Laws of Utah 2024, Chapter 147
80-2-1003, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-1004, as last amended by Laws of Utah 2023, Chapter 184
80-3-301, as last amended by Laws of Utah 2023, Chapter 309
80-3-404, as last amended by Laws of Utah 2023, Chapters 310, 330
80-3-406, as last amended by Laws of Utah 2023, Chapter 320
80-3-504, as last amended by Laws of Utah 2023, Chapters 310, 330

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-1-211 is amended to read:

26B-1-211. Background checks for employees -- Access to abuse and neglect information to screen employees and volunteers.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the department may require a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring of:

(a) all staff, contracted employees, and volunteers who:

(i) have access to protected health information or personal identifying information;

(ii) have direct access to patients, children, or vulnerable adults as defined in Section 26B-2-101;

(iii) work in areas of privacy and data security;

(iv) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; and

(v) perform audit functions, whether internal or external, on behalf of the department; and

(b) job applicants who have been offered a position with the department and the job requirements include those described in Subsection (2)(a).

(3) Beginning July 1, 2022, for the purposes described in Subsection (2), the department may also access:

(a) the department's Management Information System created in Section 80-2-1001;

(b) the department's Licensing Information System created in Section 80-2-1002;

(c) the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210; and

(d) juvenile court records under Subsection 80-3-404(4) or 80-3-504(6).

(4) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to the department upon request.

(5) The department shall require that an individual required to submit to a background check under Subsection (4) provide a signed waiver on a form provided by the department that meets the requirements of Subsection 53-10-108(4).

(6) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the department shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

(7) The department is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

(8) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how the department will assess the employment status of an individual upon receipt of background information;

(b) determine when an individual would be disqualified from holding a position based on:

(i) the type of crimes and the severity of those crimes; or

(ii) one or more substantiated or supported findings of abuse, neglect, or exploitation; and

(c) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section 2. Section 26B-2-120 is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the department under this part and has direct access, including:

(A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in accordance with Section 78B-6-128;

(B) a foster parent or prospective foster parent;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) an individual who transports a child for a youth transportation company;

(E) an individual who provides certified peer support, as defined in Section 26B-5-610;

(F) an individual who provides peer supports, has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder;

(G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;

(H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;

(I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the division;

(J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access;

(K) a foster home licensee that submits an application for an annual background screening as required by Subsection 26B-2-105(4)(d)(iii); or

(L) a short-term relief care provider.

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services;

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services;

(C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or

(D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.

(b) "Application" means a background check application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Criminal finding" means a record of:

(i) an arrest for a criminal offense;

(ii) a warrant for a criminal arrest;

(iii) charges for a criminal offense; or

(iv) a criminal conviction.

(e) "Direct access" means that an individual has, or likely will have:

(i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or

(ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.

(f) (i) "Direct access qualified" means that the applicant has an eligible determination by the office within the license and renewal time period; and

(ii) no more than 180 days have passed since the date on which the applicant's association with a certification, contract, or licensee with the department expires.

(g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(h) "Licensee" means an individual or a human services program licensed by the division.

(i) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) juvenile court arrest, adjudication, and disposition records;

(v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or

(vi) a state child abuse or neglect registry.

(j) "Office" means the Office of Background Processing within the department.

(k) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504;

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon association with a certification, contract, or licensee with the department;

(ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification, contract, or licensee with the department for 180 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(c) and (4);

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories; and

(e) an application showing an applicant's association with a certification, contract, or a licensee with the department, for the purpose of the office tracking the direct access qualified status of the applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18 years old or older;

(v) if the applicant is associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404 or 80-3-504; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified,

as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;

(e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;

(f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and

(h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The [~~Bureau~~]bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that an individual who has direct access qualified status will no longer be associated with a certification, contract, or licensee with the department, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation or prostitution;

(D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

(E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

(F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

(G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;

(H) an offense included in Title 76, Chapter 7, Offenses Against the Family;

(I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;

(K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(L) aggravated arson, as described in Section 76-6-103;

(M) aggravated burglary, as described in Section 76-6-203;

(N) aggravated exploitation of prostitution, as described in Section 76-10-1306;

(O) aggravated robbery, as described in Section 76-6-302;

(P) endangering persons in a human services program, as described in Section 26B-2-113;

(Q) failure to report, as described in Section 80-2-609;

(R) identity fraud crime, as described in Section 76-6-1102;

(S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;

(T) riot, as described in Section 76-9-101;

(U) sexual battery, as described in Section 76-9-702.1; or

(V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section 76-10-506; or

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider or a mental health professional, if the applicant provides services in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (7).

(c) The office shall deny direct access qualified status to an applicant if the office finds that a court order prohibits the applicant from having direct access to a child or vulnerable adult.

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);

(b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;

(d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);

(e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;

(f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

(h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);

(i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;

(j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(k) has a pending charge for an offense described in Subsection (5)(a);

(l) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(m) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;

(n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;

(p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504[]; or

(q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

(7) (a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.

(b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status to an applicant if the office finds

the approval would likely create a risk of harm to a child or vulnerable adult.

(8) The office shall grant direct access qualified status to an applicant who is not denied under this section.

(9) (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice, without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice, without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall grant or deny direct access qualified status to the applicant in accordance with this section.

(10) (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.

(b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

(i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(c) Notwithstanding any other provision of this section, an applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office grants direct access qualified status to the applicant through a subsequent application in accordance with this section.

(11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.

(12) (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.

(b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.

(c) The office shall conduct a comprehensive review for an applicant if:

(i) the applicant is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal finding.

(13) (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

(b) As federally required, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(c) The requirements described in Subsection (13)(b) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).

(d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;

(E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(F) aggravated murder, as described in Section 76-5-202;

(G) murder, as described in Section 76-5-203;

(H) manslaughter, as described in Section 76-5-205;

(I) child abuse homicide, as described in Section 76-5-208;

(J) homicide by assault, as described in Section 76-5-209;

(K) kidnapping, as described in Section 76-5-301;

(L) child kidnapping, as described in Section 76-5-301.1;

(M) aggravated kidnapping, as described in Section 76-5-302;

(N) human trafficking of a child, as described in Section 76-5-308.5;

(O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

(Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(R) aggravated arson, as described in Section 76-6-103;

(S) aggravated burglary, as described in Section 76-6-203;

(T) aggravated robbery, as described in Section 76-6-302;

(U) lewdness involving a child, as described in Section 76-9-702.5;

(V) incest, as described in Section 76-7-102; or

(W) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).

(e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(f) In addition to the circumstances described in Subsection (6), the office shall conduct a comprehensive review of an applicant's background check under this section if the applicant:

(i) has an offense described in Subsection (5)(a);

(ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;

(iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-2-210;

(v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6), (7), and (13); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services for purposes of granting or denying direct access qualified status to an applicant.

Section 3. Section 26B-2-121 is amended to read:

26B-2-121. Access to abuse and neglect information.

(1) As used in this section:

(a) "Direct service worker" means the same as that term is defined in Section 26B-6-401.

(b) "Personal care attendant" means the same as that term is defined in Section 26B-6-401.

(2) With respect to a licensee, a direct service worker, or a personal care attendant, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section 80-2-1002 and juvenile court records under Subsection 80-3-404(4) or 80-3-504(6), for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to children:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under [~~Subsections 80-3-404(1) and (2)~~]Section 80-3-404 or 80-3-504; and

(ii) informing a licensee that a person associated with the licensee:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under [~~Subsections 80-3-404(1) and (2)~~]Section 80-3-404 or 80-3-504;

(b) (i) determining whether a direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under [~~Subsections 80-3-404(1) and (2)~~]Section 80-3-404 or 80-3-504; and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under [~~Subsections 80-3-404(1) and (2)~~]Section 80-3-404 or 80-3-504; or

(c) (i) determining whether a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under [~~Subsections 80-3-404(1) and (2)~~]Section 80-3-404 or 80-3-504; and

(ii) informing a person described in Subsections 26B-6-101(9)(a)(i) through (iv) that a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under [~~Subsections 80-3-404(1) and (2)~~]Section 80-3-404 or 80-3-504.

(3) Notwithstanding Subsection (2), the department may access the Division of Child and Family Services' Management Information System under Section 80-2-1001:

(a) for the purpose of licensing and monitoring foster parents;

(b) for the purposes described in Subsection 80-2-1001(5)(b)(iii); and

(c) for the purpose described in Section 26B-1-211.

(4) The department shall receive and process personal identifying information under Subsection 26B-2-120(1) for the purposes described in Subsection (2).

(5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this part, defining the circumstances under which a person may have direct access or provide services to children when:

(a) the person is listed in the Licensing Information System of the Division of Child and Family Services created by Section 80-2-1002; or

(b) juvenile court records show that a court made a substantiated finding under Section 80-3-404 or 80-3-504, that the person committed a severe type of child abuse or neglect.

Section 4. Section 26B-2-240 is amended to read:

26B-2-240. Department authorized to grant, deny, or revoke clearance -- Department may limit direct patient access -- Clearance.

(1) The definitions in Section 26B-2-238 apply to this section.

(2) (a) As provided in this section, the department may grant, deny, or revoke certification for direct patient access for an individual, including a covered individual.

(b) The department may limit the circumstances under which a covered individual granted certification for direct patient access may have direct patient access, based on the relationship factors under Subsection (4) and other mitigating factors related to patient and resident protection.

(c) The department shall determine whether to grant certification for direct patient access for each applicant for whom it receives:

(i) the personal identification information specified by the department under Subsection (4)(b); and

(ii) any fees established by the department under Subsection (9).

(d) The department shall:

(i) establish a procedure for obtaining and evaluating relevant information concerning covered individuals, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files; and

(ii) require that a certification for direct patient access include a fingerprint-based criminal history background check in the databases described under Subsection (3)(a), including the inclusion of the individual's fingerprints in a rap back system.

(3) The department may review the following sources to determine whether an individual should be granted or retain certification for direct patient access, which may include:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;

(c) federal criminal background databases available to the state;

(d) the Division of Child and Family Services Licensing Information System described in Section 80-2-1002;

(e) child abuse or neglect findings described in Section 80-3-404 or 80-3-504;

(f) the Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

(h) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions; and

(i) the List of Excluded Individuals and Entities database maintained by the United States Department of Health and Human Services' Office of Inspector General.

(4) The department shall adopt rules that:

(a) specify the criteria the department will use to determine whether an individual is granted or retains certification for direct patient access:

(i) based on an initial evaluation and ongoing review of information under Subsection (3); and

(ii) including consideration of the relationship the following may have to patient and resident protection:

(A) warrants for arrest;

(B) arrests;

(C) convictions, including pleas in abeyance;

(D) pending diversion agreements;

(E) adjudications by a juvenile court under Section 80-6-701 if the individual is over 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old; and

(F) any other findings under Subsection (3); and

(b) specify the personal identification information that must be submitted by an individual or covered body with an application for certification for direct patient access, including:

(i) the applicant's [~~Social Security~~]social security number; and

(ii) fingerprints.

(5) For purposes of Subsection (4)(a), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(6) The Department of Public Safety, the Administrative Office of the Courts, the Division of Professional Licensing, and any other state agency or political subdivision of the state:

(a) shall allow the department to review the information the department may review under Subsection (3); and

(b) except for the Department of Public Safety, may not charge the department for access to the information.

(7) The department shall adopt measures to protect the security of the information it reviews under Subsection (3) and strictly limit access to the information to department employees responsible for processing an application for certification for direct patient access.

(8) The department may disclose personal identification information specified under Subsection (4)(b) to other divisions and offices within the department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (3)(d) through (f).

(9) The department may establish fees, in accordance with Section 63J-1-504, for an application for certification for direct patient access, which may include:

(a) the cost of obtaining and reviewing information under Subsection (3);

(b) a portion of the cost of creating and maintaining the Direct Access Clearance System database under Section 26B-2-241; and

(c) other department costs related to the processing of the application and the ongoing review of information pursuant to Subsection (4)(a) to determine whether certification for direct patient access should be retained.

Section 5. Section 53-2d-410 is amended to read:

53-2d-410. Background clearance for emergency medical service personnel.

(1) Subject to Section 53-2d-410.5, the bureau shall determine whether to grant background clearance for an individual seeking licensure or certification under Section 53-2d-402from whom the bureau receives:

(a) the individual's social security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

(b) any fees established by the department under Subsection (10).

(2) The bureau shall determine whether to deny or revoke background clearance for individuals for whom the department has previously granted background clearance.

(3) The bureau shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the bureau obtains under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

(4) The bureau shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

(a) the criteria the bureau will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

(b) the other personal identification information an individual seeking licensure or certification under Section 53-2d-402 must submit under Subsection (1).

(5) To determine whether to grant, deny, or revoke background clearance, the bureau may access and evaluate any of the following:

(a) Department of Public Safety arrest, conviction, and disposition records described in Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

(i) the applicant is under 28 years old; or

(ii) the applicant:

(A) is over 28 years old; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;

(c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;

(d) child abuse or neglect findings described in Section 80-3-404 or 80-3-504;

(e) the department's Licensing Information System described in Section 80-2-1002;

(f) the department's database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 26B-6-210;

(g) Division of Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;

(h) records in other federal criminal background databases available to the state; and

(i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.

(6) Except for the Department of Public Safety, an agency may not charge the bureau for information accessed under Subsection (5).

(7) When evaluating information under Subsection (3), the bureau shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(8) The bureau shall adopt measures to protect the security of information the department accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.

(9) The bureau may disclose personal identification information the bureau receives under Subsection (1) to the department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d)

through (f).

(10) The bureau may charge fees, in accordance with Section 63J-1-504, to pay for:

(a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and

(b) other bureau costs related to granting, denying, or revoking background clearance.

(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the department; and

(b) notify the bureau upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

(12) Clearance granted for an individual licensed or certified under Section 53-2d-402 is valid until two years after the day on which the individual is no longer licensed or certified in Utah as emergency medical service personnel.

Section 6. Section 53-3-104 is amended to read:

53-3-104. Division duties.

The division shall:

(1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) for examining applicants for a license, as necessary for the safety and welfare of the traveling public;

(b) for acceptable documentation of an applicant's identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable or general discharge from the United States military, and other proof or documentation required under this chapter;

(c) for acceptable documentation to verify that an individual is in the state's legal custody as verified by the Division of Child and Family Services within the Department of Health and Human Services, for purposes of residency and address verification;

(d) to allow an individual who is verified to be in the legal custody of the state pursuant to Subsection (1)(c) to use the address of a local Division of Child and Family Services office as the individual's residence address;

[~~(c)~~](e) for acceptable documentation to verify that an individual is homeless as verified by the Department of Workforce Services, for purposes of residency, address verification, and obtaining a fee waiver;

[~~(d)~~](f) regarding the restrictions to be imposed on an individual driving a motor vehicle with a temporary learner permit or learner permit;

[~~(e)~~](g) for exemptions from licensing requirements as authorized in this chapter;

[~~(f)~~](h) establishing procedures for the storage and maintenance of applicant information provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804; and

[~~(g)~~](i) to provide educational information to each applicant for a license, which information shall be based on data provided by the Division of Air Quality, including:

(i) ways drivers can improve air quality; and

(ii) the harmful effects of vehicle emissions;

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by the division and shall maintain indices containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by the division under state law;

(7) maintain a record of each licensee showing the licensee's convictions and the traffic accidents in which the licensee has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any individual licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6a-604;

(11) in accordance with Section 53G-10-507, establish:

(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license;

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303;

(14) upon request by the lieutenant governor, provide the lieutenant governor with a digital copy of the driver license or identification

card signature of an individual who is an applicant for voter registration under Section 20A-2-206;

(15) in accordance with Section 53-3-407.1, establish:

(a) procedures and standards to license a commercial driver license third party tester or commercial driver license third party examiner to administer the commercial driver license skills tests;

(b) minimum standards for the commercial driver license skills test; and

(c) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license; and

(16) receive from the Department of Health and Human Services a result from a blood or urine test of an individual arrested for driving under the influence and use the blood or urine test result in an administrative hearing or agency review involving the individual who is the subject of the blood or urine test as described in Section 53-3-111.

Section 7. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as provided in Subsection (3), the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Section 53G-8-211.

(2) The juvenile court has original jurisdiction over:

(a) any proceeding concerning:

(i) a child who is an abused child, neglected child, or dependent child;

(ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(iii) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(v) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(vi) the treatment or commitment of a minor who has an intellectual disability;

(vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 81-2-304;

(viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(x) the treatment or commitment of a child with a mental illness;

(xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 26B-5-204;

(xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(xiv) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(xv) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

(A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(B) has run away from home; and

(xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court;

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement;

(c) the extension of a nonjudicial adjustment under Section 80-6-304;

(d) a petition for special findings under Section 80-3-305; and

(e) a referral of a minor for being a habitual truant as defined in Section 53G-8-211.

(3) The juvenile court does not have original jurisdiction over an offense committed by a minor as described in Subsection (1) if:

(a) the district court has original jurisdiction over the offense under Section 78A-5-102.5;

(b) the district court has original jurisdiction over the offense under Subsection 78A-5-102(8), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5; or

(c) the justice court has original jurisdiction over the offense under Subsection 78A-7-106(2), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5.

(4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court

to exercise jurisdiction under Subsection (2)(a)(xvi), (b), or (c).

(5) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404 or 80-3-504.

(8) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(6) and Section 80-6-303.

(9) The juvenile court has jurisdiction to enforce foreign protection orders as described in Subsection 78B-7-303(8).

Section 8. Section 80-1-102 is amended to read:

80-1-102. Juvenile Code definitions.

Except as provided in Section 80-6-1103, as used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means, except as provided in Subsection (3)(b):

(i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:

(A) a finding by the juvenile court that the facts alleged in a delinquency petition or criminal information alleging that a minor committed an offense have been proved;

(B) an admission by a minor in the juvenile court as described in Section 80-6-306; or

(C) a plea of no contest by minor in the juvenile court; or

(ii) for all other proceedings under this title, a finding by the juvenile court that the facts alleged in the petition have been proved.

(b) "Adjudication" does not include:

(i) an admission by a minor described in Section 80-6-306 until the juvenile court enters the minor's admission; or

(ii) a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 80-3-307.

(9) "Child placing" means the same as that term is defined in Section 26B-2-101.

(10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.

(11) "Child protection team" means a team consisting of:

(a) the child welfare caseworker assigned to the case;

(b) if applicable, the child welfare caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) if applicable, the law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12) (a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(13) (a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(15) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.

(17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth Services in accordance with Section 80-5-501, for minors held in detention.

(25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(29) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(30) "Emancipated" means the same as that term is defined in Section 80-7-102.

(31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(34) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(37) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(38) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.

(39) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(45) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(46) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(47) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(50) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(51) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

(52) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

(53) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

(iii) (A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

(55) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

(56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.

(57) (a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(58) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated child custody transfer under Section 78B-24-203; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(59) "Neglected child" means a child who has been subjected to neglect.

(60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, guardian, or custodian.

(61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(62) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.

(63) "Physical abuse" means abuse that results in physical injury or damage to a child.

(64) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(65) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(66) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(67) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

(68) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(69) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(70) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(71) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(72) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.

(73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(74) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(75) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

(76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(78) (a) "Severe type of child abuse or neglect" means, except as provided in Subsection (78)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

(B) sexual behavior with or upon another child that indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with Subsection 53G-8-302(2) or Section 76-2-401;

(ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

(iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

(79) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (39), including siblings by marriage while the marriage exists or by adoption; or

(iii) the act or attempted act constitutes unlawful sexual activity as described in Section 76-5-401.3.

[~~(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or~~]

[~~(iv) there is a disparity in chronological age of four or more years between the two children;~~]

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(80) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

(83) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

(f) family risk factors; and

(g) other related considerations.

(84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(85) "Status offense" means an offense that would not be an offense but for the age of the offender.

(86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

(87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred .

(88) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or

(c) the licensing and supervision of a substitute care facility.

(89) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

(90) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(91) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(93) "Torture" means:

(a) the infliction of a serious injury upon a child in an exceptionally cruel or exceptionally depraved manner that causes the child to experience extreme physical or psychological pain or anguish; or

(b) the infliction of a serious injury, or more than one serious injury, upon a child as part of a course of conduct or over a prolonged period of time.

[~~(93)~~](94) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections [~~(93)(a)~~](94)(a) and (b).

[~~(94)~~](95) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

[~~(95)~~](96) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

[~~(96)~~](97) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

[~~(97)~~](98) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

[~~(98)~~](99) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

Section 9. Section 80-2-707 is amended to read:

80-2-707. Supported finding of child abuse or neglect after division investigation -- Notice to alleged perpetrator -- Rights of alleged perpetrator -- Administrative review -- Joinder in juvenile court.

(1) (a) Except as provided in Subsection (2), if, after investigation, the division makes a supported finding, the division shall send a notice of agency action to the alleged perpetrator.

(b) If the alleged perpetrator described in Subsection (1)(a) is under 18 years old, the division shall:

(i) make reasonable efforts to identify the alleged perpetrator's parent or guardian; and

(ii) send a notice to each parent or guardian identified under Subsection (1)(b)(i) that lives at a different address, unless there is good cause, as defined by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for not sending a notice to the parent or guardian.

(c) This section does not affect:

(i) the manner in which the division conducts an investigation; or

(ii) the use or effect, in any other setting, of a supported finding by the division at the completion of an investigation for any purpose other than for notification under Subsection (1) (a) or (b).

(2) Subsection (1) does not apply to an alleged perpetrator who is served with notice under Section 80-2-708.

(3) The notice described in Subsection (1) shall state that:

(a) the division conducted an investigation regarding alleged abuse, neglect, or dependency;

(b) the division made a supported finding of abuse, neglect, or dependency;

(c) facts gathered by the division support the supported finding;

(d) the alleged perpetrator has the right to request:

(i) a copy of the report; and

(ii) an opportunity to challenge the supported finding by the division; and

(e) failure to request an opportunity to challenge the supported finding within 30 days after the day on which the notice is received will result in an unappealable supported finding of abuse, neglect, or dependency unless the alleged perpetrator can show good cause for why compliance within the 30-day requirement is virtually impossible or unreasonably burdensome.

(4) (a) Except as provided in Subsection (7), an alleged perpetrator may make a request to challenge a supported finding within 30 days after the day on which the alleged perpetrator receives a notice under this section.

(b) Upon receipt of a request under Subsection (4)(a), the Office of Administrative Hearings shall hold an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(5) (a) In an adjudicative proceeding held under this section, the division has the burden of proving, by a preponderance of the evidence, that abuse, neglect, or dependency occurred and that the alleged perpetrator is substantially responsible for the abuse or neglect that occurred.

(b) Any party has the right of judicial review of final agency action, in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(c) A proceeding for judicial review of a final agency action under this section shall be closed to the public.

(d) The Judicial Council shall make rules that ensure the confidentiality of the proceeding described in Subsection (5)(c) and the records related to the proceedings.

(6) Except as otherwise provided in this chapter, an alleged perpetrator who, after receiving notice, fails to challenge a supported finding in accordance with this section:

(a) may not further challenge the finding; and

(b) shall have no right to:

(i) agency review of the finding;

(ii) an adjudicative hearing on the finding; or

(iii) judicial review of the finding.

(7) (a) Except as provided in Subsection (7)(b), an alleged perpetrator may not make a request under Subsection (4) to challenge a supported finding if a court of competent jurisdiction entered a finding, in a proceeding in which the alleged perpetrator was a party, that the alleged perpetrator is substantially responsible for the abuse, neglect, or dependency that is the subject of the supported finding.

(b) Subsection (7)(a) does not apply to pleas in abeyance or diversion agreements.

(c) An adjudicative proceeding under Subsection (5) may be stayed during the time a judicial action or an active criminal investigation on the same matter is pending.

(8) Under Section 80-3-404, an adjudicative proceeding on a supported finding of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication on a supported finding of a severe type of child abuse or neglect.

Section 10. Section 80-2-708 is amended to read:

80-2-708. Supported finding of a severe type of child abuse or neglect after division investigation -- Notation in Licensing Information System -- Juvenile court petition or notice to alleged perpetrator -- Rights of alleged perpetrator.

(1) If, after investigation, the division makes a supported finding that an individual committed a severe type of child abuse or neglect, the division shall:

(a) serve notice of the supported finding on the alleged perpetrator in accordance with Subsection (4);

(b) enter the information described in Subsections 80-2-1002(2)(a) and (b) into the Licensing Information System; and

(c) if the division considers it advisable, file a petition for substantiation in accordance with Section 80-3-504 within [~~one year~~]30 days after the day on which the division makes the supported finding.

(2) The notice described in Subsection (1)(a):

(a) shall state that:

(i) the division conducted an investigation regarding alleged abuse or neglect;

(ii) the division made a supported finding that the alleged perpetrator described in Subsection (1) committed a severe type of child abuse or neglect;

(iii) facts gathered by the division support the supported finding;

(iv) as a result of the supported finding, the alleged perpetrator's name and other identifying information have been listed in the Licensing Information System in accordance with Subsection (1)(b);

(v) the alleged perpetrator may be disqualified from adopting a child, receiving state funds as a child care provider, or being licensed by:

(A) the department;

(B) a human services licensee;

(C) a child care provider or program; or

(D) a covered health care facility;

(vi) the alleged perpetrator has the rights described in Subsection (3); and

(vii) failure to take the action described in Subsection (3)(a) within [~~one year~~]30 days after the day on which the notice is served will result in the action described in Subsection (3)(b);

(b) shall include a general statement of the nature of the supported finding; and

(c) may not include:

(i) the name of a victim or witness; or

(ii) any privacy information related to the victim or a witness.

(3) (a) [~~Upon receipt of~~]Within 30 days after the day on which the alleged perpetrator receives the notice described in [~~Subsection (2)~~]Subsections (1)(a) and (2), the alleged perpetrator has the right to:

(i) file a written request asking the division to review the supported finding made under Subsection (1);

(ii) except as provided in Subsection (3)(b), [~~immediately~~]petition the juvenile court [~~under Section 80-3-404~~]for a finding of unsubstantiated or without merit in accordance with Section 80-3-504; or

(iii) sign a written consent to:

(A) the supported finding made under Subsection (1); and

(B) entry into the Licensing Information System of the alleged perpetrator's name and other information regarding the supported finding made under Subsection (1).

(b) The alleged perpetrator has no right to petition the juvenile court under Subsection (3)(a)(ii)[~~if the juvenile court previously held a hearing on the same alleged incident of abuse or neglect after the filing of an abuse, neglect, or dependency petition, as defined in Section 80-3-102, by another party~~]if the alleged perpetrator:

(i) files the petition more than 30 days after the day on which the alleged perpetrator receives the notice described in Subsections (1)(a) and (2); or

(ii) has been the subject of any of the following court determinations with respect to the alleged incident of abuse or neglect:

(A) conviction;

(B) adjudication under Section 80-3-402 or 80-6-701;

(C) plea of guilty;

(D) plea of guilty with a mental condition; or

(E) plea of no contest.

(c) The child's parent or guardian shall give the consent for a child under Subsection (3)(a)(iii).

(4) Service of the notice described in Subsections (1)(a) and (2):

(a) shall be personal service in accordance with Utah Rules of Civil Procedure, Rule 4; and

(b) does not preclude civil or criminal action against the alleged perpetrator.

Section 11. Section 80-2-1002 is amended to read:

80-2-1002. Licensing Information System -- Contents -- Classification of records -- Access -- Unlawful release -- Penalty.

(1) (a) The division shall maintain a sub-part of the Management Information System as the Licensing Information System to be used:

(i) for licensing purposes; or

(ii) as otherwise provided by law.

(b) Notwithstanding Subsection (1)(a), the department's access to information in the Management Information System for the licensure and monitoring of a foster parent is governed by Sections 80-2-1001 and 26B-2-121.

(2) The Licensing Information System shall include only the following information:

(a) the name and other identifying information of the alleged perpetrator in a supported finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;

(b) a notation to the effect that an investigation regarding the alleged perpetrator described in Subsection (2)(a) is pending;

(c) the information described in Subsection (3);

(d) consented-to supported findings by an alleged perpetrator under Subsection 80-2-708(3)(a)(iii);

(e) a finding from the juvenile court under Section 80-3-404 or 80-3-504; and

(f) the information in the licensing part of the division's Management Information System as of May 6, 2002.

(3) Subject to Section 80-2-1003, upon receipt of a finding from the juvenile court under Section 80-3-404 or 80-3-504, the division shall:

(a) promptly amend the Licensing Information System to include the finding; and

(b) enter the finding in the Management Information System.

(4) Information or a record contained in the Licensing Information System is:

(a) a protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, accessible only:

(i) to the Division of Licensing and Background Checks created in Section 26B-2-103:

(A) for licensing purposes; or

(B) as otherwise specifically provided for by law;

(ii) to the division to:

(A) screen an individual at the request of the Office of Guardian Ad Litem at the time the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem and annually throughout the time that the individual remains with the Office of Guardian Ad Litem; and

(B) respond to a request for information from an individual whose name is listed in the Licensing Information System;

(iii) to a person designated by the Department of Health and Human Services, only for the following purposes:

(A) licensing a child care program or provider; or

(B) determining whether an individual associated with a child care facility, program, or provider, who is exempt from being licensed or certified by the Department of Health and Human Services under Title 26B, Chapter 2, Part 4, Child Care Licensing, has a supported finding of a severe type of child abuse or neglect;

(iv) to a person designated by the Department of Workforce Services and approved by the Department of Health and Human Services for the purpose of qualifying a child care provider under Section 35A-3-310.5;

(v) to the Bureau of Emergency Medical Services, within the Department of Public Safety, in determining whether an individual who is seeking an emergency medical services license has a supported finding of a severe type of child abuse or neglect;

(vi) as provided in Section 26B-2-121; or

(vii) to the department or another person, as provided in this chapter.

(5) A person designated by the Department of Health and Human Services, the Department of Workforce Services, or the Bureau of Emergency Medical Services under Subsection (4) shall adopt measures to:

(a) protect the security of the Licensing Information System; and

(b) strictly limit access to the Licensing Information System to persons allowed access by statute.

(6) The department shall approve a person allowed access by statute to information or a record contained in the Licensing Information System and provide training to the person with respect to:

(a) accessing the Licensing Information System;

(b) maintaining strict security; and

(c) the criminal provisions of Sections 63G-2-801 and 80-2-1005 pertaining to the improper release of information.

(7) (a) Except as authorized by this chapter, a person may not request another person to obtain or release any other information in the Licensing Information System to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of this Subsection (7) is subject to the criminal penalties described in Sections 63G-2-801and 80-2-1005.

Section 12. Section 80-2-1003 is amended to read:

80-2-1003. Deletion, expungement, or notation of information or reports in Management Information System or Licensing Information System.

(1) (a) The division shall delete any reference in the Management Information System or Licensing Information System to a report that:

(i) the division determines is without merit, if no subsequent report involving the same alleged perpetrator occurs within one year after the day on which the division makes the determination; or

(ii) a court of competent jurisdiction determines is unsubstantiated or without merit, if no subsequent report involving the same alleged perpetrator occurs within five years after the day on which the juvenile court makes the determination.

(b) Except as provided in Subsection (1)(c), the information described in Subsections 80-2-1002(2)(a) and (b) shall remain in the Licensing Information System:

(i) if the alleged perpetrator fails to take the action described in Subsection 80-2-708(3)(a) within [~~one year~~]30 days after the day on

which the notice described in Subsections 80-2-708(1)(a) and (2) is served;

(ii) during the time that the division awaits a response from the alleged perpetrator under Subsection 80-2-708(3)(a); and

(iii) until a juvenile court determines that the severe type of child abuse or neglect upon which the Licensing Information System entry was based is unsubstantiated or without merit.

(c) Regardless of whether an appeal on the matter is pending:

(i) the division shall remove the information described in Subsections 80-2-1002(2)(a)and (b) from the Licensing Information System if the severe type of child abuse or neglect upon which the Licensing Information System entry is based:

(A) is found to be unsubstantiated or without merit by the juvenile court under Section 80-3-404 or 80-3-504; or

(B) is found to be substantiated, but is subsequently reversed on appeal; and

(ii) the division shall place back on the Licensing Information System an alleged perpetrator's name and information that is removed from the Licensing Information System under Subsection (1)(c)(i) if the court action that was the basis for removing the alleged perpetrator's name and information is subsequently reversed on appeal.

(2) (a) The division shall maintain a separation of reports as follows:

(i) those that are supported;

(ii) those that are unsupported;

(iii) those that are without merit;

(iv) those that are unsubstantiated under the law in effect before May 6, 2002;

(v) those that are substantiated under the law in effect before May 6, 2002; and

(vi) those that are consented-to supported findings under Subsection 80-2-708(3)(a)(iii).

(b) Only a person with statutory authority may access the information contained in a report described in Subsection (2)(a).

(3) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expungement of supported reports or unsupported reports in the Management Information System and the Licensing Information System that:

(a) in relation to an unsupported report or a supported report, identify the types of child abuse or neglect reports that the division:

(i) shall expunge within five years after the last date on which the individual's name is placed in the information system, without requiring the subject of the report to request expungement;

(ii) shall expunge within 10 years after the last date on which the individual's name is placed in the information system, without requiring the subject of the report to request expungement;

(iii) may expunge following an individual's request for expungement in accordance with Subsection (4); and

(iv) may not expunge due to the serious nature of the specified types of child abuse or neglect;

(b) establish an administrative process and a standard of review for the subject of a report to make an expungement request; and

(c) define the term "expunge" or "expungement" to clarify the administrative process for removing a record from the information system.

(4) (a) If an individual's name is in the Management Information System or Licensing Information System for a type of child abuse or neglect report identified under Subsection (3)(a)(iii), the individual may request to have the report expunged 10 years after the last date on which the individual's name is placed in the information system for a supported or unsupported report.

(b) If an individual's expungement request is denied, the individual shall wait at least one year after the day on which the denial is issued before the individual may again request to have the individual's report expunged.

Section 13. Section 80-2-1004 is amended to read:

80-2-1004. Request for division removal of name from Licensing Information System -- Petition for evidentiary hearing or substantiation.

(1) Except as provided in Subsection (2), an individual whose name [~~is~~]was listed on the Licensing Information System [~~as of~~]before May 6, 2002, may[~~at any time~~]:

(a) request, in writing, a review by the division of the individual's case and removal of the individual's name from the Licensing Information System under Subsection (3); or

(b) file a petition for substantiation and a request for a finding of unsubstantiated or without merit in accordance with Section 80-3-504.

(2) Subsection [~~(1)~~](1)(b) does not apply to an individual who has been the subject of any of the following court determinations with respect to the alleged incident of abuse or neglect:

(a) conviction;

(b) adjudication under Section 80-3-402 or 80-6-701;

(c) plea of guilty;

(d) plea of guilty with a mental condition; or

(e) plea of no contest.

(3) If an alleged perpetrator whose name was listed on the Licensing Information System before May 6, 2002, requests removal of the alleged perpetrator's name from the Licensing Information System, the division shall, within 30 days after the day on which the written request is made:

(a) (i) review the case to determine whether the incident of alleged abuse or neglect qualifies as:

(A) a severe type of child abuse or neglect;

(B) chronic abuse; or

(C) chronic neglect; and

(ii) if the alleged abuse or neglect does not qualify as a type of abuse or neglect described in Subsections (3)(a)(i)(A) through (C), remove the alleged perpetrator's name from the Licensing Information System; or

(b) determine whether to file a petition for substantiation in accordance with Section 80-3-504.

Section 14. Section 80-3-301 is amended to read:

80-3-301. Shelter hearing -- Court considerations.

(1) A juvenile court shall hold a shelter hearing to determine the temporary custody of a child within 72 hours, excluding weekends and holidays, after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in protective custody;

(c) emergency placement under Subsection 80-2a-202(5);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a motion for expedited placement in temporary custody is filed under Section 80-3-203.

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the individual to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf an abuse, neglect, or dependency petition is brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding is instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after the day on which the child is removed from the child's home, or the day on which a motion for expedited placement in temporary custody under Section 80-3-203 is filed, on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) Notwithstanding Section 80-3-104, the following individuals shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the child welfare caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the juvenile court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other individual with relevant knowledge;

(ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and

(iii) in accordance with Subsections 80-3-302(7)(c) and (d), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The juvenile court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or the requesting party's counsel, including relevant evidence regarding harm the specific child has suffered or will suffer due to the separation or continued separation from the child's parent or guardian; and

(iii) may in the juvenile court's discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in protective custody, the division shall report to the juvenile court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 80-3-302(7)(c) and (d), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized to present relevant evidence under this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.

(b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in protective custody, the juvenile court shall order that the child be returned to the custody of the parent or guardian unless the juvenile court finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 80-2a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by:

(A) a parent or guardian;

(B) a member of the parent's household or the guardian's household; or

(C) an individual known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the parent or guardian is unable to have physical custody of the child;

(vii) the child is without any provision for the child's support;

(viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(ix) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(x) subject to Subsection 80-1-102(58)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(xi) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xii) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiv) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed the child to be in the physical care of an individual after the parent received actual notice that the individual physically abused, sexually abused, or sexually exploited the child, that fact is prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The juvenile court shall make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that the services be provided by the division.

(b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).

(11) If the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section 80-2a-302, was appropriate.

(12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the juvenile court and the division do not have any duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.

(14) (a) If a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which the decision is based.

(b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which the decision is based.

(15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter, Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child.

Section 15. Section 80-3-404 is amended to read:

80-3-404. Finding of severe child abuse or neglect -- Order delivered to division -- Court records.

(1) If an abuse, neglect, or dependency petition [~~is~~]filed with the juvenile court [~~that~~]pursuant to Section 80-3-201 informs the juvenile court that the division has made a supported finding that an individual committed a severe type of child abuse or neglect, the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding described in Subsection (1)(a) in a written order; and

(c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(2) The juvenile court shall make the finding described in Subsection (1):

(a) as part of the adjudication hearing;

(b) at the conclusion of the adjudication hearing; or

(c) as part of a court order entered under a written stipulation of the parties.

(3) In accordance with Section 80-2-707, a proceeding for adjudication of a supported finding of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.

(4) (a) The juvenile court shall make [~~records~~]a record of the juvenile court's findings under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26B-1-211, 26B-2-120, and 26B-2-404, or for the purposes described in Sections [~~53-2d-410,~~]26B-2-121, 26B-2-238 through 26B-2-241, or [~~26B-4-124~~]53-2d-410.

(b) An appellate court shall make [~~records~~]a record of an appeal from the juvenile court's decision under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes described in Subsection (4)(a).

Section 16. Section 80-3-406 is amended to read:

80-3-406. Permanency plan -- Reunification services.

(1) If the juvenile court orders continued removal at the dispositional hearing under Section 80-3-402, and that the minor remain in the custody of the division, the juvenile court shall first:

(a) establish a primary permanency plan and a concurrent permanency plan for the minor in accordance with this section; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family under Subsections (5) through (8).

(2) (a) The concurrent permanency plan shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the juvenile court shall consider:

(i) the preference for kinship placement over nonkinship placement, including the rebuttable presumption described in Subsection 80-3-302(7)(a);

(ii) the potential for a guardianship placement if parental rights are terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(3) (a) The juvenile court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 80-3-409.

(b) The juvenile court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the juvenile court determines that reunification is no longer a minor's primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 on or before the earlier of:

(i) 30 days after the day on which the juvenile court makes the determination described in this Subsection (3)(c); or

(ii) the day on which the provision of reunification services, described in Section 80-3-409, ends.

(4) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The juvenile court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(5) There is a presumption that reunification services should not be provided to a parent if the juvenile court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based on a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such magnitude that the mental illness renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the child:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a minor; or

(B) child abuse homicide;

(iii) committed sexual abuse against the minor;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor;

(e) the minor suffered severe abuse by the parent or by any individual known by the parent if the parent knew or reasonably should have known that the individual was abusing the minor;

(f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent, and the juvenile court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are involuntarily terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the minor to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the minor's mother while the minor was in utero, if the minor was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) [~~any other circumstance that the juvenile court determines should preclude reunification efforts or services.~~]the parent has subjected the minor to aggravated circumstances, including:

(i) a severe type of child abuse or neglect;

(ii) torture; or

(iii) human trafficking of a child as described in Section 76-5-308.5.

(6) (a) The juvenile court shall base the finding under Subsection (5)(b) on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.

(b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (5)(k) is not warranted.

(7) In determining whether reunification services are appropriate, the juvenile court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the minor or an immediate family member;

(d) the circumstances under which the parent's rights were voluntarily terminated with regard to any other minor;

[~~(d)~~](e) whether a parent continues to live with an individual who abused the minor;

[~~(e)~~](f) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

[~~(f)~~](g) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

[~~(g)~~](h) whether the parent has expressed an interest in reunification with the minor.

(8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification services, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(9) (a) Subject to Subsections (9)(b) through (e), if the juvenile court determines that reunification services are appropriate for the minor and the minor's family, the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(b) Parent-time is in the best interests of a minor unless the juvenile court makes a finding that it is necessary to deny parent-time in order to:

(i) protect the physical safety of the minor;

(ii) protect the life of the minor; or

(iii) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based solely on a parent's failure to:

(i) prove that the parent has not used legal or illegal substances; or

(ii) comply with an aspect of the child and family plan that is ordered by the juvenile court.

(d) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(e) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (9)(e)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (9)(e)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(10) (a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (10)(a), the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved:

(a) the juvenile court does not have any duty to order reunification services; and

(b) the division does not have a duty to make reasonable efforts to or in any other way attempt to provide reunification services or attempt to rehabilitate the offending parent or parents.

(12) (a) The juvenile court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute reasonable efforts on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 80-3-307(5)(g)(iii); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program, the juvenile court may order the parent:

(i) to submit to supplementary drug or alcohol testing, in accordance with Subsection 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) to provide the results of drug or alcohol testing recommended by the substance use disorder program to the juvenile court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the day on which the minor was initially removed from the minor's home, unless the time period is extended under Subsection 80-3-409(7).

(b) This section does not entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the juvenile court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established under Section 80-3-409, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the final permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (10) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 before the day on which the time period for reunification services expires.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the day on which reunification services are ordered:

(a) the juvenile court shall terminate reunification services; and

(b) the division shall petition the juvenile court for termination of parental rights.

(18) When a minor is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation, subject to the division obtaining consent from the sibling's guardian, according to the juvenile court's determination of the best interests of the minor for whom the hearing is held.

(19) (a) If reunification services are not ordered under this section, and the whereabouts of a parent becomes known within six months after the day on which the out-of-home placement of the minor is made, the juvenile court may order the division to provide reunification services.

(b) The time limits described in this section are not tolled by the parent's absence.

(20) (a) If a parent is incarcerated or institutionalized, the juvenile court shall order reasonable services unless the juvenile court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (20)(a), the juvenile court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in this section.

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in this section, unless the juvenile court determines that continued reunification services would be in the minor's best interest.

Section 17. Section 80-3-504 is amended to read:

80-3-504. Petition for substantiation -- Court findings -- Expedited hearing -- Records of an appeal.

(1) The division or an individual may file a petition for substantiation in accordance with Section 80-2-708 or 80-2-1004.

(2) An adjudicative proceeding on a petition for substantiation may be stayed during the time a judicial action or an active criminal investigation on the same matter is pending.

(3) If the division decides to file a petition for substantiation under Section 80-2-1004, the division shall file the petition [~~no more than 14~~]within 30 days after the day on which the division makes the decision.

[~~(3)~~](4) At the conclusion of the hearing on a petition for substantiation, the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding in a written order; and

(c) deliver a certified copy of the order to the division.

[~~(4)~~](5) If an individual whose name is listed on the Licensing Information System before May 6, 2002, files a petition for substantiation under Section 80-2-1004 during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall:

(a) hear the matter on an expedited basis; and

(b) enter a final decision no later than 60 days after the day on which the petition for substantiation is filed.

[~~(5)~~](6) (a) The juvenile court shall make a record of the juvenile court's findings under Subsection (4) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26B-1-211, 26B-2-120, and 26B-2-404, or for the purposes described in Sections 26B-2-121, or 26B-2-238 through 26B-2-241, or 53-2d-410.

(b) An appellate court shall make a record of an appeal from the juvenile court's decision under Subsection [~~(3)~~](4) available only to an individual with statutory authority to access the Licensing Information System for the purposes [~~of licensing under Sections 26B-1-211, 26B-2-120, 26B-2-404, or for the purposes described in Sections 53-2d-410, 26B-2-121, 26B-2-238 through 26B-2-241, or 26B-4-124~~]described in Subsection (6)(a).

Section 18. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 448
S. B. 164
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

MODIFICATIONS TO ELECTION LAW

Chief Sponsor: Wayne A. Harper
House Sponsor: Paul A. Cutler

LONG TITLE

General Description:

This bill modifies provisions relating to elections.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires a county clerk to coordinate with local post offices to ensure the optimal handling of ballots;
- ► provides that a poll watcher may observe the signature-verification process for a petition to qualify a candidate for a primary election ballot (candidate petition) or for a written request to remove a signature from a candidate petition;
- ► makes it unlawful for a poll watcher to reveal certain information observed during the process described in the preceding paragraph;
- ► requires an election officer to conduct an audit of signature comparisons made for a candidate petition;
- ► requires an election officer who engages in the signature-verification process for a candidate petition to certify a certain percentage of signatures submitted beyond the required signature-gathering threshold;
- ► addresses viewing by a candidate or a candidate's campaign representative of a complete, unredacted signature packet, or a request to remove a signature from a signature packet, relating to a candidate petition for the candidate's election race;
- ► provides the ability for a voter to track a candidate petition recently signed by the voter and certain information relating to verification of the signature;
- ► in relation to a signature packet for a candidate petition, establishes requirements for:
  - • submitting the packet;
  - • maintaining a chain of custody for a packet; and
  - • storing a packet;
- ► grants rulemaking authority to the director of elections within the Office of the Lieutenant Governor;
- ► amends provisions relating to deadlines and the calculation of time in the Election Code;
- ► clarifies and modifies deadlines in the Election Code;
- ► includes coordination clauses:
  - • adding Easter Sunday as a legal holiday, to the repeal and reenactment of Section 63G-1-301 in this bill, if this bill and S.B. 259, State Holy Days, both pass and become law; and
  - • in the coordination clause described above, adding other changes made to Section 63G-1-301 in S.B. 259 to the repeal and reenactment of that section in this bill; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

10-3-301, as last amended by Laws of Utah 2023, Chapter 435
20A-1-102, as last amended by Laws of Utah 2024, Chapter 438
20A-1-206, as last amended by Laws of Utah 2023, Chapters 15, 435
20A-1-304, as last amended by Laws of Utah 2024, Chapter 503
20A-1-502, as last amended by Laws of Utah 2020, Chapter 13
20A-1-502.5, as enacted by Laws of Utah 2020, Chapter 13
20A-1-503, as last amended by Laws of Utah 2019, First Special Session, Chapter 4
20A-1-506, as last amended by Laws of Utah 2018, Chapter 25
20A-1-508, as last amended by Laws of Utah 2022, Chapters 13, 166 and 177
20A-1-509.1, as last amended by Laws of Utah 2022, Chapter 13
20A-1-509.2, as last amended by Laws of Utah 2019, Chapter 255
20A-1-510, as last amended by Laws of Utah 2024, Chapters 438, 450
20A-1-510.1, as enacted by Laws of Utah 2018, Chapter 365
20A-1-511, as last amended by Laws of Utah 2020, Chapter 271
20A-1-512, as last amended by Laws of Utah 2024, Chapter 388
20A-1-513, as last amended by Laws of Utah 2024, Chapter 448

20A-1-802, as enacted by Laws of Utah 2014, Chapter 254
20A-1-803, as enacted by Laws of Utah 2014, Chapter 254
20A-2-101, as last amended by Laws of Utah 2023, Chapter 15
20A-2-101.1, as last amended by Laws of Utah 2018, Chapter 223
20A-2-104, as last amended by Laws of Utah 2023, Chapters 327, 406
20A-2-105, as last amended by Laws of Utah 2023, Chapter 215
20A-2-107, as last amended by Laws of Utah 2023, Chapters 45, 89 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 89
20A-2-204, as last amended by Laws of Utah 2023, Chapter 237
20A-2-205, as last amended by Laws of Utah 2020, Chapter 31 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 95
20A-2-304, as last amended by Laws of Utah 2022, Chapter 156
20A-2-502, as renumbered and amended by Laws of Utah 2023, Chapter 297
20A-2-503, as renumbered and amended by Laws of Utah 2023, Chapter 297
20A-2-504, as renumbered and amended by Laws of Utah 2023, Chapter 297
20A-2-505, as last amended by Laws of Utah 2023, Chapters 327, 406 and renumbered and amended by Laws of Utah 2023, Chapter 297
20A-3a-106, as enacted by Laws of Utah 2023, Chapter 297
20A-3a-202, as last amended by Laws of Utah 2023, Chapters 56, 106 and 297
20A-3a-203, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-3a-401, as last amended by Laws of Utah 2024, Chapter 477
20A-3a-502, as enacted by Laws of Utah 2020, Chapter 31
20A-3a-601, as last amended by Laws of Utah 2020, Chapter 95 and renumbered and amended by Laws of Utah 2020, Chapter 31
20A-3a-604, as last amended by Laws of Utah 2023, Chapters 45, 435
20A-3a-703, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-3a-801, as last amended by Laws of Utah 2022, Chapters 18, 380
20A-3a-803, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-3a-804, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-3a-807, as enacted by Laws of Utah 2022, Chapter 380
20A-4-104, as last amended by Laws of Utah 2023, Chapters 45, 297 and 435
20A-4-301, as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
20A-4-302, as enacted by Laws of Utah 1993, Chapter 1
20A-4-304, as last amended by Laws of Utah 2024, Chapter 503
20A-4-305, as last amended by Laws of Utah 2023, Chapter 15
20A-4-306, as last amended by Laws of Utah 2024, Chapter 503
20A-4-401, as last amended by Laws of Utah 2024, Chapter 503
20A-4-603, as last amended by Laws of Utah 2022, Chapter 342
20A-5-101, as last amended by Laws of Utah 2023, Chapters 45, 56, 106, 297, and 435
20A-5-303, as last amended by Laws of Utah 2021, Chapters 162, 345
20A-5-400.1, as last amended by Laws of Utah 2021, Chapter 101
20A-5-403.5, as last amended by Laws of Utah 2023, Chapters 45, 297 and 435
20A-5-405, as last amended by Laws of Utah 2023, Chapters 45, 435
20A-5-410, as last amended by Laws of Utah 2022, Chapter 248
20A-5-602, as last amended by Laws of Utah 2023, Chapter 15
20A-6-105, as last amended by Laws of Utah 2023, Chapter 406
20A-6-106, as last amended by Laws of Utah 2019, Chapter 255
20A-6-302, as last amended by Laws of Utah 2020, Chapter 31
20A-6-305, as last amended by Laws of Utah 2020, Chapter 49
20A-7-103, as last amended by Laws of Utah 2024, Chapter 465
20A-7-105, as last amended by Laws of Utah 2024, Chapters 442, 465
20A-7-201, as last amended by Laws of Utah 2023, Chapter 107
20A-7-202.5, as last amended by Laws of Utah 2024, Chapter 442
20A-7-204, as last amended by Laws of Utah 2024, Chapter 442
20A-7-204.1, as last amended by Laws of Utah 2023, Chapters 107, 435 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 107
20A-7-207, as last amended by Laws of Utah 2023, Chapters 107, 116
20A-7-211, as last amended by Laws of Utah 2023, Chapter 107
20A-7-212, as last amended by Laws of Utah 2019, Chapter 206
20A-7-214, as last amended by Laws of Utah 2023, Chapter 107
20A-7-216, as last amended by Laws of Utah 2024, Chapter 442
20A-7-217, as last amended by Laws of Utah 2023, Chapter 107
20A-7-302, as last amended by Laws of Utah 2023, Chapter 107
20A-7-304, as last amended by Laws of Utah 2023, Chapter 107
20A-7-307, as last amended by Laws of Utah 2023, Chapters 107, 116 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 116
20A-7-308, as last amended by Laws of Utah 2024, Chapter 442
20A-7-310, as last amended by Laws of Utah 2023, Chapter 107
20A-7-311, as last amended by Laws of Utah 2023, Chapter 107

20A-7-314, as last amended by Laws of Utah 2024, Chapter 442
20A-7-315, as last amended by Laws of Utah 2023, Chapter 107
20A-7-401.5, as last amended by Laws of Utah 2023, Chapter 116
20A-7-402, as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
20A-7-501, as last amended by Laws of Utah 2024, Chapter 438
20A-7-502.7, as last amended by Laws of Utah 2024, Chapter 438
20A-7-504, as last amended by Laws of Utah 2024, Chapters 438, 442
20A-7-507, as last amended by Laws of Utah 2023, Chapters 107, 116
20A-7-508, as last amended by Laws of Utah 2024, Chapter 442
20A-7-510, as last amended by Laws of Utah 2023, Chapter 107
20A-7-511, as enacted by Laws of Utah 1994, Chapter 272
20A-7-513, as last amended by Laws of Utah 2023, Chapter 107
20A-7-515, as last amended by Laws of Utah 2024, Chapter 442
20A-7-516, as last amended by Laws of Utah 2023, Chapter 107
20A-7-601, as last amended by Laws of Utah 2024, Chapters 427, 438
20A-7-602.7, as last amended by Laws of Utah 2024, Chapter 438
20A-7-602.8, as last amended by Laws of Utah 2024, Chapter 438
20A-7-604, as last amended by Laws of Utah 2024, Chapters 438, 442
20A-7-607, as last amended by Laws of Utah 2023, Chapters 107, 116
20A-7-608, as last amended by Laws of Utah 2024, Chapter 442
20A-7-609.5, as last amended by Laws of Utah 2020, Chapter 31
20A-7-610, as last amended by Laws of Utah 2023, Chapter 107
20A-7-611, as last amended by Laws of Utah 2023, Chapter 107
20A-7-613, as last amended by Laws of Utah 2023, Chapter 116
20A-7-615, as last amended by Laws of Utah 2024, Chapter 442
20A-7-616, as last amended by Laws of Utah 2023, Chapter 107
20A-7-702.5, as enacted by Laws of Utah 2022, Chapter 11
20A-7-703, as last amended by Laws of Utah 2024, Chapter 465
20A-7-703.1, as enacted by Laws of Utah 2024, Chapter 465
20A-7-705, as last amended by Laws of Utah 2019, Chapters 217, 255
20A-7-706, as last amended by Laws of Utah 2019, Chapter 255
20A-7-801, as last amended by Laws of Utah 2021, Chapter 100
20A-8-103, as last amended by Laws of Utah 2023, Chapter 116
20A-8-401, as last amended by Laws of Utah 2019, Chapter 255
20A-8-402, as last amended by Laws of Utah 2019, Chapter 255
20A-8-404, as last amended by Laws of Utah 2023, Chapter 68
20A-9-201, as last amended by Laws of Utah 2024, Chapter 465
20A-9-201.5, as last amended by Laws of Utah 2023, Chapter 45
20A-9-202, as last amended by Laws of Utah 2021, Second Special Session, Chapter 6
20A-9-203, as last amended by Laws of Utah 2024, Chapter 465
20A-9-207, as last amended by Laws of Utah 2024, Chapter 465
20A-9-403, as last amended by Laws of Utah 2024, Chapter 503
20A-9-404, as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
20A-9-408, as last amended by Laws of Utah 2023, Chapter 116
20A-9-502, as last amended by Laws of Utah 2024, Chapter 17
20A-9-601, as last amended by Laws of Utah 2024, Chapter 465
20A-11-101, as last amended by Laws of Utah 2024, Chapter 438
20A-11-103, as last amended by Laws of Utah 2024, Chapter 443
20A-11-105, as last amended by Laws of Utah 2019, Chapter 255
20A-11-201, as last amended by Laws of Utah 2021, Chapter 20
20A-11-204, as last amended by Laws of Utah 2021, Chapter 20
20A-11-206, as last amended by Laws of Utah 2023, Chapter 45
20A-11-301, as last amended by Laws of Utah 2021, Chapter 20
20A-11-303, as last amended by Laws of Utah 2021, Chapter 20
20A-11-305, as last amended by Laws of Utah 2023, Chapter 45
20A-11-401, as last amended by Laws of Utah 2018, Chapter 83
20A-11-402, as last amended by Laws of Utah 2019, Chapter 74
20A-11-403, as last amended by Laws of Utah 2021, Chapter 20
20A-11-507, as last amended by Laws of Utah 2019, Chapter 74
20A-11-508, as last amended by Laws of Utah 2020, Chapter 22
20A-11-511, as last amended by Laws of Utah 2019, Chapter 74
20A-11-512, as last amended by Laws of Utah 2020, Chapter 22
20A-11-601, as last amended by Laws of Utah 2022, Chapter 340
20A-11-602, as last amended by Laws of Utah 2019, Chapters 74, 116
20A-11-603, as last amended by Laws of Utah 2022, Chapter 340

20A-11-701.5, as renumbered and amended by Laws of Utah 2019, Chapter 74
20A-11-702, as last amended by Laws of Utah 2017, Chapter 276
20A-11-703, as last amended by Laws of Utah 2020, Chapter 22
20A-11-704, as last amended by Laws of Utah 2018, Chapter 83
20A-11-705, as last amended by Laws of Utah 2021, Chapter 20
20A-11-801, as last amended by Laws of Utah 2021, Chapter 20
20A-11-802, as last amended by Laws of Utah 2023, Chapter 116
20A-11-803, as last amended by Laws of Utah 2020, Chapter 22
20A-11-1203, as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
20A-11-1301, as last amended by Laws of Utah 2021, Chapter 20
20A-11-1303, as last amended by Laws of Utah 2021, Chapter 20
20A-11-1305, as last amended by Laws of Utah 2023, Chapter 45
20A-11-1406, as enacted by Laws of Utah 2003, Chapter 284
20A-11-1502, as last amended by Laws of Utah 2018, Chapter 83
20A-11-1503, as last amended by Laws of Utah 2020, Chapter 22
20A-11-1604, as last amended by Laws of Utah 2022, Chapter 170
20A-11-1605, as last amended by Laws of Utah 2021, Chapter 20
20A-11-1702, as enacted by Laws of Utah 2014, Chapter 60
20A-11-1704, as last amended by Laws of Utah 2018, Chapter 83
20A-12-303, as last amended by Laws of Utah 2021, Chapter 20
20A-12-305, as last amended by Laws of Utah 2019, Chapter 255
20A-12-306, as last amended by Laws of Utah 2010, Chapter 389
20A-13-102.2, as last amended by Laws of Utah 2021, Second Special Session, Chapter 2
20A-13-104, as last amended by Laws of Utah 2021, Second Special Session, Chapter 2
20A-13-301, as last amended by Laws of Utah 2020, Chapter 22
20A-14-102.2, as last amended by Laws of Utah 2021, Second Special Session, Chapter 10
20A-14-102.3, as last amended by Laws of Utah 2021, Second Special Session, Chapter 10
20A-14-201, as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
20A-15-103, as last amended by Laws of Utah 2023, Chapter 116
20A-15-201, as enacted by Laws of Utah 1995, Chapter 1
20A-16-202, as last amended by Laws of Utah 2020, Chapter 31
20A-16-403, as last amended by Laws of Utah 2023, Chapter 215
20A-16-502, as last amended by Laws of Utah 2023, Chapter 215
20A-21-201, as last amended by Laws of Utah 2024, Chapter 17

ENACTS:

20A-9-401.1, Utah Code Annotated 1953
20A-9-408.1, Utah Code Annotated 1953
20A-9-408.2, Utah Code Annotated 1953
20A-9-408.3, Utah Code Annotated 1953

REPEALS AND REENACTS:

20A-1-104, as renumbered and amended by Laws of Utah 2019, Chapter 255
63G-1-301, as last amended by Laws of Utah 2022, Chapter 331

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-301 is amended to read:

10-3-301. Notice -- Eligibility and residency requirements for elected municipal office -- Mayor and recorder limitations.

(1) As used in this section:

(a) "Absent" means that an elected municipal officer fails to perform official duties, including the officer's failure to attend each regularly scheduled meeting that the officer is required to attend.

(b) "Principal place of residence" means the same as that term is defined in Section 20A-2-105.

(c) "Secondary residence" means a place where an individual resides other than the individual's principal place of residence.

(2) (a) On or before May 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:

(i) the municipal offices to be voted on in the municipal general election; and

(ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (2)(a)(i).

(b) The municipal clerk shall publish the notice described in Subsection (2)(a) for the municipality, as a class A notice under Section 63G-30-102, for at least seven days.

(3) (a) An individual who files a declaration of candidacy for a municipal office shall comply with the requirements described in Section 20A-9-203.

(b) (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours from 8 a.m. to 5 p.m. [~~on the dates described in Subsections 20A-9-203(3)(a)(i) and (e)(i)~~]during the filing period described in Subsection 20A-9-203(3)(d), unless the date occurs on a:

(A) Saturday or Sunday; or

(B) state holiday as listed in Section 63G-1-301.

(ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (3)(b)(i) without maintaining office hours by:

(A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the main door to the municipal offices, and, if available, on the municipal website; and

(B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i), via the contact information described in Subsection (3)(b)(ii)(A).

(4) An individual elected to municipal office shall be a registered voter in the municipality in which the individual is elected.

(5) (a) Each elected officer of a municipality shall maintain a principal place of residence within the municipality, and within the district that the elected officer represents, during the officer's term of office.

(b) Except as provided in Subsection (6), an elected municipal office is automatically vacant if the officer elected to the municipal office, during the officer's term of office:

(i) establishes a principal place of residence outside the district that the elected officer represents;

(ii) resides at a secondary residence outside the district that the elected officer represents for a continuous period of more than 60 days while still maintaining a principal place of residence within the district;

(iii) is absent from the district that the elected officer represents for a continuous period of more than 60 days; or

(iv) fails to respond to a request, within 30 days after the day on which the elected officer receives the request, from the county clerk or the lieutenant governor seeking information to determine the officer's residency.

(6) (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the consent of the municipal legislative body in accordance with Subsection (6)(b) before the expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:

(i) reside at a secondary residence outside the district that the elected officer represents while still maintaining a principal place of residence within the district for a continuous period of up to one year during the officer's term of office; or

(ii) be absent from the district that the elected officer represents for a continuous period of up to one year during the officer's term of office.

(b) At a public meeting, the municipal legislative body may give the consent described in Subsection (6)(a) by majority vote after taking public comment regarding:

(i) whether the legislative body should give the consent; and

(ii) the length of time to which the legislative body should consent.

(7) (a) The mayor of a municipality may not also serve as the municipal recorder or treasurer.

(b) The recorder of a municipality may not also serve as the municipal treasurer.

(c) An individual who holds a county elected office may not, at the same time, hold a municipal elected office.

(d) The restriction described in Subsection (7)(c) applies regardless of whether the individual is elected to the office or appointed to fill a vacancy in the office.

Section 2. Section 20A-1-102 is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on ballots and tabulates the results.

(3) (a) "Ballot" means the storage medium, including a paper, mechanical, or electronic storage medium, that records an individual voter's vote.

(b) "Ballot" does not include a record to tally multiple votes.

(4) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(5) "Bind," "binding," or "bound" means securing more than one piece of paper together using staples or another means in at least three places across the top of the paper in the blank space reserved for securing the paper.

(6) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(7) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(8) "Business day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a holiday.

[~~(8)~~](9) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(10) "Calendar day" means any day, regardless of whether the day is a weekend, a holiday, a business day, or any other type of day.

[~~(9)~~](11) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

[~~(10)~~](12) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

[~~(11)~~](13) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

[~~(12)~~](14) "Convention" means the political party convention at which party officers and delegates are selected.

[~~(13)~~](15) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic

counting of ballots.

[~~(14)~~](16) "Counting judge" means a poll worker designated to count the ballots during election day.

[~~(15)~~](17) "Counting room" means a suitable and convenient private place or room for use by the poll workers and counting judges to count ballots.

[~~(16)~~](18) "County officers" means those county officers that are required by law to be elected.

[~~(17)~~](19) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day [~~that~~]on which the election occurs; and

(b) does not include:

(i) deadlines established for voting by mail, military-overseas voting, or emergency voting; or

(ii) any early voting or early voting period as provided under Chapter 3a, Part 6, Early Voting.

[~~(18)~~](20) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a special district office in accordance with Subsection 20A-1-206(3)(b)(ii).

[~~(19)~~](21) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a special district election.

[~~(20)~~](22) "Election Assistance Commission" means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

[~~(21)~~](23) "Election cycle" means the period beginning on the first day [~~persons~~]on which individuals are eligible to file declarations of candidacy and ending when the canvass is completed.

[~~(22)~~](24) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

[~~(23)~~](25) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the special district clerk or chief executive officer for:

(i) a special district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

[~~(24)~~](26) "Election official" means any election officer, election judge, or poll worker.

[~~(25)~~](27) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

[~~(26)~~](28) "Election returns" includes:

(a) the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form; and

(b) the record, described in Subsection 20A-3a-401(8)(c), of voters contacted to cure a ballot.

[~~(27)~~](29) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(30) "Holiday" means a legal holiday described in Subsections 63G-1-301(1) and (2).

[~~(28)~~](31) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-505(4)(c)(i) or (ii).

[~~(29)~~](32) "Judicial office" means the office filled by any judicial officer.

[~~(30)~~](33) "Judicial officer" means any justice or judge of a court of record or any county court judge.

[~~(31)~~](34) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a special district election, and a bond election.

[~~(32)~~](35) "Local political subdivision" means a county, a municipality, a special district, or a local school district.

[~~(33)~~](36) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

[~~(34)~~](37) "Manual ballot" means a paper document produced by an election officer on which an individual records an individual's vote by directly placing a mark on the paper document using a pen or other marking instrument.

[~~(35)~~](38) "Mechanical ballot" means a record, including a paper record, electronic record, or mechanical record, that:

(a) is created via electronic or mechanical means; and

(b) records an individual voter's vote cast via a method other than an individual directly placing a mark, using a pen or other marking instrument, to record an individual voter's vote.

[~~(36)~~](39) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102; or

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6).

[~~(37)~~](40) "Municipal general election" means the election held in municipalities and, as applicable, special districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

[~~(38)~~](41) "Municipal legislative body" [~~meansthe~~]means the council of the city or town in any form of municipal government.

[~~(39)~~](42) "Municipal office" means an elective office in a municipality.

[~~(40)~~](43) "Municipal officers" means those municipal officers that are required by law to be elected.

[~~(41)~~](44) "Municipal primary election" means an election held to nominate candidates for municipal office.

[~~(42)~~](45) "Municipality" means a city or town.

[~~(43)~~](46) "Official ballot" means the ballots distributed by the election officer for voters to record their votes.

[~~(44)~~](47) "Official endorsement" means the information on the ballot that identifies:

(a) the ballot as an official ballot;

(b) the date of the election; and

(c) (i) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(ii) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii).

[~~(45)~~](48) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

[~~(46)~~](49) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

[~~(47)~~](50) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

[~~(48)~~](51) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

[~~(49)~~](52) "Polling place" means a building where voting is conducted.

[~~(50)~~](53) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

[~~(51)~~](54) "Presidential Primary Election" means the election established in Chapter 9, Part 8, Presidential Primary Election.

[~~(52)~~](55) "Primary convention" means the political party conventions held during the year of the regular general election.

[~~(53)~~](56) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

[~~(54)~~](57) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

[~~(55)~~](58) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

[~~(56)~~](59) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

[~~(57)~~](60) (a) "Public figure" means an individual who, due to the individual being considered for, holding, or having held a position of prominence in a public or private capacity, or due to the individual's celebrity status, has an increased risk to the individual's safety.

(b) "Public figure" does not include an individual:

(i) elected to public office; or

(ii) appointed to fill a vacancy in an elected public office.

[~~(58)~~](61) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the individual was elected.

[~~(59)~~](62) "Receiving judge" means the poll worker that checks the voter's name in the official register at a polling place and provides the voter with a ballot.

[~~(60)~~](63) "Registration form" means a form by which an individual may register to vote under this title.

[~~(61)~~](64) "Regular ballot" means a ballot that is not a provisional ballot.

[~~(62)~~](65) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

[~~(63)~~](66) "Regular primary election" means the election, held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

[~~(64)~~](67) "Resident" means a person who resides within a specific voting precinct in Utah.

[~~(65)~~](68) "Return envelope" means the envelope, described in Subsection 20A-3a-202(4), provided to a voter with a manual ballot:

(a) into which the voter places the manual ballot after the voter has voted the manual ballot in order to preserve the secrecy of the voter's vote; and

(b) that includes the voter affidavit and a place for the voter's signature.

[~~(66)~~](69) "Sample ballot" means a mock ballot similar in form to the official ballot, published as provided in Section 20A-5-405.

[~~(67)~~](70) "Special district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

[~~(68)~~](71) "Special district officers" means those special district board members who are required by law to be elected.

[~~(69)~~](72) "Special election" means an election held as authorized by Section 20A-1-203.

[~~(70)~~](73) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

[~~(71)~~](74) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

[~~(72)~~](75) "Tabulation system" means a device or system designed for the sole purpose of tabulating votes cast by voters at an election.

[~~(73)~~](76) "Ticket" means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

[~~(74)~~](77) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

[~~(75)~~](78) "Vacancy" means:

(a) except as provided in Subsection [~~(75)(b)~~](78)(b), the absence of an individual to serve in a position created by state constitution or state statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause[-]; or

(b) in relation to a candidate for a position created by state constitution or state statute, the removal of a candidate due to the candidate's death, resignation, or disqualification.

[~~(76)~~](79) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection [~~(76)(a) or (b)~~](79)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 calendar days before the day of the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

[~~(77)~~](80) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

[~~(78)~~](81) "Vote by mail" means to vote, using a manual ballot that is mailed to the voter, by:

(a) mailing the ballot to the location designated in the mailing; or

(b) depositing the ballot in a ballot drop box designated by the election officer.

[~~(79)~~](82) "Voter" means an individual who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

[~~(80)~~](83) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

[~~(81)~~](84) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

[~~(82)~~](85) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting enclosure or curtain; or

(b) a voting device that is free standing.

[~~(83)~~](86) "Voting device" means any device provided by an election officer for a voter to vote a mechanical ballot.

[~~(84)~~](87) "Voting precinct" means the smallest geographical voting unit, established under Chapter 5, Part 3, Duties of the County and Municipal Legislative Bodies.

[~~(85)~~](88) "Watcher" means an individual who complies with the requirements described in Section 20A-3a-801 to become a watcher for an election.

[~~(86)~~](89) "Write-in ballot" means a ballot containing any write-in votes.

[~~(87)~~](90) "Write-in vote" means a vote cast for an individual, whose name is not printed on the ballot, in accordance with the procedures established in this title.

Section 3. Section 20A-1-104 is repealed and re-enacted to read:

20A-1-104. Computation of time.

(1) Time is computed in this title as provided in this section.

(2) Except as provided in Subsection (3), or as otherwise expressly provided in this title:

(a) if a provision describes a time period in terms of a certain number of calendar days:

(i) the time period is calculated by consecutive days; and

(ii) the beginning and ending day of the time period is the calendar day on which the time period begins or ends;

(b) if a provision describes a time period in terms of a certain number of business days, only the business days are included in the calculation; and

(c) if a provision describes a time period in terms of a certain number of days rather than calendar days or business days, the days referred to mean calendar days.

(3) A time period that relates to filing an action or document in court is calculated as provided in court rule.

Section 4. Section 20A-1-206 is amended to read:

20A-1-206. Cancellation of local election or local race -- Municipalities -- Special districts -- Notice.

(1) As used in this section:

(a) "Contested race" means a race in a general election where the number of candidates, including any eligible write-in candidates, exceeds the number of offices to be filled in the race.

(b) "Election" means an event, run by an election officer, that includes one or more races for public office or one or more ballot propositions.

(c) (i) "Race" means a contest between candidates to obtain the number of votes necessary to take a particular public office.

(ii) "Race," as the term relates to a contest for an at-large position, includes all open positions for the same at-large office.

(iii) "Race," as the term relates to a contest for a municipal council position that is not an at-large position, includes only the contest to represent a particular district on the council.

(2) A municipal legislative body may cancel a local election if:

(a) the ballot for the local election will not include any contested races or ballot propositions; and

(b) the municipal legislative body passes, no later than 20 calendar days before the day of the scheduled election, a resolution that cancels the election and certifies that:

(i) the ballot for the election would not include any contested races or ballot propositions; and

(ii) the candidates who qualified for the ballot are considered elected.

(3) A municipal legislative body may cancel a race in a local election if:

(a) the ballot for the race will not include any contested races or ballot propositions; and

(b) the municipal legislative body passes, no later than 20 calendar days before the day of the scheduled election, a resolution that cancels the race and certifies that:

(i) the ballot for the race would not include any contested races or ballot propositions; and

(ii) the candidate for the race is considered elected.

(4) A municipal legislative body that cancels a local election in accordance with Subsection (2) shall give notice that the election is cancelled by:

(a) subject to Subsection (8), providing notice to the lieutenant governor's office to be posted on the Statewide Electronic Voter Information Website described in Section 20A-7-801, for at least 15 [~~consecutive~~]calendar days before the day of the scheduled election; and

(b) providing notice for the municipality, as a class A notice under Section 63G-30-102, for at least 15 calendar days before the day of the scheduled election.

(5) A special district board may cancel a local election if:

(a) the ballot for the local election will not include any contested races or ballot propositions; and

(b) the special district board passes, no later than 20 calendar days before the day of the scheduled election, a resolution that cancels the election and certifies that:

(i) the ballot for the election would not include any contested races or ballot propositions; and

(ii) the candidates who qualified for the ballot are considered elected.

(6) A special district board may cancel a special district race if:

(a) the race is uncontested; and

(b) the special district board passes, no later than 20 calendar days before the day of the scheduled election, a resolution that cancels the race and certifies that the candidate who qualified for the ballot for that race is considered elected.

(7) A special district that cancels a local election in accordance with Subsection (5) shall provide notice that the election is cancelled:

(a) subject to Subsection (8), by posting notice on the Statewide Electronic Voter Information Website described in Section 20A-7-801, for at least 15 [~~consecutive~~]calendar days before the day of the scheduled election; and

(b) as a class A notice under Section 63G-30-102, for at least 15 calendar days before the day of the scheduled election.

(8) A municipal legislative body that posts a notice in accordance with Subsection (4)(a) or a special district that posts a notice in accordance with Subsection (7)(a) is not liable for a notice that fails to post due to technical or other error by the publisher of the Statewide Electronic Voter Information Website.

Section 5. Section 20A-1-304 is amended to read:

20A-1-304. Tie votes.

(1) This section does not apply to a race conducted by instant runoff voting under Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(2) Except as provided in Subsection (3), if, after conducting a recount under Subsection 20A-4-401(5), a tie vote occurs, the election officer shall, in a public meeting held no later than the first business day that is at least three calendar days after the day on which the recount canvass is completed:

(a) determine the winning candidate, by lot, in whatever manner the election officer determines; and

(b) provide notice and an opportunity for each candidate involved in the tie to observe the casting or drawing of the lot or to send a representative to observe the casting or drawing of the lot.

(3) (a) If, after conducting a recount under Subsection 20A-4-401(5), a tie vote occurs in a primary election race for a national, statewide, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and held no later than the first business day that is at least three calendar days after the day on which the recount canvass is completed:

(i) determine the winning nominee, by lot, in whatever manner the governor determines; and

(ii) provide notice and an opportunity for each candidate involved in the tie to observe the casting or drawing of the lot or to send a representative to observe the casting or drawing of the lot.

(b) If, after conducting a recount under Subsection 20A-4-401(5), a tie vote occurs in a primary election race for a county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and held no later than the first business day that is at least three calendar days after the day on which the recount canvass is completed:

(i) determine the winning nominee, by lot, in whatever manner the judges determine; and

(ii) provide notice and an opportunity for each candidate involved in the tie to observe the casting or drawing of the lot or to send a representative to observe the casting or drawing of the lot.

Section 6. Section 20A-1-502 is amended to read:

20A-1-502. Midterm vacancy in office of United States senator.

(1) Except as provided in Subsections (2) and (3), when a vacancy occurs in the office of United States senator, the governor shall, within seven calendar days after the day on which the vacancy occurs, issue a proclamation calling a special congressional election to fill the vacancy that:

(a) sets a date for a primary congressional special election, and a later date for a general congressional special election, on the same day as one of the following elections:

(i) a municipal general election;

(ii) a presidential primary election;

(iii) a regular primary election; or

(iv) a regular general election;

(b) sets the date of the primary congressional special election on the same day as the next election described in Subsections (1)(a)(i) through (iv) that is more than 90 calendar days after the day on which the governor issues the proclamation;

(c) sets the date of the general special congressional election on the same day as the next election described in Subsection (1)(a) that is more than 90 calendar days after the primary special congressional election described in Subsection (1)(b);

(d) provides each registered political party that is not a qualified political party at least 21 calendar days, but no more than 28 calendar days, to select one candidate, in a manner determined by the registered political party, as a candidate for the registered political party;

(e) for each qualified political party, provides at least 21 calendar days, but no more than 28 calendar days:

(i) for the qualified political party to select one candidate, using the convention process described in Section 20A-9-407, as a candidate for the qualified political party; and

(ii) for a member of the qualified political party to submit signatures to qualify as a candidate for the qualified political party using the signature-gathering process described in Section 20A-9-408;

(f) consistent with the requirements of this section, establishes the deadlines, time frames, and procedures for filing a declaration of candidacy, giving notice of an election, and other election requirements; and

(g) requires an election officer to comply with the requirements of Chapter 16, Uniform Military and Overseas Voters Act.

(2) (a) The governor may set a date for a primary special congressional election or a general special congressional election on a date

other than a date described in Subsection (1)(a) if:

(i) on the same day on which the governor issues the proclamation described in Subsection (1) the governor calls a special session for the Legislature to appropriate money to hold the election on a different day; or

(ii) if the governor issues the proclamation described in Subsection (1) on or after January 1, but before the end of the general session of the Legislature, and requests in the proclamation described in Subsection (1) that the Legislature appropriate money to hold the election on a different day.

(b) If the Legislature does not, under Subsection (2)(a), appropriate money to hold the election on a different day, the proclamation described in Subsection (1) is void and the governor shall, within seven calendar days after the day on which the Legislature declines to appropriate money to hold the election on a different day, issue a proclamation, in accordance with Subsection (1), that sets the special congressional primary and general elections on dates described in Subsections (1)(a)(i) through (iv).

(3) A special congressional election to fill a vacancy in the office of United States senator will not be held if:

(a) the next regular general election that occurs after the day on which the vacancy occurs is the regular general election that occurs immediately before the six-year term for the senate office ends; and

(b) the vacancy occurs after August 1 of the year before the regular general election described in Subsection (3)(a).

(4) (a) The governor shall appoint an individual to temporarily fill a vacancy in the office of United States senator from one of three individuals nominated by the Legislature, each of whom is a member of the political party of which the prior officeholder was a member at the time the prior officeholder was elected.

(b) The individual appointed under Subsection (4)(a) shall serve as United States senator until the earlier of the day on which:

(i) the vacancy is filled by election under Subsection (1) or (2); or

(ii) the six-year term for the senate office ends.

(5) An individual elected to fill a vacancy under this section shall serve until the end of the current term in which the vacancy filled by the election occurs.

(6) A vacancy in the office of United States senator does not occur unless the senator:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the governor or to the president of the United States Senate.

Section 7. Section 20A-1-502.5 is amended to read:

20A-1-502.5. Midterm vacancy in office of United States representative.

(1) Except as provided in Subsections (2) and (4), when a vacancy occurs in the office of United States representative, the governor shall, within seven calendar days after the day on which the vacancy occurs, issue a proclamation calling a special congressional election to fill the vacancy that:

(a) sets a date for a primary congressional special election, and a later date for a general congressional special election, on the same day as one of the following elections:

(i) a municipal general election;

(ii) a presidential primary election;

(iii) a regular primary election; or

(iv) a regular general election;

(b) sets the date of the primary congressional special election on the same day as the next election described in Subsections (1)(a)(i) through (iv) that is more than 90 calendar days after the day on which the governor issues the proclamation;

(c) sets the date of the general special congressional election on the same day as the next election described in Subsection (1)(a) that is more than 90 calendar days after the primary special congressional election described in Subsection (1)(b);

(d) provides each registered political party that is not a qualified political party at least 21 calendar days, but no more than 28 calendar days, to select one candidate, in a manner determined by the registered political party, as a candidate for the registered political party;

(e) for each qualified political party, provides at least 21 calendar days, but no more than 28 calendar days:

(i) for the qualified political party to select one candidate, using the convention process described in Section 20A-9-407, as a candidate for the qualified political party; and

(ii) for a member of the qualified political party to submit signatures to qualify as a candidate for the qualified political party using the signature-gathering process described in Section 20A-9-408;

(f) consistent with the requirements of this section, establishes the deadlines, time frames, and procedures for filing a declaration of candidacy, giving notice of an election, and other election requirements; and

(g) requires an election officer to comply with the requirements of Chapter 16, Uniform Military and Overseas Voters Act.

(2) The governor may set a date for a primary special congressional election or a general special congressional election on a date other than a date described in Subsection (1)(a)if:

(a) on the same day on which the governor issues the proclamation described in Subsection (1) the governor calls a special session for the Legislature to appropriate money to hold the election on a different day; or

(b) if the governor issues the proclamation described in Subsection (1) on or after January 1, but before the end of the general session of the Legislature, and requests in the proclamation described in Subsection (1) that the Legislature appropriate money to hold the election on a different day.

(3) If the Legislature does not, under Subsection (2), appropriate money to hold the election on a different day, the proclamation described in Subsection (1) is void and the governor shall, within seven calendar days after the day on which the Legislature declines to appropriate money to hold the election on a different day, issue a proclamation, in accordance with Subsection (1), that sets the special congressional primary and general elections on dates described in Subsections (1)(a)(i) through (iv).

(4) A special congressional election to fill a vacancy in the office of United States representative will not be held if the vacancy occurs fewer than 180 calendar days before the next regular general election.

(5) An individual who fills a vacancy under this section shall serve until the end of the current term in which the vacancy occurs.

(6) A vacancy in the office of United States representative does not occur unless the representative:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the governor or to the speaker of the United States House of Representatives.

Section 8. Section 20A-1-503 is amended to read:

20A-1-503. Midterm vacancies in the Legislature.

(1) As used in this section:

(a) "Filing deadline" means the final date for filing:

(i) a declaration of candidacy as provided in Section 20A-9-202; and

(ii) a certificate of nomination as provided in Section 20A-9-503.

(b) "Party liaison" means the political party officer designated to serve as a liaison with the lieutenant governor on all matters relating to the political party's relationship with the state as required by Section 20A-8-401.

(2) When a vacancy occurs for any reason in the office of representative in the Legislature, the governor shall fill the vacancy by immediately appointing the person whose name was submitted by the party liaison of the same political party as the prior representative.

(3) (a) Except as provided by Subsection (5), when a vacancy occurs for any reason in the office of senator in the Legislature, it shall be filled for the unexpired term at the next regular general election.

(b) The governor shall fill the vacancy until the next regular general election by immediately appointing the person whose name was submitted by the party liaison of the same political party as the prior senator.

(4) (a) If a vacancy described in Subsection (3)(a) occurs after the filing deadline but before August 31 of an even-numbered year in which the term of office does not expire, the lieutenant governor shall:

(i) establish a date and time, which is before the date for a candidate to be certified for the ballot under Section 20A-9-701 and no later than 21 calendar days after the day on which the vacancy occurred, by which a person intending to obtain a position on the ballot for the vacant office shall file:

(A) a declaration of candidacy; or

(B) a certificate of nomination; and

(ii) give notice of the vacancy and the date and time described in Subsection (4)(a)(i):

(A) on the lieutenant governor's website; and

(B) to each registered political party.

(b) A person intending to obtain a position on the ballot for the vacant office shall:

(i) before the date and time specified in Subsection (4)(a)(i), file a declaration of candidacy or certificate of nomination according to the procedures and requirements of Chapter 9, Candidate Qualifications and Nominating Procedures; and

(ii) run in the regular general election if:

(A) nominated as a party candidate; or

(B) qualified as an unaffiliated candidate as provided by Chapter 9, Candidate Qualifications and Nominating Procedures.

(c) If a vacancy described in Subsection (3)(a) occurs after the deadline described in Subsection 20A-9-202(1)(b) and before August 31, of an even-numbered year in which the term of office does not expire, a party liaison from each registered political party may submit a name of a person described in Subsection (4)(b) to the lieutenant governor before 5 p.m. no later than August 30 for placement on the regular general election ballot.

(5) If a vacancy described in Subsection (3)(a) occurs on or after August 31 of an even-numbered year in which a term does not expire, the governor shall fill the vacancy for the unexpired term by immediately appointing the person whose name was submitted by the party liaison of the same political party as the prior senator.

Section 9. Section 20A-1-506 is amended to read:

20A-1-506. Vacancy in the office of justice court judge.

(1) As used in this section:

(a) "Appointing authority" means:

(i) for a county:

(A) the chair of the county commission in a county having the county commission or expanded county commission form of county government; and

(B) the county executive in a county having the county executive-council form of government; and

(ii) for a city or town, the mayor of the city or town.

(b) "Local legislative body" means:

(i) for a county, the county commission or county council; and

(ii) for a city or town, the council of the city or town.

(2) (a) If a vacancy occurs in the office of a municipal justice court judge before the completion of the judge's term of office, the appointing authority:

(i) shall fill the vacancy by following the procedures and requirements for appointments in Section 78A-7-202; and

(ii) may contract with a justice court judge of the county, an adjacent county, or another municipality within those counties for judicial services until the vacancy is filled.

(b) The appointing authority shall notify the Administrative Office of the Courts in writing of an appointment of a municipal justice court judge under this section within 30 calendar days after the day on which the appointment is made.

(3) (a) If a vacancy occurs in the office of a county justice court judge before the completion of the judge's term of office, the appointing authority shall fill the vacancy by following the procedures and requirements for appointments in Section 78A-7-202.

(b) The appointing authority shall notify the Administrative Office of the Courts in writing of an appointment of a county justice court judge under this section within 30 calendar days after the day on which the appointment is made.

(4) (a) When a vacancy occurs in the office of a justice court judge, the appointing authority shall:

(i) advertise the vacancy and solicit applications for the vacancy;

(ii) appoint the best qualified candidate to office based solely upon fitness for office;

(iii) comply with the procedures and requirements of Title 52, Chapter 3, Prohibiting Employment of Relatives, in making appointments to fill the vacancy; and

(iv) submit the name of the appointee to the local legislative body.

(b) If the local legislative body does not confirm the appointment within 30 calendar days [~~of submission~~]after the day on which the appointing authority submits the name of the appointee to the local legislative body, the appointing authority may either appoint another of the applicants or reopen the vacancy by advertisement and solicitations of applications.

Section 10. Section 20A-1-508 is amended to read:

20A-1-508. Midterm vacancies in county elected offices -- Temporary manager -- Interim replacement.

(1) As used in this section:

(a) (i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not include the office of county attorney, district attorney, or judge.

(b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters relating to the political party's relationship with a county as required by Section 20A-8-401.

(2) (a) Except as provided in Subsection (2)(d), until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall temporarily discharge the duties of the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or

(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).

(c) The temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office:

(i) may not take an oath of office for the county office as a temporary manager;

(ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;

(iii) unless approved by the county legislative body, may not change the compensation of an employee;

(iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;

(v) may terminate an employee only if the termination is conducted in accordance with:

(A) personnel rules described in Subsection 17-33-5(4) that are approved by the county legislative body; and

(B) applicable law;

(vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office for which the temporary manager discharges duties was vacated;

(vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and

(viii) if approved by the county legislative body, may receive a performance award after:

(A) the county legislative body appoints an interim replacement under Subsection (3); and

(B) the interim replacement is sworn into office.

(d) This Subsection (2) does not apply to a vacancy in the office of county legislative body member.

(3) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (3).

(b) (i) To appoint an interim replacement, the county legislative body shall, within 10 calendar days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of an individual to fill the vacancy.

(ii) That party liaison shall, [~~before 5 p.m. within~~]no later than 5 p.m. on the first business day that is at least 30 calendar days after the day on which the liaison receives the notice described in Subsection (3)(b)(i), or if the party liaison does not receive the notice, [~~before 5 p.m. within~~]no later than 5 p.m. on the first business day that is at least 40 calendar days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual the party selects in accordance with the party's constitution or bylaws to serve as the interim replacement.

(iii) The county legislative body shall, no later than [~~five~~]seven calendar days after the day on which a party liaison submits the name of the individual to serve as the interim replacement, appoint the individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection (3)(b)(iii), the county clerk shall, no later than [~~five~~]seven calendar days after the day of the deadline described in Subsection (3)(b)(iii), send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 calendar days after the day on which the governor receives the letter described in Subsection (3)(c)(i), appoint the individual named by the party liaison as an interim replacement to fill the vacancy.

(d) An individual appointed as interim replacement under this Subsection (3) shall hold office until a successor is elected and has qualified.

(4) (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the officeholder was elected, but before the first day of the declaration of candidacy filing period described in Section 20A-9-201.5.

(b) (i) When the conditions described in Subsection (4)(a) are met, the county clerk shall as soon as practicable, but no later than 180 calendar days before the next regular general election, notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a party candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) An individual who is nominated as a party candidate, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(5) (a) The requirements of this Subsection (5) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs on or after the first day of the declaration of candidacy filing period described in Section 20A-9-201.5, but more than 75 calendar days before the regular primary election.

(b) When the conditions described in Subsection (5)(a) are met, the county clerk shall as soon as practicable, but no later than 70 calendar days before the next regular primary election, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines described in Subsection (5)(c)(i) and the deadlines established under Subsection (5)(d)(ii).

(c) (i) An individual intending to become a party candidate for a vacant office shall, [~~within~~]no later than 5 p.m. on the first business day that is at least five calendar days after the day on which the notice is given, [~~ending at the close of normal office hours on the fifth day,~~]file a declaration of candidacy for the vacant office in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(ii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk as soon as practicable, but [~~before 5 p.m. no later than~~]no later than 5 p.m. on the last business day that is at least 60 calendar days before the day of the regular primary election.

(d) (i) Except as provided in Subsection (5)(d)(ii), an individual intending to become a candidate for a vacant office who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(ii) (A) The county clerk shall establish, in the clerk's reasonable discretion, a deadline that is [~~before 5 p.m. no later than~~]no later than 5 p.m. on the last business day that is at least 65 calendar days before the day of the next regular general election by which an individual who is not affiliated with a registered political party is required to submit a certificate of nomination under Subsection (5)(d)(i).

(B) The county clerk shall establish the deadline described in Subsection (5)(d)(ii)(A) in a manner that gives an unaffiliated candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is nominated as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(6) (a) The requirements of this Subsection (6) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 75 calendar days or less remain before the day of the regular primary election but more than 65 calendar days remain before the day of the regular general election.

(b) When the conditions described in Subsection (6)(a) are met, the county clerk shall, as soon as practicable, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines established under Subsection (6)(d).

(c) (i) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(A), the county central committee of each registered political party that wishes to submit a candidate for the office shall certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(ii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(B), a candidate who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(iii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(C), a write-in candidate shall submit to the county clerk a declaration of candidacy described in Section 20A-9-601.

(d) (i) The county clerk shall establish, in the clerk's reasonable discretion, deadlines that are [~~before 5 p.m. no later than~~]no later than 5 p.m. on the last business day that is at least 65 calendar days before the day of the next regular general election by which:

(A) a registered political party is required to certify a name under Subsection (6)(c)(i);

(B) an individual who does not wish to affiliate with a registered political party is required to submit a certificate of nomination under Subsection (6)(c)(ii); and

(C) a write-in candidate is required to submit a declaration of candidacy under Subsection (6)(c)(iii).

(ii) The county clerk shall establish deadlines under Subsection (6)(d)(i) in a manner that gives an unaffiliated candidate or a write-in candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is certified as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(7) (a) The requirements of this Subsection (7) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 calendar days or less remain before the day of the next regular general election.

(b) (i) When the conditions described in Subsection (7)(a) are met, the county legislative body shall as soon as practicable, but no later than 10 calendar days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party as the prior office holder and invite that party liaison to submit the name of an individual to fill the vacancy.

(ii) That party liaison shall, [~~before 5 p.m. within~~]no later than 5 p.m. on the first business day that is at least 30 calendar days after the day on which the party liaison receives the notice described in Subsection (7)(b)(i), or if the party liaison does not receive the notice, [~~before 5 p.m. no later than~~]no later than 5 p.m. on the first business day that is at least 40 calendar days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual to fill the vacancy.

(iii) The county legislative body shall, no later than [~~five~~]seven calendar days after the day on which a party liaison submits the name of the individual to fill the vacancy, appoint the individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an individual to fill the vacancy in accordance with Subsection (7)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint an individual to fill the vacancy within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 calendar days after the day on which the governor receives the letter described in Subsection (7)(c)(i), appoint the individual named by the party liaison to fill the vacancy.

(d) An individual appointed to fill the vacancy under this Subsection (7) shall hold office until a successor is elected and has qualified.

(8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

(9) Nothing in this section prohibits a candidate that does not wish to affiliate with a political party from filing a certificate of nomination for a vacant office within the same time limits as a candidate that is affiliated with a political party.

(10) (a) Each individual elected under Subsection (4), (5), or (6) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the individual who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section 17-16-6.

Section 11. Section 20A-1-509.1 is amended to read:

20A-1-509.1. Procedure for filling midterm vacancy in county or district with 15 or more attorneys.

(1) When a vacancy occurs in the office of county or district attorney in a county or district having 15 or more attorneys who are licensed active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

(2) (a) The requirements of this Subsection (2) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs before the first day of the declaration of candidacy filing period described in Section 20A-9-201.5.

(b) When the conditions established in Subsection (2)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(c) All persons intending to become candidates for the vacant office shall:

(i) file a declaration of candidacy according to the procedures and requirements of Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy;

(ii) if nominated as a party candidate or qualified as an independent or write-in candidate under Chapter 9, Candidate Qualifications and Nominating Procedures, run in the regular general election; and

(iii) if elected, complete the unexpired term of the person who created the vacancy.

(d) If the vacancy occurs during the declaration of candidacy filing period described in Section 20A-9-201.5:

(i) the time for filing a declaration of candidacy under Section 20A-9-202 shall be extended until 5 p.m. on the first business day that is no later than seven calendar days after the last day of the filing period described in Section 20A-9-201.5; and

(ii) the county clerk shall notify the public and each registered political party that the vacancy exists.

(3) (a) The requirements of this Subsection (3) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the third Thursday in March of the even-numbered year but more than 75 calendar days before the regular primary election.

(b) When the conditions established in Subsection (3)(a) are met, the county clerk shall:

(i) notify the public and each registered political party that the vacancy exists; and

(ii) identify the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.

(c) All persons intending to become candidates for the vacant office shall:

(i) [~~before 5 p.m. within~~]no later than 5 p.m. on the first business day that is at least five calendar days after the day on which the county clerk gives the notice described in Subsection (3)(b)(i), file a declaration of candidacy for the vacant office as required by Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(ii) if elected, complete the unexpired term of the person who created the vacancy.

(d) The county central committee of each party shall:

(i) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(ii) certify the name of the candidate or candidates to the county clerk:

(A) [~~before 5 p.m. no later than~~]no later than 5 p.m. on the last business day that is at least 60 calendar days before the day of the regular primary election; or

(B) electronically, before midnight no later than 60 calendar days before the day of the regular primary election.

(4) (a) The requirements of this Subsection (4) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) 75 calendar days or less remain before the regular primary election but more than 65 calendar days remain before the regular general election.

(b) When the conditions established in Subsection (4)(a) are met, the county central committees of each registered political party that wish to submit a candidate for the office shall, not later than five calendar days after the day on which the vacancy occurs, certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(c) The candidate elected shall complete the unexpired term of the person who created the vacancy.

(5) (a) The requirements of this Subsection (5) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of less than two years; or

(ii) the vacant office has an unexpired term of two years or more but 65 calendar days or less remain before the next regular general election.

(b) When the conditions established in Subsection (5)(a) are met, the county legislative body shall give notice of the vacancy to the county central committee of the same political party of the prior officeholder and invite that committee to submit the names of three nominees to fill the vacancy.

(c) That county central committee shall, within 30 calendar days after the day on which the county legislative body gives the notice described in Subsection (5)(b), submit to the county legislative body the names of three nominees to fill the vacancy.

(d) The county legislative body shall, within 45 calendar days after the vacancy occurs, appoint one of those nominees to serve out the unexpired term.

(e) If the county legislative body fails to appoint a person to fill the vacancy within 45 calendar days, the county clerk shall send to the governor a letter that:

(i) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(ii) contains the list of nominees submitted by the party central committee.

(f) The governor shall appoint a person to fill the vacancy from that list of nominees within 30 calendar days after [~~receipt of the letter~~]the day on which the governor receives the letter described in Subsection (5)(e).

(g) A person appointed to fill the vacancy under this Subsection (5) shall complete the unexpired term of the person who created the vacancy.

(6) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the required time limits.

Section 12. Section 20A-1-509.2 is amended to read:

20A-1-509.2. Procedure for filling vacancy in county or district with fewer than 15 attorneys.

(1) When a vacancy occurs in the office of county or district attorney, including a vacancy created by the failure of a person to file as a candidate for the office of county or district attorney in an election, in a county or district having fewer than 15 attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

(2) The county clerk shall send a letter to each attorney residing in the county or district who is a licensed, active member in good standing with the Utah State Bar and a registered voter that:

(a) informs the attorney of the vacancy;

(b) invites the attorney to apply for the vacancy; and

(c) informs the attorney that if the attorney [~~has not responded~~]does not respond before 5 p.m. [~~within~~]on the first business day that is at least 10 calendar days after the day on which the county clerk sends the letter, the attorney's candidacy to fill the vacancy will not be considered.

(3) (a) (i) If, before the deadline described in Subsection (2)(c), more than three attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county clerk shall, except as provided in Subsection (3)(a)(ii), submit the applications to the county central committee of the same political party of the prior officeholder.

(ii) In multicounty prosecution districts, the clerk shall submit the applications to the county central committee of each county within the prosecution district.

(b) The central committee shall nominate three of the applicants and forward the applicants' names to the county legislative body [~~before 5 p.m. within~~]no later than 5 p.m. on the first business day that is at least 20 calendar days after the day on which the county clerk submits the applicants' names under Subsection (3)(a).

(c) The county legislative body shall appoint one of the nominees to fill the vacant position.

(d) If the central committee of the political party fails to submit at least three names to the county legislative body before the deadline described in Subsection (3)(b), the county legislative body shall appoint one of the applicants to fill the vacant position.

(e) If the county legislative body fails to appoint a person to fill the vacancy within 120 calendar days after the day on which the vacancy occurs, the county clerk shall mail to the governor:

(i) a letter informing the governor that the county legislative body has failed to appoint a person to fill the vacancy; and

(ii) (A) the list of nominees, if any, submitted by the central committee of the political party; or

(B) if the party central committee has not submitted a list of at least three nominees within the required time, the names of the persons who submitted applications for the vacant position to the county clerk.

(f) The governor shall appoint, within 30 calendar days after the day on which the governor receives the letter described in Subsection (3)(e), a person from the list to fill the vacancy.

(4) (a) If, before the deadline described in Subsection (2)(c), three or fewer attorneys who are licensed, active members in good

standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county legislative body may:

(i) appoint one of them to be county or district attorney; or

(ii) solicit additional applicants and appoint a county or district attorney as provided in Subsection (4)(b).

(b) (i) If three or fewer attorneys who are licensed members in good standing of the Utah State Bar and registered voters in the county or district submit applications, the county legislative body may publicly solicit and accept additional applications for the position from licensed, active members in good standing of the Utah State Bar who are not residents of the county or prosecution district.

(ii) The county legislative body shall consider the applications submitted by the attorneys who are residents of and registered voters in the county or prosecution district and the applications submitted by the attorneys who are not residents of the county or prosecution district and shall appoint one of the applicants to be county attorney or district attorney.

(c) If the legislative body fails to appoint a person to fill the vacancy within 120 calendar days after the day on which the vacancy occurs, the county clerk shall:

(i) notify the governor that the legislative body has failed to fill the vacancy within the required time period; and

(ii) provide the governor with a list of all the applicants.

(d) The governor shall appoint a person to fill the vacancy within 30 calendar days after the day on which the governor receives the notification described in Subsection (4)(c).

(5) The person appointed to fill the vacancy shall serve for the unexpired term of the person who created the vacancy.

Section 13. Section 20A-1-510 is amended to read:

20A-1-510. Midterm vacancies in municipal offices.

(1) (a) As used in this section:

(i) "Vacancy," subject to Subsection (1)(a)(ii), means the same as that term is defined in Section 20A-1-102.

(ii) "Vacancy," if due to resignation, occurs on the effective date of the resignation.

(b) Except as otherwise provided in this section, if any vacancy occurs in the office of municipal executive or member of a municipal legislative body, the municipal legislative body shall, within 30 calendar days after the day on which the vacancy occurs, appoint a registered voter in the municipality who meets the qualifications for office described in Section 10-3-301 to fill the unexpired term of the vacated office.

(c) Before acting to fill the vacancy, the municipal legislative body shall:

(i) give public notice of the vacancy at least 14 calendar days before the day on which the municipal legislative body meets to fill the vacancy;

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the person to whom an individual interested in being appointed to fill the vacancy may submit the interested individual's name for consideration; and

(C) the deadline for submitting an interested individual's name; and

(iii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.

(d) (i) The municipal legislative body shall take an initial vote to fill the vacancy from among the names of the candidates interviewed under Subsection (1)(c)(iii).

(ii) (A) If no candidate receives a majority vote of the municipal legislative body in the initial vote described in Subsection (1)(d)(i), the two candidates that received the most votes in the initial vote, as determined by the tie-breaking procedures described in Subsections (1)(d)(ii)(B) through (D) if necessary, shall be placed before the municipal legislative body for a second vote to fill the vacancy.

(B) If the initial vote results in a tie for second place, the candidates tied for second place shall be reduced to one by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall be between the candidate that received the most votes in the initial vote and the candidate that wins the coin toss described in this Subsection (1)(d)(ii)(B).

(C) If the initial vote results in a tie among three or more candidates for first place, the candidates tied for first place shall be reduced to two by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall be between the two candidates that remain after the coin toss described in this Subsection (1)(d)(ii)(C).

(D) A coin toss required under this Subsection (1)(d) shall be conducted by the municipal clerk or recorder in the presence of the municipal legislative body.

(iii) If, in the second vote described in Subsection (1)(d)(ii)(A), neither candidate receives a majority vote of the municipal legislative body, the vacancy shall be determined by a coin toss between the two candidates in accordance with Subsection (1)(d)(ii)(D).

(e) If the municipal legislative body does not timely comply with Subsections (1)(b) through (d), the municipal clerk or recorder shall immediately notify the lieutenant governor.

(f) After receiving notice that a municipal legislative body has failed to timely comply with Subsections (1)(b) through (d), the lieutenant governor shall:

(i) notify the municipal legislative body of the violation; and

(ii) direct the municipal legislative body to, within 30 calendar days after the day on which the lieutenant governor provides the notice described in this Subsection (1)(f), appoint an eligible individual to fill the vacancy in accordance with Subsections (1)(c) and (d).

(g) If the municipality fails to timely comply with a directive described in Subsection (1)(f):

(i) the lieutenant governor shall notify the governor of the municipality's failure to fill the vacancy; and

(ii) the governor shall, within 45 calendar days after the day on which the governor receives the notice described in Subsection (1)(g)(i), provide public notice soliciting candidates to fill the vacancy in accordance with Subsection (1)(c) and appoint an individual to fill the vacancy.

(2) (a) A vacancy in the office of municipal executive or member of a municipal legislative body shall be filled by an interim appointment, followed by an election to fill a two-year term, if:

(i) the vacancy occurs, or a letter of resignation is received, by the municipal executive at least 14 calendar days before the deadline for filing for election in an odd-numbered year; and

(ii) two years of the vacated term will remain after the first Monday of January following the next municipal election.

(b) In appointing an interim replacement, the municipal legislative body shall:

(i) comply with the notice requirements of this section; and

(ii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.

(3) (a) In a municipality operating under the council-mayor form of government, as defined in Section 10-3b-102:

(i) the council may appoint an individual to fill a vacancy in the office of mayor before the effective date of the mayor's resignation by making the effective date of the appointment the same as the effective date of the mayor's resignation; and

(ii) if a vacancy in the office of mayor occurs before the effective date of an appointment under Subsection (1) or (2) to fill the vacancy, the remaining council members, by majority vote, shall appoint a council member to serve as acting mayor during the time between the creation of the vacancy and the effective date of the appointment to fill the vacancy.

(b) A council member serving as acting mayor under Subsection (3)(a)(ii) continues to:

(i) act as a council member; and

(ii) vote at council meetings.

(4) (a) (i) For a vacancy of a member of a municipal legislative body as described in this section, the municipal legislative body member whose resignation creates the vacancy on the municipal legislative body may:

(A) interview an individual whose name is submitted for consideration under Subsection (1)(c)(iii) or (2)(b)(ii); and

(B) vote on the appointment of an individual to fill the vacancy.

(ii) Notwithstanding Subsection (4)(a)(i), a member of a legislative body who is removed from office in accordance with state law may not cast a vote under Subsection (4)(a)(i).

(b) A member of a municipal legislative body who submits his or her resignation to the municipal legislative body may not rescind the resignation.

(c) A member of a municipal legislative body may not vote on an appointment under this section for himself or herself to fill a vacancy in the municipal legislative body.

(5) In a municipality operating under the council-mayor form of government, the mayor may not:

(a) participate in the vote to fill a vacancy;

(b) veto a decision of the council to fill a vacancy; or

(c) vote in the case of a tie.

(6) A mayor whose resignation from the municipal legislative body is due to election or appointment as mayor may, in the case of a tie, participate in the vote under this section.

(7) A municipal legislative body may, consistent with the provisions of state law, adopt procedures governing the appointment, interview, and voting process for filling vacancies in municipal offices.

Section 14. Section 20A-1-510.1 is amended to read:

20A-1-510.1. Candidate vacancies in local office.

(1) A vacancy that occurs in a candidacy for an elected office in a local political subdivision may be filled in accordance with the requirements of this section if:

(a) a nonpartisan primary election is held for the office;

(b) the vacancy occurs after the date of the primary election but before:

(i) for a county office, August 31; or

(ii) for all other offices, 65 calendar days before the day of the applicable general election; and

(c) after the vacancy occurs, the number of remaining candidates for the office is less than or equal to the number of open positions to be filled for that office in the applicable general election.

(2) An election officer shall:

(a) fill a candidate vacancy described in Subsection (1) by certifying the next available candidate for the office for the general election ballot who received the highest number of votes in the primary election without receiving a sufficient number of votes to qualify for the general election ballot; and

(b) immediately notify the candidate described in Subsection (2)(a) that the candidate is certified for the general election ballot.

Section 15. Section 20A-1-511 is amended to read:

20A-1-511. Midterm vacancy on a local school board.

(1) (a) A local school board shall fill a vacancy on the local school board by appointment, except as otherwise provided in Subsections (1)(b) and (2).

(b) The county legislative body, or municipal legislative body in a city district, shall fill a vacancy on a local school board by appointment if the local school board fails to make an appointment to fill the vacancy:

(i) except as provided in Subsection (1)(b)(ii), within 30 calendar days after a vacancy occurs on the local school board; or

(ii) within 45 calendar days after a vacancy occurs on the local school board due to the death of a local school board member.

(c) A member appointed and qualified under this Subsection (1) shall serve until a successor is elected or appointed and qualified.

(2) (a) A vacancy on the board shall be filled by an interim appointment, followed by an election to fill a two-year term if:

(i) the vacancy on the board occurs, or a letter of resignation is received by the board, at least 14 calendar days before the deadline for filing a declaration of candidacy; and

(ii) two years of the vacated term will remain after the first Monday of January following the next school board election.

(b) A member elected under this Subsection (2) shall serve for the remaining two years of the vacated term and until a successor is elected and qualified.

(3) Before appointing an individual to fill a vacancy under this section, the local school board shall:

(a) give public notice of the vacancy at least two weeks before the local school board meets to fill the vacancy;

(b) identify, in the public notice:

(i) the date, time, and place of the meeting where the vacancy will be filled; and

(ii) the person to whom and the date and time before which an individual interested in being appointed to fill the vacancy may submit the individual's name for consideration; and

(c) in an open meeting, interview each individual whose name is submitted for consideration and who meets the qualifications for office, regarding the individual's qualifications.

(4) (a) Subject to Subsection (4)(b), a local school board may appoint an individual to fill a vacancy described in Subsection (1) or (2) before the vacancy occurs if a member of the local school board submits a letter of resignation.

(b) An individual appointed under Subsection (4)(a) may not take office until on or after the day on which the vacancy occurs for which the individual is appointed.

(c) A member of a local school board who submits a letter of resignation under Subsection (4)(a) may not rescind the resignation after the local school board makes an appointment to fill the vacancy created by the resignation.

Section 16. Section 20A-1-512 is amended to read:

20A-1-512. Midterm vacancies on local district boards -- Notice.

(1) (a) When a vacancy occurs on any special district board for any reason, the following shall appoint a replacement to serve out the unexpired term in accordance with this section:

(i) the special district board, if the person vacating the position was elected; or

(ii) the appointing authority, as that term is defined in Section 17B-1-102, if the appointing authority appointed the person vacating the position.

(b) Except as provided in Subsection (1)(c) or (d), before acting to fill the vacancy, the special district board or appointing authority shall:

(i) give public notice of the vacancy for at least two weeks before the special district board or appointing authority meets to fill the vacancy by publishing the notice, as a class A notice under Section 63G-30-102, for the special district; and

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the individual to whom an individual who is interested in an appointment to fill the vacancy may submit the individual's name for consideration; and

(C) any submission deadline.

(c) An appointing authority is not subject to Subsection (1)(b) if:

(i) (A) the appointing authority appoints one of the appointing authority's own members; and

(B) that member meets all applicable statutory board member qualifications; or

(ii) the vacancy is on the board of trustees of an infrastructure financing district with no residents within the district's boundary.

(d) When a vacancy occurs on the board of a water conservancy district located in more than one county:

(i) the board shall give notice of the vacancy to the county legislative bodies that nominated the vacating trustee as provided in Section 17B-2a-1005;

(ii) the county legislative bodies described in Subsection (1)(d)(i) shall collectively compile a list of three nominees to fill the vacancy; and

(iii) the governor shall, with the advice and consent of the Senate, appoint an individual to fill the vacancy from nominees submitted as provided in Subsection 17B-2a-1005(2)(c).

(2) If[~~, 90 days after a vacancy occurs,~~] the special district board [~~has failed~~]fails to appoint an individual to complete an elected board member's term within 90 calendar days after the day on which the vacancy occurs, the vacancy shall be filled:

(a) in accordance with the procedure for a special district described in Subsection (1)(b); and

(b) by, as applicable:

(i) the legislative body of the county or municipality that created the special district; or

(ii) for a vacancy on a board of trustees of an infrastructure financing district, the legislative body of the county whose unincorporated area contains or the municipality whose boundary contains more of the area within the infrastructure financing district than is contained within the unincorporated area of any other county or within the boundary of any other municipality.

Section 17. Section 20A-1-513 is amended to read:

20A-1-513. Temporary absence in elected office of a political subdivision for military service.

(1) As used in this section:

(a) (i) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

(ii) "Armed forces" includes the National Guard.

(b) (i) "Elected official" means an individual who holds an office of a political subdivision that is required by law to be filled by an election.

(ii) "Elected official" includes an individual who is appointed to fill a vacancy in an office described in Subsection (1)(b)(i).

(c) "Elected official reservist" means an elected official who is:

(i) a member of the armed forces reserves component;

(ii) a member of the National Guard; or

(iii) a retired member of the armed forces who may be called to active, full-time duty in the armed forces under Title 10, U.S.C., Armed Forces.

(d) (i) "Military leave" means the temporary absence from an office:

(A) by an elected official reservist called to active, full-time duty in the armed forces; and

(B) for a period of time that exceeds 30 calendar days and does not exceed 400 calendar days.

(ii) "Military leave" includes the time an individual on leave, as described in Subsection (1)(d)(i), spends for:

(A) out processing;

(B) an administrative delay;

(C) accrued leave; and

(D) on rest and recuperation leave program of the armed forces.

(e) "Political subdivision's governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a special district, the board of trustees of the special district;

(iii) for a local school district, the local school board;

(iv) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(v) for a political subdivision not listed in Subsections (1)(e)(i) through (iv), the body that governs the affairs of the political subdivision.

(f) "Temporary replacement" means the individual appointed by the political subdivision's governing body in accordance with this section to exercise the powers and duties of the office of an elected official reservist who takes military leave.

(2) An elected official reservist who takes military leave in accordance with this section does not create a vacancy in the elected official's office.

(3) (a) An elected official reservist who is called to active, full-time duty in the armed forces under Title 10, U.S.C., Armed Forces, shall notify the political subdivision's governing body of the elected official's orders no later than 5 p.m. on the first business day that is at least five calendar days after the day on which the elected official receives the orders.

(b) An elected official reservist described in Subsection (3)(a) may:

(i) if the period of active, full-time duty does not exceed 270 calendar days:

(A) continue to carry out the elected official's duties if possible while on active, full-time duty; or

(B) take military leave if the elected official submits to the political subdivision's governing body written notice of the intent to take military leave and the expected duration of the military leave; or

(ii) if the period of active, full-time duty exceeds 270 calendar days but does not exceed 400 calendar days, take military leave if the elected official submits to the political subdivision's governing body:

(A) written notice of the intent to take military leave and the expected duration of the military leave; and

(B) written certification that the secretary of the armed force of which the elected official is a member granted the elected official permission under U.S. Department of Defense Directive 1344.10 to continue to hold the elected official's office while on active, full-time duty.

(4) (a) An elected official reservist who chooses to continue to carry out the elected official's duties under Subsection (3)(b)(i)(A) shall, no later than 10 calendar days after the day of the elected official's deployment, confirm in writing to the political subdivision's governing body that the elected official has the ability to carry out the elected official's duties.

(b) If an elected official reservist does not submit the confirmation to the political subdivision's governing body before the deadline described in Subsection (4)(a), the political subdivision's governing body shall:

(i) place the elected official in military leave status; and

(ii) appoint a temporary replacement in accordance with Subsection (8).

(5) (a) An elected official reservist who chooses to take military leave under Subsection (3)(b)(ii) shall, no later than 21 calendar days after the date of the elected official's deployment, submit to the political subdivision's governing body the written notice and certification described in Subsection (3)(b)(ii).

(b) If an elected official reservist does not submit the notice and certification to the political subdivision's governing body before the deadline described in Subsection (5)(a):

(i) the political subdivision's governing body may not appoint a temporary replacement under Subsection (8); and

(ii) the elected official reservist creates a vacancy in the elected official's office.

(6) An elected official reservist who is called to active, full-time duty in the armed forces under Title 10, U.S.C., Armed Forces, for a period of more than 400 calendar days creates a vacancy in the elected official's office.

(7) An elected official reservist's military leave:

(a) begins:

(i) for an elected official reservist described in Subsection (3)(b)(i), the later of:

(A) the day after the day on which the elected official notifies the political subdivision's governing body of the intent to take military leave;

(B) 11 calendar days after the day of the elected official's deployment if no confirmation is received by the political subdivision's governing body in accordance with Subsection (4)(a); or

(C) the day on which the elected official begins active, full-time duty in the armed forces; or

(ii) for an elected official reservist described in Subsection (3)(b)(ii), the day after the day on which the elected official submits to the political subdivision's governing body the written notice and certification described in Subsection (3)(b)(ii); and

(b) ends the sooner of:

(i) the expiration of the elected official reservist's term of office; or

(ii) the day on which the elected official reservist ends active, full-time duty in the armed forces.

(8) A temporary replacement shall:

(a) meet the qualifications required to hold the office; and

(b) be appointed:

(i) when an elected official reservist:

(A) takes military leave under Subsection (3)(b)(i)(B) or (b)(ii); or

(B) is placed in military leave status under Subsection (4)(b)(i); and

(ii) by the political subdivision's governing body:

(A) if a registered political party nominated the elected official reservist as a candidate for the office, in the same manner as provided in Subsection 20A-1-508(3) for the appointment of an interim replacement; or

(B) if a registered political party did not nominate the elected official reservist as a candidate for the office, after submitting an application in accordance with Subsection (10)(b).

(9) (a) A temporary replacement shall exercise the powers and duties of the office for which the temporary replacement is appointed for the duration of the elected official reservist's military leave.

(b) An elected reservist may not exercise the powers or duties of the office while on military leave.

(c) If a temporary replacement is not appointed as required by Subsection (8)(b), no individual may exercise the powers and duties of the elected official reservist's office during the elected official's military leave.

(10) The political subdivision's governing body shall establish:

(a) the distribution of the emoluments of the office between the elected official reservist and the temporary replacement; and

(b) an application form and the date and time before which an individual shall submit the application to be considered by the political subdivision's governing body for appointment as a temporary replacement.

(11) This section does not apply to an elected official who is not an elected official reservist.

Section 18. Section 20A-1-802 is amended to read:

20A-1-802. Definitions.

As used in this part:

(1) "Bad faith" means that a person files a petition described in Subsection 20A-1-803(1):

(a) under circumstances where a reasonable person would not believe that the allegations are true; or

(b) (i) within 60 calendar days before an election that the candidate to which the petition relates will appear on the ballot; and

(ii) under circumstances where a reasonable person would not believe that the allegations constitute a significant violation of a provision of this title.

(2) "Defendant" means each person against whom an allegation is made in the verified petition described in Subsection 20A-1-803(1).

(3) "Receiving official" means:

(a) the lieutenant governor, unless the verified petition described in Section 20A-1-803alleges a violation by the governor, the lieutenant governor, or an employee of the lieutenant governor's office; or

(b) the attorney general, if the verified petition described in Section 20A-1-803 alleges a violation by the governor, the lieutenant governor, or an employee of the lieutenant governor's office.

(4) "Reviewing official" means:

(a) except as provided in Subsection (4)(b), the receiving official; or

(b) the reviewing official appointed under Subsection 20A-1-803(3)(a), if the receiving official appoints another individual as the reviewing official under Subsection 20A-1-803(3)(a).

(5) "Significant violation" means:

(a) a violation that, if known by voters before the election, may have resulted in a candidate, other than the candidate certified as having won the election, winning the election; or

(b) a violation that, had the violation not occurred, may have resulted in a candidate, other than the candidate certified as having won the election, winning the election.

Section 19. Section 20A-1-803 is amended to read:

20A-1-803. Verified petition by registered voter -- Receiving and reviewing official -- Special investigation -- Special counsel -- Civil action.

(1) A registered voter may file a verified petition alleging a violation of any provision of this title, if the registered voter:

(a) has information relating to the alleged violation; and

(b) the allegation is against a candidate for whom the registered voter had the right to vote, a personal campaign committee of that candidate, or a member of a personal campaign committee of that candidate.

(2) The registered voter described in Subsection (1) shall file the verified petition with the receiving official.

(3) If the receiving official determines, in writing, that the receiving official has a conflict of interest in relation to taking an action required in this part, the receiving official shall:

(a) designate as the reviewing official an individual who does not have a conflict of interest, in the following order of precedence:

(i) the attorney general;

(ii) the state auditor;

(iii) the state treasurer; or

(iv) the governor; and

(b) forward the petition to the reviewing official for further action.

(4) (a) The reviewing official shall gather information and determine whether, in the discretion of the reviewing official, a special investigation is necessary.

(b) In making the determination described in Subsection (4)(a), the reviewing official may consider the following:

(i) whether, based on the information available to the reviewing official, the reviewing official is able to determine that a violation did not occur;

(ii) the seriousness of the alleged violation;

(iii) whether the alleged violation was intentional or accidental;

(iv) whether the alleged violation could be resolved informally;

(v) whether the petition is frivolous or filed for the purpose of harassment;

(vi) whether the alleged violation should be addressed in, or is being adequately addressed in, another forum, including a criminal investigation or proceeding;

(vii) whether additional investigation, as part of a civil proceeding in relation to the petition, is desirable;

(viii) the likelihood that an action, based on the allegations, is likely to be successful; or

(ix) other criteria relevant to making the determination.

(5) If the reviewing official determines that a special investigation is necessary, the reviewing official shall:

(a) except as provided in Subsection (5)(b), refer the information to the attorney general, who shall appoint special counsel; or

(b) if the verified petition alleges that the attorney general violated a provision of this title, or if the reviewing official determines that the Office of the Attorney General has a conflict of interest in relation to the verified petition, appoint a person who is not an employee of the Office of the Attorney General as special counsel, in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(6) The special counsel:

(a) shall review the petition and any evidence relative to determining whether a defendant committed a violation of a provision of this title;

(b) may interview individuals or gather additional evidence relative to determining whether a defendant committed a violation of a provision of this title;

(c) shall advise the reviewing official whether, in the opinion of the special counsel, sufficient evidence exists to establish that a defendant committed a significant violation of a provision of this title; and

(d) shall, [~~within~~]on or before the first business day that is at least three calendar days after the day on which the special counsel complies with Subsection (6)(c), prepare and provide to the reviewing official a document that:

(i) states whether, in the opinion of the special counsel, sufficient evidence exists to establish that a defendant committed at least one significant violation of a provision of this title; and

(ii) if the special counsel is of the opinion that sufficient evidence exists to establish that a defendant committed at least one significant violation of a provision of this title:

(A) states the name of each defendant for which, in the opinion of the special counsel, sufficient evidence exists to establish that the defendant committed at least one significant violation of a provision of this title;

(B) states each provision of this title for which, in the opinion of the special counsel, sufficient evidence exists to establish that the defendant violated; and

(C) may not include a description of the evidence supporting the opinion of the special counsel.

(7) The reviewing official shall:

(a) [~~within~~]on or before the first business day that is at least three calendar days after the day on which the reviewing official receives the document described in Subsection (6)(d), post a conspicuous link to the document on the home page of the reviewing official's website; and

(b) [~~within~~]on or before the first business day that is at least seven calendar days after the day on which the special counsel complies with Subsection (6)(c):

(i) determine whether, in the opinion of the reviewing official, sufficient evidence exists to establish that a defendant committed a significant violation of a provision of this title; and

(ii) if the reviewing official is of the opinion that sufficient evidence exists to establish that a defendant committed at least one significant violation of a provision of this title, direct the special counsel to file a civil action and serve summons in accordance with the Utah Rules of Civil Procedure:

(A) against each defendant for whom the reviewing official determines that sufficient evidence exists that the defendant committed a significant violation of this title; and

(B) that includes each significant violation for which the reviewing official determines that sufficient evidence exists.

(8) (a) The purpose of the civil action described in Subsection (7)(b)(ii) is to determine whether a defendant committed a significant violation of a provision of this title.

(b) For a civil action described in Subsection (7)(b)(ii), the complaint may include an allegation of any violation of a provision of this title by a defendant, regardless of whether the violation is alleged in the petition.

(c) The special counsel may amend the complaint at any time after the complaint is filed, including by adding allegations to the complaint or amending allegations already made in the complaint, if the court determines that the amendment will not violate the due process rights of the defendant against whom the added or amended allegation is made.

(9) (a) An action brought under this section shall:

(i) be heard without a jury, with the court determining all issues of fact and issues of law; and

(ii) have precedence over any other civil actions.

(b) The court shall schedule discovery and hearings, and shall otherwise conduct proceedings relating to an action brought under this section, in an expedited manner while preserving the rights of the parties and the integrity of the proceedings.

Section 20. Section 20A-2-101 is amended to read:

20A-2-101. Eligibility for registration.

(1) Except as provided in Subsection (2), an individual may register to vote in an election who:

(a) is a citizen of the United States;

(b) has been a resident of Utah for at least the 30 calendar days immediately before the election;

(c) will be:

(i) at least 18 years of age on the day of the election; or

(ii) if the election is a regular primary election, a municipal primary election, or a presidential primary election:

(A) 17 years of age on or before the day of the regular primary election, municipal primary election, or presidential primary election; and

(B) 18 years of age on or before the day of the general election that immediately follows the regular primary election, municipal primary election, or presidential primary election; and

(d) currently resides within the voting district or precinct in which the individual applies to register to vote.

(2) (a) (i) An individual who is involuntarily confined or incarcerated in a jail, prison, or other facility within a voting precinct is not a resident of that voting precinct and may not register to vote in that voting precinct unless the individual was a resident of that voting precinct before the confinement or incarceration.

(ii) An individual who is involuntarily confined or incarcerated in a jail or prison is a resident of the voting precinct in which the individual resided before the confinement or incarceration.

(b) An individual who has been convicted of a felony or a misdemeanor for an offense under this title may not register to vote or remain registered to vote unless the individual's right to vote has been restored as provided in Section 20A-2-101.3 or 20A-2-101.5.

(c) An individual whose right to vote has been restored, as provided in Section 20A-2-101.3 or 20A-2-101.5, is eligible to register to vote.

(3) An individual who is eligible to vote and who resides within the geographic boundaries of the entity in which the election is held may register to vote in a:

(a) regular general election;

(b) regular primary election;

(c) municipal general election;

(d) municipal primary election;

(e) statewide special election;

(f) local special election;

(g) special district election;

(h) bond election; and

(i) presidential primary election.

Section 21. Section 20A-2-101.1 is amended to read:

20A-2-101.1. Preregistering to vote.

(1) An individual may preregister to vote if the individual:

(a) is 16 or 17 years of age;

(b) is not eligible to register to vote because the individual does not comply with the age requirements described in Subsection 20A-2-101(1)(c);

(c) is a citizen of the United States;

(d) has been a resident of Utah for at least 30 calendar days; and

(e) currently resides within the voting district or precinct in which the individual preregisters to vote.

(2) An individual described in Subsection (1) may not vote in an election and is not registered to vote until:

(a) the individual is otherwise eligible to register to vote because the individual complies with the age requirements described in Subsection 20A-2-101(1)(c); and

(b) the county clerk registers the individual to vote under Subsection (4).

(3) An individual who preregisters to vote shall:

(a) complete a voter registration form, including an indication that the individual is preregistering to vote; and

(b) submit the voter registration form to a county clerk in person, by mail, or in any other manner authorized by this chapter for the submission of a voter registration form.

(4) (a) A county clerk shall:

(i) retain the voter registration form of an individual who meets the qualifications for preregistration and who submits a completed voter registration form to the county clerk under Subsection (3)(b);

(ii) register the individual to vote in the next election in which the individual will be eligible to vote, before the voter registration deadline established in Section 20A-2-102.5 for that election; and

(iii) send a notice to the individual that:

(A) informs the individual that the individual's voter registration form has been accepted as an application for preregistration;

(B) informs the individual that the individual will be registered to vote in the next election in which the individual will be eligible to vote; and

(C) indicates in which election the individual will be registered to vote.

(b) An individual who the county clerk registers under Subsection (4)(a)(ii) is considered to have applied for voter registration on the earlier of:

(i) the day of the voter registration deadline immediately preceding the election day on which the individual will be at least 18 years of age; or

(ii) the day on which the individual turns 18 years of age.

(c) A county clerk shall refer a voter registration form to the county attorney for investigation and possible prosecution if the clerk or the clerk's designee believes the individual is attempting to preregister to vote in an election in which the individual will not be legally entitled to vote.

(5) (a) The lieutenant governor or a county clerk shall classify the voter registration record of an individual who preregisters to vote as a private record until the day on which the individual turns 18 years of age.

(b) On the day on which the individual described in Subsection (5)(a) turns 18 years of age, the lieutenant governor or county clerk shall classify the individual's voter registration record as a public record in accordance with Subsection 63G-2-301(2)(l).

(6) If an individual who is at least 18 years of age erroneously indicates on the voter registration form that the individual is preregistering to vote, the county clerk shall consider the form as a voter registration form and shall process the form in accordance with this chapter.

Section 22. Section 20A-2-104 is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

(1) As used in this section:

(a) "Candidate for public office" means an individual:

(i) who files a declaration of candidacy for a public office;

(ii) who files a notice of intent to gather signatures under Section 20A-9-408; or

(iii) employed by, under contract with, or a volunteer of, an individual described in Subsection (1)(a)(i) or (ii) for political campaign purposes.

(b) "Dating violence" means the same as that term is defined in Section 78B-7-402 and the federal Violence Against Women Act of 1994, as amended.

(c) "Domestic violence" means the same as that term is defined in Section 77-36-1 and the federal Violence Against Women Act of 1994, as amended.

(d) "Hash Code" means a code generated by applying an algorithm to a set of data to produce a code that:

(i) uniquely represents the set of data;

(ii) is always the same if the same algorithm is applied to the same set of data; and

(iii) cannot be reversed to reveal the data applied to the algorithm.

(e) "Protected individual" means an individual:

(i) who submits a withholding request form with the individual's voter registration record, or to the lieutenant governor or a county clerk, if the individual indicates on the form that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence;

(ii) who submits a withholding request form with the individual's voter registration record, or to the lieutenant governor or a county clerk, if the individual indicates on the form and provides verification that the individual, or an individual who resides with the individual, is a law enforcement officer, a member of the armed forces as defined in Section 20A-1-513, a public figure, or protected by a protective order or protection order; or

(iii) whose voter registration record was classified as a private record at the request of the individual before May 12, 2020.

(2) (a) An individual applying for voter registration, or an individual preregistering to vote, shall complete a voter registration form in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Are you a citizen of the United States of America? Yes No

If you checked "no" to the above question, do not complete this form.

Will you be 18 years of age on or before election day? Yes No

If you checked "no" to the above question, are you 16 or 17 years of age and preregistering to vote? Yes No

If you checked "no" to both of the prior two questions, do not complete this form.

Name of Voter

_____

First Middle Last

Utah Driver License or Utah Identification Card Number_____

Date of Birth _____

Street Address of Principal Place of Residence

_____

City County State Zip Code

Telephone Number (optional) _____

Email Address (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)_____

_____

City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)

□ Unaffiliated (no political party preference) □ Other (Please specify)_____

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 calendar days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

_____

Voter's Signature

_____(month/day/year).

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that identifying information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

_____

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to $2,500.

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR

TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.

FOR OFFICIAL USE ONLY

Type of I.D. _____

Voting Precinct _____

Voting I.D. Number _____

(b) The voter registration form described in Subsection (2)(a) shall include a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

(c) (i) Except as provided under Subsection (2)(c)(ii), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(ii) The county clerk may transfer a superseded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section 26B-8-501, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party;

(vi) a candidate for public office, or an employee, independent contractor, or volunteer of a candidate for public office;

(vii) a person described in Subsections (4)(a)(i) through (vi) who, after obtaining a year of birth from the list of registered voters:

(A) provides the year of birth only to a person described in Subsections (4)(a)(i)through [~~(vii)~~](vi);

(B) verifies that the person described in Subsection (4)(a)(vii)(A) is a person described in Subsections (4)(a)(i) through [~~(vii)~~](vi);

(C) ensures, using industry standard security measures, that the year of birth may not be accessed by a person other than a person described in Subsections (4)(a)(i) through [~~(vii)~~](vi);

(D) verifies that each person described in Subsections (4)(a)(ii) through (iv) to whom the person provides the year of birth will only use the year of birth to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(E) verifies that each person described in Subsection (4)(a)(i) to whom the person provides the year of birth will only use the year of birth in the person's capacity as a government official or government employee; and

(F) verifies that each person described in Subsection (4)(a)(v) or (vi) to whom the person provides the year of birth will only use the year of birth for a political purpose of the political party or candidate for public office; or

(viii) a person described in Subsection (4)(a)(v) or (vi) who, after obtaining information under Subsection (4)(n) and (o):

(A) provides the information only to another person described in Subsection (4)(a)(v) or (vi);

(B) verifies that the other person described in Subsection (4)(a)(viii)(A) is a person described in Subsection (4)(a)(v) or (vi);

(C) ensures, using industry standard security measures, that the information may not be accessed by a person other than a person described in Subsection (4)(a)(v) or (vi); and

(D) verifies that each person described in Subsection (4)(a)(v) or (vi) to whom the person provides the information will only use the information for a political purpose of the political party or candidate for public office.

(b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person under this section, include, with the list, the years of birth of the registered voters, if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the years of birth;

(D) a list of the purposes for which the qualified person may use the year of birth of a registered voter that is obtained from the list of registered voters;

(E) a statement that the year of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the year of birth of a registered voter from the list of registered voters under false pretenses,

or provides or uses the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(c) The lieutenant governor or a county clerk:

(i) may not disclose the year of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

(A) is not a qualified person or a person described in Subsection (4)(l); or

(B) will provide or use the year of birth in a manner prohibited by law; and

(ii) may not disclose information under Subsections (4)(n) or (o) to a person that the lieutenant governor or county clerk reasonably believes:

(A) is not a person described in Subsection (4)(a)(v) or (vi); or

(B) will provide or use the information in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person, or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(h) to a person other than:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee; or

(ii) subject to Subsection (4)(e), a person described in Subsection (4)(a)(v) or (vi) for a political purpose.

(e) (i) Except as provided in Subsection (4)(e)(ii), when disclosing a record or information under Subsection (4)(d)(ii), the lieutenant governor or county clerk shall exclude the information described in Subsection 63G-2-302(1)(j), other than the year of birth.

(ii) If disclosing a record or information under Subsection (4)(d)(ii) in relation to the voter registration record of a protected individual, the lieutenant governor or county clerk shall comply with Subsections (4)(n) through (p).

(f) The lieutenant governor or a county clerk may not disclose a withholding request form, described in Subsections (7) and (8), submitted by an individual, or information obtained from that form, to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

(g) A person is guilty of a class A misdemeanor if the person:

(i) obtains from the list of registered voters, under false pretenses, the year of birth of a registered voter or information described in Subsection (4)(n) or (o);

(ii) uses or provides the year of birth of a registered voter, or information described in Subsection (4)(n) or (o), that is obtained from the list of registered voters in a manner that is not permitted by law;

(iii) obtains a voter registration record described in Subsection 63G-2-302(1)(k)under false pretenses;

(iv) uses or provides information obtained from a voter registration record described in Subsection 63G-2-302(1)(k) in a manner that is not permitted by law;

(v) unlawfully discloses or obtains a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8); or

(vi) unlawfully discloses or obtains information from a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8).

(h) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter:

(i) submits a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private;

(ii) requests on the voter's voter registration form that the voter's voter registration record be classified as a private record; or

(iii) submits a withholding request form described in Subsection (7) and any required verification.

(i) Except as provided in Subsections (4)(d)(ii) and (e)(ii), the lieutenant governor or a county clerk may not disclose to a person described in Subsection (4)(a)(v) or (vi) a voter registration record, or information obtained from a voter registration record, if the record is withheld under Subsection (7).

(j) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who violates a provision of this section, in an amount equal to the greater of:

(i) the product of 30 and the square root of the total number of:

(A) records obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(B) records from which information is obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(ii) $200.

(k) A qualified person may not obtain, provide, or use the year of birth of a registered voter, if the year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a government official or government employee who obtains, provides, or uses the year of birth in the government official's or government employee's capacity as a government official or government employee;

(ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or uses the year of birth only to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(iii) is a qualified person described in Subsection (4)(a)(v) or (vi) and obtains, provides, or uses the year of birth for a political purpose of the political party or candidate for public office; or

(iv) is a qualified person described in Subsection (4)(a)(vii) and obtains, provides, or uses the year of birth to provide the year of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

(l) The lieutenant governor or a county clerk may provide a year of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.

(m) A person described in Subsection (4)(a)(v) or (vi) may not use or disclose information from a voter registration record for a purpose other than a political purpose.

(n) Notwithstanding Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person described in Subsection (4)(a)(v) or (vi), include, from the record of a voter whose record is withheld under Subsection (7), the information described in Subsection (4)(o), if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person described in Subsection (4)(a)(v) or (vi); and

(ii) the qualified person described in Subsection (4)(a)(v) or (vi) signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the information;

(D) a list of the purposes for which the qualified person may use the information;

(E) a statement that the information may not be provided or used for a purpose other than a purpose described under Subsection (4)(n)(ii)(D);

(F) a statement that if the person obtains the information under false pretenses, or provides or uses the information in a manner that is prohibited by law, the person is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the information in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(o) Except as provided in Subsection (4)(p), the information that the lieutenant governor or a county clerk is required to provide, under Subsection (4)(n), from the record of a protected individual is:

(i) a single hash code, generated from a string of data that includes both the voter's voter identification number and residential address;

(ii) the voter's residential address;

(iii) the voter's mailing address, if different from the voter's residential address;

(iv) the party affiliation of the voter;

(v) the precinct number for the voter's residential address;

(vi) the voter's voting history; and

(vii) a designation of which age group, of the following age groups, the voter falls within:

(A) 25 or younger;

(B) 26 through 35;

(C) 36 through 45;

(D) 46 through 55;

(E) 56 through 65;

(F) 66 through 75; or

(G) 76 or older.

(p) The lieutenant governor or a county clerk may not disclose:

(i) information described in Subsection (4)(o) that, due to a small number of voters affiliated with a particular political party, or due to another reason, would likely reveal the identity of a voter if disclosed; or

(ii) the address described in Subsection (4)(o)(iii) if the lieutenant governor or the county clerk determines that the nature of the address would directly reveal sensitive information about the voter.

(q) A qualified person described in Subsection (4)(a)(v) or (vi), may not obtain, provide, or use the information described in Subsection (4)(n) or (o), except to the extent that the qualified person uses the information for a political purpose of a political party or candidate for public office.

(5) When political parties not listed on the voter registration form qualify as registered political parties under [~~Title 20A, Chapter 8, Political Party Formation and Procedures~~]Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks of the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

(6) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that an individual may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

(7) The lieutenant governor or a county clerk shall withhold from a person, other than a person described in Subsection (4)(a)(i), the voter registration record, and information obtained from the voter registration record, of a protected individual.

(8) (a) The lieutenant governor shall design and distribute [~~the~~]a withholding request form for the purpose described in [~~Subsection (7)~~]Subsections (1)(e)(i), (1)(e)(ii), (7), and this Subsection (8) to each election officer and to each agency that provides a voter registration form.

(b) An individual described in Subsection (1)(e)(i) is not required to provide verification, other than the individual's attestation and signature on the withholding request form, that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence.

(c) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for providing the verification described in Subsection (1)(e)(ii).

(9) An election officer or an employee of an election officer may not encourage an individual to submit, or discourage an individual from submitting, a withholding request form.

(10) (a) The lieutenant governor shall make and execute a plan to provide notice to registered voters who are protected individuals, that includes the following information:

(i) that the voter's classification of the record as private remains in effect;

(ii) that certain non-identifying information from the voter's voter registration record may, under certain circumstances, be released to political parties and candidates for public office;

(iii) that the voter's name, driver license or identification card number, social security number, email address, phone number, and the voter's day, month, and year of birth will remain private and will not be released to political parties or candidates for public office;

(iv) that a county clerk will only release the information to political parties and candidates in a manner that does not associate the information with a particular voter; and

(v) that a county clerk may, under certain circumstances, withhold other information that the county clerk determines would reveal identifying information about the voter.

(b) The lieutenant governor may include in the notice described in this Subsection (10) a statement that a voter may obtain additional information on the lieutenant governor's website.

(c) The plan described in Subsection (10)(a) may include providing the notice described in Subsection (10)(a) by:

(i) publication on the Utah Public Notice Website, created in Section 63A-16-601;

(ii) publication on the lieutenant governor's website or a county's website;

(iii) posting the notice in public locations;

(iv) publication in a newspaper;

(v) sending notification to the voters by electronic means;

(vi) sending notice by other methods used by government entities to communicate with citizens; or

(vii) providing notice by any other method.

(d) The lieutenant governor shall provide the notice included in a plan described in this Subsection (10) before June 16, 2023.

Section 23. Section 20A-2-105 is amended to read:

20A-2-105. Determining residency.

(1) As used in this section:

(a) "Principal place of residence" means the single location where an individual's habitation is fixed and to which, whenever the individual is absent, the individual has the intention of returning, as evidenced by:

(i) the intent expressed by the individual; and

(ii) acts of the individual that are consistent or inconsistent with the intent expressed by the individual.

(b) "Resident" means an individual whose principal place of residence is within a specific voting precinct in Utah.

(2) Election officials and judges shall apply the standards and requirements of this section when determining whether an individual is a resident for purposes of interpreting this title or the Utah Constitution.

(3) An individual may request that an election official or election judge assist the individual in determining the individual's principal place of residence for a purpose described in Subsection (2).

(4) (a) An individual resides in Utah if:

(i) the individual's principal place of residence is within Utah; and

(ii) the individual has a present intention to maintain the individual's principal place of residence in Utah permanently or indefinitely.

(b) An individual resides within a particular voting precinct if, on the date of registering to vote, the individual's principal place of residence is in that voting precinct.

(c) An individual's principal place of residence does not change solely because the individual is present in Utah, present in a voting precinct, absent from Utah, or absent from the individual's voting precinct because the individual is:

(i) employed in the service of the United States or of Utah;

(ii) a student at an institution of learning;

(iii) incarcerated in prison or jail; or

(iv) residing upon an Indian or military reservation.

(d) (i) A member of the armed forces of the United States is not a resident of Utah merely because that member is stationed at a military facility within Utah.

(ii) In order to be a resident of Utah, a member of the armed forces described in this Subsection (4)(d) shall meet the other requirements of this section.

(e) (i) Except as provided in Subsection (4)(e)(ii) or (iii), an individual does not lose the individual's principal place of residence in Utah or a precinct if the individual moves to a foreign country, another state, or another voting precinct within Utah, for temporary purposes with the intention of returning.

(ii) If an individual leaves the state or a voting precinct and votes or registers to vote in another state or voting precinct, the individual is no longer a resident of the state or voting precinct that the individual left.

(iii) An individual loses the individual's principal place of residence in Utah or in a precinct, if, after the individual moves to another state or another precinct under Subsection (4)(e)(i), the individual forms the intent of making the other state or precinct the individual's principal place of residence.

(f) An individual is not a resident of a county or voting precinct if the individual comes to the county or voting precinct for temporary purposes and does not intend to make that county or voting precinct the individual's principal place of residence.

(g) An individual loses the individual's principal place of residence in Utah or in a precinct if the individual moves to another state or precinct with the intention of making the other state or precinct the individual's principal place of residence.

(h) If an individual moves to another state or precinct with the intent of remaining in the other state or precinct for an indefinite time as the individual's principal place of residence, the individual loses the individual's principal place of residence in Utah, or in the precinct, even though the individual intends to return at some future time.

(5) (a) An individual may challenge a determination by a voter, election official, or election judge of a voter's principal place of residence, for the purpose of voting, in accordance with the applicable provisions of Sections 20A-3a-803, 20A-3a-804, and 20A-3a-805.

(b) If an election official or election judge has reasonable, articulable grounds to question the principal place of residence of an individual for a purpose described in Subsection (2), the election official or election judge may require the individual to provide information to resolve the question.

(c) Reasonable, articulable grounds to question an individual's principal place of residence, and require additional information under

Subsection (5)(b) include:

(i) that the individual has a driver license or other identification from outside Utah;

(ii) that the address claimed as the individual's principal place of residence does not match the address on the individual's driver license or other identification;

(iii) that the individual owns residential property outside the location claimed as the individual's principal place of residence; or

(iv) other articulable grounds that would lead a reasonable individual to question an individual's principal place of residence.

(d) If an election official or election judge requires, under Subsection (5)(b), that an individual provide additional information, the clerk shall:

(i) enter the voter registration into the statewide voter registration database; and

(ii) indicate, in the statewide voter registration database, that the voter must provide additional information before the voter's ballot may be accepted.

(6) Subject to Subsection (10), an election official or judge who, under Subsection (5), makes a determination regarding an individual's principal place of residence, shall, when making the determination, consider the following factors, to the extent that the factors are relevant:

(a) where the individual's family resides;

(b) whether the individual is single, married, separated, or divorced;

(c) the age of the individual;

(d) where the individual usually sleeps;

(e) where the individual's minor children attend school;

(f) the location of the individual's employment, income sources, or business pursuits;

(g) the location of real property owned by the individual;

(h) the individual's residence for purposes of taxation or tax exemption;

(i) the location where the individual's motor vehicles are registered;

(j) the address for which the individual pays utility services;

(k) the address associated with the individual's hunting or fishing license;

(l) the address associated with the individual's professional licenses; and

(m) other relevant factors.

(7) (a) An individual changes the individual's principal place of residence if the individual:

(i) acts affirmatively to move from the state or a precinct in the state; and

(ii) has the intent to remain in another state or precinct.

(b) An individual may not have more than one principal place of residence.

(c) An individual does not lose the individual's principal place of residence until the individual establishes another principal place of residence.

(d) An individual who moves from one county in Utah to another county in Utah retains the right to vote in the county from which the individual moved for 30 calendar days after the day on which the individual moved from the county, unless the individual votes in the new county for that election.

(e) An individual who is homeless may, in accordance with the other provisions of this section, establish a nontraditional location, including a location without a structure, as the individual's principal place of residence.

(8) In computing the period that a person is a resident for a purpose described in Subsection (2), the period:

(a) begins on the day on which the individual establishes the individual's principal place of residence; and

(b) ends on the day before the day of the next applicable election.

(9) (a) Except as provided in Subsection (12), there is a rebuttable presumption that an individual's principal place of residence is in Utah and in the voting precinct claimed by the individual, if the individual makes an oath or affirmation upon a registration application form or declaration of candidacy that the individual's principal place of residence is in Utah and in the voting precinct claimed by the individual.

(b) Except as provided in Subsection (12), the election officers and election officials shall allow an individual described in Subsection (9)(a) to register and vote in the precinct for the residence claimed under Subsection (9)(a), or accept the individual's declaration of candidacy in the district for the residence claimed under Subsection (9)(a), unless, in accordance with Subsection (5), it is shown by law or by clear and convincing evidence that:

(i) the individual's principal place of residence is not in Utah or not in the applicable precinct or district; or

(ii) the individual is incarcerated in prison or jail and did not, before the individual was incarcerated in prison or jail, establish the individual's principal place of residence in the voting precinct where the prison or jail is located.

(10) (a) The criteria described in this section for establishing an individual's principal place of residence for voting purposes do not apply in relation to the individual's location while the individual is incarcerated in prison or jail.

(b) For voting registration purposes, the principal place of residence of an individual incarcerated in prison or jail is the state and voting precinct where the individual's principal place of residence was located before incarceration.

(11) If an individual's principal place of residence is a residential parcel of one acre in size or smaller that is divided by the boundary line between two or more counties, that individual shall be considered a resident of the county in which a majority of the residential parcel lies.

(12) (a) If an individual seeking to become a candidate for a political office that includes a durational residency requirement has been absent from the state for a period of more than 180 [~~consecutive~~]calendar days during the applicable residency period, the individual may, at the time that the candidate files a declaration of candidacy, submit evidence to the filing officer to show that the individual intended to return to the state during the time of the individual's absence from the state.

(b) There is a rebuttable presumption that an individual described in Subsection (12)(a)intended to return to the state during the individual's absence if:

(i) the individual submits evidence of the individual's intent to the filing officer at the time that the individual files a declaration of candidacy; or

(ii) the individual was absent from the state because the individual was:

(A) employed in the service of the United States or of Utah;

(B) a student at an institution of learning; or

(C) engaged solely in religious, missionary, philanthropic, or humanitarian activities.

(c) If a valid written objection to an individual's declaration of candidacy is filed, there is a rebuttable presumption that an individual described in Subsection (12)(a) did not intend to return to the state during the individual's absence if:

(i) the individual did not submit evidence of the individual's intent to the filing officer at the time that the individual filed a declaration of candidacy; and

(ii) the individual's absence from the state was not for one of the reasons described in Subsection (12)(b)(ii).

(d) An individual must rebut the presumption described in this Subsection (12) by clear and convincing evidence.

Section 24. Section 20A-2-107 is amended to read:

20A-2-107. Designating or changing party affiliation -- Times permitted.

(1) As used in this section, "change of affiliation deadline" means:

(a) for an election held in an even-numbered year in which a presidential election will be held, the day after the declaration of candidacy deadline described in Subsection 20A-9-201.5(2)(b); or

(b) for an election held in an even-numbered year in which a presidential election will not be held, April 1.

(2) The county clerk shall:

(a) except as provided in Subsection (6) or 20A-2-107.5(3), record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or

(b) if no political party affiliation is designated by the voter on the voter registration form:

(i) except as provided in Subsection (2)(b)(ii), record the voter's party affiliation as the party that the voter designated the last time that the voter designated a party on a voter registration form, unless the voter more recently registered as "unaffiliated"; or

(ii) record the voter's party affiliation as "unaffiliated" if the voter:

(A) did not previously designate a party;

(B) most recently designated the voter's party affiliation as "unaffiliated"; or

(C) did not previously register.

(3) (a) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of this Subsection (3).

(b) A registered voter may designate or change the voter's political party affiliation by filing with the county clerk, the municipal clerk, or the lieutenant governor a voter registration form or another signed form that identifies the registered political party with which the voter chooses to affiliate.

(c) Except as provided in Subsection (3)(d), a voter registration form or another signed form designating or changing a voter's political party affiliation takes effect when the county clerk receives the signed form.

(d) The party affiliation of a voter who changes party affiliation, or who becomes unaffiliated from a political party, at any time on or after the change of affiliation deadline and on or before the date of the regular primary election, takes effect the day after the statewide canvass for the regular primary election.

(4) For purposes of Subsection (3)(d), a form described in Subsection (3)(c) is received by the county clerk before the change of affiliation deadline if:

(a) the individual submits the form in person at the county clerk's office no later than 5 p.m. on the last business day before the change of affiliation deadline;

(b) the individual submits the form electronically through the system described in Section 20A-2-206, at or before 11:59 p.m. before the day of the change of affiliation deadline; or

(c) the individual's form is clearly postmarked before the change of affiliation deadline.

(5) Subsection (3)(d) does not apply to the party affiliation designated by a voter on a voter registration form if:

(a) the voter has not previously been registered to vote in the state; or

(b) the voter's most recent party affiliation was changed to "unaffiliated" by a county clerk under Subsection (6).

(6) If the most recent party affiliation designated by a voter is for a political party that is no longer a registered political party, the county clerk shall:

(a) change the voter's party affiliation to "unaffiliated"; and

(b) notify the voter electronically or by mail:

(i) that the voter's affiliation has been changed to "unaffiliated" because the most recent party affiliation designated by the voter is for a political party that is no longer a registered political party; and

(ii) of the methods and deadlines for changing the voter's party affiliation.

Section 25. Section 20A-2-204 is amended to read:

20A-2-204. Registering to vote when applying for or renewing a driver license.

(1) As used in this section, "voter registration form" means, when an individual named on a qualifying form, as defined in Section 20A-2-108, answers "yes" to the question described in Subsection 20A-2-108(2)(a), the information on the qualifying form that can be used for voter registration purposes.

(2) (a) Except as provided in Subsection (2)(b), a citizen who is qualified to vote may register to vote, and a citizen who is qualified to preregister to vote may preregister to vote, by answering "yes" to the question described in Subsection 20A-2-108(2)(a)and completing the voter registration form.

(b) A citizen who is a program participant in the Safe at Home Program created in Section 77-38-602 is not eligible to register to vote as described in Subsection (2)(a), but is eligible to register to vote by any other means described in this part.

(3) The Driver License Division shall:

(a) assist an individual in completing the voter registration form unless the individual refuses assistance;

(b) electronically transmit each address change to the lieutenant governor [~~within~~]on or before the first business day that is at least five calendar days after the day on which the division receives the address change; and

(c) [~~within~~]on or before the first business day that is at least five calendar days after the day on which the division receives a voter registration form, electronically transmit the form to the Office of the Lieutenant Governor, including the following for the individual named on the form:

(i) the name, date of birth, driver license or state identification card number, last four digits of the social security number, Utah residential address, place of birth, and signature;

(ii) a mailing address, if different from the individual's Utah residential address;

(iii) an email address and phone number, if available;

(iv) the desired political affiliation, if indicated;

(v) an indication of whether the individual requested that the individual's voter registration record be classified as a private record under Subsection 20A-2-108(2)(b); and

(vi) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted with the form.

(4) Upon receipt of an individual's voter registration form from the Driver License Division under Subsection (3), the lieutenant governor shall:

(a) enter the information into the statewide voter registration database; and

(b) if the individual requests on the individual's voter registration form that the individual's voter registration record be classified as a private record or the individual submits a withholding request form described in Subsections 20A-2-104(7) and (8)and any required verification, classify the individual's voter registration record as a private record.

(5) The county clerk of an individual whose information is entered into the statewide voter registration database under Subsection (4) shall:

(a) ensure that the individual meets the qualifications to be registered or preregistered to vote; and

(b) (i) if the individual meets the qualifications to be registered to vote:

(A) ensure that the individual is assigned to the proper voting precinct; and

(B) send the individual the notice described in Section 20A-2-304; or

(ii) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

(6) (a) When the county clerk receives a correctly completed voter registration form under this section, the clerk shall:

(i) comply with the applicable provisions of this Subsection (6); or

(ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.

(b) If the county clerk receives a correctly completed voter registration form under this section no later than 5 p.m. or, if submitting the form electronically, midnight, 11 calendar days before the date of an election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote:

(A) enter the individual's name on the list of registered voters for the voting precinct in which the individual resides; and

(B) notify the individual that the individual is registered to vote in the upcoming election; and

(iii) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.

(c) If the county clerk receives a correctly completed voter registration form under this section after the deadline described in Subsection (6)(b), the county clerk shall, unless the individual named in the form is preregistering to vote:

(i) accept the application for registration of the individual;

(ii) process the voter registration form; and

(iii) unless the individual is preregistering to vote, and except as provided in Subsection 20A-2-207(6), inform the individual that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.

(7) (a) If the county clerk determines that an individual's voter registration form received from the Driver License Division is incorrect because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote, the county clerk shall mail notice to the individual stating that the individual has not been registered or preregistered because of an error, because the registration form is incomplete, or because the individual does not meet the qualifications to be registered to vote.

(b) If a county clerk believes, based upon a review of a voter registration form, that an individual, who knows that the individual is not legally entitled to register or preregister to vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer the form to the county attorney for investigation and possible prosecution.

Section 26. Section 20A-2-205 is amended to read:

20A-2-205. Registration at voter registration agencies.

(1) As used in this section:

(a) "Discretionary voter registration agency" means the same as that term is defined in Section 20A-2-300.5.

(b) "Public assistance agency" means the same as that term is defined in Section 20A-2-300.5.

(2) An individual may obtain and complete a registration form at a public assistance agency or discretionary voter registration agency.

(3) Each public assistance agency and discretionary voter registration agency shall provide, either as part of existing forms or on a separate form, the following information in substantially the following form:

"REGISTERING TO VOTE

If you are not registered to vote where you live now, would you like to apply to register or preregister to vote here today? (The decision of whether to register or preregister to vote will not affect the amount of assistance that you will be provided by this agency.) Yes____ No____
IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER OR PREREGISTER TO VOTE AT THIS TIME. If you would like help in filling out the voter registration form, we will help you. The decision about whether to seek or accept help is yours. You may fill out the application form in private. If you believe that someone has interfered

with your right to register or preregister or to decline to register or preregister to vote, your right to privacy in deciding whether to register or preregister, or in applying to register or preregister to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Office of the Lieutenant Governor, State Capitol Building, Salt Lake City, Utah 84114. (The phone number of the Office of the Lieutenant Governor)."

(4) Unless an individual applying for service or assistance from a public assistance agency or discretionary voter registration agency declines, in writing, to register or preregister to vote, each public assistance agency and discretionary voter registration agency shall:

(a) distribute a voter registration form with each application for service or assistance provided by the agency or office;

(b) assist applicants in completing the voter registration form unless the applicant refuses assistance;

(c) accept completed forms for transmittal to the appropriate election official; and

(d) transmit a copy of each voter registration form to the appropriate election official [~~within~~]on or before the first business day that is at least five calendar days after the day on which the division receives the voter registration form.

(5) An individual in a public assistance agency or a discretionary voter registration agency that helps an applicant complete the voter registration form may not:

(a) seek to influence an applicant's political preference or party registration;

(b) display any political preference or party allegiance;

(c) make any statement to an applicant or take any action that has the purpose or effect of discouraging the applicant from registering to vote; or

(d) make any statement to an applicant or take any action that has the purpose or effect of leading the applicant to believe that a decision of whether to register or preregister has any bearing upon the availability of services or benefits.

(6) If the county clerk receives a correctly completed voter registration form under this section no later than [~~5 p.m.~~]11 calendar days before the date of an election, the county clerk shall:

(a) accept and process the voter registration form;

(b) unless the individual named in the form is preregistering to vote:

(i) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

(ii) notify the applicant that the applicant is registered to vote in the upcoming election; and

(c) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.

(7) If the county clerk receives a correctly completed voter registration form after the deadline described in Subsection (6), the county clerk shall:

(a) accept the application for registration of the individual; and

(b) except as provided in Subsection 20A-2-207(6), if possible, promptly inform the individual that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.

(8) If the county clerk determines that a voter registration form received from a public assistance agency or discretionary voter registration agency is incorrect because of an error or because the voter registration form is incomplete, the county clerk shall mail notice to the individual attempting to register or preregister to vote, stating that the individual has not been registered or preregistered to vote because of an error or because the voter registration form is incomplete.

Section 27. Section 20A-2-304 is amended to read:

20A-2-304. County clerk's responsibilities -- Notice of disposition.

Each county clerk shall:

(1) register to vote each individual who meets the requirements for registration and who:

(a) submits a completed voter registration form to the county clerk;

(b) submits a completed voter registration form, as defined in Section 20A-2-204, to the Driver License Division;

(c) submits a completed voter registration form to a public assistance agency or a discretionary voter registration agency; or

(d) mails a completed voter registration form to the county clerk; and

(2) within 30 calendar days after the day on which the county clerk processes a voter registration form, send a notice to the individual who submits the form that:

(a) (i) informs the individual that the individual's voter registration form has been accepted and that the individual is registered to vote;

(ii) informs the individual of the procedure for designating or changing the individual's political affiliation;

(iii) informs the individual of the procedure to cancel a voter registration;

(iv) provides instructions to the voter on how the voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5; and

(v) confirms that the individual has chosen to receive electronic ballot status notifications if the individual opted to receive electronic ballot status notifications on the voter registration form;

(b) informs the individual that the individual's voter registration form has been rejected and the reason for the rejection; or

(c) (i) informs the individual that the individual's voter registration form is being returned to the individual for further action because the form is incomplete; and

(ii) gives instructions to the individual on how to properly complete the form.

Section 28. Section 20A-2-502 is amended to read:

20A-2-502. Statewide voter registration system -- Maintenance and update of system -- Record security -- List of incarcerated felons -- Public document showing compliance by county clerks.

(1) The lieutenant governor shall:

(a) develop, manage, and maintain a statewide voter registration system to be used by county clerks to maintain an updated statewide voter registration database in accordance with this section and rules made under Section 20A-2-507;

(b) except as provided in Subsection (2)(c), regularly update the system with information relevant to voter registration, as follows:

(i) on at least a weekly basis, information received from the Driver License Division in relation to:

(A) voter registration;

(B) a registered voter's change of address; or

(C) a registered voter's change of name;

(ii) on at least a weekly basis, the information described in Subsection 26B-8-114(11)from the state registrar, regarding deceased individuals;

(iii) on at least a monthly basis, the information described in Subsection (3), received from the Department of Corrections regarding incarcerated individuals;

(iv) on at least a monthly basis, information received from other states, including information received under an agreement described in Subsection (2); and

(v) within 31 calendar days after [~~receiving~~]the day on which the lieutenant governor receives information relevant to voter registration, other than the information described in Subsections (1)(b)(i) through [~~(v)~~](iv);

(c) regularly monitor the system to ensure that each county clerk complies with the requirements of this part and rules made under Section 20A-2-507;

(d) establish matching criteria and security measures for identifying a change described in Subsection (1)(b) to ensure the accuracy of a voter registration record; and

(e) on at least a monthly basis:

(i) use the matching criteria and security measures described in Subsection (1)(d) to compare information in the database to identify duplicate data, contradictory data, and changes in data;

(ii) notify the applicable county clerk of the data identified; and

(iii) notify the county clerk of the county in which a voter's principal place of residence is located of a change in a registered voter's principal place of residence or name.

(2) (a) Subject to Subsection (2)(b), the lieutenant governor may cooperate or enter into an agreement with a governmental entity or another state to share information and increase the accuracy of the database.

(b) For a record shared under Subsection (2)(a), the lieutenant governor shall ensure:

(i) that the record is only used to maintain the accuracy of the database;

(ii) compliance with Section 63G-2-206; and

(iii) that the record is secure from unauthorized use by employing data encryption or another similar technology security system.

(c) The lieutenant governor is not required to comply with an updating requirement described in Subsection (1)(b) to the extent that the person responsible to provide the information to the lieutenant governor fails to provide the information.

(3) (a) The lieutenant governor shall maintain a current list of all incarcerated felons in Utah.

(b) The Department of Corrections shall provide the lieutenant governor's office with:

(i) the name and last-known address of each individual who:

(A) was convicted of a felony in a Utah state court; and

(B) is currently incarcerated for commission of a felony; and

(ii) the name of each convicted felon who has been released from incarceration.

(4) The lieutenant governor shall maintain on the lieutenant governor's website a document that:

(a) describes the utilities and tools within the system that a county clerk is required to run;

(b) describes the actions, if any, that a county clerk is required to take in relation to the results of running a utility or tool;

(c) lists, by date, the recurring deadlines by which a county clerk must comply with Subsection (4)(a) or (b); and

(d) indicates, by county:

(i) whether the county clerk timely complies with each deadline described in Subsection (4)(c); and

(ii) if the county clerk fails to timely comply with a deadline described in Subsection (4)(c), whether the county clerk subsequently complies with the deadline and the date on which the county clerk complies.

Section 29. Section 20A-2-503 is amended to read:

20A-2-503. County clerk's responsibilities -- Updating voter registration.

(1) (a) Each county clerk shall use the system to record or modify all voter registration records.

(b) A county clerk shall:

(i) at the time the county clerk enters a voter registration record into the system, run the system's voter identification verification tool in relation to the record; and

(ii) in accordance with rules made under Section 20A-2-507, regularly report to the lieutenant governor the information described in Subsection 20A-2-502(4).

(2) A county clerk who receives notification from the lieutenant governor, as provided in Subsection 20A-2-502(1)(e), of a change in a registered voter's principal place of residence or name may verify the change with the registered voter.

(3) Unless the county clerk verifies that a change described in Subsection (2) is incorrect, the county clerk shall:

(a) change the voter registration record to show the registered voter's current name and address; and

(b) notify the registered voter of the change to the voter registration record.

(4) A county clerk shall, in accordance with rules made under Section 20A-2-507:

(a) on at least a monthly basis, run the duplicate voter utility and take the action required to resolve potential duplicate data identified by the utility; and

(b) every December, run the annual maintenance utility.

(5) (a) If a voter does not vote in any election during the period beginning on the date of any regular general election and ending on the day after the date of the next regular general election, and the county clerk has not sent the voter a notice described in Section 20A-2-

505 during the period, the county clerk shall, within 14 calendar days after the day on which the county clerk runs the annual maintenance utility, send to the voter a preaddressed return form in substantially the following form:

"VOTER REGISTRATION ADDRESS"

To ensure the address on your voter registration is correct, please complete and return this form if your address has changed. What is your current street address?

_____

Street City County State ZIP

_____

Signature of Voter

(b) The county clerk shall mail the form described in Subsection (5)(a) with a postal service that will notify the county clerk if the voter has changed the voter's address.

Section 30. Section 20A-2-504 is amended to read:

20A-2-504. Removing names from the official register -- General requirements.

(1) The county clerk may not remove a voter's name from the official register solely because the voter has failed to vote in an election.

(2) The county clerk shall remove a voter's name from the official register if:

(a) the voter dies and the requirements of Subsection (3) are met;

(b) the county clerk, after complying with the requirements of Section 20A-2-505, receives written confirmation from the voter that the voter no longer resides within the county clerk's county;

(c) (i) the county clerk obtains evidence that the voter's residence has changed;

(ii) the county clerk mails notice to the voter as required under Section 20A-2-505;

(iii) the county clerk:

(A) receives no response from the voter; or

(B) does not receive information that confirms the voter's residence; and

(iv) the voter does not vote or appear to vote in an election during the period beginning on the date of the notice described in Section 20A-2-505 and ending on the day after the date of the second regular general election occurring after the date of the notice;

(d) the voter requests, in writing, that the voter's name be removed from the official register;

(e) the county clerk receives notice that a voter has been convicted of any felony or a misdemeanor for an offense under this title and the voter's right to vote has not been restored as provided in Section 20A-2-101.3 or 20A-2-101.5; or

(f) the county clerk receives notice that a voter has registered to vote in another state after the day on which the voter registered to vote in this state.

(3) The county clerk shall remove a voter's name from the official register within five business days after the day on which the county clerk receives confirmation from the Office of Vital Records that the voter is deceased.

(4) No later than 90 calendar days before each primary election day and general election day, the county clerk shall update the official register by reviewing the official register and taking the actions permitted or required by law under this section, Section 20A-2-503, and Section 20A-2-505.

Section 31. Section 20A-2-505 is amended to read:

20A-2-505. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) does not vote in an election during the period beginning on the date of the notice described in Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) does not respond to the notice described in Subsection (3).

(2) (a) Within 31 calendar days after the day on which a county clerk obtains information that a voter's address has changed, if it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice described in Subsection (3).

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice described in Subsection (3), printed on a postage prepaid, preaddressed return form.

(3) (a) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

_____

Street City County State Zip

What is your current phone number (optional)?_____

What is your current email address (optional)?_____

If you have not changed your residence, or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk before 5 p.m. no later than 30 calendar days before the date of the election. If you fail to return this form within that time:

- you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

- if you fail to vote at least once, from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

_____

Signature of Voter

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that identifying information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order."

(b) The form described in Subsection (3)(a) shall also include a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

---

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 calendar days before a regular primary election or the 90 calendar days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 calendar days before a regular primary election or the 90 calendar days before a regular general election if:

(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter dies.

(c) (i) After a county clerk mails a notice under this section, the county clerk shall, unless otherwise prohibited by law, list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk shall, unless otherwise prohibited by law, list that voter as inactive.

(iii) An inactive voter may vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to:

(A) send routine mailings to an inactive voter; or

(B) count inactive voters when dividing precincts and preparing supplies.

(5) The lieutenant governor shall make available to a county clerk United States Social Security Administration data received by the lieutenant governor regarding deceased individuals.

(6) A county clerk shall, within [~~ten~~]10 business days after the day on which the county clerk receives the information described in Subsection (5) or Subsections 26B-8-114(11)and (12) relating to a decedent whose name appears on the official register, remove the decedent's name from the official register.

(7) Ninety calendar days before each primary and general election the lieutenant governor shall compare the information the lieutenant governor has received under Subsection 26B-8-114(11) with the official register of voters to ensure that all deceased voters have been removed from the official register.

Section 32. Section 20A-3a-106 is amended to read:

20A-3a-106. Rulemaking authority relating to conducting an election.

The director of elections, within the Office of the Lieutenant Governor, may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for:

(1) a return envelope described in Subsection 20A-3a-202(4), to ensure uniformity and security of the envelopes;

(2) complying with the signature comparison audit requirements described in Section 20A-3a-402.5;[~~ or~~]

(3) conducting and documenting the identity verification process described in Subsection 20A-3a-401(7)(b)[~~.~~]; or

(4) establishing specific requirements and procedures for an election officer to:

(a) perform the signature comparison audits described in Subsection 20A-9-408(9)(e); or

(b) fulfill the chain of custody requirements described in Section 20A-9-408.3.

Section 33. Section 20A-3a-202 is amended to read:

20A-3a-202. Conducting election by mail.

(1) (a) Except as otherwise provided for an election conducted entirely by mail under Section 20A-7-609.5, an election officer shall administer an election primarily by mail, in accordance with this section.

(b) An individual who did not provide valid voter identification at the time the voter registered to vote shall provide valid voter identification before voting.

(2) An election officer who administers an election:

(a) shall in accordance with Subsection (3), no sooner than 21 calendar days before election day and no later than seven calendar days before election day, mail to each active voter within a voting precinct:

(i) a manual ballot;

(ii) a return envelope;

(iii) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted;

(iv) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote or a website address where the voter may view this information;

(v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling place or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the ballot, the voter will be unable to vote in that election because there will be no polling place for the voting precinct on the day of the election; and

(vi) instructions on how a voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5;

(b) may not mail a ballot under this section to:

(i) an inactive voter, unless the inactive voter requests a manual ballot; or

(ii) a voter whom the election officer is prohibited from sending a ballot under Subsection (9)(c)(ii);

(c) shall, on the outside of the envelope in which the election officer mails the ballot, include instructions for returning the ballot if the individual to whom the election officer mails the ballot does not live at the address to which the ballot is sent;

(d) shall provide a method of accessible voting to a voter with a disability who is not able to vote by mail; and

(e) shall include, on the election officer's website and with each ballot mailed, instructions regarding how a voter described in Subsection (2)(d) may vote.

(3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail the manual ballot to the address:

(i) provided at the time of registration; or

(ii) if, at or after the time of registration, the voter files an alternate address request form described in Subsection (3)(b), the alternate address indicated on the form.

(b) The lieutenant governor shall make available to voters an alternate address request form that permits a voter to request that the election officer mail the voter's ballot to a location other than the voter's residence.

(c) A voter shall provide the completed alternate address request form to the election officer no later than 11 calendar days before the day of the election.

(4) The return envelope shall include:

(a) the name, official title, and post office address of the election officer on the front of the envelope;

(b) a space where a voter may write an email address and phone number by which the election officer may contact the voter if the voter's ballot is rejected;

(c) a printed affidavit in substantially the following form:

"County of ____State of ____

I, ____, solemnly swear that: I am a qualified resident voter of the ____ voting precinct in ____ County, Utah and that I am entitled to vote

in this election. I am not a convicted felon currently incarcerated for commission of a felony.

_____

Signature of Voter"; and

(d) a warning that the affidavit must be signed by the individual to whom the ballot was sent and that the ballot will not be counted if the signature on the affidavit does not match the signature on file with the election officer of the individual to whom the ballot was sent.

(5) If the election officer determines that the voter is required to show valid voter identification, the election officer may:

(a) mail a ballot to the voter;

(b) instruct the voter to include a copy of the voter's valid voter identification with the return ballot; and

(c) provide instructions to the voter on how the voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

(6) An election officer who administers an election shall:

(a) (i) before the election, obtain the signatures of each voter qualified to vote in the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(7) Upon receipt of a returned ballot, the election officer shall review and process the ballot under Section 20A-3a-401.

(8) A county that administers an election:

(a) shall provide at least one election day voting center in accordance with Part 7, Election Day Voting Center, and at least one additional election day voting center for every 5,000 active voters in the county who have requested to not receive a ballot by mail;

(b) shall ensure that each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section 20A-3a-601, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 calendar days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604; and

(d) is not required to pay return postage for a ballot.

(9) (a) An individual may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.

(b) An individual shall submit the request described in Subsection (9)(a) to the election officer before 5 p.m. no later than 60 calendar days before an election if the individual does not wish to receive a ballot by mail in that election.

(c) An election officer who receives a request from an individual under Subsection (9)(a):

(i) shall remove the individual's name from the list of voters who will receive a ballot by mail; and

(ii) may not send the individual a ballot by mail for:

(A) the next election, if the individual submits the request described in Subsection (9)(a) before the deadline described in Subsection (9)(b); or

(B) an election after the election described in Subsection (9)(c)(ii)(A).

(d) An individual who submits a request under Subsection (9)(a) may resume the individual's receipt of a ballot by mail by submitting a written request to the election officer.

(10) A county clerk shall, at least 90 calendar days before an election administered by the county clerk, contact local post offices to:

(a) coordinate the handling of mail-in ballots for the upcoming election; and

(b) take measures to ensure that:

(i) ballots are clearly and properly postmarked, or otherwise marked in accordance with Subsection 20A-3a-204(2)(a)(i), with the date on which the ballot was mailed; and

(ii) ballots are delivered in an expeditious manner to optimize the timely receipt of ballots.

Section 34. Section 20A-3a-203 is amended to read:

20A-3a-203. Voting at a polling place.

(1) Except as provided in Section 20A-7-609.5, a registered voter may vote at a polling place in an election in accordance with this section.

(2) (a) The voter shall give the voter's name, and, if requested, the voter's residence, to one of the poll workers.

(b) The voter shall present valid voter identification to one of the poll workers.

(c) If the poll worker is not satisfied that the voter has presented valid voter identification, the poll worker shall:

(i) indicate on the official register that the voter was not properly identified;

(ii) issue the voter a provisional ballot;

(iii) notify the voter that the voter will have until the close of normal office hours on Monday after the day of the election or, if Monday is a holiday, on the first business day after the holiday, to present valid voter identification:

(A) to the county clerk at the county clerk's office; or

(B) to an election officer who is administering the election; and

(iv) follow the procedures and requirements of Section 20A-3a-205.

(d) If the person's right to vote is challenged as provided in Section 20A-3a-803, the poll worker shall follow the procedures and requirements of Section 20A-3a-205.

(3) A poll worker shall check the official register to determine whether:

(a) a voter is registered to vote; and

(b) if the election is a regular primary election or a presidential primary election, whether a voter's party affiliation designation in the official register allows the voter to vote the ballot that the voter requests.

(4) (a) Except as provided in Subsection (5), if the voter's name is not found on the official register, the poll worker shall follow the procedures and requirements of Section 20A-3a-205.

(b) If, in a regular primary election or a presidential primary election, the official register does not affirmatively identify the voter as being affiliated with a registered political party or if the official register identifies the voter as being "unaffiliated," the voter shall be considered to be "unaffiliated."

(5) In a regular primary election or a presidential primary election:

(a) if a voter's name is not found on the official register, and if it is not unduly disruptive to the election process, the poll worker may attempt to contact the county clerk's office to request oral verification of the voter's registration;

(b) if oral verification is received from the county clerk's office, the poll worker shall:

(i) record the verification on the official register;

(ii) determine the voter's party affiliation and the ballot that the voter is qualified to vote; and

(iii) except as provided in Subsection (6), comply with Subsection (3).

(6) (a) Except as provided in Subsection (6)(b), if, in a regular primary election or a presidential primary election, the voter's political party affiliation listed in the official register does not allow the voter to vote the ballot that the voter requested, the poll worker shall inform the voter of that fact and inform the voter of the ballot or ballots that the voter's party affiliation does allow the voter to vote.

(b) If, in a regular primary election or a presidential primary election, the voter is listed in the official register as unaffiliated, or if the official register does not affirmatively identify the voter as either unaffiliated or affiliated with a registered political party, and the voter, as an unaffiliated voter, is not authorized to vote the ballot that the voter requests, the poll worker shall:

(i) ask the voter if the voter wishes to vote another registered political party ballot that the voter, as unaffiliated, is authorized to vote, or remain unaffiliated; and

(ii) (A) if the voter wishes to vote another registered political party ballot that the unaffiliated voter is authorized to vote, the poll worker shall proceed as required by Subsection (3); or

(B) if the voter wishes to remain unaffiliated and does not wish to vote another ballot that unaffiliated voters are authorized to vote, the poll worker shall instruct the voter that the voter may not vote.

(7) Except as provided in Subsection (6)(b)(ii)(B), and subject to the other provisions of Subsection (6), if the poll worker determines that the voter is registered, a poll worker shall:

(a) direct the voter to sign the voter's name in the official register;

(b) provide to the voter the ballot that the voter is qualified to vote; and

(c) allow the voter to enter the voting booth.

Section 35. Section 20A-3a-401 is amended to read:

20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box -- Disposition -- Notice -- Disclosures relating to unresolved ballots.

(1) This section governs ballots returned by mail or via a ballot drop box.

(2) (a) Poll workers shall open return envelopes containing manual ballots that are in the custody of the poll workers in accordance with this section.

(b) The poll workers shall, first, compare the signature of the voter on the affidavit of the return envelope to the signature of the voter in the voter registration records.

(3) After complying with Subsection (2), the poll workers shall determine whether:

(a) the signatures correspond;

(b) the affidavit is sufficient;

(c) the voter is registered to vote in the correct precinct;

(d) the voter's right to vote the ballot has been challenged;

(e) the voter has already voted in the election;

(f) the voter is required to provide valid voter identification; and

(g) if the voter is required to provide valid voter identification, whether the voter has provided valid voter identification.

(4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll workers determine:

(i) in accordance with the rules made under Subsection (11):

(A) that the signature on the affidavit of the return envelope is reasonably consistent with the individual's signature in the voter registration records; or

(B) for an individual who checks the box described in Subsection (5)(c)(v), that the signature is verified by alternative means;

(ii) that the affidavit is sufficient;

(iii) that the voter is registered to vote in the correct precinct;

(iv) that the voter's right to vote the ballot has not been challenged;

(v) that the voter has not already voted in the election; and

(vi) for a voter required to provide valid voter identification, that the voter has provided valid voter identification.

(b) If the poll workers make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) remove the manual ballot from the return envelope in a manner that does not destroy the affidavit on the return envelope;

(ii) ensure that the ballot does not unfold and is not otherwise examined in connection with the return envelope; and

(iii) place the ballot with the other ballots to be counted.

(c) If the poll workers do not make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) disallow the vote;

(ii) without opening the return envelope, record the ballot as "rejected" and state the reason for the rejection; and

(iii) place the return envelope, unopened, with the other rejected return envelopes.

(5) (a) If the poll workers reject an individual's ballot because the poll workers determine, in accordance with rules made under Subsection (11), that the signature on the return envelope is not reasonably consistent with the individual's signature in the voter registration records, the election officer shall:

(i) contact the individual in accordance with Subsection (6); and

(ii) inform the individual:

(A) that the individual's signature is in question;

(B) how the individual may resolve the issue; and

(C) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (5)(c).

(b) The election officer shall ensure that the notice described in Subsection (5)(a) includes:

(i) when communicating the notice by mail, a printed copy of the affidavit described in Subsection (5)(c) and a courtesy reply envelope;

(ii) when communicating the notice electronically, a link to a copy of the affidavit described in Subsection (5)(c) or information on how to obtain a copy of the affidavit; or

(iii) when communicating the notice by phone, either during a direct conversation with the voter or in a voicemail, arrangements for the voter to receive a copy of the affidavit described in Subsection (5)(c), either in person from the clerk's office, by mail, or electronically.

(c) An affidavit described in Subsection (5)(a)(ii)(C) shall include:

(i) an attestation that the individual voted the ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit;

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes; and

(v) a check box accompanied by language in substantially the following form: "I am a voter with a qualifying disability under the Americans with Disabilities Act that impacts my ability to sign my name consistently. I can provide appropriate documentation upon request. To discuss accommodations, I can be contacted at _____".

(d) In order for an individual described in Subsection (5)(a) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection (5)(c) to the election officer.

(e) An election officer who receives a signed affidavit under Subsection (5)(d) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-502;

(ii) if the election officer receives the affidavit no later than [~~5 p.m. three days~~]noon on the last business day before the day on which the canvass begins, count the individual's ballot; and

(iii) if the check box described in Subsection (5)(c)(v) is checked, comply with the rules described in Subsection (11)(c).

(6) (a) The election officer shall, within two business days after the day on which an individual's ballot is rejected, notify the individual of the rejection and the reason for the rejection, by phone, mail, email, or SMS text message, unless:

(i) the ballot is cured within one business day after the day on which the ballot is rejected; or

(ii) the ballot is rejected because the ballot is received late or for another reason that cannot be cured.

(b) If an individual's ballot is rejected for a reason described in Subsection (6)(a)(ii), the election officer shall notify the individual of the rejection and the reason for the rejection by phone, mail, email, or SMS text message, within the later of:

(i) 30 calendar days after the day of the rejection; or

(ii) 30 calendar days after the day of the election.

(c) The election officer may, when notifying an individual by phone under this Subsection (6), use auto-dial technology.

(7) An election officer may not count the ballot of an individual whom the election officer contacts under Subsection (5) or (6) unless, no later than [~~5 p.m. three days~~]noon on the last business day before the day on which the canvass begins, the election officer:

(a) receives a signed affidavit from the individual under Subsection (5); or

(b) (i) contacts the individual;

(ii) if the election officer has reason to believe that an individual, other than the voter to whom the ballot was sent, signed the ballot affidavit, informs the individual that it is unlawful to sign a ballot affidavit for another person, even if the person gives permission;

(iii) verifies the identity of the individual by:

(A) requiring the individual to provide at least two types of personal identifying information for the individual; and

(B) comparing the information provided under Subsection (7)(b)(iii)(A) to records relating to the individual that are in the possession or control of an election officer; and

(iv) documenting the verification described in Subsection (7)(b)(iii), by recording:

(A) the name and voter identification number of the individual contacted;

(B) the name of the individual who conducts the verification;

(C) the date and manner of the communication;

(D) the type of personal identifying information provided by the individual;

(E) a description of the records against which the personal identifying information provided by the individual is compared and verified; and

(F) other information required by the lieutenant governor.

(8) The election officer shall:

(a) retain and preserve the return envelopes in the manner provided by law for the retention and preservation of ballots voted at that election;

(b) retain and preserve the documentation described in Subsection (7)(b)(iv); and

(c) if the election officer complies with Subsection (8)(b) by including the documentation in the voter's voter registration record, make, retain, and preserve a record of the name and voter identification number of each voter contacted under Subsection (7)(b).

(9) (a) The election officer shall record the following in the database used to verify signatures:

(i) any initial rejection of a ballot under Subsection (4)(c), within one business day after the day on which the election officer rejects the ballot; and

(ii) any resolution of a rejection of a ballot under Subsection (7), within one business day after the day on which the ballot rejection is resolved.

(b) An election officer shall include, in the canvass report, a final report of the disposition of all rejected and resolved ballots, including, for ballots rejected, the following:

(i) the number of ballots rejected because the voter did not sign the voter's ballot; and

(ii) the number of ballots rejected because the voter's signatures on the ballot, and in records on file, do not correspond.

(10) Willful failure to comply with this section constitutes willful neglect of duty under Section 20A-5-701.

(11) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) criteria and processes for use by poll workers in determining if a signature corresponds with the signature on file for the voter under Subsections (3)(a) and (4)(a)(i)(A);

(b) training and certification requirements for election officers and employees of election officers regarding the criteria and processes described in Subsection (11)(a); and

(c) in compliance with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Secs. 12131 through 12165, an alternative means of verifying the identity of an individual who checks the box described in Subsection (5)(c)(v).

(12) Subject to Subsection (13), if, in response to a request, and in accordance with the requirements of law, an election officer discloses the name or address of voters whose ballots have been rejected and not yet resolved, the election officer shall:

(a) make the disclosure within two business days after the day on which the request is made;

(b) respond to each request in the order the requests were made; and

(c) make each disclosure in a manner, and within a period of time, that does not reflect favoritism to one requestor over another.

(13) A disclosure described in Subsection (12) may not include the name or address of a protected individual, as defined in Subsection 20A-2-104(1).

Section 36. Section 20A-3a-502 is amended to read:

20A-3a-502. Intimidation -- Undue influence.

(1) It is unlawful for a person to induce or compel an individual to vote or refrain from voting at an election provided by law or to vote or refrain from voting for a particular individual or measure at an election provided by law, directly or indirectly, by:

(a) using force, violence, or restraint;

(b) inflicting or threatening to inflict injury, damage, harm, or loss; or

(c) by intimidation.

(2) It is unlawful for a person to, by abduction, force, or fraud, impede, prevent, or otherwise interfere with the free exercise of the elective franchise of any voter, either in voting at any election provided by law or voting or refraining from voting for a particular individual or measure at an election provided by law.

(3) It is unlawful for a person to:

(a) enclose in the salary or wage envelopes of an employee of the person, political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinion, views, or action of the employee; or

(b) within 90 calendar days before the day of an election provided by law, post or otherwise exhibit, in a location where the person's employees may be working or may be present in the course of employment, any handbill, notice, or placard containing any threat, notice, or information, that if any particular ticket or candidate is or is not elected:

(i) work performed by the person's employees will cease in whole or in part;

(ii) the workplace will close;

(iii) wages of workforce will be reduced; or

(iv) other adverse consequences, under the control of the person, will result.

(4) Violation of this section is a class B misdemeanor.

Section 37. Section 20A-3a-601 is amended to read:

20A-3a-601. Early voting.

(1) Except as provided in Section 20A-7-609.5:

(a) an individual who is registered to vote may vote at a polling place before the election date in accordance with this section; and

(b) except as provided in Subsection 20A-2-207(6), an individual who is not registered to vote may register to vote and vote at a polling place before the election date in accordance with this section if the individual:

(i) is otherwise legally entitled to vote the ballot; and

(ii) casts a provisional ballot in accordance with Section 20A-2-207.

(2) Except as provided in Section 20A-1-308 or Subsection (3), the early voting period:

(a) begins on the date that is 14 calendar days before the date of the election; and

(b) continues through the Friday before the election if the election date is a Tuesday.

(3) (a) An election officer may extend the end of the early voting period to the day before the election date if the election officer provides notice of the extension in accordance with Section 20A-3a-604.

(b) For a municipal election, the municipal clerk may reduce the early voting period described in this section if:

(i) the municipal clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 calendar days before the date of the election and ending on the day before the election; and

(iii) the municipal clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604.

(c) For a county election, the county clerk may reduce the early voting period described in this section if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 calendar days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604.

(4) Except as provided in Section 20A-1-308, during the early voting period, the election officer:

(a) for a local special election, a municipal primary election, and a municipal general election:

(i) shall conduct early voting on a minimum of four days during each week of the early voting period; and

(ii) shall conduct early voting on the last day of the early voting period; and

(b) for all other elections:

(i) shall conduct early voting on each weekday; and

(ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

(5) Except as specifically provided in this Part 6, Early Voting, or Section 20A-1-308, early voting shall be administered in accordance with the requirements of this title.

Section 38. Section 20A-3a-604 is amended to read:

20A-3a-604. Notice of time and place of early voting.

(1) Except as provided in Section 20A-1-308 or Subsection 20A-3a-603(2), the election officer shall, for at least 28 calendar days before the date of the election, provide notice of the dates, times, and locations of early voting by publishing notice for the county, as a class A notice under Section 63G-30-102.

(2) Instead of specifying all dates, times, and locations of early voting, a notice required under Subsection (1) may specify the following sources where a voter may view or obtain a copy of all dates, times, and locations of early voting:

(a) the county's website;

(b) the physical address of the county's offices; and

(c) a mailing address and telephone number.

(3) The election officer shall include in the notice described in Subsection (1):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each early voting polling place, including any changes to the location of an early voting polling place and the location of additional early voting polling places; and

(b) a phone number that a voter may call to obtain information regarding the location of an early voting polling place.

Section 39. Section 20A-3a-703 is amended to read:

20A-3a-703. Election day voting centers as polling places -- Location -- Notification.

(1) The election officer may designate one or more polling places as an election day voting center if:

(a) except as provided in Subsection (2), the election officer notifies the lieutenant governor of the designation and location of the election day voting center at least 15 calendar days before the election;

(b) the polling place meets the requirements for a polling place under Chapter 5, Election Administration; and

(c) the polling place is located in a government building or office, unless the election officer determines that there is no government building or office available, in the area designated by the election officer, that:

(i) can be scheduled for use during election day voting hours;

(ii) has the physical facilities necessary to accommodate election day voting requirements;

(iii) has adequate space for voting equipment, poll workers, and voters; and

(iv) has adequate security, public accessibility, and parking.

(2) (a) The election officer may, after the deadline described in Subsection (1)(a):

(i) if necessary, change the location of an election day voting center; or

(ii) if the election officer determines that the number of election day voting centers is insufficient due to the number of registered voters who are voting, designate additional election day voting centers.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of an election day voting center or designates an additional election day voting center, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of the changed election day voting center or the additional election day voting center:

(i) to the lieutenant governor, for posting on the Statewide Electronic Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) of a change in the location of an election day voting center, at the new location and, if possible, the old location; and

(B) of an additional election day voting center, at the additional election day voting center.

Section 40. Section 20A-3a-801 is amended to read:

20A-3a-801. Watchers.

(1) As used in this section[~~, "administering~~]:

(a) "Administering election officer" means:

[~~(a)~~](i) the election officer; or

[~~(b)~~](ii) if the election officer is the lieutenant governor, the county clerk of the county in which an individual will act as a watcher.

(b) "Candidate signature packet" means the same as that term is defined in Section 20A-9-401.1.

(c) "Election process" means each process of an election, including a process described in Subsections (4) and (5).

(2) (a) Any individual who is registered or preregistered to vote in Utah may, at any time, become a watcher of any election process in relation to an election[~~, at any time~~] by registering as a watcher with the administering election officer.

(b) An individual who registers under Subsection (2)(a) is not required to be certified by a person under Subsection (3) in order to act as a watcher.

(c) An individual who registers as a watcher shall notify the administering election officer of the dates, times, and locations that the individual intends to act as a watcher.

(d) An election official may not prohibit a watcher from performing a function described in Subsection (4) because the watcher did not provide the notice described in Subsection (2)(c).

(e) An administering election officer shall provide a copy of this section, or instructions on how to access an electronic copy of this section, to a watcher at the time the watcher registers under this Subsection (2).

(3) (a) A person that is a candidate whose name will appear on the ballot, a qualified write-in candidate for the election, a registered political party, or a political issues committee may certify an individual as an official watcher for the person:

(i) by filing an affidavit with the administering election officer responsible to designate an individual as an official watcher for the certifying person; and

(ii) if the individual registers as a watcher under Subsection (2)(a).

(b) A watcher who is certified by a person under Subsection (3)(a) may not perform the same function described in Subsection (4) at the same time and in the same location as another watcher who is certified by that person.

(c) A watcher who is certified by a person under Subsection (3)(a) may designate another individual to serve in the watcher's stead during the watcher's temporary absence by filing with a poll worker an affidavit that designates the individual as a temporary replacement.

(4) A watcher may:

(a) observe the setup or takedown of a polling place;

(b) observe a voter checking in at a polling place;

(c) observe the collection, receipt, and processing of a ballot, including a provisional ballot or a ballot cast by a covered voter as defined in Section 20A-16-102;

(d) observe the transport or transmission of a ballot that is in an election official's custody;

(e) observe the opening and inspection of a manual ballot;

(f) observe ballot replication;

(g) observe the conduct of logic and accuracy testing described in Section 20A-5-802;

(h) observe ballot tabulation;

(i) observe the process of storing and securing a ballot;

(j) observe a post-election audit;

(k) observe a canvassing board meeting described in [~~Title 20A, Chapter 4, Part 3, Canvassing Returns~~]Chapter 4, Part 3, Canvassing Returns;

(l) observe the certification of the results of an election;

(m) observe a recount; or

(n) observe signature verification[~~.~~]:

(i) of signatures on a return envelope containing a ballot; or

(ii) relating to a candidate signature packet.

(5) To observe signature verification relating to a candidate signature packet, a watcher may observe:

(a) the receipt, initial review, and processing that occurs at the time an individual submits a candidate signature packet to an election officer;

(b) all subsequent processing, handling, and securing of a candidate signature packet;

(c) verification of signatures in a candidate signature packet;

(d) the processing, handling, and securing of a written request to remove a signature from a candidate signature packet;

(e) verification of a signature on a written request to remove a signature from a candidate signature packet; or

(f) the removal of a signature from a candidate signature packet.

[~~(5)~~](6) An administering election officer shall:

(a) permit uniform, nondiscriminatory access for a watcher to observe each stage of an election process;

(b) establish locations for a watcher to observe an event described in Subsection (4) or (5), other than an event described in Subsection (4)(d) or (k), from no further than six feet away; and

(c) except for a county of the fourth, fifth, or sixth class, for any ballot adjudication, or upload of votes from a voting machine or scanner, that is conducted on a computer screen, project the activity onto a screen that is large enough to be viewed by each watcher.

[~~(6)~~](7) (a) A watcher may not:

(i) record an activity described in Subsection (4) if the recording would reveal a vote [~~or otherwise violate a voter's privacy or~~], violate a voter's right to cast a secret ballot, or otherwise violate a voter's privacy;

(ii) record an activity described in Subsection (5), except that a watcher may take notes that do not include the name or other personal identifying information of an individual who signs a candidate signature packet or a written request to remove a signature from a candidate signature packet;

[~~(ii)~~](iii) interfere with an activity described in Subsection (4) or (5), except to challenge an individual's eligibility to vote under Section 20A-3a-803;[~~ or~~]

[~~(iii)~~](iv) divulge information related to the number of votes counted, tabulated, or cast for a candidate or ballot proposition until after the election officer makes the information public[~~.~~]; or

(v) divulge information related to:

(A) the number of signatures collected to qualify a candidate for placement on a primary election ballot; or

(B) the names or other personal identifying information of an individual who signs a candidate signature packet or a written request to remove a signature from a candidate signature packet.

(b) A person who violates Subsection [~~(6)(a)(iii)~~](7)(a)(iv) or (v) is guilty of a third degree felony.

[~~(7)~~](8) (a) Notwithstanding Subsection [~~(2)(a) or (4)~~](2)(a), (4), or (5), in order to maintain a safe working environment for an election official or to protect the safety or security of a ballot, an administering election officer may take reasonable action to:

(i) limit the number of watchers at a single location;

(ii) remove a watcher for violating a provision of this section;

(iii) remove a watcher for interfering with an activity described in Subsection (4) or (5);

(iv) designate areas for a watcher to reasonably observe the activities described in Subsection (4) or (5); or

(v) ensure that a voter's ballot secrecy is protected throughout the watching process.

(b) If an administering election officer limits the number of watchers at a single location under Subsection [~~(6)(a)(i)~~](8)(a)(i), the administering election officer shall give preferential access to the location to a watcher designated under Subsection (3).

(c) An administering election officer may provide a watcher a badge that identifies the watcher and require the watcher to wear the badge while acting as a watcher.

Section 41. Section 20A-3a-803 is amended to read:

20A-3a-803. Challenges to a voter's eligibility -- Basis for challenge -- Procedures.

(1) An individual may challenge another individual's eligibility to vote on any of the following grounds:

(a) the individual is not the individual in whose name the individual tries to vote;

(b) the individual is not a resident of Utah;

(c) the individual is not a citizen of the United States;

(d) the individual has not or will not have resided in Utah for 30 calendar days immediately before the date of the election;

(e) the individual's principal place of residence is not in the voting precinct that the individual claims;

(f) the individual's principal place of residence is not in the geographic boundaries of the election area;

(g) the individual has already voted in the election;

(h) the individual is not at least the minimum age required to vote in the election;

(i) the individual has been convicted of a misdemeanor for an offense under this title and the individual's right to vote in an election has not been restored under Section 20A-2-101.3;

(j) the individual is a convicted felon and the voter's right to vote in an election has not been restored under Section 20A-2-101.5; or

(k) in a regular primary election or presidential primary election, the individual does not meet the political party affiliation requirements for the ballot the individual seeks to vote.

(2) An individual who challenges another individual's right to vote in an election shall make the challenge in accordance with:

(a) Section 20A-3a-804, for a challenge that is not made in person at the time an individual votes; or

(b) Section 20A-3a-805, for challenges made in person at the time an individual votes.

Section 42. Section 20A-3a-804 is amended to read:

20A-3a-804. Pre-election challenges to a voter's eligibility in writing -- Procedure -- Form of challenge.

(1) (a) An individual may challenge an individual's eligibility to vote by filing a written statement with the election officer in accordance with Subsection (1)(b) that:

(i) lists the name and address of the individual filing the challenge;

(ii) for each individual who is challenged:

(A) identifies the name of the challenged individual;

(B) lists the last known address or telephone number of the challenged individual;

(C) provides the basis for the challenge, as provided under Section 20A-3a-803;

(D) provides facts and circumstances supporting the basis provided; and

(E) may include supporting documents, affidavits, or other evidence; and

(iii) includes a signed affidavit, which is subject to penalties of perjury, swearing that:

(A) the filer exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge; and

(B) according to the filer's personal knowledge and belief, the basis for the challenge under Section 20A-3a-803 for each challenged individual is valid.

(b) An individual who files a written statement under Subsection (1)(a) shall file the written statement during the election officer's regular business hours:

(i) at least 45 calendar days before the day of the election; or

(ii) if the challenge is to an individual who registered to vote between the day that is 45 calendar days before the election and the day of the election:

(A) on or before the day of the election; and

(B) before the individual's ballot is removed from a ballot envelope or otherwise separated from any information that could be used to identify the ballot as the individual's ballot.

(c) The challenge may not be based on unsupported allegations or allegations by an anonymous individual.

(d) An election officer may require an individual who files a challenge under this section to file the challenge on a form provided by the election officer that meets the requirements of this section.

(2) If the challenge is not in the proper form, is incomplete, or if the basis for the challenge does not meet the requirements of this part, the election officer shall dismiss the challenge and notify the filer in writing of the reasons for the dismissal.

(3) (a) Upon receipt of a challenge that meets the requirements for filing under this section, the election officer shall attempt to notify each challenged individual in accordance with Subsection (3)(b):

(i) at least 28 calendar days before the date of the election, if the election officer receives the challenge under Subsection (1)(b)(i); or

(ii) within one business day, if the election officer receives the challenge under Subsection (1)(b)(ii).

(b) The election officer shall attempt to notify each challenged individual:

(i) that a challenge has been filed against the challenged individual;

(ii) that the challenged individual may be required to cast a provisional ballot at the time the individual votes if the individual votes in person;

(iii) that if the individual votes by mail, the individual's ballot will be treated as a provisional ballot unless the challenge is resolved;

(iv) of the basis for the challenge, which may include providing a copy of the challenge the filer filed with the election officer; and

(v) that the challenged individual may submit information, a sworn statement, supporting documents, affidavits, or other evidence supporting the challenged individual's eligibility to vote in the election to the election officer no later than:

(A) 21 calendar days before the date of the election, if the election officer receives the challenge under Subsection (1)(b)(i); or

(B) five calendar days before the day on which the canvass is held, if the election officer receives the challenge under Subsection (1)(b)(ii).

(4) (a) The election officer shall determine whether each challenged individual is eligible to vote before the day on which:

(i) early voting commences, if the election officer receives the challenge under Subsection (1)(b)(i); or

(ii) the canvass is held, if the election officer receives the challenge under Subsection (1)(b)(ii).

(b) (i) The filer has the burden to prove, by clear and convincing evidence, that the basis for challenging the individual's eligibility to vote is valid.

(ii) The election officer shall resolve the challenge based on the available facts and information submitted, which may include voter registration records and other documents or information available to the election officer.

(5) An individual who files a challenge in accordance with the requirements of this section is subject to criminal penalties for false statements as provided under Sections 76-8-503and 76-8-504 and any other applicable criminal provision.

(6) (a) A challenged individual may appeal an election officer's decision regarding the individual's eligibility to vote to the district court having jurisdiction over the location where the challenge was filed.

(b) The district court shall uphold the decision of the election officer unless the district court determines that the decision was arbitrary, capricious, or unlawful.

(c) In making the district court's determination, the district court's review is limited to:

(i) the information filed under Subsection (1)(a) by the filer;

(ii) the information submitted under Subsection (3)(b)(v) by the challenged individual; and

(iii) any additional facts and information used by the election official to determine whether the challenged individual is eligible to vote, as indicated by the election official.

(7) A challenged individual may register to vote or change the location of the individual's voter registration if otherwise permitted by law.

(8) A document pertaining to a challenge filed under this section is a public record.

Section 43. Section 20A-3a-807 is amended to read:

20A-3a-807. Notification of ballot processes.

(1) As used in this section, "ballot process" includes:

(a) signature verification;

(b) opening ballots;

(c) scanning ballots;

(d) adjudicating ballots;

(e) replicating damaged or defective ballots; or

(f) tabulating votes.

(2) A county clerk shall:

(a) beginning at least three calendar days before the day on which the county clerk begins mailing ballots for an election, and ending on the first day of the canvass, post on the county clerk's website a schedule of the hours, over the next three calendar days, during which the county clerk plans to conduct one or more ballot processes; and

(b) update any changes to the schedule at least 24 hours before the clerk modifies the hours.

Section 44. Section 20A-4-104 is amended to read:

20A-4-104. Counting ballots electronically -- Notice of testing tabulating equipment.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall provide public notice of the time and place of the test by publishing the notice, as a class A notice under Section 63G-30-102, for the county, municipality, or jurisdiction where the equipment is used, for at least 10 calendar days before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) before the election returns are approved as official , the automatic [~~tabuating~~]tabulating equipment passes a post election audit conducted in accordance with the rules described in Subsection 20A-1-108(1).

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) (a) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(i) make a true replication of the ballot with an identifying serial number;

(ii) substitute the replicated ballot for the damaged or defective ballot;

(iii) label the replicated ballot "replicated"; and

(iv) record the replicated ballot's serial number on the damaged or defective ballot.

(b) The lieutenant governor shall provide to each election officer a standard form on which the election officer shall maintain a log of all replicated ballots, that includes, for each ballot:

(i) the serial number described in Subsection (3)(a);

(ii) the identification of the individuals who replicated the ballot;

(iii) the reason for the replication; and

(iv) any other information required by the lieutenant governor.

(c) An election officer shall:

(i) maintain the log described in Subsection (3)(b) in a complete and legible manner, as ballots are replicated;

(ii) at the end of each day during which one or more ballots are replicated, make an electronic copy of the log; and

(iii) keep each electronic copy made under Subsection (3)(c)(ii) for at least 22 months.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection (4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.

(6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(7) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(8) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section 45. Section 20A-4-301 is amended to read:

20A-4-301. Board of canvassers.

(1) (a) Each county legislative body is the board of county canvassers for:

(i) the county; and

(ii) each special district whose election is conducted by the county if:

(A) the election relates to the creation of the special district;

(B) the county legislative body serves as the governing body of the special district; or

(C) there is no duly constituted governing body of the special district.

(b) The board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at a date and time determined by the county clerk that is no sooner than seven calendar days after the day of the election and no later than 14 calendar days after the day of the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members

shall replace the absent member by appointing in the order named:

(i) the county treasurer;

(ii) the county assessor; or

(iii) the county sheriff.

(d) Attendance of the number of persons equal to a simple majority of the county legislative body, but not less than three persons, shall constitute a quorum for conducting the canvass.

(e) The county clerk is the clerk of the board of county canvassers.

(2) (a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.

(b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body:

(i) for canvassing of returns from a municipal general election, no sooner than seven calendar days after the day of the election and no later than 14 calendar days after the day of the election; or

(ii) for canvassing of returns from a municipal primary election, no sooner than seven calendar days after the day of the election and no later than 14 calendar days after the election.

(c) Attendance of a simple majority of the municipal legislative body shall constitute a quorum for conducting the canvass.

(3) (a) The legislative body of the entity authorizing a bond election is the board of canvassers for each bond election.

(b) The board of canvassers for the bond election shall comply with the canvassing procedures and requirements of Section 11-14-207.

(c) Attendance of a simple majority of the legislative body of the entity authorizing a bond election shall constitute a quorum for conducting the canvass.

(4) (a) If a board of trustees or an administrative control board is the governing body of a special district, the board of trustees or the administrative control board is the board of special district canvassers for the special district.

(b) The board of special district canvassers shall meet to canvass the returns at the usual place of meeting for the board of trustees or the administrative control board, as applicable, at a date and time determined by the special district clerk that is no sooner than seven calendar days after the day of the election and no later than 14 calendar days after the day of the election.

(c) Attendance of a simple majority of the board of trustees or the administrative control board is a quorum for conducting the canvass.

(5) In relation to an election for the creation of a new school district under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4, or in relation to an election of members of a local school board for a new school district or a reorganized new school district under Section 53G-3-302, the board of canvassers is:

(a) if the voters permitted to vote in the election are all residents of the same municipality, the mayor and the municipal legislative body;

(b) if the voters permitted to vote in the election are not all residents of the same municipality, but are all residents of the same county, the county legislative body; or

(c) if the voters permitted to vote in the election are not all residents of the same municipality and are not all residents of the same county, the county legislative body of the county where the majority of the voters permitted to vote in the election are residents.

Section 46. Section 20A-4-302 is amended to read:

20A-4-302. Duties of the board of canvassers -- Receiving returns.

(1) If the election returns from each voting precinct in which polls were opened have been received at the time the board of canvassers convenes, the board of canvassers shall canvass the election returns as provided in this part.

(2) If all of the election returns have not been received, the board shall postpone the canvass from day to day, Sundays and legal holidays excepted, until:

(a) all of the election returns are received; or

(b) the board has postponed the canvass seven times.

(3) (a) If the election officer has not received the election returns from any voting precinct within seven calendar days after the election, the election officer shall send a messenger to the judges to obtain the missing election returns.

(b) The messenger shall obtain the election returns from the judges and return the election returns to the election officer.

(c) The election officer shall pay the messenger 10 cents per mile for the distance necessarily traveled.

(4) If the board determines that election returns were not received from a voting precinct because the polls did not open in that precinct, the board shall:

(a) sign a certificate attesting to that fact; and

(b) file the certificate with the election officer.

Section 47. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) (a) Except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction.

(b) Except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare a "tie vote" if:

(i) two or more candidates for an office receive an equal and the highest number of votes for that office; or

(ii) in a race for an at-large office:

(A) two or more candidates receive an equal number of votes; and

(B) a recount is necessary to determine which candidates are elected to the at-large office.

(c) A board of canvassers shall declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction; or

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction.

(d) A board of canvassers shall:

(i) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(ii) if applicable, certify the results of each special district election to the special district clerk.

(2) The election officer shall submit a report to the board of canvassers that includes the following information:

(a) the total number of votes cast in the board's jurisdiction;

(b) the names of each candidate whose name appeared on the ballot;

(c) the title of each ballot proposition that appeared on the ballot;

(d) each office that appeared on the ballot;

(e) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each ballot-counting phase; and

(iii) the number of votes for and against each ballot proposition;

(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(g) standardized statistics, on a form provided by the lieutenant governor, disclosing:

(i) the number of ballots counted;

(ii) provisional ballots; and

(iii) the number of ballots rejected;

(h) a final ballot reconciliation report;

(i) other information required by law to be provided to the board of canvassers; and

(j) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that the report is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven calendar days after the day on which the board of canvassers declares the election results, publicize the certified report described in Subsection (2) for the jurisdiction, as a class A notice under Section 63G-30-102, for at least seven calendar days.

(6) Instead of including a copy of the entire certified report, a notice required under Subsection (5) may contain a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election]."; and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, special district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 calendar days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 48. Section 20A-4-305 is amended to read:

20A-4-305. Delivery of checked official register to county clerk after canvass.

Within 10 calendar days after the canvass of a November municipal election, special district election, bond election, or special election, the clerk or recorder shall transmit the checked official register to the county clerk.

Section 49. Section 20A-4-306 is amended to read:

20A-4-306. Statewide canvass.

(1) (a) The state board of canvassers shall convene:

(i) on the fourth Monday of November, at noon; or

(ii) at noon on the day following the [~~receipt by~~]day on which the lieutenant governor [~~of~~]receives the last of the returns of a statewide special election.

(b) The state auditor, the state treasurer, and the attorney general are the state board of canvassers.

(c) Attendance of all members of the state board of canvassers is required to constitute a quorum for conducting the canvass.

(2) (a) The state board of canvassers shall:

(i) meet in the lieutenant governor's office; and

(ii) compute and determine the vote for officers and for and against any ballot propositions voted upon by the voters of the entire state or of two or more counties.

(b) The lieutenant governor, as secretary of the board shall file a report in the lieutenant governor's office that details:

(i) for each statewide officer and ballot proposition:

(A) the name of the statewide office or ballot proposition that appeared on the ballot;

(B) the candidates for each statewide office whose names appeared on the ballot, plus any recorded write-in candidates;

(C) the number of votes from each county cast for each candidate and for and against each ballot proposition;

(D) the total number of votes cast statewide for each candidate and for and against each ballot proposition; and

(E) the total number of votes cast statewide; and

(ii) for each officer or ballot proposition voted on in two or more counties:

(A) the name of each of those offices and ballot propositions that appeared on the ballot;

(B) the candidates for those offices, plus any recorded write-in candidates;

(C) the number of votes from each county cast for each candidate and for and against each ballot proposition; and

(D) the total number of votes cast for each candidate and for and against each ballot proposition.

(c) Except as provided in Subsection (2)(d), the lieutenant governor shall:

(i) prepare certificates of election for:

(A) each successful candidate; and

(B) each of the presidential electors of the candidate for president who received a majority of the votes;

(ii) authenticate each certificate with the lieutenant governor's seal; and

(iii) deliver a certificate of election to:

(A) each candidate who had the highest number of votes for each office; and

(B) each of the presidential electors of the candidate for president who received a majority of the votes.

(d) The lieutenant governor shall, in the report described in Subsection (2)(b), declare a tie vote if:

(i) two or more officers receive an equal and the highest number of votes for an office; or

(ii) in a race for an at-large office:

(A) two or more candidates receive an equal number of votes; and

(B) a recount is necessary to determine which candidates are elected to the at-large office.

(3) If the lieutenant governor has not received election returns from all counties on the fifth calendar day before the day designated for the meeting of the state board of canvassers, the lieutenant governor shall:

(a) send a messenger to the clerk of the board of county canvassers of the delinquent county;

(b) instruct the messenger to demand a certified copy of the board of canvasser's report required by Section 20A-4-304 from the clerk; and

(c) pay the messenger the per diem provided by law as compensation.

(4) The state board of canvassers may not withhold the declaration of the result or any certificate of election because of any defect or informality in the returns of any election if the board can determine from the returns, with reasonable certainty, what office is intended and who is elected to it.

(5) (a) At noon on the fourth Monday after the regular primary election, the lieutenant governor shall:

(i) canvass the returns for all multicounty candidates required to file with the office of the lieutenant governor; and

(ii) publish and file the results of the canvass in the lieutenant governor's office.

(b) Not later than the August 1 after the primary election, the lieutenant governor shall certify the results of the primary canvass to the county clerks.

(6) (a) At noon on the fourth Tuesday in March of a year in which a presidential election will be held, the lieutenant governor shall:

(i) canvass the returns of the presidential primary election; and

(ii) publish and file the results of the canvass in the lieutenant governor's office.

(b) The lieutenant governor shall certify the results of the presidential primary election canvass to each registered political party that participated in the primary not later than the April 15 after the primary election.

Section 50. Section 20A-4-401 is amended to read:

20A-4-401. Recounts -- Procedure.

(1) This section does not apply to a race conducted by instant runoff voting under Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(2) The election officer shall conduct a recount of votes cast in a race if:

(a) two or more candidates for an office receive an equal and the highest number of votes for that office; or

(b) in a race for an at-large office, two or more candidates receive an equal number of votes and at least one of the candidates must be eliminated to determine which candidates are elected.

(3) (a) Except as provided in Subsection (2) or (3)(b), for a race between candidates, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is equal to or less than .25% of the total number of votes cast for all candidates in the race, the losing candidate may file a request for a recount in accordance with Subsection (4).

(b) Except as provided in Subsection (2), for a race between candidates where the total of all votes cast in the race is 400 or less, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is one vote, the losing candidate may file a request for a recount in accordance with Subsection (4).

(4) A losing candidate who files a request for a recount under Subsection (3)(a) or (b) shall file the request:

(a) for a municipal primary election, with the municipal clerk, [~~before 5 p.m., no later than three~~]no later than 5 p.m. on the first business day that is at least three calendar days after the day on which the canvass is completed; or

(b) for all other elections, [~~before 5 p.m., no later than seven~~]no later than 5 p.m. on the first business day that is at least three calendar days after the day on which the canvass is completed, with:

(i) the municipal clerk, if the election is a municipal general election;

(ii) the special district clerk, if the election is a special district election;

(iii) the county clerk, for a race voted on entirely within a single county; or

(iv) the lieutenant governor, for a statewide race or multi-county race.

(5) (a) The election officer shall conduct the recount:

(i) for a race described in Subsection (2), no later than 10 calendar days after the day on which the board of canvassers certifies the vote totals; or

(ii) for a race described in Subsection (3), no later than seven calendar days after the day on which the losing candidate requests the recount.

(b) In conducting the recount, the election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast in the race;

(iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4, Disposition of Ballots; and

(iv) (A) for a race between candidates for a single office, declare elected the candidate who receives the highest number of votes on the recount;

(B) for a race for an at-large office, declare elected the candidate who receives the highest number of votes on the recount, until all offices are filled by the candidates who received the highest number of votes;

(C) for a race described in Subsection (5)(b)(iv)(A) in which two or more candidates receive an equal and the highest number of votes, declare a tie vote; or

(D) for a race described in Subsection (5)(b)(iv)(B) in which two or more candidates receive an equal number of votes, declare a tie vote if the selection of the winning candidate by lot under Section 20A-1-304 is necessary to determine which candidate is elected to the at-large office.

(6) The cost of a recount under Subsection (5) shall be paid by:

(a) for a statewide race or multi-county race, the state; or

(b) for all other races:

(i) the political subdivision that conducts the election; or

(ii) the political subdivision that enters into a contract or interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, with a provider election officer to conduct the election.

(7) (a) Except as provided in Subsection (7)(b), for a ballot proposition or a bond proposition, if the proposition passes or fails by a margin that is equal to or less than .25% of the total votes cast for or against the proposition, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount [~~before 5 p.m. within seven~~]no later than 5 p.m. on the first business day that is at least seven calendar days after the day of the canvass with the person described in Subsection (8).

(b) For a ballot proposition or a bond proposition where the total of all votes cast for or against the proposition is 400 or less, if the difference between the number of votes cast for the proposition and the number of votes cast against the proposition is one vote, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount [~~before 5 p.m. within seven~~]no later than 5 p.m. on the first business day that is at least seven calendar days after the day of the canvass with the person described in Subsection (8).

(8) The 10 voters who file a request for a recount under Subsection (7)(a) or (b) shall file the request with:

(a) the municipal clerk, if the election is a municipal election;

(b) the special district clerk, if the election is a special district election;

(c) the county clerk, for a proposition voted on entirely within a single county; or

(d) the lieutenant governor, for a statewide proposition or multi-county proposition.

(9) (a) In conducting the recount, the election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for the ballot proposition or bond proposition;

(iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4, Disposition of Ballots; and

(iv) declare the ballot proposition or bond proposition to have "passed" or "failed" based upon the results of the recount.

(b) Proponents and opponents of the ballot proposition or bond proposition may designate representatives to witness the recount.

(10) The voters requesting a recount under Subsection (7)(a) or (b) shall pay the costs of the recount.

(11) (a) Upon completing a recount described in Subsection (5) or (9), the election officer shall immediately convene the board of canvassers.

(b) The board of canvassers shall:

(i) canvass the election returns for the race or proposition that was the subject of the recount; and

(ii) with the assistance of the election officer, prepare and sign the report required by Section 20A-4-304 or 20A-4-306.

(c) If the recount is for a statewide race, multi-county race, or a statewide proposition, the board of county canvassers shall prepare and transmit a separate report to the lieutenant governor as required by Subsection 20A-4-304(7).

(d) The canvassers' report prepared as provided in this Subsection (11) is the official result of the race or proposition that is the subject of the recount.

Section 51. Section 20A-4-603 is amended to read:

20A-4-603. Instant runoff voting.

(1) In a multi-candidate race, the election officer for a participating municipality shall:

(a) (i) conduct the first ballot-counting phase by counting the valid first preference rankings for each candidate; and

(ii) if one of the candidates receives more than 50% of the valid first preference rankings counted, declare that candidate elected;

(b) if, after counting the valid first preference rankings for each candidate, no candidate receives more than 50% of the valid first preference rankings counted, conduct the second ballot-counting phase by:

(i) excluding from the multi-candidate race:

(A) the candidate who received the fewest valid first preference rankings counted; or

(B) in the event of a tie for the fewest valid first preference rankings counted, one of the tied candidates, determined by the election officer by lot, in accordance with Subsection (6);

(ii) adding, to the valid first preference rankings counted for the remaining candidates, the next valid preference rankings cast for the remaining candidates by the voters who cast a valid first preference ranking for the excluded candidate; and

(iii) if, after adding the rankings in accordance with Subsection (1)(b)(ii), one candidate receives more than 50% of the valid rankings counted, declaring that candidate elected; and

(c) if, after adding the next valid preference rankings in accordance with Subsection (1)(b)(ii), no candidate receives more than 50% of the valid rankings counted, conduct subsequent ballot-counting phases by continuing the process described in Subsection (1)(b) until a candidate receives more than 50% of the valid rankings counted, as follows:

(i) excluding from consideration the candidate who has the fewest valid rankings counted or, in the event of a tie for the fewest valid rankings counted, excluding one of the tied candidates, by lot, in accordance with Subsection (6); and

(ii) adding the next valid preference ranking cast by each voter whose ranking was counted for the last excluded candidate to one of the remaining candidates, in the order of the next preference indicated by the voter.

(2) The election officer shall declare elected the first candidate who receives more than 50% of the valid rankings counted under the process described in Subsection (1).

(3) A ranking is valid for a particular ballot-counting phase of a multi-candidate race if:

(a) the voter indicates the voter's preference for that ballot-counting phase and all previous ballot-counting phases; or

(b) in the event that the voter skips a number in filling out the rankings on a ballot:

(i) the voter clearly indicates an order of preference for the candidates;

(ii) the voter does not skip two or more consecutive numbers at any point before the preference ranking that would otherwise be counted for the current ballot-counting phase;

(iii) the candidate next preferred by the voter is clearly indicated by a subsequent number that most closely follows the number assigned by the voter for the previously-ranked candidate; and

(iv) the voter did not give the same rank to more than one candidate for the applicable ballot-counting phase or a previous ballot-counting phase.

(4) A ranking is not valid for a particular ballot-counting phase of a multi-candidate race, and for all subsequent ballot-counting phases, if:

(a) the voter indicates the same rank for more than one candidate for that ballot-counting phase; or

(b) the voter skips two or more consecutive numbers before ranking another candidate.

(5) If, for a ballot-counting phase, a voter ranks a candidate who has withdrawn from the race, the next-ranked candidate who has not withdrawn from the race will be counted for that ballot-counting phase.

(6) For each ballot-counting phase after the first phase, if two or more candidates tie as having received the fewest valid rankings counted at that point in the ballot count, the election officer shall eliminate one of those candidates from consideration, by lot, in the following manner:

(a) determine the names of the candidates who tie as having received the fewest valid rankings for that ballot-counting phase;

(b) cast the lot in the presence of at least two election officials and any counting poll watchers who are present and desire to witness the casting of the lot; and

(c) sign a public document that:

(i) certifies the method used for casting the lot and the result of the lot; and

(ii) includes the name of each individual who witnessed the casting of the lot.

(7) In a multi-candidate race for an at-large office, where the number of candidates who qualify for the race exceeds the total number of at-large seats to be filled for the office, the election officer shall count the rankings by:

(a) except as provided in Subsection (8), counting rankings in the same manner as described in Subsections (1) through (6), until a candidate is declared elected;

(b) repeating the process described in Subsection (7)(a) for all candidates that are not declared elected until another candidate is declared elected; and

(c) continuing the process described in Subsection (7)(b) until all at-large seats in the race are filled.

(8) After a candidate is declared elected under Subsection (7), the election officer shall, in repeating the process described in Subsections (1) through (6) to declare the next candidate elected, add to the ranking totals the next valid preference vote of each voter whose ranking was counted for a candidate already declared elected.

(9) An election officer for a participating municipality may choose to conduct a primary election by using instant runoff voting in the

manner described in Subsections (1)through (6), except that:

(a) instead of determining whether a candidate receives more than 50% of the valid preference rankings for a particular ballot-counting phase, the election officer shall proceed to a subsequent ballot-counting stage, and exclude the candidate who receives the fewest valid preference rankings in that phase, until twice the number of seats to be filled in the race remain; and

(b) after complying with Subsection (9)(a), the election officer shall declare the remaining candidates nominated to participate in the municipal general election.

(10) After completing all ballot-counting phases in a multi-candidate race, the election officer shall order a full recount of the ballots cast for that race if, in one or more of the ballot-counting phases:

(a) the difference between the number of rankings counted for a candidate who is declared elected and the number of rankings counted for any other candidate in the same ballot-counting phase is equal to or less than the product of the following, rounded up to the nearest whole number:

(i) the total number of voters who cast a valid ranking counted in that ballot-counting phase; and

(ii) the recount threshold; or

(b) the difference between the number of rankings counted for the candidate who received the fewest valid rankings in a ballot-counting phase and the number of rankings counted for any other candidate in the same ballot-counting phase is equal to or less than the product of the following, rounded up to the nearest whole number:

(i) the total number of voters who cast a valid ranking counted in that ballot-counting phase; and

(ii) the recount threshold.

(11) A recount described in Subsection (10):

(a) requires rescanning and tabulating all valid ballots; and

(b) provides for only one recount.

(12) Notwithstanding Section 20A-4-301, a board of municipal canvassers may extend the canvass deadline by up to seven additional calendar days, if necessary, to conduct a recount required under Subsection (10).

Section 52. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

(c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall provide notice for the county, as a class A notice under Section 63G-30-102, for seven business days before the day of the election and in accordance with Subsection (3).

(b) The county clerk shall prepare an affidavit of the posting under Subsection (2)(a), showing a copy of the notice and the places where the notice was posted.

(3) The notice described in Subsection (2) shall:

(a) designate the offices to be voted on in that election; and

(b) identify the dates for filing a declaration of candidacy for those offices.

(4) Except as provided in Subsection (6), before each election, the election officer shall give printed notice of the following information:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place;

(f) the qualifications for persons to vote in the election: and

(g) instructions regarding how an individual with a disability, who is not able to vote a manual ballot by mail, may obtain information on voting in an accessible manner.

(5) The election officer shall provide the notice described in Subsection (4) for the jurisdiction, as a class A notice under Section 63G-30-102, for at least seven business days before the day of the election.

(6) Instead of including the information described in Subsection (4) in the notice, the election officer may give printed notice that:

(a) is entitled "Notice of Election";

(b) includes the following: "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including polling places, polling place hours, and qualifications of voters may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain the information described in Subsection (4):

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction offices; and

(iii) a mailing address and telephone number.

Section 53. Section 20A-5-303 is amended to read:

20A-5-303. Establishing, dividing, abolishing, and changing voting precincts -- Common polling places -- Combined voting precincts.

(1) (a) After receiving recommendations from the county clerk, the county legislative body may establish, divide, abolish, and change voting precincts.

(b) Within 30 calendar days after the establishment, division, abolition, or change of a voting precinct under this section, the county legislative body shall file with the Utah Geospatial Resource Center, created under Section 63A-16-505, a notice describing the action taken and specifying the resulting boundaries of each voting precinct affected by the action.

(2) (a) The county legislative body shall alter or divide voting precincts so that each voting precinct contains not more than 1,250 active voters.

(b) The county legislative body shall:

(i) identify those precincts that may reach the limit of active voters in a precinct under Subsection (2)(a) or that becomes too large to facilitate the election process; and

(ii) except as provided by Subsection (3), divide those precincts on or before January 1 of a general election year.

(3) A county legislative body shall divide a precinct identified under Subsection (2)(b)(i) on or before January 31 of a regular general election year that immediately follows the calendar year in which the Legislature divides the state into districts in accordance with Utah Constitution, Article IX, Section 1.

(4) Notwithstanding Subsection (2)(a) and except as provided by Subsection (5), the county legislative body may not:

(a) establish or abolish any voting precinct after January 1 of a regular general election year;

(b) alter or change the boundaries of any voting precinct after January 1 of a regular general election year; or

(c) establish, divide, abolish, alter, or change a voting precinct between January 1 of a year immediately preceding the year in which an enumeration is required by the United States Constitution and the day on which the Legislature divides the state into districts in accordance with Utah Constitution, Article IX, Section 1.

(5) A county legislative body may establish, divide, abolish, alter, or change a voting precinct on or before January 31 of a regular general election year that immediately follows the calendar year in which the Legislature divides the state into districts in accordance with Utah Constitution, Article IX, Section 1.

(6) (a) For the purpose of voting in an election, the county legislative body may establish a common polling place for two or more whole voting precincts.

(b) At least 90 calendar days before the election, the county legislative body shall designate:

(i) the voting precincts that will vote at the common polling place; and

(ii) the location of the common polling place.

(c) A county may use one set of election judges for the common polling place under this Subsection (6).

(7) Each county shall have at least two polling places open for voting on the date of the election.

(8) Each common polling place shall have at least one voting device that is accessible for individuals with disabilities in accordance with Public Law 107-252, the Help America Vote Act of 2002.

Section 54. Section 20A-5-400.1 is amended to read:

20A-5-400.1. Contracting with an election officer to conduct elections -- Fees -- Contracts and interlocal agreements -- Private providers.

(1) (a) In accordance with this section, a local political subdivision may enter into a contract or interlocal agreement as provided in Title 11, Chapter 13, Interlocal Cooperation Act, with a provider election officer to conduct an election.

(b) If the boundaries of a local political subdivision holding the election extend beyond a single local political subdivision, the local political subdivision may have more than one provider election officer conduct an election.

(c) Upon approval by the lieutenant governor, a municipality may enter into a contract or agreement under Subsection (1)(a) with any local political subdivision in the state, regardless of whether the municipality is located in, next to, or near, the local political subdivision, to conduct an election during which the municipality is participating in the Municipal Alternate Voting Methods Pilot Project.

(d) If a municipality enters into a contract or agreement, under Subsection (1)(c), with a local political subdivision other than a county within which the municipality exists, the municipality, the local political subdivision, and the county within which the municipality exists shall enter into a cooperative agreement to ensure the proper functioning of the election.

(2) A provider election officer shall conduct an election:

(a) under the direction of the contracting election officer; and

(b) in accordance with a contract or interlocal agreement.

(3) A provider election officer shall establish fees for conducting an election for a contracting election officer that:

(a) are consistent with the contract or interlocal agreement; and

(b) do not exceed the actual costs incurred by the provider election officer.

(4) The contract or interlocal agreement under this section may specify that a contracting election officer request, within a specified number of calendar days before the election, that the provider election officer conduct the election to allow adequate preparations by the provider election officer.

(5) An election officer conducting an election may appoint or employ an agent or professional service to assist in conducting the election.

Section 55. Section 20A-5-403.5 is amended to read:

20A-5-403.5. Ballot drop boxes -- Notice.

(1) (a) An election officer:

(i) shall designate at least one ballot drop box in each municipality and reservation located in the jurisdiction to which the election relates;

(ii) may designate additional ballot drop boxes for the election officer's jurisdiction;

(iii) shall clearly mark each ballot drop box as an official ballot drop box for the election officer's jurisdiction;

(iv) shall provide 24-hour recorded video surveillance, without audio, of each unattended ballot drop box;

(v) shall post a sign on or near each unattended ballot drop box indicating that the ballot drop box is under 24-hour video surveillance; and

(vi) shall ensure that a camera, a video, or a recording of a video described in Subsection (1)(a)(iv) may only be accessed:

(A) by the election officer;

(B) by a custodian of the camera, video, or recording;

(C) by the lieutenant governor;

(D) by the legislative auditor general, when performing an audit; or

(E) by, or pursuant to an order of, a court of competent jurisdiction.

(b) An individual may not view a video, or a recording of a video, described in Subsection (1)(a)(iv), unless the individual:

(i) is an individual described in Subsection (1)(a)(vi); and

(ii) views the video to the extent necessary to:

(A) ensure compliance with Subsection (1)(a)(iv), (1)(a)(vi), or (1)(c); or

(B) investigate a concern relating to ballots or the ballot box.

(c) The election officer, or the custodian of the recording, shall keep a recording described in Subsection (1)(a)(iv) until the later of:

(i) the end of the calendar year in which the election was held; or

(ii) if the election is contested, when the contest is resolved.

(2) Except as provided in Section 20A-1-308 or Subsection (5), the election officer shall, at least 28 calendar days before the date of the election, provide notice of the location of each ballot drop box designated under Subsection (1), by publishing notice for the jurisdiction holding the election, as a class A notice under Section 63G-30-102, for at least 28 calendar days before the day of the election.

(3) Instead of including the location of ballot drop boxes, a notice required under Subsection (2) may specify the following sources where a voter may view or obtain a copy of all ballot drop box locations:

(a) the jurisdiction's website;

(b) the physical address of the jurisdiction's offices; and

(c) a mailing address and telephone number.

(4) The election officer shall include in the notice described in Subsection (2):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each ballot drop box, including any changes to the location of a ballot drop box and the location of additional ballot drop boxes; and

(b) a phone number that a voter may call to obtain information regarding the location of a ballot drop box.

(5) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Subsection (2):

(i) if necessary, change the location of a ballot drop box; or

(ii) if the election officer determines that the number of ballot drop boxes is insufficient due to the number of registered voters who are voting, designate additional ballot drop boxes.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a ballot box or designates an additional ballot drop box location, the election officer shall, as soon as is reasonably possible, give notice of the changed ballot drop box location or the additional ballot drop box location:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of a ballot drop box, at the new location and, if possible, the old location; and

(B) for an additional ballot drop box location, at the additional ballot drop box location.

(6) An election officer may, at any time, authorize two or more poll workers to remove a ballot drop box from a location, or to remove ballots from a ballot drop box for processing.

(7) (a) At least two poll workers must be present when a poll worker collects ballots from a ballot drop box and delivers the ballots to the location where the ballots will be opened and counted.

(b) An election officer shall ensure that the chain of custody of ballots placed in a ballot box are recorded and tracked from the time the ballots are removed from the ballot box until the ballots are delivered to the location where the ballots will be opened and counted.

Section 56. Section 20A-5-405 is amended to read:

20A-5-405. Election officer to provide ballots -- Notice of sample ballot.

(1) An election officer shall:

(a) provide ballots for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate whose nomination has been certified to or filed with the election officer in the manner provided by law to be included on each ballot;

(c) cause any ballot proposition that has qualified for the ballot as provided by law to be included on each ballot;

(d) ensure that the ballots are prepared and in the possession of the election officer at least seven calendar days before the commencement of early voting as described in Section 20A-3a-601;

(e) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official ballot to inspect the ballots;

(f) no later than 45 calendar days before the day of the election, make sample ballots available for inspection, in the same form as official ballots and that contain the same information as official ballots, by:

(i) posting a copy of the sample ballot in the election officer's office;

(ii) sending a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor; and

(iii) providing a copy of the sample ballot for the jurisdiction holding the election, as a class A notice under Section 63G-30-102, for at least seven calendar days;

(g) deliver a copy of the sample ballot to poll workers for each polling place and direct the poll workers to post the sample ballot as

required by Section 20A-5-102; and

(h) print and deliver, at the expense of the jurisdiction conducting the election, enough ballots, sample ballots, and instructions to meet the voting demands of the qualified voters in each voting precinct.

(2) Instead of posting the entire sample ballot under Subsection (1)(f)(iii), the election officer may post a statement that:

(a) is entitled, "sample ballot";

(b) includes the following: "A sample ballot for [indicate name of jurisdiction] for the upcoming [indicate type and date of election] may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain a copy of the sample ballot:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction's offices; and

(iii) a mailing address and telephone number.

(3) (a) Each election officer shall, without delay, correct any error discovered in any ballot, if the correction can be made without interfering with the timely distribution of the ballots.

(b) (i) If the election officer discovers an error or omission in a manual ballot, and it is not possible to correct the error or omission, the election officer shall direct the poll workers to make the necessary corrections on the manual ballots before the ballots are distributed.

(ii) If the election officer discovers an error or omission in an electronic ballot and it is not possible to correct the error or omission by revising the electronic ballot, the election officer shall direct the poll workers to post notice of each error or omission with instructions on how to correct each error or omission in a prominent position at each polling booth.

(4) (a) If the election officer refuses or fails to correct an error or omission in a ballot, a candidate or a candidate's agent may file a verified petition with the district court asserting that:

(i) an error or omission has occurred in:

(A) the publication of the name or description of a candidate;

(B) the preparation or display of an electronic ballot; or

(C) the posting of sample ballots or the printing of official manual ballots; and

(ii) the election officer has failed to correct or provide for the correction of the error or omission.

(b) The district court shall issue an order requiring correction of any error in a ballot or an order to show cause why the error should not be corrected if it appears to the court that the error or omission has occurred and the election officer has failed to correct or provide for the correction of the error or omission.

(c) A party aggrieved by the district court's decision may appeal the matter to the Utah Supreme Court within five days after the day on which the district court enters the decision.

Section 57. Section 20A-5-410 is amended to read:

20A-5-410. Election officer to provide voting history information and status.

(1) As used in this section, "voting history record" means the information about the existence and status of absentee ballot requests required by this section.

(2) (a) Each election officer shall maintain, in the election officer's office, a voting history record of those voters registered to vote in the election officer's jurisdiction.

(b) Except as it relates to a voter whose voter registration record is classified as private under Subsection 63G-2-302(1)(k), the voting history record is a public record under Title 63G, Chapter 2, Government Records Access and Management Act.

(3) (a) When an election officer reports voting history for an election, the election officer shall, for each voter whose voter registration is classified as private under Subsection 20A-2-104(4)(h), report the following, for that election only, without disclosing the identity of the voter:

(i) for voting by mail, the information described in Subsection (4)(a);

(ii) for early voting, the date the individual voted; and

(iii) for voting on election day, the date the individual voted.

(b) In relation to the information of a voter whose voter registration is classified as private under Subsection 20A-2-104(4)(h), a report described in Subsection (3)(a)may not disclose, by itself or in conjunction with any other public information, the identity or any other personal identifying information of the voter.

(4) The election officer shall ensure that the voting history record for each voting precinct contains:

(a) for voting by mail:

(i) the date that the manual ballot was mailed to the voter; and

(ii) the date that the voted manual ballot was received by the election officer;

(b) for early voting:

(i) the name and address of each individual who participated in early voting; and

(ii) the date the individual voted; and

(c) for voting on election day, the name and address of each individual who voted on election day.

(5) (a) Notwithstanding the time limits for response to a request for records under Section 63G-2-204 or the time limits for a request for records established in any ordinance, the election officer shall ensure that the information required by this section is recorded and made available to the public no later than one business day after [~~its receipt~~]the day on which the election officer receives the information in the election officer's office.

(b) Notwithstanding the fee requirements of Section 63G-2-203 or the fee requirements established in any ordinance, the election officer shall make copies of the voting history record available to the public for the actual cost of production or copying.

Section 58. Section 20A-5-602 is amended to read:

20A-5-602. Appointment of poll workers in elections where candidates are not distinguished by registered political parties.

(1) (a) This section governs appointment of poll workers in elections where candidates are not distinguished by registered political parties.

(b) An election officer shall appoint the poll worker at least 15 calendar days before the date of the local election.

(2) (a) The election officer shall appoint, or provide for the appointment of, at least three poll workers as follows:

(i) three registered voters; or

(ii) two registered voters, one of whom is at least 21 years old, and one individual who is 16 or 17 years old.

(b) The election officer may appoint additional poll workers to serve in the polling place as needed.

(3) The election officer may not appoint any candidate's parent, sibling, spouse, child, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law to serve as a poll worker at a polling place where the candidate appears on the ballot.

(4) (a) The clerk shall compensate poll workers for their services.

(b) The clerk of a municipality or special district may not compensate poll workers at a rate higher than that paid by the county to the county's poll workers.

Section 59. Section 20A-6-105 is amended to read:

20A-6-105. Provisional ballot envelopes.

(1) Each election officer shall ensure that provisional ballot envelopes are printed in substantially the following form:

"AFFIRMATION

Are you a citizen of the United States of America? Yes No

Will you be 18 years old on or before election day? Yes No

If you checked "no" in response to either of the two above questions, do not complete this form.

Name of Voter _____

First Middle Last

Driver License or Identification Card Number _____

State of Issuance of Driver License or Identification Card Number _____

Date of Birth _____

Street Address of Principal Place of Residence

_____

City County State Zip Code

Telephone Number (optional) _____

Email Address (optional)_____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)

_____

City County State Zip Code

Voting Precinct (if known) _____

I, (please print your full name)_____do solemnly swear or affirm:

That I am eligible to vote in this election; that I have not voted in this election in any other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to vote in this precinct; and

Subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of Utah, residing at the above address; and that I am at least 18 years old and have resided in Utah for the 30 calendar days immediately before this election.

Signed _____

Dated _____

In accordance with Section 20A-3a-506, wilfully providing false information above is a class B misdemeanor under Utah law and is punishable by imprisonment and by fine.

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that identifying information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

_____

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to $2,500.".

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number;

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted; and

(d) an insert containing written instructions on how a voter may sign up to receive ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

Section 60. Section 20A-6-106 is amended to read:

20A-6-106. Deadline for submission of ballot titles.

Unless otherwise specifically provided for by statute, the certified ballot title of each ballot proposition, ballot question, or ballot issue shall be submitted to the election officer before 5 p.m. no later than 65 calendar days before the date of the election at which the matter will be submitted to the voters.

Section 61. Section 20A-6-302 is amended to read:

20A-6-302. Manual ballots -- Placement of candidates' names.

(1) An election officer shall ensure, for manual ballots in regular general elections, that:

(a) each candidate is listed by party, if nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5);

(b) candidates' surnames are listed in alphabetical order on the ballots when two or more candidates' names are required to be listed on a ticket under the title of an office; and

(c) the names of candidates are placed on the ballot in the order specified under Section 20A-6-305.

(2) (a) When there is only one candidate for county attorney at the regular general election in counties that have three or fewer registered voters of the county who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of county attorney? Yes ____ No ____.".

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of county attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for county attorney is printed on the ballot under authority of this Subsection (2), the county clerk may not count any write-in votes received for the office of county attorney.

(e) If no qualified individual files for the office of county attorney or if the candidate is not elected by the voters, the county legislative body shall appoint the county attorney as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (2)(f), be placed on the ballot under Subsection (2)(a) has been elected on a ballot under Subsection (2)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (2)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before 5 p.m. no later than [~~one~~]the day before that year's primary election that:

(i) requests the procedure set forth in Subsection (2)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

(3) (a) When there is only one candidate for district attorney at the regular general election in a prosecution district that has three or fewer registered voters of the district who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of district attorney? Yes ____ No ____."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of district attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for district attorney is printed on the ballot under authority of this Subsection (3), the county clerk may not count any write-in votes received for the office of district attorney.

(e) If no qualified individual files for the office of district attorney, or if the only candidate is not elected by the voters under this subsection, the county legislative body shall appoint a new district attorney for a four-year term as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (3)(f), be placed on the ballot under Subsection (3)(a) has been elected on a ballot under Subsection (3)(a)to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (3)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before 5 p.m. no later than [~~one~~]the day before that year's primary election that:

(i) requests the procedure set forth in Subsection (3)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

Section 62. Section 20A-6-305 is amended to read:

20A-6-305. Master ballot position list -- Random selection -- Procedures -- Publication -- Surname -- Exemptions -- Ballot order.

(1) As used in this section, "master ballot position list" means an official list of the 26 characters in the alphabet listed in random order and numbered from one to 26 as provided under Subsection (2).

(2) The lieutenant governor shall:

(a) within 30 calendar days after the day of the candidate filing deadline in each even-numbered year, conduct a random selection to create a master ballot position list for all elections in accordance with procedures established under Subsection (2)(c);

(b) publish the master ballot position list on the lieutenant governor's election website no later than 15 calendar days after [~~creating~~]the day on which the lieutenant governor creates the list; and

(c) establish written procedures for:

(i) the election official to use the master ballot position list; and

(ii) the lieutenant governor in:

(A) conducting the random selection in a fair manner; and

(B) providing a record of the random selection process used.

(3) In accordance with the written procedures established under Subsection (2)(c)(i), an election officer shall use the master ballot position list for the current year to determine the order in which to list candidates on the ballot for an election held during the year.

(4) To determine the order in which to list candidates on the ballot required under Subsection (3), the election officer shall apply the randomized alphabet using:

(a) the candidate's surname;

(b) for candidates with a surname that has the same spelling, the candidate's given name; and

(c) the surname of the president and the surname of the governor for an election for the offices of president and vice president and governor and lieutenant governor.

(5) Subsections (1) through (4) do not apply to:

(a) an election for an office for which only one candidate is listed on the ballot; or

(b) a judicial retention election under Section 20A-12-201.

(6) Subject to Subsection (7), each ticket that appears on a ballot for an election shall appear separately, in the following order:

(a) for federal office:

(i) president and vice president of the United States;

(ii) United States Senate office; and

(iii) United States House of Representatives office;

(b) for state office:

(i) governor and lieutenant governor;

(ii) attorney general;

(iii) state auditor;

(iv) state treasurer;

(v) state Senate office;

(vi) state House of Representatives office; and

(vii) State Board of Education member;

(c) for county office:

(i) county executive office;

(ii) county legislative body member;

(iii) county assessor;

(iv) county or district attorney;

(v) county auditor;

(vi) county clerk;

(vii) county recorder;

(viii) county sheriff;

(ix) county surveyor;

(x) county treasurer; and

(xi) local school board member;

(d) for municipal office:

(i) mayor; and

(ii) city or town council member;

(e) elected planning and service district council member;

(f) judicial retention questions; and

(g) ballot propositions not described in Subsection (6)(f).

(7) (a) A ticket for a race for a combined office shall appear on the ballot in the place of the earliest ballot ticket position that is reserved for an office that is subsumed in the combined office.

(b) Each ticket, other than a ticket described in Subsection (6)(f), shall list:

(i) each candidate in accordance with Subsections (1) through (4); and

(ii) except as otherwise provided in this title, the party name, initials, or title following each candidate's name.

Section 63. Section 20A-7-103 is amended to read:

20A-7-103. Constitutional amendments and other questions submitted by the Legislature -- Publication -- Ballot title -- Procedures for submission to popular vote.

(1) The procedures contained in this section govern when the Legislature submits a proposed constitutional amendment or other question to the voters.

(2) The lieutenant governor shall, not more than 60 calendar days or less than 14 calendar days before the date of the election, publish the full text of the amendment, question, or statute for the state, as a class A notice under Section 63G-30-102, through the date of the election.

(3) The presiding officers shall:

(a) entitle each proposed constitutional amendment "Constitutional Amendment __" and assign a letter to the constitutional amendment in accordance with the requirements of Section 20A-6-107;

(b) entitle each proposed question "Proposition Number __" with the number assigned to the proposition under Section 20A-6-107 placed in the blank;

(c) draft and designate a ballot title for each proposed amendment or question submitted by the Legislature that:

(i) summarizes the subject matter of the amendment or question; and

(ii) for a proposed constitutional amendment, summarizes any legislation that is enacted and will become effective upon the voters' adoption of the proposed constitutional amendment; and

(d) deliver each letter or number and ballot title to the lieutenant governor.

(4) The lieutenant governor shall certify the letter or number and ballot title of each amendment or question to the county clerk of each county no later than 65 calendar days before the date of the election.

(5) The county clerk of each county shall:

(a) ensure that the letter or number and the ballot title of each amendment and question prepared in accordance with this section are included in the sample ballots and official ballots; and

(b) publish the sample ballots and official ballots as provided by law.

Section 64. Section 20A-7-105 is amended to read:

20A-7-105. Manual petition processes -- Obtaining signatures -- Verification -- Submitting the petition -- Certification of signatures -- Transfer to lieutenant governor -- Removal of signature.

(1) This section applies only to the manual initiative process and the manual referendum process.

(2) As used in this section:

(a) "Local petition" means:

(i) a manual local initiative petition described in Part 5, Local Initiatives - Procedures; or

(ii) a manual local referendum petition described in Part 6, Local Referenda - Procedures.

(b) "Packet" means an initiative packet or referendum packet.

(c) "Petition" means a local petition or statewide petition.

(d) "Statewide petition" means:

(i) a manual statewide initiative petition described in Part 2, Statewide Initiatives; or

(ii) a manual statewide referendum petition described in Part 3, Statewide Referenda.

(3) (a) A Utah voter may sign a statewide petition if the voter is a legal voter.

(b) A Utah voter may sign a local petition if the voter:

(i) is a legal voter; and

(ii) resides in the local jurisdiction.

(4) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old;

(ii) verifies each signature sheet by completing the verification printed on the last page of each packet; and

(iii) is informed that each signer is required to read and understand:

(A) for an initiative petition, the law proposed by the initiative; or

(B) for a referendum petition, the law that the referendum seeks to overturn.

(b) An individual may not sign the verification printed on the last page of a packet if the individual signed a signature sheet in the packet.

(5) (a) The sponsors, or an agent of the sponsors, shall submit a signed and verified packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) for a statewide initiative:

(A) [~~30~~]the first business day that is at least 30 calendar days after the day on which the first individual signs the initiative packet;

(B) [~~316~~]the last business day that is no more than 316 calendar days after the day on which the application for the initiative petition is filed; or

(C) the February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202;

(ii) for a statewide referendum:

(A) [~~30~~]the first business day that is at least 30 calendar days after the day on which the first individual signs the referendum packet; or

(B) [~~40~~]the first business day that is at least 40 calendar days after the day on which the legislative session at which the law passed ends;

(iii) for a local initiative:

(A) [~~30~~]the first business day that is at least 30 calendar days after the day on which the first individual signs the initiative packet;

(B) [~~316~~]the last business day that is no more than 316 calendar days after the day on which the application is filed;

(C) the April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502, if the local initiative is a county initiative; or

(D) the April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502, if the local initiative is a municipal initiative; or

(iv) for a local referendum:

(A) [~~30~~]the first business day that is at least 30 calendar days after the day on which the first individual signs the referendum packet; or

(B) [~~45~~]the first business day that is at least 45 calendar days after the day on which the sponsors receive the items described in Subsection 20A-7-604(3) from the local clerk.

(b) A person may not submit a packet after the applicable deadline described in Subsection (5)(a).

(c) Before delivering an initiative packet to the county clerk under this Subsection (5), the sponsors shall send an email to each individual who provides a legible, valid email address on the signature sheet that includes the following:

(i) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(ii) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's or county clerk's website that includes the information referred to in the email]."

(d) For a statewide initiative, the sponsors shall, no later than 5 p.m. on the day on which the sponsors submit the last initiative packet to the county clerk, submit to the lieutenant governor:

(i) a list containing:

(A) the name and email address of each individual the sponsors sent, or caused to be sent, the email described in Subsection (5)(c); and

(B) the date the email was sent;

(ii) a copy of the email described in Subsection (5)(c); and

(iii) the following written verification, completed and signed by each of the sponsors:

"Verification of initiative sponsor State of Utah, County of _____I, _____, of _____, hereby state, under penalty of perjury, that:

I am a sponsor of the initiative petition entitled _____; and

I sent, or caused to be sent, to each individual who provided a legible, valid email address on a signature sheet submitted to the county clerk in relation to the initiative petition, the email described in Utah Code Subsection 20A-7-105(5)(c).

_____ __

(Name) (Residence Address) (Date)".

(e) For a local initiative, the sponsors shall, no later than 5 p.m. on the day on which the sponsors submit the last initiative packet to the local clerk, submit to the local clerk the items described in Subsection (5)(d).

(f) Signatures gathered for an initiative petition are not valid if the sponsors do not comply with Subsection (5)(c), (d), or (e).

(6) (a) Within 21 calendar days after the day on which the county clerk receives the packet, the county clerk shall:

(i) use the procedures described in Section 20A-1-1002, or 20A-7-106 if applicable, to determine whether each signer is a legal voter and, as applicable, the jurisdiction where the signer is registered to vote;

(ii) for a statewide initiative or a statewide referendum:

(A) certify on the petition whether each name is that of a legal voter;

(B) post the name, voter identification number, and date of signature of each legal voter certified under Subsection (6)(a)(ii)(A) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(C) deliver the verified packet to the lieutenant governor;

(iii) for a local initiative or a local referendum:

(A) certify on the petition whether each name is that of a legal voter who is registered in the jurisdiction to which the initiative or referendum relates;

(B) post the name, voter identification number, and date of signature of each legal voter certified under Subsection (6)(a)(iii)(A) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(C) deliver the verified packet to the local clerk.

(b) For a local initiative or local referendum, the local clerk shall post a link in a conspicuous location on the local government's website to the posting described in Subsection (6)(a)(iii)(B):

(i) for a local initiative, during the period of time described in Subsection 20A-7-507(3)(a); or

(ii) for a local referendum, during the period of time described in Subsection 20A-7-607(2)(a)(i).

(7) The county clerk may not certify a signature under Subsection (6):

(a) on a packet that is not verified in accordance with Subsection (4); or

(b) that does not have a date of signature next to the signature.

(8) (a) A voter who signs a statewide initiative petition may have the voter's signature removed from the petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed no later than 5 p.m. the earlier of:

(i) for an initiative packet received by the county clerk before December 1:

(A) [~~30~~]the first business day that is at least 30 calendar days after the day on which the voter signs the signature removal statement; or

(B) [~~90~~]the first business day that is at least 90 calendar days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2); or

(ii) for an initiative packet received by the county clerk on or after December 1:

(A) [~~30~~]the first business day that is at least 30 calendar days after the day on which the voter signs the signature removal statement; or

(B) [~~45~~]the first business day that is at least 45 calendar days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2).

(b) A voter who signs a statewide referendum petition may have the voter's signature removed from the petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed no later than 5 p.m. the earlier of:

(i) [~~30~~]the first business day that is at least 30 calendar days after the day on which the voter signs the statement requesting removal; or

(ii) [~~45~~]the first business day that is at least 45 calendar days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-307(2).

(c) A voter who signs a local initiative petition may have the voter's signature removed from the petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed no later than 5 p.m. the earlier of:

(i) [~~30~~]the first business day that is at least 30 calendar days after the day on which the voter signs the signature removal statement;

(ii) [~~90~~]the first business day that is at least 90 calendar days after the day on which the local clerk posts the voter's name under Subsection 20A-7-507(2);

(iii) [~~316~~]the last business day that is no more than 316 calendar days after the day on which the application is filed; or

(iv) (A) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(d) A voter who signs a local referendum petition may have the voter's signature removed from the petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed no later than 5 p.m. the earlier of:

(i) [~~30~~]the first business day that is at least 30 calendar days after the day on which the voter signs the statement requesting removal; or

(ii) [~~45~~]the first business day that is at least 45 calendar days after the day on which the local clerk posts the voter's name under Subsection 20A-7-607(2)(a).

(e) In order for the signature to be removed, the county clerk must receive the statement described in this Subsection (8) before 5 p.m. no later than the applicable deadline described in this Subsection (8).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from a petition, in accordance with Subsection 20A-1-1003(3).

(9) (a) If the county clerk timely receives a statement requesting signature removal under Subsection (8) and determines that the signature should be removed from the petition under Subsection 20A-1-1003(3), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (6)(a)(ii)(B) or (iii)(B); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection (9)(a) before the later of:

(i) the deadline described in Subsection (6)(a); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection (8).

(10) A person may not retrieve a packet from a county clerk, or make any alterations or corrections to a packet, after the packet is submitted to the county clerk.

Section 65. Section 20A-7-201 is amended to read:

20A-7-201. Statewide initiatives -- Signature requirements -- Submission to the Legislature or to a vote of the people.

(1) (a) A person seeking to have an initiative submitted to the Legislature for approval or rejection shall, after filing an initiative application, obtain:

(i) legal signatures equal to 4% of the number of active voters in the state on January 1 immediately following the last regular general election; and

(ii) from at least 26 Utah State Senate districts, legal signatures equal to 4% of the number of active voters in that district on January 1 immediately following the last regular general election.

(b) If, at any time not less than 10 calendar days before the beginning of the next annual general session of the Legislature, the lieutenant governor declares that an initiative petition designated under Subsection 20A-7-202(2)(c)(i) for submission to the Legislature is signed by a sufficient number of voters to meet the requirements of Subsection (1)(a), the lieutenant governor shall deliver a copy of the initiative petition, the text of the proposed law, and the cover sheet described in Subsection (1)(c) to the president of the Senate, the speaker of the House, and the director of the Office of Legislative Research and General Counsel.

(c) The lieutenant governor shall prepare a cover sheet for a petition declared sufficient under Subsection (1)(b) that contains:

(i) the number of active voters in the state on January 1 immediately following the last regular general election;

(ii) the number of active voters in each Utah State Senate district on January 1 immediately following the last regular general election;

(iii) the total number of certified signatures obtained for the initiative petition; and

(iv) the total number of certified signatures obtained from each Utah State Senate district for the initiative petition.

(2) (a) A person seeking to have an initiative submitted to a vote of the people for approval or rejection shall, after filing an initiative application, obtain:

(i) legal signatures equal to 8% of the number of active voters in the state on January 1 immediately following the last regular general election; and

(ii) from at least 26 Utah State Senate districts, legal signatures equal to 8% of the number of active voters in that district on January 1 immediately following the last regular general election.

(b) If an initiative petition meets the requirements of this part and the lieutenant governor declares that the initiative petition is signed by a sufficient number of voters to meet the requirements of Subsection (2)(a), the lieutenant governor shall submit the proposed law to a vote of the people at the next regular general election:

(i) immediately after the application is filed under Section 20A-7-202; and

(ii) specified on the petition under Section 20A-7-203.

(3) The lieutenant governor shall provide the following information to any interested person:

(a) the number of active voters in the state on January 1 immediately following the last regular general election; and

(b) for each Utah State Senate district, the number of active voters in that district on January 1 immediately following the last regular general election.

Section 66. Section 20A-7-202.5 is amended to read:

20A-7-202.5. Initial fiscal impact statement -- Preparation of statement -- Challenge to statement.

(1) Within three [~~working~~]business days after the day on which the lieutenant governor receives an initiative application, the lieutenant governor shall submit a copy of the initiative application to the Office of the Legislative Fiscal Analyst.

(2) (a) The Office of the Legislative Fiscal Analyst shall prepare an unbiased, good faith initial fiscal impact statement for the proposed law, not exceeding 100 words plus 100 words per revenue source created or impacted by the proposed law, that contains:

(i) a description of the total estimated fiscal impact of the proposed law over the time period or time periods determined by the Office of the Legislative Fiscal Analyst to be most useful in understanding the estimated fiscal impact of the proposed law;

(ii) if the proposed law would increase taxes, decrease taxes, or impose a new tax, a dollar amount representing the total estimated increase or decrease for each type of tax affected under the proposed law, a dollar amount showing the estimated amount of a new tax, and a dollar amount representing the total estimated increase or decrease in taxes under the proposed law;

(iii) if the proposed law would increase a particular tax or tax rate, the tax percentage difference and the tax percentage increase for each tax or tax rate increased;

(iv) if the proposed law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt under the proposed law;

(v) a dollar amount representing the estimated cost or savings, if any, to state or local government entities under the proposed law;

(vi) if the proposed law would increase costs to state government, a listing of all sources of funding for the estimated costs; and

(vii) a concise description and analysis titled "Funding Source," not to exceed 100 words for each funding source, of the funding source information described in Subsection 20A-7-202(2)(e)(ii).

(b) If the proposed law is estimated to have no fiscal impact, the Office of the Legislative Fiscal Analyst shall include a summary statement in the initial fiscal impact statement in substantially the following form:

"The Office of the Legislative Fiscal Analyst estimates that the law proposed by this initiative would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(3) Within 25 calendar days after the day on which the lieutenant governor delivers a copy of the initiative application, the Office of the Legislative Fiscal Analyst shall:

(a) send a copy of the initial fiscal impact statement to the lieutenant governor's office; and

(b) send a copy of the initial fiscal impact statement to the first five sponsors named in the initiative application.

(4) (a) (i) Three or more of the sponsors of the initiative petition may, within 20 calendar days after the day on which the Office of the Legislative Fiscal Analyst delivers the initial fiscal impact statement to the lieutenant governor's office, file a petition with the appropriate court, alleging that the initial fiscal impact statement, taken as a whole, is an inaccurate estimate of the fiscal impact of the initiative.

(ii) After receipt of the appeal, the court shall direct the lieutenant governor to send notice of the petition filed with the court to:

(A) any person or group that has filed an argument with the lieutenant governor's office for or against the initiative that is the subject of the challenge; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the initiative.

(b) (i) There is a presumption that the initial fiscal impact statement prepared by the Office of the Legislative Fiscal Analyst is based upon reasonable assumptions, uses reasonable data, and applies accepted analytical methods to present the estimated fiscal impact of the initiative.

(ii) The court may not revise the contents of, or direct the revision of, the initial fiscal impact statement unless the plaintiffs rebut the presumption by clear and convincing evidence that establishes that the initial fiscal impact statement, taken as a whole, is an inaccurate statement of the estimated fiscal impact of the initiative.

(iii) The court may refer an issue related to the initial fiscal impact statement to a master to examine the issue and make a report in accordance with Utah Rules of Civil Procedure, Rule 53.

(c) The court shall certify to the lieutenant governor a fiscal impact statement for the initiative that meets the requirements of this section.

Section 67. Section 20A-7-204 is amended to read:

20A-7-204. Manual initiative process -- Circulation requirements -- Lieutenant governor to provide sponsors with materials.

(1) This section applies only to the manual initiative process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsection (3), circulate initiative packets that meet the form requirements of this part.

(3) The lieutenant governor shall provide the sponsors with a copy of the initiative petition and a signature sheet [~~within three~~]no later than the first business day that is at least three calendar days after the day on which the following conditions are fulfilled:

(a) the sponsors hold the final hearing required under Section 20A-7-204.1;

(b) the sponsors provide to the Office of the Lieutenant Governor the video tape, audio tape, or comprehensive minutes described in Subsection 20A-7-204.1(4) for each public hearing described in Section 20A-7-204.1;

(c) (i) the sponsors give written notice to the Office of the Lieutenant Governor that the sponsors waive the opportunity to change the text of the proposed law under Subsection 20A-7-204.1(5);

(ii) the deadline, described in Subsection 20A-7-204.1(5)(a), for changing the text of the proposed law passes without the sponsors filing an application addendum in accordance with Subsection 20A-7-204.1(5); or

(iii) if the sponsors file an application addendum in accordance with Subsection 20A-7-204.1(5), the Office of the Legislative Fiscal Analyst provides to the Office of the Lieutenant Governor:

(A) an updated initial fiscal impact statement, in accordance with Subsection 20A-7-204.1(5)(b); or

(B) a written notice indicating that no changes to the initial fiscal impact statement are necessary;

(d) (i) the sponsors give written notice to the Office of the Lieutenant Governor that the sponsors waive the opportunity to:

(A) challenge the initial fiscal impact statement in court; and

(B) if applicable, challenge the updated initial fiscal impact statement in court;

(ii) the deadline, described in Subsection 20A-7-202.5(4)(a)(i), for:

(A) challenging the initial fiscal impact statement in court passes without the sponsors filing a petition to challenge; and

(B) if applicable, challenging the updated initial fiscal impact statement in court passes without the sponsors filing a petition to challenge; or

(iii) if the sponsors timely file a petition challenging the initial fiscal impact statement in court or, if applicable, the updated initial fiscal impact statement in court, and the court's decision becomes final; and

(e) the sponsors sign an agreement, under Subsection (6)(a), with the Office of the Lieutenant Governor specifying the range of numbers that the sponsors will use to number the initiative packets.

(4) The sponsors of the initiative shall:

(a) arrange and pay for the printing of all documents that are part of the initiative packets; and

(b) ensure that the initiative packets and the documents described in Subsection (4)(a) meet the requirements of this part.

(5) (a) The sponsors or an agent of the sponsors may prepare the initiative packets for circulation by creating multiple initiative packets.

(b) The sponsors or an agent of the sponsors shall create the initiative packets by binding a copy of the initiative petition with the text of the proposed law, including any modification made under Subsection 20A-7-204.1(5) and no more than 50 signature sheets together at the top in a manner that the initiative packets may be conveniently opened for signing.

(c) An initiative packet is not required to have a uniform number of signature sheets.

(6) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the lieutenant governor's office to receive a range of numbers that the sponsors may use to number initiative packets;

(ii) sign an agreement with the Office of the Lieutenant Governor, specifying the range of numbers that the sponsors will use to number the initiative packets; and

(iii) number each initiative packet, sequentially, within the range of numbers provided by the lieutenant governor's office, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number an initiative packet in a manner not directed by the lieutenant governor's office; or

(ii) circulate or submit an initiative packet that is not numbered in the manner directed by the lieutenant governor's office.

Section 68. Section 20A-7-204.1 is amended to read:

20A-7-204.1. Public hearings to be held before initiative petitions are circulated -- Changes to a proposed law or an initial fiscal impact statement.

(1) (a) After issuance of the initial fiscal impact statement by the Office of the Legislative Fiscal Analyst and before circulating initiative packets for signature statewide, sponsors of the initiative shall hold at least seven public hearings throughout Utah as follows:

(i) one in the Bear River region -- Box Elder, Cache, or Rich County;

(ii) one in the Southwest region -- Beaver, Garfield, Iron, Kane, or Washington County;

(iii) one in the Mountain region -- Summit, Utah, or Wasatch County;

(iv) one in the Central region -- Juab, Millard, Piute, Sanpete, Sevier, or Wayne County;

(v) one in the Southeast region -- Carbon, Emery, Grand, or San Juan County;

(vi) one in the Uintah Basin region -- Daggett, Duchesne, or Uintah County; and

(vii) one in the Wasatch Front region -- Davis, Morgan, Salt Lake, Tooele, or Weber County.

(b) Of the seven public hearings, the sponsors of the initiative shall hold at least two of the public hearings in a first or second class county, but not in the same county.

(c) The sponsors may not hold a public hearing described in this section until the later of:

(i) [~~one~~]the day after the day on which a sponsor receives a copy of the initial fiscal impact statement under Subsection 20A-7-202.5(3)(b); or

(ii) if three or more sponsors file a petition for an action challenging the accuracy of the initial fiscal impact statement under Section 20A-7-202.5, the day after the day on which the action is final.

(2) (a) The sponsors shall, before 5 p.m. at least 10 calendar days before the date of the public hearing, provide written notice of the public hearing, including the date, time, and location of the public hearing:

(i) to the lieutenant governor;

(ii) to the county clerk of each county in the region where the public hearing will be held;

(iii) each state senator, state representative, and county commission or county council member who is elected in whole or in part from the region where the public hearing will be held; and

(iv) in accordance with Section 45-1-101, for at least three calendar days before the day of the public hearing.

(b) The lieutenant governor shall post the notice described in Subsection (2)(a) on the lieutenant governor's website for at least three calendar days before the day of the public hearing.

(c) The county clerk of each county in the region where the public hearing will be held:

(i) shall post the notice described in Subsection (2)(a) for the county, as a class A notice under Section 63G-30-102, for at least three calendar days before the day of the public hearing; and

(ii) may bill the sponsors of the initiative for the cost of preparing, printing, and posting the notice described in Subsection (2)(c)(i).

(3) If the initiative proposes a tax increase, the written notice described in Subsection (2) shall include the following statement, in bold, in the same font and point size as the largest font and point size appearing in the notice:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(4) (a) During the public hearing, the sponsors shall either:

(i) video tape or audio tape the public hearing; or

(ii) take comprehensive minutes of the public hearing, detailing the names and titles of each speaker and summarizing each speaker's comments.

(b) The lieutenant governor shall make copies of the tapes or minutes available to the public.

(c) For each public hearing, the sponsors shall:

(i) during the entire time that the public hearing is held, post a copy of the initial fiscal impact statement in a conspicuous location at the entrance to the room where the sponsors hold the public hearing; and

(ii) place at least 50 copies of the initial fiscal impact statement, for distribution to public hearing attendees, in a conspicuous location at the entrance to the room where the sponsors hold the public hearing.

(d) Regardless of whether an individual is present to observe or speak at a public hearing:

(i) the sponsors may not end the public hearing until at least one hour after the public hearing begins; and

(ii) the sponsors shall provide at least one hour at the public hearing that is open for public comment.

(5) (a) Before 5 p.m. within [~~14~~]the first business day that is at least 14 calendar days after the day on which the sponsors conduct the seventh public hearing described in Subsection (1)(a), and before circulating an initiative signature packet for signatures, the sponsors of the initiative may change the text of the proposed law if:

(i) a change to the text is:

(A) germane to the text of the proposed law filed with the lieutenant governor under Section 20A-7-202; and

(B) consistent with the requirements of Subsection 20A-7-202(5); and

(ii) each sponsor signs, attested to by a notary public, an application addendum to change the text of the proposed law.

(b) (i) Within three [~~working~~]business days after the day on which the lieutenant governor receives an application addendum to change the text of the proposed law for an initiative, the lieutenant governor shall submit a copy of the application addendum to the Office of the Legislative Fiscal Analyst.

(ii) The Office of the Legislative Fiscal Analyst shall:

(A) update the initial fiscal impact statement, by following the procedures and requirements of Section 20A-7-202.5 to reflect a change to the text of the proposed law []; or

(B) provide written notice to the Office of the Lieutenant Governor indicating that no changes to the initial fiscal impact statement are necessary.

Section 69. Section 20A-7-207 is amended to read:

20A-7-207. Evaluation by the lieutenant governor.

(1) In relation to the manual initiative process, when the lieutenant governor receives an initiative packet from a county clerk, the lieutenant governor shall record the number of the initiative packet received.

(2) The county clerk shall:

(a) in relation to the manual initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-105(6)(a)(iii) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor:

(A) for an initiative packet received by the county clerk before December 1, for at least 90 calendar days; or

(B) for an initiative packet received by the county clerk on or after December 1, for at least 45 calendar days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-217(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor:

(A) for a signature received by the county clerk before December 1, for at least 90 calendar days; or

(B) for a signature received by the county clerk on or after December 1, for at least 45 calendar days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(3) The lieutenant governor:

(a) shall, except as provided in Subsection (3)(b), declare the initiative petition to be sufficient or insufficient on April 30 before the regular general election described in Subsection 20A-7-201(2)(b); or

(b) may declare the initiative petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual initiative process, the total of all valid signatures on timely and lawfully submitted initiative packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted initiative packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-201;

(ii) in relation to the electronic initiative process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-201; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required under Section 20A-7-201, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the initiative petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required under Section 20A-7-201 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the initiative petition the word "insufficient."

(c) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(5) After an initiative petition is declared insufficient, a person may not submit additional signatures to qualify the initiative for the ballot.

(6) (a) If the lieutenant governor refuses to declare an initiative petition sufficient that a voter believes is legally sufficient, the voter may, no later than May 15, apply to the appropriate court for an order finding the initiative petition legally sufficient.

(b) If the court determines that the initiative petition is legally sufficient, the lieutenant governor shall mark the petition "sufficient" and consider the declaration of sufficiency effective as of the date on which the initiative petition should have been declared sufficient by the lieutenant governor's office.

(c) If the court determines that the initiative petition is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(7) An initiative petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 70. Section 20A-7-211 is amended to read:

20A-7-211. Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) The votes on the law proposed by the initiative petition shall be counted, canvassed, and delivered as provided in [~~Title 20A, Chapter 4, Part 3, Canvassing Returns~~]Chapter 4, Part 3, Canvassing Returns.

(2) After the state board of canvassers completes the canvass, the lieutenant governor shall certify to the governor the vote for and against the law proposed by the initiative petition.

(3) (a) The governor shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the state for and against each law proposed by an initiative petition; and

(ii) declares those laws proposed by an initiative petition that are approved by majority vote to be in full force and effect on the date described in Subsection 20A-7-212(2).

(b) When the governor believes that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, the governor shall proclaim as law the initiative that receives the greatest number of affirmative votes, regardless of the difference in the majorities which those initiatives receive.

(c) Within 10 days after the day of the governor's proclamation, any qualified voter who signed the initiative petition proposing the law that is declared by the governor to be superseded by another initiative approved at the same election may bring an action in the appropriate court to review the governor's decision.

(4) Within 10 calendar days after the day on which the court issues an order in an action described in Subsection (3)(c), the governor shall:

(a) proclaim as law all initiatives approved by the people that the court determines are not entirely in conflict; and

(b) of the initiatives approved by the people that the court determines to be entirely in conflict, proclaim as law, regardless of the difference in majorities, the law that receives the greatest number of affirmative votes, to be in full force and effect on the date described

in Subsection 20A-7-212(2).

Section 71. Section 20A-7-212 is amended to read:

20A-7-212. Effective date.

(1) A proposed law submitted to the Legislature by initiative petition and passed by the Legislature takes effect 60 calendar days after the last day of the session of the Legislature in which the law passed, unless:

(a) a later effective date is included in the proposed law; or

(b) an earlier effective date is included in the proposed law and the proposed law passes the Legislature by a two-thirds vote of the members elected to each house of the Legislature.

(2) A proposed law submitted to the people by initiative petition that is approved by the voters at an election takes effect:

(a) except as provided in Subsections (2)(b) through (e), on the day that is 60 calendar days after the last day of the general session of the Legislature next following the election;

(b) except as provided in Subsection (2)(d) or (e), if the proposed law effectuates a tax increase:

(i) except as provided in Subsection (2)(b)(ii), January 1 of the year after the general session of the Legislature next following the election; or

(ii) at the beginning of the applicable taxable year that begins on or after January 1 of the year after the general session of the Legislature next following the election, for a tax described in:

(A) Title 59, Chapter 6, Mineral Production Tax Withholding;

(B) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(C) Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; or

(D) Title 59, Chapter 10, Individual Income Tax Act;

(c) except as provided in Subsection (2)(d) or (e), if the proposed law effectuates a tax decrease:

(i) except as provided in Subsection (2)(c)(ii), April 1 immediately following the election; or

(ii) for a tax described in Subsection (2)(b)(ii)(A) through (D), at the beginning of the applicable taxable year that begins on or after January 1 immediately following the election;

(d) except as provided in Subsection (2)(e), January 1 of the year after the general session of the Legislature next following the election, if the proposed law effectuates a change in a tax described in:

(i) Title 59, Chapter 2, Property Tax Act;

(ii) Title 59, Chapter 3, Tax Equivalent Property Act; or

(iii) Title 59, Chapter 4, Privilege Tax; or

(e) if the proposed law specifies a special effective date that is after the otherwise applicable effective date described in Subsections (2)(a) through (d), the date specified in the proposed law.

(3) (a) The governor may not veto a law adopted by the people.

(b) The Legislature may amend any initiative approved by the people at any legislative session.

Section 72. Section 20A-7-214 is amended to read:

20A-7-214. Fiscal review -- Repeal, amendment, or resubmission.

(1) No later than 60 calendar days after the date of an election in which the voters approve an initiative, the Office of the Legislative Fiscal Analyst shall:

(a) for each initiative approved by the voters, prepare a final fiscal impact statement, using current financial information and containing the information required by Subsection 20A-7-202.5(2); and

(b) deliver a copy of the final fiscal impact statement to:

(i) the president of the Senate;

(ii) the minority leader of the Senate;

(iii) the speaker of the House of Representatives;

(iv) the minority leader of the House of Representatives; and

(v) the first five sponsors listed on the initiative application.

(2) If the final fiscal impact statement exceeds the estimate in the initial fiscal impact statement by 25% or more, the Legislature shall review the final fiscal impact statement and may, in any legislative session following the election in which the voters approve the initiative:

(a) repeal the law established by passage of the initiative;

(b) amend the law established by passage of the initiative; or

(c) pass a joint or concurrent resolution informing the voters that they may file an initiative petition to repeal the law enacted by passage of the initiative.

Section 73. Section 20A-7-216 is amended to read:

20A-7-216. Electronic initiative process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic initiative process.

(2) A Utah voter may sign an initiative petition if the voter is a legal voter.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law proposed by the initiative.

(4) A voter who signs an initiative petition may have the voter's signature removed from the initiative petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(a) for an electronic signature gathered before December 1:

(i) [~~30~~]the first business day that is at least 30 calendar days after the day on which the voter signs the signature removal statement; or

(ii) [~~90~~]the first business day that is at least 90 calendar days after the day on which the county clerk posts the voter's name under Subsection 20A-7-217(4); or

(b) for an electronic signature gathered on or after December 1:

(i) [~~30~~]the first business day that is at least 30 calendar days after the day on which the voter signs the signature removal statement; or

(ii) [~~45~~]the first business day that is at least 45 calendar days after the day on which the county clerk posts the voter's name under Subsection 20A-7-217(4).

(5) (a) A voter may not submit a signature removal statement described in Subsection (4) by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(b) A person may only remove an electronic signature from an initiative petition in accordance with this section.

(c) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from an initiative petition, in accordance with Subsection 20A-1-1003(3).

Section 74. Section 20A-7-217 is amended to read:

20A-7-217. Electronic initiative process -- Collecting signatures -- Email notification -- Removal of signatures.

(1) This section applies only to the electronic initiative process.

(2) A signature-gatherer may not collect a signature after 5 p.m., the earlier of:

(a) [~~316~~]the last business day that is no more than 316 calendar days after the day on which the initiative application is filed; or

(b) the February 15 immediately before the next regular general election immediately after the initiative application is filed under Section 20A-7-202.

(3) The lieutenant governor shall send to each individual who provides a valid email address during the signature-gathering process an email that includes the following:

(a) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(b) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the text of the law proposed by the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the initiative petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(4) Except as provided in Subsection (5), the county clerk shall, within two business days after the day on which the signature of an individual who signs an initiative petition is certified under Section 20A-21-201, post the name, voter identification number, and date of signature of the individual on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor.

(5) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-216(4), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (4); and

(ii) remove the voter's signature from the initiative petition and the initiative petition signature totals.

(b) The county clerk shall comply with Subsection (5)(a) before the later of:

(i) the deadline described in Subsection (4); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-216(4).

Section 75. Section 20A-7-302 is amended to read:

20A-7-302. Referendum process -- Application procedures.

(1) Individuals wishing to circulate a referendum petition shall file a referendum application with the lieutenant governor [~~before 5 p.m. within~~]no later than 5 p.m. on the first business day that is at least five calendar days after the day on which the legislative session at which the law passed ends.

(2) The referendum application shall include:

(a) the name and residence address of at least five sponsors of the referendum petition;

(b) a statement indicating that each of the sponsors is registered to vote in Utah;

(c) a statement indicating whether persons gathering signatures for the referendum petition may be paid for gathering signatures;

(d) the signature of each of the sponsors, attested to by a notary public; and

(e) a copy of the law that is the subject of the proposed referendum.

Section 76. Section 20A-7-304 is amended to read:

20A-7-304. Manual referendum process -- Circulation requirements -- Lieutenant governor to provide sponsors with materials.

(1) This section applies only to the manual referendum process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsection (3), circulate referendum packets that meet the form requirements of this part.

(3) The lieutenant governor shall provide the sponsors with a copy of the referendum petition and a signature sheet [~~within three~~]no later than the first business day that is at least five calendar days after the day on which the sponsors sign an agreement, under Subsection (6)(a), with the Office of the Lieutenant Governor specifying the range of numbers that the sponsors will use to number the referendum packets.

(4) The sponsors of the referendum petition shall:

(a) arrange and pay for the printing of all documents that are part of the referendum packets; and

(b) ensure that the referendum packets and the documents described in Subsection (4)(a)meet the form requirements of this section.

(5) (a) The sponsors or an agent of the sponsors may prepare the referendum packets for circulation by creating multiple referendum packets.

(b) The sponsors or an agent of the sponsors shall create referendum packets by binding a copy of the referendum petition with the text of the law that is the subject of the referendum and no more than 50 signature sheets together at the top in a manner that the referendum packets may be conveniently opened for signing.

(c) A referendum packet is not required to have a uniform number of signature sheets.

(6) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the lieutenant governor's office to receive a range of numbers that the sponsors may use to number referendum packets;

(ii) sign an agreement with the Office of the Lieutenant Governor, specifying the range of numbers that the sponsor will use to number the referendum packets; and

(iii) number each referendum packet, sequentially, within the range of numbers provided by the lieutenant governor's office, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a referendum packet in a manner not directed by the lieutenant governor's office; or

(ii) circulate or submit a referendum packet that is not numbered in the manner directed by the lieutenant governor's office.

Section 77. Section 20A-7-307 is amended to read:

20A-7-307. Evaluation by the lieutenant governor.

(1) In relation to the manual referendum process, when the lieutenant governor receives a referendum packet from a county clerk, the lieutenant governor shall record the number of the referendum packet received.

(2) The county clerk shall:

(a) in relation to the manual referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-105(6)(a)(iii) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 calendar days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-315(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 calendar days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(3) The lieutenant governor:

(a) shall, except as provided in Subsection (3)(b), declare the referendum petition to be sufficient or insufficient 106 calendar days after the end of the legislative session at which the law passed; or

(b) may declare the referendum petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual referendum process, the total of all valid signatures on timely and lawfully submitted referendum packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted referendum packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-301;

(ii) in relation to the electronic referendum process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-301; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required under Section 20A-7-301, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the referendum petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required under Section 20A-7-301 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the referendum petition the word "insufficient."

(c) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(d) After a referendum petition is declared insufficient, a person may not submit additional signatures to qualify the referendum for the ballot.

(5) (a) If the lieutenant governor refuses to declare a referendum petition sufficient that a voter believes is legally sufficient, the voter may, no later than 10 days after the day on which the lieutenant governor declares the petition insufficient, apply to the appropriate court for an order finding the referendum petition legally sufficient.

(b) If the court determines that the referendum petition is legally sufficient, the lieutenant governor shall mark the referendum petition "sufficient" and consider the declaration of sufficiency effective as of the date on which the referendum petition should have been declared sufficient by the lieutenant governor's office.

(c) If the court determines that a referendum petition filed is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(6) A referendum petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 78. Section 20A-7-308 is amended to read:

20A-7-308. Short title and summary of referendum -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) Whenever a referendum petition is declared sufficient for submission to a vote of the people, the lieutenant governor shall deliver a copy of the referendum petition and the law to which the referendum relates to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) entitle each statewide referendum that qualifies for the ballot "Proposition Number __" and assign a number to the referendum in

accordance with Section 20A-6-107;

(ii) prepare for each referendum:

(A) an impartial short title, not exceeding 25 words, that generally describes the law to which the referendum relates; and

(B) an impartial summary of the contents of the law to which the referendum relates, not exceeding 125 words; and

(iii) submit the short title and summary to the lieutenant governor within 15 calendar days after the day on which the Office of Legislative Research and General Counsel receives the petition under Subsection (1).

(b) The short title and summary may be distinct from the title of the law that is the subject of the referendum.

(c) Subject to Subjection (4), for each statewide referendum, the official ballot shall show, in the following order:

(i) the number of the referendum, determined in accordance with Section 20A-6-107;

(ii) the short title; and

(iii) except as provided in Subsection (2)(d):

(A) the summary;

(B) a copy of the law; and

(C) a link to a location on the lieutenant governor's website where a voter may review additional information relating to each referendum, including the information described in Subsection 20A-7-302(2) and the arguments relating to the referendum that are included in the voter information pamphlet.

(d) Unless the information described in Subsection (2)(c)(iii) is shown on the official ballot, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each referendum on the ballot and a link to a location on the lieutenant governor's website where a voter may review the additional information described in Subsection (2)(c)(iii)(C).

(e) Unless the information described in Subsection 20A-7-209(2)(d)(iii) for all initiatives on the ballot, and the information described in Subsection (2)(c)(iii) for all referenda on the ballot, is printed on the ballot, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot, unless the summary is printed directly on the ballot."

(3) Immediately after the Office of Legislative Research and General Counsel submits the short title and summary to the lieutenant governor, the lieutenant governor shall mail or email a copy of the short title and summary to any of the sponsors of the referendum petition.

(4) (a) (i) At least three of the sponsors of the referendum petition may, within 15 days after the day on which the lieutenant governor sends the short title and summary, challenge the wording of the short title and summary prepared by the Office of Legislative Research and General Counsel to the appropriate court.

(ii) After receipt of the appeal, the court shall direct the lieutenant governor to send notice of the appeal to:

(A) any person or group that has filed an argument for or against the law to which the referendum relates; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the referendum.

(b) (i) There is a presumption that the short title prepared by the Office of Legislative Research and General Counsel is an impartial description of the contents of the referendum.

(ii) The court may not revise the wording of the short title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the short title is false or biased.

(iii) There is a presumption that the summary prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the law to which the referendum relates.

(iv) The court may not revise the wording of the summary unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the summary is false or biased.

(c) The court shall:

(i) examine the short title and summary;

(ii) hear arguments; and

(iii) enter an order consistent with the requirements of this section.

(d) The lieutenant governor shall, in accordance with the court's order, certify the short title and summary to the county clerks for inclusion in the ballot or ballot proposition insert, as required by this section.

Section 79. Section 20A-7-310 is amended to read:

20A-7-310. Return and canvass -- Conflicting measures.

(1) The votes on the law that is the subject of the referendum petition shall be counted, canvassed, and delivered as provided in [~~Title 20A, Chapter 4, Part 3, Canvassing Returns~~]Chapter 4, Part 3, Canvassing Returns.

(2) After the state board of canvassers completes its canvass, the lieutenant governor shall certify to the governor the vote for and against the law that is the subject of the referendum petition.

(3) (a) The governor shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the state for and against each law that is the subject of a referendum petition; and

(ii) declares those laws that are the subject of a referendum petition that are approved by majority vote to be in full force and effect as the law of Utah on the effective date described in Section 20A-7-311.

(b) When the governor determines that two laws, or that parts of two laws approved by the people at the same election are entirely in conflict, the governor shall proclaim to be law the law that received the greatest number of affirmative votes, regardless of the difference in the majorities which those approved laws received.

(4) (a) Within 10 days after the day on which the governor issues the proclamation described in Subsection (3), any qualified voter who signed the referendum petition for the law that is declared by the governor to be superseded by another law approved at the same election may apply to the appropriate court to review the governor's decision.

(b) The court shall:

(i) consider the matter and decide whether the approved laws are in conflict; and

(ii) enter an order consistent with the court's decision.

(5) Within 10 calendar days after the day on which the court enters an order described in Subsection (4)(b)(ii), the governor shall:

(a) proclaim as law all those laws approved by the people that the court determines are not in conflict; and

(b) of all those laws approved by the people as law that the court determines to be in conflict, proclaim as law the one that receives the greatest number of affirmative votes, regardless of difference in majorities.

Section 80. Section 20A-7-311 is amended to read:

20A-7-311. Temporary stay -- Effective date -- Effect of repeal by Legislature.

(1) If, at the time during the counting period described in Section 20A-7-307, the lieutenant governor determines that, at that point in time, an adequate number of signatures are certified to comply with the signature requirements, the lieutenant governor shall:

(a) issue an order temporarily staying the law from going into effect; and

(b) continue the process of certifying signatures and removing signatures as required by this part.

(2) The temporary stay described in Subsection (1) remains in effect, regardless of whether a future count falls below the signature threshold, until[~~the day on which~~]:

(a) if the lieutenant governor declares the referendum petition insufficient, five calendar days after the day on which the lieutenant governor declares the referendum petition insufficient; or

(b) if the lieutenant governor declares the referendum petition sufficient, the day on which governor issues the proclamation described in Section 20A-7-310.

(3) A law submitted to the people by referendum that is approved by the voters at an election takes effect the later of:

(a) five calendar days after the date of the official proclamation of the vote by the governor; or

(b) the effective date specified in the approved law.

(4) If, after the lieutenant governor issues a temporary stay order under Subsection (1)(a), the lieutenant governor declares the referendum petition insufficient, the law that is the subject of the referendum petition takes effect the later of:

(a) five calendar days after the day on which the lieutenant governor declares the referendum petition insufficient; or

(b) the effective date specified in the law that is the subject of the referendum petition.

(5) (a) The governor may not veto a law approved by the people.

(b) The Legislature may amend any laws approved by the people at any legislative session after the people approve the law.

(6) If the Legislature repeals a law challenged by referendum petition under this part, the referendum petition is void and no further action on the referendum petition is required.

Section 81. Section 20A-7-314 is amended to read:

20A-7-314. Electronic referendum process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic referendum process.

(2) A Utah voter may sign a referendum petition if the voter is a legal voter.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law that is the subject of the referendum petition.

(4) A voter who signs a referendum petition may have the voter's signature removed from the referendum petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(a) the first business day that is at least 30 calendar days after the day on which the voter signs the statement requesting removal; or

(b) the first business day that is at least 45 calendar days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-315(4).

(5) (a) A voter may not submit a signature removal statement described in Subsection (4) by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(b) A person may only remove an electronic signature from a referendum petition in accordance with this section.

(c) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from a referendum petition, in accordance with Subsection 20A-1-1003(3).

Section 82. Section 20A-7-315 is amended to read:

20A-7-315. Electronic referendum process -- Collecting signatures -- Removal of signatures.

(1) This section applies only to the electronic referendum process.

(2) A signature-gatherer may not collect a signature after 5 p.m., 40 calendar days after the day on which the legislative session at which the law passed ends.

(3) The lieutenant governor shall send to each individual who provides a valid email address during the signature-gathering process an email that includes the following:

(a) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(b) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following referendum:

[insert title of referendum]

To access a copy of the referendum petition, the law that is the subject of the referendum petition, and information on the deadline for removing your signature from the referendum petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(4) Except as provided in Subsection (5), the county clerk shall, within two business days after the day on which the signature of an

individual who signs a referendum petition is certified under Section 20A-21-201, post the name, voter identification number, and date of signature of the individual on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor.

(5) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-314(4), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (4); and

(ii) remove the voter's signature from the referendum petition and the signature totals.

(b) The county clerk shall comply with Subsection (5)(a) before the later of:

(i) the deadline described in Subsection (4); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-314(4).

Section 83. Section 20A-7-401.5 is amended to read:

20A-7-401.5. Proposition information pamphlet.

(1) (a) (i) Within 15 calendar days after the day on which an eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602:

(A) the sponsors of the proposed initiative or referendum may electronically submit a written argument in favor of the proposed initiative or referendum to the election officer of the county or municipality to which the petition relates; and

(B) the county or municipality to which the application relates may electronically submit a written argument in favor of, or against, the proposed initiative or referendum to the county's or municipality's election officer.

(ii) If a county or municipality submits more than one written argument under Subsection (1)(a)(i)(B), the election officer shall select one of the written arguments, giving preference to a written argument submitted by a member of a local legislative body if a majority of the local legislative body supports the written argument.

(b) Within one business day after the day on which an election officer receives an argument under Subsection (1)(a)(i)(A), the election officer shall provide a copy of the argument to the county or municipality described in Subsection (1)(a)(i)(B) or (1)(a)(ii), as applicable.

(c) Within one business day after the date on which an election officer receives an argument under Subsection (1)(a)(i)(B), the election officer shall provide a copy of the argument to the first three sponsors of the proposed initiative or referendum described in Subsection (1)(a)(i)(A).

(d) The sponsors of the proposed initiative or referendum may electronically submit a revised version of the written argument described in Subsection (1)(a)(i)(A) to the election officer of the county or municipality to which the petition relates within 20 calendar days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602.

(e) The author of a written argument described in Subsection (1)(a)(i)(B) submitted by a county or municipality may electronically submit a revised version of the written argument to the county's or municipality's election officer within 20 calendar days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602.

(2) (a) A written argument described in Subsection (1) may not exceed 500 words.

(b) Except as provided in Subsection (2)(c), a person may not modify a written argument described in Subsection (1)(d) or (e) after the written argument is submitted to the election officer.

(c) The election officer and the person that submits the written argument described in Subsection (1)(d) or (e) may jointly agree to modify the written argument to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with Subsection (2)(a).

(d) An election officer shall refuse to include a written argument in the proposition information pamphlet described in this section if the person who submits the argument:

(i) fails to negotiate, in good faith, to modify the argument in accordance with Subsection (2)(c); or

(ii) does not timely submit the written argument to the election officer.

(e) An election officer shall make a good faith effort to negotiate a modification described in Subsection (2)(c) in an expedited manner.

(3) An election officer who receives a written argument described in Subsection (1) shall prepare a proposition information pamphlet for publication that includes:

(a) a copy of the application for the proposed initiative or referendum;

(b) except as provided in Subsection (2)(d), immediately after the copy described in Subsection (3)(a), the argument prepared by the sponsors of the proposed initiative or referendum, if any;

(c) except as provided in Subsection (2)(d), immediately after the argument described in Subsection (3)(b), the argument prepared by the county or municipality, if any; and

(d) a copy of the initial fiscal impact statement and legal impact statement described in Section 20A-7-502.5 or 20A-7-602.5.

(4) (a) A proposition information pamphlet is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act, until the earlier of when the election officer:

(i) complies with Subsection (4)(b); or

(ii) publishes the proposition information pamphlet under Subsection (5) or (6).

(b) Within 21 calendar days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502, or an application to circulate a referendum petition under Section 20A-7-602, the election officer shall provide a copy of the proposition information pamphlet to the sponsors of the initiative or referendum and each individual who submitted an argument included in the proposition information pamphlet.

(5) An election officer for a municipality shall publish the proposition information pamphlet as follows:

(a) within the later of 10 calendar days after the day on which the municipality or a court determines that the proposed initiative or referendum is legally referable to voters, or, if the election officer modifies an argument under Subsection (2)(c), three calendar days after the day on which the election officer and the person that submitted the argument agree on the modification:

(i) by sending the proposition information pamphlet electronically to each individual in the municipality for whom the municipality has an email address, unless the individual has indicated that the municipality is prohibited from using the individual's email address for that purpose; and

(ii) by posting the proposition information pamphlet on the Utah Public Notice Website, created in Section 63A-16-601, and the home page of the municipality's website, if the municipality has a website, until:

(A) if the sponsors of the proposed initiative or referendum or an agent of the sponsors do not timely deliver any verified initiative packets or any verified referendum packets under Section 20A-7-105, the day after the date of the deadline for delivery of the verified initiative packets or verified referendum packets;

(B) the local clerk determines, under Section 20A-7-507 or 20A-7-607, that the number of signatures necessary to qualify the proposed initiative or referendum for placement on the ballot is insufficient and the determination is not timely appealed or is upheld after appeal; or

(C) the day after the date of the election at which the proposed initiative or referendum appears on the ballot; and

(b) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including an Internet address, where a resident may view the proposition information pamphlet, in the next mailing, for which the municipality has not begun preparation, that falls on or after the later of:

(i) 10 calendar days after the day on which the municipality or a court determines that the proposed initiative or referendum is legally referable to voters; or

(ii) if the election officer modifies an argument under Subsection (2)(c), three calendar days after the day on which the election officer and the person that submitted the argument agree on the modification.

(6) An election officer for a county shall, within the later of 10 calendar days after the day on which the county or a court determines that the proposed initiative or referendum is legally referable to voters, or, if the election officer modifies an argument under Subsection (2)(c), three calendar days after the day on which the election officer and the person that submitted the argument agree on the modification, publish the proposition information pamphlet as follows:

(a) by sending the proposition information pamphlet electronically to each individual in the county for whom the county has an email address obtained via voter registration; and

(b) by posting the proposition information pamphlet on the Utah Public Notice Website, created in Section 63A-16-601, and the home page of the county's website, until:

(i) if the sponsors of the proposed initiative or referendum or an agent of the sponsors do not timely deliver any verified initiative packets or any verified referendum packets under Section 20A-7-105, the day after the date of the deadline for delivery of the verified initiative packets or verified referendum packets;

(ii) the local clerk determines, under Section 20A-7-507 or 20A-7-607, that the number of signatures necessary to qualify the proposed initiative or referendum for placement on the ballot is insufficient and the determination is not timely appealed or is upheld after appeal; or

(iii) the day after the date of the election at which the proposed initiative or referendum appears on the ballot.

Section 84. Section 20A-7-402 is amended to read:

20A-7-402. Local voter information pamphlet -- Notice -- Contents -- Limitations -- Preparation -- Statement on front cover.

(1) (a) The county or municipality that is subject to a ballot proposition shall prepare a local voter information pamphlet that complies with the requirements of this part.

(b) Each county or municipality that contains all or part of a proposed new school district or a reorganized new school district that will appear on a regular general election ballot under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4 shall prepare a local voter information pamphlet that complies with the requirements of this part.

(2) (a) Within the time requirements described in Subsection (2)(c)(i), a municipality described in Subsection (1) shall provide a notice that complies with the requirements of Subsection (2)(c)(ii) to the municipality's residents by publishing the notice for the municipality, as a class A notice under Section 63G-30-102, for the time period set under Subsection (2)(c)(i).

(b) A county described in Subsection (1) shall publish a notice that complies with the requirements of Subsection (2)(c)(ii) for the county, as a class A notice under Section 63G-30-102.

(c) A municipality or county that publishes a notice under Subsection (2)(a) or (b) shall:

(i) publish the notice:

(A) not less than 90 calendar days before the date of the election at which a special local ballot proposition will be voted upon; or

(B) if the requirements of Subsection (2)(c)(i)(A) cannot be met, as soon as practicable after the special local ballot proposition is approved to be voted upon in an election; and

(ii) ensure that the notice contains:

(A) the ballot title for the special local ballot proposition;

(B) instructions on how to file a request under Subsection (2)(d); and

(C) the deadline described in Subsection (2)(d).

(d) Except as provided in Subsection (13), to prepare a written argument for or against a special local ballot proposition, an eligible voter shall file a request with the election officer [~~before 5 p.m. no later than~~]no later than 5 p.m. on the last business day that is at least 64 calendar days before the day of the election at which the special local ballot proposition is to be voted on.

(e) If more than one eligible voter requests the opportunity to prepare a written argument for or against a special local ballot proposition, the election officer shall make the final designation in accordance with the following order of priority:

(i) sponsors have priority in preparing an argument regarding a special local ballot proposition; and

(ii) members of the local legislative body have priority over others if a majority of the local legislative body supports the written argument.

(f) Except as provided in Subsection (13), the election officer shall grant a request described in Subsection (2)(d) or (e) no later than 60 calendar days before the day of the election at which the ballot proposition is to be voted on.

(g) (i) A sponsor of a special local ballot proposition may prepare a written argument in favor of the special local ballot proposition.

(ii) Subject to Subsection (2)(e), an eligible voter opposed to the special local ballot proposition who submits a request under Subsection (2)(d) may prepare a written argument against the special local ballot proposition.

(h) An eligible voter who submits a written argument under this section in relation to a special local ballot proposition shall:

(i) ensure that the written argument does not exceed 500 words in length, not counting the information described in Subsection

(2)(h)(ii) or (iv);

(ii) list, at the end of the argument, at least one, but no more than five, names as sponsors;

(iii) except as provided in Subsection (13), submit the written argument to the election officer [~~before 5 p.m. no later than~~]no later than 5 p.m. on the last business day that is at least 55 calendar days before the election day on which the ballot proposition will be submitted to the voters;

(iv) list in the argument, immediately after the eligible voter's name, the eligible voter's residential address; and

(v) submit with the written argument the eligible voter's name, residential address, postal address, email address if available, and phone number.

(i) An election officer shall refuse to accept and publish an argument submitted after the deadline described in Subsection (2)(h)(iii).

(3) (a) An election officer who timely receives the written arguments in favor of and against a special local ballot proposition shall, within one business day after the day on which the election office receives both written arguments, send, via mail or email:

(i) a copy of the written argument in favor of the special local ballot proposition to the eligible voter who submitted the written argument against the special local ballot proposition; and

(ii) a copy of the written argument against the special local ballot proposition to the eligible voter who submitted the written argument in favor of the special local ballot proposition.

(b) The eligible voter who submitted a timely written argument in favor of the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument against the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv); and

(iii) except as provided in Subsection (13), shall submit the written rebuttal argument [~~before 5 p.m. no later than~~]no later than 5 p.m. on the last business day that is at least 45 calendar days before the election day on which the special local ballot proposition will be submitted to the voters.

(c) The eligible voter who submitted a timely written argument against the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument in favor of the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv); and

(iii) except as provided in Subsection (13), shall submit the written rebuttal argument [~~before 5 p.m. no later than~~]no later than 5 p.m. on the last business day that is at least 45 calendar days before the election day on which the special local ballot proposition will be submitted to the voters.

(d) An election officer shall refuse to accept and publish a written rebuttal argument in relation to a special local ballot proposition that is submitted after the deadline described in Subsection (3)(b)(iii) or (3)(c)(iii).

(4) (a) Except as provided in Subsection (4)(b), in relation to a special local ballot proposition:

(i) an eligible voter may not modify a written argument or a written rebuttal argument after the eligible voter submits the written argument or written rebuttal argument to the election officer; and

(ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not modify a written argument or a written rebuttal argument.

(b) The election officer, and the eligible voter who submits a written argument or written rebuttal argument in relation to a special local ballot proposition, may jointly agree to modify a written argument or written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; and

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written argument or written rebuttal argument in relation to a special local ballot proposition if the eligible voter who submits the written argument or written rebuttal argument fails to negotiate, in good faith, to modify the written argument or written rebuttal argument in accordance with Subsection (4)(b).

(5) In relation to a special local ballot proposition, an election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.

(6) Sponsors whose written argument in favor of a standard local ballot proposition is included in a proposition information pamphlet under Section 20A-7-401.5:

(a) may, if a written argument against the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(b) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(c) shall submit the written rebuttal argument no later than 5 p.m. on the last business day that is at least45 calendar days before the election day on which the standard local ballot proposition will be submitted to the voters.

(7) (a) A county or municipality that submitted a written argument against a standard local ballot proposition that is included in a proposition information pamphlet under Section 20A-7-401.5:

(i) may, if a written argument in favor of the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the written rebuttal argument no later than 5 p.m. on the last business day that is at least45 calendar days before the election day on which the ballot proposition will be submitted to the voters.

(b) If a county or municipality submits more than one written rebuttal argument under Subsection (7)(a)(i), the election officer shall select one of the written rebuttal arguments, giving preference to a written rebuttal argument submitted by a member of a local legislative body.

(8) (a) An election officer shall refuse to accept and publish a written rebuttal argument that is submitted after the deadline described in Subsection (6)(c) or (7)(a)(iii).

(b) Before an election officer publishes a local voter information pamphlet under this section, a written rebuttal argument is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(c) An election officer who receives a written rebuttal argument described in this section may not, before publishing the local voter information pamphlet described in this section, disclose the written rebuttal argument, or any information contained in the written rebuttal

argument, to any person who may in any way be involved in preparing an opposing rebuttal argument.

(9) (a) Except as provided in Subsection (9)(b), a person may not modify a written rebuttal argument after the written rebuttal argument is submitted to the election officer.

(b) The election officer, and the person who submits a written rebuttal argument, may jointly agree to modify a written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written rebuttal argument if the person who submits the written rebuttal argument:

(i) fails to negotiate, in good faith, to modify the written rebuttal argument in accordance with Subsection (9)(b); or

(ii) does not timely submit the written rebuttal argument to the election officer.

(d) An election officer shall make a good faith effort to negotiate a modification described in Subsection (9)(b) in an expedited manner.

(10) An election officer may designate another person to take the place of a person who submits a written rebuttal argument in relation to a standard local ballot proposition if the person is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the person's duties.

(11) (a) The local voter information pamphlet shall include a copy of the initial fiscal impact estimate and the legal impact statement prepared for each initiative under Section 20A-7-502.5.

(b) If the initiative proposes a tax increase, the local voter information pamphlet shall include the following statement in bold type:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(12) (a) In preparing the local voter information pamphlet, the election officer shall:

(i) ensure that the written arguments are printed on the same sheet of paper upon which the ballot proposition is also printed;

(ii) ensure that the following statement is printed on the front cover or the heading of the first page of the printed written arguments:

"The arguments for or against a ballot proposition are the opinions of the authors.";

(iii) pay for the printing and binding of the local voter information pamphlet; and

(iv) not less than 15 calendar days before, but not more than 45 calendar days before, the election at which the ballot proposition will be voted on, distribute, by mail or carrier, to each registered voter entitled to vote on the ballot proposition:

(A) a voter information pamphlet; or

(B) the notice described in Subsection (12)(c).

(b) (i) If the language of the ballot proposition exceeds 500 words in length, the election officer may summarize the ballot proposition in 500 words or less.

(ii) The summary shall state where a complete copy of the ballot proposition is available for public review.

(c) (i) The election officer may distribute a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(ii) The notice described in Subsection (12)(c)(i) shall include:

(A) the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(B) the phone number a voter may call to request delivery of a voter information pamphlet by mail or carrier.

(13) For 2024 only, in relation to an election that will appear on the regular general election ballot to create a new school district under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4, if the notice described in Subsection (2)(b) is published less than 72 calendar days before the day of the election:

(a) the deadline to file a request described in Subsection (2)(d) is before 5 p.m. no later than five business days after the notice is published;

(b) the deadline to grant a request under Subsection (2)(f) is no later than seven business days after the notice is published;

(c) the deadline to submit the written argument to the election officer under Subsection (2)(h)(iii) is before 5 p.m. no later than 12 business days after the notice is published; and

(d) the deadline to submit the written rebuttal argument under Subsection (3)(b)(iii) or (c)(iii) is no later than 17 business days after the notice is published.

Section 85. Section 20A-7-501 is amended to read:

20A-7-501. Initiatives -- Signature requirements -- Time requirements.

(1) As used in this section:

(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.

(b) "Voter participation area" means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) An eligible voter seeking to have an initiative submitted to a local legislative body or to a vote of the people for approval or rejection shall, after filing an initiative application, obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a city of the first class:

(i) 7.5% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the city's voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county's voter participation areas;

(d) for a city of the second class:

(i) 8.25% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the city's voter participation areas;

(e) for a county of the third class:

(i) 9.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county's voter participation areas;

(f) for a city of the third class:

(i) 10% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the city's voter participation areas;

(g) for a county of the fourth class:

(i) 11.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county's voter participation areas;

(h) for a city of the fourth class:

(i) 11.5% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the city's voter participation areas;

(i) for a city of the fifth class or a county of the fifth class, 25% of the number of active voters in the city or county; or

(j) for a town or a county of the sixth class, 35% of the number of active voters in the town or county.

(3) If the total number of certified signatures collected for the initiative petition equals or exceeds the number of signatures required by this section, the clerk or recorder shall deliver the proposed law to the local legislative body at the local legislative body's next meeting.

(4) (a) The local legislative body shall either adopt or reject the proposed law without change or amendment within 30 calendar days after the day on which the local legislative body receives the proposed law under Subsection (3).

(b) The local legislative body may:

(i) adopt the proposed law and refer the proposed law to the people;

(ii) adopt the proposed law without referring the proposed law to the people; or

(iii) reject the proposed law.

(c) If the local legislative body adopts the proposed law but does not refer the proposed law to the people, the proposed law is subject to referendum as with other local laws.

(d) (i) If a county legislative body rejects a proposed law, or takes no action on a proposed law, the county clerk shall submit the proposed law to the voters of the county at the next regular general election immediately after the initiative application for the proposed law is filed under Section 20A-7-502.

(ii) If a local legislative body of a municipality rejects a proposed law, or takes no action on a proposed law, the municipal recorder or clerk shall submit the proposed law to the voters of the municipality at the next municipal general election immediately after the initiative application is filed under Section 20A-7-502.

(e) (i) If a local legislative body rejects a proposed law, or takes no action on a proposed law, the local legislative body may adopt a competing local law.

(ii) The local legislative body shall prepare and adopt the competing local law within the [~~30-day~~]30-calendar-day period described in Subsection (4)(a).

(iii) If a local legislative body adopts a competing local law, the clerk or recorder shall refer the competing local law to the voters of the county or municipality at the same election at which the law proposed by initiative is submitted under Subsection (4)(d).

(f) If conflicting local laws are submitted to the people at the same election and two or more of the conflicting measures are approved by the people, the proposed law that receives the greatest number of affirmative votes shall control all conflicts.

Section 86. Section 20A-7-502.7 is amended to read:

20A-7-502.7. Referability to voters.

(1) Within 20 calendar days after the day on which an eligible voter files an initiative application under Section 20A-7-502, counsel for the county, city, or town to which the initiative pertains shall:

(a) review the proposed law that is the subject of the initiative application to determine whether the law is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed law is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) A proposed law that is the subject of an initiative application is legally referable to voters unless:

(a) the proposed law:

(i) is patently unconstitutional;

(ii) is nonsensical;

(iii) is administrative, rather than legislative, in nature;

(iv) could not become law if passed; or

(v) contains more than one subject as evaluated in accordance with Subsection 20A-7-502(3);[~~or~~]

(b) is identical or substantially similar to a legally referable proposed law sought by an initiative application submitted to the local clerk, under Section 20A-7-502, within two years before the day on which the initiative application for the current proposed law is filed;

(c) the subject of the proposed law is not clearly expressed in the law's title; or

(d) the initiative application was not timely filed or does not comply with the requirements of this part.

(3) After the end of the [~~20-day~~]20-calendar-day period described in Subsection (1), a county, city, or town may not:

(a) reject a proposed initiative as not legally referable to voters; or

(b) bring a legal action, other than to appeal a court decision, challenging a proposed initiative on the grounds that the proposed initiative is not legally referable to voters.

(4) If a county, city, or town rejects a proposed initiative, a sponsor of the proposed initiative may, within 10 days after the day on which a sponsor is notified under Subsection (1)(b), appeal the decision to:

(a) district court; or

(b) the Supreme Court, if the Supreme Court has original jurisdiction over the appeal.

(5) If, on appeal, the court determines that the law proposed by the initiative application is legally referable to voters, the local clerk shall comply with Subsection 20A-7-504(3), or give the sponsors access to the website defined in Section 20A-21-101, within five calendar days after the day on which the determination, and any appeal of the determination, is final.

Section 87. Section 20A-7-504 is amended to read:

20A-7-504. Manual initiative process -- Circulation requirements -- Local clerk to provide sponsors with materials.

(1) This section applies only to the manual initiative process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsections (3) and 20A-7-401.5(4)(b), circulate initiative packets that meet the form requirements of this part.

(3) Within five calendar days after the day on which a county, city, town, or court determines, in accordance with Section 20A-7-502.7, that a law proposed in an initiative petition is legally referable to voters, the local clerk shall provide to the sponsors:

(a) a copy of the initiative petition;

(b) a signature sheet; and

(c) a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(4) The sponsors of the initiative shall:

(a) arrange and pay for the printing of all documents that are part of the initiative packets; and

(b) ensure that the initiative packets and the documents described in Subsection (4)(a) meet the requirements of this part.

(5) (a) The sponsors or an agent of the sponsors may prepare the initiative packets for circulation by creating multiple initiative packets.

(b) The sponsors or an agent of the sponsors shall create initiative packets by binding a copy of the initiative petition with the text of the proposed law and no more than 50 signature sheets together at the top in a manner that the initiative packets may be conveniently opened for signing.

(c) An initiative packet is not required to have a uniform number of signature sheets.

(d) The sponsors or an agent of the sponsors shall include, with each initiative packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(6) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the county clerk to receive a range of numbers that the sponsors may use to number initiative packets; and

(ii) number each initiative packet, sequentially, within the range of numbers provided by the county clerk, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number an initiative packet in a manner not directed by the county clerk; or

(ii) circulate or submit an initiative packet that is not numbered in the manner directed by the county clerk.

(c) The county clerk shall keep a record of the number range provided under Subsection (6)(a).

Section 88. Section 20A-7-507 is amended to read:

20A-7-507. Evaluation by the local clerk.

(1) In relation to the manual initiative process, when a local clerk receives an initiative packet from a county clerk, the local clerk shall record the number of the initiative packet received.

(2) The county clerk shall:

(a) in relation to the manual initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-105(6)(a)(iii) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 90 calendar days; and

(ii) update on the local government's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-516(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 90 calendar days; and

(ii) update on the local government's website the number of signatures certified as of the date of the update.

(3) The local clerk:

(a) shall, except as provided in Subsection (3)(b), declare the initiative petition to be sufficient or insufficient:

(i) in relation to the manual initiative process, no later than 21 calendar days after the day of the applicable deadline described in Subsection 20A-7-105(5)(a)(iii); or

(ii) in relation to the electronic initiative process, no later than 21 calendar days after the day of the applicable deadline described in Subsection 20A-7-516(2); or

(b) may declare the initiative petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual initiative process, the total of all valid signatures on timely and lawfully submitted initiative packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted initiative packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-501;

(ii) in relation to the electronic initiative process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that

have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-501; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required by Section 20A-7-501 and the requirements of this part are met, the local clerk shall mark upon the front of the initiative petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required by Section 20A-7-501 or a requirement of this part is not met, the local clerk shall mark upon the front of the initiative petition the word "insufficient."

(c) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

(d) After an initiative petition is declared insufficient, a person may not submit additional signatures to qualify the initiative for the ballot.

(5) If the local clerk finds the total number of certified signatures for the initiative petition to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures collected for the initiative petition in the presence of any sponsor.

(6) An initiative petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 89. Section 20A-7-508 is amended to read:

20A-7-508. Short title and summary of initiative -- Duties of local clerk and local attorney.

(1) Upon receipt of an initiative petition, the local clerk shall deliver a copy of the initiative petition and the proposed law to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal initiative that has qualified for the ballot "Proposition Number __" and give it a number as assigned under Section 20A-6-107;

(b) prepare for each initiative:

(i) an impartial short title, not exceeding 25 words, that generally describes the subject of the initiative; and

(ii) an impartial summary of the contents of the initiative, not exceeding 125 words;

(c) file the proposed short title, summary, and the numbered initiative titles with the local clerk within 20 calendar days after the day on which an eligible voter submits the initiative petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed short title and summary to:

(i) the sponsors of the initiative; and

(ii) the local legislative body for the jurisdiction where the initiative petition was circulated.

(3) (a) The short title and summary may be distinct from the title of the proposed law.

(b) In preparing a short title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial description of the subject of the initiative.

(c) In preparing a summary, the local attorney shall, to the best of the local attorney's ability, give a true and impartial summary of the contents of the initiative.

(d) The short title and summary may not intentionally be an argument, or likely to create prejudice, for or against the initiative.

(e) If the initiative proposes a tax increase, the local attorney shall include the following statement, in bold, in the summary:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(4) (a) Within five calendar days after the date the local attorney files a proposed short title and summary under Subsection (2)(c), the local legislative body for the jurisdiction where the initiative petition was circulated and the sponsors of the initiative may file written comments in response to the proposed short title and summary with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final short title and summary that meets the requirements of Subsection (3); and

(iii) return the initiative petition and file the short title and summary with the local clerk.

(c) Subject to Subsection (6), for each county or municipal initiative, the following shall be printed on the official ballot:

(i) the short title; and

(ii) except as provided in Subsection (4)(d):

(A) the summary;

(B) a copy of the proposed law; and

(C) a link to a location on the election officer's website where a voter may review additional information relating to each initiative, including the information described in Subsection 20A-7-502(2), the initial fiscal impact and legal statement described in Section 20A-7-502.5, as updated, and the arguments relating to the initiative that are included in the local voter information pamphlet.

(d) Unless the information described in Subsection (4)(c)(ii) is printed on the official ballot, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative on the ballot and a link to a location on the election officer's website where a voter may review the additional information described in Subsection (4)(c)(ii)(C).

(e) Unless the information described in Subsection (4)(c)(ii) for all initiatives on the ballot, and the information described in Subsection 20A-7-608(4)(c)(ii) for all referenda on the ballot, is printed on the ballot, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures[;]:

"The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot, unless the summary is printed directly on the ballot.".

(5) Immediately after the local attorney files a copy of the short title and summary with the local clerk, the local clerk shall send a copy of the short title and summary to the sponsors of the initiative and the local legislative body for the jurisdiction where the initiative petition was circulated.

(6) (a) If the short title or summary furnished by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed to the appropriate court by:

(i) at least three sponsors of the initiative; or

(ii) a majority of the local legislative body for the jurisdiction where the initiative petition was circulated.

(b) The court:

(i) shall examine the short title and summary and consider arguments; and

(ii) enter an order consistent with the requirements of this section.

(c) The local clerk shall include the short title and summary in the ballot or ballot proposition insert, as required by this section.

Section 90. Section 20A-7-510 is amended to read:

20A-7-510. Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) The votes on the law proposed by the initiative petition shall be counted, canvassed, and delivered as provided in [~~Title 20A, Chapter 4, Part 3, Canvassing Returns~~]Chapter 4, Part 3, Canvassing Returns.

(2) After the local board of canvassers completes the canvass, the local clerk shall certify to the local legislative body the vote for and against the law proposed by the initiative petition.

(3) (a) The local legislative body shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the local jurisdiction for and against each law proposed by an initiative petition; and

(ii) declares those laws proposed by an initiative petition that are approved by majority vote to be in full force and effect as the law of the local jurisdiction.

(b) When the local legislative body determines that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, the local legislative body shall proclaim as law the initiative that received the greatest number of affirmative votes, regardless of the difference in the majorities which those initiatives have received.

(c) (i) Within 10 days after the day on which the local legislative body issues the proclamation, any qualified voter who signed the initiative petition proposing the law that is declared by the local legislative body to be superseded by another initiative approved at the same election may bring an action in the appropriate court to review the decision.

(ii) The court shall:

(A) consider the matter and decide whether the proposed laws are entirely in conflict; and

(B) issue an order, consistent with the court's decision, to the local legislative body.

(4) Within 10 calendar days after the day on which the court enters an order under Subsection (3)(c)(ii), the local legislative body shall:

(a) proclaim as law all initiatives approved by the people that the court determines are not in conflict; and

(b) for the initiatives approved by the people as law that the court determines to be in conflict, proclaim as law the initiative that received the greatest number of affirmative votes, regardless of the difference in majorities.

Section 91. Section 20A-7-511 is amended to read:

20A-7-511. Effective date.

(1) (a) Any proposed law submitted to the people by initiative petition that is approved by the voters at any election takes effect on the date specified in the initiative petition.

(b) If the initiative petition does not specify an effective date, a law approved by the voters at any election takes effect five calendar days after the date of the official proclamation of the vote by the county legislative body.

(2) The local legislative body may amend any laws approved by the people at any meeting after the law has taken effect.

Section 92. Section 20A-7-513 is amended to read:

20A-7-513. Fiscal review -- Repeal, amendment, or resubmission.

(1) No later than 60 calendar days after the date of an election in which the voters approve an initiative, the budget officer shall:

(a) for each initiative approved by the voters, prepare a final fiscal impact statement, using current financial information and containing the information required by Subsection 20A-7-502.5(2), except for the information required by Subsection 20A-7-502.5(2)(a)(vii); and

(b) deliver a copy of the final fiscal impact statement to:

(i) the local legislative body of the jurisdiction where the initiative was circulated;

(ii) the local clerk; and

(iii) the first three sponsors listed on the initiative application.

(2) If the final fiscal impact statement exceeds the estimate in the initial fiscal impact and legal statement by 25% or more, the local legislative body shall review the final fiscal impact statement and may, by a majority vote:

(a) repeal the law established by passage of the initiative;

(b) amend the law established by the passage of the initiative; or

(c) pass a resolution informing the voters that they may file an initiative petition to repeal the law enacted by passage of the initiative.

Section 93. Section 20A-7-515 is amended to read:

20A-7-515. Electronic initiative process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic initiative process.

(2) A Utah voter may sign a local initiative petition if the voter is a legal voter and resides in the local jurisdiction.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law proposed by the initiative.

(4) (a) A voter who signs an initiative petition may have the voter's signature removed from the initiative petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) the first business day that is at least 30 calendar days after the day on which the voter signs the signature removal statement;

(ii) the first business day that is at least 90 calendar days after the day on which the local clerk posts the voter's name under Subsection 20A-7-516(4);

(iii) the first business day that is at least 316 calendar days after the day on which the initiative application is filed; or

(iv) (A) for a county initiative, April 15 immediately before the next regular general election immediately after the initiative application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the initiative application is filed under Section 20A-7-502.

(b) A voter may not submit a signature removal statement described in Subsection (4)(a) by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(c) A person may only remove an electronic signature from an initiative petition in accordance with this section.

(d) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from an initiative petition, in accordance with Subsection 20A-1-1003(3).

Section 94. Section 20A-7-516 is amended to read:

20A-7-516. Electronic initiative process -- Collecting signatures -- Email notification -- Removal of signatures.

(1) This section applies only to the electronic initiative process.

(2) A signature-gatherer may not collect a signature after 5 p.m., the earlier of:

(a) 316 calendar days after the day on which the initiative application is filed; or

(b) (i) for a county initiative, April 15 immediately before the next regular general election immediately after the initiative application is filed under Section 20A-7-502; or

(ii) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the initiative application is filed under Section 20A-7-502.

(3) The local clerk shall send to each individual who provides a valid email address during the signature-gathering process an email that includes the following:

(a) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(b) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the text of the law proposed by the initiative, the initial fiscal impact and legal statement, and information on the deadline for removing your signature from the initiative petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(4) Except as provided in Subsection (5), the county clerk shall, within two business days after the day on which the signature of an individual who signs an initiative petition is certified under Section 20A-21-201, post the name, voter identification number, and date of signature of the individual on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor.

(5) (a) If the local clerk timely receives a statement requesting signature removal under Subsection 20A-7-515(4), the local clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (4); and

(ii) remove the voter's signature from the initiative petition and the initiative petition signature totals.

(b) The local clerk shall comply with Subsection (5)(a) before the later of:

(i) the deadline described in Subsection (4); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-515(4).

Section 95. Section 20A-7-601 is amended to read:

20A-7-601. Referenda -- General signature requirements -- Signature requirements for land use laws, subjurisdictional laws, and transit area land use laws -- Time requirements.

(1) As used in this section:

(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.

(b) "Qualifying county" means a county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

(c) "Qualifying transit area" means:

(i) a station area, as defined in Section 10-9a-403.1, for which the municipality with jurisdiction over the station area has satisfied the requirements of Subsection 10-9a-403.1(2)(a)(i), as demonstrated by the adoption of a station area plan or resolution under Subsection 10-9a-403.1(2); or

(ii) a housing and transit reinvestment zone, as defined in Section 63N-3-602, created within a qualifying county.

(d) "Subjurisdiction" means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.

(e) (i) "Subjurisdictional law" means a local law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, or town.

(ii) "Subjurisdictional law" does not include a land use law.

(f) "Transit area land use law" means a land use law that relates to the use of land within a qualifying transit area.

(g) "Voter participation area" means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) Except as provided in Subsections (3) through (5), an eligible voter seeking to have a local law passed by the local legislative body

submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a city of the first class:

(i) 7.5% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the city's voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county's voter participation areas;

(d) for a city of the second class:

(i) 8.25% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the city's voter participation areas;

(e) for a county of the third class:

(i) 9.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county's voter participation areas;

(f) for a city of the third class:

(i) 10% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the city's voter participation areas;

(g) for a county of the fourth class:

(i) 11.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county's voter participation areas;

(h) for a city of the fourth class:

(i) 11.5% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the city's voter participation areas;

(i) for a city of the fifth class or a county of the fifth class, 25% of the number of active voters in the city or county; or

(j) for a town or a county of the sixth class, 35% of the number of active voters in the town or county.

(3) Except as provided in Subsection (4) or (5), an eligible voter seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county of the first, second, third, or fourth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a county of the fifth or sixth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(c) for a city of the first class:

(i) 15% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 15% of the number of active voters in at least 75% of the city's voter participation areas;

(d) for or a city of the second class:

(i) 16% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the city's voter participation areas;

(e) for a city of the third class:

(i) 27.5% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 27.5% of the number of active voters in at least 75% of the city's voter participation areas;

(f) for a city of the fourth class:

(i) 29% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 29% of the number of active voters in at least 75% of the city's voter participation areas;

(g) for a city of the fifth class, 35% of the number of active voters in the city; or

(h) for a town, 40% of the number of active voters in the town.

(4) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures of the residents in the subjurisdiction equal to:

(a) 10% of the number of active voters in the subjurisdiction if the number of active voters exceeds 25,000;

(b) [~~12-1/2~~]12.5% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 25,000 but is more than 10,000;

(c) 15% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 10,000 but is more than 2,500;

(d) 20% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 2,500 but is more than 500;

(e) 25% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 500 but is more than 250; and

(f) 30% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 250.

(5) An eligible voter seeking to have a transit area land use law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county:

(i) 20% of the number of active voters in the county; and

(ii) 21% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a city of the first class:

(i) 20% of the number of active voters in the city; and

(ii) 20% of the number of active voters in at least 75% of the city's voter participation areas;

(c) for a city of the second class:

(i) 20% of the number of active voters in the city; and

(ii) 21% of the number of active voters in at least 75% of the city's voter participation areas;

(d) for a city of the third class:

(i) 34% of the number of active voters in the city; and

(ii) 34% of the number of active voters in at least 75% of the city's voter participation areas;

(e) for a city of the fourth class:

(i) 36% of the number of active voters in the city; and

(ii) 36% of the number of active voters in at least 75% of the city's voter participation areas; or

(f) for a city of the fifth class or a town, 40% of the number of active voters in the city or town.

(6) Sponsors of any referendum petition challenging, under Subsection (2), (3), (4), or (5), any local law passed by a local legislative body shall file the application [~~before 5 p.m. within~~]no later than the first business day that is at least five days after the day on which the local law was passed.

(7) [~~Nothing in this section authorizes~~]This section does not authorize a local legislative body to impose a tax or other payment obligation on a subjurisdiction in order to benefit an area outside of the subjurisdiction.

Section 96. Section 20A-7-602.7 is amended to read:

20A-7-602.7. Referability to voters of local law other than land use law.

(1) Within 20 calendar days after the day on which an eligible voter files a referendum application under Section 20A-7-602 for a local law other than a land use law, counsel for the county, city, or town to which the referendum pertains shall:

(a) review the referendum application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) For a local law other than a land use law, a proposed referendum is legally referable to voters unless:

(a) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(b) the proposed referendum challenges more than one law passed by the local legislative body; or

(c) the referendum application was not timely filed or does not comply with the requirements of this part.

(3) After the end of the [~~20-day~~]20-calendar-day period described in Subsection (1), a county, city, or town may not, for a local law other than a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If, under Subsection (1)(b)(ii), a county, city, or town rejects a proposed referendum concerning a local law other than a land use law, a sponsor of the proposed referendum may, within 10 days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on a challenge or appeal, the court determines that the proposed referendum described in Subsection (4) is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(3), or give the sponsors access to the website defined in Section 20A-21-101, within five calendar days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 97. Section 20A-7-602.8 is amended to read:

20A-7-602.8. Referability to voters of local land use law.

(1) Within 20 calendar days after the day on which a referendum eligible voter files an application under Section 20A-7-602 for a land use law, counsel for the county, city, or town to which the referendum pertains shall:

(a) review the referendum application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) (a) Subject to Subsection (2)(b), for a land use law, a proposed referendum is legally referable to voters unless:

(i) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(ii) the proposed referendum challenges a land use decision, rather than a land use regulation, as those terms are defined in Section 10-9a-103 or 17-27a-103;

(iii) the proposed referendum challenges more than one law passed by the local legislative body; or

(iv) the referendum application was not timely filed or does not comply with the requirements of this part.

(b) In addition to the limitations of Subsection (2)(a), a proposed referendum is not legally referable to voters for a:

(i) municipal land use law, as defined in Section 20A-7-101, if the land use law was passed by a unanimous vote of the local legislative body; or

(ii) transit area land use law, as defined in Section 20A-7-601, if the transit area land use law was passed by a two-thirds vote of the local legislative body.

(3) After the end of the [~~20-day~~]20-calendar-day period described in Subsection (1), a county, city, or town may not, for a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If a county, city, or town rejects a proposed referendum concerning a land use law, a sponsor of the proposed referendum may, within seven days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on challenge or appeal, the court determines that the proposed referendum is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(3), or give the sponsors access to the website defined in Section 20A-21-101, within five calendar days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 98. Section 20A-7-604 is amended to read:

20A-7-604. Manual referendum process -- Circulation requirements -- Local clerk to provide sponsors with materials.

(1) This section applies only to the manual referendum process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsections (3) and 20A-7-401.5(4)(b), circulate referendum packets that meet the form requirements of this part.

(3) Within five calendar days after the day on which a county, city, town, or court determines, in accordance with Section 20A-7-602.7, that a proposed referendum is legally referable to voters, the local clerk shall provide the sponsors with:

(a) a copy of the referendum petition;

(b) a signature sheet; and

(c) a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(4) The sponsors of the referendum petition shall:

(a) arrange and pay for the printing of all documents that are part of the referendum packets; and

(b) ensure that the referendum packets and the documents described in Subsection (4)(a) meet the form requirements of this section.

(5) (a) The sponsors or an agent of the sponsors may prepare the referendum packets for circulation by creating multiple referendum packets.

(b) The sponsors or an agent of the sponsors shall create referendum packets by binding a copy of the referendum petition with the text of the law that is the subject of the referendum and no more than 50 signature sheets together at the top in a manner that the referendum packets may be conveniently opened for signing.

(c) A referendum packet is not required to have a uniform number of signature sheets.

(d) The sponsors or an agent of the sponsors shall include, with each packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(6) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the county clerk to receive a range of numbers that the sponsors may use to number referendum packets;

(ii) sign an agreement with the local clerk, specifying the range of numbers that the sponsor will use to number the referendum packets; and

(iii) number each referendum packet, sequentially, within the range of numbers provided by the county clerk, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a referendum packet in a manner not directed by the county clerk; or

(ii) circulate or submit a referendum packet that is not numbered in the manner directed by the county clerk.

Section 99. Section 20A-7-607 is amended to read:

20A-7-607. Evaluation by the local clerk -- Determination of election for vote on referendum.

(1) In relation to the manual referendum process, when the local clerk receives a referendum packet from a county clerk, the local clerk shall record the number of the referendum packet received.

(2) The county clerk shall:

(a) in relation to the manual referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-105(6)(a)(iii) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 calendar days; and

(ii) update on the local clerk's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-616(3) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 calendar days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(3) The local clerk:

(a) shall, except as provided in Subsection (3)(b), declare the referendum petition to be sufficient or insufficient:

(i) in relation to the manual referendum process, no later than 111 calendar days after the day of the deadline, described in Subsection

20A-7-105(5)(a)(iv), to submit a referendum packet to the county clerk; or

(ii) in relation to the electronic referendum process, no later than 111 calendar days after the day of the deadline, described in Subsection 20A-7-616(2), to collect a signature; or

(b) may declare the referendum petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual referendum process, the total of all valid signatures on timely and lawfully submitted referendum packets that have been certified by the county clerk, plus the number of signatures on timely and lawfully submitted referendum packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601;

(ii) in relation to the electronic referendum process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required under Section 20A-7-601, and the requirements of this part are met, the local clerk shall mark upon the front of the referendum petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required under Section 20A-7-601 or a requirement of this part is not met, the local clerk shall mark upon the front of the referendum petition the word "insufficient."

(c) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

(d) After a referendum petition is declared insufficient, a person may not submit additional signatures to qualify the referendum for the ballot.

(5) (a) If the local clerk refuses to declare a referendum petition sufficient, any voter may, no later than 10 days after the day on which the local clerk declares the referendum petition insufficient, apply to the appropriate court for an order finding the referendum petition legally sufficient.

(b) If the court determines that the referendum petition is legally sufficient, the local clerk shall mark the referendum petition "sufficient" and consider the declaration of sufficiency effective as of the date on which the referendum petition should have been declared sufficient by the local clerk's office.

(c) If the court determines that a referendum petition filed is not legally sufficient, the court may enjoin the local clerk and all other officers from:

(i) certifying or printing the ballot title and numbers of that referendum on the official ballot for the next election; or

(ii) as it relates to a local tax law that is conducted entirely by mail, certifying, printing, or mailing the ballot title and numbers of that referendum under Section 20A-7-609.5.

(6) A referendum petition determined to be sufficient in accordance with this section is qualified for the ballot.

(7) (a) Except as provided in Subsection (7)(b) or (c), if a referendum relates to legislative action taken after April 15, the election officer may not place the referendum on an election ballot until a primary election, a general election, or a special election the following year.

(b) The election officer may place a referendum described in Subsection (7)(a) on the ballot for a special, primary, or general election held during the year that the legislative action was taken if the following agree, in writing, on a timeline to place the referendum on that ballot:

(i) the local clerk;

(ii) the county clerk; and

(iii) the attorney for the county or municipality that took the legislative action.

(c) For a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the election ballot for:

(i) the next general election; or

(ii) another election, if the following agree, in writing, on a timeline to place the referendum on that ballot:

(A) the affected owners, as defined in Section 10-9a-103 or 17-27a-103, as applicable;

(B) the local clerk;

(C) the county clerk; and

(D) the attorney for the county or municipality that took the legislative action.

Section 100. Section 20A-7-608 is amended to read:

20A-7-608. Short title and summary of referendum -- Duties of local clerk and local attorney.

(1) Upon receipt of a referendum petition, the local clerk shall deliver a copy of the referendum petition and the law to which the referendum relates to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal referendum that qualifies for the ballot "Proposition Number __" and give the referendum a number assigned in accordance with Section 20A-6-107;

(b) prepare for the referendum:

(i) an impartial short title, not exceeding 25 words, that generally describes the subject of the law to which the referendum relates; and

(ii) an impartial summary of the contents of the law to which the referendum relates, not exceeding 125 words;

(c) file the proposed short title, summary, and the numbered referendum title with the local clerk within 20 calendar days after the day on which an eligible voter submits the referendum petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed short title and summary to:

(i) the sponsors of the petition; and

(ii) the local legislative body for the jurisdiction where the referendum petition was circulated.

(3) (a) The short title and summary may be distinct from the title of the law that is the subject of the referendum petition.

(b) In preparing a short title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial description of the subject of the referendum.

(c) In preparing a summary, the local attorney shall, to the best of the local attorney's ability, give a true and impartial summary of the contents of the referendum.

(d) The short title and summary may not intentionally be an argument, or likely to create prejudice, for or against the referendum.

(4) (a) Within five calendar days after the day on which the local attorney files a proposed short title and summary under Subsection (2)(c), the local legislative body for the jurisdiction where the referendum petition was circulated and the sponsors of the referendum petition may file written comments in response to the proposed short title and summary with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final short title and summary that meets the requirements of Subsection (3); and

(iii) return the referendum petition and file the short title and summary with the local clerk.

(c) Subject to Subsection (6), for each county or municipal referendum, the following shall be printed on the official ballot:

(i) the short title; and

(ii) except as provided in Subsection (4)(d):

(A) the summary;

(B) a copy of the ordinance, resolution, or written description of the local law; and

(C) a link to a location on the election officer's website where a voter may review additional information relating to each referendum, including the information described in Subsection 20A-7-602(2) and the arguments relating to the referendum that are included in the local voter information pamphlet.

(d) Unless the information described in Subsection (4)(c)(ii) is printed on the official ballot, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each referendum on the ballot and a link to a location on the election officer's website where a voter may review the additional information described in Subsection (4)(c)(ii)(C).

(e) Unless the information described in Subsection 20A-7-508(4)(c)(ii) for all initiatives on the ballot, and the information described in Subsection (4)(c)(ii) for all referenda on the ballot, is printed on the ballot, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot, unless the summary is printed directly on the ballot."

(5) Immediately after the local attorney files a copy of the short title and summary with the local clerk, the local clerk shall send a copy of the short title and summary to the sponsors of the referendum petition and the local legislative body for the jurisdiction where the referendum petition was circulated.

(6) (a) If the short title or summary provided by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed to the appropriate court by:

(i) at least three sponsors of the referendum petition; or

(ii) a majority of the local legislative body for the jurisdiction where the referendum petition was circulated.

(b) The court:

(i) shall examine the short title and summary and consider the arguments; and

(ii) enter an order consistent with the requirements of this section.

(c) The local clerk shall include the short title and summary in the ballot or ballot proposition insert, as required by this section.

Section 101. Section 20A-7-609.5 is amended to read:

20A-7-609.5. Election on referendum challenging local tax law conducted entirely by mail.

(1) An election officer may administer an election on a referendum challenging a local tax law entirely by mail.

(2) For purposes of an election conducted under this section, the election officer shall:

(a) designate as the election day the first business day that is at least 30 calendar days after the day on which the election officer complies with Subsection (2)(b); and

(b) within 30 calendar days after the day on which the referendum described in Subsection (1) qualifies for the ballot, mail to each registered voter within the voting precincts to which the local tax law applies:

(i) a manual ballot;

(ii) a statement that there will be no polling place for the election;

(iii) a statement specifying the election day described in Subsection (2)(a);

(iv) a business reply mail envelope;

(v) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted;

(vi) a warning, on a separate page of colored paper in boldface print, indicating that if the voter fails to follow the instructions included with the manual ballot, the voter will be unable to vote in that election because there will be no polling place for the election; and

(vii) (A) a copy of the proposition information pamphlet relating to the referendum if a proposition information pamphlet relating to the referendum was published under Section 20A-7-401.5; or

(B) a website address where an individual may view a copy of the proposition information pamphlet described in Subsection (2)(b)(vii)(A).

(3) An election officer who administers an election under this section shall:

(a) (i) obtain, in person, the signatures of each voter within that voting precinct before the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(4) (a) Upon receiving a returned manual ballot under this section, the election officer shall compare the signature on each return envelope with the voter's signature that is maintained on file and verify that the signatures are the same.

(b) If the election officer questions the authenticity of the signature on the return envelope, the election officer shall immediately contact the voter to verify the signature.

(c) If there is not a signature on the return envelope or if the election officer determines that the signature on the return envelope does

not match the voter's signature that is maintained on file, the election officer shall:

(i) disqualify the ballot; and

(ii) notify the voter of the disqualification and the reason for the disqualification.

Section 102. Section 20A-7-610 is amended to read:

20A-7-610. Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) The votes on the law that is the subject of the referendum petition shall be counted, canvassed, and delivered as provided in [~~Title 20A, Chapter 4, Part 3, Canvassing Returns~~]Chapter 4, Part 3, Canvassing Returns.

(2) After the local board of canvassers completes the canvass, the local clerk shall certify to the local legislative body the vote for and against the law that is the subject of the referendum petition.

(3) (a) The local legislative body shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the local jurisdiction for and against each law that is the subject of a referendum petition; and

(ii) in accordance with Section 20A-7-611, declares those laws that are the subject of a referendum petition that are approved by majority vote to be in full force and effect as the law of the local jurisdiction.

(b) When the local legislative body determines that two laws, or that parts of two laws approved by the people at the same election are entirely in conflict, the local legislative body shall proclaim to be law the law that received the greatest number of affirmative votes, regardless of the difference in the majorities which those approved laws received.

(4) (a) Within 10 days after the day on which the local legislative body issues the proclamation described in Subsection (3), any qualified voter residing in the jurisdiction for a law that is declared by the local legislative body to be superseded by another law approved at the same election may bring an action in the appropriate court to review the decision.

(b) The court shall:

(i) consider the matter and decide whether the approved laws are entirely in conflict; and

(ii) issue an order, consistent with the court's decision, to the local legislative body.

(5) Within 10 calendar days after the day on which the court enters an order under Subsection (4)(b)(ii), the local legislative body shall:

(a) proclaim as law all those laws approved by the people that the court determines are not in conflict; and

(b) of all those laws approved by the people as law that the court determines to be in conflict, proclaim as law the one that receives the greatest number of affirmative votes, regardless of the difference in majorities.

Section 103. Section 20A-7-611 is amended to read:

20A-7-611. Temporary stay -- Effective date -- Effect of repeal by local legislative body.

(1) Any law submitted to the people by referendum petition that is rejected by the voters at any election is repealed as of the date of the election.

(2) If, at the time during the process described in Subsection 20A-7-607(2), the local clerk determines that, at that point in time, an adequate number of signatures are certified to comply with the signature requirements, the local clerk shall:

(a) issue an order temporarily staying the law from going into effect; and

(b) continue the process of certifying signatures and removing signatures as required by this part.

(3) The temporary stay described in Subsection (2) remains in effect, regardless of whether a future count falls below the signature threshold, until[~~ the day on which~~]:

(a) if the local clerk declares the referendum petition insufficient, five calendar days after the day on which the local clerk declares the referendum petition insufficient; or

(b) if the local clerk declares the referendum petition sufficient, the day on which the local legislative body issues the proclamation described in Section 20A-7-610.

(4) A law submitted to the people by referendum that is approved by the voters at an election takes effect the later of:

(a) five calendar days after the date of the official proclamation of the vote by the local legislative body; or

(b) the effective date specified in the approved law.

(5) If, after the local clerk issues a temporary stay order under Subsection (2)(a), the local clerk declares the referendum petition insufficient, the law that is the subject of the referendum petition takes effect the later of:

(a) five calendar days after the day on which the local clerk declares the petition insufficient; or

(b) the effective date specified in the proposed law.

(6) (a) A law approved by the people under this part is not subject to veto.

(b) The local legislative body may amend any laws approved by the people under this part after the people approve the law.

(7) If the local legislative body repeals a law challenged by referendum petition under this part, the referendum petition is void and no further action on the referendum petition is required.

Section 104. Section 20A-7-613 is amended to read:

20A-7-613. Property tax referendum petition.

(1) As used in this section, "certified tax rate" means the same as that term is defined in Section 59-2-924.

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a taxing entity's legislative body's vote to impose a tax rate that exceeds the certified tax rate.

(3) (a) Notwithstanding Subsection 20A-7-105(5)(a)(iv), and subject to Subsection (3)(b), the sponsors or an agent of the sponsors shall deliver a signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

[~~(a)~~](i) the first business day that is at least 30 calendar days after the day on which the first individual signs the packet; or

[~~(b)~~](ii) the first business day that is at least 40 calendar days after the day on which the local clerk complies with Subsection 20A-7-604(3).

(b) For a county where the county clerk's office is closed on a business day, if the deadline described in Subsection (3)(a) is on that business day, the deadline is extended until 5 p.m. the next day that the office is open.

(4) Notwithstanding Subsections 20A-7-105(6)(a) and (9), the county clerk shall take the actions required in Subsections 20A-7-105(6)(a) and (9) within 10 [~~working~~]business days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection (3).

(5) The local clerk shall take the actions required by Section 20A-7-607 within two [~~working~~]business days after:

(a) in relation to the manual referendum process, the day on which the local clerk receives the referendum packets from the county clerk; or

(b) in relation to the electronic referendum process, the deadline described in Subsection 20A-7-616(2).

(6) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two [~~working~~]business days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

(7) Notwithstanding Subsection 20A-7-609(2)(c), a referendum that qualifies for the ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

(8) The election officer shall mail manual ballots on a referendum under this section the later of:

(a) the time provided in Section 20A-3a-202 or 20A-16-403; or

(b) the time that ballots are prepared for mailing under this section.

(9) Section 20A-7-402 does not apply to a referendum described in this section.

(10) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted, and approved by the taxing entity's legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection (10)(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the taxing entity's legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the taxing entity's legislative body, the certified tax rate for the taxing entity is the taxing entity's most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection (10)(a)(ii), a taxing entity is not required to comply with the notice and public hearing requirements of Section 59-2-919 if the taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

(11) The ballot title shall, at a minimum, include in substantially this form the following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity].".

(12) A taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

(13) (a) An election officer shall include on a ballot a referendum that has not yet qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection (13)(a), the ballot title shall comply with Subsection (11).

(c) If an election officer includes on a ballot a referendum described in Subsection (13)(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

Section 105. Section 20A-7-615 is amended to read:

20A-7-615. Electronic referendum process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic referendum process described in Section 20A-21-201.

(2) A Utah voter may sign a local referendum petition if the voter is a legal voter and resides in the local jurisdiction.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law that is the subject of the referendum petition.

(4) (a) A voter who signs a referendum petition may have the voter's signature removed from the referendum petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) the first business day that is at least 30 calendar days after the day on which the voter signs the statement requesting removal; or

(ii) the first business day that is at least 45 calendar days after the day on which the local clerk posts the voter's name under Subsection 20A-7-616(3).

(b) A voter may not submit a signature removal statement described in Subsection (4)(a) by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(c) A person may only remove an electronic signature from a referendum petition in accordance with this section.

(d) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from a referendum petition, in accordance with Subsection 20A-1-1003(3).

Section 106. Section 20A-7-616 is amended to read:

20A-7-616. Electronic referendum process -- Collecting signatures -- Removal of signatures.

(1) This section applies only to the electronic referendum process.

(2) A signature-gatherer may not collect a signature after 5 p.m. 45 calendar days after the day on which the first three sponsors receive notice, under Section 20A-7-602.7 or 20A-7-602.8, that the referendum is legally referable to voters.

(3) The local clerk shall send to each individual who provides a valid email address during the signature-gathering process an email that includes the following:

(a) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(b) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following referendum:

[insert title of referendum]

To access a copy of the referendum petition, the law that is the subject of the referendum petition, and information on the deadline for removing your signature from the referendum petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(4) Except as provided in Subsection (5), the county clerk shall, within two business days after the day on which the signature of an individual who signs a referendum petition is certified under Section 20A-21-201, post the name, voter identification number, and date of signature of the individual on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 calendar days.

(5) (a) If the local clerk timely receives a statement requesting signature removal under Subsection 20A-7-615(4), the local clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (4); and

(ii) remove the voter's signature from the referendum petition and the signature totals.

(b) The local clerk shall comply with Subsection (5)(a) before the later of:

(i) the deadline described in Subsection (4); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-615(4).

Section 107. Section 20A-7-702.5 is amended to read:

20A-7-702.5. Publication of voter information pamphlet.

(1) No earlier than 75 calendar days, and no later than 15 calendar days, before the day on which voting commences, the lieutenant governor shall make all information provided in the voter information pamphlet available on the Statewide Electronic Voter Information Website Program described in Section 20A-7-801.

(2) The lieutenant governor may distribute a voter information pamphlet at a location frequented by a person who cannot easily access the Statewide Electronic Voter Information Website authorized by Section 20A-7-801.

Section 108. Section 20A-7-703 is amended to read:

20A-7-703. Analysis of initiative or referendum -- Determination of fiscal effects.

(1) The director of the Office of Legislative Research and General Counsel, after the approval of the legislative general counsel as to legal sufficiency, shall:

(a) prepare an impartial analysis of each measure submitted to the voters by initiative or referendum petition; and

(b) submit the impartial analysis to the lieutenant governor no later than [~~the day that falls~~]90 calendar days before the date of the election in which the measure will appear on the ballot.

(2) The director shall ensure that the impartial analysis:

(a) is not more than 1,000 words long;

(b) is prepared in clear and concise language that will easily be understood by the average voter;

(c) avoids the use of technical terms as much as possible;

(d) shows the effect of the measure on existing law;

(e) identifies any potential conflicts with the United States or Utah Constitutions raised by the measure;

(f) fairly describes the operation of the measure;

(g) identifies the measure's fiscal effects over the time period or time periods determined by the director to be most useful in understanding the estimated fiscal impact of the proposed law; and

(h) identifies the amount of any increase or decrease in revenue or cost to state or local government.

(3) (a) In determining the fiscal effects of a measure, the director shall confer with the legislative fiscal analyst.

(b) The director shall consider any measure that requires implementing legislation in order to take effect to have no financial effect, unless implementing legislation has been enacted that will become effective upon adoption of the measure by the voters.

(4) If the director requests the assistance of any state department, agency, or official in preparing the director's analysis, that department, agency, or official shall assist the director.

Section 109. Section 20A-7-703.1 is amended to read:

20A-7-703.1. Analysis of measure submitted to voters by Legislature -- Determination of fiscal effects.

(1) The presiding officers shall:

(a) prepare an analysis of each measure, described in Section 20A-7-103, that is submitted to the voters by the Legislature; and

(b) submit the analysis to the lieutenant governor no later than [~~the day that falls~~]90 calendar days before the date of the election in which the measure will appear on the ballot.

(2) The presiding officers shall ensure that the analysis:

(a) is not more than 1,000 words long;

(b) is prepared in clear and concise language that will easily be understood by the average voter;

(c) to the extent possible, avoids the use of technical terms;

(d) shows the effect of the measure on existing law;

(e) describes the measure;

(f) identifies the measure's fiscal effects over the time period or time periods determined by the presiding officers to be most useful in understanding the estimated fiscal impact of the measure; and

(g) identifies the amount of any increase or decrease in revenue or cost to state or local government.

(3) The presiding officers shall analyze the measure as the measure is proposed to be adopted, without considering any implementing legislation, unless the implementing legislation has been enacted and will become effective upon the adoption of the measure by the voters.

(4) (a) In determining the fiscal effects of a measure, the presiding officers shall confer with the legislative fiscal analyst.

(b) The presiding officers shall consider any measure that requires implementing legislation in order to take effect to have no financial effect, unless implementing legislation has been enacted that will become effective upon adoption of the measure by the voters.

(5) If the presiding officers request the assistance of any state department, agency, or official in preparing the analysis described in this section, that department, agency, or official shall assist the presiding officers.

Section 110. Section 20A-7-705 is amended to read:

20A-7-705. Measures to be submitted to voters and referendum measures -- Preparation of argument of adoption.

(1) (a) Whenever the Legislature submits any measure to the voters or whenever an act of the Legislature is referred to the voters by referendum petition, the presiding officer of the house of origin of the measure shall appoint the sponsor of the measure or act and one member of either house who voted with the majority to pass the act or submit the measure to draft an argument for the adoption of the measure.

(b) (i) The argument may not exceed 500 words in length, not counting the information described in Subsection (4)(e).

(ii) If the sponsor of the measure or act desires separate arguments to be written in favor by each person appointed, separate arguments may be written but the combined length of the two arguments may not exceed 500 words, not counting the information described in Subsection (4)(e).

(2) (a) If a measure or act submitted to the voters by the Legislature or by referendum petition was not adopted unanimously by the Legislature, the presiding officer of each house shall, at the same time as appointments to an argument in its favor are made, appoint one member who voted against the measure or act from their house to write an argument against the measure or act.

(b) (i) The argument may not exceed 500 words, not counting the information described in Subsection (4)(e).

(ii) If those members appointed to write an argument against the measure or act desire separate arguments to be written in opposition to the measure or act by each person appointed, separate arguments may be written, but the combined length of the two arguments may not exceed 500 words, not counting the information described in Subsection (4)(e).

(3) (a) The legislators appointed by the presiding officer of the Senate or House of Representatives to submit arguments shall submit the arguments to the lieutenant governor not later than [~~the day that falls~~]150 calendar days before the date of the election.

(b) Except as provided in Subsection (3)(d), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(c) Except as provided in Subsection (3)(d), the lieutenant governor may not alter the arguments in any way.

(d) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to correct spelling or grammatical errors; and

(ii) the argument has not yet been submitted for typesetting.

(4) (a) If an argument for or an argument against a measure submitted to the voters by the Legislature or by referendum petition has not been filed by a member of the Legislature within the time required by this section:

(i) the lieutenant governor shall immediately:

(A) send an electronic notice that complies with the requirements of Subsection (4)(b) to each individual in the state for whom the Office of the Lieutenant Governor has an email address; or

(B) post a notice that complies with the requirements of Subsection (4)(b) on the home page of the lieutenant governor's website; and

(ii) any voter may, [~~before 5 p.m.~~]no later than the first business day that is at least seven calendar days after the day on which the lieutenant governor provides the notice described in Subsection (4)(a)(i), submit a written request to the presiding officer of the house in which the measure originated for permission to prepare and file an argument for the side on which no argument has been filed by a member of the Legislature.

(b) A notice described in Subsection (4)(a)(i) shall contain:

(i) the ballot title for the measure;

(ii) instructions on how to submit a request under Subsection (4)(a)(ii); and

(iii) the deadlines described in Subsections (4)(a)(ii) and (4)(d).

(c) (i) The presiding officer of the house of origin shall grant permission unless two or more voters timely request permission to submit arguments on the same side of a measure.

(ii) If two or more voters timely request permission to submit arguments on the same side of a measure, the presiding officer shall, no later than four calendar days after the day of the deadline described in Subsection (4)(a)(ii), designate one of the voters to write the argument.

(d) Any argument prepared under this Subsection (4) shall be submitted to the lieutenant governor [~~before5 p.m.~~]no later than 5 p.m. on the first business day that is at least seven calendar days after the day on which the presiding officer grants permission to submit the argument.

(e) The lieutenant governor may not accept a ballot argument submitted under this section unless the ballot argument lists:

(i) the name and address of the individual submitting the argument, if the argument is submitted by an individual voter; or

(ii) the name and address of the organization and the names and addresses of at least two of the organization's principal officers, if the argument is submitted on behalf of an organization.

(f) Except as provided in Subsection (4)(h), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(g) Except as provided in Subsection (4)(h), the lieutenant governor may not alter the arguments in any way.

(h) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to:

(A) correct spelling or grammatical errors; or

(B) properly characterize the position of a state entity, if the argument mischaracterizes the position of a state entity; and

(ii) the argument has not yet been submitted for typesetting.

(i) If, after the lieutenant governor determines that an argument described in this section mischaracterizes the position of a state entity,

the lieutenant governor and the authors of the argument cannot jointly agree on a change to the argument, the lieutenant governor:

(i) shall publish the argument with the mischaracterization; and

(ii) may, immediately following the argument, publish a brief description of the position of the state entity.

Section 111. Section 20A-7-706 is amended to read:

20A-7-706. Copies of arguments to be sent to opposing authors -- Rebuttal arguments.

(1) When the lieutenant governor has received the arguments for and against a measure to be submitted to the voters, the lieutenant governor shall immediately send copies of the arguments in favor of the measure to the authors of the arguments against and copies of the arguments against to the authors of the arguments in favor.

(2) The authors may prepare and submit rebuttal arguments not exceeding 250 words, not counting the information described in Subsection 20A-7-705(4)(e).

(3) (a) The authors shall file the rebuttal arguments [~~shall be filed~~]electronically with the lieutenant governor:

(i) for constitutional amendments and referendum petitions, [~~before 5 p.m.~~]no later than 120 calendar days before the date of the election; and

(ii) for initiatives, [~~before 5 p.m.~~]no later than July 30.

(b) Except as provided in Subsection (3)(d), the authors may not amend or change the rebuttal arguments after they are submitted to the lieutenant governor.

(c) Except as provided in Subsection (3)(d), the lieutenant governor may not alter the arguments in any way.

(d) The lieutenant governor and the authors of a rebuttal argument may jointly modify a rebuttal argument after it is submitted if:

(i) they jointly agree that changes to the rebuttal argument must be made to correct spelling or grammatical errors; and

(ii) the rebuttal argument has not yet been submitted for typesetting.

(4) The lieutenant governor shall ensure that:

(a) rebuttal arguments are printed in the same manner as the direct arguments; and

(b) each rebuttal argument follows immediately after the direct argument which it seeks to rebut.

Section 112. Section 20A-7-801 is amended to read:

20A-7-801. Statewide Electronic Voter Information Website Program -- Duties of the lieutenant governor -- Content -- Duties of local election officials -- Deadlines -- Frequently asked voter questions -- Other elections.

(1) There is established the Statewide Electronic Voter Information Website Program administered by the lieutenant governor in cooperation with the county clerks for general elections and municipal authorities for municipal elections.

(2) In accordance with this section, and as resources become available, the lieutenant governor, in cooperation with county clerks, shall develop, establish, and maintain a state-provided Internet website designed to help inform the voters of the state of:

(a) the offices and candidates up for election;

(b) the content, effect, operation, fiscal impact, and supporting and opposing arguments of ballot propositions submitted to the voters; and

(c) the status of a voter's trackable ballot, in accordance with Section 20A-3a-401.5, accessible only by the voter.

(3) Except as provided under Subsection (6), the website shall include:

(a) all information currently provided in the Utah voter information pamphlet under Chapter 7, Part 7, Voter Information Pamphlet, including a section prepared, analyzed, and submitted by the Judicial Performance Evaluation Commission describing the judicial selection and retention process;

(b) on the homepage of the website, a link to the Judicial Performance Evaluation Commission's website, judges.utah.gov;

(c) a link to the retention recommendation made by the Judicial Performance Evaluation Commission in accordance with Title 78A, Chapter 12, Part 2, Judicial Performance Evaluation, for each judicial appointee to a court that is subject to a retention election, in accordance with Section 20A-12-201, for the upcoming general election;

(d) all information submitted by election officers under Subsection (4) on local office races, local office candidates, and local ballot propositions;

(e) a list that contains the name of a political subdivision that operates an election day voting center under Section 20A-3a-703 and the location of the election day voting center;

(f) other information determined appropriate by the lieutenant governor that is currently being provided by law, rule, or ordinance in relation to candidates and ballot questions;

(g) any differences in voting method, time, or location designated by the lieutenant governor under Subsection 20A-1-308(2); and

(h) an online ballot tracking system by which a voter can view the status of the voter's trackable ballot, in accordance with Section 20A-3a-401.5, including:

(i) when a ballot has been mailed to the voter;

(ii) when an election official has received the voter's ballot; and

(iii) when the voter's ballot has been counted.

(4) (a) An election official shall submit the following information for each ballot under the election official's direct responsibility under this title:

(i) a list of all candidates for each office;

(ii) if submitted by the candidate to the election official's office [~~before 5 p.m. no later than~~]no later than 5 p.m. on the last business day that is at least 45 calendar days before the primary election or [~~before 5 p.m. no later than~~]no later than 5 p.m. on the last business day that is at least 60 calendar days before the general election:

(A) a statement of qualifications, not exceeding 200 words in length, for each candidate;

(B) the following current biographical information if desired by the candidate, current:

(I) age;

(II) occupation;

(III) city of residence;

(IV) years of residence in current city; and

(V) email address; and

(C) a single web address where voters may access more information about the candidate and the candidate's views; and

(iii) factual information pertaining to all ballot propositions submitted to the voters, including:

(A) a copy of the number and ballot title of each ballot proposition;

(B) the final vote cast for each ballot proposition, if any, by a legislative body if the vote was required to place the ballot proposition on the ballot;

(C) a complete copy of the text of each ballot proposition, with all new language underlined and all deleted language placed within brackets; and

(D) other factual information determined helpful by the election official.

(b) The information under Subsection (4)(a) shall be submitted to the lieutenant governor no later than one business day after the deadline under Subsection (4)(a) for each general election year and each municipal election year.

(c) The lieutenant governor shall:

(i) review the information submitted under this section, to determine compliance under this section, prior to placing it on the website;

(ii) refuse to post information submitted under this section on the website if it is not in compliance with the provisions of this section; and

(iii) organize, format, and arrange the information submitted under this section for the website.

(d) The lieutenant governor may refuse to include information the lieutenant governor determines is not in keeping with:

(i) Utah voter needs;

(ii) public decency; or

(iii) the purposes, organization, or uniformity of the website.

(e) A refusal under Subsection (4)(d) is subject to appeal in accordance with Subsection (5).

(5) (a) A person whose information is refused under Subsection (4), and who is aggrieved by the determination, may appeal by submitting a written notice of appeal to the lieutenant governor before 5 p.m. within 10 business days after the date of the determination. A notice of appeal submitted under this Subsection (5)(a) shall contain:

(i) a listing of each objection to the lieutenant governor's determination; and

(ii) the basis for each objection.

(b) The lieutenant governor shall review the notice of appeal and shall issue a written response within 10 business days after the day on which the notice of appeal is submitted.

(c) An appeal of the response of the lieutenant governor shall be made to the district court, which shall review the matter de novo.

(6) (a) The lieutenant governor shall ensure that each voter will be able to conveniently enter the voter's address information on the website to retrieve information on which offices, candidates, and ballot propositions will be on the voter's ballot at the next general election or municipal election.

(b) The information on the website will anticipate and answer frequent voter questions including the following:

(i) what offices are up in the current year for which the voter may cast a vote;

(ii) who is running for what office and who is the incumbent, if any;

(iii) what address each candidate may be reached at and how the candidate may be contacted;

(iv) for partisan races only, what, if any, is each candidate's party affiliation;

(v) what qualifications have been submitted by each candidate;

(vi) where additional information on each candidate may be obtained;

(vii) what ballot propositions will be on the ballot; and

(viii) what judges are up for retention election.

(7) The lieutenant governor shall ensure that each voter may conveniently enter the voter's name, date of birth, and address information on the website to retrieve information on the status of the voter's ballot if the voter's ballot is trackable under Section 20A-3a-401.5.

(8) As resources are made available and in cooperation with the county clerks, the lieutenant governor may expand the electronic voter information website program to include the same information as provided under this section for special elections and primary elections.

Section 113. Section 20A-8-103 is amended to read:

20A-8-103. Petition procedures -- Criminal penalty -- Removal of signature.

(1) As used in this section, the proposed name or emblem of a registered political party is "distinguishable" if a reasonable person of average intelligence will be able to perceive a difference between the proposed name or emblem and any name or emblem currently being used by another registered political party.

(2) To become a registered political party, an organization of registered voters that is not a continuing political party shall:

(a) circulate a petition seeking registered political party status beginning no earlier than the date of the statewide canvass held after the last regular general election and ending before 5 p.m. no later than November 30 of the year before the year in which the next regular general election will be held;

(b) file a petition with the lieutenant governor that is signed, with a holographic signature, by at least 2,000 registered voters before 5 p.m. no later than November 30 of the year in which a regular general election will be held; and

(c) file, with the petition described in Subsection (2)(b), a document certifying:

(i) the identity of one or more registered political parties whose members may vote for the organization's candidates;

(ii) whether unaffiliated voters may vote for the organization's candidates; and

(iii) whether, for the next election, the organization intends to nominate the organization's candidates in accordance with the provisions of Section 20A-9-406.

(3) The petition shall:

(a) be on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the name of the political party and the words "Political Party Registration Petition" printed directly below the horizontal line;

(d) contain the word "Warning" printed directly under the words described in Subsection (3)(c);

(e) contain, to the right of the word "Warning," the following statement printed in not less than eight-point, single leaded type:

"It is a class A misdemeanor for anyone to knowingly sign a political party registration petition signature sheet with any name other than the individual's own name or more than once for the same party or if the individual is not registered to vote in this state and does not intend to become registered to vote in this state before the petition is submitted to the lieutenant governor.";

(f) contain the following statement directly under the statement described in Subsection (3)(e):

"POLITICAL PARTY REGISTRATION PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, seek registered political party status for ____ (name);

Each signer says:

I have personally signed this petition with a holographic signature;

I am registered to vote in Utah or will register to vote in Utah before the petition is submitted to the lieutenant governor;

I am or desire to become a member of the political party; and

My street address is written correctly after my name.";

(g) be vertically divided into columns as follows:

(i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle;

(ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iii) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of Registered Voter";

(iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

(v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; and

(vi) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be certified as a valid signature if you change your address before petition signatures are certified or if the information you provide does not match your voter registration records.";

(h) have a final page bound to one or more signature sheets that are bound together that contains the following printed statement:

"Verification

State of Utah, County of ____

I, _____, of ____, hereby state that:

I am a Utah resident and am at least 18 years old;

All the names that appear on the signature sheets bound to this page were signed by individuals who professed to be the individuals whose names appear on the signature sheets, and each individual signed the individual's name on the signature sheets in my presence;

I believe that each individual has printed and signed the individual's name and written the individual's street address correctly, and that each individual is registered to vote in Utah or will register to vote in Utah before the petition is submitted to the lieutenant governor.

_____

(Signature) (Residence Address) (Date)"; and

(i) be bound to a cover sheet that:

(i) identifies the political party's name, which may not exceed four words, and the emblem of the party;

(ii) states the process that the organization will follow to organize and adopt a constitution and bylaws; and

(iii) is signed by a filing officer, who agrees to receive communications on behalf of the organization.

(4) The filing officer described in Subsection (3)(i)(iii) shall ensure that the individual in whose presence each signature sheet is signed:

(a) is at least 18 years old;

(b) meets the residency requirements of Section 20A-2-105; and

(c) verifies each signature sheet by completing the verification bound to one or more signature sheets that are bound together.

(5) An individual may not sign the verification if the individual signed a signature sheet bound to the verification.

(6) The lieutenant governor shall:

(a) use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter;

(b) review the proposed name and emblem to determine if they are "distinguishable" from the names and emblems of other registered political parties; and

(c) certify the lieutenant governor's findings to the filing officer described in Subsection (3)(i)(iii) within 30 calendar days [~~of the filing of~~]after the day on which the organization files the petition described in Subsection (2)(b).

(7) (a) If the lieutenant governor determines that the petition meets the requirements of this section, and that the proposed name and

emblem are distinguishable, the lieutenant governor shall authorize the filing officer described in Subsection (3)(i)(iii)to organize the prospective political party.

(b) If the lieutenant governor finds that the name, emblem, or both are not distinguishable from the names and emblems of other registered political parties, the lieutenant governor shall notify the filing officer that the filing officer has seven calendar days to electronically submit a new name or emblem to the lieutenant governor.

(8) A registered political party may not change its name or emblem during the regular general election cycle.

(9) (a) It is unlawful for an individual to:

(i) knowingly sign a political party registration petition:

(A) with any name other than the individual's own name;

(B) more than once for the same political party; or

(C) if the individual is not registered to vote in this state and does not intend to become registered to vote in this state before the petition is submitted to the lieutenant governor; or

(ii) sign the verification of a political party registration petition signature sheet if the individual:

(A) does not meet the residency requirements of Section 20A-2-105;

(B) has not witnessed the signing by those individuals whose names appear on the political party registration petition signature sheet; or

(C) knows that an individual whose signature appears on the political party registration petition signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state.

(b) An individual who violates this Subsection (9) is guilty of a class A misdemeanor.

(10) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition is filed with the lieutenant governor, submitting to the lieutenant governor a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (10)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The lieutenant governor shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 114. Section 20A-8-401 is amended to read:

20A-8-401. Registered political parties -- Bylaws -- Report name of midterm vacancy candidate.

(1) (a) Each new or unregistered state political party that seeks to become a registered political party under the authority of this chapter shall file a copy of the party's proposed constitution and bylaws at the time the party files the party's registration information.

(b) Each registered state political party shall file revised copies of the party's constitution or bylaws with the lieutenant governor [~~before 5 p.m. within~~]no later than 5 p.m. on the first business day that is at least 15 calendar days after the day on which the constitution or bylaws are adopted or amended.

(2) Each state political party, each new political party seeking registration, and each unregistered political party seeking registration shall ensure that the party's constitution or bylaws contain:

(a) provisions establishing party organization, structure, membership, and governance that include:

(i) a description of the position, selection process, qualifications, duties, and terms of each party officer and committees defined by constitution and bylaws;

(ii) a provision requiring a designated party officer to serve as liaison with:

(A) the lieutenant governor on all matters relating to the political party's relationship with the state; and

(B) each county legislative body on matters relating to the political party's relationship with a county;

(iii) a description of the requirements for participation in party processes;

(iv) the dates, times, and quorum of any regularly scheduled party meetings, conventions, or other conclaves; and

(v) a mechanism for making the names of delegates, candidates, and elected party officers available to the public shortly after they are selected;

(b) a procedure for selecting party officers that allows active participation by party members;

(c) a procedure for selecting party candidates at the federal, state, and county levels that allows active participation by party members;

(d) (i) a procedure for selecting electors who are pledged to cast their votes in the electoral college for the party's candidates for president and vice president of the United States; and

(ii) a procedure for filling vacancies in the office of presidential elector because of death, refusal to act, failure to attend, ineligibility, or any other cause;

(e) a procedure for filling vacancies in the office of representative or senator or a county office, as described in Section 20A-1-508, because of death, resignation, or ineligibility;

(f) a provision requiring the governor and lieutenant governor to run as a joint ticket;

(g) a procedure for replacing party candidates who die, acquire a disability that prevents the candidate from continuing the candidacy, or are disqualified before a primary or regular general election;

(h) provisions governing the deposit and expenditure of party funds, and governing the accounting for, reporting, and audit of party financial transactions;

(i) provisions governing access to party records;

(j) a procedure for amending the constitution or bylaws that allows active participation by party members or their representatives;

(k) a process for resolving grievances against the political party; and

(l) if desired by the political party, a process for consulting with, and obtaining the opinion of, the political party's Utah Senate and Utah House of Representatives members about:

(i) the performance of the two United States Senators from Utah, including specifically:

(A) their views and actions regarding the defense of state's rights and federalism; and

(B) their performance in representing Utah's interests;

(ii) the members' opinion about, or rating of, and support or opposition to the policy positions of any candidates for United States Senate from Utah, including incumbents, including specifically:

(A) their views and actions regarding the defense of state's rights and federalism; and

(B) their performance in representing Utah's interests; and

(iii) the members' collective or individual endorsement or rating of a particular candidate for United States Senate from Utah.

(3) If, in accordance with a political party's constitution or bylaws, a person files a declaration or otherwise notifies the party of the person's candidacy as a legislative office candidate or state office candidate, as defined in Section 20A-11-101, to be appointed and fill a midterm vacancy in the office of representative or senator in the Legislature, as described in Section 20A-1-503, or in a state office as described in Section 20A-1-504, the party shall forward a copy of that declaration or notification to the lieutenant governor before 5 p.m. no later than the day following the day on which the party receives the declaration or notification.

Section 115. Section 20A-8-402 is amended to read:

20A-8-402. Political party officers -- Submission of names of officers to the lieutenant governor.

(1) Each state political party shall:

(a) designate a party officer to act as liaison with:

(i) the lieutenant governor's office; and

(ii) each county legislative body; and

(b) [~~before 5 p.m.~~]no later than 5 p.m. on the first business day that is at least seven calendar days after the day on which the party makes a change in the party liaison, submit the name of the new liaison to the lieutenant governor.

(2) Each state political party and each county political party shall:

(a) submit the name, address, and phone number of each officer to the lieutenant governor [~~within~~]no later than 5 p.m. on the first business day that is at least seven calendar days after the officers are selected; and

(b) [~~before 5 p.m.~~]no later than 5 p.m. on the first business day that is at least seven calendar days after the day on which the party makes a change in party officers, submit the name, address, and phone number of each new officer to the lieutenant governor.

Section 116. Section 20A-8-404 is amended to read:

20A-8-404. Use of public meeting buildings by political parties.

(1) The legislative body of a county, municipality, school district, or public institution of higher education shall make all meeting facilities in buildings under its control available to registered political parties, without discrimination, to be used for political party activities if:

(a) the political party requests the use of the meeting facility [~~before 5 p.m. no later than~~]no later than 5 p.m. on the last business day that is at least 30 calendar days before the day on which the use by the political party will take place; and

(b) the meeting facility is not already scheduled for another purpose at the time of the proposed use.

(2) Subject to the requirements of Subsection (3), when a legislative body makes a meeting facility available under Subsection (1), it may establish terms and conditions for use of that meeting facility.

(3) The charge imposed for the use of a meeting facility described in Subsection (1) by a registered political party may not exceed the actual cost of:

(a) custodial services for cleaning the meeting facility after the use by the political party; and

(b) any service requested by the political party and provided by the meeting facility.

(4) An entity described in Subsection (1) shall, to the extent possible, avoid scheduling an event in a government building for the same evening as an announced party caucus meeting.

(5) This section does not apply to a publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

Section 117. Section 20A-9-201 is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, an individual shall:

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

(c) if seeking a registered political party's nomination as a candidate for elective office, state:

(i) the registered political party of which the individual is a member; or

(ii) that the individual is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the individual resigns the individual's candidacy for the other office after the individual is officially nominated for president or vice president of the United States.

(ii) An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration

of candidacy, the filing officer shall:

(i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking;

(ii) require the individual to state whether the individual meets the requirements described in Subsection (3)(a)(i);

(iii) if the declaration of candidacy is for a county office, inform the individual that an individual who holds a county elected office may not, at the same time, hold a municipal elected office; and

(iv) if the declaration of candidacy is for a legislative office, inform the individual that Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit or trust, under authority of the United States or Utah, from being a member of the Legislature.

(b) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the county in which the individual is seeking office; and

(iv) a current resident of the county in which the individual is seeking office and either has been a resident of that county for at least one year before the date of the election or was appointed and is currently serving as county attorney and became a resident of the county within 30 calendar days after appointment to the office.

(c) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the prosecution district in which the individual is seeking office; and

(iv) a current resident of the prosecution district in which the individual is seeking office and either will have been a resident of that prosecution district for at least one year before the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 calendar days after receiving appointment to the office.

(d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the individual filing the declaration:

(i) is a United States citizen;

(ii) is a registered voter in the county in which the individual seeks office;

(iii) (A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) has met the waiver requirements in Section 53-6-206;

(iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(v) before the date of the election, will have been a resident of the county in which the individual seeks office for at least one year.

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure that the individual filing the declaration of candidacy also makes the conflict of interest disclosure described in Section 20A-11-1603.

(4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office the individual is seeking, the filing officer may not accept the individual's declaration of candidacy.

(5) If an individual who files a declaration of candidacy meets the requirements described in Subsection (3), the filing officer shall:

(a) inform the individual that:

(i) the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

(ii) the individual may be required to comply with state or local campaign finance disclosure laws; and

(iii) the individual is required to file a financial statement before the individual's political convention under:

(A) Section 20A-11-204 for a candidate for constitutional office;

(B) Section 20A-11-303 for a candidate for the Legislature; or

(C) local campaign finance disclosure laws, if applicable;

(b) except for a presidential candidate, provide the individual with a copy of the current campaign financial disclosure laws for the office the individual is seeking and inform the individual that failure to comply will result in disqualification as a candidate and removal of the individual's name from the ballot;

(c) (i) provide the individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the individual of the submission deadline under Subsection 20A-7-801(4)(a);

(ii) inform the individual that the individual must provide the filing officer with an email address that the individual actively monitors:

(A) to receive a communication from a filing officer or an election officer; and

(B) if the individual wishes to display a candidate profile on the Statewide Electronic Voter Information Website, to submit to the website the biographical and other information described in Subsection 20A-7-801(4)(a)(ii);

(iii) inform the individual that the email address described in Subsection (5)(c)(ii) is not a record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(iv) obtain from the individual the email address described in Subsection (5)(c)(ii);

(d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(i) signing the pledge is voluntary; and

(ii) signed pledges shall be filed with the filing officer;

(e) accept the individual's declaration of candidacy; and

(f) if the individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or

state political party of which the individual is a member.

(6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(a) accept the candidate's pledge; and

(b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(7) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:

(i) be substantially as follows:

"State of Utah, County of ____

I, _____, declare my candidacy for the office of ____, seeking the nomination of the ____ party. I do solemnly swear, under penalty of perjury, that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of ____, Utah, Zip Code ____ Phone No. ____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

_____

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath)."; and

(ii) require the candidate to state, in the sworn statement described in Subsection (7)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(c) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8) (a) Except for a candidate for president or vice president of the United States, the fee for filing a declaration of candidacy is:

(i) $50 for candidates for the local school district board; and

(ii) $50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

"Affidavit of Impecuniosity

Individual Name _____Address_____

Phone Number _____

I,_____(name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____ Signature_____ Affiant

Subscribed and sworn to before me on _____ (month\day\year)

_____
(signature)

Name and Title of Officer Authorized to Administer Oath
_____".

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

"Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot."

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (8)(d) file a financial statement on a form prepared by the election official.

(9) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(10) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section 118. Section 20A-9-201.5 is amended to read:

20A-9-201.5. Declaration of candidacy filing period for a qualified political party.

[~~(1) In 2022, for a qualified political party, the filing period to file a declaration of candidacy for an elective office that is to be filled at the next regular general election begins at 8 a.m. on February 28, 2022, and ends at 5 p.m. on March 4, 2022.~~]

[~~(2) Beginning on January 1, 2024, for~~]For a qualified political party, the filing period to file a declaration of candidacy for an elective office that is to be filled at the next regular general election:

[~~(a)~~](1) begins at 8[~~:00~~] a.m. on the later of:

[~~(i)~~](a) January 2 of the year in which the next regular general election is held; or

[~~(ii)~~](b) if January 2 is not a business day, the first business day after January 2; and

[~~(b)~~](2) ends at 5 p.m. on the fourth business day after the day on which the filing period begins.

Section 119. Section 20A-9-202 is amended to read:

20A-9-202. Declarations of candidacy for regular general elections.

(1) (a) An individual seeking to become a candidate for an elective office that is to be filled at the next regular general election shall:

(i) except as provided in Subsection (1)(c), file a declaration of candidacy in person with the filing officer on or after January 1 of the regular general election year, and, if applicable, before the individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) Unless expressly provided otherwise in this title, for a registered political party that is not a qualified political party, the deadline for filing a declaration of candidacy for an elective office that is to be filled at the next regular general election is 5 p.m. on the first Monday after the fourth Saturday in April.

(c) Subject to Subsection 20A-9-201(7)(b), an individual may designate an agent to file a declaration of candidacy with the filing officer if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the filing officer;

(iii) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other; and

(iv) the individual provides the filing officer with an email address to which the filing officer may send the individual the copies described in Subsection 20A-9-201(5).

(d) Each county clerk who receives a declaration of candidacy from a candidate for multicounty office shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the lieutenant governor within one business day after the candidate files the declaration of candidacy.

(e) Each business day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of candidates who have filed a declaration of candidacy with the county clerk.

(f) Each individual seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific declaration of candidacy requirements established by this section.

(2) (a) Each individual intending to become a candidate for the office of district attorney within a multicounty prosecution district that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after January 1 of the regular general election year, and before the individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) The designated clerk shall provide to the county clerk of each county in the prosecution district a certified copy of each declaration of candidacy filed for the office of district attorney.

(3) (a) Before the deadline described in Subsection (1)(b), each lieutenant governor candidate shall:

(i) file a declaration of candidacy with the lieutenant governor;

(ii) pay the filing fee; and

(iii) submit a letter from a candidate for governor who has received certification for the primary-election ballot under Section 20A-9-403 that names the lieutenant governor candidate as a joint-ticket running mate.

(b) (i) A candidate for lieutenant governor who fails to timely file is disqualified.

(ii) If a candidate for lieutenant governor is disqualified, another candidate may file to replace the disqualified candidate.

(4) Before 5 p.m. no later than August 31, each registered political party shall:

(a) certify the names of the political party's candidates for president and vice president of the United States to the lieutenant governor; or

(b) provide written authorization for the lieutenant governor to accept the certification of candidates for president and vice president of the United States from the national office of the registered political party.

(5) (a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor [~~before~~]no later than 5 p.m. on the last business day that is at least 10 calendar days before the deadline described in Subsection 20A-9-409(4)(c).

(b) If an objection is made, the clerk or lieutenant governor shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after it is filed.

(c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the problem by:

(i) amending the declaration or petition [~~before 5 p.m. within~~]no later than 5 p.m. on the first business day that is at least three calendar days after the day on which the objection is sustained[~~ or by~~]; or

(ii) filing a new declaration [~~before 5 p.m. within~~]no later than 5 p.m. on the first business day that is at least three calendar days after the day on which the objection is sustained.

(d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

(ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable by a district court if prompt application is made to the court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(6) Any person who filed a declaration of candidacy may withdraw as a candidate by filing a written affidavit with the clerk.

(7) (a) Except for a candidate who is certified by a registered political party under Subsection (4), and except as provided in Section 20A-9-504, before 5 p.m. no later than August 31 of a general election year, each individual running as a candidate for vice president of the United States shall:

(i) file a declaration of candidacy, in person or via a designated agent, on a form developed by the lieutenant governor, that:

(A) contains the individual's name, address, and telephone number;

(B) states that the individual meets the qualifications for the office of vice president of the United States;

(C) names the presidential candidate, who has qualified for the general election ballot, with which the individual is running as a joint-ticket running mate;

(D) states that the individual agrees to be the running mate of the presidential candidate described in Subsection (7)(a)(i)(C); and

(E) contains any other necessary information identified by the lieutenant governor;

(ii) pay the filing fee; and

(iii) submit a letter from the presidential candidate described in Subsection (7)(a)(i)(C) that names the individual as a joint-ticket running mate as a vice presidential candidate.

(b) A designated agent described in Subsection (7)(a)(i) may not sign the declaration of candidacy.

(c) A vice presidential candidate who fails to meet the requirements described in this Subsection (7) may not appear on the general election ballot.

(8) An individual filing a declaration of candidacy for president or vice president of the United States shall pay a filing fee of $500.

Section 120. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections -- Nomination petition -- Removal of signature.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the filing period described in Subsection (3)(d) and the office hours described in [~~Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year~~]Subsection 10-3-301(3); and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the filing period described in Subsection (3)(d) and the office hours described in [~~Section 10-3-301 and~~

~~not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year~~]Subsection 10-3-301(3) that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(d) The filing period to file a declaration of candidacy for an elective office that is to be filled at the next municipal general election:

(i) begins at 8 a.m. on the later of:

(A) June 1 of the year in which the next municipal general election is held; or

(B) if June 1 is not a business day, the first business day after June 1; and

(ii) ends at 5 p.m. on the fourth business day after the day on which the filing period begins.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) inform the candidate that the candidate must provide the filing officer with an email address that the candidate actively monitors:

(A) to receive a communication from a filing officer or an election officer; and

(B) if the candidate wishes to display a candidate profile on the Statewide Electronic Voter Information Website, to submit to the website the biographical and other information described in Subsection 20A-7-801(4)(a)(ii);

(v) inform the candidate that the email address described in Subsection (4)(c)(iv) is not a record under Title 63G, Chapter 2, Government Records Access and Management Act;

(vi) obtain from the candidate the email address described in Subsection (4)(c)(iv);

(vii) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(viii) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn and under penalty of perjury, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____(month\day\year).

(Signed) _____ (Clerk or other officer qualified to administer oath)."

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) (i) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) With the assistance of the county clerk, and using the procedures described in Section 20A-1-1002, the municipal clerk shall determine whether the required number of signatures of registered voters appears on a nomination petition.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) publicize a list of the names of the candidates as they will appear on the ballot by publishing the list for the municipality, as a class A notice under Section 63G-30-102, for seven calendar days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk [~~before 5 p.m. within~~]no later than 5 p.m. on the first business day that is at least 10 calendar days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, [~~before 5 p.m. within~~]no later than 5 p.m. on the first business day that is at least three calendar days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

(12) (a) A voter who signs a nomination petition under this section may have the voter's signature removed from the petition by, no later than 5 p.m. three business days after the day on which the petition is filed with the city recorder or municipal clerk, submitting to the municipal clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (12)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) With the assistance of the county clerk and using the procedures described in Subsection 20A-1-1003(3), the municipal clerk shall determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 121. Section 20A-9-207 is amended to read:

20A-9-207. Withdrawal of candidacy -- Notice.

As used in this section:

(1) "Public office" means the offices of governor, lieutenant governor, attorney general, state auditor, state treasurer, state senator, state representative, state school board, or an elective office of a local political subdivision.

(2) "Public office candidate" means a person who files a declaration of candidacy for a public office.

(3) If a public office candidate withdraws as a candidate, an election officer shall:

(a) no later than two business days after the day on which the election officer receives notice of the withdrawal, notify every opposing candidate for the public office that the public office candidate has withdrawn;

(b) subject to Subsection (4), upon notice of a withdrawal that occurs 65 or fewer calendar days before the date of the election, send an email notification to each voter who is eligible to vote in the public office race for whom the election officer has an email address informing the voter:

(i) that the public office candidate has withdrawn; and

(ii) that a vote cast for the public office candidate will not be counted, regardless of whether the public office candidate's name appears on the ballot;

(c) post notice of the withdrawal on a public website; and

(d) if practicable, include with the ballot, including a military or overseas ballot, a written notice that:

(i) contains the information described in Subsections (3)(b)(i) and (ii); or

(ii) directs the voter to a public website to inform the voter whether a candidate on the ballot has withdrawn.

(4) An election officer shall send the email notification described in Subsection (3)(b) on or before the earlier of:

(a) the next day on which the election officer mails ballots in accordance with Section 20A-3a-202; or

(b) two business days before the date of the election.

Section 122. Section 20A-9-401.1 is enacted to read:

20A-9-401.1. Definitions.

As used in this part:

(1) "Candidate nomination document" means:

(a) a candidate signature packet; or

(b) a written request to remove a signature from a candidate signature packet.

(2) "Candidate signature packet" means a single packet of signature sheets that:

(a) is bound together and circulated to gather signatures to qualify a candidate for placement on a primary election ballot; and

(b) includes a cover sheet at the front of the packet and a circulator verification sheet at the end of the packet.

Section 123. Section 20A-9-403 is amended to read:

20A-9-403. Regular primary elections.

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The regular primary election is held on the date specified in

Section 20A-1-201.5. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of the registered political party's candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate the registered political party's candidates for elective office in the manner described in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who is not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2) (a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare the registered political party's intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 30 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3) (a) Except as provided in Subsection (3)(e), an individual who submits a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the individual is certified by the appropriate filing officer as having submitted a nomination petition that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least 2% of the registered political party's members who reside in the political division of the office that the individual seeks.

(b) (i) A candidate for elective office shall, in accordance with Section 20A-9-408.3, submit signatures for a nomination petition to the appropriate filing officer for verification and certification no later than 5 p.m. on [~~the final day in~~]March 31.

(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.

(c) (i) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) or 20A-9-408(8) by counting the aggregate number of individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on or before November 15 of each odd-numbered year.

(ii) The lieutenant governor shall publish the determination for each elective office no later than November 30 of each odd-numbered year.

(d) The filing officer shall:

(i) except as otherwise provided in Section 20A-21-201, and in accordance with Section 20A-9-408.3, verify signatures on nomination petitions in a transparent and orderly manner, no later than 14 calendar days after the day on which a candidate submits the signatures to the filing officer;

(ii) for all qualifying candidates for elective office who submit nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than the deadline described in Subsection 20A-9-202(1)(b);

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form; and

(v) except as otherwise provided in Section 20A-21-201 and with the assistance of the county clerk as applicable, use the procedures described in Section 20A-1-1002to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures in accordance with rules made under Subsection (3)(f).

(e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, may make rules that:

(i) provide for the use of statistical sampling procedures that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d); and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) Before the deadline described in Subsection 20A-9-409(4)(c), the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June ____, _____(year), to nominate party candidates for the parties and candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct ____ is ____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5) (a) A candidate who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

(i) nominated for that office by the candidate's registered political party; or

(ii) for a nonpartisan local school board position, nominated for that office.

(b) If two or more candidates are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of the candidates' party for those positions.

(c) (i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

(A) no individual other than the candidate receives a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection (3) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary election ballot.

(6) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(7) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws.

Section 124. Section 20A-9-404 is amended to read:

20A-9-404. Municipal primary elections.

(1) (a) Except as otherwise provided in this section or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, candidates for municipal office in all municipalities shall be nominated at a municipal primary election.

(b) Municipal primary elections shall be held:

(i) consistent with Section 20A-1-201.5, on the second Tuesday following the first Monday in the August before the regular municipal election; and

(ii) whenever possible, at the same polling places as the regular municipal election.

(c) Subsections (3) through (5) do not apply to an election to elect local school board members under Section 53G-3-302.

(d) Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, does not apply to an election to elect local school board members under Section 53G-3-302.

(2) Except as otherwise provided in Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, if the number of candidates for a particular municipal office does not exceed twice the number of individuals needed to fill that office, a primary election for that office may not be held and the candidates are considered nominated.

(3) (a) For purposes of this Subsection (3), "convention" means an organized assembly of voters or delegates.

(b) (i) By ordinance adopted before the May 1 that falls before a regular municipal election, any third, fourth, or fifth class city or town may exempt itself from a primary election by providing that the nomination of candidates for municipal office to be voted upon at a municipal election be nominated by a municipal party convention or committee.

(ii) The municipal party convention or committee described in Subsection (3)(b)(i) shall be held on or before May 30 of an odd-numbered year.

(iii) Any primary election exemption ordinance adopted under this Subsection (3) remains in effect until repealed by ordinance.

(c) (i) A convention or committee may not nominate more than one candidate for each of the municipal offices to be voted upon at the municipal election.

(ii) A convention or committee may not nominate an individual who has accepted the nomination of a different convention or committee.

(iii) A municipal party may not have more than one group of candidates placed upon the ballot and may not group the same candidates on different tickets by the same party under a different name or emblem.

(d) (i) On or before May 31 of an odd-numbered year, a convention or committee shall prepare and submit to the filing officer a certificate of nomination for each individual nominated.

(ii) The certificate of nomination shall:

(A) contain the name of the office for which each individual is nominated, the name, post office address, and, if in a city, the street number of residence and place of business, if any, of each individual nominated;

(B) designate in not more than five words the party that the convention or committee represents;

(C) contain a copy of the resolution passed at the convention that authorized the committee to make the nomination;

(D) contain a statement certifying that the name of the candidate nominated by the political party will not appear on the ballot as a candidate for any other political party;

(E) be signed by the presiding officer and secretary of the convention or committee; and

(F) contain a statement identifying the residence and post office address of the presiding officer and secretary and certifying that the presiding officer and secretary were officers of the convention or committee and that the certificates are true to the best of their knowledge

and belief.

(iii) A candidate nominated by a municipal party convention or committee shall file a declaration with the filing officer in accordance with Subsection 20A-9-203(3) that includes:

(A) the name of the municipal party or convention that nominated the candidate; and

(B) the office for which the convention or committee nominated the candidate.

(e) A committee appointed at a convention, if authorized by an enabling resolution, may also make nominations or fill vacancies in nominations made at a convention if the committee makes the nomination before the deadline for a write-in candidate to file a declaration of candidacy under Section 20A-9-601.

(f) The election ballot shall substantially comply with the form prescribed in Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall be included with the candidate's name.

(4) (a) Any third, fourth, or fifth class city or a town may adopt an ordinance before the May 1 that falls before the regular municipal election that:

(i) exempts the city or town from the other methods of nominating candidates to municipal office provided in this section; and

(ii) provides for a municipal partisan convention method of nominating candidates as provided in this Subsection (4).

(b) (i) Any party that was a registered political party at the last regular general election or regular municipal election is a municipal political party under this section.

(ii) Any political party may qualify as a municipal political party by presenting a petition to the city recorder that:

(A) is signed, with a holographic signature, by registered voters within the municipality equal to at least 20% of the number of votes cast for all candidates for mayor in the last municipal election at which a mayor was elected;

(B) is filed with the city recorder or town clerk [~~before 5 p.m. no later than the~~]no later than 5 p.m. on the last business day before the day on which the municipal party holds a convention to nominate a candidate under this Subsection (4);

(C) is substantially similar to the form of the signature sheets described in Section 20A-7-303; and

(D) contains the name of the municipal political party using not more than five words.

(iii) With the assistance of the county clerk, the city recorder or town clerk shall use the procedures described in Section 20A-1-1002 to determine whether each signer is a registered voter who is qualified to sign the petition.

(c) (i) If the number of candidates for a particular office does not exceed twice the number of offices to be filled at the regular municipal election, no primary election for that office shall be held and the candidates are considered to be nominated.

(ii) If the number of candidates for a particular office exceeds twice the number of offices to be filled at the regular municipal election, those candidates for municipal office shall be nominated at a municipal primary election.

(d) The clerk shall ensure that the partisan municipal primary ballot is similar to the ballot forms required by Section 20A-6-401 and, as applicable, Section 20A-6-401.1.

(e) After marking a municipal primary ballot, the voter shall deposit the ballot in the blank ballot box.

(f) Immediately after the canvass, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

(5) (a) A voter who signs a petition under Subsection (4)(b)(ii) may have the voter's signature removed from the petition by, no later than 5 p.m. three business days after the day on which the petition is filed with the city recorder or town clerk, submitting to the city recorder or town clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (5)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) With the assistance of the county clerk and using the procedures described in Subsection 20A-1-1003(3), the city recorder or town clerk shall determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 125. Section 20A-9-408 is amended to read:

20A-9-408. Signature-gathering process to seek the nomination of a qualified political party -- Removal of signature.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering process described in this section.

(2) Notwithstanding Subsection 20A-9-201(7)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election shall:

(a) during the declaration of candidacy filing period described in Section 20A-9-201.5, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy, in person, with the filing officer during the declaration of candidacy filing period described in Section 20A-9-201.5; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) during the declaration of candidacy filing period described in Section 20A-9-201.5, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that

includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy, in person, with the filing officer during the declaration of candidacy filing period described in Section 20A-9-201.5; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, during the declaration of candidacy filing period described in Section 20A-9-201.5, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor that complies with Subsection 20A-9-405(3), during the period beginning on the day on which the member files a notice of intent to gather signatures and ending at [~~5 p.m. 14 days before the day on which the qualified political party's convention for the office is held~~]the deadline described in Subsection (12), in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(v) for a State Board of Education race, the lesser of:

(A) 2,000 signatures of registered voters who are residents of the State Board of Education district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; or

(B) 3% of the registered voters of the qualified political party who are residents of the applicable State Board of Education district; and

(vi) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) This Subsection (9) applies only to the manual candidate qualification process.

(b) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, using the manual candidate qualification process, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor, using the same circulation and verification requirements described in Sections 20A-7-105and 20A-7-204; and

(ii) in accordance with Section 20A-9-408.3, submit the signatures to the election officer before [~~5 p.m. no later than 14 days before the day on which the qualified political party holds the party's convention to select candidates, for the elective office, for the qualified political party's nomination~~]the deadline described in Subsection (12).

(c) Upon timely receipt of the signatures described in Subsections (8) and (9)(b), and in accordance with Section 20A-9-408.3, the election officer shall, no later than the earlier of 14 calendar days after the day on which the election officer receives the signatures, or one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(c)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) with the assistance of the county clerk as applicable, determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-1-1002, used to verify a signature on a petition; and

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet.

(d) (i) A registered voter who physically signs a form under Subsections (8) and (9)(b)may have the voter's signature removed from the form by, no later than 5 p.m. three business days after the day on which the member submits the signature form to the election officer, submitting to the election officer a statement requesting that the voter's signature be removed.

(ii) A statement described in Subsection (9)(d)(i) shall comply with the requirements described in Subsection 20A-1-1003(2).

(iii) With the assistance of the county clerk as applicable, the election officer shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature after receiving a timely, valid statement requesting removal of the signature.

(e) (i) An election officer shall, in accordance with this Subsection (9)(e) and rules made under Section 20A-3a-106, conduct regular audits of signature comparisons made between signatures gathered under this section and voter signatures maintained by the election officer.

(ii) An individual who conducts an audit of signature comparisons under this section may not audit the individual's own work.

(iii) The election officer shall:

(A) audit 1% of all signature comparisons described in Subsection (9)(e)(i) to determine the accuracy of the comparisons made;

(B) record the individuals who conducted the audit;

(C) record the audit results;

(D) provide additional training or staff reassignments, as needed, based on the results of an audit described in Subsection (9)(e)(i); and

(E) record any remedial action taken.

(iv) The audit results described in Subsection (9)(e)(iii)(C) are a public record.

(f) An election officer who certifies signatures under Subsection (9)(c) or 20A-9-403(3)(d) shall, after certifying enough signatures to establish that a candidate has reached the applicable signature threshold described in Subsection (8) or 20A-9-403(3)(a), as applicable, continue to certify signatures submitted for the candidate in excess of the number of signatures required, until the election officer either:

(i) certifies signatures equal to 110% of the applicable signature threshold; or

(ii) has reviewed all signatures submitted for the candidate before reaching an amount equal to 110% of the applicable signature threshold.

(10) (a) This Subsection (10) applies only to the electronic candidate qualification process.

(b) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall, before [~~5 p.m. no later than 14 days before the day on which the qualified political party holds the party's convention to select candidates, for the elective office, for the qualified political party's nomination~~]the deadline described in Subsection (12), collect signatures electronically:

(i) in accordance with Section 20A-21-201; and

(ii) using progressive screens, in a format approved by the lieutenant governor, that complies with Subsection 20A-9-405(4).

(c) Upon timely receipt of the signatures described in Subsections (8) and (9)(b), the election officer shall, no later than the earlier of 14 calendar days after the day on which the election officer receives the signatures, or one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature to determine whether each individual is a resident of Utah and is at least 18 years old; and

(ii) submit the name of each individual described in Subsection (10)(c)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney.

(11) (a) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.

(b) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (11)(b)(i).

(c) Upon timely receipt of the signatures described in Subsections (8) and (9)(b), or Subsections (8) and (10)(b), the election officer shall, no later than [~~one~~]the day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate, notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

(d) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.

(12) The deadline before which a member of a qualified political party must collect and submit signatures to the election officer under this section is 5 p.m. on the last business day that is at least 14 calendar days before the day on which the qualified political party's convention for the office begins.

Section 126. Section 20A-9-408.1 is enacted to read:

20A-9-408.1. Candidate nomination document -- Access - Limitations -- Storage.

(1) Except as provided in Subsection (4)(a), notwithstanding Section 63G-2-305.5, and subject to Subsection (4)(b), the following may review a complete, unredacted candidate nomination document:

(a) the candidate to whose nomination petition the candidate nomination document relates, or an individual representing the candidate's campaign;

(b) a candidate who is seeking to qualify for placement on the primary election ballot for the same office and party as the candidate to whose nomination petition the candidate nomination document relates, or an individual representing the candidate's campaign;

(c) the chair or vice chair of the state political party whose nomination the candidate described in Subsection (1)(a) seeks; and

(d) if the office sought by a candidate described in Subsection (1)(a) relates to a jurisdiction that does not encompass all or a portion of more than one county, the chair or vice chair of the county political party whose nomination petition the candidate described in Subsection (1)(a) seeks.

(2) No individual may view a complete, unredacted candidate nomination document, other than:

(a) an election officer;

(b) a government entity or an authorized agent of a government entity, to the extent necessary to fulfill a duty of the government entity or the authorized agent; or

(c) an individual described in Subsection (1), in accordance with the requirements of this section.

(3) Subsection (2) does not prohibit:

(a) an individual whose name or other personal identifying information appears on a candidate signature packet from viewing only the portion of the candidate signature packet showing the name or other personal identifying information of the individual; or

(b) an individual whose name or other personal identifying information appears on a written request to remove a signature from a candidate signature packet from viewing the written request.

(4) (a) An individual described in Subsection (1) or (3) may not view a candidate nomination document after the election officer certifies the results of the primary election race to which the candidate nomination document relates.

(b) An individual who, under Subsection (1), views a candidate nomination document may not:

(i) make a copy, image, or other recording of the candidate nomination document; or

(ii) disclose a name or other information on the candidate nomination document that relates to an individual whose voter registration record is classified as a private record.

(5) After an election officer certifies the results of the primary election race to which a candidate nomination document relates:

(a) the election officer shall seal the candidate nomination document and store the candidate nomination document for 22 months; and

(b) no person may access or view the candidate nomination document, except:

(i) the lieutenant governor;

(ii) the legislative auditor general; or

(iii) as ordered by a court with jurisdiction.

(6) A digital listing or report of a candidate nomination document may, only to the extent permitted under Section 63G-2-305.5, be disclosed before or after an election officer certifies the results of the primary election race to which the candidate nomination document relates.

Section 127. Section 20A-9-408.2 is enacted to read:

20A-9-408.2. Tracking signatures on candidate nomination petition.

(1) Beginning no later than January 1, 2026, the lieutenant governor shall, on the same website where a voter may track the status of a ballot returned by a voter, provide a voter information regarding:

(a) each petition to qualify a candidate for placement on a primary election ballot that the voter signed during the preceding six months;

(b) whether the signature was verified or rejected; and

(c) if the signature was rejected, the reason for the rejection.

(2) The lieutenant governor shall ensure that the information described in Subsection (1) is available to the voter no later than one business day after the day on which the voter's signature is verified or rejected.

Section 128. Section 20A-9-408.3 is enacted to read:

20A-9-408.3. Submission of candidate signature packet -- Requirements for submission -- Signature packet chain of custody and storage.

(1) To submit a candidate signature packet to an election officer, a person shall:

(a) label the front of each candidate signature packet with a unique, consecutive number;

(b) organize each candidate signature packet that is submitted at the same time in numerical order; and

(c) with the candidate signature packets, provide the election officer with a document containing:

(i) for each candidate signature packet submitted at the same time:

(A) the number assigned to the candidate signature packet under Subsection (1)(a); and

(B) the number of signatures in the candidate signature packet;

(ii) the total number of candidate signature packets submitted at the same time;

(iii) the sum of all signatures on all candidate signature packets submitted at the same time;

(iv) a list of all individuals who collected signatures for the candidate signature packets submitted together, including for each the individual's:

(A) full name;

(B) residential address;

(C) phone number; and

(D) email address; and

(v) a certification that each individual described in Subsection (1)(c)(iv) was at least 18 years old when the individual collected the signatures.

(2) If the election officer discovers that a candidate signature packet is verified by an individual who has not been disclosed under Subsection (1)(c)(iv), with all information required under Subsection (1)(c)(iv):

(a) the election officer shall notify the candidate;

(b) the candidate shall provide the information described in Subsection (1)(c)(iv) in relation to the individual no later than the first business day that is at least three calendar days after the day on which the election officer notifies the candidate under Subsection (2)(a); and

(c) if the candidate fails to timely comply with Subsection (2)(b), the election officer shall reject the candidate signature packet, and all candidate signature packets collected by the same individual, that were submitted at the same time.

(3) An election officer shall reject a candidate signature packet that is not submitted in accordance with Subsection (2).

(4) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act:

(a) the information described in Subsection (1)(c)(iv)(A) is a public record; and

(b) the information described in Subsections (1)(c)(iv)(B) through (D) is a private record.

(5) An election officer shall preserve the chain of custody of all candidate signature packets and signature sheets in accordance with this section.

(6) An election officer shall, upon receipt of a candidate signature packet:

(a) review the candidate signature packet; and

(b) assign the candidate signature packet a unique number in the election officer's petition processing system, to be used to track the candidate signature packet during processing.

(7) An election officer shall ensure that, when workers review signatures in a candidate signature packet for verification, the workers record for the candidate signature packet:

(a) the names of the workers who review signatures on the candidate signature packet;

(b) if the signature packet is reviewed additional times, the names of the workers who conduct the review;

(c) the total number of signatures in the candidate signature packet;

(d) the total number of valid signatures in the candidate signature packet;

(e) the total number of signatures in the candidate signature packet that were rejected, including the reasons for the rejection; and

(f) if not all signatures in the candidate signature packet are reviewed:

(i) the number of signatures that were not reviewed;

(ii) the reason the signatures were not reviewed; and

(iii) the name of the worker who pulled the candidate signature packet from further review.

(8) An election officer shall store the candidate signature packets by:

(a) making a log of the candidate signature packets as the signature packets are placed into storage that specifies:

(i) the boxes into which the candidate signature packets for a particular candidate are placed; and

(ii) which candidate signature packet is stored in which box; and

(b) affixing to each box a description of the contents of the box.

Section 129. Section 20A-9-502 is amended to read:

20A-9-502. Certificate of nomination -- Contents -- Circulation -- Verification -- Criminal penalty -- Removal of petition signature.

(1) The candidate shall:

(a) prepare a certificate of nomination in substantially the following form:

"State of Utah, County of _____

I, _____, declare my intention of becoming an unaffiliated candidate for the political group designated as ____ for the office of ____. I do solemnly swear that I can qualify to hold that office both legally and constitutionally if selected, and that I reside at ____ Street, in the city of ____, county of ____, state of _____, zip code ____, phone ____, and that I am providing, or have provided, the required number of holographic signatures of registered voters required by law; that as a candidate at the next election I will not knowingly violate any election or campaign law; that, if filing via a designated agent for an office other than president of the United States, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot.

_____

Subscribed and sworn to before me this _____(month\day\year).

_____

Notary Public (or other officer

qualified to administer oaths)";

(b) for each signature packet, bind signature sheets to a copy of the certificate of nomination and the circulator verification, that:

(i) are printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(ii) are ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;

(iii) contain the name of the proposed candidate and the words "Unaffiliated Candidate Certificate of Nomination Petition" printed directly below the horizontal line;

(iv) contain the word "Warning" printed directly under the words described in Subsection (1)(b)(iii);

(v) contain, to the right of the word "Warning," the following statement printed in not less than eight-point, single leaded type:

"It is a class A misdemeanor for anyone to knowingly sign a certificate of nomination signature sheet with any name other than the person's own name or more than once for the same candidate or if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures.";

(vi) contain the following statement directly under the statement described in Subsection (1)(b)(v):

"Each signer says:

I have personally signed this petition with a holographic signature;

I am registered to vote in Utah or intend to become registered to vote in Utah before the county clerk certifies my signature; and

My street address is written correctly after my name.";

(vii) contain horizontally ruled lines, 3/8 inch apart under the statement described in Subsection (1)(b)(vi); and

(viii) be vertically divided into columns as follows:

(A) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle;

(B) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(C) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of Registered Voter";

(D) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

(E) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; and

(F) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be certified as a valid signature if you change your address before petition signatures are certified or if the information you provide does not match your voter registration records."; and

(c) bind a final page to one or more signature sheets that are bound together that contains, except as provided by Subsection (3), the following printed statement:

"Verification

State of Utah, County of ____

I, _____, of ____, hereby state that:

I am at least 18 years old;

All the names that appear on the signature sheets bound to this page were signed by persons who professed to be the persons whose names appear on the signature sheets, and each of them signed the person's name on the signature sheets in my presence;

I believe that each has printed and signed the person's name and written the person's street address correctly, and that each signer is registered to vote in Utah or will register to vote in Utah before the county clerk certifies the signatures on the signature sheet.

_____

(Signature) (Residence Address) (Date)".

(2) An agent designated to file a certificate of nomination under Subsection 20A-9-503(2)(b) or (4)(b) may not sign the form described in Subsection (1)(a).

(3) (a) The candidate shall circulate the nomination petition and ensure that the person in whose presence each signature sheet is signed:

(i) is at least 18 years old; and

(ii) verifies each signature sheet by completing the verification bound to one or more signature sheets that are bound together.

(b) A person may not sign the circulator verification if the person signed a signature sheet bound to the verification.

(4) (a) It is unlawful for any person to:

(i) knowingly sign a certificate of nomination signature sheet:

(A) with any name other than the person's own name;

(B) more than once for the same candidate; or

(C) if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures; or

(ii) sign the verification of a certificate of nomination signature sheet if the person:

(A) has not witnessed the signing by those persons whose names appear on the certificate of nomination signature sheet; or

(B) knows that a person whose signature appears on the certificate of nomination signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state.

(b) Any person violating this Subsection (4) is guilty of a class A misdemeanor.

(5) (a) To qualify for placement on the general election ballot, the candidate shall, no earlier than the start of the declaration of candidacy period described in Section 20A-9-201.5 and no later than 5 p.m. on June 15 of the year in which the election will be held:

(i) comply with Subsection 20A-9-503(1); and

(ii) submit each signature packet to the county clerk where the majority of the signatures in the packet were collected, with signatures totaling:

(A) at least 1,000 registered voters residing within the state when the nomination is for an office to be filled by the voters of the entire state; or

(B) at least 300 registered voters residing within a political division or at least 5% of the registered voters residing within a political division, whichever is less, when the nomination is for an office to be filled by the voters of any political division smaller than the state.

(b) A candidate has not complied with Subsection (5)(a)(ii), unless the county clerks verify that each required signature is a valid signature of a registered voter who is eligible to sign the signature packet and has not signed a signature packet to nominate another candidate for the same office.

(c) In reviewing the signature packets, the county clerk shall count and certify only those persons who signed with a holographic signature, who:

(i) are registered voters within the political division that the candidate seeks to represent; and

(ii) did not sign any other certificate of nomination for that office.

(d) The county clerk shall count and certify the number of registered voters who validly signed a signature packet, no later than 30 calendar days after the day on which the candidate submits the signature packet.

(e) The candidate may supplement the signatures or amend the certificate of nomination or declaration of candidacy at any time on or before 5 p.m. on June 15 of the year in which the election will be held.

(f) The county clerk shall use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter who is qualified to sign the signature packet.

(6) (a) A voter who signs a signature packet under this section may have the voter's signature removed from the signature packet by, no later than 5 p.m. three business days after the day on which the candidate submits the signature packet to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (6)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a signature packet after receiving a timely, valid statement requesting removal of the signature.

Section 130. Section 20A-9-601 is amended to read:

20A-9-601. Qualifying as a write-in candidate.

(1) (a) Except as provided in Subsection (1)(b), an individual who wishes to become a valid write-in candidate shall file a declaration of candidacy in person, or through a designated agent for a candidate for president or vice president of the United States, with the appropriate filing officer [~~before 5 p.m.~~]no later than 5 p.m. on the last business day that is at least 65 calendar days before the date of the regular general election or the municipal general election in which the individual intends to be a write-in candidate.

(b) (i) The provisions of this Subsection (1)(b) do not apply to an individual who files a declaration of candidacy for president of the

United States.

(ii) Subject to Subsection (2)(d), an individual may designate an agent to file a declaration of candidacy with the appropriate filing officer if:

(A) the individual is located outside of the state during the entire filing period;

(B) the designated agent appears in person before the filing officer; and

(C) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other.

(2) (a) The form of the declaration of candidacy for a write-in candidate for all offices, except president or vice president of the United States, is substantially as follows:

"State of Utah, County of ____

I, _____, declare my intention of becoming a candidate for the office of ____ for the ____ district (if applicable). I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of ____, Utah, Zip Code ____, Phone No. ____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and rejection of any votes cast for me. The mailing address that I designate for receiving official election notices is _____.

_____

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath).".

(b) The form of the declaration of candidacy for a write-in candidate for president of the United States is substantially as follows:

"State of Utah, County of ____

I, _____, declare my intention of becoming a candidate for the office of the president of the United States. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of ____, State ____, Zip Code ____, Phone No. ____; I will not knowingly violate any law governing campaigns and elections. The mailing address that I designate for receiving official election notices is _____. I designate _____ as my vice presidential candidate.

_____

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath.)".

(c) A declaration of candidacy for a write-in candidate for vice president of the United States shall be in substantially the same form as a declaration of candidacy described in Subsection 20A-9-202(7).

(d) An agent described in Subsection (1)(a) or (b) may not sign the form described in Subsection (2)(a) or (b).

(3) (a) The filing officer shall:

(i) read to the candidate the constitutional and statutory requirements for the office;

(ii) ask the candidate whether the candidate meets the requirements; and

(iii) if the declaration of candidacy is for a legislative office, inform the individual that Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit or trust, under authority of the United States or Utah, from being a member of the Legislature.

(b) If the candidate cannot meet the requirements of office, the filing officer may not accept the write-in candidate's declaration of candidacy.

(4) (a) Except as provided in Subsection (4)(b), a write-in candidate is subject to Subsection 20A-9-201(8).

(b) A write-in candidate for president of the United States is subject to Subsection 20A-9-201(8)(d) or 20A-9-803(1)(d), as applicable.

(5) By November 1 of each regular general election year, the lieutenant governor shall certify to each county clerk the names of all write-in candidates who filed their declaration of candidacy with the lieutenant governor.

Section 131. Section 20A-11-101 is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) (a) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(b) "Address" does not include a post office box.

(2) "Agent of a reporting entity" means:

(a) a person acting on behalf of a reporting entity at the direction of the reporting entity;

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(5) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business;

(iii) goods or services provided for the benefit of a political entity at less than fair market value that are not authorized by or coordinated with the political entity; or

(iv) data or information described in Subsection (24)(b).

(7) "Coordinated with" means that goods or services provided for the benefit of a political entity are provided:

(a) with the political entity's prior knowledge, if the political entity does not object;

(b) by agreement with the political entity;

(c) in coordination with the political entity; or

(d) using official logos, slogans, and similar elements belonging to a political entity.

(8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance, except to the extent that the name or address of the individual or source is unknown;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the goods or services acquired by the expenditure; and

(iii) the date the expenditure was made.

(12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of $10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 [~~days of~~]calendar days before the clearly identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee;

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value; or

(vii) an independent expenditure, as defined in Section 20A-11-1702.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) "Incorporation" means the process established by Title 10, Chapter 2a, Municipal Incorporation, by which a geographical area becomes legally recognized as a city or town.

(21) "Incorporation election" means the election conducted under Section 10-2a-210.

(22) "Incorporation petition" means a petition described in Section 10-2a-208.

(23) "Individual" means a natural person.

(24) (a) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(b) "In-kind contribution" does not include survey results, voter lists, voter contact information, demographic data, voting trend data, or other information that:

(i) is not commissioned for the benefit of a particular candidate or officeholder; and

(ii) is offered at no cost to a candidate or officeholder.

(25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(27) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Loan" means any of the following provided by a person that benefits a filing entity if the person expects repayment or reimbursement:

(a) an expenditure made using any form of payment;

(b) money or funds received by the filing entity;

(c) the provision of a good or service with an agreement or understanding that payment or reimbursement will be delayed; or

(d) use of any line of credit.

(29) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(30) "Officeholder" means a person who holds a public office.

(31) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(32) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(33) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(34) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(35) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person

seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(36) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (36)(a), where the person:

(i) has already been paid, with money or other consideration;

(ii) expects to be paid in the future, with money or other consideration; or

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(37) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(38) "Political entity" means a candidate, a political party, a political action committee, or a political issues committee.

(39) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee; or

(vi) a group of individuals who:

(A) associate together for the purpose of challenging or supporting a single ballot proposition, ordinance, or other governmental action by a county, city, town, special district, special service district, or other local political subdivision of the state;

(B) have a common liberty, property, or financial interest that is directly impacted by the ballot proposition, ordinance, or other governmental action;

(C) do not associate together, for the purpose described in Subsection (39)(b)(vi)(A), via a legal entity;

(D) do not receive funds for challenging or supporting the ballot proposition, ordinance, or other governmental action from a person other than an individual in the group; and

(E) do not expend a total of more than $5,000 for the purpose described in Subsection (39)(b)(vi)(A).

(40) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(41) (a) "Political issues expenditure" means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(42) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate or a person seeking a municipal or county office at any caucus, political convention, or election; or

(b) judge standing for retention at any election.

(43) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(44) "Primary election" means any regular primary election held under the election laws.

(45) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

(46) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(47) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(48) "Receipts" means contributions and public service assistance.

(49) "Registered lobbyist" means a person licensed under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(50) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(51) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(52) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(53) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(54) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(55) "School board office" means the office of state school board.

(56) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(57) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(58) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

(59) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(60) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 132. Section 20A-11-103 is amended to read:

20A-11-103. Notice of pending interim and summary reports -- Form of submission -- Public availability -- Notice of reporting and filing requirements.

(1) (a) Except as provided under Subsection (1)(b), on the last business day that is at least 10 calendar days before an interim report or summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections, the chief election officer shall inform the filing entity by electronic mail unless postal mail is requested:

(i) that the financial statement is due;

(ii) of the date that the financial statement is due; and

(iii) of the penalty for failing to file the financial statement.

(b) The chief election officer is not required to provide notice:

(i) to a candidate or political party of the financial statement that is due before the candidate's or political party's political convention;

(ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1; or

(iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

(2) A filing entity shall electronically file a financial statement via electronic mail or the Internet according to specifications established by the chief election officer.

(3) (a) A financial statement is considered timely filed if the financial statement is received by the chief election officer's office before midnight, Mountain Time, at the end of the day on which the financial statement is due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a financial statement is due, the county clerk shall permit a candidate to file the financial statement via email or another electronic means designated by the county clerk.

(c) A chief election officer may extend the time in which a filing entity is required to file a financial statement if a filing entity notifies the chief election officer of the existence of an extenuating circumstance that is outside the control of the filing entity.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) post on a website established by the lieutenant governor:

(i) an electronic copy or the contents of each summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date on which the summary report or interim report is electronically filed; or

(ii) for a campaign finance statement filed under the requirements of Section 10-3-208, for a municipality, or Section 17-16-6.5, for a county, a link to the municipal or county website that hosts the campaign finance statement, no later than seven business days after the date on which the lieutenant governor receives the link from:

(A) the municipal clerk or recorder, in accordance with Subsection 10-3-208(10)(b)(ii); or

(B) the county clerk, in accordance with Subsection 17-16-6.5(18)(b)(ii).

(5) Between January 1 and January 15 of each year, the chief election officer shall provide notice, by postal mail or email, to each filing entity for which the chief election officer has a physical or email address, of the reporting and filing requirements described in this chapter.

Section 133. Section 20A-11-105 is amended to read:

20A-11-105. Deadline for payment of fine.

A person against whom the lieutenant governor imposes a fine under this chapter shall pay the fine [~~before 5 p.m. within~~]no later than 5 p.m. on the last business day that is at least 30 calendar days after the day on which the lieutenant governor imposes the fine.

Section 134. Section 20A-11-201 is amended to read:

20A-11-201. State office -- Separate bank account for campaign funds -- No personal use -- State office candidate reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) Each state office candidate or the candidate's personal campaign committee shall deposit each contribution received in one or more separate campaign accounts in a financial institution.

(b) A state office candidate or a candidate's personal campaign committee may not use money deposited in a campaign account for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(c) Each state officeholder or the state officeholder's personal campaign committee shall deposit each contribution and public service assistance received in one or more separate campaign accounts in a financial institution.

(d) A state officeholder or a state officeholder's personal campaign committee may not use money deposited in a campaign account for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) (a) A state office candidate or the candidate's personal campaign committee may not deposit or mingle any contributions received

into a personal or business account.

(b) A state officeholder or the state officeholder's personal campaign committee may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) If a person who is no longer a state office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-203 until the statement of dissolution and final summary report required by Section 20A-11-205 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a state office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a state office candidate may transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5), "received" means the same as that term is defined in Subsection 20A-11-204(1)(b).

(b) Each state office candidate shall report to the lieutenant governor each contribution received by the state office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 31 calendar days after the day on which the contribution is received; or

(ii) within seven business days after the day on which the contribution is received, if:

(A) the state office candidate is contested in a convention and the contribution is received within 30 calendar days before the day on which the convention is held;

(B) the state office candidate is contested in a primary election and the contribution is received within 30 calendar days before the day on which the primary election is held; or

(C) the state office candidate is contested in a general election and the contribution is received within 30 calendar days before the day on which the general election is held.

(c) Except as provided in Subsection (5)(d), for each contribution that a state office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the state office candidate in an amount equal to:

(i) 10% of the amount of the contribution, if the state office candidate reports the contribution within 60 calendar days after the day on which the time period described in Subsection (5)(b) ends; or

(ii) 20% of the amount of the contribution, if the state office candidate fails to report the contribution within 60 calendar days after the day on which the time period described in Subsection (5)(b) ends.

(d) The lieutenant governor may waive the fine described in Subsection (5)(c) and issue a warning to the state office candidate if:

(i) the contribution that the state office candidate fails to report is paid by the state office candidate from the state office candidate's personal funds;

(ii) the state office candidate has not previously violated Subsection (5)(c) in relation to a contribution paid by the state office candidate from the state office candidate's personal funds; and

(iii) the lieutenant governor determines that the failure to timely report the contribution is due to the state office candidate not understanding that the reporting requirement includes a contribution paid by a state office candidate from the state office candidate's personal funds.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each state office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the state office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than the state office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a state office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A state office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(7) Within 31 calendar days after [~~receiving~~]the day on which a state office candidate receives a contribution that is cash or a negotiable instrument, exceeds $50, and is from an unknown source, [~~a~~]the state office candidate shall disburse the amount of the contribution to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

Section 135. Section 20A-11-204 is amended to read:

20A-11-204. State office candidate and state officeholder -- Financial reporting requirements -- Interim reports.

(1) As used in this section:

(a) "Campaign account" means a separate campaign account required under Subsection 20A-11-201(1)(a) or (c).

(b) "Received" means:

(i) for a cash contribution, that the cash is given to a state office candidate or a member of the state office candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated;

(iii) for a direct deposit made into a campaign account by a person not associated with the campaign, the earlier of:

(A) the day on which the state office candidate or a member of the state office candidate's personal campaign committee becomes aware of the deposit and the source of the deposit;

(B) the day on which the state office candidate or a member of the state office candidate's personal campaign committee receives notice of the deposit and the source of the deposit by mail, email, text, or similar means; or

(C) 31 calendar days after the day on which the direct deposit occurs; or

(iv) for any other type of contribution, that any portion of the contribution's benefit inures to the state office candidate.

(2) Except as provided in Subsection (3), each state office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(a) (i) seven calendar days before the candidate's political convention; or

(ii) for an unaffiliated candidate, the fourth Saturday in March;

(b) seven calendar days before the regular primary election date;

(c) September 30; and

(d) seven calendar days before the regular general election date.

(3) If a state office candidate is a state office candidate seeking appointment for a midterm vacancy, the state office candidate:

(a) shall file an interim report:

(i) (A) no later than seven calendar days before the day on which the political party of the party for which the state office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-504; and

(B) two calendar days before the day on which the political party of the party for which the state office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Subsection 20A-1-504(1)(b)(i); or

(ii) if a state office candidate decides to seek the appointment with less than seven calendar days before the party meets, or the political party schedules the meeting to declare a nominee less than seven calendar days before the day of the meeting, no later than 5 p.m. on the last [~~day of~~]business day before the day on which the party meets; and

(b) is not required to file an interim report at the times described in Subsection [~~(1)~~](2).

(4) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of:

(i) for a state office candidate, each contribution received since the last summary report that has not been reported in detail on a prior interim report; or

(ii) for a state officeholder, each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions and public service assistance received during the period since the last statement;

(iii) total contributions and public service assistance received to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the state office candidate or state officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(5) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five calendar days before the required filing date of the report.

(b) Any negotiable instrument or check received by a state office candidate or state officeholder more than five calendar days before the required filing date of a report required by this section shall be included in the interim report.

Section 136. Section 20A-11-206 is amended to read:

20A-11-206. State office candidate -- Failure to file reports -- Penalties.

(1) A state office candidate who fails to file a financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a state office candidate fails to file an interim report described in Subsections 20A-11-204(2)(b) through (d), the lieutenant governor may send an electronic notice to the state office candidate and the political party of which the state office candidate is a member, if any, that states:

(a) that the state office candidate failed to timely file the report; and

(b) that, if the state office candidate fails to file the report within 24 hours after the deadline for filing the report, the state office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a state office candidate and inform the county clerk and other appropriate election officials that the state office candidate is disqualified if the state office candidate fails to file an interim report described in Subsections 20A-11-204(2)(b) through (d) within 24 hours after the deadline for filing the report.

(b) The political party of a state office candidate who is disqualified under Subsection (3)(a) may not replace the state office candidate.

(4) If a state office candidate is disqualified under Subsection (3)(a), the election officer shall:

(a) notify every opposing candidate for the state office that the state office candidate is disqualified;

(b) send an email notification to each voter who is eligible to vote in the state office race for whom the lieutenant governor has an email address informing the voter that the state office candidate is disqualified and that votes cast for the state office candidate will not be counted;

(c) post notice of the disqualification on the lieutenant governor's website; and

(d) if practicable, remove the state office candidate's name from the ballot.

(5) An election officer may fulfill the requirement described in Subsection (4) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to the lieutenant governor's website to inform the voter whether a candidate on the ballot is disqualified.

(6) A state office candidate is not disqualified if:

(a) the state office candidate timely files the reports described in Subsections 20A-11-204(2)(b) through (d) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection (6)(b) are corrected in an amended report or the next scheduled report.

(7) (a) Within 60 calendar days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each state office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any state office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, [~~within five days of discovery of a~~]no later than the first business day that is at least five days after the day on which the lieutenant governor discovers the violation or [~~receipt of a~~]receives the written complaint, notify the state office candidate of the violation or written complaint and direct the state office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a state office candidate to fail to file or amend a summary report within seven calendar days after receiving notice from the lieutenant governor described in this Subsection (7).

(ii) Each state office candidate who violates Subsection (7)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (7)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (7)(c)(ii), the lieutenant governor shall impose a civil fine of $100 against a state office candidate who violates Subsection (7)(c)(i).

Section 137. Section 20A-11-301 is amended to read:

20A-11-301. Legislative office -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) (i) Each legislative office candidate shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A legislative office candidate may:

(A) receive a contribution from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A legislative office candidate or the candidate's personal campaign committee may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(c) (i) Each legislative officeholder shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A legislative officeholder may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(d) A legislative officeholder or the legislative officeholder's personal campaign committee may not use money deposited in an account described in Subsection (1)(c)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) (a) A legislative office candidate may not deposit or mingle any contributions received into a personal or business account.

(b) A legislative officeholder may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) If a person who is no longer a legislative candidate chooses not to expend the money remaining in a campaign account, the person

shall continue to file the year-end summary report required by Section 20A-11-302 until the statement of dissolution and final summary report required by Section 20A-11-304 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a legislative office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a legislative office candidate may transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5), "received" means the same as that term is defined in Subsection 20A-11-303(1)(b).

(b) Each legislative office candidate shall report to the lieutenant governor each contribution received by the legislative office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 31 calendar days after the day on which the contribution is received; or

(ii) within seven business days after the day on which the contribution is received, if:

(A) the legislative office candidate is contested in a convention and the contribution is received within 30 calendar days before the day on which the convention is held;

(B) the legislative office candidate is contested in a primary election and the contribution is received within 30 calendar days before the day on which the primary election is held; or

(C) the legislative office candidate is contested in a general election and the contribution is received within 30 calendar days before the day on which the general election is held.

(c) Except as provided in Subsection (5)(d), for each contribution that a legislative office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the legislative office candidate in an amount equal to:

(i) 10% of the amount of the contribution, if the legislative office candidate reports the contribution within 60 calendar days after the day on which the time period described in Subsection (5)(b) ends; or

(ii) 20% of the amount of the contribution, if the legislative office candidate fails to report the contribution within 60 calendar days after the day on which the time period described in Subsection (5)(b) ends.

(d) The lieutenant governor may waive the fine described in Subsection (5)(c) and issue a warning to the legislative office candidate if:

(i) the contribution that the legislative office candidate fails to report is paid by the legislative office candidate from the legislative office candidate's personal funds;

(ii) the legislative office candidate has not previously violated Subsection (5)(c) in relation to a contribution paid by the legislative office candidate from the legislative office candidate's personal funds; and

(iii) the lieutenant governor determines that the failure to timely report the contribution is due to the legislative office candidate not understanding that the reporting requirement includes a contribution paid by a legislative office candidate from the legislative office candidate's personal funds.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each legislative office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the legislative office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(6) Within 31 calendar days after [~~receiving~~]the day on which a legislative office candidate receives a contribution that is cash or a negotiable instrument, exceeds $50, and is from an unknown source, [~~a~~]the legislative office candidate shall disburse the amount of the contribution to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(7) (a) As used in this Subsection (7), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a legislative office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a legislative office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A legislative office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 138. Section 20A-11-303 is amended to read:

20A-11-303. Legislative office candidate and legislative officeholder -- Financial reporting requirements -- Interim reports.

(1) As used in this section:

(a) "Campaign account" means a separate campaign account required under Subsection 20A-11-301(1)(a)(i) or (c)(i).

(b) "Received" means:

(i) for a cash contribution, that the cash is given to a legislative office candidate or a member of the legislative office candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated;

(iii) for a direct deposit made into a campaign account by a person not associated with the campaign, the earlier of:

(A) the day on which the legislative office candidate or a member of the legislative office candidate's personal campaign committee becomes aware of the deposit and the source of the deposit;

(B) the day on which the legislative office candidate or a member of the legislative office candidate's personal campaign committee receives notice of the deposit and the source of the deposit by mail, email, text, or similar means; or

(C) 31 calendar days after the day on which the direct deposit occurs; or

(iv) for any other type of contribution, that any portion of the contribution's benefit inures to the legislative office candidate.

(2) Except as provided in Subsection (3), each legislative office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(a) (i) seven calendar days before the candidate's political convention; or

(ii) for an unaffiliated candidate, the fourth Saturday in March;

(b) seven calendar days before the regular primary election date;

(c) September 30; and

(d) seven calendar days before the regular general election date.

(3) If a legislative office candidate is a legislative office candidate seeking appointment for a midterm vacancy, the legislative office candidate:

(a) shall file an interim report:

(i) (A) seven calendar days before the day on which the political party of the party for which the legislative office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-503; and

(B) two calendar days before the day on which the political party of the party for which the legislative office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-503; or

(ii) if the legislative office candidate decides to seek the appointment with less than seven calendar days before the party meets, or the political party schedules the meeting to declare a nominee less than seven calendar days before the day of the meeting, two calendar days before the day on which the party meets; and

(b) is not required to file an interim report at the times described in Subsection (2)(a).

(4) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of:

(i) for a legislative office candidate, each contribution received since the last summary report that has not been reported in detail on a prior interim report; or

(ii) for a legislative officeholder, each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions and public service assistance received during the period since the last statement;

(iii) total contributions and public service assistance received to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the legislative office candidate or legislative officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(5) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five calendar days before the required filing date of the report.

(b) Any negotiable instrument or check received by a legislative office candidate or legislative officeholder more than five calendar days before the required filing date of a report required by this section shall be included in the interim report.

Section 139. Section 20A-11-305 is amended to read:

20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.

(1) A legislative office candidate who fails to file a financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a legislative office candidate fails to file an interim report described in Subsections 20A-11-303(2)(b) through (d), the lieutenant governor may send an electronic notice to the legislative office candidate and the political party of which the legislative office candidate is a member, if any, that states:

(a) that the legislative office candidate failed to timely file the report; and

(b) that, if the legislative office candidate fails to file the report within 24 hours after the deadline for filing the report, the legislative office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a legislative office candidate and inform the county clerk and other appropriate election officials that the legislative office candidate is disqualified if the legislative office candidate fails to file an interim report described in Subsections 20A-11-303(2)(b) through (d) within 24 hours after the deadline for filing the report.

(b) The political party of a legislative office candidate who is disqualified under Subsection (3)(a) may not replace the legislative office candidate.

(4) If a legislative office candidate is disqualified under Subsection (3)(a), the election officer shall:

(a) notify every opposing candidate for the legislative office that the legislative office candidate is disqualified;

(b) send an email notification to each voter who is eligible to vote in the legislative office race for whom the election officer has an email address informing the voter that the legislative office candidate is disqualified and that votes cast for the legislative office candidate will not be counted;

(c) post notice of the disqualification on the election officer's website; and

(d) if practicable, remove the legislative office candidate's name from the ballot.

(5) An election officer may fulfill the requirement described in Subsection (4) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to the election officer's website to inform the voter whether a candidate on the ballot is disqualified.

(6) A legislative office candidate is not disqualified if:

(a) the legislative office candidate files the reports described in Subsections 20A-11-303(2)(b) through (d) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection (6)(b) are corrected in an amended report or the next scheduled report.

(7) (a) Within 60 calendar days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each legislative office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any legislative office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, [~~within five days of discovery of a~~]no later than the first business day that is at least five calendar days after the day on which the lieutenant governor discovers the violation or [~~receipt of a~~]receives the written complaint, notify the legislative office candidate of the violation or written complaint and direct the legislative office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a legislative office candidate to fail to file or amend a summary report within seven calendar days after receiving notice from the lieutenant governor described in this Subsection (7).

(ii) Each legislative office candidate who violates Subsection (7)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (7)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (7)(c)(ii), the lieutenant governor shall impose a civil fine of $100 against a legislative office candidate who violates Subsection (7)(c)(i).

Section 140. Section 20A-11-401 is amended to read:

20A-11-401. Officeholder financial reporting requirements -- Year-end summary report -- Officeholder as a political action committee officer -- Anonymous contribution or public service assistance.

(1) (a) Each officeholder shall file a summary report by January 10 of each year.

(b) An officeholder that is required to file a summary report both as an officeholder and as a candidate for office under the requirements of this chapter may file a single summary report as a candidate and an officeholder, provided that the combined report meets the requirements of:

(i) this section; and

(ii) the section that provides the requirements for the summary report filed by the officeholder in the officeholder's capacity of a candidate for office.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last summary report, if any;

(ii) a single figure equal to the total amount of receipts received since the last summary report, if any;

(iii) a single figure equal to the total amount of expenditures made since the last summary report, if any;

(iv) a detailed listing of each contribution and public service assistance received since the last summary report;

(v) for each nonmonetary contribution:

(A) the fair market value of the contribution with that information provided by the contributor; and

(B) a specific description of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) a net balance for the year consisting of the net balance from the last summary report plus all receipts minus all expenditures; and

(ix) the name of a political action committee for which the officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(b) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.

(3) The summary report shall contain a paragraph signed by the officeholder certifying that, to the best of the officeholder's knowledge, all receipts and all expenditures have been reported as of December 31 of the last calendar year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

(4) An officeholder may:

(a) receive public service assistance from a political action committee registered under Section 20A-11-601; and

(b) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(5) Within 31 calendar days after [~~receiving~~]the day on which an officeholder receives a contribution or public service assistance that is cash or a negotiable instrument, exceeds $50, and is from an unknown source, [~~an~~]the officeholder shall disburse the amount of the contribution or public service assistance to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

Section 141. Section 20A-11-402 is amended to read:

20A-11-402. Officeholder financial reporting requirements -- Statement of dissolution.

(1) An officeholder or former officeholder is active and subject to reporting requirements until the officeholder or former officeholder has filed a statement of dissolution with the lieutenant governor stating that:

(a) the officeholder or former officeholder is no longer receiving contributions or public service assistance and is no longer making expenditures;

(b) the ending balance on the last summary report filed is zero and the balance in the separate bank account required by Section 20A-11-201, 20A-11-301, or 20A-11-1301is zero; and

(c) a final summary report in the form required by Section 20A-11-401 showing a zero balance is attached to the statement of dissolution.

(2) A statement of dissolution and a final summary report may be filed at any time.

(3) (a) Each officeholder shall report to the lieutenant governor each contribution or public service assistance received by the state officeholder within 31 calendar days after the day on which the officeholder receives the contribution or public service assistance.

(b) For each contribution or public service assistance that an officeholder fails to report within the time period described in Subsection (3)(a), the lieutenant governor shall impose a fine against the officeholder in an amount equal to:

(i) 10% of the amount of the contribution or public service assistance if the officeholder reports the contribution or public service assistance within 60 calendar days after the day on which the time period described in Subsection (3)(a)ends; or

(ii) 20% of the amount of the contribution or public service assistance if the officeholder fails to report the contribution or public service assistance within 60 calendar days after the day on which the time period described in Subsection (3)(a)ends.

(c) Each officeholder or former officeholder shall continue to file the year-end summary report required by Section 20A-11-401 until the statement of dissolution and final summary report required by this section are filed with the lieutenant governor.

(4) An officeholder or former officeholder may not use a contribution or public service assistance deposited in an account in accordance with this chapter for:

(a) a personal use expenditure; or

(b) an expenditure prohibited by law.

(5) (a) Except as provided in Subsection (5)(b), a former officeholder may not expend or transfer the money in a campaign account in a manner that would cause the former officeholder to recognize the money as taxable income under federal tax law.

(b) A former officeholder may transfer the money in a campaign account in a manner that would cause the former officeholder to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

Section 142. Section 20A-11-403 is amended to read:

20A-11-403. Failure to file -- Penalties.

(1) Within 60 calendar days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(a) each officeholder that is required to file a summary report has filed one; and

(b) each summary report contains the information required by this part.

(2) If it appears that any officeholder has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:

(a) impose a fine against the filing entity in accordance with Section 20A-11-1005; and

(b) [~~within five days of discovery of a~~]no later than the first business day that is at least five calendar days after the day on which the lieutenant governor discovers the violation or [~~receipt of a~~]receives the written complaint, notify the officeholder of the violation or written complaint and direct the officeholder to file a summary report correcting the problem.

(3) (a) It is unlawful for any officeholder to fail to file or amend a summary report within seven calendar days after receiving notice from the lieutenant governor under this section.

(b) Each officeholder who violates Subsection (3)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (3)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (3)(b), the lieutenant governor shall impose a civil fine of $100 against an officeholder who violates Subsection (3)(a).

Section 143. Section 20A-11-507 is amended to read:

20A-11-507. Political party financial reporting requirements -- Interim reports.

(1) The party committee of each registered political party shall file an interim report at the following times in any year in which there is a regular general election:

(a) seven calendar days before the registered political party's political convention;

(b) seven calendar days before the regular primary election date;

(c) September 30; and

(d) seven calendar days before the general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last financial statement, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution, the fair market value of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date.

(3) (a) For all individual contributions of $50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than $50 may not be reported in the aggregate, but shall be reported separately.

(4) In preparing each interim report, all receipts and expenditures shall be reported as of five calendar days before the required filing date of the report.

Section 144. Section 20A-11-508 is amended to read:

20A-11-508. Political party reporting requirements -- Criminal penalties -- Fines.

(1) (a) Each registered political party that fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) Each registered political party that fails to file an interim report described in Subsections 20A-11-507(1)(b) through (d) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (1)(b) to the attorney general.

(2) Within 60 calendar days after a deadline for the filing of a summary report required by this part, the lieutenant governor shall review each filed report to ensure that:

(a) each political party that is required to file a report has filed one; and

(b) each report contains the information required by this part.

(3) If it appears that any political party has failed to file a report required by law, if it appears that a filed report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any report, the lieutenant governor shall, [~~within five days of discovery of a~~]no later than the first business day that is at least five calendar days after the day on which the lieutenant governor discovers the violation or [~~receipt of a~~]receives the written complaint, notify the political party of the violation or written complaint and direct the political party to file a summary report correcting the problem.

(4) (a) It is unlawful for any political party to fail to file or amend a summary report within seven calendar days after receiving notice from the lieutenant governor under this section.

(b) Each political party who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of $1,000 against a political party that violates Subsection (4)(a).

Section 145. Section 20A-11-511 is amended to read:

20A-11-511. County political party financial reporting requirements -- Interim reports.

(1) (a) A county political party officer of a county political party that has received contributions totaling at least $750, or disbursed expenditures totaling at least $750, during a calendar year shall file an interim report at the following times in any year in which there is a regular general election:

(i) seven calendar days before the county political party's convention;

(ii) seven calendar days before the regular primary election date;

(iii) September 30; and

(iv) seven calendar days before the general election date.

(b) A county political party officer need not file an interim report if it received no contributions or made no expenditures during the reporting period.

(2) Each interim report shall include the following information:

(a) the net balance of the last financial statement, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution, the fair market value of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date.

(3) (a) For all individual contributions of $50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than $50 may not be reported in the aggregate, but shall be reported separately.

(4) In preparing each interim report, all receipts and expenditures shall be reported as of five calendar days before the required filing date of the report.

Section 146. Section 20A-11-512 is amended to read:

20A-11-512. County political party -- Criminal penalties -- Fines.

(1) A county political party that fails to file an interim report described in Subsections 20A-11-511(1)(a)(i) through (iv) before the deadline is subject to a fine in accordance with Section 20A-11-1005, which the chief election officer shall deposit [~~in~~]into the General Fund.

(2) Within 60 calendar days after a deadline for the filing of the January 10 statement required by Section 20A-11-510, the lieutenant governor shall review each filed statement to ensure that:

(a) a county political party officer who is required to file a statement has filed one; and

(b) each statement contains the information required by Section 20A-11-510.

(3) If it appears that any county political party officer has failed to file a financial statement before the deadline, if it appears that a filed financial statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any financial statement, the lieutenant governor shall, [~~within~~]no later than the first business day that is at least five calendar days after the day on which the lieutenant governor discovers the violation or receives the written complaint, notify the county political party officer of the violation or written complaint and direct the county political party officer to file a financial statement correcting the problem.

(4) (a) A county political party that fails to file or amend a financial statement within seven calendar days after the day on which the county political party receives notice from the lieutenant governor under this section is subject to a fine of the lesser of:

(i) 10% of the total contributions received, and the total expenditures made, by the county political party during the reporting period for the financial statement that the county political party failed to file or amend; or

(ii) $1,000.

(b) The chief election officer shall deposit a fine collected under Subsection (4)(a) into the General Fund.

Section 147. Section 20A-11-601 is amended to read:

20A-11-601. Political action committees -- Registration -- Name or acronym used by political action committee -- Criminal penalty for providing false information or accepting unlawful contribution.

(1) (a) A political action committee shall file an initial statement of organization with the lieutenant governor's office no later than 5 p.m. on the first business day that is at least seven calendar days after the day on which the political action committee:

(i) receives contributions totaling at least $750; or

(ii) distributes expenditures for political purposes totaling at least $750.

(b) Unless the political action committee has filed a notice of dissolution under Subsection (7), after filing an initial statement of organization, a political action committee shall file an updated statement of organization with the lieutenant governor's office each year after the year in which the political action committee files an initial statement of organization:

(i) before 5 p.m. on January 10; or

(ii) electronically, before midnight on January 10.

(c) After filing an initial statement of organization, a political action committee shall, before January 10 each year after the year in which the political action committee files an initial statement of organization, file an updated statement of organization with the lieutenant governor's office.

(2) A statement of organization described in Subsection (1) shall include:

(a) the full name of the political action committee, a second name, if any, and an acronym, if any;

(b) the address and phone number of the political action committee;

(c) the name, address, telephone number, title, and occupation of:

(i) the two officers described in Subsection (5) and the treasurer of the political action committee;

(ii) all other officers, advisory members, and governing board members of the political action committee; and

(iii) each individual or entity represented by, or affiliated with, the political action committee; and

(d) other relevant information requested by the lieutenant governor.

(3) (a) A political action committee may not use a name or acronym:

(i) other than a name or acronym disclosed in the political action committee's latest statement of organization;

(ii) that is the same, or deceptively similar to, the name or acronym of another political action committee; or

(iii) that is likely to mislead a potential donor regarding the individuals or entities represented by, or affiliated with, the political action committee.

(b) Within seven calendar days after the day on which a political action committee files an initial statement of organization, the lieutenant governor's office shall:

(i) review the statement and determine whether a name or acronym used by the political action committee violates Subsection (3)(a)(ii) or (iii); and

(ii) if the lieutenant governor's office determines that a name or acronym used by the political action committee violates Subsection (3)(a)(ii) or (iii), order, in writing, that the political action committee:

(A) immediately cease and desist use of the name or acronym; and

(B) within seven calendar days after the day of the order, electronically file an updated statement of organization with a name and acronym that does not violate Subsection (3)(a)(ii) or (iii).

(c) If a political action committee uses a name or acronym that is the same, or deceptively similar to, the name or acronym of another political action committee, the lieutenant governor shall determine which political action committee has been using the name the longest and shall order, in writing, any other political action committee using the same, or a deceptively similar, name or acronym to:

(i) immediately cease and desist use of the name or acronym; and

(ii) within seven calendar days after the day of the order, electronically file an updated statement of organization with a name and acronym that does not violate Subsection (3)(a)(ii) or (iii).

(d) If a political action committee uses a name or acronym other than a name or acronym disclosed in the political action committee's latest statement of organization:

(i) the lieutenant governor shall order, in writing, that the political action committee cease and desist use of the name or acronym; and

(ii) the political action committee shall immediately comply with the order described in Subsection (3)(d)(i).

(4) (a) The lieutenant governor may, in addition to any other penalty provided by law, impose a $100 fine against a political action committee, or against an individual who forms a political action committee, that:

(i) fails to timely file a complete and accurate statement of organization or subsequent statement of organization; or

(ii) fails to comply with an order described in Subsection (3).

(b) If the lieutenant governor imposes a fine described in Subsection (4)(a)(i):

(i) the person against whom the fine is imposed shall, [~~within~~]no later than the first business day that is at least seven calendar days after the day on which the lieutenant governor imposes the fine:

(A) pay the fine; and

(B) file a complete and accurate statement, or subsequent statement, of organization, as applicable; and

(ii) the lieutenant governor shall provide written notice to the person against whom the fine is imposed:

(A) of the requirements described in Subsection (4)(b)(i); and

(B) that failure to timely comply with the requirement described in Subsection (4)(b)(i)(B) is a class B misdemeanor.

(c) The attorney general, or a political action committee that is harmed by the action of a political action committee in violation of this section, may bring an action for an injunction against the violating political action committee, or an officer of the violating political action committee, to enforce the provisions of this section.

(d) A political action committee may bring an action for damages against another political action committee that uses a name or acronym that is the same, or deceptively similar to, the name or acronym of the political action committee bringing the action.

(5) (a) Each political action committee shall designate two officers who have primary decision-making authority for the political action committee.

(b) An individual may not exercise primary decision-making authority for a political action committee if the individual is not designated under Subsection (5)(a).

(6) A political action committee shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(7) (a) A registered political action committee that intends to permanently cease operations shall file a notice of dissolution with the lieutenant governor's office.

(b) A notice of dissolution filed by a political action committee does not exempt the political action committee from complying with the financial reporting requirements described in this chapter in relation to all contributions received, and all expenditures made, before, at, or after dissolution.

(c) A political action committee shall, before filing a notice of dissolution, dispose of any money remaining in an account described in Subsection (6) by:

(i) returning the money to the donors;

(ii) donating the money to the campaign account of a candidate or officeholder;

(iii) donating the money to another political action committee;

(iv) donating the money to a political party;

(v) donating the money to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(vi) making another lawful expenditure of the money for a political purpose.

(d) A political action committee shall report all money donated or expended in a financial report to the lieutenant governor, in accordance with the financial reporting requirements described in this chapter.

(8) (a) Unless the political action committee has filed a notice of dissolution under Subsection (7), a political action committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (5)(a).

(b) A political action committee may not accept a contribution from a political issues committee, but may donate money to a political issues committee.

(c) A political action committee shall:

(i) electronically file a notice of a change of a primary officer described in Subsection (5)(a)[~~before5 p.m.~~]within 10 calendar days after the day on which the change occurs; and

(ii) include in the notice of change the name and title of the officer being replaced, and the name, address, occupation, and title of the new officer.

(9) (a) A person is guilty of providing false information in relation to a political action committee if the person intentionally or knowingly gives false or misleading material information in a statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (5)(a) or (8)(c) is guilty of accepting an unlawful contribution if the political action committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 calendar days before the date of the general election; and

(ii) at the time the political action committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (9) is a third degree felony.

Section 148. Section 20A-11-602 is amended to read:

20A-11-602. Political action committees -- Financial reporting.

(1) (a) Each registered political action committee that has received contributions totaling at least $750, or disbursed expenditures totaling at least $750, during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven calendar days before the state political convention of each major political party;

(iii) seven calendar days before the county political convention of a political party, if the political action committee makes an expenditure on or before the day described in Subsection (1)(b)(ii) in relation to a candidate that the party may nominate at the convention;

(iv) seven calendar days before the regular primary election date;

(v) on September 30; and

(vi) seven calendar days before:

(A) the municipal general election; and

(B) the regular general election.

(b) The registered political action committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) for a financial statement described in Subsections (1)(a)(ii) through (v), all contributions and expenditures as of five calendar days before the required filing date of the financial statement.

(c) The registered political action committee need not file a statement under this section if [~~it received~~]the registered political action committee receives no contributions and [~~made~~]makes no expenditures during the reporting period.

(2) (a) The verified financial statement shall include:

(i) the name and address of any individual who makes a contribution to the reporting political action committee, if known, and the amount of the contribution;

(ii) the identification of any publicly identified class of individuals that makes a contribution to the reporting political action committee, if known, and the amount of the contribution;

(iii) the name and address of any political action committee, group, or entity, if known, that makes a contribution to the reporting political action committee, and the amount of the contribution;

(iv) for each nonmonetary contribution, the fair market value of the contribution;

(v) the name and address of each reporting entity that received an expenditure from the reporting political action committee, and the amount of each expenditure;

(vi) for each nonmonetary expenditure, the fair market value of the expenditure;

(vii) the total amount of contributions received and expenditures disbursed by the reporting political action committee;

(viii) a statement by the political action committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial report is accurate; and

(ix) a summary page in the form required by the lieutenant governor that identifies:

(A) beginning balance;

(B) total contributions during the period since the last statement;

(C) total contributions to date;

(D) total expenditures during the period since the last statement; and

(E) total expenditures to date.

(b) (i) Contributions received by a political action committee that have a value of $50 or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more contributions from the same source that have an aggregate total of more than $50 may not be reported in the aggregate, but shall be reported separately.

(c) A political action committee is not required to report an independent expenditure under Part 17, Independent Expenditures, if, in the financial statement described in this section, the political action committee:

(i) includes the independent expenditure;

(ii) identifies the independent expenditure as an independent expenditure; and

(iii) provides the information, described in Section 20A-11-1704, in relation to the independent expenditure.

(3) A group or entity may not divide or separate into units, sections, or smaller groups for the purpose of avoiding the financial reporting requirements of this chapter, and substance shall prevail over form in determining the scope or size of a political action committee.

(4) (a) As used in this Subsection (4), "received" means:

(i) for a cash contribution, that the cash is given to a political action committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political action committee.

(b) A political action committee shall report each contribution to the lieutenant governor within 31 calendar days after the contribution

is received.

(5) A political action committee may not expend a contribution for political purposes if the contribution:

(a) is cash or a negotiable instrument;

(b) exceeds $50; and

(c) is from an unknown source.

(6) Within 31 calendar days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from an unknown source, a political action committee shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

Section 149. Section 20A-11-603 is amended to read:

20A-11-603. Criminal penalties -- Fines.

(1) (a) As used in this Subsection (1), "completed" means that:

(i) the financial statement accurately and completely details the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(ii) the political action committee corrects the omissions, errors, or inaccuracies described in Subsection (1)(a) in an amended report or the next scheduled report.

(b) Each political action committee that fails to file a completed financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(c) Each political action committee that fails to file a completed financial statement described in Subsections 20A-11-602(1)(a)(iv) through (vi) is guilty of a class B misdemeanor.

(d) The lieutenant governor shall report all violations of Subsection (1)(c) to the attorney general.

(2) Within 60 calendar days after a deadline for the filing of the January 10 statement required by this part, the lieutenant governor shall review each filed statement to ensure that:

(a) each political action committee that is required to file a statement has filed one; and

(b) each statement contains the information required by this part.

(3) If it appears that any political action committee has failed to file the January 10 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any statement, the lieutenant governor shall, [~~within five days~~]no later than the first business day that is at least five calendar days after the day on which the lieutenant governor discovers the violation or receives the written complaint, notify the political action committee of the violation or written complaint and direct the political action committee to file a statement correcting the problem.

(4) (a) It is unlawful for any political action committee to fail to file or amend a statement within seven calendar days after the day on which the political action committee receives notice from the lieutenant governor under this section.

(b) Each political action committee that violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of $1,000 against a political action committee that violates Subsection (4)(a).

(5) (a) It is unlawful for a person to fail to file a complete and accurate statement of organization, or a complete and accurate subsequent statement of organization, within seven calendar days after the day on which the person receives the notice described in Subsection 20A-11-601(4)(b)(ii).

(b) A violation of Subsection (5)(a) is a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (5)(a) to the attorney general.

Section 150. Section 20A-11-701.5 is amended to read:

20A-11-701.5. Campaign financial reporting by corporations -- Filing requirements -- Statement contents.

(1) (a) Each corporation that has made expenditures for political purposes that total at least $750 during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting expenditures as of December 31 of the previous year;

(ii) seven calendar days before the state political convention for each major political party;

(iii) seven calendar days before the regular primary election date;

(iv) on September 30; and

(v) seven calendar days before the regular general election date.

(b) The corporation shall report:

(i) a detailed listing of all expenditures made since the last financial statement;

(ii) for a financial statement described in Subsections (1)(a)(ii) through (v), all expenditures as of five calendar days before the required filing date of the financial statement; and

(iii) whether the corporation, including an officer of the corporation, director of the corporation, or person with at least 10% ownership in the corporation:

(A) has bid since the last financial statement on a contract, as defined in Section 63G-6a-103, in excess of $100,000;

(B) is currently bidding on a contract, as defined in Section 63G-6a-103, in excess of $100,000; or

(C) is a party to a contract, as defined in Section 63G-6a-103, in excess of $100,000.

(c) The corporation need not file a financial statement under this section if the corporation made no expenditures during the reporting period.

(d) The corporation is not required to report an expenditure made to, or on behalf of, a reporting entity that the reporting entity is required to include in a financial statement described in this chapter, Chapter 12, Part 2, Judicial Retention Elections, Section 10-3-208, or

Section 17-16-6.5.

(2) The financial statement shall include:

(a) the name and address of each reporting entity that received an expenditure from the corporation, and the amount of each expenditure;

(b) the total amount of expenditures disbursed by the corporation; and

(c) a statement by the corporation's treasurer or chief financial officer certifying the accuracy of the financial statement.

Section 151. Section 20A-11-702 is amended to read:

20A-11-702. Campaign financial reporting of political issues expenditures by corporations -- Financial reporting.

(1) (a) Each corporation that has made political issues expenditures on current or proposed ballot issues that total at least $750 during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting expenditures as of December 31 of the previous year;

(ii) seven calendar days before the state political convention of each major political party;

(iii) seven calendar days before the regular primary election date;

(iv) on September 30; and

(v) seven calendar days before the regular general election date.

(b) The corporation shall report:

(i) a detailed listing of all expenditures made since the last financial statement; and

(ii) for a financial statement described in Subsections (1)(a)(ii) through (v), expenditures as of five calendar days before the required filing date of the financial statement.

(c) The corporation need not file a statement under this section if it made no expenditures during the reporting period.

(2) That statement shall include:

(a) the name and address of each individual, entity, or group of individuals or entities that received a political issues expenditure of more than $50 from the corporation, and the amount of each political issues expenditure;

(b) the total amount of political issues expenditures disbursed by the corporation; and

(c) a statement by the corporation's treasurer or chief financial officer certifying the accuracy of the verified financial statement.

Section 152. Section 20A-11-703 is amended to read:

20A-11-703. Criminal penalties -- Fines.

(1) Within 60 calendar days after a deadline for the filing of any statement required by this part, the lieutenant governor shall review each filed statement to ensure that:

(a) each corporation that is required to file a statement has filed one; and

(b) each statement contains the information required by this part.

(2) If it appears that any corporation has failed to file any statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any statement, the lieutenant governor shall:

(a) impose a fine against the corporation in accordance with Section 20A-11-1005; and

(b) within five days [~~of discovery of a~~]after the day on which the lieutenant governor discovers the violation or [~~receipt of a~~]receives the written complaint, notify the corporation of the violation or written complaint and direct the corporation to file a statement correcting the problem.

(3) (a) It is unlawful for any corporation to fail to file or amend a statement within seven calendar days after receiving notice from the lieutenant governor under this section.

(b) Each corporation that violates Subsection (3)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (3)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (3)(b), the lieutenant governor shall impose a civil fine of $1,000 against a corporation that violates Subsection (3)(a).

Section 153. Section 20A-11-704 is amended to read:

20A-11-704. Statement of organization required for certain new corporations.

(1) A corporation that is incorporated, organized, or otherwise created less than 90 calendar days before the date of a general election shall file a statement of organization with the lieutenant governor's office before making a contribution to a political action committee or a political issues committee in association with the election.

(2) The statement of organization shall include:

(a) the name and street address of the corporation;

(b) the name, street address, phone number, occupation, and title of one or more individuals that have primary decision-making authority for the corporation;

(c) the name, street address, phone number, occupation, and title of the corporation's chief financial officer;

(d) the name, street address, occupation, and title of all other officers or managers of the corporation; and

(e) the name, street address, and occupation of each member of the corporation's governing and advisory boards, if any.

(3) (a) A corporation shall file with the lieutenant governor's office a notice of intent to cease making contributions, if the corporation:

(i) has made a contribution described in Subsection (1); and

(ii) intends to permanently cease making contributions described in Subsection (1).

(b) A notice filed under Subsection (3)(a) does not exempt the corporation from complying with the financial reporting requirements described in this chapter.

Section 154. Section 20A-11-705 is amended to read:

20A-11-705. Notice of in-kind contributions.

(1) A corporation that makes an in-kind contribution to a reporting entity shall, in accordance with Subsection (2), provide the reporting entity a written notice that includes:

(a) the name and address of the corporation;

(b) the date of the in-kind expenditure;

(c) a description of the in-kind expenditure; and

(d) the value, in dollars, of the in-kind expenditure.

(2) A corporation shall provide the written notice described in Subsection (1) to the reporting entity:

(a) except as provided in Subsection (2)(b), within 31 calendar days after the day on which the corporation makes the in-kind contribution; or

(b) within seven business days after the day on which the corporation makes the in-kind contribution, if:

(i) the in-kind contribution is to a candidate who is contested in a convention and the corporation makes the in-kind contribution within 30 calendar days before the day on which the convention is held;

(ii) the in-kind contribution is to a candidate who is contested in a primary election and the corporation makes the in-kind contribution within 30 calendar days before the day on which the primary election is held; or

(iii) the in-kind contribution is to a candidate who is contested in a general election and the corporation makes the in-kind contribution within 30 calendar days before the day on which the general election is held.

(3) A corporation that provides, and a reporting entity that receives, the written notice described in Subsection (1) shall retain a copy of the notice for five years after the day on which the written notice is provided to the reporting entity.

(4) A corporation or reporting entity that fails to comply with the requirements of this section is guilty of a class B misdemeanor.

(5) A person that intentionally or knowingly provides, or conspires to provide, false information on a written notice described in this section is guilty of a class B misdemeanor.

Section 155. Section 20A-11-801 is amended to read:

20A-11-801. Political issues committees -- Registration -- Criminal penalty for providing false information or accepting unlawful contribution.

(1) (a) Unless the political issues committee has filed a notice of dissolution under Subsection (4), each political issues committee shall file a statement of organization with the lieutenant governor's office:

(i) before 5 p.m. on January 10 of each year; or

(ii) electronically, before midnight on January 10 of each year.

(b) If a political issues committee is organized after the filing deadline described in Subsection (1)(a), the political issues committee shall file an initial statement of organization no later than 5 p.m. on the first business day that is at least seven calendar days after the day on which the political issues committee:

(i) receives political issues contributions totaling at least $750; or

(ii) distributes political issues expenditures totaling at least $750.

(c) Each political issues committee shall deposit each contribution received into one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) (a) Each political issues committee shall designate two officers that have primary decision-making authority for the political issues committee.

(b) An individual may not exercise primary decision-making authority for a political issues committee if the individual is not designated under Subsection (2)(a).

(3) The statement of organization shall include:

(a) the name and address of the political issues committee;

(b) the name, address, phone number, occupation, and title of the two primary officers designated under Subsection (2);

(c) the name, address, occupation, and title of all other officers of the political issues committee;

(d) the name and address of the organization, individual, corporation, association, unit of government, or union that the political issues committee represents, if any;

(e) the name and address of all affiliated or connected organizations and their relationships to the political issues committee;

(f) the name, residential address, business address, occupation, and phone number of the committee's treasurer or chief financial officer;

(g) the name, address, and occupation of each member of the supervisory and advisory boards, if any; and

(h) the ballot proposition whose outcome they wish to affect, and whether they support or oppose it.

(4) (a) A registered political issues committee that intends to permanently cease operations during a calendar year shall:

(i) dispose of all remaining funds by returning the funds to donors or donating the funds to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(ii) after complying with Subsection (4)(a)(i), file a notice of dissolution with the lieutenant governor's office.

(b) A political issues committee may not donate money to a political action committee, but may accept a contribution from a political action committee.

(c) Any notice of dissolution filed by a political issues committee does not exempt that political issues committee from complying with the financial reporting requirements of this chapter in relation to all contributions received, and all expenditures made, before, at, or after dissolution.

(d) A political issues committee shall report all money donated or expended under Subsection (4)(a) in a financial report to the lieutenant governor, in accordance with the financial reporting requirements described in this chapter.

(5) (a) Unless the political issues committee has filed a notice of dissolution under Subsection (4), a political issues committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (2).

(b) A political issues committee shall:

(i) electronically file a notice of a change of a primary officer described in Subsection (2)(a) [~~before 5 p.m.~~]within 10 calendar days after the day on which the change occurs; and

(ii) include in the notice of change the name and title of the officer being replaced and the name, address, occupation, and title of the new officer.

(6) (a) A person is guilty of providing false information in relation to a political issues committee if the person intentionally or knowingly gives false or misleading material information in the statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (2)(a) or (5)(b) is guilty of accepting an unlawful contribution if the political issues committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 calendar days before the date of the general election; and

(ii) at the time the political issues committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (6) is a third degree felony.

(7) (a) As used in this Subsection (7), "received" means:

(i) for a cash contribution, that the cash is given to a political issues committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political issues committee.

(b) Each political issues committee shall report to the lieutenant governor each contribution received by the political issues committee within seven business days after the day on which the contribution is received if the contribution is received within 30 calendar days before the last day on which the sponsors of the initiative or referendum described in Subsection 20A-11-801(3)(h) may submit signatures to qualify the initiative or referendum for the ballot.

(c) For each contribution that a political issues committee fails to report within the period described in Subsection (7)(b), the lieutenant governor shall impose a fine against the political issues committee in an amount equal to:

(i) 10% of the amount of the contribution, if the political issues committee reports the contribution within 60 calendar days after the last day on which the political issues committee should have reported the contribution under Subsection (7)(b); or

(ii) 20% of the amount of the contribution, if the political issues committee fails to report the contribution within 60 calendar days after the last day on which the political issues committee should have reported the contribution under Subsection (7)(b).

(d) The lieutenant governor shall:

(i) deposit money received under Subsection (7)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each political issues committee are available for public access:

(A) each fine imposed by the lieutenant governor against the political issues committee;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

Section 156. Section 20A-11-802 is amended to read:

20A-11-802. Political issues committees -- Financial reporting.

(1) (a) Each registered political issues committee that has received political issues contributions totaling at least $750, or disbursed political issues expenditures totaling at least $750, during a calendar year, shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven calendar days before the state political convention of each major political party;

(iii) seven calendar days before the regular primary election date;

(iv) seven calendar days before the date of an incorporation election, if the political issues committee has received or expended funds to affect an incorporation;

(v) at least three calendar days before the first public hearing held as required by Section 20A-7-204.1;

(vi) if the political issues committee has received or expended funds in relation to an initiative or referendum, five calendar days before the deadline for the initiative or referendum sponsors to submit:

(A) the verified and certified initiative packets under Section 20A-7-105; or

(B) the signed and verified referendum packets under Section 20A-7-105;

(vii) on September 30; and

(viii) seven calendar days before:

(A) the municipal general election; and

(B) the regular general election.

(b) The political issues committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) all contributions and expenditures as of five calendar days before the required filing date of the financial statement, except for a financial statement filed on January 10.

(c) The political issues committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.

(2) (a) That statement shall include:

(i) the name and address, if known, of any individual who makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(ii) the identification of any publicly identified class of individuals that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iii) the name and address, if known, of any political issues committee, group, or entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iv) the name and address of each reporting entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(v) for each nonmonetary contribution, the fair market value of the contribution;

(vi) except as provided in Subsection (2)(c), the name and address of each individual, entity, or group of individuals or entities that received a political issues expenditure of more than $50 from the reporting political issues committee, and the amount of each political issues expenditure;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) the total amount of political issues contributions received and political issues expenditures disbursed by the reporting political issues committee;

(ix) a statement by the political issues committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial statement is accurate; and

(x) a summary page in the form required by the lieutenant governor that identifies:

(A) beginning balance;

(B) total contributions during the period since the last statement;

(C) total contributions to date;

(D) total expenditures during the period since the last statement; and

(E) total expenditures to date.

(b) (i) Political issues contributions received by a political issues committee that have a value of $50 or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more political issues contributions from the same source that have an aggregate total of more than $50 may not be reported in the aggregate, but shall be reported separately.

(c) When reporting political issue expenditures made to circulators of initiative petitions, the political issues committee:

(i) need only report the amount paid to each initiative petition circulator; and

(ii) need not report the name or address of the circulator.

(3) (a) As used in this Subsection (3), "received" means:

(i) for a cash contribution, that the cash is given to a political issues committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political issues committee.

(b) A political issues committee shall report each contribution to the lieutenant governor within 31 calendar days after the contribution is received.

(4) A political issues committee may not expend a contribution for a political issues expenditure if the contribution:

(a) is cash or a negotiable instrument;

(b) exceeds $50; and

(c) is from an unknown source.

(5) Within 31 calendar days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from an unknown source, a political issues committee shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

Section 157. Section 20A-11-803 is amended to read:

20A-11-803. Criminal penalties -- Fines.

(1) (a) As used in this Subsection (1), "completed" means that:

(i) the financial statement accurately and completely details the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(ii) the political issues committee corrects the omissions, errors, or inaccuracies described in Subsection (1)(a) in an amended report or the next scheduled report.

(b) Each political issues committee that fails to file a completed financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(c) Each political issues committee that fails to file a completed financial statement described in Subsection 20A-11-802(1)(a)(vii) or (viii) is guilty of a class B misdemeanor.

(d) The lieutenant governor shall report all violations of Subsection (1)(c) to the attorney general.

(2) Within 60 calendar days after a deadline for the filing of the January 10 statement, the lieutenant governor shall review each filed statement to ensure that:

(a) each political issues committee that is required to file a statement has filed one; and

(b) each statement contains the information required by this part.

(3) If it appears that any political issues committee has failed to file the January 10 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any statement, the lieutenant governor shall, [~~within~~]no later than the first business day that is at least five calendar days after the day on which the lieutenant governor discovers the violation or receives the written complaint, notify the political issues committee of the violation or written complaint and direct the political issues committee to file a statement correcting the problem.

(4) (a) It is unlawful for any political issues committee to fail to file or amend a statement within seven calendar days after the day on which the political issues committee receives notice from the lieutenant governor under this section.

(b) Each political issues committee that violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of $1,000 against a political issues committee that violates Subsection (4)(a).

Section 158. Section 20A-11-1203 is amended to read:

20A-11-1203. Public entity prohibited from expending public funds on certain electoral matters.

(1) Unless specifically required by law, and except as provided in Subsection (5) or Section 20A-11-1206, a public entity may not:

(a) make an expenditure from public funds for political purposes, to influence a ballot proposition, or to influence a proposed initiative or proposed referendum; or

(b) publish on the public entity's website an argument for or against a ballot proposition, a proposed initiative, or a proposed referendum.

(2) A violation of this section does not invalidate an otherwise valid election.

(3) This section does not prohibit the reasonable expenditure of public funds to gather information for, and respond directly to, an individual who makes an inquiry regarding a ballot proposition, a proposed initiative, or a proposed referendum.

(4) This section does not prohibit:

(a) a public entity from conducting research, or collecting and compiling information or arguments in relation to, a ballot proposition, a proposed initiative, or a proposed referendum;

(b) an elected or appointed official of the public entity described in Subsection (4)(a) from using the research, information, or arguments described in Subsection (4)(a) for the purpose of advocating for or against a ballot proposition, proposed initiative, or proposed referendum via a website, or another medium, not owned or controlled by the public entity;

(c) a public entity from posting on the public entity's website a link to another website, with a brief description, that is not owned or controlled by a public entity, or from publishing in any medium owned, controlled, or paid for by a public entity a website address, with a brief description, where an individual may view research, information, and arguments for or against a ballot proposition, proposed initiative, or proposed referendum if the public entity:

(i) before posting the link or publishing the address, provides at least seven calendar days written notice to the sponsors of the ballot proposition, proposed initiative, or proposed referendum:

(A) of the public entity's intent to post the link or publish the address;

(B) a description of each medium in which the public entity intends to post the link or publish the address; and

(C) the dates of the publication or posting; and

(ii) posts, immediately adjacent to the link or address, and brief description described in Subsection (4)(c)(i), a link to, or an address for, a website, with a brief description, containing the sponsors' research, information, and arguments for or against the ballot proposition, proposed initiative, or proposed referendum, if the sponsors provide a link or address within seven calendar days after the day on which the sponsors receive the notice described in Subsection (4)(c)(i); or

(d) a public entity from posting on the public entity's website, or any medium, a complete copy of a proposition information pamphlet described in Section 20A-7-401.5 or a voter information pamphlet.

(5) Subsection (1) does not prohibit a public entity from taking an action under Title 53G, Chapter 3, Part 3, Creating a New School District, that is necessary for the public entity to seek the creation of a new school district.

Section 159. Section 20A-11-1301 is amended to read:

20A-11-1301. School board office -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) (i) Each school board office candidate shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board office candidate may:

(A) receive a contribution from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A school board office candidate may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(c) (i) Each school board officeholder shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board officeholder may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(d) A school board officeholder may not use money deposited in an account described in Subsection (1)(a)(i) or (1)(c)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) (a) A school board office candidate may not deposit or mingle any contributions received into a personal or business account.

(b) A school board officeholder may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) A school board office candidate or school board officeholder may not make any political expenditures prohibited by law.

(4) If a person who is no longer a school board office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with the lieutenant governor.

(5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who is no longer a school board office candidate

may not expend or transfer the money in a campaign account in a manner that would cause the former school board office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a school board office candidate may transfer the money in a campaign account in a manner that would cause the former school board office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(6) (a) As used in this Subsection (6), "received" means the same as that term is defined in Subsection 20A-11-1303(1)(a).

(b) Except as provided in Subsection (6)(d), each school board office candidate shall report to the chief election officer each contribution received by the school board office candidate:

(i) except as provided in Subsection (6)(b)(ii), within 31 calendar days after the day on which the contribution is received; or

(ii) within seven business days after the day on which the contribution is received, if:

(A) the school board office candidate is contested in a convention and the contribution is received within 30 calendar days before the day on which the convention is held;

(B) the school board office candidate is contested in a primary election and the contribution is received within 30 calendar days before the day on which the primary election is held; or

(C) the school board office candidate is contested in a general election and the contribution is received within 30 calendar days before the day on which the general election is held.

(c) For each contribution that a school board office candidate fails to report within the time period described in Subsection (6)(b), the chief election officer shall impose a fine against the school board office candidate in an amount equal to:

(i) 10% of the amount of the contribution, if the school board office candidate reports the contribution within 60 calendar days after the day on which the time period described in Subsection (6)(b) ends; or

(ii) 20% of the amount of the contribution, if the school board office candidate fails to report the contribution within 60 calendar days after the day on which the time period described in Subsection (6)(b) ends.

(d) The lieutenant governor may waive the fine described in Subsection (6)(c) and issue a warning to the school board office candidate if:

(i) the contribution that the school board office candidate fails to report is paid by the school board office candidate from the school board office candidate's personal funds;

(ii) the school board office candidate has not previously violated Subsection (6)(c) in relation to a contribution paid by the school board office candidate from the school board office candidate's personal funds; and

(iii) the lieutenant governor determines that the failure to timely report the contribution is due to the school board office candidate not understanding that the reporting requirement includes a contribution paid by a school board office candidate from the school board office candidate's personal funds.

(e) The chief election officer shall:

(i) deposit money received under Subsection (6)(c) into the General Fund; and

(ii) report on the chief election officer's website, in the location where reports relating to each school board office candidate are available for public access:

(A) each fine imposed by the chief election officer against the school board office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(7) Within 31 calendar days after [~~receiving~~]the day on which a school board office candidate receives a contribution that is cash or a negotiable instrument, exceeds $50, and is from an unknown source, [~~a~~]the school board office candidate shall disburse the contribution to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(8) (a) As used in this Subsection (8), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a school board office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a school board office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A school board office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 160. Section 20A-11-1303 is amended to read:

20A-11-1303. School board office candidate and school board officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this section, "received" means:

(i) for a cash contribution, that the cash is given to a school board office candidate or a member of the school board office candidate's personal campaign committee;

(ii) for a contribution that is a check or other negotiable instrument, that the check or other negotiable instrument is negotiated;

(iii) for a direct deposit made into a campaign account by a person not associated with the campaign, the earlier of:

(A) the day on which the school board office candidate or a member of the school board office candidate's personal campaign committee becomes aware of the deposit and the source of the deposit;

(B) the day on which the school board office candidate or a member of the school board office candidate's personal campaign committee receives notice of the deposit and the source of the deposit by mail, email, text, or similar means; or

(C) 31 calendar days after the day on which the direct deposit occurs; or

(iv) for any other type of contribution, that any portion of the contribution's benefit inures to the school board office candidate.

(b) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-1301(1)(a)(i) or (c)(i).

(c) Each school board office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(i) May 15;

(ii) seven calendar days before the regular primary election date;

(iii) September 30; and

(iv) seven calendar days before the regular general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of:

(i) for a school board office candidate, each contribution received since the last summary report that has not been reported in detail on a prior interim report; or

(ii) for a school board officeholder, each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the school board office candidate or school board officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(3) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five calendar days before the required filing date of the report.

(b) Any negotiable instrument or check received by a school board office candidate or school board officeholder more than five calendar days before the required filing date of a report required by this section shall be included in the interim report.

Section 161. Section 20A-11-1305 is amended to read:

20A-11-1305. School board office candidate -- Failure to file statement -- Penalties.

(1) A school board office candidate who fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv), the lieutenant governor may send an electronic notice to the school board office candidate and the political party of which the school board office candidate is a member, if any, that states:

(a) that the school board office candidate failed to timely file the report; and

(b) that, if the school board office candidate fails to file the report within 24 hours after the deadline for filing the report, the school board office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a school board office candidate and inform the county clerk and other appropriate election officials that the school board office candidate is disqualified if the school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv) within 24 hours after the deadline for filing the report.

(b) The political party of a school board office candidate who is disqualified under Subsection (3)(a) may not replace the school board office candidate.

(4) If a school board office candidate is disqualified under Subsection (3)(a), the election officer shall:

(a) notify every opposing candidate for the school board office that the school board office candidate is disqualified;

(b) send an email notification to each voter who is eligible to vote in the school board office race for whom the election officer has an email address informing the voter that the school board office candidate is disqualified and that votes cast for the school board office candidate will not be counted;

(c) post notice of the disqualification on the election officer's website; and

(d) if practicable, remove the school board office candidate's name from the ballot.

(5) An election officer may fulfill the requirement described in Subsection (4) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to the election officer's website to inform the voter whether

a candidate on the ballot is disqualified.

(6) A school board office candidate is not disqualified if:

(a) the school board office candidate files the reports described in Subsections 20A-11-1303(1)(c)(i) through (iv) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection (6)(b) are corrected in an amended report or the next scheduled report.

(7) (a) Within 60 calendar days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each school board office candidate who is required to file a summary report has filed the report; and

(ii) each summary report contains the information required by this part.

(b) If it appears that a school board office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, [~~within five days of discovery of a~~]the first business day that is at least five calendar days after the day on which the lieutenant governor discovers the violation or [~~receipt of a~~]receives the written complaint, notify the school board office candidate of the violation or written complaint and direct the school board office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a school board office candidate to fail to file or amend a summary report within seven calendar days after receiving the notice described in Subsection (7)(b) from the lieutenant governor.

(ii) Each school board office candidate who violates Subsection (7)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (7)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (7)(c)(ii), the lieutenant governor shall impose a civil fine of $100 against a school board office candidate who violates Subsection (7)(c)(i).

Section 162. Section 20A-11-1406 is amended to read:

20A-11-1406. Enforcement of part -- Attorney general.

(1) Subject to the requirements of Subsections (2) and (3), the attorney general may bring an action to require the labor organization to comply with the requirements of this part.

(2) Before bringing an action under Subsection (1), the attorney general shall:

(a) notify the labor organization in writing of the precise nature of the violation of this part; and

(b) give the labor organization 10 calendar days to cease and desist the violation of this part.

(3) The attorney general may not bring an action under Subsection (1) if the labor organization:

(a) ceases and desists from violating this part within 10 calendar days; and

(b) provides the attorney general with written confirmation that the labor organization has ceased from engaging in the conduct the attorney general determined to be a violation of this part.

Section 163. Section 20A-11-1502 is amended to read:

20A-11-1502. Campaign financial reporting of expenditures -- Filing requirements -- Statement contents.

(1) (a) Each labor organization that has made expenditures for political purposes or political issues expenditures on current or proposed ballot issues that total at least $750 during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting expenditures as of December 31 of the previous year;

(ii) seven calendar days before the regular primary election date;

(iii) on September 30; and

(iv) seven calendar days before the regular general election date.

(b) The labor organization shall report:

(i) a detailed listing of all expenditures made since the last statement; and

(ii) for a financial statement described in Subsections (1)(a)(ii) through (iv), all expenditures as of five calendar days before the required filing date of the financial statement.

(c) The labor organization is not required to file a financial statement under this section if the labor organization:

(i) made no expenditures during the reporting period; or

(ii) reports the labor organization's expenditures during the reporting period under another part of this chapter.

(2) The financial statement shall include:

(a) the name and address of each reporting entity that received an expenditure or political issues expenditure of more than $50 from the labor organization, and the amount of each expenditure or political issues expenditure;

(b) the total amount of expenditures disbursed by the labor organization; and

(c) a statement by the labor organization's treasurer or chief financial officer certifying the accuracy of the financial statement.

Section 164. Section 20A-11-1503 is amended to read:

20A-11-1503. Criminal penalties -- Fines.

(1) Within 60 calendar days after a deadline for the filing of a financial statement required by this part, the lieutenant governor shall review each filed financial statement to ensure that:

(a) each labor organization that is required to file a financial statement has filed one; and

(b) each financial statement contains the information required by this part.

(2) If it appears that any labor organization has failed to file a financial statement, if it appears that a filed financial statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of a financial statement, the lieutenant governor shall:

(a) impose a fine against the labor organization in accordance with Section 20A-11-1005; and

(b) [~~within five days of discovery of a~~]no later than the first business day that is at least five calendar days after the day on which the lieutenant governor discovers the violation or [~~receipt of a~~]receives the written complaint, notify the labor organization of the violation or written complaint and direct the labor organization to file a financial statement correcting the problem.

(3) (a) It is unlawful for any labor organization to fail to file or amend a financial statement within seven calendar days after receiving notice from the lieutenant governor under this section.

(b) Each labor organization that violates Subsection (3)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (3)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (3)(b), the lieutenant governor shall impose a civil fine of $1,000 against a labor organization that violates Subsection (3)(a).

Section 165. Section 20A-11-1604 is amended to read:

20A-11-1604. Failure to disclose conflict of interest -- Failure to comply with reporting requirements.

(1) (a) Before or during the execution of any order, settlement, declaration, contract, or any other official act of office in which a state constitutional officer has actual knowledge that the state constitutional officer has a conflict of interest that is not stated in the conflict of interest disclosure, the state constitutional officer shall publicly declare that the state constitutional officer may have a conflict of interest and what that conflict of interest is.

(b) Before or during any vote on legislation or any legislative matter in which a legislator has actual knowledge that the legislator has a conflict of interest that is not stated in the conflict of interest disclosure, the legislator shall orally declare to the committee or body before which the matter is pending that the legislator may have a conflict of interest and what that conflict is.

(c) Before or during any vote on any rule, resolution, order, or any other board matter in which a member of the State Board of Education has actual knowledge that the member has a conflict of interest that is not stated in the conflict of interest disclosure, the member shall orally declare to the board that the member may have a conflict of interest and what that conflict of interest is.

(2) Any public declaration of a conflict of interest that is made under Subsection (1) shall be noted:

(a) on the official record of the action taken, for a state constitutional officer;

(b) in the minutes of the committee meeting or in the Senate or House Journal, as applicable, for a legislator; or

(c) in the minutes of the meeting or on the official record of the action taken, for a member of the State Board of Education.

(3) A state constitutional officer shall make a complete conflict of interest disclosure on the website:

(a) (i) no sooner than January 1 each year, and before January 11 each year; or

(ii) if the state constitutional officer takes office after January 10, within 10 calendar days after the day on which the state constitutional officer takes office; and

(b) each time the state constitutional officer changes employment.

(4) A legislator shall make a complete conflict of interest disclosure on the website:

(a) (i) no sooner than January 1 each year, and before January 11 each year; or

(ii) if the legislator takes office after January 10, within 10 calendar days after the day on which the legislator takes office; and

(b) each time the legislator changes employment.

(5) A member of the State Board of Education shall make a complete conflict of interest disclosure on the website:

(a) (i) no sooner than January 1 each year, and before January 11 each year; or

(ii) if the member takes office after January 10, within 10 calendar days after the day on which the member takes office; and

(b) each time the member changes employment.

(6) A conflict of interest disclosure described in Subsection (3), (4), or (5) shall include:

(a) the regulated officeholder's name;

(b) the name and address of each of the regulated officeholder's current employers and each of the regulated officeholder's employers during the preceding year;

(c) for each employer described in Subsection (6)(b), a brief description of the employment, including the regulated officeholder's occupation and, as applicable, job title;

(d) for each entity in which the regulated officeholder is an owner or officer, or was an owner or officer during the preceding year:

(i) the name of the entity;

(ii) a brief description of the type of business or activity conducted by the entity; and

(iii) the regulated officeholder's position in the entity;

(e) in accordance with Subsection (7), for each individual from whom, or entity from which, the regulated officeholder has received $5,000 or more in income during the preceding year:

(i) the name of the individual or entity; and

(ii) a brief description of the type of business or activity conducted by the individual or entity;

(f) for each entity in which the regulated officeholder holds any stocks or bonds having a fair market value of $5,000 or more as of the date of the disclosure form or during the preceding year, but excluding funds that are managed by a third party, including blind trusts, managed investment accounts, and mutual funds:

(i) the name of the entity; and

(ii) a brief description of the type of business or activity conducted by the entity;

(g) for each entity not listed in Subsections (6)(d) through (f) in which the regulated officeholder currently serves, or served in the preceding year, in a paid leadership capacity or in a paid or unpaid position on a board of directors:

(i) the name of the entity or organization;

(ii) a brief description of the type of business or activity conducted by the entity; and

(iii) the type of position held by the regulated officeholder;

(h) at the option of the regulated officeholder, a description of any real property in which the regulated officeholder holds an ownership or other financial interest that the regulated officeholder believes may constitute a conflict of interest, including a description of the type of interest held by the regulated officeholder in the property;

(i) the name of the regulated officeholder's spouse and any other adult residing in the regulated officeholder's household who is not related by blood or marriage, as applicable;

(j) for the regulated officeholder's spouse, the information that a regulated officeholder is required to provide under Subsection (6)(b);

(k) a brief description of the employment and occupation of each adult who:

(i) resides in the regulated officeholder's household; and

(ii) is not related to the regulated officeholder by blood or marriage;

(l) at the option of the regulated officeholder, a description of any other matter or interest that the regulated officeholder believes may constitute a conflict of interest;

(m) the date the form was completed;

(n) a statement that the regulated officeholder believes that the form is true and accurate to the best of the regulated officeholder's knowledge; and

(o) the signature of the regulated officeholder.

(7) In making the disclosure described in Subsection (6)(e), a regulated officeholder who provides goods or services to multiple customers or clients as part of a business or a licensed profession is only required to provide the information described in Subsection (6)(e) in relation to the entity or practice through which the regulated officeholder provides the goods or services and is not required to provide the information described in Subsection (6)(e) in relation to the regulated officeholder's individual customers or clients.

(8) The disclosure requirements described in this section do not prohibit a regulated officeholder from voting or acting on any matter.

(9) A regulated officeholder may amend a conflict of interest disclosure described in this part at any time.

(10) A regulated officeholder who violates the requirements of Subsection (1) is guilty of a class B misdemeanor.

(11) (a) A regulated officeholder who intentionally or knowingly violates a provision of this section, other than Subsection (1), is guilty of a class B misdemeanor.

(b) In addition to the criminal penalty described in Subsection (11)(a), the lieutenant governor shall impose a civil penalty of $100 against a regulated officeholder who violates a provision of this section, other than Subsection (1).

Section 166. Section 20A-11-1605 is amended to read:

20A-11-1605. Failure to file -- Penalties.

(1) Within 60 calendar days after the day on which a regulated officeholder is required to file a conflict of interest disclosure under Subsection 20A-11-1604(3), (4) or (5), the lieutenant governor shall review each filed conflict of interest disclosure to ensure that:

(a) each regulated officeholder who is required to file a conflict of interest disclosure has filed one; and

(b) each conflict of interest disclosure contains the information required under Section 20A-11-1604.

(2) The lieutenant governor shall take the action described in Subsection (3) if:

(a) a regulated officeholder has failed to timely file a conflict of interest disclosure;

(b) a filed conflict of interest disclosure does not comply with the requirements of Section 20A-11-1604; or

(c) the lieutenant governor receives a written complaint alleging a violation of Section 20A-11-1604, other than Subsection 20A-11-1604(1), and after receiving the complaint and giving the regulated officeholder notice and an opportunity to be heard, the lieutenant governor determines that a violation occurred.

(3) If a circumstance described in Subsection (2) occurs, the lieutenant governor shall, [~~within~~]no later than the first business day that is at least five calendar days after the day on which the lieutenant governor determines that a violation occurred, notify the regulated officeholder of the violation and direct the regulated officeholder to file an amended report correcting the problem.

(4) (a) It is unlawful for a regulated officeholder to fail to file or amend a conflict of interest disclosure within seven calendar days after the day on which the regulated officeholder receives the notice described in Subsection (3).

(b) A regulated officeholder who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of $100 against a regulated officeholder who violates Subsection (4)(a).

(5) The lieutenant governor shall deposit a fine collected under this part into the General Fund as a dedicated credit to pay for the costs of administering the provisions of this part.

Section 167. Section 20A-11-1702 is amended to read:

20A-11-1702. Definitions.

As used in this part:

(1) "Clearly identified" means:

(a) the name of the candidate appears;

(b) a photograph or drawing of the candidate appears; or

(c) the identity of the candidate or ballot proposition is apparent by unambiguous reference.

(2) (a) "Independent expenditure" means an expenditure by a person expressly advocating the success or defeat of a clearly identified candidate or ballot proposition if the expenditure is not made in coordination with, or at the request or suggestion of:

(i) a candidate;

(ii) a candidate's personal campaign committee;

(iii) a member of a candidate's personal campaign committee;

(iv) a political action committee for which the candidate is an officer with primary decision making authority;

(v) an agent of a candidate; or

(vi) a political issues committee.

(b) "Independent expenditure" includes:

(i) the cost of creating and disseminating material for a public communication, including design and production costs; and

(ii) a contract or other promise to make an expenditure described in Subsection (2)(a)or (2)(b)(i).

(3) (a) "Public communication" means a communication by:

(i) broadcast, cable, satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank; or

(ii) another medium used for political advertising to the general public.

(b) "Public communication" does not include:

(i) a news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, satellite television or radio provider, website, newspaper, magazine, or other periodical publication, that is not controlled by a candidate or political party; or

(ii) a candidate debate or forum.

(4) "Telephone bank" means 500 or more identical or substantially similar telephone calls within any [~~30-day~~]30-calendar-day period.

Section 168. Section 20A-11-1704 is amended to read:

20A-11-1704. Independent expenditure report.

(1) Except as provided in Section 20A-11-1703, within 31 calendar days after the day on which a person has made a total of at least $1,000 in independent expenditures during an election cycle, the person shall file an independent expenditure report with the chief election officer.

(2) Except as provided in Section 20A-11-1703, within 31 calendar days after the day on which a person has made a total of at least $1,000 in independent expenditures during an election cycle that were not reported in an independent expenditure report already filed with the chief election officer during the same election cycle, the person shall file another independent expenditure report with the chief election officer.

(3) An independent expenditure report shall include the following information:

(a) if the person who made the independent expenditures is an individual, the person's name, address, and phone number;

(b) if the person who made the independent expenditures is not an individual:

(i) the person's name, address, and phone number; and

(ii) the name, address, and phone number of an individual who may be contacted by the chief election officer in relation to the independent expenditure report; and

(c) for each independent expenditure made by the person during the current election cycle that was not reported in a previous independent expenditure report:

(i) the date of the independent expenditure;

(ii) the amount of the independent expenditure;

(iii) the candidate or ballot proposition for which the independent expenditure expressly advocates the success or defeat and a description of whether the independent expenditure supports or opposes the candidate or ballot proposition;

(iv) the identity, address, and phone number of the person to whom the independent expenditure was made;

(v) a description of the goods or services obtained by the independent expenditure; and

(vi) for each person who, for political purposes, made cumulative donations of $1,000 or more during the current election cycle to the filer of the independent expenditure report:

(A) the identity, address, and phone number of the person;

(B) the date of the donation; and

(C) the amount of the donation.

(4) (a) If the person filing an independent expenditure report is an individual, the person shall sign the independent expenditure report and certify that the information contained in the report is complete and accurate.

(b) If the person filing an independent expenditure report is not an individual:

(i) the person filing the independent expenditure report shall designate an authorized individual to sign the independent expenditure report on behalf of the person; and

(ii) the individual designated under Subsection (4)(b)(i) shall sign the independent expenditure report and certify that the information contained in the report is complete and accurate.

(5) If a person who files an independent expenditure report previously filed an independent expenditure report during, or in relation to, the same election cycle that includes information, described in Subsection (3)(a) or (b), that has changed since the person filed the previous independent expenditure report, the person shall include in the most recent independent expenditure report a description of the information that has changed that includes both the old information and the new information.

(6) An independent expenditure report is a public record under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 169. Section 20A-12-303 is amended to read:

20A-12-303. Separate account for campaign funds -- Reporting contributions.

(1) The judge or the judge's personal campaign committee shall deposit each contribution in one or more separate personal campaign accounts in a financial institution.

(2) The judge or the judge's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) (a) As used in this Subsection (3) and Section 20A-12-305, "received" means:

(i) for a cash contribution, that the cash is given to a judge or the judge's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the judge.

(b) The judge or the judge's personal campaign committee shall report to the lieutenant governor each contribution received by the judge, within 31 calendar days after the day on which the contribution is received.

(c) For each contribution that a judge fails to report within the time period described in Subsection (3)(b), the lieutenant governor shall impose a fine against the judge in an amount equal to:

(i) 10% of the amount of the contribution if the judge reports the contribution within 60 calendar days after the day on which the time period described in Subsection (3)(b) ends; or

(ii) 20% of the amount of the contribution, if the judge fails to report the contribution within 60 calendar days after the day on which the time period described in Subsection (3)(b) ends.

(d) The lieutenant governor shall:

(i) deposit money received under Subsection (3)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each judge are available for public access:

(A) each fine imposed by the lieutenant governor against the judge;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(4) Within 31 calendar days after [~~receiving~~]the day on which a judge receives a contribution that is cash or a negotiable instrument, exceeds $50, and is from an unknown source, [~~a~~]the judge [~~or the judge's personal campaign committee~~]shall disburse the amount of the contribution to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

Section 170. Section 20A-12-305 is amended to read:

20A-12-305. Judicial retention election candidates -- Financial reporting requirements -- Interim report.

(1) The judge's personal campaign committee shall file an interim report with the lieutenant governor [~~on the date seven~~]seven calendar days before the regular general election date.

(2) Each interim report shall include the following information:

(a) a detailed listing of each contribution received since the last financial statement;

(b) for each nonmonetary contribution, the fair market value of the contribution;

(c) a detailed listing of each expenditure made since the last summary report;

(d) for each nonmonetary expenditure, the fair market value of the expenditure; and

(e) a net balance for the year consisting of all contributions since the last summary report minus all expenditures since the last summary report.

(3) (a) For all individual contributions of $50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than $50 may not be reported in the aggregate, but shall be reported separately.

(4) In preparing each interim report, all contributions and expenditures shall be reported as of five calendar days before the required filing date of the report.

(5) A negotiable instrument or check received by a judge or the judge's personal campaign committee more than five calendar days before the required filing date of a report required by this section shall be included in the interim report.

Section 171. Section 20A-12-306 is amended to read:

20A-12-306. Judges -- Failure to file reports -- Penalties.

(1) (a) If a judge's personal campaign committee fails to file the interim report due before the regular general election, the lieutenant governor shall, after making a reasonable attempt to discover if the report was timely filed:

(i) inform the county clerk and other appropriate election officials who:

(A) (I) shall, if practicable, remove the name of the judge from the ballots before the ballots are delivered to voters; or

(II) shall, if removing the judge's name from the ballot is not practicable, inform the voters by any practicable method that the judge has been disqualified and that votes cast for the judge will not be counted; and

(B) may not count any votes for that judge; and

(ii) impose a fine against the filing entity in accordance with Section 20A-11-1005.

(b) Any judge who fails to file timely a financial statement required by this part is disqualified.

(c) Notwithstanding Subsections (1)(a) and (1)(b), a judge is not disqualified and the lieutenant governor may not impose a fine if:

(i) the candidate timely files the reports required by this section in accordance with Section 20A-11-103;

(ii) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(iii) the omissions, errors, or inaccuracies described in Subsection (1)(c)(ii) are corrected in an amended report or in the next scheduled report.

(2) (a) Within 30 calendar days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each judge that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any judge has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, [~~within five days of discovery of a violation or receipt of a~~]no later than the first business day that is at least five calendar days after the day on which the lieutenant governor discovers the violation or receives the written complaint, notify the judge of the violation or written complaint and direct the judge to file a summary report correcting the problem.

(c) (i) It is unlawful for [~~any~~]a judge to fail to file or amend a summary report within 14 calendar days after [~~receiving~~]the day on which the judge receives notice from the lieutenant governor under this section.

(ii) Each judge who violates Subsection (2)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the attorney general.

Section 172. Section 20A-13-102.2 is amended to read:

20A-13-102.2. County clerk, Utah Geospatial Resource Center, and lieutenant governor responsibilities -- Maps and voting precinct boundaries.

(1) As used in this section[~~, "redistricting~~]:

(a) "Geospatial center" means the Utah Geospatial Resource Center.

(b) "Redistricting boundary data" means the Congressional shapefile in the possession of the lieutenant governor's office.

(2) Each county clerk shall obtain a copy of the redistricting boundary data for the clerk's county from the lieutenant governor's office.

(3) (a) A county clerk may create one or more county maps that identify the boundaries of Utah's Congressional districts as generated from the redistricting boundary data.

(b) Before publishing or distributing any map or data created by the county clerk that identifies the boundaries of Utah's Congressional districts within the county, the county clerk shall submit the county map and data to the lieutenant governor and to the [~~Utah Geospatial Resource Center~~]geospatial center for review.

(c) Within 30 [~~days after receipt of~~]calendar days after the day on which the geospatial center receives a county map and data from a county clerk, the [~~Utah Geospatial Resource Center~~]geospatial center shall:

(i) review the county map and data to evaluate if the county map and data accurately reflect the boundaries of Utah's Congressional districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the county map and data are correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the county map and data are correct or notify the county clerk that the county map and data are incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the county map and data submitted are incorrect, the county clerk shall:

(i) make the corrections necessary to conform the county map and data to the redistricting boundary data; and

(ii) resubmit the corrected county map and data to the lieutenant governor and to the [~~Utah Geospatial Resource Center~~]geospatial center for a new review under this Subsection (3).

(4) (a) Subject to the requirements of this Subsection (4), each county clerk shall establish voting precincts and polling places within each Utah Congressional district according to the procedures and requirements of Section 20A-5-303.

(b) Within five [~~working~~]business days after approval of voting precincts and polling places by the county legislative body as required by Section 20A-5-303, each county clerk shall submit a voting precinct map identifying the boundaries of each voting precinct within the county to the lieutenant governor and to the [~~Utah Geospatial Resource Center~~]geospatial center for review.

(c) Within 30 [~~days after receipt of~~]calendar days after the day on which the geospatial center receives a map from a county clerk, the [~~Utah Geospatial Resource Center~~]geospatial center shall:

(i) review the voting precinct map to evaluate if the voting precinct map accurately reflects the boundaries of Utah's Congressional districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the voting precinct map is correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the voting precinct map is correct or notify the county clerk that the map is incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the voting precinct map is incorrect, the county clerk shall:

(i) make the corrections necessary to conform the voting precinct map to the redistricting boundary data; and

(ii) resubmit the corrected voting precinct map to the lieutenant governor and to the [~~Utah Geospatial Resource Center~~]geospatial center for a new review under this Subsection (4).

Section 173. Section 20A-13-104 is amended to read:

20A-13-104. Uncertain boundaries -- How resolved.

(1) As used in this section, "affected party" means:

(a) a representative whose Congressional district boundary is uncertain because the boundary in the Congressional shapefile used to establish the district boundary has been removed, modified, or is unable to be identified or who is uncertain about whether the representative or another individual resides in a particular Congressional district;

(b) a candidate for Congressional representative whose Congressional district boundary is uncertain because the boundary in the Congressional shapefile used to establish the district boundary has been removed, modified, or is unable to be identified or who is uncertain about whether the candidate or another individual resides in a particular Congressional district; or

(c) an individual who is uncertain about which Congressional district contains the individual's residence because the boundary in the Congressional shapefile used to establish the district boundary has been removed, modified, or is unable to be identified.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the Congressional district boundary;

(ii) the number of the Congressional district in which an individual resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review:

(i) the Congressional block equivalency file and the resulting Congressional shapefile; and

(ii) any other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days [~~of receipt of~~]after the day on which the lieutenant governor receives the request, the lieutenant governor shall:

(i) complete the review described in Subsection (2)(b); and

(ii) make a determination.

(d) When the lieutenant governor determines the location of the Congressional district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the Utah Geospatial Resource Center created under Section 63A-16-505.

(e) If the lieutenant governor determines the number of the Congressional district in which a particular individual resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the individual;

(ii) the affected party who filed the petition, if different than the individual whose Congressional district number was identified; and

(iii) the county clerk of the affected county.

Section 174. Section 20A-13-301 is amended to read:

20A-13-301. Presidential elections -- Effect of vote.

(1) (a) Each registered political party shall choose individuals to act as presidential electors and to fill vacancies in the office of presidential electors for their party's candidates for president and vice president of the United States according to the procedures established in their bylaws.

(b) Each registered political party shall certify to the lieutenant governor the names and addresses of the individuals selected by the political party as the party's presidential electors before 5 p.m. no later than August 31.

(c) An unaffiliated candidate or write-in candidate for the office of president of the United States shall, no later than 5 p.m. [~~ten~~]on the first business day that is at least 10 calendar days after the day on which the candidate files a declaration of candidacy, certify to the lieutenant governor the names and addresses of each individual selected by the candidate as a presidential elector for the candidate and each individual selected by the candidate to fill a vacancy in the office of presidential elector for the candidate.

(2) The highest number of votes cast for candidates for president and vice president of the United States elects the presidential electors for:

(a) except as provided in Subsection (2)(b), the political party of those candidates; or

(b) if the candidates receiving the highest number of votes are unaffiliated candidates or write-in candidates, the presidential electors selected for those candidates under Subsection (1)(c).

Section 175. Section 20A-14-102.2 is amended to read:

20A-14-102.2. Uncertain boundaries -- How resolved.

(1) As used in this section:

(a) "Affected party" means:

(i) a state school board member whose State Board of Education district boundary is uncertain because the feature used to establish the district boundary in the Board shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether the member or another individual resides in a particular State Board of Education district;

(ii) a candidate for state school board whose State Board of Education district boundary is uncertain because the feature used to establish the district boundary in the Board shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether the candidate or another individual resides in a particular State Board of Education district; or

(iii) an individual who is uncertain about which State Board of Education district contains the individual's residence because the feature used to establish the district boundary in the Board shapefile has been removed, modified, or is unable to be identified.

(b) "Feature" means a geographic or other tangible or intangible mark such as a road or political subdivision boundary that is used to establish a State Board of Education district boundary.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the State Board of Education district boundary;

(ii) the number of the State Board of Education district in which an individual resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review:

(i) the Board block equivalency file and the resulting Board shapefile; and

(ii) any other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) [~~Within five days of receipt of~~]No later than the first business day that is at least five calendar days after the day on which the lieutenant governor receives the request, the lieutenant governor shall:

(i) complete the review described in Subsection (2)(b); and

(ii) make a determination.

(d) If the lieutenant governor determines the precise location of the State Board of Education district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate State Board of Education district boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the Utah Geospatial Resource Center created under Section 63A-16-505.

(e) If the lieutenant governor determines the number of the State Board of Education district in which a particular individual resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the individual;

(ii) the affected party who filed the petition, if different than the individual whose State Board of Education district number was

identified; and

(iii) the county clerk of the affected county.

Section 176. Section 20A-14-102.3 is amended to read:

20A-14-102.3. County clerk, Utah Geospatial Resource Center, and lieutenant governor responsibilities -- Maps and voting precinct boundaries.

(1) As used in this section[~~, "redistricting~~]:

(a) "Geospatial center" means the Utah Geospatial Resource Center.

(b) "Redistricting boundary data" means the Board shapefile in the possession of the lieutenant governor's office.

(2) Each county clerk shall obtain a copy of the redistricting boundary data for the clerk's county from the lieutenant governor's office.

(3) (a) A county clerk may create one or more county maps that identify the boundaries of State Board of Education districts as generated from the redistricting boundary data.

(b) Before publishing or distributing any map or data created by the county clerk that identifies the boundaries of State Board of Education districts within the county, the clerk shall submit the county map and data to the lieutenant governor and to the [~~Utah Geospatial Resource Center~~]geospatial center for review.

(c) Within 30 [~~days after receipt of~~]calendar days after the day on which the geospatial center receives a county map and data from a county clerk, the [~~Utah Geospatial Resource Center~~]geospatial center shall:

(i) review the county map and data to evaluate if the county map and data accurately reflect the boundaries of State Board of Education districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the county map and data are correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the county map and data are correct or inform the county clerk that the county map and data are incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the county map and data submitted are incorrect, the county clerk shall:

(i) make the corrections necessary to conform the county map and data to the redistricting boundary data; and

(ii) resubmit the corrected county map and data to the lieutenant governor for a new review under this Subsection (3).

(4) (a) Subject to the requirements of this Subsection (4), each county clerk shall establish voting precincts and polling places within each State Board of Education district according to the procedures and requirements of Section 20A-5-303.

(b) Within five [~~working days after approval of voting precincts and polling places by~~]business days after the day on which the county legislative body [~~as required by~~]approves the voting precincts under Section 20A-5-303, each county clerk shall submit a voting precinct map identifying the boundaries of each voting precinct within the county to the lieutenant governor and to the [~~Utah Geospatial Resource Center~~]geospatial center for review.

(c) Within 30 [~~days after receipt of~~]calendar days after the day on which the geospatial center receives a voting precinct map from a county clerk, the [~~Utah Geospatial Resource Center~~]geospatial center shall:

(i) review the voting precinct map to evaluate if the voting precinct map accurately reflects the boundaries of State Board of Education districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the voting precinct map is correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the voting precinct map is correct or notify the county clerk that the voting precinct map is incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the voting precinct map is incorrect, the county clerk shall:

(i) make the corrections necessary to conform the voting precinct map to the redistricting boundary data; and

(ii) resubmit the corrected voting precinct map to the lieutenant governor and to the [~~Utah Geospatial Resource Center~~]geospatial center for a new review under this Subsection (4).

Section 177. Section 20A-14-201 is amended to read:

20A-14-201. Boards of education -- School board districts -- Creation -- Redistricting.

(1) The county legislative body, for local school districts whose boundaries encompass more than a single municipality, and the municipal legislative body, for local school districts contained completely within a municipality, shall divide the local school district into local school board districts as required under Subsection 20A-14-202(1).

(2) The county and municipal legislative bodies shall divide the school district so that the local school board districts are substantially equal in population and are as contiguous and compact as practicable.

(3) County and municipal legislative bodies shall redistrict local school board districts to meet the population, compactness, and contiguity requirements of this section:

(a) at least once every 10 years;

(b) for a new school district or a reorganized new school district that is approved by the voters at a regular general election under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4, before April 1 of the following year;

(c) whenever school districts are consolidated;

(d) whenever a school district loses more than 20% of the population of the entire school district to another school district;

(e) whenever a school district loses more than 50% of the population of a local school board district to another school district;

(f) whenever a school district receives new residents equal to at least 20% of the population of the school district at the time of the last redistricting because of a transfer of territory from another school district; and

(g) whenever it is necessary to increase the membership of a board as a result of changes in student membership under Section 20A-14-202.

(4) If a school district receives territory containing less than 20% of the population of the transferee district at the time of the last redistricting, the local school board may assign the new territory to one or more existing school board districts.

(5) Except as provided in Subsection 53G-3-302(1)(b)(ii), redistricting does not affect the right of any school board member to complete the term for which the member was elected.

(6) (a) After redistricting, representation in a local school board district shall be determined as provided in this Subsection (6).

(b) If, after redistricting, only one board member whose term extends beyond redistricting lives within a local school board district, that board member shall represent that local school board district.

(c) If, after redistricting, two or more members whose terms extend beyond redistricting live within a local school board district, the members involved shall select one member by lot to represent the local school board district.

(d) The other members shall serve at-large for the remainder of their terms.

(e) The at-large board members shall serve in addition to the designated number of board members for the board in question for the remainder of their terms.

(f) If there is no board member living within a local school board district whose term extends beyond redistricting, the seat shall be treated as vacant and filled as provided in this part.

(7) (a) If, before an election affected by redistricting, the county or municipal legislative body that conducted the redistricting determines that one or more members shall be elected to terms of two years to meet this part's requirements for staggered terms, the legislative body shall determine by lot which of the redistricted local school board districts will elect members to two-year terms and which will elect members to four-year terms.

(b) All subsequent elections are for four-year terms.

(8) Within 10 calendar days after [~~any~~]the day of a local school board district boundary change, the county or municipal legislative body making the change shall send an accurate map or plat of the boundary change to the Utah Geospatial Resource Center created under Section 63A-16-505.

(9) Subsections (4) through (7) do not apply to a redistricting that occurs under Subsection (3)(b).

Section 178. Section 20A-15-103 is amended to read:

20A-15-103. Delegates -- Candidacy -- Qualifications -- Nominating procedures -- Removal of petition signature.

(1) Candidates for the office of delegate to the ratification convention shall be citizens, residents of Utah, and at least 21 years old.

(2) Persons wishing to be delegates to the ratification convention shall:

(a) circulate a nominating petition meeting the requirements of this section; and

(b) obtain the signature of at least 100 registered voters.

(3) (a) A single nominating petition may nominate any number of candidates up to 21, the total number of delegates to be elected.

(b) Nominating petitions may not contain anything identifying a candidate's party or political affiliation.

(c) Each nominating petition shall contain a written statement signed by each nominee, indicating either that the candidate will:

(i) vote for ratification of the proposed amendment; or

(ii) vote against ratification of the proposed amendment.

(d) A nominating petition containing the names of more than one nominee may not contain the name of any nominee whose stated position in the nominating petition is inconsistent with that of any other nominee listed in the petition.

(4) (a) [~~Candidates shall file their nominating petitions~~]A candidate shall file the candidate's nominating petition with the lieutenant governor [~~before 5 p.m.~~]no later than 5 p.m. on the last business day that is at least 40 calendar days before the proclaimed date of the election.

(b) Within 10 calendar days after the last day for filing the petitions, the lieutenant governor shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter;

(ii) declare nominated the 21 nominees in favor of ratification and the 21 nominees against ratification whose nominating petitions have been signed by the largest number of registered voters;

(iii) decide any ties by lot drawn by the lieutenant governor; and

(iv) certify the nominated candidates of each group to the county clerk of each county within the state.

(5) (a) A voter who signs a nomination petition under this section may have the voter's signature removed from the petition by, no later than 5 p.m. three business days after the last day for filing the petitions, submitting to the lieutenant governor a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (5)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The lieutenant governor shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 179. Section 20A-15-201 is amended to read:

20A-15-201. Convening -- Vacancies -- Election of officers -- Journal of proceedings.

(1) The delegates to the convention shall convene at the state capitol at noon on the 28th calendar day after [~~their~~]the delegates' election to pass upon the question of whether [~~or not~~]the proposed amendment shall be ratified.

(2) (a) If, at the time the convention convenes, there is a vacancy in the convention, the delegates from the group from which the delegate creating the vacancy was elected shall, by majority vote, appoint a person to fill the vacancy.

(b) If the convention contains no other delegates from the group from which the delegate creating the vacancy was elected, the governor shall appoint a person to fill the vacancy.

(3) The convention may:

(a) elect a president, secretary, and other officers; and

(b) adopt its own rules.

(4) The convention shall:

(a) keep a journal of its proceedings;

(b) record in the journal the vote of each delegate on the question of ratification of the proposed amendment; and

(c) file the journal with the lieutenant governor after the convention adjourns.

(5) (a) Delegates to the ratification convention shall:

(i) serve without pay;

(ii) receive a per diem of $4 per day while the convention is in session; and

(iii) receive mileage at the rate of 10 cents per mile for the distance necessarily traveled in going to and returning from the place of meeting by the most usual route.

(b) The lieutenant governor shall pay the per diem and mileage, together with the necessary expenses of the convention for printing and stenographic services, from the state treasury.

Section 180. Section 20A-16-202 is amended to read:

20A-16-202. Report on ballots.

(1) No later than 60 calendar days after each regular general election date, each county clerk shall submit a report to the lieutenant governor indicating:

(a) the number of ballots sent to covered voters; and

(b) the number of ballots returned by covered voters that were counted.

(2) No later than 90 calendar days after each regular general election date, the lieutenant governor shall submit a statewide report to the Election Assistance Commission that includes the information required by Subsection (1).

Section 181. Section 20A-16-403 is amended to read:

20A-16-403. Transmission of unvoted ballots.

(1) For an election for which the state has not received a waiver pursuant to the Military and Overseas Voter Empowerment Act, 52 U.S.C. Sec. 20302(g)(2), not later than 45 calendar days before the day of the election or, notwithstanding Section 20A-1-104, if the 45th calendar day before the day of the election is a weekend or holiday, not later than the business day preceding the 45th calendar day before the day of the election, the election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.

(2) (a) A covered voter who requests that a ballot and balloting materials be sent to the voter by electronic transmission may choose:

(i) facsimile transmission;

(ii) email delivery; or

(iii) if offered by the voter's jurisdiction, Internet delivery.

(b) The election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.

(3) If a ballot application from a covered voter arrives after the jurisdiction begins transmitting ballots and balloting materials to voters, the official charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter no later than two business days after the day on which the application arrives.

Section 182. Section 20A-16-502 is amended to read:

20A-16-502. Publication of election notice.

(1) At least 100 calendar days before the day of an election, other than a statewide special election or local special election, and as soon as practicable before a statewide special election or local special election, the election officer shall prepare an election notice for the election officer's jurisdiction, to be used in conjunction with a federal write-in absentee ballot.

(2) The election notice must contain:

(a) a list of all of the ballot propositions and federal, state, and local offices that as of that date the election officer expects to be on the ballot on the date of the election; and

(b) specific instructions for how a covered voter is to indicate on the federal write-in absentee ballot the covered voter's choice for each office to be filled and for each ballot proposition to be contested.

(3) (a) A covered voter may request a copy of an election notice.

(b) The election officer shall send the notice to the covered voter by facsimile, email, or regular mail, as the covered voter requests.

(4) As soon as the ballot is certified, and not later than the date ballots are required to be transmitted to voters under Chapter 3a, Voting, the election officer charged with preparing the election notice under Subsection (1) shall update the notice with the certified candidates for each office and ballot propositions and make the updated notice publicly available.

(5) A political subdivision that maintains a website shall make the election notice prepared under this section and updated versions of the election notice regularly available on the website.

Section 183. Section 20A-21-201 is amended to read:

20A-21-201. Electronic signature gathering for an initiative, a referendum, or candidate qualification.

(1) (a) After filing a petition for a statewide initiative or a statewide referendum, and before gathering signatures, the sponsors shall, after consulting with the Office of the Lieutenant Governor, sign a form provided by the Office of the Lieutenant Governor indicating whether the sponsors will gather signatures manually or electronically.

(b) If the sponsors indicate, under Subsection (1)(a), that the sponsors will gather signatures electronically:

(i) in relation to a statewide initiative, signatures for that initiative:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-215, 20A-7-216, and 20A-7-217; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-204; and

(ii) in relation to a statewide referendum, signatures for that referendum:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-313, 20A-7-314, and 20A-7-315; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-304.

(c) If the sponsors indicate, under Subsection (1)(a), that the sponsors will gather signatures manually:

(i) in relation to a statewide initiative, signatures for that initiative:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-204; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-215, 20A-7-216, and 20A-7-217; and

(ii) in relation to a statewide referendum, signatures for that referendum:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-304; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-313, 20A-7-314, and 20A-7-315.

(2) (a) After filing a petition for a local initiative or a local referendum, and before gathering signatures, the sponsors shall, after consulting with the local clerk's office, sign a form provided by the local clerk's office indicating whether the sponsors will gather signatures manually or electronically.

(b) If the sponsors indicate, under Subsection (2)(a), that the sponsors will gather signatures electronically:

(i) in relation to a local initiative, signatures for that initiative:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-514, 20A-7-515, and 20A-7-516; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-504; and

(ii) in relation to a local referendum, signatures for that referendum:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-614, 20A-7-615, and 20A-7-616; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-604.

(c) If the sponsors indicate, under Subsection (2)(a), that the sponsors will gather signatures manually:

(i) in relation to a local initiative, signatures for that initiative:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-504; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-514, 20A-7-515, and 20A-7-516; and

(ii) in relation to a local referendum, signatures for that referendum:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-604; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-614, 20A-7-615, and 20A-7-616.

(3) (a) After a candidate files a notice of intent to gather signatures to qualify for a ballot, and before gathering signatures, the candidate shall, after consulting with the election officer, sign a form provided by the election officer indicating whether the candidate will gather signatures manually or electronically.

(b) If a candidate indicates, under Subsection (3)(a), that the candidate will gather signatures electronically, signatures for the candidate:

(i) may only be gathered and submitted using the electronic candidate qualification process; and

(ii) may not be gathered or submitted using the manual candidate qualification process.

(c) If a candidate indicates, under Subsection (3)(a), that the candidate will gather signatures manually, signatures for the candidate:

(i) may only be gathered and submitted using the manual candidate qualification process; and

(ii) may not be gathered or submitted using the electronic candidate qualification process.

(4) To gather a signature electronically, a signature-gatherer shall:

(a) use a device provided by the signature-gatherer or a sponsor of the petition that:

(i) is approved by the lieutenant governor;

(ii) except as provided in Subsection (4)(a)(iii), does not store a signature or any other information relating to an individual signing the petition in any location other than the location used by the website to store the information;

(iii) does not, on the device, store a signature or any other information relating to an individual signing the petition except for the minimum time necessary to upload information to the website;

(iv) does not contain any applications, software, or data other than those approved by the lieutenant governor; and

(v) complies with cyber-security and other security protocols required by the lieutenant governor;

(b) use the approved device to securely access a website designated by the lieutenant governor, directly, or via an application designated by the lieutenant governor; and

(c) while connected to the website, present the approved device to an individual considering signing the petition and, while the signature-gatherer is in the physical presence of the individual:

(i) wait for the individual to reach each screen presented to the individual on the approved device; and

(ii) wait for the individual to advance to each subsequent screen by clicking on the acknowledgement at the bottom of the screen.

(5) Each screen shown on an approved device as part of the signature-gathering process shall appear as a continuous electronic document that, if the entire document does not appear on the screen at once, requires the individual viewing the screen to, before advancing to the next screen, scroll through the document until the individual reaches the end of the document.

(6) After advancing through each screen required for the petition, the signature process shall proceed as follows:

(a) except as provided in Subsection (6)(b):

(i) the individual desiring to sign the petition shall present the individual's driver license or state identification card to the signature-gatherer;

(ii) the signature-gatherer shall verify that the individual pictured on the driver license or state identification card is the individual signing the petition;

(iii) the signature-gatherer shall scan or enter the driver license number or state identification card number through the approved device; and

(iv) immediately after the signature-gatherer complies with Subsection (6)(a)(iii), the website shall determine whether the individual

desiring to sign the petition is eligible to sign the petition;

(b) if the individual desiring to sign the petition is unable to provide a driver license or state identification card to the signature gatherer:

(i) the individual may present other valid voter identification;

(ii) if the valid voter identification contains a picture of the individual, the signature-gatherer shall verify that the individual pictured is the individual signing the petition;

(iii) if the valid voter identification does not contain a picture of the individual, the signature-gatherer shall, to the extent reasonably practicable, use the individual's address or other available means to determine whether the identification relates to the individual presenting the identification;

(iv) the signature-gatherer shall scan an image of the valid voter identification and immediately upload the image to the website; and

(v) the individual:

(A) shall enter the individual's address; and

(B) may, at the discretion of the individual, enter the individual's date of birth or age after the individual clicks on the screen acknowledging that they have read and understand the following statement, "Birth date or age information is not required, but may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before your signature is verified or if the information you provide does not match your voter registration records."; and

(c) after completing the process described in Subsection (6)(a) or (b), the screen shall:

(i) except for a petition to qualify a candidate for the ballot, give the individual signing the petition the opportunity to enter the individual's email address after the individual reads the following statement, "If you provide your email address, you may receive an email with additional information relating to the petition you are signing."; and

(ii) (A) if the website determines, under Subsection (6)(a)(iv), that the individual is eligible to sign the petition, permit the individual to enter the individual's name as the individual's electronic signature and, immediately after the signature-gather timely complies with Subsection (10), certify the signature; or

(B) if the individual provides valid voter identification under Subsection (6)(b), permit the individual to enter the individual's name as the individual's electronic signature.

(7) If an individual provides valid voter identification under Subsection (6)(b), the county clerk shall, within seven calendar days after the day on which the individual submits the valid voter identification, certify the signature if:

(a) the individual is eligible to sign the petition;

(b) the identification provided matches the information on file; and

(c) the signature-gatherer timely complies with Subsection (10).

(8) For each signature submitted under this section, the website shall record:

(a) the information identifying the individual who signs;

(b) the date the signature was collected; and

(c) the name of the signature-gatherer.

(9) An individual who is a signature-gatherer may not sign a petition unless another individual acts as the signature-gatherer when the individual signs the petition.

(10) Except for a petition for a candidate to seek the nomination of a registered political party, each individual who gathers a signature under this section shall, within one business day after the day on which the individual gathers a signature, electronically sign and submit the following statement to the website:

"VERIFICATION OF SIGNATURE-GATHERER

State of Utah, County of ____

I, _____, of _____, hereby state, under penalty of perjury, that:

I am at least 18 years old;

All the signatures that I collected on [Date signatures were gathered] were signed by individuals who professed to be the individuals whose signatures I gathered, and each of the individuals signed the petition in my presence;

I did not knowingly make a misrepresentation of fact concerning the law or proposed law to which the petition relates;

I believe that each individual has signed the individual's name and written the individual's residence correctly, that each signer has read and understands the law to which the petition relates, and that each signer is registered to vote in Utah;

Each signature correctly reflects the date on which the individual signed the petition; and

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it."

(11) Except for a petition for a candidate to seek the nomination of a registered political party:

(a) the county clerk may not certify a signature that is not timely verified in accordance with Subsection (10); and

(b) if a signature certified by a county clerk under Subsection (6)(c)(ii)(A) is not timely verified in accordance with Subsection (10), the county clerk shall:

(i) revoke the certification;

(ii) remove the signature from the posting described in Subsection 20A-7-217(4), 20A-7-315(3), 20A-7-516(4), or 20A-7-616(3); and

(iii) update the totals described in Subsections 20A-7-217(5)(a)(ii), 20A-7-315(5)(a)(ii), 20A-7-516(5)(a)(ii), and 20A-7-616(5)(a)(ii).

(12) For a petition for a candidate to seek the nomination of a registered political party, each individual who gathers a signature under this section shall, within one business day after the day on which the individual gathers a signature, electronically sign and submit the following statement to the lieutenant governor in the manner specified by the lieutenant governor:

"VERIFICATION OF SIGNATURE-GATHERER

State of Utah, County of ____

I, _____, of _____, hereby state that:

I am at least 18 years old;

All the signatures that I collected on [Date signatures were gathered] were signed by individuals who professed to be the individuals whose signatures I gathered, and each of the individuals signed the petition in my presence;

I believe that each individual has signed the individual's name and written the individual's residence correctly and that each signer is registered to vote in Utah; and

Each signature correctly reflects the date on which the individual signed the petition."

(13) For a petition for a candidate to seek the nomination of a registered political party, the election officer may not certify a signature that is not timely verified in accordance with Subsection (12).

Section 184. Section 63G-1-301 is repealed and re-enacted to read:

63G-1-301. Legal holidays -- Personal preference day -- Governor authorized to declare additional legal holidays.

(1) The following days are legal holidays in Utah:

(a) except as provided in Subsection (2)(a) or (b):

(i) January 1, New Year's Day;

(ii) July 4, Independence Day;

(iii) July 24, Pioneer Day;

(iv) November 11, Veterans Day;

(v) December 25, Christmas; and

(vi) a day designated by proclamation issued by the president of the United States or the governor as a day of fasting or thanksgiving;

(b) (i) the third Monday of January, Dr. Martin Luther King, Jr. Day;

(ii) the third Monday of February, Washington and Lincoln Day;

(iii) the last Monday of May, Memorial Day;

(iv) the first Monday of September, Labor Day;

(v) the second Monday of October, Columbus Day;

(vi) the fourth Thursday of November, Thanksgiving Day; and

(vii) except as provided in Subsection (2)(c) or (d), June 19, Juneteenth National Freedom Day; and

(c) except as provided in Subsection (3), every Sunday.

(2) (a) If a day described in Subsection (1)(a) falls on a Saturday, the preceding Friday is the legal holiday.

(b) If a day described in Subsection (1)(a) falls on a Sunday, the following Monday is the legal holiday.

(c) If June 19 falls on a Tuesday, Wednesday, Thursday, or Friday, the preceding Monday is the legal holiday.

(d) If June 19 falls on Saturday or Sunday, the following Monday is the legal holiday.

(3) For purposes of Utah Constitution, Article VI, Section 16, Subsection (1), regarding the exclusion of state holidays from the 45-day legislative general session, Sunday is not considered a state holiday.

(4) Each employee may select one additional day, called Personal Preference Day, to be scheduled in accordance with rules made, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Human Resource Management.

(5) (a) If, in the governor's opinion, extraordinary conditions exist justifying the action, the governor may:

(i) declare, by proclamation, legal holidays in addition to those legal holidays described in Subsections (1) and (2); or

(ii) limit the legal holidays described in Subsection (5)(a)(i) to certain classes of business and activities to be designated by the governor.

(b) Except as provided in Subsection (5)(c), a legal holiday described in Subsection (5)(a) may not extend for a longer period than 60 consecutive days.

(c) The governor may, by proclamation:

(i) renew a legal holiday described in Subsection (5)(a) for one or more periods not exceeding 30 days each as the governor determines necessary; or

(ii) terminate a legal holiday described under Subsection (5)(a) or (b) earlier than the time period described in a preceding proclamation.

Section 185. Effective Date.

This bill takes effect on May 7, 2025.

Section 186. Coordinating S.B. 164 with S.B. 259.

If S.B. 164, Modifications to Election Law, and S.B. 259, State Holy Days, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) the following language be inserted as new Subsection 63G-1-301(1)(b)(i) in S.B. 164 and that the remaining subsections in Subsection 63G-1-301(1)(b) in S.B. 164 be renumbered accordingly:

"(i) the first Sunday after the first full moon that occurs on or after the spring equinox, Easter Sunday;"; and

(2) Subsection 63G-1-301(4) enacted in S.B. 164 be amended to read:

"(4) Each employee may select one additional day, called Personal Preference Day, to be scheduled in accordance with rules made, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Human Resource Management, which the employee may use to observe a state holy day, as described in Section 63G-1-1101, or any other day the employee chooses to recognize.".

CHAPTER 449
S. B. 181
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

HOUSING AFFORDABILITY AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill enacts and amends provisions related to housing affordability.

Highlighted Provisions:

This bill:

- ► defines and amends terms;
- ► enacts provisions of certain land use regulations with regard to certain types of parking spaces;
- ► provides certain exceptions; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-534, as last amended by Laws of Utah 2024, Chapter 415
17-27a-530, as last amended by Laws of Utah 2024, Chapter 415
59-2-1101, as last amended by Laws of Utah 2024, Chapter 254

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-534 is amended to read:

10-9a-534. Regulation of building design elements prohibited -- Regulation of parking spaces prohibited -- Exceptions.

(1) As used in this section[~~,~~]:

(a) "Affordable housing" means housing occupied or reserved for occupancy that is priced at 80% of the county median home price.

(b) [~~"building"~~]"Building design element" means:

[~~(a)~~](i) exterior color;

[~~(b)~~](ii) type or style of exterior cladding material;

[~~(c)~~](iii) style, dimensions, or materials of a roof structure, roof pitch, or porch;

[~~(d)~~](iv) exterior nonstructural architectural ornamentation;

[~~(e)~~](v) location, design, placement, or architectural styling of a window or door;

[~~(f)~~](vi) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

[~~(g)~~](vii) number or type of rooms;

[~~(h)~~](viii) interior layout of a room;

[~~(i)~~](ix) minimum square footage over 1,000 square feet, not including a garage;

[~~(j)~~](x) rear yard landscaping requirements;

[~~(k)~~](xi) minimum building dimensions; or

[~~(l)~~](xii) a requirement to install front yard fencing.

(c) "Owner-occupied" means a housing unit in which the individual who owns the housing unit, solely or jointly, lives as the individual's primary residence for no less than five years.

(d) "Specified municipality" means the same as that term is defined in Section 10-9a-408.

(e) "Unobstructed" means a parking space that has no permanent barriers that would unreasonably reduce the size of an available parking space described in Subsection (4).

(2) Except as provided in Subsection (3), a municipality may not impose a requirement for a building design element on a one- or two-family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8a-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021, except as provided under Subsection (3)(b);

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding;

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the municipality to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district; or

(i) an ordinance enacted to mitigate the impacts of an accidental explosion:

(i) in excess of 20,000 pounds of trinitrotoluene equivalent;

(ii) that would create overpressure waves greater than .2 pounds per square inch; and

(iii) that would pose a risk of damage to a window, garage door, or carport of a facility located within the vicinity of the regulated area.

(4) A municipality that is a specified municipality may not:

(a) require that the dimensions of a single parking space for a one- or two-family dwelling or town home be:

(i) for unobstructed, enclosed, or covered parking:

(A) more than 10 feet wide; or

(B) more than 20 feet long; or

(ii) for uncovered parking:

(A) more than nine feet wide; or

(B) more than 20 feet long;

(b) restrict an unobstructed tandem parking space from satisfying two parking spaces as part of a minimum parking space requirement; and

(c) restrict a two-car garage from satisfying two parking spaces as part of a minimum parking space requirement.

(5) A municipality may not require a garage for a single-family attached or detached dwelling that is owner-occupied affordable housing.

(6) If a municipality requires a garage, the municipality shall count each parking space within the garage as part of the municipality's minimum parking space requirement as described in Section 10-9a-530.

(7) Nothing in this section prohibits a municipality from requiring on-site parking for owner-occupied affordable housing.

Section 2. Section 17-27a-530 is amended to read:

17-27a-530. Regulation of building design elements prohibited -- Regulation of parking spaces prohibited -- Exceptions.

(1) As used in this section[~~,~~]:

(a) "Affordable housing" means housing occupied or reserved for occupancy that is priced at 80% of the county median home price.

(b) [~~"building~~]"Building design element" means:

[~~(a)~~](i) exterior color;

[~~(b)~~](ii) type or style of exterior cladding material;

[~~(c)~~](iii) style, dimensions, or materials of a roof structure, roof pitch, or porch;

[~~(d)~~](iv) exterior nonstructural architectural ornamentation;

[~~(e)~~](v) location, design, placement, or architectural styling of a window or door;

[~~(f)~~](vi) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

[~~(g)~~](vii) number or type of rooms;

[~~(h)~~](viii) interior layout of a room;

[~~(i)~~](ix) minimum square footage over 1,000 square feet, not including a garage;

[~~(j)~~](x) rear yard landscaping requirements;

[~~(k)~~](xi) minimum building dimensions; or

[~~(l)~~](xii) a requirement to install front yard fencing.

(c) "Owner-occupied" means a housing unit in which the individual who owns the housing unit, solely or jointly, lives as the individual's primary residence for no less than five years.

(d) "Specified county" means the same as that term is defined in Section 17-27a-408.

(e) "Unobstructed" means a parking space that has no permanent barriers that would unreasonably reduce the size of an available parking space described in Subsection (4).

(2) Except as provided in Subsection (3), a county may not impose a requirement for a building design element on a one- or two-family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8a-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021, except as provided under Subsection (3)(b);

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding;

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the county to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district; or

(i) an ordinance enacted to mitigate the impacts of an accidental explosion:

(i) in excess of 20,000 pounds of trinitrotoluene equivalent;

(ii) that would create overpressure waves greater than .2 pounds per square inch; and

(iii) that would pose a risk of damage to a window, garage door, or carport of a facility located within the vicinity of the regulated area.

(4) A county that is a specified county may not:

(a) require that the dimensions of a single parking space for a one- or two-family dwelling or town home be:

(i) for unobstructed, enclosed, or covered parking:

(A) more than 10 feet wide; or

(B) more than 20 feet long; or

(ii) for uncovered parking:

(A) more than nine feet wide; or

(B) more than 20 feet long;

(b) restrict an unobstructed tandem parking space from satisfying two parking spaces as part of a minimum parking space requirement; and

(c) restrict a two-car garage from satisfying two parking spaces as part of a minimum parking space requirement.

(5) A county may not require a garage for a single-family attached or detached dwelling that is owner-occupied affordable housing.

(6) If a county requires a garage, the county shall count each parking space within the garage as part of the county's minimum parking space requirement as described in Section 17-27a-526.

(7) Nothing in this section prohibits a county from requiring on-site parking for owner-occupied affordable housing.

Section 3. Section 59-2-1101 is amended to read:

59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- Exception -- County legislative body authority to adopt rules or ordinances.

(1) As used in this section:

(a) "Charitable purposes" means:

(i) for property used as a nonprofit hospital or a nursing home, the standards outlined in Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah 1994); and

(ii) for property other than property described in Subsection (1)(a)(i), providing a gift to the community.

(b) "Compliance period" means a period equal to 15 taxable years beginning with the first taxable year for which the taxpayer claims a tax credit under Section 42, Internal Revenue Code, or Section 59-7-607 or 59-10-1010.

(c) (i) "Educational purposes" means purposes carried on by an educational organization that normally:

(A) maintains a regular faculty and curriculum; and

(B) has a regularly enrolled body of pupils and students.

(ii) "Educational purposes" includes:

(A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(B) an activity in support of or incidental to the teaching, training, or conditioning described in this Subsection (1)(c)(ii).

(d) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(i) religious purposes;

(ii) charitable purposes; or

(iii) educational purposes.

(e) (i) "Farm machinery and equipment" means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(ii) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(f) "Gift to the community" means:

(i) the lessening of a government burden; or

(ii) (A) the provision of a significant service to others without immediate expectation of material reward;

(B) the use of the property is supported to a material degree by donations and gifts including volunteer service;

(C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree;

(D) the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and

(E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.

(g) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(h) (i) "Nonprofit entity" means an entity:

(A) that is organized on a nonprofit basis, that dedicates the entity's property to the entity's nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;

(B) for which, upon dissolution, the entity's assets are distributable only for exempt purposes under state law or to the government for a public purpose; and

(C) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.

(ii) "Nonprofit entity" includes an entity:

(A) if the entity is treated as a disregarded entity for federal income tax purposes and wholly owned by, and controlled under the direction of, a nonprofit entity; and

(B) for which none of the net earnings and profits of the entity inure to the benefit of any person other than a nonprofit entity.

(iii) "Nonprofit entity" includes an entity that is not an entity described in Subsection (1)(h)(i) if the entity jointly owns a property that:

(A) is used for the purpose of providing permanent supportive housing;

(B) has an owner that is an entity described in Subsection (1)(h)(i) or that is a housing authority that operates the permanent supportive housing;

(C) has an owner that receives public funding from a federal, state, or local government entity to provide support services and rental subsidies to the permanent supportive housing;

(D) is intended to be transferred at or before the end of the compliance period to an entity described in Subsection (1)(h)(i) or a housing authority that will continue to operate the property as permanent supportive housing; and

(E) has been certified by the Utah Housing Corporation as meeting the requirements described in Subsections (1)(h)(iii)(A) through (D).

(iv) "Nonprofit entity" includes an entity that is not an entity described in Subsection (1)(h)(i) if:

(A) the entity is a housing organization as defined in Subsection 35A-8-2401(1)(a); and

(B) the entity is owned by an entity described in Subsection (1)(h)(i) or a housing authority.

(i) "Permanent supportive housing" means a housing facility that:

(i) provides supportive services;

(ii) makes a 15-year commitment to provide rent subsidies to tenants of the housing facility when the housing facility is placed in service;

(iii) receives an allocation of federal low-income housing tax credits in accordance with 26 U.S.C. Sec. 42; and

(iv) leases each unit to a tenant:

(A) who, immediately before leasing the housing, was homeless as defined in 24 C.F.R. 583.5; and

(B) whose rent is capped at no more than 30% of the tenant's household income.

(j) (i) "Property of" means property that an entity listed in Subsection (3)(a)(ii) or (iii) has a legal right to possess.

(ii) "Property of" includes a lease of real property if:

(A) the property is wholly leased to a state or political subdivision entity listed in Subsection (3)(a)(ii) or (iii) under a triple net lease; and

(B) the lease is in effect for the entire calendar year.

(k) "Supportive service" means a service that is an eligible cost under 24 C.F.R. 578.53.

(l) "Triple net lease" means a lease agreement under which the lessee is responsible for the real estate taxes, building insurance, and maintenance of the property separate from and in addition to the rental price.

(2) (a) Except as provided in Subsection (2)(b), an exemption under this part may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) A claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) special districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(A) religious purposes;

(B) charitable purposes; or

(C) educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or

(ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.

(b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.

(7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(a) the property is used for a purpose that is not religious, charitable, or educational; and

(b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.

(8) A county legislative body may adopt rules or ordinances to:

(a) effectuate an exemption under this part; and

(b) designate one or more persons to perform the functions given to the county under this part.

(9) If a person is dissatisfied with an exemption decision made under designated decision-making authority as described in Subsection (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 450
S. B. 190
Passed February 26, 2025
Approved March 26, 2025
Effective May 7, 2025

WORKERS' COMPENSATION MODIFICATIONS

Chief Sponsor: Scott D. Sandall
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends the Workers' Compensation Act.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► expands the Labor Commission's authority to disclosures by health care providers;
- ► expands the Labor Commission's authority over fees for health care providers;
- ► expands the prohibition of balance billing for workers' compensation claims to health care providers; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-2-407, as last amended by Laws of Utah 2021, Chapter 64

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-2-407 is amended to read:

34A-2-407. Reporting of industrial injuries -- Regulation of health care providers.

(1) As used in this section[~~, "physician" is as defined in Section 34A-2-111.~~]:

(a) "Balance billing" means charging an individual, on whose behalf a workers' compensation insurance carrier or self-insured employer is obligated to pay covered medical services under this chapter or Chapter 3, Utah Occupational Disease Act, the amount calculated by subtracting the amount the workers' compensation insurance carrier or self-insured employer reimburses the health care provider for covered medical services from the amount the health care provider charges for the covered medical services.

(b) "Covered medical services" means medical services provided by a health care provider that are covered by workers' compensation medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act.

(c) "Health care provider" means the same as that term is defined in Section 34A-2-111.

(d) "Hospital" means the same as that term is defined in Section 26B-2-219.

(e) "Physician" means the same as that term is defined in Section 34A-2-111.

(f) "Self-insured employer" means the same as that term is defined in Section 34A-2-201.5.

(2) (a) An employee sustaining an injury arising out of and in the course of employment shall provide notification to the employee's employer promptly of the injury.

(b) If the employee is unable to provide the notification required by Subsection (2)(a), the following may provide notification of the injury to the employee's employer:

(i) the employee's next of kin; or

(ii) the employee's attorney.

(c) [~~An employee claiming benefits under this chapter or Chapter 3, Utah Occupational Disease Act, shall comply with rules adopted by the commission regarding disclosure of medical records of the employee medically relevant to the industrial accident or occupational disease claim.~~]An employee claiming benefits under this chapter, or Chapter 3, Utah Occupational Disease Act, shall comply with the commission's requirements for disclosure of medical records for a work-related injury claim.

(3) (a) An employee is barred for any claim of benefits arising from an injury if the employee fails to notify within the time period described in Subsection (3)(b):

(i) the employee's employer in accordance with Subsection (2); or

(ii) the division.

(b) [~~The~~]An employee shall provide the notice required by Subsection (3)(a) [~~shall be made~~]within:

(i) 180 days [~~of~~]after the day on which the injury occurs; or

(ii) in the case of an occupational hearing loss, the time period specified in Section 34A-2-506.

(4) The following [~~constitute~~]constitutes notification of injury from the employee, the employee's next of kin, or the employee's

attorney, as required by Subsection (2):

(a) an employer's report once filed with:

(i) the division; or

(ii) the employer's workers' compensation insurance carrier;

(b) a physician's injury report once filed with:

(i) the division;

(ii) the employer; or

(iii) the employer's workers' compensation insurance carrier;

(c) a workers' compensation insurance carrier's report filed with the division; or

(d) the payment of any medical or disability benefits by:

(i) the employer; or

(ii) the employer's workers' compensation insurance carrier.

(5) (a) An employer and the employer's workers' compensation insurance carrier, if any, shall file a report in accordance with the rules made under Subsection (5)(b) of a:

(i) work-related fatality; or

(ii) work-related injury resulting in:

(A) medical treatment;

(B) loss of consciousness;

(C) loss of work;

(D) restriction of work; or

(E) transfer to another job.

(b) (i) (A) [~~An employer or the employer's workers' compensation insurance carrier, if any, shall file a report required by Subsection (5)(a), and any subsequent reports of a previously reported injury as may be required by the commission, within the time limits and in the manner established by rule by the commission made after consultation with the workers' compensation advisory council and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]The commission may require additional reports for a previously reported injury by rule made after consulting with the workers' compensation advisory council and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(B) An employer or the employer's workers' compensation insurance carrier, if any, shall file the report required by Subsection (5)(a) and any other report of a previously reported injury within the time limits and in the manner the commission establishes.

(ii) A rule made under this Subsection (5)(b) shall:

[~~(i)~~](A) be reasonable; and

[~~(ii)~~](B) take into consideration the practicality and cost of complying with the rule.

(c) [~~A~~]An employer is not required to file a report [~~is not required to be filed under this Subsection (5)~~]for a minor injury, such as a cut or scratch that requires first aid treatment only, unless:

(i) a treating physician files a report with the division in accordance with Subsection (9); or

(ii) a treating physician is required to file a report with the division in accordance with Subsection (9).

(6) An employer and [~~its~~]the employer's workers' compensation insurance carrier, if any, required to file a report under Subsection (5) shall provide the employee with:

(a) a copy of the report submitted to the division; and

(b) a statement, as prepared by the division, of the employee's rights and responsibilities related to the industrial injury.

(7) An employer shall maintain a record in a manner [~~prescribed by~~]the commission provides by rule of all:

(a) work-related fatalities; or

(b) work-related injuries resulting in:

(i) medical treatment;

(ii) loss of consciousness;

(iii) loss of work;

(iv) restriction of work; or

(v) transfer to another job.

(8) (a) Except as provided in Subsection (8)(b), an employer or a workers' compensation insurance carrier [~~who~~]that refuses or neglects to make a report, maintain a record, or file a report as required by this section is subject to a civil assessment:

(i) imposed by the division, subject to the requirements of Title 63G, Chapter 4, Administrative Procedures Act; and

(ii) that may not exceed $500.

(b) An employer or workers' compensation insurance carrier is not subject to the civil assessment under this Subsection (8) if:

(i) the employer or workers' compensation insurance carrier submits a report later than required by this section; and

(ii) the division finds that the employer or workers' compensation insurance carrier has shown good cause for submitting a report later than required by this section.

(c) (i) [~~A~~]The division shall deposit a civil assessment collected under this Subsection (8) [~~shall be deposited~~]into the Uninsured Employers' Fund created in Section 34A-2-704[~~ to be used for a purpose specified in Section 34A-2-704~~].

(ii) The administrator of the Uninsured Employers' Fund shall [~~collect~~]receive and distribute the money [~~required to be deposited into the Uninsured Employers' Fund under this Subsection (8)(c) in accordance with Section 34A-2-704.~~]in accordance with Section 34A-2-704.

(9) (a) A [~~physician attending~~]health care provider treating an injured employee shall comply with rules [~~established by~~]the commission establishes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding:

(i) fees for [~~physician's~~]covered medical services, other than a hospital's covered medical services;

(ii) fees for a hospital's covered medical services, which, if the commission establishes, shall be based on Medicare reimbursement rates;

[~~(ii)~~](iii) disclosure of medical records of the employee medically relevant to the employee's [~~industrial accident or occupational disease~~]work-related injury claim;

[~~(iii)~~](iv) reports to the division regarding:

(A) the condition and treatment of an injured employee; or

(B) any other matter concerning employees with industrial cases that the [~~physician~~]health care provider is treating; and

[~~(iv)~~](v) rules made under Section 34A-2-407.5.

[~~(b) A physician who is associated with, employed by, or bills through a hospital is subject to Subsection (9)(a).~~]

[~~(c) A hospital providing services for an injured employee is not subject to the requirements of Subsection (9)(a) except for rules made by the commission that are described in Subsection (9)(a)(ii) or (iii) or Section 34A-2-407.5.~~]

[~~(d)~~](b) The commission's schedule of fees may reasonably differentiate [~~remuneration to be~~]compensation paid to health care providers [~~of health services~~]for covered medical services based on:

(i) the severity of the employee's condition;

(ii) the nature of the treatment necessary; and

(iii) the facilities or equipment specially required to deliver that treatment.

[~~(e)~~](c) This Subsection (9) does not prohibit a contract with a health care provider of [~~health services~~]covered medical services relating to the pricing of goods and covered medical services.

(d) A health care provider may not engage in balance billing.

(10) A health care provider treating an injured employee shall provide a copy of the initial report filed under Subsection [~~(9)(a)(iii) shall be furnished~~](9)(a)(iv)to:

(a) the division;

(b) the employee; and

(c) (i) the employer; or

(ii) the employer's workers' compensation insurance carrier.

[~~(11) (a) As used in this Subsection (11):~~]

[~~(i) "Balance billing" means charging a person, on whose behalf a workers' compensation insurance carrier or self-insured employer is obligated to pay medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act, for the difference between what the workers' compensation insurance carrier or self-insured employer reimburses the hospital for covered medical services and what the hospital charges for those covered medical services.~~]

[~~(ii) "Covered medical services" means medical services provided by a hospital that are covered by workers' compensation medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act.~~]

[~~(iii) "Self-insured employer" means the same as that term is defined in Section 34A-2-201.5.~~]

[~~(b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or self-insured employer may contract, either in writing or by mutual oral agreement, with a hospital to establish reimbursement rates.~~]

[~~(c) Subject to Subsection (11)(d), for the time period beginning on May 8, 2018, and ending on July 1, 2021, a workers' compensation insurance carrier or self-insured employer that is reimbursing a hospital for covered medical services shall reimburse the hospital:~~]

[~~(i) in accordance with a contract described in Subsection (11)(b); or~~]

[~~(ii) (A) if the hospital is located in a county of the first, second, or third class, as classified in Section 17-50-501, at 75% of the billed hospital fees for the covered medical services; or~~]

[~~(B) if the hospital is located in a county of the fourth, fifth, or sixth class, as classified in Section 17-50-501, at 85% of the billed hospital fees for the covered medical services.~~]

[~~(d) A hospital may not engage in balance billing.~~]

[~~(12)~~](11) (a) Subject to appellate review under Section 34A-1-303, the commission has exclusive jurisdiction to hear and determine:

(i) whether goods [~~provided to~~]or services [~~rendered~~]provided to an employee are compensable [~~pursuant to~~]under this chapter or Chapter 3, Utah Occupational Disease Act, including:

(A) [~~medical, nurse, or hospital~~]covered medical services;

(B) medicines; and

(C) artificial means, appliances, or prosthesis;

(ii) except for amounts charged or paid under Subsection [~~(11)~~](9)(c), the reasonableness of the amounts charged or paid for a good or service described in Subsection [~~(12)(a)(i)~~](11)(a)(i); and

(iii) collection issues related to a good or service described in Subsection [~~(12)(a)(i)~~](11)(a)(i).

(b) Except as provided in Subsection [~~(12)(a)~~](11)(a), Subsection 34A-2-211(6), or Section 34A-2-212, a person may not maintain a cause of action in any forum within this state other than the commission for collection or payment for goods or covered medical services described in Subsection [~~(12)(a)~~](11)(a) that are compensable under this chapter or Chapter 3, Utah Occupational Disease Act.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 451
S. B. 187
Passed March 7, 2025
Approved March 26, 2025
Effective March 26, 2025

THROUGHPUT INFRASTRUCTURE FUNDING AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses financial assistance that is funded through the Throughput Infrastructure Fund.

Highlighted Provisions:

This bill:

- ► modifies the definition of a throughput infrastructure project;
- ► modifies the Permanent Community Impact Fund Board's authority related to the Throughput Infrastructure Fund;
- ► provides for an award of a loan or grant from the Throughput Infrastructure Fund for certain mining activity; and
- ► makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

35A-8-302, as last amended by Laws of Utah 2021, Chapter 339
35A-8-308, as last amended by Laws of Utah 2021, Chapter 367
35A-8-309, as last amended by Laws of Utah 2021, Chapter 367

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-8-302 is amended to read:

35A-8-302. Definitions.

As used in this part:

(1) "Bonus payments" means that portion of the bonus payments received by the United States government under the Leasing Act paid to the state under Section 35 of the Leasing Act, 30 U.S.C. Sec. 191, together with any interest that had accrued on those payments.

(2) "Impact board" means the Permanent Community Impact Fund Board created under Section 35A-8-304.

(3) "Impact fund" means the Permanent Community Impact Fund established by this chapter.

(4) "Interlocal agency" means a legal or administrative entity created by a subdivision or combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

(5) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.

(6) "Qualifying sales and use tax distribution reduction" means that, for the calendar year beginning on January 1, 2008, the total sales and use tax distributions a city received under Section 59-12-205 were reduced by at least 15% from the total sales and use tax distributions the city received under Section 59-12-205 for the calendar year beginning on January 1, 2007.

(7) (a) "Planning" means any of the following performed by or on behalf of the state, a subdivision, or an interlocal entity:

(i) a study, analysis, plan, or survey; or

(ii) activities necessary to obtain a permit or land use approval, including review to determine the need, cost, or feasibility of obtaining a permit or land use approval.

(b) "Planning" includes:

(i) the preparation of maps and guidelines;

(ii) land use planning;

(iii) a study or analysis of:

(A) the social or economic impacts associated with natural resource development;

(B) the demand for the transportation of individuals or goods;

(C) state, regional, and local development and growth;

(D) population and employment;

(E) development related to natural resources; and

(F) as related to any other activity described in this Subsection (7), engineering, financial analysis, legal analysis, or any other analysis helpful to the state, subdivision, or interlocal agency; and

(iv) any activity described in this Subsection (7) regardless of whether the activity is for a public facility or a public service.

(8) "Public facility" means a facility:

(a) in whole or in part, owned, controlled, or operated by the state, a subdivision, or an interlocal agency; and

(b) that serves a public purpose.

(9) (a) "Public service" means a service that:

(i) is provided, in whole or in part, by or on behalf of the state, a subdivision, or an interlocal agency; and

(ii) serves a public purpose.

(b) "Public service" includes:

(i) a service described in Subsection (9)(a) regardless of whether the service is provided in connection with a public facility;

(ii) the cost of providing a service described in Subsection (9)(a), including administrative costs, wages, and legal fees; and

(iii) a contract with a public postsecondary institution to fund research, education, or a public service program.

(10) "Subdivision" means a county, city, town, county service area, special service district, special improvement district, water conservancy district, water improvement district, sewer improvement district, housing authority, building authority, school district, or public postsecondary institution organized under the laws of this state.

(11) (a) "Throughput infrastructure project" means the following facilities, whether located within, partially within, or outside of the state:

(i) a bulk commodities ocean terminal;

(ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;

(iii) electric transmission lines and ancillary facilities;

(iv) a shortline freight railroad and ancillary facilities;

(v) a plant or facility for storing, distributing, or producing hydrogen, including the liquification of hydrogen, for use as a fuel in zero emission motor vehicles, for electricity generation, or for industrial use;[~~or~~]

(vi) a plant for the production of zero emission hydrogen fueled trucks[~~.~~]; or

(vii) a mining facility described in Subsection 35A-8-309(9).

(b) "Throughput infrastructure project" includes:

(i) an ownership interest or a joint or undivided ownership interest in a facility;

(ii) a membership interest in the owner of a facility; or

(iii) a contractual right, whether secured or unsecured, to use all or a portion of the throughput, transportation, or transmission capacity of a facility.

Section 2. Section 35A-8-308 is amended to read:

35A-8-308. Throughput Infrastructure Fund.

(1) There is created an enterprise fund known as the "Throughput Infrastructure Fund. "

(2) The fund consists of money generated from the following revenue sources:

(a) [~~all~~]amounts transferred to the fund by statute;

(b) any voluntary contributions received;

(c) appropriations made to the fund by the Legislature;[~~and~~]

(d) [~~all~~]the amounts received from the repayment of loans made by the impact board under Section 35A-8-309[~~.~~]; and

(e) interest or other earnings deposited under Subsection (3).

(3) The state treasurer shall:

(a) invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(b) deposit [~~all~~]the interest or other earnings derived from those investments into the fund.

Section 3. Section 35A-8-309 is amended to read:

35A-8-309. Throughput Infrastructure Fund administered by impact board -- Uses -- Review by board -- Annual report -- First project.

(1) The impact board shall:

(a) make grants and loans from the Throughput Infrastructure Fund created in Section 35A-8-308 for a throughput infrastructure project;

(b) use money transferred to the Throughput Infrastructure Fund in accordance with statute to provide a loan or grant to finance the cost of acquisition or construction of a throughput infrastructure project to one or more local political subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal Cooperation Act;

(c) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the fund revolving;

(d) determine provisions for repayment of loans;

(e) establish criteria for awarding loans and grants; and

(f) establish criteria for determining eligibility for assistance under this section.

(2) The cost of acquisition or construction of a throughput infrastructure project includes amounts for working capital, reserves, transaction costs, and other amounts determined by the impact board to be allocable to a throughput infrastructure project.

(3) The impact board may restructure or forgive all or part of a local political subdivision's or interlocal agency's obligation to repay loans for extenuating circumstances.

(4) To receive assistance under this section, a local political subdivision or an interlocal agency shall submit a formal application containing the information that the impact board requires.

(5) (a) The impact board shall:

(i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant before approving the loan or grant and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with this section;

(ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal repayment; and

(iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of the appropriate local political subdivision or interlocal agency issued to the impact board and payable from the net revenues of a throughput infrastructure project.

(b) An instrument described in Subsection (5)(a)(iii) may be:

(i) non-recourse to the local political subdivision or interlocal agency; and

(ii) limited to a pledge of the net revenues from a throughput infrastructure project.

(6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate from the Throughput Infrastructure Fund to the board those amounts that are appropriated by the Legislature for the administration of the Throughput Infrastructure Fund.

(b) The amount described in Subsection (6)(a) may not exceed 2% of the annual receipts to the [~~fund~~]Throughput Infrastructure Fund.

(7) The board shall include in the annual written report described in Section 35A-1-109:

(a) the number and type of loans and grants made under this section; and

(b) a list of local political subdivisions or interlocal agencies that received assistance under this section.

(8) (a) The first throughput infrastructure project [~~considered~~]funded by the impact board shall be a bulk commodities ocean terminal project[~~.~~] financed through a mixture of grant and loans, of which no less than 20% of the project costs funded by the impact board is grants.

(b) Upon receipt of an application from an interlocal agency [~~created for the sole purpose of undertaking a throughput infrastructure project that is~~]for a bulk commodities ocean terminal project, the impact board shall:

(i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition of the throughput infrastructure project; and

(ii) fund the interlocal agency's application if the application meets all criteria established by the impact board.

(9) Notwithstanding Subsection (8) and following the procedures of this section, the impact board may issue a grant or loan for a throughput infrastructure project other than a bulk commodities ocean terminal project if the throughput infrastructure project:

(a) is funded from the interest or other earnings deposited into the Throughput Infrastructure Fund;

(b) is applied for by a political subdivision or interlocal agency to be distributed to a private entity described in Subsection (9)(c); and

(c) is engaged in by a private entity if the private entity:

(i) has the required permits to engage in mining fluorspar or gallium;

(ii) will engage in the mining activity in a community within the state that is economically impacted by the Leasing Act;

(iii) will draw money from the loan or grant by no later than two years from the day on which the impact board awards the loan or grant; and

(iv) agrees to reimburse the Throughput Infrastructure Fund in staggered payments during a period beginning three years from the day on which the impact board approves the loan or grant and ending seven years from the day on which the impact board approves the loan or grant.

Section 4. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 452
S. B. 195
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

TRANSPORTATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends provisions related to transportation items, transportation mobility plans, and adherence to proposed phases of certain transportation developments.

Highlighted Provisions:

This bill:

- ► requires cities and metropolitan planning organizations to identify transportation connectivity impediments and provide a report on plans to address transportation connectivity;
- ► requires periodic reporting and follow up on certain station area plans;
- ► requires property acquired by the Department of Transportation for a public transit purpose remain under the ownership of the Department of Transportation;
- ► designates certain legislative committees as recipients for certain required reports;
- ► creates requirements for air ambulance dispatch services;
- ► adjusts a sales and use tax earmark percentage to increase funding for transportation;
- ► extends a deadline for certain sales and use taxes to be allocated for public transit innovation grants;
- ► reinstates certain funding to the Department of Transportation for litter mitigation that was reduced due to the COVID-19 pandemic;
- ► requires the Department of Transportation to adhere to phasing of projects if required by the environmental impact statement;
- ► repeals certain outdated language and makes other technical changes;
- ► allocates revenue for certain road projects;
- ► requires the Department of Transportation and Salt Lake City to coordinate on certain traffic studies and planning;
- ► repeals certain highway-related name designations;
- ► provides maintenance responsibilities for certain street light infrastructure; and
- ► makes other technical changes.

Money Appropriated in this Bill:

This bill appropriates ($330,000,000) in capital project funds for fiscal year 2026, all of which is from the General Fund.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-9a-403.1, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapter 219
17B-2a-824, (Effective 05/07/25) as enacted by Laws of Utah 2007, Chapter 329
41-6a-102, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 236
41-6a-1102, (Effective 05/07/25) as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1116, (Effective 05/07/25) as last amended by Laws of Utah 2015, Chapter 412
41-6a-1642, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 459, 483
53-2a-1102, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapters 34, 471
53-2d-101, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 147, 438 and 506
59-12-103, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapters 88, 501
59-12-2212.2, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 498
59-12-2219, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 498
59-12-2220, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 498, 501
63B-11-502, (Effective 05/07/25) as last amended by Laws of Utah 2010, Chapter 263
63B-31-101, (Effective 05/07/25) as last amended by Laws of Utah 2021, First Special Session, Chapter 8
63I-1-272, (Effective 05/07/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63J-3-103, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 77
72-1-201, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 517
72-1-212, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapter 524
72-1-213.1, (Effective 05/07/25) as last amended by Laws of Utah 2022, Chapters 56, 259
72-1-217, (Effective upon governor's approval) as enacted by Laws of Utah 2023, Chapter 366
72-1-303, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 498
72-1-304, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 517

72-1-305, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapters 22, 219
72-2-106, (Effective 07/01/25) as last amended by Laws of Utah 2023, Chapter 22
72-2-121, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 300, 498 and 501
72-2-121.3, (Effective 05/07/25) as last amended by Laws of Utah 2020, Chapter 366
72-2-123, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapter 22
72-2-124, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 498, 501
72-2-303, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 501
72-2-401, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 498
72-2-402, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 498
72-2-403, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 498
72-3-109, (Effective 05/07/25) as last amended by Laws of Utah 2018, Chapter 403
72-6-118, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 517
72-6-206, (Effective 05/07/25) as last amended by Laws of Utah 2016, Chapter 222
72-10-109, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 483, 485

ENACTS:

10-8-87, (Effective 05/07/25) Utah Code Annotated 1953
41-6a-1121, (Effective 05/07/25) Utah Code Annotated 1953
41-6a-1122, (Effective 05/07/25) Utah Code Annotated 1953
53-2d-517, (Effective 05/07/25) Utah Code Annotated 1953

REPEALS:

63B-8-503, (Effective 05/07/25) as enacted by Laws of Utah 1999, Chapter 331
72-2-118, (Effective 05/07/25) as last amended by Laws of Utah 2018, Chapter 281
72-4-222, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 435

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-87 is enacted to read:

10-8-87 (Effective 05/07/25). Transportation connectivity plan -- Reporting.

(1) On or before July 1, 2027, a municipality within a metropolitan planning organization boundary shall, in consultation with relevant stakeholders, update the transportation and traffic circulation element of the municipality's general plan as described in Subsection 10-9a-403(2)(a)(ii) to identify priority connections to remedy physical impediments, including water conveyances, that would improve circulation and enhance vehicle, transit, bicycle, or pedestrian access to significant economic, educational, recreational, and other priority destinations.

(2) For a priority connection identified pursuant to Subsection (1), a municipality shall identify:

(a) cost estimates;

(b) potential funding sources, including state, local, federal, and private funding; and

(c) impediments to constructing the connections.

(3) (a) A metropolitan planning organization, in consultation with each affected municipality, shall report to the Transportation Interim Committee regarding:

(i) the status of the required municipal modifications to general plans required by Subsection (2);

(ii) the status of a regional roadway grid network study;

(iii) physical and other impediments to constructing priority transportation connections; and

(iv) potential funding sources, including state, local, federal, and private funding, to make transportation connectivity improvements.

(b) The metropolitan planning organization shall provide the report described in Subsection (3)(a) on or before November 1 of 2025, 2026, and 2027.

(4) Enhancement of transportation connectivity as described in Subsection (1) shall be given consideration in the prioritization processes described in Sections 72-1-304 and 72-2-302.

Section 2. Section 10-9a-403.1 is amended to read:

10-9a-403.1 (Effective 05/07/25). Station area plan requirements -- Contents -- Review and certification by applicable metropolitan planning organization.

(1) As used in this section:

(a) "Applicable metropolitan planning organization" means the metropolitan planning organization that has jurisdiction over the area in which a fixed guideway public transit station is located.

(b) "Applicable public transit district" means the public transit district, as defined in Section 17B-2a-802, of which a fixed guideway public transit station is included.

(c) "Existing fixed guideway public transit station" means a fixed guideway public transit station for which construction begins before June 1, 2022.

(d) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(e) "Metropolitan planning organization" means an organization established under 23 U.S.C. Sec. 134.

(f) "New fixed guideway public transit station" means a fixed guideway public transit station for which construction begins on or after June 1, 2022.

(g) "Qualifying land use petition" means a petition:

(i) that involves land located within a station area for an existing public transit station that provides rail services;

(ii) that involves land located within a station area for which the municipality has not yet satisfied the requirements of Subsection (2)(a);

(iii) that proposes the development of an area greater than five contiguous acres, with no less than 51% of the acreage within the station area;

(iv) that would require the municipality to amend the municipality's general plan or change a zoning designation for the land use application to be approved;

(v) that would require a higher density than the density currently allowed by the municipality;

(vi) that proposes the construction of new residential units, at least 10% of which are dedicated to moderate income housing; and

(vii) for which the land use applicant requests the municipality to initiate the process of satisfying the requirements of Subsection (2)(a) for the station area in which the development is proposed, subject to Subsection (3)(d).

(h) (i) "Station area" means:

(A) for a fixed guideway public transit station that provides rail services, the area within a one-half mile radius of the center of the fixed guideway public transit station platform; or

(B) for a fixed guideway public transit station that provides bus services only, the area within a one-fourth mile radius of the center of the fixed guideway public transit station platform.

(ii) "Station area" includes any parcel bisected by the radius limitation described in Subsection (1)(h)(i)(A) or (B).

(i) "Station area plan" means a plan that:

(i) establishes a vision, and the actions needed to implement that vision, for the development of land within a station area; and

(ii) is developed and adopted in accordance with this section.

(2) (a) Subject to the requirements of this section, a municipality that has a fixed guideway public transit station located within the municipality's boundaries shall, for the station area:

(i) develop and adopt a station area plan; and

(ii) adopt any appropriate land use regulations to implement the station area plan.

(b) The requirements of Subsection (2)(a) shall be considered satisfied if:

(i) (A) the municipality has already adopted plans or ordinances, approved land use applications, approved agreements or financing, or investments have been made, before June 1, 2022, that substantially promote each of the objectives in Subsection (7)(a) within the station area, and can demonstrate that such plans, ordinances, approved land use applications, approved agreements or financing, or investments are still relevant to making meaningful progress towards achieving such objectives; and

(B) the municipality adopts a resolution finding that the objectives of Subsection (7)(a) have been substantially promoted.

(ii) (A) the municipality has determined that conditions exist that make satisfying a portion or all of the requirements of Subsection (2)(a) for a station area impracticable, including conditions that relate to existing development, entitlements, land ownership, land uses that make opportunities for new development and long-term redevelopment infeasible, environmental limitations, market readiness, development impediment conditions, or other similar conditions; and

(B) the municipality adopts a resolution describing the conditions that exist to make satisfying the requirements of Subsection (2)(a) impracticable.

(c) To the extent that previous actions by a municipality do not satisfy the requirements of Subsection (2)(a) for a station area, the municipality shall take the actions necessary to satisfy those requirements.

(3) (a) A municipality that has a new fixed guideway public transit station located within the municipality's boundaries shall satisfy the requirements of Subsection (2)(a) for the station area surrounding the new fixed guideway public transit station before the new fixed guideway public transit station begins transit services.

(b) Except as provided in Subsections (3)(c) and (d), a municipality that has an existing fixed guideway public transit station located within the municipality's boundaries shall satisfy the requirements of Subsection (2)(a) for the station area surrounding the existing fixed guideway public transit station on or before December 31, 2025.

(c) If a municipality has more than four existing fixed guideway public transit stations located within the municipality's boundaries, the municipality shall:

(i) on or before December 31, 2025, satisfy the requirements of Subsection (2)(a) for four or more station areas located within the municipality; and

(ii) on or before December 31 of each year thereafter, satisfy the requirements of Subsection (2)(a) for no less than two station areas located within the municipality until the municipality has satisfied the requirements of Subsection (2)(a) for each station area located within the municipality.

(d) (i) Subject to Subsection (3)(d)(ii):

(A) if a municipality receives a complete qualifying land use petition on or before July 1, 2022, the municipality shall satisfy the requirements of Subsection (2)(a) for the station area in which the development is proposed on or before July 1, 2023; and

(B) if a municipality receives a complete qualifying land use petition after July 1, 2022, the municipality shall satisfy the requirements of Subsection (2)(a) for the station area in which the development is proposed within a 12-month period beginning on the first day of the month immediately following the month in which the qualifying land use petition is submitted to the municipality, and shall notify the applicable metropolitan planning organization of the receipt of the qualified land use petition within 45 days of the date of receipt.

(ii) (A) A municipality is not required to satisfy the requirements of Subsection (2)(a) for more than two station areas under Subsection (3)(d)(i) within any 12-month period.

(B) If a municipality receives more than two complete qualifying land use petitions on or before July 1, 2022, the municipality shall select two station areas for which the municipality will satisfy the requirements of Subsection (2)(a) in accordance with Subsection (3)(d)(i)(A).

(iii) A municipality shall process on a first priority basis a land use application, including an application for a building permit, if:

(A) the land use application is for a residential use within a station area for which the municipality has not satisfied the requirements of Subsection (2)(a); and

(B) the municipality would be required to change a zoning designation for the land use application to be approved.

(e) Notwithstanding Subsections (3)(a) through (d), the time period for satisfying the requirements of Subsection (2)(a) for a station area may be extended once for a period of 12 months if:

(i) the municipality demonstrates to the applicable metropolitan planning organization that conditions exist that make satisfying the

requirements of Subsection (2)(a) within the required time period infeasible, despite the municipality's good faith efforts; and

(ii) the applicable metropolitan planning organization certifies to the municipality in writing that the municipality satisfied the demonstration in Subsection (3)(e)(i).

(4) (a) Except as provided in Subsection (4)(b), if a station area is included within the boundaries of more than one municipality, each municipality with jurisdiction over the station area shall satisfy the requirements of Subsection (2)(a) for the portion of the station area over which the municipality has jurisdiction.

(b) Two or more municipalities with jurisdiction over a station area may coordinate to develop a shared station area plan for the entire station area.

(5) A municipality that has more than one fixed guideway public transit station located within the municipality may, through an integrated process, develop station area plans for multiple station areas if the station areas are within close proximity of each other.

(6) (a) A municipality that is required to develop and adopt a station area plan under this section may request technical assistance from the applicable metropolitan planning organization.

(b) An applicable metropolitan planning organization that receives funds from the Governor's Office of Economic Opportunity under Section 63N-3-113 shall, when utilizing the funds, give priority consideration to requests for technical assistance for station area plans required under Subsection (3)(d).

(7) (a) A station area plan shall promote the following objectives within the station area:

(i) increasing the availability and affordability of housing, including moderate income housing;

(ii) promoting sustainable environmental conditions;

(iii) enhancing access to opportunities; and

(iv) increasing transportation choices and connections.

(b) (i) To promote the objective described in Subsection (7)(a)(i), a municipality may consider implementing the following actions:

(A) aligning the station area plan with the moderate income housing element of the municipality's general plan;

(B) providing for densities necessary to facilitate the development of moderate income housing;

(C) providing for affordable costs of living in connection with housing, transportation, and parking; or

(D) any other similar action that promotes the objective described in Subsection (7)(a)(i).

(ii) To promote the objective described in Subsection (7)(a)(ii), a municipality may consider implementing the following actions:

(A) conserving water resources through efficient land use;

(B) improving air quality by reducing fuel consumption and motor vehicle trips;

(C) establishing parks, open spaces, and recreational opportunities; or

(D) any other similar action that promotes the objective described in Subsection (7)(a)(ii).

(iii) To promote the objective described in Subsection (7)(a)(iii), a municipality may consider the following actions:

(A) maintaining and improving the connections between housing, transit, employment, education, recreation, and commerce;

(B) encouraging mixed-use development;

(C) enabling employment and educational opportunities within the station area;

(D) encouraging and promoting enhanced broadband connectivity; or

(E) any other similar action that promotes the objective described in Subsection (7)(a)(iii).

(iv) To promote the objective described in Subsection (7)(a)(iv), a municipality may consider the following:

(A) supporting investment in infrastructure for all modes of transportation;

(B) increasing utilization of public transit;

(C) encouraging safe streets through the designation of pedestrian walkways and bicycle lanes;

(D) encouraging manageable and reliable traffic conditions;

(E) aligning the station area plan with the regional transportation plan of the applicable metropolitan planning organization; or

(F) any other similar action that promotes the objective described in Subsection (7)(a)(iv).

(8) A station area plan shall include the following components:

(a) a station area vision that:

(i) is consistent with Subsection (7); and

(ii) describes the following:

(A) opportunities for the development of land within the station area under existing conditions;

(B) constraints on the development of land within the station area under existing conditions;

(C) the municipality's objectives for the transportation system within the station area and the future transportation system that meets those objectives;

(D) the municipality's objectives for land uses within the station area and the future land uses that meet those objectives;

(E) the municipality's objectives for public and open spaces within the station area and the future public and open spaces that meet those objectives; and

(F) the municipality's objectives for the development of land within the station area and the future development standards that meet those objectives;

(b) a map that depicts:

(i) the station area;

(ii) the area within the station area to which the station area plan applies, provided that the station area plan may apply to areas outside the station area, and the station area plan is not required to apply to the entire station area; and

(iii) the area where each action is needed to implement the station area plan;

(c) an implementation plan that identifies and describes each action needed within the next five years to implement the station area

plan, and the party responsible for taking each action, including any actions to:

(i) modify land use regulations;

(ii) make infrastructure improvements;

(iii) modify deeds or other relevant legal documents;

(iv) secure funding or develop funding strategies;

(v) establish design standards for development within the station area; or

(vi) provide environmental remediation;

(d) a statement that explains how the station area plan promotes the objectives described in Subsection (7)(a); and

(e) as an alternative or supplement to the requirements of Subsection (7) or this Subsection (8), and for purposes of Subsection (2)(b)(ii), a statement that describes any conditions that would make the following impracticable:

(i) promoting the objectives described in Subsection (7)(a); or

(ii) satisfying the requirements of this Subsection (8).

(9) A municipality shall develop a station area plan with the involvement of all relevant stakeholders that have an interest in the station area through public outreach and community engagement, including:

(a) other impacted communities;

(b) the applicable public transit district;

(c) the applicable metropolitan planning organization;

(d) the Department of Transportation;

(e) owners of property within the station area; and

(f) the municipality's residents and business owners.

(10) (a) A municipality that is required to develop and adopt a station area plan for a station area under this section shall submit to the applicable metropolitan planning organization and the applicable public transit district documentation evidencing that the municipality has satisfied the requirement of Subsection (2)(a)(i) for the station area, including:

(i) a station area plan; or

(ii) a resolution adopted under Subsection (2)(b)(i) or (ii).

(b) The applicable metropolitan planning organization, in consultation with the applicable public transit district, shall:

(i) review the documentation submitted under Subsection (10)(a) to determine the municipality's compliance with this section; and

(ii) provide written certification to the municipality if the applicable metropolitan planning organization determines that the municipality has satisfied the requirement of Subsection (2)(a)(i) for the station area.

(c) The municipality shall include the certification described in Subsection (10)(b)(ii) in the municipality's report to the Department of Workforce Services under Section 10-9a-408.

(11) (a) Following certification by a metropolitan planning organization of a municipality's station area plan under Subsection (10)(b)(ii), the municipality shall provide a report to the applicable metropolitan planning organization on or before December 31 of the fifth year after the year in which the station area plan was certified, and every five years thereafter for a period not to exceed 15 years.

(b) The report described in Subsection (11)(a) shall:

(i) contain the status of advancing the station area plan objectives, including, if applicable, actions described in the implementation plan required in Subsection (8)(c); and

(ii) identify potential actions over the next five years that would advance the station area plan objectives.

(c) If a municipality has multiple certified station area plans, the municipality may consolidate the reports required in Subsection (11)(a) for the purpose of submitting reports to the metropolitan planning organization.

Section 3. Section 17B-2a-824 is amended to read:

17B-2a-824 (Effective 05/07/25). Property acquired on behalf of a public transit district.

(1) [~~Title~~]Except as provided in Subsection (3), title to property acquired on behalf of a public transit district under this part immediately and by operation of law vests in the public transit district.

(2) Property described in Subsection (1) is dedicated and set apart for the purposes set forth in this part.

(3) Any property purchased or acquired by the Department of Transportation for public transit purposes:

(a) does not vest in the public transit district; and

(b) remains under the ownership of the Department of Transportation.

(4) The Department of Transportation may sell, donate, exchange, or otherwise convey in fee simple property described in Subsection (3) to a public transit district if:

(a) (i) the property is adjacent or ancillary to property the public transit district utilizes for the operation of a fixed guideway; and

(ii) the Department of Transportation determines that the conveyance of the property to the public transit district provides a benefit to the state;

(b) the conveyance is necessary to fulfilling federal grant or other funding requirements; or

(c) the conveyance is made in accordance with an administrative rule enacted pursuant to Section 72-5-117.

(5) If the Department of Transportation purchases one or more transit vehicles for public transit purposes, the Department of Transportation may sell, donate, exchange, or otherwise convey the transit vehicles to a public transit district if:

(a) the Department of Transportation determines that the conveyance of the transit vehicles to the public transit district provides a benefit to the state; or

(b) the conveyance is necessary to fulfill federal grant or other funding requirements.

Section 4. Section 41-6a-102 is amended to read:

41-6a-102 (Effective 05/07/25). Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(5) "Authorized emergency vehicle" includes:

(a) a fire department vehicle;

(b) a police vehicle;

(c) an ambulance; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(6) "Autocycle" means the same as that term is defined in Section 53-3-102.

(7) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(8) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(9) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(10) "Class 1 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) provides assistance only when the rider is pedaling; and

(b) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(11) "Class 2 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) may be used exclusively to propel the bicycle; and

(b) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

(12) "Class 3 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) provides assistance only when the rider is pedaling;

(b) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(c) is equipped with a speedometer.

(13) "Commissioner" means the commissioner of the Department of Public Safety.

(14) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(15) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(16) "Department" means the Department of Public Safety.

(17) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(18) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(19) "Echelon formation" means the operation of two or more snowplows arranged side-by-side or diagonally across multiple lanes of traffic of a multi-lane highway to clear snow from two or more lanes at once.

(20) (a) "Electric assisted bicycle" means a bicycle with an electric motor that:

(i) has a power output of not more than 750 watts;

(ii) has fully operable pedals;

(iii) has permanently affixed cranks that were installed at the time of the original manufacture;

(iv) is fully operable as a bicycle without the use of the electric motor; and

(v) is one of the following:

(A) a class 1 electric assisted bicycle;

(B) a class 2 electric assisted bicycle;

(C) a class 3 electric assisted bicycle; or

(D) a programmable electric assisted bicycle.

(b) "Electric assisted bicycle" does not include:

(i) a moped;

(ii) a motor assisted scooter;

(iii) a motorcycle;

(iv) a motor-driven cycle; or

(v) any other vehicle with less than four wheels that is designed, manufactured, intended, or advertised by the seller to have any of the following capabilities or features, or that is modifiable or is modified to have any of the following capabilities or features:

(A) has the ability to attain the speed of 20 miles per hour or greater on motor power alone;

(B) is equipped with a continuous rated motor power of 750 watts or greater;

(C) is equipped with foot pegs for the operator at the time of manufacture, or requires installation of a pedal kit to have operable pedals; or

(D) if equipped with multiple operating modes and a throttle, has one or more modes that exceed 20 miles per hour on motor power alone.

(21) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(22) "Electric unicycle" means a self-balancing personal transportation device that:

(a) has a single wheel;

(b) is powered by an electric motor that utilizes gyroscopes and accelerometers to stabilize the rider; and

(c) is designed for the operator to face in the direction of travel while operating the device.

[~~(22)~~](23) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

[~~(23)~~](24) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

[~~(24)~~](25) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a Tagliabue or equivalent closed-cup test device.

[~~(25)~~](26) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

[~~(26)~~](27) (a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(27)~~](28) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

[~~(28)~~](29) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

[~~(29)~~](30) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

[~~(30)~~](31) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

[~~(31)~~](32) "Highway authority" means the same as that term is defined in Section 72-1-102.

[~~(32)~~](33) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

[~~(33)~~](34) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

[~~(34)~~](35) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

[~~(35)~~](36) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

[~~(36)~~](37) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[~~(37)~~](38) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

[~~(38)~~](39) (a) "Low-speed vehicle" means a four wheeled motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

[~~(39)~~](40) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

[~~(40)~~](41) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

[~~(41)~~](42) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection [~~(41)(a)~~](42)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

[~~(42)~~](43) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an object, caused by a neuro-muscular, orthopedic, or other condition.

[~~(43)~~](44) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

[~~(44)~~](45) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

[~~(45)~~](46) (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(46)~~](47) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

[~~(47)~~](48) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

[~~(48)~~](49) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

[~~(49)~~](50) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

[~~(50)~~](51) "Operate" means the same as that term is defined in Section 41-1a-102.

[~~(51)~~](52) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

[~~(52)~~](53) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

[~~(53)~~](54) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

[~~(54)~~](55) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

[~~(55)~~](56) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

[~~(56)~~](57) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

[~~(57)~~](58) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

[~~(58)~~](59) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[~~(59)~~](60) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and

those having express or implied permission from the owner, but not by other persons.

[~~(60)~~](61) "Programmable electric assisted bicycle" means an electric assisted bicycle with capability to switch or be programmed to function as a class 1 electric assisted bicycle, class 2 electric assisted bicycle, or class 3 electric assisted bicycle, provided that the electric assisted bicycle fully conforms with the respective requirements of each class of electric assisted bicycle when operated in that mode.

[~~(61)~~](62) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[~~(62)~~](63) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[~~(63)~~](64) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[~~(64)~~](65) "Restored-modified vehicle" means the same as the term defined in Section 41-1a-102.

[~~(65)~~](66) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[~~(66)~~](67) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[~~(67)~~](68) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[~~(68)~~](69) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

(70) "Self-balancing electric skateboard" means a device similar to a skateboard that:

(a) has a single wheel;

(b) is powered by an electric motor; and

(c) is designed for the operator to face perpendicular to the direction of travel while operating the device.

[~~(69)~~](71) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[~~(70)~~](72) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[~~(71)~~](73) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[~~(72)~~](74) (a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

[~~(73)~~](75) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[~~(74)~~](76) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[~~(75)~~](77) "Stop" when required means complete cessation from movement.

[~~(76)~~](78) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[~~(77)~~](79) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(78)~~](80) "Street-legal novel vehicle" means a vehicle registered as a novel vehicle under Section 41-27-201 that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with [~~with~~]Section 41-6a-1509.

[~~(79)~~](81) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(80)~~](82) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(81)~~](83) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(82)~~](84) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(83)~~](85) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(84)~~](86) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(85)~~](87) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(86)~~](88) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(87)~~](89) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(88)~~](90) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(89)~~](91) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(90)~~](92) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 5. Section 41-6a-1102 is amended to read:

41-6a-1102 (Effective 05/07/25). Bicycle and device propelled by human power and moped riders subject to chapter -- Exception.

(1) Except as provided under Subsection (2) or as otherwise specified under this part, a person operating a bicycle, a vehicle or device propelled by human power, an electric unicycle, or a moped has all the rights and is subject to the provisions of this chapter applicable to the operator of any other vehicle.

(2) A person operating a nonmotorized bicycle or a vehicle or device propelled by human power is not subject to the penalties related to operator licenses under alcohol and drug-related traffic offenses.

Section 6. Section 41-6a-1116 is amended to read:

41-6a-1116 (Effective 05/07/25). Electric personal assistive mobility devices -- Conflicting provisions -- Restrictions -- Penalties.

(1) (a) Except as otherwise provided in this section, an electric personal assistive mobility device is subject to the provisions under this chapter for a bicycle, moped, or a motor-driven cycle.

(b) For a person operating an electric personal assistive mobility device, the following provisions do not apply:

(i) seating positions under Section 41-6a-1501;

(ii) required lights, horns, and mirrors under Section 41-6a-1506;

(iii) entitlement to full use of a lane under Subsection 41-6a-1502(1); and

(iv) driver licensing requirements under Section 53-3-202.

(2) A person under 15 years [~~of age~~]old may not operate an electric personal assistive mobility device using the motor unless the person is under the direct supervision of the person's parent or guardian.

(3) A person may not operate an electric personal assistive mobility device:

(a) on a highway consisting of a total of four or more lanes designated for regular vehicular traffic, except when operating in a lane designated for bicycle traffic;

(b) on a highway with a posted speed limit greater than 35 miles per hour, except when operating in a lane designated for bicycle traffic; or

(c) that has been structurally or mechanically altered from the original manufacturer's design.

(4) An owner may not authorize or knowingly permit a person to operate an electric personal assistive mobility device in violation of this section.

(5) A person may operate an electric personal assistive mobility device on a sidewalk if the operation does not:

(a) exceed a speed which is greater than is reasonable or prudent having due regard for weather, visibility, and pedestrians; or

(b) endanger the safety of other persons or property.

(6) A person operating an electric personal assistive mobility device shall yield to a pedestrian or other person using a mobility aid.

(7) (a) An electric personal assistive mobility device may be operated on:

(i) a path or trail designed for the use of a bicycle; or

(ii) on a highway where a bicycle is allowed[~~ if the speed limit on the highway does not exceed 35 miles per hour.~~], including any lane designated for bicycle traffic regardless of the posted speed limit or number of general purpose lanes.

(b) A person operating an electric personal assistive mobility device in an area described in Subsection (7)(a)(i) or (ii) is subject to the laws governing bicycles.

(8) A person may operate an electric personal assistive mobility device at night if the device is equipped with or the operator is wearing:

(a) a lamp pointing to the front that emits a white light visible from a distance of not less than 300 feet in front of the device; and

(b) front, rear, and side reflectors.

(9) A person may not operate an electric personal assistive mobility device while carrying an article that prevents the person from keeping both hands on the handlebars or interferes with the person's ability to safely operate the electric personal assistive mobility device.

(10) Only one person may operate an electric personal assistive mobility device at a time.

(11) A person may not park an electric personal assistive mobility device on a highway or sidewalk in a manner that obstructs vehicular or pedestrian traffic.

(12) A person who violates this section is guilty of an infraction.

Section 7. Section 41-6a-1121 is enacted to read:

41-6a-1121 (Effective 05/07/25). Electric unicycles.

(1) (a) Except as otherwise provided in this section, an electric unicycle is subject to the provisions under this chapter for a bicycle.

(b) For an individual operating an electric unicycle, the following provisions do not apply:

(i) seating positions and handle bar usage under Sections 41-6a-1112 and 41-6a-1501;

(ii) required lights, horns, and mirrors under Section 41-6a-1506; and

(iii) driver licensing requirements under Section 53-3-202.

(c) A individual may operate an electric unicycle across a roadway in a crosswalk, except that the individual may not operate the electric unicycle in a negligent manner in the crosswalk:

(i) so as to collide with a:

(A) pedestrian; or

(B) individual operating a bicycle, vehicle, or device propelled by human power; or

(ii) at a speed greater than is reasonable and prudent under the existing conditions, giving regard to the actual and potential hazards then existing.

(2) An individual may not operate an electric unicycle:

(a) on public property posted as an area prohibiting bicycles;

(b) that has been structurally or mechanically altered from the original manufacturer's design, except for an alteration by, or done at the request of, an individual who rents the electric unicycle to lower the maximum speed for the electric unicycle; or

(c) at a speed of greater than 28 miles per hour or in violation of Subsection 41-6a-1115.1(3).

(3) A individual who violates this section is guilty of an infraction.

Section 8. Section 41-6a-1122 is enacted to read:

41-6a-1122 (Effective 05/07/25). Self-balancing electric skateboards.

(1) Except as otherwise provided in this section, a self-balancing electric skateboard is subject to the provisions under this chapter for a bicycle.

(2) For a person operating a self-balancing electric skateboard, the following provisions do not apply:

(a) any reference to seating positions and handle bar usage, including under Sections 41-6a-1112 and 41-6a-1501;

(b) required lights, horns, and mirrors under Section 41-6a-1506; and

(c) driver licensing requirements under Section 53-3-202.

(3) A person may operate a self-balancing electric skateboard across a roadway in a crosswalk, except that the person may not operate the self-balancing electric skateboard in a negligent manner in the crosswalk:

(a) so as to collide with a:

(i) pedestrian; or

(ii) person operating a bicycle, vehicle, or device propelled by human power; or

(b) at a speed greater than is reasonable and prudent under the existing conditions, giving regard to the actual and potential hazards then existing.

Section 9. Section 41-6a-1642 is amended to read:

41-6a-1642 (Effective 05/07/25). Emissions inspection -- County program.

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) (a) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(i) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(A) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(B) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(C) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(D) Volkswagen Golf Sportwagen, model year 2015;

(E) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(F) Volkswagen Beetle, model years 2013, 2014, and 2015;

(G) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(H) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(ii) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(A) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(B) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(C) Audi A6 Quattro, model years 2014, 2015, and 2016;

(D) Audi A7 Quattro, model years 2014, 2015, and 2016;

(E) Audi A8, model years 2014, 2015, and 2016;

(F) Audi A8L, model years 2014, 2015, and 2016;

(G) Audi Q5, model years 2014, 2015, and 2016; and

(H) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(b) (i) An owner of a restored-modified vehicle subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1).

(ii) A county emissions program may not refuse to perform an emissions inspection or indicate a failed emissions test of the vehicle based solely on a modification to the engine or component of the motor vehicle if:

(A) the modification is not likely to result in the motor vehicle having increased emissions relative to the emissions of the motor vehicle before the modification; and

(B) the motor vehicle modification is a change to an engine that is newer than the engine with which the motor vehicle was originally equipped, or the engine includes technology that increases the facility of the administration of an emissions test, such as an on-board diagnostics system.

(iii) The first time an owner seeks to obtain an emissions inspection as a prerequisite to registration of a restored-modified vehicle:

(A) the owner shall present the signed statement described in Subsection 41-1a-226(4); and

(B) the county emissions program shall perform the emissions test.

(iv) If a motor vehicle is registered as a restored-modified vehicle and the registration certificate is notated as described in Subsection 41-1a-226(4), a county emissions program may not refuse to perform an emissions test based solely on the restored-modified status of the motor vehicle.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1:

(i) if the vintage vehicle has a model year of 1982 or older; or

(ii) for a vintage vehicle that has a model year of 1983 or newer, if the owner provides proof of vehicle insurance that is a type specific to a vehicle collector;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) a vehicle registered as a novel vehicle under Section 41-27-201;

(f) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(g) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less, if the registered owner

of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(h) a motorcycle as defined in Section 41-1a-102;

(i) an electric motor vehicle as defined in Section 41-1a-102;

(j) a motor vehicle with a model year of 1967 or older; and

(k) a roadable aircraft as defined in Section 72-10-102.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(g) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

(7) The legislative body of a county required under federal law to utilize a motor vehicle emissions inspection program shall require:

(a) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(i) a model year of 2007 or newer;

(ii) a gross vehicle weight rating of 14,000 pounds or less; and

(iii) a model year that is five years old or older; and

(b) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(i) with a gross vehicle weight rating of 14,000 pounds or less;

(ii) that has a model year of 1998 or newer; and

(iii) that has a model year that is five years old or older.

(8) (a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in regulations or ordinances made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection (9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under

this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to [~~an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee~~]the Transportation Interim Committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by $2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a $7.50 increase.

(13) (a) Except as provided in Subsection 41-1a-1223(1)(c), a county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

(14) (a) If a county has reason to believe that a vehicle owner has provided an address as required in Section 41-1a-209 to register or attempt to register a motor vehicle in a county other than the county of the bona fide residence of the owner in order to avoid an emissions inspection required under this section, the county may investigate and gather evidence to determine whether the vehicle owner has used a false address or an address other than the vehicle owner's bona fide residence or place of business.

(b) If a county conducts an investigation as described in Subsection (14)(a) and determines that the vehicle owner has used a false or improper address in an effort to avoid an emissions inspection as required in this section, the county may impose a civil penalty of $1,000.

(15) A county legislative body described in Subsection (1) may exempt a motor vehicle from an emissions inspection if:

(a) the motor vehicle is 30 years old or older;

(b) the county determines that the motor vehicle was driven less than 1,500 miles during the preceding 12-month period; and

(c) the owner provides to the county legislative body a statement signed by the owner that states the motor vehicle:

(i) is primarily a collector's item used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours; or

(D) parades; or

(ii) is only used for occasional transportation.

Section 10. Section 53-2a-1102 is amended to read:

53-2a-1102 (Effective 05/07/25). Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.

(1) As used in this section:

(a) "Assistance card program" means the Utah Search and Rescue Assistance Card Program created within this section.

(b) "Card" means the Search and Rescue Assistance Card issued under this section to a participant.

(c) "Participant" means an individual, family, or group who is registered pursuant to this section as having a valid card at the time search, rescue, or both are provided.

(d) "Program" means the Search and Rescue Financial Assistance Program created within this section.

(e) (i) "Reimbursable base expenses" means those reasonable expenses incidental to search and rescue activities.

(ii) "Reimbursable base expenses" include:

(A) rental for fixed wing aircraft, snowmobiles, boats, and generators;

(B) replacement and upgrade of search and rescue equipment;

(C) training of search and rescue volunteers;

(D) costs of providing life insurance and workers' compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

(E) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(iii) "Reimbursable base expenses" do not include any salary or overtime paid to an individual on a regular or permanent payroll, including permanent part-time employees of any agency of the state.

(f) "Rescue" means search services, rescue services, or both search and rescue services.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The financial program and the assistance card program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under Subsection (11) and under Sections 23A-4-209, 41-22-34, and 73-18-24;

(iii) money deposited under [~~Subsection 59-12-103(13)~~]Section 59-12-103 as a dedicated credit for the sole use of the Search and Rescue Financial Assistance Program;

(iv) contributions deposited in accordance with Section 41-1a-230.7; and

(v) appropriations made to the program by the Legislature.

(b) Money received from the revenue sources in Subsections (3)(a)(i), (ii), and (iv), and 90% of the money described in Subsection (3)(a)(iii), shall be deposited into the General Fund as a dedicated credit to be used solely for the program.

(c) Ten percent of the money described in Subsection (3)(a)(iii) shall be deposited into the General Fund as a dedicated credit to be used solely to promote the assistance card program.

(d) Funding for the program is nonlapsing.

(4) Subject to Subsections (3)(b) and (c), the director shall use the money described in this section to reimburse counties for all or a portion of each county's reimbursable base expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and

(c) rules made under Subsection (7).

(5) Money described in Subsection (3) may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section:

(a) specifying the costs that qualify as reimbursable base expenses;

(b) defining the procedures of counties to submit expenses and be reimbursed;

(c) defining a participant in the assistance card program, including:

(i) individuals; and

(ii) families and organized groups who qualify as participants;

(d) defining the procedure for issuing a card to a participant;

(e) defining excluded expenses that may not be reimbursed under the program, including medical expenses;

(f) establishing the card renewal cycle for the Utah Search and Rescue Assistance Card Program;

(g) establishing the frequency of review of the fee schedule;

(h) providing for the administration of the program; and

(i) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses based on:

(i) the total qualifying expenses submitted;

(ii) the number of search and rescue incidents per county population;

(iii) the number of victims that reside outside the county; and

(iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

(8) (a) The division shall, in consultation with the Division of Outdoor Recreation, establish the fee schedule of the Utah Search and Rescue Assistance Card Program under Subsection 63J-1-504(7).

(b) The division shall provide a discount of not less than 10% of the card fee under Subsection (8)(a) to a person who has paid a fee under Section 23A-4-209, 41-22-34, or 73-18-24 during the same calendar year in which the person applies to be a participant in the assistance card program.

(9) Counties may not bill reimbursable base expenses to an individual for costs incurred for the rescue of an individual, if the individual is a current participant in the Utah Search and Rescue Assistance Card Program at the time of rescue, unless:

(a) the rescuing county finds that the participant acted recklessly in creating a situation resulting in the need for the county to provide rescue services; or

(b) the rescuing county finds that the participant intentionally created a situation resulting in the need for the county to provide rescue services.

(10) (a) There is created the Utah Search and Rescue Assistance Card Program. The program is located within the division.

(b) The program may not be used to cover any expenses, such as medically related expenses, that are not reimbursable base expenses related to the rescue.

(11) (a) To participate in the program, a person shall purchase a search and rescue assistance card from the division by paying the fee as determined by the division in Subsection (8).

(b) The money generated by the fees shall be deposited into the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created in this section.

(c) Participation and payment of fees by a person under Sections 23A-4-209, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the Division of Outdoor Recreation regarding:

(a) administration of the assistance card program; and

(b) outreach and marketing strategies.

(13) Pursuant to Subsection 31A-1-103(7), the Utah Search and Rescue Assistance Card Program under this section is exempt from being considered insurance as that term is defined in Section 31A-1-301.

Section 11. Section 53-2d-101 is amended to read:

53-2d-101 (Effective 05/07/25). Definitions.

As used in this chapter:

(1) (a) [~~(a)~~](i) "911 ambulance or paramedic services" means:

[~~(i)~~](A) either:

[~~(A)~~](I) 911 ambulance service;

[~~(B)~~](II) 911 paramedic service; or

[~~(C)~~](III) both 911 ambulance and paramedic service; and

[~~(ii)~~](B) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

[~~(b)~~](ii) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Air ambulance" means an ambulance that operates through air flight.

(3) "Air ambulance provider" means an ambulance provider that provides emergency medical services using an air ambulance.

[~~(2)~~](4) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 53-2d-404 to operate in the state.

[~~(3)~~](5) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 5, Ambulance and Paramedic Providers.

[~~(4)~~](6) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:

(a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to 21 U.S.C. Sec. 360(k);

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of, or automatically delivers, an electrical impulse through the chest wall and to an individual's heart.

[~~(5)~~](7) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302;

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

[~~(6)~~](8) "Bureau" means the Bureau of Emergency Medical Services created in Section 53-2d-102.

[~~(7)~~](9) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.

[~~(8)~~](10) "Committee" means the Trauma System and Emergency Medical Services Committee created by Section 53-2d-104.

[~~(9)~~](11) "Community paramedicine" means medical care:

(a) provided by emergency medical service personnel; and

(b) provided to a patient who is not:

(i) in need of ambulance transportation; or

(ii) located in a health care facility as defined in Section 26B-2-201.

[~~(10)~~](12) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26B-4-116.

[~~(11)~~](13) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 53-2d-402 during transport.

[~~(12)~~](14) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the bureau.

[~~(13)~~](15) (a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 53-2d-402.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

[~~(14)~~](16) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 53-2d-403(1)(a); and

(c) emergency medical service personnel.

[~~(15)~~](17) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections [~~(15)(a)~~](17)(a) through (c).

[~~(16)~~](18) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 53-2d-404.

[~~(17)~~](19) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

[~~(18)~~](20) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 5, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 5, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

[~~(19)~~](21) "Level of service" means the level at which an ambulance provider type of service is licensed as:

(a) emergency medical technician;

(b) advanced emergency medical technician; or

(c) paramedic.

[~~(20)~~](22) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

[~~(21)~~](23) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

[~~(22)~~](24) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 53-2d-405; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 53-2d-403.

[~~(23)~~](25) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 5, Ambulance and Paramedic Providers.

[~~(24)~~](26) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26B-4-119.

[~~(25)~~](27) "Political subdivision" means:

(a) a city or town;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a special district created under Title 17B, Limited Purpose Local Government Entities - Special Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection 53-2d-505.2(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

[~~(26)~~](28) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.

[~~(27)~~](29) "Trauma" means an injury requiring immediate medical or surgical intervention.

[~~(28)~~](30) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

[~~(29)~~](31) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

[~~(30)~~](32) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

[~~(31)~~](33) "Type of service" means the category at which an ambulance provider is licensed as:

(a) ground ambulance transport;

(b) ground ambulance interfacility transport; or

(c) both ground ambulance transport and ground ambulance interfacility transport.

Section 12. Section 53-2d-517 is enacted to read:

53-2d-517 (Effective 05/07/25). Air ambulance requirements.

(1) A licensed air ambulance provider shall provide to all emergency medical dispatch centers the real-time location and availability of the air ambulance using statewide software that updates from a location transponder or computer-aided dispatch interface.

(2) An emergency medical dispatch center shall dispatch an air ambulance that the emergency medical dispatch center determines:

(a) is nearest to the location requiring emergency medical services;

(b) is readily available; and

(c) is the most appropriate air ambulance provider for the particular emergency circumstance based on the needs of the patient and the capabilities of the air ambulance provider.

(3) An air ambulance that is currently transporting a patient may not:

(a) be dispatched for a different emergency medical situation; or

(b) deviate from the current emergency service and patient to respond to a different emergency medical dispatch communication.

Section 13. Section 59-12-103 is amended to read:

59-12-103 (Effective 07/01/25). Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenue.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) (A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(f)(i)(A)(I).

(j) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(k) (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l) (i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Wildlife Resources to:

(A) implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Division of Wildlife Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an

area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7) (a) Notwithstanding Subsection (3)(a) and subject to Subsections (7)(b), (c), and (d), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to [~~17%~~]24% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to .44% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

(ii) The commission shall annually deposit the amount described in Subsection (7)(b)(i) into the Cottonwood Canyons Transportation Investment Fund created in Section 72-2-124.

(c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited

into the Transportation Investment Fund of 2005; and

(C) revenue transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(d) (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under this Subsection (7) by an amount that is equal to 1% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

(ii) The commission shall annually deposit the amount described in Subsection (7)(d)(i) into the Commuter Rail Subaccount created in Section 72-2-124.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to [~~Subsections (8)(b) and (d)(ii)~~]Subsection (8)(b), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenue collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid ACA Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

[~~(13) (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.~~]

[~~(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.~~]

[~~(14)~~](13) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

[~~(15)~~](14) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenue collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(f)(i)(A)(I).

[~~(16)~~](15) Notwithstanding Subsection (3)(a), beginning October 1, 2024 the commission shall transfer to the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring within the district sales tax area, as defined in Section 11-70-101.

[~~(17)~~](16) (a) As used in this Subsection [~~(17)~~](16):

(i) "Additional land" means point of the mountain state land described in Subsection 11-59-102(6)(b) that the point of the mountain authority acquires after the point of the mountain authority provides the commission a map under Subsection (17)(c).

(ii) "Point of the mountain authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(iii) "Point of the mountain state land" means the same as that term is defined in Section 11-59-102.

(b) Notwithstanding Subsection (3)(a), the commission shall distribute to the point of the mountain authority 50% of the revenue from

the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring on the point of the mountain state land.

(c) The distribution under Subsection [~~(17)(b)~~](16)(b) shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map that:

(i) accurately describes the point of the mountain state land; and

(ii) the point of the mountain authority certifies as accurate.

(d) A distribution under Subsection [~~(17)(b)~~](16)(b) with respect to additional land shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map of point of the mountain state land that:

(i) accurately describes the point of the mountain state land, including the additional land; and

(ii) the point of the mountain authority certifies as accurate.

(e) (i) Upon the payment in full of bonds secured by the sales and use tax revenue distributed to the point of the mountain authority under Subsection [~~(17)(b)~~](16)(b), the point of the mountain authority shall immediately notify the commission in writing that the bonds are paid in full.

(ii) The commission shall discontinue distributions of sales and use tax revenue under Subsection [~~(17)(b)~~](16)(b) at the beginning of the calendar quarter that begins at least 90 days after the date that the commission receives the written notice under Subsection [~~(17)(e)(i)~~](16)(e)(i).

Section 14. Section 59-12-2212.2 is amended to read:

59-12-2212.2 (Effective 05/07/25). Allowable uses of local option sales and use tax revenue.

(1) Except as otherwise provided in this part, a county, city, or town that imposes a local option sales and use tax under this part may expend the revenue generated from the local option sales and use tax for the following purposes:

(a) the development, construction, maintenance, or operation of:

(i) a class A road;

(ii) a class B road;

(iii) a class C road;

(iv) a class D road;

(v) traffic and pedestrian safety infrastructure, including:

(A) a sidewalk;

(B) curb and gutter;

(C) a safety feature;

(D) a traffic sign;

(E) a traffic signal; or

(F) street lighting;

(vi) streets, alleys, roads, highways, and thoroughfares of any kind, including connected structures;

(vii) an airport facility;

(viii) an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination; or

(ix) an intelligent transportation system;

(b) a system for public transit;

(c) all other modes and forms of conveyance used by the public;

(d) debt service or bond issuance costs related to a project or facility described in Subsections (1)(a) through (c); or

(e) corridor preservation related to a project or facility described in Subsections (1)(a) through (c).

(2) Any revenue subject to rights or obligations under a contract between a county, city, or town and a public transit district entered into before January 1, 2019, remains subject to existing contractual rights and obligations.

(3) In addition to the uses described in Subsection (1), for any revenue generated by a sales and use tax imposed under Section 59-12-2219 that is not contractually obligated for debt service, the percentage described in Subsection 59-12-2219(11) shall be made available for public transit innovation grants as provided in Title 72, Chapter 2, Part [~~3~~]4, Public Transit Innovation Grants.

Section 15. Section 59-12-2219 is amended to read:

59-12-2219 (Effective 05/07/25). County option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.

(1) Subject to the other provisions of this part, and subject to Subsection (13), a county legislative body may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) Subject to Subsection (9), the commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (3) through (8).

(3) If the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(b) .10% shall be distributed as provided in Subsection (6); and

(c) .05% shall be distributed to the county legislative body.

(4) If the entire boundary of a county that imposes a sales and use tax under this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single large public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (6); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (6); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (4)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (6); and

(ii) .15% shall be distributed to the county legislative body.

(5) For a county not described in Subsection (3) or (4), if a county of the second, third, fourth, fifth, or sixth class imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be distributed as provided in Subsection (6);

(ii) .10% shall be distributed as provided in Subsection (7); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be distributed as provided in Subsection (6);

(ii) .10% shall be distributed as provided in Subsection (7); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (6); and

(ii) .15% shall be distributed to the county legislative body.

(6) (a) Subject to Subsection (6)(b), the commission shall make the distributions required by Subsections (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) as follows:

(i) 50% of the total revenue collected under Subsections (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties and cities that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the location of the transaction as determined under Sections 59-12-211through 59-12-215.

(b) (i) Population for purposes of this Subsection (6) shall be determined on the basis of the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from an estimate from the Utah Population Committee.

(7) (a) (i) Subject to the requirements in Subsections (7)(b) and (c), a county legislative body:

(A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county, and in compliance with the requirements for changing an allocation under Subsection (7)(e), allocate the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or

(B) for a county that imposes a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(ii) If a county described in Subsection (7)(a)(i)(A) does not allocate the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) in accordance with Subsection (7)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) to:

(A) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(B) an eligible political subdivision within the county.

(b) If a county legislative body allocates the revenue as described in Subsection (7)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) to:

(i) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(ii) an eligible political subdivision within the county.

(c) Notwithstanding Section 59-12-2208, the opinion question described in Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this Subsection (7).

(d) The commission shall make the distributions required by Subsection (5)(a)(ii) or (5)(b)(ii) as follows:

(i) the percentage specified by a county legislative body shall be distributed in accordance with a resolution adopted by a county legislative body under Subsection (7)(a) to an eligible political subdivision or a public transit district within the county; and

(ii) except as provided in Subsection (7)(a)(ii), if a county legislative body allocates less than 100% of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) to a public transit district or an eligible political subdivision, the remainder of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) not allocated by a county legislative body through a resolution under Subsection (7)(a) shall be distributed as follows:

(A) 50% of the revenue as provided in Subsection (6); and

(B) 50% of the revenue to the county legislative body.

(e) If a county legislative body seeks to change an allocation specified in a resolution under Subsection (7)(a), the county legislative body may change the allocation by:

(i) adopting a resolution in accordance with Subsection (7)(a) specifying the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision;

(ii) obtaining approval to change the allocation of the sales and use tax by a majority of all the members of the county legislative body; and

(iii) subject to Subsection (7)(f):

(A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (7)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with Subsection (7)(e) and approved by the county legislative body in accordance with Subsection (7)(e)(ii).

(g) (i) If a county makes an allocation by adopting a resolution under Subsection (7)(a) or changes an allocation by adopting a resolution under Subsection (7)(e), the allocation shall take effect on the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice meeting the requirements of Subsection (7)(g)(ii) from the county.

(ii) The notice described in Subsection (7)(g)(i) shall state:

(A) that the county will make or change the percentage of an allocation under Subsection (7)(a) or (e); and

(B) the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(8) (a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.

(b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the eligible political subdivision intends to provide public transit service within the county.

(9) (a) (i) Notwithstanding Subsections (3) through (8), for a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute all of the sales and use tax revenue collected by the county before June 30, 2019, to the county for the purposes described in Subsection (9)(a)(ii).

(ii) For any revenue collected by a county pursuant to Subsection (9)(a)(i) before June 30, 2019, the county may expend that revenue for:

(A) reducing transportation related debt;

(B) a regionally significant transportation facility; or

(C) a public transit project of regional significance.

(b) For a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute the sales and use tax revenue collected by the county on or after July 1, 2019, as described in Subsections (3) through (8).

(c) For a county that has not imposed a sales and use tax under this section before June 30, 2019, if the entire boundary of that county is annexed into a large public transit district, and if the county imposes a sales and use tax under this section on or after July 1, 2019, the commission shall distribute the sales and use tax revenue collected by the county as described in Subsections (3) through (8).

(10) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection (3)(a), (4)(a)(i), (4)(b)(i), or (7)(d)(i), for a purpose described in Section 59-12-2212.2.

(11) (a) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection (3)(a), (4)(a)(i), (4)(b)(i), or (7)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

(b) As provided in Section 59-12-2212.2, for the .10% designated for public transit described in Subsection (3)(a) that is not contractually obligated for debt service, beginning on July 1, [~~2025~~]2026, a public transit district shall make available to the Department of Transportation an amount equal to 10% of the .10% to be used for public transit innovation grants as provided in Title 72, Chapter 2, Part [~~3~~]4, Public Transit Innovation Grants.

(12) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(13) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (13)(a), any sales and use tax imposed under this section by passage of a county ordinance on or before June 30, 2022, may remain in effect.

(14) (a) Beginning on July 1, 2020, and subject to Subsection (15), if a county has not imposed a sales and use tax under this section, subject to the provisions of this part, the legislative body of a city or town described in Subsection (14)(b) may impose a .25% sales and use tax on the transactions described in Subsection 59-12-103(1) within the city or town.

(b) The following cities or towns may impose a sales and use tax described in Subsection (14)(a):

(i) a city or town that has been annexed into a public transit district; or

(ii) an eligible political subdivision.

(c) If a city or town imposes a sales and use tax as provided in this section, the commission shall distribute the sales and use tax revenue collected by the city or town as follows:

(i) .125% to the city or town that imposed the sales and use tax, to be distributed as provided in Subsection (6); and

(ii) .125%, as applicable, to:

(A) the public transit district in which the city or town is annexed; or

(B) the eligible political subdivision for public transit services.

(d) If a city or town imposes a sales and use tax under this section and the county subsequently imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the city or town as described in Subsection (14)(c).

(15) (a) (i) Notwithstanding any other provision in this section, if a city or town legislative body wishes to impose a sales and use tax under this section, the city or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) A city or town legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (15)(a), any sales and use tax imposed under this section by passage of an ordinance by a city or town legislative body on or before June 30, 2022, may remain in effect.

Section 16. Section 59-12-2220 is amended to read:

59-12-2220 (Effective 05/07/25). County option sales and use tax to fund highways or a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the entire boundary of a county is annexed into a large public transit district; and

(ii) the maximum amount of sales and use tax authorizations allowed pursuant to Section 59-12-2203 and authorized under the following sections has been imposed:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision; or

(ii) a city or town within the boundary of the county is an eligible political subdivision; or

(c) a county legislative body of a county not described in Subsection (1)(a) or (1)(b) may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of .2%.

(3) (a) The commission shall distribute sales and use tax revenue collected under this section as determined by a county legislative body as described in Subsection (3)(b).

(b) If a county legislative body imposes a sales and use tax as described in this section, the county legislative body may elect to impose a sales and use tax revenue distribution as described in Subsection (4), (5), (6), or (7), depending on the class of county, and presence and type of a public transit provider in the county.

(4) If a county legislative body imposes a sales and use tax as described in this section, and the entire boundary of the county is annexed into a large public transit district, and the county is a county of the first class, the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(5) If a county legislative body imposes a sales and use tax as described in this section and the entire boundary of the county is annexed into a large public transit district, and the county is a county not described in Subsection (4), the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(6) (a) Except as provided in Subsection (12)(c), if the entire boundary of a county that imposes a sales and use tax as described in this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district, or if the city or town is an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the county as provided in Subsection (6)(b) or (c).

(b) For a city, town, or portion of the county described in Subsection (6)(a) that is annexed into the single public transit district, or an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the portion of the county that is within a public transit district or eligible political subdivision as follows:

(i) .05% to a public transit provider as described in Subsection (11);

(ii) .075% to the cities and towns as provided in Subsection (8); and

(iii) .075% to the county legislative body.

(c) Except as provided in Subsection (12)(c), for a city, town, or portion of the county described in Subsection (6)(a) that is not annexed into a single public transit district or eligible political subdivision in the county, the commission shall distribute the sales and use tax revenue collected within that portion of the county as follows:

(i) .08% to the cities and towns as provided in Subsection (8); and

(ii) .12% to the county legislative body.

(7) For a county without a public transit service that imposes a sales and use tax as described in this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .08% to the cities and towns as provided in Subsection (8); and

(b) .12% to the county legislative body.

(8) (a) Subject to Subsections (8)(b) and (c), the commission shall make the distributions required by Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c) (i) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a city or town is ineligible for funds in accordance with Subsection 10-9a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that city or town would have received under Subsection (8)(a) to cities or towns to which Subsection 10-9a-408(7) does not apply.

(ii) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a county is ineligible for funds in accordance with Subsection 17-27a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that county would have received under Subsection (8)(a) to counties to which Subsection 17-27a-408(7) does not apply.

(9) If a public transit service is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit provider that the public transit service has been organized.

(10) (a) Except as provided in Subsection (10)(b), a county, city, or town that received distributions described in Subsections (4)(b), (4)(c), (5)(b), (5)(c), (6)(b)(ii), (6)(b)(iii), (6)(c), and (7) may only expend those funds for a purpose described in Section 59-12-2212.2.

(b) If a county described in Subsection (1)(a) that is a county of the first class imposes the sales and use tax authorized in this section, the county may also use funds distributed in accordance with Subsection (4)(c) for public safety purposes.

(11) (a) Subject to Subsections (11)(b), (c), and (d), revenue designated for public transit as described in this section may be used for capital expenses and service delivery expenses of:

(i) a public transit district;

(ii) an eligible political subdivision; or

(iii) another entity providing a service for public transit or a transit facility within the relevant county, as those terms are defined in Section 17B-2a-802.

(b) (i) (A) If a county of the first class imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit within a county of the first class as described in Subsection (4)(a) shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121.

(B) Revenue deposited into the County of the First Class Highway Projects Fund created in Section 72-2-121 as described in Subsection (11)(b)(i)(A) may be used for public transit innovation grants as provided in Title 72, Chapter 2, Part [~~3~~]4, Public Transit Innovation Grants.

(ii) If a county of the first class imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(b)(i), for revenue designated for public transit as described in Subsection (4)(a):

(A) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9).

(c) (i) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit as described in Subsection (5)(a) shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(ii) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(c)(i), for the revenue that is designated for public transit in Subsection (5)(a):

(A) 50% shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9); and

(B) 50% shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(d) Except as provided in Subsection (12)(c), for a county that imposes a sales and use tax under this section, for revenue designated for public transit as described in Subsection (6)(b)(i), the revenue shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(12) (a) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(b) If a county passes an ordinance to impose a sales and use tax as described in this section, the sales and use tax shall take effect on the first day of the calendar quarter after a 90-day period that begins on the date the commission receives written notice from the county of the passage of the ordinance.

(c) A county that imposed the local option sales and use tax described in this section before January 1, 2023, may maintain that county's distribution allocation in place as of January 1, 2023.

(13) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county, city, or town budgeted for transportation or public transit as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection (13)(a) does not apply to a designated transportation or public transit capital or reserve account a county, city, or town established before the date the tax becomes effective.

Section 17. Section 63B-11-502 is amended to read:

63B-11-502 (Effective 05/07/25). Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed $52,101,800.

(2) (a) (i) Proceeds from the issuance of bonds shall be provided to the Department of Transportation to provide funds to pay all or part of the costs of accelerating any of the following state highway construction or reconstruction projects in Salt Lake County:

(A) I-15: 10600 South to the Utah County line;

(B) Final Environmental Impact Statement for Western Transportation Corridor: I-80 to Utah County;

(C) I-215: Redwood Road to 4700 South;

(D) State Street Reconstruction: 9000 South to 10600 South; and

(E) except as provided in Subsection (2)(d), State Street Reconstruction: 7800 South to 8000 South.

(ii) If the Department of Transportation is unable to begin or complete a project authorized by this Subsection (2)(a) because of a court order, the Department of Transportation, with the approval of Salt Lake County, may expend bond proceeds to construct one or more projects identified in Subsection (2)(e).

(b) When the Utah Transit Authority certifies to the Transportation Commission that the Utah Transit Authority will pay half the costs of reconstruction of the Utah Transit Authority railroad overpass on 8000 South State Street, the Department of Transportation may provide funds from bond proceeds to pay the other half of the costs of reconstruction of the Utah Transit Authority railroad overpass on 8000 South.

(c) As used in Subsections (2)(a) and (b), "costs" may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of Chapter 11, Part 6, 2002 Highway General Obligation Bond Anticipation Notes for Salt Lake County, and all related engineering, architectural, and legal fees.

(d) Bond proceeds may not be expended on the State Street Reconstruction: 7800 to 8000 South project until the Transportation Commission has received the certification required by Subsection (2)(b) from the Utah Transit Authority.

(e) As the following projects or future projects identified by Salt Lake County and the Legislature are prepared and ready for construction by the Department of Transportation, it is the intent of the Legislature that they will be accelerated and funded from future general obligation bonds issued in anticipation of receiving debt service funds from the amount described in Subsection 59-12-2214(3)(b) and from other funding sources available to the Department of Transportation[~~, including money available from the Centennial Highway Fund and the Statewide Transportation Improvement Plan~~]:

(i) 5600 West Reconstruction: 4500 South to 7000 South;

(ii) Redwood Road: 12600 South to Bangerter Highway;

(iii) I-15: Beck Street Overpass;

(iv) I-215: 4700 South to SR-201;

(v) acquisition of rights-of-way for the Western Transportation Corridor;

(vi) 11400 South: I-15 to Redwood Road; and

(vii) State Street Reconstruction 6400 South to 7800 South and 8000 South to 9000 South.

(3) If any portion of the proceeds of the tax paid to the state are not required to pay principal, interest, and issuance costs of the bonds and the principal, interest, and issuance costs of the bond have been paid off, or if, after completion of the projects authorized under Subsection (2)(a) and payment of the costs of issuing and selling the bonds under Section 63B-11-503, any bond proceeds remain unexpended, the Department of Transportation may use those unexpended proceeds to pay all or part of the costs of construction projects in Salt Lake County that have been approved and prioritized by the Transportation Commission.

(4) The commission, by resolution, or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(5) The Department of Transportation may enter into agreements related to the projects before the receipt of proceeds of bonds issued under this chapter.

Section 18. Section 63B-31-101 is amended to read:

63B-31-101 (Effective 05/07/25). General obligation bonds -- Maximum amount -- Use of proceeds for projects.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed $264,000,000 for acquisition and construction proceeds, plus additional amounts as provided in Subsection (1)(b).

(b) When the Department of Transportation certifies to the commission the amount of bond proceeds needed to provide funding for the projects described in this section, the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed 1% of the certified amount.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) Proceeds from the bonds issued under this section shall be provided to the Department of Transportation to pay for, or to provide

funds in accordance with this section to pay for, the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements with respect to projects described in this section.

(3) It is the intent of the Legislature that as transportation projects are prioritized under Section 72-2-124, the Transportation Commission give consideration to projects beyond the normal programming horizon.

(4) (a) Two hundred thirty-two million dollars of the proceeds of bonds issued under this section shall be used to double track strategic sections of the FrontRunner commuter rail system, to be repaid from the Transit Transportation Investment Fund under Subsection [~~72-2-124(9)~~]72-2-124(10).

(b) The issuance of the bonds for the purpose described in Subsection (4)(a) is contingent upon the establishment of an agreement between the Department of Transportation and the Utah Transit Authority whereby the Utah Transit Authority agrees to pay $5,000,000 per year for 15 years toward repayment of the bonds.

(5) (a) Twenty-nine million dollars of the proceeds of bonds issued under this section shall be provided to the Department of Transportation to pass through to Brigham City to be used for a Forest Street rail bridge project in Brigham City.

(b) Payments shall be made from the Rail Transportation Restricted Account created in Section 72-2-131, from the amount designated under Subsection 72-2-131(4)(c), in the amount per year of the principal and interest payments due under the bonds issued under Subsection (5)(a) until those bonds have been repaid in full.

(6) (a) Three million dollars of the proceeds of bonds issued under this section shall be provided to the Department of Transportation to pass through to the city of North Salt Lake for an environmental study for a grade separation at 1100 North in North Salt Lake.

(b) Payments shall be made from the Rail Transportation Restricted Account created in Section 72-2-131, from the amount designated under Subsection 72-2-131(4)(b), in the amount per year of the principal and interest payments due under the bonds issued under Subsection (6)(a) until those bonds have been repaid in full.

(7) The costs under Subsection (2) may include the costs of studies necessary to make transportation infrastructure improvements, the costs of acquiring land, interests in land, and easements and rights-of-way, the costs of improving sites and making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(8) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(9) The Department of Transportation may enter into agreements related to the projects described in Subsection (4) before the receipt of proceeds of bonds issued under this section.

Section 19. Section 63I-1-272 is amended to read:

63I-1-272 (Effective 05/07/25). Repeal dates: Title 72.

(1) Subsection 72-1-217(4), regarding highway reduction strategies within Salt Lake City, is repealed July 1, 2029.

[~~(1)~~](2) Section 72-2-134, Transportation Infrastructure General Fund Support Subfund, is repealed July 1, 2027.

[~~(2)~~](3) Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January 2, 2030.

Section 20. Section 63J-3-103 is amended to read:

63J-3-103 (Effective 05/07/25). Definitions.

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund and Income Tax Fund sources.

(b) "Appropriations" includes appropriations that are contingent upon available surpluses in the General Fund and Income Tax Fund.

(c) "Appropriations" does not mean:

(i) public education expenditures;

(ii) Utah Education and Telehealth Network expenditures in support of public education;

(iii) Utah Board of Higher Education expenditures in support of public education;

(iv) State Tax Commission expenditures related to collection of income taxes in support of public education;

(v) debt service expenditures;

(vi) emergency expenditures;

(vii) expenditures from all other fund or subfund sources;

(viii) transfers or appropriations from the Income Tax Fund to the Uniform School Fund;

(ix) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section 63J-1-312;

(x) transfers into, or appropriations made to, the Income Tax Fund Budget Reserve Account established in Section 63J-1-313;

(xi) transfers in accordance with Section 63J-1-314 into, or appropriations made to the Wildland Fire Suppression Fund created in Section 65A-8-204, the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund created in Section 65A-8-215, or the State Disaster Recovery Restricted Account created in Section 53-2a-603;

(xii) money appropriated to fund the total one-time project costs for the construction of capital development projects as defined in Section 63A-5b-401;

[~~(xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund created by Section 72-2-118;~~]

[~~(xiv)~~](xiii) transfers or deposits into or appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124;

[~~(xv)~~](xiv) transfers or deposits into or appropriations made to:

(A) the Department of Transportation from any source; or

(B) any transportation-related account or fund from any source; or

[~~(xvi)~~](xv) supplemental appropriations from the General Fund to the Division of Forestry, Fire, and State Lands to provide money for wildland fire control expenses incurred during the current or previous fire years.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt money by:

(a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session, Chapter 4.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt money.

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

(8) (a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of Planning and Budget according to the procedures and requirements of Section 63J-3-202.

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 21. Section 72-1-201 is amended to read:

72-1-201 (Effective 05/07/25). Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems;

(b) provide administration for state transportation systems and programs;

(c) implement the transportation policies of the state;

(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of the department, state transportation systems, and programs;

(i) jointly with the commission annually report to the Transportation Interim Committee, by November 30 of each year, as to the operation, maintenance, condition, mobility, safety needs, and wildlife and livestock mitigation for state transportation systems;

(j) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(k) study and make recommendations to the Legislature on potential managed lane use and implementation on selected transportation systems within the state;

(l) before July 1 of each year, coordinate with the Utah Highway Patrol Division created in Section 53-8-103 regarding:

(i) future highway projects that will add additional capacity to the state transportation system;

(ii) potential changes in law enforcement responsibilities due to future highway projects; and

(iii) incident management services on state highways; and

(m) provide public transit services, in consultation with any relevant public transit provider.

(2) For a proposed transportation project that includes a gondola in the Cottonwood Canyons area of Salt Lake County for which the department has completed an environmental impact statement, the department may only construct the project in the phasing sequence as provided in the record of decision associated with the environmental impact statement.

[~~(2)~~](3) (a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.

(b) Nothing in this section shall be construed as:

(i) creating a private right of action; or

(ii) expanding or changing the department's common law duty as described in Subsection [~~(2)(a)~~](3)(a) for liability purposes.

Section 22. Section 72-1-212 is amended to read:

72-1-212 (Effective 05/07/25). Special use permitting -- Rulemaking.

(1) As used in this section:

(a) "Law enforcement agency" means the same as that term is defined in Section [~~53-3-102~~]53-1-102.

(b) "Special use permit" means a permit issued:

(i) for a special use or a special event that takes place on a highway; or

(ii) to a law enforcement agency to install an automatic license plate reader on a state highway for the purpose of capturing license plate data of vehicles traveling on a state highway, regardless of whether the device is installed on property owned by the department or the law enforcement agency.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with representatives of the Utah League of Cities and Towns and the Utah Association of Counties, the department shall make rules that are not inconsistent with this chapter or the constitution and laws of this state or of the United States governing the issuance of a special use permit to maintain public safety and serve the needs of the traveling public.

(3) The rules described in Subsection (2) may:

(a) establish the highways for which the highest number of special use permits are issued;

(b) develop, in consultation with municipalities, a limit on the number of special use permits that may be issued in any calendar year on a particular highway;

(c) require a person to submit an application designated by the department before the department issues a special use permit;

(d) limit the number of special use permits issued on any one day for any specified location based on a first-come, first-served basis for completed applications;

(e) establish criteria for evaluating completed applications, such as historic use, potential economic benefit, or other relevant factors;

(f) specify conditions that are required to be met before a special use permit may be issued;

(g) establish a penalty for failure to fulfill conditions required by the special use permit, including suspension of the special use permit or suspension of a future special use permit;

(h) require an applicant to obtain insurance for certain special uses or special events; or

(i) provide other requirements to maintain public safety and serve the needs of the traveling public.

(4) The limit on the number of special use permits described in Subsection (3)(b) may not include:

(a) a special use permit issued for a municipality-sponsored special use or special event on a highway within the jurisdiction of the municipality; or

(b) a special use permit issued to a law enforcement agency to install a device as part of an automatic license plate reader system authorized by Section 41-6a-2003.

(5) The rules described in Subsection (2) shall consider:

(a) traveler safety and mobility;

(b) the safety of special use or special event participants;

(c) emergency access;

(d) the mobility of residents close to the event or use;

(e) access and economic impact to businesses affected by changes to the normal operation of highway traffic;

(f) past performance of an applicant's adherence to special use permit requirements; and

(g) whether a law enforcement agency applying for a special use permit has published a policy online as required by Section 41-6a-2003.

(6) Notwithstanding any other provision of this chapter, the department may also require a law enforcement agency applying for a special use permit described in this section to obtain an encroachment permit.

(7) The department shall adopt a fee schedule in accordance with Section 63J-1-504 that reflects the cost of services provided by the department associated with special use permits and with special uses or special events that take place on a highway.

(8) For a device installed in accordance with Section 41-6a-2003, the installation, maintenance, data collection, and removal are the responsibility of the law enforcement agency that obtains the special use permit.

(9) (a) The department shall preserve a record of special use permits issued to a law enforcement agency, including the stated purpose for each permit.

(b) The department shall preserve a record identified in Subsection (9)(a) for at least five years.

Section 23. Section 72-1-213.1 is amended to read:

72-1-213.1 (Effective 05/07/25). Road usage charge program.

(1) As used in this section:

(a) "Account manager" means an entity under contract with the department to administer and manage the road usage charge program.

(b) "Alternative fuel vehicle" means:

(i) an electric motor vehicle as defined in Section 41-1a-102; or

(ii) a motor vehicle powered exclusively by a fuel other than:

(A) motor fuel;

(B) diesel fuel;

(C) natural gas; or

(D) propane.

(c) "Payment period" means the interval during which an owner is required to report mileage and pay the appropriate road usage charge according to the terms of the program.

(d) "Program" means the road usage charge program established and described in this section.

(e) "Road usage charge cap" means the maximum fee charged to a participant in the program for a registration period.

(f) "Road usage charge rate" means the per-mile usage fee charged to a participant in the program.

(2) There is established a road usage charge program as described in this section.

(3) (a) The department shall implement and oversee the administration of the program, which shall begin on January 1, 2020.

(b) To implement and administer the program, the department may contract with an account manager.

(4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of the alternative fuel vehicle in the program.

(b) If an application for enrollment into the program is approved by the department, the owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying the fee described in Subsection 41-1a-1206(1)(h) or (2)(b).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the department:

(a) shall make rules to establish:

(i) processes and terms for enrollment into and withdrawal or removal from the program;

(ii) payment periods and other payment methods and procedures for the program;

(iii) standards for mileage reporting mechanisms for an owner or lessee of an alternative fuel vehicle to report mileage as part of participation in the program;

(iv) standards for program functions for mileage recording, payment processing, account management, and other similar aspects of the program;

(v) contractual terms between an owner or lessee of an alternative fuel vehicle owner and an account manager for participation in the program;

(vi) contractual terms between the department and an account manager, including authority for an account manager to enforce the terms of the program;

(vii) procedures to provide security and protection of personal information and data connected to the program, and penalties for account managers for violating privacy protection rules;

(viii) penalty procedures for a program participant's failure to pay a road usage charge or tampering with a device necessary for the program; and

(ix) department oversight of an account manager, including privacy protection of personal information and access and auditing capability of financial and other records related to administration of the program; and

(b) may make rules to establish:

(i) an enrollment cap for certain alternative fuel vehicle types to participate in the program;

(ii) a process for collection of an unpaid road usage charge or penalty; or

(iii) integration of the program with other similar programs, such as tolling.

(6) Revenue generated by the road usage charge program and relevant penalties shall be deposited into the Road Usage Charge Program Special Revenue Fund.

(7) (a) The department may:

(i) (A) impose a penalty for failure to timely pay a road usage charge according to the terms of the program or tampering with a device necessary for the program; and

(B) request that the Division of Motor Vehicles place a hold on the registration of the owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge or penalty according to the terms of the program;

(ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner or lessee of:

(A) the road usage charge program, implementation, and procedures;

(B) an unpaid road usage charge and the amount of the road usage charge to be paid to the department;

(C) the penalty for failure to pay a road usage charge within the time period described in Subsection (7)(a)(iii); and

(D) a hold being placed on the owner's or lessee's registration for the alternative fuel vehicle, if the road usage charge and penalty are not paid within the time period described in Subsection (7)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's registration; and

(iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage charge to the department within 30 days of the date when the department sends written notice of the road usage charge to the owner or lessee.

(b) The department shall send the correspondence and notice described in Subsection (7)(a) to the owner of the alternative fuel vehicle according to the terms of the program.

(8) (a) The Division of Motor Vehicles and the department shall share and provide access to information pertaining to an alternative fuel vehicle and participation in the program including:

(i) registration and ownership information pertaining to an alternative fuel vehicle;

(ii) information regarding the failure of an alternative fuel vehicle owner or lessee to pay a road usage charge or penalty imposed under this section within the time period described in Subsection (7)(a)(iii); and

(iii) the status of a request for a hold on the registration of an alternative fuel vehicle.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.

(9) The owner of an alternative fuel vehicle may apply for enrollment in the program or withdraw from the program according to the terms established by the department pursuant to rules made under Subsection (5).

(10) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:

(a) report mileage driven as required by the department pursuant to Subsection (5);

(b) pay the road usage fee for each payment period in accordance with Subsection (5); and

(c) comply with all other provisions of this section and other requirements of the program.

(11) The department shall submit annually, on or before October 1, to the Transportation Interim Committee, an electronic report that:

(a) states for the preceding fiscal year:

(i) the amount of revenue collected from the program;

(ii) the participation rate in the program; and

(iii) the department's costs to administer the program; and

(b) provides for the current fiscal year, an estimate of:

(i) the revenue that will be collected from the program;

(ii) the participation rate in the program; and

(iii) the department's costs to administer the program.

(12) (a) Beginning on January 1, 2023:

(i) the road usage charge rate is 1.0 cent per mile; and

(ii) the road usage charge cap is:

(A) $130.25 for an annual registration period; and

(B) $100.75 for a six-month registration period.

(b) Beginning on January 1, 2026:

(i) the road usage charge rate is 1.25 cents per mile; and

(ii) the road usage charge cap is:

(A) $180 for an annual registration period; and

(B) $139 for a six-month registration period.

(c) Beginning on January 1, 2032:

(i) the road usage charge rate is 1.5 cents per mile, unless the commission establishes a different road usage charge rate in accordance with Subsection (13); and

(ii) the road usage charge cap is:

(A) $240 for an annual registration period; and

(B) $185 for a six-month registration period.

(d) Beginning in 2024, the department shall, on January 1, annually adjust the road usage charge rates described in this Subsection (12) by taking the road usage charge rate for the previous year and adding an amount equal to the greater of:

(i) an amount calculated by multiplying the road usage charge rate of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index as determined by the State Tax Commission; and

(ii) 0.

(e) Beginning in 2024, the State Tax Commission shall, on January 1, annually adjust the road usage charge caps described in this Subsection (12) by taking the road usage charge cap for the previous year and adding an amount equal to the greater of:

(i) an amount calculated by multiplying the road usage charge cap of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(ii) 0.

(f) The amounts calculated as described in Subsection (12)(d) shall be rounded up to the nearest .01 cent.

(g) The amounts calculated as described in Subsection (12)(e) shall be rounded up to the nearest 25 cents.

(h) On or before January 1 of each year, the department shall publish:

(i) the adjusted road usage charge rate described in Subsection (12)(d); and

(ii) adjusted road usage charge cap described in Subsection (12)(e).

(13) (a) Beginning January 1, 2032, the commission may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the road usage charge rate for each type of alternative fuel vehicle.

(b) (i) Before making rules in accordance with Subsection (13)(a), the commission shall consult with the department regarding the road usage charge rate for each type of alternative fuel vehicle.

(ii) The department shall cooperate with and make recommendations to the commission regarding the road usage charge rate for each type of alternative fuel vehicle.

Section 24. Section 72-1-217 is amended to read:

72-1-217 (Effective upon governor's approval). Department of Transportation study items.

(1) The department shall carry out transportation studies described in this section as resources allow.

(2) (a) The department shall study items related to advanced air mobility as described in this Subsection (2).

(b) The department shall study vertiport locations and infrastructure, including:

(i) identification of suitable locations for vertiport infrastructure and parking infrastructure for vertiports in metropolitan areas;

(ii) identification of commuter rail stations that may be suitable for vertiport placement; and

(iii) identification of underutilized parking lots and parking structures for vertiport infrastructure placement.

(c) The department shall study best practices and implementation of advanced air mobility technologies, including:

(i) seeking input through community engagement;

(ii) state and local regulations;

(iii) unmanned aircraft system traffic management; and

(iv) weather reporting and monitoring for advanced air mobility safety.

(d) The department shall study unmanned aircraft traffic management infrastructure, including:

(i) unmanned aircraft system traffic management development, implementation, procedures, policies, and infrastructure; and

(ii) obtaining a full understanding of unmanned aircraft system traffic management, including:

(A) designation of airspace for advanced air mobility;

(B) creation of geographic categorical areas;

(C) identifying the appropriate number and location of advanced air mobility sensors; and

(D) other state specific details regarding unmanned aircraft system traffic management.

(e) The department shall study the creation of an advanced air mobility sandbox, including:

(i) potential locations for the sandbox testing area and desirable attributes of a suitable sandbox location;

(ii) requirements to create a geographical advanced air mobility testing area and the parameters for the types of technology that may be utilized in the testing area; and

(iii) testing and studying different types of advanced air mobility transportation of manned and unmanned aerial vehicles, including:

(A) aerial vehicle size;

(B) aerial vehicles that carry cargo, including medical cargo;

(C) commercial aerial vehicles; and

(D) public transportation aerial vehicles.

(f) On or before September 30, 2023, the department shall provide a report to the Transportation Interim Committee of the department's findings from the study items described in Subsections (2)(b) through (2)(e).

(g) The department may only use existing funds to cover the expenses incurred from the study of items described in Subsections (2)(b) through (2)(e).

(3) (a) The department and a large public transit district shall jointly study programs offered by government entities related to human services transportation, including:

(i) coordinated mobility services;

(ii) paratransit services;

(iii) nonemergency medical transportation;

(iv) youth transportation programs, excluding school bus transportation; and

(v) other similar fare-based or fee-based programs provided or coordinated within the boundary of the large public transit district, including those involving the department, a large public transit district, local governments, or other government agencies and nonprofit entities that provide similar services.

(b) The study shall evaluate strategies to consolidate the transportation services described in Subsection (3)(a) to improve efficiency and service.

(c) The department and large public transit district shall:

(i) provide a preliminary report on the study to the Transportation Interim Committee on or before November 1, 2025; and

(ii) prepare and present recommendations to the Transportation Interim Committee on or before November 1, 2026, for the consolidation of the services described in Subsection (3)(a).

(4) (a) As used in this Subsection (4):

(i) "City" means Salt Lake City.

(ii) "Highway reduction strategy" means any strategy that has the potential to permanently decrease the number of vehicles that can travel on an arterial or a collector highway per hour, including:

(A) reducing the number of motorized vehicle travel lanes on an arterial or collector highway;

(B) narrowing existing motorized vehicle travel lanes on an arterial or collector highway; or

(C) any other strategy that when implemented may increase congestion or impede traffic flow for motor vehicles driving on an arterial or collector highway.

(iii) "Mobility and environmental impact analysis" means a study that assesses the impacts within the study area of implementing a highway reduction strategy on arterial or collector highways, including the impacts to other state and local highways, mobility, traffic flow, pedestrian and nonmotorized vehicle flow, the economy, public health, quality of life, air quality, maintenance, and operations.

(iv) "Study area" means the area within Salt Lake City that is west of Foothill Drive, north of 2100 South, east of I-15, and south of 600 North.

(b) (i) Except as described in Subsection (4)(c), a city may not implement or begin a project as part of a highway reduction strategy on an arterial or a collector highway within the study area unless the project is part of a mobility plan approved by the department as described in this Subsection (4)(b).

(ii) For a mobility plan described under Subsection (4)(b)(i), the city shall:

(A) assess the alternate routes for traffic and impacts on surrounding highways due to any lane reduction;

(B) evaluate impacts to vehicle trip time;

(C) evaluate impacts to air quality;

(D) evaluate the cumulative multimodal and safety impact of the proposed highway reduction strategies, including the cumulative impact from previous highway reduction strategies implemented over the previous five years;

(E) provide options to mitigate negative impacts to vehicle traffic, vehicle trip time, air quality, or adjacent travel routes;

(F) in collaboration with the department, assess impacts to state highways;

(G) proactively seek out and consult with relevant stakeholders, including business owners, commuters, and residents impacted by the mobility plan and each proposed project within the mobility plan;

(H) present the plan in an open and public meeting, including public comment;

(I) provide an open house or other event to allow public interaction and feedback regarding the impacts of the mobility plan;

(J) present the plan to the membership of the city's chamber of commerce and other business groups; and

(K) provide the plan to the department for the department's review.

(iii) (A) After the department receives a complete mobility plan as described in Subsection (4)(b)(ii), the department shall determine if the mobility plan and each project included in the mobility plan meet the requirements of this section and shall approve or reject the plan within two months of receiving the mobility plan.

(B) As part of the mobility plan, the city shall demonstrate to the department the manners in which the city involved and received input from the business community, the public, and other stakeholders as required in Subsection (4)(b)(ii).

(c) (i) The city may begin or continue construction on an arterial or collector highway project related to any reduction strategy within the study area if the project has been advertised on or before February 25, 2025.

(ii) (A) For a project related to any highway reduction strategy that was programmed by the department on or before July 1, 2024, but has not been advertised on or before February 25, 2025, the department may conduct an expedited review of the project.

(B) If the department approves a project after an expedited review as described in Subsection (4)(c)(ii)(A), the city may begin or continue construction on the project.

(d) The department shall, in partnership with the city, conduct a mobility and environmental impact analysis to determine the impacts of highway reduction strategies within the study area that the city has implemented on or after July 1, 2015, or has plans to implement on or before July 1, 2035.

(e) As part of the mobility and environmental impact analysis, the department shall:

(i) assess the cumulative impact of each highway reduction strategy within the study area that the city has implemented or has plans to implement between July 1, 2015, and July 1, 2035; and

(ii) consult with relevant stakeholders, including business owners, commuters, and residents impacted by the highway reduction strategy.

(f) A city subject to a mobility and environmental impact analysis under this Subsection (4) shall provide to the department any information the department determines necessary for conducting the mobility and environmental impact analysis, including any plans that city has adopted or discussed with regards to a highway reduction strategy.

(g) (i) The department shall provide the mobility and environmental impact analysis to the Transportation Interim Committee on or before October 15, 2025.

(ii) The city shall provide a response to the mobility and environmental impact analysis to the Transportation Interim Committee on or before November 1, 2025.

(h) (i) As provided in Section 63I-1-272, this Subsection (4) is subject to a sunset review by the Transportation Interim Committee during the 2028 interim.

(ii) The Transportation Interim Committee may also evaluate the mobility plan process described in this Subsection (4) during the 2027 interim.

Section 25. Section 72-1-303 is amended to read:

72-1-303 (Effective 05/07/25). Duties of commission.

(1) The commission has the following duties:

(a) determining priorities and funding levels of projects and programs in the state transportation systems and the capital development of new public transit facilities for each fiscal year based on project lists compiled by the department and taking into consideration the strategic initiatives described in Section 72-1-211;

(b) determining additions and deletions to state highways under Chapter 4, Designation of State Highways Act;

(c) holding public meetings and otherwise providing for public input in transportation matters;

(d) making policies and rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the commission's duties described under this section;

(e) in accordance with Section 63G-4-301, reviewing orders issued by the executive director in adjudicative proceedings held in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(f) advising the department on state transportation systems policy;

(g) approving settlement agreements of condemnation cases subject to Section 63G-10-401;

(h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a nonvoting member or a voting member on the board of trustees of a public transit district;

(i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term and long-range public transit plans;

(j) determining the priorities and funding levels of public transit innovation grants, as defined in Section 72-2-401; and

(k) reviewing administrative rules made, substantively amended, or repealed by the department.

(2) (a) For projects prioritized with funding provided under Sections 72-2-124 and 72-2-125, the commission shall annually report to [~~a committee designated by the Legislative Management Committee~~]the Transportation and Infrastructure Appropriations Subcommittee:

(i) a prioritized list of the new transportation capacity projects in the state transportation system and the funding levels available for those projects; and

(ii) the unfunded highway construction and maintenance needs within the state.

(b) The [~~committee designated by the Legislative Management Committee under Subsection (2)(a)~~]Transportation and Infrastructure Appropriations Subcommittee shall:

(i) review the list reported by the Transportation Commission; and

(ii) make a recommendation to the Legislature on:

(A) the amount of additional funding to allocate to transportation; and

(B) the source of revenue for the additional funding allocation under Subsection (2)(b)(ii)(A).

(3) The commission shall review and may approve plans for the construction of a highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval of Highway Facilities on Sovereign Lands Act.

(4) One or more associations representing airport operators or pilots in the state shall annually report to the commission recommended airport improvement projects and any other information related to the associations' expertise and relevant to the commission's duties.

Section 26. Section 72-1-304 is amended to read:

72-1-304 (Effective 05/07/25). Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;

(ii) paved pedestrian or paved nonmotorized transportation projects described in Section 72-2-124;

(iii) public transit projects that directly add capacity to the public transit systems within the state, not including facilities ancillary to the public transit system; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or public transit district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or public transit district nominates a project for prioritization by the commission, the local government or public transit district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or public transit district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or public transit district will provide the percentage of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or [~~72-2-124(9)(e)~~]72-2-124(10)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or public transit district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the percentage of costs required by Subsections 72-2-124(4)(a)(viii) and [~~72-2-124(9)(e)~~]72-2-124(10)(e).

(3) (a) When prioritizing a public transit project that increases capacity, the commission:

(i) may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802; and

(ii) shall give priority consideration to projects that are within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(b) When prioritizing a transportation project that increases capacity, the commission may give priority consideration to projects that are:

(i) part of a transportation reinvestment zone created under Section 11-13-227 if:

(A) the state is a participant in the transportation reinvestment zone; or

(B) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system; or

(ii) within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(c) If the department receives a notice of prioritization for a municipality as described in Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection 17-27a-408(5), the commission may give priority consideration to transportation projects that are within the boundaries of the municipality or the unincorporated areas of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that the municipality or county no longer qualifies for prioritization under this Subsection (3)(c).

(d) When prioritizing a transportation project described in Subsection (1)(a)(ii) or (iv), the commission may give priority consideration to projects that improve connectivity pursuant to Section 10-8-87.

(4) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(6) The commission shall submit the proposed rules under this section to [~~a committee or task force designated by the Legislative Management Committee~~]the Transportation Interim Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (5).

Section 27. Section 72-1-305 is amended to read:

72-1-305 (Effective 05/07/25). Project selection using the written prioritization process -- Public comment -- Report.

(1) Except as provided in Subsection (4), in determining priorities and funding levels of projects in the state transportation system under Subsection 72-1-303(1)(a) that are new transportation capacity projects, the commission shall use the weighted criteria system adopted in the written prioritization process under Section 72-1-304.

(2) Prior to finalizing priorities and funding levels of projects in the state transportation system, the commission shall conduct public meetings at locations around the state and accept public comments on:

(a) the written prioritization process;

(b) the merits of new transportation capacity projects that will be prioritized under this section; and

(c) the merits of new transportation capacity projects as recommended by a consensus of local elected officials participating in a metropolitan planning organization as defined in Section 72-1-208.5.

(3) The commission shall make the weighted criteria system ranking for each project publicly available prior to the public meetings held under Subsection (2).

(4) (a) If the commission prioritizes a project over another project with a higher rank under the weighted criteria system, the commission shall identify the change and accept public comment at a meeting held under this section on the merits of prioritizing the project above higher ranked projects.

(b) The commission shall make the reasons for the prioritization under Subsection (4)(a)publicly available.

(5) (a) The executive director or the executive director's designee shall report annually to the governor and [~~a committee designated by the Legislative Management Committee~~]the Transportation Interim Committee no later than the last day of October:

(i) the projects prioritized under this section during the year prior to the report; and

(ii) the status and progress of all projects prioritized under this section.

(b) Annually, before any funds are programmed and allocated from the Transit Transportation Investment Fund created in Section 72-2-124 for each fiscal year, the executive director or the executive director's designee, along with the executive director of a large public transit district as described in Section 17B-2a-802, shall report to the governor and [~~a committee designated by the Legislative Management Committee~~]the Transportation Interim Committee no later than the last day of October:

(i) the public transit projects prioritized under this section during the year prior to the report; and

(ii) the status and progress of all public transit projects prioritized under this section.

(6) The department shall annually report to the Transportation Commission on the status of new capacity transportation projects, including projects that were funded by the Legislature in an appropriations act.

Section 28. Section 72-2-106 is amended to read:

72-2-106 (Effective 07/01/25). Appropriation and transfers from Transportation Fund.

(1) On and after July 1, 1981, there is appropriated from the Transportation Fund to the use of the department an amount equal to two-elevenths of the taxes collected from the motor fuel tax and the special fuel tax, exclusive of the formula amount appropriated for class B and class C roads, to be used for highway rehabilitation.

[~~(2) For a fiscal year beginning on or after July 1, 2016, the Division of Finance shall annually transfer an amount equal to the amount of revenue generated by a tax imposed on motor and special fuel that is sold, used, or received for sale or used in this state at a rate of 1.8 cents per gallon to the Transportation Investment Fund of 2005 created by Section 72-2-124.~~]

[~~(3)~~](2) For a fiscal year beginning on or after July 1, 2019, the Division of Finance shall annually transfer to the Transportation Investment Fund of 2005 created by Section 72-2-124 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

[~~(4)~~](3) For purposes of the calculation described in Subsection 59-12-103(7)(c), the Division of Finance shall notify the State Tax Commission of the amount of any transfer made under [~~Subsections (2) and (3)~~]Subsection (2).

Section 29. Section 72-2-121 is amended to read:

72-2-121 (Effective upon governor's approval). County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited into or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited into or transferred to the fund;

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited into or transferred to the fund; and

(e) the portion of the sales and use tax transferred into the fund as described in Subsections 59-12-2220(4)(a) and 59-12-2220(11)(b).

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Subject to Subsection (11), the executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection [~~72-2-124(4)(a)(iv)~~]72-2-124(4)(a)(v);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for $30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) equal to an amount needed to cover the debt to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the appropriate debt service or sinking fund for the repayment of bonds issued under Sections 63B-31-102 and 63B-31-103;

(h) after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer $2,000,000 to a public transit district in a county of the first class to fund a system for public transit;

(i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

(j) subject to Subsection (5), for a fiscal year beginning on or after July 1, 2021, and for 15 years thereafter, to annually transfer the following amounts to the following cities and the county of the first class for priority projects to mitigate congestion and improve transportation safety:

(i) $2,000,000 to Sandy;

(ii) $2,300,000 to Taylorsville;

(iii) $1,100,000 to Salt Lake City;

(iv) $1,100,000 to West Jordan;

(v) $1,100,000 to West Valley City;

(vi) $800,000 to Herriman;

(vii) $700,000 to Draper;

(viii) $700,000 to Riverton;

(ix) $700,000 to South Jordan;

(x) $500,000 to Bluffdale;

(xi) $500,000 to Midvale;

(xii) $500,000 to Millcreek;

(xiii) $500,000 to Murray;

(xiv) $400,000 to Cottonwood Heights; and

(xv) $300,000 to Holladay; and

(k) for the 2024-25 and 2025-26 fiscal years, and subject to revenue balances after the distributions under Subsection (4)(j), to reimburse the following municipalities for the amounts and projects indicated, as each project progresses and as revenue balances allow:

(i) $3,200,000 to South Jordan for improvements to Bingham Rim Road from Grandville Avenue to Mountain View Corridor;

(ii) $1,960,000 to Midvale for improvements to Center Street between State Street and 700 West;

(iii) $3,500,000 to Salt Lake City for first and last mile public transit improvements throughout Salt Lake City;

(iv) $1,500,000 to Cottonwood Heights for improvements to Fort Union Boulevard and 2300 East;

(v) $3,450,000 to Draper for improvements to Bangerter Highway between 13800 South and I-15;

(vi) $10,500,000 to Herriman to construct a road between U-111 and 13200 South;

(vii) $3,000,000 to West Jordan for improvements to 1300 West;

(viii) $1,050,000 to Riverton for improvements to the Welby Jacob Canal trail between 11800 South and 13800 South;

(ix) $3,500,000 to Taylorsville for improvements to Bangerter Highway and 4700 South;

(x) $470,000 to the department for construction of a sound wall on Bangerter Highway at approximately 11200 South;

(xi) $1,250,000 to Murray for improvements to Murray Boulevard between 4800 South and 5300 South;

[~~(xii) $1,450,000 to West Valley for construction of a road connecting 5400 South to U-111;~~]

[~~(xiii)~~](xii) $1,840,000 to Magna for construction and improvements to 8400 West and 4100 South;

[~~(xiv)~~](xiii) $1,000,000 to South Jordan for construction of arterial roads connecting U-111 and Old Bingham Highway;

[~~(xv)~~](xiv) $1,200,000 to Millcreek for reconstruction of and improvements to 2000 East between 3300 South and Atkin Avenue;

[~~(xvi)~~](xv) $1,230,000 to Holladay for improvements to Highland Drive between Van Winkle Expressway and Arbor Lane;

[~~(xvii)~~](xvi) [~~$1,800,000~~]$3,250,000 to West Valley City for improvements to 4000 West between 4100 South and 4700 South and improvements to 4700 South from 4000 West to Bangerter Highway; and

[~~(xviii)~~](xvii) $1,000,000 to Taylorsville for improvements to 4700 South at the I-215 interchange.

(5) (a) If revenue in the fund is insufficient to satisfy all of the transfers described in Subsection (4)(j), the executive director shall proportionately reduce the amounts transferred as described in Subsection (4)(j).

(b) A local government may not use revenue described in Subsection (4)(j) to supplant existing class B or class C road funds that a local government has budgeted for transportation projects.

(6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited into the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(7) The department may expend up to $3,000,000 of revenue deposited into the account as described in Subsection 59-12-2220(11)(b) for public transit innovation grants, as provided in Part [~~3~~]4, Public Transit Innovation Grants.

(8) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(9) Subject to Subsection (11), and notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(10) Subject to Subsection (11), any revenue deposited into the fund as described in Subsection (2)(e) shall be used to provide funding or loans for public transit projects, operations, and supporting infrastructure in the county of the first class.

(11) For the first three years after a county of the first class imposes a sales and use tax authorized in Section 59-12-2220, revenue deposited into the fund as described in Subsection (2)(e) shall be allocated as follows:

(a) 10% to the department to construct an express bus facility on 5600 West; and

(b) 90% into the County of the First Class Infrastructure Bank Fund created in Section 72-2-302.

Section 30. Section 72-2-121.3 is amended to read:

72-2-121.3 (Effective 05/07/25). Special revenue fund -- 2010 Salt Lake County Revenue Bond Sinking Fund.

(1) There is created a special revenue fund within the County of the First Class Highway Projects Fund entitled "2010 Salt Lake County Revenue Bond Sinking Fund."

(2) The fund consists of:

(a) money transferred into the fund from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(d); and

(b) for a fiscal year beginning on or after July 1, 2013, money transferred into the fund from the Transportation Investment Fund of 2005 in accordance with Subsection [~~72-2-124(4)(a)(iv)~~]72-2-124(4)(a)(v).

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) The director of the Division of Finance may use fund money only as provided in this section.

(b) The director of the Division of Finance may not distribute any money from the fund under this section until the director has received a formal opinion from the attorney general that Salt Lake County has entered into a binding agreement with the state of Utah containing all of the terms required by Section 72-2-121.4.

(c) Except as provided in Subsection (4)(b), and until the bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4 are paid off, on July 1 of each year beginning July 1, 2011, the director of the Division of Finance shall transfer from the County of the First Class Highway Projects Fund and the Transportation Investment Fund of 2005 to the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County that is necessary to pay:

(i) up to two times the debt service requirement necessary to pay debt service on the revenue bonds issued by Salt Lake County for that fiscal year; and

(ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(d) Except as provided in Subsection (4)(b), and until the bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4 are paid off, the director of the Division of Finance shall, upon request from Salt Lake County, transfer to Salt Lake County or its designee from the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County as necessary to pay:

(i) the debt service on the revenue bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4; and

(ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(5) Any money remaining in the 2010 Salt Lake County Revenue Bond Sinking Fund at the end of the fiscal year lapses to the County of the First Class Highway Projects Fund.

Section 31. Section 72-2-123 is amended to read:

72-2-123 (Effective 05/07/25). Rules adopting guidelines -- Partnering to finance state highway capacity improvements -- Partnering proposals.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission, in consultation with representatives of local government, shall make rules adopting guidelines for partnering with counties and municipalities for their help to finance state highway improvement projects through:

(a) local matching dollars;

(b) agreements regarding new revenue a county or municipality expects will be generated as a result of the construction of a state highway improvement project; or

(c) other local participation methods.

(2) The guidelines described in Subsection (1) shall encourage partnering to help finance state highway improvement projects and provide for:

(a) the consideration of factors relevant to a decision to make a program adjustment including the potential to:

(i) extend department resources to other needed projects;

(ii) alleviate significant existing or future congestion or hazards to the traveling public; and

(iii) address a need that is widely recognized by the public, elected officials, and transportation planners;

(b) a process for submitting, evaluating, and hearing partnering proposals; and

(c) the creation of a public record of each proposal from initial submission to final disposition.

(3) The commission shall submit the proposed rules under this section to [~~a committee or task force designated by the Legislative Management Committee~~]the Transportation Interim Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules.

Section 32. Section 72-2-124 is amended to read:

72-2-124 (Effective 05/07/25). Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) subject to Subsection (9), costs of corridor preservation, as that term is defined in Section 72-5-401;

[~~(iii)~~](iv) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

[~~(iv)~~](v) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

[~~(v)~~](vi) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

[~~(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;~~]

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) subject to Subsection (4)(c), two lanes on U-111 from Herriman Parkway to South Jordan Parkway;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County;[~~ and~~]

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10[~~-~~];

(xi) for a fiscal year beginning on July 1, 2025, only, as pass-through funds from revenue deposited into the fund in accordance with Section 59-12-103, for the following projects:

(A) $3,000,000 for the department to perform an environmental study for the I-15 Salem and Benjamin project; and

(B) $2,000,000, as pass-through funds, to Kane County for the Coral Pink Sand Dunes Road project; and

(xii) for a fiscal year beginning on July 1, 2025, up to $300,000,000 for the costs of right-of-way acquisition and construction for improvements on SR-89 in a county of the first class.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(c) (i) Construction related to the project described in Subsection (4)(a)(ix)(D) may not commence until a right-of-way not owned by a federal agency that is required for the realignment and extension of U-111, as described in the department's 2023 environmental study related to the project, is dedicated to the department.

(ii) Notwithstanding Subsection (4)(c)(i), if a right-of-way is not dedicated for the project as described in Subsection (4)(c)(i) on or before October 1, 2024, the department may proceed with the project, except that the project will be limited to two lanes on U-111 from Herriman Parkway to 11800 South.

(5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (5) no longer applies to the municipality.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (6) no longer applies to the county.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) The executive director may only use money in the fund for corridor preservation as described in Subsection (4)(a)(iii):

(a) if the project has been prioritized by the commission, including the use of fund money for corridor preservation; or

(b) for a project that has not been prioritized by the commission, if the commission:

(i) approves the use of fund money for the corridor preservation; and

(ii) finds that the use of fund money for corridor preservation will not result in any delay to a project that has been prioritized by the commission.

[~~(9)~~](10) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) transfers of local option sales and use tax revenue as described in Subsection 59-12-2220(11)(b) or (c);

(v) private contributions; and

(vi) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection [~~(9)(e)~~](10)(e), the commission may prioritize money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304;

(ii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility; or

(iii) up to $500,000 per year, to be used for a public transit study.

(e) (i) Subject to Subsections [~~(9)(g)~~](10)(g), (h), and (i), the commission may only prioritize money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 30% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to [~~Title 72, Chapter 2,~~] Part 2, State Infrastructure Bank Fund, to provide all or part of the 30% requirement described in Subsection [~~(9)(e)(i)~~](10)(e)(i) if:

(A) the loan is approved by the commission as required in [~~Title 72, Chapter 2, ~~]Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(g) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(b):

(i) the commission may prioritize money from the fund for public transit projects, operations, or maintenance within the county of the first class; and

(ii) Subsection [~~(9)(e)~~](10)(e) does not apply.

(h) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(c):

(i) the commission may prioritize public transit projects, operations, or maintenance in the county from which the revenue was generated; and

(ii) Subsection [~~(9)(e)~~](10)(e) does not apply.

(i) The requirement to provide funds equal to or greater than 30% of the costs needed for the project described in Subsection [~~(9)(e)~~](10)(e) does not apply to a public transit capital development project or pedestrian or nonmotorized transportation project that the department proposes.

(j) In accordance with Part [~~3~~]4, Public Transit Innovation Grants, the commission may prioritize money from the fund for public transit innovation grants, as defined in Section 72-2-401, for public transit capital development projects requested by a political subdivision within a public transit district.

[~~(10)~~](11) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

(e) The department may use up to 2% of the revenue deposited into the account under Subsection 59-12-103(7)(b) to contract with local governments as necessary for public safety enforcement related to the Cottonwood Canyons of Salt Lake County.

[~~(11)~~](12) (a) There is created in the Transportation Investment Fund of 2005 the Active Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature; and

(iii) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The executive director may only use fund money to pay the costs needed for:

(i) the planning, design, construction, maintenance, reconstruction, or renovation of paved pedestrian or paved nonmotorized trail projects that:

(A) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(B) serve a regional purpose; and

(C) are part of an active transportation plan approved by the department or the plan described in Subsection [~~(11)(d)(ii)~~](12)(d)(ii);

(ii) the development of a plan for a statewide network of paved pedestrian or paved nonmotorized trails that serve a regional purpose; and

(iii) the administration of the fund, including staff and overhead costs.

[~~(12)~~](13) (a) As used in this Subsection [~~(12)~~](13), "commuter rail" means the same as that term is defined in Section 63N-3-602.

(b) There is created in the Transit Transportation Investment Fund the Commuter Rail Subaccount.

(c) The subaccount shall be funded by:

(i) contributions deposited into the subaccount in accordance with Section 59-12-103;

(ii) appropriations into the subaccount by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(d) (i) The subaccount shall earn interest.

(ii) All interest earned on money in the subaccount shall be deposited into the subaccount.

(e) As prioritized by the commission through the prioritization process adopted under Section 72-1-304 or as directed by the Legislature, the department may only use money from the subaccount for projects that improve the state's commuter rail infrastructure, including the building or improvement of grade-separated crossings between commuter rail lines and public highways.

(f) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

Section 33. Section 72-2-303 is amended to read:

72-2-303 (Effective 05/07/25). Loans and assistance -- Authority -- Rulemaking.

(1) Money in the fund may be used by the department, as prioritized by the commission or as directed by the Legislature, to make infrastructure loans or to provide infrastructure assistance to any public entity for any purpose consistent with any applicable constitutional limitation.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing procedures and standards for making infrastructure loans and providing infrastructure assistance and a process for prioritization of requests for loans and assistance.

(3) The prioritization process, procedures, and standards for making an infrastructure loan or providing infrastructure assistance may include consideration of the following:

(a) availability of money in the fund;

(b) credit worthiness of the project;

(c) demonstration that the project will encourage, enhance, or create economic benefits to the state or political subdivision;

(d) likelihood that assistance would enable the project to proceed at an earlier date than would otherwise be possible;

(e) the extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment;

(f) demonstration that the project provides a benefit to the state highway system, including safety or mobility improvements;

(g) the amount of proposed assistance as a percentage of the overall project costs with emphasis on local and private participation;

(h) demonstration that the project provides intermodal connectivity with public transportation, pedestrian, or nonmotorized transportation facilities;[~~and~~]

(i) improvement of transportation connectivity pursuant to Section 10-8-87; and

[~~(i)~~](j) other provisions the commission considers appropriate.

Section 34. Section 72-2-401 is amended to read:

72-2-401 (Effective 05/07/25). Definitions.

As used in this part:

(1) "Council of governments" means the same as that term is defined in Section 17B-2a-802.

(2) "Grant" means a public transit innovation grant.

(3) "High growth area" means an area or municipality within a public transit district that:

(a) has significantly higher population increase relative to other areas within the county; and

(b) is projected to continue to have significant population growth.

(4) "Public transit district" means the same as that term is defined in Section 17B-2a-802.

(5) (a) "Public transit innovation grant" means a grant awarded on or after July 1, 2026, to provide targeted pilot programs to:

(i) increase public transit ridership;

(ii) increase public transit service in high growth areas within the public transit district; and

(iii) work toward expanding public transit services.

(b) "Public transit innovation grant" includes a grant to provide:

(i) pilot bus routes and services in high growth areas;

(ii) pilot shuttle connections between fixed guideway stations and job centers, recreation and cultural facilities and attractions, or schools; and

(iii) other pilot programs similar to those described in Subsections (5)(b)(i) and (ii) as coordinated between the public transit district and political subdivisions within the public transit district.

Section 35. Section 72-2-402 is amended to read:

72-2-402 (Effective 05/07/25). Public transit innovation grant funding sources.

(1) In accordance with Section 72-2-403, the commission, in coordination with the department, may rank, prioritize, and provide public transit innovation grants with money derived from the following sources:

(a) certain local option sales and use tax revenue as described in Subsection 59-12-2219(11)(b); and

(b) revenue deposited in accordance with Subsection 59-12-2220(11) into the County of the First Class Highway Projects Fund created in Section 72-2-121.

(2) In accordance with Section 72-2-124, the department may rank and prioritize public transit innovation grants for capital development to the commission, to be funded with money derived from the Transit Transportation Investment Fund as described in Subsection [~~72-2-124(9)~~]72-2-124(10).

(3) Administrative costs of the department to administer public transit innovation grants under this part shall be paid from the funds described in Subsection (1)(a).

Section 36. Section 72-2-403 is amended to read:

72-2-403 (Effective 05/07/25). Public transit innovation grants -- Administration.

(1) The commission, in consultation with the department, relevant councils of governments, metropolitan planning organizations, and public transit districts, shall develop a process for the prioritization of grant proposals that includes:

(a) instructions on making and submitting a grant proposal;

(b) methodology for selecting grants; and

(c) methodology for awarding grants.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to establish the process described in Subsection (1) and as otherwise necessary to implement this part.

(3) [~~The department shall~~]On or after July 1, 2026, the department may:

(a) accept grant applications;

(b) rank grant proposals based on the objectives and criteria established in this part; and

(c) provide money to grant recipients as directed by the commission and in accordance with this part.

(4) A municipality or a group of municipalities may submit a grant proposal to the department.

(5) (a) A public transit innovation grant proposal shall include data, evidence, and information about:

(i) how the project will advance the purposes and goals of a public transit innovation grant described in Subsection 72-2-401(5);

(ii) how the proposed services will provide a direct public transit service benefit to the municipality or area;

(iii) the proposed mode of public transit or purpose for the funding;

(iv) the proposed operator of the service, including qualifications for any proposed operator that is not a public transit district;

(v) any funds provided by the municipality or group of municipalities as part of the grant proposal;

(vi) how the pilot service will improve ridership in the municipality or area; and

(vii) any other information that the municipality or public transit district finds relevant.

(b) A public transit innovation grant proposal may propose a term of up to three years.

(c) A public transit innovation grant proposal shall include information regarding integration and coordination with existing public transit services.

(6) In considering a public transit innovation grant proposal, the commission shall consider criteria including:

(a) population growth within the municipality or area relative to other municipalities or areas within the same county;

(b) how the proposal furthers the following objectives:

(i) increasing public transit ridership in the area;

(ii) improving connectivity for the first and last mile relative to other public transit services; and

(iii) improving public transit connectivity in high-growth areas within the public transit district; and

(c) any funds proposed to be invested by the municipality or public transit district as part of the grant proposal.

(7) The grant proposal may allow for bids for a vendor or public transit district to provide or operate the proposed services.

(8) Subject to available funding described in Subsection 72-2-402(1), the commission may award a public transit innovation grant to a recipient that the commission determines furthers the objectives described in Subsections (5) and (6).

(9) (a) Subject to Subsection (9)(b), if the commission approves a grant to provide money from a local option sales and use tax described in Subsection 59-12-2219(11), a public transit district shall transfer the money to the department, and the department shall transfer the money to the grant recipient.

(b) A public transit district may offset money from a local option sales and use tax described in Subsection 59-12-2219(11) with other funds available to the public transit district.

(10) If the commission approves a grant to provide money as provided in Subsection 72-2-121(7), the department shall transfer the money to the grant recipient.

(11) Any grant funds, assets, or infrastructure acquired or improved through a public transit innovation grant under this part belong to the grant recipient.

Section 37. Section 72-3-109 is amended to read:

72-3-109 (Effective 05/07/25). Division of responsibility with respect to state highways in cities and towns.

(1) Except as provided in Subsection (3), the jurisdiction and responsibility of the department and the municipalities for state highways within municipalities is as follows:

(a) The department has jurisdiction over and is responsible for the construction and maintenance of:

(i) the portion of the state highway located between the back of the curb on either side of the state highway; or

(ii) if there is no curb, the traveled way, its contiguous shoulders, and appurtenances.

(b) The department may widen or improve state highways within municipalities.

(c) (i) A municipality has jurisdiction over all other portions of the right-of-way and is responsible for construction and maintenance of the right-of-way.

(ii) If a municipality grants permission for the installation of any pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or character within the portion of the right-of-way under its jurisdiction:

(A) the permission shall contain the condition that any installation will be removed from the right-of-way at the request of the municipality; and

(B) the municipality shall cause any installation to be removed at the request of the department when the department finds the removal necessary:

(I) to eliminate a hazard to traffic safety;

(II) for the construction and maintenance of the state highway; or

(III) to meet the requirements of federal regulations.

(iii) Except as provided in Subsection (1)(h), a municipality may not install or grant permission for the installation of any pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or character within the portion of the state highway right-of-way under its jurisdiction without the prior written approval of the department.

(iv) The department may, by written agreement with a municipality, waive the requirement of its approval under Subsection (1)(c)(iii) for certain types and categories of installations.

(d) If it is necessary that a utility, as defined in Section 72-6-116, be relocated, reimbursement shall be made for the relocation as provided for in Section 72-6-116.

(e) (i) The department shall construct curbs, gutters, and sidewalks on the state highways if necessary for the proper control of traffic, driveway entrances, or drainage.

(ii) If a state highway is widened or altered and existing curbs, gutters, or sidewalks are removed, the department shall replace the curbs, gutters, or sidewalks.

(f) (i) The department may furnish and install street lighting systems for state highways[~~, but their operation and maintenance is the responsibility of the municipality~~].

(ii) The municipality is responsible for the operation and maintenance of a street lighting system furnished and installed by the department, except that the department shall operate and maintain street lighting that the department furnishes and installs:

(A) along an interstate highway; or

(B) at a signalized intersection that includes a state highway.

(iii) Notwithstanding Subsection (1)(f)(ii)(B), the municipality is responsible for the installation costs, operation, and maintenance of decorative lighting installed at the request of a municipality.

(g) If new storm sewer facilities are necessary in the construction and maintenance of the state highways, the cost of the storm sewer facilities shall be borne by the state and the municipality in a proportion mutually agreed upon between the department and the municipality.

(h) (i) For a portion of a state highway right-of-way for which a municipality has jurisdiction, and upon request of the municipality, the department shall grant permission for the municipality to issue permits within the state highway right-of-way, provided that:

(A) the municipality gives the department seven calendar days to review and provide comments on the permit; and

(B) upon the request of the department, the municipality incorporates changes to the permit as jointly agreed upon by the municipality and the department.

(ii) If the department fails to provide a response as described in Subsection (1)(h)(i)within seven calendar days, the municipality may issue the permit.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the location and construction of approach roads and driveways entering the state highway. The rules shall:

(i) include criteria for the design, location, and spacing of approach roads and driveways based on the functional classification of the adjacent highway, including the urban or rural nature of the area;

(ii) be consistent with the "Manual on Uniform Traffic Control Devices" and the model access management policy or ordinance developed by the department under Subsection 72-2-117(8);

(iii) include procedures for:

(A) the application and review of a permit for approach roads and driveways including review of related site plans that have been recommended according to local ordinances; and

(B) approving, modifying, denying, or appealing the modification or denial of a permit for approach roads and driveways within 45 days of receipt of the application; and

(iv) require written justifications for modifying or denying a permit.

(b) The department may delegate the administration of the rules to the highway authorities of a municipality.

(c) In accordance with this section and Section 72-7-104, an approach road or driveway may not be constructed on a state highway without a permit issued under this section.

(3) The department has jurisdiction and control over the entire right-of-way of interstate highways within municipalities and is responsible for the construction, maintenance, and regulation of the interstate highways within municipalities.

Section 38. Section 72-6-118 is amended to read:

72-6-118 (Effective 05/07/25). Definitions -- Establishment and operation of tollways -- Imposition and collection of tolls -- Amount of tolls -- Rulemaking.

(1) As used in this section:

(a) "High occupancy toll lane" means a high occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle carrying less than the number of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a toll or fee.

(b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

(c) "Toll lane" means a designated new highway or additional lane capacity that is constructed, operated, or maintained for which a toll is charged for its use.

(d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way designed and used as a transportation route that is constructed, operated, or maintained through the use of toll revenues.

(ii) "Tollway" includes a high occupancy toll lane and a toll lane.

(e) "Tollway development agreement" has the same meaning as defined in Section 72-6-202.

(2) Subject to the provisions of Subsection (3), the department may:

(a) establish, expand, and operate tollways and related facilities for the purpose of funding in whole or in part the acquisition of right-of-way and the design, construction, reconstruction, operation, enforcement, and maintenance of or impacts from a transportation route for use by the public;

(b) enter into contracts, agreements, licenses, franchises, tollway development agreements, or other arrangements to implement this section;

(c) impose and collect tolls on any tollway established under this section, including collection of past due payment of a toll or penalty;

(d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls pursuant to the terms and conditions of a tollway development agreement;

(e) use technology to automatically monitor a tollway and collect payment of a toll, including:

(i) license plate reading technology; and

(ii) photographic or video recording technology; and

(f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny a request for registration of a motor vehicle if the motor vehicle owner has failed to pay a toll or penalty imposed for usage of a tollway involving the motor vehicle for which registration renewal has been requested.

(3) (a) The department may establish or operate a tollway on an existing highway if approved by the commission in accordance with the terms of this section.

(b) To establish a tollway on an existing highway, the department shall submit a proposal to the commission including:

(i) a description of the tollway project;

(ii) projected traffic on the tollway;

(iii) the anticipated amount of the toll to be charged; and

(iv) projected toll revenue.

(4) (a) For a tollway established under this section, the department may:

(i) according to the terms of each tollway, impose the toll upon the owner of a motor vehicle using the tollway according to the terms of the tollway;

(ii) send [~~correspondence~~]notice to the owner of the motor vehicle to inform the owner of:

(A) an unpaid toll and the amount of the toll to be paid to the department;

(B) the penalty for failure to pay the toll timely;[~~and~~]

(C) [~~a~~]any hold being placed on the owner's registration for the motor vehicle if the toll and penalty are not paid timely, which would prevent the renewal of the motor vehicle's registration; and

(D) any other information required by the terms of the tollway;

(iii) require that the owner of the motor vehicle pay the toll to the department within 30 days of the date when the department sends written notice of the toll to the owner; and

(iv) impose a penalty for failure to pay a toll timely.

(b) The department shall [~~mail the correspondence and~~]provide the notice described in Subsection (4)(a) to the owner of the motor vehicle according to the terms of a tollway.

(5) (a) The Division of Motor Vehicles and the department shall share and provide access to information pertaining to a motor vehicle and tollway enforcement including:

(i) registration and ownership information pertaining to a motor vehicle;

(ii) information regarding the failure of a motor vehicle owner to timely pay a toll or penalty imposed under this section; and

(iii) the status of a request for a hold on the registration of a motor vehicle.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, if the owner of the motor vehicle has failed to pay a toll or penalty imposed under this section for usage of a tollway involving the motor vehicle for which registration renewal has been requested until the department withdraws the hold request.

(6) (a) Except as provided in Subsection (6)(b), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall:

(i) set the amount of any toll imposed or collected on a tollway on a state highway; and

(ii) for tolls established under Subsection (6)(b), set:

(A) an increase in a toll rate or user fee above an increase specified in a tollway development agreement; or

(B) an increase in a toll rate or user fee above a maximum toll rate specified in a tollway development agreement.

(b) A toll or user fee and an increase to a toll or user fee imposed or collected on a tollway on a state highway that is the subject of a tollway development agreement shall be set in the tollway development agreement.

(7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules:

(i) necessary to establish and operate tollways on state highways;

(ii) that establish standards and specifications for automatic tolling systems and automatic tollway monitoring technology; and

(iii) to set the amount of a penalty for failure to pay a toll under this section.

(b) The rules shall:

(i) include minimum criteria for having a tollway; and

(ii) conform to regional and national standards for automatic tolling.

(8) (a) The commission may provide funds for public or private tollway pilot projects or high occupancy toll lanes from General Fund money appropriated by the Legislature to the commission for that purpose.

(b) The commission may determine priorities and funding levels for tollways designated under this section.

(9) (a) Except as provided in Subsection (9)(b), all revenue generated from a tollway on a state highway shall be deposited into the Tollway Special Revenue Fund created in Section 72-2-120 and used for any state transportation purpose.

(b) Revenue generated from a tollway that is the subject of a tollway development agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance with Subsection (9)(a) unless:

(i) the revenue is to a private entity through the tollway development agreement; or

(ii) the revenue is identified for a different purpose under the tollway development agreement.

(10) Data described in Subsection (2)(e) obtained for the purposes of this section:

(a) in accordance with Section 63G-2-305, is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, if the photographic or video data is maintained by a governmental entity;

(b) may not be used or shared for any purpose other than the purposes described in this section;

(c) may only be preserved:

(i) so long as necessary to collect the payment of a toll or penalty imposed in accordance with this section; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant; and

(d) may only be disclosed:

(i) in accordance with the disclosure requirements for a protected record under Section 63G-2-202; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant.

(11) (a) The department may not sell for any purpose photographic or video data captured under Subsection (2)(e)(ii).

(b) The department may not share captured photographic or video data for a purpose not authorized under this section.

Section 39. Section 72-6-206 is amended to read:

72-6-206 (Effective 05/07/25). Commission approval and legislative review of tollway development agreement provisions.

(1) Prior to the department entering into a tollway development agreement under Section 72-6-203, the department shall submit to the commission for approval the tollway development agreement, including:

(a) a description of the tollway facility, including the conceptual design of the facility and all proposed interconnections with other transportation facilities;

(b) the proposed date for development, operation, or both of the tollway facility;

(c) the proposed term of the tollway development agreement;

(d) the proposed method to determine toll rates or user fees, including:

(i) identification of vehicle or user classifications, or both, for toll rates;

(ii) the original proposed toll rate or user fee for the tollway facility;

(iii) proposed toll rate or user fee increases; and

(iv) a maximum toll rate or user fee for the tollway facility; and

(e) any proposed revenue, public or private, or proposed debt or equity investment that will be used for the design, construction, financing, acquisition, maintenance, or operation of the tollway facility.

(2) Prior to amending or modifying a tollway development agreement, the department shall submit the proposed amendment or modification to the commission for approval.

(3) The department shall annually report to the Transportation Interim Committee [~~or another committee designated by the Legislative Management Committee~~]on the status and progress of a tollway subject to a tollway development agreement under Section 72-6-203.

Section 40. Section 72-10-109 is amended to read:

72-10-109 (Effective 05/07/25). Certificate of registration of aircraft required -- Exceptions.

(1) Except as provided in Subsection (2), a person may not operate, pilot, or navigate, or cause or authorize to be operated, piloted, or navigated within this state any civil aircraft [~~operating~~]based in this state for 181 or more days within any consecutive 12-month period unless the aircraft has a current certificate of registration issued by the department.

(2) The state registration requirement under Subsection (1) does not apply to:

(a) aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of the registered aircraft;

(b) a non-passenger-carrying flight solely for inspection or test purposes authorized by the Federal Aviation Administration to be made without the certificate of registration; or

(c) aircraft operating under 14 C.F.R. Part 121, with a maximum takeoff weight exceeding 35,000 pounds.

(3) Beginning on January 1, 2025, a person may not operate in this state an unmanned aircraft system or an advanced air mobility aircraft for commercial operation for which certification is required under 14 C.F.R. Part 107 or 135 unless the aircraft has a current certificate of registration issued by the department.

(4) The department shall, on or before December 31 of each calendar year, provide to the State Tax Commission a list of each aircraft for which a current certificate of registration is issued by the department under Subsection (1).

Section 41. Repealer.

This bill repeals:

Section 63B-8-503, Highway intent language.

Section 72-2-118, Centennial Highway Fund.

Section 72-4-222, Governor Scott Matheson and Senator Jake Garn Rest Area.

Section 42. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 42(a). Capital Project Funds

The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ITEM 1

To Transportation - Transportation Investment Fund of 2005

From General Fund - - -

Schedule of Programs:
Transportation Investment Fund - - -

CHAPTER 453
S. B. 201
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

REAL ESTATE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends provisions related to real estate.

Highlighted Provisions:

This bill:

- ► authorizes an association to establish by rule a minimum lease term of six months or less;
- ► provides that a homeowners' association fee for rentals does not apply to certain exempt persons;
- ► provides that a homeowners' association may only charge a fee to an owner that owns a rental within the homeowners' association once every 12 months;
- ► requires that a homeowners' association hold a meeting and approve a fee before imposing a fee on an owner that owns a rental within the homeowners' association;
- ► provides a remedy by which an owner may contest a fee a homeowners' association imposes for a rental;
- ► authorizes a representative of a homeowners' association to act as attorney-in-fact for the owners in a homeowners' association for any disposition of common areas;
- ► modifies the circumstances under which a homeowners' association can prohibit or restrict the conversion of a grass park strip to water-efficient landscaping;
- ► authorizes a homeowner to designate an individual other than the homeowner as the primary contact for the homeowner;
- ► defines terms;
- ► requires that a condominium owner provide the developer notice and an opportunity to repair any alleged design or construction defect before filing a lawsuit; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8-8.1, as last amended by Laws of Utah 2024, Chapters 115, 519
57-8-10.1, as last amended by Laws of Utah 2024, Chapter 519
57-8-32, as last amended by Laws of Utah 2024, Chapter 519
57-8a-209, as last amended by Laws of Utah 2024, Chapter 519
57-8a-218, as last amended by Laws of Utah 2024, Chapters 115, 519
57-8a-231, as last amended by Laws of Utah 2024, Chapters 56, 519
57-8a-232, as enacted by Laws of Utah 2024, Chapter 519
78B-4-513, as enacted by Laws of Utah 2008, Chapter 280

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-8-8.1 is amended to read:

57-8-8.1. Equal treatment by rules required -- Limits on rules.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association of unit owners provides to unit owners;

(ii) differ between residential and nonresidential uses; or

(iii) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest.

(2) (a) If a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under Subsection [~~(5)~~](4), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental unit owner from using the common areas and facilities for purposes other than attending an association meeting or managing the rental unit;

(ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally:

(A) charge a rental unit owner a fee to use the common areas and facilities; and

(B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest; or

(iii) include a provision in the association of unit owners' governing documents that:

(A) requires each tenant of a rental unit to abide by the terms of the governing documents; and

(B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.

(b) Notwithstanding Subsection (3)(a), an association of unit owners may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas and facilities.

[~~(4) Unless contrary to a declaration, a rule may require a minimum lease term.~~]

[~~(5)~~](4) Unless otherwise provided in the declaration, an association of unit owners may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas and facilities; and

(ii) a service provided to a unit owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association of unit owners' officers and management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

[~~(6)~~](5) (a) Except as provided in Subsection [~~(6)(b)~~](5)(b), a rule may not prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's condominium unit.

(b) A rule may prohibit a unit owner from installing a personal security camera in a common area not physically connected to the owner's unit.

[~~(7)~~](6) (a) A rule may not abridge the right of a unit owner to display a religious or holiday sign, symbol, or decoration inside the owner's condominium unit.

(b) An association may adopt a reasonable time, place, and manner restriction with respect to a display that is visible from the exterior of a unit.

[~~(8)~~](7) (a) A rule may not:

(i) prohibit a unit owner from displaying in a window of the owner's condominium unit:

(A) a for-sale sign; or

(B) a political sign;

(ii) regulate the content of a political sign; or

(iii) establish design criteria for a political sign.

(b) Notwithstanding Subsection [~~(8)(a)~~](7)(a), a rule may reasonably regulate the size and time, place, and manner of posting a for-sale sign or a political sign.

[~~(9)~~](8) For any area for which one or more unit owners, but not the association, are responsible for landscape maintenance, the association of unit owners:

(a) shall adopt rules supporting water wise landscaping, including:

(i) low water use requirements on lawns during drought conditions;

(ii) design criterion for water wise landscaping; and

(iii) limiting permissible plant material to specific water wise plant material;

(b) may not prohibit low water use on lawns during drought conditions; and

(c) except where reasonably necessary for erosion control, may not prohibit or restrict the conversion of a grass park strip of less than 8 feet wide to water-efficient landscaping.

[~~(10)~~](9) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 77-27-21.7(3).

[~~(11)~~](10) (a) Except as provided in this Subsection [~~(11)~~](10), a rule may not prohibit a unit owner from making modifications, consistent with industry standards, for radon mitigation.

(b) Subsection [~~(11)(a)~~](10)(a) does not apply if the modifications would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(c) A rule governing the placement or external appearance of modifications may apply to modifications for radon mitigation unless the rule would:

(i) unreasonably interfere with the modifications' functionality; or

(ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.

(d) A rule may require that a unit owner making modifications related to radon mitigation:

(i) demonstrate or provide proof of radon contamination; and

(ii) provide proof that the modifications and any related construction will be performed by a licensed person.

[~~(12)~~](11) A rule shall be reasonable.

[~~(13)~~](12) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

[~~(14)~~](13) This section applies to an association of unit owners regardless of when the association of unit owners is created.

Section 2. Section 57-8-10.1 is amended to read:

57-8-10.1. Rental restrictions.

(1) (a) Subject to Subsections (1)(b), (5), and (6), an association of unit owners may:

(i) create restrictions on the number and term of rentals in a condominium project; or

(ii) prohibit rentals in the condominium project.

(b) [~~An~~]Except as provided in Subsection (1)(c), an association of unit owners that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a declaration or by amending the declaration.

(c) An association may establish, by rule, a minimum lease term of six months or less.

(2) If an association of unit owners prohibits or imposes restrictions on the number and term of rentals[~~, the restrictions shall include:~~]or charges a fee described in Subsection (9)(c), the association of unit owners shall:

(a) exempt the following from the prohibition, restriction, or fee:

[~~(a) a provision that requires a condominium project to exempt from the rental restrictions the following unit owner and the unit owner's unit:~~]

(i) a unit owner in the military for the period of the unit owner's deployment;

(ii) a unit occupied by a unit owner's parent, child, or sibling;

(iii) a unit owner whose employer has relocated the unit owner for two years or less;

(iv) a unit owned by an entity that is occupied by an individual who:

(A) has voting rights under the entity's organizing documents; and

(B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of:

(A) a current resident of the unit; or

(B) the parent, child, or sibling of the current resident of the unit;

(b) [~~a provision that allows~~]allow a unit owner who has a rental in the condominium project before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the condominium project is located to continue renting without a fee described in Subsection (9)(c) until:

(i) the unit owner occupies the unit;

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the unit, occupies the unit; or

(iii) the unit is transferred; and

(c) [~~a requirement that the association of unit owners~~]create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and units in the condominium project subject to the provisions described in Subsections (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of [~~the rental restrictions~~]any rental prohibition, restriction, or fee.

(3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a unit by deed;

(b) the granting of a life estate in the unit; or

(c) if the unit is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(4) This section does not limit or affect residency age requirements for an association of unit owners that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(5) A declaration or amendment to a declaration recorded before transfer of the first unit from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).

(6) (a) Subsections (1) through (5) do not apply to:

(i) a condominium project that contains a time period unit as defined in Section 57-8-3;

(ii) any other form of timeshare interest as defined in Section 57-19-2; or

(iii) subject to Subsection (6)(b), a condominium project in which the initial declaration is recorded before May 12, 2009, unless, on or after May 12, 2015, the association of unit owners:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

(b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).

(7) Notwithstanding this section, an association of unit owners may restrict or prohibit rentals without an exception described in Subsection (2) if:

(a) the restriction or prohibition receives unanimous approval by all unit owners; and

(b) when the restriction or prohibition requires an amendment to the association of unit owners' declaration, the association of unit owners fulfills all other requirements for amending the declaration described in the association of unit owners' governing documents.

(8) Except as provided in Subsection (9), an association of unit owners may not require a unit owner who owns a rental unit to:

(a) obtain the association of unit owners' approval of a prospective renter;

(b) give the association of unit owners:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age;

(c) pay an additional assessment, fine, or fee because the unit is a rental unit;

(d) use a lease agreement provided by the association; or

(e) obtain the association's approval of a lease agreement.

(9) (a) A unit owner who owns a rental unit shall give an association of unit owners the documents described in Subsection (8)(b) if the unit owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association of unit owners' declaration lawfully prohibits or restricts occupancy of the units by a certain class of individuals, the association of unit owners may require a unit owner who owns a rental unit to give the association of unit owners the information described in Subsection (8)(b), if:

(i) the information helps the association of unit owners determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration; and

(ii) the association of unit owners uses the information to determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration.

(c) [~~An~~]Subject to Subsection (9)(d), an association that permits at least 35% of the units in the association to be rental units may charge a unit owner who owns a rental unit [~~an annual~~]a fee of up to $200 once every 12 months to defray the association's additional administrative expenses directly related to a unit that is a rental unit, as detailed in [~~an accounting provided to the unit owner~~]a notice provided to the unit owner.

(d) Before an association may charge a fee described in Subsection (9)(c), an association shall:

(i) provide notice to each unit owner in the association of a management committee meeting described in Subsection (9)(d)(ii) 15 days before the day on which the association holds the management committee meeting;

(ii) hold a management committee meeting to discuss and allow unit members to publicly comment on:

(A) the new administrative expenses that the association intends to cover using the funds from the fee; and

(B) the circumstances that required the association to impose or increase the fee; and

(iii) ensure that during the management committee meeting described in Subsection (9)(d)(ii), the management committee approves the fee by a majority vote.

[~~(d)~~](e) An association may require a unit owner who owns a rental unit and the renter of the unit owner's rental unit to sign an addendum to a lease agreement provided by the association.

(10) The provisions of Subsections (8) and (9) apply to an association of unit owners regardless of when the association of unit owners is created.

(11) Within 30 days after the day on which the association imposes a fee described in Subsection (9)(c), an association shall provide to each unit owner impacted by the fee a notice describing:

(a) the new administrative expenses that the association intends to cover using the funds from the fee; and

(b) the circumstances that required the association to impose or increase the fee.

(12) (a) A unit owner may contest a fee described in Subsection (9)(c) by providing to the association a written request that the association waive the fee if:

(i) the association fails to provide the notice described in Subsection (11) within 30 days after the day on which the association imposes the fee; or

(ii) the notice the association provides to the unit owner does not contain the information required in Subsection (11).

(b) If a unit owner contests a fee under this Subsection (12) by submitting a written request, an association shall waive the fee if:

(i) the association does not provide the notice described in Subsection (11) to the unit owner; or

(ii) a notice provided by the association does not contain the information required in Subsection (11).

(13) (a) A unit owner of a rental unit may designate, in a written notice to the association, a primary contact individual who is not the unit owner with whom the association may communicate as though the primary contact individual is the unit owner.

(b) If a unit owner designates a primary contact individual under this Subsection (13), the association shall provide the unit owner a written notice that confirms the association has changed the association's records to identify the primary contact individual designated by the unit owner.

Section 3. Section 57-8-32 is amended to read:

57-8-32. Sale of property and common areas and facilities.

(1) Subject to Subsection 10-9a-605(5) or 17-27a-606(5), unless otherwise provided in the declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect to sell, convey, transfer, or otherwise dispose of the property or all or part of the common areas and facilities.

(2) An affirmative vote described in Subsection (1) is binding upon all unit owners, and each unit owner shall execute and deliver the appropriate instruments and perform all acts as necessary to effect the sale, conveyance, transfer, or other disposition of the property or common areas and facilities.

(3) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and unit owners through recorded governing documents is extinguished in any portion of the common areas and facilities the unit owners sell, convey, transfer, or otherwise dispose of, if:

(a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the portion of the common areas and facilities, comply with:

(i) the provisions of this section; and

(ii) Section 10-9a-606 or 17-27a-606; and

(b) the sale, conveyance, transfer, or other disposition of the portion of the common areas and facilities results in a person other than the association [~~or a unit owner~~]owning the portion of the common areas and facilities.

(4) This section applies to an association of unit owners regardless of when the association of unit owners is created.

(5) Unless otherwise prohibited by the association's declaration or bylaws, an authorized representative of the association may act as attorney-in-fact for the association's unit owners in executing a sale, conveyance, transfer, or other disposition of the common areas and facilities following an affirmative vote described in Subsection (1).

Section 4. Section 57-8a-209 is amended to read:

57-8a-209. Rental restrictions.

[~~(1)~~] (1) (a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:

(i) create restrictions on the number and term of rentals in an association; or

(ii) prohibit rentals in the association.

(b) [~~An~~]Except as provided in Subsection (1)(c), an association that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.

(c) An association may establish, by rule, a minimum lease term of six months or less.

(2) If an association prohibits or imposes [~~restrictions~~]a restriction on the number and term of rentals[~~, the restrictions shall include:~~]or charges a fee described in Subsection (9)(c), the association shall:

(a) [~~a provision that requires the association to exempt from the rental restrictions the following lot owner and the lot owner's lot~~]exempt the following from the prohibition, restriction, or fee:

(i) a lot owner in the military for the period of the lot owner's deployment;

(ii) a lot occupied by a lot owner's parent, child, or sibling;

(iii) a lot owner whose employer has relocated the lot owner for two years or less;

(iv) a lot owned by an entity that is occupied by an individual who:

(A) has voting rights under the entity's organizing documents; and

(B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:

(A) the estate of a current resident of the lot; or

(B) the parent, child, or sibling of the current resident of the lot;

(b) [~~a provision that allows~~]allow a lot owner who has a rental in the association before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the association is located to continue renting without a fee described in Subsection (9)(c) until:

(i) the lot owner occupies the lot;

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; or

(iii) the lot is transferred; and

(c) [~~a requirement that the association~~]create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of [~~the rental restrictions~~]any rental prohibition, restriction, or fee.

(3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a lot by deed;

(b) the granting of a life estate in the lot; or

(c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(4) This section does not limit or affect residency age requirements for an association that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).

(6) (a) Subsections (1) through (5) do not apply to:

(i) an association that contains a time period unit as defined in Section 57-8-3;

(ii) any other form of timeshare interest as defined in Section 57-19-2; or

(iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or after May 12, 2015, the association:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

(b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).

(7) Notwithstanding this section, an association may restrict or prohibit rentals without an exception described in Subsection (2) if:

(a) the restriction or prohibition receives unanimous approval by all lot owners; and

(b) when the restriction or prohibition requires an amendment to the association's recorded declaration of covenants, conditions, and restrictions, the association fulfills all other requirements for amending the recorded declaration of covenants, conditions, and restrictions described in the association's governing documents.

(8) Except as provided in Subsection (9), an association may not require a lot owner who owns a rental lot to:

(a) obtain the association's approval of a prospective renter;

(b) give the association:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age;

(c) pay an additional assessment, fine, or fee because the lot is a rental lot;

(d) use a lease agreement provided by the association; or

(e) obtain the association's approval of a lease agreement.

(9) (a) A lot owner who owns a rental lot shall give an association the documents described in Subsection (8)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (8)(b), if:

(i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and

(ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.

(c) An association that permits at least 35% of the lots in the association to be rental lots may charge a lot owner who owns a rental lot [~~an annual~~]a fee of up to $200 once every 12 months to defray the association's additional administrative expenses directly related to a lot that is a rental lot, as detailed in [~~an accounting provided to the lot owner~~]a notice described in Subsection (12).

(d) An association may require a lot owner who owns a rental lot and the renter of the lot owner's rental lot to sign an addendum to a lease agreement provided by the association.

(e) Before an association may charge a fee described in Subsection (9)(c), an association shall:

(i) provide notice to each lot owner in the association of a board meeting described in Subsection (9)(e)(ii) 15 days before the day on which the association holds the board meeting;

(ii) hold a board meeting to discuss and allow lot members to publicly comment on:

(A) the new administrative expenses that the association intends to cover using the funds from the fee; and

(B) the circumstances that require the association to impose or increase the fee; and

(iii) ensure that during the board meeting described in Subsection (9)(e)(ii), the board approves the fee by a majority vote.

(10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the rental of an internal accessory dwelling unit, as defined in Section 10-9a-530 or 17-27a-526, constructed within a lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:

(a) land use ordinances;

(b) building codes;

(c) health codes; and

(d) fire codes.

(11) The provisions of Subsections (8) through (10) apply to an association regardless of when the association is created.

(12) Within 30 days after the day on which the association imposes a fee described in Subsection (9)(c), an association shall provide to each lot owner impacted by the fee a notice describing:

(a) the new administrative expenses that the association intends to cover using the funds from the fee; and

(b) the circumstances that require the association to impose or increase the fee.

(13) (a) A lot owner may contest a fee described in Subsection (9)(c) by providing to the association a written request that the association waive the fee if:

(i) the association fails to provide the notice described in Subsection (12) within 30 days after the day on which the association imposes the fee; or

(ii) the notice the association provides to the lot owner does not contain the information required in Subsection (12).

(b) If a lot owner contests a fee under this Subsection (13) by submitting a written request, an association of lot owners shall waive the fee if:

(i) the association does not provide the notice described in Subsection (12) to the lot owner; or

(ii) a notice provided by the association does not contain the information required in Subsection (12).

(14) (a) A lot owner of a rental lot may designate, in a written notice to the association, a primary contact individual who is not the lot owner with whom the association may communicate as though the primary contact individual is the lot owner.

(b) If a lot owner designates a primary contact individual under this Subsection (14), the association shall provide the lot owner a written notice that confirms the association has changed the association's records to identify the primary contact individual designated by the lot owner.

Section 5. Section 57-8a-218 is amended to read:

57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association provides to lot owners;

(ii) differ between residential and nonresidential uses; and

(iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

(2) (a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

(A) charge a rental lot owner a fee to use the common areas; or

(B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule criterion may not abridge the rights of a lot owner to display a religious or holiday sign, symbol, or decoration:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the exterior; or

(C) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the yard.

(b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time, place, and manner restriction with respect to a display that is:

(i) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling; or

(C) the front yard of the dwelling; and

(ii) visible from outside the lot.

(4) (a) A rule may not prohibit a lot owner from displaying a political sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) A rule may not regulate the content of a political sign.

(c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place, and manner of posting a political sign.

(d) An association design provision may not establish design criteria for a political sign.

(5) (a) A rule may not prohibit a lot owner from displaying a for-sale sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place, and manner of posting a for-sale sign.

(6) (a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) Notwithstanding Subsection (6)(a), an association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(7) (a) A rule may not interfere with a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances.

(b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii) (A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible from outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection (7)(b)that affect the use of or behavior inside the dwelling.

(8) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) Notwithstanding Subsection (7)(b), an association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection (8) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

(9) [~~(a) Subject to Subsection (9)(b), a~~]A rule may not:

[~~(i)~~](a) prohibit the transfer of a lot; or

[~~(ii)~~](b) require the consent of the association or board to transfer a lot.

[~~(b) Unless contrary to a declaration, a rule may require a minimum lease term.~~]

(10) (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection (10)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (10)(a).

(11) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

(12) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

(13) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

(14) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(15) A rule may not prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit.

(16) (a) For any area for which one or more lot owners, but not the association, are responsible for landscape maintenance of any landscaping within the lot owner's lot or the common areas, the association shall adopt rules supporting water wise landscaping as defined in Section 57-8a-231 including:

(i) low water use requirements on lawns during drought conditions;

(ii) design criterion for water wise landscaping; and

(iii) limiting permissible plant material to specific water wise plant material.

(b) A rule may not:

(i) prohibit or restrict the conversion of a grass park strip to water wise landscaping as defined in Section 57-8a-231; or

(ii) prohibit low water use on lawns during drought conditions.

(17) (a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a residential lot from constructing an internal accessory dwelling unit, as defined in Section 10-9a-530 or 17-27a-526, within the owner's residential lot.

(b) Subsection (17)(a) does not apply if the construction would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(18) (a) Except as provided in Subsection (18)(b), a rule may not prohibit the owner of a residential lot from making modifications, consistent with industry standards, for radon mitigation.

(b) Subsection (18)(a) does not apply if the modifications would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(c) A rule governing the placement or external appearance of modifications for radon mitigation does not apply to a lot owner's modifications if the rule would:

(i) unreasonably interfere with the modifications' functionality; or

(ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.

(d) A rule may require that a lot owner making modifications related to radon mitigation:

(i) demonstrate or provide proof of radon contamination; and

(ii) provide proof that the modifications and any related construction will be performed by a licensed person.

(19) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 77-27-21.7(3).

(20) A rule shall be reasonable.

(21) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).

(22) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.

(23) This section applies to an association regardless of when the association is created.

Section 6. Section 57-8a-231 is amended to read:

57-8a-231. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation;

(B) reduce the landscape area dedicated to lawn or turf; or

(C) encourage vegetative coverage.

(f) "Water wise plant material" means a plant material suited to water wise landscaping as defined in this section.

(2) An association may not enact or enforce a governing document that prohibits, or has the effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise landscaping on the lot owner's lot.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the association including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to the association's operations; and

(B) restricts or prohibits the use of specific plant materials other than water wise plant materials.

(b) [~~An~~]Except where reasonably necessary for erosion control, an association may not require a lot owner to install or keep in place lawn or turf in an area less than eight feet wide.

(4) (a) Subject to Subsection (4)(b), if an association does not adopt rules as required by Subsection 57-8a-218(16) and fails to remedy the noncompliance within the time specified in Subsection (4)(c), a lot owner may file an action in state court for:

(i) injunctive relief requiring the association to comply with the requirements of Subsection 57-8a-218(16);

(ii) $500, or the lot owner's actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a lot owner files a complaint under Subsection (4)(a), the lot owner shall deliver written notice described in Subsection (4)(c) to the association.

(c) The lot owner shall include in a notice described in Subsection (4)(b):

(i) the requirements in Subsection 57-8a-218(16) for adopting water wise landscaping rules with which the association has failed to comply;

(ii) a demand that the association come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which the lot owner delivers the notice, by which the association must remedy the association's noncompliance.

Section 7. Section 57-8a-232 is amended to read:

57-8a-232. Sale of common areas.

(1) Subject to Subsection 10-9a-606(5) or 17-27a-606(5), unless otherwise provided in the governing documents, an association may by an affirmative vote of at least 67% of the voting interests of the association, elect to sell, convey, transfer, or otherwise dispose of all or part of the common areas.

(2) An affirmative vote described in Subsection (1) is binding upon all lot owners, and each lot owner shall execute and deliver the appropriate instruments and perform all acts as necessary to effect the sale, conveyance, transfer, or other disposition of the common areas.

(3) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and lot owners through recorded governing documents is extinguished in any portion of the common areas[~~ and facilities~~] the association sells, conveys, transfers, or otherwise disposes of, if:

(a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the portion of the common areas, comply with:

(i) the provisions of this section; and

(ii) Section 10-9a-606 or 17-27a-606; and

(b) the sale, conveyance, transfer, or other disposition of the portion of the common areas results in a person other than the association [~~or a lot owner~~]owning the portion of the common areas[~~ and facilities~~].

(4) This section applies to an association regardless of when the association is created.

(5) Unless otherwise prohibited by the association's governing documents, an authorized representative of the association may act as attorney-in-fact for the association's lot owners in executing a sale, conveyance, transfer, or other disposition of the common areas following an affirmative vote described in Subsection (1).

Section 8. Section 78B-4-513 is amended to read:

78B-4-513. Cause of action for defective construction.

(1) As used in this section:

(a) "Condominium" means a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the condominium building.

(b) "Condominium developer" means a person that:

(i) acquires the land for building a condominium;

(ii) obtains financing for the construction of a condominium;

(iii) oversees the construction of the condominium; and

(iv) sells the condominium to a consumer.

[~~(1)~~](2) Except as provided in Subsection [~~(2)~~](3), an action for defective design or construction is limited to breach of the contract, whether written or otherwise, including both express and implied warranties.

[~~(2)~~](3) An action for defective design or construction may include damage to other property or physical personal injury if the damage or injury is caused by the defective design or construction.

[~~(3)~~](4) For purposes of Subsection [~~(2)~~](3), property damage does not include:

(a) the failure of construction to function as designed; or

(b) diminution of the value of the constructed property because of the defective design or construction.

[~~(4)~~](5) Except as provided in Subsections [~~(2)~~](3) and [~~(6)~~](7), only a person in privity of contract with the original contractor, architect, engineer, or the real estate developer may bring an action for defective design or construction[~~ may be brought only by a person in privity of contract with the original contractor, architect, engineer, or the real estate developer~~].

[~~(5)~~](6) If a person in privity of contract sues for defective design or construction under this section, nothing in this section precludes the person from bringing, in the same suit, another cause of action to which the person is entitled based on an intentional or willful breach of a duty existing in law.

[~~(6)~~](7) Nothing in this section precludes a person from assigning a right under a contract to another person, including to a subsequent owner or a homeowners association.

(8) (a) Before bringing an action against a condominium developer for defective design or construction, a condominium owner shall provide written notice:

(i) describing the defective design or construction; and

(ii) requesting that the condominium developer make all necessary repairs to fix the defective design or construction.

(b) A condominium developer, upon receiving a notice described in Subsection (8)(a), shall make all reasonable repairs requested in the notice.

(c) If the condominium developer does not complete the repairs described in the notice in Subsection (8)(b) within nine months after the day on which the condominium owner provides the notice described in Subsection (8)(a), the condominium owner may bring an action against the condominium developer for defective design or construction.

(9) A condominium owner may not bring an action against the condominium's developer for defective design or construction before the condominium owner provides the notice described in Subsection (8)(a) and the developer fails to comply with Subsection (8)(c).

Section 9. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 454
S. B. 203
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

JUDICIAL STANDING AMENDMENTS

Chief Sponsor: Brady Brammer
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses standing to bring a civil action.

Highlighted Provisions:

This bill:

- ► defines terms related to a civil action;
- ► provides legislative findings with regard to the traditional standing requirement;
- ► addresses the requirements for bringing a private right of action; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-3-101.1, Utah Code Annotated 1953
78B-3-101.3, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

78B-3-101.5, (Renumbered from 78B-3-101, as enacted by Laws of Utah 2008, Chapter 3)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-3-101.1 is enacted to read:

CHAPTER 3. CIVIL ACTIONS

PART 1. Right to Sue and Be Sued

78B-3-101.1. Definitions for part.

As used in this part:

(1) "Defendant" means a person against which a civil action is brought.

(2) "Plaintiff" means a person that brings a civil action.

(3) "Third party" means a person other than the plaintiff.

(4) "Traditional standing requirement" means the requirement established by the Utah Supreme Court that a plaintiff bringing a private right of action can establish that the plaintiff has an injury in fact, causation, and redressability.

Section 2. Section 78B-3-101.3 is enacted to read:

78B-3-101.3. Requirements for a private right of action -- Findings.

(1) The Legislature finds that:

(a) the traditional standing requirement in a private right of action is important to ensure that a plaintiff has a personal stake in the outcome of the action;

(b) the traditional standing requirement respects and safeguards the core constitutional principles of separation of powers by limiting a court's authority to hear only a private right of action where the plaintiff has a personal stake in the outcome of the action;

(c) the traditional standing requirement protects the legal rights and interests of the person with the right to bring the private right of action; and

(d) allowing a plaintiff that does not meet the traditional standing requirement for a claim that asserts the constitutional rights of a third party in a private right of action:

(i) infringes on the constitutional and statutory rights of the third party to bring a private right of action on the third party's own behalf;

(ii) conflicts with statutory and procedural laws that recognize that a real party in interest is the proper party for bringing a private right of action; and

(iii) circumvents class action laws that protect a third party from having claims litigated on the third party's behalf without the third party's knowledge or consent.

(2) For a plaintiff to bring a private right of action in a court of this state, the plaintiff shall meet the traditional standing requirement in a private right of action.

(3) If a plaintiff brings a private right of action in a court of this state with a claim asserting the constitutional rights of a third party, the plaintiff shall establish that:

(a) the third party meets the traditional standing requirement for bringing the action;

(b) the plaintiff has a substantial relationship with the third party;

(c) there is no way for the third party to bring a private right of action to assert the third party's own constitutional rights; and

(d) the third party's constitutional rights would be weakened without the plaintiff bringing the action.

(4) If the plaintiff is an association bringing a private right of action on behalf of any member of the association, the plaintiff shall plead with particularity that:

(a) the member meets the traditional standing requirement for bringing a private right of action;

(b) the member consents to the association bringing the action on the behalf of the member; and

(c) the participation of the member is not necessary to the resolution of the action.

(5) Notwithstanding Subsection (1) or (2), a plaintiff may bring a private right of action in a court of this state if the plaintiff is authorized by statute to bring the private right of action.

(6) A court shall dismiss a private right of action if the plaintiff cannot demonstrate that the plaintiff meets the requirements of this section.

Section 3. Section 78B-3-101.5, which is renumbered from Section 78B-3-101 is renumbered and amended to read:

[~~78B-3-101~~]78B-3-101.5. Husband and wife -- Actions -- Defense -- Absent spouse.

(1) If a husband and wife are sued jointly, either or both may defend in each one's own right or for both parties.

(2) Either party to a marriage may sue and be sued in the same manner as if the person is unmarried.

(3) (a) When a spouse has deserted the family, the remaining spouse may prosecute or defend in the absent spouse's name any action which the absent spouse might have prosecuted or defended.

(b) All powers and rights the absent spouse might have shall be extended to the remaining spouse.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 455
S. B. 213
Passed March 7, 2025
Approved March 26, 2025
Effective July 1, 2025

SALES AND USE TAX MODIFICATIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill enacts a sales and use tax exemption for operators of facilities that manufacture energy storage devices or equipment.

Highlighted Provisions:

This bill:

- ► defines "qualifying energy storage manufacturing facility";
- ► enacts a sales and use tax exemption for an operator of a qualifying energy storage manufacturing facility for purchases of:
  - • tangible personal property incorporated into an energy storage device or equipment; and
  - • machinery, equipment, and normal repair or replacement parts; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-102, as last amended by Laws of Utah 2024, Chapter 274
59-12-104, as last amended by Laws of Utah 2024, Chapter 35

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-102 is amended to read:
59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d);

(e) Subsection 59-12-103(2)(e)(i)(A)(I);

(f) Section 59-12-204;

(g) Section 59-12-401;

(h) Section 59-12-402;

(i) Section 59-12-402.1;

(j) Section 59-12-703;

(k) Section 59-12-802;

(l) Section 59-12-804;

(m) Section 59-12-1102;

(n) Section 59-12-1302;

(o) Section 59-12-1402;

(p) Section 59-12-1802;

(q) Section 59-12-2003;

(r) Section 59-12-2103;

(s) Section 59-12-2213;

(t) Section 59-12-2214;

(u) Section 59-12-2215;

(v) Section 59-12-2216;

(w) Section 59-12-2217;

(x) Section 59-12-2218;

(y) Section 59-12-2219; or

(z) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

(15) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18) (a) "Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(19) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible

personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(21) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

(22) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (22)(a)(i).

(23) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124to remit a tax on the seller's own purchases.

(24) (a) Subject to Subsection (24)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (60) or residential use under Subsection [~~(115)~~](116).

(27) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (27)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(28) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(29) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(30) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(31) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (31)(a) and (b).

(32) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or

video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (32)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (32)(a).

(33) "Construction materials" means any tangible personal property that will be converted into real property.

(34) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(35) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (35)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(36) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(37) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (37)(b)(i) through (v);

(c) (i) except as provided in Subsection (37)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (37)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(38) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(39) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(40) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(41) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion

in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(42) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(43) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26B-2-201;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (43)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (43)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(44) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(45) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (45)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(46) (a) "Durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (46)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(47) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (47)(b)(i) through (vi).

(48) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(49) "Employee" means the same as that term is defined in Section 59-10-401.

(50) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(51) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(52) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(53) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (99)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(54) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (54)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or school district.

(55) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(56) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(57) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar

administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(58) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(59) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

(60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (60)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(61) (a) "Installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(62) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(63) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes:

(i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code; and

(ii) car sharing.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (63)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(64) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(65) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(66) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(67) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(68) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(69) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(70) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (70)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(71) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(72) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (72)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (72)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(73) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(74) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (74)(a) through (g); or

(j) person similar to a person described in Subsections (74)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(75) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(76) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(77) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (77)(a)(i) and the termination point described in Subsection (77)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(78) (a) "Mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (78)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(79) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(80) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (80)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(81) (a) Subject to Subsection (81)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenue of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (81)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(82) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(83) "Modular home" means a modular unit as defined in Section 15A-1-302.

(84) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(85) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(86) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(87) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(88) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(89) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (89)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(90) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(91) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(92) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (92)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (92)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (92)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection [~~(137)(c)~~](138)(c).

(93) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(94) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(95) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(96) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(97) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(98) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(99) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (99)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes;

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (99)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (99)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(100) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(101) (a) "Prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (101)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (101)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (101)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(102) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(103) (a) "Product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(104) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(105) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(106) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(107) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (107)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(108) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(109) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(110) "Qualifying energy storage manufacturing facility" means a facility that manufactures, in the state, equipment or devices that store and discharge energy for the purpose of providing electrical power.

[~~(110)~~](111) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

[~~(111)~~](112) "Rental" means the same as that term is defined in Subsection (63).

[~~(112)~~](113) (a) "Repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

[~~(113)~~](114) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

[~~(114)~~](115) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection [~~(114)(a)(i)~~](115)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

[~~(115)~~](116) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

[~~(116)~~](117) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

[~~(117)~~](118) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

[~~(118)~~](119) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

[~~(119)~~](120) "Sale at retail" means the same as that term is defined in Subsection [~~(116)~~](117).

[~~(120)~~](121) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

[~~(121)~~](122) "Sales price" means the same as that term is defined in Subsection (107).

[~~(122)~~](123) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenue generated by the sales is deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection [~~(122)(a)(i)(B)~~](123)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

[~~(123)~~](124) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

[~~(124)~~](125) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

[~~(125)~~](126) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection [~~(125)(a)~~](126)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

[~~(126)~~](127) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.

[~~(127)~~](128) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

[~~(128)~~](129) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

[~~(129)~~](130) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

[~~(130)~~](131) (a) Subject to Subsections [~~(130)(b)~~](131)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections [~~(130)(b)(i)~~](131)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

[~~(131)~~](132) (a) "Short-term rental" means a lease or rental for less than 30 consecutive days.

(b) "Short-term rental" does not include car sharing.

[~~(132)~~](133) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

[~~(133)~~](134) "Solar energy" means the sun used as the sole source of energy for producing electricity.

[~~(134)~~](135) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

[~~(135)~~](136) "State" means the state of Utah, its departments, and agencies.

[~~(136)~~](137) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

[~~(137)~~](138) (a) "Tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections [~~(137)(c)(i)~~](138)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the

commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

[~~(138)~~](139) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection [~~(138)(b)~~](139)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection [~~(138)(a)~~](139)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(138)(b)(i)~~](139)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection [~~(138)(c)~~](139)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(138)(b)(i)~~](139)(b)(i)through (vi).

[~~(139)~~](140) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

[~~(140)~~](141) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

[~~(141)~~](142) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

[~~(142)~~](143) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection [~~(142)(a)(i)~~](143)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection [~~(142)(a)~~](143)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

[~~(143)~~](144) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection [~~(143)(b)~~](144)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(143)(a)~~](144)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(143)(b)(i)~~](144)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection [~~(143)(c)~~](144)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(143)(b)(i)~~](144)(b)(i)through (ix).

[~~(144)~~](145) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection [~~(144)(b)~~](145)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(144)(a)~~](145)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(144)(b)(i)~~](145)(b)(i) through (xxv) as [~~determined by~~]the commission determines by rule made in accordance with Subsection [~~(144)(c)~~](145)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(144)(b)(i)~~](145)(b)(i)through (xxv).

[~~(145)~~](146) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

[~~(146)~~](147) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

[~~(147)~~](148) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

[~~(148)~~](149) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

[~~(149)~~](150) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

[~~(150)~~](151) (a) Subject to Subsection [~~(150)(b)~~](151)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection [~~(150)(a)~~](151)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

[~~(151)~~](152) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection [~~(150)~~](151).

[~~(152)~~](153) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

[~~(153)~~](154) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

[~~(154)~~](155) (a) "Waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

[~~(155)~~](156) "Watercraft" means a vessel as defined in Section 73-18-2.

[~~(156)~~](157) "Wind energy" means wind used as the sole source of energy to produce electricity.

[~~(157)~~](158) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 2. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if:

(a) the sale is not from the vehicle's lessor to the vehicle's lessee;

(b) the vehicle is not registered in this state; and

(c) (i) the vehicle is not used in this state; or

(ii) the vehicle is used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale, lease agreement, or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale, lease agreement, or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in

Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment;

(89) amounts paid or charged for an item exempt under Section 59-12-104.10;

(90) sales of a note, leaf, foil, or film, if the item:

(a) is used as currency;

(b) does not constitute legal tender of a state, the United States, or a foreign nation; and

(c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any transparent polymer holder, coating, or encasement;

(91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, if a trained instructor:

(a) is present with the participant, in person or by video, for the duration of the activity; and

(b) actively instructs the participant, including providing observation or feedback;

(92) amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by or constructed for:

(a) a distribution electrical cooperative, as defined in Section 54-2-1; or

(b) a wholesale electrical cooperative, as defined in Section 54-2-1;

(93) amounts paid by the service provider for tangible personal property, other than machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

(a) is consumed in the performance of a service that is subject to tax under Subsection 59-12-103(1)(b), (f), (g), (h), (i), or (j);

(b) has to be consumed for the service provider to provide the service described in Subsection (93)(a); and

(c) will be consumed in the performance of the service described in Subsection (93)(a), to one or more customers, to the point that the tangible personal property disappears or cannot be used for any other purpose;

(94) sales of rail rolling stock manufactured in Utah;

(95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or construction materials between establishments, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:

(a) the establishments are related directly or indirectly through 100% common ownership or control; and

(b) each establishment is described in one of the following subsectors of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or

(ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing;

(96) sales of construction materials used for the construction of a qualified stadium, as defined in Section 11-70-101;[~~and~~]

(97) amounts paid or charged for sales of a cannabinoid product as that term is defined in Section 4-41-102[~~.~~]; and

(98) amounts paid or charged by an operator of a qualifying energy storage manufacturing facility for:

(a) a purchase of tangible personal property if the tangible personal property is incorporated into equipment or a device that stores and discharges energy at the qualifying energy storage manufacturing facility; and

(b) a purchase or lease of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts are used exclusively in the operation of the qualifying energy storage manufacturing facility.

Section 3. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 456
S. B. 204
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

RIGHT TO APPEAL AMENDMENTS

Chief Sponsor: Brady Brammer
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses a right to an appeal of an injunctive order.

Highlighted Provisions:

This bill:

- ► modifies the appellate jurisdiction of the Supreme Court and Court of Appeals;
- ► defines terms related to a civil action in which a trial court grants an injunctive order restraining the execution or enforcement of a state law or any part of a state law;
- ► grants a right to an appeal of an injunctive order in certain circumstances; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-3-102, as last amended by Laws of Utah 2009, Chapter 344
78A-4-103, as last amended by Laws of Utah 2023, Chapter 516

ENACTS:

78B-5-1001, Utah Code Annotated 1953
78B-5-1002, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-3-102 is amended to read:

78A-3-102. Supreme Court jurisdiction.

(1) The Supreme Court has original jurisdiction to answer questions of state law certified by a court of the United States.

(2) The Supreme Court has original jurisdiction to issue all extraordinary writs and authority to issue all writs and process necessary to carry into effect [~~its~~]the Supreme Court's orders, judgments, and decrees or in aid of its jurisdiction.

(3) The Supreme Court has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) a judgment of the Court of Appeals;

(b) cases certified to the Supreme Court by the Court of Appeals prior to final judgment by the Court of Appeals;

(c) discipline of lawyers;

(d) final orders of the Judicial Conduct Commission;

(e) final orders and decrees in formal adjudicative proceedings originating with:

(i) the Public Service Commission;

(ii) the State Tax Commission;

(iii) the School and Institutional Trust Lands Board of Trustees;

(iv) the Board of Oil, Gas, and Mining;

(v) the state engineer; or

(vi) the executive director of the Department of Natural Resources reviewing actions of the Division of Forestry, Fire, and State Lands;

(f) final orders and decrees of the district court review of informal adjudicative proceedings of agencies under Subsection (3)(e);

(g) a final judgment or decree of any court of record holding a statute of the United States or this state unconstitutional on its face under the Constitution of the United States or the Utah Constitution;

(h) interlocutory appeals from any court of record involving a charge of a first degree or capital felony;

(i) appeals from the district court involving a conviction or charge of a first degree felony or capital felony;

(j) orders, judgments, and decrees of any court of record over which the Court of Appeals does not have original appellate jurisdiction;[~~and~~]

(k) appeals from the district court of orders, judgments, or decrees ruling on legislative subpoenas[~~.~~]; and

(l) an appeal of an injunctive order as described in Section 78B-5-1002.

(4) The Supreme Court may transfer to the Court of Appeals any of the matters over which the Supreme Court has original appellate jurisdiction, except for:

(a) capital felony convictions or an appeal of an interlocutory order of a court of record involving a charge of a capital felony;

(b) election and voting contests;

(c) reapportionment of election districts;

(d) retention or removal of public officers;

(e) matters involving legislative subpoenas; and

(f) [~~those matters described in Subsections (3)(a) through (d).~~]a matter described in Subsections (3)(a) through (d) or Subsection (3)(l).

(5) The Supreme Court has sole discretion in granting or denying a petition for writ of certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall review those cases certified to [~~it~~]the Supreme Court by the Court of Appeals under Subsection (3)(b).

(6) The Supreme Court shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in [~~its~~]the Supreme Court's review of agency adjudicative proceedings.

Section 2. Section 78A-4-103 is amended to read:

78A-4-103. Court of Appeals jurisdiction.

(1) As used in this section, "adjudicative proceeding" does not include a proceeding under Title 63G, Chapter 2, Part 4, Appeals, that precedes judicial review under Section 63G-2-404.

(2) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:

(a) to carry into effect [~~its~~]the judgments, orders, and decrees of the Court of Appeals; or

(b) in aid of [~~its~~]the jurisdiction of the Court of Appeals.

(3) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) (i) a final order or decree resulting from:

(A) a formal adjudicative proceeding of a state agency;

(B) a special adjudicative proceeding, as described in Section 19-1-301.5; or

(C) a hearing before a local school board or the State Board of Education as described in Section 53G-11-515; or

(ii) an appeal from the district court review of an informal adjudicative proceeding of an agency other than the following:

(A) the Public Service Commission;

(B) the State Tax Commission;

(C) the School and Institutional Trust Lands Board of Trustees;

(D) the Division of Forestry, Fire, and State Lands, for an action reviewed by the executive director of the Department of Natural Resources;

(E) the Board of Oil, Gas, and Mining; or

(F) the state engineer;

(b) appeals from the district court review of:

(i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and

(ii) a challenge to agency action under Section 63G-3-602;

(c) appeals from the juvenile courts;

(d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;

(e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;

(f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except for petitions constituting a challenge to a conviction of or the sentence for a first degree or capital felony;

(g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;

(h) appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, parent-time, visitation, adoption, and paternity;

(i) appeals from the Utah Military Court; and

(j) cases transferred to the Court of Appeals from the Supreme Court.

(4) The Court of Appeals does not have appellate jurisdiction over an appeal of an injunctive order described in Section 78B-5-1002.

[~~(4)~~](5) The Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.

[~~(5)~~](6) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.

Section 3. Section 78B-5-1001 is enacted to read:

CHAPTER 5. TRIAL, JUDGMENT, AND APPEAL

PART 10. Appeals

78B-5-1001. Definitions for part.

Reserved.

Section 4. Section 78B-5-1002 is enacted to read:

78B-5-1002. Right to an appeal of an injunctive order.

(1) As used in this section:

(a) "Defendant" means a defendant in the civil action or a party affected by the injunctive order.

(b) "Governmental entity" means the state, a county, a municipality, a special district, a special service district, a school district, a state institution of higher education, or any other political subdivision or administrative unit of the state.

(c) "Injunctive order" means a temporary restraining order, a preliminary injunction, a permanent injunction, or any order or judgment that restrains or enjoins the execution or enforcement of a state law or any part of a state law.

(d) "Plaintiff" means the party seeking the injunctive order.

(e) "State law" means a state statute, a provision of the Utah Constitution, or any action of the Legislature.

(2) A defendant has a right in a civil action to appeal a decision by a trial court of this state to grant, continue, modify, or refuse to modify an injunctive order if the underlying claim for the injunctive order is that the state law, or any part of the state law, is unconstitutional on its face.

(3) Upon an appeal described in Subsection (2), the Supreme Court shall determine whether:

(a) the decision of the trial court is correct; and

(b) there is a substantial likelihood that the plaintiff will prevail on the merits of the claim that the state law, or any part of the state law, is unconstitutional on its face.

(4) If a governmental entity brings an appeal under Subsection (2), the governmental entity is not required to post a bond for the appeal.

(5) This section applies to an action pending in a court of this state on and after May 7, 2025.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 457
S. B. 228
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

HEALTH CARE SERVICES PLATFORMS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Doug Owens

LONG TITLE

General Description:

This bill addresses health care staffing.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes a registration program, administered by the Division of Occupational Licensing (division), for health care services platforms;
- ► establishes registration and operational requirements for health care services platforms; and
- ► authorizes the division to:
  - • collect fees;
  - • adopt rules; and
  - • deny, place restrictions on, or suspend a registration for violations of statute or rule.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

58-89-101, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-89-101 is enacted to read:

CHAPTER 89. HEALTH CARE SERVICES PLATFORMS

58-89-101. Health care services platforms -- Registration.

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section 26B-4-501.

(b) "Health care services platform" means a person that operates or offers for use a platform.

(c) "Health care worker" means an individual who provides or delivers a health care service, or assists in the provision or delivery of a health care service, including a service for which no license or certification under this title is required.

(d) "Platform" means an electronic program, system, or application through which a health care worker may accept a shift to perform a health care service or role, as an independent contractor, at a health care facility.

(2) (a) No later than September 1, 2025, the division shall establish the registration system described in Subsection (5)(a).

(b) Beginning January 1, 2026, no person shall operate a health care services platform in the state without a valid registration issued by the division.

(3) A health care services platform shall:

(a) register with the division, and pay the applicable registration and renewal fees established by the division under Subsection (5)(a);

(b) retain records demonstrating that, for each shift a health care worker using the platform seeks to accept:

(i) the health care worker meets all minimum applicable, state and federal:

(A) licensing standards;

(B) training standards, including supervised training requirements; and

(C) continuing education standards;

(ii) the health care worker has completed and passed applicable background checks for any shift a health care worker using the platform seeks to accept; and

(iii) the health care services platform maintains general liability or professional liability insurance; and

(c) meet any additional requirements the division establishes in rule.

(4) A health care services platform may not:

(a) require a health care worker to enter into a non-compete agreement;

(b) accept a fee, payment, or benefit from a health care worker, a health care provider, or a health care facility, as compensation for a

health care worker accepting an offer of employment from a health care provider or facility; or

(c) restrict a health care worker from:

(i) finding or accepting a shift using another platform; or

(ii) finding or accepting a shift or employment with a health care provider or facility.

(5) (a) The division shall, in accordance with this section:

(i) (A) establish and maintain a registration program for health care services platforms; and

(B) review and issue a decision on each application for registration or renewal as a health care services platform no later than 30 days after the day on which the application is submitted;

(ii) establish, impose, and collect an initial registration fee, and an annual renewal registration fee:

(A) in accordance with Section 63J-1-504;

(B) each of which amounting to not more than $500; and

(C) that generate sufficient revenue, when paid by all registrants, to cover or substantially cover the costs for the establishment and maintenance of the registration program described in this Subsection (5)(a); and

(iii) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to effectuate and administer this section.

(b) The division may deny, refuse to renew, revoke, place conditions on, or suspend the registration of a health care services platform for failure to comply with the requirements of this section, or of division rule adopted under Subsection (5)(a)(iii).

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 458
S. B. 217
Passed March 3, 2025
Approved March 26, 2025
Effective May 7, 2025

RECYCLING AND WASTE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jason B. Kyle

LONG TITLE

General Description:

This bill addresses issues related to the disposal and recycling of electronic and solid waste.

Highlighted Provisions:

This bill:

- ► defines "community collection event";
- ► requires a manufacturer of a consumer electronic device to develop a public education program about a collection, reuse, or recycling program for a consumer electronic device;
- ► requires the Department of Environmental Quality (department) to develop a public education program related to electronic and other waste;
- ► requires the department to publish information related to recycling programs and recycling resources on the department's website;
- ► removes an exception for the department to charge more than one fee for the same solid waste; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

19-6-119, (Effective 07/01/26) as last amended by Laws of Utah 2021, Chapter 64
19-6-1202, (Effective 05/07/25) as enacted by Laws of Utah 2011, Chapter 213
19-6-1203, (Effective 05/07/25) as last amended by Laws of Utah 2016, Chapters 13, 143
19-6-1204, (Effective 07/01/26) as enacted by Laws of Utah 2011, Chapter 213
19-6-1205, (Effective 05/07/25) as enacted by Laws of Utah 2011, Chapter 213

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-6-119 is amended to read:

19-6-119 (Effective 07/01/26). Nonhazardous solid waste disposal fees.

(1) (a) Through December 31, 2018, and except as provided in Subsection (4), the owner or operator of a commercial nonhazardous solid waste disposal facility or incinerator shall pay the following fees for waste received for treatment or disposal at the facility if the facility or incinerator is required to have operation plan approval under Section 19-6-108 and primarily receives waste generated by off-site sources not owned, controlled, or operated by the facility or site owner or operator:

(i) 13 cents per ton on all municipal waste and municipal incinerator ash;

(ii) 50 cents per ton on the following wastes if the facility disposes of one or more of the following wastes in a cell exclusively designated for the waste being disposed:

(A) construction waste or demolition waste;

(B) yard waste, including vegetative matter resulting from landscaping, land maintenance, and land clearing operations;

(C) dead animals;

(D) waste tires and materials derived from waste tires disposed of in accordance with Title 19, Chapter 6, Part 8, Waste Tire Recycling Act; and

(E) petroleum contaminated soils that are approved by the director; and

(iii) $2.50 per ton on:

(A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and

(B) (I) fly ash waste;

(II) bottom ash waste;

(III) slag waste;

(IV) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(V) waste from the extraction, beneficiation, and processing of ores and minerals; and

(VI) cement kiln dust wastes.

(b) A commercial nonhazardous solid waste disposal facility or incinerator subject to the fees under Subsection (1)(a)(i) or (ii) is not subject to the fee under Subsection (1)(a)(iii) for those wastes described in Subsections (1)(a)(i) and (ii).

(c) The owner or operator of a facility described in Subsection 19-6-102(3)(b)(iii) shall pay a fee of 13 cents per ton on all municipal waste received for disposal at the facility.

(2) (a) Through December 31, 2018, and except as provided in Subsections (2)(c) and (4), a waste facility that is owned by a political subdivision shall pay the following annual facility fee to the department by January 15 of each year:

(i) $800 if the facility receives 5,000 or more but fewer than 10,000 tons of municipal waste each year;

(ii) $1,450 if the facility receives 10,000 or more but fewer than 20,000 tons of municipal waste each year;

(iii) $3,850 if the facility receives 20,000 or more but fewer than 50,000 tons of municipal waste each year;

(iv) $12,250 if the facility receives 50,000 or more but fewer than 100,000 tons of municipal waste each year;

(v) $14,700 if the facility receives 100,000 or more but fewer than 200,000 tons of municipal waste each year;

(vi) $33,000 if the facility receives 200,000 or more but fewer than 500,000 tons of municipal waste each year; and

(vii) $66,000 if the facility receives 500,000 or more tons of municipal waste each year.

(b) The fee identified in Subsection (2)(a) for 2018 shall be paid by January 15, 2019.

(c) Through December 31, 2018, and except as provided in Subsection (4), a waste facility that is owned by a political subdivision shall pay $2.50 per ton for:

(i) nonhazardous solid waste that is not a waste described in Subsection (1)(a)(i) or (ii) received for disposal if the waste is:

(A) generated outside the boundaries of the political subdivision; and

(B) received from a single generator and exceeds 500 tons in a calendar year; and

(ii) waste described in Subsection (1)(a)(iii)(B) received for disposal if the waste is:

(A) generated outside the boundaries of the political subdivision; and

(B) received from a single generator and exceeds 500 tons in a calendar year.

(d) Waste received at a facility owned by a political subdivision under Subsection (2)(c)may not be counted as part of the total tonnage received by the facility under Subsection (2)(a).

(3) (a) As used in this Subsection (3):

(i) "Recycling center" means a facility that extracts valuable materials from a waste stream or transforms or remanufactures the material into a usable form that has demonstrated or potential market value.

(ii) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility that is used to deposit collected solid waste from off-site into a transfer vehicle for transport to a solid waste handling or disposal facility.

(b) Through December 31, 2018, and except as provided in Subsection (4), the owner or operator of a transfer station or recycling center shall pay to the department the following fees on waste sent for disposal to a nonhazardous solid waste disposal or treatment facility that is not subject to a fee under this section:

(i) $1.25 per ton on:

(A) all nonhazardous solid waste; and

(B) waste described in Subsection (1)(a)(iii)(B);

(ii) 10 cents per ton on all construction and demolition waste; and

(iii) 5 cents per ton on all municipal waste or municipal incinerator ash.

(c) Wastes subject to fees under Subsection (3)(b)(ii) or (iii) are not subject to the fee required under Subsection (3)(b)(i).

(4) The owner or operator of a waste disposal facility that receives nonhazardous solid waste described in Subsection (1)(a)(iii)(B) is not required to pay any fee on those nonhazardous solid wastes if received solely for the purpose of recycling, reuse, or reprocessing.

(5) Through December 31, 2018, and except as provided in Subsection (2)(a), a facility required to pay fees under this section shall:

(a) calculate the fees by multiplying the total tonnage of nonhazardous solid waste received during the calendar month, computed to the first decimal place, by the required fee rate;

(b) pay the fees imposed by this section to the department by the 15th day of the month following the month in which the fees accrued; and

(c) with the fees required under Subsection (6)(b), submit to the department, on a form prescribed by the department, information that verifies the amount of nonhazardous solid waste received and the fees that the owner or operator is required to pay.

(6) (a) In accordance with Section 63J-1-504[~~, on or before July 1, 2018, and each fiscal year thereafter~~]and on or before the start of each fiscal year, the department shall establish a fee schedule for the treatment, transfer, and disposal of all nonhazardous solid waste.

(b) The department shall, before establishing the annual fee schedule described in Subsection (6)(a), consult with industry and local government and complete a review of program costs and indirect costs of regulating nonhazardous solid waste in the state and use the findings of the review to create the fee schedule.

(c) The fee schedule described in Subsection (6)(a) shall:

(i) create an equitable and fair, though not necessarily equal or uniform, fee to be paid by all persons whose treatment, transfer, or disposal of nonhazardous solid waste creates a regulatory burden to the department, based on the actual cost, and taking into consideration whether the owner or operator of a facility elects to self-inspect under Section 19-6-109, except as provided in Subsection (6)(d);

(ii) cover the fully burdened costs of the program and provide for reasonable and timely oversight by the department;

(iii) adequately meet the needs of industry, local government, and the department, including enabling the department to employ the appropriate number of qualified personnel to appropriately oversee industry and local government regulation;

(iv) provide stable funding for the Environmental Quality Restricted Account created in Section 19-1-108; and

(v) for solid waste managed at a transfer facility, be no greater than the cost [~~of regulatory services provided to~~]to the division to inspect the transfer facility.

(d) Any person who treats, transfers, stores, or disposes of solid waste from the extraction, beneficiation, and processing of ores and minerals on a site owned, controlled, or operated by that person may not be charged a fee under this section for the treatment, transfer, storage, or disposal of solid waste from the extraction, beneficiation, and processing of ores and minerals that are generated:

(i) on-site by the person; or

(ii) by off-site sources owned, controlled, or operated by the person.

(e) The fees in the fee schedule established by Subsection (6)(a) shall take effect on January 1[~~, 2019~~]of each year.

(7) [~~On and after January 1, 2019, a~~]A facility required to pay fees under this section shall:

(a) pay the fees imposed by this section to the department by the 15th day of the month following the quarter in which the fees accrued; and

(b) with the fees required under Subsection (7)(a), submit to the department, on a form prescribed by the department, information that verifies the amount of nonhazardous solid waste received and the fees that the owner or operator is required to pay.

(8) In setting the fee schedule described in Subsection (6)(a), the department shall ensure that a party is not charged multiple fees for the same solid waste[~~, except the department may charge a separate fee for a transfer station~~].

(9) The department shall:

(a) deposit all fees received under this section into the Environmental Quality Restricted Account created in Section 19-1-108; and

(b) in preparing its budget for the governor and the Legislature, separately indicate the amount of the department's budget necessary to administer the solid and hazardous waste program established by this part.

(10) The department may contract or agree with a county to assist in performing nonhazardous solid waste management activities, including agreements for:

(a) the development of a solid waste management plan required under Section 17-15-23; and

(b) pass-through of available funding.

(11) This section does not exempt any facility from applicable regulation under the Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

[~~(12) The department shall report to the Natural Resources, Agriculture, and Environment Interim Committee by November 30, 2017, on the fee schedule described in Subsection (6)(a).~~]

Section 2. Section 19-6-1202 is amended to read:

19-6-1202 (Effective 05/07/25). Definitions.

As used in this part:

(1) "Collection":

(a) means the aggregation of consumer electronic devices from consumers; and

(b) includes all the activities up to the time a consumer electronic device is delivered to a recycler.

(2) "Community collection event" means a scheduled event for a member of the public to dispose of or recycle:

(a) a consumer electronic device or other electronic waste;

(b) green or organic waste;

(c) hazardous waste as that term is defined in Section 19-6-102; or

(d) an item not considered household waste that is difficult to dispose of or recycle.

[~~(2)~~](3) (a) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing a logical, arithmetic, or storage function, including:

(i) a laptop computer;

(ii) a desktop computer; or

(iii) a tablet computer.

(b) "Computer" includes the following permanently affixed to or incorporated into a device described in Subsection [~~(2)(a)~~](3)(a):

(i) a cable cord;

(ii) permanent wiring;

(iii) a central processing unit; or

(iv) a monitor.

(c) "Computer" does not include an automated typewriter or typesetter, a portable hand-held calculator, a portable digital assistant, a server, or similar device.

[~~(3)~~](4) "Consumer" means a person who owns or uses a covered electronic device that is purchased primarily for personal or home business use.

[~~(4)~~](5) "Consumer electronic device" means the following products sold to a consumer:

(a) a computer;

(b) a computer peripheral;

(c) a television; or

(d) a television peripheral.

[~~(5)~~](6) "Eligible program" means a collection, reuse, or recycling system for a consumer electronic device, including:

(a) a system by which a manufacturer, manufacturer's designee, or other private entity offers a consumer an option to return a consumer electronic device by mail;

(b) a system using a physical collection site that a manufacturer, manufacturer's designee, or other private or public entity provides for a consumer to return a covered consumer electronic device; or

(c) a system that uses a collection event held by a manufacturer, manufacturer's designee, or other private or public entity at which a consumer may return a consumer electronic device.

[~~(6)~~](7) "Manufacturer" means a person who:

(a) manufactures a consumer electronic device under a brand the person owns or is licensed to use; or

(b) assumes the responsibilities and obligations of a person described in Subsection [~~(6)(a)~~](7)(a).

[~~(7)~~](8) "Peripheral" means a keyboard, printer, or other device that:

(a) is sold exclusively for external use with a television or computer; and

(b) provides input into or output from a television or computer.

[~~(8)~~](9) (a) "Recycling" means the process of collecting and preparing electronic products for:

(i) use in a manufacturing process; or

(ii) recovery of reusable materials followed by delivery of reusable materials for use.

(b) "Recycling" does not include destruction by incineration, waste-to-energy incineration, or other similar processes or land disposal.

[~~(9)~~](10) "Reuse" means electronic waste:

(a) that is tested and determined to be in good working order; and

(b) that is removed from the waste stream to use for the same purpose for which it was manufactured, including the continued use of the whole system or components.

[~~(10)~~](11) (a) "Sell" or "sale" means any transfer for consideration of title or of the right to use by lease or sales contract of a consumer electronic device to a consumer.

(b) "Sell" or "sale" does not include:

(i) the sale, resale, lease, or transfer of used consumer electronic devices; or

(ii) a manufacturer's or a distributor's wholesale transaction with a distributor or retailer involving a consumer electronic device.

[~~(11)~~](12) "Television" means a display system primarily intended to receive video programming via broadcast, cable, or satellite transmission.

Section 3. Section 19-6-1203 is amended to read:

19-6-1203 (Effective 05/07/25). Reporting requirements.

(1) [~~On or after July 1, 2011, a~~]A manufacturer may not offer a consumer electronic device for sale in the state unless the manufacturer, either individually, through a group manufacturer organization, or through the manufacturer's industry trade group, prepares and submits, subject to Subsection (2), a report on or before August 1 of each year to the department.

(2) The report required under Subsection (1):

(a) shall include a list of eligible programs, subject to Subsection (3); and

(b) may include:

(i) an existing collection, transportation, or recycling system for a consumer electronic device; and

(ii) an eligible program offered by:

(A) a consumer electronic device recycler;

(B) a consumer electronic device repair shop;

(C) a recycler of other commodities;

(D) a reuse organization;

(E) a not-for-profit corporation;

(F) a retailer; or

(G) another similar operation, including a local government collection event.

(3) The list required in Subsection (2)(a) may be in the form of a geographic map identifying the type and location of an eligible program.

Section 4. Section 19-6-1204 is amended to read:

19-6-1204 (Effective 07/01/26). Public education programs -- Publication on department website.

(1) [~~Effective January 1, 2012, a~~]A manufacturer may not offer a consumer electronic device for sale in the state unless the manufacturer individually, through a group manufacturer organization, or through the manufacturer's industry trade group establishes and implements[~~, in accordance with Subsection (2), a public education program regarding the eligible programs~~]a public education program in accordance with Subsection (2).

(2) (a) The public education program required under Subsection (1) shall:

(i) inform a consumer about eligible programs; and

(ii) use manufacturer-developed customer outreach materials, such as packaging inserts, company websites, and other communication methods, to inform a consumer about eligible programs.

(b) A manufacturer described in Subsection (1) shall work with the department and other interested parties to develop educational materials that inform consumers about an eligible program.

(3) The department shall develop a public education program to:

(a) promote eligible programs;

(b) promote existing recycling resources in this state;

(c) assist a manufacturer's public outreach program in accordance with Subsection (2)(b);

(d) encourage a retailer to inform a consumer of eligible programs at the point of sale of a consumer electronic device; and

(e) support a local government or other entity interested in creating a community collection event.

(4) The department shall publish on the department's website:

(a) the public education program developed by the department under Subsection (3);

(b) a community collection event submitted to the department under Subsection 19-6-1205(2); and

(c) a report received by the department under Section 19-6-1203.

Section 5. Section 19-6-1205 is amended to read:

19-6-1205 (Effective 05/07/25). Local government arrangement -- Community collection event publication.

(1) If a local government enters into an arrangement with a manufacturer to facilitate consumer electronics recycling in accordance with this part, the local government may enter into the arrangement without requiring a request for proposal or similar competitive

procurement process required by law.

(2) (a) A local government may submit a community collection event to the department for publication on the department's website as described in Subsection 19-6-1204(4).

(b) To publish a community collection event on the department's website, a local government or person shall provide the following information to the department:

(i) the location of the community collection event;

(ii) a description of a consumer electronic device accepted for recycling;

(iii) hours of operation for the community collection event; and

(iv) other relevant information as requested by the department.

Section 6. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect May 7, 2025.

(2) The actions affecting Sections 19-6-119 and 19-6-1204 take effect on July 1, 2026.

CHAPTER 459
S. B. 250
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

COMMUNITY DEVELOPMENT MODIFICATIONS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill deals with the use of certain funding to promote home ownership and provisions related to community reinvestment agencies.

Highlighted Provisions:

This bill:

- ► defines terms and modifies definitions;
- ► authorizes the Utah Inland Port Authority to provide general differential revenue from a project area to a non-profit housing fund to assist low-income individuals and families to achieve home ownership within a 15 mile radius of the project area that generated the general differential revenue;
- ► authorizes a community reinvestment agency to pay all or any portion of the agency's housing allocation to a nonprofit housing fund for use in assisting individuals or families within the community to achieve or retain homeownership;
- ► requires a participation agreement to have a provision authorizing an agency to use funding that would otherwise be provided to a participant under the participation agreement to pay a participant's delinquent property tax or privilege tax or resolve a political subdivision lien against the participant;
- ► requires an agency to confirm with the county that a participant is not delinquent on property tax or privilege tax or subject to a political subdivision lien before providing the participant with funding under a participation agreement;
- ► authorizes a county treasurer, in consultation with a community reinvestment agency, to use funding that would otherwise be distributed to a private participant under a participation agreement to resolve past-due property taxes, privilege taxes, or a political subdivision lien; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-58-602, as last amended by Laws of Utah 2024, Chapter 535
17-24-4, as last amended by Laws of Utah 2012, Chapter 17
17C-1-102, as last amended by Laws of Utah 2024, Chapter 158
17C-1-202, as last amended by Laws of Utah 2024, Chapter 316
17C-1-409, as last amended by Laws of Utah 2023, Chapters 15, 471 and 492
17C-1-412, as last amended by Laws of Utah 2024, Chapter 413
17C-1-1001, as enacted by Laws of Utah 2021, Chapter 214

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-58-602 is amended to read:

11-58-602. Allowable uses of property tax differential and other funds.

(1) (a) The authority may use money from property tax differential, money the authority receives from the state, money the authority receives under Subsection 59-12-205(2)(a)(ii)(C), and other money available to the authority:

(i) for any purpose authorized under this chapter;

(ii) for administrative, overhead, legal, consulting, and other operating expenses of the authority;

(iii) to pay for, including financing or refinancing, all or part of the development of land within a project area, including assisting the ongoing operation of a development or facility within the project area;

(iv) to pay the cost of the installation and construction of public infrastructure and improvements within the project area from which the property tax differential funds were collected;

(v) to pay the cost of the installation of public infrastructure and improvements outside a project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area;

(vi) to pay to a community reinvestment agency for affordable housing, as provided in Subsection 11-58-606(2);

(vii) to pay the principal and interest on bonds issued by the authority;

(viii) to pay the cost of acquiring a conservation easement on land that is part of or adjacent to authority jurisdictional land:

(A) for the perpetual preservation of the land from development; and

(B) to provide a buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land; and

(ix) subject to Subsection (1)(b), to encourage, incentivize, or require development that:

(A) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;

(B) mitigates traffic congestion; or

(C) uses high efficiency building construction and operation.

(b) (i) (A) The authority shall establish minimum mitigation and environmental standards that a landowner is required to meet to qualify for the use of property tax differential under Subsection (1)(a)(ix) in the landowner's development.

(B) Minimum mitigation and environmental standards established under Subsection (1)(b)(i)(A) shall include a standard prohibiting the use of property tax differential as a business recruitment incentive, as defined in Section 11-58-603, for new commercial or industrial development or an expansion of existing commercial or industrial development within the authority jurisdictional land if the new or expanded development will consume on an annual basis more than 200,000 gallons of potable water per day.

(ii) In establishing minimum mitigation and environmental standards, the authority shall consult with:

(A) the municipality in which the development is expected to occur, for development expected to occur within a municipality; or

(B) the county in whose unincorporated area the development is expected to occur, for development expected to occur within the unincorporated area of a county.

(iii) The authority may not use property tax differential under Subsection (1)(a)(viii) for a landowner's development in a project area unless the minimum mitigation and environmental standards are followed with respect to that landowner's development.

(2) The authority may use revenue generated from the operation of public infrastructure operated by the authority or improvements, including an intermodal facility, operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) The determination of the board under Subsection (1)(a)(v) regarding benefit to the project area is final.

(4) The authority may not use property tax differential revenue collected from one project area for a development project within another project area.

(5) (a) The authority may use up to 10% of the general differential revenue generated from a project area to pay for affordable housing within or near the project area.

(b) In using general differential revenue described in Subsection (5)(a), the authority may provide general differential revenue generated from a project area to a non-profit housing fund, as defined in Section 17C-1-102:

(i) for that non-profit housing fund to assist low-income individuals and families who would qualify for income targeted housing to achieve homeownership, or retain homeownership, within a 15 mile radius of the project area that generated the general differential revenue, in accordance with the mission of the non-profit housing fund; and

(ii) pursuant to an agreement between the non-profit housing fund and the authority governing appropriate uses of general differential revenue.

(6) The authority may share general differential funds with a taxing entity that levies a property tax on land within the project area from which the general differential is generated.

Section 2. Section 17-24-4 is amended to read:

17-24-4. Payment of warrants, checks, or other instruments.

(1) [~~When~~]Except as provided in Subsection (3), when a warrant is presented for payment and there is money in the treasury, the treasurer shall pay it.

(2) Upon receiving the notice from the county auditor under Section 17-19a-301 and if there is adequate money in the treasury, the treasurer shall, by check or other payment mechanism, make any payment not already paid by warrant.

(3) Notwithstanding Subsections (1) and (2), the treasurer has no obligation to pay any warrant or to issue any check or other payment instrument before receiving the certified list under Subsection 17-20-1.7(4).

(4) Before providing certain funding to a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, a treasurer shall consult with the community reinvestment agency as described in Section 17C-1-409.

Section 3. Section 17C-1-102 is amended to read:

17C-1-102. Definitions.

As used in this title:

(1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.

(2) "Adjusted tax increment" means []the percentage of tax increment, if less than 100%, that an agency is authorized to receive:

(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);

(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;

(c) under a project area budget approved by a taxing entity committee; or

(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

(3) "Affordable housing" means housing owned or occupied by a low or moderate income family, as determined by resolution of the agency.

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:

(a) that is a political subdivision of the state;

(b) that is created to undertake or promote project area development as provided in this title; and

(c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan or an implementation plan as defined in Section 17C-1-1001, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development or agency-wide project development as defined in Section 17C-1-1001;

(c) a contribution, loan, grant, or other financial assistance from any public or private source;

(d) project area incremental revenue as defined in Section 17C-1-1001; or

(e) property tax revenue as defined in Section 17C-1-1001.

(6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, as described in the interlocal agreement.

(10) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.

(11) "Board" means the governing body of an agency, as described in Section 17C-1-203.

(12) "Budget hearing" means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

(13) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

(14) "Combined incremental value" means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.

(15) "Community" means a county or municipality.

(16) "Community development project area plan" means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

(17) "Community legislative body" means the legislative body of the community that created the agency.

(18) "Community reinvestment project area plan" means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

(19) "Contest" means to file a written complaint in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, and in a county in which the agency is located if the action is filed in the district court.

(20) "Development impediment" means a condition of an area that meets the requirements described in Section 17C-2-303 for an urban renewal project area or Section 17C-5-405for a community reinvestment project area.

(21) "Development impediment hearing" means a public hearing regarding whether a development impediment exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or

(b) community reinvestment project area under Section 17C-5-404.

(22) "Development impediment study" means a study to determine whether a development impediment exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(23) "Economic development project area plan" means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

(24) "Fair share ratio" means the ratio derived by:

(a) for a municipality, comparing the percentage of all housing units within the municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(25) "Family" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

(27) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(28) "Housing allocation" means project area funds allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

(29) "Housing fund" means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the purposes described in Section 17C-1-411; or

(b) an agency's housing allocation.

(30) (a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A) (I) that is no longer in operation as an airport; or

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).

(31) (a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).

(32) "Income targeted housing" means housing that is:

(a) owned and occupied by a family whose annual income is at or below 120% of the median annual income for a family within the county in which the housing is located; or

(b) occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

(33) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.

(34) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(35) (a) " Local government building" means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

(b) " Local government building" does not include a building the primary purpose of which is cultural or recreational in nature.

(36) "Low-income individual" means the same as that term is defined in Section 35A-8-504.5.

(37) "Major transit investment corridor" means the same as that term is defined in Section 10-9a-103.

[~~(37)~~](38) "Marginal value" means the difference between actual taxable value and base taxable value.

[~~(38)~~](39) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

[~~(39)~~](40) "Municipality" means a city or town.

(41) "Non-profit housing fund" means:

(a) an organization that meets the definition of "housing organization" in Section 35A-8-2401;

(b) a registered nonprofit that assists veterans or individuals who work in public service to achieve homeownership in the state;

(c) a registered nonprofit that:

(i) assists low-income individuals or families who would qualify for income targeted housing to achieve homeownership in the state; and

(ii) provides direct support to help a low-income individual or a family eligible for income targeted housing to retain ownership of a home, including through rehabilitation services, lending for rehabilitation, or foreclosure mitigation counseling that results in retention of the home, refinancing, or a reverse mortgage;

(d) a registered nonprofit that partners with a community to promote affordable housing for the workforce in that community; or

(e) a registered nonprofit established to administer housing programs on behalf of an association representing 10 or more counties in the state.

[~~(40)~~](42) "Participant" means one or more persons that enter into a participation agreement with an agency.

[~~(41)~~](43) "Participation agreement" means a written agreement between a person and an agency under Subsection 17C-1-202(5).

[~~(42)~~](44) "Plan hearing" means the public hearing on a proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.

[~~(43)~~](45) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project area plan's adoption.

[~~(44)~~](46) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

[~~(45)~~](47) "Private," with respect to real property, means property not owned by a public entity or any other governmental entity.

[~~(46)~~](48) "Project area" means the geographic area described in a project area plan within which the project area development described in the project area plan takes place or is proposed to take place.

[~~(47)~~](49) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area prepared in accordance with:

(a) for an urban renewal project area, Section 17C-2-201;

(b) for an economic development project area, Section 17C-3-201;

(c) for a community development project area, Section 17C-4-204; or

(d) for a community reinvestment project area, Section 17C-5-302.

[~~(48)~~](50) "Project area development" means activity within a project area that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of implementing a project area plan, including:

(a) promoting, creating, or retaining public or private jobs within the state or a community;

(b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;

(c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;

(d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

(f) providing open space, including streets or other public grounds or space around buildings;

(g) providing public or private buildings, infrastructure, structures, or improvements;

(h) relocating a business;

(i) improving public or private recreation areas or other public grounds;

(j) eliminating a development impediment or the causes of a development impediment;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in this Subsection [~~(48)~~](50) outside of a project area that the board determines to be a benefit to the project area.

[~~(49)~~](51) "Project area funds" means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.

[~~(50)~~](52) "Project area funds collection period" means the period of time that:

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement.

[~~(51)~~](53) "Project area plan" means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan's effective date, guides and controls the project area development.

[~~(52)~~](54) (a) "Property tax" means each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

[~~(53)~~](55) "Public entity" means:

(a) the United States, including an agency of the United States;

(b) the state, including any of the state's departments or agencies; or

(c) a political subdivision of the state, including a county, municipality, school district, special district, special service district, community reinvestment agency, or interlocal cooperation entity.

[~~(54)~~](56) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

[~~(55)~~](57) "Record property owner" or "record owner of property" means the owner of real property, as shown on the records of the county in which the property is located, to whom the property's tax notice is sent.

[~~(56)~~](58) "Sales and use tax revenue" means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

[~~(57)~~](59) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection [~~(57)(a)~~](59)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

[~~(58)~~](60) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:

(a) one or more project areas within the survey area are feasible; or

(b) a development impediment exists within the survey area.

[~~(59)~~](61) "Survey area resolution" means a resolution adopted by a board that designates a survey area.

[~~(60)~~](62) "Taxable value" means:

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

[~~(61)~~](63) (a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

[~~(62)~~](64) "Taxing entity" means a public entity that:

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

[~~(63)~~](65) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

[~~(64)~~](66) "Unincorporated" means not within a municipality.

[~~(65)~~](67) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

(68) "Veteran" means the same as that term is defined in Section 68-3-12.5.

Section 4. Section 17C-1-202 is amended to read:

17C-1-202. Agency powers.

(1) An agency may:

(a) sue and be sued;

(b) enter into contracts generally;

(c) buy, obtain an option upon, acquire by gift, or otherwise acquire any interest in real or personal property;

(d) hold, sell, convey, grant, gift, or otherwise dispose of any interest in real or personal property;

(e) own, hold, maintain, utilize, manage, or operate real or personal property, which may include the use of agency funds or the collection of revenue;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor;

(g) provide for project area development as provided in this title;

(h) receive and use agency funds as provided in this title;

(i) if disposing of or leasing land, retain controls or establish restrictions and covenants running with the land consistent with the project area plan;

(j) accept financial or other assistance from any public or private source for the agency's activities, powers, and duties, and expend any funds the agency receives for any purpose described in this title;

(k) borrow money or accept financial or other assistance from a public entity or any other source for any of the purposes of this title and comply with any conditions of any loan or assistance;

(l) issue bonds to finance the undertaking of any project area development or for any of the agency's other purposes, including:

(i) reimbursing an advance made by the agency or by a public entity to the agency;

(ii) refunding bonds to pay or retire bonds previously issued by the agency; and

(iii) refunding bonds to pay or retire bonds previously issued by the community that created the agency for expenses associated with project area development;

(m) pay an impact fee, exaction, or other fee imposed by a community in connection with land development;

(n) subject to Part 10, Agency Taxing Authority, levy a property tax; or

(o) transact other business and exercise all other powers described in this title.

(2) The establishment of controls or restrictions and covenants under Subsection (1)(i) is a public purpose.

(3) An agency may acquire real property under Subsection (1)(c) that is outside a project area only if the board determines that the property will benefit a project area.

(4) An agency is not subject to Section 10-8-2 or 17-50-312.

(5) (a) An agency may, subject to Subsection (5)(c), enter into [~~an~~]a participation agreement with a person to govern the development the person will undertake within a project area.

(b) [~~An~~]A participation agreement under Subsection (5)(a) shall include a description of:

(i) the project area development that the person will undertake;

(ii) the amount of project area funds the agency agrees to pay to the person to facilitate the development; and

(iii) the terms and conditions under which the agency agrees to pay project area funds to the person.

(c) (i) [~~An~~]A participation agreement under Subsection (5)(a) is subject to board approval by resolution of the board.

(ii) A resolution under Subsection (5)(c)(i) shall include a finding by the board describing how the project area development described in the participation agreement will contribute to achieving the goals, policies, and purposes of the project area plan.

(d) (i) Beginning on May 7, 2025, any participation agreement under this Subsection (5) shall include a provision authorizing the agency, directly or through the county in which the agency operates, to use funding that would otherwise be provided to the participant to

pay a participant's delinquent property tax or privilege tax or resolve a political subdivision lien against the participant, as described in Subsection 17C-1-409(6).

(ii) An agency that has entered into a participation agreement before May 7, 2025, shall, as soon as reasonably practical, enter into an amendment to the participation agreement with a participant to include a provision authorizing the agency to use funding that would otherwise be provided to the participant to pay a participant's delinquent property tax or privilege tax or resolve a political subdivision lien against the participant, as described in Subsection 17C-1-409(6).

Section 5. Section 17C-1-409 is amended to read:

17C-1-409. Allowable uses of agency funds.

(1) (a) An agency may use agency funds:

(i) for any purpose authorized under this title;

(ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B)or funding for a business resource center;

(iii) subject to Section 11-41-103, to pay for, including financing or refinancing, all or part of:

(A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;

(B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;

(C) an incentive or other consideration paid to a participant under a participation agreement, subject to Subsection (6);

(D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or

(E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area;

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area;

(v) subject to Subsection (5), to transfer funds to a community that created the agency; or

(vi) subject to Subsection (1)(f), for agency-wide project development under Part 10, Agency Taxing Authority.

(b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

(c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.

(d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:

(A) the board approves; and

(B) the community legislative body approves.

(ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for agency funds are sufficient to repay the loan amount.

(iii) A loan described in this Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts.

(e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:

(i) the Department of Transportation; or

(ii) a public transit district.

(f) Before an agency may use project area funds for agency-wide project development, as defined in Section 17C-1-1001, the agency shall obtain the consent of the taxing entity committee or each taxing entity party to an interlocal agreement with the agency.

(2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Retail Facility Incentive Payments Act.

(b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.

(3) (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.

(b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.

(4) Notwithstanding any other provision of this title, an agency may not use project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001, to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.

(5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Subsection 59-12-205(4).

(6) (a) Before providing tax increment funding to a private participant pursuant to a participation agreement, an agency shall consult with the county treasurer of the county in which the agency operates to determine if:

(i) the private participant is delinquent on property tax;

(ii) the private participant is delinquent on privilege tax; or

(iii) the private participant is subject to a political subdivision lien for past due fees or charges.

(b) If the county treasurer, in consultation with the agency, determines a participant is delinquent on property tax or privilege tax or subject to a political subdivision lien, the agency shall confirm whether the participation agreement between the agency and private participant includes a provision described in Subsection 17C-1-202(5)(d).

(c) If authorized by the agency pursuant to a participation agreement, the county treasurer of the county in which the agency operates may provide tax increment funding that would otherwise be provided directly to the agency to provide to the private participant to:

(i) the county, in the amount the private entity is delinquent for property tax or privilege tax; and

(ii) the political subdivision holding the political subdivision lien, in the amount necessary to resolve the political subdivision lien.

Section 6. Section 17C-1-412 is amended to read:

17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.

(1) (a) An agency shall use the agency's housing allocation to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where a board has determined that a development impediment exists;

(vi) replace housing units lost as a result of the project area development;

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(ix) relocate mobile home park residents displaced by project area development;

(x) subject to Subsection (7), transfer funds to a community that created the agency; or

(xi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of housing that:

(A) is located in the same county as the agency;

(B) is owned in whole or in part by, or is dedicated to supporting, a public nonprofit college or university; and

(C) only students of the relevant college or university, including the students' immediate families, occupy.

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:

(i) the community for use as described in Subsection (1)(a);

(ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;

(iii) a housing authority established by the county in which the agency is located for providing:

(A) income targeted housing within the county;

(B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or

(C) homeless assistance within the county;

(iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community;

(v) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if the housing is located along or near a major transit investment corridor that services the community and the related project has been approved by the community in which the housing is or will be located;

(vi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the [~~community~~]boundary of the agency if there is an interlocal agreement between the agency and the receiving community;[~~or~~]

(vii) pay for or make a contribution toward the expansion of child care facilities within the boundary of the agency, provided that any recipient of funds from the agency's housing allocation reports annually to the agency on how the funds were used[.]; or

(viii) a non-profit housing fund, for use in assisting individuals or families within the community to achieve homeownership or retain homeownership, in accordance with:

(A) the mission of the non-profit housing fund; and

(B) a written agreement between the non-profit housing fund and the agency, governing appropriate uses of housing allocation funds.

(2) (a) An agency may combine all or any portion of the agency's housing allocation with all or any portion of one or more additional agency's housing allocations if the agencies execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) An agency that has entered into an interlocal agreement as described in Subsection (2)(a), meets the requirements of Subsection

(1)(a) or (1)(b) if the use of the housing allocation meets the requirements for at least one agency that is a party to the interlocal agreement.

(3) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.

(4) An agency may:

(a) issue bonds to finance a housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (4)(a) previously issued by the agency.

(5) (a) Except as provided in Subsection (5)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.

(b) Subsection (5)(a) does not apply in a year in which tax increment is insufficient.

(6) (a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.

(b) In an action under Subsection (6)(a), the court:

(i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and

(ii) may not award the agency the agency's attorney fees, unless the court finds that the action was frivolous.

(7) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in Subsection 59-12-205(4).

(8) An agency shall spend, encumber, or allot the money contributed to the housing fund under Subsection (5)(a) within six years from the day on which the agency first receives the money.

Section 7. Section 17C-1-1001 is amended to read:

17C-1-1001. Definitions.

As used in this part:

(1) (a) "Agency-wide project development" means activity within the agency's boundaries that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of achieving the results described in an implementation plan, including affordable housing.

(b) "Agency-wide project development" does not include project area development under a project area plan.

(2) "Certified tax rate" means the same as that term is defined in Section 59-2-924.

(3) "Cooperative development project" means project area development with impacts that extend beyond an agency's geographic boundaries to the benefit of two or more communities.

(4) "Economic development project" means project area development for the purpose of:

(a) creating, developing, attracting, and retaining business;

(b) creating or preserving jobs;

(c) stimulating business and economic activity; or

(d) providing a local incentive as required by the Governor's Office of Economic Opportunity under Title 63N, Economic Opportunity Act.

(5) "Eligible taxing entity" means a taxing entity that:

(a) is a municipality, a county, or a school district; and

(b) contains an agency partially or completely within the taxing entity's geographic boundaries.

(6) "Final tax rate" means:

(a) the certified rate; or

(b) if the agency adopts a rate that is different than the certified rate, the rate the agency adopts in accordance with the provisions of Title 59, Chapter 2, Part 9, Levies.

[~~(6)~~](7) "Implementation plan" means a plan adopted in accordance with Section 17C-1-1004 that:

(a) describes how the agency uses property tax revenue; and

(b) guides and controls agency-wide project development.

[~~(7)~~](8) "Project area incremental revenue" means the amount of revenue generated by the incremental value that a taxing entity receives after a project area funds collection period ends.

[~~(8)~~](9) "Property tax revenue" means the amount of revenue generated by an agency from the property within the agency using the current taxable value of the property and the agency's [~~certified~~]final tax rate.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 460
S. B. 238
Passed February 26, 2025
Approved March 26, 2025
Effective May 7, 2025

ABANDONED AIRCRAFT AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill amends provisions related to abandoned aircraft and requirements of notification before an airport operator may take possession of the aircraft.

Highlighted Provisions:

This bill:

- ► amends the definition of "abandoned aircraft";
- ► amends the notification requirements of an airport operator to notify the owner of an abandoned aircraft before the airport operator may take possession of an abandoned aircraft; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-10-205.5, as last amended by Laws of Utah 2024, Chapter 517

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-10-205.5 is amended to read:
72-10-205.5. Abandoned aircraft on airport property -- Seizure and disposal.

(1) [~~(a)~~] As used in this section, "abandoned aircraft" means an aircraft that:

[~~(i)~~](a) (i) remains in an idle state on airport property for 45 consecutive calendar days;

(ii) is in a wrecked, inoperative, derelict, or partially dismantled condition; [~~and~~]

(iii) is not in the process of an insurance claim or inspection by the National Transportation Safety Board; and

[~~(iii)~~](iv) is not in the process of actively being repaired[~~.~~];

(b) (i) is not subject to a lease or other storage agreement with the airport operator;

(ii) has remained on airport property for 180 days without being operated; and

(iii) has accrued unpaid airport charges during that period; or

(c) (i) is subject to an agreement with the airport operator to lease space on airport property;

(ii) for which the owner has been notified of the termination of the lease agreement; and

(iii) which has remained on airport property for 120 days after being notified of the termination of the lease agreement.

[~~(b) "Abandoned aircraft" does not include an aircraft:~~]

[~~(i) (A) that has current FAA registration; and~~]

[~~(B) that has current state registration; or~~]

[~~(ii) for which evidence is shown indicating repairs are in process, including:~~]

[~~(A) receipts for parts and labor; or~~]

[~~(B) a statement from a mechanic making the repairs.~~]

(2) An airport operator may take possession and dispose of an abandoned aircraft in accordance with Subsections (3) through (5).

(3) (a) Upon determining that an aircraft located on airport property is abandoned, the airport operator shall notify the aircraft owner as provided in Subsection (3)(b) or (3)(c).

(b) (i) If the abandoned aircraft owner and the aircraft owner's address are known, the airport operator shall send, by registered mail, a notice containing the information described in Subsection (4) to the last known address of the last registered owner of the aircraft.

(ii) If the mailed notice described in Subsection (3)(b)(i) is returned to the airport operator without a forwarding address, the airport operator shall publish a notice as a class A notice under Section 63G-30-102, which shall contain the information described in Subsection (4).

(c) If the abandoned aircraft owner or the aircraft owner address is unknown, the airport operator shall publish a notice as a class A notice under Section 63G-30-102, which shall contain the information described in Subsection (4).

[~~(3) Upon determining that an aircraft located on airport property is abandoned, the airport operator shall:~~]

[~~(a) send, by registered mail, a notice containing the information described in Subsection (4) to the last known address of the last~~

~~registered owner of the aircraft; and~~]

[~~(b) publish a notice containing the information described in Subsection (4) in a newspaper of general circulation in the county where the airport is located if:~~]

[~~(i) the owner or the address of the owner of the aircraft is unknown; or~~]

[~~(ii) the mailed notice is returned to the airport operator without a forwarding address.~~]

(4) The notice [~~described~~]required in Subsection (3) shall include:

(a) the name, if known, and the last known address, if any, of the last registered owner of the aircraft;

(b) a description of the aircraft, including the identification number, the aircraft make and model, the location of the aircraft, and the date the aircraft is determined abandoned;

(c) a statement describing the specific grounds for the determination that the aircraft is abandoned;

(d) the amount of any accrued or unpaid airport charges; and

(e) a statement indicating that the airport operator intends to take possession and dispose of the aircraft if the owner of the aircraft fails to remove the aircraft from airport property, after payment in full of any charges described in Subsection (4)(d), within the later of:

(i) 30 days after the day on which the notice is sent in accordance with Subsection [~~(3)(a)~~](3)(b); or

(ii) 30 days after the day on which the notice is published in accordance with Subsection [~~(3)(b)~~](3)(c), if applicable.

(5) If the owner of the abandoned aircraft fails to remove the aircraft from airport property, after payment in full of any charges described in Subsection (4)(d), within the time specified in Subsection (4)(e):

(a) the abandoned aircraft becomes the property of the airport operator; and

(b) the airport operator may dispose of the abandoned aircraft:

(i) in the manner provided in Title 63A, Chapter 2, Part 4, Surplus Property Service; or

(ii) in accordance with any other lawful method or procedure established by rule or ordinance adopted by the airport operator.

(6) If an airport operator complies with the provisions of this section, the airport operator is immune from liability for the seizure and disposal of an abandoned aircraft in accordance with this section.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 461
S. B. 272
Passed March 7, 2025
Approved March 26, 2025
Effective March 26, 2025

MICRO-EDUCATION ENTITY AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Thomas W. Peterson

LONG TITLE

General Description:

This bill amends provisions regarding a facility in which a micro-education entity or home-based microschool operates.

Highlighted Provisions:

This bill:

- ► expands the types of facilities in which a micro-education entity or home-based microschool may operate by expanding the sets of occupancy requirements the facility may satisfy;
- ► removes certain square footage requirements; and
- ► excludes a micro-education entity or home-based microschool from a definition of "school" that subjects schools to certain administrative regulations.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-9a-305, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 464
17-27a-305, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 464
26B-7-201, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 152

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-305 is amended to read:

10-9a-305 (Effective upon governor's approval). Other entities required to conform to municipality's land use ordinances -- Exceptions -- School districts, charter schools, home-based microschools, and micro-education entities -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.

(b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a municipality may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter

school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a municipal building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who [~~isnot~~]is not an employee of the contractor, licensed to perform the inspection that the inspector is requested to perform, and approved [~~bya~~]by a municipal building inspector or:

(A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located.

(b) The approval under Subsection (6)(a)(iii) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and municipal building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school, home-based microschool, or micro-education entity shall be considered a permitted use in all zoning districts within a municipality.

(b) Each land use application for any approval required for a charter school, home-based microschool, or micro-education entity, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school or a micro-education entity may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

(d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school or a micro-education entity may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school or micro-education entity provides a waiver.

(e) (i) A school district, charter school, or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a municipal official with authority to issue the certificate, if the school district, charter school, or micro-education entity used a municipal building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school or micro-education entity used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.

(f) (i) A micro-education entity may operate in a facility that meets Group E Occupancy requirements as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a).

(ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i) [~~:~~]

[~~(A)~~] may have up to 100 students in the facility[~~; and~~].

[~~(B) shall have enough space for at least 20 net square feet per student.~~]

(g) A micro-education entity may operate in a facility that is subject to and complies with the same occupancy requirements as a Class A-1, A-3, B, or M Occupancy as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:

(i) the facility has a code compliant fire alarm system and carbon monoxide detection system;

(ii) (A) each classroom in the facility has an exit directly to the outside at the level of exit or discharge; or

(B) the structure has a code compliant fire sprinkler system; and

(iii) the facility has an automatic fire sprinkler system in fire areas of the facility that are greater than 12,000 square feet[~~; and~~].

[~~(iv) the facility has enough space for at least 20 net square feet per student.~~]

(h) (i) A home-based microschool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling[~~, except that the home-based microschool shall have enough space for at least 35 net square feet per student~~].

(ii) If a floor that is below grade in a home-based microschool is used for home-based microschool purposes, the below grade floor of the home-based microschool shall have at least one emergency escape or rescue window that complies with the requirements for emergency escape and rescue windows as defined by the International Residential Code, as incorporated by Section 15A-1-210.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 10-9a-510;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii)in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 10-9a-304; or

(b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102, or any other provision of federal law.

(10) Nothing in Subsection (7) prevents a political subdivision from:

(a) requiring a home-based microschool or micro-education entity to comply with municipal zoning and land use regulations that do not conflict with this section, including:

(i) parking;

(ii) traffic; and

(iii) hours of operation;

(b) requiring a home-based microschool or micro-education entity to obtain a business license;

(c) enacting municipal ordinances and regulations consistent with this section;

(d) subjecting a micro-education entity to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(e) imposing regulations on the location of a project that are necessary to avoid risks to health or safety.

Section 2. Section 17-27a-305 is amended to read:

17-27a-305 (Effective upon governor's approval). Other entities required to conform to county's land use ordinances -- Exceptions -- School districts, charter schools, home-based microschools, and micro-education entities -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within a mountainous planning district or the unincorporated portion of the county, as applicable.

(b) In addition to any other remedies provided by law, when a county's land use ordinance is violated or about to be violated by another political subdivision, that county may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a county's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a county may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a county may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a county may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the county in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a county building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who [~~isnot~~]is not an employee of the contractor, licensed to perform the inspection that the inspector is requested to perform, [~~andapproved bya~~]and approved by a county building inspector or:

(A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located.

(b) The approval under Subsection (6)(a)(iii) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and county building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school, home-based microschool, or micro-education entity shall be considered a permitted use in all zoning districts within a county.

(b) Each land use application for any approval required for a charter school, home-based microschool, or micro-education entity, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school or micro-education entity may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

(d) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school or micro-education entity may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school or micro-education entity provides a waiver.

(e) (i) A school district , charter school, or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district, charter school, or micro-education entity used an independent building inspector for inspection of the school building; or

(B) a county official with authority to issue the certificate, if the school district, charter school, or micro-education entity used a county building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school or micro-education entity used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any county requirement for an inspection or a certificate of occupancy.

(f) (i) A micro-education entity may operate a facility that meets Group E Occupancy requirements as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a).

(ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i)[~~:~~]

[~~(A)~~] may have up to 100 students in the facility[~~; and~~].

[~~(B) shall have enough space for at least 20 net square feet per student;~~]

(g) A micro-education entity may operate a facility that is subject to and complies with the same occupancy requirements as a Class A-1, A-3, B, or M Occupancy as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:

(i) the facility has a code compliant fire alarm system and carbon monoxide detection system;

(ii) (A) each classroom in the facility has an exit directly to the outside at the level of exit discharge; or

(B) the structure has a code compliant fire sprinkler system; and

(iii) the facility has an automatic fire sprinkler system in fire areas of the facility that are greater than 12,000 square feet[~~; and~~].

[~~(iv) the facility has enough space for at least 20 net square feet per student.~~]

(h) (i) A home-based microschool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling[~~, except that the home-based microschool shall have enough space for at least 35 square feet per student~~].

(ii) If a floor that is below grade in a home-based microschool is used for home-based microschool purposes, the below grade floor of the home-based microschool shall have at least one emergency escape or rescue window that complies with the requirements for emergency escape and rescue windows as defined by the International Residential Code, as incorporated in Section 15A-1-210.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 17-27a-509;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii)in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 17-27a-304; or

(b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

(10) Nothing in Subsection (7) prevents a political subdivision from:

(a) requiring a home-based microschool or micro-education entity to comply with local zoning and land use regulations that do not conflict with this section, including:

(i) parking;

(ii) traffic; and

(iii) hours of operation;

(b) requiring a home-based microschool or micro-education entity to obtain a business license;

(c) enacting county ordinances and regulations consistent with this section;

(d) subjecting a micro-education entity to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(e) imposing regulations on the location of a project that are necessary to avoid risks to health or safety.

(11) Notwithstanding any other provision of law, the proximity restrictions that apply to community locations do not apply to a micro-education entity.

Section 3. Section 26B-7-201 is amended to read:

26B-7-201 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Ambulatory surgical center" means the same as that term is defined in Section 26B-2-201.

(2) "Carrier" means an infected individual or animal who harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection for man. The carrier state may occur in an individual with an infection that is inapparent throughout its course, commonly known as healthy or asymptomatic carrier, or during the incubation period, convalescence, and postconvalescence of an individual with a clinically recognizable disease, commonly known as incubatory carrier or convalescent carrier. Under either circumstance the carrier state may be of short duration, as a temporary or transient carrier, or long duration, as a chronic carrier.

(3) "Communicable disease" means illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host, either directly, as from an infected individual or animal, or indirectly, through an intermediate plant or animal host, vector, or the inanimate environment.

(4) "Communicable period" means the time or times during which an infectious agent may be transferred directly or indirectly from an infected individual to another individual, from an infected animal to a human, or from an infected human to an animal, including arthropods.

(5) "Contact" means an individual or animal having had association with an infected individual, animal, or contaminated environment so as to have had an opportunity to acquire the infection.

(6) "End stage renal disease facility" is as defined in Section 26B-2-201.

(7) (a) "Epidemic" means the occurrence or outbreak in a community or region of cases of an illness clearly in excess of normal expectancy and derived from a common or propagated source.

(b) The number of cases indicating an epidemic will vary according to the infectious agent, size, and type of population exposed, previous experience or lack of exposure to the disease, and time and place of occurrence.

(c) Epidemicity is considered to be relative to usual frequency of the disease in the same area, among the specified population, at the same season of the year.

(8) "General acute hospital" is as defined in Section 26B-2-201.

(9) "Incubation period" means the time interval between exposure to an infectious agent and appearance of the first sign or symptom of the disease in question.

(10) "Infected individual" means an individual who harbors an infectious agent and who has manifest disease or inapparent infection. An infected individual is one from whom the infectious agent can be naturally acquired.

(11) "Infection" means the entry and development or multiplication of an infectious agent in the body of man or animals. Infection is not synonymous with infectious disease; the result may be inapparent or manifest. The presence of living infectious agents on exterior surfaces of the body, or upon articles of apparel or soiled articles, is not infection, but contamination of such surfaces and articles.

(12) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus, protozoan, or helminth that is capable of producing infection or infectious disease.

(13) "Infectious disease" means a disease of man or animals resulting from an infection.

(14) "Isolation" means the separation, for the period of communicability, of infected individuals or animals from others, in such places and under such conditions as to prevent the direct or indirect conveyance of the infectious agent from those infected to those who are susceptible or who may spread the agent to others.

(15) "Local food" means the same as that term is defined in Section 4-1-109.

(16) "Order of constraint" means the same as that term is defined in Section 26B-7-301.

(17) "Quarantine" means the restriction of the activities of well individuals or animals who have been exposed to a communicable disease during its period of communicability to prevent disease transmission.

(18) (a) "School" means a public, private, or parochial nursery school, licensed or unlicensed day care center, child care facility, family care home, Head Start program, kindergarten, elementary, or secondary school through grade 12.

(b) "School" does not mean a micro-education entity or a home-based microschool as those terms are defined in Section 53G-6-201.

(19) "Sexually transmitted disease" means those diseases transmitted through sexual intercourse or any other sexual contact.

(20) "Specialty hospital" is as defined in Section 26B-2-201.

Section 4. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 462
S. B. 253
Passed March 7, 2025
Approved March 26, 2025
Effective May 7, 2025

RAILROAD AND TRANSPORTATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses railroad provisions.

Highlighted Provisions:

This bill:

- ► modifies the duties of the Department of Agriculture and Food related to railroad operations;
- ► amends the duties of the rail ombudsman; and
- ► repeals certain sections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-103, as last amended by Laws of Utah 2023, Chapters 126, 232
63I-2-256, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
72-18-102, as enacted by Laws of Utah 2024, Chapter 531

REPEALS:

56-1-12, as last amended by Laws of Utah 2024, Chapter 531
56-1-13, as last amended by Laws of Utah 2024, Chapter 531
56-1-39, as last amended by Laws of Utah 2024, Chapter 438
72-17-101, as last amended by Laws of Utah 2024, Chapter 517
72-17-102, as last amended by Laws of Utah 2024, Chapter 517
72-17-103, as last amended by Laws of Utah 2024, Chapter 531
72-17-104, as last amended by Laws of Utah 2024, Chapter 531
72-17-105, as last amended by Laws of Utah 2024, Chapter 531
72-17-106, as last amended by Laws of Utah 2024, Chapter 531
72-17-107, as last amended by Laws of Utah 2024, Chapter 531
72-17-108, as last amended by Laws of Utah 2024, Chapter 531

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-2-103 is amended to read:

4-2-103. Functions, powers, and duties of department -- Fees for services -- Marketing orders -- Procedure -- Purchasing and auditing.

(1) The department shall:

(a) inquire into and promote the interests and products of agriculture and allied industries;

(b) promote methods for increasing the production and facilitating the distribution of the agricultural products of the state;

(c) (i) inquire into the cause of contagious, infectious, and communicable diseases among livestock and the means for their prevention and cure; and

(ii) initiate, implement, and administer plans and programs to prevent the spread of diseases among livestock;

(d) encourage experiments designed to determine the best means and methods for the control of diseases among domestic and wild animals;

(e) issue marketing orders for any designated agricultural product to:

(i) promote orderly market conditions for any product;

(ii) give the producer a fair return on the producer's investment at the marketplace; and

(iii) only promote and not restrict or restrain the marketing of Utah agricultural commodities;

(f) administer and enforce all laws assigned to the department by the Legislature;

(g) establish standards and grades for agricultural products and fix and collect reasonable fees for services performed by the department in conjunction with the grading of agricultural products;

(h) establish operational standards for any establishment that manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product;

(i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules necessary for the effective administration of the agricultural laws of the state;

(j) when necessary, make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning matters related to agriculture;

(k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any private or public place that may become infested or infected with harmful insects, plant diseases, noxious or poisonous weeds, or other agricultural pests;

(ii) establish and enforce quarantines;

(iii) issue and enforce orders and rules for the control and eradication of pests, wherever they may exist within the state; and

(iv) perform other duties relating to plants and plant products considered advisable and not contrary to law;

(l) inspect apiaries for diseases inimical to bees and beekeeping;

(m) take charge of any agricultural exhibit within the state, if considered necessary by the department, and award premiums at that exhibit;

(n) provide for the coordination of state conservation efforts, including by:

(i) assisting the Conservation Commission in the administration of Chapter 18, Conservation Commission Act;

(ii) implementing Chapter 46, Conservation Coordination Act, including entering into agreements with other state agencies; and

(iii) administering and disbursing money available to assist conservation districts in the state in the conservation of the state's soil and water resources;

(o) participate in the United States Department of Agriculture certified agricultural mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;

(p) promote and support the multiple use of public lands;

(q) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an entity within the department;

[~~(r) administer the requirements described in Section 56-1-12 pertaining to livestock damaged by railroad operations;~~]

[~~(s)~~](r) in accordance with Title 73, Chapter 3d, Part 4, Compensation:

(i) conduct mediation or arbitration; and

(ii) assist in the issuance of loans by the Conservation Commission; and

[~~(t)~~](s) perform any additional functions, powers, and duties provided by law.

(2) The department, by following the procedures and requirements of Section 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

(3) (a) A marketing order issued under Subsection (1)(e) may not take effect until:

(i) the department gives notice of the proposed order to the producers and handlers of the affected product;

(ii) the commissioner conducts a hearing on the proposed order; and

(iii) at least 50% of the registered producers and handlers of the affected products vote in favor of the proposed order.

(b) (i) The department may establish boards of control to administer marketing orders and the proceeds derived from any order.

(ii) A board of control shall:

(A) ensure that proceeds are placed in an account in the board of control's name in a depository institution; and

(B) ensure that the account is annually audited by an accountant approved by the commissioner.

(4) Money collected by grain grading, as provided by Subsection (1)(g), shall be deposited into the General Fund as dedicated credits for the grain grading program.

(5) In fulfilling the department's duties in this chapter, the department may:

(a) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(b) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;

(c) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies;

(d) accept and administer grants from the federal government and from other sources, public or private; and

(e) fund grants using money appropriated by the Legislature or money received from any other source.

Section 2. Section 63I-2-256 is amended to read:

63I-2-256. Repeal dates: Title 56.

[~~(1) Section 56-1-12.1, Injury to livestock -- Notice, is repealed May 7, 2025.~~]

[~~(2) Section 56-1-13.1, Fencing right-of-way -- Gates, is repealed May 7, 2025.~~]

Section 3. Section 72-18-102 is amended to read:

72-18-102. Rail ombudsman -- Duties.

(1) The rail ombudsman shall:

(a) develop and maintain expertise in and understanding of laws and regulations relating to rail;

(b) coordinate, consult, and provide information to private citizens, government entities, rail operators, stakeholders, and other interested parties about rail related issues;

(c) on the rail ombudsman's website, provide:

(i) updated, easily accessible information about the duties of the rail ombudsman; and

(ii) a form that a member of the public, including a railroad company employee, may use to submit a report or complaint;

(d) provide education and training regarding rail laws and regulations; and

(e) arrange and facilitate meetings between a rail company and one or more of the following, to resolve a rail dispute described in Subsection (2):

(i) a local government entity;

(ii) a large public transit district; or

(iii) a private property or livestock owner.

(2) The rail ombudsman shall facilitate meetings described in Subsection (1)(e) to resolve issues relating to:

(a) safety;

(b) at-grade and grade-separated rail crossings;

(c) fencing;

(d) injury to or loss of livestock;

(e) railroad maintenance, including maintenance agreements and road closures;

(f) improvements to railroad right-of-way infrastructure;

(g) track realignment;

(h) track consolidation; or

(i) any other issue that has caused a dispute between a rail company and a party described in Subsection (1)(e).

(3) If the rail ombudsman invites a rail company or another party described in Subsection (1)(e) to a meeting to resolve a rail dispute, the rail company or other person shall:

(a) attend the meeting; and

(b) attempt to resolve the dispute through the rail ombudsman before filing an action in court or seeking another remedy.

(4) A rail company and a party described in Subsections (1)(e)(i) through (iii) shall provide notice to the rail ombudsman before:

(a) closing a highway for railroad maintenance; or

(b) starting a construction project involving:

(i) an at-grade rail crossing; or

(ii) the realignment or consolidation of railroad tracks.

(5) The rail ombudsman may not address nor participate in:

(a) organized labor issues or disputes; or

(b) rail company employee safety issues.

(6) If a report or complaint described in Subsection (1)(c)(ii) is made in regard to a rail company, the rail ombudsman shall forward the report or complaint to the relevant rail company or other appropriate agency or entity.

Section 4. Repealer.

This bill repeals:

Section 56-1-12, Injury to livestock -- Notice -- Railroad Livestock Damages Fund and Board -- Appeals -- Compensation and fees -- Rulemaking.

Section 56-1-13, Fencing right-of-way -- Gates.

Section 56-1-39, Assessment for right of way infrastructure improvements.

Section 72-17-101, Office of Rail Safety -- Creation -- Applicability.

Section 72-17-102, Definitions.

Section 72-17-103, Duties of the Office of Rail Safety.

Section 72-17-104, Federal Railroad Administration grant program.

Section 72-17-105, Establishment of administrative fees -- Payment -- Expenditures.

Section 72-17-106, Office of Rail Safety Account.

Section 72-17-107, Rulemaking regarding railroad clearances and walkways.

Section 72-17-108, Agreements to indemnify in a railroad contract.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 463
S. B. 268
Passed March 6, 2025
Approved March 26, 2025
Effective May 7, 2025

RULES REVIEW AND GENERAL OVERSIGHT COMMITTEE AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill amends provisions related to the Rules Review and General Oversight Committee.

Highlighted Provisions:

This bill:

- ► amends provisions related to the Rules Review and General Oversight Committee (committee) and opening bill files for drafting legislation;
- ► allows the committee to have closed meetings under certain circumstances; and
- ► allows the committee to delay the effective date of certain administrative rules.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-35-102, as renumbered and amended by Laws of Utah 2024, Chapter 178
52-4-205, as last amended by Laws of Utah 2024, Chapters 135, 288, 506, and 524
63G-3-301, as last amended by Laws of Utah 2024, Chapter 178

ENACTS:

63G-3-304.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-35-102 is amended to read:
36-35-102. Rules Review and General Oversight Committee.

(1) (a) There is created a Rules Review and General Oversight Committee of the following 10 permanent members:

(i) five members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and

(ii) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party.

(b) Each permanent member shall serve:

(i) for a two-year term; or

(ii) until the permanent member's successor is appointed.

(c) (i) A vacancy exists when a permanent member ceases to be a member of the Legislature, or when a permanent member resigns from the committee.

(ii) When a vacancy exists:

(A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or

(B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.

(iii) The newly appointed member shall serve the remainder of the departing member's unexpired term.

(d) (i) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a)(i) as a cochair of the committee.

(ii) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

(e) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.

(f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each month to review new agency rules and court rules, amendments to existing agency rules and court rules, and repeals of existing agency rules and court rules.

(ii) The committee chairs may suspend the meeting requirement described in Subsection (1)(f)(i) at the committee chairs' discretion.

(2) The office shall submit a copy of each issue of the bulletin to the committee.

(3) (a) The committee shall exercise continuous oversight of the administrative rulemaking process under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and shall, for each general session of the Legislature, request legislation that considers legislative reauthorization of agency rules as provided under Section 63G-3-502.

(b) The committee shall examine each agency rule, including any agency rule made according to the emergency rulemaking procedure described in Section 63G-3-304, submitted by an agency to determine:

(i) whether the agency rule is authorized by statute;

(ii) whether the agency rule complies with legislative intent;

(iii) the agency rule's impact on the economy and the government operations of the state and local political subdivisions;

(iv) the agency rule's impact on affected persons;

(v) the agency rule's total cost to entities regulated by the state;

(vi) the agency rule's benefit to the citizens of the state; and

(vii) whether adoption of the agency rule requires legislative review or approval.

(c) [~~(i)~~] The committee may examine and review:

[~~(A)~~](i) any executive order issued pursuant to Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act;

[~~(B)~~](ii) any public health order issued during a public health emergency declared in accordance with Title 26A, Local Health Authorities, or Title 26B, Utah Health and Human Services Code;[~~or~~]

[~~(C)~~](iii) any agency policy that:

[~~(I)~~](A) affects a class of persons other than the agency; or

[~~(II)~~](B) is contrary to legislative intent;

(iv) in accordance with Subsection (10), an individual child welfare case; or

(v) in accordance with Subsection (11), information from an agency that is subject to a confidentiality agreement.

[~~(ii)~~](d) If the committee chooses to examine or review an order or policy described in Subsection [~~(3)(c)(i)~~](3)(c), the agency that issued the order or policy shall, upon request by the committee, provide to the committee:

[~~(A)~~](i) a copy of the order or policy; and

[~~(B)~~](ii) information related to the order or policy.

[~~(d)~~](e) The committee shall review court rules as provided in Section 36-35-103 and Section 36-35-104.

(4) (a) To carry out the requirements of Subsection (3), the committee may examine any other issues that the committee considers necessary.

(b) Notwithstanding anything to the contrary in this section, the committee may not examine the internal policies, procedures, or practices of an agency or judicial branch entity.

(c) In reviewing a rule, the committee shall follow generally accepted principles of statutory construction.

(5) When the committee reviews an existing rule, the committee chairs:

(a) shall invite the Senate and House chairs of the standing committee and of the appropriation subcommittee that have jurisdiction over the agency or judicial branch entity whose existing rule is being reviewed to participate as nonvoting, ex officio members with the committee during the review of the rule; and

(b) may notify and refer the rule to the chairs of the interim committee that has jurisdiction over a particular agency or judicial branch entity when the committee determines that an issue involved in the rule may be more appropriately addressed by that committee.

(6) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule or proposal for court rule.

(7) In order to accomplish the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees under Section 36-12-11.

(8) (a) The committee may prepare written findings of the committee's review of a rule, proposal for court rule, policy, practice, or procedure and may include any recommendation, including:

(i) legislative action;

(ii) action by a standing committee or interim committee;

(iii) agency rulemaking action;

(iv) Supreme Court rulemaking action; or

(v) Judicial Council rulemaking action.

(b) When the committee reviews a rule, the committee shall provide to the agency or judicial branch entity that enacted the rule:

(i) the committee's findings, if any; and

(ii) a request that the agency or judicial branch entity notify the committee of any changes the agency or judicial branch entity makes to the rule.

(c) The committee shall provide a copy of the committee's findings described in Subsection (8)(a), if any, to:

(i) any member of the Legislature, upon request;

(ii) any person affected by the rule, upon request;

(iii) the president of the Senate;

(iv) the speaker of the House of Representatives;

(v) the Senate and House chairs of the standing committee that has jurisdiction over the agency or judicial branch entity whose rule, policy, practice, or procedure is the subject of the finding;

(vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency or judicial branch entity that made the rule;

(vii) the governor; and

(viii) if the findings involve a court rule or judicial branch entity:

(A) the Judiciary Interim Committee;

(B) the Supreme Court; and

(C) the Judicial Council.

(9) (a) (i) The committee may submit a report on the committee's review under this section to each member of the Legislature at each regular session.

(ii) The report shall include:

(A) any finding or recommendation the committee made under Subsection (8);

(B) any action an agency, the Supreme Court, or the Judicial Council took in response to a committee recommendation; and

(C) any recommendation by the committee for legislation.

(b) If the committee receives a recommendation not to reauthorize an agency rule, as described in Subsection 63G-3-301(13)(b), and the committee recommends to the Legislature reauthorization of the agency rule, the committee shall submit a report to each member of the Legislature detailing the committee's decision.

(c) [~~If the committee recommends legislation, the committee may prepare legislation for consideration by the Legislature at the next general session.~~]The committee may open a committee bill file to draft legislation by:

(i) committee vote; or

(ii) the House and Senate chairs agreeing to open a committee bill file if:

(A) the committee has voted to grant the chairs the ability to open committee bill files in the first meeting of the committee after the Legislature has adjourned sine die from the annual general session; and

(B) the chairs open a committee bill during the calendar year in which the vote described in Subsection (9)(c)(ii)(A) has occurred.

(10) Notwithstanding any other provision of this section, when reviewing and discussing an individual child welfare case under Subsection (3)(c)(iv):

(a) the committee:

(i) shall close the committee's meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) shall make reasonable efforts to identify and consider the concerns of all parties to the case; and

(iii) may not make recommendations to the court, the division, or any other public or private entity regarding the disposition of an individual child welfare case;

(b) a record of the committee regarding an individual child welfare case:

(i) is classified as private under Section 63G-2-302; and

(ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2, Government Records Access and Management Act; and

(c) any documents received by the committee from the Division of Child and Family Services shall maintain the same classification under Title 63G, Chapter 2, Government Records Access and Management Act, that was designated by the Division of Child and Family Services.

(11) Notwithstanding any other provision of this section, when reviewing information described in Subsection (3)(c)(v):

(a) the committee shall close the committee's meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(b) a record of the committee regarding the information:

(i) is classified as private under Section 63G-2-302; and

(ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2, Government Records Access and Management Act; and

(c) any documents received by the committee when reviewing the information shall maintain the same classification under Title 63G, Chapter 2, Government Records Access and Management Act, that was designated by the government entity.

Section 2. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if public discussion would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Savings Board of Trustees and its appointed board of directors, discussing fiduciary or commercial information;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business;

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments;

(r) considering a loan application, if public discussion of the loan application would disclose:

(i) nonpublic personal financial information; or

(ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business financial information the disclosure of which would reasonably be expected to result in unfair competitive injury to the person submitting the information;

(s) a discussion of the board of the Point of the Mountain State Land Authority, created in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as defined in Section 11-59-102; or

(t) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 26B-1-506(1)(a), and a response to the report described in Subsection 26B-1-506(2);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 26B-1-506(1)(a), and a response to the report described in Subsection 26B-1-506(2); or

(ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

(c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(d) a meeting of the Compassionate Use Board established in Section 26B-1-421 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26B-1-421;

(e) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(81);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(f) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

(i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and

(ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection 63G-2-305(82);[~~and~~]

(g) a meeting of a project entity if:

(i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

(A) disclose the appraisal or estimated value of the project entity asset under consideration; or

(B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;

(ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;

(iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(iv) failing to close the meeting would prevent the project entity from getting the best price on the market[~~.~~]; and

(h) a meeting of the Rules Review and General Oversight Committee to review and discuss:

(i) an individual child welfare case as described in Subsection 36-35-102(3)(c); or

(ii) information that is subject to a confidentiality agreement as described in Subsection 36-35-102(3)(c).

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 3. Section 63G-3-301 is amended to read:

63G-3-301. Rulemaking procedure.

(1) An agency authorized to make rules is also authorized to amend or repeal those rules.

(2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or repealing a rule agencies shall comply with:

(a) the requirements of this section;

(b) consistent procedures required by other statutes;

(c) applicable federal mandates; and

(d) rules made by the office to implement this chapter.

(3) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency's rules.

(4) (a) Each agency shall file the agency's proposed rule and rule analysis with the office.

(b) Rule amendments shall be marked with new language underlined and deleted language struck out.

(c) (i) The office shall publish the information required under Subsection (8) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.

(ii) For rule amendments, only the section or subsection of the rule being amended need be printed.

(iii) If the director determines that the rule is too long to publish, the office shall publish the rule analysis and shall publish the rule by reference to a copy on file with the office.

(5) Before filing a rule with the office, the agency shall conduct a thorough analysis, consistent with the criteria established by the Governor's Office of Planning and Budget, of the fiscal impact a rule may have on businesses, which criteria may include:

(a) the type of industries that will be impacted by the rule, and for each identified industry, an estimate of the total number of businesses within the industry, and an estimate of the number of those businesses that are small businesses;

(b) the individual fiscal impact that would incur to a typical business for a one-year period;

(c) the aggregated total fiscal impact that would incur to all businesses within the state for a one-year period;

(d) the total cost that would incur to all impacted entities over a five-year period; and

(e) the department head's comments on the analysis.

(6) If the agency reasonably expects that a proposed rule will have a measurable negative fiscal impact on small businesses, the agency shall consider, as allowed by federal law, each of the following methods of reducing the impact of the rule on small businesses:

(a) establishing less stringent compliance or reporting requirements for small businesses;

(b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) consolidating or simplifying compliance or reporting requirements for small businesses;

(d) establishing performance standards for small businesses to replace design or operational standards required in the proposed rule; and

(e) exempting small businesses from all or any part of the requirements contained in the proposed rule.

(7) If during the public comment period an agency receives comment that the proposed rule will cost small business more than one day's annual average gross receipts, and the agency had not previously performed the analysis in Subsection (6), the agency shall perform the analysis described in Subsection (6).

(8) The rule analysis shall contain:

(a) a summary of the rule or change;

(b) the purpose of the rule or reason for the change;

(c) the statutory authority or federal requirement for the rule;

(d) the anticipated cost or savings to:

(i) the state budget;

(ii) local governments;

(iii) small businesses; and

(iv) persons other than small businesses, businesses, or local governmental entities;

(e) the compliance cost for affected persons;

(f) how interested persons may review the full text of the rule;

(g) how interested persons may present their views on the rule;

(h) the time and place of any scheduled public hearing;

(i) the name and telephone number of an agency employee who may be contacted about the rule;

(j) the name of the agency head or designee who authorized the rule;

(k) the date on which the rule may become effective following the public comment period;

(l) the agency's analysis on the fiscal impact of the rule as required under Subsection (5);

(m) any additional comments the department head may choose to submit regarding the fiscal impact the rule may have on businesses; and

(n) if applicable, a summary of the agency's efforts to comply with the requirements of Subsection (6).

(9) (a) For a rule being repealed and reenacted, the rule analysis shall contain a summary that generally includes the following:

(i) a summary of substantive provisions in the repealed rule which are eliminated from the enacted rule; and

(ii) a summary of new substantive provisions appearing only in the enacted rule.

(b) The summary required under this Subsection (9) is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.

(10) A copy of the rule analysis shall be mailed to all persons who have made timely request of the agency for advance notice of the agency's rulemaking proceedings and to any other person who, by statutory or federal mandate or in the judgment of the agency, should also receive notice.

(11) (a) Following the publication date, the agency shall allow at least 30 days for public comment on the rule.

(b) The agency shall review and evaluate all public comments submitted in writing within the time period under Subsection (11)(a) or presented at public hearings conducted by the agency within the time period under Subsection (11)(a).

(12) (a) Except as provided in Sections 63G-3-303[~~ and~~], 63G-3-304, and 63G-3-304.1, a proposed rule becomes effective on any date specified by the agency that is:

(i) no fewer than seven calendar days after the day on which the public comment period closes under Subsection (11); and

(ii) no more than 120 days after the day on which the rule is published.

(b) The agency shall provide notice of the rule's effective date to the office in the form required by the office.

(c) The notice of effective date may not provide for an effective date before the day on which the office receives the notice.

(d) The office shall publish notice of the effective date of the rule in the next issue of the bulletin.

(e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is not filed with the office within 120 days after the day on which the rule is published.

(13) (a) Except as provided in Subsection (13)(d), before an agency enacts a rule, the agency shall submit to the appropriations subcommittee and interim committee with jurisdiction over the agency the agency's proposed rule for review, if the proposed rule, over a three-year period, has a fiscal impact of more than:

(i) $250,000 to a single person; or

(ii) $7,500,000 to a group of persons.

(b) An appropriations subcommittee or interim committee that reviews a rule submitted under Subsection (13)(a) shall:

(i) before the review, directly inform the chairs of the Rules Review and General Oversight Committee of the coming review, including the date, time, and place of the review; and

(ii) after the review, directly inform the chairs of the Rules Review and General Oversight Committee of the outcome of the review, including any recommendation.

(c) An appropriations subcommittee or interim committee that reviews a rule submitted under Subsection (13)(a) may recommend to the Rules Review and General Oversight Committee that the Rules Review and General Oversight Committee not recommend reauthorization of the rule in the legislation described in Section 63G-3-502.

(d) The requirement described in Subsection (13)(a) does not apply to:

(i) the State Tax Commission; or

(ii) the State Board of Education.

(14) (a) As used in this Subsection (14), "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection (4), of an agency's proposed rule that is required by state statute.

(b) A state agency shall initiate rulemaking proceedings no later than 180 days after the day on which the statutory provision that specifically requires the rulemaking takes effect, except under Subsection (14)(c).

(c) When a statute is enacted that requires agency rulemaking and the affected agency already has rules in place that meet the statutory requirement, the agency shall submit the rules to the Rules Review and General Oversight Committee for review within 60 days after the day on which the statute requiring the rulemaking takes effect.

(d) If a state agency does not initiate rulemaking proceedings in accordance with the time requirements in Subsection (14)(b), the state agency shall appear before the legislative Rules Review and General Oversight Committee and provide the reasons for the delay.

Section 4. Section 63G-3-304.1 is enacted to read:

63G-3-304.1. Delaying the effective date of a proposed rule.

(1) Upon a majority vote of the members of the committee, the Rules Review and General Oversight Committee may delay the effective date of a proposed rule promulgated by the State Board of Education to a date determined by the committee.

(2) The Rules Review and General Oversight Committee:

(a) may choose to delay the effective date of an entire proposed rule, a single section, or any complete paragraph of a rule; and

(b) may not delay the effective day beyond May 15 of the calendar year after the day the vote is taken.

(3) (a) Upon a majority vote of the members of the committee, the Rules Review and General Oversight Committee may remove the delay of effective date described in Subsection (1).

(b) A rule or section or paragraph of a rule that has had the delay of effective date removed under Subsection (3)(a) goes into effect on a day designated by the State Board of Education.

(4) The Rules Review and General Oversight Committee shall notify the State Board of Education and the office of the delay of the effective date.

(5) A State Board of Education proposed rule's effective date may not be delayed if:

(a) the rule is explicitly mandated by a federal law or regulation;

(b) a provision of Utah's constitution vests the State Board of Education with specific constitutional authority to promulgate the rule; or

(c) the rule is an emergency rule filed under Section 63G-3-304.

(6) The office shall make rules in accordance with this chapter to determine how to bifurcate a rule that has had a section or paragraph's effective date delayed under this section.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 464
S. B. 262
Passed March 6, 2025
Approved March 27, 2025
Effective May 7, 2025

HOUSING AFFORDABILITY MODIFICATIONS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill amends provisions related to affordable housing.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► amends provisions allowing revenue from a home ownership promotion zone to be used for certain purposes;
- ► enacts provisions allowing legislative bodies to settle certain litigation through a consent agreement;
- ► allows a county and municipality to use home ownership promotion zone funds for all or part of water exaction, street lighting, and environmental remediation costs;
- ► requires a county to comply with land use provisions for all pending and new land use applications;
- ► directs the Utah Housing Corporation to make rules regarding:
  - • procedures, qualifications, and requirements for private financial institutions that offer certain mortgage loans to first-time homebuyers; and
  - • the creation of an incentive program for qualified buyers to assist certain borrowers with the purchase of liability insurance for certain qualifying projects;
- ► provides that first-time home buyers may use certain mortgage loans for specified purposes;
- ► creates a subordinate shared appreciation loan program to be administered by the Department of Workforce Services to assist borrowers for certain purposes; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-1005, as enacted by Laws of Utah 2024, Chapter 431
17-27a-508, as last amended by Laws of Utah 2024, Chapter 415
17-27a-1205, as enacted by Laws of Utah 2024, Chapter 431
35A-8-505, as last amended by Laws of Utah 2021, Chapters 102, 333
51-12-101, as enacted by Laws of Utah 2024, Chapter 510
63H-8-501, as last amended by Laws of Utah 2024, Chapter 431
63H-8-502, as last amended by Laws of Utah 2024, Chapter 431

ENACTS:

10-9a-804, Utah Code Annotated 1953
17-27a-804, Utah Code Annotated 1953
35A-8-504.6, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-804 is enacted to read:

10-9a-804. Consent agreement.

(1) A legislative body may, by resolution or ordinance, settle litigation initiated under Section 10-9a-801 regarding a land use decision with a property owner through a consent agreement.

(2) A legislative body shall approve the consent agreement under Subsection (1) in a public meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(3) A legislative body is not required to present to a planning commission on any matter covered by a consent agreement.

Section 2. Section 10-9a-1005 is amended to read:

10-9a-1005. Payment, use, and administration of revenue from a home ownership promotion zone.

(1) (a) A municipality may receive tax increment and use home ownership promotion zone funds in accordance with this section.

(b) The maximum amount of time that a municipality may receive and use tax increment pursuant to a home ownership promotion zone is 15 consecutive years.

(2) A county that collects property tax on property located within a home ownership promotion zone shall, in accordance with Section 59-2-1365, distribute 60% of the tax increment collected from property within the home ownership promotion zone to the municipality over the home ownership promotion zone to be used as described in this section.

(3) (a) Tax increment distributed to a municipality in accordance with Subsection (2) is not revenue of the taxing entity or municipality, but home ownership promotion zone funds.

(b) Home ownership promotion zone funds may be administered by an agency created by the municipality within which the home ownership promotion zone is located.

(c) Before an agency may receive home ownership promotion zone funds from a municipality, the agency shall enter into an interlocal agreement with the municipality.

(4) (a) A municipality or agency shall use home ownership promotion zone funds within, or for the direct benefit of, the home ownership promotion zone.

(b) If any home ownership promotion zone funds will be used outside of the home ownership promotion zone, the legislative body of the municipality shall make a finding that the use of the home ownership promotion zone funds outside of the home ownership promotion zone will directly benefit the home ownership promotion zone.

(5) A municipality or agency shall use home ownership promotion zone funds to achieve the purposes described in Section 10-9a-1003 by paying all or part of the costs of any of the following:

(a) project improvement costs;

(b) systems improvement costs;[~~ or~~]

(c) water exaction costs;

(d) street lighting costs;

(e) environmental remediation costs; or

[~~(c)~~](f) the costs of the municipality or agency to create and administer the home ownership promotion zone, which may not exceed 3% of the total home ownership promotion zone funds.

(6) Home ownership promotion zone funds may be paid to a participant, if the municipality and participant enter into a participation agreement which requires the participant to utilize the home ownership promotion zone funds as allowed in this section.

(7) Home ownership promotion zone funds may be used to pay all of the costs of bonds issued by the municipality in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.

(8) A municipality may:

(a) create one or more public infrastructure districts within a home ownership promotion zone under Title 17D, Chapter 4, Public Infrastructure District Act; and

(b) pledge and utilize the home ownership promotion zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Section 3. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) [~~An~~]Subject to Subsection (7), an applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or

(B) during the 12 months prior to the county processing the application or multiple applications of the same type, the application is impaired or prohibited under the terms of a temporary land use regulation adopted under Section 17-27a-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) Unless a phasing sequence is required in an executed development agreement, a county shall, without regard to any other separate and distinct land use application, accept and process a complete land use application in accordance with this chapter.

(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(f) [~~A~~]Subject to Subsection (7), a county may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a county ordinance in effect on the date that the applicant submits a complete application, subject to Subsection (1)(a)(ii); or

(iii) a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(g) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a county ordinance; or

(vii) in a county specification for residential roadways in effect at the time a residential subdivision was approved.

(h) Except as provided in Subsection (1)(i) or (j), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(i) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(j) A county may not conduct a final inspection required before issuing a certificate of occupancy for a residential unit that is within the boundary of an infrastructure financing district, as defined in Section 17B-1-102, until the applicant for the certificate of occupancy provides adequate proof to the county that any lien on the unit arising from the infrastructure financing district's assessment against the unit under Title 11, Chapter 42, Assessment Area Act, has been released after payment in full of the infrastructure financing district's assessment against that unit.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) [~~Upon~~]Subject to Subsection (7), a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(4).

(b) Upon delivery of a written notice described in Subsection(5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

(6) (a) After issuance of a building permit, a county may not:

(i) change or add to the requirements expressed in the building permit, unless the change or addition is:

(A) requested by the building permit holder; or

(B) necessary to comply with an applicable state building code; or

(ii) revoke the building permit or take action that has the effect of revoking the building permit.

(b) Subsection (6)(a) does not prevent a county from issuing a building permit that contains an expiration date defined in the building permit.

(7) A county shall comply with the provisions of this chapter regarding all pending land use applications and new land use applications submitted under this chapter.

Section 4. Section 17-27a-804 is enacted to read:

17-27a-804. Consent agreement.

(1) A legislative body may, by resolution or ordinance, settle litigation initiated under Section 17-27a-801 regarding a land use decision with a property owner through a consent agreement.

(2) A legislative body shall approve the consent agreement under Subsection (1) in a public meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(3) A legislative body is not required to present to a planning commission on any matter covered by a consent agreement.

Section 5. Section 17-27a-1205 is amended to read:

17-27a-1205. Payment, use, and administration of revenue from a home ownership promotion zone.

(1) (a) A county may receive tax increment and use home ownership promotion zone funds in accordance with this section.

(b) The maximum amount of time that a county may receive and use tax increment pursuant to a home ownership promotion zone is 15 consecutive years.

(2) A county that collects property tax on property located within a home ownership promotion zone shall, in accordance with Section 59-2-1365, retain 60% of the tax increment collected from property within the home ownership promotion zone to be used as described in this section.

(3) (a) Tax increment retained by a county in accordance with Subsection (2) is not revenue of the taxing entity or county, but home

ownership promotion zone funds.

(b) Home ownership promotion zone funds may be administered by an agency created by the county within which the home ownership promotion zone is located.

(c) Before an agency may receive home ownership promotion zone funds from a county, the agency shall enter into an interlocal agreement with the county.

(4) (a) A county or agency shall use home ownership promotion zone funds within, or for the direct benefit of, the home ownership promotion zone.

(b) If any home ownership promotion zone funds will be used outside of the home ownership promotion zone, the legislative body of the county shall make a finding that the use of the home ownership promotion zone funds outside of the home ownership promotion zone will directly benefit the home ownership promotion zone.

(5) A county or agency shall use home ownership promotion zone funds to achieve the purposes described in Section 17-27a-1203 by paying all or part of the costs of any of the following:

(a) project improvement costs;

(b) systems improvement costs;[~~ or~~]

(c) water exaction costs;

(d) street lighting costs;

(e) environmental remediation costs; or

[~~(c)~~](f) the costs of the county to create and administer the home ownership promotion zone, which may not exceed 3% of the total home ownership promotion zone funds.

(6) Home ownership promotion zone funds may be paid to a participant, if the county and participant enter into a participation agreement which requires the participant to utilize the home ownership promotion zone funds as allowed in this section.

(7) Home ownership promotion zone funds may be used to pay all of the costs of bonds issued by the county in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.

(8) A county may:

(a) create one or more public infrastructure districts within home ownership promotion zone under Title 17D, Chapter 4, Public Infrastructure District Act; and

(b) pledge and utilize the home ownership promotion zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Section 6. Section 35A-8-504.6 is enacted to read:

35A-8-504.6. Subordinate shared appreciation loan program.

(1) As used in this section:

(a) "Qualifying applicant" means a non-profit entity or a partnership of non-profit entities that provides or purchases subordinate shared appreciation loans.

(b) "Qualifying mortgage loan" means a mortgage loan that is originated, purchased, or serviced by a private financial institution or sold to a government-sponsored enterprise, if:

(i) the loan conforms to the borrower's income, property eligibility, and credit standards;

(ii) the loan is secured by a recorded deed of trust or other instrument securing a mortgage loan and constituting a lien on real property in the county in which the home is located; and

(iii) the loan is an amortizing first mortgage loan.

(c) (i) "Subordinate shared appreciation loan" means a loan that does not exceed $150,000, and that:

(A) is secured by an owner-occupied residential property for which the borrower agrees to repay the principal borrowed plus a proportionate share of the home price appreciation during the term of the loan;

(B) has flexible repayment terms in accordance with applicable state and federal laws;

(C) is non-interest bearing and has no set monthly payment obligation;

(D) does not impose a shared appreciation repayment percentage obligation that exceeds the percentage of the home value represented by the amount borrowed at origination;

(E) does not have a combined loan-to-value ratio that exceeds 105%;

(F) does not impose a prepayment fee or penalty; and

(G) is subordinate to a first mortgage loan.

(ii) "Subordinate shared appreciation loan" includes a loan to a qualifying borrower for the purpose of assisting the borrower in the purchase of construction liability insurance for a condominium project as established in rule by the Utah Housing Corporation in accordance with Section 63H-8-502.

(d) "Subordinate shared appreciation loan program" means the loan program created in this section.

(2) There is created the subordinate shared appreciation loan program administered by the department.

(3) Subject to appropriations from the Legislature, the department shall distribute program funds to a qualifying applicant that:

(a) completes an application; and

(b) meets the requirements described under Subsection (1)(b)(i) or (1)(b)(ii).

(4) The executive director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the purposes of this section.

(5) (a) Subject to the provisions of Subsection (9), program funds shall only be used for a qualifying residential unit, as that term is defined in Section 63H-8-501.

(b) Program funds shall only be distributed in conjunction with matching private funding that is no less than a 75% private funds and 25% program funds split.

(c) A recipient of a subordinate shared appreciation loan may use the funds for the same purposes described in Section 63H-8-502.

(6) If a subordinate shared appreciation loan on the qualifying residential unit is refinanced or sold, state funds, including associated fees, used to secure the mortgage loan shall be returned to the qualifying applicant.

(7) The department may, in cooperation with the Utah Housing Corporation, promote the program to qualifying applicants to support the first-time homebuyer assistance program under Title 63H, Chapter 8, Part 5, First-Time Homebuyer Assistance Program.

(8) The department shall include in the annual report required by Section 35A-1-109 the following information:

(a) the number of approved loans under the program;

(b) the total dollar amount of program funds loaned and the corresponding private matching funds;

(c) the total dollar amount of funds reinvested into the program;

(d) the total dollar amount of payoff and, if applicable, default of active loans; and

(e) the approximate dollar value of the total number of loans provided under the program based upon the current home price index.

(9) The executive director may expend up to 5% of the revenues of the program, including any appropriation to the program, to offset department administrative expenses.

(10) The department may not accept applications for the program after September 1, 2025.

Section 7. Section 35A-8-505 is amended to read:

35A-8-505. Activities authorized to receive fund money -- Powers of the executive director.

At the direction of the board, the executive director may:

(1) provide fund money to any of the following activities:

(a) the acquisition, rehabilitation, or new construction of low-income housing units;

(b) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects;

(c) the development and construction of accessible housing designed for low-income persons;

(d) the construction or improvement of a shelter or transitional housing facility that provides services intended to prevent or minimize homelessness among members of a specific homeless subpopulation;

(e) the purchase of an existing facility to provide temporary or transitional housing for the homeless in an area that does not require rezoning before providing such temporary or transitional housing;

(f) the purchase of land that will be used as the site of low-income housing units;

(g) the preservation of existing affordable housing units for low-income persons;

(h) providing loan guarantees under the two-year pilot program established in Section 35A-8-504.5;

(i) distribute funds to a qualifying applicant under the subordinate shared appreciation mortgage loan program established in Section 35A-8-504.6;

[~~(i)~~](j) the award of predevelopment grants in accordance with Section 35A-8-507.5;

[~~(j)~~](k) the creation or financial support of a mediation program for landlords and tenants designed to minimize the loss of housing for low-income persons, which program may include:

(i) funding for the hiring or training of mediators;

(ii) connecting landlords and tenants with mediation services; and

(iii) providing a limited amount of gap funding to assist a tenant in making a good faith payment towards attorney fees, damages, or other costs associated with eviction proceedings or avoiding eviction proceedings; and

[~~(k)~~](l) other activities that will assist in minimizing homelessness or improving the availability or quality of housing in the state for low-income persons; and

(2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

(a) making or executing contracts and other instruments necessary or convenient for the performance of the executive director and board's duties and the exercise of the executive director and board's powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;

(b) procuring insurance against a loss in connection with property or other assets held by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

(c) entering into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part;

(d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure actions, and taking other actions necessary or incidental to the performance of its duties; and

(e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

Section 8. Section 51-12-101 is amended to read:

51-12-101. Definitions.

As used in this chapter:

(1) "Attainable home" means a residence that costs the purchaser no more than the amount a qualifying residential unit may be purchased in accordance with [~~Subsection 63H-8-501(6)(c)~~]Section 63H-8-501 at the time the state treasurer deposits with a qualified depository.

(2) "Fund" means the Transportation Infrastructure General Fund Support Subfund created in Section 72-2-134.

(3) "Political subdivision" means:

(a) the municipality in which the attainable home is located; or

(b) the county, if the attainable home is located in an unincorporated portion of the county.

(4) "Qualified depository" means the same as that term is defined in Section 51-7-3.

(5) (a) "Qualified project" means a new construction housing development project in the state for which the developer:

(i) commits to:

(A) offering for sale no fewer than 60% of the total units within the project as attainable homes;

(B) including in the deed of sale for an attainable home a restriction, in favor of the political subdivision, that the attainable home be owner occupied for no fewer than five years; and

(C) having a plan to provide information to potential buyers of attainable homes about the First-Time Homebuyer Assistance Program created in Section 63H-8-502; and

(ii) executes a valid agreement with the political subdivision to develop housing meeting the requirements of Subsections (5)(a)(i)(A) and (B).

(b) "Qualified project" includes infrastructure within the housing development project.

Section 9. Section 63H-8-501 is amended to read:

63H-8-501. Definitions.

As used in this part:

(1) (a) "First-time homebuyer" means an individual who satisfies:

(i) the three-year requirement described in Section 143(d) of the Internal Revenue Code of 1986, as amended, and any corresponding federal regulations; and

(ii) requirements made by the corporation by rule, as described in Section 63H-8-502.

(b) "First-time homebuyer" includes a single parent, as defined by the corporation by rule made as described in Section 63H-8-502, who would meet the three-year requirement described in Subsection (1)(a)(i) but for a present ownership interest in a principal residence in which the single parent:

(i) had a present ownership interest with the single parent's former spouse during the three-year period;

(ii) resided while married during the three-year period; and

(iii) no longer:

(A) has a present ownership interest; or

(B) resides.

(2) "Home equity amount" means the difference between:

(a) (i) in the case of a sale, the sales price for which the qualifying residential unit is sold by the recipient in a bona fide sale to a third party with no right to repurchase less an amount up to 1% of the sales price used for seller-paid closing costs; or

(ii) in the case of a refinance, the current appraised value of the qualifying residential unit; and

(b) the total payoff amount of any qualifying mortgage loan that was used to finance the purchase of the qualifying residential unit.

(3) "Program" means the First-Time Homebuyer Assistance Program created in Section 63H-8-502.

(4) "Program funds" means money appropriated for the program.

(5) "Qualifying mortgage loan" means a mortgage loan that:

(a) is purchased by the corporation; and

(b) is subject to a document that is recorded in the office of the county recorder of the county in which the residential unit is located.

(6) "Qualifying residential unit" means a residential unit that:

(a) is located in the state;

(b) is new construction or newly constructed but not yet inhabited;

(c) is financed by a qualifying mortgage loan;

(d) is owner-occupied within 60 days of purchase, or in the case of a two-unit dwelling, at least one unit is owner-occupied within 60 days of purchase; and

(e) is purchased for an amount that does not exceed:

(i) $450,000; or

(ii) if applicable, the maximum purchase price established by the corporation under [~~Subsection 63H-8-502(6)~~]Section 63H-8-502.

(7) "Recipient" means a first-time homebuyer who receives program funds.

(8) (a) "Residential unit" means a house, condominium, townhome, or similar residential structure that serves as a one-unit dwelling or forms part of a two-unit dwelling.

(b) "Residential unit" includes a manufactured home or modular home that is attached to a permanent foundation.

Section 10. Section 63H-8-502 is amended to read:

63H-8-502. First-Time Homebuyer Assistance Program.

(1) There is created the First-Time Homebuyer Assistance Program administered by the corporation.

(2) Subject to appropriations from the Legislature, the corporation shall distribute program funds to:

(a) first-time homebuyers to provide support for the purchase of qualifying residential units; and

(b) reimburse the corporation for a distribution of funds under Subsection (2)(a) that took place on or after July 1, 2023.

(3) The maximum amount of program funds that a first-time homebuyer may receive under the program is $20,000.

(4) (a) A recipient may use program funds to pay for:

(i) the down payment on a qualifying residential unit;

(ii) closing costs associated with the purchase of a qualifying residential unit;

(iii) a permanent reduction in the advertised par interest rate on a qualifying mortgage loan that is used to finance a qualifying residential unit; or

(iv) any combination of Subsections (4)(a)(i), (ii), and (iii).

(b) The corporation shall direct the disbursement of program funds for a purpose authorized in Subsection (4)(a).

(c) A recipient may not receive a payout or distribution of program funds upon closing.

(5) The builder or developer of a qualifying residential unit may not increase the price of the qualifying residential unit on the basis of program funds being used towards the purchase of that qualifying residential unit.

(6) (a) In accordance with rules made by the corporation under Subsection (9), the corporation may adjust the maximum purchase price of a qualifying residential unit for which a first-time homebuyer qualifies to receive program funds in order to reflect current market conditions.

(b) In connection with an adjustment made under Subsection (6)(a), the corporation may establish one or more maximum purchase prices corresponding by residential unit type, geographic location, or any other factor the corporation considers relevant.

(c) The corporation may adjust a maximum purchase price under this Subsection (6) no more frequently than once each calendar year.

(7) (a) Except as provided in Subsection (7)(b), if the recipient sells the qualifying residential unit or refinances the qualifying mortgage loan that was used to finance the purchase of the qualifying residential unit before the end of the original term of the qualifying mortgage loan, the recipient shall repay to the corporation an amount equal to the lesser of:

(i) the amount of program funds the recipient received; or

(ii) 50% of the recipient's home equity amount.

(b) Subsection (7)(a) does not apply to a qualifying mortgage loan that is refinanced with a new qualifying mortgage loan if any subordinate qualifying mortgage loan, or loan from program funds used on the purchase of the qualifying residential unit, is resubordinated only to the new qualifying mortgage loan.

(8) Any funds repaid to the corporation under Subsection (7) shall be used for program distributions.

[~~(9) The corporation shall make rules governing the application form, process, and criteria the corporation will use to distribute program funds to first-time homebuyers, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(9) Subject to Subsection (9)(b), the corporation shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) governing the application form, process, and criteria the corporation will use to distribute program funds to first-time homebuyers; and

(b) subject to appropriations from the Legislature, establishing an incentive program for qualified borrowers to utilize funding from the subordinate shared appreciation loan program for the purposes of assisting with the purchase of construction liability insurance for a qualifying condominium project.

(10) The corporation may use up to 5% of program funds for administration.

(11) The corporation shall report annually to the [~~Social Services Appropriations Subcommittee~~]Economic and Community Development Appropriations Subcommittee on disbursements from the program and any adjustments made to the maximum purchase price or maximum purchase prices of a qualifying residential unit under Subsection (6).

Section 11. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 465
S. B. 226
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

ARTIFICIAL INTELLIGENCE CONSUMER PROTECTION AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill enacts provisions related to the use of generative artificial intelligence in consumer transactions and regulated services.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires certain disclosures when generative artificial intelligence is used in consumer transactions and regulated services;
- ► establishes liability for violations of consumer protection laws involving artificial intelligence;
- ► provides a safe harbor for certain disclosures;
- ► grants rulemaking and enforcement authority to the Division of Consumer Protection;
- ► establishes penalties for violations; and
- ► extends the repeal date of the Artificial Intelligence Policy Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-213, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

13-75-101, (Effective 05/07/25) Utah Code Annotated 1953
13-75-102, (Effective 05/07/25) Utah Code Annotated 1953
13-75-103, (Effective 05/07/25) Utah Code Annotated 1953
13-75-104, (Effective 05/07/25) Utah Code Annotated 1953
13-75-105, (Effective 05/07/25) Utah Code Annotated 1953
13-75-106, (Effective 05/07/25) Utah Code Annotated 1953

REPEALS:

13-2-12, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 186

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-75-101 is enacted to read:
13-75-101 (Effective 05/07/25). Definitions.

As used in this chapter:
(1) "Artificial intelligence technology" means the same as that term is defined in Section 13-72-101.
(2) "Consumer transaction" means the same as that term is defined in Section 13-11-3.
(3) "Division" means the Division of Consumer Protection created in Section 13-2-1.
(4) "Generative artificial intelligence" means an artificial intelligence technology system that:
(a) is trained on data;
(b) is designed to simulate human conversation with a consumer through one or more of the following:
(i) text;
(ii) audio; or
(iii) visual communication; and
(c) generates non-scripted outputs similar to outputs created by a human, with limited or no human oversight.
(5) "High-risk artificial intelligence interaction" means an interaction with generative artificial intelligence that involves:
(a) the collection of sensitive personal information, including:
(i) health data;
(ii) financial data; or

(iii) biometric data;

(b) the provision of personalized recommendations, advice, or information that could reasonably be relied upon to make significant personal decisions, including the provision of:

(i) financial advice or services;

(ii) legal advice or services;

(iii) medical advice or services; or

(iv) mental health advice or services; or

(c) other applications as defined by division rule.

(6) "License" means a state-granted authorization for an individual to engage in a specified occupation:

(a) based on the individual meeting personal qualifications established under state law; and

(b) that is required before the individual may lawfully engage in the occupation for compensation.

(7) "Office" means the Office of Artificial Intelligence Policy created in Section 13-74-201.

(8) "Regulated occupation" means an occupation that:

(a) is regulated by the Department of Commerce; and

(b) requires an individual to obtain a license or state certification to practice the occupation.

(9) "State certification" means a state-granted authorization that:

(a) permits an individual to use the term "state certified" as part of a designated title related to a specified occupation:

(i) based on the individual meeting personal qualifications established under state law; and

(ii) where state law prohibits a noncertified individual from using the term "state certified" as part of a designated title; and

(b) does not prohibit a noncertified individual from engaging in the occupation for compensation.

(10) "Supplier" means the same as that term is defined in Section 13-11-3.

Section 2. Section 13-75-102 is enacted to read:

13-75-102 (Effective 05/07/25). Liability for violation of consumer protection law.

It is not a defense to the violation of any statute administered and enforced by the division under Section 13-2-1 that generative artificial intelligence:

(1) made the violative statement;

(2) undertook the violative act; or

(3) was used in furtherance of the violation.

Section 3. Section 13-75-103 is enacted to read:

13-75-103 (Effective 05/07/25). Required disclosures.

(1) (a) A supplier that uses generative artificial intelligence to interact with an individual in connection with a consumer transaction shall disclose to the individual that the individual is interacting with generative artificial intelligence and not a human, if the individual asks or otherwise prompts the supplier about whether artificial intelligence is being used.

(b) The individual's prompt or question under Subsection (1)(a) must be a clear and unambiguous request to determine whether the interaction is with a human or with artificial intelligence.

(2) An individual providing services in a regulated occupation shall:

(a) prominently disclose when an individual receiving services is interacting with generative artificial intelligence in the provision of regulated services if the use of generative artificial intelligence constitutes a high-risk artificial intelligence interaction; and

(b) comply with all requirements of the regulated occupation when providing services through generative artificial intelligence.

(3) A disclosure required under Subsection (2) shall be provided:

(a) verbally at the start of a verbal interaction; and

(b) in writing before the start of a written interaction.

Section 4. Section 13-75-104 is enacted to read:

13-75-104 (Effective 05/07/25). Safe harbor.

(1) A person is not subject to an enforcement action for violating Section 13-75-103 if the person's generative artificial intelligence clearly and conspicuously discloses:

(a) at the outset of any interaction with an individual in connection with:

(i) a consumer transaction; or

(ii) the provision of regulated services; and

(b) throughout the interaction that it:

(i) is generative artificial intelligence;

(ii) is not human; or

(iii) is an artificial intelligence assistant.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division in consultation with the office, may make rules specifying forms and methods of disclosure that:

(a) satisfy the requirements of Subsection (1); or

(b) do not satisfy the requirements of Subsection (1).

Section 5. Section 13-75-105 is enacted to read:

13-75-105 (Effective 05/07/25). Enforcement.

(1) A violation of this chapter constitutes a violation of Subsection 13-11-4(1).

(2) The division shall administer and enforce this chapter in accordance with Chapter 2, Division of Consumer Protection.

(3) The attorney general shall:

(a) give legal advice to the division regarding the division's responsibilities under this chapter; and

(b) act as counsel for the division in the exercise of the division's responsibilities under this chapter.

(4) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(a) the division director may impose an administrative fine of up to $2,500 for each violation of this chapter; and

(b) the division may bring an action in court to enforce this chapter.

(5) In an action brought by the division to enforce this chapter, the court may:

(a) declare that an act or practice violates this chapter;

(b) issue an injunction for a violation of this chapter;

(c) order disgorgement of money received in violation of this chapter;

(d) order payment of disgorged money to an individual injured by a violation of this chapter;

(e) impose a fine of up to $2,500 for each violation of this chapter; or

(f) award other reasonable and necessary relief.

(6) If a court of competent jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(7) (a) A person who violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of up to $5,000 for each violation.

(b) The attorney general may impose a civil penalty authorized under this section in any civil action brought on behalf of the division.

Section 6. Section 13-75-106 is enacted to read:

13-75-106 (Effective 05/07/25). Scope.

This chapter does not displace any other remedy or right authorized under:

(1) the laws of this state; or

(2) federal law.

Section 7. Section 63I-2-213 is amended to read:

63I-2-213 (Effective upon governor's approval). Repeal dates: Title 13.

(1) Section 13-1-16, Latino Community Support Restricted Account, is repealed July 1, 2024.

(2) Section 13-14-103, Utah Motor Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest, is repealed October 1, 2024.

(3) Section 13-35-103, Utah Powersport Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest, is repealed October 1, 2024.

(4) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program start date, as defined in Section 63G-12-102.

(5) Title 13, Chapter 72, Artificial Intelligence Policy Act, is repealed [~~May 1, 2025~~]July 1, 2027.

Section 8. Repealer.

This bill repeals:

Section 13-2-12, Generative artificial intelligence -- Impact on liability for violation of consumer protection law.

Section 9. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect on May 7, 2025.

(2) The actions affecting Section 63I-2-213 (Effective upon governor's approval) take effect:

(a) except as provided in Subsection (2)(b), May 7, 2025; or

(b) if approved by two-thirds of all members elected to each house:

(i) upon approval by the governor;

(ii) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(iii) in the case of a veto, the date of veto override.

CHAPTER 466
H. B. 402
Passed March 6, 2025
Approved March 27, 2025
Effective May 7, 2025

FOODS ADDITIVES IN SCHOOLS

Chief Sponsor: Kristen Chevrier
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill enacts provisions to prohibit consumable items containing certain food additives from being provided in a public school.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► enacts provisions to prohibit consumable items containing certain food additives from being provided in a public school under certain circumstances; and
- ► provides exceptions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-9-205.2, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-9-205.2 is enacted to read:

53G-9-205.2. Definitions -- Prohibited food additives -- Exceptions.

(1) As used in this section:

(a) "FD &C" means the Federal Food, Drug, and Cosmetics Act, 21 C.F.R. Part 74.

(b) "Public school" means the same as that term is defined in Section 53G-9-205.1.

(c) "School day" means the same as that terms is defined in Section 53G-6-201.

(2) (a) Beginning in the 2026-2027 school year, a public school may not sell, donate, offer, or serve on school grounds during the school day, food that contains:

(i) potassium bromate;

(ii) propylparaben;

(iii) FD &C Blue No. 1;

(iv) FD &C Blue No. 2;

(v) FD &C Green No. 3;

(vi) FD &C Red No. 3;

(vii) FD &C Red No. 40;

(viii) FD &C Yellow No. 5; and

(ix) FD &C Yellow No. 6.

(b) Except as provided in Subsection (3), a person who sells, donates, offers, or serves a consumable item during the school day shall comply with the requirements under this section.

(3) (a) Notwithstanding Subsection (2)(b):

(i) a student's parent may provide students with a food item described in Subsection (2)(a) during the school day;

(ii) a teacher may provide students with a food item described in Subsection (2)(a) if the teacher obtains permission from the students' parents at the start of each school semester; and

(iii) a person may sell a food item described in Subsection (2)(a):

(A) as a concession item at a school-sponsored event or extra-curricular activity; or

(B) in a vending machine.

(b) This section does not apply to a charter school or school district that has 5,500 students or fewer.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 467
H. B. 403
Passed March 5, 2025
Approved March 27, 2025
Effective May 7, 2025

SNAP FUNDS AMENDMENTS

Chief Sponsor: Kristen Chevrier
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill enacts provisions related to the Supplemental Nutrition Assistance Program.

Highlighted Provisions:

This bill:

- ► enacts provisions related to Supplemental Nutrition Assistance Program (SNAP);
- ► requires the Department of Workforce Services (department) to request a waiver from the federal government regarding the use of SNAP benefits for certain foods;
- ► requires the department to:
  - • submit the waiver before July 1, 2025;
  - • implement the waiver within a certain period of time upon approval of the waiver; and
  - • if the waiver is denied, reapply until a waiver is approved; and
- ► has reporting requirements.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

35A-17-101, Utah Code Annotated 1953
35A-17-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-17-101 is enacted to read:

PART 1. SNAP Benefits Waiver

35A-17-101. Definitions.

As used in this section:

(1) "SNAP" means the federal Supplemental Nutrition Assistance Program, 7 U.S.C. Chapter 51.

(2) "SNAP benefit" means a financial benefit, coupon, or privilege available under SNAP.

(3) (a) "Soft drink" means a nonalcoholic beverage that is made with carbonated water and that is flavored and sweetened with sugar or artificial sweeteners.

(b) "Soft drink" does not include a beverage that contains milk, milk products, soy, rice, or other milk substitutes, or that is greater than 50% vegetable or fruit juice by volume.

Section 2. Section 35A-17-102 is enacted to read:

35A-17-102. SNAP waiver request -- Requirements -- Reporting.

(1) (a) On or before July 1, 2025, the department shall submit a request for a federal waiver to the United States Department of Agriculture, Food and Nutrition Service, to authorize the department to prohibit the use of SNAP benefits for the purchase of soft drinks.

(b) The waiver request described in Subsection (1)(a) shall include:

(i) justification for the waiver, including:

(A) public health concerns;

(B) SNAP's statutory intent; and

(C) cost savings to taxpayers;

(ii) an implementation plan to ensure that existing point-of-sale systems used by Utah retailers are able to enforce the waiver restrictions;

(iii) a strategy for education and outreach to inform SNAP recipients of alternative healthy food options; and

(iv) a mechanism to track the impact of the waiver restrictions on SNAP recipients, including:

(A) spending patterns; and

(B) health outcomes.

(2) (a) If the waiver under Subsection (1) is approved by Food and Nutrition Services, the department shall implement the SNAP benefits restriction under Subsection (1)no later than six months after the day on which the waiver is granted.

(b) If the waiver under Subsection (1) is denied, the department shall:

(i) resubmit the request for a waiver no later than three months after the day on which the waiver is denied; and

(ii) resubmit the request annually until a waiver approval is granted.

(3) (a) On or before November 1 of each year, the department shall provide a written report to the Economic Development and Workforce Services Interim Committee detailing:

(i) the status of the waiver request;

(ii) data on SNAP spending patterns in Utah;

(iii) any identified challenges with SNAP; and

(iv) any recommendations for further policy action.

(b) The report described in Subsection (3)(a) shall be included in the department's annual report in accordance with Section 35A-1-109.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 468
H. B. 418
Passed March 5, 2025
Approved March 27, 2025
Effective July 1, 2026

DATA SHARING AMENDMENTS

Chief Sponsor: Doug Fiefia
Senate Sponsor: Michael K. McKell

Cosponsor:	Ariel Defay	Jason E. Thompson
Paul A. Cutler	Jordan D. Teuscher	

LONG TITLE

General Description:

This bill enacts provisions related to social media data portability and interoperability.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes legislative findings about social media data control and competition;
- ► amends consumer data rights related to social media data;
- ► requires social media companies to implement data interoperability interfaces;
- ► establishes requirements for data sharing between social media services;
- ► grants rulemaking and enforcement authority to the Division of Consumer Protection;
- ► provides for civil penalties; and
- ► includes a severability provision.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1, (Effective 07/01/26) as last amended by Laws of Utah 2024, Chapter 132
13-61-201, (Effective 07/01/26) as enacted by Laws of Utah 2022, Chapter 462

ENACTS:

13-75-101, (Effective 07/01/26) Utah Code Annotated 1953
13-75-102, (Effective 07/01/26) Utah Code Annotated 1953
13-75-201, (Effective 07/01/26) Utah Code Annotated 1953
13-75-202, (Effective 07/01/26) Utah Code Annotated 1953
13-75-301, (Effective 05/07/25) Utah Code Annotated 1953
13-75-302, (Effective 07/01/26) Utah Code Annotated 1953
13-75-401, (Effective 07/01/26) Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 is amended to read:

13-2-1 (Effective 07/01/26). Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 10a, Music Licensing Practices Act;

(b) Chapter 11, Utah Consumer Sales Practices Act;

(c) Chapter 15, Business Opportunity Disclosure Act;

(d) Chapter 20, New Motor Vehicle Warranties Act;

(e) Chapter 21, Credit Services Organizations Act;

(f) Chapter 22, Charitable Solicitations Act;

(g) Chapter 23, Health Spa Services Protection Act;

(h) Chapter 25a, Telephone and Facsimile Solicitation Act;

(i) Chapter 26, Telephone Fraud Prevention Act;

(j) Chapter 28, Prize Notices Regulation Act;

(k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(l) Chapter 34, Utah Postsecondary School and State Authorization Act;

(m) Chapter 41, Price Controls During Emergencies Act;

(n) Chapter 42, Uniform Debt-Management Services Act;

(o) Chapter 49, Immigration Consultants Registration Act;

(p) Chapter 51, Transportation Network Company Registration Act;

(q) Chapter 52, Residential Solar Energy Disclosure Act;

(r) Chapter 53, Residential, Vocational and Life Skills Program Act;

(s) Chapter 54, Ticket Website Sales Act;

(t) Chapter 56, Ticket Transferability Act;

(u) Chapter 57, Maintenance Funding Practices Act;

(v) Chapter 61, Utah Consumer Privacy Act;

[~~(w) Chapter 63, Utah Social Media Regulation Act;~~]

[~~(x)~~](w) Chapter 64, Vehicle Value Protection Agreement Act;

[~~(y)~~](x) Chapter 65, Utah Commercial Email Act;

[~~(z)~~](y) Chapter 67, Online Dating Safety Act;

[~~(aa)~~](z) Chapter 68, Lawyer Referral Consultants Registration Act;

[~~(bb)~~](aa) Chapter 70, Automatic Renewal Contracts Act;[~~ and~~]

[~~(cc)~~](bb) Chapter 71, Utah Minor Protection in Social Media Act[~~.~~]; and

(cc) Chapter 75, Utah Digital Choice Act.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to establish:

(a) a public list that identifies a person who:

(i) violates a chapter described in Subsection (2);

(ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal process issued by:

(A) the division; or

(B) a court of competent jurisdiction; or

(iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar instrument signed by the person and the division; and

(b) a process by which a person may be removed from the list the division establishes as described in Subsection (3)(a).

Section 2. Section 13-61-201 is amended to read:

13-61-201 (Effective 07/01/26). Consumer rights -- Access -- Deletion -- Portability -- Opt out of certain processing.

(1) A consumer has the right to:

(a) confirm whether a controller is processing the consumer's personal data; and

(b) access the consumer's personal data.

(2) A consumer has the right to delete the consumer's personal data that the consumer provided to the controller.

(3) A consumer has the right to obtain a copy of the consumer's personal data, that the consumer previously provided to the controller, in a format that:

(a) to the extent technically feasible, is portable;

(b) to the extent practicable, is readily usable; and

(c) allows the consumer to transmit the data to another controller without impediment, where the processing is carried out by automated means.

(4) A consumer has the right to request that a controller correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data.

[~~(4)~~](5) A consumer has the right to opt out of the processing of the consumer's personal data for purposes of:

(a) targeted advertising; or

(b) the sale of personal data.

[~~(5)~~](6) Nothing in this section requires a person to cause a breach of security system as defined in Section 13-44-102.

Section 3. Section 13-75-101 is enacted to read:

CHAPTER 75. UTAH DIGITAL CHOICE ACT

PART 1. General Provisions

13-75-101 (Effective 07/01/26). Definitions.

As used in this chapter:

(1) "Open protocol" means a publicly available technical standard that:

(a) enables interoperability and data exchange between social media services by providing a common data infrastructure where multiple social media services can access, contribute to, and synchronize a user's personal data;

(b) is free from:

(i) licensing fees; and

(ii) patent restrictions; and

(c) governs how social media services communicate and exchange data with each other.

(2) (a) "Personal data" means the same as that term is defined in Section 13-61-101.

(b) "Personal data" includes a user's social graph.

(3) (a) "Social graph" means data that represents a person's connections and interactions within a social media service.

(b) "Social graph" includes:

(i) the person's social connections with other users;

(ii) content created by the person;

(iii) the person's responses to other users' content, including comments, reactions, and shares;

(iv) other users' responses to the person's content; and

(v) metadata associated with the items described in Subsections (3)(b)(i) through (iv).

(c) "Social graph" does not include another user's or an entity's content and responses that have been designated private by those users and entities, including private messages.

(4) "Social media company" means an entity that owns or operates a social media service.

(5) (a) "Social media service" means a public website or application that:

(i) displays content that is primarily generated by account holders and not by the social media company;

(ii) permits an individual to register as an account holder and create a profile that is made visible to the general public or a set of other users defined by the account holder;

(iii) connects account holders to allow users to interact socially with each other within the website or application; and

(iv) allows account holders to post content viewable by other users.

(b) "Social media service" does not include:

(i) email;

(ii) cloud storage; or

(iii) document viewing, sharing, or collaboration services.

(6) "User" means an individual located in the state who accesses or uses a social media service.

Section 4. Section 13-75-102 is enacted to read:

13-75-102 (Effective 07/01/26). Legislative findings.

The Legislature finds that:

(1) an individual has a right to control and move the individual's own personal data, including social interactions online;

(2) companies have demonstrated a pattern of restricting the interoperability of content, preventing users from easily sharing posts and interactions across different platforms; and

(3) the state should ensure that individuals have the right to access a complete personal data record from social media platforms.

Section 5. Section 13-75-201 is enacted to read:

PART 2. Data Rights and Requirements

13-75-201 (Effective 07/01/26). Data portability requirements.

If a consumer requests a copy of the consumer's personal data under Section 13-61-201, a social media service shall provide the personal data, including the user's social graph, in a format that:

(1) is portable, to the extent technically feasible;

(2) is readily usable, to the extent practicable; and

(3) allows the consumer to transmit the data to another controller without impediment if the controller processes the data by automated means.

Section 6. Section 13-75-202 is enacted to read:

13-75-202 (Effective 07/01/26). Data interoperability requirements.

(1) A social media company shall implement a transparent, third-party-accessible interoperability interface or interfaces to allow users to choose to:

(a) share a common set of the user's personal data between the social media services designated by the user; and

(b) enable third parties to access content created by the user and to be notified when new or updated content is available, with the user's permission.

(2) A social media company shall reasonably secure all personal data obtained through an interoperability interface.

(3) To achieve interoperability under Subsection (1), a social media company shall:

(a) utilize an open protocol;

(b) facilitate and maintain interoperability and synchronous data sharing with other social media services through an interoperability interface, based on reasonable terms that do not discriminate between social media services;

(c) establish reasonable and proportionate thresholds related to the frequency, nature, and volume of requests, beyond which the social media company may assess a reasonable fee for such access;

(d) offer to other social media companies a functionally equivalent version of any internal interfaces created by the social media company for the social media company's own social media services; and

(e) disclose to other social media companies complete, accurate, and regularly updated documentation describing access to the interoperability interface required under this section.

(4) A social media company or third party shall safeguard the privacy and security of a user's personal data obtained from other social

media services through the interoperability interface in accordance with the social media company's or third party's privacy notice and administrative, technical, and physical data security practices.

(5) A social media company or third party may not share or receive a user's personal data through the interoperability interface except with the user's consent.

(6) A social media company shall adopt an accessible, prominent, and persistent method for users to give consent for data sharing with other social media services or third parties through the interoperability interface.

(7) A social media company is not required to:

(a) provide access to:

(i) inferences, analyses, or derived data that the social media company has generated internally about a user; or

(ii) proprietary algorithms, ranking systems, or other internal operating mechanisms; or

(b) transmit personal data that:

(i) is stored or structured in a proprietary format; and

(ii) meets both of the following criteria:

(A) no open, industry-standard format is reasonably available; and

(B) transmitting the data would disclose information described in Subsection (7)(a).

(8) This chapter does not apply to an entity that is:

(a) owned, controlled, operated, or maintained by a religious organization; and

(b) exempt from property taxation under state law.

Section 7. Section 13-75-301 is enacted to read:

PART 3. Administrative Provisions

13-75-301 (Effective 05/07/25). Rulemaking authority -- Rebuttable presumptions.

(1) The division may identify open protocols that the division has determined, after an assessment, meet the requirements of Section 13-75-202.

(2) If a social media company uses an open protocol that the division identifies under Subsection (1), the social media company shall be entitled to a rebuttable presumption of providing access on reasonable terms that do not discriminate between social media services.

Section 8. Section 13-75-302 is enacted to read:

13-75-302 (Effective 07/01/26). Enforcement.

(1) The division shall administer and enforce this chapter, within existing budget allocations, in accordance with Chapter 2, Division of Consumer Protection.

(2) The attorney general, upon request, shall give legal advice to, and act as counsel for, the division in the exercise of the division's responsibilities under this chapter.

(3) (a) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(i) the division director may impose an administrative fine of up to $2,500 for each violation of this chapter; and

(ii) the division may bring an action in court to enforce a provision of this chapter.

(b) In a court action by the division to enforce a provision of this chapter, the court may:

(i) declare that the act or practice violates a provision of this chapter;

(ii) enjoin actions that violate this chapter;

(iii) order disgorgement of any money received in violation of this chapter;

(iv) order payment of disgorged money to an injured purchaser or consumer;

(v) impose a civil penalty of up to $2,500 for each violation of this chapter;

(vi) award actual damages to an injured purchaser or consumer; and

(vii) award any other relief that the court deems reasonable and necessary.

(c) If a court grants judgment or injunctive relief to the division, the court shall award the division:

(i) reasonable attorney fees;

(ii) court costs; and

(iii) investigative fees.

(d) (i) A person who violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of no more than $5,000 for each violation.

(ii) A civil penalty authorized under this section may be imposed in any civil action brought by the division, or by the attorney general on behalf of the division.

Section 9. Section 13-75-401 is enacted to read:

PART 4. Special Provisions

13-75-401 (Effective 07/01/26). Severability.

(1) If any provision of this chapter or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application.

(2) The provisions of this chapter are severable.

Section 10. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect July 1, 2026.

(2) The actions affecting Section 13-75-301 (Effective 05/07/25) take effect on May 7, 2025.

CHAPTER 469
H. B. 435
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

BUILDING CODE AMENDMENTS

Chief Sponsor: Michael L. Kohler
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies local government provisions relating to high tunnel structures.

Highlighted Provisions:

This bill:

► provides an exemption for a high tunnel structure from county building regulation; and
► adds to the permissible uses of a high tunnel structure.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-525, as enacted by Laws of Utah 2015, Chapter 129

ENACTS:

17-27a-536, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-525 is amended to read:

10-9a-525. High tunnels -- Exemption from municipal regulation.

(1) As used in this section, "high tunnel" means a structure that:
(a) is not a permanent structure;
(b) is used for the growing, keeping, storing, sale, or shelter of an agricultural commodity; and
(c) has a:
(i) metal, wood, or plastic frame;
(ii) plastic, woven textile, or other flexible covering; and
(iii) floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.
(2) A municipal building code does not apply to a high tunnel.
(3) No building permit shall be required for the construction of a high tunnel.

Section 2. Section 17-27a-536 is enacted to read:

17-27a-536. High tunnels -- Exemption from county regulation.

(1) As used in this section, "high tunnel" means a structure that:
(a) is not a permanent structure;
(b) is used for the growing, keeping, storing, sale, or shelter of an agricultural commodity; and
(c) has a:
(i) metal, wood, or plastic frame;
(ii) plastic, woven textile, or other flexible covering; and
(iii) floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.
(2) A county building code does not apply to a high tunnel.
(3) No building permit shall be required for the construction of a high tunnel.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 470
H. B. 434
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

HEALTH AND HUMAN SERVICES AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill amends provisions related to the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► repeals outdated language;
- ► updates code references;
- ► provides that the Department of Health and Human Services (department) may examine and audit the expenditures of public funds provided to a local health department;
- ► addresses the required qualifications for the department's executive director and deputy directors;
- ► updates the name of a division and an office within the department;
- ► provides that the executive director of the department may create committees within the department, subject to certain conditions and requirements;
- ► authorizes the department to access certain records of individuals licensed or certified by the Division of Professional Licensing for specific purposes;
- ► adds additional items to the list of duties of the department;
- ► updates language to be consistent with the transfer of certain emergency medical services responsibilities from the department to the Department of Public Safety;
- ► addresses the administration of stock albuterol by a qualified adult;
- ► updates references from "targeted case management" to "case managers";
- ► allows the Office of Public Guardian to have access to certain documents and information, including private, controlled, or protected information, when reasonably necessary to fulfill the office's duties and responsibilities;
- ► provides that the Division of Services for People with Disabilities must determine the most appropriate, least restrictive setting for an individual with an intellectual disability within the division's system;
- ► amends provisions regarding fetal death certificates and certificates of early term stillbirth;
- ► updates code references to reflect the current name of the Office of Substance Use and Mental Health within the department;
- ► requires the Office of Recovery Services to review child support guidelines and submit a summary of the review to the Judiciary Interim Committee; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-1-201, as last amended by Laws of Utah 2022, Chapter 255
26B-1-202, as last amended by Laws of Utah 2024, Chapter 506
26B-1-203, as renumbered and amended by Laws of Utah 2022, Chapter 255
26B-1-204, as last amended by Laws of Utah 2024, Chapters 240, 404 and 506
26B-1-211, as renumbered and amended by Laws of Utah 2022, Chapter 255
26B-1-213, as renumbered and amended by Laws of Utah 2022, Chapter 255
26B-1-216, as last amended by Laws of Utah 2024, Chapter 106
26B-1-219, as last amended by Laws of Utah 2024, Chapter 178
26B-1-235, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-334, as enacted by Laws of Utah 2023, Chapter 325
26B-3-804, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-4-301, as last amended by Laws of Utah 2024, Chapter 261
26B-4-406, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-409, as last amended by Laws of Utah 2024, Chapter 311
26B-4-501, as last amended by Laws of Utah 2024, Chapter 257
26B-5-101, as last amended by Laws of Utah 2024, Chapters 240, 420

26B-5-102, as last amended by Laws of Utah 2024, Chapters 250, 420
26B-5-315, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-319, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-331, as last amended by Laws of Utah 2024, Chapter 299
26B-5-609, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
26B-6-210, as last amended by Laws of Utah 2024, Chapter 147
26B-6-304, as last amended by Laws of Utah 2024, Chapter 250
26B-6-602, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-301, as last amended by Laws of Utah 2024, Chapters 152, 283
26B-8-115, as last amended by Laws of Utah 2024, Chapters 113, 295
26B-8-118, as last amended by Laws of Utah 2024, Chapter 113
26B-9-104, as last amended by Laws of Utah 2024, Chapter 366
53-22-102, as last amended by Laws of Utah 2024, Chapter 21
53-22-104.2, as enacted by Laws of Utah 2024, Chapter 21
53-22-105, as enacted by Laws of Utah 2024, Chapter 21
53G-8-701.6, as enacted by Laws of Utah 2024, Chapter 21
63I-1-281, as enacted by Laws of Utah 2024, Chapter 366
80-2-709, as renumbered and amended by Laws of Utah 2022, Chapter 334

REPEALS:

26B-7-102, as renumbered and amended by Laws of Utah 2023, Chapter 308

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-1-201 is amended to read:

26B-1-201. Department of Health and Human Services -- Creation -- Duties.

(1) There is created within state government the Department of Health and Human Services, which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in this title and previously vested in the Department of Health and the Department of Human Services.

(2) Subject to the limitation and grants of authority in state law, the department shall serve as the health, health planning, medical assistance, and social services authority of the state, and for administration of federally assisted state programs or plans is designated as the sole state agency for:

(a) social service block grants;

(b) alcohol, drug, and mental health programs, including block grants;

(c) child welfare;

(d) state programs supported under the Older Americans Act, 42 U.S.C. Sec. 3001, et seq.;

(e) public health;

(f) health planning;

(g) maternal and child health;

(h) services for individuals with a disability; and

(i) medical assistance.

(3) A state plan or program administered by the department:

(a) shall be developed in the appropriate divisions or offices of the department in accordance with applicable requirements of state and federal law; and

(b) may be amended by the executive director to achieve coordination, efficiency, or economy.

[~~(4) In addition to Subsection (1), from July 1, 2022, through June 30, 2023, the Department of Health and Human Services shall exercise the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Department of Health and the Department of Human Services under:~~]

[~~(a) Title 26, Utah Health Code; and~~]

[~~(b) Title 62A, Utah Human Services Code.~~]

Section 2. Section 26B-1-202 is amended to read:

26B-1-202. Department authority and duties.

(1) As used in this section, "public funds" means the same as that term is defined in Section 26B-5-101.

(2) The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

[~~(1)~~](a) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;

[~~(2)~~](b) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

[~~(3)~~](c) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

[~~(4)~~](d) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

[~~(5)~~](e) establish eligibility standards for the department's programs, not inconsistent with state or federal law or regulations;

[~~(6)~~](f) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

[~~(7)~~](g) set and collect fees for the department's services;

[~~(8)~~](h) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

[~~(9)~~](i) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

[~~(10)~~](j) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

[~~(11)~~](k) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

[~~(12)~~](l) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

[~~(13)~~](m) carry out the responsibility assigned by Section 26B-1-430 with respect to coordination of services for students with a disability;

[~~(14)~~](n) provide training and educational opportunities for the department's staff;

[~~(15)~~](o) collect child support payments and any other money due to the department;

[~~(16)~~](p) apply the provisions of Title 81, Chapter 6, Child Support, to parents whose child lives out of the home in a department licensed or certified setting;

[~~(17)~~](q) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403, including:

[~~(a)~~](i) designation of interagency teams for each juvenile court district in the state;

[~~(b)~~](ii) delineation of assessment criteria and procedures;

[~~(c)~~](iii) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

[~~(d)~~](iv) provisions for submittal of the plan and periodic progress reports to the court;

[~~(18)~~](r) carry out the responsibilities assigned to the department by statute;

[~~(19)~~](s) as further provided in Subsection (3), examine and audit the expenditures of any public funds provided to a local health department, a local substance abuse authority, a local mental health authority, a local area agency on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies[~~. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, the department may take steps necessary to ensure continuity of services. For purposes of this Subsection (19) "public funds" means the same as that term is defined in Section 26B-5-101~~];

[~~(20)~~](t) in accordance with Subsection 26B-2-104(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

[~~(21)~~](u) within legislative appropriations, promote and develop a system of care and stabilization services:

[~~(a)~~](i) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

[~~(b)~~](ii) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

[~~(i)~~](A) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

[~~(ii)~~](B) centralize department operations, including procurement and contracting;

[~~(iii)~~](C) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

[~~(iv)~~](D) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

[~~(v)~~](E) create performance-based measures for the provision of services; and

[~~(vi)~~](F) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

[~~(22)~~](v) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

[~~(a)~~](i) under this title;

[~~(b)~~](ii) by the department; or

[~~(c)~~](iii) by an agency or division within the department;

[~~(23)~~](w) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

[~~(24)~~](x) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

[~~(25)~~](y) to the extent authorized under state law or required by federal law, promote and protect the health and wellness of the people within the state;

[~~(26)~~](z) establish, maintain, and enforce rules authorized under state law or required by federal law to promote and protect the public health or to prevent disease and illness;

[~~(27)~~](aa) investigate the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

[~~(28)~~](bb) provide for the detection and reporting of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

[~~(29)~~](cc) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

[~~(30)~~](dd) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

[~~(31)~~](ee) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

[~~(32)~~](ff) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

[~~(33)~~](gg) establish laboratory services necessary to support public health programs and medical services in the state;

[~~(34)~~](hh) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

[~~(35)~~](ii) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

[~~(36)~~](jj) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Utah Office for Victims of Crime to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

[~~(37)~~](kk) investigate the causes of maternal and infant mortality;

[~~(38)~~](ll) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;

[~~(39)~~](mm) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;

[~~(40)~~](nn) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

[~~(41)~~](oo) conduct health planning for the state;

[~~(42)~~](pp) monitor the costs of health care in the state and foster price competition in the health care delivery system;

[~~(43)~~](qq) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;

[~~(44)~~](rr) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process;

[~~(45)~~](ss) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

[~~(46)~~](tt) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required by the agency or under this Title 26B, Utah Health and Human Services Code;

[~~(47)~~](uu) oversee public education vision screening as described in Section 53G-9-404;

[~~(48)~~](vv) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue Alert; and

[~~(49)~~](ww) as allowed by state and federal law, share data with the Office of Families that is relevant to the duties described in Subsection 26B-1-243(4), which may include, to the extent available:

[~~(a)~~](i) demographic data concerning family structures in the state; and

[~~(b)~~](ii) data regarding the family structure associated with:

[~~(i)~~](A) suicide, depression, or anxiety; and

[~~(ii)~~](B) various health outcomes.

(3) (a) Under Subsection (2)(s), those local departments, local authorities, area agencies, and any person or entity that contracts with or receives funds from those departments, authorities, or area agencies, shall provide the department with any information the department considers necessary.

(b) The department is further authorized to issue directives resulting from any examination or audit to a local department, local authority, an area agency, and persons or entities that contract with or receive funds from those departments, authorities, or agencies with regard to any public funds.

(c) If the department determines that it is necessary to withhold funds from a local health department, local mental health authority, or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, the department may take steps necessary to ensure continuity of services.

Section 3. Section 26B-1-203 is amended to read:

26B-1-203. Executive director -- Appointment -- Compensation -- Qualifications -- Deputy directors required -- Responsibilities.

(1) (a) The chief administrative officer of the department is the executive director, who shall be appointed by the governor with the advice and consent of the Senate.

(b) The executive director may be removed at the will of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall be experienced in administration, management, and coordination of complex organizations.

(3) [~~If the executive director is not a physician, the~~]The executive director or a deputy director shall:

(a) be informed and experienced in public health;

(b) have successfully completed at least a master's degree of public health or public administration from an accredited school of public health or from an accredited program of public health or public administration; and

(c) (i) have at least five years of professional full-time experience, of which at least two years have been in public health in a senior

level administrative capacity; or

(ii) have at least five years of professional full-time experience in public health programs, of which at least three years have been in a senior level administrative capacity.

(4) [~~The~~]If the executive director is not a physician, the executive director shall appoint a deputy director of the department who[~~:~~]

[~~(a) shall have successfully completed at least one year's graduate work in an accredited school of public health or an accredited program of public health;~~]

[~~(b) shall have at least five years of professional full-time experience in public health programs; and~~]

[~~(c)~~] is a physician licensed to practice medicine in the state with experience in public health.

(5) The executive director is responsible for:

(a) administration and supervision of the department;

(b) coordination of policies and program activities conducted through the boards, divisions, and offices of the department;

(c) approval of the proposed budget of each board, division, and office within the department; and

(d) other duties as the Legislature or governor shall assign to the executive director.

(6) The executive director may appoint deputy or assistant directors to assist the executive director in carrying out the department's responsibilities.

Section 4. Section 26B-1-204 is amended to read:

26B-1-204. Creation of boards, divisions, and offices -- Power to establish committees.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

(2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

(c) Health Facility Committee;

(d) Health Data Committee;

(e) Child Care Provider Licensing Committee;

(f) Adult Autism Treatment Program Advisory Committee;

(g) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and

(h) any boards, councils, or committees that are created by statute in this title.

(3) The following divisions and offices are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality and Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in Chapter 5, Health Care - Substance Use and Mental Health;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities;

(c) relating to community health and well-being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services;

(v) the Office of Families; and

(vi) the Office of Recovery Services; and

(d) relating to clinical services[~~, the Division of Health Access.~~]:

(i) the Division of Correctional Health Services; and

(ii) the Office of the Medical Examiner.

(4) (a) The executive director may:

(i) establish offices to facilitate management of the department as required by, and in accordance with this title[~~.~~]; or

(ii) establish one or more committees within the department if each established committee is:

(A) essential to the operation of the department; or

(B) required to review or discuss protected health information or other similarly sensitive materials to accomplish the committee's responsibilities.

(b) If the executive director creates a committee under Subsection (4)(a)(ii), within six months after the executive director creates the committee, the executive director shall notify the Health and Human Services Interim Committee, in writing, of:

(i) the creation of the committee;

(ii) the committee's responsibilities; and

(iii) the membership of the committee.

(c) The executive director shall provide a report to the Health and Human Services Interim Committee on or before August 1 each year that describes each ongoing, operational committee created by the executive director under Subsection (4)(a)(ii).

[~~(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in this title.~~]

Section 5. Section 26B-1-211 is amended to read:

26B-1-211. Background checks for employees -- Access to abuse and neglect information to screen employees and volunteers.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the department may require a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring of:

(a) all staff, contracted employees, and volunteers who:

(i) have access to protected health information or personal identifying information;

(ii) have direct access to patients, children, or vulnerable adults as defined in Section 26B-2-101;

(iii) work in areas of privacy and data security;

(iv) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; and

(v) perform audit functions, whether internal or external, on behalf of the department; and

(b) job applicants who have been offered a position with the department and the job requirements include those described in Subsection (2)(a).

(3) Beginning July 1, 2022, for the purposes described in Subsection (2), the department may also access:

(a) the department's Management Information System created in Section 80-2-1001;

(b) the department's Licensing Information System created in Section 80-2-1002;

(c) the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;[~~ and~~]

(d) juvenile court records under Subsection 80-3-404(4)[~~-~~]; and

(e) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions.

(4) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to the department upon request.

(5) The department shall require that an individual required to submit to a background check under Subsection (4) provide a signed waiver on a form provided by the department that meets the requirements of Subsection 53-10-108(4).

(6) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the department shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

(7) The department is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

(8) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how the department will assess the employment status of an individual upon receipt of background information;

(b) determine when an individual would be disqualified from holding a position based on:

(i) the type of crimes and the severity of those crimes; or

(ii) one or more substantiated or supported findings of abuse, neglect, or exploitation; and

(c) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section 6. Section 26B-1-213 is amended to read:

26B-1-213. Department and committee rules and proceedings.

(1) (a) Except in areas [~~-~~]subject to concurrence between the department and a committee created under this title[~~, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code~~], the department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

(b) If the adoption of rules under a provision of this title is subject to concurrence between the department and a committee created under this title and no concurrence can be reached, the department has final authority to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

(c) When the provisions of this title require concurrence between the department and a committee created under this title:

(i) the department shall report to and update the committee on a regular basis related to matters requiring concurrence; and

(ii) the committee shall review the report submitted by the department under this Subsection (1)(c) and shall:

(A) concur with the report; or

(B) provide a reason for not concurring with the report and provide an alternative recommendation to the department.

(2) Rules shall have the force and effect of law and may deal with matters which materially affect the security of health or the preservation and improvement of public health in the state, and any matters as to which jurisdiction is conferred upon the department by this title.

(3) Every rule adopted by the department, or by the concurrence of the department and a committee established under Section 26B-1-

204, is subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and is effective at the time and in the manner provided in that act.

(4) If, at the next general session of the Legislature following the filing of a rule with the legislative research director, the Legislature passes a bill disapproving such rule, the rule shall be null and void.

(5) The department, or the department in concurrence with a committee created under Section 26B-1-204, may not adopt a rule identical to a rule disapproved under Subsection (4) of this section before the beginning of the next general session of the Legislature following the general session at which the rule was disapproved.

(6) The department and all committees, boards, divisions, and offices created under this title[~~, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code,~~] shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in any adjudicative proceedings.

(7) (a) The department may hold hearings, administer oaths, subpoena witnesses, and take testimony in matters relating to the exercise and performance of the powers and duties vested in or imposed upon the department.

(b) The department may, at the department's sole discretion, contract with any other agency or department of the state to conduct hearings in the name of the department.

Section 7. Section 26B-1-216 is amended to read:

26B-1-216. Powers and duties of the department -- Quality and design.

The department shall:

(1) monitor and evaluate the quality of services provided by the department including:

(a) in accordance with Part 5, Fatality Review, monitoring, reviewing, and making recommendations relating to a fatality review;

(b) overseeing the duties of the child protection ombudsman appointed under Section 80-2-1104; and

(c) conducting internal evaluations of the quality of services provided by the department and service providers contracted with the department;

(2) conduct investigations described in Section 80-2-703;

(3) develop an integrated human services system and implement a system of care by:

(a) designing and implementing a comprehensive continuum of services for individuals who receive services from the department or a service provider contracted with the department;

(b) establishing and maintaining department contracts with public and private service providers;

(c) establishing standards for the use of service providers who contract with the department;

(d) coordinating a service provider network to be used within the department to ensure individuals receive the appropriate type of services;

(e) centralizing the department's administrative operations; and

(f) integrating, analyzing, and applying department-wide data and research to monitor the quality, effectiveness, and outcomes of services provided by the department;[~~ and~~]

(4) (a) coordinate with the Driver License Division, the Department of Public Safety, and any other law enforcement agency to test and provide results of blood or urine samples submitted to the department as part of an investigation for a driving offense that may have occurred and there is reason to believe the individual's blood or urine may contain:

(i) alcohol; or

(ii) other drugs or substances that the department reasonably determines could impair an individual or that is illegal for the individual to possess or consume; and

(b) ensure that the results of the test described in Subsection (4)(a) are provided through a secure medium and in a timely manner[~~.~~];

(5) use available data to structure programs and activities to ensure populations have access to health and wellness education, information, resources, and services;

(6) efficiently use funding and resources to promote health and safety; and

(7) include an understanding of the impacted populations and supporting data in staff training.

Section 8. Section 26B-1-219 is amended to read:

26B-1-219. Requirements for issuing, recommending, or facilitating rationing criteria.

(1) As used in this section:

(a) "Health care resource" means:

(i) health care as defined in Section 78B-3-403;

(ii) a prescription drug as defined in Section 58-17b-102;

(iii) a prescription device as defined in Section 58-17b-102;

(iv) a nonprescription drug as defined in Section 58-17b-102; or

(v) any supply or treatment that is intended for use in the course of providing health care as defined in Section 78B-3-403.

(b) (i) "Rationing criteria" means any requirement, guideline, process, or recommendation regarding:

(A) the distribution of a scarce health care resource; or

(B) qualifications or criteria for a person to receive a scarce health care resource.

(ii) "Rationing criteria" includes crisis standards of care with respect to any health care resource.

(c) "Scarce health care resource" means a health care resource:

(i) for which the need for the health care resource in the state or region significantly exceeds the available supply of that health care resource in that state or region;

(ii) that, based on the circumstances described in Subsection (1)(c)(i), is distributed or provided using written requirements, guidelines, processes, or recommendations as a factor in the decision to distribute or provide the health care resource; and

(iii) that the federal government has allocated to the state to distribute.

(2) (a) On or before July 1, 2022, the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure that the department will follow to adopt, modify, require, facilitate, or recommend rationing criteria.

(b) Beginning July 1, 2022, the department may not adopt, modify, require, facilitate, or recommend rationing criteria unless the department follows the procedure established by the department under Subsection (2)(a).

(3) The procedures developed by the department under Subsection (2) shall include, at a minimum:

(a) a requirement that the department notify the following individuals in writing before rationing criteria are issued, are recommended, or take effect:

(i) the Rules Review and General Oversight Committee created in Section 36-35-102;

(ii) the governor or the governor's designee;

(iii) the president of the Senate or the president's designee;

(iv) the speaker of the House of Representatives or the speaker's designee;

(v) the executive director or the executive director's designee; and

(vi) if rationing criteria affect hospitals in the state, a representative of an association representing hospitals throughout the state, as designated by the executive director; and

(b) procedures for an emergency circumstance which shall include, at a minimum:

(i) a description of the circumstances under which emergency procedures described in this Subsection (3)(b) may be used; and

(ii) a requirement that the department notify the individuals described in Subsections (3)(a)(i) through (vi) as soon as practicable, but no later than 48 hours after the rationing criteria take effect.

[~~(4) (a) Within 30 days after March 22, 2022, the department shall send to the Rules Review and General Oversight Committee all rationing criteria that:~~]

[~~(i) were adopted, modified, required, facilitated, or recommended by the department prior to March 22, 2022; and~~]

[~~(ii) on March 22, 2022, were in effect and in use to distribute or qualify a person to receive scarce health care resources.~~]

[~~(b) During the 2022 interim, the Rules Review and General Oversight Committee shall, under Subsection 36-35-102(3)(e), review each of the rationing criteria submitted by the department under this Subsection (4).~~]

[~~(5)~~](4) The requirements described in this section and rules made under this section shall apply regardless of whether rationing criteria:

(a) have the force and effect of law, or is solely advisory, informative, or descriptive;

(b) are carried out or implemented directly or indirectly by the department or by other individuals or entities; or

(c) are developed solely by the department or in collaboration with other individuals or entities.

[~~(6)~~](5) This section:

(a) may not be suspended under Section 53-2a-209 or any other provision of state law relating to a state of emergency;

(b) does not limit a private entity from developing or implementing rationing criteria; and

(c) does not require the department to adopt, modify, require, facilitate, or recommend rationing criteria that the department does not determine to be necessary or appropriate.

[~~(7)~~](6) Subsection (2) does not apply to rationing criteria that are adopted, modified, required, facilitated, or recommended by the department:

(a) through the regular, non-emergency rulemaking procedure described in Section 63G-3-301;

(b) if the modification is solely to correct a technical error in rationing criteria such as correcting obvious errors and inconsistencies including those involving punctuation, capitalization, cross references, numbering, and wording;

(c) to the extent that compliance with this section would result in a direct violation of federal law;

(d) that are necessary for administration of the Medicaid program;

(e) if state law explicitly authorizes the department to engage in rulemaking to establish rationing criteria; or

(f) if rationing criteria are authorized directly through a general appropriation bill that is validly enacted.

Section 9. Section 26B-1-235 is amended to read:

26B-1-235. Request for proposal required for non-state supplied services.

[~~(1) As used in this section:~~]

[~~(a) "AED" means the same as that term is defined in Section 26B-4-325.~~]

[~~(b) "Office" means the Office of Emergency Medical Services and Preparedness within the department.~~]

[~~(c) "Sudden cardiac arrest" means the same as that term is defined in Section 26B-4-325.~~]

[~~(2)~~](1) Funds provided to the department through Sections 51-9-201 and 59-14-204 to be used to provide services, shall be awarded to non-governmental entities based on a competitive process consistent with Title 63G, Chapter 6a, Utah Procurement Code.

[~~(3)~~](2) Beginning July 1, 2010, and not more than every five years thereafter, the department shall issue requests for proposals for new or renewing contracts to award funding for programs under Subsection (1).

Section 10. Section 26B-1-334 is amended to read:

26B-1-334. Licensed Provider Assessment Fund -- Creation -- Deposits -- Uses.

(1) There is created an expendable special revenue fund known as the "Licensed Provider Assessment Fund" consisting of:

(a) the assessments collected under, and any interest and penalties levied with the administration of:

(i) [~~Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection Act~~]Chapter 2, Part 2, Health Care Facility Licensing and Inspection;

(ii) [~~Title 26B, Chapter 1, Part 4, Child Care Licensing~~]Chapter 2, Part 1, Human Services Programs and Facilities; and

(iii) [~~Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities~~]Chapter 2, Part 4, Child Care Licensing;

(b) money appropriated or otherwise made available by the Legislature; and

(c) any interest earned on the fund.

(2) Money in the fund may only be used by the department:

(a) for upgrades to and maintenance of licensing databases and applications;

(b) for training for providers and staff;

(c) to assist individuals during a facility shutdown; or

(d) for administrative expenses, if the administrative expenses for the fiscal year do not exceed 3% of the money deposited into the fund during the fiscal year.

Section 11. Section 26B-3-804 is amended to read:

26B-3-804. Medicaid ambulance service provider adjustment under fee-for-service rates.

The division shall, if the assessment imposed by this part is approved by the Centers for Medicare and Medicaid Services, for fee-for-service rates effective on or after July 1, 2015, reimburse an ambulance service provider in an amount up to the Emergency Medical Services Ambulance Rates adopted annually by the [~~department~~]Department of Public Safety.

Section 12. Section 26B-4-301 is amended to read:

26B-4-301. Definitions.

As used in this part:

(1) "Committee" means the Primary Care Grant Committee described in Section 26B-1-410.

(2) "Community based organization":

(a) means a private entity; and

(b) includes for profit and not for profit entities.

(3) "Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or profession and enables that system, agency, or profession to work effectively in cross-cultural situations.

[~~(4) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the office.~~]

[~~(5)~~](4) "Health literacy" means the degree to which an individual has the capacity to obtain, process, and understand health information and services needed to make appropriate health decisions.

[~~(6)~~](5) "Institutional capacity" means the ability of a community based organization to implement public and private contracts.

[~~(7)~~](6) "Medically underserved population" means the population of an urban or rural area or a population group that the committee determines has a shortage of primary health care.

[~~(8) "Office" means the Office of Emergency Medical Services and Preparedness within the department.~~]

[~~(9)~~](7) "Pregnancy support services" means services that:

(a) encourage childbirth instead of voluntary termination of pregnancy; and

(b) assist pregnant women, or women who may become pregnant, to choose childbirth whether they intend to parent or select adoption for the child.

[~~(10)~~](8) "Primary care grant" means a grant awarded by the department under Subsection 26B-4-310(1).

[~~(11)~~](9) (a) "Primary health care" means:

(i) basic and general health care services given when a person seeks assistance to screen for or to prevent illness and disease, or for simple and common illnesses and injuries; and

(ii) care given for the management of chronic diseases.

(b) "Primary health care" includes:

(i) services of physicians, nurses, physician's assistants, and dentists licensed to practice in this state under Title 58, Occupations and Professions;

(ii) diagnostic and radiologic services;

(iii) preventive health services including perinatal services, well-child services, and other services that seek to prevent disease or its consequences;

(iv) emergency medical services;

(v) preventive dental services; and

(vi) pharmaceutical services.

Section 13. Section 26B-4-406 is amended to read:

26B-4-406. Voluntary participation.

(1) Sections 26B-4-406 through 26B-4-411 do not create a duty or standard of care for:

(a) a person to be trained in the use and storage of epinephrine auto-injectors or stock albuterol; or

(b) except as provided in Subsection (5), a qualified epinephrine auto-injector entity to store epinephrine auto-injectors or a qualified stock albuterol entity to store stock albuterol on its premises.

(2) Except as provided in Subsections (3) and (5), a decision by a person to successfully complete a training program under Section 26B-4-407 or 26B-4-408 and to make emergency epinephrine auto-injectors or stock albuterol available under the provisions of Sections 26B-4-406 through 26B-4-411 is voluntary.

(3) A school, school board, or school official may not prohibit or dissuade a teacher or other school employee at a primary or secondary school in the state, either public or private, from:

(a) completing a training program under Section 26B-4-407 or 26B-4-408;

(b) possessing or storing an epinephrine auto-injector or stock albuterol on school property if:

(i) the teacher or school employee is a qualified adult; and

(ii) the possession and storage is in accordance with the training received under Section 26B-4-407 or 26B-4-408; or

(c) administering an epinephrine auto-injector or stock albuterol to any person, if:

(i) the teacher or school employee is a qualified adult; and

(ii) the administration is in accordance with the training received under Section 26B-4-407 or 26B-4-408.

(4) A school, school board, or school official may encourage a teacher or other school employee to volunteer to become a qualified adult.

(5) (a) Each primary or secondary school in the state, both public and private, shall make an emergency epinephrine auto-injector available to any teacher or other school employee who:

(i) is employed at the school; and

(ii) is a qualified adult.

(b) This section does not require a school described in Subsection (5)(a) to keep more than one emergency epinephrine auto-injector on the school premises, so long as it may be quickly accessed by a teacher or other school employee, who is a qualified adult, in the event of an emergency.

(6) (a) Each primary or secondary school in the state, both public and private, may make stock albuterol available to any school employee who:

(i) is employed at the school; and

(ii) is a qualified adult.

(b) A qualified adult may administer stock albuterol to a student who:

(i) has a diagnosis of asthma by a health care provider;

(ii) except as provided in Subsection (6)(d), has a current asthma action plan on file with the school; and

(iii) except as provided in Subsection (6)(d), is showing symptoms of an asthma emergency as described in the student's asthma action plan.

(c) This Subsection (6) may not be interpreted to relieve a student's parent or guardian of providing a student's medication or create an expectation that a school will have stock albuterol available.

(d) A qualified adult may administer stock albuterol to any student who appears to be experiencing respiratory distress or an asthma emergency on the qualified adult's training under Section 26-4-408 and regardless of whether a current asthma plan is on file.

(7) No school, school board, or school official shall retaliate or otherwise take adverse action against a teacher or other school employee for:

(a) volunteering under Subsection (2);

(b) engaging in conduct described in Subsection (3); or

(c) failing or refusing to become a qualified adult.

Section 14. Section 26B-4-409 is amended to read:

26B-4-409. Authority to obtain and use an epinephrine auto-injector or stock albuterol.

(1) The school district physician, a department health care provider, the medical director of the local health department, or the local emergency medical services director may provide a prescription for the following if requested by a qualified adult, who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse:

(a) epinephrine auto-injectors for use in accordance with this part; or

(b) stock albuterol for use in accordance with this part.

(2) (a) A qualified adult may obtain an epinephrine auto-injector for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(b) A qualified adult may obtain stock albuterol for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(3) A qualified adult:

(a) may immediately administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician or physician assistant is not immediately available; and

(b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-407 after administering an epinephrine auto-injector.

(4) (a) If a school nurse is not immediately available, a qualified adult[~~:~~]

[~~(a)~~] may immediately administer stock albuterol to an individual who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan[~~; and~~].

(b) If a school nurse is not immediately available and an individual does not have a current asthma action plan described in Subsection (4)(a), a qualified adult may administer stock albuterol to the individual if the qualified adult identifies, based on the training received under Section 26B-4-408, that the individual is experiencing an asthma emergency.

(c) A qualified adult that administers stock albuterol under this Subsection (4) shall initiate appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-408 after administering stock albuterol.

(5) (a) A qualified entity that complies with Subsection (5)(b) or (c), may obtain a supply of epinephrine auto-injectors or stock albuterol, respectively, from a pharmacist under Section 58-17b-1004, or a pharmacy intern under Section 58-17b-1004 for:

(i) storing:

(A) the epinephrine auto-injectors on the qualified epinephrine auto-injector entity's premises; and

(B) stock albuterol on the qualified stock albuterol entity's premises; and

(ii) use by a qualified adult in accordance with Subsection (3) or (4).

(b) A qualified epinephrine auto-injector entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of an epinephrine auto-injector available to a qualified adult; and

(ii) store epinephrine auto-injectors in accordance with the standards established by the department in Section 26B-4-411.

(c) A qualified stock albuterol entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of stock albuterol available to a qualified adult; and

(ii) store stock albuterol in accordance with the standards established by the department in Section 26B-4-411.

Section 15. Section 26B-4-501 is amended to read:

26B-4-501. Definitions.

As used in this part:

(1) "Controlled substance" means the same as that term is defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) "Critical access hospital" means a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2)[~~-(1998)~~].

(3) "Designated facility" means:

(a) a freestanding urgent care center;

(b) a general acute hospital; or

(c) a critical access hospital.

(4) "Dispense" means the same as that term is defined in Section 58-17b-102.

(5) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(6) "Emergency contraception" means the use of a substance, approved by the United States Food and Drug Administration, to prevent pregnancy after sexual intercourse.

(7) "Freestanding urgent care center" means the same as that term is defined in Section 59-12-801.

(8) "General acute hospital" means the same as that term is defined in Section 26B-2-201.

(9) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(10) "Health care provider" means:

(a) a physician, as defined in Section 58-67-102;

(b) an advanced practice registered nurse, as defined in Section 58-31b-102;

(c) a physician assistant, as defined in Section 58-70a-102; or

(d) an individual licensed to engage in the practice of dentistry, as defined in Section 58-69-102.

(11) "Increased risk" means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.

(12) "Opiate" means the same as that term is defined in Section 58-37-2.

(13) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the diagnosis or treatment of an opiate-related drug overdose.

(14) "Opiate-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

(15) "Overdose outreach provider" means:

(a) a law enforcement agency;

(b) a fire department;

(c) an emergency medical service provider, as defined in Section [~~26B-4-101~~]53-2d-101;

(d) emergency medical service personnel, as defined in Section [~~26B-4-101~~]53-2d-101;

(e) an organization providing treatment or recovery services for drug or alcohol use;

(f) an organization providing support services for an individual, or a family of an individual, with a substance use disorder;

(g) a certified peer support specialist, as defined in Section 26B-5-610;

(h) an organization providing substance use or mental health services under contract with a local substance abuse authority, as defined in Section 26B-5-101, or a local mental health authority, as defined in Section 26B-5-101;

(i) an organization providing services to the homeless;

(j) a local health department;

(k) an individual licensed to practice under:

(i) Title 58, Chapter 17b, Pharmacy Practice Act;

(ii) Title 58, Chapter 60, Part 2, Social Worker Licensing Act; or

(iii) Title 58, Chapter 60, Part 5, Substance Use Disorder Counselor Act; or

(l) an individual.

(16) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

(17) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(18) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

(19) "Physician" means the same as that term is defined in Section 58-67-102.

(20) "Practitioner" means:

(a) a physician; or

(b) any other person who is permitted by law to prescribe emergency contraception.

(21) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(22) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(23) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses, that may result in a pregnancy.

(24) "Victim of sexual assault" means any person who presents to receive, or receives, medical care in consequence of being subjected to sexual assault.

Section 16. Section 26B-5-101 is amended to read:

26B-5-101. Chapter definitions.

As used in this chapter:

(1) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect the person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.

(2) "Director" means the director appointed under Section 26B-5-103.

(3) "Division" means the Division of Integrated Healthcare created in Section [~~26B-1-1202~~]26B-3-102.

(4) "Local mental health authority" means a county legislative body.

(5) "Local substance abuse authority" means a county legislative body.

(6) "Mental health crisis" means:

(a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious danger to the individual's health or well-being; or

(ii) a danger to the health or well-being of others; or

(b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.

(7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.

(8) "Mental health crisis services" means an array of services provided to an individual who experiences a mental health crisis, which may include:

(a) direct mental health services;

(b) on-site intervention provided by a mobile crisis outreach team;

(c) the provision of safety and care plans;

(d) prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis;

(e) referrals to other community resources;

(f) local mental health crisis lines; and

(g) the statewide mental health crisis line.

(9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(11) "Office" means the Office of Substance Use and Mental Health created in Section 26B-5-102.

(12) (a) "Public funds" means federal money received from the department, and state money appropriated by the Legislature to the department, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance use or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services under substance use or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.

(13) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(14) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(15) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(16) "System of care" means a broad, flexible array of services and supports that:

(a) serve a child with or who is at risk for complex emotional and behavioral needs;

(b) are community based;

(c) are informed about trauma;

(d) build meaningful partnerships with families and children;

(e) integrate service planning, service coordination, and management across state and local entities;

(f) include individualized case planning;

(g) provide management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

(h) are guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

[~~(17) "Targeted case management" means a service that assists Medicaid recipients in a target group to gain access to needed medical, social, educational, and other services.~~]

Section 17. Section 26B-5-102 is amended to read:

26B-5-102. Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.

(1) (a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(c) There is created the Office of Substance Use and Mental Health within the division.

(d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance use by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance use;

(iii) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance use disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance use, mental health, and physical health;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;

(vii) evaluate the effectiveness of programs described in this Subsection (2);

(viii) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member;

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 26B-5-313; and

(v) to the extent authorized and in accordance with statute, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) create a certification for [~~targeted case management~~]case managers;

(B) establish training and certification requirements;

(C) specify the types of services each certificate holder is qualified to provide;

(D) specify the type of supervision under which a certificate holder is required to operate; and

(E) specify continuing education and other requirements for maintaining or renewing certification;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance use and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance use and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance use services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(h); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

(k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);

(l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism in accordance with the metrics and requirements described in Section 63M-7-102;

(m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division to provide treatment;

(n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);

(o) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; and

(p) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section [~~53G-9-702~~]53G-9-703, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 18. Section 26B-5-315 is amended to read:

26B-5-315. Declaration for mental health treatment -- Form.

A declaration for mental health treatment shall be in substantially the following form:

DECLARATION FOR MENTAL HEALTH TREATMENT

I, _____, being an adult of sound mind, willfully and voluntarily make this declaration for mental health treatment, to be followed if it is determined by a court or by two physicians that my ability to receive and evaluate information effectively or to communicate my decisions is impaired to such an extent that I lack the capacity to refuse or consent to mental health treatment. "Mental health treatment" means convulsive treatment, treatment with psychoactive medication, and admission to and retention in a mental health facility for a period up to 17 days.

I understand that I may become incapable of giving or withholding informed consent for mental health treatment due to the symptoms of a diagnosed mental disorder. These symptoms may include:

_____

_____

PSYCHOACTIVE MEDICATIONS

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding psychoactive medications are as follows:

_____ I consent to the administration of the following medications:

_____

in the dosages:

_____ considered appropriate by my attending physician.

_____ approved by _____

_____ as I hereby direct: _____

_____ I do not consent to the administration of the following medications:

_____

_____

_____

CONVULSIVE TREATMENT

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding convulsive treatment are as follows:

_____ I consent to the administration of convulsive treatment of the following type:

_____, the number of treatments to be:

_____ determined by my attending physician.

_____ approved by _____

_____ as follows: _____

_____ I do not consent to the administration of convulsive treatment.

My reasons for consenting to or refusing convulsive treatment are as follows;

_____
_____
_____

ADMISSION TO AND RETENTION IN A MENTAL HEALTH FACILITY

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding admission to and retention in a mental health facility are as follows:

_____ I consent to being admitted to the following mental health facilities:

_____

I may be retained in the facility for a period of time:

_____ determined by my attending physician.

_____ approved by _____

_____ no longer than _____

This directive cannot, by law, provide consent to retain me in a facility for more than 17 days.

ADDITIONAL REFERENCES OR INSTRUCTIONS

_____
_____
_____

ATTORNEY-IN-FACT

I hereby appoint:

NAME _____

ADDRESS _____

TELEPHONE # _____

to act as my attorney-in-fact to make decisions regarding my mental health treatment if I become incapable of giving or withholding informed consent for that treatment.

If the person named above refuses or is unable to act on my behalf, or if I revoke that person's authority to act as my attorney-in-fact, I authorize the following person to act as my alternative attorney-in-fact:

NAME _____

ADDRESS _____

TELEPHONE # _____

My attorney-in-fact is authorized to make decisions which are consistent with the wishes I have expressed in this declaration. If my wishes are not expressed, my attorney-in-fact is to act in good faith according to what he or she believes to be in my best interest.

_____

(Signature of Declarant/Date)

AFFIRMATION OF WITNESSES

We affirm that the declarant is personally known to us, that the declarant signed or acknowledged the declarant's signature on this declaration for mental health treatment in our presence, that the declarant appears to be of sound mind and does not appear to be under duress, fraud, or undue influence. Neither of us is the person appointed as attorney-in-fact by this document, the attending physician, an employee of the attending physician, an employee of the Office of Substance [~~Abuse~~]Use and Mental Health within the Department of Health and Human Services, an employee of a local mental health authority, or an employee of any organization that contracts with a local mental health authority.

Witnessed By:

_____
_____

(Signature of Witness/Date) (Printed Name of Witness)

_____
_____

(Signature of Witness/Date) (Printed Name of Witness)

ACCEPTANCE OF APPOINTMENT AS ATTORNEY-IN-FACT

I accept this appointment and agree to serve as attorney-in-fact to make decisions about mental health treatment for the declarant. I understand that I have a duty to act consistently with the desires of the declarant as expressed in the declaration. I understand that this document gives me authority to make decisions about mental health treatment only while the declarant is incapable as determined by a court or two physicians. I understand that the declarant may revoke this appointment, or the declaration, in whole or in part, at any time and in any manner, when the declarant is not incapable.

_____

_____

(Signature of Attorney-in-fact/Date) (Printed name)

_____

_____

(Signature of Alternate Attorney-in-fact/Date) (Printed name)

NOTICE TO PERSON MAKING A
DECLARATION FOR MENTAL HEALTH TREATMENT

This is an important legal document. It is a declaration that allows, or disallows, mental health treatment. Before signing this document, you should know that:

(1) this document allows you to make decisions in advance about three types of mental health treatment: psychoactive medication, convulsive therapy, and short-term (up to 17 days) admission to a mental health facility;

(2) the instructions that you include in this declaration will be followed only if a court or two physicians believe that you are incapable of otherwise making treatment decisions. Otherwise, you will be considered capable to give or withhold consent for treatment;

(3) you may also appoint a person as your attorney-in-fact to make these treatment decisions for you if you become incapable. The person you appoint has a duty to act consistently with your desires as stated in this document or, if not stated, to make decisions in accordance with what that person believes, in good faith, to be in your best interest. For the appointment to be effective, the person you appoint must accept the appointment in writing. The person also has the right to withdraw from acting as your attorney-in-fact at any time;

(4) this document will continue in effect for a period of three years unless you become incapable of participating in mental health treatment decisions. If this occurs, the directive will continue in effect until you are no longer incapable;

(5) you have the right to revoke this document in whole or in part, or the appointment of an attorney-in-fact, at any time you have not been determined to be incapable. YOU MAY NOT REVOKE THE DECLARATION OR APPOINTMENT WHEN YOU ARE CONSIDERED INCAPABLE BY A COURT OR TWO PHYSICIANS. A revocation is effective when it is communicated to your attending physician or other provider; and

(6) if there is anything in this document that you do not understand, you should ask an attorney to explain it to you. This declaration is not valid unless it is signed by two qualified witnesses who are personally known to you and who are present when you sign or acknowledge your signature.

Section 19. Section 26B-5-319 is amended to read:

26B-5-319. Receipt of gift and personal property related to the transfer of persons from other institutions.

(1) The division may take and hold by gift, devise, or bequest real and personal property required for the use of the state hospital. With the approval of the governor the division may convert that property that is not suitable for the state hospital's use into money or property that is suitable for the state hospital's use.

(2) The state hospital is authorized to receive from any other institution within the department an individual committed to that institution, when a careful evaluation of the treatment needs of the individual and of the treatment programs available at the state hospital indicates that the transfer would be in the interest of that individual.

(3) (a) For the purposes of this Subsection (3), "contributions" means gifts, grants, devises, and donations.

(b) Notwithstanding the provisions of Subsection [~~26B-1-202(10)~~]26B-1-202(2)(j), the state hospital is authorized to receive contributions and deposit the contributions into an interest-bearing restricted special revenue fund. The state treasurer may invest the fund, and all interest will remain in the fund.

(c) (i) Single expenditures from the fund in amounts of $5,000 or less shall be approved by the superintendent.

(ii) Single expenditures exceeding $5,000 must be preapproved by the superintendent and the division director.

(iii) Expenditures described in this Subsection (3) shall be used for the benefit of patients at the state hospital.

(d) Money and interest in the fund may not be used for items normally paid for by operating revenues or for items related to personnel costs without specific legislative authorization.

Section 20. Section 26B-5-331 is amended to read:

26B-5-331. Temporary commitment -- Requirements and procedures -- Rights.

(1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:

(a) a written application that:

(i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and

(ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding the certification, and that the physician, physician assistant, nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or

(b) a peace officer or a mental health officer:

(i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:

(A) the adult has a mental illness; and

(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

(A) is on a form prescribed by the division;

(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;

(C) states the specific nature of the danger;

(D) provides a summary of the observations upon which the statement of danger is based; and

(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.

(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall:

(a) document the change and release the patient; and

(b) if the patient was admitted under Subsection (1)(b), notify the peace officer or mental health officer of the patient's release.

(3) A patient committed under this section may be held for a maximum of 72 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

(a) as described in Section 26B-5-332, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 26B-5-332(4); or

(b) the patient makes a voluntary application for admission.

(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:

(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the adult meets any of the criteria described in Section [~~26B-4-119~~]53-2d-405;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, physician assistant, nurse practitioner, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the adult is present, if the adult is not transported by ambulance;

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section 53-2d-101.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6) (a) The local mental health authority shall inform an adult patient committed under this section of the reason for commitment.

(b) An adult patient committed under this section has the right to:

(i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice; and

(ii) see and communicate with an attorney.

(7) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.

(b) This section does not create a special duty of care.

(8) (a) A local mental health authority shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the local mental health authority's custody, regardless of whether the individual is discharged by being released, taken into a peace officer's protective custody, transported to a medical facility or other facility, or other circumstances.

(b) Discharge instructions provided under Subsection (8)(a) shall include:

(i) a summary of why the individual was committed to the local mental health authority;

(ii) detailed information about why the individual is being discharged from the local mental health authority's custody;

(iii) a safety plan for the individual based on the individual's mental illness or mental or emotional state;

(iv) notification to the individual's primary care provider, if applicable;

(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

(vi) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

(vii) a copy of any psychiatric advance directive presented to the local mental health authority, if applicable;

(viii) information about how to establish a psychiatric advance directive if one was not presented to the local mental health authority;

(ix) as applicable, information about medications that were changed or discontinued during the commitment;

(x) a list of any screening or diagnostic tests conducted during the commitment;

(xi) a summary of therapeutic treatments provided during the commitment;

(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and

(xiii) information about how to contact the local mental health authority if needed.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (8)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) If an individual refuses to accept discharge instructions, the local mental health authority shall document the refusal in the

individual's medical record.

(e) If an individual's discharge instructions include referrals to services under Subsection (8)(b)(v), the local mental health authority shall document those referrals in the individual's medical record.

(f) The local mental health authority shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 21. Section 26B-5-609 is amended to read:

26B-5-609. Department and division duties -- MCOT license creation.

(1) As used in this section:

(a) "Committee" means the Behavioral Health Crisis Response Committee created in Section 63C-18-202.

(b) "Emergency medical service personnel" means the same as that term is defined in Section [~~26B-4-101~~]53-2d-101.

(c) "Emergency medical services" means the same as that term is defined in Section [~~26B-4-101~~]53-2d-101.

(d) "MCOT certification" means the certification created in this part for MCOT personnel and mental health crisis outreach services.

(e) "MCOT personnel" means a licensed mental health therapist or other mental health professional, as determined by the division, who is a part of a mobile crisis outreach team.

(f) "Mental health crisis" means a mental health condition that manifests itself by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious jeopardy to the individual's health or well-being; or

(ii) a danger to others.

(g) (i) "Mental health crisis services" means mental health services and on-site intervention that a person renders to an individual suffering from a mental health crisis.

(ii) "Mental health crisis services" includes the provision of safety and care plans, stabilization services offered for a minimum of 60 days, and referrals to other community resources.

(h) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(i) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that provides mental health crisis services and, based on the individual circumstances of each case, coordinates with local law enforcement, emergency medical service personnel, and other appropriate state or local resources.

(2) To promote the availability of comprehensive mental health crisis services throughout the state, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for MCOT personnel and MCOTs, including:

(a) the standards the division establishes under Subsection (3); and

(b) guidelines for:

(i) credit for training and experience; and

(ii) the coordination of:

(A) emergency medical services and mental health crisis services;

(B) law enforcement, emergency medical service personnel, and mobile crisis outreach teams; and

(C) temporary commitment in accordance with Section 26B-5-331.

(3) (a) The division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the MCOT certification described in Subsection (2); and

(ii) create a statewide MCOT plan that:

(A) identifies statewide mental health crisis services needs, objectives, and priorities; and

(B) identifies the equipment, facilities, personnel training, and other resources necessary to provide mental health crisis services.

(b) The division shall take the action described in Subsection (3)(a) with recommendations from the committee.

(c) The division may delegate the MCOT plan requirement described in Subsection (3)(a)(ii) to a contractor with which the division contracts to provide mental health crisis services.

Section 22. Section 26B-6-210 is amended to read:

26B-6-210. Statewide database -- Restricted use and access.

(1) The division shall maintain a database for reports of vulnerable adult abuse, neglect, or exploitation made pursuant to this part.

(2) The database shall include:

(a) the names and identifying data of the alleged abused, neglected, or exploited vulnerable adult and the alleged perpetrator;

(b) information regarding whether or not the allegation of abuse, neglect, or exploitation was found to be:

(i) supported;

(ii) inconclusive;

(iii) without merit; or

(iv) for reports for which the finding is made before May 5, 2008:

(A) substantiated; or

(B) unsubstantiated; and

(c) any other information that may be helpful in furthering the purposes of this part, as determined by the division.

(3) Information obtained from the database may be used only:

(a) for statistical summaries compiled by the department that do not include names or other identifying data;

(b) where identification of an individual as a perpetrator may be relevant in a determination regarding whether to grant or deny a

license, privilege, or approval made by:

(i) the department;

(ii) the Division of Professional Licensing;

(iii) the Division of Licensing and Background Checks within the department;

(iv) the Bureau of Emergency Medical Services [], within the Department of Public Safety;

(v) any government agency specifically authorized by statute to access or use the information in the database; or

(vi) an agency of another state that performs a similar function to an agency described in Subsections (3)(b)(i) through (iv); or

(c) as otherwise specifically provided by law.

Section 23. Section 26B-6-304 is amended to read:

26B-6-304. Powers and duties of the office.

(1) The office shall:

(a) develop and operate a statewide program to:

(i) educate the public about the role and function of guardians and conservators;

(ii) educate guardians and conservators on:

(A) the duties of a guardian and a conservator; and

(B) standards set by the National Guardianship Association for guardians and conservators; and

(iii) serve as a guardian, conservator, or both for a ward upon appointment by a court when no other person is able and willing to do so and the office petitioned for or agreed in advance to the appointment;

(b) possess and exercise all the powers and duties specifically given to the office by virtue of being appointed as guardian or conservator of a ward, including the power to access a ward's records;

(c) review and monitor the personal and, if appropriate, financial status of each ward for whom the office has been appointed to serve as guardian or conservator;

(d) train and monitor each employee and volunteer, and monitor each contract provider to whom the office has delegated a responsibility for a ward;

(e) retain all court-delegated powers and duties for a ward;

(f) report on the personal and financial status of a ward as required by a court in accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their Property;

(g) handle a ward's funds in accordance with the department's trust account system;

(h) request that the department's audit plan, established pursuant to Section 63I-5-401, include the requirement of an annual audit of all funds and property held by the office on behalf of wards;

(i) maintain accurate records concerning each ward, the ward's property, and office services provided to the ward;

(j) make reasonable and continuous efforts to find a family member, friend, or other person to serve as a ward's guardian or conservator;[~~and~~]

(k) after termination as guardian or conservator, distribute a ward's property in accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their Property[~~.~~]; and

(l) be given accesses to, or provided with, written statements, documents, exhibits, and other items related to an investigation, including private, controlled, or protected medical or financial records of an incapacitated person or a potentially incapacitated person when the records or other items sought are reasonably necessary for the office to conduct an assessment, make an inquiry or search, or reach a determination described in Section 26B-6-305, or to fulfill the office's other duties or responsibilities.

(2) The office may:

(a) petition a court pursuant to Title 75, Chapter 5, Protection of Persons Under Disability and Their Property, to be appointed an incapacitated person's guardian, conservator, or both after conducting a prepetition assessment under Section 26B-6-305;

(b) develop and operate a statewide program to recruit, train, supervise, and monitor volunteers to assist the office in providing guardian and conservator services;

(c) delegate one or more responsibilities for a ward to an employee, volunteer, or contract provider, except as provided in Subsection 26B-6-305(1);

(d) solicit and receive private donations to provide guardian and conservator services under this part; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) effectuate policy; and

(ii) carry out the office's role as guardian and conservator of wards as provided in this chapter.

Section 24. Section 26B-6-602 is amended to read:

26B-6-602. Division responsibility.

The division is responsible:

(1) for the supervision, care, and treatment of persons with an intellectual disability in this state who are committed to the division's jurisdiction under the provisions of this part; and

(2) to evaluate and determine the most appropriate, least restrictive setting for an individual with an intellectual disability within the division's system.

Section 25. Section 26B-7-301 is amended to read:

26B-7-301. Definitions.

As used in this part:

(1) "Bioterrorism" means:

(a) the intentional use of any microorganism, virus, infectious substance, or biological product to cause death, disease, or other

biological malfunction in a human, an animal, a plant, or another living organism in order to influence, intimidate, or coerce the conduct of government or a civilian population; and

(b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic fevers.

(2) "Dangerous public health condition" means any of the following:

(a) cholera;

(b) pneumonic plague;

(c) severe acute respiratory syndrome;

(d) smallpox;

(e) tuberculosis;

(f) any viral hemorrhagic fever;

(g) measles; or

(h) any infection:

(i) that is new, drug resistant, or reemerging;

(ii) that evidence suggests is likely to cause either high mortality or morbidity; and

(iii) only if the relevant legislative body of the county where the infection is located approves as needing containment.

(3) "Diagnostic information" means a clinical facility's record of individuals who present for treatment, including the reason for the visit, chief complaint, presenting diagnosis, final diagnosis, and any pertinent lab results.

(4) "Epidemic or pandemic disease":

(a) means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy; and

(b) includes diseases designated by the department which have the potential to cause serious illness or death.

(5) "Exigent circumstances" means a significant change in circumstances following the expiration of a public health emergency declared in accordance with this title that:

(a) substantially increases the danger to public safety or health relative to the circumstances in existence when the public health emergency expired;

(b) poses an imminent danger to public safety or health; and

(c) was not known or foreseen and could not have been known or foreseen at the time the public health emergency expired.

(6) "First responder" means:

(a) a law enforcement officer as defined in Section 53-13-103;

(b) emergency medical service personnel as defined in Section [~~26B-4-101~~]53-2d-101;

(c) firefighters; and

(d) public health personnel having jurisdiction over the location where an individual subject to an order of restriction is found.

(7) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(8) "Legislative emergency response committee" means the same as that term is defined in Section 53-2a-203.

(9) "Local food" means the same as that term is defined in Section 4-1-109.

(10) (a) "Order of constraint" means an order, rule, or regulation issued in response to a declared public health emergency under this part, that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

(11) "Order of restriction" means an order issued by a department or a district court which requires an individual or group of individuals who are subject to restriction to submit to an examination, treatment, isolation, or quarantine.

(12) (a) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability.

(b) "Public health emergency" includes an illness or health condition resulting from a natural disaster.

(13) "Public health official" means:

(a) the executive director or the executive director's authorized representative; or

(b) the executive director of a local health department or the executive director's authorized representative.

(14) "Reportable emergency illness and health condition" includes the diseases, conditions, or syndromes designated by the department.

(15) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

(16) "Threat to public health" means a situation where a dangerous public health condition could spread to other individuals.

(17) "Subject to restriction" as applied to an individual, or a group of individuals, means the individual or group of individuals could create a threat to public health.

Section 26. Section 26B-8-115 is amended to read:

26B-8-115. Fetal death certificate -- Filing and registration requirements.

(1) (a) A fetal death certificate shall be filed for each fetal death which occurs in this state.

(b) The certificate shall be filed within five days after delivery with the local registrar or as otherwise directed by the state registrar.

(c) The certificate shall be registered if it is completed and filed in accordance with this part.

(2) (a) When a dead fetus is delivered in an institution, the institution administrator or his designated representative shall prepare and file the fetal death certificate.

(b) The attending [~~physician, physician assistant, or certified nurse midwife~~]health care professional shall state in the certificate the cause of death and sign the certificate.

(3) When a dead fetus is delivered outside an institution, the [~~physician or certified nurse midwife~~]health care professional in attendance at or immediately after delivery shall complete, sign, and file the fetal death certificate.

(4) When a fetal death occurs without medical attendance at or immediately after the delivery or when inquiry is required by Part 2, Utah Medical Examiner[~~,~~]:

(a) the medical examiner shall investigate the cause of death; and

(b) the medical examiner or a certified pathologist who performed the fetal autopsy shall prepare and file the certificate of fetal death within five days after [~~taking~~]the medical examiner takes charge of the case.

(5) (a) When a fetal death occurs in a moving conveyance and the dead fetus is first removed from the conveyance in this state or when a dead fetus is found in this state and the place of death is unknown, the death shall be registered in this state.

(b) The place where the dead fetus was first removed from the conveyance or found shall be considered the place of death.

(6) Final disposition of the dead fetus may not be made until the fetal death certificate has been registered.

Section 27. Section 26B-8-118 is amended to read:

26B-8-118. Certificate of early term stillbirth.

(1) As used in this section, "early term stillborn child" means a product of human conception, other than in the circumstances described in Subsection 76-7-301(1), that:

(a) is of at least 16 weeks' gestation but less than 20 weeks' gestation, calculated from the day on which the mother's last normal menstrual period began to the day of delivery; and

(b) is not born alive.

(2) The state registrar shall issue a certificate of early term stillbirth to a parent of an early term stillborn child if:

(a) the parent requests, on a form created by the state registrar, that the state registrar register and issue a certificate of early term stillbirth for the early term stillborn child; and

(b) the parent files with the state registrar:

(i) (A) a signed statement from a [~~physician, or physician assistant if a physician is not in attendance at the delivery,~~]health care professional confirming the delivery of the early term stillborn child; or

(B) an accurate copy of the parent's medical records related to the early term stillborn child; and

(ii) any other record the state registrar determines, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is necessary for accurate recordkeeping.

(3) The certificate of early term stillbirth described in Subsection (2) shall meet all of the format and filing requirements of Section 26B-8-103.

(4) A person who prepares a certificate of early term stillbirth under this section shall leave blank any references to an early term stillborn child's name if the early term stillborn child's parent does not wish to provide a name for the early term stillborn child.

Section 28. Section 26B-9-104 is amended to read:

26B-9-104. Duties of the Office of Recovery Services.

(1) The office has the following duties:

(a) except as provided in Subsection (2), to provide child support services if:

(i) the office has received an application for child support services;

(ii) the state has provided public assistance; or

(iii) a child lives out of the home in the protective custody, temporary custody, or custody or care of the state;

(b) for the purpose of collecting child support, to carry out the obligations of the department contained in:

(i) this chapter;

(ii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;

(iii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and

(iv) Title 81, Chapter 6, Child Support;

(c) to collect money due the department which could act to offset expenditures by the state;

(d) to cooperate with the federal government in programs designed to recover health and social service funds;

(e) to collect civil or criminal assessments, fines, fees, amounts awarded as restitution, and reimbursable expenses owed to the state or any of its political subdivisions, if the office has contracted to provide collection services;

(f) to implement income withholding for collection of child support in accordance with Part 3, Income Withholding in IV-D Cases;

(g) to enter into agreements with financial institutions doing business in the state to develop and operate, in coordination with such financial institutions, a data match system in the manner provided for in Section 26B-9-208;

(h) to establish and maintain the state case registry in the manner required by the Social Security Act, 42 U.S.C. Sec. 654a, which shall

include a record in each case of:

(i) the amount of monthly or other periodic support owed under the order, and other amounts, including arrearages, interest, late payment penalties, or fees, due or overdue under the order;

(ii) any amount described in Subsection (1)(h)(i) that has been collected;

(iii) the distribution of collected amounts;

(iv) the birth date of any child for whom the order requires the provision of support; and

(v) the amount of any lien imposed with respect to the order pursuant to this part;

(i) to contract with the Department of Workforce Services to establish and maintain the new hire registry created under Section 35A-7-103;

(j) to determine whether an individual who has applied for or is receiving cash assistance or Medicaid is cooperating in good faith with the office as required by Section 26B-9-213;

(k) to finance any costs incurred from collections, fees, General Fund appropriation, contracts, and federal financial participation;[~~and~~]

(l) to provide notice to a noncustodial parent in accordance with Section 26B-9-207 of the opportunity to contest the accuracy of allegations by a custodial parent of nonpayment of past-due child support, prior to taking action against a noncustodial parent to collect the alleged past-due support[~~.~~];

(m) to review the child support guidelines, as that term is defined in Section 81-6-101, to ensure the application of the guidelines results in the determination of appropriate child support award amounts; and

(n) to submit to the Judiciary Interim Committee, in accordance with Section 68-3-14, a summary of the review described in Subsection (1)(m) on or before October 1, 2025, and every four years thereafter on or before October 1.

(2) The office may not provide child support services to the Division of Child and Family Services for a calendar month when the child to whom the child support services relate is:

(a) in the custody of the Division of Child and Family Services; and

(b) lives in the home of a custodial parent of the child for more than seven consecutive days, regardless of whether:

(i) the greater than seven consecutive day period starts during one month and ends in the next month; and

(ii) the child is living in the home on a trial basis.

(3) The Division of Child and Family Services is not entitled to child support, for a child to whom the child support relates, for a calendar month when child support services may not be provided under Subsection (2).

(4) To conduct the review described in Subsection (1)(m), the office may consider input from the Judicial Council, members of the Utah State Bar Association representing attorneys who practice family law, individuals with economic expertise, and other interested parties.

Section 29. Section 53-22-102 is amended to read:

53-22-102. State security chief -- Creation -- Appointment.

(1) There is created within the department a state security chief.

(2) The state security chief:

(a) is appointed by the commissioner with the approval of the governor;

(b) is subject to the supervision and control of the commissioner;

(c) may be removed at the will of the commissioner;

(d) shall be qualified by experience and education to:

(i) enforce the laws of this state relating to school safety;

(ii) perform duties prescribed by the commissioner; and

(iii) enforce rules made under this chapter.

(3) The state security chief shall:

(a) establish building and safety standards for all public and private schools, including:

(i) coordinating with the State Board of Education to establish the required minimum safety and security standards for all public and private school facilities, including:

(A) limited entry points, including, if applicable, secured entry points for specific student grades or groups;

(B) video surveillance of entrances when school is in session;

(C) ground level windows protected by security film or ballistic windows;

(D) internal classroom door locks;

(E) bleed kits and first aid kits;

(F) exterior cameras on entrances, parking areas, and campus grounds; and

(G) fencing around playgrounds;

(ii) establishing a schedule or timeline for existing buildings to come into compliance with this section;

(iii) creating a process to examine plans and specifications for construction or remodeling of a school building, in accordance with Section 53E-3-706;

(iv) recommending to the commissioner the denial or revocation a public or private school's occupancy permit for a building if:

(A) the building does not meet the standards established in this section; and

(B) after consultation with the local governing board, the building remains non-compliant with the standards established in this section;

(v) creating minimum standards for radio communication equipment in every school; and

(vi) establishing a process to approve the safety and security criteria the state superintendent of public instruction establishes for building inspectors described in Section 53E-3-706;

(b) oversee the implementation of the school safety personnel requirements described in Section 53G-8-701.5, including:

(i) in consultation with a county security chief, overseeing the school guardian program described in Section 53-22-105, including approving and coordinating the relevant training programs;

(ii) establishing an application process for approved alternatives to the school safety personnel requirements described in Section 53G-8-701.5;

(iii) selecting training requirements for school safety and security specialists in consultation with the State Board of Education as described in Section 53G-8-701.6;

(iv) as required by Section 53G-8-701.8, tracking each school safety and security director for a local education agency and ensuring that the contact information for the school safety and security directors is readily available to the local law enforcement agency of relevant jurisdiction; and

(v) reviewing and approving the State Board of Education's school resource officer training program as described in Section 53G-8-702;

(c) oversee the creation of school safety trainings, protocols, and incident responses, including:

(i) in consultation with the State Board of Education, defining what constitutes an "active threat" and "developmentally appropriate" for purposes of the emergency response training described in Section 53G-8-803;

(ii) in consultation with the Office of Substance [~~Abuse~~]Use and Mental Health, establishing or selecting an adolescent mental health and de-escalation training for school safety personnel;

(iii) consulting with the School Safety Center to develop the model critical incident response that all schools and law enforcement will use during a threat, including:

(A) standardized response protocol terminology for use throughout the state, including what constitutes a threat;

(B) protocols for planning and safety drills, including drills required in a school before the school year begins;

(C) integration and appropriate use of a panic alert device described in Subsection 53G-8-805;

(D) the establishment of incident command for a threat or safety incident, including which entity and individual runs the incident command;

(E) the required components for a communication plan to be followed during an incident or threat;

(F) reunification plan protocols, including the appropriate design and use of an incident command by others responding to or involved in an incident; and

(G) recommendations for safety equipment for schools, including amounts and types of first aid supplies;

(iv) reviewing and suggesting any changes to the response plans and training under Section 53G-8-803;

(v) creating the official standard response protocol described in Section 53G-8-803for use by schools and law enforcement for school safety incidents; and

(vi) establishing a manner for any security personnel described in Section 53G-8-701.5 to be quickly identified by law enforcement during an incident;

(d) in consultation with the School Safety Center established in Section 53G-8-802:

(i) create a process to receive and analyze the school safety needs assessments described in Section 53G-8-701.5; and

(ii) establish a required data reporting system for public schools to report serious and non-serious threats and other data related to threat assessment that the state security chief determines to be necessary; and

(e) fulfill any other duties and responsibilities determined by the commissioner.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department, in consultation with the state security chief, shall make rules to fulfill the duties described in this section.

(5) The state security chief may delegate duties under this section to a sworn department member with the approval of the commissioner.

Section 30. Section 53-22-104.2 is amended to read:

53-22-104.2. The School Security Task Force -- Education Advisory Board.

(1) There is created an advisory board to the task force called the Education Advisory Board.

(2) The advisory board shall consist of the following members:

(a) the state security chief, who acts as chair of the advisory board;

(b) the construction and facility specialist at the State Board of Education;

(c) a superintendent from a county of the fourth, fifth, or sixth class, whom the state security chief selects;

(d) a superintendent from a county of the first, second, or third class, whom the state security chief selects;

(e) a charter school director from a county of the fourth, fifth, or sixth class, whom the state security chief selects;

(f) a charter school director from a county of the first, second, or third class, whom the state security chief selects;

(g) the president of the Utah School Boards Association or the president's designee;

(h) a parent representative from a school community council or parent teacher organization, whom the state security chief selects;

(i) a facilities manager from an LEA in a county of the fourth, fifth, or sixth class, whom the state security chief selects;

(j) a facilities manager from an LEA in county of the first, second, or third class, whom the state security chief selects;

(k) a representative of private schools, whom the state security chief selects; and

(l) a member of the Office of Substance [~~Abuse~~]Use and Mental Health, whom the state security chief selects.

(3) The advisory board's purpose is to:

(a) review and provide input on official business of the task force;

(b) provide recommendations and suggestions for the task force's consideration; and

(c) study and evaluate the policies, procedures, and programs implemented for school safety and provide proactive information regarding the implementation.

(4) (a) A majority of the members of the advisory board constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory board.

(5) (a) The advisory board shall select two members to serve as co-chairs.

(b) The co-chairs are responsible for the call and conduct of meetings.

(6) The staff of the state security chief shall provide staff for the advisory board.

(7) A member of the advisory board who is not a legislator may not receive compensation for the member's work associated with the task force but may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 31. Section 53-22-105 is amended to read:

53-22-105. School guardian program.

(1) As used in this section:

(a) "Annual training" means an annual four-hour training that:

(i) a county security chief or a designee administers;

(ii) the state security chief approves;

(iii) can be tailored to local needs;

(iv) allows an individual to practice and demonstrate firearms proficiency at a firearms range using the firearm the individual carries for self defense and defense of others;

(v) includes the following components:

(A) firearm safety, including safe storage of a firearm;

(B) de-escalation tactics;

(C) the role of mental health in incidents; and

(D) disability awareness and interactions; and

(vi) contains other training needs as determined by the state security chief.

(b) "Biannual training" means a twice-yearly training that:

(i) is at least four hours, unless otherwise approved by the state security chief;

(ii) a county security chief or a designee administers;

(iii) the state security chief approves;

(iv) can be tailored to local needs;[~~and~~]

(v) through which a school guardian at a school or simulated school environment:

(A) receives training on the specifics of the building or buildings of the school, including the location of emergency supplies and security infrastructure; and

(B) participates in a live-action practice plan with school administrators in responding to active threats at the school; and

(vi) shall be taken with at least three months in between the two trainings.

(c) "Firearm" means the same as that term is defined in Section 76-10-501.

(d) "Initial training" means an in-person training that:

(i) a county security chief or a designee administers;

(ii) the state security chief approves;

(iii) can be tailored to local needs; and

(iv) provides:

(A) training on general familiarity with the types of firearms that can be concealed for self-defense and defense of others;

(B) training on the safe loading, unloading, storage, and carrying of firearms in a school setting;

(C) training at a firearms range with instruction regarding firearms fundamentals, marksmanship, the demonstration and explanation of the difference between sight picture, sight alignment, and trigger control, and a recognized pistol course;

(D) current laws dealing with the lawful use of a firearm by a private citizen, including laws on self-defense, defense of others, transportation of firearms, and concealment of firearms;

(E) coordination with law enforcement officers in the event of an active threat;

(F) basic trauma first aid;

(G) the appropriate use of force, emphasizing the de-escalation of force and alternatives to using force; and

(H) situational response evaluations, including:

(I) protecting and securing a crime or accident scene;

(II) notifying law enforcement;

(III) controlling information; and

(IV) other training that the county sheriff, designee, or department deems appropriate.

(e) "Program" means the school guardian program created in this section.

(f) (i) "School employee" means an employee of a school whose duties and responsibilities require the employee to be physically present at a school's campus while school is in session.

(ii) "School employee" does not include a principal, teacher, or individual whose primary responsibilities require the employee to be primarily present in a classroom to teach, care for, or interact with students, unless:

(A) the principal, teacher, or individual is employed at a school with 100 or fewer students;

(B) the principal, teacher, or individual is employed at a school with adjacent campuses as determined by the state security chief; or

(C) as provided in Subsection 53G-8-701.5(3).

(g) "School guardian" means a school employee who meets the requirements of Subsection (3).

(2) (a) (i) There is created within the department the school guardian program[~~:~~].

(ii) [~~the~~]The state security chief shall oversee the school guardian program[~~:~~].

(iii) [~~the~~]The applicable county security chief shall administer the school guardian program in each county.

(b) The state security chief shall ensure that the school guardian program includes:

(i) initial training;

(ii) biannual training; and

(iii) annual training.

(c) A county sheriff may partner or contract with:

(i) another county sheriff to support the respective county security chiefs in jointly administering the school guardian program in the relevant counties; and

(ii) a local law enforcement agency of relevant jurisdiction to provide the:

(A) initial training;

(B) biannual training; and

(C) annual training.

(3) (a) A school employee that volunteers to participate is eligible to join the program as a school guardian if:

(i) the school administrator approves the volunteer school employee to be designated as a school guardian;

(ii) the school employee satisfactorily completes initial training within six months before the day on which the school employee joins the program;

(iii) the school employee holds a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act;

(iv) the school employee certifies to the sheriff of the county where the school is located that the school employee has undergone the training in accordance with Subsection (3)(a)(ii) and intends to serve as a school guardian; and

(v) the school employee successfully completes a mental health screening selected by the state security chief in collaboration with the Office of Substance [~~Abuse~~]Use and Mental Health established in Section 26B-5-102.

(b) After joining the program a school guardian shall complete annual training and biannual training to retain the designation of a school guardian in the program.

(4) The state security chief shall:

(a) for each school that participates in the program, track each school guardian at the school by collecting the photograph and the name and contact information for each guardian;

(b) make the information described in Subsection (4)(a) readily available to each law enforcement agency in the state categorized by school; and

(c) provide each school guardian with a one-time stipend of $500.

(5) A school guardian:

(a) may store the school guardian's firearm on the grounds of a school only if:

(i) the firearm is stored in a biometric gun safe;

(ii) the biometric gun safe is located in the school guardian's office; and

(iii) the school guardian is physically present on the grounds of the school while the firearm is stored in the safe;

(b) shall carry the school guardian's firearm in a concealed manner; and

(c) may not, unless during an active threat, display or open carry a firearm while on school grounds.

(6) Except as provided in Subsection (5)(c), this section does not prohibit an individual who has a valid concealed carry permit but is not participating in the program from carrying a firearm on the grounds of a public school or charter school under Subsection 76-10-505.5(4).

(7) A school guardian:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the school where the school guardian is employed:

(i) take actions necessary to prevent or abate an active threat; and

(ii) temporarily detain an individual when the school guardian has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402.

(8) A school may designate a single volunteer or multiple volunteers to participate in the school guardian program to satisfy the school safety personnel requirements of Section 53G-8-701.5.

(9) The department may adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules to administer this section.

(10) A school guardian who has active status in the guardian program is not liable for any civil damages or penalties if the school guardian:

(a) when carrying or storing a firearm:

(i) is acting in good faith; and

(ii) is not grossly negligent; or

(b) threatens, draws, or otherwise uses a firearm reasonably believing the action to be

necessary in compliance with Section 76-2-402.

(11) A school guardian shall file a report described in Subsection (12) if, during the performance of the school guardian's duties, the school guardian points a firearm at an individual.

(12) (a) A report described in Subsection (11) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the state security chief.

(b) A school guardian shall submit a report required under Subsection (11) to the school administrator, school safety and security director, and the state security chief within 48 hours after the incident.

(c) The school administrator, school safety and security director, and the state security chief shall consult and review the report

submitted under Subsection (12)(b).

(13) The requirements of Subsections (11) and (12) do not apply to a training exercise.

(14) A school guardian may have the designation of school guardian revoked at any time by the school principal, county sheriff, or state security chief.

(15) (a) Any information or record created detailing a school guardian's participation in the program is:

(i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) available only to:

(A) the state security chief;

(B) administrators at the school guardian's school;

(C) if applicable, other school safety personnel described in Section 53G-8-701.5;

(D) a local law enforcement agency that would respond to the school in case of an emergency; and

(E) the individual designated by the county sheriff in accordance with Section 53-22-103 of the county of the school where the school guardian in the program is located.

(b) The information or record described in Subsection (15)(a) includes information related to the school guardian's identity and activity within the program as described in this section and any personal identifying information of a school guardian participating in the program collected or obtained during initial training, annual training, and biannual training.

(c) An individual who intentionally or knowingly provides the information described in Subsection (15)(a) to an individual or entity not listed in Subsection (15)(a)(ii) is guilty of a class B misdemeanor.

Section 32. Section 53G-8-701.6 is amended to read:

53G-8-701.6. School safety and security specialist.

(1) As used in this section, "principal" means the chief administrator at a public school, including:

(a) a school principal;

(b) a charter school director; or

(c) the superintendent of the Utah Schools for the Deaf and the Blind.

(2) (a) Subject to Subsection (2)(b) and except as provided in Subsection 53G-8-701.5(3), every campus within an LEA shall designate a school safety and security specialist from the employees of the relevant campus.

(b) The school safety and security specialist:

(i) may not be a principal; and

(ii) may be the school safety and security director at one campus within the LEA.

(3) The school safety and security specialist shall:

(a) report directly to the principal;

(b) oversee school safety and security practices to ensure a safe and secure school environment for students and staff;

(c) ensure adherence with all policies, procedures, protocols, rules, and regulations relating to school safety and security through collaborating and maintaining effective communications with the following as applicable:

(i) the principal;

(ii) school staff;

(iii) the school resource officer;

(iv) the armed school security guard;

(v) the school guardian;

(vi) local law enforcement;

(vii) the county security chief;

(viii) the school safety and security director;

(ix) the LEA; and

(x) school-based behavioral and mental health professionals;

(d) in collaboration with the county security chief or designee described in Section 53-22-103:

(i) conduct the school safety needs assessment described in Section 53G-8-701.5; and

(ii) conduct a building safety evaluation at least annually using the results of the school safety needs assessment to recommend and implement improvements to school facilities, policies, procedures, protocols, rules, and regulations relating to school safety and security;

(e) if the specialist is also an employee of an LEA, participate on the multidisciplinary team that the LEA establishes;

(f) conduct a behavioral threat assessment when the school safety and security specialist deems necessary using an evidence-based tool the state security chief recommends in consultation with the school safety center and the Office of Substance [~~Abuse~~]Use and Mental Health;

(g) regularly monitor and report to the principal, local law enforcement, and, if applicable, the LEA superintendent or designee, security risks for the school resulting from:

(i) issues with school facilities; or

(ii) the implementation of practices, policies, procedures, and protocols relating to school safety and security;

(h) coordinate with local first responder agencies to implement and monitor safety and security drills in accordance with policy and applicable procedures and protocols;

(i) ensure that school staff, and, when appropriate, students, receive training on and remain current on the school's safety and security procedures and protocols;

(j) following an event where security of the school has been significantly compromised, organize a debriefing with the individuals listed in Subsection (3)(c) regarding strengthening school safety and security practices, policies, procedures, and protocols;

(k) abide by any LEA, school, or law enforcement agency policy outlining the chain of command;

(l) during an emergency, coordinate with the following individuals as applicable, the:

(i) school resource officer;

(ii) school guardians;

(iii) armed school security guards;

(iv) school administrators; and

(v) responding law enforcement officers;

(m) follow any LEA, school, or law enforcement agency student privacy policies, including state and federal privacy laws;

(n) participate in an annual training the state security chief selects in consultation with the School Safety Center; and

(o) remain current on:

(i) a comprehensive school guideline the state security chief selects;

(ii) the duties of a school safety and security specialist described in this Subsection (3); and

(iii) the school's emergency response plan.

(4) During an active emergency at the school, the school safety and security specialist is subordinate to any responding law enforcement officers.

Section 33. Section 63I-1-281 is amended to read:

63I-1-281. Repeal dates: Title 81.

Title 81, Chapter 6, Part 4, Child Support Guidelines Advisory Committee, is repealed [~~July 1, 2026~~]May 7, 2025.

Section 34. Section 80-2-709 is amended to read:

80-2-709. Division access to criminal background information for background screening and investigation.

(1) The division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for the purpose of:

(a) background screening under this chapter, Chapter 2a, Removal and Protective Custody of a Child, or Chapter 3, Abuse, Neglect, and Dependency Proceedings, including background screening of an individual who has direct access, as defined in Section [~~62A-2-101~~]26B-2-101, to a minor:

(i) who is alleged to be or has been abused, neglected, or dependent; and

(ii) for whom the division has an open case; or

(b) investigation of abuse or neglect under this chapter, Chapter 2a, Removal and Protective Custody of a Child, or Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(2) Except as provided in Section 80-3-305, the division and the Office of Guardian Ad Litem are authorized to request the Department of Public Safety to conduct a complete Federal Bureau of Investigation criminal background check through the national criminal history system (NCIC).

Section 35. Repealer.

This bill repeals:

Section 26B-7-102, Director of family health services programs.

Section 36. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 471
H. B. 437
Passed March 7, 2025
Approved March 27, 2025
Effective January 1, 2026

INTERDICTED PERSON AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill provides that an individual convicted of driving under the influence may be designated as an interdicted person.

Highlighted Provisions:

This bill:

- ► provides that a person convicted of driving under the influence may be designated as an interdicted person and is prohibited from purchasing alcohol for a certain time period;
- ► requires a court to designate an individual as a interdicted person if the person is convicted of an extreme DUI;
- ► allows the court to determine the time period of interdiction;
- ► requires the Department of Alcoholic Beverage Services to provide training on verification of whether a person is an interdicted person, including inspection of the person's identification card or driver license;
- ► requires a person designated as an interdicted person to obtain a unique driver license or identification card with security features indicating that the person is an interdicted person;
- ► allows a person to voluntarily obtain a unique driver license or identification card with security features indicating that the person is an interdicted person;
- ► provides relevant definitions; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

32B-1-102, as last amended by Laws of Utah 2024, Chapters 438, 464
32B-1-407, as last amended by Laws of Utah 2018, Chapter 249
32B-1-704, as last amended by Laws of Utah 2024, Chapter 438
32B-4-405, as enacted by Laws of Utah 2010, Chapter 276
32B-5-306, as last amended by Laws of Utah 2019, Chapter 403
41-6a-102, as last amended by Laws of Utah 2024, Chapter 236
41-6a-505, as last amended by Laws of Utah 2024, Chapters 134, 197
41-6a-509, as last amended by Laws of Utah 2024, Chapter 106
53-3-102, as last amended by Laws of Utah 2024, Chapter 517
53-3-104, as last amended by Laws of Utah 2024, Chapter 106
53-3-105, as last amended by Laws of Utah 2024, Chapter 527
53-3-805, as last amended by Laws of Utah 2023, Chapters 328, 414 and 456
53-3-808, as last amended by Laws of Utah 2009, Chapter 45
76-5-102.1, as last amended by Laws of Utah 2024, Chapter 197
76-5-207, as last amended by Laws of Utah 2024, Chapters 153, 208 and 381

ENACTS:

53-3-236, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport or domestic airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 26B-5-205.

(6) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(7) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

(8) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility;

(vi) an arena; or

(vii) a restaurant venue;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection (8)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

(9) (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(10) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(11) (a) "Beer" means a product that:

(i) contains:

(A) at least .5% of alcohol by volume; and

(B) no more than 5% of alcohol by volume or 4% by weight;

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute; and

(iii) is clearly marketed, labeled, and identified as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager;

(F) a malt;

(G) a malted beverage; or

(H) seltzer.

(b) "Beer" may contain:

(i) hops extract;

(ii) caffeine, if the caffeine is a natural constituent of an added ingredient; or

(iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:

(A) is used in the production of beer;

(B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and

(C) does not contribute more than 10% of the overall alcohol content of the beer.

(c) "Beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsection (11)(b)(iii), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(12) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(13) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(14) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(15) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(16) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(17) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(18) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(20) "Church" means a building:

(a) set apart for worship;

(b) in which religious services are held;

(c) with which clergy is associated; and

(d) that is tax exempt under the laws of this state.

(21) "Commission" means the Alcoholic Beverage Services Commission created in Section 32B-2-201.

(22) "Commissioner" means a member of the commission.

(23) "Community location" means:

(a) a public or private school as defined in Subsection 32B-1-102(115);

(b) a church;

(c) a public library;

(d) a public playground; or

(e) a public park.

(24) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(25) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(26) "Controlled group of manufacturers" means as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(27) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(28) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(29) "Crime involving moral turpitude" is as defined by the commission by rule.

(30) "Department" means the Department of Alcoholic Beverage Services created in Section 32B-2-203.

(31) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

(32) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(33) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(34) "Director," unless the context requires otherwise, means the director of the department.

(35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(36) (a) Subject to Subsection (36)(b), "dispense" means:

(i) drawing an alcoholic product; and

(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection (36) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license;

(iv) a beer-only restaurant license;

(v) a bar license;

(vi) an on-premise beer retailer;

(vii) an airport lounge license;

(viii) an on-premise banquet license; and

(ix) a hospitality amenity license.

(37) "Dispensing structure" means a surface or structure on a licensed premises:

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

(38) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(39) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(40) "Domestic airport" means an airport that:

(a) has at least 15,000 commercial airline passenger boardings in any five-year period;

(b) receives scheduled commercial passenger aircraft service; and

(c) is not an international airport.

(41) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(42) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

(43) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(44) (a) "Flavored malt beverage" means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and

(iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

(b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.

(c) "Flavored malt beverage" does not include beer or heavy beer.

(d) "Flavored malt beverage" is considered liquor for purposes of this title.

(45) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(46) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(47) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(48) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

(50) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(51) (a) "Heavy beer" means a product that:

(i) (A) contains more than 5% alcohol by volume;

(B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes more than 10% of the overall alcohol content of the product; or

(C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and has a label or packaging that is rejected under Subsection 32B-1-606(3)(b); and

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute.

(b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume, contain a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the heavy beer.

(c) "Heavy beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsections (51)(a)(i)(B) and (51)(b), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(d) "Heavy beer" is considered liquor for the purposes of this title.

(52) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

(53) (a) "Hotel" means a commercial lodging establishment that:

(i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

(ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete meals;

(B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or

(C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(b) "Hotel" includes a commercial lodging establishment that:

(i) meets the requirements under Subsection (53)(a); and

(ii) has one or more privately owned dwelling units.

(54) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(55) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(56) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(57) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(58) (a) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

[~~(a)~~](i) law; or

[~~(b)~~](ii) court order.

(b) "Interdicted person" includes a person who voluntarily obtains a driver license certificate under Section 53-3-236 or an identification card under Section 53-3-805with an interdicted person identifier.

(59) "International airport" means an airport:

(a) with a United States Customs and Border Protection office on the premises of the airport; and

(b) at which international flights may enter and depart.

(60) "Intoxicated" or "intoxication" means that

an individual exhibits plain and easily observable outward manifestations of behavior or physical signs produced by or as a result of the use of:

(a) an alcoholic product;

(b) a controlled substance;

(c) a substance having the property of releasing toxic vapors; or

(d) a combination of products or substances described in Subsections (60)(a) through (c).

(61) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

(62) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License;

(d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

(f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

(g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

(63) "Licensee" means a person who holds a license.

(64) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(65) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(66) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(67) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(68) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

(69) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(70) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city or town, the governing body of the city or town; or

(c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

(71) "Lounge or bar area" is as defined by rule made by the commission.

(72) "Malt substitute" means:

(a) rice;

(b) grain;

(c) bran;

(d) glucose;

(e) sugar; or

(f) molasses.

(73) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(74) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

(75) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(76) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

(77) "Minor" means an individual under 21 years old.

(78) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, or town; and

(b) has a responsibility to enforce one or more provisions of this title.

(79) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

(80) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(81) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License.

(82) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(83) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(84) "Opaque" means impenetrable to sight.

(85) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(86) "Package agent" means a person who holds a package agency.

(87) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

(88) (a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

(89) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(90) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections (90)(a) through (f); or

(ii) a package agent.

(91) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(92) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(93) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

(94) "Principal license" means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

(95) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(96) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

(97) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued under Title 53, Chapter 3, Uniform Driver License Act, in accordance with the laws of the state in which it is issued, or in accordance with federal law by the United States Department of State;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(98) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Resort Spa Sublicense.

(99) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

(100) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(101) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection (101)(a) to a third party for the third party's event.

(102) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

(103) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

(104) "Residence" means a person's principal place of abode within Utah.

(105) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

(106) "Resort" means the same as that term is defined in Section 32B-8-102.

(107) "Resort facility" is as defined by the commission by rule.

(108) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(109) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

(110) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

(111) "Restaurant license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

(112) "Restaurant venue" means a room within a restaurant that:

(a) is located on the licensed premises of a restaurant licensee;

(b) is separated from the area within the restaurant for a patron's consumption of food by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a patron in the area within the restaurant for a patron's consumption of food; and

(c) (i) has at least 1,000 square feet that:

(A) may be reserved for a banquet; and

(B) accommodates at least 75 individuals; or

(ii) if the restaurant is located in a small or unincorporated locality, has an appropriate amount of space, as determined by the commission, that may be reserved for a banquet.

(113) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

(114) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

(a) hotel; or

(b) resort facility.

(115) (a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) "School" does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool;

(v) a home school;

(vi) a home-based microschool as defined in Section 53G-6-201; or

(vii) a micro-education entity as defined in Section 53G-6-201.

(116) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

(117) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either

directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

(118) "Serve" means to place an alcoholic product before an individual.

(119) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection (119)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

(120) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

(121) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(122) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

(a) if the brewer is part of a controlled group of manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of manufacturers; and

(b) excluding beer, heavy beer, or flavored malt beverage the brewer:

(i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not sell for consumption as, or in, a beverage.

(123) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

(124) "Spa sublicense" means a sublicense:

(a) to a resort license or hotel license; and

(b) that the commission issues in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.

(125) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

(126) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. [~~See~~]Secs. 5.11 through 5.23.

(127) "Sports center" is as defined by the commission by rule.

(128) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

(129) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

(130) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(131) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

(132) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

(133) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a spa sublicense.

(134) "Supplier" means a person who sells an alcoholic product to the department.

(135) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(136) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(137) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(138) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(139) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(140) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(141) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section 32B-1-407 is amended to read:

32B-1-407. Verification of proof of age by applicable licensees.

(1) As used in this section, "applicable licensee" means:

(a) a dining club;

(b) a bar;

(c) a tavern;

(d) a full-service restaurant;

(e) a limited-service restaurant; or

(f) a beer-only restaurant.

(2) Notwithstanding any other provision of this part, an applicable licensee shall require that an authorized person for the applicable licensee verify proof of age as provided in this section.

(3) An authorized person is required to verify proof of age under this section before an individual[~~ who appears to be 35 years of age or younger~~]:

(a) gains admittance to the premises of a bar licensee or tavern;

(b) procures an alcoholic product on the premises of a dining club licensee; or

(c) procures an alcoholic product in a dispensing area in the premises of a full-service restaurant licensee, a limited-service restaurant licensee, or a beer-only restaurant licensee.

(4) To comply with Subsection (3), an authorized person shall:

(a) request the individual present proof of age; and

(b) (i) verify the validity of the proof of age electronically under the verification program created in Subsection (5); or

(ii) if the proof of age cannot be electronically verified as provided in Subsection (4)(b)(i), request that the individual comply with a process established by the commission by rule.

(5) (a) The commission shall establish by rule an electronic verification program that includes the following:

[~~(a)~~](i) the specifications for the technology used by the applicable licensee to electronically verify proof of age, including that the technology display to the person described in Subsection (2) no more than the following for the individual who presents the proof of age:

[~~(i)~~](A) the name;

[~~(ii)~~](B) the age;

[~~(iii)~~](C) the number assigned to the individual's proof of age by the issuing authority;

[~~(iv)~~](D) the birth date;

[~~(v)~~](E) the gender; and

[~~(vi)~~](F) the status and expiration date of the individual's proof of age; and

[~~(b)~~](ii) the security measures that shall be used by an applicable licensee to ensure that information obtained under this section is:

[~~(i)~~](A) used by the applicable licensee only for purposes of verifying proof of age in accordance with this section; and

[~~(ii)~~](B) retained by the applicable licensee for seven days after the day on which the applicable licensee obtains the information.

(b) The commission shall ensure that the electronic verification program described in Subsection (5)(a) includes technology that recognizes every state's unique hidden security features located on state issued identification cards to determine the validity of that particular card.

(6) (a) An applicable licensee may not disclose information obtained under this section except as provided under this title.

(b) Information obtained under this section is considered a record for any purpose under Chapter 5, Part 3, Retail Licensee Operational Requirements.

Section 3. Section 32B-1-704 is amended to read:

32B-1-704. Department training programs.

(1) [~~No later than January 1, 2018, the~~]The department shall develop the following training programs that are provided either in-person or online:

(a) a training program for retail managers that addresses:

(i) the statutes and rules that govern alcohol sales and consumption in the state;

(ii) the requirements for operating as a retail licensee;

(iii) using compliance assistance from the department; and

(iv) any other topic the department determines beneficial to a retail manager; and

(b) a training program for an individual employed by a retail licensee or an off-premise beer retailer who violates a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor, that addresses:

(i) the statutes and rules that govern the most common types of violations under this title;

(ii) how to avoid common violations; and

(iii) any other topic the department determines beneficial to the training program.

(2) [~~No later than January 1, 2019, the~~]The department shall develop a training program for off-premise retail managers that is provided either in-person or online and addresses:

(a) the statutes and rules that govern sales at an off-premise beer retailer;

(b) the requirements for operating an off-premise beer retailer;

(c) using compliance assistance from the department; and

(d) any other topic the department determines beneficial to an off-premise retail manager.

(3) The department shall develop a training program for an authorized person, as that term is defined in Section 32B-1-402, to properly verify whether an individual is an interdicted person.

[~~(3)~~](4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this section, the department shall make rules to develop and implement the training programs described in this section, including rules that establish:

(a) the requirements for each training program described in this section;

(b) measures that accurately identify each individual who takes and completes a training program;

(c) measures that ensure an individual taking a training program is focused and actively engaged in the training material throughout the training program;

(d) a record that certifies that an individual has completed a training program; and

(e) a fee for participation in a training program to cover the department's cost of providing the training program.

[~~(4)~~](5) (a) Each retail manager shall complete the training described in Subsection (1)(a) no later than the later of:

(i) 30 days after the day on which the retail manager is hired; or

(ii) the day on which the retail licensee obtains a retail license.

(b) Each off-premise retail manager shall complete the training described in Subsection (2) no later than the later of:

(i) 30 days after the day on which the off-premise retail manager is hired; or

(ii) 30 days after the day on which the off-premise beer retailer obtains an off-premise beer retailer state license.

(c) (i) If the commission finds that a retail licensee violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator, all retail staff, and each retail manager shall complete the training program described in Subsection (1)(b).

(ii) If the commission finds that an off-premise beer retailer violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator and each off-premise retail manager shall complete the training program described in Subsection (1)(b).

[~~(5)~~](6) If an individual fails to complete a required training program under this section:

(a) the commission may suspend, revoke, or not renew the retail license or off-premise beer retailer state license;

(b) a city, town, or county in which the retail licensee or off-premise beer retailer is located may suspend, revoke, or not renew the retail licensee's or off-premise beer retailer's business license; or

(c) a local authority may suspend, revoke, or not renew the off-premise beer retailer's license.

Section 4. Section 32B-4-405 is amended to read:

32B-4-405. Unlawful sale, offer for sale, or furnishing to interdicted person.

(1) A person may not sell, offer for sale, or furnish an alcoholic product to a known interdicted person.

(2) Prior to any sale or furnishing of an alcohol product, a person shall verify whether the person is an interdicted person through examination of the person's identification card or license certificate issued pursuant to Title 53, Chapter 3, Uniform Driver License Act, or proof of age issued by another state or country.

[~~(2)~~](3) This section does not apply to the sale, offer for sale, or furnishing of an alcoholic product to an interdicted person:

(a) under an order of a health care practitioner who is authorized by law to write a prescription; or

(b) administered by a hospital or health care practitioner authorized by law to administer the alcoholic product for medicinal purposes.

Section 5. Section 32B-5-306 is amended to read:

32B-5-306. Purchasing or selling alcoholic product.

(1) (a) A retail licensee may not sell, offer for sale, or furnish an alcoholic product to:

[~~(a)~~](i) a minor;

[~~(b)~~](ii) a person actually, apparently, or obviously intoxicated;

[~~(c)~~](iii) a known interdicted person; or

[~~(d)~~](iv) a known habitual drunkard.

(b) Prior to any sale or furnishing of an alcohol product, a retail licensee shall verify whether the person is a minor or an interdicted person through examination of the person's identification card or license certificate issued pursuant to Title 53, Chapter 3, Uniform Driver License Act, or proof of age issued by another state or country.

(2) (a) A patron may only purchase an alcoholic product in the licensed premises of a retail licensee from and be served by an individual who is:

(i) staff of the retail licensee; and

(ii) designated and trained by the retail licensee to sell and serve an alcoholic product.

(b) An individual may sell, offer for sale, or furnish an alcoholic product to a patron only if the individual is:

(i) staff of the retail licensee; and

(ii) designated and trained by the retail licensee to sell and serve an alcoholic product.

(c) Notwithstanding Subsection (2)(a) or (b), a patron who purchases bottled wine from staff of the retail licensee or carries bottled wine onto the retail licensee's premises pursuant to Section 32B-5-307 may thereafter serve wine from the bottle to the patron or others at the patron's table.

(3) The following may not purchase an alcoholic product for a patron:

(a) a retail licensee; or

(b) staff of a retail licensee.

(4) After a retail licensee closes the retail licensee's business at the licensed premises, the retail licensee may transfer the retail licensee's inventory of alcoholic product from that premises to another premises licensed under this chapter that is owned by the same retail licensee.

Section 6. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(5) "Authorized emergency vehicle" includes:

(a) a fire department vehicle;

(b) a police vehicle;

(c) an ambulance; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(6) "Autocycle" means the same as that term is defined in Section 53-3-102.

(7) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(8) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(9) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(10) "Class 1 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) provides assistance only when the rider is pedaling; and

(b) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(11) "Class 2 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) may be used exclusively to propel the bicycle; and

(b) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

(12) "Class 3 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) provides assistance only when the rider is pedaling;

(b) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(c) is equipped with a speedometer.

(13) "Commissioner" means the commissioner of the Department of Public Safety.

(14) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(15) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(16) "Department" means the Department of Public Safety.

(17) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(18) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(19) "Echelon formation" means the operation of two or more snowplows arranged side-by-side or diagonally across multiple lanes of traffic of a multi-lane highway to clear snow from two or more lanes at once.

(20) (a) "Electric assisted bicycle" means a bicycle with an electric motor that:

(i) has a power output of not more than 750 watts;

(ii) has fully operable pedals;

(iii) has permanently affixed cranks that were installed at the time of the original manufacture;

(iv) is fully operable as a bicycle without the use of the electric motor; and

(v) is one of the following:

(A) a class 1 electric assisted bicycle;

(B) a class 2 electric assisted bicycle;

(C) a class 3 electric assisted bicycle; or

(D) a programmable electric assisted bicycle.

(b) "Electric assisted bicycle" does not include:

(i) a moped;

(ii) a motor assisted scooter;

(iii) a motorcycle;

(iv) a motor-driven cycle; or

(v) any other vehicle with less than four wheels that is designed, manufactured, intended, or advertised by the seller to have any of the following capabilities or features, or that is modifiable or is modified to have any of the following capabilities or features:

(A) has the ability to attain the speed of 20 miles per hour or greater on motor power alone;

(B) is equipped with a continuous rated motor power of 750 watts or greater;

(C) is equipped with foot pegs for the operator at the time of manufacture, or requires installation of a pedal kit to have operable pedals; or

(D) if equipped with multiple operating modes and a throttle, has one or more modes that exceed 20 miles per hour on motor power alone.

(21) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(22) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(24) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a Tagliabue or equivalent closed-cup test device.

(25) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(26) (a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(27) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(28) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(29) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

(30) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(31) "Highway authority" means the same as that term is defined in Section 72-1-102.

(32) "Interdicted person" means the same as that term is defined in Section 32B-1-102.

[~~(32)~~](33) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

[~~(33)~~](34) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

[~~(34)~~](35) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

[~~(35)~~](36) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

[~~(36)~~](37) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[~~(37)~~](38) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

[~~(38)~~](39) (a) "Low-speed vehicle" means a four wheeled motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

[~~(39)~~](40) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

[~~(40)~~](41) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

[~~(41)~~](42) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection [~~(41)(a)~~](42)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

[~~(42)~~](43) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an object, caused by a neuro-muscular, orthopedic, or other condition.

[~~(43)~~](44) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

[~~(44)~~](45) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

[~~(45)~~](46) (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(46)~~](47) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

[~~(47)~~](48) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

[~~(48)~~](49) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

[~~(49)~~](50) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

[~~(50)~~](51) "Operate" means the same as that term is defined in Section 41-1a-102.

[~~(51)~~](52) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

[~~(52)~~](53) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

[~~(53)~~](54) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

[~~(54)~~](55) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

[~~(55)~~](56) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

[~~(56)~~](57) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

[~~(57)~~](58) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

[~~(58)~~](59) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[~~(59)~~](60) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[~~(60)~~](61) "Programmable electric assisted bicycle" means an electric assisted bicycle with capability to switch or be programmed to

function as a class 1 electric assisted bicycle, class 2 electric assisted bicycle, or class 3 electric assisted bicycle, provided that the electric assisted bicycle fully conforms with the respective requirements of each class of electric assisted bicycle when operated in that mode.

[~~(61)~~](62) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[~~(62)~~](63) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[~~(63)~~](64) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[~~(64)~~](65) "Restored-modified vehicle" means the same as the term defined in Section 41-1a-102.

[~~(65)~~](66) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[~~(66)~~](67) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[~~(67)~~](68) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[~~(68)~~](69) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[~~(69)~~](70) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[~~(70)~~](71) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[~~(71)~~](72) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[~~(72)~~](73) (a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

[~~(73)~~](74) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[~~(74)~~](75) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[~~(75)~~](76) "Stop" when required means complete cessation from movement.

[~~(76)~~](77) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[~~(77)~~](78) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(78)~~](79) "Street-legal novel vehicle" means a vehicle registered as a novel vehicle under Section 41-27-201 that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with [~~with~~]Section 41-6a-1509.

[~~(79)~~](80) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(80)~~](81) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(81)~~](82) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(82)~~](83) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(83)~~](84) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(84)~~](85) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(85)~~](86) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(86)~~](87) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(87)~~](88) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(88)~~](89) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(89)~~](90) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(90)~~](91) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 7. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of extreme DUI:

(a) the court shall:

(i) (A) impose a jail sentence of not less than five days; or

(B) impose a jail sentence of not less than two days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than $700;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party;

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; [~~or~~]

(ix) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518; and

(x) designate the individual as an interdicted person for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time, and require the individual to surrender the individual's driver license or identification card; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (1)(b)(i) and (ii).

(2) (a) If an individual described in Subsection (1) is participating in a 24-7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (1)(a).

(b) If an individual described in Subsection (1) fails to successfully complete all of the requirements of the 24-7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (2)(a).

(3) As part of any sentence for any first conviction of Section 41-6a-502 not described in Subsection (1):

(a) the court shall:

(i) (A) impose a jail sentence of not less than two days; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (3)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (3)(b);

(v) impose a fine of not less than $700;

(vi) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; [~~or~~]and

(vii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; [~~or~~]

(iv) order a combination of Subsections (3)(b)(i) through (iii)[~~-~~]; or

(v) designate the individual as an interdicted person for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time, and require the individual to surrender the individual's driver license or identification card.

(4) (a) If an individual described in Subsection (3) is participating in a 24-7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (3)(a).

(b) If an individual described in Subsection (4)(a) fails to successfully complete all of the requirements of the 24-7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (4)(a).

(5) If an individual has a prior conviction as defined in Section 41-6a-501 that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction amounts to extreme DUI:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 20 days;

(B) impose a jail sentence of not less than 10 days in addition to home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; or

(C) impose a jail sentence of not less than 10 days in addition to ordering the individual to obtain substance abuse treatment, if the court finds that substance abuse treatment is more likely to reduce recidivism and is in the interests of public safety;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (5)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (5)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) order the installation of an ignition interlock system as described in Section 41-6a-518;

(viii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; [~~or~~]

(ix) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(x) designate the individual as an interdicted person for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time, and require the individual to surrender the individual's driver license or identification card; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (5)(b)(i) and (ii).

(6) (a) If an individual described in Subsection (5) is participating in a 24-7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (5)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (6)(a) fails to successfully complete all of the requirements of the 24-7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (6)(a).

(7) If an individual has a prior conviction as defined in Section 41-6a-501 that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and that does not qualify under Subsection (5):

(a) the court shall:

(i) (A) impose a jail sentence of not less than 10 days; or

(B) impose a jail sentence of not less than 5 days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (7)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (7)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; [~~or~~]and

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse

treatment is appropriate;

(ii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older;[~~or~~]

(iii) order a combination of Subsections (7)(b)(i) and (ii)[~~,~~]; or

(iv) designate the individual as an interdicted person for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time, and require the individual to surrender the individual's driver license or identification card.

(8) (a) If an individual described in Subsection (7) is participating in a 24-7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (7)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (8)(a) fails to successfully complete all of the requirements of the 24-7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (8)(a).

(9) Under Subsection 41-6a-502(2)(c), if the court suspends the execution of a prison sentence and places the defendant on probation for a conviction of extreme DUI, the court shall[~~impose~~]:

(a) impose a fine of not less than $1,500;

(b) impose a jail sentence of not less than 120 days;

(c) order home confinement of not fewer than 120 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; [~~and~~]

(d) order supervised probation[~~,~~]; and

(e) designate the individual as an interdicted person for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time, and require the individual to surrender the individual's driver license or identification card.

(10) (a) For Subsection (9) or Subsection 41-6a-502(2)(c)(i), the court:

(i) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(ii) may impose an order requiring the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

(b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all of the requirements of the 24-7 sobriety program, the court shall impose the suspended prison sentence described in Subsection (9).

(11) Under Subsection 41-6a-502(2)(c), if the court suspends the execution of a prison sentence and places the defendant on probation with a sentence not described in Subsection (9), the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 60 days;

(c) home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the requirements of this section.

(ii) A court may suspend requirements as described in Subsection (2), (4), (6), or (8).

(b) A court, with stipulation of both parties and approval from the judge, may convert a jail sentence required in this section to electronic home confinement.

(c) A court may order a jail sentence imposed as a condition of misdemeanor probation under this section to be served in multiple two-day increments at weekly intervals if the court determines that separate jail increments are necessary to ensure the defendant can serve the statutorily required jail term and maintain employment.

(13) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device or remote alcohol monitor as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 8. Section 41-6a-509 is amended to read:

41-6a-509. Driver license suspension or revocation for a driving under the influence violation.

(1) (a) The Driver License Division shall, if the person is 21 years old or older at the time of arrest:

(i) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502 or 76-5-102.1; or

(ii) revoke for a period of two years the license of a person if:

(A) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(B) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation.

(b) (i) If a person elects to become an interlock restricted driver under Subsection 53-3-223(10)(a), the Driver License Division may not suspend the operator's license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to complete 120 days of the interlock restriction.

(ii) If a person elects to become an interlock restricted driver under Subsection 53-3-223(10)(a), and the person fails to complete the full 120 days of interlock restriction, the Driver License Division:

(A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period of 120 days from the date the ignition interlock

system was removed from the vehicle; and

(B) may not reduce the 120-day suspension for any days the person was compliant with the interlock restriction under Subsection 53-3-223(10)(a).

(c) (i) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), the Driver License Division may not suspend the operator's license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to complete three years of the interlock restriction under Subsection 41-6a-521(7).

(ii) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), and the person fails to complete the full three years of interlock restriction, the Driver License Division:

(A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period of 120 days from the date the ignition interlock system was removed from the vehicle; and

(B) may not reduce the 120-day suspension for any days the person was compliant with the interlock restriction under Subsection 41-6a-521(7).

(2) The Driver License Division shall, if the person is 19 years old or older but under 21 years old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years old or for a period of one year, whichever is longer, if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense that was committed on or after July 1, 2011;

(b) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of one year, whichever is longer, if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense committed on or after July 1, 2011; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years old or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(3) The Driver License Division shall, if the person is under 19 years old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years old if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207;

(b) deny the person's application for a license or learner's permit until the person is 21 years old if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years old if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years old if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (9).

(5) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(6) If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502, 76-5-102.1, or 76-5-207 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:

(a) may not subtract from any suspension or revocation any time for which a license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

(b) shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

(7) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (7)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (7)(c);

(e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection (7)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle

during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years old or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

(ii) is under 18 years old and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(8) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (7), the court shall forward the order shortening the person's suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(9) (a) (i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional suspension or revocation period provided in this Subsection (9) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207.

(b) If the court suspends or revokes the person's license under this Subsection (9), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(10) (a) The court shall notify the Driver License Division if a person fails to complete all court ordered:

(i) screenings;

(ii) assessments;

(iii) educational series;

(iv) substance abuse treatment; and

(v) hours of work in a compensatory-service work program.

(b) Subject to Subsection 53-3-218(3), upon receiving the notification described in Subsection (10)(a), the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

(11) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the Driver License Division may shorten the suspension or revocation period imposed under Subsection (1) before completion of the suspension or revocation period if the person:

(i) is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5;

(ii) (A) is participating in or has successfully completed a problem solving court program approved by the Judicial Council, including a driving under the influence court program or a drug court program; and

(B) has elected to become an interlock restricted driver as a condition of probation during the remainder of the person's suspension or revocation period in accordance with Section 41-6a-518; or

(iii) has had their operator license suspended under Subsection (1)(a)(i), and the court does not have a problem solving court program approved by the Judicial Council or access to a 24-7 sobriety program as defined in Section 41-6a-515.5, if the person:

(A) has installed an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007; and

(B) did not inflict bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner.

(b) If a court shortens a person's license suspension or revocation period in accordance with the requirements of this Subsection (11), the court shall forward the order shortening the person's suspension or revocation period to the Driver License Division in a manner specified by the division.

(c) The court shall notify the Driver License Division, in a manner specified by the Driver License Division, if a person fails to complete or comply with a condition that allowed the court to shorten the person's license suspension or revocation period under Subsection (11)(a).

(d) (i) (A) Upon receiving the notification described in Subsection (11)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described under Subsection (11)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was previously suspended under this section or Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under Section 41-6a-502 is based.

(ii) (A) Upon receiving the notification described in Subsection (11)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a license revocation described in Subsection (11)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under Section 41-6a-502 is based.

(12) If a court designates a person as an interdicted person as provided in Section 41-6a-505, the court shall:

(a) require the person to surrender the person's identification card or driver license;

(b) notify the Driver License Division that the person is an interdicted person; and

(c) provide the person's identification card or driver license to the Driver License Division.

Section 9. Section 53-3-102 is amended to read:

53-3-102. Definitions.

As used in this chapter:

(1) "Autocycle" means a motor vehicle that:

(a) is designed to travel with three or fewer wheels in contact with the ground; and

(b) is equipped with:

(i) a steering mechanism;

(ii) seat belts; and

(iii) seating that does not require the operator to straddle or sit astride the motor vehicle.

(2) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(3) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(4) "Commercial driver instruction permit" or "CDIP" means a commercial learner permit:

(a) issued under Section 53-3-408; or

(b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.

(5) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(i).

(6) (a) "Commercial driver license motor vehicle record" or "CDL MVR" means a driving record that:

(i) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(ii) contains the following:

(A) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(B) driver self-certification status information under Section 53-3-410.1; and

(C) information from medical certification record keeping in accordance with 49 C.F.R. Sec. 383.73(o).

(b) "Commercial driver license motor vehicle record" or "CDL MVR" does not mean a motor vehicle record described in Subsection [~~(30)~~](32).

(7) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating or gross vehicle weight of 26,001 or more pounds, or gross combination weight rating or gross combination weight of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles;

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes; and

(v) vehicles used to provide transportation network services, as defined in Section 13-51-102.

(8) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(9) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

(10) "Director" means the division director appointed under Section 53-3-103.

(11) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(12) "Division" means the Driver License Division of the department created in Section 53-3-103.

(13) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

(14) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(15) (a) "Driver" means an individual who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4,

Uniform Commercial Driver License Act, or federal law.

(16) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(17) "Electronic license certificate" means the evidence, in an electronic format as described in Section 53-3-235, of a privilege granted under this chapter to drive a motor vehicle.

(18) "Extension" means a renewal completed in a manner specified by the division.

(19) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(20) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

(21) "Human driver" means the same as that term is defined in Section 41-26-102.1.

(22) "Identification card" means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

(23) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the United States Department of Health and Human Services in the Federal Register.

(24) "Interdicted person" means the same as that term is defined in Section 32B-1-102.

(25) "Interdicted person identifier" means language and other security features on a license certificate or identification card indicating that the person is an interdicted person, which features include:

(a) the language "No Alcohol Sale"; and

(b) other security features identifying the individual as being restricted from purchasing alcohol, including a prominent red stripe on the front of the license or identification card.

[~~(24)~~](26) "License" means the privilege to drive a motor vehicle.

[~~(25)~~](27) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes:

(i) a regular license certificate;

(ii) a limited-term license certificate;

(iii) a driving privilege card;

(iv) a CDL license certificate;

(v) a limited-term CDL license certificate;

(vi) a temporary regular license certificate;

(vii) a temporary limited-term license certificate; and

(viii) an electronic license certificate created in Section 53-3-235.

[~~(26)~~](28) "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. No. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

[~~(27)~~](29) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

[~~(28)~~](30) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

[~~(29)~~](31) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

[~~(30)~~](32) "Motor vehicle record" or "MVR" means a driving record under Subsection 53-3-109(7)(a).

[~~(31)~~](33) "Motorboat" means the same as that term is defined in Section 73-18-2.

[~~(32)~~](34) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

[~~(33)~~](35) "Office of Recovery Services" means the Office of Recovery Services, created in Section 26B-9-103.

[~~(34)~~](36) "Operate" means the same as that term is defined in Section 41-1a-102.

[~~(35)~~](37) (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

[~~(36)~~](38) "Penalty accounts receivable" means a fine, restitution, forfeiture, fee, surcharge, or other financial penalty imposed on an individual by a court or other government entity.

[~~(37)~~](39) (a) "Private passenger carrier" means any motor vehicle for hire that is:

(i) designed to transport 15 or fewer passengers, including the driver; and

(ii) operated to transport an employee of the person that hires the motor vehicle.

(b) "Private passenger carrier" does not include:

(i) a taxicab;

(ii) a motor vehicle driven by a transportation network driver as defined in Section 13-51-102;

(iii) a motor vehicle driven for transportation network services as defined in Section 13-51-102; and

(iv) a motor vehicle driven for a transportation network company as defined in Section 13-51-102 and registered with the Division of Consumer Protection as described in Section 13-51-104.

[~~(38)~~](40) "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

[~~(39)~~](41) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

[~~(40)~~](42) "Renewal" means to validate a license certificate so that it expires at a later date.

[~~(41)~~](43) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

[~~(42)~~](44) (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections [~~(42)(b)(i)~~](44)(b)(i) through (iii).

[~~(43)~~](45) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

[~~(44)~~](46) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

[~~(45)~~](47) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

[~~(46)~~](48) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 10. Section 53-3-104 is amended to read:

53-3-104. Division duties.

The division shall:

(1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) for examining applicants for a license, as necessary for the safety and welfare of the traveling public;

(b) for acceptable documentation of an applicant's identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable or general discharge from the United States military, and other proof or documentation required under this chapter;

(c) for acceptable documentation to verify that an individual is homeless as verified by the Department of Workforce Services, for purposes of residency, address verification, and obtaining a fee waiver;

(d) regarding the restrictions to be imposed on an individual driving a motor vehicle with a temporary learner permit or learner permit;

(e) regarding the format and restrictions for an interdicted person identifier on a license certificate and identification card;

[~~(e)~~](f) for exemptions from licensing requirements as authorized in this chapter;

[~~(f)~~](g) establishing procedures for the storage and maintenance of applicant information provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804; and

[~~(g)~~](h) to provide educational information to each applicant for a license, which information shall be based on data provided by the Division of Air Quality, including:

(i) ways drivers can improve air quality; and

(ii) the harmful effects of vehicle emissions;

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by the division and shall maintain indices containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by the division under state law;

(7) maintain a record of each licensee showing the licensee's convictions and the traffic accidents in which the licensee has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any individual licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6a-604;

(11) in accordance with Section 53G-10-507, establish:

(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license;

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303;

(14) upon request by the lieutenant governor, provide the lieutenant governor with a digital copy of the driver license or identification card signature of an individual who is an applicant for voter registration under Section 20A-2-206;

(15) in accordance with Section 53-3-407.1, establish:

(a) procedures and standards to license a commercial driver license third party tester or commercial driver license third party examiner to administer the commercial driver license skills tests;

(b) minimum standards for the commercial driver license skills test; and

(c) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license;[~~and~~]

(16) receive from the Department of Health and Human Services a result from a blood or urine test of an individual arrested for driving under the influence and use the blood or urine test result in an administrative hearing or agency review involving the individual who is the subject of the blood or urine test as described in Section 53-3-111[~~.~~]; and

(17) as soon as practicable, ensure that a license and identification card includes the ability to provide information about restrictions on the license or identification card through an electronic scan.

Section 11. Section 53-3-105 is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

Except as provided in Subsection (39), the following fees apply under this chapter:

(1) An original class D license application under Section 53-3-205 is $52.

(2) An original provisional license application for a class D license under Section 53-3-205is $39.

(3) An original limited term license application under Section 53-3-205 is $32.

(4) An original application for a motorcycle endorsement under Section 53-3-205 is $18.

(5) An original application for a taxicab endorsement under Section 53-3-205 is $14.

(6) A learner permit application under Section 53-3-210.5 is $19.

(7) A renewal of a class D license under Section 53-3-214 is $52 unless Subsection (12) applies.

(8) A renewal of a provisional license application for a class D license under Section 53-3-214 is $52.

(9) A renewal of a limited term license application under Section 53-3-214 is $32.

(10) A renewal of a motorcycle endorsement under Section 53-3-214 is $18.

(11) A renewal of a taxicab endorsement under Section 53-3-214 is $14.

(12) A renewal of a class D license for an individual 65 and older under Section 53-3-214 is $27.

(13) An extension of a class D license under Section 53-3-214 is $42 unless Subsection (17) applies.

(14) An extension of a provisional license application for a class D license under Section 53-3-214 is $42.

(15) An extension of a motorcycle endorsement under Section 53-3-214 is $18.

(16) An extension of a taxicab endorsement under Section 53-3-214 is $14.

(17) An extension of a class D license for an individual 65 and older under Section 53-3-214is $22.

(18) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is $52.

(19) A commercial class A, B, or C license skills test is $78.

(20) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is $9.

(21) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is $9.

(22) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is $9.

(23) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is $26.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is $52.

(24) A retake of a CDL endorsement test provided for in Section 53-3-205 is $9.

(25) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is $23.

(26) (a) A license reinstatement application under Section 53-3-205 is $40.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is $45 in addition to the fee under Subsection (26)(a).

(27) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is $255.

(b) This administrative fee is in addition to the fees under Subsection (26).

(28) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is $8.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(29) A rescheduling fee under Section 53-3-205 or 53-3-407 is $25.

(30) (a) Except as provided under Subsections (30)(b) and (c), an identification card application under Section 53-3-808 is $23.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $17.

(c) A fee may not be charged for an identification card application if the individual applying:

(i) (A) has not been issued a Utah driver license;

(B) is indigent; and

(C) is at least 18 years old;

(ii) submits written verification that the individual is homeless, as defined in Section 26B-3-207, a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(A) a homeless shelter, as defined in Section 35A-16-305;

(B) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(C) the Department of Workforce Services; or

(D) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii); or

(iii) is under[~~ the age of~~] 26 years old and submits written verification that the individual:

(A) is in the custody of the Division of Child and Family Services; or

(B) was in the custody of the Division of Child and Family Services but is no longer in the custody of the Division of Child and Family Services due to the individual's age.

(31) (a) An extension of a regular identification card under Subsection 53-3-807(4) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $17.

(b) The fee described in Subsection (31)(a) is waived if the applicant submits written verification that the individual is homeless, as defined in Section 26B-3-207, or a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(i) a homeless shelter, as defined in Section 35A-16-305;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(iii) the Department of Workforce Services;

(iv) a homeless service provider as verified by the Department of Workforce Services as described in Section 26B-8-113; or

(v) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(32) (a) An extension of a regular identification card under Subsection 53-3-807(5) is $23.

(b) The fee described in Subsection (32)(a) is waived if the applicant submits written verification that the individual is homeless, as defined in Section 26B-3-207, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined in Section 35A-16-305;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(iii) the Department of Workforce Services; or

(iv) a homeless service provider as verified by the Department of Workforce Services as described in Section 26B-8-113.

(33) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(34) An original mobility vehicle permit application under Section 41-6a-1118 is $30.

(35) A renewal of a mobility vehicle permit under Section 41-6a-1118 is $30.

(36) A duplicate mobility vehicle permit under Section 41-6a-1118 is $12.

(37) An original driving privilege card application under Section 53-3-207 is $32.

(38) A renewal of a driving privilege card application under Section 53-3-207 is $23.

(39) A fee may not be charged for an original class D license application, original provisional license application for a class D license, or a learner permit application if the individual applying is:

(a) under the[~~ age of~~] 26 years old; and

(b) submits written verification that the individual:

(i) is in the custody of the Division of Child and Family Services; or

(ii) was in the custody of the Division of Child and Family Services but is no longer in the custody of the Division of Child and Family Services due to the individual's age.

(40) An administrative fee to add an interdicted person identifier to a license certificate under Section 53-3-236 or identification card under Section 53-3-805 is $7.

Section 12. Section 53-3-236 is enacted to read:

53-3-236. Interdicted person identifier -- License notation.

(1) If the division receives a notification from a court as provided in Section 41-6a-505, 41-6a-509, 76-5-102.1, or 76-5-207, that an individual is an interdicted person, the division:

(a) (i) may accept an application from the individual for a duplicate license that includes an interdicted person identifier; and

(ii) if the individual submits an application and qualifies for a license certificate, may provide a license certificate with the interdicted person identifier; or

(b) (i) may accept an application from the individual for a renewal of a license or an original license with an interdicted person identifier; and

(ii) if the individual submits an application and qualifies for a license certificate, may provide a license certificate with an interdicted

person identifier.

(2) The division may not provide to an individual a license certificate without the interdicted person identifier during the time period the court has designated the person as an interdicted person.

(3) (a) An individual may voluntarily apply for a duplicate license, original license, or renewal of a license that includes an interdicted person identifier.

(b) An individual that voluntarily applies for a duplicate license, original license, or renewal of a license with an interdicted person identifier may not apply for another duplicate license, original license, or renewal of a license without the interdicted person identifier for at least 30 days after the application for the license certificate with the interdicted person identifier.

(4) An individual may not hold a license certificate with an interdicted person identifier while also holding another license certificate.

(5) The division may charge an administrative fee as described in Subsection 53-3-105(40)to an individual to process and provide a license certificate with an interdicted person identifier.

(6) An individual who is designated as an interdicted person by a court is subject to the duplicate license fee and other fees necessary to administer the license certificate with the interdicted person identifier.

Section 13. Section 53-3-805 is amended to read:

53-3-805. Identification card -- Contents -- Specifications.

(1) As used in this section:

(a) "Authorized guardian" means the same as that term is defined in Section 53-3-207.

(b) "Health care professional" means the same as that term is defined in Section 53-3-207.

(c) "Invisible condition" means the same as that term is defined in Section 53-3-207.

(d) "Invisible condition identification symbol" means the same as that term is defined in Section 53-3-207.

(2) (a) The division shall issue an identification card that bears:

(i) the distinguishing number assigned to the individual by the division;

(ii) the name, birth date, and Utah residence address of the individual;

(iii) a brief description of the individual for the purpose of identification;

(iv) a photograph of the individual;

(v) a photograph or other facsimile of the individual's signature;

(vi) an indication whether the individual intends to make an anatomical gift under Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act; and

(vii) if the individual states that the individual is a veteran of the United States military on the application for an identification card in accordance with Section 53-3-804 and provides verification that the individual received an honorable or general discharge from the United States Armed Forces, an indication that the individual is a United States military veteran for a regular identification card or a limited-term identification card issued on or after July 1, 2011.

(b) An identification card issued by the division may not bear the individual's social security number or place of birth.

(3) (a) The card shall be of an impervious material, resistant to wear, damage, and alteration.

(b) Except as provided under Section 53-3-806, the size, form, and color of the card is prescribed by the commissioner.

(4) At the applicant's request, the card may include a statement that the applicant has a special medical problem or allergies to certain drugs, for the purpose of medical treatment.

(5) (a) The division shall include or affix an invisible condition identification symbol on an individual's identification card if the individual or the individual's authorized guardian, on a form prescribed by the department:

(i) requests the division to include the invisible condition identification symbol;

(ii) provides written verification from a health care professional that the individual is an individual with an invisible condition; and

(iii) submits a signed waiver of liability for the release of any medical information to:

(A) the department;

(B) any person who has access to the individual's medical information as recorded on the individual's driving record or the Utah Criminal Justice Information System under this chapter;

(C) any other person who may view or receive notice of the individual's medical information by seeing the individual's identification card or the individual's information in the Utah Criminal Justice Information System;

(D) a local law enforcement agency that receives a copy of the form described in this Subsection (5)(a) and enters the contents of the form into the local law enforcement agency's record management system or computer-aided dispatch system; and

(E) a dispatcher who accesses the information regarding the individual's invisible condition through the use of a local law enforcement agency's record management system or computer-aided dispatch system.

(b) As part of the form described in Subsection (5)(a), the department shall advise the individual or the individual's authorized guardian that by submitting the request and signed waiver, the individual or the individual's authorized guardian consents to the release of the individual's medical information to any person described in Subsection (5)(a)(iii), even if the person is otherwise ineligible to access the individual's medical information under state or federal law.

(c) The division may not:

(i) charge a fee to include the invisible condition identification symbol on the individual's identification card; or

(ii) after including the invisible condition identification symbol on the individual's previously issued identification card, require the individual to provide subsequent written verification described in Subsection (5)(a)(ii) to include the invisible condition identification symbol on the individual's extended identification card.

(d) The division shall confirm with the Division of Professional Licensing that the health care professional described in Subsection (5)(a)(ii) holds a current state license.

(e) The inclusion of an invisible condition identification symbol on an individual's identification card in accordance with Subsection (5)(a) does not confer any legal rights or privileges on the individual, including parking privileges for individuals with disabilities under Section 41-1a-414.

(f) For each individual issued an identification card under this section that includes an invisible condition identification symbol, the division shall include in the division's database a brief description of the nature of the individual's invisible condition in the individual's record and provide the brief description to the Utah Criminal Justice Information System.

(g) Except as provided in this section, the division may not release the information described in Subsection (5)(f).

(h) Within 30 days after the day on which the division receives an individual's or the individual's authorized guardian's written request, the division shall:

(i) remove from the individual's record in the division's database the invisible condition identification symbol and the brief description described in Subsection (5)(f); and

(ii) provide the individual's updated record to the Utah Criminal Justice Information System.

(6) (a) If the division receives a notification from a court as provided in Section 41-6a-505, 41-6a-509, 76-5-102.1, or 76-5-207, that an individual is an interdicted person, the division:

(i) may accept an application from the individual for an identification card that includes an interdicted person identifier; and

(ii) if the individual submits an application and qualifies for an identification card, may provide an identification card with the interdicted person identifier.

(b) (i) An individual may voluntarily apply for an identification card that includes an interdicted person identifier.

(ii) An individual that voluntarily applies for an identification card with an interdicted person identifier may not apply for another identification card without the interdicted person identifier for at least 30 days after the application for the identification card with the interdicted person identifier.

(c) The division may not provide to an individual an identification card without the interdicted person identifier during the time period the court has designated the person as an interdicted person.

(d) The division may charge an administrative fee as described in Subsection 53-3-105(40) to an individual to process and provide an identification card with an interdicted person identifier.

(e) An individual who is designated as an interdicted person by a court is subject to the identification card fee and other fees necessary to administer the identification card with an interdicted person identifier.

[~~(6)~~](7) As provided in Section 63G-2-302, the information described in Subsection (5)(a)is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

[~~(7)~~](8) (a) The indication of intent under Subsection 53-3-804(2)(j) shall be authenticated by the applicant in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26B-8-301, the names and addresses of all individuals who under Subsection 53-3-804(2)(j) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform applicants of anatomical gift options, procedures, and benefits.

[~~(8)~~](9) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all individuals who indicate their status as a veteran under Subsection 53-3-804(2)(l).

[~~(9)~~](10) The division and the division's employees are not liable, as a result of false or inaccurate information provided under Subsection 53-3-804(2)(j) or (l), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

[~~(10)~~](11) (a) The division may issue a temporary regular identification card to an individual while the individual obtains the required documentation to establish verification of the information described in Subsections 53-3-804(2)(a), (b), (c), (d), and (i)(i).

(b) A temporary regular identification card issued under this Subsection [~~(10)~~](11) shall be recognized and grant the individual the same privileges as a regular identification card.

(c) A temporary regular identification card issued under this Subsection [~~(10)~~](11) is invalid:

(i) when the individual's regular identification card has been issued;

(ii) when, for good cause, an applicant's application for a regular identification card has been refused; or

(iii) upon expiration of the temporary regular identification card.

(d) The division shall coordinate with the Department of Corrections in providing an inmate with a temporary regular identification card as described in Section 64-13-10.6.

Section 14. Section 53-3-808 is amended to read:

53-3-808. Fee required for identification card.

(1) The commissioner may charge and collect a fee only as provided by Section 53-3-105when an application for an identification card or an identification card with an interdicted person identifier is submitted.

(2) (a) Before accepting an application from an indigent person for an identification card without the payment of a fee, the division shall require that the indigent person sign a statement under penalty of perjury that the person is indigent.

(b) The division may require an indigent person applying for an identification card without the payment of a fee to execute a release form allowing the division to inquire with the State Tax Commission whether the person has filed state income tax returns or has state income tax withholding suggesting that the person is not indigent.

Section 15. Section 76-5-102.1 is amended to read:

76-5-102.1. Negligently operating a vehicle resulting in injury.

(1) (a) As used in this section:

(i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(ii) "Drug" means the same as that term is defined in Section 76-5-207.

(iii) "Negligent" or "negligence" means the same as that term is defined in Section 76-5-207.

(iv) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits negligently operating a vehicle resulting in injury if the actor:

(a) (i) operates a vehicle in a negligent manner causing bodily injury to another; and

(ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(B) is under the influence of alcohol, a drug, or the combined influence of alcohol and a drug to a degree that renders the actor incapable of safely operating a vehicle; or

(C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or

(b) (i) operates a vehicle in a criminally negligent manner causing bodily injury to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is:

(a) (i) a class A misdemeanor; or

(ii) a third degree felony if the actor has two or more driving under the influence related convictions under Subsection 41-6a-501(2)(a), each of which is within 10 years of:

(A) the current conviction; or

(B) the commission of the offense upon which the current conviction is based;

(iii) a third degree felony, if the current conviction is at any time after the conviction of:

(A) a conviction, as the term conviction is defined in Subsection 41-6a-501(2), that is a felony; or

(B) any conviction described in Subsection (3)(a)(iii)(A) for which judgment of conviction is reduced under Section 76-3-402; or

(iv) a third degree felony if the bodily injury is serious bodily injury; and

(b) a separate offense for each victim suffering bodily injury as a result of the actor's violation of this section, regardless of whether the injuries arise from the same episode of driving.

(4) An actor is not guilty of negligently operating a vehicle resulting in injury under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5) (a) A judge imposing a sentence under this section may consider:

(i) the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

(c) The standards for chemical breath analysis under Section 41-6a-515 and the provisions for the admissibility of chemical test results under Section 41-6a-516apply to determination and proof of blood alcohol content under this section.

(d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(3).

(e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

(f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

(6) (a) A judge imposing a sentence under this section shall designate the defendant as an interdicted person, as that term is defined in Section 32B-1-102, for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time.

(b) If a court designates a person as an interdicted person as provided in Subsection (6)(a), the court shall:

(i) require the person to surrender the person's identification card or driver license;

(ii) notify the Driver License Division that the person is an interdicted person; and

(iii) provide the person's identification card or driver license to the Driver License Division.

Section 16. Section 76-5-207 is amended to read:

76-5-207. Automobile homicide -- Penalties -- Evidence.

(1) (a) As used in this section:

(i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(ii) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).

(iii) "Drug" means:

(A) a controlled substance;

(B) a drug as defined in Section 58-37-2; or

(C) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of an individual to safely operate a vehicle.

(iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.

(v) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits automobile homicide if the actor:

(a) (i) operates a vehicle in a negligent or criminally negligent manner causing the death of another individual; and

(ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(B) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the actor incapable of safely operating a vehicle; or

(C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or

(b) (i) operates a vehicle in a criminally negligent manner causing death to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

(3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:

(a) a second degree felony, punishable by a term of imprisonment of not less than five years nor more than 15 years; and

(b) a separate offense for each victim suffering death as a result of the actor's violation of this section, regardless of whether the deaths arise from the same episode of driving.

(4) An actor is not guilty of a violation of automobile homicide under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5) (a) A judge imposing a sentence under this section may consider:

(i) the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

(c) The standards for chemical breath analysis as provided by Section 41-6a-515 and the provisions for the admissibility of chemical test results as provided by Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

(d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(3).

(e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

(f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

(6) If, when imposing a sentence under this section, the court finds that it is in the interest of justice to suspend the imposition of prison, the court shall detail the finding on the record, including why a suspended prison sentence is in the interest of justice.

(7) Notwithstanding Subsection (3)(a), the court may impose a sentence of not less than three years nor more than 15 years if the court details on the record why it is in the interest of justice.

(8) (a) A judge imposing a sentence under this section shall designate the defendant as an interdicted person, as that term is defined in Section 32B-1-102, for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time.

(b) If a court designates a person as an interdicted person as provided in Subsection (8)(a), the court shall:

(i) require the person to surrender the person's identification card or driver license;

(ii) notify the Driver License Division that the person is an interdicted person; and

(iii) provide the person's identification card or driver license to the Driver License Division.

Section 17. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 472
S. B. 271
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

UNAUTHORIZED ARTIFICIAL INTELLIGENCE IMPERSONATION AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies provisions relating to the unauthorized use of an individual's personal identity, including use through artificial intelligence technology.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► expands the scope of what constitutes abuse of personal identity to include unauthorized commercial use of simulated or artificially recreated personal identities;
- ► prohibits the distribution of technology primarily designed for unauthorized creation of content using personal identities for commercial purposes;
- ► creates exemptions for certain fair uses of personal identity; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

45-3-2, as last amended by Laws of Utah 1999, Chapter 146
45-3-3, as last amended by Laws of Utah 2023, Chapter 424
45-3-4, as enacted by Laws of Utah 1981, Chapter 95
45-3-5, as enacted by Laws of Utah 1981, Chapter 95

ENACTS:

45-3-7, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 45-3-2 is amended to read:

45-3-2. Definitions.

As used in this act:

(1) "Advertisement" means a notice designed to attract public attention or patronage and includes a list of supporters for a particular cause.

(2) "Cause the publication" means[-]:

(a) that a person:

(i) prepares or requests another to prepare:

(A) an advertisement of the type described in Subsection 45-3-3(1)[,];or

(B) [~~and that person~~]content that uses, simulates, or recreates an individual's personal identity; and

(ii) submits or requests another to submit the advertisement [~~to a publisher,~~]or content for publication; and

(b) the advertisement or content has been published.

(3) (a) "Consent" means [~~a person's~~]an individual's voluntary agreement to the use of that [~~person's name, title, picture, or portrait~~]individual's personal identity.

(b) "Consent" may not be inferred by the failure of the [~~person~~]individual to request that the [~~person's name, title, picture, or portrait~~]individual's personal identity not be used or that the [~~person's~~]individual's name be removed from a mailing or supporter list.

(4) "Content" means audio, video, image, text, or other media, regardless of format.

[~~(4)~~](5) "Generative artificial intelligence" means an artificial intelligence technology system that:

(a) is trained on data;

(b) is designed to simulate human conversation with a consumer through one or more of the following:

(i) text;

(ii) audio; or

(iii) visual communication; and

(c) generates non-scripted outputs similar to outputs created by a human, with limited or no human oversight.

(6) "Individual" means a natural person.

[~~(5)~~](7) "Person" means any natural person, firm, partnership, association, corporation, joint venture, or any other form of business organization or arrangement, and the agents or representatives of such persons.

[~~(6)~~](8) (a) "Personal identity" means an individual's:

(i) name[~~,~~];

(ii) title[~~,~~];

(iii) picture[~~, or~~];

(iv) portrait[~~,~~];

(v) video likeness;

(vi) voice; or

(vii) audiovisual appearance.

(b) "Personal identity" includes any simulation, reproduction, or artificial recreation of the content described in Subsection (8)(a), whether created through:

(i) generative artificial intelligence;

(ii) computer animation;

(iii) digital manipulation; or

(iv) any other technological means.

[~~(7)~~](9) "Publish" means that a person provides the instrumentality through which an advertisement or content is communicated to the public at large or to a significant portion thereof.

(10) "Voice" means a computer-generated sound in a medium that is readily identifiable and attributable to a particular individual, regardless of whether the sound contains the actual voice of the individual.

Section 2. Section 45-3-3 is amended to read:

45-3-3. Acts constituting abuse -- Permitting prosecution.

(1) Except for purposes of the criminal penalty in Section 76-9-407, the personal identity of an individual is abused if:

[~~(a) an advertisement is published in which the personal identity of that individual is used in a manner which expresses or implies that the individual approves, endorses, has endorsed, or will endorse the specific subject matter of the advertisement; and~~]

[~~(b) consent has not been obtained for such use from the individual, or if the individual is a minor, then consent of one of the minor's parents or consent of the minor's legally appointed guardian.~~]

(a) (i) content containing the personal identity of an individual is used for purposes of:

(A) advertising products, merchandise, goods, or services;

(B) fundraising;

(C) solicitation of donations; or

(D) purchases of products, merchandise, goods, or services;

(ii) the use:

(A) expresses or implies that the individual approves, endorses, has endorsed, or will endorse the specific subject matter;

(B) creates a likelihood of confusion as to the participation, association, or connection of the individual; or

(C) creates a false impression that the individual participated in or approved the use; and

(iii) consent has not been obtained from the individual.

(b) the person knowingly distributes, sells, or licenses any technology, software, or tool whose intended primary purpose is the unauthorized creation or modification of content that includes an individual's personal identity for commercial purposes.

(2) Nothing in this part prohibits prosecution of abuse of personal identity under Section 76-9-407.

(3) The personal identity of an individual is not abused if the individual's personal data or publicly available information:

(a) was lawfully obtained;

(b) is used to preview, advertise, or promote the sale of a product, service, or subscription, including the sale of a product, service, or subscription of which the individual's personal data or publicly available information is or may be a part; and

(c) is not used in a way that expresses or implies that the individual approves, endorses, has endorsed, or will endorse the product, service, or subscription being previewed, advertised, or promoted.

Section 3. Section 45-3-4 is amended to read:

45-3-4. Cause of action for abuse -- Remedies.

An individual whose personal identity has been abused under Section 45-3-3 of this act may bring an action against a person who caused the publication of the advertisement or content, and is entitled to injunctive relief, damages alleged and proved, exemplary damages, and reasonable attorney's fees and costs.

Section 4. Section 45-3-5 is amended to read:

45-3-5. Action against publisher -- Grounds -- Remedies.

(1) An individual whose personal identity has been abused under Section 45-3-3 of this act may bring an action against a person who published the advertisement or content:

(a) if the advertisement or content, on its face is such that a reasonable person would conclude that it is unlikely that an individual would consent to such use; and

(b) the publisher did not take reasonable steps to assure that consent was obtained.

(2) In an action under this section, the plaintiff shall be entitled to injunctive relief, damages alleged and proved, exemplary damages,

and reasonable attorney's fees and costs.

Section 5. Section 45-3-7 is enacted to read:

45-3-7. Exemptions.

(1) A person does not violate Section 45-3-3 or Section 45-3-4 if the person uses an individual's personal identity in:

(a) connection with a news, public affairs, or sports broadcast, including the promotion of and advertising for a sports broadcast, an account of public interest, or a political campaign;

(b) a play, book, magazine, newspaper, musical composition, visual work, work of art, audiovisual work, radio or television program if it is fictional or nonfictional entertainment, or a dramatic, literary, or musical work;

(c) a work of political, public interest, or newsworthy value, including a comment, criticism, parody, satire, or a transformative creation of a work of authorship; or

(d) an advertisement or commercial announcement for a work described in this Subsection (1).

(2) The use of personal identity in a commercial medium does not constitute a use for purposes of advertising or solicitation solely because the material containing such use is commercially sponsored or contains paid advertising.

(3) This part may not apply to, and nothing in this part may be construed to impose liability or culpability on, an interactive computer service, as defined in 47 U.S.C. 230(f)(2), for content provided by another person.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 473
S. B. 274
Passed March 5, 2025
Approved March 27, 2025
Effective May 7, 2025

HEALTH INSURANCE PREAUTHORIZATION REVISIONS

Chief Sponsor: John D. Johnson
House Sponsor: Katy Hall

LONG TITLE

General Description:

This bill amends provisions related to health insurance preauthorization.

Highlighted Provisions:

This bill:

- ► requires health insurers to provide information related to preauthorization to the Department of Insurance, patients, and health care providers; and
- ► creates a repeal date.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-650, as enacted by Laws of Utah 2019, Chapter 439
63I-1-231, as last amended by Laws of Utah 2023, Chapter 28

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-650 is amended to read:

31A-22-650. Health care preauthorization requirements.

(1) As used in this section:

(a) "Adverse preauthorization determination" means a determination by an insurer that health care does not meet the preauthorization requirement for the health care.

(b) "Authorization" means a determination by an insurer that for health care with a preauthorization requirement:

(i) the proposed drug, device, or covered service meets all requirements, restrictions, limitations, and clinical criteria for authorization established by the insurer;

(ii) the drug, device, or covered service is covered by the enrollee's insurance policy; and

(iii) the insurer will provide coverage for the drug, device, or covered service subject to the provisions of the insurance policy, including any cost sharing responsibilities of the enrollee.

(c) "Device" means a prescription device as defined in Section 58-17b-102.

(d) "Drug" means the same as that term is defined in Section 58-17b-102.

(e) "Insurer" means the same as that term is defined in Section 31A-22-634.

(f) "Preauthorization requirement" means a requirement by an insurer that an enrollee obtain authorization for a drug, device, or service covered by the insurance policy, before receiving the drug, device, or service.

(2) (a) An insurer may not modify an existing requirement for authorization unless, at least 30 days before the day on which the modification takes effect, the insurer:

(i) posts a notice of the modification on the website described in Subsection 31A-22-613.5(6)(a); and

(ii) if requested by a network provider or the network provider's representative, provides to the network provider by mail or email a written notice of modification to a particular requirement for authorization described in the request from the network provider.

(b) Subsection (2)(a) does not apply if:

(i) complying with Subsection (2)(a) would create a danger to the enrollee's health or safety; or

(ii) the modification is for a newly covered drug or device.

(c) An insurer may not revoke an authorization for a drug, device, or covered service if:

(i) the network provider submits a request for authorization for the drug, device, or covered service to the insurer;

(ii) the insurer grants the authorization requested under Subsection (2)(c)(i);

(iii) the network provider renders the drug, device, or covered service to the enrollee in accordance with the authorization and any terms and conditions of the network provider's contract with the insurer;

(iv) on the day on which the network provider renders the drug, device, or covered service to the enrollee:

(A) the enrollee is eligible for coverage under the enrollee's insurance policy; and

(B) the enrollee's condition or circumstances related to the enrollee's care have not changed;

(v) the network provider submits an accurate claim that matches the information in the request for authorization under Subsection (2)(c)(i); and

(vi) the authorization was not based on fraudulent or materially incorrect information from the network provider.

(3) (a) An insurer that receives a request for authorization shall treat the request as a pre-service claim as defined in 29 C.F.R. Sec. 2560.503-1 and process the request in accordance with:

(i) 29 C.F.R. Sec. 2560.503-1, regardless of whether the coverage is offered through an individual or group health insurance policy;

(ii) Subsection 31A-4-116(2); and

(iii) Section 31A-22-629.

(b) If a network provider submits a claim to an insurer that includes an unintentional error that results in a denial of the claim, the insurer shall permit the network provider with an opportunity to resubmit the claim with corrected information within a reasonable amount of time.

(c) Except as provided in Subsection (3)(d), the appeal of an adverse preauthorization determination regarding clinical or medical necessity as requested by a physician may only be reviewed by a physician who is currently licensed as a physician and surgeon in a state, district, or territory of the United States.

(d) The appeal of an adverse determination requested by a physician regarding clinical or medical necessity of a drug, may only be reviewed by an individual who is currently licensed in a state, district, or territory of the United States as:

(i) a physician and surgeon; or

(ii) a pharmacist.

(e) An insurer shall ensure that an adverse preauthorization determination regarding clinical or medical necessity is made by an individual who:

(i) has knowledge of the medical condition or disease of the enrollee for whom the authorization is requested; or

(ii) consults with a specialist who has knowledge of the medical condition or disease of the enrollee for whom the authorization is requested regarding the request before making the determination.

(f) An insurer shall specify how long an authorization is valid.

(4) (a) An insurer that removes a drug from the insurer's formulary shall:

(i) permit an enrollee, an enrollee's designee, or an enrollee's network provider to request an exemption from the change to the formulary for the purpose of providing the patient with continuity of care; and

(ii) have a process to review and make a decision regarding an exemption requested under Subsection (4)(a)(i).

(b) If an insurer makes a change to the formulary for a drug in the middle of a plan year, the insurer may not implement the changes for an enrollee that is on an active course of treatment for the drug unless the insurer provides the enrollee with notice at least 30 days before the day on which the change is implemented.

(5) (a) [~~Before April 1, 2021, and before April 1 of each year thereafter,~~]Each April 1, an insurer with a preauthorization requirement shall report to the department, for the previous calendar year, the percentage of authorizations, not including a claim involving urgent care as defined in 29 C.F.R. Sec. 2560.503-1, for which the insurer notified a provider regarding an authorization or adverse preauthorization determination more than one week after the day on which the insurer received the request for authorization.

(b) Before March 1, 2026, and each March 1 thereafter, an insurer shall report to the department the following for the previous calendar year:

(i) a list of services that have preauthorization requirements;

(ii) for pre-service preauthorization requests that were not urgent, the percentage of individual service requests that:

(A) were approved;

(B) were denied;

(C) were approved after appeal;

(D) the time frame for review was extended, and the request was approved;

(E) were denied due to incomplete information from the health care provider; and

(F) were received through fax, phone, and electronic portal; and

(iii) for urgent pre-service preauthorization requests, the percentage of individual service requests that:

(A) were approved;

(B) were denied;

(C) were denied due to incomplete information from the health care provider; and

(D) were received through fax, phone, and electronic portal.

(c) Data provided to the department under Subsections (5)(b)(ii) and (iii) shall be aggregated for all services.

(d) Subsection (5)(b) does not require an insurer to report information regarding prescription drugs.

(e) The department shall compile the information described in Subsection (5)(b) and publish the information on the department's website.

(6) An insurer may not have a preauthorization requirement for emergency health care as described in Section 31A-22-627.

(7) For each adverse preauthorization determination made by an insurer, the insurer shall provide to the enrollee and the enrollee's health care provider:

(a) a detailed and specific explanation that explains why the determination was made; and

(b) a notice explaining the determination may be appealed and the process for appealing the determination, including how to begin an expedited appeal process as described in Section 31A-22-629.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement Subsection (5)(b).

Section 2. Section 63I-1-231 is amended to read:

63I-1-231. Repeal dates: Title 31A.

(1) Section 31A-2-217, Coordination with other states, is repealed July 1, 2033.

(2) Subsection 31A-22-650(5)(b), regarding the reporting requirement that includes the number of preauthorizations that were approved and denied, is repealed July 1, 2029.

(3) Subsection 31A-22-650(8), regarding the rulemaking for the preauthorization reporting requirement, is repealed July 1, 2029.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 474
S. B. 276
Passed March 7, 2025
Approved March 27, 2025
Effective March 27, 2025

UTAH HORSE RACING COMMISSION AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses hearings related to the Utah Horse Racing Commission.

Highlighted Provisions:

This bill:

- ► establishes that a person may appeal a final order or ruling by the Utah Horse Racing Commission (commission) to a court;
- ► awards costs and fees, attorney fees, and court costs to the Department of Agriculture and Food if the commission prevails upon an appeal to a court;
- ► requires the commission to adopt rules for a proceeding before the board of stewards; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-38-501, as renumbered and amended by Laws of Utah 2017, Chapter 345

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-38-501 is amended to read:

4-38-501. Hearings before commission -- Hearings before board of stewards -- Appeal -- Costs and attorney fees -- Rulemaking.

(1) (a) Except as otherwise provided in this section, [~~all proceedings before the commission or the commission's hearing officer with respect to the denial, suspension, or revocation of licenses or the imposition of fines shall be conducted pursuant to~~]the commission or the commission's hearing officer shall conduct an informal adjudicative proceeding with respect to the denial, suspension, or revocation of a license or imposition of a fine in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) A final order or ruling from the commission shall take effect immediately and remain effective unless stayed by a court.

(c) A person aggrieved by a final order or ruling issued by the commission may appeal the order or ruling to a court.

(d) A court shall award costs, fees, attorney fees, and court costs to the department if the commission prevails upon an appeal described in Subsection (1)(c).

(2) (a) [~~These proceedings shall be held~~]The commission shall hold an informal adjudicative proceeding in the county where the commission has an office or in [~~any other~~]a place the commission designates.

(b) The commission shall notify the applicant or licensee by mailing, by first class mail, a copy of the written notice required to the last address furnished by the application or licensee to the commission at least seven days in advance of the hearing.

(3) The commission may delegate the commission's authority to conduct hearings with respect to the denial or suspension of licenses or the imposition of a fine to a hearing officer.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules of procedure and evidence for a proceeding before the board of stewards.

(b) [~~Proceedings before the board of stewards need not be governed by the procedural or other requirements of Title 63G, Chapter 4, Administrative Procedures Act, but rather shall be conducted~~]The board of stewards shall conduct a proceeding in accordance with rules adopted by the commission.

(5) The commission and the board of stewards may administer oaths and affirmations, sign and issue subpoenas, order the production of documents and other evidence, and regulate the course of the hearing [~~pursuant to~~]in accordance with rules adopted by the commission.

(6) (a) Any person aggrieved by a final order or ruling issued by a board of stewards may appeal the order or ruling to the commission [~~pursuant to~~]in accordance with the procedural rules adopted by the commission.

(b) The aggrieved party may petition the commission for a stay of execution pending appeal to the commission.

Section 2. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or
(c) in the case of a veto, the date of veto override.

CHAPTER 475
H. B. 444
Passed March 6, 2025
Approved March 27, 2025
Effective March 27, 2025

DATA PRIVACY AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill modifies provisions related to governmental data privacy and privacy oversight.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► modifies requirements for privacy annotations and privacy notices;
- ► modifies requirements for government website privacy notices;
- ► modifies provisions related to data breach notification requirements;
- ► renames and modifies duties of the state privacy auditor;
- ► modifies enforcement provisions related to privacy requirements; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63A-12-100.5, as last amended by Laws of Utah 2023, Chapter 173
63A-12-103, as last amended by Laws of Utah 2021, Chapter 344
63A-12-104, as repealed and reenacted by Laws of Utah 2023, Chapter 173
63A-12-108, as last amended by Laws of Utah 2023, Chapter 173
63A-19-101, as enacted by Laws of Utah 2024, Chapter 417
63A-19-102, as enacted by Laws of Utah 2024, Chapter 417
63A-19-301, as enacted by Laws of Utah 2024, Chapter 417
63A-19-401, as enacted by Laws of Utah 2024, Chapter 417
63A-19-402, as enacted by Laws of Utah 2024, Chapter 417
63A-19-405, as enacted by Laws of Utah 2024, Chapter 417
63A-19-406, as enacted by Laws of Utah 2024, Chapter 417
63A-19-501, as enacted by Laws of Utah 2024, Chapter 417
63A-19-601, as enacted by Laws of Utah 2024, Chapter 417
63G-2-103, as last amended by Laws of Utah 2024, Chapters 18, 465, 509, and 522
63G-2-307, as last amended by Laws of Utah 2023, Chapter 173
63G-2-601, as last amended by Laws of Utah 2023, Chapter 173
67-3-1, as last amended by Laws of Utah 2024, Chapters 3, 158
67-3-13, as last amended by Laws of Utah 2024, Chapter 417

ENACTS:

63A-19-401.1, Utah Code Annotated 1953
63A-19-401.2, Utah Code Annotated 1953
63A-19-401.3, Utah Code Annotated 1953
63A-19-401.4, Utah Code Annotated 1953
63A-19-402.5, Utah Code Annotated 1953
63A-19-602, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63A-16-110, (Renumbered from 63D-2-105, as last amended by Laws of Utah 2024, Chapter 426)
63A-19-203, (Renumbered from 63C-24-201, as last amended by Laws of Utah 2024, Chapter 417)
63A-19-204, (Renumbered from 63C-24-202, as last amended by Laws of Utah 2024, Chapter 417)
78A-2-233, (Renumbered from 63D-2-104, as last amended by Laws of Utah 2008, Chapter 3)

REPEALS:

63A-12-115, as last amended by Laws of Utah 2024, Chapter 417
63C-24-101, as last amended by Laws of Utah 2024, Chapter 417
63C-24-102, as last amended by Laws of Utah 2024, Chapter 417
63D-2-101, as enacted by Laws of Utah 2004, Chapter 175
63D-2-102, as last amended by Laws of Utah 2024, Chapter 426
63D-2-103, as last amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-12-100.5 is amended to read:
63A-12-100.5. Definitions.

(1) Except as provided under Subsection (2), the definitions in Section 63G-2-103 apply to this chapter.

(2) As used in this chapter:

(a) "Chief administrative officer" means the individual designated by a governmental entity to perform the duties described in Section 63A-12-103.

(b) "Division" means the Division of Archives and Records Service.

[~~(b) (i) "Executive branch agency" means the same as that term is defined in Section 63A-16-102.~~]

[~~(ii) "Executive branch agency" includes a state agency, as defined in Subsection 67-1-17(1)(d).~~]

[~~(c) (i) "Personal identifying information" means information about an individual that:~~]

[~~(A) identifies, or can be used to identify, an individual;~~]

[~~(B) distinguishes an individual from one or more other individuals; or~~]

[~~(C) is, or can be, logically associated with other information or data, through technology or otherwise, to identify an individual or distinguish an individual from one or more other individuals.~~]

[~~(ii) "Personal identifying information" includes information identified as personal identifying information in accordance with the rules described in Section 63A-12-104.~~]

[~~(d) "Privacy annotation" means a summary, described in Subsection 63A-12-115(2) and rules made by the executive director under Subsection 63A-12-104(2), that, for each record series that an executive branch agency collects, maintains, or uses:~~]

[~~(i) discloses whether the record series contains personal identifying information; and~~]

[~~(ii) if the record series contains personal identifying information, includes the information described in Subsection 63A-12-115(2)(b).~~]

[~~(e)~~](c) "Record" means:

(i) the same as that term is defined in Section 63G-2-103; or

(ii) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102, the release of which is governed by Section 77-37-4.

(d) "Records officer" means an individual appointed by the chief administrative officer whose primary responsibility is to care, maintain, use, schedule, dispose, classify, designate, manage access to, and preserve records in accordance with applicable laws.

[~~(f)~~](e) "State archives" means the Division of Archives and Records Service.

[~~(g)~~](f) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.

[~~(h)~~](g) "Vulnerable record" means a record or data relating to:

(i) national security interests;

(ii) the care, custody, or control of a child;

(iii) a fiduciary trust over money;

(iv) health care of a child; or

(v) the following, in relation to a vulnerable adult:

(A) protection, health care, or other care; or

(B) the provision of food, shelter, clothing, assistance with an activity of daily living, or assistance with financial resource management.

Section 2. Section 63A-12-103 is amended to read:
63A-12-103. Duties of governmental entities.

[~~The chief administrative officer of each governmental entity shall~~]Each governmental entity shall designate a chief administrative officer who shall be responsible to:

(1) establish and maintain an active, continuing program for the economical and efficient management of the governmental entity's records as provided by this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(2) appoint one or more records officers who will be trained to work with the state archives in the care, maintenance, scheduling, disposal, classification, designation, access, and preservation of records;

(3) ensure that officers and employees of the governmental entity that receive or process records requests receive required training on the procedures and requirements of this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(4) make and maintain adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the governmental entity designed to furnish information to protect the privacy, transparency, legal, and financial rights of persons directly affected by the entity's activities;

(5) submit to the state archivist proposed schedules of records for final approval by the Records Management Committee created in Section 63A-12-112;

(6) cooperate with the state archivist in conducting surveys made by the state archivist;

(7) comply with rules issued by the Department of Government Operations as provided by Section 63A-12-104;

(8) report to the state archives:

(a) [-]the designation of each record series that [~~it~~]the governmental entity maintains;

[~~(9) report to the state archives~~]

(b) the classification of each record series that [~~is~~]the governmental entity has classified; and

(c) the name of the governmental entity's:

(i) chief administrative officer; and

(ii) records officers;

(9) ensure that the governmental entity complies with the requirements found in:

(a) this part;

(b) Title 63G, Chapter 2, Government Records Access and Management Act; and

(c) Chapter 19, Part 4, Duties of Governmental Entities; and

(10) establish and report to the state archives retention schedules for objects that the governmental entity determines are not defined as a record under Section 63G-2-103, but that have historical or evidentiary value.

Section 3. Section 63A-12-104 is amended to read:

63A-12-104. Rulemaking authority.

[~~(1)~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

[~~(a)~~](1) the state archivist may[~~, for an executive branch agency,~~] make rules establishing procedures for the collection, storage, designation, classification, access, mediation for records access, and management of records under this chapter and Title 63G, Chapter 2, Government Records Access and Management Act; and

[~~(b)~~](2) a [~~department~~]governmental entity may make rules, policies, or ordinances specifying at which level within the [~~department~~]governmental entity the requirements described in this chapter will be undertaken.

[~~(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director shall, in consultation with the state archivist and the chief privacy officer, make rules for an executive branch agency that establish:~~]

[~~(a) requirements for making an inventory of each record series that contains personal identifying information, including:~~]

[~~(i) information collected as part of the inventory;~~]

[~~(ii) regularly reviewing, updating, and maintaining the inventory; and~~]

[~~(iii) reporting the inventory to the chief privacy officer;~~]

[~~(b) a list of information, categories of information, or types of information expressly designated as personal identifying information, in accordance with the criteria described in Subsections 63A-12-100.5(2)(c)(i) through (iii);~~]

[~~(c) criteria, variables, and principles for determining whether information in a record series, not expressly designated under Subsection (2)(b), is personal identifying information;~~]

[~~(d) a list and description of categories or types of personal identifying information that are collected, maintained, or used by executive branch agencies; and~~]

[~~(e) requirements for the form, content, format, review, and update of a privacy annotation.~~]

[~~(3) The rules described in Subsection (2)(b) may incorporate, by reference, a data dictionary that a records officer appointed under Subsection 63A-12-103(2)(a) shall use in making the determination described in Subsection (2)(c).~~]

Section 4. Section 63A-12-108 is amended to read:

63A-12-108. Inspection and summary of record series.

[~~(1)~~] State archives shall provide for public inspection of[~~:~~]

[~~(a)~~] the title and a summary description of each record series[~~; and~~].

[~~(b) for an executive branch agency, the privacy annotation of each record series.~~]

[~~(2) The department shall:~~]

[~~(a) post the data dictionary described in Subsection 63A-12-104(3) on the department's website; and~~]

[~~(b) maintain and update the data dictionary on a regular basis.~~]

Section 5. Section 63A-16-110, which is renumbered from Section 63D-2-105 is renumbered and amended to read:

[~~63D-2-105~~]63A-16-110. Use of authorized domain extensions for government websites.

(1) As used in this section[~~,~~]:

(a) [~~"authorized top level~~]"Authorized top-level domain" means any of the following suffixes that [~~follows~~]follow the domain name in a website address:

[~~(a)~~](i) gov;

[~~(b)~~](ii) edu; and

[~~(c)~~](iii) mil.

(b) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(c) "Government website" means the same as that term is defined in Section 63A-19-101.

(d) "Person" means the same as that term is defined in Section 63G-2-103.

(e) "School" means a public elementary or secondary school.

(2) Beginning July 1, 2025, a governmental entity shall use an authorized [~~top level~~]top-level domain for:

(a) the website address for the governmental entity's government website; and

(b) the email addresses used by the governmental entity and the governmental entity's employees.

(3) Notwithstanding Subsection (2), a governmental entity may operate a website that uses a [~~top level~~]top-level domain that is not an authorized [~~top level~~]top-level domain if:

(a) (i) a reasonable person would not mistake the website as the governmental entity's primary government website; and

(ii) the [~~governmental~~]government website is:

(A) solely for internal use and not intended for use by members of the public;

(B) temporary and in use by the governmental entity for a period of less than one year; or

(C) related to an event, program, or informational campaign operated by the governmental entity in partnership with another person that is not a governmental entity; or

(b) the governmental entity is a school district or a school that is not an institution of higher education and the use of an authorized [~~top level~~]top-level domain is otherwise prohibited, provided that once the use of an authorized [~~top level~~]top-level domain is not otherwise prohibited, the school district or school shall transition to an authorized [~~top level~~]top-level domain within 15 months.

(4) The chief information officer appointed under Section 63A-16-201 may authorize a waiver of the requirement in Subsection (2) if:

(a) there are extraordinary circumstances under which use of an authorized domain extension would cause demonstrable harm to citizens or businesses; and

(b) the executive director or chief executive of the governmental entity submits a written request to the chief information officer that includes a justification for the waiver.

Section 6. Section 63A-19-101 is amended to read:

63A-19-101. Definitions.

As used in this chapter:

(1) "Anonymized data" means information that has been irreversibly modified so that there is no possibility of using the information, alone or in combination with other information, to identify an individual.

(2) "At-risk government employee" means the same as that term is defined in Section 63G-2-303.

(3) "Automated decision making" means using personal data to make a decision about an individual through automated processing, without human review or intervention.

(4) "Biometric data" means the same as that term is defined in Section 13-61-101.

(5) "Chief administrative officer" means the same as that term is defined in Section 63A-12-100.5.

(6) "Chief privacy officer" means the individual appointed under Section 63A-19-302.

[~~(2)~~](7) "Commission" means the Utah Privacy Commission established in Section [~~63C-24-102~~]63A-19-203.

(8) "Contract" means an agreement between a governmental entity and a person for goods or services that involve personal data.

(9) (a) "Contractor" means a person who:

(i) has entered into a contract with a governmental entity; and

(ii) may process personal data under the contract.

(b) "Contractor" includes a contractor's employees, agents, or subcontractors.

[~~(3)~~](10) "Cyber Center" means the Utah Cyber Center created in Section 63A-16-1102.

[~~(4)~~](11) "Data breach" means the unauthorized access, acquisition, disclosure, loss of access, or destruction of personal data held by a governmental entity, unless the governmental entity concludes, according to standards established by the Cyber Center, that there is a low probability that personal data has been compromised.

[~~(5)~~](12) [~~"Designated governmental entity" means the same as that term is defined in Section 67-3-13.~~]"De-identified data" means information from which personal data has been removed or obscured so that the information is not readily identifiable to a specific individual, and which may not be re-identified.

(13) "Genetic data" means the same as that term is defined in Section 13-60-102.

[~~(6)~~](14) "Governing board" means the Utah Privacy Governing Board established in Section 63A-19-201.

[~~(7)~~](15) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(16) "Government website" means a set of related web pages that is operated by or on behalf of a governmental entity and is:

(a) located under a single domain name or web address; and

(b) accessible directly through the Internet or by the use of a software program.

[~~(8)~~](17) (a) " [~~High risk~~]High-risk processing activities" means a governmental entity's processing of personal data that may [~~result in a significant compromise to~~]have a significant impact on an individual's privacy interests, based on factors that include:

[~~(a)~~](i) the sensitivity of the personal data processed;

[~~(b)~~](ii) the amount of personal data being processed;

[~~(c)~~](iii) the individual's ability to consent to the processing of personal data; and

[~~(d)~~](iv) risks of unauthorized access or use.

(b) "High-risk processing activities" may include the use of:

(i) facial recognition technology;

(ii) automated decision making;

(iii) profiling;

(iv) genetic data;

(v) biometric data; or

(vi) geolocation data.

[~~(9)~~](18) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(19) "Individual" means the same as that term is defined in Section 63G-2-103.

[~~(10)~~](20) "Legal guardian" means:

(a) the parent of a minor; or

(b) an individual appointed by a court to be the guardian of a minor or incapacitated [~~person~~]individual and given legal authority to make decisions regarding the person or property of the minor or incapacitated [~~person~~]individual.

[~~(11)~~](21) "Office" means the Utah Office of Data Privacy created in Section 63A-19-301.

[~~(12)~~](22) "Ombudsperson" means the data privacy ombudsperson appointed under Section 63A-19-501.

(23) "Person" means the same as that term is defined in Section 63G-2-103.

[~~(13)~~](24) "Personal data" means information that is linked or can be reasonably linked to an identified individual or an identifiable individual.

(25) "Privacy annotation" means a summary of personal data contained in a record series as described in Section 63A-19-401.1.

(26) "Privacy practice" means a governmental entity's:

(a) organizational, technical, administrative, and physical safeguards designed to protect an individual's personal data;

(b) policies and procedures related to the acquisition, use, storage, sharing, retention, and disposal of personal data; and

(c) practice of providing notice to an individual regarding the individual's privacy rights.

[~~(14)~~](27) "Process," [~~or~~] "processing," or "processing activity" means any operation or set of operations performed on personal data, including collection, recording, organization, structuring, storage, adaptation, alteration, access, retrieval, consultation, use, disclosure by transmission, transfer, dissemination, alignment, combination, restriction, erasure, or destruction.

(28) "Profiling" means the processing of personal data to evaluate or predict an individual's:

(a) economic situation;

(b) health;

(c) personal preferences;

(d) interests;

(e) reliability;

(f) behavior;

(g) location; or

(h) movements.

(29) "Purchase" or "purchasing" means the exchange of monetary consideration to obtain the personal data of an individual who is not a party to the transaction.

[~~(15)~~](30) "Record" means the same as that term is defined in Section 63G-2-103.

[~~(16)~~](31) "Record series" means the same as that term is defined in Section 63G-2-103.

[~~(17)~~](32) "Retention schedule" means a governmental entity's schedule for the retention or disposal of records that has been approved by the Records Management Committee pursuant to Section 63A-12-113.

[~~(18)~~](33) (a) "Sell" means an exchange of personal data for monetary consideration by a governmental entity to a third party.

(b) "Sell" does not include a fee:

(i) charged by a governmental entity for access to a record pursuant to Section 63G-2-203; or

(ii) assessed in accordance with an approved fee schedule.

[~~(19)~~](34) (a) "State agency" means the following entities that are under the direct supervision and control of the governor or the lieutenant governor:

(i) a department;

(ii) a commission;

(iii) a board;

(iv) a council;

(v) an institution;

(vi) an officer;

(vii) a corporation;

(viii) a fund;

(ix) a division;

(x) an office;

(xi) a committee;

(xii) an authority;

(xiii) a laboratory;

(xiv) a library;

(xv) a bureau;

(xvi) a panel;

(xvii) another administrative unit of the state; or

(xviii) an agent of an entity described in Subsections [~~(19)~~](34)(a)(i) through (xvii).

(b) "State agency" does not include:

(i) the legislative branch;

(ii) the judicial branch;

(iii) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or

(iv) an independent entity.

[~~(20)~~](35) [~~"State privacy officer" means the individual described in Section 67-3-13~~]"State privacy auditor" means the same as that term is defined in Section 67-3-13.

(36) "Synthetic data" means artificial data that:

(a) is generated from personal data; and

(b) models the statistical properties of the original personal data.

(37) "User" means an individual who accesses a government website.

(38) (a) "User data" means any information about a user that is automatically collected by a government website when a user accesses the government website.

(b) "User data" includes information that identifies:

(i) a user as having requested or obtained specific materials or services from a government website;

(ii) Internet sites visited by a user;

(iii) the contents of a user's data-storage device;

(iv) any identifying code linked to a user of a government website; and

(v) a user's:

(A) IP or Mac address; or

(B) session ID.

(39) "Website tracking technology" means any tool used by a government website to:

(a) monitor a user's behavior; or

(b) collect user data.

Section 7. Section 63A-19-102 is amended to read:

63A-19-102. State data privacy policy.

It is the policy of Utah that:

(1) an individual has a fundamental interest in and inherent expectation of privacy regarding the individual's personal data that the individual provides to a governmental entity;

(2) a governmental entity shall [~~act~~]process personal data in a manner [~~respecting personal data provided to the governmental entity~~]that is consistent with the interests and expectations described in Subsection (1);

(3) the state shall encourage innovation to enhance the ability of a governmental entity to:

(a) protect the privacy of an individual's personal data;

(b) provide clear notice to an individual regarding the governmental entity's processing of the individual's personal data;

(c) process personal data only for specified, lawful purposes and only process the minimum amount of an individual's personal data necessary to achieve those purposes;

(d) implement appropriate consent mechanisms regarding the uses of an individual's personal data;

(e) provide an individual with the ability to access, control, and request corrections to the individual's personal data held by a governmental entity;

(f) maintain appropriate safeguards to protect the confidentiality, integrity, and availability of personal data;

(g) account for compliance with privacy related laws, rules, and regulations that are specific to a particular governmental entity, program, or personal data; and

(h) meet a governmental entity's and an individual's business and service needs;

(4) the state shall promote training and education programs for employees of governmental entities focused on:

(a) data privacy best practices, obligations, and responsibilities; and

(b) the overlapping relationship with privacy, records management, and security; and

(5) the state shall promote consistent terminology in data privacy requirements across governmental entities.

Section 8. Section 63A-19-203, which is renumbered from Section 63C-24-201 is renumbered and amended to read:

[~~63C-24-201~~]63A-19-203. Utah Privacy Commission created.

(1) There is created the Utah Privacy Commission.

(2) (a) The commission shall be composed of 12 members.

(b) The governor shall appoint:

(i) one member who, at the time of appointment provides internet technology services for a county[~~, or a municipality~~];

(ii) one member with experience in cybersecurity;

(iii) one member representing private industry in technology;

(iv) one member representing law enforcement; and

(v) one member with experience in data privacy law.

(c) The state auditor shall appoint:

(i) one member with experience in internet technology services;

(ii) one member with experience in cybersecurity;

(iii) one member representing private industry in technology;

(iv) one member with experience in data privacy law; and

(v) one member [~~with experience~~]representing municipalities who, at the time of appointment, has expertise in civil liberties law, the ethical use of data, or [~~policy and with specific experience in identifying the disparate~~]the impacts of the use of a technology [~~or a policy~~]on different populations.

(d) The attorney general shall appoint:

(i) one member with experience as a prosecutor or appellate attorney and with experience in data privacy or civil liberties law; and

(ii) one member representing law enforcement.

(3) (a) Except as provided in Subsection (3)(b), a member is appointed for a term of four years.

(b) The initial appointments of members described in Subsections (2)(b)(i) through (b)(iii), (2)(c)(iv) through (c)(v), and (2)(d)(ii) shall be for two-year terms.

(c) When the term of a current member expires, a member shall be reappointed or a new member shall be appointed in accordance with Subsection (2).

(4) (a) When a vacancy occurs in the membership for any reason, a replacement shall be appointed in accordance with Subsection (2) for the unexpired term.

(b) A member whose term has expired may continue to serve until a replacement is appointed.

(5) The commission shall select officers from the commission's members as the commission finds necessary.

(6) (a) A majority of the members of the commission is a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(7) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses incurred as a member of the commission at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(8) A member shall refrain from participating in a review of:

(a) an entity of which the member is an employee; or

(b) a technology in which the member has a financial interest.

(9) The state auditor shall provide staff and support to the commission.

(10) The commission shall meet up to 12 times a year to accomplish the duties described in Section [~~63C-24-202~~]63A-19-204.

Section 9. Section 63A-19-204, which is renumbered from Section 63C-24-202 is renumbered and amended to read:

[~~63C-24-202~~]63A-19-204. Commission duties.

(1) The commission shall:

(a) annually develop a data privacy agenda that identifies for the upcoming year:

(i) governmental entity privacy practices to be reviewed by the commission;

(ii) educational and training materials that the commission intends to develop;

(iii) any other items related to data privacy the commission intends to study; and

(iv) best practices and guiding principles that the commission plans to develop related to government privacy practices;

(b) develop guiding standards and best practices with respect to government privacy practices;

(c) develop educational and training materials that include information about:

(i) the privacy implications and civil liberties concerns of the privacy practices of government entities;

(ii) best practices for government collection and retention policies regarding personal data; and

(iii) best practices for government personal data security standards;

(d) review the privacy implications and civil liberties concerns of government privacy practices; and

(e) provide the data privacy agenda to the governing board by May 1 of each year.

(2) The commission may, in addition to the approved items in the data privacy agenda prepared under Subsection (1)(a):

(a) review specific government privacy practices as referred to the commission by the chief privacy officer described in Section 63A-19-302 or the state privacy [~~officer~~]auditor described in Section 67-3-13;

(b) review a privacy practice not accounted for in the data privacy agenda only upon referral by the chief privacy officer or the state privacy [~~officer~~]auditor in accordance with [~~Subsection 63C-24-202(2)(a)~~]this section;

(c) review and provide recommendations regarding consent mechanisms used by governmental entities to collect personal information;

(d) develop and provide recommendations to the Legislature on how to balance transparency and public access of public records against an individual's reasonable expectations of privacy and data protection; and

(e) develop recommendations for legislation regarding the guiding standards and best practices the commission has developed in accordance with Subsection (1)(a).

(3) At least annually, on or before October 1, the commission shall report to the Judiciary Interim Committee:

(a) the results of any reviews the commission has conducted;

(b) the guiding standards and best practices described in Subsection (1)(b); and

(c) any recommendations for legislation the commission has developed in accordance with Subsection (2)(e).

(4) At least annually, on or before June 1, the commission shall report to the governing board regarding:

(a) governmental entity privacy practices the commission plans to review in the next year;

(b) any educational and training programs the commission intends to develop in relation to government data privacy best practices;

(c) results of the commission's data privacy practice reviews from the previous year; and

(d) recommendations from the commission related to data privacy legislation, standards, or best practices.

(5) The data privacy agenda detailed in Subsection (1)(a) does not add to or expand the authority of the commission.

Section 10. Section 63A-19-301 is amended to read:

63A-19-301. Utah Office of Data Privacy.

(1) There is created within the department the Utah Office of Data Privacy.

(2) The office shall coordinate with the governing board and the commission to perform the duties in this section.

(3) The office shall:

(a) create and maintain a [~~strategic~~]data privacy [~~plan~~]framework designed to:

(i) [~~assist state agencies~~]assist governmental entities to identify and implement effective and efficient data privacy practices, tools, and systems that:

(A) protect the privacy of personal data;

(B) comply with data privacy laws and regulations specific to the governmental entity, program, or data;

(C) empower individuals to protect and control their personal data; and

(D) enable information use and sharing among governmental entities, as allowed by law; and

(ii) account for differences in [~~state agency~~]a governmental entity's resources, capabilities, populations served, data types, and maturity [~~levels~~]level regarding data privacy practices;

(b) review statutory provisions related to governmental data privacy and records management to:

(i) identify conflicts and gaps in data privacy law; and

(ii) standardize language;[~~ and~~]

[~~(iii) consult impacted agencies and the attorney general regarding findings and proposed amendments;~~]

(c) work with [~~state agencies~~]governmental entities to study, research, and identify:

(i) additional data privacy [~~requirements~~]practices that are feasible for [~~state agencies~~]governmental entities;

(ii) potential remedies and accountability mechanisms for non-compliance of a [~~state agency~~]governmental entity;

(iii) ways to expand [~~individual~~]an individual's control [~~and rights with respect to~~]over the individual's personal data [~~held by state agencies; and~~]processed by a governmental entity;

(iv) resources needed to develop, implement, and improve data privacy programs; and

(v) best practices regarding:

(A) automated decision making;

(B) the creation and use of synthetic, de-identified, or anonymized data; and

(C) the use of website tracking technology;

(d) monitor high-risk data processing activities within [~~state agencies~~]governmental entities;

[~~(e) receive information from state agencies regarding the sale, sharing, and processing personal data;~~]

[~~(f)~~](e) coordinate with the Cyber Center to develop an incident response plan for data breaches affecting governmental entities;

[~~(g) coordinate with the state archivist to incorporate data privacy practices into records management;~~]

[~~(h) coordinate with the state archivist to incorporate data privacy training into the trainings described in Section 63A-12-110; and~~]

[~~(i)~~](f) coordinate with the state archivist to:

(i) incorporate data privacy practices into records management; and

(ii) include data privacy content in the trainings described in Section 63A-12-110; and

(g) create a data privacy training program for employees of governmental entities as described in Section 63A-19-401.3.

[~~(4) The data privacy training program described in Subsection (3)(i) shall be made available to all governmental entities, and shall be designed to provide instruction regarding:~~]

[~~(a) data privacy best practices, obligations, and responsibilities; and~~]

[~~(b) the relationship between privacy, records management, and security.~~]

[~~(5) (a) Except as provided in Subsection (5)(b), an employee of a state agency shall complete the data privacy training program described in Subsection (3)(i):~~]

[~~(i) within 30 days of beginning employment; and~~]

[~~(ii) at least once in each calendar year.~~]

[~~(b) An employee of a state agency that does not have access to personal data as part of the employee's work duties is not required to complete the data privacy training program described in Subsection (3)(i).~~]

[~~(c) Each state agency is responsible for monitoring completion of data privacy training by the state agency's employees.~~]

[~~(6)~~](4) [~~To the extent that resources permit, the~~]The office may[~~-~~]:

(a) provide expertise and assistance to governmental entities for [~~high risk~~]high-risk data processing activities[~~.~~];

(b) create assessment tools and resources that a governmental entity may use to:

(i) review, evaluate, and mature the governmental entity's privacy program, practices, and processing activities; and

(ii) evaluate the privacy impact, privacy risk, and privacy compliance of the governmental entity's privacy program, practices, and processing activities;

(c) charge a governmental entity a service fee, established in accordance with Section 63J-1-504, for providing services that enable a governmental entity to perform the governmental entity's duties under Section 63A-19-401, if the governmental entity requests the office provide those services;

(d) bill a state agency, as provided in Section 63J-1-410, for any services the office provides to a state agency;

(e) provide funding to assist a governmental entity in complying with:

(i) this chapter; and

(ii) Title 63G, Chapter 2, Part 3, Classification, and Title 63G, Chapter 2, Part 6, Collection of Information and Accuracy of Records; and

(f) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer this part.

(5) (a) Upon application by a governmental entity, the office may:

(i) grant, for a limited period of time, a governmental entity with an:

(A) extension of time to comply with certain requirements of Part 4, Duties of Governmental Entities; or

(B) exemption from complying with certain requirements of Part 4, Duties of Governmental Entities; or

(ii) allow a governmental entity to establish a data privacy training program for the governmental entity's employees to complete, instead of the data privacy training program established by the office under Section 63A-19-401.3, if the governmental entity's data privacy training program contains the same information contained in the office's data privacy training program.

(b) An application for an extension or exemption submitted under Subsection (5)(a)(i) shall:

(i) identify the specific duty from which the governmental entity seeks an extension or exemption and the section that imposes that duty; and

(ii) include a justification for the requested extension or exemption.

(c) If the office grants an exemption under Subsection (5)(a), the office shall report at the next board meeting:

(i) the name of the governmental entity that received an exemption; and

(ii) the nature of the exemption.

(d) The office shall notify the state privacy auditor of any approved extensions or exemptions.

Section 11. Section 63A-19-401 is amended to read:

63A-19-401. Duties of governmental entities.

(1) (a) Except as provided in Subsections (1)(b) and (c), a governmental entity shall comply with the requirements of this part.

[~~(b) (i) If a governmental entity or a contractor described in Subsection (4)(a) is subject to a more restrictive or a more specific provision of law than found in this part, the governmental entity or contractor shall comply with the more restrictive or more specific provision of law.~~]

[~~(ii) For purposes of Subsection (1)(b)(i), Title 63G, Chapter 2, Government Records Access and Management Act, is a more specific provision of law and shall control over the provisions of this part.~~]

(b) If any provision in this part conflicts with any other provisions of law, the more specific or more restrictive law shall control.

(c) A governmental entity that is exempt under Section 63G-2-702, 63G-2-703, or 63G-2-704 from complying with the requirements in Title 63G, Chapter 2, Part 6, Collection of Information and Accuracy of Records, is exempt from complying with the requirements in [~~Sections 63A-19-402, 63A-19-403, and 63A-19-404~~]this chapter.

(2) (a) A governmental entity shall:

[~~(a) shall implement and maintain a privacy program before May 1, 2025, that includes the governmental entity's policies, practices, and procedures for the process of personal data;~~]

[~~(b) shall provide notice to an individual or the legal guardian of an individual, if the individual's personal data is affected by a data breach, in accordance with Section 63A-19-406;~~]

[~~(c)~~](i) initiate a data privacy program before December 31, 2025;

(ii) [~~shall~~]obtain and process only the minimum amount of personal data reasonably necessary to efficiently achieve a specified purpose;

[~~(d)~~](iii) [~~shall~~]meet the requirements of this part for all new processing activities implemented by a governmental entity[~~ after May 1, 2024~~]; and

[~~(e)~~](iv) [~~shall~~]for any processing activity implemented before [~~May 1, 2024~~]May 7, 2025, as soon as is reasonably practicable, but no later than [~~January~~]July 1, 2027:

[~~(i)~~](A) identify any non-compliant processing activity;

[~~(ii)~~](B) document the non-compliant processing activity;[~~ and~~]

[~~(iii)~~](C) prepare a strategy for bringing the non-compliant processing activity into compliance with this part; and

(D) include the information described in Subsections (2)(a)(iv)(A) through (C) in the privacy program report described in Section 63A-19-401.3.

[~~(i) (i) that is a designated governmental entity, shall annually report to the state privacy officer:~~]

[~~(A) the types of personal data the designated governmental entity currently shares or sells;~~]

[~~(B) the basis for sharing or selling the personal data; and~~]

[~~(C) the classes of persons and the governmental entities that receive the personal data from the designated governmental entity; and~~]

[~~(ii) that is a state agency, shall annually report to the chief privacy officer:~~]

[~~(A) the types of personal data the state agency currently shares or sells;~~]

[~~(B) the basis for sharing or selling the personal data; and~~]

[~~(C) the classes of persons and the governmental entities that receive the personal data from the state agency; and~~]

[~~(j) (i) except as provided in Subsection (3), an employee of a governmental entity shall complete a data privacy training program:~~]

[~~(A) within 30 days after beginning employment; and~~]

[~~(B) at least once in each calendar year; and~~]

[~~(k) is responsible for monitoring completion of data privacy training by the governmental entity's employees.~~]

(b) A governmental entity that fulfills the reporting requirement under Section 63A-19-401.3 satisfies the requirement to initiate a privacy program under Subsection (2)(a)(i).

[~~(f)~~](3) A governmental entity may not:

(a) [-]establish, maintain, or use undisclosed or covert surveillance of individuals unless permitted by law;

[~~(g)~~](b) [~~may not~~]sell personal data unless expressly required by law; and

[~~(h)~~](c) [~~may not~~]share personal data unless permitted by law[~~;~~].

[~~(3) An employee of a governmental entity that does not have access to personal data of individuals as part of the employee's work duties is not required to complete a data privacy training program described in Subsection (2)(j)(i).~~]

[~~(4) (a) A contractor that enters into or renews an agreement with a governmental entity after May 1, 2024, and processes or has access to personal data as a part of the contractor's duties under the agreement, is subject to the requirements of this chapter with regard to the personal data processed or accessed by the contractor to the same extent as required of the governmental entity.~~]

[~~(b) An agreement under Subsection (4)(a) shall require the contractor to comply with the requirements of this chapter with regard to~~

~~the personal data processed or accessed by the contractor as a part of the contractor's duties under the agreement to the same extent as required of the governmental entity.~~]

[~~(c) The requirements under Subsections (4)(a) and (b) are in addition to and do not replace any other requirements or liability that may be imposed for the contractor's violation of other laws protecting privacy rights or government records.~~]

Section 12. Section 63A-19-401.1 is enacted to read:

63A-19-401.1. Privacy annotations.

(1) (a) Beginning July 1, 2027, a state agency shall make a complete and accurate privacy annotation for each record series containing personal data that the state agency collects, maintains, or uses.

(b) After July 1, 2027, a state agency that has not created a privacy annotation for a record series containing personal data, may not collect, maintain, or use the personal data.

(2) If a state agency determines that a record series:

(a) does not contain personal data, the privacy annotation shall be limited to a statement indicating that the record series does not include personal data; or

(b) contains personal data, the privacy annotation shall include:

(i) an inventory of all types of personal data included in the record series;

(ii) a description of all purposes for which the state agency collects, keeps, or uses the personal data;

(iii) a citation to the state agency's legal authority for collecting, keeping, or using the personal data; and

(iv) any other information required by the rules created by the office under Section 63A-19-301.

Section 13. Section 63A-19-401.2 is enacted to read:

63A-19-401.2. Training requirements.

(1) The data privacy training program created by the office under Section 63A-4-301 shall be:

(a) designed to provide instruction regarding:

(i) data privacy best practices, obligations, and responsibilities; and

(ii) the relationship between privacy, records management, and security; and

(b) required for all employees of a governmental entity who:

(i) have access to personal data as part of the employee's work duties; or

(ii) supervise an employee who has access to personal data.

(2) The training described in Subsection (1) shall be completed:

(a) within 30 days after an employee of a governmental entity begins employment; and

(b) at least once in each calendar year.

(3) A governmental entity is responsible for:

(a) ensuring that each employee of the governmental entity completes the data privacy training as required by Subsection (2); and

(b) reporting the governmental entity's compliance with the training requirements as described in Section 63A-19-401.3.

Section 14. Section 63A-19-401.3 is enacted to read:

63A-19-401.3. Privacy program report.

(1) On or before December 31 of each year, the chief administrative officer of each governmental entity shall prepare a report that includes:

(a) whether the governmental entity has initiated a privacy program;

(b) a description of:

(i) any privacy practices implemented by the governmental entity;

(ii) strategies for improving the governmental entity's privacy program and practices; and

(iii) the governmental entity's high-risk processing activities;

(c) a list of the types of personal data the governmental entity currently shares, sells, or purchases;

(d) the legal basis for sharing, selling, or purchasing personal data;

(e) the category of individuals or entities:

(i) with whom the governmental entity shares personal data;

(ii) to whom the governmental entity sells personal data; or

(iii) from whom the governmental entity purchases personal data;

(f) the percentage of the governmental entity's employees that have fulfilled the data privacy training requirements described in Section 63A-19-401.2; and

(g) a description of any non-compliant processing activities identified under Subsection 63A-19-401(2)(a)(iv) and the governmental entity's strategy for bringing those activities into compliance with this part.

(2) The report described in Subsection (1):

(a) shall be considered a protected record under Section 63G-2-305; and

(b) may be made available at the request of the office.

Section 15. Section 63A-19-401.4 is enacted to read:

63A-19-401.4. Requirements for contractors.

(1) Except as provided in Subsection (4), a contractor that processes or has access to personal data as a part of the contractor's duties under a contract with a governmental entity is subject to the requirements of this chapter to the same extent as the governmental entity for any personal data the contractor processes or has access to under a contract with the governmental entity.

(2) A contract entered into or renewed between a contractor and a governmental entity after July 1, 2026, shall contain specific

language that requires a contractor to comply with the requirements of this chapter with regard to the personal data processed or accessed by the contractor as a part of the contractor's duties under a contract to the same extent as required of the governmental entity.

(3) The requirements under this section are in addition to and do not replace any other requirements or liability that may be imposed for the contractor's violation of other laws protecting privacy rights or government records.

(4) A contractor is not subject to the data privacy training program requirements described in Section 63A-19-401.2.

Section 16. Section 63A-19-402 is amended to read:

63A-19-402. Personal data collection -- Privacy notice.

(1) A governmental entity shall provide a [~~personal data request~~]privacy notice to an individual, or the legal guardian of an individual, from whom the governmental entity requests or collects personal data.

[~~(2) The personal data request notice described in Subsection (1) shall include:~~]

[~~(a) the reasons the individual is asked to provide the personal data;~~]

[~~(b) the intended purposes and uses of the personal data;~~]

[~~(c) the consequences for refusing to provide the personal data;~~]

[~~(d) the classes of persons and entities that:~~]

[~~(i) share the personal data with the governmental entity; or~~]

[~~(ii) receive the personal data from the governmental entity on a regular or contractual basis; and~~]

[~~(e) the record series in which the personal data is or will be included, if applicable.~~]

[~~(3)~~](2) If the personal data collected by a governmental entity:

(a) would be classified as a public record under Section 63G-2-301, the privacy notice shall be limited to a statement indicating that the individual's personal data may be available to the public as provided by Section 63G-2-201; and

(b) would not be classified as a public record under Section 63G-2-301, the privacy notice shall describe:

(i) all intended purposes and uses of the personal data;

(ii) the consequences for refusing to provide the personal data;

(iii) the classes of persons and governmental entities:

(A) with whom the governmental entity shares personal data; or

(B) to whom the governmental entity sells personal data; and

(iv) the record series in which the personal data is included.

(3) The governmental entity shall provide the [~~personal data request~~]privacy notice by:

(a) posting the [~~personal data request~~]privacy notice in a prominent place where the governmental entity collects the personal data;

(b) including the [~~personal data request~~]privacy notice as part of any document or form used by the governmental entity to collect the personal data; or

(c) [~~conspicuously linking to or displaying a QR code linked to an electronic version of the personal data request notice as part of any document or form used by the governmental entity to collect the personal data~~]including as part of any document or form used by the governmental entity to collect personal data, a conspicuous link or QR code that links to an electronic version of the privacy notice.

(4) The [~~personal data request~~]privacy notice required by this section is in addition to, and does not supersede, any other notice requirement otherwise applicable to the governmental entity.

(5) (a) Notwithstanding Subsections (1) through (4), a governmental entity may provide the privacy notice required under this section by posting the privacy notice on the governmental entity's government website, or on the public notice website if the governmental entity does not have a government website, when the privacy notice relates to processing activities that:

(i) serve a public safety interest; and

(ii) produce a public benefit that is greater than or equal to the potential impact on an individual's privacy interest that the privacy notice protects.

(b) The processing activities related to public safety described in Subsection (5)(a) may include:

(i) the provision of emergency services;

(ii) law enforcement body or dash camera recordings;

(iii) security camera monitoring;

(iv) ambulance and emergency medical services; and

(v) 911 emergency communications.

(6) The governmental entity shall, upon request, provide the [~~personal data request~~]privacy notice to an individual, or the legal guardian of an individual, regarding personal data previously furnished by that individual.

[~~(6)~~](7) The governmental entity may only use personal data furnished by an individual for the purposes identified in the [~~personal data request~~]privacy notice provided to that individual.

Section 17. Section 63A-19-402.5 is enacted to read:

63A-19-402.5. Website privacy notice.

(1) A governmental entity's government website shall include notice to a user of:

(a) the identity of the governmental entity responsible for the government website;

(b) how to contact the governmental entity that is responsible for the government website;

(c) the method by which a user may:

(i) seek access to the user's personal data or user data;

(ii) request to correct or amend the user's personal data or user data; and

(iii) file a complaint with the data privacy ombudsperson; and

(d) how an at-risk employee may request that the at-risk employee's personal information be classified as a private record under Section

63G-2-302.

(2) In addition to the website privacy notice requirement described in Subsection (1)(a), a government website that collects user data shall include in the website privacy notice the following information:

(a) any website tracking technology that is used to collect user data on the government website;

(b) what user data is collected by the government website;

(c) all intended purposes and uses of the user data;

(d) the classes of persons and governmental entities:

(i) with whom the governmental entity shares user data; or

(ii) to whom the governmental entity sells user data; and

(e) the record series in which the user data is included.

(3) A notice described in Subsection (1) or (2) shall be provided by prominently posting on the homepage of the government website:

(a) the notice; or

(b) a link to a separate webpage containing the notice.

(4) A governmental entity may not collect user data on a government website unless the governmental entity has complied with the requirements in this section.

Section 18. Section 63A-19-405 is amended to read:

63A-19-405. Data breach notification to the Cyber Center and the Office of the Attorney General.

(1) (a) A governmental entity that identifies a data breach affecting 500 or more individuals shall notify the Cyber Center and the attorney general of the data breach.

(b) In addition to the notification required by Subsection (1)(a), a governmental entity that identifies the unauthorized access, acquisition, disclosure, loss of access, or destruction of data that compromises the security, confidentiality, availability, or integrity of the computer systems used or information maintained by the governmental entity shall notify the Cyber Center.

(2) The notification under Subsection (1) shall:

(a) be made without unreasonable delay, but no later than five days from the discovery of the data breach; and

(b) include the following information:

(i) the date and time the data breach occurred;

(ii) the date the data breach was discovered;

(iii) a short description of the data breach that occurred;

(iv) the means by which access was gained to the system, computer, or network;

(v) the [~~individual or entity~~]person who perpetrated the data breach;

(vi) steps the governmental entity is or has taken to mitigate the impact of the data breach; and

(vii) any other details requested by the Cyber Center.

(3) For a data breach under Subsection (1)(a), the governmental entity shall provide the following information to the Cyber Center and the attorney general in addition to the information required under Subsection (2)(b):

(a) the total number of [~~people~~]individuals affected by the data breach, including the total number of Utah residents affected; and

(b) the type of personal data involved in the data breach.

(4) If the information required by [~~Subsection (2)(b)~~]Subsections (2)(b) and (3)is not available within five days of discovering the breach, the governmental entity shall provide as much of the information required under [~~Subsection (2)(b)~~]Subsections (2)(b) and (3) as is available and supplement the notification with additional information as soon as the information becomes available.

(5) (a) A governmental entity that experiences a data breach affecting fewer than 500 individuals shall create an internal incident report containing the information in Subsection (2)(b) as soon as practicable and shall provide additional information as the information becomes available.

(b) A governmental entity shall provide to the Cyber Center:

(i) an internal incident report described in Subsection (5)(a) upon request of the Cyber Center; and

(ii) an annual report logging all of the governmental entity's data breach incidents affecting fewer than 500 individuals.

Section 19. Section 63A-19-406 is amended to read:

63A-19-406. Data breach notice to individuals affected by data breach.

(1) (a) [~~A~~]Except as provided in Subsection (1)(b), a governmental entity shall provide a data breach notice to an individual or legal guardian of an individual affected by the data breach:

[~~(a)~~](i) after determining the scope of the data breach;

[~~(b)~~](ii) after restoring the reasonable integrity of the affected system, if necessary; and

[~~(c)~~](iii) without unreasonable delay except as provided in Subsection [~~(1)(b).~~](2).

(b) A governmental entity is not required to provide a data breach notice to an affected individual as described in Subsection (1)(a) if the:

(i) personal data involved in the data breach would be classified as a public record under Section 63G-2-301; and

(ii) the governmental entity prominently posts notice of the data breach on the homepage of the governmental entity's government website.

(2) A governmental entity shall delay providing notification under Subsection (1) at the request of a law enforcement agency that determines that notification may impede a criminal investigation, until such time as the law enforcement agency informs the governmental entity that notification will no longer impede the criminal investigation.

(3) The data breach notice to an affected individual shall include:

(a) a description of the data breach;

(b) the individual's personal data that was accessed or may have been accessed;

(c) steps the governmental entity is taking or has taken to mitigate the impact of the data breach;

(d) recommendations to the individual on how to protect themselves from identity theft and other financial losses; and

(e) any other language required by the Cyber Center.

(4) Unless the governmental entity reasonably believes that providing notification would pose a threat to the safety of an individual, or unless an individual has designated to the governmental entity a preferred method of communication, a governmental entity shall provide notice by:

(a) (i) email, if reasonably available and allowed by law; or

(ii) mail; and

(b) one of the following methods, if the individual's contact information is reasonably available and the method is allowed by law:

(i) text message with a summary of the data breach notice and instructions for accessing the full notice; or

(ii) telephone message with a summary of the data breach notice and instructions for accessing the full data breach notice.

(5) A governmental entity shall also provide a data breach notice in a manner that is reasonably calculated to have the best chance of being received by the affected individual or the legal guardian of an individual, such as through a press release, posting on appropriate social media accounts, or publishing notice in a newspaper of general circulation when:

(a) a data breach affects more than 500 individuals; and

(b) a governmental entity is unable to obtain an individual's contact information to provide notice for any method listed in Subsection (4).

Section 20. Section 63A-19-501 is amended to read:

63A-19-501. Data privacy ombudsperson.

(1) The governor shall appoint a data privacy ombudsperson with the advice of the governing board.

(2) The ombudsperson shall:

(a) be familiar with the provisions of:

(i) this chapter;

(ii) Chapter 12, Division of Archives and Records Service and Management of Government Records; and

(iii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) serve as a resource for:

(i) []an individual who is making or responding to a complaint about a governmental entity's data privacy practice[.]; and

(ii) a governmental entity which is the subject of a data privacy complaint.

(3) The ombudsperson may, upon request by a governmental entity or individual, mediate data privacy disputes between individuals and governmental entities.

(4) After consultation with the chief privacy officer[~~or the state privacy officer~~], the ombudsperson may raise issues and questions before the governing board regarding serious and repeated violations of data privacy from:

(a) a specific governmental entity; or

(b) widespread governmental entity data privacy practices.

(5) When a data privacy complaint has been resolved, the ombudsperson shall post on the office's website a summary of the complaint and the resolution of the matter.

Section 21. Section 63A-19-601 is amended to read:

63A-19-601. Enforcement.

(1) Upon instruction by the board, the state auditor shall:

(a) investigate alleged violations of this chapter by a governmental entity;

(b) provide notice to the relevant governmental entity of an alleged violation of this chapter; and

(c) for a violation that the state auditor substantiates, provide an opportunity for the governmental entity to cure the violation within 30 days.

(2) If a governmental entity fails to cure a violation as provided in Subsection (1)(c), the state auditor shall report the governmental entity's failure:

(a) for a [~~designated~~]governmental entity that is not a state agency, to the attorney general for enforcement under Subsection (3); and

(b) for a state agency, to the Legislative Management Committee.

(3) After referral by the state auditor under Subsection (2)(a), the attorney general may file an action in district court to:

(a) enjoin a [~~designated~~]governmental entity that is not a state agency from violating this chapter; or

(b) require a [~~designated~~]governmental entity that is not a state agency to comply with this chapter.

Section 22. Section 63A-19-602 is enacted to read:

63A-19-602. Disciplinary action.

A governmental entity may take disciplinary action, which may include suspension or discharge, against any employee of the governmental entity who intentionally violates any provision of this chapter.

Section 23. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chief administrative officer" means the chief administrative officer of a governmental entity who is responsible to fulfill the duties described in Section 63A-12-103.

[~~(2)~~](3) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

[~~(3)~~](4) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

[~~(4)~~](5) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

[~~(5)~~](6) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

[~~(6)~~](7) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

[~~(7)~~](8) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

[~~(8)~~](9) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, special district office, or special service district office, but does not include judges.

[~~(9)~~](10) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

[~~(10)~~](11) "Government audit agency" means any governmental entity that conducts an audit.

[~~(11)~~](12) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection [~~(11)(a)~~](12)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking, except for the Water District Water Development Council created pursuant to Section 11-13-228;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

[~~(12)~~](13) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

[~~(13)~~](14) "Individual" means a human being.

[~~(14)~~](15) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection [~~(14)(a)~~](15)(a)appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

[~~(15)~~](16) "Legislative body" means the Legislature.

[~~(16)~~](17) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

[~~(17)~~](18) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

[~~(18) "Personal identifying information" means the same as that term is defined in Section 63A-12-100.5.~~]

[~~(19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.~~]

[~~(20)~~](19) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

[~~(21)~~](20) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

[~~(22)~~](21) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

[~~(23)~~](22) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

[~~(24)~~](23) "Reasonable search" means a search that is:

(a) reasonable in scope and intensity; and

(b) not unreasonably burdensome for the government entity.

[~~(25)~~](24) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not include:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar ;

(x) a note prepared by the originator for the originator's own use or for the sole use of an individual for whom the originator is working;

(xi) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xii) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xiii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiv) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to

enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xvi) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvii) child sexual abuse material, as defined by Section 76-5b-103;

(xviii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201;

(xix) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702;

(xx) any item described in Subsection [~~(25)(a)~~](24)(a) that is:

(A) described in Subsection 63G-2-305(17), (18), or (23)(b); and

(B) shared between any of the following entities:

(I) the Division of Risk Management;

(II) the Office of the Attorney General;

(III) the governor's office; or

(IV) the Legislature; or

(xxi) the email address that a candidate for elective office provides to a filing officer under Subsection 20A-9-201(5)(c)(ii) or 20A-9-203(4)(c)(iv).

[~~(26)~~](25) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

[~~(27)~~](26) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

[~~(28)~~](27) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

[~~(29)~~](28) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

[~~(30)~~](29) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

[~~(31)~~](30) "State archivist" means the director of the state archives.

[~~(32)~~](31) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

[~~(33)~~](32) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 24. Section 63G-2-307 is amended to read:

63G-2-307. Duty to evaluate records and make designations, classifications, and annotations.

(1) A governmental entity shall, for each record series that the governmental entity keeps, uses, or creates:

(a) evaluate all record series;

(b) designate each record series as provided by this chapter and Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records; and

(c) report to the state archives[~~:~~]the designation described in Subsection (1)(b).

[~~(i) the designation described in Subsection (1)(b); and~~]

[~~(ii) if the governmental entity is an executive branch agency, as defined in Section 63A-12-100.5, the privacy annotation.~~]

(2) A governmental entity may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series, or information until access to the record is requested.

(3) A governmental entity may redesignate a record series or reclassify a record or record series, or information within a record at any time.

Section 25. Section 63G-2-601 is amended to read:

63G-2-601. Rights of individuals on whom data is maintained -- Classification statement filed with state archivist -- Notice to provider of information.

(1) (a) Each governmental entity shall file with the state archivist a statement explaining, for each record series collected, maintained, or used by the governmental entity, the purposes for which each private or controlled record in the record series is collected, maintained, or used by that governmental entity.

[~~(b) Each executive branch agency, as defined in Section 63A-12-100.5, shall file with the state archivist a statement explaining, for each record series collected, maintained, or used by the executive branch agency, the purposes for which the personal identifying information in the record series is collected, maintained, or used by the executive branch agency.~~]

[~~(c)~~](b) The statement filed under Subsection (1)(a)[~~or (b)~~]:

(i) shall[~~, for each purpose described in Subsection (1)(a) or (b),~~] identify the authority under which the governmental entity [~~or executive branch agency~~]collects the records or information included in the statement described in Subsection (1)(a)[~~or (b)~~]; and

(ii) is a public record.

(2) (a) A governmental entity shall provide the notice described in this Subsection (2) to a person that is asked to furnish information that could be classified as a private or controlled record.

[~~(b) An executive branch agency, as defined in Section 63A-12-100.5, shall provide the notice described in this Subsection (2) to a person that is asked to furnish personal identifying information.~~]

[~~(c)~~](b) The notice required under Subsection (2)(a)[~~or (b)~~] shall:

(i) identify the record series that includes the information described in Subsection (2)(a)[~~or (b)~~];

(ii) state the reasons the person is asked to furnish the information;

(iii) state the intended uses of the information;

(iv) state the consequences for refusing to provide the information; and

(v) disclose the classes of persons and the governmental entities that currently:

(A) share the information with the governmental entity; or

(B) receive the information from the governmental entity on a regular or contractual basis.

[~~(d)~~](c) The governmental entity shall:

(i) post the notice required under this Subsection (2) in a prominent place at all locations where the governmental entity collects the information; or

(ii) include the notice required under this Subsection (2) as part of the documents or forms that are used by the governmental entity to collect the information.

(3) Upon request, each governmental entity shall, in relation to the information described in Subsection (2)(a)[~~or (b)~~], as applicable, explain to a person:

(a) the reasons the person is asked to furnish information;

(b) the intended uses of the information;

(c) the consequences for refusing to provide the information; and

(d) the reasons and circumstances under which the information may be shared with, or provided to, other persons or governmental entities.

(4) A governmental entity may use the information that the governmental entity is required to disclose under Subsection (2)(a)[~~or (b)~~] only for those purposes:

(a) given in the statement filed with the state archivist under Subsection (1); or

(b) for which another governmental entity may use the record under Section 63G-2-206.

Section 26. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special

districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the [~~state privacy officer~~]state privacy auditor described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Carson Smith Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402, including an analysis of the cost effectiveness of the program, taking into consideration the amount of the scholarship and the amount of state and local funds dedicated on a per-student basis within the traditional public education system.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23) (a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

(24) The state auditor shall:

(a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and

(b) report to the Legislative Management Committee, upon request, regarding the state auditor's actions under this Subsection (24).

(25) The state auditor shall report compliance with Sections 67-27-107, 67-27-108, and 67-27-109 by:

(a) establishing a process to receive and audit each alleged violation; and

(b) reporting to the Legislative Management Committee, upon request, regarding the state auditor's findings and recommendations

under this Subsection (25).

Section 27. Section 67-3-13 is amended to read:

67-3-13. State privacy auditor.

(1) As used in this section:

[~~(a) "Designated governmental entity" means a governmental entity that is not a state agency.~~]

[~~(b) "Independent entity" means the same as that term is defined in Section 63E-1-102.~~]

[~~(c)~~](a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

[~~(d)~~](b) "Personal data" means the same as that term is defined in Section 63A-19-101.

(c) "Privacy practice" means the same as that term is defined in Section 63A-19-101.

(d) "State agency" means the same as that term is defined in Section 63A-19-101.

(e) "State privacy auditor" means the individual appointed as state privacy auditor by the state auditor under Section 67-3-1.

[~~(e) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.~~]

[~~(ii) "Privacy practice" includes:~~]

[~~(A) a technology use related to personal data; and~~]

[~~(B) policies related to the protection, storage, sharing, and retention of personal data.~~]

[~~(f) (i) "State agency" means the following entities that are under the direct supervision and control of the governor or the lieutenant governor:~~]

[~~(A) a department;~~]

[~~(B) a commission;~~]

[~~(C) a board;~~]

[~~(D) a council;~~]

[~~(E) an institution;~~]

[~~(F) an officer;~~]

[~~(G) a corporation;~~]

[~~(H) a fund;~~]

[~~(I) a division;~~]

[~~(J) an office;~~]

[~~(K) a committee;~~]

[~~(L) an authority;~~]

[~~(M) a laboratory;~~]

[~~(N) a library;~~]

[~~(O) a bureau;~~]

[~~(P) a panel;~~]

[~~(Q) another administrative unit of the state; or~~]

[~~(R) an agent of an entity described in Subsections (A) through (Q).~~]

[~~(ii) "State agency" does not include:~~]

[~~(A) the legislative branch;~~]

[~~(B) the judicial branch;~~]

[~~(C) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or~~]

[~~(D) an independent entity.~~]

(2) The [~~state privacy officer~~]state privacy auditor shall:

[~~(a) when completing the duties of this Subsection (2), focus on the privacy practices of designated governmental entities;~~]

[~~(b)~~](a) compile information about [~~government~~]the privacy practices of [~~designated~~]governmental entities;

[~~(c)~~](b) make public and maintain information about [~~government~~]the privacy practices of governmental entities on the state auditor's website;

[~~(d)~~](c) provide [~~designated~~]governmental entities with [~~educational and training materials developed by the Utah Privacy Commission established in Section 63C-24-201 that include the information described in Subsection 63C-24-202(1)(b)~~]guidance and training regarding the data privacy auditing standards developed by the state privacy auditor;

[~~(e)~~](d) implement a process to analyze and respond to requests from individuals for the [~~state privacy officer to review a designated~~]state privacy auditor to audit a governmental entity's privacy practice;

[~~(f)~~](e) identify annually which [~~designated~~]governmental entities' privacy practices pose the greatest risk to individual privacy and prioritize those privacy practices [~~for review~~]to be audited;

[~~(g)~~](f) [~~review~~]audit each year, in as timely a manner as possible, the privacy practices that the state privacy [~~officer~~]auditor identifies under Subsection [~~(2)(e) or (2)(f)~~](2)(d) or (2)(e) as posing the greatest risk to individuals' privacy;

[~~(h)~~](g) when [~~reviewing a designated~~]auditing a governmental entity's privacy practice under Subsection [~~(2)(g),~~](2)(f), analyze:

(i) details about the technology or the policy and the technology's or the policy's application;

(ii) information about the type of personal data being used;

(iii) information about how the personal data is obtained, stored, shared, secured, and disposed;

(iv) information about [~~with which persons the designated~~]the governmental [~~entity shares the information~~]entity's sharing or selling of personal data;

(v) information about whether an individual can or should be able to opt out of the retention, selling, and sharing of the individual's personal data;

(vi) information about how the [~~designated~~]governmental entity de-identifies or anonymizes personal data;

(vii) a determination about the existence of alternative technology or improved practices to protect privacy; and

(viii) a finding of whether the [~~designated~~]governmental entity's current privacy [~~practice~~]practices adequately [~~protects~~]protect individual privacy; and

[~~(i)~~](h) after completing [~~a review~~]an audit described in Subsections [~~(2)(g)~~](2)(f) and [~~(h)~~](g), determine:

(i) each [~~designated~~]governmental entity's use of personal data, including the [~~designated~~]governmental entity's privacy practices regarding personal data:

(A) acquisition;

(B) storage;

(C) disposal;

(D) protection; and

(E) sharing;

(ii) the adequacy of the [~~designated~~]governmental entity's practices in each of the areas described in Subsection [~~(2)(i)(i);~~](2)(h)(i); and

(iii) for each of the areas described in Subsection [~~(2)(i)(i)~~](2)(h)(i) that the [~~state privacy officer~~]state privacy auditor determines to require reform, provide recommendations for reform to the [~~designated~~]governmental entity and the legislative body charged with regulating the [~~designated~~]governmental entity.

(3) (a) The legislative body charged with regulating a [~~designated~~]governmental entity that receives a recommendation described in Subsection [~~(2)(i)(iii)~~](2)(h)(iii) shall hold a public hearing on the proposed reforms:

(i) with a quorum of the legislative body present; and

(ii) within 90 days after the day on which the legislative body receives the recommendation.

(b) (i) The legislative body shall provide notice of the hearing described in Subsection (3)(a).

(ii) Notice of the public hearing and the recommendations to be discussed shall be posted for the jurisdiction of the [~~designated~~]governmental entity, as a class A notice under Section 63G-30-102, for at least 30 days before the day on which the legislative body will hold the public hearing.

(iii) Each notice required under Subsection (3)(b)(i) shall:

(A) identify the recommendations to be discussed; and

(B) state the date, time, and location of the public hearing.

(c) During the hearing described in Subsection (3)(a), the legislative body shall:

(i) provide the public the opportunity to ask questions and obtain further information about the recommendations; and

(ii) provide any interested person an opportunity to address the legislative body with concerns about the recommendations.

(d) At the conclusion of the hearing, the legislative body shall determine whether the legislative body shall adopt reforms to address the recommendations and any concerns raised during the public hearing.

[~~(4) (a) Except as provided in Subsection (4)(b), if the chief privacy officer described in Section 63A-19-302 is not conducting reviews of the privacy practices of state agencies, the state privacy officer may review the privacy practices of a state agency in accordance with the processes described in this section.~~]

[~~(b)~~](4) Subsection (3) does not apply to[-]:

(a) a state agency[-];

(b) the legislative branch;

(c) the judicial branch;

(d) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or

(e) an independent entity.

(5) The [~~state privacy officer~~]state privacy auditor shall:

(a) quarterly report, to the Utah Privacy Commission:

(i) recommendations for privacy practices for the commission to review; and

(ii) the information provided in Subsection [~~(2)(i)~~](2)(h); and

(b) annually, on or before October 1, report to the Judiciary Interim Committee:

(i) the results of any [~~reviews~~]audits described in Subsection [~~(2)(g),~~](2)(f), if any [~~reviews~~]audits have been completed;

(ii) reforms, to the extent that the [~~state privacy officer~~]state privacy auditor is aware of any reforms, that the [~~designated~~]governmental entity made in response to any [~~reviews~~]audits described in Subsection [~~(2)(g);~~](2)(f);

(iii) the information described in Subsection [~~(2)(i)~~](2)(h); and

[~~(iv) reports received from designated governmental entities regarding the sale or sharing of personal data provided under Subsection 63A-19-401(2)(f)(i); and~~]

[~~(v)~~](iv) recommendations for legislation based on any results of [~~a review~~]an audit described in Subsection [~~(2)(g)~~](2)(f).

Section 28. Section 78A-2-233, which is renumbered from Section 63D-2-104 is renumbered and amended to read:

[~~63D-2-104~~]78A-2-233. Posting certain information on a court website.

(1) As used in this section:

(a) "Court website" means a government website operated by or on behalf of any court created in Title 78A, Chapter 1, Judiciary.

(b) "Government website" means the same as that term is defined in Section 63A-19-101.

(c) "Personal data" means the same as that term is defined in Section 63A-19-101.

(2) Except as provided in Subsections [~~(2)~~](3) and [~~(3)~~](4), a court website:

(a) may not display [~~personally identifiable information~~]personal data; and

(b) shall contain a conspicuous notice that includes a list of documents routinely posted on the court website.

[~~(2)~~](3) This section does not prohibit access to any original document as provided by law.

[~~(3)~~](4) This section does not apply to:

(a) the Registry of Judgments created in Section 78B-5-201, if the Registry of Judgments complies with Subsection [~~(3)(b)~~](4)(b);

(b) remote access to a document through a network or system that:

(i) is secure; and

(ii) provides restricted access through security standards developed by the court, including a registration requirement under which a prospective user must provide the prospective user's:

(A) identity;

(B) business or residence address; and

(C) citizenship status;

(c) postings related to legitimate law enforcement purposes;

(d) postings of documents filed or recorded more than 100 years prior to the posting;

(e) postings of:

(i) historical information;

(ii) genealogical information;

(iii) interpretive information about historic persons and events; or

(iv) educational information about historic persons and events; or

(f) postings of information instructing a user how to contact a website operator, employee, or other representative of the court.

Section 29. Repealer.

This bill repeals:

Section 63A-12-115, Privacy annotation for records series -- Requirements -- Content.

Section 63C-24-101, Title.

Section 63C-24-102, Definitions.

Section 63D-2-101, Title.

Section 63D-2-102, Definitions.

Section 63D-2-103, Collection of personally identifiable information.

Section 30. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), May 7, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 476
S. B. 277
Passed March 6, 2025
Approved March 27, 2025
Effective May 7, 2025

GOVERNMENT RECORDS MANAGEMENT AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill creates the Government Records Office (the office) within the Division of Archives and Records Service (the division), and replaces the State Records Committee (the committee) with the director of the office, who is an attorney with knowledge and experience relating to government records law and makes other changes relating to government records.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates the office within the division and describes the functions of the office;
- ► requires the governor to appoint the director of the office, in consultation with the executive director of the department, and with the advice and consent of the Senate;
- ► describes the term of office, qualifications, and duties of the director;
- ► directs the Division of Human Resource Management to conduct a performance survey and evaluation of the director on a specified schedule;
- ► repeals the committee;
- ► provides that the director will replace the committee in fulfilling the duties currently assigned to the committee, including the duty to decide appeals under the Government Records Access and Management Act;
- ► makes the government records ombudsman an employee of the office;
- ► grants rulemaking authority to the director of the office;
- ► provides for the transition from the committee to the director of the office;
- ► provides that an individual in an executive branch management position is subject to the record amendment or retention policy created by the governor; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-11-1205, as last amended by Laws of Utah 2020, Chapter 22
53B-16-303, as last amended by Laws of Utah 2020, Chapter 365
63A-12-101, as last amended by Laws of Utah 2023, Chapter 173
63A-12-106, as last amended by Laws of Utah 2019, Chapter 254
63G-2-103, as last amended by Laws of Utah 2024, Chapters 18, 465, 509, and 522
63G-2-201, as last amended by Laws of Utah 2023, Chapters 173, 516
63G-2-209, as enacted by Laws of Utah 2023, Chapter 516
63G-2-309, as last amended by Laws of Utah 2023, Chapter 516
63G-2-400.5, as last amended by Laws of Utah 2019, Chapters 254, 334
63G-2-401, as last amended by Laws of Utah 2024, Chapter 407
63G-2-402, as last amended by Laws of Utah 2024, Chapter 407
63G-2-403, as last amended by Laws of Utah 2024, Chapter 407
63G-2-404, as last amended by Laws of Utah 2024, Chapter 407
63G-2-701, as last amended by Laws of Utah 2019, Chapter 254
63G-2-702, as last amended by Laws of Utah 2023, Chapter 516
63G-2-703, as last amended by Laws of Utah 2023, Chapters 291, 516
63G-2-704, as enacted by Laws of Utah 2023, Chapter 516
63G-2-801, as last amended by Laws of Utah 2019, Chapter 254
63H-1-202, as last amended by Laws of Utah 2024, Chapter 514
67-3-1, as last amended by Laws of Utah 2024, Chapters 3, 158
77-18-103, as last amended by Laws of Utah 2024, Chapters 187, 245 and 434
77-27-5, as last amended by Laws of Utah 2024, Chapters 145, 187 and 208

ENACTS:

63A-12-201, Utah Code Annotated 1953
63A-12-202, Utah Code Annotated 1953
63A-12-203, Utah Code Annotated 1953
63A-12-205, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63A-12-204, (Renumbered from 63A-12-111, as last amended by Laws of Utah 2024, Chapter 407)

REPEALS:

63G-2-101, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-2-501, as last amended by Laws of Utah 2024, Chapter 529
63G-2-502, as last amended by Laws of Utah 2019, Chapter 254

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-11-1205 is amended to read:

20A-11-1205. Use of public email for a political purpose.

(1) Except as provided in Subsection (5), a person may not send an email using the email of a public entity:

(a) for a political purpose;

(b) to advocate for or against a proposed initiative, initiative, proposed referendum, referendum, a proposed bond, a bond, or any ballot proposition; or

(c) to solicit a campaign contribution.

(2) (a) The lieutenant governor shall, after giving the person and the complainant notice and an opportunity to be heard, impose a civil fine against a person who violates Subsection (1) as follows:

(i) up to $250 for a first violation; and

(ii) except as provided in Subsection (3), for each subsequent violation committed after the lieutenant governor imposes a fine against the person for a first violation, $1,000 multiplied by the number of violations committed by the person.

(b) A person may, within 30 days after the day on which the lieutenant governor imposes a fine against the person under this Subsection (2), appeal the fine to a district court.

(3) The lieutenant governor shall consider a violation of this section as a first violation if the violation is committed more than seven years after the day on which the person last committed a violation of this section.

(4) For purposes of this section, one violation means one act of sending an email, regardless of the number of recipients of the email.

(5) A person does not violate this section if:

(a) the lieutenant governor finds that the email described in Subsection (1) was inadvertently sent by the person using the email of a public entity;

(b) the person is directly providing information solely to another person or a group of people in response to a question asked by the other person or group of people;

(c) the information the person emails is an argument or rebuttal argument prepared under Section 20A-7-401.5 or 20A-7-402, and the email includes each opposing argument and rebuttal argument that:

(i) relates to the same proposed initiative, initiative, proposed referendum, or referendum; and

(ii) complies with the requirements of Section 20A-7-401.5 or 20A-7-402; or

(d) the person is engaging in:

(i) an internal communication solely within the public entity;

(ii) a communication solely with another public entity;

(iii) a communication solely with legal counsel;

(iv) a communication solely with the sponsors of an initiative or referendum;

(v) a communication solely with a land developer for a project permitted by a local land use law that is challenged by a proposed referendum or a referendum; or

(vi) a communication solely with a person involved in a business transaction directly relating to a project described in Subsection (5)(d)(v).

(6) A violation of this section does not invalidate an otherwise valid election.

(7) An email sent in violation of Subsection (1), as determined by the records officer, constitutes a record, as defined in Section 63G-2-103, that is subject to the provisions of Title 63G, Chapter 2, Government Records Access and Management Act, notwithstanding any applicability of Subsection [~~63G-2-103(25)(b)(i)~~]63G-2-103(26)(b)(i).

Section 2. Section 53B-16-303 is amended to read:

53B-16-303. Access to restricted records.

(1) Notwithstanding any other provision of Title 63G, Chapter 2, Government Records Access and Management Act, access to records restricted by this part shall only be permitted upon:

[~~(1)~~](a) written consent of the public institution of higher education originating, receiving, or maintaining [~~such~~]the records; or

[~~(2)~~](b) a finding by the [~~State Records Committee~~]director of the Government Records Office or a court that the record has not been properly classified as restricted under Section 63G-2-302, provided that the review of a restricted classification of a record shall not include considerations of weighing public and private interests regarding access to a properly classified record as contained in Subsection 63G-2-403(11)(b) or 63G-2-404(7) or Section 63G-2-309.

(2) [~~Nothing in this~~]Subsection [~~(2) shall be construed to~~](1)(b) does not limit the authority of the board to reclassify and disclose a record of a public institution of higher education.

Section 3. Section 63A-12-101 is amended to read:

63A-12-101. Division of Archives and Records Service created -- Duties.

(1) There is created the Division of Archives and Records Service within the department.

(2) The state archives shall:

(a) administer the state's archives and records management programs, including storage of records, central reformatting programs, and quality control;

(b) apply fair, efficient, and economical management methods to the collection, creation, use, maintenance, retention, preservation, disclosure, and disposal of records and documents;

(c) establish standards, procedures, and techniques for the effective management and physical care of records;

(d) conduct surveys of office operations and recommend improvements in current records management practices, including the use of space, equipment, automation, and supplies used in creating, maintaining, storing, and servicing records;

(e) establish standards for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, historical, legal, or fiscal value to warrant further retention;

(f) establish, maintain, and operate centralized reformatting lab facilities and quality control for the state;

(g) provide staff and support services to the Records Management Committee created in Section 63A-12-112 and the [~~State Records Committee created in Section 63G-2-501~~]Government Records Office, created in Section 63A-12-202;

(h) develop training programs to assist records officers and other interested officers and employees of governmental entities to administer this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(i) provide access to public records deposited in the archives;

(j) administer and maintain the Utah Public Notice Website established under Section 63A-16-601;

(k) provide assistance to any governmental entity in administering this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(l) prepare forms for use by all governmental entities for a person requesting access to a record; and

(m) if the department operates the Division of Archives and Records Service as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee.

(3) The state archives may:

(a) establish a report and directives management program;

(b) establish a forms management program; and

(c) in accordance with Section 63A-12-101, require that an individual undergo a background check if the individual:

(i) applies to be, or currently is, an employee or volunteer of the division; and

(ii) will have direct access to a vulnerable record in the capacity described in Subsection (3)(c)(i).

(4) The executive director may direct the state archives to administer other functions or services consistent with this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.

Section 4. Section 63A-12-106 is amended to read:

63A-12-106. Certified and microphotographed copies.

(1) (a) Upon demand, the state archives shall furnish certified copies of a record in the state archives's exclusive custody that is classified public or that is otherwise determined to be public under this chapter by the originating governmental entity, the [~~State Records Committee created in Section 63G-2-501~~]director of the Government Records Office, created in Section 63A-12-202, or a court of law.

(b) When certified by the state archivist under the seal of the state archives, a copy has the same legal force and effect as if certified by the originating governmental entity.

(2) The state archives may microphotograph records when the state archives determines that microphotography is an efficient and economical way to care, maintain, and preserve the record. A transcript, exemplification, or certified copy of a microphotograph has the same legal force and effect as the original. Upon review and approval of the microphotographed film by the state archivist, the source documents may be destroyed.

(3) The state archives may allow another governmental entity to microphotograph records in accordance with standards set by the state archives.

Section 5. Section 63A-12-201 is enacted to read:

PART 2. Government Records Office

63A-12-201. Definitions.

As used in this part:

(1) "Director" means the director of the office, appointed under Subsection 63A-12-202(2).

(2) "Office" means the Government Records Office, created in Subsection 63A-12-202(1).

(3) "Records appeal process" means the process described in Title 63G, Chapter 2, Part 4, Appeals.

Section 6. Section 63A-12-202 is enacted to read:

63A-12-202. Government Records Office -- Director -- Annual report.

(1) There is created within the division the Government Records Office.

(2) The governor shall appoint the director of the office:

(a) in consultation with the executive director; and

(b) with the advice and consent of the Senate.

(3) The director shall be:

(a) an attorney in good standing, authorized to practice law in Utah;

(b) knowledgeable regarding state law and practices relating to records management, including the provisions of Title 63G, Chapter 2, Government Records Access and Management Act;

(c) committed to:

(i) ensuring that records, and information in records, properly classified as private, protected, or controlled are disclosed only to the extent expressly provided by law;

(ii) protecting the privacy of persons whose information is in the custody of a government entity; and

(iii) the disclosure of records, and information contained in records, to the extent required by law; and

(d) capable of adjudicating appeals relating to the disclosure or nondisclosure of records in a manner that is impartial, responsible, and strictly in accordance with the requirements of law.

(4) (a) An appointment described in Subsection (2) is for a four-year term.

(b) The governor may, in accordance with Subsection (2), reappoint the same individual to consecutive terms as the director.

(c) The governor may remove the director, only for cause, before the end of a four-year term.

(d) Appointment of a director or an interim director is governed by the provisions of Section 67-1-1.5, relating to an executive branch management position.

(5) The Office of the Attorney General shall provide counsel to the office.

(6) The office shall, on an annual basis before October 1, electronically transmit a written report to the Government Operations Interim Committee on the work performed by the office during the previous year, that includes:

(a) metrics on the standardization and efficiency of processing appeals; and

(b) the effective implementation of the records ombudsman's role.

Section 7. Section 63A-12-203 is enacted to read:

63A-12-203. Duties of director and office -- Reassignment of classification or designation -- Rulemaking authority -- Transition from State Records Committee.

(1) The director shall:

(a) supervise and manage the office;

(b) appoint and supervise a government records ombudsman to fulfill the duties described in Section 63A-12-204;

(c) administer the records appeal process;

(d) hear appeals regarding disputed fees under Section 63G-2-203;

(e) hear and decide appeals from determinations of access under Section 63G-2-403; and

(f) determine disputes submitted by the state auditor under Subsection 67-3-1(17)(d).

(2) The director may:

(a) employ staff to support the work of the office;

(b) by order, after notice and hearing, reassign classification or designation for any record series by a governmental entity if the governmental entity's classification or designation is inconsistent with Title 63G, Chapter 2, Government Records Access and Management Act; and

(c) designate another individual to hear and decide appeals for a specific case if the director has a conflict of interest in relation to that case.

(3) The office shall be a resource to citizens and government entities in relation to government records, including:

(a) ensuring lawful access to records;

(b) ensuring the lawful restriction of access to records;

(c) classification of records;

(d) retention of records; and

(e) resolving records disputes informally, via informal mediation, or via the records appeal process.

(4) (a) An affected governmental entity or any other interested person may appeal the reassignment of a record under Subsection (2)(b) to a district court within 30 days after the day on which the director makes the reassignment.

(b) The district court shall hear an appeal described in Subsection (4)(a) de novo.

(5) The director shall makes rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the procedures and proceedings for appeals made to the director as described in this part.

(6) The director shall, to the extent practicable and until the rules described in Subsection (5) are in effect, utilize the rules made by the former State Records Committee before January 1, 2025, with the director acting in place of the former State Records Committee.

(7) Any case or other matter that was, before appointment of the first director, pending before the former State Records Committee, is transferred to the director for resolution upon the director's appointment, to be resolved as soon as reasonably possible.

Section 8. Section 63A-12-204, which is renumbered from Section 63A-12-111 is renumbered and amended to read:

[~~63A-12-111~~]63A-12-204. Government records ombudsman.

[~~(1) (a) The director of the division shall appoint a government records ombudsman.~~]

[~~(b) The government records ombudsman may not be a member of the State Records Committee created in Section 63G-2-501.~~]

[~~(2)~~](1) (a) The government records ombudsman, appointed under Section 63A-12-202, shall:

(i) be familiar with the provisions of Title 63G, Chapter 2, Government Records Access and Management Act;

(ii) serve as a resource for a person who is making or responding to a records request or filing an appeal relating to a records request; and

(iii) upon a request from a requester or responder, and with the consent of both the requester and responder, mediate a dispute between a requester and responder, including a dispute between a requester and a governmental entity regarding the governmental entity's access denial, as defined in Section 63G-2-400.5[~~; and~~].

[~~(iv) on an annual basis, electronically transmit a written report to the Government Operations Interim Committee on the work~~

~~performed by the government records ombudsman during the previous year.~~]

(b) (i) Before the conclusion of a mediation under Subsection [~~(2)(a)(iii)~~](1)(a)(iii), a requester or responder may withdraw consent for the mediation.

(ii) If a requester or responder withdraws consent under Subsection [~~(2)(b)(i)~~](1)(b)(i), the government records ombudsman shall[~~certify, as provided in Subsection (4)(a)(ii)~~], in accordance with Subsection (3)(a)(ii), certify that the mediation was not concluded because of a lack of the required consent.

[~~(3)~~](2) The government records ombudsman may not testify, or be compelled to testify, [~~before the State Records Committee created in Section 63G-2-501, another~~]regarding a matter for which the government records ombudsman provides services under this section:

(a) in an appeals proceeding described in Title 63G, Chapter 2, Part 4, Appeals; or

(b) before an administrative body[~~,~~] or a court[~~regarding a matter that the government records ombudsman provided services in relation to under this section~~].

[~~(4)~~](3) Upon the conclusion of a mediation [~~under Subsection (2)(a)(iii)~~]described in Subsection (1)(a)(iii), or upon the government records ombudsman's determination that the required consent for the mediation is lacking, the government records ombudsman shall:

(a) certify in writing that the mediation:

(i) is concluded; or

(ii) did not take place or was not concluded because of a lack of the required consent; and

(b) provide a copy of the written certification to the requester and the responder.

Section 9. Section 63A-12-205 is enacted to read:

63A-12-205. Independent performance survey and evaluation.

(1) (a) Beginning in 2027 and every two years thereafter, the Division of Human Resource Management shall conduct a survey to collect feedback regarding the director's job performance.

(b) The Division of Human Resource Management shall include as survey respondents a sample of each of the following groups:

(i) individuals who have appeared before the director;

(ii) staff who have worked with the director; and

(iii) any other class of respondents the Division of Human Resource Management determines helpful.

(c) (i) A survey response is anonymous, including any comment included with a survey response.

(ii) If the Division of Human Resource Management provides any survey information to the director, the division shall provide the information in a manner that protects the survey respondent's confidentiality.

(2) In a survey under this section, the Division of Human Resource Management:

(a) shall include questions relating to whether the director's behavior furthers the elements of procedural fairness, including neutrality, careful deliberation, respectful treatment of parties, and providing parties the opportunity to be heard; and

(b) may include questions concerning the director's legal ability, temperament and integrity, and administrative performance.

(3) (a) The Division of Human Resource Management may allow survey respondents to indicate responses:

(i) on a numerical scale from one to five; or

(ii) in the affirmative or negative, with an option to indicate the respondent's inability to respond in the affirmative or negative.

(b) To supplement a response to a survey question, the Division of Human Resource Management may allow a respondent to provide written comments.

(4) (a) Each year in which the Division of Human Resource Management completes a survey under this section, the Division of Human Resource Management shall prepare an evaluation of the director's job performance that includes:

(i) the results of the most recent survey conducted in accordance with this section; and

(ii) any other information the Division of Human Resource Management considers relevant to evaluating the director's performance.

(b) (i) The Division of Human Resource Management shall provide a copy of the director's performance evaluation to the governor.

(ii) Each year in which the Division of Human Resource Management completes a survey and evaluation under this section, the governor or the governor's designee shall report to the Government Operations Interim Committee on the director's performance.

Section 10. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, special district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking, except for the Water District Water Development Council created pursuant to Section 11-13-228;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Government Records Office" means the same as that term is defined in Section 63A-12-201.

[~~(12)~~](13) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

[~~(13)~~](14) "Individual" means a human being.

[~~(14)~~](15) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection [~~(14)(a)~~](15)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

[~~(15)~~](16) "Legislative body" means the Legislature.

[~~(16)~~](17) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the [~~State Records Committee~~]director of the Government Records Office.

[~~(17)~~](18) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

[~~(18)~~](19) "Personal identifying information" means the same as that term is defined in Section 63A-12-100.5.

[~~(19)~~](20) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.

[~~(20)~~](21) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

[~~(21)~~](22) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

[~~(22)~~](23) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

[~~(23)~~](24) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

[~~(24)~~](25) "Reasonable search" means a search that is:

(a) reasonable in scope and intensity; and

(b) not unreasonably burdensome for the government entity.

[~~(25)~~](26) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not include:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar ;

(x) a note prepared by the originator for the originator's own use or for the sole use of an individual for whom the originator is working;

(xi) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xii) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xiii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiv) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xvi) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvii) child sexual abuse material, as defined by Section 76-5b-103;

(xviii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201;

(xix) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702;

(xx) any item described in Subsection [~~(25)(a)~~](26)(a) that is:

(A) described in Subsection 63G-2-305(17), (18), or (23)(b); and

(B) shared between any of the following entities:

(I) the Division of Risk Management;

(II) the Office of the Attorney General;

(III) the governor's office; or

(IV) the Legislature; or

(xxi) the email address that a candidate for elective office provides to a filing officer under Subsection 20A-9-201(5)(c)(ii) or 20A-9-203(4)(c)(iv).

[~~(26)~~](27) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

[~~(27)~~](28) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

[~~(28)~~](29) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

[~~(29)~~](30) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

[~~(30)~~](31) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

[~~(31)~~](32) "State archivist" means the director of the state archives.

[~~(32) "State Records Committee" means the State Records Committee created in Section 63G-2-501.~~]

(33) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 11. Section 63G-2-201 is amended to read:

63G-2-201. Provisions relating to records -- Public records -- Private, controlled, protected, and other restricted records -- Disclosure and nondisclosure of records -- Certified copy of record -- Limits on obligation to respond to record request.

(1) (a) Except as provided in Subsection (1)(b), a person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections 63G-2-203 and 63G-2-204.

(b) A right under Subsection (1)(a) does not apply with respect to a record:

(i) a copy of which the governmental entity has already provided to the person;

(ii) that is the subject of a records request that the governmental entity is not required to fill under Subsection (7)(a)(v); or

(iii) (A) that is accessible only by a computer or other electronic device owned or controlled by the governmental entity;

(B) that is part of an electronic file that also contains a record that is private, controlled, or protected; and

(C) that the governmental entity cannot readily segregate from the part of the electronic file that contains a private, controlled, or protected record.

(2) A record is public unless otherwise expressly provided by statute.

(3) The following records are not public:

(a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303, 63G-2-304, and 63G-2-305; and

(b) a record to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

(4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or 63G-2-305may be classified private, controlled, or protected.

(5) (a) A governmental entity may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section 63G-2-202, 63G-2-206, or 63G-2-303.

(b) A governmental entity may disclose a record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to persons other than those specified in Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or a designee, determines that:

(i) there is no interest in restricting access to the record; or

(ii) the interests favoring access are greater than or equal to the interest favoring restriction of access.

(c) In addition to the disclosure under Subsection (5)(b), a governmental entity may disclose a record that is protected under Subsection 63G-2-305(51) if:

(i) the head of the governmental entity, or a designee, determines that the disclosure:

(A) is mutually beneficial to:

(I) the subject of the record;

(II) the governmental entity; and

(III) the public; and

(B) serves a public purpose related to:

(I) public safety; or

(II) consumer protection; and

(ii) the person who receives the record from the governmental entity agrees not to use or allow the use of the record for advertising or solicitation purposes.

(6) A governmental entity shall provide a person with a certified copy of a record if:

(a) the person requesting the record has a right to inspect it;

(b) the person identifies the record with reasonable specificity; and

(c) the person pays the lawful fees.

(7) (a) In response to a request, a governmental entity is not required to:

(i) create a record;

(ii) compile, format, manipulate, package, summarize, or tailor information;

(iii) provide a record in a particular format, medium, or program not currently maintained by the governmental entity;

(iv) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person;

(v) fill a person's records request if:

(A) the record requested is:

(I) publicly accessible online; or

(II) included in a public publication or product produced by the governmental entity receiving the request; and

(B) the governmental entity:

(I) specifies to the person requesting the record where the record is accessible online; or

(II) provides the person requesting the record with the public publication or product and specifies where the record can be found in the public publication or product; or

(vi) fulfill a person's records request if:

(A) the person has been determined under Section 63G-2-209 to be a vexatious requester;

(B) the [~~State Records Committee~~]order of the director of the Government Records Office determining the person to be a vexatious requester provides that the governmental entity is not required to fulfill a request from the person for a period of time; and

(C) the period of time described in Subsection (7)(a)(vi)(B) has not expired.

(b) A governmental entity shall conduct a reasonable search for a requested record.

(8) (a) Although not required to do so, a governmental entity may, upon request from the person who submitted the records request, compile, format, manipulate, package, summarize, or tailor information or provide a record in a format, medium, or program not currently maintained by the governmental entity.

(b) In determining whether to fulfill a request described in Subsection (8)(a), a governmental entity may consider whether the governmental entity is able to fulfill the request without unreasonably interfering with the governmental entity's duties and responsibilities.

(c) A governmental entity may require a person who makes a request under Subsection (8)(a) to pay the governmental entity, in accordance with Section 63G-2-203, for providing the information or record as requested.

(9) (a) Notwithstanding any other provision of this chapter, and subject to Subsection (9)(b), a governmental entity is not required to respond to, or provide a record in response to, a record request if the request is submitted by or in behalf of an individual who is confined in a jail or other correctional facility following the individual's conviction.

(b) Subsection (9)(a) does not apply to:

(i) the first five record requests submitted to the governmental entity by or in behalf of an individual described in Subsection (9)(a) during any calendar year requesting only a record that contains a specific reference to the individual; or

(ii) a record request that is submitted by an attorney of an individual described in Subsection (9)(a).

(10) (a) A governmental entity may allow a person requesting more than 50 pages of records to copy the records if:

(i) the records are contained in files that do not contain records that are exempt from disclosure, or the records may be segregated to remove private, protected, or controlled information from disclosure; and

(ii) the governmental entity provides reasonable safeguards to protect the public from the potential for loss of a public record.

(b) If the requirements of Subsection (10)(a) are met, the governmental entity may:

(i) provide the requester with the facilities for copying the requested records and require that the requester make the copies; or

(ii) allow the requester to provide the requester's own copying facilities and personnel to make the copies at the governmental entity's offices and waive the fees for copying the records.

(11) (a) A governmental entity that owns an intellectual property right and that offers the intellectual property right for sale or license may control by ordinance or policy the duplication and distribution of the material based on terms the governmental entity considers to be in the public interest.

(b) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the governmental entity under federal copyright or patent law as a result of its ownership of the intellectual property right.

(12) A governmental entity may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and receive a copy of a record under this chapter.

(13) Subject to the requirements of Subsection (7), a governmental entity shall provide access to an electronic copy of a record in lieu of providing access to its paper equivalent if:

(a) the person making the request requests or states a preference for an electronic copy;

(b) the governmental entity currently maintains the record in an electronic format that is reproducible and may be provided without reformatting or conversion; and

(c) the electronic copy of the record:

(i) does not disclose other records that are exempt from disclosure; or

(ii) may be segregated to protect private, protected, or controlled information from disclosure without the undue expenditure of public resources or funds.

(14) In determining whether a record is properly classified as private under Subsection 63G-2-302(2)(d), the governmental entity, [~~State Records Committee~~]the director of the Government Records Office, local appeals board, or court shall consider and weigh:

(a) any personal privacy interests, including those in images, that would be affected by disclosure of the records in question; and

(b) any public interests served by disclosure.

Section 12. Section 63G-2-209 is amended to read:

63G-2-209. Vexatious requester.

(1) As used in this section:

[~~(a) "Committee" means the State Records Committee created in Section 63G-2-501.~~]

[~~(b) "Executive secretary" means an individual appointed as executive secretary under Subsection 63G-2-502(3).~~]

(a) "Director" means the director of the Government Records Office, created in Section 63A-12-202.

[~~(c)~~](b) "Respondent" means a person that a governmental entity claims is a vexatious requester under this section.

(2) (a) A governmental entity may file a petition with the [~~committee~~]director to request relief from a person that the governmental entity claims is a vexatious requester.

(b) A petition under Subsection (2)(a) shall[~~:~~]

[~~(i) be filed with the committee by submitting the petition to the executive secretary; and~~]

[~~(ii)~~] contain:

[~~(A)~~](i) the name, phone number, mailing address, and email address that the respondent submitted to the governmental entity;

[~~(B)~~](ii) a description of the conduct that the governmental entity claims demonstrates that the respondent is a vexatious requester;

[~~(C)~~](iii) a statement of the relief the governmental entity seeks; and

[~~(D)~~](iv) a sworn declaration or an unsworn declaration, as those terms are defined in Section 78B-18a-102.

(c) On the day the governmental entity files a petition under Subsection (2)(a), the governmental entity shall send a copy of the petition to the respondent.

(3) (a) Except as provided in Subsection (3)(c), no later than seven business days after receiving the petition[~~, the executive secretary~~], the director shall schedule a hearing[~~ for the committee~~] to consider the petition, to be held:

(i) (A) at the next [~~regularly scheduled committee meeting falling~~]regularly-scheduled hearing date that is at least 16 calendar days after the [~~date~~]day on which the petition is filed but no later than 64 calendar days after the [~~date~~]day on which the petition is filed; or

(B) at a [~~regularly scheduled committee meeting~~]regularly-scheduled hearing date that is later than the period described in Subsection (3)(a)(i)(A) if the later [~~committee meeting~~]hearing date is the first [~~regularly scheduled committee meeting~~]regularly-scheduled hearing date at which there are fewer than 10 appeals scheduled to be heard; or

(ii) to the extent practicable, at a date sooner than a period described in Subsection (3)(a)(i) if the governmental entity:

(A) requests an expedited hearing; and

(B) shows good cause for the expedited hearing.

(b) If the [~~executive secretary~~]director schedules a hearing under Subsection (3)(a), the [~~executive secretary~~]director shall:

[~~(i) send a copy of the petition to each member of the committee;~~]

[~~(ii)~~](i) send a copy of the notice of hearing to the governmental entity[~~,~~] and the respondent[~~, and each member of the committee~~]; and

[~~(iii)~~](ii) if applicable, send a copy of the respondent's statement under Subsection [~~(3)(c)(ii)~~](3)(c)(ii)(B) to the governmental entity[~~ and each member of the committee~~].

[~~(c) (i) The executive secretary may decline to schedule a hearing if:~~]

[~~(A) the executive secretary recommends that the committee deny the petition without a hearing because the petition does not warrant a hearing;~~]

[~~(B) the executive secretary consults with the chair of the committee and at least one other member of the committee; and~~]

[~~(C) the chair of the committee and all committee members with whom the executive secretary consults under this Subsection (3)(c)(i) agree with the executive secretary's recommendation to deny the petition without a hearing.~~]

[~~(ii) The executive secretary may, in making the determination described in Subsection (3)(c)(i)(A), request that the respondent submit a written response to the petition.~~]

[~~(d) If the executive secretary declines to schedule a hearing in accordance with Subsection (3)(c):~~]

[~~(i) the executive secretary shall send a notice to the governmental entity and the respondent indicating that the request for a hearing has been denied and the reasons for the denial; and~~]

[~~(ii) the committee shall:~~]

[~~(A) vote at the committee's next regular meeting to accept or reject the recommendation to deny the petition without a hearing;~~]

[~~(B) issue an order that includes the reasons for the committee's decision to accept or reject the recommendation; and~~]

[~~(C) if the committee rejects the recommendation to deny the petition without a hearing, direct the executive secretary to schedule a hearing as provided in Subsection (3)(a).~~]

(c) The director may decline to schedule a hearing if:

(i) the director makes an initial determination that the petition should be denied without a hearing; and

(ii) before the director makes a final ruling to deny the petition, the director:

(A) provides the parties with notice of the initial determination described in Subsection (3)(c)(i), including the reasons for the initial determination;

(B) provides the parties with a reasonable opportunity to respond to the initial determination described in Subsection (3)(c)(i); and

(C) provides the respondent with a reasonable opportunity to submit a written response to the petition.

(d) If, after complying with Subsection (3)(c), the director makes a final ruling denying the petition without a hearing, the director shall:

(i) issue an order denying the petition; and

(ii) include in the order the reasons for denying the petition and the reasons for making the ruling without a hearing.

(e) If, after complying with Subsection (3)(c), the director determines that a hearing should be held, the director shall schedule a hearing in accordance with Subsection (3)(a).

(4) (a) No later than five business days before the day of the hearing, the respondent may submit to the [~~executive secretary~~]director and the governmental entity a written statement in response to the governmental entity's petition.

(b) The written statement described in Subsection (4)(a) may be the same document as the respondent's written response described in Subsection [~~(3)(c)(ii)~~](3)(c)(ii)(C).

(5) No later than 10 business days before the day of a hearing under this section, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention with the [~~committee~~]director as provided in Subsection 63G-2-403(6).

(6) If a respondent fails to submit a written statement under Subsection (4) or fails to appear at the hearing, the [~~committee~~]director shall:

(a) cancel the hearing; or

(b) hold the hearing in accordance with Subsection (7).

(7) (a) If the [~~committee~~]director holds a hearing scheduled under Subsection (3), the [~~committee~~]director shall:

(i) allow the governmental entity to testify, present evidence, and comment on the issues; and

(ii) allow the respondent to testify, present evidence, and comment on the issues if the respondent appears at the hearing.

(b) At the hearing, the [~~committee~~]director may allow another interested person to comment on the issues.

(c) (i) Discovery is prohibited, but the [~~committee~~]director may issue subpoenas or other orders to compel production of necessary testimony or evidence.

(ii) If the subject of a [~~committee~~]director's subpoena disobeys or fails to comply with the subpoena, the [~~committee~~]director may file a motion with the district court for an order to compel obedience to the subpoena.

(8) (a) No later than seven business days after the day on which a hearing is held as scheduled under Subsection (3) or the date on which a hearing cancelled under Subsection (6) was scheduled to be held, the [~~committee~~]director shall:

(i) determine, in accordance with Subsection (9), whether the governmental entity has demonstrated that the respondent is a vexatious requester; and

(ii) issue a signed order that grants or denies the petition in whole or in part.

(b) Upon granting the petition in whole or in part, the [~~committee~~]director may order that the governmental entity is not required to fulfill requests from the respondent or a person that submits a request on the respondent's behalf for a period of time that may not exceed one year.

(c) The [~~committee's~~]director's order shall contain:

(i) a statement of the reasons for the [~~committee's~~]director's decision;

(ii) if the petition is granted in whole or in part, a specific description of the conduct the [~~committee~~]director determines demonstrates that the respondent is a vexatious requester, including any conduct the [~~committee~~]director finds to constitute an abuse of the right of access to information under this chapter or a substantial interference with the operations of the governmental entity;

(iii) a statement that the respondent or governmental entity may seek judicial review of the [~~committee's~~]director's decision in district court as provided in Section 63G-2-404; and

(iv) a brief summary of the judicial review process, the time limits for seeking judicial review, and a notice that, in order to protect applicable rights in connection with the judicial review, the person seeking judicial review of the [~~committee's~~]director's decision may wish to seek advice from an attorney.

(9) In determining whether a governmental entity has demonstrated that the respondent is a vexatious requester, the [~~committee~~]director shall consider:

[~~(a) the interests described in Section 63G-2-102;~~]

[~~(b)~~](a) as applicable:

(i) the number of requests the respondent has submitted to the governmental entity, including the number of pending record requests;

(ii) the scope, nature, content, language, and subject matter of record requests the respondent has submitted to the governmental entity;

(iii) the nature, content, language, and subject matter of any communications to the governmental entity related to a record request of the respondent; and

(iv) any pattern of conduct that the [~~committee~~]director determines to constitute:

(A) an abuse of the right of access to information under this chapter; or

(B) substantial interference with the operations of the governmental entity; and

[~~(c)~~](b) any other factor the [~~committee~~]director considers relevant.

(10) (a) A governmental entity or respondent aggrieved by the [~~committee's~~]director's decision under this section may seek judicial review of the decision as provided in Section 63G-2-404.

(b) In a judicial review under Subsection (10)(a), the court may award reasonable attorney fees to a respondent if:

(i) the respondent substantially prevails; and

(ii) the court determines that:

(A) the petition filed by the governmental entity under Subsection (2) is without merit; and

(B) the governmental entity's actions in filing the petition lack a reasonable basis in fact or law.

(c) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees under this Subsection (10) is not subject to Chapter 7, Governmental Immunity Act of Utah.

(11) Notwithstanding any other provision of this chapter, a records request that a governmental entity is not required to fulfill in accordance with an order issued under this section may not be the subject of an appeal under Part 4, Appeals.

(12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~committee~~]director shall make rules to

implement the procedures and requirements described in this section.

Section 13. Section 63G-2-309 is amended to read:

63G-2-309. Confidentiality claims.

(1) (a) (i) Any person who provides to a governmental entity a record that the person believes should be protected under Subsection 63G-2-305(1) or (2) or both Subsections 63G-2-305(1) and (2) shall provide with the record:

(A) a written claim of business confidentiality; and

(B) a concise statement of reasons supporting the claim of business confidentiality.

(ii) Any of the following who provides to an institution within the state system of higher education defined in Section 53B-1-102 a record that the person or governmental entity believes should be protected under Subsection 63G-2-305(40)(a)(ii) or (vi) or both Subsections 63G-2-305(40)(a)(ii) and (vi) shall provide the institution within the state system of higher education a written claim of business confidentiality in accordance with Section 53B-16-304:

(A) a person;

(B) a federal governmental entity;

(C) a state governmental entity; or

(D) a local governmental entity.

(b) A person or governmental entity who complies with this Subsection (1) shall be notified by the governmental entity to whom the request for a record is made if:

(i) a record claimed to be protected under one of the following is classified public:

(A) Subsection 63G-2-305(1);

(B) Subsection 63G-2-305(2);

(C) Subsection 63G-2-305(40)(a)(ii);

(D) Subsection 63G-2-305(40)(a)(vi); or

(E) a combination of the provisions described in Subsections (1)(b)(i)(A) through (D); or

(ii) the governmental entity to whom the request for a record is made determines that the record claimed to be protected under a provision listed in Subsection (1)(b)(i)should be released after balancing interests under Subsection 63G-2-201(5)(b) or 63G-2-401(6).

(c) A person who makes a claim of business confidentiality under this Subsection (1)shall protect, defend, and indemnify the governmental entity that retains the record, and all staff and employees of the governmental entity from and against any claims, liability, or damages resulting from or arising from a denial of access to the record as a protected record based on the claim of business confidentiality.

(2) (a) Except as provided in Subsection (2)(b) or by court order, the governmental entity to whom the request for a record is made may not disclose a record claimed to be protected under a provision listed in Subsection (1)(b)(i) but which the governmental entity or [~~State Records Committee~~]the director of the Government Records Office determines should be disclosed until the period in which to bring an appeal expires or the end of the appeals process, including judicial appeal.

(b) Subsection (2)(a) does not apply where the claimant, after notice, has waived the claim by not appealing or intervening before the [~~State Records Committee~~]director of the Government Records Office.

(3) Disclosure or acquisition of information under this chapter does not constitute misappropriation under Subsection 13-24-2(2).

Section 14. Section 63G-2-400.5 is amended to read:

63G-2-400.5. Definitions.

As used in this part:

(1) "Access denial" means a governmental entity's denial, under Subsection 63G-2-204(9)or Section 63G-2-205, in whole or in part, of a record request.

(2) "Appellate affirmation" means a decision of a chief administrative officer, a local appeals board, or [~~State Records Committee~~]the director affirming an access denial.

(3) "Director" means the director of the Government Records Office.

[~~(3)~~](4) "Interested party" means a person, other than a requester, who is aggrieved by an access denial or an appellate affirmation, regardless of whether [~~or not~~]the person participated in proceedings leading to the access denial or appellate affirmation.

[~~(4)~~](5) "Local appeals board" means an appeals board established by a political subdivision under Subsection 63G-2-701(5)(c).

[~~(5)~~](6) "Record request" means a request for a record under Section 63G-2-204.

[~~(6)~~](7) "Records[~~committee~~] appellant" means:

(a) a political subdivision that seeks to appeal a decision of a local appeals board to the [~~State Records Committee~~]director; or

(b) a requester or interested party who seeks to appeal to the [~~State Records Committee~~]director a decision affirming an access denial.

[~~(7)~~](8) "Requester" means a person who submits a record request to a governmental entity.

Section 15. Section 63G-2-401 is amended to read:

63G-2-401. Appeal to chief administrative officer -- Notice of the decision of the appeal.

(1) (a) A requester or interested party may appeal an access denial or the denial of a fee waiver under Subsection 63G-2-203(4) to the chief administrative officer of the governmental entity by filing a notice of appeal with the chief administrative officer within 30 days after:

(i) for an access denial:

(A) the governmental entity sends a notice of denial under Section 63G-2-205, if the governmental entity denies a record request under Subsection 63G-2-205(1); or

(B) the record request is considered denied under Subsection 63G-2-204(9), if that subsection applies; or

(ii) for a denial of a fee waiver, the date the governmental entity notifies the requester that the fee waiver is denied.

(b) If a governmental entity claims extraordinary circumstances and specifies the date when the records will be available under Subsection 63G-2-204(4), and, if the requester believes the extraordinary circumstances do not exist or that the date specified is unreasonable, the requester may appeal the governmental entity's claim of extraordinary circumstances or date for compliance to the chief

administrative officer by filing a notice of appeal with the chief administrative officer within 30 days after notification of a claim of extraordinary circumstances by the governmental entity, despite the lack of a "determination" or its equivalent under Subsection 63G-2-204(9).

(2) A notice of appeal shall contain:

(a) the name, mailing address, and daytime telephone number of the requester or interested party; and

(b) the relief sought.

(3) The requester or interested party may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4) (a) If the appeal involves a record that is the subject of a business confidentiality claim under Section 63G-2-309, the chief administrative officer shall:

(i) send notice of the appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than 35 persons, it shall be given as soon as reasonably possible; and

(ii) send notice of the business confidentiality claim and the schedule for the chief administrative officer's determination to the requester or interested party within three business days after receiving notice of the appeal.

(b) The business confidentiality claimant shall have seven business days after notice is sent by the administrative officer to submit further support for the claim of business confidentiality.

(5) (a) The chief administrative officer shall make a decision on the appeal within:

(i) (A) 10 business days after the chief administrative officer's receipt of the notice of appeal; or

(B) five business days after the chief administrative officer's receipt of the notice of appeal, if the requester or interested party demonstrates that an expedited decision benefits the public rather than the requester or interested party; or

(ii) 12 business days after the governmental entity sends the notice of appeal to a person who submitted a claim of business confidentiality.

(b) (i) If the chief administrative officer fails to make a decision on an appeal of an access denial within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the access denial.

(ii) If the chief administrative officer fails to make a decision on an appeal under Subsection (1)(b) within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the claim of extraordinary circumstances or the reasonableness of the date specified when the records will be available.

(c) The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this section.

(6) Except as provided in Section 63G-2-406, the chief administrative officer may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 if the interests favoring access are greater than or equal to the interests favoring restriction of access.

(7) (a) The governmental entity shall send written notice of the chief administrative officer's decision to all participants.

(b) If the chief administrative officer's decision is to affirm the access denial in whole or in part or to affirm the fee waiver denial, the notice under Subsection (7)(a) shall include:

(i) a statement that the requester has a right under Section [~~63A-12-111~~]63A-12-204to request the government records ombudsman to mediate the dispute between the requester and the governmental entity concerning the access denial or the fee waiver denial;

(ii) a statement that the requester or interested party has the right to appeal the decision, as provided in Section 63G-2-402, to:

(A) the [~~State Records Committee~~]director or district court; or

(B) the local appeals board, if the governmental entity is a political subdivision and the governmental entity has established a local appeals board;

(iii) the time limits for filing an appeal described in Subsection (7)(b)(ii), including an explanation of a suspension of the time limits, as provided in Subsections 63G-2-403(1)(c) and 63G-2-404(1)(b), for a requester if the requester seeks mediation under Section [~~63A-12-111~~]63A-12-204; and

(iv) the name and business address of:

[~~(A) the executive secretary of the State Records Committee;~~]

(A) the director;

(B) the individual designated as the contact individual for the appeals board, if the governmental entity is a political subdivision that has established an appeals board under Subsection 63G-2-701(5)(c); and

(C) the government records ombudsman.

(8) (a) A person aggrieved by a governmental entity's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section.

(b) If a nonrequester is the only appellant, the procedures provided in this section shall apply, except that the decision on the appeal shall be made within 30 days [~~after receiving~~]after the day on which the appellant files the notice of appeal.

(9) The duties of the chief administrative officer under this section may be delegated.

Section 16. Section 63G-2-402 is amended to read:

63G-2-402. Appealing a decision of a chief administrative officer.

(1) If the decision of the chief administrative officer of a governmental entity under Section 63G-2-401 is to affirm the denial of a record request or to affirm the denial of a fee waiver, the requester may:

(a) (i) appeal the decision to the [~~State Records Committee~~]director, as provided in Section 63G-2-403; or

(ii) petition for judicial review of the decision in district court, as provided in Section 63G-2-404;

(b) seek mediation of the access denial or fee waiver denial under Subsection [~~63A-12-111(2)(c)~~]63A-12-204(1)(a)(iii); or

(c) appeal the decision to the local appeals board if:

(i) the decision is of a chief administrative officer of a governmental entity that is a political subdivision; and

(ii) the political subdivision has established a local appeals board.

(2) A requester who appeals a chief administrative officer's decision to the [~~State Records Committee~~]director or a local appeals board does not lose or waive the right to seek judicial review of the decision of the [~~State Records Committee~~]director or the local appeals board.

(3) As provided in Section 63G-2-403, an interested party may appeal to the [~~State Records Committee~~]director of the Government Records Office a chief administrative officer's decision under Section 63G-2-401 affirming an access denial.

Section 17. Section 63G-2-403 is amended to read:

63G-2-403. Appeals to the director of the Government Records Office.

(1) (a) A records [~~committee~~]appellant appeals to the [~~State Records Committee~~]director by filing a notice of appeal with the [~~executive secretary of the State Records Committee~~]director no later than 30 days after [~~the date of issuance of~~]the day on which the decision being appealed is issued.

(b) Notwithstanding Subsection (1)(a), a requester may file a notice of appeal with the [~~executive secretary of the State Records Committee~~]director no later than 45 days after the day on which the record request is made if:

(i) the circumstances described in Subsection 63G-2-401(1)(b) occur; and

(ii) the chief administrative officer fails to make a decision under Section 63G-2-401.

(c) The time for a requester to file a notice of appeal under Subsection (1)(a) or (b) is suspended for the period of time that:

(i) begins on the date the requester submits a request under Section [~~63A-12-111~~]63A-12-204 for the government records ombudsman to mediate the dispute between the requester and the governmental entity; and

(ii) ends the earlier of the following dates:

(A) the date that the government records ombudsman certifies in writing that the mediation is concluded; or

(B) the date that the government records ombudsman certifies in writing that the mediation did not occur or was not concluded because of a lack of the required consent.

(2) The notice of appeal shall:

(a) contain the name, mailing address, and daytime telephone number of the records [~~committee~~]appellant;

(b) be accompanied by a copy of the decision being appealed; and

(c) state the relief sought.

(3) The records [~~committee~~]appellant:

(a) shall, on the day on which the notice of appeal is filed with the [~~State Records Committee~~]director, serve a copy of the notice of appeal on:

(i) the governmental entity whose access denial or fee waiver denial is the subject of the appeal, if the records [~~committee~~]appellant is a requester or interested party; or

(ii) the requester or interested party who is a party to the local appeals board proceeding that resulted in the decision that the political subdivision is appealing to the [~~committee~~]director, if the records [~~committee~~]appellant is a political subdivision; and

(b) may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4) (a) Except as provided in Subsections (4)(b) and (c), no later than seven business days after receiving a notice of appeal, the [~~executive secretary of the State Records Committee~~]director shall:

(i) schedule a hearing for the [~~State Records Committee~~]director to discuss the appeal at the next regularly scheduled [~~committee meeting falling~~]hearing date that is at least 16 calendar days after the date the notice of appeal is filed but no [~~longer~~]later than 64 calendar days after the date the notice of appeal [~~was~~]is filed, except that the [~~committee~~]director may schedule an expedited hearing upon application of the records [~~committee~~]appellant and good cause shown;

(ii) send a copy of the notice of hearing to the records [~~committee~~]appellant; and

(iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing to:

[~~(A) each member of the State Records Committee;~~]

[~~(B)~~](A) the records officer and the chief administrative officer of the governmental entity whose access denial is the subject of the appeal, if the records [~~committee~~]appellant is a requester or interested party;

[~~(C)~~](B) any person who made a business confidentiality claim under Section 63G-2-309 for a record that is the subject of the appeal; and

[~~(D)~~](C) all persons who participated in the proceedings before the governmental entity's chief administrative officer, if the appeal is of the chief administrative officer's decision affirming an access denial.

(b) (i) The [~~executive secretary of the State Records Committee~~]director may decline to schedule a hearing if the record series that is the subject of the appeal has been found by the [~~committee~~]director in a previous hearing involving the same governmental entity to be appropriately classified as private, controlled, or protected.

(ii) [~~(A)~~] If the [~~executive secretary of the State Records Committee~~]director declines to schedule a hearing, the [~~executive secretary~~]director shall send a notice to the records [~~committee~~]appellant indicating that the request for hearing has been denied and the reason for the denial.

[~~(B) The State Records Committee shall make rules to implement this section as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(c) The [~~executive secretary of the State Records Committee~~]director may schedule a hearing on an appeal to the [~~State Records Committee at~~]director on a regularly[-]-scheduled [~~State Records Committee meeting~~]hearing date that is later than the period described in Subsection (4)(a)(i) if that [~~committee meeting~~]hearing date is the first regularly[-]-scheduled [~~State Records Committee meeting~~]hearing date at which there are fewer than 10 appeals scheduled to be heard.

(5) (a) No later than five business days before the day of the hearing, a governmental entity shall submit to the [~~executive secretary of the State Records Committee~~]director a written statement of facts, reasons, and legal authority in support of the governmental entity's position.

(b) The governmental entity shall send a copy of the written statement by first class mail, postage prepaid, to the requester or interested party involved in the appeal.[~~The executive secretary shall forward a copy of the written statement to each member of the State Records Committee.~~]

(6) (a) No later than 10 business days after the day on which the [~~executive secretary~~]director sends the notice of appeal, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention with the [~~State Records Committee~~]director.

(b) Any written statement of facts, reasons, and legal authority in support of the intervener's position shall be filed with the request for intervention.

(c) The person seeking intervention shall provide copies of the statement described in Subsection (6)(b) to all parties to the proceedings before the [~~State Records Committee~~]director.

(7) (a) The [~~State Records Committee~~]director shall hold a hearing within the period of time described in Subsection (4).

(b) In accordance with Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules requiring that a hearing under this section is open to the public in substantially the same manner as a meeting under Title 52, Chapter 4, Open and Public Meetings Act.

(8) At the hearing, the [~~State Records Committee~~]director:

(a) shall allow the parties to testify, present evidence, and comment on the issues[~~. The committee~~]; and

(b) may allow other interested persons to comment on the issues.

(9) (a) (i) The [~~State Records Committee~~]director:

(A) may review the disputed records; and

(B) shall review the disputed records, if the [~~committee~~]director is weighing the various interests under Subsection (11).

(ii) A review of the disputed records under Subsection (9)(a)(i) shall be in camera.

(b) [~~Members of the State Records Committee~~]The director may not disclose any information or record reviewed by the [~~committee~~]director in camera unless the disclosure is otherwise authorized by this chapter.

(10) (a) Discovery is prohibited, but the [~~State Records Committee~~]director may issue subpoenas or other orders to compel production of necessary evidence.

(b) When the subject of a [~~State Records Committee~~]subpoena issued by the director disobeys or fails to comply with the subpoena, the [~~committee~~]director may file a motion for an order to compel obedience to the subpoena with the district court.

(c) (i) The [~~State Records Committee's~~]director's review shall be de novo, if the appeal is an appeal from a decision of a chief administrative officer:

(A) issued under Section 63G-2-401; or

(B) issued by a chief administrative officer of a political subdivision that has not established a local appeals board.

(ii) For an appeal from a decision of a local appeals board, the [~~State Records Committee~~]director shall review and consider the decision of the local appeals board.

(11) (a) No later than seven business days after the day of the hearing, the [~~State Records Committee~~]director shall issue a signed order:

(i) granting the relief sought, in whole or in part; or

(ii) upholding the governmental entity's access denial, in whole or in part.

(b) Except as provided in Section 63G-2-406, the [~~State Records Committee~~]director may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the public interest favoring access is greater than or equal to the interest favoring restriction of access.

(c) In making a determination under Subsection (11)(b), the [~~State Records Committee~~]director shall consider and, where appropriate, limit the requester's or interested party's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of a private or controlled record;

(ii) business confidentiality interests in the case of a record protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records.

(12) The order of the [~~State Records Committee~~]director shall include:

(a) a statement of reasons for the decision, including citations to this chapter, court rule or order, another state statute, federal statute, or federal regulation that governs disclosure of the record, if the citations do not disclose private, controlled, or protected information;

(b) a description of the record or portions of the record to which access [~~was~~]is ordered or denied, if the description does not disclose private, controlled, or protected information or information exempt from disclosure under Subsection 63G-2-201(3)(b);

(c) a statement that any party to the proceeding before the [~~State Records Committee~~]director may appeal the [~~committee's~~]director's decision to district court; and

(d) a brief summary of the appeals process, the time limits for filing an appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.

(13) (a) If the [~~State Records Committee~~]director fails to issue a decision within 73 calendar days after the day of the filing of the notice of appeal, that failure is the equivalent of an order denying the appeal.

(b) A records [~~committee~~]appellant shall notify the [~~State Records Committee~~]director in writing if the records [~~committee~~]appellant considers the appeal denied.

(14) A party to a proceeding before the [~~State Records Committee~~]director may seek judicial review in district court of a [~~State Records Committee~~]director's order by filing a petition for review of the order as provided in Section 63G-2-404.

(15) (a) Unless a notice of intent to appeal is filed under Subsection (15)(b), each party to the proceeding shall comply with the order of the [~~State Records Committee~~]director.

(b) If a party disagrees with the order of the [~~State Records Committee~~]director, that party may file a notice of intent to appeal the order.

(c) If the [~~State Records Committee~~]director orders the governmental entity to produce a record and no appeal is filed, or if, as a result of the appeal, the governmental entity is required to produce a record, the governmental entity shall:

(i) produce the record; and

(ii) file a notice of compliance with the [~~committee~~]director.

(d) (i) If the governmental entity that is ordered to produce a record fails to file a notice of compliance or a notice of intent to appeal, the [~~State Records Committee~~]director may do either or both of the following:

(A) impose a civil penalty of up to $500 for each day of continuing noncompliance; or

(B) send written notice of the governmental entity's noncompliance to the governor.

(ii) In imposing a civil penalty, the [~~State Records Committee~~]director shall consider the gravity and circumstances of the violation, including whether the failure to comply was due to neglect or was willful or intentional.

Section 18. Section 63G-2-404 is amended to read:

63G-2-404. Judicial review.

(1) (a) A petition for judicial review of an order or decision, as allowed under this part, in Section 63G-2-209, or in Subsection 63G-2-701(6)(a)(ii), shall be filed no later than 30 days after the date of the order or decision, subject to Subsection (1)(b).

(b) The time for a requester to file a petition for judicial review under Subsection (1)(a) is suspended for the period of time that:

(i) begins the date the requester submits a request under Section [~~63A-12-111~~]63A-12-204 for the government records ombudsman to mediate the dispute between the requester and the governmental entity; and

(ii) ends the earlier of the following dates:

(A) the date that the government records ombudsman certifies in writing that the mediation is concluded; or

(B) the date that the government records ombudsman certifies in writing that the mediation did not occur or was not concluded because of a lack of the required consent.

(2) (a) A petition for judicial review is a complaint governed by the Utah Rules of Civil Procedure and shall contain:

(i) the petitioner's name and mailing address;

(ii) a copy of the [~~State Records Committee~~]director's order from which the appeal is taken, if the petitioner is seeking judicial review of an order of the [~~State Records Committee~~]director;

(iii) the name and mailing address of the governmental entity that issued the initial determination with a copy of that determination;

(iv) a request for relief specifying the type and extent of relief requested; and

(v) a statement of the reasons why the petitioner is entitled to relief.

(b) Except in exceptional circumstances, a petition for judicial review may not raise an issue that was not raised in the underlying appeal and order.

(3) If the appeal is based on the denial of access to a protected record based on a claim of business confidentiality, the court shall allow the claimant of business confidentiality to provide to the court the reasons for the claim of business confidentiality.

(4) All additional pleadings and proceedings in the district court are governed by the Utah Rules of Civil Procedure.

(5) (a) The district court may review the disputed records.[~~The~~]

(b) A review described in Subsection (5)(a) shall be in camera.

(6) (a) The court shall:

(i) make the court's decision de novo, but, for a petition seeking judicial review of a [~~State Records Committee~~]director's order, allow introduction of evidence presented to the [~~State Records Committee~~]director;

(ii) determine all questions of fact and law without a jury; and

(iii) decide the issue at the earliest practical opportunity.

(b) A court may remand a petition for judicial review to the [~~State Records Committee~~]director if:

(i) the remand is to allow the [~~State Records Committee~~]director to decide an issue that:

(A) involves access to a record; and

(B) the [~~State Records Committee has not previously addressed~~]director did not address in the proceeding that led to the petition for judicial review; and

(ii) the court determines that remanding to the [~~State Records Committee~~]director is in the best interests of justice.

(7) (a) Except as provided in Section 63G-2-406, the court may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the interest favoring access is greater than or equal to the interest favoring restriction of access.

(b) The court shall consider and, where appropriate, limit the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Subsections 63G-2-305(1) and (2), and privacy interests or the public interest in the case of other protected records.

Section 19. Section 63G-2-701 is amended to read:

63G-2-701. Political subdivisions may adopt ordinances in compliance with chapter -- Appeal process.

(1) As used in this section:

(a) "Access denial" means the same as that term is defined in Section 63G-2-400.5.

(b) "Interested party" means the same as that term is defined in Section 63G-2-400.5.

(c) "Requester" means the same as that term is defined in Section 63G-2-400.5.

(2) (a) Each political subdivision may adopt an ordinance or a policy applicable throughout its jurisdiction relating to information practices including classification, designation, access, denials, segregation, appeals, management, retention, and amendment of records.

(b) The ordinance or policy shall comply with the criteria set forth in this section.

(c) If any political subdivision does not adopt and maintain an ordinance or policy, then that political subdivision is subject to this chapter.

(d) Notwithstanding the adoption of an ordinance or policy, each political subdivision is subject to Part 1, General Provisions, Part 3, Classification, and Sections 63A-12-105, 63A-12-107, 63G-2-201, 63G-2-202, 63G-2-205, 63G-2-206, 63G-2-601, and 63G-2-602.

(e) Every ordinance, policy, or amendment to the ordinance or policy shall be filed with the state archives no later than 30 days after its effective date.

(f) The political subdivision shall also report to the state archives all retention schedules, and all designations and classifications applied to record series maintained by the political subdivision.

(g) The report required by Subsection (2)(f) is notification to state archives of the political subdivision's retention schedules, designations, and classifications. The report is not subject to approval by state archives. If state archives determines that a different retention schedule is needed for state purposes, state archives shall notify the political subdivision of the state's retention schedule for the records and shall maintain the records if requested to do so under Subsection 63A-12-105(2).

(3) Each ordinance or policy relating to information practices shall:

(a) provide standards for the classification and designation of the records of the political subdivision as public, private, controlled, or protected in accordance with Part 3, Classification;

(b) require the classification of the records of the political subdivision in accordance with those standards;

(c) provide guidelines for establishment of fees in accordance with Section 63G-2-203; and

(d) provide standards for the management and retention of the records of the political subdivision comparable to Section 63A-12-103.

(4) (a) Each ordinance or policy shall establish access criteria, procedures, and response times for requests to inspect, obtain, or amend records of the political subdivision, and time limits for appeals consistent with this chapter.

(b) In establishing response times for access requests and time limits for appeals, the political subdivision may establish reasonable time frames different than those set out in Section 63G-2-204 and Part 4, Appeals, if it determines that the resources of the political subdivision are insufficient to meet the requirements of those sections.

(5) (a) A political subdivision shall establish an appeals process for persons aggrieved by classification, designation, or access decisions.

(b) A political subdivision's appeals process shall include a process for a requester or interested party to appeal an access denial to a person designated by the political subdivision as the chief administrative officer for purposes of an appeal under Section 63G-2-401.

(c) (i) A political subdivision may establish an appeals board to decide an appeal of a decision of the chief administrative officer affirming an access denial.

(ii) An appeals board established by a political subdivision shall be composed of three members:

(A) one of whom shall be an employee of the political subdivision; and

(B) two of whom shall be members of the public who are not employed by or officials of a governmental entity, at least one of whom shall have professional experience with requesting or managing records.

(iii) If a political subdivision establishes an appeals board, any appeal of a decision of a chief administrative officer shall be made to the appeals board.

(iv) If a political subdivision does not establish an appeals board, the political subdivision's appeals process shall provide for an appeal of a chief administrative officer's decision to the [~~State Records Committee~~]director of the Government Records Office, as provided in Section 63G-2-403.

(6) (a) A political subdivision or requester may appeal an appeals board decision:

(i) to the [~~State Records Committee~~]director of the Government Records Office, as provided in Section 63G-2-403; or

(ii) by filing a petition for judicial review with the district court.

(b) The contents of a petition for judicial review under Subsection (6)(a)(ii) and the conduct of the proceeding shall be in accordance with Sections 63G-2-402 and 63G-2-404.

(c) A person who appeals an appeals board decision to the [~~State Records Committee~~]director of the Government Records Office does not lose or waive the right to seek judicial review of the decision of the [~~State Records Committee~~]director of the Government Records Office.

(7) Any political subdivision that adopts an ordinance or policy under Subsection (1) shall forward to state archives a copy and summary description of the ordinance or policy.

Section 20. Section 63G-2-702 is amended to read:

63G-2-702. Applicability to the judiciary.

(1) The judiciary is subject to the provisions of this chapter except as provided in this section.

(2) (a) The judiciary is not subject to:

(i) Section 63G-2-209; or

(ii) Part 4, Appeals, except as provided in Subsection (6).

(b) The judiciary is not subject to [~~Part 5, State Records Committee, and~~]Title 63A, Chapter 12, Part 2, Government Records Office, or Part 6, Collection of Information and Accuracy of Records.

(c) The judiciary is subject to only the following sections in Part 9, Public Associations: Sections 63A-12-105 and 63A-12-106.

(3) The Judicial Council, the Administrative Office of the Courts, the courts, and other administrative units in the judicial branch shall designate and classify their records in accordance with Sections 63G-2-301 through 63G-2-305.

(4) Substantially consistent with the provisions of this chapter, the Judicial Council shall:

(a) make rules governing requests for access, fees, classification, designation, segregation, management, retention, denials and appeals of requests for access and retention, and amendment of judicial records;

(b) establish an appellate board to handle appeals from denials of requests for access and provide that a requester who is denied access by the appellate board may file a lawsuit in district court; and

(c) provide standards for the management and retention of judicial records substantially consistent with Section 63A-12-103.

(5) The Judicial Council may:

(a) establish a process for an administrative unit of the judicial branch to petition for relief from a person that the administrative unit claims is a vexatious requester; and

(b) establish an appellate board to hear a petition for relief from a person that an administrative unit of the judicial branch claims is a vexatious requester.

(6) Rules governing appeals from denials of requests for access shall substantially comply with the time limits provided in Section 63G-2-204 and Part 4, Appeals.

(7) Upon request, the state archivist shall:

(a) assist with and advise concerning the establishment of a records management program in the judicial branch; and

(b) as required by the judiciary, provide program services similar to those available to the executive and legislative branches of government as provided in this chapter and Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records.

Section 21. Section 63G-2-703 is amended to read:

63G-2-703. Applicability to the Legislature.

(1) The Legislature and its staff offices shall designate and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public, private, controlled, or protected.

(2) (a) The Legislature and its staff offices are not subject to:

(i) Section 63G-2-203 or 63G-2-209; or

(ii) Part 4, Appeals, [~~Part 5, State Records Committee~~]Title 63A, Chapter 12, Part 2, Government Records Office, or Part 6, Collection of Information and Accuracy of Records.

(b) The Legislature is subject to only the following sections in Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records: [~~Sections~~]

(i) Section 63A-12-102[~~,~~];

(ii) Section 63A-12-102.5[~~,~~]; and

(iii) Section 63A-12-106.

(3) The Legislature, through the Legislative Management Committee:

(a) (i) shall establish policies to handle requests for classification, designation, fees, access, denials, segregation, appeals, management, retention, and amendment of records; and

(ii) may establish an appellate board to hear appeals from denials of access; and

(b) may establish:

(i) a process for determining that a person is a vexatious requester, including a process for an appeal from a determination that a person is a vexatious requester; and

(ii) appropriate limitations on a person determined to be a vexatious requester.

(4) Policies shall include reasonable times for responding to access requests consistent with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.

(5) Upon request, the state archivist shall:

(a) assist with and advise concerning the establishment of a records management program in the Legislature; and

(b) as required by the Legislature, provide program services similar to those available to the executive branch of government, as provided in this chapter and Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records.

Section 22. Section 63G-2-704 is amended to read:

63G-2-704. Applicability to the governor and lieutenant governor.

(1) The governor, the office of the governor, the lieutenant governor, and the office of the lieutenant governor shall designate and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public, private, controlled, or protected.

(2) (a) The governor, the office of the governor, the lieutenant governor, and the office of the lieutenant governor are not subject to:

(i) Section 63G-2-203;

(ii) Section 63G-2-209;

(iii) Section 63G-2-401; or

(iv) Part 6, Collection of Information and Accuracy of Records.

(b) The governor, the office of the governor, the lieutenant governor, and the office of the lieutenant governor are subject to only the following sections in Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records:

(i) Section 63A-12-102; and

(ii) Section 63A-12-106.

(3) The governor and lieutenant governor:

(a) (i) shall establish policies to handle requests for classification, designation, fees, access, denials, segregation, appeals to the chief administrative officer, management, retention, and amendment of records; and

(ii) may establish an appellate board to hear appeals from denials of access; and

(b) may establish:

(i) a process for determining that a person is a vexatious requester, including a process for an appeal from a determination that a person is a vexatious requester; and

(ii) appropriate limitations on a person determined to be a vexatious requester.

(4) Policies described in Subsection (3) shall include reasonable times for responding to access requests consistent with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.

(5) Upon request, the state archivist shall:

(a) assist with and advise concerning the establishment of a records management program for the governor, the office of the governor, the lieutenant governor, and the office of the lieutenant governor; and

(b) as required by the governor or lieutenant governor, provide program services as provided in this chapter and Title 63A, Chapter 12, Division of Archives and Records Service and Management of Government Records.

(6) An individual in an executive branch management position, as defined in Section 67-1-1.5:

(a) is not subject to Part 6, Collection of Information and Accuracy of Records; and

(b) is subject to a policy for record amendment or retention created by the governor under Subsection (3)(a).

Section 23. Section 63G-2-801 is amended to read:

63G-2-801. Criminal penalties.

(1) (a) A public employee or other person who has lawful access to any private, controlled, or protected record under this chapter, and who intentionally discloses, provides a copy of, or improperly uses a private, controlled, or protected record knowing that the disclosure or use is prohibited under this chapter, is, except as provided in Subsection 53-5-708(1)(c), guilty of a class B misdemeanor.

(b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released private, controlled, or protected information in the reasonable belief that the use or disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.

(c) It is a defense to prosecution under Subsection (1)(a) that the record could have lawfully been released to the recipient if it had been properly classified.

(d) It is a defense to prosecution under Subsection (1)(a) that the public employee or other person disclosed, provided, or used the record based on a good faith belief that the disclosure, provision, or use was in accordance with the law.

(2) (a) A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which the person is not legally entitled is guilty of a class B misdemeanor.

(b) No person shall be guilty under Subsection (2)(a) who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.

(3) (a) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by law, is guilty of a class B misdemeanor.

(b) It is a defense to prosecution under Subsection (3)(a) that the public employee's failure to release the record was based on a good faith belief that the public employee was acting in accordance with the requirements of law.

(c) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by a final unappealed order from a government entity, the [~~State Records Committee~~]director of the Government Records Office, or a court is guilty of a class B misdemeanor.

Section 24. Section 63H-1-202 is amended to read:

63H-1-202. Applicability of other law.

(1) As used in this section:

(a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52-4-103.

(b) "Subsidiary board" means the governing body of a subsidiary.

(2) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) (a) The definitions in Section 57-8-3 apply to this Subsection (4).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for $1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

(5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

(6) (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.

(7) (a) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:

(i) notwithstanding Section 52-4-104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:

(A) the board chair, for the authority board; or

(B) the subsidiary board chair, for a subsidiary board;

(ii) authority staff may adopt a rule governing the use of electronic meetings under Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the power to adopt the rule; and

(iii) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52-4-207, the authority board or subsidiary board, respectively:

(A) is not required to establish an anchor location; and

(B) may convene and conduct the meeting without the determination otherwise required under Subsection 52-4-207(5)(a)(i).

(b) The authority and subsidiaries are not required to physically post notice notwithstanding any other provision of law.

(8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:

(a) notwithstanding Section 63G-2-701:

(i) the authority may establish an appeals board consisting of at least three members;

(ii) an appeals board established under Subsection (8)(a)(i) shall include:

(A) one of the authority board members appointed by the governor;

(B) the authority board member appointed by the president of the Senate; and

(C) the authority board member appointed by the speaker of the House of Representatives; and

(iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G-2-404, except that the [~~State Records Committee is not a party~~]Government Records Office and the director of the Government Records Office are not parties; and

(b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is not prohibited from receiving a benefit from a public-private partnership that results from the facilitator's work as a facilitator.

(10) (a) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may, subject to limitations of Title 17D, Chapter 4, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a subsidiary created as a public infrastructure district issues a bond:

(i) the subsidiary may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in Title 17D, Chapter 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.

(c) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (10)(a)(i) and (10)(b)(ii).

(ii) If a subsidiary created by a public infrastructure district issues bonds, the subsidiary may issue bonds secured by property taxes from:

(A) the entire public infrastructure district; or

(B) one or more tax areas within the public infrastructure district.

(11) (a) Terms defined in Section 57-11-2 apply to this Subsection (11).

(b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, does not apply to an offer or disposition of an interest in land if the interest in land lies within the boundaries of the project area and the authority:

(i) (A) has a development review committee using at least one professional planner;

(B) enacts standards and guidelines that require approval of planning, land use, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and

(C) will have the improvements described in Subsection (11)(b)(i)(B) plus telecommunications and electricity; and

(ii) if at the time of the offer or disposition, the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (11)(b)(i)(C).

(12) (a) As used in this Subsection (12), "officer" means the same as an officer within the meaning of the Utah Constitution, Article IV, Section 10.

(b) An official act of an officer may not be invalidated for the reason that the officer failed to take the oath of office.

Section 25. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the [~~State Records Committee, created in Section 63G-2-501~~]director of the Government Records Office, created in Section 63A-12-202, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of [~~a State Records Committee~~]the director's determination[~~, under~~], described in Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Carson Smith Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402, including an analysis of the cost effectiveness of the program, taking into consideration the amount of the scholarship and the amount of state and local funds dedicated on a per-student basis within the traditional public education system.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23) (a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

(24) The state auditor shall:

(a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and

(b) report to the Legislative Management Committee, upon request, regarding the state auditor's actions under this Subsection (24).

(25) The state auditor shall report compliance with Sections 67-27-107, 67-27-108, and 67-27-109 by:

(a) establishing a process to receive and audit each alleged violation; and

(b) reporting to the Legislative Management Committee, upon request, regarding the state auditor's findings and recommendations under this Subsection (25).

Section 26. Section 77-18-103 is amended to read:

77-18-103. Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

(1) Before the imposition of a sentence, the court may:

(a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any other source about the defendant; and

(b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.

(2) (a) Notwithstanding Subsection (1), if a defendant is convicted of a felony offense and the defendant is a habitual offender, the prosecuting attorney shall notify the court that the defendant is a habitual offender.

(b) Upon a notification under Subsection (2)(a), the court may not impose a sentence for the conviction without ordering and obtaining a presentence investigation report, unless the court finds good cause to proceed with sentencing without the presentence investigation report.

(3) If a presentence investigation report is required under Subsection (2) or the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:

(a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);

(b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);

(c) recommendations for treatment for the defendant; and

(d) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-22-5.5.

(4) The department or law enforcement agency shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.

(5) (a) (i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:

(A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and

(B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.

(ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:

(A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and

(B) provide the written finding to the department or the law enforcement agency.

(b) The department shall attach the written finding to the presentence investigation report as an addendum.

(c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.

(6) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department or law enforcement agency.

(7) (a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the [~~State Records Committee~~]director of the State Records Office, created in Section 63A-12-202, may not order the disclosure of a presentence investigation report.

(8) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:

(a) ordered by the court in accordance with Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;

(c) requested by the board;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:

(i) statements or materials provided by the victim;

(ii) the circumstances of the offense, including statements by the defendant; or

(iii) the impact of the offense on the victim or the victim's household; or

(f) requested by a sex offender treatment provider:

(i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);

(ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and

(iii) who provides written assurance to the department that the report:

(A) is necessary for the treatment of the defendant;

(B) will be used solely for the treatment of the defendant; and

(C) will not be disclosed to an individual or entity other than the defendant.

(9) (a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.

(b) Testimony, evidence, or information under Subsection (9)(a) shall be presented in open court on record and in the presence of the defendant.

(10) The court may not rely solely on an algorithm or a risk assessment tool score in determining the appropriate sentence for a defendant.

Section 27. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1) (a) Subject to this chapter and other laws of the state, and except for a conviction for treason or impeachment, the board shall determine by majority decision when and under what conditions an offender's conviction may be pardoned or commuted.

(b) The board shall determine by majority decision when and under what conditions an offender committed to serve a sentence at a penal or correctional facility, which is under the jurisdiction of the department, may:

(i) be released upon parole;

(ii) have a fine or forfeiture remitted;

(iii) have the offender's criminal accounts receivable remitted in accordance with Section 77-32b-105 or 77-32b-106;

(iv) have the offender's payment schedule modified in accordance with Section 77-32b-103; or

(v) have the offender's sentence terminated.

(c) The board shall prioritize public safety when making a determination under Subsection (1)(a) or (1)(b).

(d) (i) The board may sit together or in panels to conduct hearings.

(ii) The chair shall appoint members to the panels in any combination and in accordance with rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(iii) The chair may participate on any panel and when doing so is chair of the panel.

(iv) The chair of the board may designate the chair for any other panel.

(e) (i) Except after a hearing before the board, or the board's appointed examiner, in an open session, the board may not:

(A) remit a fine or forfeiture for an offender or the offender's criminal accounts receivable;

(B) release the offender on parole; or

(C) commute, pardon, or terminate an offender's sentence.

(ii) An action taken under this Subsection (1) other than by a majority of the board shall be affirmed by a majority of the board.

(f) A commutation or pardon may be granted only after a full hearing before the board.

(2) (a) In the case of a hearing, timely prior notice of the time and location of the hearing shall be given to the offender.

(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

(d) (i) Notice to the victim or the victim's representative shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section.

(ii) The information under Subsection (2)(d)(i) shall be provided in terms that are reasonable for the lay person to understand.

(3) (a) A decision by the board is final and not subject for judicial review if the decision is regarding:

(i) a pardon, parole, commutation, or termination of an offender's sentence;

(ii) the modification of an offender's payment schedule for restitution; or

(iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

(b) Deliberative processes are not public and the board is exempt from Title 52, Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's deliberative process.

(c) Pursuant to Subsection [~~63G-2-103(25)(b)(xi)~~]63G-2-103(26)(b)(xii), records of the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(d) Unless it will interfere with a constitutional right, deliberative processes are not subject to disclosure, including discovery.

(e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

(4) (a) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment.

(b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the next session of the board.

(c) At the next session of the board, the board:

(i) shall continue or terminate the respite or reprieve; or

(ii) may commute the punishment or pardon the offense as provided.

(d) In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at the Legislature's next session.

(e) The Legislature shall pardon or commute the sentence or direct the sentence's execution.

(5) (a) In determining when, where, and under what conditions an offender serving a sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's criminal accounts receivable remitted, or have the offender's sentence commuted or terminated, the board shall:

(i) consider whether the offender has made restitution ordered by the court under Section 77-38b-205, or is prepared to pay restitution as a condition of any parole, pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or termination of the offender's sentence;

(ii) except as provided in Subsection (5)(b), develop and use a list of criteria for making determinations under this Subsection (5);

(iii) consider information provided by the department regarding an offender's individual case action plan; and

(iv) review an offender's status within 60 days after the day on which the board receives notice from the department that the offender has completed all of the offender's case action plan components that relate to activities that can be accomplished while the offender is imprisoned.

(b) The board shall determine whether to remit an offender's criminal accounts receivable under this Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.

(7) For an offender placed on parole after December 31, 2018, the board shall terminate parole in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.

(8) The board may not rely solely on an algorithm or a risk assessment tool score in determining whether parole should be granted or terminated for an offender.

(9) The board may intervene as a limited-purpose party in a judicial or administrative proceeding, including a criminal action, to seek:

(a) correction of an order that has or will impact the board's jurisdiction; or

(b) clarification regarding an order that may impact the board's jurisdiction.

(10) A motion to intervene brought under Subsection (8)(a) shall be raised within 60 days after the day on which a court enters the order that impacts the board's jurisdiction.

Section 28. Repealer.

This bill repeals:

Section 63G-2-101, Title.

Section 63G-2-501, State Records Committee created -- Membership -- Terms -- Vacancies -- Expenses.

Section 63G-2-502, State Records Committee -- Duties.

Section 29. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 477
S. B. 280
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

RETAIL FACILITY AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: R. Neil Walter

LONG TITLE

General Description:

This bill modifies provisions related to retail facility incentive payments.

Highlighted Provisions:

This bill:

- ► defines terms and modifies definitions;
- ► clarifies that the Governor's Office of Economic Opportunity may not offer a retail facility incentive payment;
- ► provides that a public entity may make a retail facility incentive payment for a retail facility included as part of a mixed-use development that includes housing units, under certain circumstances;
- ► modifies the process by which a public entity that makes a retail facility incentive payment submits a written report on the retail facility incentive payment to the Governor's Office of Economic Development; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-41-102, as last amended by Laws of Utah 2024, Chapter 300
11-41-103, as last amended by Laws of Utah 2022, Chapter 307
11-41-104, as enacted by Laws of Utah 2022, Chapter 307

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-41-102 is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a public entity and a person.

(2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.

(4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.

(5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.

(6) "General plan" means the same as that term is defined in Section 23A-6-101.

(7) "Legislative body" means the same as that term is defined in:

(a) Section 10-9a-103; or

(b) Section 17-27a-103.

[~~(7)~~](8) "Mixed-use development" means development with mixed land uses, including housing.

(9) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

[~~(8)~~](10) "Moderate income housing plan" means the moderate income housing plan element of a general plan.

[~~(9)~~](11) "Office" means the Governor's Office of Economic Opportunity.

[~~(10)~~](12) "Political subdivision" means any county, city, town, school district, special district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act.

[~~(11)~~](13) "Public entity" means:

(a) a political subdivision;

(b) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state;

(c) a higher education institution as defined in Section 53B-1-201;

(d) the Military Installation Development Authority created in Section 63H-1-201;

(e) the Utah Inland Port Authority created in Section 11-58-201; or

(f) the Point of the Mountain State Land Authority created in Section 11-59-201.

[~~(12)~~](14) "Public funds" means any money received by a public entity that is derived from:

(a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) a property tax levy.

[~~(13)~~](15) "Public infrastructure" means:

(a) a public facility, as defined in Section 11-36a-102; [~~or~~]

(b) a system improvement, as defined in Section 11-36a-102; or

[~~(b)~~](c) [~~public~~]infrastructure developed with public funds included as part of an infrastructure master plan related to a general plan.

[~~(14)~~](16) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.

[~~(15)~~](17) [~~(a)~~] "Retail facility incentive payment" means a payment of public funds:

[~~(i)~~](a) to a person by a public entity;

[~~(ii)~~](b) for the development, construction, renovation, or operation of a retail facility within an area of the state; and

[~~(iii)~~](c) in the form of:

[~~(A)~~](i) a payment;

[~~(B)~~](ii) a rebate;

[~~(C)~~](iii) a refund;

[~~(D)~~](iv) a subsidy; or

[~~(E)~~](v) any other similar incentive, award, or offset.

[~~(b) "Retail facility incentive payment" does not include a payment of public funds for:~~]

[~~(i) the development, construction, renovation, or operation of:~~]

[~~(A) public infrastructure; or~~]

[~~(B) a structured parking facility;~~]

[~~(ii) the demolition of an existing facility;~~]

[~~(iii) assistance under a state or local:~~]

[~~(A) main street program; or~~]

[~~(B) historic preservation program;~~]

[~~(iv) environmental mitigation or sanitation, if determined by a state or federal agency under applicable state or federal law;~~]

[~~(v) assistance under a water conservation program or energy efficiency program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program;~~]

[~~(vi) emergency aid or assistance, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid or assistance; or~~]

[~~(vii) assistance under a public safety or security program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program.~~]

[~~(16)~~](18) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

[~~(17)~~](19) (a) "Small business" means a business entity that:

(i) has fewer than 30 full-time equivalent employees; and

(ii) maintains the business entity's principal office in the state.

(b) "Small business" does not include:

(i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;

(ii) a dealer, as defined in Section 41-1a-102; or

(iii) a subsidiary or affiliate of another business entity that is not a small business.

Section 2. Section 11-41-103 is amended to read:

11-41-103. Prohibition on retail facility incentive payments -- Exceptions.

(1) Except as provided in Subsection (2), a public entity may not:

(a) make a retail facility incentive payment under an agreement that is initiated or entered into on or after July 1, 2022; or

(b) initiate or enter into an agreement on or after July 1, 2022, to make a retail facility incentive payment.

(2) Notwithstanding Subsection (1), a public entity that is not the office may make a retail facility incentive payment for:

(a) a retail facility located entirely within a census tract in which more than [~~51~~]50% of residents have a household income at or below [~~70~~]80% of the county area median income;

(b) a retail facility included as part of a mixed-use development in which:

(i) the mixed-use development has received approval from the legislative body to begin development;

(ii) [-]the mixed-use development includes or is planned to include at least one housing unit for every 1,250 square feet of retail space;

(A) within the mixed-use development; or

(B) within 1/4 mile radius of the property line of the planned retail facility; and

[~~(ii)~~](iii) at least 10% of the new or proposed housing units within the mixed-use development qualify as moderate income housing, in accordance with the moderate income housing plan of the municipality or county in which the development is located;

(c) a retail facility included as part of a development in which:

(i) the retail facility has a gross sales floor area of no more than 20,000 square feet; and

(ii) no other retail facility with a gross sales floor area of more than 20,000 square feet is located within the same development;

(d) a retail facility located within a county of the fourth, fifth, or sixth class;

(e) a retail facility for a small business;

(f) a retail facility for a Utah-based nonprofit arts or cultural organization; or

(g) a retail facility for a ski resort that:

(i) has been in operation for at least 40 years; and

(ii) provides at least 1,000 acres for skiing.

(3) Nothing in this section prohibits a public entity from making:

(a) an expenditure for a public facility, including:

(i) water rights and water supply, treatment, storage, and distribution facilities;

(ii) wastewater collection and treatment facilities;

(iii) storm water, drainage, and flood control facilities;

(iv) municipal power facilities;

(v) roadway facilities;

(vi) parks, recreation facilities, open space, and trails;

(vii) public safety facilities;

(viii) environmental mitigation, as provided in Section 11-36a-205; and

(ix) municipal natural gas facilities; or

(b) a payment of public funds for:

(i) the development, construction, renovation, or operation of:

(A) public infrastructure; or

(B) a structured parking facility;

(ii) the demolition of an existing retail facility;

(iii) assistance under a state or local:

(A) main street program; or

(B) historic preservation program;

(iv) environmental mitigation or sanitation, if determined by a state or federal agency under applicable state or federal law;

(v) assistance under a water conservation program or energy efficiency program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program;

(vi) emergency aid or assistance, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid or assistance; or

(vii) assistance under a public safety or security program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program.

(4) A person who receives [~~public funds~~]a retail facility incentive payment for a mixed-use development in accordance with Subsection (2)(b) may not use [~~the public funds~~]the retail facility incentive payment for the development, construction, renovation, or operation of housing units within the mixed-use development unless the housing units qualify as moderate income housing in accordance with the moderate income housing plan of the municipality or county in which the development is located.

[~~(4)~~](5) (a) For each fiscal year that a public entity makes a retail facility incentive payment described in Subsections (2)(a) through (c), the public entity shall submit a written report to the office in accordance with Subsection 11-41-104(1).

(b) For each fiscal year that a public entity makes a retail facility incentive payment described in Subsections (2)(d) through (g), the public entity shall submit a notification to the office in accordance with Subsection 11-41-104(2).

Section 3. Section 11-41-104 is amended to read:

11-41-104. Reporting and notification requirements -- Notice to state auditor.

(1) (a) For a fiscal year beginning on or after July 1, 2022, a public entity that makes a retail facility incentive payment described in Subsections 11-41-103(2)(a) through (c) shall submit a written report to the office on or before [~~June 30 of the fiscal year in which the~~]August 1 regarding any retail facility incentive payment [~~is~~]made by the public entity in the preceding fiscal year.

(b) The report under Subsection (1)(a) shall:

(i) provide a description of each retail facility incentive payment under Subsections 11-41-103(2)(a) through (c) that the public entity made during the fiscal year, including:

(A) the type of retail facility incentive payment;

(B) the date on which the retail facility incentive payment was made; and

(C) identification of the recipient of the retail facility incentive payment;

(ii) include any other information requested by the office; and

(iii) be in a form prescribed by the office.

(2) (a) For a fiscal year beginning on or after July 1, 2022, a public entity that makes a retail facility incentive payment described in Subsections 11-41-103(2)(d) through (g) shall submit a notification to the office on or before [~~June 30 of the fiscal year in which the~~]August 1 regarding any retail facility incentive payment [~~is~~]made by the public entity in the preceding fiscal year.

(b) The notification under Subsection (2)(a) shall:

(i) list each retail facility incentive payment under Subsections 11-41-103(2)(d) through (g) that the public entity made during the fiscal year, including the date on which the retail facility incentive payment was made;

(ii) include any other information requested by the office; and

(iii) be in a form prescribed by the office.

(3) [~~Upon the receipt of a report from a public entity under Subsection (1), the~~]The office shall review [~~the~~]a written report submitted by a public entity under Subsection (1):

(a) to determine whether each retail facility incentive payment described in the written report is in compliance with Section 11-41-103[~~.~~]; and

(b) by no later than six months from the day on which the public entity submits the written report under Subsection (1).

(4) (a) After reviewing a public entity's written report under Subsection (3)(a), the office shall send a written notice to the public entity within the time period described in Subsection (3)(b) if the office determines there is a substantial likelihood that the public entity made a retail facility incentive payment in violation of Section 11-41-103.

(b) A public entity that submits a written report under Subsection (1) is considered compliant with Section 11-41-103 if the public entity does not receive written notice from the office under Subsection (4)(a) within the time period described in Subsection (3)(b).

(5) The notice under Subsection (4)(a) shall include:

(a) a statement that describes in reasonable detail how the office made a determination of violation;

(b) an explanation of the public entity's right to appeal the determination of violation in accordance with Subsection (6); and

(c) a statement that the office may send notice of the determination of violation to the state auditor in accordance with Subsection (7) if:

(i) (A) the public entity does not appeal the determination of violation in accordance with Subsection (6); and

(B) the office determines that the public entity has failed to make efforts to recover or recoup the amount of public funds lost to the state as a result of the violation within 90 days after the day on which the notice is sent; or

(ii) (A) the determination of violation is upheld on appeal in accordance with Subsection (6); and

(B) the office determines that the public entity has failed to make efforts to recover or recoup the amount of public funds lost to the state as a result of the violation within 90 days after the day on which the determination of violation is upheld.

(6) (a) The public entity may appeal the determination of violation by sending a written notice to the office within 30 days after the day on which the notice described in Subsection (5) is sent.

(b) The notice under Subsection (6)(a) shall include a statement that describes in reasonable detail each objection to the determination of violation.

(c) The executive director shall:

(i) within 90 days after the day on which the office receives notice under Subsection (6)(a), hold a meeting with representatives of the public entity at which the public entity's objections to the determination of violation are discussed; and

(ii) within 30 days after the day on which the meeting under Subsection (6)(c)(i) is held:

(A) issue a written decision that upholds or rescinds the determination of violation; and

(B) send a copy of the written decision to the public entity.

(d) An appeal under this Subsection (6) is not subject to Title 63G, Chapter 4, Administrative Procedures Act.

(7) (a) Beginning July 1, 2024, the office may send a written notice to the state auditor if the office determines that:

(i) Subsection (5)(c)(i) or (ii) applies to a public entity; or

(ii) a public entity failed to submit the report described in Subsection (1).

(b) The notice under Subsection (7)(a) shall include:

(i) a description of the office's grounds for sending notice;

(ii) a copy of the report submitted to the office under Subsection (1), if applicable; and

(iii) any other information required by the state auditor for purposes of initiating an audit or investigation in accordance with Section 67-3-1.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to implement this section.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 478
H. B. 447
Passed March 6, 2025
Approved March 27, 2025
Effective May 7, 2025

STATEWIDE CATALYST CAMPUS MODEL

Chief Sponsor: Mike Schultz
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill establishes a grant program to help local education agencies create or expand catalyst centers.

Highlighted Provisions:

This bill:

- ► creates the Catalyst Center Grant Program (program) to support local education agencies (LEA) in creating or expanding catalyst centers;
- ► allows for multi-year grants and capital expenditures;
- ► requires alignment with labor market needs, LEA strategic plans, and state career and technical education goals;
- ► establishes accountability measures, including limits on carryforward funds and annual reporting;
- ► requires Talent Ready Utah and the Utah Leading through Effective, Actionable, and Dynamic Education to create a marketing campaign for the program;
- ► exempts certain individuals from educator licensing requirements;
- ► amends the Public Education Economic Stabilization Restricted Account to fund the program;
- ► creates requirements related to art and fine arts credits; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-6-204, as last amended by Laws of Utah 2019, Chapter 186
53F-9-204, as last amended by Laws of Utah 2024, Chapter 322

ENACTS:

53E-3-507.1, Utah Code Annotated 1953
53G-10-307, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-3-507.1 is enacted to read:
53E-3-507.1. Catalyst Center Grant Program.

(1) As used in this section:

(a) "Catalyst center" means a program or facility operated by an LEA that:

(i) provides learning experiences and instruction that replicate professional environments and workplace practices;

(ii) provides profession-based learning experiences by partnering with local industry, business, and community organizations to develop and implement student projects that address specific needs or objectives identified by those partners;

(iii) aligns programs with high-skill, high-demand career pathways and postsecondary education opportunities;

(iv) incorporates industry-standard tools, technologies, and methods into instruction and student work;

(v) prioritizes student activities and profession-based learning projects to build durable professional skills aligned with industry standards and needs;

(vi) facilitates mentorship and participation by industry professionals to guide a student and evaluate the student's work;

(vii) includes an advisory board composed of industry, postsecondary, and community representatives to review program direction and ensure alignment with workforce needs; and

(viii) establishes programs or activities that address gaps in training or resources within the local or regional workforce.

(b) "Director" means the employee described in Subsection (3).

(c) "LEA" means:

(i) a school district;

(ii) charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(d) "Program" means the Catalyst Center Grant Program created in this section.

(2) Subject to legislative appropriation as described in Section 53F-9-204, the state board shall establish the Catalyst Center Grant Program to provide funding to an LEA to create or expand an existing catalyst center.

(3) The state board shall hire a director to oversee the program who:

(a) has demonstrated abilities in:

(i) developing and implementing innovative initiatives that transform traditional education delivery models;

(ii) establishing public-private partnership frameworks that create student pathways into high-growth industries; and

(iii) scaling programs that integrate real-world experiences directly into educational environments;

(b) possesses expertise in:

(i) managing complex multi-stakeholder initiatives across education, industry, and government sectors;

(ii) implementing data-driven organizational change strategies; and

(iii) developing sustainable funding models for innovative education programs;

(c) maintains active leadership roles in:

(i) state or national workforce innovation organizations;

(ii) industry associations focused on talent development; and

(iii) public-private collaboratives addressing workforce transformation;

(d) reports directly to the state superintendent or a deputy superintendent to ensure appropriate program oversight and cross-departmental coordination while maintaining distinct program objectives and outcomes;

(e) establishes formal collaboration mechanisms with the state board's career and technical education director to align catalyst center initiatives with existing career and technical education programs; and

(f) facilitates training and a collaborative network of experienced catalyst center administrators and instructors across all participating LEAs.

(4) The director

(a) shall:

(i) administer the program;

(ii) collaborate with the director of career and technical education to align the program with the career and technical education standards described in Section 53E-3-507;

(iii) create a web-based application system to streamline submissions and allow for linked supporting documentation;

(iv) ensure that grant funds are used in accordance with this section; and

(v) allow grant funds to be used for planning, including:

(A) feasibility studies;

(B) stakeholder engagement;

(C) labor market analysis;

(D) initial program design and rollout; and

(E) teacher and staff training specific to the delivery of profession-based learning; and

(b) may collaborate with the Utah System of Higher Education and the First Credential Oversight Committee established in Section 53E-10-310.

(5) An LEA applying for a grant shall demonstrate capacity for workforce alignment programs within the LEA or provide a plan to establish or enhance alignment by:

(a) describing current or planned efforts to align programming with labor market needs and local industry demands;

(b) outlining steps to establish or enhance partnerships with:

(i) local industries and employers to ensure workforce relevance; or

(ii) technical colleges, degree-granting institutions, or other postsecondary entities to support postsecondary transitions for students;

(c) identifying proposed programming goals and how the goals address gaps in regional workforce training or opportunities; and

(d) as the LEA determines relevant, planning to incorporate:

(i) career and technical student organizations;

(ii) advisory boards with representation from local industries and workforce experts;

(iii) professional learning opportunities for instructors to improve workforce-focused skills; and

(iv) strategies for using labor market data to refine and improve program offerings.

(6) (a) An LEA may apply for a grant by submitting an application to the state board.

(b) The application shall include:

(i) a plan to:

(A) create or expand one or more catalyst centers; or

(B) create or expand current career and technical education offerings within the LEA to bring the LEA's career and technical education offerings in alignment with the definition of a catalyst center in Subsection (1);

(ii) a detailed multi-year budget, identifying proposed expenditures for each year of the grant;

(iii) justification for any capital expenditures, including plans for building use;

(iv) a description of how the grant will be used to improve student outcomes, including:

(A) increased access to career pathway offerings;

(B) measurable improvements in career readiness, including certifications, credentials, or apprenticeships;

(C) increased offerings that advance students' progression toward postsecondary education or advanced training; and

(D) plans for enhanced student engagement through real-world, profession-based learning;

(v) evidence of any existing partnerships with industry, including letters of collaboration;

(vi) evidence of alignment with the LEA's strategic plan and local labor market needs;

(vii) an explanation of how awarded funds will be used without unnecessary carryforward;

(viii) as applicable, a description of how the catalyst center programming will align with or enhance programs funded by the weighted pupil unit add-on described in Section 53F-2-311;

(ix) for applications submitted by a consortium of LEAs, a description of how:

(A) the catalyst center will serve students across the consortium;

(B) costs and resources will be shared; and

(C) economies of scale will be achieved; and

(x) a description of any proposed planning activities, including expected timelines and outcomes.

(7) The director shall:

(a) prioritize an LEA that:

(i) proposes innovative programming supported by local labor market data;

(ii) collaborates with local postsecondary institutions and industry;

(iii) demonstrates the ability to sustain the catalyst center after the grant period;

(iv) demonstrates a strong focus on student outcomes and workforce alignment;

(v) addresses gaps in high-demand, high-skill career pathways;

(vi) ensures funds are used to enhance programming quality before expansion; and

(vii) provides for a large number of students to participate in catalyst center programs without limiting participation to students based on socio-economic challenges;

(b) allow an LEA to apply for:

(i) smaller grants to bring existing career and technical education programs to high-quality standards the state board establishes;

(ii) larger multi-year grants for capital expenditures and program expansion; and

(iii) ensure that grant funding does not duplicate existing resources provided by other state or local entities;

(c) consider the unique challenges and opportunities faced by rural LEAs in developing and sustaining a career and technical education program or catalyst center, including:

(i) encouraging collaborative applications from rural consortia or regional education service agencies described in Section 53G-4-410 to maximize resources and impact; and

(ii) grant awards that consider both rural and non-rural applicants, recognizing regional workforce needs and program readiness; and

(d) allow an LEA to propose a catalyst center collocated on the campus of an institution of higher education if the application includes evidence of an agreement between the LEA and the institution of higher education.

(8) (a) An LEA that receives a grant:

(i) may coordinate and collaborate with the Utah Board of Higher Education or an individual institution of higher education; and

(ii) shall submit an annual report to the state board.

(b) The report shall include:

(i) the use of grant funds;

(ii) progress in meeting proposed goals and benchmarks;

(iii) updates on partnerships with industry and postsecondary institutions;

(iv) a demonstration of the alignment of programming with labor market data; and

(v) a description of student participation and outcomes.

(c) The state board shall ensure that awarded funds:

(i) are used in accordance with an LEA's application; and

(ii) that are not used are returned for reallocation.

(d) Upon request, the director shall submit a report on the program to the Education Interim Committee and the Public Education Appropriations Subcommittee.

(9) The Talent Ready Utah Program described in Section 53B-34-103 and the Utah Leading through Effective, Actionable, and Dynamic Education established in Section 53E-10-702, shall collaborate with the state board to develop and execute a marketing and outreach plan for the Catalyst Center Grant Program.

(10) Talent Ready Utah and the Utah Leading through Effective, Actionable, and Dynamic Education shall:

(a) execute the marketing and outreach plan described in Subsection (9); and

(b) submit an annual report to the state board that includes:

(i) the number of LEAs reached through marketing efforts;

(ii) a description of outreach activities and events conducted; and

(iii) feedback from LEAs regarding program accessibility and clarity.

(11) The state board:

(a) may provide up to 1% of the funds appropriated by the Legislature as described in Section 53F-9-204 to administer the program;

(b) in fiscal year 2026, shall provide up to 1% of the funds appropriated by the Legislature as described in Section 53F-9-204 to Talent Ready Utah and the Utah Leading through Effective, Actionable, and Dynamic Education for the purposes described in Subsections (9) and (10); and

(c) shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this Subsection (11).

Section 2. Section 53E-6-204 is amended to read:

53E-6-204. Exemptions from licensure.

(1) Except as otherwise provided by statute or rule, a spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state may work as an educator without being licensed under this title if:

[~~(1)~~](a) the spouse holds a valid educator license issued by any other state or jurisdiction recognized by the state board; and

[~~(2)~~](b) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

(2) An individual with industry experience as an LEA determines, may work as an educator without being licensed under this title if the individual:

(a) demonstrates expertise related to a career and technical education course or catalyst center program;

(b) passes a criminal background check as required by Section 53G-11-402; and

(c) completes any training required by the LEA prior to or during the teaching assignment.

(3) Notwithstanding any other provision of state law, an educator employed pursuant to Subsection (2) shall be considered qualified in determining the state funding distribution of career and technical education funding.

Section 3. Section 53F-9-204 is amended to read:

53F-9-204. Public Education Economic Stabilization Restricted Account.

(1) There is created within the Uniform School Fund a restricted account known as the "Public Education Economic Stabilization Restricted Account."

(2) (a) Except as provided in Subsection (2)(b), the account shall be funded from the following revenue sources:

(i) 15% of the difference between, as determined by the Office of the Legislative Fiscal Analyst:

(A) the estimated amount of ongoing Income Tax Fund and Uniform School Fund revenue available for the Legislature to appropriate for the next fiscal year; and

(B) the amount of ongoing appropriations from the Income Tax Fund and Uniform School Fund in the current fiscal year; and

(ii) other appropriations as the Legislature may designate.

(b) If the appropriation described in Subsection (2)(a) would cause the ongoing appropriations to the account to exceed 11% of Uniform School Fund appropriations described in Section 53F-9-201.1 for the same fiscal year, the Legislature shall appropriate only those funds necessary to ensure that the ongoing appropriations to the account equal 11% of Uniform School Fund appropriations for that fiscal year.

(3) Subject to the availability of ongoing appropriations to the account, in accordance with

Utah Constitution, Article X, Section 5, Subsection (4), the ongoing appropriation to the account shall be used to fund:

(a) except for a year described in Subsection (3)(b), one-time appropriations to the public education system[~~; and~~], including at least $65,000,000 to the Catalyst Center Grant Program described in Section 53E-3-507.1; and

(b) the Minimum School Program for a year in which Income Tax Fund revenue and Uniform School Fund revenue are insufficient to fund:

(i) ongoing appropriations to the public education system; and

(ii) enrollment growth and inflation estimates, as defined in Section 53F-9-201.1.

(4) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(5) On or before December 31, 2023, and every three years thereafter, the Office of the Legislative Fiscal Analyst shall:

(a) review the percentages described in Subsections (2)(a)(i) and (2)(b); and

(b) recommend to the Executive Appropriations [~~Subcommittee~~]Committee any changes based on the review described in Subsection (5)(a).

(6) In preparing budget bills for a given fiscal year, the Executive Appropriations Committee shall make the one-time appropriations described in Subsection (3)(a) by appropriating at least the lesser of 10% of the total amount of the one-time appropriations[~~; or~~]to:

(a) the cost of providing 32 paid professional hours for teachers in accordance with Section 53F-7-203; and

(b) the amount to make the distribution required under Section 53F-2-527.

Section 4. Section 53G-10-307 is enacted to read:

PART 3. Miscellaneous Curriculum and Credit Requirements

53G-10-307. Art or fine arts education -- Definition -- Credit requirements.

(1) As used in this section, "art" or "fine arts" means:

(a) courses, instruction, or experiences in visual arts, music, dance, or theater;

(b) courses, instruction, or experiences in applied crafts and technical arts that incorporate artistic elements, including:

(i) woodworking;

(ii) metalworking and welding;

(iii) traditional handcrafts;

(iv) architectural trades, including carpentry, plumbing, masonry, and stonework;

(v) automotive design and customization;

(vi) digital design and animation; or

(vii) other similar courses that combine technical skill with artistic expression; and

(c) other forms of creative or interpretive expression as an LEA determines.

(2) For purposes of meeting art or fine arts credit requirements the state board establishes, the LEA shall accept for an art or fine arts credit any course listed in Subsection (1) that:

(a) incorporates artistic or creative elements in the curriculum;

(b) includes instruction in principles of design, form, or aesthetic expression; and

(c) provides students opportunities for creative expression and artistic application of technical skills.

(3) Nothing in this section:

(a) prevents an LEA from:

(i) establishing the LEA's own additional criteria for artistic and creative elements in courses accepted for fine arts credit; or

(ii) offering additional courses for fine arts credit; or

(b) requires an LEA to offer all courses listed in Subsection (1).

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 479
H. B. 463
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

CHILD SUPPORT MODIFICATIONS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies provisions related to child support and family law.

Highlighted Provisions:

This bill:

- ► creates a rebuttable presumption that an order terminating parental rights shall state the amount of any child support arrears and permit collection of arrears;
- ► requires that a divorce decree provide information about the Office of Recovery Services (office);
- ► beginning July 1, 2026, creates a rebuttable presumption that a child support order shall include a provision requiring an obligor parent to pay a recurring amount as an ongoing expense for child care;
- ► requires the office to study and prepare a proposed method for calculating the amount of an ongoing expense for child care and report the office's findings to the Health and Human Services Interim Committee;
- ► requires the office to propose to the Health and Human Services Interim Committee procedural and statutory considerations that are necessary to move from a receipt-based child care payment model to a model where all new or modified child support orders would instead require an ongoing expense for child care as the primary means for sharing child care costs; and
- ► gives reporting requirements to the office.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-9-201, as last amended by Laws of Utah 2024, Chapter 366
26B-9-206, as renumbered and amended by Laws of Utah 2023, Chapter 305
80-4-105, as last amended by Laws of Utah 2022, Chapter 334
81-4-406, as enacted by Laws of Utah 2024, Chapter 366
81-6-101, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-6-209, as renumbered and amended by Laws of Utah 2024, Chapter 366

ENACTS:

81-6-209.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-9-201 is amended to read:

26B-9-201. Definitions.

As used in this part:

(1) "Adjudicative proceeding" means an action or proceeding of the office conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Administrative order" means an order that has been issued by the office, the department, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.

(3) "Arrears" means support debt.

(4) "Assistance" means public assistance as defined in Section 26B-9-101.

(5) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.

(6) "Child" means the same as that term is defined in Section 81-6-101.

(7) "Child support" means the same as that term is defined in Section 26B-9-101.

(8) "Child support guidelines" means the same as that term is defined in Section 81-6-101.

(9) "Child support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a tribunal for child support and related costs and fees, interest and penalties, income withholding, attorney fees, and other relief.

(10) "Child support services" means the same as that term is defined in Section 26B-9-101.

(11) "Court order" means a judgment or order of a tribunal of appropriate jurisdiction of this state, another state, Native American tribe, the federal government, or any other comparable jurisdiction.

(12) "Director" means the director of the Office of Recovery Services.

(13) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction of all amounts required by law to be withheld.

(14) "High-volume automated administrative enforcement" in interstate cases means, on the request of another state, the identification by the office, through automatic data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in the requesting state, and the seizure of the assets by the office, through levy or other appropriate processes.

(15) "Income" means the same as that term is defined in Section 26B-9-101.

(16) "IV-D services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651, et seq.

(17) "Notice of agency action" means the notice required to commence an adjudicative proceeding in accordance with Section 63G-4-201.

(18) "Obligee" means an individual, this state, another state, or other comparable jurisdiction to whom a duty of child support is owed, or who is entitled to reimbursement of child support or public assistance.

(19) "Obligor" means a person, firm, corporation, or the estate of a decedent owing a duty of support to this state, to an individual, to another state, or other corporate jurisdiction in whose behalf this state is acting.

(20) "Office" means the Office of Recovery Services.

(21) "Ongoing expense for child care" means the same as that term is defined in Section 81-6-101.

[~~(21)~~](22) "Parent" means the same as that term is defined in Section 81-1-101.

[~~(22)~~](23) "Past-due support" means support debt.

[~~(23)~~](24) "Person" includes an individual, firm, corporation, association, political subdivision, department, or office.

[~~(24)~~](25) "Public assistance" means the same as that term is defined in Section 26B-9-101.

[~~(25)~~](26) "Presiding officer" means a presiding officer described in Section 63G-4-103.

[~~(26)~~](27) "Support" includes past-due, present, and future obligations established by:

(a) a tribunal or imposed by law for the financial support, maintenance, medical, or dental care of a child; and

(b) a tribunal for the financial support of a spouse or former spouse with whom the obligor's child resides if the obligor also owes a child support obligation that is being enforced by the state.

[~~(27)~~](28) "Support debt" means the debt created by nonpayment of support.

[~~(28)~~](29) "Support order" means a child support order.

[~~(29)~~](30) "Tribunal" means the district court, the department, the Office of Recovery Services, or court or administrative agency of any state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

Section 2. Section 26B-9-206 is amended to read:

26B-9-206. Issuance or modification of administrative order -- Compliance with court order -- Authority of office -- Stipulated agreements -- Notification requirements.

(1) Through an adjudicative proceeding the office may issue or modify an administrative order that:

(a) determines paternity;

(b) determines whether an obligor owes support;

(c) determines temporary orders of child support upon clear and convincing evidence of paternity in the form of genetic test results or other evidence;

(d) requires an obligor to pay a specific or determinable amount of present and future support;

(e) determines the amount of past-due support;

(f) orders an obligor who owes past-due support and is obligated to support a child receiving public assistance to participate in appropriate work activities if the obligor is unemployed and is not otherwise incapacitated;

(g) requires an obligor to pay an ongoing expense for child care in accordance with Section 81-6-209.5;

[~~(g)~~](h) imposes a penalty authorized under this chapter;

[~~(h)~~](i) determines an issue that may be specifically contested under this chapter by a party who timely files a written request for an adjudicative proceeding with the office; and

[~~(i)~~](j) renews an administrative judgment.

(2) (a) An abstract of a final administrative order issued under this section or a notice of judgment-lien under Section 26B-9-214 may be filed with the clerk of any district court.

(b) Upon a filing under Subsection (2)(a), the clerk of the court shall:

(i) docket the abstract or notice in the judgment docket of the court and note the time of receipt on the abstract or notice and in the judgment docket; and

(ii) at the request of the office, place a copy of the abstract or notice in the file of a child support action involving the same parties.

(3) If a judicial order has been issued, the office may not issue an order under Subsection (1)that is not based on the judicial order, except:

(a) the office may establish a new obligation in those cases in which the juvenile court has ordered the parties to meet with the office to determine the support pursuant to Section 78A-6-356; or

(b) the office may issue an order of current support in accordance with the child support guidelines if the conditions of Subsection 78B-14-207(2)(c) are met.

(4) The office may proceed under this section in the name of this state, another state under Section 26B-9-209, any department of this state, the office, or the obligee.

(5) The office may accept voluntary acknowledgment of a support obligation and enter into stipulated agreements providing for the issuance of an administrative order under this part.

(6) The office may act in the name of the obligee in endorsing and cashing any drafts, checks, money orders, or other negotiable instruments received by the office for support.

(7) The obligor shall, after a notice of agency action has been served on the obligor in accordance with Section 63G-4-201, keep the office informed of:

(a) the obligor's current address;

(b) the name and address of current payors of income;

(c) availability of or access to health insurance coverage; and

(d) applicable health insurance policy information.

Section 3. Section 80-4-105 is amended to read:

80-4-105. Effect of decree.

(1) An order for the termination of parental rights divests the child and the parents of all legal rights, powers, immunities, duties, and obligations with respect to each other, except the right of the child to inherit from the parent.

(2) (a) An order or decree entered under this chapter may not disentitle a child to any benefit due to the child from any third person, including any Indian tribe, agency, state, or the United States.

(b) (i) An order or decree entered under this chapter shall explicitly address whether any arrears in child support in relation to the child exist and, subject to Subsection (2)(b)(ii), shall:

(A) order that the child support arrears be preserved and be subject to collection, including through the Office of Recovery Services; and

(B) state the amount of child support arrears owing as of the time of entry of the order or decree.

(ii) The order required by Subsection (2)(b)(i) is a presumption that is rebuttable only upon a showing by a preponderance of the evidence that the best interest of the child mitigates all or part of any child support arrears owing.

(3) Except as provided in Sections 80-4-401 and 80-4-402, after the termination of a parent's parental rights, the former parent:

(a) is not entitled to any notice of proceedings for the adoption of the child; and

(b) does not have any right to object to the adoption or to participate in any other placement proceedings.

(4) An order terminating the rights of a parent, guardian, or custodian does not expire with termination of the jurisdiction of the juvenile court.

Section 4. Section 81-4-406 is amended to read:

81-4-406. Decree of divorce -- When decree becomes absolute -- Remarriage -- Jurisdiction to modify a decree for a child born after the decree.

(1) (a) The court shall enter a decree of divorce upon the evidence or the petitioner's affidavit in the case of default as described in Subsection (1)(b).

(b) A court may not grant a divorce upon default, unless there is evidence to support a decree of divorce upon an affidavit by the petitioner as provided by Rule 104 of the Utah Rules of Civil Procedure.

(2) Unless the requirement is waived by the court under Subsection 81-4-402(5), a court may not grant a decree of divorce for parties with a minor child until:

(a) both parties have attended the mandatory courses described in Sections 81-4-105 and 81-4-106; and

(b) both parties have presented a certificate of course completion for each course to the court.

(3) In a decree of divorce, the court shall:

(a) specify which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage in accordance with Section 15-4-6.5;

(b) require the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate and current addresses in accordance with Section 15-4-6.5;

(c) provide for the enforcement of the orders described in Subsections (1)(a) and (b);

(d) if a party owns a life insurance policy or an annuity contract, include an acknowledgment by the court that the party:

(i) has reviewed and updated, where appropriate, the list of beneficiaries;

(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and

(iii) understands that, if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract; and

(e) if the parties have a child as defined in Section 81-6-101, include:

(i) [-]an order for child support and medical expenses as described in Chapter 6, Child Support[-];

(ii) a provision in the child support order that requires payment of an ongoing expense for child care subject to the procedures and requirements of Section 81-6-209.5; and

(iii) a statement providing notice that the Office of Recovery Services provides services to individuals who are seeking assistance in the collection or enforcement of child support orders.

(4) The court may include in the divorce decree any equitable orders relating to:

(a) the parties, including any alimony to be awarded to a party in accordance with Part 5, Spousal Support;

(b) a child of the parties; and

(c) any property, debts, or obligations.

(5) A decree of divorce becomes absolute:

(a) on the date it is signed by the court and entered by the clerk in the register of actions;

(b) at the expiration of a period of time the court may specifically designate, unless an appeal or other proceedings for review are pending;

(c) if an appeal is taken, when the decree is affirmed; or

(d) when the court, before the decree becomes absolute, for sufficient cause otherwise orders.

(6) The court, upon application or on the court's own motion for good cause shown, may waive, alter, or extend a designated period of time before the decree becomes absolute, but not to exceed six months from the signing and entry of the decree.

(7) A party to a divorce proceeding may not marry another individual other than the other party for whom the divorce was granted until the party's divorce becomes absolute.

(8) The court has jurisdiction to modify a decree of divorce to address child support, parent-time, and other matters related to a minor child born to the parties after the decree of divorce is entered.

Section 5. Section 81-6-101 is amended to read:

81-6-101. Definitions for chapter.

As used in this chapter:

(1) "Administrative agency" means the Office of Recovery Services or the Department of Health and Human Services.

(2) "Administrative order" means the same as that term is defined in Section 26B-9-201.

(3) "Alimony" means the same as that term is defined in Section 81-4-101.

(4) "Base child support award" means the award that may be ordered and is calculated using the child support guidelines before additions for medical expenses and work-related child care costs.

(5) "Base combined child support obligation" means the presumed amount of child support that the parents should provide for their child as described in Subsection 81-6-204(1).

(6) "Base combined child support obligation table" means the appropriate table described in Sections 81-6-302 and 81-6-304.

(7) "Child" means:

(a) a son or daughter who is under 18 years old and who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(b) a son or daughter who is 18 years old or older while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.

(8) (a) "Child support" means a base child support award, or a monthly financial award for uninsured medical expenses, ordered by a tribunal for the support of a child.

(b) "Child support" includes current periodic payments, arrearages that accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(9) "Child support guidelines" means the calculation and application of child support as described in Part 2, Calculation and Adjustment of Child Support.

(10) "Child support order" means a judgment, decree, or order issued by a tribunal whether temporary, final, or subject to modification, that:

(a) establishes or modifies child support;

(b) reduces child support arrearages to judgment; or

(c) establishes child support or registers a child support order under Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act.

(11) "Child support tables" means the tables described in Part 3, Child Support Tables.

(12) "Child support services" means the same as that term is defined in Section 26B-9-101.

(13) "Gross income" means the amount of income calculated for a parent as described in Section 81-6-203.

(14) "Health care coverage" means coverage under which medical services are provided to a child through:

(a) fee for service;

(b) a health maintenance organization;

(c) a preferred provider organization;

(d) any other type of private health insurance; or

(e) public health care coverage.

(15) (a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

(b) "Income" includes:

(i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(ii) interest and dividends;

(iii) periodic payments made under pension or retirement programs or insurance policies of any type;

(iv) unemployment compensation benefits;

(v) workers' compensation benefits; and

(vi) disability benefits.

(16) "Joint physical custody" means the same as that term is defined in Section 81-9-101.

(17) "Low income table" means the appropriate table under Section 81-6-303 or 81-6-305.

(18) "Medical expenses" means health and dental expenses and related insurance costs.

(19) "Minor child" means a child who is younger than 18 years old.

(20) "Obligee" means an individual, this state, another state, or another comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of child support or public assistance.

(21) "Obligor" means a person owing a duty of support.

(22) "Office" means the Office of Recovery Services within the Department of Health and Human Services.

(23) "Ongoing expense for child care" means a periodic payment that an administrative agency or court orders an obligor parent to pay to assist with the child care expenses of the obligor parent's child.

[~~(23)~~](24) "Pregnancy expenses" means an amount equal to:

(a) the sum of a pregnant mother's:

(i) health insurance premiums while pregnant that are not paid by an employer or government program; and

(ii) medical costs related to the pregnancy, incurred after the date of conception and before the pregnancy ends; and

(b) minus any portion of the amount described in Subsection [~~(23)(a)~~](24)(a) that a court determines is equitable based on the totality of the circumstances, not including any amount paid by the mother or father of the child.

[~~(24)~~](25) "Split custody" means that each parent has physical custody of at least one of the children.

[~~(25)~~](26) "State" means a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American tribe, or other comparable domestic or foreign jurisdiction.

[~~(26)~~](27) "Support" means past-due, present, and future obligations to provide for the financial support, maintenance, or medical expenses of a child.

[~~(27)~~](28) "Support order" means:

(a) a child support order; or

(b) a judgment, decree, or order by a tribunal, whether temporary, final, or subject to modification, for alimony.

[~~(28)~~](29) "Temporary" means a period of time that is projected to be less than 12 months in duration.

[~~(29)~~](30) "Third party" means an agency or a person other than a parent or a child who provides care, maintenance, and support to a child.

[~~(30)~~](31) "Tribunal" means the district court, the Department of Health and Human Services, Office of Recovery Services, or court or administrative agency of a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American tribe, or other comparable domestic or foreign jurisdiction.

[~~(31)~~](32) "Work-related child care expenses" means reasonable child care costs for up to a full-time work week or training schedule as necessitated by the employment or training of a parent.

[~~(32)~~](33) "Worksheet" means a form used to aid in calculating the base child support award.

Section 6. Section 81-6-209 is amended to read:

81-6-209. Requirements for a child support order regarding child care costs and expenses -- Actual expenses for child care.

(1) The court or administrative agency shall require in a child support order that each parent share equally the reasonable work-related child care expenses of the parents.

(2) (a) If an actual expense for child care is incurred, a parent shall begin paying the parent's share on a monthly basis immediately upon presentation of proof of the child care expense.

(b) If the child care expense ceases to be incurred, the parent may suspend making monthly payment of that expense, while the expense is not being incurred, without obtaining a modification of the child support order.

(c) (i) In the absence of a court order to the contrary, a parent who incurs child care expense shall provide written verification of the cost and identity of a child care provider to the other parent upon initial engagement of a provider and thereafter on the request of the other parent.

(ii) In the absence of a court order to the contrary, the parent shall notify the other parent of any change of child care provider or the monthly expense of child care within 30 calendar days after the day on which the change occurred.

(3) The court may deny a parent incurring child care expenses the right to receive credit for the expenses or to recover the other parent's share of the expenses if the parent incurring the expenses fails to comply with Subsection (2)(c).

(4) (a) The court or administrative agency shall presume that child care costs should be included in a child support order if a parent, during extended parent-time, is working and actually incurring the child care costs.

(b) The presumption under Subsection (4)(a) is rebutted if:

(i) the obligor's base child support award, in combination with the award of medical expenses, exceeds 50% of the obligor's adjusted gross income; or

(ii) by adding the child care costs, the obligor's child support obligation would exceed 50% of the obligor's adjusted gross income.

(5) (a) The court or administrative agency may award child care costs on a case-by-case basis if the child care costs are related to the career and occupational training of the custodial parent or the child care costs would be in the interest of justice.

(b) The court or administrative agency may assign financial responsibility in a child support order for all or a portion of child care expenses incurred on behalf of a child due to the employment or training of the custodial parent.

(6) (a) The court or administrative agency may impute a monthly obligation for child care costs when the court imputes income to a parent who is providing child care for the child so that the parties are not incurring child care costs for the child.

(b) The court shall apply any monthly obligation imputed under Subsection (6)(a) towards any actual child care costs incurred within the same month for the child.

(7) Beginning July 1, 2026, collection of child care costs shall be subject to the requirements of Section 81-6-209.5.

Section 7. Section 81-6-209.5 is enacted to read:

81-6-209.5. Costs of child care -- Ongoing expense for child care -- Office of Recovery Services study item and report.

(1) Beginning July 1, 2026:

(a) a court or administrative agency shall include in a child support order a provision requiring the obligor parent to pay a reasonable ongoing expense for child care to assist with the child care expenses for the obligor parent's child;

(b) if a previous child support order does not exist, a substantial change in circumstances has occurred, or a petition to modify a child support order as described in Section 81-6-212 is filed, the court determining the amount of the ongoing expense for child care shall require each party to file a proposed award of an ongoing expense for child care before the court enters or modifies a child support order;

(c) (i) a court or administrative agency shall use guidelines or cost tables prepared by the Office of Recovery Services as a rebuttable presumption in establishing or modifying the amount of the ongoing expense for child care;

(ii) the court or administrative agency shall order that:

(A) the amount set for the ongoing expense for child care be payable periodically, either monthly, or on a schedule determined by the court or administrative agency;

(B) the payment for an ongoing expense for child care commence on a specific date or circumstance; and

(C) if appropriate, the ongoing expense for child care payments cease on a specified date or circumstance; and

(iii) the amount of an ongoing expense for child care, the frequency of ongoing expense for child care payments, and the commencement and termination of ongoing expense for child care payments as determined under Subsections (1)(c)(i)and (1)(c)(ii) are rebuttable upon:

(A) an agreement of the parties that is acceptable to the court;

(B) the court's determination that the evidence presented favors a different amount or schedule; or

(C) a showing by a preponderance of the evidence that a different amount or schedule is in the best interest of the child;

(d) unless otherwise provided by the court, the ongoing expense for child care shall terminate when the child turns 13 years old; and

(e) when determining an amount that a parent may owe for an ongoing expense for child care, the court:

(i) shall give the obligor parent credit for any ongoing expense for child care payments made during the relevant time; and

(ii) may set the amount at zero upon a showing by a preponderance of the evidence that child care expenses will not be incurred.

(2) The Office of Recovery Services shall:

(a) study the costs, parental income considerations, and practical and procedural issues related to establishing a requirement to provide an ongoing expense for child care for a child who is subject to a child support order;

(b) based upon the study results:

(i) prepare guidelines or a cost table to be used for the calculation of the presumed amount of an ongoing expense for child care in compliance with the requirements of this section;

(ii) propose guidelines or practices to recommend how often periodic ongoing expense for child care payments should be made;

(iii) propose guidelines or practices to recommend when ongoing expense for child care payments should commence and when they should cease; and

(iv) propose all statutory and procedural changes that are required to change the presumption from collecting child care costs through receipt-based reimbursement as provided under Section 81-6-209, to a new presumption that all new and modified child support orders shall contain a provision requiring child care costs to be paid by means of an ongoing expense for child care; and

(c) report on the study items described in Subsections (2)(a) and (b) to the Health and Human Services Interim Committee on or before the October 2025 interim meeting.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 480
S. B. 289
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

COMMUNITY DEVELOPMENT AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Trevor Lee

LONG TITLE

General Description:

This bill addresses community reinvestment agencies.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires a county auditor to:
  - • submit annual project area and tax increment data to the Governor's Office of Economic Opportunity; and
  - • notify taxing entities of the end of a project area funds collection period and the calculation of new growth attributed to the project area;
- ► clarifies that an agency that has funds withheld due to non-compliance with reporting requirements will receive those withheld funds once the agency complies with reporting requirements; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17C-1-603, as last amended by Laws of Utah 2024, Chapter 316
17C-1-606, as last amended by Laws of Utah 2016, Chapter 350
17C-1-607, as last amended by Laws of Utah 2016, Chapter 350

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17C-1-603 is amended to read:
17C-1-603. Reporting requirements -- Governor's Office of Economic Opportunity to maintain a database.

(1) As used in this section:

(a) "Database" means the collection of electronic data described in Subsection (2)(a).

(b) "Office" means the Governor's Office of Economic Opportunity.

(c) "Office website" means a public website maintained by the office.

(2) The office shall:

(a) create and maintain electronic data to track information for each agency located within the state; and

(b) make the database publicly accessible from the office website.

(3) (a) The office may:

(i) contract with a third party to create and maintain the database; and

(ii) charge a fee for a county, city, or agency to provide information to the database.

(b) The office shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a fee schedule for the fee described in Subsection (3)(a)(ii).

(4) On or before June 30 of each year, an agency shall, for each active project area for which the project area funds collection period has not expired, submit to the office for inclusion in the database the following information:

(a) an assessment of the change in marginal value, including:

(i) the base year;

[~~(ii) the base taxable value;~~]

[~~(iii) the prior year's assessed value;~~]

[~~(iv)~~](ii) the estimated current assessed value;

[~~(v)~~](iii) the percentage change in marginal value; and

[~~(vi)~~](iv) a narrative description of the relative growth in assessed value;

(b) the amount of project area funds the agency received and the amount of project area funds the agency spent for each year of the project area funds collection period, broken down by the applicable budget or funds analysis category described in Subsection (4)(d), including:

(i) a comparison of the actual project area funds received and spent for each year to the amount of project area funds forecasted for each year when the project area was created, if available;

(ii) (A) the agency's historical receipts and expenditures of project area funds, including the tax year for which the agency first received project area funds from the project area; or

(B) if the agency has not yet received project area funds from the project area, the year in which the agency expects each project area funds collection period to begin;

(iii) a list of each taxing entity that levies or imposes a tax within the project area and a description of the benefits that each taxing entity receives from the project area; and

(iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;

(c) a description of current and anticipated project area development, including:

(i) a narrative of any significant project area development, including infrastructure development, site development, participation agreements, or vertical construction; and

(ii) other details of development within the project area, including:

(A) the total developed acreage;

(B) the total undeveloped acreage;

(C) the percentage of residential development; and

(D) the total number of housing units authorized, if applicable;

(d) the project area budget, if applicable, or other project area funds analyses, with receipts and expenditures categorized by the type of receipt and expenditure related to the development performed or to be performed under the project area plan, including:

(i) each project area funds collection period, including:

(A) the start and end date of the project area funds collection period; and

(B) the number of years remaining in each project area funds collection period;

(ii) the amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity, including:

(A) the total dollar amount; and

(B) the percentage of the total amount of project area funds generated within the project area;

(iii) the remaining amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity; and

(iv) the amount of project area funds the agency is authorized to use to pay for the agency's administrative costs, as described in Subsection 17C-1-409(1), including:

(A) the total dollar amount; and

(B) the percentage of the total amount of all project area funds;

(e) the estimated amount of project area funds that the agency is authorized to receive from the project area for the current calendar year;

(f) the estimated amount of project area funds to be paid to the agency for the next calendar year;

(g) a map of the project area;

(h) a description of how the goals, policies, and purposes of the project area plan have been furthered during the preceding year; and

(i) any other relevant information the agency elects to provide.

(5) An agency with no active project area shall, no later than June 30 of each year until the agency is dissolved under Section 17C-1-701.5, submit a report to the office stating that the agency has no active project area.

(6) Any information an agency submits in accordance with this section:

(a) is for informational purposes only; and

(b) does not alter the amount of project area funds that an agency is authorized to receive from a project area.

(7) The provisions of this section apply regardless of when the agency or project area is created.

(8) On or before September 1 of each year, the office shall prepare and submit an annual written report to the Political Subdivisions Interim Committee that identifies the agencies that complied and the agencies that failed to comply with the reporting requirements of this section during the preceding reporting period.

(9) (a) If, by September 30 of the year the information is due, the office does not receive the information that an agency is required to submit under Subsection (4), the office shall:

(i) refer the noncompliant agency to the state auditor for review; and

(ii) post a notice on the office website identifying the noncompliant agency and describing the agency's noncompliance.

(b) If the office does not receive a report an agency is required to submit under Subsection (5), the office shall refer the noncompliant agency to the state auditor for review.

(c) If, for two consecutive years, the office does not receive information an agency is required to submit under Subsection (4):

(i) the office shall, no later than July 31 of the second consecutive year, notify the auditor and treasurer of the county in which the noncompliant agency is located of the agency's noncompliance; and

(ii) upon receiving the notice described in Subsection (9)(c)(i), the county treasurer shall withhold from the agency 20% of the amount of tax increment the agency is otherwise entitled to receive.

(d) [~~until~~]If, after having funds withheld under Subsection (9)(c)(ii), an agency complies with Subsection (4):

(i) the office [~~notifies~~]shall notify the county auditor and treasurer that the agency has complied with the requirement of Subsection (4); and

(ii) the county treasurer shall disburse the withheld funds to the agency.

Section 2. Section 17C-1-606 is amended to read:

17C-1-606. County auditor report on project areas.

(1) (a) On or before March 31 of each year, the auditor of each county in which an agency is located shall prepare a report on the project

areas within each agency.

(b) The county auditor shall send a copy of each report under Subsection (1)(a) to the agency that is the subject of the report, the State Tax Commission, the State Board of Education, and each taxing entity from which the agency receives tax increment.

(c) On or before March 31 of each year, the county auditor shall submit a copy of each report under Subsection (1)(a) to the Governor's Office of Economic Opportunity for inclusion in the database described in Section 17C-1-603.

(2) Each report under Subsection (1)(a) shall report:

(a) the total assessed property value within each project area for the previous tax year;

(b) the base taxable value of each project area for the previous tax year;

(c) the tax increment available to be paid to the agency for the previous tax year;

(d) the tax increment requested by the agency for the previous tax year; and

(e) the tax increment paid to the agency for the previous tax year.

(3) Within 30 days after a request by an agency, the State Tax Commission, the State Board of Education, or any taxing entity from which the agency receives tax increment, the county auditor or the county assessor shall provide access to:

(a) the county auditor's method and calculations used to make adjustments under []Section 17C-1-408;

(b) the unequalized assessed valuation of an existing or proposed project area, or any parcel or parcels within an existing or proposed project area, if the equalized assessed valuation has not yet been determined for that year;

(c) the most recent equalized assessed valuation of an existing or proposed project area or any parcel or parcels within an existing or proposed project area; and

(d) the tax rate of each taxing entity adopted as of November 1 for the previous tax year.

(4) Each report described in Subsection (1)(a) shall include:

(a) sufficient detail regarding the calculations performed by a county auditor so that an agency or other interested party could repeat and verify the calculations; and

(b) a detailed explanation of any adjustments made to the base taxable value of each project area.

Section 3. Section 17C-1-607 is amended to read:

17C-1-607. State Tax Commission and county assessor required to account for new growth -- County auditor notification requirements.

Upon the expiration of a project area funds collection period[,]:

(1) the State Tax Commission and the assessor of each county in which a project area is located shall count as new growth the assessed value of property with respect to which the taxing entity is receiving taxes or increased taxes for the first time[,]; and

(2) the county auditor shall:

(a) notify each taxing entity that levies or imposes a tax within the project area of the expiration of the project area funds collection period; and

(b) provide each taxing entity with the calculation of new growth attributed to the project area.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 481
H. B. 471
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

TRANSPORTATION PROCUREMENT AMENDMENTS

Chief Sponsor: Calvin Roberts
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses procurements by the Department of Transportation.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► authorizes the Department of Transportation to utilize types of cooperative purchasing agreements for the procurement of transit vehicles; and
- ► makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-6a-107.6, as last amended by Laws of Utah 2024, Chapters 291, 522
63G-6a-109, as last amended by Laws of Utah 2022, Chapter 421

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-6a-107.6 is amended to read:

63G-6a-107.6. Exemptions from chapter.

(1) Except for this Subsection (1), the provisions of this chapter do not apply to:

(a) a public entity's acquisition of a procurement item from another public entity; or

(b) a public entity that is not a procurement unit, including the Colorado River Authority of Utah as provided in Section 63M-14-210.

(2) Unless otherwise provided by statute and except for this Subsection (2), the provisions of this chapter do not apply to the acquisition or disposal of real property or an interest in real property.

(3) Except for this Subsection (3) and Part 24, Unlawful Conduct and Penalties, the provisions of this chapter do not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) a grant;

(c) medical supplies or medical equipment, including service agreements for medical equipment, obtained by the University of Utah Hospital or the Department of Health and Human Services through a purchasing consortium if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital or the executive director of the Department of Health and Human Services, as the case may be, makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;

(d) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;

(e) supplies purchased for resale to the public;

(f) activities related to the management of investments by a public entity granted investment authority by law; or

(g) activities of the Utah water agent appointed under Section 73-10g-702;

(h) transit vehicles procured by the Department of Transportation through a purchasing consortium, cooperative purchasing agreement, or an interagency agreement if:

(i) the contracting party for the acquisition of the transit vehicle from the vendor is:

(A) a public entity;

(B) another state government; or

(C) a public transit district in another state;

(ii) the transit vehicle is intended to be used for, or in connection with, a public transit service within the state; and

(iii) the procurement of the transit vehicle is in the best interest of the state.

(4) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction

proceeds as provided in Section 13-8-5.

(5) Except for this Subsection (5), the provisions of this chapter do not apply to a procurement unit's hiring a mediator, arbitrator, or arbitration panel member to participate in the procurement unit's dispute resolution efforts.

Section 2. Section 63G-6a-109 is amended to read:

63G-6a-109. Issuing procurement unit and conducting procurement unit.

(1) With respect to a procurement by an executive branch procurement unit, except for a procurement by an executive branch procurement unit that, under [~~Subsection 63G-6a-103(38)(b), (c), (d), or (e)~~]Section 63G-6a-103, is [~~designated~~]defined as an independent procurement unit:

(a) the division is the issuing procurement unit; and

(b) the executive branch procurement unit is the conducting procurement unit and is responsible to ensure that the procurement is conducted in compliance with this chapter.

(2) With respect to a procurement by any other procurement unit, the procurement unit is both the issuing procurement unit and the conducting procurement unit.

(3) A conducting procurement unit is responsible for contract administration.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 482
S. B. 294
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

FINANCE AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill enacts provisions related to finance.

Highlighted Provisions:

This bill:

- ► modifies the exclusions to the definition of title loan;
- ► defines terms;
- ► establishes the scope of the Uniform Special Deposits Act;
- ► allows parties to an agreement under the Uniform Special Deposits Act to choose a forum in Utah for settling a dispute, regardless of whether the dispute occurred in Utah;
- ► provides that sections of the Uniform Special Deposits Act may vary by agreement or amendment;
- ► establishes requirements for a special deposit;
- ► requires that a special deposit serve a permissible purpose;
- ► provides the conditions under which a bank shall pay a beneficiary funds in the balance of a special deposit;
- ► establishes the interest of a depositor or beneficiary in a special deposit;
- ► allows a court to grant relief to prevent a bank from paying a depositor or beneficiary of a special deposit if a payment would result in fraud;
- ► provides that except in certain circumstances, a bank may not exercise a right of recoupment or set off against a special deposit;
- ► establishes the duties and liabilities of a bank in regards to a special deposit;
- ► provides that a special deposit terminates five years after the date on which the special deposit was first funded;
- ► describes the application of governing law over special deposits;
- ► provides that the provisions of this act only apply to an agreement executed after the effective date of this bill, unless the parties to a special deposit amend the agreement;
- ► provides that the provisions of this act are severable if a provision of the act is found invalid;
- ► establishes the scope of the Uniform Mortgage Modification Act;
- ► codifies the types of modifications that may be made to a mortgage loan that will not materially prejudice interest holders; and
- ► contains safe harbor provisions for mortgage modifications that do not materially prejudice the holders of a junior interest.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

7-24-102, as last amended by Laws of Utah 2015, Chapter 284

ENACTS:

7-28-101, Utah Code Annotated 1953
7-28-102, Utah Code Annotated 1953
7-28-103, Utah Code Annotated 1953
7-28-104, Utah Code Annotated 1953
7-28-105, Utah Code Annotated 1953
7-28-106, Utah Code Annotated 1953
7-28-107, Utah Code Annotated 1953
7-28-108, Utah Code Annotated 1953
7-28-109, Utah Code Annotated 1953
7-28-110, Utah Code Annotated 1953
7-28-111, Utah Code Annotated 1953
7-28-112, Utah Code Annotated 1953
7-28-113, Utah Code Annotated 1953
7-28-114, Utah Code Annotated 1953
7-28-115, Utah Code Annotated 1953
7-28-116, Utah Code Annotated 1953
70D-4-101, Utah Code Annotated 1953

70D-4-201, Utah Code Annotated 1953
70D-4-301, Utah Code Annotated 1953
70D-4-401, Utah Code Annotated 1953
70D-4-501, Utah Code Annotated 1953
70D-4-601, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-24-102 is amended to read:

7-24-102. Definitions.

As used in this chapter:

(1) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan originators.

(2) "Rollover" means the extension or renewal of the term of a title loan.

(3) (a) "Title lender" means a person that extends a title loan.

(b) "Title lender" includes a person that:

(i) arranges a title loan on behalf of a title lender;

(ii) acts as an agent for a title lender; or

(iii) assists a title lender in the extension of a title loan.

(4) (a) "Title loan" means a loan secured by the title to a:

(i) motor vehicle, as defined in Section 41-6a-102;

(ii) mobile home, as defined in Section 41-6a-102; or

(iii) motorboat, as defined in Section 73-18-2.

(b) "Title loan" includes a title loan extended at the same premise on which any of the following are sold:

(i) a motor vehicle, as defined in Section 41-6a-102;

(ii) a mobile home, as defined in Section 41-6a-102; or

(iii) a motorboat, as defined in Section 73-18-2.

(c) "Title loan" does not include:

(i) a purchase money loan;

(ii) a loan made in connection with the sale of a:

(A) motor vehicle, as defined in Section 41-6a-102;

(B) mobile home, as defined in Section 41-6a-102; or

(C) motorboat, as defined in Section 73-18-2;[~~ or~~]

(iii) a loan extended by an institution listed in Section 7-24-305[~~.~~]; or

(iv) a loan with a repayment term that is longer than 364 days.

Section 2. Section 7-28-101 is enacted to read:

CHAPTER 28. UNIFORM SPECIAL DEPOSITS ACT

7-28-101. Definitions.

As used in this chapter:

(1) "Account agreement" means an agreement that:

(a) is in a record between a bank and one or more depositors;

(b) may have one or more beneficiaries as additional parties; and

(c) states the intention of the parties to establish a special deposit governed by this chapter.

(2) (a) "Bank" means a person engaged in the business of banking.

(b) "Bank" includes a savings bank, savings and loan association, credit union, and trust company.

(c) Each branch or separate office of a bank is a separate bank for the purpose of this chapter.

(3) "Beneficiary" means a person that:

(a) is identified as a beneficiary in an account agreement; or

(b) if not identified as a beneficiary in an account agreement, may be entitled to payment from a special deposit:

(i) under the account agreement; or

(ii) on termination of the special deposit.

(4) "Contingency" means an event or circumstance stated in an account agreement that is not certain to occur but shall occur before the bank is obligated to pay a beneficiary.

(5) "Creditor process" means attachment, garnishment, levy, notice of lien, sequestration, or similar process issued by or on behalf of a creditor or other claimant.

(6) "Depositor" means a person that establishes or funds a special deposit.

(7) "Good faith" means honesty in fact and observance of reasonable commercial standards of fair dealing.

(8) "Knowledge of a fact" means:

(a) with respect to a beneficiary, actual knowledge of the fact; or

(b) with respect to a bank holding a special deposit:

(i) if the bank:

(A) has established a reasonable routine for communicating material information to an individual to whom the bank has assigned responsibility for the special deposit; and

(B) maintains reasonable compliance with the routine, actual knowledge of the fact by that individual; or

(ii) if the bank has not established and maintained reasonable compliance with a routine described in Subsection (8)(b)(i) or otherwise exercised due diligence, implied knowledge of the fact that would have come to the attention of an individual to whom the bank has assigned responsibility for the special deposit.

(9) "Obligated to pay a beneficiary" means a beneficiary is entitled under the account agreement to receive from the bank a payment when:

(a) a contingency has occurred; and

(b) the bank has knowledge the contingency has occurred.

(10) (a) "Permissible purpose" means a governmental, regulatory, commercial, charitable, or testamentary objective of the parties stated in an account agreement.

(b) "Permissible purpose" includes an objective to:

(i) hold funds:

(A) in escrow, including for a purchase and sale, lease, buyback, or other transaction;

(B) as a security deposit of a tenant;

(C) that may be distributed to a person as remuneration, retirement or other benefit, or compensation under a judgment, consent decree, court order, or other decision of a tribunal; or

(D) for distribution to a defined class of persons after identification of the class members and the class members' interest in the funds;

(ii) provide assurance with respect to an obligation created by contract, such as earnest money to ensure a transaction closes;

(iii) settle an obligation that arises in the operation of a payment system, securities settlement system, or other financial market infrastructure;

(iv) provide assurance with respect to an obligation that arises in the operation of a payment system, securities settlement system, or other financial market infrastructure; or

(v) hold margin, other cash collateral, or funds that support the orderly functioning of financial market infrastructure or the performance of an obligation with respect to the infrastructure.

(11) (a) "Person" means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(b) "Person" includes a protected series, however denominated, of an entity if the protected series is established under law that limits, or limits if conditions specified under law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.

(12) "Record" means information:

(a) inscribed on a tangible medium; or

(b) stored in an electronic or other medium and retrievable in perceivable form.

(13) "Special deposit" means a deposit that satisfies Section 7-28-104.

(14) (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States.

(b) "State" includes an agency or instrumentality of the state.

Section 3. Section 7-28-102 is enacted to read:

7-28-102. Scope -- Choice of law -- Forum.

(1) This chapter applies to a special deposit under an account agreement that states the intention of the parties to establish a special deposit governed by this chapter, regardless of whether a party to the account agreement or a transaction related to the special deposit, or the special deposit itself, has a reasonable relation to this state.

(2) The parties to an account agreement may choose a forum in this state for settling a dispute arising out of the special deposit, regardless of whether a party to the account agreement or a transaction related to the special deposit, or the special deposit itself, has a reasonable relation to this state.

(3) This chapter does not affect:

(a) a right or obligation relating to a deposit other than a special deposit under this chapter; or

(b) the voidability of a deposit or transfer that is fraudulent or voidable under other law.

Section 4. Section 7-28-103 is enacted to read:

7-28-103. Variation by agreement or amendment.

(1) (a) The effect of Sections 7-28-101 through 7-28-105, Sections 7-28-107 through 7-28-110, and Section 7-28-113 may not be varied by agreement, except as provided in those sections.

(b) Subject to Subsection (2), the effect of Sections 7-28-106, 7-28-111, and 7-28-112may be varied by agreement.

(2) A provision in an account agreement or other record that substantially excuses liability or substantially limits remedies for failure to perform an obligation under this chapter is not sufficient to vary the effect of a provision of this chapter.

(3) If a beneficiary is a party to an account agreement, the bank and the depositor may amend the agreement without the consent of the beneficiary only if the agreement expressly permits the amendment.

(4) If a beneficiary is not a party to an account agreement and the bank and the depositor know the beneficiary has knowledge of the agreement's terms, the bank and the depositor may amend the agreement without the consent of the beneficiary only if the amendment does not adversely and materially affect a payment right of the beneficiary.

(5) If a beneficiary is not a party to an account agreement and the bank and the depositor do not know whether the beneficiary has knowledge of the agreement's terms, the bank and the depositor may amend the agreement without the consent of the beneficiary only if

the amendment is made in good faith.

Section 5. Section 7-28-104 is enacted to read:

7-28-104. Requirements for special deposit.

A deposit is a special deposit if the deposit is:

(1) a deposit of funds in a bank under an account agreement;

(2) for the benefit of at least two beneficiaries, one or more of which may be a depositor;

(3) denominated in a medium of exchange that is currently authorized or adopted by a domestic or foreign government;

(4) for a permissible purpose stated in the account agreement; and

(5) subject to a contingency.

Section 6. Section 7-28-105 is enacted to read:

7-28-105. Permissible purpose.

(1) A special deposit must serve at least one permissible purpose stated in the account agreement from the time the special deposit is created in the account agreement until termination of the special deposit.

(2) If, before termination of the special deposit, the bank or a court determines the special deposit no longer satisfies Subsection (1), Sections 7-28-107 through 7-28-110 cease to apply to any funds deposited in the special deposit after the special deposit ceases to satisfy Subsection (1).

(3) If, before termination of a special deposit, the bank determines the special deposit no longer satisfies Subsection (1), the bank may take action the bank believes is necessary under the circumstances, including terminating the special deposit.

Section 7. Section 7-28-106 is enacted to read:

7-28-106. Payment to beneficiary by bank.

(1) Unless the account agreement provides otherwise, the bank is obligated to pay a beneficiary if there are sufficient actually and finally collected funds in the balance of the special deposit.

(2) Except as provided in Subsection (3), the obligation to pay the beneficiary is excused if the funds available in the special deposit are insufficient to cover such payment.

(3) (a) Unless the account agreement provides otherwise, if the funds available in the special deposit are insufficient to cover an obligation to pay a beneficiary, a beneficiary may elect to be paid the funds that are available or, if there is more than one beneficiary, a pro rata share of the funds available.

(b) Payment to the beneficiary making the election under this Subsection (3) discharges the bank's obligation to pay a beneficiary and does not constitute an accord and satisfaction with respect to another person obligated to the beneficiary.

(4) Unless the account agreement provides otherwise, the obligation of the bank obligated to pay a beneficiary is immediately due and payable.

(5) The bank may discharge the bank's obligation under this section by:

(a) crediting another transaction account of the beneficiary; or

(b) taking other action that:

(i) is permitted under the account agreement for the bank to obtain a discharge; or

(ii) otherwise would constitute a discharge under law.

(6) If the bank obligated to pay a beneficiary has incurred an obligation to discharge the obligation of another person, the obligation of the other person is discharged if action by the bank under Subsection (5) would constitute a discharge of the obligation of the other person under law that determines whether an obligation is satisfied.

Section 8. Section 7-28-107 is enacted to read:

7-28-107. Property interest of depositor or beneficiary.

(1) Neither a depositor nor a beneficiary has a property interest in a special deposit.

(2) (a) Any property interest with respect to a special deposit is only in the right to receive payment if the bank is obligated to pay a beneficiary and not in the special deposit itself.

(b) Any property interest under this Subsection (2) is determined under other law.

Section 9. Section 7-28-108 is enacted to read:

7-28-108. When creditor process enforceable against bank.

(1) Subject to Subsection (2), creditor process with respect to a special deposit is not enforceable against the bank holding the special deposit.

(2) Creditor process is enforceable against the bank holding a special deposit with respect to an amount the bank is obligated to pay a beneficiary or a depositor if the process:

(a) is served on the bank;

(b) provides sufficient information to permit the bank to identify the depositor or the beneficiary from the bank's books and records; and

(c) gives the bank a reasonable opportunity to act on the process.

(3) (a) Creditor process served on a bank before the creditor process is enforceable against the bank under Subsection (2) does not create a right of the creditor against the bank or a duty of the bank to the creditor.

(b) Other law determines whether creditor process creates a lien enforceable against the beneficiary on a contingent interest of a beneficiary, including a depositor as a beneficiary, even if not enforceable against the bank.

Section 10. Section 7-28-109 is enacted to read:

7-28-109. Injunction or similar relief.

A court may enjoin, or grant similar relief that would have the effect of enjoining, a bank from paying a depositor or beneficiary only

if payment would constitute a material fraud or facilitate a material fraud with respect to a special deposit.

Section 11. Section 7-28-110 is enacted to read:

7-28-110. Recoupment or set off.

(1) Except as provided in Subsection (2) or (3), a bank may not exercise a right of recoupment or set off against a special deposit.

(2) An account agreement may authorize the bank to debit the special deposit:

(a) when the bank becomes obligated to pay a beneficiary, in an amount that does not exceed the amount necessary to discharge the obligation;

(b) for a fee assessed by the bank that relates to an overdraft in the special deposit account;

(c) for costs incurred by the bank that relate directly to the special deposit; or

(d) to reverse an earlier credit posted by the bank to the balance of the special deposit account, if the reversal occurs under an event or circumstance warranted under other law of this state governing mistake and restitution.

(3) The bank holding a special deposit may exercise a right of recoupment or set off against an obligation to pay a beneficiary, even if the bank funds payment from the special deposit.

Section 12. Section 7-28-111 is enacted to read:

7-28-111. Duties and liability of bank.

(1) A bank does not have a fiduciary duty to any person with respect to a special deposit.

(2) When the bank holding a special deposit becomes obligated to pay a beneficiary, a debtor-creditor relationship arises between the bank and beneficiary.

(3) The bank holding a special deposit has a duty to a beneficiary to comply with the account agreement and this chapter.

(4) (a) If the bank holding a special deposit does not comply with the account agreement or this chapter, the bank is liable to a depositor or beneficiary only for damages proximately caused by the noncompliance.

(b) Except as provided by other law of this state, the bank is not liable for consequential, special, or punitive damages.

(5) The bank holding a special deposit may rely on records presented in compliance with the account agreement to determine whether the bank is obligated to pay a beneficiary.

(6) (a) If the account agreement requires payment on presentation of a record, the bank shall determine within a reasonable time whether the record is sufficient to require payment.

(b) If the agreement requires action by the bank on presentation of a record, the bank is not liable for relying in good faith on the genuineness of the record if the record appears on the record's face to be genuine.

(7) Unless the account agreement provides otherwise, the bank is not required to determine whether a permissible purpose stated in the agreement continues to exist.

Section 13. Section 7-28-112 is enacted to read:

7-28-112. Term and termination.

(1) Unless otherwise provided in the account agreement, a special deposit terminates five years after the date the special deposit was first funded.

(2) Unless otherwise provided in the account agreement, if the bank cannot identify or locate a beneficiary entitled to payment when the special deposit is terminated, and a balance remains in the special deposit, the bank shall pay the balance to the depositor or depositors as a beneficiary or beneficiaries.

(3) A bank that pays the remaining balance as provided under Subsection (2) has no further obligation with respect to the special deposit.

Section 14. Section 7-28-113 is enacted to read:

7-28-113. Principles of law and equity.

Title 70A, Uniform Commercial Code, consumer protection law, law governing deposits generally, law related to escheat and abandoned or unclaimed property, and the principles of law and equity, including law related to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, and bankruptcy, supplement this chapter except to the extent inconsistent with this chapter.

Section 15. Section 7-28-114 is enacted to read:

7-28-114. Uniformity of application and construction.

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact this uniform act.

Section 16. Section 7-28-115 is enacted to read:

7-28-115. Transitional provision.

This chapter applies to:

(1) a special deposit made under an account agreement executed on or after May 7, 2025; and

(2) a deposit made under an agreement executed before May 7, 2025, if:

(a) all parties entitled to amend the agreement agree to make the deposit a special deposit governed by this chapter; and

(b) the special deposit referenced in the amended agreement satisfies Section 7-28-104.

Section 17. Section 7-28-116 is enacted to read:

7-28-116. Severability.

If a provision of this chapter or the chapter's application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.

Section 18. Section 70D-4-101 is enacted to read:

CHAPTER 4. UNIFORM MORTGAGE MODIFICATION ACT

70D-4-101. Definitions.

(1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) "Financial covenant" means an undertaking to demonstrate an obligor's creditworthiness or the adequacy of security provided by an obligor.

(3) "Modification" includes change, amendment, revision, correction, addition, supplementation, elimination, waiver, and restatement.

(4) (a) "Mortgage" means an agreement that creates a consensual interest in real property to secure payment or performance of an obligation regardless of how the agreement is denominated, including a mortgage, deed of trust, trust deed, security deed, indenture, or deed to secure debt, and regardless of whether the agreement also creates a security interest in personal property.

(b) "Mortgage" does not include an agreement that creates a consensual interest to secure a liability owed by a unit owner to a condominium association, owners association, or cooperative housing association for association dues, fees, or assessments.

(5) "Mortgage modification" means modification of:

(a) a mortgage;

(b) an agreement that creates an obligation, including a promissory note, loan agreement, or credit agreement; or

(c) an agreement that creates other security or credit enhancement for an obligation, including an assignment of leases or rents or a guaranty.

(6) "Obligation" means a debt or other duty or liability secured by a mortgage.

(7) "Obligor" means a person that:

(a) owes payment or performance of an obligation;

(b) signs a mortgage; or

(c) is otherwise accountable, or whose property serves as collateral, for payment or performance of an obligation.

(8) "Person" means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, instrumentality, or other legal entity.

(9) "Recognized index" means an index to which changes in the interest rate may be linked that is readily available to, and verifiable by, the obligor and is beyond the control of the person to whom the obligation is owed.

(10) "Record" means information:

(a) inscribed on a tangible medium; or

(b) stored in an electronic or other medium and retrievable in perceivable form.

(11) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

Section 19. Section 70D-4-201 is enacted to read:

70D-4-201. Scope.

(1) Except as provided in Subsection (3), this chapter applies to a mortgage modification.

(2) This chapter does not affect the following law of this state:

(a) law governing the required content of a mortgage;

(b) a statute of limitations or other law governing the expiration or termination of a right to enforce an obligation or a mortgage;

(c) a recording statute;

(d) a statute governing the priority of a tax lien or other governmental lien;

(e) a statute of frauds; or

(f) except as provided in Subsection 70D-4-301(2)(h), law governing the priority of a future advance.

(3) This chapter does not apply to:

(a) a release of, or addition to, property encumbered by a mortgage;

(b) a release of, addition of, or other change in an obligor; or

(c) an assignment or other transfer of a mortgage or an obligation.

Section 20. Section 70D-4-301 is enacted to read:

70D-4-301. Effect of mortgage modification.

(1) For a mortgage modification described in Subsection (2):

(a) the mortgage continues to secure the obligation as modified;

(b) the priority of the mortgage is not affected by the modification;

(c) the mortgage retains the mortgage's priority regardless of whether a record of the mortgage modification is recorded; and

(d) the modification is not a novation.

(2) Subsection (1) applies to one or more of the following:

(a) an extension of the maturity date of an obligation;

(b) a decrease in the interest rate of an obligation;

(c) if there is any change as specified in Subsection (2)(c)(i) through (iv) that does not result in an increase in the interest rate as calculated on the date the modification becomes effective:

(i) a change to a different recognized index if the previous index is no longer available;

(ii) a change in the differential between the index and the interest rate;

(iii) a change from a floating or adjustable rate to a fixed rate; and

(iv) a change from a fixed rate to a floating or adjustable rate based on a recognized index;

(d) a capitalization of unpaid interest or other unpaid obligation;

(e) a forgiveness, forbearance, or other reduction of principal, accrued interest, or other monetary obligation;

(f) a modification of a requirement for maintaining an escrow or reserve account for payment of an obligation, including taxes, insurance premiums, or another obligation;

(g) a modification of a requirement for acquiring or maintaining insurance;

(h) a modification of an existing condition to advance funds;

(i) a modification of a financial covenant; and

(j) a modification of the payment amount or schedule resulting from another modification described in this Subsection (2).

(3) The effect of a mortgage modification not described in Subsection (2) is governed by other law.

Section 21. Section 70D-4-401 is enacted to read:

70D-4-401. Uniformity of application and construction.

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

Section 22. Section 70D-4-501 is enacted to read:

70D-4-501. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

Section 23. Section 70D-4-601 is enacted to read:

70D-4-601. Transitional Provision.

This chapter applies to a mortgage modification made on or after May 7, 2025, regardless of when the mortgage or the obligation was created.

Section 24. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 483
H. B. 474
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

REGULATORY OVERSIGHT AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Daniel McCay

Cosponsor:	Ken Ivory	Michael J. Petersen
Melissa G. Ballard	Jill Koford	Thomas W. Peterson
Jefferson S. Burton	Jason B. Kyle	Val L. Peterson
Kay J. Christofferson	Matt MacPherson	Jake Sawyer
Paul A. Cutler	A. Cory Maloy	Mark A. Strong
Ariel Defay	Jefferson Moss	Jordan D. Teuscher

LONG TITLE

General Description:

This bill provides additional mechanisms for the oversight of state executive agencies.

Highlighted Provisions:

This bill:

- ► directs the Office of Professional Licensure Review (office) to create a mechanism to gather feedback regarding existing occupational regulations;
- ► directs the office to include the feedback regarding existing occupational regulations that the office gathers in the office's written report to the Business and Labor Interim Committee;
- ► provides a limit on the cost of implementing an agency generated rule; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-1b-203, as enacted by Laws of Utah 2022, Chapter 413
13-1b-302, as enacted by Laws of Utah 2022, Chapter 413
13-1b-304, as enacted by Laws of Utah 2022, Chapter 413
63G-3-102, as last amended by Laws of Utah 2021, Chapter 344
63G-3-301, as last amended by Laws of Utah 2024, Chapter 178
72-16-203, as last amended by Laws of Utah 2021, Chapter 267

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-1b-203 is amended to read:
13-1b-203. Duties.

The office shall:

(1) for each application submitted in accordance with Section 13-1b-301, conduct a sunrise review in accordance with Section 13-1b-302 before November 1:

(a) of the year in which the application is submitted, if the application is submitted on or before July 1; or

(b) of the subsequent year, if the application is submitted after July 1;

(2) [~~beginning in 2023 and in~~]in accordance with Section 13-1b-303, conduct a review of each regulated occupation at least once every 10 years;

(3) review and respond to any legislator inquiry regarding a proposed or existing regulated occupation;[~~and~~]

(4) publish on the office's website a submission form where an individual may provide feedback regarding an existing occupational regulation within the office's jurisdiction that the individual requests the office repeal or modify;

(5) engage in a systematic review of the rules that relate to occupational regulations within the office's jurisdiction in accordance with Section 13-1b-302; and

[~~(4)~~](6) report to the Business and Labor Interim Committee in accordance with Section 13-1b-304.

Section 2. Section 13-1b-302 is amended to read:

13-1b-302. Review criteria.

In conducting a sunrise review[~~or~~], a periodic review, or a standalone review, unless otherwise directed in accordance with Subsection 13-1b-203(3), the office shall consider the following criteria:

(1) whether the regulation of the occupation is necessary to address a present, recognizable, and significant harm to the health, safety, or financial welfare of the public;

(2) for any harm to the health, safety, or financial welfare of the public, the harm's:

(a) severity;

(b) probability; and

(c) permanence;

(3) the extent to which the proposed or existing regulation of the occupation protects against or diminishes the harm described in Subsection (1);

(4) whether the proposed or existing regulation of the occupation:

(a) affects the supply of qualified practitioners;

(b) creates barriers to:

(i) service that are not in the public financial welfare or interest; or

(ii) entry into the occupation or related occupations;

(c) imposes new costs on existing practitioners;

(d) affects:

(i) license reciprocity with other jurisdictions; or

(ii) mobility of practitioners; or

(e) if the occupation involves a health care provider, impacts the health care provider's ability to obtain payment of benefits for the health care provider's treatment of an illness, injury, or health care condition under an insurance contract subject to Section 31A-22-618;

(5) if the review involves licensing, the potential alternative pathways for a person to obtain a license;

(6) the costs to the state of regulating the occupation;

(7) whether the proposed or existing administering agency has sufficient expertise and resources;

(8) the regulation of the occupation in other jurisdictions;

(9) the scope of the proposed or existing regulation, including:

(a) whether the occupation is clearly distinguishable from an already regulated occupation; and

(b) potential for regulating only certain occupational activities;

(10) the potentially less burdensome alternatives to the proposed or existing regulation and the effect of implementing an alternative method of regulation on:

(a) the health, safety, or financial welfare of the public;

(b) the occupation; and

(c) practitioners of the occupation; and

(11) any other criteria the office adopts, including criteria suggested in a stakeholder survey.

Section 3. Section 13-1b-304 is amended to read:

13-1b-304. Reporting.

(1) [~~Beginning in 2024, ~~]On or before October 1, the office shall annually prepare and submit a written report to the Business and Labor Interim Committee that describes the office's work during the prior year.

(2) In a written report described in Subsection (1), the office shall include:

(a) a summary of each periodic review, each sunrise review, each rule review, and each response to a legislator inquiry; [~~and~~]

(b) each recommendation the office made to another state executive branch agency regarding a regulated occupation[.]; and

(c) a summary of information received during the previous year by the office under Subsection 13-1b-203(4) including:

(i) the total number of submissions the office receives;

(ii) each rule for which an individual filed a submission.

Section 4. Section 63G-3-102 is amended to read:

63G-3-102. Definitions.

As used in this chapter:

(1) "Administrative record" means information an agency relies upon when making a rule under this chapter including:

(a) the proposed rule, change in the proposed rule, and the rule analysis form;

(b) the public comment received and recorded by the agency during the public comment period;

(c) the agency's response to the public comment;

(d) the agency's analysis of the public comment; and

(e) the agency's report of [~~its~~]the agency's decision-making process.

(2) (a) "Agency" [~~means~~]includes:

(i) each state board, authority, commission, institution, department, division, or officer[~~,~~];or

(ii) any other state government entity [~~other than the Legislature, its committees, the political subdivisions of the state, or the courts, which~~]that is authorized or required by law to make rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal

obligations, or perform other similar actions or duties delegated by law.

(b) "Agency" does not include:

(i) the Legislature;

(ii) the Legislature's committees;

(iii) the political subdivisions of the state; or

(iv) the courts.

(3) "Bulletin" means the Utah State Bulletin.

(4) "Catchline" means a short summary of each section, part, rule, or title of the code that follows the section, part, rule, or title reference placed before the text of the rule and serves the same function as boldface in legislation as described in Section 68-3-13.

(5) "Code" means the body of all effective rules as compiled and organized by the office and entitled "Utah Administrative Code."

(6) "Department" means the Department of Government Operations created in Section 63A-1-104.

(7) "Director" means the director of the office.

(8) "Effective" means operative and enforceable.

(9) "Executive director" means the executive director of the department.

(10) "File" means to submit a document to the office as prescribed by the office.

(11) "Filing date" means the day and time the document is recorded as received by the office.

(12) "Interested person" means any person affected by or interested in a proposed rule, amendment to an existing rule, or a nonsubstantive change made under Section 63G-3-402.

(13) "Office" means the Office of Administrative Rules created in Section 63G-3-401.

(14) "Order" means an agency action that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.

(15) "Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency.

(16) "Publication" or "publish" means making a rule available to the public by including the rule or a summary of the rule in the bulletin.

(17) "Publication date" means the inscribed date of the bulletin.

(18) "Register" may include an electronic database.

(19) (a) "Rule" means an agency's written statement that:

(i) is explicitly or implicitly required by state or federal statute or other applicable law;

(ii) implements or interprets a state or federal legal mandate; and

(iii) applies to a class of persons or another agency.

(b) "Rule" includes the amendment or repeal of an existing rule.

(c) "Rule" does not mean:

(i) orders;

(ii) an agency's written statement that applies only to internal management and that does not restrict the legal rights of a public class of persons or another agency;

(iii) the governor's executive orders or proclamations;

(iv) opinions issued by the attorney general's office;

(v) declaratory rulings issued by the agency according to Section 63G-4-503 except as required by Section 63G-3-201;

(vi) rulings by an agency in adjudicative proceedings, except as required by Subsection 63G-3-201(6); or

(vii) an agency written statement that is in violation of any state or federal law.

(20) "Rule analysis" means the format prescribed by the office to summarize and analyze rules.

(21) "Small business" means a business employing fewer than 50 persons.

(22) "Substantial fiscal impact" means an anticipated fiscal impact of a proposed rule of at least $2,000,000 over a five-year period.

[~~(22)~~](23) "Substantive change" means a change in a rule that affects the application or results of agency actions.

Section 5. Section 63G-3-301 is amended to read:

63G-3-301. Rulemaking procedure.

(1) An agency authorized to make rules is also authorized to amend or repeal those rules.

(2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or repealing a rule , agencies shall comply with:

(a) the requirements of this section;

(b) consistent procedures required by other statutes;

(c) applicable federal mandates; and

(d) rules made by the office to implement this chapter.

(3) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency's rules.

(4) (a) Each agency shall file the agency's proposed rule and rule analysis with the office.

(b) Rule amendments shall be marked with new language underlined and deleted language struck out.

(c) (i) The office shall publish the information required under Subsection (8) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.

(ii) For rule amendments, only the section or subsection of the rule being amended need be printed.

(iii) If the director determines that the rule is too long to publish, the office shall publish the rule analysis and shall publish the rule by reference to a copy on file with the office.

(5) Before filing a rule with the office, the agency shall conduct a thorough analysis, consistent with the criteria established by the Governor's Office of Planning and Budget, of the fiscal impact a rule may have on businesses, which criteria may include:

(a) the type of industries that will be impacted by the rule, and for each identified industry, an estimate of the total number of businesses within the industry, and an estimate of the number of those businesses that are small businesses;

(b) the individual fiscal impact that would incur to a [~~typical~~]single business for a one-year period;

(c) the aggregated total fiscal impact that would incur to all businesses within the state for a one-year period;

(d) the total cost that would incur to all impacted entities over a five-year period; and

(e) the department head's comments on the analysis.

(6) If the agency reasonably expects that a proposed rule will have a measurable negative fiscal impact on small businesses, the agency shall consider, as allowed by federal law, each of the following methods of reducing the impact of the rule on small businesses:

(a) establishing less stringent compliance or reporting requirements for small businesses;

(b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) consolidating or simplifying compliance or reporting requirements for small businesses;

(d) establishing performance standards for small businesses to replace design or operational standards required in the proposed rule; and

(e) exempting small businesses from all or any part of the requirements contained in the proposed rule.

(7) If during the public comment period an agency receives comment that the proposed rule will cost small business more than one day's annual average gross receipts, and the agency had not previously performed the analysis in Subsection (6), the agency shall perform the analysis described in Subsection (6).

(8) The rule analysis shall contain:

(a) a summary of the rule or change;

(b) the purpose of the rule or reason for the change;

(c) the statutory authority or federal requirement for the rule;

(d) the anticipated cost or savings to:

(i) the state budget;

(ii) local governments;

(iii) small businesses; and

(iv) persons other than small businesses, businesses, or local governmental entities;

(e) the compliance cost for affected persons;

(f) how interested persons may review the full text of the rule;

(g) how interested persons may present their views on the rule;

(h) the time and place of any scheduled public hearing;

(i) the name and telephone number of an agency employee who may be contacted about the rule;

(j) the name of the agency head or designee who authorized the rule;

(k) the date on which the rule may become effective following the public comment period;

(l) the agency's analysis on the fiscal impact of the rule as required under Subsection (5);

(m) any additional comments the department head may choose to submit regarding the fiscal impact the rule may have on businesses; and

(n) if applicable, a summary of the agency's efforts to comply with the requirements of Subsection (6).

(9) (a) For a rule being repealed and reenacted, the rule analysis shall contain a summary that generally includes the following:

(i) a summary of substantive provisions in the repealed rule which are eliminated from the enacted rule; and

(ii) a summary of new substantive provisions appearing only in the enacted rule.

(b) The summary required under this Subsection (9) is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.

(10) [~~A~~]An agency shall mail a copy of the rule analysis [~~shall be mailed to all persons who have made timely request~~]to a person that makes a timely request of the agency for advance notice of the agency's rulemaking proceedings and to any other person [~~who~~]that, by statutory or federal mandate or in the judgment of the agency, should also receive notice.

(11) (a) Following the publication date, the agency shall allow at least 30 days for public comment on the rule.

(b) The agency shall review and evaluate all public comments submitted in writing within the time period under Subsection (11)(a) or presented at public hearings conducted by the agency within the time period under Subsection (11)(a).

(12) (a) Except as provided in Sections 63G-3-303 and 63G-3-304, a proposed rule becomes effective on any date specified by the agency that is:

(i) no fewer than seven calendar days after the day on which the public comment period closes under Subsection (11); and

(ii) no more than 120 days after the day on which the rule is published.

(b) The agency shall provide notice of the rule's effective date to the office in the form required by the office.

(c) The notice of effective date may not provide for an effective date before the day on which the office receives the notice.

(d) The office shall publish notice of the effective date of the rule in the next issue of the bulletin.

(e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is not filed with the office within 120 days after the day on which the rule is published.

(13) (a) (i) [~~Except as provided in Subsection (13)(d), before~~]Before an agency enacts a rule, the agency shall submit to the appropriations subcommittee and interim committee with jurisdiction over the agency the agency's proposed rule for review, if the proposed rule, over a [~~three-year~~]five-year period, has a fiscal impact of more than[~~:~~]$1,000,000 statewide.

[~~(i) $250,000 to a single person; or~~]

[~~(ii) $7,500,000 to a group of persons.~~]

(ii) A proposed rule that is subject to Subsection (13)(e) is exempt from Subsection (13)(a)(i).

(b) An appropriations subcommittee or interim committee that reviews a rule [~~submitted~~]an agency submits under Subsection (13)(a) shall:

(i) before the review, directly inform the chairs of the Rules Review and General Oversight Committee of the coming review, including the date, time, and place of the review; and

(ii) after the review, directly inform the chairs of the Rules Review and General Oversight Committee of the outcome of the review, including any recommendation.

(c) An appropriations subcommittee or interim committee that reviews a rule [~~submitted~~]an agency submits under Subsection (13)(a) may recommend to the Rules Review and General Oversight Committee that the Rules Review and General Oversight Committee not recommend reauthorization of the rule in the legislation described in Section 63G-3-502.

(d) The agency shall calculate the substantial fiscal impact in accordance with Subsection (5).

(e) Unless an agency cannot implement a statute or execute a federally delegated authority without making a rule that is estimated to have substantial fiscal impact, the agency may not make the rule.

[~~(d)~~](f) The requirements described in [~~Subsection (13)(a) does~~]Subsections (13)(a) and (13)(b) do not apply to:

(i) the State Tax Commission; or

(ii) the State Board of Education.

(14) (a) As used in this Subsection (14), "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection (4), of an agency's proposed rule that is required by state statute.

(b) A state agency shall initiate rulemaking proceedings no later than 180 days after the day on which the statutory provision that specifically requires the rulemaking takes effect, except under Subsection (14)(c).

(c) When a statute is enacted that requires agency rulemaking and the affected agency already has rules in place that meet the statutory requirement, the agency shall submit the rules to the Rules Review and General Oversight Committee for review within 60 days after the day on which the statute requiring the rulemaking takes effect.

(d) If a state agency does not initiate rulemaking proceedings in accordance with the time requirements in Subsection (14)(b), the state agency shall appear before the legislative Rules Review and General Oversight Committee and provide the reasons for the delay.

Section 6. Section 72-16-203 is amended to read:

72-16-203. Rulemaking.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter the committee may make rules:

(a) establishing:

(i) the form of an application and a renewal application for:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(ii) the procedure to apply for and renew:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(iii) standards for a daily inspection under Section 72-16-302;

(iv) the form of a report of a reportable serious injury to the director;

(v) the procedure for reporting a reportable serious injury to the director;

(vi) the procedure to suspend and revoke:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(vii) a retention schedule that applies to each qualified safety inspector for records related to a qualified safety inspector's duties under this chapter;

(viii) a retention schedule that applies to each owner-operator for records related to an owner-operator's duties under this chapter;

(ix) fees;

(x) minimum insurance requirements for certified inspectors; and

(xi) fines or administrative penalties for lack of compliance with this chapter[~~.~~];

(b) regarding the experience required to obtain a qualified safety inspector certification under Subsection 72-16-303(3)(a); and

(c) adopting nationally recognized:

(i) amusement ride inspection standards; and

(ii) qualified safety inspector qualification standards.

(2) Notwithstanding Subsection [~~63G-3-301(13), no later than December 1, 2020, ~~]63G-3-301(14), the committee shall initiate rulemaking proceedings, as defined in Section 63G-3-301, to make rules under this section.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 484
S. B. 295
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

PROPERTY TAX MODIFICATIONS

Chief Sponsor: Daniel McCay
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies the Property Tax Act.

Highlighted Provisions:

This bill:

- ► allows a taxing entity that reduces the taxing entity's budget below the previous year's budgeted revenue to increase, for a period of five years, the budget up to the base year budget without complying with the truth in taxation notice and public hearing requirements;
- ► repeals the requirement for a portion of revenue generated by the statewide multicounty assessing and collecting levy to be set aside for county distributions through the Property Tax Valuation Fund and redirects the set aside amount to the Multicounty Appraisal Trust; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-919, (Effective 05/07/25) (Applies beginning 01/01/25) as last amended by Laws of Utah 2024, Chapter 246
59-2-1602, (Effective 01/01/26) as last amended by Laws of Utah 2022, Chapters 239, 451
63I-1-259, (Effective 05/07/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-919 is amended to read:

59-2-919 (Effective 05/07/25) (Applies beginning 01/01/25). Notice and public hearing requirements for certain tax increases -- Exceptions -- Audit.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth[~~ as defined in Section 59-2-924~~]; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Base year" means a taxing entity's fiscal year that immediately precedes the fiscal year in which the taxing entity first adopted a budget below last year's property tax budgeted revenue.

(d) "Base year budgeted revenue" means the property tax budgeted revenue, excluding eligible new growth, for the base year.

[~~(c)~~](e) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

[~~(d)~~](f) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

[~~(e)~~](g) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(h) "Eligible new growth" means the same as that term is defined in Section 59-2-924.

[~~(f)~~](i) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

[~~(g)~~](j) "Last year's property tax budgeted revenue" does not include:

(i) revenue received by a taxing entity from a debt service levy voted on by the public;

(ii) revenue generated by the combined basic rate as defined in Section 53F-2-301; or

(iii) revenue generated by the charter school levy described in Section 53F-2-703.

(k) "Truth-in-taxation exemption period" means a six-year period that begins with the base year.

(2) [~~A~~]Except as provided in Subsection (11), a taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the dollar amount of additional ad valorem tax revenue that would be generated each year by the proposed increase in the certified tax rate;

(vi) shall include a brief statement of the primary purpose for the proposed tax increase, including the taxing entity's intended use of additional ad valorem tax revenue described in Subsection (3)(c)(v);

(vii) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v);

(viii) shall state the Internet address for the taxing entity's public website;

(ix) may contain other information approved by the commission; and

(x) if sent in calendar year 2024, 2025, or 2026, shall contain:

(A) notice that the taxpayer may request electronic notice as described in Subsection 17-21-6(1)(m); and

(B) instructions describing how to elect to receive a notice as described in Subsection 17-21-6(1)(m).

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than $20,000 in ad valorem tax revenue for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than $20,000 of ad valorem tax revenue.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) for the taxing entity, as a class A notice under Section 63G-30-102, for at least 14 days before the day on which the taxing entity conducts the public hearing described in Subsection (3)(a)(v) or (4)(b).

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase; and

(C) state the Internet address for the taxing entity's public website.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b);

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase; and

(C) state the Internet address for the taxing entity's public website.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE

(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from

$_____ to $_____, which is $_____ per year.

If the proposed budget is approved, (name of the taxing entity) would receive an additional $_____ in property tax revenue per year as a result of the tax increase.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

The (name of the taxing entity) invites all concerned citizens to a public hearing for the purpose of hearing comments regarding the proposed tax increase and to explain the reasons for the proposed tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity) or visit (Internet address for the taxing entity's public website)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) A fiscal year taxing entity shall, on or before June 1, notify the commission and the county auditor of the date, time, and place of the public hearing described in Subsection (4)(b).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the commission and the county auditor of the date, time, and place of the public hearing described in Subsection (3)(a)(v).

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public; and

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a special district's or special service district's fee implementation or increase, or a combination of these items.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall:

(A) state the dollar amount of additional ad valorem tax revenue that would be generated each year by the proposed increase in the certified tax rate;

(B) explain the reasons for the proposed tax increase, including the taxing entity's intended use of additional ad valorem tax revenue described in Subsection (8)(b)(ii)(A);

(C) if the county auditor compiles the list required by Section 59-2-919.2, present the list at the public hearing and make the list available on the taxing entity's public website; and

(D) provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) The county auditor shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a special district or a special service district, a fee hearing described in Section 17B-1-643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10-5-107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10-6-135.5.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

(10) (a) A county auditor may conduct an audit to verify a taxing entity's compliance with Subsection (8).

(b) If the county auditor, after completing an audit, finds that a taxing entity has failed to meet the requirements of Subsection (8), the county auditor shall prepare and submit a report of the auditor's findings to the commission.

(c) The commission may not certify a tax rate that exceeds a taxing entity's certified tax rate if, on or before September 15 of the year in which the taxing entity is required to hold the public hearing described in Subsection (3)(a)(v) or (4)(b), the commission determines that the taxing entity has failed to meet the requirements of Subsection (8).

(11) For a fiscal year within a truth-in-taxation exemption period, a taxing entity may adopt a budget that is equal to or less than the base year budgeted revenue without complying with this section.

Section 2. Section 59-2-1602 is amended to read:

59-2-1602 (Effective 01/01/26). Property Tax Valuation Fund -- Statewide levy -- Additional county levy.

(1) (a) There is created a custodial fund known as the "Property Tax Valuation Fund."

(b) The fund consists of:

(i) deposits made and penalties received under Subsection (3); and

(ii) interest on money deposited into the fund.

(c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed and used as provided in Section 59-2-1603.

(2) (a) Each county shall annually impose a multicounty assessing and collecting levy as provided in this Subsection (2).

(b) The tax rate of the multicounty assessing and collecting levy is[~~:~~]

[~~(i) for a calendar year beginning on or after January 1, 2022, and before January 1, 2025,.000015; and~~]

[~~(ii) for a calendar year beginning on or after January 1, 2025,~~] the certified revenue levy.

(c) The state treasurer shall allocate all revenue collected from the multicounty assessing and collecting levy [~~as follows:~~]to the Multicounty Appraisal Trust.

[~~(i) 18% of the revenue collected shall be deposited into the Property Tax Valuation Fund, up to $500,000 annually; and~~]

[~~(ii) after the deposit described in Subsection (2)(c)(i), all remaining revenue collected from the multicounty assessing and collecting levy shall be deposited into the Multicounty Appraisal Trust.~~]

(3) (a) The multicounty assessing and collecting levy imposed under Subsection (2) shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

(b) The multicounty assessing and collecting levy is:

(i) exempt from Sections 17C-1-403 through 17C-1-406;

(ii) in addition to and exempt from the maximum levies allowable under Section 59-2-908; and

(iii) exempt from the notice and public hearing requirements of Section 59-2-919.

(c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected from the multicounty assessing and collecting levy.

(ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later than the tenth day of the month following the end of the quarter in which the revenue is collected.

(iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day of the month following the end of the quarter in which the revenue is collected, the county shall pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

(d) The state treasurer shall allocate the penalties received under this Subsection (3) in the same manner as revenue is allocated under Subsection (2)(c).

(4) (a) A county may levy a county additional property tax in accordance with this Subsection (4).

(b) The county additional property tax:

(i) shall be separately stated on the tax notice as a county assessing and collecting levy;

(ii) may not be incorporated into the rate of any other levy;

(iii) is exempt from Sections 17C-1-403 through 17C-1-406; and

(iv) is in addition to and exempt from the maximum levies allowable under Section 59-2-908.

(c) Revenue collected from the county additional property tax shall be used to:

(i) promote the accurate valuation and uniform assessment levels of property as required by Section 59-2-103;

(ii) promote the efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes;

(iii) fund state mandated actions to meet legislative mandates or judicial or administrative orders that relate to promoting:

(A) the accurate valuation of property; and

(B) the establishment and maintenance of uniform assessment levels within and among counties; and

(iv) establish reappraisal programs that:

(A) are adopted by a resolution or ordinance of the county legislative body; and

(B) conform to rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 63I-1-259 is amended to read:

63I-1-259 (Effective 05/07/25). Repeal dates: Title 59.

(1) Subsection 59-1-403(4)(aa), regarding a requirement for the State Tax Commission to inform the Department of Workforce Services whether an individual claimed a federal earned income tax credit, is repealed July 1, 2029.

(2) Section 59-2-1603, Allocation of money in the Property Tax Valuation Fund -- Use of funds, is repealed July 1, 2030.

[~~(2)~~](3) Section 59-7-618.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July 1, 2029.

[~~(3)~~](4) Section 59-9-102.5, Offset for occupational health and safety related donations, is repealed December 31, 2030.

[~~(4)~~](5) Section 59-10-1033.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July 1, 2029.

Section 4. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect May 7, 2025.

(2) The actions affecting Section 59-2-1602 (Effective 01/01/26) take effect on January 1, 2026.

Section 5. Retrospective operation.

The actions affecting Section 59-2-919 have retrospective operation to January 1, 2025.

CHAPTER 485
H. B. 477
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

SCHOOL TRESPASS AMENDMENTS

Chief Sponsor: Matt MacPherson
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill amends provisions regarding criminal trespass upon school property.

Highlighted Provisions:

This bill:

► states that public comment in a local school board meeting that complies with certain restrictions may not be the basis for criminal trespass;
► defines and amends terms regarding criminal trespass upon school property, narrowing the scope of the property in question; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-201.3, as enacted by Laws of Utah 2023, Chapter 100
53G-8-603, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-4-201.3 is amended to read:

52-4-201.3. Local school boards -- Public comment.

(1) As used in this section, "local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

(2) (a) A local school board holding a meeting that is open to the public under Section 52-4-201 shall allow a reasonable opportunity for the public to provide verbal comments that are germane to the authority of the local school board.

(b) Subsection (2)(a) does not apply to a meeting that is:

(i) a work session; or

(ii) an emergency meeting as described in Subsection 52-4-202(5).

(3) No later than July 1, 2023, a local school board shall adopt a written policy that provides a reasonable opportunity for the public to provide both verbal and written comments in a meeting of the local school board that:

(a) is open to the public; and

(b) is not a meeting described in Subsection (2)(b).

(4) The written policy described in Subsection (3) may limit public verbal and written comments to topics that are germane to the authority of the local school board.

(5) Public comment that complies with valid time, place, manner, and germaneness restrictions in accordance with Subsections (3) and (4) does not satisfy the element of criminal trespass described in Sections 63G-8-603 and 76-6-206 regarding an intent to cause annoyance.

Section 2. Section 53G-8-603 is amended to read:

53G-8-603. Criminal trespass upon school property -- Penalty.

(1) As used in this section:

(a) "Enter" means intrusion of the entire body upon school property.

(b) "Remain unlawfully" means that a person remains on property when the person is not licensed or privileged to remain on the property.

(c) (i) "School property" means a school.

(ii) "School property" does not mean LEA offices or any other property an LEA owns or controls that is not a school.

[~~(1)~~](2) A person is guilty of criminal trespass upon school property if the person does the following:

(a) enters or remains unlawfully upon school property, and:

(i) intends to cause annoyance or injury to a person or damage to property on the school property;

(ii) intends to commit a crime; or

(iii) is reckless as to whether the person's presence will cause fear for the safety of another; or

(b) enters or remains without authorization upon school property if notice against entry or remaining has been given by:

(i) personal communication to the person by a school official or an individual with apparent authority to act for a school official;

(ii) the posting of signs reasonably likely to come to the attention of trespassers;

(iii) fencing or other enclosure obviously designed to exclude trespassers; or

(iv) a current order of suspension or expulsion.

[~~(2) As used in this section:~~]

[~~(a) "Enter" means intrusion of the entire body.~~]

[~~(b) "School official" means a public or private school administrator or person in charge of a school program or activity.~~]

[~~(c) "School property" means real property owned or occupied by a public or private school, including real property temporarily occupied for a school activity or program.~~]

(3) Violation of this section is a class B misdemeanor.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 486
S. B. 312
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

PHARMACY PRACTICE AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill amends provisions related to pharmacists and pharmacies.

Highlighted Provisions:

This bill:

- ► recognizes a pharmacist as a health care provider in limited circumstances;
- ► addresses a prescription for a device that is necessary to ensure the appropriate delivery of the prescribed drug;
- ► amends the advanced written notice requirement for an audit of pharmacy records;
- ► modifies the definition of "eligible pharmacy" for the Charitable Prescription Drug Recycling Act; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-102, as last amended by Laws of Utah 2024, Chapter 507
58-17b-610.8, as last amended by Laws of Utah 2024, Chapter 507
58-17b-622, as last amended by Laws of Utah 2024, Chapter 210
58-17b-902, as last amended by Laws of Utah 2023, Chapter 329

ENACTS:

31A-22-662, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-662 is enacted to read:

31A-22-662. Pharmacist as a health care provider.

(1) As used in this section, "pharmacist" means the same as that term is defined in Section 58-17b-102.

(2) An insurer that provides a health benefit plan shall consider a pharmacist as a health care provider for a consultation that is provided to an enrollee regarding the pharmacist:

(a) prescribing a nebulizer, a spacer for use with a nebulizer or inhaler, or a diabetic supply as described in Subsection 58-17b-610.8(3); or

(b) prescribing a prescription drug or device as described in Section 58-17b-627.

(3) Subsection (2) only applies if the health benefit plan covers the prescription drug or device.

(4) This section applies to a health benefit plan renewed or entered into on or after January 1, 2026.

Section 2. Section 58-17b-102 is amended to read:

58-17b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administering" means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

(2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C. Sec. 351 (2003).

(3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

(b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15) (a) "Closed-door pharmacy" means a pharmacy that:

(i) provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company; or

(ii) engages exclusively in the practice of telepharmacy and does not serve walk-in retail customers.

(b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner's prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) "Compounding" does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Dispensing medical practitioner" means an individual who is:

(a) currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

(v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

(b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a licensed dispensing medical practitioner's place of practice.

(25) "Distribute" means to deliver a drug or device other than by administering or dispensing.

(26) (a) "Drug" means:

(i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(iv) substances intended for use as a component of any substance specified in Subsections (26)(a)(i) through [~~(iv)~~](iii).

(b) "Drug" does not include dietary supplements.

(27) "Drug regimen review" includes the following activities:

(a) evaluation of the prescription drug order and patient record for:

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of the prescription drug order and patient record for duplication of therapy;

(c) evaluation of the prescription drug order and patient record for the following interactions:

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

(d) evaluation of the prescription drug order and patient record for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes.

(28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

(29) "Electronic signature" means a trusted, verifiable, and secure electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(30) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health and Human Services under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(32) "Legend drug" has the same meaning as prescription drug.

(33) "Licensed pharmacy technician" means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

(34) "Manufacturer" means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

(35) (a) "Manufacturing" means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) "Manufacturing" includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) "Manufacturing" does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

(36) "Medical order" means a lawful order of a practitioner which may include a prescription drug order.

(37) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

(38) "Misbranded drug or device" means a drug or device considered misbranded under 21 U.S.C. Sec. 352 (2003).

(39) (a) "Nonprescription drug" means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) "Nonprescription drug" includes homeopathic remedies.

(40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

(41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

(42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

(43) "Patient counseling" means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

(44) "Pharmaceutical administration facility" means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

(45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient's disease;

(ii) eliminating or reducing a patient's symptoms; or

(iii) arresting or slowing a disease process.

(b) "Pharmaceutical care" does not include prescribing of drugs without consent of a prescribing practitioner.

(46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

(47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

(b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical facility carrying out the following business activities:

(i) intracompany sales;

(ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

(A) hospitals;

(B) pharmacies;

(C) chain pharmacy warehouses, as defined by division rule; or

(D) other health care entities, as defined by division rule;

(iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:

(A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and

(B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;

(iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and

(v) the distribution of prescription drugs, if:

(A) the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales; and

(B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

(48) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

(50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

(51) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

(c) drugs are processed or handled for eventual use by a patient; or

(d) drugs are used for the purpose of analysis or research.

(52) "Pharmacy benefits manager or coordinator" means a person or entity that provides a pharmacy benefits management service as defined in Section 31A-46-102 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

(53) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

(54) "Pharmacy manager" means:

(a) a pharmacist-in-charge;

(b) a licensed pharmacist designated by a licensed pharmacy to consult on the pharmacy's administration;

(c) an individual who manages the facility in which a licensed pharmacy is located;

(d) an individual who oversees the operations of a licensed pharmacy;

(e) an immediate supervisor of an individual described in Subsections (54)(a) through (d); or

(f) another operations or site manager of a licensed pharmacy.

(55) "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

(56) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and

division rule adopted after consultation with the Board of pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

(b) "Practice as a dispensing medical practitioner" does not include:

(i) using a vending type of dispenser as defined by the division by administrative rule; or

(ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section 58-37-2.

(57) "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

(58) "Practice of pharmacy" includes the following:

(a) providing pharmaceutical care;

(b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;

(c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

(i) pursuant to a lawful order of a practitioner when one is required by law; and

(ii) in accordance with written guidelines or protocols:

(A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or

(B) approved by the division, in collaboration with the board and, when appropriate, the Medical Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

(d) participating in drug utilization review;

(e) ensuring proper and safe storage of drugs and devices;

(f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;

(g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;

(h) providing drug product equivalents;

(i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

(j) providing patient counseling, including adverse and therapeutic effects of drugs;

(k) providing emergency refills as defined by rule;

(l) telepharmacy;

(m) formulary management intervention;

(n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with Title 26B, Chapter 4, Part 5, Treatment Access; and

(o) issuing a prescription in accordance with Section 58-17b-610.8 or 58-17b-627.

(59) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

(60) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

(61) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

(62) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(63) "Prescription" means an order issued:

(a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(64) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(65) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(66) "Repackage":

(a) means changing the container, wrapper, or labeling to further the distribution of a prescription drug; and

(b) does not include:

(i) Subsection (66)(a) when completed by the pharmacist responsible for dispensing the product to a patient; or

(ii) changing or altering a label as necessary for a dispensing practitioner under Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for dispensing a product to a patient.

(67) "Research using pharmaceuticals" means research:

(a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(b) requiring the use of a controlled substance, prescription drug, or prescription device;

(c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and

(d) that includes any documentation required for the conduct of the research and the handling of the controlled substance, prescription drug, or prescription device.

(68) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

(69) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United

States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(70) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

(71) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

(72) "Supportive personnel" means unlicensed individuals who:

(a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

(b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

(73) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(74) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501and 58-17b-502 and may be further defined by rule.

(75) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

(76) "Written communication" means a physical document, or an electronic communication, by or from which the recipient may read or access the information intended to be communicated, including:

(a) email;

(b) text message; and

(c) quick response (QR) code.

Section 3. Section 58-17b-610.8 is amended to read:

58-17b-610.8. Prescription devices.

(1) The following documents from a prescribing practitioner [~~shall be~~]are considered a prescription for purposes of dispensing of and payment for a device described in Subsection [~~(3)~~](4), if the device is prescribed or indicated by the document and the document is on file with a pharmacy:

(a) a written prescription; or

(b) a written record of a patient's:

(i) current diagnosis; or

(ii) treatment protocol.

(2) A pharmacist or pharmacy intern at a pharmacy at which a document that is considered a prescription under Subsection (1) is on file may dispense under prescription a device described in Subsection [~~(3)~~](4) to the patient in accordance with:

(a) the document that is considered a prescription under Subsection (1); and

(b) rules made by the division under Subsection [~~(4)~~](5).

(3) A pharmacist may prescribe a device described in Subsection (4) if:

(a) the device is not prescribed or indicated by the document described in Subsection (1)that is on file with the pharmacy; and

(b) the pharmacist determines that the device is necessary to ensure the appropriate delivery of the prescribed drug.

[~~(3)~~](4) This section applies to:

(a) nebulizers;

(b) spacers for use with nebulizers or inhalers; and

(c) diabetic supplies.

[~~(4)~~](5) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board and the Medical Licensing Board created in Section 58-67-201 to implement this section.

Section 4. Section 58-17b-622 is amended to read:

58-17b-622. Pharmacy benefit management services -- Auditing of pharmacy records -- Appeals.

(1) [~~For purposes of~~]As used in this section:

(a) "Audit" means a review of the records of a pharmacy by or on behalf of an entity that finances or reimburses the cost of health care services or pharmaceutical products.

(b) "Audit completion date" means:

(i) for an audit that does not require an on-site visit at the pharmacy, the date on which the pharmacy, in response to the initial audit request, submits records or other documents to the entity conducting the audit, as determined by:

(A) postmark or other evidence of the date of mailing; or

(B) the date of transmission if the records or other documents are transmitted electronically; and

(ii) for an audit that requires an on-site visit at a pharmacy, the date on which the auditing entity completes the on-site visit, including any follow-up visits or analysis which shall be completed within 60 days after the day on which the on-site visit begins.

(c) "Entity" includes:

(i) a pharmacy benefits manager or coordinator;

(ii) a health benefit plan;

(iii) a third party administrator as defined in Section 31A-1-301;

(iv) a state agency; or

(v) a company, group, or agent that represents, or is engaged by, one of the entities described in Subsections (1)(c)(i) through (iv).

(d) "Extrapolation" means a method of using a mathematical formula that uses the audit results from a small sample of insurance claims and projects the results over a larger group of insurance claims.

(e) "Fraud" means an intentional act of deception, misrepresentation, or concealment in order to gain something of value.

(f) "Health benefit plan" means:

(i) a health benefit plan as defined in Section 31A-1-301; or

(ii) a health, dental, medical, Medicare supplement, or conversion program offered under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

(2) (a) Except as provided in Subsection (2)(b), this section applies to:

(i) a contract for the audit of a pharmacy entered into, amended, or renewed on or after July 1, 2012; and

(ii) an entity that conducts an audit of the pharmacy records of a pharmacy licensed under this chapter.

(b) This section does not apply to an audit of pharmacy records:

(i) for a federally funded prescription drug program, including:

(A) the state Medicaid program;

(B) the Medicare Part D program;

(C) a Department of Defense prescription drug program; and

(D) a Veterans Affairs prescription drug program; or

(ii) when fraud or other intentional and willful misrepresentation is alleged and the pharmacy audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation.

(3) (a) An audit that involves clinical or professional judgment shall be conducted by or in consultation with a pharmacist who is employed by or working with the auditing entity and who is licensed in the state or another state.

(b) If an audit is conducted on site at a pharmacy, the entity conducting the audit:

(i) shall give the pharmacy 10 days advanced written notice of:

(A) the audit; and

(B) the range of prescription numbers [~~or~~]and a date range for the prescription numbers included in the audit; and

(ii) may not audit a pharmacy during the first five business days of the month, unless the pharmacy agrees to the timing of the audit.

(c) An entity may not audit claims:

(i) submitted more than 18 months prior to the audit, unless:

(A) required by federal law; or

(B) the originating prescription is dated in the preceding six months; or

(ii) that exceed 200 selected prescription claims annually.

(d) Subsection (3)(c)(ii) does not apply to any investigative audit that involves fraud, waste, abuse, or willful misrepresentation.

(4) (a) An entity may not:

(i) include dispensing fees in the calculations of overpayments unless the prescription is considered a misfill;

(ii) recoup funds for prescription clerical or recordkeeping errors, including typographical errors, scrivener's errors, and computer errors on a required document or record unless the audit entity is alleging fraud or other intentional or willful misrepresentation and the audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation;

(iii) recoup funds for refills dispensed in accordance with Section 58-17b-608.1, unless the health benefit plan does not cover the prescription drug dispensed by the pharmacy;

(iv) collect any funds, charge-backs, or penalties until the audit and all appeals are final, unless the audit entity is alleging fraud or other intentional or willful misrepresentation and the audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation; or

(v) recoup funds or collect any funds, charge-backs, or penalties from a pharmacy in response to a request for audit unless the pharmacy confirms to the entity the date on which the pharmacy received the request for audit.

(b) Auditors shall only have access to previous audit reports on a particular pharmacy if the previous audit was conducted by the same entity except as required for compliance with state or federal law.

(5) A pharmacy subject to an audit:

(a) may use one or more of the following to validate a claim for a prescription, refill, or change in a prescription:

(i) electronic or physical copies of records of a health care facility, or a health care provider with prescribing authority;

(ii) any prescription that complies with state law;

(iii) the pharmacy's own physical or electronic records; or

(iv) the physical or electronic records, or valid copies of the physical or electronic records, of a practitioner or health care facility as defined in Section 26B-2-201; and

(b) may not be required to provide the following records to validate a claim for a prescription, refill, or change in a prescription:

(i) if the prescription was handwritten, the physical handwritten version of the prescription; or

(ii) a note from the practitioner regarding the patient or the prescription that is not otherwise required for a prescription under state or federal law.

(6) (a) (i) An entity that audits a pharmacy shall establish:

(A) a maximum time for the pharmacy to submit records or other documents to the entity following receipt of an audit request for records or documents; and

(B) a maximum time for the entity to provide the pharmacy with a preliminary audit report following submission of records under Subsection (6)(a)(i)(A).

(ii) The time limits established under Subsections (6)(a)(i)(A) and (B):

(A) shall be identical; and

(B) may not be less than seven days or more than 60 days.

(iii) An entity that audits a pharmacy may not, after the audit completion date, request additional records or other documents from the pharmacy to complete the preliminary audit report described in Subsection (6)(b).

(b) An entity that audits a pharmacy shall provide the pharmacy with a preliminary audit report:

(i) delivered to the pharmacy or its corporate office of record, within the time limit established under Subsection (6)(a)(i)(B); and

(ii) that includes a notation and detailed explanation for each suspected error.

(c) (i) Except as provided in Subsection (6)(c)(ii), a pharmacy has 30 days following receipt of the preliminary audit report to respond to questions, provide additional documentation, and comment on and clarify findings of the audit.

(ii) An entity may grant a reasonable extension under Subsection (6)(c)(i) upon request by the pharmacy.

(iii) Receipt of the report under Subsection (6)(c)(i) shall be determined by:

(A) postmark or other evidence of the date of mailing; or

(B) the date of transmission if the report is transmitted electronically.

(iv) If a dispute exists between the records of the auditing entity and the pharmacy, the records maintained by the pharmacy shall be presumed valid for the purpose of the audit.

(7) If an audit results in the dispute or denial of a claim, the entity conducting the audit shall allow any of the following:

(a) the pharmacy to resubmit a claim using any commercially reasonable method, including fax, mail, or electronic claims submission within 30 days from the day on which the audit report is received by the pharmacy; or

(b) the health benefit plan or other entity that finances or reimburses the cost of health care services or pharmaceutical products to rerun the claim if the health benefit plan or other entity chooses to rerun the claim at no cost to the pharmacy.

(8) (a) Within 60 days after the completion of the appeals process under Subsection (9), a final audit report shall be delivered to the pharmacy or its corporate office of record.

(b) The final audit report shall include:

(i) a disclosure of any money recovered by the entity that conducted the audit; and

(ii) legal or contractual information supporting any money recovered, recoupments, or penalties included in the report.

(9) (a) An entity that audits a pharmacy shall establish a written appeals process for appealing a preliminary audit report and a final audit report, and shall provide the pharmacy with notice of the written appeals process.

(b) If the pharmacy benefit manager's contract or provider manual contains the information required by this Subsection (9), the requirement for notice is met.

(10) An auditing entity conducting a pharmacy audit may not:

(a) use extrapolation when conducting an audit, including calculating recoupments or penalties for audits, unless otherwise required by federal law or a self-funded insurance plan; or

(b) compensate an employee or contractor participating in the audit in a manner that is based on the amount claimed or the actual amount recouped from the pharmacy being audited.

Section 5. Section 58-17b-902 is amended to read:

58-17b-902. Definitions.

As used in this part:

(1) "Assisted living facility" means the same as that term is defined in Section 26B-2-201.

(2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a drug used in chemotherapy to destroy cancer cells.

(3) "Charitable clinic" means a charitable nonprofit corporation that:

(a) holds a valid exemption from federal income taxation issued under Section 501(a), Internal Revenue Code;

(b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to an individual not residing or confined at a facility owned or operated by the charitable nonprofit corporation:

(i) advice;

(ii) counseling;

(iii) diagnosis;

(iv) treatment;

(v) surgery; or

(vi) care or services relating to the preservation or maintenance of health; and

(d) has a licensed outpatient pharmacy.

(4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable clinic.

(5) "County health department" means the same as that term is defined in Section 26A-1-102.

(6) "Donated prescription drug" means a prescription drug that an eligible donor or individual donates to an eligible pharmacy under the program.

(7) "Eligible donor" means a donor that donates a prescription drug from within the state and is:

(a) a nursing care facility;

(b) an assisted living facility;

(c) a licensed intermediate care facility for people with an intellectual disability;

(d) a manufacturer;

(e) a pharmaceutical wholesale distributor;

(f) an eligible pharmacy; or

(g) a physician's office.

(8) "Eligible pharmacy" means a pharmacy that:

(a) is registered by the division as eligible to participate in the program; and

(b) (i) is licensed in the state as a [~~Class A retail pharmacy~~]Class A pharmacy or a Class B pharmacy; or

(ii) is operated by:

(A) a county;

(B) a county health department;

(C) a pharmacy under contract with a county health department;

(D) the Department of Health and Human Services created in Section 26B-1-201; or

(E) a charitable clinic.

(9) (a) "Eligible prescription drug" means a prescription drug, described in Section 58-17b-904, that is not:

(i) except as provided in Subsection (9)(b), a controlled substance; or

(ii) a drug that can only be dispensed to a patient registered with the drug's manufacturer in accordance with federal Food and Drug Administration requirements.

(b) "Eligible prescription drug" includes a medication-assisted treatment drug that may be accepted, transferred, and dispensed under the program in accordance with federal law.

(10) "Licensed intermediate care facility for people with an intellectual disability" means the same as that term is defined in Section 58-17b-503.

(11) "Medically indigent individual" means an individual who:

(a) (i) does not have health insurance; and

(ii) lacks reasonable means to purchase prescribed medications; or

(b) (i) has health insurance; and

(ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed medications.

(12) "Medication-assisted treatment drug" means buprenorphine prescribed to treat substance use withdrawal symptoms or an opiate use disorder.

(13) "Nursing care facility" means the same as that term is defined in Section 26B-2-201.

(14) "Physician's office" means a fixed medical facility that:

(a) is staffed by a physician, physician's assistant, nurse practitioner, or registered nurse, licensed under this title; and

(b) treats an individual who presents at, or is transported to, the facility.

(15) "Program" means the Charitable Prescription Drug Recycling Program created in Section 58-17b-903.

(16) "Unit pack" means the same as that term is defined in Section 58-17b-503.

(17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(18) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501and 58-17b-502.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 487
S. B. 315
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

MICROENTERPRISE HOME KITCHEN AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill modifies the sanitation and food safety standards for a microenterprise home kitchen.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► modifies food safety requirements; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-7-401, as last amended by Laws of Utah 2024, Chapters 30, 282
26B-7-416, as renumbered and amended by Laws of Utah 2023, Chapter 308

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-7-401 is amended to read:
26B-7-401. Definitions.

As used in this part:

(1) "Agritourism" means the same as that term is defined in Section 78B-4-512.

(2) "Agritourism activity" means the same as that term is defined in Section 78B-4-512.

(3) "Agritourism food establishment" means a non-commercial kitchen facility where food is handled, stored, or prepared to be offered for sale on a farm in connection with an agritourism activity.

(4) "Agritourism food establishment permit" means a permit issued by a local health department to the operator for the purpose of operating an agritourism food establishment.

(5) "Back country food service establishment" means a federal or state licensed back country guiding or outfitting business that:

(a) provides food services; and

(b) meets department recognized federal or state food service safety regulations for food handlers.

(6) "Body art facility" means a facility where an individual practices or instructs:

(a) body piercing;

(b) branding;

(c) permanent cosmetics;

(d) scarification; or

(e) tattooing.

(7) (a) "Body piercing" means any method of piercing the skin or mucosa to place jewelry through the skin or mucosa.

(b) "Body piercing" does not include ear piercing.

(8) "Branding" means the process in which a mark is burned, with or without heated metal, into human tissue with the intention of leaving a permanent mark.

(9) "Certified food safety manager" means a manager of a food service establishment who:

(a) passes successfully a department-approved examination;

(b) successfully completes, every three years, renewal requirements established by department rule consistent with original certification requirements; and

(c) submits to the appropriate local health department the documentation required by Section 26B-7-412.

(10) "Ear piercing" means the puncturing of the lobe of the ear with piercing equipment to insert stud-and-clasp jewelry according to the directions provided by the piercing equipment's manufacturer.

(11) "Farm" means a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.

(12) "Food" means:

(a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

(b) chewing gum.

(13) "Food service establishment" means any place or area within a business or organization where potentially hazardous foods, as defined by the department under Section 26B-7-410, are prepared and intended for individual portion service and consumption by the general public, whether the consumption is on or off the premises, and whether or not a fee is charged for the food.

(14) "Microblading" means a procedure where a hand tool with a blade formed of tiny needles implants permanent or semi-permanent pigment, resembling hair, into the skin of the eyebrow area with fine and short strokes.

(15) (a) "Microenterprise home kitchen" means a non-commercial kitchen facility located in a private home and operated by a resident of the home where ready-to-eat food is handled, stored, prepared, or offered for sale.

(b) "Microenterprise home kitchen" does not include:

(i) a catering operation;

(ii) a cottage food operation;

(iii) a food truck;

(iv) an agritourism food establishment;

(v) a bed and breakfast; or

(vi) a residence-based group care facility.

(16) "Microenterprise home kitchen permit" means a permit issued by a local health department to the operator for the purpose of operating a microenterprise home kitchen.

(17) (a) "Permanent cosmetics" means a permanent or semi-permanent tattoo:

(i) to the eyebrows, eyelids, lips, or other parts of the body for beauty marks, hair imitation, lash enhancement, or areola repigmentation; and

(ii) performed by an individual not licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) "Permanent cosmetics" includes permanent makeup, micropigmentation, micropigment implantation, microblading, dermagraphics, or cosmetic tattooing.

(18) "Ready-to-eat" means:

(a) raw animal food that is cooked;

(b) raw fruits and vegetables that are washed;

(c) fruits and vegetables that are cooked for hot holding;

(d) a [~~time or temperature control~~]time and temperature controlled food that is cooked to the temperature and time required for the specific food in accordance with rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(e) a bakery item for which further cooking is not required for food safety.

(19) "Scarification" means the process in which a mark is cut into human skin tissue with the intent of leaving a permanent mark.

(20) " [~~Time or temperature control~~]Time and temperature controlled food" means food that requires [~~time or temperature~~]time and temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

Section 2. Section 26B-7-416 is amended to read:

26B-7-416. Microenterprise home kitchen permits -- Fees -- Safety and health inspections -- Permit requirements.

(1) As used in this section, "operator" means an individual who resides in the private home and who manages or controls the microenterprise home kitchen.

(2) (a) An operator may not operate a microenterprise home kitchen unless the operator obtains a permit from the local health department that has jurisdiction over the area in which the microenterprise home kitchen is located.

(b) In accordance with Section 26A-1-121, and subject to the restrictions of this section, the department shall make standards and regulations relating to the permitting of a microenterprise home kitchen.

(c) In accordance with Section 26A-1-114, a local health department shall impose a fee for a microenterprise home kitchen permit in an amount that reimburses the local health department for the cost of regulating the microenterprise home kitchen.

(3) (a) A local health department with jurisdiction over an area in which a microenterprise home kitchen is located may grant a microenterprise home kitchen permit to the operator.

(b) Nothing in this section prevents a local health department from revoking a microenterprise home kitchen permit issued by the local health department if the operation of the microenterprise home kitchen violates the terms of the permit or this section.

(4) An operator may qualify for a microenterprise home kitchen permit if:

(a) food that is served at the microenterprise home kitchen is processed in compliance with state and federal regulations;

(b) a kitchen facility used to prepare food for the microenterprise home kitchen meets the requirements established by the department;

(c) the microenterprise home kitchen operates only during the hours approved in the microenterprise home kitchen permit; and

(d) the microenterprise home kitchen complies with the requirements of this section.

(5) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for microenterprise home kitchens.

(6) A local health department shall:

(a) ensure compliance with the rules described in Subsection (5) when inspecting a microenterprise home kitchen;

(b) notwithstanding Section 26A-1-113, inspect a microenterprise home kitchen that requests a microenterprise home kitchen permit only:

(i) for an initial inspection, no more than one week before the microenterprise home kitchen is scheduled to begin operation;

(ii) for an unscheduled inspection, if the local health department conducts the inspection:

(A) within three days before or after the day on which the microenterprise home kitchen is scheduled to begin operation; or

(B) during operating hours of the microenterprise home kitchen; or

(iii) for subsequent inspections if:

(A) the local health department provides the operator with reasonable advanced notice of the inspection; or

(B) the local health department has a valid reason to suspect that the microenterprise home kitchen is the source of an adulterated food or of an outbreak of illness caused by a contaminated food; and

(c) document the reason for any inspection after the initial inspection, keep a copy of that documentation on file with the microenterprise home kitchen's permit, and provide a copy of that documentation to the operator.

(7) A microenterprise home kitchen shall:

(a) take steps to avoid any potential contamination to:

(i) food;

(ii) equipment;

(iii) utensils; or

(iv) unwrapped single-service and single-use articles; and

(b) prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:

(i) symptoms associated with acute gastrointestinal illness; or

(ii) a communicable disease that is transmissible through food[~~; and~~].

[~~(c)~~](8) A microenterprise home kitchen shall comply with the following requirements:

[~~(i)~~](a) (i) [~~time or temperature control food shall be prepared, cooked, and served~~]the operator shall prepare, cook, and serve time and temperature controlled food on the same day; or

(ii) the operator may cook and serve or distribute time and temperature controlled food within 72 hours of when the food was prepared only if the operator:

(A) utilizes a time and temperature control log for each time and temperature controlled food that demonstrates proper hot and cold holding temperatures were maintained for up to 72 hours;

(B) keeps a time and temperature control log for temperature controlled foods and updates the time and temperature control log at least every two hours during hours of operation;

(C) keeps a temperature control log of daily time and temperatures for each refrigerator and freezer at the beginning and end of each day of operation and a log recording the time and temperature of each refrigerator and freezer every four hours during the hours of operation;

(D) retains temperature control logs for a period of 90 days; and

(E) clearly marks, with a consistent time and date marking method, temperature controlled food to indicate the time and date by which the operator shall sell or discard the food;

[~~(ii)~~](b) [~~food that is sold or provided to a customer may not be consumed onsite at the microenterprise home kitchen operation~~]the operator may not allow consumption of the operator provided food onsite;

[~~(iii)~~](c) [~~food that is sold or provided to a customer shall be picked up by the consumer or delivered within a safe time period based on holding equipment capacity~~]the operator shall ensure the consumer receives the operator provided food within a safe time period based on holding capacity;

[~~(iv)~~](d) food preparation may not involve processes that require a HACCP plan, or the production, service, or sale of raw milk or raw milk products;

[~~(v)~~](e) the operator may not provide molluscan shellfish[~~ may not be served or sold~~];

[~~(vi)~~](f) the operator may only [~~sell or~~]provide food directly to [~~consumers and~~]a consumer;

(g) the operator may not [~~sell or~~]provide food to any wholesaler or retailer; and

[~~(vii)~~](h) the operator shall provide the consumer with a notification that, while a permit has been issued by the local health department, the kitchen may not meet all of the requirements of a commercial retail food establishment.

[~~(8)~~](9) When making the rules described in Subsection (5), the department may not make rules regarding:

(a) hand washing facilities, except to require that a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located in food preparation, food dispensing, and warewashing areas;

(b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;

(c) the individuals allowed access to the food preparation areas, food storage areas, and washing areas, except during food preparation;

(d) display guards, covers, or containers for display foods, except to require that ready-to-eat food is protected from contamination during storage, preparation, handling, transport, and display;

(e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;

(f) utensils and equipment, except to require that utensils and equipment used in the home kitchen:

(i) retain their characteristic qualities under normal use conditions;

(ii) are properly sanitized after use; and

(iii) are maintained in a sanitary manner between uses;

(g) food contact surfaces, except to require that food contact surfaces are smooth, easily cleanable, in good repair, and properly sanitized between tasks;

(h) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;

(i) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;

(j) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;

(k) fixed temperature measuring devices or product mimicking sensors for the holding equipment for [~~time or temperature control~~]time

and temperature controlled food, except to require non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;

(l) fixed floor-mounted and table-mounted equipment, except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

(m) dedicated laundry facilities, except to require that linens used for the microenterprise home kitchen are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment;

(n) water, plumbing, drainage, and waste, except to require that:

(i) sinks be supplied with hot and cold potable water from:

(A) an approved public water system as defined in Section 19-4-102;

(B) if the local health department with jurisdiction over the microenterprise home kitchen has regulations regarding the safety of drinking water, a source that meets the local health department's regulations regarding the safety of drinking water; or

(C) a water source that is tested at least once per month for bacteriologic quality, and at least once in every three year period for lead and copper; and

(ii) food preparation and service is discontinued in the event of a disruption of potable water service;

(o) the number of and path of access to toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;

(p) lighting, except to require that food preparations are well lit by natural or artificial light whenever food is being prepared;

(q) designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas, that dressing takes place outside of the kitchen facility, and that food items are stored in a manner that does not allow for contamination;

(r) the presence and handling of animals, except to require that all animals are kept outside of food preparation and service areas;

(s) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

(t) kitchen facilities open to living areas, except to require that food is only prepared, handled, or stored in kitchen and food storage areas;

(u) submission of plans and specifications before construction or remodel of a kitchen facility;

(v) the number and type of [~~time or temperature~~]time and temperature controlled food offered for sale, except:

(i) a raw [~~time or temperature~~]time and temperature controlled food such as raw fish, raw milk, and raw shellfish;

(ii) any food requiring special processes that would necessitate a HACCP plan; and

(iii) fish from waters of the state;

(w) approved food sources, except to require that:

(i) food in a hermetically sealed container is obtained from a regulated food processing plant;

(ii) liquid milk and milk products are obtained from sources that comply with Grade A standards specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) fish for sale or service are commercially and legally caught;

(iv) mushrooms picked in the wild are not offered for sale or service; and

(v) game animals offered for sale or service are raised, slaughtered, and processed according to rules governing meat and poultry as specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(x) the use of items produced under this section; or

(y) the use of an open air barbeque, grill, or outdoor wood-burning oven.

[~~(9)~~](10) An operator applying for a microenterprise home kitchen permit shall provide to the local health department:

(a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the microenterprise home kitchen; and

(b) written standard operating procedures that include:

(i) all food that will be stored, handled, and prepared;

(ii) the proposed procedures and methods of food preparation and handling;

(iii) procedures, methods, and schedules for cleaning utensils and equipment;

(iv) procedures and methods for the disposal of refuse; and

(v) a plan for maintaining [~~time or temperature~~]time and temperature controlled food at the appropriate temperatures for each [~~time or temperature~~]time and temperature controlled food.

[~~(10)~~](11) In addition to a fee charged under Subsection (2), if the local health department is required to inspect the microenterprise home kitchen as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the microenterprise home kitchen has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the microenterprise home kitchen a fee for that inspection.

[~~(11)~~](12) A microenterprise home kitchen permit:

(a) is nontransferable;

(b) is renewable on an annual basis;

(c) is restricted to the location and hours listed on the permit;

(d) shall include a statement that reads: "This location is permitted under modified FDA requirements."; and

(e) shall provide the operator the opportunity to update the food types and products handled without requiring the operator to renew the permit.

[~~(12)~~](13) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 488
H. B. 479
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

STUDENT ATHLETE REVISIONS

Chief Sponsor: Sahara Hayes
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill mandates policies on abusive coaching and addresses student-athlete compensation for name, image, or likeness.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► makes technical and conforming changes;
- ► allows an institution of higher education to use certain funds to compensate a student athlete directly for the use of the student athlete's name, image, or likeness;
- ► provides certain protections to institutions and student athletes;
- ► creates an audit requirement for the Board of Higher Education;
- ► requires a degree-granting institution to:
  - • adopt a policy addressing abusive coaching practices; and
  - • report to the Education Interim Committee; and
- ► requires a degree-granting institution's board of trustees to review and approve a degree-granting institution's policy on abusive coaching practices.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-1-301, as last amended by Laws of Utah 2024, Chapter 3
53B-16-601, as enacted by Laws of Utah 2024, Chapter 49
53B-16-602, as enacted by Laws of Utah 2024, Chapter 49
53E-1-201, as last amended by Laws of Utah 2024, Chapters 3, 460 and 525

ENACTS:

53B-16-701, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-1-301 is amended to read:
53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

(b) the reports described in Sections 34A-2-202.5, 53B-30-206, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(c) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(d) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Opportunity on targeted jobs;

(e) the reports described in Section 53B-7-705 by the board on performance;

(f) the report described in Section 53B-8-201 by the board on the Opportunity Scholarship Program;

(g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

(h) the report described in Section 53B-13a-103 by the board on the Utah Promise Program;

(i) the report described in Section 53B-16-602 by the board on a state institution compensating a student athlete for the use of the student athlete's name, image, or likeness;

[~~(i)~~](j) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

[~~(j)~~](k) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals;

[~~(k)~~](l) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council; and

[~~(l)~~](m) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals; and

(c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) an appropriation recommendation described in Section 53B-1-118 regarding compliance with Subsections 53B-1-118(5) and (14);

(b) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

(c) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

(d) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Section 2. Section 53B-16-601 is amended to read:

53B-16-601. Definitions.

As used in this part:

(1) "Athlete agent" means the same as that term is defined in Section 58-87-102.

(2) "Athletic entity" means an athletic association, athletic conference, or other group or organization with authority over intercollegiate athletics.

(3) "Institution" means:

(a) an institution of higher education described in Section 53B-1-102; or

(b) a private, nonprofit institution of higher education.

(4) (a) "Institutional marketing associate" means a third-party entity that enters into a contract with, or acts on behalf of, an institution or intercollegiate athletics program.

(b) "Institutional marketing associate" does not include:

(i) an institution;

(ii) an athletic entity; or

(iii) a staff member, employee, officer, director, manager, or owner of an institution.

[~~(2)~~](5) "Intercollegiate athletics program" means an institution-sponsored athletic program or sporting activity in which a student athlete represents the student athlete's institution in competition against another institution.

[~~(3)~~](6) "Prohibited endorsement provision" means a provision that requires or permits the use of a student athlete's name, image, or likeness to promote:

(a) a tobacco product or e-cigarettes, as those terms are defined in Section 76-10-101, including vaping;

(b) an alcoholic product, as that term is defined in Section 32B-1-102;

(c) a seller or dispenser of a controlled substance, including steroids, antibiotics, and marijuana;

(d) gambling or betting;

(e) a sexually oriented business, as that term is defined in Section 17-50-331; or

(f) a firearm that the student athlete cannot legally purchase.

[~~(4)~~](7) (a) "Student athlete" means an individual who:

(i) is enrolled in an institution; and

(ii) participates as an athlete for the institution in an intercollegiate athletics program.

(b) "Student athlete" includes an agent or other representative of a student athlete.

[~~(5)~~](8) "Student athlete agreement" means a proposed or executed contract:

(a) between a student athlete and [~~a third party that is not an institution~~]another party; and

(b) in which the student athlete and [~~third~~]other party agree that the student athlete's name, image, or likeness may be used to promote a business, person, product, service, or individual in exchange for the student athlete receiving financial compensation or other benefits.

(9) "Third-party entity" means an individual or organization, other than an athletic entity, with authority over intercollegiate athletics.

Section 3. Section 53B-16-602 is amended to read:

53B-16-602. Use of a student athlete's name, image, or likeness in intercollegiate athletics programs -- Contracts -- Exceptions -- Prohibitions.

(1) An institution may, except as provided in Subsection (2), compensate a student athlete directly for use of the student athlete's name, image, or likeness.

(2) An institution may not compensate a student athlete or prospective student athlete for use of the student athlete's name, image, or likeness through:

(a) funds the Legislature appropriates; or

(b) a fee a student attending an institution pays to the institution.

(3) (a) A student athlete may not enter into a student athlete agreement that contains a prohibited endorsement provision.

[~~(2) Before a student athlete or prospective student athlete enters into a student athlete agreement that exceeds $600 in value, the student athlete or proposed student athlete shall provide the student athlete agreement to the student athlete's or proposed student athlete's~~

~~institution.~~]

[~~(3) An institution that receives a student athlete agreement under Subsection (2)shall provide the student athlete or prospective student athlete with a written acknowledgment regarding whether the student athlete agreement conflicts with the institution's policies or the provisions in this part.~~]

[~~(4)~~](b) A student athlete agreement or any communication, or other material related to a student athlete agreement, including those created before May 1, 2024, is not subject to Title 63G, Chapter 2, Government Records Access Management Act.

[~~(5) An institution may not use funds appropriated by the Legislature for any purpose related to a student athlete's or prospective student athlete's student athlete agreement that the student athlete or prospective student athlete submits to the institution.~~]

(4) A student athlete attending an institution is not an employee of the institution through:

(a) the student athlete's participation in an athletic program the institution offers; or

(b) the institution compensating the student athlete for use of the student athlete's name, image, or likeness.

(5) The board shall:

(a) beginning fiscal year 2028 and every five years thereafter, conduct an audit of each state institution that evaluates:

(i) money an institution expends to directly compensate a student athlete for the use of the student athlete's name, image, or likeness; and

(ii) the implementation and use of payments by an institution to a student athlete for a student athlete's name, image, or likeness; and

(b) prepare and submit a written report for the audit described in Subsection (5)(a) to the Education Interim Committee and the Higher Education Appropriations Subcommittee.

(6) An athletic entity may not:

(a) prevent a student athlete of an institution from fully participating in intercollegiate athletics because the student athlete:

(i) earns compensation through the student athlete's name, image, or likeness; or

(ii) obtains professional representation from an athlete agent or attorney;

(b) prevent an institution from becoming a member of an athletic entity or from participating in intercollegiate athletics that an athletic entity sponsors because a student athlete of an institution or college participating in intercollegiate athletics:

(i) earns compensation from the use of the student athlete's name, image, or likeness; or

(ii) obtains professional representation from an athlete agent or attorney; or

(c) prevent an institution, institutional marketing associate, or third-party entity from creating and supporting opportunities for a student athlete to earn compensation for use of the student athlete's name, image, or likeness.

Section 4. Section 53B-16-701 is enacted to read:

53B-16-701. Abusive coaching policies.

(1) As used in this section:

(a) (i) "Abusive coaching practice" means conduct by a coach or member of the coaching staff that creates a harmful environment for a student athlete.

(ii) "Abusive coaching practice" includes conduct by a coach or coaching staff with a student athlete that results in:

(A) harmful or offensive physical contact;

(B) sexual misconduct or harassment;

(C) inappropriate sexual language; or

(D) conduct that a reasonable person would find to be psychologically abusive.

(b) "Athletic department" means the division of a degree-granting institution responsible for overseeing intercollegiate athletic programs.

(2) A degree-granting institution shall:

(a) address abusive coaching practices by requiring a degree-granting institution's athletic department to adopt a policy by November 7, 2025, that:

(i) allows an individual to submit a complaint to the athletic department alleging a violation of the policies described in this Subsection (2)(a);

(ii) prohibits coaches and coaching staff from encouraging or advising a student athlete to tolerate an abusive coaching practice;

(iii) prohibits coaches and coaching staff from discouraging a report for an abusive coaching practice;

(iv) establishes reporting requirements for a volunteer, coach, or member of the coaching staff who learns of an abusive coaching practice;

(v) mandates training for athletic department staff on recognizing and preventing an abusive coaching practice;

(vi) establishes a procedure for the athletic department to follow when responding to a complaint of an abusive coaching practice; and

(vii) institutes disciplinary action for individuals found in violation of the policies described in this Subsection (2)(a);

(b) submit the policy described in Subsection (2)(a) to the board and Education Interim Committee before the Education Interim Committee's November 2025 meeting; and

(c) establish procedures to:

(i) notify an individual of the receipt of the complaint the individual submits under Subsection (2)(a)(i), within five business days after the submission of the complaint;

(ii) initiate an investigation of the complaint no later than 30 days after the receipt of a complaint;

(iii) require an institution to ensure the investigation is as thorough and expeditious as possible; and

(iv) where appropriate, act immediately to stop a program under an athletic department until the institution is able to restore an environment that is not harmful.

(3) (a) A degree-granting institution's board of trustees shall:

(i) review the policies a degree-granting institution creates in accordance with Subsection (2)(a); and

(ii) approve the policies a degree-granting institution creates if the policies meet the policy requirements listed in Subsection (2)(a).

(b) Upon approval of the policies by a degree granting institution's board of trustees a degree-granting institution shall send the adopted

policies to the board.

Section 5. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(e) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(h) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(i) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(j) the report described in Section 53F-2-522 regarding mental health screening programs;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

(m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

(n) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

(o) the report described in Section 53F-5-405 by the state board regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;

(p) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

(q) the report described in Section 53G-7-221 by the state board regarding innovation plans;

(r) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) in 2027, 2030, 2033, and 2035, the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

(b) in 2025, the report described in Section 53B-16-701 by a degree-granting institution regarding policies on abusive coaching practices;

[~~(b)~~](c) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

[~~(c)~~](d) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

[~~(d)~~](e) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

[~~(e)~~](f) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

[~~(f)~~](g) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

[~~(g)~~](h) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

[~~(h)~~](i) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the state board, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 489
S. B. 317
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

DIETITIAN LICENSING AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill enacts the Dietitian Licensure Compact Act (compact).

Highlighted Provisions:

This bill:

- ► describes the purpose of the compact;
- ► defines terms;
- ► establishes member state requirements for the compact;
- ► describes requirements to receive a compact privilege license, which allows a licensee to practice in states that are members of the compact;
- ► describes requirements to change the state of an individual license;
- ► provides for an active military member and the spouse of an active military member to retain a license while the military member is on active duty;
- ► establishes what adverse action a home state and another member may take against an individual licensee;
- ► establishes the Dietitian Licensure Compact Commission (commission);
- ► directs for a coordinated data system;
- ► establishes rulemaking procedures for the commission;
- ► establishes oversight, dispute resolution, and enforcement under the compact;
- ► establishes when the compact comes into effect, how a state may withdraw, and how the compact is amended; and
- ► provides that the compact supersedes conflicting state law.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

58-89-101, Utah Code Annotated 1953
58-89-102, Utah Code Annotated 1953
58-89-103, Utah Code Annotated 1953
58-89-104, Utah Code Annotated 1953
58-89-105, Utah Code Annotated 1953
58-89-106, Utah Code Annotated 1953
58-89-107, Utah Code Annotated 1953
58-89-108, Utah Code Annotated 1953
58-89-109, Utah Code Annotated 1953
58-89-110, Utah Code Annotated 1953
58-89-111, Utah Code Annotated 1953
58-89-112, Utah Code Annotated 1953
58-89-113, Utah Code Annotated 1953
58-89-114, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-89-101 is enacted to read:

58-89-101. Purpose.

(1) The purpose of this Compact is to facilitate interstate Practice of Dietetics with the goal of improving public access to dietetics services. This Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure, while also providing for licensure portability through a Compact Privilege granted to qualifying professionals.

(2) This Compact is designed to achieve the following objectives:

(a) Increase public access to dietetics services;

(b) Provide opportunities for interstate practice by Licensed Dietitians who meet uniform requirements;

(c) Eliminate the necessity for Licenses in multiple States;

(d) Reduce administrative burden on Member States and Licensees;

(e) Enhance the States' ability to protect the public's health and safety;

(f) Encourage the cooperation of Member States in regulating multistate practice of Licensed Dietitians;

(g) Support relocating Active Military Members and their spouses;

(h) Enhance the exchange of licensure, investigative, and disciplinary information among Member States; and

(i) Vest all Member States with the authority to hold a Licensed Dietitian accountable for meeting all State practice laws in the State in which the patient is located at the time care is rendered.

Section 2. Section 58-89-102 is enacted to read:

58-89-102. Definitions.

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

(1) "ACEND" means the Accreditation Council for Education in Nutrition and Dietetics or its successor organization.

(2) "Active Military Member" means any individual with full-time duty status in the active armed forces of the United States, including members of the National Guard and Reserve.

(3) "Adverse Action" means any administrative, civil, equitable or criminal action permitted by a State's laws which is imposed by a Licensing Authority or other authority against a Licensee, including actions against an individual's License or Compact Privilege such as revocation, suspension, probation, monitoring of the Licensee, limitation on the Licensee's practice, or any other Encumbrance on licensure affecting a Licensee's authorization to practice, including issuance of a cease and desist action.

(4) "Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a Licensing Authority.

(5) "Charter Member State" means any Member State which enacted this Compact by law before the Effective Date specified in Section 58-89-112.

(6) "Continuing Education" means a requirement, as a condition of License renewal, to provide evidence of participation in, and completion of, educational and professional activities relevant to practice or area of work.

(7) "CDR" means the Commission on Dietetic Registration or its successor organization.

(8) "Compact Commission" means the government agency whose membership consists of all States that have enacted this Compact, which is known as the Dietitian Licensure Compact Commission, as described in Section 58-89-108, and which shall operate as an instrumentality of the Member States.

(9) "Compact Privilege" means a legal authorization, which is equivalent to a License, permitting the Practice of Dietetics in a Remote State.

(10) "Current Significant Investigative Information" means:

(a) Investigative Information that a Licensing Authority, after a preliminary inquiry that includes notification and an opportunity for the subject Licensee to respond, if required by State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) Investigative Information that indicates that the subject Licensee represents an immediate threat to public health and safety regardless of whether the subject Licensee has been notified and had an opportunity to respond.

(11) "Data System" means a repository of information about Licensees, including, but not limited to, Continuing Education, examination, licensure, investigative, Compact Privilege and Adverse Action information.

(12) "Encumbered License" means a License in which an Adverse Action restricts a Licensee's ability to practice dietetics.

(13) "Encumbrance" means a revocation or suspension of, or any limitation on a Licensee's full and unrestricted Practice of Dietetics by a Licensing Authority.

(14) "Executive Committee" means a group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, this Compact, and the Compact Commission.

(15) "Home State" means the Member State that is the Licensee's primary State of residence or that has been designated pursuant to Section 58-89-106.

(16) "Investigative Information" means information, records, and documents received or generated by a Licensing Authority pursuant to an investigation.

(17) "Jurisprudence Requirement" means an assessment of an individual's knowledge of the State laws and regulations governing the Practice of Dietetics in such State.

(18) "License" means an authorization from a Member State to either:

(a) Engage in the Practice of Dietetics (including medical nutrition therapy); or

(b) Use the title "dietitian," "licensed dietitian," "licensed dietitian nutritionist," "certified dietitian," or other title describing a substantially similar practitioner as the Compact Commission may further define by Rule.

(19) "Licensee" or "Licensed Dietitian" means an individual who currently holds a License and who meets all of the requirements outlined in Section 58-89-104.

(20) "Licensing Authority" means the board or agency of a State, or equivalent, that is responsible for the licensing and regulation of the Practice of Dietetics.

(21) "Member State" means a State that has enacted the Compact.

(22) "Practice of Dietetics" means the synthesis and application of dietetics as defined by state law and regulations, primarily for the provision of nutrition care services, including medical nutrition therapy, in person or via telehealth, to prevent, manage, or treat diseases or medical conditions and promote wellness.

(23) "Registered Dietitian" means a person who:

(a) Has completed applicable education, experience, examination, and recertification requirements approved by CDR;

(b) Is credentialed by CDR as a registered dietitian or a registered dietitian nutritionist; and

(c) Is legally authorized to use the title registered dietitian or registered dietitian nutritionist and the corresponding abbreviations "RD" or "RDN."

(24) "Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise a Compact Privilege.

(25) "Rule" means a regulation promulgated by the Compact Commission that has the force of law.

(26) "Single State License" means a License issued by a Member State within the issuing State and does not include a Compact Privilege in any other Member State.

(27) "State" means any state, commonwealth, district, or territory of the United States of America.

(28) "Unencumbered License" means a License that authorizes a Licensee to engage in the full and unrestricted Practice of Dietetics.

Section 3. Section 58-89-103 is enacted to read:

58-89-103. State participation in the compact.

(1) To participate in the Compact, a State must currently:

(a) License and regulate the Practice of Dietetics; and

(b) Have a mechanism in place for receiving and investigating complaints about Licensees.

(2) A Member State shall:

(a) Participate fully in the Compact Commission's Data System, including using the unique identifier as defined in Rules;

(b) Notify the Compact Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Current Significant Investigative Information regarding a Licensee;

(c) Implement or utilize procedures for considering the criminal history record information of applicants for an initial Compact Privilege. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

(i) A Member State must fully implement a criminal history record information requirement, within a time frame established by Rule, which includes receiving the results of the Federal Bureau of Investigation record search and shall use those results in determining Compact Privilege eligibility.

(ii) Communication between a Member State and the Compact Commission or among Member States regarding the verification of eligibility for a Compact Privilege shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal history record information check performed by a Member State.

(d) Comply with and enforce the Rules of the Compact Commission;

(e) Require an applicant for a Compact Privilege to obtain or retain a License in the Licensee's Home State and meet the Home State's qualifications for licensure or renewal of licensure, as well as all other applicable State laws; and

(f) Recognize a Compact Privilege granted to a Licensee who meets all of the requirements outlined in Section 58-89-104 in accordance with the terms of the Compact and Rules.

(3) Member States may set and collect a fee for granting a Compact Privilege.

(4) Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single State License as provided under the laws of each Member State. However, the Single State License granted to these individuals shall not be recognized as granting a Compact Privilege to engage in the Practice of Dietetics in any other Member State.

(5) Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

(6) At no point shall the Compact Commission have the power to define the requirements for the issuance of a Single State License to practice dietetics. The Member States shall retain sole jurisdiction over the provision of these requirements.

Section 4. Section 58-89-104 is enacted to read:

58-89-104. Compact privilege.

(1) To exercise the Compact Privilege under the terms and provisions of the Compact, the Licensee shall:

(a) Satisfy one of the following:

(i) Hold a valid current registration that gives the applicant the right to use the term Registered Dietitian; or

(ii) Complete all of the following:

(A) An education program which is either:

(I) A master's degree or doctoral degree that is programmatically accredited by (i) ACEND; or (ii) a dietetics accrediting agency recognized by the United States Department of Education, which the Compact Commission may by Rule determine, and from a college or university accredited at the time of graduation by the appropriate regional accrediting agency recognized by the Council on Higher Education Accreditation and the United States Department of Education.

(II) An academic degree from a college or university in a foreign country equivalent to the degree described in Subsection (1)(a)(ii)(A)(I) that is programmatically accredited by (i) ACEND; or (ii) a dietetics accrediting agency recognized by the United States Department of Education, which the Compact Commission may by Rule determine.

(B) A planned, documented, supervised practice experience in dietetics that is programmatically accredited by (i) ACEND, or (ii) a dietetics accrediting agency recognized by the United States Department of Education which the Compact Commission may by Rule determine and which involves at least 1000 hours of practice experience under the supervision of a Registered Dietitian or a Licensed Dietitian.

(C) Successful completion of either: (i) the Registration Examination for Dietitians administered by CDR, or (ii) a national credentialing examination for dietitians approved by the Compact Commission by Rule; such completion being no more than five years prior to the date of the Licensee's application for initial licensure and accompanied by a period of continuous licensure thereafter, all of which may be further governed by the Rules of the Compact Commission.

(b) Hold an Unencumbered License in the Home State;

(c) Notify the Compact Commission that the Licensee is seeking a Compact Privilege within a Remote State(s);

(d) Pay any applicable fees, including any State fee, for the Compact Privilege;

(e) Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Compact Privilege; and

(f) Report to the Compact Commission any Adverse Action, Encumbrance, or restriction on a License taken by any non-Member State within 30 days from the date the action is taken.

(2) The Compact Privilege is valid until the expiration date of the Home State License. To maintain a Compact Privilege, renewal of the Compact Privilege shall be congruent with the renewal of the Home State License as the Compact Commission may define by Rule. The Licensee must comply with the requirements of Subsection (1) to maintain the Compact Privilege in the Remote State(s).

(3) A Licensee exercising a Compact Privilege shall adhere to the laws and regulations of the Remote State. Licensees shall be responsible for educating themselves on, and complying with, any and all State laws relating to the Practice of Dietetics in such Remote State.

(4) Notwithstanding anything to the contrary provided in this Compact or State law, a Licensee exercising a Compact Privilege shall not be required to complete Continuing Education Requirements required by a Remote State. A Licensee exercising a Compact Privilege is only required to meet any Continuing Education Requirements as required by the Home State.

Section 5. Section 58-89-105 is enacted to read:

58-89-105. Obtaining a new home state license based on a compact privilege.

(1) A Licensee may hold a Home State License, which allows for a Compact Privilege in other Member States, in only one Member State at a time.

(2) If a Licensee changes Home State by moving between two Member States:

(a) The Licensee shall file an application for obtaining a new Home State License based on a Compact Privilege, pay all applicable fees, and notify the current and new Home State in accordance with the Rules of the Compact Commission.

(b) Upon receipt of an application for obtaining a new Home State License by virtue of a Compact Privilege, the new Home State shall verify that the Licensee meets the criteria in Section 58-89-104 via the Data System, and require that the Licensee complete the following:

(i) Federal Bureau of Investigation fingerprint based criminal history record information check;

(ii) Any other criminal history record information required by the new Home State; and

(iii) Any Jurisprudence Requirements of the new Home State.

(c) The former Home State shall convert the former Home State License into a Compact Privilege once the new Home State has activated the new Home State License in accordance with applicable Rules adopted by the Compact Commission.

(d) Notwithstanding any other provision of this Compact, if the Licensee cannot meet the criteria in Section 58-89-104, the new Home State may apply its requirements for issuing a new Single State License.

(e) The Licensee shall pay all applicable fees to the new Home State in order to be issued a new Home State License.

(3) If a Licensee changes their State of residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, the State criteria shall apply for issuance of a Single State License in the new State.

(4) Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States; however, for the purposes of this Compact, a Licensee shall have only one Home State License.

(5) Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

Section 6. Section 58-89-106 is enacted to read:

58-89-106. Active military members or their spouses.

An Active Military Member, or their spouse, shall designate a Home State where the individual has a current License in good standing. The individual may retain the Home State designation during the period the service member is on active duty.

Section 7. Section 58-89-107 is enacted to read:

58-89-107. Adverse actions.

(1) In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

(a) Take Adverse Action against a Licensee's Compact Privilege within that Member State; and

(b) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Authority in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure applicable to subpoenas issued in proceedings pending before that court. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

(2) Only the Home State shall have the power to take Adverse Action against a Licensee's Home State License.

(3) For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.

(4) The Home State shall complete any pending investigations of a Licensee who changes Home States during the course of the investigations. The Home State shall also have authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the Data System shall promptly notify the new Home State of any Adverse Actions.

(5) A Member State, if otherwise permitted by State law, may recover from the affected Licensee the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Licensee.

(6) A Member State may take Adverse Action based on the factual findings of another Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.

(7) Joint Investigations:

(a) In addition to the authority granted to a Member State by its respective State law, any Member State may participate with other Member States in joint investigations of Licensees.

(b) Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint investigation initiated under the Compact.

(8) If Adverse Action is taken by the Home State against a Licensee's Home State License resulting in an Encumbrance on the Home State License, the Licensee's Compact Privilege(s) in all other Member States shall be revoked until all Encumbrances have been removed from the Home State License. All Home State disciplinary orders that impose Adverse Action against a Licensee shall include a statement that the Licensee's Compact Privileges are revoked in all Member States during the pendency of the order.

(9) Once an Encumbered License in the Home State is restored to an Unencumbered License (as certified by the Home State's

Licensing Authority), the Licensee must meet the requirements of Subsection 58-89-104(1) and follow the administrative requirements to reapply to obtain a Compact Privilege in any Remote State.

(10) If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the other Member States State of any Adverse Actions.

(11) Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

Section 8. Section 58-89-108 is enacted to read:

58-89-108. Establishment of the dietitian licensure compact commission.

(1) The Compact Member States hereby create and establish a joint government agency whose membership consists of all Member States that have enacted the Compact known as the Dietitian Licensure Compact Commission. The Compact Commission is an instrumentality of the Compact States acting jointly and not an instrumentality of any one State. The Compact Commission shall come into existence on or after the effective date of the Compact as set forth in Section 58-89-112.

(2) Membership, Voting, and Meetings

(a) Each Member State shall have and be limited to one (1) delegate selected by that Member State's Licensing Authority.

(b) The delegate shall be the primary administrator of the Licensing Authority or their designee.

(c) The Compact Commission shall by Rule or bylaw establish a term of office for delegates and may by Rule or bylaw establish term limits.

(d) The Compact Commission may recommend removal or suspension of any delegate from office.

(e) A Member State's Licensing Authority shall fill any vacancy of its delegate occurring on the Compact Commission within 60 days of the vacancy.

(f) Each delegate shall be entitled to one vote on all matters before the Compact Commission requiring a vote by the delegates.

(g) Delegates shall meet and vote by such means as set forth in the bylaws. The bylaws may provide for delegates to meet and vote in-person or by telecommunication, video conference, or other means of communication.

(h) The Compact Commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The Compact Commission may meet in person or by telecommunication, video conference, or other means of communication.

(3) The Compact Commission shall have the following powers:

(a) Establish the fiscal year of the Compact Commission;

(b) Establish code of conduct and conflict of interest policies;

(c) Establish and amend Rules and bylaws;

(d) Maintain its financial records in accordance with the bylaws;

(e) Meet and take such actions as are consistent with the provisions of this Compact, the Compact Commission's Rules, and the bylaws;

(f) Initiate and conclude legal proceedings or actions in the name of the Compact Commission, provided that the standing of any Licensing Authority to sue or be sued under applicable law shall not be affected;

(g) Maintain and certify records and information provided to a Member State as the authenticated business records of the Compact Commission, and designate an agent to do so on the Compact Commission's behalf;

(h) Purchase and maintain insurance and bonds;

(i) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

(j) Conduct an annual financial review;

(k) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Compact Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(l) Assess and collect fees;

(m) Accept any and all appropriate donations, grants of money, other sources of revenue, equipment, supplies, materials, services, and gifts, and receive, utilize, and dispose of the same; provided that at all times the Compact Commission shall avoid any actual or appearance of impropriety or conflict of interest;

(n) Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

(o) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(p) Establish a budget and make expenditures;

(q) Borrow money;

(r) Appoint committees, including standing committees, composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact or the bylaws;

(s) Provide and receive information from, and cooperate with, law enforcement agencies;

(t) Establish and elect an Executive Committee, including a chair and a vice chair;

(u) Determine whether a State's adopted language is materially different from the model compact language such that the State would not qualify for participation in the Compact; and

(v) Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact.

(4) The Executive Committee

(a) The Executive Committee shall have the power to act on behalf of the Compact Commission according to the terms of this Compact. The powers, duties, and responsibilities of the Executive Committee shall include:

(i) Oversee the day-to-day activities of the administration of the Compact including enforcement and compliance with the provisions of the Compact, its Rules and bylaws, and other such duties as deemed necessary;

(ii) Recommend to the Compact Commission changes to the Rules or bylaws, changes to this Compact legislation, fees charged to Compact Member States, fees charged to Licensees, and other fees;

(iii) Ensure Compact administration services are appropriately provided, including by contract;

(iv) Prepare and recommend the budget;

(v) Maintain financial records on behalf of the Compact Commission;

(vi) Monitor Compact compliance of Member States and provide compliance reports to the Compact Commission;

(vii) Establish additional committees as necessary;

(viii) Exercise the powers and duties of the Compact Commission during the interim between Compact Commission meetings, except for adopting or amending Rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the Compact Commission by Rule or bylaw; and

(ix) Other duties as provided in the Rules or bylaws of the Compact Commission.

(b) The Executive Committee shall be composed of nine members:

(i) The chair and vice chair of the Compact Commission shall be voting members of the Executive Committee;

(ii) Five voting members from the current membership of the Compact Commission, elected by the Compact Commission;

(iii) One ex-officio, nonvoting member from a recognized professional association representing dietitians; and

(iv) One ex-officio, nonvoting member from a recognized national credentialing organization for dietitians.

(c) The Compact Commission may remove any member of the Executive Committee as provided in the Compact Commission's bylaws.

(d) The Executive Committee shall meet at least annually.

(i) Executive Committee meetings shall be open to the public, except that the Executive Committee may meet in a closed, non-public meeting as provided in Subsection (6)(b).

(ii) The Executive Committee shall give 30 days' notice of its meetings, posted on the website of the Compact Commission and as determined to provide notice to persons with an interest in the business of the Compact Commission.

(iii) The Executive Committee may hold a special meeting in accordance with Subsection (6)(a)(ii).

(5) The Compact Commission shall adopt and provide to the Member States an annual report.

(6) Meetings of the Compact Commission

(a) All meetings shall be open to the public, except that the Compact Commission may meet in a closed, non-public meeting as provided in Subsection (6)(b).

(i) Public notice for all meetings of the full Compact Commission shall be given in the same manner as required under the rulemaking provisions in Section 58-89-110, except that the Compact Commission may hold a special meeting as provided in Subsection (6)(a)(ii).

(ii) The Compact Commission may hold a special meeting when it must meet to conduct emergency business by giving 24 hours' notice to all Member States, on the Compact Commission's website, and other means as provided in the Compact Commission's Rules. The Compact Commission's legal counsel shall certify that the Compact Commission's need to meet qualifies as an emergency.

(b) The Compact Commission or the Executive Committee or other committees of the Compact Commission may convene in a closed, non-public meeting for the Compact Commission or Executive Committee or other committees of the Compact Commission to receive legal advice or to discuss:

(i) Non-compliance of a Member State with its obligations under the Compact;

(ii) The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees;

(iii) Current or threatened discipline of a Licensee by the Compact Commission or by a Member State's Licensing Authority;

(iv) Current, threatened, or reasonably anticipated litigation;

(v) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(vi) Accusing any person of a crime or formally censuring any person;

(vii) Trade secrets or commercial or financial information that is privileged or confidential;

(viii) Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(ix) Investigative records compiled for law enforcement purposes;

(x) Information related to any investigative reports prepared by or on behalf of or for use of the Compact Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact;

(xi) Matters specifically exempted from disclosure by federal or Member State law; or

(xii) Other matters as specified in the Rules of the Compact Commission.

(c) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(d) The Compact Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Compact Commission or order of a court of competent jurisdiction.

(7) Financing of the Compact Commission

(a) The Compact Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The Compact Commission may accept any and all appropriate revenue sources as provided in Subsection (3)(m).

(c) The Compact Commission may levy on and collect an annual assessment from each Member State and impose fees on Licensees of Member States to whom it grants a Compact Privilege to cover the cost of the operations and activities of the Compact Commission and its staff, which must, in a total amount, be sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for Member States shall be allocated based upon a formula that the Compact Commission shall promulgate by Rule.

(d) The Compact Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Compact Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

(e) The Compact Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Compact Commission shall be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Compact Commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Compact Commission.

(8) Qualified Immunity, Defense, and Indemnification

(a) The members, officers, executive director, employees and representatives of the Compact Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Compact Commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Compact Commission shall not in any way compromise or limit the immunity granted hereunder.

(b) The Compact Commission shall defend any member, officer, executive director, employee, and representative of the Compact Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Compact Commission employment, duties, or responsibilities, or as determined by the Compact Commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Compact Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that persons intentional or willful or wanton misconduct.

(c) The Compact Commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the Compact Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Compact Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Compact Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

(d) Nothing herein shall be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable State laws.

(e) Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Member State's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.

(f) Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Member States or by the Compact Commission.

Section 9. Section 58-89-109 is enacted to read:

58-89-109. Data system.

(1) The Compact Commission shall provide for the development, maintenance, operation, and utilization of a coordinated Data System.

(2) The Compact Commission shall assign each applicant for a Compact Privilege a unique identifier, as determined by the Rules.

(3) Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Compact Commission, including:

(a) Identifying information;

(b) Licensure data;

(c) Adverse Actions against a License or Compact Privilege and information related thereto;

(d) Non-confidential information related to Alternative Program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under Member State law;

(e) Any denial of application for licensure, and the reason(s) for such denial;

(f) The presence of Current Significant Investigative Information; and

(g) Other information that may facilitate the administration of this Compact or the protection of the public, as determined by the Rules of the Compact Commission.

(4) The records and information provided to a Member State pursuant to this Compact or through the Data System, when certified by the Compact Commission or an agent thereof, shall constitute the authenticated business records of the Compact Commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a Member State.

(5) Current Significant Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

(6) It is the responsibility of the Member States to report any Adverse Action against a Licensee and to monitor the Data System to determine whether any Adverse Action has been taken against a Licensee. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

(7) Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

(8) Any information submitted to the Data System that is subsequently expunged pursuant to federal law or the laws of the Member State contributing the information shall be removed from the Data System.

Section 10. Section 58-89-110 is enacted to read:

58-89-110. Rulemaking.

(1) The Compact Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer the purposes and provisions of the Compact. A Rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the Rule is invalid because the Compact Commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the Compact, or the powers granted hereunder, or based upon another applicable standard of review.

(2) The Rules of the Compact Commission shall have the force of law in each Member State, provided however that where the Rules conflict with the laws or regulations of a Member State that relate to the procedures, actions, and processes a Licensed Dietitian is permitted to undertake in that State and the circumstances under which they may do so, as held by a court of competent jurisdiction, the Rules of the Compact Commission shall be ineffective in that State to the extent of the conflict.

(3) The Compact Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Rules shall become binding on the day following adoption or as of the date specified in the Rule or amendment, whichever is later.

(4) If a majority of the legislatures of the Member States rejects a Rule or portion of a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further

force and effect in any Member State.

(5) Rules shall be adopted at a regular or special meeting of the Compact Commission.

(6) Prior to adoption of a proposed Rule, the Compact Commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

(7) Prior to adoption of a proposed Rule by the Compact Commission, and at least thirty (30) days in advance of the meeting at which the Compact Commission will hold a public hearing on the proposed Rule, the Compact Commission shall provide a Notice of Proposed rulemaking:

(a) On the website of the Compact Commission or other publicly accessible platform;

(b) To persons who have requested notice of the Compact Commission's notices of proposed rulemaking; and

(c) In such other way(s) as the Compact Commission may by Rule specify.

(8) The Notice of Proposed rulemaking shall include:

(a) The time, date, and location of the public hearing at which the Compact Commission will hear public comments on the proposed Rule and, if different, the time, date, and location of the meeting where the Compact Commission will consider and vote on the proposed Rule;

(b) If the hearing is held via telecommunication, video conference, or other means of communication, the Compact Commission shall include the mechanism for access to the hearing in the Notice of Proposed rulemaking;

(c) The text of the proposed Rule and the reason therefore;

(d) A request for comments on the proposed Rule from any interested person; and

(e) The manner in which interested persons may submit written comments.

(9) All hearings will be recorded. A copy of the recording and all written comments and documents received by the Compact Commission in response to the proposed Rule shall be available to the public.

(10) Nothing in this Section shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Compact Commission at hearings required by this Section.

(11) The Compact Commission shall, by majority vote of all members, take final action on the proposed Rule based on the rulemaking record and the full text of the Rule.

(a) The Compact Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule.

(b) The Compact Commission shall provide an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.

(c) The Compact Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in Subsection (12), the effective date of the Rule shall be no sooner than 30 days after issuing the notice that it adopted or amended the Rule.

(12) Upon determination that an emergency exists, the Compact Commission may consider and adopt an emergency Rule with 24 hours' notice, with opportunity to comment, provided that the usual rulemaking procedures provided in the Compact and in this Section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of Compact Commission or Member State funds;

(c) Meet a deadline for the promulgation of a Rule that is established by federal law or rule; or

(d) Protect public health and safety.

(13) The Compact Commission or an authorized committee of the Compact Commission may direct revision to a previously adopted Rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revision shall be posted on the website of the Compact Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the Compact Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Compact Commission.

(14) No Member State's rulemaking requirements shall apply under this Compact.

Section 11. Section 58-89-111 is enacted to read:

58-89-111. Oversight, dispute resolution, and enforcement.

(1) Oversight

(a) The executive and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to implement this Compact.

(b) Except as otherwise provided in this Compact, venue is proper and judicial proceedings by or against the Compact Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Compact Commission is located. The Compact Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a Licensee for professional malpractice, misconduct, or any such similar matter.

(c) The Compact Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Compact Commission service of process shall render a judgment or order void as to the Compact Commission, this Compact, or promulgated Rules.

(2) Default, Technical Assistance, and Termination

(a) If the Compact Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Compact Commission shall provide written notice to the defaulting State. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the Compact Commission may take and shall offer training and specific technical assistance regarding the default.

(b) The Compact Commission shall provide a copy of the notice of default to the other Member States.

(3) If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the delegates of the Member States, and all rights, privileges, and benefits conferred on that State by this Compact may be

terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

(4) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Compact Commission to the governor, the majority and minority leaders of the defaulting States' legislature, the defaulting State's Licensing Authority, and each of the Member States' Licensing Authority.

(5) A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(6) Upon the termination of a State's membership from this Compact, that State shall immediately provide notice to all Licensees within that State of such termination. The terminated State shall continue to recognize all Compact Privileges granted pursuant to this Compact for a minimum of six months after the date of said notice of termination.

(7) The Compact Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Compact Commission and the defaulting State.

(8) The defaulting State may appeal the action of the Compact Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Compact Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(9) Dispute Resolution

(a) Upon request by a Member State, the Compact Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between Member and non-Member States.

(b) The Compact Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(10) Enforcement

(a) By supermajority vote, the Compact Commission may initiate legal action against a Member State in default in the United States District Court for the District of Columbia or the federal district where the Compact Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the Compact Commission. The Compact Commission may pursue any other remedies available under federal or the defaulting Member State's law.

(b) A Member State may initiate legal action against the Compact Commission in the U.S. District Court for the District of Columbia or the federal district where the Compact Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) No party other than a Member State shall enforce this Compact against the Compact Commission.

Section 12. Section 58-89-112 is enacted to read:

58-89-112. Effective date, withdrawal, and amendment.

(1) The Compact shall come into effect on the date on which the Compact statute is enacted into law in the seventh Member State.

(a) On or after the effective date of the Compact, the Compact Commission shall convene and review the enactment of each of the first seven Member States ("Charter Member States") to determine if the statute enacted by each such Charter Member State is materially different than the model Compact statute.

(i) A Charter Member State whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Section 58-89-111.

(ii) If any Member State is later found to be in default, or is terminated, or withdraws from the Compact, the Compact Commission shall remain in existence and the Compact shall remain in effect even if the number of Member States should be less than seven.

(b) Member States enacting the Compact subsequent to the seven initial Charter Member States shall be subject to the process set forth in Subsection 58-89-108(3)(u) to determine if their enactments are materially different from the model Compact statute and whether they qualify for participation in the Compact.

(c) All actions taken for the benefit of the Compact Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Compact Commission coming into existence shall be considered to be actions of the Compact Commission unless specifically repudiated by the Compact Commission.

(d) Any State that joins the Compact subsequent to the Compact Commission's initial adoption of the Rules and bylaws shall be subject to the Rules and bylaws as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Compact Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

(2) Any Member State may withdraw from this Compact by enacting a statute repealing the same.

(a) A Member State's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

(b) Withdrawal shall not affect the continuing requirement of the withdrawing States Licensing Authority to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.

(c) Upon the enactment of a statute withdrawing from this Compact, a State shall immediately provide notice of such withdrawal to all Licensees within that State. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing State shall continue to recognize all Compact Privileges granted pursuant to this Compact for a minimum of 180 days after the date of such notice of withdrawal.

(3) Nothing contained in this Compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

(4) This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

Section 13. Section 58-89-113 is enacted to read:

58-89-113. Construction and severability.

(1) This Compact and the Compact Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of Rules shall not be construed to limit the Compact Commission's rulemaking authority solely for those purposes.

(2) The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is held by a

court of competent jurisdiction to be contrary to the constitution of any Member State, a State seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

(3) Notwithstanding Subsection (2), the Compact Commission may deny a State's participation in the Compact or, in accordance with the requirements of Subsection 58-89-111(2), terminate a Member States participation in the Compact, if it determines that a constitutional requirement of a Member State is a material departure from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

Section 14. Section 58-89-114 is enacted to read:

58-89-114. Consistent effect and conflict with other state laws.

(1) Nothing herein shall prevent or inhibit the enforcement of any other law of a Member State that is not inconsistent with the Compact.

(2) Any laws, statutes, regulations, or other legal requirements in a Member State in conflict with the Compact are superseded to the extent of the conflict.

(3) All permissible agreements between the Compact Commission and the Member States are binding in accordance with their terms.

Section 15. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 490
S. B. 316
Passed March 7, 2025
Approved March 27, 2025
Effective January 1, 2026

MILITARY INSTALLATION DEVELOPMENT AUTHORITY AND OTHER DEVELOPMENT ZONE AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill deals with the Military Installation Development Authority and the distribution of certain sales tax revenues related to certain authorities and zones.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► authorizes an eligible basic special district to use tax revenue under certain circumstances;
- ► provides a formula for the State Tax Commission to distribute local revenue from the sale of construction materials within a qualified development zone;
- ► provides for the distribution of tax revenue generated by a Schedule J sale;
- ► clarifies provisions related to the resort communities tax and the additional resort communities tax;
- ► provides that the authority may enter into an agreement with the state or an agency of the state, including an agreement to use revenue generated from an area outside the project area, if the project area is on land owned by the state or the state armory board;
- ► states that a public infrastructure district created by the authority may be a subsidiary of the authority; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-103, (Effective 01/01/26) as last amended by Laws of Utah 2024, Chapters 88, 501
59-12-205, (Effective 01/01/26) as last amended by Laws of Utah 2024, Chapter 535
59-12-401, (Effective 01/01/26) as last amended by Laws of Utah 2024, Chapter 419
59-12-402, (Effective 01/01/26) as last amended by Laws of Utah 2024, Chapter 419
63H-1-201, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 53

ENACTS:

17B-1-1404, (Effective 01/01/26) Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-1-1404 is enacted to read:

17B-1-1404 (Effective 01/01/26). Use of revenue from a qualified development zone.

(1) As used in this section:

(a) "Eligible basic special district" means a basic special district:

(i) created before April 15, 2011; and

(ii) that issued limited general obligation bonds in 2024.

(b) "Qualified development zone" means the same as that term is defined in Subsection 59-12-205(7)(a)(ii)(E).

(2) An eligible basic special district may receive revenue from the tax imposed under Section 59-12-205.

(3) An eligible basic special district that receives revenue as described in Subsection (2) shall use the revenue:

(a) for any purpose the basic special district is authorized to perform under this chapter; and

(b) (i) in a manner approved by the municipality where the qualified development zone is located; or

(ii) in a manner approved by a county, if the qualified development zone is located in an unincorporated area of the county.

Section 2. Section 59-12-103 is amended to read:

59-12-103 (Effective 01/01/26). Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenue.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) (A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale,

lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(f)(i)(A)(I).

(j) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(k) (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l) (i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Wildlife Resources to:

(A) implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Division of Wildlife Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7) (a) Notwithstanding Subsection (3)(a) and subject to Subsections (7)(b), (c), and (d), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to .44% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

(ii) The commission shall annually deposit the amount described in Subsection (7)(b)(i) into the Cottonwood Canyons Transportation Investment Fund created in Section 72-2-124.

(c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenue transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(d) (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under this Subsection (7) by an amount that is equal to 1% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

(ii) The commission shall annually deposit the amount described in Subsection (7)(d)(i) into the Commuter Rail Subaccount created in Section 72-2-124.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to [~~Subsections~~]Subsection (8)(b)[~~ and (d)(ii)~~], for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenue collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid ACA Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13) (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a) and except as provided in Subsection (18), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenue collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(f)(i)(A)(I).

(16) Notwithstanding Subsection (3)(a) and except as provided in Subsection (18), beginning October 1, 2024 the commission shall transfer to the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring within the district sales tax area, as defined in Section 11-70-101.

(17) (a) As used in this Subsection (17):

(i) "Additional land" means point of the mountain state land described in Subsection 11-59-102(6)(b) that the point of the mountain authority acquires after the point of the mountain authority provides the commission a map under Subsection (17)(c).

(ii) "Point of the mountain authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(iii) "Point of the mountain state land" means the same as that term is defined in Section 11-59-102.

(b) Notwithstanding Subsection (3)(a) and except as provided in Subsection (18), the commission shall distribute to the point of the mountain authority 50% of the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring on the point of the mountain state land.

(c) The distribution under Subsection (17)(b) shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map that:

(i) accurately describes the point of the mountain state land; and

(ii) the point of the mountain authority certifies as accurate.

(d) A distribution under Subsection (17)(b) with respect to additional land shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map of point of the mountain state land that:

(i) accurately describes the point of the mountain state land, including the additional land; and

(ii) the point of the mountain authority certifies as accurate.

(e) (i) Upon the payment in full of bonds secured by the sales and use tax revenue distributed to the point of the mountain authority under Subsection (17)(b), the point of the mountain authority shall immediately notify the commission in writing that the bonds are paid in full.

(ii) The commission shall discontinue distributions of sales and use tax revenue under Subsection (17)(b) at the beginning of the calendar quarter that begins at least 90 days after the date that the commission receives the written notice under Subsection (17)(e)(i).

(18) (a) As used in this Subsection (18):

(i) "Applicable percentage" means:

(A) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, 15% of the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate for sales occurring within the qualified development zone described in Subsection (18)(a)(ii)(A);

(B) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate for sales occurring within the qualified development zone described in Subsection (18)(a)(ii)(B); and

(C) for the Point of the Mountain State Land Authority created in Section 11-59-201, 50% of the revenue from sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate for sales occurring within the qualified development zone described in Subsection (18)(a)(ii)(C).

(ii) "Qualified development zone" means:

(A) the sales and use tax boundary of a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Act;

(B) the district sales tax boundary as defined in Section 11-70-101 for the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201; or

(C) the sales and use tax boundary of point of the mountain state land, as defined in Section 11-59-102, under the Point of the Mountain State Land Authority created in Section 11-59-201.

(iii) "Schedule J sale" means a sale reported on State Tax Commission Form TC-62M, Schedule J or a substantially similar form as designated by the commission.

(b) Revenue generated from the applicable percentage by a Schedule J sale within a qualified development zone shall be deposited into the General Fund.

Section 3. Section 59-12-205 is amended to read:

59-12-205 (Effective 01/01/26). Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) (a) Except as provided in Subsections (3) and (4) and subject to Subsection (5):

(i) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(ii) (A) except as provided in Subsections (2)(a)(ii)(B), (C), [~~and~~](D), and (E), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(B) except as provided in Subsections (7) and (8), 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201;

(C) except as provided in Subsections (7) and (8), beginning July 1, 2024, 20% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201; [~~and~~]

(D) except as provided in Subsections (7) and (8), 50% of each dollar collected from the sales and use tax authorized by this part within the lake authority boundary, as defined in Section 11-65-101, shall be distributed to the Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter following the creation of the Utah Lake Authority[~~.~~]; and

(E) except as provided in Subsections (7) and (8), beginning January 1, 2026, 50% of each dollar collected from the sales and use tax authorized by this part within the boundary of an eligible basic special district, as that term is defined in Section 17B-1-1404, and if applicable, the boundary of a public infrastructure district created by the eligible basic special district, shall be distributed to the eligible basic special district.

(b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before July 1, 2022.

(3) (a) As used in this Subsection (3):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (3)(b) equal to the amount described in Subsection (3)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(4) (a) For purposes of this Subsection (4):

(i) "Annual local contribution" means the lesser of $275,000 or an amount equal to 2.55% of the participating local government's tax revenue distribution amount under Subsection (2)(a)(i) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality certified in accordance with Section 35A-16-404.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a)(i) to a participating local government, shall:

(i) adjust a participating local government's tax revenue distribution under Subsection (2)(a)(i) by:

(A) subtracting an amount equal to one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution; and

(B) if applicable, reducing the amount described in Subsection (4)(b)(i)(A) by an amount equal to one-twelfth of $250 for each bed that is available at all homeless shelters located within the boundaries of the participating local government, as reported to the commission by the Office of Homeless Services in accordance with Section 35A-16-405; and

(ii) deposit the resulting amount described in Subsection (4)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3), the commission shall apply the provisions of this Subsection (4) after the commission applies the provisions of Subsection (3).

(5) (a) As used in this Subsection (5):

(i) "Annual dedicated sand and gravel sales tax revenue" means an amount equal to the total revenue an establishment described in NAICS Code 327320, Ready-Mix Concrete Manufacturing, of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, collects and remits under this part for a calendar year.

(ii) "Sand and gravel" means sand, gravel, or a combination of sand and gravel.

(iii) "Sand and gravel extraction site" means a pit, quarry, or deposit that:

(A) contains sand and gravel; and

(B) is assessed by the commission in accordance with Section 59-2-201.

(iv) "Ton" means a short ton of 2,000 pounds.

(v) "Tonnage ratio" means the ratio of:

(A) the total amount of sand and gravel, measured in tons, sold during a calendar year from all sand and gravel extraction sites located within a county, city, or town; to

(B) the total amount of sand and gravel, measured in tons, sold during the same calendar year from sand and gravel extraction sites statewide.

(b) For purposes of calculating the ratio described in Subsection (5)(a)(v), the commission shall:

(i) use the gross sales data provided to the commission as part of the commission's property tax valuation process; and

(ii) if a sand and gravel extraction site operates as a unit across municipal or county lines, apportion the reported tonnage among the counties, cities, or towns based on the percentage of the sand and gravel extraction site located in each county, city, or town, as approximated by the commission.

(c) (i) Beginning July 2023, and each July thereafter, the commission shall distribute from total collections under this part an amount equal to the annual dedicated sand and gravel sales tax revenue for the preceding calendar year to each county, city, or town in the same proportion as the county's, city's, or town's tonnage ratio for the preceding calendar year.

(ii) The commission shall ensure that the revenue distributed under this Subsection (5)(c) is drawn from each jurisdiction's collections in proportion to the jurisdiction's share of total collections for the preceding 12-month period.

(d) A county, city, or town shall use revenue described in Subsection (5)(c) for class B or class C roads.

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

(7) (a) As used in this Subsection (7):

(i) "Applicable percentage" means:

(A) for a project area adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, for sales occurring within a qualified development zone described in Subsection (7)(a)(iii)(A):

(I) 50% of the revenue from the sales and use tax imposed under this part;

(II) 100% of the revenue from the sales and use tax imposed by the military installation development authority under Section 59-12-401; and

(III) 100% of the revenue from the sales and use tax imposed by the military installation development authority under Section 59-12-402; and

(B) for a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, for sales occurring within a qualified development zone described in Subsection (7)(a)(iii)(B), 20% of the revenue from the sales and use tax under this part;

(C) for the lake authority boundary, as defined in Section 11-65-101, for sales occurring within the qualified development zone described in Subsection (7)(a)(ii)(C), 50% of the revenue from the sales and use tax under this part;

(D) for the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, for sales occurring within the qualified development zone described in Subsection (7)(a)(iii)(D), 100% of the revenue from the sales and use tax imposed by the Utah Fairpark Area Investment and Restoration District under Sections 59-12-401 and 59-12-402; and

(E) for an eligible basic special district created under Title 17B, Chapter 1, Part 14, Basic Special District, for sales occurring within a qualified development zone described in Subsection (7)(a)(iii)(E), 50% of the revenue from the sales and use tax imposed under this part.

(ii) "Eligible basic special district" means the same as that term is defined in Section 17B-1-1404.

(iii) "Qualified development zone" means the sales and use tax boundary of:

(A) a project area adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act;

(B) a project area under Title 11, Chapter 58, Utah Inland Port Authority Act;

(C) the lake authority boundary, as defined in Section 11-65-101;

(D) the Utah Fairpark Investment and Restoration District, created in Section 11-70-201; or

(E) the area within the boundary of an eligible basic special district, and if applicable, the boundary of a public infrastructure district created by the basic special district.

(iv) "Qualifying construction materials" means construction materials that are:

(A) delivered to a delivery outlet within a qualified development zone; and

(B) intended to be permanently attached to real property within the qualified development zone.

(b) For a sale of qualifying construction materials, the commission shall distribute the product calculated in Subsection (7)(c) to a qualified development zone if the seller of the construction materials:

(i) establishes a delivery outlet with the commission within the qualified development zone;

(ii) reports the sales of the construction materials to the delivery outlet described in Subsection (7)(b)(i); and

(iii) does not report the sales of the construction materials on a simplified electronic return.

(c) For the purposes of Subsection (7)(b), the product is equal to:

(i) the sales price or purchase price of the qualifying construction materials; and

(ii) the applicable percentage.

(8) (a) As used in this Subsection (8):

(i) "Applicable percentage" means the same as that term is defined in Subsection (7).

(ii) "Qualified development zone" means the same as that term is defined in Subsection (7).

(iii) "Schedule J sale" means a sale reported on State Tax Commission Form TC-62M, Schedule J or a substantially similar form as designated by the commission.

(b) Revenue generated from the applicable percentage by a Schedule J sale within a qualified development zone shall be distributed to the jurisdiction that would have received the revenue in the absence of the qualified development zone.

Section 4. Section 59-12-401 is amended to read:

59-12-401 (Effective 01/01/26). Resort communities tax authority for cities, towns, and military installation development authority -- Base -- Rate -- Collection fees.

(1) (a) In addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax of up to 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:

(i) (A) the sale of a motor vehicle, an aircraft, a watercraft, a modular home, a manufactured home, or a mobile home;

(B) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(C) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients; [~~or~~]

(ii) transactions that occur in the district sales tax area, as defined in Subsection (4), if the fairpark district, as defined in Subsection (4), has imposed a tax under Subsection (4)[~~-~~]; or

(iii) transactions that occur within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, if the military installation development authority has imposed a tax under Subsection (3).

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city or town imposing a tax under this section shall impose the tax on the purchase price or the sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) (a) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section on the transactions described in Subsection 59-12-103(1) located within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a city or a town.

(b) For purposes of calculating the permanent census population within a project area, the board, as defined in Section 63H-1-102, shall:

(i) use the actual number of permanent residents within the project area as determined by the board;

(ii) include in the calculation of transient room capacity the number, as determined by the board, of approved high-occupancy lodging units, recreational lodging units, special lodging units, and standard lodging units, even if the units are not constructed;

(iii) adopt a resolution verifying the population number; and

(iv) provide the commission any information required in Section 59-12-405.

(c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may impose the sales and use tax under this section if there are no permanent residents.

(4) (a) As used in this Subsection (4):

(i) "District sales tax area" means the same as that term is defined in Section 11-70-101.

(ii) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(iii) "Fairpark district board" means the board of the fairpark district.

(b) [~~The~~]Beginning October 1, 2024, the fairpark district, by resolution of the fairpark district board, may impose a tax under this section, as though the fairpark district were a city or town, on transactions described in Subsection 59-12-103(1)[~~:~~]

[~~(i)~~] located within the district sales tax area[~~; and~~].

[~~(ii) that occur on or after October 1, 2024.~~]

(c) For purposes of calculating the permanent census population within the district sales tax area, the fairpark district board shall:

(i) use the actual number of permanent residents within the district sales tax area as determined by the fairpark district board;

(ii) include in the calculation of transient room capacity the number, as determined by the fairpark district board, of approved high-occupancy lodging units, recreational lodging units, special lodging units, and standard lodging units, even if the units are not constructed;

(iii) adopt a resolution verifying the population number; and

(iv) provide the commission any information required in Section 59-12-405.

(d) Notwithstanding Subsection (1)(a), the fairpark district may impose the sales and use tax under this section if there are no permanent residents within the district sales tax area.

Section 5. Section 59-12-402 is amended to read:

59-12-402 (Effective 01/01/26). Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Prohibition of military installation development authority imposition of tax.

(1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

(i) (A) the sale of a motor vehicle, an aircraft, a watercraft, a modular home, a manufactured home, or a mobile home;

(B) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(C) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients; [~~or~~]

(ii) transactions that occur in the district sales tax area, as defined in Subsection 59-12-401(4), if the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, has imposed a tax under Subsection (8)[~~.~~]; or

(iii) transactions that occur within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, if the military installation development authority has imposed a tax under Subsection (7).

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A municipality imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:

(a) pass a resolution approving the tax; and

(b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).

(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:

(a) hold the additional resort communities sales tax election during:

(i) a regular general election; or

(ii) a municipal general election; and

(b) post notice of the election for the municipality, as a class A notice under Section 63G-30-102, for at least 15 days before the day on which the election is held.

(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.

(6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

(7) Subject to Subsection 63H-1-203(1), a military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may impose an additional resort communities sales tax under this section as if the military installation development authority were a municipality.

(8) [~~The~~]On or after October 1, 2024, the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, may impose an additional resort communities tax under this section on transactions that occur[~~:~~]

[~~(a)~~] within the district sales tax area, as defined in Subsection 59-12-401(4)[~~; and~~], as if the district were a municipality.

[~~(b) that occur on or after October 1, 2024.~~]

Section 6. Section 63H-1-201 is amended to read:

63H-1-201 (Effective 05/07/25). Creation of military installation development authority -- Status and powers of authority -- Limitation.

(1) There is created a military installation development authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of land within a project area or on military land associated with a project area;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) The authority may:

(a) facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area, or development of military land associated with a project area;

(b) sue and be sued;

(c) enter into contracts generally;

(d) by itself or through a subsidiary, buy, obtain an option upon, or otherwise acquire any interest in real or personal property:

(i) in a project area; or

(ii) outside a project area for public infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor:

(i) in a project area; or

(ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;

(g) provide for the development of land within a project area or military land associated with the project area under one or more contracts;

(h) exercise powers and perform functions under a contract, as authorized in the contract;

(i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;

(j) receive the property tax allocation and other taxes and fees as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) enter into a development agreement with a developer of land within a project area;

(q) enter into an agreement with a political subdivision of the state under which the political subdivision provides one or more municipal services within a project area;

(r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;

(s) provide for or finance an energy efficiency upgrade, a clean energy system, or electric vehicle charging infrastructure, as those terms are defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

(t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:

(i) provides law enforcement services only to military land within a project area; and

(ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state;

(v) by itself or through a subsidiary, act as a facilitator under Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, to provide expertise and knowledge to another governmental entity interested in public-private partnerships;

(w) enter into an intergovernmental support agreement under Title 10, U.S.C. Sec. 2679 with the military to provide support services to the military in accordance with the agreement;

(x) act as a developer, or assist a developer chosen by the military, to develop military land as part of an enhanced use lease under Title 10, U.S.C. Sec. 2667;[~~and~~]

(y) develop public infrastructure and improvements[~~.~~]; and

(z) enter into an agreement with the state or any agency of the state, including entering into an agreement to use revenue generated from a project area outside the project area, if the project area is on land owned by the state or the state armory board created in Section 39A-2-101.

(4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).

(5) The authority shall provide support to a subsidiary that enters into an agreement under Subsection (3)(v) that the authority determines necessary for the subsidiary to fulfill the requirements of the agreement.

(6) Because providing procurement, utility, construction, and other services for use by a military installation, including providing public infrastructure and improvements for use or occupancy by the military, are core functions of the authority and are typically provided by a local government for the local government's own needs or use, these services provided by the authority for the military under this chapter are considered to be for the authority's own needs and use.

(7) A public infrastructure district created by the authority under Title 17D, Chapter 4, Public Infrastructure District Act, [~~is~~]may be a subsidiary of the authority.

Section 7. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect January 1, 2026.

(2) The actions affecting Section 63H-1-201 Effective 05/07/25 take effect on May 7, 2025.

CHAPTER 491
S. B. 330
Passed March 7, 2025
Approved March 27, 2025
Effective January 1, 2026

COSMETOLOGY MODIFICATIONS

Chief Sponsor: Scott D. Sandall
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill restructures the licensing standards for the Cosmetology and Associated Professions Licensing Act.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates a scope of practice for professionals regulated by the Cosmetology and Associated Professions Licensing Act;
- ► restructures the existing Cosmetology and Associated Professions Licensing Board;
- ► restructures the license classifications regulated by the Cosmetology and Associated Professions Licensing Act;
- ► restructures the qualifications for licensure for professionals regulated by the Cosmetology and Associated Professions Licensing Act;
- ► establishes standards for apprenticeship for professionals regulated by the Cosmetology and Associated Professions Licensing Act;
- ► addresses unprofessional conduct;
- ► allows a school to receive curriculum approval from the Division of Professional Licensing; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

58-1-102, as last amended by Laws of Utah 2024, Chapter 486
58-1-506, as last amended by Laws of Utah 2024, Chapter 486
58-11a-201, as last amended by Laws of Utah 2024, Chapter 479
58-11a-303, as last amended by Laws of Utah 2001, Chapter 204
58-11a-304, as last amended by Laws of Utah 2024, Chapter 479
58-11a-503, as last amended by Laws of Utah 2020, Chapter 339
58-67-102, as last amended by Laws of Utah 2024, Chapter 507
58-68-102, as last amended by Laws of Utah 2024, Chapter 507

ENACTS:

58-11a-302.10, Utah Code Annotated 1953
58-11a-302.11, Utah Code Annotated 1953
58-11a-302.12, Utah Code Annotated 1953
58-11a-302.13, Utah Code Annotated 1953
58-11a-302.14, Utah Code Annotated 1953
58-11a-302.15, Utah Code Annotated 1953
58-11a-302.16, Utah Code Annotated 1953
58-11a-302.17, Utah Code Annotated 1953
58-11a-302.18, Utah Code Annotated 1953
58-11a-302.19, Utah Code Annotated 1953
58-11a-302.20, Utah Code Annotated 1953
58-11a-302.21, Utah Code Annotated 1953
58-11a-302.22, Utah Code Annotated 1953
58-11a-302.23, Utah Code Annotated 1953
58-11a-302.24, Utah Code Annotated 1953
58-11a-302.25, Utah Code Annotated 1953

REPEALS AND REENACTS:

58-11a-102, as last amended by Laws of Utah 2024, Chapter 479
58-11a-301, as last amended by Laws of Utah 2024, Chapter 479
58-11a-302, as last amended by Laws of Utah 2024, Chapters 137, 479
58-11a-306, as last amended by Laws of Utah 2024, Chapter 479

58-11a-501, as last amended by Laws of Utah 2024, Chapter 479

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-102 is amended to read:

58-1-102. Definitions.

As used in this title:

(1) (a) "Ablative procedure" means the same as that term is defined in Section 58-67-102.

(b) "Ablative procedure" does not include laser tattoo removal.

(2) "Cosmetic medical procedure":

(a) means the same as that term is defined in Section 58-67-102; and

(b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual licensed under this title if the individual's scope of practice includes the authority to operate or perform surgical procedures.

(3) "Cryolipolysis" means a nonablative fat reduction procedure that uses cold temperature to reduce fat deposits in certain areas of the body.

(4) "Department" means the Department of Commerce.

(5) "Director" means the director of the Division of Professional Licensing.

(6) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(7) "Executive director" means the executive director of the Department of Commerce.

(8) "Licensee" includes any holder of a license, certificate, registration, permit, student card, or apprentice card authorized under this title.

(9) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection [~~(8)(a)(i)~~](9)(a)(i), nonablative procedure includes hair removal and cryolipolysis.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure;

(ii) the application of permanent make-up;

(iii) laser tattoo removal; or

[~~(iii)~~](iv) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within their scope of practice.

(10) "Pain clinic" means:

(a) a clinic that advertises its primary purpose is the treatment of chronic pain; or

(b) a clinic in which greater than 50% of the clinic's annual patient population receive treatment primarily for non-terminal chronic pain using Schedule II-III controlled substances.

(11) "Superficial procedure" means a procedure that is expected or intended to temporarily alter living skin tissue and may excise or remove stratum corneum but have no appreciable risk of damage to any tissue below the stratum corneum.

(12) "Telemedicine service" means the same as that term is defined in Section 26B-4-704.

(13) "Unlawful conduct" means the same as that term is defined in Subsection 58-1-501(1).

(14) "Unprofessional conduct" means the same as that term is defined in Subsection 58-1-501(2).

Section 2. Section 58-1-506 is amended to read:

58-1-506. Supervision of cosmetic medical procedures.

(1) For purposes of this section:

(a) "Delegation group A" means the following who are licensed under this title, acting within their respective scopes of practice, and qualified under Subsections (2)(f)(i) and (iii):

(i) a physician assistant, if acting in accordance with Chapter 70a, Utah Physician Assistant Act;

(ii) a registered nurse;

(iii) a master esthetician; and

(iv) an electrologist, if evaluating for or performing laser hair removal.

(b) "Delegation group B" means:

(i) a practical nurse or an esthetician who is licensed under this title, acting within [~~their~~]the nurse or esthetician's respective scopes of practice, and qualified under Subsections (2)(f)(i) and (iii); and

(ii) a medical assistant who is qualified under Subsections (2)(f)(i) and (iii).

(c) "Direct cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee; and

(ii) is present and available for a face-to-face communication with the supervisee when and where a cosmetic medical procedure is performed.

(d) "General cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee;

(ii) is available in a timely and appropriate manner in person to evaluate and initiate care for a patient with a suspected adverse reaction or complication; and

(iii) is located within 60 minutes or 60 miles of the cosmetic medical facility.

(e) "Hair removal review" means:

(i) conducting an in-person, face-to-face interview of a patient based on the responses provided by the patient to a detailed medical history assessment that was prepared by the supervisor;

(ii) evaluating for contraindications and conditions that are part of the treatment plan; and

(iii) if the patient history or patient presentation deviates in any way from the treatment plan, referring the patient to the supervisor and receiving clearance from the supervisor before starting the treatment.

(f) "Indirect cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee;

(ii) has given written instructions to the person being supervised;

(iii) is present within the cosmetic medical facility in which the person being supervised is providing services; and

(iv) is available to:

(A) provide immediate face-to-face communication with the person being supervised; and

(B) evaluate the patient, as necessary.

(2) A supervisor supervising a nonablative cosmetic medical procedure for hair removal shall:

(a) have an unrestricted license to practice medicine or advanced practice registered nursing in the state;

(b) develop the medical treatment plan for the procedure;

(c) conduct a hair removal review, or delegate the hair removal review to a member of delegation group A, of the patient prior to initiating treatment or a series of treatments;

(d) personally perform the nonablative cosmetic medical procedure for hair removal, or authorize and delegate the procedure to a member of delegation group A or B;

(e) during the nonablative cosmetic medical procedure for hair removal provide general cosmetic medical procedure supervision to individuals in delegation group A performing the procedure, except physician assistants, who shall act in accordance with Chapter 70a, Utah Physician Assistant Act, and indirect cosmetic medical procedure supervision to individuals in delegation group B performing the procedure; and

(f) verify that a person to whom the supervisor delegates an evaluation under Subsection (2)(c) or delegates a procedure under Subsection (2)(d)[~~ or (3)(e)(ii)~~]:

(i) has received appropriate training regarding the medical procedures developed under Subsection (2)(b);

(ii) has an unrestricted license under this title or is performing under the license of the supervising physician and surgeon; and

(iii) has maintained competence to perform the nonablative cosmetic medical procedure through documented education and experience of at least 80 hours, as further defined by rule, regarding:

(A) the appropriate standard of care for performing nonablative cosmetic medical procedures;

(B) physiology of the skin;

(C) skin typing and analysis;

(D) skin conditions, disorders, and diseases;

(E) pre- and post-procedure care;

(F) infection control;

(G) laser and light physics training;

(H) laser technologies and applications;

(I) safety and maintenance of lasers;

(J) cosmetic medical procedures an individual is permitted to perform under this title;

(K) recognition and appropriate management of complications from a procedure; and

(L) cardiopulmonary resuscitation (CPR).

[~~(3) For a nonablative cosmetic medical procedure for tattoo removal:~~]

[~~(a) a supervisor supervising a nonablative cosmetic medical procedure for tattoo removal shall:~~]

[~~(i) have an unrestricted license to practice medicine or advanced practice registered nursing in the state; and~~]

[~~(ii) develop the medical treatment plan for the procedure; and~~]

[~~(b) a nurse practitioner or physician assistant:~~]

[~~(i) shall conduct an in-person face-to-face evaluation of a patient before initiating a treatment protocol or series of treatments for removing a tattoo;~~]

[~~(ii) shall inspect the patient's skin for any discoloration unrelated to the tattoo and any other indication of cancer or other condition that should be treated or further evaluated before the tattoo is removed;~~]

[~~(iii) shall refer a patient with a condition described in Subsection (3)(b)(ii) to a physician for treatment or further evaluation; and~~]

[~~(iv) may not perform a nonablative cosmetic medical procedure to remove a tattoo on a patient unless the patient is approved for the tattoo removal by a physician after the physician evaluates the patient.~~]

[~~(4)~~](3) For a nonablative cosmetic medical procedure other than hair removal under Subsection (2)[~~ or tattoo removal under Subsection (3)~~]:

(a) a physician who has an unrestricted license to practice medicine, a nurse practitioner who has an unrestricted license for advanced practice registered nursing, or a physician assistant acting in accordance with Chapter 70a, Utah Physician Assistant Act, who has an unrestricted license to practice as a physician assistant, shall:

(i) develop a treatment plan for the nonablative cosmetic medical procedure; and

(ii) conduct an evaluation of the patient either in-person or utilizing a live telemedicine visit before the initiation of a treatment protocol or series of treatments; and

(b) the supervisor supervising the procedure shall:

(i) have an unrestricted license to practice medicine or advanced practice registered nursing;

(ii) personally perform the nonablative cosmetic medical procedure or:

(A) authorize and provide general cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by a registered nurse or a master esthetician; or

(B) authorize and provide supervision as provided in Chapter 70a, Utah Physician Assistant Act, for the nonablative cosmetic medical procedure that is performed by a physician assistant;[~~or~~] and

(C) authorize and provide direct cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by an esthetician or a practical nurse; and

(iii) verify that a person to whom the supervisor delegates a procedure under Subsection [~~(3)(c)~~](3)(b):

(A) has received appropriate training regarding the medical procedures to be performed;

(B) has an unrestricted license and is acting within the person's scope of practice under this title; and

(C) is qualified under Subsection (2)(f)(iii).

[~~(5)~~](4) A supervisor performing or supervising a cosmetic medical procedure under Subsection (2) or (3)[~~or (4)~~] shall ensure that:

(a) the supervisor's name is prominently posted at the cosmetic medical facility identifying the supervisor;

(b) a copy of the supervisor's license is displayed on the wall of the cosmetic medical facility;

(c) the patient receives written information with the name and licensing information of the supervisor who is supervising the nonablative cosmetic medical procedure and the person who is performing the nonablative cosmetic medical procedure;

(d) the patient is provided with a telephone number that is answered within 24 hours for follow-up communication; and

(e) the cosmetic medical facility's contract with a master esthetician who performs a nonablative cosmetic medical procedure at the facility is kept on the premises of the facility.

[~~(6)~~](5) Failure to comply with the provisions of this section is unprofessional conduct.

[~~(7)~~](6) A chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, is not subject to the supervision requirements in this section for a nonablative cosmetic medical procedure for hair removal if the chiropractic physician is acting within the scope of practice of a chiropractic physician and with training specific to nonablative hair removal.

Section 3. Section 58-11a-102 is repealed and re-enacted to read:

58-11a-102. Definitions.

As used in this chapter:

(1) "Approved apprenticeship" means an apprenticeship that meets the requirements of Section 58-11a-306 for any applicable license or permit type and the requirements established by administrative rules made by the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Board" means the Cosmetology and Associated Professions Licensing Board created in Section 58-11a-201.

(3) (a) "Cosmetic medical device" means a nonablative tissue altering energy based device, including a laser, that is expected or intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(b) "Cosmetic medical device" includes:

(i) American National Standards Institute designated Class IIIb and Class IV lasers;

(ii) devices that utilize intense pulsed light;

(iii) radio frequency devices; and

(iv) lipolytic devices.

(c) "Cosmetic medical device" does not include an American National Standards Institute designated Class IIIa and lower powered device.

(4) "Dermaplane" means the use of a scalpel or bladed instrument to shave the upper layers of the stratum corneum.

(5) "Direct supervision" means that the supervisor of an apprentice or the instructor of a student is physically present in the same building as the apprentice or student and readily able to establish direct contact with the apprentice or student for consultation, advice, instruction, and evaluation.

(6) "Division" means the Division of Professional Licensing, created in Section 58-1-103.

(7) (a) "Hair braiding" means the twisting, weaving, or interweaving of an individual's natural human hair.

(b) "Hair braiding" includes the following methods or styles:

(i) African-style braiding;

(ii) box braids;

(iii) cornrows;

(iv) dreadlocks;

(v) french braids;

(vi) invisible braids;

(vii) micro braids;

(viii) single braids;

(ix) single plaits;

(x) twists;

(xi) visible braids;

(xii) the use of lock braids;

(xiii) the use of decorative beads, accessories, and extensions; and

(xiv) the use of wefts if applied without the use of glue or tape.

(c) "Hair braiding" does not include:

(i) the use of:

(A) wefts if applied with the use of glue or tape;

(B) synthetic tape;

(C) synthetic glue;

(D) keratin bonds;

(E) fusion bonds; or

(F) heat tools;

(ii) the cutting of human hair; or

(iii) the application of heat, dye, a reactive chemical, or other preparation to:

(A) alter the color of the hair; or

(B) straighten, curl, or alter the structure of the hair.

(8) "Instructor" means an individual that is licensed to instruct a discipline that is regulated by this chapter.

(9) "Licensed school" means a school in Utah that:

(a) meets the standards for accreditation established by administrative rules made by the division; or

(b) is using curriculum approved by the division.

(10) (a) "Manual hair removal" means superfluous hair removal that is performed without using a cosmetic medical device or electrolysis.

(b) "Manual hair removal" includes:

(i) the use of depilatories;

(ii) shaving;

(iii) sugaring;

(iv) tweezing; and

(v) waxing.

(c) "Manual hair removal" does not include threading.

(11) "Minimum service count" means the minimum number of repetitions of a given service a license or permit applicant is required to complete to gain a minimum level of competence as established by administrative rules made by the division for a service.

(12) "Permit" means a safety permit that gives the holder authority to perform certain services.

(13) "Recognized school" means a school located in a jurisdiction other than Utah whose students, upon graduation, are recognized as having completed the educational requirements for the licensure in the jurisdiction in which the school is located.

(14) "Representative of a licensed school" means an individual:

(a) that is acting in the individual's capacity as an employee of a licensed school; or

(b) with an ownership or financial interest in a licensed school.

(15) "Salon" means a place, shop, or establishment in which an individual licensed or permitted under this chapter practices the individual's discipline.

(16) "Threading" means a method of removing hair from the eyebrows, upper lip, or other body parts by using cotton thread to pull hair from follicles without the use of chemicals, heat, or wax.

(17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-11a-502.

(18) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501and 58-11a-501 and as may be further defined by administrative rules made by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section 58-11a-201 is amended to read:

58-11a-201. Board.

(1) There is created the Cosmetology and Associated Professions Licensing Board consisting of the following members:

(a) (i) one [~~barber or~~]cosmetologist[~~/barber~~]; or

(ii) one cosmetologist instructor;

[~~(b) (i) one barber or cosmetologist/barber instructor; or~~]

[~~(ii) one representative of a licensed barber or cosmetology/barber school;~~]

[~~(c)~~](b) (i) one master esthetician; or

(ii) one master esthetician instructor;

(c) (i) one nail technician; or

(ii) one nail technician instructor;

[~~(d) (i) one esthetician instructor; or~~]

[~~(ii) one representative of a licensed esthetics school;~~]

[~~(e) one nail technician;~~]

[~~(f) (i) one nail technician instructor; or~~]

[~~(ii) one representative of a licensed nail technology school;~~]

[~~(g)~~](d) (i) one electrologist; or

(ii) one electrologist instructor;

(e) one representative of a licensed school that is publicly funded;

(f) one representative of a licensed school that is privately funded;

(g) one supervisor as defined in Section 58-1-505; and

[~~(h) one eyelash and eyebrow technician;~~]

[~~(i) (i) one eyelash and eyebrow technician instructor; or~~]

[~~(ii) one representative of a licensed eyelash and eyebrow technology school; and~~]

[~~(j)~~](h) two members from the general public.

(2) (a) The board shall be appointed and serve in accordance with Section 58-1-201.

(b) Except for the members specified in Subsections (1)(e) and (1)(f), a member may not participate as a representative of a licensed school.

[~~(b) (i) At least one of the members of the board appointed under Subsections (1)(b), (d), and (f) shall be an instructor at or a representative of a public school.~~]

[~~(ii) At least one of the members of the board appointed under Subsections (1)(b), (d), and (f) shall be an instructor at or a representative of a private school.~~]

(3) (a) [~~The~~]The board shall perform the duties and responsibilities [~~of the board are in accordance with~~]described in Sections 58-1-202 and 58-1-203.

(b) [~~In addition, the~~]The board shall designate one of [~~its~~]the board members on a permanent or rotating basis to:

[~~(a)~~](i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

[~~(b)~~](ii) advise the division in [~~its~~]the division's investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in [~~its~~]the investigation of the complaint may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section 5. Section 58-11a-301 is repealed and re-enacted to read:

58-11a-301. Licensure or permit required.

(1) Subject to Subsection (2), a person must be licensed or permitted as required under this chapter to practice a discipline regulated by this chapter.

(2) An individual is not required to be licensed or permitted if the individual:

(a) is a registered apprentice in accordance with this chapter; or

(b) qualifies for an exemption under:

(i) Section 58-1-307; or

(ii) Section 58-11a-304.

Section 6. Section 58-11a-302 is repealed and re-enacted to read:

58-11a-302. General qualifications for licensure and permitting.

(1) An applicant for a license or permit under this chapter shall:

(a) (i) submit an application in a form prescribed by the division; and

(ii) pay a fee determined by the division in compliance with Section 63J-1-504;

(b) provide satisfactory documentation of completion of required minimum service counts, certified by the applicant's school, or, if under an apprenticeship, the applicant's supervisor; and:

(i) compliance with educational requirements of the respective license or permit; or

(ii) completion of an approved apprenticeship; and

(c) pass an examination, as required by administrative rule established by the division.

(2) (a) The division shall establish administrative rules to determine how many hours for an existing license or permit that an applicant may credit towards the hours required for an additional permit or license.

(b) An individual that holds a cosmetology license may count 600 hours as a cosmetologist to satisfy the 1,200 total hours requirement for a master esthetics license.

Section 7. Section 58-11a-302.10 is enacted to read:

58-11a-302.10. Practice of barbering -- Barbering permit -- Qualifications.

(1) The practice of barbering includes:

(a) cutting, clipping, or trimming the hair of the head of an individual by using scissors, shears, clippers, or other appliances;

(b) engaging in draping, shampooing, scalp treatments, basic wet styling, and blow drying;

(c) cutting, wet styling, fitting, measuring, or forming caps for wigs and hairpieces on the human head;

(d) removing hair from the face or neck of an individual by using shaving equipment, including an electric trimmer; and

(e) when providing other services described in this Subsection (1), gently massaging the head, back of the neck, and shoulders by manual or mechanical means.

(2) An individual may not engage in the practice of barbering unless the individual holds a barbering permit.

(3) An applicant for a barbering permit shall comply with the requirements in Section 58-11a-302 and:

(a) attend a licensed or recognized school and complete a curriculum that:

(i) covers:

(A) hair safety requirements; and

(B) barbering; and

(ii) has a minimum of 130 hours of instruction or the equivalent number of credit hours; or

(b) complete an approved barber apprenticeship.

(4) If the applicant graduates from a recognized school with less than 130 hours of instruction, the applicant may count hours practiced as a barber in a jurisdiction other than Utah to satisfy the 130 total hours requirement.

(5) An individual with a barbering permit may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

Section 8. Section 58-11a-302.11 is enacted to read:

58-11a-302.11. Practice of basic esthetics -- Basic esthetics permit -- Qualifications.

(1) The practice of basic esthetics means any one of the following skincare procedures done on the face or body for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

(a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays or masks, and manual extraction, including a comedone extractor; or

(b) manual hair removal.

(2) An individual may not engage in the practice of basic esthetics unless the individual holds a basic esthetics permit.

(3) An applicant for a basic esthetics permit shall comply with the requirements in Section 58-11a-302 and:

(a) attend a licensed or recognized school and complete a curriculum that:

(i) covers:

(A) basic esthetics; and

(B) manual hair removal; and

(ii) has a minimum of 200 hours of instruction or the equivalent number of credit hours; or

(b) complete an approved basic esthetics permit apprenticeship.

(4) If the applicant graduates from a recognized school with less than 200 hours of instruction, the applicant may count hours practiced as an esthetician in a jurisdiction other than Utah to satisfy the 200 total hours requirement.

(5) An individual with a basic esthetics permit is not considered an esthetician for purposes of Section 58-1-506.

(6) An individual with a basic esthetics permit may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

Section 9. Section 58-11a-302.12 is enacted to read:

58-11a-302.12. Practice of chemical hair services -- Chemical hair services permit -- Qualifications.

(1) The practice of chemical hair services includes bleaching, tinting, coloring, relaxing, permanent waving, or similarly treating the hair of the head of an individual.

(2) An individual may not engage in the practice of chemical hair services unless the individual holds a chemical hair services permit.

(3) An applicant for a chemical hair service permit shall comply with the requirements in Section 58-11a-302 and:

(a) attend a licensed or recognized school and complete a curriculum that:

(i) covers chemical hair services; and

(ii) has a minimum of 260 hours of instruction or the equivalent number of credit hours; or

(b) complete an approved chemical hair service apprenticeship.

(4) If the applicant graduates from a recognized school with less than 260 hours of instruction, the applicant may count hours practiced as a chemical hair service technician in a jurisdiction other than Utah to satisfy the 260 total hours requirement.

(5) An individual with a chemical hair services permit may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

Section 10. Section 58-11a-302.13 is enacted to read:

58-11a-302.13. Practice of cosmetology -- Cosmetology license -- Qualifications.

(1) The practice of cosmetology includes:

(a) styling, arranging, dressing, curling, waving, cleaning, singeing, bleaching, tinting, coloring, permanent waving, or similarly treating the hair of the head of an individual;

(b) cutting, clipping, or trimming the hair by using scissors, shears, clippers, or other appliances;

(c) engaging in draping, shampooing, scalp treatments, basic wet styling, and blow drying;

(d) removing hair from the face or neck of an individual by using shaving equipment;

(e) arching eyebrows by tweezing, tinting eyebrows or eyelashes, or perming eyelashes or eyebrows;

(f) manual hair removal;

(g) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays or masks, and manual extraction, including a comedone extractor;

(h) limited chemical exfoliation as defined by administrative rules made by the division;

(i) cutting, curling, styling, fitting, measuring, or forming caps for wigs and hairpieces on the human head;

(j) practicing hair weaving or hair fusing or servicing previously medically implanted hair;

(k) trimming, cutting, cleaning, manicuring, shaping, massaging hands to elbows and feet to knees, or enhancing the appearance of the hands, feet, and nails of an individual by using the cosmetologist's hands, mechanical or electrical preparation, antiseptic, lotion, or cream;

(l) natural nail manicures and pedicures;

(m) applying and removing sculptured or artificial nails; and

(n) using blades, including corn or callus planer or rasp, for smoothing, shaving, or removing dead skin from the feet.

(2) An individual may not engage in the practice of cosmetology unless the individual holds a cosmetology license.

(3) An applicant for a cosmetology license shall comply with the requirements in Section 58-11a-302 and:

(a) attend a licensed or recognized school and complete a curriculum that:

(i) covers:

(A) barbering;

(B) haircutting;

(C) chemical hair services;

(D) manual hair removal;

(E) eyelash and eyebrow technology, except for eyelash extensions;

(F) basic esthetics; and

(G) nail technology; and

(ii) has a minimum of 1,250 hours of instruction or the equivalent number of credit hours; or

(b) complete an approved cosmetologist apprenticeship.

(4) If the applicant graduates from a recognized school with less than 1,250 hours of instruction, the applicant may count hours practiced as a cosmetologist in a jurisdiction other than Utah to satisfy the 1,250 total hours requirement.

(5) An individual with a cosmetology license may be known as a cosmetologist or a barber.

(6) An individual with a cosmetology license may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

Section 11. Section 58-11a-302.14 is enacted to read:

58-11a-302.14. Practice of electrology -- Electrology license -- Qualifications.

(1) The practice of electrology includes removing superfluous hair:

(a) from the body and face of an individual by using electricity, waxing, shaving, or tweezing; and

(b) by using a laser pursuant to requirements described in Section 58-1-506.

(2) An individual may not engage in the practice of electrology unless the individual holds an electrology license.

(3) An applicant for an electrology license shall comply with the requirements of Section 58-11a-302 and:

(a) attend a licensed or recognized school and complete a curriculum that:

(i) covers:

(A) laser hair removal;

(B) electrolysis; and

(C) waxing; and

(ii) has a minimum of 600 hours of instruction or the equivalent number of credit hours; or

(b) complete an approved electrology technician apprenticeship.

(4) If the applicant graduates from a recognized school with less than 600 hours of instruction, the applicant may count hours practiced as a licensed electrologist in a jurisdiction other than Utah to satisfy the 600 total hours requirement.

(5) An individual with an electrology license may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

Section 12. Section 58-11a-302.15 is enacted to read:

58-11a-302.15. Practice of eyelash and eyebrow technology -- Eyelash and eyebrow technology license -- Qualifications.

(1) The practice of eyelash and eyebrow technology includes arching eyebrows by tweezing or waxing, tinting eyelashes or eyebrows, facial waxing, perming eyelashes or eyebrows, and applying eyelash or eyebrow extensions.

(2) An individual may not engage in the practice of eyelash and eyebrow technology unless the individual holds an eyelash and eyebrow technology license.

(3) An applicant for an eyelash and eyebrow technology license shall comply with the requirements of Section 58-11a-302 and:

(a) attend a licensed or recognized school and complete a curriculum that:

(i) covers eyelash and eyebrow technology; and

(ii) has a minimum of 270 hours of instruction or the equivalent number of credit hours; or

(b) complete an approved eyelash and eyebrow apprenticeship.

(4) If the applicant graduates from a recognized school with less than 270 hours of instruction, the applicant may count hours practiced as a licensed eyelash and eyebrow technician in a jurisdiction other than Utah to satisfy the 270 total hours requirement.

(5) An individual with an eyelash and eyebrow technology license may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

Section 13. Section 58-11a-302.16 is enacted to read:

58-11a-302.16. Practice of facial hair removal -- Facial hair removal permit -- Qualifications.

(1) The practice of facial hair removal includes cleansing, applying oil and antiseptics, and manual hair removal on the face.

(2) An individual may not engage in the practice of facial hair removal unless the individual holds a facial hair removal permit.

(3) An applicant for a facial hair removal permit shall comply with the requirements of Section 58-11a-302 and:

(a) attend a licensed or recognized school and complete a curriculum that:

(i) covers facial hair removal; and

(ii) has a minimum of 50 hours of instruction or the equivalent number of credit hours; or

(b) complete an approved facial hair removal apprenticeship.

(4) If the applicant graduates from a recognized school with less than 50 hours of instruction, the applicant may count hours practiced as a permitted facial hair removal technician in a jurisdiction other than Utah to satisfy the 50 total hours requirement.

(5) An individual with a facial hair removal permit may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

Section 14. Section 58-11a-302.17 is enacted to read:

58-11a-302.17. Practice of haircutting -- Haircutting permit -- Qualifications.

(1) The practice of haircutting includes:

(a) cutting, clipping, or trimming the hair of the head of an individual by using scissors, shears, clippers, or other appliances;

(b) engaging in draping, shampooing, scalp treatments, basic wet styling, and blow drying;

(c) hair fusing and extensions; and

(d) when providing other services described in this Subsection (1), gently massaging the head, back of the neck, and shoulders by manual or mechanical means.

(2) An individual may not engage in the practice of haircutting unless the individual holds a haircutting permit.

(3) An applicant for a haircutting permit shall comply with the requirements of Section 58-11a-302 and:

(a) attend a licensed or recognized school and complete a curriculum that:

(i) covers:

(A) hair safety requirements; and

(B) haircutting; and

(ii) has a minimum of 150 hours of instruction or the equivalent number of credit hours; or

(b) complete an approved haircutting apprenticeship.

(4) If the applicant graduates from a recognized school with less than 150 hours of instruction, the applicant may count hours practiced as a haircutting technician in a jurisdiction other than Utah to satisfy the 150 total hours requirement.

(5) An individual with a haircutting permit may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

Section 15. Section 58-11a-302.18 is enacted to read:

58-11a-302.18. Practice of master esthetics -- Master esthetics license -- Qualifications.

(1) (a) The practice of master esthetics includes:

(i) body wraps, as defined by administrative rules made by the division;

(ii) hydrotherapy, as defined by administrative rules made by the division;

(iii) limited chemical exfoliation and chemical exfoliation, as defined by administrative rules made by the division;

(iv) callous removal by buffing or filing;

(v) sanding, including microdermabrasion;

(vi) advanced extraction;

(vii) dermaplaning;

(viii) other esthetic preparations or procedures that use:

(A) the hands; or

(B) a mechanical or electrical apparatus that is approved for use by administrative rules made by the division;

(ix) the use of a cosmetic medical device to perform nonablative procedures, including:

(A) laser hair removal;

(B) body contouring;

(C) anti-aging resurfacing enhancements; and

(D) photo rejuvenation;

(x) lymphatic massage by manual or other means as defined by administrative rules made by the division;

(xi) manual hair removal;

(xii) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays or masks, and manual extraction, including a comedone extractor;

(xiii) natural nail manicures and pedicures; and

(xiv) eyelash and eyebrow technology.

(b) An individual with a master esthetics license may not perform any service described in Subsection (1)(a) for the treatment of medical, physical, or mental ailments.

(c) An individual with a master esthetics license may perform:

(i) a procedure described in Subsections (1)(a)(ix)(A) through (D) pursuant to the requirements described in Section 58-1-506; and

(ii) chemical exfoliation pursuant to the supervision requirements established by administrative rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) Except as required in Subsection (1)(c), a procedure described in this section that is performed by an individual with a master esthetics license may be performed without supervision by a medical professional.

(2) An individual may not engage in the practice of master esthetics unless the individual holds a master esthetics license.

(3) An applicant for a master esthetics license shall comply with the requirements of Section 58-11a-302 and:

(a) attend a licensed or recognized school and complete a curriculum that:

(i) covers:

(A) eyelash and eyebrow technology;

(B) cosmetic medical procedures;

(C) body contouring and lymphatic massage; and

(D) advanced skincare; and

(ii) has a minimum of 1,200 hours of instruction or the equivalent number of credit hours; or

(b) complete an approved master esthetics apprenticeship.

(4) If the applicant graduates from a recognized school with less than 1,200 hours of instruction, the applicant may count hours practiced as an esthetician in a jurisdiction other than Utah to satisfy the 1,200 total hours requirement.

(5) An individual with a master esthetics license may apply credit hours to another license or permit under this chapter, as allowed in

Subsection 58-11a-302(2).

Section 16. Section 58-11a-302.19 is enacted to read:

58-11a-302.19. Practice of master hair design and master barbering -- Master hair design license and master barbering license -- Qualifications.

(1) The practice of master hair design and practice of master barbering includes:

(a) styling, arranging, dressing, curling, or waving the hair of the head of an individual;

(b) cutting, clipping, or trimming the hair of the head of an individual by using scissors, shears, clippers, or other appliances;

(c) engaging in draping, shampooing, scalp treatments, basic wet styling, and blow drying;

(d) hair fusing and extensions;

(e) removing hair from the face or neck of an individual by using shaving equipment;

(f) cutting, curling, styling, fitting, measuring, or forming caps for wigs, hairpieces, or both on the human head;

(g) practicing hair weaving, hair fusing, or servicing previously medically implanted hair;

(h) when providing other services described in this Subsection (1), gently massaging the head, back of the neck, and shoulders by manual or mechanical means; and

(i) permanently waving, bleaching, tinting, coloring, relaxing, or similarly treating the hair of the head of an individual.

(2) An individual may not engage in the practice of master hair design or master barbering unless the individual holds a master hair design license or master barbering license.

(3) An applicant for a master hair design license or master barbering license shall comply with the requirements of Section 58-11a-302 and:

(a) attend a licensed or recognized school and complete a curriculum that:

(i) covers:

(A) hair safety requirements;

(B) haircutting and barbering; and

(C) chemical hair services; and

(ii) has a minimum of 1,000 hours of instruction or the equivalent number of credit hours; or

(b) complete an approved master hair design or an approved master barbering apprenticeship.

(4) If the applicant graduates from a recognized school with less than 1,000 hours of instruction, the applicant may count hours practiced as a licensed master hair designer or master barber in a jurisdiction other than Utah to satisfy the 1,000 total hours requirement.

(5) An individual with a master hair design license or master barbering license may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

Section 17. Section 58-11a-302.20 is enacted to read:

58-11a-302.20. Practice of nail technology -- Nail technology license -- Qualifications.

(1) The practice of nail technology includes:

(a) trimming, cutting, cleaning, manicuring, shaping, massaging hands to elbows and feet to knees, or enhancing the appearance of the hands, feet, and nails of an individual by using the nail technician's hands, mechanical or electrical preparation, antiseptic, lotion, or cream;

(b) applying and removing sculptured or artificial nails; and

(c) using blades, including corn or callus planer or rasp, for smoothing, shaving, or removing dead skin from the feet.

(2) An individual may not engage in the practice of nail technology unless the individual holds a nail technology license.

(3) An applicant for a nail technology license shall comply with the requirements of Section 58-11a-302 and:

(a) attend a licensed or recognized school and complete a curriculum that:

(i) covers:

(A) manicures and pedicures; and

(B) artificial nails; and

(ii) has a minimum of 300 hours of instruction or the equivalent number of credit hours; or

(b) complete an approved nail technology apprenticeship.

(4) If the applicant graduates from a recognized school with less than 300 hours of instruction, the applicant may count hours practiced as a licensed nail technician in a jurisdiction other than Utah to satisfy the 300 total hours requirement.

(5) An individual with a nail technology license may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

Section 18. Section 58-11a-302.21 is enacted to read:

58-11a-302.21. Licensed instructor -- Qualifications.

(1) An applicant for licensure as an instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (4), pay a fee determined by the division under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed or permitted in the discipline that the applicant is seeking to instruct;

(d) provide satisfactory documentation that the applicant has completed six months of work experience in the discipline the applicant intends to instruct and:

(i) an instructor training program for the discipline for which the applicant is licensed, by a licensed or recognized school for a minimum of 35% of the minimum hours for the license or permit the applicant intends to instruct; or

(ii) on-the-job instructor training for the discipline for which the applicant is licensed, by a licensed or recognized school for a minimum of 35% of the minimum hours for the license or permit the applicant intends to instruct; and

(e) meet the examination requirement established by administrative rules made by the division.

(2) An applicant for an instructor license or permit under this chapter whose education in the discipline for which a license or permit is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.

(3) (a) An individual may not instruct a discipline unless the individual has an instructor license that allows instruction of that discipline.

(b) The division shall make rules establishing which disciplines each type of instructor license may instruct.

(4) The division may not charge a fee to an individual applying for licensure as an instructor under this chapter if the individual is a licensed instructor in any other discipline under this chapter.

(5) The division may offer any required examination under this section, which is prepared by a national testing organization, in languages in addition to English.

(6) For purposes of a national accrediting agency recognized by the United States Department of Education, on-the-job instructor training described in this section is not considered a program.

Section 19. Section 58-11a-302.22 is enacted to read:

58-11a-302.22. Licensed school -- Qualifications.

(1) An applicant for licensure as a licensed school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the division under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the municipality in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by administrative rules made by the division; and

(iv) that the applicant meets the standards established by administrative rules made by the division, including staff, curriculum, and accreditation requirements.

(2) (a) Except as provided in Subsection (2)(b), a school licensed or applying for licensure under this chapter shall maintain recognition as an institution of postsecondary study by meeting the following conditions:

(i) the school shall admit as a regular student only an individual who has earned a recognized high school diploma or the equivalent of a recognized high school diploma, or who is beyond the age of compulsory high school attendance as prescribed by Title 53G, Chapter 6, Part 2, Compulsory Education; and

(ii) the school shall be licensed by name, or in the case of an applicant, shall apply for licensure by name, under this chapter to offer one or more training programs beyond the secondary level.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall establish administrative rules for licensure for a local education agency, technical college, a degree-granting institution with a technical college mission, or private school that primarily serves secondary students.

(c) Nothing in this section precludes a local education agency, technical college, a degree-granting institution with a technical college mission, or private school from administering a licensed program for secondary students.

(3) A school licensed under this section shall accept credit hours towards graduation for documented, relevant, and substantially equivalent coursework previously completed by:

(a) a student that completed only a portion of the student's education while attending a different school or apprenticeship; or

(b) an individual licensed or permitted under this chapter, based on the individual's schooling, apprenticeship, or experience.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the division may make rules governing the acceptance of credit hours.

Section 20. Section 58-11a-302.23 is enacted to read:

58-11a-302.23. Practice of esthetics -- Esthetics license -- Qualifications.

(1) Except as provided in Subsection (3), the division may not issue an esthetics license after January 1, 2026.

(2) An individual with an esthetics license may perform any of the following skincare procedures done on the face or body for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

(a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or masks, and manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous removal by buffing or filing;

(b) limited chemical exfoliation as defined by rule;

(c) manual hair removal;

(d) other esthetic preparations or procedures with the use of the hands, a high-frequency or galvanic electrical apparatus, or a heat lamp;

(e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes or eyebrows, or applying eyelash or eyebrow extensions; or

(f) subject to the requirements described in Section 58-1-506:

(i) laser hair removal;

(ii) anti-aging resurfacing enhancements; or

(iii) photo rejuvenation.

(3) The division shall grant an esthetics license to an individual that completes the requirements described in Subsection (4) and:

(a) has registered an esthetics apprenticeship with the division on or before January 1, 2026; or

(b) has enrolled and started an esthetics program with a licensed school on or before January 1, 2026.

(4) (a) An individual described in Subsection (3)(a) shall complete at least 800 hours of apprenticeship training that is supervised by a licensed esthetics instructor who provides one-on-one supervision of the apprentice during the apprenticeship.

(b) An individual described in Subsection (3)(b) shall graduate from a licensed school with a minimum of 600 hours or the equivalent

number of credit hours.

(5) An individual with an esthetics license may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

Section 21. Section 58-11a-302.24 is enacted to read:

58-11a-302.24. Practice of barbering -- Barbering license -- Qualifications.

(1) Except as provided in Subsection (3), the division may not issue a barbering license after January 1, 2026.

(2) An individual with a barbering license may engage in the practice of barbering, which includes:

(a) cutting, clipping, or trimming the hair of the head of an individual by using scissors, shears, clippers, or other appliances;

(b) engaging in draping, shampooing, scalp treatments, basic wet styling, and blow drying;

(c) cutting, wet styling, fitting, measuring, or forming caps for wigs and hairpieces on the human head;

(d) removing hair from the face or neck of an individual by using shaving equipment; and

(e) when providing other services described in this Subsection (2), gently massaging the head, back of the neck, and shoulders by manual or mechanical means.

(3) The division shall grant a barbering license to an individual that completes the requirement described in Subsection (4) and:

(a) has registered a barbering apprenticeship with the division on or before January 1, 2026; or

(b) has enrolled and started a barbering program with a licensed school on or before January 1, 2026.

(4) (a) An individual described in Subsection (3)(a) shall complete at least 1,250 hours of apprenticeship training that is supervised by a licensed barbering instructor who provides one-on-one supervision of the apprentice during the apprenticeship.

(b) An individual described in Subsection (3)(b) shall graduate from a licensed school with a minimum of 1,000 hours or the equivalent number of credit hours.

(5) An individual with a barbering license may apply credit hours to another license or permit under this chapter, as allowed in Subsection 58-11a-302(2).

Section 22. Section 58-11a-302.25 is enacted to read:

58-11a-302.25. License transitions.

Beginning on January 1, 2026:

(1) a cosmetology/barbering license shall be renewed as a cosmetology license;

(2) a master-level esthetics license shall be renewed as a master esthetics license;

(3) a hair design license shall be renewed as a master hair design license or a master barbering license;

(4) an individual with a barbering license may renew the license as a barbering license; and

(5) an individual with an esthetics license may renew the license as an esthetics license.

Section 23. Section 58-11a-303 is amended to read:

58-11a-303. Terms of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule, except that an instructor license is a one-time certificate and does not expire unless the licensee fails to keep current the license that qualified the licensee to be an instructor under Section [~~58-11a-302~~]58-11a-302.21.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, a licensed school shall show satisfactory evidence that the school meets the standards for that type of school, including staff, curriculum, and accreditation requirements, established by rule.

(3) Each license expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

Section 24. Section 58-11a-304 is amended to read:

58-11a-304. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following [~~persons~~]individuals may engage in [~~the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, nail technology, or eyelash and eyebrow technology~~]a discipline regulated by this chapter without being licensed under this chapter:

(1) [~~a person~~]an individual licensed under the laws of this state to engage in the practice of medicine, surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which they are licensed;

(2) a commissioned physician or surgeon serving in the armed forces of the United States or another federal agency;

(3) a registered nurse, undertaker, or mortician licensed under the laws of this state when engaged in the practice of the profession for which the [~~person~~]individual is licensed;

(4) [~~a person~~]an individual who visits the state to engage in instructional seminars, advanced classes, trade shows, or competitions of a limited duration;

[~~(5) a person who engages in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, nail technology, or eyelash and eyebrow technology without compensation;~~]

(5) an individual who engages in a practice regulated by this chapter without compensation;

(6) [~~a person~~]an individual instructing an adult education class or other educational program directed toward [~~persons~~]individuals who are not licensed under this chapter and that is not intended to train [~~persons~~]individuals to become licensed under this chapter, provided:

(a) an attendee receives no credit toward educational requirements for licensure under this chapter;

(b) the instructor informs each attendee in writing that taking such a class or program will not certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and

(c) (i) the instructor is properly licensed; or

(ii) the instructor receives no compensation;

(7) [~~a person~~]an individual providing instruction in workshops, seminars, training meetings, or other educational programs whose

purpose is to provide continuing professional development [~~to licensed barbers, cosmetologists/barbers, hair designers, estheticians, master estheticians, electrologists, or nail technicians~~]to a qualified licensee or permittee regulated by this chapter;

(8) [~~a person~~]an individual enrolled in a licensed [~~barber, cosmetology/barber, or hair design~~]school when participating in an on the job training internship under the direct supervision of a [~~licensed barber, cosmetologist/barber, or hair designer~~]licensee under this chapter upon completion of a basic program under the standards established by rule by the division in collaboration with the board;

(9) [~~a person enrolled~~]an individual registered with the division in an approved apprenticeship pursuant to Section 58-11a-306;

(10) (a) an employee of a company that is primarily engaged in the business of selling products used [~~in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, nail technology, or eyelash and eyebrow technology~~]by a qualified licensee regulated by this chapter;

(b) [-]when demonstrating the company's products to a potential customer[~~,~~]; and

(c) [-]provided the employee makes no representation to a potential customer that attending [~~such a~~]the demonstration will certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter;

(11) [~~a person~~]an individual who:

(a) is qualified to engage in [~~the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, nail technology, or eyelash and eyebrow technology~~]a practice regulated by this chapter in another jurisdiction as evidenced by licensure, certification, or lawful practice in the other jurisdiction;

(b) is employed by, or under contract with, a motion picture company; and

(c) engages in [~~the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, nail technology, or eyelash and eyebrow technology~~]a practice regulated by this chapter in the state:

(i) solely to assist in the production of a motion picture; and

(ii) for no more than 120 days per calendar year;

(12) [~~a person~~]an individual who:

(a) engages in threading;

(b) engages in hair braiding; and

[~~(b)~~](c) [~~unless it is expressly exempted under this section or Section 58-1-307, does not engage in other activity requiring licensure under this chapter; and~~]is not engaged in a practice that requires a license or permit under this chapter; and

(13) [~~a person~~]an individual who:

(a) dries, styles, arranges, dresses, curls, hot irons, shampoos, or conditions hair;

(b) does not cut the hair;

(c) does not apply dye to alter the color of the hair;

(d) does not apply reactive chemicals to straighten, curl, or alter the structure of the hair;

(e) engages in thermal styling or scalp treatments;

[~~(c)~~](f) [~~unless it is expressly exempted under this section or Section 58-1-307, does not engage in other activity requiring licensure under this chapter~~]is not engaged in a practice that requires a license or permit under this chapter;

[~~(f)~~](g) provides evidence to the division that the [~~person~~]individual has received a hair safety permit from completing a hair safety program that:

(i) is approved by the division;

(ii) consists of no more than two hours of instruction;

(iii) is offered by a provider approved by the division; and

(iv) includes an examination that requires a passing score of 75%; and

[~~(g)~~](h) displays in a conspicuous location in the [~~person's~~]individual's place of business:

(i) a valid hair safety permit as described in Subsection (13)(f); and

(ii) a sign notifying the public that the [~~person's~~]individual providing the services [~~are not provided by an individual who has a license under this chapter.~~]is not licensed under this chapter.

Section 25. Section 58-11a-306 is repealed and re-enacted to read:

58-11a-306. Apprenticeship.

(1) (a) An approved apprenticeship shall be conducted by a supervisor who:

(i) is licensed under this chapter as an instructor in the discipline of the apprenticeship; and

(ii) provides one-on-one direct supervision of the apprentice during the apprenticeship program.

(b) An apprenticeship supervisor may not provide direct supervision to more than two apprentices during the apprenticeship program.

(2) An individual seeking a license or permit through an approved apprenticeship under this chapter shall:

(a) register with the division before beginning the training requirements by:

(i) submitting a form prescribed by the division, which includes the name of the licensed instructor supervisor; and

(ii) paying a fee determined by the division under Section 63J-1-504;

(b) complete the apprenticeship within two years of the date on which the division approves the registration; and

(c) notify the division within 30 days if the licensed instructor supervisor changes after the registration is approved by the division.

(3) An individual seeking a license or permit through an approved apprenticeship under this chapter shall complete a minimum of:

(a) 1,250 apprenticeship hours for a cosmetology license;

(b) 1,200 apprenticeship hours for a master esthetics license;

(c) 1,000 apprenticeship hours for:

(i) a master barber license; or

(ii) a master hair design license;

(d) 600 apprenticeship hours for an electrology license;

(e) 300 apprenticeship hours for a nail technology license;

(f) 270 apprenticeship hours for an eyelash and eyebrow technology license;

(g) 260 apprenticeship hours for a chemical hair services permit;

(h) 200 apprenticeship hours for a basic esthetics permit;

(i) 150 apprenticeship hours for a haircutting permit;

(j) 130 apprenticeship hours for a barbering permit; or

(k) 50 apprenticeship hours for a facial hair removal permit.

Section 26. Section 58-11a-501 is repealed and re-enacted to read:

58-11a-501. Unprofessional conduct.

Unprofessional conduct includes:

(1) a licensed school that fails to:

(a) (i) obtain or maintain accreditation or comply with the required standard of accreditation; and

(ii) have curriculum approved by the division, as required by administrative rules made by the division; or

(b) provide adequate instruction to enrolled students;

(2) an apprenticeship supervisor that fails to:

(a) provide direct supervision to an apprentice; or

(b) comply with division rules relating to apprenticeship programs under this chapter;

(3) an instructor that fails to provide direct supervision to students who are providing services to an individual under the instructor's supervision;

(4) a person that keeps a salon or school, or the salon or school's furnishings, tools, utensils, linen, or appliances in an unsanitary condition;

(5) an individual licensed or permitted under this chapter that fails to:

(a) comply with Title 26B, Utah Health and Human Services Code;

(b) display a license or permit as required under Section 58-11a-305;

(c) comply with physical facility requirements established by administrative rules made by the division;

(d) maintain mechanical or electrical equipment in safe operating condition;

(e) adequately monitor patrons using steam rooms, dry heat rooms, baths, showers, or saunas;

(f) comply with all applicable state and local health or sanitation laws; or

(g) comply with a judgment order from a court of competent jurisdiction regarding a disagreement over tuition or education costs in relation to the requirements outlined in this chapter;

(6) an individual licensed or permitted under this chapter:

(a) prescribing or administering prescription drugs;

(b) engaging in any act or practice in a professional capacity that is outside of the applicable scope of practice;

(c) engaging in any act or practice in a professional capacity that the individual is not competent to perform through education or training; or

(d) removing proximal nail fold by e-file or other tool or inserting tools beneath the eponychium;

(7) unless the individual is under the supervision of a licensed health care practitioner acting within the scope of the health care practitioner's license, an individual licensed or permitted under this chapter, while using a chemical exfoliant:

(a) using any acid, concentration of acid, or combination of treatments that violate the standards established by administrative rules made by the division;

(b) removing any layer of skin deeper than the stratum corneum of the epidermis; or

(c) using an exfoliant that contains phenol, trichloroacetic acid of over 15%, or bichloroacetic acid;

(8) while sanding the skin, an individual licensed or permitted under this chapter, removing any layer of skin deeper than the stratum corneum of the epidermis, unless the individual is under the supervision of a licensed health care practitioner acting within the scope of the health care practitioner's license;

(9) using any laser procedure or intense, pulsed light source, besides a nonprescriptive laser device, unless authorized to do so by an individual's license or permit in this chapter;

(10) marketing or distinguishing an establishment as a school if the establishment is not licensed as a school under this chapter; and

(11) claiming or advertising unrealistic results for body contouring, including alleviation of psychological distress.

Section 27. Section 58-11a-503 is amended to read:

58-11a-503. Penalties.

(1) Unless Subsection (2) applies, an individual who commits an act of unlawful conduct under Section 58-11a-502 or who fails to comply with a citation issued under this section after [~~it~~]the citation is final is guilty of a class A misdemeanor.

(2) Sexual conduct that violates Section 58-11a-502 and Title 76, Utah Criminal Code, shall be subject to the applicable penalties in Title 76, Utah Criminal Code.

(3) Grounds for immediate suspension of [~~a licensee's~~]an individual's license or permit by the division include the issuance of a citation for violation of Subsection 58-11a-502(1), (3), (4), (5), or (6).

(4) [~~(a)~~] If upon inspection or investigation, the division concludes that [~~a person~~]an individual has violated the provisions of Subsection 58-11a-502(1), (3), (4), (5), or (6), or a rule or order issued with respect to Subsection 58-11a-502(1), (3), (4), (5), or (6), and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to [~~the person~~]the individual according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the [~~person~~]individual to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

[~~(i)~~](5) [~~A person who~~]An individual that is in violation of Subsection 58-11a-502(1), (3), (4), (5), or (6), as evidenced by an

uncontested citation, a stipulated settlement, or [~~by a~~]finding of violation in an adjudicative proceeding, may be assessed a fine [~~pursuant to~~]in accordance with this Subsection [~~(4)~~](5) and may, in addition to or in lieu of a fine, be ordered to cease and desist from violating Subsection 58-11a-502(1), (3), (4), (5), or (6).

[~~(ii)~~](6) Except for a cease and desist order, the licensure sanctions [~~cited~~]described in Section 58-11a-401 may not be assessed through a citation.

(7) [~~(b)~~](a) [~~(i)~~] Each citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

[~~(iii)~~](b) The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

[~~(iii)~~](c) The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time specified in the citation.

[~~(c)~~](d) Each citation issued under this section, or a copy of each citation, may be served upon [~~a person~~]an individual upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the [~~person's~~]individual's agent by a division investigator or by [~~a person~~]an individual specially designated by the director or by mail.

[~~(d)~~](e) (i) If within 20 calendar days from the service of a citation, the [~~person to whom~~]individual to which the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

[~~(e)~~](f) The division may refuse to issue or renew, suspend, revoke, or place on probation the [~~license of a licensee who~~]license or permit of an individual that fails to comply with a citation after [~~it~~]the citation becomes final.

[~~(f)~~](g) The failure of an applicant for licensure to comply with a citation after [~~it~~]the citation becomes final is a ground for denial of license.

[~~(g)~~](h) [~~No citation may be issued~~]The director or the director's designee from within the division may not issue a citation under this section [~~after the expiration of~~]more than one year [~~following~~]after the date on which the violation that is the subject of the citation is reported to the division.

[~~(h)~~](i) [~~Fines shall be assessed by the director or the director's designee according to the following:~~]The director or the director's designee shall assess fines as follows:

(i) for a first offense under Subsection [~~(4)(a)~~](4), a fine of up to $1,000;

(ii) for a second offense under Subsection [~~(4)(a)~~](4), a fine of up to $2,000; and

(iii) for any subsequent offense under Subsection [~~(4)(a)~~](4), a fine of up to $2,000 for each day of continued offense.

[~~(i)~~](j) [~~(i)~~] For purposes of issuing a final order under this section and assessing a fine under Subsection [~~(4)(h)~~](7)(i), an offense constitutes a second or subsequent offense if:

[~~(A)~~](i) the division previously issued a final order determining that [~~a person~~]an individual committed a first or second offense in violation of Subsection 58-11a-502(1), (3), (4), (5), or (6); or

[~~(B)~~](ii) [~~(I)~~](A) the division initiated an action for a first or second offense;

[~~(II)~~](B) no final order has been issued by the division in the action initiated under Subsection [~~(4)(i)(i)(B)(I)~~](7)(j)(ii)(A);

[~~(III)~~](C) the division determines during an investigation that occurred after the initiation of the action under Subsection [~~(4)(i)(i)(B)(I)~~](7)(j)(ii)(A) that the [~~person~~]individual committed a second or subsequent violation of Subsection 58-11a-502(1), (3), (4), (5), or (6); and

[~~(IV)~~](D) after determining that the [~~person~~]individual committed a second or subsequent offense under Subsection [~~(4)(i)(i)(B)(III)~~](7)(j)(ii)(C), the division issues a final order on the action initiated under Subsection [~~(4)(i)(i)(B)(I)~~](7)(j)(ii)(A).

[~~(ii)~~](k) In issuing a final order for a second or subsequent offense under Subsection [~~(4)(i)(i)~~](7)(j), the division shall comply with the requirements of this section.

[~~(5)~~](8) (a) A penalty imposed by the director under Subsection [~~(4)(h)~~](7)(i) shall be deposited into the [~~Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Education and Enforcement Fund~~]Cosmetology and Associated Professions Education and Enforcement Fund.

(b) [~~A penalty which is not paid may be collected by the director by either:~~]The director may collect an unpaid penalty by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county in which the [~~person~~]individual against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 28. Section 58-67-102 is amended to read:

58-67-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium: YAG lasers.

(b) "Ablative procedure" does not include[~~-~~]:

(i) hair removal;

(ii) laser tattoo removal; or

(iii) cryolipolysis.

(2) "ACGME" means the Accreditation Council for Graduate Medical Education of the American Medical Association.

(3) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, in accordance with a fine schedule established by the division in collaboration with the board, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) "Associate physician" means an individual licensed under Section 58-67-302.8.

(5) "Attempted sex change" means an attempt or effort to change an individual's body to present that individual as being of a sex or gender that is different from the individual's biological sex at birth.

(6) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by:

(a) sex and reproductive organ anatomy;

(b) chromosomal makeup; and

(c) endogenous hormone profiles.

(7) "Board" means the Medical Licensing Board created in Section 58-67-201.

(8) "Collaborating physician" means an individual licensed under Section 58-67-302 who enters into a collaborative practice arrangement with an associate physician.

(9) "Collaborative practice arrangement" means the arrangement described in Section 58-67-807.

(10) (a) "Cosmetic medical device" means tissue altering energy based devices that have the potential for altering living tissue and that are used to perform ablative or nonablative procedures, such as American National Standards Institute [~~(ANSI) ~~]designated Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices, and excludes [~~ANSI~~]American National Standards Institute designated Class IIIa and lower powered devices.

(b) Notwithstanding Subsection (10)(a), if an [~~ANSI~~]American National Standards Institute designated Class IIIa and lower powered device is being used to perform an ablative procedure, the device is included in the definition of cosmetic medical device under Subsection (10)(a).

(11) (a) "Cosmetic medical procedure" includes:

(i) the use of cosmetic medical devices to perform ablative or nonablative procedures; or

(ii) the injection of medication or substance, including a neurotoxin or a filler, for cosmetic purposes.

(b) "Cosmetic medical procedure" does not include a treatment of the ocular globe including refractive surgery.

(12) "Diagnose" means:

(a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (12)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (12)(a); or

(d) to make an examination or determination as described in Subsection (12)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

(13) "LCME" means the Liaison Committee on Medical Education of the American Medical Association.

(14) "Medical assistant" means an unlicensed individual who may perform tasks as described in Subsection 58-67-305(6).

(15) "Medically underserved area" means a geographic area in which there is a shortage of primary care health services for residents, as determined by the Department of Health and Human Services.

(16) "Medically underserved population" means a specified group of people living in a defined geographic area with a shortage of primary care health services, as determined by the Department of Health and Human Services.

(17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (17)(a)(i) nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure as defined in Section 58-1-102;

(ii) the application of permanent make-up;

(iii) laser tattoo removal; or

[~~(iii)~~](iv) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within the individual's scope of practice.

(18) "Physician" means both physicians and surgeons licensed under [~~Section 58-67-301, Utah Medical Practice Act~~]Part 3, Licensing, and osteopathic physicians and surgeons licensed under [~~Section 58-68-301, Utah Osteopathic Medical Practice Act~~]Chapter 68, Part 3, Licensing.

(19) (a) "Practice of medicine" means:

(i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any means or instrumentality, and by an individual in Utah or outside the state upon or for any human within the state;

(ii) when a person not licensed as a physician directs a licensee under this chapter to withhold or alter the health care services that the licensee has ordered;

(iii) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

(iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine," "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these designations in any manner which might cause a reasonable person to believe the individual using the designation is a licensed physician and surgeon, and if the party using the designation is not a licensed physician and surgeon, the designation must additionally contain the description of the branch of the healing arts for which the person has a license, provided that an individual who has received an earned degree of doctor of medicine degree but is not a licensed physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

(b) The practice of medicine does not include:

(i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii) the conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued under another chapter of this title;

(ii) an ablative cosmetic medical procedure if the scope of practice for the person performing the ablative cosmetic medical procedure includes the authority to operate or perform a surgical procedure; or

(iii) conduct under Subsection 58-67-501(2).

(20) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(21) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(22) (a) "Primary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, castration, orchiectomy, penectomy, vaginoplasty, or vulvoplasty;

(ii) for an individual whose biological sex at birth is female, hysterectomy, oophorectomy, metoidioplasty, or phalloplasty; or

(iii) any surgical procedure that is related to or necessary for a procedure described in Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not sterile.

(b) "Primary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(23) (a) "Secondary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, breast augmentation surgery, chest feminization surgery, or facial feminization surgery; or

(ii) for an individual whose biological sex at birth is female, mastectomy, breast reduction surgery, chest masculinization surgery, or facial masculinization surgery.

(b) "Secondary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(24) "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.

(25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-67-501.

(26) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501and 58-67-502, and as may be further defined by division rule.

Section 29. Section 58-68-102 is amended to read:

58-68-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium: YAG lasers.

(b) "Ablative procedure" does not include[-]:

(i) hair removal[-]; or

(ii) laser tattoo removal.

(2) "ACGME" means the Accreditation Council for Graduate Medical Education of the American Medical Association.

(3) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) "AOA" means the American Osteopathic Association.

(5) "Associate physician" means an individual licensed under Section 58-68-302.5.

(6) "Attempted sex change" means an attempt or effort to change an individual's body to present that individual as being of a sex or gender that is different from the individual's biological sex at birth.

(7) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by:

(a) sex and reproductive organ anatomy;

(b) chromosomal makeup; and

(c) endogenous hormone profiles.

(8) "Board" means the Medical Licensing Board created in Section 58-67-201.

(9) "Collaborating physician" means an individual licensed under Section 58-68-302 who enters into a collaborative practice arrangement with an associate physician.

(10) "Collaborative practice arrangement" means the arrangement described in Section 58-68-807.

(11) (a) "Cosmetic medical device" means tissue altering energy based devices that have the potential for altering living tissue and that are used to perform ablative or nonablative procedures, such as American National Standards Institute [~~(ANSI)~~]designated Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices and excludes [~~ANSI~~]American National Standards Institute designated Class IIIa and lower powered devices.

(b) Notwithstanding Subsection (11)(a), if an [~~ANSI~~]American National Standards Institute designated Class IIIa and lower powered device is being used to perform an ablative procedure, the device is included in the definition of cosmetic medical device under Subsection (11)(a).

(12) "Cosmetic medical procedure":

(a) includes the use of cosmetic medical devices to perform ablative or nonablative procedures; and

(b) does not include a treatment of the ocular globe such as refractive surgery.

(13) "Diagnose" means:

(a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (13)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (13)(a); or

(d) to make an examination or determination as described in Subsection (13)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

(14) "Medical assistant" means an unlicensed individual who may perform tasks as described in Subsection 58-68-305(6).

(15) "Medically underserved area" means a geographic area in which there is a shortage of primary care health services for residents, as determined by the Department of Health and Human Services.

(16) "Medically underserved population" means a specified group of people living in a defined geographic area with a shortage of primary care health services, as determined by the Department of Health and Human Services.

(17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (17)(a)(i), nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure as defined in Section 58-1-102;

(ii) the application of permanent make-up;

(iii) laser tattoo removal; or

[~~(iii)~~](iv) the use of photo therapy lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within the individual's scope of practice.

(18) "Physician" means both physicians and surgeons licensed under [~~Section 58-67-301, Utah Medical Practice Act~~]Chapter 67, Part 3, Licensing, and osteopathic physicians and surgeons licensed under [~~Section 58-68-301, Utah Osteopathic Medical Practice Act~~]Part 3, Licensing.

(19) (a) "Practice of osteopathic medicine" means:

(i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part is based upon emphasis of the importance of the musculoskeletal system and manipulative therapy in the maintenance and restoration of health, by an individual in Utah or outside of the state upon or for any human within the state;

(ii) when a person not licensed as a physician directs a licensee under this chapter to withhold or alter the health care services that the licensee has ordered;

(iii) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

(iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine," "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.," "D.O.," or any combination of these designations in any manner which might cause a reasonable person to believe the individual using the designation is a licensed osteopathic physician, and if the party using the designation is not a licensed osteopathic physician, the designation must additionally contain the description of the branch of the healing arts for which the person has a license, provided that an individual who has received an earned degree of doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

(b) The practice of osteopathic medicine does not include:

(i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii), the conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued under another chapter of this title;

(ii) an ablative cosmetic medical procedure if the scope of practice for the person performing the ablative cosmetic medical procedure includes the authority to operate or perform a surgical procedure; or

(iii) conduct under Subsection 58-68-501(2).

(20) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and

dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(21) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(22) (a) "Primary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, castration, orchiectomy, penectomy, vaginoplasty, or vulvoplasty;

(ii) for an individual whose biological sex at birth is female, hysterectomy, oophorectomy, metoidioplasty, or phalloplasty; or

(iii) any surgical procedure that is related to or necessary for a procedure described in Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not sterile.

(b) "Primary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(23) (a) "Secondary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, breast augmentation surgery, chest feminization surgery, or facial feminization surgery; or

(ii) for an individual whose biological sex at birth is female, mastectomy, breast reduction surgery, chest masculinization surgery, or facial masculinization surgery.

(b) "Secondary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(24) "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.

(25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-68-501.

(26) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501and 58-68-502 and as may be further defined by division rule.

Section 30. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 492
H. B. 481
Passed March 7, 2025
Approved March 27, 2025
Effective November 3, 2026

BALLOT PROPOSITION REQUIREMENTS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill, contingent on passage of a proposed constitutional amendment, amends the publication requirement for a future proposed constitutional amendment or other ballot question.

Highlighted Provisions:

This bill:

► contingent on passage of a proposed constitutional amendment, amends the publication requirement for a future proposed constitutional amendment or other ballot question.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-7-103, as last amended by Laws of Utah 2024, Chapter 465

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-103 is amended to read:

20A-7-103. Constitutional amendments and other questions submitted by the Legislature -- Publication -- Ballot title -- Procedures for submission to popular vote.

(1) The procedures contained in this section govern when the Legislature submits a proposed constitutional amendment or other question to the voters.

(2) The lieutenant governor shall[~~, not more than 60 days or less than 14 days before the date of the election, publish the full text of the amendment, question, or statute for the state, as a class A notice under Section 63G-30-102, through the date of the election.~~]:

(a) for a proposed constitutional amendment, in accordance with Utah Constitution, Article XXIII, Section 1, publish the entire text of the proposed constitutional amendment for 60 calendar days immediately preceding the next general election, as a class A notice under Section 63G-30-102; or

(b) for a question other than a proposed constitutional amendment, publish the question for 60 calendar days immediately preceding the next general election, as a class A notice under Section 63G-30-102.

(3) The presiding officers shall:

(a) entitle each proposed constitutional amendment "Constitutional Amendment __" and assign a letter to the constitutional amendment in accordance with the requirements of Section 20A-6-107;

(b) entitle each proposed question "Proposition Number __" with the number assigned to the proposition under Section 20A-6-107 placed in the blank;

(c) draft and designate a ballot title for each proposed amendment or question submitted by the Legislature that:

(i) summarizes the subject matter of the amendment or question; and

(ii) for a proposed constitutional amendment, summarizes any legislation that is enacted and will become effective upon the voters' adoption of the proposed constitutional amendment; and

(d) deliver each letter or number and ballot title to the lieutenant governor.

(4) The lieutenant governor shall certify the letter or number and ballot title of each amendment or question to the county clerk of each county no later than 65 days before the date of the election.

(5) The county clerk of each county shall:

(a) ensure that the letter or number and the ballot title of each amendment and question prepared in accordance with this section are included in the sample ballots and official ballots; and

(b) publish the sample ballots and official ballots as provided by law.

Section 2. Effective Date.

This bill takes effect January 1, 2027, if the amendment to the Utah Constitution proposed by H.J.R. 10, Proposal to Amend Utah Constitution - Publication Amendments, 2025 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.

CHAPTER 493
S. B. 326
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

JUDGMENT RENEWAL MODIFICATIONS

Chief Sponsor: Todd Weiler
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill modifies provisions of the Judgment Renewal Act and provisions relating to entering and renewing a judgment.

Highlighted Provisions:

This bill:

- ► modifies statute of limitations provisions to provide that a statute of limitations runs from the date of renewal of a judgment, not only from the original date of a judgment;
- ► provides that a renewal of a judgment maintains the date of the original judgment, maintains the priority of collection of the original judgment, and unless specifically excepted, resets any time limitation for action upon the judgment;
- ► provides that a judgment may be renewed multiple times; and
- ► makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-2-311, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-5-202, as last amended by Laws of Utah 2023, Chapter 401
78B-6-1802, as enacted by Laws of Utah 2011, Chapter 22
78B-6-1804, as enacted by Laws of Utah 2011, Chapter 22

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-2-311 is amended to read:

78B-2-311. Eight years.

An action may be brought within eight years upon the date of:

(1) entry of a judgment or decree of any court of the United States, or of any state or territory within the United States[-]; or

(2) renewal of a judgment described in Subsection (1) according to the procedures and requirements of Title 78B, Chapter 6, Part 18, Renewal of Judgment Act.

Section 2. Section 78B-5-202 is amended to read:

78B-5-202. Duration of judgment -- Judgment as a lien upon real property -- Abstract of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child support orders.

(1) (a) Judgments shall continue for eight years from the date of entry in a court unless previously satisfied, renewed, or unless enforcement of the judgment is stayed in accordance with law.

(b) Entry of an order renewing a judgment:

(i) maintains the date of the original judgment;

(ii) maintains the priority of collection of the judgment; and

(iii) except as explicitly provided otherwise by law or contract, begins anew the time limitation for an action upon the judgment.

(2) Prior to July 1, 1997, except as limited by Subsections (4) and (5), the entry of judgment by a district court creates a lien upon the real property of the judgment debtor, not exempt from execution, owned or acquired during the existence of the judgment, located in the county in which the judgment is entered.

(3) An abstract of judgment issued by the court in which the judgment is entered may be filed in any court of this state and shall have the same force and effect as a judgment entered in that court.

(4) Prior to July 1, 1997, and after May 15, 1998, a judgment entered in a small claims action may not qualify as a lien upon real property unless abstracted to the district court and recorded in accordance with Subsection (3).

(5) (a) If any judgment is appealed, upon deposit with the court where the notice of appeal is filed of cash or other security in a form and amount considered sufficient by the court that rendered the judgment to secure the full amount of the judgment, together with ongoing interest and any other anticipated damages or costs, including attorney fees and costs on appeal, the lien created by the judgment shall be terminated as provided in Subsection (5)(b).

(b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court shall enter an order terminating the lien created

by the judgment and granting the judgment creditor a perfected lien in the deposited security as of the date of the original judgment.

(6) (a) A child support order or a sum certain judgment for past due support may be enforced:

(i) within four years after the date the youngest child reaches majority; or

(ii) eight years from the date of entry of the sum certain judgment entered by a tribunal.

(b) The longer period of duration shall apply in every order.

(c) A sum certain judgment may be renewed to extend the duration.

(7) (a) After July 1, 2002, a judgment entered by a district court, a justice court, or the Business and Chancery Court, becomes a lien upon real property if:

(i) the judgment or an abstract of the judgment containing the information identifying the judgment debtor as described in Subsection 78B-5-201(4)(b) is recorded in the office of the county recorder; or

(ii) the judgment or an abstract of the judgment and a separate information statement of the judgment creditor as described in Subsection 78B-5-201(5) is recorded in the office of the county recorder.

(b) The judgment shall run from the date of entry by the court.

(c) The real property subject to the lien includes all the real property of the judgment debtor:

(i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and

(ii) owned or acquired at any time by the judgment debtor during the time the judgment is effective.

(d) State agencies are exempt from the recording requirement of Subsection (7)(a).

(8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the judgment debtor in the judgment index in the office of the county recorder as required in Section 17-21-6.

(b) A judgment containing a legal description shall also be abstracted in the appropriate tract index in the office of the county recorder.

(9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the office of a county recorder, a person shall, in the office of the county recorder of each county in which an instrument creating the lien is recorded, record a document releasing, assigning, renewing, or extending the lien.

(b) The document described in Subsection (9)(a) shall include:

(i) the date of the release, assignment, renewal, or extension;

(ii) the name of any judgment creditor, debtor, assignor, or assignee; and

(iii) for the county in which the document is recorded in accordance with Subsection (9)(a):

(A) the date on which the instrument creating the lien was recorded in that county's office of the county recorder; and

(B) in accordance with Section 57-3-106, that county recorder's entry number and book and page of the recorded instrument creating the judgment lien.

Section 3. Section 78B-6-1802 is amended to read:

78B-6-1802. Renewal by motion.

A court of record may renew a judgment issued by a court if:

(1) a motion is filed within the original action;

(2) the motion is filed before the statute of limitations on the [~~original~~]judgment, or any renewal thereof, expires;

(3) the motion includes an affidavit that contains an accounting of the [~~original~~]judgment and all postjudgment payments, credits, and other adjustments which are provided for by law or are contained within the [~~original~~]judgment;

(4) the facts in the supporting affidavit are determined by the court to be accurate and the affidavit affirms that notice was sent to the most current address known for the judgment debtor;

(5) the time for responding to the motion has expired; and

(6) the fee required by Subsection 78A-2-301(1)(l) has been paid to the clerk of the court.

Section 4. Section 78B-6-1804 is amended to read:

78B-6-1804. Date and duration of judgment.

Upon granting a motion for the renewal of judgment, the court shall enter an order which renews the [~~original~~]judgment from the date of entry of the order [~~or from the scheduled expiration date of the original order, whichever occurs first, for the same amount of time as the original judgment~~]for the amount of time set forth in Subsection 78B-5-202(1).

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 494
H. B. 482
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

HEALTH AND HUMAN SERVICES REPORTING REQUIREMENTS

Chief Sponsor: Logan J. Monson
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill repeals reporting requirements related to the Department of Health and Human Services.

Highlighted Provisions:

This bill:

► repeals reporting requirements related to the Department of Health and Human Services.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-1-207, as last amended by Laws of Utah 2024, Chapters 178, 240
26B-1-232, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-421, as last amended by Laws of Utah 2024, Chapters 217, 240 and 507
26B-1-427, as last amended by Laws of Utah 2024, Chapter 245
26B-2-309, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-3-107, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-5-102, as last amended by Laws of Utah 2024, Chapters 250, 420
26B-5-607, as last amended by Laws of Utah 2023, Chapter 282 and renumbered and amended by Laws of Utah 2023, Chapter 308
63A-17-806, as last amended by Laws of Utah 2023, Chapters 329, 530
63M-7-204, as last amended by Laws of Utah 2024, Chapter 345

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-1-207 is amended to read:

26B-1-207. Policymaking responsibilities -- Regulations for local health departments prescribed by department -- Local standards not more stringent than federal or state standards -- Consultation with local health departments -- Committee to evaluate health policies and to review federal grants.

(1) In establishing public health policy, the department shall consult with the local health departments established under Title 26A, Chapter 1, Local Health Departments.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may prescribe by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not inconsistent with law for a local health department as defined in Section 26A-1-102.

(b) Except where specifically allowed by federal law or state statute, a local health department, as defined in Section 26A-1-102, may not establish standards or regulations that are more stringent than those established by federal law, state statute, or administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) Nothing in this Subsection (2), limits the ability of a local health department to make standards and regulations in accordance with Subsection 26A-1-121(1)(a) for:

(i) emergency rules made in accordance with Section 63G-3-304; or

(ii) items not regulated under federal law, state statute, or state administrative rule.

(3) (a) As used in this Subsection (3):

(i) "Committee" means the committee established under Subsection (3)(b).

(ii) "Exempt application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iv).

(iii) "Expedited application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(v).

(iv) "Federal grant" means a grant from the federal government that could provide funds for local health departments to help them fulfill their duties and responsibilities.

(v) "Reviewable application" means an application for a federal grant that is not an exempt application.

(b) The department shall establish a committee consisting of:

(i) the executive director, or the executive director's designee;

(ii) two representatives of the department, appointed by the executive director; and

(iii) three representatives of local health departments, appointed by all local health departments.

(c) The committee shall:

(i) evaluate the allocation of public health resources between the department and local health departments, including whether funds allocated by contract were allocated in accordance with the formula described in Section 26A-1-116;

(ii) evaluate policies and rules that affect local health departments in accordance with Subsection (3)(g);

(iii) consider department policy and rule changes proposed by the department or local health departments;

(iv) establish criteria by which an application for a federal grant may be judged to determine whether it should be exempt from the requirements under Subsection (3)(d); and

(v) establish criteria by which an application for a federal grant may be judged to determine whether committee review under Subsection (3)(d)(i) should be delayed until after the application is submitted because the application is required to be submitted under a timetable that makes committee review before it is submitted impracticable if the submission deadline is to be met.

(d) (i) The committee shall review the goals and budget for each reviewable application:

(A) before the application is submitted, except for an expedited application; and

(B) for an expedited application, after the application is submitted but before funds from the federal grant for which the application was submitted are disbursed or encumbered.

(ii) Funds from a federal grant under a reviewable application may not be disbursed or encumbered before the goals and budget for the federal grant are established by a two-thirds vote of the committee, following the committee review under Subsection (3)(d)(i).

(e) An exempt application is exempt from the requirements of Subsection (3)(d).

(f) The department may use money from a federal grant to pay administrative costs incurred in implementing this Subsection (3).

(g) When evaluating a policy or rule that affects a local health department, the committee shall determine:

(i) whether the department has the authority to promulgate the policy or rule;

(ii) an estimate of the cost a local health department will bear to comply with the policy or rule;

(iii) whether there is any funding provided to a local health department to implement the policy or rule; and

(iv) whether the policy or rule is still needed.

[~~(h) Before November 1 of each year, the department shall provide a report to the Rules Review and General Oversight Committee regarding the determinations made under Subsection (3)(g).~~]

Section 2. Section 26B-1-232 is amended to read:

26B-1-232. American Indian-Alaska Native Health Liaison -- Appointment -- Duties.

(1) (a) "Director" means the director of the Office of American Indian-Alaska Native Health and Family Services appointed under Section 26B-1-231.

(b) "Health care" means care, treatment, service, or a procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.

(c) "Health liaison" means the American Indian-Alaska Native Health Liaison appointed under Subsection (2).

(2) (a) The executive director shall appoint an individual as the American Indian-Alaska Native Health Liaison.

(b) The health liaison shall serve under the supervision of the director.

(3) The health liaison shall:

(a) promote and coordinate collaborative efforts between the department and Utah's American Indian-Alaska Native population to improve the availability and accessibility of quality health care impacting Utah's American Indian-Alaska Native populations on and off reservations;

(b) interact with the following to improve health disparities for Utah's American Indian-Alaska Native populations:

(i) tribal health programs;

(ii) local health departments;

(iii) state agencies and officials; and

(iv) providers of health care in the private sector;

(c) facilitate education, training, and technical assistance regarding public health and medical assistance programs to Utah's American Indian-Alaska Native populations; and

(d) staff an advisory board by which Utah's tribes may consult with state and local agencies for the development and improvement of public health programs designed to address improved health care for Utah's American Indian-Alaska Native populations on and off the reservation.

[~~(4) The health liaison shall annually report the liaison's activities and accomplishments to the Native American Legislative Liaison Committee created in Section 36-22-1.~~]

Section 3. Section 26B-1-421 is amended to read:

26B-1-421. Compassionate Use Board.

(1) The definitions in Section 26B-4-201 apply to this section.

(2) (a) The department shall establish a Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints with the advice and consent of the Senate:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) who are board certified by the American Board of Medical Specialties or an American Osteopathic Association Specialty Certifying Board in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, family medicine, or gastroenterology; and

(ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection (2)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(3) (a) Of the members of the Compassionate Use Board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection (3)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the Compassionate Use Board may serve until a successor is appointed.

(d) Four members constitute a quorum of the Compassionate Use Board.

(4) A member of the Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

(b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.

(5) The Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26B-4-213(2)(a), a minor described in Subsection 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's recommending medical provider is actively treating the individual for an intractable condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the recommending medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the recommending medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the Compassionate Use Board determines that:

(A) the recommendation of the individual's recommending medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) when a recommending medical provider recommends that an individual described in Subsection 26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213(2)(c) be allowed to use a medical cannabis device or medical cannabis to vaporize a medical cannabis treatment, review and approve or deny the use of the medical cannabis device or medical cannabis;

(c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition; and

(e) consult with the department regarding the criteria described in Subsection (6)[~~; and~~].

[~~(f) report, before November 1 of each year, to the Health and Human Services Interim Committee and the Medical Cannabis Governance Structure Working Group:~~]

[~~(i) the number of compassionate use recommendations the board issued during the past year;~~]

[~~(ii) the types of conditions for which the board recommended compassionate use; and~~]

[~~(iii) the number of applications that are not completed.~~]

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

(c) sufficient factors are present regarding the petitioner's safety.

(7) (a) (i) The department shall review:

(A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the recommending medical provider described in Subsection (5)(a).

(b) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board shall annually report the board's activity to:

(a) the Cannabis Research Review Board; and

(b) the advisory board.

Section 4. Section 26B-1-427 is amended to read:

26B-1-427. Alcohol Abuse Tracking Committee --Tracking effects of abuse of alcoholic products.

(1) There is created a committee within the department known as the Alcohol Abuse Tracking Committee that consists of:

(a) the executive director or the executive director's designee;

(b) the commissioner of the Department of Public Safety or the commissioner's designee;

(c) the director of the Department of Alcoholic Beverage Services or that director's designee;

(d) the executive director of the Department of Workforce Services or that executive director's designee;

(e) the chair of the Utah Substance Use and Mental Health Advisory Committee or the chair's designee;

(f) the state court administrator or the state court administrator's designee; and

(g) the director of the Division of Technology Services or that director's designee.

(2) The executive director or the executive director's designee shall chair the committee.

(3) (a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair[~~, except that the chair shall call a meeting at least twice a year:~~].

[~~(a) with one meeting held each year to develop the report required under Subsection (7); and~~]

[~~(b) with one meeting held to review and finalize the report before the report is issued.~~]

(5) The committee may adopt additional procedures or requirements for:

(a) voting, when there is a tie of the committee members;

(b) how meetings are to be called; and

(c) the frequency of meetings.

(6) The committee shall establish a process to collect for each calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services;

(e) the location where the alcoholic products that result in the violations or costs described in Subsections (6)(a) through (d) are obtained; and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

[~~(7) The committee shall:~~]

[~~(a) report the information collected under Subsection (6) annually to the governor, the Law Enforcement and Criminal Justice Interim Committee, and the State Commission on Criminal and Juvenile Justice by no later than the July 1 immediately following the calendar year for which the information is collected; and~~]

[~~(b) provide all data collected before January 1, 2024, under Subsection (6) to the State Commission on Criminal and Juvenile Justice.~~]

Section 5. Section 26B-2-309 is amended to read:

26B-2-309. Assisted living facility transfers.

(1) After the ombudsman receives a notice described in Subsection 26B-2-237(2)(b), the ombudsman shall:

(a) review the notice; and

(b) contact the resident or the resident's responsible person to conduct a voluntary interview.

(2) The voluntary interview described in Subsection (1)(b) shall:

(a) provide the resident with information about the services available through the ombudsman;

(b) confirm the details in the notice described in Subsection 26B-2-237(2)(b), including:

(i) the name of the resident;

(ii) the reason for the transfer or discharge;

(iii) the date of the transfer or discharge; and

(iv) a description of the resident's next living arrangement; and

(c) provide the resident an opportunity to discuss any concerns or complaints the resident may have regarding:

(i) the resident's treatment at the assisted living facility; and

(ii) whether the assisted living facility treated the resident fairly when the assisted living facility transferred or discharged the resident.

[~~(3) On or before November 1 of each year, the ombudsman shall provide a report to the Health and Human Services Interim Committee regarding:~~]

[~~(a) the reasons why assisted living facilities are transferring residents;~~]

[~~(b) where residents are going upon transfer or discharge; and~~]

[~~(c) the type and prevalence of complaints that the ombudsman receives regarding assisted living facilities, including complaints about the process or reasons for a transfer or discharge.~~]

Section 6. Section 26B-3-107 is amended to read:

26B-3-107. Dental benefits.

(1) (a) Except as provided in Subsection (8), the division may establish a competitive bid process to bid out Medicaid dental benefits under this chapter.

(b) The division may bid out the Medicaid dental benefits separately from other program benefits.

(2) The division shall use the following criteria to evaluate dental bids:

(a) ability to manage dental expenses;

(b) proven ability to handle dental insurance;

(c) efficiency of claim paying procedures;

(d) provider contracting, discounts, and adequacy of network; and

(e) other criteria established by the department.

(3) The division shall request bids for the program's benefits at least once every five years.

(4) The division's contract with dental plans for the program's benefits shall include risk sharing provisions in which the dental plan must accept 100% of the risk for any difference between the division's premium payments per client and actual dental expenditures.

(5) The division may not award contracts to:

(a) more than three responsive bidders under this section; or

(b) an insurer that does not have a current license in the state.

(6) (a) The division may cancel the request for proposals if:

(i) there are no responsive bidders; or

(ii) the division determines that accepting the bids would increase the program's costs.

(b) If the division cancels a request for proposal or a contract that results from a request for proposal described in Subsection (6)(a), the division shall report to the Health and Human Services Interim Committee regarding the reasons for the decision.

(7) Title 63G, Chapter 6a, Utah Procurement Code, shall apply to this section.

(8) (a) The division may:

(i) establish a dental health care delivery system and payment reform pilot program for Medicaid dental benefits to increase access to cost effective and quality dental health care by increasing the number of dentists available for Medicaid dental services; and

(ii) target specific Medicaid populations or geographic areas in the state.

(b) The pilot program shall establish compensation models for dentists and dental hygienists that:

(i) increase access to quality, cost effective dental care; and

(ii) use funds from the Division of Family Health [~~and Preparedness~~]that are available to reimburse dentists for educational loans in exchange for the dentist agreeing to serve Medicaid and under-served populations.

(c) The division may amend the state plan and apply to the Secretary of the United States Department of Health and Human Services for waivers or pilot programs if necessary to establish the new dental care delivery and payment reform model.

(d) The division shall evaluate the pilot program's effect on the cost of dental care and access to dental care for the targeted Medicaid populations.

(9) (a) As used in this Subsection (9), "dental hygienist" means an individual who is licensed as a dental hygienist under Section 58-69-301.

(b) The department shall reimburse a dental hygienist for dental services performed in a public health setting and in accordance with Subsection (9)(c) beginning on the earlier of:

(i) January 1, 2023; or

(ii) 30 days after the date on which the replacement of the department's Medicaid Management Information System software is complete.

(c) The department shall reimburse a dental hygienist directly for a service provided through the Medicaid program if:

(i) the dental hygienist requests to be reimbursed directly; and

(ii) the dental hygienist provides the service within the scope of practice described in Section 58-69-801.

[~~(d) Before November 30 of each year in which the department reimburses dental hygienists in accordance with Subsection (9)(c), the department shall report to the Health and Human Services Interim Committee, for the previous fiscal year:~~]

[~~(i) the number and geographic distribution of dental hygienists who requested to be reimbursed directly;~~]

[~~(ii) the total number of Medicaid enrollees who were served by a dental hygienist who were reimbursed under this Subsection (9);~~]

[~~(iii) the total amount reimbursed directly to dental hygienists under this Subsection (9);~~]

[~~(iv) the specific services and billing codes that are reimbursed under this Subsection (9); and~~]

[~~(v) the aggregate amount reimbursed for each service and billing code described in Subsection (9)(d)(iv).~~]

[~~(c)~~](d) (i) Except as provided in this Subsection (9), nothing in this Subsection (9)shall be interpreted as expanding or otherwise altering the limitations and scope of practice for a dental hygienist.

(ii) A dental hygienist may only directly bill and receive compensation for billing codes that fall within the scope of practice of a dental hygienist.

Section 7. Section 26B-5-102 is amended to read:

26B-5-102. Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.

(1) (a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(c) There is created the Office of Substance Use and Mental Health within the division.

(d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance use by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance use;

(iii) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance use disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance use, mental health, and physical health;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;

(vii) evaluate the effectiveness of programs described in this Subsection (2);

(viii) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member;

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 26B-5-313; and

(v) to the extent authorized and in accordance with statute, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) create a certification for targeted case management;

(B) establish training and certification requirements;

(C) specify the types of services each certificate holder is qualified to provide;

(D) specify the type of supervision under which a certificate holder is required to operate; and

(E) specify continuing education and other requirements for maintaining or renewing certification;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance use and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance use and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance use services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(h); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

[~~(k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:~~]

[~~(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and~~]

[~~(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);~~]

[~~(l)~~](k) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism in accordance with the metrics and requirements described in Section 63M-7-102;

[~~(m)~~](l) at the division's discretion, use the data described in Subsection [~~(2)(l)~~](2)(k) to make decisions regarding the use of funds allocated to the division to provide treatment;

[~~(n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);~~]

[~~(o)~~](m) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; and

[~~(p)~~](n) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 8. Section 26B-5-607 is amended to read:

26B-5-607. Grants for development of an ACT team.

(1) The division shall award grants for the development of one or more ACT teams to provide assertive community treatment to individuals in the state.

(2) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:

(a) the number of individuals the proposed ACT team will serve;

(b) the ability of the entity to provide housing to individuals served under the program;

(c) the ability of the entity to provide evidence of probable future program sustainability; and

(d) the percentage of matching funds the entity will provide to develop the proposed ACT team.

(3) (a) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).

(b) An entity may submit an application for and be awarded more than one grant pursuant to the prioritization described in Subsection (2).

(c) An ACT team developed using a grant awarded under this section shall:

(i) coordinate with local homeless councils and criminal justice coordinating councils to align the ACT team's services with existing services and strategic plans; and

(ii) work with an individual served under the program to secure and maintain housing and provide wraparound services, including:

(A) clinical support;

(B) case management;

(C) peer support;

(D) employment support; and

(E) other services identified in the long-term, statewide ACT team plan described in Section 26B-5-606.

(4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

[~~(5) Before June 30, 2024, and before June 30 of each subsequent fiscal year in which a grant is awarded under Subsection (1), the division shall report to the Health and Human Services Interim Committee regarding:~~]

[~~(a) data gathered in relation to each awarded grant;~~]

[~~(b) knowledge gained relating to the provision of medical and mental health services by ACT teams;~~]

[~~(c) recommendations for the future use of ACT teams to provide medical and mental health services;~~]

[~~(d) Medicaid reimbursement for services provided by ACT teams; and~~]

[~~(e) aggregated data about the patients who have received services from an ACT team, including:~~]

[~~(i) the number of ACT team patients who have a severe mental illness;~~]

[~~(ii) the number of ACT team patients who have a co-occurring substance use disorder;~~]

[~~(iii) the number of ACT team patients who are experiencing homelessness or facing housing insecurity; and~~]

[~~(iv) the number of ACT team patients who, after the most recent report was made, have experienced:~~]

[~~(A) an acute psychiatric hospitalization;~~]

[~~(B) an arrest, incarceration, probation, or parole; or~~]

[~~(C) a transition from homelessness or housing insecurity to supported housing or housing.~~]

Section 9. Section 63A-17-806 is amended to read:

63A-17-806. Definitions -- Infant at Work Pilot Program -- Administration.

(1) As used in this section:

(a) "Eligible employee" means an employee who has been employed by the Department of Health and Human Services for a minimum of:

(i) 12 consecutive months; and

(ii) 1,250 hours, excluding paid time off during the 12-month period immediately preceding the day on which the employee applies for participation in the program.

(b) "Infant" means a baby that is at least six weeks of age and no more than six months of age.

(c) "Parent" means:

(i) a biological or adoptive parent of an infant; or

(ii) an individual who has an infant placed in the individual's foster care by the Division of Child and Family Services.

(d) "Program" means the Infant at Work Pilot Program established in this section.

(2) There is created the Infant at Work Pilot Program for eligible employees.

(3) The program shall:

(a) allow an eligible employee to bring the eligible employee's infant to work subject to the provisions of this section;

(b) be administered by the division; and

(c) be implemented for a minimum of one year.

(4) The division shall establish an application process for eligible employees of the Department of Health and Human Services to apply to the program that includes:

(a) a process for evaluating whether an eligible employee's work environment is appropriate for an infant;

(b) guidelines for infant health and safety; and

(c) guidelines regarding an eligible employee's initial and ongoing participation in the program.

(5) If the division approves the eligible employee for participation in the program, the eligible employee shall have the sole responsibility for the care and safety of the infant at the workplace.

(6) The division may not require the Department of Health and Human Services to designate or set aside space for an eligible employee's infant other than the eligible employee's existing work space.

(7) The division, in consultation with the Department of Health and Human Services, shall make rules that the department determines necessary to establish the program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(8) On or before June 30, 2025, the division, in consultation with the Department of Health and Human Services, shall submit a written report to the Business and Labor Interim Committee that describes the efficacy of the program, including any recommendations for additional legislative action.~~]

Section 10. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The commission shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111and Subsection [~~26B-5-102(2)(l)~~]26B-5-102(2)(k);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

(v) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(w) compile a report of findings based on the data and recommendations provided under Section 13-53-111[~~and Subsection 26B-5-102(2)(n) that:~~]

[~~(i)~~] that separates the data provided under Section 13-53-111 by each residential, vocational and life skills program[~~; and~~];

[~~(ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental health or substance use treatment program;~~]

(x) publish the report described in Subsection (1)(w) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees;

(y) receive, compile, and publish on the commission's website the data provided under:

(i) Section 53-25-202;

(ii) Section 53-25-301; and

(iii) Section 53-25-401;

(z) review, research, advise, and make recommendations to the three branches of government regarding evidence-based sex offense management policies and practices, including supervision standards, treatment standards, and the sex offender registry;

(aa) receive and evaluate a referral from the Department of Public Safety received under Section 53-21-104.3 involving a denial of mental health resources to an eligible individual, including, if appropriate in the commission's discretion, deny the relevant entity from receiving any grant of state funds under Section 63M-7-218 for a specified period of time; and

(bb) accept public comment.

(2) (a) The commission may designate an entity to perform the duties described in this part.

(b) If the commission designates an entity under Subsection (2)(a), the commission shall ensure that the membership of the designated entity includes representation from relevant stakeholder groups from the parts of the justice system implicated in the policy area.

(3) [~~in~~]In fulfilling the commission's duties under Subsection (1), the commission may seek input and request assistance from groups with knowledge and expertise in criminal justice, including other boards and commissions affiliated or housed within the commission.

Section 11. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 495
S. B. 333
Passed March 6, 2025
Approved March 27, 2025
Effective January 1, 2026

MAJOR SPORTING EVENT VENUE FINANCING AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill enacts the Major Sporting Event Venue Zone Act and related provisions.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes objectives and requirements for a municipality or county to create a major sporting event venue zone to capture property tax increment and local sales and use tax increment within a defined area around a major sporting event venue;
- ► defines permitted uses and administration of property tax increment and local sales and use tax increment generated pursuant to a major sporting event venue zone;
- ► authorizes a creating entity of a major sporting event venue zone to impose, under certain circumstances:
  - • a resort communities sales and use tax within a major sporting event venue zone; and
  - • an additional resort communities sales and use tax within a major sporting event venue zone;
- ► provides that a county of the third class with three or more major sporting event venues may implement a resort communities tax in unincorporated areas, the same as if the county of the third class were an eligible municipality, and use the revenue from the tax on public infrastructure or transit;
- ► authorizes a creating entity of a major sporting event venue zone to designate a community reinvestment agency or a public infrastructure district as a fiscal agent for major sporting event venue zone funds;
- ► authorizes a creating entity to enter into an agreement with a person to utilize major sporting event venue zone funds in regard to owning, leasing, or operating a major sporting event venue;
- ► authorizes a creating entity to utilize major sporting venue zone funds to bond;
- ► provides a sales and use tax exemption for construction materials used for the remodeling, or refurbishing of a major sporting event venue;
- ► requires a municipality or county to submit a major sporting event venue zone proposal to the Governor's Office of Economic Opportunity;
- ► creates and defines the membership of a committee to review a proposed major sporting event venue zone;
- ► requires the committee to evaluate the proposed major sporting event venue zone and, if certain criteria are met, approve the proposal with or without modifications;
- ► requires participation from local taxing entities if the major sporting event venue zone meets statutory requirements;
- ► provides procedures for a major sports event venue zone that overlaps with a community reinvestment project, a housing and transit reinvestment zone, a first home investment zone, or a revitalization zone; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-924, as last amended by Laws of Utah 2024, Chapter 258
59-12-104, as last amended by Laws of Utah 2024, Chapter 35
59-12-205, as last amended by Laws of Utah 2024, Chapter 535
59-12-352, as last amended by Laws of Utah 2024, Chapters 413, 419
59-12-354, as last amended by Laws of Utah 2024, Chapter 419
59-12-401, as last amended by Laws of Utah 2024, Chapter 419
59-12-402, as last amended by Laws of Utah 2024, Chapter 419
59-12-405, as last amended by Laws of Utah 2019, Chapter 245

ENACTS:

11-71-101, Utah Code Annotated 1953
11-71-201, Utah Code Annotated 1953
11-71-202, Utah Code Annotated 1953
11-71-203, Utah Code Annotated 1953
11-71-301, Utah Code Annotated 1953
63N-3-1701, Utah Code Annotated 1953
63N-3-1702, Utah Code Annotated 1953

63N-3-1703, Utah Code Annotated 1953
63N-3-1704, Utah Code Annotated 1953
63N-3-1705, Utah Code Annotated 1953
63N-3-1706, Utah Code Annotated 1953
63N-3-1707, Utah Code Annotated 1953
63N-3-1708, Utah Code Annotated 1953
63N-3-1709, Utah Code Annotated 1953
63N-3-1710, Utah Code Annotated 1953
63N-3-1711, Utah Code Annotated 1953
63N-3-1712, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-71-101 is enacted to read:

CHAPTER 71. MAJOR SPORTING EVENT VENUE ZONES

PART 1. General Provisions

11-71-101. Definitions.

As used in this chapter:

(1) "Accommodations and services" means an accommodation or service described in Subsection 59-12-103(1)(i).

(2) "Agency" means a community reinvestment agency established by a creating entity under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agencies.

(3) "Committee" means a major sporting event venue zone committee convened under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act.

(4) "Creating entity" means:

(a) a municipality or county with an approved major sporting event venue zone in the jurisdictional boundaries of the municipality or county, provided that the jurisdictional boundaries of a county shall include incorporated areas within a county if the county has an ownership interest in all or a portion of the major sporting event venue; or

(b) one or more municipalities, one or more counties, or a municipality and a county that:

(i) have entered into an interlocal agreement to form a major sporting event venue zone; and

(ii) have an approved major sporting event venue zone, as described in Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act.

(5) "Development" means:

(a) construction of a new major sporting event venue, including public infrastructure and improvements;

(b) demolition, reconstruction, modification, upgrade, or expansion of an existing but aging major sporting event venue, including new public infrastructure, public infrastructure upgrades, or public infrastructure and improvements; and

(c) the planning of, arranging for, or participation in activities listed in Subsection (5)(a)or (b).

(6) "Fiscal agent" means:

(a) an agency; or

(b) a public infrastructure financing district created under Title 17D, Chapter 4, Public Infrastructure District Act.

(7) "Impacted primary area" means the same as that term is defined in Section 63N-3-1701.

(8) "Major sporting event venue zone" means the area within a municipality or county approved by a major sporting event venue zone committee, as described in Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act.

(9) "Major sporting event venue zone revenue" means the same as that term is defined in Section 63N-3-1701.

(10) (a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) (A) benefit the public and are owned by a public entity or a public utility; or

(B) benefit the public and are publicly maintained or operated by a public entity; or

(ii) (A) are privately owned;

(B) benefit the public;

(C) as determined by the legislative body of the creating entity, provide a substantial benefit to the development and operation of a major sporting event venue zone; and

(D) are built according to applicable county or municipal design and safety standards.

(b) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide water, sewer, storm drainage, natural gas, electricity, energy storage, clean energy, microgrids, or telecommunications service;

(ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking facilities, rail lines, and multimodal facilities; and

(iii) a transportation system or components of a transportation system.

(11) "Qualified development zone" means the same as that term is defined in Section 63N-3-1701.

(12) "Secondary project area" means the same as that term is defined in Section 63N-3-1701.

(13) "Transportation system" means the same as the term is defined in Section 63N-3-1701.

Section 2. Section 11-71-201 is enacted to read:

PART 2. Financing

11-71-201. Taxes within and for the benefit of a major sporting event venue zone.

(1) The legislative body of a creating entity may, by ordinance, impose within a sales and use boundary for a major sporting event venue zone:

(a) a transient room tax, as described in Section 59-12-352;

(b) a resort communities sales and use tax, as described in Section 59-12-401; and

(c) an additional resort communities sales and use tax, as described in Section 59-12-402.

(2) Revenue generated by a tax described in Subsection (1) is governed by Sections 11-71-202 and 11-71-203.

Section 3. Section 11-71-202 is enacted to read:

11-71-202. Major sporting event venue zone revenue.

(1) The following are approved revenue sources for a major sporting event venue zone:

(a) property tax increment for:

(i) the major sporting event venue zone, for at least 25 years but no more than 40, as approved by the committee; and

(ii) if applicable, the secondary project area, for at least 25 years but no more than 40, as approved by the committee;

(b) local sales and use tax increment for the major sporting event venue zone, for at least 25 years but no more than 40, as approved by the committee; and

(c) revenue generated by a tax described in Section 11-71-201.

(2) Revenue generated from a source described in Subsection (1):

(a) is major sporting event venue zone revenue; and

(b) shall be administered by the creating entity or a fiscal agent designated by the creating entity.

(3) If a creating entity designates a fiscal agent to administer major sporting event venue zone revenue, the creating entity and fiscal agent shall first enter into an interlocal agreement:

(a) governing the administration, distribution, use, and management of major sporting event zone revenue; and

(b) with terms that are consistent with this chapter and Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act.

Section 4. Section 11-71-203 is enacted to read:

11-71-203. Allowable uses of major sporting event venue zone revenue.

(1) A creating entity or fiscal agent shall use major sporting event venue zone revenue within, or for the direct benefit of:

(a) the major sporting event venue zone;

(b) a secondary project area, if any; and

(c) an impacted primary area, if the creating entity finds that the use of the major sporting event venue zone revenue will directly benefit the major sporting event venue.

(2) A creating entity that receives major sporting event venue zone revenue shall allocate the revenue to:

(a) development in the major sporting event venue zone, including:

(i) constructing, furnishing, maintaining, or operating a major sporting event venue;

(ii) demolishing or remodeling an existing major sporting event venue, or portions of a major sporting event venue;

(iii) public infrastructure and improvements supporting the major sporting event venue; and

(iv) realigning public infrastructure to better support the major sporting event venue;

(b) public infrastructure and improvements in a secondary project area, if any;

(c) public infrastructure and improvements in an impacted primary area; and

(d) make the annual payment of principal, interest, premiums, and necessary reserves for any of the aggregate of bonds authorized under Subsection (3).

(3) A creating entity of a major sporting event venue zone may issue bonds, or cause bonds to be issued, as permitted by law, to pay all or part of the costs incurred for the purposes described in Subsections (2)(a) through (c), including the cost to issue and repay the bonds including interest.

(4) (a) A creating entity or fiscal agent designated by a creating entity may create one or more public infrastructure districts within the major sporting event venue zone under Title 17D, Chapter 4, Public Infrastructure District Act, and pledge and utilize the major sporting event venue zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

(b) A public infrastructure district created by a creating entity may be designated a fiscal agent by the creating entity.

(5) In addition to the purposes described in Subsection (2), a creating entity or fiscal agent may also allocate major sporting event venue zone funding:

(a) to promote the major sporting event venue;

(b) to mitigate the impacts of the major sporting event venue on local services, including solid waste disposal operations, law enforcement, and road repair and road upgrades; and

(c) as described in Subsection (7).

(6) (a) The creating entity may use major sporting event venue zone revenue to cover the costs of the creating entity to administer the major sporting event venue zone, not to exceed:

(i) 2% of the total annual major sporting event venue zone revenue collected by the creating entity for the benefit of the major sporting event venue zone; or

(ii) if the creating entity provides some major sporting event venue zone revenue to a fiscal agent, 2% of the total annual major sporting event zone revenue retained by the creating entity for the benefit of the major sporting event venue zone.

(b) If the creating entity provides some or all of the major sporting event venue zone revenue to a fiscal agent, the interlocal agreement described in Subsection 11-71-202(3) shall provide that the fiscal agent expends no more than 2% of the major sporting event venue zone revenue allocated by the creating entity to the fiscal agent on the fiscal agent's administrative costs.

(7) A creating entity may provide major sporting event venue zone revenue to a person pursuant to a participation agreement or an agreement described in Section 11-71-301.

Section 5. Section 11-71-301 is enacted to read:

PART 3. Partnership Agreements

11-71-301. Private-public partnerships for a major sporting event venue.

(1) A person that seeks to enter into a private-public partnership with a creating entity shall provide the creating entity with an application that:

(a) demonstrates the applicant is qualified to operate, in whole or in part, a major sporting event venue; and

(b) provides any additional information required by the creating entity.

(2) A creating entity may enter into a private-public partnership:

(a) if, after reviewing the application described in Subsection (1), the creating entity determines a private-public partnership will promote the objectives of the major sporting event venue zone; and

(b) through an agreement described in this section.

(3) An agreement to create a private-public partnership between a person and a creating entity:

(a) may establish or recognize an ownership interest in the major sporting event venue for the person, in consideration of the person's financial investment in the major sporting event venue;

(b) may establish an ownership interest in the major sporting event venue for the creating entity, in consideration of the creating entity's financial investment in the major sporting event venue zone; and

(c) may create a lease interest for the person in the major sporting event venue.

Section 6. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(v) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

(vi) for a host local government, the same as that term is defined in Section 63N-2-502;

(vii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-602;

(viii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 10-9a-1001 or Section 17-27a-1201;[~~or~~]

(ix) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-1601[~~.~~]; or

(x) for a major sporting event venue zone created under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the property tax base year, as that term is defined in Section 63N-3-1701.

(e) "Centrally assessed benchmark value" means an amount equal to the average year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous three calendar years, adjusted for taxable value

attributable to:

(i) an annexation to a taxing entity;

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the amount calculated by multiplying:

(A) the difference between the taxable value for the current year and the base taxable value of the property that is located within a project area; and

(B) the number that represents the percentage of enhanced property tax revenue, as defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(v) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority;

(vi) for a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone;

(vii) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government;

(viii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a home ownership promotion zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the home ownership promotion zone;[~~ or~~]

(ix) for a first home investment zone created pursuant to Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount

calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a first home investment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the first home investment zone[~~.~~]; or

(x) for a major sporting event venue zone created pursuant to Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a qualified development zone for a major sporting event venue zone and upon which property tax increment is collected; and

(B) the number that represents the percentage of tax increment that is paid to the major sporting event venue zone, as approved by a major sporting event venue zone committee described in Section 63N-1a-1706.

(o) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;[~~ or~~]

(iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102[~~.~~]; or

(v) for a major sporting event venue zone established under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, the qualified development zone, as defined in Section 63N-3-1701.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, an amount equal to the incremental value that is no longer provided to the Utah Fairpark Area Investment and Restoration District;

(iv) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment;

(v) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation;

(vi) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone as tax increment;

(vii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, an amount equal to the incremental value that is no longer provided to a home ownership promotion zone as tax increment;[~~ or~~]

(viii) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount equal to the incremental value that is no longer provided to a first home investment zone as tax increment[~~.~~]; or

(ix) for a major sporting event venue zone created under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, an amount equal to the incremental value that is no longer provided to the creating entity of a major sporting event venue zone as property tax increment.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

(u) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

(v) "Tax increment" means:

(i) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(ii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602;

(iii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, the same as that term is defined in Section 10-9a-1001 or Section 17-27a-1201;[~~ or~~]

(iv) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, the same as that term is defined in Section 63N-3-1601[.]; or

(v) for a major sporting event venue zone created under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, property tax increment, as that term is defined in Section 63N-3-1701.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with

Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 7. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if:

(a) the sale is not from the vehicle's lessor to the vehicle's lessee;

(b) the vehicle is not registered in this state; and

(c) (i) the vehicle is not used in this state; or

(ii) the vehicle is used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education;[~~or~~]

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale, lease agreement, or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale, lease agreement, or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d);[~~ or~~]

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i);[~~or~~]

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment;

(89) amounts paid or charged for an item exempt under Section 59-12-104.10;

(90) sales of a note, leaf, foil, or film, if the item:

(a) is used as currency;

(b) does not constitute legal tender of a state, the United States, or a foreign nation; and

(c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any transparent polymer holder, coating, or encasement;

(91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, if a trained instructor:

(a) is present with the participant, in person or by video, for the duration of the activity; and

(b) actively instructs the participant, including providing observation or feedback;

(92) amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by or constructed for:

(a) a distribution electrical cooperative, as defined in Section 54-2-1; or

(b) a wholesale electrical cooperative, as defined in Section 54-2-1;

(93) amounts paid by the service provider for tangible personal property, other than machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

(a) is consumed in the performance of a service that is subject to tax under Subsection 59-12-103(1)(b), (f), (g), (h), (i), or (j);

(b) has to be consumed for the service provider to provide the service described in Subsection (93)(a); and

(c) will be consumed in the performance of the service described in Subsection (93)(a), to one or more customers, to the point that the tangible personal property disappears or cannot be used for any other purpose;

(94) sales of rail rolling stock manufactured in Utah;

(95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or construction materials between establishments, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:

(a) the establishments are related directly or indirectly through 100% common ownership or control; and

(b) each establishment is described in one of the following subsectors of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or

(ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing;

(96) sales of construction materials used for the construction of a qualified stadium, as defined in Section 11-70-101;[~~and~~]

(97) amounts paid or charged for sales of a cannabinoid product as that term is defined in Section 4-41-102[~~.~~]; and

(98) sales of construction materials used for the construction, remodeling, or refurbishing of a major sporting event venue, as defined in Section 63N-3-1701, within an approved major sporting event venue zone.

Section 8. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) (a) Except as provided in Subsections (3) and (4) and subject to Subsection (5):

(i) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(ii) (A) except as provided in Subsections (2)(a)(ii)(B), (C), [~~and~~](D), and (E), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(B) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201;

(C) beginning July 1, 2024, 20% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201;[~~and~~]

(D) 50% of each dollar collected from the sales and use tax authorized by this part within the lake authority boundary, as defined in Section 11-65-101, shall be distributed to the Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter following the creation of the Utah Lake Authority[~~.~~]; and

(E) except as provided in Subsections (7) and (8), beginning the first day of a calendar quarter after the sales and use tax boundary for a major sporting event venue zone is established, the commission, at least annually, shall transfer an amount equal to 50% of the sales and

use tax increment, as defined in Section 63N-3-1701, from the sales and use tax imposed under this part on transactions occurring within a sales and use tax boundary, as Section 63N-3-1710, to the creating entity of the major sporting event venue zone.

(b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before July 1, 2022.

(3) (a) As used in this Subsection (3):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (3)(b) equal to the amount described in Subsection (3)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(4) (a) For purposes of this Subsection (4):

(i) "Annual local contribution" means the lesser of $275,000 or an amount equal to 2.55% of the participating local government's tax revenue distribution amount under Subsection (2)(a)(i) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality certified in accordance with Section 35A-16-404.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a)(i) to a participating local government, shall:

(i) adjust a participating local government's tax revenue distribution under Subsection (2)(a)(i) by:

(A) subtracting an amount equal to one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution; and

(B) if applicable, reducing the amount described in Subsection (4)(b)(i)(A) by an amount equal to one-twelfth of $250 for each bed that is available at all homeless shelters located within the boundaries of the participating local government, as reported to the commission by the Office of Homeless Services in accordance with Section 35A-16-405; and

(ii) deposit the resulting amount described in Subsection (4)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3), the commission shall apply the provisions of this Subsection (4) after the commission applies the provisions of Subsection (3).

(5) (a) As used in this Subsection (5):

(i) "Annual dedicated sand and gravel sales tax revenue" means an amount equal to the total revenue an establishment described in NAICS Code 327320, Ready-Mix Concrete Manufacturing, of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, collects and remits under this part for a calendar year.

(ii) "Sand and gravel" means sand, gravel, or a combination of sand and gravel.

(iii) "Sand and gravel extraction site" means a pit, quarry, or deposit that:

(A) contains sand and gravel; and

(B) is assessed by the commission in accordance with Section 59-2-201.

(iv) "Ton" means a short ton of 2,000 pounds.

(v) "Tonnage ratio" means the ratio of:

(A) the total amount of sand and gravel, measured in tons, sold during a calendar year from all sand and gravel extraction sites located within a county, city, or town; to

(B) the total amount of sand and gravel, measured in tons, sold during the same calendar year from sand and gravel extraction sites statewide.

(b) For purposes of calculating the ratio described in Subsection (5)(a)(v), the commission shall:

(i) use the gross sales data provided to the commission as part of the commission's property tax valuation process; and

(ii) if a sand and gravel extraction site operates as a unit across municipal or county lines, apportion the reported tonnage among the counties, cities, or towns based on the percentage of the sand and gravel extraction site located in each county, city, or town, as approximated by the commission.

(c) (i) Beginning July 2023, and each July thereafter, the commission shall distribute from total collections under this part an amount equal to the annual dedicated sand and gravel sales tax revenue for the preceding calendar year to each county, city, or town in the same proportion as the county's, city's, or town's tonnage ratio for the preceding calendar year.

(ii) The commission shall ensure that the revenue distributed under this Subsection (5)(c) is drawn from each jurisdiction's collections in proportion to the jurisdiction's share of total collections for the preceding 12-month period.

(d) A county, city, or town shall use revenue described in Subsection (5)(c) for class B or class C roads.

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

(7) (a) As used in this Subsection (7):

(i) "Applicable percentage" means, for a major sporting event venue zone created under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, for sales occurring within the qualified development zone described in Subsection (7)(a)(ii):

(A) 50% of the sales and use tax increment, as that term is defined in Section 63N-3-601, from the sales and use tax imposed under this part;

(B) 100% of the revenue from the sales and use tax imposed by the creating entity of a major sporting event venue zone under Section 59-12-401; and

(C) 100% of the revenue from the sales and use tax imposed by the creating entity of a major sporting event venue zone under Section 59-12-402.

(ii) "Qualified development zone" means the sales and use tax boundary, as described in Section 63N-3-1710, of a major sporting event venue zone created under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act.

(iii) "Qualifying construction materials" means construction materials that are:

(A) delivered to a delivery outlet within a qualified development zone; and

(B) intended to be permanently attached to real property within the qualified development zone.

(b) For a sale of qualifying construction materials, the commission shall distribute the product calculated in Subsection (7)(c) to the creating entity of a qualified development zone if the seller of the construction materials:

(i) establishes a delivery outlet with the commission within the qualified development zone;

(ii) reports the sales of the construction materials to the delivery outlet described in Subsection (7)(b)(i); and

(iii) does not report the sales of the construction materials on a simplified electronic return.

(c) For the purposes of Subsection (7)(b), the product is equal to:

(i) the sales price or purchase price of the qualifying construction materials; and

(ii) the applicable percentage.

(8) (a) As used in this Subsection (8):

(i) "Applicable percentage" means the same as that term is defined in Subsection (7).

(ii) "Qualified development zone" means the same as that term is defined in Subsection (7).

(iii) "Schedule J sale" means a sale reported on State Tax Commission Form TC-62M, Schedule J or a substantially similar form as designated by the commission.

(b) Revenue generated from the applicable percentage by a Schedule J sale within a qualified development zone shall be distributed to the jurisdiction that would have received the revenue in the absence of the qualified development zone.

Section 9. Section 59-12-352 is amended to read:

59-12-352. Transient room tax authority for municipalities and certain authorities -- Purposes for which revenues may be used.

(1) (a) Except as provided in Subsection (5), the governing body of a municipality may impose a tax of not to exceed 1% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.

(c) Beginning October 1, 2024, the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, may impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within the district sales tax area, as defined in Section 11-70-101, to the same extent and in the same manner as a municipality may impose a tax under this section.

(d) Beginning October 1, 2025, the creating entity of a major sporting event venue zone approved pursuant to Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, may impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within the sales and use tax boundary, as defined in Section 63N-3-1701:

(i) to the same extent and in the same manner as a municipality may impose a tax under this section; and

(ii) as described in Subsection (7).

(2) Subject to the limitations of Subsection (1), a governing body of a municipality may, by ordinance, increase or decrease the tax under this part.

(3) A governing body of a municipality shall regulate the tax under this part by ordinance.

(4) A municipality may use revenues generated by the tax under this part for general fund purposes.

(5) (a) A municipality may not impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by[-]:

(i) the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; or

(ii) the Utah Fairpark Area Investment and Restoration District under Title 11, Chapter 70, Utah Fairpark Area Investment and Restoration District.

(b) Subsection (5)(a) does not apply to the military installation development authority's imposition of a tax under this section.

(c) A municipality may not impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a qualified development zone of a major sporting event venue zone if the creating entity of the major sporting event venue zone imposes a tax as described in Subsection (7).

(6) (a) As used in this Subsection (6):

(i) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(ii) "Authority board" means the board referred to in Section 11-59-301.

(b) The authority may, by a resolution adopted by the authority board, impose a tax of not to exceed 5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) for transactions that occur on point of the mountain state land, as defined in Section 11-59-102.

(c) The authority board, by resolution, shall regulate the tax under this Subsection (6).

(d) The authority shall use all revenue from a tax imposed under this Subsection (6) to provide affordable housing, consistent with the manner that a community reinvestment agency uses funds for income targeted housing under Section 17C-1-412.

(e) A tax under this Subsection (6) is in addition to any other tax that may be imposed under this part.

(7) (a) As used in this Subsection (7), "creating entity" means the same as that term is defined in Section 11-71-101.

(b) A creating entity may, by ordinance, impose a tax not to exceed 5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) for transactions that occur within the sales and use tax boundary, as defined in Section 63N-3-1701, of a major sporting event venue zone.

(c) A creating entity shall use all revenue from a tax imposed under this Subsection (7)as described in Sections 11-71-202 and 11-71-203.

(d) A tax under this Subsection (7) is in addition to any other tax that may be imposed under this part.

Section 10. Section 59-12-354 is amended to read:

59-12-354. Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) (a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(b) Except as provided in Subsection (2)(c), the commission shall distribute the revenue collected from the tax to:

(i) (A) the municipality within which the revenue was collected, for a tax imposed under this part by a municipality; or

(B) the Utah Fairpark Area Investment and Restoration District, for a tax imposed under this part by the Utah Fairpark Area Investment and Restoration District;[~~and~~]

(ii) the Point of the Mountain State Land Authority, for a tax imposed under Subsection 59-12-352(6)[~~.~~]; and

(iii) the creating entity of a major sporting event venue zone, for a tax imposed under Subsection 59-12-352(7).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).

Section 11. Section 59-12-401 is amended to read:

59-12-401. Resort communities tax authority for cities, towns, and certain authorities and certain counties -- Base -- Rate -- Collection fees.

(1) (a) In addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax of up to 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:

(i) (A) the sale of a motor vehicle, an aircraft, a watercraft, a modular home, a manufactured home, or a mobile home;

(B) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(C) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients;[~~or~~]

(ii) transactions that occur in the district sales tax area, as defined in Subsection (4), if the fairpark district, as defined in Subsection (4), has imposed a tax under Subsection (4)[~~.~~];

(iii) transactions that occur within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Development Authority Act, if the military installation development authority has imposed a tax under Subsection (3); or

(iv) transactions that occur within the sales and use tax boundary of a major sporting event venue zone under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, if the creating entity of the major sporting event venue zone has imposed a tax under Subsection (5).

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city or town imposing a tax under this section shall impose the tax on the purchase price or the sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) (a) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section on the transactions described in Subsection 59-12-103(1) located within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a city or a town.

(b) For purposes of calculating the permanent census population within a project area, the board, as defined in Section 63H-1-102, shall:

(i) use the actual number of permanent residents within the project area as determined by the board;

(ii) include in the calculation of transient room capacity the number, as determined by the board, of approved high-occupancy lodging units, recreational lodging units, special lodging units, and standard lodging units, even if the units are not constructed;

(iii) adopt a resolution verifying the population number; and

(iv) provide the commission any information required in Section 59-12-405.

(c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may impose the sales and use tax under this section if there are no permanent residents.

(4) (a) As used in this Subsection (4):

(i) "District sales tax area" means the same as that term is defined in Section 11-70-101.

(ii) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(iii) "Fairpark district board" means the board of the fairpark district.

(b) [~~The~~]On or after October 1, 2024, the fairpark district, by resolution of the fairpark district board, may impose a tax under this section, as though the fairpark district were a city or town, on transactions described in Subsection 59-12-103(1)[~~:~~]

[~~(i)~~] located within the district sales tax area[~~; and~~].

[~~(ii) that occur on or after October 1, 2024.~~]

(c) For purposes of calculating the permanent census population within the district sales tax area, the fairpark district board shall:

(i) use the actual number of permanent residents within the district sales tax area as determined by the fairpark district board;

(ii) include in the calculation of transient room capacity the number, as determined by the fairpark district board, of approved high-occupancy lodging units, recreational lodging units, special lodging units, and standard lodging units, even if the units are not constructed;

(iii) adopt a resolution verifying the population number; and

(iv) provide the commission any information required in Section 59-12-405.

(d) Notwithstanding Subsection (1)(a), the fairpark district may impose the sales and use tax under this section if there are no permanent residents within the district sales tax area.

(5) (a) As used in this Subsection (5):

(i) "Creating entity" means the same as that term is defined in Section 11-71-101.

(ii) "Major sporting event venue zone" means an area approved to be a major sporting event venue zone under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act.

(iii) "Sales and use tax boundary" means the same as that term is defined in Section 63N-3-1701.

(b) Beginning October 1, 2025, the creating entity of a major sporting event venue zone, established under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, may by ordinance impose a tax under this section on transactions that occur within the sales and use boundary of a major sporting event venue zone as those terms are defined in Section 63N-3-1701 to the same extent and in the same manner as a city or town may impose a tax under this section.

(6) (a) As used in this Subsection (6), "major sporting event venue" means a venue that has been or is proposed to be used for the Olympic Games, as confirmed by the Salt Lake City-Utah Committee for the Games, a site, arena, or facility along with supporting or adjacent structures.

(b) Beginning October 1, 2025, a county of the third class with at least three major sporting event venues within the jurisdiction of the county may, by ordinance, impose a tax under this section on transactions occurring within the unincorporated areas of the county to the same extent and in the same manner as a city or town may impose a tax under this section.

(c) Revenue generated by a tax imposed under this Subsection (6) may only be used by the county of the third class on public infrastructure and infrastructure improvements, including transportation infrastructure and improvements, and transit projects.

Section 12. Section 59-12-402 is amended to read:

59-12-402. Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Certain authorities and zones implementing additional resort communities sales and use tax.

(1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

(i) (A) the sale of a motor vehicle, an aircraft, a watercraft, a modular home, a manufactured home, or a mobile home;

(B) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(C) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients;[~~ or~~]

(ii) transactions that occur in the district sales tax area, as defined in Subsection 59-12-401(4), if the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, has imposed a tax under Subsection (8)[~~.~~];

(iii) transactions that occur within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Development Authority Act, if the military installation development authority has imposed a tax under Subsection (7); or

(iv) transactions that occur within the sales and use tax boundary of a major sporting event venue zone under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, if the creating entity of the major sporting event venue zone has imposed a tax under Subsection (9).

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A municipality imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:

(a) pass a resolution approving the tax; and

(b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).

(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:

(a) hold the additional resort communities sales tax election during:

(i) a regular general election; or

(ii) a municipal general election; and

(b) post notice of the election for the municipality, as a class A notice under Section 63G-30-102, for at least 15 days before the day on which the election is held.

(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.

(6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

(7) Subject to Subsection 63H-1-203(1), a military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may impose an additional resort communities sales tax under this section as if the military installation development authority were a municipality.

(8) [~~The~~]On or after October 1, 2024, the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, may impose an additional resort communities tax under this section on transactions that occur[~~:~~]

[~~(a)~~] within the district sales tax area, as defined in Subsection 59-12-401(4)[~~; and~~], as if the district were a municipality.

[~~(b) that occur on or after October 1, 2024.~~]

(9) Beginning October 1, 2025, the creating entity of a major sporting event venue zone, established under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, may by ordinance impose a tax under this section on transactions that occur within the sales and use tax boundary of a major sporting event venue zone as those terms are defined in Section 63N-3-1701 to the same extent and in the same manner as a municipality may impose a tax under this section.

Section 13. Section 59-12-405 is amended to read:

59-12-405. Definitions -- Municipality filing requirements for lodging unit capacity -- Failure to meet eligibility requirements -- Notice to municipality -- Municipality authority to impose tax.

(1) As used in this section:

(a) "High-occupancy lodging unit" means each bedroom in a:

(i) hostel; or

(ii) a unit similar to a hostel as determined by the commission by rule.

(b) "High-occupancy lodging unit capacity of a municipality" means the product of:

(i) the total number of high-occupancy lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and

(ii) four.

(c) "Recreational lodging unit" means each site in a:

(i) campground that:

(A) is issued a business license by the municipality in which the campground is located; and

(B) provides the following hookups:

(I) water;

(II) sewer; and

(III) electricity;[~~ or~~]

(ii) recreational vehicle park that provides the following hookups:

(A) water;

(B) sewer; and

(C) electricity; or

(iii) unit similar to Subsection (1)(c)(i) or (ii) as determined by the commission by rule.

(d) "Recreational lodging unit capacity of a municipality" means the product of:

(i) the total number of recreational lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and

(ii) four.

(e) "Special lodging unit" means a lodging unit:

(i) that is a:

(A) high-occupancy lodging unit;

(B) recreational lodging unit; or

(C) standard lodging unit;

(ii) for which the commission finds that in determining the capacity of the lodging unit the lodging unit should be multiplied by a number other than a number described in:

(A) for a high-occupancy lodging unit, Subsection (1)(b)(ii);

(B) for a recreational lodging unit, Subsection (1)(d)(ii); or

(C) for a standard lodging unit, Subsection (1)(i)(ii); and

(iii) for which the municipality in which the lodging unit is located files a written request with the commission for the finding described in Subsection (1)(e)(ii).

(f) "Special lodging unit capacity of a municipality" means the sum of the special lodging unit numbers for all of the special lodging

units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3).

(g) "Special lodging unit number" means the number by which the commission finds that a special lodging unit should be multiplied in determining the capacity of the special lodging unit.

(h) "Standard lodging unit" means each bedroom in:

(i) a hotel;

(ii) a motel;

(iii) a bed and breakfast establishment;

(iv) an inn;

(v) a condominium that is:

(A) part of a rental pool; or

(B) regularly rented out for a time period of less than 30 consecutive days;

(vi) a property used as a residence that is:

(A) part of a rental pool; or

(B) regularly rented out for a time period of less than 30 consecutive days; or

(vii) a unit similar to Subsections (1)(h)(i) through (vi) as determined by the commission by rule.

(i) "Standard lodging unit capacity of a municipality" means the product of:

(i) the total number of standard lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and

(ii) three.

(j) "Transient room capacity" means the sum of:

(i) the high-occupancy lodging unit capacity of a municipality;

(ii) the recreational lodging unit capacity of a municipality;

(iii) the special lodging unit capacity of a municipality; and

(iv) the standard lodging unit capacity of a municipality.

(2) A municipality that imposes a tax under this part shall provide the commission the following information as provided in this section:

(a) the high-occupancy lodging unit capacity of the municipality;

(b) the recreational lodging unit capacity of the municipality;

(c) the special lodging unit capacity of the municipality; and

(d) the standard lodging unit capacity of the municipality.

(3) A municipality shall file with the commission the information required by Subsection (2):

(a) on a form provided by the commission; and

(b) on or before:

(i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, the day on which the municipality provides the notice required by Section 59-12-403 to the commission; or

(ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, July 1 of each year.

(4) If the commission determines that a municipality that files the form described in Subsection (3) has a transient room capacity that is less than 66% of the municipality's permanent census population, the commission shall notify the municipality in writing:

(a) that the municipality's transient room capacity is less than 66% of the municipality's permanent census population; and

(b) (i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, within 30 days after the day on which the municipality provides the notice to the commission; or

(ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, on or before September 1.

(5) (a) For a municipality that does not impose a tax under Section 59-12-401 on the day on which the municipality files the form described in Subsection (3), if the commission provides written notice described in Subsection (4) to the municipality, the municipality may not impose a tax under this part until the municipality meets the requirements of this part to enact the tax.

(b) For a municipality that is not required by Section 59-12-403 to provide notice to the commission, if the commission provides written notice described in Subsection (4) to the municipality for three consecutive calendar years, the municipality may not impose a tax under this part:

(i) beginning on July 1 of the year after the year during which the commission provided written notice described in Subsection (4):

(A) to the municipality; and

(B) for the third consecutive calendar year; and

(ii) until the municipality meets the requirements of this part to enact the tax.

(6) The requirements of this section do not apply to a municipality that:

(a) is a creating entity of a major sporting event venue zone; and

(b) only imposes a tax authorized under this part on transactions that occur within the sales and use tax boundary of a major sporting event venue zone.

Section 14. Section 63N-3-1701 is enacted to read:

PART 17. Major Sporting Event Venue Zone Act

63N-3-1701. Definitions.

As used in this part:

(1) "Base taxable value" means the taxable value of land within a qualified development zone as shown upon the assessment roll last

equalized during the property tax base year.

(2) "Committee" means a major sporting event venue zone committee described in Section 63N-3-1706.

(3) "Creating entity" means a municipality or a county.

(4) "Impacted primary area" means the land outside a major sporting event venue zone but within one mile of the boundary of the major sporting event venue zone.

(5) (a) "Major sporting event venue" means a venue that has been or is proposed to be used for the Olympic Games, as confirmed by the Salt Lake City-Utah Committee for the Games, a site, arena, or facility along with supporting or adjacent structures so long as the expected expenditures to construct, demolish, reconstruct, modify, upgrade, or expand the site, arena, or facility exceeds $100,000,000.

(b) "Major sporting event venue" includes structures where an international competition or professional athletic event is not taking place directly but where media, athletes, spectators, organizers, and officials associated with the international competition or professional athletic event are hosted in direct connection with the international competition or professional athletic event taking place at a location described in Subsection (5)(a).

(6) "Major sporting event venue zone" means the land, as described in a proposal to create a major sporting event venue zone or a proposal to amend a major sporting event venue zone, or as approved by a committee for a major sporting event venue zone, upon which there are one or more major sporting event venues.

(7) "Major sporting event venue zone revenue" means all the revenue captured by a creating entity for an area described in a major sporting event venue zone and if applicable the secondary project area, including:

(a) property tax increment;

(b) if applicable, local sales and use tax increment;

(c) if applicable, accommodations tax;

(d) if applicable, transient room tax; and

(e) if applicable, resort communities sales and use tax and additional resort communities sales and use tax.

(8) "Property tax base year" means, for each property tax increment collection period triggered within a qualified development zone or a proposed qualified development zone, the calendar year before the calendar year in which the property tax increment begins to be collected for the parcels triggered for that collection period.

(9) (a) "Property tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity within a qualified development zone, or proposed qualified development zone, from which property tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from the area described in Subsection (9)(a)(i) using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Property tax increment" does not include property tax revenue from:

(i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2); or

(ii) a county additional property tax described in Subsection 59-2-1602(4).

(10) "Proposal" means a document, physical or electronic, developed by a creating entity:

(a) outlining the need for a major sporting event venue zone;

(b) describing the impacted primary area of a proposed major sporting event venue zone;

(c) describing the proposed secondary project area of a proposed major sporting event venue zone, if any; and

(d) submitted to a major sporting event venue zone committee.

(11) "Qualified development zone" means the property within a major sporting event venue zone, and, if applicable, the secondary project area, as approved by the committee as described in this part.

(12) "Sales and use tax base year" means a sales and use tax year determined by the first year pertaining to the tax imposed in Section 59-12-103 after the sales and use tax boundary for a major sporting event venue zone is established.

(13) (a) "Sales and use tax boundary" means a boundary established as described in Sections 63N-3-1707 and 63N-3-1710, based on sales and use tax collection that corresponds as closely as reasonably practicable to the boundary of the major sporting event venue zone.

(b) "Sales and use tax boundary" does not include land described in a secondary project area.

(14) "Sales and use tax increment" means the difference between:

(a) the amount of local sales and use tax revenue generated each year following the sales and use tax base year by the local sales and use tax from the area within a sales and use tax boundary from which local sales and use tax increment is to be collected; and

(b) the amount of local sales and use tax revenue that was generated from within the sales and use tax boundary during the sales and use tax base year.

(15) (a) "Secondary project area" means land, as described in a proposal to create a major sporting event venue zone or a proposal to amend a major sporting event venue zone, or as approved by a committee for a major sporting event venue zone:

(i) located in the same jurisdiction as the creating entity for the major sporting event venue zone;

(ii) located no more than two miles from the boundary of the major sporting event venue zone;

(iii) connected to a major sporting event venue zone by a transportation system; and

(iv) not exceeding 50 acres.

(b) "Secondary project area" may include:

(i) land that is not contiguous to the major sporting event venue zone, if the land designated in the secondary project area is the only or primary point of transit by which an individual may begin to access the major sporting event venue zone; and

(ii) the land on which a connecting transportation system sits if the transportation system requires infrastructure that is permanently affixed to the land.

(16) "Transportation system" means:

(a) a street, alley, road, highway, pathway, or thoroughfares of any kind, including connected structures;

(b) an airport or aerial transit infrastructure;

(c) a public transit facility; or

(d) any other modes or form of conveyance used by the public.

Section 15. Section 63N-3-1702 is enacted to read:

63N-3-1702. Applicability, requirements, and limitations on a major sporting event venue zone.

(1) A major sporting event venue zone created pursuant to this part shall promote the following objectives:

(a) redevelopment of existing but aging major sporting event venues;

(b) development of new major sporting event venues;

(c) development of infrastructure supporting a major sporting event venue;

(d) increased utilization of public transportation when accessing a major sporting event venue;

(e) improved efficiencies in parking and transportation with the goal of increasing walkability between a major sporting event venue and a public transit station;

(f) improved commercial development, or mixed commercial-residential development, in areas near a major sporting event venue;

(g) improving air quality by reducing fuel consumption and motor vehicle trips; and

(h) increasing tourism activity.

(2) In order to accomplish the objectives described in this section, a creating entity that initiates the process to create a major sporting event venue zone shall ensure that a proposal for a major sporting event venue zone includes information demonstrating how the proposed major sporting event venue zone shall achieve the objectives described in Subsection (1).

(3) Notice of commencement of collection of property tax increment shall be sent by mail or electronically to the following entities no later than January 1 of the year for which the property tax increment collection is proposed to commence:

(a) the State Tax Commission;

(b) the State Board of Education;

(c) the state auditor;

(d) the auditor of the county in which the major sporting event venue zone is proposed to be created;

(e) each taxing entity to be affected by collection of property tax increment in the proposed major sporting event venue zone;

(f) the assessor of the county in which the major sporting event venue zone is proposed to be created; and

(g) the Governor's Office of Economic Opportunity.

(4) A major sporting event venue zone proposal may include:

(a) a proposal to capture property tax increment;

(b) a proposal to capture local sales and use tax increment; and

(c) a proposal to implement a tax described in Section 11-71-201, either immediately upon creation of the major sporting event venue zone or on a specified timeline following the creation of the major sporting event venue zone.

Section 16. Section 63N-3-1703 is enacted to read:

63N-3-1703. Process for proposing a major sporting event venue zone.

(1) (a) A creating entity may propose a major sporting event venue zone as provided in this section.

(b) Before a creating entity may submit a proposal to the office as described in this section, the legislative body of the creating entity shall hold a public meeting on the proposal to create a major sporting event venue zone and provide notice of the public meeting as a class A notice as described in Section 63G-30-102.

(c) One or more creating entities may jointly propose a major sporting event venue zone if:

(i) the creating entities first enter an interlocal agreement governing how the creating entities shall manage the major sporting event venue zone, if approved; or

(ii) the creating entities include a proposed interlocal agreement the creating entities will enter upon approval of the major sporting event venue zone.

(d) A creating entity may not propose a major sporting event venue zone unless the owner of a major sporting event venue consents to the creation of the major sporting event venue zone through a participation agreement with the creating entity.

(2) A proposal for a major sporting event venue zone shall:

(a) identify if the proposal is to redevelop an existing but aging major sporting event venue, develop a new major sporting event venue, or both redevelop an existing but aging major sporting event venue and develop a new major sporting event venue;

(b) demonstrate that the major sporting event venue zone will meet the objectives described in Subsection 63N-3-1702(1);

(c) explain how the creating entity will achieve the requirements of Subsection 63N-3-1702(2);

(d) include the consent described in Subsection (1)(d);

(e) define specific infrastructure needs, if any, and proposed improvements to:

(i) the major sporting event venue zone; and

(ii) if applicable, the secondary project area;

(f) demonstrate how the major sporting event venue zone will:

(i) ensure sufficient traffic control;

(ii) provide multiple avenues for spectators or participants to access the major sporting event venue zone, including public transit; and

(iii) promote increased visitation to and recreation in the major sporting event venue zone;

(g) define the boundaries of the major sporting event venue zone;

(h) define the boundaries of the secondary project area, if any;

(i) identify any impediments to the development of a new major sporting event venue, or impediments to refurbishing an existing major sporting event venue, in the major sporting event venue zone and proposed strategies for addressing each one;

(j) describe the proposed development or refurbishment to a sporting event venue in the major sporting event venue zone, including estimated costs;

(k) subject to Subsection (3):

(i) propose the collection period or periods for property tax increment;

(ii) propose the collection period for local sales and use tax increment;

(iii) propose the collection period or periods for property tax increment in the secondary project area, if any;

(iv) propose the sales tax increment to be collected for the benefit of the major sporting event venue zone; and

(v) propose the qualified development zone boundaries for purposes of the property tax increment boundary, as described in Section 63N-3-1709, and the sales and use tax boundary, as described in Section 63N-3-1710;

(l) establish the timeline to levy additional taxes authorized under Title 11, Chapter 71, Major Sporting Event Venue Zones, if any, within the major sporting event venue zone;

(m) describe projected maximum revenues generated within the major sporting event venue zone by each permitted source of revenue described in Section 11-71-201;

(n) describe proposed expenditures of revenue generated within the major sporting event venue zone;

(o) include an analysis of other applicable or eligible incentives, grants, or sources of revenue that can be used to reduce any finance gap between generated revenue and estimated costs;

(p) (i) describe any known opportunities for private-public partnership in developing, refurbishing, operating, or managing a major sporting event venue, as described in Section 11-71-301; or

(ii) describe a strategy to pursue private-public partnership in developing or refurbishing a major sporting event venue;

(q) propose a finance schedule to align expected revenue with required financing costs and payments;

(r) evaluate possible benefits to active transportation, public transportation availability and utilization, street connectivity, and air quality; and

(s) provides a pro forma for the planned development that:

(i) satisfies the requirements described in Section 63N-3-1702; and

(ii) includes data showing the cost difference between what type of redevelopment or development could feasibly occur without major sporting event venue zone revenue, and the type of redevelopment or development that is proposed to occur with major sporting event venue zone revenue.

(3) (a) Property tax increment may be collected from a qualified development zone for no less than 25 years and no more than 40 years.

(b) A proposal for a major sporting event venue zone may not propose or include triggering more than three property tax increment collection periods for the qualified development zone.

(c) Local sales and use tax increment may be collected for an area in a sales and use tax boundary for no more than 40 years.

(d) The percentage of property tax increment collected for the benefit of a major sporting event venue zone is 75%.

(e) The committee established under Section 63N-3-1706 shall determine the percentage of local sales and use tax increment to be collected for the benefit of a major sporting event venue zone.

(4) A creating entity shall submit a proposal described in Subsection (2) to a relevant school district to discuss the requirements of the proposal.

(5) No earlier than 30 days after the day on which the creating entity submits the proposal to a relevant school district under Subsection (4), the creating entity shall provide the proposal described in Subsection (2) and any response or feedback to the proposal from a relevant school district to the office for consideration.

(6) (a) Within 14 days after the date on which the office receives the proposal described in Subsection (5), the office shall provide notice of the proposal to all affected taxing entities, including the State Tax Commission, cities, counties, school districts, metropolitan planning organizations, and the county assessor and county auditor of the county in which the major sporting event venue zone would be located.

(b) The office, in consultation with the county assessor, county auditor, and the State Tax Commission, shall evaluate the feasibility of administering the tax implications of the proposal, and provide findings to the creating entity proposing the major sporting event venue zone.

(7) After receiving the findings described in Subsection (6)(b), the creating entity proposing the major sporting event venue zone may:

(a) amend the proposal and request that the office submit the amended proposal to the committee; or

(b) request that the office submit the original major sporting event venue zone proposal to the committee.

Section 17. Section 63N-3-1704 is enacted to read:

63N-3-1704. Consideration of proposals by the major sporting event venue zone committee.

(1) A major sporting event venue zone proposed under this part is subject to approval by the major sporting event venue zone committee.

(2) (a) The proposing creating entity shall present the proposal to the major sporting event venue zone committee described in Section 63N-3-1706 in a public meeting.

(b) The committee shall evaluate and verify whether the objectives and elements of a major sporting event venue zone described in Section 63N-3-1702 have been met.

(3) In considering a proposal under this part, a committee may request any information from a creating entity needed to make a determination about whether to approve or deny a proposal, or approve a proposal with modifications, including a description of the proposed uses of funds and how funds will be used to support public projects related to the major sporting event venue zone, including transit.

(4) (a) Subject to Subsection (4)(b), the committee may:

(i) request changes to the proposal based on the analysis, characteristics, and criteria described in Section 63N-3-1703; or

(ii) vote to approve or deny the proposal.

(b) Before the committee may approve the major sporting event venue zone proposal, the creating entity proposing the major sporting event venue zone shall:

(i) for a creating entity that is made up of more than one municipality or county, ensure the requirement described in Subsection 63N-3-1703(1)(c) has been met; and

(ii) ensure that the area of the proposed major sporting event venue zone is zoned in such a manner to accommodate the requirements of a major sporting event venue zone described in this section and the proposed development.

Section 18. Section 63N-3-1705 is enacted to read:

63N-3-1705. Notice requirements for the creating entity.

(1) In approving a proposal, the committee shall follow the hearing and notice requirements for proposing a major sporting event venue zone as described in this section.

(2) Within 30 days after the committee approves a proposed major sporting event venue zone as described in Section 63N-3-1707, the creating entity shall:

(a) record with the recorder of the county in which the major sporting event venue zone is located a document containing:

(i) a description of the land within the major sporting event venue zone, primary project area, and if applicable, the secondary project area;

(ii) a statement that the proposed major sporting event venue zone has been approved;

(iii) the date of adoption; and

(iv) the effective date of the major sporting event venue zone, as described in Section 63N-3-1707;

(b) transmit a copy of the description of the land within the major sporting event venue zone and an accurate map or plat indicating the boundaries of the major sporting event venue zone, and if applicable, secondary project area to the Utah Geospatial Resource Center created under Section 63A-16-505; and

(c) transmit a copy of the approved major sporting event venue zone proposal, map, and legal description of the major sporting event venue zone, and if applicable, secondary project area, to:

(i) the auditor, recorder, attorney, surveyor, and assessor of the county in which any part of the major sporting event venue zone is located;

(ii) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(iii) the legislative body or governing board of each taxing entity;

(iv) the State Tax Commission; and

(v) the State Board of Education.

Section 19. Section 63N-3-1706 is enacted to read:

63N-3-1706. Major sporting event venue zone committee -- Creation.

(1) For any major sporting event venue zone proposed under this part, there is created a major sporting event venue zone committee with membership described in Subsection (2).

(2) Each major sporting event venue zone committee shall consist of the following members:

(a) one representative from the office, designated by the executive director of the office;

(b) one representative from the creating entity;

(c) (i) if a proposal addresses a major sporting event venue that will be used during an Olympic Games, one member of the executive committee for the Salt Lake City-Utah Committee for the Games; or

(ii) if a proposal does not address a major sporting event venue that will be used during an Olympic Games, one individual with expertise in a professional sports industry, appointed by the governor;

(d) one individual from the Office of the State Treasurer, designated by the state treasurer;

(e) two members designated by the president of the Senate;

(f) two members designated by the speaker of the House of Representatives;

(g) two representatives designated by the school superintendent from the school district affected by the major sporting event venue zone; and

(h) one representative, representing the largest participating local taxing entity, after the creating entity and school district, in the proposed major sporting event venue zone.

(3) After the office has received a request from the submitting creating entity to submit the proposal to the committee, as described in Subsection 63N-3-1703(7), the office shall notify each of the entities described in Subsection (2) of the formation of the major sporting event venue zone committee.

(4) The individual designated by the office as described in Subsection (2)(a) shall serve as chair of the committee.

(5) (a) A majority of the members of the committee constitutes a quorum.

(b) An action by a majority of a quorum of the committee is an action of the committee.

(6) (a) The chair of the committee shall convene a public meeting to consider the proposed major sporting event venue zone.

(b) A meeting of the committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(7) The committee may:

(a) request changes to the proposal based on the analysis, characteristics, and criteria described in Section 63N-3-1702 or 63N-3-1703; or

(b) vote to approve or deny the proposal.

(8) If a major sporting event venue zone is approved as described in Section 63N-3-1707:

(a) the proposed major sporting event venue zone is established:

(i) according to the terms of the proposal; or

(ii) according to the modified terms of the proposal, as established by the committee in the committee's vote to approve the major sporting event venue zone;

(b) affected local taxing entities are required to participate according to the terms approved by the committee; and

(c) each affected taxing entity is required to participate at the same rate.

(9) (a) Except as provided in Subsection (9)(b), any aspect of a major sporting event venue zone, including the approved use of major sporting event venue zone revenue or the boundary of the qualified development zone or sales and use tax boundary, may be amended by following the same procedure as approving a major sporting event venue zone proposal.

(b) A boundary adjustment described in Section 63N-3-1711 does not require an amendment described in Subsection (9)(a).

Section 20. Section 63N-3-1707 is enacted to read:

63N-3-1707. Approval of a major sporting event venue zone -- Effective date of a major sporting event venue zone -- Establishment of qualified development zone boundary -- Base taxable value year.

(1) A major sporting event venue zone proposal may be approved, with or without modifications, by a majority vote of the committee.

(2) (a) The effective date of a major sporting event venue zone is January 1 following the approval of a proposal by the committee, as described in Subsection (1).

(b) The collection of property tax increment or local sales and use tax increment may not be triggered before the effective date.

(3) (a) The base taxable value of land within an approved major sporting event venue zone is determined as of January 1 of the year in which the committee approves a major sporting event venue zone proposal.

(b) In approving the major sporting event venue zone, the committee shall establish:

(i) the qualified development zone area for the purpose of calculating property tax increment;

(ii) the sales and use tax boundary for the purpose of calculating local sales and use tax increment;

(iii) the percent of property tax increment that may be captured in the major sporting event venue zone;

(iv) the percent of local sales and use tax increment that may be captured in the major sporting event venue zone;

(v) the amount of time that property tax increment, local sales and use tax increment, or both may be captured in the major sporting event venue zone; and

(vi) the maximum amount of revenue from property tax increment, local sales and use tax increment, or both may be captured in the major sporting event venue zone.

(4) The creating entity of a major sporting event venue zone is responsible for tracking the revenue received from property tax increment, local sales and use tax increment, or both, and reporting to the county auditor and State Tax Commission if the creating entity reaches the maximum described in Subsection (3)(b)(vi) before the relevant time period described in Subsection (3)(b)(v).

Section 21. Section 63N-3-1708 is enacted to read:

63N-3-1708. Major sporting event venue zone boundaries -- Reporting requirements.

(1) After a major sporting event venue zone is approved by the committee, as described in Section 63N-3-1706, the committee shall provide notice to the State Tax Commission, no later than 90 days after the day on which the committee approves the proposal:

(a) of the creation of the major sporting event venue zone, including the information described in Subsection (2);

(b) if the committee approves the creating entity to receive local sales and use tax increment, the information described in Subsection (3); and

(c) any information to the State Tax Commission required by the State Tax Commission.

(2) The notice described in Subsection (1)(a) shall include:

(a) a statement that the major sporting event venue zone will be established under this part;

(b) the approval date and effective date of the major sporting event venue zone;

(c) the boundary of the qualified development zone;

(d) the sales and use tax base year, if applicable; and

(e) the sales and use tax boundary, if applicable.

(3) After the effective date of a major sporting event venue zone, as described in Section 63N-3-1707, the creating entity shall provide a written report, no later than August 1, on the creating entity's activities to implement the objectives of the major sporting event venue zone to the executive director.

(4) (a) The executive director shall annually provide a written report, no later than October 1, summarizing all reports received by the executive director under Subsection (3), to the:

(i) Revenue and Taxation Interim Committee;

(ii) Political Subdivisions Interim Committee; and

(iii) Economic Development and Workforce Services Interim Committee.

(b) The executive director shall include with the written report described in Subsection (4)(a) any recommendations to the Legislature for statutory changes to this chapter or Title 11, Chapter 71, Major Sporting Event Venue Zones.

Section 22. Section 63N-3-1709 is enacted to read:

63N-3-1709. Allowable property tax increment within a major sporting event venue zone.

(1) A creating entity may receive and use property tax increment in accordance with this section and as described in Title 11, Chapter 71, Major Sporting Event Venue Zones.

(2) (a) A county that collects property tax on property located within a qualified development zone shall, in accordance with Section 59-2-1365, distribute to the creating entity the percentage of property tax increment approved by the committee pursuant to Section 63N-3-1707, not to exceed 75%.

(b) Property tax increment distributed to a creating entity in accordance with Subsection (2)(a):

(i) is not revenue of the taxing entity or the creating entity; and

(ii) constitutes major sporting event venue zone funds and shall be administered as described in Title 11, Chapter 71, Major Sporting Event Venue Zones.

(3) (a) A creating entity may designate another local government entity to be the fiscal agent for property tax increment paid to the creating entity.

(b) Before a fiscal agent may receive major sporting event venue zone funds from the creating entity, the creating entity and the fiscal agent shall enter into an agreement governing the use of the funds, consistent with this part and Title 11, Chapter 71, Major Sporting Event Venue Zones.

(4) Once the maximum amount of property tax increment has been distributed to the creating entity, as approved by the committee

pursuant to Section 63N-3-1707, the county that collects property tax on property located within a qualified development zone is no longer obligated to distribute property tax increment to the creating entity.

(5) A creating entity and a creating entity's fiscal agent shall use major sporting event venue zone funds:

(a) to achieve the purposes described in Subsections 63N-3-1702(1) and (2);

(b) within, or for the direct benefit of, the major sporting event venue zone; and

(c) as described in Section 11-71-203.

Section 23. Section 63N-3-1710 is enacted to read:

63N-3-1710. Allowable local sales and use tax increment within a major sporting event venue zone.

(1) (a) A major sporting event venue zone proposal may, in consultation with the State Tax Commission:

(i) propose a sales and use tax boundary as described in Subsection (2);

(ii) propose a local sales and use tax base year and collection period to calculate and transfer the local sales and use tax increment within the major sporting event venue zone, which sales and use tax base year is established prospectively, 90 days after the date of the notice described in Subsection (5); and

(iii) propose the percentage of local sales and use tax increment to be captured by the creating entity.

(b) A creating entity may only propose one local sales and use tax increment period for a major sporting event venue zone established under this section.

(2) (a) The creating entity, in consultation with the State Tax Commission, shall propose a sales and use tax boundary that:

(i) is based on sales and use tax collection boundaries, which are determined using the ZIP Code as defined in Section 59-12-102, including the four digit delivery route extension;

(ii) follows as closely as reasonably practicable the boundary of the major sporting event venue zone; and

(iii) is one contiguous area that includes at least the entire boundary of the major sporting event venue zone.

(b) If a sales and use tax boundary is bisected by the boundary of the major sporting event venue zone, the major sporting event venue zone may include the entire sales and use tax boundary.

(3) Subject to the requirements of Subsection (2), the committee may modify a proposed sales and use tax boundary before approving a major sporting event venue zone proposal.

(4) A major sporting event venue zone sales and use tax boundary, as approved by the committee, is the qualified development zone for purposes of the calculations in Sections 59-12-103 and 59-12-205.

(5) Once a creating entity notifies the State Tax Commission that the maximum amount of local sales and use tax increment has been distributed to the creating entity, as approved by the committee pursuant to Section 63N-3-1707, the State Tax Commission is no longer obligated to distribute local sales and use tax increment to the creating entity.

(6) The establishment of a sales and use tax base year and the requirement to transfer incremental sales tax revenue shall take effect:

(a) on the first day of a calendar quarter; and

(b) after a 90-day waiting period, beginning on the date the State Tax Commission receives notice.

Section 24. Section 63N-3-1711 is enacted to read:

63N-3-1711. Boundary adjustments.

If the relevant county assessor or county auditor adjusts parcel or lot boundaries relevant to a major sporting event venue zone, the creating entity administering the property tax increment or local sales and use tax increment collected in the major sporting event zone may:

(1) make corresponding adjustments to the qualified development zone of the major sporting event venue zone; and

(2) in consultation with the State Tax Commission, and with the approval of the State Tax Commission, make corresponding adjustments to the local sales and use tax boundary.

Section 25. Section 63N-3-1712 is enacted to read:

63N-3-1712. Applicability to an existing project.

(1) If a major sporting event venue zone overlaps an area that is part of a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, that parcel may not be triggered for collection unless the project area funds collection period, as that term is defined in Section 17C-1-102, has expired.

(2) If a major sporting event venue zone overlaps any portion of an existing inactive industrial site community reinvestment project area plan created pursuant to Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act:

(a) if the community reinvestment project area plan captures less than 80% of the property tax increment from a taxing entity, or if a taxing entity is not participating in the community reinvestment project area plan, the major sporting event venue zone may capture the difference between:

(i) 80%; and

(ii) the percentage of property tax increment captured pursuant to the community reinvestment project area plan; and

(b) if a community reinvestment project area plan expires before the major sporting event venue zone, the major sporting event venue zone may capture the property tax increment allocated to the community reinvestment project area plan for any remaining portion of the term of the major sporting event venue zone.

(3) (a) Except as provided in Subsection (3)(b), a major sporting event venue zone may not overlap a housing and transit reinvestment zone or a first home investment zone.

(b) A major sporting event venue zone may overlap a housing and transit reinvestment zone or a first home investment zone if:

(i) (A) the major sporting event venue zone does not collect property tax increment for the area overlapping with the housing and transit reinvestment zone or the first home investment zone; or

(B) the major sporting event venue zone does not collect property tax increment for the area overlapping with the housing and transit reinvestment zone or the first home investment zone until the collection period for the housing and transit reinvestment zone's collection of property tax increment or the first home investment zone's collection of property tax increment has ended; and

(ii) (A) the major sporting event venue zone does not collect sales and use tax increment for the area overlapping with the housing and

transit reinvestment zone or first home investment zone, if the housing and transit reinvestment zone or the first home investment zone collects sales and use tax increment; or

(B) the major sporting event venue zone does not collect local sales and use tax increment for the area overlapping with the housing and transit reinvestment zone or the first home investment zone until the collection period for the housing and transit reinvestment zone's collection of sales and use tax increment or the first home investment zone's collection of sales and use tax increment has ended.

Section 26. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 496
H. B. 483
Passed March 7, 2025
Approved March 27, 2025
Effective July 1, 2025

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION MODIFICATIONS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses provisions related to school and institutional trust lands.

Highlighted Provisions:

This bill:

- ► requires the director of the School and Institutional Trust Lands Administration (administration) to complete a valuation of the administration's land portfolio every five years;
- ► requires the director to report annually to the Legislature:
  - • the activities of the administration;
  - • an approximate valuation of the administration's land portfolio;
  - • an audited financial statement of the administration; and
  - • an account of the total amount of funds distributed by the administration;
- ► modifies the list of activities and penalties for illegal activities on trust lands;
- ► provides the circumstances under which the state shall offer for sale trust lands subject to a lease or permit; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53C-1-303, as last amended by Laws of Utah 2012, Chapter 224
53C-2-301, as last amended by Laws of Utah 2020, Chapter 123
53C-4-102, as last amended by Laws of Utah 2018, Chapter 13

ENACTS:

53C-1-307, Utah Code Annotated 1953

REPEALS:

53D-1-101, as last amended by Laws of Utah 2018, Chapter 448
53D-2-101, as enacted by Laws of Utah 2018, Chapter 448

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53C-1-303 is amended to read:

53C-1-303. Responsibilities of director -- Budget review -- Legal counsel -- Contract for services.

(1) In carrying out the policies of the board of trustees and in establishing procedures and rules, the director shall:

(a) take an oath of office before assuming any duties as the director;

(b) adopt procedures and rules necessary for the proper administration of matters entrusted to the director by state law and board policy;

(c) submit to the board for its review and concurrence on any rules necessary for the proper management of matters entrusted to the administration;

(d) faithfully manage the administration under the policies established by the board;

(e) submit to the board for public inspection an annual management budget and financial plan for operations of the administration and, after approval by the board, submit the budget to the governor;

(f) direct and control the budget expenditures as finally authorized and appropriated;

(g) establish job descriptions and employ, within the limitation of the budget, staff necessary to accomplish the purposes of the office subject to Section 53C-1-201;

(h) establish, in accordance with generally accepted principles of fund accounting, a system to identify and account for the assets and vested interests of each beneficiary;

(i) complete an approximate valuation of the administration's entire land portfolio every five years by estimating the value of no less than 10% of the administration's land portfolio each year;

[~~(i)~~](j) notify the primary beneficiary representative's designee regarding the trusts listed in Subsection 53C-1-103(7) on major items

that the director knows may be useful to the primary beneficiary representative's designee in protecting beneficiary rights;

[~~(j)~~](k) permit the primary beneficiary representative's designee regarding a trust listed in Subsection 53C-1-103(7) reasonable access to inspect records, documents, and other trust property pertaining to that trust, provided that the primary beneficiary representative's designee shall maintain confidentiality if confidentiality is required of the director;

[~~(k)~~](l) maintain appropriate records of trust activities to enable auditors appointed by appropriate state agencies or the board to conduct periodic audits of trust activities;

[~~(l)~~](m) provide that all leases, contracts, and agreements be submitted to legal counsel for review of compliance with applicable law and fiduciary duties prior to execution and utilize the services of the attorney general as provided in Section 53C-1-305;

[~~(m)~~](n) keep the board, beneficiaries, governor, Legislature, and the public informed about the work of the director and administration by:

(i) submitting an annual report described in Section 53C-1-307; and

(ii) reporting to the board in a public meeting at least once during each calendar quarter; and

[~~(n)~~](o) respond in writing within a reasonable time to a request by the board or the primary beneficiary representative's designee regarding a trust listed in Subsection 53C-1-103(7) for responses to questions on policies and practices affecting the management of the trust.

(2) The administration shall be the named party in substitution of the Division of State Lands and Forestry or its predecessor agencies, with respect to all documents affecting trust lands from the effective date of this act.

(3) The director may:

(a) with the consent of the state risk manager and the board, manage lands or interests in lands held by any other public or private party pursuant to policies established by the board and may make rules to implement these board policies;

(b) sue or be sued as the director of school and institutional trust lands;

(c) contract with other public agencies for personnel management services;

(d) contract with any public or private entity to make improvements to or upon trust lands and to carry out any of the responsibilities of the office, so long as the contract requires strict adherence to trust management principles, applicable law and regulation, and is subject to immediate suspension or termination for cause; and

(e) with the approval of the board enter into joint ventures and other business arrangements consistent with the purposes of the trust.

(4) Any application or bid required for the lease, permitting, or sale of lands in a competitive process or any request for review pursuant to Section 53C-1-304 shall be considered filed or made on the date received by the appropriate administrative office, whether transmitted by United States mail or in any other manner.

Section 2. Section 53C-1-307 is enacted to read:

53C-1-307. Annual report.

(1) At the end of each fiscal year, the director shall publish an annual report of the administration's activities for the preceding fiscal year.

(2) The report described in Subsection (1) shall contain:

(a) an account of the administration's activities for the preceding fiscal year;

(b) financial statements of the administration that are audited by the state auditor or an independent auditor engaged by the state auditor in accordance with Subsection 67-3-1(3);

(c) by no later than June 30, 2029, and annually thereafter, the most recent approximate valuation of the administration's land portfolio as required in Subsection 53C-1-303(1)(i); and

(d) an account of the total amount of funds distributed by the administration to the School and Institutional Trust Fund Office in accordance with Subsection 53C-3-102(1).

Section 3. Section 53C-2-301 is amended to read:

53C-2-301. Illegal activities on trust lands -- Penalties.

(1) A person is liable for the civil damages prescribed in Subsection (2) and is guilty of a criminal offense specified in Subsection (4) if the person intentionally, knowingly, or recklessly, and without written authorization from the director:

[~~(a) removes, extracts, uses, consumes, or destroys a mineral resource, gravel, sand, soil, vegetation, water resource, or improvement on trust lands;~~]

[~~(b) grazes livestock on trust lands;~~]

[~~(c) uses, occupies, or constructs improvements or structures on trust lands;~~]

[~~(d) uses or occupies trust lands for more than 30 days after the cancellation or expiration of written authorization;~~]

[~~(e) knowingly and willfully uses trust lands for commercial gain;~~]

[~~(f) appropriates, alters, injures, or destroys an improvement or historical, prehistorical, archaeological, or paleontological resource on trust lands;~~]

[~~(g)~~](a) [~~trespasses upon,~~]uses, commits waste, dumps refuse on, or occupies trust land;

[~~(h)~~](b) interferes with the activities of an employee or agent of the administration on trust lands; or

[~~(i)~~](c) interferes with activities of a lessee or other person that have been authorized by the administration, whether or not the trust land has been withdrawn from occupancy or use pursuant to Subsection 53C-2-105(1)(b).

(2) A person who commits an act described in Subsection (1) is liable for damages in the amount of whichever of the following is greatest:

(a) three times the value at the point of sale of the mineral or other resource removed, destroyed, or extracted;

(b) three times the amount of damage committed;

(c) three times the cost to cure the damage;

(d) three times the value of any losses suffered as a result of interference with authorized activities; or

(e) three times the consideration which would have been charged by the director for use of the land during the period of trespass.

(3) In addition to the damages described in Subsection (2), a person found guilty of a criminal act under Subsection (1) is subject to the penalties provided in Title 76, Chapter 3, Punishments, as specified in Subsection (4).

(4) A violation of this section is a:

(a) second degree felony if the actor's conduct causes property injury or damage, or pecuniary loss equal to or in excess of $5,000 in value;

(b) third degree felony if the actor's conduct causes property injury or damage, or pecuniary loss equal to or in excess of $1,500 but is less than $5,000 in value;

(c) class A misdemeanor if the actor's conduct causes property injury or damage, or pecuniary loss equal to or in excess of $500 but is less than $1,500 in value;[~~and~~]

(d) class B misdemeanor if the actor's conduct causes property injury or damage, or pecuniary loss less than $500 in value[~~,~~]; and

(e) an infraction if the actor's conduct causes no property injury, damage, or pecuniary loss.

(5) The director shall deposit money collected under this section in the fund in which like revenues from that land would be deposited.

(6) The director may award a portion of any of the damages collected under this section in excess of actual damages to the general fund of the county in which the trespass occurred as a reward for county assistance in the apprehension and prosecution of the trespassing party.

Section 4. Section 53C-4-102 is amended to read:

53C-4-102. Sale of trust lands -- Fair market value -- Determination of sale -- Advertising proposed sales -- Sale procedures -- Defaults.

(1) Trust lands may not be sold for less than the fair market value.

(2) (a) The director shall determine whether disposal or retention of all or a portion of a property interest in trust lands is in the best interest of the trust.

(b) When it is determined that the disposal of an interest in trust lands is in the best interest of the applicable trust, the transaction shall be accomplished in an orderly and timely manner.

(3) The director shall advertise any proposed sale, lease, or exchange of an interest in trust lands in a reasonable manner consistent with the director's fiduciary responsibilities.

(4) (a) Any tract of trust land may be subdivided and sold, leased, or exchanged in accordance with a plan, contract, or other action designating the land to be subdivided that is approved by the director.

(b) The director may survey the tract and direct its subdivision.

(c) A plat of the survey shall be filed with the county recorder of the county in which the land is located and with the administration.

(5) Sale conditions, including qualification of prospective purchasers, shall be in accordance with accepted mortgage lending and real estate practices.

(6) Upon the sale of land, the director shall issue to the purchaser a certificate of sale which describes the land purchased and states the amount paid, the amount due, and the time when the principal and interest will become due.

(7) Upon payment in full of principal and interest, payment in full of any amounts required to be paid for the partial release of property, or acceptance of appropriate conveyance documents in satisfaction of a land exchange, the governor, or the governor's designee, shall issue a patent to the purchaser, heir, assignee, successor in interest, or other grantee as determined by the director.

(8) (a) If a purchaser of trust lands defaults in the payment of any installment of principal or interest due under the terms of the contract of sale, the director shall notify the purchaser that if the default is not corrected within 30 days after issuance of the notice the director shall proceed with any remedy which the administration may pursue under law or the contract of sale.

(b) The notice shall be sent by registered or certified mail to the purchaser at the latest address as shown by the records of the administration.

(c) If the default is not corrected by compliance with the requirements of the notice of default within the time provided by the notice, the director may pursue any available remedy under the contract of sale, including forfeiture.

(d) If forfeited lands are sold again to the same purchaser, the sale may be made by a new and independent contract without regard to the forfeited agreement.

(9) The director shall offer for sale any trust lands subject to a valid surface lease agreement or permit to the owner of the lease or permit if:

(a) the director approves the sale of the trust lands;

(b) the owner of the lease or permit agrees to pay fair market value, which may not exceed an amount equal to the highest credible offer received for the trust lands;

(c) the owner of the lease or permit has held the lease or permit for at least 25 consecutive years;

(d) the trust lands offered for sale are not greater than 640 acres; and

(e) the trust lands do not have an authorized point of public access at the time of sale.

Section 5. Repealer.

This bill repeals:

Section 53D-1-101, Title.

Section 53D-2-101, Title.

Section 6. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 497
H. B. 488
Passed March 6, 2025
Approved March 27, 2025
Effective May 7, 2025

FEDERALISM AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Keven J. Stratton

Cosponsor:	Logan J. Monson	Stephen L. Whyte
Kay J. Christofferson	Nicholeen P. Peck	
Colin W. Jack	Jason E. Thompson	

LONG TITLE

General Description:

This bill modifies provisions related to federalism.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► expands the membership of the Federalism Commission (commission) and modifies the manner in which members are appointed;
- ► increases the number of committee bill files the commission is permitted to open each year;
- ► requires the Center for Constitutional Studies (center) at Utah Valley University, in consultation with the commission, to:
  - • develop a continuing education and training program for state and local government employees regarding federalism issues;
  - • organize an annual federalism conference and study the creation of a state-led national federalism organization;
  - • coordinate with private sector actors to conduct out-of-state outreach; and
  - • establish informal working groups as necessary and report to the commission;
- ► requires the Herbert Institute (institute) at Utah Valley University, in consultation with the commission, to:
  - • serve as a liaison between the commission, the center, and government entities on federalism issues; and
  - • conduct outreach and coordination to support the commission's federalism efforts; and
  - • coordinate with private organizations on local and national outreach efforts and report to the commission;
- ► requires the commission to:
  - • make recommendations to the center and to the institute regarding the entities' federalism-related duties; and
  - • report annually to the Legislative Management Committee regarding the entities' progress;
- ► requires executive branch agencies to designate a contact person to coordinate with the commission regarding education and training; and
- ► makes technical corrections.

Money Appropriated in this Bill:

This bill appropriates $910,000 in operating and capital budgets for fiscal year 2026, all of which is from the Income Tax Fund.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-4a-102, as last amended by Laws of Utah 2021, Chapter 64
63C-4a-302, as last amended by Laws of Utah 2024, Chapter 410
63C-4a-303, as last amended by Laws of Utah 2024, Chapter 190

ENACTS:

53B-29-401, Utah Code Annotated 1953
53B-29-402, Utah Code Annotated 1953
53B-29-403, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-29-401 is enacted to read:

PART 4. Federalism

53B-29-401. Definitions.

As used in this part:
(1) "Center" means the Center for Constitutional Studies at Utah Valley University.

(2) "Commission" means the Federalism Commission created in Section 63C-4a-302.

(3) "Institute" means the Gary R. Herbert Institute for Public Policy at Utah Valley University.

Section 2. Section 53B-29-402 is enacted to read:

53B-29-402. Federalism-related duties of Center for Constitutional Studies.

In consultation with the commission and subject to appropriations by the Legislature, the center shall:

(1) develop a nonpartisan continuing education and training program for state and local government employees on:

(a) the principles of federalism;

(b) the sovereignty, supremacy, and general jurisdiction of the individual states, including the breadth and extent of state police power jurisdiction;

(c) the history and practical implementation of the Ninth, Tenth, and Fourteenth Amendments to the United States Constitution;

(d) the limited jurisdiction and powers of the federal government as proscribed by the United States Constitution, as amended;

(e) methods of evaluating federal jurisdiction, law, or action in the context of the principles of federalism;

(f) the duty, jurisdiction, and powers of the state to restore or maintain the constitutionally balanced state and federal governing roles and responsibilities; and

(g) other education or training components related to federalism as recommended by the commission;

(2) organize an annual conference for state representatives and leaders whose primary purpose is to facilitate nonpartisan discussion and coordination amongst states with respect to federalism issues;

(3) study and advise the commission in regards to the creation of a state-led national organization focused on strengthening federalism and improving intergovernmental relations, including the makeup, duties, and functions of such organization;

(4) coordinate with private sector actors who agree to conduct out-of-state outreach to build national support for the commission's federalism efforts;

(5) establish informal working groups consisting of public and private stakeholders as is appropriate to assist the center in fulfilling the requirements of this section; and

(6) report to the commission as requested regarding the center's progress in fulfilling the requirements of this section.

Section 3. Section 53B-29-403 is enacted to read:

53B-29-403. Federalism-related duties of Herbert Institute.

In consultation with the commission and subject to appropriations by the Legislature, the institute shall:

(1) serve as a liaison between the commission and the center with respect to federalism issues;

(2) conduct outreach and coordination with public and private sector entities to support the commission's federalism efforts;

(3) coordinate with private sector actors who agree to conduct out-of-state outreach to build national support for the commission's federalism efforts; and

(4) report to the commission as requested regarding the institute's progress in fulfilling the requirements of this section.

Section 4. Section 63C-4a-102 is amended to read:

63C-4a-102. Definitions.

As used in this chapter:

(1) "Account" means the Constitutional Defense Restricted Account, created in Section 63C-4a-402.

(2) "Center" means the Center for Constitutional Studies at Utah Valley University.

[~~(2)~~](3) "Commission" means the Federalism Commission, created in Section 63C-4a-302.

[~~(3)~~](4) "Constitutional defense plan" means a plan that outlines actions and expenditures to fulfill the duties of the commission and the council.

[~~(4)~~](5) "Council" means the Constitutional Defense Council, created in Section 63C-4a-202.

[~~(5)~~](6) "Federal governmental entity" means:

(a) the president of the United States;

(b) the United States Congress;

(c) a United States agency; or

(d) an employee or official appointed by the president of the United States.

[~~(6)~~](7) "Federal issue" means a matter relating to the federal government's dealings with the state.

[~~(7)~~](8) "Federal law" means:

(a) an executive order by the president of the United States;

(b) a statute passed by the United States Congress;

(c) a regulation adopted by a United States agency; or

(d) a policy statement, order, guidance, or action by:

(i) a United States agency; or

(ii) an employee or official appointed by the president of the United States.

(9) "Institute" means the Gary R. Herbert Institute for Public Policy at Utah Valley University.

[~~(8)~~](10) "R.S. 2477" means Revised Statute 2477, codified as 43 U.S.C. Section 932.

[~~(9)~~](11) "R.S. 2477 plan" means a guiding document that:

(a) is developed jointly by the Utah Association of Counties and the state;

(b) is approved by the council; and

(c) presents the broad framework of a proposed working relationship between the state and participating counties collectively for the

purpose of asserting, defending, or litigating state and local government rights under R.S. 2477.

[~~(10)~~](12) "United States agency" means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States government.

Section 5. Section 63C-4a-302 is amended to read:

63C-4a-302. Creation of Federalism Commission -- Membership -- Meetings -- Staff -- Expenses.

(1) (a) There is created the Federalism Commission, comprised of the following [~~nine~~]14 voting members:

[~~(i) the president of the Senate or the president of the Senate's designee who shall serve as cochair of the commission;~~]

[~~(ii) two other members of the Senate, appointed by the president of the Senate;~~]

[~~(iii) the speaker of the House or the speaker of the House's designee who shall serve as cochair of the commission;~~]

[~~(iv) three other members of the House, appointed by the speaker of the House;~~]

[~~(v) the minority leader of the Senate or the minority leader of the Senate's designee; and~~]

[~~(vi) the minority leader of the House or the minority leader of the House's designee.~~]

(i) five members of the Senate appointed by the president of the Senate, comprised of four members from the majority party and one member from the minority party; and

(ii) nine members of the House of Representatives appointed by the Speaker of the House of Representatives, comprised of seven members from the majority party and two members from the minority party.

(b) (i) Subject to the provisions of this Subsection (1)(b), the Legislative Management Committee may appoint nonvoting members to the commission from a list of individuals recommended by the cochairs of the commission.

(ii) If the Legislative Management Committee chooses to not appoint an individual on the list described in Subsection (1)(b)(i), the Legislative Management Committee may ask the cochairs of the commission to submit an additional list of recommendations.

(iii) The Legislative Management Committee may not appoint an individual who is not recommended by the cochairs of the commission.

(iv) The nonvoting members appointed by the Legislative Management Committee under this Subsection (1)(b) shall be appointed or reappointed for a two-year term.

(v) When a vacancy of a nonvoting member occurs for any reason, the Legislative Management Committee, in consultation with the cochairs of the commission, shall appoint a replacement for the unexpired term.

(2) (a) A majority of the voting members of the commission constitute a quorum of the commission.

(b) Action by a majority of the members of a quorum constitutes action by the commission.

(3) The commission may meet up to nine times each year, unless additional meetings are approved by the Legislative Management Committee.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

(5) Compensation and expenses of a member of the commission who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) Nothing in this section prohibits the commission from closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission from complying with Title 63G, Chapter 2, Government Records Access and Management Act.

(7) The commission may, in the commission's discretion, elect to succeed to the position of any of the following under a contract that any of the following are party to, subject to applicable contractual provisions:

(a) the Commission on Federalism;

(b) the Commission for the Stewardship of Public Lands; and

(c) the Federal Funds Commission.

(8) The commission may:

(a) open up to two committee bill files per calendar year relating to the commission's statutory duties, including the committee bill file described in Subsection 63L-10-103(6); and

(b) provide assistance to an interim committee regarding a committee bill file opened by the interim committee that relates to the commission's duties.

Section 6. Section 63C-4a-303 is amended to read:

63C-4a-303. Federalism Commission to evaluate federal law -- Curriculum on federalism -- Environment discussions -- Oversight of Center for Constitutional Studies in relation to center's federalism duties.

(1) (a) In accordance with Section 63C-4a-304, the commission may evaluate a federal law:

(i) as agreed by a majority of the commission;

(ii) submitted to the commission by a council member; or

(iii) reported to the commission in accordance with Subsection (1)(b).

(b) (i) To assist the commission in the evaluation of federal law as required in this section and Section 63C-4a-304, the commission may contract with a third party that is a Utah institution of higher education to monitor federal law for possible implications on the principles of federalism.

(ii) A third party contracted to monitor federal law as described in Subsection (1)(b)(i) shall:

(A) monitor federal law for possible implications on the principles of federalism and state sovereignty; and

(B) report to the commission any law or action by the federal government that may implicate the principles of federalism or state sovereignty.

(c) (i) As used in this Subsection (1)(c), "interim committee" means the same as that term is defined in Section 36-12-1.

(ii) The commission shall provide an annual report to each interim committee concerning any law or action by the federal government that implicates the principles of federalism or state sovereignty.

(iii) The commission may notify the appropriate interim committee of any law or action by the federal government that implicates the principles of federalism or state sovereignty.

(2) The commission may request information regarding a federal law under evaluation from a United States senator or representative elected from the state.

(3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair or the commission may:

(a) request from a United States senator or representative elected from the state:

(i) information about the federal law; or

(ii) assistance in communicating with a federal governmental entity regarding the federal law;

(b) (i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and

(ii) request a response by a specific date to the evaluation from the federal governmental entity;

(c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy; or

(d) give written notice of an evaluation and the conclusions of the commission to any other relevant entity.

(4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission's evaluation of a federal law.

(5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-4a-305.

(6) The commission shall keep a current list on the Legislature's website of:

(a) a federal law that the commission evaluates under Subsection (1);

(b) an action taken by a cochair of the commission or the commission under Subsection (3);

(c) any coordination undertaken with another state under Section 63C-4a-305; and

(d) any response received from a federal government entity that was requested under Subsection (3).

(7) (a) The commission shall develop curriculum for a seminar on the principles of federalism.

(b) The curriculum under Subsection (7)(a) shall be available to the general public and include:

(i) fundamental principles of federalism;

(ii) the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;

(iii) the history and practical implementation of the Tenth Amendment to the United States Constitution;

(iv) the authority and limits on the authority of the federal government as found in the United States Constitution;

(v) the relationship between the state and federal governments;

(vi) methods of evaluating a federal law in the context of the principles of federalism;

(vii) how and when challenges should be made to a federal law or regulation on the basis of federalism;

(viii) the separate and independent powers of the state that serve as a check on the federal government;

(ix) first amendment rights and freedoms contained therein; and

(x) any other issues relating to federalism the commission considers necessary.

(8) The commission may apply for and receive grants, and receive private donations to assist in funding the creation, enhancement, and dissemination of the curriculum.

(9) The commission shall submit a report on or before November 30 of each year to the Government Operations Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee that:

(a) describes any action taken by the commission under Section 63C-4a-303; and

(b) includes any proposed legislation the commission recommends.

(10) The commission shall comply with Section 19-1-110 in discussions with the Department of Environmental Quality on issues related to the environment or the functioning of the Department of Environmental Quality.

(11) The commission shall:

(a) coordinate with and make recommendations to the center concerning the center's federalism-related duties under Section 53B-29-402, including:

(i) the development of the federalism education and training program under Subsection 53B-29-402(1); and

(ii) the scope and objectives of:

(A) the annual federalism conference organized under Subsection 53B-29-402(2);

(B) the study conducted under Subsection 53B-29-402(3); and

(C) the center's coordination efforts under Subsection 53B-29-402(4);

(b) coordinate with and make recommendations to the institute regarding the institute's federalism-related duties under Section 53B-29-403; and

(c) report annually to the Legislative Management Committee regarding:

(i) the center's progress in fulfilling the requirements of Section 53B-29-402; and

(ii) the institute's progress in fulfilling the requirements of Section 53B-29-403.

(12) Each executive branch agency shall, at the request of the commission, designate a contact person to coordinate with the commission regarding the federalism education and training program developed under Section 53B-29-402 for purposes of:

(a) determining the extent of federal jurisdiction in the agency's resource sphere;

(b) determining whether federal action exceeds the federal government's jurisdictional authority;

(c) assessing what actions the agency may take in the event that federal action exceeds the federal government's jurisdictional authority; and

(d) assessing how actions described in Subsection (12)(c) may better enable the agency to use the agency's best judgment in serving the people of Utah.

Section 7. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 7(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah Valley University - Education and General

From Income Tax Fund - - -

CHAPTER 498
S. B. 336
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

UTAH FAIRPARK AREA INVESTMENT AND RESTORATION DISTRICT MODIFICATIONS

Chief Sponsor: Scott D. Sandall
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies provisions relating to the Utah Fairpark Area Investment and Restoration District.

Highlighted Provisions:

This bill:

- ► defines terms and modifies definitions;
- ► broadens permissible uses for a fair park land lease;
- ► modifies taxing authority provisions related to the fairpark district or a host municipality;
- ► modifies land use authority provisions relating to land located within the fairpark district;
- ► enables a public infrastructure district created by the fairpark district to:
  - • levy property taxes;
  - • use bond proceeds for the development and maintenance of public utility infrastructure; and
  - • pay for specified development and improvements;
- ► provides funding for the fairpark district;
- ► establishes a process for a member of the fairpark board to annually file a conflict of interest disclosure;
- ► designates the fairpark district as a qualifying jurisdiction that can receive tax information from the State Tax Commission;
- ► includes a coordination clause to merge the changes to Section 59-12-103 in this bill and S.B. 27, Motor Vehicle Division Amendments, if both pass and become law; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

11-68-201, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 53, 419
11-70-101, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 419
11-70-202, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 419
11-70-204, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 419
11-70-206, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 419
11-70-207, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 419
11-70-304, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 419
11-70-401, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 419
11-70-502, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 419
17D-4-203, (Effective 05/07/25) as last amended by Laws of Utah 2023, Chapters 15, 259
51-9-902, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapter 41
59-1-403, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 25, 35
59-12-103, (Effective 07/01/25) as last amended by Laws of Utah 2024, Chapters 88, 501
59-12-352, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapters 413, 419
59-12-1201, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 274

Utah Code Sections Affected by Coordination Clause:

AMENDS:

59-12-103, as last amended by Laws of Utah 2024, Chapters 88, 501

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-68-201 is amended to read:
11-68-201 (Effective 05/07/25). State Fair Park Authority -- Legal status -- Powers.

(1) There is created the State Fair Park Authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) (a) The fair corporation is dissolved and ceases to exist, subject to any winding down and other actions necessary for a transition to the authority.

(b) The authority:

(i) replaces and is the successor to the fair corporation;

(ii) succeeds to all rights, obligations, privileges, immunities, and assets of the fair corporation; and

(iii) shall fulfill and perform all contractual and other obligations of the fair corporation.

(c) The board shall take all actions necessary and appropriate to wind down the affairs of the fair corporation as quickly as practicable and to make a transition from the fair corporation to the authority.

(4) The authority shall:

(a) manage, supervise, and control:

(i) all activities relating to the annual exhibition described in Subsection (4)(j); and

(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events held on fair park land:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

(c) acquire and designate exposition sites;

(d) use generally accepted accounting principles in accounting for the authority's assets, liabilities, and operations;

(e) seek corporate sponsorships for the state fair park or for individual buildings or facilities on fair park land;

(f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Office of Tourism, and other entities to develop and promote expositions and the use of fair park land;

(g) develop and maintain a marketing program to promote expositions and the use of fair park land;

(h) in accordance with provisions of this chapter, operate and maintain state-owned buildings and facilities on fair park land, including the physical appearance and structural integrity of those buildings and facilities;

(i) prepare an economic development plan for the fair park land;

(j) hold an annual exhibition on fair park land that:

(i) is called the state fair or a similar name;

(ii) promotes and highlights agriculture throughout the state;

(iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the board's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of the state;

(iv) includes the award of premiums for the best specimens of the exhibited articles and animals;

(v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

(vi) is arranged according to plans approved by the board;

(k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and

(l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.

(5) In addition to the annual exhibition described in Subsection (4)(j), the authority may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the authority's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of the state.

(6) The authority may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201 or any captive insurance company created by the risk manager; or

(ii) procure insurance against any loss in connection with the authority's property and other assets;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or the state;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the authority, subject to the conditions, if any, upon which the aid and contributions are made;

(e) enter into management agreements with any person or entity for the performance of the authority's functions or powers;

(f) establish accounts and procedures that are necessary to budget, receive, disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8) and subject to the powers and responsibilities of the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, lease any of the state-owned buildings or facilities located on fair park land;

(h) sponsor events as approved by the board;

(i) subject to Subsection (11), acquire any interest in real property that the board considers necessary or advisable to further a purpose of the authority or facilitate the authority's fulfillment of a duty under this chapter;[~~and~~]

(j) in accordance with [~~Title 11, ~~]Chapter 42a, Commercial Property Assessed Clean Energy Act, provide for or finance an energy efficiency upgrade, a clean energy system, or electric vehicle charging infrastructure, as those terms are defined in Section 11-42a-102; and

(k) enter into one or more agreements with the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(7) The authority shall comply with:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) Title 52, Chapter 4, Open and Public Meetings Act;

(d) Title 63G, Chapter 2, Government Records Access and Management Act;

(e) the provisions of Section 67-3-12;

(f) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:

(i) entertainment provided at the state fair park;

(ii) judges for competitive exhibits; or

(iii) sponsorship of an event on fair park land; and

(g) the legislative approval requirements for capital development projects established in Section 63A-5b-404.

(8) (a) [~~(i)~~] Before the authority executes a lease described in Subsection (6)(g) with a term of 10 or more years and subject to the powers and responsibilities of the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, the authority shall:

[~~(A)~~](i) submit the proposed lease to the division for the division's approval or rejection; and

[~~(B)~~](ii) if the division approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive [~~Appropriation~~]Appropriations Committee's review and recommendation in accordance with Subsection (8)(b).

[~~(ii) The authority may not execute a lease under Subsection (6)(g) for any part of fair park land on or after May 1, 2024 unless the lease relates to the agricultural and related exhibit facilities on fair park land.~~]

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the authority that the authority:

(i) execute the proposed lease, either as proposed or with changes recommended by the Executive Appropriations Committee; or

(ii) reject the proposed lease.

(9) (a) Subject to Subsection (9)(b), a department, division, or other instrumentality of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) The division shall provide assistance and resources to the authority as the division director determines is appropriate.

(10) The authority may share authority revenue with a municipality in which the fair park land is located, as provided in an agreement between the authority and the municipality, to pay for municipal services provided by the municipality.

(11) (a) As used in this Subsection (11), "new land" means land that, if acquired by the authority, would result in the authority having acquired over three acres of land more than the land described in Subsection 11-68-101(9)(a).

(b) In conjunction with the authority's acquisition of new land, the authority shall enter an agreement with the municipality in which the new land is located.

(c) To provide funds for the cost of increased municipal services that the municipality will provide to the new land, an agreement under Subsection (11)(b) shall:

(i) provide for:

(A) the payment of impact fees to the municipality for development activity on the new land; and

(B) the authority's sharing with the municipality tax revenue generated from the new land; and

(ii) be structured in a way that recognizes the needs of the authority and furthers mutual goals of the authority and the municipality.

Section 2. Section 11-70-101 is amended to read:

11-70-101 (Effective 05/07/25). Definitions.

As used in this chapter:

(1) "Base taxable value" means the taxable value of land within the fairpark district boundary as of January 1, 2024, as determined under Subsection 11-70-206(9).

(2) "Board" means the fairpark district's governing body, created in Section 11-70-301.

(3) "Designated parcel" means a parcel of land specified in a designation resolution.

(4) "Designation resolution" means a resolution adopted by the board that designates a transition date for the parcel specified in the resolution.

(5) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including public infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (5)(a).

(6) "Development project" means a project for the development of land within a project area.

(7) "District sales tax area" means an area described in and established as provided in Subsection 11-70-206(10).

(8) "Enhanced property tax revenue":

(a) means the amount of money that is equal to the difference between:

(i) the amount of property tax revenues generated in a tax year by all taxing entities from privately owned land, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated in the same tax year by all taxing entities from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

(9) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(10) "Fair park authority" means the State Fair Park Authority created in Section 11-68-201.

(11) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(12) "Fairpark district boundary" means a line or set of lines that:

(a) defines the geographic boundary of the fairpark district, consisting of the interior space within each polygon described by the line or set of lines; and

(b) is delineated in the electronic shapefile that is the electronic component of H.B. 562, Utah Fairpark Area Investment and Restoration District, 2024 General Session.

(13) "Fairpark district funds" means money the fairpark district receives from any source, including money the fairpark district receives under:

(a) Sections 10-1-304 and 11-70-205;

(b) Section 10-1-403;

(c) Section 11-70-203;

(d) Section 11-70-204;

(e) Section 51-9-902;

(f) Section 59-12-103;

[~~(e)~~](g) Sections 59-12-352 and 59-12-354;

[~~(f)~~](h) Section 59-12-401;

(i) Section 59-12-402.5;

[~~(g)~~](j) Section 59-12-402; and

[~~(h)~~](k) Section 59-12-1201.

(14) "Fair park land" means the same as that term is defined in Section 11-68-101.

(15) "Franchise agreement" means a legally binding and valid agreement under which:

(a) a franchise is confirmed for a major league sports team that before January 1, 2024, had not been located in the state; and

(b) the major league sports team agrees to play home games in a stadium to be constructed within the fairpark district boundary.

(16) "Franchise agreement date" means the date that a franchise agreement is fully executed and in effect.

(17) "Host municipality" means the municipality whose boundary includes the land within the fairpark district boundary.

(18) (a) "Major league sports team" means a team:

[~~(a)~~](i) consisting of professional athletes;

[~~(b)~~](ii) that is part of a professional sports league; and

[~~(c)~~](iii) that is engaged in the business of presenting live sporting events before primarily a paying audience.

(b) "Major league sports team" does not include a team organized and operated by an institution of higher education as described in Section 53B-2-101.

(19) "Other state land" means:

(a) land within the fairpark district boundary, other than fair park land, that is owned by the state on January 1, 2024; and

(b) except for land acquired under Subsection 11-70-502(3)(a)(ii), land within the fairpark district boundary that is acquired by the fairpark district or the state on or after May 1, 2024[~~, within the fairpark district boundary~~].

(20) "Payment period" means a period of up to 35 years, as specified in a designation resolution, beginning on the transition date, during which enhanced property tax revenue under Section 11-70-401 is to be paid.

(21) "Post-designation parcel" means a parcel within a project area after the transition date for that parcel.

(22) "Pre-designation parcel" means a parcel within a project area before the transition date for that parcel.

(23) "Professional sports league" means a group of major league sports teams that have formed a league[~~:~~]

[~~(a)~~] for the major league sports teams to compete against one another[~~; and~~].

[~~(b) in which the combined average annual payroll for the major league sports teams in the league on the franchise agreement date is not less than $100,000,000.~~]

(24) "Project area" means land described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(25) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

(26) "Project area plan" means a written plan that, after [~~its~~]the plan's effective date, guides and controls the development within a project area.

(27) "Property tax" includes each levy on an ad valorem basis on tangible or intangible personal or real property.

(28) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the fairpark district.

(29) (a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) (A) benefit the public and are owned by a public entity or a utility; or

(B) benefit the public and are publicly maintained or operated by a public entity; or

(ii) (A) are privately owned;

(B) benefit the public;

(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to applicable design and safety standards.

(b) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking facilities, rail lines, intermodal facilities, multimodal facilities, and public transportation facilities;

(iii) a qualified stadium;

(iv) public trails and pathways associated with and rehabilitation of and improvements to the Jordan River;[~~and~~]

(v) agricultural and related exhibit facilities on fair park land[~~.~~]; and

(vi) hotels, hospitality facilities, eating establishments, convention facilities, and other related facilities.

(30) "Qualified owner" means an owner of at least 65 contiguous acres of privately owned land within the fairpark district boundary, or the owner's affiliate.

(31) (a) "Qualified stadium" means a stadium:

(i) within the fairpark district boundary;

(ii) with a minimum capacity of 30,000 spectators; and

(iii) that will primarily be used as the home of a major league sports team.

(b) "Qualified stadium" includes parking structures or facilities, lighting facilities, plazas, and open space associated with a stadium described in Subsection (31)(a).

(32) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(33) "Stadium contribution" means the principal amount of bonds that the district issues to pay for the development and construction of a qualified stadium, plus any other amount the district pays toward the development and construction of a qualified stadium.

(34) "State fair purposes" means the purposes for the use of fair park land related to the fair park authority's management, supervision, and control over a state fair and related events and activities.

(35) "State-owned land" means:

(a) fair park land; and

(b) other state land.

(36) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(37) "Taxing entity" means the same as that term is defined in Section 59-2-102, excluding a public infrastructure district that the fairpark district creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(38) "Transition date" means the date indicated in a designation resolution after which the parcel that is the subject of the designation resolution becomes a post-designation parcel.

Section 3. Section 11-70-202 is amended to read:

11-70-202 (Effective 05/07/25). Fairpark district powers and duties.

(1) The fairpark district may:

(a) facilitate and bring about the development of land within the fairpark district boundary, including the development of a qualified stadium to house a major league sports team;

(b) enter into a lease agreement with an affiliate of a major league sports team to lease a qualified stadium to a major league sports team and receive lease payments on behalf of the state;

(c) facilitate and provide funding for the development of land in a project area, including the development of public infrastructure and improvements and other infrastructure and improvements on or related to land in a project area;

(d) engage in marketing and business recruitment activities and efforts to encourage and facilitate development of land within the fairpark district boundary;

(e) as the fairpark district considers necessary or advisable to carry out any of the fairpark district's duties or responsibilities under this chapter:

(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;

(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property; or

(iii) enter into a lease agreement on real or personal property, as lessee or lessor;

(f) sue and be sued;

(g) enter into contracts generally;

(h) exercise powers and perform functions under a contract, as authorized in the contract;

(i) receive and spend enhanced property tax revenue, as provided in this chapter;

(j) accept financial or other assistance from any public or private source for the fairpark district's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(k) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(l) issue bonds to finance the undertaking of any development objectives of the fairpark district, including bonds under Chapter 17, Utah Industrial Facilities and Development Act, bonds under Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act;

(m) hire employees, including independent contractors;

(n) transact other business and exercise all other powers provided for in this chapter;

(o) engage one or more consultants to advise or assist the fairpark district in the performance of the fairpark district's duties and responsibilities;

(p) enter into an agreement with a private contractor to provide a municipal service within a project area that is not being provided by a municipality or other governmental service provider;

(q) provide public safety services in the area within the fairpark district boundary, including under a contract, approved by the board, with an existing governmental provider of public safety services;

(r) finance, develop, own, lease, operate, or otherwise control public infrastructure and improvements in a project area; and

(s) exercise powers and perform functions that the fairpark district is authorized by statute to exercise or perform.

(2) (a) The fairpark district is responsible for and has jurisdiction over any development that occurs on fair park land, including the funding of that development.

(b) The fairpark district shall consult and coordinate with the fair park authority with respect to any development activities anticipated for or that occur on fair park land.

(c) Any development of fair park land shall be:

(i) subject to and compatible with the use of fair park land for state fair purposes and related and other activities under the jurisdiction of the fair park authority; and

(ii) as far as practicable, consistent with the master plan for fair park land approved by the fair park authority.

(3) With respect to state land other than fair park land, the fairpark district and the facilities division shall consult with each other and with agencies occupying the land with respect to any potential change of use or development of the land.

(4) The total amount of the fairpark district's stadium contribution may not exceed $900,000,000.

(5) Beginning April 1, 2025, the fairpark district shall:

(a) be the repository of the official delineation of the fairpark district boundary, identical to the fairpark district boundary as delineated in the shapefile that is the electronic component of H.B. 562, Utah Fairpark Area Investment and Restoration District, 2024 General Session, subject to:

(i) any later changes to the boundary enacted by the Legislature; and

(ii) any additions of land to the fairpark district boundary under Subsection (6); and

(b) maintain an accurate digital file of the boundary that is easily accessible by the public.

(6) The fairpark district boundary may be expanded to include land outside the fairpark district boundary if:

(a) the land is owned by a qualified owner;

(b) the qualified owner consents to including the land within the fairpark district boundary; and

(c) the land is:

(i) contiguous to the fairpark district boundary; or

(ii) within 200 feet of the fairpark district boundary.

Section 4. Section 11-70-204 is amended to read:

11-70-204 (Effective 05/07/25). Fairpark district accommodations tax.

(1) As used in this section:

(a) [~~(i)~~] "Accommodations and services" means an accommodation or service described in Subsection 59-12-103(1)(i).

[~~(ii) "Accommodations and services" does not include an accommodation or service for which amounts paid or charged are not part of a rental room rate.~~]

(b) "Accommodations tax" means a tax imposed as provided in this section.

(2) By resolution, the fairpark district board may impose an accommodations tax on a provider for amounts paid or charged for accommodations and services, if the place of accommodation is located within the district sales tax area.

(3) The maximum rate of an accommodations tax is 15% of the amounts paid to or charged by the provider for accommodations and services.

(4) A provider may recover an amount equal to the accommodations tax from customers, if the provider includes the amount as a separate billing line item.

(5) If the fairpark district imposes an accommodations tax, a public entity[~~, including~~]other than the fairpark district, may not impose, on the amounts paid or charged for accommodations and services within the district sales tax area, any other tax described in:

(a) Title 59, Chapter 12, Sales and Use Tax Act; or

(b) Title 59, Chapter 28, State Transient Room Tax Act.

(6) Except as provided in Subsection [~~(7)~~](8) or [~~(8)~~](9), an accommodations tax shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Title 59, Chapter 12, Part 1, Tax Collection; or

(ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

(b) Title 59, Chapter 1, General Taxation Policies.

(7) The location of a transaction shall be determined in accordance with Sections 59-12-211through 59-12-215.

(8) (a) An accommodations tax is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).

(b) The exemptions described in Sections 59-12-104, 59-12-104.1, and 59-12-104.6 do not apply to an accommodations tax.

(9) The State Tax Commission shall:

(a) except as provided in Subsection (9)(b), distribute the revenue collected from an accommodations tax to the fairpark district; and

(b) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from an accommodations tax.

(10) (a) If the fairpark district imposes, repeals, or changes the rate of an accommodations tax, the implementation, repeal, or change takes effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the State Tax Commission receives the notice described in Subsection (10)(b) from the fairpark district.

(b) The notice required in Subsection (10)(a)(ii) shall state:

(i) that the fairpark district will impose, repeal, or change the rate of an accommodations tax;

(ii) the effective date of the implementation, repeal, or change of the accommodations tax; and

(iii) the rate of the accommodations tax.

(11) In addition to the uses permitted under Section 11-70-207, the fairpark district may allocate revenue from an accommodations tax to a county in which a place of accommodation that is subject to the accommodations tax is located, if:

(a) the county had a transient room tax described in Section 59-12-301 in effect at the time the fairpark district board imposed an accommodations tax; and

(b) the revenue replaces revenue that the county received from a county transient room tax described in Section 59-12-301 for the county's general operations and administrative expenses.

Section 5. Section 11-70-206 is amended to read:

11-70-206 (Effective 05/07/25). Applicability of other law -- Cooperation of state and local governments -- Municipal services -- Services from state agencies -- Procurement policy -- Public infrastructure district.

(1) With respect to the use or development of state-owned land, the fairpark district is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(b) the jurisdiction of a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, except to the extent that:

(i) some or all of the state land is, on January 1, 2024, included within the boundary of a special district or special service district; and

(ii) the fairpark district elects to receive service from the special district or special service district for the state land that is included within the boundary of the special district or special service district, respectively.

(2) The fairpark district has and may exercise all powers relating to the regulation of land uses on state-owned land.

(3) (a) Subject to [~~Subsection~~]Subsections (3)(b) and (c), the fairpark district has and may exercise all powers relating to the regulation of land uses on privately owned land within the fairpark district boundary.

(b) (i) [~~Land~~]Except as provided in Subsection (3)(d), land owned by a qualified owner is subject to a host municipality's land use authority under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, if the qualified owner and the host municipality enter into an agreement, as provided in Subsection (3)(b)(ii), no later than December 31, 2024.

(ii) (A) An agreement under Subsection (3)(b)(i) shall require the host municipality to provide an expedited process for the review and approval of a qualified owner's completed land use application that complies with adopted land use regulations.

(B) In an agreement under Subsection (3)(b)(i), the host municipality shall agree to vest the qualified owner in any approved land use for a qualified stadium and related uses.

(c) (i) If the board approves the addition of land owned by a qualified owner to the fairpark district boundary, the host municipality shall, within six months after the day of the board's approval, approve an amendment to the agreement established under Subsection (3)(b) to include the additional land.

(ii) A host municipality may not unreasonably withhold, delay, or condition approving the amendment described in Subsection (3)(c)(i).

(iii) If a host municipality fails to approve an amendment described in Subsection (3)(c)(i) within the time frame described in Subsection (3)(c)(i), the fairpark district shall become the land use authority for the additional land.

(d) If an agreement under Subsection (3)(b) terminates for any reason described in the agreement or by operation of law, the fairpark district shall become the land use authority for the land that was subject to the agreement immediately upon termination of the agreement.

(e) Upon expiration of the agreement described in Subsection (3)(b), the host municipality shall remain the sole land use authority for the land that was subject to the expired agreement.

[~~(c)~~](f) A host municipality may not prohibit or condition the use of a qualified owner's land for a qualified stadium.

[~~(d)~~](g) In making land use decisions affecting land within the fairpark district boundary that is subject to a host municipality's land use authority under this Subsection (3), the legislative body of the host municipality shall consider input from the board.

(4) (a) No later than December 31, 2024, the host municipality and the host municipality's community reinvestment agency shall take all necessary actions to withdraw from the fairpark district boundary any area that is within a project area of the community reinvestment agency.

(b) If land is added to the fairpark district boundary, the host municipality and the community reinvestment agency shall take all necessary actions to withdraw from the fairpark district boundary any area that is within a project area of the community reinvestment agency.

(5) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the fairpark district to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the fairpark district fulfill [~~its~~]the fairpark district's duties and responsibilities under this chapter.

(6) (a) A host municipality shall provide the same municipal services to the area of the municipality that is within the fairpark district boundary as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) The level and quality of municipal services that a host municipality provides within the fairpark district boundary shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(c) No later than December 31, 2024, the fairpark district and host municipality shall enter into an agreement providing for the fairpark

district to reimburse the host municipality for services the host municipality provides to a project area.

(7) (a) The fairpark district may request and, upon request, shall receive:

(i) fuel dispensing and motor pool services provided by the Division of Fleet Operations;

(ii) surplus property services provided by the Division of Purchasing and General Services;

(iii) information technology services provided by the Division of Technology Services;

(iv) archive services provided by the Division of Archives and Records Service;

(v) financial services provided by the Division of Finance;

(vi) human resources services provided by the Division of Human Resource Management;

(vii) legal services provided by the Office of the Attorney General; and

(viii) banking services provided by the Office of the State Treasurer.

(b) Nothing in Subsection [~~(6)(a) may be construed to relieve~~](7)(a) relieves the fairpark district of the obligation to pay the applicable fee for the service provided.

(8) (a) To govern fairpark district procurements, the board shall adopt a procurement policy that the board reasonably determines to substantially fulfill the purposes described in Section 63G-6a-102.

(b) The board may delegate to the executive director the responsibility to adopt a procurement policy.

(c) The board's determination under Subsection [~~(7)(a)~~](8)(a) is final and conclusive.

(9) No later than December 31, 2024, the board and the assessor of the county in which the fairpark district is located shall together determine the base taxable value of privately owned property within the fairpark district boundary.

(10) (a) As used in this Subsection (10):

(i) "District ZIP area" means a ZIP area a majority of which includes land within the fairpark district boundary.

(ii) "ZIP area" means an area defined by the ZIP Code, as defined in Section 59-12-102, plus the four-digit deliver route extension.

(b) No later than June 1, 2024, the State Tax Commission shall:

(i) define the area that consists of all district zip areas; and

(ii) provide a description of the area under Subsection [~~(9)(b)(i)~~](10)(b)(i) to the host municipality and the board.

(c) The State Tax Commission shall annually:

(i) update the definition of the area under Subsection (10)(b)(i); and

(ii) provide the updated description to the host municipality and the board.

(11) (a) (i) A public infrastructure district created by the fairpark district under Title 17D, Chapter 4, Public Infrastructure District Act, may, subject to limitations of that chapter, levy a property tax for the operations and maintenance of the public infrastructure district's financed public infrastructure and improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (11)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a public infrastructure district created by the fairpark district issues a bond:

(i) the public infrastructure district may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in Title 17D, Chapter 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum rate of .015.

(c) (i) A public infrastructure district created by the fairpark district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (11)(a)(i) and (11)(b)(ii).

(ii) If a public infrastructure district created by the fairpark district issues bonds, the public infrastructure district may issue bonds secured by property taxes from:

(A) the entire public infrastructure district; or

(B) one or more tax areas within the public infrastructure district.

(d) A public infrastructure district created by the fairpark district may use bond proceeds to:

(i) pay for public infrastructure and improvements; and

(ii) pay costs related to the development, operation, or maintenance of infrastructure described in Subsection (11)(d)(i).

Section 6. Section 11-70-207 is amended to read:

11-70-207 (Effective 05/07/25). Use of fairpark district funds.

(1) (a) Subject to Subsection (2), the fairpark district may use fairpark district funds for any purpose authorized under this chapter, including to pay for:

(i) the development and construction of a qualified stadium;

(ii) administrative, overhead, legal, consulting, and other operating expenses of the fairpark district;

(iii) all or part of the development of land within a project area, including:

(A) financing or refinancing; and

(B) assisting the ongoing operation of a development or facility within the project area;

(iv) the cost of the installation of public infrastructure and improvements outside a project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area;

(v) the principal and interest on bonds issued by the fairpark district;

(vi) the payment of an infrastructure loan, as defined in Section 11-70-104, according to the terms of the infrastructure loan; and

(vii) the costs of promoting, facilitating, and implementing other development of land within the fairpark district boundary.

(b) The determination of the board under Subsection (1)(a)(iv) regarding benefit to the project area is final.

(2) (a) The fairpark district may use money [~~it~~]the fairpark district receives under Subsection 59-12-1201(2)(a)(ii) and Subsection 59-12-103(16) only for[-]:

(i) the development and construction of a qualified stadium, including parking structures or facilities, lighting facilities, plazas, or open space associated with the qualified stadium; and

(ii) [~~paying for~~]the payment of bonds issued to pay for the development and construction of a qualified stadium.

(b) If the amount of money the fairpark district receives under Subsection (2)(a) exceeds the amount required to pay the annual debt service on bonds issued to pay for the development and construction of a qualified stadium, the fairpark district shall use the excess amount received to pay down the principal on those bonds.

(c) The fairpark district may use money described in Subsection (2)(a) before or after a franchise agreement date.

(3) The fairpark district may share enhanced property tax revenue with a taxing entity that levies a property tax on land within the project area from which the enhanced property tax revenue is generated.

Section 7. Section 11-70-304 is amended to read:

11-70-304 (Effective 05/07/25). Limitations on board members and executive director -- Annual conflict of interest disclosure statement -- Penalties.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a member of the board or as executive director if:

(a) the individual owns real property, other than a personal residence in which the individual resides, within the fairpark district boundary, whether or not the ownership interest is a recorded interest;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located within the fairpark district boundary; or

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to:

(i) participate in or receive a direct financial benefit from the development of land within the fairpark district boundary; or

(ii) acquire an interest in or locate a facility within the fairpark district boundary.

(3) Before taking office as a board member or accepting employment as executive director, an individual shall submit to the fairpark district a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2).

(4) (a) An individual may not, at any time during the individual's service as a board member or employment with the fairpark district, acquire, or take any action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property located within the fairpark district boundary, if:

(i) the acquisition is in the individual's personal capacity or in the individual's capacity as an employee or officer of a private firm, private company, or other private entity; and

(ii) the acquisition will enable the individual to receive a direct financial benefit as a result of the development of land within the fairpark district boundary.

(b) Subsection (4)(a) does not apply to an individual's acquisition of, or action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property that is a personal residence in which the individual will reside upon acquisition of the real property.

(5) (a) A board member or an employee of the fairpark district may not receive a direct financial benefit from development within the fairpark district boundary.

(b) For purposes of Subsection (5)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the fairpark district.

(6) (a) In addition to any other limitation on a board member described in this section, and except as provided in Subsection (7), a voting member or nonvoting advisory member of the board shall, no sooner than January 1 and no later than January 31 of each year during which the board member holds office on the board:

(i) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(ii) submit the written disclosure statement to the administrator or clerk of the board.

(b) No later than 10 business days after the day on which the board member submits the written disclosure statement described in Subsection (6)(a) to the administrator or clerk of the board, the administrator or clerk shall:

(i) (A) post an electronic copy of the written disclosure statement on the fairpark district website; or

(B) if the fairpark district does not have a website, post an electronic copy of the disclosure statement on the Utah Public Notice Website created in Section 63A-16-601; and

(ii) provide the lieutenant governor with a link to the posting described in Subsection (6)(b)(i).

(c) The administrator or clerk of the board shall ensure that the board member's written disclosure statement remains posted on the website described in Subsection (6)(b)(i) until the board member leaves office.

(d) The administrator or clerk of the board shall take the action described in Subsection (6)(e) if:

(i) a board member fails to timely submit the written disclosure statement described in Subsection (6)(a); or

(ii) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(e) If a circumstance described in Subsection (6)(d) occurs, the administrator or clerk of the board shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the board member of the violation and direct the board member to submit an amended written disclosure statement correcting the problem.

(f) (i) It is unlawful for a board member to fail to submit or amend a written disclosure statement within seven days after the day on which the board member receives the notice described in Subsection (6)(e).

(ii) A board member who violates Subsection (6)(f)(i) is guilty of a class B misdemeanor.

(iii) The administrator or clerk of the board shall report a violation of Subsection (6)(f)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (6)(f)(ii), the administrator or clerk of the board shall impose a civil fine of $100 against a board member who violates Subsection (6)(f)(i).

(g) The administrator or clerk of the board shall deposit a fine collected under this section into the board's account to pay for the costs of administering this section.

(7) For a board member who is also a state legislator, a member of a county or municipal legislative body, or who is otherwise required to make the written disclosure statement described in Subsection (6)(a) under another provision of law:

(a) Subsection (6) does not apply; and

(b) the administrator or clerk of the board shall, instead:

(i) post an electronic link, on the website described in Subsection (6)(b)(i), to the written disclosure statement the board member made in the board member's capacity as:

(A) a state legislator, under Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures;

(B) an elected officer of a county, under Section 17-16a-13;

(C) an elected officer of a municipality, under Section 10-3-1313; or

(D) an individual who is required to make the written disclosure statement described in Subsection (6)(a) under another provision of law; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (7)(b)(i).

[~~(6)~~](8) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section 8. Section 11-70-401 is amended to read:

11-70-401 (Effective 05/07/25). Enhanced property tax revenue to be paid to fairpark district.

(1) Subject to Subsection (5), the fairpark district shall be paid 90% of enhanced property tax revenue generated from each parcel of privately owned land within the fairpark district boundary:

(a) beginning the tax year that begins on January 1, 2025; and

(b) until the transition date for that parcel.

(2) Subject to Subsection (5), during the payment period the fairpark district shall be paid up to 100% of enhanced property tax revenue:

(a) generated from designated parcels of privately owned land within a project area; and

(b) as the board specifies in a designation resolution adopted in consultation with a qualified owner.

(3) For purposes of the payment of enhanced property tax revenue under this section, a payment period shall begin, as specified in the designation resolution, on January 1 of a year that begins after the designation resolution is adopted.

(4) (a) For purposes of this section, the fairpark district may designate an improved portion of a parcel in a project area as a separate parcel.

(b) A fairpark district designation of an improved portion of a parcel as a separate parcel under Subsection (4)(a) does not constitute a subdivision, as defined in Section 10-9a-103 or Section 17-27a-103.

(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the fairpark district as a separate parcel under Subsection (4)(a).

(5) A host municipality shall be paid a minimum of 25% of the enhanced property tax revenue generated by a property tax imposed by the host municipality to reimburse the host municipality for services the host municipality provides to a project area in accordance with Subsection 11-70-206(6)(c), with the exact amount determined in an agreement between the host municipality and the fairpark district.

Section 9. Section 11-70-502 is amended to read:

11-70-502 (Effective 05/07/25). Qualified stadium under project area plan.

(1) A project area plan may provide for the development and construction of a qualified stadium on land that, until conveyed to the fairpark district as provided in Subsection [~~(3)(b)~~](3)(a)(ii), is owned by a qualified owner.

(2) A project area plan under Subsection (1) shall include a requirement that the qualified owner and fairpark district enter an agreement relating to:

(a) the development, construction, operation, and ownership of a qualified stadium; and

(b) the development of other land owned by the qualified owner within the fairpark district boundary.

(3) (a) An agreement under Subsection (2) shall:

(i) limit the stadium contribution to the lesser of:

(A) half the actual cost of developing and constructing the qualified stadium; or

(B) $900,000,000;

(ii) require the qualified owner to convey to the fairpark district, as soon as practicable after the franchise agreement date, title to the property on which the qualified stadium will be constructed;

(iii) require the qualified owner, if the major league sports team leaves the qualified stadium before 30 years after the franchise agreement date, to[~~:~~]:

(A) pay the remaining outstanding balance of bonds issued by the fairpark district for the development and construction of the qualified

stadium; and

(B) pay to the fairpark district the difference between the stadium contribution and the amount paid under Subsection (3)(a)(iii)(A);

(iv) provide for the fairpark district to possess full ownership rights to the qualified stadium;

(v) provide for the qualified owner to sell and control sponsorship rights relating to the qualified stadium;

(vi) provide for the fairpark district to lease the qualified stadium to the major league sports team for lease payments of $150,000 per month for 360 months;

(vii) require the qualified owner to operate and maintain the qualified stadium and to pay for all operation and maintenance costs;

(viii) require the qualified owner to cooperate and coordinate with the fairpark district to allow events other than events of the major league sports team to occur at the qualified stadium if those other events do not interfere with the use of the qualified stadium for events of the major league sports team;

(ix) include negotiated terms that are fair and reasonable;

(x) establish the timing and process for the development of the qualified owner's property within the fairpark district boundary, based on the qualified owner's development plan;

(xi) establish the timing and process for assisting the fair park authority to complete the fair park authority's master plan; and

(xii) require the major league sports team to be given a name that includes "Utah."

(b) Before approving an agreement under Subsection (3)(a), the board shall:

(i) hold at least one public meeting to consider and discuss the draft agreement; and

(ii) provide notice of the public meeting as provided in Subsection 11-70-503(2).

(c) A legal action or other challenge to an agreement under Subsection (3)(a) by a person other than a party to the agreement is barred unless brought within 30 days after the execution of the agreement.

[~~(4) The fairpark district shall pay to the Division of Finance, for deposit into the General Fund, all lease payments the fairpark district receives under a lease agreement for the qualified stadium.~~]

Section 10. Section 17D-4-203 is amended to read:

17D-4-203 (Effective 05/07/25). Public infrastructure district powers.

(1) A public infrastructure district[~~:~~]

[~~(1)~~] has all of the authority conferred upon a special district under Section 17B-1-103[~~; and~~].

(2) A public infrastructure district may:

(a) issue negotiable bonds to pay:

(i) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

(ii) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-102;

(iii) public improvements related to the provision of housing;

(iv) capital costs related to public transportation;

(v) for a public infrastructure district created by a development authority, the cost of acquiring or financing public infrastructure and improvements; and

(vi) for a public infrastructure district that is a subsidiary of the Utah Inland Port Authority, the costs associated with a remediation project, as defined in Section 11-58-102;

(b) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

(c) acquire completed or partially completed improvements for fair market value as reasonably determined by:

(i) the board;

(ii) the creating entity, if required in the governing document; or

(iii) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements;

(d) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity; and

(e) for a public infrastructure district created by a development authority:

(i) (A) operate and maintain public infrastructure and improvements the district acquires or finances; and

(B) use fees, assessments, or taxes to pay for the operation and maintenance of those public infrastructure and improvements; and

(ii) issue bonds under Title 11, Chapter 42, Assessment Area Act; and

(f) for a public infrastructure district that is a subsidiary of the Utah Inland Port Authority, pay for costs associated with a remediation project, as defined in Section 11-58-102, of the Utah Inland Port Authority.

(3) A public infrastructure district created by the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, may:

(a) pay for the cost of the development and construction of a qualified stadium, as defined in Section 11-70-101; and

(b) pay for the cost of public infrastructure and improvements.

Section 11. Section 51-9-902 is amended to read:

51-9-902 (Effective 07/01/25). Outdoor Adventure Infrastructure Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Outdoor Adventure Infrastructure Restricted Account."

(2) The account shall consist of:

(a) money deposited into the account under Subsection 59-12-103(15); and

(b) interest and earnings on money in the account.

(3) Subject to appropriation from the Legislature, money from the account shall be used for:

(a) new construction of outdoor recreation infrastructure;

(b) upgrades of outdoor recreation infrastructure;

(c) the replacement of or structural improvements to outdoor recreation infrastructure;

(d) the acquisition of land, a right-of-way, or easement used in relationship to outdoor recreation infrastructure;

(e) providing access from state highways, as defined in Section 72-1-102, to outdoor recreation infrastructure;

(f) the costs associated with bringing new construction or upgrades of outdoor recreation infrastructure into environmental compliance;

(g) strategic planning related to the development of outdoor recreation infrastructure;[~~or~~]

(h) facilitating avalanche safety forecasting to protect the public in relation to outdoor recreation infrastructure[~~.~~]; or

(i) clean up or security relating to outdoor recreation infrastructure.

(4) For each fiscal year, beginning with fiscal year [~~2023-2024~~]2025-2026, the Division of Finance shall, subject to appropriation by the Legislature, distribute money from the Outdoor Adventure Infrastructure Restricted Account as follows:

(a) at least 15% to the Department of Natural Resources - Division of State Parks - Capital, to be expended using the department's existing prioritization process for capital projects in state parks described in Subsection (3);

(b) at least 22% to the Department of Natural Resources - Division of Outdoor Recreation - Capital, to be expended for competitive Recreation Restoration Infrastructure grants or Outdoor Recreational Infrastructure grants for outdoor recreation capital projects and related maintenance expenses, where maintenance expenses do not exceed 15% of the appropriation;[~~and~~]

(c) at least 53% to the Department of Natural Resources - Division of Outdoor Recreation - Capital, to be expended for larger outdoor recreation infrastructure projects described in Subsection (3) as recommended to the Legislature by the Outdoor Adventure Commission[~~.~~]; and

(d) at least 10% to the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201 for the development and operation of the district.

(5) If the Legislature appropriates money to the Department of Transportation from the account, the Transportation Commission, created in Section 72-1-301, shall prioritize projects and determine funding levels in accordance with Subsection 72-1-303(1)(a) based on recommendations of the Department of Transportation.

Section 12. Section 59-1-403 is amended to read:

59-1-403 (Effective 05/07/25). Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "GOEO" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

[~~(b)~~](c) "Qualifying jurisdiction" means:

(i) a county, city, or town;

(ii) the military installation development authority created in Section 63H-1-201;[~~or~~]

(iii) the Utah Inland Port Authority created in Section 11-58-201; or

(iv) the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

[~~(A) "GOEO" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.~~]

[~~(B)~~](A) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

[~~(C)~~](B) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

[~~(D)~~](C) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request

of GOEO provide to GOEO all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), GOEO may not request and the commission may not provide to GOEO a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to GOEO, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of GOEO provide to GOEO other tax information.

(B) Before providing other tax information to GOEO, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) GOEO may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from GOEO under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if GOEO received the tax information from the commission in accordance with this Subsection (4)(n).

(B) GOEO may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information GOEO provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26B-3-106 and 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable,

whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(bb) (i) As used in this Subsection (4)(bb), "unclaimed property administrator" means the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii) (A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection (4)(bb)(ii)(A) only for the purpose of returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection (4)(bb).

(cc) Notwithstanding Subsection (2), the commission may, upon request, disclose a taxpayer's state individual income tax information to a program manager of the Utah Fits All Scholarship Program under Section 53F-6-402 if:

(i) the taxpayer consents in writing to the disclosure;

(ii) the taxpayer's written consent includes the taxpayer's name, social security number, and any other information the commission requests that is necessary to verify the identity of the taxpayer; and

(iii) the program manager provides the taxpayer's written consent to the commission.

(dd) Notwithstanding Subsection (2), the commission may provide to the Division of Finance within the Department of Government Operations any information necessary to facilitate a payment from the commission to a taxpayer, including:

(i) the name of the taxpayer entitled to the payment or any other person legally authorized to receive the payment;

(ii) the taxpayer identification number of the taxpayer entitled to the payment;

(iii) the payment identification number and amount of the payment;

(iv) the tax year to which the payment applies and date on which the payment is due;

(v) a mailing address to which the payment may be directed; and

(vi) information regarding an account at a depository institution to which the payment may be directed, including the name of the depository institution, the type of account, the account number, and the routing number for the account.

(ee) Notwithstanding Subsection (2), the commission shall provide the total amount of revenues collected by the commission under Subsection 59-5-202(5):

(i) at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, to the committee or office for the time period specified by the committee or office; and

(ii) to the Division of Finance for purposes of the Division of Finance administering Subsection 59-5-202(5).

(ff) Notwithstanding Subsection (2), the commission may provide the Department of Agriculture and Food with information from a return filed in accordance with Chapter 31, Cannabinoid Licensing and Tax Act.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), GOEO, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization, an individual described in Subsection (2):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 13. Section 59-12-103 is amended to read:

59-12-103 (Effective 07/01/25). Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenue.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a

transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) (A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(f)(i)(A)(I).

(j) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(k) (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l) (i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Wildlife Resources to:

(A) implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Division of Wildlife Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7) (a) Notwithstanding Subsection (3)(a) and subject to Subsections (7)(b), (c), and (d), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to .44% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

(ii) The commission shall annually deposit the amount described in Subsection (7)(b)(i) into the Cottonwood Canyons Transportation Investment Fund created in Section 72-2-124.

(c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenue transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(d) (i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under this Subsection (7) by an amount that is equal to 1% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

(ii) The commission shall annually deposit the amount described in Subsection (7)(d)(i) into the Commuter Rail Subaccount created in Section 72-2-124.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to [~~Subsections~~]Subsection (8)(b)[~~ and (d)(ii)~~], for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenue collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal

year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid ACA Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13) (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) (a) Notwithstanding Subsection (3)(a), [~~the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902,~~]for a fiscal year beginning on or after July 1, 2025, the commission shall, in accordance with Subsection (15)(b), transfer a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenue collected from the following sales and use taxes:

[~~(a)~~](i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

[~~(b)~~](ii) the tax imposed by Subsection (2)(b)(i);

[~~(c)~~](iii) the tax imposed by Subsection (2)(c)(i); and

[~~(d)~~](iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The commission shall transfer the portion of the taxes described in Subsection (15)(a)as follows:

(i) into the Outdoor Adventure Infrastructure Restricted Account created in Section 51-9-902, an amount equal to the amount that was deposited into the Outdoor Adventure Infrastructure Restricted Account in fiscal year 2025; and

(ii) for any amount exceeding the amount described in Subsection (15)(b)(i), 50% into the Outdoor Adventure Infrastructure Restricted Account and 50% to the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201.

(16) Notwithstanding Subsection (3)(a), beginning October 1, 2024 the commission shall transfer to the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring within the district sales tax area, as defined in Section 11-70-101.

(17) (a) As used in this Subsection (17):

(i) "Additional land" means point of the mountain state land described in Subsection 11-59-102(6)(b) that the point of the mountain authority acquires after the point of the mountain authority provides the commission a map under Subsection (17)(c).

(ii) "Point of the mountain authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(iii) "Point of the mountain state land" means the same as that term is defined in Section 11-59-102.

(b) Notwithstanding Subsection (3)(a), the commission shall distribute to the point of the mountain authority 50% of the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring on the point of the mountain state land.

(c) The distribution under Subsection (17)(b) shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map that:

(i) accurately describes the point of the mountain state land; and

(ii) the point of the mountain authority certifies as accurate.

(d) A distribution under Subsection (17)(b) with respect to additional land shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map of point of the mountain state land that:

(i) accurately describes the point of the mountain state land, including the additional land; and

(ii) the point of the mountain authority certifies as accurate.

(e) (i) Upon the payment in full of bonds secured by the sales and use tax revenue distributed to the point of the mountain authority under Subsection (17)(b), the point of the mountain authority shall immediately notify the commission in writing that the bonds are paid in full.

(ii) The commission shall discontinue distributions of sales and use tax revenue under Subsection (17)(b) at the beginning of the calendar quarter that begins at least 90 days after the date that the commission receives the written notice under Subsection (17)(e)(i).

Section 14. Section 59-12-352 is amended to read:

59-12-352 (Effective 05/07/25). Transient room tax authority for municipalities, military installation development authority, Utah Fairpark Area Investment and Restoration District, and Point of the Mountain State Land Authority -- Purposes for which revenues may be used.

(1) (a) Except as provided in Subsection (5), the governing body of a municipality may impose a tax of not to exceed 1% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax

under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.

(c) Beginning October 1, 2024, the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, may impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within the district sales tax area, as defined in Section 11-70-101, to the same extent and in the same manner as a municipality may impose a tax under this section.

(2) Subject to the limitations of Subsection (1), a governing body of a municipality may, by ordinance, increase or decrease the tax under this part.

(3) A governing body of a municipality shall regulate the tax under this part by ordinance.

(4) A municipality may use revenues generated by the tax under this part for general fund purposes.

(5) (a) A municipality may not impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within:

(i) []a project area described in a project area plan adopted by[~~:~~]

[~~(i)~~] the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; or

(ii) [~~the Utah Fairpark Area Investment and Restoration District under Title 11, Chapter 70, Utah Fairpark Area Investment and Restoration District~~]the district sales tax area, as defined in Section 11-70-101.

(b) Subsection (5)(a) does not apply to:

(i) [-]the military installation development authority's imposition of a tax under this section[~~-~~]; or

(ii) the imposition of a tax under this section by the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201.

(6) (a) As used in this Subsection (6):

(i) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(ii) "Authority board" means the board referred to in Section 11-59-301.

(b) The authority may, by a resolution adopted by the authority board, impose a tax of not to exceed 5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) for transactions that occur on point of the mountain state land, as defined in Section 11-59-102.

(c) The authority board, by resolution, shall regulate the tax under this Subsection (6).

(d) The authority shall use all revenue from a tax imposed under this Subsection (6) to provide affordable housing, consistent with the manner that a community reinvestment agency uses funds for income targeted housing under Section 17C-1-412.

(e) A tax under this Subsection (6) is in addition to any other tax that may be imposed under this part.

Section 15. Section 59-12-1201 is amended to read:

59-12-1201 (Effective 05/07/25). Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.

(1) As used in this section:

(a) "Fairpark district board" means the board of the fairpark district.

(b) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(c) "Franchise agreement date" means the same as that term is defined in Section 11-70-101.

(d) "Stadium contribution" means the same as that term is defined in Section 11-70-101.

(e) "Transition date" means the first day of the calendar quarter that begins at least 90 days after the fairpark district board delivers to the commission the certificate described in Subsection (2)(a)(ii)(B).

(2) (a) (i) Except as provided in Subsections (4) and (5), there is imposed a tax of 2.5% on all short-term rentals of motor vehicles.

(ii) (A) In addition to the tax imposed under Subsection (2)(a)(i) and except as provided in Subsections (4) and (5), beginning on the transition date there is imposed a tax of 1.5% on all short-term [~~leases and~~]rentals of motor vehicles[~~, not exceeding 30 days~~].

(B) After the franchise agreement date, the fairpark district board shall deliver to the commission a certificate verifying the execution of a franchise agreement, as defined in Section 11-70-101, and providing the franchise agreement date.

(C) A tax under this Subsection (2)(a)(ii) is imposed only if the franchise agreement date is on or before June 30, 2032.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(3) (a) Subject to Subsection (3)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (2) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (2), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (2).

(ii) For a transaction subject to a tax under Subsection (2), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection [~~(1)~~](2).

(4) A tax imposed under this section applies at the same rate to car sharing of less than 30 days, except for car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement.

(5) A motor vehicle is exempt from the tax imposed under this section if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

(6) (a) (i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection [~~(5)(a)(i)~~](6)(a)(i), a tax under this part is not subject to Subsections 59-12-103(4) through (9) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(c) Except as provided under Subsections (6)(b) and (d):

(i) the commission shall deposit daily with the state treasurer all revenue received under this section; and

(ii) the state treasurer shall credit monthly all revenue received under this section to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

(d) (i) Subject to Subsection (6)(d)(iii), all revenue received by the commission under Subsection (2)(a)(ii) shall be paid to the fairpark district.

(ii) Within 10 days after the fairpark district completes payment of the stadium contribution, the fairpark district board shall deliver to the commission a written statement verifying that the fairpark district has completed payment of the stadium contribution.

(iii) Upon receipt of the written statement under Subsection (6)(d)(ii), the commission shall:

(A) discontinue collecting revenue under Subsection (2)(a)(ii), beginning the first day of the calendar quarter that is at least 90 days after the commission's receipt of the written statement;

(B) discontinue distributing revenue under Subsection (2)(a)(ii) to the fairpark district, beginning the first day of the calendar quarter that is at least 90 days after the commission's receipt of the written statement; and

(C) notify the Executive Appropriations Committee of the Legislature that the commission is discontinuing collecting and distributing revenue under Subsection (2)(a)(ii).

Section 16. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect May 7, 2025.

(2) The actions affecting the following sections take effect on July 1, 2025:

(a) Section 51-9-902 (Effective 07/01/25); and

(b) Section 59-12-103 (Effective 07/01/25).

Section 17. Coordinating S.B. 336 with S.B. 27.

If S.B. 336, Utah Fairpark Area Investment and Restoration District Modifications, and S.B. 27, Motor Vehicle Division Amendments, both pass and become law, the Legislature intends that, on July 1, 2026, Subsection 59-12-103(4)(h) enacted in S.B. 27 be amended to read:

"(h) The commission shall deposit 1% of the revenue described in Subsection (4)(a) into the Outdoor Adventure Infrastructure Restricted Account created in Section 51-9-902 as follows:

(i) into the Outdoor Adventure Infrastructure Restricted Account created in Section 51-9-902, an amount equal to the amount that was deposited into the Outdoor Adventure Infrastructure Restricted Account in fiscal year 2025; and

(ii) for any amount exceeding the amount described in Subsection (4)(h)(i), 50% into the Outdoor Adventure Infrastructure Restricted Account and 50% to the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201.".

CHAPTER 499
H. B. 491
Passed March 6, 2025
Approved March 27, 2025
Effective May 7, 2025

BEHAVIORAL HEALTH MODIFICATIONS

Chief Sponsor: Steve Eliason
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions relating to behavioral health.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires a behavioral health receiving center to comply with licensing requirements from the Department of Health and Human Services;
- ► grants the Department of Health and Human Services authority to enact rules and assess and collect fees in relation to the licensing of behavioral health receiving centers;
- ► addresses Medicaid directed payments for the Utah State Hospital and the Huntsman Mental Health Institute;
- ► requires the Department of Public Safety to:
  - survey all law enforcement agencies in the state and publish a publicly searchable registry that will allow the public to see whether each law enforcement agency is or is not available to receive a voluntarily committed firearm in accordance with safe harbor provisions; and
  - subject to available funding, create and implement a marketing plan to educate law enforcement agencies and the public about safe harbor options for firearms; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates $1,035,600 in operating and capital budgets for fiscal year 2026, including:

- $99,000 from General Fund; and
- $936,600 from various sources as detailed in this bill.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-2-101, as last amended by Laws of Utah 2024, Chapters 240, 267, 307, and 438
53-5c-201, as last amended by Laws of Utah 2023, Chapters 138, 448

ENACTS:

26B-2-135, Utah Code Annotated 1953
26B-5-383, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-2-101 is amended to read:
26B-2-101. Definitions.

As used in this part:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

(2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(3) "Applicant" means a person that applies for an initial license or a license renewal under this part.

(4) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local

mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5) "Behavioral health receiving center" means a 23-hour non-secure program or facility that is responsible for, and provides mental health crisis services to, an individual experiencing a mental health crisis.

[~~(5)~~](6) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection [~~(5)(b)(i)~~](6)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection [~~(40)(a)~~](41)(a); or

(B) provides the treatment or services described in Subsection [~~(40)(a)~~](41)(a) on a limited basis, as described in Subsection [~~(5)(b)(ii)~~](6)(b)(ii).

(b) (i) For purposes of Subsection [~~(5)(a)(iii)~~](6)(a)(iii), "education" means a course of study for one or more grades from kindergarten through grade 12.

(ii) For purposes of Subsection [~~(5)(a)(iv)(B)~~](6)(a)(iv)(B), a private school provides the treatment or services described in Subsection [~~(40)(a)~~](41)(a) on a limited basis if:

(A) the treatment or services described in Subsection [~~(40)(a)~~](41)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [~~(40)(a)~~](41)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection [~~(40)(a)~~](41)(a).

(c) "Boarding school" does not include a therapeutic school.

[~~(6)~~](7) "Certification" means a less restrictive level of licensure issued by the department.

[~~(7)~~](8) "Child" means an individual under 18 years old.

[~~(8)~~](9) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

[~~(9)~~](10) "Child-placing agency" means a person that engages in child placing.

[~~(10)~~](11) "Client" means an individual who receives or has received services from a licensee.

[~~(11)~~](12) (a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

[~~(12)~~](13) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

[~~(13)~~](14) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

[~~(14)~~](15) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

[~~(15)~~](16) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background check approval issued by the office.

[~~(16)~~](17) "Director" means the director of the office.

[~~(17)~~](18) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(18)~~](19) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

[~~(19)~~](20) "Elder adult" means a person 65 years old or older.

[~~(20)~~](21) "Emergency safety intervention" means a tactic used to protect staff or a client from being physically injured, utilized by an appropriately trained direct care staff and only performed in accordance with a nationally or regionally recognized curriculum in the least restrictive manner to restore staff or client safety.

[~~(21)~~](22) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

[~~(22)~~](23) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.

[~~(23)~~](24) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(24)~~](25) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

[~~(25)~~](26) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence;[~~ or~~]

(ix) a behavioral health receiving center; or

[~~(ix)~~](x) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school;

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102; or

(iii) a short-term relief care provider.

[~~(26)~~](27) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(27)~~](28) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

[~~(28)~~](29) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(29)~~](30) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

[~~(30)~~](31) "Licensee" means an individual or a human services program licensed by the office.

[~~(31)~~](32) "Local government" means a city, town, or county.

[~~(32)~~](33) "Minor" means child.

[~~(33)~~](34) "Office" means the Office of Licensing within the department.

[~~(34)~~](35) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

[~~(35)~~](36) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

[~~(36)~~](37) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

[~~(37)~~](38) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

[~~(38)~~](39) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

[~~(39)~~](40) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[~~(40)~~](41) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[~~(41)~~](42) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

[~~(42)~~](43) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

[~~(43)~~](44) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

[~~(44)~~](45) "Short-term relief care provider" means an individual who:

(a) provides short-term and temporary relief care to a foster parent:

(i) for less than six consecutive nights; and

(ii) in the short-term relief care provider's home;

(b) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

(c) is direct access qualified, as that term is defined in Section 26B-2-120;

(d) has been approved to provide short-term relief care by the department;

(e) is not reimbursed by the department for the temporary relief care provided; and

(f) is not an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster child.

[~~(45)~~](46) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[~~(46)~~](47) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

[~~(47)~~](48) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [~~(47)(a)~~](48)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

[~~(48)~~](49) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[~~(49)~~](50) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~(50)~~](51) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(51)~~](52) (a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for the program's services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

[~~(52)~~](53) (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 2. Section 26B-2-135 is enacted to read:

26B-2-135. Licensing behavioral health receiving centers.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 63J-1-504, the office:

(1) shall adopt and enforce rules to establish the process for initial and renewal applications to operate a behavioral health receiving center;

(2) may assess and collect application and renewal fees for behavioral health receiving center licenses; and

(3) shall deposit any fees collected under Subsection (2) into the General Fund as a dedicated credit to be used solely to pay for or offset the office's costs incurred in performing the duties under this section.

Section 3. Section 26B-5-383 is enacted to read:

26B-5-383. Directed payments.

(1) To preserve and improve access to behavioral health hospital services, the department shall incorporate into the local mental health authorities' Medicaid prepaid mental health plan contract rate structure calculation, consistent with the certified actuarial rate range, an amount equal to the difference between payments made by local mental health authorities for the Medicaid eligibility categories for

Medicaid-eligible services covered in Utah based on submitted encounter data and the maximum amount that could be paid for those services to be used for directed payments to the Utah State Hospital and the Huntsman Mental Health Institute within the University of Utah for inpatient and outpatient behavioral health services.

(2) By June 30, 2025, the department shall submit to the Centers for Medicare and Medicaid Services the necessary request and supporting documentation to seek approval to make the Medicaid directed payments described in Subsection (1) with an effective date of July 1, 2025.

(3) The department may implement directed payments for the Utah State Hospital when operationally feasible.

Section 4. Section 53-5c-201 is amended to read:

53-5c-201. Voluntary commitment of a firearm by cohabitant -- Law enforcement to hold firearm.

(1) (a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law enforcement agency or request that a law enforcement officer receive a firearm for safekeeping if the owner cohabitant or cohabitant believes that the owner cohabitant or another cohabitant with access to the firearm is an immediate threat to:

(i) a cohabitant;

(ii) the owner cohabitant; or

(iii) another individual.

(b) Except as provided in Subsection (2), if the owner of a firearm requests return of the firearm in person at the law enforcement agency's office, the law enforcement agency:

(i) may not hold the firearm under this section; and

(ii) shall return the firearm to the owner.

(2) A law enforcement agency may not return a firearm to an owner under Subsection (1)(b)if the owner of the firearm:

(a) is a restricted person under Section 76-10-503; or

(b) (i) has been arrested and booked into a county jail on a class A misdemeanor or felony domestic violence offense;

(ii) has had a court:

(A) review the probable cause statement detailing the incident leading to the owner's arrest; and

(B) determine that probable cause existed for the arrest; and

(iii) is subject to a jail release agreement or a jail release court order arising out of the domestic violence offense.

(3) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency that receives a firearm in accordance with this chapter shall:

(a) record:

(i) the owner cohabitant's name, address, and phone number;

(ii) the firearm serial number and the make and model of each firearm committed; and

(iii) the date that the firearm was voluntarily committed;

(b) require the cohabitant to sign a document attesting that the cohabitant resides in the home;

(c) hold the firearm in safe custody:

(i) for 60 days after the day on which the firearm is voluntarily committed; or

(ii) (A) for an owner described in Subsection (2)(b), during the time the jail release agreement or jail release court order is in effect; and

(B) for 60 days after the day on which the jail release agreement or jail release court order expires; and

(d) upon proof of identification, return the firearm to:

(i) (A) the owner cohabitant after the expiration of the 60-day period; or

(B) if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or

(ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.

(4) The law enforcement agency shall hold the firearm for an additional 60 days:

(a) if the initial 60-day period expires; and

(b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.

(5) A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.

(6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection (3), Subsection 53-5c-202(3)(b)(iii), or any other record created in the application of this chapter immediately, if practicable, but no later than five days after immediately upon the:

(a) return of a firearm in accordance with Subsection (3)(d); or

(b) disposal of the firearm in accordance with Section 53-5c-202.

(7) Unless otherwise provided, the provisions of Title 77, Chapter 11d, Lost or Mislaid Property, do not apply to a firearm received by a law enforcement agency in accordance with this chapter.

(8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this chapter.

(9) The department shall:

(a) create a pamphlet to be distributed by a law enforcement officer under Section 77-36-2.1 that includes information about a cohabitant's or owner cohabitant's ability to have the owner cohabitant's firearm committed to a law enforcement agency for safekeeping in accordance with this section[.];

(b) survey all law enforcement agencies in the state and publish a publicly searchable registry that will allow the public to see whether each law enforcement agency is or is not available to receive a voluntarily committed firearm in accordance with this section; and

(c) subject to available funding, create and implement a marketing plan to educate law enforcement agencies and the public regarding the options available under this chapter.

Section 5. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 5(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health and Human Services - Integrated Health Care Services

From General Fund - - -

CHAPTER 500
H. B. 493
Passed March 6, 2025
Approved March 27, 2025
Effective January 1, 2026

MEDICAL EXAMINER AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill amends provisions related to the medical examiner.

Highlighted Provisions:

This bill:

- ► amends provisions related to death certificates;
- ► amends provisions related to permits to render a dead body unavailable for postmortem investigation; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-8-114, as last amended by Laws of Utah 2024, Chapter 280
26B-8-230, as renumbered and amended by Laws of Utah 2023, Chapter 306

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-8-114 is amended to read:

26B-8-114. Certificate of death -- Execution and registration requirements -- Information provided to lieutenant governor.

(1) (a) A certificate of death for each death that occurs in this state shall be filed with the local registrar of the district in which the death occurs, or as otherwise directed by the state registrar, within five days after death and prior to the decedent's interment, any other disposal, or removal from the registration district where the death occurred.

(b) A certificate of death shall be registered if the certificate of death is completed and filed in accordance with this part.

(2) (a) If the place of death is unknown but the dead body is found in this state:

(i) the certificate of death shall be completed and filed in accordance with this section; and

(ii) the place where the dead body is found shall be shown as the place of death.

(b) If the date of death is unknown, the date shall be determined by approximation.

(3) (a) When death occurs in a moving conveyance in the United States and the decedent is first removed from the conveyance in this state:

(i) the certificate of death shall be filed with:

(A) the local registrar of the district where the decedent is removed; or

(B) a person designated by the state registrar; and

(ii) the place where the decedent is removed shall be considered the place of death.

(b) When a death occurs on a moving conveyance outside the United States and the decedent is first removed from the conveyance in this state:

(i) the certificate of death shall be filed with:

(A) the local registrar of the district where the decedent is removed; or

(B) a person designated by the state registrar; and

(ii) the certificate of death shall show the actual place of death to the extent it can be determined.

(4) (a) Subject to Subsections (4)(d) and (10), a custodial funeral service director or, if a funeral service director is not retained, a dispositioner shall sign the certificate of death.

(b) The custodial funeral service director, an agent of the custodial funeral service director, or, if a funeral service director is not retained, a dispositioner shall:

(i) file the certificate of death prior to any disposition of a dead body or fetus; and

(ii) obtain the decedent's personal data from the next of kin or the best qualified person or source available, including the decedent's social security number, if known.

(c) The certificate of death may not include the decedent's social security number.

(d) A dispositioner may not sign a certificate of death, unless the signature is witnessed by the state registrar or a local registrar.

(5) (a) Except as provided in Section 26B-8-115 or when inquiry is required by Part 2, Utah Medical Examiner, a health care

professional who was in charge of the decedent's care for the illness or condition which resulted in death shall complete, sign, and return the medical section of the certificate of death within three business days from the day on which the death occurred to:

(i) the funeral service director; or

(ii) if a funeral service director is not retained, a dispositioner.

(b) In the absence of the health care professional or with the health care professional's approval, the certificate of death may be completed and signed by an associate physician, the chief medical officer of the institution in which death occurred, or a physician who performed an autopsy upon the decedent, if:

(i) the person has access to the medical history of the case;

(ii) the person views the decedent at or after death; and

(iii) the death is not due to causes required to be investigated by the medical examiner.

(c) When completing the immediate cause of death section of a certificate of death, a health care professional may indicate that the immediate cause of death is unknown if the immediate cause of death is unknown.

(d) The department shall create instructions for completing a certificate of death that inform a health care professional that the heath care professional may indicate that the immediate cause of death is unknown in accordance with Subsection (5)(c).

(e) (i) The department shall develop and maintain an online system that allows the health care professional that is required to complete the death certificate to complete a death certificate online.

(ii) The online system described in Subsection (5)(e)(i) shall:

(A) allow a health care professional completing a death certificate to choose a diagnoses for the cause of death from a list of commonly used International Classification of Diseases codes or a similar system of medical diagnoses codes;

(B) notify the health care professional in real time whether the completed death certificate will be considered complete and correct or whether the medical examiner may need to review the death certificate;

(C) if the death certificate is filled out in a manner that requires further review by the medical examiner, provide information to the health care provider indicating which portions of the death certificate may require further review; and

(D) if the death certificate requires further review, notify the health care provider in real time that the family may be subject to a fee described in Section 26B-8-230 if the family chooses to cremate or otherwise make the body unavailable for postmortem investigation and the amount of the fee that the family of the decedent may need to pay.

(6) When death occurs more than 365 days after the day on which the decedent was last treated by a health care professional, the case shall be referred to the medical examiner for investigation to determine and certify the cause, date, and place of death.

(7) When inquiry is required by Part 2, Utah Medical Examiner, the medical examiner shall make an investigation and complete and sign the medical section of the certificate of death within 72 hours after taking charge of the case.

(8) If the cause of death cannot be determined within 72 hours after death:

(a) the medical section of the certificate of death shall be completed as provided by department rule;

(b) the attending health care professional or medical examiner shall give the funeral service director, or, if a funeral service director is not retained, a dispositioner, notice of the reason for the delay; and

(c) final disposition of the decedent may not be made until authorized by the attending health care professional or medical examiner.

(9) (a) When a death is presumed to have occurred within this state but the dead body cannot be located, a certificate of death may be prepared by the state registrar upon receipt of an order of a Utah court.

(b) The order described in Subsection (9)(a) shall include a finding of fact stating the name of the decedent, the date of death, and the place of death.

(c) A certificate of death prepared under Subsection (9)(a) shall:

(i) show the date of registration; and

(ii) identify the court and the date of the order.

(10) It is unlawful for a dispositioner to charge for or accept any remuneration for:

(a) signing a certificate of death; or

(b) performing any other duty of a dispositioner, as described in this section.

(11) The state registrar shall, within five business days after the day on which the state registrar or local registrar registers a certificate of death for a Utah resident, inform the lieutenant governor of:

(a) the decedent's name, last known residential address, date of birth, and date of death; and

(b) any other information requested by the lieutenant governor to assist the county clerk in identifying the decedent for the purpose of removing the decedent from the official register of voters.

(12) The lieutenant governor shall, within one business day after the day on which the lieutenant governor receives the information described in Subsection (11), provide the information to the county clerks.

Section 2. Section 26B-8-230 is amended to read:

26B-8-230. Application for permit to render a dead body unavailable for postmortem investigation -- Medical examiner review fee.

(1) Upon receiving an application by a person for a permit to render a dead body unavailable for postmortem investigation, the medical examiner shall [~~review the application to~~]determine whether:

(a) the person is authorized by law to render the dead body unavailable for postmortem investigation in the manner specified in the application;[~~, and~~]

(b) the death certificate is complete and correct; and

[~~(b)~~](c) there is a need to delay any action that will render the dead body unavailable for postmortem investigation until a postmortem investigation or an autopsy of the dead body is performed by the medical examiner.

(2) The medical examiner shall automatically issue a permit to render a dead body unavailable for postmortem investigation if:

(a) the person requesting the permit is authorized to render the dead body unavailable for postmortem investigation in the manner specified in the application;

(b) the death certificate is complete and correct;

(c) the death does not fall under the jurisdiction of the medical examiner as described in Section 26B-8-205; and

(d) an autopsy authorized by Section 26B-8-213 or 26B-8-224 is not needed.

[~~(2)~~](3) Except as provided in Subsection [~~(4)~~](5), within three days after receiving an application described in Subsection (1), the medical examiner shall:

(a) make the determinations described in Subsection (1); and

(b) (i) issue a permit to render the dead body unavailable for postmortem investigation in the manner specified in the application; or

(ii) deny the permit.

[~~(3)~~](4) The medical examiner may deny a permit to render a dead body unavailable for postmortem investigation only if:

(a) the applicant is not authorized by law to render the dead body unavailable for postmortem investigation in the manner specified in the application;

(b) the medical examiner determines that there is a need to delay any action that will render the dead body unavailable for postmortem investigation; or

(c) the applicant fails to pay the fee described in Subsection [~~(5)~~](6).

[~~(4)~~](5) If the medical examiner cannot in good faith make the determinations described in Subsection (1) within three days after receiving an application described in Subsection (1), the medical examiner shall notify the applicant:

(a) that more time is needed to make the determinations described in Subsection (1); and

(b) of the estimated amount of time needed before the determinations described in Subsection (1) can be made.

[~~(5)~~](6) The medical examiner may charge a fee, [~~pursuant to~~]set in accordance with Section 63J-1-504, to recover the costs of fulfilling the duties of the medical examiner described in this section.

Section 3. Effective Date.

This bill takes effect on January 1, 2026.

CHAPTER 501
H. B. 497
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

PUBLIC EDUCATION COMPLIANCE

Chief Sponsor: Katy Hall
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill amends and enacts provisions expanding the authority of the State Board of Education (state board) to address transparency and local education agency compliance.

Highlighted Provisions:

This bill:

- ► requires the state board to:
  - • use an existing compliance framework to address reports or allegations of noncompliance;
  - • develop a system to address complaints to the Utah Professional Practices Advisory Commission in a timely and expedient manner; and
  - • publish information related to state board meetings on the state board's website;
- ► may require the state board to issue a report;
- ► requires a school district or charter school to provide information to the state board that is necessary for the state board to fulfill a statutory data gathering, compliance, or reporting requirement; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-401, as last amended by Laws of Utah 2020, Chapters 253, 408
53E-6-506, as last amended by Laws of Utah 2024, Chapter 20
53G-4-402, as last amended by Laws of Utah 2024, Chapters 67, 476
53G-5-404, as last amended by Laws of Utah 2024, Chapter 63

ENACTS:

53E-3-525, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-3-401 is amended to read:

53E-3-401. Powers of the state board -- Adoption of rules -- Enforcement -- Attorney.

(1) As used in this section:

(a) "Education entity" means:

(i) an entity that receives a distribution of state funds through a grant program managed by [-]the state board under this public education code;

(ii) an entity that enters into a contract with the state board to provide an educational good or [-]service;

(iii) a school district;

(iv) a charter school; or

(v) a regional education service agency, as that term is defined in Section 53G-4-410.

(b) "Educational good or service" means a good or service that is required or regulated under:

(i) this public education code; or

(ii) a rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and authorized under this public education code.

(2) (a) The state board has general control and supervision of the state's public education system.

(b) "General control and supervision" as used in Utah Constitution, Article X, Section 3, means directed to the whole system.

(3) The state board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make rules to execute the state board's duties and responsibilities under the Utah Constitution and state law.

(b) The state board may delegate the state board's statutory duties and responsibilities to state board employees.

(5) (a) The state board may sell any interest it holds in real property upon a finding by the state board that the property interest is surplus.

(b) The state board may use the money it receives from a sale under Subsection (5)(a)for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

(c) If the property interest under Subsection (5)(a) was held for the benefit of an agency or institution administered by the state board, the money may only be used for purposes related to the agency or institution.

(d) The state board shall advise the Legislature of any sale under Subsection (5)(a) and related matters during the next following session of the Legislature.

(6) The state board shall develop policies and procedures related to federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs.

(7) On or before December 31, 2010, the state board shall review mandates or requirements provided for in state board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.

(8) (a) The state board shall provide procedures for addressing and resolving compliance and monitoring issues related to this public education code, federal law, or rules, including:

(i) creating methods to review and investigate alleged compliance issues;

(ii) creating clear procedures for corrective action plans;

(iii) allowing for an appeals process; and

(iv) addressing contractual and non-contractual issues.

[~~(a)~~](b) If an education entity violates this public education code or rules authorized under this public education code, the state board may, in accordance with the rules described in Subsection [~~(8)(c)~~](8)(d):

(i) require the education entity to enter into a corrective action agreement with the state board;

(ii) temporarily or permanently withhold state funds from the education entity;

(iii) require the education entity to pay a penalty;[~~ or~~]

(iv) require the education entity to reimburse specified state funds to the state board[~~.~~];

(v) require additional reporting or monitoring;

(vi) refer the complaint, evidence, and findings to the attorney general's office or the relevant district attorney's office;

(vii) require the education entity to hire a third-party provider to provide services the state board determines necessary;

(viii) require reimbursement from the education entity instead of future allocations from the state board;

(ix) require a follow-up investigation;

(x) refer the violation and corresponding evidence to the state auditor or the legislative auditor general, if the violation relates to finances;

(xi) request additional evidence of compliance; or

(xii) take other action the state board deems appropriate.

[~~(b)~~](c) Except for temporarily withheld funds, if the state board collects state funds under Subsection [~~(8)(a)~~](8)(b), the state board shall pay the funds into the Uniform School Fund.

[~~(c)~~](d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(i) that require notice and an opportunity to be heard for an education entity affected by a state board action described in Subsection [~~(8)(a)~~](8)(b); and

(ii) to administer this Subsection (8).

[~~(d)~~](e) (i) An individual may bring a violation of statute or state board rule to the attention of the state board in accordance with a process described in rule adopted by the state board.

(ii) If the state board identifies a violation of statute or state board rule as a result of the process described in Subsection [~~(8)(d)(i)~~](8)(e)(i), the state board may take action in accordance with this section.

[~~(e) The state board shall report criminal conduct of an education entity to the district attorney of the county where the education entity is located.~~]

(9) The state board may audit the use of state funds by an education entity that receives those state funds as a distribution from the state board.

(10) The state board may require, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for an educational good or service, the LEA shall require in the contract that the third party contractor shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:

(a) this public education code; and

(b) state board rule authorized under this public education code.

(11) (a) The state board may appoint an attorney to provide legal advice to the state board and coordinate legal affairs for the state board and the state board's employees.

(b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the Attorney General.

(c) An attorney described in Subsection (11)(a) may not:

(i) conduct litigation;

(ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201; or

(iii) issue formal legal opinions.

(12) The state board shall ensure that any training or certification that an employee of the public education system is required to complete under this title or by rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 2. Section 53E-3-525 is enacted to read:

53E-3-525. State board transparency.

(1) Beginning January 1, 2027, the state board shall:

(a) publish on the state board's website a record of each vote by the state board, including:

(i) the date, time, and place of the meeting;

(ii) the subject of the vote;

(iii) the names of state board members present and absent;

(iv) the result of the vote, including each board member's individual vote; and

(v) the audio or video associated with the vote;

(b) distribute a contract the state board intends to consider at a meeting to each state board member at least five days before the date on which the meeting is scheduled to occur;

(c) ensure the information described in Subsection (1)(a) is accessible through a single click from the state board's home webpage; and

(d) post the information required by Subsection (1)(a) within seven business days after a vote.

(2) In accordance with Title 36, Chapter 35, Rules Review and General Oversight Committee, the Rules Review and General Oversight Committee may request a report from the state board detailing the:

(a) implementation of the requirements of this section; and

(b) the state board's compliance with the requirements of this section.

Section 3. Section 53E-6-506 is amended to read:

53E-6-506. UPPAC duties and procedures.

(1) The state board may direct UPPAC to review a complaint about an educator and recommend that the state board:

(a) dismiss the complaint; or

(b) investigate the complaint in accordance with this section.

(2) (a) The state board may direct UPPAC to:

(i) in accordance with this section, investigate a complaint's allegation or decision; or

(ii) hold a hearing.

(b) UPPAC may initiate a hearing as part of an investigation.

(c) Upon completion of an investigation or hearing, UPPAC shall:

(i) provide findings to the state board; and

(ii) make a recommendation for state board action.

(d) UPPAC may not make a recommendation described in Subsection (2)(c)(ii) to adversely affect an educator's license unless UPPAC gives the educator an opportunity for a hearing.

(3) (a) The state board may:

(i) select an independent investigator to conduct a UPPAC investigation with UPPAC oversight; or

(ii) authorize UPPAC to select and oversee an independent investigator to conduct an investigation.

(b) In conducting an investigation, UPPAC or an independent investigator shall conduct the investigation independent of and separate from a related criminal investigation.

(c) In conducting an investigation, UPPAC or an independent investigator may:

(i) in accordance with Section 53E-6-606, administer oaths and issue subpoenas; or

(ii) receive evidence related to an alleged offense, including sealed or expunged records released to the state board under Section 77-40a-403.

(d) If UPPAC finds that reasonable cause exists during an investigation, UPPAC may recommend that the state board initiate a background check on an educator as described in Section 53G-11-403.

(e) UPPAC has a rebuttable presumption that an educator committed a sexual offense against a minor child if the educator voluntarily surrendered a license or certificate or allowed a license or certificate to lapse in the face of a charge of having committed a sexual offense against a minor child.

(4) The state board may direct UPPAC to:

(a) recommend to the state board procedures for:

(i) receiving and processing complaints;

(ii) investigating a complaint's allegation or decision;

(iii) conducting hearings; or

(iv) reporting findings and making recommendations to the state board for state board action;

(b) recommend to the state board or a professional organization of educators:

(i) standards of professional performance, competence, and ethical conduct for educators; or

(ii) suggestions for improvement of the education profession; or

(c) fulfill other duties the state board finds appropriate.

(5) UPPAC may not participate as a party in a dispute relating to negotiations between:

(a) a school district and the school district's educators; or

(b) a charter school and the charter school's educators.

(6) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish UPPAC duties and procedures[.], including a system to address UPPAC complaints in a timely and expedient manner.

Section 4. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the special districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every student achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment, and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the school board members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by students residing within the district and students residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) A local school board may enter into cooperative agreements with other local school boards to provide educational services that best utilize resources for the overall operation of the school districts, including shared transportation services.

(7) A local school board shall ensure that an agreement under Subsection (6):

(a) is signed by the president of the local school board of each participating district;

(b) specifies the resource being shared;

(c) includes a mutually agreed upon pro rata cost;

(d) includes the duration of the agreement; and

(e) is filed with the state board.

(8) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years old before September 2 of the year in which admission is sought.

(9) A local school board:

(a) may establish and support school libraries; and

(b) shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any material the parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the LEA uses or through a separate platform; and

(ii) (A) for a school district with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a school district with fewer than 1,000 enrolled students, no later than August 1, 2026.

(10) A local school board may collect damages for the loss, injury, or destruction of school property.

(11) A local school board may authorize guidance and counseling services for students and the student's parents before, during, or following school enrollment.

(12) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(13) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents, or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(14) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) The contributions made under Subsection (14)(a) are not subject to appropriation by the Legislature.

(15) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(16) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(17) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(18) A local school board may hold school on legal holidays other than Sundays.

(19) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (19).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others, and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) in consultation with the Utah Safety Council and the Division of Family Health[~~ Services~~], provide training to all students in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection (19)(c).

(20) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on school vehicles, and in connection with school-related activities or events.

(b) The local school board shall ensure that the plan:

(i) includes prevention, intervention, and response components;

(ii) is consistent with the school discipline and conduct policies required for school districts under Chapter 8, Part 2, School Discipline and Conduct Plans;

(iii) requires professional learning for all district and school building staff on the staff's roles in the emergency response plan;

(iv) provides for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (20)(a); and

(v) includes procedures to notify a student who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (20)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and the student's parents and local law enforcement and public safety representatives.

(21) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (21)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (21).

(22) (a) A local school board shall approve an LEA's policies and procedures that an LEA develops to ensure that students have non-electronic notification of and access to:

(i) school activities and events, including:

(A) schedule changes;

(B) extracurricular activities; and

(C) sporting events; and

(ii) the emergency response plans described in Subsections (20) and (21).

(b) Notwithstanding Subsection (22)(a), an LEA may provide electronic notification of and access to school activities and events as described in Subsections (22)(a)(i) and (ii) if:

(i) (A) the school provides each student with an electronic device; and

(B) the electronic device is capable of receiving electronic notification of and access to school activities and events as described in

Subsections (22)(a)(i) and (ii); or

(ii) an emergency, unforeseen circumstance, or other incident arises and an LEA cannot reasonably provide timely non-electronic notification.

(c) An LEA may not require the use of a privately owned electronic device to complete course work.

(23) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(24) (a) As used in this subsection, "special enrollment program" means a full-day academic program in which a parent opts to enroll the parent's student and that is offered at a specifically designated school within an LEA, including:

(i) gifted or advanced learning programs; or

(ii) dual language immersion programs.

(b) Before closing a school, changing the boundaries of a school, or changing or closing the location of a special enrollment program, a local school board shall:

(i) at a local school board meeting, make and approve a motion to initiate the notification required under Subsections (24)(b)(ii) through (iv);

(ii) on or before 90 days before the day on which the local school board approves the school closure or at least 30 days before the day on which the local school board approves a school boundary change, provide notice that the local school board is considering the closure or boundary change to:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents and also by mail, using the United States Postal Service, to the parents at each known address;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents and also by mail, using the United States Postal Service, to the parents at each known address; and

(C) the governing council and the mayor of the municipality in which the school is located;

(iii) provide an opportunity for public comment on the proposed school closure during at least two public local school board meetings;

(iv) provide an opportunity for public comment on the proposed school boundary change during one public local school board meeting; and

(v) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing in accordance with Subsection (24)(c).

(c) A local school board shall:

(i) ensure that the notice of a public hearing required under Subsection (24)(b)(v)indicates the:

(A) name of the school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) if feasible, hold the public hearing at the location of the school that is under consideration for closure;

(iii) for at least 10 days before the day on which the public hearing occurs, publish the notice of public hearing occurs, publish the notice of the public hearing for the school district in which the school is located, as a class A notice under Section 63G-30-102; and

(iv) at least 30 days before the day on which the public hearing occurs, provide notice of the public hearing in the same manner as the notice of consideration under Subsection (24)(b)(ii).

(d) A motion made under Subsection (24)(b) shall name each school under consideration for closure in a separate motion.

(e) For a school closure, a local school board shall complete the process described in this Subsection (24) on or before December 31 of the calendar year preceding the beginning of the school year in which a school closure takes effect.

(f) (i) For a school boundary change, a local school board shall complete the process described in this Subsection (24) no more than 60 days after the day on which the local school board votes to approve a school closure.

(ii) Parents of students enrolled in a school affected by a boundary change shall have at least 30 days after the day on which the local school board votes to approve a school boundary change to request an out of area enrollment request in accordance with Chapter 6, Part 4, School District Enrollment.

(25) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(26) A local school board may establish or partner with a certified youth court in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

(27) (a) As used in this Subsection (27):

(i) "Learning material" means any learning material or resource used to deliver or support a student's learning, including textbooks, reading materials, videos, digital materials, websites, and other online applications.

(ii) (A) "Instructional material" means learning material that a local school board adopts and approves for use within the LEA.

(B) "Instructional material" does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class or another class with required instructional material that is not subject to selection by the local school board.

(iii) "Supplemental material" means learning material that:

(A) an educator selects for classroom use; and

(B) a local school board has not considered and adopted, approved, or prohibited for classroom use within the LEA.

(b) A local school board shall:

(i) make instructional material that the school district uses readily accessible and available for a parent to view;

(ii) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection (27)(b)(i); and

(iii) include on the school district's website information about how to access the information described in Subsection (27)(b)(i).

(c) In selecting and approving instructional materials for use in the classroom, a local school board shall:

(i) establish an open process, involving educators and parents of students enrolled in the LEA, to review and recommend instructional

materials for board approval; and

(ii) ensure that under the process described in Subsection (27)(c)(i), the board:

(A) before the meetings described in Subsection (27)(c)(ii)(B), posts the recommended learning material online to allow for public review or, for copyrighted material, makes the recommended learning material available at the LEA for public review;

(B) before adopting or approving the recommended instructional materials, holds at least two public meetings on the recommendation that provides an opportunity for educators whom the LEA employs and parents of students enrolled in the LEA to express views and opinions on the recommendation; and

(C) adopts or approves the recommended instructional materials in an open and regular board meeting.

(d) A local school board shall adopt a supplemental materials policy that provides flexible guidance to educators on the selection of supplemental materials or resources that an educator reviews and selects for classroom use using the educator's professional judgment, including whether any process or permission is required before classroom use of the materials or resources.

(e) If an LEA contracts with another party to provide online or digital materials, the LEA shall include in the contract a requirement that the provider give notice to the LEA any time that the provider makes a material change to the content of the online or digital materials, excluding regular informational updates on current events.

(f) Nothing in this Subsection (27) requires a local school board to review all learning materials used within the LEA.

(28) If information, data, or action from a school district is necessary for the state board to fulfill a statutory data gathering, compliance, or reporting requirement, a local school board shall provide the relevant information, data, or action, subject to enforcement under Section 53E-3-401.

Section 5. Section 53G-5-404 is amended to read:

53G-5-404. Requirements for charter schools.

(1) A charter school shall be nonsectarian in the charter school's programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall:

(i) make the same annual reports required of other public schools under this public education code, including an annual financial audit report described in Section 53G-4-404;

(ii) ensure that the charter school meets the data and reporting standards described in Section 53E-3-501; and

(iii) use fund and program accounting methods and standardized account codes capable of producing financial reports that comply with:

(A) generally accepted accounting principles;

(B) the financial reporting requirements applicable to LEAs established by the state board under Section 53E-3-501; and

(C) accounting report standards established by the state auditor as described in Section 51-2a-301.

(b) Before, and as a condition for opening a charter school:

(i) a charter school shall:

(A) certify to the authorizer that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); or

(B) if the authorizer requires, conduct a performance demonstration to verify that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); and

(ii) the authorizer shall certify to the state board that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii).

(c) A charter school shall file the charter school's annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(d) For the limited purpose of compliance with federal and state law governing use of public education funds, including restricted funds, and making annual financial audit reports under this section, a charter school is a government entity governed by the public education code.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the charter school's charter agreement.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

(i) the charter school's annual financial audit report;

(ii) a report submitted by the charter school as required by statute; or

(iii) a report submitted by the charter school as required by the charter school's charter agreement.

(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section 53G-5-305, a charter school shall be organized and managed in accordance with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, upon the charter school's authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance, including:

(a) general liability, errors and omissions, and directors and officers liability coverage through completion of the closure of a charter school in accordance with Section 53G-5-504; and

(b) tail coverage or closeout insurance covering at least one year after closure of the charter school.

(9) A charter school may not employ an educator whose license is suspended or revoked by the state board under Section 53E-6-604.

(10) (a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A charter school that fails to comply with Subsection (10)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(c) If a charter school is an operating charter school with affiliated satellite charter schools, as defined in Section 53G-5-303:

(i) the operating charter school shall register as a limited purpose entity as defined in Section 67-1a-15;

(ii) each affiliated satellite charter school is not required to register separately from the operating charter school; and

(iii) the operating charter school shall:

(A) register on behalf of each affiliated satellite charter school; and

(B) when submitting entity registry information in accordance with Section 67-1a-15 on behalf of each affiliated satellite charter school, identify and distinguish registry information for each affiliated satellite, including the address of each affiliated satellite charter school and the name and contact information of a primary contact for each affiliated satellite charter school.

(11) (a) As used in this Subsection (11), "contracting entity" means a person with which a charter school contracts.

(b) A charter school shall provide to the charter school's authorizer any information or documents requested by the authorizer, including documents held by a subsidiary of the charter school or a contracting entity:

(i) to confirm the charter school's compliance with state or federal law governing the charter school's finances or governance; or

(ii) to carry out the authorizer's statutory obligations, including liquidation and assignment of assets, and payment of debt in accordance with state board rule, as described in Section 53G-5-504.

(c) A charter school shall comply with a request described in Subsection (11)(b), including after an authorizer recommends closure of the charter school or terminates the charter school's contract.

(d) Documents held by a contracting entity or subsidiary of a charter school that are necessary to demonstrate the charter school's compliance with state or federal law are the property of the charter school.

(e) A charter school shall include in an agreement with a subsidiary of the charter school or a contracting entity a provision that stipulates that documents held by the subsidiary or a contracting entity, that are necessary to demonstrate the charter school's financial compliance with federal or state law, are the property of the charter school.

(12) For each grading period and for each course in which a student is enrolled, a charter school shall issue a grade or performance report to the student:

(a) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(b) in accordance with the charter school's adopted grading or performance standards and criteria.

(13) (a) As used in this Subsection (13):

(i) "Learning material" means any learning material or resource used to deliver or support a student's learning, including textbooks, reading materials, videos, digital materials, websites, and other online applications.

(ii) (A) "Instructional material" means learning material that a charter school governing board adopts and approves for use within the charter school.

(B) "Instructional material" does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class, or another class with required instructional material that is not subject to selection by the charter school governing board.

(iii) "Supplemental material" means learning material that:

(A) an educator selects for classroom use; and

(B) a charter school governing board has not considered and adopted, approved, or prohibited for classroom use within the charter school.

(b) A charter school shall:

(i) make instructional material that the charter school uses readily accessible and available for a parent to view;

(ii) annually notify a parent of a student enrolled in the charter school of how to access the information described in Subsection (13)(b)(i); and

(iii) include on the charter school's website information about how to access the information described in Subsection (13)(b)(i).

(c) In selecting and approving instructional materials for use in the classroom, a charter school governing board shall:

(i) establish an open process, involving educators and parents of students enrolled in the charter school, to review and recommend instructional materials for board approval; and

(ii) ensure that under the process described in Subsection (13)(c)(i), the charter school governing board:

(A) before the public meetings described in Subsection (13)(c)(ii)(B), posts the recommended learning materials online to allow for public review or, for copyrighted material, makes the recommended learning material available at the charter school for public review;

(B) before adopting or approving the recommended instructional materials, holds at least two public meetings on the recommendation that provide an opportunity for educators whom the charter school employs and parents of students enrolled in the charter school to express views and opinions on the recommendation; and

(C) adopts or approves the recommended instructional materials in an open and regular board meeting.

(d) A charter school governing board shall adopt a supplemental materials policy that provides flexible guidance to educators on the selection of supplemental materials or resources that an educator reviews and selects for classroom use using the educator's professional judgment, including whether any process or permission is required before classroom use of the materials or resources.

(e) If a charter school contracts with another party to provide online or digital materials, the charter school shall include in the contract a requirement that the provider give notice to the charter school any time that the provider makes a material change to the content of the online or digital materials, excluding regular informational updates on current events.

(f) Nothing in this Subsection (13) requires a charter school governing board to review all learning materials used within the charter school.

(14) If information, data, or action from a charter school is necessary for the state board to fulfill a statutory data gathering, compliance, or reporting requirement, a local school board shall provide the relevant information, data, or action, subject to enforcement under Section 53E-3-401.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 502
H. B. 502
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

TRANSPORTATION AND INFRASTRUCTURE FUNDING AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill allocates funds in the County of the First Class Highway Projects Fund and provides other transportation funding.

Highlighted Provisions:

This bill:

- ► allocates funds in the County of the First Class Highway Projects Fund to various projects and purposes;
- ► authorizes the Department of Transportation to issue a general obligation bond, with the bond proceeds being distributed to a grant program, and provides revenue to service the bond;
- ► creates an affordable housing infrastructure grant program to provide grants to local governments to construct infrastructure to facilitate affordable housing projects in a county of the first class;
- ► provides funding, loans, and grants to certain transportation projects; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-2220, as last amended by Laws of Utah 2024, Chapters 498, 501
72-2-121, as last amended by Laws of Utah 2024, Chapters 300, 498 and 501
72-2-124, as last amended by Laws of Utah 2024, Chapters 498, 501
72-2-302, as enacted by Laws of Utah 2024, Chapter 501
72-2-306, as enacted by Laws of Utah 2024, Chapter 501

ENACTS:

63B-34-101, Utah Code Annotated 1953
72-2-501, Utah Code Annotated 1953
72-2-502, Utah Code Annotated 1953
72-2-503, Utah Code Annotated 1953
72-2-504, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-2220 is amended to read:

59-12-2220. County option sales and use tax to fund highways or a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the entire boundary of a county is annexed into a large public transit district; and

(ii) the maximum amount of sales and use tax authorizations allowed pursuant to Section 59-12-2203 and authorized under the following sections has been imposed:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision; or

(ii) a city or town within the boundary of the county is an eligible political subdivision; or

(c) a county legislative body of a county not described in Subsection (1)(a) or (1)(b) may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of .2%.

(3) (a) The commission shall distribute sales and use tax revenue collected under this section as determined by a county legislative body as described in Subsection (3)(b).

(b) If a county legislative body imposes a sales and use tax as described in this section, the county legislative body may elect to impose a sales and use tax revenue distribution as described in Subsection (4), (5), (6), or (7), depending on the class of county, and presence and type of a public transit provider in the county.

(4) [~~If~~]Subject to Subsection (11), if a county legislative body imposes a sales and use tax as described in this section, and the entire boundary of the county is annexed into a large public transit district, and the county is a county of the first class, the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(5) [~~If~~]Subject to Subsection (11), if a county legislative body imposes a sales and use tax as described in this section and the entire boundary of the county is annexed into a large public transit district, and the county is a county not described in Subsection (4), the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(6) (a) Except as provided in Subsection [~~(12)(c)~~](13)(c), if the entire boundary of a county that imposes a sales and use tax as described in this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district, or if the city or town is an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the county as provided in Subsection (6)(b) or (c).

(b) For a city, town, or portion of the county described in Subsection (6)(a) that is annexed into the single public transit district, or an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the portion of the county that is within a public transit district or eligible political subdivision as follows:

(i) .05% to a public transit provider as described in Subsection (11);

(ii) .075% to the cities and towns as provided in Subsection (8); and

(iii) .075% to the county legislative body.

(c) Except as provided in Subsection [~~(12)(c)~~](13)(c), for a city, town, or portion of the county described in Subsection (6)(a) that is not annexed into a single public transit district or eligible political subdivision in the county, the commission shall distribute the sales and use tax revenue collected within that portion of the county as follows:

(i) .08% to the cities and towns as provided in Subsection (8); and

(ii) .12% to the county legislative body.

(7) For a county without a public transit service that imposes a sales and use tax as described in this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .08% to the cities and towns as provided in Subsection (8); and

(b) .12% to the county legislative body.

(8) (a) Subject to Subsections (8)(b) and (c), the commission shall make the distributions required by Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c) (i) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a city or town is ineligible for funds in accordance with Subsection 10-9a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that city or town would have received under Subsection (8)(a) to cities or towns to which Subsection 10-9a-408(7) does not apply.

(ii) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a county is ineligible for funds in accordance with Subsection 17-27a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that county would have received under Subsection (8)(a) to counties to which Subsection 17-27a-408(7) does not apply.

(9) If a public transit service is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit provider that the public transit service has been organized.

(10) (a) Except as provided in Subsection (10)(b), a county, city, or town that received distributions described in Subsections (4)(b),

(4)(c), (5)(b), (5)(c), (6)(b)(ii), (6)(b)(iii), (6)(c), and (7) may only expend those funds for a purpose described in Section 59-12-2212.2.

(b) If a county described in Subsection (1)(a) that is a county of the first class imposes the sales and use tax authorized in this section, the county may also use funds distributed in accordance with Subsection (4)(c) for public safety purposes.

(11) (a) Subject to Subsections (11)(b), (c), and (d), revenue designated for public transit as described in this section may be used for capital expenses and service delivery expenses of:

(i) a public transit district;

(ii) an eligible political subdivision; or

(iii) another entity providing a service for public transit or a transit facility within the relevant county, as those terms are defined in Section 17B-2a-802.

(b) (i) (A) If a county of the first class imposes a sales and use tax described in this section, [~~for a three-year period following~~]beginning on the date on which the county imposes the sales and use tax under this section, and for a three-year period after at least three counties described in Subsections (4) and (5) have imposed a tax under this section, or until June 30, 2030, whichever comes first, revenue designated for public transit within a county of the first class as described in Subsection (4)(a) shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121.

(B) Revenue deposited into the County of the First Class Highway Projects Fund created in Section 72-2-121 as described in Subsection (11)(b)(i)(A) may be used for public transit innovation grants as provided in Title 72, Chapter 2, Part [~~3~~]4, Public Transit Innovation Grants.

(ii) If a county of the first class imposes a sales and use tax described in this section, beginning on the day three years after the date on which [~~the county imposed the tax as described in Subsection (11)(b)(i)~~]at least three counties described in Subsections (4) and (5) have imposed a tax under this section, or beginning on July 1, 2030, whichever comes first, for revenue designated for public transit as described in Subsection (4)(a):

(A) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9).

(c) (i) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, beginning on the date on which the county imposes the sales and use tax under this section, and for a three-year period following the date on which [~~the county imposes the sales and use tax under this section,~~]at least three counties described in Subsections (4) and (5) have imposed a tax under this section, or until June 30, 2030, whichever comes first, revenue designated for public transit as described in Subsection (5)(a) shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(ii) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, beginning on the day three years after the date on which [~~the county imposed the tax as described in Subsection (11)(c)(i)~~]at least three counties described in Subsections (4) and (5) have imposed a tax under this section, or beginning on July 1, 2030, whichever comes first, for the revenue that is designated for public transit in Subsection (5)(a):

(A) 50% shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9); and

(B) 50% shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(d) Except as provided in Subsection [~~(12)(c)~~](13)(c), for a county that imposes a sales and use tax under this section, for revenue designated for public transit as described in Subsection (6)(b)(i), the revenue shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(12) A large public transit district shall send notice to the commission at least 90 days before the earlier of:

(a) the date that is three years after the date on which at least three counties described in Subsections (4) and (5) have imposed a tax under this section; or

(b) June 30, 2030.

[~~(12)~~](13) (a) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(b) If a county passes an ordinance to impose a sales and use tax as described in this section, the sales and use tax shall take effect on the first day of the calendar quarter after a 90-day period that begins on the date the commission receives written notice from the county of the passage of the ordinance.

(c) A county that imposed the local option sales and use tax described in this section before January 1, 2023, may maintain that county's distribution allocation in place as of January 1, 2023.

[~~(13)~~](14) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county, city, or town budgeted for transportation or public transit as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection [~~(13)(a)~~](14)(a) does not apply to a designated transportation or public transit capital or reserve account a county, city, or town established before the date the tax becomes effective.

Section 2. Section 63B-34-101 is enacted to read:

CHAPTER 34. 2025 BONDING AND FINANCING AUTHORIZATIONS

PART 1. 2025 General Obligation Bonding Authorizations

63B-34-101. Transportation bonds -- Maximum amount -- Use for transportation projects related to affordable housing initiatives.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed $70,000,000.

(b) When the Department of Transportation certifies to the commission the amount of bond proceeds that the commission needs to provide funding for the projects described in Subsection (2), the commission may issue and sell general obligation bonds in an amount equal to the certified amount plus costs of issuance.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance for general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in Utah Constitution, Article XIV, Section 1.

(2) (a) Proceeds from the bonds issued under this section shall be provided to the Department of Transportation through the Transportation Investment Fund of 2005 created in Section 72-2-124 to pay for or to provide funds to public entities for costs related to affordable housing initiatives as described in Subsection (2)(b).

(b) Bond proceeds described under Subsection (2)(a) shall be used to pay for infrastructure to assist in affordable housing related grants and allocated as described in Title 72, Chapter 2, Part 5, Affordable Housing Infrastructure Grants.

(c) The costs under this Subsection (2) may include the costs of acquiring land, interests in land, easements and rights-of-way, the costs of improving sites, making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(3) The executive director of the Department of Transportation may allocate bond proceeds under this section as provided in Title 72, Chapter 2, Part 5, Affordable Housing Infrastructure Grants.

Section 3. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited into or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited into or transferred to the fund;

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited into or transferred to the fund; and

(e) the portion of the sales and use tax transferred into the fund as described in Subsections 59-12-2220(4)(a) and 59-12-2220(11)(b).

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Subject to Subsection (11), the executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for $30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) equal to an amount needed to cover the debt to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the appropriate debt service or sinking fund for the repayment of bonds issued under Sections 63B-31-102 and 63B-31-103;

(h) after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer $2,000,000 to a public transit district in a county of the first class to fund a system for public transit;

(i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, through fiscal year 2027, to annually transfer 20%, and beginning with fiscal year 2028, and each year thereafter for 20 years, to annually transfer 33% of the amount deposited into the fund under Subsection (2)(b)[:]

[~~(i)~~] to the legislative body of a county of the first class[~~, and~~]for the following purposes:

[~~(ii)~~](i) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state; and

(ii) to be used for purposes allowed in Section 17-31-2;

(j) subject to Subsection (5), for a fiscal year beginning on or after July 1, 2021, and for 15 years thereafter, to annually transfer the following amounts to the following cities and the county of the first class for priority projects to mitigate congestion and improve transportation safety:

(i) $2,000,000 to Sandy;

(ii) $2,300,000 to Taylorsville;

(iii) $1,100,000 to Salt Lake City;

(iv) $1,100,000 to West Jordan;

(v) $1,100,000 to West Valley City;

(vi) $800,000 to Herriman;

(vii) $700,000 to Draper;

(viii) $700,000 to Riverton;

(ix) $700,000 to South Jordan;

(x) $500,000 to Bluffdale;

(xi) $500,000 to Midvale;

(xii) $500,000 to Millcreek;

(xiii) $500,000 to Murray;

(xiv) $400,000 to Cottonwood Heights; and

(xv) $300,000 to Holladay;[~~and~~]

(k) for the 2024-25[~~and~~], 2025-26, and 2026-27 fiscal years, and subject to revenue balances after the distributions under Subsection (4)(j), to reimburse the following municipalities for the amounts and projects indicated, as each project progresses and as revenue balances allow:

(i) $3,200,000 to South Jordan for improvements to Bingham Rim Road from Grandville Avenue to Mountain View Corridor;

(ii) $1,960,000 to Midvale for improvements to Center Street between State Street and 700 West;

(iii) $3,500,000 to Salt Lake City for first and last mile public transit improvements throughout Salt Lake City;

(iv) $1,500,000 to Cottonwood Heights for improvements to Fort Union Boulevard and 2300 East;

(v) $3,450,000 to Draper for improvements to Bangerter Highway between 13800 South and I-15;

(vi) $10,500,000 to Herriman to construct a road between U-111 and 13200 South;

(vii) $3,000,000 to West Jordan for improvements to 1300 West;

(viii) $1,050,000 to Riverton for improvements to the Welby Jacob Canal trail between 11800 South and 13800 South;

(ix) $3,500,000 to Taylorsville for improvements to Bangerter Highway and 4700 South;

(x) $470,000 to the department for construction of a sound wall on Bangerter Highway at approximately 11200 South;

(xi) $1,250,000 to Murray for improvements to Murray Boulevard between 4800 South and 5300 South;

[~~(xii) $1,450,000 to West Valley for construction of a road connecting 5400 South to U-111;~~]

[~~(xiii)~~](xii) $1,840,000 to Magna for construction and improvements to 8400 West and 4100 South;

[~~(xiv)~~](xiii) $1,000,000 to South Jordan for construction of arterial roads connecting U-111 and Old Bingham Highway;

[~~(xv)~~](xiv) $1,200,000 to Millcreek for reconstruction of and improvements to 2000 East between 3300 South and Atkin Avenue;

[~~(xvi)~~](xv) $1,230,000 to Holladay for improvements to Highland Drive between Van Winkle Expressway and Arbor Lane;

[~~(xvii) $1,800,000 to West Valley City for improvements to 4000 West between 4100 South and 4700 South and improvements to 4700 South from 4000 West to Bangerter Highway; and~~]

[~~(xviii)~~](xvi) $1,000,000 to Taylorsville for improvements to 4700 South at the I-215 interchange[~~.~~];

(xvii) $3,750,000 to West Valley City for improvements to 4000 West between 4100 South and 4700 South and improvements to 4700 South from 4000 West to Bangerter Highway;

(xviii) $1,700,000 to South Jordan for improvements to Prosperity Road between Crimson View Drive and Copper Hawk Drive;

(xix) $2,300,000 to West Valley City for a road connecting U-111 at approximately 6200 South, then east and turning north and connecting to 5400 South;

(xx) $1,400,000 to Magna for improvements to 8000 West between 3500 South to 4100 South;

(xxi) $1,300,000 to Taylorsville for improvements on 4700 South between Redwood Road and 2700 West; and

(xxii) $3,000,000 to West Jordan for improvements to 1300 West between 6600 South and 7800 South; and

(l) for a fiscal year beginning on or after July 1, 2026, and for 15 years thereafter, to pay debt service and bond issuance costs for $70,000,000 of the bonds issued under Section 63B-34-101 for the grants awarded under Part 5, Affordable Housing Infrastructure Grants.

(5) (a) If revenue in the fund is insufficient to satisfy all of the transfers described in Subsection (4)(j), the executive director shall proportionately reduce the amounts transferred as described in Subsection (4)(j).

(b) A local government may not use revenue described in Subsection (4)(j) to supplant existing class B or class C road funds that a local government has budgeted for transportation projects.

(6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited into the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(7) The department may expend up to $3,000,000 of revenue deposited into the account as described in Subsection 59-12-2220(11)(b) for public transit innovation grants, as provided in Part [~~3~~]4, Public Transit Innovation Grants.

(8) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(9) Subject to Subsection (11), and notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(10) Subject to Subsection (11), any revenue deposited into the fund as described in Subsection (2)(e) shall be used to provide funding or loans for public transit projects, operations, and supporting infrastructure in the county of the first class.

(11) For the first three years after a county of the first class imposes a sales and use tax authorized in Section 59-12-2220, revenue deposited into the fund as described in Subsection (2)(e) shall be allocated as follows:

(a) 10% to the department to construct an express bus facility on 5600 West; and

(b) 90% into the County of the First Class Infrastructure Bank Fund created in Section 72-2-302.

Section 4. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103;[~~and~~]

(e) revenues transferred to the fund in accordance with Section 72-2-106[~~,~~];

(f) revenues transferred into the fund in accordance with Subsection 72-2-121(4)(l); and

(g) revenue from bond proceeds described in Section 63B-34-101.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) subject to Subsection (4)(c), two lanes on U-111 from Herriman Parkway to South Jordan Parkway;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; [~~and~~]

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10[-]; and

(xi) $13,000,000 as pass-through funds to Spanish Fork for the costs of right-of-way acquisition, construction, reconstruction, or renovation to connect Fingerhut Road over the railroad and to U.S. Highway 6.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(c) (i) Construction related to the project described in Subsection (4)(a)(ix)(D) may not commence until a right-of-way not owned by a federal agency that is required for the realignment and extension of U-111, as described in the department's 2023 environmental study related to the project, is dedicated to the department.

(ii) Notwithstanding Subsection (4)(c)(i), if a right-of-way is not dedicated for the project as described in Subsection (4)(c)(i) on or before October 1, 2024, the department may proceed with the project, except that the project will be limited to two lanes on U-111 from Herriman Parkway to 11800 South.

(5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (5) no longer applies to the municipality.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (6) no longer applies to the county.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) transfers of local option sales and use tax revenue as described in Subsection 59-12-2220(11)(b) or (c);

(v) private contributions; and

(vi) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the commission may prioritize money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304;

(ii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility; or

(iii) up to $500,000 per year, to be used for a public transit study.

(e) (i) Subject to Subsections (9)(g), (h), and (i), the commission may only prioritize money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 30% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to [~~Title 72, Chapter 2,~~]Part 2, State Infrastructure Bank Fund, to provide all or part of the 30% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in [~~Title 72, Chapter 2,~~]Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(g) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(b):

(i) the commission may prioritize money from the fund for public transit projects, operations, or maintenance within the county of the first class; and

(ii) Subsection (9)(e) does not apply.

(h) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(c):

(i) the commission may prioritize public transit projects, operations, or maintenance in the county from which the revenue was generated; and

(ii) Subsection (9)(e) does not apply.

(i) The requirement to provide funds equal to or greater than 30% of the costs needed for the project described in Subsection (9)(e) does not apply to a public transit capital development project or pedestrian or nonmotorized transportation project that the department proposes.

(j) In accordance with Part [~~3~~]4, Public Transit Innovation Grants, the commission may prioritize money from the fund for public transit innovation grants, as defined in Section 72-2-401, for public transit capital development projects requested by a political subdivision within a public transit district.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

(e) The department may use up to 2% of the revenue deposited into the account under Subsection 59-12-103(7)(b) to contract with local governments as necessary for public safety enforcement related to the Cottonwood Canyons of Salt Lake County.

(f) Beginning with fiscal year beginning on July 1, 2025, the department shall use any sales and use tax growth over sales and use tax collections during the 2025 fiscal year to fund projects to provide ingress and egress for a public transit hub, including construction of the public transit hub, in the Big Cottonwood Canyon area.

(11) (a) There is created in the Transportation Investment Fund of 2005 the Active Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature; and

(iii) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The executive director may only use fund money to pay the costs needed for:

(i) the planning, design, construction, maintenance, reconstruction, or renovation of paved pedestrian or paved nonmotorized trail projects that:

(A) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(B) serve a regional purpose; and

(C) are part of an active transportation plan approved by the department or the plan described in Subsection (11)(d)(ii);

(ii) the development of a plan for a statewide network of paved pedestrian or paved nonmotorized trails that serve a regional purpose; and

(iii) the administration of the fund, including staff and overhead costs.

(12) (a) As used in this Subsection (12), "commuter rail" means the same as that term is defined in Section 63N-3-602.

(b) There is created in the Transit Transportation Investment Fund the Commuter Rail Subaccount.

(c) The subaccount shall be funded by:

(i) contributions deposited into the subaccount in accordance with Section 59-12-103;

(ii) appropriations into the subaccount by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(d) (i) The subaccount shall earn interest.

(ii) All interest earned on money in the subaccount shall be deposited into the subaccount.

(e) As prioritized by the commission through the prioritization process adopted under Section 72-1-304 or as directed by the Legislature, the department may only use money from the subaccount for projects that improve the state's commuter rail infrastructure, including the building or improvement of grade-separated crossings between commuter rail lines and public highways.

(f) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

Section 5. Section 72-2-302 is amended to read:

72-2-302. County of the First Class Infrastructure Bank Fund -- Creation -- Use of money.

(1) There is created a revolving loan fund entitled the County of the First Class Infrastructure Bank Fund.

(2) (a) The fund consists of money generated from the following revenue sources:

(i) deposits into the fund in accordance with Subsection 72-2-121(9);

(ii) appropriations made to the fund by the Legislature;

(iii) federal money and grants that are deposited into the fund;

(iv) money transferred to the fund by the commission from other money available to the department;

(v) state grants that are deposited into the fund;

(vi) contributions or grants from any other private or public sources for deposit into the fund; and

(vii) subject to Subsection (2)(b) and Section 72-2-306, all money collected from repayments of fund money used for infrastructure loans or infrastructure assistance.

(b) When a loan from the fund is repaid, the department may request and the Legislature may transfer from the fund to the source from which the money originated an amount equal to the repaid loan.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) [~~Money~~]Except as provided in Subsection (4)(b), money in the fund shall be used by the department, as prioritized by the commission, only to:

[~~(a)~~](i) provide infrastructure loans or infrastructure assistance; and

[~~(b)~~](ii) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects and publicly owned infrastructure projects, and obtaining repayments of infrastructure loans or infrastructure assistance.

(b) Notwithstanding Subsection (4)(a), money in the fund shall be used by the department to provide funds in the following order of priority:

(i) a $20,000,000 loan to Draper for the renovation of existing water pipelines and the expansion of drinking water infrastructure;

(ii) a $5,000,000 loan to Herriman for the mitigation and replacement of impacted soils;

(iii) a $9,000,000 grant to the County of the First Class Highway Projects Fund created in Section 72-2-121;

(iv) a $4,000,000 grant to Metropolitan Water District of Salt Lake and Sandy for the Little Cottonwood Creek conduit connecting to the water treatment plant;

(v) a $2,000,000 grant to Draper for construction, expansion, and renovation of new and existing drinking water infrastructure;

(vi) a $2,000,000 grant to West Jordan for improvements to 6700 West between 9000 South and New Bingham Highway;

(vii) a $2,500,000 grant to Riverton for improvements to 2700 West between 13400 South and Bangerter Highway; and

(viii) a $30,000,000 grant to Bluffdale for construction of a multiple lane, grade-separated rail crossing at 1000 West and 14600 South.

(5) (a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.

(b) Prioritization of infrastructure loans described in Subsection (5)(a) shall follow the same process as described in Section 72-2-303.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.

(6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

Section 6. Section 72-2-306 is amended to read:

72-2-306. Distribution of funds after repayment.

(1) Any money deposited into the fund from repayment of a loan or interest issued under this part shall be distributed as described in this section.

(2) As the department receives repayment of a loan and interest issued under this part, the department shall distribute:

(a) [~~50%~~]95% of the money to Sandy, for a bridge connecting a commuter rail station on the west side of I-15 with property owned by Sandy City at approximately 10240 South Monroe Street on the east side of I-15; and

(b) 5% to the department for improvements to 12600 South in Riverton to facilitate a jurisdictional transfer of the road from Riverton to the state.

[~~(b) 30% of the money to Bluffdale, for construction of a multiple lane, grade-separated rail crossing at 1000 West and 14600 South; and~~]

[~~(c) 20% of the money to the department, to construct and provide enhanced ingress and egress to a transit mobility center on property north of Big Cottonwood Canyon.~~]

Section 7. Section 72-2-501 is enacted to read:

PART 5. Affordable Housing Infrastructure Grants

72-2-501. Definitions.

As used in this part:

(1) "Affordable housing unit" means a dwelling that:

(a) is offered for rent at a rental price affordable to a household with a gross income of no more than 80% of the area median income for the county in which the residential unit is offered for rent; or

(b) is offered for sale to an owner-occupier at a purchase price affordable to a household with a gross income of no more than 120% of the area median income for the county in which the residential unit is offered for sale and is deed restricted for no fewer than five years.

(2) "Board" means the affordable housing infrastructure grant board created in Section 72-2-503.

(3) "Grant" means a grant issued to a public entity in a county of the first class as provided in this part.

Section 8. Section 72-2-502 is enacted to read:

72-2-502. Affordable housing infrastructure grant funding sources.

(1) In accordance with Section 72-2-503, the board may rank, prioritize, and award affordable housing infrastructure grants to public entities within a county of the first class with money derived from the following sources:

(a) bond proceeds deposited into the Transportation Investment Fund of 2005 created in Section 72-2-124 in accordance with a bond issued under Section 63B-34-101;

(b) appropriations by the Legislature; and

(c) any other transfers or contributions.

(2) Administrative costs of the department to administer affordable housing infrastructure grants under this part shall be paid from the funds described in Subsection (1).

Section 9. Section 72-2-503 is enacted to read:

72-2-503. Board creation -- Duties -- Grant administration.

(1) There is created the affordable housing infrastructure grant board consisting of the following members:

(a) the executive director of the department, or the executive director's designee;

(b) the executive director of the Governor's Office of Economic Opportunity appointed under Section 63N-1a-302, or the executive director's designee; and

(c) an employee of the governor's office that is an expert or advisor on housing strategy, appointed by the governor.

(2) (a) The Governor's Office of Economic Opportunity shall provide staff support for the board and the grant program.

(b) The Governor's Office of Economic Opportunity may use and the department shall transfer grant funds for the costs of the Governor's Office of Economic Opportunity to administer the grant program under this part.

(c) The Governor's Office of Economic Opportunity and the department shall enter into a memorandum of understanding to facilitate the calculation and transfer of funds for the administrative costs described in Subsection (2)(b).

(3) The Governor's Office of Economic Opportunity, in consultation with the board, shall develop a process for the prioritization of grant proposals that includes:

(a) instructions on making and submitting a grant proposal;

(b) methodology for selecting grants; and

(c) methodology for awarding grants.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Governor's Office of Economic Opportunity shall make rules to establish the process described in Subsection (3) and as otherwise necessary to implement this part.

(5) The board shall:

(a) accept grant applications;

(b) rank grant proposals; and

(c) award grants in accordance with this part.

(6) A grant applicant shall ensure that each grant proposal includes:

(a) information about the proposed project, including the projected number of affordable housing units, which may not be less than 50 units of affordable housing;

(b) the projected time line of the proposed project;

(c) data and information regarding the proposed types of affordable housing; and

(d) information about the public infrastructure and other improvements needed.

(7) (a) In considering a grant proposal, the board shall consider criteria including:

(i) the value and number of housing units the project will produce;

(ii) the value of any matching contribution from the grant applicant, including information about how the public entity determined the value of the matching assets; and

(iii) any other criteria the board determines relevant.

(b) For a grant proposal including highway infrastructure, the board may not award a grant unless the grant applicant provides a minimum matching contribution of the right-of-way needed for the highway improvements.

(c) If a grant proposal includes highway infrastructure, the board shall give priority to the construction of public highways that are highways of regional significance that connect to other highways or points of regional significance.

(8) (a) Subject to available funding, and subject to Subsection (8)(b), the board may award a grant to a recipient that the board determines advisable.

(b) For every $20,000 of grant funding awarded to a recipient, the infrastructure shall support at least one unit of affordable housing.

(c) The board may not award a grant to a recipient if the board determines that the recipient will not be able to satisfy the requirement under Subsection (8)(b).

(9) If the board approves the award of a grant as provided in this part, the department shall transfer the money to the grant recipient in accordance with Subsection (10).

(10) (a) Before the department may provide grant money to a public entity for a project related to a grant awarded by the board, the public entity shall provide a detailed cost estimate of costs to complete the planning and design of the project.

(b) If the executive director approves the cost estimate described in Subsection (10)(a), the department may provide to the public entity grant money reasonably necessary to complete the planning and design of the project.

(c) After completion of the planning and design of a project related to a grant awarded by the board, the public entity shall provide to the department a detailed estimate of the costs to construct and complete the project described in Subsection (10)(b).

(d) If the executive director approves the cost estimates described in Subsection (10)(c), the department may provide grant money to a public entity to construct and complete the project described in Subsection (10)(b).

Section 10. Section 72-2-504 is enacted to read:

72-2-504. Report.

(1) On or before September 1 of each year during the life of a project related to a grant awarded by the board, a recipient of grant money under this part shall provide a written report to the board.

(2) The report described in Subsection (1) shall include:

(a) the amount of money provided through the grant;

(b) an accounting of how the grant money has been utilized;

(c) the progress of the project; and

(d) the number of affordable housing units completed or under construction.

Section 11. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 503
H. B. 503
Passed March 5, 2025
Approved March 27, 2025
Effective May 7, 2025

MEDICAL MALPRACTICE MODIFICATIONS

Chief Sponsor: Katy Hall
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses malpractice actions against health care providers.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► with respect to a medical malpractice action:
  - • repeals requirements related to affidavits of merit;
  - • prohibits prejudicing a defendant in an adjudication of a claimant's claims;
  - • prohibits pursuing or collecting on a judgment against a health care provider's personal income or assets, with exceptions;
  - • grants access to the court's Xchange database to the Division of Professional Licensing (division);
  - • establishes data collection and reporting requirements for the division;
  - • amends procedure pertaining to prelitigation review panels and panel reviews; and
  - • makes a prelitigation review panel's recommendations or findings advisory; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-3-410, as last amended by Laws of Utah 2010, Chapter 97
78B-3-416, as last amended by Laws of Utah 2024, Chapter 366
78B-3-418, as last amended by Laws of Utah 2022, Chapter 212
78B-3-423, as last amended by Laws of Utah 2022, Chapter 212

ENACTS:

78B-3-405.5, Utah Code Annotated 1953
78B-3-418.5, Utah Code Annotated 1953
78B-3-423.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-3-405.5 is enacted to read:

78B-3-405.5. Economic damages -- Judgments against personal assets.

(1) This section applies to malpractice actions against health care providers, as defined in Section 78B-3-403.

(2) In a trial, the factfinder or court may not prejudice a defendant by knowing or considering evidence of the claimant's alleged losses for past medical expenses or the cost of medical equipment before:

(a) liability for the alleged losses has been established; and

(b) any claim for or award of noneconomic damages, if any, for the alleged losses has been fully adjudicated or entered.

(3) (a) Subject to Subsection (3)(b):

(i) the court may add economic damages to an award, if any, under Subsection (2)(b) based on amounts that the plaintiff or a third party insurer, whether public or private, actually paid for medical expenses related to the injury at issue; and

(ii) if a plaintiff did not have insurance to pay medical expenses related to the injury at issue, the court may award economic damages for amounts the plaintiff actually paid or owes for medical care resulting from the loss.

(b) The court may not calculate an award of economic damages based solely on amounts indicated on a medical bill or invoice.

(4) A plaintiff may not pursue, collect, or execute on a judgment against an individual health care provider's personal income or assets, unless the court finds that:

(a) the provider's conduct was willful and malicious or intentionally fraudulent; or

(b) the defendant provider failed to maintain an insurance policy with a policy limit of at least $1,000,000.

(5) Prior to any award of damages to a plaintiff, a plaintiff may not make allegations that the court finds:

(a) are irrelevant to the adjudication of the claims at issue;

(b) are made primarily to coerce or induce settlement in an individual defendant provider; and

(c) pertain to a provider's personal income or assets.

Section 2. Section 78B-3-410 is amended to read:

78B-3-410. Limitation of award of noneconomic damages and economic damages in malpractice actions.

(1) [~~In a malpractice action against a health care provider, an injured plaintiff may recover noneconomic losses~~]Subject to Subsection (3), an injured plaintiff in a malpractice action against a health care provider may only recover noneconomic losses to compensate for pain, suffering, and inconvenience. The amount of damages awarded for noneconomic loss may not exceed:

(a) for a cause of action arising before July 1, 2001, $250,000;

(b) for a cause of action arising on or after July 1, 2001 and before July 1, 2002, the limitation is adjusted for inflation to $400,000;

(c) for a cause of action arising on or after July 1, 2002, and before May 15, 2010 the $400,000 limitation described in Subsection (1)(b) shall be adjusted for inflation as provided in Subsection (2); and

(d) for a cause of action arising on or after May 15, 2010, $450,000.

(2) (a) Beginning July 1, 2002 and each July 1 thereafter until July 1, 2009, the limit for damages under Subsection (1)(c) shall be adjusted for inflation by the [~~state treasurer~~]Administrative Office of the Courts.

[~~(b) By July 15 of each year until July 1, 2009, the state treasurer shall:~~]

[~~(i) certify the inflation-adjusted limit calculated under this Subsection (2); and~~]

[~~(ii) inform the Administrative Office of the Courts of the certified limit.~~]

[~~(c)~~](b) The amount resulting from Subsection (2)(a) shall:

(i) be rounded to the nearest $10,000; and

(ii) apply to a cause of action arising on or after the date the annual adjustment is made.

(3) As used in this section, "inflation" means the seasonally adjusted consumer price index for all urban consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(4) The limit under Subsection (1) does not apply to awards of punitive damages.

Section 3. Section 78B-3-416 is amended to read:

78B-3-416. Division to provide review panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license fees.

(1) (a) The division shall provide a [~~hearing panel in alleged medical liability cases against health care providers as defined in Section 78B-3-403, ~~]prelitigation review panel to conduct a panel review in accordance with this part, in all malpractice actions against a health care provider, except dentists or dental care providers.

(b) (i) The division shall establish procedures for [~~prelitigation consideration of medical liability claims for damages arising out of the provision of or alleged failure to provide health care~~]panel reviews.

(ii) The division may establish rules necessary to administer the process and procedures related to [~~prelitigation hearings~~]a panel review and the conduct of [~~prelitigation hearings~~]a member of a prelitigation review panel or participant in a panel review in accordance with Sections 78B-3-416 through 78B-3-420.

(c) [~~The proceedings are~~]A panel review is informal, nonbinding, and [~~are~~]not subject to Title 63G, Chapter 4, Administrative Procedures Act, but [~~are~~]is compulsory as a condition precedent to commencing litigation.

(d) [~~Proceedings~~]A panel review that is conducted under authority of this section [~~are~~]is confidential, privileged, and immune from civil process.

(e) The division may not provide more than one [~~hearing panel~~]review panel for each alleged [~~medical liability case against a health care provider~~]malpractice action against a health care provider.

(2) (a) The party initiating a [~~medical liability action~~]malpractice action against a health care provider shall file a request for a prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78B-3-412.

(b) The request shall include a copy of the notice of intent to commence action[~~. The request shall be mailed to~~] and the claimant shall mail the request and notice of intent to all health care providers named in the notice and request.

(3) (a) As used in this Subsection (3):

(i) "Court-appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.

(ii) "Domestic case" means a proceeding under:

(A) [~~Title 78B, ~~]Chapter 7, Protective Orders and Stalking Injunctions;

(B) [~~Title 78B, ~~]Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

(C) [~~Title 78B, ~~]Chapter 15, Utah Uniform Parentage Act;

(D) Title 81, Chapter 4, Dissolution of Marriage; or

(E) Title 81, Chapter 9, Custody, Parent-time, and Visitation.

(iii) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(b) If a court appoints a court-appointed therapist in a domestic case, a party to the domestic case may not file a request for a prelitigation panel review for a malpractice action against the court-appointed therapist during the pendency of the domestic case, unless:

(i) the party has requested that the court release the court-appointed therapist from the appointment; and

(ii) the court finds good cause to release the court-appointed therapist from the appointment.

(c) If a party is prohibited from filing a request for a [~~prelitigation ~~]panel review under Subsection (3)(b), the applicable statute of limitations tolls until the earlier of:

(i) the court releasing the court-appointed therapist from the appointment as described in Subsection (3)(b); or

(ii) the court entering a final order in the domestic case.

(4) (a) The filing of a request for a prelitigation panel review under this section tolls the applicable statute of limitations until the later of:

(i) 60 days following the division's issuance of:

(A) an opinion by the [~~prelitigation~~]review panel; or

(B) a certificate of compliance under Section 78B-3-418; or

(ii) the expiration of the time for holding a [~~hearing~~]panel review under Subsection (4)(b)(ii).

(b) The division shall:

(i) send any opinion issued by the panel to all parties by regular mail; and

(ii) complete a [~~prelitigation hearing~~]panel review under this section within:

(A) 180 days after the filing of the request for prelitigation panel review; or

(B) any longer period as agreed upon in writing by all parties to the review.

[~~(c) If the prelitigation hearing has not been completed within the time limits established in Subsection (4)(b)(ii), the claimant shall:~~]

[~~(i) file an affidavit of merit under the provisions of Section 78B-3-423; or~~]

[~~(ii) file an affidavit with the division within 180 days of the request for pre-litigation review, in accordance with Subsection (4)(d), alleging that the respondent has failed to reasonably cooperate in scheduling the hearing.~~]

(c) If a panel review does not occur within the time limits under Subsection (4)(b)(ii), the claimant or respondent may, no later than 180 days after the day on which the request for a panel review was filed under Subsection (2), file with the division an affidavit alleging with supporting attachments, if any:

(i) that the claimant or respondent failed to reasonably cooperate in scheduling the panel review; or

(ii) any other reason that the panel review did not occur within the time limits under Subsection (4)(b)(ii).

(d) If the claimant or respondent files an affidavit under Subsection [~~(4)(c)(ii)~~](4)(c):

(i) within 15 days of the filing of the affidavit[~~ under Subsection (4)(c)(ii)~~], the division shall [~~determine whether either the respondent or the claimant failed to reasonably cooperate in the scheduling of a pre-litigation hearing; and~~]conclude, based solely on the affidavit and any supporting attachments, whether the claimant or respondent failed to reasonably cooperate in the scheduling of the panel review; and

(ii) (A) if the [~~determination is~~]division finds that the [~~respondent failed to reasonably cooperate in the scheduling of a hearing, and the~~]claimant or respondent did not fail to reasonably cooperate, the division shall[~~;~~] issue a certificate of compliance for the claimant in accordance with [~~Section 78B-3-418~~]Subsection 78B-3-418(3)(b), stating the division's determination and the facts upon which the determination is based; or

(B) if the division makes a determination other than the determination in Subsection (4)(d)(ii)(A), [~~the claimant shall file an affidavit of merit in accordance with Section 78B-3-423, within 30 days of the determination of the division under this Subsection (4)~~]the division shall, subject to Subsection (4)(f), issue a certificate of compliance for the claimant, in accordance with Subsection 78B-3-418(3)(b), stating the division's determination and the facts upon which the determination is based.

(e) (i) The claimant and any respondent may agree by written stipulation [~~that no useful purpose would be served by convening a prelitigation panel~~]to waive the requirement to convene a panel review under this section.

(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under [~~Section 78B-3-418~~]Subsection 78B-3-418(3)(c), as it concerns the stipulating respondent, and stating that the claimant has [~~complied with all conditions precedent to the commencement of litigation regarding the claim~~]satisfied, by stipulation, the condition precedent under Subsection (1)(c) to commencing litigation.

(f) The division may not issue a certificate of compliance if the division finds under Subsection (4)(d)(ii)(B) that the claimant failed to reasonably cooperate in the scheduling of the panel review.

(5) The division shall provide for and appoint an appropriate panel [~~or panels to hear~~]to consider complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of [~~medical liability.~~]malpractice. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of [~~panel hearings~~]panel reviews;

(b) (i) one or more members who are licensed health care providers listed under Section 78B-3-403, who are practicing and knowledgeable in the same specialty as the proposed [~~defendant~~]respondent, and who are appointed by the division in accordance with Subsection (6); or

(ii) in claims against only a health care facility or the facility's employees, one member who is an individual currently serving in a health care facility administration position directly related to health care facility operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel [~~hearings~~]reviews.

(6) (a) Each person listed as a health care provider in Section 78B-3-403 and practicing under a license issued by the state, is obligated as a condition of holding that license to participate as a member of a [~~medical liability prelitigation panel~~]prelitigation review panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

(b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.

(c) A licensee [~~whom~~]who the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000.

(d) A licensee [~~whom~~]who the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000, and is guilty of unprofessional conduct.

(e) All fines collected under Subsections (6)(c) and (d) shall be deposited into the Physicians Education Fund created in Section 58-67a-1.

(f) The director of the division may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(g) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a fine.

(h) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.

(7) Each person selected as a panel member shall certify, under oath, that [~~he~~]the member has no bias or conflict of interest with respect to any matter under consideration.

(8) A member of [~~the prelitigation hearing~~]a prelitigation review panel may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) (a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.

Section 4. Section 78B-3-418 is amended to read:

78B-3-418. Opinion and recommendations of panel.

(1) (a) The prelitigation review panel shall issue an opinion and the division shall issue a certificate of compliance with the [~~pre-litigation hearing~~]prelitigation requirements of this part in accordance with this section.

(b) A certificate of compliance issued in accordance with this section is proof that [~~the claimant has complied with all conditions precedent under this part prior to the commencement of litigation as required in Subsection 78B-3-412(1)~~]the claimant has met all conditions precedent under this section to commencing litigation.

(2) (a) The panel shall render [~~its~~]an opinion in writing not later than 30 days after the [~~end of the proceedings~~]day on which the panel review concludes, and determine on the basis of the evidence whether:

(i) each claim against each health care provider has merit or has no merit; and

(ii) if a claim is [~~meritorious, whether~~]deemed meritorious under Subsection (2)(a)(i), the conduct complained of resulted in harm to the claimant.

(b) There is no judicial or other review or appeal of the panel's [~~decision or recommendations~~]opinion under Subsection (2)(a).

(3) The division shall issue a certificate of compliance to the claimant, for each respondent named in the notice of intent to file a claim under this part, if:

(a) for a named respondent, the panel issues an opinion [~~of merit~~]under [~~Subsections (2)(a)(i) and (ii)~~]Subsection (2)(a);

[~~(b) for a named respondent, the claimant files an affidavit of merit in accordance with Section 78B-3-423 if the opinion under Subsection (1)(a) is non-meritorious under either Subsection (2)(a)(i) or (ii);~~]

[~~(c)~~](b) the claimant has complied with the provisions of Subsections 78B-3-416(4)(c)and (d); or

[~~(d)~~](c) the parties submitted a stipulation under Subsection 78B-3-416(4)(e).

Section 5. Section 78B-3-418.5 is enacted to read:

78B-3-418.5. Attorney fees.

(1) The court may award attorney fees and costs to a respondent provider if:

(a) (i) a prelitigation review panel renders an opinion under Subsection 78B-3-418(2)(a) that a claimant's claim or cause of action has no merit; or

(ii) the court finds that the claimant did not receive a certificate of compliance because the plaintiff failed to reasonably cooperate in the scheduling of the prelitigation panel review under Subsection 78B-3-416(4)(f);

(b) the claimant proceeds to litigate the malpractice action against a health care provider without obtaining an affidavit of merit under Section 78B-3-423; and

(c) the court finds that the claimant did not substantially prevail.

(2) A claimant in a malpractice action against a health care provider, or the claimant's attorney, is liable to any respondent for the reasonable attorney fees and costs incurred by the respondent, or by the respondent's insurer, in connection with any filing, submission, panel review, arbitration, or judicial proceeding under this part for which a claimant files or submits an affidavit containing an allegation that the court or arbitrator finds that the claimant knew, or should have known, to be baseless or false at the time the affidavit was signed, filed, or submitted.

(3) A court, or an arbitrator under Section 78B-3-421, may award reasonable attorney fees or costs under Subsection (1) only if the respondent files a motion for the attorney fees or costs no later than 60 days after the day on which the court's or arbitrator's final decision, judgment, or dismissal of all claims in the action is entered.

Section 6. Section 78B-3-423 is amended to read:

78B-3-423. Affidavit of merit.

[~~(1) (a) For a cause of action that arises on or after July 1, 2010, before a claimant may receive a certificate of compliance under Sections 78B-3-416 and 78B-3-418, a claimant shall file an affidavit of merit under this section.~~]

[~~(b)~~](1) (a) [~~The claimant shall file an affidavit of merit~~]A claimant who elects to file an affidavit of merit shall file the affidavit of merit:

(i) within 60 days after the day on which the pre-litigation panel issues an opinion, if the claimant receives a finding from the pre-litigation panel in accordance with Section 78B-3-418 of non-meritorious for either:

(A) the claim of breach of applicable standard of care; or

(B) that the breach of care was the proximate cause of injury;

(ii) within 60 days after the day on which the time limit in Subsection 78B-3-416(4)(b)(ii) expires, if a pre-litigation hearing is not held within the time limits under Subsection 78B-3-416(4)(b)(ii); or

(iii) within 30 days after the day on which the division makes a determination under Subsection 78B-3-416(4)(d)(ii)(B), if the division makes a determination under Subsection 78B-3-416(4)(d)(ii)(B).

[~~(c)~~](b) A claimant who [~~is required~~]elects to file an affidavit of merit under Subsection (1)(a) shall:

(i) file the affidavit of merit with the division; and

(ii) serve each defendant with the affidavit of merit in accordance with Subsection 78B-3-412(3).

(2) A claimant may proceed to litigate and pursue a judicial remedy regardless of whether:

(a) the claimant has obtained or filed an affidavit of merit under this section;

(b) a review panel deemed the claimant's claims to have merit; or

(c) the claimant participated in a review panel.

[~~(2)~~](3) The affidavit of merit shall:

(a) be executed by the claimant's attorney or the claimant if the claimant is proceeding pro se, stating that the affiant has consulted with and reviewed the facts of the case with a health care provider who has determined after a review of the medical record and other relevant material involved in the particular action that there is a reasonable and meritorious cause for the filing of a medical liability action; and

(b) include an affidavit signed by a health care provider who meets the requirements of Subsection [~~(4)~~](5):

(i) stating that in the health care provider's opinion, there are reasonable grounds to believe that the applicable standard of care was breached;

(ii) stating that in the health care provider's opinion, the breach was a proximate cause of the injury claimed in the notice of intent to commence action; and

(iii) stating the reasons for the health care provider's opinion.

[~~(3)~~](4) The statement required in Subsection [~~(2)(b)(i)~~](3)(b)(i) shall be waived if the claimant received an opinion that there was a breach of the applicable standard of care under Subsection 78B-3-418(2)(a)(i).

[~~(4)~~](5) A health care provider who signs an affidavit under Subsection [~~(2)(b)~~](3)(b) shall:

(a) if none of the respondents is a physician or an osteopathic physician, hold a current unrestricted license issued by the appropriate licensing authority of Utah or another state in the same specialty or of the same class of license as the respondents; or

(b) if at least one of the respondents is a physician or an osteopathic physician, hold a current unrestricted license issued by the appropriate licensing authority of Utah or another state to practice medicine in all its branches.

[~~(5)~~](6) A claimant's attorney or claimant may obtain up to a 60-day extension to file the affidavit of merit if:

(a) the claimant or the claimant's attorney submits a signed affidavit for extension with notice to the division attesting to the fact that the claimant is unable to submit an affidavit of merit as required by this section because:

(i) a statute of limitations would impair the action; and

(ii) the affidavit of merit could not be obtained before the expiration of the statute of limitations; and

(b) the claimant or claimant's attorney submits the affidavit for extension to each named respondent in accordance with Subsection 78B-3-412(3) no later than 60 days after the date specified in Subsection [~~(1)(b)(i)~~](1)(a)(i).

[~~(6)~~](7) (a) A claimant or claimant's attorney who submits allegations in an affidavit of merit that are found to be without reasonable cause and untrue, based on information available to the plaintiff at the time the affidavit was submitted to the division, is liable to the defendant for the payment of reasonable expenses and reasonable attorney fees actually incurred by the defendant or the defendant's insurer.

(b) An affidavit of merit is not admissible, and cannot be used for any purpose, in a subsequent lawsuit based on the claim that is the subject of the affidavit, except for the purpose of establishing the right to recovery under Subsection [~~(6)(c)~~](7)(c).

(c) A court, or arbitrator under Section 78B-3-421, may award costs and attorney fees under Subsection [~~(6)(a)~~](7)(a) if the defendant files a motion for costs and attorney fees within 60 days of the judgment or dismissal of the action in favor of the defendant. The person making a motion for attorney fees and costs may depose and examine the health care provider who prepared the affidavit of merit under Subsection [~~(2)(b)~~](3)(b).

[~~(7) If a claimant or the claimant's attorney does not file an affidavit of merit as required by this section, the division may not issue a certificate of compliance for the claimant and the malpractice action shall be dismissed by the court.~~]

(8) For each request for prelitigation panel review under Subsection [~~78B-3-416(2)(b)~~]78B-3-416(2), the division shall compile the following information:

(a) whether the cause of action arose on or after July 1, 2010;

(b) the number of respondents named in the request; and

(c) for each respondent named in the request:

(i) the respondent's license class;

(ii) if the respondent has a professional specialty, the respondent's professional specialty;

(iii) if the division does not issue a certificate of compliance at the conclusion of the prelitigation process, the reason a certificate was not issued;

(iv) if the division issues a certificate of compliance, the reason the certificate of compliance was issued;

(v) if an affidavit of merit was filed by the claimant, for each health care provider who submitted an affidavit under Subsection [~~(2)(b)~~](3)(b):

(A) the health care provider's license class and professional specialty; and

(B) whether the health care provider meets the requirements of Subsection 78B-3-416(5)(b); and

(vi) whether the claimant filed an action in court against the respondent.

(9) The division may require the following persons to submit the information to the division necessary for the division to comply with Subsection (8):

(a) a claimant;

(b) a respondent;

(c) a health care provider who submits an affidavit under Subsection [~~(2)(b)~~](3)(b); and

(d) a medical liability pre-litigation panel.

Section 7. Section 78B-3-423.1 is enacted to read:

78B-3-423.1. Division collection of panel review data.

(1) The division shall:

(a) compile a written report summarizing the division's administration of panel reviews, including at least the information described in Subsection (2);

(b) in compiling the written report under Subsection (1)(a), review information obtained from the court's Xchange database, made available to the division without cost by the Administrative Office of the Courts; and

(c) provide the written report under Subsection (1)(a) to the Judiciary Interim Committee no later than November 1 of each year.

(2) The report under Subsection (1) shall detail, for the period beginning on the day after the day through which the last report covered, and ending on the day through which data is available:

(a) the number of panel reviews the division convened, by respective license class;

(b) the number of cases for which a claimant filed a complaint in court;

(c) the number of cases in which a provider and claimant agreed to forgo a panel review;

(d) the number of cases in which a provider and claimant agreed to use a panel review as binding arbitration;

(e) for each panel review the division convened, the prelitigation review panel's determinations regarding merit under Subsection 78B-3-418(2)(a);

(f) the number of cases that were settled after a panel review and:

(i) before a complaint alleging a malpractice action against a health care provider in court is filed; and

(ii) after a complaint alleging a malpractice action against a health care provider in court is filed; and

(g) for cases alleging a malpractice action against a health care provider that were resolved, including by adjudication or stipulated settlement:

(i) the amount of damages sought as compared to the amount of damages awarded or otherwise obtained, if known, including by the following categories:

(A) noneconomic;

(B) economic; and

(C) punitive; and

(ii) the number of cases that were dismissed with prejudice and without an award of damages or any other economic relief to the claimant.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 504
H. B. 505
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

HOMELESS SERVICES REVISIONS

Chief Sponsor: Steve Eliason
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill enacts provisions related to homeless services.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► amends provisions related to the Homeless Shelter Cities Mitigation Restricted Account;
- ► amends provisions related to the winter response task force and winter response plan;
- ► enacts provisions related to unsanctioned camping;
- ► provides for a penalty if an actor is engaged in unsanctioned camping;
- ► enacts a provision related to facilities providing domestic violence services regarding certain funding requirements; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-16-403, as last amended by Laws of Utah 2024, Chapters 204, 338
35A-16-501.5, as last amended by Laws of Utah 2024, Chapter 338
35A-16-502, as last amended by Laws of Utah 2024, Chapters 204, 338
35A-16-703, as last amended by Laws of Utah 2024, Chapters 338, 381
76-6-201, as last amended by Laws of Utah 2008, Chapter 366

ENACTS:

35A-16-103, Utah Code Annotated 1953
76-6-207, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-16-103 is enacted to read:

35A-16-103. Facilities Providing Domestic Violence Services.

Nothing in this chapter shall be construed to require a facility that provides domestic violence services, as that term is defined in Section 80-2-102, to act in a manner that conflicts with licensing obligations or requirements related to the receipt of state or federal funds.

Section 2. Section 35A-16-403 is amended to read:

35A-16-403. Eligible municipality application process for Homeless Shelter Cities Mitigation Restricted Account funds.

(1) An eligible municipality may apply for account funds to mitigate the impacts of the location of an eligible shelter through the provision of eligible services within the eligible municipality's boundaries.

(2) (a) The board shall set aside time on the agenda of a board meeting that occurs before the beginning of the next fiscal year to allow an eligible municipality to present a request for account funds for that next fiscal year.

(b) An eligible municipality may present a request for account funds by:

(i) sending an electronic copy of the request to the board before the meeting; and

(ii) appearing at the meeting to present the request.

(c) The request described in Subsection (2)(b)(i) shall contain:

(i) a proposal outlining the need for eligible services, including a description of each eligible service for which the eligible municipality requests account funds;

(ii) a description of the eligible municipality's proposed use of account funds;

(iii) a description of the outcomes that the funding would be used to achieve, including indicators that would be used to measure progress toward the specified outcomes;[~~and~~]

(iv) the amount of account funds requested[.]; and

(v) results from the previous fiscal year, including:

(A) a summary of the amount of account funds that the eligible municipality expended and the eligible municipality's specific use of those funds;

(B) an evaluation of the eligible municipality's effectiveness in using the account funds to address the eligible municipality's needs due to the location of an eligible shelter;

(C) an evaluation of the eligible municipality's progress regarding the outcomes and indicators described in Subsection (2)(c)(iii); and

(D) any proposals for improving the eligible municipality's effectiveness in using account funds that the eligible municipality may receive in future fiscal years.

[~~(d) (i) On or before September 30, an eligible municipality that received account funds during the previous fiscal year shall file electronically with the board a report that includes:~~]

[~~(A) a summary of the amount of account funds that the eligible municipality expended and the eligible municipality's specific use of those funds;~~]

[~~(B) an evaluation of the eligible municipality's effectiveness in using the account funds to address the eligible municipality's needs due to the location of an eligible shelter;~~]

[~~(C) an evaluation of the eligible municipality's progress regarding the outcomes and indicators described in Subsection (2)(c)(iii); and~~]

[~~(D) any proposals for improving the eligible municipality's effectiveness in using account funds that the eligible municipality may receive in future fiscal years.~~]

[~~(ii)~~](d) The board may request additional information as needed to make the evaluation described in Subsection (2)(e).

(e) The board shall evaluate a request made in accordance with this Subsection (2) and may take the following factors into consideration in determining whether to approve or deny the request:

(i) the strength of the proposal that the eligible municipality provided to support the request;

(ii) if the eligible municipality received account funds during the previous fiscal year, the efficiency with which the eligible municipality used any account funds during the previous fiscal year;

(iii) the availability of funding for the eligible municipality under Subsection 35A-16-402(4); and

[~~(iv) the availability of alternative funding for the eligible municipality to address the eligible municipality's needs due to the location of an eligible shelter; and~~]

[~~(v)~~](iv) any other considerations identified by the board.

(f) After making the evaluation described in Subsection (2)(e), and subject to Subsection (2)(g), the board shall vote to either approve or deny an eligible municipality's request for account funds.

(g) (i) In addition to the evaluation under Subsection (2)(e), the board may not approve an eligible municipality's request to receive account funds under this section unless the eligible municipality:

(A) enforces an ordinance that prohibits camping; and

(B) enforces an ordinance or other applicable state law prohibiting conduct that:

(I) impedes or blocks traffic in violation of Subsection 41-6a-1009(4); [~~and~~]or

(II) impedes sidewalks and building entrances in violation of the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

[~~(C) demonstrates improvement in reducing the conduct described in Subsections (2)(g)(i)(A) and (B).~~]

(ii) In determining whether an eligible municipality has demonstrated [~~improvement~~]compliance under Subsection [~~(2)(g)(i)(C),~~](2)(g)(i), the board shall consider:

(A) the specific measures taken by the municipality to [~~reduce~~]enforce an ordinance or other applicable state law prohibiting the conduct described in [~~Subsections~~]Subsection (2)(g)(i) [~~(A) and (B),~~], and the effectiveness of those measures in [~~reducing~~]mitigating the conduct;

(B) the strategies utilized by the municipality in managing and improving public spaces within the municipality, and the impact of these strategies on safety, cleanliness, and the well-being of the community; and

(C) the gap between the number of individuals experiencing homelessness within the municipality and the availability of beds at homeless shelters to which the individuals experiencing homelessness have reasonable access, and any changes to this gap over time.

(iii) The board may coordinate with the Department of Public Safety for the receipt of quantitative and qualitative data to determine compliance with applicable state and local laws.

(iv) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and with the approval of the board, the office shall make rules establishing standards for the information required by an eligible municipality to demonstrate [~~improvement~~]compliance under Subsection [~~(2)(g)(i)(C).~~](2)(g)(i).

(h) If the board approves an eligible municipality's request to receive account funds under Subsection (2)(f), the office, subject to appropriation, shall calculate the amount of funds for disbursement to the eligible municipality under Subsection 35A-16-402(4).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules governing the process for calculating the amount of funds that an eligible municipality may receive under Subsection 35A-16-402(4).

Section 3. Section 35A-16-501.5 is amended to read:

35A-16-501.5. County winter response task force.

(1) Subject to the requirements of Section 35A-16-502, the council of governments of each applicable county shall annually convene a county winter response task force.

(2) (a) The task force for Salt Lake County shall consist of the following 14 voting members:

(i) the chief executive officer of Salt Lake County, or the chief executive officer's designee;

(ii) the chief executive officer, or the chief executive officer's designee, of each of the following 11 municipalities:

(A) Draper;

(B) Midvale;

(C) Millcreek;

(D) Murray;

(E) Salt Lake City;

(F) Sandy;

(G) South Jordan;

(H) South Salt Lake;

(I) Taylorsville;

(J) West Jordan; and

(K) West Valley City; and

(iii) the chief executive officer, or the chief executive officer's designee, of any two municipalities located in Salt Lake County that are not described in Subsection (2)(a)(ii), appointed by the conference of mayors of Salt Lake County.

(b) A task force for an applicable county not described in Subsection (2)(a) shall consist of the following voting members:

(i) the chief executive officer of the applicable county, or the chief executive officer's designee; and

(ii) the chief executive officer, or the chief executive officer's designee, of a number of municipalities located in the applicable county that the conference of mayors of the applicable county considers to be appropriate, appointed by the conference of mayors of the applicable county.

(3) In addition to the voting members required in Subsection (2), a task force shall include the following nonvoting members:

(a) the coordinator, or the coordinator's designee;

[~~(b) one representative of the Utah League of Cities and Towns, appointed by the Utah League of Cities and Towns, or the representative's designee;~~]

[~~(c)~~](b) one representative of the Utah Association of Counties, appointed by the Utah Association of Counties, or the representative's designee;

[~~(d)~~](c) [~~two individuals~~]one individual experiencing homelessness or having previously experienced homelessness, appointed by the applicable local homeless council;

[~~(e)~~](d) three representatives of the applicable local homeless council, appointed by the applicable local homeless council, or the representative's designee; and

[~~(f)~~](e) any other individual appointed by the council of governments of the applicable county.

(4) (a) Any vacancy on a task force shall be filled in the same manner as the appointment of the member whose vacancy is being filled.

(b) Each member of a task force shall serve until a successor is appointed.

(5) A majority of the voting members of a task force constitutes a quorum and may act on behalf of the task force.

(6) A task force shall:

(a) select officers from the task force's members as the task force finds necessary; and

(b) meet as necessary to effectively conduct the task force's business and duties as prescribed by statute.

(7) A task force may establish one or more working groups as is deemed appropriate to assist on specific issues related to the task force's duties, including a working group for site selection of temporary winter response shelters.

(8) (a) A task force member may not receive compensation or benefits for the task force member's service.

(b) A task force member may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106and 63A-3-107.

(9) The applicable county for which a task force is convened shall provide administrative support to the task force.

(10) Meetings of the task force are not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 4. Section 35A-16-502 is amended to read:

35A-16-502. Winter response plan required -- Contents -- Review -- Consequences after determination of noncompliance.

(1) (a) The task force for an applicable county that is a county of the first class shall annually prepare and submit to the office a winter response plan on or before August 1 in calendar years 2023, 2024, and 2025.

(b) Except as provided in Subsection (3), the task force for an applicable county not described in Subsection (1)(a) shall annually prepare and submit to the office a winter response plan on or before August 1 in calendar years 2024 and 2025.

(2) The winter response plan shall:

(a) provide assurances to the office that the applicable county will meet the applicable county's targeted winter response plan or other accommodations during the subsequent winter response period by establishing plans for the requisite need during the subsequent winter response period;

(b) ensure that any temporary winter response shelter planned for operation within the applicable county will meet all local zoning requirements;

(c) include a detailed transportation plan, budget, revenue sources, including in-kind sources, and any other component specified by the office under Subsection (3) as a requirement for the applicable county to achieve compliance with this section;

(d) include a detailed county plan for a code blue event as defined in Section 35A-16-701, including the number and location of available beds for individuals experiencing homelessness for the duration of the code blue event; and

(e) be approved by the chief executive officer of:

(i) any municipality located within the applicable county in which a temporary winter response shelter is planned for operation during the subsequent winter response period; and

(ii) the applicable county, if a temporary winter response shelter is planned for operation within an unincorporated area of the county.

(3) The requirements of Subsection (1)(b) do not apply to an applicable county if:

(a) on or before August 1, 2024, the applicable county submits to the office:

(i) documentation demonstrating that the applicable county is developing a plan to address the needs of individuals experiencing homelessness within the county throughout the entire year, as opposed to only during the winter response period; and

(ii) a county plan for a code blue event as described in Subsection (2)(d);

(b) on or before August 1, 2025, the applicable county submits to the office the year-round plan developed under Subsection (3)(a)(i); and

(c) the office determines that the applicable county's year-round plan meets the requirements of a winter response plan as described in Subsection (2) for the entire year.

(4) To assist a task force in preparing a winter response plan, by no later than March 30 of the year in which the winter response plan is due, the applicable local homeless council, in coordination with the office, shall provide the following information to the task force:

(a) the targeted winter response bed count;

(b) the requirements for the plan described in Subsection (2)(d);

(c) the availability of funds that can be used to mitigate the winter response plan; and

(d) any component required for the winter response plan to achieve compliance that is not described in Subsection (2).

(5) In preparing the winter response plan, the task force shall coordinate with:

(a) the office;

(b) the applicable local homeless council;

(c) for Salt Lake County, the conference of mayors for Salt Lake County; and

(d) for an applicable county not described in Subsection (5)(c), the council of governments for the applicable county.

(6) In conducting site selection for a temporary winter response shelter under a winter response plan, the task force shall[~~prioritize~~]:

(a) utilize objective data to prioritize locations, including:

(i) point in time count data for the applicable county; and

(ii) blind reviews of possible facilities based on proximity to mass transit, transportation costs, and necessary facility updates; and

(b) prioritize:

[~~(a)~~](i) a site located more than one mile from any homeless shelter;

[~~(b)~~](ii) a site located more than one mile from any permanent supportive housing, as verified by the office; and

[~~(c)~~](iii) a site located in a municipality or unincorporated area of the applicable county that does not have a homeless shelter.

(7) (a) On or before August 15 of the year in which a winter response plan is submitted, the office shall:

(i) conduct a review of the winter response plan for compliance with this section; and

(ii) send a written notice of the office's determination regarding compliance to[~~:~~]

[~~(A)~~] the task force for the applicable county[~~;~~].

[~~(B) the council of governments for the applicable county;~~]

[~~(C) the applicable local homeless council; and~~]

[~~(D) the legislative body of each municipality located within the applicable county.~~]

(b) For purposes of Section 35A-16-502.5, an applicable county is in noncompliance with this section if:

(i) the applicable county's task force fails to submit a timely winter response plan under this section; or

(ii) the office determines that the winter response plan prepared for the applicable county does not comply with this section.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules establishing requirements for an applicable county's compliance with this section.

Section 5. Section 35A-16-703 is amended to read:

35A-16-703. Provisions in effect for duration of code blue alert.

Subject to rules made by the Department of Health and Human Services under Subsection 35A-16-702(4), the following provisions take effect within an affected county for the duration of a code blue alert:

(1) a homeless shelter may expand the homeless shelter's capacity limit by up to 35% to provide temporary shelter to any number of individuals experiencing homelessness, so long as the homeless shelter is in compliance with the applicable building code and fire code;

(2) a homeless shelter, in coordination with the applicable local homeless council, shall implement expedited intake procedures for individuals experiencing homelessness who request access to the homeless shelter;

(3) a homeless shelter may not deny temporary shelter to any individual experiencing homelessness who requests access to the homeless shelter for temporary shelter unless the homeless shelter is at the capacity limit described in Subsection (1) or if a reasonable individual would conclude that the individual presents a danger to public safety;

(4) any indoor facility owned by a private organization, nonprofit organization, state government entity, or local government entity may be used to provide temporary shelter to individuals experiencing homelessness and is exempt from the licensure requirements of Title 26B, Chapter 2, Licensing and Certifications, for the duration of the code blue alert and seven days following the day on which the code blue alert ends, so long as the facility is in compliance with the applicable building code and fire code and the governing body of the organization or the legislative body of the government entity that owns the facility approves the use;

(5) homeless shelters, state and local government entities, and other organizations that provide services to individuals experiencing homelessness [~~shall~~]may coordinate street outreach efforts to distribute to individuals experiencing homelessness any available resources for survival in cold weather, including clothing items and blankets;

(6) a state or local government entity, including a municipality, law enforcement agency, and local health department, may enforce a camping ordinance but may not seize from individuals experiencing homelessness any personal items for survival in cold weather, including clothing, blankets, tents, and sleeping bags; and

(7) a municipality or other local government entity may not enforce any ordinance or policy that limits or restricts the ability for the provisions described in Subsections (1) through (5) to take effect, including local zoning ordinances.

Section 6. Section 76-6-201 is amended to read:

76-6-201. Definitions.

As used in this part:

(1) (a) "Building," in addition to its ordinary meaning, means any watercraft, aircraft, trailer, or other structure or vehicle adapted for

overnight accommodation of persons or for carrying on business and includes:

(i) each separately secured or occupied portion of the structure or vehicle; and

(ii) each structure appurtenant to or connected with the structure or vehicle.

(b) "Building" does not include a railroad car.

(2) "Dwelling" means a building which is usually occupied by a person lodging in the building at night, whether or not a person is actually present.

(3) "Enter or remain unlawfully" means a person enters or remains in or on any premises when:

(a) at the time of the entry or remaining, the premises or any portion of the premises are not open to the public; and

(b) the actor is not otherwise licensed or privileged to enter or remain on the premises or any portion of the premises.

(4) "Enter" means:

(a) intrusion of any part of the body; or

(b) intrusion of any physical object under control of the actor.

(5) "Railroad car":

(a) in addition to its ordinary meaning, includes a sleeping car or any container or trailer that is on a railroad car; and

(b) includes only a railroad car that is operable and part of an ongoing railroad operation.

(6) (a) "State property" means real property owned by or leased to the state.

(b) "State property" includes real property owned by, leased to, or managed by the School and Institutional Trust Lands Administration created in Section 53C-1-201.

(c) "State property" does not include property owned by or leased to a political subdivision of the state.

Section 7. Section 76-6-207 is enacted to read:

76-6-207. Unsanctioned camping on state property.

(1) (a) As used in this section, "camping" means:

(i) erecting or occupying structures, including tents, temporary structures, recreational vehicles, travel trailers, or motor vehicles, for camping or other living accommodation activities, including sleeping, for any period of time;

(ii) using camping-related items, including cots, beds, sleeping bags, or hammocks, for sleeping or other living accommodation activities; or

(iii) cooking using a camp fire, propane stove, or other heat-producing portable cooking equipment.

(b) Terms defined in Sections 76-1-105.1 and 76-1-201 apply to this section.

(2) An actor commits unsanctioned camping if the actor is camping on state property unless the state expressly authorizes camping on the state property.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 505
H. B. 508
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

SCHOOL DATA AMENDMENTS

Chief Sponsor: Matt MacPherson
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill requires the State Board of Education (state board) to study and make recommendations regarding local education agency (LEA) data collection, retention, student information systems, and reporting requirements.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates a Data Systems and Reporting Advisory Committee;
- ► requires the state board to study LEA practices for collection and retention of student personally identifiable information;
- ► requires analysis of LEA student information system costs and capabilities;
- ► requires examination of LEA reporting requirements and potential sunset provisions;
- ► establishes requirements for stakeholder input and coordination;
- ► requires the state board to report findings and recommendations to the Education Interim Committee; and
- ► requires legislative review of recommendations.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53E-3-526, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-3-526 is enacted to read:
53E-3-526. Student data systems and reporting study.

(1) As used in this section:

(a) "Advisory committee" means the Data Systems and Reporting Advisory Committee created in Subsection (3).

(b) "Data retention schedule" means a schedule for maintaining and disposing of student data in accordance with Section 63G-2-604.

(c) "Legacy system" means a student information system that:

(i) was implemented before May 1, 2025; and

(ii) may require manual data transmission to the state board in varying formats.

(d) "Manual data transmission" means a process that requires LEA staff to:

(i) extract data from a student information system;

(ii) modify the data format; or

(iii) manually enter data into a separate system.

(e) "Reporting requirement" means any obligation that requires an LEA to submit data or information to the state board or another governmental entity established in:

(i) statute;

(ii) state board rule; or

(iii) state board policy.

(f) "Student information system" means a computer database that:

(i) provides the functions described in Section 53E-3-518; and

(ii) maintains student records and data over time.

(g) "Student personally identifiable information" means student data that:

(i) identifies a student; or

(ii) is used by the holder to identify a student as defined in Section 53E-9-301.

(h) "System modification" means a change to a student information system required or caused by:

(i) statutory amendments;

(ii) administrative rule changes; or
(iii) state board policy updates.
(2) The state board shall:
(a) conduct a comprehensive study of LEA data practices, systems, and reporting;
(b) coordinate with the advisory committee throughout the study process;
(c) seek input from relevant stakeholders, including:
(i) school district superintendents;
(ii) charter school administrators;
(iii) LEA technology directors;
(iv) LEA student data managers;
(v) the Utah School Boards Association;
(vi) the Utah Association of Public Charter Schools;
(vii) student information system vendors; and
(viii) other parties the state board determines necessary; and
(d) establish working groups as needed to examine specific study components.
(3) The state board shall create a Data Systems and Reporting Advisory Committee that:
(a) includes representatives from:
(i) urban school districts;
(ii) rural school districts;
(iii) charter schools;
(iv) the state board;
(v) the Department of Administrative Services with expertise in regulations related to government records; and
(vi) other stakeholders as determined by the state board;
(b) provides guidance on study scope and methodology;
(c) reviews preliminary findings and recommendations;
(d) meets at least quarterly during the study period; and
(e) assists in preparing the final report.
(4) The advisory committee shall ensure the study of student data retention examines:
(a) types of student personally identifiable information collected by LEAs, including:
(i) information required by federal law;
(ii) information required by state law;
(iii) information required by administrative rule;
(iv) optional information collected by an LEA; and
(v) retention requirements for each type;
(b) methods used by LEAs to:
(i) store student personally identifiable information;
(ii) secure stored data;
(iii) control access to data;
(iv) maintain data quality;
(v) track data retention schedules; and
(vi) dispose of outdated data;
(c) compliance with:
(i) retention schedules under Section 63G-2-604;
(ii) privacy requirements under Chapter 9, Student Privacy and Data Protection;
(iii) security standards established by the state board; and
(iv) federal privacy laws;
(d) potential requirements for:
(i) annual data audits;
(ii) regular purging of non-essential data;
(iii) standardized retention schedules; and
(iv) data disposal verification; and
(e) fiscal and operational impacts of recommended changes.
(5) The advisory committee shall ensure the study of student information systems examines:
(a) current LEA expenditures for:
(i) system licensing;
(ii) hosting services;
(iii) technical support;
(iv) staff training;
(v) data extraction;

(vi) custom programming; and
(vii) system modifications;
(b) staff time required for:
(i) manual data transmission;
(ii) data validation;
(iii) error correction;
(iv) report generation; and
(v) system maintenance;
(c) frequency and cost of system modifications required by:
(i) legislative changes;
(ii) rule updates; and
(iii) new data requests;
(d) capabilities and limitations of:
(i) current LEA systems;
(ii) the state board system under Section 53E-3-518; and
(iii) potential alternative solutions;
(e) examples of statewide student information systems in other states;
(f) analysis of:
(i) total statewide spending on individual LEA systems;
(ii) projected costs of a single statewide system;
(iii) potential savings from consolidation;
(iv) implementation challenges; and
(v) transition requirements; and
(g) recommendations for improving system efficiency and cost-effectiveness.
(6) The advisory committee shall ensure the study of reporting requirements examines:
(a) existing reporting obligations, including:
(i) statutory reports;
(ii) administrative rule reports;
(iii) grant-required reports;
(iv) federal reports; and
(v) other regular data submissions;
(b) for each identified requirement:
(i) legal basis;
(ii) intended purpose;
(iii) current uses;
(iv) submission frequency;
(v) required data elements;
(vi) collection burden; and
(vii) continued relevance;
(c) potential criteria for:
(i) evaluating reporting necessity;
(ii) consolidating similar reports;
(iii) eliminating obsolete requirements; and
(iv) sunsetting provisions;
(d) methods to:
(i) track reporting obligations;
(ii) evaluate requirement impacts;
(iii) coordinate review processes; and
(iv) implement sunset procedures;
(e) processes for:
(i) annual reporting review;
(ii) sunset recommendations;
(iii) requirement reauthorization; and
(iv) stakeholder input; and
(f) proposed structures for:
(i) managing reporting requirements;
(ii) implementing sunset provisions; and
(iii) maintaining transparency.
(7) On or before September 15, 2025, the state board shall:

(a) prepare a report that includes:
(i) study findings related to student information systems as described in Subsection (5);
(ii) stakeholder input related to student information systems;
(iii) fiscal impacts;
(iv) implementation considerations; and
(v) specific recommendations for:
(A) student information system improvements;
(B) statutory changes related to student information systems;
(C) rule modifications related to student information systems; and
(D) implementation timelines; and
(b) present the report to the Education Interim Committee.
(8) On or before September 15, 2026, the state board shall:
(a) prepare a report that includes:
(i) study findings related to:
(A) student data retention as described in Subsection (4); and
(B) reporting requirements as described in Subsection (6);
(ii) stakeholder input related to these components;
(iii) fiscal impacts;
(iv) implementation considerations; and
(v) specific recommendations for:
(A) data retention policies;
(B) reporting requirement management;
(C) statutory changes related to these components;
(D) rule modifications related to these components; and
(E) implementation timelines; and
(b) present the report to the Education Interim Committee.
(9) The Education Interim Committee shall:
(a) review the state board reports described in Subsections (7) and (8);
(b) accept public testimony on the recommendations;
(c) evaluate implementation requirements; and
(d) consider whether to recommend legislation for:
(i) the 2026 General Session based on the report described in Subsection (7); and
(ii) the 2027 General Session based on the report described in Subsection (8).

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 506
H. B. 530
Passed March 4, 2025
Approved March 27, 2025
Effective May 7, 2025

UTAH INNOVATION LAB MODIFICATIONS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill reorganizes the Utah Innovation Lab into the Nucleus Institute and amends the Utah innovation fund.

Highlighted Provisions:

This bill:

- ► reorganizes the Utah Innovation Lab and creates the Nucleus Institute (institute);
- ► requires the formation of a board of directors of the institute and provides for an institute executive director;
- ► outlines the duties of the institute board and institute executive director;
- ► amends the governance and structure of the Utah innovation fund (fund) under the institute;
- ► requires the formation of an investment committee for the fund;
- ► outlines the duties of the investment committee and fund;
- ► requires reporting and auditing; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53B-37-103, Utah Code Annotated 1953
53B-37-203, Utah Code Annotated 1953
53B-37-302, Utah Code Annotated 1953
53B-37-303, Utah Code Annotated 1953
53B-37-304, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53B-37-101, (Renumbered from 63N-21-101, as enacted by Laws of Utah 2023, Chapter 38)
53B-37-102, (Renumbered from 63N-21-201, as enacted by Laws of Utah 2023, Chapter 38)
53B-37-201, (Renumbered from 63N-21-202, as enacted by Laws of Utah 2023, Chapter 38)
53B-37-202, (Renumbered from 63N-21-203, as enacted by Laws of Utah 2023, Chapter 38)
53B-37-301, (Renumbered from 63N-21-301, as enacted by Laws of Utah 2023, Chapter 38)
53B-37-305, (Renumbered from 63N-21-401, as enacted by Laws of Utah 2023, Chapter 38)
53B-37-306, (Renumbered from 63N-21-402, as enacted by Laws of Utah 2023, Chapter 38)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-37-101, which is renumbered from Section 63N-21-101 is renumbered and amended to read:

CHAPTER 37. NUCLEUS INSTITUTE ACT

PART 1. Nucleus Institute

[~~63N-21-101~~]53B-37-101. Definitions.

As used in this chapter:

[~~(1) "Board" means the board of directors of the innovation lab, as described in Section 63N-21-202.~~]

[~~(2) "Innovation lab" means the Utah Innovation Lab created in Section 63N-21-201.~~]

(1) "Executive director" means the executive director of the institute appointed under Section 53B-37-203.

(2) "Institute board" means the board of directors of the Nucleus Institute as described in Section 53B-37-201.

(3) "Investment committee" means the investment committee of the Utah innovation fund created in Section 53B-37-302.

(4) "Nucleus Institute" or "institute" means the Nucleus Institute created in Section 53B-37-102.

[~~(3)~~](5) "Qualified business" means a business entity that:

(a) is established to commercialize a technology, product, or service developed [~~through~~]in partnership with a technology

commercialization program at a public or private institution of higher education in the state; and

(b) maintains the business's principal business operations in the state.

[~~(4)~~](6) "Qualified investment" means any distribution or payment of funds to a qualified business from the Utah innovation fund, including:

(a) a direct investment of capital in a qualified business for the purchase of shares of stock;

(b) a secured loan or revolving line of credit to a qualified business; or

(c) a financial grant to a qualified business.

[~~(5)~~](7) "Utah innovation fund" means a limited liability company organized under Section [~~63N-21-301~~]53B-37-301.

Section 2. Section 53B-37-102, which is renumbered from Section 63N-21-201 is renumbered and amended to read:

[~~63N-21-201~~]53B-37-102. Creation of Nucleus Institute -- Status and applicability of other law -- Powers and purposes.

(1) There is created the [~~Utah Innovation Lab~~]Nucleus Institute.

(2) The [~~innovation lab~~]institute is:

(a) an independent, nonprofit, quasi-public corporation as defined in Section 63E-1-102; and

(b) subject to and governed by Sections 63E-2-106, [~~63E-2-107,~~]63E-2-108, [~~63E-2-109,~~]63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) The institute and the Utah innovation fund are not subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; or

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(4) Pursuant to Subsection 53B-1-402(2)(p)(i), in coordination with the board and the commissioner, the institute shall promote efficiency and support of the Utah System of Higher Education on commercialization efforts as provided in this chapter.

[~~(3)~~](5) The [~~innovation lab~~]institute shall:

(a) organize and administer the Utah innovation fund[~~.~~]; and

(b) coordinate and support innovation districts that have a connection with higher education.

[~~(4)~~](6) The [~~innovation lab~~]institute may:

(a) engage consultants and legal counsel;

(b) invest and expend funds;

(c) apply for grants;

[~~(c)~~](d) enter into contracts;

[~~(d)~~](e) insure against loss;

[~~(e)~~](f) receive private donations[~~ to be used by the Utah innovation fund for qualified investments~~];

[~~(f)~~](g) hire employees;

[~~(g) charge a fee on assets under management in the Utah innovation fund to pay for reasonable and necessary costs of the innovation lab, including the costs of the annual audit required under Section 63N-21-402; and~~]

(h) sue and be sued in the institute's own name; and

[~~(h)~~](i) perform any other act necessary to carry out the purposes of the [~~innovation lab~~]institute.

[~~(5)~~](7) The [~~innovation lab~~]institute may not:

(a) issue debt or borrow funds;

(b) exercise governmental functions;

(c) have members; or

(d) pledge the credit or taxing power of the state or any political subdivision of the state.

[~~(6) The innovation lab shall be liquidated and dissolved upon the dissolution of the Utah innovation fund.~~]

Section 3. Section 53B-37-103 is enacted to read:

53B-37-103. Office facilities, clerical, and administrative support for the Nucleus Institute.

(1) The Utah Board of Higher Education shall provide to the institute, by agreement, administrative support, office facilities, and space.

(2) The Utah Board of Higher Education may levy reasonable charges or fees against the institute pursuant to the agreement for the services provided by the Utah Board of Higher Education.

Section 4. Section 53B-37-201, which is renumbered from Section 63N-21-202 is renumbered and amended to read:

PART 2. Nucleus Institute Governance

[~~63N-21-202~~]53B-37-201. Board of directors -- Membership -- Limitations.

(1) The [~~innovation lab~~]institute shall be governed by a board of directors which shall manage and conduct the business and affairs of the [~~innovation lab~~]institute.

(2) The institute board shall consist of seven voting members as follows:

(a) the executive director, appointed as described in Section 53B-37-203;

(b) the director of the Talent Ready Utah Program, described in Section 53B-34-103; and

(c) five individuals with relevant experience, jointly appointed by the commissioner, the executive director, and the director of the Talent Ready Utah Program described in Section 53B-34-103.

[~~(2) The board shall consist of seven voting members as follows:~~]

[~~(a) one individual who represents technology commercialization initiatives within the Utah system of higher education, appointed by the commissioner of higher education, or the individual's designee;~~]

[~~(b) one individual who leads technology commercialization efforts at the University of Utah, appointed by the president of the University of Utah, or the individual's designee;~~]

[~~(c) one individual who leads technology commercialization efforts at Utah State University, appointed by the president of Utah State University, or the individual's designee;~~]

[~~(d) the chief executive officer of World Trade Center Utah, or the chief executive officer's designee; and~~]

[~~(e) three representatives of private industry, appointed by the members described in Subsections (2)(a) through (d).~~]

(3) (a) A member described in Subsection [~~(2)(e)~~](2)(c):

(i) shall serve a term of two years; and

(ii) may serve more than one term.

(b) The commissioner, jointly with the executive director and the director of the Talent Ready Utah Program described in Section 53B-34-103, may remove a member from the institute board.

[~~(b)~~](c) If a vacancy occurs for a member described in Subsection [~~(2)(e)~~](2)(c), the [~~members described in Subsections (2)(a) through (d)~~]commissioner, jointly with the executive director and the director of the Talent Ready Utah Program described in Section 53B-34-103, shall appoint a replacement to serve the remainder of the member's term.

[~~(4) (a) The board may appoint up to two additional nonvoting members to provide industry and technical expertise.~~]

[~~(b) A member of the board appointed under Subsection (4)(a) serves at the pleasure of the board and may be removed and replaced at any time, with or without cause.~~]

(4) The executive director shall serve as the chair of the institute board.

[~~(5) The board shall elect a chair from the board's members, who shall serve a two-year term.~~]

[~~(6)~~](5) (a) A majority of the members of the institute board constitutes a quorum of the institute board.

(b) The action by a majority of the members of a quorum constitutes the action of the institute board.

[~~(7)~~](6) A member of the institute board:

(a) is subject to any restrictions on conflicts of interest specified in the organizational documents of the [~~innovation lab~~]institute;

[~~(b) shall annually disclose any private equity interests to the innovation lab;~~]

[~~(c)~~](b) may not [~~participate in~~]influence a vote by the [~~board~~]investment committee related to a qualified investment by the Utah innovation fund, if the member has an interest in the qualified investment; and

[~~(d)~~](c) except for the executive director, may not receive compensation or benefits for the member's service.

Section 5. Section 53B-37-202, which is renumbered from Section 63N-21-203 is renumbered and amended to read:

[~~63N-21-203~~]53B-37-202. Institute board duties and powers.

(1) The institute board shall:

(a) manage and conduct the business and affairs of the [~~innovation lab~~]institute and determine all questions of [~~innovation lab~~]institute and Utah innovation fund policy;

(b) provide strategic oversight for all institute initiatives;

(c) support and guide workforce development, innovation, and policy integration across institutions and industry;

[~~(b) consistent with this chapter, establish policies, procedures, and strategies for the administration of the Utah innovation fund, including eligibility criteria, application requirements, performance metrics, and reporting requirements for a qualified business to receive a qualified investment from the Utah innovation fund; and~~]

(d) consistent with this chapter, oversee the Utah innovation fund and investment committee;

(e) coordinate efforts and collaborations across innovation districts;

(f) create opportunities for students through projects and partnerships;

(g) set compensation and incentives for the executive director;

(h) advance the purposes of the Utah innovation fund as described in Section 53B-37-301; and

(i) consider investment proposals and determine whether a proposal furthers the objectives of the fund.

[~~(c) approve any decision of the Utah innovation fund to make a qualified investment.~~]

(2) The institute board may establish independent committees for the purpose of assisting the institute board in an advisory role.

(3) In coordination with the Governor's Office of Economic Opportunity, the institute board shall convene and facilitate discussions with industry, education, and policy makers to promote regulatory innovation.

Section 6. Section 53B-37-203 is enacted to read:

53B-37-203. Executive director appointment -- Duties and powers.

(1) The commissioner shall appoint an executive director for the institute.

(2) The executive director shall serve as the chair of the institute board as described in Section 53B-37-202.

(3) The executive director shall:

(a) manage the day-to-day operations of the institute and the Utah innovation fund;

(b) execute the policies of the institute board;

(c) oversee the investment and expenditure of funds;

(d) oversee qualified investments made by the Utah innovation fund;

(e) assess reasonable fees for management of assets in the Utah innovation fund for reasonable costs of the Utah innovation fund;

(f) consult with the institute board regarding policies and direction of the institute;

(g) prepare an operating budget for the institute and submit the operating budget to the Utah Board of Higher Education for approval;

(h) adopt a budget submitted by the chair of the investment committee;

(i) establish job descriptions and, within budgetary constraints, employ staff necessary to accomplish the purposes of the institute and

Utah innovation fund; and

(j) execute other duties as assigned by the institute board.

(4) The executive director may:

(a) hire and supervise necessary staff for the institute;

(b) manage contracts and collaborations with consultants; and

(c) enter into contracts on behalf of the institute.

Section 7. Section 53B-37-301, which is renumbered from Section 63N-21-301 is renumbered and amended to read:

PART 3. Utah Innovation Fund

[~~63N-21-301~~]53B-37-301. Organization of Utah innovation fund -- Powers and purposes -- Use of investment proceeds.

(1) (a) The [~~innovation lab~~]institute shall organize, and be the sole member and manager of, the Utah innovation fund.

(b) The Utah innovation fund shall be organized as a limited liability company.

(c) The Utah innovation fund may:

(i) engage consultants and legal counsel;

(ii) invest and expend funds;

(iii) use funds for operations of the Utah innovation fund;

[~~(iii)~~](iv) enter into contracts;

[~~(iv)~~](v) insure against loss;

[~~(v)~~](vi) hire employees; and

[~~(vi)~~](vii) perform any other act necessary to carry out the purposes of the Utah innovation fund.

(2) The Utah innovation fund shall, subject to [~~board~~]investment committee approval, make qualified investments in a manner and for the following purposes:

(a) to advance innovative technologies developed in Utah;

(b) to strengthen Utah's economy and facilitate job creation;

(c) to help qualified businesses gain access to capital;

(d) to attract entrepreneurs and innovation to Utah;

(e) to facilitate the commercialization of technologies discovered, advanced, or developed at state institutions of higher education;

(f) to advance the competitiveness of Utah businesses in the global economy;

(g) to ensure that the Utah innovation fund remains financially self-sustaining; and

(h) to encourage other investors to invest in qualified businesses alongside the Utah innovation fund.

(3) The Utah innovation fund shall hold and manage qualified investments made by the Utah innovation fund and the proceeds of those qualified investments.

(4) The Utah innovation fund may charge a fee on assets under management in the Utah innovation fund to pay for reasonable and necessary costs of the Utah innovation fund, including the costs of the annual audit required under Section 53B-37-306.

Section 8. Section 53B-37-302 is enacted to read:

53B-37-302. Utah innovation fund investment committee.

(1) The Utah innovation fund shall be governed by an investment committee.

(2) The investment committee shall consist of five members appointed by the institute board.

(3) (a) A member of the investment committee:

(i) shall serve a term of two years; and

(ii) may serve more than one term.

(b) If a vacancy occurs for a member of the investment committee, the institute board shall appoint a replacement to serve the remainder of the member's term.

(c) The commissioner or the institute board may remove a member of the investment committee for cause.

(4) The institute board shall appoint a chair of the investment committee.

(5) The investment committee may appoint up to two additional nonvoting members to provide industry and technical expertise.

(6) (a) A member of the investment committee:

(i) shall have significant experience in venture capital or entrepreneurship;

(ii) is subject to any restrictions on conflicts of interest specified in the organizational documents of the institute;

(iii) may not participate in a vote by the investment committee related to a qualified investment by the Utah innovation fund if the member has an interest in the qualified investment; and

(iv) except as provided in Subsection (6)(b), may not receive compensation or benefits for the member's service.

(b) The chair of the investment committee may receive compensation or benefits for the chair's service.

(7) (a) A majority of the members of the investment committee constitutes a quorum of the investment committee.

(b) The action by a majority of the members of a quorum constitutes the action of the investment committee.

Section 9. Section 53B-37-303 is enacted to read:

53B-37-303. Utah innovation fund investment committee duties.

(1) The investment committee shall:

(a) comply with guidelines and directives from the institute board;

(b) manage and conduct business affairs of the Utah innovation fund;

(c) establish policies for the management of the Utah innovation fund, including:

(i) an investment management code of conduct and associated compliance policy;

(ii) a policy for the strategic allocation of Utah innovation fund assets; and

(iii) a policy articulating the investment committee's investment philosophy for Utah innovation fund assets; and

(d) ensure that policies adopted by the investment committee are:

(i) consistent with this chapter, the Utah Constitution, and other applicable law;

(ii) consistent with sound fiduciary principles; and

(iii) designed to maintain the integrity of the Utah innovation fund and prevent the misapplication of money in the Utah innovation fund.

(2) The investment committee shall engage a third-party to audit the Utah innovation fund at least annually.

Section 10. Section 53B-37-304 is enacted to read:

53B-37-304. Utah innovation fund investment committee chair -- Duties.

(1) The institute board shall appoint and determine compensation for a chair of the investment committee.

(2) The committee chair shall:

(a) manage and execute the policies established by the institute board and the investment committee;

(b) in consultation with the investment committee, manage qualified investments made by the Utah innovation fund;

(c) annually submit to the institute:

(i) a budget for the Utah innovation fund; and

(ii) a financial plan for operations of the Utah innovation fund;

(d) in accordance with generally accepted principles of fund accounting, establish a system to identify and account for Utah innovation fund assets;

(e) maintain appropriate records of Utah innovation fund activities to enable auditors to conduct periodic audits as described in Section 53B-37-306; and

(f) fulfill other duties as provided by the investment committee.

Section 11. Section 53B-37-305, which is renumbered from Section 63N-21-401 is renumbered and amended to read:

[~~63N-21-401~~]53B-37-305. Annual report.

(1) On or before [~~September~~]October 1 of each year, the [~~innovation lab~~]institute shall publish an annual report of the activities conducted by the Utah innovation fund and submit, in accordance with Section 68-3-14, the written report to:

(a) the governor;

[~~(b) the Business, Economic Development, and Labor Appropriations Subcommittee;~~]

[~~(c)~~](b) the Economic Development and Workforce Services Interim Committee; and

(c) the Executive Appropriations Committee.

[~~(d) the Retirement and Independent Entities Interim Committee.~~]

(2) The annual report shall:

(a) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;

(b) include a copy of the annual audit required under Section [~~63N-21-402~~]53B-37-306;

(c) describe the policies adopted by the board under Subsection [~~63N-21-203(1)(b)~~]53B-37-303(1)(c);

(d) include detailed information regarding:

(i) the name and location of each qualified business that received capital from the Utah innovation fund;

(ii) the amount of each qualified investment made by the Utah innovation fund;

(iii) the aggregate amount of capital provided to qualified businesses; and

(iv) realized gains from qualified investments and any realized losses;[~~ and~~]

[~~(v) unrealized gains and any unrealized losses based on the net present value of ongoing qualified investments;~~]

(e) include detailed information regarding the [~~innovation lab's~~]institute's yearly expenditures, including:

(i) administrative, operating, and financing expenses; and

(ii) aggregate compensation information for full-time and part-time employees, including benefit and travel expenses;

(f) include detailed information regarding all funding sources for administrative, operating, and financing expenses, including any fees charged by the [~~innovation lab~~]institute to the Utah innovation fund under Subsection [~~63N-21-201(4)(g)~~]53B-37-203(3)(e); and

(g) include an explanation of the Utah innovation fund's progress in achieving the purposes described in Subsection [~~63N-21-301(2)~~]53B-37-301(2).

Section 12. Section 53B-37-306, which is renumbered from Section 63N-21-402 is renumbered and amended to read:

[~~63N-21-402~~]53B-37-306. Annual audit.

(1) Each calendar year, an audit of the activities of the Utah innovation fund shall be conducted by:

(a) the state auditor; or

(b) [~~an independent auditor engaged by the state auditor~~]the state auditor's designee.

(2) [~~An independent auditor~~]A designee described in Subsection (1)(b) may not have a business, contractual, or other connection to the [~~innovation lab~~]institute or the Utah innovation fund.

(3) The annual audit shall:

(a) include a valuation of the assets owned by the Utah innovation fund as of the end of the reporting year, using market-standard techniques for assets typically held by early stage private investment and venture capital funds;

(b) include an opinion regarding the accuracy of the information provided in the annual report described in Section [~~63N-21-401~~]53B-37-305; and

(c) on or before September 1, be delivered to:

(i) the [~~innovation lab~~]institute; and

(ii) the state treasurer.

(4) The [~~innovation lab~~]institute shall pay the costs associated with the annual audit.

Section 13. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 507
H. B. 534
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

ADULT PROTECTIVE SERVICES AMENDMENTS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions regarding Adult Protective Services.

Highlighted Provisions:

This bill:

- ► amends definitions and defines terms;
- ► allows Adult Protective Services to make a substantiated finding of abuse, neglect, or exploitation of a vulnerable adult if the alleged perpetrator refuses to provide certain documents; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-6-201, as last amended by Laws of Utah 2024, Chapter 364
26B-6-203, as last amended by Laws of Utah 2023, Chapter 318 and renumbered and amended by Laws of Utah 2023, Chapter 308

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-6-201 is amended to read:

26B-6-201. Definitions.

As used in this part:

(1) "Abandonment" means [~~any~~]a knowing or intentional action or [~~failure to act~~]inaction, including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.

(2) "Abuse" means:

(a) knowingly[~~, or~~], intentionally, or recklessly:

(i) attempting to cause harm;

(ii) causing harm;[~~ or~~]

(iii) placing another in fear of imminent harm;

(iv) causing physical injury by acts or omissions; or

(v) engaging in a pattern of neglect;

(b) unreasonable or inappropriate use of physical restraint, medication, or isolation that, unless the physical restraint, medication, or isolation furthers the health and safety of the vulnerable adult:

(i) causes or is likely to cause harm to a vulnerable adult;

(ii) conflicts with a physician's orders; or

(iii) is used as an unauthorized substitute for treatment;

(c) emotional or psychological abuse;

(d) a sexual offense as described in Title 76, Chapter 5, Offenses Against the Individual; or

(e) deprivation of life sustaining treatment, or medical or mental health treatment, except:

(i) as provided in Title 75A, Chapter 3, Health Care Decisions; or

(ii) when informed consent[~~, as defined in Section 76-5-111,~~] has been obtained.

(3) "Adult" means an individual who is 18 years old or older.

(4) "Adult protection case file" means a record, stored in any format, contained in a case file maintained by Adult Protective Services.

(5) "Adult Protective Services" means the unit within the division responsible to investigate abuse, neglect, and exploitation of vulnerable adults and provide appropriate protective services.

(6) "Capacity" means that an individual has sufficient understanding and memory to comprehend the individual's situation and the nature, purpose, and consequence of an act or transaction into which the individual enters or proposes to enter.

[~~(6)~~](7) "Capacity to consent" means the ability of an individual to understand and communicate regarding the nature and

consequences of decisions relating to the individual, and relating to the individual's property and lifestyle, including a decision to accept or refuse services.

[~~(7)~~](8) "Caretaker" means a person or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, resource management, or other necessities for pecuniary gain, by contract, or as a result of friendship, or who is otherwise in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.

[~~(8)~~](9) "Counsel" means an attorney licensed to practice law in this state.

[~~(9)~~](10) "Database" means the statewide database maintained by the division under Section 26B-6-210.

(11) "Decision-making ability" means an individual's capacity to receive, process, and understand information, to comprehend the individual's circumstances, and to understand the likely consequences of the individual's decisions.

[~~(10)~~](12) (a) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.

(b) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

[~~(11)~~](13) "Elder abuse" means abuse, neglect, or exploitation of an elder adult.

[~~(12)~~](14) "Elder adult" means an individual 65 years old or older.

[~~(13)~~](15) "Emergency" means a circumstance in which a vulnerable adult is at an immediate risk of death, serious physical injury, or serious physical, emotional, or financial harm.

[~~(14)~~](16) "Emergency protective services" means measures taken by Adult Protective Services under time-limited, court-ordered authority for the purpose of remediating an emergency.

[~~(15)~~](17) (a) "Emotional or psychological abuse" means knowing or intentional verbal or nonverbal conduct directed at a vulnerable adult that [~~results in the vulnerable adult suffering~~]would cause a reasonable individual to suffer mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(b) "Emotional or psychological abuse" includes intimidating, threatening, isolating, coercing, or harassing.

(c) "Emotional or psychological abuse" does not include verbal or non-verbal conduct by a vulnerable adult who lacks the capacity to intentionally or knowingly:

(i) engage in the conduct; or

(ii) cause mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(18) "Endangerment" means an offense described in Section 76-5-112 or 76-5-112.5.

[~~(16)~~](19) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or 76-5b-202.

[~~(17)~~](20) "Harm" means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, serious physical injury, suffering, or distress inflicted knowingly or, intentionally.

[~~(18)~~](21) "Inconclusive" means a finding by the division that there is not a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

(22) "Informed consent" means:

(a) a written expression by the individual, or authorized by the individual, that:

(i) is given while the individual is of sound mind;

(ii) is witnessed by at least two individuals who do not benefit from the withdrawal of services; and

(iii) states that:

(A) the individual fully understands the potential risks and benefits of the withdrawal of food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health; and

(B) the individual desires that the services be withdrawn; or

(b) consent to withdraw food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, as permitted by court order.

[~~(19)~~](23) "Intimidation" means communication through verbal or nonverbal conduct which threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or which threatens isolation or abuse.

[~~(20)~~](24) (a) "Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

(i) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the expressed wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

(ii) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(iii) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

(b) "Isolation" does not include an act:

(i) intended in good faith to protect the physical or mental welfare of the vulnerable adult; or

(ii) performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.

[~~(21)~~](25) "Lacks capacity to consent" is as defined in Section 76-5-111.4.

[~~(22)~~](26) [~~(a)~~] "Neglect" means:

[~~(i)~~](a) [~~(A)~~](i) failure of a caretaker to provide [~~necessary care, including~~]nutrition, clothing, shelter, supervision, personal care, or dental[~~, medical,~~] or other health care[~~ for a vulnerable adult, unless the vulnerable adult is able to provide or obtain the necessary care without assistance~~]; or

[~~(B)~~](ii) failure of a caretaker to provide protection from health and safety hazards or maltreatment;

[~~(ii)~~](b) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

[~~(iii)~~](c) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;

[~~(iv)~~](d) [~~knowing or~~]intentional failure by a caretaker to carry out a prescribed treatment plan that [~~causes or is likely to cause~~]results or could result in physical injury or physical harm to the vulnerable adult; or

[~~(v) self-neglect by the vulnerable adult; or~~]

[~~(vi)~~](e) abandonment by a caretaker.

[~~(b) "Neglect" does not include conduct, or failure to take action, that is permitted or excused under Title 75A, Chapter 3, Health Care Decisions.~~]

[~~(23)~~](27) "Physical injury" includes the damage and conditions described in Section 76-5-111.

(28) "Position of trust and confidence" means the position of a person who:

(a) is a parent, spouse, adult child, or other relative of a vulnerable adult;

(b) is a joint tenant or tenant in common with a vulnerable adult;

(c) has a legal or fiduciary relationship with a vulnerable adult, including a court-appointed or voluntary guardian, trustee, attorney, attorney-in-fact, or conservator;

(d) is a caretaker of a vulnerable adult; or

(e) is a person whom a vulnerable adult has come to trust.

[~~(24)~~](29) "Protected person" means a vulnerable adult for whom the court has ordered protective services.

[~~(25)~~](30) "Protective services" means services to protect a vulnerable adult from abuse, neglect, or exploitation.

[~~(26)~~](31) "Self-neglect" means the failure of a vulnerable adult to provide or obtain food, water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain the vulnerable adult's well being when that failure is the result of the adult's mental or physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be evidence of self-neglect.

[~~(27)~~](32) "Serious physical injury" is as defined in Section 76-5-111.

[~~(28)~~](33) "Supported" means a finding by the division that there is a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

[~~(29)~~](34) "Undue influence" occurs when a person:

(a) uses influence to take advantage of a vulnerable adult's mental or physical impairment; or

(b) uses the person's role, relationship, [~~or~~]power, or trust:

(i) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult; or

(ii) to gain control deceptively over the decision making of the vulnerable adult.

[~~(30)~~](35) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or physical impairment which substantially affects that person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or [~~mental~~]medical or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own [~~financial~~]resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(31)~~](36) "Without merit" means a finding that abuse, neglect, or exploitation did not occur.

Section 2. Section 26B-6-203 is amended to read:

26B-6-203. Powers and duties of Adult Protective Services.

In addition to all other powers and duties that Adult Protective Services is given under this part, Adult Protective Services:

(1) shall maintain an intake system for receiving and screening reports;

(2) shall investigate referrals that meet the intake criteria;

(3) shall conduct assessments of vulnerability and functional capacity as it relates to an allegation of abuse, neglect, or exploitation of an adult who is the subject of a report;

(4) shall perform assessments based on protective needs and risks for a vulnerable adult who is the subject of a report;

(5) may address any protective needs by making recommendations to and coordinating with the vulnerable adult or by making referrals to community resources;

(6) may provide short-term, limited services to a vulnerable adult when family or community resources are not available to provide for the protective needs of the vulnerable adult;

(7) shall have access to facilities licensed by, or contracted with, the department for the purpose of conducting investigations;

(8) shall be given access to, or provided with, written statements, documents, exhibits, and other items related to an investigation, including private, controlled, or protected medical or financial records of a vulnerable adult who is the subject of an investigation if:

(a) for a vulnerable adult who has the capacity to consent, the vulnerable adult signs a release of information; or

(b) an administrative subpoena is issued by Adult Protective Services:

(i) for a vulnerable adult who has limited capacity to consent;

(ii) for a vulnerable adult whose legal guardian refuses to consent;

(iii) to a custodian of records or other items for a vulnerable adult, if the custodian refuses to allow access to the records or items without a subpoena; or

(iv) when the records or other items sought are reasonably necessary for Adult Protective Services to:

(A) investigate the alleged abuse, neglect, or exploitation of a vulnerable adult; or

(B) protect the vulnerable adult who may be the victim of abuse, neglect, or exploitation;

(9) may initiate proceedings in a court of competent jurisdiction to seek relief necessary to carry out the provisions of this chapter;

(10) may make a supported finding of abuse, neglect, or exploitation of a vulnerable adult against an alleged perpetrator if documents subpoenaed or requested by Adult Protective Services are not provided by the alleged perpetrator;

[~~(10)~~](11) shall, subject to Section 26B-6-217, provide emergency protective services;

[~~(11)~~](12) may require all persons, including family members of a vulnerable adult and any caretaker, to cooperate with Adult Protective Services in carrying out its duties under this chapter, including the provision of statements, documents, exhibits, and other items that assist Adult Protective Services in conducting investigations and providing protective services;

[~~(12)~~](13) may require all officials, agencies, departments, and political subdivisions of the state to assist and cooperate within their jurisdictional power with the court, the division, and Adult Protective Services in furthering the purposes of this chapter;

[~~(13)~~](14) may conduct studies and compile data regarding abuse, neglect, and exploitation; and

[~~(14)~~](15) may issue reports and recommendations.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 508
H. B. 77
Passed March 6, 2025
Approved March 27, 2025
Effective May 7, 2025

FLAG DISPLAY AMENDMENTS

Chief Sponsor: Trevor Lee
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill allows the display of certain flags on government property.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► prohibits a government entity or employee of a government entity from displaying a flag in or on the grounds of government property except certain exempted flags;
- ► requires the state auditor to ensure compliance, including by imposing fines;
- ► requires the attorney general to defend and the state to hold harmless an individual acting under color of state law to enforce the flag display statute within the public education system; and
- ► provides severability.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-3-1, as last amended by Laws of Utah 2024, Chapters 3, 158

ENACTS:

63G-1-704, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-704 is enacted to read:

63G-1-704. Display of flags on government property -- Indemnification -- Severability.

(1) As used in this section:

(a) "Display" means, in regards to a flag, to place a flag in a prominent location on government property where the flag is easily visible.

(b) "Flag" means a usually rectangular piece of fabric with a specific design that symbolizes a location, government entity, or cause.

(c) "Government entity" means:

(i) any local government entity, as defined in Section 63A-5b-901, including a school within the public education system; or

(ii) any state agency, as defined in Section 63A-5b-901.

(d) "Government property" means any property under the ownership or control of a government entity.

(e) "LEA governing board" means the same as that term is defined in Section 53E-1-102.

(2) Except as provided in Subsection (3), a government entity, or an employee of a school district or school within the public education system acting within the employee's official duties, may not:

(a) display a flag in or on the grounds of government property; or

(b) display an exempt flag described in Subsection (3) with alterations in color, symbols, or appearance.

(3) The prohibition described in Subsection (2) does not apply to the following flags:

(a) the official flag of the United States described in Title 4 U.S.C., Ch. 1, The Flag, and Executive Order 1959-10834, and in accordance with Section 53G-7-211;

(b) an official Utah state flag as described in Title 63G, Chapter 1, Part 5, State Flags;

(c) the current and official flag of another country, state, or political subdivision of another country or state;

(d) a flag that represents a city, municipality, county, or political subdivision of the state, as those terms are defined in Sections 10-1-104, 10-2-301, 17-50-101, and 17B-1-102;

(e) a flag that represents a branch, unit, or division of the United States military;

(f) the National League of Families POW/MIA flag as described in 36 U.S.C. Sec. 902;

(g) a flag that represents an Indian tribe as defined in federal law;

(h) an officially licensed flag of a college or university depicting only the colors, logos, and marks consistent with official college or university branding;

(i) a historic version of a flag described in Subsections (3)(a) and (b);

(j) an official public school flag;

(k) an official flag of the United States Olympic Committee, United States Paralympic Committee, International Olympic Committee, or International Paralympic Committee;

(l) an official flag of an olympiad or paralympiad that occurred or will occur within the state; or

(m) a flag of an organization authorized to use a public school facility at the location and during the time in which the organization is authorized to use the public school facility.

(4) (a) The state auditor shall:

(i) establish a process to receive and investigate alleged violations of this section;

(ii) provide notice to the relevant government entity of:

(A) each alleged violation of this section involving the government entity;

(B) each violation that the state auditor determines to be substantiated, including an opportunity to cure the violation not to exceed 30 calendar days;

(iii) if a government entity, other than a school district or a school within the public education system, fails to cure a violation in accordance with Subsection (4)(a)(ii)(B), impose a fine of $500 per violation per day; and

(iv) deposit fines described in Subsection (4)(a)(iii) into the General Fund.

(b) A government entity may seek judicial review of a fine the state auditor imposes under this section to determine whether the imposition of the fine is clearly erroneous.

(5) Nothing in this section, for a local education agency, as defined in Section 53E-1-102:

(a) limits the authority of the agency related to student expression under applicable federal or state law; or

(b) removes the agency's obligation to protect all students from discrimination.

(6) Regarding a school district or a school within the public education system, the attorney general shall defend and the state shall indemnify and hold harmless a person acting under color of state law to enforce this section for any claims or damages, including court costs and attorney fees, that:

(a) arise as a result of this section; and

(b) are not covered by the person's insurance policies or by any coverage agreement the State Risk Management Fund issues.

(7) If any provision of this section or the application of any provision of this section to any person or circumstance is held invalid by a final decision of a court, the remainder of this section shall be given effect without the invalidated provision or application.

Section 2. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts

and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Carson Smith Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402, including an analysis of the cost effectiveness of the program, taking into consideration the amount of the scholarship and the amount of state and local funds dedicated on a per-student basis within the traditional public education system.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23) (a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

(24) The state auditor shall:

(a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and

(b) report to the Legislative Management Committee, upon request, regarding the state auditor's actions under this Subsection (24).

(25) The state auditor shall report compliance with Sections 67-27-107, 67-27-108, and 67-27-109 by:

(a) establishing a process to receive and audit each alleged violation; and

(b) reporting to the Legislative Management Committee, upon request, regarding the state auditor's findings and recommendations under this Subsection (25).

(26) The state auditor shall ensure compliance with Section 63G-1-704 regarding the display of flags in or on government property.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 509
H. B. 537
Passed March 7, 2025
Approved March 27, 2025
Effective July 1, 2025

UTAH SCHOOLS FOR THE DEAF AND THE BLIND AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to the governance of the Utah Schools for the Deaf and the Blind.

Highlighted Provisions:

This bill:

- converts the Utah Schools for the Deaf and the Blind from a public corporation to a subdivision of the State Board of Education (state board);
- requires the state board to:
  - ensure functional operation and oversight; and
  - administer financial operations; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-8-201, as last amended by Laws of Utah 2019, Chapters 186, 314
53E-8-202, as renumbered and amended by Laws of Utah 2018, Chapter 1
53E-8-204, as last amended by Laws of Utah 2020, Chapter 408

REPEALS:

53E-8-101, as enacted by Laws of Utah 2018, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-8-201 is amended to read:

53E-8-201. Utah Schools for the Deaf and the Blind created -- Designated LEA -- Services statewide.

(1) The Utah Schools for the Deaf and the Blind is created as a subdivision of the state board and a single public school agency that includes:

(a) the Utah School for the Deaf;

(b) the Utah School for the Blind;

(c) programs for students who are deafblind; and

(d) the Parent Infant Program.

(2) Under the general control and supervision of the state board, consistent with the state board's constitutional authority, the Utah Schools for the Deaf and the Blind:

(a) may provide services to students statewide:

(i) who are deaf, blind, or deafblind; or

(ii) who are neither deaf, blind, nor deafblind, if allowed under rules of the state board established pursuant to Section 53E-8-401; and

(b) shall serve as the designated LEA for a student and assume the responsibilities of providing services as prescribed through the student's IEP or Section 504 accommodation plan when the team that develops the student's IEP or Section 504 accommodation plan determines that the student be placed at the Utah Schools for the Deaf and the Blind.

(3) When the Utah Schools for the Deaf and the Blind becomes a student's designated LEA, the LEA of record and the Utah Schools for the Deaf and the Blind shall ensure that all rights and requirements regarding individual student assessment, eligibility, services, placement, and procedural safeguards provided through the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq. and Section 504 of the Rehabilitation Act of 1973, as amended, remain in force.

(4) Nothing in this section diminishes the responsibility of a student's LEA of record for the education of the student as provided in Chapter 7, Part 2, Special Education Program.

Section 2. Section 53E-8-202 is amended to read:

53E-8-202. Corporate powers -- Property -- Establishment of a foundation.

(1) The Utah Schools for the Deaf and the Blind is a [~~public corporation with perpetual succession and a corporate seal~~]subdivision of the state board.

(2) The state board, on behalf of the Utah Schools for the Deaf and the Blind, may:

(a) sue and be sued;

(b) contract and be contracted with;

(c) take and hold by purchase, gift, devise, or bequest real and personal property required for its uses; and

(d) convert property, if not suitable for its use, into other property or money.

(3) The property of the Utah Schools for the Deaf and the Blind is exempt from taxes and assessments.

(4) The Utah Schools for the Deaf and the Blind may establish a foundation as described in Section 53E-3-403.

Section 3. Section 53E-8-204 is amended to read:

53E-8-204. Authority of the state board -- Rulemaking -- Superintendent -- Advisory council.

(1) (a) The state board is the governing board of the Utah Schools for the Deaf and the Blind.

(b) The state board shall, as the state board determines necessary, establish committees, policies, or processes necessary to the function and oversight of the Utah Schools for the Deaf and the Blind.

(2) (a) The state board shall appoint a superintendent for the Utah Schools for the Deaf and the Blind.

(b) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the qualifications, terms of employment, and duties of the superintendent for the Utah Schools for the Deaf and the Blind.

(3) The superintendent shall:

(a) subject to the approval of the state board, appoint an associate superintendent to administer the Utah School for the Deaf based on:

(i) demonstrated competency as an expert educator of deaf persons; and

(ii) knowledge of school management and the instruction of deaf persons; and

(b) subject to the approval of the state board, appoint an associate superintendent to administer the Utah School for the Blind based on:

(i) demonstrated competency as an expert educator of blind persons; and

(ii) knowledge of school management and the instruction of blind persons, including an understanding of the unique needs and education of deafblind persons.

(4) The state board shall[-]:

(a) approve the annual budget and expenditures of the Utah Schools for the Deaf and the Blind[-]; and

(b) administer the financial operations of the Utah Schools for the Deaf and the Blind.

(5) (a) The state board shall submit a report in accordance with Section 53E-1-201 on the Utah Schools for the Deaf and the Blind.

(b) The state board shall ensure that the report described in Subsection (5)(a) includes:

(i) a financial report;

(ii) a report on Utah Schools for the Deaf and the Blind programs and activities; and

(iii) a report of student academic performance.

Section 4. Repealer.

This bill repeals:

Section 53E-8-101, Title.

Section 5. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 510
H. B. 353
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

CRIMINAL CODE AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill concerns certain criminal offenses.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires certain state agencies to regularly review and make recommendations concerning certain statutory criminal offenses;
- ► requires the State Commission on Criminal and Juvenile Justice to receive, compile, and submit a report on state agency reviews of statutory criminal offenses;
- ► lowers the penalty for criminal violations concerning an unauthorized use of a name in a charity solicitation;
- ► repeals the criminal offense relating to abuse of the flag;
- ► contains a coordination clause to coordinate technical changes between this bill and H.B. 21, Criminal Code Recodification and Cross References, due to the repeal of Section 76-10-604 in H.B. 21;
- ► contains a coordination clause coordinating technical changes between this bill, H.B. 21, Criminal Code Recodification and Cross References, and H.B. 38, Criminal Offenses Modifications;
- ► makes technical and clarifying changes to Section 76-9-803; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

63M-7-204, as last amended by Laws of Utah 2024, Chapter 345
76-9-803, as enacted by Laws of Utah 2008, Chapter 15
76-10-604, as last amended by Laws of Utah 1995, Chapter 20

ENACTS:

67-28-101, Utah Code Annotated 1953
67-28-102, Utah Code Annotated 1953

REPEALS:

76-9-601, as enacted by Laws of Utah 1973, Chapter 196

Utah Code Sections Affected by Coordination Clause:

AMENDS:

76-9-803, as enacted by Laws of Utah 2008, Chapter 15

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The commission shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce

crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by:

(i) [-]agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111and Subsection 26B-5-102(2)(l); and

(ii) state agencies under Section 67-28-102;

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

(v) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(w) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 26B-5-102(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental health or substance use treatment program;

(x) publish the report described in Subsection (1)(w) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees;

(y) receive, compile, and publish on the commission's website the data provided under:

(i) Section 53-25-202;

(ii) Section 53-25-301; and

(iii) Section 53-25-401;

(z) review, research, advise, and make recommendations to the three branches of government regarding evidence-based sex offense management policies and practices, including supervision standards, treatment standards, and the sex offender registry;

(aa) receive and evaluate a referral from the Department of Public Safety received under Section 53-21-104.3 involving a denial of mental health resources to an eligible individual, including, if appropriate in the commission's discretion, deny the relevant entity from receiving any grant of state funds under Section 63M-7-218 for a specified period of time; and

(bb) accept public comment.

(2) (a) The commission may designate an entity to perform the duties described in this part.

(b) If the commission designates an entity under Subsection (2)(a), the commission shall ensure that the membership of the designated entity includes representation from relevant stakeholder groups from the parts of the justice system implicated in the policy area.

(3) in fulfilling the commission's duties under Subsection (1), the commission may seek input and request assistance from groups with knowledge and expertise in criminal justice, including other boards and commissions affiliated or housed within the commission.

Section 2. Section 67-28-101 is enacted to read:

CHAPTER 28. STATE AGENCY CRIMINAL OFFENSE REVIEW REQUIREMENTS

67-28-101. Definitions.

As used in this chapter:

(1) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) "Criminal offense" means an act or omission that may result in a felony, misdemeanor, or infraction.

(3) (a) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

(b) "State agency" does not include the attorney general.

Section 3. Section 67-28-102 is enacted to read:

67-28-102. State agency review and recommendation regarding criminal offenses.

(1) Except as provided in Subsection (4), on or before July 1, 2026, and on or before July 1 every three years after 2026, every state agency shall complete a review of the criminal offenses contained in the statutes:

(a) for which the state agency is responsible to prosecute or refer for prosecution; or

(b) contained in the state agency's designated area of code.

(2) (a) A state agency review required under this section shall require the state agency to evaluate each criminal offense described in Subsection (1) and recommend whether the criminal offense:

(i) would benefit from legislative amendment, clarification, or repeal; and

(ii) should have the penalty level increased, reduced, or remain the same.

(b) The review under Subsection (2)(a) shall include the state agency's specific recommendations and reasoning for any recommended statutory changes.

(c) Each state agency shall submit the results of the review required under this section to the commission:

(i) within 30 days after the day on which the review is completed; and

(ii) in the standardized format developed by the commission under Subsection (3).

(3) The commission shall:

(a) develop a standardized format for reporting the information described in Subsection (2);

(b) compile the information that was submitted under Subsection (2); and

(c) annually, on or before October 1, submit a report to the Law Enforcement and Criminal Justice Interim Committee that contains:

(i) the compiled information received for the current year, if any; and

(ii) the names of any agencies that failed to submit a review that was required under this section.

(4) This section does not apply to the Division of Professional Licensing with regard to offenses in Title 58, Chapters 37 through 37e.

Section 4. Section 76-9-803 is amended to read:

76-9-803. Penalties regarding criminal street gang activities.

(1) It is a class B misdemeanor to:

(a) solicit, recruit, entice, or intimidate a minor to join a criminal street gang, whether or not the minor actually joins the criminal street gang;

(b) conspire to commit any act under Subsection (1)(a) with the intent to cause a minor to join a criminal street gang; or

(c) use intimidation to prevent or attempt to prevent a minor from leaving a criminal street gang or ending the minor's affiliation with a criminal street gang.

(2) It is a class A misdemeanor for any [~~person~~]individual who is a member of or actively involved with a criminal street gang to:

(a) intimidate or otherwise cause a minor to commit or attempt to commit any misdemeanor criminal offense; or

(b) commit a violation of Subsection (1)(a):

(i) more than once;

(ii) regarding the same minor; and

(iii) within a period of 180 days.

(3) Prosecution for any offense under this section does not prohibit prosecution for any other criminal offense.

Section 5. Section 76-10-604 is amended to read:

76-10-604. Violations -- Classification of offense.

Any person who violates the provisions of this part is guilty of [~~a class B misdemeanor~~]an infraction.

Section 6. Repealer.

This bill repeals:

Section 76-9-601, Abuse of a flag.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

Section 8. Coordinating H.B. 353 with H.B. 21.

If H.B. 353, Criminal Code Amendments, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) Subsection 76-12-402(3) in H.B. 21 be amended to read:

"(3) A violation of Subsection (2) is an infraction."; and

(2) Subsection 76-12-403(3) in H.B. 21 be amended to read:

"(3) A violation of Subsection (2) is an infraction.".

Section 9. Coordinating H.B. 353 with H.B. 21 and H.B. 38.

If H.B. 353, Criminal Code Amendments, H.B. 38, Criminal Offenses Modifications, and H.B. 21, Criminal Code Recodification and Cross References, all pass and become law, the Legislature intends that, on May 7, 2025:

(1) the amendments to Section 76-9-803 in H.B. 38 supersede the amendments to that section in H.B. 21 and H.B. 353;

(2) Section 76-9-803.5 enacted in H.B. 21 be deleted; and

(3) Section 76-9-803.6 enacted in H.B. 21 be deleted.

CHAPTER 511
H. B. 541
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

OLYMPIC LEGACY LIABILITY AMENDMENTS

Chief Sponsor: Jon Hawkins
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions related to the Olympic and Paralympic Winter Games Act and winter sports activities.

Highlighted Provisions:

This bill:

- ► provides public policy considerations;
- ► provides definitions;
- ► establishes limitations on liability for claims against the operator of a specified winter sports area;
- ► requires a specified winter sports area to give notice of the liability limitations;
- ► permits a winter sports area operator to enter into a contract with a winter sports participant to limit the operator's liability;
- ► specifies the amount of liability caps and provides for adjustment of the liability caps; and
- ► makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-4-801, Utah Code Annotated 1953
78B-4-802, Utah Code Annotated 1953
78B-4-803, Utah Code Annotated 1953
78B-4-804, Utah Code Annotated 1953
78B-4-805, Utah Code Annotated 1953
78B-4-806, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-4-801 is enacted to read:

PART 8. Limitations on Liability for Winter Sports Activities

78B-4-801. Public policy.

The Legislature finds that:

(1) winter sports are practiced by a large number of residents of Utah and attracts a large number of nonresidents, significantly contributing to the economy of this state;

(2) Utah has hosted the 2002 Olympic and Paralympic Winter Games, is scheduled to host the 2034 Olympic and Paralympic Winter Games, and aspires to host future games;

(3) Utah has hosted annual national and international winter sports competitions including ski, snowboard, bobsled, skeleton, luge, speedskating and other ice sport national championships, world cups, world championships, and aspires to continue to host such competitions and to encourage residents of Utah to train for and participate in these events; and

(4) assuring the financial viability of a facility in which the state has invested to permit the teaching of, training in, recreational enjoyment of, and competition in winter sports benefits the residents of Utah and encourages residents of Utah to participate in and excel at winter sports.

Section 2. Section 78B-4-802 is enacted to read:

78B-4-802. Definitions.

As used in this part:

(1) "Inherent risks of winter sports" means the dangers or conditions that are an integral part of recreational, competitive, or professional participation in winter sports, including:

(a) changing weather conditions;

(b) snow or ice conditions as the snow or ice conditions exist or may change, including hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, or machine-made snow;

(c) the inherent danger in engaging in high-risk activities such as winter sports by means of natural or man-made terrain, jumps, ice or

snow tracks, or other structures;

(d) surface or subsurface conditions, including bare spots, forest growth, rocks, stumps, streambeds, cliffs, trees, or other natural objects;

(e) variations or steepness in terrain, whether natural or as a result of slope design, snowmaking or grooming operations, or other terrain modifications, including:

(i) terrain parks;

(ii) terrain features, including jumps, rails, or fun boxes; or

(iii) all other constructed and natural features, including half pipes, quarter pipes, or freestyle-bump terrain;

(f) impact with lift towers, tracks, other structures, or their components, including signs, posts, fences or enclosures, hydrants, or water pipes;

(g) collisions with other participants, structures, equipment, natural features, or other objects;

(h) equipment failure or malfunction, unless the failure or malfunction is due to gross negligence or a failure to reasonably maintain the equipment;

(i) participation in, or practicing or training for, competitions or special events; and

(j) the failure of an individual to participate within that individual's own abilities.

(2) "Injury" means any personal injury or property damage or loss.

(3) "Winter sports" means:

(a) skiing and snowboarding, including alpine, nordic cross country, nordic jumping, freestyle, freeride, and biathlon;

(b) ice sports, including ice skating, speedskating, figure skating, hockey, and curling; or

(c) sliding sports, including bobsled, luge, skeleton, and tubing.

(4) "Winter sports area" means an area or facility that:

(a) is primarily dedicated to performing winter sports;

(b) was constructed by the state or a state agency, and was financed primarily with state funds; and

(c) was constructed for the purpose of serving as a facility for use in everyday winter sports training and regular events including an Olympic and Paralympic Winter Games.

(5) (a) "Winter sports area operator" means a person that operates a winter sports area.

(b) "Winter sports area operator" includes an agent, an officer, an employee, or a representative of the person that operates a winter sports area.

(6) "Winter sports participant" means an individual present in a winter sports area for the purpose of engaging in winter sports.

Section 3. Section 78B-4-803 is enacted to read:

78B-4-803. Bar against claim or recovery from operator for injury resulting from inherent risks of winter sports.

Notwithstanding Sections 78B-5-817 through 78B-5-823, a winter sports participant may not make any claim against, or recover from, a winter sports area operator for injury resulting from inherent risks of winter sports.

Section 4. Section 78B-4-804 is enacted to read:

78B-4-804. Notice of inherent risks and limitations on liability.

(1) A winter sports area operator shall provide notice to winter sports participants that there are inherent risks of participating in winter sports and that the winter sports area operator is not liable for those risks.

(2) Notice shall be provided by:

(a) posting a sign in at least one prominent location within the winter sports area; or

(b) providing a document or release for the winter sports participant to sign.

(3) The notice provided by the sign or document shall be sufficient if it includes the definition of inherent risks of winter sports in Section 78B-4-802 and states that the winter sports area operator is not liable for those inherent risks.

Section 5. Section 78B-4-805 is enacted to read:

78B-4-805. Liability agreements.

A winter sports participant may enter into an agreement with a winter sports area operator before an injury to:

(1) waive a claim that the winter sports participant is permitted to bring against a winter sports area operator; or

(2) release the winter sports area operator from a claim that the winter sports participant is permitted to bring under this part.

Section 6. Section 78B-4-806 is enacted to read:

78B-4-806. Limitation on damages.

(1) Subject to adjustment under Subsection 63G-7-604(4), an action arising against a winter sports area operator for a claim not prohibited under this part, in which the winter sports participant, or a person authorized to bring a claim on behalf of the winter sports participant, recovers for an injury and is awarded noneconomic losses, the amount of the award for noneconomic losses may not exceed:

(a) $827,000 for one person in any one occurrence; and

(b) $3,329,100 for the aggregate amount of individual awards that may be awarded in relation to a single occurrence.

(2) The limits on an award for noneconomic losses described in Subsection (1) do not apply to an award:

(a) of punitive damages; or

(b) for a wrongful death action.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 512
H. B. 542
Passed March 7, 2025
Approved March 27, 2025
Effective July 1, 2025

ECONOMIC DEVELOPMENT AMENDMENTS

Chief Sponsor: Jon Hawkins
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill amends provisions of the Governor's Office of Economic Opportunity.

Highlighted Provisions:

This bill:

- ► amends and defines terms;
- ► amends provisions of the Office of Homeless Services regarding certain legislative appropriations;
- ► amends provisions of the Governor's Office of Economic Opportunity;
- ► repeals the Unified Economic Opportunity Commission and associated committees and subcommittees;
- ► renumbers and amends the Utah Broadband Center and Access Act;
- ► makes technical and conforming changes; and
- ► provides intent language regarding the transfer of funding from the Utah Board of Higher Education - Administration fund to the Utah Board of Higher Education Nucleus Institute upon passage of this bill and H.B. 530, Utah Innovation Lab Modifications.

Money Appropriated in this Bill:

This bill transfers money from the funds or accounts of the Governor's Office of Economic Opportunity - Economic Prosperity to the funds or accounts of the Utah Board of Higher Education - Administration.

This bill appropriates $1,900,000 in operating and capital budgets for fiscal year 2026, all of which is from the General Fund.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-59-203, as last amended by Laws of Utah 2024, Chapter 413
35A-8-2203, as last amended by Laws of Utah 2022, Chapters 118, 406
36-12-23, as last amended by Laws of Utah 2024, Chapter 506
36-29-109, as enacted by Laws of Utah 2022, Chapter 458
53B-34-101, as renumbered and amended by Laws of Utah 2022, Chapter 362
53B-34-102, as renumbered and amended by Laws of Utah 2022, Chapter 362
53B-34-111, as enacted by Laws of Utah 2024, Chapter 482
63I-1-263, as last amended by Laws of Utah 2024, Third Special Session, Chapter 4
63N-1a-102, as last amended by Laws of Utah 2024, Chapter 159
63N-1a-301, as last amended by Laws of Utah 2024, Chapter 159
63N-1a-303, as last amended by Laws of Utah 2022, Chapter 362
63N-1a-304, as renumbered and amended by Laws of Utah 2021, Chapter 282
63N-1a-305, as renumbered and amended by Laws of Utah 2021, Chapter 282
63N-1a-306, as last amended by Laws of Utah 2022, Chapter 362
63N-1a-401, as last amended by Laws of Utah 2024, Chapter 159
63N-2-103, as last amended by Laws of Utah 2024, Chapter 438
63N-2-104.3, as last amended by Laws of Utah 2023, Chapter 499
63N-2-107, as last amended by Laws of Utah 2024, Chapter 159
63N-16-302, as enacted by Laws of Utah 2024, Chapter 157
72-1-203, as last amended by Laws of Utah 2024, Chapter 517
72-1-303, as last amended by Laws of Utah 2024, Chapter 498

ENACTS:

35A-16-103, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

72-19-101, (Renumbered from 63N-17-102, as last amended by Laws of Utah 2024, Chapter 159)
72-19-201, (Renumbered from 63N-17-201, as last amended by Laws of Utah 2024, Chapter 159)
72-19-202, (Renumbered from 63N-17-202, as last amended by Laws of Utah 2024, Chapter 159)
72-19-203, (Renumbered from 63N-17-203, as last amended by Laws of Utah 2024, Chapter 159)
72-19-301, (Renumbered from 63N-17-301, as last amended by Laws of Utah 2024, Chapter 159)

72-19-302, (Renumbered from 63N-17-302, as enacted by Laws of Utah 2021, Chapter 282)
72-19-401, (Renumbered from 63N-17-401, as enacted by Laws of Utah 2024, Chapter 159)

REPEALS:

63N-1a-201, as last amended by Laws of Utah 2024, Chapter 159
63N-1a-202, as last amended by Laws of Utah 2024, Chapter 159
63N-1b-102, as last amended by Laws of Utah 2022, Chapter 118
63N-1b-401, as renumbered and amended by Laws of Utah 2022, Chapter 362
63N-1b-402, as last amended by Laws of Utah 2023, Chapter 499
63N-1b-403, as last amended by Laws of Utah 2023, Chapter 499
63N-1b-404, as last amended by Laws of Utah 2024, Chapter 159
63N-3-204, as last amended by Laws of Utah 2022, Chapter 362

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-59-203 is amended to read:
11-59-203. Authority duties and responsibilities.

(1) As the authority plans, manages, and implements the development of the point of the mountain state land, the authority shall pursue development strategies and objectives designed to:

(a) maximize the creation of high-quality jobs and encourage and facilitate a highly trained workforce;

(b) ensure strategic residential and commercial growth;

(c) promote a high quality of life for residents on and surrounding the point of the mountain state land, including strategic planning to facilitate:

(i) jobs close to where people live;

(ii) vibrant urban centers;

(iii) housing types that incorporate affordability factors and match workforce needs;

(iv) parks, connected trails, and open space, including the preservation of natural lands to the extent practicable and consistent with the overall development plan; and

(v) preserving and enhancing recreational opportunities;

(d) complement the development on land in the vicinity of the point of the mountain state land;

(e) improve air quality and minimize resource use;

(f) accommodate and incorporate the planning, funding, and development of an enhanced and expanded future transit and transportation infrastructure and other investments, including:

(i) the acquisition of rights-of-way and property necessary to ensure transit access to the point of the mountain state land; and

(ii) a world class mass transit infrastructure, to service the point of the mountain state land and to enhance mobility and protect the environment; and

(g) if appropriate, exercise its land use authority to increase the supply of housing in the state.

(2) In planning the development of the point of the mountain state land, the authority shall:

(a) consult with applicable governmental planning agencies, including:

(i) relevant metropolitan planning organizations; and

(ii) Draper City and Salt Lake County planning and governing bodies;[~~and~~]

[~~(iii) in regards to the factors described in Subsections (1)(e)(i) and (iii), the Unified Economic Opportunity Commission created in Section 63N-1a-201;~~]

(b) research and explore the feasibility of attracting a nationally recognized research center; and

(c) research and explore the appropriateness of including labor training centers and a higher education presence on the point of the mountain state land.

Section 2. Section 35A-8-2203 is amended to read:
35A-8-2203. Duties of the commission.

(1) The commission shall:

[~~(a) serve as a subcommittee of the Unified Economic Opportunity Commission and assist the Unified Economic Opportunity Commission in performing the Unified Economic Opportunity Commission's duties under Section 63N-1a-202;~~]

[~~(b)~~](a) increase public and government awareness and understanding of the housing affordability needs of the state and how those needs may be most effectively and efficiently met, through empirical study and investigation;

[~~(c)~~](b) identify and recommend implementation of specific strategies, policies, procedures, and programs to address the housing affordability needs of the state;

[~~(d)~~](c) facilitate the communication and coordination of public and private entities that are involved in developing, financing, providing, advocating for, and administering affordable housing in the state;

[~~(e)~~](d) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that address housing affordability in the state;

[~~(f)~~](e) study and evaluate the policies, procedures, and programs implemented by other states that address housing affordability;

[~~(g)~~](f) provide a forum for public comment on issues related to housing affordability;

[~~(h)~~](g) provide recommendations to the [~~Unified Economic Opportunity Commission and the~~]Legislature on strategies, policies, procedures, and programs to address the housing affordability needs of the state; and

[~~(i)~~](h) on or before December 31, 2022, approve the methodology developed by the division under Subsection 35A-8-803(1)(a)(ix).

(2) To accomplish its duties, the commission may:

(a) request and receive from a state or local government agency or institution summary information relating to housing affordability, including:

(i) reports;

(ii) audits;

(iii) projections; and

(iv) statistics; and

(b) appoint one or more advisory groups to advise and assist the commission.

(3) (a) A member of an advisory group described in Subsection (2)(b):

(i) shall be appointed by the commission;

(ii) may be:

(A) a member of the commission; or

(B) an individual from the private or public sector; and

(iii) notwithstanding Section 35A-8-2202, may not receive reimbursement or pay for any work done in relation to the advisory group.

(b) An advisory group described in Subsection (2)(b) shall report to the commission on the progress of the advisory group.

Section 3. Section 35A-16-103 is enacted to read:

35A-16-103. Applicability.

The provisions of this chapter governing funding for the provision of homeless services do not apply to money the Legislature appropriates for a direct award grant governed by Title 63G, Chapter 6b, State Grants.

Section 4. Section 36-12-23 is amended to read:

36-12-23. Legislative committees -- Staffing.

(1) As used in this section:

(a) "Chair" means a presiding officer or a co-presiding officer of a committee.

(b) "Committee" means a standing committee, interim committee, subcommittee, special committee, authority, commission, council, task force, panel, or board in which legislative participation is required by statute or legislative rule.

(c) "Legislative committee" means a committee:

(i) formed by the Legislature to study or oversee subjects of legislative concern; and

(ii) that is required by statute or legislative rule to have a chair who is a legislator.

(d) "Legislator" means a member of either chamber of the Legislature.

(e) "Professional legislative office" means the Office of Legislative Research and General Counsel, the Office of the Legislative Fiscal Analyst, the Office of the Legislative Auditor General, or similar office of the Legislature.

(2) (a) Except as provided in Subsections (3) and (4), a professional legislative office shall provide each legislative committee's staff support, regardless of whether statute or legislative rule directs another entity to provide the staff support.

(b) Unless a legislative committee's enacting statute or legislative rule names a particular professional legislative office to provide the legislative committee's staff support, the professional legislative offices shall select, based on subject matter expertise, which professional legislative office will staff the legislative committee.

(3) (a) Subject to Subsection (3)(b), the provisions of this section control over any conflicting provision of statute or legislative rule.

(b) (i) If another provision of statute or legislative rule directs an entity other than a professional legislative office to provide a legislative committee's staff support, notwithstanding Subsection (2), a legislator who is a chair of the legislative committee may elect to have the other entity provide the legislative committee's staff support.

(ii) If the legislative committee has more than one chair who is a legislator, the chairs who are legislators shall collectively make the election under Subsection (3)(b)(i).

(iii) A chair or chairs who make an election under Subsection (3)(b)(i) may change the chair's or chairs' election no more than once each calendar year.

(4) This section does not apply to:

(a) the Point of the Mountain State Land Authority created in Section 11-59-201;

(b) the Utah Broadband Center Advisory Commission created in Section 36-29-109;

(c) the Blockchain and Digital Innovation Task Force created in Section 36-29-110;

(d) the Public Safety Data Management Task Force created in Section 36-29-111;

(e) the Constitutional Defense Council created in Section 63C-4a-202;

[~~(f) the Women in the Economy Subcommittee created in Section 63N-1b-402;~~]

[~~(g)~~](f) the House Ethics Committee established under Legislative Joint Rule JR6-2-101; or

[~~(h)~~](g) the Senate Ethics Committee established under Legislative Joint Rule JR6-2-101.

Section 5. Section 36-29-109 is amended to read:

36-29-109. Utah Broadband Center Advisory Commission.

(1) As used in this section:

(a) "Broadband infrastructure funds" means the funds available for broadband infrastructure pursuant to:

(i) the Infrastructure Investment and Jobs Act, Pub. L. No. 115-58;

(ii) legislative appropriations; and

(iii) state and federal grants.

(b) [~~"Center"~~]"Broadband center" means the Utah Broadband Center created in Section [~~63N-17-201~~]72-19-201.

(c) [~~"Commission" ~~]"Broadband commission" means the Utah Broadband Center Advisory Commission created in Subsection (2).

(d) "Strategic plan" means the statewide digital connectivity plan described in Section [~~63N-17-203~~]72-19-203.

(2) There is created the Utah Broadband Center Advisory Commission consisting of the following nine voting members:

(a) two members of the Senate, appointed by the president of the Senate;

(b) two members of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee;

(d) the governor shall appoint four members who currently work in the public sector and who have professional experience in:

(i) broadband or broadband infrastructure;

(ii) applying for federal grants; or

(iii) financing infrastructure.

(3) In addition to the nine voting members, the director of the broadband center, or the director's designee, shall serve on the broadband commission in a nonvoting capacity.

(4) (a) The president of the Senate shall designate one of the members described in Subsection (2)(a) to serve as cochair of the broadband commission.

(b) The speaker of the House of Representatives shall designate one of the members described in Subsection (2)(b) to serve as cochair of the broadband commission.

(5) (a) If a vacancy occurs in the membership of the broadband commission, the member shall be replaced in the same manner in which the original appointment was made.

(b) A member shall serve until the member's successor is appointed and qualified.

(6) (a) A majority of the members of the broadband commission constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the broadband commission.

(7) (a) Salaries and expenses of the members of the broadband commission who are legislators shall be paid in accordance with:

(i) Section 36-2-2;

(ii) Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses; and

(iii) Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the broadband commission who is not a legislator may not receive compensation for the member's work associated with the broadband commission but may receive per diem and reimbursement for travel expenses incurred as a member of the broadband commission at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance in accordance with Sections 63A-3-106and 63A-3-107.

(8) The broadband center shall provide staff support to the broadband commission.

(9) The broadband commission shall:

(a) make recommendations to the broadband center with respect to:

(i) strategic plan development; and

(ii) the application for and use of broadband infrastructure funds;

(b) solicit input from relevant stakeholders, including:

(i) public and private entities who may assist in developing and implementing the strategic plan; and

(ii) public and private entities whom the strategic plan may impact;

(c) provide recommendations for strategic plan development and implementation based on the input described in Subsection (9)(b);

(d) review strategic plan drafts; and

(e) recommend changes.

(10) The broadband commission shall meet as needed.

Section 6. Section 53B-34-101 is amended to read:

53B-34-101. Definitions.

As used in this chapter:

(1) "Apprenticeship program" means a program that:

(a) combines paid on-the-job learning with formal classroom instruction to prepare students for careers; and

(b) includes:

(i) structured on-the-job learning for students under the supervision of a skilled employee;

(ii) classroom instruction for students related to the on-the-job learning;

(iii) ongoing student assessments using established competency and skills standards; and

(iv) the student receiving an industry-recognized credential or degree upon completion of the program.

(2) "Career and technical education region" means an economic service area created in Section 35A-2-101.

(3) "GOEO" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

[~~(3) "Commission" means the Unified Economic Opportunity Commission created in Section 63N-1a-201.~~]

(4) "High quality professional learning" means the professional learning standards for teachers and principals described in Section 53G-11-303.

(5) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Utah Tech University, Utah Valley University, or Salt Lake Community College.

(6) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(7) "Master plan" means the computer science education master plan described in Section 53B-34-105.

(8) "Participating employer" means an employer that:

(a) partners with an educational institution on a curriculum for an apprenticeship program or work-based learning program; and

(b) provides an apprenticeship or work-based learning program for students.

(9) "State board" means the State Board of Education.

(10) "Talent board" means the Talent, Education, and Industry Alignment Board created in Section 53B-34-102.

(11) "Talent program" means the Talent Ready Utah Program created in Section 53B-34-103.

(12) "Targeted industry" means an industry or group of industries targeted by [~~the commission~~]GOEO for economic development in the state.

(13) "Technical college" means:

(a) the same as that term is defined in Section 53B-1-101.5; and

(b) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.

(14) (a) "Work-based learning program" means a program that combines structured and supervised learning activities with authentic work experiences and that is implemented through industry and education partnerships.

(b) "Work-based learning program" includes the following objectives:

(i) providing students an applied workplace experience using knowledge and skills attained in a program of study that includes an internship, externship, or work experience;

(ii) providing an educational institution with objective input from a participating employer regarding the education requirements of the current workforce; and

(iii) providing funding for programs that are associated with high-wage, in-demand, or emerging occupations.

(15) "Workforce programs" means education or industry programs that facilitate training the state's workforce to meet industry demand.

Section 7. Section 53B-34-102 is amended to read:

53B-34-102. Talent, Education, and Industry Alignment Board -- Creation -- Membership -- Expenses -- Duties.

(1) There is created the Talent, Education, and Industry Alignment Board composed of the following members:

(a) the state superintendent of public instruction or the superintendent's designee;

(b) the commissioner or the commissioner's designee;

(c) the chair of the State Board of Education or the chair's designee;

(d) the executive director of the Department of Workforce Services or the executive director's designee;

(e) the executive director of the Governor's Office of Economic Opportunity or the executive director's designee;

(f) the director of the Division of Professional Licensing or the director's designee;

(g) the governor's education advisor or the advisor's designee;

(h) one member of the Senate, appointed by the president of the Senate;

(i) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(j) the president of the Salt Lake Chamber or the president's designee;

(k) six representatives of private industry chosen to represent targeted industries, appointed by [~~the commission~~]GOEO;

(l) the lieutenant governor or the lieutenant governor's designee; and

(m) any additional individuals appointed by [~~the commission~~]GOEO who represent:

(i) one or more individual educational institutions; or

(ii) education or industry professionals.

(2) The talent board shall select a chair and vice chair from among the members of the talent board.

(3) The talent board shall meet at least quarterly.

(4) Attendance of a majority of the members of the talent board constitutes a quorum for the transaction of official talent board business.

(5) Formal action by the talent board requires the majority vote of a quorum.

(6) A member of the talent board:

(a) may not receive compensation or benefits for the member's service; and

(b) who is not a legislator may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The talent board shall:

(a) (i) review and develop metrics to measure the progress, performance, effectiveness, and scope of any state operation, activity, program, or service that primarily involves employment training or placement; and

(ii) ensure that the metrics described in Subsection (7)(a) are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement;

(b) make recommendations to the board and [~~the commission~~]GOEO regarding how to better align training and education in the state with industry demand;

(c) make recommendations to the board and [~~the commission~~]GOEO regarding how to better align technical education with current and future workforce needs;

(d) coordinate with the talent program to meet the responsibilities described in [~~Subsection 53B-34-103(4)~~]Section 53B-34-103;

(e) develop a computer science education master plan in accordance with Section 53B-34-105;

(f) coordinate with the talent program to meet the responsibilities described in Section 53B-34-107; and

(g) administer the Utah Works Program in accordance with Section 53B-34-108.

(8) Nothing in this section prohibits an individual who, on June 30, 2022, is a member of a subcommittee within the Governor's Office of Economic Opportunity known as the Talent, Education, and Industry Alignment Subcommittee from serving as a member of the talent board.

Section 8. Section 53B-34-111 is amended to read:

53B-34-111. Youth apprenticeship governance study.

(1) As used in this section:

(a) "Apprenticeship" means the same as the term is defined in Section 35A-6-102.

(b) "Study" means the study created in Subsection (2).

(2) There is created a study to design a framework and system for maximizing efficiencies and expanding youth apprenticeship opportunities for students.

(3) The study shall be conducted collaboratively by the following entities:

(a) the [~~Governor's Office~~]governor's office;

(b) the State Board of Education;

(c) the Department of Workforce Services;

(d) the Talent Ready Utah Program; and

(e) relevant participating employers as determined by the entities described in Subsections (3)(a) through (d).

(4) The study shall examine framework and system design recommendations regarding:

(a) ways to increase youth apprenticeship offerings;

(b) increasing student and employer participation in youth apprenticeships;

(c) formalizing roles and streamlining use of existing infrastructure described in:

(i) Title 35A, Chapter 6, Apprenticeship Act;

(ii) Title 53B, Chapter 34, Talent, Education, and Industry Alignment, including the role of the state apprenticeship intermediary described in Section 53B-34-103; and

(iii) Section 53G-7-902;

(d) aligning youth apprenticeship efforts to meet the definition of youth apprenticeship defined in Section 35A-6-102;

(e) identifying metrics to assess the success of youth apprenticeship programs;

(f) opportunities to leverage secondary and post-secondary educational programs in conjunction with youth apprenticeships, including:

(i) career and technical education;

(ii) concurrent enrollment; and

(iii) stackable credentials; and

(g) the creation of career competencies to prepare a qualified workforce.

(5) The staff of the Talent Ready Utah Program shall staff the study.

(6) No later than May 1, 2025, the entities described in [~~Subsections (3)(a) through (c)~~]Subsection (3) shall report the recommendations described in Subsection (4) to[~~:~~]

[~~(a)~~] the talent board[~~; and~~].

[~~(b) the Unified Economic Opportunity Commission.~~]

Section 9. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63O.

(1) Subsection 63A-5b-405(5), regarding prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(3) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(4) Title 63C, Chapter 18, Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(5) Title 63C, Chapter 23, Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

(6) Title 63C, Chapter 25, State Finance Review Commission, is repealed July 1, 2027.

(7) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(8) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(9) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed July 1, 2028.

(10) Section 63G-6a-805, Purchase from community rehabilitation programs, is repealed July 1, 2026.

(11) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(12) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2029.

(13) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(14) Subsection 63J-1-602.2(16), related to the Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program, is repealed July 1, 2029.

(15) Subsection 63J-1-602.2(26), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

(16) Section 63L-11-204, Canyon resource management plan, is repealed July 1, 2025.

(17) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(18) Title 63M, Chapter 7, Part 7, Domestic Violence Offender Treatment Board, is repealed July 1, 2027.

(19) Section 63M-7-902, Creation -- Membership -- Terms -- Vacancies -- Expenses, is repealed July 1, 2029.

(20) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(21) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2030.~~]

[~~(22)~~](21) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(23)~~](22) Subsection 63N-2-511(1)(b), regarding the Board of Tourism Development, is repealed July 1, 2025.

[~~(24)~~](23) Section 63N-2-512, Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(25)~~](24) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(26)~~](25) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(27)~~](26) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2028.

[~~(28)~~](27) Section 63N-4-804, which creates the Rural Opportunity Advisory Committee, is repealed July 1, 2027.

[~~(29)~~](28) Subsection 63N-4-805(5)(b), regarding the Rural Employment Expansion Program, is repealed July 1, 2028.

[~~(30)~~](29) Subsection 63N-7-101(1), regarding the Board of Tourism Development, is repealed July 1, 2025.

[~~(31)~~](30) Subsection 63N-7-102(3)(c), regarding a requirement for the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed July 1, 2025.

[~~(32)~~](31) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed July 1, 2025.

Section 10. Section 63N-1a-102 is amended to read:

63N-1a-102. Definitions.

As used in this title:

(1) "Baseline jobs" means the number of full-time employee positions that existed within a business entity in the state before the date on which a project related to the business entity is approved by the office or by the GOEO board.

(2) "Baseline state revenue" means the amount of state tax revenue collected from a business entity or the employees of a business entity during the year before the date on which a project related to the business entity is approved by the office or by the GOEO board.

[~~(3) "Commission" means the Unified Economic Opportunity Commission created in Section 63N-1a-201.~~]

[~~(4)~~](3) "Economic opportunity agency" includes:

(a) the Department of Workforce Services;

(b) the Department of Cultural and Community Engagement;

(c) the Department of Commerce;

(d) the Department of Natural Resources;

(e) the Office of Energy Development;

(f) the State Board of Education;

(g) institutions of higher education;

(h) the Utah Multicultural Commission;

(i) the World Trade Center Utah;

(j) local government entities;

(k) associations of governments;

(l) the Utah League of Cities and Towns;

(m) the Utah Association of Counties;

(n) the Economic Development Corporation of Utah;

(o) the Small Business Administration;

(p) chambers of commerce;

(q) industry associations;

(r) small business development centers; and

(s) other entities identified by the commission or the executive director.

[~~(5)~~](4) "Executive director" means the executive director of the office.

[~~(6)~~](5) "Full-time employee" means an employment position that is filled by an employee who works at least 30 hours per week and:

(a) may include an employment position filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee; and

(b) may not include an employment position that is shifted from one jurisdiction in the state to another jurisdiction in the state.

[~~(7)~~](6) "GOEO board" means the Board of Economic Opportunity created in Section 63N-1a-401.

[~~(8)~~](7) "High paying job" means a newly created full-time employee position where the aggregate average annual gross wage of the employment position, not including health care or other paid or unpaid benefits, is:

(a) at least 110% of the average wage of the county in which the employment position exists; or

(b) for an employment position related to a project described in Chapter 2, Part 1, Economic Development Tax Increment Financing, and that is located within the boundary of a county of the third, fourth, fifth, or sixth class, or located within a municipality in a county of the second class and where the municipality has a population of 10,000 or less:

(i) at least 100% of the average wage of the county in which the employment position exists; or

(ii) an amount determined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the office determines the project is in a county experiencing economic distress.

[~~(9)~~](8) (a) "Incremental job" means a full-time employment position in the state that:

(i) did not exist within a business entity in the state before the beginning of a project related to the business entity; and

(ii) is created in addition to the number of baseline jobs that existed within a business entity.

(b) "Incremental job" includes a full-time employment position where the employee is hired:

(i) directly by a business entity; or

(ii) by a professional employer organization, as defined in Section 31A-40-102, on behalf of a business entity.

[~~(10)~~](9) "New state revenue" means the state revenue collected from a business entity or a business entity's employees during a calendar year minus the baseline state revenue calculation.

[~~(11)~~](10) "Office" or "GOEO" means the Governor's Office of Economic Opportunity.

[~~(12)~~](11) "State revenue" means state tax liability paid by a business entity or a business entity's employees under any combination of the following provisions:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(c) Title 59, Chapter 10, Part 2, Trusts and Estates;

(d) Title 59, Chapter 10, Part 4, Withholding of Tax; and

(e) Title 59, Chapter 12, Sales and Use Tax Act.

[~~(13)~~](12) "State strategic goals" means the strategic goals listed in Section 63N-1a-103.

[~~(14)~~](13) "Statewide economic development strategy" means the economic development strategy developed by the [~~commission in accordance with Section 63N-1a-202~~]office in accordance with Section 63N-1a-301.

[~~(15) "Talent board" means the Talent, Education, and Industry Alignment Board created in Section 53B-34-102.~~]

[~~(16)~~](14) "Targeted industry" means an industry or group of industries targeted by the [~~commission under Section 63N-1a-202~~]office under Section 63N-1a-301, for economic development in the state.

Section 11. Section 63N-1a-301 is amended to read:

63N-1a-301. Creation of office -- Responsibilities.

(1) There is created the Governor's Office of Economic Opportunity.

(2) The office is:

(a) responsible for creating and implementing the statewide economic development strategy [~~developed by the commission; and~~]that:

(i) unifies and coordinates economic development efforts in the state;

(ii) includes key performance indicators for long-term progress toward the state strategic goals;

(iii) establishes reporting and accountability processes for the key performance indicators; and

(iv) ensures the success of statewide economic development; and

(b) the industrial and business promotion authority of the state.

(3) The office shall:

(a) consistent with the statewide economic development strategy, coordinate and align into a single effort the activities of the economic opportunity agencies in the field of economic development;

(b) provide support and direction to economic opportunity agencies in establishing goals, metrics, and activities that align with the statewide economic development strategy;

(c) administer and coordinate state and federal economic development grant programs;

(d) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

(e) develop the statewide economic development strategy consistent with the state water policy described in Section 73-1-21, including the state's commitment to appropriate:

(i) conservation;

(ii) efficient and optimal use of water resources;

(iii) infrastructure development and improvement;

(iv) optimal agricultural use;

(v) water quality;

(vi) reasonable access to recreational activities;

(vii) effective wastewater treatment; and

(viii) protecting and restoring health ecosystems;

(f) at least once every five years, identify which industry or groups of industries shall be targeted for economic development in the state;

[~~(c)~~](g) promote and encourage the employment of workers in the state and the purchase of goods and services produced in the state by local businesses;

[~~(d)~~](h) act to create, develop, attract, and retain business, industry, and commerce in the state:

(i) in accordance with the statewide economic development [~~plan and commission directives~~]strategy; and

(ii) subject to the restrictions in Section 11-41-103;

[~~(g)~~](i) act to enhance the state's economy;

(j) analyze the state's projected long-term population and economic growth and plan for the anticipated impacts of the projected growth in a manner that improves quality of life and is consistent with the statewide economic development strategy and state strategic goals;

[~~(h)~~](k) act to assist strategic industries that are likely to drive future economic growth;

[~~(i)~~](l) assist communities in the state in developing economic development capacity and coordination with other communities;

(m) develop strategies and plans to ensure comprehensive economic development efforts are targeted to the unique needs of rural areas of the state;

[~~(j)~~](n) identify areas of education and workforce development in the state that can be improved to support economic and business development;

[~~(k)~~](o) [~~consistent with direction from the commission,~~]develop core strategic priorities for the office, which may include:

(i) enhancing statewide access to entrepreneurship opportunities and small business support;

(ii) focusing industry recruitment and expansion of targeted industries;

(iii) ensuring that in awarding competitive economic development incentives the office accurately measures the benefits and costs of the incentives; and

(iv) assisting communities with technical support to aid those communities in improving economic development opportunities;

[~~(l)~~](p) submit an annual written report as described in Section 63N-1a-306; and

[~~(m)~~](q) perform other duties as provided by the Legislature.

(4) To perform the office's duties under this title, the office may:

(a) enter into a contract or agreement with, or make a grant to, a public or private entity, including a municipality, if the contract or agreement is not in violation of state statute or other applicable law;

(b) except as provided in Subsection (4)(c), receive and expend funds from a public or private source for any lawful purpose that is in the state's best interest; and

(c) solicit and accept a contribution of money, services, or facilities from a public or private donor, but may not use the contribution for publicizing the exclusive interest of the donor.

(5) Money received under Subsection (4)(c) shall be deposited into the General Fund as dedicated credits of the office.

[~~(6) (a) The office shall:~~]

[~~(i) obtain the advice of the GOEO board before implementing a change to a policy, priority, or objective under which the office operates; and~~]

[~~(ii) provide periodic updates to the commission regarding the office's efforts under Subsections (3)(a) and (b).~~]

[~~(b) Subsection (6)(a)(i) does not apply to the routine administration by the office of money or services related to the assistance, retention, or recruitment of business, industry, or commerce in the state.~~]

Section 12. Section 63N-1a-303 is amended to read:

63N-1a-303. Powers and duties of executive director.

(1) Unless otherwise expressly provided by statute, the executive director may organize the office in any appropriate manner, including the appointment of deputy directors of the office.

(2) The executive director may consolidate personnel and service functions for efficiency and economy in the office.

(3) The executive director, with the approval of the governor:

(a) may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

(b) may enter into a lawful contract or agreement with another state, a chamber of commerce organization, a service club, or a private entity; and

(c) shall annually prepare and submit to the governor a budget of the office's financial requirements.

(4) With the governor's approval, if a federal program requires the expenditure of state funds as a condition for the state to participate in a fund, property, or service, the executive director may expend necessary funds from money provided by the Legislature for the use of the office.

(5) The executive director shall coordinate with the executive directors of the Department of Workforce Services and the Governor's Office of Planning and Budget to review data and metrics to be reported to the Legislature as described in [~~Subsection 63N-1a-306(2)(b)~~]Section 63N-1a-306.

(6) Unless otherwise provided in this title, the executive director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary for the administration of programs established under state law.

Section 13. Section 63N-1a-304 is amended to read:

63N-1a-304. Executive director and the Public Service Commission.

(1) The executive director or the executive director's designee shall:

(a) become generally informed of significant rate cases and policy proceedings before the Public Service Commission; and

(b) monitor and study the potential economic development impact of [~~these~~]the proceedings.

(2) In the discretion of the executive director or the executive director's designee, the office may appear in a proceeding before the Public Service Commission to testify, advise, or to present argument regarding the economic development impact of a matter that is the subject of the proceeding.

Section 14. Section 63N-1a-305 is amended to read:

63N-1a-305. Incentive review process.

[~~The Legislature intends that the~~]The office [~~will~~]shall develop an [~~incentives~~]incentive review process under the direction of the speaker of the House of Representatives and the president of the Senate.

Section 15. Section 63N-1a-306 is amended to read:

63N-1a-306. Annual report -- Content -- Format.

(1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the office, including the divisions, sections, boards, commissions, councils, and committees established under this title, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the office, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the office to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the office, the Department of Workforce Services, and the Governor's Office of Planning and Budget;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the office that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The office shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website[~~; and~~].

[~~(c) provide the data and metrics described in Subsection (2)(b) to the talent board.~~]

Section 16. Section 63N-1a-401 is amended to read:

63N-1a-401. Creation of Board of Economic Opportunity.

(1) (a) There is created within the office the Board of Economic Opportunity, consisting of nine members appointed by the [~~chair of the commission~~]executive director of the office, in consultation with the [~~executive director~~]governor, to four-year terms of office with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) The nine members described in Subsection (1)(a) shall include:

(i) one member associated with the state's rural communities;

(ii) one member associated with direct entrepreneurship in the state;

(iii) one member associated with higher education in the state;

(iv) five members, other than the members described in Subsections (1)(b)(i) through (iii), that are associated with a targeted industry; and

(v) one at-large member.

(c) Notwithstanding the requirements of Subsection (1)(a), the [~~chair of the commission~~]executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(d) The members may not serve more than two full consecutive terms except when the [~~chair of the commission~~]executive director determines that an additional term is in the best interest of the state.

(2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(3) A majority of board members, not including a vacancy, constitutes a quorum for conducting board business and exercising board power.

(4) [~~The chair of the commission~~]The executive director shall select one board member as the board's chair and one member as the board's vice chair.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 17. Section 63N-2-103 is amended to read:

63N-2-103. Definitions.

As used in this part:

(1) (a) "Business entity" means a person that enters into a written agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

(b) With respect to a tax credit authorized by the office in accordance with Subsection 63N-2-104.3(2), "business entity" includes a nonprofit entity.

(2) "Commercial or industrial zone" means an area zoned agricultural, commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a general plan that contemplates future growth.

(3) "Development zone" means an economic development zone created under Section 63N-2-104.

(4) "Local government entity" means a county, city, or town.

(5) "New commercial project" means an economic development opportunity that:

(a) involves a targeted industry; or

(b) is located within:

(i) a county of the third, fourth, fifth, or sixth class; or

(ii) a municipality that has a population of 10,000 or less and the municipality is located within a county of the second class[~~; or~~].

[~~(c) involves an economic development opportunity that the commission determines to be eligible for a tax credit under this part.~~]

(6) "Remote work opportunity" means a new commercial project that:

(a) does not require a physical office in the state where employees associated with the new commercial project are required to work; and

(b) requires employees associated with the new commercial project to:

(i) work remotely from a location within the state; and

(ii) maintain residency in the state.

(7) "Significant capital investment" means an investment in capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project that represents an expansion of existing operations in the state or that increases the business entity's existing workforce in the state.

(8) "Tax credit" means an economic development tax credit created by Section 59-7-614.2or 59-10-1107.

(9) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

(10) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the business entity to which the office authorizes a tax credit;

(b) lists the business entity's taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the business entity for the taxable year; and

(d) may include other information as determined by the office.

(11) "Written agreement" means a written agreement entered into between the office and a business entity under Section 63N-2-104.2.

Section 18. Section 63N-2-104.3 is amended to read:

63N-2-104.3. Limitations on tax credit amount.

(1) Except as provided in Subsection (2)(a), for a new commercial project that is located within the boundary of a county of the first or second class, the office may not authorize a tax credit that exceeds:

(a) 50% of the new state revenues from the new commercial project in any given year; or

(b) 30% of the new state revenues from the new commercial project over a period of up to 20 years[~~; or~~].

[~~(c) 35% of the new state revenues from the new commercial project over a period of up to 20 years, if:~~]

[~~(i) the new commercial project brings 2,500 or more new incremental jobs to the state;~~]

[~~(ii) the amount of capital expenditures associated with the new commercial project is $1,000,000,000 or more; and~~]

[~~(iii) the commission approves the tax credit.~~]

(2) If the office authorizes a tax credit for a new commercial project located within the boundary of:

(a) a municipality with a population of 10,000 or less located within a county of the second class and that is experiencing economic hardship as determined by the office, the office may authorize a tax credit of up to 50% of new state revenues from the new commercial project over a period of up to 20 years;

(b) a county of the third class, the office may authorize a tax credit of up to 50% of new state revenues from the new commercial project over a period of up to 20 years; and

(c) a county of the fourth, fifth, or sixth class, the office may authorize a tax credit of 50% of new state revenues from the new commercial project over a period of up to 20 years.

Section 19. Section 63N-2-107 is amended to read:

63N-2-107. Reports of new state revenue, partial rebates, and tax credits.

(1) Before October 1 of each year, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) (i) the total estimated amount of new state revenue created from new commercial projects;

(ii) the estimated amount of new state revenue from new commercial projects that will be generated from:

(A) sales tax;

(B) income tax; and

(C) corporate franchise and income tax; and

(iii) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded; and

(b) the total estimated amount of tax credits that the office projects that business entities will qualify to claim under this part.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new written agreement that the office entered into since the last report;

(b) the estimated amount of new state revenue that will be generated under each written agreement described in Subsection (2)(a);

(c) the estimated maximum amount of tax credits that a business entity could qualify for under each written agreement described in Subsection (2)(a); and

(d) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded.

(3) At the reasonable request of the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, or the Division of Finance, the office shall provide additional information about the tax credit, new incremental jobs and high paying jobs, costs, and economic benefits related to this part, if the information is part of a public record as defined in Section 63G-2-103.

[~~(4) By October 1, the office shall submit to the Economic Development and Workforce Services Interim Committee, the Business, Economic Development, and Labor Appropriations Subcommittee, and the governor, a written report that provides an overview of the implementation and efficacy of the statewide economic development strategy, including an analysis of the extent to which the office's programs are aligned with the prevailing economic conditions expected in the next fiscal year.~~]

Section 20. Section 63N-16-302 is amended to read:

63N-16-302. Proactive regulatory relief efforts.

(1) As used in this section:

(a) "Regulatory framework" means a framework for determining the risk level to the public if a law or regulation that inhibits the creation or success of new and existing companies or industries were to be permanently removed or temporarily waived.

(b) "Risk level" means a level of risk categorized from low, medium, and high.

(2) The regulatory relief office may:

(a) review, at any time, any existing state laws or regulations that may unnecessarily inhibit the creation or success of companies or industries other than the occupational regulations of individuals reviewed by the Office of Professional Licensure Review under Title 13, Chapter 1b, Office of Professional Licensure Review; and

(b) provide recommendations to the governor and the Legislature on modifying those state laws and regulations described in Subsection (2)(a).

(3) The regulatory relief office shall:

(a) create a regulatory framework; and

(b) annually study the laws and regulations of at least two industries selected from:

(i) an industry targeted for economic development by the [~~Unified Economic Opportunity Commission~~]office as described in Section [~~63N-1a-202~~]63N-1a-302; or

(ii) an industry designated by the General Regulatory Sandbox Program Advisory Committee for study by the regulatory relief office.

(4) In undertaking the review described in Subsection [~~(3),~~](2),the regulatory relief office shall:

(a) identify any law or regulation that the regulatory relief office determines inhibits the creation or success of new and existing companies or industries;

(b) apply the regulatory framework to the identified law or regulation; and

(c) consider:

(i) the history of the identified regulation or law, including the reasons why the regulation or law was originally enacted;

(ii) whether the identified regulation or law:

(A) creates an unnecessary barrier to industry for businesses; or

(B) imposes an unnecessary cost to businesses or consumers;

(iii) whether the penalty for violation of the regulation or law, if any, is proportional to the potential harm; and

(iv) if there are potentially less burdensome alternatives to the existing regulation or law and apply the regulatory framework to that alternative.

(5) The regulatory relief office shall submit as part of the report described in Section 63N-16-105:

(a) a detailed overview of the regulatory relief office's study of the laws and regulations as described in this section, including the reasons why the laws and regulations of a particular industry were selected for study and the strategy the office implemented to study the laws and regulations of that industry; and

(b) recommended changes to a law or regulation identified by the regulatory relief office in Subsection (4) that the regulatory relief office determines:

(i) is inhibiting the success of businesses, companies, or industries; and

(ii) would not present a high risk level to the public if the law or regulation were permanently removed or temporarily waived.

Section 21. Section 72-1-203 is amended to read:

72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants and advisers -- Salaries.

(1) The executive director shall appoint the following deputy directors, who shall serve at the discretion of the executive director:

(a) the deputy director of engineering and operation, who shall be a registered professional engineer in the state, and who shall be the chief engineer of the department; and

(b) the deputy director of planning and investment.

(2) As assigned by the executive director, the deputy directors described in Subsection (1) may assist the executive director with the following departmental responsibilities:

(a) project development, including statewide standards for project design and construction, right-of-way, materials, testing, structures, and construction;

(b) oversight of the management of the region offices described in Section 72-1-205;

(c) operations and traffic management;

(d) oversight of operations of motor carriers and ports;

(e) transportation systems safety;

(f) aeronautical operations;

(g) equipment for department engineering and maintenance functions;

(h) oversight and coordination of planning, including:

(i) development of statewide strategic initiatives for planning across all modes of transportation;

(ii) coordination with metropolitan planning organizations and local governments;

(iii) coordination with a large public transit district, including planning, project development, outreach, programming, environmental studies and impact statements, construction, and impacts on public transit operations; and

(iv) corridor and area planning;

(i) asset management;

(j) programming and prioritization of transportation projects;

(k) fulfilling requirements for environmental studies and impact statements;

(l) resource investment, including identification, development, and oversight of public-private partnership opportunities;

(m) data analytics services to the department;

(n) corridor preservation;

(o) employee development;

(p) maintenance planning;

(q) oversight and facilitation of the negotiations and integration of public transit providers described in Section 17B-2a-827;

(r) oversight and supervision of any fixed guideway capital development project within the boundaries of a large public transit district for which any state funds are expended, including those responsibilities described in Subsections (2)(a), (h), (j), (k), and (l), and the implementation and enforcement of any federal grant obligations associated with fixed guideway capital development project funding; and

(s) other departmental responsibilities as determined by the executive director.

(3) The executive director shall ensure that the same deputy director does not oversee or supervise both the fixed guideway capital development responsibilities described in Subsection (2)(r) and the department's fixed guideway rail safety responsibilities, including the responsibilities described in Section 72-1-214.

(4) The executive director shall ensure that the same deputy director does not oversee or supervise both the authorization of a telecommunication provider to have longitudinal access to state right-of-way as described in Section 72-7-108, and the operations and duties of the Utah Broadband Center created in Section 72-19-201.

Section 22. Section 72-1-303 is amended to read:

72-1-303. Duties of commission.

(1) The commission has the following duties:

(a) determining priorities and funding levels of projects and programs in the state transportation systems and the capital development of new public transit facilities for each fiscal year based on project lists compiled by the department and taking into consideration the strategic initiatives described in Section 72-1-211;

(b) determining additions and deletions to state highways under Chapter 4, Designation of State Highways Act;

(c) holding public meetings and otherwise providing for public input in transportation matters;

(d) making policies and rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the commission's duties described under this section;

(e) in accordance with Section 63G-4-301, reviewing orders issued by the executive director in adjudicative proceedings held in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(f) advising the department on state transportation systems policy;

(g) approving settlement agreements of condemnation cases subject to Section 63G-10-401;

(h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a nonvoting member or a voting member on the board of trustees of a public transit district;

(i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term and long-range public transit plans;

(j) determining the priorities and funding levels of public transit innovation grants, as defined in Section 72-2-401;[~~and~~]

(k) approving grant awards administered by the Utah Broadband Center in accordance with Section 17-19-301; and

[~~(k)~~](l) reviewing administrative rules made, substantively amended, or repealed by the department.

(2) (a) For projects prioritized with funding provided under Sections 72-2-124 and 72-2-125, the commission shall annually report to a committee designated by the Legislative Management Committee:

(i) a prioritized list of the new transportation capacity projects in the state transportation system and the funding levels available for those projects; and

(ii) the unfunded highway construction and maintenance needs within the state.

(b) The committee designated by the Legislative Management Committee under Subsection (2)(a) shall:

(i) review the list reported by the Transportation Commission; and

(ii) make a recommendation to the Legislature on:

(A) the amount of additional funding to allocate to transportation; and

(B) the source of revenue for the additional funding allocation under Subsection (2)(b)(ii)(A).

(3) The commission shall review and may approve plans for the construction of a highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval of Highway Facilities on Sovereign Lands Act.

(4) One or more associations representing airport operators or pilots in the state shall annually report to the commission recommended airport improvement projects and any other information related to the associations' expertise and relevant to the commission's duties.

Section 23. Section 72-19-101, which is renumbered from Section 63N-17-102 is renumbered and amended to read:

CHAPTER 19. UTAH BROADBAND CENTER

PART 1. General Provisions

[~~63N-17-102~~]72-19-101. Definitions.

As used in this chapter:

(1) "Broadband center" means the Utah Broadband Center created in Section [~~63N-17-201~~]72-19-201.

(2) "Broadband commission" means the Utah Broadband Center Advisory Commission created in Section 36-29-109.

[~~(2)~~](3) "Final proposal" means the submission provided by the state to the Assistant Secretary of Commerce for Communications and Information as part of the state's BEAD Application, as set forth in 47 U.S.C. Sec. 1702(e)(4).

[~~(3)~~](4) "Initial proposal" means the submission provided by the state to the Assistant Secretary of Commerce for Communications and Information as part of the state's BEAD Application, as set forth in 47 U.S.C. Sec. 1702(e)(3).

[~~(4)~~](5) "Letter of intent" means the submission provided by the state to the Assistant Secretary of Commerce for Communications and Information as part of the state's BEAD Application, as set forth in 47 U.S.C. Sec. 1702(e)(1)(B).

[~~(5)~~](6) "Public-private partnership" means an arrangement or agreement between a government entity and one or more private persons to fund and provide for a public need through the development or operation of a public project in which the private person or persons share with the government entity the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

[~~(6)~~](7) "Subgrantee" means an entity that receives funds from the state under:

(a) the Broadband Access Grant Program created in Section [~~63N-17-301~~]72-19-301; or

(b) the Broadband Equity Access and Deployment Grant Program created in Section [~~63N-17-401~~]72-19-401.

[~~(7)~~](8) "State BEAD application" means a submission by the state for a grant under the federal Broadband Equity Access and Deployment Program established under 47 U.S.C. Sec. 1702(b), consisting of a letter of intent, initial proposal, and final proposal.

Section 24. Section 72-19-201, which is renumbered from Section 63N-17-201 is renumbered and amended to read:

PART 2. Utah Broadband Center

[~~63N-17-201~~]72-19-201. Utah Broadband Center -- Creation -- Director -- Duties.

(1) There is created within the [~~office~~]department the Utah Broadband Center.

(2) The executive director shall appoint a director of the broadband center to oversee the operations of the broadband center.

(3) The broadband center shall:

(a) ensure that publicly funded broadband projects continue to be publicly accessible and provide a public benefit;

(b) develop the statewide digital connectivity plan described in Section [~~63N-17-203~~]72-19-203;

(c) carry out the duties described in Section [~~63N-17-202~~]72-19-202;

(d) administer the Broadband Access Grant Program [~~in accordance with Part 3, Broadband Access Grant Program~~]created in Section 72-19-301; and

(e) administer the Broadband Equity Access and Deployment Grant Program [~~in accordance with Part 4, Broadband Equity Access and Deployment Program~~]created in Section 72-19-401.

[~~(f)~~](4) The broadband center shall ensure efficiency with respect to:

[~~(i)~~](a) expenditure of funds; and

[~~(ii)~~](b) avoiding duplication of efforts.

[~~(g)~~](5) The broadband center shall consider administering broadband infrastructure funds in a manner that:

[~~(i)~~](a) efficiently maximizes the leverage of federal funding;

[~~(ii)~~](b) avoids the use of public funds for broadband facilities that duplicate existing broadband facilities that already meet or exceed federal standards; and

[~~(iii)~~](c) accounts for the benefits and costs to the state of existing facilities, equipment, and services of public and private broadband providers.

Section 25. Section 72-19-202, which is renumbered from Section 63N-17-202 is renumbered and amended to read:

[~~63N-17-202~~]72-19-202. Infrastructure and broadband coordination.

(1) The broadband center shall partner with the Utah Geospatial Resource Center created in Section 63A-16-505 to collect and maintain a database and interactive map that displays economic development data statewide, including:

(a) voluntarily submitted broadband availability, speeds, and other broadband data;

(b) voluntarily submitted public utility data;

(c) workforce data, including information regarding:

(i) enterprise zones designated under Section 63N-2-206;

(ii) public institutions of higher education; and

(iii) APEX accelerators;

(d) transportation data, which may include information regarding railway routes, commuter rail routes, airport locations, and major highways;

(e) lifestyle data, which may include information regarding state parks, national parks and monuments, United States Forest Service boundaries, ski areas, golf courses, and hospitals; and

(f) other relevant economic development data as determined by the office, including data provided by partner organizations.

(2) The broadband center may:

(a) make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the development of broadband-related infrastructure in the state and help implement those policies and initiatives;

(b) facilitate coordination between broadband providers and public and private entities;

(c) collect and analyze data on broadband availability and usage in the state, including Internet speed, capacity, the number of unique visitors, and the availability of broadband infrastructure throughout the state;

(d) create a voluntary broadband alliance, which shall include broadband providers and other public and private stakeholders, to solicit input on broadband-related policy guidance, best practices, and adoption strategies;

(e) work with broadband providers, state and local governments, and other public and private stakeholders to facilitate and encourage the expansion and maintenance of broadband infrastructure throughout the state; and

(f) in accordance with the requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, and in accordance with federal requirements:

(i) apply for federal grants;

(ii) participate in federal programs; and

(iii) administer federally funded broadband-related programs.

Section 26. Section 72-19-203, which is renumbered from Section 63N-17-203 is renumbered and amended to read:

[~~63N-17-203~~]72-19-203. Statewide digital connectivity plan.

As used in this section:

(1) [~~"Commission" ~~]"Broadband commission" means the Utah Broadband Center Advisory Commission created in Section 36-29-109.

(2) "Strategic plan" means the statewide digital connectivity plan created in accordance with Subsections [~~(2) and~~](3) and (4).

(3) The broadband center shall develop the strategic plan.

(4) The strategic plan shall include strategies to:

(a) implement broadband connectivity statewide;

(b) promote digital [~~equity~~]access throughout the state;

(c) apply for federal infrastructure funds; and

(d) apply for additional funds.

(5) In developing the strategic plan, the broadband center shall work with the broadband commission.

[~~(6) The broadband center shall provide the commission with quarterly status updates regarding:~~]

[~~(a) implementation of the commission's recommendations;~~]

[~~(b) the grant programs created in Sections 63N-17-301 and 63N-17-401, including:~~]

[~~(i) applications received for grant funding;~~]

[~~(ii) grant awards about to be made by the broadband center;~~]

[~~(iii) grant awards made by the broadband center; and~~]

[~~(iv) projects implemented with grant funding;~~]

[~~(c) strategic plan development;~~]

[~~(d) strategic plan implementation;~~]

[~~(e) grants received in addition to those described in Subsection (6)(b);~~]

[~~(f) projects funded in addition to those described in Subsection (6)(b); and~~]

[~~(g) recommendations for legislation.~~]

[~~(7)~~](6) The broadband center shall submit the strategic plan to the broadband commission for the broadband commission's recommendation before finalizing the strategic plan.

[~~(8)~~](7) On or before October 1 of each year, the broadband center shall report to the broadband commission and the Public Utilities, Energy, and Technology Interim Committee regarding status updates.

Section 27. Section 72-19-301, which is renumbered from Section 63N-17-301 is renumbered and amended to read:

PART 3. Broadband Access Grant Program

[~~63N-17-301~~]72-19-301. Creation of Broadband Access Grant Program.

(1) As used in this part:

(a) "Eligible applicant" means:

(i) a telecommunications provider or an Internet service provider;

(ii) a local government entity and one or more private entities, collectively, who are parties to a public-private partnership established for the purpose of expanding affordable broadband access in the state; or

(iii) a tribal government.

(b) "Underserved area" means an area of the state that is underserved in terms of the area's access to broadband service, as further defined by rule made by the department in coordination with the broadband center.

(c) "Unserved area" means an area of the state that is unserved in terms of the area's access to broadband service, as further defined by rule made by the department in coordination with the broadband center.

(2) There is established a grant program known as the Broadband Access Grant Program that is administered by the broadband center in accordance with this part.

(3) (a) The broadband center may award a grant under this part to an eligible applicant that submits to the broadband center an application that includes a proposed project to extend broadband service to individuals and businesses in an unserved area or an underserved area by providing last-mile connections to end users.

(b) Subsection (3)(a) does not prohibit the broadband center from awarding a grant for a proposed project that also includes middle-mile elements that are necessary for the last-mile connections.

(4) In awarding grants under this part, the broadband center shall:

(a) based on the following criteria and in the order provided, prioritize proposed projects:

(i) located in unserved areas;

(ii) located in underserved areas;

(iii) (A) that the eligible applicant developed after meaningful engagement with the impacted community to identify the community's needs and innovative means of providing a public benefit that addresses the community's needs; and

(B) that include, as a component of the proposed project, a long-term public benefit to the impacted community developed in response to the eligible applicant's engagement with the community;

(iv) located in an economically distressed area of the state, as measured by indices of unemployment, poverty, or population loss;

(v) that make the greatest investment in last-mile connections;

(vi) that provide higher speed broadband access to end users; and

(vii) for which the eligible applicant provides at least 25% of the money needed for the proposed project, with higher priority to proposed projects for which the eligible applicant provides a greater percentage of the money needed for the proposed project; and

(b) consider the impact of available funding for the proposed project from other sources, including money from matching federal grant programs.

(5) For a project that the eligible applicant cannot complete in a single fiscal year, the broadband center may distribute grant proceeds for the project over the course of the project's construction.

(6) (a) Before awarding a grant under this part, the broadband center shall present the application described in Subsection (3) to the Transportation Commission for approval.

(b) In awarding a grant under this part, the broadband center shall ensure that grant funds are not used by a subgrantee in a manner that causes competition among projects that are substantially supported by state funds or federal funds subgranted by the state[~~, as determine in accordance with rules made by the broadband center in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~].

(7) As provided in and subject to the requirements of Title 63G, Chapter 2, Government Records Access and Management Act, a record submitted to the broadband center that contains a trade secret or confidential commercial information described in Subsection 63G-2-305(2) is a protected record.

Section 28. Section 72-19-302, which is renumbered from Section 63N-17-302 is renumbered and amended to read:

[~~63N-17-302~~]72-19-302. Duties of the broadband center.

(1) The broadband center shall:

(a) establish an application process by which an eligible applicant may apply for a grant under this part, which application shall include:

(i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct; and

(ii) an acknowledgment that the eligible applicant is subject to audit;

(b) establish a method for the broadband center to determine which eligible applicants qualify to receive a grant;

(c) establish a formula to award grant funds; and

(d) report the information described in Subsections (1)(a) through (c) to the director of the Division of Finance.

(2) Subject to appropriation, the broadband center shall:

(a) collect applications for grant funds from eligible applicants;

(b) determine which applicants qualify for receiving a grant; and

(c) award the grant funds in accordance with the process established under Subsection (1)and in accordance with Section [~~63N-17-301~~]72-19-301.

(3) [~~In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the broadband center may make rules to administer the grant program~~]The department, in coordination with the broadband center, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the grant program.

Section 29. Section 72-19-401, which is renumbered from Section 63N-17-401 is renumbered and amended to read:

PART 4. Broadband Equity Access and Deployment Grant Program

[~~63N-17-401~~]72-19-401. Creation of Broadband Equity Access and Deployment Grant Program.

(1) There is established a grant program known as the Broadband Equity Access and Deployment Grant Program that is administered by the broadband center in accordance with:

(a) this part; and

(b) the requirements of the National Telecommunications and Information Administration's Broadband Equity Access and Deployment Program, 47 U.S.C. Sec. 1702 et seq.

(2) The broadband center shall:

(a) prepare and submit the state's Broadband Equity Access and Deployment application, including the letter of intent, initial proposal, and final proposal to the National Telecommunications and Information Administration;

(b) administer the Broadband Equity Access and Deployment Grant Program in accordance with this section and as approved by the National Telecommunications and Information Administration;

(c) accept and process an application for subgranted funds; and

[~~(d) report to the broadband commission quarterly on:~~]

[~~(i) the progress of the broadband center's submission described in Subsection (2)(a);~~]

[~~(ii) the administration of the program;~~]

[~~(iii) applications received for subgranted funding;~~]

[~~(iv) approved applications for subgranted funds; and~~]

[~~(v) projects supported by subgranted funds;~~]

[~~(c)~~](d) ensure that a subgrantee complies with the state's final proposal to the National Telecommunications and Information Administration[~~; and~~].

[~~(f) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section.~~]

(3) The department, in coordination with the broadband center, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the grant program.

[~~(3) The broadband commission shall give the broadband center recommendations during the quarterly reports described in Subsection (2)(d).~~]

(4) The broadband center may approve an application for subgranted funds if:

(a) the application meets the requirements of this section;

(b) the application meets any rule made pursuant to this section;

(c) the application meets the requirements of the National Telecommunications and Information Administration's Broadband Equity Access and Deployment Program, 47 U.S.C. Sec. 1702 et seq.; and

(d) the broadband center has informed the [~~broadband commission~~]Transportation Commission about the application[~~, as~~] described in Subsection [~~(2)(d)~~](2)(c).

(5) After the broadband center completes a competitive application process for subgranted funds but before the broadband center notifies the applicant of the award, the broadband center shall present to the [~~broadband commission~~]Transportation Commission on the subgrant award.

Section 30. Repealer.

This bill repeals:

Section 63N-1a-201, Creation of commission.

Section 63N-1a-202, Commission duties.

Section 63N-1b-102, Subcommittees generally.

Section 63N-1b-401, Definitions.

Section 63N-1b-402, Women in the Economy Subcommittee created.

Section 63N-1b-403, Purpose -- Powers and duties of the subcommittee.

Section 63N-1b-404, Annual report.

Section 63N-3-204, Administration -- Grants and loans.

Section 31. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 31(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office of Economic Opportunity - Economic Prosperity

From General Fund - (553,600)

From Federal Funds - (200,000)

From Dedicated Credits Revenue - (93,700)

Schedule of Programs:

Business Services - (847,300)

ITEM 2

To Department of Workforce Services - Office of Homeless Services

From General Fund - 1,900,000

Schedule of Programs:

Homeless Services - 1,900,000

Under the provisions of Utah Code Annotated Title 63G, Chapter 6b, the Legislature intends that the Department of Workforce Services provide a direct award grant of $1,900,000 ongoing to Family Interim Non-congregate Children Housing (FINCH) facility located in a county of the first class under the consultation of the Homeless Coordinator of the Office of Homelessness.

ITEM 3

To Utah Board of Higher Education - Administration

From General Fund - 553,600

From Federal Funds - 200,000

From Dedicated Credits Revenue - 93,700

Schedule of Programs:

Administration - 847,300

The Legislature intends, that if H.B. 542, Economic Development Amendments, and H.B. 530, Utah Innovation Lab Modifications, both pass and become law, on July 1, 2025, the funding appropriated in H.B. 542 be transferred to the Utah Board of Higher Education for the Nucleus Institute. The Legislature further intends that the Office of Legislative Fiscal Analyst, when preparing the base budget for the 2026 General Session, create a new line item titled within the Utah Board of Higher Education "Nucleus Institute" and transfer the funding for the Utah Board of Education - Administration line item to the newly created item.

Section 32. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 513
H. B. 81
Passed February 21, 2025
Approved March 27, 2025
Effective May 7, 2025

FLUORIDE AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses provisions related to water fluoridation and prescription fluoride supplements.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► prohibits adding fluoride to public water systems;
- ► allows a pharmacist to prescribe fluoride; and
- ► directs the Division of Professional Licensing to establish guidelines for prescribing fluoride.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-627, as last amended by Laws of Utah 2022, Chapter 255

REPEALS AND REENACTS:

19-4-111, as last amended by Laws of Utah 2023, Chapter 16

REPEALS:

19-4-111.1, as last amended by Laws of Utah 2013, Chapter 321
19-4-111.2, as last amended by Laws of Utah 2013, Chapter 321

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-4-111 is repealed and re-enacted to read:
19-4-111. Prohibition of fluoride in public water systems.

(1) As used in this section, "fluoride" means a chemical compound that contains the fluoride ion and is used to fluoridate drinking water, including:

(a) fluorosilicic acid;

(b) sodium fluorosilicate; or

(c) sodium fluoride.

(2) A person may not add fluoride to water in, or water that will be introduced into, a public water system.

(3) A political subdivision may not enact or enforce an ordinance that requires or permits the addition of fluoride to water in, or water that will be introduced into, a public water system.

Section 2. Section 58-17b-627 is amended to read:
58-17b-627. Prescription of drugs or devices by a pharmacist.

(1) Beginning January 1, 2022, a pharmacist may prescribe a prescription drug or device if:

(a) prescribing the prescription drug or device is within the scope of the pharmacist's training and experience;

(b) the prescription drug or device is designated by the division by rule under Subsection (3)(a); and

(c) the prescription drug or device is not a controlled substance that is included in Schedules I, II, III, or IV of:

(i) Section 58-37-4; or

(ii) the federal Controlled Substances Act, Title II, P.L. 91-513.

(2) Nothing in this section requires a pharmacist to issue a prescription for a prescription drug or device.

(3) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) designate the prescription drugs or devices that may be prescribed by a pharmacist under this section, beginning with prescription drugs or devices that address a public health concern that is designated by the Department of Health and Human Services, including:

(i) post-exposure HIV prophylaxis;

(ii) pre-exposure HIV prophylaxis;

(iii) self-administered hormonal contraceptives;

(iv) smoking cessation;[~~and~~]

(v) naloxone; and

(vi) fluoride;

(b) create guidelines that a pharmacist must follow when prescribing a prescription drug or device, including guidelines:

(i) for notifying the patient's primary care or other health care provider about the prescription; and

(ii) to prevent the over-prescription of drugs or devices including but not limited to antibiotics;

(c) address when a pharmacist should refer the patient to an appropriate health care provider or otherwise encourage the patient to seek further medical care; and

(d) implement the provisions of this section.

(4) The division shall make rules under Subsection (3) in collaboration with:

(a) individuals representing pharmacies and pharmacists;

(b) individuals representing physicians and advanced practice clinicians; and

(c) (i) if the executive director of the Department of Health and Human Services is a physician, the executive director of the Department of Health and Human Services;

(ii) if the executive director of the Department of Health and Human Services is not a physician, a deputy director who is a physician in accordance with Subsection 26B-1-203(4); or

(iii) a designee of the individual described in Section 26B-1-203.

(5) Before November 1 of each year, the division, in consultation with the individuals described in Subsection (4), shall:

(a) develop recommendations for statutory changes to improve patient access to prescribed drugs in the state; and

(b) report the recommendations developed under Subsection (5)(a) to the Health and Human Services Interim Committee.

Section 3. Repealer.

This bill repeals:

Section 19-4-111.1, Provision of fluoridated water -- Request of resident.

Section 19-4-111.2, Provision of fluoridated water -- Emergency circumstances.

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 514
S. B. 69
Passed March 5, 2025
Approved March 27, 2025
Effective May 7, 2025

MEDICATION AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses the 340B drug discount program.

Highlighted Provisions:

This bill:

- ► defines a term;
- ► prohibits certain conduct by a pharmaceutical manufacturer with respect to the 340B drug discount program; and
- ► permits the Public Employees' Benefit and Insurance Program to adjust its business practices to mitigate any resulting financial impacts.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

31A-46-311, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-46-311 is enacted to read:

31A-46-311. Prohibited actions with respect to the 340B drug discount program.

(1) As used in this section, "manufacturer" means a pharmaceutical manufacturer, including an agent or affiliate of a pharmaceutical manufacturer.

(2) A manufacturer may not:

(a) directly or indirectly restrict or prohibit:

(i) a pharmacy from contracting with a 340B entity, including by denying the pharmacy access to a drug that is manufactured by the manufacturer;

(ii) a 340B entity from contracting with a pharmacy, including by denying the 340B entity access to a drug that is manufactured by the manufacturer;

(iii) the acquisition, dispensing, or delivery of a 340B drug to any location authorized by a 340B entity to receive the drug, unless prohibited by federal law; or

(iv) a 340B entity from receiving 340B drug discount program pricing for a 340B drug, including by imposing a time limitation on a 340B entity to replenish or submit a claim for a 340B drug;

(b) directly or indirectly:

(i) require a 340B entity to purchase a 340B drug from a supplier if the manufacturer would otherwise permit the 340B entity to purchase a drug that is not a 340B drug from the supplier; or

(ii) require a 340B entity to submit any claim data, utilization data, or information about a 340B entity's contracts with a third-party as a condition for allowing the acquisition of a 340B drug by, or delivery of a 340B drug to, a 340B entity, unless the data or information sharing is required by federal law; or

(c) interfere with:

(i) a contract between a pharmacy and a 340B entity; or

(ii) the ability of a pharmacy and a 340B entity to enter into a contract.

(3) The Public Employees' Benefit and Insurance Program created in Section 49-20-103 may adjust the program's business practices to mitigate any financial impacts resulting from this section.

(4) Nothing in this section is to be construed to conflict with federal law.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 515
H. B. 44
Passed February 19, 2025
Approved March 27, 2025
Effective May 7, 2025

PRIVATE AIRPORT NOTICE AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill enacts provisions related to notice of private airports.

Highlighted Provisions:

This bill:

► defines terms related to private airports;
► requires local governments to provide and record notice of certain information about the name and location of certain private airports; and
► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-10-102, as last amended by Laws of Utah 2024, Chapter 483

ENACTS:

10-9a-541, Utah Code Annotated 1953
17-27a-536, Utah Code Annotated 1953
72-10-416, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-541 is enacted to read:

10-9a-541. Notice of significant private airports.

(1) As used in this section, "significant private airport" means the same as that term is defined in Section 72-10-102.

(2) If a municipality receives a notification described in Section 72-10-416, the land use authority of the municipality shall record with the county recorder and against any existing residential parcel within 2,500 feet of a runway of a significant private airport located within the boundary of the municipality a notice with the following language: "In accordance with Utah Code Section 10-9a-541, notice is hereby given that the subject property is located within 2,500 feet of a runway of a significant airport that as of [INSERT THE DATE OF THE RECORDING] is known as [AIRPORT NAME] and is located at [INSERT THE ADDRESS OF THE SIGNIFICANT PRIVATE AIRPORT]. Said notice boundary more accurately described as [INSERT BOUNDARY LEGAL DESCRIPTION OF ALL PROPERTY WITHIN 2,500 FEET OF RUNWAY]."

Section 2. Section 17-27a-536 is enacted to read:

17-27a-536. Notice of significant private airports.

(1) As used in this section, "significant private airport" means the same as that term is defined in Section 72-10-102.

(2) If a county receives a notification described in Section 72-10-416, the land use authority of the county shall record with the county recorder and against any existing residential parcel within 2,500 feet of a runway of a significant private airport located within an unincorporated area within the boundary of the county a notice with the following language: "In accordance with Utah Code Section 17-27a-536, notice is hereby given that the subject property is located within 2,500 feet of a runway of a significant airport that as of [INSERT THE DATE OF THE RECORDING] is known as [AIRPORT NAME] and is located at [INSERT THE ADDRESS OF THE SIGNIFICANT PRIVATE AIRPORT]. Said notice boundary more accurately described as [INSERT BOUNDARY LEGAL DESCRIPTION OF ALL PROPERTY WITHIN 2,500 FEET OF RUNWAY]."

Section 3. Section 72-10-102 is amended to read:

72-10-102. Definitions.

As used in this chapter:

(1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air navigation.

(2) (a) "Advanced air mobility system" means a system that transports individuals and property using piloted and unpiloted aircraft, including electric aircraft and electric vertical takeoff and landing aircraft, in controlled or uncontrolled airspace.

(b) "Advanced air mobility system" includes each component of a system described in Subsection (2)(a), including:

(i) the aircraft, including payload;

(ii) communications equipment;

(iii) navigation equipment;

(iv) controllers;

(v) support equipment; and

(vi) remote and autonomous functions.

(3) "Aerial transit corridor" means an airspace volume defining a three-dimensional route segment with performance requirements to operate within or to cross where tactical air traffic control separation services are not provided.

(4) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair, or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or other air navigation facilities.

(5) "Aeronautics instructor" means any individual engaged in giving or offering to give instruction in aeronautics, flying, or ground subjects, either with or without:

(a) compensation or other reward;

(b) advertising the occupation;

(c) calling his facilities an air school, or any equivalent term; or

(d) employing or using other instructors.

(6) "Aircraft" means any contrivance now known or in the future invented, used, or designed for navigation of or flight in the air.

(7) "Air instruction" means the imparting of aeronautical information by any aviation instructor or in any air school or flying club.

(8) "Airport" means any area of land, water, or both, that:

(a) is used or is made available for landing and takeoff;

(b) provides facilities for the shelter, supply, and repair of aircraft, and handling of passengers and cargo;

(c) meets the minimum requirements established by the department as to size and design, surface, marking, equipment, and operation; and

(d) includes all areas shown as part of the airport in the current airport layout plan as approved by the Federal Aviation Administration.

(9) "Airport authority" means a political subdivision of the state, other than a county or municipality, that is authorized by statute to operate an airport.

(10) "Airport operator" means a municipality, county, or airport authority that owns or operates a commercial airport.

(11) (a) "Airport revenue" means[~~:~~]

[~~(i)~~] all fees, charges, rents, or other payments received by or accruing to an airport operator for any of the following reasons:

[~~(A)~~](i) revenue from air carriers, tenants, lessees, purchasers of airport properties, airport permittees making use of airport property and services, and other parties;

[~~(B)~~](ii) revenue received from the activities of others or the transfer of rights to others relating to the airport, including revenue received:

[~~(I)~~](A) for the right to conduct an activity on the airport or to use or occupy airport property;

[~~(II)~~](B) for the sale, transfer, or disposition of airport real or personal property, or any interest in that property, including transfer through a condemnation proceeding;

[~~(III)~~](C) for the sale of, or the sale or lease of rights in, mineral, natural, or agricultural products or water owned by the airport operator to be taken from the airport; and

[~~(IV)~~](D) for the right to conduct an activity on, or for the use or disposition of, real or personal property or any interest in real or personal property owned or controlled by the airport operator and used for an airport-related purpose but not located on the airport; or

[~~(C)~~](iii) revenue received from activities conducted by the airport operator whether on or off the airport, which is directly connected to the airport operator's ownership or operation of the airport[~~; and~~].

[~~(ii)~~](b) "Airport revenue" includes state and local taxes on aviation fuel.

[~~(b)~~](c) "Airport revenue" does not include amounts received by an airport operator as passenger facility fees pursuant to 49 U.S.C. Sec. 40117.

(12) "Air school" means any person engaged in giving, offering to give, or advertising, representing, or holding himself out as giving, with or without compensation or other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these subjects.

(13) "Airworthiness" means conformity with requirements prescribed by the Federal Aviation Administration regarding the structure or functioning of aircraft, engine, parts, or accessories.

(14) "Civil aircraft" means any aircraft other than a public aircraft.

(15) "Commercial aircraft" means aircraft used for commercial purposes.

(16) "Commercial airport" means a landing area, landing strip, or airport that may be used for commercial operations.

(17) "Commercial flight operator" means a person who conducts commercial operations.

(18) "Commercial operations" means:

(a) any operations of an aircraft for compensation or hire or any services performed incidental to the operation of any aircraft for which a fee is charged or compensation is received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, and the operation of aircraft for hunting and fishing; or

(b) the brokering or selling of any of these services; but

(c) does not include any operations of aircraft as common carriers certificated by the federal government or the services incidental to those operations.

(19) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(20) "Dealer" means any person who is actively engaged in the business of flying for demonstration purposes, or selling or exchanging aircraft, and who has an established place of business.

(21) "Experimental aircraft" means:

(a) any aircraft designated by the Federal Aviation Administration or the military as experimental and used solely for the purpose of experiments, or tests regarding the structure or functioning of aircraft, engines, or their accessories; and

(b) any aircraft designated by the Federal Aviation Administration as:

(i) being custom or amateur built; and

(ii) used for recreational, educational, or display purposes.

(22) "Flight" means any kind of locomotion by aircraft while in the air.

(23) "Flying club" means five or more persons who for neither profit nor reward own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

(24) "Glider" means an aircraft heavier than air, similar to an airplane, but without a power plant.

(25) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or overhauls aircraft, engines, or accessories.

(26) "Navigable airspace" means the same as that term is defined in 49 U.S.C. Sec. 40102.

(27) "Parachute jumper" means any person who has passed the required test for jumping with a parachute from an aircraft, and has passed an examination showing that he possesses the required physical and mental qualifications for the jumping.

(28) "Parachute rigger" means any person who has passed the required test for packing, repairing, and maintaining parachutes.

(29) "Passenger aircraft" means aircraft used for transporting persons, in addition to the pilot or crew, with or without their necessary personal belongings.

(30) "Person" means any individual, corporation, limited liability company, or association of individuals.

(31) "Pilot" means any person who operates the controls of an aircraft while in-flight.

(32) "Primary glider" means any glider that has a gliding angle of less than 10 to one.

(33) "Private airport" means an airport that is not open or available for public use.

[~~(33)~~](34) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision, including the government of the United States, of the District of Columbia, and of any state, territory, or insular possession of the United States, but not including any government-owned aircraft engaged in carrying persons or goods for commercial purposes.

[~~(34)~~](35) "Reckless flying" means the operation or piloting of any aircraft recklessly, or in a manner as to endanger the property, life, or body of any person, due regard being given to the prevailing weather conditions, field conditions, and to the territory being flown over.

[~~(35)~~](36) "Registration number" means the number assigned by the Federal Aviation Administration to any aircraft, whether or not the number includes a letter or letters.

[~~(36)~~](37) "Roadable aircraft" means an aircraft capable of taking off and landing from a suitable airfield and is also designed to be driven on a highway as a conveyance.

[~~(37)~~](38) "Secondary glider" means any glider that has a gliding angle between 10 to one and 16 to one, inclusive.

(39) "Significant private airport" means a private airport that is designated by the department as a significant private airport as described in Section 72-10-416.

[~~(38)~~](40) "Soaring glider" means any glider that has a gliding angle of more than 16 to one.

[~~(39)~~](41) "Unmanned aircraft" means an aircraft that is:

(a) capable of sustaining flight; and

(b) operated with no possible direct human intervention from on or within the aircraft.

[~~(40)~~](42) "Unmanned aircraft system" means the entire system used to operate an unmanned aircraft, including:

(a) the unmanned aircraft, including payload;

(b) communications equipment;

(c) navigation equipment;

(d) controllers;

(e) support equipment; and

(f) autopilot functionality.

[~~(41)~~](43) "Unmanned aircraft system traffic management" means a traffic management ecosystem for uncontrolled operations, including unmanned aircraft systems, that is separate from, but complementary to, the Federal Aviation Administration's air traffic management system.

[~~(42)~~](44) "Vertiport" means an area of land, or a structure, used or intended to be used for electric, hydrogen, and hybrid vertical aircraft landings and takeoffs, including associated buildings and facilities.

Section 4. Section 72-10-416 is enacted to read:

72-10-416. Private airports designated as significant.

(1) Upon request from an owner of a private airport, the department shall determine whether to designate a private airport as a significant private airport.

(2) The department shall designate a private airport as a significant private airport if the department determines that the private airport:

(a) is registered with the Federal Aviation Administration;

(b) appears on aeronautical charts published by the Federal Aviation Administration; and

(c) has significant infrastructure investment, such as a paved runway, lighting, fuel facilities, or more than 20 based aircraft.

(3) If the department designates a private airport as a significant private airport, the department shall notify the relevant municipality or county of:

(a) the department's designation; and

(b) the municipality's or county's responsibility to make the recording described in Section 10-9a-541 or 17-27a-536.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 516
H. B. 109
Passed February 14, 2025
Approved March 27, 2025
Effective May 7, 2025

MUNICIPAL ELECTION AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill modifies a municipal council's power to dismiss a municipal manager.

Highlighted Provisions:

This bill:

- ► provides that, beginning on the day on which a municipal general election is held and ending on the day on which a council member-elect begins the council member's term of office, a six-member or five-member municipal council may not adopt an ordinance that establishes a more restrictive procedure for the dismissal of a municipal manager; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3b-303, as last amended by Laws of Utah 2011, Chapter 209
10-3b-403, as last amended by Laws of Utah 2011, Chapter 209

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3b-303 is amended to read:
10-3b-303. Council in six-member council form of government.

(1) The council in a municipality operating under a six-member council form of government:

(a) exercises any executive or administrative power and performs or supervises the performance of any executive or administrative duty or function that:

(i) has not been given to the mayor under Section 10-3b-104; or

(ii) has been given to the mayor under Section 10-3b-104 but is removed from the mayor under Subsection (1)(b)(i)(A);

(b) may:

(i) subject to Subsections (1)(c) and (2), adopt an ordinance:

(A) removing from the mayor any power, duty, or function of the mayor under Section 10-3b-104; or

(B) reinstating to the mayor any power, duty, or function previously removed under Subsection (1)(b)(i)(A);

(ii) adopt an ordinance delegating to the mayor any executive or administrative power, duty, or function that the council has under Subsection (1)(a);

(iii) subject to Subsection 10-3b-302(1)(b)(ii)(A):

(A) appoint, subject to Subsections (3) and (4), a manager to perform executive and administrative duties or functions that the council by ordinance delegates to the manager, subject to Subsection (1)(c); and

(B) subject to Subsection (3), dismiss a manager appointed under Subsection (1)(b)(iii)(A); and

(iv) assign any or all council members, including the mayor, to supervise one or more administrative departments of the municipality; and

(c) may not remove from the mayor or delegate to a manager appointed by the council:

(i) any of the mayor's legislative or judicial powers or ceremonial functions;

(ii) the mayor's position as chair of the council; or

(iii) any ex officio position that the mayor holds.

(2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative vote of:

(a) the mayor and a majority of all other council members; or

(b) all council members except the mayor.

(3) (a) As used in this Subsection (3), "interim vacancy period" means the period of time that:

(i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a council member; and

(ii) ends on the day on which the council member-elect begins the council member's term.

(b) (i) [~~The council may not appoint a manager during an interim vacancy period.~~]During an interim vacancy period, the council may not:

(A) appoint a manager; or

(B) adopt an ordinance establishing a procedure for the dismissal of a manager that is more restrictive than the procedure applicable at the time the manager was appointed.

(ii) Notwithstanding Subsection [~~(3)(b)(i)~~](3)(b)(i)(A):

(A) the council may appoint an interim manager during an interim vacancy period; and

(B) the interim manager's term shall expire once a new manager is appointed by the new administration after the interim vacancy period has ended.

(c) Subsection (3)(b) does not apply if all the council members who held office on the day of the municipal general election whose term of office was vacant for the election are re-elected to the council for the following term.

(4) A council that appoints a manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager.

Section 2. Section 10-3b-403 is amended to read:

10-3b-403. Council in a five-member council form of government.

(1) The council in a municipality operating under a five-member council form of municipal government:

(a) exercises any executive or administrative power and performs or supervises the performance of any executive or administrative duty or function that:

(i) has not been given to the mayor under Section 10-3b-104; or

(ii) has been given to the mayor under Section 10-3b-104 but is removed from the mayor under Subsection (1)(b)(i)(A);

(b) may:

(i) subject to Subsections (1)(c) and (2), adopt an ordinance:

(A) removing from the mayor any power, duty, or function of the mayor under Section 10-3b-104; and

(B) reinstating to the mayor any power, duty, or function previously removed under Subsection (1)(b)(i)(A);

(ii) adopt an ordinance delegating to the mayor any executive or administrative power, duty, or function that the council has under Subsection (1)(a);

(iii) subject to Subsections (3) and (4), appoint a manager to perform executive and administrative duties or functions that the council by ordinance delegates to the manager, subject to Subsection (1)(c);

(iv) subject to Subsection (3), dismiss a manager appointed under Subsection (1)(b)(iii); and

(v) assign any or all council members, including the mayor, to supervise one or more administrative departments of the municipality; and

(c) may not remove from the mayor or delegate to a manager appointed by the council:

(i) any of the mayor's legislative or judicial powers or ceremonial functions;

(ii) the mayor's position as chair of the council; or

(iii) any ex officio position that the mayor holds.

(2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative vote of:

(a) the mayor and a majority of all other council members; or

(b) all council members except the mayor.

(3) (a) As used in this Subsection (3), "interim vacancy period" means the period of time that:

(i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a council member; and

(ii) ends on the day on which the council member-elect begins the council member's term.

(b) (i) [~~The council may not appoint a manager during an interim vacancy period.~~]During an interim vacancy period, the council may not:

(A) appoint a manager; or

(B) adopt an ordinance establishing a procedure for the dismissal of a manager that is more restrictive than the procedure applicable at the time the manager was appointed.

(ii) Notwithstanding Subsection [~~(3)(b)(i)~~](3)(b)(i)(A):

(A) the council may appoint an interim manager during an interim vacancy period; and

(B) the interim manager's term shall expire once a new manager is appointed by the new administration after the interim vacancy period has ended.

(c) Subsection (3)(b) does not apply if all the council members who held office on the day of the municipal general election whose term of office was vacant for the election are re-elected to the council for the following term.

(4) A council that appoints a manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 517
H. B. 104
Passed March 7, 2025
Approved March 27, 2025
Effective July 1, 2025

FIREARM SAFETY IN SCHOOLS AMENDMENTS

Chief Sponsor: Rex P. Shipp
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill addresses firearm safety instruction in public schools.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires a local education agency to provide firearm safety instruction to students;
- ► provides guidelines on how a local education agency may provide the firearm safety instruction;
- ► requires that individuals providing instruction with an actual firearm have certain authority to possess a firearm; and
- ► includes an opt-out provision.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53E-4-207, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-4-207 is enacted to read:

53E-4-207. Firearm safety minimum standards and instruction.

(1) As used in this section:

(a) "Firearm" means the same as that term is defined in Section 76-10-501.

(b) "On or about school premises" means the same as that term is defined in Section 76-10-505.5.

(2) An LEA shall, in accordance with state board standards, provide an instructional session on firearm safety to each grade level as described in Subsection (3).

(3) An LEA shall present firearm safety instruction:

(a) to a grade, at least three times, while a student is attending kindergarten through grade 6;

(b) to a grade, at least twice, once while a student is attending middle school and once while a student is attending high school;

(c) in a manner that is developmentally appropriate to the grade level receiving the instruction; and

(d) emphasizing the best practices and guidelines for the safe handling and storage of a firearm to prevent accidents and ensure personal safety.

(4) An LEA providing the instruction described in Subsection (3):

(a) may provide the instruction:

(i) in a public school using live instruction, a video, or online materials;

(ii) with an existing hunter safety course;

(iii) with the health education curriculum; or

(iv) with the physical education curriculum;

(b) may use firearm safety curricula and materials the attorney general's office previously created; and

(c) shall ensure that any statement regarding a firearm is politically neutral.

(5) If a firearm safety instruction under this section entails the display or functionality of an actual firearm on or about school premises, the LEA shall ensure that the individual who provides the firearm safety instruction is a person exempt from certain weapons laws as described in Subsections 76-10-523(1)(a) through (f).

(6) (a) A school shall, before providing firearm safety instruction, notify a student's parent or legal guardian of the instruction and provide details on how to opt out.

(b) A school may provide an alternative educational activity to a student whose parent or legal guardian opts the student out of firearm safety instruction.

Section 2. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 518
H. B. 110
Passed March 7, 2025
Approved March 27, 2025
Effective July 1, 2026

COMBINED BASIC TAX RATE REDUCTION

Chief Sponsor: Tiara Auxier
Senate Sponsor: Daniel McCay

Cosponsor:	Stephanie Gricius	Jefferson Moss
Cheryl K. Acton	Jason B. Kyle	Candice B. Pierucci
Tyler Clancy	Trevor Lee	Calvin Roberts
Joseph Elison	Karianne Lisonbee	R. Neil Walter

LONG TITLE

General Description:

This bill repeals the weighted pupil unit (WPU) value rate from the combination of property tax rates that fund public education.

Highlighted Provisions:

This bill:

- ► repeals the WPU value rate from the combination of property tax rates that fund public education;
- ► provides that the repeal of the WPU value rate does not affect the amount of ongoing appropriations to the Teacher and Student Success Program;
- ► includes a clause to coordinate the effect of the repeal of the WPU value rate with language that S.B. 37, Minimum Basic Tax Rate Amendments, enacts; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53F-2-301, as last amended by Laws of Utah 2024, Chapters 124, 460
59-2-919.1, as last amended by Laws of Utah 2024, Chapter 246
59-2-926, as last amended by Laws of Utah 2023, Chapter 7

Utah Code Sections Affected by Coordination Clause:

AMENDS:

53F-2-301, as last amended by Laws of Utah 2024, Chapters 124, 460

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-301 is amended to read:

53F-2-301. Minimum basic tax rate for a fiscal year that begins after July 1, 2022.

(1) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to $75,000,000.

[~~(b) "Combined basic rate" means a rate that is the sum of:~~]

[~~(i) the minimum basic tax rate; and~~]

[~~(ii) the WPU value rate.~~]

[~~(c)~~](b) "Commission" means the State Tax Commission.

[~~(d)~~](c) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic rate; and

(ii) set annually by the Legislature in Subsection (2)(a).

[~~(c)~~](d) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (2)(a).

[~~(f) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.~~]

[~~(g) "WPU value amount" means an amount:~~]

[~~(i) that is equal to the product of:~~]

[~~(A) the WPU value increase limit; and~~]

[~~(B) the percentage share of local revenue to the cost of the basic school program in the immediately preceding fiscal year; and~~]

[~~(ii) set annually by the Legislature in Subsection (3)(a).~~]

[~~(h) "WPU value increase limit" means the lesser of:~~]

[~~(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or~~]

[~~(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.~~]

[~~(i) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (3)(a).~~]

(2) (a) The minimum basic local amount for the fiscal year that begins on July 1, 2024, is $759,529,000 in revenue statewide.

(b) The preliminary estimate of the minimum basic tax rate for a fiscal year that begins on July 1, 2024, is .001429.

[~~(3) (a) The WPU value amount for the fiscal year that begins on July 1, 2024, is $29,240,600 in revenue statewide.~~]

[~~(b) The preliminary estimate of the WPU value rate for the fiscal year that begins on July 1, 2024, is .000055.~~]

[~~(4)~~](3) (a) On or before June 22, the commission shall certify [~~for the year:~~]the minimum basic tax rate for the year.

[~~(i) the minimum basic tax rate; and~~]

[~~(ii) the WPU value rate.~~]

(b) The estimate of the minimum basic tax rate provided in Subsection (2)(b) [~~and the estimate of the WPU value rate provided in Subsection (3)(b) are~~]is based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection [~~(4)(a)(i) and the certified WPU value rate described in Subsection (4)(a)(ii) are~~](3)(a) is based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

[~~(5)~~](4) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, each local school board shall impose the [~~combined basic~~]minimum basic tax rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection [~~(5)~~](4).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection [~~(5)~~](4).

[~~(6)~~](5) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of revenue generated by the school district by the following:

(i) the [~~combined basic~~]minimum basic tax rate; and

(ii) the basic levy increment rate.

(b) (i) If the difference described in Subsection [~~(6)(a)~~](5)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection [~~(6)(a)~~](5)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

[~~(7)~~](6) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide[~~:~~]

[~~(a)~~] by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302[~~; and~~].

[~~(b)~~](7) [~~by the WPU value rate into~~]Nothing in the repeal of the tax rate indexed to the increase in the value of the WPU affects the ongoing appropriations to the Teacher and Student Success Account created in Section 53F-9-306.

Section 2. Section 59-2-919.1 is amended to read:

59-2-919.1. Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify each owner of real estate who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) except as provided in Subsection (4), be sent to all owners of real property by mail 10 or more days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the taxable value of the property;

(iii) (A) the deadline for the taxpayer to make an application to appeal the valuation or equalization of the property under Section 59-2-1004; or

(B) for property assessed by the commission, the deadline for the taxpayer to apply to the commission for a hearing on an objection to the valuation or equalization of the property under Section 59-2-1007;

(iv) for a property assessed by the commission, a statement that the taxpayer may not appeal the valuation or equalization of the property to the county board of equalization;

(v) itemized tax information for all applicable taxing entities, including:

(A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and

(B) the dollar amount of the taxpayer's tax liability under the current rate;

(vi) the following, stated separately:

(A) the charter school levy described in Section 53F-2-703;

(B) the multicounty assessing and collecting levy described in Subsection 59-2-1602(2);

(C) the county assessing and collecting levy described in Subsection 59-2-1602(4);

(D) levies for debt service voted on by the public;

(E) levies imposed for special purposes under Section 10-6-133.4;

(F) for a fiscal year that begins on or after July 1, 2023, the [~~combined basic~~]minimum basic tax rate as defined in Section 53F-2-301; and

(G) if applicable, the annual payment described in Subsection 63H-1-501(4)(a);

(vii) the tax impact on the property;

(viii) the date, time, and place of the required public hearing for each entity;

(ix) property tax information pertaining to:

(A) taxpayer relief;

(B) options for payment of taxes;

(C) collection procedures; and

(D) the residential exemption described in Section 59-2-103;

(x) information specifically authorized to be included on the notice under this chapter;

(xi) the last property review date of the property as described in Subsection 59-2-303.1(1)(c);

(xii) instructions on how the taxpayer may obtain additional information regarding the valuation of the property, including the characteristics and features of the property, from at least one the following sources:

(A) a website maintained by the county; or

(B) the county assessor's office; and

(xiii) other information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(viii);

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate; and

(d) for each taxing entity proposing a tax increase, the dollar amount of additional ad valorem tax revenue, as defined in Section 59-2-919, that would be generated each year if the proposed tax increase is approved.

(4) (a) Subject to the other provisions of this Subsection (4), a county auditor may, at the county auditor's discretion, provide the notice required by this section to a taxpayer by electronic means if a taxpayer makes an election, according to procedures determined by the county auditor, to receive the notice by electronic means.

(b) (i) If a notice required by this section is sent by electronic means, a county auditor shall attempt to verify whether a taxpayer receives the notice.

(ii) If receipt of the notice sent by electronic means cannot be verified 14 days or more before the county board of equalization meets and the taxing entity holds a public hearing on a proposed increase in the certified tax rate, the notice required by this section shall also be sent by mail as provided in Subsection (2).

(c) A taxpayer may revoke an election to receive the notice required by this section by electronic means if the taxpayer provides written notice to the county auditor on or before April 30.

(d) An election or a revocation of an election under this Subsection (4):

(i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax; or

(ii) does not alter the requirement that a taxpayer appealing the valuation or the equalization of the taxpayer's real property submit the application for appeal within the time period provided in Subsection 59-2-1004(3).

(e) A county auditor shall provide the notice required by this section as provided in Subsection (2), until a taxpayer makes a new election in accordance with this Subsection (4), if:

(i) the taxpayer revokes an election in accordance with Subsection (4)(c) to receive the notice required by this section by electronic means; or

(ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

(f) A person is considered to be a taxpayer for purposes of this Subsection (4) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

Section 3. Section 59-2-926 is amended to read:

59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.

If the state authorizes a tax rate that exceeds the [~~combined basic~~]minimum basic tax rate described in Section 53F-2-301, or authorizes a levy pursuant to Section 59-2-1602 that exceeds the certified revenue levy as defined in Section 59-2-102, the state shall publish a notice no later than 10 days after the last day of the annual legislative general session that meets the following requirements:

(1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state authorized a levy that generates revenue in excess of the previous year's ad valorem tax revenue, plus eligible new growth as defined in Section 59-2-924, but exclusive of revenue from

collections from redemptions, interest, and penalties:

(i) in a newspaper of general circulation in the state; and

(ii) as required in Section 45-1-101.

(b) Except an advertisement published on a website, the advertisement described in Subsection (1)(a):

(i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(ii) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear; and

(iii) shall be run once.

(2) The form and content of the notice shall be substantially as follows:

"NOTICE OF TAX INCREASE

The state has budgeted an increase in its property tax revenue from $_____ to $_____ or ____%. The increase in property tax revenues will come from the following sources (include all of the following provisions):

(a) $_____ of the increase will come from (provide an explanation of the cause of adjustment or increased revenues, such as reappraisals or factoring orders);

(b) $_____ of the increase will come from natural increases in the value of the tax base due to (explain cause of eligible new growth, such as new building activity, annexation, etc.); and

(c) a home valued at $100,000 in the state of Utah which based on last year's (levy for the basic state-supported school program, applicable tax rate for the Property Tax Valuation Fund, or both) paid $_____ in property taxes would pay the following:

(i) $_____ if the state of Utah did not budget an increase in property tax revenue exclusive of eligible new growth; and

(ii) $_____ under the increased property tax revenues exclusive of eligible new growth budgeted by the state of Utah."

Section 4. Effective Date.

This bill takes effect on July 1, 2026.

Section 5. Coordinating H.B. 110 with S.B. 37.

If H.B. 110, Minimum Basic Tax Rate Reduction, and S.B. 37, Minimum Basic Tax Rate Amendments, both pass and become law, the Legislature intends that, on July 1, 2026, the term "minimum basic tax rate" replace the term "combined basic rate" that S.B. 37 enacts within Subsection 53F-2-301(5)(b).

CHAPTER 519
H. B. 148
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

CHILD SEXUAL ABUSE AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill addresses an aggravating factor to certain sexual offenses that are committed against children.

Highlighted Provisions:

This bill:

► creates an aggravating factor for certain sexual offenses that are committed against a child if the actor:
- traveled more than 45 miles from the actor's residence to commit the offense; or
- paid a child to travel more than 45 miles from the child's residence for the actor to commit the offense.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-3-203.19, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-203.19 is enacted to read:

76-3-203.19. Aggravating factor if actor traveled to commit a child sexual offense.

(1) As used in this section:

(a) "Child sexual offense" means one of the following offenses:

(i) human trafficking of a child as described in Section 76-5-308.5;

(ii) unlawful sexual activity with a minor as described in Section 76-5-401;

(iii) sexual abuse of a minor as described in Section 76-5-401.1;

(iv) unlawful sexual conduct with a 16- or 17-year-old as described in Section 76-5-401.2;

(v) rape of a child as described in Section 76-5-402.1;

(vi) object rape of a child as described in Section 76-5-402.3;

(vii) sodomy on a child as described in Section 76-5-403.1;

(viii) sexual abuse of a child as described in Section 76-5-404.1;

(ix) aggravated sexual abuse of a child as described in Section 76-5-404.3;

(x) unlawful kissing of a child as described in Section 76-5-416.2; or

(xi) unlawful kissing of a minor as described in Section 76-5-416.4.

(b) "Principal place of residence" means the single location where an individual's habitation is fixed and to which, whenever the individual is absent, the individual has the intention of returning, as evidenced by:

(i) the intent expressed by the individual; and

(ii) acts of the individual that are consistent or inconsistent with the intent expressed by the individual.

(2) For a defendant convicted of a child sexual offense, it is an aggravating factor if the sentencing court finds that the defendant:

(a) traveled more than 45 miles from the defendant's principal place of residence for the purpose of the defendant committing, or attempting to commit, the child sexual offense; or

(b) paid for, or otherwise facilitated, the victim to travel more than 45 miles from the victim's principal place of residence, for the purpose of the defendant committing, or attempting to commit, the child sexual offense.

(3) When sentencing a defendant convicted of a child sexual offense subject to the aggravating factor described in Subsection (2), the sentencing court shall consider the aggravating factor and include the aggravating factor in the judgment of commitment.

(4) In determining the length of imprisonment for a defendant imprisoned for a conviction of an offense against a child or minor subject to the aggravating factor described in Subsection (2), the Board of Pardons and Parole shall consider the aggravating factor.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 520
H. B. 545
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

SCHOOL DISTRICT GOVERNANCE AGREEMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill prohibits certain agreements that delegate governance authority over a district or school to a private entity.

Highlighted Provisions:

This bill:

► prohibits certain agreements that delegate governance authority over a district or school to a private entity.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-4-415, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-4-415 is enacted to read:

53G-4-415. School district governance agreements.

(1) A local school board may not enter into or renew an agreement with a private association that delegates any decision-making or other governance authority for the school district or a given school within the school district, in whole or in part, to the private association or another group that is not a subdivision of the school district.

(2) A local school board may not delegate decision-making or other governance authority to a council or committee of a school with the exception of a school community council as defined in Section 53G-7-1202.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 521
H. B. 157
Passed March 6, 2025
Approved March 27, 2025
Effective May 7, 2025

ENERGY EDUCATION AMENDMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: Derrin R. Owens

Cosponsor:	Kristen Chevrier	Trevor Lee
Carl R. Albrecht	Kay J. Christofferson	David Shallenberger
Bridger Bolinder	Doug Fiefia	

LONG TITLE

General Description:

This bill modifies provisions related to the Office of Energy Development.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the Office of Energy Development (office) to:
  - • develop and maintain energy education programs and curricula for grades K-12;
  - • develop and provide professional development training for educators;
  - • develop energy related workforce development programs; and
  - • establish the Energy Education and Workforce Development Advisory Group (advisory group);
- ► outlines the responsibilities and duties of the advisory group; and
- ► requires the office to report annually to the Public Utilities, Energy, and Technology Interim Committee.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

79-6-409, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 79-6-409 is enacted to read:

79-6-409. Energy Education and Workforce Development Advisory Group established -- Energy education and workforce development programs.

(1) As used in this section:

(a) "Advisory group" means the Energy Education and Workforce Development Advisory Group created in this section.

(b) "Core standards" means the science standards established by the state board as described in Section 53E-4-202.

(c) "Institution of higher education" means the same as that term is defined in Section 53B-1-102.

(2) Pursuant to Subsection 79-6-301(1)(h) and subject to legislative appropriations and other funding sources, the office shall establish the Energy Education and Workforce Development Advisory Group consisting of the following:

(a) the director of the office, or the director's designee;

(b) the director of the Division of Oil, Gas, and Mining, or the director's designee;

(c) the state superintendent of public instruction, or the superintendent's designee from the State Board of Education elementary science team;

(d) the state superintendent of public instruction, or the superintendent's designee from the State Board of Education secondary science team;

(e) the commissioner of higher education, or the commissioner's designee from Talent Ready Utah;

(f) the president of the Utah Rural Schools Association, or the president's designee;

(g) the president of the Utah Science Teaching Association, or the president's designee;

(h) the chief executive officer of the Utah Municipal Power Agency or the Utah Associated Municipal Power Systems, or the chief executive officer's designee;

(i) the executive director of the Utah Rural Electric Cooperative Association, or the executive director's designee;

(j) the president of the Utah Petroleum Association, or the president's designee; and

(k) the president of the Utah Mining Association, or the president's designee.

(3) In consultation with the advisory group, the office shall:

(a) develop and maintain energy education programs and curricula for kindergarten through grade 12 that:

(i) meet core standards;

(ii) align with the state energy policy described in Section 79-6-301;

(iii) are appropriate for each grade level; and

(iv) are available to school districts, charter schools, and the public for voluntary use;

(b) develop and provide professional development training for educators that:

(i) promotes the use and appropriate deployment and teaching of the energy education programs and curricula developed under Subsection (3)(a);

(ii) builds fluency for educators with the energy education programs and curricula;

(iii) provides educators with opportunities and activities to receive renewal hours for professional licensure; and

(iv) complies with state educator licensure requirements; and

(c) develop energy-related workforce development programs and facilitate collaboration among institutions of higher education, elementary and secondary schools, and industry.

(4) The office may:

(a) include in the curricula other elements of the state energy policy to advance a comprehensive understanding of energy policy;

(b) contract with third-party curriculum development organizations to create the curricula based on guidance from the office and the advisory committee; and

(c) provide comment on the development of Utah science core standards.

(5) The professional development training provided to educators by the office may include:

(a) virtual or in-person classroom instruction;

(b) conferences;

(c) seminars; and

(d) site visits.

(6) An energy-related workforce development program described in Subsection (3)(c) shall:

(a) create expanded, multidisciplinary programs or stackable credential programs;

(b) prepare students for energy industry jobs; and

(c) promote policies consistent with the state energy policy described in Section 79-6-301.

(7) The advisory group's duties may include providing recommendations to the office regarding the development and implementation of:

(a) energy education programs and curricula in grades kindergarten through grade 12;

(b) professional development trainings for educators;

(c) energy related workforce development programs; and

(d) any potential comments to be submitted on the development of science core standards for Utah public schools for the state.

(8) On or before October 1 of each year, the office shall submit a written report to the Public Utilities, Energy, and Technology Interim Committee describing activities, successes, challenges, and funding needs related to the programs and training established in this section.

Section 2. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 522
H. B. 177
Passed February 21, 2025
Approved March 27, 2025
Effective May 7, 2025

GLASS RECYCLING AMENDMENTS

Chief Sponsor: Doug Welton
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill relates to the recycling of glass.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the Division of Waste Management and Radiation Control (division) to study how to increase the amount of used glass for recycling;
- ► requires the division to report findings and recommendations to the Natural Resources, Agriculture, and Environment Interim Committee; and
- ► provides a repeal date for the study.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-219, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

19-6-510, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-6-510 is enacted to read:

19-6-510. Study of glass recycling.

(1) As used in this section:

(a) "Division" means the Division of Waste Management and Radiation Control created in Section 19-1-105.

(b) "Glass cullet" means broken or crushed glass suitable for reuse or reprocessing.

(c) "Material recovery facility" means a facility that sorts recyclable material from single-stream recycling for sale to manufacturers.

(d) "Multi-stream recycling" means the sorting or separating of recyclable material by a consumer by material type or category before collection.

(e) "Recyclable material" means the same as that term is defined in Section 19-6-509.

(f) "Single-stream recycling" means the collection of recyclable material by:

(i) a public entity; or

(ii) a person with whom the public entity has as a collection agreement.

(2) The division shall conduct a statewide study of glass recycling that:

(a) includes an inventory of current glass recycling methods;

(b) identifies areas in this state that may benefit from increased glass recycling;

(c) identifies strategies for increasing the amount of glass collected by:

(i) increasing the number of glass recycling drop off locations;

(ii) increasing the number of, or funding for, material recovery facilities;

(iii) expanding curbside glass recycling collection;

(iv) expanding multi-stream recycling collection and processing;

(v) identifying additional uses or end users of glass cullet; and

(vi) implementing educational strategies for informing the public:

(A) of the benefits of glass recycling; and

(B) how to recycle household glass.

(3) (a) The division shall report the results of the study described in Subsection (2) to the Natural Resources, Agriculture, and Environment Interim Committee at or before the committee's September 2025 interim meeting.

(b) For each study item described in Subsection (2), the report described in Subsection (3)(a) shall include:

(i) research findings; and

(ii) policy recommendations.

Section 2. Section 63I-1-219 is amended to read:

63I-1-219. Repeal dates: Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

(2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2029.

(3) Section 19-4-115, Drinking water quality in schools and child care centers, is repealed July 1, 2027.

(4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

(5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.

(6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2030.

(7) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

(8) Section 19-6-510, Study of glass recycling, is repealed July 1, 2026.

[~~(8)~~](9) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

[~~(9)~~](10) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.

[~~(10)~~](11) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.

[~~(11)~~](12) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 523
H. B. 246
Passed March 5, 2025
Approved March 27, 2025
Effective July 1, 2025

STATEWIDE ONLINE EDUCATION PROGRAM AMENDMENTS

Chief Sponsor: Joseph Elison
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill makes changes to enhance quality, accountability, and transparency in the Statewide Online Education Program.

Highlighted Provisions:

This bill:

- ► authorizes the State Board of Education (state board) to conduct sample audits of online courses;
- ► expands performance reporting requirements for an authorized online course provider;
- ► requires the state board to establish a report card for an authorized online course provider;
- ► facilitates regular communication between an authorized online course provider and a primary LEA of enrollment;
- ► implements a model syllabus template for online courses;
- ► requires the state board to create a centralized registration system for parents and students; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-4-511, as last amended by Laws of Utah 2024, Chapter 24
53F-4-512, as last amended by Laws of Utah 2024, Chapter 24
53F-4-514, as last amended by Laws of Utah 2024, Chapter 24

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-4-511 is amended to read:

53F-4-511. Report on performance of authorized online course providers.

(1) The state board, in collaboration with authorized online course providers and, if applicable, the state board's contractor, shall develop a report on the performance of authorized online course providers, which may be used to evaluate the Statewide Online Education Program and assess the quality of an authorized online course provider.

(2) A report on the performance of an authorized online course provider shall include:

(a) scores aggregated by test on statewide assessments administered under Title 53E, Chapter 4, Part 3, Assessments, taken by students at the end of an online course offered through the Statewide Online Education Program;

(b) the percentage of the authorized online course provider's students who complete online courses within the applicable time period specified in Subsection 53F-4-505(4)(c);

(c) the percentage of the authorized online course provider's students who complete online courses after the applicable time period specified in Subsection 53F-4-505(4)(c) and before the student graduates from high school;[~~and~~]

(d) the pupil-teacher ratio for the combined online courses of the authorized online course provider[~~.~~];

(e) student grade distributions for each course the authorized online course provider offers;

(f) student completion rates for each course the authorized online course provider offers;

(g) results of student and parent satisfaction surveys;

(h) if applicable, a summary of the authorized online course provider's plan to improve course quality and student outcomes; and

(i) results of any sample audits the state board has conducted related to courses the authorized online course provider offers.

(3) The state board shall post a report on the performance of an authorized online course provider on the Statewide Online Education Program's website described in Section 53F-4-512.

(4) The state board shall develop a standardized performance evaluation report card to assess an authorized online course provider, which shall be published annually on the Statewide Online Education Program's website described in Section 53F-4-512.

Section 2. Section 53F-4-512 is amended to read:

53F-4-512. Dissemination of information on the Statewide Online Education Program.

(1) The state board shall develop [~~a website for the Statewide Online Education Program~~]or purchase an enrollment and program administration system accessible to authorized online course providers, which shall include:

(a) a description of the Statewide Online Education Program, including its purposes;

(b) notwithstanding Subsection (2), information on who is eligible to enroll, and how an eligible student may enroll, in an online course;

(c) a directory of authorized online course providers;

(d) a link to a course catalog for each authorized online course provider;[~~and~~]

(e) a report on the performance of authorized online course providers as required by Section 53F-4-511[.]; and

(f) a centralized registration system that:

(i) allows a parent or eligible student to register for online courses; and

(ii) automatically shares registration information with the selected authorized online course provider.

(2) An authorized online course provider shall provide the following information on the authorized online course provider's website:

(a) a description of the Statewide Online Education Program, including its purposes;

(b) information on who is eligible to enroll, and how an eligible student may enroll, in an online course;

(c) a course catalog;

(d) scores aggregated by test on statewide assessments administered under Title 53E, Chapter 4, Part 3, Assessments, taken by students at the end of an online course offered through the Statewide Online Education Program;

(e) the percentage of an authorized online course provider's students who complete online courses within the applicable time period specified in Subsection 53F-4-505(4)(c);

(f) the percentage of an authorized online course provider's students who complete online courses after the applicable time period specified in Subsection 53F-4-505(4)(c) and before the student graduates from high school;[~~and~~]

(g) the authorized online course provider's pupil-teacher ratio for the online courses combined[.]; and

(h) additional information described in Subsection 53F-4-511(2) not described in this Subsection (2).

(3) The state board's contractor shall provide on the contractor's website information regarding enrollment and participation by a private school or home school student through the contractor.

Section 3. Section 53F-4-514 is amended to read:

53F-4-514. State board -- Rulemaking -- Fees.

(1) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall provide a delayed effective date that is after the school year has ended for a change to an administrative rule related to the Statewide Online Education Program if the change would require an authorized online course provider to make program changes during the school year.

(2) The state board shall make rules in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(a) a course credit acknowledgement form and procedures for completing and submitting to the state board or, in relation to a student who attends a private school or home school, the state board's contractor, a course credit acknowledgement;

(b) procedures for the administration of a statewide assessment to a student enrolled in an online course; and

(c) protocols for an online course provider to obtain approval to become a certified online course provider, including:

(i) the application procedure for an online course provider to obtain approval to become a certified online course provider; and

(ii) the standards that a certified online course provider and any online course the certified online course provider offers shall meet;

(d) in accordance with Title 53E, Chapter 4, Academic Standards, Assessments, and Materials, criteria for an authorized online course provider to submit for approval an online course that does not have an existing state board course code;

(e) [~~no later than July 1, 2024,~~]a process within existing systems at the state board or, in relation to a student who attends a private school or home school, the state board's contractor, to allow a certified online course provider access to an educator's licensing, endorsement, certification, and assignment information if the educator is teaching an online course for the certified online course provider;

(f) in consultation with the authorized online course providers, the parameters for conducting a site visit including:

(i) a definition for the term site visit;

(ii) the minimum amount of time required for:

(A) notice to an authorized online course provider of a site visit; and

(B) an authorized online course provider to prepare for a site visit;

(iii) the documents, data, and artifacts subject to inspection during a site visit; and

(iv) a process to ensure a site visit allows for observation of instruction without interfering with the instruction;

(g) annual mandatory training for relevant staff at a primary LEA that includes:

(i) program requirements for a primary LEA including reporting requirements and methods;

(ii) uses of resources and tools to ensure adequate monitoring of an eligible student's progress;

(iii) federal and state requirements for accommodating enrollments that involve special education;

(iv) appropriate circumstances and methodologies for reducing an eligible student's schedule; and

(v) other components the state board determines are necessary; and

(3) (a) When establishing the standards described in Subsection (2)(c)(ii) the state board shall:

(i) establish rules and minimum standards regarding accreditation;

(ii) require an online course to be aligned with the core standards described in Section 53E-4-202;

(iii) require proof that a national organization responsible for college athletics endorses:

(A) the certified online course provider; or

(B) the online course that a certified online course provider offers;

(iv) permit an open-entry, open-exit method of instructional delivery that allows a student the flexibility to:

(A) schedule in response to individual needs or requirements;

(B) demonstrate competency when the student has mastered knowledge and skills;

(C) begin or end study at any time; and

(D) progress through course material at the student's own pace; and

(v) except as provided in Subsection (5), require an individual who teaches a course for a certified online course provider to hold a teaching license issued by the state board.

(b) When establishing the standards described in Subsection (2)(c)(ii), the state board may not:

(i) specify a minimum duration for an online course;

(ii) specify a minimum amount of time that a student must spend in an online course; or

(iii) limit the class size of an online course.

(4) No later than January 31, 2026, the state board shall create a communication dashboard for the program and only related to eligible students enrolled in a public school that may include:

(a) a counselor contact list for an eligible student that is accessible to an authorized online course provider; and

(b) progress monitoring fields that are accessible to the primary LEA, the eligible student's counselor, and the eligible student's parent containing:

(i) grade progress reporting of an eligible student by an authorized online course provider;

(ii) an ability to flag a student that is at-risk of failing an online course; and

(iii) other relevant capabilities the state board determines to be necessary in consultation with LEA users of the dashboard.

(5) If an individual possesses a provider-specific license described in Section 53E-6-201, the state board may not prohibit the individual from teaching an online course for an authorized online course provider while the individual is in the process of obtaining an endorsement or additional license issued by the state board.

(6) The state board may establish a fee, in accordance with Section 63J-1-504, in an amount to pay the costs to the state board of the application approval process and the monitoring of a certified online course provider's compliance with the standards described in Subsection (2)(c)(ii).

(7) (a) Fee revenue collected in accordance with Subsection (6) shall be:

(i) deposited into the Uniform School Fund as a dedicated credit; and

(ii) used to pay the costs to the state board of reviewing certified online course providers' applications and compliance with the standards described in Subsection (2)(c)(ii).

Section 4. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 524
H. B. 263
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

ELECTION RECORD AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill amends provisions related to records created or used during an election.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► makes the recorded video of ballot processing a public record for purposes of the Government Records Access and Management Act (GRAMA);
- ► specifies that an election officer shall retain and preserve ballot chain of custody documentation created during an election;
- ► clarifies that an election officer shall package and retain the election database, cast vote record, and other materials used in the programming of automatic tabulating equipment;
- ► for an election administered by a county clerk:
  - • directs the county clerk to make, preserve, and retain for at least 12 years an electronic copy of certain election material;
  - • authorizes, in certain circumstances, the county clerk or county legislative body to examine the electronic copy of election material to conduct research related to an election;
  - • requires the county clerk to grant certain governmental entities access to the electronic copy of election material to conduct research related to an election; and
  - • creates a process for a governmental entity to conduct a multi-county review of the electronic copy of election material;
- ► specifies that an electronic copy of election material is not a record for purposes of GRAMA;
- ► clarifies that an election officer's obligation to seal official ballots and election returns does not prohibit a county clerk, an auditor, or the lieutenant governor from accessing the electronic copy of election material;
- ► clarifies that an election officer shall retain and preserve the election database, cast vote record, and other materials for 22 months after an election;
- ► modifies provisions relating to information an election officer is required to report in a ballot reconciliation report and board of canvassers report;
- ► reduces the amount of time that an election officer has to publicize the certified board of canvassers report from seven to three days;
- ► requires an election officer to make a copy of the certified board of canvassers report available to members of the public in portable document format; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-3a-401.1, as enacted by Laws of Utah 2023, Chapter 297
20A-4-106, as last amended by Laws of Utah 2023, Chapters 156, 297
20A-4-109, as last amended by Laws of Utah 2024, Chapter 465
20A-4-202, as last amended by Laws of Utah 2023, Chapters 156, 297
20A-4-304, as last amended by Laws of Utah 2024, Chapter 503

ENACTS:

20A-4-701, Utah Code Annotated 1953
20A-4-702, Utah Code Annotated 1953
20A-4-703, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-3a-401.1 is amended to read:
20A-3a-401.1. Ballot chain of custody.

(1) As used in this section:

(a) "Batch" means a grouping of a specified number of ballots:

(i) that is assembled by poll workers, and given a number to distinguish the grouping from other groupings, when the ballots are first

received for processing;

(ii) that is kept together in the same grouping, and kept separate from other groupings, throughout ballot processing; and

(iii) for which a log is kept to document the chain of custody of the grouping.

(b) "Processed" means an action taken in relation to a batch, a ballot in a batch, or a return envelope that a poll worker has not separated from a ballot, as follows:

(i) starting with receiving the ballot;

(ii) each step taken in relation to a ballot as part of conducting an election; and

(iii) ending after the ballots are counted and stored.

(2) An election officer shall preserve the chain of custody of all ballots in accordance with this section.

(3) An election officer shall maintain an accurate, updated count of the number of ballots that the election officer:

(a) mails or otherwise provides to a voter;

(b) receives from a voter;

(c) counts;

(d) rejects;

(e) resolves after rejecting; or

(f) does not resolve after rejecting.

(4) Upon receiving ballots cast by voters, the election officer shall ensure that poll workers immediately count the number of ballots received and divide the ballots into batches.

(5) The election officer shall ensure that:

(a) ballots in each batch are kept separate from the ballots in other batches;

(b) a ballot is not separated from a batch, except as necessary to the election process;

(c) if a ballot is separated from a batch, the batch log indicates:

(i) the ballot number;

(ii) the date and time of removal;

(iii) the identity of the individual who removes the ballot; and

(iv) the reason the ballot is removed;

(d) poll workers shall keep for each batch a log that includes:

(i) a unique identifying code or number for the batch;

(ii) the number of ballots in the batch;

(iii) the date that the ballots were received; and

(iv) for each occasion that the batches, or any of the ballots in the batches, are handled:

(A) the date and time that the ballots are handled;

(B) a description of what is done with the ballots;

(C) the identity of the poll workers who handle the ballots; and

(D) any other information required by rule under Subsection [~~(7)~~](9);

(e) an election official who performs a ballot processing function performs the function in the presence of at least one other election official;

(f) to the extent reasonably possible, the poll workers who perform a ballot processing function for a batch complete performing that function for the entire batch; and

(g) each part of the processing of all ballots is monitored by recorded video, without audio.

(6) An election officer shall keep the recordings described in Subsection (5)(g) until the later of:

(a) the last day of the calendar year in which the election was held; or

(b) if the election is contested, when the contest is resolved.

(7) A recorded video described in Subsection (5)(g) is a public record.

[~~(6) An election officer shall:~~]

[~~(a) keep the recordings described in Subsection (5)(g) until the later of:~~]

[~~(i) the end of the calendar year in which the election was held; or~~]

[~~(ii) if the election is contested, when the contest is resolved; and~~]

[~~(b) ensure that a camera, a video, or a recording of a video described in Subsection (5)(g) may only be accessed:~~]

[~~(i) by the election officer;~~]

[~~(ii) by a custodian of the camera, video, or recording;~~]

[~~(iii) by the lieutenant governor;~~]

[~~(iv) by the legislative auditor general, when performing an audit; or~~]

[~~(v) by, or pursuant to an order of, a court of competent jurisdiction.~~]

[~~(7) An individual may not view a video, or a recording of a video, described in Subsection (5)(g):~~]

[~~(a) unless the individual is an individual described in Subsection (6)(b); and~~]

[~~(b) the individual views the video to the extent necessary to:~~]

[~~(i) ensure compliance with Subsection (5)(g) or (6); or~~]

[~~(ii) investigate a concern relating to the processing of ballots.~~]

(8) An election officer shall retain and preserve all chain of custody documentation in the manner provided under Section 20A-4-202 for the retention and preservation of a ballot voted in an election.

[~~(8)~~](9) The director of elections within the Office of the Lieutenant Governor may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing specific requirements and procedures for an election officer or poll worker to:

(a) fulfill the chain of custody requirements described in this section;

(b) perform the signature verification audits described in Section 20A-3a-402.5; and

(c) comply with the reconciliation requirements described in Subsection 20A-4-304(2)(h).

Section 2. Section 20A-4-106 is amended to read:

20A-4-106. Manual ballots -- Sealing.

(1) After the official canvas of an election, the election officer shall store all election returns in containers that identify the containers' contents.

(2) After the ballots are stored under Subsection (1), the ballots may not be examined by anyone, except as follows:

(a) when examined during a recount conducted under the authority of Section 20A-4-401or [~~Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project~~]Part 6, Municipal Alternate Voting Methods Pilot Project;

(b) an auditor conducting an audit described in Section 36-12-15.2 may examine the ballots:

(i) if the audit uncovers evidence that raises a substantial doubt regarding the accuracy of the results of an election, the auditor may examine the ballots until the later of:

(A) the end of the calendar year in which the election was held; or

(B) if the election is contested, when the contest is resolved; or

(ii) at any time via a subpoena or other legal process; or

(c) the lieutenant governor may examine the ballots:

(i) until the later of:

(A) the [~~end~~]last day of the calendar year in which the election was held; or

(B) if the election is contested, when the contest is resolved; or

(ii) at any time via a subpoena or other legal process.

(3) Nothing in this section prohibits a county clerk, an auditor, or the lieutenant governor from accessing and examining the electronic copy of ballots or election returns in accordance with Part 7, Electronic Copy of Election Material - Access and Examination.

Section 3. Section 20A-4-109 is amended to read:

20A-4-109. Ballot reconciliation -- Rulemaking authority.

(1) In accordance with this section and rules made under Subsection (2), an election officer whose office processes ballots shall:

(a) conduct ballot reconciliations[~~every time~~];

(i) at the end of each day on which ballots are tabulated; or

(ii) if ballot tabulation of a grouping of ballots continues past midnight, as soon as the office finishes tabulating those ballots;

(b) conduct a final ballot reconciliation when an election officer concludes processing all ballots;

(c) document each ballot reconciliation;

(d) publicly release the results of each ballot reconciliation; and

(e) in conducting ballot reconciliations:

(i) ensure that the sum of the number of uncounted verified ballots and the number of ballots tabulated is equal to the number of voters given credit for voting; or

(ii) if the sum described in Subsection (1)(e)(i) is not equal to the number of voters given credit for voting, account for and explain the differences in the numbers.

(2) [~~The~~]Subject to Subsection (3), the director of elections within the Office of the Lieutenant Governor may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and requirements for conducting, documenting, and publishing a ballot reconciliation.

(3) An election officer shall ensure that a published ballot reconciliation includes data describing:

(a) the total number of ballots:

(i) that the election officer issued to voters; and

(ii) that the voters returned to the election officer;

(b) of the number described in Subsection (3)(a)(i), a subtotal of the number of ballots that the election officer issued to voters:

(i) by mail;

(ii) electronically;

(iii) at a polling place; and

(iv) in person at the office of the election officer; and

(c) of the number described in Subsection (3)(a)(ii), a subtotal of the number of ballots that the voters returned to the election officer:

(i) by mail;

(ii) electronically;

(iii) at a polling place;

(iv) at a ballot drop box; and

(v) in person at the office of the election officer.

Section 4. Section 20A-4-202 is amended to read:

20A-4-202. Election officers -- Disposition of ballots -- Release of number of provisional ballots cast.

(1) Upon receipt of the ballots and election returns from the poll workers, the election officer shall:

(a) ensure that the poll workers have provided all of the ballots and election returns;

(b) inspect the ballots and election returns to ensure that they are sealed;

(c) for manual ballots, deposit and lock the ballots and election returns in a safe and secure place;

(d) for mechanical ballots:

(i) count the ballots; and

(ii) deposit and lock the ballots and election returns in a safe and secure place; and

(e) for bond elections, provide a copy of the election results to the board of canvassers of the local political subdivision that called the bond election.

(2) Each election officer shall:

(a) before 5 p.m. on the day after the date of the election, determine the number of provisional ballots cast within the election officer's jurisdiction and make that number available to the public;

(b) preserve ballots for 22 months after the date of the election or until the time has expired during which the ballots could be used in an election contest;

(c) preserve all other official election returns for at least 22 months after [~~an~~]the date of the election; and

(d) after that time, destroy [~~them~~]the ballots and election returns without opening or examining them.

(3) (a) The election officer shall package and retain[~~, all tabulating cards and other~~]:

(i) the election database;

(ii) the cast vote record; and

(iii) the materials used in the programming of the automatic tabulating equipment.

(b) The election officer:

(i) [~~may access these tabulating cards and other materials~~]may access the materials described in Subsection (3)(a)(iii);

(ii) [~~may make copies of these materials and make changes to the copies~~]may make a copy of the materials described in Subsection (3)(a)(iii);

(iii) [~~may not alter or make changes to the materials themselves; and~~]may not alter or make changes to the materials described in Subsection (3)(a)(iii);

(iv) may make changes to the copied materials described in Subsection (3)(b)(ii);

(v) shall retain and preserve the materials described in Subsection (3)(a)(iii), and the copied materials described in Subsection (3)(b)(ii), for at least 22 months after the date of the election; and

[~~(iv)~~](vi) [~~within 22 months after the election in which they were used, may dispose of those materials or retain them~~]after the date described in Subsection (3)(b)(v), may dispose of or retain the materials described in Subsection (3)(a)(iii), or the copied materials described in Subsection (3)(b)(ii).

(4) (a) If an election contest is begun within 12 months after the date of an election, the election officer shall, except as provided in Subsection (4)(c):

(i) keep the ballots and election returns unopened and unaltered until the contest is complete; or

(ii) surrender the ballots and election returns to the custody of the court having jurisdiction of the contest when ordered or subpoenaed to do so by that court.

(b) Except as provided in Subsection (4)(c), when all election contests arising from an election are complete, the election officer shall either:

(i) retain the ballots and election returns until the time for preserving them under this section has run; or

(ii) destroy the ballots and election returns remaining in the election officer's custody without opening or examining them if the time for preserving them under this section has run.

(c) (i) An auditor conducting an audit described in Section 36-12-15.2 may examine the ballots and election returns described in this Subsection (4).

(ii) The lieutenant governor may examine the ballots and election returns described in this Subsection (4).

(5) (a) Notwithstanding the provisions of this section, the legislative auditor general:

(i) may make and keep [~~copies~~]a copy of ballots or election returns as part of a legislative audit; and

(ii) may not examine, make [~~copies~~]a copy, or keep [~~copies,~~]a copy of a ballot in a manner that identifies [~~a~~]the ballot with the voter who casts the ballot.

(b) A copy described in Subsection (5)(a) is not a record, and is not subject to disclosure, under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 5. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) (a) Except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction.

(b) Except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare a "tie vote" if:

(i) two or more candidates for an office receive an equal and the highest number of votes for that office; or

(ii) in a race for an at-large office:

(A) two or more candidates receive an equal number of votes; and

(B) a recount is necessary to determine which candidates are elected to the at-large office.

(c) A board of canvassers shall declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction; or

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction.

(d) A board of canvassers shall:

(i) certify the vote totals for [~~persons~~]candidates and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(ii) if applicable, certify the results of each special district election to the special district clerk.

(2) The election officer shall submit a report to the board of canvassers that includes the following information:

(a) the total number of votes cast in the board's jurisdiction;

(b) each office that appeared on the ballot;

[~~(b)~~](c) (i) [~~the names of each candidate whose name appeared on the ballot;~~]the name of each candidate whose name appeared on the ballot; and

(ii) whether the candidate is an unaffiliated candidate, a write-in candidate, or, if the candidate is the nominee of a registered political party, the name of the registered political party;

[~~(c)~~](d) the title of each ballot proposition that appeared on the ballot;

[~~(d)~~](e) [~~each office that appeared on the ballot~~]the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

[~~(e)~~](f) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each ballot-counting phase; and

(iii) the number of votes for and against each ballot proposition;

[~~(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;~~]

(g) standardized statistics, on a form provided by the lieutenant governor, disclosing, at a minimum:

(i) the number of active voters in the board's jurisdiction;

(ii) of the number described in Subsection (2)(g)(i), the number of voters classified as private or withheld under Section 20A-2-104;

(iii) [~~the number of ballots counted~~]the number of ballots the election officer counted;

[~~(ii)~~](iv) [~~provisional ballots~~]of the number described in Subsection (2)(g)(iii), the number of provisional ballots; and

[~~(iii)~~](v) [~~the number of ballots rejected;~~]each of the following:

(A) the number of provisional ballots that could not legally be counted;

(B) the number of ballots, other than provisional ballots, that the election officer rejected because the ballots could not legally be cured; and

(C) the number of ballots, other than provisional ballots, that were rejected, could have been cured by the voter, but were not cured;

(h) a final ballot reconciliation report;

(i) other information required by law to be provided to the board of canvassers; and

(j) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that the report is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

[~~(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, publicize the certified report described in Subsection (2) for the jurisdiction, as a class A notice under Section 63G-30-102, for at least seven days.~~]

(5) Except as provided in Subsection (6), the election officer shall, no later than three business days after the day on which the board of canvassers declares the election results, publicize the certified report described in Subsection (2) for the board's jurisdiction, as a class A notice under Section 63G-30-102, for at least seven calendar days.

(6) (a) Instead of including a copy of the entire certified report, a notice required under Subsection (5) may contain a statement that:

[~~(a)~~](i) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election]."; and

[~~(b)~~](ii) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

[~~(i)~~](A) if the board's jurisdiction has a website, the jurisdiction's website;

[~~(ii)~~](B) the physical address for the board's jurisdiction; and

[~~(iii)~~](C) a mailing address and telephone number.

(b) An election officer:

(i) shall ensure that an individual may obtain a digital copy of the certified report as a PDF file; and

(ii) may make the certified report available in any machine readable format that the election officer determines is helpful to members

of the public.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, special district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 6. Section 20A-4-701 is enacted to read:

PART 7. Electronic Copy of Election Material - Access and Examination

20A-4-701. Definitions.

As used in this part:

(1) "Election material" means:

(a) the return envelopes described in Sections 20A-3a-401 and 20A-3a-402;

(b) the verification documentation described in Subsection 20A-3a-401(7)(b)(iv);

(c) the chain of custody documentation described in Section 20A-3a-401.1;

(d) the log of replicated ballots described in Subsection 20A-4-104(3)(b);

(e) the ballots and election returns described in Section 20A-4-202;

(f) the election database and cast vote record described in Subsection 20A-4-202(3); and

(g) the materials used in the programming of the automatic tabulating equipment described in Subsection 20A-4-202(3).

(2) "Governmental entity" means:

(a) the office of:

(i) the lieutenant governor;

(ii) the attorney general;

(iii) the legislative auditor general; or

(iv) the state auditor; or

(b) a contractor of a governmental entity described in Subsection (2)(a).

(3) "Interim committee" means the same as that term is defined in legislative rule.

(4) "Standing committee" means a Senate or House committee established under Senate or House rule for the purpose of considering proposed legislation during an annual general session or a special session.

(5) "Voting equipment" means:

(a) the computer-based hardware or software used by a county clerk to access, display, or examine an electronic copy of election material; or

(b) the equipment used by a county clerk to make an electronic copy of election material.

Section 7. Section 20A-4-702 is enacted to read:

20A-4-702. Electronic copy of election material -- Examination by county clerk or county legislative body.

(1) (a) Following an election administered by a county clerk, and except as provided in Subsection (11), the county clerk shall, no later than 90 days after the day on which the board of canvassers declares the results of an election:

(i) make an electronic copy of all election material;

(ii) ensure that the electronic copy of election material:

(A) is stored in a secure location that is physically separate from the location where the county clerk stores election material;

(B) is not altered, changed, or destroyed; and

(C) is preserved for at least 12 years after the day on which the electronic copy is made; and

(iii) certify to the lieutenant governor a statement indicating that the county clerk has complied with Subsections (1)(a)(i) and (ii).

(b) The county clerk may fulfill the storage and preservation requirements described in Subsection (1)(a)(ii) by contracting with the Division of Archives and Records Service created in Section 63A-12-101.

(2) A county clerk may access and examine the election material described in Subsection (1)(a):

(a) to respond to an interim committee or a standing committee that makes an inquiry regarding an election; or

(b) to conduct research on an issue or a process related to an election, if:

(i) the county clerk submits a written request to the county legislative body in accordance with Subsection (3); and

(ii) the county legislative body approves the request.

(3) A county clerk who wishes to access the election material described in Subsection (1)(a) for a reason described in Subsection (2)(b) shall submit a written request to the county clerk's county legislative body that:

(a) describes, in detail, the reason the county clerk seeks to examine the election material;

(b) describes the type or sampling of election material that is relevant to the county clerk's research of the election material; and

(c) estimates the duration of time that the county clerk requires access to the election material.

(4) A county legislative body that receives a request described in Subsection (3) shall, after reviewing the request:

(a) approve the request; or

(b) deny the request.

(5) If a county legislative body:

(a) approves a request described in Subsection (3), the county clerk:

(i) may access the type or sampling of election material that the county clerk described in the request; and

(ii) shall, after the county clerk's research is complete, submit written findings and conclusions, and recommendations, if any, to the county legislative body; or

(b) denies a request described in Subsection (3), the county legislative body shall explain the reason for the denial in writing to the county clerk.

(6) A county legislative body may access and examine the election material described in Subsection (1)(a) to conduct research on an issue or process related to an election administered in the county if:

(a) the county legislative body submits a written request to the county clerk in accordance with Subsection (7); and

(b) the county clerk approves the request.

(7) A county legislative body that wishes to access the election material described in Subsection (1)(a) shall submit a written request to the county clerk that:

(a) describes, in detail, the reason the county legislative body seeks to examine the election material; and

(b) estimates the duration of time that the county legislative body requires access to the election material.

(8) A county clerk that receives a request described in Subsection (7) shall, after reviewing the request:

(a) approve the request; or

(b) deny the request.

(9) (a) If the county clerk approves a request described in Subsection (7), the county clerk shall:

(i) in the county clerk's reasonable discretion, determine:

(A) the date and time that the county legislative body may access the election material;

(B) any safeguard or security measure that the county legislative body must take or observe while examining the election material; and

(C) the type or sampling of election material that is relevant to the county legislative body's research of the election material; and

(ii) after making the determinations described in Subsection (9)(a)(i):

(A) notify the county legislative body of the determinations in writing; and

(B) grant the county legislative body access to the election material that the county clerk determines is relevant under Subsection (9)(a)(i)(C).

(b) If the county clerk denies a request described in Subsection (7), the county clerk shall explain the reason for the denial in writing to the county legislative body.

(10) A county clerk or county legislative body that accesses the electronic copy of election material described this section:

(a) may only examine the election material at the county clerk's office; and

(b) may not make a copy of or remove the election material from the county clerk's office.

(11) A county clerk need not make an electronic copy of the side of a ballot return envelope that does not contain a voter's signature if the county's voting equipment is not capable of:

(a) simultaneously making an electronic copy of the front and back sides of a ballot return envelope; and

(b) simultaneously associating the front and back sides of a ballot return envelope with one another.

(12) The electronic copy of election material described in this section is not a record, and is not subject to disclosure, under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 8. Section 20A-4-703 is enacted to read:

20A-4-703. Electronic copy of election material -- Examination by governmental entity.

(1) A county clerk shall grant a governmental entity access to the election material described in Subsection 20A-4-702(1)(a) if:

(a) the governmental entity seeks to examine the election material to conduct research on an issue or a process related to an election; and

(b) the governmental entity submits a written notice to the county clerk in accordance with Subsection (2).

(2) Subject to Subsection (5), a governmental entity that seeks to access the election material described in Subsection 20A-4-702(1)(a) shall provide the county clerk a written notice that:

(a) informs the county clerk of the governmental entity's intent to access the election material;

(b) describes, in detail, the reason the governmental entity seeks to examine the election material; and

(c) estimates the duration of time that the governmental entity requires access to the election material.

(3) Subject to Subsection (5), a county clerk that receives a notice described in Subsection (2) shall:

(a) in the county clerk's reasonable discretion, determine:

(i) the date and time that the governmental entity may access the election material;

(ii) any safeguard or security measure that the governmental entity must take or observe while examining the election material; and

(iii) the type or sampling of election material that is relevant to the governmental entity's research of the election material; and

(b) after making the determinations described in Subsection (3)(a):

(i) notify the governmental entity of the determinations in writing; and

(ii) grant the governmental entity access to the election material that the county clerk determines is relevant under Subsection (3)(a)(iii).

(4) A governmental entity that seeks access to the election material described in Subsection 20A-4-702(1)(a) for an election

administered in more than one county may, in the notice described in Subsection (2), select, among each county where the election was administered, a county in which to examine the election material.

(5) If a governmental entity makes the selection described in Subsection (4):

(a) the governmental entity shall submit the notice described in Subsection (2) to each county clerk who administered the election;

(b) the county clerk of the selected county shall:

(i) take the actions described in Subsections (3)(a) and (b);

(ii) notify each county clerk to whom the governmental entity submitted the notice of the type of sampling of election material that the county clerk determines is relevant under Subsection (3)(a)(iii);

(iii) after receiving, from each county clerk, the election material described in Subsection (5)(c), grant the governmental entity access to that election material; and

(iv) after the governmental entity's research is complete, destroy the election material described in Subsection (5)(c); and

(c) the county clerk of each non-selected county shall, except as provided in Subsection (6), transfer to the county clerk of the selected county, by secure electronic transmission, the type or sampling of election material that the county clerk determines is relevant under Subsection (3)(a)(iii).

(6) A county clerk is not required to make the transfer described in Subsection (5)(c) if the voting equipment used by the county clerk is incompatible with the voting equipment used by the county clerk of the selected county.

(7) A governmental entity that accesses the electronic copy of election material described this section:

(a) may only examine the election material at the county clerk's office; and

(b) may not make a copy of or remove the election material from the county clerk's office.

(8) The electronic copy of election material described in this section is not a record, and is not subject to disclosure, under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 9. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 525
H. B. 257
Passed March 6, 2025
Approved March 27, 2025
Effective May 7, 2025

PHARMACY BENEFIT AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to health insurance pharmacy benefits.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires the commissioner of the Insurance Department to assist in creating a form if requested;
- ► requires a health benefit plan to ensure pharmaceutical rebates are used for certain purposes; and
- ► requires a pharmacy benefit manager to offer certain options to self-funded health benefit plans.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-2-212, as last amended by Laws of Utah 2020, Chapter 32
31A-22-643, as enacted by Laws of Utah 2014, Chapter 111
31A-46-102, as last amended by Laws of Utah 2020, Chapters 198, 275 and 372

ENACTS:

31A-46-311, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-2-212 is amended to read:

31A-2-212. Miscellaneous duties.

(1) Upon issuance of an order limiting, suspending, or revoking a person's authority to do business in Utah, and when the commissioner begins a proceeding against an insurer under Chapter 27a, Insurer Receivership Act, the commissioner:

(a) shall notify by mail the producers of the person or insurer of whom the commissioner has record; and

(b) may publish notice of the order or proceeding in any manner the commissioner considers necessary to protect the rights of the public.

(2) (a) When required for evidence in a legal proceeding, the commissioner shall furnish a certificate of authority of a licensee to transact the business of insurance in Utah on any particular date.

(b) The court or other officer shall receive a certificate of authority described in this Subsection (2) in lieu of the commissioner's testimony.

(3) (a) On the request of an insurer authorized to do a surety business, the commissioner shall furnish a copy of the insurer's certificate of authority to a designated public officer in this state who requires that certificate of authority before accepting a bond.

(b) The public officer described in Subsection (3)(a) shall file the certificate of authority furnished under Subsection (3)(a).

(c) After a certified copy of a certificate of authority is furnished to a public officer, it is not necessary, while the certificate of authority remains effective, to attach a copy of it to any instrument of suretyship filed with that public officer.

(d) Whenever the commissioner revokes the certificate of authority or begins a proceeding under Chapter 27a, Insurer Receivership Act, against an insurer authorized to do a surety business, the commissioner shall immediately give notice of that action to each public officer who is sent a certified copy under this Subsection (3).

(4) (a) The commissioner shall immediately notify every judge and clerk of the courts of record in the state when:

(i) an authorized insurer doing a surety business:

(A) files a petition for receivership; or

(B) is in receivership; or

(ii) the commissioner has reason to believe that the authorized insurer doing surety business:

(A) is in financial difficulty; or

(B) has unreasonably failed to carry out any of the authorized insurer's contracts.

(b) Upon the receipt of the notice required by this Subsection (4), it is the duty of the judges and clerks to notify and require a person that files with the court a bond on which the authorized insurer doing surety business is surety to immediately file a new bond with a new surety.

(5) (a) The commissioner shall require an insurer that issues, sells, renews, or offers health insurance coverage in this state to comply

with PPACA and administrative rules adopted by the commissioner related to regulation of health benefit plans, including:

(i) lifetime and annual limits;

(ii) prohibition of rescissions;

(iii) coverage of preventive health services;

(iv) coverage for a child or dependent;

(v) pre-existing condition limitations;

(vi) insurer transparency of consumer information including plan disclosures, uniform coverage documents, and standard definitions;

(vii) premium rate reviews;

(viii) essential health benefits;

(ix) provider choice;

(x) waiting periods;

(xi) appeals processes;

(xii) rating restrictions;

(xiii) uniform applications and notice provisions;

(xiv) certification and regulation of qualified health plans; and

(xv) network adequacy standards.

(b) The commissioner shall preserve state control over:

(i) the health insurance market in the state;

(ii) qualified health plans offered in the state; and

(iii) the conduct of navigators, producers, and in-person assisters operating in the state.

(6) If requested by an association that represents pharmacies or pharmacists, the commissioner shall assist the association in developing a form that outlines a pharmacy's rights under state and federal law related to pharmacy benefits, pharmacy benefit managers, and health benefit plans.

Section 2. Section 31A-22-643 is amended to read:

31A-22-643. Prescription synchronization -- Copay and dispensing fee restrictions -- Rebate requirements -- Pharmacy networks.

(1) For purposes of this section:

(a) "Administrative fee" means the same as that term is defined in Section 31A-46-102.

(b) "Copay" means the copay normally charged for a prescription drug.

[~~(b)~~](c) "Health insurer" means an insurer, as defined in Subsection 31A-22-634(1).

[~~(c)~~](d) "Network pharmacy" means a pharmacy included in a health insurance plan's network of pharmacy providers.

(e) "Pharmacy benefit manager" means the same as that term is defined in Section 31A-46-102.

[~~(d)~~](f) "Prescription drug" means a prescription drug, as defined in Section 58-17b-102, that is prescribed for a chronic condition.

(g) "Rebate" means the same as that term is defined in Section 31A-46-102.

(h) "Standard rebate amount" means a rebate amount that:

(i) is estimated and set by a health benefit plan for a drug product;

(ii) adjusts each quarter based on rebate underpayments or overpayments; and

(iii) is applied when the drug product is dispensed.

(2) A health insurance plan may not charge an amount in excess of the copay for the dispensing of a prescription drug in a quantity less than the prescribed amount if:

(a) the pharmacy dispenses the prescription drug in accordance with the health insurer's synchronization policy; and

(b) the prescription drug is dispensed by a network pharmacy.

(3) A health insurance plan that includes a prescription drug benefit:

(a) shall implement a synchronization policy for the dispensing of prescription drugs to the plan's enrollees; and

(b) may not base the dispensing fee for an individual prescription on the quantity of the prescription drug dispensed to fill or refill the prescription unless otherwise agreed to by the plan and the contracted pharmacy at the time the individual requests synchronization.

[~~(4) This section applies to health benefit plans renewed or entered into on or after January 1, 2015.~~]

(4) (a) A health benefit plan shall ensure that each pharmaceutical manufacturer rebate is used exclusively to benefit enrollees using one or multiple of the following methods:

(i) passing down the rebate to the point of sale to offset an enrollee's deductible or coinsurance;

(ii) using the rebate to reduce premiums paid by the enrollee; or

(iii) using the rebate to enhance enrollee health benefits.

(b) When passing down a rebate as described in Subsection (4)(a)(i), a health benefit plan may:

(i) divide the rebate between the health benefit plan and the enrollee in a manner that is proportional to the enrollee's payment obligation; or

(ii) use a standard rebate amount.

(5) A health benefit plan may not prohibit or condition participation in one pharmacy network on participation in another pharmacy network.

(6) Subsections (4) and (5) apply to a health benefit plan renewed or entered into on or after July 1, 2026.

Section 3. Section 31A-46-102 is amended to read:

31A-46-102. Definitions.

As used in this chapter:

(1) "340B drug" means a drug purchased through the 340B drug discount program by a 340B entity.

(2) "340B drug discount program" means the 340B drug discount program described in 42 U.S.C. Sec. 256b.

(3) "340B entity" means:

(a) an entity participating in the 340B drug discount program;

(b) a pharmacy of an entity participating in the 340B drug discount program; or

(c) a pharmacy contracting with an entity participating in the 340B drug discount program to dispense drugs purchased through the 340B drug discount program.

(4) "Administrative fee" means any payment, other than a rebate, that a pharmaceutical manufacturer makes directly or indirectly to a pharmacy benefit manager.

(5) "Allowable claim amount" means the amount paid by an insurer under the customer's health benefit plan.

(6) "Contracting insurer" means an insurer with whom a pharmacy benefit manager contracts to provide a pharmacy benefit management service.

(7) "Cost share" means the amount paid by an insured customer under the customer's health benefit plan.

[~~(8) "Device" means the same as that term is defined in Section 58-17b-102.~~]

[~~(9)~~](8) "Direct or indirect remuneration" means any adjustment in the total compensation:

(a) received by a pharmacy from a pharmacy benefit manager for the sale of a drug, device, or other product or service; and

(b) that is determined after the sale of the product or service.

[~~(10)~~](9) "Dispense" means the same as that term is defined in Section 58-17b-102.

[~~(11)~~](10) "Drug" means the same as that term is defined in Section 58-17b-102.

[~~(12)~~](11) "Insurer" means the same as that term is defined in Section 31A-22-636.

[~~(13)~~](12) "Maximum allowable cost" means:

(a) a maximum reimbursement amount for a group of pharmaceutically and therapeutically equivalent drugs; or

(b) any similar reimbursement amount that is used by a pharmacy benefit manager to reimburse pharmacies for multiple source drugs.

[~~(14)~~](13) "Medicaid program" means the same as that term is defined in Section 26B-3-101.

[~~(15)~~](14) "Obsolete" means a product that may be listed in national drug pricing compendia but is no longer available to be dispensed based on the expiration date of the last lot manufactured.

[~~(16)~~](15) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

[~~(17)~~](16) "Pharmaceutical facility" means the same as that term is defined in Section 58-17b-102.

[~~(18)~~](17) "Pharmaceutical manufacturer" means a pharmaceutical facility that manufactures prescription drugs.

[~~(19)~~](18) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

[~~(20)~~](19) "Pharmacy" means the same as that term is defined in Section 58-17b-102.

[~~(21)~~](20) "Pharmacy benefits management service" means any of the following services provided to a health benefit plan, or to a participant of a health benefit plan:

(a) negotiating the amount to be paid by a health benefit plan for a prescription drug; or

(b) administering or managing a prescription drug benefit provided by the health benefit plan for the benefit of a participant of the health benefit plan, including administering or managing:

(i) an out-of-state mail service pharmacy;

(ii) a specialty pharmacy;

(iii) claims processing;

(iv) payment of a claim;

(v) retail network management;

(vi) clinical formulary development;

(vii) clinical formulary management services;

(viii) rebate contracting;

(ix) rebate administration;

(x) a participant compliance program;

(xi) a therapeutic intervention program;

(xii) a disease management program; or

(xiii) a service that is similar to, or related to, a service described in Subsection [~~(21)(a) or(21)(b)(i) through (xii).~~](20)(a) or this Subsection (20)(b).

[~~(22)~~](21) "Pharmacy benefit manager" means a person licensed under this chapter to provide a pharmacy benefits management service.

[~~(23)~~](22) "Pharmacy service" means a product, good, or service provided to an individual by a pharmacy or pharmacist.

[~~(24)~~](23) "Pharmacy services administration organization" means an entity that contracts with a pharmacy to assist with third-party payer interactions and administrative services related to third-party payer interactions, including:

(a) contracting with a pharmacy benefit manager on behalf of the pharmacy; and

(b) managing a pharmacy's claims payments from third-party payers.

[~~(25)~~](24) "Pharmacy service entity" means:

(a) a pharmacy services administration organization; or

(b) a pharmacy benefit manager.

[~~(26)~~](25) "Prescription device" means the same as that term is defined in Section 58-17b-102.

[~~(27)~~](26) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

[~~(28)~~](27) (a) "Rebate" means a refund, discount, or other price concession that is paid by a pharmaceutical manufacturer to a pharmacy benefit manager based on a prescription drug's utilization or effectiveness.

(b) "Rebate" does not include an administrative fee.

[~~(29)~~](28) (a) "Reimbursement report" means a report on the adjustment in total compensation for a claim.

(b) "Reimbursement report" does not include a report on adjustments made pursuant to a pharmacy audit or reprocessing.

[~~(30)~~](29) "Retail pharmacy" means the same as that term is defined in Section 58-17b-102.

[~~(31)~~](30) "Sale" means a prescription drug or prescription device claim covered by a health benefit plan.

(31) "Spread pricing" means the practice in which a pharmacy benefit manager charges a health benefit plan a different amount for pharmacist services than the amount the pharmacy benefit manager reimburses a pharmacy for pharmacist services.

(32) "Wholesale acquisition cost" means the same as that term is defined in 42 U.S.C. Sec. 1395w-3a.

Section 4. Section 31A-46-311 is enacted to read:

31A-46-311. Options for self-funded health benefit plans.

A pharmacy benefit manager shall offer to a self-funded health benefit plan, as an option for the self-funded health benefit plan's design, pharmacy benefit management services that:

(1) comply with the provisions of Subsections 31A-22-643(4) and (5), collectively and individually; and

(2) do not include spread pricing.

Section 5. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 526
H. B. 562
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

LAW ENFORCEMENT AND CRIMINAL JUSTICE AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies provisions related to law enforcement and criminal justice.

Highlighted Provisions:

This bill:

- ► requires that counties offering probation services adopt certain probation standards and practices;
- ► modifies definitions;
- ► provides that the Office of State Debt Collection has the authority to collect civil accounts receivable or a civil judgment of restitution and interest thereon;
- ► provides that administrative garnishments also apply to a debtor's property or wages that are under control of a third party;
- ► requires the Office of State Debt Collection to provide an accounting of the unpaid balance of a defendant's criminal accounts receivable at the time of termination of the defendant's sentence;
- ► provides repayment procedures for any unpaid balance of a defendant's criminal accounts receivable upon termination of a sentence;
- ► provides circumstances that constitute a material change in circumstances;
- ► adds requirements for temporary pretrial status orders of detention;
- ► modifies provisions relating to factors for pretrial release requirements;
- ► provides that a request for a pretrial release at an initial appearance does not constitute a pretrial detention hearing;
- ► requires a court to make findings of fact when making a determination regarding pretrial release;
- ► adds a financial condition schedule to aid a court in determining the amount of a fixed financial condition;
- ► requires a judge to take certain actions if the judge is unable to hold a pretrial detention hearing before a certain deadline;
- ► provides for required procedures when a no bail hold is requested;
- ► provides that certain Board of Pardons and Parole decisions on restitution are final and not subject to judicial review;
- ► codifies order of restitution procedures that apply to certain offenders sentenced before July 1, 2021;
- ► provides procedures for the accounting and payment of restitution owed to various state governmental entities;
- ► permits a sentencing court to authorize the deposit of funds in certain interest-bearing accounts when distribution to a victim is pending;
- ► permits the Board of Pardons and Parole to order recovery of fees incurred on behalf of a sentenced offender in addition to the existing ability to recover costs;
- ► makes coordinating modifications related to docket entry and interest assessments;
- ► permits a court to set restitution for a juvenile sentenced to prison;
- ► includes a coordination clause that requires changes to a section of this bill to supersede the changes to that section in H.B. 312, Criminal Justice Amendments; and
- ► makes technical and grammatical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

17-22-5.6, as enacted by Laws of Utah 2024, Chapter 16
63A-3-502, as last amended by Laws of Utah 2024, Chapter 398
63A-3-507, as last amended by Laws of Utah 2024, Chapter 158
77-18-114, as last amended by Laws of Utah 2024, Chapter 330
77-20-102, as last amended by Laws of Utah 2023, Chapter 408
77-20-205, as last amended by Laws of Utah 2024, Chapters 187, 434
77-20-206, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
77-20-207, as last amended by Laws of Utah 2023, Chapter 408
77-27-5, as last amended by Laws of Utah 2024, Chapters 145, 187 and 208
77-27-6.1, as last amended by Laws of Utah 2024, Chapter 330
77-32b-103, as last amended by Laws of Utah 2024, Chapter 389
77-38b-202, as last amended by Laws of Utah 2024, Chapter 330
77-38b-301, as last amended by Laws of Utah 2023, Chapter 113

78A-2-214, as last amended by Laws of Utah 2024, Chapter 398
80-6-507, as last amended by Laws of Utah 2022, Chapter 135

ENACTS:

77-20-205.5, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

AMENDS:

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-5.6 is amended to read:

17-22-5.6. Probation supervision -- Violation of probation -- Detention -- Hearing.

(1) As used in this section:

(a) "Probationer" means an individual on probation under the supervision of the county sheriff.

(b) (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

(c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) In a county that offers probation services, the county sheriff shall adopt probation standards and practices that are established by the Utah Sheriffs' Association.

[~~(2)~~](3) A county sheriff shall ensure that the court is notified of violations of the terms and conditions of a probationer's probation when the county sheriff determines that:

(a) incarceration is recommended as a sanction;

(b) a graduated and evidence-based response is not an appropriate response to the offender's violation and recommends revocation of probation; or

(c) there is probable cause that the conduct that led to a violation of probation is:

(i) a violent felony; or

(ii) a qualifying domestic violence offense.

[~~(3)~~](4) A county sheriff may take custody of, and detain, a probationer for a maximum of 72 hours, excluding weekends and holidays, if there is probable cause to believe that the probationer has committed a violation of probation.

[~~(4)~~](5) A county sheriff may not detain a probationer or parolee for longer than 72 hours without obtaining a warrant issued by the court.

[~~(5)~~](6) If the county sheriff detains a probationer under Subsection [~~(3)~~](4), the county sheriff shall ensure the proper court is notified.

[~~(6)~~](7) A written order from the county sheriff is sufficient authorization for a peace officer to incarcerate a probationer if the county sheriff has determined that there is probable cause to believe that the probationer has violated the conditions of probation.

[~~(7)~~](8) If a probationer commits a violation outside of the jurisdiction of the county sheriff supervising the probationer, the arresting law enforcement agency is not required to hold or transport the probationer to the county sheriff.

[~~(8)~~](9) This section does not require the county sheriff to release a probationer who is being held for something other than a probation violation, including a warrant issued for new criminal conduct or a new conviction where the individual is sentenced to incarceration.

Section 2. Section 63A-3-502 is amended to read:

63A-3-502. Office of State Debt Collection created -- Duties.

(1) The state and each state agency shall comply with:

(a) the requirements of this chapter; and

(b) any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Division of Finance.

(3) The office shall:

(a) have overall responsibility for collecting and managing state receivables;

(b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;

(c) oversee and monitor state receivables to ensure that state agencies are:

(i) implementing all appropriate collection methods;

(ii) following established receivables guidelines; and

(iii) accounting for and reporting receivables in the appropriate manner;

(d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;

(e) provide information, training, and technical assistance to each state agency on various collection-related topics;

(f) write an inclusive receivables management and collection manual for use by each state agency;

(g) prepare quarterly and annual reports of the state's receivables;

(h) create or coordinate a state accounts receivable database;

(i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;

(j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;

(k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;

(l) establish an automated cash receipt process between each state agency;

(m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;

(n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or the office's designee;

(o) be a real party in interest for:

(i) an account receivable referred to the office by any state agency; and

(ii) a civil judgment of restitution entered on a civil judgment docket by a court;

(p) allocate money collected for a judgment entered on the civil judgment docket under Section 77-18-114 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110;

(q) if a criminal accounts receivable is transferred to the office under Subsection 77-32b-103(2)(a)(ii), receive, process, and distribute payments for the criminal accounts receivable;

(r) provide a debtor online access to the debtor's accounts receivable or criminal accounts receivable in accordance with Section 63A-3-502.5;

(s) establish a written policy for each of the following:

(i) the settling of an accounts receivable, including any amount of restitution owed to a victim in a civil judgment of restitution if the victim approves of the settlement;

(ii) allowing a debtor to pay off a single debt as part of an accounts receivable even if the debtor has a balance on another debt as part of an accounts receivable or criminal accounts receivable;

(iii) setting a payment deadline for settlement agreements and for obtaining an extension of a settlement agreement deadline; and

(iv) reducing administrative costs when a settlement has been reached;

(t) consult with a state agency on whether:

(i) the office may agree to a settlement for an amount that is less than the debtor's principal amount; and

(ii) the state agency may retain authority to negotiate a settlement with a debtor; and

(u) provide the terms and conditions of any payment arrangement that the debtor has made with a state agency or the office when:

(i) the payment arrangement is created; or

(ii) the debtor requests a copy of the terms and conditions.

(4) The office may:

(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;

(b) collect accounts receivables for higher education entities, if the higher education entity agrees;

(c) prepare a request for proposal for consulting services to:

(i) analyze the state's receivable management and collection efforts; and

(ii) identify improvements needed to further enhance the state's effectiveness in collecting the state's receivables;

(d) contract with private or state agencies to collect past-due accounts;

(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;

(f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial declaration form described in Section 77-38b-204;

(g) at rates authorized by the Legislature or set in statute, assess and collect the following interest and fees:

(i) a fee to cover the administrative costs of collection on accounts administered by the office;

(ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;

(iii) an interest charge that is:

(A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or

(B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and

(iv) fees to collect accounts receivable for higher education;

(h) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;

(i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;

(j) for a case that is referred to the office or in which the office is a judgment creditor, file a motion or other document related to the office or the accounts receivable in that case, including a satisfaction of judgment, in accordance with the Utah Rules of Civil Procedure;

(k) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;

(l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record;

(m) enter into written agreements with other governmental agencies to obtain and share information for the purpose of collecting state accounts receivable; and

(n) collect accounts receivable for a political subdivision of the state if the political subdivision enters into an agreement or contract with the office under Title 11, Chapter 13, Interlocal Cooperation Act, for the office to collect the political subdivision's accounts receivable.

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor under Subsection (4)(l):

(i) is used only for the limited purpose of collecting accounts receivable; and

(ii) is subject to federal, state, and local agency records restrictions; and

(b) any individual employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(l) is subject to:

(i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and

(ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.

(6) (a) The office shall have authority to collect a civil accounts receivable or a civil judgment of restitution ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 77-18-114(1) or (2).

(b) The office may not assess:

(i) the interest charge established by the office under Subsection [~~(4)~~](4)(g)(iii)(B) on an account receivable that is subject to the postjudgment interest rate established by Section 15-1-4; and

(ii) an interest charge on [~~a~~]an amount from a criminal accounts receivable [~~that is transferred to the office under Subsection 77-32b-103(2)(a)(ii)~~]until the amount is entered on the civil judgment docket.

(7) The office shall require a state agency to:

(a) transfer collection responsibilities to the office or the office's designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report the state's receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of the state agency's receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) All interest, fees, and other amounts authorized to be collected by the office under Subsection (4)(g):

(a) are penalties that may be charged by the office;

(b) do not require an order from a court for the office to assess or collect;

(c) are not compensation for actual pecuniary loss;

(d) for a civil accounts receivable:

(i) begin to accrue on the day on which the civil accounts receivable is entered on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) may be collected as part of the civil accounts receivable;

(e) for a civil judgment of restitution:

(i) begin to accrue on the day on which the civil judgment of restitution is entered on the civil judgment docket under Subsection 77-18-114(1); and

(ii) may be collected as part of the civil judgment of restitution;

(f) for all other accounts receivable:

(i) begin to accrue on the day on which the accounts receivable is transferred to the office, even if there is no court order on the day on which the accounts receivable is transferred; and

(ii) may be collected as part of the accounts receivable; and

(g) may be waived by:

(i) the office; or

(ii) if the interest, fee, or other amount is charged in error, the court.

Section 3. Section 63A-3-507 is amended to read:

63A-3-507. Administrative garnishment order.

(1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may issue an administrative garnishment order against the debtor's personal property, including wages, in the possession of or under the control of a party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued by a court with jurisdiction.

(2) The office may issue the administrative garnishment order if:

(a) the order is signed by the director or the director's designee; and

(b) the underlying debt is for:

(i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or

(ii) nonpayment of a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by an agency of the state.

(3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.

(4) An administrative garnishment order issued by the office shall:

(a) contain a statement that includes:

(i) if known:

(A) the nature, location, account number, and estimated value of the property; and

(B) the name, address, and phone number of the person holding the property;

(ii) whether any of the property consists of earnings;

(iii) the amount of the judgment and the amount due on the judgment; and

(iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property;

(b) identify the defendant, including the defendant's name and last known address;

(c) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

(d) state where the garnishee may deliver property.

(5) The office may, in the office's discretion, include in an administrative garnishment order:

(a) the last four digits of the defendant's Social Security number;

(b) the last four digits of the defendant's driver license number;

(c) the state in which the defendant's driver license was issued;

(d) one or more interrogatories inquiring:

(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;

(ii) whether the garnishee possesses or controls any property of the defendant and, if so, the nature, location, and estimated value of the property;

(iii) whether the garnishee knows of any property of the defendant in the possession or under the control of another and, if so:

(A) the nature, location, and estimated value of the property; and

(B) the name, address, and telephone number of the person who has possession or control of the property;

(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant, and the amount deducted;

(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;

(vi) the dates on which any previously served writs of continuing garnishment were served; and

(vii) any other relevant information, including the defendant's position, rate of pay, method of compensation, pay period, and computation of the amount of the defendant's disposable earnings.

(6) (a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount determined by the court.

(c) The amount for which a garnishee is liable under Subsection (6)(b) includes:

(i) (A) the value of the judgment; or

(B) the value of the property, if the garnishee shows that the value of the property is less than the value of the judgment;

(ii) reasonable costs; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(d) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

(7) (a) If the office has reason to believe that a garnishee has failed to comply with the requirements of this section in the garnishee's response to a garnishment order issued under this section, the office may submit a motion to the court requesting the court to issue an order against the garnishee requiring the garnishee to appear and show cause why the garnishee should not be held liable under this section.

(b) The office shall attach to a motion under Subsection (7)(a) a statement that the office has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.

(9) (a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.

(b) The office's receipt of an amount described in Subsection (9)(a) discharges the debtor for the amount paid.

(10) A garnishee may deduct from the property any liquidated claim against the defendant.

(11) (a) If a debt to the garnishee is secured by property, the office:

(i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and

(ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.

(b) Notwithstanding Subsection (11)(a)(i):

(i) the administrative garnishment order remains in effect; and

(ii) the office may apply the property to the debt.

(c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:

(i) the obligation is secured by property; and

(ii) (A) the obligation does not require the personal performance of the defendant; and

(B) a third party may perform the obligation.

(12) (a) The office may issue a continuing garnishment order against a nonexempt periodic payment.

(b) This section is subject to the Utah Exemptions Act.

(c) A continuing garnishment order issued in accordance with this section applies to payments to, or for the benefit of, the defendant from the date of service upon the garnishee until the earliest of the following:

(i) the last periodic payment;

(ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or

(iii) the office releases the order.

(d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:

(i) answer each interrogatory;

(ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and

(iii) deliver the property to the office.

(e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by a court, the order issued by the office:

(i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the

maximum portion of disposable earnings described in Subsection (13);

(ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (13) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

(13) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or

(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(14) (a) In accordance with the requirements of this Subsection (14), the office may, at its discretion, determine a dollar amount that a garnishee is to withhold from earnings and deliver to the office in a continuing administrative garnishment order issued under this section.

(b) The office may determine the dollar amount that a garnishee is to withhold from earnings under Subsection (14)(a) if the dollar amount determined by the office:

(i) does not exceed the maximum amount allowed under Subsection (13); and

(ii) is based on:

(A) earnings information received by the office directly from the Department of Workforce Services; or

(B) previous garnishments issued to the garnishee by the office where payments were received at a consistent dollar amount.

(c) The earnings information or previous garnishments relied on by the office under Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

(i) for one debtor;

(ii) from the same employer;

(iii) for two or more consecutive quarters; and

(iv) received within the last six months.

(15) (a) A garnishee who provides the calculation for withholdings on a defendant's wages in the garnishee's initial response to an interrogatory in an administrative garnishment order under this section is not required to provide the calculation for withholdings after the garnishee's initial response if:

(i) the garnishee's accounting system automates the amount of defendant's wages to be paid under the garnishment; and

(ii) the defendant's wages do not vary by more than five percent from the amount disclosed in the garnishee's initial response.

(b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a garnishee shall provide, for the last pay period or other pay period specified by the office or defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

(16) (a) A garnishee under an administrative garnishment order under this section is entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of:

(i) $10 per garnishment order, for a noncontinuing garnishment order; and

(ii) $25, as a one-time fee, for a continuing garnishment order.

(b) A garnishee may deduct the amount of the garnishee fee from the amount to be remitted to the office under the administrative garnishment order, if the amount to be remitted exceeds the amount of the fee.

(c) If the amount to be remitted to the office under an administrative garnishment order does not exceed the amount of the garnishee fee:

(i) the garnishee shall notify the office that the amount to be remitted does not exceed the amount of the garnishee fee; and

(ii) (A) the garnishee under a noncontinuing garnishment order shall return the administrative garnishment order to the office, and the office shall pay the garnishee the garnishee fee; or

(B) the garnishee under a continuing garnishment order shall delay remitting to the office until the amount to be remitted exceeds the garnishee fee.

(d) If, upon receiving the administrative garnishment order, the garnishee does not possess or control any property, including money or wages, in which the defendant has an interest:

(i) the garnishee under a continuing or noncontinuing garnishment order shall, except as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office, and the office shall pay the garnishee the applicable garnishee fee; or

(ii) if the garnishee under a continuing garnishment order believes that the garnishee will, within 90 days after issuance of the continuing garnishment order, come into possession or control of property in which the defendant owns an interest, the garnishee may retain the garnishment order and deduct the garnishee fee for a continuing garnishment once the amount to be remitted exceeds the garnishee fee.

(17) Section 78A-2-216 does not apply to an administrative garnishment order issued under this section.

(18) An administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.

(19) If the office issues an administrative garnishment order under this section to collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the administrative garnishment order shall be construed as a continuation of the criminal action for which the civil accounts receivable or civil judgment of restitution arises if the amount owed is from a fine, fee, or restitution for the criminal action.

Section 4. Section 77-18-114 is amended to read:

77-18-114. Unpaid balance at termination of sentence -- Transfer of collection responsibility -- Past due account -- Notice -- Account or judgment paid in full -- Effect of civil accounts receivable and civil judgment of restitution.

(1) When a defendant's sentence is terminated by law or by the decision of the court or the board:

(a) the board shall provide notice to the Office of State Debt Collection, and the Office of State Debt Collection shall provide an accounting of the unpaid balance of the defendant's criminal accounts receivable to the court if the defendant was on parole or incarcerated at the time of termination; and

(b) except as provided in Subsection (1)(b)(iv), Subsection 77-18-118(1)(g), and Subsection 77-27-6.1(2)(f), within 90 days after the day on which a defendant's sentence is terminated, the court shall:

(i) enter an order for a civil accounts receivable and a civil judgment of restitution for a defendant on the civil judgment docket;

(ii) transfer the responsibility of collecting the civil accounts receivable and the civil judgment of restitution to the Office of State Debt Collection;[~~and~~]

(iii) identify in the order under this Subsection (1):

(A) the Office of State Debt Collection as a judgment creditor for the civil accounts receivable and the civil judgment of restitution; and

(B) the victim as a judgment creditor for the civil judgment of restitution[~~.~~]; and

(iv) if the restitution is owed to the Department of Workforce Services or the Department of Health and Human Services, upon request by the prosecutor or victim:

(A) enter an order for the civil accounts receivable and a civil judgment of restitution for a defendant on the civil judgment docket;

(B) transfer the responsibility of collecting the civil judgment of restitution to each entity described in this Subsection (1)(b)(iv) that is owed restitution, with the balance owed to each entity assigned to each entity respectively if applicable;

(C) identify each entity that is assigned responsibility for collecting a civil judgment of restitution under Subsection (1)(b)(iv)(B) as a judgment creditor for the civil judgment of restitution; and

(D) identify the Office of State Debt Collection as a judgment creditor for any civil accounts receivable and transfer the responsibility of collecting the civil accounts receivable to the Office of State Debt Collection.

(2) If a criminal accounts receivable for the defendant is more than 90 days past due and the court has ordered that a defendant does not owe restitution to any victim, or the time period for entering an order for restitution has expired under Section 77-38b-205 and the court has not ordered restitution, the court may:

(a) enter an order for a civil accounts receivable for the defendant on the civil judgment docket;

(b) identify, in the order under Subsection (2)(a), the Office of State Debt Collection as a judgment creditor for the civil accounts receivable; and

(c) transfer the responsibility of collecting the civil accounts receivable to the Office of State Debt Collection.

(3) An order for a criminal accounts receivable is no longer in effect after the court enters an order for a civil accounts receivable or a civil judgment of restitution under Subsection (1) or (2).

(4) The court shall provide notice to the Office of State Debt Collection and the prosecuting attorney of any hearing that affects an order for the civil accounts receivable or the civil judgment of restitution.

(5) The Office of State Debt Collection shall notify the court when a civil judgment of restitution or a civil accounts receivable is satisfied.

(6) When a fine, forfeiture, surcharge, cost, or fee is recorded in an order for a civil accounts receivable on the civil judgment docket, or when restitution is recorded as an order for a civil judgment of restitution on the civil judgment docket, the order:

(a) constitutes a lien on the defendant's real property until the judgment is satisfied; and

(b) may be collected by any means authorized by law for the collection of a civil judgment.

(7) A criminal accounts receivable, a civil accounts receivable, and a civil judgment of restitution are not subject to the civil statutes of limitation and expire only upon payment in full.

(8) (a) If a defendant asserts that a payment was made to a victim or third party for a civil judgment of restitution, or enters into any other transaction that does not involve the Office of State Debt Collection, and the defendant asserts that the payment results in a credit [~~towards~~]toward the civil judgment of restitution for the defendant:

(i) the defendant shall provide notice to the Office of State Debt Collection and the prosecuting attorney within 30 days after the day on which the payment or other transaction is made; and

(ii) the payment may only be credited towards the civil judgment of restitution and does not affect any other amount owed to the Office of State Debt Collection under Section 63A-3-502.

(b) Nothing in this Subsection (8) shall be construed to prevent a victim or a third party from providing notice of a payment towards a civil judgment of restitution to the Office of State Debt Collection.

Section 5. Section 77-20-102 is amended to read:

77-20-102. Definitions.

As used in this chapter:

(1) "Bail" means pretrial release.

(2) "Bail bond" means the same as that term is defined in Section 31A-35-102.

(3) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(4) "Bail bond producer" means the same as that term is defined in Section 31A-35-102.

(5) "County jail official" means a county sheriff or the county sheriff's designee.

(6) "Exonerate" means to release and discharge a surety, or a surety's bail bond producer, from liability for a bail bond.

(7) "Financial condition" means any monetary condition that is imposed to secure an individual's pretrial release.

(8) "Forfeiture" means:

(a) to divest an individual or surety from a right to the repayment of monetary bail; or

(b) to enforce a pledge of assets or real or personal property from an individual or surety used to secure an individual's pretrial release.

(9) "Magistrate" means the same as that term is defined in Section 77-1-3.

(10) (a) "Material change in circumstances" includes:

(i) a preliminary examination in which relevant evidence is presented that:

(A) is material to the factors or considerations provided in Section 77-20-201; and

(B) was not known to the court at the time the pretrial status order was issued;

(ii) an unreasonable delay in prosecution that is not attributable to the defendant;

[~~(ii)~~](iii) a material change in the risk that an individual poses to a victim, a witness, or the public if released due to the passage of time or any other relevant factor;

[~~(iii)~~](iv) a material change in the conditions of release or the services that are reasonably available to the defendant if released;

[~~(iv)~~](v) a willful or repeated failure by the defendant to appear at required court appearances; or

[~~(v)~~](vi) any other material change related to the defendant's risk of flight or danger to any other individual or to the community if released.

(b) "Material change in circumstances" does not include any fact or consideration that is known at the time that the pretrial status order is issued.

(11) "Monetary bail" means a financial condition.

(12) "No bail hold" means an order with the restrictions described in Subsection (18)(c).

[~~(12)~~](13) "Own recognizance" means the release of an individual without any condition of release other than the individual's promise to:

(a) appear for all required court proceedings; and

(b) not commit any criminal offense.

[~~(13)~~](14) "Pretrial detention hearing" means a hearing described in Section 77-20-206.

[~~(14)~~](15) "Pretrial release" means the release of an individual from law enforcement custody during the time the individual awaits trial or other resolution of criminal charges.

[~~(15)~~](16) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures an individual's risk of flight and risk of anticipated criminal conduct while on pretrial release.

[~~(16)~~](17) "Pretrial services program" means a program that is established to:

(a) gather information on individuals booked into a jail facility;

(b) conduct pretrial risk assessments; and

(c) supervise individuals granted pretrial release.

[~~(17)~~](18) "Pretrial status order" means an order issued by a magistrate or judge that:

(a) releases the individual on the individual's own recognizance while the individual awaits trial or other resolution of criminal charges;

(b) sets the terms and conditions of the individual's pretrial release while the individual awaits trial or other resolution of criminal charges; or

(c) denies pretrial release and orders that the individual be detained while the individual awaits trial or other resolution of criminal charges.

[~~(18)~~](19) "Principal" means the same as that term is defined in Section 31A-35-102.

[~~(19)~~](20) "Surety" means a surety insurer or a bail bond agency.

[~~(20)~~](21) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

[~~(21)~~](22) "Temporary pretrial status order" means an order issued by a magistrate that:

(a) releases the individual on the individual's own recognizance until a pretrial status order is issued;

(b) sets the terms and conditions of the individual's pretrial release until a pretrial status order is issued; or

(c) denies pretrial release and orders that the individual be detained until a pretrial status order is issued.

[~~(22)~~](23) "Unsecured bond" means an individual's promise to pay a financial condition if the individual fails to appear for any required court appearance.

Section 6. Section 77-20-205 is amended to read:

77-20-205. Pretrial release by a magistrate or judge.

(1) (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure, the magistrate shall issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges.

(b) At the time that a magistrate issues a summons, the magistrate may issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges, subject to the requirements of Subsection (1)(c).

(c) (i) Notwithstanding Subsection (1)(a) or (b), a magistrate shall issue a temporary pretrial status order of detention under Subsection [~~(1) that detains an individual~~](1)(a)(iii) if the individual is arrested for a felony offense and the magistrate finds:

[~~(i)~~](A) there is substantial evidence to support the individual's arrest for the felony offense;

[~~(ii)~~](B) the individual committed the felony offense while:

[~~(A)~~](I) the individual was on parole or probation for a conviction of a felony offense; or

[~~(B)~~](II) the individual was released and awaiting trial on a previous charge for a felony offense; and

[~~(iii)~~](C) based on information reasonably available to the magistrate, the individual[~~ has at least nine cases where the individual has been charged or convicted, or entered a plea of guilty, within five years from the day on which the individual was arrested for the felony offense described in Subsection (1)(c)(i)~~]:

(I) is a habitual offender as defined in Section 77-18-102; or

(II) will be a habitual offender as defined in Section 77-18-102 if the individual is convicted of the felony offense.

(d) Subsection (1)(c) does not limit or prohibit a magistrate's authority to detain an individual who does not meet the requirements described in Subsection (1)(c).

(2) (a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a pretrial status order at an individual's first appearance before the court.

(b) The magistrate or judge may delay the issuance of a pretrial status order at an individual's first appearance before the court:

(i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for pretrial detention as described in Section 77-20-206;

(ii) if a party requests a delay; or

(iii) if there is good cause to delay the issuance.

(c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection (2)(b), the magistrate or judge shall extend the temporary pretrial status order until the issuance of a pretrial status order.

(d) A request for a pretrial release that has not been fully presented to and ruled upon by the magistrate or judge at an initial appearance does not constitute a pretrial detention hearing under Section 77-20-206.

(3) (a) When a magistrate or judge issues a pretrial status order, the pretrial status order shall:

(i) release the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designate a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) subject to the requirements of Subsection (10), order the individual to be detained during the time that individual awaits trial or other resolution of criminal charges.

(b) In making a determination about pretrial release in a pretrial status order, the magistrate or judge may not give any deference to a magistrate's decision in a temporary pretrial status order.

(4) In making a determination about pretrial release, a magistrate or judge shall impose:

(a) [-]only conditions of release that are reasonably available; and

(b) conditions of release that reasonably ensure:

(i) the individual's appearance in court when required;

(ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;

(iii) the safety and welfare of the public; and

(iv) that the individual will not obstruct, or attempt to obstruct, the criminal justice process.

(5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a condition, or combination of conditions, for pretrial release that requires an individual to:

(a) not commit a federal, state, or local offense during the period of pretrial release;

(b) avoid contact with a victim of the alleged offense;

(c) avoid contact with a witness who:

(i) may testify concerning the alleged offense; and

(ii) is named in the pretrial status order;

(d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;

(e) submit to drug or alcohol testing;

(f) complete a substance abuse evaluation and comply with any recommended treatment or release program;

(g) submit to electronic monitoring or location device tracking;

(h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

(i) maintain employment or actively seek employment if unemployed;

(j) maintain or commence an education program;

(k) comply with limitations on where the individual is allowed to be located or the times that the individual shall be, or may not be, at a specified location;

(l) comply with specified restrictions on personal associations, place of residence, or travel;

(m) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;

(n) comply with a specified curfew;

(o) forfeit or refrain from possession of a firearm or other dangerous weapon;

(p) if the individual is charged with an offense against a child, limit or prohibit access to any location or occupation where children are located, including any residence where children are on the premises, activities where children are involved, locations where children congregate, or where a reasonable person would know that children congregate;

(q) comply with requirements for house arrest;

(r) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;

(s) remain in custody of one or more designated individuals who agree to:

(i) supervise and report on the behavior and activities of the individual; and

(ii) encourage compliance with all court orders and attendance at all required court proceedings;

(t) comply with a financial condition; or

(u) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection (4).

(6) (a) If a county or municipality has established a pretrial services program, the magistrate or judge shall consider the services that the county or municipality has identified as available in determining what conditions of release to impose.

(b) The magistrate or judge may not order conditions of release that would require the county or municipality to provide services that are not currently available from the county or municipality.

(c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions of release not identified by the county or municipality so long as the condition does not require assistance or resources from the county or municipality.

(7) (a) If the magistrate or judge determines that a financial condition, other than an unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall, when determining the amount of the financial condition, refer to the financial condition schedule in Section 77-20-205.5 and consider the individual's risk of failing to appear and ability to pay[~~when determining the amount of~~

~~the financial condition~~].

(b) If the magistrate or judge determines that a financial condition is necessary to impose as a condition of release, and a county jail official fixed a financial condition for the individual under Section 77-20-204, the magistrate or judge may not give any deference to:

(i) the county jail official's action to fix a financial condition; or

(ii) the amount of the financial condition that the individual was required to pay for pretrial release.

(c) If a magistrate or judge orders a financial condition as a condition of release, the judge or magistrate shall set the financial condition at a single amount per case.

(8) In making a determination about pretrial release, the magistrate or judge may:

(a) rely upon information contained in:

(i) the indictment or information;

(ii) any sworn or probable cause statement or other information provided by law enforcement;

(iii) a pretrial risk assessment;

(iv) an affidavit of indigency described in Section 78B-22-201.5;

(v) witness statements or testimony;

(vi) the results of a lethality assessment completed in accordance with Section 77-36-2.1; or

(vii) any other reliable record or source, including proffered evidence; and

(b) consider:

(i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:

(A) whether the offense is a violent offense; and

(B) the vulnerability of a witness or alleged victim;

(ii) the nature and circumstances of the individual, including the individual's:

(A) character;

(B) physical and mental health;

(C) family and community ties;

(D) employment status or history;

(E) financial resources;

(F) past criminal conduct;

(G) history of drug or alcohol abuse; and

(H) history of timely appearances at required court proceedings;

(iii) the potential danger to another individual, or individuals, posed by the release of the individual;

(iv) whether the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense or offenses;

(v) the availability of:

(A) other individuals who agree to assist the individual in attending court when required; or

(B) supervision of the individual in the individual's community;

(vi) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or

(vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.

(9) The magistrate or judge may not base a determination about pretrial release solely:

(a) on the seriousness or type of offense that the individual is arrested for or charged with, unless the individual is arrested for or charged with a capital felony; or

(b) on an algorithm or a risk assessment tool score.

(10) If the magistrate or judge issues an order pursuant to Subsection 77-20-205(3)(a)(iii), the magistrate or judge shall make sufficiently detailed findings of fact on the risk of substantial danger or flight from the court's jurisdiction to enable a reviewing court to ensure that the magistrate's or judge's determination reasonably considered all of the evidence presented to the court.

[~~(10)~~](11) An individual arrested for violation of a jail release agreement, or a jail release court order, issued in accordance with Section 78B-7-802:

(a) may not be released before the individual's first appearance before a magistrate or judge; and

(b) may be denied pretrial release by the magistrate or judge.

Section 7. Section 77-20-205.5 is enacted to read:

77-20-205.5. Financial condition schedule.

(1) For a felony, the default amount for a financial condition is:

(a) $25,000 for a first degree felony with a minimum mandatory sentence;

(b) $20,000 for a first degree felony without a minimum mandatory sentence;

(c) $10,000 for a second degree felony; and

(d) $5,000 for a third degree felony.

(2) For a misdemeanor or infraction other than a local ordinance, the default amount for a financial condition is:

(a) $2,000 for a class A misdemeanor;

(b) $700 for a class B misdemeanor;

(c) $350 for a class C misdemeanor; and

(d) $130 for an infraction.

(3) For a violation of a local ordinance, the default amount for a financial condition is:

(a) $150 for a class B violation;

(b) $80 for a class C violation; and

(c) $25 for an infraction.

Section 8. Section 77-20-206 is amended to read:

77-20-206. Motion for pretrial detention -- Pretrial detention hearing -- Requirements for no bail holds.

(1) (a) If the criminal charges filed against an individual include one or more offenses eligible for detention under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8, the prosecuting attorney may make a motion for pretrial detention.

(b) A prosecuting attorney shall not omit from the prosecuting attorney's motion for pretrial detention any material information that is known to the prosecuting attorney to be favorable to the individual.

(c) The motion for pretrial detention may include proposed factual findings for the court to adopt.

[~~(b)~~](d) Upon receiving a motion for pretrial detention under Subsection (1)(a), the judge shall set a pretrial detention hearing in accordance with Subsection (2).

(2) (a) If a pretrial status order is not issued at an individual's first appearance and the individual remains detained, a pretrial detention hearing shall be held at the next available court hearing that is:

[~~(a)~~](i) no sooner than seven days from the day on which the defendant was arrested; and

[~~(b)~~](ii) no later than fourteen days from the day on which the defendant was arrested.

(b) A judge who is unable to hold a detention hearing within 14 days of the date of an individual's first appearance shall make a good faith effort to identify another judge who has the ability to conduct the detention hearing within 14 days of the date of the individual's first appearance.

(3) (a) An individual, who is the subject of a pretrial detention hearing, has the right to be represented by counsel at the pretrial detention hearing.

(b) If a judge finds the individual is indigent under Section 78B-22-202, the judge shall appoint counsel to represent the individual in accordance with Section 78B-22-203.

(4) At the pretrial detention hearing:

(a) the judge shall give both parties the opportunity to make arguments and to present relevant evidence or information;

(b) the prosecuting attorney and the defendant have a right to subpoena witnesses to testify; and

(c) the judge shall issue a pretrial status order in accordance with Subsection (5) and Section 77-20-205.

(5) After hearing evidence on a motion for pretrial detention, and based on the totality of the circumstances, a judge may order detention if:

(a) the individual is accused of committing an offense that qualifies for detention of the individual under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8; and

(b) the prosecuting attorney demonstrates substantial evidence to support the charge, and meets all additional evidentiary burdens required under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8.

(6) An alleged victim has the right to be heard at a pretrial detention hearing on a motion for pretrial detention.

(7) If a defendant seeks to subpoena an alleged victim who did not willingly testify at the pretrial detention hearing, a defendant may issue a subpoena, at the conclusion of the pretrial detention hearing, compelling the alleged victim to testify at a subsequent hearing only if the judge finds that the testimony sought by the subpoena:

(a) is material to the substantial evidence or clear and convincing evidence determinations described in Section 77-20-201 in light of all information presented to the court; and

(b) would not unnecessarily intrude on the rights of the victim or place an undue burden on the victim.

Section 9. Section 77-20-207 is amended to read:

77-20-207. Modification of pretrial status order -- Failure to appear.

(1) A party may move to modify a pretrial status order:

(a) at any time after a pretrial status order is issued; and

(b) only upon a showing that there has been a material change in circumstances.

(2) (a) Notwithstanding Subsection (1), a defendant may move to modify a pretrial status order if:

(i) the magistrate or judge imposed a financial condition as a condition of release in the pretrial status order; and

(ii) the defendant is unable to pay the financial condition within seven days after the day on which the pretrial status order is issued.

(b) For a motion under Subsection (2)(a), there is a rebuttable presumption that the defendant does not have the ability to pay the financial condition.

(3) (a) If a party makes a motion to modify the pretrial status order, the party shall provide notice to the opposing party sufficient to permit the opposing party to prepare for a hearing and to permit each alleged victim to be notified and be present.

(b) A hearing on a motion to modify a pretrial status order may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(4) In ruling upon a motion to modify a pretrial status order, the judge may:

(a) rely on information as provided in Subsection 77-20-205(8);

(b) base the judge's ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to pretrial release; and

(c) (i) for a motion to modify a pretrial status order under Subsection (1), modify the pretrial status order, including the conditions of release, upon a finding that there has been a material change in circumstances; or

(ii) for a motion to modify a pretrial status order under Subsection (2), modify the pretrial status order by reducing the amount of the financial condition or imposing nonfinancial conditions of release upon a finding that the defendant is unable to pay the amount of the financial condition in the pretrial status order.

(5) In modifying a pretrial status order upon a motion by a party or on the court's own motion, the court shall consider whether imposing a bail bond as a condition of release in a modified pretrial status order will increase the likelihood of the defendant's appearance when:

(a) the defendant was previously released on the defendant's own recognizance or on nonfinancial conditions;

(b) the defendant willfully failed to appear at a required court appearance or has failed to appear at a required court appearance more than once; and

(c) a bench warrant was issued.

(6) A court may not modify a pretrial status order to a no bail hold solely on the basis of a failure to appear.

[~~(6)~~](7) Subsections 77-20-205(3) through [~~(10)~~](11) apply to a determination about pretrial release in a modified pretrial status order.

Section 10. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1) (a) Subject to this chapter and other laws of the state, and except for a conviction for treason or impeachment, the board shall determine by majority decision when and under what conditions an offender's conviction may be pardoned or commuted.

(b) The board shall determine by majority decision when and under what conditions an offender committed to serve a sentence at a penal or correctional facility, which is under the jurisdiction of the department, may:

(i) be released upon parole;

(ii) have a fine or forfeiture remitted;

(iii) have the offender's criminal accounts receivable remitted in accordance with Section 77-32b-105 or 77-32b-106;

(iv) have the offender's payment schedule modified in accordance with Section 77-32b-103; or

(v) have the offender's sentence terminated.

(c) The board shall prioritize public safety when making a determination under Subsection (1)(a) or (1)(b).

(d) (i) The board may sit together or in panels to conduct hearings.

(ii) The chair shall appoint members to the panels in any combination and in accordance with rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(iii) The chair may participate on any panel and when doing so is chair of the panel.

(iv) The chair of the board may designate the chair for any other panel.

(e) (i) Except after a hearing before the board, or the board's appointed examiner, in an open session, the board may not:

(A) remit a fine or forfeiture for an offender or the offender's criminal accounts receivable;

(B) release the offender on parole; or

(C) commute, pardon, or terminate an offender's sentence.

(ii) An action taken under this Subsection (1) other than by a majority of the board shall be affirmed by a majority of the board.

(f) A commutation or pardon may be granted only after a full hearing before the board.

(2) (a) In the case of a hearing, timely prior notice of the time and location of the hearing shall be given to the offender.

(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

(d) (i) Notice to the victim or the victim's representative shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section.

(ii) The information under Subsection (2)(d)(i) shall be provided in terms that are reasonable for the lay person to understand.

(3) (a) A decision by the board is final and not subject for judicial review if the decision is regarding:

(i) a pardon, parole, commutation, or termination of an offender's sentence;

(ii) restitution, the modification of an offender's payment schedule for restitution, or an order for costs; or

(iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

(b) Deliberative processes are not public and the board is exempt from Title 52, Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's deliberative process.

(c) Pursuant to Subsection 63G-2-103(25)(b)(xi), records of the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(d) Unless it will interfere with a constitutional right, deliberative processes are not subject to disclosure, including discovery.

(e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

(4) (a) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment.

(b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the next session of the board.

(c) At the next session of the board, the board:

(i) shall continue or terminate the respite or reprieve; or

(ii) may commute the punishment or pardon the offense as provided.

(d) In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at the Legislature's next session.

(e) The Legislature shall pardon or commute the sentence or direct the sentence's execution.

(5) (a) In determining when, where, and under what conditions an offender serving a sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's criminal accounts receivable remitted, or have the offender's sentence commuted or terminated, the board shall:

(i) consider whether the offender has made restitution ordered by the court under Section 77-38b-205, or is prepared to pay restitution

as a condition of any parole, pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or termination of the offender's sentence;

(ii) except as provided in Subsection (5)(b), develop and use a list of criteria for making determinations under this Subsection (5);

(iii) consider information provided by the department regarding an offender's individual case action plan; and

(iv) review an offender's status within 60 days after the day on which the board receives notice from the department that the offender has completed all of the offender's case action plan components that relate to activities that can be accomplished while the offender is imprisoned.

(b) The board shall determine whether to remit an offender's criminal accounts receivable under this Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.

(7) For an offender placed on parole after December 31, 2018, the board shall terminate parole in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.

(8) The board may not rely solely on an algorithm or a risk assessment tool score in determining whether parole should be granted or terminated for an offender.

(9) The board may intervene as a limited-purpose party in a judicial or administrative proceeding, including a criminal action, to seek:

(a) correction of an order that has or will impact the board's jurisdiction; or

(b) clarification regarding an order that may impact the board's jurisdiction.

(10) A motion to intervene brought under Subsection [~~(8)(a)~~](9)(a) shall be raised within 60 days after the day on which a court enters the order that impacts the board's jurisdiction.

Section 11. Section 77-27-6.1 is amended to read:

77-27-6.1. Payment of a criminal accounts receivable -- Failure to enter an order for restitution or create a criminal accounts receivable -- Modification of a criminal accounts receivable -- Order for recovery of costs or pecuniary damages.

(1) For an offender sentenced on or after July 1, 2021:

(a) [~~When~~]when an offender is committed to prison, the board may require the offender to pay the offender's criminal accounts receivable ordered by the court during the period of incarceration or parole supervision[~~.~~];

[~~(2)~~](b) [~~If~~]if the board orders the release of an offender on parole and there is an unpaid balance on the offender's criminal accounts receivable, the board may modify the payment schedule entered by the court for the offender's criminal accounts receivable in accordance with Section 77-32b-105[~~.~~];

[~~(3)~~](c) [~~(a)~~](i) [~~If~~]if the sentencing court has not entered an order of restitution for an offender who is under the jurisdiction of the board, the board shall refer the offender's case to the sentencing court, within the time periods described in Section 77-38b-205, to enter an order for restitution for the offender in accordance with Section 77-38b-205[~~.~~]; and

[~~(b)~~](ii) [~~If~~]if the sentencing court has not entered an order to establish a criminal accounts receivable for an offender who is under the jurisdiction of the board, the board shall refer the offender's case to the sentencing court, within the time periods described in Section 77-38b-205, to enter an order to establish a criminal accounts receivable for the offender in accordance with Section 77-32b-103[~~.~~]; and

[~~(4)~~](d) [~~(a)~~](i) [~~If~~]if there is a challenge to an offender's criminal accounts receivable, the board shall refer the offender's case to the sentencing court, within the time periods described in Section 77-38b-205, to resolve the challenge to the criminal accounts receivable[~~.~~]; and

[~~(b)~~](ii) [~~If~~]if a sentencing court modifies a criminal accounts receivable after the offender is committed to prison, the sentencing court shall provide notice to the board of the modification.

(2) For an offender sentenced before July 1, 2021:

(a) the board may impose any court order for restitution;

(b) the board may order that a defendant make restitution for pecuniary damages that were not determined by the court, unless the board determines that restitution is inappropriate based upon application of the following criteria:

(i) if the offense resulted in damage to or loss or destruction of property of a victim of the offense, the cost of the damage or loss;

(ii) the cost of necessary medical and related professional services and devices relating to physical or mental health care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(iii) the cost of necessary physical and occupational therapy and rehabilitation;

(iv) the income lost by the victim as a result of the offense;

(v) the individual victim's reasonable determinable wages lost due to theft of or damage to tools or equipment items of a trade that were owned by the victim and were essential to the victim's current employment at the time of the offense;

(vi) the cost of necessary funeral and related services if the offense resulted in the death of a victim; and

(vii) expenses incurred by a victim in implementing reasonable security measures in response to the offense;

(c) except as provided in Subsection (2)(d), the board shall make all orders of restitution within 60 days after the termination or expiration of the defendant's sentence;

(d) if, upon termination or expiration of a defendant's sentence, the board has continuing jurisdiction over the defendant for a separate criminal offense, the board may defer making an order of restitution until 60 days after termination or expiration of all sentences for that defendant;

(e) if, upon termination or expiration of a defendant's sentence, the defendant owes outstanding fines, restitution, or other assessed costs, or if the board makes an order of restitution within 60 days after the termination or expiration of the defendant's sentence:

(i) the matter shall be referred to the district court for civil collection remedies;

(ii) the Board of Pardons and Parole shall forward a restitution order to the sentencing court to be entered on the judgment docket as a civil judgment of restitution; and

(iii) the judgment docket entry shall constitute a lien and is subject to the same rules as a judgment for money in a civil judgment; and

(f) if the board makes an order of restitution within 60 days after termination or expiration of the defendant's sentence, a defendant shall have 90 days after the board makes the order to file a petition for remittance in accordance with Section 77-32b-106;

(i) if a defendant timely files a petition for remittance, the board shall forward any unpaid amount of the restitution to the trial court to be entered on the judgment docket as a civil judgment of restitution within 30 days of resolving the defendant's petition; and

(ii) if the defendant does not timely file a petition for remittance, the board shall forward the unpaid amount of restitution to the trial court to be entered on the judgment docket as a civil judgment of restitution within 30 days of the expiration of the time for the defendant to file the petition.

[~~(5)~~](3) The board may enter an order to recover any cost or fee incurred by the department, or the state or any other agency, arising out of the offender's needs or conduct.

Section 12. Section 77-32b-103 is amended to read:

77-32b-103. Establishment of a criminal accounts receivable -- Responsibility -- Payment schedule -- Delinquency or default.

(1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts receivable for the defendant.

(b) The court is not required to create a criminal accounts receivable for the defendant under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there are no other fines or fees to be assessed against the defendant.

(c) If the court does not create a criminal accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to establish a criminal accounts receivable for the defendant at the time the court enters an order for restitution under Section 77-38b-205.

(2) [~~After~~]Except as provided in Subsection (7), after establishing a criminal accounts receivable for a defendant, the court shall:

(a) if a prison sentence is imposed and not suspended for the defendant:

(i) accept any payment for the criminal accounts receivable that is tendered on the date of sentencing; and

(ii) transfer the responsibility of receiving, distributing, and processing payments for the criminal accounts receivable to the Office of State Debt Collection; and

(b) for all other cases:

(i) retain the responsibility for receiving, processing, and distributing payments for the criminal accounts receivable until the court enters a civil accounts receivable or civil judgment of restitution on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) record each payment by the defendant on the case docket.

(c) For a criminal accounts receivable that a court retains responsibility for receiving, processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may establish rules to require a defendant to pay the cost, or a portion of the cost, for an electronic payment fee that is charged by a financial institution for the use of a credit or debit card to make payments towards the criminal accounts receivable.

(3) (a) Upon entering an order for a criminal accounts receivable, the court shall establish a payment schedule for the defendant to make payments towards the criminal accounts receivable.

(b) In establishing the payment schedule for the defendant, the court shall consider:

(i) the needs of the victim if the criminal accounts receivable includes an order for restitution under Section 77-38b-205;

(ii) the financial resources of the defendant, as disclosed in the financial declaration under Section 77-38b-204 or in evidence obtained by subpoena under Subsection 77-38b-402(1)(b);

(iii) the burden that the payment schedule will impose on the defendant regarding the other reasonable obligations of the defendant;

(iv) the ability of the defendant to pay restitution on an installment basis or on other conditions fixed by the court;

(v) the rehabilitative effect on the defendant of the payment of restitution and method of payment; and

(vi) any other circumstance that the court determines is relevant.

(c) If the court is unable to determine the appropriate amount for the payment schedule or does not set an amount for the payment schedule, the defendant is required to pay $50 per month toward the criminal accounts receivable.

(4) A payment schedule for a criminal accounts receivable does not limit the ability of a judgment creditor to pursue collection by any means allowable by law.

(5) If the court orders restitution under Section 77-38b-205, or makes another financial decision, after sentencing that increases the total amount owed in a defendant's case, the defendant's criminal accounts receivable balance shall be adjusted to include any new amount ordered by the court.

(6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as defined in Section 64-13-1, or the defendant is involuntarily committed under Section 26B-5-332:

(i) all payments for a payment schedule shall be suspended for the period of time that the defendant is incarcerated or involuntarily committed, unless the court, or the board if the defendant is under the jurisdiction of the board, expressly orders the defendant to make payments according to the payment schedule; and

(ii) the defendant shall provide the court with notice of the incarceration or involuntary commitment.

(b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day in which the defendant is released from incarceration or commitment.

(7) (a) If the defendant owes restitution to the Department of Workforce Services or Department of Health and Human Services, the court may order that all or a portion of criminal accounts receivable be paid directly to the governmental agency or entity.

(b) If the authority to collect all or a portion of the criminal accounts receivable is given to a governmental agency or entity under this Subsection (7), the governmental agency or entity shall maintain an accounting of all payments made or credits toward reduction of the balance of the criminal accounts receivable.

(c) The governmental entity or agency shall provide a copy of the accounting upon filing an order to show cause in the criminal case to the court or upon request to the court, Board of Pardons and Parole, Department of Corrections, private probation provider, prosecutor, defendant, or other victim.

Section 13. Section 77-38b-202 is amended to read:

77-38b-202. Prosecuting attorney responsibility for collecting restitution information -- Depositing restitution on behalf of victim.

(1) If a prosecuting attorney files a criminal charge against a defendant, the prosecuting attorney shall:

(a) contact any known victim of the offense for which the criminal charge is filed, or person asserting a claim for restitution on behalf of the victim; and

(b) gather the following information from the victim or person:

(i) the name of the victim or person; and

(ii) the actual or estimated amount of restitution.

(2) (a) When a conviction, a diversion agreement, or a plea in abeyance is entered by the court, the prosecuting attorney shall provide the court with the information gathered by the prosecuting attorney under Subsection (1)(b).

(b) If, at the time of the plea disposition or conviction, the prosecuting attorney does not have all the information under Subsection (1)(b), the prosecuting attorney shall provide the defendant with:

(i) at the time of plea disposition or conviction, all information under Subsection (1)(b) that is reasonably available to the prosecuting attorney; and

(ii) any information under Subsection (1)(b) as the information becomes available to the prosecuting attorney.

(c) Nothing in this section shall be construed to prevent a prosecuting attorney, a victim, or a person asserting a claim for restitution on behalf of a victim from:

(i) submitting information on, or a request for, restitution to the court within the time periods described in Section 77-38b-205; or

(ii) submitting information on, or a request for, restitution for additional or substituted victims within the time periods described in Section 77-38b-205.

(3) (a) The prosecuting attorney may be authorized by the sentencing court or appropriate public treasurer to deposit restitution collected on behalf of a victim into an interest-bearing account in accordance with Title 51, Chapter 7, State Money Management Act, pending the distribution of the funds to the victim.

(b) If restitution is deposited into an interest-bearing account under Subsection (3)(a), the prosecuting attorney shall:

(i) distribute any interest that accrues in the account to each victim on a pro rata basis; and

(ii) if all victims have been made whole and funds remain in the account, distribute any remaining funds to the Division of Finance, created in Section 63A-3-101, to deposit to the Utah Office for Victims of Crime.

(c) Nothing in this section prevents an independent judicial authority from collecting, holding, and distributing restitution.

Section 14. Section 77-38b-301 is amended to read:

77-38b-301. Entry of a civil judgment of restitution and civil accounts receivable -- Continuation of the criminal action -- Interest -- Delinquency.

(1) As used in this section, "civil judgment" means an order for:

(a) a civil judgment of restitution; or

(b) a civil accounts receivable.

(2) If the court has entered a civil judgment on the civil judgment docket under Section 77-18-114, the civil judgment is enforceable under the Utah Rules of Civil Procedure.

(3) (a) Notwithstanding Sections 77-18-114, 78B-2-311, and 78B-5-202, a civil judgment shall expire only upon payment in full, including any applicable interest, collection fees, attorney fees, and liens that directly result from the civil judgment.

(b) Interest on a civil judgment may only accrue from the day on which the civil judgment is entered on the civil judgment docket by the court.

(c) This Subsection (3) applies to all civil judgments that are not paid in full on or before May 12, 2009.

(4) A civil judgment is considered entered on the civil judgment docket when the civil judgment appears on the [~~civil judgment~~]court docket with:

(a) an amount owed by the defendant;

(b) the name of the defendant as the judgment debtor; and

(c) the name of the judgment creditors described in Subsections 77-18-114(1)(b)(iii) and (2)(b).

(5) If a civil judgment becomes delinquent, or is in default, and upon a motion from a judgment creditor, the court may order the defendant to appear and show cause why the defendant should not be held in contempt under Section 78B-6-317 for the delinquency or the default.

(6) Notwithstanding any other provision of law:

(a) a civil judgment is an obligation that arises out of a defendant's criminal case;

(b) a civil judgment is criminal in nature;

(c) the civil enforcement of a civil judgment shall be construed as a continuation of the criminal action for which the civil judgment arises; and

(d) the civil enforcement of a civil judgment does not divest a defendant of an obligation imposed as part of the defendant's punishment in a criminal action.

Section 15. Section 78A-2-214 is amended to read:

78A-2-214. Collection of accounts receivable.

(1) As used in this section:

(a) "Accounts receivable" means any amount due the state from an entity for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third party claims, sale of goods, sale of services, claims, and damages.

(2) If a defendant is sentenced before July 1, 2021, and the Department of Corrections, or the Office of State Debt Collection, is not responsible for collecting an accounts receivable for the defendant, the district court shall collect the accounts receivable for the defendant.

(3) (a) In the juvenile court, money collected by the court from past-due accounts receivable may be used to offset system, administrative, legal, and other costs of collection.

(b) The juvenile court shall allocate money collected above the cost of collection on a pro rata basis to the various revenue types that generated the accounts receivable.

(4) The interest charge described in Subsection [~~63A-3-502(4)(g)(iii)~~]63A-3-502(4)(g)(iii)(B) may not be assessed on an account receivable that is subject to the postjudgment interest rate established by Section 15-1-4.

Section 16. Section 80-6-507 is amended to read:

80-6-507. Commitment of a minor by a district court.

(1) (a) If the district court determines that probation is not appropriate and commitment to prison is an appropriate sentence when sentencing a minor:

(i) the district court shall order the minor committed to prison; and

(ii) the minor shall be provisionally housed in a secure care facility until the minor reaches 25 years old, unless released earlier from incarceration by the Board of Pardons and Parole.

(b) Subsection (1) applies to any minor being provisionally housed in a secure care facility as described in Subsection (1)(a) on or after May 4, 2022.

(c) The district court shall, as a part of sentencing, order the minor to make restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act.

(2) (a) The division shall adopt procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor provisionally housed in a secure care facility under Subsection (1) to the physical custody of the Department of Corrections.

(b) If, in accordance with the rules adopted under Subsection (2)(a), the division determines that housing the minor in a secure care facility presents an unreasonable risk to others or that it is not in the best interest of the minor, the division shall transfer the physical custody of the minor to the Department of Corrections.

(3) (a) When a minor is committed to prison but provisionally housed in a secure care facility under this section, the district court and the division shall immediately notify the Board of Pardons and Parole so that the minor may be scheduled for a hearing according to board procedures.

(b) If a minor who is provisionally housed in a secure care facility under this section has not been paroled or otherwise released from incarceration by the time the minor reaches 25 years old, the division shall as soon as reasonably possible, but not later than when the minor reaches 25 years and 6 months old, transfer the minor to the physical custody of the Department of Corrections.

(4) Upon the commitment of a minor to the custody of the division or the Department of Corrections under this section, the Board of Pardons and Parole has authority over the minor for purposes of parole, pardon, commutation, termination of sentence, remission of restitution, fines or forfeitures, [~~orders of restitution,~~]and all other purposes authorized by law.

(5) The authority shall:

(a) hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody of the division under this section; and

(b) forward to the Board of Pardons and Parole any information or recommendations concerning the minor.

(6) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

Section 17. Effective Date.

This bill takes effect on May 7, 2025.

Section 18. Coordinating H.B. 562 with H.B. 312

If H.B. 562, Law Enforcement and Criminal Justice Amendments, and H.B. 312, Criminal Justice Amendments, both pass and become law, the Legislature intends that, on September 1, 2025, the changes to Section 17-22-5.6 in H.B. 562 supersede the changes to Section 17-22-5.6 in H.B. 312.

LAWS

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CHAPTER 527
H. B. 290
Passed February 28, 2025
Approved March 27, 2025
Effective May 7, 2025

BICYCLE LANE SAFETY AMENDMENTS

Chief Sponsor: Verona Mauga
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill addresses safety elements in a bicycle lane.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► clarifies when motor vehicles may be in a bicycle lane; and
- ► restricts obstructing a bicycle lane.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-102, as last amended by Laws of Utah 2024, Chapter 236
41-6a-710, as last amended by Laws of Utah 2019, Chapter 49
41-6a-1401, as last amended by Laws of Utah 2024, Chapter 425
72-7-105, as renumbered and amended by Laws of Utah 1998, Chapter 270

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-102 is amended to read:
41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(5) "Authorized emergency vehicle" includes:

(a) a fire department vehicle;

(b) a police vehicle;

(c) an ambulance; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(6) "Autocycle" means the same as that term is defined in Section 53-3-102.

(7) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(8) (a) "Bicycle lane" means a portion of a highway that has been designated by a highway authority through striping, signage, pavement markings, or barriers for the preferential or exclusive use of bicycle, electric assisted bicycle, and motor assisted scooter traffic.

(b) "Bicycle lane" does not include shared lanes intended for both motor vehicle and bicycle travel.

[~~(8)~~](9) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

[~~(9)~~](10) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

[~~(10)~~](11) "Class 1 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) provides assistance only when the rider is pedaling; and

(b) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

[~~(11)~~](12) "Class 2 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) may be used exclusively to propel the bicycle; and

(b) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

[~~(12)~~](13) "Class 3 electric assisted bicycle" means an electric assisted bicycle equipped with a motor or electronics that:

(a) provides assistance only when the rider is pedaling;

(b) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(c) is equipped with a speedometer.

[~~(13)~~](14) "Commissioner" means the commissioner of the Department of Public Safety.

[~~(14)~~](15) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

[~~(15)~~](16) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

[~~(16)~~](17) "Department" means the Department of Public Safety.

[~~(17)~~](18) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

[~~(18)~~](19) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

[~~(19)~~](20) "Echelon formation" means the operation of two or more snowplows arranged side-by-side or diagonally across multiple lanes of traffic of a multi-lane highway to clear snow from two or more lanes at once.

[~~(20)~~](21) (a) "Electric assisted bicycle" means a bicycle with an electric motor that:

(i) has a power output of not more than 750 watts;

(ii) has fully operable pedals;

(iii) has permanently affixed cranks that were installed at the time of the original manufacture;

(iv) is fully operable as a bicycle without the use of the electric motor; and

(v) is one of the following:

(A) a class 1 electric assisted bicycle;

(B) a class 2 electric assisted bicycle;

(C) a class 3 electric assisted bicycle; or

(D) a programmable electric assisted bicycle.

(b) "Electric assisted bicycle" does not include:

(i) a moped;

(ii) a motor assisted scooter;

(iii) a motorcycle;

(iv) a motor-driven cycle; or

(v) any other vehicle with less than four wheels that is designed, manufactured, intended, or advertised by the seller to have any of the following capabilities or features, or that is modifiable or is modified to have any of the following capabilities or features:

(A) has the ability to attain the speed of 20 miles per hour or greater on motor power alone;

(B) is equipped with a continuous rated motor power of 750 watts or greater;

(C) is equipped with foot pegs for the operator at the time of manufacture, or requires installation of a pedal kit to have operable pedals; or

(D) if equipped with multiple operating modes and a throttle, has one or more modes that exceed 20 miles per hour on motor power alone.

[~~(21)~~](22) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

[~~(22)~~](23) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

[~~(23)~~](24) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

[~~(24)~~](25) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a Tagliabue or equivalent closed-cup test device.

[~~(25)~~](26) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

[~~(26)~~](27) (a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(27)~~](28) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

[~~(28)~~](29) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

[~~(29)~~](30) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

[~~(30)~~](31) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

[~~(31)~~](32) "Highway authority" means the same as that term is defined in Section 72-1-102.

[~~(32)~~](33) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

[~~(33)~~](34) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

[~~(34)~~](35) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

[~~(35)~~](36) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

[~~(36)~~](37) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[~~(37)~~](38) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

[~~(38)~~](39) (a) "Low-speed vehicle" means a four wheeled motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

[~~(39)~~](40) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

[~~(40)~~](41) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

[~~(41)~~](42) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection [~~(41)(a)~~](42)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

[~~(42)~~](43) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an object, caused by a neuro-muscular, orthopedic, or other condition.

[~~(43)~~](44) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

[~~(44)~~](45) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

[~~(45)~~](46) (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(46)~~](47) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

[~~(47)~~](48) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

[~~(48)~~](49) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

[~~(49)~~](50) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

[~~(50)~~](51) "Operate" means the same as that term is defined in Section 41-1a-102.

[~~(51)~~](52) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

[~~(52)~~](53) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

[~~(53)~~](54) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

[~~(54)~~](55) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

[~~(55)~~](56) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

[~~(56)~~](57) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

[~~(57)~~](58) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

[~~(58)~~](59) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[~~(59)~~](60) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[~~(60)~~](61) "Programmable electric assisted bicycle" means an electric assisted bicycle with capability to switch or be programmed to function as a class 1 electric assisted bicycle, class 2 electric assisted bicycle, or class 3 electric assisted bicycle, provided that the electric assisted bicycle fully conforms with the respective requirements of each class of electric assisted bicycle when operated in that mode.

[~~(61)~~](62) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[~~(62)~~](63) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[~~(63)~~](64) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[~~(64)~~](65) "Restored-modified vehicle" means the same as the term defined in Section 41-1a-102.

[~~(65)~~](66) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[~~(66)~~](67) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[~~(67)~~](68) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[~~(68)~~](69) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[~~(69)~~](70) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[~~(70)~~](71) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved

"Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[~~(71)~~](72) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[~~(72)~~](73) (a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

[~~(73)~~](74) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[~~(74)~~](75) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[~~(75)~~](76) "Stop" when required means complete cessation from movement.

[~~(76)~~](77) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[~~(77)~~](78) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(78)~~](79) "Street-legal novel vehicle" means a vehicle registered as a novel vehicle under Section 41-27-201 that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance [~~with~~]with Section 41-6a-1509.

[~~(79)~~](80) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(80)~~](81) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(81)~~](82) "Traffic" means pedestrians, bicyclists, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(82)~~](83) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(83)~~](84) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(84)~~](85) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(85)~~](86) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(86)~~](87) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(87)~~](88) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(88)~~](89) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(89)~~](90) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(90)~~](91) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 2. Section 41-6a-710 is amended to read:

41-6a-710. Roadway divided into marked lanes -- Provisions -- Traffic-control devices.

On a roadway divided into two or more clearly marked lanes for traffic the following provisions apply and any violation of this section is an infraction:

(1) (a) Except as provided in Subsection (1)(c), a person operating a vehicle:

(i) shall keep the vehicle as nearly as practical entirely within a single lane; and

(ii) may not move the vehicle from the lane until the operator has reasonably determined the movement can be made safely.

(b) A determination under Subsection (1)(a)(ii) is reasonable if a reasonable person acting under the same conditions and having regard for actual and potential hazards then existing would determine that the movement could be made safely.

(c) Subsection (1)(a) does not apply to an individual operating a motorcycle engaging in lane filtering as described in Section 41-6a-704.

(2) (a) On a roadway divided into three or more lanes and providing for two-way movement of traffic, a person operating a vehicle may not drive in the center lane except:

(i) when overtaking and passing another vehicle traveling in the same direction, and when the center lane is:

(A) clear of traffic within a safe distance; and

(B) not a two-way left turn lane;

(ii) in preparation of making or completing a left turn in compliance with Section 41-6a-801; or

(iii) where the center lane is allocated exclusively to traffic moving in the same direction that the vehicle is proceeding as indicated by traffic-control devices.

(b) Notwithstanding Subsection (2)(a)(i) and in accordance with Subsection (1)(a), a person operating a vehicle may drive in a center lane that is a two-way left turn lane if:

(i) the center lane is:

(A) on a roadway divided into three or more lanes that provides for two-way movement of traffic; and

(B) clear of traffic within a safe distance;

(ii) there is only one lane of travel in the direction the person operating the vehicle is traveling; and

(iii) the person operating the vehicle is overtaking and passing a bicycle or moped that is moving at less than the reasonable speed of traffic that is present.

(3) (a) A highway authority may erect traffic-control devices directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway.

(b) An operator of a vehicle shall obey the directions of a traffic-control device erected under Subsection (3)(a).

(4) (a) A person operating a motor vehicle may not drive within a bicycle lane except:

(i) to cross a bicycle lane when turning into an intersection, street, alley, driveway, or other parking area;

(ii) when responding to striping, traffic control devices, or emergency conditions; or

(iii) while operating:

(A) an authorized emergency vehicle;

(B) a snow removal vehicle;

(C) a vehicle providing municipal-type services, as defined in Section 19-3-303;

(D) a school bus or transit vehicle, as defined in Section 17B-2a-802, to load or unload passengers; or

(E) a vehicle used by a postal service, as defined in Section 76-6-1001.

(b) A person operating a motor vehicle within a bicycle lane as described in Subsection (4)(a)(i) shall yield the right of way to all bicycle traffic within the lane.

Section 3. Section 41-6a-1401 is amended to read:

41-6a-1401. Standing or parking vehicles -- Restrictions and exceptions.

(1) Except when necessary to avoid conflict with other traffic, or in compliance with law, the directions of a peace officer, or a traffic-control device, a person may not:

(a) stop, stand, or park a vehicle:

(i) on the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(ii) on a sidewalk;

(iii) within an intersection;

(iv) on a crosswalk;

(v) between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

(vi) alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(vii) on any bridge or other elevated structure, on a highway, or within a highway tunnel;

(viii) on any railroad tracks;

(ix) on any controlled-access highway;

(x) in the area between roadways of a divided highway, including crossovers;[~~or~~]

(xi) any place where a traffic-control device prohibits stopping, standing, or parking; or

(xii) within a bicycle lane;

(b) stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(i) in front of a public or private driveway;

(ii) within 15 feet of a fire hydrant;

(iii) within 20 feet of a crosswalk;

(iv) within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic-control signal located at the side of a roadway;

(v) within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted;

(vi) at any place where a traffic-control device prohibits standing; or

(vii) at capitol hill, as defined in Section 63O-1-101, in a parking space identified as reserved for specific users, without:

(A) approval by the executive director of the State Capitol Preservation Board created in Section 63O-2-201; and

(B) a properly displayed placard or other identifying marker approved by the executive director of the State Capitol Preservation Board to indicate this approval; or

(c) park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

(i) within 50 feet of the nearest rail of a railroad crossing; or

(ii) at any place where traffic-control devices prohibit parking.

(2) A person may not move a vehicle that is not lawfully under the person's control into any prohibited area or into an unlawful distance from the curb.

(3) This section does not apply to a tow truck motor carrier responding to a customer service call if the tow truck motor carrier has already received authorization from the local law enforcement agency in the jurisdiction where the vehicle to be towed is located.

Section 4. Section 72-7-105 is amended to read:

72-7-105. Obstructing traffic on sidewalks or highways prohibited.

(1) A person may not:

(a) drive or place any vehicle, animal, or other [~~thing~~]object upon or along any sidewalk except in crossing the sidewalk to or from abutting property; or

(b) permit the vehicle, animal, or other [~~thing~~]object to remain on or across any sidewalk in a way that impedes or obstructs the ordinary use of the sidewalk.

(2) (a) Except [~~under~~]as described in Subsection (2)(b), vehicles, building material, or other similar [~~things~~]objects may be placed temporarily on highways in a manner that will not impede, endanger, or obstruct ordinary traffic.

(b) A highway authority may prohibit or may require the removal of vehicles, building material, or other obstructions on any highway under their jurisdiction.

(3) A highway authority may obstruct or allow obstruction of a bicycle lane, as defined in Section 41-6a-102, to facilitate highway management, including maintenance, repair, and improvement of infrastructure.

(4) A highway authority that obstructs or allows obstruction of a bicycle lane as described in Subsection (3) shall take reasonable action to:

(a) utilize alternative space adjacent to the bicycle lane prior to obstructing the bicycle lane;

(b) minimize the obstruction; or

(c) provide an alternate route for bicycle traffic.

(5) A violation of Subsection (1) is an infraction.

Section 5. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 528
H. B. 266
Passed February 21, 2025
Approved March 27, 2025
Effective May 7, 2025

VETERAN HOUSING AMENDMENTS

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill addresses veteran homelessness.

Highlighted Provisions:

This bill:

- ► requires the Utah Homeless Services Board and the Department of Veterans and Military Affairs to work in conjunction to create best practices for assisting veterans experiencing homelessness; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-16-205, as last amended by Laws of Utah 2024, Chapters 204, 338 and 349
71A-1-201, as enacted by Laws of Utah 2023, Chapter 44 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 154

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-16-205 is amended to read:
35A-16-205. Duties of the board.

(1) The board:

(a) shall provide final approval for:

(i) a funding formula developed by the steering committee under Section 35A-16-211;

(ii) the homeless services budget;

(iii) the strategic plan; and

(iv) the awarding of funding for the provision of homeless services as described in Subsection 35A-16-203(1)(d);

(b) in cooperation with the coordinator, shall:

(i) develop and maintain the homeless services budget;

(ii) develop and maintain the strategic plan; and

(iii) review applications and approve funding for the provision of homeless services in the state as described in Subsection 35A-16-203(1)(d);

(c) shall review local and regional plans for providing services to individuals experiencing homelessness;

(d) shall cooperate with local homeless councils to:

(i) develop a common agenda and vision for reducing homelessness in each local oversight body's respective region;

(ii) as part of the homeless services budget, develop a spending plan that coordinates the funding supplied to local stakeholders; and

(iii) align local funding to projects that improve outcomes and target specific needs in each community;

(e) shall coordinate gap funding with private entities for providing services to individuals experiencing homelessness;

(f) shall recommend performance and accountability measures for service providers, including the support of collecting consistent and transparent data;

(g) when reviewing and giving final approval for requests as described in Subsection 35A-16-203(1)(d):

(i) may only recommend funding if the proposed recipient has a policy to share client-level service information with other entities in accordance with state and federal law to enhance the coordination of services for individuals who are experiencing homelessness; and

(ii) shall identify specific targets and benchmarks that align with the strategic plan for each recommended award;

(h) shall regularly update the state strategic plan on homelessness to reflect proven strategies to reduce homelessness among:

(i) the unsheltered;

(ii) the chronically or episodically homeless; and

(iii) the situationally homeless;

(i) shall develop annual state and local goals for reducing homelessness among the target subpopulations identified by the board;

(j) shall work with the local homeless councils to carry out the requirements of Subsection 35A-16-211(3);

(k) shall develop metrics for measuring the effectiveness of providers in assisting clients to successfully progress through the services coordinated by a continuum of care;

(l) shall create best practices for a service provider to administer services to an individual experiencing homelessness, including promotion of:

(i) a recognition of the human dignity of clients served;

(ii) a need to develop self-reliance;

(iii) the value of work;

(iv) personal accountability; and

(v) personal progress toward greater personal independence;

(m) shall make recommendations for uniform standards for enforcing pedestrian safety and camping laws and ordinances;

(n) shall identify best practices for responding to unsheltered individuals experiencing mental health disorder and substance use disorder;

(o) shall make recommendations for strategies to reduce illegal drug use within homeless shelters, transitional housing, and permanent supportive housing;

(p) shall facilitate client connection to alternative support systems, including behavioral health services, addiction recovery, and residential services;

(q) shall facilitate participation in HMIS, where appropriate and in alignment with established HMIS policies, and data sharing agreements among all participants in a client support network, including homeless services, physical health systems, mental health systems, and the criminal justice system;

(r) shall make recommendations to the office for defining "successful exit," "unsuccessful exit," and "neutral exit";

(s) shall evaluate additional opportunities for the office to become a collaborative applicant;

(t) shall coordinate with the continuums of care to provide for cooperative distribution of available funding;

(u) shall work in conjunction with the executive directors of the Department of Workforce Services, the Department of Health and Human Services, and the Department of Corrections to create best practices for helping individuals exiting from incarceration or an institution to avoid homelessness;[~~ and~~]

(v) shall establish standards for the prioritization of beds located in homeless shelters in accordance with Section 35A-16-205.1; and

(w) shall work in conjunction with the Department of Veterans and Military Affairs to create best practices for helping veterans, as that term is defined in Section 68-3-12.5, avoid homelessness.

(2) (a) In approving a funding formula, as described in Subsection (1)(a)(i), the board shall take action on a proposed funding formula by a two-thirds vote.

(b) If the board cannot approve a proposed funding formula, the board shall refer the proposed funding formula back to the steering committee for further consideration.

(3) (a) The executive committee shall act in an advisory capacity for the board and make recommendations regarding the board's duties under Subsection (1).

(b) The executive committee does not have authority to make decisions independent of the board.

Section 2. Section 71A-1-201 is amended to read:

71A-1-201. Department of Veterans and Military Affairs -- Creation -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department who is subject to Senate confirmation.

(3) The executive director shall be a veteran.

(4) The department shall:

(a) conduct and supervise all veteran and military affairs activities as provided in this title;

(b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title;

(c) in accordance with Section 41-1a-418:

(i) determine which campaign or combat theater awards are eligible for a special group license plate;

(ii) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it; and

(iii) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;

(d) maintain liaison with local, state, and federal veterans agencies and with Utah veterans organizations;

(e) provide current information to veterans, service members, their surviving spouses and family members, and Utah veterans and military organizations on benefits they are entitled to;

(f) assist veterans, service members, and their families in applying for benefits and services;

(g) cooperate with other state entities in the receipt of information to create and maintain a record of veterans in Utah;

(h) create and administer a veterans assistance registry in accordance with Chapter 5, Veterans Assistance Registry, with recommendations from the council, that provides contact information to the qualified donors of materials and labor for certain qualified recipients;

(i) identify military-related issues, challenges, and opportunities, and develop plans for addressing them;

(j) develop, coordinate, and maintain relationships with military leaders of Utah military installations, including the Utah National Guard;

(k) develop and maintain relationships with military-related organizations in Utah;[~~ and~~]

(l) consult with municipalities and counties regarding compatible use plans as described in Sections 10-9a-537 and 17-27a-533; and

(m) work in conjunction with the Utah Homeless Services Board to create best practices for helping veterans, as that term is defined in Section 68-3-12.5, avoid homelessness.

(5) (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education,

healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (5)(a) to:

(i) an institution of higher education listed in Section 53B-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:

(i) the form and process for submitting an application to the department;

(ii) the method and criteria for selecting a grant recipient;

(iii) the method and formula for determining a grant amount; and

(iv) the reporting requirements of a grant recipient.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules related to:

(a) the consultation with municipalities and counties regarding compatible use plans as required in Subsection (4)(l); and

(b) criteria to evaluate whether a proposed land use is compatible with military operations.

(7) Nothing in this chapter shall be construed as altering or preempting any provisions of Title 39A, National Guard and Militia Act, as specifically related to the Utah National Guard.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 529
H. B. 268
Passed March 7, 2025
Approved March 27, 2025
Effective July 1, 2025

NONRESIDENT ONLINE SCHOOL AMENDMENTS

Chief Sponsor: Tracy J. Miller
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies resident district payments to a nonresident district under certain circumstances.

Highlighted Provisions:

This bill:

- ► modifies resident district payments to a nonresident district under certain circumstances; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-6-405, as last amended by Laws of Utah 2023, Chapter 252

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-405 is amended to read:

53G-6-405. Funding.

(1) A student who enrolls in a nonresident district is considered a resident of that district for purposes of state funding.

(2) The state board shall adopt rules providing that:

(a) except as provided in Subsection (2)(b):

(i) the resident district pay the nonresident district, for each of the resident district's students who enroll in the nonresident district, 1/2 of the amount by which the resident district's per student expenditure exceeds the value of the state's contribution; and

[~~(b)~~](ii) if a student is enrolled in a nonresident district for less than a full year, the resident district shall pay a portion of the amount specified in this Subsection (2)(a) based on the percentage of school days the student is enrolled in the nonresident district[-]; and

(b) the payment requirements under Subsection (2)(a) do not apply to students enrolled in an online school within the nonresident district.

(3) (a) Except as provided in this Subsection (3), the parent of a nonresident student shall arrange for the student's own transportation to and from school.

(b) The state board may adopt rules under which a nonresident student may be transported to the student's school of attendance if:

(i) transportation relieves overcrowding or other serious problems in the district of residence;

(ii) the district of residence lacks sufficient transportation services;

(iii) the costs of transportation are reasonable;

(iv) there is available space on an approved route within the student's school of attendance; or

(v) the Legislature has granted an adequate specific appropriation for that purpose.

(c) Nothing in this section shall be construed as prohibiting the resident district or the receiving district from providing bus transportation on any approved route.

(d) Except as provided in Subsection (3)(b), the district of residence may not claim any state transportation costs for students enrolled in other school districts.

Section 2. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 530
H. B. 329
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

HOMELESS SERVICES AMENDMENTS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends and enacts provisions related to homelessness.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► creates the Shelter Counties Advisory Board to make recommendations to the Utah Homeless Services Board (board) regarding homeless services;
- ► requires the board to collect and report on certain data;
- ► provides that funds from the Homeless to Housing Reform Restricted Account may be used for certain transportation costs to connect the individual with a support network outside of the state;
- ► modifies the process by which the board approves funding requests from the Homeless Shelter Cities Mitigation Restricted Account;
- ► amends certain provisions of the winter response task force;
- ► enacts provisions requiring service providers to design certain services to assist homeless individuals in progressing and transitioning from struggling with homelessness to personal thriving;
- ► enacts provisions requiring certain safety requirements for homeless shelters, including winter response shelters;
- ► provides for penalties if a service provider that receives state or federal funds refuses to comply with certain safety requirements;
- ► provides certain exceptions under the COVID-19 grant program for licensed residential vocational and life skills programs; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-5-382, as enacted by Laws of Utah 2024, Chapter 204
35A-16-102, as last amended by Laws of Utah 2024, Chapter 338
35A-16-203, as last amended by Laws of Utah 2024, Chapters 204, 338 and 349
35A-16-204, as repealed and reenacted by Laws of Utah 2024, Chapter 338
35A-16-205, as last amended by Laws of Utah 2024, Chapters 204, 338 and 349
35A-16-205.1, as enacted by Laws of Utah 2024, Chapter 204
35A-16-207, as last amended by Laws of Utah 2024, Chapter 349
35A-16-208, as enacted by Laws of Utah 2024, Chapter 338
35A-16-302, as last amended by Laws of Utah 2024, Chapters 204, 338
35A-16-403, as last amended by Laws of Utah 2024, Chapters 204, 338
35A-16-501, as last amended by Laws of Utah 2024, Chapter 438
35A-16-501.5, as last amended by Laws of Utah 2024, Chapter 338
35A-16-602, as last amended by Laws of Utah 2024, Chapter 338

ENACTS:

35A-16-210.1, Utah Code Annotated 1953
35A-16-801, Utah Code Annotated 1953
35A-16-901, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-5-382 is amended to read:

26B-5-382. HOME Court Pilot Program -- Requirements -- Funding -- Reporting.

(1) As used in this section, "pilot program" means the HOME Court Pilot Program established in Subsection (2).

(2) Subject to appropriations from the Legislature and the assignment of a judge to preside over the proceedings, the Third Judicial District Court of Salt Lake County shall establish and administer a HOME Court Pilot Program beginning October 1, 2024, and ending June 30, 2029, that provides for comprehensive and individualized, court-supervised treatment and services to individuals with mental illness.

(3) The pilot program shall:

(a) allow a person to petition the court for an order requiring an individual's participation in the pilot program;

(b) require the court to substitute the local mental health authority as the petitioner if the initial petitioner is not the local mental health

authority;

(c) provide an opportunity for the parties to enter into an agreement regarding an individual's participation in the pilot program, including a treatment plan, prior to a court order under Subsection (3)(e);

(d) provide for a hearing at which information is presented to determine whether an individual qualifies for court-ordered participation in the pilot program as provided in Subsection (3)(e);

(e) require the court to order an individual to participate in the pilot program if, upon completion of the hearing described in Subsection (3)(d), the court finds by clear and convincing evidence that:

(i) the individual resides or may be presently found within Salt Lake County;

(ii) the individual has a mental illness;

(iii) because of the individual's mental illness, the individual:

(A) is unlikely to survive or remain safe without supervision, assistance, or services; or

(B) meets the criteria described in Subsection 26B-5-351(14)(c)(i) or (ii);

(iv) there is no appropriate less-restrictive alternative to a court order for participation in the pilot program;

(v) the individual is likely to benefit from participation in the pilot program; and

(vi) there is adequate capacity within the pilot program to meet the individual's need for services described in Subsection (3)(f);

(f) upon the court's order for an individual to participate in the pilot program, require the local mental health authority to prepare a comprehensive and individualized treatment plan, for approval by the court, that includes the following components for the individual to successfully achieve the purposes of the pilot program:

(i) mental health services;

(ii) housing resources;

(iii) social services;

(iv) case management;

(v) peer support;

(vi) exit or transition services; and

(vii) individualized goals for the successful completion of the pilot program;

(g) upon the court's approval of a treatment plan prepared by the local mental health authority:

(i) require the local mental health authority to coordinate services required for participation in the pilot program; and

(ii) require the court to conduct regular review hearings as deemed necessary to evaluate the individual's progress in completing the treatment plan; and

(h) operate in a manner that is consistent with the procedures for ordering assisted outpatient treatment under Section 26B-5-351.

(4) (a) (i) If a individual participating in the pilot program has an outstanding warrant or pending criminal matter in another Utah court, the Third Judicial District Court of Salt Lake County may notify the other court in which the individual has an outstanding warrant or pending criminal matter regarding the individual's participation in the pilot program.

(ii) Upon receiving notice of an individual's participation in the pilot program under Subsection (4)(a)(i), the other court may, if deemed appropriate, recall the warrant or stay the case in which the individual is involved unless the warrant or case involves a felony charge.

(iii) In determining whether to recall a warrant or stay a case under Subsection (4)(a)(ii), the other court shall consider the likelihood of the individual's successful completion of the pilot program, the severity of the pending charges, the impact on victims' rights, and the impact on the government's ability and right to prosecute the case.

(b) (i) If an individual described in Subsection (4)(a)(i) successfully completes the pilot program, the Third Judicial District Court of Salt Lake County may notify the other court in which the individual has an outstanding warrant or pending criminal matter regarding the individual's successful completion of the pilot program.

(ii) Upon receiving notice of an individual's successful completion of the pilot program under Subsection (4)(b)(i), the other court shall consider the effect of the individual's completion of the pilot program on the case pending before that court, including the dismissal of criminal charges if deemed appropriate.

(5) (a) Costs of all services provided under the pilot program, including the costs incurred by the multidisciplinary team described in Subsection (5)(b)(ii)(B), shall be paid by Salt Lake County.

(b) If the Legislature appropriates money to the division for implementation of the pilot program, the division shall:

(i) require the local mental health authority, as part of the plan required under Subsection 17-43-301(6)(a)(ii), to submit to the division a proposal for implementation of the pilot program on or before May 15 of each year;

(ii) review the proposal described in Subsection (5)(b)(i) to ensure that the proposal:

(A) meets the requirements of this section; and

(B) establishes a multidisciplinary team, with a sufficient number of stakeholders, to adequately address the provision of treatment and services under the pilot program;

(iii) upon approval of the proposal described in Subsection (5)(b)(i), contract funds appropriated for the pilot program with the local mental health authority; and

(iv) conduct an annual audit and review of the local mental health authority, and any contracted provider, regarding the use of funds appropriated for the pilot program.

(c) The matching requirement in Subsection 17-41-301(6)(a)(x) does not apply to funds appropriated by the Legislature for the pilot program.

(d) Subject to appropriation by the Legislature, Salt Lake County may:

(i) apply to the division to receive funds to cover the county's costs under the pilot program; and

(ii) pay county contributions to the nonfederal share of Medicaid expenditures with funds appropriated for the pilot program.

(6) The department shall:

(a) establish and evaluate metrics for the success of the pilot program with input from the local mental health authority, the [~~Utah Homelessness Council~~]Utah Homeless Services Board created in Section 35A-16-204, and the Judicial Council; and

(b) in collaboration with the local mental health authority, submit to the Health and Human Services Interim Committee a report on or before June 30 of each year, beginning in calendar year 2025, regarding the outcomes of the pilot program.

Section 2. Section 35A-16-102 is amended to read:

35A-16-102. Definitions.

As used in this chapter:

(1) "Board" means the Utah Homeless Services Board created in Section 35A-16-204.

(2) "Client" means an individual who is experiencing homelessness or an individual at risk of becoming homeless.

(3) "Chief executive officer" means the same as that term is defined in Section 11-51-102.

(4) "Collaborative applicant" means the entity designated by a continuum of care to collect and submit data and apply for funds on behalf of the continuum of care, as required by the United States Department of Housing and Urban Development.

(5) "Continuum of care" means a regional or local planning body designated by the United States Department of Housing and Urban Development to coordinate services for individuals experiencing homelessness within an area of the state.

(6) "Coordinator" means the state homelessness coordinator appointed under Section 63J-4-202.

(7) "County of the first class" means the same as that term is defined in Section 17-50-501.

(8) "County of the second class" means the same as that term is defined in Section 17-50-501.

(9) "Eligible services" means any activities or services that mitigate the impacts of the location of an eligible shelter, including direct services, public safety services, and emergency services, as further defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(7)~~](10) "Executive committee" means the executive committee of the board.

[~~(8)~~](11) "Exit destination" means:

(a) a homeless situation;

(b) an institutional situation;

(c) a temporary housing situation;

(d) a permanent housing situation; or

(e) other.

[~~(9)~~](12) "First-tier eligible municipality" means a municipality that:

(a) is located within a county of the first or second class;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a first-tier eligible municipality in accordance with Section 35A-16-404.

[~~(10)~~](13) "Homeless Management Information System" or "HMIS" means an information technology system that:

(a) is used to collect client-level data and data on the provision of housing and services to homeless individuals and individuals at risk of homelessness in the state; and

(b) meets the requirements of the United States Department of Housing and Urban Development.

[~~(11)~~](14) "Homeless services budget" means the comprehensive annual budget and overview of all homeless services available in the state described in Subsection 35A-16-203(1)(b).

[~~(12)~~](15) "Local homeless council" means a local planning body designated by the steering committee to coordinate services for individuals experiencing homelessness within an area of the state.

[~~(13)~~](16) "Office" means the Office of Homeless Services.

(17) "Residential, vocational and life skills program" means the same as that term is defined in Section 13-53-102.

[~~(14)~~](18) "Second-tier eligible municipality" means a municipality that:

(a) is located within a county of the third, fourth, fifth, or sixth class;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a second-tier eligible municipality in accordance with Section 35A-16-404.

[~~(15)~~](19) (a) "Service provider" means a state agency, a local government, or a private organization that provides services to clients.

(b) "Service provider" includes a correctional facility and the Administrative Office of the Courts.

[~~(16)~~](20) "Steering committee" means the Utah Homeless Network Steering Committee created in Section 35A-16-206.

[~~(17)~~](21) "Strategic plan" means the statewide strategic plan to minimize homelessness in the state described in Subsection 35A-16-203(1)(c).

[~~(18)~~](22) "Type of homelessness" means:

(a) chronic homelessness;

(b) episodic homelessness;

(c) situational homelessness; or

(d) family homelessness.

Section 3. Section 35A-16-203 is amended to read:

35A-16-203. Powers and duties of the coordinator.

(1) The coordinator shall:

(a) coordinate the provision of homeless services in the state;

(b) in cooperation with the board, develop and maintain a comprehensive annual budget and overview of all homeless services available in the state, which homeless services budget shall receive final approval by the board;

(c) in cooperation with the board, create a statewide strategic plan to minimize homelessness in the state, which strategic plan shall receive final approval by the board;

(d) in cooperation with the board, oversee funding provided for the provision of homeless services, which funding shall receive final approval by the board, including funding from the:

(i) Pamela Atkinson Homeless Account created in Section 35A-16-301;

(ii) Homeless to Housing Reform Restricted Account created in Section 35A-16-303; and

(iii) Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402;

(e) provide administrative support to and serve as a member of the board;

(f) at the governor's request, report directly to the governor on issues regarding homelessness in the state and the provision of homeless services in the state; and

(g) report directly to the president of the Senate and the speaker of the House of Representatives at least twice each year on issues regarding homelessness in the state and the provision of homeless services in the state.

(2) The coordinator, in cooperation with the board, shall ensure that the homeless services budget described in Subsection (1)(b) includes an overview and coordination plan for all funding sources for homeless services in the state, including from state agencies, continuum of care organizations, housing authorities, local governments, federal sources, and private organizations.

(3) The coordinator, in cooperation with the board and taking into account the metrics established and data reported in accordance with Section 35A-16-211, shall ensure that the strategic plan described in Subsection (1)(c):

(a) outlines specific goals and measurable benchmarks for minimizing homelessness in the state and for coordinating services for individuals experiencing homelessness among all service providers in the state;

(b) identifies best practices or innovative strategies and recommends improvements to the provision of services to individuals experiencing homelessness in the state to ensure the services are provided in a safe, cost-effective, and efficient manner;

(c) identifies best practices or innovative strategies and recommends improvements in coordinating the delivery of services to the variety of populations experiencing homelessness in the state, including through the use of electronic databases and improved data sharing among all service providers in the state;

(d) identifies gaps and recommends solutions in the delivery of services to the variety of populations experiencing homelessness in the state; and

(e) takes into consideration the success of the HOME Court Pilot Program established in Section 26B-5-382.

(4) In overseeing funding for the provision of homeless services as described in Subsection (1)(d), the coordinator:

(a) shall prioritize the funding of programs and providers that have a documented history of successfully reducing the number of individuals experiencing homelessness, reducing the time individuals spend experiencing homelessness, moving individuals experiencing homelessness to permanent housing, or reducing the number of individuals who return to experiencing homelessness;

(b) except for a program or provider providing services to victims of domestic violence, may not approve funding to a program or provider that does not enter into a written agreement with the office to collect and share HMIS data regarding the provision of services to individuals experiencing homelessness so that the provision of services can be coordinated among state agencies, local governments, and private organizations; and

(c) if the [~~homelessness council~~]board has approved a funding formula developed by the steering committee, as described in Section 35A-16-205:

(i) except as provided in Subsection (4)(c)(ii), shall utilize that funding formula in disbursing funds for the provision of homeless services; and

(ii) shall ensure that any federal funds not subject to the funding formula are disbursed in accordance with any applicable federal requirements.

(5) In cooperation with the board, the coordinator shall update the annual statewide budget and the strategic plan described in this section on an annual basis.

(6) (a) On or before October 1, the coordinator shall provide a written report to the department for inclusion in the department's annual written report described in Section 35A-1-109.

(b) The written report shall include:

(i) the homeless services budget;

(ii) the strategic plan;

(iii) recommendations regarding improvements to coordinating and providing services to individuals experiencing homelessness in the state;

(iv) in coordination with the board, a complete accounting of the office's disbursement of funds during the previous fiscal year from:

(A) the Pamela Atkinson Homeless Account created in Section 35A-16-301;

(B) the Homeless to Housing Reform Restricted Account created in Section 35A-16-303;

(C) the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402;

(D) the COVID-19 Homeless Housing and Services Grant Program created in Section 35A-16-602; and

(E) any other grant program created in statute that is administered by the office; and

(v) the data described in Section 35A-16-211.

Section 4. Section 35A-16-204 is amended to read:

35A-16-204. Utah Homeless Services Board.

(1) There is created within the office the Utah Homeless Services Board.

(2) (a) The board shall consist of the following members:

(i) a representative, appointed by the speaker of the House of Representatives;

(ii) a representative, appointed by the president of the Senate;

(iii) a private sector representative, appointed by the governor;

(iv) a representative, appointed by the governor;

(v) a statewide philanthropic leader, appointed by the Utah Impact Partnership or the partnership's successor organization;

(vi) the mayor of Salt Lake City;

(vii) the chief executive officer appointed by the Shelter Cities Advisory Council in accordance with Section 35A-16-210;

(viii) an individual with lived experience of homelessness, appointed by the chair of the board;

[~~(viii) an elected official appointed by the Utah Association of Counties or the association's successor organization;~~]

(ix) [~~a county employee who oversees behavioral health,~~]a representative, appointed by the Utah Association of Counties or the association's successor organization;

(x) an individual who represents the Utah Homeless Network; and

(xi) the coordinator.

(b) The governor shall select a board member to serve as chair of the board.

(3) The following four members of the board shall serve as the executive committee:

(a) the coordinator; and

(b) three board members chosen by the board chair, which shall include one of the members described in Subsection (2)(a)(vi) or (2)(a)(vii).

(4) (a) The board shall meet at least once per calendar quarter.

(b) The chair, the coordinator, or three of the board members may call a board meeting.

(c) The individual calling the meeting shall provide notice of the meeting to the board members at least three calendar days in advance of the meeting.

(5) A majority of the voting members of the board constitutes a quorum of the board at any meeting, and the action of the majority of voting members present constitutes the action of the board.

(6) (a) A majority of members of the executive committee constitutes a quorum of the executive committee at any meeting, and the action of the majority of members present constitutes the action of the executive committee.

(b) The executive committee is exempt from the requirements described in Title 52, Chapter 4, Open and Public Meetings Act.

(7) (a) Except as required by Subsection (7)(c):

(i) each appointed member of the board, other than a board member described in Subsection (2)(a)(vii), shall serve a four-year term; and

(ii) the board member appointed in accordance with Subsection (2)(a)(vii) shall serve a two-year term.

(b) A board member may serve more than one term.

(c) The appointing authority, at the time of appointment or reappointment, may adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the appointed board members are appointed every two years.

(8) When a vacancy occurs in the appointed membership for any reason, the replacement is appointed for the unexpired term.

(9) (a) Except as described in Subsection (9)(b), a member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106and 63A-3-107.

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(10) The office shall provide staff and administrative support to the board.

Section 5. Section 35A-16-205 is amended to read:

35A-16-205. Duties of the board.

(1) The board:

(a) shall provide final approval for:

(i) a funding formula developed by the steering committee under Section 35A-16-211;

(ii) the homeless services budget;

(iii) the strategic plan; and

(iv) the awarding of funding for the provision of homeless services as described in Subsection 35A-16-203(1)(d);

(b) in cooperation with the coordinator, shall:

(i) develop and maintain the homeless services budget;

(ii) develop and maintain the strategic plan; and

(iii) review applications and approve funding for the provision of homeless services in the state as described in Subsection 35A-16-203(1)(d);

(c) shall review local and regional plans for providing services to individuals experiencing homelessness;

(d) shall cooperate with local homeless councils to:

(i) develop a common agenda and vision for reducing homelessness in each local oversight body's respective region;

(ii) as part of the homeless services budget, develop a spending plan that coordinates the funding supplied to local stakeholders; and

(iii) align local funding to projects that improve outcomes and target specific needs in each community;

(e) shall coordinate gap funding with private entities for providing services to individuals experiencing homelessness;

(f) shall recommend performance and accountability measures for service providers, including the support of collecting consistent and transparent data;

(g) when reviewing and giving final approval for requests as described in Subsection 35A-16-203(1)(d):

(i) may only recommend funding if the proposed recipient has a policy to share client-level service information with other entities in accordance with state and federal law to enhance the coordination of services for individuals who are experiencing homelessness; and

(ii) shall identify specific targets and benchmarks that align with the strategic plan for each recommended award;

(h) shall regularly update the state strategic plan on homelessness to reflect:

(i) trends in homelessness as identified by the review of:

(A) local data; and

(B) performance and accountability metrics in accordance with this section; and

(ii) proven strategies to reduce homelessness among:

[~~(i)~~](A) the unsheltered;

[~~(ii)~~](B) the chronically or episodically homeless; and

[~~(iii)~~](C) the situationally homeless;

(i) shall develop annual state and local goals for reducing homelessness among the target subpopulations identified by the board;

(j) shall work with the local homeless councils to carry out the requirements of Subsection 35A-16-211(3);

(k) shall develop metrics for measuring the effectiveness of providers in assisting clients to successfully progress through the services coordinated by a continuum of care;

(l) shall create best practices or innovative strategies for a service provider to administer services to an individual experiencing homelessness, including promotion of:

(i) a recognition of the human dignity of clients served;

(ii) a need to develop self-reliance;

(iii) the value of work;

(iv) personal accountability; and

(v) personal progress toward greater personal independence;

(m) shall make recommendations for uniform standards for enforcing pedestrian safety and unsanctioned camping laws and ordinances;

(n) shall identify best practices or innovative strategies for responding to unsheltered individuals experiencing mental health disorder and substance use disorder;

(o) shall make recommendations for strategies to reduce illegal drug use within homeless shelters, transitional housing, and permanent supportive housing;

(p) shall facilitate client connection to alternative support systems, including behavioral health services, addiction recovery, and residential services;

(q) shall facilitate participation in HMIS, where appropriate and in alignment with established HMIS policies, and data sharing agreements among all participants in a client support network, including homeless services, physical health systems, mental health systems, and the criminal justice system;

(r) shall make recommendations to the office for defining "successful exit," "unsuccessful exit," and "neutral exit";

(s) shall evaluate additional opportunities for the office to become a collaborative applicant;

(t) shall coordinate with the continuums of care to provide for cooperative distribution of available funding;

(u) shall work in conjunction with the executive directors of the Department of Workforce Services, the Department of Health and Human Services, and the Department of Corrections to create best practices or innovative strategies for helping individuals exiting from incarceration or an institution to avoid homelessness; and

(v) shall establish standards for the prioritization of beds located in homeless shelters in accordance with Section 35A-16-205.1.

(2) (a) In approving a funding formula, as described in Subsection (1)(a)(i), the board shall take action on a proposed funding formula by a two-thirds vote.

(b) If the board cannot approve a proposed funding formula, the board shall refer the proposed funding formula back to the steering committee for further consideration.

(3) (a) The executive committee shall act in an advisory capacity for the board and make recommendations regarding the board's duties under Subsection (1).

(b) The executive committee does not have authority to make decisions independent of the board.

Section 6. Section 35A-16-205.1 is amended to read:

35A-16-205.1. Utah Homeless Services Board to establish standards for the prioritization of homeless shelter beds -- Dissemination -- Compliance with standards required for receipt of state funds.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~homelessness council~~]board shall make rules establishing standards for the prioritization of beds located in a homeless shelter.

(2) In establishing standards under Subsection (1), the [~~homelessness council~~]board shall:

(a) assign highest priority for available beds to:

(i) individuals eligible for Temporary Assistance for Needy Families funds pursuant to 42 U.S.C. Sec. 604; and

(ii) individuals discharged from the Utah State Hospital created in Section 26B-5-302; and

(b) require a homeless shelter, if feasible, to allocate an average of 85% of the total number of beds located in a homeless shelter to individuals described in Subsection (2)(a)(i).

(3) The office shall disseminate the standards established by the [~~homelessness council~~]board under Subsection (1) to each homeless shelter located within the state.

(4) Notwithstanding any other provisions in this chapter, state funds may not be awarded under this chapter directly to or for the benefit of a homeless shelter located within the state unless the homeless shelter complies with the standards established by the [~~homelessness council~~]board under Subsection (1).

Section 7. Section 35A-16-207 is amended to read:

35A-16-207. Duties of the steering committee.

(1) The steering committee shall:

(a) support connections across continuums of care, local homeless councils, and state and local governments;

(b) coordinate statewide emergency and crisis response in relation to services for individuals experiencing homelessness;

(c) provide training to providers of services for individuals experiencing homelessness, stakeholders, and policymakers;

(d) educate the general public and other interested persons regarding the needs, challenges, and opportunities for individuals experiencing homelessness; and

(e) make recommendations to the [~~homelessness council~~]board regarding the awarding of funding for the provision of homeless services as described in Subsection 35A-16-203(1)(d).

(2) The steering committee shall, in consultation with members of the [~~homelessness council~~]board, the office, members of local [~~homelessness~~]homeless councils, and the coordinator, develop a funding formula as described in Section 35A-16-211.

Section 8. Section 35A-16-208 is amended to read:

35A-16-208. Reporting requirements -- Outcome measures.

(1) (a) The office shall report, for the state and for each local homeless council:

(i) the state's year-to-date progress toward reaching a functional zero level of homelessness for each type of homelessness and subpopulation, including:

(A) the number of individuals who are homeless for the first time;

(B) the number of individuals who returned to homelessness after having exited homelessness within the two previous years;

(C) the number of individuals who remained homeless since the last report;

(D) the number of individuals experiencing homelessness since the last report by household type;

(E) the number of individuals who exited by exit destination; and

(F) the number of individuals who are experiencing homelessness for the first time plus the number of individuals who are returning

to homelessness minus the number of individuals who are exiting homelessness;

(ii) the percentage of individuals experiencing homelessness who:

(A) have a mental health disorder;

(B) have a substance use disorder;

(C) have a chronic health condition;

(D) have a physical disability;

(E) have a developmental disability;

(F) have HIV/AIDS;

(G) are survivors of domestic violence;

(H) are veterans; and

(I) are unaccompanied youth 24 years old or younger;

(iii) the number of individuals who exited homeless services since the last report by:

(A) type of homelessness;

(B) subpopulation; and

(C) exit destination; and

(iv) progress, by project type, on each goal established in accordance with Subsection (3).

(b) The reports described in this Subsection (1) shall contain aggregated, de-identified information.

(2) The office shall report the data described in Subsection (1):

(a) in the annual report required by Section 35A-16-203;

(b) on or before October 1 of each year, through an oral presentation to the Economic Development and Workforce Services Interim Committee; and

(c) on a data dashboard for the public with specific additional data points recommended by the board.

(3) The board and the local homeless councils shall jointly establish quarterly goals for each project type.

(4) The board and the local homeless councils shall jointly make annual progress reports identifying:

(a) the percentage of clients:

(i) screened for social needs; and

(ii) referred for services that match the clients' social needs;

(b) the percentage of clients subsequently referred to community-based providers who can:

(i) address the client's needs;

(ii) follow-up on status of addressing the client's needs; and

(iii) report back to the referring entity;

(c) the number of youth receiving parent or guardian bereavement support services; and

(d) the number of clients with:

(i) a successful exit;

(ii) an unsuccessful exit;

(iii) a neutral exit; and

(iv) continued enrollment in the project.

Section 9. Section 35A-16-210.1 is enacted to read:

35A-16-210.1. Shelter Counties Advisory Board.

(1) There is established the Shelter Counties Advisory Board.

(2) The Shelter Counties Advisory Board shall consist of the chief executive officer of each county that maintains a homeless shelter year round, or the chief executive officer's designee.

(3) The Shelter Counties Advisory Board may make recommendations to the board regarding improvements to coordinating and providing services to individuals experiencing homelessness in the state.

(4) The office and an association representing at least two counties in the state shall jointly provide staff and administrative support to the Shelter Counties Advisory Board.

Section 10. Section 35A-16-302 is amended to read:

35A-16-302. Uses of Homeless to Housing Reform Restricted Account.

(1) The board may award ongoing or one-time grants or contracts funded from the Homeless to Housing Reform Restricted Account created in Section 35A-16-303.

(2) As a condition of receiving money, including any ongoing money, from the restricted account, an entity awarded a grant or contract under this section shall provide detailed and accurate reporting on at least an annual basis to the board and the coordinator that describes:

(a) how money provided from the restricted account has been spent by the entity; and

(b) the progress towards measurable outcome-based benchmarks agreed to between the entity and the board before the awarding of the grant or contract.

(3) In determining the awarding of a grant or contract under this section, the board and the coordinator shall:

(a) ensure that the services to be provided through the grant or contract will be provided in a cost-effective manner;

(b) give priority to a project or contract that will include significant additional or matching funds from a private organization, nonprofit organization, or local government entity;

(c) ensure that the project or contract will target the distinct housing needs of one or more at-risk or homeless subpopulations, which may include:

(i) families with children;

(ii) transitional-aged youth;

(iii) single men or single women;

(iv) veterans;

(v) victims of domestic violence;

(vi) individuals with behavioral health disorders, including mental health or substance use disorders;

(vii) individuals who are medically frail or terminally ill;

(viii) individuals exiting prison or jail; or

(ix) individuals who are homeless without shelter;

(d) consider whether the project will address one or more of the following goals:

(i) diverting homeless or imminently homeless individuals and families from emergency shelters by providing better housing-based solutions;

(ii) meeting the basic needs of homeless individuals and families in crisis;

(iii) providing homeless individuals and families with needed stabilization services;

(iv) decreasing the state's homeless rate;

(v) implementing a coordinated entry system with consistent assessment tools to provide appropriate and timely access to services for homeless individuals and families;

(vi) providing access to caseworkers or other individualized support for homeless individuals and families;

(vii) encouraging employment and increased financial stability for individuals and families being diverted from or exiting homelessness;

(viii) creating additional affordable housing for state residents;

(ix) providing services and support to prevent homelessness among at-risk individuals and adults;

(x) providing services and support to prevent homelessness among at-risk children, adolescents, and young adults;

(xi) preventing the reoccurrence of homelessness among individuals and families exiting homelessness; and

(xii) providing medical respite care for homeless individuals where the homeless individuals can access medical care and other supportive services; and

(e) address the needs identified in the strategic plan described in Section 35A-16-203 for inclusion in the annual written report described in Section 35A-1-109.

(4) In addition to the other provisions of this section, in determining the awarding of a grant or contract under this section to design, build, create, or renovate a facility that will provide shelter or other resources for the homeless, the board, with the concurrence of the coordinator, may consider whether the facility will be:

(a) located near mass transit services;

(b) located in an area that meets or will meet all zoning regulations before a final dispersal of funds;

(c) safe and welcoming both for individuals using the facility and for members of the surrounding community; and

(d) located in an area with access to employment, job training, and positive activities.

(5) In accordance with Subsection (4), and subject to the approval of the board, with the concurrence of the coordinator, the following may recommend a site location, acquire a site location, and hold title to real property, buildings, fixtures, and appurtenances of a facility that provides or will provide shelter or other resources for the homeless:

(a) the county executive of a county of the first class on behalf of the county of the first class, if the facility is or will be located in the county of the first class in a location other than Salt Lake City;

(b) the state;

(c) a nonprofit entity approved by the board, with the concurrence of the coordinator; and

(d) a mayor of a municipality on behalf of the municipality where a facility is or will be located.

(6) (a) If a homeless shelter commits to provide any amount of matching funds under this Subsection (6), the board, with the concurrence of the coordinator, may award a grant for the ongoing operations of the homeless shelter.

(b) In awarding a grant under this Subsection (6), the board, with the concurrence of the coordinator, shall consider:

(i) the number of beds available at the homeless shelter;

(ii) the number and quality of the homeless services provided by the homeless shelter; and

(iii) the amount of matching funds provided by the homeless shelter.

(7) (a) To meet the goals described in Subsection (3), the office may expend money from the restricted account to provide individuals experiencing homelessness transportation costs to connect the individual with a support network outside of the state.

(b) A service provider that applies for a grant award for the purposes described under Subsection (7)(a) shall provide the office with a detailed report that includes:

(i) the name and address of the person to provide support services for the individual experiencing homelessness; and

(ii) the transportation costs that the individual experiencing homelessness may require.

(8) The office may expend money from the restricted account to offset actual office and board expenses related to administering this section.

Section 11. Section 35A-16-403 is amended to read:

35A-16-403. Eligible municipality application process for Homeless Shelter Cities Mitigation Restricted Account funds.

(1) An eligible municipality may apply for account funds to mitigate the impacts of the location of an eligible shelter through the provision of eligible services within the eligible municipality's boundaries.

(2) (a) The board shall set aside time on the agenda of a board meeting that occurs before the beginning of the next fiscal year to allow an eligible municipality to present a request for account funds for that next fiscal year.

(b) An eligible municipality may present a request for account funds by:

(i) sending an electronic copy of the request to the board before the meeting; and

(ii) appearing at the meeting to present the request.

(c) The request described in Subsection (2)(b)(i) shall contain:

(i) a proposal outlining the need for eligible services, including a description of each eligible service for which the eligible municipality requests account funds;

(ii) a description of the eligible municipality's proposed use of account funds;

(iii) a description of the outcomes that the funding would be used to achieve, including indicators that would be used to measure progress toward the specified outcomes; and

(iv) the amount of account funds requested.

(d) (i) On or before September 30, an eligible municipality that received account funds during the previous fiscal year shall file electronically with the board a report that includes:

(A) a summary of the amount of account funds that the eligible municipality expended and the eligible municipality's specific use of those funds;

(B) an evaluation of the eligible municipality's effectiveness in using the account funds to address the eligible municipality's needs due to the location of an eligible shelter;

(C) an evaluation of the eligible municipality's progress regarding the outcomes and indicators described in Subsection (2)(c)(iii); and

(D) any proposals for improving the eligible municipality's effectiveness in using account funds that the eligible municipality may receive in future fiscal years.

(ii) The board may request additional information as needed to make the evaluation described in Subsection (2)(e).

(e) The board shall evaluate a request made in accordance with this Subsection (2) and may take the following factors into consideration in determining whether to approve or deny the request:

(i) the strength of the proposal that the eligible municipality provided to support the request;

(ii) if the eligible municipality received account funds during the previous fiscal year, the efficiency with which the eligible municipality used any account funds during the previous fiscal year;

(iii) the availability of funding for the eligible municipality under Subsection 35A-16-402(4);

(iv) the availability of alternative funding for the eligible municipality to address the eligible municipality's needs due to the location of an eligible shelter; and

(v) any other considerations identified by the board.

(f) After making the evaluation described in Subsection (2)(e), and subject to Subsection (2)(g), the board shall vote to either approve or deny an eligible municipality's request for account funds.

(g) (i) In addition to the evaluation under Subsection (2)(e), the board may not approve an eligible municipality's request to receive account funds under this section unless the eligible municipality:

(A) enforces an ordinance that prohibits camping;

(B) enforces an ordinance or other applicable state law prohibiting conduct that impedes or blocks traffic in violation of Subsection 41-6a-1009(4); and

(C) demonstrates improvement in reducing the conduct described in Subsections (2)(g)(i)(A) and (B).

(ii) In determining whether an eligible municipality has demonstrated improvement under Subsection (2)(g)(i)(C), the board shall consider:

(A) the specific measures taken by the municipality to reduce the conduct described in Subsections (2)(g)(i)(A) and (B), and the effectiveness of those measures in reducing the conduct;

(B) the strategies utilized by the municipality in managing and improving public spaces within the municipality, and the impact of these strategies on safety, cleanliness, and the well-being of the community; and

(C) the gap between the number of individuals experiencing homelessness within the municipality and the availability of beds at homeless shelters to which the individuals experiencing homelessness have reasonable access, and any changes to this gap over time.

(iii) The board [~~may~~]shall coordinate with the Department of Public Safety for the receipt of quantitative and qualitative data to determine compliance with applicable state and local laws.

(iv) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and with the approval of the board, the office shall make rules establishing standards for the information required by an eligible municipality to demonstrate improvement under Subsection (2)(g)(i)(C).

(h) If the board approves an eligible municipality's request to receive account funds under Subsection (2)(f), the office, subject to appropriation, shall calculate the amount of funds for disbursement to the eligible municipality under Subsection 35A-16-402(4).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules governing the process for calculating the amount of funds that an eligible municipality may receive under Subsection 35A-16-402(4).

Section 12. Section 35A-16-501 is amended to read:

35A-16-501. Definitions.

As used in this part:

(1) "Applicable county" means a county of the first or second class.

(2) "Applicable local homeless council" means the local homeless council that is responsible for coordinating homeless response within an applicable county.

(3) "Board" means the Utah Homeless Services Board created in Section 35A-16-204.

[~~(3)~~](4) "Capacity limit" means a limit as to the number of individuals that a homeless shelter may provide overnight shelter to under a conditional use permit.

[~~(4)~~](5) "Chief executive officer" means the same as that term is defined in Section 11-51-102.

[~~(5)~~](6) "Community location" means the same as that term is defined in Section 10-8-41.6.

[~~(6)~~](7) "Conference of mayors" means an association consisting of the mayor of each municipality located within a county.

[~~(7)~~](8) "Council of governments" means the same as that term is defined in Section 72-2-117.5.

[~~(8)~~](9) "County winter response task force" or "task force" means a task force described in Section 35A-16-501.5.

[~~(9)~~](10) "Homeless shelter" means a facility that:

(a) provides temporary shelter to individuals experiencing homelessness;

(b) operates year-round; and

(c) is not subject to restrictions that limit the hours, days, weeks, or months of operation.

[~~(10)~~](11) "Municipality" means a city or town.

[~~(11)~~](12) "State facility" means the same as that term is defined in Section 63A-5b-1001.

[~~(12)~~](13) "Subsequent winter response period" means the winter response period that begins on October 15 of the year in which a county winter response task force is required to submit a winter response plan to the office under Section 35A-16-502.

[~~(13)~~](14) "Targeted winter response bed count" means the targeted bed count number for an applicable county during the winter response period, as determined jointly by the applicable local homeless council and the office.

[~~(14)~~](15) "Temporary winter response shelter" means a facility that:

(a) provides temporary emergency shelter to individuals experiencing homelessness during a winter response period; and

(b) does not operate year-round.

[~~(15)~~](16) "Winter response period" means the period beginning October 15 and ending April 30 of the following year.

[~~(16)~~](17) "Winter response plan" means the plan described in Section 35A-16-502.

Section 13. Section 35A-16-501.5 is amended to read:

35A-16-501.5. County winter response task force.

(1) [~~Subject to the requirements of Section 35A-16-502, the~~]The council of governments of each applicable county shall annually convene a county winter response task force to advise and provide recommendations to the board concerning the needs of homeless individuals during a winter response period, including recommendations for site selection of a temporary winter response shelter.

(2) (a) The task force for Salt Lake County shall consist of the following 14 voting members:

(i) the chief executive officer of Salt Lake County, or the chief executive officer's designee;

(ii) the chief executive officer, or the chief executive officer's designee, of each of the following 11 municipalities:

(A) Draper;

(B) Midvale;

(C) Millcreek;

(D) Murray;

(E) Salt Lake City;

(F) Sandy;

(G) South Jordan;

(H) South Salt Lake;

(I) Taylorsville;

(J) West Jordan; and

(K) West Valley City; and

(iii) the chief executive officer, or the chief executive officer's designee, of any two municipalities located in Salt Lake County that are not described in Subsection (2)(a)(ii), appointed by the conference of mayors of Salt Lake County.

(b) A task force for an applicable county not described in Subsection (2)(a) shall consist of the following voting members:

(i) [~~the chief executive officer of the applicable county, or the chief executive officer's designee~~]an officer of the applicable county nominated by the county governing body; and

(ii) the chief executive officer, or the chief executive officer's designee, of a number of municipalities located in the applicable county that the conference of mayors of the applicable county considers to be appropriate, appointed by the conference of mayors of the applicable county.

(3) In addition to the voting members required in Subsection (2), a task force shall include the following nonvoting members:

(a) the coordinator, or the coordinator's designee;

(b) one representative of the Utah League of Cities and Towns, appointed by the Utah League of Cities and Towns, or the representative's designee;

(c) one representative of the Utah Association of Counties, appointed by the Utah Association of Counties, or the representative's designee;

(d) two individuals experiencing homelessness or having previously experienced homelessness, appointed by the [~~applicable local homeless council~~]voting members of the task force;

(e) [~~three~~]two representatives of the applicable local homeless council, appointed by the [~~applicable local homeless council, or the representative's designee~~]voting members of the task force;[~~ and~~]

(f) one representative from a local public safety entity appointed by the voting members of the task force; and

[~~(f)~~](g) any other individual appointed by the council of governments of the applicable county.

(4) (a) Any vacancy on a task force shall be filled in the same manner as the appointment of the member whose vacancy is being filled.

(b) Each member of a task force shall serve until a successor is appointed.

(5) A majority of the voting members of a task force constitutes a quorum and may act on behalf of the task force.

(6) A task force shall:

(a) select officers from the task force's members as the task force finds necessary; and

(b) meet as necessary to effectively conduct the task force's business and duties as prescribed by statute.

(7) A task force may establish one or more working groups as is deemed appropriate to assist on specific issues related to the task force's duties[~~, including a working group for site selection of temporary winter response shelters~~].

(8) (a) A task force member may not receive compensation or benefits for the task force member's service.

(b) A task force member may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106and 63A-3-107.

(9) The applicable county for which a task force is convened shall provide administrative support to the task force.

(10) Meetings of the task force are not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 14. Section 35A-16-602 is amended to read:

35A-16-602. COVID-19 Homeless Housing and Services Grant Program.

(1) There is established the COVID-19 Homeless Housing and Services Grant Program, a competitive grant program administered by the office and funded in accordance with 42 U.S.C. Sec. 802.

(2) The office shall distribute money to fund one or more projects that:

(a) include affordable housing units for households:

(i) whose income is no more than 30% of the area median income for households of the same size in the county or municipality where the project is located;

(ii) at rental rates no greater than 30% of the income described in Subsection (2)(a)(i) for a household of:

(A) one person if the unit is an efficiency unit;

(B) two people if the unit is a one-bedroom unit;

(C) four people if the unit is a two-bedroom unit;

(D) five people if the unit is a three-bedroom unit;

(E) six people if the unit is a four-bedroom unit; or

(F) eight people if the unit is a five-bedroom or larger unit; and

(iii) that have been impacted by the COVID-19 emergency in accordance with 42 U.S.C. Sec. 802; and

(b) have been approved by the board.

(3) The office shall:

(a) administer the grant program, including:

(i) reviewing grant applications and making recommendations to the board; and

(ii) distributing grant money to approved grant recipients; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer the program, including:

(i) grant application requirements;

(ii) procedures to approve a grant; and

(iii) procedures for distributing money to grant recipients.

(4) [~~When~~]Except as provided in Subsection (5), when reviewing an application for approval, the board shall consider:

(a) an applicant's rental income plan;

(b) proposed case management and service plans for households;

(c) any matching funds proposed by an applicant;

(d) proposed restrictions, including deed restrictions, and the duration of restrictions on housing units to facilitate long-term assistance to households;

(e) whether use of funds for the proposed project complies with 42 U.S.C. Sec. 802; and

(f) any other considerations as adopted by the board.

(5) A licensed residential, vocational and life skills program, as defined in Section 13-53-102, is exempt from the requirements described in Subsections (4)(a), (b), and (f).

[~~(5)~~](6) A grant award under this section shall comply with the requirements of 42 U.S.C. Sec. 802.

Section 15. Section 35A-16-801 is enacted to read:

PART 8. Homeless Services Provider Program Requirements

35A-16-801. Homeless services provider program requirements.

(1) As used in this part:

(a) "Pathway to human thriving" means the framework by which homeless services offered and administered in the state are designed to assist individuals experiencing homelessness, including measurable services that assist in an individual's progress from past trauma and personal struggles to personal healing, transformation, and thriving.

(b) "Struggling" means an individual who is experiencing homelessness is unable to meet the individual's basic needs, including food and shelter, and who may be experiencing trauma or other barriers in securing and maintaining stable housing with or without the assistance of supportive services.

(c) "Surviving" means an individual who is experiencing homelessness is able to secure the individual's basic needs, including food and shelter, including temporary shelter, by relying upon supportive services.

(d) "Thriving" means an individual who experienced homelessness is able to secure and support the individual's basic needs, including food and shelter and who is actively engaged in personal development and is experiencing a sense of purpose and fulfillment.

(2) A service provider may design and administer a homeless services program that recognizes a homeless individual's pathway to human thriving, as provided in Section 35A-16-205.

(3) The services described in Subsection (2) may include evidence-based and measurable services to assist in a client's progress and transition along the pathway of human thriving.

(4) A service provider may directly measure, or work with a caseworker to measure, the progress and transition described in Subsection (3) in areas that include:

(a) education, employment, and income;

(b) housing;

(c) legal rights and emergency services;

(d) mental health;

(e) physical health and daily living;

(f) social relationships and personal fulfillment; and

(g) substance abuse.

(5) In providing an individual experiencing homelessness with the services described in this part, the service provider shall make the service provider's best effort to preserve the individual's ability to thrive and capacity for growth.

Section 16. Section 35A-16-901 is enacted to read:

PART 9. Safety Requirements for Homeless Shelters

35A-16-901. Safety requirements for homeless shelters -- Requirements -- Prohibitions -- Enforcement and penalties.

(1) As used in this part:

(a) "Homeless shelter" means a facility that provides or is proposed to provide temporary shelter to individuals experiencing homelessness.

(b) "Homeless shelter" includes a temporary winter response shelter, as that term is defined in Section 35A-16-501.

(2) To ensure the safety and well-being of homeless shelter residents and staff, and the surrounding communities, a service provider of a homeless shelter that receives state or federal funding shall have a client agreement that clearly states the service provider's policies and procedures to:

(a) maintain a zero-tolerance policy within the premises of the homeless shelter on the use, possession, or distribution of an illegal drug;

(b) develop and implement bag check procedures at points of entry and regular searches of personal belongings to ensure the premises of the homeless shelter remain free from prohibited items, including illegal drugs and weapons; and

(c) cooperate with law enforcement, including:

(i) providing an employee of a law enforcement agency access to the premises to conduct checks for illegal drugs using trained K9 units, based upon reasonable suspicion as determined by the local law enforcement agency; or

(ii) providing a client's name and identifying information to an employee of a law enforcement agency to the extent the disclosure is:

(A) necessary to avoid a significant risk to public safety;

(B) in aid of an ongoing investigation; or

(C) as required by state or federal law.

(3) A service provider that refuses to comply with this section may be assessed a penalty, including a fine, suspension of funding, or other penalties that may be assessed by the board, or as provided for in state or federal law.

Section 17. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 531
S. B. 34
Passed February 6, 2025
Approved March 27, 2025
Effective May 7, 2025

MINERAL SURETY STUDY

Chief Sponsor: Derrin R. Owens
House Sponsor: Ariel Defay

LONG TITLE

General Description:

This bill addresses surety issues related to mineral activities.

Highlighted Provisions:

This bill:

- ► defines "surety" for purpose of the study;
- ► requires the Division of Oil, Gas, and Mining (division) to study certain surety issues;
- ► directs the division to make a report; and
- ► provides a repeal date.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-240, as enacted by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

40-8-14.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 40-8-14.5 is enacted to read:

40-8-14.5. Study of surety issues.

(1) As used in this section, "surety" means resources pledged by an operator to address reclamation obligations and includes:
(a) collateral;
(b) a bond or other form of insured guarantee;
(c) a deposited security;
(d) cash or other commodity accepted as a medium of economic exchange; or
(e) a written contractual agreement.
(2) (a) The division shall study the need, if any, to modify requirements under this chapter for an operator to pledge surety with the division.
(b) As part of the study, the division shall examine:
(i) the one or more forms of surety that the division should accept;
(ii) the amounts of surety that should be imposed;
(iii) the factors the division or board should consider in determining the form and amount of surety an operator shall pledge;
(iv) similar surety requirements made on an operator by others, with the intent that surety requirements are coordinated and not duplicated;
(v) when surety should be released or forfeited;
(vi) appropriate actions to enforce and collect against an operator who pledges surety;
(vii) surety requirements in other states;
(viii) whether insurance products or captive insurance companies could be used to address the reasons surety is needed;
(ix) whether a state surety pool should be created by statute; and
(x) any other issue the division determines is helpful in modernizing the surety process under this chapter.
(3) The division shall report the results of the study required by this section, including any recommendations for legislation, to the Natural Resources, Agriculture, and Environment Interim Committee on or before the committee's 2025 October interim committee meeting.

Section 2. Section 63I-2-240 is amended to read:

63I-2-240. Repeal dates: Title 40.

[~~Reserved.~~]Section 40-8-14.5, Study of surety issues, is repealed July 1, 2026.

Section 3. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 532
H. B. 313
Passed March 7, 2025
Approved March 27, 2025
Effective July 1, 2025

CONSTRUCTION INDUSTRY AMENDMENTS

Chief Sponsor: Thomas W. Peterson
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies the State Construction Code.

Highlighted Provisions:

This bill:

- ► amends the State Construction Code to:
  - • align with updated standards in the International Residential Code (IRC); and
  - • align with the updated standards in the National Electric Code (NEC);
- ► includes a coordination clause to make the amendments to Section 15A-3-202 in this bill supersede the amendments to Section 15A-3-202 in H.B. 175, Housing Construction Amendments;
- ► removes regulations for water heaters in certain areas; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

15A-2-103, as last amended by Laws of Utah 2024, Chapter 505
15A-3-105, as last amended by Laws of Utah 2024, Chapter 505
15A-3-202, as last amended by Laws of Utah 2024, Chapter 505
15A-3-206, as last amended by Laws of Utah 2024, Chapter 505
15A-3-601, as last amended by Laws of Utah 2024, Chapter 15
19-2-107.7, as enacted by Laws of Utah 2016, Chapter 247

Utah Code Sections Affected by Coordination Clause:

AMENDS:

15A-3-202, as last amended by Laws of Utah 2024, Chapter 505

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 15A-2-103 is amended to read:

15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

(a) the 2021 edition of the International Building Code, including Appendices C and J, issued by the International Code Council;

(b) the 2021 edition of the International Residential Code, issued by the International Code Council;

(c) Appendix AQ of the 2021 edition of the International Residential Code, issued by the International Code Council;

(d) the 2021 edition of the International Plumbing Code, issued by the International Code Council;

(e) the 2021 edition of the International Mechanical Code, issued by the International Code Council;

(f) the 2021 edition of the International Fuel Gas Code, issued by the International Code Council;

(g) the [~~2020~~]2023 edition of the National Electrical Code, issued by the National Fire Protection Association;

(h) the 2021 edition of the International Energy Conservation Code, issued by the International Code Council;

(i) the 2021 edition of the International Existing Building Code, issued by the International Code Council;

(j) subject to Subsection 15A-2-104(2), the HUD Code;

(k) subject to Subsection 15A-2-104(1), Appendix AE of the 2021 edition of the International Residential Code, issued by the International Code Council;

(l) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued

by the National Fire Protection Association;

(m) subject to Subsection (3), for standards and guidelines pertaining to plaster on a historic property, as defined in Section 9-8a-302, the U.S. Department of the Interior Secretary's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings;[~~and~~]

(n) the residential provisions of the 2021 edition of the International Swimming Pool and Spa Code, issued by the International Code Council; and

(o) Modular Building Institute Standards 1200 and 1205, issued by the International Code Council, except as modified by provisions of this title governing modular units.

(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, Fire, and State Lands, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

(3) The standards and guidelines described in Subsection (1) [~~(n)~~](m) apply only if:

(a) the owner of the historic property receives a government tax subsidy based on the property's status as a historic property;

(b) the historic property is wholly or partially funded by public money; or

(c) the historic property is owned by a government entity.

Section 2. Section 15A-3-105 is amended to read:

15A-3-105. Amendments to Chapters 10 through 12 of IBC.

(1) In IBC, Section 1010.2.4, number (2), the following is added at the end of the sentence: "Blended assisted living facilities shall comply with Section 1010.2.14.1."

(2) A new IBC Section 1010.2.14.1 is added as follows: "1010.2.14.1 Blended assisted living facilities. In occupancy Group I-1, Condition 2 or Group I-2, a Type-II assisted living facility licensed by the Department of Health and Human Services for residents with Alzheimer's or dementia, and having a controlled egress locking system to prevent operation from the egress side shall be permitted to also house residents without a clinical need for their containment where all of the following provisions are met:

(a) locks in the means of egress comply with all IBC requirements for controlled egress doors;

(b) all residents without a clinical need for their containment shall have the keys, codes, or other means necessary to exit the facility, in a manner that is determined by the facility operator and communicated to the resident or their legal representative;

(c) residents or their legal representative acknowledge in writing that they understand and agree to living in a facility where egress is controlled; and

(d) the number of residents housed in a smoke compartment with controlled egress shall not be greater than 30."

(3) In IBC, Section 1011.5.2, exception 3 is deleted and replaced with the following: " 3. In Group R-3 occupancies, within dwelling units in Group R-2 occupancies, and in Group U occupancies that are accessory to a Group R-3 occupancy, or accessory to individual dwelling units in Group R-2 occupancies, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm)."

(4) In IBC, Section 1011.11, a new exception 6 is added as follows: "6. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers."

(5) In IBC, Section 1025, is deleted.

(6) In IBC, Section 1104.4, exception 1.5 is deleted.

Section 3. Section 15A-3-202 is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R101.2, Exception, the words "where provided with an automatic sprinkler system complying with Section P2904" are deleted.

(2) In IRC, Section R101.2, Exception, the words "6. A triplex or fourplex of no more than two levels with 2-hour fire-resistance-rated vertical shared wall assemblies tested in accordance with ASTM E119 or UL263, 1-hour fire-resistance-rated horizontal floor assemblies tested in accordance with ASTM E119 or UL263, and independent egress for each unit." are added.

[~~(2)~~](3) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements."

[~~(3)~~](4) In IRC Section R105.2, under Building, the following changes are made:

(a) Number 3 is deleted and replaced with the following: "3. Retaining walls retaining less than 4 feet (1219mm) of unbalanced fill, unless supporting a surcharge or requiring design per Section R404.4."

(b) Number 10 is deleted and replaced with the following: "10. Decks that are not more than 30 inches (762mm) above grade at any point and not requiring guardrails, that do not serve exit door required by Section R311.4."

[~~(4)~~](5) In IRC, Section R105.2, a new exception is added: "11. Grade level, non-connected conex boxes, less than 350 square feet, used for storage only."

[~~(5)~~](6) In IRC, Section R108.3, the following sentence is added at the end of the section: "The building official shall not request proprietary information."

[~~(6)~~](7) In IRC, Section 109.1.5, is deleted and replaced with the following: "R109.1.5 Other inspections. In addition to the inspections listed in R109.1.1 through R109.1.4, the building official shall have the authority to inspect the proper installation of insulation. R109.1.5.1 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.4 to prevent water from entering the weather-resistive barrier.R109.1.5.2 Fire-resistance-rated construction inspection. Where fire-resistance-rated construction is required between dwelling units or due to location on property, the building official shall require an inspection of such construction after lathing or gypsum board or gypsum panel products are in place, but before any plaster is applied, or before board or panel joints and fasteners are taped and finished."

[~~(7)~~](8) In IRC, Section R202, the following definition is added: "ACCESSORY DWELLING UNIT: A habitable living unit created within the existing footprint of a primary owner-occupied single-family dwelling."

[~~(8)~~](9) In IRC, Section R202, the definition for "Approved" is modified by adding the words "or independent third-party licensed engineer or architect and submitted to the building official" after the word "official."

[~~(9)~~](10) In IRC, Section R202, the definition for "Approved Agency" is modified by replacing the word "and" with "or."

[~~(10)~~](11) In IRC, Section 202, the definition for "Approved Source" is modified by adding the words "or licensed engineer or architect" after the word "official."

[~~(11)~~](12) In IRC, Section R202, the following definition is added: "CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4)."

[~~(12)~~](13) In IRC, Section R202, the definition of "Cross Connection" is deleted and replaced with the following: "CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow, Water Distribution")."

[~~(13)~~](14) In IRC, Section 202, the following definition is added: "DUAL SOURCE CONNECTION. A pipe that is installed so that either the nonpotable (i.e. secondary) irrigation water or the potable water is connected to a pressurized irrigation system at one time, but not both at the same time; or a pipe that is installed so that either the potable water or private well water is connected to a residence at one time, but not both at the same time. The potable water supply line shall be protected by a reduced pressure backflow preventer."

[~~(14)~~](15) In IRC, Section 202, the following definition is added: "ENERGY STORAGE SYSTEM (ESS). One or more devices, assembled together, that are capable of storing energy for supplying electrical energy at a future time."

[~~(15)~~](16) In IRC, Section 202, in the definition for gray water a comma is inserted after the word "washers"; the word "and" is deleted; and the following is added to the end: "and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility."

[~~(16)~~](17) In IRC, Section R202, the definition of "Potable Water" is deleted and replaced with the following: "POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction."

[~~(17)~~](18) In IRC, Figure R301.2 (3), is deleted and replaced with R301.2 (3) as follows:

"TABLE R301.2 (3)

GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

City/Town	County	Ground Snow Load (lb/ ft2)	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964
Loa	Wayne	37	7060
Logan	Cache	43	4531
Manila	Daggett	26	6368
Manti	Sanpete	37	5620
Moab	Grand	21	4029
Monticello	San Juan	67	7064
Morgan	Morgan	52	5062
Nephi	Juab	39	5131
Ogden	Weber	37	4334
Panguitch	Garfield	41	6630

Parowan	Iron	32	6007
Price	Carbon	31	5558
Provo	Utah	31	4541
Randolph	Rich	50	6286
Richfield	Sevier	27	5338
St. George	Washington	21	2585
Salt Lake City	Salt Lake	28	4239
Tooele	Tooele	35	5029
Vernal	Uintah	39	5384

Note: To convert lb/ft2 to kN/m2, multiply by 0.0479. To convert feet to meters, multiply by 0.3048.1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.

2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).

3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values."

[~~(18)~~](19) In IRC, Section R301.6, is deleted and replaced with the following: "R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, for other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values."

[~~(19)~~](20) In IRC, Section R302.2, the following sentence is added at the end of the paragraph: "When an access/maintenance agreement or easement is in place, plumbing, mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including feeders, are permitted to penetrate the common wall at grade, above grade, or below grade."

[~~(20)~~](21) In IRC, Section R302.3, a new exception 3 is added as follows: "3. Accessory dwelling units separated by walls or floor assemblies protected by not less than 1/2-inch (12.7 mm) gypsum board or equivalent on each side of the wall or bottom of the floor assembly are exempt from the requirements of this section."

[~~(21)~~](22) In IRC, Section R302.5.1, the last sentence is deleted.

[~~(22)~~](23) In IRC, Section R302.13, is deleted.

[~~(23)~~](24) In IRC, Section R303.4, the following exception is added: "Exception: Dwelling units tested in accordance with Section N1102.4.1.2 (R402.4.1.2) which has an air tightness of 3.0 ACH (50) or greater do not require mechanical ventilation."

[~~(24)~~](25) In IRC, Section R310.1, all words in the last sentence after "or to a yard or court", are deleted, and Exception 3 of this section is deleted.

[~~(25)~~](26) In IRC, Section R310.7, in the exception, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(26)~~](27) IRC, Sections R311.7.45 through R311.7.5.3, are deleted and replaced with the following: "R311.7.45.1 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.3 Nosing. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less."

[~~(27)~~](28) In IRC, Section R312.2, is deleted.

[~~(28)~~](29) In IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: "R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D."

[~~(29)~~](30) In IRC, Section R314.2.2, the words "accessory dwelling units," are added after the words "Where alterations, repairs."

[~~(30)~~](31) In IRC, Section R315.2.2, the words "accessory dwelling units," are added after the words "Where alterations, repairs."

[~~(31)~~](32) In IRC, Section 315.3, the following words are added to the first sentence after the word "installed": "on each level of the dwelling unit and."

[~~(32)~~](33) A new IRC, Section R328.12, is added as follows:

"R328.12 Signage. A sign located on the exterior of the dwelling shall be installed at a location approved by the authority having jurisdiction which identifies the battery chemistry included in the ESS. This sign shall be of sufficient durability to withstand the environment involved and shall not be handwritten."

[~~(33)~~](34) In IRC, Section 403.1.3.5.3, an exception is added as follows: "Exception: Vertical steel in footings shall be permitted to be located while concrete is still plastic and before it has set. Where vertical steel resists placement or the consolidation of concrete around steel is impeded, the concrete shall be vibrated to ensure full contact between the vertical steel and concrete."

[~~(34)~~](35) In IRC, Section R403.1.6, a new Exception 3 is added as follows: "3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(35)~~](36) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: "Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(36)~~](37) In IRC, Section R404.1, a new exception is added as follows: "Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules."

[~~(37)~~](38) In IRC, Section R405.1, a second exception is added as follows: "Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The geotechnical report shall make a recommendation regarding a drainage system."

[~~(38)~~](39) In IRC, Section R506.2.3, the words "10-mil (0.010 inch; 0.25 mm)" are deleted and replaced with "6-mil (0.006 inch; 0.152 mm)" and the words "conforming to ASTM E1745 Class A requirements" are deleted.

(40) In IRC, Section 507.2.1, Wood materials. The following sentence is added after the words, "in accordance with section R317," "field applied weather resistant barrier applied to the top of untreated material,".

Section 4. Section 15A-3-206 is amended to read:

15A-3-206. Amendments to Chapters 36, 37, 39, and 44 and Appendix F of IRC.

(1) In IRC, Section E3601.6.2, a new exception is added as follows: "Exception: An occupant of an accessory dwelling unit is not required to have access to the disconnect serving the dwelling unit in which they reside."

(2) IRC, Section E3606.5, is deleted.

(3) IRC, Section E3601.7, is deleted and replaced with the following:

"3601.7 Maximum number of disconnects. The service disconnecting means shall consist of not more than six switches or six sets of circuit breakers mounted in a single enclosure or in a group of separate enclosures."

(4) In IRC, Section E3705.4.4, the following sentences are deleted:

"Where more than two NM cables containing two or more current-carrying conductors are installed, without maintaining space between the cables, through the same opening in wood framing should be sealed with thermal insulation, caulk or sealing foam. The allowable ampacity of each conductor shall be adjusted in accordance with Table E3705.3 and the provisions of Section E3701.3. Exception. may not apply."

(5) IRC, Section E3901.4.2, is deleted and replaced with the following:

"E3901.4.2 Island and Peninsular Countertops and Work Spaces. Receptacle outlets, if installed to serve an island or peninsular countertop or work surface, shall be installed in accordance with E3901.4.3. If a receptacle outlet is not provided to serve an island or peninsular countertop or work surface, provisions shall be provided at the island or peninsula for future addition of a receptacle outlet to serve the island or peninsular countertop or work surface."

[~~(5)~~](6) IRC, Section E3901.4.3, is deleted and replaced with the following:

"E3901.4.3 Receptacle Outlet Location. [~~Receptacle~~]When installed, receptacle outlets shall be located in one or more of the following:

1. On or above, but not more than 20 inches (508 mm) above a countertop or work surface.

2. In a countertop using receptacle outlet assemblies listed for use in countertops.

3. In a work surface using receptacle outlet assemblies listed for use in work surface or listed for use in countertops.

Receptacle outlets rendered not readily accessible by appliances fastened in place, appliance garages, sinks, or range tops as covered in the exception to Section E3901.4.1 or appliances occupying assigned spaces shall not be considered as these required outlets.

4. Under the countertop not more than 14 inches from the bottom leading edge of the countertop."

[~~(6)~~](7) In IRC, Section 3902.1, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(7)~~](8) In IRC, Section 3902.2, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(8)~~](9) In IRC, Section 3902.3, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(9)~~](10) In IRC, Section 3902.4, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(10)~~](11) In IRC, Section 3902.5, after the word "125-volt" add the words "single phase 15 and 20 ampere in unfinished portions of the basement shall have ground-fault circuit-interrupter protection for personnel" and delete the rest of the section.

[~~(11)~~](12) In IRC, Section 3902.6, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(12)~~](13) In IRC, Section 3902.7, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(13)~~](14) In IRC, Section 3902.8, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(14)~~](15) In IRC, Section 3902.9, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(15)~~](16) IRC, Section 3902.10, is deleted.

[~~(16)~~](17) In IRC, Section 3902.12, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(17)~~](18) In IRC, Section 3902.13, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(18)~~](19) IRC, Section 3902.15, Crawl space lighting outlets, is deleted.

[~~(19)~~](20) IRC, Section 3902.16, Equipment requiring servicing, is deleted.

[~~(20)~~](21) IRC Section 3902.17, Outdoor outlets, is deleted.

[~~(21)~~](22) IRC, Section 3902.19, Location of arc-fault circuit interrupters, is deleted.

[~~(22)~~](23) IRC, Section E3902.20, Arc-fault circuit interrupter protection, is deleted.

[~~(23)~~](24) IRC, Section E3902.21, Arc-fault circuit interrupter protection for branch circuit extensions or modification, is deleted.

[~~(24)~~](25) IRC, Section 4002.11, is deleted and replaced with the following: "4002.11 Bathtub and Shower Space. Receptacles shall not be installed within or directly over a bathtub or shower stall."

[~~(25)~~](26) IRC, Chapter 44, is amended by deleting the standard for "ANCE."

[~~(26)~~](27) In IRC, Chapter 44, the standard for ASHRAE is amended by changing "34-2013" to "34-2019."

[~~(27)~~](28) In IRC, Chapter 44, the standard for CSA, is amended by changing the:

(a) standard reference number "UL/CSA/ANCE 60335-2-40-2012" to "UL/CSA 60335-2-40-2019"; and

(b) title "Standard for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Motor-Compressors" to "Standard for Household and Similar Electrical Appliances, Part 2-40, Requirements for Electric Heat Pumps, Air Conditioners and Dehumidifiers-3rd Edition."

[~~(28)~~](29) In IRC, Chapter 44, the standard for UL, is amended by changing the:

(a) standard reference number "1995-2011" to "1995-2015";

(b) standard reference number "UL/CSA/ANCE 60335-2-40-2012" to "UL/CSA 60335-2-40-2019"; and

(c) title "Standard for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Motor-Compressors" to "Standard for Household and Similar Electrical Appliances, Part 2-40, Requirements for Electric Heat Pumps, Air Conditioners and Dehumidifiers-3rd Edition."

[~~(29)~~](30) In IRC, Chapter 44, the standard for ANSI/RESNET/ICC 201-2019 Section 4.4.4 is added as follows: "4.4.4. Air Source Heat Pumps and Air Conditioners. For Heat Pumps and Air Conditioners with the more recent Manufacturers Equipment Performance Ratings (HSPF2 or SEER2) available, and HSPF and SEER are not available, these ratings shall be converted to HSPF and SEER values by dividing HSPF2 or SEER2 by the conversion factors in Table 4.4.4.1(1). If the type of equipment is not determined, the conversion shall default to the Ducted Split System factors. All calculations, including Equation 4.1-1a shall use HSPF or SEER values as made available by the Manufacturer or converted as specified in this section.

Table 4.4.4.1(1) SEER2 and HSPF2 Conversion Factors3.

Equipment Type	SEER2/SEER	EER/EER4	HSPF/HSPF
Ductless Systems	1.00	1.00	0.90
Ducted Split System	0.95	0.95	0.85
Ducted Package System	0.95	0.95	0.84
Small Duct High Velocity System	1.00	not applicable	0.85
Ducted Space-Constrained Air Conditioner	0.97	not applicable	not applicable
Ducted Space-Constrained Heat Pump		not applicable	0.85 "

[~~(30)~~](31) IRC, Chapter 44, is amended by adding the following reference standard:

"Standard reference number	Title	Referenced in code section number
USC-FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Table P2902.3"

[~~(31)~~](32) IRC, Chapter 44, is amended by adding the following reference standard: "UL 9540-20: Energy Storage Systems and Equipment; R328.1, R328.2, and R328.6."

[~~(32)~~](33) (a) When passive radon controls or portions thereof are voluntarily installed, the voluntary installation shall comply with Appendix F of the IRC.

(b) An additional inspection of a voluntary installation described in Subsection [~~(27)(a)~~](28)(a)is not required.

Section 5. Section 15A-3-601 is amended to read:

15A-3-601. General provisions.

The following are adopted as amendments to the NEC to be applicable statewide:

(1) The IRC provisions are adopted as the residential electrical standards applicable to residential installations under the IRC. All other installations shall comply with the adopted NEC.

(2) In NEC, Section 210.8(A), the words "through 250-volt" are deleted.

(3) In NEC, Section 210.8(A) number (5), the word "Basements" is deleted and replaced with the following:

"Unfinished portions or areas of the basement not intended as habitable rooms."

(4) In NEC, Section 210.8(A), number (6), the following is added after the word "Kitchens":

"where the receptacles are installed to serve the countertop surfaces."

(5) In NEC, Section 210.8(A), number (7) is deleted.

(6) In NEC, Section 210.8(D), numbers (8) through (12) are deleted.

(7) NEC, Section 210.8(F), is deleted.

[~~(5)~~](8) NEC, Sections 210.52(C) number (2) and number (3) are deleted and replaced with the following:

"210.52(C)(2) Island and peninsular countertops and Work Surfaces. Receptacle outlets, if installed to serve an island or peninsular countertop or work surface, shall be installed in accordance with 210.52(C)(3). If a receptacle outlet is not provided to serve an island or peninsular countertop or work surface, provisions shall be provided at the island or peninsula for future addition of a receptacle outlet to serve the island or peninsular countertop or work surface.

210.2(C)(3) Receptacle outlet location. Receptacle outlets shall be located in one or more of the following:

(a) On or above, but not more than 500 mm (20 inches) above a countertop or work surface.

(b) In a countertop using receptacle assemblies listed for use in countertops.

(c) In a work surface using receptacle outlet assemblies listed for use in work surfaces or listed for use in countertops.

Receptacle outlets rendered not readily accessible by appliances fastened in place, appliance garages, sinks, or range tops as covered in the exception to 210.52(C)(1), occupying assigned spaces shall not be considered as these required outlets.

Exception: In dwelling units designed to be accessible to persons with disabilities, receptacles shall be permitted to be installed not more than 300 mm (12 inches) below the countertop or work surface. Receptacles installed below a countertop or work surface shall not be located where the countertop or work surface extends more than 150 mm (6 inches) beyond its support or base."

[~~(6)~~](9) NEC, Section 210.12, is deleted.

[~~(7)~~](10) NEC, Section 210.65, is deleted.

(11) NEC, Section 215.18, is deleted.

(12) NEC, Section 225.42 is deleted.

[~~(8)~~](13) NEC, Section 230.67, is deleted.

[~~(9)~~](14) NEC, Section 230.71, is deleted and replaced with the following:

"230.71 Maximum Number of Disconnects.

(A) General. The service disconnecting means for each service permitted by 230.2, or for each set of service-entrance conductors permitted by 230.40, Exception No. 1, 3, 4, or 5 shall consist of not more than six switches or sets of circuit breakers, or a combination of not more than six switches and sets of circuit breakers, mounted in a single enclosure, in a group of separate enclosures, or in or on a switchboard or in switchgear. There shall be not more than six sets of disconnects per service grouped in any one location. For the purpose of this section, disconnecting means installed as part of listed equipment and used solely for the following shall not be considered a service disconnecting means:

(1) Power monitoring equipment;

(2) Surge-protective device(s);

(3) Control circuit of the ground-fault protection system; or

(4) Power-operable service disconnecting.

(B) Single-Pole Units. Two or three single-pole switches or breakers, capable of individual operation, shall be permitted on multiwire circuits, one pole for each ungrounded conductor, as one multipole disconnect, provided they are equipped with identified handle ties or a master handle to disconnect all conductors of the service with no more than six operations of the hand.

(C) Beginning on July 1, 2027, Section 230.71(B) is no longer in effect."

[~~(10)~~](15) NEC, Section 314.27(C), is deleted and replaced with the following: "314.27(C) Boxes at Ceiling-Suspended (Paddle) Fan Outlets. Outlet boxes or outlet box systems used as the sole support of a ceiling-suspended (paddle) fan shall be listed, shall be marked by their manufacturer as suitable for this purpose, and shall not support ceiling-suspended (paddle) fans that weigh more than 32 kg (70 lb). For outlet boxes or outlet box systems designed to support ceiling-suspended (paddle) fans that weigh more than 16 kg (35 lb), the required marking shall include the maximum weight to be supported."

(16) In NEC, Section 334.24, the last sentence is deleted and replaced with the following:

"For flat cables, the minor diameter dimension of the cable shall be used to determine the bending radius when bending on the flat side of the cable. For all other bends, the major diameter dimension shall be used."

[~~(11) NEC, Section 406.9(C), is deleted and replaced with the following: "406.9(C) Bathtub and Shower Space. Receptacles shall not be installed within or directly over a bathtub or shower stall."~~]

(17) In NEC, Section 334.80, the second paragraph is deleted.

(18) In NEC, Section 338.24, the last sentence is deleted and replaced with the following:

"For flat cables, the minor diameter dimension of the cable shall be used to determine the bending radius when bending on the flat side of the cable. For all other bends, the major diameter dimension shall be used."

(19) In NEC, Section 406.9(B) number (2), the following words are deleted:

"be listed weather-resistant type, and installation shall".

(20) NEC, Section 700.3(A) is deleted and replaced with the following:

"700.3(A) Conductor Witness Test.

The authority having jurisdiction shall conduct or witness a test of the complete system upon installation and periodically afterward."

Section 6. Section 19-2-107.7 is amended to read:

19-2-107.7. Water heater regulations.

(1) As used in this section:

(a) "Natural gas-fired water heater" means a device that heats water by the combustion of natural gas to a thermostatically-controlled temperature not exceeding 210 degrees Fahrenheit for use external to the vessel at pressures not exceeding 160 pounds per square inch gauge.

(b) "Ozone nonattainment area" means an area that does not meet the primary or secondary air quality standards for ozone under the national ambient air quality standards described in 42 U.S.C. Sec. 7407(d).

(c) "PM2.5 nonattainment area" means an area that does not meet the primary or secondary air quality standards for fine particulate matter, PM2.5, under the national ambient air quality standards described in 42 U.S.C. Sec. 7407(d).

[~~(b)~~](d) "Recreational vehicle" means a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy.

(2) A person may not sell or purchase a natural gas-fired water heater that is manufactured after July 1, 2018 with the intent to install it in Utah if the natural gas-fired water heater exceeds the applicable nitrogen oxide emission rate limit set in Title 15A, State Construction and Fire Codes Act.

(3) A manufacturer in Utah shall display the model number and nitrogen oxide emission rate of a water heater complying with this section on:

(a) the shipping carton for the water heater; and

(b) the permanent rating plate of each water heater unit.

(4) This section does not apply to a water heater unit that:

(a) uses a fuel other than natural gas;

(b) is used in a recreational vehicle; [~~or~~]

(c) is manufactured in Utah for shipment and use outside of Utah[~~.~~]; or

(d) is intended to be installed in an area of Utah that is not included in an ozone nonattainment area or a PM2.5 nonattainment area.

Section 7. Effective Date.

This bill takes effect on July 1, 2025.

Section 8. Coordinating H.B. 313 with H.B. 175.

If H.B. 313, State Construction and Electrical Standards Amendments, and H.B. 175, Housing Construction Amendments, both pass and become law, the Legislature intends that, on July 1, 2025, the amendments to Section 15A-3-202 in H.B. 313 supersede the amendments to Section 15A-3-202 in H.B. 175.

CHAPTER 533
H. B. 334
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

GUARDIANSHIPS AND SUPPORTED DECISION-MAKING AGREEMENTS AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill addresses guardianships and supported decision-making agreements.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► repeals a provision that provides for the future repeal of statutory language concerning when counsel is not required for an allegedly incapacitated person;
- ► amends provisions concerning the rights of certain individuals who are under a court-ordered guardianship;
- ► amends provisions concerning the procedure for determining incapacity and appointing a guardian for an incapacitated person;
- ► prescribes the principles by which provisions related to supported decision-making agreements should be interpreted;
- ► describes the requirements for a supported decision-making agreement;
- ► authorizes the use of a supported decision-making agreement by certain individuals, subject to the permission of the individual's guardian, conservator, or other qualified person, as applicable;
- ► describes the duties of an individual who is a supporter under a supported decision-making agreement;
- ► provides that a supported decision-making agreement may be revoked or terminated, with certain conditions;
- ► describes how a supported decision-making agreement interacts with and affects other laws and principles;
- ► provides protections for a person who relies, in good faith, on the provisions of a supported decision-making agreement; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

7-5-1, as last amended by Laws of Utah 2013, Chapter 364
63I-2-275, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
75-1-201, as last amended by Laws of Utah 2024, Chapter 364
75-5-301.5, as last amended by Laws of Utah 2024, Chapter 113
75-5-303, as last amended by Laws of Utah 2024, Chapter 113
75-5-312, as last amended by Laws of Utah 2022, Chapter 358 and repealed and reenacted by Laws of Utah 2022, Chapter 441 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 358
75-5-417, as last amended by Laws of Utah 2022, Chapter 358

ENACTS:

75-5-701, Utah Code Annotated 1953
75-5-702, Utah Code Annotated 1953
75-5-703, Utah Code Annotated 1953
75-5-704, Utah Code Annotated 1953
75-5-705, Utah Code Annotated 1953
75-5-706, Utah Code Annotated 1953
75-5-707, Utah Code Annotated 1953
75-5-708, Utah Code Annotated 1953
75-5-709, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-5-1 is amended to read:
7-5-1. Definitions -- Allowable trust companies -- Exceptions.

(1) As used in this chapter:

(a) "Business trust" means an entity engaged in a trade or business that is created by a declaration of trust that transfers property to trustees, to be held and managed by them for the benefit of persons holding certificates representing the beneficial interest in the trust estate

and assets.

(b) "Trust business" means, except as provided in Subsection (1)(c), a business in which one acts in any agency or fiduciary capacity, including that of personal representative, executor, administrator, conservator, guardian, assignee, receiver, depositary, or trustee under appointment as trustee for any purpose permitted by law, including the definition of "trust" set forth in [~~Subsection 75-1-201(55)~~]Section 75-1-201.

(c) "Trust business" does not include the following means of holding money, assets, or other property:

(i) money held in a client trust account by an attorney authorized to practice law in this state;

(ii) money held in connection with the purchase or sale of real estate by a person licensed as a principal broker in accordance with Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

(iii) money or other assets held in escrow by a person authorized by the department in accordance with Chapter 22, Regulation of Independent Escrow Agents, or by the Utah Insurance Department to act as an escrow agent in this state;

(iv) money held by a homeowners' association or similar organization to pay maintenance and other related costs for commonly owned property;

(v) money held in connection with the collection of debts or payments on loans by a person acting solely as the agent or representative or otherwise at the sole direction of the person to which the debt or payment is owed, including money held by an escrow agent for payment of taxes or insurance;

(vi) money and other assets held in trust on an occasional or isolated basis by a person who does not represent that the person is engaged in the trust business in Utah;

(vii) money or other assets found by a court to be held in an implied, resulting, or constructive trust;

(viii) money or other assets held by a court appointed conservator, guardian, receiver, trustee, or other fiduciary if:

(A) the conservator, receiver, guardian, trustee, or other fiduciary is responsible to the court in the same manner as a personal representative under Title 75, Chapter 3, Part 5, Supervised Administration, or as a receiver under Rule 66, Utah Rules of Civil Procedure; and

(B) the conservator, trustee, or other fiduciary is a certified public accountant or has qualified for and received a designation as a certified financial planner, chartered financial consultant, certified financial analyst, or similar designation suitable to the court, that evidences the conservator's, trustee's, or other fiduciary's professional competence to manage financial matters;

(ix) money or other assets held by a credit services organization operating in compliance with Title 13, Chapter 21, Credit Services Organizations Act;

(x) money, securities, or other assets held in a customer account in connection with the purchase or sale of securities by a regulated securities broker, dealer, or transfer agent; or

(xi) money, assets, and other property held in a business trust for the benefit of holders of certificates of beneficial interest if the fiduciary activities of the business trust are merely incidental to conducting business in the business trust form.

(d) "Trust company" means an institution authorized to engage in the trust business under this chapter. Only the following may be a trust company:

(i) a Utah depository institution or its wholly owned subsidiary;

(ii) an out-of-state depository institution authorized to engage in business as a depository institution in Utah or its wholly owned subsidiary;

(iii) a corporation, including a credit union service organization, owned entirely by one or more federally insured depository institutions as defined in Subsection 7-1-103(8);

(iv) a direct or indirect subsidiary of a depository institution holding company that also has a direct or indirect subsidiary authorized to engage in business as a depository institution in Utah; and

(v) any other corporation continuously and lawfully engaged in the trust business in this state since before July 1, 1981.

(2) Only a trust company may engage in the trust business in this state.

(3) The requirements of this chapter do not apply to:

(a) an institution authorized to engage in a trust business in another state that is engaged in trust activities in this state solely to fulfill its duties as a trustee of a trust created and administered in another state;

(b) a national bank, federal savings bank, federal savings and loan association, or federal credit union authorized to engage in business as a depository institution in Utah, or any wholly owned subsidiary of any of these, to the extent the institution is authorized by its primary federal regulator to engage in the trust business in this state; or

(c) a state agency that is otherwise authorized by statute to act as a conservator, receiver, guardian, trustee, or in any other fiduciary capacity.

Section 2. Section 63I-2-275 is amended to read:

63I-2-275. Repeal dates: Title 75.

[~~Subsection 75-5-303(5)(d), regarding counsel for a person alleged to be incapacitated, is repealed July 1, 2028~~]Reserved.

Section 3. Section 75-1-201 is amended to read:

75-1-201. Title definitions.

As used in this title:

(1) "Agent" includes an attorney-in-fact under a durable or nondurable power of attorney, an individual authorized to make decisions concerning another's health care, and an individual authorized to make decisions for another under a natural death act.

(2) "Application" means a written request to the registrar for an order of informal probate or appointment under Chapter 3, Part 3, Informal Probate and Appointment Proceedings.

(3) (a) "Beneficiary," as it relates to trust beneficiaries, includes:

(i) a person who has any present or future interest, vested or contingent; and

(ii) the owner of an interest by assignment or other transfer.

(b) "Beneficiary," as it relates to a charitable trust, includes any person entitled to enforce the trust.

(c) "Beneficiary," as it relates to a beneficiary of a beneficiary designation, means a beneficiary of:

(i) an insurance or annuity policy;

(ii) an account with POD designation;

(iii) a security registered in beneficiary form (TOD);

(iv) a pension, profit-sharing, retirement, or similar benefit plan; or

(v) other nonprobate transfer at death.

(d) "Beneficiary," as it relates to a beneficiary designated in a governing instrument, includes:

(i) a grantee of a deed, a devisee, a trust beneficiary, a beneficiary of a beneficiary designation, a donee, appointee, or taker in default of a power of appointment; and

(ii) a person in whose favor a power of attorney or a power held in any individual, fiduciary, or representative capacity is exercised.

(4) "Beneficiary designation" means a governing instrument naming a beneficiary of an insurance or annuity policy, of an account with POD designation, of a security registered in beneficiary form (TOD), or of a pension, profit-sharing, retirement, or similar benefit plan, or other nonprobate transfer at death.

(5) (a) "Child" includes any individual entitled to take as a child under this title by intestate succession from the parent whose relationship is involved.

(b) "Child" does not include an individual who is only a stepchild, a foster child, a grandchild, or any more remote descendant.

(6) (a) "Claims," in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person, whether arising in contract, in tort, or otherwise, and liabilities of the estate which arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration.

(b) "Claims" does not include estate or inheritance taxes, or demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(7) "Community property with a right of survivorship" means joint tenants with the right of survivorship.

(8) "Conservator" means a person who is appointed by a court to manage the estate of a protected person.

(9) "Court" means any of the courts of record in this state having jurisdiction in matters relating to the affairs of decedents.

(10) "Descendant" means all of an individual's descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in this title.

(11) "Devise," when used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will.

(12) "Devisee" means any person designated in a will to receive a devise. For the purposes of Chapter 3, Probate of Wills and Administration, in the case of a devise to an existing trust or trustee, or to a trustee in trust described by will, the trust or trustee is the devisee, and the beneficiaries are not devisees.

(13) "Disability" means cause for a protective order as described by Section 75-5-401.

(14) "Distributee" means any person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment thereto remaining in his hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For purposes of this provision, "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(15) "Estate" includes the property of the decedent, trust, or other person whose affairs are subject to this title as originally constituted and as it exists from time to time during administration.

(16) "Exempt property" means that property of a decedent's estate which is described in Section 75-2-403.

(17) "Fiduciary" includes a personal representative, guardian, conservator, and trustee.

(18) "Foreign personal representative" means a personal representative of another jurisdiction.

(19) "Formal proceedings" means proceedings conducted before a judge with notice to interested persons.

(20) "General personal representative" does not include a special administrator.

(21) "Governing instrument" means a deed, will, trust, insurance or annuity policy, account with POD designation, security registered in beneficiary form (TOD), pension, profit-sharing, retirement, or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney, a supported decision-making agreement, or a dispositive, appointive, or nominative instrument of any similar type.

(22) (a) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, or by written instrument as provided in Section 75-5-202.5.

(b) "Guardian" does not include a person who is merely a guardian ad litem.

(23) "Heirs," except as controlled by Section 75-2-711, means persons, including the surviving spouse and state, who are entitled under the statutes of intestate succession to the property of a decedent.

(24) "Incapacitated" means a judicial determination after proof by clear and convincing evidence that an adult's ability to do the following is impaired to the extent that the individual lacks the ability, even with appropriate technological assistance, to meet the essential requirements for financial protection or physical health, safety, or self-care:

(a) receive and evaluate information;

(b) make and communicate decisions; or

(c) provide for necessities such as food, shelter, clothing, health care, or safety.

(25) "Incapacity" means incapacitated.

(26) "Informal proceedings" mean a proceeding conducted without notice to interested persons by an officer of the court acting as a registrar for probate of a will or appointment of a personal representative.

(27) (a) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person. The meaning of interested person as it relates to particular persons may vary from time to time and is determined according to the particular purposes of, and matter involved in, any proceeding.

(b) "Interested person" includes persons having priority for appointment as personal representative, other fiduciaries representing interested persons, a settlor of a trust, if living, or the settlor's legal representative, if any, if the settlor is living but incapacitated.

(28) "Issue" means a descendant of an individual.

(29) (a) "Joint tenants with the right of survivorship" includes coowners of property held under circumstances that entitle one or more to the whole of the property on the death of the other.

(b) "Joint tenants with the right of survivorship" does not include forms of coownership registration in which the underlying ownership of each party is in proportion to that party's contribution.

(30) "Lease" includes an oil, gas, or other mineral lease.

(31) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(32) "Minor" means a person who is under 18 years old.

(33) "Minor protected person" means a minor for whom a conservator has been appointed because of minority.

(34) "Minor ward" means a minor for whom a guardian has been appointed solely because of minority.

(35) "Mortgage" means any conveyance, agreement, or arrangement in which property is used as security.

(36) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of the decedent's death.

(37) "Organization" includes a corporation, limited liability company, business trust, estate, trust, partnership, joint venture, association, government or governmental subdivision or agency, or any other legal or commercial entity.

(38) (a) "Parent" includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under this title by intestate succession from the child whose relationship is in question.

(b) "Parent" does not include any person who is only a stepparent, foster parent, or grandparent.

(39) "Payor" means a trustee, insurer, business entity, employer, government, governmental agency or subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

(40) "Person" means an individual or an organization.

(41) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

(42) "Petition" means a written request to the court for an order after notice.

(43) "Proceeding" includes action at law and suit in equity.

(44) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(45) "Protected person" means a person for whom a conservator has been appointed.

(46) "Protective proceeding" means a proceeding described in Section 75-5-401.

(47) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(48) "Registrar" means the official of the court designated to perform the functions of registrar as provided in Section 75-1-307.

(49) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate, and, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt, or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

(50) "Settlement," in reference to a decedent's estate, includes the full process of administration, distribution, and closing.

(51) "Sign" means, with present intent to authenticate or adopt a record other than a will:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(52) "Special administrator" means a personal representative as described in Sections 75-3-614 through 75-3-618.

(53) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or insular possession subject to the jurisdiction of the United States, or a Native American tribe or band recognized by federal law or formally acknowledged by a state.

(54) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(55) "Successors" means persons, other than creditors, who are entitled to property of a decedent under the decedent's will or this title.

(56) "Supervised administration" means the proceedings described in Chapter 3, Part 5, Supervised Administration.

(57) (a) "Survive" means, except for Chapter 6, Part 3, Uniform Transfer on Death Security Registration Act, that an individual has neither predeceased an event, including the death of another individual, nor is considered to have predeceased an event under Section 75-2-104 or 75-2-702.

(b) "Survive" includes its derivatives, such as "survives," "survived," "survivor," and "surviving."

(58) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

(59) "Testator" includes an individual of either sex.

(60) (a) "Trust" includes:

(i) a health savings account, as defined in Section 223of the Internal Revenue Code;

(ii) an express trust, private or charitable, with additions thereto, wherever and however created; or

(iii) a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust.

(b) "Trust" does not include:

(i) a constructive trust;

(ii) a resulting trust;

(iii) a conservatorship;

(iv) a personal representative;

(v) a trust account as defined in Chapter 6, Nonprobate Transfers;

(vi) a custodial arrangement under Title 75A, Chapter 8, Uniform Transfers To Minors Act;

(vii) a business trust providing for certificates to be issued to beneficiaries;

(viii) a common trust fund;

(ix) a voting trust;

(x) a preneed funeral plan under Title 58, Chapter 9, Funeral Services Licensing Act;

(xi) a security arrangement;

(xii) a liquidation trust;

(xiii) a trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind; or

(xiv) any arrangement under which a person is nominee or escrowee for another.

(61) "Trustee" includes an original, additional, and successor trustee, and cotrustee, whether or not appointed or confirmed by the court.

(62) "Ward" means a person for whom a guardian has been appointed.

(63) "Will" includes codicil and any testamentary instrument which merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.

Section 4. Section 75-5-301.5 is amended to read:

75-5-301.5. Rights of a person alleged to be incapacitated -- Rights of an incapacitated person.

(1) Except as otherwise provided by this chapter or any other law, a person alleged to be incapacitated has the right to:

(a) be represented by counsel before a guardianship is imposed and have counsel represent the person during the guardianship proceeding, except as provided in Subsection 75-5-303(6)(e);

(b) receive a copy of all documents filed in a guardianship proceeding;

(c) have a relative, physician, physician assistant, or any interested person speak about or raise any issue of concern on behalf of the person during the guardianship proceeding;

(d) receive information about guardianships from the court; and

(e) be treated with respect and dignity.

(2) For a guardianship granted before May 7, 2025, the rights of an incapacitated person for whom a guardian is appointed are in accordance with the statutory provisions in effect as of the date that the guardianship was granted, including, as applicable, Subsection 75-5-312(1)(c)(i) unless expressly limited by a court in the order of appointment.

(3) Except as otherwise provided by this chapter or any other law, for a guardianship granted on or after May 7, 2025, an incapacitated person for whom a guardian is appointed has the right to:

(a) have counsel represent the incapacitated person at any time after the guardian is appointed;

(b) have a relative, physician, physician assistant, or any interested person speak about or raise any issue of concern on behalf of the person in any court hearing about the guardianship;

(c) receive a copy of all documents filed in court regarding the guardianship;

(d) receive information about guardianships from the court;

(e) ask questions and express concerns or complaints about a guardian and the actions of a guardian to the court;

[~~(f) participate in developing an individualized plan for the incapacitated person's care, including:~~]

[~~(i) managing the incapacitated person's assets and property;~~]

[~~(ii) determining the incapacitated person's residence; and~~]

[~~(iii) determining the services to be received by the incapacitated person;~~]

[~~(g) be given consideration in regards to the incapacitated person's current and previously stated desires, preferences for health care and medical treatment, and religious and moral beliefs;~~]

[~~(h) remain as independent as possible, including giving deference to the incapacitated person's preference for the incapacitated person's residence and standard of living:~~]

[~~(i) as expressed or demonstrated before a determination of capacity was made; or~~]

[~~(ii) as currently expressed or demonstrated by the incapacitated person if the preference is reasonable under the circumstances;~~]

[~~(i)~~](f) be granted the greatest degree of freedom possible that is consistent with the reasons for the guardianship;

[~~(j) be able to exercise control over all aspects of the incapacitated person's life that are not granted to the guardian in the order of appointment;~~]

[~~(k) engage in any activity that the court has not expressly reserved for the guardian, including marriage or domestic partnership, traveling, working, or having a driver license;~~]

[~~(l)~~](g) be treated with respect and dignity;

[~~(m)~~](h) be treated fairly by the incapacitated person's guardian;

[~~(n) maintain privacy and confidentiality in personal matters;~~]

[~~(o) receive telephone calls and personal mail and associate with relatives and acquaintances unless the guardian and the court determine that the association should be restricted or prohibited in accordance with Section 75-5-312.5;~~]

[~~(p) receive timely, effective, and appropriate health care and medical treatment that does not violate the incapacitated person's rights;~~]

[~~(q)~~](i) have all services provided by a guardian at a reasonable rate of compensation;

[~~(r)~~](j) have a court review any request for payment by a guardian to avoid excessive or unnecessary fees or duplicative billing;

[~~(s)~~](k) receive prudent financial management of the incapacitated person's property;

[~~(t)~~](l) subject to Subsections 75-5-312(4)(h) and 75-5-417(4), and subject to the exception provided in Subsection 75-5-312(7)(d), receive a copy of an accounting report regarding the incapacitated person's estate that is submitted to the court by the guardian under Section 75-5-312 or the conservator under Section 75-5-417 if a conservator is appointed for the incapacitated person; and

[~~(u) receive and control the incapacitated person's salary;~~]

[~~(v) maintain a bank account and manage the incapacitated person's personal money; and~~]

[~~(w)~~](m) ask the court to:

(i) review the management activity of a guardian if a dispute cannot be resolved regarding the guardian's management;

(ii) continue to review the need for a guardianship or to modify or terminate a guardianship pursuant to Section 75-5-306 and Section 75-5-307; and

(iii) enter an order restoring the incapacitated person's capacity at the earliest possible time pursuant to Section 75-5-306 and Section 75-5-307.

[~~(3)~~](4) The court may not waive, suspend, or limit a right described in Subsection (3).

(5) Except as otherwise provided by this chapter or any other law, and subject to Subsection (6), for a guardianship granted on or after May 7, 2025, an incapacitated person for whom a guardian is appointed has the right, to the extent practicable, to:

(a) participate in developing an individualized plan for the incapacitated person's care, including:

(i) managing the incapacitated person's assets and property;

(ii) determining the incapacitated person's residence; and

(iii) determining the services to be received by the incapacitated person;

(b) be given consideration in regards to the incapacitated person's current and previously stated desires, preferences for health care and medical treatment, and religious and moral beliefs;

(c) remain as independent as possible, including giving deference to the incapacitated person's preference for the incapacitated person's residence and standard of living:

(i) as expressed or demonstrated before a determination of capacity was made; or

(ii) as currently expressed or demonstrated by the incapacitated person if the preference is reasonable under the circumstances;

(d) be able to exercise control over all aspects of the incapacitated person's life that are not granted to the guardian in an order of appointment of a limited guardianship;

(e) maintain privacy and confidentiality in personal matters, to the extent that privacy and confidentiality does not inhibit the ability of the incapacitated person's guardian to fulfill the guardian's responsibilities or perform the guardian's duties;

(f) receive telephone calls and personal mail and associate with relatives and acquaintances unless the guardian and the court determine that the association should be restricted or prohibited in accordance with Section 75-5-312.5;

(g) receive timely, effective, and appropriate health care and medical treatment that does not violate the incapacitated person's rights;

(h) receive an allowance or control a reasonable amount of the incapacitated person's earnings or other income; and

(i) collaborate with the incapacitated person's guardian to use appropriate financial tools to maintain a bank account and manage the incapacitated person's personal money.

(6) The court may waive or limit a right described in Subsection (5) if:

(a) an interested party requests the waiver or limitation; and

(b) the court finds, by clear and convincing evidence, that there is a compelling reason for the waiver or limitation.

(7) (a) The rights of an incapacitated person under this section do not abrogate any remedy provided by law.

(b) This section may not be interpreted in a way that would permit or justify any action that violates a provision in Sections 76-5-111 through 76-5-111.4 or Section 76-5-112.5.

[~~(4)~~](8) Any right described in this section may be:

(a) addressed in a guardianship proceeding; or

(b) enforced through a private cause of action.

Section 5. Section 75-5-303 is amended to read:

75-5-303. Procedure for court appointment of a guardian of an incapacitated person.

(1) An allegedly incapacitated person or any person interested in [~~the~~]an allegedly incapacitated person's welfare may petition for a finding of incapacity and appointment of a guardian.

(2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity.

(b) Unless the allegedly incapacitated person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding the cost of which shall be paid by the allegedly incapacitated person[~~, alleged to be incapacitated~~], unless the allegedly incapacitated person and the allegedly incapacitated person's parents are indigent.

(c) If the court determines that the petition is without merit, the attorney fees and court costs shall be paid by the person filing the petition.

(d) If the court appoints the petitioner or the petitioner's nominee as guardian of the incapacitated person, regardless of whether the nominee is specified in the moving petition or nominated during the proceedings, the petitioner shall be entitled to receive from the incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting, or defending the petition.

(3) The legal representation of [~~the~~]an allegedly incapacitated person by an attorney shall terminate upon the appointment of a guardian, unless:

(a) there are separate conservatorship proceedings still pending before the court subsequent to the appointment of a guardian;

(b) there is a timely filed appeal of the appointment of the guardian or the determination of incapacity; or

(c) upon an express finding of good cause, the court orders otherwise.

[~~(4) The person alleged to be incapacitated may be examined by a physician or physician assistant appointed by the court who shall submit a report in writing to the court and may be interviewed by a visitor sent by the court. The visitor also may~~]

(4) (a) The court may appoint a health care provider, as that term is defined in Section 75A-3-101, to examine the functional capabilities and limitations of the allegedly incapacitated person.

(b) An appointed health care provider shall submit to the court a report assessing, within the scope of the health care provider's license and experience, the functional capabilities and limitations of the allegedly incapacitated person to, with or without appropriate technological assistance:

(i) receive and evaluate information;

(ii) make and communicate decisions; and

(iii) provide for necessities such as food, shelter, clothing, health care, or safety.

(5) (a) The court may appoint a court visitor to:

(i) interview the person seeking appointment as guardian[~~,~~];

(ii) visit the present place of abode of the allegedly incapacitated person[~~ alleged to be incapacitated~~] and the place it is proposed that the allegedly incapacitated person will be detained or reside if the requested appointment is made[~~,~~]; or

(iii) conduct other investigations or observations as directed by the court[~~, and submit a report in writing to the court~~].

(b) The court visitor shall submit a written report to the court.

[~~(5)~~](6) (a) The allegedly incapacitated person[~~ alleged to be incapacitated~~] shall be present at the hearing [~~in person~~]and see or hear all evidence bearing upon the person's condition.

(b) [~~If the person seeking the guardianship requests a waiver of presence of the person alleged to be incapacitated,~~]The court may only waive the presence of the allegedly incapacitated person if all of the following criteria are met:

(i) the person is represented by an attorney;

(ii) [~~the court shall order an investigation by~~]a court visitor is appointed to investigate, the costs of which shall be paid by the person seeking the guardianship[~~.~~]; and

(iii) following the investigation, the court finds that there is no reasonable accommodation that will enable the allegedly incapacitated person to be present for or participate in the hearing.

[~~(b)~~](c) [~~The investigation by a~~]A court visitor is not required to investigate under Subsection (6)(b)(ii) if there is clear and convincing evidence from a physician that the person alleged to be incapacitated [~~has:~~]is experiencing a state of extended comatosis that is likely to persist through the time of the hearing.

[~~(i) fourth stage Alzheimer's Disease;~~]

[~~(ii) extended comatosis; or~~]

[~~(iii) (A) an intellectual disability; and~~]

[~~(B) an intelligence quotient score under 25.~~]

[~~(c)~~](d) [~~The~~]In addition to the rights described in Section 75-5-301.5, an allegedly incapacitated person[~~ alleged to be incapacitated~~] is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed [~~physician~~]health care provider and the court visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the allegedly incapacitated person[~~ alleged to be incapacitated~~] or the person's counsel so requests.

[~~(d)~~](e) Counsel for the allegedly incapacitated person[~~ alleged to be incapacitated, as defined in Subsection 75-1-201(22),~~] is not required if all of the following criteria are met:

(i) the allegedly incapacitated person is the biological or adopted child of the petitioner;

(ii) the value of the allegedly incapacitated person's entire estate does not exceed $20,000 as established by an affidavit of the petitioner in accordance with Section 75-3-1201;

(iii) the allegedly incapacitated person's appearance at the hearing has not been waived and the person appears in court with the petitioner, as described in Subsection (6)(a);

(iv) the allegedly incapacitated person is given the opportunity to communicate, to the extent possible, the person's acceptance of or objection to the appointment of [~~petitioner~~]the proposed guardian, including the opportunity to communicate that acceptance or objection to the court and, as applicable, to the person's supporters, health care providers, and attorney;

(v) no attorney from the state court's list of attorneys who have volunteered to represent respondents in guardianship proceedings is able to provide counsel to the person within 60 days of the date of the [~~appointment~~]hearing, as described in Subsection (2)(b);

(vi) the court is satisfied that counsel is not necessary [~~in order~~]to protect the interests of the allegedly incapacitated person; and

(vii) the court appoints a court visitor and receives a report from the court visitor under Subsection [~~(4)~~](5).

Section 6. Section 75-5-312 is amended to read:

75-5-312. General powers and duties of guardian -- Penalties.

(1) (a) A guardian of an incapacitated person shall diligently and in good faith carry out the specific duties, powers, and rights that the guardian is granted:

(i) in an order of appointment by a court under Section 75-5-304; and

(ii) under this section.

(b) A court may, in the order of appointment, place specific limitations on the guardian's power, duties, and rights.

(c) (i) Except as provided in this Subsection (1), a guardian has the same powers, rights, and duties respecting the ward that a parent has respecting the parent's unemancipated minor.

(ii) A guardian is not liable to a third person for acts of the guardian's ward solely by reason of the relationship described in Subsection (1)(c)(i).

(d) In carrying out duties, powers, and rights that a guardian is granted, the guardian shall encourage the ward, to the extent practicable, to participate in decisions, exercise self-determination, act on the ward's own behalf, and develop or regain the capacity to manage the ward's personal affairs.

(e) To the extent known, a guardian, in making decisions about the ward, shall consider the expressed desires, preferences, and personal values of the ward.

(2) Except as modified by an order of appointment under Section 75-5-304, a guardian has the following duties and powers:

(a) to the extent that it is consistent with the terms of any order by a court relating to detention or commitment of the ward, a guardian is entitled to custody of the person of the ward and may establish the ward's place of residence within, or outside of, this state, except that the guardian must give consideration to the ward's preference for the ward's place of residence in accordance with Section 75-5-301.5;

(b) if a guardian is entitled to custody of the ward, the guardian shall provide for the care, comfort, and maintenance of the ward and, whenever appropriate, arrange for the ward's training and education;

(c) without regard to custodial rights of the ward's person, a guardian shall take reasonable care of the ward's clothing, furniture,

vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection;

(d) a guardian may give the consent or approval that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service, except that the guardian must:

(i) give consideration to the ward's current and previously stated desires for health care and medical treatment in accordance with Section 75-5-301.5; and

(ii) respect the ward's right to receive timely, effective, and appropriate health care in accordance with Section 75-5-301.5;

(e) a guardian is required to notify any interested person named in the order of appointment under Subsection 75-5-304(4) of any significant health care or treatment received by the ward;

(f) a guardian is required to immediately notify persons who request notification and are not restricted in associating with the ward in accordance with Section 75-5-312.5 of:

(i) the ward's admission to a hospital for three or more days or to a hospice program;

(ii) the ward's death; or

(iii) the arrangements for the disposition of the ward's remains;

(g) a guardian is required to immediately notify all interested persons if the guardian reasonably believes that the ward's death is likely to occur within the next 10 days, based on:

(i) the guardian's own observations; or

(ii) information from the ward's physician or other medical care providers;

(h) a guardian is required to:

(i) unless emergency conditions exist:

(A) file with the court a notice of the guardian's intent to move the ward; and

(B) serve the notice on all interested persons at least 10 days before the day on which the guardian moves the ward; or

(ii) take reasonable steps to:

(A) notify all interested persons of the guardian's intent to move the ward; and

(B) file the notice of the move with the court as soon as practicable following the earlier of the move or the date when the guardian's intention to move the ward is made known to the ward, the ward's care giver, or any other third party;

(i) except as otherwise provided by Section 75-5-312.5, a guardian may not restrict or prohibit a ward's association, as defined in Section 75-5-312.5, with family, relatives, or friends;

(j) if no conservator for the estate of the ward has been appointed, a guardian may:

(i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that duty;

(ii) compel the production of the ward's estate documents, including the ward's will, trust, power of attorney, and any advance health care directive; and

(iii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward, except that:

(A) the guardian may not use funds from the ward's estate for room and board that the guardian or the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one adult relative in the nearest degree of kinship to the ward in which there is an adult; and

(B) the guardian shall exercise care to conserve any excess for the ward's needs;

(k) if no conservator for the estate of the ward has been appointed:

(i) for all estates in excess of $50,000 excluding the residence owned by the ward, a guardian shall send a report with a full accounting to the court on an annual basis; or

(ii) for estates less than $50,000 excluding the residence owned by the ward, a guardian shall fill out an informal annual report and mail the report to the court;

(l) a guardian shall provide an annual accounting of the status of the ward, including a report of the physical and mental condition of the ward, the ward's estate that has been subject to the guardian's possession, the ward's place of residence and others living in the same household, to the court in the petition or the annual report as required under Subsection (2)(k); and

(m) a guardian shall comply with standards set by the National Guardianship Association for guardians to the extent that the standards are applicable to the guardian.

(3) For the purposes of Subsections (2)(f), (g), and (h), an interested person is a person required to receive notice in guardianship proceedings as described in Section 75-5-309.

(4) (a) An accounting report under Subsection (2)(k) shall include a statement regarding:

(i) all assets at the beginning and end of the reporting year;

(ii) any income received during the year;

(iii) any disbursements for the support of the ward;

(iv) any investments or trusts that are held for the ward's benefit;

(v) any expenditures or fees charged to the ward's estate; and

(vi) any other expenses incurred by the ward's estate.

(b) The court may require additional information in an accounting report under Subsection (2)(k).

(c) The Judicial Council shall approve forms for the accounting reports described in Subsection (2)(k).

(d) An annual accounting report under Subsection (2)(k) shall be examined and approved by the court.

(e) If the ward's income is limited to a federal or state program requiring an annual accounting report, a copy of that report may be submitted to the court in lieu of the required annual accounting report under Subsection (2)(k).

(f) (i) A corporate fiduciary is not required to petition the court, but shall submit the corporate fiduciary's internal report annually to the court.

(ii) The report under Subsection (4)(f)(i) shall be examined and approved by the court.

(g) If a fee is paid for an accounting of an estate, a fee may not be charged for an accounting of the status of a ward under Subsection (2)(l).

(h) Upon a motion and after a hearing, the court may alter the frequency of, or the information included in, an accounting report provided to a ward in accordance with Subsection [~~75-5-301.5(2)(t)~~]75-5-301.5(3)(l).

(5) If a conservator has been appointed for a ward:

(a) all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward shall be paid to the conservator for management as provided in this chapter; and

(b) the guardian shall account to the conservator for funds expended.

(6) (a) Any guardian of a person for whom a conservator has been appointed:

(i) shall control the custody and care of the ward; and

(ii) is entitled to receive reasonable sums for services and for room and board furnished to the ward as agreed upon between the guardian and the conservator if the amounts agreed upon are reasonable under the circumstances.

(b) The guardian may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

(7) (a) The court may impose a penalty in an amount not to exceed $5,000 if a guardian:

(i) makes a substantial misstatement on filings of annual reports;

(ii) is guilty of gross impropriety in handling the property of the ward; or

(iii) willfully fails to file the report required by this section after receiving written notice from the court of the failure to file and after a grace period of two months has elapsed.

(b) The court may order restitution of funds misappropriated from the estate of a ward.

(c) A penalty under this Subsection (7) shall be paid by the guardian and may not be paid by the ward or the ward's estate.

(d) The provisions and penalties in Subsection (2)(k) or (l) governing annual reports do not apply if the guardian or a coguardian is the parent of the ward.

(8) A person who refuses to accept the authority of a guardian with authority over financial decisions to transact business with the assets of the ward after receiving a certified copy of letters of guardianship is liable for costs, expenses, attorney fees, and damages if the court determines that the person did not act in good faith in refusing to accept the authority of the guardian.

Section 7. Section 75-5-417 is amended to read:

75-5-417. General duty of conservator.

(1) A conservator shall act as a fiduciary and shall observe the standards of care as set forth in Section 75-7-902.

(2) (a) For all estates in excess of $50,000 excluding the residence owned by the ward, the conservator shall send a report with a full accounting to the court on an annual basis.

(b) For estates less than $50,000 excluding the residence owned by the ward, the conservator shall fill out an informal annual report and mail the report to the court.

(c) A report under Subsection (2)(a) or (b) shall include a statement regarding:

(i) all assets at the beginning and end of the reporting year;

(ii) any income received during the year;

(iii) any disbursements for the support of the ward;

(iv) any investments or trusts that are held for the ward's benefit;

(v) any expenditures or fees charged to the ward's estate; and

(vi) any other expenses incurred by the ward's estate.

(d) The Judicial Council shall approve the forms for the accounting reports described in Subsections (2)(a) and (b).

(e) An annual accounting report under Subsection (2)(a) or (b) shall be examined and approved by the court.

(3) (a) Corporate fiduciaries are not required to fully petition the court, but shall submit their internal report annually to the court.

(b) A report under Subsection (3)(a) shall be examined and approved by the court.

(4) Upon a motion and after a hearing, the court may alter the frequency of, or the information included in, an accounting report provided to a ward in accordance with Subsection [~~75-5-301.5(2)(t)~~]75-5-301.5(3)(l).

(5) (a) The court may impose a fine in an amount not to exceed $5,000, if, after receiving written notice of the failure to file and after a grace period of two months have elapsed, a conservator or corporate fiduciary:

(i) makes a substantial misstatement on filings of any required annual reports;

(ii) is guilty of gross impropriety in handling the property of the ward; or

(iii) willfully fails to file the report required by this section.

(b) The court may also order restitution of funds misappropriated from the estate of a ward.

(c) The penalty shall be paid by the conservator or corporate fiduciary and may not be paid by the estate.

(6) These provisions and penalties governing annual reports do not apply if the conservator is the parent of the ward.

Section 8. Section 75-5-701 is enacted to read:

PART 7. Supported Decision-making Agreements

75-5-701. Definitions.

As used in this part:

(1) "Abuse" means the same as that term is defined in Section 26B-6-201.

(2) "Coercion" means influencing or attempting to influence a principal using force, threats, or intimidation.

(3) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(4) "Exploitation" means the same as that term is defined in Section 26B-6-201.

(5) "Good faith" means honesty in fact in the conduct or transaction concerned.

(6) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, 50 Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(7) "Neglect" means the same as that term is defined in Section 26B-6-201.

(8) "Principal" means an individual who:

(a) is 18 years old or older;

(b) has a disability, as that term is defined in Section 26B-6-801; and

(c) has entered into a supported decision-making agreement with at least one supporter.

(9) "Protected health information" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(10) (a) "Solicit" means to ask, command, encourage, importune, urge, or request.

(b) "Solicit" does not include providing information, materials, resources, or education materials to an individual.

(11) "Qualifying person" means a person who has a legal right to receive notice regarding, or legal decision-making authority for, an individual seeking to enter into a supported decision-making agreement, which may include:

(a) the agent for a power of attorney;

(b) the agent for an advance health care directive; or

(c) the personal representative of a will or the trustee of a trust.

(12) "Supported decision-making" means the process of supporting and accommodating an individual in the decision-making process to make, communicate, and effectuate life decisions, without impeding the self-determination of the individual.

(13) "Supported decision-making agreement" means an agreement between a principal and at least one supporter, subject to the requirements described in Section 75-5-704.

(14) "Supporter" means an individual:

(a) who is 18 years old or older;

(b) who is not being paid to provide support to the principal, unless the individual is receiving caregiver compensation through the Division of Services for People with Disabilities or is a sibling of the principal who cares for the principal;

(c) who does not have any of the following:

(i) a substantiated allegation of abuse, neglect, or exploitation;

(ii) a protective or restraining order; or

(iii) a conviction for:

(A) harm of another;

(B) theft; or

(C) financial crime; and

(d) who has agreed to provide specified assistance to a principal by entering into a supported decision-making agreement with the principal.

(15) "Undue influence" means the same as that term is defined in Section 26B-6-201.

Section 9. Section 75-5-702 is enacted to read:

75-5-702. Purposes of part.

The purposes of this part are to:

(1) provide a principal assistance in:

(a) gathering and assessing information;

(b) understanding options, responsibilities, and consequences of a decision; and

(c) communicating decisions for a principal if the principal wants assistance with communicating decisions;

(2) give a supporter legal status, as specified in a supported decision-making agreement, to be with a principal, to access information on behalf of a principal, and to participate in discussions with others when a principal is making decisions or seeking to obtain information; and

(3) enable a supporter to assist in making and communicating decisions for a principal, but not to substitute as the decision maker for a principal.

Section 10. Section 75-5-703 is enacted to read:

75-5-703. Interpretation of part.

This part shall be construed and applied in accordance with the following principles:

(1) a principal should be able to:

(a) live in the manner in which the principal wishes; and

(b) make decisions about accepting or refusing support, assistance, or protection, as long as doing so does not cause serious bodily injury, as that term is defined in Section 26B-5-301, to the principal, or harm to others;

(2) a principal should be informed about and, to the best of the principal's abilities, participate in the management of the principal's affairs;

(3) a principal should receive the most effective, yet least restrictive and intrusive, form of support, assistance, or protection when the principal is unable to manage the principal's affairs alone; and

(4) the values, beliefs, wishes, cultural norms, and traditions that a principal holds should be respected in supporting the principal.

Section 11. Section 75-5-704 is enacted to read:

75-5-704. Supported decision-making agreement.

(1) Subject to Subsections (2) and (6), an individual may enter into a supported decision-making agreement at any time if:

(a) the individual enters into the agreement voluntarily, without coercion or undue influence, and without being solicited to enter into

the agreement; and

(b) the individual understands the nature and effect of the agreement.

(2) (a) If the individual seeking to enter into a supported decision-making agreement has a court-appointed guardian, court-appointed conservator, or qualifying person, the guardian, conservator, or qualifying person shall be given:

(i) notice and an opportunity to participate in all discussions related to a proposed supported decision-making agreement; and

(ii) 14 days to review a proposed supported decision-making agreement to determine whether the proposed agreement includes an area over which the guardian, conservator, or qualifying person has been granted legal decision-making authority.

(b) If a guardian, conservator, or qualifying person determines, pursuant to Subsection (2)(a), that a proposed supported decision-making agreement includes an area over which the guardian, conservator, or qualifying person has been granted decision-making authority:

(i) the supported decision-making agreement is not valid without the signature of the guardian, conservator, or qualifying person; and

(ii) the proposed supported decision-making agreement shall describe how the guardian, conservator, or qualifying person will be provided timely notice of and an opportunity to participate in any discussion between parties to the supported decision-making agreement that relate to an area over which the guardian, conservator, or qualifying person has been granted legal decision-making authority.

(c) If a guardian, conservator, or qualifying person described in Subsection (2)(a)determines that a proposed supported decision-making agreement includes an area over which the guardian, conservator, or other person has not been granted legal decision-making authority, nothing in this part shall be construed to:

(i) require that the guardian, conservator, or qualifying person be excluded from any discussion relating to that area; or

(ii) preclude the parties to the proposed supported decision-making agreement from giving the guardian, conservator, or qualifying person notice and an opportunity to participate in any discussion relating to that area.

(3) A supported decision-making agreement shall:

(a) be in writing;

(b) state the date on which the agreement is effective;

(c) designate at least one supporter;

(d) describe:

(i) how the principal uses supported decision-making to make decisions;

(ii) the rights of the principal;

(iii) the responsibilities of each supporter;

(iv) the decision-making supports and accommodations the principal chooses to receive from each supporter;

(v) the types of decisions, if any, with which a supporter is not authorized to assist the principal;

(e) include the ink or electronic signature of:

(i) the individual seeking to enter into the supported decision-making agreement;

(ii) each supporter;

(iii) a guardian, conservator, or qualifying person, if required under Subsection (2); and

(iv) (A) two witnesses; or

(B) a notary public; and

(f) describe how any perceived or actual conflict of interest between a supporter and the principal will be mitigated.

(4) (a) A supported decision-making agreement executed other than in this state is valid in this state if, when the supported decision-making agreement was executed, the execution complied with the law of the jurisdiction that determines the meaning and effect of the supported decision-making agreement.

(b) The meaning and effect of a supported decision-making agreement is determined by the law of the jurisdiction indicated in the supported decision-making agreement and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the supported decision-making agreement was executed.

(5) (a) A supported decision-making agreement may include a release or other document by which the principal authorizes a supporter to access the principal's confidential information, subject to the terms of the supported decision-making agreement described in Subsection (3) and the supporter's duties described in Section 75-5-705.

(b) Before a covered entity may share a principal's protected health information with a supporter, the principal shall sign a HIPAA consent form authorizing release of the protected health information to the supporter.

(c) Nothing in this part shall be construed to alter or preempt the requirements for protecting health information under HIPAA.

(6) Each supporter shall include with the supporter's signature:

(a) a description of the supporter's relationship to the principal;

(b) a statement of the supporter's willingness to act as a supporter;

(c) an acknowledgment of the supporter's duties; and

(d) an attestation that the supporter:

(i) agrees to honor the right of the principal to make decisions;

(ii) will not make decisions for the principal, including health care decisions; and

(iii) will respect and work to further the independence of the principal.

(7) A supported decision-making agreement may do one or more of the following:

(a) specify a time period for which the supported decision-making agreement is valid;

(b) designate more than one supporter;

(c) designate an alternate individual to act in the place of a supporter under circumstances specified in the supported decision-making agreement; or

(d) authorize a supporter to share information with another supporter or other individual named in the supported decision-making agreement.

Section 12. Section 75-5-705 is enacted to read:

75-5-705. Supporter duties.

(1) A supporter shall:

(a) act with the care, competence, and diligence ordinarily exercised by individuals in similar circumstances, and in accordance with the supporter's skills or expertise;

(b) act in good faith;

(c) comply with the terms of the supported decision-making agreement;

(d) maintain records, which the supporter shall make available to the principal upon request, concerning:

(i) the supporter's actions under the supported decision-making agreement; and

(ii) how the principal communicates and expresses opinions to the supporter; and

(e) ensure that all information collected on behalf of the principal pursuant to the supported decision-making agreement and this section is:

(i) kept confidential, as appropriate;

(ii) not subject to unauthorized access, use, or disclosure; and

(iii) properly disposed of when appropriate.

(2) Except as otherwise provided in the supported decision-making agreement or Subsection (3), a supporter may, as directed by the principal:

(a) assist the principal in understanding information, options, responsibilities, and consequences of the principal's life decisions, including decisions relating to the principal's affairs or supportive services;

(b) help the principal access, obtain, and understand information that is relevant to a life decision, including medical, psychological, financial, or educational decisions, or any treatment records or records related to the management of the principal's affairs or supportive services;

(c) assist the principal with finding, obtaining, and making appointments for supportive services, and implement the principal's plans for supportive services;

(d) help the principal monitor information about the principal's affairs or supportive services, including tracking future necessary or recommended services;

(e) ascertain the wishes and decisions of the principal, assist in communicating those wishes and decisions to others, and advocate to ensure that the wishes and decisions of the principal are implemented; or

(f) assist the principal with obtaining information to which the principal is entitled.

(3) A supporter may not:

(a) coerce, exploit, exert undue influence on, or make decisions on behalf of the principal;

(b) sign for the principal or provide an electronic signature of the principal to a third party;

(c) make health care decisions for the principal; or

(d) without the principal's consent:

(i) obtain information that is not reasonably related to matters with which the supporter is authorized to support or assist the principal pursuant to the supported decision-making agreement;

(ii) use information acquired in connection with the supported decision-making agreement for a purpose other than supporting or assisting the principal pursuant to the supported decision-making agreement; or

(iii) delegate the supporter's duties to a third party.

Section 13. Section 75-5-706 is enacted to read:

75-5-706. Revocation -- Withdrawal.

(1) A principal may revoke a supported decision-making agreement at any time by providing written notice to all other parties to the agreement.

(2) A supporter may withdraw from a supported decision-making agreement at any time by providing written notice to all other parties to the agreement.

(3) A written notice of revocation or withdrawal under this section may be provided by electronic means.

Section 14. Section 75-5-707 is enacted to read:

75-5-707. Termination.

Unless otherwise provided in the supported decision-making agreement, a supported decision-making agreement is terminated upon the occurrence of any of the following:

(1) the death of the principal;

(2) revocation by the principal pursuant to Section 75-5-706;

(3) as to a specific supporter, if the supporter is no longer qualified by reason of failure to meet the requirements described in Subsection 75-5-701(14);

(4) withdrawal by all of the supporters pursuant to Section 75-5-706 without the designation of a successor supporter;

(5) the principal's execution of a valid power of attorney, healthcare directive, or declaration for mental health treatment, except to the extent the executed document expressly continues, in whole or in part, the supported decision-making agreement; or

(6) a court's:

(a) determination that the principal does not have capacity to execute or consent to a supported decision-making agreement; or

(b) appointment of a temporary or permanent guardian or conservator, unless the court's order of appointment:

(i) modifies but continues the supported decision-making agreement; and

(ii) limits the powers and duties of the guardian.

Section 15. Section 75-5-708 is enacted to read:

75-5-708. Impact of supported decision-making agreement.

(1) A decision or request made or communicated by a principal with the assistance of a supporter in accordance with the terms of a supported decision-making agreement and this part shall, for the purposes of any provision of law, be recognized as the decision or request of the principal and may be enforced on the same basis as a decision or request of the principal without support.

(2) The availability of a supported decision-making agreement does not limit the informal use of supported decision making, or preclude judicial consideration of informal supported decision-making arrangements as a less restrictive alternative to a guardianship or conservatorship.

(3) Execution of a supported decision-making agreement may not be a condition of participating in any activity, service, or program.

(4) A court may not consider an individual's execution of a supported decision-making agreement as evidence of the individual's incapacity.

(5) The existence of a supported decision-making agreement does not preclude the principal from acting independently of the supported decision-making agreement.

Section 16. Section 75-5-709 is enacted to read:

75-5-709. Liability.

(1) A person who is not a party to a supported decision-making agreement, including a provider of health care or financial services, that in good faith accepts or relies upon a supported decision-making agreement:

(a) may presume that the signatures on the supported decision-making agreement are genuine, unless the person has actual knowledge that any signature on the supported decision-making agreement is not genuine;

(b) may presume that a supported decision-making agreement is valid and that a purported supporter's authority is valid, unless the person has actual knowledge that the supported decision-making agreement or the purported supporter's authority has been revoked, terminated, or is otherwise void or invalid; and

(c) is not subject to civil or criminal liability, or discipline for unprofessional conduct, for giving effect to a provision in a supported decision-making agreement, or for following the direction of a supporter given in accordance with the supported decision-making agreement.

(2) If a person has reason to believe a principal is or has been the subject of abuse, neglect, or exploitation, or observes a principal being subjected to conditions or circumstances that would reasonably result in abuse, neglect, or exploitation, the person shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective Services.

(3) The provisions of this part may not be construed to affect mandatory reporting obligations related to abuse, neglect, or exploitation.

(4) A supporter who violates this part or the terms of a supported decision-making agreement is liable to the principal or the principal's successor in interest for the amount required to restore the value of the principal's property to what it would have been had the violation not occurred.

(5) A transaction between a supporter and a principal that occurs while a supported decision-making agreement is in effect, or while the supporter is in a position of trust with the principal, and from which the supporter obtains a benefit or advantage, is voidable by the principal unless the supporter establishes that the transaction was fair to the principal.

Section 17. Effective date.

This bill takes effect on May 7, 2025.

CHAPTER 534
S. B. 35
Passed March 5, 2025
Approved March 27, 2025
Effective July 1, 2025

STATEWIDE ONLINE EDUCATION PROGRAM MODIFICATIONS

Chief Sponsor: John D. Johnson
House Sponsor: Tiara Auxier

LONG TITLE

General Description:

This bill amends the small school portion of the Statewide Online Education Program.

Highlighted Provisions:

This bill:

- ► requires the state board to establish funding priorities;
- ► creates an annual assessment process for school needs;
- ► provides for a report to the Education Interim Committee; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill contains a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-4-518, as last amended by Laws of Utah 2024, Chapter 24

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-4-518 is amended to read:

53F-4-518. Small school student access to courses.

Subject to legislative appropriations and Subsection 53F-4-514(2), and notwithstanding Subsections 53F-4-509(2) and (3), the state board shall:

(1) use funds from an appropriation for the Statewide Online Education Program to pay for an online course fee described in Section 53F-4-505 for a student who is enrolled in a public high school that enrolls fewer than 1,000 students;[~~and~~]

(2) after the funds described in Subsection (1) have been expended, make a deduction as described in Subsection 53F-4-507(3)[~~,~~];

(3) establish a prioritized funding distribution system that evaluates and ranks schools based on:

(a) the school's demonstrated inability to provide courses, including Advanced Placement, International Baccalaureate, or Concurrent Enrollment due to:

(i) insufficient student enrollment to justify full course sections;

(ii) geographic isolation from qualified instructors;

(iii) limited staff capacity to teach courses; or

(iv) financial constraints in hiring qualified instructors; and

(b) the school's current access to college and career readiness programming;

(4) develop an annual assessment process to:

(a) identify schools with the highest demonstrated need based on the criteria in Subsection (3); and

(b) adjust funding priorities based on program outcomes;

(5) establish reporting requirements for recipient schools to:

(a) document the use of allocated funds;

(b) track student participation in online courses;

(c) measure student achievement in funded courses; and

(d) demonstrate ongoing need for continued funding; and

(6) at the request of the Education Interim Committee, submit a report that includes:

(a) a list of schools receiving prioritized funding;

(b) the basis for funding prioritization;

(c) student participation and achievement data; and

(d) recommendations for program improvement.

Section 2. Effective Date.

This bill takes effect on July 1, 2025.

CHAPTER 535
H. B. 356
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

COUNTY GOVERNANCE AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions relating to forms of county government.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► provides that in a county of the third through sixth class with a council-manager form of government, each council member must be elected by a voter district;
- ► establishes a process for a county of the third through sixth class with a council-manager form of government to create voter districts;
- ► modifies the composition of a study committee formed to study changing the form of county government; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-52a-204, as last amended by Laws of Utah 2020, Chapter 67
17-52a-403, as last amended by Laws of Utah 2020, Chapter 47
17-52a-404, as last amended by Laws of Utah 2020, Chapter 47

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-52a-204 is amended to read:

17-52a-204. Council-manager form of county government -- Establishment of voting districts.

(1) As used in this section, "district" means a geographic area within the boundaries of a county with a council-manager form of government that is represented only by one council member who is a resident of the area.

[~~(1)~~](2) (a) The following shall govern a county operating under the form of government known as the "council-manager" form:

(i) an elected county council;

(ii) a county manager appointed by the council; and

(iii) other officers and employees authorized by law.

(b) The optional plan shall provide for the qualifications, time and manner of appointment subject to Subsections [~~(6)~~](7) and [~~(7)~~](8), term of office, compensation, and removal of the county manager.

[~~(2)~~](3) The county manager is the administrative head of the county government and has the powers, functions, and duties of a county executive, except:

(a) as the county legislative body otherwise provides by ordinance; and

(b) that the county manager may not veto any ordinances enacted by the council.

[~~(3)~~](4) (a) An individual member of the council may not directly or indirectly, by suggestion or otherwise:

(i) attempt to influence or coerce the manager in:

(A) making any appointment;

(B) removing any officer or employee; or

(C) purchasing supplies;

(ii) attempt to exact any promise relative to any appointment from any candidate for manager; or

(iii) discuss directly or indirectly with the manager the matter of specific appointments to any county office or employment.

(b) (i) A member of the county council who violates the provisions of this Subsection [~~(3)~~](4) shall forfeit the member's county council office.

(ii) Nothing in this section shall be construed, however, as prohibiting the council from fully and freely discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county.

(iii) The county manager may not take part in securing, or contributing any money toward, the nomination or election of any candidate for a county office.

(iv) The optional plan may provide procedures for implementing this Subsection [~~(3)~~](4).

[~~(4)~~](5) In the council-manager form of county government:

(a) the legislative powers of the county are vested in the county council; and

(b) the executive powers of the county are vested in the county manager.

[~~(5)~~](6) A reference in statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the council-manager form of county government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county manager, with respect to executive functions, duties, and powers.

[~~(6)~~](7) (a) As used in this Subsection [~~(6)~~](7), "interim vacancy period" means the period of time that:

(i) begins on the day on which a general election described in Section 17-16-6 is held to elect a council member; and

(ii) ends on the day on which the council member-elect begins the council member's term.

(b) (i) The county council may not appoint a county manager during an interim vacancy period.

(ii) Notwithstanding Subsection [~~(6)(b)(i)~~](7)(b)(i):

(A) the county council may appoint an interim county manager during an interim vacancy period; and

(B) the interim county manager's term shall expire once a new county manager is appointed by the new administration after the interim vacancy period has ended.

(c) Subsection [~~(6)(b)~~](7)(b) does not apply if all the county council members who held office on the day of the county general election whose term of office was vacant for the election are re-elected to the council for the following term.

[~~(7)~~](8) A county council that appoints a county manager in accordance with this section may not[~~, on or after May 10, 2011,~~] enter into an employment contract that contains an automatic renewal provision with the county manager.

(9) A county of the third through sixth class with a council-manager form of government shall ensure that each council member:

(a) represents a single district, rather than being elected at large;

(b) is elected by a majority vote of voters residing within the member's district; and

(c) is a resident of the district the council member represents.

(10) (a) For a county with a council-manager form of government that, on May 7, 2025, does not meet the requirements described in Subsection (9), the county council shall, on or before June 1, 2025:

(i) in accordance with Subsection (10)(b), establish a county districting commission; and

(ii) in accordance with Subsection (10)(c)(i), approve a map of the county council districts.

(b) (i) A county council shall comply with Subsection (10)(a)(i) by establishing a county districting commission, consisting of:

(A) one representative from each municipality in the county, who is either the municipality's mayor or a resident whom the mayor appoints;

(B) one representative who resides in an unincorporated area of the county and is appointed by the county council; and

(C) the county clerk, or the county clerk's designee, as a non-voting member.

(ii) The county districting commission shall divide the county into districts by:

(A) relying on the total population enumeration of the most recent decennial census;

(B) ensuring that between districts, there is less than 10% total population deviation;

(C) ensuring that each district is contiguous and reasonably compact;

(D) ensuring that district boundaries do not divide existing voter precincts; and

(E) complying with the United States Constitution.

(iii) The county districting commission shall submit a proposed map of district boundaries to the county council for approval for the initial districting process, on or before October 1, 2025.

(iv) The county manager shall provide for the county districting commission:

(A) county staff for assistance; and

(B) suitable meeting facilities.

(c) After receiving the district map described in Subsection (10)(b)(iii), the county council shall, within 30 calendar days after the day on which the county council receives the map, hold a public hearing, at which:

(i) the county council shall approve the district map if the map complies with the requirements described in Subsection (10)(b)(ii); and

(ii) the county clerk shall designate, by lot, a current county council member to represent each district for the remainder of the council member's term of office, regardless of whether the council member is a resident of that district.

(11) After the adoption of a district map under Subsection (10)(c)(i), at an election in which a county council position is subject to an election:

(a) each candidate for that position must reside in the district that the position represents; and

(b) the council member for the district shall be elected by a majority vote of voters residing in the district.

(12) (a) After creating districts and adopting a district map under Subsections (10) and (11), a county described in Subsection (10) may not redistrict until an official decennial census publicly releases population data for the county, unless otherwise required by law.

(b) Each time a county described in Subsection (10)(a) conducts redistricting for the county council districts, the county council shall redistrict by:

(i) adjusting districts in accordance with Subsections (10)(b)(ii)(A), (B), (C), and (E); and

(ii) after drawing a proposed map of district boundaries, holding a public hearing, at which the county council shall approve the map as proposed, or revise the map and approve the revised map.

Section 2. Section 17-52a-403 is amended to read:

17-52a-403. Study committee -- Members -- Powers and duties -- Proposed plan and report -- Services provided by county.

(1) (a) As used in this Subsection (1), "council of governments" means the same as that term is defined in Section 17B-2a-802.

[~~(a)~~](b) A study committee consists of:

(i) for a study committee established by the county legislative body under Section 17-52a-302[~~, five members appointed by the county legislative body; or~~]:

(A) two members appointed by the county legislative body, who each may be either a member of the county legislative body or an individual appointed by the county legislative body; and

(B) three members appointed by the county's council of governments, who each may be either a member of the county's council of governments or an individual appointed by the county's council of governments; or

(ii) for a study committee established by the registered voters through a petition under Section 17-52a-303:

(A) [~~two members~~]one member appointed by the sponsors of the petition; and

[~~(B) two members appointed by the county legislative body; and~~]

[~~(C)~~](B) [~~one member~~]four members appointed by the county's council of governments.

[~~(b)~~](c) A member of a study committee:

(i) may not receive compensation for service on the study committee;

(ii) may not hold an elected county office or have filed a current declaration of candidacy for an elected county office; and

(iii) shall be a registered voter.

[~~(c)~~](d) The county legislative body shall reimburse each member of a study committee for necessary expenses incurred in performing the member's duties on the study committee.

(2) A study committee may:

(a) adopt rules for the study committee's own organization and procedure and to fill a vacancy in its membership;

(b) establish advisory boards or committees and include on the advisory boards or committees persons who are not members of the study committee; and

(c) request the assistance and advice of any officers or employees of any agency of state or local government.

(3) (a) A study committee shall:

(i) study the form of government within the county and compare it with other forms available under this chapter;

(ii) determine whether the administration of local government in the county could be strengthened, made more clearly responsive or accountable to the people, or significantly improved in the interest of economy and efficiency by a change in the form of county government;

(iii) hold public hearings and community forums and other means the committee considers appropriate to disseminate information and stimulate public discussion of the committee's purposes, progress, and conclusions; and

(iv) file a written report of the study committee's findings and recommendations with the county executive, the county legislative body, and the county clerk no later than one year after the convening of the study committee's first meeting under Section 17-52a-402.

(b) Within 10 days after the day on which the study committee submits the study committee's report under Subsection (3)(a)(iv), if the report recommends a change in the form of county government, the county clerk shall send to the county attorney a copy of the optional plan recommended in the report for review in accordance with Section 17-52a-406.

(4) Each study committee report under Subsection (3)(a)(iv) shall include:

(a) the study committee's recommendation as to whether the form of county government should be changed to another form authorized under this chapter;

(b) if the study committee recommends changing the form of government, a complete detailed draft of a proposed optional plan to change the form of county government, including all necessary implementing provisions; and

(c) any additional recommendations the study committee considers appropriate to improve the efficiency and economy of the administration of local government within the county.

(5) (a) If the study committee's report recommends a change in the form of county government, the study committee may conduct additional public hearings after filing the report under Subsection (3)(a)(iv) and, following the hearings and subject to Subsection (5)(b), alter the report or proposed optional plan.

(b) Notwithstanding Subsection (5)(a), the study committee may not make an alteration to the report or proposed optional plan:

(i) that would recommend the adoption of an optional form different from that recommended in the original report; or

(ii) within the 160-day period before the election under Section 17-52a-501.

(6) Each meeting that the study committee holds shall be open to the public.

(7) If the study committee's report does not recommend a change in the form of county government, the report is final, the study committee is dissolved, and the process to change the county's form of government is concluded.

(8) The county legislative body shall provide for the study committee:

(a) suitable meeting facilities;

(b) necessary secretarial services;

(c) necessary printing and photocopying services;

(d) necessary clerical and staff assistance; and

(e) adequate funds for the employment of independent legal counsel and professional consultants that the study committee reasonably determines to be necessary to help the study committee fulfill its duties.

(9) The county legislative body may not interfere with the work of the study committee.

Section 3. Section 17-52a-404 is amended to read:

17-52a-404. Contents of proposed optional plan.

(1) The study committee or the sponsors of a petition described in Subsection 17-52a-303(1)(a)(ii) shall ensure that an optional plan the committee or registered voters propose under this chapter, respectively:

(a) proposes the adoption of one of the forms of county government authorized in Subsection 17-52a-405(1)(a);

(b) contains detailed provisions relating to the transition from the existing form of county government to the form proposed in the optional plan, including provisions relating to the:

(i) election or appointment of officers specified in the optional plan for the new form of county government;

(ii) retention, elimination, or combining of existing offices and, if an office is eliminated, the division or department of county government responsible for performing the duties of the eliminated office;

(iii) continuity of existing ordinances and regulations;

(iv) continuation of pending legislative, administrative, or judicial proceedings;

(v) making of interim and temporary appointments; and

(vi) preparation, approval, and adjustment of necessary budget appropriations;

(c) specifies the date the optional plan becomes effective if adopted, which may not be earlier than the first day of January next following the election of officers under the new plan; and

(d) notwithstanding any other provision of this title and except with respect to an optional plan that proposes the adoption of the county commission or expanded county commission form of government, with respect to the county budget provides that:

(i) the county executive's role is to prepare and present a proposed budget to the county legislative body; and

(ii) the county legislative body's role is to adopt a final budget.

(2) Subject to Subsection (3), an optional plan may include provisions that are considered necessary or advisable to the effective operation of the proposed optional plan.

(3) An optional plan may not:

(a) include any provision that is inconsistent with or prohibited by the Utah Constitution or any statute;

(b) if the optional plan is proposed after March 20, 2020:

[~~(b)~~](i) specify compensation, including benefits, for any appointed or elected county official; or

[~~(c)~~](ii) specify the full or part-time status of any appointed or elected county official; or

[~~(d)~~](c) if the optional plan specifies that county council or commission members are to be elected from districts, establish, divide, abolish, alter, change, or otherwise attempt to draw boundaries of election districts or impair the duties of the county legislative body as described in Section 17-52a-503.

(4) The optional plan proponent described in Subsection (1) shall ensure that an optional plan proposing to change the form of government to the county executive-council form under Section 17-52a-203 or the council-manager form under Section 17-52a-204:

(a) provides for the same executive and legislative officers as are specified in the applicable section for the form of government that the optional plan proposes;

(b) provides for the election of the county council;

(c) specifies the number of county council members, which shall be an odd number from three to nine;

(d) subject to [~~Subsection (3)(d)~~]Subsection (3)(c), and except as provided in Section 17-52a-204, specifies whether the members of the county council are to be elected from districts, at large, or by a combination of at large and by district;

(e) specifies county council members' qualifications and terms and whether the terms are to be staggered; and

(f) contains procedures for filling vacancies on the county council, consistent with the provisions of Section 20A-1-508.

(5) The optional plan proponent described in Subsection (1) shall ensure that an optional plan proposing to change the form of government to the county commission form under Section 17-52a-201 or the expanded county commission form under Section 17-52a-202specifies:

(a) (i) for the county commission form of government, that the county commission shall have three members; or

(ii) for the expanded county commission form of government, whether the county commission shall have five or seven members;

(b) the terms of office for county commission members and whether the terms are to be staggered;

(c) subject to Subsection [~~(3)(d)~~](3)(c), whether members of the county commission are to be elected from districts, at large, or by a combination of at large and from districts;

(d) if any members of the county commission are to be elected from districts, the district residency requirements for those commission members; and

(e) if any members of the county commission are to be elected at large, whether the election of county commission members is subject to the provisions of Subsection 17-52a-201(6) or Subsection 17-52a-202(6).

Section 4. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 536
H. B. 388
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

ANTIQUITIES PROTECTION AMENDMENTS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill amends provisions related to historic preservation.

Highlighted Provisions:

This bill:

- ► directs the State Historic Preservation Office (office) to conduct a statewide public awareness media campaign to educate and inform the public on issues relating to cultural sites;
- ► requires the office to provide seminars and training to agencies, organizations, and individuals on the preservation and protection of cultural sites; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-8a-203, as last amended by Laws of Utah 2024, Chapter 323

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-8a-203 is amended to read:

9-8a-203. Office duties.

The office shall:

(1) secure, for the present and future benefit of the state, the protection of archaeological resources and sites which are on state lands;

(2) foster increased cooperation and exchange of information between state authorities, the professional archaeological community, and private individuals;

(3) in cooperation with federal and state agencies, local governments, private organizations, and private individuals, direct and conduct a comprehensive statewide survey of historic properties;

(4) maintain an inventory of the properties described in Subsection (3);

(5) identify and nominate eligible property to the National Register of Historic Places;

(6) administer applications for listing historic property on the National Register of Historic Places;

(7) prepare and implement a comprehensive statewide historic preservation plan;

(8) administer the state program of federal assistance for historic preservation within the state;

(9) advise and assist, as appropriate, state agencies, federal agencies, and local governments in carrying out [~~their~~]the state agency's, federal agency's, and local government's historic preservation responsibilities;

(10) cooperate with federal agencies, state agencies, local agencies, private organizations, and individuals to ensure that historic property is taken into consideration at all levels of planning and development;

[~~(11) provide, with respect to historic preservation:~~]

[~~(a) public information;~~]

[~~(b) education;~~]

[~~(c) training; and~~]

[~~(d) technical assistance;~~]

(11) conduct a state-wide public awareness media campaign to:

(a) educate the public regarding the protection, purpose, significance, and value of preserving cultural sites, as that term is defined in Section 9-8a-205;

(b) inform the public of the law with regard to criminal acts and penalties in Title 76, Chapter 6, Part 9, Cultural Sites Protection; and

(c) educate the public on how to report criminal acts;

(12) provide educational seminars and training to state agencies, local agencies, private organizations, and individuals regarding the preservation and protection of state cultural sites;

[~~(12)~~](13) cooperate with local governments in the development of local historic preservation programs;

[~~(13)~~](14) consult with appropriate federal agencies with respect to:

(a) federal undertakings that may affect historic properties; and

(b) advising and assisting in the evaluation of proposals for rehabilitation projects that may qualify for federal assistance;

[~~(14)~~](15) (a) create and maintain an inventory of all active and inactive cemeteries throughout the state;

(b) enter into cooperative agreements with local governments and other groups and organizations to collect and maintain the information needed for the inventory described in Subsection [~~(14)(a)~~](15)(a);

(c) encourage the use of volunteers to help collect the information and to maintain the inventory described in Subsection [~~(14)(a);~~](15)(a);

(d) encourage cemetery owners, or in the case of inactive or small historic cemeteries, volunteers, to create and maintain geographic information systems to record burial sites;

(e) publicize the information in the inventory described in Subsection [~~(14)(a)~~](15)(a) in a variety of forms and media, especially to encourage Utah citizens to participate in the care and upkeep of historic cemeteries;

(f) work with public and private cemeteries, heritage organizations, genealogical groups, and volunteer groups to help maintain, repair, and landscape cemeteries, grave sites, and tombstones; and

(g) make the inventory described in Subsection [~~(14)(a)~~](15)(a) available to any person upon request;

[~~(15)~~](16) (a) create and maintain a public electronic record of each cemetery location and each burial location;

(b) help maintain, repair, and landscape cemeteries, grave sites, and tombstones by providing matching grants to:

(i) municipal cemeteries;

(ii) cemetery maintenance districts;

(iii) endowment care cemeteries;

(iv) private nonprofit cemeteries;

(v) genealogical associations; or

(vi) other nonprofit groups with an interest in cemeteries; and

(c) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the process for awarding grants under Subsection (15)(b), including rules that ensure recipients use grant money for projects that are cost effective and completed in accordance with applicable professional standards;

[~~(16)~~](17) perform other duties as designated under 54 U.S.C. Sec. 302303; and

[~~(17)~~](18) perform other duties as designated by the department and by statute.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 537
S. B. 68
Passed February 14, 2025
Approved March 27, 2025
Effective May 7, 2025

CHILD WELFARE WORKER PROTECTIONS

Chief Sponsor: Evan J. Vickers
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill addresses certain crimes committed against child welfare workers.

Highlighted Provisions:

This bill:

- ► separates the crime of assault or threat of violence against a child welfare worker into two sections;
- ► amends the elements required to commit the offense of assault against a child welfare worker and includes committing an assault against a family member of a child welfare worker as part of the offense;
- ► amends the current statutory requirements for the offense of threatening a child welfare worker to include threatening a family member of a child welfare worker as part of the offense; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-8-318, as last amended by Laws of Utah 2024, Chapter 96

ENACTS:

76-8-318.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-8-318 is amended to read:

76-8-318. Assault against a child welfare worker or a family member of a child welfare worker.

(1) (a) As used in this section:

(i) "Assault" means an offense under Section 76-5-102.

(ii) "Child welfare worker" means an employee of the Division of Child and Family Services created in Section 80-2-201.

[~~(iii) "Threat of violence" means an offense under Section 76-5-107.~~]

(iii) "Family member" means an individual's spouse, surviving spouse, parent, grandparent, sibling, child, or any other individual related to the individual by consanguinity or affinity to the second degree.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits assault [~~or threat of violence~~]against a child welfare worker or a family member of a child welfare worker if:

[~~(a) the actor is not:~~]

[~~(i) a prisoner or an individual detained under Section 77-7-15; or~~]

[~~(ii) a minor in the custody of or receiving services from a division within the Department of Health and Human Services;~~]

(a) the actor commits, or attempts to commit, an assault against a child welfare worker or a family member of a child welfare worker;

(b) the actor [~~knew~~]knows that the [~~victim was~~]individual described in Subsection (2)(a) is a child welfare worker or a family member of a child welfare worker; and

[~~(c) the child welfare worker was acting within the scope of the child welfare worker's authority at the time of the assault or threat of violence.~~]

(c) the assault, or attempted assault, described in Subsection (2)(a) is committed:

(i) against a child welfare worker at the time the child welfare worker is acting within the scope of the child welfare worker's authority; or

(ii) against a child welfare worker or a family member of the child welfare worker with the intent to:

(A) impede, intimidate, or interfere with the performance of the child welfare worker's official duties; or

(B) retaliate against the child welfare worker because of the performance of the child welfare worker's official duties.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor:

(i) causes substantial bodily injury; and

(ii) acts intentionally or knowingly.

(4) This section does not apply to an actor who is a minor in the custody of, or receiving services from, a division within the Department of Health and Human Services.

Section 2. Section 76-8-318.5 is enacted to read:

76-8-318.5. Threat of violence against a child welfare worker or a family member of a child welfare worker.

(1) (a) As used in this section:

(i) "Child welfare worker" means the same as that term is defined in Section 76-8-318.

(ii) "Family member" means the same as that term is defined in Section 76-8-318.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits a threat of violence against a child welfare worker if:

(a) the actor knowingly or intentionally threatens to commit an offense against a child welfare worker or a family member of a child welfare worker:

(i) described in Title 76, Chapter 5, Part 4, Sexual Offenses; or

(ii) involving bodily injury, death, or substantial property damage;

(b) the actor knows, or reasonably should know, that the individual described in Subsection (2)(a) is a child welfare worker or a family member of a child welfare worker;

(c) the threat described in Subsection (2)(a) would cause a reasonable person:

(i) to fear the infliction of harm or violence; or

(ii) to suffer emotional distress;

(d) the actor knows, or reasonably should know, the threat described in Subsection (2)(a) would cause a reasonable person to:

(i) fear the infliction of harm or violence; or

(ii) suffer emotional distress; and

(e) the threat described in Subsection (2)(a) is threatened:

(i) against a child welfare worker at the time the child welfare worker is acting within the scope of the child welfare worker's authority; or

(ii) against a child welfare worker or a family member of the child welfare worker with the intent to:

(A) impede, intimidate, or interfere with the performance of the child welfare worker's official duties; or

(B) retaliate against the child welfare worker because of the performance of the child welfare worker's official duties.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) It is not a defense to Subsection (2) that the actor did not attempt to carry out the threat or was incapable of carrying out the threat.

(5) (a) Subject to Subsection (5)(b), in addition to another penalty authorized by law, a court shall order an actor convicted under Subsection (2) to pay restitution to any entity or individual for expenses or losses incurred as a result of responding to the threat, unless the court states on the record the reasons why the reimbursement would be inappropriate.

(b) Any restitution ordered in the case of a minor adjudicated for a violation of Subsection (2) shall be determined in accordance with Section 80-6-710.

(6) An actor who commits an offense under Subsection (2) is subject to punishment for that offense described in Subsection (3), in addition to any other offense committed, including the carrying out of the threatened act.

(7) A threat described in Subsection (2):

(a) may be express or implied; and

(b) does not need to be communicated directly to the threatened individual.

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 538
H. B. 3
Passed March 5, 2025
Approved March 27, 2025
Effective March 27, 2025

CURRENT FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Highlighted Provisions:

This bill:

- ► provides appropriations for the use and support of higher education and certain state agencies;
- ► authorizes full time employment levels for certain internal service funds;
- ► provides appropriations for other purposes as described; and
- ► provides intent language.

Money Appropriated in this Bill:

This bill appropriates $1,223,859,700 in operating and capital budgets for fiscal year 2025, including:

- $15,974,900 from General Fund; and
- ($260,100) from Income Tax Fund; and
- $1,208,144,900 from various sources as detailed in this bill.

This bill appropriates ($21,438,200) in expendable funds and accounts for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $31,056,100 in business-like activities for fiscal year 2025, including:

- $1,750,000 from General Fund; and
- $260,100 from Income Tax Fund; and
- $29,046,000 from various sources as detailed in this bill.

This bill appropriates ($6,893,200) in restricted fund and account transfers for fiscal year 2025, including:

- ($4,728,500) from General Fund; and
- ($2,396,500) from Income Tax Fund; and
- $231,800 from various sources as detailed in this bill.

This bill appropriates $48,488,000 in transfers to unrestricted funds for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $362,868,100 in capital project funds for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill reflects $44,067,100 in higher education budget reporting for fiscal year 2025.

Other Special Clauses:

This bill provides a special effective date.

This bill takes effect immediately.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 1(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CRIMINAL JUSTICE

GOVERNOR'S OFFICE

ITEM 1

To Governor's Office - CCJJ - Jail Reimbursement

From General Fund, One-time - - -

to $50,000 for SDMF Interrater reliability study; up to $25,000 for Office infrastructure; up to $3,000 for Inmate handbook; up to $42,000 for Defense counsel contract expenses; up to $75,000 for Victim notification platform, phase 2; up to $5,000 for Employee incentives & training; up to $100,000 for Offender mental health evaluations; up to $106,000 for BOPP & courtroom AV upgrades; and up to $384,000 for Other misc. intent language projects.

UTAH DEPARTMENT OF CORRECTIONS

ITEM 9

To Utah Department of Corrections - Administration

From General Fund, One-time - - -

Schedule of Programs:
Guardian ad Litem - - -

From General Fund Restricted - Fire Prevention Support, One-time - 1,950,000
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct., One-time - 2,231,600
Schedule of Programs:
Aero Bureau - (250,000)
Department Commissioner's Office -(22,400)
Department Grants - 925,500
Fire Marshal - Fire Operations - 1,950,000
Highway Patrol - Field Operations - 1,000,000
Highway Patrol - Technology Services - 2,231,600

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $10,000,000 provided for the Department of Public Safety - Programs & Operations in Item 73, Chapter 9, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $2,500,000 for Early Intervention Grant Carryover; up to $1,000,000 for HUB project/other technology; up to $1,000,000 for Line of duty death scholarships carryover, correctional facility grant carryover, license plate program carryover; up to $4,000,000 for Mental Health Grant Carryover; and up to $1,500,000 for Trooper laptops, body armor, cameras, etc.

The Legislature intends that the Department of Public Safety is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2026 and may purchase those vehicles in FY 2025 if funds are available.

ITEM 24

To Department of Public Safety - Bureau of Criminal Identification
From Revenue Transfers, One-time - 500,000
Schedule of Programs:
Non-Government/Other Services - 500,000

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $2,000,000 provided for the Department of Public Safety - Bureau of Criminal Identification in Item 74, Chapter 9, Laws of Utah 2024 not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: up to $800,000 for Replacement of laptops, printers, other equipment for licensing; and up to $1,200,000 for UCJIS and other BCI system upgrades, fixes, maintenance, etc.

ECONOMIC AND COMMUNITY DEVELOPMENT

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

ITEM 25

To Department of Alcoholic Beverage Services - DABS Operations
From Liquor Control Fund, One-time - (724,100)
Schedule of Programs:
Operations - (724,100)

Under Section 63J-1-603 Utah Code, the Legislature intends that up to $4,800,000 provided for the Department of Alcoholic Beverage Services - DABS Operations in Item 123, Chapter 5, Laws of Utah 2024 not lapse at the close of Fiscal Year 2025. Use of any nonlapsing funds is limited to: up to $2,100,000 for E-Commerce; and up to $2,700,000 for Transparency Project.

ITEM 26

To Department of Alcoholic Beverage Services - Parents Empowered

Under Section 63J-1-603 Utah Code, the Legislature intends that up to $166,600 provided for the Department of Alcoholic Beverage Services - Parents Empowered in Item 124, Chapter 5, Laws of Utah 2024 not lapse at the close of Fiscal Year 2025. Use of any nonlapsing funds is limited to: up to $166,600 for underage drinking and promote prevention.

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

ITEM 27

To Governor's Office of Economic Opportunity - Administration
From General Fund, One-time - 228,800
Schedule of Programs:
Administration - 228,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $2,000,000 provided by Item 70, Chapter 4, Laws of Utah 2024 for the Governor's Office of Economic Opportunity - Administration shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to contractual obligations.

ITEM 28

To Governor's Office of Economic Opportunity - Economic Prosperity
From Dedicated Credits Revenue, One-time - 150,000
Schedule of Programs:
Incentives and Grants - (2,000,000)
Strategic Initiatives - 2,150,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $50,000,000 provided by Item 64, Chapter 485, Laws of Utah 2024 for the Governor's Office of Economic Opportunity - Economic Prosperity, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to contractual obligations, personal services, business services, incentives and grants, economic growth, strategic initiatives, and systems and control.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Governor's Office of Economic

Opportunity may use up to $1,500,000 in nonlapsing balances in the Strategic Initiatives line item for a direct award grant to UPSTART to serve additional children and perform outreach activities to educate and promote the adoption of UPSTART.

ITEM 29

To Governor's Office of Economic Opportunity - Office of Tourism

From General Fund, One-time - - -

From General Fund, One-time - - -

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $4,000,000 of the General Fund provided by Item 83, Chapter 5, Laws of Utah 2024 for the Department of Cultural and Community Engagement - STEM Action Center Division not lapse at the close of Fiscal Year 2025. These funds will be used for contractual obligations and support.

ITEM 42

To Department of Cultural and Community Engagement - Arts & Museums Grants

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Item 86, Chapter 5, Laws of Utah 2024 for the Department of Cultural and Community Engagement - Arts and Museums Grants line item not lapse at the close of Fiscal Year 2025. These funds will be used for contractual obligations and support for Hill Aero Space Museum, Utah Sports Hall of Fame and Utah Humanities.

ITEM 43

To Department of Cultural and Community Engagement - Capital Facilities Grants

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Item 87, Chapter 5, Laws of Utah 2024 for the Department of Cultural and Community Engagement - Capital Facilities Grants line item not lapse at the close of Fiscal Year 2025. These funds will be used for contractual obligations and support for Golden Spike Monument and St. George Musical Theater.

ITEM 44

To Department of Cultural and Community Engagement - Heritage & Events Grants

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Item 88, Chapter 5, Laws of Utah 2024 for the Department of Cultural and Community Engagement - Heritage and Events Grants line item not lapse at the close of Fiscal Year 2025. These funds will be used for contractual obligations and support for America's Freedom Festival at Provo, Days of 47 Rodeo, Ogden Pioneer Days Miss Rodeo/Cowboy Hall of Fame, and Warriors Over the Wasatch/Hill AFB Show.

ITEM 45

To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to an additional $300,000 of the General Fund and Dedicated Credits provided by Item 89, Chapter 5, Laws of Utah 2024 for the Department of Cultural and Community Engagement - Pete Suazo Commission not lapse at the close of Fiscal Year 2025. These funds will be used for operations, training, projects, and community outreach.

ITEM 46

To Department of Cultural and Community Engagement - State Historic Preservation Office

Schedule of Programs:

Administration	(147,500)
Cemeteries	147,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $175,000 of the General Fund provided by Item 90, Chapter 487, Laws of Utah 2024 for the Department of Cultural and Community Engagement - State Historic Preservation Office not lapse at the close of Fiscal Year 2025. These funds will be used for operations, projects, contractual services, time limited positions, and supplies related to the cemeteries program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of the General Fund provided by Item 90, Chapter 487, Laws of Utah 2024 for the Department of Cultural and Community Engagement - State Historic Preservation Office not lapse at the close of Fiscal Year 2025. These funds will be used for operations, projects, contractual services, time limited positions, and supplies related to the human remains program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $450,000 of the General Fund and Dedicated Credits provided by Item 90, Chapter 5, Laws of Utah 2024 for the Department of Cultural and Community Engagement - State Historic Preservation Office not lapse at the close of Fiscal Year 2025. These funds will be used for operations, application maintenance, projects, community outreach, contractual services, time limited positions, and supplies.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $350,000 of the General Fund provided by Item 1, Chapter 202, Laws of Utah 2023 for the Department of Cultural and Community Engagement - State Historic Preservation Office not lapse at the close of Fiscal Year 2025. These funds will be used for operations and obligations related to grants.

DEPARTMENT OF WORKFORCE SERVICES

ITEM 47

To Department of Workforce Services - Administration

From Federal Funds, One-time	662,700
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-time	76,600
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-time	10,000
From General Fund Restricted - Special Admin. Expense Account, One-time	(70,500)
From Revenue Transfers, One-time	20,000
From Uintah Basin Revitalization Fund, One-time	300

Schedule of Programs:

Administrative Support	401,600
Communications	68,800
Executive Director's Office	87,400
Human Resources	69,200
Internal Audit	72,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of General Fund appropriations provided in Item 37 of Chapter 10 Laws of Utah 2024, for the Department of Workforce Services' Administration line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to one-time studies and projects; one-time administrative costs, including

time-limited or temporary personnel and contractor costs; one-time training; and the purchase of equipment and software.

ITEM 48

To Department of Workforce Services - General Assistance

From Revenue Transfers, One-time (1,600)

Schedule of Programs:

General Assistance (1,600)

ITEM 49

To Department of Workforce Services - Housing and Community Development

From General Fund, One-time (33,600)

From Federal Funds, One-time 33,823,700

From Housing Opportunities for Low Income Households, One-time (7,600)

From OWHT-Fed Home, One-time (7,600)

From Revenue Transfers, One-time (507,900)

From Uintah Basin Revitalization Fund, One-time 5,100

Schedule of Programs:

Community Development 5,448,300

Community Development Administration 399,000

Community Services 2,715,700

HEAT 16,257,900

Housing Development 1,419,900

Weatherization Assistance 7,031,300

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $227,800 of general fund appropriations provided in Item 103 of Chapter 4 Laws of Utah 2022, for the Department of Workforce Services' Housing and Community Development line item, and up to $251,600 of general fund appropriations provided in Item 55 of Chapter 10 Laws of Utah 2023, for the Department of Workforce Services' Housing and Community Development line item, and up to $500,000 of general fund appropriations provided in Item 40 of Chapter 10 Laws of Utah 2024, for the Department of Workforce Services' Housing and Community Development line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to one-time studies and projects; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and the purchase of equipment and software.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $300,000 of expendable receipts appropriations provided in Item 40 of Chapter 10 Laws of Utah 2024, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to weatherization assistance projects, including the pass-through of utility rebates by the Department of Workforce Services for weatherization assistance projects completed by local governments.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $400,000 of dedicated credit revenue appropriations provided in Item 40 of Chapter 10 Laws of Utah 2024, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time affordable housing projects and projects for the Private Activity Bond program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of dedicated credit revenue appropriations provided in Item 101 of Chapter 487 Laws of Utah 2024, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time affordable housing projects and projects for the Emergency Rental Assistance program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $2,574,500 of dedicated credit revenue appropriations provided in Item 60 of Chapter 468 Laws of Utah 2023, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time affordable housing projects and projects for the Emergency Rental Assistance program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $265,800 of dedicated credit revenue appropriations provided in Item 94 of Chapter 485 Laws of Utah 2023, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time affordable housing projects and projects for the Emergency Rental Assistance program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $71,300 of dedicated credit revenue appropriations provided in Item 55 of Chapter 10 Laws of Utah 2023, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time affordable housing projects and projects for the Private Activity Bond program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $262,000 of General Fund appropriations provided in Item 1 of Chapter 406 Laws of Utah 2022 for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to one-time projects, including developing a statewide database for moderate income housing units.

ITEM 50

To Department of Workforce Services - Operations and Policy

From Federal Funds, One-time 17,783,800

From Expendable Receipts, One-time 153,100

From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-time 130,400

From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-time 20,000

From General Fund Restricted - Special Admin. Expense Account, One-time (2,815,500)

From Uintah Basin Revitalization Fund, One-time - - -

From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-time - - - - - - - - 1,784,200
Schedule of Programs:
Homeless Services - 25,906,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $5,170,250 of General Fund appropriations provided in Item 45 of Chapter 10 Laws of Utah 2024, for the Department of Workforce Services' Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including Switchpoint St. George emergency shelter remodel and renovation, low-barrier/non-congregate shelter planning, and the attainable housing grants program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,600,000 of General Fund appropriations provided in Item 99 of Chapter 485 Laws of Utah 2023, for the Department of Workforce Services' Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including Switchpoint St. George emergency shelter remodel and renovation, low-barrier/non-congregate shelter planning, and the attainable housing grants program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $2,500,000 of General Fund appropriations provided in Item 340 of Chapter 486 Laws of Utah 2023, for the Department of Workforce Services' Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to deeply affordable housing projects.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $217,500 of General Fund appropriations provided in Item 243 of Chapter 488 Laws of Utah 2024, for the Department of Workforce Services' Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including system development and programming costs.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,431,000 of General Fund appropriations provided in Item 1 of Chapter 414 Laws of Utah 2020, for the Department of Workforce Services' Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the improvement of the electronic Homeless Management Information System as described in Senate Bill 244 (2020 General Session), the collection of accurate client-level data on the provision of housing and services to individuals and families experiencing homelessness, and the collection of outcome data from providers.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $35,600,000 of General Fund appropriations provided in Item 242 of Chapter 488 Laws of Utah 2024, for the Department of Workforce Services' Office of Homeless Services line item, and up to $10,000,000 of general fund appropriations provided in Item 106 of Chapter 487 Laws of Utah 2024, for the Department of Workforce Services' Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including low-barrier/non-congregate shelter and costs associated with statewide homeless system support.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,200,000 of General Fund appropriations provided in Item 40 of Chapter 488 Laws of Utah 2024, for the Department of Workforce Services Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to one-time costs associated with providing emergency shelter, including low-barrier/non-congregate shelter and winter overflow shelter.

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

ITEM 54

To Capitol Preservation Board - Operations
From Dedicated Credits Revenue, One-time - 120,000
Schedule of Programs:
Capitol Preservation Board - 120,000

LEGISLATURE

ITEM 55

To Legislature - Senate
From General Fund, One-time - 50,000
Schedule of Programs:
Administration - 50,000

ITEM 56

To Legislature - House of Representatives
From General Fund, One-time - 50,000
Schedule of Programs:
Administration - 50,000

UTAH NATIONAL GUARD

ITEM 57

To Utah National Guard - Utah National Guard Operations
From Federal Funds, One-time - 1,800,000
Schedule of Programs:
Operations and Maintenance - 1,800,000

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

ITEM 58

To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund, One-time - - -

From Revenue Transfers, One-time - - -

To Department of Government Operations - State Archives
From Dedicated Credits Revenue, One-time 71,300
Schedule of Programs:
Archives Administration 71,300

ITEM 75

To Department of Government Operations - Chief Information Officer
From Federal Funds, One-time -(17,098,700)
From Federal Funds - American Rescue Plan, One-time 5,165,500
From Revenue Transfers, One-time 4,000,000
Schedule of Programs:
Administration (7,933,200)

The Legislature intends that the $5.0 million ongoing appropriation for Information Technology Innovation Fund may be used in FY 2025 and FY 2026, along with an increase in Internal Service Fund (ISF) capital outlay authorization, for development of the Human Capital Management System. After FY 2026, this ongoing appropriation may be used to fund any rate impacts associated with ISF capital investment.

ITEM 76

To Department of Government Operations - Human Resource Management
From Dedicated Credits Revenue, One-time 150,000
From Closing Nonlapsing Balances (150,000)

ITEM 77

To Department of Government Operations - Office of Data Privacy
From General Fund, One-time 145,800
Schedule of Programs:
Office of Data Privacy 145,800

HIGHER EDUCATION

UNIVERSITY OF UTAH

ITEM 78

To University of Utah - Education and General
From Dedicated Credits Revenue, One-time 27,233,900
Schedule of Programs:
Operations and Maintenance 3,499,100
Instruction 13,568,400
Research 2,368,300
Public Service 731,800
Academic Support 1,749,900
Student Services 1,523,100
Institutional Support 3,793,300

ITEM 79

To University of Utah - School of Medicine
From Dedicated Credits Revenue, One-time 1,102,700
Schedule of Programs:
School of Medicine 1,102,700

ITEM 80

To University of Utah - School of Dentistry
From Dedicated Credits Revenue, One-time 2,076,300
Schedule of Programs:
School of Dentistry 2,076,300

UTAH STATE UNIVERSITY

ITEM 81

To Utah State University - Education and General
From Dedicated Credits Revenue, One-time (6,053,000)
Schedule of Programs:
Operations and Maintenance (713,500)
Instruction (3,282,500)
Research -(87,600)
Academic Support (609,600)
Student Services (445,900)

Institutional Support - - -

From Dedicated Credits Revenue, One-time - (640,000)
Schedule of Programs:
Operations and Maintenance - (112,700)
Instruction - (253,600)
Public Service - (5,300)
Academic Support - (57,200)
Student Services - (72,500)
Institutional Support - (137,800)
Scholarships and Fellowships - (900)

ITEM 88

To Snow College - Career and Technical Education
From Dedicated Credits Revenue, One-time - 140,000
Schedule of Programs:
Instruction - 77,800
Academic Support - 7,200
Student Services - 14,400
Institutional Support - 40,600

UTAH TECH UNIVERSITY

ITEM 89

To Utah Tech University - Education and General
From Dedicated Credits Revenue, One-time - (1,054,100)
Schedule of Programs:
Instruction - (390,300)
Public Service - (17,300)
Academic Support - (121,900)
Student Services - (123,900)
Institutional Support - (300,000)
Operations and Maintenance - (100,700)

SALT LAKE COMMUNITY COLLEGE

ITEM 90

To Salt Lake Community College - Education and General
From Dedicated Credits Revenue, One-time - 445,800
Schedule of Programs:
Operations and Maintenance - 55,300
Instruction - 192,100
Public Service - 400
Academic Support - 30,200
Student Services - 48,900
Institutional Support - 115,800
Scholarships and Fellowships - 3,100

ITEM 91

To Salt Lake Community College - Career and Technical Education
From Dedicated Credits Revenue, One-time - 240,000
Schedule of Programs:
Instruction - 154,400
Academic Support - 12,500
Student Services - 29,300
Institutional Support - 24,100
Operations and Maintenance - 18,100
Scholarships and Fellowships - 1,600

BRIDGERLAND TECHNICAL COLLEGE

ITEM 92

To Bridgerland Technical College - Education and General
From Dedicated Credits Revenue, One-time - 254,200
Schedule of Programs:
Instruction - 150,600
Public Service - 700
Academic Support - 6,100

Student Services - - -

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

ITEM 98

To Department of Agriculture and Food - Administration
From Federal Funds, One-time - (90,000)
From Dedicated Credits Revenue, One-time - (360,000)
From Revenue Transfers, One-time - (45,000)
Schedule of Programs:
Commissioner's Office - (450,000)
Administrative Services - (45,000)

ITEM 99

To Department of Agriculture and Food - Animal Industry
From General Fund Restricted - Livestock Brand, One-time - 5,900
Schedule of Programs:
Brand Inspection - 5,900

ITEM 100

To Department of Agriculture and Food - Plant Industry
From Dedicated Credits Revenue, One-time - 417,900
Schedule of Programs:
Plant Industry Administration - 17,900
Pesticide - 50,000
Feed, Fertilizer, and Seed - 350,000

ITEM 101

To Department of Agriculture and Food - Rangeland Improvement
From Revenue Transfers, One-time - (383,500)
Schedule of Programs:
Grazing Improvement Program Administration - (383,500)

ITEM 102

To Department of Agriculture and Food - Regulatory Services
From Dedicated Credits Revenue, One-time - 5,900
Schedule of Programs:
Regulatory Services Administration - 5,900

ITEM 103

To Department of Agriculture and Food - Resource Conservation
From Dedicated Credits Revenue, One-time - 22,000
Schedule of Programs:
Conservation Districts - 10,000
Soil Health - (13,000)
Easements and Loan Projects - 25,000

The Legislature intends that the Agriculture Water Optimization Committee recommend investment levels for each irrigation method or project type for all unincumbered funds designated for the Agriculture Water Optimization projects and present the recommendations to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by June 1, 2025.

ITEM 104

To Department of Agriculture and Food - Industrial Hemp
From Dedicated Credits Revenue, One-time - (534,000)
From Qualified Production Enterprise Fund, One-time - 600,500
Schedule of Programs:
Industrial Hemp - 66,500

The Legislature intends that the Department of Agriculture and Food reimburse the Qualified Production Enterprise Fund $600,500 from the Cannabinoid Proceeds Restricted Account starting in FY 2026.

ITEM 105

To Department of Agriculture and Food - Analytical Laboratory
From Federal Funds, One-time - (36,900)
From Dedicated Credits Revenue, One-time - (390,700)
From Revenue Transfers, One-time - 2,600
Schedule of Programs:
Analytical Laboratory - (425,000)

The Legislature intends that the Analytical Laboratory maintain a fleet of no more than three vehicles for the Medical Cannabis program for sample collection.

DEPARTMENT OF ENVIRONMENTAL QUALITY

ITEM 106

To Department of Environmental Quality - Drinking Water
From Revenue Transfers, One-time (107,900)
Schedule of Programs:
Safe Drinking Water Act (35,800)
System Assistance (45,700)
State Revolving Fund (26,400)

ITEM 107

To Department of Environmental Quality - Environmental Response and Remediation
From Federal Funds, One-time 1,282,000
From Dedicated Credits Revenue, One-time (244,700)
From Revenue Transfers, One-time 29,800
Schedule of Programs:
Voluntary Cleanup (3,000)
CERCLA 1,188,800
Petroleum Storage Tank Cleanup 4,500
Petroleum Storage Tank Compliance (123,200)

ITEM 108

To Department of Environmental Quality - Executive Director's Office
From Dedicated Credits Revenue, One-time (4,300)
From Revenue Transfers, One-time 192,800
Schedule of Programs:
Executive Director Office Administration 188,700
Radon (200)

ITEM 109

To Department of Environmental Quality - Waste Management and Radiation Control
From Dedicated Credits Revenue, One-time (400,000)
From Revenue Transfers, One-time (91,200)
Schedule of Programs:
Hazardous Waste (325,800)
Solid Waste (13,500)
Radiation (51,800)
Low Level Radioactive Waste (100,000)
WIPP 500
Used Oil (500)
X-Ray (100)

ITEM 110

To Department of Environmental Quality - Water Quality
From Federal Funds, One-time 1,788,500
From Revenue Transfers, One-time (58,200)
Schedule of Programs:
Water Quality Protection 1,674,700
Water Quality Permits 55,600

ITEM 111

To Department of Environmental Quality - Air Quality
From General Fund, One-time (341,500)
From Federal Funds, One-time 32,712,400
From Expendable Receipts, One-time 13,000
From Revenue Transfers, One-time 1,067,000
Schedule of Programs:
Air Quality Administration 37,800
Planning 33,396,300
Compliance (70,900)
Permitting 87,700

OFFICE OF THE GOVERNOR

ITEM 112

To Office of the Governor - Colorado River Authority of Utah
From Federal Funds, One-time - - -

To Department of Natural Resources - Wildlife Resources

The Legislature intends that the Division of Wildlife Resources spends up to $400,000 on livestock damage.

The Legislature intends that up to $1,350,000 of the General Fund appropriation for the Division of Wildlife Resources line item be used for efforts to contain aquatic invasive species at Lake Powell and prevent them from spreading to other waters in Utah. Upon request, the division shall provide detailed documentation as to how its appropriation from the General Fund was spent.

Notwithstanding language included in S.B. 5, Item 39, the Legislature intends that up to $400,000 of the General Fund appropriation for the Division of Wildlife Resources be used for the Great Salt Lake and Utah Lake Waterfowl program.

The Legislature intends that up to $700,000 of Wildlife Resources budget be used for big game depredation expenses, comprised of up to $350,000 from the Wildlife Resources Restricted Account and up to $350,000 from the General Fund.

The Legislature intends that the Division of Wildlife Resources make the mutually agreed upon $1,000,000 payment to the School and Institutional Trust Lands Administration to preserve access to public land for hunters and wildlife dependent recreation.

In addition to language included in S.B. 5, Item 32, under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $100,000 provided for the Wildlife Resources in Item 119, Chapter 8, Laws of Utah 2024 shall not lapse at the close of fiscal year 2025. The use of any nonlapsing funds is limited to the implementation of the Mule Deer Protection Program.

ITEM 122

To Department of Natural Resources - Public Lands Policy Coordinating Office

From General Fund, One-time - - -

From Closing Nonlapsing Balances - - -

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 47 of Chapter 10, Laws of Utah 2024 up to $830,000 General Fund provided for the Department of Health and Human Services Clinical Services line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the behavioral health loan repayment for social services agencies program.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Clinical Services line item, whose mission is to "improve access to physical, mental, and oral healthcare services for underserved populations; work to overcome critical healthcare provider shortages; provide safe and timely access to medical cannabis; and reduce health disparities and advance health equity in Utah." For FY 2025, the department shall report the following performance measures: 1) Percent of operational units or offices that increase their activity score after participating in the Building Organizational Capacity (BOCA) project (Target = 100%), 2) Percentage of turnaround times standards met (Target = 90%), and 3) Percentage of autopsy reports completed within 60 days (Target = At least 90%).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measure for the Center for Medical Cannabis, whose mission is to "provide safe and timely access to medical cannabis." For FY 2025, the department shall report the following performance measure: 1) Audit compliance rate of recommending medical providers, medical cannabis cardholders, and pharmacy medical providers (Target = 95%).

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 47 of Chapter 10, Laws of Utah 2024 up to $750,000 General Fund provided for the Department of Health and Human Services Clinical Services line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited for laboratory equipment, computer equipment, software, building improvements, or other laboratory needs.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 47 of Chapter 10, Laws of Utah 2024 up to $500,000 General Fund provided for the Department of Health and Human Services Clinical Services line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited for autopsy equipment, computer equipment, software, or building improvements.

ITEM 130

To Department of Health and Human Services - Department Oversight

From General Fund, One-time	77,500
From Federal Funds, One-time	(188,200)
From Dedicated Credits Revenue, One-time	2,764,800
From Other Financing Sources, One-time	100,000
Schedule of Programs:	
Licensing & Background Checks	2,787,000
Internal Audit	103,200
Admin Hearings	(186,100)
Utah Developmental Disabilities Council	50,000

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 48 of Chapter 10, Laws of Utah 2024 up to $505,000 General Fund provided for the Department of Health and Human Services Department Oversight line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to (1) $210,000 to health facility plan review activities in Health Facility Licensing and Certification, (2) $150,000 to health facility licensure and certification activities in Health Facility Licensing and Certification, and (3) $145,000 to Office of Background Processing for replacement of live scan machines, and enhancements and maintenance of the Direct Access Clearing System.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 48 of Chapter 10, Laws of Utah 2024 up to $150,000 General Fund provided for the Department of Health and Human Services Department Oversight line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to expenditures for data processing and technology-based expenditures; facility repairs, maintenance, and improvements; and short-term projects and studies that promote efficiency and service improvement.

ITEM 131

To Department of Health and Human Services - Health Care Administration

From General Fund, One-time	(186,600)
From Federal Funds, One-time	217,200
From Expendable Receipts, One-time	434,500
From General Fund Restricted - Statewide Behavioral Health Crisis Response Account, One-time	782,700
From General Fund Restricted - Alternative Eligibility Account, One-time	4,600
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account, One-time	5,200
From Medicaid ACA Fund, One-time	(579,700)
From General Fund Restricted - Opioid Litigation Proceeds Restricted Account, One-time	165,200
From General Fund Restricted - Tobacco Settlement Account, One-time	22,500
From Revenue Transfers, One-time	5,876,800
From Closing Nonlapsing Balances	(9,375,000)
Schedule of Programs:	
Integrated Health Care Administration	(11,029,000)
Long-Term Services and Supports Administration	11,600
Provider Reimbursement Information System for Medicaid	101,100
Seeded Services	3,123,900
Substance Use & Mental Health Administration	5,157,400
Aging & Adult Services Administration	2,400

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,257,200 of General Fund, up to $782,700 from Statewide Behavioral Health Crisis Response Account, up to $165,200 from Opioid Litigation Proceeds Restricted Account, up to $5,200 from Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account, and up to $22,500 from Tobacco Settlement

Account from the Department of Health and Human Services - Health Care Administration line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited for substance use and mental health services.

The Legislature intends that the Department of Health and Human Services report to the Social Services Appropriations Subcommittee by June 1, 2025 on the likelihood of the federal government allowing a reinstatement of a work requirement for the Medicaid expansion populations.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $9,375,000 General Fund of appropriations provided in Item 97, Chapter 10, Laws of Utah 2024 for the Department of Health and Human Services' Health Care Administration line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds shall be limited to: (1) $6,400,000 for the operation and stabilization of the new Medicaid Management Information System, (2) $500,000 for providing application-level security and redundancy for core Medicaid applications, and (3) $475,000 for compliance with unfunded mandates and the purchase of computer equipment and software (4) $2,000,000 for the implementation of the new pharmacy point-of-sale system, data processing and technology-based expenditures, and for short-term projects and studies that promote efficiency and service improvement.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 97 of Chapter 10, Laws of Utah 2024 up to $700,000 General Fund provided for the Department of Health and Human Services' Health Care Administration line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited for administrative expenses for the Office of Substance Use and Mental Health.

ITEM 132

To Department of Health and Human Services - Integrated Health Care Services

From General Fund, One-time	26,337,200
From Federal Funds, One-time	178,231,800
From Expendable Receipts, One-time	78,774,200
From General Fund Restricted - Statewide Behavioral Health Crisis Response Account, One-time	(782,700)
From Ambulance Service Provider Assess Exp Rev Fund, One-time	1,507,700
From General Fund Restricted - Cigarette Tax Restricted Account, One-time	65,700
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account, One-time	(5,200)
From Hospital Provider Assessment Fund, One-time	59,643,200
From General Fund Restricted - Medicaid Budget Stabilization Restricted Account, One-time	1,500,000
From Medicaid ACA Fund, One-time	(4,800)
From Nursing Care Facilities Provider Assessment Fund, One-time	3,740,200
From General Fund Restricted - Opioid Litigation Proceeds Restricted Account, One-time	278,200
From General Fund Restricted - Tobacco Settlement Account, One-time	(22,500)
From Closing Nonlapsing Balances	(500,000)

Schedule of Programs:

Children's Health Insurance Program Services	37,015,000
Medicaid Accountable Care Organizations	27,141,400
Medicaid Behavioral Health Services	2,806,700
Medicaid Home and Community Based Services	(315,100)
Medicaid Hospital Services	57,913,200
Medicaid Pharmacy Services	(189,000)
Medicaid Long Term Care Services	1,806,500
Medicaid Other Services	222,136,300
Expansion Pharmacy Services	(48,000)
Non-Medicaid Behavioral Health Treatment and Crisis Response	(756,000)
State Hospital	1,252,000

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 50 of Chapter 10, Laws of Utah 2024 up to $2,000,000 for the Department of Health and Human Services - Integrated Health Care Services line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the following at the Utah State Hospital: data processing and technology-based expenditures; incentive awards and bonuses; facility repairs, maintenance, and improvements; other charges and pass-through expenditures; Utah State Hospital cost settlement audit variances; insurance paybacks; short-term projects and studies that promote efficiency and service improvement; trainings; appropriated one-time projects; and appropriated restricted fund purposes.

Pursuant to Section 63J-1-603 of the Utah code, the Legislature intends that any General Fund savings remaining from the enhanced FMAP related to the American Rescue Plan Act of 2021 (ARPA) in the Department of Health and Human Services - Integrated Health Care Services line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to expenses authorized under the Department's ARPA Home and Community Based Services Enhanced Funding Spending Plan approved by the Centers for Medicare and Medicaid Services.

Pursuant to Section 63J-1-603 of the Utah code, the Legislature intends that up to $500,000 of appropriations provided in Item 50 of Chapter 10, Laws of Utah 2024 and subsequent FY 2025 appropriations for the Department of Health and Human Services' Integrated Health Care Services line item shall not lapse at the close of Fiscal Year 2025. The nonlapsing funds shall be limited to providing application-level security and redundancy for core Medicaid applications in the Department of Health and Human Services' Health Care Administration line item.

Notwithstanding the fee amounts authorized in Chapter 437 of Laws of Utah 2024, in the Children's Health Insurance Program Services for FY 2025 for Quarterly Premium (1) Plan B, (2) Plan C, and (3) Late, the Legislature rescinds the authorization to charge these fees. No fees should be charged.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Integrated Health Care Services line item, whose mission is to "provide access to quality, cost-effective health care for eligible Utahns." For FY 2025, the department shall report the following performance measures: 1) Percent of Medicaid adults and adolescents with major depressive episodes who receive treatment (Target = Improve from baseline with the baseline being developed), 2) Annual State General Funds saved through Preferred Drug List (Target => $20 million), 3) Percent of Medicaid members who promptly receive outpatient treatment after visiting a hospital for mental health issues (Target = National average [for 2020 this was 59%]), 4) Rates of Utahns dying of drug-related causes (Target = Decrease rates of Utah drug deaths by 1 per 100,000 in each year from

2022 through 2027), 5) Percentage of youth clients with improved symptoms, or recovered, as measured by the Youth Outcome questionnaires (Target = 50%), 6) Percentage of adult clients with improved symptoms, or recovered, as measured by the Adult Mental Health Outcome (45% of adults), 7) Utah State Hospital (USH) patients have successful clinical outcomes and are discharged to lower levels of service when appropriate (Target = Delayed Adult Civil bed days will be reduced by 5 percent), 8) Percentage of individuals who transitioned from intermediate care facilities to community-based services (Target = No less than 10% of individuals residing in intermediate care facilities will transition to home and community based services on an annual basis), 9) Percent of Medicaid adult members that receive services from an integrated health plan or other integrated model (Target = 40%), and 10) Percent of clean claims adjudicated by Provider Reimbursement Information System for Medicaid within 30 days of submission (Target = 90%).

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 2 of Chapter 284, Laws of Utah 2024 up to $1,417,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited for the expanded Medicaid coverage of inmates.

The Department of Health and Human Services may use up to a combined maximum of $32,700,000 from the Medicaid Budget Stabilization Restricted Account and $55,500,000 associated federal matching funds provided for Integrated Health Care Services only in the case that non-federal fund appropriations provided for FY 2025 in all other items of appropriation within the respective line item are insufficient to pay appropriate claims within the respective line item for FY 2025 when combined with federal matching funds.

Notwithstanding the intent language passed on lines 140 to 149 in the S.B. 7 Social Services Base Budget from the 2025 General Session, the Legislature rescinds the following language: "The Department of Health and Human Services may use up to a combined maximum of $31,200,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Integrated Health Care Services only in the case that non-federal fund appropriations provided for FY 2025 in all other items of appropriation within the respective line item are insufficient to pay appropriate claims within the respective line item for FY 2025 when combined with federal matching funds."

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 264 of Chapter 488, Laws of Utah 2024 up to $1,500,000 provided from the Income Tax Fund for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to implement the provisions of Homeless and Vulnerable Populations Amendments as described in Chapter 204, Laws of Utah 2024.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 45 of Chapter 488, Laws of Utah 2024 up to $965,100 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to capital repairs for the building in Murray, Utah housing the Alano Club.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 262 of Chapter 488, Laws of Utah 2024 up to $300,000 General Fund for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the use by Bridle Up Hope as described in Item 262 of chapter 488, Laws of Utah 2024.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 262 of Chapter 488, Laws of Utah 2024 up to $1,000,000 General Fund for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the use by Children's Center Utah for early childhood mental health services as described in Item 111 of chapter 487, Laws of Utah 2024.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 262 of Chapter 488, Laws of Utah 2024 up to $7,000,000 General Fund for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the use by Davis Behavioral Health for Mental Health Step Down Housing Project as described in Item 262 of Chapter 488, Laws of Utah 2024.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 262 of Chapter 488, Laws of Utah 2024 up to $200,000 General Fund for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the use of Advancing Aid Torture Survivors for Utah Health and Human Rights as described in Item 262 of chapter 488, Laws of Utah 2024.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 50 of Chapter 10, Laws of Utah 2024 up to $390,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the uses outlined in Item 84 of Chapter 193, Laws of Utah 2022 and Item 262 of Chapter 488, Laws of Utah 2024 related to the grant for Cherish Families.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 50 of Chapter 10, Laws of Utah 2024 up to $3,300,000 provided from the Opioid Litigation Proceeds Restricted Account for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the uses outlined in Utah Code 51-9-801.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 50 of Chapter 10, Laws of Utah 2024 up to $200,000 provided from the Tobacco Settlement Account for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the use outlined in Utah Code 51-9-201.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 50 of Chapter 10, Laws of Utah 2024 up to $150,000 provided from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the uses outlined in Utah Code 59-14-807.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 50 of Chapter 10, Laws of Utah 2024 up to $9,500,000 provided from the Statewide Behavioral Health Crisis Response account for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to the uses outlined in Utah Code 26B-1-324.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 50 of Chapter 10, Laws of Utah 2024 up to $3,000,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to expenditures in the Office of Substance Use and Mental Health including data processing and technology-based expenditures; incentive awards and bonuses; facility repairs, maintenance, and improvements; other charges and pass through expenditures; short-term projects and studies that promote efficiency and service improvement; trainings; appropriated one-time projects; and appropriated restricted fund purposes.

ITEM 133

To Department of Health and Human Services - Long-Term Services & Support

From General Fund, One-time	(4,489,000)
From Federal Funds, One-time	-(10,800)
From General Fund Restricted - Division of Services for People with Disabilities Restricted Account, One-time	12,247,000
From Revenue Transfers, One-time	15,550,100

Schedule of Programs:

Adult Protective Services - - -

$5,000,000 General Fund provided for the Department of Health and Human Services Children, Youth & Family line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to facility repair, maintenance, technology upgrades, and improvements; Adoption Assistance; Contracted Services; In-Home Services; Out of Home Care; Selected Services; Service Delivery; Special Needs; SAFE Management Information System development and operations consistent with the requirements found at UCA 63J-1-603(3)(b). Additionally, the Legislature intends the Department of Health and Human Services - Division of Child and Family Services use nonlapsing state funds originally appropriated for Adoption Assistance non-Title-IV-E monthly subsidies for any children that were not initially Title IV-E eligible in foster care, but that now qualify for Title IV-E adoption assistance monthly subsidies under eligibility exception criteria specified in P.L. 112-34 [Social Security Act Section 473(e)]. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Social Security Act consistent with the requirements found at UCA 63J-1-603(3)(b). Of the $5,000,000 nonlapsing a portion is mandated by the Social Security Act for maintenance of effort requirements.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $2,783,300 of appropriations provided for the Department of Health and Human Services in item 53, Chapter 10, Laws of Utah 2024 not lapse at the close of fiscal year 2025. The use of any nonlapsing funds is limited to funding within the Division of Family Health for expanding home visitation services for families.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $900,000 of appropriations provided for the Department of Health and Human Services in item 53, Chapter 10, Laws of Utah 2024 not lapse at the close of fiscal year 2025. The use of any nonlapsing funds is limited to one-time pass-through funding appropriated to provide domestic violence services.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 114 of Chapter 487, Laws of Utah 2024 up to $500,000 General Fund provided for the Department of Health and Human Services Children, Youth & Families line item shall not lapse at the close of Fiscal Year 2025. The nonlapsing funds shall be applied to the Department of Health and Human Services - Children, Youth & Family line item as a beginning balance in Fiscal Year 2026 and the use of any nonlapsing funds is limited to one-time pass-through funding appropriated to support the Regional Forensic Social Work Office project.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 53 of Chapter 10, Laws of Utah 2024 up to $400,000 General Fund provided for the Department of Health and Human Services Children, Youth & Family line item shall not lapse at the close of Fiscal Year 2025. The use of nonlapsing funds is limited to funding within the Division of Family Health for one-time projects related to Children with Special Health Care Needs, Maternal and Child Health, Early Childhood and Coordinated Care and Regional Supports activities.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 53 of Chapter 10, Laws of Utah 2024 up to $200,000 General Fund provided for the Department of Health and Human Services Children, Youth & Family line item shall not lapse at the close of Fiscal Year 2025. The use of nonlapsing funds is limited to funding within the Division of Family Health for evidence-based nurse home visiting services for at-risk individuals with a priority focus on first-time mothers.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 32 of Chapter 10, Laws of Utah 2024 up to $500,000 General Fund provided for the Department of Health and Human Services Children, Youth & Families line item shall not lapse at the close of Fiscal Year 2025. The use of nonlapsing funds is limited to funding within the Division of Family Health for grants to organizations providing services to adults with autism in Utah.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 114 of Chapter 487, Laws of Utah 2024 up to $700,000 General Fund provided for the Department of Health and Human Services Children, Youth & Families line item shall not lapse at the close of Fiscal Year 2025. The use of any nonlapsing funds is limited to one-time pass-through funding appropriated to support the Foster Children Family Finding Pilot project.

ITEM 136

To Department of Health and Human Services - Office of Recovery Services

From General Fund, One-time	22,100
From Federal Funds, One-time	2,562,600
From Revenue Transfers, One-time	246,000
Schedule of Programs:	
Recovery Services	192,700
Child Support Services	2,630,000
Children in Care Collections	500
Medical Collections	7,500

ITEM 137

To Department of Health and Human Services - Juvenile Justice & Youth Services

From General Fund, One-time	317,200
From Federal Funds, One-time	187,300
From Revenue Transfers, One-time	1,423,700
From Closing Nonlapsing Balances	(2,250,000)
Schedule of Programs:	
Juvenile Justice & Youth Services	(1,589,300)
Secure Care	86,700
Youth Services	1,163,700
Community Programs	17,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $4,500,000 provided for the Division of Juvenile Justice Services - Juvenile Justice & Youth Services line item in Item 101 of Chapter 9 in Laws of Utah 2024 not lapse at the close of Fiscal Year 2025. The use of any funds are limited to the same purposes of the original appropriation including information technology, data processing and technology-based expenditures; capital developments, projects, facility repairs, maintenance, critical needs, and improvements; other charges for pass-through expenditures; one-time operational expenses, short-term projects and studies that promote efficiency and service improvement, employee attraction and retention, training, education assistance, incentives, translation and interpreting services.

ITEM 138

To Department of Health and Human Services - Correctional Health Services

From General Fund, One-time	8,334,900
From Federal Funds, One-time	110,000

From Dedicated Credits Revenue, One-time - - -

From Expendable Receipts, One-time - - -

Notwithstanding the intent language included in Item 167, Chapter 300, Laws of Utah 2022, the Legislature intends that the Department of Transportation (UDOT) pass through the remaining $2,850,000 to Lehi City in FY 2025 to study and construct a local transportation project that enhances east/west mobility near Camp Williams.

ITEM 152

To Transportation - Amusement Ride Safety

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Transportation report the final status of performance measures established in FY 2025 appropriations for the Amusement Ride Safety line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2025. For FY 2025, the Department of Transportation shall report on the following measures: 1. Number of rides registered; 2. Percent of ride registrations completed within 3 days of receipt; and 3. Number of inspectors registered.

Subsection 1(b). Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ECONOMIC AND COMMUNITY DEVELOPMENT

DEPARTMENT OF WORKFORCE SERVICES

ITEM 153

To Department of Workforce Services - Olene Walker Low Income Housing
From Federal Funds, One-time - - -

Schedule of Programs:
County of the First Class Highway Projects Fund -(30,310,700)

The Legislature intends that Utah Department of Transportation pass through $3,200,000 from the County of the First Class Highways Projects Fund to Kearns City for the 6200 South Sidewalk and Wall Project in FY 2026.

ITEM 158

To Transportation - Marda Dillree Corridor Preservation Fund
From Dedicated Credits Revenue, One-time - 900,000
From Interest Income, One-time - 4,000,000
From Restricted Revenue, One-time - 11,000,000
From Other Financing Sources, One-time - 25,000,000
From Closing Fund Balance - (9,200,000)
Schedule of Programs:
Marda Dillree Corridor Preservation Fund - 31,700,000

ITEM 159

To Transportation - Rural Transportation Infrastructure Fund
From Licenses/Fees, One-time - 11,400,000
From Closing Fund Balance -(11,400,000)

ITEM 160

To Transportation - Office of Rail Safety Account
From Closing Fund Balance - 100,000
Schedule of Programs:
Office of Rail Safety Account - 100,000

Subsection 1(c). Business-like Activities

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

ITEM 161

To Utah Department of Corrections - Utah Correctional Industries

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriation for the Utah Department of Corrections - Utah Correctional Industries in Item 102 of Chapter 9, Laws of Utah 2024 not lapse at the close of Fiscal Year 2025. Any nonlapsing retained earnings would be used in the ongoing operations of UCI.

ECONOMIC AND COMMUNITY DEVELOPMENT

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

ITEM 162

To Governor's Office of Economic Opportunity - State Small Business Credit Initiative Program Fund
From Federal Funds, One-time - 24,500,000
From Dedicated Credits Revenue, One-time - 1,340,000
Schedule of Programs:
State Small Business Credit Initiative Program Fund - 25,840,000

GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

ITEM 163

To Department of Government Operations - Division of Fleet Operations
From Dedicated Credits Revenue, One-time - 7,383,200
Schedule of Programs:
ISF - Motor Pool - 7,322,500
Transactions Group - 60,700

ITEM 164

To Department of Government Operations - Division of Purchasing and General Services
From General Services - Cooperative Contract Mgmt, One-time - 4,194,000
Schedule of Programs:

ISF - Central Mailing - - -

ECONOMIC AND COMMUNITY DEVELOPMENT

ITEM 172

To General Fund Restricted - Homeless Account
From Revenue Transfers, One-time - - -

ITEM 180

To General Fund
From Nonlapsing Balances - From Attorney General - Contract Attorneys - 1,000,000
From Nonlapsing Balances - Public Safety - Emergency and Disaster Management - - - - - - - - - - - - - - - - 1,692,000
Schedule of Programs:
General Fund, One-time - 2,692,000

GENERAL GOVERNMENT

ITEM 181

To General Fund
From Federal Funds - American Rescue Plan Act Administrative Fund, One-time - - - - - - - - - - - - - - - - 27,000,000
From General Services - Cooperative Contract Mgmt, One-time - 2,500,000
From Nonlapsing Balances - From Tax Commission - Property Tax Deferral - - - - - - - - - - - - - - - - - - - 8,000,000
Schedule of Programs:
General Fund, One-time - 37,500,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

ITEM 182

To General Fund
From General Fund Restricted - Agricultural Water Optimization Restricted Account, One-time - - - - - - - - - 1,500,000
From Conversion to Alternative Fuel Grant Program Fund, One-time - 46,000
From Nonlapsing Balances - from Department of Natural Resources - Office of Energy Development - - - - - - 1,750,000
From Nonlapsing Balances - from Governors Office - Colorado River Authority - - - - - - - - - - - - - - - - - 5,000,000
Schedule of Programs:
General Fund, One-time - 8,296,000

Subsection 1(f). Capital Project Funds

The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

TRANSPORTATION AND INFRASTRUCTURE

TRANSPORTATION

ITEM 183

To Transportation - Transportation Investment Fund of 2005
From Transportation Fund, One-time -(84,692,700)
From Licenses/Fees, One-time - 2,000,000
From Interest Income, One-time - 75,000,000
From Designated Sales Tax, One-time -(85,620,000)
From Other Financing Sources, One-time -(20,000,000)
From Pass-through, One-time - 900,000
From Closing Fund Balance - 264,712,500
Schedule of Programs:
Transportation Investment Fund - 152,299,800

ITEM 184

To Transportation - Transit Transportation Investment Fund
From Restricted Revenue, One-time - 52,137,400
From Designated Sales Tax, One-time -(52,137,400)
From Closing Fund Balance - 222,466,000
Schedule of Programs:
Transit Transportation Investment Fund - 222,466,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Transit Transportation Investment line item in Item 87, Chapter 6, Laws of Utah 2024, shall not lapse at the close of FY 2025. Expenditures of these funds are limited to the Transit Transportation Investment program.

ITEM 185

To Transportation - Rail Transportation Restricted Account
From Closing Fund Balance - 8,172,300
Schedule of Programs:
Rail Transportation Restricted Account - 8,172,300

ITEM 186

To Transportation - Cottonwood Canyon Transportation Investment Fund

From Restricted Revenue, One-time - - -

Academic Support - - -

Institutional Support - - -

DIXIE TECHNICAL COLLEGE

ITEM 203

To Dixie Technical College - Education and General
From Tuition and Fees, One-time - - -

CHAPTER 539
S. B. 3
Passed March 7, 2025
Approved March 27, 2025
Effective March 27, 2025

APPROPRIATIONS ADJUSTMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025 and for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

Highlighted Provisions:

This bill:

- ► provides budget increases and decreases for the use and support of certain state agencies;
- ► provides budget increases and decreases for the use and support of certain public education programs;
- ► provides budget increases and decreases for the use and support of certain institutions of higher education;
- ► provides funds for the bills with fiscal impact passed in the 2025 General Session;
- ► provides budget increases and decreases for other purposes as described; and
- ► provides intent language.

Money Appropriated in this Bill:

This bill appropriates ($87,406,900) in operating and capital budgets for fiscal year 2025, including:

- ($13,542,400) from General Fund; and
- $390,600 from Income Tax Fund; and
- ($74,255,100) from various sources as detailed in this bill.

This bill appropriates ($5,630,000) in expendable funds and accounts for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $100,050,400 in business-like activities for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $285,000 in restricted fund and account transfers for fiscal year 2025, all of which is from the General Fund.

This bill appropriates $400 in transfers to unrestricted funds for fiscal year 2025, all of which is from the various sources as detailed in this bill.

This bill appropriates $279,093,100 in operating and capital budgets for fiscal year 2026, including:

- $46,942,500 from General Fund; and
- ($91,797,600) from Income Tax Fund; and
- $15,322,300 from Uniform School Fund; and
- $308,625,900 from various sources as detailed in this bill.

This bill appropriates $7,975,800 in expendable funds and accounts for fiscal year 2026, including:

- $500,000 from General Fund; and
- $7,475,800 from various sources as detailed in this bill.

This bill appropriates ($14,027,700) in business-like activities for fiscal year 2026, including:

- $630,000 from General Fund; and
- ($14,657,700) from various sources as detailed in this bill.

This bill appropriates $118,318,600 in restricted fund and account transfers for fiscal year 2026, including:

- $15,731,000 from General Fund; and
- $102,587,600 from Income Tax Fund.

This bill appropriates $842,101,800 in transfers to unrestricted funds for fiscal year 2026, all of which is from the General Fund.

This bill appropriates $298,813,400 in capital project funds for fiscal year 2026, including:

- $2,000,000 from General Fund; and
- $296,813,400 from various sources as detailed in this bill.

This bill reflects $7,306,100 in higher education budget reporting for fiscal year 2026.

Other Special Clauses:

This bill provides a special effective date.

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2025.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2025 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 1(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CRIMINAL JUSTICE

GOVERNOR'S OFFICE

ITEM 1

To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund, One-time - - -

From Department of Public Safety Restricted Account, One-time - 4,300
Schedule of Programs:
Driver Services - 4,300

To implement the provisions of *Driving by Minors Amendments* (House Bill 308, 2025 General Session)

ITEM 9

To Department of Public Safety - Emergency Management
From General Fund Restricted - State Disaster Recovery Restr Acct, One-time - - - - - - - - - - - - - - - - - 10,000,000
Schedule of Programs:
Emergency Management - 10,000,000

To implement the provisions of *Disaster Funds Revisions* (House Bill 239, 2025 General Session)

ITEM 10

To Department of Public Safety - Peace Officers' Standards and Training
From General Fund, One-time - 400,000
Schedule of Programs:
Basic Training - 400,000

ITEM 11

To Department of Public Safety - Programs & Operations
From General Fund, One-time - (700,000)
From Department of Public Safety Restricted Account, One-time - 700,000
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct., One-time - 2,500,000
From Outdoor Recreation Infrastructure Account, One-time - 2,000,000
Schedule of Programs:
Highway Patrol - Field Operations - 4,500,000

Under terms of Section 63J-1-603 Utah Code Annotated, the Legislature intends that up to $2,000,000 provided to the Department of Public Safety by this item shall not lapse at the close of fiscal year 2025. Use of any nonlapsing funds is limited to: Jordan River Security.

ITEM 12

To Department of Public Safety - Bureau of Criminal Identification
From General Fund, One-time - 2,100,000
From General Fund Restricted - Concealed Weapons Account, One-time - (500,000)
Schedule of Programs:
Non-Government/Other Services - 1,600,000

ITEM 13

To Department of Public Safety - Bureau of Criminal Identification
From General Fund, One-time - 37,500
Schedule of Programs:
Law Enforcement/Criminal Justice Services - 37,500

To implement the provisions of *Criminal Justice Revisions* (House Bill 354, 2025 General Session)

ITEM 14

To Department of Public Safety - Bureau of Criminal Identification
From General Fund, One-time - 25,000
Schedule of Programs:
Law Enforcement/Criminal Justice Services - 25,000

To implement the provisions of *Impaired Driving Amendments* (House Bill 436, 2025 General Session)

ITEM 15

To Department of Public Safety - Bureau of Criminal Identification
From General Fund, One-time - 6,700
Schedule of Programs:
Law Enforcement/Criminal Justice Services - 6,700

To implement the provisions of *Behavioral Health Modifications* (House Bill 491, 2025 General Session)

ITEM 16

To Department of Public Safety - Bureau of Criminal Identification
From General Fund, One-time - 3,700
Schedule of Programs:
Law Enforcement/Criminal Justice Services - 3,700

To implement the provisions of *Sex, Kidnap, and Child Abuse Offender Registry Amendments* (Senate Bill 41, 2025 General Session)

ECONOMIC AND COMMUNITY DEVELOPMENT

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

ITEM 17

To Department of Alcoholic Beverage Services - Parents Empowered
From General Fund Restricted - Underage Drinking Prevention Media and Education Campaign Restricted Account, One-time - 129,600
Schedule of Programs:
Parents Empowered - - - - - - - - - - - - - - - - - - -

Administration - - -

Schedule of Programs:
Operations - - -

Schedule of Programs:
Operations - - -

To Governor's Office - Governor's Office Operations
From General Fund, One-time - - -

ITEM 58

To Department of Government Operations - Division of Finance
From General Fund, One-time - - -

To Department of Government Operations - Division of Finance
From General Fund, One-time - - -

To Department of Environmental Quality - Waste Management and Radiation Control
From General Fund, One-time - - -

Administration - - -

Schedule of Programs:
Information Technology - - -

ITEM 102

To Department of Health and Human Services - Integrated Health Care Services
From Federal Funds, One-time - - -

ITEM 110

To Department of Health and Human Services - Correctional Health Services
From General Fund, One-time - - -

To Department of Workforce Services - Intermountain Weatherization Training Fund
From Beginning Fund Balance - - -

The Legislature intends that the Division of Finance lapse to the General Fund at fiscal year 2025 close-out any amount of the $85,000,000 appropriation provided by this item that is not required to eliminate a cash deficit in the Liquor Control Fund.

GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

ITEM 125

To Department of Government Operations - Enterprise Technology Division
From Dedicated Credits Revenue, One-time - - -

To implement the provisions of *Prosecutorial Misconduct Amendments* (Senate Bill 318, 2025 General Session)

ITEM 130

To Governor's Office - Indigent Defense Commission
From General Fund, One-time - - -

UTAH DEPARTMENT OF CORRECTIONS

ITEM 138

To Utah Department of Corrections - Administration
From General Fund - - -

Programs - - -

From General Fund - - -

To Department of Public Safety - Programs & Operations
From General Fund - - -

Law Enforcement/Criminal Justice Services - - -

From General Fund, One-time - - -

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Utah Department of Cultural and Community Engagement provide a direct award grant of $150,000 to Hope of Utah in fiscal year 2026 for empowering local community leaders and nonprofits that embrace American principles.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Utah Department of Cultural and Community Engagement provide a direct award grant of $250,000 to Inclusion Strategies in fiscal year 2026 for efforts by Latinos in Action for high school graduation and college/CTE readiness efforts.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Utah Department of Cultural and Community Engagement provide a direct award grant of $100,000 to Sistema Utah in fiscal year 2026 for after-school music education and academic support.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Utah Department of Cultural and Community Engagement provide a direct award grant of $125,000 to Hill Aero Space Museum in fiscal year 2026 for support with general operating costs associated with the museum.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Utah Department of Cultural and Community Engagement provide a direct award grant of $200,000 to Sports Hall of Fame Foundation in fiscal year 2026 for support with general operating costs associated with the museum.

ITEM 185

To Department of Cultural and Community Engagement - Heritage & Events Grants

Notwithstanding the intent language in from "Economic and Community Development Base Budget" (House Bill 4, 2025 General Session), Item 78 lines 756 through 763, under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Utah Department of Cultural and Community Engagement provide a direct award grant of $200,000 to Warriors Over the Wasatch in FY 2026 for operational support for the Hill AFB Air Show to facilitate logistic items as well as performers and travel accommodations for a successful event.

Notwithstanding the intent language in from "Economic and Community Development Base Budget" (House Bill 4, 2025 General Session), Item 78 lines 764 through 770, under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Utah Department of Cultural and Community Engagement provide a direct award grant of $100,000 to America's Freedom Festival in Provo in FY 2026 for Hope of America educational opportunities for 5th grade students across the state.

Notwithstanding the intent language in from "Economic and Community Development Base Budget" (House Bill 4, 2025 General Session), Item 78 lines 771 through 777, under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Utah Department of Cultural and Community Engagement provide a direct award grant of $200,000 to Days of 47 Rodeo in FY 2026 for operational support for a statewide pioneer heritage celebration event to include camps, a parade, and five days of rodeo activities.

Notwithstanding the intent language in from "Economic and Community Development Base Budget" (House Bill 4, 2025 General Session), Item 78 lines 778 through 785, under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Utah Department of Cultural and Community Engagement provide a direct award grant of $150,000 to Miss Rodeo Utah/Cowboy Hall of Fame in FY 2026 for increasing rodeo participation, elevating Miss Rodeo Utah's profile, and recognizing those who uphold Utah's western heritage.

ITEM 186

To Department of Cultural and Community Engagement - State Historic Preservation Office

From General Fund - - -

To Department of Workforce Services - Operations and Policy
From Federal Funds, One-time - - -

Administration - - -

Schedule of Programs:
Administration - - -

documentation related to reimbursement shall be free of redaction.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Veterans and Military Affairs use ongoing appropriations in Item 17 of "National Guard, Veterans Affairs, and Legislature Base Budget" (House Bill 7, 2025 General Session) to provide a direct award grant of $400,000 to Utah Defense Alliance in fiscal year 2026 for military affairs.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Veterans and Military Affairs use ongoing appropriations in Item 17 of "National Guard, Veterans Affairs, and Legislature Base Budget" (House Bill 7, 2025 General Session) to provide a direct award grant of $500,000 to Veterans First Time Homebuyer Program in fiscal year 2026 for grants.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Veterans and Military Affairs use ongoing appropriations in Item 17 of "National Guard, Veterans Affairs, and Legislature Base Budget" (House Bill 7, 2025 General Session) to provide a direct award grant of $900,000 to Counselors for Military School Children in fiscal year 2026 for increased counseling.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Veterans and Military Affairs use ongoing appropriations in Item 17 of "National Guard, Veterans Affairs, and Legislature Base Budget" (House Bill 7, 2025 General Session) to provide a direct award grant of $200,000 to National Ability Center in fiscal year 2026 for programs for veterans.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Veterans and Military Affairs use ongoing appropriations in Item 17 of "National Guard, Veterans Affairs, and Legislature Base Budget" (House Bill 7, 2025 General Session) to provide a direct award grant of $60,000 to New Smiles for Veterans in fiscal year 2026 for dental care.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Veterans and Military Affairs use ongoing appropriations in Item 17 of "National Guard, Veterans Affairs, and Legislature Base Budget" (House Bill 7, 2025 General Session) to provide a direct award grant of $12,500 to Honor Flight in fiscal year 2026 for transportation of veterans.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Veterans and Military Affairs use ongoing appropriations in Item 17 of "National Guard, Veterans Affairs, and Legislature Base Budget" (House Bill 7, 2025 General Session) to provide a direct award grant of $10,000 to Western Regional Partnership in fiscal year 2026 for dues.

GENERAL GOVERNMENT

DEPARTMENT OF COMMERCE

ITEM 214

To Department of Commerce - Building Inspector Training
From Dedicated Credits Revenue - - -

From General Fund Restricted - Commerce Service Account - (4,800)
Schedule of Programs:
Occupational and Professional Licensing - (4,800)

To implement the provisions of *Architects Licensing Act Amendments* (House Bill 114, 2025 General Session)

ITEM 220

To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account - 450,000
From General Fund Restricted - Commerce Service Account, One-time - 20,000
Schedule of Programs:
Administration - 470,000

To implement the provisions of *Homeowners' Association Amendments* (House Bill 217, 2025 General Session)

ITEM 221

To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account - 13,700
From General Fund Restricted - Commerce Service Account, One-time - 1,300
Schedule of Programs:
Consumer Protection - 15,000

To implement the provisions of *Veteran Protections Amendments* (House Bill 248, 2025 General Session)

ITEM 222

To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account - 22,000
From General Fund Restricted - Commerce Service Account, One-time - 29,000
Schedule of Programs:
Occupational and Professional Licensing - 51,000

To implement the provisions of *Massage Therapy Amendments* (House Bill 278, 2025 General Session)

ITEM 223

To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account - 46,200
From General Fund Restricted - Commerce Service Account, One-time - 20,100
Schedule of Programs:
Consumer Protection - 66,300

To implement the provisions of *Earned Wage Access Services Act* (House Bill 279, 2025 General Session)

ITEM 224

To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account - 87,400
From General Fund Restricted - Commerce Service Account, One-time - 93,000
Schedule of Programs:
Real Estate - 180,400

To implement the provisions of *Property Manager Requirements* (House Bill 337, 2025 General Session)

ITEM 225

To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account - 19,300
Schedule of Programs:
Occupational and Professional Licensing - 19,300

To implement the provisions of *Dental Practice Amendments* (House Bill 372, 2025 General Session)

ITEM 226

To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account - 130,000
From General Fund Restricted - Commerce Service Account, One-time - 65,000
Schedule of Programs:
Consumer Protection - 195,000

To implement the provisions of *Data Sharing Amendments* (House Bill 418, 2025 General Session)

ITEM 227

To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account - 148,300
From General Fund Restricted - Commerce Service Account, One-time - 21,800

Schedule of Programs:
Consumer Protection - - -

ITEM 236

To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account - 1,500
From General Fund Restricted - Commerce Service Account, One-time - 20,300
Schedule of Programs:
Occupational and Professional Licensing - 21,800

To implement the provisions of *Health Care Services Platforms* (Senate Bill 228, 2025 General Session)

ITEM 237

To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account, One-time - 320,000
From Closing Nonlapsing Balances - (160,000)
Schedule of Programs:
Administration - 160,000

To implement the provisions of *Artificial Intelligence Revisions* (Senate Bill 332, 2025 General Session)

ITEM 238

To Department of Commerce - Office of Consumer Services Professional and Technical Services
From General Fund Restricted - Public Utility Restricted Acct. - 125,000
Schedule of Programs:
Professional and Technical Services - 125,000

To implement the provisions of *Electric Utility Amendments* (Senate Bill 132, 2025 General Session)

ITEM 239

To Department of Commerce - Public Utilities Professional and Technical Services
From General Fund Restricted - Public Utility Restricted Acct. - 160,000
Schedule of Programs:
Professional and Technical Services - 160,000

To implement the provisions of *Electric Utility Amendments* (Senate Bill 132, 2025 General Session)

INSURANCE DEPARTMENT

ITEM 240

To Insurance Department - Insurance Department Administration
From General Fund Restricted - Insurance Department Acct. - 128,000
Schedule of Programs:
Administration - 128,000

ITEM 241

To Insurance Department - Insurance Department Administration
From General Fund Restricted - Insurance Department Acct. - 25,000
Schedule of Programs:
Administration - 25,000

To implement the provisions of *Wildland Urban Interface Modifications* (House Bill 48, 2025 General Session)

ITEM 242

To Insurance Department - Insurance Department Administration
From General Fund Restricted - Insurance Department Acct. - 7,100
Schedule of Programs:
Administration - 7,100

To implement the provisions of *Medication Amendments* (Senate Bill 69, 2025 General Session)

ITEM 243

To Insurance Department - Insurance Department Administration
From General Fund Restricted - Insurance Department Acct. - 46,800
From General Fund Restricted - Insurance Department Acct., One-time - 9,200
Schedule of Programs:
Administration - 56,000

To implement the provisions of *Health Insurance Preauthorization Revisions* (Senate Bill 274, 2025 General Session)

PUBLIC SERVICE COMMISSION

ITEM 244

To Public Service Commission - Public Service Commission Operations

From General Fund Restricted - Public Utility Restricted Acct. - 212,500
Schedule of Programs:
Administration - 212,500

To implement the provisions of *Electric Utility Amendments* (Senate Bill 132, 2025 General Session)

UTAH STATE TAX COMMISSION

ITEM 245

To Utah State Tax Commission - Tax Administration
From General Fund, One-time - 23,300
Schedule of Programs:
Operations - 23,300

To implement the provisions of *Adaptive Driving Equipment Amendments* (House Bill 79, 2025 General Session)

ITEM 246

To Utah State Tax Commission - Tax Administration
From Income Tax Fund - 115,100
From Income Tax Fund, One-time - 2,000
Schedule of Programs:
Operations - 5,200
Tax and Revenue - 111,900

To implement the provisions of *Income Tax Revisions* (House Bill 106, 2025 General Session)

ITEM 247

To Utah State Tax Commission - Tax Administration
From General Fund, One-time - 15,500
Schedule of Programs:
Operations - 15,500

To implement the provisions of *Trailer Registration and Uniform Fee Amendments* (House Bill 166, 2025 General Session)

ITEM 248

To Utah State Tax Commission - Tax Administration
From General Fund - 9,400
From Income Tax Fund - 7,900
From Dedicated Credits Revenue - 500
From General Fund Restricted - License Plate Restricted Account - 500
From General Fund Rest. - State Tax Commission Administrative Charge Account - - - - - - - - - - - - - - - - - - 4,500
Schedule of Programs:
Operations - 22,800

To implement the provisions of *Tax Commission Amendments* (House Bill 259, 2025 General Session)

ITEM 249

To Utah State Tax Commission - Tax Administration
From General Fund, One-time - 23,300
Schedule of Programs:
Operations - 23,300

To implement the provisions of *Vehicle Registration Amendments* (House Bill 277, 2025 General Session)

ITEM 250

To Utah State Tax Commission - Tax Administration
From General Fund, One-time - 18,000
Schedule of Programs:
Operations - 18,000

To implement the provisions of *Criminal Justice Revisions* (House Bill 354, 2025 General Session)

ITEM 251

To Utah State Tax Commission - Tax Administration
From General Fund - 31,200
From General Fund, One-time - (28,000)
From General Fund Rest. - State Tax Commission Administrative Charge Account - - - - - - - - - - - - - - - - - 115,100
From General Fund Rest. - State Tax Commission Administrative Charge Account, One-time - - - - - - - - - - - (67,100)
Schedule of Programs:
Operations - 51,200

To implement the provisions of *Department of Natural Resources Funding Amendments* (House Bill 378, 2025 General Session)

ITEM 252

To Utah State Tax Commission - Tax Administration
From General Fund, One-time - - -

Property and Miscellaneous Taxes - - -

To Governor's Office - Governor's Office Operations
From General Fund - - -

The Legislature intends that agencies may use savings resulting from turnover, productivity improvements, return to workplace, or other efficiency initiatives to award an up to 1% pay for performance bonus to eligible employees within the line item in which the savings were identified. These bonuses would be in addition to the pay for performance bonuses authorized in "State Agency and Higher Education Compensation Appropriations" (House Bill 8, 2025 General Session).

ITEM 277

To Department of Government Operations - Finance - Mandated

From General Fund - - -

To Department of Government Operations - Division of Finance
From General Fund - - -

From General Fund - - -

ITEM 302

To Department of Government Operations - State Archives
From General Fund - - -

From Income Tax Fund - - -

From Beginning Nonlapsing Balances - - -

From Dedicated Credits Revenue - - -

To Department of Environmental Quality - Waste Management and Radiation Control
From General Fund, One-time - - -

ITEM 340

To Department of Environmental Quality - Local Health Departments
From General Fund - - -

To Department of Natural Resources - Office of Energy Development
From General Fund, One-time - - -

To implement the provisions of *Food Security Amendments* (House Bill 100, 2025 General Session)

ITEM 357

To State Board of Education - Educator Licensing
From Public Education Economic Stabilization Restricted Account, One-time - - - - - - - - - - - - - - - - - 12,400,000
Schedule of Programs:
Educator Licensing - 12,400,000

To implement the provisions of *Stipends for Future Educators Grant Program Amendments* (House Bill 204, 2025 General Session)

ITEM 358

To State Board of Education - Contracted Initiatives and Grants
From Income Tax Fund - 140,600
From Income Tax Fund, One-time - (100,000)
From Closing Nonlapsing Balances - 500,000
Schedule of Programs:
Contracts and Grants - 395,600
High School Rodeo Athlete and Ambulance Grants - 145,000

ITEM 359

To State Board of Education - Contracted Initiatives and Grants
From Income Tax Fund - (122,634,700)
From Income Tax Fund, One-time - 20,000,000
Schedule of Programs:
Utah Fits All Scholarship Program - (102,634,700)

To implement the provisions of *Utah Fits All Scholarship Program Amendments* (House Bill 455, 2025 General Session)

The Legislature intends that the Division of Finance, in coordination with the State Board of Education, move all nonlapsing balances related to the Utah Fits All Scholarship Program in the Contracted Initiatives and Grants line item to the Utah Fits All Scholarship Program line item at the close of FY 2025.

ITEM 360

To State Board of Education - Contracted Initiatives and Grants
From Income Tax Fund - 8,895,800
Schedule of Programs:
Utah Private Course Choice Empowerment - 8,895,800

To implement the provisions of *Course Choice Empowerment* (Senate Bill 137, 2025 General Session)

ITEM 361

To State Board of Education - Policy, Communication, & Oversight
From Income Tax Fund - 500,000
Schedule of Programs:
Suicide Prevention - 500,000

ITEM 362

To State Board of Education - System Standards & Accountability
From Income Tax Fund, One-time - 2,200
Schedule of Programs:
Teaching and Learning - 2,200

To implement the provisions of *High School Credit Amendments* (House Bill 191, 2025 General Session)

ITEM 363

To State Board of Education - System Standards & Accountability
From Public Education Economic Stabilization Restricted Account, One-time - - - - - - - - - - - - - - - - - 27,000,000
Schedule of Programs:
Assessment and Accountability - (800,000)
CTE First Credential for All - 27,800,000

To implement the provisions of *First Credential Program* (House Bill 260, 2025 General Session)

The Legislature intends that the State Board of Education, in consultation with and upon recommendation from the First Credential Oversight Committee establish the "First Credential Program" (House Bill 260, 2025 General Session) to use up to $2,000,000 one-time appropriated for the expansion of the Utah First Credential program to contract with a vendor to develop an online system that offers a statewide education and career mapping software platform that is linked to state career opportunities and offers a career interest aptitude assessment. The Legislature further intends that the platform serve as a comprehensive interactive tool for students, parents, industry, and public educators to map high school credentials through higher education certificate or degree attainment.

The Legislature intends that the State Board of Education use remaining funds appropriated for the Utah First Credential Expansion funding item be distributed to local education agencies using a grant process in alignment with criteria established by the First Credential Oversight Committee.

ITEM 364

To State Board of Education - System Standards & Accountability
From Income Tax Fund - - -

Ancillary Services - - -

To implement the provisions of *Medical Examiner Amendments* (House Bill 493, 2025 General Session)

ITEM 379

To Department of Health and Human Services - Clinical Services
From General Fund - - -

Schedule of Programs:
Provider Reimbursement Information System for Medicaid - 55,000

To implement the provisions of *Social Services Program Amendments* (House Bill 347, 2025 General Session)

ITEM 388

To Department of Health and Human Services - Health Care Administration
From General Fund, One-time - 27,100
From Federal Funds, One-time - 77,100
From Dedicated Credits Revenue - 4,500
Schedule of Programs:
Integrated Health Care Administration - 8,700
Provider Reimbursement Information System for Medicaid - 100,000

To implement the provisions of *Medicaid Doula Services* (Senate Bill 284, 2025 General Session)

ITEM 389

To Department of Health and Human Services - Integrated Health Care Services
From General Fund - 1,950,000
From General Fund, One-time - 330,000
From Federal Funds - 3,505,700
From Federal Funds, One-time - (189,200)
From Expendable Receipts - 378,200
From Medicaid ACA Fund - (1,097,200)
From Medicaid ACA Fund, One-time - 48,800
Schedule of Programs:
Medicaid Accountable Care Organizations - 378,200
Medicaid Hospital Services - 539,500
Medicaid Pharmacy Services - 485,600
Medicaid Long Term Care Services - 2,832,500
Expansion Hospital Services - 500,000
Expansion Pharmacy Services - 487,700
Non-Medicaid Behavioral Health Treatment and Crisis Response - (297,200)

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Health and Human Services provide a direct award grant of $200,000 to Problems Anonymous Action Group in fiscal year 2026 for employee compensation and retention efforts.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Health and Human Services provide a direct award grant of $50,000 to Flourish Therapy in fiscal year 2026 for programs & therapies to fund sessions of mental health therapy.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Health and Human Services provide a direct award grant of $150,000 ongoing, $50,000 one-time to Bridle Up Hope in fiscal year 2026 for programs & therapies to support women's health and resiliency programming.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Health and Human Services provide a direct award grant of $100,000 to the Forge Forward Project in fiscal year 2026 for programs & therapies to help prevent veteran suicides.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Health and Human Services provide a direct award grant of $200,000 to Children's Center Utah in fiscal year 2026 to provide infant and early childhood mental health services.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Health and Human Services provide a direct award grant of $100,000 to THRIVE Center for Survivors of Torture in fiscal year 2026 to provide services to survivors of torture.

ITEM 390

To Department of Health and Human Services - Integrated Health Care Services
From Federal Funds, One-time - 1,604,800
From Ambulance Service Provider Assess Exp Rev Fund, One-time - 538,400
Schedule of Programs:
Medicaid Other Services - 1,176,800
Expansion Other Services - 966,400

To implement the provisions of *Ambulance Provider Payment Amendments* (House Bill 301, 2025 General Session)

ITEM 391

To Department of Health and Human Services - Integrated Health Care Services
From General Fund - 11,700
From General Fund, One-time - (5,900)
From Federal Funds - 26,400
From Federal Funds, One-time -(13,400)
Schedule of Programs:

Medicaid Accountable Care Organizations - - -

To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From General Fund - 350,000
From General Fund, One-time - 50,000
Schedule of Programs:
Health Promotion and Prevention - 50,000
Preparedness and Response - 350,000

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Health and Human Services provide a direct award grant of $50,000 to Project Zero in fiscal year 2026 for free swim lessons to children.

ITEM 398

To Department of Health and Human Services - Children, Youth, & Families
From General Fund - 500,000
From General Fund, One-time - 2,300,000
From Federal Funds - (445,300)
Schedule of Programs:
Child & Family Services -(12,831,400)
Out-of-Home Services - 500,000
Maternal & Child Health - 13,086,100
Office of Early Childhood - 1,600,000

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Health and Human Services provide a direct award grant of $100,000 to Begin with the Children in fiscal year 2026 for the purpose of helping prenatal and young parents be educated and informed about parenting ideas and techniques.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Health and Human Services provide a direct award grant of $500,000 to the GRANDfamilies kinship program of Children's Service Society in fiscal year 2026 for the purpose of helping educating and supporting grandparents and extended family to help raise children of relatives.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Health and Human Services provide a direct award grant of $100,000 to Prolife Utah in fiscal year 2026 for the purpose of providing resources for women with unplanned pregnancies that promote childbirth instead of abortion.

Under the provisions of Utah Code Annotated Title 63G Chapter 6b, the Legislature intends that the Department of Health and Human Services provide a direct award grant of $500,000 to Raise the Future in partnership with the Dave Thomas Foundation for Adoption in fiscal year 2026 for the purpose of providing services to support the adoption of hard-to-place children.

ITEM 399

To Department of Health and Human Services - Children, Youth, & Families
From General Fund - (800)
Schedule of Programs:
Child & Family Services - (800)

To implement the provisions of *Higher Education Reporting Amendments* (House Bill 51, 2025 General Session)

ITEM 400

To Department of Health and Human Services - Children, Youth, & Families
From General Fund - -(13,200)
Schedule of Programs:
Adoption Assistance - -(13,200)

To implement the provisions of *Adoption Modifications* (House Bill 141, 2025 General Session)

ITEM 401

To Department of Health and Human Services - Children, Youth, & Families
From General Fund - 733,600
From General Fund, One-time - 18,900
From Federal Funds - 137,800
Schedule of Programs:
Child & Family Services - 36,100
In-Home Services - -(20,800)
Out-of-Home Services - 875,000

To implement the provisions of *Minors in State Custody Amendments* (House Bill 302, 2025 General Session)

ITEM 402

To Department of Health and Human Services - Office of Recovery Services
From General Fund, One-time - 9,700
From Federal Funds, One-time - 18,800
Schedule of Programs:
Recovery Services - 22,000
Child Support Services - 6,500

To implement the provisions of *Child Support Modifications* (House Bill 463, 2025 General Session)

ITEM 403

To Department of Health and Human Services - Juvenile Justice & Youth Services
From General Fund - - -

Schedule of Programs:
Treasury and Investment - - -

ITEM 418

To Transportation - Highway System Construction
From Transportation Fund - - -

ITEM 427

To Transportation - Support Services
From Transportation Fund - - -

ITEM 433

To Department of Natural Resources - Outdoor Recreation Mitigation Grant Fund
From Transient Room/Resort Tax - - -

Schedule of Programs:
Criminal Division - - -

To General Fund Restricted - Indigent Defense Resources Account
From General Fund - - -

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Income Tax Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Income Tax Fund, or Uniform School Fund must be authorized by an appropriation.

PUBLIC EDUCATION

ITEM 454

To Income Tax Fund
From General Fund, One-time - - -

From State Appropriations, One-time - - -

CHAPTER 540
S. B. 62
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

SPACEPORT EXPLORATION COMMITTEE

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill creates the Spaceport Exploration Committee.

Highlighted Provisions:

This bill:

- ► creates the Spaceport Exploration Committee; and
- ► establishes membership and duties of the committee.

Money Appropriated in this Bill:

This bill appropriates $1,000,000 in operating and capital budgets for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-272, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

72-10-1301, Utah Code Annotated 1953
72-10-1302, Utah Code Annotated 1953
72-10-1303, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-272 is amended to read:

63I-1-272. Repeal dates: Title 72.

(1) Section 72-2-134, Transportation Infrastructure General Fund Support Subfund, is repealed July 1, 2027.

(2) Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January 2, 2030.

(3) Title 72, Chapter 10, Part 13, Spaceport Exploration Committee, is repealed July 1, 2027.

Section 2. Section 72-10-1301 is enacted to read:

CHAPTER 10. AERONAUTICS AND SPACE ACT

PART 13. Spaceport Exploration Committee

72-10-1301. Definitions.

As used in this part:

(1) "Committee" means the Spaceport Exploration Committee created in Section 72-10-1302.

(2) "Spaceport feasibility study" means a study to determine the feasibility of establishing a spaceport and that includes:

(a) a market analysis that evaluates the demand for space launch services, including potential government, commercial, and international customers and competitors;

(b) an economic impact assessment that analyzes the projected economic benefits of developing a spaceport, including job creation, local business growth, revenue generation, and an analysis of projected customers that could use the spaceport;

(c) a business case that describes how the spaceport could meet customer needs and attract private financing for the spaceport;

(d) detailed cost estimates for construction, operation, and maintenance of a spaceport, including infrastructure, technology, and human resources;

(e) consideration of the activities at the spaceport that the committee identifies the spaceport should support; and

(f) in consultation with the Utah National Guard and the Utah Test and Training Range, an assessment of opportunities to leverage military airspace and infrastructure and uses the military might have for a spaceport.

(3) "Spaceport siting assessment" means an assessment that is informed by the results of a spaceport feasibility study to determine potential locations for a spaceport that includes an analysis of:

(a) the extent to which the site can accomplish the spaceport objectives that the committee identifies;

(b) geographic and environmental considerations, including the site's size, location, and environmental impact;

(c) whether the site is remote enough to minimize risk to populated areas and complies with environmental regulations;

(d) infrastructure needs, including existing infrastructure and upgrades needed to support spaceport resources including launchpads, control centers, roads, utilities, and facilities;

(e) potential sources of significant infrastructure upgrades;

(f) accessibility, including consideration for the site's accessibility for transportation and logistics;

(g) connections to major highways, airports, and ports;

(h) regulatory compliance with applicable federal law, including regulations from the Federal Aviation Administration and Environmental Protection Agency;

(i) resources the state may leverage for a particular site, including tax benefits, land ownership, land use authority, and regulatory benefits;

(j) whether the site preserves the viability of the Utah Test and Training Range and all Department of Defense missions in the state;

(k) the existing uses and needs of Utah airspace, including for an international airport in a county of the first class; and

(l) activities that the committee identifies that the spaceport should support.

(4) "Supported activities" means the types of activities that could occur at a spaceport including:

(a) satellite launches;

(b) scientific missions;

(c) national defense missions;

(d) commercial space flights;

(e) space exploration;

(f) space cargo and resupply missions;

(g) space tourism; and

(h) space industry research and development.

Section 3. Section 72-10-1302 is enacted to read:

72-10-1302. Spaceport Exploration Committee creation.

(1) There is created the Spaceport Exploration Committee, comprising of the following members:

(a) two members of the Senate, whom the president of the Senate appoints;

(b) two members of the House of Representatives, whom the speaker of the House of Representatives appoints;

(c) the executive director of the department or the executive director's designee;

(d) the executive director of the Utah Inland Port Authority created in Section 11-58-201;

(e) the president, or the president's designee, of a nonprofit organization owned by Utah State University that is a University Affiliated Research Center that specializes in aerospace technology, missions, and defense;

(f) two liaisons from local military organizations, whom the co-chairs jointly appoint;

(g) the president of the state's largest aerospace and defense industry group as certified by the executive director of the department;

(h) the executive director of an international airport within a county of the first class, or the executive director's designee; and

(i) four members whom the governor appoints.

(2) The following shall co-chair the committee:

(a) a committee member that is a legislator described in Subsection (1)(a) or (1)(b) whom the speaker of the House of Representatives and the president of the Senate jointly designate; and

(b) a committee member whom the governor selects.

(3) When a vacancy occurs in the membership for any reason, the appointing authority or qualification described in Subsection (1) applies to the replacement in the same manner as the filling of the original position.

(4) A majority of members of the committee constitutes a quorum.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(6) The department shall provide staffing and administrative support to the committee.

Section 4. Section 72-10-1303 is enacted to read:

72-10-1303. Spaceport Exploration Committee duties.

(1) The committee shall:

(a) establish key objectives that the state should pursue in establishing a spaceport;

(b) evaluate the supported activities that would be most feasible for a spaceport in the state;

(c) conduct a spaceport feasibility study;

(d) conduct a spaceport siting assessment;

(e) evaluate the advantages and disadvantages the state has in establishing a spaceport; and

(f) make recommendations to the Legislature regarding whether it is in the state's best interest to establish a spaceport.

(2) The committee may:

(a) authorize the department to contract with one or more consultants to perform research, analysis, and legal work, or to provide other assistance necessary to accomplish the committee's duties;

(b) establish any advisory committees or working groups needed to fulfill the committee's responsibilities;

(c) by majority vote, add up to three non-voting committee members; and

(d) appoint one or more working groups to advise and assist the committee.

(3) The committee shall:

(a) create a report that:

(i) details the committee's conclusions on the items described in Subsection (1); and

(ii) includes recommendations on legislation needed to implement the committee's conclusions; and

(b) report to the Economic Development and Workforce Services Interim Committee and the Transportation Interim Committee no later than September 30, 2026.

Section 5. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 5(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Transportation - Aeronautics

From General Fund Restricted - Industrial Assistance Account, One-time - 1,000,000

Schedule of Programs:

Administration - 1,000,000

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 541
S. B. 137
Passed March 7, 2025
Approved March 27, 2025
Effective May 7, 2025

COURSE CHOICE EMPOWERMENT

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill establishes a private online course choice program.

Highlighted Provisions:

This bill:

- ► establishes standards for educational software and hardware procurement;
- ► removes references to a contractor from the Statewide Online Education Program statute;
- ► creates an online course choice program specifically for private school students;
- ► requires the program be administered by an independent program manager contracted by the State Board of Education;
- ► allows eligible students to earn credits through online courses, including courses in blended-learning environments;
- ► establishes a contract administrator role to oversee program implementation;
- ► authorizes the state board to contract with multiple entities for different program functions;
- ► provides for state oversight while maintaining program independence;
- ► creates transition provisions if program manager contracts end;
- ► requires separate funding from public education programs;
- ► requires the program manager to:
  - approve and oversee course providers;
  - approve and oversee courses offered;
  - establish payment structure for courses; and
  - annually report on program performance; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53F-4-501, as last amended by Laws of Utah 2024, Third Special Session, Chapter 1
53F-4-503, as last amended by Laws of Utah 2024, Chapter 24
53F-4-505, as last amended by Laws of Utah 2024, Chapter 24
53F-4-507, as last amended by Laws of Utah 2024, Chapter 24
53F-4-511, as last amended by Laws of Utah 2024, Chapter 24
53F-4-512, as last amended by Laws of Utah 2024, Chapter 24
53F-4-514, as last amended by Laws of Utah 2024, Chapter 24
53F-4-516, as last amended by Laws of Utah 2024, Chapter 24
53F-6-401, as last amended by Laws of Utah 2024, Chapter 26

ENACTS:

53F-4-209, Utah Code Annotated 1953
53F-4-519, Utah Code Annotated 1953
53F-6-501, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

AMENDS:

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-4-209 is enacted to read:

53F-4-209. Neutrality and integrity in educational software and hardware procurement.

(1) As used in this section:

(a) "Educational entity" means:

(i) the state board; or

(ii) a local education agency governing board.

(b) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with computer data or with the operation of a computer, computer program, or computer network.

(c) "Total cost of ownership" means the sum of all costs borne by the educational entity during the useful life of the software and hardware, including costs for acquisition, installation, training, data conversion, integration, maintenance, upgrades, and technical support.

(2) The Legislature finds that:

(a) the state board and local education agency governing boards have access to a broad variety of software and hardware products;

(b) these boards should evaluate software and hardware based on performance, value, cost, and licensing terms; and

(c) neutral software and hardware procurement practices promote competition, reduce costs, and provide better educational outcomes.

(3) An educational entity shall:

(a) base software and hardware procurement decisions on performance and value criteria, including quality, functionality, security, reliability, interoperability, and total cost of ownership;

(b) maintain neutrality with respect to:

(i) whether a for-profit or non-profit entity provides the software and hardware; and

(ii) the licensing model under which a provider offers the software and hardware; and

(c) retain the ability to install or run software and hardware on hardware that the educational entity chooses.

(4) An educational entity may consider the effect of specific licensing terms in software and hardware procurement decisions, including terms governing:

(a) availability of software and hardware source code;

(b) rights and restrictions regarding software and hardware modification;

(c) redistribution rights;

(d) warranties; and

(e) intellectual property indemnification.

(5) An educational entity shall interpret and apply this section in concert with all applicable provisions of Title 63G, Chapter 6a, Utah Procurement Code.

Section 2. Section 53F-4-501 is amended to read:

53F-4-501. Definitions.

As used in this part:

(1) "Authorized online course provider" means the entities listed in Subsection 53F-4-504(1).

(2) (a) "Certified online course provider" means a provider that the state board approves to offer courses through the Statewide Online Education Program.

(b) "Certified online course provider" does not include an entity described in Subsections 53F-4-504(1)(a) through (c).

(3) "Credit" means credit for a high school course, or the equivalent for a middle school course, as determined by the state board.

(4) [~~(a)~~] "Eligible student" means a student who:

[~~(i)~~](a) [~~who~~]intends to take a course for middle school or high school credit; and

[~~(ii) (A) who is enrolled in an LEA in Utah;~~]

[~~(B) who attends a private school or home school andwhose custodial parent is a resident of Utah; or~~]

[~~(C) who is an exchange student residing in Utah and enrolled in an LEA or private school in Utah.~~]

(b) is:

(i) enrolled in an LEA in Utah; or

(ii) a home-based student in accordance with Section 53G-6-204, whose custodial parent is a resident of Utah.

[~~(b) "Eligible student" does not include a scholarship student as defined in Section 53F-6-401.~~]

[~~(5) "Exchange student" means a student sponsored by an agency approved by an LEA or private school governing board or a student who has an F-1, J-1, or J-2 visa.~~]

[~~(6)~~](5) "High school" means grade 9, 10, 11, or 12.

[~~(7)~~](6) "Middle school" means, only for purposes of student eligibility to participate in the Statewide Online Education Program, grade 6, 7, or 8.

[~~(8)~~](7) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology, regardless of whether the student participates in the course at home, at school, at another location, or any combination of these.

[~~(9)~~](8) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

[~~(10)~~](9) "Primary LEA of enrollment" or "primary LEA" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

[~~(11)~~](10) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent pursuant to rules of the state board.

[~~(12) "State board's contractor" means the private entity described in Section 53F-4-503with which the state board contracts to administer the portion of the Statewide Online Education Program designated for a student who attends private school or home school.~~]

Section 3. Section 53F-4-503 is amended to read:

53F-4-503. Option to enroll in online courses offered through the Statewide Online Education Program.

(1) Subject to Subsections (2), (9), and (12), and[~~, for a public education student,~~] with the advice of a school counselor at a student's primary LEA, an eligible student may enroll in an online course offered through the Statewide Online Education Program if:

(a) the student meets the course prerequisites;

(b) the course is open for enrollment; and

(c) the online course is aligned with the student's plan for college and career readiness.

(2) An eligible student may enroll in online courses totaling up to six credits per school year.

(3) Notwithstanding Subsection (2):

(a) a student's primary LEA of enrollment may allow an eligible student to enroll in online courses for more than the number of credits specified in Subsection (2); or

(b) upon the request of an eligible student, the state board [~~or, in relation to a student who attends a private school or home school, the state board's contractor,~~]may allow the student to enroll in online courses for more than the number of credits specified in Subsection (2), if the online courses better meet the academic goals of the student.

(4) An eligible student's primary LEA of enrollment:

(a) in conjunction with the student and the student's parent, is responsible for preparing and implementing a plan for college and career readiness for the eligible student, as provided in Section 53E-2-304; and

(b) shall assist an eligible student in scheduling courses in accordance with the student's plan for college and career readiness, graduation requirements, and the student's post-secondary plans.

(5) An eligible student's primary LEA of enrollment may not:

(a) impose restrictions on a student's selection of an online course that fulfills graduation requirements and is consistent with the student's plan for college and career readiness or post-secondary plans; or

(b) give preference to an online course or authorized online course provider.

(6) The state board, [~~or, in relation to a student who attends a private school or home school, the state board's contractor,~~]including an employee of the state board[~~ or the state board's contractor,~~], may not give preference to an online course or authorized online course provider.

(7) (a) Except as provided in Subsection (7)(b), a person may not provide an inducement or incentive to a [~~public school~~]student to participate in the Statewide Online Education Program.

(b) For purposes of Subsection (7)(a):

(i) "Inducement or incentive" does not mean:

(A) instructional materials or software necessary to take an online course; or

(B) access to a computer or digital learning device for the purpose of taking an online course.

(ii) "Person" does not include a relative of the [~~public school~~]eligible student.

(8) The state board shall coordinate with the Utah System of Higher Education to study funding structures and access barriers related to concurrent enrollment for the Statewide Online Education Program and provide recommendations to the Education Interim Committee no later than the November 2024 meeting.

(9) Subject to legislative appropriations[~~ and for an eligible student who is enrolled at a public school~~], the state board shall provide Statewide Online Education Program academic counseling that:

(a) may advise an eligible student or an eligible student's parent regarding an online course enrollment including how an online course relates to graduation requirements described in Section 53E-4-204 and administrative rule;

(b) provides the training described in Section 53F-4-514;

(c) provides technical support to an LEA, school-based counselor, eligible student, or eligible student's parent;

(d) assists in gathering information, reports, and data an LEA requests; and

(e) directs an eligible student or an eligible student's parent to a school-specific counselor for advice regarding an online course enrollment in relation to an LEA, or school-specific graduation requirement and all other counseling services.

(10) If an eligible student has an IEP or Section 504 accommodation plan:

(a) the eligible student's primary LEA:

(i) shall:

(A) forward a copy of the relevant portions of the eligible student's existing IEP or Section 504 accommodation plan to the authorized online course provider in accordance with federal law and guidelines; and

(B) ensure the authorized online course provider is provided an eligible student's updated IEP when revisions are made;

(ii) may:

(A) ensure the eligible student's IEP team and the authorized online course provider review a course enrollment for compliance with requirements described in Subsection (1); and

(B) as needed, coordinate additional IEP team reviews with the authorized online course provider to ensure appropriate services, supports, and accommodations are in place for the eligible student; and

(b) the authorized online course provider:

(i) shall implement an eligible student's IEP or Section 504 accommodation plan; and

(ii) may seek assistance from the primary LEA to implement an eligible student's IEP or Section 504 accommodation plan.

(11) The state board shall create a model cooperative agreement between a primary LEA and an authorized online course provider for use when the primary LEA determines that an authorized online course provider would best provide IEP services, including a requirement that the eligible student's primary LEA provide funding for the IEP services.

(12) If the program lacks sufficient legislative appropriations to fund the enrollment in online courses for all eligible students who do not have a primary LEA of enrollment, the state board [~~or, in relation to a student who attends a private school or home school, the state board's contractor,~~]shall prioritize funding the enrollment of an eligible student who intends to graduate from high school during the school year in which the student enrolls in an online course.

[~~(13) No later than April 1, 2025, and in accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall use funds the state board expends to administer to the Statewide Online Education Program for students who attend private school or home school to alternatively contract with a private entity:~~]

[~~(a) that has demonstrated an expertise or ability to administer a statewide program to deliver education services to students who attend private school or home school; and~~]

[~~(b) to administer the portion of the Statewide Online Education Program that is designated for students who attend private school or home school, including providing an enrollment platform or tool separate from the enrollment tool or platform the state board provides for the program.~~]

[~~(14) The state board's contractor described in Subsection (13) may use a percentage of the appropriation for home school and private school students that is equal to the proportion of the state board's administrative cost in relation to the appropriation for students enrolled in an LEA.~~]

Section 4. Section 53F-4-505 is amended to read:

53F-4-505. Payment for an online course.

(1) For the 2012-13 school year, the fee for a .5 credit online course or .5 credit of a 1 credit online course is:

(a) $200 for the following courses, except a concurrent enrollment course:

(i) financial literacy;

(ii) health;

(iii) fitness for life; and

(iv) computer literacy;

(b) $200 for driver education;

(c) $250 for a course that meets core standards for Utah public schools in fine arts or career and technical education, except a concurrent enrollment course;

(d) $300 for the following courses:

(i) a course that meets core standards for Utah public schools requirements in social studies, except a concurrent enrollment course; and

(ii) a world language course, except a concurrent enrollment course;

(e) $350 for the following courses:

(i) a course that meets core standards for Utah public schools requirements for language arts, mathematics, or science; and

(ii) a concurrent enrollment course; and

(f) $250 for a course not described in Subsections (1)(a) through (e).

(2) If a course meets the requirements of more than one course fee category described in Subsection (1), the course fee shall be the lowest of the applicable course fee categories.

(3) The online course fees described in Subsection (1) shall be adjusted each school year in accordance with the percentage change in value of the weighted pupil unit from the previous school year.

(4) An authorized online course provider shall receive payment for an online course as follows:

(a) for a .5 credit online course, 50% of the online course fee after the withdrawal period described in Section 53F-4-506;

(b) for a 1 credit online course, 25% of the online course fee after the withdrawal period described in Section 53F-4-506 and 25% of the online course fee upon the beginning of the second .5 credit of the online course; and

(c) if a student completes a 1 credit online course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, 50% of the online course fee.

(5) (a) If a student fails to complete a 1 credit course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, the student may continue to be enrolled in the course until the student graduates from high school.

(b) To encourage an authorized online course provider to provide remediation to a student who remains enrolled in an online course pursuant to Subsection (5)(a) and avoid the need for credit recovery, an authorized online course provider shall receive a payment equal to 30% of the online course fee if the student completes the online course:

(i) for a high school online course, before the student graduates from high school; or

(ii) for a middle school online course, before the student completes middle school.

(6) Notwithstanding the online course fees prescribed in Subsections (1) through (3), a school district or charter school may:

(a) negotiate a fee with an authorized online course provider for an amount up to the amount prescribed in Subsections (1) through (3); and

(b) pay the negotiated fee instead of the fee prescribed in Subsections (1) through (3).

(7) An authorized online course provider who contracts with a vendor for the acquisition of online course content or online course instruction may negotiate the payment for the vendor's service independent of the fees specified in Subsections (1) through (3).

(8) The state board [~~or, in relation to a student who attends a private school or home school, the state board's contractor,~~]may not remove a student from an online course if the student is eligible for continued enrollment in the online course under Subsection (5).

(9) Upon request by a primary LEA, the state board shall provide an itemized report to the primary LEA showing the deduction described in Subsection 53F-4-508(2) by student and course enrolled.

Section 5. Section 53F-4-507 is amended to read:

53F-4-507. Direction to deduct funds and make payments -- Plan for the payment of online courses taken by home-based students.

(1) [~~(a)~~] Subject to future budget constraints, the Legislature shall adjust the appropriation for the Statewide Online Education Program based on[~~:~~]

[~~(i)~~](a) the anticipated increase of eligible [~~home school and private school~~]home-based students enrolled in the Statewide Online Education Program; and

[~~(ii)~~](b) the value of the weighted pupil unit.

[~~(b) The state board shall, if the state board contracts with a private entity under Subsection 53F-4-503(9), delegate to the state board's contractor the management of the funds appropriated for the Statewide Online Education Program for students who attend private school or home school.~~]

(2) Notwithstanding Subsection (1) and subject to future budget constraints, the Legislature shall:

(a) consider enrollment projections provided by the authorized online course providers to account for enrollment growth during the appropriations process; and

(b) provide a supplemental appropriation to adequately fund the Statewide Online Education Program when the enrollment amount exceeds the projected enrollment amounts provided by the authorized online course providers[~~; and~~].

[~~(c) in the fiscal year beginning July 1, 2025, keep all other appropriations for the Statewide Online Education Program separate from the appropriations described in Section 53F-4-518.~~]

(3) (a) The state board shall deduct money from funds allocated to the student's primary LEA of enrollment under Chapter 2, State Funding -- Minimum School Program, to pay for online course fees.

(b) Money shall be deducted under Subsection (3)(a) in the amount and at the time an authorized online course provider qualifies to receive payment for an online course provided to a [~~public education~~]student, not to exceed 90 days after qualification, as provided in Subsection 53F-4-505(4).

[~~(c) The state board or, in relation to a student who attends a private school or home school, the state board's contractor, shall deduct money from funds allocated for course fees for a private school or home school student in the amount and at the time an authorized online course provider qualifies to receive payment for an online course, not to exceed 90 days after qualification.~~]

(4) From money deducted under Subsection (3), the state board [~~or, in relation to a student who attends a private school or home school, the state board's contractor, ~~]shall make payments to the student's authorized online course provider as provided in Section 53F-4-505.

Section 6. Section 53F-4-511 is amended to read:

53F-4-511. Report on performance of authorized online course providers.

(1) The state board, in collaboration with authorized online course providers[~~ and, if applicable, the state board's contractor~~], shall develop a report on the performance of authorized online course providers, which may be used to evaluate the Statewide Online Education Program and assess the quality of an authorized online course provider..

(2) A report on the performance of an authorized online course provider shall include:

(a) scores aggregated by test on statewide assessments administered under Title 53E, Chapter 4, Part 3, Assessments, taken by students at the end of an online course offered through the Statewide Online Education Program;

(b) the percentage of the authorized online course provider's students who complete online courses within the applicable time period specified in Subsection 53F-4-505(4)(c);

(c) the percentage of the authorized online course provider's students who complete online courses after the applicable time period specified in Subsection 53F-4-505(4)(c) and before the student graduates from high school; and

(d) the pupil-teacher ratio for the combined online courses of the authorized online course provider.

(3) The state board shall post a report on the performance of an authorized online course provider on the Statewide Online Education Program's website described in Section 53F-4-512.

Section 7. Section 53F-4-512 is amended to read:

53F-4-512. Dissemination of information on the Statewide Online Education Program.

(1) The state board shall develop a website for the Statewide Online Education Program which shall include:

(a) a description of the Statewide Online Education Program, including its purposes;

(b) notwithstanding Subsection (2), information on who is eligible to enroll, and how an eligible student may enroll, in an online course;

(c) a directory of authorized online course providers;

(d) a link to a course catalog for each authorized online course provider; and

(e) a report on the performance of authorized online course providers as required by Section 53F-4-511.

(2) An authorized online course provider shall provide the following information on the authorized online course provider's website:

(a) a description of the Statewide Online Education Program, including its purposes;

(b) information on who is eligible to enroll, and how an eligible student may enroll, in an online course;

(c) a course catalog;

(d) scores aggregated by test on statewide assessments administered under Title 53E, Chapter 4, Part 3, Assessments, taken by students at the end of an online course offered through the Statewide Online Education Program;

(e) the percentage of an authorized online course provider's students who complete online courses within the applicable time period specified in Subsection 53F-4-505(4)(c);

(f) the percentage of an authorized online course provider's students who complete online courses after the applicable time period specified in Subsection 53F-4-505(4)(c) and before the student graduates from high school; and

(g) the authorized online course provider's pupil-teacher ratio for the online courses combined.

[~~(3) The state board's contractor shall provide on the contractor's website information regarding enrollment and participation by aprivateschool or home school student through the contractor.~~]

Section 8. Section 53F-4-514 is amended to read:

53F-4-514. State board -- Rulemaking -- Fees.

(1) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall provide a delayed effective date that is after the school year has ended for a change to an administrative rule related to the Statewide Online Education Program if the change would require an authorized online course provider to make program changes during the school year.

(2) The state board shall make rules in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(a) a course credit acknowledgement form and procedures for completing and submitting to the state board [~~or, in relation to a student who attends a private school or home school, the state board's contractor, ~~]a course credit acknowledgement;

(b) procedures for the administration of a statewide assessment to a student enrolled in an online course; [~~and~~]

(c) protocols for an online course provider to obtain approval to become a certified online course provider, including:

(i) the application procedure for an online course provider to obtain approval to become a certified online course provider; and

(ii) the standards that a certified online course provider and any online course the certified online course provider offers shall meet;

(d) in accordance with Title 53E, Chapter 4, Academic Standards, Assessments, and Materials, criteria for an authorized online course

provider to submit for approval an online course that does not have an existing state board course code; and

(e) [~~no later than July 1, 2024, a~~]a process within existing systems at the state board [~~or, in relation to a student who attends a private school or home school, the state board's contractor,~~]to allow a certified online course provider access to an educator's licensing, endorsement, certification, and assignment information if the educator is teaching an online course for the certified online course provider;

(f) in consultation with the authorized online course providers, the parameters for conducting a site visit including:

(i) a definition for the term, site visit;

(ii) the minimum amount of time required for:

(A) notice to an authorized online course provider of a site visit; and

(B) an authorized online course provider to prepare for a site visit;

(iii) the documents, data, and artifacts subject to inspection during a site visit; and

(iv) a process to ensure a site visit allows for observation of instruction without interfering with the instruction;

(g) annual mandatory training for relevant staff at a primary LEA that includes:

(i) program requirements for a primary LEA including reporting requirements and methods;

(ii) uses of resources and tools to ensure adequate monitoring of an eligible student's progress;

(iii) federal and state requirements for accommodating enrollments that involve special education;

(iv) appropriate circumstances and methodologies for reducing an eligible student's schedule; and

(v) other components the state board determines are necessary[~~; and~~].

(3) (a) When establishing the standards described in Subsection (2)(c)(ii) the state board shall:

(i) establish rules and minimum standards regarding accreditation;

(ii) require an online course to be aligned with the core standards described in Section 53E-4-202;

(iii) require proof that a national organization responsible for college athletics endorses:

(A) the certified online course provider; or

(B) the online course that a certified online course provider offers;

(iv) permit an open-entry, open-exit method of instructional delivery that allows a student the flexibility to:

(A) schedule in response to individual needs or requirements;

(B) demonstrate competency when the student has mastered knowledge and skills;

(C) begin or end study at any time; and

(D) progress through course material at the student's own pace; and

(v) except as provided in Subsection (5), require an individual who teaches a course for a certified online course provider to hold a teaching license issued by the state board.

(b) When establishing the standards described in Subsection (2)(c)(ii), the state board may not:

(i) specify a minimum duration for an online course;

(ii) specify a minimum amount of time that a student must spend in an online course; or

(iii) limit the class size of an online course.

(4) No later than January 31, 2026, the state board shall create a communication dashboard for the program [~~and only related to eligible students enrolled in a public school~~]that may include:

(a) a counselor contact list for an eligible student that is accessible to an authorized online course provider; and

(b) progress monitoring fields that are accessible to the primary LEA, the eligible student's counselor, and the eligible student's parent containing:

(i) grade progress reporting of an eligible student by an authorized online course provider;

(ii) an ability to flag a student that is at-risk of failing an online course; and

(iii) other relevant capabilities the state board determines to be necessary in consultation with LEA users of the dashboard.

(5) If an individual possesses a provider-specific license described in Section 53E-6-201, the state board may not prohibit the individual from teaching an online course for an authorized online course provider while the individual is in the process of obtaining an endorsement or additional license issued by the state board.

(6) The state board may establish a fee, in accordance with Section 63J-1-504, in an amount to pay the costs to the state board of the application approval process and the monitoring of a certified online course provider's compliance with the standards described in Subsection (2)(c)(ii).

(7) (a) Fee revenue collected in accordance with Subsection (6) shall be:

(i) deposited into the Uniform School Fund as a dedicated credit; and

(ii) used to pay the costs to the state board of reviewing certified online course providers' applications and compliance with the standards described in Subsection (2)(c)(ii).

Section 9. Section 53F-4-516 is amended to read:

53F-4-516. Report of noncompliance -- Action to ensure compliance.

(1) The state superintendent shall report to the state board any report of noncompliance of this part made to a staff member of the state board[~~ or, in relation to a student who attends a private school or home school, the state board's contractor~~].

(2) The state board [~~and, if applicable, the state board's contractor,~~]shall take appropriate action to ensure compliance with this part.

Section 10. Section 53F-4-519 is enacted to read:

53F-4-519. Home-based student access to online courses.

Subject to legislative appropriations and Subsection 53F-4-514(2), and notwithstanding Subsections 53F-4-509(2) and (3), the state board shall:

(1) use funds from an appropriation for the Statewide Online Education Program to pay for an online course fee described in Section 53F-4-505 for a home-based student whose custodial parent is a resident of Utah; and

(2) allocate funds for online course fees for home-based students on a first-come, first-served basis until the appropriated funds are fully expended.

Section 11. Section 53F-6-401 is amended to read:

53F-6-401. Definitions.

As used in this part:

(1) "Eligible student" means a student:

(a) who is eligible to participate in public school, in kindergarten, or grades 1 through 12;

(b) who is a resident of the state, including a child of a military service member, as that term is defined in Section 53B-8-102;

(c) who, during the school year for which the student is applying for a scholarship account:

(i) does not receive a scholarship under:

(A) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(B) the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402; and

(ii) is not enrolled in, upon receiving the scholarship:

(A) an LEA; or

(B) the Statewide Online Education Program to participate in a course with funding provided under Title 53F, Chapter 4, Part 5, Statewide Online Education Program, which does not include participation in a course by an entity as described in Subsection 53F-6-409(7);

(d) whose eligibility is not suspended or disqualified under Section 53F-6-401; and

(e) who completes, to maintain eligibility, the portfolio requirement described in Subsection 53F-6-402(3)(d).

(2) "Federal poverty level" means the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(3) (a) "Home-based scholarship student" means a student who:

(i) is eligible to participate in public school, in kindergarten or grades 1 through 12;

(ii) is excused from enrollment in an LEA in accordance with Section 53G-6-204 to attend a [~~home school~~]home-based learning environment; and

(iii) receives a benefit of scholarship funds.

(b) "Home-based scholarship student" does not mean a [~~home school~~]home-based student who does not receive a scholarship under the program.

(4) "Parent" means:

(a) the same as that term is defined in Section 53E-1-102; and

(b) a foster parent who has initiated a process to adopt the foster child.

(5) "Program manager" means an organization that:

(a) is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code;

(b) is not affiliated with any international organization;

(c) does not harvest data for the purpose of reproducing or distributing the data to other entities;

(d) has no involvement in guiding or directing any curriculum or curriculum standards;

(e) does not manage or otherwise administer a scholarship under:

(i) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(ii) the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402; and

(f) an agreement with the state board recognizes as a program manager, in accordance with this part.

(6) (a) "Program manager employee" means an individual working for the program manager in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.

(b) "Program manager employee" does not include:

(i) an individual who volunteers for the program manager or for a qualifying provider;

(ii) an individual who works for a qualifying provider; or

(iii) a qualifying provider.

(7) "Program manager officer" means:

(a) a member of the board of a program manager; or

(b) the chief administrative officer of a program manager.

(8) (a) "Qualifying provider" means one of the following entities:

(i) an eligible school that the program manager approves in accordance with Section 53F-6-408; or

(ii) an eligible service provider that the program manager approves in accordance with Section 53F-6-409.

(b) "Qualifying provider" does not include:

(i) a parent of a home-based scholarship student [~~or a home school student~~]solely in relation to the parent's child; or

(ii) any other individual that does not meet the requirements described in Subsection (8)(a).

(9) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(10) "Scholarship account" means the account to which a program manager allocates funds for the payment of approved scholarship expenses in accordance with this part.

(11) (a) "Scholarship expense" means an expense described in Section 53F-6-402 that a parent or scholarship student incurs in the

education of the scholarship student for a service or goods that a qualifying provider provides, including:

[~~(a)~~](i) tuition and fees of a qualifying provider;

[~~(b)~~](ii) fees and instructional materials at a technical college;

[~~(c)~~](iii) tutoring services;

[~~(d)~~](iv) fees for after-school or summer education programs;

[~~(e)~~](v) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum or a qualifying provider recommends;

[~~(f)~~](vi) educational software and applications;

[~~(g)~~](vii) supplies or other equipment related to a scholarship student's educational needs;

[~~(h)~~](viii) computer hardware or other technological devices that are intended primarily for a scholarship student's educational needs;

[~~(i)~~](ix) fees for the following examinations, or for a preparation course for the following examinations, that the program manager approves:

[~~(i)~~](A) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;

[~~(ii)~~](B) a state-recognized industry certification examination; and

[~~(iii)~~](C) an examination related to college or university admission;

[~~(j)~~](x) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;

[~~(k)~~](xi) contracted services that the program manager approves and that an LEA provides, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;

[~~(l)~~](xii) ride fees or fares for a fee-for-service transportation provider to transport the scholarship student to and from a qualifying provider, not to exceed $750 in a given school year;

[~~(m)~~](xiii) expenses related to extracurricular activities, field trips, educational supplements, and other educational experiences; or

[~~(n)~~](xiv) any other expense for a good or service that:

[~~(i)~~](A) a parent or scholarship student incurs in the education of the scholarship student; and

[~~(ii)~~](B) the program manager approves, in accordance with Subsection (5)(d).

(b) "Scholarship expense" does not include:

(i) chaperone expenses, except that a family with one or more scholarship students receiving the scholarship under Subsection 53F-6-402(2)(c) may use scholarship funds for one chaperone expense or pass per family, regardless of how many scholarship students are in the family or household;

(ii) season tickets or subscriptions to entertainment venues;

(iii) ski passes or lift tickets;

(iv) access to recreational facilities unless for physical education of the student;

(v) playground equipment;

(vi) the purchase of any type of:

(A) furniture; or

(B) a musical instrument;

(vii) apparel; and

(viii) other non-educational expenses as the program manager determines.

(12) "Scholarship funds" means:

(a) funds that the Legislature appropriates for the program; and

(b) interest that scholarship funds accrue.

(13) (a) "Scholarship student" means an eligible student, including a home-based scholarship student, for whom the program manager establishes and maintains a scholarship account in accordance with this part.

(b) "Scholarship student" does not include a [~~home school~~]home-based student who does not receive a scholarship award under the program.

(14) "Utah Fits All Scholarship Program" or "program" means the scholarship program established in Section 53F-6-402.

Section 12. Section 53F-6-501 is enacted to read:

PART 5. Utah Private Course Choice Empowerment

53F-6-501. Utah Private Course Choice Empowerment program.

(1) As used in this section:

(a) "Authorized online course provider" or "provider" means a provider approved by the program manager to offer online courses through the program.

(b) "Blended learning" means an education model that:

(i) combines in-person and online or digital instruction and learning activities;

(ii) allows students to receive instruction through:

(A) direct, in-person interaction with an instructor;

(B) digital or online content and activities; or

(C) a combination of both in-person and online methods;

(iii) may include hybrid teaching formats where:

(A) some students participate in-person while others participate remotely; or

(B) instruction alternates between in-person and online delivery; and

(iv) provides students flexibility in time, place, path, or pace of learning.

(c) "Contract administrator" means the state board's appointed Deputy Superintendent of Operations that ensures the program manager meets contractual obligations.

(d) "Contract oversight and compliance" means the oversight and coordination functions performed by the Department of Operations contract administrator, including:

(i) establishing and maintaining program standards within a contract with a program manager;

(ii) determining operational requirements and structures;

(iii) procuring and managing contracts for program services and standards;

(iv) ensuring program integrity through direct or contracted oversight;

(v) coordinating program functions and contracted services with a program manager; and

(vi) maintaining appropriate separation between government oversight and independent program operations.

(e) "Contracted entity" means an organization that:

(i) contracts with the state board to perform duties and functions necessary for program administration and operations;

(ii) is not affiliated with any international organization;

(iii) does not harvest data for the purpose of reproducing or distributing the data to other entities;

(iv) has no involvement in guiding or directing any curriculum or curriculum standards; and

(v) performs the specific duties and functions assigned in the contract with the state board.

(f) "Department of Operations" means the section of the state board that oversees financial operations, procurement operations, data and statistics operations, school land trust, and information technology operations for the state board.

(g) "Eligible student" means a student:

(i) who attends a private school whose parent is a resident of Utah; or

(ii) who is an exchange student residing in Utah and enrolled in a private school in Utah.

(h) "Online course" means a course of instruction for grades 6 through 12 offered through the program using digital technology, including:

(i) an exclusively online learning and instructional model; or

(ii) blended learning models.

(i) "Private school" means the same as term is defined in Section 53F-6-401.

(j) "Program" means the Utah Private Course Choice Empowerment program created in this section.

(k) "Program manager" means a contracted entity that, at the time of application, demonstrates the ability without external contracts to internally meet the qualifications specified in this section, that is contracted by the state board to administer the Utah Private Course Choice Empowerment program, including:

(i) the ability to manage, distribute, and transact program funds;

(ii) capacity to create and maintain a user-friendly website;

(iii) the ability to verify a student's eligibility based on the requirements of this part;

(iv) capacity to process provider payments and maintain financial records;

(v) ability to track, monitor, and report program enrollment, participation, and outcomes at both provider and individual student levels; and

(vi) maintenance of a publicly accessible provider list, including:

(A) the capability to allow a student or a student's parent to rate, review, and share information about providers; and

(B) appropriate links to a provider's course catalog.

(2) The program is created to enable an eligible student to engage in taking online courses.

(3) The purposes of the program are to:

(a) provide a student with access to online learning options regardless of where the student attends school, including blended learning settings;

(b) provide digital learning options for a student regardless of language, residence, family income, or special needs;

(c) utilize the power and scalability of technology to customize education so that a student may learn in the student's own style preference and at the student's own pace;

(d) provide greater access to self-paced programs enabling a high achieving student to accelerate academically, while a struggling student may have additional time and help to gain competency;

(e) allow a student to customize the student's schedule to better meet the student's academic goals;

(f) provide quality learning options to better prepare a student for post-secondary education and career opportunities; and

(g) support flexible learning environments through blended learning options that combine the benefits of both in-person and online instruction to enhance student engagement and achievement.

(4) An eligible student may enroll in an online course offered through the program if:

(a) the student meets the course prerequisites; and

(b) the course is open for enrollment.

(5) (a) An eligible student may enroll in online courses up to the equivalent of six credits per school year.

(b) Notwithstanding Subsection (5)(a), if an eligible student is also a scholarship student as defined in Section 53F-6-401, the student may enroll in online courses up to the equivalent of four credits per school year.

(6) (a) No later than April 1, 2025, the state board shall:

(i) in accordance with Title 63G, Chapter 6a, Utah Procurement Code, enter in an agreement with one or more contracted entities to serve as a program manager for the program, including management of the funds appropriated for the program;

(ii) ensure the initial contract is no more than a three-year contract with annual renewal options subject to performance review and

compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(iii) ensure the contract:

(A) clearly delineates the specific duties and functions to be performed;

(B) ensures the efficiency and success of the program;

(C) maintains appropriate separation between program and contract administration and direct educational services;

(D) preserves the independence of educational decisions made between parents and providers; and

(E) does not impose any requirements on the program manager that are not essential to the basic administration of the program or create restrictions, directions, or mandates regarding instructional content or curriculum.

(b) The state board shall perform contract oversight and compliance through the contract administrator, who shall:

(i) regulate and take enforcement action as necessary against a program manager in accordance with the provisions of the state board's agreement with the program manager;

(ii) ensure the program manager adheres to all contractual obligations;

(iii) review all program reports and financial records;

(iv) conduct regular compliance audits; and

(v) evaluate the program manager's performance annually.

(c) The state board shall not include a provision in any rule that creates or implies a restriction, direction, or mandate regarding program administration, including student enrollment, payments to providers, instructional content, or curriculum.

(d) The state board, in collaboration with the contract administrator, may:

(i) distribute program functions among multiple contracted entities, including:

(A) program management functions;

(B) financial processing and payment functions;

(C) provider management functions; and

(D) other administrative functions as needed; and

(ii) ensure appropriate coordination between all contracted entities through clearly defined roles and responsibilities in each contract.

(7) (a) The program manager shall:

(i) administer the program;

(ii) ensure an eligible student can navigate to all authorized online course providers' enrollment platforms or tools for the program;

(iii) approve and oversee authorized online course providers;

(iv) establish guidelines for qualifying providers and courses;

(v) manage funds appropriated for the program;

(vi) make payments to authorized online course providers that may not include transaction fees of any kind;

(vii) as described in Subsection (19), provide an annual report on the performance of the program to the Education Interim Committee; and

(viii) ensure compliance with applicable laws and regulations.

(b) The program manager shall maintain detailed financial records subject to review by the contract administrator, including:

(i) all course payments processed;

(ii) provider payment histories;

(iii) administrative costs; and

(iv) audit results.

(8) The state board may regulate and take enforcement action as necessary against a program manager in accordance with the provisions of the state board's agreement with the program manager.

(9) (a) If the state board determines that a program manager has violated a provision of this part or a provision of the state board's agreement with the program manager, the state board shall send written notice to the program manager explaining the violation and the remedial action required to correct the violation.

(b) A program manager that receives a notice described in Subsection (9)(a) shall, no later than 60 days after the day on which the program manager receives the notice, correct the violation and report the correction to the state board.

(c) (i) If a program manager that receives a notice described in Subsection (9)(a) fails to correct a violation in the time period described in Subsection (9)(b), the state board may bar the program manager from further participation in the program.

(ii) A program manager may appeal a decision of the state board under Subsection (9)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) A program manager may not accept state funds while the program manager:

(i) is barred from participating in the program under Subsection (9)(c)(i); or

(ii) has an appeal pending under Subsection (9)(c)(ii).

(e) A program manager that has an appeal pending under Subsection (9)(c)(ii) may continue to administer online courses during the pending appeal.

(10) The program manager shall approve online course providers to offer courses through the program.

(11) (a) Subject to Subsection (11)(b), the program manager shall establish a process to approve an entity as an authorized online course provider, including:

(i) the entity's demonstration of at least three years of experience in either:

(A) developing and delivering proprietary digital coursework for students; or

(B) successfully aggregating and managing third-party digital education providers and courses for students;

(ii) the ability to provide a publicly available user-friendly website for an eligible student, including:

(A) an accessible course enrollment system;

(B) comprehensive provider and course information; and

(C) program participation metrics;

(iii) verification that within the past five years, the entity:

(A) has not been subject to sanctions;

(B) has not undergone investigations;

(C) has not had adverse findings in malfeasance audits; and

(D) has not received other official censures in any state where it delivers digital courses;

(iv) certification that the entity is not currently named in any lawsuit or ongoing civil litigation in any state where the entity delivers digital courses; and

(v) the entity's demonstrated capacity to:

(A) evaluate and monitor course quality and content;

(B) verify instructor qualifications and experience;

(C) ensure instructor technical competency;

(D) conduct instructor background checks;

(E) provide regular professional development;

(F) implement student safety policies;

(G) maintain data privacy and security;

(H) enforce a learner code of conduct; and

(I) uphold academic integrity standards.

(b) In accordance with Subsection (13), the program manager shall allow all authorized online course providers and courses the state board has approved up to July 1, 2024, for the Statewide Online Education Program described in Title 53F, Chapter 4, Part 5, Statewide Online Education Program, to be offered to private school students.

(12) The program manager may revoke approval of an authorized online course provider for non-compliance with program requirements described in this section or poor performance as the program manager determines.

(13) The program manager shall establish a process for reviewing and approving courses to be offered through the program, including:

(a) submission of the following course information:

(i) course title;

(ii) course fee;

(iii) subject area; and

(iv) if applicable, credits earned;

(b) description of course organization, including:

(i) modules, units, or chapters;

(ii) frequency of assessments; and

(iii) overall course length;

(c) course pacing information, including:

(i) recommended standard course pace progression;

(ii) expected weeks of study per semester of content; and

(iii) acknowledgment of a student's flexibility to adjust course pace;

(d) course withdrawal policy;

(e) final completion deadline for the course;

(f) summary description of course subject matter content;

(g) course prerequisites, if any;

(h) required course materials, including:

(i) technology requirements; and

(ii) tangible materials needed for course completion;

(i) alignment with any applicable:

(i) industry standards;

(ii) state board standards;

(iii) National Collegiate Athletic Association requirements; or

(iv) accreditation requirements;

(j) method of course instruction and delivery;

(k) description of instructional support, including:

(i) frequency of instructor-initiated one-on-one progress checks;

(ii) frequency of instructor-led tutoring;

(iii) availability of small-group tutoring;

(iv) frequency of synchronous one-on-one instructor-led checks for a student's understanding; and

(v) regular student interaction with educators;

(l) student-to-teacher ratio;

(m) for blended or hybrid format courses:

(i) a description of in-person instruction components; and

(ii) any waiver for online instructional support requirements when a student receives real-time in-person instruction for a portion of the course; and

(n) prohibiting credit recovery courses or packet-based courses.

(14) The program manager shall ensure the review process described in Subsection (13):

(a) does not require an authorized online course provider to alter the provider's:

(i) creed;

(ii) practices;

(iii) admissions policies;

(iv) hiring practices; or

(v) curricula, including any religious course or course content;

(b) maintains an authorized online course provider's autonomy while accepting program funds; and

(c) provides for a regular renewal of:

(i) a course approval; and

(ii) an authorized online course provider's authorization based on criteria, including:

(A) a course completion rate of at least 80%;

(B) reviews of the courses provided by a parent or eligible student; and

(C) if applicable, fidelity to the approval criteria described in Subsection (11).

(15) An authorized online course provider shall:

(a) for each course offered, establish reasonable:

(i) course lengths;

(ii) standardized completion deadlines that are the same for all courses offered by the provider;

(iii) standardized withdrawal deadlines that are the same for all courses offered by the provider; and

(iv) course fees;

(b) submit the information described in Subsections (13) and (15)(a) to the program manager for approval;

(c) ensure the information described in Subsections (13) and (15)(a) are correctly posted with each course listing; and

(d) report enrollment and withdrawal data to the program manager within five business days.

(16) Subject to legislative appropriation, the program manager shall manage program funds to administer the program, including:

(a) paying a course fee to an authorized online course provider as follows:

(i) 60% of the course fee paid upon an eligible student's enrollment; and

(ii) 40% of the course fee paid upon the eligible student's completion of the course;

(b) if the student does not complete the course by the deadline the authorized online course provider establishes as described in Subsection (15), disqualifying an authorized online course provider from receiving the 40% of the course fee as described in Subsection (16)(a)(ii);

(c) processing payments to a provider within 30 days of relevant deadlines for enrollment, withdrawal, or course completion; and

(d) establishing a payment structure for payments made to a provider that ensures no transaction fees are passed on to the provider.

(17) Subject to legislative appropriation, the Legislature shall:

(a) provide funds for the program that are separate from funding for public education programs; and

(b) adjust the appropriation based on anticipated enrollment increases in the program.

(18) The program manager may use a percentage of the appropriation described in Subsection (17) for administrative costs as follows:

(a) up to 8% of the appropriation for administrative costs when the total annual appropriation from the Legislature is $10,000,000 or less; and

(b) up to 5% of the appropriation for administrative costs when the total annual appropriation from the Legislature exceeds $10,000,000.

(19) The program manager shall provide an annual report to the Education Interim Committee regarding the performance of the program, including:

(a) number of students served;

(b) courses offered and completed;

(c) student progress and completion rates; and

(d) financial information and use of funds.

(20) The program manager shall establish a comprehensive system for monitoring providers, including:

(a) regular performance reviews based on:

(i) student completion rates;

(ii) student academic progress metrics;

(iii) instructor qualifications and performance;

(iv) course content quality and alignment; and

(v) technical system reliability;

(b) annual compliance audits of:

(i) financial records;

(ii) student data privacy practices; and

(iii) security protocols; and

(c) regular provider site visits that occur at least once per academic year.

(21) On or before July 1, 2025, and as frequently as necessary to maintain the information, the state board shall provide information on the state board's website, including:

(a) information on the program manager, including the program manager's contact information; and

(b) an overview of the program.

(22) In the event of the expiration or termination of a program manager contract, or the inability of a program manager to perform required duties:

(a) the Department of Operations shall serve as a temporary bridge program administrator solely during the time required to:

(i) maintain essential program operations; and

(ii) complete the procurement process for selecting a new program manager;

(b) the Department of Operations shall immediately initiate and complete the procurement process described in this section in an expedited manner;

(c) the Department of Operations shall establish clear timelines and procedures for the transition process between the previous program manager to the Department of Operations to the new program manager; and

(d) the Department of Operations shall provide proper notice to and coordinate with:

(i) authorized online course providers;

(ii) parents;

(iii) the state board; and

(iv) other affected parties.

Section 13. Effective Date.

This bill takes effect on May 7, 2025.

Section 14. Coordinating S.B. 137 with H.B. 455.

If S.B. 137, Course Choice Empowerment, and H.B. 455, Utah Fits All Scholarship Program Amendments, both pass and become law, the Legislature intends that, on May 7, 2025, the amendments to Subsection 53F-6-401(11)(b) in S.B. 137 supersede the amendments to Subsection 53F-6-401(20)(b) in H.B. 455.

CHAPTER 542
S. B. 150
Passed February 26, 2025
Approved March 27, 2025
Effective May 7, 2025

NONPUBLIC PERSONAL INFORMATION AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill addresses the Notice of Intent to Sell Nonpublic Personal Information Act.

Highlighted Provisions:

This bill:

- ► modifies definitions;
- ► clarifies that the liability and remedy under the Notice of Intent to Sell Nonpublic Personal Information Act (act) is an individual action and not a class action or action in a representative capacity;
- ► addresses the statute or limitations;
- ► finds that the act's prohibition of class actions since January 1, 2004, is a remedy provision and not procedural; and
- ► makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-37-102, as enacted by Laws of Utah 2003, Chapter 97
13-37-203, as enacted by Laws of Utah 2003, Chapter 97

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-37-102 is amended to read:

13-37-102. Definitions.

As used in this chapter:

(1) "Affiliate" means a person that controls, is controlled by, or is under common control with:

(a) a commercial entity; and

(b) (i) directly; or

(ii) indirectly through one or more intermediaries.

(2) (a) Subject to Subsection (2)(b), "commercial entity" means a person that:

[~~(i) has an office or other place of business located in the state; and~~]

[~~(ii) in the ordinary course of business transacts a consumer transaction in this state.~~]

(i) maintains a physical office in the state; and

(ii) in the ordinary course transacts business at the physical office with consumers located in the state.

(b) "Commercial entity" does not include:

(i) a governmental entity; or

(ii) an entity providing services on behalf of a governmental entity.

(3) "Compensation" means anything of economic value that is paid or transferred to a commercial entity for or in direct consideration of the disclosure of nonpublic personal information.

(4) (a) "Consumer transaction" means:

(i) a sale, lease, assignment, award by chance, or other written or oral transfer or disposition:

(A) that is initiated or completed in this state; and

(B) of:

(I) goods;

(II) services; or

(III) other tangible or intangible property, except securities and insurance or services related thereto; or

(ii) a transaction:

(A) that is initiated or completed in this state; and

(B) that constitutes credit offered or extended by a commercial entity to a person primarily for personal, family, or household purposes.

(b) "Consumer transaction" includes:

(i) the use of nonpublic personal information in relation to a transaction with a person if the transaction is for primarily personal, family, or household purposes; and

(ii) with respect to any transaction described in Subsection (4)(a):

(A) an offer or solicitation;

(B) an agreement;

(C) the performance of an agreement; or

(D) a charitable solicitation as defined in Section 13-11-3.

(c) "Consumer transaction" does not include a transaction related to real property.

(5) (a) "Nonpublic personal information" means information that:

(i) is not public information; and

(ii) either alone or in conjunction with public information, identifies a person in distinction from other persons.

(b) "Nonpublic personal information" includes:

(i) a person's Social Security number;

(ii) information used to determine a person's credit worthiness including a person's:

(A) income; or

(B) employment history;

(iii) the purchasing patterns of a person; or

(iv) the personal preferences of a person.

(6) (a) "Physical office" means a location:

(i) accessible to the public during normal business hours;

(ii) staffed by one or more individuals who conduct business on behalf of the commercial entity; and

(iii) used for the primary purpose of transacting business with consumers in the state.

(b) "Physical office" does not include a post office box, mailing address, registered agent, or virtual office that a person solely relies on for business correspondence.

[~~(6)~~](7) "Public information" means a person's:

(a) name;

(b) telephone number; or

(c) street address.

[~~(7)~~](8) (a) Subject to Subsection [~~(7)(b)~~](8)(b), "third party" means a person other than the commercial entity that obtains nonpublic personal information.

(b) "Third party" does not include an affiliate or agent of the commercial entity that obtains nonpublic personal information.

Section 2. Section 13-37-203 is amended to read:

13-37-203. Liability and remedy.

(1) [~~A~~]As a person's only remedy under this chapter, a person may bring an individual action, not a class action or act in a representative capacity, against a commercial entity in a [~~court of competent jurisdiction in this state~~]federal or state court with jurisdiction if:

(a) the commercial entity enters into a consumer transaction with that person;

(b) as a result of the consumer transaction described in Subsection (1)(a), the commercial entity obtains nonpublic personal information concerning that person; and

(c) the commercial entity violates this chapter.

(2) In an action brought under Subsection (1), a commercial entity that violates this chapter is liable to the person individually, but not to a class or to a person in a representative capacity, who brings the action for:

(a) $500 for each time the commercial entity fails to provide the notice required by this section in relation to the nonpublic personal information of the person who brings the action; and

(b) court costs.

(3) An action for a violation of this chapter may only be brought in accordance with Section 78B-2-302 within one year from the day of the consumer transaction at issue.

(4) The Legislature finds that since January 1, 2004, the prohibition on bringing a class action is a remedy provision and not merely procedural.

[~~(3) A person may not bring a class action under this chapter.~~]

Section 3. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 543
S. B. 199
Passed March 6, 2025
Approved March 27, 2025
Effective May 7, 2025

GUARDIANSHIP AMENDMENTS

Chief Sponsor: Keven J. Stratton
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses a guardianship for an individual with a severe intellectual disability.

Highlighted Provisions:

This bill:

- ► defines terms for guardianships;
- ► clarifies court jurisdiction for guardianships;
- ► enacts a guardianship proceeding for an individual with a severe intellectual disability;
- ► addresses the applicability of a guardianship proceeding for an individual with a severe intellectual disability;
- ► enacts certain rights for an individual with a severe intellectual disability for which a full guardianship is imposed;
- ► provides the requirements for a guardianship proceeding for an individual with a severe intellectual disability, including the requirements for the petition, venue, and in-person hearings;
- ► addresses the appointment of:
  - • an attorney for a respondent in a guardianship proceeding for an individual with a severe intellectual disability;
  - • a physician, psychologist, physician assistant, or court visitor to examine the respondent; and
  - • an emergency or temporary guardian while guardianship proceedings are pending;
- ► provides that a court may appoint a guardian for a respondent if the court makes certain findings;
- ► provides that the court shall prefer a full guardianship for an individual with a severe intellectual disability;
- ► requires the court to include certain provisions in an order of appointment;
- ► provides who may be a guardian for an individual with a severe intellectual disability;
- ► addresses the duties, powers, and rights of a guardian for an individual with a severe intellectual disability in a full guardianship;
- ► addresses the removal or resignation of a guardian for an individual with a severe intellectual disability;
- ► addresses the termination of a guardianship for an individual with a severe intellectual disability; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

75-5-311, as last amended by Laws of Utah 2023, Chapter 330
75-5-317, as enacted by Laws of Utah 2018, Chapter 294

ENACTS:

75-5-101.1, Utah Code Annotated 1953
75-5-601, Utah Code Annotated 1953
75-5-602, Utah Code Annotated 1953
75-5-603, Utah Code Annotated 1953
75-5-604, Utah Code Annotated 1953
75-5-605, Utah Code Annotated 1953
75-5-606, Utah Code Annotated 1953
75-5-607, Utah Code Annotated 1953
75-5-608, Utah Code Annotated 1953
75-5-609, Utah Code Annotated 1953
75-5-610, Utah Code Annotated 1953
75-5-611, Utah Code Annotated 1953
75-5-612, Utah Code Annotated 1953
75-5-613, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

75-5-101.5, (Renumbered from 75-5-101, as enacted by Laws of Utah 1975, Chapter 150)

REPEALS:

75-5-308, as enacted by Laws of Utah 1975, Chapter 150

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 75-5-101.1 is enacted to read:

75-5-101.1. Definitions for chapter.

As used in this chapter:

(1) "Adult" means an individual who is 18 years old or older.

(2) "Court visitor" means an individual who is trained in law, nursing, or social work and is an officer, employee, or special appointee of the court with no personal interest in the proceedings.

(3) "Full guardianship" means a guardianship that grants a guardian all the powers available to the guardian under the law with respect to an individual who is incapacitated, including all the powers, duties, and rights that a parent has with respect to the parent's unemancipated minor child.

(4) "Incapacitated" means the same as that term is defined in Section 75-1-201.

(5) "Joint legal decision-making" means two individuals, regardless of whether the individuals are married, sharing legal decision-making and each individual's rights or responsibilities are not being superior to the other individual's rights, except with respect to specified decisions set forth by the court or the individuals in an order of appointment.

(6) "Legal decision-making" means the legal right and responsibility to make all legal decisions for an individual who is incapacitated, including decisions regarding education, health care, religious training, and personal care decisions.

(7) "Letters of guardianship" means a legal document that establishes a guardian's authority to make decisions for an individual.

(8) "Limited guardianship" means, except as provided in Section 75-5-316, a guardianship that grants the guardian less than all powers available to the guardian under the law or otherwise restricts the powers of the guardian.

(9) "Order of appointment" means an order from a court:

(a) appointing a guardian for an individual who is incapacitated; and

(b) describing the powers, duties, and responsibilities of the guardian.

(10) "Specialized care professional" means an individual who is certified as a National Certified Guardian or National Master Guardian by the Center for Guardianship Certification or similar organization.

(11) "Suitable institution" means any nonprofit or for profit corporation, partnership, sole proprietorship, or other type of business organization that is owned, operated by, or employs a specialized care professional.

Section 2. Section 75-5-101.5, which is renumbered from Section 75-5-101 is renumbered and amended to read:

[~~75-5-101~~]75-5-101.5. Jurisdiction of subject matter -- Consolidation of proceedings.

(1) [~~The~~]A court has jurisdiction over protective proceedings and guardianship proceedings in accordance with Chapter 5b, Uniform and Adult Guardianship and Protective Proceedings Jurisdiction Act, and Title 78A, Judiciary and Judicial Administration.

(2) When both guardianship and protective proceedings as to the same person are commenced or pending in the same court, the proceedings may be consolidated.

Section 3. Section 75-5-311 is amended to read:

75-5-311. Who may be guardian -- Priorities.

[~~(1) As used in this section:~~]

[~~(a) "Specialized care professional" means a person who is certified as a National Certified Guardian or National Master Guardian by the Center for Guardianship Certification or similar organization.~~]

[~~(b) "Suitable institution" means any nonprofit or for profit corporation, partnership, sole proprietorship, or other type of business organization that is owned, operated by, or employs a specialized care professional.~~]

[~~(2)~~](1) (a) The court shall appoint a guardian in accordance with the incapacitated person's most recent nomination, unless that person is disqualified or the court finds other good cause why the person should not serve as guardian.

(b) That nomination shall have been made prior to the person's incapacity, shall be in writing and shall be signed by the person making the nomination.

(c) The nomination shall be in substantially the following form:

Nomination of Guardian by an Adult

I, (Name), being of sound mind and not acting under duress, fraud, or other undue influence, do hereby nominate (Name, current residence, and relationship, if any, of the nominee) to serve as my guardian in the event that after the date of this instrument I become incapacitated.

Executed at _____ (city, state)

on this _____ day of _____

_____

(Signature)

[~~(3)~~](2) Except as provided in Subsection [~~(2)~~](1), persons who are not disqualified have priority for appointment as guardian in the following order:

(a) a person who has been nominated by the incapacitated person, by any means other than that described in Subsection [~~(2)~~](1), if the incapacitated person was 14 years old or older when the nomination was executed and, in the opinion of the court, that person acted with sufficient mental capacity to make the nomination;

(b) the spouse of the incapacitated person;

(c) an adult child of the incapacitated person;

(d) a parent of the incapacitated person, including a person nominated by will, written instrument, or other writing signed by a deceased parent;

(e) any relative of the incapacitated person with whom he has resided for more than six months prior to the filing of the petition;

(f) a person nominated by the person who is caring for him or paying benefits to him;

(g) a specialized care professional, so long as the specialized care professional does not:

(i) profit financially or otherwise from or receive compensation for acting in that capacity, except for the direct costs of providing guardianship or conservatorship services; or

(ii) otherwise have a conflict of interest in providing those services;

(h) any competent person or suitable institution; or

(i) the Office of Public Guardian under Title 26B, Chapter 6, Part 3, Office of Public Guardian.

Section 4. Section 75-5-317 is amended to read:

75-5-317. Guardianship proceedings for minor becoming an incapacitated adult.

(1) As used in this section:

[~~(a) "Incapacitated" means the same as that term is defined in Section 75-1-201.~~]

[~~(b) "Joint legal decision-making" means parents or two individuals, regardless of whether they are married, sharing legal decision-making and no individual's rights or responsibilities being superior except with respect to specified decisions set forth by the court or the individuals in a final judgment or order.~~]

[~~(c) "Legal decision-making" means the legal right and responsibility to make all nonemergency legal decisions for a minor including those regarding education, health care, religious training, and personal care decisions.~~]

[~~(d) "Minor" means the same as that term is defined in Section 75-1-201.~~]

[~~(e)~~](a) "Physician" means an individual:

(i) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(ii) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(f)~~](b) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.

[~~(g)~~](c) "Sole legal decision-making" means one parent or one individual having the legal right and responsibility to make major decisions for the minor child.

(2) (a) Notwithstanding the other provisions of this part, a person who may be a guardian of an incapacitated person under Section 75-5-301 may initiate guardianship proceedings pursuant to this Subsection (2) for a minor who is at least 17 years, six months [~~of age~~]old and who is alleged to be incapacitated and request that a guardianship order take effect immediately on the day the minor turns 18 years [~~of age~~]old.

(b) (i) The petitioner shall provide with the petition a written report of an evaluation of the minor by a physician or psychologist that meets the requirements of Subsection (2)(c).

(ii) If the evaluation is conducted within six months after the date the petition is filed with the court, the petitioner may ask in the petition that the court accept this report in lieu of ordering any additional evaluation and the court may grant the request.

(c) A written report filed pursuant to this section by a physician or psychologist acting within that person's scope of practice shall include the following information:

(i) a specific description of the physical, psychiatric, or psychological diagnosis of the person;

(ii) a comprehensive assessment listing any functional impairments of the alleged incapacitated person and an explanation of how and to what extent these functional impairments may prevent that person from receiving or evaluating information in making decisions or in communicating informed decisions, with or without assistance, regarding that person;

(iii) an analysis of the tasks of daily living the alleged incapacitated person is capable of performing independently or with assistance;

(iv) a list of the medications the alleged incapacitated person is receiving, the dosage of the medications, and a description of the effects each medication has on the person's behavior to the best of the declarant's knowledge;

(v) a prognosis for improvement in the alleged incapacitated person's condition and a recommendation for the most appropriate rehabilitation plan or care plan; and

(vi) other information the physician or psychologist considers appropriate.

(3) (a) Notwithstanding the priorities in Section 75-5-311, if the petition for appointment of a guardian for the incapacitated person is filed pursuant to Subsection (2) or within two years after the day the incapacitated person turns 18 years [~~of age~~]old, unless the court finds the appointment to be contrary to the incapacitated person's best interest:

(i) the court shall appoint as the incapacitated person's guardian any person who, by court order, had sole legal decision-making of the incapacitated person when the incapacitated person attained 17 years, six months [~~of age~~]old; or

(ii) if two individuals had joint legal decision-making of the incapacitated person when the incapacitated person attained 17 years, six months [~~of age~~]old, the court shall appoint both individuals as the incapacitated person's coguardians.

(b) If under Subsection (3)(a) the court finds the appointment of an individual described in Subsection (3)(a) is contrary to the incapacitated person's best interest or if the individual is unwilling to be appointed or serve as a guardian, the court may apply the priorities in Section 75-5-311 in appointing a guardian.

(4) (a) The court may appoint more than one person as the incapacitated person's coguardians if the appointment is required by Subsection (3) or the court finds that the appointment is in the incapacitated person's best interest.

(b) If the court appoints coguardians, the coguardians shall share legal decision-making for the incapacitated person and neither coguardian's rights or responsibilities are superior except as otherwise ordered by the court.

Section 5. Section 75-5-601 is enacted to read:

PART 6. Guardian of Individual with a Severe Intellectual Disability

75-5-601. Definitions for part.

As used in this part:

(1) (a) "Individual with a severe intellectual disability" means an adult who:

(i) has lifelong functional limitations to the extent that the adult is incapacitated; and

(ii) has received a diagnosis from a physician or psychologist of a severe intellectual disability that has existed since the adult was a minor.

(b) "Individual with a severe intellectual disability" does not include an adult who had capacity at one time or may regain capacity.

(2) "Petitioner" means the person who brings a petition for guardianship under this part.

(3) "Physician" means an individual:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(4) "Psychologist" means an individual licensed under Title 58, Chapter 61, Psychologist Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.

(5) "Remotely" means a participant will appear by video conference or other electronic means approved by the court.

(6) "Respondent" means the adult who is alleged to be an individual with a severe intellectual disability.

Section 6. Section 75-5-602 is enacted to read:

75-5-602. Applicability of this part.

(1) This part only applies to a guardianship for an adult for whom there is a signed letter or report from a physician or psychologist that indicates that the adult is an individual with a severe intellectual disability.

(2) Except as provided in Subsection (4) or another provision of this part, the provisions of Part 3, Guardians of Incapacitated Persons, do not apply to the guardianship of an adult described in Subsection (1).

(3) This part does not apply to a guardianship for an adult if the court finds that the adult is not an individual with a severe intellectual disability.

(4) Part 3, Guardians of Incapacitated Persons, applies to a guardianship for an adult who is not an individual with a severe intellectual disability.

Section 7. Section 75-5-603 is enacted to read:

75-5-603. Rights of an individual with a severe intellectual disability.

(1) An adult, who is allegedly incapacitated and for whom there is a signed letter or report from a physician or psychologist that indicates that the adult is an individual with a severe intellectual disability, has the right to:

(a) except as provided in Section 75-5-606, be represented by counsel before a guardianship is imposed and have counsel represent the adult during the guardianship proceeding;

(b) receive a copy of all documents filed in a guardianship proceeding;

(c) have a relative, physician, psychologist, physician assistant, or any interested person speak about or raise any issue of concern on behalf of the adult during the guardianship proceeding;

(d) receive information about guardianships from the court; and

(e) be treated with respect and dignity.

(2) Except as otherwise provided by this part, if a court orders a full guardianship for an adult and enters an order of appointment that specifies that the adult is an individual with a severe intellectual disability, the adult has the right to:

(a) have a relative, physician, psychologist, physician assistant, or any interested person speak about or raise any issue of concern on behalf of the adult in any court hearing about the guardianship;

(b) receive a copy of all documents filed in court regarding the guardianship;

(c) receive information about guardianships from the court;

(d) ask questions and express concerns or complaints about a guardian and the actions of a guardian to the court;

(e) to the extent practicable, receive timely, effective, and appropriate health care and medical treatment that does not violate the adult's rights;

(f) have all services provided by a guardian at a reasonable rate of compensation;

(g) have a court review any request for payment by a guardian to avoid excessive or unnecessary fees or duplicative billing; and

(h) receive prudent financial management of the adult's property, including Supplemental Security Income and Supplemental Security Disability Insurance.

(3) If the court enters an order for a limited guardianship for an adult or fails to specify in the order of appointment as to whether the adult is an individual with a severe intellectual disability, the adult has the rights of an incapacitated person described in Section 75-5-301.5.

Section 8. Section 75-5-604 is enacted to read:

75-5-604. Petition for guardianship of an individual with a severe intellectual disability -- Venue -- Proceedings.

(1) A person interested in an adult's welfare may petition a court for a finding that:

(a) the adult is an individual with a severe intellectual disability; and

(b) the appointment of a guardian is necessary or desirable as a means of providing continuing care to the adult.

(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a petitioner shall bring a petition described in Subsection (1) in the county where:

(a) the respondent resides or is present; or

(b) if the respondent is admitted to an institution by an order of a court, the court is located.

(3) (a) Upon the filing of a petition under Subsection (1), the court shall set a date for a hearing on the issue of whether the respondent is an individual with a severe intellectual disability.

(b) The court shall, while preserving the due process rights of the respondent, conduct the hearing remotely in accordance with Utah Rules of Civil Procedure, Rule 87, unless the court finds good cause under Utah Rules of Civil Procedure, Rule 87, to not conduct the

hearing remotely.

(4) Except as provided in Section 75-5-606, the respondent is entitled to be represented by counsel, present evidence, and cross-examine witnesses, including a physician, psychologist, physician assistant, or court visitor appointed under Section 75-5-607.

(5) The court shall determine the issue of whether the respondent is an individual with a severe intellectual disability at a closed hearing, without a jury, if the respondent or the respondent's counsel requests so.

(6) The respondent shall:

(a) be present at any hearing on the petition; or

(b) hear all evidence bearing upon the respondent's condition.

(7) If the petitioner requests a waiver of the presence of the respondent, the court shall order an investigation by a court visitor in accordance with Section 75-5-607.

Section 9. Section 75-5-605 is enacted to read:

75-5-605. Notices for guardianship proceedings.

(1) Upon a petition for the appointment or removal of a guardian for an adult who is an individual with a severe intellectual disability, or is alleged to be an individual with a severe intellectual disability, other than the appointment of an emergency guardian or temporary suspension of a guardian, the petitioner shall give notice of the petition to:

(a) the adult and the adult's parents;

(b) any person who is serving as guardian or conservator or who has care and custody of the adult;

(c) if the petitioner is unable to notify the adult's parents under Subsection (1)(a), at least one of the closest adult relatives of the individual if any can be found; and

(d) Adult Protective Services if Adult Protective Services has received a referral under Title 26B, Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a Vulnerable Adult, concerning the welfare of the adult or concerning the guardian or conservator or proposed guardian or conservator.

(2) A notice described in Subsection (1) shall:

(a) be in plain language and large type and in a form with final approval of the Judicial Council;

(b) indicate the time and place of the hearing, the possible adverse consequences to the adult described in Subsection (1) who is receiving notice of rights, a list of rights, including the adult's own or court appointed counsel, and a copy of the petition;

(c) be served personally on:

(i) the adult described in Subsection (1); and

(ii) the adult's parents if the adult's parents can be found within the state; and

(d) be served in accordance with Section 75-1-401 on:

(i) the adult's parents if the adult's parents cannot be found within the state; and

(ii) any other person that is required to be served notice under Subsection (1).

Section 10. Section 75-5-606 is enacted to read:

75-5-606. Appointment of counsel.

(1) (a) Except as provided in Subsection (2), the court shall appoint an attorney to represent a respondent on a petition for guardianship unless the respondent has counsel of the respondent's own choice.

(b) The respondent shall pay the costs of an attorney appointed under Subsection (1)(a) unless the respondent or the respondent's parents are indigent.

(2) Counsel for a respondent is not required under Subsection (1) if:

(a) the respondent is the child, grandchild, or sibling of the petitioner;

(b) the value of the respondent's entire estate does not exceed $2,000 as established by an affidavit from the petitioner;

(c) the respondent appears in court with the petitioner in-person or remotely;

(d) the respondent is given the opportunity to communicate, to the extent possible, the respondent's acceptance of the appointment of a guardian; and

(e) the court is satisfied that counsel is not necessary in order to protect the interests of the respondent.

(3) If the court determines that a petition brought under this part is without merit, the petitioner shall pay any attorney fees and court costs.

(4) The legal representation of the respondent by an attorney shall terminate upon the appointment of a guardian, unless:

(a) there are separate conservatorship proceedings still pending before the court subsequent to the appointment of a guardian;

(b) there is a timely filed appeal of the appointment of the guardian or the determination that the respondent is an individual with a severe intellectual disability; or

(c) the court orders otherwise upon an express finding of good cause.

Section 11. Section 75-5-607 is enacted to read:

75-5-607. Appointment of physician, psychologist, physician assistant, or court visitor.

(1) (a) The court may appoint a physician, a psychologist, or a physician assistant to examine the respondent.

(b) If the court appoints a physician. a psychologist, or a physician assistant under Subsection (1)(a), the physician, psychologist, or physician assistant shall submit a report in writing to the court.

(2) The court may appoint a court visitor to:

(a) interview the individual seeking appointment as guardian of the respondent;

(b) visit the present place of abode of the respondent and the place proposed where the respondent will be detained or reside if a guardian is appointed; or

(c) conduct other investigations or observations as directed by the court.

Section 12. Section 75-5-608 is enacted to read:

75-5-608. Emergency or temporary guardian.

(1) (a) If a respondent does not have a guardian and an emergency exists, the court may, without notice, appoint an emergency guardian for the respondent for a specified period not to exceed 30 days pending notice and a hearing.

(b) The court may, without notice, appoint an emergency guardian for an individual with a severe intellectual disability for a specified period not to exceed 30 days pending notice and a hearing if:

(i) an appointed guardian for the individual is not effectively performing the guardian's duties; and

(ii) the court further finds that the welfare of the respondent or individual requires immediate action.

(c) Upon request by an interested person after the appointment of an emergency guardian under Subsection (1)(a) or (b), the court shall hold a hearing within 14 days in accordance with Section 75-5-604.

(2) If the court finds good cause after notice and hearing under Sections 75-5-604 and 75-5-605, the court may:

(a) appoint a temporary guardian;

(b) convert an emergency guardian to a temporary guardian if an emergency guardian has been appointed under Subsection (1); or

(c) appoint a different person as temporary guardian to replace an emergency guardian appointed under Subsection (1).

(3) Unless the respondent or individual with a severe intellectual disability has already obtained or been appointed counsel or an attorney is not required as described in Section 75-5-606, the court shall appoint an attorney to represent the respondent or individual.

(4) Until a full hearing and further order of the court, the temporary guardian:

(a) shall be charged with the care and custody of the respondent or individual with a severe intellectual disability; and

(b) may not permit the respondent or individual with a severe intellectual disability to be removed from the state.

(5) The authority of any permanent guardian previously appointed by the court is suspended so long as a temporary guardian has authority.

(6) A temporary guardian may be removed at any time, and shall obey all orders and make any reports required by the court.

(7) A temporary guardian has all of the powers and duties of a permanent guardian as set forth in Section 75-5-611.

Section 13. Section 75-5-609 is enacted to read:

75-5-609. Findings by court -- Appointment of guardian -- Acceptance of appointment.

(1) The court may appoint a guardian for a respondent if the court finds:

(a) the respondent is an individual with a severe intellectual disability; and

(b) the appointment of a guardian is necessary or desirable as a means of providing continuing care to the respondent.

(2) If the court appoints a guardian as described in Subsection (1), the court shall:

(a) appoint a guardian for the respondent in accordance with Section 75-5-610;

(b) prefer a full guardianship for the respondent; and

(c) specify in the order of appointment that:

(i) the respondent is an individual with a severe intellectual disability; and

(ii) the respondent does not have capacity to execute or consent to any contract or written agreement.

(3) (a) If the court orders a limited guardianship for a respondent:

(i) the respondent is entitled to the rights described in Section 75-5-301.5 for an incapacitated person; and

(ii) the court shall state the limitations of the guardianship and the rights to which the respondent is entitled in the order of appointment.

(4) If the court grants a guardian with the power to make or assist with health care decisions for a respondent, the court shall include in the order of appointment the name of any interested person whom the guardian must notify of any significant health care or treatment received by the individual.

(5) (a) By accepting an appointment, a guardian submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person or any person interested in the welfare of the respondent.

(b) Notice of any proceeding shall be delivered to the guardian or mailed to the guardian by ordinary mail at the guardian's address as listed in the court records and to the guardian's address as known to the petitioner at the time of the appointment.

(6) If the court orders a limited guardianship for an individual with a severe intellectual disability, the guardian has the same duties, powers, and rights described in Section 75-5-312 for a guardian of an incapacitated person.

(7) If the court orders a full guardianship for an individual with a severe intellectual disability, the guardian has the duties, powers, and rights described in Section 75-5-611.

Section 14. Section 75-5-610 is enacted to read:

75-5-610. Who may be a guardian -- Coguardians.

(1) Unless the court finds there is good cause that the person should not serve as guardian, the court shall appoint a guardian for an individual with a severe intellectual disability in the following order of priority:

(a) a parent of the individual with a severe intellectual disability;

(b) an adult sibling of the individual with a severe intellectual disability;

(c) a grandparent of the individual with a severe intellectual disability;

(d) an adult relative of the individual with a severe intellectual disability if the individual has resided with the relative for more than 180 days before the day on which the petition was filed;

(e) one of the closest adult relatives of the individual if any can be found;

(f) a specialized care professional, so long as the specialized care professional does not:

(i) profit financially or otherwise from or receive compensation for acting in that capacity, except for the direct costs of providing guardianship or conservatorship services; or

(ii) otherwise have a conflict of interest in providing those services;

(g) a competent person or suitable institution; or

(h) the Office of Public Guardian described in Title 26B, Chapter 6, Part 3, Office of Public Guardian.

(2) The court may appoint more than one person as guardian for the individual with a severe intellectual disability.

(3) If the court appoints coguardians for an individual with a severe intellectual disability:

(a) the coguardians shall share legal decision-making for the individual with a severe intellectual disability; and

(b) each coguardian's rights and responsibilities are not superior to the other coguardian's rights and responsibilities unless the court designates that a coguardian's rights and responsibilities are superior.

Section 15. Section 75-5-611 is enacted to read:

75-5-611. Duties, powers, and rights of a guardian for an individual with a severe intellectual disability in a full guardianship.

(1) This section only applies to a guardian who is appointed by a court for an individual with a severe intellectual disability in a full guardianship.

(2) (a) A guardian shall diligently and in good faith carry out the specific duties, powers, and rights that the guardian is granted under this section and in the order of appointment entered under Section 75-5-609.

(b) A guardian is not liable to a third person for acts of the individual with a severe intellectual disability solely by reason of the guardian having the same powers, rights, and duties as a parent with respect to the parent's unemancipated minor child.

(3) (a) In carrying out duties, powers, and rights that a guardian is granted, the guardian shall encourage the individual with a severe intellectual disability, to the extent practicable, to participate in decisions, exercise self-determination, act on the individual's own behalf, and develop the skills to manage the individual's personal affairs.

(b) To the extent known, a guardian shall consider the expressed desires, preferences, and personal values of the individual with a severe intellectual disability when making decisions about the individual.

(4) A guardian is entitled to custody of the individual with a severe intellectual disability to the extent that the custody is consistent with the terms of any order by a court relating to the detention and commitment of the individual.

(5) If a guardian has custody of the individual with a severe intellectual disability under Subsection (4), the guardian:

(a) may establish the individual's place of residence within, or outside of, this state; and

(b) shall provide for the care, comfort, and maintenance of the individual and arrange for the individual's training and education whenever appropriate.

(6) Without regard to the custodial rights of the individual with a severe intellectual disability, a guardian shall take reasonable care of the individual's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the individual is in need of protection.

(7) A guardian of the individual with a severe intellectual disability may:

(a) give the consent or approval that may be necessary to enable the individual to receive medical or other professional care, counsel, treatment, or service;

(b) restrict or prohibit the individual's association with relatives and acquaintances if the guardian deems that the association is harmful to the individual; and

(c) restrict the individual from taking or consuming:

(i) a drug, as defined in Section 58-17b-102, that has not been prescribed to the individual;

(ii) a tobacco product, an electronic cigarette product, or a nicotine product, as those terms are defined in Section 76-10-101;

(iii) alcohol;

(iv) pornography; or

(v) a legal substance or activity that would be harmful to the health and wellbeing of the individual.

(8) (a) A guardian of the individual with a severe intellectual disability shall:

(i) notify any interested person named in the order of appointment under Subsection 75-5-609(4) of any significant health care or treatment received by the individual;

(ii) immediately notify persons who request notification and are not restricted in associating with the individual of:

(A) the individual's admission to a hospital for three or more days or to a hospice program;

(B) the individual's death; or

(C) the arrangements for the disposition of the individual's remains;

(iii) immediately notify all interested persons if the guardian reasonably believes that the individual's death is likely to occur within the next 10 days, based on:

(A) the guardian's own observations; or

(B) information from the individual's physician or other medical care providers; and

(iv) provide the court with a current address of an individual if the guardian moves the individual.

(b) For purposes of this Subsection (8), an interested person is a person required to receive notice in guardianship proceedings as described in Section 75-5-605.

(9) If a conservator has not been appointed for the estate of the individual with a severe intellectual disability, a guardian may:

(a) institute proceedings to compel any person under a duty to support the individual or to pay sums for the welfare of the individual to perform that duty;

(b) receive money and tangible property deliverable to the individual and apply the money and property for support, care, and education of the individual, except that:

(i) the guardian may not use funds from the individual's estate for room and board that the guardian or the guardian's family member or relative has furnished unless a charge for the service is approved by order of the court made upon notice to at least one adult relative in the nearest degree of kinship to the individual in which there is an adult; and

(ii) the guardian shall manage the individual's money and property in a prudential manner to ensure that the individual qualifies for disability benefits.

(10) (a) If a conservator has not been appointed for the estate of the individual with a severe intellectual disability, and except as provided in Subsection (13)(b), a guardian shall:

(i) send a report with a full account to the court on an annual basis if the individual's estate is in excess of $50,000 excluding the residence, if any, owned by the individual; or

(ii) fill out an informal annual report and mail the report to the court if the individual's estate is less than $50,000 excluding the residence, if any, owned by the individual.

(b) An accounting report under Subsection (10)(a) shall include a statement regarding:

(i) all assets at the beginning and end of the reporting year;

(ii) any income received during the year;

(iii) any disbursements for the support of the individual with a severe intellectual disability;

(iv) any investments or trusts that are held for the individual's benefit;

(v) any expenditures or fees charged to the individual's estate; and

(vi) any other expenses incurred by the individual's estate.

(c) The court may require additional information in an accounting report under Subsection (10)(a).

(d) The Judicial Council shall approve forms for the accounting reports described in Subsection (10)(a).

(e) An annual accounting report under Subsection (10)(a) shall be examined and approved by the court.

(f) If the income of the individual with a severe intellectual disability is limited to a federal or state program requiring an annual accounting report, a copy of that report may be submitted to the court in lieu of the required annual accounting report under Subsection (10)(a).

(g) (i) A corporate fiduciary is not required to petition the court, but shall submit the corporate fiduciary's internal report annually to the court.

(ii) The report under Subsection (10)(g)(i) shall be examined and approved by the court.

(h) If a fee is paid for an accounting of the estate of the individual with a severe intellectual disability, a fee may not be charged for an accounting of the individual's status under Subsection (13).

(11) If a conservator has been appointed for the estate of the individual with a severe intellectual disability, a guardian shall:

(a) control the custody and care of the individual and is entitled to receive reasonable sums for services and for room and board furnished to the individual as agreed upon between the guardian and the conservator if the amounts agreed upon are reasonable under the circumstances;

(b) pay all of the individual's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the individual to the conservator for management of the individual's estate as provided in this chapter; and

(c) account to the conservator for funds expended to meet current expenses for support, care, and education of the individual.

(12) If a conservator has been appointed for the estate of the individual with a severe intellectual disability, a guardian may request the conservator to expend the individual's estate by payment to third persons or institutions for the individual's care and maintenance.

(13) (a) Except as provided in Subsection (13)(b), the guardian shall provide an annual accounting of the individual's status, including a report of the physical and mental condition of the individual, the individual's estate that has been subject to the guardian's possession, and the individual's place of residence and others living in the same household, to the court in the petition or the annual report as required under Subsection (10).

(b) The guardian is not required to provide an annual report or accounting described in Subsection (10)(a) or (13)(a) if the guardian is the parent, grandparent, or sibling of the individual with a severe intellectual disability.

(14) (a) The court may impose a penalty in an amount not to exceed $5,000 if a guardian:

(i) makes a substantial misstatement on filings of annual reports;

(ii) is guilty of gross impropriety in handling the property of the individual with a severe intellectual disability; or

(iii) willfully fails to file the report required by this section after receiving written notice from the court of the failure to file and after a grace period of two months has elapsed.

(b) The court may order restitution of funds misappropriated from the estate of the individual with a severe intellectual disability.

(c) A penalty under this Subsection (14) shall be paid by the guardian and may not be paid by the individual or the individual's estate.

(15) A person who refuses to accept the authority of a guardian with authority over financial decisions to transact business with the assets of the individual with a severe intellectual disability after receiving a certified copy of letters of guardianship is liable for costs, expenses, attorney fees, and damages if the court determines that the person did not act in good faith in refusing to accept the authority of the guardian.

Section 16. Section 75-5-612 is enacted to read:

75-5-612. Removal or resignation of a guardian.

(1) On a petition of resignation from a guardian of an individual with a severe intellectual disability, the court may:

(a) accept the guardian's resignation; or

(b) make any other order that is appropriate.

(2) On a petition of removal of a guardian from the individual with a severe intellectual disability or any person interested in the individual's welfare, the court may remove a guardian if:

(a) the guardian obtained the appointment by fraud, deceit, or gross misrepresentation;

(b) the guardian fails to perform the guardian's duties or responsibilities described in:

(i) Section 75-5-611 if the individual is in full guardianship; or

(ii) Section 75-5-312 if the individual is in a limited guardianship;

(c) the guardian is unable to perform the guardian's duties or responsibilities due to incapacity or illness;

(d) the guardian fails to use reasonable care and diligence in the management of the individual's estate;

(e) the individual is in a limited guardianship, the guardian is not permitted to restrict the individual's association, and the guardian is found by the court to have filed a petition frivolously or in bad faith under Section 75-5-312.5;

(f) the guardian's interests have become adverse to the faithful performance of the guardian's duties and there is a risk that the guardian will fail to faithfully perform the guardian's duties; or

(g) removal of the guardian would be in the best interest of the individual.

(3) If the court removes a guardian under Subsection (2), the court may:

(a) appoint a successor guardian; or

(b) make any other order that is appropriate.

(4) On a petition of resignation or removal of a guardian, the court shall follow the same procedures to safeguard the rights of the individual with a severe intellectual disability on a petition for appointment of a guardian under Sections 75-5-603, 75-5-604, 75-5-606, and 75-5-607.

(5) The court is not required to appoint an attorney to represent the individual with a severe intellectual disability upon the removal or resignation of the individual's guardian if the case is uncontested and the individual's incapacity is not at issue.

Section 17. Section 75-5-613 is enacted to read:

75-5-613. Termination of guardianship for an individual with a severe intellectual disability.

(1) (a) An individual with a severe intellectual disability, or any person interested in the individual's welfare, may petition for an order:

(i) that the individual is not an individual with a severe intellectual disability; and

(ii) for removal or resignation of the guardian in accordance with Section 75-5-612.

(b) The court may specify a minimum period of time, not exceeding one year, during which no petition for the termination of a guardianship for an individual with a severe intellectual disability can be filed without leave from the court.

(c) A request for the order described in this Subsection (1) may be made by informal letter to the court.

(d) Any person who knowingly interferes with a request described in Subsection (1)(a) may be sanctioned by the court.

(2) Notwithstanding Subsection (1), the authority and responsibility of a guardian for an individual with a severe intellectual disability terminates upon:

(a) the death of the guardian or the individual;

(b) the determination that the guardian is incapacitated; or

(c) the removal or resignation of the guardian in accordance with Section 75-5-612.

(3) Resignation of a guardian does not terminate the guardianship until the resignation has been approved by the court.

(4) Termination of a guardian does not affect the guardian's liability for the guardian's prior acts or the guardian's obligation to account for funds and assets of the individual with a severe intellectual disability.

(5) On a petition to order that an individual is no longer an individual with a severe intellectual disability, the court shall follow the same procedures to safeguard the rights of the individual with a severe intellectual disability on a petition for appointment of a guardian under Sections 75-5-603, 75-5-604, 75-5-606, and 75-5-607.

Section 18. Repealer.

This bill repeals:

Section 75-5-308, Visitor in guardianship proceeding.

Section 19. Effective Date.

This bill takes effect on May 7, 2025.

CHAPTER 544
S. B. 174
Passed February 27, 2025
Approved March 27, 2025
Effective May 7, 2025

TRANSIT AND TRANSPORTATION GOVERNANCE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends provisions related to the governance of public transit districts.

Highlighted Provisions:

This bill:

- ► amends and reallocates the roles of the board of trustees, executive director, and local advisory council of a large public transit district;
- ► requires all fixed guideway capital development projects of a large public transit district to be under the supervision of the Department of Transportation, regardless of whether the project includes state funding;
- ► modifies provisions related to public transit planning;
- ► requires a large public transit district to provide a report regarding contracting for reduced fares;
- ► amends levels of contracts of a large public transit district that require approval of the board of trustees; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-2a-802, as last amended by Laws of Utah 2024, Chapter 498
17B-2a-808.1, as last amended by Laws of Utah 2024, Chapter 498
17B-2a-808.2, as last amended by Laws of Utah 2024, Chapter 517
17B-2a-810, as last amended by Laws of Utah 2018, Chapter 424
17B-2a-811.1, as enacted by Laws of Utah 2018, Chapter 424
72-1-203, as last amended by Laws of Utah 2024, Chapter 517

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-802 is amended to read:
17B-2a-802. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.

(a) "Affordable housing" may include housing occupied or reserved for occupancy by households that meet specific area median income targets or ranges of area median income targets.

(b) "Affordable housing" does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.

(2) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(3) (a) "Chief executive officer" means a person appointed by the board of trustees of a small public transit district to serve as chief executive officer.

(b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(4) "Confidential employee" means a person who, in the regular course of the person's duties:

(a) assists in and acts in a confidential capacity in relation to other persons who formulate, determine, and effectuate management policies regarding labor relations; or

(b) has authorized access to information relating to effectuating or reviewing the employer's collective bargaining policies.

(5) "Council of governments" means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

(6) "Department" means the Department of Transportation created in Section 72-1-201.

(7) "Executive director" means a person appointed by the board of trustees of a large public transit district to serve as executive director.

(8) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(9) "Fixed guideway capital development" means the same as that term is defined in Section 72-1-102.

(10) (a) "General manager" means a person appointed by the board of trustees of a small public transit district to serve as general manager.

(b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public transit district.

(11) "Large public transit district" means a public transit district that provides public transit to an area that includes:

(a) more than 65% of the population of the state based on the most recent official census or census estimate of the United States Census Bureau; and

(b) two or more counties.

(12) "Local advisory council" means the local advisory council created in accordance with Section 17B-2a-808.2.

[~~(12)~~](13) (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

[~~(13)~~](14) "Managerial employee" means a person who is:

(a) engaged in executive and management functions; and

(b) charged with the responsibility of directing, overseeing, or implementing the effectuation of management policies and practices.

[~~(14)~~](15) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

[~~(15)~~](16) "Multicounty district" means a public transit district located in more than one county.

[~~(16)~~](17) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

[~~(17)~~](18) (a) "Public transit" means regular, continuing, shared-ride, surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.

(b) "Public transit" does not include transportation services provided by:

(i) chartered bus;

(ii) sightseeing bus;

(iii) taxi;

(iv) school bus service;

(v) courtesy shuttle service for patrons of one or more specific establishments; or

(vi) intra-terminal or intra-facility shuttle services.

[~~(18)~~](19) "Public transit district" means a special district that provides public transit services.

[~~(19)~~](20) "Public transit innovation grant" means the same as that term is defined in Section 72-2-401.

[~~(20)~~](21) "Small public transit district" means any public transit district that is not a large public transit district.

[~~(21)~~](22) "Station area plan" means a plan developed and adopted by a municipality in accordance with Section 10-9a-403.1.

[~~(22)~~](23) (a) "Supervisor" means a person who has authority, in the interest of the employer, to:

(i) hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or

(ii) adjust another employee's grievance or recommend action to adjust another employee's grievance.

(b) "Supervisor" does not include a person whose exercise of the authority described in Subsection [~~(22)(a)~~](23)(a):

(i) is of a merely routine or clerical nature; and

(ii) does not require the person to use independent judgment.

[~~(23)~~](24) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

[~~(24)~~](25) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

[~~(25)~~](26) "Transit-oriented development" means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a large public transit district.

[~~(26)~~](27) "Transit-supportive development" means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a large public transit district.

Section 2. Section 17B-2a-808.1 is amended to read:

17B-2a-808.1. Large public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

(1) The powers and duties of a board of trustees of a large public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each large public transit district shall:

(a) hold public meetings and receive public comment;

(b) ensure that the policies[~~, procedures, and management practices~~] established by the public transit district meet state and federal regulatory requirements and federal grantee eligibility;

(c) [~~create and~~]approve an annual budget, including the issuance of bonds and other financial instruments, after consultation with the local advisory council;

(d) approve any interlocal agreement with a local jurisdiction;

(e) in consultation with the local advisory council, approve contracts and overall property acquisitions and dispositions for transit-oriented development;

[~~(f) in consultation with constituent counties, municipalities, metropolitan planning organizations, and the local advisory council:~~]

[~~(i) develop and approve a strategic plan for development and operations on at least a four-year basis; and~~]

[~~(ii) create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district;~~]

(f) (i) approve a strategic plan for development and operations proposed by the executive director pursuant to Subsection 17B-2a-811.1(2)(j); and

(ii) in coordination with the executive director, create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district and in accordance with the strategic plan;

(g) create and annually report the public transit district's long-term financial plan to the [~~State Bonding Commission~~]State Finance Review Commission created in Section 63C-25-201;

(h) annually report the public transit district's progress and expenditures related to state resources to the Executive Appropriations Committee and the Infrastructure and General Government Appropriations Subcommittee;

(i) annually report to the Transportation Interim Committee the public transit district's efforts to engage in public-private partnerships for public transit services;

(j) hire, set [~~salaries~~]salary, [~~and~~]develop performance targets and evaluations for[~~:~~], and supervise the executive director;

[~~(i) the executive director; and~~]

[~~(ii) all chief level officers;~~]

(k) [~~supervise and~~]regulate each transit facility that the public transit district owns and operates, including:

(i) fix rates, [~~fares,~~]rentals, charges and any classifications of rates, [~~fares,~~]rentals, and charges;

(ii) in consultation with the local advisory council, fix fares; and

[~~(ii)~~](iii) make [~~and enforce rules, regulations,~~]rules and approve contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;

(l) control the investment of all funds assigned to the district for investment, including funds:

(i) held as part of a district's retirement system; and

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

(m) [~~in consultation with the local advisory council created under Section 17B-2a-808.2, ~~]invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(n) if a custodian is appointed under Subsection (3)(d), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

(o) (i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:

(A) the result of district operations during the preceding fiscal year;

(B) an accounting of the expenditures of all local sales and use tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;

(C) the district's financial status on the final day of the fiscal year; and

(D) the district's progress and efforts to improve efficiency relative to the previous fiscal year; and

(iii) supply copies of the report under Subsection (2)(o)(ii) to the general public upon request;

(p) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

(i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and

(ii) any [~~transit~~]fixed guideway capital development projects that the board of trustees would like the Transportation Commission to consider;

(q) (i) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines, in consultation with the local advisory council created in Section 17B-2a-808.2, to be the most critical to the success of the organization; and

(ii) if requested by the executive director and approved by the local advisory council, direct the internal auditor appointed under Section 17B-2a-810 to conduct an audit of an internal issue of the large public transit district;

(r) [~~together with the local advisory council created in Section 17B-2a-808.2, ~~]hear audit reports for audits conducted in accordance with Subsection (2)(o);

(s) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:

(i) how negotiations occurred;

(ii) the rationale for providing a reduced fare; and

(iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;

(t) [~~in consultation with the local advisory council, ~~]develop and approve other board policies, ordinances, and bylaws;

(u) review and approve any:

(i) contract or expense exceeding [~~$200,000~~]$250,000; or

(ii) proposed change order to an existing contract if the change order:

(A) increases the total contract value to [~~$200,000~~]$250,000 or more;

(B) increases a contract of or expense of [~~$200,000~~]$250,000 or more by [~~15%~~]25% or more; or

(C) has a total change order value of [~~$200,000~~]$250,000 or more;[~~ and~~]

(v) coordinate with political subdivisions within the large public transit district and the department to coordinate public transit services provided by the large public transit district with pilot services related to public transit innovation grants[.]; and

(w) at least annually, engage with the safety and security team of the large public transit district to ensure coordination with local municipalities and counties.

(3) A board of trustees of a large public transit district may:

(a) subject to Subsection (4), make and pass ordinances, resolutions, and orders that are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the governance[~~and management~~] of the affairs of the district; and

[~~(B) the execution of district powers; and~~]

[~~(C)~~](B) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the executive director or other officer or deputy as the board prescribes;

(c) in consultation with the local advisory council created in Section 17B-2a-808.2:

(i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(n).

(4) The board of trustees may not issue a bond unless the board of trustees has consulted and received approval from the State Finance Review Commission created in Section 63C-25-201.

(5) A member of the board of trustees of a large public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(6) (a) The vote of the board of trustees on each ordinance or resolution shall be by roll call vote with each affirmative and negative vote recorded.

(b) The board of trustees of a large public transit district may not adopt an ordinance unless it is introduced at least 24 hours before the board of trustees adopts it.

(c) Each ordinance adopted by a large public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

(7) (a) The board of trustees shall provide a report to each city and town within the boundary of the large public transit district, that shall provide an accounting of:

(i) the amount of revenue from local option sales and use taxes under this part that was collected within each respective county, city, or town and allocated to the large public transit district as provided in this part;

(ii) how much revenue described in Subsection (7)(a)(i) was allocated to provide public transit services utilized by residents of each city and town; and

(iii) how the revenue described in Subsection [~~(7)(b)~~](7)(a)(i) was spent to provide public transit services utilized by residents of each respective city and town.

(b) The board of trustees shall provide the report described in Subsection (7)(a):

(i) on or before January 1, 2025; and

(ii) at least every two years thereafter.

(c) To provide the report described in this Subsection (7), a board of trustees may coordinate with the Department of Transportation to report on relevant public transit capital development projects administered by the Department of Transportation.

Section 3. Section 17B-2a-808.2 is amended to read:

17B-2a-808.2. Large public transit district local advisory council -- Powers and duties.

(1) A large public transit district shall create and consult with a local advisory council.

(2) (a) (i) For a large public transit district in existence as of January 1, 2019, the local advisory council shall have membership selected as described in Subsection (2)(b).

(ii) (A) For a large public transit district created after January 1, 2019, the political subdivision or subdivisions forming the large public transit district shall submit to the Legislature for approval a proposal for the appointments to the local advisory council of the large public transit district similar to the appointment process described in Subsection (2)(b).

(B) Upon approval of the Legislature, each nominating individual or body shall appoint individuals to the local advisory council.

(b) (i) The council of governments of Salt Lake County shall appoint three members to the local advisory council.

(ii) The mayor of Salt Lake City shall appoint one member to the local advisory council.

(iii) The council of governments of Utah County shall appoint two members to the local advisory council.

(iv) The council of governments of Davis County and Weber County shall each appoint one member to the local advisory council.

(v) The councils of governments of Box Elder County and Tooele County shall jointly appoint one member to the local advisory council.

(3) The local advisory council shall meet at least quarterly in a meeting open to the public for comment to discuss the service, operations, and any concerns with the public transit district operations and functionality.

(4) (a) The duties of the local advisory council shall include:

(i) setting the compensation packages of the board of trustees, which salary, except as provided in Subsection (4)(b), may not exceed $150,000 for a newly appointed board member, plus additional retirement and other standard benefits;

(ii) [~~reviewing, approving, and recommending final adoption by~~]consulting with the board of trustees of the large public transit district regarding service plans and routes at least every two and one-half years;

(iii) except for a fixed guideway capital development project under the authority of the Department of Transportation as described in Section 72-1-203, [~~reviewing, approving, and recommending final adoption by~~]consulting with the board of trustees of project development plans, including funding, of all new capital development projects;

(iv) reviewing[~~, approving, and recommending final adoption by the board of trustees of any plan~~]plans for a transit-oriented development where a large public transit district is involved;

(v) consulting the executive director as the executive director creates the budget of the large public transit district;

(vi) consulting with the board of trustees as the board of trustees fixes fares;

[~~(v) at least annually, engaging with the safety and security team of the large public transit district to ensure coordination with local municipalities and counties;~~]

[~~(vi)~~](vii) assisting with coordinated mobility and constituent services provided by the public transit district;

[~~(vii)~~](viii) representing and advocating the concerns of citizens within the public transit district to the board of trustees; and

[~~(viii)~~](ix) other duties described in Section 17B-2a-808.1.

(b) The local advisory council may approve an increase in the compensation for members of the board of trustees based on a cost-of-living adjustment at the same rate as government employees of the state for the same year.

(5) The local advisory council shall meet at least quarterly with and consult with the board of trustees and advise regarding the operation and management of the public transit district.

Section 4. Section 17B-2a-810 is amended to read:

17B-2a-810. Officers of a public transit district.

(1) (a) The officers of a public transit district shall consist of:

(i) the members of the board of trustees;

(ii) for a small public transit district, a chair and vice chair, appointed by the board of trustees, subject to Subsection (1)(c);

(iii) a secretary, appointed by the board of trustees;

(iv) (A) for a small public transit district, a general manager, appointed by the board of trustees as provided in Section 17B-2a-811, whose duties may be allocated by the board of trustees, at the board of trustees' discretion, to a chief executive officer, or both; or

(B) for a large public transit district, an executive director appointed by the board of trustees as provided in Section 17B-2a-811.1;

(v) for a small public transit district, a chief executive officer appointed by the board of trustees, as provided in Section 17B-2a-811;

(vi) for a small public transit district, a general counsel, appointed by the board of trustees, subject to Subsection (1)(d);

(vii) a treasurer, appointed as provided in Section 17B-1-633, except that the treasurer of a large public transit district shall be appointed by the executive director;

(viii) a comptroller, appointed by the board of trustees, subject to Subsection (1)(e), except that the comptroller of a large public transit district shall be appointed by the executive director;

(ix) for a large public transit district, an internal auditor, appointed by the board of trustees, subject to Subsection (1)(f); and

(x) other officers, assistants, and deputies that the board of trustees considers necessary.

(b) The board of trustees of a small public transit district may, at its discretion, appoint a president, who shall also be considered an officer of a public transit district.

(c) The district chair and vice chair of a small public transit district shall be members of the board of trustees.

(d) The person appointed as general counsel for a small public transit district shall:

(i) be admitted to practice law in the state; and

(ii) have been actively engaged in the practice of law for at least seven years next preceding the appointment.

(e) The person appointed as comptroller shall have been actively engaged in the practice of accounting for at least seven years next preceding the appointment.

(f) The person appointed as internal auditor shall be a licensed certified internal auditor or certified public accountant with at least five years experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

(2) (a) For a small public transit district, the district's general manager or chief executive officer, as the board prescribes, or for a large public transit district, the executive director, shall appoint all officers and employees not specified in Subsection (1).

(b) Each officer and employee appointed by the district's general manager or chief executive officer of a small public transit district, or the executive director of a large public transit district, serves at the pleasure of the appointing general manager, chief executive officer, or executive director.

(3) The board of trustees shall by ordinance or resolution fix the compensation of all district officers and employees, except as otherwise provided in this part.

(4) (a) Each officer appointed by the board of trustees or by the district's general manager, chief executive officer, or executive director shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

(b) Each oath under Subsection (4)(a) shall be subscribed and filed with the district secretary no later than 15 days after the commencement of the officer's term of office.

Section 5. Section 17B-2a-811.1 is amended to read:

17B-2a-811.1. Executive director of a large public transit district.

(1) (a) The board of trustees of a large public transit district shall appoint a person as an executive director.

(b) The appointment of an executive director shall be by the affirmative vote of a majority of the board of trustees.

(c) The board's appointment of a person as executive director shall be based on the person's qualifications, with special reference to the person's actual experience in or knowledge of accepted practices with respect to the duties of the office.

(d) A person appointed as executive director of a large public transit district is not required to be a resident of the state at the time of appointment.

(2) An executive director of a large public transit district shall:

(a) [~~be~~]serve as a full-time officer and devote full time to the district's business;

(b) serve at the pleasure of the board of trustees;

(c) hold office for an indefinite term;

(d) ensure that all district ordinances are enforced;

(e) prepare and submit to the board of trustees, as soon as practical but not less than 45 days after the end of each fiscal year, a complete report on the district's finances and administrative activities for the preceding year;

(f) advise the board of trustees regarding the needs of the district;

(g) establish district administrative policies and procedures;

(h) ensure district compliance with state and federal requirements;

(i) in consultation with the local advisory council, create and present the budget of the large public transit district to the board of trustees for approval;

(j) (i) at least as frequently as every four years, in consultation with the board of trustees, the local advisory council, metropolitan planning organizations, operations specialists of the large public transit district, and other relevant stakeholders, develop a strategic plan for the district that aligns with relevant transportation and public transit plans, including corresponding proposed projects on time horizons of five, 10, and 20 years; and

(ii) present the strategic plan described in Subsection (2)(j)(i) to the board of trustees for approval;

(k) at least as frequently as every five years, perform a cost-effectiveness and cost-benefit study for each mode of public transit and develop goals for the large public transit district to achieve an effective balance of cost-effective and cost-beneficial services;

[~~(g)~~](l) subject to Section 72-1-203, in consultation with the board of trustees, prepare or cause to be prepared all plans and specifications for the construction of district works;

[~~(h)~~](m) cause to be installed and maintained a system of auditing and accounting that completely shows the district's financial condition at all times;

[~~(i)~~](n) attend meetings of the board of trustees;

[~~(j)~~](o) [~~in consultation with the board of trustees,~~]notwithstanding Subsections 17B-1-301(2)(l) and (m), have charge of:

(i) the acquisition, construction, maintenance, and operation of district facilities; and

(ii) the administration of the district's business affairs; and

[~~(k)~~](p) be entitled to participate in the deliberations of the board of trustees as to any matter before the board.

(3) (a) On or before October 31, 2025, and each year thereafter, the executive director shall prepare and provide a report to the Transportation Interim Committee regarding fare contracts and transit pass programs.

(b) The report described in Subsection (3)(a) shall include information about institutional contracts as well as reduced-fare, ticket-as-fare, or other fare event contracts, including:

(i) contribution levels from both the large public transit district and each relevant institution or party;

(ii) projected and observed benefits and costs and return on investment of the proposed contract, including increased ridership, traffic congestion reduction, operational and customer safety, and net financial gain of the large public transit district; and

(iii) other relevant data used to determine that the contract is in the public's transportation interest.

(4) The executive director shall hire and have supervisory authority over all executive officer positions not specifically reserved by the board of trustees.

[~~(3)~~](5) The board of trustees may not remove the executive director or reduce the executive director's salary below the amount fixed at the time of original appointment unless:

(a) the board adopts a resolution by a vote of a majority of all members; and

(b) if the executive director demands in writing, the board gives the executive director the opportunity to be publicly heard at a meeting of the board before the final vote on the resolution removing the executive director or reducing the executive director's salary.

[~~(4)~~](6) (a) Before adopting a resolution providing for the removal of the executive director or a reduction in the executive director's salary as provided in Subsection [~~(3)~~](5), the board shall, if the executive director makes a written demand:

(i) give the executive director a written statement of the reasons alleged for the removal or reduction in salary; and

(ii) allow the executive director to be publicly heard at a meeting of the board of trustees.

(b) Notwithstanding Subsection [~~(4)(a)~~](6)(a), the board of trustees of a public transit district may suspend an executive director from office pending and during a hearing under Subsection [~~(4)(a)(ii)~~](6)(a)(ii).

[~~(5)~~](7) The action of a board of trustees suspending or removing an executive director or reducing the executive director's salary is final.

Section 6. Section 72-1-203 is amended to read:

72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants and advisers -- Salaries.

(1) The executive director shall appoint the following deputy directors, who shall serve at the discretion of the executive director:

(a) the deputy director of engineering and operation, who shall be a registered professional engineer in the state, and who shall be the chief engineer of the department; and

(b) the deputy director of planning and investment.

(2) As assigned by the executive director, the deputy directors described in Subsection (1) may assist the executive director with the following departmental responsibilities:

(a) project development, including statewide standards for project design and construction, right-of-way, materials, testing, structures, and construction;

(b) oversight of the management of the region offices described in Section 72-1-205;

(c) operations and traffic management;

(d) oversight of operations of motor carriers and ports;

(e) transportation systems safety;

(f) aeronautical operations;

(g) equipment for department engineering and maintenance functions;

(h) oversight and coordination of planning, including:

(i) development of statewide strategic initiatives for planning across all modes of transportation;

(ii) coordination with metropolitan planning organizations and local governments;

(iii) coordination with a large public transit district, including planning, project development, outreach, programming, environmental studies and impact statements, construction, and impacts on public transit operations; and

(iv) corridor and area planning;

(i) asset management;

(j) programming and prioritization of transportation projects;

(k) fulfilling requirements for environmental studies and impact statements;

(l) resource investment, including identification, development, and oversight of public-private partnership opportunities;

(m) data analytics services to the department;

(n) corridor preservation;

(o) employee development;

(p) maintenance planning;

(q) oversight and facilitation of the negotiations and integration of public transit providers described in Section 17B-2a-827;

(r) oversight and supervision of any fixed guideway capital development project within the boundaries of a large public transit district[~~ for which any state funds are expended~~], including those responsibilities described in Subsections (2)(a), (h), (j), (k), and (l), and the implementation and enforcement of any federal grant obligations associated with fixed guideway capital development project funding; and

(s) other departmental responsibilities as determined by the executive director.

(3) The executive director shall ensure that the same deputy director does not oversee or supervise both the fixed guideway capital development responsibilities described in Subsection (2)(r) and the department's fixed guideway rail safety responsibilities, including the responsibilities described in Section 72-1-214.

(4) The executive director may delegate to a large public transit district certain projects or acquisitions described in Subsection (2)(r) related to fixed guideway capital development if the executive director determines that the large public transit district is better positioned or equipped for that particular project or acquisition.

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

H. C. R. 1
Passed February 5, 2025

CONCURRENT RESOLUTION REGARDING THE GRAND COUNTY WATER CONSERVANCY DISTRICT

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This resolution expresses support for the transfer of federal water infrastructure to the Grand County Water Conservancy District.

Highlighted Provisions:

This resolution:

► urges Congress to transfer to the Grand County Water Conservancy District water infrastructure owned by the federal government for the conveyance of water from the Green River to the Moab Uranium Mill Tailings Remedial Action project site.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the United States Department of Energy (DOE) controls and operates a pipeline, several pump stations, and a storage reservoir for the conveyance of water from the Green River to the Moab Uranium Mill Tailings Remedial Action (UMTRA) project site located near Crescent Junction, Utah;

WHEREAS, the DOE holds the rights of way necessary to convey the water to the Moab UMTRA project site using the existing water infrastructure;

WHEREAS, the DOE expects to complete the Moab UMTRA project in the near future and will no longer need the water infrastructure or related rights of way;

WHEREAS, the water infrastructure currently controlled and operated by the DOE, if transferred to the Grand County Water Conservancy District (district), could be used by the district to provide water security to rural residents in and around northern Grand County;

WHEREAS, persistent drought conditions, groundwater depletion, and privately-controlled water delivery systems pose a serious risk to the water security of Utahns living in northern Grand County, including rural towns like Thompson Springs;

WHEREAS, if the water infrastructure currently controlled and operated by the DOE were transferred to the district, the district could continue delivering water to the Moab UMTRA project site until the project's completion and provide water security to rural residents in northern Grand County;

WHEREAS, the district holds approximately 2,500 acre feet annually of unused water rights in the Green River that the district could access if the district operated the water infrastructure currently controlled and operated by the DOE;

WHEREAS, the DOE supports the transfer of the water infrastructure to the district for the benefit of local communities;

WHEREAS, the people of Utah have a long history of successful stewardship over the management and delivery of Utah's water supply;

WHEREAS, the state water policy sets forth that the state "shall pursue adequate, reliable, affordable, sustainable, and clean water resources," as described in Utah Code Subsection 73-1-21(a); and

WHEREAS, the state water policy sets forth that the state "will promote water resource development and the creation of new water infrastructure necessary to meet the state's growing demand and promote economic development," as described in Utah Code Subsection 73-1-21(b)(ii):

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports the transfer of federal water infrastructure described in this resolution to the Grand County Water Conservancy District.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges Congress to transfer the water infrastructure described in this resolution to the Grand County Water Conservancy District.

BE IT FURTHER RESOLVED that a copy of this resolution shall be transmitted to the members of Utah's congressional delegation.

H. C. R. 2
Passed February 12, 2025

CONCURRENT RESOLUTION DIRECTING PEHP REGARDING PHARMACEUTICAL REBATES

Chief Sponsor: Norman K Thurston
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This resolution directs the Public Employees' Benefit and Insurance Program to give the estimated value of pharmaceutical rebates to state plan members at the point of sale.

Highlighted Provisions:

This resolution:

► directs the Public Employees' Benefit and Insurance Program to give the estimated value of pharmaceutical rebates to state plan members at the point of sale.

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in accordance with Utah Code Section 49-20-201, the state participates in the Public Employees' Benefit and Insurance Program (PEHP);

WHEREAS, patients with significant health conditions regularly face high monthly out-of-pocket prescription drug costs that are only made worse by a system of rebates within the pharmaceutical industry;

WHEREAS, rebates constitute a financial incentive that a pharmaceutical company contractually pays to a pharmacy benefit manager (PBM) when a rebate-paying drug has been dispensed by a pharmacy;

WHEREAS, the amount of a rebate can be significant and the total annual value of all rebates in the United States is in the tens of billions of dollars;

WHEREAS, the funding source for rebates comes from charging patients more than the actual cost of a drug at the time of purchase;

WHEREAS, the flow of a rebate goes from the drug manufacturer to the PBM and may also be passed down to the health plan and the sponsoring employer, depending on contractual terms;

WHEREAS, in the case of the state health insurance plan, 100% of rebates flow from the PBM and PEHP to the state risk pool;

WHEREAS, rebates represent an anomaly in health care where a smaller group of people with high-cost health care needs are charged extra to benefit the larger pool of members of the insurance plan;

WHEREAS, the financial burden that rebates place on the small group of members with high-cost health care needs who purchase rebate-paying drugs needs to end;

WHEREAS, this financial burden amounts to about two million dollars in costs for those members that purchase rebate-paying drugs;

WHEREAS, if that financial burden were to be spread across the total membership of the state risk pool, the cost would equal about $2.84 per member per month; and

WHEREAS, this change will provide relief to state employees and their family members who are the sickest among us:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, directs PEHP to give state health plan members the estimated value of rebates at the point of sale in proportion to the member's cost sharing responsibility for the drug, less any confirmed payment assistance that is available for reducing the member's out-of-pocket costs.

BE IT FURTHER RESOLVED that the costs of giving state members the estimated value of rebates remain cost neutral to the state by spreading such costs across all covered state members by increasing the member premium share or reducing the state's health savings account contribution.

BE IT FURTHER RESOLVED that PEHP optimize the total value of PEHP's pharmacy benefit manager contract through monitoring, updating, and rebidding.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Public Employees' Benefit and Insurance Program.

H. C. R. 5
Passed February 21, 2025

HOUSE CONCURRENT RESOLUTION ON PERMITTING REFORM

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This concurrent resolution urges Congress to enact reforms to federal permitting policies to accelerate deployment of new energy infrastructure.

Highlighted Provisions:

This resolution:

- ► recognizes the importance of domestic energy production for national security and economic competitiveness;
- ► highlights issues with current federal permitting processes that delay energy infrastructure development;
- ► details specific problems with current permitting timelines and processes;
- ► emphasizes the need for streamlined permitting while maintaining environmental protection; and
- ► urges Congress to enact specific reforms to federal permitting and environmental review processes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, abundant, resilient, and diversified domestic energy production enhances American national security, economic competitiveness, and energy independence;

WHEREAS, environmental stewardship that protects air, water, public health, biodiversity, species protection, and public lands remains an important goal;

WHEREAS, federal permitting and environmental review processes under the National Environmental Policy Act, the Endangered Species Act, the National Historic Preservation Act, Clean Water Act, and dozens of other federal requirements have become unnecessarily complex and cumbersome;

WHEREAS, energy is produced in the United States at much higher environmental standards than in countries from which energy is imported, making prevention of domestic production counterproductive to environmental stewardship;

WHEREAS, permitting inefficiencies delay construction of essential energy infrastructure components needed to support economic competitiveness, enhance reliability, prevent blackouts, and lower costs;

WHEREAS, electricity demand in the United States is projected to increase dramatically, requiring substantial increases in domestic energy production and more than doubling of transmission capacity;

WHEREAS, over 2,000 gigawatts of energy production and storage are delayed in interconnection queues, and average interconnection times have nearly doubled from approximately two years to nearly four years;

WHEREAS, environmental impact statements under the National Environmental Policy Act now take an average of four-and-a-half years to process;

WHEREAS, the United States relies heavily on foreign nations, particularly China, for critical minerals, with demand projected to increase by more than 40 times by 2040;

WHEREAS, other developed nations with similar environmental goals, such as Canada and Australia, permit new mines within two to three years compared to nearly 10 years in the United States;

WHEREAS, both linear infrastructure and energy generation infrastructure face extraordinary delays due to overlitigation, inappropriate blocking by unrepresentative groups, and excessive use of the court system;

WHEREAS, project delays dramatically increase costs, reduce viability, and burden consumers, businesses, and taxpayers while making our energy system less reliable;

WHEREAS, overlapping federal permitting requirements lack flexibility to allow efforts that reflect the spirit and intent of environmental laws rather than mere procedural compliance;

WHEREAS, inefficient permitting processes increase dependence on energy produced by foreign dictators and authoritarian regimes;

WHEREAS, permitting delays limit infrastructure modernization that would create a more efficient energy system with reduced emissions and environmental impact;

WHEREAS, failure to reform federal permitting laws results in reduced jobs, security, and economic opportunities; and

WHEREAS, failure to reform these laws will result in greater limitations on energy infrastructure, more lost American jobs, higher costs for consumers and businesses, and increased vulnerability to unreliability and blackouts, causing severe harm to the American people:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges Congress to enact legislation reforming federal permitting and environmental review processes to promote economic and environmental stewardship by expediting energy infrastructure deployment.

BE IT FURTHER RESOLVED that these reforms should enable faster, lower-cost construction of energy infrastructure of all kinds, without prejudice, by:

(1) limiting excessive use of judicial processes that inappropriately delay projects;

(2) preventing inappropriate usage of environmental and other federal laws to hamstring linear energy infrastructure construction;

(3) reforming processes for planning, permitting, and funding electricity transmission infrastructure to support a more reliable energy grid that lowers costs; and

(4) enabling domestic development of the full array of modern energy technologies, including nuclear, emissions management, hydrogen, critical mineral mining and processing, and all other needs for a modern energy system.

BE IT FURTHER RESOLVED that these reforms should ensure accountability for federal agencies conducting permitting and environmental review processes through better data collection, aggressive timelines, and permitting shot clocks.

BE IT FURTHER RESOLVED that these legislative reforms must be accompanied by a redoubling of efforts to streamline federal regulations to support efficient building of new energy infrastructure.

BE IT FURTHER RESOLVED that Congress must act with urgency in the coming months to prevent further harm to consumers, workers, and businesses, while protecting United States competitiveness and reducing vulnerability to both foreign adversaries and domestic outages.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the members of Utah's congressional delegation.

H. C. R. 6
Passed February 20, 2025

CONCURRENT RESOLUTION URGING CHANGES TO FEDERAL HOMELESSNESS REGULATIONS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This resolution urges federal government housing and homelessness agencies to implement reforms to housing assistant programs.

Highlighted Provisions:

This resolution:

- ► urges the Department of Housing and Urban Development to implement reforms to certain federal housing assistant programs;
- ► recognizes that:
  - • state and local governments seek to fund and implement programs that are more effective than the current alternatives to reduce the number of people living on the street and include approaches and strategies that are more responsive to local priorities and circumstances;
  - • the Homeless Management Information System is costly, burdensome, and fails to meet the information and data needs of state and local governments; and
  - • block grant funding provides the state with needed discretion on how to use federal funding for direct services to the state's homeless population;
- ► calls on the federal government to reform certain agency rules and federal laws to provide state and local governments greater latitude in administering homelessness; and
- ► provides for copies of the resolution to be distributed among certain federal agencies and other individuals.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state of Utah is committed to addressing homelessness and housing insecurity by ensuring that housing policies and programs are built around effective strategies that reduce the number of people experiencing unsheltered homelessness;

WHEREAS, the federal government has limited the flexibility of states and local governments with complex compliance measures through the federal government's Continuum of Care Program Interim Rule (Rule), 24 C.F.R. Part 578;

WHEREAS, the federally mandated Homeless Management Information System Rule (HMIS), 24 C.F.R. Sec. 578.57, places an undue administrative burden on state and local agencies that reduces the ability for state and local agencies to focus on direct services to the community due to the substantial data collection and reporting requirements;

WHEREAS, the federal requirements under the Department of Housing and Urban Development's (HUD) Performance Standards and Measures have incentivized a one-size-fits-all approach that may not accurately reflect the unique challenges faced by diverse communities or promote innovative, community-based approaches to reducing homelessness;

WHEREAS, federal policy mandates have limited the ability of local service providers to offer a range of housing and service options, which curbs flexibility and hinders efforts to support clients with varying levels of need and readiness for permanent housing;

WHEREAS, Permanent Supportive Housing (PSH), while essential for many individuals, should not be the sole or primary solution for all experiencing homelessness, and excessive reliance on federal PSH standards has constrained Utah's capacity to develop diverse housing, effective programs, and funding structures; and

WHEREAS, block grant funding would provide Utah with tools to better leverage HUD assistance by granting the state more discretion over the allocation of funds, enabling local agencies to design more effective programs tailored to the specific needs of Utah's homeless and housing-insecure populations:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, call upon HUD and the United States Interagency Council on Homelessness to:

(1) grant the state of Utah a waiver of the Rule to provide more flexibility for state and local governments to design housing solutions that are responsive to local conditions, including:

(a) sober living;

(b) adult residential facilities; and

(c) step-down facilities for people with mental illness that need additional assistance after an emergency mental health hold;

(2) amend the HMIS Rule to streamline reporting requirements, reduce administrative burdens, and allow providers to direct more resources toward client services;

(3) grant the state a waiver that would allow the state of Utah to replace HUD system performance measures with state outcomes and measures to provide local governments and agencies the freedom to set performance indicators that more accurately reflect community needs and goals;

(4) rescind housing first policy mandates to permit flexibility for communities to offer a variety of housing options that meet the diverse needs and preferences of individuals and families experiencing homelessness, including:

(a) sobriety;

(b) goal-setting; and

(c) accountability;

(5) reduce federal standards in the Emergency Solutions Grants Program, 24 C.F.R. Part 576, to better align with local priorities, ensuring resources are effectively allocated to maximize community impact;

(6) reduce HUD's role in PSH to provide local agencies more freedom in implementing supportive housing options tailored to the local agencies' specific populations; and

(7) shift HUD funding to block grants rather than direct assistance to enable states to have greater flexibility in allocating funds to areas of greatest need, allowing for a more effective response to homelessness in the state of Utah.

BE IT FURTHER RESOLVED that copies of this resolution be sent to HUD, the United States Interagency Council on Homelessness, each member of Utah's federal congressional delegation, and the Governor of Utah, urging support for these changes to strengthen housing programs and better serve those experiencing homelessness in the state of Utah.

H. C. R. 7
Passed March 5, 2025

CONCURRENT RESOLUTION RECOGNIZING PATRIOTS' DAY

Chief Sponsor: Walt Brooks
Senate Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This resolution addresses the recognition of the start of the American Revolution.

Highlighted Provisions:

This resolution:

► recognizes the events that occurred at the start of the American Revolution; and
► designates April 19 as Patriots' Day.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state of Utah wishes to recognize the start of the American Revolution and honor this date as Patriots' Day;

WHEREAS, on the evening of April 18, 1775, Dr. Joseph Warren called to his house in Boston both William Dawes and Paul Revere and instructed them that British soldiers would be leaving Boston by sea to apprehend patriot leaders Sam Adams and John Hancock in Lexington and to confiscate stored arms in Concord;

WHEREAS, the local militia volunteers, distinguished by the term "Minutemen," having been notified through the night of the approaching British soldiers, stood their ground on the Lexington Green as the King's soldiers approached;

WHEREAS, in the early dawn of April 19, 1775, on the Lexington Green, a shot was fired that signaled the start of the American Revolution and came to be known as "The Shot Heard Round the World";

WHEREAS, eight militia volunteers were shot and killed on the Lexington Green on the morning of April 19, 1775, representing the eight years of war that would ensue between the Americans and the British Empire;

WHEREAS, the British leaders continued their march to Concord, but at the Old North Bridge the farmers and other patriots that had been summoned through the night turned back the greatest military on the earth at that time;

WHEREAS, the British troops retreated back to Boston under a constant stream of fire from the American volunteers; and

WHEREAS, since that beginning on April 19, 1775, at the Lexington Green and the Concord North Bridge, millions of Americans have fought for our freedom and should be recognized as "patriots":

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, does hereby proclaim that April 19th shall be honored and recognized as Patriots' Day in the state of Utah.

H. C. R. 9
Passed March 7, 2025

HOUSE CONCURRENT RESOLUTION TO CREATE ENERGY COMPACT WITH IDAHO AND WYOMING

Chief Sponsor: Jefferson Moss
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This concurrent resolution encourages the establishment of an interstate compact for regional energy collaboration between Utah, Wyoming, and Idaho.

Highlighted Provisions:

This resolution:

- ► recognizes the shared energy resources and challenges of Utah, Wyoming, and Idaho;
- ► calls for the establishment of an interstate compact focused on regional energy collaboration;
- ► directs the Governor's Office of Energy Development to initiate discussions and develop a framework for an interstate compact; and
- ► expresses commitment to fostering regional cooperation on energy matters.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah, Wyoming, and Idaho share a unique geographic and economic landscape rich in energy resources, including fossil fuels, renewable energy potential, and critical minerals essential for modern energy systems;

WHEREAS, these states face similar challenges related to energy production, transmission, and distribution, including grid reliability, increasing energy demand, economic impacts of transitioning energy systems, environmental concerns, and federal regulatory burdens;

WHEREAS, a regional approach to energy policy and development can leverage the strengths and resources of each state to benefit the region as a whole;

WHEREAS, interstate compacts are a proven mechanism for addressing cross-border issues and fostering collaboration between states;

WHEREAS, an interstate compact between Utah, Wyoming, and Idaho would:

(1) align energy policies to foster innovation and investment;

(2) enable collaboration on critical infrastructure projects, such as transmission lines and carbon capture systems; and

(3) facilitate coordinated strategies to address environmental and regulatory challenges; and

WHEREAS, this regional collaboration would strengthen the states' collective ability to:

(1) advocate for federal policies and funding that support regional energy priorities; and

(2) enhance energy resilience and reliability for the citizens of the region:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, calls upon the states of Wyoming and Idaho to join Utah in establishing an interstate compact focused on regional energy collaboration.

BE IT FURTHER RESOLVED that the Utah Governor's Office of Energy Development, in coordination with other relevant agencies and stakeholders, shall:

(1) initiate discussions with Wyoming and Idaho to identify shared priorities and goals; and

(2) develop a framework for the proposed interstate compact.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to:

(1) the Governor of Wyoming;

(2) the Governor of Idaho;

(3) the Utah Governor's Office of Energy Development; and

(4) the energy regulatory and policy bodies of Wyoming and Idaho.

BE IT FURTHER RESOLVED that the Legislature, the Governor concurring therein, expresses its commitment to fostering regional cooperation on energy and recognizes the mutual benefits of this partnership for the states involved and their residents.

H. C. R. 14
Passed March 7, 2025

HOUSE CONCURRENT RESOLUTION SUPPORTING STREAMLINING UTAH HOUSING POLICIES

Chief Sponsor: Stephen L. Whyte
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This resolution supports streamlining housing policies.

Highlighted Provisions:

This resolution:

- ► supports streamlining housing policies;
- ► recognizes the housing attainability crisis in Utah and the need for efficient state efforts; and
- ► supports beginning to identify programs and funding to consolidate during the 2025 interim.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah's economy is consistently ranked among the best in the nation;

WHEREAS, Utah is currently experiencing unprecedented population growth;

WHEREAS, the population growth increasing the demand for housing, combined with a decreasing supply of homes for sale and high interest rates, is causing an attainable homeownership shortage;

WHEREAS, the Office of the Legislative Auditor General published a housing policy audit (audit) in November 2023;

WHEREAS, the audit made recommendations on how to improve the housing crisis through state-wide goals, incentives, and penalties for noncompliance;

WHEREAS, addressing the attainable homeownership crisis is a top policy priority for leaders across the state;

WHEREAS, the Governor is committed to building 35,000 starter homes in Utah in four years to address the ongoing issue;

WHEREAS, the Legislature is dedicated to addressing the housing shortage and passing new housing-related policies every session;

WHEREAS, legislative efforts are spread throughout the state code, making housing the responsibility of a multitude of departments within the state government, such as:

the Moderate Income Housing Plan, which is the responsibility of municipalities and counties;

the Housing and Transit Reinvestment Zone and First Home Investment Zone, which are the responsibility of the Governor's Office of Economic Opportunity;

the Commission on Housing Affordability, which is supported by the Division of Housing and Community Development under the Department of Workforce Services; and

the First Time Homebuyer Assistance Program, which is administered by the Utah Housing Corporation;

WHEREAS, new efforts are combined with existing programs including the Olene Walker Housing Loan Fund and the Low-Income Housing Tax Credit, among others;

WHEREAS, to meet the state's goals, implement recommendations of the audit, create government efficiency, and reduce duplication of services and confusion, the housing-related policy efforts should be combined;

WHEREAS, streamlining housing efforts reduces confusion for political subdivisions, state government, and stakeholders; and

WHEREAS, streamlining housing-related policies will be a multi-year process and will require careful planning in regard to programs, funding, and staffing and the process should not be delayed:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports consolidating housing policies to more efficiently and effectively address the attainable homeownership shortage, implement recommendations from the 2023 housing policy audit, reduce redundancy, and streamline government.

BE IT FURTHER RESOLVED that the Legislature and the Governor will involve stakeholders in the process of identifying programs to consolidate.

BE IT FURTHER RESOLVED that the Legislature and the Governor commit to begin the process of identifying programs for streamlining during the 2025 interim.

H. J. R. 3
Passed March 6, 2025

JOINT RESOLUTION REGARDING STATE PRISONER PLACEMENT IN IRON COUNTY CORRECTIONAL FACILITY

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This resolution supports contracting for beds for state inmates at the Iron County correctional facility.

Highlighted Provisions:

This resolution:

- ► supports jail expansion as beneficial to both the state and the counties through a contract with the Department of Corrections; and
- ► approves contracting for additional beds dedicated to housing state inmates in Iron County.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, counties in Utah contract with the Department of Corrections to provide prison bed space for state prisoners;

WHEREAS, this contracting arrangement has proved beneficial to both the state and the counties by saving taxpayers from the burden of building new state correctional facilities while, at the same time, assisting counties to meet their own correctional space needs;

WHEREAS, in accordance with Utah Code Subsection 64-13e-103(6), the Department of Corrections may not enter into a contract with a county to house state inmates unless the Legislature has previously passed a joint resolution that includes the approximate number of beds to be contracted, the approximate amount of a county's long-term debt, and the repayment time of the debt for the facility where inmates are to be housed;

WHEREAS, the Department of Corrections is authorized to contract for 165 beds in addition to the current 35 beds in Iron County;

WHEREAS, the correctional facility that will house the inmates in Iron County has $87,500,000 in facility debt, and the repayment time for the debt for the facility is a 40-year period starting in 2024;

WHEREAS, Iron County will have sufficient facilities and beds to accommodate additional state inmates and has met the requirements of Utah Code Subsection 64-13e-103(6); and

WHEREAS, contracting with the Department of Corrections for additional jail bed space would assist the state in addressing projected bed space and treatment needs:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah approves contracting for beds in the correctional facility located in Iron County in the amount specified in this resolution.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Iron County Commission and the Department of Corrections.

H. J. R. 4
Passed February 5, 2025

JOINT RULES RESOLUTION - AMENDMENTS TO JOINT RULES

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This resolution modifies joint rules.

Highlighted Provisions:

This resolution:

- ► updates terms and references for news media requirements related to discriminatory conduct;
- ► changes the name of the Executive Offices and Criminal Justice Appropriations Subcommittee to the Criminal Justice Appropriations Subcommittee;
- ► eliminates obsolete language; and
- ► corrects terms and references.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR1-4-301
JR3-2-302
JR4-1-201
JR4-1-401
JR6-1-103
JR7-1-403
JR7-1-405
JR7-1-610
JR7-1-611

Be it resolved by the Legislature of the state of Utah:

Section 1. JR1-4-301 is amended to read:

JR1-4-301. News media -- Discriminatory conduct.

(1) As used in this rule, "discriminatory conduct" means the same as that term is defined in Legislative Management Committee Policy E -- Legislative Workplace Discrimination Prevention.

(2) [~~Beginning on January 1, 2019, in~~]In order to obtain or maintain House or Senate press credentials, a member of the news media shall:

(a) on an annual basis, take online training provided by the Legislature on [~~unlawful harassment~~]discriminatory conduct; and

(b) sign a document indicating that the member has received a copy of, and agrees to abide by, [~~the Legislature's policy on unlawful harassment~~]Legislative Management Committee Policy E -- Legislative Workplace Discrimination Prevention.

[~~(2)~~](3) [~~(a)~~] A member of the news media is prohibited from engaging in [~~unlawful harassment of~~]discriminatory conduct toward a member[~~, employee, or volunteer of the Legislature~~]or legislative employee.

[~~(b)~~](4) The Legislature may revoke a member of the media's press credentials, or take other remedial action, if the member of the media violates Subsection [~~(2)(a)~~](3) or otherwise violates [~~the Legislature's harassment policy~~]Legislative Management Committee Policy E -- Legislative Workplace Discrimination Prevention.

Section 2. JR3-2-302 is amended to read:

JR3-2-302. Joint appropriations subcommittees -- Creation -- Membership.

The members of the Joint Appropriations Committee shall be divided into the following joint appropriations subcommittees:

(1) Transportation and Infrastructure;

(2) Economic and Community Development;

(3) [~~Executive Offices and~~]Criminal Justice;

(4) Social Services;

(5) Higher Education;

(6) Natural Resources, Agriculture, and Environmental Quality;

(7) Public Education; and

(8) General Government.

Section 3. JR4-1-201 is amended to read:

JR4-1-201. General bill format requirements.

(1) Each bill shall be typewritten or printed on paper 8-1/2 by 11 inches.

(2) (a) When a bill proposes to enact new law, all of the language proposed to be enacted by the bill shall be underlined.

(b) When a bill proposes to enact a statutory section of new law, all of the language in the entire section must be underlined.

(c) When a bill proposes to repeal an existing statutory section and reenact that statutory section using new language, the new language of the entire section shall be underlined.

(3) When a bill proposes to amend a statutory section without repealing the entire statutory section:

(a) all of the language to be repealed must appear [~~between brackets~~]with the letters struck through; and

(b) all of the new language proposed to be enacted by the bill must be underlined.

(4) When a bill proposes to repeal a statutory section, the statutory sections to be repealed shall be listed in the long title as required by these rules and listed by statutory section number and bold face at the end of the bill before any special clauses.

Section 4. JR4-1-401 is amended to read:

JR4-1-401. Identifying adopted amendments in context.

(1) When a Senate committee or floor amendment is adopted in the Senate, the Senate amendment shall be noted in the legislation with additional spacing and markers indicating the beginning and ending of the adopted Senate amendment.

(2) When a House committee or floor amendment is adopted in the House, the House amendment shall be noted in the legislation with additional spacing and markers indicating the beginning and ending of the adopted House amendment.

(3) (a) Notwithstanding JR4-1-201, and except as provided in Subsection (3)(b), when an additional section from the Utah Code is added to a bill by amendment:

(i) all of the language in the section that is to be repealed must appear [~~between brackets~~]with the letters struck through; and

(ii) all of the new language in the section that is proposed to be enacted by the bill must be underlined.

(b) If the additional section added to the bill by amendment is to be repealed, the text of the repealed section need not be included.

Section 5. JR6-1-103 is amended to read:

JR6-1-103. Receipt of campaign donations.

(1) As used in this rule:

(a) "Campaign contribution" means cash or a negotiable instrument contributed for a political purpose to a campaigner.

(b) "Campaigner" means:

(i) a legislative office candidate;

(ii) an individual who holds a legislative office;

(iii) a personal campaign committee of a person described in Subsection (1)(b)(i) or (ii);

(iv) a political action committee controlled by a person described in Subsection (1)(b)(i) or (ii); or

(v) a person acting on behalf of a person described in Subsections (1)(b)(i) through (iv).

(c) "Capitol hill" means the same as that term is defined in Utah Code Section [~~36-5-1~~]63O-1-101.

(d) "Indirect campaign contribution" means a campaign contribution that is delivered to a campaigner:

(i) when the campaigner is not present; or

(ii) via a third party or delivery service.

(e) "Political purpose" means the same as "political purposes" is defined in Utah Code Section 20A-11-101.

(2) (a) A campaigner may not accept receipt of a campaign contribution on capitol hill.

(b) A legislator who is in violation of this rule is subject to an ethics complaint regardless of whether the violation occurred while the legislator was a legislative office holder or a legislative office candidate.

(3) Notwithstanding Subsection (2), a campaigner shall not be considered to have accepted receipt of a campaign contribution if:

(a) the campaign contribution is an indirect campaign contribution; and

(b) the campaigner promptly:

(i) returns the campaign contribution to the donor; or

(ii) refuses the campaign contribution in a written communication or other verifiable manner.

Section 6. JR7-1-403 is amended to read:

JR7-1-403. Review rules referred by Rules Review and General Oversight Committee.

If a legislative committee receives an administrative rule for review from the [~~Administrative Rules Review~~]Rules Review and General Oversight Committee, the legislative committee may:

(1) review the administrative rule; and

(2) (a) recommend to the [~~Administrative Rules Review~~]Rules Review and General Oversight Committee whether the Legislature should reauthorize the administrative rule; or

(b) decide whether to recommend any related statutory change to the Legislature.

Section 7. JR7-1-405 is amended to read:

JR7-1-405. Prohibited meeting times -- Exceptions.

(1) Except as provided in this rule, a legislative committee may not meet:

(a) while the Senate or the House of Representatives is in session; or

(b) during the period that begins on the first Thursday in December and ends the day after the day on which the Legislature adjourns the following calendar year's general session sine die.

(2) Subsection (1) does not apply to:

(a) the Legislative Management Committee and its subcommittees;

(b) the Senate or House Management Committee;

(c) the Senate or House Rules Committee;

(d) the Senate or House Legislative Expenses Oversight Committee;

(e) a senate confirmation committee;

(f) a meeting of the [~~Administrative Rules Review~~]Rules Review and General Oversight Committee for the purpose of considering draft legislation reauthorizing agency rules in accordance with Utah Code Section 63G-3-502; or

(g) the Legislative Process Committee.

(3) A meeting otherwise prohibited by this rule may be held if approved by:

(a) the president of the Senate and the speaker of the House of Representatives; or

(b) a majority vote of the Senate and a majority vote of the House of Representatives.

(4) Any action of a legislative committee that occurs during a meeting that violates this rule is invalid.

Section 8. JR7-1-610 is amended to read:

JR7-1-610. Committee bill files -- Effect of favorable recommendation -- Committee bill files without recommendation abandoned.

(1) After an authorized legislative committee reviews draft legislation the authorized legislative committee may give the draft legislation a favorable recommendation.

(2) If an authorized legislative committee gives draft legislation a favorable recommendation, the Office of Legislative Research and General Counsel shall:

(a) attach a committee note to the committee bill, as required under JR4-2-401; and

(b) assign the committee bill a bill number in accordance with JR4-2-501.

(3) (a) Except as provided in Subsection (3)(b), a committee bill file that does not receive a favorable recommendation at the committee's last scheduled meeting of the calendar year in which the committee bill file was opened is abandoned.

(b) Subsection (3)(a) does not apply to a committee bill file opened by:

(i) the [~~Administrative Rules Review~~]Rules Review and General Oversight Committee for the purpose of reauthorizing agency rules in accordance with Utah Code Section 63G-3-502; or

(ii) the Legislative Process Committee.

(4) (a) Nothing in this rule prohibits a legislator from making a request for legislation in the legislator's name to sponsor legislation that was abandoned in accordance with Subsection (3).

(b) A request for legislation described in Subsection (4)(a) is subject to the drafting priority described in JR4-2-102.

Section 9. JR7-1-611 is amended to read:

JR7-1-611. Assignment of committee bills -- Report on committee bills and study items.

(1) The chairs of each authorized legislative committee shall:

(a) no later than November 30, assign each of the authorized legislative committee's committee bills a chief sponsor and, at the chairs' election, a floor sponsor from the opposite chamber; and

(b) deliver to the Senate Rules Committee and the House Rules Committee a report that includes, for each of the authorized legislative committee's committee bills:

(i) the short title;

(ii) the chief sponsor;

(iii) the floor sponsor, if applicable; and

(iv) how each member of the authorized legislative committee voted when the authorized legislative committee gave the committee bill a favorable recommendation, including whether a member was absent at the time of the vote.

(2) Notwithstanding Subsection (1), for a committee bill that was not a committee bill file, the sponsor of the request for legislation is the chief sponsor of the committee bill [~~file~~]unless the sponsor transfers the committee bill to another legislator.

(3) (a) In addition to the items described in Subsection (1), the chairs of each interim committee shall deliver to the Legislative Management Committee:

(i) a copy of the report described in Subsection (1)(b); and

(ii) the disposition of each issue assigned to or studied by the interim committee during the preceding calendar year.

(b) (i) The chairs of an interim committee shall comply with Subsection (3)(a) before the day on which the Legislative Management Committee meets in December.

(ii) The chairs of an authorized legislative committee that is not an interim committee shall comply with Subsection (3)(a) as soon as practicable.

Section 10. Effective Date.

This resolution takes effect upon a successful vote for final passage.

H. J. R. 6
Passed March 7, 2025

JOINT RULES RESOLUTION - LEGISLATIVE PROCESS AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This joint rules resolution modifies legislative processes and procedures.

Highlighted Provisions:

This resolution:

- ► defines terms;
- ► removes the requirement that the Senate and House Rules committees meet annually to review joint rules;
- ► addresses the process to direct a roll call vote during an electronic meeting;
- ► modifies legislative staff offices' reporting requirement related to performance measures;
- ► requires the Executive Appropriations Committee to meet annually to approve legislative staff offices' budgets and certify the Legislature's budget to the governor;
- ► addresses the right of legislators to attend joint committee meetings, subject to certain restrictions;
- ► modifies specific bill format requirements;
- ► clarifies how requests for legislation, priority request designations, and legislation are treated when the chief sponsor is:
  - • unable to serve in the next annual general session; or
  - • elected or appointed to serve in the opposite chamber;
- ► addresses the circumstances under which the Office of Legislative Research and General Counsel removes a committee note;
- ► clarifies the order in which the Office of Legislative Research and General Counsel numbers legislation;
- ► clarifies the days of the week the Senate and House give preference for the other chamber's legislation;
- ► prohibits transferring sponsorship on legislation more than twice;
- ► modifies the consideration of an amendment or substitute legislation made in the other chamber;
- ► modifies deadlines related to the passage of the final appropriations bill and fiscal note bills;
- ► clarifies reimbursement procedures related to legislative travel;
- ► requires that when a legislative committee creates a subcommittee, the members must include at least one senator and one representative;
- ► authorizes the chairs of the Legislative Process Committee and the Rules Review and General Oversight Committee to independently open a committee bill file, subject to certain requirements;
- ► prohibits the chief sponsor of a committee bill from altering the bill before the bill is numbered for introduction, except altering to make a technical correction; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR1-1-102
JR1-1-104
JR1-4-402
JR1-4-602
JR3-2-402
JR4-1-101
JR4-1-202
JR4-1-401
JR4-2-101
JR4-2-103
JR4-2-201
JR4-2-202
JR4-2-203
JR4-2-401
JR4-2-501
JR4-3-102
JR4-3-105
JR4-3-108
JR4-4-101

JR4-4-203
JR5-2-101
JR5-2-102
JR5-2-103
JR5-4-101
JR7-1-101
JR7-1-410
JR7-1-411
JR7-1-601.5
JR7-1-602
JR7-1-610

ENACTS:

JR3-2-710

REPEALS AND REENACTS:

JR4-2-102

Be it resolved by the Legislature of the state of Utah:

Section 1. JR1-1-102 is amended to read:

JR1-1-102. Adoption of legislative rules.

(1) [~~(a)~~] At the beginning of each legislative session, the Legislature shall adopt Joint Rules by a constitutional two-thirds vote of all senators and representatives.

[~~(b)~~](2) Except as provided in Subsection [~~(1)(c)~~](3), after the initial adoption of Joint Rules, the Legislature may adopt additional Joint Rules or amend or repeal existing Joint Rules by a constitutional majority vote.

[~~(c)~~](3) The Legislature may adopt or amend a Joint Rule that includes a voting requirement of more than a constitutional majority only by a constitutional two-thirds vote of all senators and representatives.

[~~(2) The Senate and House Rules Committees shall:~~]

[~~(a) meet before each annual general session of the Legislature convenes;~~]

[~~(b) review Joint Rules; and~~]

[~~(c) recommend to the Legislature any modifications that they consider necessary.~~]

Section 2. JR1-1-104 is amended to read:

JR1-1-104. Single chamber's authority to suspend Joint Rules.

(1) Except as provided in Subsection (2), a single chamber may not suspend a Joint Rule.

(2) A single chamber may suspend by motion and majority vote one or more of the following rules:

(a) JR2-1-103;

(b) JR4-3-103(2);

(c) JR4-3-105;

(d) JR4-3-302;

(e) [~~JR4-4-101(2)(b)~~]JR4-4-101(3)(b);

(f) JR4-4-201; or

(g) JR4-4-202.

(3) A motion and vote under Subsection (2) is valid only if the legislator making the motion identifies in the motion each rule the legislator intends to suspend.

Section 3. JR1-4-402 is amended to read:

JR1-4-402. Meeting format and participation -- Electronic meeting policy.

(1) In accordance with this part and Utah Code Title 52, Chapter 4, Open and Public Meetings Act, a legislative public body may convene and conduct a meeting of the legislative public body as an electronic meeting, subject to budget, public policy, and logistical considerations.

(2) (a) Except as allowed under this rule, a member of a legislative public body who attends a meeting of the legislative public body, including an electronic meeting, shall attend the meeting in person.

(b) A member of a legislative public body may attend an electronic meeting of the legislative public body by electronic means only if the member:

(i) has a specified reason; and

(ii) informs:

(A) the presiding officer or the presiding officer's designee; or

(B) the chair or the chair's designee.

(c) A legislative public body shall provide a description of how to electronically connect to an electronic meeting:

(i) to each member authorized to attend the meeting by electronic means under Subsection (2)(b); and

(ii) (A) 24 hours before the meeting is scheduled to begin; or

(B) if it is impracticable to comply with the 24-hour requirement in Subsection (2)(c)(ii)(A), as soon as possible before the meeting begins.

(3) The presiding officer or the chair of a legislative public body shall conduct an electronic meeting of the legislative public body from the anchor location.

(4) When a legislative public body convenes an electronic meeting, a member of the legislative public body is considered present for all purposes, including determining a quorum, only if the member is:

(a) present in person at the anchor location; or

(b) participating in the meeting by electronic means.

(5) When a member of a legislative public body attends a meeting of the legislative public body by electronic means in accordance with this part, the member shall ensure that:

(a) if participating via video conference, the member's attire and appearance are consistent with the attire and appearance that would be expected if the member were attending the meeting in person; and

(b) the member's location:

(i) reflects the dignity of the meeting, particularly if the member is attending via video conference; and

(ii) is free from any sight or noise that:

(A) can be seen or heard by others during the meeting; and

(B) is extraneous, distracting, disruptive, or inappropriate.

(6) A member of a legislative public body may not attend a meeting by electronic means while engaging in any activity that would be abnormal or prohibited if the member were attending the meeting in person, including operating a motor vehicle.

(7) In accordance with Utah Code Section 52-4-207[~~,~~]:

(a) a legislative public body that convenes and conducts an electronic meeting may provide a means by which members of the public who are not physically present at the anchor location may attend the meeting by electronic means; and

(b) a chair, or a legislative body by majority vote, may direct a roll call vote during an electronic meeting.

(8) Notwithstanding the other provisions of this rule:

(a) any member of a legislative public body may attend an emergency electronic meeting by electronic means; and

(b) the presiding officer or the chair of a legislative public body may conduct an emergency electronic meeting of the legislative public body remotely by electronic means.

Section 4. JR1-4-602 is amended to read:

JR1-4-602. Performance reporting.

Each legislative office shall:

(1) develop performance measures to include in an appropriations act for each fiscal year; and

(2) annually submit to the [~~Subcommittee on Oversight created in Utah Code Section 36-12-8.1~~]Legislative Management Committee created in Utah Code Section 36-12-6 a report that contains:

(a) any recommendations for legislative changes for the next fiscal year to the office's previously adopted performance measures; and

(b) the final status of the office's performance measures included in the appropriations act for the fiscal year ending the previous June 30.

Section 5. JR3-2-402 is amended to read:

JR3-2-402. Executive appropriations -- Duties -- Base budgets.

(1) (a) The Executive Appropriations Committee shall meet no later than the third Wednesday in December to:

(i) direct staff as to what revenue estimate to use in preparing budget recommendations, to include a forecast for federal fund receipts;

(ii) consider treating above-trend revenue growth as one-time revenue for major tax types and for federal funds;

(iii) hear a report on the historical, current, and anticipated status of the following:

(A) debt;

(B) long term liabilities;

(C) contingent liabilities;

(D) General Fund borrowing;

(E) reserves;

(F) fund balances;

(G) nonlapsing appropriation balances;

(H) cash funded infrastructure investment; and

(I) changes in federal funds paid to the state;

(iv) hear a report on:

(A) the next fiscal year base budget appropriation for Medicaid accountable care organizations according to Utah Code Section 26B-3-203;

(B) an explanation of program funding needs;

(C) estimates of overall medical inflation in the state; and

(D) mandated program changes and their estimated cost impact on Medicaid accountable care organizations;

(v) decide whether to set aside special allocations for the end of the session, including allocations:

(A) to address any anticipated reduction in the amount of federal funds paid to the state; and

(B) of one-time revenue to pay down debt and other liabilities;

(vi) (A) hear a report on construction inflation and the ongoing operation and maintenance costs of any capital development project requested by an institution under Utah Code Section 53B-2a-117 or 53B-22-204; and

(B) in response to the report described in Subsection (1)(a)(vi)(A), decide whether to adjust the next fiscal year base budget or set aside special allocations for the end of the session;

(vii) decide whether to set aside special allocations for legislation that will reduce taxes, including legislation that will reduce one or more tax rates;

(viii) subject to Subsection (1)(c), unless waived by majority vote, if the amortization rate as defined in Utah Code Section 49-11-102

for the new fiscal year is less than the amortization rate for the preceding fiscal year, set aside an amount equal to the value of the reduction in the amortization rate;

(ix) approve the appropriate amount for each subcommittee to use in preparing its budget;

(x) set a budget figure; and

(xi) adopt a base budget in accordance with Subsection (1)(b) and direct the legislative fiscal analyst to prepare one or more appropriations acts appropriating one or more base budgets for the next fiscal year.

(b) In a base budget adopted under Subsection (1)(a), the Executive Appropriations Committee shall set appropriations from the General Fund, the Income Tax Fund, and the Uniform School Fund as follows:

(i) if the next fiscal year ongoing revenue estimates set under Subsection (1)(a)(i) are equal to or greater than the current fiscal year ongoing appropriations, the new fiscal year base budget is not changed;

(ii) if the next fiscal year ongoing revenue estimates set under Subsection (1)(a)(i) are less than the current fiscal year ongoing appropriations, the new fiscal year base budget is reduced by the same percentage that projected next fiscal year ongoing revenue estimates are lower than the total of current fiscal year ongoing appropriations;

(iii) in making a reduction under Subsection (1)(b)(ii), appropriated debt service shall not be reduced, and other ongoing appropriations shall be reduced, in an amount sufficient to make the total ongoing appropriations, including the unadjusted debt service, equal to the percentage calculated under Subsection (1)(b)(ii); and

(iv) the new fiscal year base budget shall include an appropriation to the Department of Health and Human Services for Medicaid accountable care organizations in the amount required by Utah Code Section 26B-3-203.

(c) (i) The Executive Appropriations Committee shall:

(A) comply with the set aside requirement described in Subsection (1)(a)(vii) using money from the General Fund, Income Tax Fund, and Uniform School Fund;

(B) accumulate money set aside under Subsection (1)(a)(vii) across fiscal years; and

(C) when the total amount set aside under Subsection (1)(a)(vii), including any amount to be set aside in the new fiscal year, equals or exceeds the cost of a 0.50% increase in benefited state employee salaries for the new fiscal year, include in the base budget an increase in benefited state employee salaries equal to the total set aside amount.

(ii) The Executive Appropriations Committee may waive or modify a requirement described in Subsection (1)(c)(i) by majority vote.

(d) The chairs of each joint appropriations subcommittee are invited to attend [~~this meeting~~]the meeting described in this Subsection (1).

(2) All proposed budget items shall be submitted to one of the subcommittees named in JR3-2-302 for consideration and recommendation.

(3) (a) After receiving and reviewing subcommittee reports, the Executive Appropriations Committee may refer the report back to a joint appropriations subcommittee with any guidelines the Executive Appropriations Committee considers necessary to assist the subcommittee in producing a balanced budget.

(b) The subcommittee shall meet to review the new guidelines and report the adjustments to the chairs of the Executive Appropriations Committee as soon as possible.

(4) (a) After receiving the reports, the Executive Appropriations Committee chairs will report them to the Executive Appropriations Committee.

(b) The Executive Appropriations Committee shall:

(i) make any further adjustments necessary to balance the budget; and

(ii) complete all decisions necessary to draft the final appropriations bills no later than the last Friday before the 45th day of the annual general session.

(5) No later than December 1 of each calendar year, the Executive Appropriations Committee shall:

(a) review the budget for the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of Legislative Services; and

(b) certify the Legislature's budget to the governor in accordance with Utah Code Section 63J-1-201.

Section 6. JR3-2-710 is enacted to read:

JR3-2-710. Right of legislators to attend appropriations committee meetings.

(1) Any member of the Legislature may:

(a) attend any meeting of an appropriations committee or subcommittee, unless the meeting is closed in accordance with Utah Code Title 52, Chapter 4, Open and Public Meetings Act; and

(b) if recognized by the chair during a portion of the meeting when public comment is permitted, present the legislator's views on the subject under consideration.

(2) A legislator who attends a meeting of an appropriations committee or subcommittee of which the legislator is not a member may not:

(a) make a motion; or

(b) vote.

Section 7. JR4-1-101 is amended to read:

JR4-1-101. Definitions.

As used in this title:

(1) "Bill" means legislation introduced for consideration by the Legislature that does any, some, or all of the following to Utah statutes:

(a) amends;

(b) enacts;

(c) repeals;

(d) repeals and reenacts; or

(e) renumbers and amends.

(2) "Boldface" means the brief descriptive summary of the contents of a statutory section prepared by the Office of Legislative Research and General Counsel that is printed for each title, chapter, part, and section of the Utah Code.

(3) "Concurrent resolution" means a written proposal of the Legislature and governor, which, to be approved, must be passed by both chambers of the Legislature and concurred to by the governor.

(4) "Constitutional joint resolution" means a joint resolution proposing to amend, enact, or repeal portions of the Utah Constitution which, to be approved for submission to the voters, must be passed by a two-thirds vote of both chambers of the Legislature.

(5) "Drafting instructions" means:

(a) specific information concerning the change or addition to law or policy that a legislator intends to propose through legislation; or

(b) a specific situation or concern that a legislator intends to address through legislation.

(6) "House resolution" means a written proposal of the House of Representatives which, to be approved, must be passed by the House of Representatives.

(7) "Joint resolution" means a written proposal of the Legislature which, to be approved, must be passed by both chambers of the Legislature, including a constitutional joint resolution.

(8) "Laws of Utah" means all of the laws currently in effect in Utah.

(9) "Legislation" means a bill or resolution introduced for consideration by the Legislature.

(10) "Legislative sponsor" means:

(a) the chief sponsor under JR4-2-103; or

(b) the legislator designated by the chief sponsor to be the opposite chamber floor sponsor.

[~~(10)~~](11) "Request for legislation" means a formal request from a legislator or an authorized legislative committee that the Office of Legislative Research and General Counsel prepare a bill or resolution.

[~~(11)~~](12) "Resolution" includes a joint resolution, concurrent resolution, House resolution, and Senate resolution.

[~~(12)~~](13) "Senate resolution" means a written proposal of the Senate which, to be approved, must be passed by the Senate.

[~~(13)~~](14) "Statute" means a law that has met the constitutional requirements for enactment.

[~~(14)~~](15) "Statutory section" means the unique unit of the laws of Utah that is identified by a title, chapter, and section number.

Section 8. JR4-1-202 is amended to read:

JR4-1-202. Specific bill format requirements.

(1) Each bill shall contain:

(a) a designation containing the information required by Subsection (2);

(b) a short title, which provides a short [~~common~~]description of the bill;

(c) the year and type of legislative session in which the bill is to be introduced;

(d) the phrase "State of Utah";

(e) the sponsor's name, after the heading "Chief Sponsor:";

(f) if the bill is a House bill that has passed third reading in the House, the Senate sponsor's name after the heading "Senate Sponsor:";

(g) if the bill is a Senate bill that has passed third reading in the Senate, the House sponsor's name after the heading "House Sponsor:";

(h) a long title, which includes:

(i) a brief general description of the subject matter in the bill;

(ii) a list of the bill's key provisions;

[~~(ii)~~](iii) a list of each section of the Utah Code affected by the bill, which cites by statute number those statutes that the bill proposes be amended, enacted, repealed and reenacted, renumbered and amended, and repealed; and

[~~(iii)~~](iv) for bills that contain an appropriation, the sum proposed to be appropriated by the bill unless the bill is an appropriation bill or supplemental appropriation bill whose single subject is the appropriation of money;

(i) an enacting clause in the following form: "Be it enacted by the Legislature of the state of Utah:"; and

(j) the subject matter, given in one or more sections.

(2) The designation shall be a heading that identifies the bill by [~~its~~]the bill's chamber of introduction and by unique number assigned to [~~it~~]the bill by the Office of Legislative Research and General Counsel and shall be in the following form: "S.B." or "H.B." followed by the number assigned to the bill.

(3) The Office of Legislative Research and General Counsel shall draft a bill's short title and long title described in Subsection (1) using language that:

(a) accurately and objectively describes the bill's contents; and

(b) does not explicitly or implicitly advocate for one or more of the bill's policy objectives.

Section 9. JR4-1-401 is amended to read:

PART 4. Amendments

JR4-1-401. Requesting amendments -- Identifying adopted amendments in context.

(1) (a) Except as provided in Subsection (1)(b):

(i) only a senator may request an amendment for introduction in a Senate standing committee or on the Senate floor; and

(ii) only a representative may request an amendment for introduction in a House standing committee or on the House floor.

(b) A legislative sponsor of the legislation may request an amendment for introduction in a Senate or House standing committee, regardless of whether the legislator is a senator or a representative.

[~~(1)~~](2) When a Senate committee or floor amendment is adopted in the Senate, the Senate amendment shall be noted in the legislation with additional spacing and markers indicating the beginning and ending of the adopted Senate amendment.

[~~(2)~~](3) When a House committee or floor amendment is adopted in the House, the House amendment shall be noted in the legislation with additional spacing and markers indicating the beginning and ending of the adopted House amendment.

[~~(3) (a) Notwithstanding JR4-1-201, and except as provided in Subsection (3)(b), when an additional section from the Utah Code is~~

~~added to a bill by amendment:~~]

[~~(i) all of the language in the section that is to be repealed must appear between brackets with the letters struck through; and~~]

[~~(ii) all of the new language in the section that is proposed to be enacted by the bill must be underlined.~~]

[~~(b) If the additional section added to the bill by amendment is to be repealed, the text of the repealed section need not be included.~~]

Section 10. JR4-2-101 is amended to read:

JR4-2-101. Requests for legislation -- Timing.

(1) As used in this rule, "appointed legislator" means:

(a) an incumbent legislator appointed to replace another legislator who resigns or is unable to serve; or

(b) an individual appointed to replace a legislator who resigns or is unable to serve.

(2) (a) A legislator wishing to introduce a bill or resolution shall file a request for legislation with the Office of Legislative Research and General Counsel within the time limits established by this rule.

(b) The request for legislation shall:

(i) designate the chief sponsor, who is knowledgeable about and responsible for providing pertinent information as the legislation is drafted; and

(ii) include drafting instructions for the legislation.

(c) (i) (A) The chief sponsor may modify the drafting instructions provided in accordance with Subsection [~~(1)(b)(ii)~~](2)(b)(ii) only if the modified drafting instructions do not deviate from the core subject matter of the original drafting instructions.

(B) The Office of Legislative Research and General Counsel shall apply the standard described in Subsection [~~(1)(c)(i)(A)~~](2)(c)(i)(A) in a manner that favors the chief sponsor.

(ii) If the chief sponsor wishes to modify the drafting instructions in a manner prohibited under Subsection [~~(1)(c)(i),~~](2)(c)(i), the chief sponsor shall file a new, separate request for legislation in accordance with this rule.

[~~(2)~~](3) (a) Any legislator may file a request for legislation beginning 60 days after the Legislature adjourns its annual general session sine die.

(b) A legislator-elect may file a request for legislation beginning on:

(i) the day after:

(A) [-]for a single county race, the date on which the county election canvass is completed; or

(B) for a multi-county race, the date on which the statewide election canvass is completed; or

(ii) if the legislator-elect's election results have not been finalized as of the canvass date, the day after the date the election results for the legislator-elect's race are finalized.

(c) (i) An incumbent legislator may not file any requests for legislation as of the date that the legislator:

(A) fails to file to run for election to a seat in the Legislature;

(B) is ineligible to be included on the ballot for the election in which the legislator would have sought an additional term; or

(C) fails to win reelection and the legislator's opponent is eligible to file a request for legislation under Subsection [~~(2)(b)~~](3)(b).

(ii) Subsection [~~(2)(c)(i)~~](3)(c)(i) does not apply to a request for legislation for:

(A) a general session that occurs while the legislator is in office; or

(B) a special session that occurs while the legislator is in office.

[~~(d) (i) If, for any reason, a legislator who filed a request for legislation is unavailable to serve in the next annual general session, the former legislator may seek another legislator to assume sponsorship of each request for legislation filed by the legislator who is unavailable to serve.~~]

[~~(ii) If the former legislator is unable to find another legislator to sponsor the legislation within 30 days, the Office of Legislative Research and General Counsel shall abandon each request for legislation from the legislator who is unavailable to serve.~~]

[~~(c)~~](d) (i) Except as provided in Subsection (3)(e), if a legislator who filed a request for legislation is unable to serve in the next annual general session for any reason, the former legislator may seek another legislator to assume sponsorship of the former legislator's legislation.

(ii) If a former legislator is unable to find another legislator to assume sponsorship under Subsection (3)(d)(i), the Office of Legislative Research and General Counsel shall abandon each request the earlier of:

(A) 30 days after the day on which the former legislator is unable to serve; or

(B) noon on the 11th day of the annual general session.

(iii) The 30-day time period described in Subsection (3)(d)(ii)(A) begins the day on which a former legislator no longer holds the former legislator's seat.

(e) (i) If a legislator dies while in office and is the chief sponsor of one or more requests for legislation or pieces of legislation, the individual appointed to the legislator's seat may assume sponsorship of each request for legislation or piece of legislation.

(ii) If the individual appointed to the legislator's seat chooses not to assume sponsorship of one or more of the legislator's requests for legislation or pieces of legislation, the following individual shall seek another legislator to assume sponsorship of each request for legislation or piece of legislation:

(A) if the legislator was a member of the House majority caucus, the House majority leader;

(B) if the legislator was a member of the House minority caucus, the House minority leader;

(C) if the legislator was a member of the Senate majority caucus, the Senate majority leader; or

(D) if the legislator was a member of the Senate minority caucus, the Senate minority leader.

(iii) If the individual described in Subsection [~~(2)(e)(ii)~~](3)(e)(ii) does not find a new sponsor:

(A) [-]for a request for legislation, the Office of Legislative Research and General Counsel shall abandon the request for legislation; and

(B) for legislation, the legislation shall be returned to the originating chamber and filed.

(f) (i) A legislator-elect who is an incumbent legislator may retain any requests for legislation the legislator-elect filed before the date described in Subsection (3)(b).

(ii) An appointed legislator who is an incumbent legislator may retain any requests for legislation the appointed legislator filed before assuming the seat to which the legislator is appointed.

[~~(3)~~](4) (a) Except as provided in Subsection [~~(3)(c)~~](4)(c), a legislator may not file a request for legislation with the Office of Legislative Research and General Counsel after noon on the 11th day of the annual general session.

(b) On the 11th day of the annual general session, the Office of Legislative Research and General Counsel shall make public on the Legislature's website the short title and sponsor of each request for legislation, unless the sponsor abandons the request for legislation before noon on the 11th day of the annual general session.

(c) (i) After the 11th day of the annual general session, a legislator may file a request for legislation only if:

(A) for House legislation, the representative makes a motion to request legislation for drafting and introduction and that motion is approved by a constitutional majority of the House; or

(B) for Senate legislation, the senator makes a motion to request legislation for drafting and introduction and that motion is approved by a constitutional majority vote of the Senate.

(ii) The Office of Legislative Research and General Counsel shall make public on the Legislature's website the short title and sponsor of each request for legislation described in this Subsection [~~(3)(c)~~](4)(c).

[~~(4)~~](5) After a request for legislation is abandoned, a legislator may not revive the request for legislation.

[~~(5)~~](6) A legislator wishing to obtain funding for a project, program, or entity, when that funding request does not require that a statute be enacted, repealed, or amended, may not file a request for legislation but instead shall file a request for appropriation by following the procedures and requirements of JR3-2-701.

Section 11. JR4-2-102 is repealed and re-enacted to read:

JR4-2-102. Drafting and prioritizing legislation.

(1) As used in this rule, "appointed legislator" means the same as that term is defined in JR4-2-101.

(2) The Office of Legislative Research and General Counsel shall:

(a) draft requests for legislation on a first-in, first-out basis, except for legislation that is prioritized under the provisions of this rule; and

(b) when sufficient drafting information is available, draft the following requests for legislation before other requests for legislation, in the following order of priority:

(i) a committee bill, as that term is defined in JR7-1-101; and

(ii) a request for legislation designated as a priority request in accordance with this rule.

(3) (a) Beginning the first day on which a legislator may file a request for legislation under JR4-2-101:

(i) a representative may designate up to four requests for legislation as priority requests, as follows:

(A) priority request one on or before November 15, or the following regular business day if November 15 falls on a weekend or a holiday;

(B) priority request two on the first Thursday in December, or the following business day if the first Thursday falls on a holiday;

(C) priority request three on or before the first Thursday in January, or the following business day if the first Thursday falls on a holiday; and

(D) priority request four on or before the first Thursday of the annual general session; and

(ii) a senator may designate up to five requests for legislation as priority requests, as follows:

(A) priority requests one and two on or before November 15, or the following regular business day if November 15 falls on a weekend or a holiday;

(B) priority request three on the first Thursday in December, or the following business day if the first Thursday falls on a holiday;

(C) priority request four on or before the first Thursday in January, or the following business day if the first Thursday falls on a holiday; and

(D) priority request five on or before the first Thursday of the annual general session.

(b) (i) A legislator who fails to make a priority request on or before a deadline loses that priority request.

(ii) Subsection (3)(b)(i) does not prohibit a legislator from using any remaining priority requests that are associated with a later deadline, if available.

(4) A legislator may not:

(a) revoke a priority designation once the priority has been requested;

(b) transfer a priority designation to another of the legislator's request for legislation; or

(c) except as provided in Subsection (7), transfer a priority designation to another legislator.

(5) (a) (i) A representative-elect who is not an incumbent legislator may designate up to four priority requests as follows:

(A) priority requests one and two on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday; and

(B) priority requests three and four in accordance with Subsections (3)(a)(i)(C) and (D), respectively.

(ii) A representative-elect who is an incumbent senator may designate up to four priority requests in accordance with the deadlines for representatives described in Subsection (3)(a)(i).

(b) (i) A senator-elect who is not an incumbent legislator may designate up to five priority requests as follows:

(A) priority requests one, two, and three on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday; and

(B) priority requests four and five in accordance with Subsections (3)(a)(ii)(C) and (D), respectively.

(ii) A senator-elect who is an incumbent representative may designate up to five priority requests as follows:

(A) priority request one in accordance with Subsection (3)(a)(ii)(A);

(B) priority requests two and three on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday; and

(C) priority requests four and five in accordance with Subsections (3)(a)(ii)(C) and (D), respectively.

(6) (a) An appointed legislator may:

(i) if the appointed legislator is a representative, designate up to four requests for legislation as priority requests, less the number of

priority requests designated by the appointed legislator's predecessor; or

(ii) if the appointed legislator is a senator, designate up to five requests for legislation as priority requests, less the number of priority requests designated by the appointed legislator's predecessor.

(b) The deadline for an appointed legislator to designate each priority request is the same as the deadline that would apply if the designation were made by the appointed legislator's predecessor.

(7) Notwithstanding Subsection (4)(d):

(a) (i) a request for legislation designated as a priority request remains a priority request if the request for legislation is transferred to another legislator in accordance with:

(A) JR4-2-101(3)(d) because the legislator resigned or was expelled from office; or

(B) JR4-2-101(3)(e); and

(ii) a priority request transferred under Subsection (7)(a) does not count against the number of priority designations to which the receiving legislator is entitled under Subsection (3);

(b) (i) if a legislator-elect is an incumbent legislator who designated a priority request before assuming the legislator-elect's new seat, the legislator-elect may retain the priority request; and

(ii) a priority request retained under Subsection (7)(b)(i) counts against the number of priority designations to which the legislator-elect is entitled under Subsection (5); and

(c) (i) if an appointed legislator is an incumbent legislator who designated a priority request before assuming the appointed legislator's new seat, the appointed legislator may:

(A) transfer the priority request in accordance with JR4-2-101(3)(d); or

(B) retain the priority request; and

(ii) if an appointed legislator transfers or retains a priority request under Subsection (7)(c)(i), that priority request:

(A) does not count toward the number of priority designations to which the appointed legislator is entitled under Subsection (6); and

(B) counts against the number of priority designations to which the individual appointed to replace the appointed legislator is entitled under Subsection (6).

Section 12. JR4-2-103 is amended to read:

JR4-2-103. Legislation -- Sponsorship.

(1) As used in this rule, "former legislator" means a legislator who:

(a) is unable to serve in the next annual general session; or

(b) is an incumbent legislator appointed to replace another legislator who resigns or is unable to serve.

[~~(1)~~](2) (a) The legislator who approves [~~the~~]a request for legislation for numbering is the chief sponsor.

(b) The chief sponsor may withdraw sponsorship of the legislation by following the procedures and requirements of Senate Rules or House Rules.

(c) Subject to JR4-2-102(4), the chief sponsor of the legislation cannot change more than twice.

[~~(2)~~](3) (a) Before or after the legislation is introduced, legislators from the same chamber as the chief sponsor may have their names added to or deleted from the legislation as co-sponsors by following the procedures and requirements of Senate Rules or House Rules.

(b) Except as provided in Subsection (3), only legislators who are members of the same chamber as the chief sponsor may co-sponsor legislation.

[~~(3)~~](4) Before the secretary of the Senate or the chief clerk of the House may transfer legislation to the opposite chamber, the chief sponsor shall:

(a) designate a member of the opposite chamber as sponsor of the legislation for that chamber; and

(b) provide the secretary or chief clerk with the name of that sponsor for designation on the legislation.

(5) (a) Except as provided in JR4-2-101(3)(e):

(i) a former legislator who is a senator and the chief sponsor of legislation may seek another senator to assume sponsorship of the former legislator's legislation; or

(ii) a former legislator who is a representative and the chief sponsor of legislation may seek another representative to assume sponsorship of the former legislator's legislation.

(b) If, within 30 days, a former legislator is unable to find another legislator to assume sponsorship of the former legislator's legislation, the legislation shall be returned to the originating chamber and filed.

(c) The 30-day time period described in Subsection (5)(b) begins the day on which a former legislator no longer holds the former legislator's seat.

Section 13. JR4-2-201 is amended to read:

JR4-2-201. Definitions.

As used in this part:

[~~(1) "Committee substitute" means a substitute bill or resolution that is prepared for introduction in a Senate or House standing committee.~~]

[~~(2) "Floor substitute" means a substitute bill or resolution that is prepared for introduction on the Senate or House floor.~~]

[~~(3)~~](1) (a) "Germane" means that the substitute is relevant, appropriate, and in a natural and logical sequence to the subject matter of the original legislation.

(b) "Germane" includes a substitute that changes the effect or is in conflict with the spirit of the original legislation if the substance of the substitute can be encompassed within the subject of the underlying bill.

[~~(4)~~](2) "Replacement legislation" means a bill, resolution, or substitute that replaces the original because of a technical error.

[~~(5)~~](3) "Substitute" means a new bill or resolution that:

(a) replaces the old bill or resolution in title and body; and

(b) is germane to the subject of the original bill or resolution.

Section 14. JR4-2-202 is amended to read:

JR4-2-202. Substitute bills or resolutions.

[~~(1) (a) By following the procedures and requirements of Senate or House rule, a legislator may propose a committee substitute to any Senate or House legislation that is under consideration by a committee of which the legislator is a member.~~]

[~~(b) By following the procedures and requirements of Senate or House rule, a legislator may propose a floor substitute to any Senate or House legislation that is under consideration by the chamber of which the legislator is a member.~~]

[~~(2)~~](1) (a) To initiate drafting of a substitute, a legislator shall give instructions to the attorney who drafted the legislation.

(b) Except as provided in Subsection (1)(c):

(i) only a senator may request a substitute for introduction in a Senate standing committee or on the Senate floor; and

(ii) only a representative may request a substitute for introduction in a House standing committee or on the House floor.

(c) A legislative sponsor of the legislation may request a substitute for introduction in a Senate or House standing committee regardless of whether the legislator is a senator or a representative.

[~~(3)~~](2) After the substitute sponsor has approved the substitute, the Office of Legislative Research and General Counsel shall:

(a) electronically set the line numbers of the substitute;

(b) assign a version number to the substitute; and

(c) distribute the substitute according to the substitute sponsor's instructions.

[~~(4)~~](3) (a) Subject to the other provisions of this rule, after the original version of the legislation is introduced, a rules committee, standing committee, or the Senate or House of Representatives may adopt the original version of the legislation or any substitute version of the legislation, regardless of the version number.

(b) (i) If the version of the legislation being adopted was previously adopted, but replaced with a different version, the version of the legislation being adopted shall be adopted as it was previously introduced, without any amendments that may have been added to the introduced version.

(ii) An amendment described in Subsection [~~(4)(b)(i)~~](3)(b)(i), or any other amendment otherwise in order, may be proposed by a motion separate from the motion to adopt that substitute or original version of the legislation.

(c) A rules committee, a standing committee, the Senate, and the House of Representatives are prohibited from suspending the provisions of this Subsection [~~(4)~~](3).

Section 15. JR4-2-203 is amended to read:

JR4-2-203. Replacement bills or resolutions.

(1) If the legislative general counsel determines that a numbered bill or resolution contains a technical error, the Office of Legislative Research and General Counsel may prepare and submit a replacement bill or resolution that corrects the error.

(2) A sponsor may not file, and legislative staff may not create, replacement legislation if:

(a) the original legislation has been approved by the sponsor;

(b) the legislation has been numbered; and

(c) copies of the legislation have been distributed.

(3) Nothing in this rule prohibits a sponsor from preparing amendments to the original legislation or one or more substitutes of the original legislation and proposing their adoption [~~by a committee or by either chamber of which the legislator is a member~~]in accordance with JR4-3-108.

Section 16. JR4-2-401 is amended to read:

JR4-2-401. Committee notes -- Notations on bill.

(1) As used in this rule[~~,~~]:

(a) [~~"authorized~~]"Authorized legislative committee" means the same as that term is defined in JR7-1-101.

(b) "Committee note" means a notation that the Office of Legislative Research and General Counsel places on legislation that receives a favorable recommendation from an authorized legislative committee.

(c) "Technical correction" means a change that does not substantively alter legislation, including:

(i) correcting obvious typographical and grammatical errors;

(ii) correcting obvious errors and inconsistencies involving punctuation, capitalization, cross references, numbering, and wording;

(iii) modifying the long title of legislation, including a special clause, to ensure that the long title accurately reflects the legislation's content;

(iv) replacing an outdated section of Utah Code with the section that is currently in effect; or

(v) any combination of Subsections (1)(c)(i) through (iv).

(2) The Office of Legislative Research and General Counsel shall ensure that a committee note includes:

(a) the name of the authorized legislative committee that recommended the legislation; and

(b) the committee vote, listed by numbers of yeas, nays, and absent.

[~~(2) After an authorized legislative committee approves a motion to favorably recommend draft legislation, the Office of Legislative Research and General Counsel shall note the following on the legislation when the legislation is numbered for introduction as a bill:~~]

[~~(a) that the authorized legislative committee recommended the legislation; and~~]

[~~(b) the committee vote, listed by numbers of yeas, nays, and absent.~~]

(3) (a) Except as provided in Subsection (3)(b), the Office of Legislative Research and General Counsel shall remove a committee note from legislation when the legislation is amended or substituted.

(b) The Office of Legislative Research and General Counsel may not remove a committee note from legislation if an amendment or substitute makes a technical correction.

[~~(3)~~](4) The Office of Legislative Research and General Counsel may not place a [~~note described in Subsection (2) on a piece of~~]committee note on legislation if the motion to favorably recommend the draft legislation was made in violation of JR7-1-512(3).

Section 17. JR4-2-501 is amended to read:

JR4-2-501. Numbering and distributing legislation.

(1) After receiving approval from [~~the~~]a chief sponsor under JR4-2-301, the Office of Legislative Research and General Counsel shall:

[~~(1)~~](a) proofread the legislation and perform other quality control measures;

[~~(2)~~](b) indicate on the first page of the legislation that the drafting attorney has approved the legislation for filing;

[~~(3)~~](c) place a committee note on the legislation if required by JR4-2-401;

[~~(4)~~](d) assign a number to the legislation to appear after the designation required by JR4-1-202 and JR4-1-301;

[~~(5)~~](e) electronically set the legislation's line numbers; and

[~~(6)~~](f) distribute an electronic copy of the legislation as required by JR4-2-503.

(2) Subject to JR4-2-502, the Office of Legislative Research and General Counsel shall number legislation in the following order:

(a) legislation recommended by an authorized legislative committee; and

(b) legislation in the order in which the legislation is approved by the sponsor for numbering.

Section 18. JR4-3-102 is amended to read:

JR4-3-102. Reference of legislation.

[~~(1)~~] During an annual general or special session of the Legislature, after [~~a piece of~~]legislation has been introduced and read for the first time, [~~it~~]the legislation shall be referred to a committee or to the floor as provided in Senate or House Rules.

[~~(2) The secretary of the Senate and the chief clerk of the House or their designees shall deliver all legislation assigned to a committee to the chair of that committee or to that chair's designee.~~]

Section 19. JR4-3-105 is amended to read:

JR4-3-105. Calendaring legislation -- Preference for legislation of other chamber.

[~~During the third and fourth days~~]On Wednesday and Thursday of each week:

(1) the Senate shall consider House legislation appearing on the Senate calendar; and

(2) the House shall consider Senate legislation appearing on the House calendar.

Section 20. JR4-3-108 is amended to read:

JR4-3-108. Consideration and action on legislation made in the other chamber.

(1) As used in this rule:

(a) "Committee amendment sponsor" means the legislator who requests an amendment to legislation for introduction in a Senate or House standing committee.

(b) "Committee substitute sponsor" means the legislator who requests substitute legislation for introduction in a Senate or House standing committee.

(c) "Floor amendment sponsor" means the legislator who requests an amendment to legislation for introduction on the Senate or House floor.

(d) "Floor substitute sponsor" means the legislator who requests substitute legislation for introduction on the Senate or House floor.

(2) (a) A Senate standing committee may not adopt an amendment or substitute legislation if the committee amendment sponsor or the committee substitute sponsor is a representative, unless the representative is the legislation's legislative sponsor.

(b) A House standing committee may not adopt an amendment or substitute legislation if the committee amendment sponsor or the committee substitute sponsor is a senator, unless the senator is the legislation's legislative sponsor.

(3) (a) The Senate may not adopt an amendment or substitute legislation unless the floor amendment sponsor or the floor substitute sponsor is a senator.

(b) The House may not adopt an amendment or substitute legislation unless the floor amendment sponsor or the floor substitute sponsor is a representative.

[~~(1)~~](4) (a) If the Senate amends and passes, or substitutes and passes, a piece of House legislation, the House:

(i) must either "concur" or "refuse to concur" in the amendments or substitute; and

(ii) may not amend or substitute the legislation.

(b) (i) If the House concurs, the legislation shall be voted on for final passage in the House.

(ii) If the legislation passes, the chief clerk of the House shall notify the Senate, obtain the signatures required by JR4-5-101, and send the legislation to the Office of Legislative Research and General Counsel for enrolling.

(c) If the House refuses to concur in the Senate amendments or substitute to a piece of House legislation, the chief clerk of the House and the House shall follow the procedures and requirements of Joint Rules Title 3, Chapter 2, Part 9, Conference Committees.

[~~(2)~~](5) (a) If the House amends and passes, or substitutes and passes, a piece of Senate legislation, the Senate:

(i) must either "concur" or "refuse to concur" in the amendments or substitute; and

(ii) may not amend or substitute the legislation.

(b) (i) If the Senate concurs, the legislation shall be voted on for final passage in the Senate.

(ii) If the legislation passes, the secretary of the Senate shall notify the House, obtain the signatures required by [~~JR4-6-101~~]JR4-5-101, and send the legislation to the Office of Legislative Research and General Counsel for enrolling.

(c) If the Senate refuses to concur in the House amendments or substitute to a piece of Senate legislation, the secretary of the Senate and the Senate shall follow the procedures and requirements of Joint Rules Title 3, Chapter 2, Part 9, Conference Committees.

Section 21. JR4-4-101 is amended to read:

JR4-4-101. Deadline for passing certain fiscal note bills.

(1) As used in this section, "fiscal note bill" means legislation with a fiscal note that indicates a cost of $20,000 or more to:

(a) the General Fund, Income Tax Fund, or Uniform School Fund; or

(b) any other fund or account that affects a fund described in Subsection (1)(a).

(2) (a) The House shall refer any Senate fiscal note bill to the House Rules Committee before giving that fiscal note bill a third reading.

(b) The Senate shall table on third reading each House fiscal note bill.

(3) (a) Before adjourning on the 43rd day of the annual general session, each legislator shall prioritize fiscal note bills and identify other projects or programs for new or one-time funding according to the process established by leadership.

(b) [~~Before adjourning~~]No later than noon on the 44th day of the annual general session, the Legislature shall either pass or defeat each fiscal note bill except constitutional amendment resolutions.

Section 22. JR4-4-203 is amended to read:

JR4-4-203. Deadline for passing the final appropriations bill.

[~~(1) Each legislator shall receive a copy of the final appropriations bill by calendared floor time on the 45th day of the annual general session.~~]

[~~(2) By noon on~~]On or before the 45th day of the annual general session, the Legislature shall either pass or defeat the final appropriations bill.

Section 23. JR5-2-101 is amended to read:

JR5-2-101. Reimbursement of lodging.

(1) Subject to the other provisions of this rule, if a legislator's official duties necessitate overnight accommodations, the legislator may receive reimbursement for any actual lodging expenses incurred by the legislator for an:

(a) authorized legislative day; or

(b) authorized legislative training day.

[~~(2) Except as provided in the policies and procedures established in accordance with Subsection (3), reimbursement under Subsection (1) may not exceed the daily rates published in the administrative rules governing reimbursement of lodging expenses for state employees.~~]

[~~(3)~~](2) Reimbursement for actual lodging expenses for a legislator for an authorized legislative day or authorized legislative training day shall be as provided in policies and procedures established by the Legislative Expenses Oversight Committee.

Section 24. JR5-2-102 is amended to read:

JR5-2-102. Reimbursement of meal expenses.

(1) Subject to the other provisions of this rule, for each authorized legislative day or authorized legislative training day a legislator may receive reimbursement for any actual meal expenses incurred by the legislator in association with the legislator's official duties.

[~~(2) Except as provided in the policies and procedures established in accordance with Subsection (3), reimbursement under Subsection (1):~~]

[~~(a) may not exceed the rates set in administrative rules governing reimbursement and meal expenses for state employees; and~~]

[~~(b) is subject to the time calculation requirements set in administrative rules governing reimbursement and meal expenses for state employees.~~]

[~~(3)~~](2) Reimbursement for actual meal expenses for a legislator for an authorized legislative day or authorized legislative training day shall be as provided in policies and procedures established by the Legislative Expenses Oversight Committee.

Section 25. JR5-2-103 is amended to read:

JR5-2-103. Reimbursement for transportation costs.

(1) A legislator may receive reimbursement for any actual transportation costs incurred by the legislator in association with the legislator's official duties for an:

(a) authorized legislative day; or

(b) authorized legislative training day.

(2) Transportation costs reimbursed under this rule shall be equal to:

(a) for travel by private vehicle, the actual mileage incurred by the legislator for the legislator's private automobile use to and from the legislative meeting, to be paid in accordance with the [~~private vehicle mileage reimbursement rate that is applied when daily pool fleet vehicles are unavailable, as published in the administrative rules governing reimbursement of transportation expenses for state employees~~]policy adopted by the Legislative Expenses Oversight Committee;

(b) for public transportation:

(i) the actual cost of the transportation incurred by the legislator to and from the legislative meeting;

(ii) the private vehicle mileage actually incurred by the legislator to and from the terminus of the public transportation; and

(iii) the cost of parking actually incurred by the legislator; or

(c) for commercial transportation:

(i) the actual cost of the transportation, which shall be limited to [~~coach or~~]standard economy or main cabin class, incurred by the legislator to and from the legislative meeting;

(ii) the private vehicle mileage actually incurred by the legislator to and from the terminus of the commercial transportation; and

(iii) the cost of parking actually incurred by the legislator.

(3) Reimbursement for actual transportation costs incurred for a legislator for an authorized legislative day or an authorized legislative training day shall be as provided in procedures established by the Legislative Expenses Oversight Committee.

Section 26. JR5-4-101 is amended to read:

JR5-4-101. Reimbursement for costs of out-of-state travel.

The following rules govern reimbursement for out-of-state travel by legislators:

(1) (a) Subject to Subsections (1)(b) and (1)(c), legislators shall receive reimbursement for all approved actual and necessary expenses.

(b) The presiding officer, the majority leader, and the minority leader shall meet annually to establish a policy governing out-of-state travel, including the process for them to approve out of state travel and approve reimbursement of expenses for that travel as required under Utah Code Section 36-12-17.

(c) If a legislator elects to travel to an out-of-state destination by private automobile, the legislator shall receive actual mileage or the actual cost of [~~alternative commercial~~]air transportation, whichever is less.

(2) Each legislator shall provide supporting documentation for each expense for which the legislator seeks reimbursement.

Section 27. JR7-1-101 is amended to read:

JR7-1-101. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Authorized legislative committee" means:

(a) an interim committee;

(b) the Legislative Management Committee;

(c) the Legislative Process Committee;

(d) when functioning as an interim committee:

(i) the Senate Rules Committee created in SR3-1-101; or

(ii) the House Rules Committee created in HR3-1-101; or

(e) a special committee:

(i) that is not a mixed special committee; and

(ii) to the extent the special committee has statutory authority to open a committee bill file or create a committee bill.

(3) "Bill" means the same as that term is defined in JR4-1-101.

(4) "Chair" except as otherwise expressly provided, means:

(a) the member of the Senate appointed as chair of an interim committee by the president of the Senate under JR7-1-202;

(b) the member of the House of Representatives appointed as chair of an interim committee by the speaker of the House of Representatives under JR7-1-202;

(c) a member of a special committee appointed as chair of the special committee; or

(d) a member of a legislative committee designated by the chair of the legislative committee under Subsection (4)(a), (b), or (c) to act as chair under JR7-1-202.

(5) "Committee bill" means draft legislation that receives a favorable recommendation from an authorized legislative committee.

(6) "Committee bill file" means a request for legislation made by:

(a) a majority vote of an authorized legislative committee; or

(b) the chairs of an [~~interim~~]authorized legislative committee, if the [~~interim~~]authorized legislative committee authorizes the chairs to open one or more committee bill files in accordance with JR7-1-602.

(7) "Committee note" means a note that the Office of Legislative Research and General Counsel places on legislation in accordance with JR4-2-401.

(8) "Draft legislation" means a draft of a bill or resolution before it is numbered by the Office of Legislative Research and General Counsel.

(9) "Electronic meeting" means the same as that term is defined in Utah Code Section 52-4-103.

(10) "Favorable recommendation" means an action of an authorized legislative committee by majority vote to favorably recommend legislation for consideration by the Legislature in an upcoming legislative session.

(11) "Legislative committee" means:

(a) an interim committee; or

(b) a special committee.

(12) "Interim committee" means a committee that:

(a) is comprised of members from both chambers;

(b) meets between annual general sessions of the Legislature to perform duties described in rule; and

(c) is created under JR7-1-201.

(13) "Legislative sponsor" means:

(a) for a committee bill file, the chairs of the authorized legislative committee that opened the committee bill file or the chairs' designee; or

(b) for a request for legislation that is not a committee bill file, the legislator who requested the request for legislation or the legislator's designee.

(14) "Majority vote" means:

(a) with respect to an interim committee, an affirmative vote of at least 50% of a quorum of members of the interim committee from one chamber and more than 50% of a quorum of members of the interim committee from the other chamber; or

(b) with respect to a special committee, an affirmative vote of more than 50% of a quorum.

(15) "Mixed special committee" means a special committee that is composed of one or more voting members who are legislators and one or more voting members who are not legislators.

(16) "Original motion" means a nonprivileged motion that is accepted by the chair when no other motion is pending.

(17) "Pending motion" means a motion described in JR7-1-307.

(18) "Privileged motion" means a motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

(19) "Public statement" means a statement made in the ordinary course of business of a legislative committee with the intent that all other members of the legislative committee receive it.

(20) "Request for legislation" means the same as that term is defined in JR4-1-101.

(21) "Resolution" means the same as that term is defined in JR4-1-101.

(22) (a) "Special committee" means a committee, commission, task force, or other similar body that is:

(i) created by legislation; and

(ii) staffed by:

(A) the Office of Legislative Research and General Counsel; or

(B) the Office of the Legislative Fiscal Analyst.

(b) "Special committee" does not include:

(i) an interim committee;

(ii) a standing committee created under SR3-2-201 or HR3-2-201; or

(iii) a Senate confirmation committee described in SR3-3-101 or SR3-3-201.

(23) "Subcommittee" means a subsidiary unit of a legislative committee formed in accordance with JR7-1-411.

(24) "Substitute motion" means a nonprivileged motion that a member of a legislative committee makes when there is a nonprivileged motion pending.

Section 28. JR7-1-410 is amended to read:

JR7-1-410. Right of legislators to attend legislative committee meetings.

(1) Any member of the Legislature may:

(a) attend any meeting of a legislative committee or a subcommittee, unless the meeting is closed in accordance with Utah Code Title 52, Chapter 4, Open and Public Meetings Act; and

(b) if recognized by the chair during the public comment phase, present the legislator's views on the subject under consideration.

(2) A legislator who attends a meeting of a legislative committee of which the legislator is not a member or a meeting of a subcommittee of which the legislator is not a member may not:

(a) make a motion;

(b) vote; or

(c) receive compensation for attending the meeting, unless approved by the Legislative Expenses Oversight Committee for the chamber of which the legislator is a member.

Section 29. JR7-1-411 is amended to read:

JR7-1-411. Creation and organization of subcommittees.

(1) A legislative committee may establish one or more subcommittees if approved by:

(a) a majority vote of the legislative committee; and

(b) the Legislative Management Committee.

(2) The legislative committee shall establish each study assignment of a subcommittee by majority vote.

(3) (a) After a legislative committee establishes a subcommittee, the chairs of the legislative committee shall:

[~~(a)~~](i) appoint at least four members of the legislative committee to serve on the subcommittee;

[~~(b)~~](ii) appoint at least one and no more than two additional members of the legislative committee as chair or cochairs of the subcommittee; and

[~~(c)~~](iii) establish the subcommittee's powers, duties, and reporting requirements.

(b) The chairs of the legislative committee shall ensure that the subcommittee membership includes at least one senator and one representative.

(4) Each member of a subcommittee shall receive:

(a) compensation for attendance of a meeting of the subcommittee that is an authorized legislative day as defined in JR5-1-101; and

(b) reimbursement for expenses in accordance with Title 5, Legislative Compensation and Expenses.

Section 30. JR7-1-601.5 is amended to read:

JR7-1-601.5. Opening committee bill files.

(1) [~~Except as provided in~~]Subject to Subsection (3), a member of an authorized legislative committee may make a motion to open a committee bill file if:

(a) the member describes the general subject matter of the legislation;

(b) the subject matter is germane to the subject matter over which the authorized legislative committee has jurisdiction; and

(c) the member intends that the authorized legislative committee take action on the resulting draft legislation before the next general session in a meeting of the authorized legislative committee.

(2) Except as provided in JR7-1-602, an authorized legislative committee may not authorize any individual or group of individuals to open a committee bill file.

(3) An authorized legislative committee may not open a committee bill file during the period that begins January 1 and ends the day after the day on which the Legislature adjourns that year's general session sine die.

Section 31. JR7-1-602 is amended to read:

JR7-1-602. Chairs' authority to open committee bill files.

(1) Subject to the provisions of this rule, the following authorized legislative committees may delegate the authority to open a committee bill file to the chairs of the committee:

(a) an interim committee;

(b) the Legislative Process Committee; or

(c) the Rules Review and General Oversight Committee.

(2) [~~An interim committee~~]An authorized legislative committee described in Subsection (1) may authorize the committee chairs to independently open one or more committee bill files throughout the interim period if:

(a) that authority is granted by the [~~interim~~]committee to the chairs by means of a motion and majority vote;

(b) the motion and vote occur during the [~~interim~~]committee's first meeting [~~of the calendar year~~]after the Legislature adjourns that year's general session sine die;

(c) the subject matter of each committee bill file opened by the chairs is directly related to:

(i) for an interim committee, a study item on the list adopted by the interim committee under JR7-1-401(3); or

(ii) a subject or issue that is expressly stated in the motion made under this rule; and

(d) the decision to open each committee bill file is made jointly by the chairs.

[~~(2)~~](3) No committee other than an [~~interim committee~~]authorized legislative committee described in Subsection (1) may delegate the authority to independently open a committee bill file to the [~~chair or~~]chairs of a committee.

[~~(3)~~](4) In the next [~~interim~~]committee meeting after opening a bill file under Subsection (2), the chairs shall give the committee members notice:

(a) that the chairs have opened the committee bill file; and

(b) of the short title and subject matter of the committee bill file.

Section 32. JR7-1-610 is amended to read:

JR7-1-610. Committee bill files -- Effect of favorable recommendation -- Committee bill files without recommendation abandoned.

(1) As used in this rule, "technical correction" means the same as that term is defined in JR4-2-401.

(2) After an authorized legislative committee reviews draft legislation the authorized legislative committee may give the draft legislation a favorable recommendation.

[~~(2)~~](3) If an authorized legislative committee gives draft legislation a favorable recommendation, the Office of Legislative Research and General Counsel shall:

(a) attach a committee note to the committee bill, as required under JR4-2-401; and

(b) assign the committee bill a bill number in accordance with JR4-2-501.

[~~(3)~~](4) (a) Except as provided in Subsection [~~(3)(b)~~](4)(b), a committee bill file that does not receive a favorable recommendation at the committee's last scheduled meeting of the calendar year in which the committee bill file was opened is abandoned.

(b) Subsection [~~(3)(a)~~](4)(a) does not apply to a committee bill file opened by:

(i) the [~~Administrative Rules Review Committee~~]Rules Review and General Oversight Committee for the purpose of reauthorizing agency rules in accordance with Utah Code Section 63G-3-502; or

(ii) the Legislative Process Committee created in Utah Code Section 36-17-1.

[~~(4)~~](5) (a) Nothing in this rule prohibits a legislator from making a request for legislation in the legislator's name to sponsor legislation that was abandoned in accordance with Subsection [~~(3)~~](4).

(b) A request for legislation described in Subsection [~~(4)(a)~~](5)(a) is subject to the drafting priority described in JR4-2-102.

(6) Between an authorized legislative committee's last scheduled meeting of the calendar year and the day on which the Office of Legislative Research and General Counsel numbers the committee's committee bill, a sponsor assigned to the committee bill in accordance with JR7-1-611 may not alter the committee bill, except to make a technical correction.

Section 33. Effective Date.

This resolution takes effect upon a successful vote for final passage.

H. J. R. 9
Passed March 7, 2025

HOUSE RESOLUTION REGARDING UTAH'S SHARE OF COLORADO RIVER WATER (CONVERTED FROM A JOINT RESOLUTION PER JR4-5-104)

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This resolution addresses usage of alloted shares of Colorado River water.

Highlighted Provisions:

This resolution:

- ► outlines the historical interstate compact regarding the Colorado River;
- ► highlights the significance of the Colorado River water allocated to Utah; and
- ► declares that it is the position of the state of Utah that any basin state should be able to use the state's Colorado River allocation at any location within the geographic boundaries of that state.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, the Colorado River flows for approximately 1,450 miles and provides water to Utah, Colorado, New Mexico, Wyoming, Arizona, California, and Nevada (basin states) and Mexico;

WHEREAS, the Colorado River basin is a critical water source in the Western United States and supplies water to over 40 million people in the United States and Mexico, irrigates nearly 5.5 million acres of land, and is a water source for 30 federally recognized American Indian Tribes;

WHEREAS, Colorado River water apportionments were determined in the 1922 Colorado River Compact (1922 Compact);

WHEREAS, the 1922 Compact divided the Colorado River basin into an Upper and Lower Basin;

WHEREAS, the 1922 Compact allocates the exclusive consumptive use of 7.5 million acre-feet of water annually to each basin;

WHEREAS, the 1922 Compact has been interpreted to preclude use of Upper Basin water in the Lower Basin;

WHEREAS, Utah has lands in both the Upper and Lower Basins;

WHEREAS, the 1948 Upper Colorado River Basin Compact allocates a fixed percentage of the Colorado River supply available to the Upper Basin states in any given year;

WHEREAS, other states have made recent efforts to use a portion of their Upper Basin allocation under the 1948 Upper Colorado River Basin Compact;

WHEREAS, Utah is allocated 23% of the Upper Basin share of Colorado River water;

WHEREAS, an estimated 60% of Utah residents rely on the Colorado River for their water needs;

WHEREAS, Utah uses this water for a variety of purposes, including agricultural, industrial, and domestic uses;

WHEREAS, Utah has demonstrated Utah's commitment to living within its allocation amid significant development and population growth; and

WHEREAS, as a sovereign state, Utah should have the opportunity to use Utah's water where the water is needed, so long as it is within the state:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah declares that it is the position of the state of Utah that any basin state should be able to use the state's Colorado River allocation at any location within the geographic boundaries of that state.

H. J. R. 10
Passed March 7, 2025

PROPOSAL TO AMEND UTAH CONSTITUTION - PUBLICATION AMENDMENTS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution regarding the publication of a proposed constitutional amendment.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

► require a proposed constitutional amendment to be published, in a manner provided by statute, for 60 calendar days immediately preceding the general election.

Other Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2027 for this proposal.

Utah Constitution Sections Affected:

AMENDS:

Article XXIII, Section 1

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article XXIII, Section 1 to read
Article XXIII, Section 1. [Amendments: proposal, election.]

Any amendment or amendments to this Constitution may be proposed in either house of the Legislature, and if two-thirds of all the members elected to each of the two houses, shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals with the yeas and nays taken thereon; and the Legislature shall cause the same to be published[~~ in at least one newspaper in every county of the state, where a newspaper is published, for two months~~], in a manner provided by statute, for 60 calendar days immediately preceding the next general election, at which time the said amendment or amendments shall be submitted to the electors of the state for their approval or rejection, and if a majority of the electors voting thereon shall approve the same, such amendment or amendments shall become part of this Constitution.

The revision or amendment of an entire article or the addition of a new article to this Constitution may be proposed as a single amendment and may be submitted to the electors as a single question or proposition. Such amendment may relate to one subject, or any number of subjects, and may modify, or repeal provisions contained in other articles of the Constitution, if such provisions are germane to the subject matter of the article being revised, amended or being proposed as a new article.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Contingent effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2027.

H. R. 1
Passed January 21, 2025

HOUSE RULES RESOLUTION - AMENDMENTS TO HOUSE RULES

Chief Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This resolution modifies House rules.

Highlighted Provisions:

This resolution:

- ► updates outdated language;
- ► changes the name of the House Business and Labor Standing Committee to the House Business, Labor, and Commerce Standing Committee;
- ► requires certain changes to legislation to be made by a motion to substitute the legislation rather than a motion to amend the legislation;
- ► prohibits a committee member from requesting a personal privilege during a committee meeting;
- ► clarifies House floor procedures related to substitute and privileged motions; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Legislative Rules Affected:

AMENDS:

HR2-4-101
HR3-2-201
HR3-2-406
HR3-2-510
HR4-3-301
HR4-6-107
HR4-6-110
HR5-2-101

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR2-4-101 is amended to read:

HR2-4-101. Definitions.

As used in this chapter:

(1) "Department head" means the same as that term is defined in Utah Code Section 63A-17-807 or a department head's designee.

(2) "Former legislator" means a person who is not a current member of the Legislature, but who served in the Utah House or Utah Senate at one time.

(3) (a) "Guest" means an individual who is afforded access to the House space under a provision of this chapter, who is not an individual described in Subsection (3)(c) or a special guest as described under HR2-4-101.2(5).

(b) "Guest" includes:

(i) the governor, the lieutenant governor, the state attorney general, the state treasurer, the state auditor, and governor's staff; and

(ii) a former legislator who is an individual described in Subsection (3)(b)(i).

(c) "Guest" does not mean a legislator, a member of House or Senate staff, a member of professional legislative staff, a House intern, or a lobbyist.

(4) "House conference rooms" means one of the conference rooms adjacent to the House lounge, speaker's office, or the majority caucus room.

(5) "House halls" means the passageways that allow access to:

(a) the House chamber;

(b) the House lounge;

(c) the House offices; or

(d) any other nonpublic areas adjoining the House chamber.

(6) "House intern" means an individual who is:

(a) an official participant in the student intern program sponsored by the Utah Legislature and administered by the Office of Legislative [~~Research and General Counsel~~]Services; and

(b) is assigned to a representative.

(7) "House offices" means:

(a) Representatives' offices adjacent to the House chamber;

(b) Representatives' offices on the third and fourth floors of the capitol building;

(c) Representatives' offices in the House building; and

(d) kitchens, restrooms, elevators, and any auxiliary rooms in the nonpublic areas connected with the offices listed above.

(8) "House or Senate staff" means an individual who is employed directly by the House or Senate.

(9) (a) "House space" means the House chamber, House lounge, House offices, House halls, and House conference rooms.

(b) "House space" does not mean the common public space outside the House chamber.

(10) "Immediate family" means any parent, spouse, child, grandparent, grandchild, great-grandparent, great-grandchild, sibling, aunt, uncle, niece, or nephew of a member of the House, provided that the individual is not a lobbyist.

(11) "Lobbying" means communicating with a legislator for the purpose of influencing the passage, defeat, amendment, or postponement of legislative action.

(12) "Lobbyist" means an individual who is required to register as a lobbyist by Utah Code Section 36-11-103.

(13) "Professional legislative staff" means an individual employed by one of the Legislature's profession-based staff offices, namely the Office of Legislative Research and General Counsel, the Office of the Legislative Fiscal Analyst, the Office of the Legislative Auditor General, or the Office of Legislative [~~Printing~~]Services.

Section 2. HR3-2-201 is amended to read:

HR3-2-201. Standing committees -- Creation.

There are created the following standing committees to consider legislation during an annual general or special session:

(1) Business[~~and~~], Labor, and Commerce;

(2) Economic Development and Workforce Services;

(3) Education;

(4) Government Operations;

(5) Health and Human Services;

(6) House Rules;

(7) Judiciary;

(8) Law Enforcement and Criminal Justice;

(9) Natural Resources, Agriculture, and Environment;

(10) Political Subdivisions;

(11) Public Utilities and Energy;

(12) Revenue and Taxation; and

(13) Transportation.

Section 3. HR3-2-406 is amended to read:

HR3-2-406. Amending legislation -- Verbal amendments -- Amendments must be germane.

(1) (a) Subject to [~~Subsection (2)~~]the provisions of this rule and HR3-2-306, and if recognized by the chair during the presentation phase or the committee action phase, a committee member may make a motion to amend the legislation that is under consideration.

(b) (i) A committee member may propose a verbal amendment to the legislation under consideration if the amendment contains 15 or fewer words.

(ii) Unless the amendment contains 15 or fewer words, before proposing a motion to amend, a committee member shall ensure that a copy of the proposed amendment is available online.

(iii) Each word inserted shall count as one of the 15 words permitted under a verbal amendment, except that:

(A) numbering shall not be counted as a word;

(B) instructions to delete a word or words shall not count as a word; and

(C) a word or an exact phrase that is inserted in multiple locations shall only be counted for the first insertion.

(2) (a) A committee member may only make a motion to amend that is germane to the subject of the legislation under consideration.

(b) A committee member who believes that an amendment is not germane to the subject of the legislation may make a point of order or appeal as described in HR3-2-506.

(3) (a) A committee member may not propose an amendment to legislation that:

(i) adds or removes an entire section from the legislation; or

(ii) modifies the legislation's effective date.

(b) To change legislation as described in Subsection (3)(a), a committee member may, subject to HR3-2-407, make a motion to substitute the legislation.

Section 4. HR3-2-510 is amended to read:

HR3-2-510. Prohibited motions.

(1) (a) Except for a motion to adjourn or a motion to recess, a committee member may not make a motion unless a quorum of the standing committee is present.

(b) When a quorum is not present, a motion to adjourn or a motion to recess is passed with a majority vote of those present.

(2) No motion is in order during a vote.

(3) A point of order is not in order during a vote.

(4) A committee member may not make a motion to:

(a) strike the enacting clause of legislation;

(b) strike the resolving clause of a resolution;

(c) circle legislation;

(d) place legislation on a time certain calendar;

(e) postpone legislation to a day certain; or

(f) postpone legislation indefinitely.

(5) (a) A personal privilege is not a motion.

(b) A committee member may not request a personal privilege during a committee meeting.

Section 5. HR4-3-301 is amended to read:

HR4-3-301. Amendments in order on third reading -- 15 word rule -- Passage of amendments by a majority vote.

(1) [~~A~~]Subject to Subsections (2) and (3), a motion to amend a piece of legislation is in order on third reading.

(2) (a) A representative may verbally propose an amendment to legislation if the amendment contains 15 or fewer words[-].

(b) Unless the amendment contains 15 or fewer words, before a representative makes a motion to amend, the representative shall ensure that a copy of the proposed amendment is available online.

(c) Each word inserted shall count as one of the 15 words permitted under a verbal amendment, except that:

(i) numbering shall not be counted as a word;

(ii) instructions to delete a word or words shall not count as a word; and

(iii) a word or an exact phrase that is inserted in multiple locations shall only be counted for the first insertion.

(3) (a) A representative may not propose an amendment to legislation that:

(i) adds or removes an entire section from the legislation; or

(ii) modifies the legislation's effective date.

(b) To change legislation as described in Subsection (3)(a), a representative may, subject to Part 2, Substitute Legislation, make a motion to substitute the legislation.

(4) A constitutional amendment, resolution, or bill requiring a constitutional two-thirds vote for final passage, may be amended by a majority vote.

[~~(4)~~](5) When legislation is amended by the House, the chief clerk shall:

(a) for each page of the legislation modified by a House amendment, cause a new page to be printed that clearly identifies each House amendment to that page; and

(b) print that new page on lilac-colored paper.

Section 6. HR4-6-107 is amended to read:

HR4-6-107. Substitute motions.

(1) A representative may, upon recognition by the presiding officer, make a substitute motion, which, if adopted by vote of a majority of the House, disposes of the original motion.

(2) If the substitute motion is not adopted, the original motion is revived.

(3) A representative may not make a substitute motion if:

(a) [~~make a substitute motion if another substitute motion has been made and is pending~~]another substitute motion is pending; or

(b) [~~make a motion to end debate (call the previous question) as a substitute motion~~]a privileged motion is pending.

Section 7. HR4-6-110 is amended to read:

HR4-6-110. Privileged motions.

(1) A privileged motion:

(a) is non-debatable;

(b) is not a substitute motion; and

(c) subject to HR4-6-109, takes precedence over a non-privileged motion.

(2) [~~The presiding officer may not allow debate on a motion~~]If a privileged motion is requested while another privileged motion is pending, the presiding officer shall grant priority to privileged motions in the following order:

(a) to adjourn;

(b) to recess;

(c) to end debate (call the previous question); or

(d) to extend the time for debate.

[~~(2)~~](3) The presiding officer shall decide all points of order arising from one of the above privileged motions without debate.

Section 8. HR5-2-101 is amended to read:

HR5-2-101. Lobbyist code of ethics.

A lobbyist, volunteer lobbyist, or government official may not:

(1) attempt to influence a representative, elected or appointed state official, state employee, or legislative employee by means of deceit or by threat of violence or economic or political reprisal against any person or property, with intent by doing so to alter or affect the representative's, elected or appointed state official's, state employee's, or legislative employee's decision, vote, opinion, or action concerning any matter that is to be considered or performed by the representative, official, or employee or the agency or body of which the representative, official, or employee is a member;

(2) knowingly provide false information to a representative, elected or appointed state official, state employee, or legislative employee as to any material fact pertaining to any legislation;

(3) knowingly omit, conceal, or falsify in any manner information required by the lobbyist registration and lobbyist disclosure reports;

(4) participate in committee assignments or leadership races of the House of Representatives;

(5) cause or influence the introduction of any piece of legislation, substitute, or amendment for the purpose of afterwards becoming employed to secure its passage or defeat;

(6) misappropriate or misuse legislative office supplies;

(7) use legislative reproduction or facsimile machines without paying for that use;

(8) enter or use a representative's, elected or appointed state official's, state employee's, or legislative employee's office, phone, computer, or parking space without explicit permission;

(9) attempt to remove or remove any document from any representative's or legislative employee's office, desk, file cabinet, reproduction machine, facsimile machine, or any other place without explicit permission;

(10) [~~engage in sexually harassing behavior or behavior violating the state's sexual harassment policy toward representatives or employees of the Legislature~~]engage in discriminatory conduct, as defined in Legislative Management Committee Policy E -- Legislative Workplace Discrimination Prevention, toward a representative or legislative employee;

(11) offer employment to a representative or legislative employee that impairs the representative's or legislative employee's independence of judgement as to their official duties;

(12) offer employment that would require or induce a representative or legislative employee to disclose records classified as private, protected, or controlled;

(13) use or disclose for personal financial gain any records classified as private, protected, or controlled that were obtained from a representative or legislative employee or conspire with any person for that purpose; or

(14) induce or seek to induce a representative or legislative employee to commit a violation of any provision of this House rule.

Section 9. Effective Date.

This resolution takes effect upon a successful vote for final passage.

H. R. 3
Passed February 14, 2025

HOUSE RULES RESOLUTION - LEGISLATIVE PROCESS AMENDMENTS

Chief Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This rules resolution modifies House processes and procedures.

Highlighted Provisions:

This resolution:

► clarifies the duties of the chief clerk related to technical corrections to legislation;
► modifies requirements related to sharing requests for legislation with caucus staff;
► clarifies which legislation the House may pass without receiving a favorable recommendation from a House standing committee;
► modifies the circumstances under which a standing committee may recommend legislation for the consent calendar;
► provides legislators the right to attend House committee meetings, subject to certain restrictions;
► defines "censure"; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Legislative Rules Affected:

AMENDS:

HR1-4-302, (Effective upon final passage)
HR1-10-101, (Effective 05/07/25)
HR3-2-401, (Effective upon final passage)
HR3-2-405, (Effective upon final passage)
HR4-2-103, (Effective upon final passage)

ENACTS:

HR3-3-103, (Effective upon final passage)

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR1-4-302 is amended to read:

HR1-4-302 (Effective upon final passage). Duties of the chief clerk.

The chief clerk shall perform the following duties:

(1) certify and transmit legislation to the Senate and inform the Senate of all House action;

(2) assist in the preparation of the House Journal and certify it as an accurate reflection of House action;

(3) [~~make the following~~]notify the Office of Legislative Research and General Counsel of any necessary technical corrections to legislation either before or following final passage, including:

(a) [~~correct~~]correcting the spelling of words;

(b) [~~correct~~]correcting the erroneous division and hyphenation of words;

(c) [~~correct~~]correcting mistakes in numbering sections and their references;

(d) [~~capitalize~~]capitalizing words or [~~change~~]changing capitalized words to lower case;

(e) [~~change~~]changing numbers from words to figures or from figures to words;[~~ or~~]

(f) [~~underscore~~]underscoring or [~~remove~~]removing underscoring in legislation[~~ without a motion to amend~~]; or

[~~(4)~~](g) [~~modify~~]modifying the long title of [~~a piece of~~]legislation to ensure that the long title accurately reflects any changes to the legislation made by amendment or substitute;

[~~(5)~~](4) act as custodian of all official documents related to legislation;

[~~(6)~~](5) receive all numbered legislation from the Office of Legislative Research and General Counsel;

[~~(7)~~](6) record the number, title, sponsor, each action, and final disposition of each piece of legislation on the back of the legislation;

[~~(8)~~](7) prepare and distribute the daily order of business each day;

[~~(9)~~](8) advise the speaker on parliamentary procedure, Joint Rules, and House Rules;

[~~(10)~~](9) assist with verbal amendments to legislation;

[~~(11)~~](10) record votes and, if requested, present the results to the speaker;

[~~(12)~~](11) record the votes of any member who is present in the House chamber who requests assistance of the chief clerk;

[~~(13)~~](12) transmit all enrolled House bills and House concurrent resolutions to the governor;

[~~(14)~~](13) approve material for placement on the representatives' desks if a representative has authorized that distribution;

[~~(15)~~](14) maintain all calendars for the House floor; and

[~~(16)~~](15) other duties as assigned by the chief of staff.

Section 2. HR1-10-101 is amended to read:

HR1-10-101 (Effective 05/07/25). Requests for legislation -- Sharing with caucus staff.

(1) As used in this rule, "caucus staff" means House staff assigned to the chief sponsor's caucus.

(2) After a representative files a request for legislation in accordance with JR4-2-101, the Office of Legislative Research and General Counsel shall provide caucus staff the drafting instructions, as defined in JR4-1-101, provided in the request for legislation and the request's assigned short title, unless the representative[~~:~~]

[~~(a)~~] elects not to share the drafting instructions and short title with caucus staff[~~; or~~]

[~~(b) fails to sign an acknowledgment, for purposes of Rule 1.6 of the Rules of Professional Conduct, that the Office of Legislative Research and General Counsel will share the representative's information in accordance with this rule~~].

(3) Caucus staff or staff from the Office of Legislative Research and General Counsel may share information provided under Subsection (2) with other representatives who are members of the chief sponsor's caucus.

Section 3. HR3-2-401 is amended to read:

HR3-2-401 (Effective upon final passage). Standing committee review required -- Exceptions.

(1) Except as provided in Subsection (2), the House of Representatives may not pass a bill, joint resolution, or concurrent resolution during the annual general session unless a House standing committee has given a favorable recommendation to the legislation.

(2) Subsection (1) does not apply to:

(a) a resolution regarding legislative rules or legislative personnel;

(b) House legislation that is a committee bill as defined in JR7-1-101 that:

(i) received its favorable recommendation by a unanimous vote of the members present at the authorized legislative committee; and

(ii) satisfied the posting requirements described in JR7-1-602.5;

(c) the revisor's statute; or

(d) if the legislation was reviewed and approved by the Executive Appropriations Committee, legislation that:

(i) exclusively appropriates money;

(ii) amends Utah Code Title 53F, Chapter 2, State Funding -- Minimum School Program;

(iii) amends Utah Code Title 67, Chapter 22, State Officer Compensation; or

(iv) authorizes the issuance of general obligation or revenue bonds.

Section 4. HR3-2-405 is amended to read:

HR3-2-405 (Effective upon final passage). Consent calendar -- Nonbinding resolutions -- Committee recommendations.

(1) As used in this rule, "nonbinding resolution":

(a) means a resolution that:

(i) is primarily for the purpose of recognizing, honoring, or memorializing an individual, group, or event;

(ii) requests, rather than compels, action or awareness by an individual or group; or

(iii) is informational or promotional in nature; and

(b) does not mean:

(i) a rules resolution;

(ii) a resolution for a constitutional amendment; or

(iii) any resolution that approves or authorizes any action, requires any substantive action to be taken, or results in a change in law, policy, or funding.

(2) (a) A nonbinding resolution shall be placed on the consent calendar.

(b) A nonbinding resolution may be moved to the time certain calendar or other calendar by a majority vote of those present.

(3) [~~A~~]On or before the 41st day of an annual general session, a standing committee may recommend that legislation in the standing committee's possession be placed on the consent calendar if:

(a) the committee approves a motion, by a unanimous vote of those present, to give the legislation a favorable recommendation;[~~ and~~]

(b) immediately subsequent to that action, the committee approves a separate motion, by a unanimous vote of those present, to recommend that the legislation be placed on the consent calendar; and

(c) for Senate legislation, the Senate legislation is not a fiscal note bill, as that term is defined in JR4-4-101.

Section 5. HR3-3-103 is enacted to read:

HR3-3-103 (Effective upon final passage). Right of legislators to attend House committee meetings.

(1) Any member of the Legislature may:

(a) attend any meeting of a House committee or subcommittee, unless the meeting is closed in accordance with Utah Code Title 52, Chapter 4, Open and Public Meetings Act; and

(b) if recognized by the chair during the public comment phase, present the legislator's views on the subject under consideration.

(2) A legislator who attends a meeting of a House committee or subcommittee of which the legislator is not a member may not:

(a) make a motion; or

(b) vote.

Section 6. HR4-2-103 is amended to read:

HR4-2-103 (Effective upon final passage). Calling a representative to order for violation of a rule.

(1) [~~(a)~~] As used in this rule, "censure" means an official reprimand or condemnation, which, if approved by the majority of the House, is printed in the journal.

(2) (a) The presiding officer may call a representative to order for violating any House or Joint Rule.

(b) Any representative may call another representative to order for violating any House or Joint Rule by raising a point of order under HR4-2-201.

[~~(2)~~](3) If the representative called to order appeals the ruling of the presiding officer, the House shall decide the issue without debate.

[~~(3)~~](4) (a) If the decision is favorable to the representative who has been called to order, the representative may proceed.

(b) If the decision is unfavorable, the representative is subject to censure by the House.

[~~(4)~~](5) Notwithstanding Subsection (1), a representative may not be called to order or censured for words spoken in debate if there has been intervening business.

Section 7. Effective Date.

(1) Except as provided in Subsection (2), this resolution takes effect upon a successful vote for final passage.

(2) HR1-10-101 takes effect on May 7, 2025.

H. R. 4
Passed February 21, 2025

RESOLUTION REGARDING DR. MARTHA HUGHES CANNON COMMEMORATIVE STAMP

Chief Sponsor: Rosalba Dominguez

LONG TITLE

General Description:

This resolution urges the United States Postal Service to consider a commemorative stamp in honor of Dr. Martha Hughes Cannon.

Highlighted Provisions:

This resolution:

► highlights the achievements of Dr. Martha Hughes Cannon; and
► urges the United States Postal Service to issue a commemorative stamp in Dr. Cannon's honor.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, on July 1, 1880, Martha Hughes graduated with her Doctor of Medicine (M.D.) degree at 23 years old;

WHEREAS, she went on to earn a bachelor's degree in Pharmacy from the University of Pennsylvania and a bachelor's degree in oratory from the National School of Elocution and Oratory;

WHEREAS, Utah became the 45th state in the United States of America in 1896;

WHEREAS, Dr. Cannon was elected to the Utah State Senate in the state's first election in 1896;

WHEREAS, Dr. Cannon became the first woman senator from Utah and the first woman state senator in the United States; and

WHEREAS, as senator, Dr. Cannon sponsored bills to provide compulsory education of deaf and blind children, to create a state board of health, and to protect the health of women employees:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah urge the United States Postal Service to consider a commemorative stamp in honor of Dr. Martha Hughes Cannon as Utah's first woman state senator and the first state senator in the United States.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States Postal Service.

H. R. 5
Passed February 14, 2025

HOUSE RULES RESOLUTION - HOUSE PROCEDURES AMENDMENTS

Chief Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This resolution addresses House procedures.

Highlighted Provisions:

This resolution:

► modifies the duties and appointment of the sergeant-at-arms and the chief clerk; and
► clarifies that a motion to saunter is in order during floor debate.

Other Special Clauses:

None

Legislative Rules Affected:

AMENDS:

HR1-4-201
HR1-4-202
HR1-4-301
HR1-4-302
HR4-6-109

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR1-4-201 is amended to read:

HR1-4-201. Appointment of sergeant-at-arms.

The [~~chief of staff or the chief of staff's designee~~]speaker or the speaker's designee shall appoint a person to serve as sergeant-at-arms of the [~~Utah~~] House of Representatives.

Section 2. HR1-4-202 is amended to read:

HR1-4-202. Duties of the sergeant-at-arms.

Subject to the [~~chief of staff's or the chief of staff's designee's direction~~]speaker's or the speaker's designee's direction, the sergeant-at-arms and the employees under the sergeant's direction shall:

(1) maintain security in areas controlled by the House;

(2) enforce the House Rules;

(3) enforce the provisions of Utah Code [~~Title 26, Chapter 38, Utah Indoor Clean Air Act,~~]Section 26B-7-503 in areas controlled by the House;

(4) when the House is convened in annual general session or special session, receive and, in coordination with House staff, transmit written messages to representatives on the House floor from or on behalf of individuals who are present at the capitol; and

(5) provide other service as requested by [~~the chief of staff or~~]the speaker.

Section 3. HR1-4-301 is amended to read:

HR1-4-301. Appointment of the chief clerk.

(1) The speaker or speaker-elect of the House shall appoint an individual to serve as chief clerk of the House.

(2) The chief clerk reports to the [~~chief of staff~~]speaker or, at the speaker's discretion, the chief of staff.

Section 4. HR1-4-302 is amended to read:

HR1-4-302. Duties of the chief clerk.

The chief clerk shall perform the following duties:

(1) certify and transmit legislation to the Senate and inform the Senate of all House action;

(2) assist in the preparation of the House Journal and certify it as an accurate reflection of House action;

(3) make the following technical corrections to legislation either before or following final passage:

(a) correct the spelling of words;

(b) correct the erroneous division and hyphenation of words;

(c) correct mistakes in numbering sections and their references;

(d) capitalize words or change capitalized words to lower case;

(e) change numbers from words to figures or from figures to words; or

(f) underscore or remove underscoring in legislation without a motion to amend;

(4) modify the long title of a piece of legislation to ensure that the long title accurately reflects any changes to the legislation made by amendment or substitute;

(5) act as custodian of all official documents related to legislation;

(6) receive all numbered legislation from the Office of Legislative Research and General Counsel;

(7) record the number, title, sponsor, each action, and final disposition of each piece of legislation on the back of the legislation;

(8) prepare and distribute the daily order of business each day;

(9) advise the speaker on parliamentary procedure, Joint Rules, and House Rules;

(10) assist with amendments to legislation;

(11) record votes and, if requested, present the results to the speaker;

(12) record the votes of any member who is present in the House chamber who requests assistance of the chief clerk;

(13) transmit all enrolled House bills and House concurrent resolutions to the governor;

(14) approve material for placement on the representatives' desks if a representative has authorized that distribution;

(15) maintain all calendars for the House floor;

(16) supervise each House in-session employee and assign the employee's duties and responsibilities;

(17) keep a record of the attendance of each House in-session employee and ensure that each House in-session employee is paid only for hours worked; and

[~~(16)~~](18) other duties as assigned by the [~~chief of staff~~]speaker.

Section 5. HR4-6-109 is amended to read:

HR4-6-109. Motions in order during debate.

(1) (a) When a motion or question is being debated, the presiding officer may not accept any other motion except a motion:

(i) to adjourn, which is nondebatable;

(ii) to determine the time [~~to~~]at which to adjourn, which is debatable;

(iii) to recess or saunter, which is nondebatable;

(iv) to end debate (call the previous question), which is nondebatable and requires a two-thirds vote to pass;

(v) to refer to a committee, which is debatable;

(vi) to limit debate, which is debatable;

(vii) to postpone to a time certain, which is debatable;

(viii) to circle, which is debatable;

(ix) to strike the enacting clause, which is debatable;

(x) to substitute, which is debatable; or

(xi) to amend, which is debatable.

(b) Points of order and appeals of the decision of the presiding officer are not motions and are always in order.

(c) The presiding officer shall grant priority to the motions listed in Subsection (1)(a)according to the order in which they are listed in that rule.

(2) (a) If an amendment or substitute to a piece of legislation has been proposed and is under consideration by the House, the presiding officer shall treat a motion to end debate (call the previous question) as directed only toward the amendment or substitute.

(b) If no motion to amend or substitute a piece of legislation has been made, the chair shall treat a motion to end debate (call the previous question) as directed toward action on the legislation itself.

(3) If a motion to postpone a piece of legislation to a day certain or a motion to return a piece of legislation to the House Rules committee is defeated, a representative may not make the same motion on the same piece of legislation during the same reading of the legislation.

(4) When a motion to refer to committee, to postpone to a time certain, or to circle is made, the presiding officer may not allow consideration of amendments or debate on the main question.

(5) During a roll call, no motion or other business is in order except for a call of the House, until after the announcement of the result of the vote.

Section 6. Effective Date.

This resolution takes effect upon a successful vote for final passage.

S. C. R. 1
Passed February 20, 2025

CONCURRENT RESOLUTION AUTHORIZING ADULT SENTENCING AND SUPERVISION LENGTH GUIDELINES AND JUVENILE DISPOSITION GUIDELINES

Chief Sponsor: Todd Weiler
House Sponsor: Grant Amjad Miller

LONG TITLE

General Description:

This resolution authorizes the adult sentencing and supervision length guidelines and the juvenile disposition guidelines.

Highlighted Provisions:

This resolution:

► authorizes the adult sentencing and supervision length guidelines and the juvenile disposition guidelines.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Utah Sentencing Commission establishes and maintains the adult sentencing and supervision length guidelines that provide recommendations for sentencing and supervision for all criminal offenses and the juvenile disposition guidelines that provide recommendations and clarifications for practices and procedures for juvenile dispositions;

WHEREAS, Utah Code Section 63M-7-406 requires the Utah Commission on Criminal and Juvenile Justice to annually submit the adult sentencing and supervision length guidelines and the juvenile disposition guidelines to the Law Enforcement and Criminal Justice Interim Committee and the Judiciary Interim Committee for review;

WHEREAS, Utah Code Section 63M-7-406 requires the Legislature to annually authorize the adult sentencing and supervision length guidelines and the juvenile disposition guidelines submitted to the Law Enforcement and Criminal Justice Interim Committee and the Judiciary Interim Committee; and

WHEREAS, the Utah Commission on Criminal and Juvenile Justice submitted the adult sentencing and supervision length guidelines and the juvenile disposition guidelines on November 14, 2024, to the Law Enforcement and Criminal Justice Interim Committee and the Judiciary Interim Committee for approval for the 2025 General Session:

NOW, THEREFORE, BE IT RESOLVED that the Legislature, and the Governor concurring therein, authorize the adult sentencing and supervision length guidelines and juvenile disposition guidelines submitted to the Law Enforcement and Criminal Justice Interim Committee and the Judiciary Interim Committee.

S. C. R. 2
Passed February 20, 2025

CONCURRENT RESOLUTION ENCOURAGING PRACTICES THAT PROMOTE CHILD INDEPENDENCE

Chief Sponsor: Lincoln Fillmore
House Sponsor: Troy Shelley

LONG TITLE

General Description:

This resolution encourages practices that promote child independence.

Highlighted Provisions:

This resolution:

- ► highlights the importance of free play and child independence;
- ► supports children engaging in independent activities;
- ► encourages school districts, school administrators, and teachers to utilize the Let Grow school program to help build independence;
- ► encourages the State Board of Education to incorporate childhood independence throughout the core standards for Utah public schools; and
- ► urges local governments and school districts to enact practices that encourage children to be able to explore, play, wander, and build independence.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, levels of anxiety and depression are increasing in children and young adults;

WHEREAS, constant supervision thwarts a child's ability to develop important qualities, such as resourcefulness, self-awareness, and perseverance;

WHEREAS, there is ample research to suggest that children are safer when unsupervised today than they were in previous generations, yet play that allows children to take appropriate risks has declined;

WHEREAS, children are not fragile but rather resilient and capable individuals;

WHEREAS, parents stepping back, where developmentally appropriate, allows children to step up;

WHEREAS, children who are allowed to take risks and figure things out themselves at home will have more grit and determination at school;

WHEREAS, engaging in independent activities promotes resilience and encourages the development of coping mechanisms in children;

WHEREAS, when children are able to improvise without an adult present they learn that they are capable;

WHEREAS, independent children feel confident and hopeful;

WHEREAS, independent play can reduce symptoms of anxiety and depression;

WHEREAS, play is crucial for healthy child development and learning the skills to be an adult;

WHEREAS, self-directed kids make better learners;

WHEREAS, school culture becomes more supportive and inclusive when students may interact with each other and solve their own challenges without premature adult intervention;

WHEREAS, children learn creativity and to celebrate their peers' unique skills and interests when allowed to direct their own play;

WHEREAS, mixed-age play benefits all age groups, as younger children learn executive functioning skills trying to emulate older children and older children develop responsibility and empathy as they interact with younger children;

WHEREAS, children learn social skills and problem-solving during self-organized play without an adult stepping in to immediately solve problems;

WHEREAS, children deserve time and space to explore, play, and wander;

WHEREAS, experts in childhood independence have created the Let Grow school program to provide guidance and curriculum for parents and educators to engage in, promote, and build childhood independence; and

WHEREAS, Let Grow supports empathy and helps develop a child's agency, self-confidence, creativity, communication, cooperation, resilience, and problem-solving skills:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports children who are of sufficient age and maturity to avoid harm or unreasonable risk of harm to engage in independent activities, including traveling to and from school, traveling to and from nearby commercial or recreational facilities, engaging in outdoor play, remaining at home unattended, or engaging in a similar independent activity.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages school districts, school administrators, and teachers to utilize the Let Grow school program to promote and build independence in children.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages the State Board of Education to look for ways to incorporate childhood independence throughout the core standards for Utah public schools.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages local governments and school districts to enact practices that encourage children to be able to explore, play, wander, and build independence.

S. C. R. 3
Passed March 7, 2025

CONCURRENT RESOLUTION SUPPORTING FEDERALISM PRINCIPLES AND UTAH'S CONTROL OF ITS ENERGY FUTURE

Chief Sponsor: Wayne A. Harper
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This resolution reaffirms Utah's sovereignty under the principle of federalism and asserts the state's right to determine its own energy policies.

Highlighted Provisions:

This resolution:

- ► reiterates the powers afforded to states under the United States Constitution and its protections against federal overreach;
- ► affirms that the authority to determine energy policies affecting state residents is among the powers reserved to states under the Tenth Amendment;
- ► explains the significance of the United States Supreme Court's "Loper Bright" decision in preserving federalism;
- ► asserts Utah's right to play a primary role in determining energy policies within its borders;
- ► urges the federal government to limit its role in energy regulation to matters of interstate commerce and national security;
- ► requests meaningful consultation between federal agencies and states when developing energy-related policies; and
- ► calls for formal mechanisms for state input in federal energy policy decisions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Tenth Amendment to the United States Constitution reserves powers not delegated to the federal government to the states or to the people;

WHEREAS, as the United States Supreme Court once explained, the Tenth Amendment serves to "allay fears that the new national government might seek to exercise powers not granted, and that the states might not be able to exercise fully their reserved powers";

WHEREAS, these reserved powers encompass the authority to regulate matters directly affecting the well-being, health, and safety of state residents;

WHEREAS, the Tenth Amendment is the cornerstone of constitutional federalism and acts as a bulwark against federal intrusion on state authority and individual liberty;

WHEREAS, the federal government is a government of limited jurisdiction and powers;

WHEREAS, energy policy fundamentally impacts the economic prosperity, public health, environmental quality, and overall quality of life within each state;

WHEREAS, the regulation of energy production, distribution, and use plays a significant role in shaping land use, local economic development, and the protection of natural resources;

WHEREAS, states have direct knowledge of the local geography, resources, economic needs, and environmental concerns;

WHEREAS, this local expertise enables the states to make better informed decisions regarding the regulation of energy production, distribution, and consumption within their jurisdiction;

WHEREAS, federal energy policies and regulations have increasingly encroached upon these traditional areas of state authority;

WHEREAS, the United States Supreme Court recently reinforced the principle of federalism in Loper Bright Enterprises v. Raimondo (the "Loper Bright" decision);

WHEREAS, the Loper Bright decision eliminated the Chevron doctrine, a longstanding precedent that required courts to defer to a federal agency's interpretation of law and resulted in arbitrary and unchecked federal rulemaking;

WHEREAS, the federalism canon, as acknowledged by the United States Supreme Court in the Loper Bright decision, requires courts to presume that federal law does not preempt state law because of the sovereignty states enjoy under the United States Constitution;

WHEREAS, effective energy policy requires balancing national interests with state and local concerns; and

WHEREAS, a cooperative approach between federal and state governments can lead to more effective and tailored energy policies:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein:

(1) reaffirms Utah's sovereignty under the Tenth Amendment to the United States Constitution and pledges to safeguard the state's sovereignty

from unconstitutional federal overreach;

(2) affirms that the authority to determine energy policies substantially affecting the well-being of state residents is among the powers reserved to the states under the Tenth Amendment;

(3) recognizes the significance of the Loper Bright decision in preventing unjustified intrusions into state sovereignty and urges state agencies to review the federal regulations impacting the state to ensure those regulations are lawfully authorized;

(4) asserts Utah's right to play a primary role in determining energy policies within its borders, including decisions regarding energy resources and infrastructure;

(5) calls upon the federal government to recognize states' constitutional authority and superior positioning to make location-specific decisions about energy projects and to defer to states on such matters;

(6) urges the federal government to limit its role in energy regulation to matters of interstate commerce and national security, while respecting states' authority to govern intrastate energy matters;

(7) requests that federal agencies engage in meaningful, early, and ongoing consultation with states when developing energy-related policies or regulations that may affect state interests;

(8) encourages Congress to pass legislation requiring federal agencies to demonstrate that they have adequately consulted with and considered input from affected states before implementing any energy-related regulations;

(9) calls for the creation of formal mechanisms for state input in federal energy policy decisions; and

(10) calls on the federal government to reign in its regulatory apparatus and uphold the balance of powers where the Constitution of the United States established it.

BE IT FURTHER RESOLVED that the Legislature directs that copies of this resolution be sent to the President of the United States, the Majority and Minority Leaders of the United States Senate, the Speaker and Minority Leader of the United States House of Representatives, and the members of Utah's congressional delegation.

S. C. R. 4
Passed March 7, 2025

CONCURRENT RESOLUTION FOSTERING SOCIAL CONNECTION AND ESTABLISHING UTAH COMMUNITY HEALTH DAY

Chief Sponsor: Brady Brammer
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This resolution addresses the growing epidemics of loneliness and social isolation.

Highlighted Provisions:

This resolution:

- ► recognizes loneliness and social isolation as critical, public health priorities;
- ► urges individuals to prioritize building positive relationships and fostering social connection; and
- ► establishes Utah Community Health Day.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the United States Surgeon General's Advisory of 2023 identifies loneliness and social isolation as urgent public health issues that significantly impact the well-being of individuals and society;

WHEREAS, loneliness and social isolation are associated with increased risks of premature death, cardiovascular disease, depression, anxiety, and cognitive decline;

WHEREAS, the increased risks of death, disease, depression, anxiety, and cognitive decline associated with loneliness and social isolation are comparable to the same increased risks associated with smoking 15 cigarettes per day;

WHEREAS, social connection is a fundamental human need and essential for survival, health, and prosperity;

WHEREAS, social connection is a key determinant of community resilience, economic prosperity, and civic engagement;

WHEREAS, approximately 50% of adults in the United States report experiencing loneliness, and younger adults, older adults, and marginalized communities are disproportionately affected;

WHEREAS, among older adults, social isolation accounts for an estimated $6.7 billion in increased annual Medicare spending due to increased hospitalizations and nursing facility costs;

WHEREAS, technology, while offering new means of connection, can also displace in-person interactions and contribute to social isolation when used excessively or inappropriately; and

WHEREAS, fostering a culture of social connection will mitigate these risks and promote healthier, more engaged communities:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, affirms the importance of addressing loneliness and social isolation as critical, public health priorities and commits to promoting policies and programs that strengthen social connection.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges individuals and families to prioritize building positive relationships and fostering social connection through simple actions, such as sharing a meal, volunteering, or sponsoring or participating in local neighborhood and community gatherings.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, designates the last Saturday of April as Utah Community Health Day, a day dedicated to fostering social connection, reducing loneliness and social isolation, and promoting overall well-being through community events, volunteer opportunities, and neighborhood gatherings.

S. C. R. 5
Passed March 7, 2025

CONCURRENT RESOLUTION RECOGNIZING RADON ACTION AND AWARENESS MONTH

Chief Sponsor: Keven J. Stratton
House Sponsor: Katy Hall

LONG TITLE

General Description:

This resolution addresses radon awareness and testing.

Highlighted Provisions:

This resolution:

► addresses radon awareness and testing.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, radon is a naturally occurring radioactive gas that results from the decay of uranium found in soils;

WHEREAS, radon is invisible, tasteless, and odorless, and can only be detected through specialized testing;

WHEREAS, Utah has areas of high radon potential, making awareness and testing critical for the health and safety of Utah's residents with at least one in three homes at high risk;

WHEREAS, increased public awareness about radon, radon's health risks, and the importance of testing and mitigation can save lives;

WHEREAS, the Department of Health and Human Services, Department of Environmental Quality, and 13 local health departments have made tremendous efforts to educate the public regarding radon exposure and limit radon exposure throughout the state;

WHEREAS, radon is the second leading cause of lung cancer in the United States according to the Environmental Protection Agency (EPA) and the leading cause among non-smokers, responsible for approximately 21,000 lung cancer deaths each year; and

WHEREAS, January has been designated as National Radon Action and Awareness Month by the EPA to increase awareness of radon and to encourage Americans to test their homes and mitigate high levels of radon:

NOW, THEREFORE, BE IT RESOLVED, that the Legislature of the state of Utah, the Governor concurring therein:

(1) designates January as Radon Action and Awareness Month in Utah to align with the National Radon Action and Awareness Month and to promote awareness and action concerning radon and radon's health risks;

(2) encourages all Utah residents to:

(a) test their homes for radon, particularly those in high-risk areas;

(b) take necessary mitigation actions if high levels of radon are detected;

(c) educate themselves and others about the health risks associated with radon exposure; and

(d) participate in radon awareness activities and events during Radon Action and Awareness Month; and

(3) supports efforts by the Department of Health and Human Services, local health departments, the Department of Environmental Quality, and other relevant agencies to provide resources, information, and assistance to residents regarding radon testing and mitigation.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to:

the Utah Department of Environmental Quality;

the Utah Department of Health and Human Services;

the Environmental Protection Agency;

the American Lung Association;

the Utah Association of Counties; and

each local health department.

S. J. R. 1
Passed March 4, 2025

JOINT RESOLUTION DISSOLVING THE NORTH LOGAN AND HYDE PARK JUSTICE COURTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Michael J. Petersen

LONG TITLE

General Description:

This resolution approves the dissolution of the North Logan and Hyde Park justice courts.

Highlighted Provisions:

This resolution:

► approves the dissolution of the North Logan and Hyde Park justice courts.

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, North Logan City and Hyde Park City have each had a justice court for many years;

WHEREAS, North Logan City and Hyde Park City have determined that it is no longer feasible for those cities to operate a justice court;

WHEREAS, the caseload of the North Logan and Hyde Park justice courts will fall upon the First District Court in Cache County with the dissolution of the North Logan and Hyde Park justice courts;

WHEREAS, the North Logan City Council has given notice to the Utah Judicial Council of the intent to dissolve the North Logan Justice Court and requested an effective date of no later than April 1, 2025;

WHEREAS, the Hyde Park City Council has given notice to the Utah Judicial Council of the intent to dissolve the Hyde Park Justice Court and requested an effective date of no later than April 1, 2025; and

WHEREAS, Utah Code Section 78A-7-123 requires the Legislature to approve by joint resolution the dissolution of a justice court:

NOW, THEREFORE, BE IT RESOLVED that the Legislature approves the dissolution of the North Logan and Hyde Park justice courts.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Judicial Council, North Logan City Council, and Hyde Park City Council.

BE IT FURTHER RESOLVED that this resolution takes effect upon approval by a constitutional majority vote of all members of the House of Representatives and the Senate.

S. J. R. 2
Passed March 6, 2025

PROPOSAL TO AMEND UTAH CONSTITUTION - STATEWIDE INITIATIVES

Chief Sponsor: Lincoln Fillmore
House Sponsor: Jason B. Kyle

LONG TITLE

General Description:

This joint resolution of the Utah Legislature proposes to amend the Utah Constitution to modify a provision relating to statewide initiatives.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

► provide the circumstances under which a higher percentage of voters than a majority must approve a statewide initiative that proposes to impose a new tax or to increase the rate of an existing tax or the amount of revenue collected.

Other Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of November 23, 2026 for this proposal.

Utah Constitution Sections Affected:

AMENDS:

Article VI, Section 1, (Effective 11/23/26)

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article VI, Section 1 to read
Article VI, Section 1 (Effective 11/23/26). [Power vested in Senate, House, and People.]

(1) The Legislative power of the State shall be vested in:

(a) a Senate and House of Representatives which shall be designated the Legislature of the State of Utah; and

(b) the people of the State of Utah as provided in Subsection (2).

(2) (a) (i) The legal voters of the State of Utah, in the numbers, under the conditions, in the manner, and within the time provided by statute, may:

(A) initiate any desired legislation and cause it to be submitted to the people for adoption upon a majority vote of those voting on the legislation, as provided by statute; or

(B) require any law passed by the Legislature, except those laws passed by a two-thirds vote of the members elected to each house of the Legislature, to be submitted to the voters of the State, as provided by statute, before the law may take effect.

(ii) Notwithstanding Subsection (2)(a)(i)(A), legislation initiated to allow, limit, or prohibit the taking of wildlife or the season for or method of taking wildlife shall be adopted upon approval of two-thirds of those voting.

(iii) Notwithstanding Subsection (2)(a)(i)(A), initiated legislation that is subject to a vote that occurs after November 1, 2026, shall be adopted upon approval of at least 60% of those voting on the legislation if the initiated legislation includes:

(A) the imposition of a new tax;

(B) an expansion of an existing tax to include additional items or transactions subject to the tax;

(C) an increase in an existing tax rate; or

(D) for a property tax, a change to the tax rate that causes the tax rate to decrease less than it would under current law.

(b) The legal voters of any county, city, or town, in the numbers, under the conditions, in the manner, and within the time provided by statute, may:

(i) initiate any desired legislation and cause it to be submitted to the people of the county, city, or town for adoption upon a majority vote of those voting on the legislation, as provided by statute; or

(ii) require any law or ordinance passed by the law making body of the county, city, or town to be submitted to the voters thereof, as provided by statute, before the law or ordinance may take effect.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Contingent effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on November 23, 2026.

S. J. R. 3
Passed March 4, 2025

JOINT RESOLUTION DISSOLVING SALT LAKE COUNTY JUSTICE COURT

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This resolution approves the dissolution of the Salt Lake County Justice Court.

Highlighted Provisions:

This resolution:

► approves the dissolution of the Salt Lake County Justice Court.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Salt Lake County has had a justice court for many years;

WHEREAS, Salt Lake County has determined that it is no longer feasible for Salt Lake County to operate a justice court;

WHEREAS, Utah Code Section 78A-7-123 requires a county to obtain legislative approval to dissolve a justice court and provide notice to the Utah Judicial Council if the caseload from that court would fall to the district court upon dissolution;

WHEREAS, the caseload of the Salt Lake County Justice Court will fall upon the Third District Court in Salt Lake County upon the dissolution of the Salt Lake County Justice Court; and

WHEREAS, the Salt Lake County Council has given notice to the Utah Judicial Council of the intent to dissolve the Salt Lake County Justice Court and requested an effective date of no later than June 30, 2027:

NOW, THEREFORE, BE IT RESOLVED that the Legislature approves the dissolution of the Salt Lake County Justice Court.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Judicial Council and Salt Lake County.

BE IT FURTHER RESOLVED that this resolution takes effect upon approval by a constitutional majority vote of all members of the House of Representatives and the Senate.

S. J. R. 4
Passed March 7, 2025

JOINT RESOLUTION AMENDING COURT RULES ON ATTORNEY CONFIDENTIALITY

Chief Sponsor: Brady Brammer
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This joint resolution amends court rules regarding attorney confidentiality.

Highlighted Provisions:

This resolution:

► amends Rule 26 of the Utah Rules of Civil Procedure to address the work-product doctrine with regard to a legislative audit; and

► amends Rule 510 of the Utah Rules of Evidence to address the waiver of the attorney-client privilege with regard to a legislative audit.

Other Special Clauses:

This resolution provides a special effective date.

Utah Rules of Civil Procedure Affected:

AMENDS:

Rule 26, Utah Rules of Civil Procedure

Utah Rules of Evidence Affected:

AMENDS:

Rule 510, Utah Rules of Evidence

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:
As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Rule 26, Utah Rules of Civil Procedure is amended to read:

Rule 26. General provisions governing disclosure of discovery.

(a) Disclosure. This rule applies unless changed or supplemented by a rule governing disclosure and discovery in a practice area.

(1) Initial disclosures. Except in cases exempt under paragraph (a)(3), a party must, without waiting for a discovery request, serve on the other parties:

(A) the name and, if known, the address and telephone number of:

(i) each individual likely to have discoverable information supporting its claims or defenses, unless solely for impeachment, identifying the subjects of the information; and

(ii) each fact witness the party may call in its case-in-chief and, except for an adverse party, a summary of the expected testimony;

(B) a copy of all documents, data compilations, electronically stored information, and tangible things in the possession or control of the party that the party may offer in its case-in-chief, except charts, summaries, and demonstrative exhibits that have not yet been prepared and must be disclosed in accordance with paragraph (a)(5);

(C) a computation of any damages claimed and a copy of all discoverable documents or evidentiary material on which such computation is based, including materials about the nature and extent of injuries suffered;

(D) a copy of any agreement under which any person may be liable to satisfy part or all of a judgment or to indemnify or reimburse for payments made to satisfy the judgment; and

(E) a copy of all documents to which a party refers in its pleadings.

(2) Timing of initial disclosures. The disclosures required by paragraph (a)(1) must be served on the other parties:

(A) by a plaintiff within 14 days after the filing of the first answer to that plaintiff's complaint; and

(B) by a defendant within 42 days after the filing of that defendant's first answer to the complaint.

(3) Exemptions.

(A) Unless otherwise ordered by the court or agreed to by the parties, the requirements of paragraph (a)(1) do not apply to actions:

(i) for judicial review of adjudicative proceedings or rule making proceedings of an administrative agency;

(ii) governed by Rule 65B or Rule 65C;

(iii) to enforce an arbitration award; or

(iv) for water rights general adjudication under Utah Code Title 73, Chapter 4, Determination of Water Rights.

(B) In an exempt action, the matters subject to disclosure under paragraph (a)(1) are subject to discovery under paragraph (b).

(4) Expert testimony.

(A) Disclosure of retained expert testimony. A party must, without waiting for a discovery request, serve on the other parties the following information regarding any person who may be used at trial to present evidence under Rule 702 of the Utah Rules of Evidence and who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony: (i) the expert's name and qualifications, including a list of all publications authored within the preceding 10 years, and a list of any other cases in which the expert has testified as an expert at trial or by deposition within the preceding four years, (ii) a brief summary of the opinions to which the witness is expected to testify, (iii) the facts, data, and other information specific to the case that will be relied upon by the witness in forming those opinions, and (iv) the compensation to be paid for the witness's study and testimony.

(B) Limits on expert discovery. Further discovery may be obtained from an expert witness either by deposition or by written report. A deposition must not exceed four hours and the party taking the deposition must pay the expert's reasonable hourly fees for attendance at the deposition. A report must be signed by the expert and must contain a complete statement of all opinions the expert will offer at trial and the basis and reasons for them. Such an expert may not testify in a party's case-in-chief concerning any matter not fairly disclosed in the report. The party offering the expert must pay the costs for the report.

(C) Timing for expert discovery.

(i) The party who bears the burden of proof on the issue for which expert testimony is offered must serve on the other parties the information required by paragraph (a)(4)(A) within 14 days after the close of fact discovery. Within 14 days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition must occur, or the report must be served on the other parties, within 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert must be permitted.

(ii) The party who does not bear the burden of proof on the issue for which expert testimony is offered must serve on the other parties the information required by paragraph (a)(4)(A) within 14 days after the later of (A) the date on which the disclosure under paragraph (a)(4)(C)(i) is due, or (B) service of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(i). Within 14 days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition must occur, or the report must be served on the other parties, within 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert must be permitted.

(iii) If the party who bears the burden of proof on an issue wants to designate rebuttal expert witnesses, it must serve on the other parties the information required by paragraph (a)(4)(A) within 14 days after the later of (A) the date on which the election under paragraph (a)(4)(C)(ii) is due or (B) service of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(ii). Within 14 days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition must occur, or the report must be served on the other parties, within 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert must be permitted. The court may preclude an expert disclosed only as a rebuttal expert from testifying in the case in chief.

(D) Multiparty actions. In multiparty actions, all parties opposing the expert must agree on either a report or a deposition. If all parties opposing the expert do not agree, then further discovery of the expert may be obtained only by deposition pursuant to paragraph (a)(4)(B) and Rule 30.

(E) Summary of non-retained expert testimony. If a party intends to present evidence at trial under Rule 702 of the Utah Rules of Evidence from any person other than an expert witness who is retained or specially employed to provide testimony in the case or a person whose duties as an employee of the party regularly involve giving expert testimony, that party must serve on the other parties a written summary of the facts and opinions to which the witness is expected to testify in accordance with the deadlines set forth in paragraph (a)(4)(C). Such a witness cannot be required to provide a report pursuant to paragraph (a)(4)(B). A deposition of such a witness may not exceed four hours and, unless manifest injustice would result, the party taking the deposition must pay the expert's reasonable hourly fees for attendance at the deposition.

(5) Pretrial disclosures.

(A) A party must, without waiting for a discovery request, serve on the other parties:

(i) the name and, if not previously provided, the address and telephone number of each witness, unless solely for impeachment, separately identifying witnesses the party will call and witnesses the party may call;

(ii) the name of witnesses whose testimony is expected to be presented by transcript of a deposition;

(iii) designations of the proposed deposition testimony; and

(iv) a copy of each exhibit, including charts, summaries, and demonstrative exhibits, unless solely for impeachment, separately identifying those which the party will offer and those which the party may offer.

(B) Disclosure required by paragraph (a)(5)(A) must be served on the other parties at least 28 days before trial. Disclosures required by paragraph (a)(5)(A)(i) and (a)(5)(A)(ii) must also be filed on the date that they are served. At least 14 days before trial, a party must serve any counter designations of deposition testimony and any objections and grounds for the objections to the use of any deposition, witness, or exhibit if the grounds for the objection are apparent before trial. Other than objections under Rules 402 and 403 of the Utah Rules of Evidence, other objections not listed are waived unless excused by the court for good cause.

(6) Form of disclosure and discovery production. Rule 34 governs the form in which all documents, data compilations, electronically stored information, tangible things, and evidentiary material should be produced under this Rule.

(b) Discovery scope.

(1) In general. Parties may discover any matter, not privileged, which is relevant to the claim or defense of any party if the discovery satisfies the standards of proportionality set forth below.

(2) Privileged matters.

(A) Privileged matters that are not discoverable or admissible in any proceeding of any kind or character include:

(i) all information in any form provided during and created specifically as part of a request for an investigation, the investigation, findings, or conclusions of peer review, care review, or quality assurance processes of any organization of health care providers as defined in Utah Code Title 78B, Chapter 3, Part 4, Utah Health Care Malpractice Act, for the purpose of evaluating care provided to reduce morbidity and mortality or to improve the quality of medical care, or for the purpose of peer review of the ethics, competence, or professional conduct of any health care provider; and

(ii) except as provided in paragraph (b)(2)(C), (D), or (E), all communications, materials, and information in any form specifically created for or during a medical candor process under Utah Code Title 78B, Chapter 3, Part 4a, Utah Medical Candor Act, including any findings or conclusions from the investigation and any offer of compensation.

(B) Disclosure or use in a medical candor process of any communication, material, or information in any form that contains any information described in paragraph (b)(2)(A)(i) does not waive any privilege or protection against admissibility or discovery of the information under paragraph (b)(2)(A)(i).

(C) Any communication, material, or information in any form that is made or provided in the ordinary course of business, including a medical record or a business record, that is otherwise discoverable or admissible and is not created for or during a medical candor process is not privileged by the use or disclosure of the communication, material, or information during a medical candor process.

(D) (i) Any information that is required to be documented in a patient's medical record under state or federal law is not privileged by the use or disclosure of the information during a medical candor process.

(ii) Information described in paragraph (b)(2)(D)(i) does not include an individual's mental impressions, conclusions, or opinions that are formed outside the course and scope of the patient's care and treatment and are used or disclosed in a medical candor process.

(E) (i) Any communication, material, or information in any form that is provided to an affected party before the affected party's written agreement to participate in a medical candor process is not privileged by the use or disclosure of the communication, material, or information during a medical candor process.

(ii) Any communication, material, or information described in paragraph (b)(2)(E)(i) does not include a written notice described in Utah Code section 78B-3-452.

(F) The terms defined in Utah Code section 78B-3-450 apply to paragraphs (b)(2)(A)(ii), (B), (C), (D), and (E).

(G) Nothing in this paragraph (b)(2) shall prevent a party from raising any other privileges provided by law or rule as to the admissibility or discovery of any communication, information, or material described in paragraph (b)(2)(A), (B), (C), (D), or (E).

(3) Proportionality. Discovery and discovery requests are proportional if:

(A) the discovery is reasonable, considering the needs of the case, the amount in controversy, the complexity of the case, the parties' resources, the importance of the issues, and the importance of the discovery in resolving the issues;

(B) the likely benefits of the proposed discovery outweigh the burden or expense;

(C) the discovery is consistent with the overall case management and will further the just, speedy, and inexpensive determination of the case;

(D) the discovery is not unreasonably cumulative or duplicative;

(E) the information cannot be obtained from another source that is more convenient, less burdensome, or less expensive; and

(F) the party seeking discovery has not had sufficient opportunity to obtain the information by discovery or otherwise, taking into account the parties' relative access to the information.

(4) Burden. The party seeking discovery always has the burden of showing proportionality and relevance. To ensure proportionality, the court may enter orders under Rule 37.

(5) Electronically stored information. A party claiming that electronically stored information is not reasonably accessible because of undue burden or cost must describe the source of the electronically stored information, the nature and extent of the burden, the nature of the information not provided, and any other information that will enable other parties to evaluate the claim.

(6) Trial preparation materials. A party may obtain otherwise discoverable documents and tangible things prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the party's attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials and that the party is unable without undue hardship to obtain substantially equivalent materials by other means. In ordering discovery of such materials, the court must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party.

(7) Statement previously made about the action. A party may obtain without the showing required in paragraph (b)(5) a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement about the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order under Rule 37. A statement previously made is: (A) a written statement signed or approved by the person making it[;]; or (B) a stenographic, mechanical, electronic, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral

statement by the person making it and contemporaneously recorded.

(8) Trial preparation; experts.

(A) Trial-preparation protection for draft reports or disclosures. Paragraph (b)(6) protects drafts of any report or disclosure required under paragraph (a)(4), regardless of the form in which the draft is recorded.

(B) Trial-preparation protection for communications between a party's attorney and expert witnesses. Paragraph (b)(6) protects communications between the party's attorney and any witness required to provide disclosures under paragraph (a)(4), regardless of the form of the communications, except to the extent that the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(C) Expert employed only for trial preparation. Ordinarily, a party may not, by interrogatories or otherwise, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. A party may do so only:

(i) as provided in Rule 35(b); or

(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(9) Claims of privilege or protection of trial preparation materials.

(A) Information withheld. If a party withholds discoverable information by claiming that it is privileged or prepared in anticipation of litigation or for trial, the party must make the claim expressly and must describe the nature of the documents, communications, or things not produced in a manner that, without revealing the information itself, will enable other parties to evaluate the claim.

(B) Information produced. If a party produces information that the party claims is privileged or prepared in anticipation of litigation or for trial, the producing party may notify any receiving party of the claim and the basis for it. After being notified, a receiving party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The producing party must preserve the information until the claim is resolved.

(C) Information disclosed in a legislative audit. If a party is an entity that is subject to an audit by the legislative auditor general under Utah Constitution, Article VI, Section 33, and information that is privileged or prepared in anticipation of litigation or for trial is disclosed to the legislative auditor general or an arbitrator as described in Utah Code section 36-12-15, the disclosure to the legislative auditor general or the arbitrator does not make the information discoverable or prevent the party from claiming that the information is privileged and prepared in anticipation of litigation or for trial.

(c) Methods, sequence, and timing of discovery; tiers; limits on standard discovery; extraordinary discovery.

(1) Methods of discovery. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; requests for admission; and subpoenas other than for a court hearing or trial.

(2) Sequence and timing of discovery. Methods of discovery may be used in any sequence, and the fact that a party is conducting discovery must not delay any other party's discovery. Except for cases exempt under paragraph (a)(3), a party may not seek discovery from any source before that party's initial disclosure obligations are satisfied.

(3) Definition of tiers for standard discovery. Actions claiming $50,000 or less in damages are permitted standard discovery as described for Tier 1. Actions claiming more than $50,000 and less than $300,000 in damages are permitted standard discovery as described for Tier 2. Actions claiming $300,000 or more in damages are permitted standard discovery as described for Tier 3. Absent an accompanying damage claim for more than $300,000, actions claiming non-monetary relief are permitted standard discovery as described for Tier 2. Domestic relations actions are permitted standard discovery as described for Tier 4.

(4) Definition of damages. For purposes of determining standard discovery, the amount of damages includes the total of all monetary damages sought (without duplication for alternative theories) by all parties in all claims for relief in the original pleadings.

(5) Limits on standard fact discovery. Standard fact discovery per side (plaintiffs collectively, defendants collectively, and third-party defendants collectively) in each tier is as follows. The days to complete standard fact discovery are calculated from the date the first defendant's first disclosure is due and do not include expert discovery under paragraphs (a)(4)(C) and (D).

Tier	Amount of Damages	Total Fact Deposition Hours	Rule 33 Interrogatories including all discrete subparts	Rule 34 Requests for Production	Rule 36 Requests for Admission	Days to Complete Standard Fact Discovery
1	$50,000 or less	3	0	5	5	120
2	More than $50,000 and less than $300,000 or non-monetary relief	15	10	10	10	180

3	$300,000 or more	30	20	20	20	210
4	Domestic relations actions	4	10	10	10	90

(6) Extraordinary discovery. To obtain discovery beyond the limits established in paragraph (c)(5), a party must:

(A) before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, file a stipulated statement that extraordinary discovery is necessary and proportional under paragraph (b)(2) and, for each party represented by an attorney, a statement that the attorney consulted with the client about the request for extraordinary discovery;

(B) before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, file a request for extraordinary discovery under Rule 37(a); or

(C) obtain an expanded discovery schedule under Rule 100A.

(d) Requirements for disclosure or response; disclosure or response by an organization; failure to disclose; initial and supplemental disclosures and responses.

(1) A party must make disclosures and responses to discovery based on the information then known or reasonably available to the party.

(2) If the party providing disclosure or responding to discovery is a corporation, partnership, association, or governmental agency, the party must act through one or more officers, directors, managing agents, or other persons, who must make disclosures and responses to discovery based on the information then known or reasonably available to the party.

(3) A party is not excused from making disclosures or responses because the party has not completed investigating the case, the party challenges the sufficiency of another party's disclosures or responses, or another party has not made disclosures or responses.

(4) If a party fails to disclose or to supplement timely a disclosure or response to discovery, that party may not use the undisclosed witness, document, or material at any hearing or trial unless the failure is harmless or the party shows good cause for the failure.

(5) If a party learns that a disclosure or response is incomplete or incorrect in some important way, the party must timely serve on the other parties the additional or correct information if it has not been made known to the other parties. The supplemental disclosure or response must state why the additional or correct information was not previously provided.

(e) Signing discovery requests, responses, and objections. Every disclosure, request for discovery, response to a request for discovery, and objection to a request for discovery must be in writing and signed by at least one attorney of record or by the party if the party is not represented. The signature of the attorney or party is a certification under Rule 11. If a request or response is not signed, the receiving party does not need to take any action with respect to it. If a certification is made in violation of the rule, the court, upon motion or upon its own initiative, may take any action authorized by Rule 11 or Rule 37(b).

(f) Filing. Except as required by these rules or ordered by the court, a party must not file with the court a disclosure, a request for discovery, or a response to a request for discovery, but must file only the certificate of service stating that the disclosure, request for discovery, or response has been served on the other parties and the date of service.

Section 2. Rule 510, Rules of Evidence is amended to read:

Rule 510. Miscellaneous Matters.

(a) Waiver of Privilege.

(1)[~~A~~]Except as provided in paragraph (a)(2) or (a)(3), a person who holds a privilege under these rules waives the privilege if the person or a previous holder of the privilege:

[~~(a)(1)~~**]**(A) voluntarily discloses or consents to the disclosure of any significant part of the matter or communication[~~.~~]; or

[~~(a)(2)~~**]**(B) fails to take reasonable precautions against inadvertent disclosure.

(2)[~~This~~]The privilege is not waived if the disclosure is itself a privileged communication.

(3) If a party is an entity that is subject to an audit by the legislative auditor general under Utah Constitution, Article VI, Section 33, and information that is privileged under Rule 504 is disclosed to the legislative auditor general or an arbitrator as described in Utah Code section 36-12-15, the disclosure to the legislative auditor general or the arbitrator does not waive the privilege under paragraph (a)(1).

(b) Inadmissibility of Disclosed Information. Evidence of a statement or other disclosure of privileged matter is not admissible against the holder of the privilege if disclosure was compelled erroneously or made without opportunity to claim the privilege.

(c) Comment or Inference Not Permitted. The claim of privilege, whether in the present proceeding or upon a prior occasion, is not a proper subject of comment by judge or counsel. No inference may be drawn from any claim of privilege.

(d) Claiming Privilege Without the Jury's Knowledge. To the extent practicable, jury cases shall be conducted to allow claims of privilege to be made without the jury's knowledge.

(e) Jury Instruction. Upon request, any party against whom the jury might draw an adverse inference from the claim of privilege is entitled to a jury instruction that no inference may be drawn from that claim of privilege.

(f) Privilege Against Self-Incrimination in Civil Cases. In a civil case, the provisions of [~~paragraph (c)-(e)~~]paragraphs (c) through (e) do not apply when the privilege against self-incrimination has been invoked.

Section 3. Effective Date.

(1) Except as provided in Subsection (2), this resolution takes effect on May 7, 2025.

(2) If S.B. 154, Legislative Audit Amendments, does not pass and become law, this resolution does not take effect.

S. J. R. 5
Passed March 6, 2025

JOINT RESOLUTION REGARDING STATE PRISONER PLACEMENT IN JUAB COUNTY CORRECTIONAL FACILITY

Chief Sponsor: Derrin R. Owens
House Sponsor: Troy Shelley

LONG TITLE

General Description:

This resolution supports contracting for beds for state inmates at the Juab County correctional facility.

Highlighted Provisions:

This resolution:

► supports jail expansion as beneficial to both the state and the counties through a contract with the Department of Corrections; and
► approves contracting for additional beds dedicated to housing state inmates in Juab County.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, counties in Utah contract with the Department of Corrections to provide prison beds for state prisoners;

WHEREAS, this contracting arrangement has proved beneficial to both the state and the counties by saving taxpayers from the burden of building new state correctional facilities while, at the same time, assisting counties to meet their own correctional space needs;

WHEREAS, in accordance with Utah Code Subsection 64-13e-103(6), the Department of Corrections may not enter into a contract with a county to house state inmates unless the Legislature has previously passed a joint resolution that includes the approximate number of beds to be contracted, the approximate amount of a county's long-term debt, and the repayment time of the debt for the facility where inmates are to be housed;

WHEREAS, the Department of Corrections is authorized to contract for 205 beds in addition to the current 15 beds in Juab County;

WHEREAS, the correctional facility that will house the inmates in Juab County has $60,000,000 in facility debt, and the repayment time for the debt for the facility is a 30-year period;

WHEREAS, Juab County will have sufficient facilities and beds to accommodate the additional state inmates and has met the requirements of Utah Code Subsection 64-13e-103(6); and

WHEREAS, contracting with the Department of Corrections for additional jail bed space would assist the state in addressing projected bed space, rehabilitation, and security needs:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah approves contracting for beds in the correctional facility located in Juab County in the amount specified in this resolution.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Juab County Commission and the Department of Corrections.

S. J. R. 6
Passed March 6, 2025

JOINT RESOLUTION SUPPORTING STATE JURISDICTION UNDER THE PRINCIPLE OF FEDERALISM

Chief Sponsor: Wayne A. Harper
House Sponsor: Ken Ivory

LONG TITLE

General Description:

This resolution reaffirms Utah's sovereignty under the principle of federalism.

Highlighted Provisions:

This resolution:

- ► reiterates the powers afforded to states under the United States Constitution and its protections against federal overreach;
- ► explains the significance of the United States Supreme Court's recent "Loper Bright" decision in helping to preserve federalism; and
- ► urges state agencies to review federal regulations in light of the Loper Bright decision and calls on the federal government to respect the state's sovereignty.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the 10th Amendment to the United States Constitution reserves to the states powers not delegated to the federal government;

WHEREAS, the 10th Amendment was part of the original Bill of Rights, which was proposed on September 25, 1789, ratified by three-fourths of the states, and went into effect on December 15, 1791;

WHEREAS, as the United States Supreme Court once explained, the 10th Amendment serves to "allay fears that the new national government might seek to exercise powers not granted, and that the states might not be able to exercise fully their reserved powers";

WHEREAS, the 10th Amendment is the cornerstone of constitutional federalism and acts as a bulwark against federal intrusion on state authority and individual liberty;

WHEREAS, the federal government is a government of limited jurisdiction and powers;

WHEREAS, the state has inherent, general jurisdiction and authority under the state's traditional police powers to enact legislation and regulations in subject areas affecting public welfare, safety, health, and morality, as recognized under the 10th Amendment, including over natural resources, water resources and rights, agriculture, education, and energy resources;

WHEREAS, the balance of governing powers between states and the federal government protects the diversity of the states and ensures the self-governing voice of the people;

WHEREAS, the United States Supreme Court recently reinforced the principle of federalism in Loper Bright Enterprises v. Raimondo (the "Loper Bright" decision);

WHEREAS, the Loper Bright decision eliminated the Chevron doctrine, a longstanding precedent that required courts to defer to a federal agency's interpretation of law and resulted in arbitrary and unchecked federal rulemaking;

WHEREAS, the federalism canon, as acknowledged by the United States Supreme Court in the Loper Bright decision, requires courts to presume that federal law does not preempt state law because of the sovereignty states enjoy under the United States Constitution; and

WHEREAS, the Loper Bright decision restores the courts' constitutional role in interpreting the law and deters the federal government from exercising powers not given to it:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah reaffirms Utah's sovereignty under the 10th Amendment to the United States Constitution and pledges to safeguard the state's sovereignty from unconstitutional federal overreach.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah recognizes the significance of the Loper Bright decision in preventing unjustified intrusions into state sovereignty and urges state agencies to review the federal regulations impacting the state to ensure those regulations are lawfully authorized.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah calls on the federal government to reign in its regulatory apparatus and uphold the balance of powers where the Constitution of the United States established it.

BE IT FURTHER RESOLVED that a copy of this joint resolution be sent to the Majority and Minority Leader of the United States Senate, the Speaker and Minority Leader of the United States House of Representatives, and to each member of Utah's congressional delegation.

S. J. R. 7
Passed March 6, 2025

JOINT RESOLUTION EMPHASIZING STATE AUTHORITY IN ELECTION GOVERNANCE

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This resolution calls upon Utah's members of the United States Congress to uphold the principles of federalism.

Highlighted Provisions:

This resolution:

- ► highlights the interests of the individual states of the United States to regulate elections; and
- ► calls upon Utah's members of the United States Congress to uphold the principles of federalism in relation to the ability of states to govern election processes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah Constitution Article I, Section 2, recognizes that "All political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit";

WHEREAS, the Tenth Amendment to the United States Constitution affirms that any powers not delegated to the federal government are reserved to the states or the people, reinforcing the principle of federalism;

WHEREAS, the states have long served as laboratories of democracy, uniquely positioned to establish election laws and policies that reflect the needs and interests of their citizens;

WHEREAS, a robust system of state-led election governance strengthens self-government, promotes accountability, and preserves the integrity of the electoral process by ensuring that the people of each state determine how best to protect their representation and participation in democratic processes;

WHEREAS, the Framers of the United States Constitution recognized the role of the states in structuring election laws and mechanisms, understanding that a one-size-fits-all federal approach is neither necessary nor desirable;

WHEREAS, the people of Utah and other states have a vested interest in ensuring that their electoral processes remain responsive to their needs and are free from disproportionate influence by entities or individuals that may not reflect the priorities of the electorate;

WHEREAS, the principle of self-governance requires that states retain the ability to establish laws governing the influence of money in elections, consistent with their unique circumstances and policy considerations; and

WHEREAS, the constitutional amendment process provides an avenue for reaffirming the role of the states in overseeing elections and ensuring that their authority in this realm is preserved:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah calls upon the six members representing Utah in the United States Congress to uphold the principles of federalism and to be proponents of appropriate action, including, if necessary, a constitutional amendment that affirms the authority of states to govern their election processes and establishes the ability of the states to enact policies regarding campaign finance and election influence, in a manner consistent with established constitutional principles.

BE IT FURTHER RESOLVED that a copy of this resolution be prepared and submitted to the six members representing Utah in the United States Congress.

S. J. R. 9
Passed March 7, 2025

JOINT RESOLUTION AMENDING RULES OF CIVIL PROCEDURE ON INJUNCTIONS

Chief Sponsor: Brady Brammer
House Sponsor: Jordan D. Teuscher

LONG TITLE
General Description:
This joint resolution amends the Utah Rules of Civil Procedure to address injunctions.
Highlighted Provisions:
This resolution:
► amends Utah Rules of Civil Procedure, Rule 65A, to address injunctions; and
► makes technical and conforming changes to Rule 65A.
Other Special Clauses:
This resolution provides a special effective date.
Utah Rules of Civil Procedure Affected:
AMENDS:
Rule 65A, Utah Rules of Civil Procedure

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:
As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Rule 65A, Utah Rules of Civil Procedure is amended to read:
Rule 65A. Injunctions.

(a) **Preliminary injunctions.**

[~~(a)~~](1) **Notice.** No preliminary injunction shall be issued without notice to the adverse party.

[~~(a)~~](2) **Consolidation of hearing.** Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible at the trial on the merits becomes part of the trial record and need not be repeated at the trial. This [~~subdivision~~]paragraph (a)(2) shall be so construed and applied as to save to the parties any rights they may have to trial by jury.

(b) **Temporary restraining orders.**

[~~(b)~~](1) **Notice.** No temporary restraining order shall be granted without notice to the adverse party or that party's attorney unless:

(A) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition[~~,~~]; and

(B) the applicant or the applicant's attorney certifies to the court in writing as to the efforts, if any, that have been made to give notice and the reasons supporting the claim that notice should not be required.

[~~(b)~~](2) **Form of order.** Every temporary restraining order shall be endorsed with the date and hour of issuance and shall be filed forthwith in the clerk's office and entered of record. The order shall define the injury and state why it is irreparable. The order shall expire by its terms within such time after entry, not to exceed 14 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record.

[~~(b)~~](3) **Priority of hearing.** If a temporary restraining order is granted, the motion for a preliminary injunction shall be scheduled for hearing at the earliest possible time and takes precedence over all other civil matters except older matters of the same character. When the motion comes on for hearing, the party who obtained the temporary restraining order shall have the burden to show entitlement to a preliminary injunction; if the party does not do so, the court shall dissolve the temporary restraining order.

[~~(b)~~](4) **Dissolution or modification.** On 48 hours' notice to the party who obtained the temporary restraining order without notice, or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification. In that event the court shall proceed to hear and determine the motion as expeditiously as the ends of justice require.

(c) Filing requirements for a temporary restraining order or preliminary injunction of a state law.

(1) **Definition.** As used in this paragraph (c), "state law" means a state statute, a proposed amendment to the Utah Constitution, or any other legislation passed by the Legislature.

(2) **Temporary restraining order for a state law with delayed implementation**.

(A) An applicant must file a motion for a temporary restraining order at least 45 days before a state law takes effect if:

(i) the state law takes effect more than 60 days after the day on which the Legislature adjourns sine die from the general or special session in which the Legislature passed the state law;

(ii) the applicant is challenging the constitutionality of the state law; and

(iii) the applicant seeks to enjoin the execution or enforcement of the state law before the state law becomes effective.

(B) If an applicant fails to bring a motion for a temporary restraining order under paragraph (c)(3)(A) before the 45-day requirement, the applicant may not bring a motion for a temporary restraining order to enjoin the execution or enforcement of the state law until the state law has been in effect for at least 90 days.

(C) This paragraph (c)(2) does not preclude an applicant from bringing a motion for a preliminary injunction to enjoin the execution or enforcement of a state law that takes effect more than 60 days after the day on which the Legislature adjourns sine die from the general or special session in which the Legislature passed the state law.

(3) **Response to motion for temporary restraining order or preliminary injunction.** Notwithstanding the filing deadline for a response to a motion under Rule 7 of the Utah Rules of Civil Procedure, an adverse party must file a response to a motion for a temporary restraining order or preliminary injunction within 28 days after a motion is filed if:

(A) the applicant is challenging the constitutionality of the state law; and

(B) the applicant seeks to enjoin the execution or enforcement of the state law before the state law becomes effective.

[~~(c)~~](d) **Security.**

[~~(c)~~](1) **Requirement.** The court shall condition issuance of the order or injunction on the giving of security by the applicant, in such sum and form as the court deems proper, unless it appears that none of the parties will incur or suffer costs, attorney fees or damage as the result of any wrongful order or injunction, or unless there exists some other substantial reason for dispensing with the requirement of security. No such security shall be required of the United States, the State of Utah, or of an officer, agency, or subdivision of either; nor shall it be required when it is prohibited by law.

[~~(c)~~](2) **Amount not a limitation.** The amount of security shall not establish or limit the amount of costs, including reasonable attorney fees incurred in connection with the restraining order or preliminary injunction, or damages that may be awarded to a party who is found to have been wrongfully restrained or enjoined.

[~~(c)~~](3) **Jurisdiction over surety.** A surety upon a bond or undertaking under this rule submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. The surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court who shall forthwith mail copies to the persons giving the security if their addresses are known.

[~~(d)~~](e) **Form and scope.** Every restraining order and order granting an injunction shall set forth the reasons for its issuance. It shall be specific in terms and shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained. It shall be binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive notice, in person or through counsel, or otherwise, of the order. If a restraining order is granted without notice to the party restrained, it shall state the reasons justifying the court's decision to proceed without notice.

[~~(e)~~](f) **Grounds.** A restraining order or preliminary injunction may issue only upon a showing by the applicant that:

[~~(e)~~](1) there is a substantial likelihood that the applicant will prevail on the merits of the underlying claim:

[~~(e)~~](2) the applicant will suffer irreparable harm unless the order or injunction issues;

[~~(e)~~](3) the threatened injury to the applicant outweighs whatever damage the proposed order or injunction may cause the party restrained or enjoined; and

[~~(e)~~](4) the order or injunction, if issued, would not be adverse to the public interest.

[~~(f)~~](g) **Motion for reconsideration.**

[~~(f)~~](1) A party enjoined or restrained by a restraining order or a preliminary injunction on February 14, 2023, may move the court to reconsider whether the order or injunction should remain in effect if the order or injunction:

(A) is in writing;

(B) is restraining or enjoining the enforcement of a law; and

(C) explicitly states that the court granted the order or injunction on the ground that the case presented serious issues on the merits which should be the subject of further litigation.

[~~(f)~~](2) A motion for reconsideration under this paragraph [~~(f)~~](g) may be filed at any time before the final determination of the case.

[~~(f)~~](3) Upon a motion for reconsideration, the court must determine whether the issuance of the restraining order or preliminary injunction meets the requirements in paragraph [~~(e)~~](f) regardless of the requirements for the issuance of the order or injunction on the day on which the order or injunction was issued.

[~~(f)~~](4) If the court determines that the issuance of the restraining order or preliminary injunction does not meet the requirements of paragraph [~~(e)~~](f), the court must terminate the order or injunction.

[~~(g)~~](h) **Domestic relations cases.** Nothing in this rule shall be construed to limit the equitable powers of the courts in domestic relations cases.

Section 2. Effective date.

As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect upon a two-thirds vote of all members elected to each house.

S. J. R. 10
Passed March 7, 2025

JOINT RESOLUTION AMENDING COURT RULES REGARDING PLEAS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This joint resolution amends court rules of procedure regarding pleas.

Highlighted Provisions:

This resolution:

► amends Utah Rules of Criminal Procedure, Rule 11, to address pleas; and
► makes technical and conforming changes.

Other Special Clauses:

This resolution provides a special effective date.

Utah Rules of Criminal Procedure Affected:

AMENDS:

Rule 11, Utah Rules of Criminal Procedure

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:
As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Rule 11, Utah Rules of Criminal Procedure is amended to read:
Rule 11. Pleas.

(a) **Right to Counsel.** Upon arraignment, except for an infraction, a defendant must be represented by counsel, unless the defendant waives counsel in open court. The defendant must not be required to plead until the defendant has had a reasonable time to confer with counsel.

(b) **Types of pleas.** A defendant may plead not guilty, guilty, no contest, not guilty by reason of insanity, or guilty [~~and mentally ill~~]with a mental condition at the time of the offense. A defendant may plead in the alternative not guilty or not guilty by reason of insanity. If a defendant refuses to plead or if a defendant corporation fails to appear, the court will enter a plea of not guilty.

(c) **No contest plea.** A defendant may plead no contest only with the consent of the court.

(d) **Not guilty plea.** When a defendant enters a plea of not guilty, the case will be set for trial. A defendant unable to make bail must be given a preference for an early trial. In cases other than felonies the court will advise the defendant, or counsel, of the requirements for making a written demand for a jury trial.

(e) **Guilty plea.** The court may refuse to accept a plea of guilty, no contest, or guilty [~~and mentally ill~~]with a mental condition at the time of the offense, and may not accept the plea until the court has found:

[~~(e)~~](1) if the defendant is not represented by counsel, [~~he or she~~]the defendant has knowingly waived the right to counsel and does not desire counsel;

[~~(e)~~](2) the plea is voluntarily made;

[~~(e)~~](3) the defendant knows of the right to the presumption of innocence, the right against compulsory self-incrimination, the right to a speedy public trial before an impartial jury, the right to confront and cross-examine in open court the prosecution witnesses, the right to compel the attendance of defense witnesses, and that by entering the plea, these rights are waived;

[~~(e)~~](4)(A) the defendant understands the nature and elements of the offense to which the plea is entered, that upon trial the prosecution would have the burden of proving each of those elements beyond a reasonable doubt, and that the plea is an admission of all those elements; and

[~~(e)(4)~~](B) there is a factual basis for the plea. A factual basis is sufficient if it establishes that the charged crime was actually committed by the defendant or, if the defendant refuses or is otherwise unable to admit culpability, that the prosecution has sufficient evidence to establish a substantial risk of conviction;

[~~(e)~~](5) the defendant knows the minimum and maximum sentence, and if applicable, the minimum mandatory nature of the minimum sentence, that may be imposed for each offense to which a plea is entered, including the possibility of the imposition of consecutive sentences;

[~~(e)~~](6) if the tendered plea is a result of a prior plea discussion and plea agreement, and if so, what agreement has been reached;

[~~(e)~~](7) the defendant has been advised of the time limits for filing any motion to withdraw the plea; and

[~~(e)~~](8) the defendant has been advised that the right of appeal is limited.

These findings may be based on questioning of the defendant on the record or, if used, a written statement reciting these factors after the court has established that the defendant has read, understood, and acknowledged the contents of the statement. If the defendant cannot understand the English language, it will be sufficient that the statement has been read or translated to the defendant.

Unless specifically required by statute or rule, a court is not required to inquire into or advise concerning any collateral consequences of a plea.

(f) **Motion to withdraw plea.**

(1) A defendant may withdraw a plea of not guilty at any time before conviction.

(2) A defendant must make a motion to withdraw a plea of guilty, no contest, or guilty with a mental condition at the time of the offense before the sentence is announced. The court may not announce the defendant's sentence unless the motion to withdraw the plea is denied.

(3) A defendant must make a motion to withdraw a plea in abeyance within 30 days after the day on which the court accepts the defendant's plea of guilty or no contest.

(4) If a motion to withdraw a plea is not made within the time period described in this paragraph (f), the defendant may challenge the plea in accordance with the preservation rule, or an established exception to the preservation rule, in a direct appeal.

(5)Failure to advise the defendant of the time limits for filing any motion to withdraw a plea[~~ of guilty, no contest or guilty and mentally ill~~] is not a ground for setting the plea aside, but may be the ground for extending the time to make a motion under [~~Utah Code § 77-13-6~~]this paragraph (f).

(g) **Plea in domestic violence offense.** If the defendant pleads guilty, no contest, or guilty [~~and mentally ill~~]with a mental condition at the time of the offense to a misdemeanor crime of domestic violence, as defined in Utah Code [~~§~~]section 77-36-1, the court will advise the defendant orally or in writing that, if the case meets the criteria of 18 U.S.C. [~~§~~]Sec. 921(a)(33) or Utah Code [~~§~~]section 76-10-503 then pursuant to federal law or state law, it is unlawful for the defendant to possess, receive or transport any firearm or ammunition. The failure to advise does not render the plea invalid or form the basis for withdrawal of the plea.

(h) **Plea recommendations.**

[~~(h)~~](1) If it appears that the prosecuting attorney or any other party has agreed to request or recommend the acceptance of a plea to a lesser included offense, or the dismissal of other charges, the agreement must be approved or rejected by the court.

[~~(h)~~](2) If sentencing recommendations are allowed by the court, the court will advise the defendant personally that any recommendation as to sentence is not binding on the court.

(i) **Plea agreements.**

[~~(i)~~](1) The judge will not participate in plea discussions prior to any plea agreement being made by the prosecuting attorney.

[~~(i)~~](2) When a tentative plea agreement has been reached, the judge, upon request of the parties, may permit the disclosure of the tentative agreement and the reasons for it, in advance of the time for tender of the plea. The judge may then indicate to the prosecuting attorney and defense counsel whether the proposed disposition will be approved.

[~~(i)~~](3) If the judge then decides that final disposition should not be in conformity with the plea agreement, the judge must advise the parties as to the nature of the divergence from the plea agreement and then call upon the parties to either affirm or withdraw from the plea agreement.

(j) **Conditional plea.** With approval of the court and the consent of the prosecution, a defendant may enter a conditional plea of guilty, guilty [~~and mentally ill~~]with a mental condition at the time of the offense, or no contest, reserving in the record the right, on appeal from the judgment, to a review of the adverse determination of any specified pre-trial motion. A defendant who prevails on appeal will be allowed to withdraw the plea.

(k) **Guilty [**~~and mentally ill~~**]**with a mental condition at the time of the offense**.** When a defendant tenders a plea of guilty [~~and mentally ill~~]with a mental condition at the time of the offense, in addition to the other requirements of this rule, the court will hold a hearing within a reasonable time to determine if the defendant [~~is mentally ill~~]had a mental condition in accordance with Utah Code [§]section 77-16a-103.

(l) **Strict compliance not necessary.** Compliance with this rule will be determined by examining the record as a whole. Any variance from procedures required by this rule which does not affect substantial rights will be disregarded. Failure to comply with this rule is not, by itself, sufficient grounds for a collateral attack on a guilty plea.

Section 2. Effective Date.

As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect upon a two-thirds vote of all members elected to each house.

S. J. R. 11
Passed March 7, 2025

JOINT RESOLUTION REGARDING CRITICAL MINERALS

Chief Sponsor: Ann Millner
House Sponsor: Logan J. Monson

LONG TITLE

General Description:

This resolution addresses Utah's critical minerals mining industry.

Highlighted Provisions:

This resolution:

- ► highlights Utah's history and position as a top mining jurisdiction;
- ► outlines Utah's potential to support national supply chain resilience for critical minerals;
- ► calls on private industry to form a working group to create a strategy to position Utah as a national leader for critical minerals; and
- ► requests the working group make specific recommendations for legislative support of the working group's strategy.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah's regulatory environment ranks the state at the top of the nation for business, entrepreneurship, economic health, and economic outlook;

WHEREAS, Utah has a history as a top-producing mining jurisdiction stretching back all the way to its territorial years;

WHEREAS, Utah's modern mining industry continues the proud tradition of responsibly developing Utah's mineral estate;

WHEREAS, Utah was recently named the number one global mining jurisdiction in a survey of mining executives conducted by the Fraser Institute, a prestigious Canadian policy institute;

WHEREAS, Utah hosts 40 of the 50 critical minerals on the United States Department of the Interior's current critical minerals list, giving Utah unique opportunities to produce and process critical minerals;

WHEREAS, Utah is geographically positioned to serve as a local and global hub for mining exploration and development companies, mining services companies, and logistics operations and infrastructure for the mining industry;

WHEREAS, Utah is a national research and education leader in mining and mineral processing through its institutions of higher education, including the University of Utah, which is one of only 14 accredited mining schools in the United States; and

WHEREAS, the Legislature has made substantial and increasing investments in recent years to expand and attract investment in the state's mining industry, including the creation of the Mineral Exploration Tax Credit, the expansion of the High Cost Infrastructure Tax Credit to include more mining and mineral processing applications, the addition of mining to the Economic Development Tax Increment Financing program, and the creation of other economic development tools useful for mining, mineral processing, and logistics through the Utah Inland Port Authority project areas:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah supports the creation of a national strategy to advance supply chain resilience for critical minerals.

BE IT FURTHER RESOLVED that the Legislature supports efforts to position Utah as a national hub for producing and processing critical minerals by utilizing the state's existing permitted mining operations and processing facilities, by accelerating exploration and development activities to reopen historical mines and build new mines and processing facilities, and by advancing research and commercialization activities to develop new technologies to expand mineral production through new exploration and extraction techniques and new primary and secondary processing methodologies.

BE IT FURTHER RESOLVED that the Legislature calls on private industry to form a technical working group to create an executable strategy to position Utah as the national leader for critical minerals.

BE IT FURTHER RESOLVED that the Legislature requests that the working group be led by a relevant mining industry association, such as the Utah Mining Association, and include defense industry associations, such as 47G, international trade and investment organizations, such as the World Trade Center Utah, and experts in the creation of national research centers, such as AUI.

BE IT FURTHER RESOLVED that the Legislature requests that the working group identify and convene relevant state agencies and institutions of higher education to assist in the creation of a strategy for Utah leadership on critical minerals.

BE IT FURTHER RESOLVED that the Legislature requests that the working group develop and publish a strategy to position Utah as the national leader in critical minerals in an expeditious manner and make recommendations to the Legislature on specific actions to take to support the strategy both within the state and through advocacy for the allocation of federal resources.

S. R. 1
Passed January 22, 2025

SENATE RULES RESOLUTION - AMENDMENTS TO SENATE RULES

Chief Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This resolution modifies Senate rules.

Highlighted Provisions:

This resolution:

► requires certain changes to legislation to be made by a motion to substitute the legislation rather than a motion to amend the legislation;
► corrects a numbering error; and
► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Legislative Rules Affected:

AMENDS:

SR3-2-406
SR4-3-301
SR4-4-201
SR5-2-101

Be it resolved by the Senate of the state of Utah:

Section 1. SR3-2-406 is amended to read:

SR3-2-406. Amending legislation -- Amendments must be germane.

(1) [~~(a) Except as provided in Subsection (2),~~]

(a) Subject to the provisions of this rule, and if recognized by the chair during the presentation phase or the committee action phase, a committee member may make a motion to amend the legislation that is under consideration.

(b) (i) A committee member may propose a verbal amendment to the legislation under consideration if the amendment contains 25 or fewer words.

(ii) Unless an amendment contains 25 or fewer words, before proposing a motion to amend, a committee member shall ensure that a copy of the proposed amendment is available online.

(2) (a) A committee member may only make a motion to amend that is germane to the subject of the legislation under consideration.

(b) A committee member who believes that an amendment is not germane to the subject of the legislation may make a point of order or appeal as described in SR3-2-506.

(3) (a) A committee member may not propose an amendment to legislation that:

(i) adds or removes an entire section from the legislation; or

(ii) modifies the legislation's effective date.

(b) To change legislation as described in Subsection (3)(a), a committee member may, subject to SR3-2-407, make a motion to substitute the legislation.

Section 2. SR4-3-301 is amended to read:

SR4-3-301. Amendments in order on second or third reading -- 10 word rule -- Passage of amendments by a majority vote.

(1) [~~A~~]Subject to Subsections (2) through (4), a motion to amend a piece of legislation is in order on second or third reading.

(2) (a) [~~Except as provided in Subsection (3) or (4), a~~]A senator may, if recognized by the presiding officer while the Senate is debating a piece of legislation, make a motion to amend the legislation.

(b) (i) A senator may verbally propose an amendment to a piece of legislation if the amendment contains 10 [-]or fewer words.

(ii) Unless the amendment contains 10 or fewer words, before a senator makes a motion to amend, the senator shall ensure that a copy of the proposed amendment is available online.

(3) (a) The senator making the motion to amend shall ensure that the amendment is germane to the subject of the original legislation under consideration.

(b) If a senator believes that an amendment is not germane to the subject of the original legislation, the senator may raise a point of order alleging that the amendment is not germane.

(c) The presiding officer shall rule on the point of order by determining whether or not the amendment is germane to the subject of the original legislation.

(4) (a) A senator may not propose an amendment to legislation that:

(i) adds or removes an entire section from the legislation; or

(ii) modifies the legislation's effective date.

(b) To change legislation as described in Subsection (4)(a), a senator may, subject to Part 2, Substitute Legislation, make a motion to substitute the legislation.

[~~(4)~~](5) A constitutional amendment, resolution, or bill requiring a constitutional two-thirds vote for final passage may be amended by a majority vote.

[~~(5)~~](6) When legislation is amended by the Senate, the secretary of the Senate shall:

(a) for each page of the legislation modified by a Senate amendment, cause a new page to be printed that clearly identifies each Senate amendment to that page; and

(b) print that new page on tan paper on the second reading and on goldenrod-colored paper on the third reading.

Section 3. SR4-4-201 is amended to read:

SR4-4-201. Third reading calendar -- Procedures.

(1) [~~(a)~~] For the third reading on a piece of legislation, the secretary of the Senate or the secretary's designee shall read the legislation by title, unless the Senate suspends this requirement by a two-thirds vote.

(2) When the secretary of the Senate or the secretary's designee has completed the third reading of the legislation, the legislation is before the Senate for debate.

(3) When debate on the legislation is complete, the presiding officer shall:

(a) pose the final question: "This bill (resolution) has been read three times. The question is: Shall the bill (resolution) pass?"; and

(b) place the question as a roll call vote.

Section 4. SR5-2-101 is amended to read:

SR5-2-101. Lobbyist code of ethics.

A lobbyist, volunteer lobbyist, or government official may not:

(1) attempt to influence any legislator or legislative employee by means of deceit or by threat of violence or economic or political reprisal against any person or property, with intent by doing so to alter or affect the legislator's or legislative employee's decision, vote, opinion, or action concerning any matter that is to be considered or performed by the legislator, the legislative employee, or the agency or body of which the legislator or employee is a member;

(2) knowingly provide false information to any legislator or legislative employee as to any material fact pertaining to any legislation;

(3) knowingly omit, conceal, or falsify in any manner information required by the lobbyist registration and lobbyist disclosure reports;

(4) participate in leadership races of the Senate;

(5) cause or influence the introduction of any bill or amendment for the purpose of afterwards becoming employed to secure its passage or defeat;

(6) [~~engage in workplace discrimination or harassment, or in behavior that violates the Legislature's workplace harassment policy~~]engage in discriminatory conduct, as defined in Legislative Management Committee Policy E -- Legislative Workplace Discrimination Prevention, toward a senator or legislative employee;

(7) offer employment that would require or induce a legislator or legislative employee to disclose records classified as private, protected, or controlled;

(8) use or disclose for any purpose any records classified as private, protected, or controlled that were obtained from a legislator or legislative employee or conspire with any person for that purpose; or

(9) induce or seek to induce any legislator or legislative employee into committing a violation of any provision of this Senate Rule.

Section 5. Effective Date.

This resolution takes effect upon a successful vote for final passage.

S. R. 2
Passed February 24, 2025

SENATE RULES RESOLUTION - LEGISLATIVE PROCESS AMENDMENTS

Chief Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This rules resolution modifies Senate processes and procedures.

Highlighted Provisions:

This resolution:

- ► defines terms;
- ► clarifies the duties of the secretary of the Senate related to technical corrections to legislation;
- ► repeals outdated language related to the daily order of business;
- ► modifies procedures for obtaining a citation;
- ► clarifies that a senator may not impugn the motives of another senator or a senator's guest;
- ► prohibits certain items and activities in the Senate gallery;
- ► requires that a senator obtain permission to cosponsor Senate legislation;
- ► clarifies that the Senate Rules Committee, after sifting, makes recommendations about which legislation should be assigned to the second reading calendar;
- ► clarifies which legislation the Senate may pass without receiving a favorable recommendation from a Senate standing committee;
- ► modifies the circumstances under which a standing committee may recommend legislation for the consent calendar;
- ► provides legislators the right to attend Senate committee meetings, subject to certain restrictions;
- ► provides an exception during a special session to the prohibition on legislation being read a third time until at least the day after it is placed on the third reading calendar;
- ► addresses procedures related to committee reports and Senate calendars;
- ► clarifies procedures for the disposition of legislation voted on third reading;
- ► clarifies procedures related to the consent calendar;
- ► requires legislation to remain on the concurrence calendar at least overnight for the first 42 days of an annual general session;
- ► clarifies the prohibition on senators speaking more than twice on the same legislation;
- ► allows senators participating by electronic means to be considered present for the purpose of voting;
- ► removes obsolete language; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Legislative Rules Affected:

AMENDS:

SR1-4-302
SR1-5-103
SR1-7-101
SR1-7-102
SR1-7-103
SR1-7-104
SR2-2-204
SR2-4-101
SR2-5-101
SR3-1-101
SR3-2-401
SR3-2-405
SR4-3-102
SR4-6-105
SR4-6-109
SR4-7-101
SR4-7-103

ENACTS:

SR2-4-107
SR3-4-103
SR4-4-101

RENUMBERS AND AMENDS:

SR4-4-201
SR4-4-301
SR4-4-302
SR4-4-401
SR4-4-501
SR4-4-601

Be it resolved by the Senate of the state of Utah:

Section 1. SR1-4-302 is amended to read:
SR1-4-302. Duties of the secretary of the Senate.

Subject to the chief of staff's direction, the secretary of the Senate shall perform the following duties:

(1) certify and transmit legislation to the House and inform the House of all Senate action;

(2) assist in the preparation of the Senate journal and certify it as an accurate reflection of Senate action;

(3) [~~make the following~~]notify the Office of Legislative Research and General Counsel of any necessary technical corrections to legislation either before or following final passage, including:

(a) [~~correct~~]correcting the spelling of words;

(b) [~~correct~~]correcting the erroneous division and hyphenation of words;

(c) [~~correct~~]correcting mistakes in numbering sections and their references;

(d) [~~capitalize~~]capitalizing words or [~~change~~]changing capitalized words to lower case;

(e) [~~change~~]changing numbers from words to figures or from figures to words;

(f) [~~underscore~~]underscoring or [~~remove~~]removing underscoring in legislation without a motion to amend;[~~ or~~]

(g) modifying the long title of legislation to ensure that the long title accurately reflects any changes to the legislation made by amendment or substitute; or

(h) any combination of Subsections (3)(a) through [~~(f)~~](g);

[~~(4) modify the long title of a piece of legislation to ensure that the long title accurately reflects any changes to the legislation made by amendment or substitute~~];

[~~(5)~~](4) act as custodian of all official documents related to legislation;

[~~(6)~~](5) receive all numbered legislation from the Office of Legislative Research and General Counsel;

[~~(7)~~](6) record the number, title, sponsor, each action, and final disposition of each [~~piece of~~]legislation on the back of the legislation;

[~~(8)~~](7) prepare and distribute the daily order of business each day;

[~~(9)~~](8) advise the president on parliamentary procedure, Joint Rules, and Senate Rules;

[~~(10)~~](9) read, or cause to be read, the title of all bills and other materials as requested by the president;

[~~(11)~~](10) receive committee reports and present them to the Senate;

[~~(12)~~](11) assist with verbal amendments to legislation;

[~~(13)~~](12) record votes and present the results to the president;

[~~(14)~~](13) transmit all enrolled Senate bills and Senate concurrent resolutions to the governor;

[~~(15)~~](14) maintain all calendars for the Senate floor; and

[~~(16)~~](15) other duties as assigned by the chief of staff.

Section 2. SR1-5-103 is amended to read:
SR1-5-103. Daily order of business.

(1) The daily order of business is:

(a) call to order by the president or the president's designee;

(b) prayer and pledge of allegiance;

(c) roll call;

(d) announcement of excused absences and whether or not a quorum is present;

(e) communications from the governor;

(f) communications from the House:

(i) bills for signature of the president;

(ii) bills for consideration; and

(iii) bills for reconsideration of House amendments;

[~~(g) reference of bills from the president:~~]

[~~(i) bills assigned to standing committees; and~~]

[~~(ii) bills placed on second reading calendar;~~]

[~~(h)~~](g) reports from standing committees:

(i) bills placed on the second reading calendar;

(ii) bills placed on the consent calendar; and

(iii) bills sent back to the secretary of the Senate;

[~~(i)~~](h) reports of special committees, including conference committees;

[~~(j)~~](i) introduction of legislation given to the secretary of the Senate:

(i) bills referred by the Senate Rules Committee for assignment by the president; and

(ii) bills placed on second reading calendar;

[~~(k)~~](j) unfinished business;

[~~(l)~~](k) consideration of legislation on consent calendar;

[~~(m)~~](l) special orders of business;

[~~(n)~~](m) consideration of legislation on the third reading calendar;

[~~(o)~~](n) consideration of bills on second reading calendar; and

[~~(p)~~](o) miscellaneous business.

(2) With the approval of a constitutional majority of senators, the Senate may, at any time, proceed out of order to any business.

(3) The presiding officer shall decide all questions of priority of Senate business without debate.

Section 3. SR1-7-101 is amended to read:

CHAPTER 7. CITATIONS

SR1-7-101. Commendation or condolence citations -- Types of citations -- Use of citations.

(1) As used in this chapter:

(a) (i) "Citation" means a certificate issued to honor or commend an individual or group, or to express condolences to the family of a deceased individual.

(ii) "Citation" includes a legislator citation, a Senate citation, and a Utah Legislature citation.

(b) "Legislator citation" means a citation issued on behalf of an individual senator.

(c) "Senate citation" means a citation issued on behalf of the Senate.

(d) "Utah Legislature citation" means a citation issued on behalf of both chambers of the Legislature.

(2) [~~Senators shall use a citation~~]A senator wishing to express the commendation or condolence of a senator, the Senate, or the Legislature shall use a citation to make that expression.

Section 4. SR1-7-102 is amended to read:

SR1-7-102. Obtaining a legislator citation.

[~~(1) With the approval of the presiding officer, a senator may request that the secretary of the Senate prepare a citation for the senator's own signature.~~]

[~~(2)~~](1) A legislator citation does not require any floor action by the Senate.

(2) (a) During any legislative session and with the approval of the presiding officer, a senator may request that the secretary of the Senate prepare a citation for the senator's own signature.

(b) When the Legislature is not in session, a senator may request that the secretary of the Senate prepare a citation for the senator's own signature and, at the president's discretion, the president's signature.

Section 5. SR1-7-103 is amended to read:

SR1-7-103. Obtaining a Senate citation.

(1) During any legislative session, a senator may:

(a) request that the secretary of the Senate prepare a citation for the senator's signature; and

(b) [~~after making and receiving permission for~~]request a personal privilege[~~, make a motion~~] on the floor of the Senate to:

(i) [~~approve~~]present the citation; and

(ii) [~~authorize~~]request that the president [~~to sign~~]signs the citation on behalf of the Senate.

(2) [~~When the Legislature is not in session, a senator may request a citation for the sponsor's and the president's signature~~]When the Legislature is not in session, a senator may request that the secretary of the Senate prepare a citation for the senator's own signature and, at the president's discretion, the president's signature.

Section 6. SR1-7-104 is amended to read:

SR1-7-104. Obtaining a Utah Legislature citation.

(1) During any legislative session, a senator may:

(a) request that the secretary of the Senate prepare a citation for the senator's signature; and

(b) [~~after making and receiving permission for~~]request a personal privilege[~~, make a motion of~~] on the floor of the Senate to:

(i) [~~approve~~]present the citation;

(ii) [~~authorize~~]request that the president [~~to sign~~]signs the citation on behalf of the Senate; and

(iii) present the proposed citation to the House for [~~its~~][~~approval~~]the House's consideration.

(2) When the Legislature is not in session, a senator may request that the secretary of the Senate prepare a citation for the [~~sponsor's~~]senator's own signature and, at the president's and speaker's discretion, the president's[;] and the speaker's [~~signature~~]signatures.

Section 7. SR2-2-204 is amended to read:

SR2-2-204. Impugning motives of a senator or a senator's guest.

(1) A senator may not impugn the motives of any other senator [~~either~~]or a senator's guest on the floor of the Senate or in committee.

(2) A senator who believes that the motives of any senator or a senator's guest has been impugned by another senator may raise a point of order.

Section 8. SR2-4-101 is amended to read:

SR2-4-101. Admittance to the Senate chamber.

(1) (a) While the Senate is convened in annual general session or special session and except as specifically provided elsewhere in this

rule, only legislators, legislative officers and employees, professional staff, former legislators who are not registered as lobbyists, legal spouses of legislators, legislative interns, and [~~persons~~]individuals invited by senators are allowed in the Senate chamber, halls, and lounge.

(b) The president of the Senate may deny access to the Senate chamber, halls, and lounge to any [~~person~~]individual, other than a legislator, if the [~~person~~]individual uses that access to influence legislative decisions.

(2) (a) A senator or the senator's legislative intern shall accompany each visitor in the chamber, lounge, or hallways and is responsible for that visitor.

(b) After the visit, the senator or the senator's legislative intern shall ensure that the visitor leaves the chamber, lounge, or hallway.

(3) (a) A senator may invite a guest to accompany the senator on the Senate floor, provided that:

(i) the senator ensures that the guest does not encroach on a neighboring senator's desk space, impede staff work, or distract from the work of the Senate, and no neighboring senator makes such an objection; and

(ii) the guest complies with the requirements of SR2-4-102[~~;~~] and SR2-4-103[~~, and Senate Handbook policies on decorum and access; and~~]

[~~(iii) if the guest is an adult, the guest complies with rules and Senate Handbook policies that relate to dress requirements.~~]

(b) A senator who believes that a guest is intruding on desk space, is impeding staff work, or is distracting from the work of the Senate may communicate the senator's objection to the senator who has invited the guest, or through the majority leader, the minority leader, or the president of the Senate.

Section 9. SR2-4-107 is enacted to read:

SR2-4-107. Prohibited items and activity in Senate gallery.

A member of the public attending Senate floor time may not:

(1) bring into the gallery or possess while in the gallery, any of the following:

(a) a sign, poster, banner, or placard;

(b) glitter or confetti;

(c) a laser pointer;

(d) paint;

(e) an open flame;

(f) an incendiary device;

(g) a noise maker;

(h) flammable liquid; or

(i) any harmful or hazardous substance; or

(2) engage in any of the following while in the Senate gallery:

(a) commercial solicitation;

(b) leafleting;

(c) throwing an item; or

(d) adhering any item to a furnishing, a wall, or other state property.

Section 10. SR2-5-101 is amended to read:

SR2-5-101. Senators may request and sponsor legislation -- Substituting a sponsor -- Withdrawing as a cosponsor.

(1) A senator may request and sponsor legislation as provided in Joint Rules Title 4, Bills and Resolutions.

(2) (a) After [~~a piece of~~]legislation has been introduced, the chief Senate sponsor of the legislation may withdraw from sponsoring the legislation by:

(i) finding another senator to act as chief sponsor of the legislation; and

(ii) filing a substitution of sponsorship form with the secretary of the Senate before final passage of the legislation in the Senate.

(b) A senator seeking to withdraw as the chief sponsor need not obtain permission from the Senate to withdraw.

(3) (a) A senator seeking to cosponsor Senate legislation shall obtain permission from the legislation's chief sponsor.

(b) During a general session, before final passage of [~~a piece of~~]legislation in the Senate, a senator cosponsor of the legislation may withdraw as a cosponsor[~~-~~].

[~~(b)~~](c) A senator seeking to withdraw as a cosponsor need not:

(i) obtain permission from the Senate to withdraw; or

(ii) provide a substitute cosponsor for the legislation.

Section 11. SR3-1-101 is amended to read:

SR3-1-101. Senate Rules Committee -- Appointment -- General responsibilities.

(1) As used in this rule, "sift" means to remove legislation from the second and third reading calendars and assign the legislation to the Senate Rules Committee.

(2) The president shall appoint members of the Senate to serve on the Senate Rules Committee.

[~~(2)~~](3) The Senate Rules Committee shall perform the following functions as [~~further elaborated~~]provided in this part:

(a) when assigned by the president, receive introduced legislation from the Senate and recommend that [~~they~~]the legislation be assigned to a Senate standing committee or to the Senate second or third reading calendar;

(b) after the Senate [~~has sifted -- sent legislation on the second and third reading calendars back to the Senate Rules Committee --~~]sifts legislation, make recommendations to the Senate about which legislation should be assigned to the [~~third~~]second reading calendar and the order in which it should be heard; and

(c) function as a standing committee or interim committee when reviewing Joint Rules or Senate Rules.

Section 12. SR3-2-401 is amended to read:

SR3-2-401. Standing committee review required -- Exceptions.

(1) Except as provided in Subsection (2), the Senate may not pass a bill, joint resolution, or concurrent resolution during the annual general session unless a Senate standing committee has given a favorable recommendation to the legislation.

(2) Subsection (1) does not apply to:

(a) a resolution regarding legislative rules or legislative personnel;

(b) Senate legislation that is a committee bill as defined in JR7-1-101 that:

(i) received its favorable recommendation by a unanimous vote of the members present at the authorized legislative committee meeting; and

(ii) satisfied the posting requirements described in JR7-1-602.5;

(c) legislation placed on a reading calendar in accordance with SR3-1-102(1)(b);

(d) the revisor's statute; or

(e) if the legislation was reviewed and approved by the Executive Appropriations Committee, legislation that:

(i) exclusively appropriates money;

(ii) amends Utah Code Title 53F, Chapter 2, State Funding -- Minimum School Program;

(iii) amends Utah Code Title 67, Chapter 22, State Officer Compensation; or

(iv) authorizes the issuance of general obligation or revenue bonds.

Section 13. SR3-2-405 is amended to read:

SR3-2-405. Consent calendar.

[~~A~~]On or before the 41st day of an annual general session, a standing committee may recommend that legislation in the standing committee's possession be placed on the consent calendar if:

(1) the committee approves a motion, by a unanimous vote, to send the legislation to the second reading calendar;

(2) immediately subsequent to that action, the chief sponsor or the chief sponsor's designee under SR3-2-306(3) requests that the legislation be placed on the consent calendar;[~~ and~~]

(3) in a separate motion and vote, the committee unanimously approves the sponsor's request to place the legislation on the consent calendar instead of the second reading calendar[~~.~~]; and

(4) for House legislation, the House legislation is not a fiscal note bill, as that term is defined in JR4-4-101.

Section 14. SR3-4-103 is enacted to read:

SR3-4-103. Right of legislators to attend Senate committee meetings.

(1) Any member of the Legislature may:

(a) attend any meeting of a Senate committee or subcommittee, unless the meeting is closed in accordance with Utah Code Title 52, Chapter 4, Open and Public Meetings Act; and

(b) if recognized by the chair during the public comment phase, present the legislator's views on the subject under consideration.

(2) A legislator who attends a meeting of a Senate committee or subcommittee of which the legislator is not a member may not:

(a) make a motion; or

(b) vote.

Section 15. SR4-3-102 is amended to read:

SR4-3-102. Consideration of bills.

(1) Except for the 1st, 43rd, 44th, and 45th day of the annual general session, or any day during a special session, legislation may not be read for the third time until at least the day after it is placed on the third reading calendar.

(2) Legislation on the third reading calendar shall be considered in the order that it appears on the calendar unless a constitutional majority vote of the members of the Senate directs other action.

Section 16. SR4-4-101 is enacted to read:

PART 1. Standing Committee Reports

SR4-4-101. Standing committee reports.

(1) As used in this rule, "favorable committee report" means a report produced by a Senate standing committee for legislation that the committee voted to favorably recommend.

(2) The secretary of the Senate shall read each standing committee report.

(3) If the Senate adopts a favorable committee report, the secretary of the Senate or the secretary's designee shall:

(a) place the legislation, including any substitute or amendment recommended by the standing committee, on the second reading calendar; or

(b) if the favorable committee report recommends that the legislation be placed on the consent calendar:

(i) read the legislation for the second time; and

(ii) place the legislation on the consent calendar.

(4) If the Senate adopts a standing committee report that is not a favorable committee report, the legislation is placed in accordance with the standing committee report's recommendation.

(5) If the Senate fails to adopt a standing committee report, the legislation is returned to the Senate Rules Committee.

Section 17. SR4-4-201, which is renumbered from Section SR4-4-101 is renumbered and amended to read:

PART 2. Second Reading Calendar

[~~SR4-4-101~~]SR4-4-201. Second reading calendar.

(1) [~~(a)~~] After the Senate considers all legislation on the third reading calendar that is not circled or tabled, the [~~Senate shall consider~~

~~legislation on the second reading calendar as follows:~~]

[~~(i) the presiding officer shall cause each piece of legislation on the second reading calendar to be read by title before debate begins, unless the Senate suspends this requirement by a two-thirds vote;~~]

[~~(ii) the secretary of the Senate or the secretary's designee shall read the committee report, noting for the Senate those instances when the legislation did not receive a Senate standing committee review or an interim committee review;~~]

[~~(iii) if the Senate passes a motion to adopt a "favorable" committee report, the legislation, including any substitute or amendment adopted by the standing committee that is identified in the committee report, is before the Senate; and~~]

[~~(iv) the presiding officer shall allow debate on the legislation.~~]

[~~(b) If the Senate fails to pass a motion to adopt a "favorable" committee report, the legislation will be returned to the Senate Rules Committee.~~]presiding officer shall:

(a) cause each legislation on the second reading calendar to be read by title before debate begins, unless the Senate suspends this requirement by a two-thirds vote; and

(b) allow debate on the legislation.

(2) (a) The final question on second reading is: "Shall the bill (resolution) be read a third time?"

(b) The presiding officer shall place the question as a roll call vote.

(c) If a constitutional majority of the Senate votes in favor of the motion, the legislation is [~~passed to~~]placed on the third reading calendar.

Section 18. SR4-4-301, which is renumbered from Section SR4-4-201 is renumbered and amended to read:

PART 3. Third Reading Calendar

[~~SR4-4-201~~**]SR4-4-301. Third reading calendar -- Procedures.**

(1) [~~(a)~~] For the third reading on [~~a piece of~~] legislation, the secretary of the Senate or the secretary's designee shall read the legislation by title, unless the Senate suspends this requirement by a two-thirds vote.

(2) When the secretary of the Senate or the secretary's designee has completed the third reading of the legislation, the legislation is before the Senate for debate.

(3) When debate on the legislation is complete, the presiding officer shall:

(a) pose the final question: "This bill (resolution) has been read three times. The question is: Shall the bill (resolution) pass?"; and

(b) place the question as a roll call vote.

Section 19. SR4-4-302, which is renumbered from Section SR4-4-202 is renumbered and amended to read:

[~~SR4-4-202~~**]SR4-4-302. Disposition of legislation voted on third reading.**

The secretary of the Senate or the secretary's designee shall:

(1) for Senate legislation passed by the Senate on third reading but not yet acted upon by the House, transmit the Senate legislation to the House for its further action;

(2) for Senate legislation that fails to pass the Senate on third reading, file the legislation;

(3) for Senate legislation that has passed both chambers in the same form, follow the procedures and requirements of JR4-5-101;

(4) for House legislation passed by the Senate on third reading and not amended or substituted in the Senate, after the presiding officer of the Senate signs the House legislation, transmit the House legislation to the presiding officer of the House for the presiding officer's signature;

(5) for House legislation passed by the Senate on third reading that was amended or substituted in the Senate, transmit the legislation to the House with the amendment or substitute for further action by the House; and

(6) for House legislation that fails to pass the Senate on third reading, transmit the legislation to the House with notice of the Senate's action.

Section 20. SR4-4-401, which is renumbered from Section SR4-4-301 is renumbered and amended to read:

PART 4. Consent Calendar

[~~SR4-4-301~~**]SR4-4-401. Consent calendar.**

[~~(1) If a standing committee report recommends that legislation be placed on the consent calendar and the standing committee report is adopted by the Senate, the secretary of the Senate or the secretary's designee shall:~~]

[~~(a) read the legislation for the second time; and~~]

[~~(b) place the legislation on the consent calendar.~~]

(1) As used in this rule, "legislative day" means the same as that term is defined in SR4-9-101.

(2) Subject to Subsection (3)(b), legislation shall remain on the consent calendar for two legislative days after the day on which the legislation is placed on the consent calendar under SR4-4-201.

(3) (a) Whenever the consent calendar contains legislation, the presiding officer shall inform the Senate each day that:

(i) there are items on the consent calendar; and

(ii) if any senator objects to any legislation on the consent calendar, three or more senators may move the legislation to the second reading calendar by notifying the presiding officer verbally or in writing.

(b) If the presiding officer receives requests to move legislation from the consent calendar to the second reading calendar from three or more senators, the secretary shall:

(i) remove the legislation from the consent calendar; and

(ii) place the legislation at the bottom of the second reading calendar.

[~~(3)~~](4) If[~~, after three days during which the Senate has floor time,~~] no more than two members have registered objections to the legislation during the time period described in Subsection (2), the legislation shall be:

(a) read the third time;

(b) placed before the Senate; and

(c) considered for final passage.

[~~(4)~~](5) (a) The presiding officer shall pose the question on each consent calendar bill in the following form:

"The presiding officer has determined that a quorum is present.

Those who favor the question say, 'aye.'

Does the chair hear a single dissenting nay to the question?"

(b) If the presiding officer hears no nays to the question[~~, a unanimous vote of the senators present shall be recorded in favor of the legislation.~~]

[~~(c) If the presiding officer hears any nays to the question,~~] a roll call vote shall be taken immediately.

[~~(5)~~](6) Notwithstanding the requirements of Subsection [~~(4)~~](5), any senator may, before the roll call vote is taken, make a motion to remove the bill from the consent calendar and place it on the bottom of the third reading calendar.

[~~(6)~~](7) Nothing in this rule prevents a senator from challenging the ruling of the chair or asking for a vote on any question.

Section 21. SR4-4-501, which is renumbered from Section SR4-4-401 is renumbered and amended to read:

PART 5. Concurrence Calendar

[~~SR4-4-401~~]SR4-4-501. Concurrence calendar.

(1) After the secretary of the Senate or the secretary's designee reads the transmittal letter from the House informing the Senate that the House has amended or substituted [~~a piece of~~]Senate legislation, the presiding officer shall place the legislation on the concurrence calendar.

(2) (a) During the first [~~43~~]42 days of the annual general session, the legislation shall remain on the concurrence calendar over at least one night before the Senate may consider the question of concurrence.

(b) During the last [~~two~~]three days of the annual general session and during any special session, the Senate may consider legislation for concurrence after the Senate has been given a reasonable time to review the House changes.

(3) (a) When presenting legislation to the Senate for concurrence, the presiding officer shall ask the sponsor of the legislation for a motion.

(b) The sponsor of the legislation may move to either:

(i) concur with the House amendments; or

(ii) refuse to concur with the House amendments and ask the House to recede from their amendments.

(c) If a motion to concur with the House amendments passes by majority vote, the presiding officer shall:

(i) pose the question: "This bill (resolution) has been read three times. The question is: Shall this bill (resolution) pass?"; and

(ii) take the final roll call vote on the legislation.

(d) If a motion to refuse to concur with the House amendments and ask the House to recede from their amendments passes by a majority vote, the secretary of the Senate shall return the legislation to the House for its further action.

(e) If the House refuses to recede, the Senate and House shall follow the procedures and requirements of [~~JR3-2-601~~]JR3-2-901 relating to the appointment of a conference committee.

Section 22. SR4-4-601, which is renumbered from Section SR4-4-501 is renumbered and amended to read:

PART 6. Time Certain Calendar

[~~SR4-4-501~~]SR4-4-601. Time certain calendar.

The secretary of the Senate or the secretary's designee shall place on the time certain calendar legislation or other matters approved by the Senate for a time certain under:

(1) SR1-5-201; or

(2) other rules allowing matters to be set for a time certain.

Section 23. SR4-6-105 is amended to read:

SR4-6-105. Senators not to speak more than twice.

(1) Without permission from the Senate, a senator may not speak more than twice, including the senator explaining the senator's vote, on the same[~~, piece of~~] legislation, substitute legislation, or amendment in any one debate on the same day and on the same reading of the legislation.

(2) (a) Except as provided in Subsection (2)(b), the presiding officer may not grant a senator who has spoken once permission to speak again on the same [~~piece of~~]legislation if any senator who has not spoken wishes to speak.

(b) The presiding officer may grant a senator who has spoken once permission to respond to a question if the senator consents to a request that the senator yield to a question under SR4-6-104.

Section 24. SR4-6-109 is amended to read:

SR4-6-109. Motions in order during debate.

(1) (a) When a motion or question is being debated, the presiding officer may not accept any other motion except a motion:

(i) to adjourn, which is nondebatable;

(ii) to determine the time to adjourn, which is debatable;

(iii) to recess, with the senator having the floor retaining the floor when the Senate reassembles, which is nondebatable;

(iv) to call the Senate;

(v) to refer to a committee, which is debatable;

(vi) to table, which is debatable;

(vii) to lift from the table, which is debatable;

(viii) to circle, which is debatable;

(ix) to postpone to a time certain, which is debatable;

(x) to strike the enacting clause, which is debatable;

(xi) to adopt a substitute, which is debatable; or

(xii) to amend, which is debatable.

(b) Points of order and appeals of the decision of the presiding officer are not motions and are always in order.

(c) The presiding officer shall grant priority to the motions listed in Subsection (1)(a)according to the order in which they are listed in that rule.

(2) A senator may not make, and the presiding officer may not accept, a motion for the previous question, which is a call for an end to debate and a vote on the matter under discussion.

(3) If a motion to postpone [~~a piece of~~]legislation to a [~~day~~]time certain or a motion to refer [~~a piece of~~]legislation to a committee is defeated, a senator may not make the same motion on the same [~~piece of~~]legislation during the same reading of the legislation.

(4) When a motion to refer to committee, to postpone indefinitely, to postpone to a time certain, or to table is made, the presiding officer may not allow consideration of amendments or debate on the main question.

Section 25. SR4-7-101 is amended to read:

SR4-7-101. Definitions.

As used in this chapter:

(1) "Roll call vote" means a verbal voting process where:

(a) the secretary of the Senate or the secretary's designee verbally calls the name of each senator alphabetically, except the president, who is called last;

(b) each senator present votes "aye" or "nay" when the senator's name is called;

(c) the secretary of the Senate or the secretary's designee:

(i) tallies the vote;

(ii) records those senators who are absent[~~ or not voting~~]; and

(iii) gives a copy of the tally to the presiding officer; and

(d) the presiding officer announces the result of the vote.

(2) "Voice vote" means a verbal voting process where the presiding officer:

(a) poses the question to be voted upon in this form: "Those in favor (of the question) say 'aye'." and "Those opposed say 'nay'."; and

(b) based upon the senator's responses, announces that the question either passed or failed.

Section 26. SR4-7-103 is amended to read:

SR4-7-103. Senators present required to vote.

(1) (a) A senator present within the Senate chamber when a vote is being taken shall vote.

(b) A senator shall vote within the time limit fixed by the presiding officer.

(c) Immediately before a roll call vote or when casting a roll call vote, a senator may, upon recognition by the presiding officer, make a brief statement explaining any conflict of interest.

(d) With the permission of the presiding officer, a senator may briefly explain [~~a~~]the senator's vote.

(2) (a) [~~A~~]Except as provided Joint Rules, Title 1, Chapter 4, Part 4, Electronic Meetings, a senator may not vote on[~~ a piece of~~] legislation or a motion unless the senator is present in the Senate chamber.

(b) If the vote is a roll call vote or division, a senator entering the chamber after the question is posed and before the presiding officer announces the result, may have the question stated and vote.

Section 27. Effective Date.

This resolution takes effect upon a successful vote for final passage.

LEGISLATION, LAW WITHOUT SIGNATURE, AND LINE ITEMS VETOED BY THE GOVERNOR

The Governor vetoed one line item in H.B. 3. See page 5,314 for the Governor's letter that explains the vetoed line. See Chapter 538, page 5,104, for the complete text.

The Governor vetoed several line items in S.B. 3. See page 5,315 for the Governor's letter that explains the vetoed lines. See Chapter 539, page 5,142, for the complete text.

S.B. 69 and H.B. 77 became law without the Governor's signature. For H.B. 77, see Chapter 508 on page 4,969 for the complete text. For S.B. 69, see Chapter 514 on page 5,001 for the complete text. See page 5,350 for the Governor's letter explaining the reasoning.

S.B. 37 and S.B. 296 were vetoed by the Governor. For S.B. 37, see page 5,321 and for S.B. 296, see page 5344 for the letters outlining the vetoes.

H.B. 306, H.B. 315, S.B. 106, and S.B. 197 were vetoed by the Governor. See page 5,350 for the letter outlining the vetoes.

Mar. 27, 2025

The Honorable Mike Schultz
Speaker of the House

And

The Honorable J. Stuart Adams
President of the Senate

Dear Speaker Schultz and President Adams,

This letter serves to inform you that on March 27, 2025, I signed House Bill 3, *Current Fiscal Year Supplemental Appropriations*, from the 2025 General Session with the following line item veto:

- Item 154, lines 2711-2715. This item duplicates the federal funds appropriation adjustment that was also included in Item 11 of House Bill 7, *National Guard, Veterans Affairs, and Legislature Base Budget*.

Sincerely,

Spencer J. Cox
Governor

Mar. 27, 2024

The Honorable J. Stuart Adams
President of the Senate

And

The Honorable Mike Schultz
Speaker of the House

Dear President Adams and Speaker Schultz,

This letter serves to inform you that on March 27, 2025, I signed Senate Bill 3, *Appropriations Adjustments*, from the 2025 General Session with the following line item vetoes:

- Item 177, lines 1418-1424; Item 201, lines 1738-1744; and Item 209, lines 1793-1799. Senate Bill 106, *Utah-Ireland Trade Commission* was vetoed.
- Item 249, lines 2207-2213. This item of appropriation, House Bill 277, *Vehicle Registration Amendments*, did not pass.
- Item 261, lines 2308-2316. This item of appropriation, Senate Bill 222, *Vehicle Emission Inspection Program Revisions*, did not pass.
- Item 454, lines 4098-4104. Senate Bill 37, *Minimum Basic Tax Rate Amendments*, which would have authorized the deposit of local property tax revenues into the state's General Fund was vetoed. As a result, the funding that this item transfers from the General Fund into the Income Tax Fund is no longer available.

Sincerely,

Spencer J. Cox
Governor

H. B. 306
Passed March 7, 2025
Approved
Effective

PRECIOUS METALS AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill enacts and modifies provisions relating to state investment in gold and the establishment of a gold-backed digital payment system.

Highlighted Provisions:

This bill:

- ► extends and adds a sunset date to the state treasurer's precious metals study requirement;
- ► requires the state treasurer to develop and issue a competitive procurement for a precious metals-backed electronic payment system;
- ► establishes requirements for the request for proposals;
- ► requires the state treasurer to evaluate proposals; and
- ► requires annual reporting to the Revenue and Taxation Interim Committee.

Money Appropriated in this Bill:

This bill appropriates $146,800 in operating and capital budgets for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-1-267, (Effective 05/07/25) as last amended by Laws of Utah 2024, Chapter 385
67-4-19, (Effective 05/07/25) as enacted by Laws of Utah 2024, Chapter 492

ENACTS:

67-4-20, (Effective 05/07/25) Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-267 is amended to read:
63I-1-267 (Effective 05/07/25). Repeal dates: Title 67.

(1) Section 67-1-8.1, Executive Residence Commission -- Recommendations as to use, maintenance, and operation of executive residence, is repealed July 1, 2027.

(2) Section 67-1-15, Approval of international trade agreement -- Consultation with Utah International Relations and Trade Commission, is repealed December 31, 2027.

(3) Section 67-3-11, Health care price transparency tool -- Transparency tool requirements, is repealed July 1, 2024.

(4) Subsection 67-4-19(3), regarding an annual study conducted by the state treasurer on the role of precious metals in augmenting, stabilizing, and ensuring the economic security and prosperity of the state, is repealed July 1, 2027.

(5) Title 67, Chapter 5a, Utah Prosecution Council, is repealed July 1, 2027.

Section 2. Section 67-4-19 is amended to read:
67-4-19 (Effective 05/07/25). Investments of public funds in precious metals by state treasurer -- Precious metals study and report to Legislature.

(1) As used in this section, "precious metal" means the same as that term is defined in Section 61-1-13.

(2) (a) Subject to Subsection (2)(b), the state treasurer may invest a portion of public funds in the following accounts in precious metals:

(i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;

(ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;

(iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and

(iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in Section 63J-1-315.

(b) (i) The amount of public funds that the state treasurer may invest in precious metals in an account described in Subsection (2)(a) may not, at the time the investment is made, exceed 10% of the total amount of public funds in that account.

(ii) The requirements of Subsections 51-7-14(2) and (3) apply to the state treasurer's investments in precious metals under Subsection (2)(a).

(iii) Any public funds in an account described in Subsection (2)(a) not invested by the state treasurer in precious metals under this Subsection (2) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

(3) The state treasurer shall:

(a) conduct an annual study analyzing the role of precious metals in augmenting, stabilizing, and ensuring the economic security and

prosperity of the state, the families and residents of the state, and businesses in the state; and

(b) submit recommendations for legislation resulting from the study described in Subsection (3)(a) to the Revenue and Taxation Interim Committee on or before the committee's annual October interim committee meeting.

[~~(3) The state treasurer shall:~~]

[~~(a) conduct a study analyzing the role of precious metals in augmenting, stabilizing, and ensuring the economic security and prosperity of the state, the families and residents of the state, and businesses in the state; and~~]

[~~(b) submit to the Revenue and Taxation Interim Committee on or before the committee's 2024 October interim committee meeting any recommendations for legislation resulting from the outcome of the study conducted under Subsection (3)(a).~~]

Section 3. Section 67-4-20 is enacted to read:

67-4-20 (Effective 05/07/25). Alternative precious metals-backed electronic payment system.

(1) As used in this section:

(a) "Participating vendor" means a vendor that opts to receive payment from the state through the precious metals-backed electronic payment system.

(b) "Precious metals-backed electronic payment system" means an electronic payment system that:

(i) uses physical gold or silver held in vault facilities within the state as backing for electronic transactions;

(ii) allows for the redemption of physical gold or silver by system participants; and

(iii) enables the state to make payments to a participating vendor.

(c) (i) "System participant" means an individual or entity that:

(A) maintains an account within the precious metals-backed electronic payment system;

(B) conducts transactions using the precious metals-backed electronic payment system; or

(C) holds redemption rights for precious metals within the system.

(ii) "System participant" includes participating vendors.

(2) The state treasurer shall:

(a) in consultation with the Department of Finance, develop and issue a competitive procurement to create, supply, and operate a precious metals-backed electronic payment system for the state;

(b) evaluate proposals based on security, efficiency, and cost-effectiveness;

(c) select a service provider to implement, operate, and maintain the precious metals-backed electronic payment system;

(d) establish reasonable parameters to enable the redemption of precious metals by system participants;

(e) ensure that the precious metals-backed electronic payment system complies with all applicable provisions of Title 51, Chapter 7, State Money Management Act;

(f) consult with the State Tax Commission on potential tax implications of the precious metals-backed electronic payment system;

(g) evaluate the options and implications for allowing state employees to receive compensation through the precious metals-backed electronic payment system; and

(h) report annually to the Revenue and Taxation Interim Committee on the status and performance of the precious metals-backed electronic payment system.

(3) The Department of Finance shall:

(a) establish policies and procedures for the use of the precious metals-backed electronic payment system by participating vendors;

(b) provide for integration into the statewide accounting system; and

(c) evaluate the options and implications for allowing state employees to receive compensation through the precious metals-backed electronic payment system.

(4) The competitive procurement described in Subsection (2) shall require that the precious metals-backed electronic payment system:

(a) uses gold or silver vaulted within the state;

(b) allows for the redemption of physical gold or silver by system participants;

(c) is made publicly available; and

(d) complies with all applicable state and federal laws and regulations.

(5) Nothing in this section shall be construed to:

(a) require any vendor to participate in the precious metals-backed electronic payment system;

(b) require any state entity to participate in the precious metals-backed electronic payment system; or

(c) prevent the state from using other forms of payment or currency for the state's operations.

Section 4. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 4(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Government Operations - Division of Finance

From General Fund, One-time - 50,000

From Expendable Receipts, One-time - 146,800

Schedule of Programs:

Financial Information Systems - 193,700

Payables/Disbursing - - -

H. B. 315
Passed February 20, 2025
Approved
Effective

ELECTED OFFICIAL VACANCY MODIFICATIONS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Karen Kwan

LONG TITLE

General Description:

This bill addresses midterm vacancies in municipal offices.

Highlighted Provisions:

This bill:

► modifies procedures in the event of a tie among three or more candidates; and
► defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-510, as last amended by Laws of Utah 2024, Chapters 438, 450

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-510 is amended to read:

20A-1-510. Midterm vacancies in municipal offices.

(1) (a) As used in this section:

(i) "Game of chance" means a game that has been chosen by the municipal legislative body in which:

(A) the outcome is determined by chance; and

(B) each participant has equal odds of winning.

(ii) (A) "Vacancy," subject to Subsection [~~(1)(a)(ii)~~](1)(a)(ii)(B), means the same as that term is defined in Section 20A-1-102.

[~~(ii)~~](B) "Vacancy," if due to resignation, occurs on the effective date of the resignation.

(b) Except as otherwise provided in this section, if any vacancy occurs in the office of municipal executive or member of a municipal legislative body, the municipal legislative body shall, within 30 calendar days after the day on which the vacancy occurs, appoint a registered voter in the municipality who meets the qualifications for office described in Section 10-3-301 to fill the unexpired term of the vacated office.

(c) Before acting to fill the vacancy, the municipal legislative body shall:

(i) give public notice of the vacancy at least 14 calendar days before the day on which the municipal legislative body meets to fill the vacancy;

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the person to whom an individual interested in being appointed to fill the vacancy may submit the interested individual's name for consideration; and

(C) the deadline for submitting an interested individual's name; [~~and~~]

(iii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications[-]; and

(iv) select a game of chance, by resolution or ordinance, prior to the meeting described in Subsection (1)(c)(iii), to be used in the event of a tie with three or more candidates.

(d) [~~(i)~~] The municipal legislative body shall take an initial vote to fill the vacancy from among the names of the candidates interviewed under Subsection (1)(c)(iii).

[~~(ii)~~](e) [~~(A)~~](i) If no candidate receives a majority vote of the municipal legislative body in the initial vote described in Subsection [~~(1)(d)(i)~~](1)(d), the two candidates that received the most votes in the initial vote, as determined by the tie-breaking procedures described in Subsections [~~(1)(d)(ii)(B) through (D)~~](1)(e)(ii) through (v) if necessary, shall be placed before the municipal legislative body for a second vote to fill the vacancy.

[~~(B)~~](ii) If the initial vote results in a tie between two candidates for second place, the candidates tied for second place shall be reduced to one by a coin toss conducted in accordance with Subsection [~~(1)(d)(ii)(D),~~](1)(e)(iv), and the second vote described in Subsection [~~(1)(d)(ii)(A)~~](1)(e)(i) shall be between the candidate that received the most votes in the initial vote and the candidate that wins the coin toss described in this Subsection [~~(1)(d)(ii)(B).~~](1)(e)(ii).

[~~(C)~~](iii) If the initial vote results in a tie among three or more candidates[~~for first place, the candidates tied for first place~~], the tied candidates shall be reduced [~~to two by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D)~~]by a game of chance conducted

in accordance with Subsection (1)(e)(iv), and the second vote described in Subsection [~~(1)(d)(ii)(A)~~](1)(e)(i) shall be between:

(A) in the event of a tie for first place, the two candidates that remain after the [~~coin toss~~]game of chance described in this Subsection [~~(1)(d)(ii)(C).~~](1)(e)(iii); or

(B) in the event of a tie for second place, the candidate that received the most votes in the initial vote and the candidate that wins the game of chance described in this Subsection (1)(e)(iii).

[~~(D)~~](iv) A coin toss or game of chance required under this Subsection [~~(1)(d)~~](1)(e) shall be conducted by the municipal clerk or recorder in the presence of the municipal legislative body.

[~~(iii)~~](v) If, in the second vote described in Subsection [~~(1)(d)(ii)(A)~~](1)(e)(i), neither candidate receives a majority vote of the municipal legislative body, the vacancy shall be determined by a coin toss between the two candidates in accordance with Subsection [~~(1)(d)(ii)(D)~~](1)(e)(iv).

[~~(e)~~](f) If the municipal legislative body does not timely comply with Subsections (1)(b) through [~~(d)~~](e), the municipal clerk or recorder shall immediately notify the lieutenant governor.

[~~(f)~~](g) After receiving notice that a municipal legislative body has failed to timely comply with Subsections (1)(b) through [~~(d)~~](e), the lieutenant governor shall:

(i) notify the municipal legislative body of the violation; and

(ii) direct the municipal legislative body to, within 30 calendar days after the day on which the lieutenant governor provides the notice described in this Subsection [~~(1)(f)~~](1)(g), appoint an eligible individual to fill the vacancy in accordance with Subsections [~~(1)(c) and (d).~~](1)(c) through (e).

[~~(g)~~](h) If the municipality fails to timely comply with a directive described in Subsection [~~(1)(f)~~](1)(g):

(i) the lieutenant governor shall notify the governor of the municipality's failure to fill the vacancy; and

(ii) the governor shall, within 45 days after the day on which the governor receives the notice described in Subsection [~~(1)(g)(i)~~](1)(h)(i), provide public notice soliciting candidates to fill the vacancy in accordance with Subsection (1)(c) and appoint an individual to fill the vacancy.

(2) (a) A vacancy in the office of municipal executive or member of a municipal legislative body shall be filled by an interim appointment, followed by an election to fill a two-year term, if:

(i) the vacancy occurs, or a letter of resignation is received, by the municipal executive at least 14 days before the deadline for filing for election in an odd-numbered year; and

(ii) two years of the vacated term will remain after the first Monday of January following the next municipal election.

(b) In appointing an interim replacement, the municipal legislative body shall:

(i) comply with the notice requirements of this section; and

(ii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.

(3) (a) In a municipality operating under the council-mayor form of government, as defined in Section 10-3b-102:

(i) the council may appoint an individual to fill a vacancy in the office of mayor before the effective date of the mayor's resignation by making the effective date of the appointment the same as the effective date of the mayor's resignation; and

(ii) if a vacancy in the office of mayor occurs before the effective date of an appointment under Subsection (1) or (2) to fill the vacancy, the remaining council members, by majority vote, shall appoint a council member to serve as acting mayor during the time between the creation of the vacancy and the effective date of the appointment to fill the vacancy.

(b) A council member serving as acting mayor under Subsection (3)(a)(ii) continues to:

(i) act as a council member; and

(ii) vote at council meetings.

(4) (a) (i) For a vacancy of a member of a municipal legislative body as described in this section, the municipal legislative body member whose resignation creates the vacancy on the municipal legislative body may:

(A) interview an individual whose name is submitted for consideration under Subsection (1)(c)(iii) or (2)(b)(ii); and

(B) vote on the appointment of an individual to fill the vacancy.

(ii) Notwithstanding Subsection (4)(a)(i), a member of a legislative body who is removed from office in accordance with state law may not cast a vote under Subsection (4)(a)(i).

(b) A member of a municipal legislative body who submits his or her resignation to the municipal legislative body may not rescind the resignation.

(c) A member of a municipal legislative body may not vote on an appointment under this section for himself or herself to fill a vacancy in the municipal legislative body.

(5) In a municipality operating under the council-mayor form of government, the mayor may not:

(a) participate in the vote to fill a vacancy;

(b) veto a decision of the council to fill a vacancy; or

(c) vote in the case of a tie.

(6) A mayor whose resignation from the municipal legislative body is due to election or appointment as mayor may, in the case of a tie, participate in the vote under this section.

(7) A municipal legislative body may, consistent with the provisions of state law, adopt procedures governing the appointment, interview, and voting process for filling vacancies in municipal offices.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

Mar. 24, 2025

President Adams, Speaker Schultz, and Members of the Utah Legislature,

One of the things I love most about serving as governor is the opportunity to work with all of you to make Utah an even better place to live, work, and raise a family. Over the last few years, we've done some truly remarkable things together — historic investments in education, record tax relief, and important work to strengthen trust in our institutions. This legislative session was no exception and you should be incredibly proud of what you were able to accomplish.

The decision to veto bills is one that I take very seriously and try to use very rarely. I understand the work that goes into passing legislation and believe in the process that refines and leads to better outcomes. Signing or vetoing a bill is not the same as voting for a bill — I sign many bills that I would not have voted for and try to be very selective of those I choose not to sign or veto. Please know that in the 20 days allotted to me, I carefully and thoughtfully review every single one of the 582 bills that were passed.

As I mentioned earlier, I care deeply about trust in our institutions, and I know that you do too. Trust is the currency of governing. Sadly, we know that trust is eroding across almost all institutions in our country. Over the next few days I will make final decisions on potential vetoes. In every case, I will do my best to explain my reasoning — never personal — and always with an eye to improving the public's trust in you and me and the institutions we represent.

When it comes to trust, nothing is more critical or sacred than the way we handle taxpayer dollars. After receiving veto requests from the State Auditor, State Board of Education, the Utah School Boards Association, and the Utah School Superintendents Association, I have decided to veto Senate Bill 37, *Minimum Basic Tax Rate Amendments*.

At its core, this bill changes how we collect and distribute the state portion of property tax revenues for schools. Right now, Utahns are correctly told by their government that their local property tax dollars are going to fund their local schools. That arrangement is spelled out specifically in our annual property tax notices, and it's a promise we've honored for decades. SB 37 represents a clear departure from this practice by moving those dollars into the state's general fund, with income tax revenues replacing them before they go back out to districts. At a minimum, such accounting creates a perception problem as we lose the direct connection between taxpayers and their neighborhood schools.

But the change is more than just a perception problem. Moving restricted property tax funding into the general fund creates significant technical and legal questions. For one, it's not entirely clear whether these property tax dollars, once they land in the general fund, still carry the restrictions that have always protected them for education use. Without that clarity, future legislatures could easily redirect those funds to other priorities and away from Utah schoolchildren. I oppose that change.

Then there's the accounting side of things. SB 37 sets up a complicated system where school districts have to track these dollars as both incoming and outgoing revenue, while the state does the same. This "grossing up" makes financial statements look inflated, which creates confusion not just for taxpayers, but also for bondholders and auditors who rely on clean, straightforward reports. Utah has earned a reputation for being one of the best-managed states in the country. Part of that reputation comes from keeping things simple, clear, and transparent. I worry that this bill puts that at risk — a worry expressed by State Auditor Tina Cannon, whose letter and request for a veto is attached for your review.

Even if I were to ignore these legal and accounting issues, I also worry that this bill sends the wrong message to our schools and teachers about the value we place on our education funding. I am grateful for, and proud of, the incredible education funding the legislature has provided over the past 4 years — a record $2.6 billion! I am especially proud of Utah's newest ranking: top 10 in the nation for starting teacher salaries. You should be commended for your leadership on this critical issue that is so important to our fellow Utahns. I would never want to do anything that would undermine our shared commitment to education funding.

As an aside, I remain concerned about the sheer number of bills introduced and passed each session, including education bills. I will have more to say about that later this week.

I appreciate the work that went into SB 37, and I respect the effort to tackle tough issues. But for all these reasons — public trust; accounting and legal challenges; protection of education funding; and the message to our educators — I'm vetoing the bill. I'm confident that, working together, we can find a better path forward.

Thank you, as always, for your service, your leadership, and your partnership. I'm grateful for all you do, and I look forward to working together on solutions that move Utah forward.

With respect and appreciation,

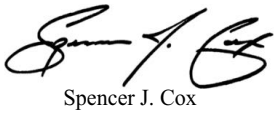

Spencer J. Cox
Governor

S. B. 37

Passed February 20, 2025
Approved
Effective

MINIMUM BASIC TAX RATE AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill amends provisions related to the minimum basic tax that school districts impose.

Highlighted Provisions:

This bill:

- ► ensures state funding in an amount that covers the total cost of the basic school program for a school district that imposes the combined minimum basic tax rate;
- ► requires school districts that impose the combined minimum basic tax to remit to the state the revenue the tax generates;
- ► repeals provisions regarding state and local contributions toward the basic school program; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-13-302, as last amended by Laws of Utah 2023, Chapter 7
53F-2-205, as last amended by Laws of Utah 2023, Chapter 7
53F-2-301, as last amended by Laws of Utah 2024, Chapters 124, 460
53F-2-515, as last amended by Laws of Utah 2023, Chapter 7
59-2-902, as last amended by Laws of Utah 1993, Chapters 4, 227

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-302 is amended to read:

11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy suppliers -- Method of calculating -- Collection -- Extent of tax lien.

(1) (a) Each project entity created under this chapter that owns a project and that sells any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in this section to each taxing jurisdiction within which the project or any part of it is located.

(b) For purposes of this section, "annual fee" means the annual fee described in Subsection (1)(a) that is in lieu of ad valorem property tax.

(c) The requirement to pay an annual fee shall commence:

(i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the last generating unit, other than any generating unit providing additional project capacity, of the project occurs, or, in the case of any facilities providing additional project capacity, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the generating unit providing the additional project capacity occurs; and

(ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the project commences, or, in the case of facilities providing additional project capacity, with the fiscal year of the taxing jurisdiction in which construction of those facilities commences.

(d) The requirement to pay an annual fee shall continue for the period of the useful life of the project or facilities.

(2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b)because the ad valorem property tax imposed by a school district and authorized by the Legislature represents both:

(i) a levy [~~mandated by~~]the state mandates as a condition of receiving state funding for the state minimum school program under Section 53F-2-301; and

(ii) local levies for capital outlay and other purposes under Sections 53F-8-303, 53F-8-301, and 53F-8-302.

(b) The annual fees due a school district shall be as follows:

(i) the project entity shall pay to the [~~school district~~]state an annual fee for the state minimum school program at the rate imposed by the school district and authorized by the Legislature under Section 53F-2-301; and

(ii) for all other local property tax levies authorized to be imposed by a school district, the project entity shall pay to the school district either:

(A) an annual fee; or

(B) impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306.

(3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by multiplying the fee base or value determined in accordance with Subsection (4) for that year of the portion of the project located within the jurisdiction by the percentage of the project which is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

(b) As used in this section, "tax rate," when applied in respect to a school district, includes any assessment to be made by the school district under Subsection (2) or Section 63M-5-302.

(c) There is to be credited against the annual fee due a taxing jurisdiction for each year, an amount equal to the debt service, if any, payable in that year by the project entity on bonds, the proceeds of which were used to provide public facilities and services for impact alleviation in the taxing jurisdiction in accordance with Sections 11-13-305and 11-13-306.

(d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

(i) take into account the fee base or value of the percentage of the project located within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the capacity, service, or other benefit sold to the supplier or suppliers; and

(ii) reflect any credit to be given in that year.

(4) (a) Except as otherwise provided in this section, the annual fees required by this section shall be paid, collected, and distributed to the taxing jurisdiction as if:

(i) the annual fees were ad valorem property taxes; and

(ii) the project were assessed at the same rate and upon the same measure of value as taxable property in the state.

(b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by this section, the fee base of a project may be determined in accordance with an agreement among:

(A) the project entity; and

(B) any county that:

(I) is due an annual fee from the project entity; and

(II) agrees to have the fee base of the project determined in accordance with the agreement described in this Subsection (4).

(ii) The agreement described in Subsection (4)(b)(i):

(A) shall specify each year for which the fee base determined by the agreement shall be used for purposes of an annual fee; and

(B) may not modify any provision of this chapter except the method by which the fee base of a project is determined for purposes of an annual fee.

(iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing jurisdiction.

(iv) (A) If there is not agreement as to the fee base of a portion of a project for any year, for purposes of an annual fee, the State Tax Commission shall determine the value of that portion of the project for which there is not an agreement:

(I) for that year; and

(II) using the same measure of value as is used for taxable property in the state.

(B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax Commission in accordance with rules made by the State Tax Commission.

(c) Payments of the annual fees shall be made from:

(i) the proceeds of bonds issued for the project; and

(ii) revenues derived by the project entity from the project.

(d) (i) The contracts of the project entity with the purchasers of the capacity, service, or other benefits of the project whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax shall require each purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for, its share, determined in accordance with the terms of the contract, of these fees.

(ii) It is the responsibility of the project entity to enforce the obligations of the purchasers.

(5) (a) The responsibility of the project entity to make payment of the annual fees is limited to the extent that there is legally available to the project entity, from bond proceeds or revenues, money to make these payments, and the obligation to make payments of the annual fees is not otherwise a general obligation or liability of the project entity.

(b) No tax lien may attach upon any property or money of the project entity by virtue of any failure to pay all or any part of an annual fee.

(c) The project entity or any purchaser may contest the validity of an annual fee to the same extent as if the payment was a payment of the ad valorem property tax itself.

(d) The payments of an annual fee shall be reduced to the extent that any contest is successful.

(6) (a) The annual fee described in Subsection (1):

(i) shall be paid by a public agency that:

(A) is not a project entity; and

(B) owns an interest in a facility providing additional project capacity if the interest is otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

(ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in accordance with Subsection (6)(b).

(b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

(i) the fee base or value of the facility providing additional project capacity located within the jurisdiction;

(ii) the percentage of the ownership interest of the public agency in the facility; and

(iii) the portion, expressed as a percentage, of the public agency's ownership interest that is attributable to the capacity, service, or other benefit from the facility that is sold, including any subsequent sale, resale, or layoff, by the public agency to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

(c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the obligations, credits, rights, and protections set forth in Subsections (1) through (5)with respect to its ownership interest as though it were a project entity.

(d) On or before March 1 of each year, a project entity that owns a project and that provides any capacity, service, or other benefit to an energy supplier or a public agency shall file an electronic report with the State Tax Commission that identifies:

(i) each energy supplier and public agency to which the project entity delivers capacity, service, or other benefit; and

(ii) the amount of capacity, service, or other benefit delivered to each energy supplier and public agency.

Section 2. Section 53F-2-205 is amended to read:

53F-2-205. Powers and duties of state board to adjust Minimum School Program allocations -- Use of remaining funds at the end of a fiscal year.

(1) As used in this section:

(a) "ESEA" means the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(b) "Program" means a program or allocation funded by a line item appropriation or other appropriation designated as:

(i) Basic Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

(2) Except as provided in Subsection (3)[~~or (5)~~], if the number of weighted pupil units in a program is underestimated, the state board shall reduce the value of the weighted pupil unit in that program so that the total amount paid for the program does not exceed the amount appropriated for the program.

(3) If the number of weighted pupil units in a program is overestimated, the state board shall spend excess money appropriated for the following purposes giving priority to the purpose described in Subsection (3)(a):

(a) to support the value of the weighted pupil unit in a program within the basic state-supported school program in which the number of weighted pupil units is underestimated;

(b) to support the state guaranteed local levy increments as defined in Section 53F-2-601, if:

(i) local contributions to the voted local levy program or board local levy program are overestimated; or

(ii) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated;

(c) to support the state supplement to local property taxes allocated to charter schools, if the state supplement is less than the amount prescribed by Section 53F-2-704;

(d) to fund the cost of the salary supplements described in Section 53F-2-504; or

(e) to support a school district with a loss in student enrollment as provided in Section 53F-2-207.

[~~(4) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 are overestimated, the state board shall reduce the value of the weighted pupil unit for all programs within the basic state-supported school program so the total state contribution to the basic state-supported school program does not exceed the amount of state funds appropriated.~~]

[~~(5) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 are underestimated, the state board shall:~~]

[~~(a) spend the excess local contributions for the purposes specified in Subsection (3), giving priority to supporting the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated; and~~]

[~~(b) reduce the state contribution to the basic state-supported school program so the total cost of the basic state-supported school program does not exceed the total state and local funds appropriated to the basic state-supported school program plus the local contributions necessary to support the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated.~~]

[~~(6)~~](4) Except as provided in Subsection (3)[~~or (5)~~], the state board shall reduce the state guarantee per weighted pupil unit provided under the local levy state guarantee program described in Section 53F-2-601, if:

(a) local contributions to the voted local levy program or board local levy program are overestimated; or

(b) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated.

[~~(7)~~](5) Money appropriated to the state board is nonlapsing, including appropriations to the Minimum School Program and all agencies, line items, and programs under the jurisdiction of the state board.

[~~(8)~~](6) The state board shall report actions taken by the state board under this section to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

Section 3. Section 53F-2-301 is amended to read:

53F-2-301. Minimum basic tax rate for a fiscal year that begins after July 1, 2022.

(1) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to $75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic rate; and

(ii) set annually by the Legislature in Subsection (2)(a).

(e) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (2)(a).

(f) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(g) "WPU value amount" means an amount:

(i) that is equal to the product of:

(A) the WPU value increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the immediately preceding fiscal year; and

(ii) set annually by the Legislature in Subsection (3)(a).

(h) "WPU value increase limit" means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

(i) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (3)(a).

(2) (a) The minimum basic local amount for the fiscal year that begins on July 1, 2024, is $759,529,000 in revenue statewide.

(b) The preliminary estimate of the minimum basic tax rate for a fiscal year that begins on July 1, 2024, is .001429.

(3) (a) The WPU value amount for the fiscal year that begins on July 1, 2024, is $29,240,600 in revenue statewide.

(b) The preliminary estimate of the WPU value rate for the fiscal year that begins on July 1, 2024, is .000055.

(4) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (2)(b) and the estimate of the WPU value rate provided in Subsection (3)(b) are based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (4)(a)(i) and the certified WPU value rate described in Subsection (4)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(5) (a) To qualify for receipt of [~~the~~]state [~~contribution toward~~]funding of the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, [~~each~~]a local school board shall impose the combined basic rate.

(b) For a local school board that imposes the combined basic rate:

(i) the relevant county treasurer shall:

(A) collect the combined basic rate revenue for all school districts located within the county treasurer's county; and

(B) remit the revenue monthly to the state treasurer; and

(ii) the state treasurer shall:

(A) deposit the combined basic rate revenue the state treasurer receives from a county treasurer into the General Fund; and

(B) communicate the amount of the deposit to the state board.

(c) The state board shall remit an amount equivalent to the amount described in Subsection (5)(b)(ii) to the relevant school district within 35 days after the date of the deposit described in Subsection (5)(b)(ii).

[~~(b)~~](d) (i) The state is not subject to the notice requirements of Section 59-2-926before imposing the tax rates described in this Subsection (5).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (5).

(6) [~~(a)~~] The state shall [~~contribute to~~]ensure that, for each school district [~~toward~~]described in Subsection (5), an allocation from state funds is at least equivalent to the cost of the basic school program in the school district [~~an amount of money that is the difference between the cost of the school district's basic school program and the sum of revenue generated by the school district by the following:~~].

[~~(i) the combined basic rate; and~~]

[~~(ii) the basic levy increment rate.~~]

[~~(b) (i) If the difference described in Subsection (6)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.~~]

[~~(ii) The proceeds of the difference described in Subsection (6)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.~~]

(7) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302; and

(b) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

Section 4. Section 53F-2-515 is amended to read:

53F-2-515. Federal Impact Aid Program -- Offset for underestimated allocations from the Federal Impact Aid Program.

(1) In addition to [~~the revenues received from the levy imposed by a local school board and authorized by the Legislature under Section 53F-2-301~~]funds the Legislature appropriates to the basic school program, the Legislature shall provide an amount equal to the difference between the school district's anticipated receipts under the entitlement for the fiscal year from the Federal Impact Aid Program and the amount the school district actually received from this source for the next preceding fiscal year.

(2) If at the end of a fiscal year the sum of the receipts of a school district from a distribution from the Legislature pursuant to Subsection (1) plus the school district's allocations from the Federal Impact Aid Program for that fiscal year exceeds the amount allocated to the school district from the Federal Impact Aid Program for the next preceding fiscal year, the excess funds are carried into the next succeeding fiscal year and become in that year a part of the school district's contribution [~~to~~]toward the cost of the school district's basic

program for operation and maintenance under the state minimum school finance law.

(3) During the next succeeding fiscal year described in Subsection (2), the school district's required tax rate for the basic program shall be reduced so that the yield from the reduced tax rate plus the carryover funds equal the school district's required contribution [~~to~~]toward the cost of the school district's basic program.

(4) For the school district of a local school board that is required to reduce the school district's basic tax rate under this section, the school district shall receive state minimum school program funds as though the reduction in the tax rate had not been made.

Section 5. Section 59-2-902 is amended to read:

59-2-902. Minimum basic tax levy for school districts.

(1) If any county fails to comply with Section 59-2-704, then this section determines the adjustment of the basic school levy for school districts within the county.

(2) (a) Before June 15, the commission shall ascertain from the State Board of Education the number of weighted pupil units in each school district in the state for the school year commencing July 1 of the current calendar year, estimated according to the Minimum School Program Act, and the money necessary for the cost of the operation and maintenance of the minimum school program of the state for the school fiscal year beginning July 1 of the current calendar year.

(b) The commission shall then estimate the amounts of all surpluses in the Uniform School Fund, as of July 1 of the current calendar year, available for the operation and maintenance of the program, and shall estimate the anticipated income to the fund available for those purposes for the current school year from all sources, including revenues from taxes on income or from taxes on intangible property pursuant to Article XIII, Sec. 12, Utah Constitution.

[~~(2)~~](3) The commission shall then determine for each school district the amount to be raised by the minimum basic tax levy as its contribution toward the cost of the basic state-supported program, as required by the Minimum School Program Act.

[~~(3)~~](4) Each county auditor shall be notified by the commission that the minimum basic tax levy shall be imposed by the school district, to which shall be added an additional amount, if any, due to local undervaluation as provided in this section.

(a) The auditor shall inform the county legislative body as to the amount of the levy.

(b) The county legislative body shall at the time and in the manner provided by law make the levy upon the taxable property in the school district together with further levies for school purposes as may be required by each school district to pay the costs of programs in excess of the basic state-supported school program.

[~~(4)~~](5) [~~If the levy applied under this section raises an amount in excess of the total basic state-supported school program for a school district, the excess amount shall be remitted by the school district to the State Board of Education to be credited to the Uniform School Fund for allocation to school districts to support the basic state-supported school program.~~]The availability of money shall be considered by the commission in fixing the state property levy as provided in the Minimum School Program Act.

[~~(5)~~](6) (a) If the levy does not raise an amount in excess of an amount equal to the cost of the total basic state-supported school program for a district, then the difference between the amount which the local levy will raise within the district, and the total cost of the basic state-supported school program within the district shall be computed. [~~This difference, if any, shall be apportioned from the Uniform School Fund to each school district as the contribution of the state to the basic state-supported school program for the district, subject to the following conditions:~~]

[~~(a)~~](b) (i) [~~Before the apportionment is made, the~~]The commission shall determine if the local taxable valuation of any school district is undervalued according to law and if so, the dollar amount of the undervaluation.

(ii) The dollar amount of the undervaluation shall be multiplied by the district basic uniform school levy at 98%.

(iii) The resulting dollar amount shall be divided by the current year estimated yield of .0002 per dollar of taxable value at 98% based on the district's taxable valuation prior to adjusting for undervaluation.

[~~(b)~~](c) (i) The resulting levy amount shall be added to the required district basic uniform levy to determine the combined district basic school levy adjusted for undervaluation.

(ii) The combined rate of levy shall be certified to the county auditor and employed by the auditor and the county legislative body in lieu of the required basic school local levy.

Section 6. Effective Date.

This bill takes effect on May 7, 2025.

S. B. 106
Passed March 5, 2025
Approved
Effective

UTAH-IRELAND TRADE COMMISSION

Chief Sponsor: Wayne A. Harper
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill creates the Utah-Ireland Trade Commission within the Governor's Office of Economic Opportunity.

Highlighted Provisions:

This bill:

- ► creates the Utah-Ireland Trade Commission (trade commission) within the Governor's Office of Economic Opportunity (office);
- ► describes the membership, purpose, and duties of the trade commission;
- ► provides that the office staff the trade commission;
- ► requires an annual report;
- ► authorizes the office to solicit funds for certain purposes and to account for those funds; and
- ► provides a sunset date of July 1, 2030.

Money Appropriated in this Bill:

This bill appropriates $10,000 in operating and capital budgets for fiscal year 2026, all of which is from the General Fund.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-263, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

63N-22-101, Utah Code Annotated 1953
63N-22-102, Utah Code Annotated 1953
63N-22-103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Titles 63A through 63O.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-806, Definitions -- Infant at Work Pilot Program -- Administration -- Report, is repealed June 30, 2026.

(3) Section 63C-1-103, Appointment and terms of boards, committees, councils, and commissions transitioning on October 1, 2024, or December 31, 2024, is repealed July 1, 2025.

(4) Section 63C-1-104, Appointment and terms of boards transitioning on October 1, 2024, is repealed January 1, 2025.

(5) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed October 1, 2024.

(6) Subsection 63G-6a-802(1)(e), regarding a procurement for a presidential debate, is repealed January 1, 2025.

(7) Subsection 63G-6a-802(3)(b)(iii), regarding a procurement for a presidential debate, is repealed January 1, 2025.

(8) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

(9) Subsection 63J-1-602.2(47), regarding appropriations to the State Tax Commission for deferral reimbursements, is repealed July 1, 2027.

(10) Section 63M-7-221, Expungement working group, is repealed April 30, 2025.

(11) Section 63M-7-504, Crime Victim Reparations and Assistance Board -- Members, is repealed December 31, 2024.

(12) Section 63M-7-505, Board and office within Commission on Criminal and Juvenile Justice, is repealed December 31, 2024.

(13) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed December 31, 2024.

(14) Subsection 63N-2-213(12)(a), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(15) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

(16) Title 63N, Chapter 22, Part 1, Utah-Ireland Trade Commission, is repealed July 1, 2030.

Section 2. Section 63N-22-101 is enacted to read:

CHAPTER 22. UTAH-IRELAND TRADE COMMISSION

PART 1. Utah-Ireland Trade Commission

63N-22-101. Utah-Ireland Trade Commission - - Creation -- Membership -- Chairs -- Terms -- Per diem and expenses.

(1) As used in this part, "trade commission" means the Utah-Ireland Trade Commission created in this part.

(2) There is created in the office the Utah-Ireland Trade Commission.

(3) The trade commission membership consists of 11 members:

(a) six members to be selected as follows:

(i) three members from the House of Representatives, including:

(A) two selected by the speaker of the House of Representatives; and

(B) one selected by the speaker of the House of Representatives in consultation with the minority leader of the House of Representatives;

(ii) three members from the Senate, including:

(A) two selected by the president of the Senate; and

(B) one selected by the president of the Senate in consultation with the minority leader of the Senate; and

(b) five members to be appointed by the executive director of the office, including:

(i) two members from the office who shall oversee the following trade commission activities in accordance with Section 63N-22-102:

(A) diplomatic relations; and

(B) coordination of office program resources to support the purpose described in Section 63N-22-102;

(ii) two members of the World Trade Center, who shall oversee the following trade commission activities:

(A) international programming; and

(B) trade promotion; and

(iii) one member from an institution of higher education, as that term is defined in Section 53B-1-102.

(4) (a) Except as provided in Subsection (5), each member shall serve a two-year term.

(b) When a vacancy occurs for a member selected under Subsection (3)(a), the replacement shall be selected for the unexpired term.

(c) The executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of these members are staggered so that approximately half of the members are appointed or reappointed under Subsection (3)every two years.

(d) When a vacancy occurs among members appointed by the executive director, the replacement shall be appointed for the unexpired term.

(5) For a member appointed under Subsections (3)(b)(i) and (ii):

(a) one member from the office and one member from the World Trade Center shall serve a one-year term; and

(b) one member from the office and one member from the World Trade Center shall serve a two-year term.

(6) A majority of the trade commission members constitutes a quorum.

(7) The trade commission shall designate, by majority vote, a member as chair of the trade commission.

(8) (a) State government officer and employee members who do not receive salary, per diem, or expenses from the government officer's or employee's agency for service on the trade commission may receive per diem and expenses at the rates incurred in the performance of official trade commission duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Legislators on the trade commission receive compensation and expenses as provided by law and legislative rule.

(9) The office shall provide office space and administrative staff support for the trade commission.

Section 3. Section 63N-22-102 is enacted to read:

63N-22-102. Purpose and duties of the trade commission - - Written report.

(1) The purpose of the trade commission shall be to:

(a) advance bilateral trade and investment between Utah and Ireland;

(b) initiate joint action on policy issues of mutual interest to Utah and Ireland;

(c) promote business and academic exchanges between Utah and Ireland;

(d) encourage mutual economic support between Utah and Ireland; and

(e) encourage mutual investment in the infrastructure of Utah and Ireland.

(2) The trade commission shall:

(a) maintain active communication with:

(i) the office of the United States trade representative;

(ii) Utah's state trade representative or state point of contact, if created; and

(iii) any other organization whose mission involves international trade in the United States as the trade commission considers appropriate; and

(b) have no more than four paid meetings per year.

(3) Beginning in 2026, and no later than July 1 of each year, the trade commission shall issue a written report to the governor and the Economic Development and Workforce Services Interim Committee regarding the trade commission's activities in the preceding year and any recommendations to further trade and good relations between Utah and Ireland.

Section 4. Section 63N-22-103 is enacted to read:

63N-22-103. Solicitation of funds.

(1) The office shall be authorized to raise funds as described in this section to:

(a) defray administrative expenses; and

(b) carry out the trade commission's purposes.

(2) The office may:

(a) raise funds through direct solicitation or other fund-raising events, alone or with other groups; and

(b) accept gifts, grants, and bequests from individuals, corporations, foundations, governmental agencies, and public and private organizations and institutions.

(3) The office shall maintain and separately account for the funds received and expended under this section.

Section 5. FY 2026 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for fiscal year 2026.

Subsection 5(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office of Economic Opportunity - Economic Prosperity

From General Fund, One-time - - -

S. B. 197
Passed March 7, 2025
Approved
Effective

PROPERTY TAX AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Jason B. Kyle

LONG TITLE

General Description:

This bill modifies provisions related to property tax.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► prohibits taxpayers from receiving the homeowner's credit unless the taxpayer received the credit within the previous two years, beginning in 2026;
- ► removes requirements for annual inflation adjustments for the homeowner's credit;
- ► increases the household income limits and maximum credit amounts allowed for a renter's credit;
- ► changes the qualifications, scope, duration, and rates of interest applicable to the discretionary and nondiscretionary property tax deferral programs;
- ► prohibits taxpayers from receiving indigent abatement unless the taxpayer received the abatement within the previous two years, beginning in 2026;
- ► requires a county auditor to include information on the property tax valuation notice regarding the availability of tax deferral programs;
- ► requires a county treasurer to include information on the tax notice regarding the amount of outstanding taxes and interest for taxpayers who receive a deferral;
- ► prohibits taxpayers from receiving more than one of certain forms of property tax relief;
- ► includes a coordination clause to address substantive and technical conflicts if this bill and H.B. 20, Property Tax Code Recodification, both pass and become law; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-919.1, as last amended by Laws of Utah 2024, Chapter 246
59-2-1317, as last amended by Laws of Utah 2024, Chapter 430
59-2-1331, as last amended by Laws of Utah 2024, Chapter 263
59-2-1343, as last amended by Laws of Utah 2024, Chapter 263
59-2-1801, as last amended by Laws of Utah 2024, Chapters 241, 263
59-2-1803, as last amended by Laws of Utah 2023, Chapter 471
59-2-1804, as last amended by Laws of Utah 2023, Chapter 354
63J-1-602.2, as last amended by Laws of Utah 2024, Chapters 241, 285, 425, and 467

REPEALS AND REENACTS:

59-2-1208, as last amended by Laws of Utah 2021, Chapter 391
59-2-1209, as last amended by Laws of Utah 2024, Chapter 272
59-2-1802, as last amended by Laws of Utah 2024, Chapter 241
59-2-1802.5, as last amended by Laws of Utah 2024, Chapter 241

Utah Code Sections Affected by Coordination Clause:

AMENDS:

59-2-1208, as last amended by Laws of Utah 2021, Chapter 391
59-2-1209, as last amended by Laws of Utah 2024, Chapter 272
59-2-1801, as last amended by Laws of Utah 2024, Chapters 241, 263
59-2-1802, as last amended by Laws of Utah 2024, Chapter 241
59-2-1802.5, as last amended by Laws of Utah 2024, Chapter 241
59-2-1804, as last amended by Laws of Utah 2023, Chapter 354

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-919.1 is amended to read:

59-2-919.1. Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify each owner of real estate who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) except as provided in Subsection (4), be sent to all owners of real property by mail 10 or more days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the taxable value of the property;

(iii) (A) the deadline for the taxpayer to make an application to appeal the valuation or equalization of the property under Section 59-2-1004; or

(B) for property assessed by the commission, the deadline for the taxpayer to apply to the commission for a hearing on an objection to the valuation or equalization of the property under Section 59-2-1007;

(iv) for a property assessed by the commission, a statement that the taxpayer may not appeal the valuation or equalization of the property to the county board of equalization;

(v) itemized tax information for all applicable taxing entities, including:

(A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and

(B) the dollar amount of the taxpayer's tax liability under the current rate;

(vi) the following, stated separately:

(A) the charter school levy described in Section 53F-2-703;

(B) the multicounty assessing and collecting levy described in Subsection 59-2-1602(2);

(C) the county assessing and collecting levy described in Subsection 59-2-1602(4);

(D) levies for debt service voted on by the public;

(E) levies imposed for special purposes under Section 10-6-133.4;

(F) for a fiscal year that begins on or after July 1, 2023, the combined basic rate as defined in Section 53F-2-301; and

(G) if applicable, the annual payment described in Subsection 63H-1-501(4)(a);

(vii) the tax impact on the property;

(viii) the date, time, and place of the required public hearing for each entity;

(ix) property tax information pertaining to:

(A) taxpayer relief;

(B) options for payment of taxes;

(C) collection procedures; and

(D) the residential exemption described in Section 59-2-103;

(x) information specifically authorized to be included on the notice under this chapter;

(xi) the last property review date of the property as described in Subsection 59-2-303.1(1)(c);

(xii) instructions on how the taxpayer may obtain additional information regarding the valuation of the property, including the characteristics and features of the property, from at least one the following sources:

(A) a website maintained by the county; or

(B) the county assessor's office; [~~and~~]

(xiii) information describing the availability of property tax deferral options for qualifying residential property owners under Sections 59-2-1802 and 59-2-1802.5, including a telephone number, or a website address on which a telephone is prominently listed, that residential property owners may call to obtain additional information about applying for a deferral; and

[~~(xiii)~~](xiv) other information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(viii);

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate; and

(d) for each taxing entity proposing a tax increase, the dollar amount of additional ad valorem tax revenue, as defined in Section 59-2-919, that would be generated each year if the proposed tax increase is approved.

(4) (a) Subject to the other provisions of this Subsection (4), a county auditor may, at the county auditor's discretion, provide the notice required by this section to a taxpayer by electronic means if a taxpayer makes an election, according to procedures determined by the county auditor, to receive the notice by electronic means.

(b) (i) If a notice required by this section is sent by electronic means, a county auditor shall attempt to verify whether a taxpayer receives the notice.

(ii) If receipt of the notice sent by electronic means cannot be verified 14 days or more before the county board of equalization meets and the taxing entity holds a public hearing on a proposed increase in the certified tax rate, the notice required by this section shall also be sent by mail as provided in Subsection (2).

(c) A taxpayer may revoke an election to receive the notice required by this section by electronic means if the taxpayer provides written notice to the county auditor on or before April 30.

(d) An election or a revocation of an election under this Subsection (4):

(i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax; or

(ii) does not alter the requirement that a taxpayer appealing the valuation or the equalization of the taxpayer's real property submit the application for appeal within the time period provided in Subsection 59-2-1004(3).

(e) A county auditor shall provide the notice required by this section as provided in Subsection (2), until a taxpayer makes a new election in accordance with this Subsection (4), if:

(i) the taxpayer revokes an election in accordance with Subsection (4)(c) to receive the notice required by this section by electronic means; or

(ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

(f) A person is considered to be a taxpayer for purposes of this Subsection (4) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

Section 2. Section 59-2-1208 is repealed and re-enacted to read:

59-2-1208. Amount of homeowner's credit -- Limitations -- General Fund as source of credit.

(1) Subject to Subsections (2) through (4), for a calendar year beginning on or after January 1, 2025, a claimant may claim a homeowner's credit that does not exceed the following amounts:

If household income is	Homeowner's credit
$0 -- $13,884	$1,259
$13,885 -- $18,515	$1,105
$18,516 -- $23,141	$954
$23,142 -- $27,770	$726
$27,771 -- $32,401	$577
$32,402 -- $36,754	$351
$36,755 -- $40,840	$197

(2) For a calendar year beginning on or after January 1, 2026, an individual may receive the homeowner's credit under this section only if the individual received the homeowner's credit for the same residence at least once within the previous two calendar years.

(3) An individual may not receive the homeowner's credit under this section if the individual receives any of the following forms of property tax relief for the same residence:

(a) a deferral under Section 59-2-1802 or 59-2-1802.5; or

(b) an abatement under Section 59-2-1803.

(4) (a) An individual may not receive the homeowner's credit under this section or the abatement described in Subsection 59-2-1202(10)(a) on 20% of the fair market value of the residence if:

(i) the individual is claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the homeowner's credit;

(ii) the individual is a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the homeowner's credit; or

(iii) the individual did not own the residence for the entire calendar year for which the individual claims the homeowner's credit.

(b) For a calendar year in which a residence is sold, the amount received as a homeowner's credit under this section or as an abatement described in Subsection 59-2-1202(10)(a) on 20% of the fair market value of the residence shall be repaid to the county on or before the day on which the sale of the residence closes.

(5) A payment for a homeowner's credit allowed by this section, and authorized by Section 59-2-1204, shall be paid from the General Fund.

Section 3. Section 59-2-1209 is repealed and re-enacted to read:

59-2-1209. Amount of renter's credit -- Adjustments -- Renter's credit may be claimed only for gross rent that does not constitute a rental assistance payment -- Calculation of credit when rent includes utilities -- Limitation -- General Fund as source of credit.

(1) (a) Subject to Subsections (2) through (4), for a calendar year beginning on or after January 1, 2025, a claimant may claim a renter's credit for the previous calendar year that does not exceed the following amounts:

If household income is	Percentage of gross rent allowed as a credit	Maximum credit amount
$0 -- $14,500	9.5%	$2,000
$14,501 -- $18,750	8.5%	$1,750
$18,751 -- $23,000	7.0%	$1,500

$23,001 -- $27,250	5.5%	$1,250
$27,251 -- $31,500	4.0%	$1,000
$31,501 -- $35,750	3.0%	$750
$35,751 -- $40,000	2.5%	$500
$40,001 -- $46,000	2.0%	$250

(b) For a calendar year beginning on or after January 1, 2026, the commission shall increase or decrease the household income eligibility amounts and the maximum credit amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index housing for the preceding calendar year and the consumer price index housing for calendar year 2024.

(c) After the commission has adjusted the maximum credit amounts under Subsection (1)(b), the commission shall increase each maximum credit amount under Subsection (1)(a) by $49.

(2) (a) A claimant may claim a renter's credit under this section only for gross rent that does not constitute a rental assistance payment.

(b) For purposes of determining whether a claimant receives a rental assistance payment and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the terms:

(i) "charitable organization";

(ii) "governmental entity"; or

(iii) "religious organization."

(3) For purposes of calculating gross rent when a claimant's rent includes electricity or natural gas and the utility amount is not itemized in the statement provided in accordance with Section 59-2-1213, the commission shall deduct from rent:

(a) 7% of rent if the rent includes electricity or natural gas but not both; or

(b) 13% of rent if the rent includes both electricity and natural gas.

(4) An individual may not receive the renter's credit under this section if the individual is:

(a) claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the renter's credit; or

(b) a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the renter's credit.

(5) A payment for a renter's credit allowed by this section, and authorized by Section 59-2-1204, shall be paid from the General Fund.

Section 4. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a special district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506;

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007;

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section 17D-4-304; [~~and~~]

(I) if applicable, an annual payment to the Military Installation Development Authority or an entity designated by the authority in accordance with Section 63H-1-501; and

(J) if applicable, the total amount of deferred taxes, deferred tax notice charges, and accrued interest that is outstanding for an owner of residential property granted a property tax deferral under Section 59-2-1802 or 59-2-1802.5;

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) if applicable, the annual payment described in Subsection 63H-1-501(4)(a);

(x) the date the taxes and tax notice charges are due;

(xi) the street address at which the taxes and tax notice charges may be paid;

(xii) the date on which the taxes and tax notice charges are delinquent;

(xiii) the penalty imposed on delinquent taxes and tax notice charges;

(xiv) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);

(xv) other information specifically authorized to be included on the notice under this chapter;

(xvi) other property tax information approved by the commission; and

(xvii) if sent in calendar year 2024, 2025, or 2026:

(A) notice that the taxpayer may request electronic notice as described in Subsection 17-21-6(1)(m); and

(B) instructions describing how to elect to receive a notice as described in Subsection 17-21-6(1)(m).

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii) (A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due special district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

Section 5. Section 59-2-1331 is amended to read:

59-2-1331. Property tax due date -- Date tax is delinquent -- Penalty -- Interest -- Payments -- Refund of prepayment.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsections (1)(c) and (d), all property taxes, unless otherwise specifically provided for under Section 59-2-1332, or other law, and any tax notice charges, are due on November 30 of each year following the date of levy.

(b) If November 30 falls on a Saturday, Sunday, or holiday:

(i) the date of the next following day that is not a Saturday, Sunday, or holiday shall be substituted in Subsection (1)(a) and Subsection 59-2-1332(1) for November 30; and

(ii) the date of the day occurring 30 days after the date under Subsection (1)(b)(i) shall be substituted in Subsection 59-2-1332(1) for December 30.

(c) If a property tax is paid or postmarked after the due date described in this Subsection (1) the property tax is delinquent.

(d) A county treasurer or other public official, public entity, or public employee may not require the payment of a property tax before the due date described in this Subsection (1).

(2) (a) Except as provided in Subsections (2)(e), (f), and [~~(g)(i)~~](g), for each parcel, all delinquent taxes and tax notice charges on each separately assessed parcel are subject to a penalty of 2.5% of the amount of the delinquent taxes and tax notice charges or $10, whichever is greater.

(b) Unless the delinquent taxes and tax notice charges, together with the penalty, are paid on or before January 31, the amount of taxes and tax notice charges and penalty shall bear interest on a per annum basis from the January 1 immediately following the delinquency date.

(c) Except as provided in Subsection (2)(d), for purposes of Subsection (2)(b), the interest rate is equal to the sum of:

(i) 6%; and

(ii) the federal funds rate target:

(A) established by the Federal Open Markets Committee; and

(B) that exists on the January 1 immediately following the date of delinquency.

(d) The interest rate described in Subsection (2)(c) may not be:

(i) less than 7%; or

(ii) more than 10%.

(e) The penalty described in Subsection (2)(a) is 1% of the amount of the delinquent taxes and tax notice charges or $10, whichever is greater, if all delinquent taxes, all tax notice charges, and the penalty are paid on or before the January 31 immediately following the delinquency date.

(f) This section does not apply to the costs, charges, and interest rate accruing on any tax notice charge related to an assessment assessed in accordance with:

(i) Title 11, Chapter 42, Assessment Area Act; or

(ii) Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

(g) (i) The county shall waive any penalty or interest for a property granted a deferral in accordance with Section 59-2-1802.1 from the day of the delinquency through the end of the deferral period.

(ii) For a property granted a deferral in accordance with Section 59-2-1802 or 59-2-1802.5, from the day of the delinquency through the end of the deferral period:

(A) the county shall waive the penalty described in Subsection (2)(a); and

(B) interest accrues on deferred taxes and tax notice charges in accordance with Subsection 59-2-1802(8) or 59-2-1802.5(8), as applicable.

[~~(ii)~~](iii) Penalties and interest accrue in accordance with this Subsection (2) on any tax or tax notice charge that is delinquent after the deferral period ends.

(3) (a) If the delinquency exceeds one year, the amount of taxes, tax notice charges, and penalties for that year and all succeeding years shall bear interest until settled in full through redemption or tax sale.

(b) The interest rate to be applied shall be calculated for each year as established under Subsection (2) and shall apply on each individual year's delinquency until paid.

(4) The county treasurer may accept and credit on account against taxes and tax notice charges becoming due during the current year, at any time before or after the tax rates are adopted, but not subsequent to the date of delinquency, either:

(a) payments in amounts of not less than $10; or

(b) the full amount of the unpaid tax and tax notice charges.

(5) (a) At any time before the county treasurer provides the tax notice described in Section 59-2-1317, the county treasurer may refund amounts accepted and credited on account against taxes and tax notice charges becoming due during the current year.

(b) Upon recommendation by the county treasurer, the county legislative body shall adopt rules or ordinances to implement the provisions of this Subsection (5).

Section 6. Section 59-2-1343 is amended to read:

59-2-1343. Tax sale listing.

(1) (a) If any property is not redeemed by March 15 following the lapse of four years from the date when any item in Subsection (1)(b) became delinquent, the county treasurer shall immediately file a listing with the county auditor of all properties whose redemption period is expiring in the nearest forthcoming tax sale to pay all outstanding property taxes and tax notice charges.

(b) Except as provided in Subsection (1)(c), a delinquency of any of the following triggers the tax sale process described in Subsection (1)(a):

(i) property tax; or

(ii) a tax notice charge.

(c) A property tax or a tax notice charge that is deferred in accordance with Section 59-2-1802.1 is delinquent only if full payment of the property tax and any tax notice charges is not made before the end of the five-year deferral period.

(d) Taxes and tax notice charges deferred in accordance with Section 59-2-1802 or 59-2-1802.5 become delinquent only if full payment of the following is not made before the end of the deferral period:

(i) the taxes and tax notice charges deferred during the deferral period; and

(ii) interest accrued on the taxes and tax notice charges described in Subsection (1)(d)(i).

(2) The listing is known as the "tax sale listing."

Section 7. Section 59-2-1801 is amended to read:

59-2-1801. Definitions.

As used in this part:

(1) "Abatement" means a tax abatement described in Section 59-2-1803.

(2) "Adjusted property tax amount" means the amount of property taxes levied on an eligible owner's primary residence that the eligible owner is required to pay for a calendar year in which the eligible owner receives a deferral under this part.

(3) "Base year property tax amount" means:

(a) for a calendar year in which an eligible owner did not receive a deferral under this part for the preceding calendar year, the amount of property taxes levied on the eligible owner's primary residence for the preceding calendar year; and

(b) for a calendar year in which an eligible owner received a deferral under this part for the preceding calendar year, the amount of property taxes levied on the eligible owner's primary residence for the calendar year immediately preceding the calendar year for which the eligible owner first received the deferral.

(4) "Current year property tax amount" means the amount of property taxes levied on an eligible owner's primary residence for the current calendar year.

[~~(2)~~](5) "Deferral" means a postponement of a tax due date or a tax notice charge granted in accordance with Section 59-2-1802, 59-2-1802.1, or 59-2-1802.5.

[~~(3) "Eligible owner" means an owner of an attached or a detached single-family residence:~~]

[~~(a) (i) who is 75 years old or older on or before December 31 of the year in which the individual applies for a deferral under this part;~~]

[~~(ii) whose household income does not exceed 200% of the maximum household income certified to a homeowner's credit described in Section 59-2-1208; and~~]

[~~(iii) whose household liquid resources do not exceed 20 times the amount of property taxes levied on the owner's residence for the preceding calendar year; or~~]

[~~(b) that is a trust described in Section 59-2-1805 if the grantor of the trust is an individual described in Subsection (3)(a).~~]

(6) "Eligible owner" means:

(a) for a deferral under Section 59-2-1802, an owner of an attached or detached single-family residence:

(i) (A) who uses the residence as the owner's primary residence as of January 1 of the calendar year for which the owner applies for the deferral;

(B) who owns the residence for at least one year as of January 1 of the calendar year for which the owner applies for the deferral;

(C) whose household income does not exceed $50,000; and

(D) whose household liquid resources do not exceed 20 times the amount of property taxes levied on the residence for the preceding calendar year; or

(ii) that is a trust described in Section 59-2-1805 if the grantor of the trust is an individual described in Subsection (6)(a)(i); and

(b) for a deferral under Section 59-2-1802.5, an owner of an attached or detached single-family residence:

(i) (A) who uses the residence as the owner's primary residence as of January 1 of the calendar year for which the owner applies for the deferral;

(B) who owns the residence for at least one year as of January 1 of the calendar year for which the owner applies for the deferral;

(C) who is 65 years old or older on or before December 31 of the calendar year for which the owner applies for the deferral;

(D) whose household income does not exceed $60,000; and

(E) whose household liquid resources do not exceed 20 times the amount of property taxes levied on the residence for the preceding calendar year; or

(ii) that is a trust described in Section 59-2-1805 if the grantor of the trust is an individual described in Subsection (6)(b)(i).

[~~(4)~~](7) "Household" means the same as that term is defined in Section 59-2-1202.

[~~(5)~~](8) "Household income" means the same as that term is defined in Section 59-2-1202.

[~~(6)~~](9) "Household liquid resources" means the following resources that are not included in an individual's household income and held by one or more members of the individual's household:

(a) cash on hand;

(b) money in a checking or savings account;

(c) savings certificates; and

(d) stocks or bonds.

[~~(7)~~](10) "Indigent individual" means a poor individual as described in Utah Constitution, Article XIII, Section 3, Subsection (4), who:

(a) (i) is at least 65 years old; or

(ii) is less than 65 years old and:

(A) the county finds that extreme hardship would prevail on the individual if the county does not defer or abate the individual's taxes; or

(B) the individual has a disability;

(b) has a total household income, as defined in Section 59-2-1202, of less than the maximum household income certified to a homeowner's credit described in Section 59-2-1208;

(c) resides for at least 10 months of the year in the residence that would be subject to the requested abatement or deferral; and

(d) cannot pay the tax assessed on the individual's residence when the tax becomes due.

[~~(8)~~](11) "Property taxes due" means the taxes due on an indigent individual's property:

(a) for which a county granted an abatement under Section 59-2-1803; and

(b) for the calendar year for which the county grants the abatement.

[~~(9)~~](12) "Property taxes paid" means an amount equal to the sum of:

(a) the amount of property taxes the indigent individual paid for the taxable year for which the indigent individual applied for the abatement; and

(b) the amount of the abatement the county grants under Section 59-2-1803.

[~~(10)~~](13) "Qualifying increase" means a valuation that is equal to or more than 150% higher than the previous year's valuation for property that:

(a) is county assessed; and

(b) on or after January 1 of the previous year and before January 1 of the current year has not had:

(i) a physical improvement if the fair market value of the physical improvement increases enough to result in the valuation increase

solely as a result of the physical improvement;

(ii) a zoning change if the fair market value of the real property increases enough to result in the valuation increase solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases enough to result in the valuation increase solely as a result of the change in the legal description of the real property.

[~~(11)~~](14) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or a spouse of any of these individuals.

[~~(12)~~](15) "Residence" means real property where an individual resides, including:

(a) a mobile home, as defined in Section 41-1a-102; or

(b) a manufactured home, as defined in Section 41-1a-102.

[~~(13)~~](16) "Tax notice charge" means the same as that term is defined in Section 59-2-1301.5.

Section 8. Section 59-2-1802 is repealed and re-enacted to read:

59-2-1802. Discretionary deferral for eligible owners.

(1) An owner of an attached or detached single-family residence may apply to the county for a discretionary deferral under this section for postponement of a portion of the property taxes due on the owner's residence if:

(a) the owner qualifies as an eligible owner under Subsection 59-2-1801(6)(a);

(b) the owner discloses all outstanding mortgages on the residence;

(c) the owner is not receiving any of the following forms of property tax relief for the same residence:

(i) the homeowner's credit under Section 59-2-1208;

(ii) a deferral under Section 59-2-1802.5; or

(iii) an abatement under Section 59-2-1803; and

(d) there are no delinquent property taxes, delinquent tax notice charges, or outstanding penalties, interest, or administrative costs related to a delinquent property tax or a delinquent tax notice charge due on the owner's residence, other than:

(i) taxes and tax notice charges previously deferred under this section; and

(ii) interest accrued on the taxes and tax notice charges described in Subsection (1)(d)(i).

(2) A county may grant an application for a deferral under this section if:

(a) the county determines that the applicant meets the conditions of Subsection (1); and

(b) the applicant complies with the other applicable provisions of this part.

(3) Of the total amount of taxes and tax notice charges levied on an eligible owner's primary residence for a calendar year in which the eligible owner receives a deferral under this section:

(a) the adjusted property tax amount is 50% of the lesser of:

(i) the base year property tax amount; and

(ii) the current year property tax amount; and

(b) the amount deferred is the amount exceeding the adjusted property tax amount.

(4) (a) Except as provided in Subsection (4)(b), the deferral period under this section is one year.

(b) The county may extend the deferral period for one or more subsequent one-year periods if, for each subsequent calendar year in which the eligible owner seeks to extend the deferral period:

(i) the eligible owner applies for an extension of the deferral;

(ii) the county determines that the eligible owner has continued to meet the conditions of Subsection (1); and

(iii) the eligible owner complies with the other applicable provisions of this part.

(c) For purposes of Subsections 59-2-1331(2)(g)(ii) and 59-2-1343(1)(d), the deferral period ends on the last day of:

(i) the initial one-year deferral period, if the county does not extend the deferral period under Subsection (4)(b); or

(ii) the final one-year deferral period subsequently granted, if the county extends the deferral period under Subsection (4)(b).

(5) (a) Taxes and tax notice charges deferred under this section accumulate with interest and applicable recording fees as a lien against the residential property.

(b) A lien described in this Subsection (5):

(i) has the same legal status as a lien described in Section 59-2-1325; and

(ii) is subordinate to any mortgage on the property.

(c) To release the lien described in this Subsection (5), except as provided in Subsections (5)(d) through (f), an eligible owner shall pay the total amount subject to the lien:

(i) upon the eligible owner selling or otherwise disposing of the residential property; or

(ii) when the residential property is no longer the eligible owner's primary residence.

(d) (i) An eligible owner that receives a deferral under this section does not have to pay the deferred taxes, deferred tax notice charges, or applicable recording fees when the residential property transfers to the eligible owner's surviving spouse as a result of the eligible owner's death.

(ii) After the residential property transfers to the eligible owner's surviving spouse, the deferred taxes, deferred tax notice charges, and applicable recording fees are due:

(A) upon the surviving spouse selling or otherwise disposing of the residential property; or

(B) when the residential property is no longer the surviving spouse's primary residence.

(e) (i) An eligible owner that receives a deferral under this section does not have to pay the deferred taxes, deferred tax notice charges, or applicable recording fees when the residential property transfers between the eligible owner and a trust described in Section 59-2-1805 if:

(A) the eligible owner is the grantor of the trust; and

(B) the residential property remains the eligible owner's primary residence.

(ii) After the residential property transfers between the eligible owner and a trust described in Subsection (5)(e)(i), the deferred taxes, deferred tax notice charges, and applicable recording fees are due when the residential property is no longer the eligible owner's primary residence.

(f) (i) An eligible owner that receives a deferral under this section does not have to pay the deferred taxes, deferred tax notice charges, or applicable recording fees when the residential property transfers between the eligible owner and a special needs trust as described in 42 U.S.C. Sec. 1396p(d)(4) if the beneficiary of the trust qualifies as an eligible owner under Subsection 59-2-1801(6)(a).

(ii) After the residential property transfers to a special needs trust described in Subsection (5)(f)(i), the deferred taxes, deferred tax notice charges, and applicable recording fees are due:

(A) upon the sale or disposal of the residential property; or

(B) when the residential property is no longer the primary residence of the beneficiary of the trust described in Subsection (5)(f)(i).

(g) When the deferral period ends:

(i) the lien becomes due and subject to the collection procedures described in Section 59-2-1331; and

(ii) the date of levy is the date that the deferral period ends.

(6) (a) If a county grants an eligible owner more than one deferral under this section for the same residential property, including an extension of the deferral period under Subsection (4)(b), the county is not required to submit for recording more than one lien.

(b) Each subsequent deferral relates back to the date of the initial lien filing.

(7) (a) For each residential property for which the county grants a deferral under this section, the county treasurer shall maintain a record that is an itemized account of the total amount of deferred property taxes and deferred tax notice charges subject to the lien.

(b) The record described in this Subsection (7) is the official record of the amount of the lien.

(8) Notwithstanding Subsection 59-2-1331(2)(c), taxes and tax notice charges deferred under this section bear interest at a rate of 2%.

(9) A county may not require approval from lien holders for residential property that is subject to a mortgage or trust deed to receive a deferral under this section.

(10) A county that grants a deferral to an eligible owner under this section shall:

(a) provide notice of the adjusted property tax amount to the holder of each mortgage or trust deed outstanding on the residential property; and

(b) refund to the eligible owner any amount of property taxes paid by the eligible owner during the deferral period in excess of the adjusted property tax amount.

Section 9. Section 59-2-1802.5 is repealed and re-enacted to read:

59-2-1802.5. Nondiscretionary deferral for eligible owners.

(1) An owner of an attached or detached single-family residence may apply to the county for a nondiscretionary deferral under this section for postponement of a portion of the property taxes due on the eligible owner's residence if:

(a) the owner qualifies as an eligible owner under Subsection 59-2-1801(6)(b);

(b) the owner discloses all outstanding mortgages on the residence, none of which is a reverse mortgage;

(c) the assessed value of the residence, as listed on the valuation notice sent in accordance with Section 59-2-919.1, is greater than the amount of any outstanding mortgage on the residence by 5% or more;

(d) the owner is not receiving any of the following forms of property tax relief for the same residence:

(i) the homeowner's credit under Section 59-2-1208;

(ii) a deferral under Section 59-2-1802; or

(iii) an abatement under Section 59-2-1803; and

(e) there are no delinquent property taxes, delinquent tax notice charges, or outstanding penalties, interest, or administrative costs related to a delinquent property tax or a delinquent tax notice charge due on the owner's residence, other than:

(i) taxes and tax notice charges previously deferred under this section; and

(ii) accrued interest on the taxes and tax notice charges described in Subsection (1)(e)(i).

(2) A county shall grant an application for a deferral under this section if:

(a) the county determines that the applicant meets the conditions of Subsection (1); and

(b) the applicant complies with the other applicable provisions of this part.

(3) Of the total amount of taxes and tax notice charges levied on an eligible owner's primary residence for a calendar year in which the eligible owner receives a deferral under this section:

(a) the adjusted property tax amount is 75% of the lesser of:

(i) the base year property tax amount; and

(ii) the current year property tax amount; and

(b) the amount deferred is the amount exceeding the adjusted property tax amount.

(4) (a) Except as provided in Subsection (4)(b), the deferral period under this section is one year.

(b) The county shall extend the deferral period for one or more subsequent one-year periods if, for each subsequent calendar year in which the eligible owner seeks to extend the deferral period:

(i) the eligible owner applies for an extension of the deferral;

(ii) the county determines that the eligible owner has continued to meet the conditions of Subsection (1); and

(iii) the eligible owner complies with the other applicable provisions of this part.

(c) For purposes of Subsections 59-2-1331(2)(g)(ii) and 59-2-1343(1)(d), the deferral period ends on the last day of:

(i) the initial one-year deferral period, if the county does not extend the deferral period under Subsection (4)(b); or

(ii) the final one-year deferral period subsequently granted, if the county extends the deferral period under Subsection (4)(b).

(5) (a) Taxes and tax notice charges deferred under this section accumulate with interest and applicable recording fees as a lien against the residential property.

(b) A lien described in this Subsection (5) has the same legal status as a lien described in Section 59-2-1325.

(c) To release the lien described in this Subsection (5), except as provided in Subsections (5)(d) through (f), an eligible owner shall pay the total amount subject to the lien:

(i) upon the eligible owner selling or otherwise disposing of the residential property; or

(ii) when the residential property is no longer the eligible owner's primary residence.

(d) (i) An eligible owner that receives a deferral under this section does not have to pay the deferred taxes, deferred tax notice charges, or applicable recording fees when the residential property transfers to the eligible owner's surviving spouse as a result of the eligible owner's death.

(ii) After the residential property transfers to the eligible owner's surviving spouse, the deferred taxes, deferred tax notice charges, and applicable recording fees are due:

(A) upon the surviving spouse selling or otherwise disposing of the residential property; or

(B) when the residential property is no longer the surviving spouse's primary residence.

(e) (i) An eligible owner that receives a deferral under this section does not have to pay the deferred taxes, deferred tax notice charges, or applicable recording fees when the residential property transfers between the eligible owner and a trust described in Section 59-2-1805 if:

(A) the eligible owner is the grantor of the trust; and

(B) the residential property remains the eligible owner's primary residence.

(ii) After the residential property transfers between the eligible owner and a trust described in Subsection (5)(e)(i), the deferred taxes, deferred tax notice charges, and applicable recording fees are due when the residential property is no longer the eligible owner's primary residence.

(f) (i) An eligible owner that receives a deferral under this section does not have to pay the deferred taxes, deferred tax notice charges, or applicable recording fees when the residential property transfers between the eligible owner and a special needs trust as described in 42 U.S.C. Sec. 1396p(d)(4) if the beneficiary of the trust qualifies as an eligible owner under Subsection 59-2-1801(6)(b).

(ii) After the residential property transfers to a special needs trust described in Subsection (5)(f)(i), the deferred taxes, deferred tax notice charges, and applicable recording fees are due:

(A) upon the sale or disposal of the residential property; or

(B) when the residential property is no longer the primary residence of the beneficiary of the trust described in Subsection (5)(f)(i).

(g) When the deferral period ends:

(i) the lien becomes due and subject to the collection procedures described in Section 59-2-1331; and

(ii) the date of levy is the date that the deferral period ends.

(6) (a) If a county grants an eligible owner more than one deferral under this section for the same residential property, including an extension of the deferral period under Subsection (4)(b), the county is not required to submit for recording more than one lien.

(b) Each subsequent deferral relates back to the date of the initial lien filing.

(7) (a) For each residential property for which the county grants a deferral under this section, the county treasurer shall maintain a record that is an itemized account of the total amount of deferred property taxes and deferred tax notice charges subject to the lien.

(b) The record described in this Subsection (7) is the official record of the amount of the lien.

(8) Notwithstanding Subsection 59-2-1331(2)(c), taxes and tax notice charges deferred under this section bear interest at a rate of 3%.

(9) A county may not require approval from lien holders for residential property that is subject to a mortgage or trust deed to receive a deferral under this section.

(10) A county that grants a deferral to an eligible owner under this section shall:

(a) provide notice of the adjusted property tax amount to the holder of each mortgage or trust deed outstanding on the residential property; and

(b) refund to the eligible owner any amount of property taxes paid by the eligible owner during the deferral period in excess of the adjusted property tax amount.

Section 10. Section 59-2-1803 is amended to read:

59-2-1803. Tax abatement for indigent individuals -- Maximum amount -- Refund.

(1) In accordance with this part, a county may remit or abate the taxes of an indigent individual:

(a) if the indigent individual owned the property as of January 1 of the year for which the county remits or abates the taxes; [~~and~~]

(b) if the indigent individual, for a calendar year beginning on or after January 1, 2026, received an abatement under this section for the same property at least once within the previous two calendar years;

(c) if the indigent individual is not receiving any of the following forms of property tax relief for the same property:

(i) the homeowner's credit under Section 59-2-1208; or

(ii) a deferral under Section 59-2-1802 or 59-2-1802.5; and

[~~(b)~~](d) in an amount not more than the lesser of:

(i) the [~~amount provided as a homeowner's~~]maximum amount available as a renter's credit for the lowest household income bracket as described in Section [~~59-2-1208~~]59-2-1209; or

(ii) 50% of the total tax levied for the indigent individual for the current year.

(2) A county that grants an abatement to an indigent individual shall refund to the indigent individual an amount that is equal to the amount by which the indigent individual's property taxes paid exceed the indigent individual's property taxes due, if the amount is at least $1.

Section 11. Section 59-2-1804 is amended to read:

59-2-1804. Application for tax deferral or tax abatement.

(1) (a) Except as provided in Subsection (1)(b) or (2), an applicant for deferral or abatement for the current tax year shall annually file

an application on or before September 1 with the county in which the applicant's property is located.

(b) If a county finds good cause exists, the county may extend until December 31 the deadline described in Subsection (1)(a).

(c) An indigent individual may apply and potentially qualify for deferral, abatement, or both.

(2) (a) A county shall extend the default application deadline by one additional year if the applicant had been approved for a deferral under this part in the prior year; or

(b) the county determines that:

(i) the applicant or a member of the applicant's immediate family had an illness or injury that prevented the applicant from filing the application on or before the default application deadline;

(ii) a member of the applicant's immediate family died during the calendar year of the default application deadline;

(iii) the failure of the applicant to file the application on or before the default application deadline was beyond the reasonable control of the applicant; or

(iv) denial of an application would be unjust or unreasonable.

(3) [~~(a)~~] An applicant shall include in an application a signed statement that describes the eligibility of the applicant for deferral or abatement.

[~~(b) For an application for a deferral under Section 59-2-1802.5, the requirements described in Subsection (3)(a) include:~~]

[~~(i) proof that the applicant resides at the single-family residence for which the applicant seeks the deferral;~~]

[~~(ii) proof of age; and~~]

[~~(iii) proof of household income.~~]

(4) Both spouses shall sign an application if the application seeks a deferral or abatement on a residence:

(a) in which both spouses reside; and

(b) that the spouses own as joint tenants.

(5) If an applicant is dissatisfied with a county's decision on the applicant's application for deferral or abatement, the applicant may appeal the decision to the commission in accordance with Section 59-2-1006.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 12. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The primary care grant program created in Section 26B-4-310.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(12) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(16) The Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program created in Section 26B-7-122.

(17) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(18) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(19) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

(20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(21) The Emergency Medical Services Grant Program in Section 53-2d-207.

(22) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(23) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(24) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(25) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The State Capitol Preservation Board created by Section 63O-2-201.

(28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) County correctional facility reimbursement program for state probationary inmates and state parole inmates as described in Section 64-13e-104.

(34) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(35) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(36) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(37) The Traffic Noise Abatement Program created in Section 72-6-112.

(38) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(39) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(40) A state rehabilitative employment program, as provided in Section 78A-6-210.

(41) The Utah Geological Survey, as provided in Section 79-3-401.

(42) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(43) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(44) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(45) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

[~~(46) The State Tax Commission for reimbursing counties for deferrals in accordance with Section 59-2-1802.5.~~]

[~~(47)~~](46) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 13. Effective Date.

This bill takes effect on May 7, 2025.

Section 14. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2025.

Section 15. Coordinating S.B. 197 with H.B. 20.

If S.B. 197, Property Tax Amendments, and H.B. 20, Property Tax Code Recodification, both pass and become law, the Legislature intends that, on January 1, 2026:

(1) Section 59-2-1208, repealed and reenacted in S.B. 197, be renumbered to Section 59-2a-305;

(2) (a) Section 59-2-1209, repealed and reenacted in S.B. 197, be renumbered to Section 59-2a-205; and

(b) Subsection 59-2-1209(1)(b), enacted in S.B. 197, be replaced with the following language:

"(b) For a calendar year beginning on or after January 1, 2026, the commission shall increase or decrease the household income eligibility amounts and the maximum credit amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2024.";

(3) the following definition be inserted alphabetically as a new subsection in Section 59-2a-101 (renumbered from Section 59-2-1202 in H.B. 20) and that the remaining subsections be renumbered accordingly:

""Adjusted property tax amount" means the amount of property taxes levied on an eligible owner's primary residence that the eligible owner is required to pay for a calendar year in which the eligible owner receives a deferral under this chapter.";

(4) the following definition be inserted alphabetically as a new subsection in Section 59-2a-101 (renumbered from Section 59-2-1202 in H.B. 20) and that the remaining subsections be renumbered accordingly:

""Base year property tax amount" means:

(a) for a calendar year in which an eligible owner did not receive a deferral under this chapter for the preceding calendar year, the amount of property taxes levied on the eligible owner's primary residence for the preceding calendar year; and

(b) for a calendar year in which an eligible owner received a deferral under this chapter for the preceding calendar year, the amount of property taxes levied on the eligible owner's primary residence for the calendar year immediately preceding the calendar year for which the eligible owner first received the deferral.";

(5) the following definition be inserted alphabetically as a new subsection in Section 59-2a-101 (renumbered from Section 59-2-1202 in H.B. 20) and that the remaining subsections be renumbered accordingly:

""Current year property tax amount" means the amount of property taxes levied on an eligible owner's primary residence for the current calendar year.";

(6) Subsection 59-2a-101(9), enacted in H.B. 20, be replaced with the following language:

""Eligible owner" means:

(a) for a deferral under Section 59-2a-701, an owner of an attached or detached single-family residence:

(i) (A) who uses the residence as the owner's primary residence as of January 1 of the calendar year for which the owner applies for the

deferral;

(B) who owns the residence for at least one year as of January 1 of the calendar year for which the owner applies for the deferral;

(C) whose household income does not exceed $50,000; and

(D) whose household liquid resources do not exceed 20 times the amount of property taxes levied on the residence for the preceding calendar year; or

(ii) that is a trust described in Section 59-2a-109 if the grantor of the trust is an individual described in Subsection (6)(a)(i); and

(b) for a deferral under Section 59-2a-901, an owner of an attached or detached single-family residence:

(i) (A) who uses the residence as the owner's primary residence as of January 1 of the calendar year for which the owner applies for the deferral;

(B) who owns the residence for at least one year as of January 1 of the calendar year for which the owner applies for the deferral;

(C) who is 65 years old or older on or before December 31 of the calendar year for which the owner applies for the deferral;

(D) whose household income does not exceed $60,000; and

(E) whose household liquid resources do not exceed 20 times the amount of property taxes levied on the residence for the preceding calendar year; or

(ii) that is a trust described in Section 59-2a-109 if the grantor of the trust is an individual described in Subsection (6)(b)(i).";

(7) Section 59-2-1802, repealed and reenacted in S.B. 197, be renumbered to Section 59-2a-701;

(8) Section 59-2-1802.5, repealed and reenacted in S.B. 197, be renumbered to Section 59-2a-901;

(9) Subsection 59-2a-702(1)(b), enacted in H.B. 20, be replaced with the following language:

"(b) An indigent individual may apply and potentially qualify for deferral under this part, or both this part and Part 8, Nondiscretionary Deferral for Property with Qualifying Increase.";

(10) Subsection 59-2a-802(2), enacted in H.B. 20, be replaced with the following language:

"(2) An indigent individual may apply and potentially qualify for:

(a) a deferral under this part; or

(b) both a deferral under this part and one of the following:

(i) a deferral under Part 7, Discretionary Deferral;

(ii) a deferral under Part 9, Nondiscretionary Deferral for Elderly Property Owners; or

(iii) an abatement.";

(11) Subsection 59-2a-902(1)(b), enacted in H.B. 20, be replaced with the following language:

"(b) An indigent individual may apply and potentially qualify for deferral under this part, or both this part and Part 8, Nondiscretionary Deferral for Property with Qualifying Increase.";

(12) Subsection 59-2a-902(3)(b), enacted in H.B. 20, not be enacted; and

(13) Section 59-2a-903, enacted in H.B. 20, not be enacted.

Mar. 25, 2025

Dear President Adams, Speaker Schultz, and Members of the Legislature,

As we near the end of this year's bill review session, I want you to know how much I truly appreciate you and the work that you do on behalf of the people of Utah. The work of a legislator is never truly done, and you sacrifice countless hours on behalf of your constituents. Utah is a better place because of the work you do.

I hope you will forgive the length of this letter. Please note that, while this letter is directed to you, it is also intended for the citizens of our state. As such, I hope you will not be offended by my sharing several extended passages from the founding period of our country, as it is critical to my thinking around this bill. We are lucky to live in a state with a legislature that is deeply committed to the teaching of civics; I proudly signed H.B. 381, Civics Education Amendments (Rep. Welton) and S.B. 334, Center for Civics Excellence at Utah State (Sen. Johnson) yesterday. I believe they are two of the most important bills of the 2025 session. And yet, I digress.

I have had the unique opportunity to work and serve in all three branches of government. I am grateful to live in a state that chose a form of government virtually identical to our national government. That means the ideas and writings of the founders of our great nation apply directly to our own government institutions. Indeed, it is the words of Madison, Adams, Hamilton, and others that have influenced my decision today.

Utah is tremendously blessed to have an active, engaged legislature. (Granted, 582 bills may be a bit *too* active … but we'll leave that discussion for another time.) Our system — with three separate, distinct, independent, and coordinate branches of government — simply does not work without a strong, diligent, and effective Legislature.

Most people believe that our three branches of government are "co-equal" branches of government. However, that is not exactly correct. While all three hold equal status and separate and important powers that serve to check and balance the others, the founders understood and intended that the legislative branch would be the most powerful. In Federalist 51, James Madison succinctly noted that "[i]n a Republican Government, the legislative authority necessarily predominates."

This was both a good thing and an area of concern. On the positive side, John Adams posited that the legislative branch "is the only instrument by which the body of the people can act; the only in which their opinions can be known and collected; the only means by which their wills can be united, and the strength exerted, according to any principle or continued system."

And yet, the founders worried about any one branch gaining too much power. In Federalist 71, Alexander Hamilton warned against legislative dominance:

> The tendency of the legislative authority to absorb every other, has been fully displayed and illustrated by examples in some preceding numbers. In governments purely republican, this tendency is almost irresistible. The representatives of the people, in a popular assembly, seem sometimes to fancy that they are the people themselves, and betray strong symptoms of impatience and disgust at the least sign of opposition from any other quarter; as if the exercise of its rights, by either the executive or judiciary, were a breach of their privilege and an outrage to their dignity. They often appear disposed to exert an imperious control over the other departments; and as they commonly have the people on their side, they always act with such momentum as to make it very difficult for the other members of the government to maintain the balance of the constitution.

I want to thank you as legislators for very often rejecting that "irresistible" tendency to "exert imperious control" over the other branches of government. Just this session, troublesome bills failed that could have been categorized as overreaches. I am the first to recognize that you are often unfairly criticized for every bill idea that may come forward, even when your process serves to improve those bills or eliminate them altogether. And yet, the founders believed each branch would jealously guard their own power from incursions — in fact they counted on it — and used that tension to design a system that has survived for 237 years. Unlike your federal counterparts, you have jealously guarded your authority and I support you in doing so.[1]

I feel confident that, at least in recent memory, no governor has been more supportive of the legislature. I am profoundly grateful for the opportunity I had to serve in the House of Representatives. I have frequently stood up for your role and defended many decisions, even when unpopular. Following the pandemic, when you decided to take back some of *your* emergency powers that had been delegated to the executive branch, I willingly signed the bill. In fact, I believe so strongly in your role that I filed an amicus brief supporting you in the *League of Women Voters* case. In that brief, I wrote that what I was defending was "the legislature's ability to use its constitutionally delegated power as part of our republican system of government." I may not always agree with you, but I will always defend your role and the essential part you play.

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[1] Sadly, they never could have predicted our current Congress that has completely abdicated its power to the president, the judicial branch, and an unforeseen and unelected bureaucracy. Congress has somehow become the weakest branch of government to the detriment of our nation.

While the legislative branch was intended to be the most powerful branch of government, it was not intended to be all-powerful. The founders wisely implemented measures to help check those almost irresistible tendencies, including dividing the legislative body in two (with different constituencies and terms of service), giving the executive branch a veto power and — most importantly — creating an independent judicial branch.

Just as a strong legislative branch is critical, so too is an independent judiciary. As constitutional scholar Yuval Levin has written, "Perhaps above all, the new system would require the courts to play an active part in the interbranch struggle for power that the Constitution rendered intentionally complicated and unsettled. Federal courts would police the structures and boundaries of the system, and this required them to be genuinely independent … And the framers' commitment to this independence was extraordinary." In Federalist 78, Alexander Hamilton specifically spelled out the importance of "[t]he complete independence of the courts of justice … [f]or I agree, that 'there is no liberty, if the power of judging be not separated from the legislative and executive powers.'"

The founders very intentionally sought to protect the judiciary from democratic politics as a way of guarding them from both branches of government. In the words of Justice Clarence Thomas, "[i]t is this ability to render judgement without concern for anything but the law, that should distinguish judges from members of the legislature or the executive branch. As Americans, we have long recognized the importance of an independent judiciary to our ongoing experiment in democracy."

And this brings me to SB 296.

This bill changes the longstanding statute under which the Utah Supreme Court elects its own leader, the Chief Justice of the Supreme Court. S.B. 296 seeks to establish a process in which the Chief Justice would be appointed by the Governor and confirmed by the Senate. Supporters of the bill correctly point out that the Chief Justice of the U.S. Supreme Court is appointed by the President and confirmed by the Senate. If that were all the bill did, it is something I could support. However, this bill takes a very meaningful and problematic additional step: requiring the appointment process to occur every four years. This means that, unlike the selection of the Chief Justice of the U.S. Supreme Court, the Chief Justice of the Utah Supreme Court would be required to go through a political appointment, a Senate confirmation committee, and full Senate confirmation processes every four years.

It is not lost on me that this bill actually gives me — the Governor — *more* power than I currently possess. I admit it is very tempting to sign this bill and assure that the Chief Justice would need to stay in my good graces to retain his or her position. Knowing the head magistrate of our state's highest court would have to think twice before ruling against me or checking my power is difficult to reject. I also recognize that refusing power is not en vogue these days and may be seen as weakness. But just because I can, doesn't mean I should. And while I appreciate your faith and trust in extending me this new authority, I must respectfully decline.

For these reasons, I have decided to veto SB 296. In so doing, I do not mean to imply that the judiciary is infallible or beyond reproach. I am deeply disappointed in some recent decisions that I believe are wrong. I support changes we made last year to the selection committees and the other bills passed this year around constitutional review and standing. Furthermore, I pledge to continue to work to change our laws and even amend the constitution if necessary to protect our state. I remain grateful that a decision by the Supreme Court is not the last word. A vote of two-thirds of the legislature and 50.1% of the public can overturn any decision. But just because I disagree with the court, does not mean that the system is broken or corrupted. Reasonable and intelligent legal minds can and do disagree on these decisions. It is possible to vehemently oppose a ruling and still support the institution. Indeed, I believe as an elected official I have an obligation to make sure that I am not responsible for hastening the decay of trust in our most important institutions. For once lost, that trust is excruciatingly difficult to return.

Much like the tearing down of Chesterton's Fence, while it might feel good now, I believe we would eventually come to regret rejecting ancient wisdom and injecting our own politics into the independent judiciary.

Please note that this decision is mine and mine alone. I know that there were negotiations with the judiciary during the session, and no one from that branch has asked me for this veto. As such, I must conclude by recognizing my own limitations and acknowledging that my veto power is not definitive. If two-thirds of you disagree with me then this law will go into full effect and I have sworn an oath to the constitution of this state and United States and will faithfully execute the law — even those I disagree with.

As we are soon to celebrate the 250th anniversary of the signing of the Declaration of Independence and the founding of the greatest nation in the history of the world, I feel profoundly grateful for this intricate, messy, and beautiful form of government that has been gifted to us. I thank God every day for the role you and I get to play in writing the history of our great state. I love, admire, and respect you even — and especially — when we disagree. Thank you again for all you continue to do on behalf of the people of Utah.

Respectfully,

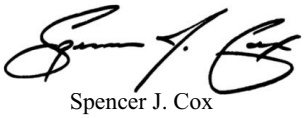

Spencer J. Cox
Governor

S. B. 296
Passed March 7, 2025
Approved
Effective

JUDICIAL AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill modifies provisions relating to the Supreme Court.

Highlighted Provisions:

This bill:

- ► modifies provisions governing the membership and internal management of the Supreme Court;
- ► provides that the governor shall appoint a chief justice of the Supreme Court (chief justice) when a vacancy in the office occurs;
- ► modifies provisions related to an interim chief justice and appointment procedures;
- ► requires that a governor's selection for chief justice is subject to the advice and consent of the Senate; and
- ► makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-3-101, as last amended by Laws of Utah 2022, Chapter 276

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-3-101 is amended to read:

78A-3-101. Number of justices -- Terms -- Appointment by governor with advice and consent of Senate -- Chief justice and associate chief justice -- Selection and functions.

(1) The Supreme Court consists of five justices.

(2) (a) A justice of the Supreme Court shall be appointed initially to serve until the first general election held more than three years after the effective date of the appointment.

(b) After the first term of appointment under Subsection (2)(a), the term of office of a justice of the Supreme Court is 10 years and commences on the first Monday in January following the date of election.

[~~(c) A justice whose term expires may serve upon request of the Judicial Council until a successor is appointed and qualified.~~]

(3) (a) [~~The justices of the Supreme Court shall elect a chief justice from among the members of the court by a majority vote of all justices.~~]Upon any vacancy in the office of chief justice, including expiration of a term of the office of chief justice, or upon a chief justice's death, removal, or resignation, the governor shall appoint a chief justice from among the members of the Supreme Court, with the advice and consent of the Senate.

(b) The term of the office of chief justice is four years.

(c) The chief justice may serve successive terms, subject to reappointment by the governor with the advice and consent of the Senate as required by this section.

(d) The chief justice may resign from the office of chief justice without resigning from the Supreme Court.

(e) The chief justice may be removed from the office of chief justice by a majority vote of all justices of the Supreme Court.

(f) The chief justice shall receive the sum of $2,000 per annum as additional compensation for the period served as chief justice.

(4) (a) If [~~the justices are unable to elect a chief justice~~]a chief justice has not been appointed by the governor and confirmed by the Senate within 30 days of a vacancy in that office, the associate chief justice shall act as interim chief justice until a chief justice is [~~elected~~]appointed and confirmed under this section.

(b) If the associate chief justice is unable or unwilling to act as interim chief justice under Subsection (4)(a), the most senior justice shall act as interim chief justice until a chief justice is [~~elected~~]appointed and confirmed under this section.

(5) In addition to the chief justice's duties as a member of the Supreme Court, the chief justice has duties as provided by law.

(6) (a) There is created the office of associate chief justice.

(b) The term of office of the associate chief justice is two years.

(c) The associate chief justice shall be:

(i) elected by a majority vote of the members of the Supreme Court; and

(ii) allocated duties as the chief justice determines.

(d) If the chief justice is absent or otherwise unable to serve, the associate chief justice shall serve as chief justice.

(e) The chief justice may delegate responsibilities to the associate chief justice as consistent with law.

(f) The associate chief justice shall receive the sum of $1,000 per annum for the period served as associate chief justice.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.

Mar. 27, 2025

Dear President Adams, Speaker Schultz, and Members of the Legislature,

We made it! Today marks the final day of the constitutional bill review period and the closing chapter of the 2025 General Session. Congratulations on all of your hard work, which I've had the privilege of witnessing firsthand over the course of a 20-day bill review. Thank you for everything you do to serve your constituents and the people of Utah. Utah — and *Utahns* — are in good hands as we face any challenges the future holds.

Before going any further, I want to offer a sincere thank you to our legislative leadership — President Adams, Speaker Schultz, and the entire leadership team. Your thoughtful approach has helped ensure that even when we disagree, we do so with respect, civility, and a shared commitment to doing what's right for Utah.

Since this is the final letter I will send during this year's bill review period, I want to briefly touch on a few items. First, I'll share some themes that I've noticed over the past weeks, and how they relate to specific bills from the session. I will also touch on a few bills that I am vetoing, and some that I am signing with the understanding that they will be amended in a special session. Finally, I'll explain why I am allowing three bills to pass into law without signature.

The Utah Constitution only provides 20 days after sine die for me to review the bills passed and decide what to sign or veto — a relatively short window given the volume of bills passed this session. As I have mentioned before, there are many bills that I would not have voted for had I been in the Legislature. But, vetoing a bill calls for a higher standard than deciding whether to vote for a bill. This is out of respect for and deference to your diligent efforts to find creative solutions to the challenges facing your constituents.

However, reviewing all the bills in a short period of time gives me the opportunity to spot themes that may not be so easy to identify during the chaos of a 45-day session. Two of those stand out

to me: (1) our recent approach to tax policy and (2) the challenges related to criminal justice policy.

In the last five years, we have made historic tax cuts — totaling more than $1.3 billion. I am proud of this work. However, I have come to the conclusion that we need to develop a more coordinated plan for Utah's future tax policy. I want to highlight the great work of Sen. McCay, as the chair of the Senate Revenue and Taxation Committee, in his efforts to be thoughtful about tax policy. With the failure of comprehensive tax reform in 2019 and the setbacks in removing the food tax and fixing the earmark, it is time for us to go back to the drawing board and craft a tax policy that will ensure Utah's prosperity for generations to come.

While I appreciate and respect Sen. McCay's diligent and innovative work on tax policy, I have decided to veto **S.B. 197, *Property Tax Amendments***. A number of our county government leaders expressed concerns and asked for a veto due to administrative challenges with this policy change. They also expressed concerns about the impact this would have on our senior population. I agree with both of those concerns. Many of these issues are outlined in a joint veto request letter from county treasurers across the state (see attached).

While S.B. 197 contains well-intentioned goals of reforming and streamlining property tax relief programs, it risks cutting off the most vulnerable of Utah's expanding senior population from a critical tax relief lifeline, while also adding administrative burdens on counties. A more prudent approach would be to revisit these reforms as part of a comprehensive, coordinated review of Utah's tax system. I am committed to working with Sen. McCay and the legislature to take a more complete approach to our future tax policy — not only on property tax, but also the future of our income tax rate and our state sales tax.

That brings me to a second area of concern: criminal justice policy. There are so many of you that deserve recognition for your outstanding work in this area. Like you, I believe in law and order, and public safety is a top priority for my administration. Those who endanger our community must be held accountable. And we can never thank our law enforcement officials enough for their sacrifice and dedication.

I also recognize that this is a particularly difficult area in which to legislate. Many believe that Utah moved too far in one direction with the justice reinvestment initiative in 2015, a concern that I share to some degree. At the same time, we must be careful as we rebalance our policy to not swing the pendulum too far in the other direction with ad hoc changes that lack a thoughtful, comprehensive operational plan.

I'll share some data to illustrate the issue: this session, there were at least 77 bills introduced that sought to increase criminal penalties or create new criminal offenses. Even after we worked

together to rein in this number, 43 of these bills passed in some form. The 2025 session was not an aberration but rather the continuation of a trend, with an average of 40 offenses added or enhanced each year from 2020–2024. This makes for a total of over 200 new crimes or increased penalties over the past six years, adding to the over 2,000 existing misdemeanor and felony offenses already on the books.

Changes at this rate are unsustainable, and I'm concerned about the strain this rapid growth in new offenses places on our incarceration resources. I've heard from many stakeholders — including law enforcement leaders — that the sheer volume of recent changes has become difficult to manage. There is also a valid question as to whether these enhancements, absent an overarching strategy, will actually achieve the public safety goals they're intended to address.

One bill, **H.B. 353, *Criminal Code Amendments***, tries to buck this trend by having each state agency individually review the criminal code and offer its own suggestions for changes directly to the legislature. I commend the sponsors for their work on this bill and appreciate them identifying the issues I have mentioned above. However, this bill doesn't go far enough, and I worry that an ad-hoc review by each agency will likely serve only to further complicate the situation. We need a more comprehensive approach.

For this reason, I will issue an executive order today to establish a criminal justice task force at the Commission on Criminal and Juvenile Justice. The task force will work directly with you and others to develop a criminal justice framework to aid in making criminal justice policy decisions. It will consider many different factors including public safety, victim needs, deterrence, proportionality, recidivism, and prison and jail capacity. We know that your role as the Legislature is to create policy, and we hope that the efforts of the task force will be helpful to you as you continue the important work you do in this area. Legislative involvement will be essential to the task force's success, and we hope members will actively collaborate with CCJJ in this important work.

As for H.B. 353, out of appreciation and respect for the sponsors and their efforts, I am not vetoing the bill, but am allowing it to go into law without signature — not because I don't like the bill, but because I think we can do even more.

Thank you for letting me reflect on these themes. My reflections are intended to offer perspective, not critique. I am deeply grateful for your willingness to take on the hard issues, and we stand ready to work with you and support you as we continue to find solutions to these difficult problems.

As I mentioned, there are also a few other bills that I have decided to veto. These bills are:

H.B. 306, *Precious Metals Amendments*. This bill required the state treasurer to hold a competitive procurement process to find a company to operate a precious metals-backed electronic payment system on behalf of the state. The bill would require that the payment system be integrated into the state's accounting system.

While Utah has been implementing last year's H.B. 348, *Precious Metals Amendments*, under which the state treasurer may invest in precious metals, there are significant problems that make H.B. 306 operationally impracticable. Additionally, I am concerned that a specific entity offered to fund the bill, which could jeopardize the required competitive process in the bill.

H.B. 315, *Elected Official Vacancy Modifications.* This bill sought to address how to handle a tie among three or more candidates in a vacancy for a municipal office. The bill does so by having municipalities use a "game of chance." In light of the language of the Utah Constitution that the "Legislature shall not authorize any game of chance," I am vetoing the bill out of an abundance of caution to avoid creating potential legal issues for the state in this area. I applaud the efforts of the sponsors to improve the code in this area, and support finding a new approach to accomplish their goal.

S.B. 106, *Utah-Ireland Trade Commission.* This bill creates a new Utah-Ireland trade commission consisting of six legislators and five individuals appointed by the executive director of the Governor's Office of Economic Opportunity. While I understand the intent of this bill, I continue to be wary of creating new commissions in statute. Thanks to your outstanding work, we are now under 400 boards and commissions in the state. Let's not go backward on this when it is not necessary to do so!

Further, I am concerned about creating a trade commission for one country when we have not established similar commissions for other countries that, by the numbers, are much more significant trade partners for Utah. And, we don't need to create a new commission when I can do everything that this bill calls for without a new statute or a new trade commission. I do these things on behalf of the state of Utah regularly — advancing bilateral trade and investment, initiating joint action on areas of mutual interest, promoting business, and taking other actions to strengthen trade with other countries. These actions are an executive function, not the function of a commission of legislators. Legislators do play an important role in our sub-national relationships with other countries and we are always willing to coordinate and support those efforts.

To be clear to our friends in Ireland, nothing in this veto represents a lack of desire or willingness to enter into a memorandum of understanding or improve our trade with

Ireland. I welcome such a relationship, and am happy to pursue this without the cost or administrative burden of a new commission.

There are two bills I have decided to sign, but with the understanding that we will have a special session to make modifications. These are:

H.B. 263, *Election Amendments*. I support election transparency and appreciate this year's efforts to strengthen trust in our election system. This bill had many veto requests from our county clerks and the Utah Association of Counties. I agree with much of Rep. Thurston's intent with his focus on enhanced election transparency, which is why I'm signing the bill. I am grateful that Rep. Thurston was willing to sit down and work through those concerns with county clerks and elections officials, and that he has reached an agreement on some important changes to the bill. I appreciate legislative leadership's willingness to implement that agreement in a special session.

H.B. 356, *County Government Amendments*. Again, while I agree with much of the original intent of the bill, I believe the final version of the bill creates some unintended consequences. I have worked with the sponsor and legislative leadership to make arrangements for these changes to avoid the unintended consequences. Again, more to come soon in a special session.

I will also include on a special session call that we should remove a $3.5 million appropriation that had been allocated for the Sundance Film Festival. Let's reappropriate that money to efforts in Utah to create a new festival and a world-class film economy right here in our state.

There are two additional bills that I have decided to allow to become law without my signature:

S.B. 69, *Medication Amendments*. This bill would require pharmaceutical manufacturers to extend federal 340B discounts to for-profit contract pharmacies. I appreciate the sponsors of this bill for their efforts to make prescription medication more accessible to uninsured and low-income Utahns. I'm also grateful that this bill will be good for Utah hospitals. I have some concerns that the current program does not exactly serve its intended purpose. The bill does not require cost savings to be passed onto patients and is not transparent in how cost savings are used. This program was established by Congress, and it should be fixed at the federal level. As such, I am allowing this bill to go into law without signature.

H.B. 77, *Flag Display Amendments*. H.B. 77 has been one of the most divisive bills of the session, and I am deeply disappointed that it did not land in a better place. My understanding is that there was a deal on a compromise that would have removed

problematic portions of the bill while retaining others that would support political neutrality in the classroom. Sadly the sponsors did not move that deal forward. I continue to have serious concerns with this bill. However, because a veto would be overridden, I have decided to allow the bill to go into law without my signature, and urge lawmakers to consider commonsense solutions that address the bill's numerous flaws.

I deeply believe that our classrooms need to be a place where everyone feels welcome — free from the politics that are fracturing our country. Parents are rightly upset when they bring their kids to publicly funded schools and see culture-war symbols in a place that should be apolitical. In an attempt to make some kids feel more welcome, other kids feel less welcome. I appreciate that the bill is neutral on the types of flags in question (and I find it strange that no headline reads "MAGA flags banned from classrooms"). I agree with the underlying intent of those legislators who supported this bill in an attempt to bring political neutrality to the classroom.

Unfortunately, this bill does not do that. By simply requiring the removal of flags only, there is little preventing countless other displays — posters, signs, drawings, furniture — from entering the classroom. Furthermore, the bill is overly prescriptive on flags themselves. To those legislators who supported this bill, I'm sure it will not fix what you are trying to fix.

Fortunately individual schools can (and many have) put into place their own policies to bring political neutrality to the classroom. Furthermore, we have a better place to make the necessary regulations than the legislature: the Utah State Board of Education (USBE) has provided a framework and expectation of political neutrality in the classroom through the educator code of conduct found in R277-217-2(25). Still, I believe more needs to be done by USBE to provide direction in this regard. I have asked the Board of Education to continue their work to find ways to make our classrooms both more politically neutral and more welcoming to every student to exercise their own individual freedom of expression. The idea that kids can only feel welcome in a school if a teacher puts up a rainbow flag is just wrong. Let's do everything possible to make our classrooms one of the last remaining politically neutral places in our state.

Second, I believe that the bill goes too far when applied to local governments. While I think it's wrong for city and county officials to fly divisive flags, I believe that elections have consequences and the best way to stop that behavior is to elect people who believe differently. All this bill does is add more fuel to the fire, and I suspect it will only ratchet up the creative use of political symbolism (for example: lighting used in place of flags).

Finally, as tired as Utahns are of politically divisive symbols, I think they are also tired of culture war bills that don't solve the problems they intend to fix. Utah has always had a reputation of trying to find a way to work together and solve issues between sides that have strongly-held, opposing points of view. There are so many examples of the LGBTQ community and the conservative community coming together to find helpful and hopeful compromise. I hope we can retain this as our model and North Star.

To our LGBTQ community, I know that recent legislation has been difficult. Politics can be a bit of a blood sport at times and I know we have had our disagreements. I want you to know that I love and appreciate you and I am grateful that you are part of our state. I know these words may ring hollow to many of you, but please know that I mean them sincerely.

I hope that the legislature will remain open to allowing the USBE to go further in ensuring the political neutrality of our classrooms, while also considering repealing the local government piece of this legislation and allowing elected representatives to answer to their own constituents. If you are willing to pursue this kind of solution, you will have an open door in the executive branch.

I am also line-item vetoing a few items of appropriations:

One line item veto for **H.B. 3, *Current Fiscal Year Supplemental Appropriations***:

- Item 154, lines 2711-2715. This item duplicates the federal funds appropriation adjustment that was also included in Item 11 of H.B. 7, *National Guard, Veterans Affairs, and Legislature Base Budget*.

The following line-item vetoes for **S.B. 3, *Appropriations Adjustments***:

- Item 177, lines 1418-1424; Item 201, lines 1738-1744; and Item 209, lines 1793-1799. S.B. 106, *Utah-Ireland Trade Commission*, was vetoed.
- Item 249, lines 2207-2213. This item of appropriation, H.B. 277, *Vehicle Registration Amendments*, did not pass.
- Item 261, lines 2308-2316. S.B. 222, *Vehicle Emission Inspection Program Revisions*, did not pass.
- Item 454, lines 4098-4104. S.B. 37, *Minimum Basic Tax Rate Amendments*, which would have authorized the deposit of local property tax revenues into the state's General Fund, was vetoed. As a result, the funding that this item transfers from the General Fund into the Income Tax Fund is no longer available.

I'll conclude with one final trend that has troubled me in recent years. During the 2021 General Legislative Session, the Legislature passed 502 bills totaling 9,646 pages. This last Session, 582 bills were passed, increasing that total page count by more than 3,000 pages to 12,703 pages. Since 2021, the legislature has passed 2,762 bills for a total of 56,907 pages. To further illustrate the nature of the concern, there have been 646 education bills passed in the last five years, representing ~23% of all bills passed. While many of these bills greatly benefit our students, parents, and educators, this additional regulation creates a significant burden upon local education agencies and their genuine efforts to be in compliance with the new statutory expectations within short timeframes.

While there are many reasons to explain this increase — such as improved efficiency in the legislative drafting process, additional staff support, and streamlined channels of communication — I am worried about the additional burden this places on the public, state entities, local governments, and others to understand and effectively implement all these new laws. Rather than focusing on serving the people of our state, I am worried they are focusing on implementing another year's worth of legislation. I support your work and I recognize your well-meaning efforts to build a better state for all Utahns. As we look to the 2026 Session, I hope we can work together and make a concerted effort to thoughtfully examine the wide-reaching impact of each bill.

With that, we have concluded the 2025 General Session. Thank you for your work, partnership, sacrifice, and dedication. And thank you for all you do to make Utah the best place to live, work, recreate, and raise a family.

With great respect,

Spencer J. Cox
Governor

LAWS
of the
STATE OF UTAH, 2025

Passed at the

FIRST SPECIAL SESSION

of the

SIXTY-SIXTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake

October 6, 2025

and Adjourned Sine Die on

October 6, 2025

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2025 First Special Session of the Sixty-Sixth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2025 First Special Session of the Sixty-Sixth Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 6th of October 2025 and adjourned sine die on the 6th of October 2025.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City,

this Nov. 24, 2025

DEIDRE M. HENDERSON
Lieutenant Governor

CHAPTER 1
S. B. 1011
Passed October 6, 2025
Approved October 6, 2025
Effective October 6, 2025

REDISTRICTING STANDARDS

Chief Sponsor: Brady Brammer
House Sponsor: Norman K Thurston

LONG TITLE

General Description:

This bill establishes statistical methods and standards to use in evaluating redistricting plans for compliance with state law.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes statistical methods and standards to use in evaluating redistricting plans for compliance with state law; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-19-103, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-19-103 is amended to read:

20A-19-103. Redistricting standards and requirements.

(1) As used in this section:

(a) "Ensemble analysis" means an analysis of a proposed redistricting plan:

(i) that uses a sequential Monte Carlo simulation to generate an ensemble of at least 4,000 redistricting plans before culling any plan for compliance with this section;

(ii) that indicates whether a proposed redistricting plan shows a partisan intent by comparing the proposed plan to the ensemble by calculating:

(A) the ranked marginal deviation of the ensemble by:

(I) identifying one of the two major political parties as the reference party;

(II) for each map the simulation generates, ranking the districts from worst performance for the reference party to best performance for the reference party, using the partisan index;

(III) at each rank, calculating the average vote share for the reference party;

(IV) for each map the simulation generates, calculating the deviations between the reference party's performance at each rank and the average vote share at that rank;

(V) squaring the deviations described in Subsection (1)(a)(ii)(A)(IV);

(VI) adding together the squared deviations described in Subsection (1)(a)(ii)(A)(V) for each map;

(VII) dividing the sum described in Subsection (1)(a)(ii)(A)(VI) by the number of districts; and

(VIII) taking the square root of the quotient described in Subsection (1)(a)(ii)(A)(VII); and

(B) the ranked marginal deviation of the proposed redistricting plan by:

(I) ranking the districts from worst performance for the reference party to best performance for the reference party, using the partisan index;

(II) calculating the deviations between the reference party's performance at each rank and the average vote share described in Subsection (1)(a)(ii)(A)(IV);

(III) squaring the deviations described in Subsection (1)(a)(ii)(B)(II);

(IV) adding together the squared deviations described in Subsection (1)(a)(ii)(B)(III);

(V) dividing the sum described in Subsection (1)(a)(ii)(B)(IV) by the number of districts; and

(VI) taking the square root of the quotient described in Subsection (1)(a)(ii)(B)(V); and

(iii) for which the following results fail the ensemble analysis:

(A) a result described in Subsection (1)(a)(ii)(B)(VI) that is greater than the result described in Subsection (1)(a)(ii)(A)(VIII) of 95% of the ensemble districts; or

(B) a result described in Subsection (1)(a)(ii)(B)(VI) that is greater than the result described in Subsection (1)(a)(ii)(A)(VIII) of 95% of the ensemble districts after culling the ensemble to include only redistricting plans that pass the partisan bias test, as described in

Subsection (1)(c)(ii).

(b) "Mean-median difference test" means an evaluation of a proposed redistricting plan:

(i) that calculates the difference between a party's average statewide vote share and the party's median vote share across all districts in a proposed redistricting plan; and

(ii) for which a difference described in Subsection (1)(b)(i) that is greater than a 2% deviation from the mean fails the mean-median difference test.

(c) "Measures of partisan symmetry" means, for a congressional redistricting plan:

(i) the partisan bias test; and

(ii) an ensemble analysis with subsequent culling to include only redistricting plans that pass the partisan bias test to ensure the plan is within the statistical bounds of passing plans.

(d) "Partisan bias test" means an evaluation of partisan symmetry in a proposed redistricting plan:

(i) that follows the following sequential steps:

(A) calculate each party's statewide vote share using the partisan index;

(B) calculate the difference between each party's statewide vote share and 50%;

(C) subtract the difference described in Subsection (1)(d)(i)(B) from each party's vote share in each district in the proposed redistricting plan based on the partisan index data for each census block within the district; and

(D) based on the adjusted vote share described in Subsection (1)(d)(i)(C), calculate the difference between each party's expected seat share and 50% of the total seats in a hypothetical election, with the difference between the party's seat share in the hypothetical election and 50% of the total seats representing the degree of partisan bias; and

(ii) for which a result described in Subsection (1)(d)(i) other than the following fails the partisan bias test:

(A) for an even number of seats, 0; or

(B) for an odd number of seats, 0.5.

(e) "Partisan index" means an average of the partisan vote share:

(i) except as provided in Subsection (1)(e)(ii), in the three immediately preceding statewide elections for each of the following offices:

(A) United States president;

(B) governor;

(C) attorney general;

(D) state treasurer; and

(E) state auditor;

(ii) except as provided in Subsection (1)(e)(iii), that excludes an election for an office in which the two largest political parties did not field a candidate; and

(iii) that allocates votes for an independent general election candidate to a political party if the independent candidate attempted to win the nomination of the political party at a primary election or party convention for the same general election.

(f) "Sequential Monte Carlo simulation" means a probabilistic algorithm that simultaneously generates a representative ensemble of districting plans for comparison in an ensemble analysis by building redistricting plans through a step-by-step random sampling method, weighting and resampling the plans to reflect legal and geometric criteria.

(g) "Unduly favor or disfavor" in regards to Subsection (4) for purposes of a congressional map, means the map is asymmetrical under the measures of partisan symmetry and fails the mean-median difference test.

[~~(1)~~](2) This [~~Section~~]section establishes redistricting standards and requirements applicable to the Legislature and to the Utah Independent Redistricting Commission.

[~~(2)~~](3) The Legislature and the Commission shall abide by the following redistricting standards to the greatest extent practicable and in the following order of priority:

(a) adhering to the Constitution of the United States and federal laws, such as the Voting Rights Act, 52 U.S.C. Secs. 10101 through 10702, including, to the extent required, achieving equal population among districts using the most recent national decennial enumeration made by the authority of the United States;

(b) minimizing the division of municipalities and counties across multiple districts, giving first priority to minimizing the division of municipalities and second priority to minimizing the division of counties;

(c) creating districts that are geographically compact;

(d) creating districts that are contiguous and that allow for the ease of transportation throughout the district;

(e) preserving traditional neighborhoods and local communities of interest;

(f) following natural and geographic features, boundaries, and barriers; and

(g) maximizing boundary agreement among different types of districts.

[~~(3)~~](4) (a) The Legislature and the Commission may not divide districts in a manner that purposefully or unduly favors or disfavors any incumbent elected official, candidate or prospective candidate for elective office, or any political party.

(b) Absent clear and convincing evidence of purpose, a redistricting plan that is within the acceptable bounds of the ensemble analysis does not purposefully favor or disfavor a political party under Subsection (4)(a).

(c) A redistricting plan that is symmetrical under the measures of partisan symmetry and passes the mean-median difference test does not unduly favor or disfavor a political party under Subsection (4)(a).

[~~(4)~~](5) The Legislature and the Commission shall use judicial standards and the best available data and scientific and statistical methods, including measures of partisan symmetry, to assess whether a proposed redistricting plan abides by and conforms to the redistricting standards contained in this [~~Section~~]section, including the restrictions contained in Subsection [~~(3)~~](4).

[~~(5)~~](6) Partisan political data and information, such as partisan election results, voting records, political party affiliation information, and residential addresses of incumbent elected officials and candidates or prospective candidates for elective office, may not be considered by the Legislature or by the Commission, except as permitted under Subsection [~~(4)~~](5).

[~~(6)~~](7) The Legislature and the Commission shall make computer software and information and data concerning proposed

redistricting plans reasonably available to the public so that the public has a meaningful opportunity to review redistricting plans and to conduct the assessments described in Subsection [~~(4)~~](5).

(8) Any judicial review of a congressional redistricting plan to determine whether the Legislature or Commission complies with this section regarding purposefully or unduly favoring or disfavoring a political party shall base the review on the outcomes of the following, in accordance with this section:

(a) an ensemble analysis;

(b) the partisan bias test; and

(c) the mean-median difference test.

Section 2. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), December 6, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 2
S. B. 1012
Passed October 6, 2025
Approved October 6, 2025
Effective December 6, 2025

CONGRESSIONAL BOUNDARIES DESIGNATION

Chief Sponsor: Scott D. Sandall
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill, which includes this printed text and the electronic data affiliated with this text that is available on the Legislature's website and also included on the electronic storage device accompanying this bill when presented to the governor, establishes new United States Congressional district boundaries for Utah while the 2021 boundaries are enjoined and Title 20A, Chapter 19, is in effect.

Highlighted Provisions:

This bill:

- ► adds an exception to the 2021 United States Congressional district boundaries for Utah and establishes new United States Congressional district boundaries for Utah while the 2021 boundaries are enjoined and Title 20A, Chapter 19, is in effect;
- ► establishes the block equivalency file that is part of this bill in electronic form as the legal boundaries of United States Congressional district boundaries for Utah while the 2021 boundaries are enjoined and Title 20A, Chapter 19, is in effect;
- ► provides a hash code to verify the authenticity of the block equivalency file;
- ► makes technical changes; and
- ► incorporates the following district boundary information:
  - the Congressional district boundary information may be found at https://le.utah.gov/Session/2025S1/documents/SB1012_BEF.txt;
  - the block equivalency file is: SB1012_BEF.txt; and
  - the block equivalency file security code is: 00c65d65ecbe52d5d4b89f5daa3449a2.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-13-101.1, as last amended by Laws of Utah 2021, Second Special Session, Chapter 2
20A-13-101.5, as last amended by Laws of Utah 2022, Chapter 18
20A-13-102, as last amended by Laws of Utah 2021, Second Special Session, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-13-101.1 is amended to read:

20A-13-101.1. Definitions.

As used in this part:

(1) "Census block" means any one of the 71,207 individual geographic areas into which the Bureau of the Census of the United States Department of Commerce has divided the state of Utah, to each of which the Bureau of the Census has attached a discrete population tabulation from the 2020 decennial census.

(2) "Congressional block equivalency file" means the electronic file that:

(a) assigns each of Utah's 71,207 census blocks to a particular Congressional district; and

(b) is designated as:

(i) except as provided in Subsection (2)(b)(ii), HB2004_BEF.txt [~~that assigns each of Utah's 71,207 census blocks to a particular Congressional district.~~]; and

(ii) SB1012_BEF.txt only during a period in which:

(A) a court enjoins the electronic file described in Subsection (2)(b)(i); and

(B) Title 20A, Chapter 19, Utah Independent Redistricting Commission and Standards Act, is in effect.

(3) "Congressional shapefile" means the electronic shapefile that:

(a) is the resulting projection of the Congressional block equivalency file; and

(b) stores the boundary of each of the four United States Congressional district boundaries for Utah.

(4) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

Section 2. Section 20A-13-101.5 is amended to read:

20A-13-101.5. Representatives to the United States Congress -- Four representative districts -- When elected -- District boundaries.

(1) (a) The state of Utah is divided into four districts for the election of representatives to the Congress of the United States, with one

member to be elected from each Congressional district.

(b) At the general election to be held in 2022, and biennially thereafter, one representative from each Congressional district shall be elected to serve in the Congress of the United States.

(2) The Legislature adopts the official census population figures and maps of the Bureau of the Census of the United States Department of Commerce developed in connection with the taking of the 2020 national decennial census as the official data for establishing Congressional district boundaries.

(3) (a) [~~The~~]Except as provided in Subsection (3)(b), theLegislature enacts the district numbers and boundaries of the Congressional districts designated in the Congressional block equivalency file and resulting Congressional shapefile that is the electronic component of Laws of Utah 2021, Second Special Session, Chapter 2:

(i) for purposes of nominating and electing members of the United States Congress beginning January 1, 2022; and

(ii) for all other purposes beginning January 3, 2023.

(b) Only during a period described in Subsection 20A-13-101.1(2)(b)(ii), the Legislature enacts the district numbers and boundaries of the Congressional districts designated in the Congressional block equivalency file and resulting Congressional shapefile that is the electronic component of this bill:

(i) for purposes of nominating and electing members of the United States Congress beginning January 1, 2026; and

(ii) for all other purposes beginning January 3, 2027.

[~~(b)~~](c) The Legislature shall ensure that the Congressional shapefile, and Congressional boundaries generated from the Congressional shapefile, are accessible on the Utah Legislature's website.

Section 3. Section 20A-13-102 is amended to read:

20A-13-102. Congressional districts -- Filing -- Legal boundaries.

(1) (a) The Legislature shall file a copy of the Congressional block equivalency file enacted by the Legislature and the resulting Congressional shapefile with the lieutenant governor's office.

(b) The legal boundaries of Utah's Congressional districts are contained in the Congressional shapefile on file with the lieutenant governor's office.

(2) (a) The lieutenant governor shall:

(i) verify the Congressional block equivalency file that the Legislature files under Subsection (1) using:

(A) for the block equivalency file described in Subsection 20A-13-101.5(3)(a), block equivalency file security code "4cb8a686520fdb1c2385e0a9812ff403" and the corresponding Congressional shapefile; and

(B) for the block equivalency file described in Subsection 20A-13-101.5(3)(b), block equivalency file security code "00c65d65ecbe52d5d4b89f5daa3449a2 " and the corresponding Congressional shapefile;

(ii) generate maps of each Congressional district from the Congressional shapefile; and

(iii) ensure that the district maps are available for viewing on the lieutenant governor's website.

(b) If there is any inconsistency between the district maps and the Congressional shapefile resulting from the Congressional block equivalency file, the [~~Congressional shapefile~~]block equivalency file is controlling.

Section 4. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), December 6, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 3
H. B. 1001
Passed October 6, 2025
Approved October 14, 2025
Effective October 14, 2025

GREAT SALT LAKE AMENDMENTS

Chief Sponsor: Jill Koford
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses issues related to the Great Salt Lake.

Highlighted Provisions:

This bill:

► modifies provisions related to management of berms; and
► makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

65A-17-201, as last amended by Laws of Utah 2025, Chapter 151

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 65A-17-201 is amended to read:

65A-17-201. Great Salt Lake -- Management responsibilities of the division.

The division has the following powers and duties:

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the management of the Great Salt Lake that recognize the division's duty to manage public trust assets and balance the following public interest benefits and policies:

(a) strategies to effectively and efficiently manage the Great Salt Lake based on the Great Salt Lake's fluctuating lake levels;

(b) development of the Great Salt Lake that balances, in a manner that promotes a healthy physical and ecological condition:

(i) migratory and shorebirds habitats;

(ii) wetlands;

(iii) brines, minerals or elements, chemicals, and petro-chemicals;

(iv) brine shrimp;

(v) the protection of wildlife and wildlife habitat;

(vi) the protection of recreational access and facilities; and

(vii) search and rescue efforts;

(c) promote water quality management for the Great Salt Lake and the Great Salt Lake's tributary streams;

(d) public access to the Great Salt Lake for recreation, hunting, and fishing;

(e) temperature moderation, a stable role in the water cycle, and dust mitigation;

(f) maintain the Great Salt Lake's flood plain as a hazard zone;

(g) maintain the Great Salt Lake and the marshes as important shorebirds, waterfowl, and other waterbird flyway system;

(h) promote and maintain recreation areas on and surrounding the Great Salt Lake; and

(i) maintain and protect state, federal, and private marshlands, rookeries, and wildlife refuges.

(2) (a) The division shall prepare and maintain a comprehensive management plan for the Great Salt Lake that is consistent with:

(i) the management duty and public interest benefits described in Subsection (1);

(ii) policies established by rule made under Subsection (1); and

(iii) the Great Salt Lake strategic plan adopted under Section 73-32-204.

(b) The comprehensive management plan described in this section shall integrate the land within the Great Salt Lake meander line regardless of whether the land has been excluded from water within the Great Salt Lake because of a berm or other infrastructure on sovereign land associated with the Great Salt Lake.

(c) The division shall prepare the comprehensive management plan in consultation with the Great Salt Lake commissioner.

(3) The division may employ personnel and purchase equipment and supplies that the Legislature authorizes through appropriations for the purposes of this chapter and Chapter 10, Management of Sovereign Lands.

(4) The division may initiate studies of the Great Salt Lake and the Great Salt Lake's related resources.

(5) The division may publish scientific and technical information concerning the Great Salt Lake.

(6) The division shall define the Great Salt Lake's flood plain.

(7) The division may qualify for, accept, and administer grants, gifts, or other funds from the federal government and other sources, for carrying out any functions under this chapter and Chapter 10, Management of Sovereign Lands.

(8) The division shall determine the need for public works and utilities for the lake area.

(9) The division may implement the comprehensive plan described in Subsection (2) through state and local entities or agencies.

(10) The division shall coordinate the activities of the various divisions within the Department of Natural Resources with respect to the Great Salt Lake.

(11) The division shall retain and encourage the continued activity of the Great Salt Lake technical team.

(12) The division shall administer Chapter 16, Great Salt Lake Watershed Enhancement Program.

(13) The division shall administer Section 65A-17-202 when the Great Salt Lake emergency trigger is reached.

(14) (a) The division:

(i) shall manage the adaptive management berm in the UP causeway breach to keep salinity of Gilbert Bay within target ranges, raising and lowering the adaptive management berm as needed to achieve that goal [~~.~~];

(ii) may raise the adaptive management berm to 4,192 feet in consideration of the

[~~(b) In pursuing the goal described in Subsection (14)(a), the division shall:~~]

[~~(i) consider the other~~] management objectives enumerated in this section, including the preservation of Gunnison Bay; and

[~~(ii)~~](iii) shall raise the adaptive management berm if the Great Salt Lake elevation is 4,190 feet or lower [~~; and~~]

[~~(iii) comply with a plan and schedule required by Subsection (14)(c)~~].

[~~(c)~~](b) Before raising the adaptive management berm, the division shall have a plan and shall comply with the plan that includes a schedule to lower the adaptive management berm by no later than 18 months after raising the adaptive management berm, with an objective of equalizing the elevations of Gilbert Bay and Gunnison Bay to be within two feet of each other.

[~~(d)~~](c) The division [~~will~~]shall consult with the Great Salt Lake commissioner:

(i) before modifying the adaptive management berm; and

(ii) concerning the adoption of the plan and schedule described in Subsection [~~(14)(c)~~](14)(b).

(15) Notwithstanding a statute to the contrary and except for activities that interfere with the authority granted the state engineer under Title 73, Water and Irrigation, the division may construct, operate, modify, or maintain infrastructure related to protecting the Great Salt Lake and adjacent wetlands and may engage in planning and provide staff to manage the infrastructure.

(16) The division may perform acts other than those described in Subsections (1) through (15) that are reasonably necessary to carry out this chapter and Chapter 10, Management of Sovereign Lands.

(17) The division shall complete an analysis to determine the infrastructure and engineering needs related to salinity management within the Great Salt Lake meander line.

(18) The division shall consult with the Division of Wildlife Resources to identify projects on sovereign lands that benefit wildlife habitat through the improved flow of water and management of both native and invasive plant species.

(19) This chapter may not be interpreted to override, supersede, or modify any water right within the state, or the role and authority of the state engineer.

Section 2. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), December 6, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 4
H. B. 1002
Passed October 6, 2025
Approved October 14, 2025
Effective December 6, 2025

PROPERTY MANAGER AMENDMENTS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill amends provisions relating to a property manager license.

Highlighted Provisions:

This bill:

- ► changes the effective date of provisions from the 2025 General Session H.B. 337, Property Manager Requirements, to July 1, 2026;
- ► provides an exception to the requirement for a property manager to associate with a real estate trust account; and
- ► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

61-2f-103, as last amended by Laws of Utah 2025, Chapter 248
61-2f-201, as last amended by Laws of Utah 2025, Chapter 248
61-2f-203, as last amended by Laws of Utah 2025, Chapter 248
61-2f-411, as enacted by Laws of Utah 2025, Chapter 248

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 61-2f-103 is amended to read:
61-2f-103. Real Estate Commission.

(1) There is created within the division a Real Estate Commission.

(2) The commission shall:

(a) subject to concurrence by the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of this chapter that are not inconsistent with this chapter, including:

(i) licensing of:

(A) a principal broker;

(B) an associate broker;

(C) a sales agent; and

(D) on or after July 1, 2026, a property manager;

(ii) registration of:

(A) an entity;

(B) an assumed name under which a person conducts business;

(C) a branch office; and

(D) a property management company;

(iii) prelicensing and postlicensing education curricula;

(iv) examination procedures;

(v) the certification and conduct of:

(A) a real estate school;

(B) a course provider; or

(C) an instructor;

(vi) proper handling of money received by a licensee under this chapter;

(vii) brokerage office procedures and recordkeeping requirements;

(viii) property management;

(ix) standards of conduct for a licensee under this chapter;

(x) if the commission, with the concurrence of the division, determines necessary, a rule as provided in Subsection 61-2f-306(3) regarding a legal form;

(xi) the qualification and designation of an acting principal broker in the event a principal broker dies, is incapacitated, or is unable to perform the duties of a principal broker, as described in Section 61-2f-202; and

(xii) giving or paying an inducement gift or a closing gift to a buyer or seller in a real property transaction;

(b) establish, with the concurrence of the division, a fee provided for in this chapter, except a fee imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;

(c) conduct an administrative hearing not delegated by the commission to an administrative law judge or the division relating to the:

(i) licensing of an applicant;

(ii) conduct of a licensee;

(iii) the certification or conduct of a real estate school, course provider, or instructor regulated under this chapter; or

(iv) violation of this chapter by any person;

(d) with the concurrence of the director, impose a sanction as provided in Section 61-2f-404;

(e) advise the director on the administration and enforcement of a matter affecting the division and the real estate sales and property management industries;

(f) advise the director on matters affecting the division budget;

(g) advise and assist the director in conducting real estate seminars; and

(h) perform other duties as provided by this chapter.

(3) (a) Except as provided in Subsection (3)(b), a state entity may not, without the concurrence of the commission, make a rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate transaction between private parties.

(b) Subsection (3)(a) does not apply to a rule made:

(i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or

(ii) by the Department of Commerce or any division or other rulemaking body within the Department of Commerce.

(4) (a) The commission consists of five members appointed by the governor and approved by the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) Four of the commission members shall:

(i) have at least five years' experience in the real estate business; and

(ii) hold an active principal broker, associate broker, or sales agent license.

(c) One commission member shall be a member of the general public.

(d) The governor may not appoint a commission member described in Subsection (4)(b)who, at the time of appointment, resides in the same county in the state as another commission member.

(e) At least one commission member described in Subsection (4)(b) shall at the time of an appointment reside in a county that is not a county of the first or second class.

(5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) Upon the expiration of the term of a member of the commission, the member of the commission shall continue to hold office until a successor is appointed and qualified.

(d) A commission member may not serve more than two consecutive terms.

(e) Members of the commission shall annually select one member to serve as chair.

(6) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) The commission shall meet at least monthly.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more commission members.

(9) Three members of the commission constitute a quorum for the transaction of business.

(10) A member of the commission shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 2. Section 61-2f-201 is amended to read:

61-2f-201. License required.

(1) Unless a person is licensed under this chapter, it is unlawful for the person to do the following with respect to real estate located in this state:

(a) engage in the business of a principal broker, associate broker, or sales agent;

(b) act in the capacity of a principal broker, associate broker, or sales agent;

(c) advertise or assume to act as a principal broker, associate broker, or a sales agent; or

(d) engage in property management.

(2) Except as provided in Section 61-2f-202, an individual is required to be licensed as a principal broker, associate broker, or a sales agent if the individual performs, offers to perform, or attempts to perform one act for valuable consideration of:

(a) buying, selling, or exchanging real estate for another person; or

(b) offering for another person to buy, sell, or exchange real estate.

(3) Except as provided in [~~Subsection 61-2f-202(1)~~]Section 61-2f-202.5, unless an individual is licensed as a principal broker, associate broker, sales agent, or property manager, an individual may not, for consideration:

(a) engage in property management; or

(b) offer to engage in property management on behalf of another person.

Section 3. Section 61-2f-203 is amended to read:

61-2f-203. Licensing requirements.

(1) (a) (i) The division shall determine whether an applicant with a criminal history qualifies for licensure.

(ii) If the division, acting under Subsection (1)(a)(i), denies or restricts a license or places a license on probation, the applicant may petition the commission for de novo review of the application.

(b) Except as provided in Subsection (6), the commission shall determine all other qualifications and requirements of an applicant for:

(i) a principal broker license;

(ii) an associate broker license;

(iii) a sales agent license; or

(iv) on or after July 1, 2026, a property manager license.

(c) The division, with the concurrence of the commission, shall require and pass upon proof necessary to determine the honesty, integrity, truthfulness, reputation, and competency of each applicant for an initial license or for renewal of an existing license.

(d) (i) (A) Except as provided in Subsection (1)(d)(i)(B), the division, with the concurrence of the commission, shall require an applicant for a sales agent license to complete a division-approved educational program consisting of not less than 120 hours, as designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(B) If on the day on which an applicant for a sales agent license applies for the license the applicant is licensed as a real estate sales agent in another state, the division may require the applicant to complete a division-approved, state-specific educational program consisting of the number of hours designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(ii) (A) Except as provided in Subsection (1)(d)(ii)(B), the division, with the concurrence of the commission, shall require an applicant for an associate broker or a principal broker license to complete a division-approved educational program consisting of not less than 120 hours, as designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(B) If on the day on which an applicant for an associate broker or a principal broker license applies for the license the applicant is licensed as a real estate broker in another state, the division may require the applicant to complete a division-approved, state-specific educational program consisting of the number of hours designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(iii) (A) [~~Except~~]On or after July 1, 2026, except as provided in Subsection (1)(d)(iii)(B), the division shall require that an applicant for a property manager license complete the educational program described in Subsection (1)(d)(iv).

(B) [~~If~~]On or after July 1, 2026, if on the day on which an applicant for a property manager license applies for the license, the applicant is licensed as a property manager in another state, the division may require the applicant to complete a division-approved, state-specific educational program consisting of the number of hours designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(iv) The division shall create an educational program for a property manager license that:

(A) requires at least 24 hours of training;

(B) covers subjects the division determines necessary for the program; and

(C) establishes the proportion of hours allocated for each subject in the program.

(v) An hour required by this section means 50 minutes of instruction in each 60 minutes.

(vi) The maximum number of program hours available to an individual is eight hours per day.

(e) (i) Except as provided in Subsection (1)(e)(ii), the division, with the concurrence of the commission, shall require an applicant to pass an examination approved by the commission covering:

(A) the fundamentals of the English language;

(B) the fundamentals of arithmetic;

(C) the fundamentals of bookkeeping;

(D) the fundamentals of real estate principles and practices;

(E) this chapter;

(F) the rules established by the commission with the concurrence of the division; and

(G) any other aspect of Utah real estate license law considered appropriate.

(ii) If on the day on which an applicant applies for a license the applicant is licensed as a real estate broker or a sales agent in another state, the division may, with the concurrence of the commission, require the applicant to pass a division-approved, state-specific examination rather than the examination required under Subsection (1)(e)(i).

(iii) Subject to Subsection (1)(e)(iv), the division, with the concurrence of the commission, may modify the length and material of an examination for a property manager license under this chapter if:

(A) an applicant is licensed as a property manager in another state;

(B) the division determines an applicant's prior experience warrants a modification of the examination; or

(C) the division determines the applicant has good cause for the modification of the examination.

(iv) [~~An~~]On or after July 1, 2026, an examination for a property manager license shall:

(A) cover the topics that appear in the educational program described in Subsection (1)(d)(iv); and

(B) match the proportion of questions for each topic to the proportion of hours designated by the division in accordance with Subsection (1)(d)(iv)(C).

(f) (i) Three years' full-time experience as a sales agent or the equivalent is required before an applicant may apply for, and secure a principal broker or associate broker license in this state.

(ii) The commission shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the criteria by which the commission will accept experience or special education in similar fields of business in lieu of the three years' experience.

(2) (a) The division, with the concurrence of the commission, may require an applicant to furnish a sworn statement setting forth evidence satisfactory to the division of the applicant's reputation and competency as set forth by rule.

(b) The division shall require an applicant to provide the applicant's social security number, which is a private record under Subsection 63G-2-302(1)(i).

(3) (a) An individual who is not a resident of this state may be licensed in this state if the individual complies with this chapter.

(b) An individual who is not a resident of this state may be licensed as an associate broker or sales agent in this state by:

(i) complying with this chapter; and

(ii) being employed or engaged as an independent contractor by or on behalf of a principal broker who is licensed in this state, regardless of whether the principal broker is a resident of this state.

(4) The division, with the concurrence of the commission, may enter into a reciprocal licensing agreement with another jurisdiction for the licensure of a principal broker, an associate broker, or a sales agent, if the jurisdiction's requirements and standards for the license are substantially similar to those of this state.

(5) (a) The division and commission shall treat an application to be relicensed of an applicant whose real estate license is revoked as an original application.

(b) In the case of an applicant for a new license as a principal broker or associate broker, the applicant is not entitled to credit for experience gained before the revocation of a real estate license.

(6) (a) Notwithstanding Subsection (1)(b), the commission may delegate to the division the authority to:

(i) review a class or category of applications for initial or renewed licenses;

(ii) determine whether an applicant meets the licensing criteria in Subsection (1); and

(iii) approve or deny a license application without concurrence by the commission.

(b) (i) If the commission delegates to the division the authority to approve or deny an application without concurrence by the commission and the division denies an application for licensure, the applicant who is denied licensure may petition the commission for de novo review of the application.

(ii) An applicant who is denied licensure pursuant to this Subsection (6) may seek agency review by the executive director only after the commission has reviewed the division's denial of the applicant's application.

(7) [~~An~~]On or after July 1, 2026, an individual with an active broker, associate broker, or sales agent license may obtain a property manager license without:

(a) meeting the education requirement described in Subsection (1)(d)(iii); or

(b) passing an exam required for a property manager license under Subsection (1)(e).

Section 4. Section 61-2f-411 is amended to read:

61-2f-411. Enforcement related to a property manager.

(1) Nothing in this section applies to an individual:

(a) buying, selling, or exchanging real estate for another person; or

(b) offering to buy, sell, or exchange real estate for another person.

(2) When engaging in property management, a property manager may:

(a) solicit referrals for clients, owners, customers, and renters;

(b) pay a finder's fee or exchange valuable consideration to an unlicensed person for referring a prospective client;

(c) accept a referral fee from an individual, whether licensed or unlicensed;

(d) contract for services, pay bills, and act on behalf of an owner as provided in a management agreement; and

(e) advertise properties for rent or lease.

(3) Except as provided in Subsection (4), a property manager shall associate with at least one real estate trust account in a bank or credit union:

(a) located within the state;

(b) that, unless otherwise modified by a contract for property management, one or more property managers use for the purpose of securing:

(i) tenant security deposits;

(ii) rent;

(iii) money tendered by a property owner as a reserve fund or for payment of an unexpected expense; and

(iv) any other purpose designated by the commission; and

(c) that is non-interest bearing, unless the parties to a property management contract:

(i) agree in writing to deposit the funds in an interest-bearing account;

(ii) designate in writing the individuals to whom the parties will pay the interest on completion or failure of the property management contract; and

(iii) ensure that the parties and trust account comply with any other rules established by the commission or division.

(4) [~~A~~]Except as provided in Subsection (5), a property manager who obtains and holds a security bond that protects at least 30% of the estimated property management client funds [~~the property manager holds in the property manager's bank accounts~~]is not required to [~~be associated with~~]maintain the estimated property management client funds in a trust account.

(5) A property manager who is affiliated with a principal broker shall keep property management client funds in the principal broker's trust account in accordance with:

(a) rules established by the commission or division; and

(b) requirements established by the principal broker.

Section 5. Effective Date.

This bill takes effect on December 6, 2025.

CHAPTER 5
H. B. 1003
Passed October 6, 2025
Approved October 14, 2025
Effective October 14, 2025

EMISSIONS INSPECTION AMENDMENTS

Chief Sponsor: Clinton D. Okerlund
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses vehicle weights relating to emissions testing.

Highlighted Provisions:

This bill:

► modifies vehicle weights required to be tested for emissions compliance.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

41-6a-1642, as last amended by Laws of Utah 2025, Chapter 234
41-6a-1644, as last amended by Laws of Utah 2025, Chapter 234

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-1642 is amended to read:
41-6a-1642. Emissions inspection -- County program.

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) (a) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(i) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(A) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(B) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(C) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(D) Volkswagen Golf Sportwagen, model year 2015;

(E) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(F) Volkswagen Beetle, model years 2013, 2014, and 2015;

(G) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(H) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(ii) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(A) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(B) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(C) Audi A6 Quattro, model years 2014, 2015, and 2016;

(D) Audi A7 Quattro, model years 2014, 2015, and 2016;

(E) Audi A8, model years 2014, 2015, and 2016;

(F) Audi A8L, model years 2014, 2015, and 2016;

(G) Audi Q5, model years 2014, 2015, and 2016; and

(H) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(b) (i) An owner of a restored-modified vehicle subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1).

(ii) A county emissions program may not refuse to perform an emissions inspection or indicate a failed emissions test of the vehicle based solely on a modification to the engine or component of the motor vehicle if:

(A) the modification is not likely to result in the motor vehicle having increased emissions relative to the emissions of the motor vehicle before the modification; and

(B) the motor vehicle modification is a change to an engine that is newer than the engine with which the motor vehicle was originally equipped, or the engine includes technology that increases the facility of the administration of an emissions test, such as an on-board diagnostics system.

(iii) The first time an owner seeks to obtain an emissions inspection as a prerequisite to registration of a restored-modified vehicle:

(A) the owner shall present the signed statement described in Subsection 41-1a-226(4); and

(B) the county emissions program shall perform the emissions test.

(iv) If a motor vehicle is registered as a restored-modified vehicle and the registration certificate is notated as described in Subsection 41-1a-226(4), a county emissions program may not refuse to perform an emissions test based solely on the restored-modified status of the motor vehicle.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of [~~14,001~~]12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1:

(i) if the vintage vehicle has a model year of 1982 or older; or

(ii) for a vintage vehicle that has a model year of 1983 or newer, if the owner provides proof of vehicle insurance that is a type specific to a vehicle collector;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) a vehicle registered as a novel vehicle under Section 41-27-201;

(f) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(g) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of [~~14,000~~]12,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(h) a motorcycle as defined in Section 41-1a-102;

(i) an electric motor vehicle as defined in Section 41-1a-102;

(j) a motor vehicle with a model year of 1967 or older; and

(k) a roadable aircraft as defined in Section 72-10-102.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(g) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than [~~16,000~~]14,000 pounds; or

(b) model year of 1997 or older.

(7) The legislative body of a county required under federal law to utilize a motor vehicle emissions inspection program shall require:

(a) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(i) a model year of 2007 or newer;

(ii) a gross vehicle weight rating of [~~16,000~~]14,000 pounds or less; and

(iii) a model year that is five years old or older; and

(b) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(i) with a gross vehicle weight rating of [~~16,000~~]14,000 pounds or less;

(ii) that has a model year of 1998 or newer; and

(iii) that has a model year that is five years old or older.

(8) (a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in regulations or ordinances made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v)from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection (9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use

an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to the Transportation Interim Committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by $2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a $7.50 increase.

(13) (a) Except as provided in Subsection 41-1a-1223(1)(c), a county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

(14) (a) If a county has reason to believe that a vehicle owner has provided an address as required in Section 41-1a-209 to register or attempt to register a motor vehicle in a county other than the county of the bona fide residence of the owner in order to avoid an emissions inspection required under this section, the county may investigate and gather evidence to determine whether the vehicle owner has used a false address or an address other than the vehicle owner's bona fide residence or place of business.

(b) If a county conducts an investigation as described in Subsection (14)(a) and determines that the vehicle owner has used a false or improper address in an effort to avoid an emissions inspection as required in this section, the county may impose a civil penalty of $1,000.

(15) A county legislative body described in Subsection (1) may exempt a motor vehicle from an emissions inspection if:

(a) the motor vehicle is 30 years old or older;

(b) the county determines that the motor vehicle was driven less than 1,500 miles during the preceding 12-month period; and

(c) the owner provides to the county legislative body a statement signed by the owner that states the motor vehicle:

(i) is primarily a collector's item used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours; or

(D) parades; or

(ii) is only used for occasional transportation.

Section 2. Section 41-6a-1644 is amended to read:

41-6a-1644. Diesel emissions program -- Implementation -- Monitoring -- Exemptions.

(1) The legislative body of each county required by the comprehensive plan for air pollution control developed by the director of the Division of Air Quality in accordance with Subsection 19-2-107(2)(a)(i) to use an emissions opacity inspection and maintenance program for diesel-powered motor vehicles shall:

(a) make regulations or ordinances to implement and enforce the requirement established by the Air Quality Board;

(b) collect information about and monitor the program; and

(c) by August 1 of each year, supply written information to the Department of Environmental Quality to identify program status.

(2) The following vehicles are exempt from an emissions opacity inspection and maintenance program for diesel-powered motor vehicles established by a legislative body of a county under Subsection (1):

(a) an implement of husbandry; and

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of [~~14,001~~]12,001 pounds or more.

(3) (a) The legislative body of a county identified in Subsection (1) shall exempt a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of [~~14,000~~]12,000 pounds or less from the emissions opacity inspection and maintenance program requirements of this section, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, and floricultural and horticultural products; and

(B) for the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance.

(b) The county shall provide to the registered owner who signs and submits a signed statement under this section a certificate of exemption from emissions opacity inspection and maintenance program requirements for purposes of registering the exempt vehicle.

Section 3. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), December 6, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

Section 4. Retrospective operation.

This bill has retrospective operation to July 1, 2025.

CHAPTER 6
H. B. 1004
Passed October 6, 2025
Approved October 14, 2025
Effective October 14, 2025

ELECTION RECORDS AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill amends provisions related to election records.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► establishes retention and disposition requirements for certain election records;
- ► authorizes an election officer to share with certain individuals the record of voters contacted to cure a ballot;
- ► establishes and modifies provisions related to who, and the circumstances under which, an individual may view the video recordings of the processing of ballots and unattended ballot drop boxes;
- ► modifies the data reporting requirements and deadlines for ballot statistics published on an election officer's website during an election;
- ► eliminates certain ballot reconciliation reporting requirements;
- ► classifies certain election records as public records;
- ► for the board of canvassers' report that an election officer submits to the board of canvassers after an election:
  - • specifies certain election-related data that the election officer must include in the report's statement of votes cast; and
  - • requires the election officer to include in the report certain data from the election results database;
- ► establishes a process for an election officer who does not count ballots using automatic tabulating equipment to include certain data from the election results database in the board of canvassers' report;
- ► requires an election officer to:
  - • publish a notice of the board of canvassers' report as a class A notice;
  - • include with the notice a copy of the board of canvassers' report on the Utah Public Notice Website and the election officer's jurisdiction's website; and
  - • make the board of canvassers' report available to the public in certain electronic file formats;
- ► requires the lieutenant governor to ensure that all voting equipment has the capability of generating an election results database;
- ► specifies the data that must be contained in an election results database; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

10-2a-215, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 435
20A-1-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 381, 448
20A-3a-401, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 381, 448
20A-3a-401.1, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 524
20A-3a-405, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 297
20A-4-104, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 448
20A-4-106, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 524
20A-4-107, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapter 31
20A-4-109, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 524
20A-4-202, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 524
20A-4-304, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 38, 448 and 524
20A-4-401, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 448
20A-5-403.5, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 448
20A-5-905, (Effective upon governor's approval) as enacted by Laws of Utah 2022, Chapter 156
67-1a-2, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 400

ENACTS:

20A-5-802.5, (Effective upon governor's approval) Utah Code Annotated 1953

REPEALS:

20A-4-701, (Effective upon governor's approval) (Applies beginning 08/01/25) as enacted by Laws of Utah 2025, Chapter 524
20A-4-702, (Effective upon governor's approval) (Applies beginning 08/01/25) as enacted by Laws of Utah 2025, Chapter 524
20A-4-703, (Effective upon governor's approval) (Applies beginning 08/01/25) as enacted by Laws of Utah 2025, Chapter 524

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2a-215 is amended to read:

10-2a-215 (Effective upon governor's approval). Election of officers of new municipality -- Primary and final election dates -- Notice of election -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of municipal officers, the county legislative body shall:

(a) unless a primary election is prohibited under Subsection 20A-9-404(2), hold a primary election; and

(b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.

(2) Each election described in Subsection (1) shall be held:

(a) consistent with the petition sponsors' determination of the length of each council member's initial term; and

(b) for the incorporation of a city:

(i) appropriate to the form of government chosen by the voters at the incorporation election;

(ii) consistent with the voters' decision about whether to elect city council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and

(iii) consistent with the sponsors' determination of the number of city council members to be elected.

(3) (a) Subject to Subsection (3)(b), and notwithstanding Subsection 20A-1-201.5(2), the primary election described in Subsection (1)(a) shall be held at the earliest of the next:

(i) regular primary election described in Subsection 20A-1-201.5(1); or

(ii) municipal primary election described in Section 20A-9-404.

(b) The county shall hold the primary election, if necessary, on the next election date described in Subsection (3)(a) that is after the incorporation election conducted under Section 10-2a-210.

(4) (a) Subject to Subsection (4)(b), the county shall hold the final election described in Subsection (1)(b):

(i) on the following election date that next follows the date of the incorporation election held under Subsection 10-2a-210(1)(a);

(ii) a regular general election described in Section 20A-1-201; or

(iii) a regular municipal general election under Section 20A-1-202.

(b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), or (iii):

(i) that is after a primary election; or

(ii) if there is no primary election, that is at least:

(A) 75 days after the incorporation election under Section 10-2a-210; and

(B) 65 days after the candidate filing period.

(5) The county clerk shall provide notice of an election under this section for the future municipality, as a class A notice under Section 63G-30-102, for at least two weeks before the day of the election.

(6) Until the municipality is incorporated, the county clerk:

(a) is the election officer for all purposes related to the election of municipal officers;

(b) may, as necessary, determine appropriate deadlines, procedures, and instructions related to the election of municipal officers for a new municipality that are not otherwise contrary to law;

(c) shall require and determine deadlines for municipal office candidates to file campaign financial disclosures in accordance with Section 10-3-208; and

(d) shall ensure that the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated municipality, including the term of each office.

(7) An individual who has filed as a candidate for an office described in this section shall comply with:

(a) the campaign finance disclosure requirements described in Section 10-3-208; and

(b) the requirements and deadlines established by the county clerk under this section.

(8) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection [~~20A-4-304(4)(b)~~]20A-4-304(6)(b).

Section 2. Section 20A-1-102 is amended to read:

20A-1-102 (Effective upon governor's approval). Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on ballots and tabulates the results.

(3) (a) "Ballot" means the storage medium, including a paper, mechanical, or electronic storage medium, that records an individual voter's vote.

(b) "Ballot" does not include a record to tally multiple votes.

(4) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection

including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(5) "Bind," "binding," or "bound" means securing more than one piece of paper together using staples or another means in at least three places across the top of the paper in the blank space reserved for securing the paper.

(6) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(7) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(8) "Business day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a holiday.

(9) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(10) "Calendar day" means any day, regardless of whether the day is a weekend, a holiday, a business day, or any other type of day.

(11) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(12) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(13) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(14) "Convention" means the political party convention at which party officers and delegates are selected.

(15) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(16) "Counting judge" means a poll worker designated to count the ballots during election day.

(17) "Counting room" means a suitable and convenient private place or room for use by the poll workers and counting judges to count ballots.

(18) "County officers" means those county officers that are required by law to be elected.

(19) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day on which the election occurs; and

(b) does not include:

(i) deadlines established for voting by mail, military-overseas voting, or emergency voting; or

(ii) any early voting or early voting period as provided under Chapter 3a, Part 6, Early Voting.

(20) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a special district office in accordance with Subsection 20A-1-206(3)(b)(ii).

(21) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a special district election.

(22) "Election Assistance Commission" means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(23) "Election cycle" means the period beginning on the first day on which individuals are eligible to file declarations of candidacy and ending when the canvass is completed.

(24) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(25) "Election material" includes:

(a) the verification documentation described in Subsection 20A-3a-401(9)(b)(iv);

(b) the list of voters contacted to cure a ballot described in Subsection 20A-3a-401(10)(b);

(c) the record of rejected and resolved ballots described in Subsection 20A-3a-401(11)(a);

(d) any chain of custody documentation described in Section 20A-3a-401.1, including:

(i) the count of ballots described in Subsection 20A-3a-401.1(3); and

(ii) the batch log described in Subsection 20A-3a-401.1(5);

(e) the record of signature verification audits described in Subsection 20A-3a-402.5(4);

(f) the affidavit of compliance described in Subsection 20A-3a-404(2);

(g) the physical and electronic log of replicated ballots described in Subsection 20A-4-104(3);

(h) the physical or electronic log of adjudicated ballots described in Section 20A-5-802.5;

(i) the record of voter database access described in Subsection 20A-5-905(2);

(j) the reports on military and overseas voters described in Section 20A-16-202;

(k) scanned copies of return envelopes;

(l) a copy of the final election results database described in Section 20A-5-802.5; and

(m) the materials used in the programming of the automatic tabulating equipment.

[~~(25)~~](26) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the special district clerk or chief executive officer for:

(i) a special district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

[~~(26)~~](27) "Election official" means any election officer, election judge, or poll worker.

[~~(27)~~](28) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

[~~(28) "Election returns" includes:~~]

[~~(a) the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form; and~~]

[~~(b) the record, described in Subsection 20A-3a-401(10)(c), of voters contacted to cure a ballot.~~]

(29) "Election results database" means the following information generated by voting equipment:

(a) one or more electronic files that contains a digital interpretation of each ballot that is counted in an election;

(b) a ballot image; and

(c) other information related to a ballot that is adjudicated under Section 20A-4-105.

(30) "Election returns" means:

(a) the pollbook;

(b) the military and overseas absentee voter registration and voting certificates;

(c) one of the tally sheets;

(d) any unprocessed ballots;

(e) all counted ballots;

(f) all excess ballots;

(g) all unused ballots;

(h) all spoiled ballots;

(i) all ballot disposition forms, including any provisional ballot disposition forms;

(j) the final election results database described in Section 20A-5-802.5;

(k) all return envelopes;

(l) any provisional ballot envelopes; and

(m) the total votes cast form.

[~~(29)~~](31) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

[~~(30)~~](32) "Holiday" means a legal holiday described in Subsections 63G-1-301(1) and (2).

[~~(31)~~](33) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-505(4)(c)(i) or (ii).

[~~(32)~~](34) "Judicial office" means the office filled by any judicial officer.

[~~(33)~~](35) "Judicial officer" means any justice or judge of a court of record or any county court judge.

[~~(34)~~](36) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a special district election, and a bond election.

[~~(35)~~](37) "Local political subdivision" means a county, a municipality, a special district, or a local school district.

[~~(36)~~](38) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

[~~(37)~~](39) "Manual ballot" means a paper document produced by an election officer on which an individual records an individual's vote by directly placing a mark on the paper document using a pen or other marking instrument.

[~~(38)~~](40) "Mechanical ballot" means a record, including a paper record, electronic record, or mechanical record, that:

(a) is created via electronic or mechanical means; and

(b) records an individual voter's vote cast via a method other than an individual directly placing a mark, using a pen or other marking instrument, to record an individual voter's vote.

[~~(39)~~](41) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102; or

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6).

[~~(40)~~](42) "Municipal general election" means the election held in municipalities and, as applicable, special districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

[~~(41)~~](43) "Municipal legislative body" means the council of the city or town in any form of municipal government.

[~~(42)~~](44) "Municipal office" means an elective office in a municipality.

[~~(43)~~](45) "Municipal officers" means those municipal officers that are required by law to be elected.

[~~(44)~~](46) "Municipal primary election" means an election held to nominate candidates for municipal office.

[~~(45)~~](47) "Municipality" means a city or town.

[~~(46)~~](48) "Official ballot" means the ballots distributed by the election officer for voters to record their votes.

[~~(47)~~](49) "Official endorsement" means the information on the ballot that identifies:

(a) the ballot as an official ballot;

(b) the date of the election; and

(c) (i) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(ii) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii).

[~~(48)~~](50) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

[~~(49)~~](51) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

[~~(50)~~](52) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

[~~(51)~~](53) "Pollbook" means a record of the names of voters in the order that [~~they~~]the voters appear to cast votes.

[~~(52)~~](54) "Polling place" means a building where voting is conducted.

[~~(53)~~](55) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

[~~(54)~~](56) "Presidential Primary Election" means the election established in Chapter 9, Part 8, Presidential Primary Election.

[~~(55)~~](57) "Primary convention" means the political party conventions held during the year of the regular general election.

[~~(56)~~](58) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

[~~(57)~~](59) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

[~~(58)~~](60) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

[~~(59)~~](61) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

[~~(60)~~](62) (a) "Public figure" means an individual who, due to the individual being considered for, holding, or having held a position of prominence in a public or private capacity, or due to the individual's celebrity status, has an increased risk to the individual's safety.

(b) "Public figure" does not include an individual:

(i) elected to public office; or

(ii) appointed to fill a vacancy in an elected public office.

[~~(61)~~](63) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the individual was elected.

[~~(62)~~](64) "Receiving judge" means the poll worker that checks the voter's name in the official register at a polling place and provides the voter with a ballot.

[~~(63)~~](65) "Registration form" means a form by which an individual may register to vote under this title.

[~~(64)~~](66) "Regular ballot" means a ballot that is not a provisional ballot.

[~~(65)~~](67) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

[~~(66)~~](68) "Regular primary election" means the election, held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

[~~(67)~~](69) "Resident" means a person who resides within a specific voting precinct in Utah.

[~~(68)~~](70) "Return envelope" means the envelope, described in Subsection 20A-3a-202(4), provided to a voter with a manual ballot:

(a) into which the voter places the manual ballot after the voter has voted the manual ballot in order to preserve the secrecy of the voter's vote; and

(b) that includes the voter affidavit and a place for the voter's signature.

[~~(69)~~](71) "Sample ballot" means a mock ballot similar in form to the official ballot, published as provided in Section 20A-5-405.

[~~(70)~~](72) "Special district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

[~~(71)~~](73) "Special district officers" means those special district board members who are required by law to be elected.

[~~(72)~~](74) "Special election" means an election held as authorized by Section 20A-1-203.

[~~(73)~~](75) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

[~~(74)~~](76) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

[~~(75)~~](77) "Tabulation system" means a device or system designed for the sole purpose of tabulating votes cast by voters at an election.

[~~(76)~~](78) "Ticket" means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

[~~(77)~~](79) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

[~~(78)~~](80) "Vacancy" means:

(a) except as provided in Subsection [~~(78)(b)~~](80)(b), the absence of an individual to serve in a position created by state constitution or state statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause; or

(b) in relation to a candidate for a position created by state constitution or state statute, the removal of a candidate due to the candidate's death, resignation, or disqualification.

[~~(79)~~](81) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(iii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iv) a currently valid Utah permit to carry a concealed weapon;

(v) a currently valid United States passport; or

(vi) a currently valid United States military identification card;

(b) one of the following identification cards, regardless of whether the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection [~~(79)(a)~~](81)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) before January 1, 2029, an original or copy of a current utility bill, dated no more than 90 calendar days before the date of the election;

(ii) before January 1, 2029, an original or copy of a bank or other financial account statement, dated no more than 90 calendar days before the date of the election;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) an original or copy of a check issued by the state or the federal government, dated no more than 90 calendar days before the date of the election;

(vi) an original or copy of a paycheck from the voter's employer, dated no more than 90 calendar days before the date of the election;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

[~~(80)~~](82) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

[~~(81)~~](83) "Vote by mail" means to vote, using a manual ballot that is mailed to the voter, by:

(a) mailing the ballot to the location designated in the mailing; or

(b) depositing the ballot in a ballot drop box designated by the election officer.

[~~(82)~~](84) "Voter" means an individual who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register [~~book~~].

[~~(83)~~](85) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

[~~(84)~~](86) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

[~~(85)~~](87) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting enclosure or curtain; or

(b) a voting device that is free standing.

[~~(86)~~](88) "Voting device" means any device provided by an election officer for a voter to vote a mechanical ballot.

[~~(87)~~](89) "Voting precinct" means the smallest geographical voting unit, established under Chapter 5, Part 3, Duties of the County and Municipal Legislative Bodies.

[~~(88)~~](90) "Watcher" means an individual who complies with the requirements described in Section 20A-3a-801 to become a watcher for an election.

[~~(89)~~](91) "Write-in ballot" means a ballot containing any write-in votes.

[~~(90)~~](92) "Write-in vote" means a vote cast for an individual, whose name is not printed on the ballot, in accordance with the procedures established in this title.

Section 3. Section 20A-3a-401 is amended to read:

20A-3a-401 (Effective upon governor's approval). Custody of voted ballots mailed or deposited in a ballot drop box -- Disposition -- Notice -- Disclosures relating to unresolved ballots.

(1) This section governs ballots returned by mail, via a ballot drop box, or by other legal means.

(2) Poll workers shall process return envelopes containing manual ballots that are in the custody of the poll workers in accordance with this section.

(3) Poll workers shall examine a return envelope to make the determinations described in Subsection (4).

(4) The poll workers shall take the action described in Subsection (5)(a) if the poll workers determine:

(a) for an election held before January 1, 2029:

(i) that the return envelope contains the last four digits of the voter's Utah driver license number, Utah state identification card number, or social security number; or

(ii) if the return envelope does not contain the digits described in Subsection (4)(a)(i), that:

(A) in accordance with the rules made under Subsection (13), the signature on the affidavit of the return envelope is reasonably consistent with the individual's signature in the voter registration records; or

(B) for an individual who checks the box described in Subsection (7)(d)(v), the signature is verified by alternative means;

(b) for an election held on or after January 1, 2029:

(i) that the return envelope contains the last four digits of the voter's Utah driver license number, Utah state identification card number, or social security number;

(ii) if the return envelope does not contain the digits described in Subsection (4)(b)(i), that the voter included in the return envelope a copy of the identification described in Subsection 20A-3a-204(2)(c)(ii); or

(iii) for a voter described in Subsection 20A-3a-301(7), that the voter complied with Subsection 20A-3a-301(7);

(c) that the affidavit is sufficient;

(d) that the voter is registered to vote in the correct precinct;

(e) that the voter's right to vote the ballot has not been challenged;

(f) that the voter has not already voted in the election; and

(g) for a voter who has not yet provided valid voter identification with the voter's voter registration, whether the voter has provided valid voter identification with the return envelope.

(5) (a) If the poll workers make all of the findings described in Subsection (4), the poll workers shall:

(i) remove the manual ballot from the return envelope in a manner that does not destroy the affidavit on the return envelope;

(ii) ensure that the ballot is not examined in connection with the return envelope; and

(iii) place the ballot with the other ballots to be counted.

(b) If the poll workers do not make all of the findings described in Subsection (4), the poll workers shall:

(i) disallow the vote;

(ii) except as provided in Subsection (6), without opening the return envelope, record the ballot as "rejected" and state the reason for the rejection; and

(iii) except as provided in Subsection (6), place the return envelope, unopened, with the other rejected return envelopes.

(6) A poll worker may open a return envelope, if necessary, to determine compliance with Subsection (4)(b)(ii), (4)(b)(iii), or (4)(g).

(7) (a) If the poll workers reject an individual's ballot because the poll workers determine that the return envelope does not comply with Subsection (4), the election officer shall:

(i) contact the individual in accordance with Subsection (8); and

(ii) inform the individual:

(A) that the identification information provided on the return envelope is in question;

(B) how the individual may resolve the issue; and

(C) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (7)(d).

(b) If, under Subsection (4)(a)(ii)(A), the poll workers reject an individual's ballot because the poll workers determine, in accordance

with rules made under Subsection (13), that the signature on the return envelope is not reasonably consistent with the individual's signature in the voter registration records, the election officer shall:

(i) contact the individual in accordance with Subsection (8); and

(ii) inform the individual:

(A) that the individual's signature is in question;

(B) how the individual may resolve the issue; and

(C) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (7)(d).

(c) The election officer shall ensure that the notice described in Subsection (7)(a) or (b) includes:

(i) when communicating the notice by mail, a printed copy of the affidavit described in Subsection (7)(d) and a courtesy reply envelope;

(ii) when communicating the notice electronically, a link to a copy of the affidavit described in Subsection (7)(d) or information on how to obtain a copy of the affidavit; or

(iii) when communicating the notice by phone, either during a direct conversation with the voter or in a voicemail, arrangements for the voter to receive a copy of the affidavit described in Subsection (7)(d), either in person from the clerk's office, by mail, or electronically.

(d) An affidavit described in Subsection (7)(a)(ii)(C) or (7)(b)(ii)(C) shall include:

(i) an attestation that the individual voted the ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit;

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the information in the affidavit and the individual's signature on the affidavit for voter identification purposes; and

(v) a check box accompanied by language in substantially the following form: "I am a voter with a qualifying disability under the Americans with Disabilities Act that impacts my ability to sign my name consistently. I can provide appropriate documentation upon request. To discuss accommodations, I can be contacted at _____".

(e) In order for an individual described in Subsection (7)(a) or (b) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection (7)(d) to the election officer.

(f) An election officer who receives a signed affidavit under Subsection (7)(e) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-502;

(ii) if the election officer receives the affidavit no later than noon on the last business day before the day on which the canvass begins, count the individual's ballot; and

(iii) if the check box described in Subsection (7)(d)(v) is checked, comply with the rules described in Subsection (13)(c).

(8) (a) The election officer shall, within two business days after the day on which an individual's ballot is rejected, notify the individual of the rejection and the reason for the rejection, by phone, mail, email, or, if consent is obtained, text message, unless:

(i) the ballot is cured within one business day after the day on which the ballot is rejected; or

(ii) the ballot is rejected because the ballot is received late or for another reason that cannot be cured.

(b) If an individual's ballot is rejected for a reason described in Subsection (8)(a)(ii), the election officer shall notify the individual of the rejection and the reason for the rejection by phone, mail, email, or, if consent is obtained, text message, within the later of:

(i) 30 calendar days after the day of the rejection; or

(ii) 30 calendar days after the day of the election.

(c) The election officer may, when notifying an individual by phone under this Subsection (8), use auto-dial technology.

(9) An election officer may not count the ballot of an individual whom the election officer contacts under Subsection (7) or (8) unless, no later than noon on the last business day before the day on which the canvass begins, the election officer:

(a) receives a signed affidavit from the individual under Subsection (7); or

(b) (i) contacts the individual;

(ii) if the election officer has reason to believe that an individual, other than the voter to whom the ballot was sent, signed the ballot affidavit, informs the individual that it is unlawful to sign a ballot affidavit for another person, even if the person gives permission;

(iii) verifies the identity of the individual by:

(A) requiring the individual to provide at least two types of personal identifying information for the individual; and

(B) comparing the information provided under Subsection (9)(b)(iii)(A) to records relating to the individual that are in the possession or control of an election officer; and

(iv) [~~documenting~~]documents the verification described in Subsection (9)(b)(iii), by recording:

(A) the name and voter identification number of the individual contacted;

(B) the name of the individual who conducts the verification;

(C) the date and manner of the communication;

(D) the type of personal identifying information provided by the individual;

(E) a description of the records against which the personal identifying information provided by the individual is compared and verified; and

(F) other information required by the lieutenant governor.

(10) (a) The election officer shall retain and preserve:

[~~(a)~~](i) [~~retain and preserve~~]the return envelopes in [~~the manner provided by law for the retention and preservation of ballots voted at that election;~~]accordance with Subsection 20A-4-202(2); and

[~~(b)~~](ii) [~~retain and preserve~~]the [~~documentation~~]documents described in Subsection (9)(b)(iv)[~~; and~~]in accordance with Subsection 20A-4-202(3).

[~~(c)~~](b) [~~if~~]If the election officer complies with Subsection [~~(10)(b)~~](10)(a)(ii) by including the documentation in the voter's voter

registration record, the election officer shall make, retain, and preserve a record of the name and voter identification number of each voter contacted under Subsection (9)(b).

(11) (a) The election officer shall record the following in the database used [~~to verify signatures~~]in the verification process:

(i) any initial rejection of a ballot under Subsection (5)(b), within one business day after the day on which the election officer rejects the ballot; and

(ii) any resolution of a rejection of a ballot under Subsection (9), within one business day after the day on which the ballot rejection is resolved.

(b) An election officer shall include, in the canvass report, a final report of the disposition of all rejected and resolved ballots, including, for ballots rejected, the following:

(i) the number of ballots rejected because the voter did not sign the voter's ballot; and

(ii) the number of ballots rejected because the voter's signatures on the ballot, and in records on file, do not correspond.

(12) Willful failure to comply with this section constitutes willful neglect of duty under Section 20A-5-701.

(13) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) criteria and processes for use by poll workers in determining if a signature corresponds with the signature on file for the voter under Subsection (4)(a)(ii)(A);

(b) training and certification requirements for election officers and employees of election officers regarding the criteria and processes described in Subsection (13)(a); and

(c) in compliance with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Secs. 12131 through 12165, an alternative means of verifying the identity of an individual who checks the box described in Subsection (7)(d)(v).

(14) (a) Upon request, and subject to Subsections (14)(b) and (c), an election officer may disclose the name and address of a voter whose ballot has been rejected and not yet resolved with:

(i) a candidate in the election;

(ii) an individual who represents the candidate's campaign;

(iii) the sponsors of an initiative or referendum appearing on the ballot; or

(iv) for a ballot proposition appearing on the ballot, an individual who represents a political issues committee, as defined in Section 20A-11-101, if the political issues committee supports or opposes the ballot proposition.

[~~(14)~~](b) [~~Subject to Subsection (15), if, in response to a request, and in accordance with the requirements of law, an election officer discloses the name or address of voters whose ballots have been rejected and not yet resolved,~~]If an election officer discloses the information described in Subsection (14)(a), the election officer shall:

[~~(a)~~](i) make the disclosure within two business days after the day on which the request is made;

[~~(b)~~](ii) respond to each request in the order the requests were made; and

[~~(c)~~](iii) make each disclosure in a manner, and within a period of time, that does not reflect favoritism to one requestor over another.

[~~(15)~~](c) A disclosure described in this Subsection (14) may not include the name or address of a protected individual, as defined in Subsection 20A-2-104(1).

Section 4. Section 20A-3a-401.1 is amended to read:

20A-3a-401.1 (Effective upon governor's approval). Ballot chain of custody.

(1) As used in this section:

(a) "Batch" means a grouping of a specified number of ballots:

(i) that is assembled by poll workers, and given a number to distinguish the grouping from other groupings, when the ballots are first received for processing;

(ii) that is kept together in the same grouping, and kept separate from other groupings, throughout ballot processing; and

(iii) for which a log is kept to document the chain of custody of the grouping.

(b) "Processed" means an action taken in relation to a batch, a ballot in a batch, or a return envelope that a poll worker has not separated from a ballot, as follows:

(i) starting with receiving the ballot;

(ii) each step taken in relation to a ballot as part of conducting an election; and

(iii) ending after the ballots are counted and stored.

(2) An election officer shall preserve the chain of custody of all ballots in accordance with this section.

(3) An election officer shall maintain an accurate, updated count of the number of ballots that the election officer:

(a) mails or otherwise provides to a voter;

(b) receives from a voter;

(c) counts;

(d) rejects;

(e) resolves after rejecting; or

(f) does not resolve after rejecting.

(4) Upon receiving ballots cast by voters, the election officer shall ensure that poll workers immediately count the number of ballots received and divide the ballots into batches.

(5) The election officer shall ensure that:

(a) ballots in each batch are kept separate from the ballots in other batches;

(b) a ballot is not separated from a batch, except as necessary to the election process;

(c) if a ballot is separated from a batch, the batch log indicates:

(i) the ballot number;

(ii) the date and time of removal;

(iii) the identity of the individual who removes the ballot; and

(iv) the reason the ballot is removed;

(d) poll workers shall keep for each batch a log that includes:

(i) a unique identifying code or number for the batch;

(ii) the number of ballots in the batch;

(iii) the date that the ballots were received; and

(iv) for each occasion that the batches, or any of the ballots in the batches, are handled:

(A) the date and time that the ballots are handled;

(B) a description of what is done with the ballots;

(C) the identity of the poll workers who handle the ballots; and

(D) any other information required by rule under Subsection (9);

(e) an election official who performs a ballot processing function performs the function in the presence of at least one other election official;

(f) to the extent reasonably possible, the poll workers who perform a ballot processing function for a batch complete performing that function for the entire batch; and

(g) each part of the processing of all ballots is monitored by recorded video, without audio.

(6) An election officer:

(a) shall keep the video recordings described in Subsection (5)(g) until at least the later of:

[~~(a)~~](i) the last day of the calendar year in which the election was held; or

[~~(b)~~](ii) if the election is contested, when the contest is resolved [~~.~~];

(b) may keep the video recordings described in Subsection (5)(g) indefinitely; and

(c) shall ensure that a camera, a video, or a recording of a video described in Subsection (5)(g) may only be accessed by:

(i) the election officer;

(ii) a custodian of the camera, video, or recording;

(iii) the lieutenant governor;

(iv) the legislative auditor general, when performing an audit;

(v) a court of competent jurisdiction, by or pursuant to an order of the court; or

(vi) subject to Subsection (7)(b), and except as provided in Subsection (7)(c):

(A) a candidate for an office that appears on a ballot, or an individual representing the candidate's campaign;

(B) for a federal, statewide, or multicounty race, the chair of the state political party whose member is a candidate described in Subsection (6)(c)(vi)(A);

(C) for a race where the officeholder is selected by voters entirely within one county, the chair of the county political party whose member is a candidate described in Subsection (6)(c)(vi)(A); or

(D) the designee of a political party chair described in Subsection (6)(c)(vi)(B) or (C).

(7) (a) [~~A recorded video described in Subsection (5)(g) is a public record.~~]An individual may not view a video recording described in Subsection (5)(g):

(i) unless the individual is an individual described in Subsection (6)(c); and

(ii) the individual views the video to the extent necessary to:

(A) ensure compliance with Subsection (5)(g) or (6)(a); or

(B) investigate a concern relating to the processing of ballots.

(b) If an individual described in Subsection (6)(c)(vi) seeks to view a video recording described in Subsection (5)(g), the election officer may require the individual to view the video recording at the election officer's office during regular business hours.

(c) An individual described in Subsection (6)(c)(vi) may not view a video recording described in Subsection (5)(g) after the time period for contesting the election to which the video recording relates ends.

(8) An election officer shall retain and preserve all chain of custody documentation in the manner provided under [~~Section 20A-4-202~~]Subsection 20A-4-202(3) for the retention and preservation of [~~a ballot voted in an election~~]election material.

(9) The director of elections within the Office of the Lieutenant Governor may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing specific requirements and procedures for an election officer or poll worker to:

(a) fulfill the chain of custody requirements described in this section; and

(b) perform the signature verification audits described in Section 20A-3a-402.5[~~; and~~].

[~~(c) comply with the reconciliation requirements described in Subsection 20A-4-304(2)(h).~~]

Section 5. Section 20A-3a-405 is amended to read:

20A-3a-405 (Effective upon governor's approval). Ballot statistics.

(1) Except as provided in Subsection [~~(5)(a)~~](3), an election officer shall post and update the data described in Subsection (2) on the election officer's website, on the following days, after the election officer finishes processing ballots on that day:

(a) [~~the day on which the election officer begins mailing ballots~~]the day after the day of the election;

(b) each Monday, Wednesday, and Friday after the day described in Subsection (1)(a), until the final posting described in Subsection (1)(c); and

(c) the [~~Wednesday after the day of the election~~]last day of the election canvass.

(2) The data that an election officer is required to post under Subsection (1) includes:

(a) the total number of active registered voters as of the Friday before the election;

(b) an estimate of the total number of ballots received by the election officer; and

(c) of the number described in Subsection (2)(b), a subtotal for each of the following:

(i) the number of ballots counted;

(ii) the number of ballots that have not been counted;

(iii) the number of ballots the election officer rejected that are curable but have not yet been cured; and

(iv) the number of ballots the election officer rejected because the ballots could not legally be cured.

(3) An election officer is not required to post the data described in Subsection (2) on a day described in Subsection (1)(b) if the most recent data posted by the election officer on a day described in Subsection (1)(b) has not changed.

[~~(2) The data that an election officer is required to post under Subsection (1) includes:~~]

[~~(a) the number of ballots in the county clerk's possession; and~~]

[~~(b) of the number of ballots described in Subsection (2)(a):~~]

[~~(i) the number of ballots that have not yet begun processing;~~]

[~~(ii) the number of ballots in process; and~~]

[~~(iii) the number of ballots processed.~~]

[~~(3) Except as provided in Subsection (5)(b), an election officer shall post and update the data described in Subsection (4) on the election officer's website on the following days:~~]

[~~(a) the Friday after the day of the election;~~]

[~~(b) each Monday, Wednesday, and Friday after the day described in Subsection (3)(a), until the final posting described in Subsection (3)(c); and~~]

[~~(c) on the last day of the canvass.~~]

[~~(4) The data that an election officer is required to post under Subsection (3) includes:~~]

[~~(a) a best estimate of the number of ballots received, to date, by the election officer;~~]

[~~(b) the number of ballots in possession of the election officer that have been rejected and are not yet cured;~~]

[~~(c) the number of provisional ballots in the possession of the election officer that have not been processed;~~]

[~~(d) the number of ballots that need to be adjudicated, but have not yet been adjudicated;~~]

[~~(e) the number of ballots awaiting replication; and~~]

[~~(f) the number of ballots that have been replicated.~~]

[~~(5) (a) An election officer is not required to update the data described in Subsection (2)on a Monday if the election officer does not process any ballots the preceding Saturday or Sunday.~~]

[~~(b) An election officer is not required to update the data described in Subsection (4) on a Monday if the election officer does not process any ballots the preceding Saturday or Sunday.~~]

Section 6. Section 20A-4-104 is amended to read:

20A-4-104 (Effective upon governor's approval). Counting ballots electronically -- Notice of testing tabulating equipment.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall provide public notice of the time and place of the test by publishing the notice, as a class A notice under Section 63G-30-102, for the county, municipality, or jurisdiction where the equipment is used, for at least 10 calendar days before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) before the election returns are approved as official, the automatic tabulating equipment passes a post election audit conducted in accordance with the rules described in Subsection 20A-1-108(1).

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) (a) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(i) make a true replication of the ballot with an identifying serial number;

(ii) substitute the replicated ballot for the damaged or defective ballot;

(iii) label the replicated ballot "replicated"; and

(iv) record the replicated ballot's serial number on the damaged or defective ballot.

(b) The lieutenant governor shall provide to each election officer a standard form on which the election officer shall maintain a log of all replicated ballots, that includes, for each ballot:

(i) the serial number described in Subsection (3)(a);

(ii) the identification of the individuals who replicated the ballot;

(iii) the reason for the replication; and

(iv) any other information required by the lieutenant governor.

(c) An election officer shall:

(i) maintain the log described in Subsection (3)(b) in a complete and legible manner, as ballots are replicated;

(ii) at the end of each day during which one or more ballots are replicated, make an electronic copy of the log; and

(iii) [~~keep~~]retain and preserve each electronic copy made under Subsection (3)(c)(ii)[~~for at least 22 months~~]in accordance with Subsection 20A-2-202(3).

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection (4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.

(6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(7) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(8) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in [~~Section 20A-4-202~~]Subsection 20A-4-202(2).

Section 7. Section 20A-4-106 is amended to read:

20A-4-106 (Effective upon governor's approval). Manual ballots -- Sealing.

(1) After the official canvas of an election, the election officer shall store all election returns in containers that identify the containers' contents.

(2) After the ballots are stored under Subsection (1), the ballots may not be examined by anyone, except as follows:

(a) when examined during a recount conducted under the authority of Section 20A-4-401or Part 6, Municipal Alternate Voting Methods Pilot Project;

(b) an auditor conducting an audit described in Section 36-12-15.2 may examine the ballots:

(i) if the audit uncovers evidence that raises a substantial doubt regarding the accuracy of the results of an election, the auditor may examine the ballots until the later of:

(A) the end of the calendar year in which the election was held; or

(B) if the election is contested, when the contest is resolved; or

(ii) at any time via a subpoena or other legal process; or

(c) the lieutenant governor may examine the ballots:

(i) until the later of:

(A) the last day of the calendar year in which the election was held; or

(B) if the election is contested, when the contest is resolved; or

(ii) at any time via a subpoena or other legal process.

[~~(3) Nothing in this section prohibits a county clerk, an auditor, or the lieutenant governor from accessing and examining the electronic copy of ballots or election returns in accordance with Part 7, Electronic Copy of Election Material - Access and Examination.~~]

Section 8. Section 20A-4-107 is amended to read:

20A-4-107 (Effective upon governor's approval). Review and disposition of provisional ballot envelopes.

(1) As used in this section, an individual is "legally entitled to vote" if:

(a) the individual:

(i) is registered to vote in the state;

(ii) votes the ballot for the voting precinct in which the individual resides; and

(iii) provides valid voter identification to the poll worker;

(b) the individual:

(i) is registered to vote in the state;

(ii) (A) provided valid voter identification to the poll worker; or

(B) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register but the county clerk verifies the individual's identity and residence through some other

means; and

(iii) did not vote in the individual's precinct of residence, but the ballot that the individual voted was from the individual's county of residence and includes one or more candidates or ballot propositions on the ballot voted in the individual's precinct of residence; or

(c) the individual:

(i) is registered to vote in the state;

(ii) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register; and

(iii) (A) the county clerk verifies the individual's identity and residence through some other means as reliable as photo identification; or

(B) the individual provides valid voter identification to the county clerk or an election officer who is administering the election by the close of normal office hours on Monday after the date of the election.

(2) (a) Upon receipt of a provisional ballot form, the election officer shall review the affirmation on the provisional ballot form and determine if the individual signing the affirmation is:

(i) registered to vote in this state; and

(ii) legally entitled to vote:

(A) the ballot that the individual voted; or

(B) if the ballot is from the individual's county of residence, for at least one ballot proposition or candidate on the ballot that the individual voted.

(b) Except as provided in Section 20A-2-207, if the election officer determines that the individual is not registered to vote in this state or is not legally entitled to vote in the county or for any of the ballot propositions or candidates on the ballot that the individual voted, the election officer shall retain the ballot form, uncounted, for the period specified in [~~Section 20A-4-202~~]Subsection 20A-4-202(2) unless ordered by a court to produce or count it.

(c) If the election officer determines that the individual is registered to vote in this state and is legally entitled to vote in the county and for at least one of the ballot propositions or candidates on the ballot that the individual voted, the election officer shall place the provisional ballot with the regular ballots to be counted with those ballots at the canvass.

(d) The election officer may not count, or allow to be counted a provisional ballot unless the individual's identity and residence is established by a preponderance of the evidence.

(3) If the election officer determines that the individual is registered to vote in this state, or if the voter registers to vote in accordance with Section 20A-2-207, the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot form.

(4) Except as provided in Section 20A-2-207, if the election officer determines that the individual is not registered to vote in this state and the information on the provisional ballot form is complete, the election officer shall:

(a) consider the provisional ballot form a voter registration form for the individual's county of residence; and

(b) (i) register the individual if the individual's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the individual's county of residence, which election officer shall register the individual.

(5) Notwithstanding any provision of this section, the election officer shall place a provisional ballot with the regular ballots to be counted with those ballots at the canvass, if:

(a) (i) the election officer determines, in accordance with the provisions of this section, that the sole reason a provisional ballot may not otherwise be counted is because the voter registration was filed less than 11 days before the election;

(ii) 11 or more days before the election, the individual who cast the provisional ballot:

(A) completed and signed the voter registration; and

(B) provided the voter registration to another person to file;

(iii) the late filing was made due to the individual described in Subsection (5)(a)(ii)(B) filing the voter registration late; and

(iv) the election officer receives the voter registration before 5 p.m. no later than one day before the day of the election; or

(b) the provisional ballot is cast on or before election day and is not otherwise prohibited from being counted under the provisions of this chapter.

Section 9. Section 20A-4-109 is amended to read:

20A-4-109 (Effective upon governor's approval). Ballot reconciliation -- Rulemaking authority.

(1) In accordance with this section and rules made under Subsection (2), an election officer whose office processes ballots shall:

(a) conduct ballot reconciliations:

(i) at the end of each day on which ballots are tabulated; or

(ii) if ballot tabulation of a grouping of ballots continues past midnight, as soon as the office finishes tabulating those ballots;

(b) conduct a final ballot reconciliation when an election officer concludes processing all ballots;

(c) document each ballot reconciliation;

(d) publicly release the results of each ballot reconciliation; and

(e) in conducting ballot reconciliations:

(i) ensure that the sum of the number of uncounted verified ballots and the number of ballots tabulated is equal to the number of voters given credit for voting; or

(ii) if the sum described in Subsection (1)(e)(i) is not equal to the number of voters given credit for voting, account for and explain the differences in the numbers.

(2) [~~Subject to Subsection (3), the~~]The director of elections within the Office of the Lieutenant Governor may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and requirements for conducting, documenting, and publishing a ballot reconciliation.

[~~(3) An election officer shall ensure that a published ballot reconciliation includes data describing:~~]

[~~(a) the total number of ballots:~~]

[~~(i) that the election officer issued to voters; and~~]

[~~(ii) that the voters returned to the election officer;~~]

[~~(b) of the number described in Subsection (3)(a)(i), a subtotal of the number of ballots that the election officer issued to voters:~~]

[~~(i) by mail;~~]

[~~(ii) electronically;~~]

[~~(iii) at a polling place; and~~]

[~~(iv) in person at the office of the election officer; and~~]

[~~(c) of the number described in Subsection (3)(a)(ii), a subtotal of the number of ballots that the voters returned to the election officer:~~]

[~~(i) by mail;~~]

[~~(ii) electronically;~~]

[~~(iii) at a polling place;~~]

[~~(iv) at a ballot drop box; and~~]

[~~(v) in person at the office of the election officer.~~]

Section 10. Section 20A-4-202 is amended to read:

20A-4-202 (Effective upon governor's approval). Election returns and election material -- Retention and disposition requirements -- Public records.

(1) Upon receipt of the ballots and election returns from the poll workers, the election officer shall:

(a) ensure that the poll workers have provided all of the ballots and election returns;

(b) inspect the ballots and election returns to ensure that they are sealed;

(c) for manual ballots, deposit and lock the ballots and election returns in a safe and secure place;

(d) for mechanical ballots:

(i) count the ballots; and

(ii) deposit and lock the ballots and election returns in a safe and secure place; and

(e) for bond elections, provide a copy of the election results to the board of canvassers of the local political subdivision that called the bond election.

(2) Each election officer shall:

(a) before 5 p.m. on the day after the date of the election, determine the number of provisional ballots cast within the election officer's jurisdiction and make that number available to the public;

(b) preserve ballots for 22 months after the date of the election or until the time has expired during which the ballots could be used in an election contest;

(c) preserve all other official election returns for at least 22 months after the date of the election; and

(d) after [~~that time~~]the time period described in Subsection (2)(c), destroy the ballots and election returns without [~~opening or examining them~~]examining the ballots and election returns.

(3) (a) The election officer shall [~~package and retain~~]:

[~~(i) the election database;~~]

[~~(ii) the cast vote record; and~~]

[~~(iii) the materials used in the programming of the automatic tabulating equipment.~~]

(i) package and retain all election material; and

(ii) store the election material in a secure location that is physically separate from the location where the election officer stores ballots and election returns.

(b) The election officer:

(i) may not alter or make changes to the election material;

(ii) may make a working copy of the election material;

(iii) may alter or make changes to the working copy of election material;

(iv) shall preserve the election material, and any working copy of the election material, for at least 22 months after the date of the election; and

(v) after the time period described in Subsection (3)(b)(iv), may dispose of or retain the election material and any working copy of the election material.

(c) An election officer:

(i) may not release to a member of the public:

(A) the copy of the final election results database; or

(B) a working copy of the copy of the final election results database;

(ii) may issue a public report based on information derived from the election material if the report does not contain any information that directly identifies a voter who cast a ballot;

(iii) may only access the election material, or a working copy of the election material, at the election officer's office; and

(iv) may not remove the election material, or a working copy of the election material, from the election officer's office.

[~~(b) The election officer:~~]

[~~(i) may access the materials described in Subsection (3)(a)(iii);~~]

[~~(ii) may make a copy of the materials described in Subsection (3)(a)(iii);~~]

[~~(iii) may not alter or make changes to the materials described in Subsection (3)(a)(iii);~~]

[~~(iv) may make changes to the copied materials described in Subsection (3)(b)(ii);~~]

[~~(v) shall retain and preserve the materials described in Subsection (3)(a)(iii), and the copied materials described in Subsection (3)(b)(ii), for at least 22 months after the date of the election; and~~]

[~~(vi) after the date described in Subsection (3)(b)(v), may dispose of or retain the materials described in Subsection (3)(a)(iii), or the copied materials described in Subsection (3)(b)(ii).~~]

(4) (a) If an [~~election contest is begun~~]election is contested within 12 months after the date of [~~an~~]the election, the election officer shall, except as provided in Subsection (4)(c):

(i) keep the ballots and election returns unopened and unaltered until the contest is complete; or

(ii) surrender the ballots and election returns to the custody of the court having jurisdiction of the contest when ordered or subpoenaed to do so by that court.

(b) Except as provided in Subsection (4)(c), when all election contests arising from an election are complete, the election officer shall either:

(i) retain the ballots and election returns until the time for preserving them under this section has run; or

(ii) destroy the ballots and election returns remaining in the election officer's custody without [~~opening or examining them~~]examining the ballots and election returns if the time for preserving them under this section has run.

(c) (i) An auditor conducting an audit described in Section 36-12-15.2 may examine the ballots and election returns described in this Subsection (4).

(ii) The lieutenant governor may examine the ballots and election returns described in this Subsection (4).

(5) [~~(a)~~] Notwithstanding the provisions of this section, the legislative auditor general:

[~~(i)~~](a) may make and keep a copy of ballots or election returns as part of a legislative audit; and

[~~(ii)~~](b) may not examine, make a copy, or keep a copy of a ballot in a manner that identifies the ballot with the voter who casts the ballot.

[~~(b)~~](6) [~~A copy described in Subsection (5)(a)~~]Each of the following is not a record, and is not subject to disclosure, under Title 63G, Chapter 2, Government Records Access and Management Act[~~.~~]:

(a) all ballots and election returns;

(b) all election material;

(c) any working copy of election material that the election officer makes under Subsection (3)(b)(ii); and

(d) a copy described in Subsection (5)(a).

(7) Each of the following is a public record under Title 63G, Chapter 2, Government Records Access and Management Act:

(a) the final report of the disposition of all rejected and resolved ballots described in Subsection 20A-3a-401(11)(b);

(b) the results and tally of all ballots that have been counted described in Subsection 20A-3a-402(2);

(c) each posting of ballot statistics described in Section 20A-3a-405; and

(d) any early unofficial returns or reports described in Subsection 20A-4-104(4).

(8) The retention and disposition requirements described in this section for ballots, election returns, and election material:

(a) supersede the retention and disposition requirements for ballots, election returns, and election material that were in effect before the effective date of this bill; and

(b) apply to ballots, election returns, and election material created before, on, or after the effective date of this bill.

(9) The retention and disposition requirements described in this section do not require the creation of a record that an election officer is not otherwise required to create.

Section 11. Section 20A-4-304 is amended to read:

20A-4-304 (Effective upon governor's approval). Declaration of results -- Canvassers' report.

(1) (a) Except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction.

(b) Except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare a "tie vote" if:

(i) two or more candidates for an office receive an equal and the highest number of votes for that office; or

(ii) in a race for an at-large office:

(A) two or more candidates receive an equal number of votes; and

(B) a recount is necessary to determine which candidates are elected to the at-large office.

(c) A board of canvassers shall declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction; or

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction.

(d) A board of canvassers shall:

(i) certify the vote totals for candidates and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(ii) if applicable, certify the results of each special district election to the special district clerk.

(2) The election officer shall submit a report to the board of canvassers that includes the following information:

(a) a statement of votes cast, disclosing:

[~~(a)~~](i) the total number of votes cast in the board's jurisdiction; and

[~~(b)~~](ii) for each office that appeared on the ballot [~~;~~];

(A) the name of each candidate whose name appeared on the ballot; and

(B) whether the candidate is an unaffiliated candidate, a valid write-in candidate, or, if the candidate is affiliated with or the nominee of a registered political party, the name of the registered political party;

[~~(c) (i) the name of each candidate whose name appeared on the ballot; and~~]

[~~(ii) whether the candidate is an unaffiliated candidate, a write-in candidate, or, if the candidate is the nominee of a registered political party, the name of the registered political party;~~]

[~~(d)~~](b) the title of each ballot proposition that appeared on the ballot;

[~~(e)~~](c) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

[~~(f)~~](d) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each ballot-counting phase; and

(iii) the number of votes for and against each ballot proposition;

[~~(g)~~](e) standardized statistics, on a form provided by the lieutenant governor, disclosing, at a minimum:

(i) the number of active voters in the board's jurisdiction as of the Friday before election day;

(ii) the number of ballots counted by the election officer that were cast by voters who registered to vote on election day under Section 20A-2-207;

(iii) the total number of ballots counted by the election officer;

(iv) the quotient of the number described in Subsection (2)(e)(iii) divided by the sum of the numbers described in Subsections (2)(e)(i) and (ii);

(v) of the number described in Subsection (2)(e)(iii):

(A) the number of provisional ballots cast at a polling place; and

(B) the number of ballots cast using a voting method described in Section 20A-3a-201;

(vi) a reconciliation of the number of ballots the election officer counted and the number of voters given credit for voting in the election;

(vii) if there is a difference between the numbers described in Subsection (2)(e)(vi), an explanation for the difference;

[~~(ii) of the number described in Subsection (2)(g)(i), the number of voters classified as private or withheld under Section 20A-2-104;~~]

[~~(iii) the number of ballots the election officer counted;~~]

[~~(iv) of the number described in Subsection (2)(g)(iii), the number of provisional ballots; and~~]

[~~(v)~~](viii) [~~each of the following:~~]

[~~(A)~~] the number of provisional ballots that could not legally be counted; and

(ix) each of the following:

[~~(B)~~](A) the number of ballots, other than provisional ballots, that [~~the election officer~~]were rejected because the ballots could not legally be cured; [~~and~~]

[~~(C)~~](B) the number of ballots, other than provisional ballots, that were rejected, could have been cured by the voter, but were not cured;

(C) the number of uncounted ballots received after the deadline described in Subsection 20A-3a-204(3); and

(D) the percentage of ballots that were returned as undeliverable;

[~~(h) a final ballot reconciliation report;~~]

(f) subject to Subsection (3), a cast vote record report that contains only the following information from the election results database:

(i) for the jurisdiction administering the election:

(A) the title of each ballot proposition appearing on the ballots;

(B) a description of each race for federal office, statewide office, state legislative office, state school board office, county office, local school board office, or municipal office appearing on the ballots; and

(C) the name of each candidate for an office described in Subsection (2)(f)(i)(B);

(ii) the numeric identifier described in Subsection 20A-5-802.5(2)(b);

(iii) the vote cast by a voter for:

(A) a candidate for an office described in Subsection (2)(f)(i)(B);

(B) a valid write-in candidate; and

(C) each ballot proposition;

(iv) if a voter's vote was not counted, an indication that the vote was not counted because:

(A) the voter cast a vote for more than one candidate for a single office; or

(B) the voter made more than one selection for a single ballot proposition;

(v) if a voter was eligible to cast a vote, but did not cast a vote, an indication that the voter did not cast a vote; and

(vi) if a ballot proposition or an office described in Subsection (2)(f)(i)(B) did not appear on the voter's ballot:

(A) an indication that the voter was ineligible to cast a vote for the ballot proposition or office; or

(B) a blank field or space in the portion of the report representing the ballot proposition or office;

[~~(i)~~](g) other information required by law to be provided to the board of canvassers; and

[~~(j)~~](h) a statement certifying that the information contained in the report is accurate.

(3) The cast vote record report described in Subsection (2)(f) may not include:

(a) any special district office or special district ballot proposition appearing on a ballot in the jurisdiction administering the election;

(b) the vote cast by a voter for a special district office or special district ballot proposition;

(c) the voter precinct number associated with a ballot; or

(d) information that directly identifies the voter who cast the ballot.

(4) For an election in which the election officer does not use automatic tabulating equipment, the election officer shall:

(a) review the votes cast on each ballot that is counted;

(b) manually compile the information described in Subsection (2)(f) in a file format described in Subsection (8)(c);

(c) ensure that the file does not contain the information described in Subsection (3); and

(d) include a copy of the file in the board of canvassers' report.

[~~(3)~~](5) The election officer and the board of canvassers shall:

(a) review the report to ensure that the report is correct; and

(b) sign the report.

[~~(4)~~](6) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection [~~(5)~~](7); and

(d) file a copy of the certified report with the lieutenant governor.

[~~(5)~~](7) [~~Except as provided in Subsection (6), the election officer shall, no later than three business days after the day on which the board of canvassers declares the election results, publicize the certified report described in Subsection (2) for the board's jurisdiction, as a class A notice under Section 63G-30-102, for at least seven calendar days.~~]Subject to Subsection (8), an election officer shall, no later than three business days after the day on which the board of canvassers declares the election results, publish a notice of the certified report described in Subsection (2) as a class A notice under Section 63G-30-102.

[~~(6)~~](8) [~~(a) Instead of including a copy of the entire certified report, a notice required under Subsection (5) may contain a statement that~~]The class A notice described in Subsection (7) shall:

(a) include the following statement: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election].";

[~~(i) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election]."; and~~]

[~~(ii)~~](b) [~~specifies~~]specify the following sources where an individual may view or obtain a copy of the entire certified report:

[~~(A) if the board's jurisdiction has a website, the jurisdiction's website;~~]

[~~(B) the physical address for the board's jurisdiction; and~~]

[~~(C) a mailing address and telephone number.~~]

(i) the Utah Public Notice Website;

(ii) if the election officer is required to publish the notice on the board's jurisdiction's website under Subsection 63G-30-102(1)(b), the jurisdiction's website;

(iii) the physical address for the board's jurisdiction; and

(iv) a mailing address and telephone number; and

(c) subject to Subsection (9), for the website posting described in Subsections 63G-30-102(1)(a) and (b), include a copy of the certified report in the following file formats:

(i) except for the cast vote record report described in Subsection (2)(f), a PDF or similar file; and

(ii) for the cast vote record report described in Subsection (2)(f), one or more spreadsheets, Comma Separated Values files, or another common type of delimited or fixed-width files.

(9) An election officer may post the information required to be included in the cast vote record report described in Subsection (2)(f) as a text-based file that represents structured information through key value pairs and ordered collections of data in lieu of including that information in a file described in Subsection (8)(c)(ii) if:

(a) the race for elective office was conducted using instant runoff voting under Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project; and

(b) the tabulating equipment does not produce a file described in Subsection (8)(c)(ii) that accurately records all the preferences cast by a voter on the voter's ballot.

(10) An election officer shall publish the class A notice described in Subsection (7) for the following time periods:

(a) in relation to posting the notice on the Utah Public Notice Website under Subsection 63G-30-102(1)(a), indefinitely;

(b) in relation to posting the notice on the election officer's jurisdiction's website under Subsection 63G-30-102(1)(b), for at least 180 calendar days after the day of the deadline described in Subsection (7); and

(c) in relation to posting the notice in a physical location under Subsection 63G-30-102(1)(c), for at least seven calendar days after the day of the deadline described in Subsection (7).

[~~(b)~~](11) An election officer:

[~~(i)~~](a) shall ensure that an individual may obtain [~~a digital copy of the certified report as a PDF file~~]a copy of the certified report in a file format described in:

(i) Subsection (8)(c); and

(ii) if applicable, Subsection (9); and

[~~(ii)~~](b) may make the certified report available in any [~~machine readable~~]computer-readable format that the election officer determines is helpful to members of the public.

[~~(7)~~](12) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall, immediately

upon adjournment of the board, transmit to the lieutenant governor a report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition.

[~~(8)~~](13) In each county election, municipal election, school election, special district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 calendar days after the date of the election.

[~~(9)~~](14) In a regular primary election and in a presidential primary election, the board of canvassers shall, immediately upon adjournment of the board, transmit to the lieutenant governor:

(a) the county totals for multi-county races; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct.

Section 12. Section 20A-4-401 is amended to read:

20A-4-401 (Effective upon governor's approval). Recounts -- Procedure.

(1) This section does not apply to a race conducted by instant runoff voting under [~~Chapter 4,~~]Part 6, Municipal Alternate Voting Methods Pilot Project.

(2) The election officer shall conduct a recount of votes cast in a race if:

(a) two or more candidates for an office receive an equal and the highest number of votes for that office; or

(b) in a race for an at-large office, two or more candidates receive an equal number of votes and at least one of the candidates must be eliminated to determine which candidates are elected.

(3) (a) Except as provided in Subsection (2) or (3)(b), for a race between candidates, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is equal to or less than .25% of the total number of votes cast for all candidates in the race, the losing candidate may file a request for a recount in accordance with Subsection (4).

(b) Except as provided in Subsection (2), for a race between candidates where the total of all votes cast in the race is 400 or less, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is one vote, the losing candidate may file a request for a recount in accordance with Subsection (4).

(4) A losing candidate who files a request for a recount under Subsection (3)(a) or (b) shall file the request:

(a) for a municipal primary election, with the municipal clerk, no later than 5 p.m. on the first business day that is at least three calendar days after the day on which the canvass is completed; or

(b) for all other elections, no later than 5 p.m. on the first business day that is at least three calendar days after the day on which the canvass is completed, with:

(i) the municipal clerk, if the election is a municipal general election;

(ii) the special district clerk, if the election is a special district election;

(iii) the county clerk, for a race voted on entirely within a single county; or

(iv) the lieutenant governor, for a statewide race or multi-county race.

(5) (a) The election officer shall conduct the recount:

(i) for a race described in Subsection (2), no later than 10 calendar days after the day on which the board of canvassers certifies the vote totals; or

(ii) for a race described in Subsection (3), no later than seven calendar days after the day on which the losing candidate requests the recount.

(b) In conducting the recount, the election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast in the race;

(iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4, Disposition of Ballots; and

(iv) (A) for a race between candidates for a single office, declare elected the candidate who receives the highest number of votes on the recount;

(B) for a race for an at-large office, declare elected the candidate who receives the highest number of votes on the recount, until all offices are filled by the candidates who received the highest number of votes;

(C) for a race described in Subsection (5)(b)(iv)(A) in which two or more candidates receive an equal and the highest number of votes, declare a tie vote; or

(D) for a race described in Subsection (5)(b)(iv)(B) in which two or more candidates receive an equal number of votes, declare a tie vote if the selection of the winning candidate by lot under Section 20A-1-304 is necessary to determine which candidate is elected to the at-large office.

(6) The cost of a recount under Subsection (5) shall be paid by:

(a) for a statewide race or multi-county race, the state; or

(b) for all other races:

(i) the political subdivision that conducts the election; or

(ii) the political subdivision that enters into a contract or interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, with a provider election officer to conduct the election.

(7) (a) Except as provided in Subsection (7)(b), for a ballot proposition or a bond proposition, if the proposition passes or fails by a margin that is equal to or less than .25% of the total votes cast for or against the proposition, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount no later than 5 p.m. on the first business day that is at least seven calendar days after the day of the canvass with the person described in Subsection (8).

(b) For a ballot proposition or a bond proposition where the total of all votes cast for or against the proposition is 400 or less, if the difference between the number of votes cast for the proposition and the number of votes cast against the proposition is one vote, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount no later than 5 p.m. on the first business day that is at least seven calendar days after the day of the canvass with the person described in Subsection (8).

(8) The 10 voters who file a request for a recount under Subsection (7)(a) or (b) shall file the request with:

(a) the municipal clerk, if the election is a municipal election;

(b) the special district clerk, if the election is a special district election;

(c) the county clerk, for a proposition voted on entirely within a single county; or

(d) the lieutenant governor, for a statewide proposition or multi-county proposition.

(9) (a) In conducting the recount, the election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for the ballot proposition or bond proposition;

(iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4, Disposition of Ballots; and

(iv) declare the ballot proposition or bond proposition to have "passed" or "failed" based upon the results of the recount.

(b) Proponents and opponents of the ballot proposition or bond proposition may designate representatives to witness the recount.

(10) The voters requesting a recount under Subsection (7)(a) or (b) shall pay the costs of the recount.

(11) (a) Upon completing a recount described in Subsection (5) or (9), the election officer shall immediately convene the board of canvassers.

(b) The board of canvassers shall:

(i) canvass the election returns for the race or proposition that was the subject of the recount; and

(ii) with the assistance of the election officer, prepare and sign the report required by Section 20A-4-304 or 20A-4-306.

(c) If the recount is for a statewide race, multi-county race, or a statewide proposition, the board of county canvassers shall prepare and transmit a separate report to the lieutenant governor as required by Subsection [~~20A-4-304(7)~~]20A-4-304(12).

(d) The canvassers' report prepared as provided in this Subsection (11) is the official result of the race or proposition that is the subject of the recount.

Section 13. Section 20A-5-403.5 is amended to read:

20A-5-403.5 (Effective upon governor's approval). Ballot drop boxes -- Notice.

(1) [~~(a)~~] An election officer:

[~~(i)~~](a) shall designate at least one ballot drop box in each municipality and reservation located in the jurisdiction to which the election relates;

[~~(ii)~~](b) may designate additional ballot drop boxes for the election officer's jurisdiction;

[~~(iii)~~](c) shall clearly mark each ballot drop box as an official ballot drop box for the election officer's jurisdiction;

[~~(iv)~~](d) shall provide 24-hour recorded video surveillance, without audio, of each unattended ballot drop box;

[~~(v)~~](e) shall post a sign on or near each unattended ballot drop box indicating that the ballot drop box is under 24-hour video surveillance; and

[~~(vi)~~](f) shall ensure that a camera, a video, or a recording of a video described in Subsection [~~(1)(a)(iv)~~](1)(d) may only be accessed by:

[~~(A)~~](i) [~~by~~]the election officer;

[~~(B)~~](ii) [~~by~~]a custodian of the camera, video, or recording;

[~~(C)~~](iii) [~~by~~]the lieutenant governor;

[~~(D)~~](iv) [~~by~~]the legislative auditor general, when performing an audit; [~~or~~]

[~~(E)~~](v) [~~by, or pursuant to an order of,~~]a court of competent jurisdiction [~~.~~], by or pursuant to an order of the court;

(vi) a registered voter who claims to have cast a ballot at an unattended ballot drop box, if the election officer informs the voter that the election officer never received the voter's ballot; or

(vii) subject to Subsection (2)(b), and except as provided in Subsection (2)(c):

(A) a candidate for an office that appears on a ballot, or an individual representing the candidate's campaign;

(B) for a federal, statewide, or multicounty race, the chair of the state political party whose member is a candidate described in Subsection (1)(f)(vii)(A);

(C) for a race where the officeholder is selected by voters entirely within one county, the chair of the county political party whose member is a candidate described in Subsection (1)(f)(vii)(A); or

(D) the designee of a political party chair described in Subsection (1)(f)(vii)(B) or (C).

[~~(b)~~](2) (a) An individual may not view a video, or a recording of a video, described in Subsection [~~(1)(a)(iv)~~](1)(d), unless the individual:

(i) is an individual described in Subsection [~~(1)(a)(vi)~~](1)(f); and

(ii) views the video to the extent necessary to:

(A) ensure compliance with Subsection [~~(1)(a)(iv), (1)(a)(vi), or (1)(c)~~](1)(d), (1)(f), or (3); or

(B) investigate a concern relating to ballots or the ballot box.

(b) If an individual described in Subsection (1)(f)(vii) seeks to view a video recording described in Subsection (1)(d), the election officer may require the individual to view the video recording at the election officer's office during regular business hours.

(c) An individual described in Subsection (1)(f)(vii) may not view a video recording described in Subsection (1)(d) after the time period for contesting the election to which the video recording relates ends.

[~~(c)~~](3) The election officer, or the custodian of the recording [~~,~~]:

(a) shall keep a recording described in Subsection [~~(1)(a)(iv) until~~](1)(d) until at least the later of:

(i) the [~~end of the~~]last day of the calendar year in which the election was held; or

(ii) if the election is contested, when the contest is resolved [~~.~~]; and

(b) may keep the video recording described in Subsection (1)(d) indefinitely.

[~~(2)~~](4) Except as provided in Section 20A-1-308 or Subsection [~~(5)~~](7), the election officer shall, at least 28 calendar days before the date of the election, provide notice of the location of each ballot drop box designated under Subsection (1), by publishing notice for the jurisdiction holding the election, as a class A notice under Section 63G-30-102, for at least 28 calendar days before the day of the election.

[~~(3)~~](5) Instead of including the location of ballot drop boxes, a notice required under Subsection [~~(2)~~](4) may specify the following sources where a voter may view or obtain a copy of all ballot drop box locations:

(a) the jurisdiction's website;

(b) the physical address of the jurisdiction's offices; and

(c) a mailing address and telephone number.

[~~(4)~~](6) The election officer shall include in the notice described in Subsection [~~(2)~~](4):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each ballot drop box, including any changes to the location of a ballot drop box and the location of additional ballot drop boxes; and

(b) a phone number that a voter may call to obtain information regarding the location of a ballot drop box.

[~~(5)~~](7) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Subsection [~~(2)~~](4):

(i) if necessary, change the location of a ballot drop box; or

(ii) if the election officer determines that the number of ballot drop boxes is insufficient due to the number of registered voters who are voting, designate additional ballot drop boxes.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a ballot box or designates an additional ballot drop box location, the election officer shall, as soon as is reasonably possible, give notice of the changed ballot drop box location or the additional ballot drop box location:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of a ballot drop box, at the new location and, if possible, the old location; and

(B) for an additional ballot drop box location, at the additional ballot drop box location.

[~~(6)~~](8) An election officer may, at any time, authorize two or more poll workers to remove a ballot drop box from a location, or to remove ballots from a ballot drop box for processing.

[~~(7)~~](9) (a) At least two poll workers must be present when a poll worker collects ballots from a ballot drop box and delivers the ballots to the location where the ballots will be opened and counted.

(b) An election officer shall ensure that the chain of custody of ballots placed in a ballot box are recorded and tracked from the time the ballots are removed from the ballot box until the ballots are delivered to the location where the ballots will be opened and counted.

Section 14. Section 20A-5-802.5 is enacted to read:

20A-5-802.5 (Effective upon governor's approval). Election results database requirements.

(1) The lieutenant governor shall ensure that all voting equipment used in this state has the capability of generating an election results database.

(2) For each ballot that is counted in an election, the election results database shall contain:

(a) the vote cast by a voter for each ballot proposition or race for elective office appearing on the voter's ballot;

(b) a numeric identifier that is associated with a ballot within the tabulation system; and

(c) (i) a unique identifying code or number for the batch in which a ballot was tabulated, if the ballot was tabulated as part of a batch; or

(ii) a sequence number, if the ballot was not tabulated as part of a batch.

(3) For each ballot that is counted in an election, the election results database shall contain the following data if the data is generated by the voting equipment:

(a) a description of the style of ballot;

(b) a voting precinct number or other geographic indicator;

(c) an identifier for the scanner or tabulating device that produced the digital interpretation of the ballot;

(d) the registered political party associated with a primary election ballot;

(e) an image of the entire ballot or the write-in portion of the ballot;

(f) an indication of how the scanner or tabulating device interpreted the marks made by the voter who cast the ballot;

(g) information about any changes made to the election results database for a ballot that was adjudicated under Section 20A-4-105, including:

(i) the identity of the counting judges who adjudicated the ballot; and

(ii) the time and date of the changes made to the election results database by the counting judges; and

(h) other information produced by the tabulating device as part of the tabulating device's output.

(4) An election officer shall create a physical or electronic log of any information described in Subsection (3)(g) that the voting equipment is unable to generate.

(5) Following an election but before the official canvass, an election officer shall prepare a final election results database created during:

(a) the tabulation of ballots; and

(b) the adjudication of a ballot under Section 20A-4-105.

Section 15. Section 20A-5-905 is amended to read:

20A-5-905 (Effective upon governor's approval). Software validation -- Database security.

(1) Before November 2022, the director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing software validation procedures that an election officer is required to comply with to verify that voting system files have not been tampered with.

(2) The lieutenant governor and each county clerk shall ensure that a record is made, and stored [~~for at least 22 months~~]in accordance with Subsection 20A-4-202(3), of each time a voter database is accessed by a person, including:

(a) the name of the person accessing the voter database;

(b) the date and time of the access; and

(c) any changes made to the voter database.

Section 16. Section 67-1a-2 is amended to read:

67-1a-2 (Effective upon governor's approval). Duties enumerated.

(1) The lieutenant governor shall:

(a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:

(i) as the head of any one department, if so qualified, with the advice and consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;

(ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;

(iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;

(iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;

(v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and

(vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;

(b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;

(c) serve as the chief election officer of the state as required by Subsection (2);

(d) keep custody of the Great Seal of the State of Utah;

(e) keep a register of, and attest, the official acts of the governor;

(f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and

(g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2) (a) As the chief election officer, the lieutenant governor shall:

(i) exercise oversight, and general supervisory authority, over all elections;

(ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;

(iii) establish uniformity in the election ballot;

(iv) (A) prepare election information for the public as required by law and as determined appropriate by the lieutenant governor; and

(B) make the information described in Subsection (2)(a)(iv)(A) available to the public and to news media, on the Internet, and in other forms as required by law and as determined appropriate by the lieutenant governor;

(v) receive and answer election questions and maintain an election file on opinions received from the attorney general;

(vi) maintain a current list of registered political parties as defined in Section 20A-8-101;

(vii) maintain election returns and statistics;

(viii) certify to the governor the names of individuals nominated to run for, or elected to, office;

(ix) ensure that all voting equipment purchased by the state complies with the requirements of Sections 20A-5-302, 20A-5-802, 20A-5-802.5, and 20A-5-803;

(x) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:

(A) voting on election day;

(B) early voting;

(C) the transmittal or voting of an absentee ballot or military-overseas ballot;

(D) the counting of an absentee ballot or military-overseas ballot; or

(E) the canvassing of election returns; and

(xi) exercise all other election authority, and perform other election duties, as provided in Title 20A, Election Code.

(b) As chief election officer, the lieutenant governor:

(i) shall oversee all elections, and functions relating to elections, in the state;

(ii) shall, in accordance with Section 20A-1-105, take action to enforce compliance by an election officer with legal requirements relating to elections; and

(iii) may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election officials by Title 20A, Election Code.

(3) (a) The lieutenant governor shall:

(i) determine a new municipality's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter 2a, Part 2, Incorporation of a Municipality, based on the municipality's population using the population estimate from the Utah Population Committee; and

(ii) (A) prepare a certificate indicating the class in which the new municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the municipality's legislative body.

(b) The lieutenant governor shall:

(i) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information for each municipality from:

(A) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(B) if the Utah Population Committee estimate is not available, the census or census estimate of the United States Bureau of the Census; and

(ii) (A) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body.

(c) The lieutenant governor shall monitor the population of each municipality using population information from:

(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available, the census or census estimate of the United States Bureau of the Census.

(d) If the applicable population figure under Subsection (3)(b) or (c) indicates that a municipality's population has increased beyond the population for its current class, the lieutenant governor shall:

(i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and

(ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

(e) (i) If the applicable population figure under Subsection (3)(b) or (c) indicates that a municipality's population has decreased below the population for its current class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.

(ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:

(A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

Section 17. Repealer.

This bill repeals:

Section 20A-4-701, Definitions.

Section 20A-4-702, Electronic copy of election material -- Examination by county clerk

Section 20A-4-703, Electronic copy of election material -- Examination by governmental

Section 18. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), December 6, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

Section 19. Retrospective operation.

The repeal of Sections 20A-4-701, 20A-4-702, and 20A-4-703 have retrospective operation to August 1, 2025.

CHAPTER 7
H. B. 1005
Passed October 6, 2025
Approved October 14, 2025
Effective December 6, 2025

COUNTY GOVERNANCE AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions relating to forms of county government.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► requires a county council member in certain counties to represent a district, with exceptions;
- ► establishes a process for a county to create and implement a county council district map;
- ► establishes deadlines for certain counties to implement district maps;
- ► describes the circumstances in which a previously at-large county council member may represent a county council district in which the county council member does not live following the adoption of a district map;
- ► describes the circumstances in which certain counties may redistrict;
- ► describes the penalties for failure to create and implement a county council district map;
- ► provides a sunset date; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-52a-203, as renumbered and amended by Laws of Utah 2018, Chapter 68
17-52a-204, as last amended by Laws of Utah 2025, Chapter 535
63I-2-217, as last amended by Laws of Utah 2025, Chapter 62

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-52a-203 is amended to read:
17-52a-203. County executive-council form of county government.

(1) [~~(a)~~] As used in this section, "district" means the same as that term is defined in Section 17-52a-204.

(2) (a) The following shall govern a county operating under the form of government known as the "county executive-council" form:

(i) an elected county council;

(ii) an elected county executive; and

(iii) other officers and employees authorized by law.

(b) The optional plan shall provide for the qualifications, time, and manner of election, term of office and compensation of the county executive.

[~~(2)~~](3) The county executive is the chief executive officer or body of the county.

[~~(3)~~](4) In the county executive-council form of county government:

(a) the county council is the county legislative body and has the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body; and

(b) the county executive has the powers, duties, and functions of a county executive under Chapter 53, Part 3, County Executive.

[~~(4)~~](5) References in any statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the county executive-council form of county government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county executive, with respect to executive functions, duties, and powers.

(6) (a) Except as provided in Subsection (6)(b), beginning on October 15, 2025, a county with a county executive-council form of government shall ensure that each council member:

(i) represents a single district, rather than being elected at-large;

(ii) is elected by a majority of voters residing within the member's district; and

(iii) resides in the district the council member represents.

(b) A county with a county executive-council form of government where, on and after May 7, 2025, at least 65% of county council members represent districts as described in Subsection (6)(a) may continue to have one or more county council members elected at-large.

(c) A county that adopts a county executive-council form of government after May 7, 2025, shall ensure that all county council members meet the qualifications described in Subsection (6)(a).

(7) A county with a county executive-council form of government shall:

(a) ensure that each time the county implements a district map or conducts redistricting for the county council districts, the resulting district map complies with the requirements in Subsection 17-52a-204(13)(b)(i); and

(b) adopt a district map as described in Subsection 17-52a-204(13)(b)(ii).

(8) (a) A voter in a county that fails to comply with the requirements of Subsections (6)and (7) may commence suit in a court of competent jurisdiction to compel compliance with, or enjoin a violation of, Subsections (6) and (7).

(b) The court may award reasonable attorney fees and court costs to a successful plaintiff.

(9) Beginning January 1, 2026, for a county that fails to comply with the requirements of Subsections (6) and (7), in addition to the remedies described in Subsection (8), the state tax commission may suspend disbursements of transient room tax revenue to the county until the county establishes that the county is in compliance with Subsections (6) and (7).

Section 2. Section 17-52a-204 is amended to read:

17-52a-204. Council-manager form of county government -- Establishment of voting districts.

(1) As used in this section, "district" means a geographic area within the boundaries of a county with a council-manager form of government that is represented only by one council member [~~who is a resident of the area.~~]who:

(a) resides in the district;

(b) represents only the district where the member resides; and

(c) is elected only by voters who reside in the same district as the district where the member resides, and that the member represents.

(2) (a) The following shall govern a county operating under the form of government known as the "council-manager" form:

(i) an elected county council;

(ii) a county manager appointed by the council; and

(iii) other officers and employees authorized by law.

(b) The optional plan shall provide for the qualifications, time and manner of appointment subject to Subsections (7) and (8), term of office, compensation, and removal of the county manager.

(3) The county manager is the administrative head of the county government and has the powers, functions, and duties of a county executive, except:

(a) as the county legislative body otherwise provides by ordinance; and

(b) that the county manager may not veto any ordinances enacted by the council.

(4) (a) An individual member of the council may not directly or indirectly, by suggestion or otherwise:

(i) attempt to influence or coerce the manager in:

(A) making any appointment;

(B) removing any officer or employee; or

(C) purchasing supplies;

(ii) attempt to exact any promise relative to any appointment from any candidate for manager; or

(iii) discuss directly or indirectly with the manager the matter of specific appointments to any county office or employment.

(b) (i) A member of the county council who violates the provisions of this Subsection (4) shall forfeit the member's county council office.

(ii) Nothing in this section shall be construed, however, as prohibiting the council from fully and freely discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county.

(iii) The county manager may not take part in securing, or contributing any money toward, the nomination or election of any candidate for a county office.

(iv) The optional plan may provide procedures for implementing this Subsection (4).

(5) In the council-manager form of county government:

(a) the legislative powers of the county are vested in the county council; and

(b) the executive powers of the county are vested in the county manager.

(6) A reference in statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the council-manager form of county government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county manager, with respect to executive functions, duties, and powers.

(7) (a) As used in this Subsection (7), "interim vacancy period" means the period of time that:

(i) begins on the day on which a general election described in Section 17-16-6 is held to elect a council member; and

(ii) ends on the day on which the council member-elect begins the council member's term.

(b) (i) The county council may not appoint a county manager during an interim vacancy period.

(ii) Notwithstanding Subsection (7)(b)(i):

(A) the county council may appoint an interim county manager during an interim vacancy period; and

(B) the interim county manager's term shall expire once a new county manager is appointed by the new administration after the interim vacancy period has ended.

(c) Subsection (7)(b) does not apply if all the county council members who held office on the day of the county general election whose term of office was vacant for the election are re-elected to the council for the following term.

(8) A county council that appoints a county manager in accordance with this section may not enter into an employment contract that

contains an automatic renewal provision with the county manager.

(9) (a) [~~A~~]Except as provided in Subsections (9)(b) and (10), beginning on May 7, 2025, a county [~~of the third through sixth class~~]with a council-manager form of government shall ensure that each council member:

[~~(a)~~](i) represents a single district, rather than being elected [~~at-large~~]at-large;

[~~(b)~~](ii) is elected by a majority vote of voters residing within the member's district; and

[~~(c)~~](iii) [~~is a resident of~~]except as provided in Subsections (12)(a)(iii) and (12)(b), resides in the district the council member represents.

(b) A county with a council-manager form of government where at least 65% of county council members meet the qualifications of Subsection (9)(a) on and after May 7, 2025, may continue to have one or more county council members elected at-large.

(c) A county that adopts a council-manager form of government after May 7, 2025, shall ensure that all county council members meet the qualifications described in Subsection (9)(a).

(10) For a county with a council-manager form of government that does not comply with Subsection (9)(a) on May 7, 2025, and to which the exception in Subsection (9)(b) does not apply, the county council shall:

(a) on or before June 1, 2025, establish a districting commission in accordance with Subsection (11);

(b) by October 15, 2025, hold a public meeting at which:

(i) the county council shall adopt the proposed district map submitted as described in Subsection (11)(d); and

(ii) the county clerk shall designate a current council member to represent each district for the remainder of the county council member's term of office in accordance with Subsection (12); and

(c) implement the district map adopted under Subsection (10)(b)(i) for the next county council election.

[~~(10) (a) For a county with a council-manager form of government that, on May 7, 2025, does not meet the requirements described in Subsection (9), the county council shall, on or before June 1, 2025:~~]

[~~(i) in accordance with Subsection (10)(b), establish a county districting commission; and~~]

[~~(ii) in accordance with Subsection (10)(c)(i), approve a map of the county council districts.~~]

[~~(b) (i) A county council shall comply with Subsection (10)(a)(i) by establishing a county districting commission, consisting of:~~]

[~~(A) one representative from each municipality in the county, who is either the municipality's mayor or a resident whom the mayor appoints;~~]

[~~(B) one representative who resides in an unincorporated area of the county and is appointed by the county council; and~~]

[~~(C) the county clerk, or the county clerk's designee, as a non-voting member.~~]

[~~(ii) The county districting commission shall divide the county into districts by:~~]

[~~(A) relying on the total population enumeration of the most recent decennial census;~~]

[~~(B) ensuring that between districts, there is less than 10% total population deviation;~~]

[~~(C) ensuring that each district is contiguous and reasonably compact;~~]

[~~(D) ensuring that district boundaries do not divide existing voter precincts; and~~]

[~~(E) complying with the United States Constitution.~~]

[~~(iii) The county districting commission shall submit a proposed map of district boundaries to the county council for approval for the initial districting process, on or before October 1, 2025.~~]

[~~(iv) The county manager shall provide for the county districting commission:~~]

[~~(A) county staff for assistance; and~~]

[~~(B) suitable meeting facilities.~~]

[~~(c) After receiving the district map described in Subsection (10)(b)(iii), the county council shall, within 30 calendar days after the day on which the county council receives the map, hold a public hearing, at which:~~]

[~~(i) the county council shall approve the district map if the map complies with the requirements described in Subsection (10)(b)(ii); and~~]

[~~(ii) the county clerk shall designate, by lot, a current county council member to represent each district for the remainder of the council member's term of office, regardless of whether the council member is a resident of that district.~~]

(11) [~~After the adoption of a district map under Subsection (10)(c)(i), at an election in which a county council position is subject to an election:~~]A county districting commission established under Subsection (10) shall:

[~~(a) each candidate for that position must reside in the district that the position represents; and~~]

[~~(b) the council member for the district shall be elected by a majority vote of voters residing in the district.~~]

(a) consist of:

(i) one representative from each municipality located wholly within the county, who is either the municipality's mayor or a municipal resident whom the mayor appoints;

(ii) one representative who resides in an unincorporated area of the county, appointed by the county council; and

(iii) the county clerk, or the county clerk's designee, as a non-voting member;

(b) select by majority vote the chair of the districting commission from among the membership of the districting commission;

(c) divide the county into districts by:

(i) using the total population enumeration of the most recent decennial census to ensure that there is less than 10% total population deviation between each district;

(ii) ensuring that each district is contiguous and reasonably compact;

(iii) drawing district boundary lines that, to the extent practicable, do not divide existing voting precincts; and

(iv) complying with the United States Constitution; and

(d) by no later than October 1, 2025, submit a proposed district map to the county council that:

(i) is recommended by a majority of districting commission members; and

(ii) complies with the requirements of Subsection (11)(c).

(12) (a) For a county council that adopts a district map described in Subsection (10)(b), the county clerk shall designate one current county council member to serve each district for the remainder of the county council member's term as follows:

(i) if only one county council member lives in a district in an adopted district map, the county clerk shall assign that county council member to represent that district;

(ii) if more than one county council member lives in a district in an adopted district map, the county clerk shall draw lots and assign one county council member to represent the district; and

(iii) if no county council members live in a district in an adopted district map, the county clerk shall draw lots and assign from the county council members not already assigned under Subsections (12)(a)(i) and (ii) one county council member to represent each district.

(b) For a county council member assigned under Subsection (12)(a)(iii) to represent a district in which the county council member does not live, the county council member is eligible to hold the county council member's seat in the assigned district until the end of the term that the county council member was in on October 15, 2025, unless earlier disqualified by another provision of law.

[~~(12)~~](13) (a) After [~~creating districts and adopting~~]a county implements a district map [~~under Subsections (10) and (11)~~]for the election of county council members, a county [~~described in Subsection (10)~~]may not redistrict until:

(i) an official decennial census publicly releases population data for the county, unless otherwise required by law [~~,~~]; or

(ii) population growth in the county results in greater than 10% population deviation between districts.

(b) Each time a county [~~described in Subsection (10)(a)~~]conducts redistricting for the county council districts, the county council shall redistrict by:

(i) adjusting districts [~~in accordance with Subsections (10)(b)(ii)(A), (B), (C), and (E); and~~]in a proposed district map by:

(A) using the total population enumeration of the most recent decennial census to ensure that there is less than 10% total population deviation between each district;

(B) ensuring that each district is contiguous and reasonably compact;

(C) drawing district boundary lines that, to the extent practicable, do not divide existing voting precincts; and

(D) complying with the United States Constitution; and

(ii) after drawing a proposed [~~map of district boundaries~~]district map, holding a public [~~hearing~~]meeting, at which the county council shall:

(A) [~~approve~~]adopt the map as proposed [~~,~~]; or

(B) revise the map and [~~approve~~], if the revised map fulfills the requirements of Subsection (13)(b)(i), adopt the revised map.

(14) (a) A voter in a county that fails to comply with the requirements of Subsections (9) through (13) may commence suit in a court of competent jurisdiction to compel compliance with, or enjoin a violation of, Subsections (9) through (13).

(b) The court may award reasonable attorney fees and court costs to a successful plaintiff.

(15) Beginning January 1, 2026, for a county that fails to comply with the requirements of Subsections (9) through (13), in addition to the remedies described in Subsection (14), the state tax commission may suspend disbursements of transient room tax revenue to the county until the county establishes that the county is in compliance with Subsections (9) through (13).

Section 3. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates: Titles 17 through 17D.

(1) Subsection 17-22-2(1)(o), regarding a sheriff's contractual duties under an interlocal agreement for law enforcement services, is repealed July 1, 2025.

(2) Subsection 17-22-2(3), regarding the role of a sheriff in a police interlocal entity or police local district, is repealed July 1, 2025.

(3) Section 17-27a-604.9, Effective dates of Sections 17-27a-604.1 and 17-27a-604.2, is repealed January 1, 2025.

(4) Subsection 17-27a-509(4)(c), regarding an inspection fee on a qualified water conservancy district, is repealed July 1, 2026.

(5) Subsection 17-52a-103(3), regarding the process for changing a form of county government, is repealed January 1, 2028.

(6) Subsections 17-52a-103(10) through (12), regarding the process to create a districting commission and implementing a district map, are repealed July 1, 2029.

Section 4. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), December 6, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 8
S. B. 1001
Passed October 6, 2025
Approved October 14, 2025
Effective October 14, 2025

HIGHER EDUCATION RECODIFICATION

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill reorganizes and renumbers certain provisions of the higher education code related to statewide administration of the higher education system.

Highlighted Provisions:

This bill:

- ► reorganizes and renumbers certain provisions of the higher education code related to statewide administration of the higher education system;
- ► defines terms;
- ► enacts provisions related to higher education for organizational purposes;
- ► amends provisions related to higher education for organizational purposes;
- ► repeals provisions related to higher education for organizational purposes; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53H-1-301, (Effective upon governor's approval) Utah Code Annotated 1953
53H-1-401, (Effective upon governor's approval) Utah Code Annotated 1953
53H-1-403, (Effective upon governor's approval) Utah Code Annotated 1953
53H-1-501, (Effective upon governor's approval) Utah Code Annotated 1953
53H-1-601, (Effective upon governor's approval) Utah Code Annotated 1953
53H-1-701, (Effective upon governor's approval) Utah Code Annotated 1953
53H-2-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-3-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-3-201, (Effective upon governor's approval) Utah Code Annotated 1953
53H-3-301, (Effective upon governor's approval) Utah Code Annotated 1953
53H-3-401, (Effective upon governor's approval) Utah Code Annotated 1953
53H-3-501, (Effective upon governor's approval) Utah Code Annotated 1953
53H-3-601, (Effective upon governor's approval) Utah Code Annotated 1953
53H-3-701, (Effective upon governor's approval) Utah Code Annotated 1953
53H-3-801, (Effective upon governor's approval) Utah Code Annotated 1953
53H-3-1101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-3-1201, (Effective upon governor's approval) Utah Code Annotated 1953
53H-3-1301, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-201, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-301, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-501, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-601, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-801, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-901, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-1001, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-1101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-1201, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-1301, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-1401, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-1501, (Effective upon governor's approval) Utah Code Annotated 1953
53H-4-1601, (Effective upon governor's approval) Utah Code Annotated 1953

53H-4-1701, (Effective upon governor's approval) Utah Code Annotated 1953
53H-5-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-5-301, (Effective upon governor's approval) Utah Code Annotated 1953
53H-5-401, (Effective upon governor's approval) Utah Code Annotated 1953
53H-6-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-6-301, (Effective upon governor's approval) Utah Code Annotated 1953
53H-7-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-7-601, (Effective upon governor's approval) Utah Code Annotated 1953
53H-7-901, (Effective upon governor's approval) Utah Code Annotated 1953
53H-8-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-8-201, (Effective upon governor's approval) Utah Code Annotated 1953
53H-9-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-9-201, (Effective upon governor's approval) Utah Code Annotated 1953
53H-9-301, (Effective upon governor's approval) Utah Code Annotated 1953
53H-9-401, (Effective upon governor's approval) Utah Code Annotated 1953
53H-11-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-11-201, (Effective upon governor's approval) Utah Code Annotated 1953
53H-11-301, (Effective upon governor's approval) Utah Code Annotated 1953
53H-11-401, (Effective upon governor's approval) Utah Code Annotated 1953
53H-12-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-12-201, (Effective upon governor's approval) Utah Code Annotated 1953
53H-13-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-14-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-15-201, (Effective upon governor's approval) Utah Code Annotated 1953
53H-15-301, (Effective upon governor's approval) Utah Code Annotated 1953
53H-16-101, (Effective upon governor's approval) Utah Code Annotated 1953
53H-16-301, (Effective upon governor's approval) Utah Code Annotated 1953
53H-16-401, (Effective upon governor's approval) Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53H-1-101, (Effective upon governor's approval) (Renumbered from 53B-1-101.5, as last amended by Laws of Utah 2023, Chapter 254)
53H-1-102, (Effective upon governor's approval) (Renumbered from 53B-1-102, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1)
53H-1-201, (Effective upon governor's approval) (Renumbered from 53B-1-401, as last amended by Laws of Utah 2024, Chapter 378)
53H-1-202, (Effective upon governor's approval) (Renumbered from 53B-1-501, as last amended by Laws of Utah 2023, Chapters 250, 254)
53H-1-203, (Effective upon governor's approval) (Renumbered from 53B-1-402, as last amended by Laws of Utah 2025, Chapter 390)
53H-1-204, (Effective upon governor's approval) (Renumbered from 53B-1-404, as last amended by Laws of Utah 2023, Chapter 254)
53H-1-205, (Effective upon governor's approval) (Renumbered from 53B-1-405, as enacted by Laws of Utah 2020, Chapter 365)
53H-1-206, (Effective upon governor's approval) (Renumbered from 53B-1-403, as last amended by Laws of Utah 2023, Chapter 254)
53H-1-207, (Effective upon governor's approval) (Renumbered from 53B-1-109, as last amended by Laws of Utah 2022, Chapter 461)
53H-1-208, (Effective upon governor's approval) (Renumbered from 53B-1-411, as enacted by Laws of Utah 2025, Chapter 11)
53H-1-209, (Effective upon governor's approval) (Renumbered from 53B-6-102, as enacted by Laws of Utah 1987, Chapter 167)
53H-1-210, (Effective upon governor's approval) (Renumbered from 53B-1-410, as enacted by Laws of Utah 2020, Chapter 365)
53H-1-302, (Effective upon governor's approval) (Renumbered from 53B-1-408, as last amended by Laws of Utah 2024, Chapter 378)
53H-1-303, (Effective upon governor's approval) (Renumbered from 53B-1-409, as enacted by Laws of Utah 2020, Chapter 365)
53H-1-402, (Effective upon governor's approval) (Partially Repealed 07/01/27)(Renumbered from 53B-1-301, as last amended by Laws of Utah 2025, Chapters 390, 488)
53H-1-404, (Effective upon governor's approval) (Renumbered from 53B-1-120, as enacted by Laws of Utah 2024, Chapter 378)
53H-1-502, (Effective upon governor's approval) (Renumbered from 53B-1-116, as enacted by Laws of Utah 2024, Chapter 3)
53H-1-503, (Effective upon governor's approval) (Renumbered from 53B-1-117, as enacted by Laws of Utah 2024, Chapter 3)
53H-1-504, (Effective upon governor's approval) (Renumbered from 53B-1-118, as last amended by Laws of Utah 2025, Chapter 11)
53H-1-602, (Effective upon governor's approval) (Renumbered from 53B-6-105, as last amended by Laws of Utah 2024, Chapter 378)
53H-1-603, (Effective upon governor's approval) (Renumbered from 53B-6-105.9, as last amended by Laws of Utah 2024, Chapters 378, 507)
53H-1-604, (Effective upon governor's approval) (Repealed 07/01/27) (Renumbered from 53B-35-101, as last amended by Laws of Utah 2024, Chapter 144)
53H-1-702, (Effective upon governor's approval) (Renumbered from 53B-4-101, as enacted by Laws of Utah 1987, Chapter 167)
53H-1-702.1, (Effective upon governor's approval) (Renumbered from 53B-4-103, as last amended by Laws of Utah 1997, Chapter 74)
53H-1-703, (Effective upon governor's approval) (Renumbered from 53B-16-109, as enacted by Laws of Utah 2016, Chapter 60)
53H-2-102, (Effective upon governor's approval) (Renumbered from 53B-1-103, as enacted by Laws of Utah 2025, Chapter 384)
53H-3-102, (Effective upon governor's approval) (Renumbered from 53B-2-101, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1)
53H-3-202, (Effective upon governor's approval) (Renumbered from 53B-2-103, as last amended by Laws of Utah 2021, Chapter 187)
53H-3-203, (Effective upon governor's approval) (Renumbered from 53B-2-104, as last amended by Laws of Utah 2024, Chapter 529)
53H-3-204, (Effective upon governor's approval) (Renumbered from 53B-2a-110, as last amended by Laws of Utah 2021, Chapters 187, 382)
53H-3-205, (Effective upon governor's approval) (Renumbered from 53B-2a-108, as last amended by Laws of Utah 2020, Chapters 352, 365

and 373)
53H-3-206, (Effective upon governor's approval) (Renumbered from 53B-2a-109, as last amended by Laws of Utah 2020, Chapter 365)
53H-3-302, (Effective upon governor's approval) (Renumbered from 53B-2-102, as last amended by Laws of Utah 2025, Chapter 35)
53H-3-303, (Effective upon governor's approval) (Renumbered from 53B-2-106, as repealed and reenacted by Laws of Utah 2024, Chapter 378)
53H-3-304, (Effective upon governor's approval) (Renumbered from 53B-20-107, as last amended by Laws of Utah 2025, Chapter 384)
53H-3-305, (Effective upon governor's approval) (Renumbered from 53B-2a-107, as last amended by Laws of Utah 2024, Chapter 378)
53H-3-402, (Effective upon governor's approval) (Renumbered from 53B-1-110, as last amended by Laws of Utah 2024, Chapter 378)
53H-3-403, (Effective upon governor's approval) (Renumbered from 53B-1-119, as last amended by Laws of Utah 2025, Chapter 426)
53H-3-404, (Effective upon governor's approval) (Renumbered from 53B-2-115, as enacted by Laws of Utah 2024, Chapter 402)
53H-3-405, (Effective upon governor's approval) (Renumbered from 53B-2-114, as enacted by Laws of Utah 2024, Chapter 378)
53H-3-406, (Effective upon governor's approval) (Renumbered from 53B-2-106.1, as enacted by Laws of Utah 2024, Chapter 78)
53H-3-502, (Effective upon governor's approval) (Renumbered from 53B-1-111, as last amended by Laws of Utah 2023, Chapter 328)
53H-3-503, (Effective upon governor's approval) (Renumbered from 53B-1-113, as last amended by Laws of Utah 2025, Chapter 384)
53H-3-504, (Effective upon governor's approval) (Renumbered from 53B-1-112, as last amended by Laws of Utah 2024, Chapter 378)
53H-3-505, (Effective upon governor's approval) (Renumbered from 53B-1-101.8, as enacted by Laws of Utah 2012, Chapter 127)
53H-3-602, (Effective upon governor's approval) (Renumbered from 53B-16-101, as last amended by Laws of Utah 2023, Chapter 254)
53H-3-603, (Effective upon governor's approval) (Renumbered from 53B-16-102, as last amended by Laws of Utah 2025, Chapter 379)
53H-3-604, (Effective upon governor's approval) (Renumbered from 53B-16-105, as last amended by Laws of Utah 2025, Chapter 384)
53H-3-605, (Effective upon governor's approval) (Renumbered from 53B-16-103, as last amended by Laws of Utah 2017, Chapter 382)
53H-3-606, (Effective upon governor's approval) (Renumbered from 53B-10-106, as last amended by Laws of Utah 2025, Chapter 377)
53H-3-607, (Effective upon governor's approval) (Renumbered from 53B-16-108, as last amended by Laws of Utah 2018, Chapter 415)
53H-3-608, (Effective upon governor's approval) (Renumbered from 53B-2a-201, as enacted by Laws of Utah 2021, Chapter 187)
53H-3-609, (Effective upon governor's approval) (Renumbered from 53B-2a-202, as enacted by Laws of Utah 2021, Chapter 187)
53H-3-702, (Effective upon governor's approval) (Renumbered from 53B-16-110, as last amended by Laws of Utah 2023, Chapter 148)
53H-3-703, (Effective upon governor's approval) (Renumbered from 53B-16-107, as last amended by Laws of Utah 2020, Chapter 365)
53H-3-802, (Effective upon governor's approval) (Renumbered from 53B-2-112, as enacted by Laws of Utah 2021, Chapter 187)
53H-3-901, (Effective upon governor's approval) (Renumbered from 53B-3-101, as last amended by Laws of Utah 1991, Chapter 58)
53H-3-902, (Effective upon governor's approval) (Renumbered from 53B-3-103, as last amended by Laws of Utah 2025, Chapter 208)
53H-3-903, (Effective upon governor's approval) (Renumbered from 53B-3-104, as last amended by Laws of Utah 2024, Chapter 378)
53H-3-904, (Effective upon governor's approval) (Renumbered from 53B-3-105, as last amended by Laws of Utah 2024, Chapter 378)
53H-3-905, (Effective upon governor's approval) (Renumbered from 53B-3-106, as last amended by Laws of Utah 2005, Chapter 2)
53H-3-906, (Effective upon governor's approval) (Renumbered from 53B-3-107, as last amended by Laws of Utah 2016, Chapter 303)
53H-3-907, (Effective upon governor's approval) (Renumbered from 53B-3-108, as last amended by Laws of Utah 2018, Chapter 148)
53H-3-908, (Effective upon governor's approval) (Renumbered from 53B-3-109, as last amended by Laws of Utah 1996, Chapter 198)
53H-3-909, (Effective upon governor's approval) (Renumbered from 53B-3-110, as last amended by Laws of Utah 1996, Chapter 198)
53H-3-1001, (Effective upon governor's approval) (Renumbered from 53B-16-401, as last amended by Laws of Utah 2025, Chapter 384)
53H-3-1002, (Effective upon governor's approval) (Renumbered from 53B-16-402, as last amended by Laws of Utah 2020, Chapter 365)
53H-3-1003, (Effective upon governor's approval) (Renumbered from 53B-16-403, as last amended by Laws of Utah 2023, Chapter 350)
53H-3-1004, (Effective upon governor's approval) (Renumbered from 53B-16-404, as last amended by Laws of Utah 2018, Chapter 415)
53H-3-1005, (Effective upon governor's approval) (Renumbered from 53B-16-405, as enacted by Laws of Utah 1996, Chapter 73)
53H-3-1102, (Effective upon governor's approval) (Renumbered from 53B-16-202, as last amended by Laws of Utah 2020, Chapter 365)
53H-3-1103, (Effective upon governor's approval) (Renumbered from 53B-16-203, as enacted by Laws of Utah 1988, Chapter 137)
53H-3-1202, (Effective upon governor's approval) (Renumbered from 53B-2a-105, as last amended by Laws of Utah 2020, Chapter 365)
53H-3-1203, (Effective upon governor's approval) (Renumbered from 53B-2a-106, as last amended by Laws of Utah 2020, Chapter 365)
53H-3-1204, (Effective upon governor's approval) (Renumbered from 53B-2a-115, as last amended by Laws of Utah 2020, Chapter 365)
53H-3-1302, (Effective upon governor's approval) (Renumbered from 53B-2-113, as last amended by Laws of Utah 2024, Chapter 283)
53H-3-1303, (Effective upon governor's approval) (Renumbered from 53B-16-104, as last amended by Laws of Utah 2023, Chapter 16)
53H-4-202, (Effective upon governor's approval) (Renumbered from 53B-17-902, as last amended by Laws of Utah 2020, Chapter 431)
53H-4-203, (Effective upon governor's approval) (Renumbered from 53B-17-301, as last amended by Laws of Utah 2023, Chapter 328)
53H-4-204, (Effective upon governor's approval) (Renumbered from 53B-17-1302, as enacted by Laws of Utah 2022, Chapter 445)
53H-4-205, (Effective upon governor's approval) (Renumbered from 53B-17-504, as enacted by Laws of Utah 1987, Chapter 167)
53H-4-206, (Effective upon governor's approval) (Renumbered from 53B-17-1402, as enacted by Laws of Utah 2023, Chapter 281)
53H-4-207, (Effective upon governor's approval) (Renumbered from 53B-17-201, as last amended by Laws of Utah 2025, Chapter 390)
53H-4-208, (Effective upon governor's approval) (Renumbered from 53B-17-401, as last amended by Laws of Utah 1988, Chapter 32)
53H-4-209, (Effective upon governor's approval) (Renumbered from 53B-17-1001, as renumbered and amended by Laws of Utah 2018, Chapter 1)
53H-4-210, (Effective upon governor's approval) (Renumbered from 53B-17-1202, as last amended by Laws of Utah 2024, Chapter 21)
53H-4-211, (Effective upon governor's approval) (Renumbered from 53B-17-603, as last amended by Laws of Utah 2023, Chapters 160, 188)
53H-4-212, (Effective upon governor's approval) (Renumbered from 53B-17-701, as enacted by Laws of Utah 2005, Chapter 97)
53H-4-213.1, (Effective upon governor's approval) (Renumbered from 53B-17-101, as last amended by Laws of Utah 2020, Chapter 365)
53H-4-213.2, (Effective upon governor's approval) (Renumbered from 53B-17-103, as last amended by Laws of Utah 2020, Chapter 365)
53H-4-213.3, (Effective upon governor's approval) (Renumbered from 53B-17-104, as last amended by Laws of Utah 2020, Chapter 365)
53H-4-213.4, (Effective upon governor's approval) (Renumbered from 53B-17-105, as last amended by Laws of Utah 2021, Chapter 344)
53H-4-213.5, (Effective upon governor's approval) (Renumbered from 53B-17-106, as enacted by Laws of Utah 2014, Chapter 63)

53H-4-213.6, (Effective upon governor's approval) (Renumbered from 53B-17-107, as enacted by Laws of Utah 2014, Chapter 63)
53H-4-213.7, (Effective upon governor's approval) (Renumbered from 53B-17-109, as enacted by Laws of Utah 2021, Chapter 86)
53H-4-302, (Effective upon governor's approval) (Renumbered from 53B-18-501, as last amended by Laws of Utah 2020, Chapter 365)
53H-4-303, (Effective upon governor's approval) (Renumbered from 53B-18-1201, as repealed and reenacted by Laws of Utah 2019, Chapter 357)
53H-4-304, (Effective upon governor's approval) (Renumbered from 53B-18-801, as last amended by Laws of Utah 2016, Chapter 144)
53H-4-305, (Effective upon governor's approval) (Renumbered from 53B-18-1002, as last amended by Laws of Utah 2023, Chapter 160)
53H-4-306.1, (Effective upon governor's approval) (Repealed 07/01/28)(Renumbered from 53B-18-1801, as enacted by Laws of Utah 2023, Chapter 494)
53H-4-306.2, (Effective upon governor's approval) (Repealed 07/01/28)(Renumbered from 53B-18-1802, as enacted by Laws of Utah 2023, Chapter 494)
53H-4-306.3, (Effective upon governor's approval) (Repealed 07/01/28)(Renumbered from 53B-18-1803, as enacted by Laws of Utah 2023, Chapter 494)
53H-4-306.4, (Effective upon governor's approval) (Repealed 07/01/28)(Renumbered from 53B-18-1804, as enacted by Laws of Utah 2023, Chapter 494)
53H-4-306.5, (Effective upon governor's approval) (Repealed 07/01/28)(Renumbered from 53B-18-1805, as last amended by Laws of Utah 2025, Chapter 271)
53H-4-306.6, (Effective upon governor's approval) (Repealed 07/01/28)(Renumbered from 53B-18-1806, as last amended by Laws of Utah 2025, Chapter 271)
53H-4-307.1, (Effective upon governor's approval) (Renumbered from 53B-18-1902, as enacted by Laws of Utah 2025, Chapter 163)
53H-4-307.2, (Effective upon governor's approval) (Renumbered from 53B-18-1903, as enacted by Laws of Utah 2025, Chapter 163)
53H-4-307.3, (Effective upon governor's approval) (Renumbered from 53B-18-1904, as enacted by Laws of Utah 2025, Chapter 163)
53H-4-307.4, (Effective upon governor's approval) (Renumbered from 53B-18-1905, as enacted by Laws of Utah 2025, Chapter 163)
53H-4-307.5, (Effective upon governor's approval) (Renumbered from 53B-18-1906, as enacted by Laws of Utah 2025, Chapter 163)
53H-4-307.6, (Effective upon governor's approval) (Renumbered from 53B-18-1907, as enacted by Laws of Utah 2025, Chapter 163)
53H-4-308, (Effective upon governor's approval) (Renumbered from 53B-18-901, as last amended by Laws of Utah 2014, Chapter 63)
53H-4-309, (Effective upon governor's approval) (Renumbered from 53B-18-1301, as last amended by Laws of Utah 2020, Chapter 365)
53H-4-310, (Effective upon governor's approval) (Renumbered from 53B-18-602, as enacted by Laws of Utah 1998, Chapter 381)
53H-4-311, (Effective upon governor's approval) (Renumbered from 53B-18-701, as enacted by Laws of Utah 1998, Chapter 398)
53H-4-312, (Effective upon governor's approval) (Renumbered from 53B-18-1501, as last amended by Laws of Utah 2021, Chapter 14)
53H-4-313, (Effective upon governor's approval) (Repealed 07/01/27)(Renumbered from 53B-18-1702, as enacted by Laws of Utah 2022, Chapter 94)
53H-4-314, (Effective upon governor's approval) (Renumbered from 53B-18-104, as enacted by Laws of Utah 1987, Chapter 167)
53H-4-315, (Effective upon governor's approval) (Renumbered from 53B-18-204, as enacted by Laws of Utah 1987, Chapter 167)
53H-4-316, (Effective upon governor's approval) (Renumbered from 53B-18-1401, as enacted by Laws of Utah 2016, Chapter 128)
53H-4-401, (Effective upon governor's approval) (Renumbered from 53B-36-101, as enacted by Laws of Utah 2022, Chapter 368)
53H-4-402, (Effective upon governor's approval) (Renumbered from 53B-36-201, as enacted by Laws of Utah 2022, Chapter 368)
53H-4-502, (Effective upon governor's approval) (Renumbered from 53B-16-205, as last amended by Laws of Utah 2021, Chapter 187)
53H-4-503, (Effective upon governor's approval) (Renumbered from 53B-16-205.5, as last amended by Laws of Utah 2020, Chapter 365)
53H-4-504, (Effective upon governor's approval) (Renumbered from 53B-16-206, as last amended by Laws of Utah 2013, Chapter 374)
53H-4-602, (Effective upon governor's approval) (Renumbered from 53B-2-111, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1)
53H-4-603, (Effective upon governor's approval) (Renumbered from 53B-31-201, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1)
53H-4-604, (Effective upon governor's approval) (Renumbered from 53B-31-301, as last amended by Laws of Utah 2023, Chapter 227)
53H-4-605, (Effective upon governor's approval) (Renumbered from 53B-31-401, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1)
53H-4-701, (Effective upon governor's approval) (Renumbered from 53B-29-401, as enacted by Laws of Utah 2025, Chapter 497)
53H-4-702, (Effective upon governor's approval) (Renumbered from 53B-2-110, as enacted by Laws of Utah 2007, Chapter 356)
53H-4-703, (Effective upon governor's approval) (Renumbered from 53B-29-402, as enacted by Laws of Utah 2025, Chapter 497)
53H-4-704, (Effective upon governor's approval) (Renumbered from 53B-29-403, as enacted by Laws of Utah 2025, Chapter 497)
53H-4-705, (Effective upon governor's approval) (Renumbered from 53B-29-202, as last amended by Laws of Utah 2025, Chapter 184)
53H-4-706, (Effective upon governor's approval) (Renumbered from 53B-29-302, as enacted by Laws of Utah 2021, Chapter 270)
53H-4-707, (Effective upon governor's approval) (Renumbered from 53B-29-303, as enacted by Laws of Utah 2021, Chapter 270)
53H-5-201, (Effective upon governor's approval) (Renumbered from 53B-30-202, as renumbered and amended by Laws of Utah 2021, Chapter 425)
53H-5-202, (Effective upon governor's approval) (Renumbered from 53B-30-203, as renumbered and amended by Laws of Utah 2021, Chapter 425)
53H-5-203, (Effective upon governor's approval) (Renumbered from 53B-30-204, as renumbered and amended by Laws of Utah 2021, Chapter 425)
53H-5-204, (Effective upon governor's approval) (Renumbered from 53B-30-205, as renumbered and amended by Laws of Utah 2021, Chapter 425)
53H-5-205, (Effective upon governor's approval) (Renumbered from 53B-30-206, as last amended by Laws of Utah 2025, Chapter 390)
53H-5-302, (Effective upon governor's approval) (Renumbered from 53B-19-101, as enacted by Laws of Utah 1987, Chapter 167)
53H-5-402, (Effective upon governor's approval) (Renumbered from 53B-6-104, as last amended by Laws of Utah 2020, Chapter 365)

53H-5-403, (Effective upon governor's approval) (Renumbered from 53B-18-1101, as enacted by Laws of Utah 2007, Chapter 336)
53H-6-201, (Effective upon governor's approval) (Renumbered from 53B-16-601, as last amended by Laws of Utah 2025, Chapters 173, 488)
53H-6-202, (Effective upon governor's approval) (Renumbered from 53B-16-602, as last amended by Laws of Utah 2025, Chapter 488)
53H-6-203, (Effective upon governor's approval) (Renumbered from 53B-16-701, as enacted by Laws of Utah 2025, Chapter 488)
53H-7-201, (Effective upon governor's approval) (Renumbered from 53B-27-202, as last amended by Laws of Utah 2025, Chapter 402)
53H-7-202, (Effective upon governor's approval) (Renumbered from 53B-27-203, as enacted by Laws of Utah 2017, Chapter 440)
53H-7-203, (Effective upon governor's approval) (Renumbered from 53B-27-203.5, as enacted by Laws of Utah 2025, Chapter 402)
53H-7-204, (Effective upon governor's approval) (Renumbered from 53B-27-204, as last amended by Laws of Utah 2025, Chapter 402)
53H-7-205, (Effective upon governor's approval) (Renumbered from 53B-27-205, as enacted by Laws of Utah 2017, Chapter 440)
53H-7-301, (Effective upon governor's approval) (Renumbered from 53B-27-301, as last amended by Laws of Utah 2020, Chapter 365)
53H-7-302, (Effective upon governor's approval) (Renumbered from 53B-27-302, as enacted by Laws of Utah 2018, Chapter 325)
53H-7-303, (Effective upon governor's approval) (Renumbered from 53B-27-303, as last amended by Laws of Utah 2024, Chapter 178)
53H-7-401, (Effective upon governor's approval) (Renumbered from 53B-27-401, as enacted by Laws of Utah 2021, Chapter 125)
53H-7-402, (Effective upon governor's approval) (Renumbered from 53B-27-402, as enacted by Laws of Utah 2021, Chapter 125)
53H-7-403, (Effective upon governor's approval) (Renumbered from 53B-27-403, as enacted by Laws of Utah 2021, Chapter 125)
53H-7-404, (Effective upon governor's approval) (Renumbered from 53B-27-404, as enacted by Laws of Utah 2021, Chapter 125)
53H-7-501, (Effective upon governor's approval) (Renumbered from 53B-28-301, as enacted by Laws of Utah 2019, Chapter 307)
53H-7-502, (Effective upon governor's approval) (Renumbered from 53B-28-302, as enacted by Laws of Utah 2019, Chapter 307)
53H-7-503, (Effective upon governor's approval) (Renumbered from 53B-28-303, as last amended by Laws of Utah 2023, Chapter 328)
53H-7-504, (Effective upon governor's approval) (Renumbered from 53B-28-304, as last amended by Laws of Utah 2022, Chapter 430)
53H-7-602, (Effective upon governor's approval) (Renumbered from 53B-28-401, as last amended by Laws of Utah 2025, Chapter 388)
53H-7-603, (Effective upon governor's approval) (Renumbered from 53B-28-403, as last amended by Laws of Utah 2025, Chapter 388)
53H-7-701, (Effective upon governor's approval) (Renumbered from 53B-27-602, as enacted by Laws of Utah 2024, Chapter 74)
53H-7-702, (Effective upon governor's approval) (Renumbered from 53B-27-601, as enacted by Laws of Utah 2024, Chapter 74)
53H-7-703, (Effective upon governor's approval) (Renumbered from 53B-27-603, as enacted by Laws of Utah 2024, Chapter 74)
53H-7-704, (Effective upon governor's approval) (Renumbered from 53B-27-604, as enacted by Laws of Utah 2024, Chapter 74)
53H-7-705, (Effective upon governor's approval) (Renumbered from 53B-27-605, as enacted by Laws of Utah 2024, Chapter 74)
53H-7-706, (Effective upon governor's approval) (Renumbered from 53B-27-606, as enacted by Laws of Utah 2024, Chapter 74)
53H-7-707, (Effective upon governor's approval) (Renumbered from 53B-27-607, as enacted by Laws of Utah 2024, Chapter 74)
53H-7-708, (Effective upon governor's approval) (Renumbered from 53B-27-608, as enacted by Laws of Utah 2024, Chapter 74)
53H-7-709, (Effective upon governor's approval) (Renumbered from 53B-27-609, as enacted by Laws of Utah 2024, Chapter 74)
53H-7-801, (Effective upon governor's approval) (Renumbered from 53B-23-102, as enacted by Laws of Utah 2006, Chapter 301)
53H-7-802, (Effective upon governor's approval) (Renumbered from 53B-23-103, as enacted by Laws of Utah 2006, Chapter 301)
53H-7-803, (Effective upon governor's approval) (Renumbered from 53B-23-104, as last amended by Laws of Utah 2020, Chapter 365)
53H-7-804, (Effective upon governor's approval) (Renumbered from 53B-23-105, as enacted by Laws of Utah 2006, Chapter 301)
53H-7-805, (Effective upon governor's approval) (Renumbered from 53B-23-106, as last amended by Laws of Utah 2024, Chapter 378)
53H-7-902, (Effective upon governor's approval) (Renumbered from 53B-27-501, as last amended by Laws of Utah 2025, Chapter 402)
53H-7-903, (Effective upon governor's approval) (Renumbered from 53B-27-405, as last amended by Laws of Utah 2024, Chapter 378)
53H-8-202, (Effective upon governor's approval) (Renumbered from 53B-7-101, as last amended by Laws of Utah 2024, Chapter 527)
53H-8-203, (Effective upon governor's approval) (Renumbered from 53B-7-101.5, as last amended by Laws of Utah 2023, Chapter 435)
53H-8-204, (Effective upon governor's approval) (Renumbered from 53B-7-105, as last amended by Laws of Utah 2021, Chapter 187)
53H-8-205, (Effective upon governor's approval) (Renumbered from 53B-7-102, as enacted by Laws of Utah 1987, Chapter 167)
53H-8-206, (Effective upon governor's approval) (Renumbered from 53B-7-103.5, as enacted by Laws of Utah 1998, Chapter 318)
53H-8-207, (Effective upon governor's approval) (Renumbered from 53B-7-104, as last amended by Laws of Utah 2020, Chapter 365)
53H-8-208, (Effective upon governor's approval) (Renumbered from 53B-7-103, as last amended by Laws of Utah 2022, Chapter 421)
53H-8-209, (Effective upon governor's approval) (Renumbered from 53B-7-106, as last amended by Laws of Utah 2019, Chapter 211)
53H-8-210, (Effective upon governor's approval) (Renumbered from 53B-7-107, as enacted by Laws of Utah 2025, Chapter 379)
53H-8-301, (Effective upon governor's approval) (Renumbered from 53B-7-702, as last amended by Laws of Utah 2024, Chapters 159, 378)
53H-8-302, (Effective upon governor's approval) (Renumbered from 53B-7-703, as repealed and reenacted by Laws of Utah 2024, Chapter 378)
53H-8-303, (Effective upon governor's approval) (Renumbered from 53B-7-705, as last amended by Laws of Utah 2024, Chapter 378)
53H-8-304, (Effective upon governor's approval) (Renumbered from 53B-7-706, as last amended by Laws of Utah 2024, Chapter 378)
53H-8-305, (Effective upon governor's approval) (Repealed 07/01/27) (Renumbered from 53B-7-709, as enacted by Laws of Utah 2022, Chapter 254)
53H-8-306, (Effective upon governor's approval) (Renumbered from 53B-7-704, as repealed and reenacted by Laws of Utah 2024, Chapter 378)
53H-8-307, (Effective upon governor's approval) (Renumbered from 53B-7-708, as last amended by Laws of Utah 2023, Chapter 21)
53H-8-401, (Effective upon governor's approval) (Renumbered from 53B-7-801, as last amended by Laws of Utah 2023, Chapter 374)
53H-8-402, (Effective upon governor's approval) (Renumbered from 53B-7-802, as last amended by Laws of Utah 2023, Chapter 374)
53H-8-403, (Effective upon governor's approval) (Renumbered from 53B-7-803, as enacted by Laws of Utah 2022, Chapter 186)
53H-8-404, (Effective upon governor's approval) (Renumbered from 53B-7-804, as enacted by Laws of Utah 2023, Chapter 374)
53H-8-501, (Effective upon governor's approval) (Renumbered from 53B-1-201, as last amended by Laws of Utah 2022, Chapter 368)
53H-8-502, (Effective upon governor's approval) (Renumbered from 53B-7-601, as enacted by Laws of Utah 2013, Chapter 388)
53H-8-503, (Effective upon governor's approval) (Renumbered from 53B-1-202, as last amended by Laws of Utah 2022, Chapter 368)
53H-8-601, (Effective upon governor's approval) (Renumbered from 53B-13-102, as last amended by Laws of Utah 2025, Chapter 302)

53H-8-602, (Effective upon governor's approval) (Renumbered from 53B-13-103, as last amended by Laws of Utah 2024, Chapter 378)
53H-8-603, (Effective upon governor's approval) (Renumbered from 53B-13-104, as last amended by Laws of Utah 1992, Chapter 271)
53H-8-604, (Effective upon governor's approval) (Renumbered from 53B-13-105, as enacted by Laws of Utah 1987, Chapter 167)
53H-8-605, (Effective upon governor's approval) (Renumbered from 53B-13-106, as enacted by Laws of Utah 1987, Chapter 167)
53H-8-606, (Effective upon governor's approval) (Renumbered from 53B-13-107, as last amended by Laws of Utah 2011, Chapter 342)
53H-8-607, (Effective upon governor's approval) (Renumbered from 53B-13-108, as enacted by Laws of Utah 1987, Chapter 167)
53H-8-608, (Effective upon governor's approval) (Renumbered from 53B-13-113, as enacted by Laws of Utah 1987, Chapter 167)
53H-8-609, (Effective upon governor's approval) (Renumbered from 53B-13-109, as enacted by Laws of Utah 1987, Chapter 167)
53H-8-610, (Effective upon governor's approval) (Renumbered from 53B-13-110, as last amended by Laws of Utah 2025, Chapter 302)
53H-8-611, (Effective upon governor's approval) (Renumbered from 53B-13-111, as last amended by Laws of Utah 2025, Chapter 384)
53H-8-612, (Effective upon governor's approval) (Renumbered from 53B-13-112, as enacted by Laws of Utah 1987, Chapter 167)
53H-8-613, (Effective upon governor's approval) (Renumbered from 53B-13-114, as last amended by Laws of Utah 2025, Chapter 302)
53H-9-202, (Effective upon governor's approval) (Renumbered from 53B-20-101, as last amended by Laws of Utah 2023, Chapter 254)
53H-9-203, (Effective upon governor's approval) (Renumbered from 53B-20-102, as enacted by Laws of Utah 1987, Chapter 167)
53H-9-204, (Effective upon governor's approval) (Renumbered from 53B-20-105, as enacted by Laws of Utah 1987, Chapter 167)
53H-9-205, (Effective upon governor's approval) (Renumbered from 53B-20-106, as enacted by Laws of Utah 1987, Chapter 167)
53H-9-206, (Effective upon governor's approval) (Renumbered from 53B-20-108, as enacted by Laws of Utah 2025, Chapter 317)
53H-9-302, (Effective upon governor's approval) (Renumbered from 53B-21-101, as last amended by Laws of Utah 2017, Chapter 382)
53H-9-303, (Effective upon governor's approval) (Renumbered from 53B-21-102, as last amended by Laws of Utah 2010, Chapter 324)
53H-9-304, (Effective upon governor's approval) (Renumbered from 53B-21-103, as enacted by Laws of Utah 1987, Chapter 167)
53H-9-305, (Effective upon governor's approval) (Renumbered from 53B-21-104, as last amended by Laws of Utah 2022, Chapter 421)
53H-9-306, (Effective upon governor's approval) (Renumbered from 53B-21-105, as last amended by Laws of Utah 2020, Chapter 365)
53H-9-307, (Effective upon governor's approval) (Renumbered from 53B-21-106, as enacted by Laws of Utah 1987, Chapter 167)
53H-9-308, (Effective upon governor's approval) (Renumbered from 53B-21-107, as last amended by Laws of Utah 2024, Chapter 438)
53H-9-309, (Effective upon governor's approval) (Renumbered from 53B-21-108, as last amended by Laws of Utah 2023, Chapter 254)
53H-9-310, (Effective upon governor's approval) (Renumbered from 53B-21-109, as enacted by Laws of Utah 1987, Chapter 167)
53H-9-311, (Effective upon governor's approval) (Renumbered from 53B-21-110, as enacted by Laws of Utah 1987, Chapter 167)
53H-9-312, (Effective upon governor's approval) (Renumbered from 53B-21-111, as enacted by Laws of Utah 1987, Chapter 167)
53H-9-313, (Effective upon governor's approval) (Renumbered from 53B-21-112, as enacted by Laws of Utah 1987, Chapter 167)
53H-9-314, (Effective upon governor's approval) (Renumbered from 53B-21-113, as last amended by Laws of Utah 2020, Chapter 365)
53H-9-315, (Effective upon governor's approval) (Renumbered from 53B-22-102, as last amended by Laws of Utah 2024, Chapter 378)
53H-9-402, (Effective upon governor's approval) (Renumbered from 53B-20-104, as last amended by Laws of Utah 2025, Chapter 271)
53H-9-403, (Effective upon governor's approval) (Renumbered from 53B-20-103, as last amended by Laws of Utah 1998, Chapter 342)
53H-9-404, (Effective upon governor's approval) (Renumbered from 53B-2-109, as last amended by Laws of Utah 2020, Chapter 152)
53H-9-501, (Effective upon governor's approval) (Renumbered from 53B-22-201, as last amended by Laws of Utah 2020, Chapters 152, 365)
53H-9-502, (Effective upon governor's approval) (Renumbered from 53B-22-202, as enacted by Laws of Utah 2019, Chapter 482)
53H-9-503, (Effective upon governor's approval) (Renumbered from 53B-22-203, as enacted by Laws of Utah 2019, Chapter 482)
53H-9-504, (Effective upon governor's approval) (Renumbered from 53B-22-204, as last amended by Laws of Utah 2025, Chapter 271)
53H-9-601, (Effective upon governor's approval) (Renumbered from 53B-2a-101, as last amended by Laws of Utah 2023, Chapter 254)
53H-9-602, (Effective upon governor's approval) (Renumbered from 53B-2a-113, as last amended by Laws of Utah 2022, Chapter 421)
53H-9-603, (Effective upon governor's approval) (Renumbered from 53B-2a-112, as last amended by Laws of Utah 2025, Chapter 405)
53H-9-604, (Effective upon governor's approval) (Renumbered from 53B-2a-117, as last amended by Laws of Utah 2025, Chapter 271)
53H-9-605, (Effective upon governor's approval) (Renumbered from 53B-2a-118, as enacted by Laws of Utah 2019, Chapter 482)
53H-10-101, (Effective upon governor's approval) (Renumbered from 53B-8a-101, as last amended by Laws of Utah 2010, Chapter 6)
53H-10-201, (Effective upon governor's approval) (Renumbered from 53B-8a-102.5, as last amended by Laws of Utah 2025, Chapter 384)
53H-10-202, (Effective upon governor's approval) (Renumbered from 53B-8a-103, as last amended by Laws of Utah 2025, Chapter 384)
53H-10-203, (Effective upon governor's approval) (Renumbered from 53B-8a-104, as last amended by Laws of Utah 2023, Chapter 374)
53H-10-204, (Effective upon governor's approval) (Renumbered from 53B-8a-105, as last amended by Laws of Utah 2024, Chapter 378)
53H-10-205, (Effective upon governor's approval) (Renumbered from 53B-8a-106, as last amended by Laws of Utah 2025, Chapter 384)
53H-10-206, (Effective upon governor's approval) (Renumbered from 53B-8a-107, as last amended by Laws of Utah 2025, Chapters 310, 384)
53H-10-207, (Effective upon governor's approval) (Renumbered from 53B-8a-108, as last amended by Laws of Utah 2010, Chapter 6)
53H-10-208, (Effective upon governor's approval) (Renumbered from 53B-8a-109, as last amended by Laws of Utah 2010, Chapter 6)
53H-10-209, (Effective upon governor's approval) (Renumbered from 53B-8a-110, as last amended by Laws of Utah 2010, Chapter 6)
53H-10-210, (Effective upon governor's approval) (Renumbered from 53B-8a-111, as last amended by Laws of Utah 2025, Chapter 390)
53H-10-211, (Effective upon governor's approval) (Renumbered from 53B-8a-112, as last amended by Laws of Utah 2010, Chapter 6)
53H-10-212, (Effective upon governor's approval) (Renumbered from 53B-8a-113, as last amended by Laws of Utah 2010, Chapter 6)
53H-10-301, (Effective upon governor's approval) (Renumbered from 53B-8a-201, as last amended by Laws of Utah 2025, Chapter 384)
53H-10-302, (Effective upon governor's approval) (Renumbered from 53B-8a-202, as enacted by Laws of Utah 2017, Chapter 389)
53H-10-303, (Effective upon governor's approval) (Renumbered from 53B-8a-203, as last amended by Laws of Utah 2021, Chapter 370)
53H-10-304, (Effective upon governor's approval) (Renumbered from 53B-8a-204, as last amended by Laws of Utah 2025, Chapter 384)
53H-10-305, (Effective upon governor's approval) (Renumbered from 53B-8a-205, as enacted by Laws of Utah 2017, Chapter 389)
53H-10-401, (Effective upon governor's approval) (Repealed 07/01/28) (Renumbered from 53B-8a-301, as enacted by Laws of Utah 2023, Chapter 52)
53H-10-402, (Effective upon governor's approval) (Repealed 07/01/28) (Renumbered from 53B-8a-302, as enacted by Laws of Utah 2023, Chapter 52)

53H-10-403, (Effective upon governor's approval) (Repealed 07/01/28) (Renumbered from 53B-8a-303, as enacted by Laws of Utah 2023, Chapter 52)
53H-11-202, (Effective upon governor's approval) (Renumbered from 53B-8-102, as last amended by Laws of Utah 2025, Chapters 71, 420 and 438)
53H-11-203, (Effective upon governor's approval) (Renumbered from 53B-8-106, as last amended by Laws of Utah 2020, Chapter 365)
53H-11-302, (Effective upon governor's approval) (Renumbered from 53B-8d-102, as last amended by Laws of Utah 2022, Chapter 335)
53H-11-303, (Effective upon governor's approval) (Renumbered from 53B-8e-102, as enacted by Laws of Utah 2004, Chapter 181)
53H-11-304, (Effective upon governor's approval) (Renumbered from 53B-9-101, as last amended by Laws of Utah 2025, Chapter 261)
53H-11-305, (Effective upon governor's approval) (Renumbered from 53B-8-101, as last amended by Laws of Utah 2020, Chapter 365)
53H-11-306, (Effective upon governor's approval) (Renumbered from 53B-8c-102, as last amended by Laws of Utah 2015, Chapter 225)
53H-11-307, (Effective upon governor's approval) (Renumbered from 53B-8-103, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1)
53H-11-308, (Effective upon governor's approval) (Renumbered from 53B-8-107, as last amended by Laws of Utah 2020, Chapter 365)
53H-11-402, (Effective upon governor's approval) (Renumbered from 53B-8-201, as last amended by Laws of Utah 2025, Chapter 384)
53H-11-403, (Effective upon governor's approval) (Renumbered from 53B-8-112.5, as last amended by Laws of Utah 2025, Chapter 384)
53H-11-404, (Effective upon governor's approval) (Renumbered from 53B-8-103.5, as last amended by Laws of Utah 2024, Chapter 57)
53H-11-405, (Effective upon governor's approval) (Renumbered from 53B-8-104.5, as last amended by Laws of Utah 2006, Chapter 272)
53H-11-406, (Effective upon governor's approval) (Renumbered from 53B-8-104, as last amended by Laws of Utah 2020, Chapter 365)
53H-11-407, (Effective upon governor's approval) (Renumbered from 53B-8-105, as last amended by Laws of Utah 2025, Chapter 384)
53H-11-408, (Effective upon governor's approval) (Renumbered from 53B-8-115, as last amended by Laws of Utah 2021, Chapters 187, 402 and last amended by Coordination Clause, Laws of Utah 2021, Chapters 187, 120)
53H-11-409, (Effective upon governor's approval) (Renumbered from 53B-8-116, as last amended by Laws of Utah 2025, Chapter 384)
53H-11-410, (Effective upon governor's approval) (Renumbered from 53B-8-112, as last amended by Laws of Utah 2023, Chapter 453)
53H-11-411, (Effective upon governor's approval) (Renumbered from 53B-8-117, as last amended by Laws of Utah 2025, Chapter 384)
53H-11-412, (Effective upon governor's approval) (Renumbered from 53B-13c-102, as enacted by Laws of Utah 2021, Chapter 271)
53H-11-413, (Effective upon governor's approval) (Renumbered from 53B-13b-103, as last amended by Laws of Utah 2017, Chapter 143)
53H-11-414, (Effective upon governor's approval) (Renumbered from 53B-13a-103, as last amended by Laws of Utah 2022, Chapter 370)
53H-11-415, (Effective upon governor's approval) (Renumbered from 53B-10-202, as last amended by Laws of Utah 2022, Chapter 370)
53H-12-202, (Effective upon governor's approval) (Renumbered from 53B-14-101, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-203, (Effective upon governor's approval) (Renumbered from 53B-14-102, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-204, (Effective upon governor's approval) (Renumbered from 53B-14-103, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-205, (Effective upon governor's approval) (Renumbered from 53B-14-104, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-206, (Effective upon governor's approval) (Renumbered from 53B-14-105, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-207, (Effective upon governor's approval) (Renumbered from 53B-14-106, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-208, (Effective upon governor's approval) (Renumbered from 53B-14-107, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-209, (Effective upon governor's approval) (Renumbered from 53B-14-108, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-210, (Effective upon governor's approval) (Renumbered from 53B-14-109, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-301, (Effective upon governor's approval) (Renumbered from 53B-15-101, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-302, (Effective upon governor's approval) (Renumbered from 53B-15-102, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-303, (Effective upon governor's approval) (Renumbered from 53B-15-103, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-304, (Effective upon governor's approval) (Renumbered from 53B-15-104, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-305, (Effective upon governor's approval) (Renumbered from 53B-15-105, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-306, (Effective upon governor's approval) (Renumbered from 53B-15-106, as enacted by Laws of Utah 1987, Chapter 167)
53H-12-307, (Effective upon governor's approval) (Renumbered from 53B-15-107, as enacted by Laws of Utah 1987, Chapter 167)
53H-13-201, (Effective upon governor's approval) (Renumbered from 53B-32-102, as enacted by Laws of Utah 2021, Chapter 282)
53H-13-202, (Effective upon governor's approval) (Renumbered from 53B-32-201, as renumbered and amended by Laws of Utah 2021, Chapter 282)
53H-13-301, (Effective upon governor's approval) (Renumbered from 53B-34-101, as last amended by Laws of Utah 2025, Chapter 512)
53H-13-302, (Effective upon governor's approval) (Renumbered from 53B-34-102, as last amended by Laws of Utah 2025, Chapter 512)
53H-13-303, (Effective upon governor's approval) (Renumbered from 53B-34-103, as last amended by Laws of Utah 2023, Chapter 350)
53H-13-304, (Effective upon governor's approval) (Renumbered from 53B-34-104, as renumbered and amended by Laws of Utah 2022, Chapter 362)
53H-13-305, (Effective upon governor's approval) (Renumbered from 53B-34-105, as renumbered and amended by Laws of Utah 2022, Chapter 362)
53H-13-306, (Effective upon governor's approval) (Renumbered from 53B-34-106, as renumbered and amended by Laws of Utah 2022, Chapter 362)
53H-13-307, (Effective upon governor's approval) (Renumbered from 53B-34-108, as renumbered and amended by Laws of Utah 2022, Chapter 362)
53H-13-308, (Effective upon governor's approval) (Renumbered from 53B-34-109, as enacted by Laws of Utah 2022, Chapter 362)
53H-13-309, (Effective upon governor's approval) (Renumbered from 53B-34-110, as last amended by Laws of Utah 2025, Chapters 57, 416)
53H-13-310, (Effective upon governor's approval) (Renumbered from 53B-34-107, as renumbered and amended by Laws of Utah 2022, Chapter 362)
53H-13-311, (Effective upon governor's approval) (Renumbered from 53B-34-111, as last amended by Laws of Utah 2025, Chapter 512)
53H-13-401, (Effective upon governor's approval) (Renumbered from 53B-38-102, as enacted by Laws of Utah 2025, Chapter 325)
53H-13-402, (Effective upon governor's approval) (Renumbered from 53B-38-103, as enacted by Laws of Utah 2025, Chapter 325)

53H-13-403, (Effective upon governor's approval) (Renumbered from 53B-38-104, as enacted by Laws of Utah 2025, Chapter 325)
53H-13-404, (Effective upon governor's approval) (Renumbered from 53B-38-105, as enacted by Laws of Utah 2025, Chapter 325)
53H-13-405, (Effective upon governor's approval) (Renumbered from 53B-38-106, as enacted by Laws of Utah 2025, Chapter 325)
53H-13-406, (Effective upon governor's approval) (Renumbered from 53B-38-107, as enacted by Laws of Utah 2025, Chapter 325)
53H-13-407, (Effective upon governor's approval) (Renumbered from 53B-38-108, as enacted by Laws of Utah 2025, Chapter 325)
53H-14-201, (Effective upon governor's approval) (Renumbered from 53B-16-301, as last amended by Laws of Utah 2005, Chapter 201)
53H-14-202, (Effective upon governor's approval) (Renumbered from 53B-16-302, as last amended by Laws of Utah 2008, Chapter 382)
53H-14-203, (Effective upon governor's approval) (Renumbered from 53B-16-303, as last amended by Laws of Utah 2025, Chapter 476)
53H-14-204, (Effective upon governor's approval) (Renumbered from 53B-16-304, as last amended by Laws of Utah 2008, Chapter 382)
53H-14-205, (Effective upon governor's approval) (Renumbered from 53B-16-305, as last amended by Laws of Utah 2008, Chapter 382)
53H-14-301, (Effective upon governor's approval) (Renumbered from 53B-25-102, as enacted by Laws of Utah 2013, Chapter 94)
53H-14-302, (Effective upon governor's approval) (Renumbered from 53B-25-201, as enacted by Laws of Utah 2013, Chapter 94)
53H-14-303, (Effective upon governor's approval) (Renumbered from 53B-25-202, as enacted by Laws of Utah 2013, Chapter 94)
53H-14-304, (Effective upon governor's approval) (Renumbered from 53B-25-203, as enacted by Laws of Utah 2013, Chapter 94)
53H-14-305, (Effective upon governor's approval) (Renumbered from 53B-25-301, as enacted by Laws of Utah 2013, Chapter 94)
53H-14-401, (Effective upon governor's approval) (Renumbered from 53B-28-201, as enacted by Laws of Utah 2017, Chapter 188)
53H-14-402, (Effective upon governor's approval) (Renumbered from 53B-28-202, as last amended by Laws of Utah 2023, Chapter 328)
53H-14-501, (Effective upon governor's approval) (Renumbered from 53B-28-501, as enacted by Laws of Utah 2022, Chapter 461)
53H-14-502, (Effective upon governor's approval) (Renumbered from 53B-28-502, as last amended by Laws of Utah 2024, Chapter 378)
53H-14-503, (Effective upon governor's approval) (Renumbered from 53B-28-503, as enacted by Laws of Utah 2022, Chapter 461)
53H-14-504, (Effective upon governor's approval) (Renumbered from 53B-28-504, as enacted by Laws of Utah 2022, Chapter 461)
53H-14-505, (Effective upon governor's approval) (Renumbered from 53B-28-505, as last amended by Laws of Utah 2023, Chapter 381)
53H-14-506, (Effective upon governor's approval) (Renumbered from 53B-28-506, as last amended by Laws of Utah 2024, Chapter 158)
53H-15-101, (Effective upon governor's approval) (Renumbered from 53B-33-101, as last amended by Laws of Utah 2024, Chapter 403)
53H-15-202, (Effective upon governor's approval) (Renumbered from 53B-33-201, as renumbered and amended by Laws of Utah 2022, Chapter 461)
53H-15-203, (Effective upon governor's approval) (Renumbered from 53B-33-202, as last amended by Laws of Utah 2024, Chapter 378)
53H-15-204, (Effective upon governor's approval) (Renumbered from 53B-33-203, as renumbered and amended by Laws of Utah 2022, Chapter 461)
53H-15-302, (Effective upon governor's approval) (Renumbered from 53B-33-301, as last amended by Laws of Utah 2024, Chapter 403)
53H-15-303, (Effective upon governor's approval) (Renumbered from 53B-33-302, as renumbered and amended by Laws of Utah 2022, Chapter 461)
53H-15-304, (Effective upon governor's approval) (Renumbered from 53B-33-303, as renumbered and amended by Laws of Utah 2022, Chapter 461)
53H-15-305, (Effective upon governor's approval) (Renumbered from 53B-33-304, as last amended by Laws of Utah 2023, Chapter 84)
53H-16-201, (Effective upon governor's approval) (Renumbered from 53B-37-101, as renumbered and amended by Laws of Utah 2025, Chapter 506)
53H-16-202, (Effective upon governor's approval) (Renumbered from 53B-37-102, as renumbered and amended by Laws of Utah 2025, Chapter 506)
53H-16-203, (Effective upon governor's approval) (Renumbered from 53B-37-103, as enacted by Laws of Utah 2025, Chapter 506)
53H-16-302, (Effective upon governor's approval) (Renumbered from 53B-37-201, as renumbered and amended by Laws of Utah 2025, Chapter 506)
53H-16-303, (Effective upon governor's approval) (Renumbered from 53B-37-202, as renumbered and amended by Laws of Utah 2025, Chapter 506)
53H-16-304, (Effective upon governor's approval) (Renumbered from 53B-37-203, as enacted by Laws of Utah 2025, Chapter 506)
53H-16-402, (Effective upon governor's approval) (Renumbered from 53B-37-301, as renumbered and amended by Laws of Utah 2025, Chapter 506)
53H-16-403, (Effective upon governor's approval) (Renumbered from 53B-37-302, as enacted by Laws of Utah 2025, Chapter 506)
53H-16-404, (Effective upon governor's approval) (Renumbered from 53B-37-303, as enacted by Laws of Utah 2025, Chapter 506)
53H-16-405, (Effective upon governor's approval) (Renumbered from 53B-37-304, as enacted by Laws of Utah 2025, Chapter 506)
53H-16-406, (Effective upon governor's approval) (Renumbered from 53B-37-305, as renumbered and amended by Laws of Utah 2025, Chapter 506)
53H-16-407, (Effective upon governor's approval) (Renumbered from 53B-37-306, as renumbered and amended by Laws of Utah 2025, Chapter 506)

REPEALS:

53B-1-108, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-2a-100.5, (Effective upon governor's approval) as last amended by Laws of Utah 2021, Chapter 187
53B-2a-119, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 402
53B-3-102, (Effective upon governor's approval) as last amended by Laws of Utah 2017, Chapter 382
53B-7-501, (Effective upon governor's approval) as enacted by Laws of Utah 1998, Chapter 103
53B-7-701, (Effective upon governor's approval) as enacted by Laws of Utah 2017, Chapter 365
53B-7-805, (Effective upon governor's approval) as enacted by Laws of Utah 2023, Chapter 374
53B-8a-102, (Effective upon governor's approval) as last amended by Laws of Utah 2017, Chapter 389
53B-8c-101, (Effective upon governor's approval) as enacted by Laws of Utah 1997, Chapter 333

53B-8c-103, (Effective upon governor's approval) as last amended by Laws of Utah 2015, Chapter 225
53B-8c-104, (Effective upon governor's approval) as last amended by Laws of Utah 2019, Chapter 324
53B-8d-101, (Effective upon governor's approval) as enacted by Laws of Utah 2001, Chapter 279
53B-8d-103, (Effective upon governor's approval) as enacted by Laws of Utah 2001, Chapter 279
53B-8d-104, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 390
53B-8e-101, (Effective upon governor's approval) as enacted by Laws of Utah 2004, Chapter 181
53B-8e-103, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapter 365
53B-9-102, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-9-103, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-10-101, (Effective upon governor's approval) (Repealed 07/01/27) as last amended by Laws of Utah 2025, Chapter 384
53B-10-201, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 159
53B-10-203, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 159
53B-10-205, (Effective upon governor's approval) as last amended by Laws of Utah 2022, Chapter 370
53B-13-101, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-13a-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 384
53B-13a-104, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 137
53B-13a-106, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 137
53B-13b-101, (Effective upon governor's approval) as enacted by Laws of Utah 2014, Chapter 87
53B-13b-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 384
53B-13b-104, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 137
53B-13c-101, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 384
53B-16-111, (Effective upon governor's approval) as enacted by Laws of Utah 2021, Chapter 435
53B-16-207, (Effective upon governor's approval) as last amended by Laws of Utah 2021, Chapter 187
53B-16-208, (Effective upon governor's approval) as last amended by Laws of Utah 2019, Chapter 357
53B-17-101.5, (Effective upon governor's approval) as last amended by Laws of Utah 2021, Chapter 86
53B-17-202, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-17-302, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-17-303, (Effective upon governor's approval) as last amended by Laws of Utah 1989, Chapter 22
53B-17-304, (Effective upon governor's approval) as last amended by Laws of Utah 2018, Chapter 148
53B-17-402, (Effective upon governor's approval) as last amended by Laws of Utah 1989, Chapter 22
53B-17-403, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-17-501, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-17-502, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-17-503, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapter 365
53B-17-505, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapter 365
53B-17-506, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-17-601, (Effective upon governor's approval) as last amended by Laws of Utah 1997, Chapter 318
53B-17-602, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-17-702, (Effective upon governor's approval) as enacted by Laws of Utah 2005, Chapter 97
53B-17-901, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 384
53B-17-903, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 392
53B-17-904, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 384
53B-17-1101, (Effective upon governor's approval) (Repealed 07/01/28) as last amended by Laws of Utah 2020, Chapter 360
53B-17-1201, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 21
53B-17-1203, (Effective upon governor's approval) (Repealed 01/01/30) as last amended by Laws of Utah 2024, Chapters 21, 378
53B-17-1204, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 21
53B-17-1301, (Effective upon governor's approval) as enacted by Laws of Utah 2022, Chapter 445
53B-17-1401, (Effective upon governor's approval) as enacted by Laws of Utah 2023, Chapter 281
53B-18-101, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-18-102, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-18-103, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-18-105, (Effective upon governor's approval) as enacted by Laws of Utah 2003, Chapter 139
53B-18-201, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-18-202, (Effective upon governor's approval) as last amended by Laws of Utah 1994, Chapter 12
53B-18-203, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-18-205, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-18-206, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-18-301, (Effective upon governor's approval) as last amended by Laws of Utah 2019, Chapter 357
53B-18-302, (Effective upon governor's approval) as last amended by Laws of Utah 2019, Chapter 357
53B-18-401, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-18-601, (Effective upon governor's approval) as enacted by Laws of Utah 1998, Chapter 381
53B-18-1001, (Effective upon governor's approval) as enacted by Laws of Utah 2004, Chapter 23
53B-18-1202, (Effective upon governor's approval) as enacted by Laws of Utah 2019, Chapter 357
53B-18-1601, (Effective upon governor's approval) (Repealed 07/01/28) as last amended by Laws of Utah 2020, Chapter 360
53B-18-1701, (Effective upon governor's approval) (Repealed 07/01/27) as enacted by Laws of Utah 2022, Chapter 94

53B-18-1703, (Effective upon governor's approval) (Repealed 07/01/27) as enacted by Laws of Utah 2022, Chapter 94
53B-18-1901, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 163
53B-19-102, (Effective upon governor's approval) as last amended by Laws of Utah 1993, Chapter 4
53B-19-103, (Effective upon governor's approval) as enacted by Laws of Utah 1987, Chapter 167
53B-22-103, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 378
53B-22-104, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 378
53B-22-105, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 378
53B-22-106, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 378
53B-22-107, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 378
53B-22-109, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 378
53B-22-111, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 378
53B-22-112, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 378
53B-22-113, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 378
53B-22-114, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 378
53B-23-101, (Effective upon governor's approval) as last amended by Laws of Utah 2011, Chapter 366
53B-25-101, (Effective upon governor's approval) as enacted by Laws of Utah 2013, Chapter 94
53B-27-101, (Effective upon governor's approval) as enacted by Laws of Utah 2017, Chapter 440
53B-27-102, (Effective upon governor's approval) as enacted by Laws of Utah 2017, Chapter 440
53B-27-201, (Effective upon governor's approval) as enacted by Laws of Utah 2017, Chapter 440
53B-28-101, (Effective upon governor's approval) as enacted by Laws of Utah 2017, Chapter 188
53B-28-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 384
53B-29-101, (Effective upon governor's approval) as enacted by Laws of Utah 2020, Chapter 403
53B-29-201, (Effective upon governor's approval) as enacted by Laws of Utah 2020, Chapter 403
53B-29-301, (Effective upon governor's approval) as enacted by Laws of Utah 2021, Chapter 270
53B-30-101, (Effective upon governor's approval) as enacted by Laws of Utah 2021, Chapter 425
53B-30-201, (Effective upon governor's approval) as enacted by Laws of Utah 2021, Chapter 425
53B-31-101, (Effective upon governor's approval) as last amended by Laws of Utah 2021, Second Special Session, Chapter 1
53B-32-101, (Effective upon governor's approval) as enacted by Laws of Utah 2021, Chapter 282
53B-35-201, (Effective upon governor's approval) (Repealed 07/01/27) as last amended by Laws of Utah 2023, Chapter 254
53B-35-202, (Effective upon governor's approval) (Repealed 07/01/27) as last amended by Laws of Utah 2025, Chapter 214
53B-35-301, (Effective upon governor's approval) (Repealed 07/01/27) as enacted by Laws of Utah 2024, Chapter 144
53B-38-101, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 325

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53H-1-101, which is renumbered from Section 53B-1-101.5 is renumbered and amended to read:

TITLE 53H. Higher Education

CHAPTER 1. System of Higher Education

PART 1. General Provisions

[~~53B-1-101.5~~]53H-1-101 (Effective upon governor's approval). Title 53H Definitions.

As used in this title:

(1) (a) "Academic education" means an educational program that:

(i) is offered by [~~a degree-granting~~]an institution [~~.~~]of higher education described in Subsection 53H-1-102(1)(a); and

(ii) leads to academic certificates or associate, bachelor's, graduate, or professional degrees as the board defines.

(b) "Academic education" does not include technical education.

(2) "Board" means the Utah Board of Higher Education described in Section [~~53B-1-402~~]53H-1-203.

(3) "Career and technical education" means an educational program that:

(a) is designed to meet industry needs;

(b) leads to:

(i) a certificate offered by an institution described in Subsection 53H-1-102(1)(b) or Section 53H-3-609; or

(ii) a degree; and

(c) may qualify for funding under the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. 2301 et seq.

(4) "Commissioner" means the commissioner of higher education appointed in accordance with Section [~~53B-1-408~~]53H-1-302.

(5) "Degree-granting institution of higher education" or "degree-granting institution" means an institution of higher education described in Subsection [~~53B-1-102(1)(a)~~]53H-1-102(1)(a).

(6) "Institution board of trustees" or "board of trustees" means:

(a) [~~an~~]a degree-granting institution of higher education board of trustees described in Section [~~53B-2-103~~]53H-3-202; or

(b) a technical college board of trustees described in Section [~~53B-2a-108~~]53H-3-205.

(7) "Institution of higher education" or "institution" means an institution of higher education listed in Subsection 53H-1-102(1)(a) and (b) and includes:

(a) a branch or affiliated institution; or

(b) a campus or facilities owned, operated, or controlled by the board of trustees of the institution of higher education.

(8) (a) "Private postsecondary educational institution" means an institution that:

(i) does not receive direct funding through state appropriations; and

(ii) provides higher education programs.

(b) "Private postsecondary educational institution" includes:

(i) a private nonprofit college or university; and

(ii) a private for-profit college or university.

[~~(7)~~](9) "Technical college" means an institution of higher education described in Subsection [~~53B-1-102(1)(b)~~]53H-1-102(1)(b).

[~~(8)~~](10) (a) "Technical education" means an educational program that:

(i) is offered by an institution of higher education described in Subsection 53H-1-102(1)(a) and (b), or a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53H-3-609;

(ii) prepares students for employment in occupations that do not require a degree; and

(iii) meets the needs of Utah's employers for technically skilled workers.[~~career and technical education that:~~]

[~~(i) leads to a certificate; or~~]

[~~(ii) is short-term training.~~]

(b) "Technical education" does not include general education.

Section 2. Section 53H-1-102, which is renumbered from Section 53B-1-102 is renumbered and amended to read:

[~~53B-1-102~~]53H-1-102 (Effective upon governor's approval). Utah system of higher education.

(1) The Utah system of higher education consists of the following [~~institutions~~]:

(a) degree-granting institutions, which are:

(i) the University of Utah;

(ii) Utah State University;

(iii) Weber State University;

(iv) Southern Utah University;

(v) Snow College;

(vi) Utah Tech University;

(vii) Utah Valley University; and

(viii) Salt Lake Community College;

(b) technical colleges, which are:

(i) Bridgerland Technical College;

(ii) Davis Technical College;

(iii) Dixie Technical College;

(iv) Mountainland Technical College;

(v) Ogden-Weber Technical College;

(vi) Southwest Technical College;

(vii) Tooele Technical College; and

(viii) Uintah Basin Technical College;

(c) the Utah Board of Higher Education; and

(d) other public post-high school educational institutions as the Legislature may designate.

(2) A change in the name of an institution within the Utah system of higher education is not a change in the role or mission of the institution, unless otherwise authorized by the board.

(3) It is not the intent of the Legislature to increase the number of research universities in the state beyond the University of Utah and Utah State University.

(4) An institution or board described in Subsection (1) is empowered to sue and be sued and to contract and be contracted with.

Section 3. Section 53H-1-201, which is renumbered from Section 53B-1-401 is renumbered and amended to read:

PART 2. Utah Board of Higher Education

[~~53B-1-401~~]53H-1-201 (Effective upon governor's approval). General Provisions -- Definitions.

[~~As used in this part:~~]Reserved.

[~~(1) "Board" means the Utah Board of Higher Education described in Section 53B-1-402.~~]

[~~(2) "Institution of higher education" or "institution" means an institution of higher education described in Section 53B-1-102.~~]

Section 4. Section 53H-1-202, which is renumbered from Section 53B-1-501 is renumbered and amended to read:

[~~53B-1-501~~]53H-1-202 (Effective upon governor's approval). Establishment of initial board membership in 2023.

(1) The governor shall appoint, with the advice and consent of the Senate, individuals to the board, to ensure that [~~beginning July 1, 2023,~~] the board consists of 10 members with new terms in accordance with this section.

(2) Except for the appointment of the student member described in [~~Subsection 53B-1-404(3)(c)~~]Section 53H-1-204(3)(c), the governor shall appoint each individual to a two-year, four-year, or six-year term to ensure that one-third of the members complete the members' terms on June 30 of each odd number year.

(3) Following the appointments described in this section, the governor shall fill a vacancy on the board in accordance with Section [~~53B-1-404~~]53H-1-204.

(4) Notwithstanding Section 67-1-2, for an appointment described in this section:

(a) a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection 67-1-2(2); and

(b) the Senate is not required to hold a confirmation hearing.

Section 5. Section 53H-1-203, which is renumbered from Section 53B-1-402 is renumbered and amended to read:
[~~53B-1-402~~]53H-1-203 (Effective upon governor's approval). Establishment of board -- Powers, duties, and authority -- Reports.

(1) (a) There is established the Utah Board of Higher Education, which:

(i) is the governing board for the institutions of higher education; and

(ii) controls, oversees, and regulates the Utah System of Higher Education in a manner consistent with the purpose of this title and the specific powers and responsibilities granted to the board.

(b) (i) The University of Utah shall provide administrative support for the board.

(ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's independence, including in relation to the powers and responsibilities granted to the board.

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize data-driven retrospective and prospective system priorities, including:

(i) quality;

(ii) affordability;

(iii) access and equity;

(iv) completion;

(v) workforce alignment and preparation for high-quality jobs; and

(vi) economic growth;

(b) establish system policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

(ii) performance on measures of operational efficiency;

(d) collect and analyze data including economic data, demographic data, and data related to the metrics;

(e) govern data quality and collection across institutions;

(f) establish, approve, and oversee each institution's mission and role in accordance with Section [~~53B-16-101~~]53H-3-602;

(g) assess an institution's performance in accomplishing the institution's mission and role;

(h) participate in the establishment and review of programs of instruction in accordance with Section [~~53B-16-102~~]53H-3-603;

(i) perform the following duties related to an institution of higher education president, including:

(i) hiring an institution of higher education president in accordance with Section [~~53B-2-102~~]53H-3-302;

(ii) through the commissioner and the board's executive committee:

(A) providing support and guidance to an institution of higher education president; and

(B) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities;

(iii) setting the terms of employment for an institution of higher education president, including performance-based compensation, through an employment contract or another method of establishing employment; and

(iv) establishing, through a confidential process, a statewide succession plan to develop potential institution presidents from within the system;

(j) create and implement a strategic finance plan for higher education, including by:

(i) establishing comprehensive budget and finance priorities for academic education and technical education;

(ii) allocating statewide resources to institutions;

(iii) setting tuition for each institution;

(iv) administering state financial aid programs;

(v) administering performance funding in accordance with [~~Chapter 7, Part 7, Performance Funding~~]Chapter 8, Part 3, Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with [~~Chapter 22, Part 2, Capital Developments~~]Chapter 9, Part 5, General Capital Developments, and Sections [~~53B-2a-117~~]53H-9-604 and [~~53B-2a-118~~]53H-9-605;

(k) create and annually report to the Higher Education Appropriations Subcommittee on a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section [~~53B-16-110~~]53H-3-702;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section [~~53B-16-105~~]53H-3-604;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs;

(vii) coordinating work-based learning; and

(viii) emphasizing the system priorities and metrics described in Subsections (2)(a)and (c);

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and

(iv) other responsibilities determined by the board;

(n) delegate to an institution of higher education president management of the institution of higher education;

(o) consult with an institution of higher education board of trustees or institution of higher education president before acting on matters pertaining to the institution of higher education;

(p) maximize efficiency throughout the Utah System of Higher Education by identifying and establishing shared administrative services, beginning with:

(i) commercialization;

(ii) services for compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(iii) information technology services; and

(iv) human resources, payroll, and benefits administration;

(q) develop strategies for providing higher education, including career and technical education, in rural areas;

(r) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives, beginning with common applications and direct admissions;

(s) provide ongoing quality review of programs;

(t) before each annual legislative general session, provide to the Higher Education Appropriations Subcommittee a prioritization of all projects and proposals for which the board or an institution of higher education seeks an appropriation; and

(u) coordinate with the Department of Corrections to establish educational programs for inmates as described in Section 64-13-6.

(3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:

(a) the Education Interim Committee;

(b) the Higher Education Appropriations Subcommittee;

(c) the governor; and

(d) each institution of higher education.

(4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education, to the governor and to the Education Interim Committee by December 1 of each year, including information detailing:

(a) how institutions of higher education are meeting the career and technical education needs of secondary students;

(b) how the system emphasized high demand, high wage, and high skill jobs in business and industry;

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.

(6) The board may not take action relating to merging a technical college with another institution of higher education without legislative approval.

(7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(9) The board shall demonstrate compliance with Subsection (2)(p) by providing to the Higher Education Appropriations Subcommittee:

(a) on or before October 1, 2024, evidence of implementation of at least one shared administrative service;

(b) on or before October 1, 2025, evidence of implementation of at least two shared administrative services; and

(c) on or before October 1, 2026, evidence of implementation of at least three shared administrative services.

(10) If the Higher Education Appropriations Subcommittee finds the board to be out of compliance with Subsection (9), the Legislature shall:

(a) deduct 10% of the appropriation described in Section [~~53B-7-703~~]53H-8-302 for the following fiscal year; and

(b) deduct an additional 10% of the appropriation described in Section [~~53B-7-703~~]53H-8-302 for each subsequent year of noncompliance up to a maximum deduction of 30%.

Section 6. Section 53H-1-204, which is renumbered from Section 53B-1-404 is renumbered and amended to read:

[~~53B-1-404~~]53H-1-204 (Effective upon governor's approval). Membership of the board -- Student appointee -- Terms -- Oath -- Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation -- Training.

(1) The board consists of 10 residents of the state whom the governor appoints with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, and this section.

(2) (a) For an appointment effective July 1, 2023, the governor shall appoint the member in accordance with Section [~~53B-1-501~~]53H-1-202.

(b) Except for an individual whom the governor appoints as described in Section [~~53B-1-501~~]53H-1-202, the term of each member of

the Utah Board of Higher Education expires on July 1, 2023.

(3) (a) The governor shall make all appointments to the board on a nonpartisan basis.

(b) An individual may not serve simultaneously on the board and an institution board of trustees.

(c) The governor shall appoint at least one student member to the board.

(d) Notwithstanding Subsection (1), the governor's appointment of a student member described in Subsection (3)(c) is not subject to the advice and consent of the Senate.

(e) The governor shall ensure that the membership of the board includes:

(i) members with various experience, including in degree-granting institution governance, technical college governance, and representation from various industry sectors; and

(ii) at least one member who resides in:

(A) a county of the third through sixth class; or

(B) a county of the second class with a national park and two or more state parks.

(4) (a) (i) Except as provided in Subsection [~~(6)(a)(ii)~~](4)(a)(ii) and Section [~~53B-1-501~~]53H-1-202, the governor shall appoint board members to six-year staggered terms beginning on July 1 of the year of appointment.

(ii) The governor shall appoint the student member described in Subsection (3)(c) to a one-year term.

(b) (i) A board member other than the student member described in Subsection (3)(c) may serve up to two consecutive full terms.

(ii) The student member described in Subsection (3)(c) may not serve more than one full term.

(5) The governor may, after consulting with the president of the Senate, remove a member for cause.

(6) (a) A board member shall take the official oath of office before entering upon the duties of office.

(b) The board shall file the oath described in Subsection (6)(a) with the Division of Archives and Records Services.

(7) The board shall elect a chair and vice chair from among the board's members to serve terms of two years and until the board chooses and qualifies successors.

(8) (a) The board shall appoint a secretary from the commissioner's staff to serve at the board's discretion.

(b) The board's secretary is a full-time employee.

(c) The secretary shall record and maintain a record of all board meetings and perform other duties as the board directs.

(9) (a) The board may establish advisory committees, including a faculty and staff advisory committee.

(b) The board shall address all matters requiring board determination in a properly convened meeting of the board or the board's executive committee.

(10) (a) The board shall enact bylaws for the board's own government not inconsistent with the constitution or the laws of this state.

(b) The board shall provide for an executive committee in the bylaws that:

(i) has the full authority of the board to act upon routine matters during the interim between board meetings;

(ii) may not act on nonroutine matters except under extraordinary and emergency circumstances; and

(iii) shall report to the board at the board's next meeting following an action undertaken by the executive committee.

(11) (a) The board shall meet regularly upon the board's own determination.

(b) The board may also meet, in full or executive session, at the request of the chair, the commissioner, or at least five members of the board.

(12) The board may not conduct the board's business without the agreement of a majority of the board.

(13) (a) The governor shall immediately fill a vacancy in the board occurring before the expiration of a member's full term in accordance with this section.

(b) An individual whom the governor appoints under Subsection (13)(a) shall serve for the remainder of the unexpired term.

(14) (a) (i) Subject to Subsection (14)(a)(ii), a member shall receive a daily salary for each calendar day that the member attends a board meeting that is the same as the daily salary for a member of the Legislature described in Section 36-2-3.

(ii) A member may receive a salary for up to 10 calendar days per calendar year.

(b) A member may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(15) The commissioner shall provide to each member:

(a) initial training when the member joins the board; and

(b) ongoing annual training.

(16) A board member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 7. Section 53H-1-205, which is renumbered from Section 53B-1-405 is renumbered and amended to read:

[~~53B-1-405~~]53H-1-205 (Effective upon governor's approval). Board Member Qualifications.

(1) The board shall develop qualifications for the composition of the board to ensure that combined, the board members have:

(a) a range of experience, including experience in industry;

(b) varied areas of expertise; and

(c) varied geographic representation.

(2) In developing the qualifications, the board shall consider:

(a) expertise in:

(i) business or industry;

(ii) technical education;

(iii) general education; and

(iv) advanced education and research;

(b) geographic representation; and

(c) knowledge or experience in a field including:

(i) finance;

(ii) accounting or auditing;

(iii) law;

(iv) facilities or real estate;

(v) educational delivery models;

(vi) workforce development;

(vii) economic development;

(viii) kindergarten through grade 12 education; and

(ix) educational quality assessment.

(3) The board shall consult with the governor to develop the qualifications described in this section.

Section 8. Section 53H-1-206, which is renumbered from Section 53B-1-403 is renumbered and amended to read:
[~~53B-1-403~~]53H-1-206 (Effective upon governor's approval). Committees.

The board may form committees to support the board in fulfilling the board's duties.

Section 9. Section 53H-1-207, which is renumbered from Section 53B-1-109 is renumbered and amended to read:
[~~53B-1-109~~]53H-1-207 (Effective upon governor's approval). Coordination of higher education and public education information technology systems -- Use of unique student identifier.

(1) As used in this section:

(a) "Center" means the Utah Data Research Center created in Section [~~53B-33-201~~]53H-15-202.

[~~(b) "Institution of higher education" means an institution of higher education described in Section 53B-1-102.~~]

[~~(c)~~](b) "Unique student identifier" means the same as that term is defined in Section 53E-4-308.

(2) The board and State Board of Education, in collaboration with the center, shall:

(a) coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53E-4-308; and

(b) coordinate access to the unique student identifier of a public education student who later attends an institution of higher education.

(3) Information technology systems used at an institution of higher education shall use the unique student identifier of all students who have previously been assigned a unique student identifier.

Section 10. Section 53H-1-208, which is renumbered from Section 53B-1-411 is renumbered and amended to read:
[~~53B-1-411~~]53H-1-208 (Effective upon governor's approval). Board guidance to degree-granting institutions on student housing.

The board shall make policies or otherwise provide to each degree-granting institution guidance regarding the degree-granting institution's student housing, including:

(1) compliance with the requirements for sex-designated dwelling units within the degree-granting institution's student housing, as those terms are defined in Section 63G-31-305, and the provision of dwelling units that are not sex-designated; and

(2) practices to ensure individual privacy within the degree-granting institution's student housing.

Section 11. Section 53H-1-209, which is renumbered from Section 53B-6-102 is renumbered and amended to read:
[~~53B-6-102~~]53H-1-209 (Effective upon governor's approval). Standardized systems prescribed by the board.

The board shall prescribe for all institutions under its jurisdiction standardized systems of accounts, records, and reports covering in sufficient detail the operations of the [~~educational~~]institutions under its control.

Section 12. Section 53H-1-210, which is renumbered from Section 53B-1-410 is renumbered and amended to read:
[~~53B-1-410~~]53H-1-210 (Effective upon governor's approval). Utah Board of Higher Education successor to rights and duties.

(1) The board is the successor to and is vested with all rights, duties, obligations, and liabilities to which its predecessor governing boards, the Utah System of Technical Colleges Board of Trustees, and the Coordinating Council of Higher Education were subject, except as otherwise provided by law.

(2) For the Utah System of Technical Colleges Board of Trustees, the board:

(a) is vested with all rights, titles, privileges, powers, obligations, liabilities, immunities, franchises, endowments, assets, property, and claims;

(b) shall fulfill and perform all obligations, including obligations relating to outstanding bonds and notes; and

(c) may continue an administrative rule.

Section 13. Section 53H-1-301 is enacted to read:

PART 3. Commissioner of Higher Education

53H-1-301 (Effective upon governor's approval). General Provisions -- Definitions.

Reserved.

Section 14. Section 53H-1-302, which is renumbered from Section 53B-1-408 is renumbered and amended to read:
[~~53B-1-408~~]53H-1-302 (Effective upon governor's approval). Appointment of commissioner of higher education -- Qualifications -- Associate commissioners -- Duties -- Office.

(1) (a) The board, upon approval from the governor and with the advice and consent of the Senate, shall appoint a commissioner of higher education to serve at the board's pleasure as the board's chief executive officer.

(b) The following may terminate the commissioner:

(i) the board; or

(ii) the governor, after consultation with the board.

(c) The board shall:

(i) set the salary of the commissioner;

(ii) subject to Subsection (3), prescribe the duties and functions of the commissioner; and

(iii) select a commissioner on the basis of outstanding professional qualifications.

(2) (a) The commissioner may appoint associate commissioners.

(b) An associate commissioner described in Subsection (2)(a) is not subject to the approval of the board.

(3) The commissioner is responsible to the board to:

(a) ensure the proper execution of the policies, programs, and strategic plan of the board;

(b) furnish information about the Utah System of Higher Education and make recommendations regarding that information to the board;

(c) provide state-level leadership in any activity affecting an institution of higher education;

(d) in consultation with the board's executive committee and in accordance with Subsection [~~53B-1-402(2)~~]53H-1-203(2), evaluate and provide support and guidance to an institution of higher education president; and

(e) perform other duties the board assigns in carrying out the board's duties and responsibilities.

(4) The commissioner is responsible to the governor to:

(a) inform the governor about the board's strategic plan and progress on accomplishing the strategic plan;

(b) inform the governor of significant issues impacting the Utah System of Higher Education; and

(c) provide other information and updates as requested by the governor.

Section 15. Section 53H-1-303, which is renumbered from Section 53B-1-409 is renumbered and amended to read:

[~~53B-1-409~~]53H-1-303 (Effective upon governor's approval). Appointment and hiring of staff.

(1) The commissioner may appoint and hire a staff of professional, legal, and administrative personnel.

(2) The commissioner shall determine salaries, retirement provisions, and other benefits for the staff described in this section.

Section 16. Section 53H-1-401 is enacted to read:

PART 4. Reports and Oaths of Office.

53H-1-401 (Effective upon governor's approval). General Provisions -- Definitions.

Reserved.

Section 17. Section 53H-1-402, which is renumbered from Section 53B-1-301 is renumbered and amended to read:

[~~53B-1-301~~]53H-1-402 (Effective upon governor's approval) (Partially Repealed 07/01/27). Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections [~~53B-1-116, 53B-1-117, and 53B-1-118~~]53H-1-502, 53H-1-503, and 53H-1-504;

(b) the reports described in Section 53H-1-203 by the board on:

(i) system wide responses to changing demographics and workforce; and

(ii) the board's activities and performance against the board's goals and metrics;

[~~(b)~~](c) the report described in Section [~~53B-30-206~~]53H-5-205;

[~~(c)~~](d) the report described in Section [~~53B-7-101~~]53H-8-202 by the board on recommended appropriations for higher education institutions and the board, including the report described in Section [~~53B-8-104~~]53H-11-406 by the board on the effects of offering nonresident partial tuition scholarships;

[~~(d)~~](e) the report described in Section [~~53B-7-704~~]53H-8-306 by the Department of Workforce Services and the Governor's Office of Economic Opportunity on targeted jobs;

[~~(e)~~](f) the reports described in Section [~~53B-7-705~~]53H-8-303 by the board on performance;

[~~(f)~~](g) the report described in Section [~~53B-8-201~~]53H-11-402 by the board on the Opportunity Scholarship Program;

(h) the report described in 53H-13-309 regarding the talent advisory councils;

[~~(g)~~](i) the report described in Section [~~53B-13a-103~~]53H-11-414 by the board on the Utah Promise Program;

[~~(i)~~](j) the report described in Section [~~53B-16-602~~]53H-6-202 by the board on [~~a state~~]an institution compensating a student athlete for the use of the student athlete's name, image, or likeness;

[~~(h)~~](k) the report described in Section [~~53B-35-202~~]53H-1-604 regarding the Higher Education and Corrections Council; and

[~~(i)~~](l) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional report is due to the Higher Education Appropriations Subcommittee: the board's report regarding each institution's strategic reinvestment plan described in Section [~~53B-7-107~~]53H-8-210.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) an appropriation recommendation described in Section [~~53B-1-118~~]53H-1-504 regarding compliance with Subsections [~~53B-1-118(5)~~]53H-1-504(5) and (14); and

(b) as required by Section [~~53B-7-706~~]53H-8-304, the review of performance funding described in Section [~~53B-7-706~~]53H-8-304.

(4) [~~Beginning in the 2025 legislative interim, in~~]In consultation with the board, the Higher Education Appropriations Subcommittee shall study a re-design of:

(a) the performance funding model described in [~~Chapter 7, Part 7~~]Chapter 8, Part 3, Performance Funding, to better ensure:

(i) institutional alignment with the statewide system of higher education and the institution's mission within the statewide system; and

(ii) investment in meeting localized and statewide workforce demands and securing post-graduation employment outcomes; and

(b) enrollment-based funding, including, for technical colleges, funding distribution models that:

(i) include equivalent funding value for secondary and adult students; and

(ii) reflect the full responsibility of the technical college's statutorily-required services.

Section 18. Section 53H-1-403 is enacted to read:

53H-1-403 (Effective upon governor's approval). Other required reports to the Legislature or state level entities.

(1) The following entities shall submit reports to the Education Interim Committee as described in each referenced section:

(a) the board shall submit:

(i) an annual report regarding the board's activities and performance against the board's goals and metrics as described in Section 53H-1-203;

(ii) an annual report detailing the board's progress and recommendations on workforce related issues as described in Section 53H-1-203;

(iii) a report regarding an institution compensating a student athlete for the use of the student athlete's name, image, or likeness as described in Section 53H-6-202;

(iv) an annual report regarding the talent advisory councils as described in Section 53H-13-309;

(b) the Office of Legislative Research and General Counsel shall provide a summary regarding the data collected from campus expression climate surveys as described in Section 53H-1-504;

(c) the Utah Education and Telehealth Network shall provide an annual report as described in Section 53H-4-213.7;

(d) an institution with and without housing facilities shall provide an annual report regarding crime statistics as described in Section 53H-7-603;

(e) the Center for Civic Excellence at Utah State University shall provide a report before July 1, 2029, regarding implementation as described in Section 53H-4-307.6;

(f) the Rocky Mountain Center for Occupational and Environmental Health Advisory Board shall provide by July 1 each year a report as described in Section 53H-5-205;

(g) the Utah Data Research Center shall provide an annual report as described in Section 53H-15-303;

(h) the Higher Education and Corrections Council shall provide an annual report as described in Section 53H-1-604; and

(i) the commissioner shall provide, in collaboration with the entities described in Subsection 53H-13-405(1), an annual report regarding the cooperative education program as described in Section 53H-13-407.

(2) The following entities shall submit reports to the Executive Appropriations Committee as described in each referenced section:

(a) the board shall submit:

(i) in the September 2025 meeting, a report regarding institutions' strategic reinvestment plans as described in Section 53H-8-210; and

(ii) in the September 2026 and 2027 meetings, a report regarding the progress of institutions in executing the institutions' strategic reinvestment plan as described in Section 53H-8-210; and

(b) the Nucleus Institute shall provide an annual report as described in Section 53H-16-406.

(3) The following entities shall submit reports to the Natural Resources, Agriculture, and Environment Interim Committee as described in each referenced section:

(a) the Utah State University Bingham Entrepreneurship and Energy Research Center shall annually report as described in Section 53H-4-316; and

(b) the Utah State University Food Security Council shall prepare and submit an annual written report as described in Section 53H-4-313.

(4) The following entities shall submit reports to the Economic Development and Workforce Services Interim Committee as described in each referenced section:

(a) the commissioner shall provide, in collaboration with the entities described in Subsection 53H-13-405(1), an annual report regarding the cooperative education program as described in Section 53H-13-407;

(b) Utah State University shall provide a report every three years regarding the remote online opportunities program as described in Section 53H-4-312;

(c) the Utah State University Food Security Council shall prepare and submit an annual written report as described in Section 53H-4-313; and

(d) the Nucleus Institute shall provide an annual report as described in Section 53H-16-406.

(5) The ASPIRE Engineering Research Center at Utah State University shall provide an annual report to the Transportation and Infrastructure Appropriations Subcommittee as described in Section 53H-4-306.6.

(6) The Utah Data Research Center shall provide an annual report to the Business and Labor Interim Committee as described in Section 53H-15-305.

(7) The board shall provide the following reports to state agencies and departments as described in each referenced section:

(a) to the Division of Facilities Construction and Management and others upon request, an annual technical college lease report as described in Section 53H-9-602;

(b) to the Department of Veterans and Military Affairs, an annual report regarding number of credits awarded as described in Section 53H-3-703; and

(c) to the Rules Review and General Oversight Committee, an annual report regarding civil liberties complaints as described in Section 53H-7-303.

(8) The board shall provide to the general session of the Legislature for budget recommendation purposes an annual report regarding:

(a) waivers of tuition as described in Section 53H-11-307; and

(b) nonresident tuition scholarships as described in Section 53H-11-405.

(9) An institution shall provide the following reports as described in each referenced section:

(a) to the institution's governing board and published on the governing board's website, the institution's required prohibited submissions described in Section 53H-1-502;

(b) to the board, disclosures of foreign gifts received as described in Section 53H-8-503;

(c) for a qualifying institution, to the board annually regarding the faculty incentive component of the Engineering and Computer Science Initiative as described in Section 53H-1-603;

(d) for a degree-granting institution:

(i) to the board annually regarding post-tenured data as described in Section 53H-3-406;

(ii) to the board annually regarding technical education as described in Section 53H-3-609;

(e) for a technical college:

(i) to the board annually regarding secondary student needs and access to programs as described in Section 53H-3-1203;

(ii) to the board annually regarding annual leases as described in Section 53H-9-602;

(f) on a date the board determines for 2026 and 2027, regarding the institution's progress in executing the institution's strategic reinvestment plan as described in Section 53H-8-210;

(g) in accordance with rules the board establishes, to the board annually regarding the Opportunity scholarships awarded as described in Section 53H-11-402;

(h) in accordance with rules the board establishes, reports related to the promise grants as described in Section 53H-11-414;

(i) to the board annually regarding credit for prior learning as described in Section 53H-3-702; and

(j) for an institution with or without housing facilities, an annual report regarding crime statistics to the Law Enforcement and Criminal Justice Interim Committee as described in Section 53H-7-603.

(10) An institution's board of trustees shall provide to the board annually a report regarding any approved contracts or grants as described in Section 53H-8-208.

(11) The commissioner shall provide the following reports as described in each referenced section:

(a) an annual summary report regarding institutional matches for the faculty incentive component of the Engineering and Computer Science Initiative as described in Section 53H-1-603; and

(b) in collaboration with the entities described in Subsection 53H-13-405(1), an annual report regarding the cooperative education program as described in Section 53H-13-407 to the Talent, Education, and Industry Alignment Board and the board.

(12) The Talent Ready Utah Program shall provide an annual report to the board as described in Section 53H-13-304.

(13) The Utah Works Program shall provide an annual report to the board as described in Section 53H-13-307.

(14) The University of Utah shall provide an annual report to the governor regarding the engineering experiment station as described in Section 53H-4-208.

(15) The Center for Civic Excellence at Utah State University vice provost shall annually report to the provost, the president of the institution, and the commissioner as described in Section 53H-4-307.6.

Section 19. Section 53H-1-404, which is renumbered from Section 53B-1-120 is renumbered and amended to read:

[~~53B-1-120~~]53H-1-404 (Effective upon governor's approval). Oaths of office.

Notwithstanding Section 52-1-2, except as otherwise provided in this title, an individual whom one of the following appoints or employs is not required to take an official oath of office:

(1) the board;

(2) the commissioner;

(3) [~~a degree-grantinginstitutionor a technical college~~]an institution;

(4) an institution board of trustees; or

(5) the president of [~~a degree-grantinginstitutionor a technical college~~]an institution.

Section 20. Section 53H-1-501 is enacted to read:

PART 5. Equal Opportunity Initiatives

53H-1-501 (Effective upon governor's approval). General Provisions -- Definitions.

Reserved.

Section 21. Section 53H-1-502, which is renumbered from Section 53B-1-116 is renumbered and amended to read:

[~~53B-1-116~~]53H-1-502 (Effective upon governor's approval). Prohibition on the use of certain submissions in higher education -- Exceptions.

(1) As used in this section, "prohibited submission" means the same as that term is defined in Section 67-27-107.

(2) Except as provided in Subsections (4) and (6), an institution may not require, request, solicit, or compel a prohibited submission as a certification or condition before taking action with respect to:

(a) employment, including decisions regarding:

(i) hiring;

(ii) terms of employment;

(iii) benefits;

(iv) compensation;

(v) seniority status;

(vi) tenure or continuing status;

(vii) promotion;

(viii) performance reviews;

(ix) transfer;

(x) termination; or

(xi) appointment;

(b) admission to, advancement in, or graduation from an institution or an academic program;

(c) participation in an institution-sponsored program; or

(d) qualification for or receipt of state financial aid or other state financial assistance.

(3) An institution may not grant any form of preferential consideration to an individual who, with or without solicitation from the institution, provides a prohibited submission for consideration for any action described in Subsection (2).

(4) If federal law requires an institution to accept or require a prohibited submission, the institution:

(a) may accept the prohibited submission only to the extent required under federal law; and

(b) shall limit consideration of the information contained in the prohibited submission to the extent necessary to satisfy the requirement under federal law.

(5) For a required prohibited submission under Subsection (4), an institution shall:

(a) prepare a report to the institution's governing board detailing the circumstances under which a prohibited submission is required; and

(b) publish the report described in Subsection (5)(a) on the institution's governing board website in a conspicuous location.

(6) Nothing in this section limits or prohibits an institution's authority to establish policies that:

(a) are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment;

(b) require disclosure of an employee's academic research, classroom teaching, or coursework; or

(c) require an applicant for employment, tenure, or promotion to disclose or discuss the applicant's:

(i) research;

(ii) teaching agenda;

(iii) artistic creations; or

(iv) pedagogical approaches or experiences with students of all learning abilities.

(7) (a) [~~Beginning on July 1, 2025, the~~]The board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:

(i) for 2025, on each institution of higher education; and

(ii) for 2026, and every year after, on one-half of the degree granting institutions of higher education and one-half of the technical colleges.

(b) If the board identifies a violation of this section, the board shall:

(i) on or before 30 days after the day on which the board identifies the violation, work with the institution to create a remediation plan; and

(ii) provide the institution 180 days after the day of the creation of the remediation plan to cure the violation.

(8) On or before November 1 of each year, the board shall prepare and submit a report to the Higher Education Appropriations Subcommittee on:

(a) the review process and each institution's compliance determination; or

(b) if a violation is identified, the remediation plan and progress under Subsection (7)(b).

(9) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (7)(b).

(10) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

Section 22. Section 53H-1-503, which is renumbered from Section 53B-1-117 is renumbered and amended to read:

[~~53B-1-117~~]53H-1-503 (Effective upon governor's approval). Prohibition on the use of certain training in higher education -- Exceptions.

(1) As used in this section:

(a) "Prohibited training" means a mandatory instructional program and related materials that an institution requires the institution's employees, prospective employees, students, or prospective students, to attend that promote prohibited discriminatory practices as that term is defined in Section [~~53B-1-118~~]53H-1-504.

(b) "Prohibited training" includes an in-person or online seminar, discussion group, workshop, other program, or related materials.

(2) An institution may not require prohibited training.

(3) An institution shall annually train the institution's faculty and staff on academic freedom and freedom of speech in accordance with state or federal law.

(4) Nothing in this section limits or prohibits an institution's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

(5) (a) [~~Beginning on July 1, 2025, the~~]The board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:

(i) for 2025, on each institution of higher education; and

(ii) for 2026, and every year after, on one-half of the institutions of higher education and one-half of the technical colleges.

(b) If the board identifies a violation of this section, the board shall:

(i) on or before 30 days after the day on which the board identifies the violation, work with the institution to create a remediation plan; and

(ii) provide the institution 180 days after the day of the creation of the remediation plan to cure the violation.

(6) On or before November 1 of each year, the board shall prepare and submit a report to the Higher Education Appropriations Subcommittee on:

(a) the review process and each institution's compliance determination; or

(b) if a violation is identified, the remediation plan and progress under Subsection (5)(b).

(7) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (5)(b).

(8) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

Section 23. Section 53H-1-504, which is renumbered from Section 53B-1-118 is renumbered and amended to read:

[~~53B-1-118~~]53H-1-504 (Effective upon governor's approval). Prohibited discriminatory practices -- Restrictions -- Campus climate survey -- Exceptions.

(1) As used in this section:

(a) "Important government interest" means a governmental purpose relating to:

(i) athletic competition or athletic safety in public education; or

(ii) privacy, including compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex.

(b) "Personal identity characteristics" means an individual's race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity.

(c) (i) "Prohibited discriminatory practice" means engaging in or maintaining a policy, procedure, practice, program, office, initiative, or required training that, based on an individual's personal identity characteristics:

(A) promotes the differential treatment of an individual without an important government interest;

(B) influences the employment decisions of an individual other than through the use of neutral hiring processes with regard to personal identity characteristics and in accordance with federal law;

(C) influences an individual's admission to, advancement in, or graduation from an institution, the public education system, or an academic program; or

(D) influences an individual's participation in an institution-sponsored or public education system-sponsored program.

(ii) "Prohibited discriminatory practice" also means engaging in or maintaining a policy, procedure, practice, program, office, initiative, or required training that:

(A) asserts that one personal identity characteristic is inherently superior or inferior to another personal identity characteristic;

(B) asserts that an individual, by virtue of the individual's personal identity characteristics, is inherently privileged, oppressed, racist, sexist, oppressive, or a victim, whether consciously or unconsciously;

(C) asserts that an individual should be discriminated against in violation of Title VI, Title VII, and Title IX, receive adverse treatment, be advanced, or receive beneficial treatment because of the individual's personal identity characteristics;

(D) asserts that an individual's moral character is determined by the individual's personal identity characteristics;

(E) asserts that an individual, by virtue of the individual's personal identity characteristics, bears responsibility for actions committed in the past by other individuals with the same personal identity characteristics;

(F) asserts that an individual should feel discomfort, guilt, anguish, or other psychological distress solely because of the individual's personal identity characteristics;

(G) asserts that meritocracy is inherently racist or sexist;

(H) asserts that socio-political structures are inherently a series of power relationships and struggles among racial groups;

(I) promotes resentment between, or resentment of, individuals by virtue of their personal identity characteristics;

(J) ascribes values, morals, or ethical codes, privileges, or beliefs to an individual because of the individual's race, color, ethnicity, sex, sexual orientation, national origin, or gender identity;

(K) considers an individual's personal identity characteristics in determining receipt of state financial aid or other state financial assistance, including a scholarship award or tuition waiver; or

(L) is referred to or named diversity, equity, and inclusion.

(iii) "Prohibited discriminatory practice" does not include policies or procedures required by state or federal law, including laws relating to prohibited discrimination or harassment.

(d) "Student success and support" means an office, division, employment position, or other unit of an institution established or maintained to provide support, guidance, and resources that equip all students, including all students at higher risk of not completing a certificate or degree, with experiences and opportunities for success in each student's academic and career goals, and without excluding individuals on the basis of an individual's personal identity characteristics.

(e) "Title VI" means Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.

(f) "Title VII" means Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et seq.

(g) "Title IX" means Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.

(2) An institution may not:

(a) engage in prohibited discriminatory practices;

(b) take, express, or assert a position or opinion on subjects described in Subsection 67-27-107(1)(b)(ii);

(c) establish or maintain an office, division, employment position, or other unit of an institution established to implement, develop, plan, or promote campus policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or

(d) employ or assign an employee or a third-party whose duties for an institution include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.

(3) An institution shall:

(a) ensure that all students have access to programs providing student success and support;

(b) publish the titles and syllabi of all mandatory courses, seminars, classes, workshops, and training sessions on the institution's website in an online database readily searchable by the public;

(c) annually train employees on the separation of personal political advocacy from an institution's business and employment activities;

(d) develop strategies, including inviting speakers, to promote viewpoint diversity; and

(e) establish policies and procedures to include opportunities for education and research on free speech and civic education.

(4) [~~Beginning on or before July 1, 2025, the~~]The board shall report to the Higher Education Appropriations Subcommittee on the status and allocation of appropriated funds for student success and support.

(5) The Legislature shall, in a line item appropriation, appropriate ongoing funding to support an institution's student success and support program in accordance with this section.

(6) (a) On or before January 1, 2025, the board shall contract with a third-party contractor, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to conduct a campus expression climate survey of each institution:

(i) to assess student, faculty, and staff perceptions of and experiences with an institution's campus environment that measures the student's, faculty member's, and staff member's perception of and experience with an institution's campus environment; and

(ii) that measures the student's, faculty member's, and staff member's perception of and experience with campus policy and practice regarding freedom of speech and academic freedom at the institution.

(b) The board shall collect the results of each campus expression climate survey under Subsection (6) and submit the results to the Office of Legislative Research and General Counsel beginning on or before July 1.

(7) (a) The Office of Legislative Research and General Counsel shall provide a summary report on the data collected from the campus expression climate surveys to the Education Interim Committee on or before:

(i) November 1, 2027, for reports received in years 2025, 2026, and 2027;

(ii) November 1, 2030, for reports received in years 2028, 2029, and 2030; and

(iii) November 1, 2033, for reports received in years 2031, 2032, and 2033.

(b) On or before November 1, 2035, the Office of Legislative Research and General Counsel shall provide a comprehensive report of the campus expression climate surveys to the Education Interim Committee.

(8) Nothing in this section requires an individual to respond to a campus expression climate survey.

(9) Nothing in this section limits or prohibits an institution's authority to establish policies that:

(a) are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment;

(b) require disclosure of an employee's academic research, classroom teaching, or coursework; or

(c) require for employment, tenure, or promotion to disclose or discuss the applicant's:

(i) research;

(ii) teaching agenda;

(iii) artistic creations; or

(iv) pedagogical approaches or experiences with students of all learning abilities.

(10) This section does not apply to:

(a) requirements necessary for athletic and accreditation compliance;

(b) academic research;

(c) academic course teaching in the classroom;

(d) a grant that would otherwise require:

(i) a department, office, division, or other unit of an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the institution's board of trustees; or

(ii) an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the board;

(e) requirements necessary for an institution to establish or maintain eligibility for any federal program; or

(f) private scholarships administered by an institution.

(11) Notwithstanding any other provision of this [~~part~~]chapter or of Chapter 3, Institutions of Higher Education Generally, the University of Utah may take any action required for the University of Utah to comply with the terms of an agreement entered into between the University of Utah and the Ute Indian Tribe before July 1, 2024.

(12) (a) [~~Beginning on July 1, 2025, the~~]The board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:

(i) for 2025, on each institution of higher education; and

(ii) for 2026, and every year after, on one-half of the degree granting institutions of higher education and one-half of the technical colleges.

(b) If the board identifies a violation of this section, the board shall:

(i) on or before 30 days after the day on which the board identifies the violation, work with the institution to create a remediation plan; and

(ii) provide the institution 180 days after the day of the creation of the remediation plan to cure the violation.

(13) On or before November 1 of each year, the board shall prepare and submit a report to the Higher Education Appropriations Subcommittee on:

(a) the review process and each institution's compliance determination; or

(b) if a violation is identified, the remediation plan and progress under Subsection (12)(b).

(14) On or before December 1 of each year, the Higher Education Appropriations Subcommittee shall:

(a) report the findings under Subsections (4) and (13) to the Legislature; and

(b) make appropriation recommendations about an institution's compliance with this section.

(15) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (12)(b).

(16) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

Section 24. Section 53H-1-601 is enacted to read:

PART 6. Initiatives and Councils

53H-1-601 (Effective upon governor's approval). General Provisions -- Definitions.

Reserved.

Section 25. Section 53H-1-602, which is renumbered from Section 53B-6-105 is renumbered and amended to read:
[~~53B-6-105~~]53H-1-602 (Effective upon governor's approval). Engineering and Computer Technology Initiative.

(1) (a) (i) The commissioner of higher education, under the direction of the board shall develop, establish, and maintain an Engineering and Computer Science Initiative within the state system of higher education to increase the number of graduates in engineering, computer science, and related technology.

(ii) The commissioner of higher education, under the direction of the board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing the criteria for those fields of study that qualify as "related technology" under this section and Section [~~53B-6-105.9~~]53H-1-603.

(b) The initiative shall include components that:

(i) improve the quality of instructional programs in engineering, computer science, and related technology by providing supplemental money for equipment purchases; and

(ii) provide incentives to institutions to hire and retain faculty under Section [~~53B-6-105.9~~]53H-1-603.

(2) The increase in program capacity under Subsection (1)(a) shall include funding for new and renovated capital facilities and funding for new engineering and computer science programs.

(3) The Legislature shall provide an annual appropriation to the board to fund the initiative.

Section 26. Section 53H-1-603, which is renumbered from Section 53B-6-105.9 is renumbered and amended to read:
[~~53B-6-105.9~~]53H-1-603 (Effective upon governor's approval). Incentive program for engineering, computer science, and related technology faculty.

(1) The Legislature shall provide an annual appropriation to help fund the faculty incentive component of the Engineering and Computer Science Initiative established under Section [~~53B-6-105~~]53H-1-602.

(2) The appropriation shall be used to hire, recruit, and retain outstanding faculty in engineering, computer science, and related technology fields under guidelines established by the commissioner of higher education, under the direction of the board.

(3) (a) [~~State institutions~~]An institution of higher education shall match the appropriation on a one-to-one basis in order to qualify for state money appropriated under Subsection (1).

(b) (i) Qualifying institutions shall annually report their matching dollars to the board.

(ii) The commissioner of higher education shall make a summary report of the institutional matches.

(4) The commissioner of higher education, under the direction of the board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing policies and procedures to apply for and distribute the state appropriation to qualifying institutions.

Section 27. Section 53H-1-604, which is renumbered from Section 53B-35-101 is renumbered and amended to read:
[~~53B-35-101~~]53H-1-604 (Effective upon governor's approval) (Repealed 07/01/27). Higher Education and Corrections Council.

(1) As used in this [~~chapter~~]section:

[~~(1)~~](a) "Correctional facility" means the same as that term is defined in Section 64-13-1.

[~~(2)~~](b) "Council" means the Higher Education and Corrections Council created in [~~Section 53B-35-201~~]this section.

[~~(3)~~](c) "Department" means the Department of Corrections created in Section 64-13-2.

[~~(4)~~](d) "Inmate" means the same as that term is defined in Section 64-13-1.

[~~(5) "Institution of higher education" means an institution described in Section 53B-1-102.~~]

(2) There is created the Higher Education and Corrections Council to advise the board, the Education Interim Committee, and the Higher Education Appropriations Subcommittee regarding the development and delivery of accredited higher education curriculum to incarcerated individuals in the state correctional system.

(3) The council consists of the following 11 members:

(a) a member of the House of Representatives whom the speaker of the House of Representatives appoints;

(b) a member of the Senate whom the president of the Senate appoints;

(c) the commissioner or the commissioner's designee;

(d) the following two members whom the commissioner appoints and who are engaged in prison education and have expertise in transfer articulation:

(i) one employee of a technical college; and

(ii) one employee of a degree-granting institution;

(e) the following two members whom the governor appoints:

(i) an individual who actively researches higher education delivered in a corrections setting using evidence-based practices; and

(ii) a formerly incarcerated individual who participated in postsecondary educational programs while incarcerated;

(f) one member of the Board of Pardons and Parole whom the chair of the Board of Pardons and Parole appoints;

(g) the executive director of the Department of Corrections or the executive director's designee;

(h) one employee of the Department of Corrections with expertise in education whom the executive director of the Department of Corrections appoints; and

(i) the executive director of the Department of Workforce Services or the executive director's designee.

(4) (a) The members described in Subsections (3)(a) and (3)(b) shall serve as co-chairs of the council.

(b) (i) Except as provided under Subsection (4)(b)(ii), an appointed member of the council shall serve a term of two years.

(ii) A council member's term ends on the day on which the member's status that allows the member to serve on the council under Subsection (3) ends.

(c) The individuals authorized to make appointments under Subsection (3) shall make the respective appointments:

(i) before July 1 of each odd-numbered year, by:

(A) reappointing the council member whose term expires under Subsection (4)(b)(i); or

(B) appointing a new council member; and

(ii) in the case of a vacancy created under Subsection (4)(b)(ii), for the remainder of the vacated term.

(d) The individual authorized to make appointments under Subsection (3) may change the relevant appointment described in Subsection (3) at any time for the remainder of the existing term.

(5) (a) The salary and expenses of a council member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A council member who is not a legislator:

(i) may not receive compensation or benefits for the member's service on the council; and

(ii) may receive per diem and reimbursement for travel expenses that the council member incurs as a council member at the rates that the Division of Finance establishes under:

(A) Sections 63A-3-106 and 63A-3-107; and

(B) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(6) (a) A majority of the council members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the council.

(7) The commissioner shall provide staff support to the council.

(8) The council shall:

(a) coordinate, facilitate, and support higher education delivered in the state's correctional facilities, including the county jails under contract with the Department of Corrections to house inmates, to prepare incarcerated individuals for integration and productive employment upon release;

(b) explore and provide recommendations to the board and the Department of Corrections for the efficient and effective delivery of higher education programs to incarcerated individuals, including:

(i) evidence-based practices and technologies;

(ii) methods of maximizing and facilitating incarcerated individuals' access to educational programs;

(iii) methods of supporting and facilitating timely completion of courses, certificates, and degrees;

(iv) methods of emphasizing educational programs that:

(A) align with current and future workforce demands of the state;

(B) lead to occupations that are accessible to released incarcerated individuals;

(C) provide sustainable wages following release; and

(D) maximize accessibility and timely completion during incarceration;

(v) use of cross-institutional application of coursework toward certificates and degrees;

(vi) use of coursework that encourages personal and civic development; and

(vii) methods of leveraging innovative course delivery, including technology resources;

(c) explore methods and make recommendations for the collection and analysis of critical data regarding:

(i) enrollment and completion of postsecondary education courses, certificate programs, credentials, and degree programs;

(ii) federal and state student aid awarded to incarcerated individuals;

(iii) costs of postsecondary education in prison, including any recommendations for continued improvement; and

(iv) outcomes of formerly incarcerated individuals who participated in postsecondary programming during incarceration if the individual is under the supervision of the Division of Adult Probation and Parole created in Section 64-14-202, including recidivism, employment, and post-release postsecondary education engagement; and

(d) recommend requests for legislative appropriations to the board to support the purposes and objectives of the council.

(9) The council shall annually report regarding the council's plans and programs, the number of enrollees served, and the number of enrollees receiving degrees and certificates to:

(a) the board;

(b) before the committee's November interim committee meeting, the Education Interim Committee; and

(c) at least 30 days before the beginning of the annual legislative session, the Higher Education Appropriations Subcommittee.

(10) A degree-granting institution of higher education providing education to inmates in a correctional facility shall provide relevant academic and career advising services that are substantially similar to services provided to a student who is not a confined or incarcerated individual.

(11) Each participating institution of higher education described in this section shall report annually to the council regarding the guidance and support provided.

Section 28. Section 53H-1-701 is enacted to read:

PART 7. Interstate Agreements

53H-1-701 (Effective upon governor's approval). General Provisions -- Definitions.

Reserved.

Section 29. Section 53H-1-702, which is renumbered from Section 53B-4-101 is renumbered and amended to read:
[~~53B-4-101~~]53H-1-702 (Effective upon governor's approval). WICHE compact.

As empowered by law, the governor of Utah has duly entered into a compact the text of which is as follows:

Article I.

Whereas, the future of this Nation and of the Western States is dependent upon the quality of the education of its youth; and

Whereas, many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical, professional, and graduate training, nor do all of the States have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

Whereas, it is believed that the Western States, or groups of such states within the Region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the Region and of the students thereof:

Now, therefore, the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming do hereby covenant and agree as follows:

Article II.

Each of the compacting states and territories pledges to each of the other compacting states and territories faithful cooperation in carrying out all the purposes of this compact.

Article III.

The compacting states and territories hereby create the Western Interstate Commission for Higher Education, hereinafter called the Commission. The Commission shall be a body corporate of each compacting state and territory and an agency thereof. The Commission shall have all the powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

Article IV.

The Commission shall consist of three resident members from each compacting state or territory. At all times one commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which he is appointed.

The commissioners from each state and territory shall be appointed by the governor as provided by law in the state or territory. Any commissioner may be removed or suspended from office as provided by the law of the state or territory from which he shall have been appointed.

The terms of each commissioner shall be four years. Each commissioner shall hold office until his successor shall be appointed and qualified. If any office becomes vacant for any reason, the governor shall appoint a commissioner to fill the office for the remainder of the unexpired term.

Article V.

Any business transacted at any meeting of the Commission must be by affirmative vote of a majority of the whole number of compacting states and territories.

One or more commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business.

Each compacting state and territory represented at any meeting of the Commission is entitled to one vote.

Article VI.

The Commission shall elect from its number a chairman and a vice chairman, and may appoint, and at its pleasure dismiss or remove, such officers, agents, and employees as may be required to carry out the purpose of this Compact. The Commission shall fix and determine their duties, qualifications, and compensation, having due regard for the importance of the responsibilities involved.

The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the Commission.

Article VII.

The Commission shall adopt a seal and bylaws and shall adopt and promulgate rules and regulations for its management and control.

The Commission may elect such committees as it deems necessary for the carrying out of its functions.

The Commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The Chairman may call such additional meetings and upon the request of a majority of the commissioners of three or more compacting states or territories shall call additional meetings.

The Commission shall submit a budget to the governor of each compacting state and territory at such time and for such period as may be required.

The Commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the Region.

Prior to January 16 of each year, the Commission shall submit to the governors and legislatures of the compacting states and territories a report of its activities for the preceding calendar year.

The Commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the governor of any compacting state or territory or his designated representative. The Commission shall not be subject to the audit in the accounting procedure of any of the compacting states or territories. The Commission shall provide for an independent annual audit.

Article VIII.

It is the duty of the Commission to enter in such contractual agreements with any institutions in the Region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the Commission to provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The Commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health, and veterinary medicine, and may undertake similar activities in other professional and graduate fields.

For this purpose the Commission may enter into contractual agreements:

(a) with the governing authority of any educational institution in the Region, or with any compacting state or territory, to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties; and

(b) with the governing authority of an educational institution in the Region or with any compacting state or territory to assist in the placement of graduate or professional students in educational institutions in the Region providing the desired service and facilities, upon such terms and conditions as the Commission may prescribe.

It is the duty of the Commission to undertake studies of needs for professional and graduate educational facilities in the Region, the resources for meeting those needs, and the long-range effects of the Compact on higher education; and from time to time to prepare comprehensive reports on such research for presentation to the Western Governors' Conference and to the legislatures of the compacting states and territories. In conducting the studies, the Commission may confer with any national or regional planning body which may be established. The Commission shall draft and recommend to the governors of the various compacting states and territories, uniform legislation dealing with problems of higher education in the Region.

For the purposes of this Compact, "Region" means the geographical limits of the several compacting states and territories.

Article IX.

The operating costs of the Commission shall be apportioned equally among the compacting states and territories.

Article X.

This Compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska, and Hawaii have duly adopted it. This Compact shall become effective as to any additional states or territories adopting thereafter at the time of such adoption.

Article XI.

This Compact may be terminated at any time by consent of a majority of the compacting states or territories. Consent shall be manifested by passage and signature in the usual manner of legislation expressing that consent by the Legislature and governor of the terminating state. Any state or territory may at any time withdraw from this Compact by means of appropriate legislation to that end. The withdrawal is not effective until two years after written notice by the governor of the withdrawing state or territory accompanied by a certified copy of the

requisite legislative action is received by the Commission. The withdrawal shall not relieve the withdrawing state or territory from its obligations under the compact accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the two-year period. Thereafter, the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the Commission.

Article XII.

If any compacting state or territory at any time defaults in the performance of any of its obligations assumed or imposed in accordance with this Compact, all rights, privileges, and benefits conferred by this Compact or agreements under the Compact are suspended from the effective date of that default as fixed by the Commission.

Unless the default is remedied within a period of two years following the effective date of the default, this Compact may be terminated with respect to the defaulting state or territory by affirmative vote of 3/4 of the other member states or territories.

The defaulting state may be reinstated by: (a) performing all acts and obligations upon which it has defaulted; and (b) application to and the approval by a majority vote of the Commission.

Section 30. Section 53H-1-702.1, which is renumbered from Section 53B-4-103 is renumbered and amended to read:

[~~53B-4-103~~]53H-1-702.1 (Effective upon governor's approval). WICHE Compact -- Commissioners -- Duties -- Records of academic progress -- Cancellation of student registration.

(1) The commissioners are the three resident members from the state of Utah, required by Article IV of the compact, and are authorized to function as representatives of the state on the Western Interstate Commission for Higher Education.

(2) The commissioners' duties are as follows:

(a) to study the need for professional and graduate educational facilities not available within this state;

(b) to recommend appropriations to meet the needs of this act;

(c) to provide for screening of all applicants for professional, graduate, or higher educational study not available within the state in accordance with established rules; and

(d) to certify to out of state institutions under the compact all acceptable candidates.

(3) An applicant may not be certified unless the applicant has been a bona fide resident of the state for at least the five years prior to the date of application.

(4) (a) Students must maintain continuous Utah residency during [~~their~~]the students' attendance at an out of state institution in order to receive financial support under the compact.

(b) If Utah residency is terminated by a student during any academic year in which the student has received financial support under the compact, the support shall be relinquished and terminated at the end of that academic year.

(5) (a) The Commissioner of Higher Education shall maintain records of the academic progress of Utah students receiving financial support under the compact while attending out of state institutions.

(b) If the records reveal a student is not progressing satisfactorily, upon recommendation of the out of state institution, the commissioner shall cancel the student's registration and withhold future payments otherwise due.

Section 31. Section 53H-1-703, which is renumbered from Section 53B-16-109 is renumbered and amended to read:

[~~53B-16-109~~]53H-1-703 (Effective upon governor's approval). Interstate reciprocity agreement regarding postsecondary distance education courses.

(1) As used in this section:

(a) "Distance education" means instruction offered by a means where the student and faculty member are in separate physical locations.

(b) " Eligible Institution" means a degree-granting postsecondary education entity.

(c) "Postsecondary education" means education or educational services offered primarily to an individual who:

(i) has completed or terminated the individual's secondary or high school education; or

(ii) is beyond the age of compulsory school attendance.

(2) The board may execute an interstate reciprocity agreement for postsecondary distance education:

(a) for an eligible institution that offers a postsecondary distance education course or program; and

(b) that requires an eligible institution to meet certain standards to become authorized to operate under the interstate reciprocity agreement.

(3) If the board executes an interstate reciprocity agreement under Subsection (2), the board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) standards for granting an eligible institution authorization to operate under the interstate reciprocity agreement;

(b) a filing, document, or membership fee required for an eligible institution to obtain authorization under the interstate reciprocity agreement; and

(c) a process for administering the interstate reciprocity agreement.

Section 32. Section 53H-2-101 is enacted to read:

CHAPTER 2. Private Institutions

PART 1. General Provisions

53H-2-101 (Effective upon governor's approval). General Provisions -- Definitions.

Reserved.

Section 33. Section 53H-2-102, which is renumbered from Section 53B-1-103 is renumbered and amended to read:

[~~53B-1-103~~]53H-2-102 (Effective upon governor's approval). Application to private institutions.

[~~(1) (a) As used in this title, "private postsecondary educational institution" means an institution that:~~]

[~~(i) does not receive direct funding through state appropriations; and~~]

[~~(ii) provides higher education programs.~~]

[~~(b) "Private postsecondary educational institution" includes:~~]

[~~(i) a private nonprofit college or university; and~~]

[~~(ii) a private for-profit college or university.~~]

[~~(2)~~](1) Except as expressly provided, the provisions of this title do not apply to a private postsecondary educational institution.

(2) The following sections of this title expressly provide for application to a private postsecondary educational institution:

(a) Section 53H-3-503;

(b) Section 53H-3-304;

(c) Section 53H-3-604;

(d) Section 53H-3-1001;

(e) Section 53H-4-202;

(f) Section 53H-6-201;

(g) Section 53H-8-611;

(h) Chapter 10, Part 3, Student Prosperity Savings Program;

(i) Section 53H-11-402

(j) Section 53H-11-403;

(k) Section 53H-11-407;

(l) Section 53H-11-409;

(m) Section 53H-11-411;

(n) Section 53H-11-412;

(o) Section 53H-11-413;

(p) Section 53H-11-414;

(q) Chapter 14, Part 4, Confidential Communications for Institutional Advocacy Services; and

(r) Chapter 16, Nucleus Institute.

Section 34. Section 53H-3-101 is enacted to read:

CHAPTER 3. Institutions of Higher Education Generally

PART 1. General Provisions

53H-3-101 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 35. Section 53H-3-102, which is renumbered from Section 53B-2-101 is renumbered and amended to read:

[~~53B-2-101~~]53H-3-102 (Effective upon governor's approval). Institutions of higher education -- Corporate bodies -- Powers.

(1) The [~~following~~] institutions of higher education and the board listed in Section 53H-1-102 are bodies politic and corporate with perpetual succession and with all rights, immunities, and franchises necessary to function as such [~~:~~].

[~~(a) the University of Utah;~~]

[~~(b) Utah State University;~~]

[~~(c) Weber State University;~~]

[~~(d) Southern Utah University;~~]

[~~(e) Snow College;~~]

[~~(f) Utah Tech University;~~]

[~~(g) Utah Valley University;~~]

[~~(h) Salt Lake Community College;~~]

[~~(i) Bridgerland Technical College;~~]

[~~(j) Davis Technical College;~~]

[~~(k) Dixie Technical College;~~]

[~~(l) Mountainland Technical College;~~]

[~~(m) Ogden-Weber Technical College;~~]

[~~(n) Southwest Technical College;~~]

[~~(o) Tooele Technical College; and~~]

[~~(p) Uintah Basin Technical College.~~]

(2) (a) An institution of higher education and the board may have and use a corporate seal and may, subject to this title, take, hold, lease, sell, and convey real and personal property as the interest of the institution requires.

(b) An institution of higher education and the board is vested with all the property, franchises, and endowments of, and is subject to, all the contracts, obligations, and liabilities of the institution's respective predecessor.

(c) (i) An institution of higher education and the board may enter into business relationships or dealings with private seed or venture capital entities or partnerships consistent with Utah Constitution, Article VI, Section 29, Subsection (2).

(ii) A business dealing or relationship entered into under Subsection (2)(c)(i) does not preclude the private entity or partnership from participating in or receiving benefits from a venture capital program authorized or sanctioned by the laws of this state, unless otherwise precluded by the specific law that authorizes or sanctions the program.

Section 36. Section 53H-3-201 is enacted to read:

PART 2. Boards of Trustees

53H-3-201 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 37. Section 53H-3-202, which is renumbered from Section 53B-2-103 is renumbered and amended to read:

[~~53B-2-103~~]53H-3-202 (Effective upon governor's approval). Degree-granting institution board of trustees -- Powers and duties.

(1) A degree-granting institution has a board of trustees that may act on behalf of the degree-granting institution in performing duties, responsibilities, and functions as may be specifically authorized to the board of trustees by the board or by statute.

(2) A board of trustees of a degree-granting institution has the following powers and duties:

(a) to facilitate communication between the degree-granting institution and the community;

(b) to assist in planning, implementing, and executing fund raising and development projects aimed at supplementing institutional appropriations;

(c) to perpetuate and strengthen alumni and community identification with the degree-granting institution's tradition and goals;

(d) to select recipients of honorary degrees; and

(e) to approve changes to the degree-granting institution's programs, in accordance with Section [~~53B-16-102~~]53H-3-603.

(3) A board of trustees of a degree-granting institution shall:

(a) approve a strategic plan for the degree-granting institution [~~of higher education~~] that is aligned with:

(i) state attainment goals;

(ii) workforce needs;

(iii) board goals and metrics described in Section [~~53B-1-402~~]53H-1-203; and

(iv) the [~~institution of higher education's~~]degree-granting institution's role, mission, and distinctiveness; and

(b) monitor the [~~institution of higher education's~~]degree-granting institution's progress toward achieving the strategic plan.

Section 38. Section 53H-3-203, which is renumbered from Section 53B-2-104 is renumbered and amended to read:

[~~53B-2-104~~]53H-3-203 (Effective upon governor's approval). Degree-granting institution board of trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Bylaws -- Quorum -- Committees -- Compensation.

(1) As used in this section, "board of trustees" means the board of trustees for a degree-granting institution.

(2) (a) The board of trustees [~~of a degree-granting institution~~]consists of the following:

(i) except as provided in Subsection (2)(c), eight individuals appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies; and

(ii) two ex officio members who are the president of the institution's alumni association, and the president of the associated students of the institution.

(b) In making the appointments described in Subsections (2)(a)(i) and (2)(c)(i), the governor:

(i) shall ensure that the membership of a board of trustees includes representation of interests of business, industry, and labor; and

(ii) may not appoint an individual to more than two consecutive full terms.

(c) (i) The board of trustees of Utah State University has nine individuals appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(ii) One of the nine individuals described in Subsection (2)(c)(i) shall reside in the Utah State University Eastern service region or the Utah State University Blanding service region.

(3) (a) The governor shall appoint four members of each board of trustees during each odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

(b) Except as provided in Subsection (3)(d), a member appointed under Subsection (2)(a)(i) or (2)(c)(i) holds office until a successor is appointed and qualified.

(c) The ex officio members serve for the same period as [~~they~~]each ex officio member serves as [~~presidents~~]president and until [~~their~~]the ex officio member's successors have qualified.

(d) (i) The governor may remove a member appointed under Subsection (2)(a)(i) or (2)(c)(i) for cause.

(ii) The governor shall consult with the president of the Senate before removing a member in accordance with Subsection (3)(d)(i).

(4) When a vacancy occurs in the membership of a board of trustees for any reason, the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

(5) (a) Each member of a board of trustees shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(6) A board of trustees shall elect a chair and vice chair, who serve for two years and until [~~their~~]the chair and vice chair's successors are elected and qualified.

(7) (a) A board of trustees may enact bylaws for the board of trustees' own government, including provisions for regular meetings.

(b) (i) A board of trustees may provide for an executive committee in the board of trustees' bylaws.

(ii) If established, an executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) An executive committee shall report the executive committee's activities to the board of trustees at the board of trustees' next

regular meeting following the action.

(c) Copies of a board of trustees' bylaws shall be filed with the board.

(8) A quorum is required to conduct business and consists of six members.

(9) A board of trustees may establish advisory committees.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) A board of trustees member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 39. Section 53H-3-204, which is renumbered from Section 53B-2a-110 is renumbered and amended to read:

[~~53B-2a-110~~]53H-3-204 (Effective upon governor's approval). Technical college board of trustees' powers and duties.

(1) A technical college board of trustees shall:

(a) assist the technical college president in preparing a budget request for the technical college's annual operations to the board;

(b) after consulting with the board, other higher education institutions, school districts, and charter schools within the technical college's region, assist the technical college president in preparing a comprehensive strategic plan for delivering technical education within the region;

(c) in accordance with Section [~~53B-16-102~~]53H-3-603, approve programs, including expedited program approval and termination procedures to meet market needs;

(d) adopt an annual budget and fund balances;

(e) conduct annual program evaluations;

(f) (i) approve a strategic plan for the technical college that is aligned with:

(A) state attainment goals;

(B) workforce needs;

(C) the technical college's role, mission, and distinctiveness; and

(D) board goals and metrics described in Section [~~53B-1-402~~]53H-1-203; and

(ii) monitor the technical college's progress toward achieving the strategic plan; and

(g) act on behalf of the technical college in performing other duties as authorized by the board or by statute.

(2) A technical college board of trustees may not exercise jurisdiction over career and technical education provided by a school district or charter school or provided by a higher education institution independently of the technical college.

Section 40. Section 53H-3-205, which is renumbered from Section 53B-2a-108 is renumbered and amended to read:

[~~53B-2a-108~~]53H-3-205 (Effective upon governor's approval). Technical college boards of trustees -- Membership -- Appointments.

(1) As used in this section [~~:~~],

(a) "Higher education institution" means the same as that term is defined in Section [~~53B-2a-112~~]53H-9-603.

(b) "Technical college service area" means the geographic area served by each technical college as described in Section [~~53B-2a-105~~]53H-3-1202.

(2) A technical college board of trustees consists of:

(a) one member of the local school board for each school district in the technical college service area, appointed by the local school board to which the member belongs;

(b) except as provided in Subsection (3)(b), one individual who is a member of the higher education institution board of trustees, appointed by the higher education institution board of trustees; and

(c) a number of individuals, appointed by the governor with the advice and consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies, that is:

(i) seven for:

(A) Tooele Technical College;

(B) Uintah Basin Technical College; and

(C) Dixie Technical College;

(ii) eight for:

(A) Bridgerland Technical College;

(B) Ogden-Weber Technical College;

(C) Davis Technical College; and

(D) Southwest Technical College; or

(iii) nine for Mountainland Technical College.

(3) (a) In appointing the members described in Subsection (2)(c), the governor shall appoint individuals who represent the interests of business, industry, or labor in the technical college service area.

(b) If no member of the institution of higher education board of trustees lives within the technical college service area, the institution of higher education board of trustees may nominate an individual to be appointed by the governor with the advice and consent of the Senate instead of appointing a member described in Subsection (2)(b).

(4) (a) The governor may remove a member appointed under Subsection (2)(c) or (3)(b)for cause.

(b) The governor shall consult with the president of the Senate before removing a member appointed under Subsection (2)(c) or (3)(b).

(5) A member described in Subsection (2)(c) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24,

Part 3, Conflicts of Interest.

Section 41. Section 53H-3-206, which is renumbered from Section 53B-2a-109 is renumbered and amended to read:
[~~53B-2a-109~~]53H-3-206 (Effective upon governor's approval). Technical college boards of trustees -- Terms -- Quorum -- Chair -- Compensation.

(1) (a) Except as provided in this Subsection (1), a member of a technical college board of trustees is appointed to a four-year term.

(b) The governor may appoint a member described in Subsection [~~53B-2a-108(2)(c)~~]53H-3-205(2)(c) to a two-year term to ensure that the terms of approximately half of the members described in Subsection [~~53B-2a-108(2)(c)~~]53H-3-205(2)(c) expire every other year.

(c) When a vacancy occurs in the membership of a technical college board of trustees, the appointing authority for the vacant position described in Section [~~53B-2a-108~~]53H-3-205 shall appoint a replacement for the remainder of the term.

(d) An appointed member holds office until a successor is appointed in accordance with Section [~~53B-2a-108~~]53H-3-205.

(2) A member of a technical college board of trustees may not hold office for more than two consecutive full terms.

(3) A majority of a technical college board of trustees is a quorum.

(4) A technical college board of trustees shall elect a chair from the technical college board of trustees' membership.

(5) A member of a technical college board of trustees may not receive compensation or benefits for the member of the technical college board of trustees' service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) (a) A technical college board of trustees may enact bylaws for the technical college board of trustees' own government, including provisions for regular meetings, that are in accordance with the policies of the board.

(b) (i) A technical college board of trustees may provide for an executive committee in the technical college board of trustees' bylaws.

(ii) If established, an executive committee shall have the full authority of the technical college board of trustees to act upon routine matters during the interim between board of trustees' meetings.

(iii) An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) An executive committee shall report the executive committee's activities to the technical college board of trustees at the technical college board of trustees' next regular meeting following the activities.

(7) A technical college board of trustees may establish advisory committees.

Section 42. Section 53H-3-301 is enacted to read:

PART 3. Presidents

53H-3-301 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 43. Section 53H-3-302, which is renumbered from Section 53B-2-102 is renumbered and amended to read:
[~~53B-2-102~~]53H-3-302 (Effective upon governor's approval). Appointment of institution of higher education presidents.

(1) As used in this section:

[~~(a) "Institution of higher education" means:~~]

[~~(i) a degree-granting institution; or~~]

[~~(ii) a technical college.~~]

[~~(b)~~](a) "President" means the president of an institution of higher education.

[~~(c)~~](b) "Search committee" means a committee that selects finalists for a position as an institution of higher education president.

(2) The board shall appoint a president for each institution of higher education.

(3) A president serves in accordance with the terms of employment that the board establishes as described in Section [~~53B-1-402~~]53H-1-203.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), to appoint a president, the board shall establish a search committee that includes representatives of faculty, staff, students, the institution of higher education board of trustees, alumni, the outgoing president's executive council or cabinet, and the board.

(ii) The board may delegate the authority to appoint the search committee to an institution of higher education board of trustees.

(iii) The commissioner shall provide staff support to a search committee.

(b) (i) Except as provided in Subsection (4)(b)(ii), a member of the board and a member of the institution of higher education board of trustees shall cochair a search committee.

(ii) The board may delegate the authority to chair a search committee to the institution of higher education board trustees.

(c) A search committee shall:

(i) respect and protect candidate confidentiality; and

(ii) through closed executive sessions:

(A) review prospective candidates; and

(B) forward three prioritized finalists to the board to consider for a position as a president.

(d) A search committee may not forward an individual to the board as a finalist unless a majority of the search committee members, as verified by the commissioner, find the individual to be qualified and likely to succeed as a president.

(5) (a) The board shall select an institution of higher education president from among the finalists a search committee presents to the board under Subsections (4)(c) and (5)(b).

(b) If the board is not satisfied with the finalists a search committee presents to the board, the board may direct the search committee

to resume the search process and submit three additional prioritized finalists until the search committee presents a finalist whom the board approves.

(6) The board, through the commissioner, shall:

(a) create a comprehensive, active recruiting plan to ensure a strong, diverse pool of potential candidates for presidents; and

(b) review, in a closed executive session, individuals from within the system whose candidacy may be considered for future applicant pools in relation to the succession plan described in Section [~~53B-1-402~~]53H-1-203.

(7) A record or information gathered or generated during the search process, including a candidate's application and the search committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

(8) The board shall take final hiring action of a president in an open and public board meeting.

Section 44. Section 53H-3-303, which is renumbered from Section 53B-2-106 is renumbered and amended to read:

[~~53B-2-106~~]53H-3-303 (Effective upon governor's approval). Duties and responsibilities of the president of an institution of higher education -- Approval by board of trustees.

(1) As used in this section [~~:~~],

[~~(a) "Institution" means:~~]

[~~(i) a degree-granting institution; or~~]

[~~(ii) a technical college.~~]

[~~(b) "President"~~]"president" means the president of an institution.

(2) The president of each institution may exercise grants of power and authority as the board delegates, as well as the necessary and proper exercise of powers and authority not denied to the institution or the institution's administration, faculty, or students by the board or by law, to ensure the effective and efficient administration and operation of the institution consistent with the statewide strategic plan for higher education.

(3) A president may:

(a) appoint or employ administrative officers, deans, faculty members, professional personnel, and support personnel;

(b) prescribe duties for a position described in Subsection (3)(a); and

(c) determine the salary for an employed position described in Subsection (3)(a), in accordance with the institution's human resources policies.

(4) (a) A president may, after consultation with the institution's board of trustees, exercise powers related to the institution's employees, including faculty and persons under contract with the institution, by implementing:

(i) policies governing personnel;

(ii) furloughs;

(iii) reductions in force;

(iv) program reductions or discontinuance;

(v) early retirement incentives that provide cost savings to the institution; or

(vi) other measures that provide cost savings, facilitate efficiencies, or otherwise enable the institution to meet the institution's mission and role.

(5) A president shall:

(a) control and manage the budget and finances of the institution, including by, as determined by the president:

(i) establishing the institution's budget; and

(ii) establishing or adjusting administrative or academic unit budgets; and

(b) subject to Section [~~53B-7-101~~]53H-8-202, establish:

(i) tuition for the institution, including both resident and nonresident tuition if the institution is a degree-granting institution, subject to the approval of the board as described in Section [~~53B-1-402~~]53H-1-203; and

(ii) fees and other charges for the institution; and

(c) establish the organization and structure of the institution, including by, as determined by the president, creating, merging, or eliminating a college, department, or other administrative or academic unit of the institution [~~;~~].

(6) Subject to the approval of the institution's board of trustees, a president:

(a) shall establish a budgetary policy, such as policy regarding benefits and endowment investments;

(b) subject to Section [~~53B-2-106.1~~]53H-3-406, shall provide for the constitution, government, and organization of the faculty and administration, including:

(i) enacting and implementing rules;

(ii) ensuring that the faculty may only have jurisdiction over:

(A) academic requirements for admission, degrees, and certificates; and

(B) course curriculum and instruction;

(iii) permitting faculty to have jurisdiction over a matter other than a matter described in Subsection (6)(b)(ii) only if the following entities expressly authorize or delegate such power:

(A) the Legislature;

(B) the board;

(C) institution's board of trustees; or

(D) the institution's president; and

(iv) if the institution is a degree-granting institution, the establishment of a prescribed system of tenure; and

(c) may authorize the faculty to determine the general initiation and direction of instruction and of the examination, admission, and classification of students.

(7) A president may establish policies for the administration and operation of the institution that:

(a) are consistent with the institution's role that the board establishes, rules which the board enacts, and the laws of the state; and

(b) may provide for:

(i) administrative, faculty, student, and joint committees with jurisdiction over specified institutional matters;

(ii) student government and student affairs organizations;

(iii) the establishment of institutional standards in furtherance of the ideals of higher education to which the institution and the institution's administration, faculty, and students subscribe and foster; and

(iv) the holding of classes on legal holidays, other than Sunday.

(8) A president shall manage the president's institution as a part of the Utah System of Higher Education.

(9) In performing any of the acts described in this section, a president may, in the president's sole discretion, seek input from the institution's faculty, staff, or students.

(10) The board shall establish guidelines relating to the roles and relationships between presidents and boards of trustees, including those matters for which law requires the approval of a board of trustees before implementation by the president.

(11) (a) A president is subject to regular review and evaluation that the board administers, in consultation with the institution's board of trustees, through a process the board approves.

(b) Only the board may formally assess a president's performance, formally declare a president's standing, or take other formal action to evaluate a president.

Section 45. Section 53H-3-304, which is renumbered from Section 53B-20-107 is renumbered and amended to read:

[~~53B-20-107~~]53H-3-304 (Effective upon governor's approval). Powers of chief administrative officer to order individuals off an institution of higher education's property.

(1) As used in this section:

(a) "Chief administrative officer" means the president of an institution of higher education or an individual designated by the president.

(b) "Institution of higher education" means:

(i) [~~a state~~]an institution of higher education as defined in Section [~~53B-3-102~~]53H-1-101; or

(ii) a private postsecondary educational institution.

(2) It is the purpose of this section to:

(a) supplement and clarify the power vested in the governing board of each institution of higher education; and

(b) regulate, conduct, and enforce law and order on property owned, operated, or controlled by each institution of higher education.

(3) A chief administrative officer may order an individual to leave property that is owned, operated, or controlled by an institution of higher education if:

(a) the individual acts, or if the chief administrative officer has reasonable cause to believe that the individual intends to act, to:

(i) cause injury to an individual;

(ii) cause damage to property;

(iii) commit a crime;

(iv) interfere with the peaceful conduct of the activities of the institution of higher education;

(v) violate a rule or regulation of the institution of higher education if that rule or regulation is not in conflict with state law; or

(vi) disrupt the institution of higher education, the institution's pupils, or the institution of higher education's activities; or

(b) the individual is reckless as to whether the individual's actions will cause fear for the safety of another individual.

(4) (a) If a law enforcement agency or security department of an institution of higher education lacks sufficient manpower to deal effectively with a condition of unrest existing or developing on a campus or related facility of the institution of higher education in the judgment of the chief administrative officer, the chief administrative officer may call for assistance from the county sheriff of the county, a city law enforcement agency, or the Department of Public Safety.

(b) Upon receipt of the request under Subsection (4)(a), the county sheriff, a city law enforcement agency, or the Department of Public Safety must render all necessary assistance without expense to the institution of higher education.

(c) All personnel while rendering assistance to the institution of higher education shall serve under the general direction of the chief administrative officer.

(5) Nothing in this section shall limit:

(a) the right or duty of a local law enforcement agency to enforce the law which the local law enforcement agency had prior to this enactment; or

(b) the right of a state or local law enforcement agency to enforce the laws of this state.

Section 46. Section 53H-3-305, which is renumbered from Section 53B-2a-107 is renumbered and amended to read:

[~~53B-2a-107~~]53H-3-305 (Effective upon governor's approval). Technical college presidents.

(1) The board shall appoint a president for each technical college in accordance with Section [~~53B-2-102~~]53H-3-302.

(2) A technical college president is the chief executive officer of the technical college.

(3) A technical college president:

(a) does not need to have a doctorate degree; and

(b) shall have extensive experience in career and technical education.

(4) In addition to the duties described in Section [~~53B-2-106~~]53H-3-303, a technical college president shall:

(a) after consulting with the board, other institutions of higher education, school districts, and charter schools within the technical college's region, prepare a comprehensive strategic plan for delivering technical education within the region;

(b) consult with business, industry, the Department of Workforce Services, the Governor's Office of Economic Opportunity, and the Governor's Office of Planning and Budget on an ongoing basis to determine what workers and skills are needed for employment in Utah

businesses and industries;

(c) coordinate with local school boards, school districts, and charter schools to meet the technical education needs of secondary students; and

(d) develop policies and procedures for the admission, classification, instruction, and examination of students in accordance with the policies and accreditation guidelines of the board and the State Board of Education.

Section 47. Section 53H-3-401 is enacted to read:

PART 4. Employees

53H-3-401 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 48. Section 53H-3-402, which is renumbered from Section 53B-1-110 is renumbered and amended to read:

[~~53B-1-110~~]53H-3-402 (Effective upon governor's approval). Criminal background checks of prospective and existing employees of higher education institutions -- Institutions to adopt policy.

(1) As used in this section [~~:~~].

(a) "Institution" means an institution and the board listed in [~~Section 53B-1-102~~]Subsection 53H-1-102(1).

(b) "Minor" means a person younger than 21 years old.

(2) An institution and the board listed in Subsection 53H-1-102(1) shall adopt a policy providing for criminal background checks of:

(a) prospective employees of institutions; and

(b) existing employees of institutions, where reasonable cause exists.

(3) (a) The policy shall require that:

(i) an applicant for any position that involves significant contact with minors or any position considered to be security sensitive by an institution or [~~its~~]the institution's designee shall submit to a criminal background check as a condition of employment; and

(ii) an existing employee submit to a criminal background check, where reasonable cause exists.

(b) Subsection (3)(a)(i) does not apply to adjunct faculty positions.

(c) The policy may allow or require applicants for positions other than those described in Subsection (3)(a)(i) to submit to a criminal background check as a condition of employment.

(d) The policy may allow criminal background checks for new employees to be phased in over a two-year period.

(4) The applicant or employee shall receive written notice that the background check has been requested.

(5) Each applicant or employee subject to a criminal background check under this section shall, if required by the institution:

(a) be fingerprinted; and

(b) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(6) (a) Institutions may request the Utah Bureau of Criminal Identification to conduct criminal background checks of prospective employees and, where reasonable cause exists, existing employees pursuant to an institution's policy.

(b) At the request of an institution, the Utah Bureau of Criminal Identification shall:

(i) release the individual's full record of criminal convictions to the administrator requesting the information; and

(ii) seek additional information from regional or national criminal data files in responding to inquiries under this section.

(c) Information received by the Utah Bureau of Criminal Identification from entities other than agencies or political subdivisions of the state may not be released to a private entity unless the release is permissible under applicable laws or regulations of the entity providing the information.

(d) Except as provided in Subsection (7), the institution shall pay the cost of background checks conducted by the Utah Bureau of Criminal Identification, and the money collected shall be credited to the Utah Bureau of Criminal Identification to offset [~~its~~]the Utah Bureau of Criminal Identification's expenses.

(7) An institution may by policy require an applicant to pay the costs of a criminal background check as a condition of employment.

(8) The applicant or employee shall have an opportunity to respond to any information received as a result of the criminal background check.

(9) If a person is denied employment or is dismissed from employment because of information obtained through a criminal background check, the person shall receive written notice of the reasons for denial or dismissal and have an opportunity to respond to the reasons under procedures established by an institution in policy.

Section 49. Section 53H-3-403, which is renumbered from Section 53B-1-119 is renumbered and amended to read:

[~~53B-1-119~~]53H-3-403 (Effective upon governor's approval). Bereavement leave for miscarriage and stillbirth.

(1) As used in this section "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

(2) An institution shall adopt policies providing at least three work days of paid bereavement leave for an employee following the end of the employee's pregnancy by way of miscarriage or stillbirth or following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(a) the employee is the individual's spouse or partner;

(b) the employee is the individual's former spouse or partner and the employee would have been a biological parent of a child born as a result of the pregnancy;

(c) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 81-13-101, of a child born as a result of the pregnancy; or

(d) under a valid gestational agreement in accordance with Title 81, Chapter 5, Part 8, Gestational Agreement, the employee would

have been a parent of a child born as a result of the pregnancy.

Section 50. Section 53H-3-404, which is renumbered from Section 53B-2-115 is renumbered and amended to read: [~~53B-2-115~~]53H-3-404 (Effective upon governor's approval). Institution of higher education required to provide leave to a legislator on an authorized legislative day.

(1) As used in this section:

(a) "Authorized legislative day" means:

(i) the day on which the Legislature convenes in annual general session, and each day after that day, until midnight of the 45th day of the annual general session;

(ii) a special session day;

(iii) a veto override session day;

(iv) an interim day designated by the Legislative Management Committee;

(v) an authorized legislative training day; or

(vi) any other day on which a meeting of a committee, subcommittee, commission, task force, or other entity is held, if:

(A) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;

(B) the legislator's attendance at the meeting is approved by the Legislative Management Committee; and

(C) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.

(b) "Authorized legislative training day" means a day that a Legislative Expenses Oversight Committee designates as an authorized legislative day for training or informational purposes, including:

(i) chair training;

(ii) an issue briefing;

(iii) legislative leadership instruction;

(iv) legislative process training;

(v) legislative rules training;

(vi) new legislator orientation; or

(vii) another meeting to brief, instruct, orient, or train a legislator in relation to the legislator's official duties.

(c) "Legislator" means:

(i) a member of the Utah Senate;

(ii) a member of the Utah House of Representatives; or

(iii) an individual who has been elected as a member described in Subsection (1)(c)(i) or (ii), but has not yet been sworn in or begun the individual's term of office.

(d) "Retaliatory action" means to:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(d)(i) through (iv).

(2) Except as provided in Subsection (4), an institution of higher education and the board listed in Subsection 53H-1-102(1) that employs an individual who is a legislator:

(a) shall grant leave to the individual on an authorized legislative day for the number of hours requested by the individual;

(b) may not interfere with, or otherwise restrain the individual from, using the leave described in Subsection (2)(a); and

(c) may not take retaliatory action against the individual for using the leave described in Subsection (2)(a).

(3) The leave described in Subsection (2) is leave without pay unless the institution of higher education or the board and the individual described in Subsection (2) agree to terms that are more favorable to the individual.

(4) An institution of higher education or the board is not required to comply with Subsection (2) if the institution board of trustees of the institution of higher education determines that complying with the requirement would cause the institution of higher education significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the institution of higher education's operations.

Section 51. Section 53H-3-405, which is renumbered from Section 53B-2-114 is renumbered and amended to read: [~~53B-2-114~~]53H-3-405 (Effective upon governor's approval). Degree-granting institution attorneys -- Appointment -- Duties.

(1) Recognizing the status of [~~institutions~~]degree-granting institutions within the Utah System of Higher Education as bodies politic and corporate, the president of a degree-granting institution may appoint attorneys to:

(a) provide legal advice to the degree-granting institution's administration; and

(b) coordinate legal affairs within the degree-granting institution.

(2) [~~An~~]A degree-granting institution shall fund compensation costs and related office expenses for an attorney described in Subsection (1) within existing budgets.

(3) The board shall coordinate the activities of attorneys described in Subsection (1).

(4) An attorney described in Subsection (1):

(a) may not:

(i) conduct litigation;

(ii) settle a claim covered by the State Risk Management Fund; or

(iii) issue a formal legal opinion; and

(b) shall cooperate with the Office of the Attorney General in providing legal representation to a degree-granting institution.

Section 52. Section 53H-3-406, which is renumbered from Section 53B-2-106.1 is renumbered and amended to read:

[~~53B-2-106.1~~]53H-3-406 (Effective upon governor's approval). Tenure -- Reporting.

(1) A president of a degree-granting institution, in consultation with the degree-granting institution's board of trustees, shall make policies:

(a) related to tenure and post-tenure review; and

(b) ensuring that the terms and conditions of tenured employment are stated in writing and provided to a faculty member.

(2) Tenure and post-tenure policies shall:

(a) protect academic freedom in teaching, research, and in an individual's personal life;

(b) require that a final award of tenure be approved by the president of the degree-granting institution offering the award of tenure, in consultation with the board of trustees of the degree-granting institution; and

(c) comply with this section.

(3) [~~Beginning July 1, 2024, a~~]A tenured faculty member may be dismissed from employment at a degree-granting institution:

(a) for cause, including:

(i) professional incompetence;

(ii) serious misconduct or unethical behavior;

(iii) legal misconduct substantially related to the performance of duties;

(iv) serious violations of board or institution rules;

(v) the conviction of a crime affecting the fitness of the tenured faculty member to engage in teaching, research, service, outreach, administration, or other assigned duties;

(vi) falsified credentials or plagiarism; or

(vii) inability or unwillingness to meet institutional expectations, including failure to address deficiencies outlined in a remediation plan following post-tenure review;

(b) if the program in which the tenured faculty member works is discontinued by the degree-granting institution or modified to such a degree that the tenured faculty member's position is no longer needed; and

(c) in the event of financial exigency of the degree-granting institution.

(4) Policies governing dismissal of a tenured faculty member for cause shall include, at a minimum:

(a) notice to the tenured faculty member of the alleged cause, including any evidence supporting the allegation;

(b) providing reasonable time and opportunity for the tenured faculty member to respond;

(c) a hearing before an independent board of tenured faculty peers;

(d) a written determination on the issue, including a determination of termination or continued employment; and

(e) an appeals process ending with the final decision of the president of the degree-granting institution in consultation with the board of trustees of the degree-granting institution.

(5) A tenured faculty member who is being dismissed because the program in which the tenured faculty member works is discontinued or modified, as described in Subsection (3)(b), or in the event of financial exigency of the degree-granting institution, as described in Subsection (3)(c), shall receive severance in accordance with the terms of the tenured faculty member's employment contract.

(6) Nothing in this section prohibits a president of a degree-granting institution from creating additional policies and processes regarding discipline of a tenured faculty member.

(7) [~~Beginning July 1, 2024, a~~]A degree-granting institution shall conduct, and a tenured faculty member shall receive:

(a) an annual performance review of the tenured faculty member's performance; and

(b) a post-tenure review, as described in Subsection (9).

(8) A president of a degree-granting institution shall ensure that each program or department at the degree-granting institution has policies describing the minimum performance of a tenured faculty member for use in a post-tenure review.

(9) A post-tenure review shall:

(a) be conducted by a committee of:

(i) tenured faculty member peers, appointed by the appropriate vice president at the degree-granting institution in consultation with the faculty member's department chair, including at least two individuals appointed from either a different department than the tenured faculty member going through post-tenure review, a different degree-granting institution than the tenured faculty member going through post-tenure review, or both; and

(ii) the provost or the provost's designee; and

(b) consist of a comprehensive review of the tenured faculty member's performance over the previous five years, including:

(i) teaching assessment, including student evaluations, for all courses taught;

(ii) the quality of the tenured faculty member's scholarly research;

(iii) service to the profession, school, or community;

(iv) annual performance reviews;

(v) intellectual property owned wholly or partly by, or commercialization efforts attributed to, the tenured faculty member;

(vi) the tenured faculty member's compliance with the degree-granting institution's policies regarding the responsibilities and ethical obligations of faculty members; and

(vii) any improvement plans for underperformance.

(10) (a) If, following a post-tenure review, a tenured faculty member is found to not meet the standards established by the degree-granting institution, the degree-granting institution shall create a remediation plan to address deficiencies and a timeline by which the tenured faculty member is expected to address the deficiencies.

(b) A tenured faculty member who fails to address deficiencies as described in Subsection (10)(a) may be subject to disciplinary action from the degree-granting institution, including dismissal for cause, subject to the appeals process described in Subsection (4)(e).

(c) In consultation with the board of trustees, a president of a degree-granting institution who does not dismiss a tenured faculty member who fails to address deficiencies as described in Subsection (10)(a) shall justify in writing to the board why the tenured faculty member is not being dismissed.

(11) A president of a degree-granting institution shall provide an annual report to the board, no later than October 1 of each year, with the following information:

(a) the number of post-tenure reviews that took place at the degree-granting institution in the previous year;

(b) an analysis of scores from post-tenure reviews that took place in the previous year with personal information redacted;

(c) the number of post-tenure reviews from the previous year that resulted in a remediation plan;

(d) a qualitative summary of the types of remediation plans created in the previous year, including an average timeline by which tenured faculty members are expected to address deficiencies; and

(e) a summary of written justifications described in Subsection (10)(c), if any, with personal information redacted.

Section 53. Section 53H-3-501 is enacted to read:

PART 5. Notifications and Disclosures

53H-3-501 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 54. Section 53H-3-502, which is renumbered from Section 53B-1-111 is renumbered and amended to read:
[~~53B-1-111~~]53H-3-502 (Effective upon governor's approval). Organ donation notification.

(1) As used in this section:

(a) "Donor" means the same as that term is defined in Section [~~26B-4-137~~]26B-8-301.

(b) "Donor registry" means the same as that term is defined in Section [~~26B-4-137~~]26B-8-301.

[~~(c) "Institution of higher education" means an institution as described in Section 53B-3-102.~~]

(2) (a) An institution of higher education shall distribute, twice each academic year to each enrolled student:

(i) an electronic message notifying each student of the option to register as a donor by selecting the Internet link described in Subsection (2)(a)(ii); and

(ii) through the electronic message described in Subsection (2)(a)(i) an Internet link to a website for a donor registry established under Section 26B-8-319.

(b) An institution of higher education may also provide to students information on donor registry by other electronic, printed, or in-person means.

Section 55. Section 53H-3-503, which is renumbered from Section 53B-1-113 is renumbered and amended to read:
[~~53B-1-113~~]53H-3-503 (Effective upon governor's approval). Education loan notifications.

(1) As used in this section:

(a) "Borrower" means:

(i) an individual enrolled in an eligible postsecondary institution who receives an education loan; or

(ii) an individual, including a parent or legal guardian, who receives an education loan to fund education expenses of an individual enrolled in an eligible postsecondary institution.

(b) "Education loan" means a loan made to a borrower that is:

(i) made directly by a federal or state program; or

(ii) insured or guaranteed under a federal or state program.

(c) "Eligible postsecondary institution" means an entity that[~~a public or private postsecondary educational institution that~~]:

(i) [~~is located in Utah~~]is an institution of higher education or private postsecondary educational institution; and

(ii) participates in federal student assistance programs under the Higher Education Act of 1965, Title IV, 20 U.S.C. Sec. 1070 et seq.

(2) Annually, on or before July 1, an eligible postsecondary institution that receives information about a borrower's education loan shall:

(a) notify the borrower that the borrower has an education loan;

(b) direct the borrower to the National Student Loan Data System described in 20 U.S.C. Sec. 1092b to receive information about the borrower's education loan; and

(c) provide the borrower information on how the borrower can access an online repayment calculator.

(3) An eligible postsecondary institution does not incur liability for information provided to a borrower in accordance with this section.

Section 56. Section 53H-3-504, which is renumbered from Section 53B-1-112 is renumbered and amended to read:
[~~53B-1-112~~]53H-3-504 (Effective upon governor's approval). Disclosure requirements for institution programs.

(1) As used in this section:

(a) "Department" means the Department of Workforce Services.

[~~(b) "Institution" means an institution of higher education described in Section 53B-1-102.~~]

[~~(c)~~](b) "Job placement data" means information collected by the board, and based on information from the department, that reflects the job placement rate and industry employment information for a student who graduates from a program.

[~~(d)~~](c) (i) "Program" means a program of organized instruction or study at an institution that leads to:

(A) an academic degree;

(B) a professional degree;

(C) a vocational degree;

(D) a certificate of one year or greater or the direct assessment equivalent; or

(E) another recognized educational credential.

(ii) "Program" includes instruction or study that, in lieu of time as a measurement for student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others, if the assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment.

[~~(c)~~](d) "Student loan information" means the percentage of students at an institution who:

(i) received a Title IV loan authorized under:

(A) the Federal Perkins Loan Program;

(B) the Federal Family Education Loan Program; or

(C) the William D. Ford Direct Loan Program; and

(ii) fail to pay a loan described in Subsection (1)(e)(i)(A), (B), or (C).

[~~(d)~~](e) "Total costs" means:

(i) the estimated costs a student would incur while completing a program, including:

(A) tuition and fees; and

(B) books, supplies, and equipment; and

(ii) calculated based on a student's degree, the institution's average costs that would be incurred while a student completes a program and are subsidized by taxpayer contribution, including:

(A) tuition and fees; and

(B) other applicable expenses subsidized by taxpayer contribution for program completion.

[~~(e)~~](f) "Wage data" means information collected by the board, and based on information from the department, that reflects a student's wage the first year and fifth year after a student has successfully completed a program.

(2) (a) Except as provided in Subsection (4), for each program listed in an institution's course catalog or each program otherwise offered by the institution, the institution shall provide a conspicuous and direct link on the institution's website, subject to Subsection (2)(b), to the following information maintained by the board in accordance with Subsection (3):

(i) job placement data;

(ii) to the extent supporting data is available, student loan information;

(iii) total costs; and

(iv) wage data.

(b) An institution shall include the information described in Subsection (2)(a) on each institutional website that includes academic, cost, financial aid, or admissions information for a program.

(3) The commissioner, under the board's direction, shall:

(a) collect the information described in Subsection (2)(a);

(b) develop through user testing a format for the display of information described in Subsection (2)(a) that is easily accessible and informative; and

(c) maintain the information described in Subsection (2)(a) so that it is current.

(4) An institution is not subject to Subsection (2) for a program that the institution is required to report on under 34 C.F.R. Sec. 668.412.

(5) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the implementation and administration of this section.

Section 57. Section 53H-3-505, which is renumbered from Section 53B-1-101.8 is renumbered and amended to read:

[~~53B-1-101.8~~]53H-3-505 (Effective upon governor's approval). Health insurance mandates.

An institution of higher education shall include in a health plan it offers to [~~its~~]the institution of higher education's employees insurance mandates in accordance with Section 31A-22-605.5.

Section 58. Section 53H-3-601 is enacted to read:

PART 6. Institutional Programs and Courses of Study

53H-3-601 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 59. Section 53H-3-602, which is renumbered from Section 53B-16-101 is renumbered and amended to read:

[~~53B-16-101~~]53H-3-602 (Effective upon governor's approval). Establishment of institutional roles and general courses of study.

(1) Except as institutional roles are specifically assigned by the Legislature, the board:

(a) shall establish and define the roles of the various institutions of higher education; and

(b) shall, within each institution of higher education's primary role, prescribe the general course of study to be offered at the institution of higher education, including for:

(i) research universities, which provide undergraduate, graduate, and research programs and include:

(A) the University of Utah; and

(B) Utah State University;

(ii) regional universities, which provide career and technical education, undergraduate associate and baccalaureate programs, and select master's degree programs to fill regional demands and include:

(A) Weber State University;

(B) Southern Utah University;

(C) Utah Tech University; and

(D) Utah Valley University;

(iii) comprehensive community colleges, which provide associate programs and include:

(A) Salt Lake Community College; and

(B) Snow College; and

(iv) technical colleges and degree-granting institutions that provide technical education, and include:

(A) each technical college; and

(B) the degree-granting institutions described in Section [~~53B-2a-201~~]53H-3-608.

(2) (a) Except for the University of Utah, and subject to Subsection (2)(b), each institution of higher education described in Subsections (1)(b)(i) through (iii) has career and technical education included in the institution of higher education's primary role.

(b) The board shall determine the extent to which an institution described in Subsection (2)(a) provides career and technical education within the institution's primary role.

(3) The board shall further clarify each institution of higher education's primary role by clarifying:

(a) the level of program that the institution of higher education generally offers, in accordance with Subsection [~~53B-16-102(3)~~]53H-3-603(3);

(b) broad fields that are within the institution of higher education's mission; and

(c) any special characteristics of the institution of higher education, such as being a land grant university.

Section 60. Section 53H-3-603, which is renumbered from Section 53B-16-102 is renumbered and amended to read:

[~~53B-16-102~~]53H-3-603 (Effective upon governor's approval). Changes in curriculum -- Substantial alterations in institutional operations -- Program approval -- Periodic review of programs -- Career and technical education curriculum changes.

(1) As used in this section [~~:~~],

[~~(a) "Institution of higher education" means an institution described in Section 53B-1-102.~~]

[~~(b)~~ ~~"Program~~]"program of instruction" means a program of curriculum that leads to the completion of a degree, diploma, certificate, or other credential.

(2) (a) Under procedures and policies approved by the board and developed in consultation with each institution of higher education, each institution of higher education may make such changes in the institution of higher education's curriculum as necessary to better effectuate the institution of higher education's primary role; and

(b) subject to Subsection (2)(a), an institution of higher education's faculty shall establish and have primary responsibility for the curriculum of a course within a program of instruction at the institution.

(3) The board shall establish criteria for whether an institution of higher education may approve a new program of instruction, including criteria related to whether:

(a) the program of instruction meets identified workforce needs;

(b) the institution of higher education is maximizing collaboration with other institutions of higher education to provide for efficiency in offering the program of instruction;

(c) the new program of instruction is within the institution of higher education's mission and role; and

(d) the new program of instruction meets other criteria determined by the board.

(4) (a) Except as board policy permits, an institution of higher education may not establish a branch, extension center, college, or professional school.

(b) The president of an institution of higher education may, with the approval of the institution of higher education's board of trustees, establish a new program of instruction that meets the criteria described in Subsection (3), subject to board review for pathway articulation.

(c) An institution of higher education shall notify the board of a proposed new program of instruction, including how the proposed new program of instruction meets the criteria described in Subsection (3).

(d) The board shall establish procedures and guidelines for institutional boards of trustees to consider an institutional proposal for a new program of instruction described in Subsection (4)(b).

(5) (a) (i) Except as provided in Subsection (5)(a)(ii), a degree-granting institution may not offer a degree with a credit-hour requirement, comprising general education and degree-specific requirements, that exceeds 120 total credit hours.

(ii) The board may authorize a degree-granting institution to exceed the credit-hour limit described in Subsection (5)(a)(i) if the relevant degree:

(A) is required for professional licensure; or

(B) has a nationally recognized accreditation standard that mandates a higher credit-hour minimum, including circumstances where additional coursework is necessary to protect public health, safety, and welfare.

(b) The board shall develop a process to grant conditional approval of accelerated three-year degrees to allow for the implementation of an accelerated degree upon accreditation.

(6) The president of an institution of higher education may discontinue a program of instruction in accordance with criteria that the president and the institution of higher education's board of trustees establish.

(7) (a) The board shall conduct a periodic review of all new programs of instruction, including those funded by gifts, grants, and contracts, no later than two years after the first cohort to begin the program of instruction completes the program of instruction.

(b) The board may conduct a periodic review of any program of instruction at an institution of higher education, including a program of instruction funded by a gift, grant, or contract.

(c) The board shall conduct:

(i) at least once every five years, at least one review described in Subsection (7)(b) of each program of instruction at each institution; and

(ii) annually, a qualitative and quantitative review of academic disciplines across the system, including enrollment, graduation rates, and workforce placement, ensuring that the board conducts a review of all disciplines within the system at least once every five years.

(d) Following a review described in this Subsection (7) that finds that a program is underperforming, as the board defines, across the

system of higher education or at an individual institution, and after providing the relevant institution of higher education an opportunity to respond to the board's review of a given program of instruction, the board:

(i) shall modify, consolidate, or terminate the program of instruction; and

(ii) may require an institution to develop a performance improvement plan and annually report back to the board regarding the plan.

(e) The board shall:

(i) develop qualitative and quantitative standards for program review under this Subsection (7); and

(ii) ensure the application of the standards the board develops under Subsection (7)(e)(i) in each program review.

(8) In making decisions related to career and technical education curriculum changes, the board shall coordinate on behalf of the boards of trustees of higher education institutions a review of the proposed changes by the State Board of Education to ensure an orderly and systematic career and technical education curriculum that eliminates overlap and duplication of course work with high schools and technical colleges.

(9) The board shall demonstrate compliance with Subsection (7) by:

(a) creating a list of programs and corresponding review schedules;

(b) upon request of the Higher Education Appropriations Subcommittee, providing the list described in Subsection (9)(a); and

(c) providing a written report on or before October 1 to the Higher Education Appropriations Subcommittee of each year regarding relevant findings from the reviews conducted under Subsection (7).

(10) On or before October 1, 2026, if the Higher Education Appropriations Subcommittee finds the board to be out of compliance with Subsection (9), the Legislature shall:

(a) deduct 10% of the appropriation described in Section [~~53B-7-703~~]53H-8-302 for the following fiscal year; and

(b) deduct an additional 10% of the appropriation described in Section [~~53B-7-703~~]53H-8-302 for each subsequent year of noncompliance up to a maximum deduction of 30%.

Section 61. Section 53H-3-604, which is renumbered from Section 53B-16-105 is renumbered and amended to read: [~~53B-16-105~~]53H-3-604 (Effective upon governor's approval). Common course numbering -- Transferability of credits -- Agreement with competency-based general education provider -- Policies.

(1) As used in this section:

(a) "Accredited institution" means an institution that:

(i) offers a competency-based postsecondary general education course online or in person; and

(ii) is accredited by an organization that the United States Department of Education recognizes.

(b) "Articulation agreement" means an agreement between the board and a provider that allows a student to transfer credit awarded by the provider for a general education course to any institution of higher education.

(c) "Competency-based" means a system where a student advances to higher levels of learning when the student demonstrates competency of concepts and skills regardless of time, place, or pace.

(d) "Competency-based general education provider" or "provider" means a private postsecondary educational institution that:

(i) offers a postsecondary competency-based general education course online or in person;

(ii) awards academic credit; and

(iii) does not award degrees, including associates degrees or baccalaureate degrees.

(e) "Credit for prior learning" means the same as that term is defined in Section [~~53B-16-110~~]53H-3-702.

[~~(f) "Institution of higher education" means an institution described in Section 53B-1-102.~~]

(2) The board shall:

(a) facilitate articulation and the seamless transfer of courses, programs, and credit for prior learning within the Utah System of Higher Education;

(b) provide for the efficient and effective progression and transfer of students within the Utah System of Higher Education;

(c) avoid the unnecessary duplication of courses;

(d) communicate ways in which a student may earn credit for prior learning; and

(e) allow a student to proceed toward the student's educational objectives as rapidly as the student's circumstances permit.

(3) The board shall develop, coordinate, and maintain a transfer and articulation system that:

(a) maintains a course numbering system that assigns common numbers to specified courses of similar level with similar curricular content, rigor, and standards;

(b) allows a student to track courses that transfer among institutions of higher education;

(c) allows a student to transfer courses from a provider with which the board has an articulation agreement to any institution of higher education;

(d) allows a student to transfer competency-based general education courses from an accredited institution to an institution of higher education;

(e) improves program planning;

(f) increases communication and coordination between institutions of higher education;

(g) facilitates student acceleration and the transfer of students and credits between institutions of higher education; and

(h) if the system includes a software or data tool:

(i) provides predictive analysis that models probabilities of student success; and

(ii) develops tailored strategies to best support students.

(4) (a) The board shall identify general education courses in the humanities, social sciences, arts, physical sciences, and life sciences with uniform prefixes and common course numbers.

(b) A degree-granting institution shall annually identify institution courses that satisfy requirements of courses described in Subsection (4)(a).

(c) A degree-granting institution shall accept a course described in Subsection (3)(c), (3)(d), or (4)(a) toward filling specific area requirements for general education or lower division courses that transfer to baccalaureate majors.

(5) (a) The board shall:

(i) identify technical education programs with common names, descriptions, lengths, and objectives; and

(ii) within technical education programs, common course names, descriptions, length, and objectives allowing for customization of electives to meet regional industry demand.

(b) The commissioner shall appoint committees of faculty members from technical education committees to recommend aligned programs and courses that will satisfy graduation requirements.

(6) (a) The board shall identify common prerequisite courses and course substitutions for degree programs across degree-granting institutions.

(b) The commissioner shall appoint committees of faculty members from the degree-granting institutions to recommend appropriate courses of similar content and numbering that will satisfy requirements for lower division courses that transfer to baccalaureate majors.

(c) A degree-granting institution shall annually identify institution courses that satisfy requirements of courses described in Subsection (6)(a).

(d) A degree-granting institution shall accept a course described in Subsection (3)(c), (3)(d), or (6)(a) toward filling graduation requirements.

(7) (a) (i) The board shall seek proposals from providers to enter into articulation agreements.

(ii) A proposal described in Subsection (7)(a)(i) shall include the general education courses that the provider intends to include in an articulation agreement.

(b) The board shall:

(i) evaluate each general education course included in a proposal described in Subsection (7)(a) to determine whether the course is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education; and

(ii) if the board determines that a course included in a provider's proposal is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education, enter into an articulation agreement with the provider.

(8) The board shall establish policies to administer the policies and requirements described in this section.

(9) The board shall include information demonstrating that institutions of higher education are complying with the provisions of this section and the policies established in accordance with Subsection (8) in the annual report described in Section [~~53B-1-402~~]53H-1-203.

Section 62. Section 53H-3-605, which is renumbered from Section 53B-16-103 is renumbered and amended to read:

[~~53B-16-103~~]53H-3-605 (Effective upon governor's approval). Granting of degrees, diplomas, or certifications -- Board approval -- Termination of previous approval.

(1) (a) An institution of higher education may not issue a degree, diploma, or certificate outside of the institution of higher education's primary role, as described in Section [~~53B-16-101~~]53H-3-602, unless the institution of higher education receives approval from the board of the adequacy of the study for which the degree, diploma, or certificate is offered.

(b) A student shall demonstrate a reasonable understanding of the history, principles, form of government, and economic system of the United States before receiving a bachelor's degree or teaching credential.

(2) Degrees, diplomas, and certificates issued prior to the effective date of this [~~chapter~~]section do not require board approval.

(3) The board may terminate the granting of previously approved degrees, diplomas, and certificates if [~~they~~]the degrees, diplomas, or certificates are inconsistent with the primary role prescribed by the board for the affected institution of higher education.

Section 63. Section 53H-3-606, which is renumbered from Section 53B-10-106 is renumbered and amended to read:

[~~53B-10-106~~]53H-3-606 (Effective upon governor's approval). Pathways development.

(1) The board shall develop and implement a plan that creates clear educational pathways:

(a) from a technical college [~~described in Subsection 53B-1-102(1)(b)~~] to a degree-granting institution;

(b) in course work leading to a qualifying job or a qualifying degree as described in Section [~~53B-10-203~~]53H-11-415; and

(c) for high schools that offer criminal justice or protective services pathways programs, including information on:

(i) available concurrent enrollment classes in subjects described in Section [~~53B-8-112.5~~]53H-11-403; and

(ii) scholarship opportunities for careers as peace officers as defined in Section [~~53B-8c-102~~]53H-11-306.

(2) The plan shall maximize efficiencies in transferring earned credit and help align academic programs with workforce needs.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules necessary to establish:

(a) a plan described in this section; and

(b) the job requirements related to regional pathway coordinators funded by the Legislature related to this section and as described in Subsection (4).

(4) Under the direction of the Office of the Commissioner of Higher Education, regional pathway coordinators shall:

(a) collaborate with regional secondary and postsecondary professionals in:

(i) concurrent enrollment;

(ii) career and technical education; and

(iii) workforce development;

(b) coordinate regional responsibilities with the professionals described in Subsection (4)(a) for programming that aligns work between:

(i) the statewide college and career mapping efforts;

(ii) the Utah First Credential program described in Section 53E-10-310; and

(iii) related pathway initiatives, including those described in this section;

(c) support implementation of:

(i) the Utah First Credential program described in Section 53E-10-310; and

(ii) future programming aligned with updates related to and within the Utah First Credential program described in Section 53E-10-310;

(d) as the Office of the Commissioner of Higher Education requests, contribute to the development of:

(i) the Utah First Credential Master Plan described in Section 53E-10-310;

(ii) the master credential list described in Section 53E-10-310; and

(iii) related Utah First Credential program elements described in Section 53E-10-310, including:

(A) alignment of the first credential framework with college and career mapping;

(B) regional needs assessments;

(C) landscape analyses;

(D) definitions and assessment tools; and

(E) statewide reporting frameworks; and

(e) provide required reporting on institutional and regional outcomes related to key performance indicators the Office of the Commissioner of Higher Education establishes.

Section 64. Section 53H-3-607, which is renumbered from Section 53B-16-108 is renumbered and amended to read:

[~~53B-16-108~~]53H-3-607 (Effective upon governor's approval). Courses offered through the Statewide Online Education Program.

An institution of higher education listed in Section [~~53B-2-101~~]53H-1-102 may offer a secondary school level course through the Statewide Online Education Program in accordance with Section 53F-4-504.

Section 65. Section 53H-3-608, which is renumbered from Section 53B-2a-201 is renumbered and amended to read:

[~~53B-2a-201~~]53H-3-608 (Effective upon governor's approval). Geographic service areas for degree-granting institutions that provide technical education.

(1) A degree-granting institution of higher education provides technical education in the geographic areas of the state described in this section.

(2) (a) The Snow College Richfield campus, described in Section [~~53B-16-205~~]53H-4-502, provides technical education for the geographic area encompassing:

(i) the Juab School District;

(ii) the Millard School District;

(iii) the Tintic School District;

(iv) the North Sanpete School District;

(v) the South Sanpete School District;

(vi) the Wayne School District;

(vii) the Piute School District; and

(viii) the Sevier School District.

(b) A Utah State University regional institution, as defined in Section [~~53B-16-207~~]53H-4-303, provides technical education for the geographic area encompassing:

(i) for Utah State University Eastern, described in Section [~~53B-18-1201~~]53H-4-303:

(A) the Carbon School District; and

(B) the Emery School District;

(ii) for Utah State University Blanding, described in Section [~~53B-18-1202~~]53H-4-303, the San Juan School District; and

(iii) for Utah State University Moab, described in Section [~~53B-18-301~~]53H-4-303, the Grand School District.

(c) Salt Lake Community College provides technical education for the geographic area encompassing:

(i) the Salt Lake City School District;

(ii) the Granite School District;

(iii) the Murray School District;

(iv) the Canyons School District; and

(v) the Jordan School District.

Section 66. Section 53H-3-609, which is renumbered from Section 53B-2a-202 is renumbered and amended to read:

[~~53B-2a-202~~]53H-3-609 (Effective upon governor's approval). Degree-granting institutions that provide technical education -- Duties -- Board evaluation.

(1) A degree-granting institution described in Section [~~53B-2a-201~~]53H-3-608:

(a) shall:

(i) fulfill the technical college duties described in Subsections [~~53B-2a-106(1) and (2)~~]53H-3-1203(1) and (2); and

(ii) report annually to the board on:

(A) the status of technical education in the degree-granting institution's service area; and

(B) student tuition and fees for the technical education programs provided by the degree-granting institution; and

(b) may not exercise any jurisdiction over career and technical education provided by a school district or charter school independently of the school district or charter school.

(2) The board shall monitor and evaluate the impact of degree programs on technical education provided by a degree-granting institution described in Section [~~53B-2a-201~~]53H-3-608.

Section 67. Section 53H-3-701 is enacted to read:

PART 7. Credit for Prior Learning and Military Service

53H-3-701 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 68. Section 53H-3-702, which is renumbered from Section 53B-16-110 is renumbered and amended to read:

[~~53B-16-110~~]53H-3-702 (Effective upon governor's approval). Credit for prior learning -- Board plan and policies -- Reporting.

(1) As used in this section:

(a) "Credit for prior learning" means credit awarded by an institution to a student who demonstrates, through a prior learning assessment, that the student's prior learning meets college-level competencies.

[~~(b) "Institution" means an institution of higher education described in Section 53B-1-102.~~]

[~~(c)~~](b) "International Baccalaureate programme" means an International Baccalaureate Secondary Education programme course that:

(i) the International Baccalaureate establishes; and

(ii) (A) an International Baccalaureate diploma candidate takes;

(B) an International Baccalaureate career candidate takes; or

(C) an International Baccalaureate course student, who is not a candidate under Subsection (1)(c)(ii)(A) or (B), takes.

[~~(d)~~](c) "International Baccalaureate programme subject score" means the total points the International Baccalaureate awards to a student for an International Baccalaureate programme course based on fulfillment of all subject requirements, including the end-of-course examination and externally assessed coursework.

[~~(e)~~](d) "Prior learning" means knowledge, skills, or competencies acquired through formal or informal education outside the traditional postsecondary academic environment.

[~~(f)~~](e) "Prior learning assessment" means a method of evaluating or assessing an individual's prior learning.

(2) The board shall develop a plan for advising and communicating with students and the public about credit for prior learning.

(3) (a) The board shall establish policies that provide minimum standards for all institutions regarding:

(i) accepted forms of prior learning assessments;

(ii) awarding credit for prior learning;

(iii) transferability of credit for prior learning between institutions;

(iv) transcription of credit for prior learning;

(v) institutional procedures for maintaining transparency and consistency in awarding credit for prior learning;

(vi) communication to faculty, advisors, current students, and prospective students regarding standards and costs related to credit for prior learning and prior learning assessments;

(vii) required training of faculty and advisors on prior learning assessment standards and processes; and

(viii) portfolio-specific prior learning assessments.

(b) The board shall ensure that accepted forms of prior learning assessments described in Subsection (3)(a) include:

(i) program evaluations, completed by an institution, of noncollegiate programs or training courses to recognize proficiencies;

(ii) nationally recognized, standardized examinations, including:

(A) Advanced Placement examinations;

(B) College Level Exam Program general examinations;

(C) College Level Exam Program subject examinations; and

(D) DANTES Subject Standardized Tests;

(iii) International Baccalaureate programme subject scores;

(iv) customized examinations offered by an institution to verify an individual's learning achievement that may include course final examinations or other examinations that assess general disciplinary knowledge or skill;

(v) evaluations of corporate or military training; and

(vi) assessments of individuals' portfolios.

(4) (a) The board shall establish minimum scores and maximum credit for each standardized examination described in Subsection (3)(b)(ii).

(b) An institution shall award credit to a student who demonstrates competency by passing a standardized examination described in Subsection (3)(b)(ii) unless the award of credit duplicates credit already awarded.

(5) For purposes of Subsection (3)(b)(iii)[~~and beginning with the 2023-2024, school year~~], all institutions shall award credit to a student who receives an International Baccalaureate programme subject score of four or higher for an International Baccalaureate programme course unless the award of credit duplicates credit an institution already awarded.

(6) The board shall, through committees that the board authorizes, consult with the Utah Association of IB World Schools and school International Baccalaureate program coordinators to align International Baccalaureate programme subject scores with commonly numbered institution of higher education courses to satisfy general education requirements or major requirements.

(7) The board shall:

(a) create and maintain a website that provides statewide information on prior learning assessments and credit for prior learning; and

(b) maintain software or data tools to support the board in:

(i) implementing the plan described in Subsection (2); and

(ii) fulfilling the board's requirements described in Section [~~53B-16-105~~]53H-3-604.

(8) An institution shall annually report to the board on:

(a) each form of prior learning assessment for which the institution provides credit for prior learning; and

(b) the total amount of credit for prior learning the institution provides to students.

Section 69. Section 53H-3-703, which is renumbered from Section 53B-16-107 is renumbered and amended to read:

[~~53B-16-107~~]53H-3-703 (Effective upon governor's approval). Credit for military service and training -- Notification -- Transferability --

Reporting.

(1) As used in this section, "credit" includes proof of equivalent noncredit course completion awarded by a technical college.

(2) An institution of higher education listed in Section [~~53B-2-101~~]53H-1-102 shall provide written notification to each student applying for admission that the student is required to meet with a college counselor in order to receive credit for military service and training as recommended by a postsecondary accreditation agency or association designated by the board if:

(a) credit for military service and training is requested by the student; and

(b) the student has met with an advisor at an institution of higher education listed in Section [~~53B-2-101~~]53H-1-102 at which the student intends to enroll to discuss applicability of credit to program requirements, possible financial aid implications, and other factors that may impact attainment of the student's educational goals.

(3) Upon transfer within the state system of higher education, a student may present a transcript to the receiving institution of higher education for evaluation and to determine the applicability of credit to the student's program of study, and the receiving institution of higher education shall evaluate the credit to be transferred in accordance with Subsection (2) and the policies described in Section [~~53B-16-110~~]53H-3-702.

(4) The board shall annually report the number of credits awarded under this section by each institution of higher education to the Department of Veterans and Military Affairs.

Section 70. Section 53H-3-801 is enacted to read:

PART 8. Formation of Non-Profit Corporations and Foundations

53H-3-801 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 71. Section 53H-3-802, which is renumbered from Section 53B-2-112 is renumbered and amended to read:

[~~53B-2-112~~]53H-3-802 (Effective upon governor's approval). Formation of non-profit corporations or foundations.

(1) An institution of higher education described in Section [~~53B-2-101~~]53H-1-102 may form a non-profit corporation or foundation to aid or assist the institution of higher education, within the institution of higher education's mission and role described in Section [~~53B-16-101~~]53H-3-602, in meeting the institution of higher education's charitable, scientific, literary, research, educational, or other objectives.

(2) The board and the president of the institution of higher education control a nonprofit corporation or foundation described in Subsection (1).

(3) A nonprofit corporation or foundation described in Subsection (1) may receive and administer:

(a) legislative appropriations;

(b) government grants;

(c) private contracts; or

(d) private gifts.

Section 72. Section 53H-3-901, which is renumbered from Section 53B-3-101 is renumbered and amended to read:

PART 9. Enforcement of Regulations at Institutions

[~~53B-3-101~~]53H-3-901 (Effective upon governor's approval). General provisions -- Definitions.

(1) It is the purpose of this [~~chapter~~]part to confirm and clarify the power vested in the board to pass rules and regulations governing parking and traffic on campuses and related facilities and to enforce the rules and regulations by all appropriate methods.

(2) The board may delegate [~~this~~]authority [~~and other authority~~] granted under this [~~chapter~~]part to the president of each institution so long as the rules and regulations are approved by the institution's board of trustees.

Section 73. Section 53H-3-902, which is renumbered from Section 53B-3-103 is renumbered and amended to read:

[~~53B-3-103~~]53H-3-902 (Effective upon governor's approval). Power of board and institutions to adopt rules and enact regulations.

(1) As used in this section [~~:~~],

[~~(a) "Face~~]"face covering" means the same as that term is defined in Section 53G-9-210.

[~~(b) "Institution" means an institution listed in Section 53B-1-102.~~]

(2) (a) The board may enact regulations governing the conduct of university and college students, faculty, and employees.

(b) A president in consultation with the board of trustees, may enact policies governing the conduct of university and college students, faculty, and employees.

(3) (a) An institution may enact traffic, parking, and related policies governing all individuals on campus and facilities owned or controlled by the institution.

(b) (i) The board and an institution may not require proof of vaccination as a condition for enrollment or attendance within the system of higher education unless the board or an institution allows for the following exemptions:

(A) a medical exemption if the student provides to the institution a statement that the claimed exemption is for a medical reason; and

(B) a personal exemption if the student provides to the institution a statement that the claimed exemption is for a personal or religious belief.

(ii) An institution that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (3)(b)(i) to participate in an in-person learning option based upon the student's vaccination status.

(iii) Subsections (3)(b)(i) and (ii) do not apply to a student studying in a medical setting at an institution of higher education.

(iv) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

(c) (i) The board or an institution may not require an individual to wear a face covering as a condition of attendance for in-person instruction, institution-sponsored athletics, institution-sponsored extracurricular activities, in dormitories, or in any other place on a campus of an institution within the system of higher education at any time after the end of the spring semester in 2021.

(ii) Subsection (3)(c)(i) does not apply to an individual in a medical setting at an institution of higher education.

(4) The board shall enact regulations that require all testimony be given under oath during an employee grievance hearing for a non-faculty employee of an institution of higher education if the grievance hearing relates to the non-faculty employee's:

(a) demotion; or

(b) termination.

(5) Acknowledging that the Legislature has the authority to regulate, by law, firearms at higher education institutions, the board may:

(a) authorize higher education institutions to establish no more than one secure area at each institution as a hearing room in accordance with Section 76-8-311.1, but not otherwise restrict the lawful possession or carrying of firearms; and

(b) authorize a higher education institution to make a policy that allows a resident of a dormitory located at the institution to request only roommates who are not licensed to carry a concealed firearm under Section 53-5a-303 or Section 53-5a-305.

(6) In addition to the requirements and penalty prescribed in Sections 76-8-311.1 and 76-8-311.2, the board shall make rules to ensure:

(a) the use of reasonable means such as mechanical, electronic, x-ray, or similar devices, to detect firearms, ammunition, or dangerous weapons contained in the personal property of or on the person of any individual attempting to enter a secure area hearing room;

(b) that an individual required or requested to attend a hearing in a secure area hearing room is notified in writing of the requirements related to entering a secure area hearing room under this Subsection (6)(b) and Section 76-8-311.1;

(c) that the restriction of firearms, ammunition, or dangerous weapons in the secure area hearing room is in effect only during the time the secure area hearing room is in use for hearings and for a reasonable time before and after the hearing; and

(d) the application of reasonable space limitations to the secure area hearing room as the number of individuals involved in a typical hearing warrants.

(7) The board and institutions may enforce the rules, regulations, and policies described in this section in any reasonable manner, including the assessment of fees, fines, and forfeitures, through:

(a) withholding from money owed the violator;

(b) the imposition of probation, suspension, or expulsion from the institution;

(c) the revocation of privileges;

(d) the refusal to issue certificates, degrees, and diplomas;

(e) judicial process; or

(f) any reasonable combination of the alternatives described in this Subsection (7).

Section 74. Section 53H-3-903, which is renumbered from Section 53B-3-104 is renumbered and amended to read:
[~~53B-3-104~~]53H-3-903 (Effective upon governor's approval). Establishment of police or security departments.

[~~(1) As used in this section, "institution" means an institution listed in Section 53B-1-102.~~]

[~~(2)~~] An institution's president may establish and maintain police or security departments for the purpose of enforcing the regulations of each institution of higher education and the laws of the state.

Section 75. Section 53H-3-904, which is renumbered from Section 53B-3-105 is renumbered and amended to read:
[~~53B-3-105~~]53H-3-904 (Effective upon governor's approval). Appointment of police or security personnel -- Powers.

[~~(1) As used in this section, "institution" means an institution listed in Section 53B-1-102.~~]

[~~(2)~~](1) An institution shall appoint members of the police or security department of the institution.

[~~(3)~~](2) Upon appointment, members described in Subsection [~~(2)~~](1) are peace officers and have all the powers of police in cities and of sheriffs, including the power to make arrests on view or on warrant of violation of state statutes and city or county ordinances.

[~~(4)~~](3) Members of the police or security department of any institution also have the power to enforce all rules and regulations that the institution or the board promulgates as related to the institution.

Section 76. Section 53H-3-905, which is renumbered from Section 53B-3-106 is renumbered and amended to read:
[~~53B-3-106~~]53H-3-905 (Effective upon governor's approval). Criminal and traffic laws in full force and effect.

(1) All of the criminal laws of this state, including the traffic laws, are in full force and effect on the campuses of [~~state~~] institutions of higher education and upon all other property or facilities owned by the institutions or operated or controlled by the governing board of the institution.

(2) (a) [~~State institutions~~]An institution of higher education [~~are~~]is a "political [~~subdivisions"~~]subdivision" and the board of [~~the institutions~~]trustees is a "local authority."

(b) All streets, roadways, alleys, and parking lots on property owned or controlled by [~~state institutions~~]an institution of higher education are "streets or highways" as these terms are used in Title 41, Chapter 6a, Traffic Code.

Section 77. Section 53H-3-906, which is renumbered from Section 53B-3-107 is renumbered and amended to read:
[~~53B-3-107~~]53H-3-906 (Effective upon governor's approval). Traffic violations -- Notice of rule or regulation.

(1) It is a violation of this section for any person to operate or park a vehicle upon any property owned or controlled by [~~astate~~]an institution of higher education contrary to posted signs authorized by the published rules and regulations of the institution or to block or impede traffic through or on any of these properties.

(2) A violation of Subsection (1) is an infraction.

(3) Notice of a rule or regulation to all persons is sufficient if the rule or regulation is published in one issue of a newspaper of general circulation in the county or counties in which the institution and the campus or facility is located.

Section 78. Section 53H-3-907, which is renumbered from Section 53B-3-108 is renumbered and amended to read:
[~~53B-3-108~~]53H-3-907 (Effective upon governor's approval). Violation of part a misdemeanor.

A violation of this [~~chapter~~]part is a class B misdemeanor.

Section 79. Section 53H-3-908, which is renumbered from Section 53B-3-109 is renumbered and amended to read:
[~~53B-3-109~~]53H-3-908 (Effective upon governor's approval). Jurisdiction of district and justice courts.

Any district court or any justice court of any city or county in which property owned or controlled by a state institution of higher education is located has jurisdiction to hear and determine cases involving an alleged violation of this [~~chapter~~]part.

Section 80. Section 53H-3-909, which is renumbered from Section 53B-3-110 is renumbered and amended to read:

[~~53B-3-110~~]53H-3-909 (Effective upon governor's approval). Fines and forfeitures -- Disposition.

All fines and forfeitures collected by any justice court judge and one-half of all the fines and forfeitures collected by the clerk of any district court for a violation of any of this [~~chapter~~]part are remitted to the state treasurer to be credited to the general operating fund of the [~~state~~]institution of higher education complaining of the violation.

Section 81. Section 53H-3-1001, which is renumbered from Section 53B-16-401 is renumbered and amended to read:

PART 10. Internships

[~~53B-16-401~~]53H-3-1001 (Effective upon governor's approval). General provisions -- Definitions.

As used in this part:

(1) (a) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through an institution of higher education, provides interns with training and work experience in activities related to the entity's ongoing business activities.

(b) "Cooperating employer" also means an institution of higher education that provides the work experience segment of an intern's work experience and career exploration program.

(2) "Institution of higher education" means any:

(a) component of the state system of higher education, [~~as defined under~~]described in Section [~~53B-1-102~~]53H-1-102, that is authorized by the board to offer internship programs; and

(b) private postsecondary educational institution which offers internship programs under this part.

(3) "Intern" means a student enrolled in a work experience and career exploration program under Section [~~53B-16-402~~]53H-3-1002:

(a) that an institution of higher education sponsors;

(b) involves both classroom instruction and work experience with a cooperating employer; and

(c) for which the student receives no compensation.

(4) "Internship" means the work experience segment of an intern's work experience and career exploration program that:

(a) an institution of higher education sponsors under a written agreement with a cooperating employer; and

(b) an intern performs under the direct supervision of a cooperating employer.

Section 82. Section 53H-3-1002, which is renumbered from Section 53B-16-402 is renumbered and amended to read:

[~~53B-16-402~~]53H-3-1002 (Effective upon governor's approval). Higher education internships.

An institution of higher education may offer internships in connection with work experience and career exploration programs operated in accordance with rules of the board.

Section 83. Section 53H-3-1003, which is renumbered from Section 53B-16-403 is renumbered and amended to read:

[~~53B-16-403~~]53H-3-1003 (Effective upon governor's approval). Interns -- Workers' compensation medical benefits -- Risk management.

(1) An intern participating in an internship under Section [~~53B-16-402~~]53H-3-1002 is considered to be a volunteer worker of the sponsoring institution of higher education solely for purposes of:

(a) receiving workers' compensation medical benefits; and

(b) coverage by the Risk Management Fund created in Section 63A-4-201.

(2) Receipt of medical benefits under Subsection (1) shall be the exclusive remedy against the institution and the cooperating employer for all injuries and occupational diseases as provided under Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

Section 84. Section 53H-3-1004, which is renumbered from Section 53B-16-404 is renumbered and amended to read:

[~~53B-16-404~~]53H-3-1004 (Effective upon governor's approval). Internship programs -- Criminal background checks.

An institution of higher education shall require an officer or employee of the institution or a cooperating employer, who will be given significant unsupervised access to a minor student in connection with the student's activities as an intern, to submit to a criminal background check on the same basis as a volunteer under Section 53G-11-402.

Section 85. Section 53H-3-1005, which is renumbered from Section 53B-16-405 is renumbered and amended to read:

[~~53B-16-405~~]53H-3-1005 (Effective upon governor's approval). Recognition of participation in internship program.

A cooperating employer may:

(1) be given appropriate recognition by an institution of higher education, including the posting of the employer's name and a short description of the employer's business in an appropriate location on the institution's property [~~,~~]; or

(2) be given publication of that information in official publications of the institution.

Section 86. Section 53H-3-1101 is enacted to read:

PART 11. Community Colleges

53H-3-1101 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 87. Section 53H-3-1102, which is renumbered from Section 53B-16-202 is renumbered and amended to read:

[~~53B-16-202~~]53H-3-1102 (Effective upon governor's approval). Curricula at the community colleges.

(1) The curricula at the colleges shall include career and technical education, courses of a general nature which can be transferred to

other higher education institutions, adult and continuing education, and developmental education.

(2) The colleges also provide needed community service.

(3) (a) Career and technical education continues as the highest priority role of the colleges [~~; and to~~].

(b) To ensure continued emphasis of career and technical education, the board shall develop specific funding mechanisms which will maintain the high priority treatment of these programs and address the fact that many vocational programs are more costly than general [~~education/transfer~~]education or transfer programs.

Section 88. Section 53H-3-1103, which is renumbered from Section 53B-16-203 is renumbered and amended to read:

[~~53B-16-203~~]53H-3-1103 (Effective upon governor's approval). Qualifications for entrance to community colleges -- Preference to veterans.

(1) [~~The colleges~~]A community college shall give enrollment preference to veterans who furnish proof of other than a dishonorable discharge from the armed forces of the United States.

(2) Admission at [~~the colleges~~]a community college is based upon an individual's interest, ability, and potential for the desired occupational area and payment of the required tuition or fee.

(3) [~~The colleges~~]A community college may not deny admission on the basis of an individual's previous schooling or training.

Section 89. Section 53H-3-1201 is enacted to read:

PART 12. Technical Colleges

53H-3-1201 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 90. Section 53H-3-1202, which is renumbered from Section 53B-2a-105 is renumbered and amended to read:

[~~53B-2a-105~~]53H-3-1202 (Effective upon governor's approval). Technical colleges service areas.

[~~Utah has the following~~]The technical colleges described in Subsection 53H-1-102(1)(b) serve the geographic areas encompassing the following school districts:

(1) for Bridgerland Technical College [~~, which serves the geographic area encompassing~~]:

(a) the Box Elder School District;

(b) the Cache School District;

(c) the Logan School District; and

(d) the Rich School District;

(2) for Ogden-Weber Technical College [~~, which serves the geographic area encompassing~~]:

(a) the Ogden City School District; and

(b) the Weber School District;

(3) for Davis Technical College [~~, which serves the geographic area encompassing~~]:

(a) the Davis School District; and

(b) the Morgan School District;

(4) for Tooele Technical College, [~~which serves the geographic area encompassing~~] the Tooele County School District;

(5) for Mountainland Technical College [~~, which serves the geographic area encompassing~~]:

(a) the Alpine School District and each new school district resulting from the division of Alpine School District;

(b) the Nebo School District;

(c) the Provo School District;

(d) the South Summit School District;

(e) the North Summit School District;

(f) the Wasatch School District; and

(g) the Park City School District;

(6) for Uintah Basin Technical College [~~, which serves the geographic area encompassing~~]:

(a) the Daggett School District;

(b) the Duchesne School District; and

(c) the Uintah School District;

(7) for Southwest Technical College [~~, which serves the geographic area encompassing~~]:

(a) the Beaver School District;

(b) the Garfield School District;

(c) the Iron School District; and

(d) the Kane School District; and

(8) for Dixie Technical College, [~~which serves the geographic area encompassing~~] the Washington School District.

Section 91. Section 53H-3-1203, which is renumbered from Section 53B-2a-106 is renumbered and amended to read:

[~~53B-2a-106~~]53H-3-1203 (Effective upon governor's approval). Technical colleges -- Duties.

(1) Each technical college shall, within the geographic area served by the technical college:

(a) offer technical education programs;

(b) offer a program described in Subsection (1)(a) at:

(i) low cost to adult students, as approved by the board; and

(ii) no tuition to secondary students;

(c) develop cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of instructional facilities within the geographic area served by the technical college; and

(d) after consulting with school districts and charter schools within the geographic area served by the technical college:

(i) ensure that secondary students in the public education system have access to technical education at the technical college; and

(ii) prepare and submit an annual report to the board detailing:

(A) how the technical education needs of secondary students within the region are being met;

(B) what access secondary students within the region have to programs offered at the technical college;

(C) how the technical college emphasizes high demand, high wage, high skill jobs in business and industry; and

(D) student tuition and fees.

(2) A technical college may offer:

(a) a competency-based high school diploma approved by the State Board of Education in accordance with Section 53E-3-501;

(b) basic instruction in areas such as reading, language arts, and mathematics that are necessary for student success in a chosen technical education or job-related program;

(c) courses of interest when similar offerings to the community are limited and courses are financially self-supporting; and

(d) secondary school level courses through the Statewide Online Education Program in accordance with Section 53F-4-504.

(3) Except as provided in Subsection (2)(d), a technical college may not:

(a) offer courses other than technical education or the basic instruction described in Subsections (2)(b) and (c);

(b) offer a degree;

(c) offer technical education or basic instruction outside the geographic area served by the technical college without a cooperative agreement between an affected institution of higher education, except as provided in Subsection (5);

(d) provide tenure or academic rank for [~~its~~]a technical college's instructors; or

(e) participate in intercollegiate athletics.

(4) The mission of a technical college is limited to technical education and may not expand to include academic programs that lead to a degree.

(5) (a) A technical college may offer technical education or basic instruction outside the geographic area served by the technical college without a cooperative agreement, as required in Subsection (3)(c), if:

(i) the technical education or basic instruction is specifically requested by:

(A) an employer; or

(B) a craft, trade, or apprenticeship program;

(ii) the technical college notifies the affected institution about the request; and

(iii) the affected institution is given an opportunity to make a proposal, prior to any contract being finalized or training being initiated by the technical college, to the employer, craft, trade, or apprenticeship program about offering the requested technical education or basic instruction, provided that the proposal shall be presented no later than one business week from the delivery of the notice described under Subsection (5)(a)(ii).

(b) The requirements under Subsection (5)(a)(iii) do not apply if there is a prior training relationship.

Section 92. Section 53H-3-1204, which is renumbered from Section 53B-2a-115 is renumbered and amended to read:

[~~53B-2a-115~~]53H-3-1204 (Effective upon governor's approval). Utah System of Technical Colleges -- Institutional name changes.

(1) Beginning July 1, 2017:

(a) Bridgerland Applied Technology College shall be known as Bridgerland Technical College;

(b) Ogden-Weber Applied Technology College shall be known as Ogden-Weber Technical College;

(c) Davis Applied Technology College shall be known as Davis Technical College;

(d) Tooele Applied Technology College shall be known as Tooele Technical College;

(e) Mountainland Applied Technology College shall be known as Mountainland Technical College;

(f) Uintah Basin Applied Technology College shall be known as Uintah Basin Technical College;

(g) Southwest Applied Technology College shall be known as Southwest Technical College; and

(h) Dixie Applied Technology College shall be known as Dixie Technical College.

(2) (a) As described in Subsection (1), each technical college is a continuation of the applied technology college that preceded the technical college.

(b) An institution described in Subsection (1):

(i) possess all rights, title, privileges, powers, immunities, franchises, endowments, property, and claims of the institution that preceded the institution; and

(ii) shall fulfill and perform all obligations of the institution that preceded the institution, including obligations relating to outstanding bonds and notes.

Section 93. Section 53H-3-1301 is enacted to read:

PART 13. Other Requirements and Restrictions

53H-3-1301 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 94. Section 53H-3-1302, which is renumbered from Section 53B-2-113 is renumbered and amended to read:

[~~53B-2-113~~]53H-3-1302 (Effective upon governor's approval). Vaccination requirements -- Exemptions -- Face covering requirements.

(1) An institution of higher education and the board described in Section [~~53B-2-101~~]53H-1-102 may not require proof of vaccination as a condition for enrollment or attendance unless the institution allows for the following exemptions:

(a) a medical exemption if the student provides to the institution a statement that the claimed exemption is for a medical reason; and

(b) a personal exemption if the student provides to the institution a statement that the claimed exemption is for a personal or religious belief.

(2) An institution that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (1) to participate in an in-person learning option based upon the student's vaccination status.

(3) (a) For purposes of this Subsection (3), "face covering" means the same as that term is defined in Section 53G-9-210.

(b) An institution of higher education and the board described in Section [~~53B-2-101~~]53H-1-102 may not require an individual to wear a face covering to attend or participate in in-person instruction, institution-sponsored athletics, institution-sponsored extracurricular activities, in dormitories, or in any other place on a campus of an institution within the system of higher education at any time after the end of the spring semester in 2021.

(4) Subsections (1), (2), and (3) do not apply to a student studying in a medical setting at an institution of higher education if the institution of higher education provides the student the same rights under Title VII of the Civil Rights Act to seek an exemption from a vaccination mandate or face covering mandate as the institution of higher education provides to a health care professional employed by the institution of higher education.

(5) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

Section 95. Section 53H-3-1303, which is renumbered from Section 53B-16-104 is renumbered and amended to read:

[~~53B-16-104~~]53H-3-1303 (Effective upon governor's approval). Restrictions on higher education entities bidding on architect or engineering services in public procurement projects.

(1) As used in this section:

(a) "Architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(b) "Government entity" means a state agency, an institution of higher education, a county, a municipality, a local school district, a special district, or a special service district.

(2) When a government entity elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of [~~its~~]the government entity's competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to the government entity's competitive procurement process; and

(b) the government entity may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

(3) (a) Subject to the prohibition contained in Subsection (3)(b), an employee of a higher education entity may, in a private capacity, submit a proposal in response to the competitive procurement process.

(b) An employee of a higher education entity may not use any supplies, materials, or other resources owned by, or any persons matriculating at, attending, or employed by, the higher education entity in:

(i) preparing a response to the competitive procurement process; or

(ii) completing any work, assignment, or contract awarded to the employee resulting from that competitive procurement process.

Section 96. Section 53H-4-101 is enacted to read:

CHAPTER 4. Individual Institutions

PART 1. General Provisions

53H-4-101 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 97. Section 53H-4-201 is enacted to read:

PART 2. University of Utah

53H-4-201 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 98. Section 53H-4-202, which is renumbered from Section 53B-17-902 is renumbered and amended to read:

[~~53B-17-902~~]53H-4-202 (Effective upon governor's approval). Health Sciences and School of Medicine.

(1) As used in this section:

(a) "Psychiatry resident" means a medical resident practicing in any type of psychiatry specialty or subspecialty, as determined by the university.

(b) "University" means the University of Utah Health Sciences.

(2) (a) Subject to legislative appropriations [~~, beginning with the 2020-21 academic year~~], the university shall annually select up to four more first-year psychiatry residents than the number of first-year psychiatry residents the university selected for the 2018-19 academic year.

(b) Subject to legislative appropriations [~~, beginning with the 2021-22 academic year~~], the university shall annually select up to two more first-year psychiatry residents than the number of first-year psychiatry residents the university selected for the 2019-2020 academic year.

(c) Nothing in this section prohibits the university from using money from a source other than legislative appropriations to select more than the total number of psychiatry residents described in Subsection (2)(a) or (b).

(d) The university may not use money appropriated for the purposes described in this Subsection (2) to supplant existing money used for psychiatry residents.

(3) (a) Subject to legislative appropriations, the university shall award a grant to produce a certification in child and adolescent behavioral health primary care for primary care physicians and medical professionals, school counselors, social workers, and other professionals who work with children and adolescents.

(b) The university shall ensure that the amount of the grant awarded under Subsection (3)(a) is matched, at a minimum, by private gifts, grants, and bequests of personal property made to the grant.

(4) Beginning with the 2013-14 school year and subject to Subsection (5), the University of Utah School of Medicine may increase the number of students admitted by 40 students for a total of 122 students admitted annually.

(5) No fewer than 82% of the students admitted annually shall:

(a) meet the qualifications of a resident student for the purpose of tuition in accordance with:

(i) Section 53H-11-202;

(ii) board policy on determining resident status; and

(iii) University of Utah policy on determining resident status;

(b) have graduated from a public or private postsecondary educational institution located in Utah; or

(c) have graduated from a public or private high school located in Utah.

(6) The University of Utah School of Medicine shall ensure that any licensed physicians who oversee fellowship training to specialize in pain treatment are recommending medical providers, as that term is defined in Section 26B-4-201.

(7) Notwithstanding any other provision of this section, the University of Utah School of Medicine may, to teach a medical student from another state or an institution outside the state, enter into an agreement with:

(a) a state entity from the other state; or

(b) the institution of higher education outside the state.

Section 99. Section 53H-4-203, which is renumbered from Section 53B-17-301 is renumbered and amended to read:

[~~53B-17-301~~]53H-4-203 (Effective upon governor's approval). Use of dead bodies for medical purposes.

(1) A county shall, within 24 hours after assuming custody of an unclaimed body for which the county is required to provide burial under Section 26B-8-225, provide notice of the county's custody of the body to the dean of [~~the school of medicine at the~~]University of Utah School of Medicine.

(2) The notice described in Subsection (1) shall specify the body's probable cause of death.

(3) Subject to Section 26B-8-225, the county shall, at the request of the dean of [~~the school of medicine at~~]the University of Utah School of Medicine, forward the body to the university, at the university's expense, within 24 hours of receiving the dean's request.

(4) The [~~school of medicine at the~~]University of Utah School of Medicine shall, for a body it receives under Subsection (3):

(a) properly embalm and preserve the body for at least 60 days; and

(b) upon request, release the body to a person with priority to control the disposition of the body under Section 58-9-602.

(5) (a) A person delivering a body to the University of Utah shall receive a receipt for the body.

(b) The University of Utah School of Medicine is responsible for records kept on any body received under this section.

(c) The records shall include all facts necessary for proper identification of the body.

(6) A body unclaimed after 60 days under this section may be used for the following purposes:

(a) to promote medical and surgical science; and

(b) for instruction and study by physicians and students of anatomy and embalming.

(7) The University of Utah School of Medicine shall, upon completion of the purposes outlined in Subsection (6), ensure the remains:

(a) are properly cremated; or

(b) receive a decent burial.

(8) A person who commits the following violations is guilty of a class B misdemeanor:

(a) failure or neglect to give notice required under Subsection (1); or

(b) failure or neglect to forward a body upon request under Subsection (3).

Section 100. Section 53H-4-204, which is renumbered from Section 53B-17-1302 is renumbered and amended to read:

[~~53B-17-1302~~]53H-4-204 (Effective upon governor's approval). Health services -- Huntsman Mental Health Institute -- Behavioral health curriculum.

(1) As used in this section, "Huntsman Mental Health Institute" means the mental health and substance use treatment institute within the University of Utah.

[~~(1)~~](2) The Huntsman Mental Health Institute shall coordinate with the State Board of Education to develop a youth curriculum to increase awareness about behavioral health challenges facing youth in the state.

[~~(2)~~](3) The curriculum described in Subsection [~~(1)~~](2) shall include age-appropriate information on:

(a) the connection and importance of mental health to overall health;

(b) tools for maintaining mental health wellness, including evidence-based practices used to overcome behavioral health challenges;

(c) signs and symptoms of common behavioral health challenges and ways to respond to the signs and symptoms;

(d) the prevalence of behavioral health challenges across all populations;

(e) common behavioral health conditions and evidence-based treatments for common behavioral health conditions; and

(f) how to seek assistance or find support for a behavioral health challenge in a school and the community.

[~~(3)~~](4) The Huntsman Mental Health Institute shall annually:

(a) update the curriculum in coordination with the State Board of Education;

(b) publish the curriculum on the Huntsman Mental Health Institute's website in a conspicuous location; and

(c) distribute the curriculum as a resource to:

(i) parents and guardians of elementary and secondary school students;

(ii) elementary and secondary schools; and

(iii) other organizations that serve youth in the state.

[~~(4)~~](5) The Huntsman Mental Health Institute shall consider feedback provided to the Huntsman Mental Health Institute about the curriculum when annually updating the curriculum under Subsection [~~(3)(a)~~](4)(a).

Section 101. Section 53H-4-205, which is renumbered from Section 53B-17-504 is renumbered and amended to read: [~~53B-17-504~~]53H-4-205 (Effective upon governor's approval). Research park.

(1) As used in this section:

(a) "Patent" means the patent covering the land acquired by the University of Utah from the United States of America dated October 18, 1968.

(b) (i) "Research park" means:

(A) research and development facilities;

(B) research institutes;

(C) testing laboratories;

(D) related business and government installations; and

(E) similar facilities, together with land.

(ii) "Research park" includes all necessary appurtenances, rights, and franchises acquired and developed by the University of Utah which are suitable or necessary to promote the social welfare of the state through the advancement of education, science, research, economic development, and related purposes.

(2) The acquisition and provision of any one or more of the following facilities may be included as part of the development of land for the research park but only to the extent that the facilities are incidental to the use of the land as a research park:

(a) water;

(b) sewage;

(c) drainage;

(d) street;

(e) road;

(f) sidewalk;

(g) curb;

(h) gutter;

(i) street lighting;

(j) electrical distribution; and

(k) docking.

(3) The Legislature determines that it is in the public interest of the state, Utah's citizens, and commerce to develop a research park in Salt Lake County upon property conveyed to the University of Utah under patent from the United States of America dated October 18, 1968.

(4) The University of Utah has the following powers:

(a) to establish, develop, and administer, through nonprofit corporations or foundations controlled by the president and the board of trustees, a research park upon the land acquired by the university under the patent;

[~~(1)~~](b) to establish, acquire, develop, maintain, and operate a research park, including the acquisition of all necessary or suitable buildings, facilities, and improvements, and to acquire, purchase, construct, reconstruct, improve, remodel, add to, extend, maintain, equip, and furnish the research park or any building or facility, including research and service facilities and areas intended for the common use of the research park tenants;

[~~(2)~~](c) to form nonprofit corporations or foundations to aid and assist the University of Utah to attain [~~its~~]the University of Utah's charitable, scientific, literary, and educational objectives, including the acquisition, construction, financing, operation, and management of a research park;

[~~(3)~~](d) to lease to the nonprofit corporation or foundation all or part of the land and facilities included in the research park upon terms and conditions established by the University of Utah, and to enter into any other contract or agreement with the nonprofit corporation or foundation as necessary for the construction, financing, operation, and management of the research park;

[~~(4)~~](e) to lease, either directly or through a nonprofit corporation or foundation, to any person, firm, partnership, or corporation engaged in business for a profit any part or all of the land, buildings, or facilities of the research park under guidelines established by the university;

[~~(5)~~](f) to allow a lessee to acquire or construct necessary or suitable buildings, facilities, and improvements upon the leased property [~~. Any~~], with any improvements acquired or constructed upon the premises during the term of the lease [~~reverts to and becomes~~]reverting to and becoming the property of the university at the lease's termination, [~~of the lease, its~~]renewal, or extension; and

[~~(6)~~](g) to finance all or part of the cost of the research park including the purchase, construction, reconstruction, improvement, remodeling, addition to, extension, maintenance, equipment, and furnishing as permitted by law for the financing of self-liquidating projects by institutions of higher education.

(5) (a) The nonprofit corporations or foundations may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out the nonprofit corporation or foundation's public purposes.

(b) For the purpose of employee benefits, all salaried employees, agents, officers, faculty, and staff of the nonprofit corporation or foundation are considered employees, agents, officers, faculty, and staff of the University of Utah.

(6) The Salt Lake City Council shall provide police and fire protection and furnish, install, and maintain customary municipal services and facilities for street lighting, traffic control, sidewalks, curb, gutter, drainage, sewage disposal, and water supply to all areas of the research park established upon lands conveyed to the University of Utah under the patent.

(7) (a) The services and facilities are to be furnished and provided as needed and determined by the board subject to connection fees, use charges, and other service fees customarily assessed against similar persons, companies, or properties within the territorial limits of

Salt Lake City.

(b) No special improvement district may be created or special taxes imposed with respect to the services and facilities provided under this section.

(c) The Department of Transportation may enter into agreements with the University of Utah between regular sessions of the Legislature designating all or part of the roads within or adjacent to the research park as part of the state highway system.

Section 102. Section 53H-4-206, which is renumbered from Section 53B-17-1402 is renumbered and amended to read:

[~~53B-17-1402~~]53H-4-206 (Effective upon governor's approval). Center for Medical Cannabis Research.

(1) As used in this section:

(a) "Academic research cannabis license" means the license described in Title 4, Chapter 41a, Part 9, Academic Medical Cannabis Research.

(b) "Cannabis" means the same as that term is defined in Section 26B-4-201.

(c) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

(d) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

(e) "Center" means the Center for the Medical Cannabis Research created in this section.

(f) "Eligible institution" means an institution of higher education that:

(i) is located in Utah; and

(ii) has or will obtain an academic research cannabis license.

(g) "Medical cannabis patient card" means the same as that term is defined in Section 26B-4-201.

[~~(1)~~](2) There is created the Center for Medical Cannabis Research within the University of Utah.

[~~(2)~~](3) The center:

(a) shall seek state, federal, and private funds to award grants for medical cannabis research;

(b) shall facilitate and support funding for research related to the health effects, including the potential risks or side effects, of the use of cannabis products;

(c) shall facilitate and support funding for research related to the efficacy and potential health effects of various cannabis delivery methods, including vaporizing, ingesting, topical application, and combustion;

(d) shall support researchers in applying for and securing federal and private research grant funding for expanding medical cannabis research;

(e) shall review current and future cannabis research literature, clinical studies, and clinical trials;

(f) shall educate medical providers, lawmakers, and the public about medical cannabis research advances;

(g) shall, if requested, consult with researchers and eligible institutions seeking to conduct medical cannabis research regarding legal implications of the research under state and federal law;

(h) shall monitor, to the extent that appropriate and sufficient data are available, patient outcomes in any state with a medicinal cannabis program;

(i) may coordinate, share knowledge, and share best practices with a state:

(i) that has a medical cannabis program; and

(ii) is conducting cannabis research;

(j) may award or facilitate funding for grants to an eligible institution for medical cannabis research, including research regarding the growing of a medical-grade cannabis plant that is used for a cannabis product;

(k) shall support a licensed cannabis cultivation facility to provide medical-grade cannabis products for research;

(l) shall make, for research conducted by the center, the research outcomes publicly available;

(m) shall maintain a catalog of all published scientific reports based on projects funded or managed by the center;

(n) shall ensure that an individual who agrees to use a cannabis product as part of a research project conducted by the center or a grantee has:

(i) a valid medical cannabis patient card from the state; or

(ii) if included in the research project as a resident of another state, the equivalent of a medical cannabis patient card under the laws of another state, district, territory, commonwealth, or insular possession of the United States;

(o) shall obtain an academic research cannabis license;

(p) may apply for, or assist an eligible institution to apply for, a federal cannabis cultivation registration to locate a cannabis cultivation site in Utah; and

(q) for the report described in Section 26B-4-222, shall provide information to the Department of Health and Human Services describing:

(i) all research projects that are funded by a grant awarded by the center, including which institution received the grant;

(ii) all research projects conducted by the center; and

(iii) the adequacy of funding for the center's duties.

[~~(3)~~](4) For research funded, conducted, or facilitated by the center, the center shall ensure the research:

(a) includes appropriate research development, testing, and evaluation; and

(b) if the research involves human subjects, is reviewed, approved, and overseen by an institutional review board as defined in Section [~~26-61-102~~]26B-4-212.

[~~(4)~~](5) The University of Utah shall provide staff for the center.

Section 103. Section 53H-4-207, which is renumbered from Section 53B-17-201 is renumbered and amended to read:

[~~53B-17-201~~]53H-4-207 (Effective upon governor's approval). Rehabilitation Building -- Proceeds from federal land grants for a Miners Hospital for disabled miners.

(1) There is appropriated to the University of Utah all funds, assets, and revenues which have been, or will be, derived from the sale or other disposition of those lands conveyed to the state of Utah by those federal grants for a Miners [~~'~~] Hospital for [~~Disabled~~

~~Miners~~]disabled miners contained in Section 12 of the Enabling Act and in Chapter 280, Public Laws of the Seventieth Congress, 2nd Session (Act of February 20, 1929) which funds, assets, and revenues now are, or in the future will be, in the custody and control of the School and Institutional Trust Lands Board of Trustees.

(2) The funds, assets, and revenues described in Subsection (1) shall be used for the construction, equipment, furnishings, and operation, or either or any of the same, on the campus of the university of a rehabilitation building, either as a separate structure or as an integrated unit in the University of Utah Medical Center.

Section 104. Section 53H-4-208, which is renumbered from Section 53B-17-401 is renumbered and amended to read:

[~~53B-17-401~~]53H-4-208 (Effective upon governor's approval). College of Mines and Earth Sciences.

(1) There is established a College of Mines and Earth Sciences at the University of Utah.

(2) The college is the beneficiary of all land grants and appropriations made or to be made by the United States to the state for the establishment and maintenance of a school of mines.

(3) The college may offer courses in and related to mining, metallurgical and electrical engineering, and other branches of engineering that pertain to mining.

(4) (a) There is established the Utah Engineering Experiment Station in conjunction with the College of Mines and Earth Sciences.

(b) The Utah Engineering Experiment Station is controlled and managed by the University of Utah.

(5) The Utah Engineering Experiment Station has the following functions:

(a) to conduct experiments and investigations on matters that have the potential to benefit the state's industrial interests or would be for the public good; and

(b) to inform the public of the results of the experiments and investigations conducted by the Utah Engineering Experiment Station.

(6) The Utah Engineering Experiment Station is not to conduct experiments or investigations on those matters that more properly relate to the functions of Utah State University's experiment station.

(7) The University of Utah makes an annual report on the Utah Engineering Experiment Station to the governor at a time designated by the governor.

Section 105. Section 53H-4-209, which is renumbered from Section 53B-17-1001 is renumbered and amended to read:

[~~53B-17-1001~~]53H-4-209 (Effective upon governor's approval). Reading clinic.

(1) The Legislature recognizes the critical importance of identifying, assessing, and assisting students with reading difficulties at an early age in order for [~~them~~]the students to have successful and productive school and life experiences.

(2) [~~In order to~~]To help accomplish this, there is established a reading clinic, hereafter referred to as the "clinic," based at the University of Utah, College of Education, to assist educators and parents of students statewide in:

(a) assessing elementary school students who do not demonstrate satisfactory progress in reading;

(b) providing instructional intervention to enable the students to overcome reading difficulties; and

(c) becoming better prepared to help all students become successful readers by providing [~~them~~]the students with professional development programs in reading that are based on best practices and the most current, scientific research available through nationally and internationally recognized reading researchers and instructional specialists.

(3) (a) The clinic shall focus primarily on students in grades 1 through 3 since research shows the need for students to become successful readers by the end of grade 3.

(b) The clinic shall make assessment and instructional intervention services available to public education students of all ages.

(4) The clinic shall provide these services at a base site in Salt Lake County and through remote access interactive technology to reach educators, parents, and students throughout the state.

(5) The clinic shall provide:

(a) instruction to teachers in the use of technology and blended learning in providing individualized reading instruction and reading remediation; and

(b) access to students for reading remediation and instruction services through distance learning technology if a student is unable to regularly access a reading clinic location.

(6) The clinic shall integrate both the usage of and instruction on the use of technology-based reading assessment tools as part of the clinic's services.

Section 106. Section 53H-4-210, which is renumbered from Section 53B-17-1202 is renumbered and amended to read:

[~~53B-17-1202~~]53H-4-210 (Effective upon governor's approval). SafeUT Crisis Line.

(1) As used in this section:

(a) "Commission" means the SafeUT and School Safety Commission established in this section.

(b) "Huntsman Mental Health Institute" means the mental health and substance abuse treatment institute within the University of Utah Hospitals and Clinics.

(2) The Huntsman Mental Health Institute shall:

[~~(1)~~](a) establish [~~a~~]the SafeUT Crisis Line to provide:

[~~(a)~~](i) a means for an individual to anonymously report:

[~~(i)~~](A) unsafe, violent, or criminal activities, or the threat of such activities at or near a public school;

[~~(ii)~~](B) incidents of bullying, cyber-bullying, harassment, or hazing; and

[~~(iii)~~](C) incidents of physical or sexual abuse committed by a school employee or school volunteer; and

[~~(b)~~](ii) crisis intervention, including suicide prevention, to individuals experiencing emotional distress or psychiatric crisis;

[~~(2)~~](b) provide the services described in Subsection [~~(1)~~](2)(a) 24 hours a day, seven days a week;

[~~(3)~~](c) when necessary, or as required by law, promptly forward a report received under Subsection [~~(1)(a)~~](2)(a) to appropriate:

[~~(a)~~](i) school officials; and

[~~(b)~~](ii) law enforcement officials;

[~~(4)~~](d) in accordance with Subsection [~~(5)~~](2)(e), report the uses of the SafeUT Crisis Line described in Subsection [~~(1)~~](2) to the State Bureau of Investigation's systems described in Subsections 53-10-302(7) and (8);

[~~(5)~~](e) coordinate with the state security chief to determine the appropriate circumstances necessitating a report described in Subsection [~~(4)~~](2)(d); and

[~~(6)~~](f) subject to legislative appropriations and in consultation with the School Security Task Force described in Section 53-22-104.1, state security chief described in Section 53-22-102, and School Safety Center described in Section 53G-8-802, develop and deploy additional supports and enhancements for school safety efforts.

(3) There is created the SafeUT and School Safety Commission composed of the following members:

(a) one member who represents the Office of the Attorney General, whom the attorney general appoints;

(b) one member who represents the Utah public education system, whom the State Board of Education appoints;

(c) a designee of the Utah Board of Higher Education, whom the commissioner selects under direction of the board;

(d) one member who represents the Department of Health and Human Services, whom the executive director of the Department of Health and Human Services appoints;

(e) one member of the House of Representatives, whom the speaker of the House of Representatives appoints;

(f) one member of the Senate, whom the president of the Senate appoints;

(g) one member who represents the Huntsman Mental Health Institute, whom the chair of the commission appoints;

(h) one member who represents law enforcement who has extensive experience in emergency response, whom the chair of the commission appoints;

(i) one member who represents the Department of Health and Human Services who has experience in youth services or treatment services, whom the executive director of the Department of Health and Human Services appoints; and

(j) two members of the public, whom the chair of the commission appoints.

(4) (a) Except as provided in Subsection (4)(b), members of the commission shall be appointed to four-year terms.

(b) The length of the terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.

(5) (a) The attorney general's designee shall serve as chair of the commission.

(b) The chair shall set the agenda for commission meetings.

(6) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.

(7) Formal action by the commission requires a majority vote of a quorum.

(8) (a) Except as provided in Subsection (8)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(9) The Office of the Attorney General shall provide staff support to the commission.

(10) The commission shall coordinate:

(a) statewide efforts related to the SafeUT Crisis Line;

(b) with the State Board of Education and the board to promote awareness of the services available through the SafeUT Crisis Line; and

(c) with the state security chief appointed under Section 53-22-102 to ensure appropriate reporting described in Subsections and (2)(d) and (e).

(11) An local education agency governing board shall inform students, parents, and school personnel about the SafeUT Crisis Line.

(12) (a) Except as provided in Subsection (12)(b), the Huntsman Mental Health Institute may charge a fee to an institution of higher education or other entity for the use of the SafeUT Crisis Line in accordance with the method described in Subsection (12)(c).

(b) The Huntsman Mental Health Institute may not charge a fee to the State Board of Education or a local education agency for the use of the SafeUT Crisis Line.

(c) The commission shall establish a standard method for charging a fee described in Subsection (12)(a).

Section 107. Section 53H-4-211, which is renumbered from Section 53B-17-603 is renumbered and amended to read:

[~~53B-17-603~~]53H-4-211 (Effective upon governor's approval). Utah Museum of Natural History.

(1) For purposes of this section:

(a) "Collections" means the same as that term is defined in Section 9-8a-302.

(b) "Curation facility" means:

(i) the museum;

(ii) an accredited facility meeting federal curation standards;

(iii) for the purposes described in Subsection [~~(3)(c)~~](7)(c), a paleontology museum; or

(iv) an appropriate state park.

(c) "Museum" means the Utah Museum of Natural History.

(d) "Paleontology museum" means a museum owned or established by a city of the first or second class, that:

(i) is designed for the curation and display of specimens and paleontological resources;

(ii) has a designated paleontologist responsible for the care and preservation of the specimens, collections, and paleontological resources; and

(iii) is an approved repository, as that term is defined in 43 C.F.R. Sec. 49.5, or has a detailed plan to become an approved repository.

(e) "Repository" means:

(i) a facility designated by the museum through memoranda of agreement;

(ii) for the purposes described in Subsection [~~(3)(c)~~](7)(c), a paleontology museum; or

(iii) a place of reburial.

(f) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

(2) There is established at the University of Utah the Utah Museum of Natural History, where tangible objects reflecting the past, present, and continuing development of our natural history may be collected and displayed for educational and cultural purposes.

(3) (a) The museum shall make available to people throughout the state, through traveling exhibits and outreach programs, archeological and paleontological objects retrieved from the state.

(b) The museum shall provide professional expertise and assistance in the proper care of the archeological and paleontological collections from state lands as the collections are housed throughout the state.

(4) The museum shall submit an annual request to the Legislature to fund the ongoing costs of the programs authorized under Subsection (3) as part of the museum's base budget.

(5) The University of Utah is authorized to receive gifts, contributions, and donations of all kinds, including tangible objects and specimens for the development of or display in the museum.

[~~(2)~~](6) The museum shall make rules to ensure the adequate curation of all collections from lands owned or controlled by the state or [~~its~~]the state's subdivisions.

(a) The rules shall:

[~~(a)~~](i) conform to, but not be limited by, federal curation policy;

[~~(b)~~](ii) recognize that collections recovered from school and institutional trust lands are owned by the respective trust, and shall be made available for exhibition as the beneficiaries of the respective trust may request, subject to museum curation policy and the curation facility's budgetary priorities;

[~~(c)~~](iii) recognize that any collections obtained in exchange for collections found on school and institutional trust lands shall be owned by the respective trust; and

[~~(d)~~](iv) recognize that if, at [~~its~~]the museum's discretion, the curation facility makes and sells reproductions derived from collections found on school or institutional trust lands, any money obtained from these sales shall be given to the respective trust, but the curation facility may retain money sufficient to recover the direct costs of preparation for sale and a reasonable fee for handling the sale.

[~~(3)~~](7) (a) Subject to [~~Subsection (3)(c)~~]Subsection (7)(c), the museum may enter into memoranda of agreement with other repositories located in and outside the state to act as [~~its~~]the museum's designee for the curation of collections.

(b) In these memoranda, the museum may delegate some or all of [~~its~~]the museum's authority to curate.

(c) A city that has a paleontology museum may retain, curate, and manage paleontological specimens, paleontological collections, and paleontological resources recovered on lands owned or controlled by the city.

[~~(4)~~](8) (a) All collections recovered from lands owned or controlled by the state or [~~its~~]the state's subdivisions shall be deposited at the museum, a curation facility, or at a repository within a reasonable time after the completion of field work.

(b) The museum shall make rules establishing procedures for selection of the appropriate curation facility or repository.

(c) The rules shall consider:

(i) whether the permittee, authorized pursuant to Section 9-8a-305, is a curation facility;

(ii) the appropriateness of reburial;

(iii) the proximity of the curation facility or repository to the point of origin of the collection;

(iv) the preference of the owner of the land on which the collection was found;

(v) the nature of the collection and the repository's or curation facility's ability and desire to curate the collection in question, and ability to maximize the scientific, educational, and cultural benefits for the people of the state and the school and institutional trusts;

(vi) selection of a second curation facility or repository, if the original repository or curation facility becomes unable to curate the collections under [~~its~~]the original repository or curation facility's care; and

(vii) establishment of an arbitration process for the resolution of disputes over the location of a curation facility or repository, which shall include an ultimate arbitration authority consisting of the landowner, the state archaeologist or paleontologist, and a representative from the governor's office.

(d) The repository or curation facility may charge a curation fee commensurate with the costs of maintaining those collections, except that a fee may not be charged to the respective trust for collections found on school or institutional trust lands.

[~~(5)~~](9) The repository or curation facility shall make specimens available through loans to museums and research institutions in and out of the state when, in the opinion of the repository or curation facility:

(a) the use of the specimens is appropriate; and

(b) arrangements are made for safe custodianship of the specimens.

[~~(6)~~](10) The museum shall comply with the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding publication of [~~its~~]the museum's rules in the Utah State Bulletin and the Utah Administrative Code.

Section 108. Section 53H-4-212, which is renumbered from Section 53B-17-701 is renumbered and amended to read:

[~~53B-17-701~~]53H-4-212 (Effective upon governor's approval). Utah Museum of Fine Arts.

(1) There is established at the University of Utah the Utah Museum of Fine Arts as:

(a) a state general and multicultural art museum; and

(b) a state institution charged with the broad responsibility of collecting and exhibiting, for the education and enrichment of [~~its~~]Utah's citizens, art and related objects from around the world from prehistoric times to the present.

(2) The museum shall:

(a) serve as a repository in Utah of the objects referred to in Subsection (1);

(b) collect and display tangible art objects that reflect the past, present, and continuing development of the visual arts in America and throughout the rest of the world;

(c) provide professional expertise and assistance in the proper care of the tangible art objects displayed at the museum; and

(d) engage visitors to the museum in discovering meaningful connections with the artistic expressions of the world's cultures by:

(i) acting as a responsible steward of the material legacy of the visual arts located at the Utah Museum of Fine Arts for the people of Utah;

(ii) serving as a teaching, learning, and research resource for the University of Utah, the state's greater educational community, and the general public;

(iii) promoting an open dialogue with visitors and the community about the role of visual arts in our society;

(iv) fostering and celebrating the diverse artistic expressions and accomplishments of the people of Utah and around the world;

(v) cultivating community partnerships and collaborations to ensure that the visual arts reach a broad spectrum of the general public; and

(vi) offering a wide range of experiences that will enable visitors to the museum to explore the variety of ways the arts can inform and enhance the human experience.

(3) The University of Utah may receive gifts, contributions, and donations of all kinds, including tangible objects for the development of or display in the museum.

Section 109. Section 53H-4-213.1, which is renumbered from Section 53B-17-101 is renumbered and amended to read:

[~~53B-17-101~~]53H-4-213.1 (Effective upon governor's approval). Educational telecommunications -- Definitions.

(1) As used in Sections 53H-4-213.1 through 53H-4-213.7:

(a) "Digital resource" means a digital or online library resource, including a database.

(b) "Digital resource provider" means an entity that offers a digital resource to customers for license or sale.

(c) "Education Advisory Council" means the Utah Education Advisory Council created in Section 53H-4-213.6.

(d) "Obscene or pornographic material" means material that:

(i) an average person, applying contemporary community standards, finds that, taken as a whole, appeals to prurient interest in sex;

(ii) is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and

(iii) taken as a whole does not have serious literary, artistic, political, or scientific value.

(e) "Telehealth" means the electronic transfer, exchange, or management of related data for diagnosis, treatment, and consultation, and educational, public health, or other related purposes.

(f) "Telehealth Advisory Council" means the Utah Telehealth Advisory Council created in Section 53H-4-213.5.

(g) "Utah Education and Telehealth Network," or "UETN," means a consortium and partnership between public and higher education, the Department of Health and Human Services, and health care providers, that is created in Section 53H-4-213.4.

(2) The Legislature finds and determines the following:

[~~(1)~~](a) [~~The~~]the University of Utah's Dolores Dore' Eccles Broadcast Center is the statewide public broadcasting and telecommunications facility for education in Utah [~~.~~];

[~~(2)~~](b) [~~The~~]the center shall provide services to citizens of the state in cooperation with higher and public education, state and local government, and private industry [~~.~~];

[~~(3)~~](c) [~~Distribution~~]distribution services provided through the center shall include KUED - TV, KUER - FM, and KUEN - TV [~~.~~];

[~~(4)~~](d) KUED - TV and KUER - FM are licensed to the University of Utah [~~.~~];

[~~(5)~~](e) [~~The~~]the Utah Education and Telehealth Network's broadcast entity, KUEN - TV, is licensed to the Utah Board of Higher Education and, together with UETN, is operated on behalf of the state's systems of public and higher education [~~.~~];

[~~(6)~~](f) [~~All~~]all the entities referred to in [~~Subsection (3)~~]Subsection (2)(c) are under the administrative supervision of the University of Utah, subject to the authority and governance of the Utah Board of Higher Education [~~.~~]and

[~~(7)~~](g) [~~This~~]this section neither regulates nor restricts a privately owned company in the distribution or dissemination of educational programs.

Section 110. Section 53H-4-213.2, which is renumbered from Section 53B-17-103 is renumbered and amended to read:

[~~53B-17-103~~]53H-4-213.2 (Effective upon governor's approval). Educational telecommunications -- General powers of University of Utah related to public broadcasting and telecommunication for education.

(1) Subject to applicable rules of the Federal Communications Commission and the Utah Board of Higher Education, the University of Utah shall:

(a) serve as the state's provider of public television services, with programming from the Public Broadcasting Service and other syndicated and locally produced programs;

(b) serve as the state's primary provider of public radio services, with programming from National Public Radio and other syndicated and locally produced programs; and

(c) subject to Section [~~53B-7-103~~]53H-8-208, accept and use gifts and apply for and receive funds from federal and other sources to carry out the purposes of this part.

(2) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate KUED - TV.

(3) This section neither regulates nor restricts a privately owned company in the distribution or dissemination of educational programs.

Section 111. Section 53H-4-213.3, which is renumbered from Section 53B-17-104 is renumbered and amended to read:

[~~53B-17-104~~]53H-4-213.3 (Effective upon governor's approval). Educational telecommunications -- Responsibilities of the Utah Board of Higher Education, the State Board of Education, the University of Utah, KUED - TV, KUER - FM, and UETN related to public broadcasting and telecommunication for education and government.

(1) Subject to applicable rules of the Federal Communications Commission and Section [~~53B-17-105~~]53H-4-213.4, the Utah Board of Higher Education, the State Board of Education, the University of Utah, KUED - TV, KUER - FM, and UETN shall:

(a) coordinate statewide services of public radio and television;

(b) develop, maintain, and operate statewide distribution systems for KUED - TV, KUER - FM, and KUEN, the statewide distance learning service, the educational data network, connections to the Internet, and other telecommunications services appropriate for providing video, audio, and data telecommunication services in support of public and higher education, state government, and public libraries;

(c) support the delivery of these services to as many communities as may be economically and technically feasible and lawfully permissible under the various operating licenses;

(d) cooperate with state and local governmental and educational agencies and provide leadership and consulting service for telecommunication for education;

(e) represent the state with privately owned telecommunications systems to gain access to [~~their~~]the state's networks for the delivery of programs and services sponsored or produced by public and higher education;

(f) acquire, produce, coordinate, and distribute a variety of programs and services of an educational, cultural, informative, and entertaining nature designed to promote the public interest and welfare of the state;

(g) coordinate with the state system of higher education to acquire, produce, and distribute broadcast and nonbroadcast college credit telecourses, teleconferences, and other instructional and training services;

(h) coordinate with school districts and public schools to acquire, produce, and distribute broadcast and nonbroadcast telecourses, teleconferences, and other instructional and training services to the public schools;

(i) coordinate the development of a clearing house for the materials, courses, publications, media, software, and other applicable information related to the items addressed in Subsections (1)(g) and (h);

(j) coordinate the provision of the following services to public schools:

(i) broadcast, during school hours, of educational and administrative programs recommended by the State Board of Education;

(ii) digitization of programs for broadcast purposes; and

(iii) program previewing;

(k) share responsibility for [~~Instructional Television (ITV)~~]instructional television awareness and utilization; and

(l) provide teleconference and training services for state and local governmental agencies.

(2) This section neither regulates nor restricts a privately owned company in the distribution or dissemination of education programs.

Section 112. Section 53H-4-213.4, which is renumbered from Section 53B-17-105 is renumbered and amended to read: [~~53B-17-105~~]53H-4-213.4 (Effective upon governor's approval). Educational telecommunications -- Utah Education and Telehealth Network.

(1) There is created the Utah Education and Telehealth Network, or UETN.

(2) UETN shall:

(a) coordinate and support the telecommunications needs of public and higher education, public libraries, and entities affiliated with the state systems of public and higher education as approved by the Utah Education and Telehealth Network Board, including the statewide development and implementation of a network for education, which utilizes satellite, microwave, fiber-optic, broadcast, and other transmission media;

(b) coordinate the various telecommunications technology initiatives of public and higher education;

(c) provide high-quality, cost-effective Internet access and appropriate interface equipment for schools and school systems;

(d) procure, install, and maintain telecommunication services and equipment on behalf of public and higher education;

(e) develop or implement other programs or services for the delivery of distance learning and telehealth services as directed by law;

(f) apply for state and federal funding on behalf of:

(i) public and higher education; and

(ii) telehealth services;

(g) in consultation with health care providers from a variety of health care systems, explore and encourage the development of telehealth services as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations; and

(h) in consultation with the [~~Utah Department of Health~~]Department of Health and Human Services, advise the governor and the Legislature on:

(i) the role of telehealth in the state;

(ii) the policy issues related to telehealth;

(iii) the changing telehealth needs and resources in the state; and

(iv) state budgetary matters related to telehealth.

(3) In performing the duties under Subsection (2), UETN shall:

(a) provide services to schools, school districts, and the public and higher education systems through an open and competitive bidding process;

(b) work with the private sector to deliver high-quality, cost-effective services;

(c) avoid duplicating facilities, equipment, or services of private providers or public telecommunications service, as defined under Section 54-8b-2;

(d) utilize statewide economic development criteria in the design and implementation of the educational telecommunications infrastructure; and

(e) assure that public service entities, such as educators, public service providers, and public broadcasters, are provided access to the telecommunications infrastructure developed in the state.

(4) The University of Utah shall provide administrative support for UETN.

(5) (a) The Utah Education and Telehealth Network Board, which is the governing board for UETN, is created.

(b) The Utah Education and Telehealth Network Board shall have 13 members as follows:

(i) five members representing the state system of higher education, of which at least one member represents technical colleges, appointed by the commissioner of higher education;

(ii) four members representing the state system of public education appointed by the State Board of Education;

(iii) one member representing the state library appointed by the state librarian;

(iv) two members representing hospitals as follows:

(A) the members may not be employed by the same hospital system;

(B) one member shall represent a rural hospital;

(C) one member shall represent an urban hospital; and

(D) the chief administrator or the administrator's designee for each hospital licensed in this state shall select the two hospital representatives; and

(v) one member representing the office of the governor, appointed by the governor.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) (i) The [~~board~~]Utah Education and Telehealth Network Board shall elect a chair.

(ii) The chair shall set the agenda for the [~~board~~]Utah Education and Telehealth Network Board meetings.

(6) A member of the [~~board~~]Utah Education and Telehealth Network Board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The [~~board~~]Utah Education and Telehealth Network Board:

(a) shall hire an executive director for UETN who may hire staff for UETN as permitted by the budget;

(b) may terminate the executive director's employment or assignment;

(c) shall determine the executive director's salary;

(d) shall annually conduct a performance evaluation of the executive director;

(e) shall establish policies the [~~board~~]Utah Education and Telehealth Network Board determines are necessary for the operation of UETN and the administration of UETN's duties; and

(f) shall advise UETN in:

(i) the development and operation of a coordinated, statewide, multi-option telecommunications system to assist in the delivery of educational services and telehealth services throughout the state; and

(ii) acquiring, producing, and distributing instructional content.

(8) The executive director of UETN shall be an at-will employee.

(9) UETN shall locate and maintain educational and telehealth telecommunication infrastructure throughout the state.

(10) Educational institutions shall manage site operations under policy established by UETN.

(11) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate UETN.

(12) If the network operated by the Division of Technology Services is not available, UETN may provide network connections to the central administration of counties and municipalities for the sole purpose of transferring data to a secure facility for backup and disaster recovery.

Section 113. Section 53H-4-213.5, which is renumbered from Section 53B-17-106 is renumbered and amended to read:

[~~53B-17-106~~]53H-4-213.5 (Effective upon governor's approval). Educational Telecommunications -- Utah Telehealth Advisory Council.

(1) There is created the Utah Telehealth Advisory Council, which may, at the discretion of the [~~board, and after July 1, 2015~~]Utah Education and Telehealth Network Board, be combined with the Utah Education Advisory Council created in Section [~~53B-17-107~~]53H-4-213.6.

(2) The Utah Telehealth Advisory Council members shall be appointed by the [~~board~~]Utah Education and Telehealth Network Board.

(3) (a) The Utah Telehealth Advisory Council shall annually elect a chairperson from [~~its~~]the Utah Telehealth Advisory Council's membership.

(b) The chair shall set the agendas for the meetings of the advisory council and shall report to the [~~board~~]Utah Education and Telehealth Network Board.

[~~(b)~~](c) The Utah Telehealth Advisory Council shall hold meetings at least once every three months.

(d) Meetings may be held from time to time on the call of the chair or a majority of the [~~board~~]Utah Education and Telehealth Network Board members.

(4) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The [~~board~~]Utah Education and Telehealth Network Board shall provide staff support to the council.

(6) The council shall:

(a) advise and make recommendations on telehealth service issues to the [~~board~~]Utah Education and Telehealth Network Board and other state entities;

(b) advise and make recommendations on telehealth-related patient privacy to the [~~board~~]Utah Education and Telehealth Network Board;

(c) promote collaborative efforts to establish technical compatibility, uniform policies, and privacy features to meet legal, financial, commercial, and other societal requirements;

(d) identify, address, and seek to resolve the legal, ethical, regulatory, financial, medical, and technological issues that may serve as barriers to telehealth service;

(e) explore and encourage the development of telehealth as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations with access to or development of electronic medical records; and

(f) seek public input on telehealth issues.

Section 114. Section 53H-4-213.6, which is renumbered from Section 53B-17-107 is renumbered and amended to read:

[~~53B-17-107~~]53H-4-213.6 (Effective upon governor's approval). Educational telecommunications -- Utah Education Advisory Council.

(1) (a) There is created the Utah Education Advisory Council which may, at the discretion of the [~~board, and after July 1, 2015~~]Utah Education and Telehealth Network Board, be combined with the Utah Telehealth Advisory Council created in Section [~~53B-17-106~~]53H-4-213.5.

(b) The Utah Education Advisory Council members shall be appointed by the [~~board~~]Utah Education and Telehealth Network Board.

(c) The Utah Education Advisory Council shall annually elect a chairperson from [~~its~~]the Utah Education Advisory Council membership.

(d) The chair shall set the agenda for Utah Education Advisory Council meetings and report to the [~~board~~]Utah Education and Telehealth Network Board.

[~~(d)~~](e) The Utah Education Advisory Council shall hold meetings at least once every three months.

(f) Meetings may be held from time to time on the call of the chair or a majority of the [~~board~~]Utah Education and Telehealth Network Board members.

(2) A member of the Utah Education Advisory Council may not receive compensation or benefits for the member's service, but at the executive director's discretion may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(3) The Utah Education Advisory Council shall:

(a) advise the [~~board~~]Utah Education and Telehealth Network Board and other public entities regarding:

(i) the coordination of the various telecommunications technology initiatives of public and higher education;

(ii) how to provide high-quality, cost-effective Internet access and appropriate interface equipment for schools and school systems;

(iii) recommendations for the procurement, installation, and maintenance of telecommunication services and equipment on behalf of public and higher education; and

(iv) the development or implementation of other programs or services for the delivery of distance learning and digital health services as directed by law; and

(b) seek public input on the development and operation of a coordinated, statewide, multi-option telecommunications system to assist in the delivery of educational services and digital health services throughout the state.

(4) The [~~board~~]Utah Education and Telehealth Network Board shall provide staff to the council.

Section 115. Section 53H-4-213.7, which is renumbered from Section 53B-17-109 is renumbered and amended to read:

[~~53B-17-109~~]53H-4-213.7 (Effective upon governor's approval). Educational telecommunications -- Digital resource standards.

(1) A digital resource purchased or licensed by UETN and offered to students in public schools must have safety policies and technology protection measures that:

(a) prohibit and prevent a public school student using the resource from sending, receiving, viewing, or downloading obscene or pornographic material; and

(b) filter or block access to obscene or pornographic material.

(2) (a) Regardless of any contract provision to the contrary, if UETN discovers a digital resource does not meet the requirements described in Subsection (1), UETN:

(i) shall notify the digital resource provider; and

(ii) may withhold future payments pending the digital resource provider's compliance with Subsection (1).

(b) A digital resource provider is in breach of contract if the digital resource provider fails to verify compliance with Subsection (1) within 90 days after the day on which UETN provides the notice described in Subsection (2)(a)(i).

(c) [~~Beginning June 1, 2021, a~~]A contract UETN enters into for a digital resource shall contain provisions that comply with this section.

(3) Before November 30 of each year, UETN shall submit a report to the Education Interim Committee detailing all instances of a digital resource provider's failure to comply with the provisions of this section.

Section 116. Section 53H-4-301 is enacted to read:

PART 3. Utah State University

53H-4-301 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 117. Section 53H-4-302, which is renumbered from Section 53B-18-501 is renumbered and amended to read:

[~~53B-18-501~~]53H-4-302 (Effective upon governor's approval). Utah State University powers -- Nonprofit foundations -- State power plant.

(1) Utah State University has general control and supervision of the state power plant in Logan Canyon.

[~~(1)~~](2) In addition to any other powers [~~which it now has~~]the institution has, Utah State University may form nonprofit corporations or foundations controlled by the president of the university and the board to aid and assist the university in attaining [~~its~~]the university's charitable, scientific, literary, research, and educational objectives.

[~~(2)~~](3) The nonprofit corporations or foundations may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out [~~their~~]the nonprofit corporation or foundation's public purposes.

Section 118. Section 53H-4-303, which is renumbered from Section 53B-18-1201 is renumbered and amended to read:

[~~53B-18-1201~~]53H-4-303 (Effective upon governor's approval). Regional campuses -- Establishment of campuses -- Career and technical education.

(1) As used in this section:

(a) "Service regions" means the service regions, as established by the Utah State University board of trustees, for:

(i) Utah State University Eastern;

(ii) Utah State University Blanding; and

(iii) Utah State University Moab.

[~~(a)~~](b) "University" means Utah State University.

(c) "Utah State University Moab" means the Utah State University regional campus located at or near Moab.

(d) "Utah State University regional institution" or "USU regional institution" means:

(i) Utah State University Eastern;

(ii) Utah State University Blanding; or

(iii) Utah State University Moab.

[~~(b)~~](e) "Vice president" means the vice president described in [~~Subsection (5)~~]Subsection (5)(d).

(2) Utah State University shall operate and administer regional campuses located at or near Roosevelt and Moab.

(3) A regional campus described in Subsection (2) shall offer academic courses comparable to those offered in an accredited institution of higher education.

(4) A USU regional institution shall:

(a) maintain a strong curriculum in career and technical education courses at the USU regional institution's campus and within the region the USU regional institution serves that can be transferred to other institutions within the higher education system, together with lower division courses and courses required for associate degrees in science, arts, applied science, and career and technical education; and

(b) work with school districts and charter schools in developing an aggressive concurrent enrollment program.

[~~(2)~~](5) (a) There is established a comprehensive regional college of the university called Utah State University Eastern.

[~~(b)~~](i) The university shall:

[~~(i)~~](A) possess all rights, title, privileges, powers, immunities, franchises, endowments, property, and claims of the College of Eastern Utah; and

[~~(ii)~~](B) fulfill and perform all obligations of Utah State University Eastern, including obligations relating to outstanding bonds and notes.

[~~(3)~~](b) [~~(a)~~](i) Utah State University Eastern has a campus that serves Price, Utah, and surrounding areas.

[~~(b)~~](ii) The university board of trustees shall establish Utah State University Eastern's service region.

[~~(4)~~](c) Utah State University Eastern is under the authority and direction of the university president and the university board of trustees.

[~~(5)~~](d) Utah State University Eastern shall be administered by a vice president of the university appointed by the university president.

[~~(6)~~]

[~~(a)~~](e) (i) The university president shall appoint a regional advisory council to advise the university president and the vice president regarding local issues relating to Utah State University Eastern.

[~~(b)~~](ii) The vice president shall provide the university president with recommendations for membership on the regional advisory council.

[~~(c)~~](iii) The regional advisory council may include:

[~~(i)~~](A) a student representative; or

[~~(ii)~~](B) residents of the counties in the Utah State University Eastern service region.

(6) (a) There is established a comprehensive regional college of the university called Utah State University Blanding.

(b) (i) Utah State University Blanding has a campus that serves Blanding, Utah and surrounding areas.

(ii) The university board of trustees shall establish Utah State University Blanding's service region.

(c) Utah State University Blanding is under the authority and direction of the university president and the university board of trustees.

(d) Utah State University Blanding shall be administered by a vice president of the university appointed by the university president.

(e) (i) The university president shall appoint a regional advisory council to advise the university president and the vice president regarding local issues relating to Utah State University Blanding.

(ii) The vice president shall provide the university president with recommendations for membership on the regional advisory council.

(iii) The regional advisory council may include:

(A) a student representative; or

(B) residents of the counties in the Utah State University Blanding service region.

(7) (a) Utah State University shall establish a career and technical education advisory committee composed of the following 13 members:

(i) one elected local school board member appointed by the board of education for the Carbon School District;

(ii) one elected local school board member appointed by the board of education for the Emery School District;

(iii) one elected local school board member appointed by the board of education for the Grand School District;

(iv) one elected local school board member appointed by the board of education for the San Juan School District;

(v) nine members appointed by the Utah State University president that include:

(A) one member of the Utah State University Eastern regional advisory council described in this section;

(B) one member of the Utah State University Blanding regional advisory council described in this section;

(C) one member representing Utah State University Moab; and

(D) six representatives of business or industry from members of the program advisory committees overseeing career and technical education in the service regions.

(b) The career and technical education advisory committee shall:

(i) prepare a comprehensive strategic plan for delivering career and technical education within the service regions, after consulting with:

(A) Utah State University Eastern;

(B) Utah State University Blanding;

(C) Utah State University Moab; and

(D) school districts and charter schools within the service regions;

(ii) make recommendations regarding what skills are needed for employment in Utah businesses and industries;

(iii) recommend programs based upon the information gathered in accordance with Subsection (7)(b)(ii);

(iv) review annual program evaluations;

(v) provide counsel, support, and recommendations for updating and improving the effectiveness of career and technical education programs and services, including expedited program approval and termination of procedures, consistent with board policy;

(vi) monitor program advisory committees and other advisory groups to provide counsel, support, and recommendations for updating and improving the effectiveness of training programs and services; and

(vii) coordinate with local school boards, districts, and charter schools to meet the career and technical education needs of secondary students.

Section 119. Section 53H-4-304, which is renumbered from Section 53B-18-801 is renumbered and amended to read:

[~~53B-18-801~~]53H-4-304 (Effective upon governor's approval). Center for School of the Future.

(1) There is hereby established the Center for the School of the Future at Utah State University, hereafter referred to as "the center."

(2) (a) The purpose of the center is to promote best practices in the state's public education system and encourage cooperative and research development relationships between public and higher education.

(b) For purposes of this section "best practices" means the best process or system that effectively achieves an educational objective.

(3) The center has the following duties and responsibilities:

(a) to direct [~~its~~]the center's efforts to those education issues judged to be of greatest importance by the State Board of Education, school districts, and [~~their~~]the school district's patrons, subject to the availability of funds to sustain [~~its~~]the center's efforts;

(b) to coordinate and collaborate with education stakeholders, such as institutions of higher education, the State Board of Education, school districts, parent-teacher organizations, and other public and private educational interests in identifying or developing and then implementing best practices throughout the state's public education system;

(c) to contribute to the creation and maintenance of a public education system that continually and systematically improves itself by building upon the most effective education policies, programs, and practices and rejecting those that are less effective;

(d) to identify problems and challenges in providing educational and related services to all students in the public schools, including special education students and students at risk;

(e) to identify current public and private resources at both the state and national level that are available to resolve problems or overcome challenges within the public education system and seek additional resources as necessary; and

(f) to support the implementation of best practices in the public education system through professional development programs and dissemination of information.

(4) The center in collaboration with the State Board of Education shall:

(a) clarify the problems and challenges identified under this section, identify desired outcomes, and agree upon measures of outcomes;

(b) prioritize the problems and challenges;

(c) identify readily accessible resources to solve problems and challenges, including best practices that could be implemented with little or no adaptation;

(d) determine whether new programs or procedures should be developed, and estimate the extent of effort required for that development;

(e) determine which existing programs should be eliminated; and

(f) assist in implementing solutions, monitoring accomplishments, disseminating results, and facilitating the extension of successful efforts to new settings.

Section 120. Section 53H-4-305, which is renumbered from Section 53B-18-1002 is renumbered and amended to read:

[~~53B-18-1002~~]53H-4-305 (Effective upon governor's approval). Mormon Pioneer Heritage Center.

(1) As used in this section:

(a) "Alliance" means the Utah Heritage Highway 89 Alliance.

(b) "Center" means the Mormon Pioneer Heritage Center.

(c) "Counties" means the counties of Sanpete, Sevier, Piute, Wayne, Garfield, and Kane.

[~~(1)~~](2) There is established the Mormon Pioneer Heritage Center in connection with Utah State University.

[~~(2)~~](3) The purpose of the center is to coordinate interdepartmental research and extension efforts in recreation, heritage tourism, and agricultural extension service and to enter into cooperative contracts with the United States Departments of Agriculture and the Interior, state, county, and city officers, public and private organizations, and individuals to enhance Mormon pioneer heritage.

[~~(3)~~](4) The center has the following duties and responsibilities:

(a) to support United States [~~Congressional~~]congressional findings that the landscape, architecture, traditions, products, and events in the counties convey the heritage of pioneer settlements and [~~their~~]the pioneer settlement's role in agricultural development;

(b) to coordinate with extension agents in the counties to assist in the enhancement of heritage businesses and the creation of heritage products;

(c) to foster a close working relationship with all levels of government, the private sector, residents, business interests, and local communities;

(d) to support United States Congressional findings that the historical, cultural, and natural heritage legacies of Mormon colonization and settlement are nationally significant;

(e) to encourage research and studies relative to the variety of heritage resources along the 250-mile Highway 89 corridor from Fairview to Kanab, Utah, and Highways 12 and 24, the [~~All-American Road~~]All-American-Road, to the extent those resources demonstrate:

(i) the colonization of the western United States; and

(ii) the expansion of the United States as a major world power;

(f) to demonstrate that the great relocation to the western United States was facilitated by:

(i) the 1,400 mile trek from Illinois to the Great Salt Lake by the Mormon Pioneers; and

(ii) the subsequent colonization effort in Nevada, Utah, the southeast corner of Idaho, the southwest corner of Wyoming, large areas of southeastern Oregon, much of southern California, and areas along the eastern border of California; and

(g) to assist in interpretive efforts that demonstrate how the Boulder Loop, Capitol Reef National Park, Zion National Park, Bryce Canyon National Park, and the Highway 89 area convey the compelling story of how early settlers:

(i) interacted with Native Americans; and

(ii) established towns and cities in a harsh, yet spectacular, natural environment.

[~~(4)~~](5) The center, in collaboration with the United States Department of the Interior, the National Park Service, the United States Department of Agriculture, the United States Forest Service, the Department of Cultural and Community Engagement, the Utah Historical Society, and the alliance and [~~its~~]the alliance's intergovernmental local partners, shall:

(a) assist in empowering communities in the counties to conserve, preserve, and enhance the heritage of the communities while strengthening future economic opportunities;

(b) help conserve, interpret, and develop the historical, cultural, natural, and recreational resources within the counties; and

(c) expand, foster, and develop heritage businesses and products relating to the cultural heritage of the counties.

[~~(5)~~](6) The center, in collaboration with the United States Department of the Interior, the National Park Service, and with funding from the alliance, shall develop a heritage management plan.

Section 121. Section 53H-4-306.1, which is renumbered from Section 53B-18-1801 is renumbered and amended to read: [~~53B-18-1801~~]53H-4-306.1 (Effective upon governor's approval) (Repealed 07/01/28). Electrification of Transportation Infrastructure Research Center -- Definitions.

As used in [~~this part~~]Sections 53H-4-306.1 through 53H-4-306.6:

(1) "Department of Environmental Quality" means the Department of Environmental Quality created in Section 19-1-104.

(2) "Department of Transportation" means the Department of Transportation created in Section 72-1-201.

(3) "Governor's Office of Economic Opportunity" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(4) "Industry advisory board" means the industry advisory board created in accordance with Section [~~53B-18-1804~~]53H-4-306.4.

(5) "Initiative" means the strategic planning and development initiative to guide the transition to an electrified and intelligent transportation system in this state.

(6) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(7) "Office of Energy Development" means the Office of Energy Development created in Section 79-6-401.

(8) "Project director" means the project director of the research center appointed under Subsection [~~53B-18-1802(2)(b)~~]53H-4-306.2(2)(b).

(9) "Research center" means the ASPIRE Engineering Research Center at Utah State University.

(10) "Steering committee" means the Electrification of Transportation Infrastructure Steering Committee created in Section [~~53B-18-1803~~]53H-4-306.3.

Section 122. Section 53H-4-306.2, which is renumbered from Section 53B-18-1802 is renumbered and amended to read: [~~53B-18-1802~~]53H-4-306.2 (Effective upon governor's approval) (Repealed 07/01/28). Electrification of Transportation Infrastructure Research Center -- Designation -- Duties.

(1) The ASPIRE Engineering Research Center at Utah State University is designated as the lead research center to coordinate and lead the initiative described in Sections 53H-4-306.1 through 53H-4-306.6[~~this part~~].

(2) The research center shall:

(a) direct and carry out the mission of the initiative;

(b) appoint a project director to oversee the initiative; and

(c) provide administrative and staff support to the steering committee and industry advisory board.

(3) The project director shall:

(a) oversee the operations of the initiative; and

(b) propose to the steering committee the expenditure of funds appropriated by the Legislature to carry out the duties under [~~this part~~]Sections 53H-4-306.1 through 53H-4-306.6.

Section 123. Section 53H-4-306.3, which is renumbered from Section 53B-18-1803 is renumbered and amended to read: [~~53B-18-1803~~]53H-4-306.3 (Effective upon governor's approval) (Repealed 07/01/28). Electrification of Transportation Infrastructure Research Center -- Steering committee.

(1) There is created the Electrification of Transportation Infrastructure Steering Committee.

(2) The Electrification of Transportation Infrastructure Steering Committee consists of the following members:

(a) the executive director of the Department of Transportation, or the executive director's designee;

(b) the executive director of the Department of Environmental Quality, or the executive director's designee;

(c) the director of the Office of Energy Development, or the director's designee;

(d) the executive director of a large public transit district, or the executive director's designee;

(e) the executive director of the Governor's Office of Economic Opportunity, or the executive director's designee;

(f) one representative of a major electrical power provider in the state, appointed by the governor; and

(g) the chair of the industry advisory board created in Section [~~53B-18-1804~~]53H-4-306.4.

(3) The steering committee member representing the Department of Transportation shall serve as the chair of the steering committee.

(4) The steering committee shall:

(a) provide direction to the project director on the nature and priorities of the strategic planning and development initiative;

(b) assist the project director in the development of a strategic action plan and implementation related to the electrification of transportation infrastructure;

(c) approve annual reports on the strategic planning and development initiative as required in Section [~~53B-18-1806~~]53H-4-306.6;

(d) consider and approve the budget proposed by the project director for the expenditure of funds for the initiative; and

(e) review expenditures authorized by the project director made before October 1, 2023.

(5) The steering committee shall convene no later than October 1, 2023.

Section 124. Section 53H-4-306.4, which is renumbered from Section 53B-18-1804 is renumbered and amended to read: [~~53B-18-1804~~]53H-4-306.4 (Effective upon governor's approval) (Repealed 07/01/28). Electrification of Transportation Infrastructure Research Center -- Industry advisory board.

(1) The research center shall create an industry advisory board with members selected from the following relevant sectors:

(a) electrical power providers;

(b) electric bus manufacturers;

(c) electric vehicle manufacturers;

(d) electric passenger or freight rail manufacturers;

(e) electric aircraft manufacturers;

(f) electric freight truck manufacturers;

(g) high-capacity battery manufacturers;

(h) large fiber-optic or high-speed Internet providers;

(i) transportation infrastructure companies;

(j) charging component, systems, or network providers;

(k) smart or artificial intelligence-integrated infrastructure providers; and

(l) any other sector that the research center determines is substantially necessary to fulfilling the initiative goals.

(2) The industry advisory board members shall designate the chair and other officers of the industry advisory board.

(3) The industry advisory board shall:

(a) assist the project director in operating the strategic planning and development initiative with insights and needs from across the industries;

(b) develop a chapter to be included in each annual report that describes the industry support and perspectives relative to the analysis and recommendations provided in the annual report; and

(c) provide at least one representative to participate in briefings to interim or appropriations committees of the Legislature.

Section 125. Section 53H-4-306.5, which is renumbered from Section 53B-18-1805 is renumbered and amended to read: [~~53B-18-1805~~]53H-4-306.5 (Effective upon governor's approval) (Repealed 07/01/28). Electrification of Transportation Infrastructure Research Center -- Duties of the project director.

(1) The project director and the steering committee shall consult the following parties in developing and carrying out the initiative:

(a) representatives of each sector described in the industry advisory board membership in Subsection [~~53B-18-1804(1)~~]53H-4-306.4(1), regardless of whether that sector is actually represented on the industry advisory board;

(b) institutions of higher education, including institutions of technical education, both inside and outside this state;

(c) the chairs of the following committees of the Legislature:

(i) the Transportation and Infrastructure Appropriations Subcommittee;

(ii) the Public Utilities, Energy, and Technology Interim Committee; and

(iii) the Transportation Interim Committee; and

(d) any other persons or entities the steering committee determines are relevant or necessary to fulfilling the stated mission.

(2) The project director, in consultation with the steering committee and the industry advisory board, shall lead an outreach and promotional effort to:

(a) build awareness among stakeholders, industry partners, federal agencies, and the state's congressional delegation of the state's efforts to be a national leader in electrifying the state's transportation system; and

(b) attract industry partners and industry and federal investment to the state to design, develop, and deliver systems to promote and implement the initiative.

(3) The project director shall:

(a) oversee the operations of the initiative; and

(b) propose to the steering committee the program budget for the expenditure of funds appropriated by the Legislature to carry out the duties under [~~this part~~]Sections 53H-4-306.1 through 53H-4-306.6.

(4) (a) The project director may, in accordance with [~~this part~~]Sections 53H-4-306.1 through 53H-4-306.6, and subject to this Subsection (4), expend funds appropriated by the Legislature.

(b) (i) Before October 1, 2023, the project director may not expend more than 25% of the annual project budget.

(ii) At the first meeting of the steering committee, the project director shall:

(A) provide a detailed account to the steering committee for all expenditures made before October 1, 2023; and

(B) present a budget proposal for the remainder of the fiscal year ending June 30, 2024.

(iii) Before October 1, 2023, the project director may expend funds for the following purposes:

(A) establish necessary and time-sensitive groundwork for development of the vision and strategic objective of the initiative;

(B) acquisition of materials needed for the initiative; and

(C) costs to hire and pay salaries of staff.

(c) Except as described in Subsection (4)(b), the project director:

(i) shall propose an annual budget for the initiative; and

(ii) may not expend funds appropriated to the research center outside of the approved budget without approval of the steering committee.

Section 126. Section 53H-4-306.6, which is renumbered from Section 53B-18-1806 is renumbered and amended to read: [~~53B-18-1806~~]53H-4-306.6 (Effective upon governor's approval) (Repealed 07/01/28). Electrification of Transportation Infrastructure Research Center -- Project development and strategic objectives -- Reporting requirements.

(1) (a) The research center shall develop and define an action plan for the electrification of transportation infrastructure in this state.

(b) The research center shall provide a report of the action plan that includes:

(i) a description of the ideal electrified transportation system and incremental steps to implement the action plan over 10-year, 20-year, and 30-year time horizons, including a description of a transportation system that:

(A) provides intelligent coordination for vehicular traffic and charging individually and collectively into a dynamically communicative transportation system that links to and coordinates with the electric grid;

(B) integrates across and supports all modes of transportation and vehicle classes in complementary ways;

(C) integrates with hydrogen and renewable natural gas generation, storage, grid support, and fuel cell vehicles in complementary ways; and

(D) provides improved air quality, reduced cost to move people and goods, and new jobs and economic growth in the state;

(ii) strategic objectives in each element of the action plan above that are necessary to realize the action plan;

(iii) an initial description of changes needed to realize the action plan in each of the following sectors across the ecosystem:

(A) electrical power generation, distribution, and utility-scale energy storage infrastructure and capacity, including reliability, cost, and availability standards;

(B) interconnected smart charging infrastructure, intelligent transportation systems, control systems, and communications systems to facilitate the transition to electrified transportation;

(C) private surface transportation, including passenger vehicles, freight trucks, and freight trains;

(D) public surface transportation, including passenger vehicles, buses, and trains;

(E) air transportation, including private commercial aircraft and unmanned aircraft systems;

(F) vehicles that operate off-highway, including construction, mining, and agriculture;

(G) charging technology, solutions, and systems, including charging stations and shared use of infrastructure across modes of transportation and vehicle classes;

(H) workforce, including analysis of the capacity and types of education, vocations, trades, and certifications necessary in each relevant sector to develop the local workforce needed to accomplish the vision; and

(I) any other sector that the steering committee determines is substantially necessary to fulfilling the stated mission;

(iv) identification of key gaps in the ecosystem from the sectors and industries described in this Subsection (1)(b) that serve as priorities for near term innovation and investment;

(v) evaluation of risk and vulnerability of relevant supply chains, including natural resources to ensure stability and availability; and

(vi) an accounting of funds appropriated to or received by the research center, and any expenditure of those funds.

(c) Before August 1, 2024, the research center shall report on the action plan described in this Subsection (1) to the Transportation and Infrastructure Appropriations Subcommittee of the Legislature.

(2) Beginning in 2025, before August 1 of each year, the research center shall provide an annual report to the Transportation and Infrastructure Appropriations Subcommittee of the Legislature, including:

(a) an updated and prioritized list of strategic objectives identified in the initial report described in Subsection (1)(b);

(b) any actionable goals established or recommended by the research center;

(c) a prioritized list of steps to accomplish the goals and strategic objectives identified by the research center;

(d) metrics to measure the effectiveness of any goals or strategic objectives and related analysis;

(e) the research center's progress and effort in developing a long-range strategy for implementation of the action plan;

(f) the research center's efforts in and results of outreach to relevant industry, government, and investment sectors;

(g) any recommendations on potential legislation to implement the action plan; and

(h) an accounting of funds appropriated to or received by the research center, and any expenditure of those funds.

(3) Before November 30, 2027, the Transportation Interim Committee shall consider whether to continue the initiative as described in [~~this part~~]Sections 53H-4-306.1 through 53H-4-306.6 or allow the repeal of [~~this part~~]Sections 53H-4-306.1 through 53H-4-306.6 as described in Section 63I-1-253.

Section 127. Section 53H-4-307.1, which is renumbered from Section 53B-18-1902 is renumbered and amended to read: [~~53B-18-1902~~]53H-4-307.1 (Effective upon governor's approval). Center for Civic Excellence.

(1) As used in Sections 53H-4-307.1 through 53H-4-307.6:

(a) "Center" means the Center for Civic Excellence established in this section.

(b) "Program" means the general education program at Utah State University.

(2) There is established the Center for Civic Excellence as a pilot program and an administrative unit in the Office of the Provost at Utah State University to:

[~~(1)~~](a) provide general education for all Utah State University students;

[~~(2)~~](b) replace the existing distribution model of general education with a coherent curriculum with a foundation of the core values, principles, and purposes described in Section [~~53B-18-1906~~]53H-4-307.5; and

[~~(3)~~](c) develop a curriculum grounded in the following mission:

[~~(a)~~](i) engaging students in civil and rigorous intellectual inquiry, across ideological differences, with a commitment to intellectual freedom in the pursuit of truth;

[~~(b)~~](ii) ensuring, through engagement with foundational primary texts representing "the best of what has been thought and said," that all graduates, regardless of the graduate's major, engage with the "big questions, great debates, and enduring ideas" that continue to shape society's self-understanding, the American experience, and the modern world; and

[~~(c)~~](iii) cultivating students' intellectual and personal habits of mind to enable the students to contribute and thrive in the students' economic, social, political, and personal lives with a focus on civil discourse, critical thinking about enduring questions, wise decision-making, and durable skills.

Section 128. Section 53H-4-307.2, which is renumbered from Section 53B-18-1903 is renumbered and amended to read:

[~~53B-18-1903~~]53H-4-307.2 (Effective upon governor's approval). Center for Civic Excellence -- Duties -- Authority.

The Center for Civic Excellence shall:

(1) serve as the program home of general education at Utah State University;

(2) (a) govern faculty over all general education curriculum; and

(b) establish a faculty curriculum committee to develop and review program outcomes and all courses;

(3) develop and assess the program and all general education courses, ensuring alignment with the purposes and commitments described in Sections [~~53B-18-1902~~]53H-4-307.1 and [~~53B-18-1906~~]53H-4-307.5;

(4) appoint and evaluate all instructors who will teach general education courses at Utah State University; and

(5) provide professional development for instructors teaching in the program to ensure fidelity to the program's purposes, values, and outcomes.

Section 129. Section 53H-4-307.3, which is renumbered from Section 53B-18-1904 is renumbered and amended to read:

[~~53B-18-1904~~]53H-4-307.3 (Effective upon governor's approval). Center for Civic Excellence -- Leadership.

(1) (a) The Office of the Provost shall house the center.

(b) The provost shall appoint a vice-provost to:

(i) lead the center; and

(ii) report to the provost regarding the operation of the center and the general education program.

(2) The vice-provost overseeing the center shall:

(a) appoint faculty to the center's curriculum committee;

(b) oversee the development and assessment of the general education program and the program's courses;

(c) manage the recruitment of affiliate instructors from other academic units;

(d) approve appointments of affiliate instructors who will teach for the center;

(e) approve syllabi from affiliate instructors who will teach for the center;

(f) oversee the development of performance expectations for affiliate faculty;

(g) manage the evaluation of affiliate instructors; and

(h) manage the review and approval of petitions for exceptions for general education requirements.

Section 130. Section 53H-4-307.4, which is renumbered from Section 53B-18-1905 is renumbered and amended to read:

[~~53B-18-1905~~]53H-4-307.4 (Effective upon governor's approval). Center for Civic Excellence -- Faculty.

(1) Only an instructor whom the vice-provost leading the center grants an appointment as an affiliate instructor in the center may teach general education courses at Utah State University.

(2) In appointing an instructor under Subsection (1), the vice-provost leading the center shall:

(a) grant an at-will appointment on a two-year, renewable basis;

(b) require the instructor to engage with all professional development the center mandates; and

(c) (i) ensure the center annually evaluates the instructor on the instructor's teaching performance in the general education program; and

(ii) deliver the performance evaluation to the faculty member, department head, and dean.

Section 131. Section 53H-4-307.5, which is renumbered from Section 53B-18-1906 is renumbered and amended to read:

[~~53B-18-1906~~]53H-4-307.5 (Effective upon governor's approval). Center for Civic Excellence -- Curriculum.

(1) The center shall:

(a) govern the general education program and general education courses at Utah State University; and

(b) ensure that:

(i) the general education program aligns with the general education program requirements described in board policy; and

(ii) there is general education transferability to and from Utah State University and other institutions within the Utah System of Higher Education.

(2) The center is founded on the following principles, values, and purposes:

(a) a commitment to viewpoint diversity and civil discourse, ensuring that students understand opposing points of view and can contribute in the public square in civil and productive ways;

(b) the development of program outcomes and courses that engage students in enduring questions of meaning, purpose, and value; and

(c) the cultivation in students of the durable skills necessary to thrive in educational, social, political, economic, and personal contexts.

(3) The center shall ensure, within the general education program:

(a) a cap of 30 credits;

(b) the integration of six written and oral communication credits with three humanities credits;

(c) that three three-credit courses in the humanities:

(i) engage with perennial questions about the human condition, the meaning of life, and the nature of social and moral lives;

(ii) emphasize foundational thinking and communication skills through engagement with primary texts predominantly from Western

civilization, such as:

(A) the intellectual contributions of ancient Israel, ancient Greece, and Rome; and

(B) the rise of Christianity, medieval Europe, the Renaissance, the Enlightenment, and post-Enlightenment;

(iii) include texts for each course that are historically distributed from antiquity to the present from figures with lasting literary, philosophical, and historical influence, such as Homer, Plato, Aristotle, Lao Tzu, Cicero, Maimonides, Boethius, Shakespeare, Mill, Woolf, and Achebe; and

(iv) are organized around themes central to the preservation and flourishing of a free society, such as the moral life, happiness, liberty, equality and justice, and goodness and beauty; and

(d) that one three-credit course in American institutions:

(i) engages students with the major debates and ideas that inform the historical development of the republican form of government of the United States of America;

(ii) focus on the founding principles of American government, economics, and history, such as natural rights, liberty, equality, constitutional self-government, and market systems; and

(iii) use primary source material, such as:

(A) the Magna Carta, the United States Constitution, the Federalist Papers; and

(B) material from thinkers, such as Marcus Aurelius, Seneca, Adam Smith, John Locke, Montesquieu, and Alexis de Tocqueville.

(4) The vice-provost overseeing the center:

(a) shall ensure that the center:

(i) no less than seven days before the first day of class for a given semester or other academic term during which the institution offers a course, makes available to the public on the institution's website a syllabus for each section of the courses in the humanities described in Subsection (3) that:

(A) provide the section number;

(B) provides a brief description of each major assignment and examination;

(C) lists any required or recommended reading; [~~and~~]

(D) provides a general description of the subject matter of each lecture or discussion;

(E) is accessible from the home page of the institution's website by use of not more than three links;

(F) is searchable by keywords and phrases; and

(G) is accessible to the public without requiring registration, use of a user name and password, or another method of user identification;

(ii) continues to make the information described in Subsection (4)(a) available on the center's website until at least the second anniversary of the date on which the center initially posted the information; and

(iii) updates the information described in Subsection (4)(a) as soon as practicable after the information changes; and

(b) may assign duties under this Subsection (4) to one or more administrative employees.

Section 132. Section 53H-4-307.6, which is renumbered from Section 53B-18-1907 is renumbered and amended to read: [~~53B-18-1907~~]53H-4-307.6 (Effective upon governor's approval). Center for Civic Excellence -- Oversight -- Reporting.

(1) The vice-provost leading the center shall submit an annual report:

(a) to the provost, president of the institution, and the commissioner;

(b) that includes a mission-based accounting of:

(i) program and instructor performance and goals for improvement;

(ii) professional development offerings and future goals;

(iii) the course offerings and syllabus publication described in Section [~~53B-18-1906~~]53H-4-307.5; and

(iv) a full account of the center's budget.

(2) The commissioner shall report annually to the Education Interim Committee regarding the implementation and activities of the center.

(3) Each year, the center shall:

(a) assess the quality of teaching and adherence to program principles, values, and goals;

(b) identify expectations for addressing deficiencies or for continued improvement; and

(c) share the review described in Subsections [~~(2)(a)~~](3)(a) and (b) with appropriate department heads.

(4) Before July 1, 2029, the center shall:

(a) report to the board educational outcomes and impacts of the pilot program;

(b) provide recommendations for system-wide general education curriculum; and

(c) report to the Education Interim Committee regarding the implementation and activities of the center.

(5) Based on the pilot program's outcomes, the board shall, in consultation with academic experts, pedagogical specialists, and institutional stakeholders, develop a proposed core of system-wide general education courses aligned with the educational principles of this section.

Section 133. Section 53H-4-308, which is renumbered from Section 53B-18-901 is renumbered and amended to read: [~~53B-18-901~~]53H-4-308 (Effective upon governor's approval). Distance Education Doctorate Program.

(1) The Legislature finds that:

(a) many Utah public education administrators are nearing the end of [~~their~~]administrative careers and will retire early in the 21st Century;

(b) Utah public schools have many mid-career faculty that could become the next wave of administrators if [~~they~~]the mid-career faculty were prepared with a doctorate in education degree that emphasized curriculum and instruction;

(c) each of Utah's community colleges have several faculty that need a terminal degree and further knowledge in curriculum development and state-of-the-art instructional methodology, and these individuals, being mid-career, find it difficult to relocate to a college campus for a traditional program; and

(d) the state and [~~its~~]the state's students will be better served if faculty and administrators are more knowledgeable about the development of curriculum and the latest instructional methodology based on documented research.

(2) Therefore, Utah State University shall establish a Distance Education Doctorate Program to accommodate public education administrators and community college faculty and administration.

(3) The program shall include the following components:

(a) the offering of courses for a doctorate degree in education over the system established under [~~Title 53B, Chapter 17, Part 1, Educational Telecommunications~~]Sections 53H-4-213.1 through 53H-4-213.7;

(b) structuring of the program to make it identical to a regular campus program in rigor and course work; and

(c) providing a support system from at least the following five departments at the university:

(i) Elementary Education;

(ii) Secondary Education;

(iii) Business Information Systems and Education;

(iv) Industrial Technology; and

(v) Agricultural Systems Technology and Education.

(4) The university shall augment the program with off-campus summer courses, with those courses eventually being offered over the system established under [~~Title 53B, Chapter 17, Part 1, Educational Telecommunications~~]Sections 53H-4-213.1 through 53H-4-213.7.

(5) The Legislature shall provide an annual appropriation to fund the program established under this [~~part~~]section.

Section 134. Section 53H-4-309, which is renumbered from Section 53B-18-1301 is renumbered and amended to read:

[~~53B-18-1301~~]53H-4-309 (Effective upon governor's approval). Veterinary education program.

(1) With the approval of the board, Utah State University may enter into a partnership agreement with Washington State University to establish a veterinary education program.

(2) The partnership agreement may provide that:

(a) (i) initially, up to 20 Utah resident students and 10 nonresident students may be accepted each year into a four-year program leading to a doctorate in veterinary medicine; and

(ii) if resources become available to expand the doctoral program in veterinary medicine, additional Utah resident students and nonresident students may be accepted into the program; and

(b) students accepted into the doctoral program in veterinary medicine pursuant to Subsection (2)(a) complete the first and second years of study at Utah State University and the third and fourth years of study at Washington State University.

(3) Subject to future budget constraints, the Legislature shall annually provide an appropriation to pay for the nonresident portion of tuition for Utah students enrolled at Washington State University under a partnership agreement authorized by this section for the third and fourth years of a doctoral program in veterinary medicine.

Section 135. Section 53H-4-310, which is renumbered from Section 53B-18-602 is renumbered and amended to read:

[~~53B-18-602~~]53H-4-310 (Effective upon governor's approval). Strengthening At-Risk Youth and Their Families Program.

(1) There is created the Strengthening At-Risk Youth and Their Families Program to be administered through the Utah State University Extension Family Life and 4-H Programs.

(2) The program shall be implemented throughout the state through Utah State University Extension county offices.

[~~(1)~~](3) The program shall provide services to youth who have demonstrated behavioral and learning problems at school or have been referred to juvenile court for delinquent behavior.

[~~(2)~~](4) Youths and [~~their~~]the youths' families in need of services may be identified and referred to the program through:

(a) school officials;

(b) juvenile court officers;

(c) community social service agencies; or

(d) parents.

[~~(3)~~](5) The program shall actively seek and screen adult volunteers to work with high risk youth and [~~their~~]the youths' families.

[~~(4)~~](6) The program shall provide training and support to the volunteers to prepare [~~them~~]the volunteers for the wide variety of social, cultural, and other environmental factors [~~they~~]the volunteers will encounter.

[~~(5)~~](7) The volunteers shall:

(a) enroll and involve youth in 4-H and other community service and activity programs;

(b) provide academic tutoring, with an emphasis on reading skills, when necessary;

(c) seek out opportunities for participation in structured recreational activities; and

(d) facilitate the families' development of a positive family environment including:

(i) setting clear expectations and limits in the home;

(ii) fostering communication skills between family members;

(iii) encouraging the families' involvement in the school and community; and

(iv) assisting in the development of time management skills.

[~~(6)~~](8) The program shall provide for an annual assessment and evaluation of the entire program including:

(a) assessments conducted on youths and [~~their~~]the youths' families before entering the program;

(b) documentation of ongoing changes observed in the youths while participating in the program, including behavioral and academic changes;

(c) assessments conducted on youths and [~~their~~]the youths' families upon exiting the program; and

(d) overall assessment of the program in the various communities, to include:

(i) acceptance and support within the community;

(ii) availability of sufficient programs and activities; and

(iii) availability of qualified adults to serve as volunteers.

Section 136. Section 53H-4-311, which is renumbered from Section 53B-18-701 is renumbered and amended to read:

[~~53B-18-701~~]53H-4-311 (Effective upon governor's approval). Recreation and Tourism Program.

(1) There is appropriated for fiscal year 1998-99, $150,000 from the General Fund to Utah State University for base budget funding to conduct a program of teaching, research, and extension on outdoor recreation and tourism.

(2) The university shall establish the program in the Institute of Outdoor Recreation and Tourism in the College of Natural Resources.

(3) The extension and research program shall focus on at least three areas:

(a) tourism and outdoor recreation use;

(b) the social and economic tradeoffs of tourism and outdoor recreation for local communities; and

(c) the relationship between outdoor recreation and tourism and public land management practices and policies.

(4) The purpose of the program is to provide:

(a) better data for the Legislature and state agencies in [~~their~~]the Legislature's and state agency's decision-making processes on issues relating to tourism and outdoor recreation;

(b) a base of information and expertise to assist community officials as [~~they~~]the community officials attempt to balance the economic, social, and environmental tradeoffs in tourism development; and

(c) an interdisciplinary approach of research and study on outdoor recreation and tourism, a complex sector of the state's economy.

(5) The program shall include an office at the university for coordinating interdepartmental research and extension efforts with different agencies and institutions of higher education.

Section 137. Section 53H-4-312, which is renumbered from Section 53B-18-1501 is renumbered and amended to read:

[~~53B-18-1501~~]53H-4-312 (Effective upon governor's approval). Remote online opportunities program.

(1) As used in this section:

(a) "Association of governments" means an association of political subdivisions established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(b) "Program" means the program administered by Utah State University in accordance with this section.

(c) "Remote online opportunity" means employment, including freelance employment, or the operation of an online business for which an individual:

(i) can complete duties primarily online; and

(ii) is not required to work from a specific geographic location.

(2) (a) Subject to legislative appropriations, Utah State University, through a county extension office, shall administer a program that helps individuals who live in rural areas access remote online opportunities.

(b) In administering the program, Utah State University shall consider input from a county located in a geographic area selected for the program under Subsection (4).

(3) Utah State University shall, as part of the program:

(a) provide training modules to adults and high school students;

(b) coordinate with rural high schools and postsecondary institutions;

(c) develop marketing materials;

(d) develop relationships with information technology companies that offer remote online opportunities;

(e) partner with websites that list freelance remote online opportunities;

(f) provide scholarships for individuals who live in rural areas to access online skill-based training for remote online opportunities;

(g) provide one-on-one coaching for an individual who pursues a remote online opportunity; and

(h) conduct other activities related to remote online opportunities as determined by Utah State University.

(4) (a) Utah State University shall administer the program:

(i) in at least one geographic area in the state initially; and

(ii) in additional geographic areas if resources allow.

(b) In determining where to initially administer the program, Utah State University shall consider whether counties in a geographic area:

(i) are primarily rural or have remote rural areas;

(ii) face high unemployment rates;

(iii) have access to high speed Internet;

(iv) have a large percentage of high school graduates leave the geographic area after graduating from high school; and

(v) are members of an association of governments that supports helping individuals who live in rural areas access remote online opportunities.

(5) On or before November 1, 2020, and on or before November 1 every third year thereafter, Utah State University shall report to the Economic Development and Workforce Services Interim Committee on:

(a) the number of individuals who receive training through the program;

(b) the number and percentage of individuals who participate in the program and access a remote online opportunity; and

(c) whether there is a reduction in the unemployment rate in a geographic area included in the program.

Section 138. Section 53H-4-313, which is renumbered from Section 53B-18-1702 is renumbered and amended to read:

[~~53B-18-1702~~]53H-4-313 (Effective upon governor's approval) (Repealed 07/01/27). Food Security Council.

(1) As used in this section:

(a) "Council" means the Food Security Council created in this section.

(b) "Food security" means access to sufficient, affordable, safe, and nutritious food that meets an individual's food preferences and dietary needs.

(c) "SNAP-Ed program" means the nutrition education component of the federal "Supplemental Nutrition Assistance Program" under Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program.

(d) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

(e) "Utah food product" means a food product that is produced in the state.

[~~(1)~~](2) There is created at Utah State University the Food Security Council.

[~~(2)~~](3) The council is composed of the following 15 members:

(a) the executive director of the Department of Health and Human Services or the executive director's designee;

(b) the executive director of the Department of Workforce Services or the executive director's designee;

(c) the state superintendent or the state superintendent's designee;

(d) the commissioner or the commissioner's designee;

(e) the commissioner of the Department of Agriculture and Food or the commissioner's designee; and

(f) the following members appointed by the chair of the council:

(i) one member who represents the Utah State University Extension Service;

(ii) one member who represents the Utah State University Expanded Food and Nutrition Education Program;

(iii) one member who represents the Utah Women, Infants, and Children Program administered under 42 U.S.C. Sec. 1786;

(iv) one member who represents the Utah SNAP-Ed program;

(v) one member who represents a food assistance organization;

(vi) one member who represents an advocacy group that addresses federal nutrition programs;

(vii) one member who represents an organization that promotes healthy eating and active lifestyles in the state;

(viii) one member who represents an organization that provides refugee resettlement services in the state;

(ix) one member who represents the Utah Farm Bureau Federation; and

(x) one member who represents a tribal government in the state.

[~~(3)~~](4) (a) A member described in Subsection [~~(2)(d)~~](3)(d) shall serve a term of two years.

(b) If a vacancy occurs for a member described in Subsection [~~(2)(d)~~](3)(d), the chair of the council shall appoint a replacement to serve the remainder of the member's term.

(c) A member may serve more than one term.

[~~(4)~~](5) A member may not receive compensation or benefits for the member's service.

[~~(5)~~](6) The council shall elect a chair from the council's members, who shall serve a two-year term.

[~~(6)~~](7) (a) A majority of the members of the council constitutes a quorum of the council.

(b) The action by a majority of the members of a quorum constitutes the action of the council.

[~~(7)~~](8) The Utah State University Hunger Solutions Institute shall provide staff support to the council.

(9) The council shall:

(a) develop statewide goals and messaging related to food security and nutrition education;

(b) coordinate statewide efforts to address food security;

(c) ensure that any state programs receiving federal funds from the United States Department of Agriculture's Food and Nutrition Service provide consistent and coordinated nutrition education messaging;

(d) promote programs and activities that contribute to healthy eating and active lifestyles;

(e) promote programs and activities that advance Utah food products; and

(f) disseminate the statewide goals and messaging developed under Subsection (10) to state agencies.

(10) On or before October 1 of each year, the council shall prepare and submit an annual written report to the Economic Development and Workforce Services Interim Committee, the Education Interim Committee, and the Natural Resources, Agriculture, and Environment Interim Committee that contains:

(a) a description of the council's operations, activities, programs, and services; and

(b) any recommendations on how the state should act to address issues relating to food security.

(11) The council may accept gifts, grants, or donations from public or private sources for purposes of carrying out the council's duties.

Section 139. Section 53H-4-314, which is renumbered from Section 53B-18-104 is renumbered and amended to read:

[~~53B-18-104~~]53H-4-314 (Effective upon governor's approval). Agricultural experiment station.

(1) There is established an agricultural experiment station in connection with Utah State University.

(2) The station conducts research as provided by state and federal laws governing the establishment and maintenance of agricultural experiment stations.

(3) The university is in charge of the experiment station, and shall purchase or lease suitable lands, erect necessary buildings, provide needed equipment, and appoint officers and assistants to conduct and issue reports on the research conducted at the station.

(4) The university may enter into cooperative agreements with governmental entities, organizations, corporations, institutions, and individuals to carry out the provisions governing agricultural experiment stations.

[~~(1)~~](5) The university may establish and maintain substations to assist in conducting the research provided for in [~~Section 53B-18-101~~]this section.

[~~(2)~~](6) The university may discontinue the existence of a substation.

[~~(3)~~](7) If a substation is created by legislative enactment, the university is under no obligation to maintain the substation beyond that

time for which special appropriations are made by the Legislature.

(8) The university shall establish and maintain a climate center to gather and analyze climatological data for the benefit of all state agencies.

Section 140. Section 53H-4-315, which is renumbered from Section 53B-18-204 is renumbered and amended to read:

[~~53B-18-204~~]53H-4-315 (Effective upon governor's approval). Agricultural extension service.

(1) There is established by Utah State University an agricultural extension service as provided in the federal Smith-Lever and Capper-Ketchum Acts and other federal laws.

(2) (a) The university may enter into cooperative contracts with the United States Department of Agriculture, county or city officers, private and public organizations, corporations, and individuals, to share the expense of establishing and maintaining an agricultural extension service.

(b) The county legislative body of each county may provide sufficient funds to ensure that the agricultural extension service functions properly in the legislative body's county.

(3) (a) The governor may apply to the Secretary of the Treasury to obtain any appropriation made by Congress relating to the federal laws referred to in this section.

(b) Whenever the university and agricultural experiment station shall be entitled to any money under these acts or similar acts, the university shall execute and file with the Secretary of the Treasury an agreement to expend the money received for the sole and exclusive purpose expressed in such act and in the manner therein directed, and to maintain a farm of at least 25 acres in connection with the university.

(c) The university shall also comply with all conditions expressed in the acts.

(4) The university shall execute and file with the Secretary of the Treasury an agreement relating to the expenditure of funds received under the laws referred to in Subsection (3) that the funds will be used for the exclusive purpose directed in those laws.

(5) The university shall comply with all conditions expressed in the laws referred to in Subsection (1) in order to receive money under those laws.

(6) The state [~~of Utah~~] reaffirms [~~its~~]the state's acceptance of the grants of money and property authorized by the following Acts of Congress:

[~~(1)~~](a) the Morrill Act, approved July 2, 1862;

[~~(2)~~](b) an Act of Congress passed March 2, 1887, entitled, "An act to establish agricultural experiment stations in connection with the colleges established in the several states under the provisions of an act approved July 2, 1862, and all acts supplementary to that act";

[~~(3)~~](c) an Act of Congress entitled, "An act to provide an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof," approved March 16, 1906;

[~~(4)~~](d) the Purnell Act, approved February 24, 1925;

[~~(5)~~](e) "the Smith-Lever Act to aid in the development of the extension work in connection with the agricultural colleges," approved May 8, 1914; and

[~~(6)~~](f) "the Capper-Ketchum Act, providing for further support of agricultural extension work as conducted by the agricultural colleges," approved May 22, 1928.

(7) The state guarantees all money received under this section against loss or misapplication.

(8) The treasurer of Utah State University is the officer who receives money appropriated by the Secretary of the Treasury under this section.

Section 141. Section 53H-4-316, which is renumbered from Section 53B-18-1401 is renumbered and amended to read:

[~~53B-18-1401~~]53H-4-316 (Effective upon governor's approval). Uintah Basin Air Quality Research Project.

(1) There is created the Uintah Basin Air Quality Research Project to study ozone formation in the Uintah Basin.

(2) The Utah State University Bingham Entrepreneurship and Energy Research Center shall:

(a) conduct the Uintah Basin Air Quality Research Project by:

(i) developing and improving computer models to simulate ozone formation and determine [~~itseause~~]the cause of ozone formation;

(ii) measuring pollutants in the ambient air to:

(A) track how emissions are changing over time; and

(B) verify the accuracy of computer models; and

(iii) characterizing pollutant emissions from various sources; and

(b) annually report to the Natural Resources, Agriculture, and Environment Interim Committee on the results of the research described in Subsection (2)(a) by no later than November 30 of each year.

Section 142. Section 53H-4-401, which is renumbered from Section 53B-36-101 is renumbered and amended to read:

PART 4. Southern Utah University

[~~53B-36-101~~]53H-4-401 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 143. Section 53H-4-402, which is renumbered from Section 53B-36-201 is renumbered and amended to read:

[~~53B-36-201~~]53H-4-402 (Effective upon governor's approval). Helen Foster Snow Cultural Center.

Subject to legislative appropriations, Southern Utah University shall establish the Helen Foster Snow Cultural Center to provide language support and cultural opportunities to students studying the Mandarin Chinese language.

Section 144. Section 53H-4-501 is enacted to read:

PART 5. Snow College

53H-4-501 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 145. Section 53H-4-502, which is renumbered from Section 53B-16-205 is renumbered and amended to read:

[~~53B-16-205~~]53H-4-502 (Effective upon governor's approval). Snow College -- Richfield campus.

(1) There is established a branch campus of Snow College in Richfield, Utah, known as the Snow College Richfield campus.

(2) Snow College shall administer the branch campus under the general control and supervision of the board as an integrated part of Snow College's mission, programs, and curriculum.

(3) Snow College shall:

(a) maintain a strong curriculum in career and technical education courses at the Snow College Richfield campus and within the region served by Snow College which can be transferred to other institutions within the higher education system, together with lower division courses and courses required for associate degrees in science, arts, applied science, and career and technical education; and

(b) work with school districts and charter schools in developing an aggressive concurrent enrollment program in cooperation with Snow College Richfield campus.

Section 146. Section 53H-4-503, which is renumbered from Section 53B-16-205.5 is renumbered and amended to read:

[~~53B-16-205.5~~]53H-4-503 (Effective upon governor's approval). Snow College Concurrent Education Program.

(1) As used in this section:

(a) "Interactive video conferencing" means two-way, real-time transmission of audio and video signals between devices or computers at two or more locations.

(b) "Program" means the Snow College Concurrent Education Program.

(2) Consistent with policies established by the board, Snow College shall establish and administer, subject to legislative appropriations, the Snow College Concurrent Education Program to provide:

(a) a consistent two-year schedule of concurrent enrollment courses delivered through interactive video conferencing to secondary school students;

(b) a pathway for a secondary school student to earn college credits that:

(i) apply toward earning an Associate of Science or Associate of Arts degree; or

(ii) satisfy scholarship requirements or other objectives that best meet the needs of an individual student; and

(c) advisory support to secondary school students who participate in the program and the secondary school students' school counselors to ensure that students' concurrent enrollment courses align with the students' academic and career goals.

Section 147. Section 53H-4-504, which is renumbered from Section 53B-16-206 is renumbered and amended to read:

[~~53B-16-206~~]53H-4-504 (Effective upon governor's approval). Snow College -- Economic Development and Workforce Preparation Advisory Committee.

(1) Snow College shall have the Snow College Economic Development and Workforce Preparation Advisory Committee composed of the following 12 members:

(a) one economic development professional appointed by the Juab County legislative body;

(b) one economic development professional appointed by the Millard County legislative body;

(c) one economic development professional appointed by the Sanpete County legislative body;

(d) one economic development professional appointed by the Wayne County legislative body;

(e) one economic development professional appointed by the Piute County legislative body;

(f) one economic development professional appointed by the Sevier County legislative body;

(g) four representatives of business or industry employers within the region appointed by the Snow College Board of Trustees from nominations of the members appointed under Subsections (1)(a) through (f);

(h) one public education school district superintendent, appointed by the Snow College Board of Trustees, chosen from the school district superintendents serving in the Juab, Millard, Tintic, North Sanpete, South Sanpete, Wayne, Piute, and Sevier School Districts; and

(i) one public education school district career and technical education director, appointed by the Snow College Board of Trustees, chosen from the career and technical education directors serving in the Juab, Millard, Tintic, North Sanpete, South Sanpete, Wayne, Piute, and Sevier School Districts.

(2) (a) Except as provided in Subsection (2)(b), a member of the Snow College Economic Development and Workforce Preparation Advisory Committee shall serve for a term of four years.

(b) The president of Snow College shall adjust the length of the terms to ensure that the terms of committee members are staggered so that approximately half of the committee members are appointed every two years.

(3) The members of the Snow College Economic Development and Workforce Preparation Advisory Committee shall elect a chair of the committee from the committee's membership.

(4) The Snow College Economic Development and Workforce Preparation Advisory Committee shall meet upon the call of the chair or a majority of the committee members.

(5) The Snow College Economic Development and Workforce Preparation Advisory Committee shall:

(a) assess the economic development needs of central Utah and advise Snow College on how [~~the college~~]Snow College can improve the effectiveness of [~~its~~]Snow College's efforts to assist business, industry, and local governments in efforts to expand economic activity and enhance the local economy; and

(b) review educational programs offered by Snow College, including career and technical education programs, and advise Snow College on how the college can improve [~~its~~]Snow College's efforts to prepare students for employment in the region and enhance the skills of workers who are already employed.

Section 148. Section 53H-4-601 is enacted to read:

PART 6. Utah Tech University

53H-4-601 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 149. Section 53H-4-602, which is renumbered from Section 53B-2-111 is renumbered and amended to read:
[~~53B-2-111~~]53H-4-602 (Effective upon governor's approval). Utah Tech University -- Institutional name change.

(1) As used in this section:

(a) "Board of trustees" means the board of trustees of Utah Tech University.

(b) "Institution" means Utah Tech University.

(2) (a) Dixie State University shall be known as Utah Tech University.

(b) Utah Tech University is a continuation of Dixie State College of Utah and Dixie State University and shall:

(i) possess all rights, titles, privileges, powers, immunities, franchises, endowments, property, and claims of Dixie State University and Dixie State College of Utah; and

(ii) fulfill and perform all obligations of Dixie State University and Dixie State College of Utah, including obligations relating to outstanding bonds and notes.

(3) The board of trustees in consultation with the Utah Board of Higher Education shall:

(a) create a committee to recommend a name for the institution; and

(b) ensure that the committee:

(i) represents students, university personnel, community members, and industry leaders in the committee's membership;

(ii) provides opportunity for input from and collaboration with the public, including:

(A) residents of southwestern Utah;

(B) institutional partners; and

(C) university faculty, staff, students, and alumni;

(iii) reviews options for the institution's name; and

(iv) makes recommendations regarding the institution's name to the board of trustees.

(4) (a) The board of trustees shall:

(i) review the committee's recommendation described in Subsection (3)(b); and

(ii) choose whether to forward a name for the institution to the Utah Board of Higher Education.

(b) Should the board of trustees choose to forward a name for the institution to the Utah Board of Higher Education under Subsection (4)(a), the board of trustees shall ensure that the name:

(i) reflects the institution's mission and significance to the surrounding region and state; and

(ii) enables the institution to compete and be recognized nationally.

(c) Should the board of trustees recommend a name for the institution under Subsection (4)(a), the Utah Board of Higher Education shall vote on whether to approve and recommend the name to the Legislature.

(5) Should the Utah Board of Higher Education and the board of trustees recommend a name for the institution to the Legislature through the process described in Subsections (3) and (4), the Utah Board of Higher Education and the board of trustees shall recommend the name for the institution to the Legislative Management Committee no later than November 1, 2021.

(6) (a) Except as provided in Subsection (6)(b), the board of trustees shall designate the institution's main campus as the "Dixie Campus" for a period of no less than 20 years.

(b) After July 1, 2042, if the board of trustees seeks to alter the designation described in Subsection (6)(a), the board of trustees shall first obtain the approval of the Utah Board of Higher Education.

Section 150. Section 53H-4-603, which is renumbered from Section 53B-31-201 is renumbered and amended to read:
[~~53B-31-201~~]53H-4-603 (Effective upon governor's approval). Nonprofit corporations and foundations -- Purpose.

(1) Utah Tech University may form a nonprofit corporation or foundation controlled by the president of the university and the board to aid and assist the university in attaining [~~its~~]the university's charitable, communications, and other related educational objectives, including:

(a) support for media innovation [~~,~~];

(b) film festivals [~~,~~];

(c) film production [~~,~~];

(d) print media [~~,~~];

(e) broadcasting [~~,~~];

(f) television [~~,~~]; and

(g) digital media.

(2) The nonprofit corporation or foundation may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out [~~its~~]the nonprofit corporation's public purposes.

Section 151. Section 53H-4-604, which is renumbered from Section 53B-31-301 is renumbered and amended to read:
[~~53B-31-301~~]53H-4-604 (Effective upon governor's approval). Utah Tech University Higher Education for Incarcerated Youth Program.

(1) As used in this section:

(a) "Interactive video conferencing" means two-way, real-time transmission of audio and video signals between devices or computers at two or more locations.

(b) "Program" means the Utah Tech University Higher Education for Incarcerated Youth Program.

(c) "Student" means an individual who is:

(i) in the custody of the Division of Juvenile Justice and Youth Services at any time a course is being offered, including:

(A) individuals in the legal custody of the Division of Juvenile Justice and Youth Services; and

(B) individuals who are housed in a detention center that the Division of Juvenile Justice and Youth Services operates; and

(ii) subject to the jurisdiction of the Youth Parole Authority.

(2) Consistent with policies established by the board, Utah Tech University shall, subject to legislative appropriation, establish and administer the Utah Tech University Higher Education for Incarcerated Youth Program to provide:

(a) students needing high school credits opportunities for concurrent enrollment courses;

(b) a consistent, two-year, flexible schedule of higher education courses delivered through interactive video conferencing, in-person, or online methods to students;

(c) a pathway for students to earn college credits that:

(i) apply toward earning a certificate, associate degree, bachelor's degree; or

(ii) satisfy scholarship requirements or other objectives that best meet the needs of an individual student; and

(d) advisory support to students and academic counselors who participate in the program to ensure that the students' higher education courses align with the academic and career goals defined in the students' plans for college and career readiness.

Section 152. Section 53H-4-605, which is renumbered from Section 53B-31-401 is renumbered and amended to read:
[~~53B-31-401~~]53H-4-605 (Effective upon governor's approval). Heritage Committee.

(1) The board of trustees shall establish a Heritage Committee to identify and implement strategies to preserve the heritage, culture, and history of the region on the campus of Utah Tech University, including the regional significance of the term "Dixie."

(2) At or before the November interim meeting in 2022, the board of trustees shall report to the Education Interim Committee regarding the establishment of the Heritage Committee described in Subsection (1).

Section 153. Section 53H-4-701, which is renumbered from Section 53B-29-401 is renumbered and amended to read:

PART 7. Utah Valley University

[~~53B-29-401~~]53H-4-701 (Effective upon governor's approval). General provisions -- Definitions.

As used in this part:

(1) "Center" means the Center for Constitutional Studies at Utah Valley University.

(2) "Commission" means the Federalism Commission created in Section 63C-4a-302.

(3) "Fire and rescue training program" means the program described in Section 53H-4-705.

(4) "Fire board" means the Utah Fire Prevention Board, created in Section 53-7-203.

(5) "Initiative" means the Civic Thought and Leadership Initiative described in Section 53H-4-706.

(6) "Institute" means the Gary R. Herbert Institute for Public Policy at Utah Valley University.

(7) "University" means Utah Valley University.

[~~(3) "Institute" means the Gary R. Herbert Institute for Public Policy at Utah Valley University.~~]

Section 154. Section 53H-4-702, which is renumbered from Section 53B-2-110 is renumbered and amended to read:
[~~53B-2-110~~]53H-4-702 (Effective upon governor's approval). Institutional name change.

(1) Beginning July 1, 2008, Utah Valley State College shall be known as Utah Valley University.

(2) The university is a continuation of Utah Valley State College and shall:

(a) possess all rights, title, privileges, powers, immunities, franchises, endowments, property, and claims of the college; and

(b) fulfill and perform all obligations of the college, including obligations relating to outstanding bonds and notes.

Section 155. Section 53H-4-703, which is renumbered from Section 53B-29-402 is renumbered and amended to read:
[~~53B-29-402~~]53H-4-703 (Effective upon governor's approval). Federalism-related duties of Center for Constitutional Studies.

In consultation with the commission and subject to appropriations by the Legislature, the center shall:

(1) develop a nonpartisan continuing education and training program for state and local government employees on:

(a) the principles of federalism;

(b) the sovereignty, supremacy, and general jurisdiction of the individual states, including the breadth and extent of state police power jurisdiction;

(c) the history and practical implementation of the Ninth, Tenth, and Fourteenth Amendments to the United States Constitution;

(d) the limited jurisdiction and powers of the federal government as proscribed by the United States Constitution, as amended;

(e) methods of evaluating federal jurisdiction, law, or action in the context of the principles of federalism;

(f) the duty, jurisdiction, and powers of the state to restore or maintain the constitutionally balanced state and federal governing roles and responsibilities; and

(g) other education or training components related to federalism as recommended by the commission;

(2) organize an annual conference for state representatives and leaders whose primary purpose is to facilitate nonpartisan discussion and coordination amongst states with respect to federalism issues;

(3) study and advise the commission in regards to the creation of a state-led national organization focused on strengthening federalism and improving intergovernmental relations, including the makeup, duties, and functions of such organization;

(4) coordinate with private sector actors who agree to conduct out-of-state outreach to build national support for the commission's federalism efforts;

(5) establish informal working groups consisting of public and private stakeholders as is appropriate to assist the center in fulfilling the requirements of this section; and

(6) report to the commission as requested regarding the center's progress in fulfilling the requirements of this section.

Section 156. Section 53H-4-704, which is renumbered from Section 53B-29-403 is renumbered and amended to read:
[~~53B-29-403~~]53H-4-704 (Effective upon governor's approval). Federalism-related duties of Herbert Institute.

In consultation with the commission and subject to appropriations by the Legislature, the institute shall:

(1) serve as a liaison between the commission and the center with respect to federalism issues;

(2) conduct outreach and coordination with public and private sector entities to support the commission's federalism efforts;

(3) coordinate with private sector actors who agree to conduct out-of-state outreach to build national support for the commission's federalism efforts; and

(4) report to the commission as requested regarding the institute's progress in fulfilling the requirements of this section.

Section 157. Section 53H-4-705, which is renumbered from Section 53B-29-202 is renumbered and amended to read:

[~~53B-29-202~~]53H-4-705 (Effective upon governor's approval). Fire prevention, education, and training program.

(1) With technical advice and support from the fire board, Utah Valley University shall operate a statewide fire and rescue training program that:

(a) provides instruction, training, and testing for:

(i) Utah Valley University students; and

(ii) firefighters and emergency rescue personnel throughout the state, whether paid or volunteer;

(b) explores new methods of firefighting, fire training, and fire prevention;

(c) provides training for fire and arson detection and investigation;

(d) provides training to students, firefighters, and emergency rescue personnel on how to conduct public education programs to promote fire safety;

(e) provides aircraft rescue firefighting training;

(f) provides for certification of firefighters, pump operators, instructors, officers, and rescue personnel; and

(g) provides facilities and props for teaching firefighting and emergency rescue skills.

(2) Utah Valley University shall ensure that the curriculum, training, and facilities offered in the fire and rescue training program are sufficient to allow individuals who successfully complete the program to receive applicable certification as a firefighter or emergency rescue professional.

(3) Utah Valley University and the fire board shall consult together regarding:

(a) the development and content of the curriculum and training of the fire and rescue training program;

(b) the identification of individuals who may participate in the fire and rescue training program without cost; and

(c) the establishment of certification standards and requirements.

(4) Utah Valley University shall allow individuals designated by the fire board to participate in and complete the fire and rescue training program without cost and to receive applicable certification.

(5) Utah Valley University and the fire board shall by contract establish terms to:

(a) define the scope and content of the fire and rescue training program;

(b) identify the fire and rescue personnel throughout the state who will be permitted to participate in the fire and rescue training program without cost; and

(c) define other aspects of the relationship between Utah Valley University and the fire board relating to the fire and rescue training program that are mutually beneficial.

(6) In accordance with Section 34A-3-114, the fire and rescue training program shall:

(a) facilitate cancer screenings conducted by the Rocky Mountain Center for Occupational and Environmental Health; and

(b) track cancer screenings for a firefighter.

Section 158. Section 53H-4-706, which is renumbered from Section 53B-29-302 is renumbered and amended to read:

[~~53B-29-302~~]53H-4-706 (Effective upon governor's approval). Civic Thought and Leadership Initiative.

(1) The university shall establish the Civic Thought and Leadership Initiative within the Center for Constitutional Studies to facilitate nonpartisan political discussion and provide civic education and research.

(2) The initiative shall:

(a) provide courses in and related to philosophy, history, economics, and political science;

(b) provide resources to students, outside academic institutions, government agencies, and other persons regarding civic affairs; and

(c) foster thoughtful civic engagement in Utah and the surrounding region.

Section 159. Section 53H-4-707, which is renumbered from Section 53B-29-303 is renumbered and amended to read:

[~~53B-29-303~~]53H-4-707 (Effective upon governor's approval). Acceptance of gifts.

The university is authorized to receive gifts, contributions, and donations of all kinds, for development or support of the initiative.

Section 160. Section 53H-4-801 is enacted to read:

PART 8. Weber State University

53H-4-801 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 161. Section 53H-4-901 is enacted to read:

PART 9. Salt Lake Community College

53H-4-901 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 162. Section 53H-4-1001 is enacted to read:

PART 10. Bridgerland Technical College

53H-4-1001 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 163. Section 53H-4-1101 is enacted to read:

PART 11. Davis Technical College

53H-4-1101 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 164. Section 53H-4-1201 is enacted to read:

PART 12. Dixie Technical College

53H-4-1201 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 165. Section 53H-4-1301 is enacted to read:

PART 13. Mountainland Technical College

53H-4-1301 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 166. Section 53H-4-1401 is enacted to read:

PART 14. Ogden-Weber Technical College

53H-4-1401 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 167. Section 53H-4-1501 is enacted to read:

PART 15. Southwest Technical College

53H-4-1501 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 168. Section 53H-4-1601 is enacted to read:

PART 16. Tooele Technical College

53H-4-1601 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 169. Section 53H-4-1701 is enacted to read:

PART 17. Uintah Basin Technical College

53H-4-1701 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 170. Section 53H-5-101 is enacted to read:

CHAPTER 5. Multi-Institution Programs and Initiatives

PART 1. General Provisions

53H-5-101 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 171. Section 53H-5-201, which is renumbered from Section 53B-30-202 is renumbered and amended to read:

PART 2. Rocky Mountain Center for Occupational and Environmental Health

[~~53B-30-202~~]53H-5-201 (Effective upon governor's approval). General provisions -- Definitions.

As used in this part:

(1) "Advisory board" means the Rocky Mountain Center for Occupational and Environmental Health Advisory Board created in Section 53H-5-203.

[~~(1)~~](2) "Affected populations" include:

(a) employees;

(b) employers;

(c) insurers;

(d) professionals or professional organizations related to occupational and environmental health;

(e) government agencies; and

(f) outside academic institutions.

[~~(2) "Board" means the Rocky Mountain Center for Occupational and Environmental Health Advisory Board created in Section 53B-30-204.~~]

(3) "Center" means the Rocky Mountain Center for Occupational and Environmental Health established in Section [~~53B-30-203~~]53H-5-202.

(4) "Director" means the director of the center.

Section 172. Section 53H-5-202, which is renumbered from Section 53B-30-203 is renumbered and amended to read:

[~~53B-30-203~~]53H-5-202 (Effective upon governor's approval). Rocky Mountain Center for Occupational and Environmental Health.

(1) There is established at the University of Utah and Weber State University the Rocky Mountain Center for Occupational and Environmental Health, to be a center for occupational health, safety, and environment education and research.

(2) The University of Utah and Weber State University shall:

(a) jointly operate the center in a manner so that the center is:

(i) eligible to be designated as an education and research center by the National Institute for Occupational Safety and Health in the United States Department of Health and Human Services; and

(ii) a resource for affected populations to:

(A) improve workplace health, safety, and environment; and

(B) contribute to economic growth and development in Utah and the surrounding region; and

(b) each appoint a co-principal investigator upon application for the designation described in Subsection (2)(a)(i).

(3) The University of Utah senior vice president for health sciences and the Weber State University provost and vice president of academic affairs shall jointly develop an annual budget for the center that considers funding from all available sources.

Section 173. Section 53H-5-203, which is renumbered from Section 53B-30-204 is renumbered and amended to read:

[~~53B-30-204~~]53H-5-203 (Effective upon governor's approval). Advisory board.

(1) In consultation with the director appointed under Section [~~53B-30-205~~]53H-5-204, the president of the University of Utah and the president of Weber State University, or the presidents' designees, shall create an advisory board known as the "Rocky Mountain Center for Occupational and Environmental Health Advisory Board" to:

(a) promote occupational health and safety in Utah and the surrounding region;

(b) promote the development of undergraduate training in occupational health and safety;

(c) engage other higher education institutions in the state to participate in improving occupational health and safety education and programs for undergraduate students and other affected populations, including the industrial hygiene program offered at Utah State University;

(d) promote the interests and mission of the center by advising the director on issues including:

(i) operation of the center as a multidisciplinary, state-of-the-art program at the university;

(ii) developing and maintaining state and institutional support;

(iii) emerging local or regional, occupational health and safety education and research needs;

(iv) continuing education and outreach to local and regional occupational health and safety professionals;

(v) coordinating with other local or regional entities that promote occupational health and safety in a manner that meets the needs of both employers and employees; and

(vi) grant requirements and renewal;

(e) advise the director on the expenditure by the center of public and private funds including:

(i) funds appropriated by the Legislature;

(ii) donations;

(iii) the proportionate amount of administrative funds available to each university upon the center's designation as described in Subsection [~~53B-30-203(2)(a)(i)~~]53H-5-202(2)(a)(i), consistent with federal guidelines; and

(iv) the proportionate amount of funds available to each university for the center from public and private grants and contracts; and

(f) develop recommendations for the long-term operation of the center consistent with Section [~~53B-30-203~~]53H-5-202.

(2) (a) The [~~board~~]advisory board shall consist of no fewer than 15 and no more than 18 individuals who represent the affected populations.

(b) In consultation with the director appointed under Section [~~53B-30-205~~]53H-5-204, the president of the University of Utah and the president of Weber State University, or the presidents' designees, shall establish reasonable bylaws for the operation of the [~~board~~]advisory board including:

(i) the selection of [~~board~~]advisory board members;

(ii) quorum requirements; and

(iii) voting requirements.

(3) The [~~board~~]advisory board shall elect [~~a board~~]an advisory board chair and vice chair from among the [~~board~~]advisory board members by a vote of the members.

(4) (a) The [~~board~~]advisory board shall have an executive committee consisting of:

(i) the [~~board~~]advisory board chair;

(ii) the [~~board~~]advisory board vice chair; and

(iii) three other [~~board~~]advisory board members, selected by the [~~board~~]advisory board chair in consultation with the director.

(b) The executive committee shall meet at least quarterly to advise the center and to plan for [~~board~~]advisory board meetings.

(5) The [~~board~~]advisory board chair, in consultation with the director, shall call [~~board~~]advisory board meetings at least two times each calendar year.

(6) The [~~board~~]advisory board and the executive committee are subject to Title 52, Chapter 4, Open and Public Meetings Act.

(7) [~~A board~~]An advisory board member may not receive compensation or benefits for the member's service, but may receive per diem

and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 174. Section 53H-5-204, which is renumbered from Section 53B-30-205 is renumbered and amended to read:

[~~53B-30-205~~]53H-5-204 (Effective upon governor's approval). Appointment and removal of director.

(1) Subject to Subsection (2), the University of Utah senior vice president for health sciences and the Weber State University provost and vice president of academic affairs shall jointly appoint and may jointly remove the director.

(2) The appointment or removal of the director under Subsection (1) may be made only after consultation with:

(a) the president of the University of Utah or the president's designee;

(b) the president of Weber State University or the president's designee;

(c) the dean of the University of Utah college of engineering or the dean's designee; and

(d) the [~~board~~]advisory board through the [~~board~~]advisory board chair.

Section 175. Section 53H-5-205, which is renumbered from Section 53B-30-206 is renumbered and amended to read:

[~~53B-30-206~~]53H-5-205 (Effective upon governor's approval). Reporting requirements.

(1) The [~~board~~]advisory board, through the director and the [~~board~~]advisory board chair, shall provide by no later than July 1 of each year, a written report to the president of the University of Utah, the president of Weber State University, and the Education Interim Committee.

(2) The report required under Subsection (1) shall:

(a) summarize the center's activities and accomplishments in the immediate proceeding calendar year; and

(b) provide information and the [~~board~~]advisory board's advice and recommendations on how the state, university, and the center can:

(i) improve workplace health and safety; and

(ii) contribute to economic growth and development in Utah and the surrounding region.

Section 176. Section 53H-5-301 is enacted to read:

PART 3. State Arboreta

53H-5-301 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 177. Section 53H-5-302, which is renumbered from Section 53B-19-101 is renumbered and amended to read:

[~~53B-19-101~~]53H-5-302 (Effective upon governor's approval). Establishment of state arboreta -- Purpose -- Acceptance of gifts.

(1) In recognition of the cultural role that trees and shrubbery and birds and bees have played in the settlement and development of this state and the hardships that many of the pioneers endured to bring to this land seeds, plants, trees, and shrubs which have contributed so much to the scenic beauty of this state, it is deemed expedient that state arboreta be established for the purpose of further developing a knowledge and appreciation of trees and shrubs and to provide a place where [~~they~~]the seeds, plants, trees, and shrubs may be planted and cultivated as memorials and for the cultural enjoyment of the people of the state.

(2) (a) State arboreta are created and established at:

(i) the University of Utah; and

(ii) Utah State University.

(b) The universities listed in Subsection (2)(a) may:

(i) on behalf of the people of this state, cultivate a greater knowledge and public appreciation for the trees and plants around us, as well as those growing in remote sections of the country and world; and

(ii) receive gifts, contributions, and donations of all kinds, including gifts and contributions of trees, plants, and shrubbery of every variety to promote the purposes and pursuits of an arboretum.

Section 178. Section 53H-5-401 is enacted to read:

PART 4. Other Multi-Institution Programs and Initiatives

53H-5-401 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 179. Section 53H-5-402, which is renumbered from Section 53B-6-104 is renumbered and amended to read:

[~~53B-6-104~~]53H-5-402 (Effective upon governor's approval). Multi-University Consortium for Teacher Training in Sensory Impairments -- Purposes -- Appropriation.

(1) (a) In conjunction with the board's master plan for higher education, there is established a Multi-University Consortium for Teacher Training in Sensory Impairments which is an outgrowth of a consortium established by the federal government.

(b) The consortium shall include within its membership the University of Utah, Utah State University, Brigham Young University, the Utah Schools for the Deaf and the Blind, the Services for At-Risk Students section under the State Board of Education, and local school districts.

(2) The consortium, in collaboration with the board and the State Board of Education, shall develop and implement teacher preparation programs that qualify and certify instructors to work with students who are visually impaired, deaf, or hard of hearing, or both visually impaired and deaf or hard of hearing.

(3) The board shall consider including within the board's annual budget recommendations a line item appropriation to provide ongoing funding for the programs provided pursuant to this section.

Section 180. Section 53H-5-403, which is renumbered from Section 53B-18-1101 is renumbered and amended to read:

[~~53B-18-1101~~]53H-5-403 (Effective upon governor's approval). Higher Education Engineering Partnership.

(1) Utah State University and Weber State University shall enter into a partnership agreement to jointly deliver a bachelor's degree in electrical engineering to meet the demand for electrical engineers in the state, including the demand at Hill Air [~~force~~]Force Base.

(2) The partnership agreement may provide for:

(a) a satellite location for the Utah State University electrical engineering program on a Weber State University campus, including the Davis campus; and

(b) a curriculum using courses from:

(i) Weber State University's electrical engineering technology and general education programs; and

(ii) Utah State University's electrical engineering bachelor's degree program and other related programs.

Section 181. Section 53H-6-101 is enacted to read:

CHAPTER 6. Campus Life and Activities

PART 1. General Provisions

53H-6-101 (Effective upon governor's approval). General Provisions -- Definitions.

Reserved.

Section 182. Section 53H-6-201, which is renumbered from Section 53B-16-601 is renumbered and amended to read:

PART 2. Athletics

[~~53B-16-601~~]53H-6-201 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Athlete agent" means the same as that term is defined in Section 58-87-102.

(2) "Athletic entity" means an athletic association, athletic conference, or other group or organization with authority over intercollegiate athletics.

[~~(3) "Institution" means:~~]

[~~(a) an institution of higher education described in Section 53B-1-102; or~~]

[~~(b) a private, nonprofit institution of higher education.~~]

[~~(4)~~](3) (a) "Institutional marketing associate" means a third-party entity that enters into a contract with, or acts on behalf of, an institution or intercollegiate athletics program.

(b) "Institutional marketing associate" does not include:

(i) an institution;

(ii) an athletic entity; or

(iii) a staff member, employee, officer, director, manager, or owner of an institution.

[~~(5)~~](4) "Intercollegiate athletics program" means an institution-sponsored athletic program or sporting activity in which a student athlete represents the student athlete's institution in competition against another institution.

[~~(6)~~](5) "Prohibited endorsement provision" means a provision that requires or permits the use of a student athlete's name, image, or likeness to promote:

(a) a tobacco product or electronic cigarette, as those terms are defined in Section 76-9-1101, including vaping;

(b) an alcoholic product, as that term is defined in Section 32B-1-102;

(c) a seller or dispenser of a controlled substance, including steroids, antibiotics, and marijuana;

(d) gambling or betting;

(e) a sexually oriented business, as that term is defined in Section 17-50-331; or

(f) a firearm that the student athlete cannot legally purchase.

[~~(7)~~](6) (a) "Student athlete" means an individual who:

(i) is enrolled in an institution; and

(ii) participates as an athlete for the institution in an intercollegiate athletics program.

(b) "Student athlete" includes an agent or other representative of a student athlete.

[~~(8)~~](7) "Student athlete agreement" means a proposed or executed contract:

(a) between a student athlete and another party; and

(b) in which the student athlete and other party agree that the student athlete's name, image, or likeness may be used to promote a business, person, product, service, or individual in exchange for the student athlete receiving financial compensation or other benefits.

[~~(9)~~](8) "Third-party entity" means an individual or organization, other than an athletic entity, with authority over intercollegiate athletics.

Section 183. Section 53H-6-202, which is renumbered from Section 53B-16-602 is renumbered and amended to read:

[~~53B-16-602~~]53H-6-202 (Effective upon governor's approval). Use of a student athlete's name, image, or likeness in intercollegiate athletics programs -- Contracts -- Exceptions -- Prohibitions.

(1) An institution may, except as provided in Subsection (2), compensate a student athlete directly for use of the student athlete's name, image, or likeness.

(2) An institution may not compensate a student athlete or prospective student athlete for use of the student athlete's name, image, or likeness through:

(a) funds the Legislature appropriates; or

(b) a fee a student attending an institution pays to the institution.

(3) (a) A student athlete may not enter into a student athlete agreement that contains a prohibited endorsement provision.

(b) A student athlete agreement or any communication, or other material related to a student athlete agreement, including those created before May 1, 2024, is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(4) A student athlete attending an institution is not an employee of the institution through:

(a) the student athlete's participation in an athletic program the institution offers; or

(b) the institution compensating the student athlete for use of the student athlete's name, image, or likeness.

(5) The board shall:

(a) beginning fiscal year 2028 and every five years thereafter, conduct an audit of each [~~state~~]institution that evaluates:

(i) money an institution expends to directly compensate a student athlete for the use of the student athlete's name, image, or likeness; and

(ii) the implementation and use of payments by an institution to a student athlete for a student athlete's name, image, or likeness; and

(b) prepare and submit a written report for the audit described in Subsection (5)(a) to the Education Interim Committee and the Higher Education Appropriations Subcommittee.

(6) An athletic entity may not:

(a) prevent a student athlete of an institution from fully participating in intercollegiate athletics because the student athlete:

(i) earns compensation through the student athlete's name, image, or likeness; or

(ii) obtains professional representation from an athlete agent or attorney;

(b) prevent an institution from becoming a member of an athletic entity or from participating in intercollegiate athletics that an athletic entity sponsors because a student athlete of an institution or college participating in intercollegiate athletics:

(i) earns compensation from the use of the student athlete's name, image, or likeness; or

(ii) obtains professional representation from an athlete agent or attorney; or

(c) prevent an institution, institutional marketing associate, or third-party entity from creating and supporting opportunities for a student athlete to earn compensation for use of the student athlete's name, image, or likeness.

Section 184. Section 53H-6-203, which is renumbered from Section 53B-16-701 is renumbered and amended to read: [~~53B-16-701~~]53H-6-203 (Effective upon governor's approval). Abusive coaching policies.

(1) As used in this section:

(a) (i) "Abusive coaching practice" means conduct by a coach or member of the coaching staff that creates a harmful environment for a student athlete.

(ii) "Abusive coaching practice" includes conduct by a coach or coaching staff with a student athlete that results in:

(A) harmful or offensive physical contact;

(B) sexual misconduct or harassment;

(C) inappropriate sexual language; or

(D) conduct that a reasonable person would find to be psychologically abusive.

(b) "Athletic department" means the division of a degree-granting institution responsible for overseeing intercollegiate athletic programs.

(2) A degree-granting institution shall:

(a) address abusive coaching practices by requiring a degree-granting institution's athletic department to adopt a policy by November 7, 2025, that:

(i) allows an individual to submit a complaint to the athletic department alleging a violation of the policies described in this Subsection (2)(a);

(ii) prohibits coaches and coaching staff from encouraging or advising a student athlete to tolerate an abusive coaching practice;

(iii) prohibits coaches and coaching staff from discouraging a report for an abusive coaching practice;

(iv) establishes reporting requirements for a volunteer, coach, or member of the coaching staff who learns of an abusive coaching practice;

(v) mandates training for athletic department staff on recognizing and preventing an abusive coaching practice;

(vi) establishes a procedure for the athletic department to follow when responding to a complaint of an abusive coaching practice; and

(vii) institutes disciplinary action for individuals found in violation of the policies described in this Subsection (2)(a);

(b) submit the policy described in Subsection (2)(a) to the board and Education Interim Committee before the Education Interim Committee's November 2025 meeting; and

(c) establish procedures to:

(i) notify an individual of the receipt of the complaint the individual submits under Subsection (2)(a)(i), within five business days after the submission of the complaint;

(ii) initiate an investigation of the complaint no later than 30 days after the receipt of a complaint;

(iii) require [~~an~~]the degree-granting institution to ensure the investigation is as thorough and expeditious as possible; and

(iv) where appropriate, act immediately to stop a program under an athletic department until the degree-granting institution is able to restore an environment that is not harmful.

(3) (a) A degree-granting institution's board of trustees shall:

(i) review the policies a degree-granting institution creates in accordance with Subsection (2)(a); and

(ii) approve the policies a degree-granting institution creates if the policies meet the policy requirements listed in Subsection (2)(a).

(b) Upon approval of the policies by a degree granting institution's board of trustees a degree-granting institution shall send the adopted policies to the board.

Section 185. Section 53H-6-301 is enacted to read:

PART 3. General Campus Activities and Programs

53H-6-301 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 186. Section 53H-7-101 is enacted to read:

CHAPTER 7. Students' Rights and Responsibilities

PART 1. General Provisions

53H-7-101 (Effective upon governor's approval). General Provisions -- Definitions.

As used in this chapter, "student" means an individual enrolled at an institution.

Section 187. Section 53H-7-201, which is renumbered from Section 53B-27-202 is renumbered and amended to read:

PART 2. Campus Free Expression

[~~53B-27-202~~]53H-7-201 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Benefit" means:

(a) recognition by an institution;

(b) registration by an institution;

(c) the use of an institution's facility for meeting or speaking purposes;

(d) the use of communication channels; or

(e) funding sources that are otherwise available to other student organizations at an institution.

(2) "Expressive activity" means an activity that includes:

(a) peacefully assembling, protesting, or speaking;

(b) distributing literature;

(c) carrying a sign;

(d) circulating a petition; or

(e) otherwise participating in speech or conduct protected by:

(i) the First Amendment to the United States Constitution; or

(ii) Utah Constitution, Article I, Sections 4 and 15.

(3) "Student organization" means a student organized group that is:

(a) officially recognized, or seeking official recognition, by an institution as a student club; and

(b) comprised of students that receive, or are seeking to receive, benefits available to student clubs from the institution.

Section 188. Section 53H-7-202, which is renumbered from Section 53B-27-203 is renumbered and amended to read:

[~~53B-27-203~~]53H-7-202 (Effective upon governor's approval). Expressive activities at an institution.

(1) An outdoor area of an institution's campus is a traditional public forum.

(2) An institution may maintain and enforce reasonable time, place, or manner restrictions on an expressive activity in an outdoor area of the institution's campus, if the restrictions:

(a) are narrowly tailored to serve a significant institutional interest;

(b) are based on published, content-neutral, and viewpoint-neutral criteria; and

(c) leave open ample alternative channels for communication.

(3) Subject to Subsection (2), an institution may not prohibit:

(a) a member of the institution's community or the public from spontaneously and contemporaneously assembling in an outdoor area of the institution's campus; or

(b) a person from freely engaging in noncommercial expressive activity in an outdoor area of the institution's campus if the person's conduct is lawful.

(4) This part does not apply to expressive activity in an area on an institution's campus other than an outdoor area.

Section 189. Section 53H-7-203, which is renumbered from Section 53B-27-203.5 is renumbered and amended to read:

[~~53B-27-203.5~~]53H-7-203 (Effective upon governor's approval). Religious, political, and ideological student organizations -- Protection from discrimination.

An institution may not deny any benefit or privilege that is available to any student organization, or discriminate against, a religious, political, or ideological student organization:

(1) because such student organization is religious, political, or ideological;

(2) on the basis of protected expressive activity engaged in by the student organization or the student organization's members; or

(3) based on a requirement that a leader of the student organization:

(a) affirm or adhere to the sincerely held beliefs of the student organization;

(b) comply with a standard of conduct the student organization establishes; or

(c) further the mission, purpose, or standards of conduct of the student organization, as these are defined by the student organization.

Section 190. Section 53H-7-204, which is renumbered from Section 53B-27-204 is renumbered and amended to read:

[~~53B-27-204~~]53H-7-204 (Effective upon governor's approval). Cause of action.

(1) The following persons may bring an action in a state court of competent jurisdiction to enjoin a violation of this part or to recover

compensatory damages, reasonable court costs, or reasonable attorney fees:

(a) the attorney general; or

(b) a person claiming that the person's rights, as described in this part, were violated.

(2) In an action brought under this part, if the court finds a violation of this part, the court:

(a) shall enjoin the violation;

(b) shall, if a person whose rights, as described in this part, were violated brought the action, award the person:

(i) at least $500 for an initial violation; and

(ii) if the person notifies the institution of the violation, $50 for each day the violation continues after the notification; and

(c) may award a prevailing plaintiff:

(i) compensatory damages;

(ii) reasonable court costs; or

(iii) reasonable attorney fees.

(3) Notwithstanding Title 63G, Chapter 7, Governmental Immunity Act of Utah, an institution that violates this part is not immune from suit or liability for the violation.

Section 191. Section 53H-7-205, which is renumbered from Section 53B-27-205 is renumbered and amended to read:

[~~53B-27-205~~]53H-7-205 (Effective upon governor's approval). Statute of limitations.

(1) Except as provided in Subsection (3), an action under this part may not be brought later than one year after the day on which the cause of action accrues.

(2) Each day that a violation continues after an initial violation, and each day that an institution's policy in violation of this part remains in effect, shall constitute a continuing violation of this part.

(3) For a continuing violation described in Subsection (2), the limitation described in Subsection (1) shall extend to one year after the day on which the most recent violation occurs.

Section 192. Section 53H-7-301, which is renumbered from Section 53B-27-301 is renumbered and amended to read:

PART 3. Student Civil Liberties Protection

[~~53B-27-301~~]53H-7-301 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Civil liberty" means a civil liberty enumerated in the United States Constitution or the Utah Constitution.

(2) "Initiate rulemaking proceedings" means the same as that term is defined in Section 63G-3-601.

Section 193. Section 53H-7-302, which is renumbered from Section 53B-27-302 is renumbered and amended to read:

[~~53B-27-302~~]53H-7-302 (Effective upon governor's approval). Policies requiring rulemaking -- Policy review.

[~~(1)~~] An institution may not make or amend a policy that directly affects a student's civil liberty, unless the policy is made a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(2) Eachinstitutionshall:~~]

[~~(a) before November 30, 2018, review theinstitution's policies as of May 11, 2018, and identify any policy that directly affects a student's civil liberty; and~~]

[~~(b) before August 1, 2019, for each policy identified under Subsection (2)(a), repeal the policy or initiate rulemaking proceedings to make the policy a rule.~~]

Section 194. Section 53H-7-303, which is renumbered from Section 53B-27-303 is renumbered and amended to read:

[~~53B-27-303~~]53H-7-303 (Effective upon governor's approval). Complaint process -- Reporting.

(1) [~~Before August 1, 2019, the~~]The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing a procedure whereby a student enrolled in an institution may submit a complaint to the board alleging a policy of the institution directly affects one or more of the student's civil liberties.

(2) (a) When a student submits a complaint in accordance with the rules adopted under Subsection (1), the board shall:

(i) examine the complaint and, within 30 days after the day on which the board receives the complaint, determine whether the complaint is made in good faith; and

(ii) (A) if the board determines that the complaint is made in good faith, direct the institution against which the complaint is made to initiate rulemaking proceedings for the challenged policy; or

(B) if the board determines that the complaint is made in bad faith, dismiss the complaint.

(b) Before November 30 of each year, the board shall submit a report to the Rules Review and General Oversight Committee detailing:

(i) the number of complaints the board received during the preceding year;

(ii) the number of complaints the board found to be made in good faith during the preceding year; and

(iii) each policy that is the subject of a good-faith complaint that the board received during the preceding year.

(3) If the board directs an institution to initiate rulemaking proceedings for a challenged policy in accordance with this section, the institution shall initiate rulemaking proceedings for the policy within 60 days after the day on which the board directs the institution.

Section 195. Section 53H-7-401, which is renumbered from Section 53B-27-401 is renumbered and amended to read:

PART 4. Campus Anti-Harassment

[~~53B-27-401~~]53H-7-401 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Discriminatory harassment" means student-on-student speech that:

(a) is unwelcome;

(b) discriminates on the basis of a classification protected under federal or state law; and

(c) is so severe, pervasive, and objectively offensive, and that so undermines and distracts from a student's educational experience, that the student is effectively denied access to an institution's resource or opportunity.

[~~(2) "Student" means an individual enrolled at an institution.~~]

[~~(3)~~](2) (a) "Student-on-student speech" means verbal, written, or other communication that is:

(i) communicated by a student; and

(ii) directed at another student.

(b) "Student-on-student speech" does not include an act of physical contact between a student and another student.

Section 196. Section 53H-7-402, which is renumbered from Section 53B-27-402 is renumbered and amended to read:

[~~53B-27-402~~]53H-7-402 (Effective upon governor's approval). Institution duties.

(1) An institution is in violation of this part if the institution:

(a) gains actual knowledge of discriminatory harassment in the institution's program or activity; and

(b) acts with deliberate indifference to the discriminatory harassment.

(2) (a) An institution may not sanction or discipline, as discriminatory harassment, student-on-student speech that does not constitute discriminatory harassment.

(b) An institution is not liable under this part for failing to sanction or discipline a student who communicates student-on-student speech that is not discriminatory harassment.

(3) Nothing in this part prevents an institution from sanctioning or disciplining student-on-student speech that is otherwise not protected under the First Amendment to the United States Constitution.

(4) Nothing in this part prevents an institution from responding to student-on-student speech that is not discriminatory harassment by taking nonpunitive actions designed to promote a welcoming, inclusive environment.

(5) Nothing in this part prevents an institution from maintaining policies prohibiting stalking or other criminal activity.

Section 197. Section 53H-7-403, which is renumbered from Section 53B-27-403 is renumbered and amended to read:

[~~53B-27-403~~]53H-7-403 (Effective upon governor's approval). Cause of action.

The attorney general may bring an action to enjoin a violation of this part, in a state court of competent jurisdiction, against an institution or an institution's agent acting in the agent's official capacity.

Section 198. Section 53H-7-404, which is renumbered from Section 53B-27-404 is renumbered and amended to read:

[~~53B-27-404~~]53H-7-404 (Effective upon governor's approval). Statute of limitations.

(1) Except as provided in Subsection (3)(b), the attorney general may not bring an action under this part later than one year after the day on which the cause of action accrues.

(2) For an action alleging a violation of Subsection [~~53B-27-402(2)(a)~~]53H-7-402(2)(a), the cause of action accrues on the day on which the student receives final notice, from the institution, of sanction or discipline that violates Subsection [~~53B-27-402(2)(a)~~]53H-7-402(2)(a).

(3) (a) For an action alleging a violation of Subsection [~~53B-27-402(1)~~]53H-7-402(1), the cause of action accrues on the day on which the institution gains knowledge of the discriminatory harassment.

(b) For an action described in Subsection (3)(a), the limitation described in Subsection (1) extends to one year after the day on which the most recent known act of discriminatory harassment, involving the same parties as a prior known act of discriminatory harassment, occurs.

Section 199. Section 53H-7-501, which is renumbered from Section 53B-28-301 is renumbered and amended to read:

PART 5. Campus Sexual Violence

[~~53B-28-301~~]53H-7-501 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Alleged perpetrator" means an individual whom a victim alleges committed an act of sexual violence against the victim.

(2) "Code of conduct" means an institution's student code of conduct, student code of ethics, honor code, or other policy under which the institution may sanction a student.

(3) "Covered allegation" means an allegation made to an institution that an individual committed an act of sexual violence.

(4) "Law enforcement agency" means an off-campus law enforcement agency of the unit of local government with jurisdiction to respond to a covered allegation.

(5) "Sexual violence" means:

(a) sexual abuse as described in 18 U.S.C. Sec. 2242;

(b) aggravated sexual abuse as described in 18 U.S.C. Sec. 2241;

(c) assault resulting in substantial bodily injury as described in 18 U.S.C. Sec. 113(a)(7);

(d) sexual assault;

(e) dating violence;

(f) domestic violence; or

(g) stalking.

[~~(6) "Student" means an individual enrolled in an institution.~~]

[~~(7)~~](6) "Victim" means a student who alleges that the student was a victim of sexual violence.

Section 200. Section 53H-7-502, which is renumbered from Section 53B-28-302 is renumbered and amended to read:

[~~53B-28-302~~]53H-7-502 (Effective upon governor's approval). Code of conduct violation -- Report of sexual violence.

An institution may not sanction a student for a code of conduct violation related to the use of drugs or alcohol if:

(1) the student is:

(a) a victim of an act of sexual violence; or

(b) a witness to an act of sexual violence;

(2) the student reports to the institution, in good faith, a covered allegation related to the act of sexual violence described in Subsection (1); and

(3) the institution learns of the student's code of conduct violation due to the student's report described in Subsection (2).

Section 201. Section 53H-7-503, which is renumbered from Section 53B-28-303 is renumbered and amended to read: [~~53B-28-303~~]53H-7-503 (Effective upon governor's approval). Institution engagement with a law enforcement agency -- Articulable and significant threat -- Notification to victim.

(1) (a) An institution shall keep confidential from a law enforcement agency a covered allegation reported to the institution by the victim of the covered allegation.

(b) Notwithstanding Subsection (1)(a), an institution may engage with a law enforcement agency in response to a covered allegation described in Subsection (1)(a):

(i) if the victim consents to the institution engaging with the law enforcement agency; or

(ii) in accordance with Subsection (2).

(2) (a) Subject to Subsection (3), an institution that receives a report described in Subsection (1)(a) may engage with a law enforcement agency in response to the covered allegation if the institution determines, in accordance with Subsection (2)(b), that the information in the covered allegation creates an articulable and significant threat to individual or campus safety at the institution.

(b) To determine whether the information in a covered allegation creates an articulable and significant threat described in Subsection (2)(a), the institution shall consider, if the information is known to the institution, at least the following factors:

(i) whether the circumstances of the covered allegation suggest an increased risk that the alleged perpetrator will commit an additional act of sexual violence or other violence;

(ii) whether the alleged perpetrator has an arrest history that indicates a history of sexual violence or other violence;

(iii) whether records from the alleged perpetrator's previous postsecondary institution indicate that the alleged perpetrator has a history of sexual violence or other violence;

(iv) whether the alleged perpetrator is alleged to have threatened further sexual violence or other violence against the victim or another individual;

(v) whether the act of sexual violence was committed by more than one alleged perpetrator;

(vi) whether the circumstances of the covered allegation suggest there is an increased risk of future acts of sexual violence under similar circumstances;

(vii) whether the act of sexual violence was perpetrated with a weapon; and

(viii) the age of the victim.

(3) An institution shall:

(a) before engaging with a law enforcement agency in accordance with Subsection (2), provide notice to the victim of the following:

(i) the institution's intent to engage with a law enforcement agency;

(ii) the law enforcement agency with which the institution intends to engage; and

(iii) the reason the institution made the determination described in Subsection (2); and

(b) in engaging with a law enforcement agency under Subsection (2):

(i) maintain the confidentiality of the victim; and

(ii) disclose the minimum information required to appropriately address the threat described in Subsection (2)(a).

(4) Nothing in this section supersedes:

(a) an obligation described in Section 26B-6-205, 80-2-602, or 78B-3-502; or

(b) a requirement described in [~~Part 2, Confidential Communications for Institutional Advocacy Services Act~~]Chapter 14, Part 4, Confidential Communications for Institutional Advocacy Services.

Section 202. Section 53H-7-504, which is renumbered from Section 53B-28-304 is renumbered and amended to read: [~~53B-28-304~~]53H-7-504 (Effective upon governor's approval). Criminal retaliation against a victim or a witness.

(1) As used in this section:

(a) "Bodily injury" means the same as that term is defined in Section 76-1-101.5.

(b) "Damage" means physical damage to an individual's property.

(2) An individual is guilty of a third degree felony if the individual inflicts bodily injury or damage:

(a) upon a victim of or a witness to an act of sexual violence alleged in a covered allegation; and

(b) in retaliation for the victim's or the witness's:

(i) report of the covered allegation; or

(ii) involvement in an investigation initiated by the institution in response to the covered allegation.

(3) An individual is guilty of a third degree felony if the individual:

(a) communicates an intention to inflict bodily injury:

(i) upon a victim of or a witness to an act of sexual violence alleged in a covered allegation; and

(ii) in retaliation for the victim's or the witness's:

(A) report of the covered allegation; or

(B) involvement in an investigation initiated by the institution in response to the covered allegation; and

(b) (i) intends the communication described in Subsection (3)(a) as a threat against the victim or the witness; or

(ii) knows that the communication described in Subsection (3)(a) will be viewed as a threat against the victim or the witness.

Section 203. Section 53H-7-601 is enacted to read:

PART 6. Campus Safety

53H-7-601 (Effective upon governor's approval). General Provisions -- Definitions.

Reserved.

Section 204. Section 53H-7-602, which is renumbered from Section 53B-28-401 is renumbered and amended to read:
[~~53B-28-401~~]53H-7-602 (Effective upon governor's approval). Campus safety plans and training -- Institution duties.

(1) As used in this section:

(a) "Covered offense" means:

(i) sexual assault;

(ii) domestic violence;

(iii) dating violence; or

(iv) stalking.

[~~(b) "Institution" means an institution of higher education described in Section 53B-1-102.~~]

[~~(c)~~](b) "Student organization" means a club, group, sports team, fraternity or sorority, or other organization:

(i) of which the majority of members is composed of students enrolled in an institution; and

(ii) (A) that is officially recognized by the institution; or

(B) seeks to be officially recognized by the institution.

(2) An institution shall develop a campus safety plan that addresses:

(a) where an individual can locate the institution's policies and publications related to a covered offense;

(b) institution and community resources for a victim of a covered offense;

(c) the rights of a victim of a covered offense, including the measures the institution takes to ensure, unless otherwise provided by law, victim confidentiality throughout all steps in the reporting and response to a covered offense;

(d) how the institution informs the campus community of a crime that presents a threat to the campus community;

(e) availability, locations, and methods for requesting assistance of security personnel on the institution's campus;

(f) guidance on how a student may contact law enforcement for incidents that occur off campus;

(g) institution efforts related to increasing campus safety, including efforts related to the institution's increased response in providing services to victims of a covered offense, that:

(i) the institution made in the preceding 18 months; and

(ii) the institution expects to make in the upcoming 24 months;

(h) coordination and communication between institution resources and organizations, including campus law enforcement;

(i) institution coordination with local law enforcement or community resources, including coordination related to a student's safety at an off-campus location; and

(j) how the institution requires a student organization to provide the campus safety training as described in Subsection (5).

(3) An institution shall:

(a) prominently post the institution's campus safety plan on the institution's website and each of the institution's campuses; and

(b) annually update the institution's campus safety plan.

(4) An institution shall develop a campus safety training curriculum that addresses:

(a) awareness and prevention of covered offenses, including information on institution and community resources for a victim of a covered offense;

(b) bystander intervention; and

(c) sexual consent.

(5) An institution shall require a student organization, in order for the student organization to receive or maintain official recognition by the institution, to annually provide campus safety training, using the curriculum described in Subsection (4), to the student organization's members.

Section 205. Section 53H-7-603, which is renumbered from Section 53B-28-403 is renumbered and amended to read:
[~~53B-28-403~~]53H-7-603 (Effective upon governor's approval). Student housing crime reporting.

(1) As used in this section:

(a) "Campus law enforcement" means an institution's police department.

(b) "Crime statistics" means the number of each of the crimes in 34 C.F.R. Sec. 668.46(c)(1) that are reported to a local police agency or campus law enforcement, listed by type of crime.

[~~(c) "Institution" means an institution of higher education described in Section 53B-2-101.~~]

[~~(d)~~](c) (i) "Institution noncampus housing facility" means a building or property that:

(A) is used for housing students;

(B) is not part of the institution's campus; and

(C) the institution owns, manages, controls, or leases;

(ii) "Institution noncampus housing facility" includes real property that is adjacent to, and is used in direct support of, the building or property described in Subsection [~~(1)(d)(i)~~](1)(c)(i).

[~~(c)~~](d) "Local law enforcement agency" means a state or local law enforcement agency other than campus law enforcement.

[~~(f)~~](e) (i) "On-campus housing facility" means a building or property that is:

(A) used for housing students; and

(B) part of the institution's campus.

(ii) "On-campus housing facility" includes real property that is:

(A) adjacent to the on-campus housing facility; and

(B) used in direct support of the on-campus housing facility.

[~~(g)~~](f) "Student housing" means:

(i) an institution noncampus housing facility;

(ii) an on-campus housing facility; or

(iii) a student organization noncampus housing facility.

[~~(h)~~](g) "Student organization" means the same as that term is defined in Section [~~53B-28-401~~]53H-7-101.

[~~(i)~~](h) "Student organization noncampus housing facility" means a building or property that:

(i) is used for housing students;

(ii) is not part of the institution's campus; and

(iii) (A) a student organization owns, manages, controls, or leases; or

(B) is real property that is adjacent to the student organization noncampus housing facility and is used in direct support of the noncampus housing facility.

(2) An institution with the types of housing facilities described in this Subsection (2) shall:

(a) create a report of crime statistics aggregated by:

(i) on-campus housing facility, identified and listed individually using the institution's system for inventorying institution facilities;

(ii) institution noncampus housing facility, identified and listed individually using the institution's system for inventorying institution facilities; and

(iii) student organization noncampus housing facilities, identified and listed individually using the institution's system for identifying student organization noncampus housing facilities; and

(b) report annually to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee, at or before the committee's November meetings, on crime statistics aggregated by housing facility as described in Subsection (2)(a).

(3) An institution that does not have the types of housing described in Subsection (2) shall report the crime statistics as required by 20 U.S.C. Section 1092(f), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, to the entities specified in Subsection (2).

(4) Upon request from an institution, a local law enforcement agency shall provide to the institution crime statistics for each student housing facility over which the local law enforcement agency has jurisdiction.

(5) Except as provided in Section [~~53B-28-303~~]53H-7-503, when campus law enforcement receives a complaint or report of a crime that campus law enforcement reasonably determines occurred outside of campus law enforcement's jurisdiction, campus law enforcement shall share any record of the complaint or report with the local law enforcement agency with jurisdiction.

Section 206. Section 53H-7-701, which is renumbered from Section 53B-27-602 is renumbered and amended to read:

PART 7. Student Legal Representation

[~~53B-27-602~~]53H-7-701 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Academic dishonesty" means an act of dishonesty relating to a student's academic work or performance.

(2) "Accused student" means an individual enrolled in an institution who has allegedly violated a policy or rule.

(3) "Accused student organization" means a student organization, recognized by an institution, that has allegedly violated a policy or rule.

(4) "Alleged victim" means an individual whose rights are allegedly infringed or who is otherwise allegedly harmed by an accused student's or a student organization's violation of a policy or rule.

(5) "Evidence" means information that is inculpatory or exculpatory as the information relates to an accusation against an accused student or accused student organization, including:

(a) a complainant statement;

(b) a third-party witness statement;

(c) electronically stored information;

(d) a written communication;

(e) a post to social media; or

(f) demonstrative evidence.

(6) "Full participation" means the opportunity in a student or student organization disciplinary proceeding to:

(a) make opening and closing statements;

(b) examine and cross-examine a witness;

(c) introduce relevant evidence; and

(d) provide support, guidance, or advice to an accused student, accused student organization, or alleged victim.

(7) "Legal representation" means an attorney, who is licensed to practice law in this state and whom:

(a) an accused student selects to assist the student in the student's disciplinary proceeding;

(b) an alleged victim selects to assist the alleged victim at a proceeding that pertains to the alleged victim; or

(c) an accused student organization selects to assist the student organization at a student organization disciplinary proceeding.

(8) "Nonattorney advocate" means an individual, who is not licensed to practice law and whom:

(a) an accused student selects to assist the student in the student's disciplinary proceeding;

(b) an alleged victim selects to assist the alleged victim at a proceeding that pertains to the alleged victim; or

(c) an accused student organization selects to assist the student organization at a student organization disciplinary proceeding.

(9) "Policy or rule" means a policy or rule, or a relevant section of a policy or rule, of an institution that, if violated, may result in:

(a) for a student, a suspension of 10 calendar days or more or expulsion from the institution; or

(b) for a student organization, the suspension or the removal of institutional recognition of the student organization.

(10) "Proceeding" means an adjudicatory hearing, including an appeal, in which evidence is presented to a hearing officer or a hearing panel, and that is:

(a) required by a policy or rule; or

(b) held to determine whether a policy or rule has been violated.

(11) (a) "Student disciplinary proceeding" means a proceeding initiated by an institution to determine whether an accused student has violated a policy or rule.

(b) "Student disciplinary proceeding" does not include a proceeding that solely involves a student's academic dishonesty.

(12) "Student organization" means a club or other organization:

(a) that meets during noninstructional time;

(b) that is recognized by the institution at which the organization meets; and

(c) with a majority of members who are current students at the institution.

(13) (a) "Student organization disciplinary proceeding" means a proceeding initiated by an institution to determine whether an accused student organization has violated a rule or policy.

(b) "Student organization disciplinary proceeding" does not include a proceeding that solely involves a student's academic dishonesty.

Section 207. Section 53H-7-702, which is renumbered from Section 53B-27-601 is renumbered and amended to read:

[~~53B-27-601~~]53H-7-702 (Effective upon governor's approval). Application.

The provisions of this part do not:

(1) govern campus law enforcement departments or law enforcement personnel; or

(2) otherwise replace or amend criminal procedures that govern law enforcement activities.

Section 208. Section 53H-7-703, which is renumbered from Section 53B-27-603 is renumbered and amended to read:

[~~53B-27-603~~]53H-7-703 (Effective upon governor's approval). Student disciplinary proceedings -- Legal representation.

(1) An institution may not prohibit:

(a) an accused student from being represented, at the accused student's expense, by legal representation or a nonattorney advocate at a student disciplinary proceeding that pertains to the accused student; or

(b) an accused student's legal representation or nonattorney advocate from full participation in a student disciplinary proceeding that pertains to the accused student.

(2) An institution may not prohibit:

(a) an alleged victim from being represented, at the alleged victim's expense, by legal representation or a nonattorney advocate at a student disciplinary proceeding that pertains to the alleged victim; or

(b) the alleged victim's legal representation or nonattorney advocate from full participation in a student disciplinary proceeding that pertains to the alleged victim.

(3) (a) An institution shall provide an accused student described in Subsection (1) or an alleged victim described in Subsection (2) written notice of the accused student's or alleged victim's rights under this section.

(b) The institution shall ensure that the notice provided to an accused student under Subsection (3)(a) notifies the accused student that:

(i) the accused student is entitled to a student disciplinary proceeding to contest the charges against the accused student;

(ii) the accused student is entitled to a presumption of innocence; and

(iii) the presumption of innocence remains until:

(A) the accused student acknowledges responsibility for the alleged violation; or

(B) the institution has established every element of the alleged violation at a student disciplinary proceeding.

(c) Unless exigent circumstances reasonably justify proceeding without providing notice under Subsection (3)(a), an institution shall establish policies and procedures to ensure that the institution provides written notice of the accused student's or alleged victim's rights as soon as practicable but no later than seven days before a student disciplinary proceeding that pertains to the accused student or alleged victim.

Section 209. Section 53H-7-704, which is renumbered from Section 53B-27-604 is renumbered and amended to read:

[~~53B-27-604~~]53H-7-704 (Effective upon governor's approval). Student organization disciplinary proceedings -- Legal representation.

(1) An institution may not prohibit:

(a) an accused student organization from being represented, at the accused student organization's expense, by legal representation or a nonattorney advocate at a student organization disciplinary proceeding that pertains to the accused student organization; or

(b) an accused student organization's legal representation or nonattorney advocate from full participation in a student organization disciplinary proceeding that pertains to the accused student organization.

(2) An institution may not prohibit:

(a) an alleged victim from being represented, at the alleged victim's expense, by legal representation or a nonattorney advocate at a student organization disciplinary proceeding that pertains to the alleged victim; or

(b) the alleged victim's legal representation or nonattorney advocate from full participation in a student organization disciplinary proceeding that pertains to the alleged victim.

(3) (a) An institution shall provide an accused student organization described in Subsection (1) or an alleged victim described in Subsection (2) written notice of the accused student organization's or alleged victim's rights under this section.

(b) The institution shall ensure that the notice provided to an accused student organization under Subsection (3)(a) notifies the accused student organization that:

(i) the accused student organization is entitled to a student organization disciplinary proceeding to contest the charges against the accused student organization;

(ii) the accused student organization is entitled to a presumption of innocence; and

(iii) the presumption of innocence remains until:

(A) the accused student organization acknowledges responsibility for the alleged violation; or

(B) the institution has established every element of the alleged violation at a student organization disciplinary proceeding.

(c) Unless exigent circumstances reasonably justify proceeding without providing notice under Subsection (3)(a), an institution shall establish policies and procedures to ensure that the institution provides written notice of the accused student organization's or alleged victim's rights as soon as practicable but no later than seven days before a student organization disciplinary proceeding that pertains to the accused student organization or alleged victim.

Section 210. Section 53H-7-705, which is renumbered from Section 53B-27-605 is renumbered and amended to read:

[~~53B-27-605~~]53H-7-705 (Effective upon governor's approval). Exchange of evidence.

(1) (a) An institution shall ensure that an accused student, an alleged victim, or an accused student organization has access to all material evidence that is in the institution's possession, including both inculpatory and exculpatory evidence, unless the material is subject to a legal privilege, no later than one week before the day on which a proceeding begins.

(b) Evidence that is an accused student's or an alleged victim's personal medical record, mental health record, therapy note, or journal may not be used as evidence in a proceeding unless the accused student or alleged victim consents to the use of the evidence in the proceeding.

(c) Any evidence presented in a proceeding under this part is confidential and may not be:

(i) used as evidence in a subsequent proceeding; or

(ii) used or disclosed to a third-party for any other purpose other than for the proceeding.

(2) Nothing in this part:

(a) provides for formal or informal discovery beyond the exchange of evidence described in Subsection (1); or

(b) incorporates or binds an institution to:

(i) the Utah Rules of Civil Procedure or the Utah Rules of Evidence; or

(ii) the Federal Rules of Civil Procedure or the Federal Rules of Evidence.

Section 211. Section 53H-7-706, which is renumbered from Section 53B-27-606 is renumbered and amended to read:

[~~53B-27-606~~]53H-7-706 (Effective upon governor's approval). Conflict of interest.

(1) An institution shall conduct a student disciplinary proceeding or student organization disciplinary proceeding in an impartial manner free from conflicts of interests.

(2) Except as provided in Subsection (3), in order to avoid conflicts of interest created by a comingling of roles, an institution shall prohibit an individual employed by or otherwise representing an institution from acting as an adjudicator, hearing officer, or appellate hearing officer in a student disciplinary proceeding or student organization disciplinary proceeding if the individual has also served in one of the following roles in the same matter:

(a) an advocate or counselor for an alleged victim, accused student, or accused student organization;

(b) an investigator;

(c) an institutional prosecutor; or

(d) an advisor to a person described in Subsection (2)(a), (b), or (c).

(3) If an individual employed by the institution or otherwise representing the institution serves as an investigator and an institutional prosecutor for the alleged violation of a policy or rule, the institution shall advise an accused student, accused student organization, or alleged victim before the investigation proceeding.

(4) An individual may not serve as an investigator or institutional prosecutor and an advocate for an accused student, accused student organization, or alleged victim in the same matter.

(5) In a proceeding conducted under this part, an institution shall allow an accused student, accused student organization, or an alleged victim to raise objections to issues that could potentially compromise the impartiality of the proceedings, including any potential conflicts of interest in violation of this section.

Section 212. Section 53H-7-707, which is renumbered from Section 53B-27-607 is renumbered and amended to read:

[~~53B-27-607~~]53H-7-707 (Effective upon governor's approval). Application -- Institution policies.

(1) This part does not prohibit an institution from temporarily suspending an accused student or accused student organization pending the completion of a student or student organization disciplinary proceeding.

(2) An institution shall:

(a) enact policies to govern proceedings in which a student has a right to an active legal representation or a nonattorney advocate in accordance with this part;

(b) train adjudicators, hearing officers, and appellate hearing officers on relevant evidence and nonrelevant, nonprobative evidence; and

(c) enact policies and procedures to notify a student of the student's right to bring a cause of action in violation of this part to the attorney general's office.

(3) An institution may adopt a policy requiring a legal representation or nonattorney advocate of an accused student, alleged victim, or accused student organization to submit questions for an opposing party to the hearing officer.

Section 213. Section 53H-7-708, which is renumbered from Section 53B-27-608 is renumbered and amended to read:

[~~53B-27-608~~]53H-7-708 (Effective upon governor's approval). Cause of action.

The attorney general may bring an action to enjoin a violation of this part, in a state court of competent jurisdiction, against an institution or an institution's agent acting in the agent's official capacity.

Section 214. Section 53H-7-709, which is renumbered from Section 53B-27-609 is renumbered and amended to read:

[~~53B-27-609~~]53H-7-709 (Effective upon governor's approval). Statute of limitations.

(1) The attorney general may not bring an action under this part later than one year after the day on which the cause of action accrues.

(2) The cause of action accrues on the day on which the student or student organization receives final notice, from the institution, of sanction or discipline that violates an institution's rule or policy.

Section 215. Section 53H-7-801, which is renumbered from Section 53B-23-102 is renumbered and amended to read:

PART 8. Instructional Materials for Students with a Disability

[~~53B-23-102~~]53H-7-801 (Effective upon governor's approval). Definitions.

For purposes of this [~~chapter~~]part:

(1) (a) "Instructional material or materials" means textbooks and other materials written and published primarily for use by students in postsecondary instruction that are required or essential to a student's success in a course of study in which a student with a disability is enrolled. The determination of which materials are "required or essential to student success" shall be made by the instructor of the course in consultation with the official making the request pursuant to Section [~~53B-23-103~~]53H-7-802 in accordance with rules issued pursuant to Section [~~53B-23-106~~]53H-7-805.

(b) "Instructional material or materials" does not include nontextual mathematics and science materials until the time software becomes commercially available that permits the conversion of existing electronic files of the materials into a format that is compatible with braille translation software or alternative media for students with disabilities.

(2) "Printed instructional material or materials" means instructional material or materials in book or other printed form.

(3) "Nonprinted instructional materials" means instructional materials in formats other than print, and includes instructional materials that require the availability of electronic equipment in order to be used as a learning resource, including software programs, video disks, and video and audio tapes.

[~~(4) "State institution of higher education" means an institution listed in Section 53B-2-101.~~]

[~~(5)~~](4) "Specialized format" means braille, audio, or digital text that is exclusively for use by blind or other persons with disabilities.

[~~(6)~~](5) (a) "Structural integrity" means all of the printed instructional material, including the text of the material, sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, glossaries, and bibliographies.

(b) "Structural integrity" need not include nontextual elements such as pictures, illustrations, graphs, or charts.

Section 216. Section 53H-7-802, which is renumbered from Section 53B-23-103 is renumbered and amended to read:

[~~53B-23-103~~]53H-7-802 (Effective upon governor's approval). Instructional materials to be provided in electronic format.

(1) (a) On or after January 1, 2009, any person that publishes or manufactures printed instructional material for students attending [~~a state~~]an institution of higher education shall provide to the institution for use by students attending the institution any printed instructional material in an electronic format mutually agreed upon by the publisher or manufacturer and the institution.

(b) Computer files or electronic versions of the printed instructional material shall:

(i) maintain the structural integrity of the printed instructional material;

(ii) be compatible with commonly used braille translation and speech synthesis software; and

(iii) include corrections and revisions as may be necessary.

(c) If good faith efforts fail to produce an agreement pursuant to Subsection (1)(a) between the publisher or manufacturer and the institution as to an electronic format that will preserve the structural integrity of the printed instructional material, the publisher or manufacturer shall provide the instructional material in ASCII text and shall preserve as much of the structural integrity of the printed instructional material as possible.

(2) The computer files or electronic versions of the printed instructional material shall be provided to the institution at no additional cost and in a timely manner, upon receipt of a written request that:

(a) certifies that the institution has purchased the printed instructional material for use by a student with a disability or that a student with a disability attending or registered to attend that institution has purchased the printed instructional material;

(b) certifies that the student has a disability that prevents the student from using standard instructional materials;

(c) certifies that the printed instructional material is for use by the student in connection with a course in which the student is registered or enrolled at the institution; and

(d) is signed by the coordinator of services for students with disabilities at the institution or by the official responsible for monitoring compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq. at the institution.

(3) A publisher or manufacturer providing instructional materials in an electronic format to an institution may require that, in addition to the requirements specified in Subsections (2)(a) through (2)(d), the request shall include a statement signed by the student that:

(a) the student will use the electronic copy of the printed instructional material in specialized format solely for the student's own educational purposes; and

(b) the student will not copy or duplicate the printed instructional material for use by others.

(4) If an institution permits a student to directly use the electronic version of an instructional material, the disk or file shall be copy-protected or the institution shall take other reasonable precautions to ensure that the student does not copy or distribute electronic versions of instructional materials in violation of the Copyright Revisions Act of 1976, 17 U.S.C. Sec. 101 et seq.

(5) A person that publishes or manufactures nonprinted instructional materials for students attending [~~astate~~]an institution of higher education shall provide computer files or other electronic versions of the nonprinted instructional materials for use by students attending the institution subject to the same requirements specified in Subsections (1) and (2) for printed instructional materials, when technology is available to convert the nonprinted instructional materials to a format that maintains the structural integrity of the nonprinted instructional materials that is compatible with braille translation and speech synthesis software.

(6) Nothing in this [~~chapter~~]part shall be construed to prohibit an institution from assisting a student with a disability by using the electronic version of printed instructional material provided pursuant to this section solely to transcribe or arrange for the transcription of

the printed instructional materials into braille. If a transcription is made, the institution shall have the right to share the braille copy of the printed instructional material with other students with disabilities.

Section 217. Section 53H-7-803, which is renumbered from Section 53B-23-104 is renumbered and amended to read:

[~~53B-23-104~~]53H-7-803 (Effective upon governor's approval). Centers for processing requests for electronic versions of instructional materials.

(1) The board may establish one or more centers to process requests for electronic versions of instructional materials pursuant to this [~~chapter~~]part.

(2) The institutions designated as within the jurisdiction of a center shall submit requests for instructional material to the center, which shall transmit the request to the publisher or manufacturer.

(3) If there is more than one center, each center shall make every effort to coordinate requests.

(4) The publisher or manufacturer of instructional material shall be required to honor and respond to only those requests submitted through a designated center.

(5) If a publisher or manufacturer has responded to a request for instructional materials by a center, all subsequent requests for those instructional materials shall be satisfied by the center to which the request is made.

Section 218. Section 53H-7-804, which is renumbered from Section 53B-23-105 is renumbered and amended to read:

[~~53B-23-105~~]53H-7-804 (Effective upon governor's approval). Infringement of copyright laws not authorized.

Nothing in this [~~chapter~~]part shall be considered to authorize any use of instructional materials that would constitute an infringement of copyright under the Copyright Revision Act of 1976, as amended, 17 U.S.C. Sec. 101 et seq.

Section 219. Section 53H-7-805, which is renumbered from Section 53B-23-106 is renumbered and amended to read:

[~~53B-23-106~~]53H-7-805 (Effective upon governor's approval). Institution to make policy.

[~~(1) As used in this section, "institution" means an institution listed in Section 53B-1-102.~~]

[~~(2)~~] An institution shall make policy consistent with this section for the implementation and administration of the institution, including policy addressing:

[~~(a)~~](1) the designation of materials considered "required or essential to student success";

[~~(b)~~](2) the determination of the availability of technology for the conversion of nonprinted materials pursuant to Section [~~53B-23-103~~]53H-7-802 and the conversion of mathematics and science materials pursuant to Section [~~53B-23-102~~]53H-7-801; and

[~~(c)~~](3) the procedures and standards relating to distribution of files and materials pursuant to Section [~~53B-23-103~~]53H-7-802.

Section 220. Section 53H-7-901 is enacted to read:

PART 9. Other Student-Related Policies

53H-7-901 (Effective upon governor's approval). General Provisions -- Definitions.

Reserved.

Section 221. Section 53H-7-902, which is renumbered from Section 53B-27-501 is renumbered and amended to read:

[~~53B-27-501~~]53H-7-902 (Effective upon governor's approval). Free expression policies.

(1) As used in this section, "free expression policy" means an institution's policy, regulation, or other expectation related to student expression.

(2) An institution shall:

(a) publish the institution's free expression policies:

(i) in the institution's student handbook; and

(ii) on the institution's website;

(b) include information about the institution's free expression policies in an orientation program for students enrolled in the institution; and

(c) develop a program, procedures, and materials to ensure that an individual who has responsibility for the discipline or education of a student at the institution understands the institution's free expression policies.

(3) An individual described in Subsection (2)(c) includes an institution:

(a) administrator;

(b) campus police officer;

(c) residence life official; and

(d) faculty member.

(4) An institution shall ensure that a free expression policy is consistent with the provisions of this chapter and ensure the policy is:

(a) viewpoint-neutral in text and application; and

(b) respects a student organization's rights, as described in this [~~part~~]chapter.

Section 222. Section 53H-7-903, which is renumbered from Section 53B-27-405 is renumbered and amended to read:

[~~53B-27-405~~]53H-7-903 (Effective upon governor's approval). Student religious accommodations.

(1) An institution shall:

(a) reasonably accommodate a student's absence from an examination or other academic requirement under the circumstances described in Subsection (2) for reasons of:

(i) the student's faith or conscience; or

(ii) the student's participation in an organized activity conducted under the auspices of the student's religious tradition or religious organization; and

(b) ensure that an accommodation described in Subsection (1)(a) does not adversely impact the student's academic opportunities.

(2) An institution shall make an accommodation described in Subsection (1) if:

(a) the time at which an examination or academic requirement is scheduled to occur creates an undue hardship for a student due to the student's sincerely held religious belief; and

(b) the student provides a written notice to the instructor of the course for which the student seeks the accommodation regarding the date of the examination or academic requirement for which the student seeks the accommodation.

(3) An institution shall establish policies related to the accommodation described in Subsection (1) that:

(a) require the institution to provide the accommodation with respect to when the student participates in examinations and other academic requirements;

(b) allow an instructor who receives a notice described in Subsection (2)(b) to:

(i) schedule an alternative examination time before or after the regularly scheduled examination; or

(ii) make accommodations for other academic requirements related to the accommodation; and

(c) require an instructor who receives a notice described in Subsection (2)(b) to keep confidential a student's request for the accommodation.

(4) (a) The commissioner shall annually:

(i) create a list of the dates of religious holidays for the following two years; and

(ii) distribute the list described in Subsection (4)(a) to an institution.

(b) The creation and distribution of the list described in Subsection (4)(a) does not prohibit a student from seeking, or an institution from granting, an accommodation for a date of a religious holiday that is not included on that list.

(5) An institution shall:

(a) designate a point of contact for information about an accommodation described in Subsection (1);

(b) establish a process by which a student may submit a grievance with regards to implementation of this section; and

(c) publish the following information on the institution's website and update the information annually:

(i) the institution's religious accommodation policies described in Subsection (3);

(ii) the point of contact described in Subsection (5)(a);

(iii) the list described in Subsection (4);

(iv) a description of the general procedure to request an accommodation described in Subsection (1); and

(v) the grievance process described in Subsection (5)(b).

Section 223. Section 53H-8-101 is enacted to read:

CHAPTER 8. Finance

PART 1. General Provisions

53H-8-101 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 224. Section 53H-8-201 is enacted to read:

PART 2. Budgets and Financing

53H-8-201 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 225. Section 53H-8-202, which is renumbered from Section 53B-7-101 is renumbered and amended to read:

[~~53B-7-101~~]53H-8-202 (Effective upon governor's approval). Combined requests for appropriations -- Board review of operating budgets -- Submission of budgets -- Recommendations -- Hearing request -- Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.

(1) As used in this section [~~:~~],

[~~(a) "Higher education institution" or "institution" means an institution of higher education listed in Section 53B-1-102.~~]

[~~(b) "Researeh~~]"research university" means the University of Utah or Utah State University.

(2) (a) Subject to Subsection (3), the board shall recommend a combined appropriation for the operating budgets of [~~higher education~~]institutions and the board for inclusion in a state appropriations act.

(b) The board's combined budget recommendation shall include:

(i) employee compensation;

(ii) mandatory costs, including building operations and maintenance, fuel, and power;

(iii) performance funding described in [~~Part 7~~]Part 3, Performance Funding;

(iv) statewide and institutional priorities, including scholarships, financial aid, and technology infrastructure; and

(v) enrollment growth.

(c) The board's recommendations shall be available for presentation to the governor and to the Legislature at least 30 days before the convening of the Legislature, and shall include schedules showing the recommended amounts for each institution and the board, including separately funded programs or divisions.

(d) The recommended appropriations shall be determined by the board only after the board has reviewed the proposed institutional operating budgets, and has consulted with the various institutions and board staff in order to make appropriate adjustments.

(3) In the combined request for appropriation, the board shall differentiate between appropriations requested for academic education and appropriations requested for technical education.

(4) (a) Institutional operating budgets shall be submitted to the board at least 90 days before the convening of the Legislature in

accordance with procedures established by the board.

(b) Except as provided in Sections [~~53B-2a-117~~]53H-9-604 and [~~53B-22-204~~]53H-9-504, funding requests pertaining to capital facilities and land purchases shall be submitted in accordance with procedures prescribed by the Division of Facilities Construction and Management.

(5) (a) The budget recommendations of the board shall be accompanied by full explanations and supporting data.

(b) The appropriations recommended by the board shall be made with the dual objective of:

(i) justifying for [~~higher education~~]institutions appropriations consistent with [~~their~~]the institutions' needs, and consistent with the financial ability of the state; and

(ii) determining an equitable distribution of funds among the respective institutions in accordance with the aims and objectives of the statewide master plan for higher education.

(6) (a) The board shall request a hearing with the governor on the recommended appropriations.

(b) After the governor delivers [~~his~~]the governor's budget message to the Legislature, the board shall request hearings on the recommended appropriations with the Higher Education Appropriations Subcommittee.

(c) If either the total amount of the state appropriations or its allocation among the institutions as proposed by the Legislature or the Higher Education Appropriations Subcommittee is substantially different from the recommendations of the board, the board may request further hearings with the Legislature or the Higher Education Appropriations Subcommittee to reconsider both the total amount and the allocation.

(7) The board may devise, establish, periodically review, and revise formulas for the board's use and for the use of the governor and the Higher Education Appropriations Subcommittee in making appropriation recommendations.

(8) (a) The board shall recommend to each session of the Legislature the minimum tuitions, resident and nonresident, for each institution which it considers necessary to implement the budget recommendations.

(b) Subject to Subsection (13), the board may fix the tuition, fees, and charges for each institution at levels the board finds necessary to meet budget requirements.

(9) Money allocated to each institution by legislative appropriation may be budgeted in accordance with institutional work programs approved by the board, provided that the expenditures funded by appropriations for each institution are kept within the appropriations for the applicable period.

(10) The dedicated credits, including revenues derived from tuitions, fees, federal grants, and proceeds from sales received by the institutions are appropriated to the respective institutions to be used in accordance with institutional work programs.

(11) An institution may do the institution's own purchasing, issue the institution's own payrolls, and handle the institution's own financial affairs under the general supervision of the board.

(12) If the Legislature appropriates money in accordance with this section, the money shall be distributed to the board and [~~higher education~~]institutions to fund the items described in Subsection (2)(b).

(13) The board shall create policies requiring an institution of higher education to waive transcript fees for a student who is under the age of 26 and:

(a) is homeless, as defined in Section 26B-3-207;

(b) is a person who is homeless, as defined in Section 35A-5-302;

(c) is an individual whose primary nighttime residence is a location that is not designed for or ordinarily used as a sleeping accommodation for an individual;

(d) is a homeless child or youth, as defined in 42 U.S.C. Sec. 11434a;

(e) is in the custody of the Division of Child and Family Services; or

(f) was in the custody of the Division of Child and Family Services but is no longer in the custody of the Division of Child and Family Services due to the individual's age.

Section 226. Section 53H-8-203, which is renumbered from Section 53B-7-101.5 is renumbered and amended to read:

[~~53B-7-101.5~~]53H-8-203 (Effective upon governor's approval). Proposed tuition increases -- Notice -- Hearings.

(1) If an institution [~~within the State System of Higher Education listed in Section 53B-1-102~~] considers increasing tuition rates for undergraduate students in the process of preparing or implementing its budget, it shall hold a meeting to receive public input and response on the issue.

(2) The institution shall advertise the hearing required under Subsection (1) using the following procedure:

(a) the institution shall advertise the institution's intent to consider an increase in student tuition rates:

(i) in the institution's student newspaper twice during a period of 10 days before the meeting; and

(ii) for each county where the institution has a campus, as a class A notice under Section 63G-30-102, for at least 10 days before the meeting; and

(b) the advertisement shall state that the institution will meet on a certain day, time, and place fixed in the advertisement, which shall not be less than seven days after the day the advertisement is published, for the purpose of hearing comments regarding the proposed increase and to explain the reasons for the proposed increase.

(3) The form and content of the notice shall be substantially as follows:

"NOTICE OF PROPOSED TUITION INCREASE

The (name of the higher education institution) is proposing to increase student tuition rates. This would be an increase of _____ %, which is an increase of $_____ per semester for a full-time resident undergraduate student. All concerned students and citizens are invited to a public hearing on the proposed increase to be held at (meeting place) on (date) at (time)."

(4) (a) The institution shall provide the following information to those in attendance at the meeting required under Subsection (1):

(i) the current year's student enrollment for:

(A) the State System of Higher Education, if a systemwide increase is being considered; or

(B) the institution, if an increase is being considered for just a single institution;

(ii) total tuition revenues for the current school year;

(iii) projected student enrollment growth for the next school year and projected tuition revenue increases from that anticipated growth; and

(iv) a detailed accounting of how and where the increased tuition revenues would be spent.

(b) The enrollment and revenue data required under Subsection (4)(a) shall be broken down into majors or departments if the proposed tuition increases are department or major specific.

(5) If the institution does not make a final decision on the proposed tuition increase at the meeting, it shall announce the date, time, and place of the meeting where that determination shall be made.

Section 227. Section 53H-8-204, which is renumbered from Section 53B-7-105 is renumbered and amended to read:

[~~53B-7-105~~]53H-8-204 (Effective upon governor's approval). Higher education cost disclosure.

(1) Each institution within the Utah system of higher education shall, at the time of registration, plainly disclose to all of the institution's undergraduate resident students the following amounts, in dollar figures for a full-time equivalent student:

(a) the full cost of instruction;

(b) the amount collected from student tuition and fees; and

(c) the difference between the amounts described under Subsections (1)(a) and (b).

(2) The disclosure under Subsection (1)(c) shall also clearly indicate that this balance was paid by state tax dollars and other money.

Section 228. Section 53H-8-205, which is renumbered from Section 53B-7-102 is renumbered and amended to read:

[~~53B-7-102~~]53H-8-205 (Effective upon governor's approval). Fiscal year.

The fiscal year for each institution and for the board begins on July 1 and ends on June 30 in each year.

Section 229. Section 53H-8-206, which is renumbered from Section 53B-7-103.5 is renumbered and amended to read:

[~~53B-7-103.5~~]53H-8-206 (Effective upon governor's approval). Use of revenue for athletic gender equity.

[~~Beginning on July 1, 1998, a state~~]An institution of higher education shall annually use for the purposes described in Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq., an amount of revenue equal to the total amount of sales and use tax revenue collected under Title 59, Chapter 12, Sales and Use Tax Act:

(1) during the one-year period beginning on July 1, 1997, and ending on June 30, 1998; and

(2) on amounts paid for admission to athletic events at the institution of higher education.

Section 230. Section 53H-8-207, which is renumbered from Section 53B-7-104 is renumbered and amended to read:

[~~53B-7-104~~]53H-8-207 (Effective upon governor's approval). Retention of net reimbursed overhead revenues.

(1) [~~For fiscal year 1990-91 and for each succeeding~~]For each fiscal year, all budget documents for the system of higher education shall reflect retention by [~~the institutionswithin the system of their~~]the institutions' net reimbursed overhead revenues for support of research and related programs under policies established by the board. These overhead revenues may not be considered a dedicated credit.

(2) The board, in conjunction with institutions within the system, shall provide the Legislature, through the Office of Legislative Fiscal Analyst, with a complete accounting of the net reimbursed overhead revenues on an annual basis. This accounting shall include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year.

Section 231. Section 53H-8-208, which is renumbered from Section 53B-7-103 is renumbered and amended to read:

[~~53B-7-103~~]53H-8-208 (Effective upon governor's approval). Board designated state educational agent for federal contracts and aid -- Individual research grants -- Powers of institutions or foundations under authorized programs.

(1) (a) The board is the designated state educational agency authorized to negotiate and contract with the federal government and to accept financial or other assistance from the federal government or any of its agencies in the name of and in behalf of the state of Utah, under terms and conditions as may be prescribed by congressional enactment designed to further higher education.

(b) Nothing in this chapter alters or limits the authority of the Division of Facilities Construction and Management to act as the designated state agency to administer programs on behalf of and accept funds from federal, state, and other sources, for capital facilities for the benefit of higher education.

(2) (a) Subject to policies and procedures established by the board, an institution of higher education and the institution of higher education's employees may apply for and receive grants or research and development contracts within the educational role of the recipient institution.

(b) A program described in Subsection (2)(a) may be conducted by and through the institution, or by and through any foundation or organization that is established for the purpose of assisting the institution in the accomplishment of the institution's purposes.

(3) An institution or the institution's foundation or organization engaged in a program authorized by the board may do the following:

(a) enter into contracts with federal, state, or local governments or [~~their~~]the federal, state, or local governments' subsidiary agencies or departments, with private organizations, companies, firms, or industries, or with individuals for conducting the authorized programs;

(b) subject to the approval of the controlling state agency, conduct authorized programs within any of the penal, corrective, or custodial institutions of this state and engage the voluntary participation of inmates in those programs;

(c) accept contributions, grants, or gifts from, and enter into contracts and cooperative agreements with, any private organization, company, firm, industry, or individual, or any governmental agency or department, for support of authorized programs within the educational role of the recipient institution, and may agree to provide matching funds with respect to those programs from resources available to the institution; and

(d) retain, accumulate, invest, commit, and expend the funds and proceeds from programs funded under Subsection (3)(c), including the acquisition of real and personal property reasonably required for [~~their~~]the institution or the institution's foundation or organization's accomplishment, except that no portion of the funds and proceeds may be diverted from or used for purposes other than those authorized or undertaken under Subsection (3)(c), or may ever become a charge upon or obligation of the state of Utah or the general funds appropriated for the normal operations of the institution unless otherwise permitted by law.

(4) (a) Except as provided in Subsection (4)(b), all contracts and research or development grants or contracts requiring the use or commitment of facilities, equipment, or personnel under the control of an institution of higher education are subject to the approval of the board.

(b) (i) The board may delegate the approval of a contract or grant described in Subsection (4)(a) to an institution of higher education board of trustees.

(ii) If the board makes a delegation described in Subsection (4)(b)(i), the board of trustees shall annually report to the board on all approved contracts or grants.

Section 232. Section 53H-8-209, which is renumbered from Section 53B-7-106 is renumbered and amended to read:

[~~53B-7-106~~]53H-8-209 (Effective upon governor's approval). Personal use expenditures for officers and employees of institutions of higher education.

(1) As used in this section:

(a) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by an institution of higher education.

[~~(b) "Institution of higher education" means an institution that is part of the state system of higher education as described in Section 53B-1-102.~~]

[~~(c)~~](b) "Officer" means a person who is elected or appointed to an office or position within an institution of higher education.

[~~(d)~~](c) (i) "Personal use expenditure" means an expenditure made without the authority of law that:

(A) is not directly related to the performance of an activity as an officer or employee of an institution of higher education and the board;

(B) primarily furthers a personal interest of an officer or employee of an institution of higher education and the board or the family, a friend, or an associate of an officer or employee of an institution of higher education and the board; and

(C) would constitute taxable income under federal law.

(ii) "Personal use expenditure" does not include:

(A) a de minimis or incidental expenditure; or

(B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to travel to and from the officer or employee's official duties, including a minimal allowance for a detour as provided by the institution of higher education and the board.

[~~(e)~~](d) "Public funds" means the same as that term is defined in Section 51-7-3.

(2) An officer or employee of an institution of higher education and the board may not:

(a) use public funds for a personal use expenditure; or

(b) incur indebtedness or liability on behalf of, or payable by, an institution of higher education and the board for a personal use expenditure.

(3) If the institution of higher education and the board determines that an officer or employee of an institution of higher education and the board has intentionally made a personal use expenditure in violation of Subsection (2), the institution of higher education and the board shall:

(a) require the officer or employee to deposit the amount of the personal use expenditure into the fund or account from which:

(i) the personal use expenditure was disbursed; or

(ii) payment for the indebtedness or liability for a personal use expenditure was disbursed;

(b) require the officer or employee to remit an administrative penalty in an amount equal to 50% of the personal use expenditure to the institution of higher education and the board; and

(c) deposit the money received under Subsection (3)(b) into the operating fund of the institution of higher education and the board.

(4) (a) Any officer or employee of an institution of higher education and the board who has been found by the institution of higher education and the board to have made a personal use expenditure in violation of Subsection (2) may appeal the finding of the institution of higher education and the board.

(b) The institution of higher education and the board shall establish an appeal process for an appeal made under Subsection (4)(a).

(5) (a) Subject to Subsection (5)(b), an institution of higher education and the board may withhold all or a portion of the wages of an officer or employee of the institution of higher education and the board who has violated Subsection (2) until the requirements of Subsection (3) have been met.

(b) If the officer or employee has requested an appeal under Subsection (4), the institution of higher education and the board may only withhold the wages of the officer or employee after the appeal process has confirmed that the officer or employee violated Subsection (2).

(6) Nothing in this chapter immunizes an officer or employee of an institution of higher education and the board from or precludes any criminal prosecution or civil or employment action for an unlawful personal use expenditure.

(7) An officer or employee of an institution of higher education who is convicted of misusing public money or public property under Section 76-8-402 may not disburse public funds or access public accounts.

Section 233. Section 53H-8-210, which is renumbered from Section 53B-7-107 is renumbered and amended to read:

[~~53B-7-107~~]53H-8-210 (Effective upon governor's approval). Higher education strategic reinvestment.

(1) As used in this section:

(a) "Reinvestment funds" means the amount of money the Legislature appropriates to the board for strategic reinvestment in accordance with this section.

(b) "Strategic reinvestment plan" means a plan described in Subsection (3) that each degree-granting institution develops to reallocate reinvestment funds to certain strategic investments.

(2) The board may transfer to a degree-granting institution the reinvestment funds dedicated to the degree-granting institution if:

(a) for the 2026 fiscal year:

(i) the respective degree-granting institution provides to the board the degree-granting institution's strategic reinvestment plan;

(ii) the board approves the degree-granting institution's strategic reinvestment plan; and

(iii) after receiving a report from the board regarding the strategic reinvestment plan in the meeting of the Executive Appropriations Committee in September 2025, the Executive Appropriations Committee makes a determination that the relevant degree-granting institution's strategic reinvestment plan satisfies the requirements of this section; and

(b) for each of the 2027 and 2028 fiscal years:

(i) the respective degree-granting institution provides to the board a report on the degree-granting institution's progress in executing the degree-granting institution's strategic reinvestment plan; and

(ii) after receiving a report from the board regarding the degree-granting institution's execution of the strategic reinvestment plan in

the meeting of the Executive Appropriations Committee in September of 2026 and 2027, respectively, the Executive Appropriations Committee makes a determination that the relevant degree-granting institution has progressed in executing the degree-granting institution's strategic reinvestment plan in accordance with this section.

(3) Each degree-granting institution shall:

(a) prepare and submit the degree-granting institution's strategic reinvestment plan in accordance with Subsections (3)(b) and (c) based on:

(i) demonstrated enrollment data;

(ii) completion rate and timely completion;

(iii) discipline-related professional outcomes, including placement, employment, licensure, and wage outcomes;

(iv) current and future localized and statewide workforce demands;

(v) program-level cost; and

(vi) the degree-granting institution's mission and role within the statewide system;

(b) in consultation with the board, develop a strategic reinvestment plan that:

(i) identifies programs, courses, degrees, departments, colleges, or other divisions of the degree-granting institution, operational efficiencies, and other components of the degree-granting institution's instruction and administrative functions, including dean positions and other administration positions, that merit further investment;

(ii) identifies programs, courses, degrees, departments, colleges or other divisions of the degree-granting institution, operational inefficiencies, and other components of the degree-granting institution's instruction and administrative functions, including dean positions and other administration positions, that the degree-granting institution will reduce or eliminate to shift resources, in an amount at least equal to the amount of reinvestment funds dedicated to the degree-granting institution, to the strategic investments described in Subsection (3)(b)(i);

(iii) retains a core general education curricula that enables students to acquire critical thinking, problem solving, citizenship, communication, and other durable skills; and

(iv) includes an accounting demonstrating the reallocation of resources from the reduced or eliminated items described in Subsection (3)(b)(ii) to the strategic investments described in Subsection (3)(b)(i) in the following amounts:

(A) for fiscal year 2026, at least 30% of the total of the reinvestment funds dedicated to the degree-granting institution;

(B) for fiscal year 2027, at least 70% of the total of the amount of reinvestment funds dedicated to the degree-granting institution; and

(C) for fiscal year 2028, 100% of the total of the reinvestment funds dedicated to the degree-granting institution; and

(c) before a date that the board identifies in each of 2026 and 2027, submit to the board a report on the degree-granting institution's progress in executing the degree-granting institution's strategic reinvestment plan, which may include modifications to the plan if the modified plan meets the requirements of this section.

(4) The board shall:

(a) during the 2025 fiscal year:

(i) establish standards for the reallocations described in the strategic reinvestment plans; and

(ii) provide guidance to the degree-granting institutions of higher education on metrics and evaluative processes for the degree-granting institutions to use in analyzing programs and budgets to develop the strategic reinvestment plan;

(b) review each degree-granting institution's strategic reinvestment plan and approve plans that meet the requirements of this section; and

(c) report on each degree-granting institution's strategic reinvestment plan to:

(i) in August of 2025, 2026, and 2027, the Higher Education Appropriations Subcommittee; and

(ii) in September of 2025, 2026, and 2027, the Executive Appropriations Committee.

(5) (a) Each year, after receiving the board report described in Subsection (4)(c)(i), the Higher Education Appropriations Subcommittee shall make a recommendation to the Executive Appropriations Committee regarding each degree-granting institution's strategic reinvestment plan and compliance with this section.

(b) Each year, after receiving the board report described in Subsection (4)(c)(ii), the Executive Appropriations Committee shall make a determination, for each degree-granting institution individually, regarding:

(i) for fiscal year 2026, whether the degree-granting institution's strategic reinvestment plan satisfies the requirements of this section; and

(ii) for each of fiscal years 2027 and 2028, whether the degree-granting institution has progressed in executing the degree-granting institution's strategic reinvestment plan in accordance with this section.

(6) (a) A degree-granting institution may use reinvestment funds:

(i) for the strategic investments described in Subsection (3)(b)(i); and

(ii) for the reduced or eliminated items described in Subsection (3)(b)(ii) in the following amounts:

(A) for fiscal year 2026, no more than 70% of the total of the reinvestment funds dedicated to the degree-granting institution; and

(B) for fiscal year 2027, no more than 30% of the total of the reinvestment funds dedicated to the degree-granting institution.

(b) A degree-granting institution may not supplant or supplement the cost of a reduced or eliminated item described in Subsection (3)(b)(ii):

(i) through a tuition increase; or

(ii) with any state funds, except in fiscal year 2028, to the extent necessary to allow a student to complete the student's academic program as outlined in the degree-granting institution's approved strategic reinvestment plan.

(7) If a degree-granting institution fails to reallocate resources in accordance with the degree-granting institution's reinvestment plan and this section, in preparing the higher education budgets immediately following the degree-granting institution's failure, the Executive Appropriations Committee shall reduce appropriations for the degree-granting institution's instruction and administration in an amount equal to the amount the degree-granting institution failed to properly reallocate.

(8) (a) Each degree-granting institution shall:

(i) establish policies specifically to effectuate the strategic reinvestment plan, and that address the following:

(A) reduction or elimination of positions and other personnel decisions; and

(B) internal institutional procedures regarding the reduction, elimination, creation, or modification of programs, courses, degrees, departments, colleges, or other divisions of the degree-granting institution;

(ii) ensure that the policies described in this Subsection (8)(a):

(A) create operational efficiencies in carrying out the strategic reinvestment plan;

(B) assist the degree-granting institution to meet the timeframes described in this section and the strategic reinvestment plan; and

(C) are consistent with the guidance the board provides in accordance with Subsection (4)(a); and

(iii) prepare the policies described in this Subsection (8)(a) in consultation with the board.

(b) [~~An~~]A degree-granting institution's policies described in Subsection (8)(a) may supersede the following that are inconsistent with the strategic reinvestment plan or the goals of the plan:

(i) an existing policy, procedure, or timeframe of the degree-granting institution; and

(ii) a board policy, if the board determines that superseding the policy is necessary or appropriate.

(c) Notwithstanding any other provision of this title, [~~an~~]a degree-granting institution may act in accordance with the policies described in this Subsection (8).

Section 234. Section 53H-8-301, which is renumbered from Section 53B-7-702 is renumbered and amended to read:

PART 3. Performance Funding

[~~53B-7-702~~]53H-8-301 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Account" means the Performance Funding Restricted Account created in Section [~~53B-7-703~~]53H-8-302.

(2) "Estimated revenue growth from targeted jobs" means the estimated increase in individual income tax revenue generated by individuals employed in targeted jobs, determined in accordance with Sections [~~53B-7-703~~]53H-8-302 and [~~53B-7-704~~]53H-8-306.

(3) "Full new performance funding amount" means the maximum amount of new performance funding that [~~a degree-granting institution or technical college~~]an institution may qualify for in a fiscal year, determined by the Legislature in accordance with Section [~~53B-7-705~~]53H-8-303.

(4) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student.

(5) "New performance funding" means the difference between the total amount of money in the account and the amount of money appropriated from the account for performance funding in the current fiscal year.

(6) "Performance" means total performance across the metrics described in Section [~~53B-7-706~~]53H-8-304.

(7) "Targeted job" means a four- and five-star job that requires postsecondary training as designated by the Department of Workforce Services.

[~~(8) "Technical college" means:~~]

[~~(a) the same as that term is defined in Section 53B-1-101.5; or~~]

[~~(b) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.~~]

Section 235. Section 53H-8-302, which is renumbered from Section 53B-7-703 is renumbered and amended to read:

[~~53B-7-703~~]53H-8-302 (Effective upon governor's approval). Performance Funding Restricted Account -- Creation -- Deposits into account -- Legislative review.

(1) As used in this section:

(a) "Account" means the Performance Funding Restricted Account created in Subsection (2).

(b) "Baseline amount" means the simple five-year average amount of personal income tax withholding over fiscal years 2019-2023.

(c) "Personal income tax withholding means" means income tax withholding required under Title 59, Chapter 10, Part 4, Withholding of Tax.

(2) There is created within the Income Tax Fund a restricted account known as the Performance Funding Restricted Account.

(3) The Legislature may appropriate money to the account.

(4) Money in the account shall be:

(a) used for performance funding for:

(i) degree-granting institutions; and

(ii) technical colleges; and

(b) appropriated by the Legislature in accordance with Section [~~53B-7-705~~]53H-8-303.

(5) (a) Money in the account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(6) (a) Except as provided in Subsection (6)(b) or (6)(c)[~~and beginning December 1, 2025~~], before the end of each calendar year, the Executive Appropriations Committee shall appropriate to the account an amount equal to 6% of the difference between the five-year average amount from the most recent five years of personal income tax withholdings and the baseline amount.

(b) (i) As used in this Subsection (6)(b), "total higher education appropriations" means, for the current fiscal year, the total state funded appropriations to:

(A) the board;

(B) degree-granting institutions; and

(C) technical colleges.

(ii) If an appropriation described in Subsection (6)(a) would exceed 10% of total higher education appropriations, the Executive Appropriations Committee shall appropriate to the account an amount equal to 10% of total higher education appropriations.

(c) If, after appropriating to the Public Education Economic Stabilization Restricted Account as defined in Section 53F-9-204, the remaining available revenue from the personal income tax withholdings is less than the lesser of the amounts in Subsection (6)(a) or Subsection (6)(b)(ii), the Executive Appropriations Committee shall appropriate to the account the remaining available revenue from the personal income tax withholdings.

Section 236. Section 53H-8-303, which is renumbered from Section 53B-7-705 is renumbered and amended to read:

[~~53B-7-705~~]53H-8-303 (Effective upon governor's approval). Determination of full new performance funding amount -- Role of appropriations subcommittee -- Program review.

(1) In accordance with this section, and based on money deposited into the account, the Legislature shall, as part of the higher education appropriations budget process, annually determine the full new performance funding amount for each:

(a) degree-granting institution; and

(b) technical college.

(2) The Legislature shall annually allocate:

(a) 80% of the money in the account to degree-granting institutions; and

(b) 20% of the money in the account to technical colleges.

(3) (a) The Legislature shall determine a degree-granting institution's full new performance funding amount based on the degree-granting institution's prior year share of:

(i) full-time equivalent enrollment in all degree-granting institutions; and

(ii) the total state-funded appropriated budget for all degree-granting institutions.

(b) In determining a degree-granting institution's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (3)(a)(i)and (ii).

(4) (a) The Legislature shall determine a technical college's full new performance funding amount based on the technical college's prior year share of:

(i) full-time equivalent enrollment for all technical colleges; and

(ii) the total state-funded appropriated budget for all technical colleges.

(b) In determining a technical college's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (4)(a)(i) and (ii).

(5) Annually, at least 30 days before the first day of the legislative general session the board shall submit a report to the Higher Education Appropriations Subcommittee on each [~~degree-granting institution's and each technical college's~~]institution's performance.

(6) (a) In accordance with this Subsection (6), and based on the report described in Subsection (5), the Legislature shall determine for each [~~degree-granting institution and each technical college~~]institution:

(i) the portion of the full new performance funding amount earned; and

(ii) the amount of new performance funding to recommend that the Legislature appropriate, from the account, to the [~~degree-granting institution or technical college~~]institution.

(b) [~~A degree-granting institution or technical college~~]An institution earns the full new performance funding amount if the [~~degree-granting institution or technical college~~]institution meets the annual performance goals the board sets under Subsection [~~53B-7-706(1)(a)(ii)~~]53H-8-304(1)(a)(ii).

(c) [~~A degree-granting institution or technical college~~]An institution that does not meet the goals the board sets under Subsection [~~53B-7-706(1)(a)(ii)~~]53H-8-304(1)(a)(ii):

(i) is not eligible to receive the full new performance funding amount; and

(ii) is eligible to receive a prorated amount of the full new performance funding amount for performance that is greater than zero as measured by the model the board establishes under Subsection [~~53B-7-706(1)(a)(i)(B)~~]53H-8-304(1)(a)(i).

(d) If [~~a degree-granting institution or technical college~~]an institution does not earn the full new performance funding amount as described in Subsection (6)(b), the Legislature:

(i) shall set aside the unearned new performance funding; and

(ii) may, at the end of an annual performance goal period within a five-year period for which the board sets goals under Subsection [~~53B-7-706(1)(a)(ii)~~]53H-8-304(1)(a)(ii), reallocate the funds set aside under Subsection (6)(d)(i) to [~~a degree-granting institution or technical college~~]an institution that meets or exceeds the [~~degree-granting institution's or technical college's~~]institution's:

(A) previous year's annual performance goal; and

(B) performance goal that the institution previously failed to meet which caused the funding to be set aside.

(7) An appropriation described in this section is ongoing.

(8) Notwithstanding Section [~~53B-7-703~~]53H-8-302 and Subsections (6) and (7), the Legislature may, by majority vote, appropriate or refrain from appropriating money for performance funding as circumstances require in a particular year.

Section 237. Section 53H-8-304, which is renumbered from Section 53B-7-706 is renumbered and amended to read:

[~~53B-7-706~~]53H-8-304 (Effective upon governor's approval). Performance metrics for institutions -- Determination of performance.

(1) (a) (i) The board shall establish a model for determining [~~a degree-granting institution's or technical college's~~]an institution's performance.

(ii) The board shall:

(A) set a five-year goal for the Utah System of Higher Education for each metric described in Subsection (2)(a);

(B) adopt five-year goals for each [~~degree-granting institution and technical college~~]institution that align with each goal described in Subsection (1)(a)(ii)(A); and

(C) ensure the goals the board adopts for each [~~degree-granting institution and technical college~~]institution described in Subsection (1)(a)(ii)(B) are sufficiently rigorous to meet the goals described in Subsection (1)(a)(ii)(A); and

(b) (i) The board shall submit a draft of the model described in this section to the Higher Education Appropriations Subcommittee and the governor for comments and recommendations.

(ii) Every five years, the board shall:

(A) submit the model described in Subsection (1)(a)(i) and the goals described in Subsection (1)(a)(ii) to the Higher Education Appropriations Subcommittee and to the governor for comments and recommendations; and

(B) consider the comments and recommendations described in Subsection (1)(b)(ii)(A), and make any necessary changes to the model

described in Subsection (1)(a)(i) and the goals described in Subsection (1)(a)(ii).

(c) Every five years, the Executive Appropriations Committee, the Higher Education Appropriations Subcommittee, and the Education Interim Committee shall prepare and jointly meet to consider legislation for introduction at the following general legislative session to adopt the goals described in Subsection (1)(a)(ii).

(2) (a) The board shall set the goals and establish the performance model described in Subsection (1)(a)(i) for the following metrics:

(i) access;

(ii) timely completion; and

(iii) high-yield awards.

(b) The board shall determine the relative weights of the metrics described in Subsection (2)(a).

(c) The board shall determine and establish in board policy, the definitions, measures, and relative weights of the metrics described in Subsection (2)(a) based on each [~~degree-granting institution's and each technical college's~~]institution's mission.

(3) (a) For each degree-granting institution, the board shall annually determine the degree-granting institution's:

(i) performance; and

(ii) change in performance compared to the degree-granting institution's average performance over the previous five years.

(b) For each [~~degree-granting institution and technical college~~]institution, the board shall annually:

(i) adopt annual performance goals for each metric described in Subsection (2)(a)(ii) that will advance the [~~degree-granting institution or technical college~~]institution toward achievement of the five-year goals described in Subsection (1)(a)(ii);

(ii) evaluate performance in meeting the goals described in Subsection (3)(b)(i); and

(iii) include a degree-granting institution's or technical college's performance under this section in the evaluation described in Subsection [~~53B-1-402(2)(i)~~]53H-1-203(2)(i).

(4) The board shall use the model described in Subsection (1)(a)(i) to make the report described in Section [~~53B-7-705~~]53H-8-303 for determining [~~a degree-granting institution's or technical college's~~]an institution's performance funding.

(5) At the end of each five-year period for which the board sets goals under Subsection (1)(a)(ii):

(a) the board shall:

(i) review the Utah System of Higher Education's performance in meeting the goals the board sets under Subsection (1)(a)(ii)(A);

(ii) review each [~~degree-granting institution's and each technical college's~~]institution's performance in meeting the goals the board sets under Subsection (1)(a)(ii)(B); and

(iii) allocate any funds not allocated under Subsection [~~53B-7-705(6)(g)~~]53H-8-303(6)(d) to each [~~degree-granting institution and each technical college~~]institution that meets or exceeds the goals the board sets under Subsection (1)(a)(ii)(B); and

(b) the Legislature may appropriate additional funds for the board to allocate to each [~~degree-granting institution and each technical college~~]institution that meets or exceeds goals as described in Subsection (5)(a)(iii).

(6) In year two or three of each five-year period for which the board sets goals under Subsection (1)(a)(ii), the following committees and the governor shall hold a joint open meeting to review the goals the board sets under Subsection (1)(a)(ii):

(a) the Executive Appropriations Committee;

(b) the Higher Education Appropriations Subcommittee; and

(c) the Education Interim Committee.

Section 238. Section 53H-8-305, which is renumbered from Section 53B-7-709 is renumbered and amended to read:

[~~53B-7-709~~]53H-8-305 (Effective upon governor's approval) (Repealed 07/01/27). Five-year performance goals.

(1) As used in this section:

(a) "Access metric" means the metric described in Subsection [~~53B-7-706(2)(a)(ii)(A)~~]53H-8-304(2)(a)(i).

(b) "Award" means a degree or certificate that an institution grants.

(c) "Cohort" means a group of students, defined by the year in which the group enrolls in an institution.

(d) "Five-year performance period" means the five-year period beginning on July 1, 2022, and ending on June 30, 2027.

(e) "High-yield award" means the same as that term is defined in board policy under Subsection [~~53B-7-706(2)(c)~~]53H-8-304(2)(c).

(f) "High-yield awards metric" means the metric described in Subsection [~~53B-7-706(2)(a)(ii)(C)~~]53H-8-304(2)(a)(iii).

[~~(g) "Institution" means an institution of higher education described in Section 53B-1-102.~~]

[~~(h)~~](g) "Standard completion time" means the time in which a student typically completes an award program.

[~~(i)~~](h) "System" means the Utah System of Higher Education.

[~~(j)~~](i) "Timely completion metric" means the metric described in Subsection [~~53B-7-706(2)(a)(ii)(B)~~]53H-8-304(2)(a)(ii).

(2) The goals established by the board in accordance with Subsection [~~53B-7-706(1)(a)(ii)~~]53H-8-304(1)(a)(ii) for the Utah System of Higher Education for the five-year performance period are:

(a) for the access metric, to increase the percent of Utah high school graduates participating in the system by 3.0%;

(b) for the timely completion metric, to increase the system percentage of a cohort that completes an award in up to and including 1.5 times the standard completion time by 3.0%; and

(c) for the high-yield awards metric, to increase the system percentage of high-yield awards by 3.0%.

(3) In order to meet the system goals described in Subsection (2), the goals for each institution for the five-year performance period are:

(a) for the access metric, to increase the institution's share of Utah high school graduates participating in the system by a percentage that the board determines;

(b) for the timely completion metric, to increase the percent of a cohort enrolled at the institution that completes an award in up to and including 1.5 times the standard completion time or sooner by a percentage that the board determines; and

(c) for the high-yield awards metric, to increase the percent of high-yield awards the institution grants by a percentage that the board determines.

Section 239. Section 53H-8-306, which is renumbered from Section 53B-7-704 is renumbered and amended to read:

[~~53B-7-704~~]53H-8-306 (Effective upon governor's approval). Reporting of estimated revenue growth from targeted jobs.

(1) On or before October 1, 2030 and each subsequent fifth year, the Department of Workforce Services shall report to the Higher Education Appropriations Subcommittee on:

(a) the total wages in Utah according to the Quarterly Census of Employment and Wages program over the previous five years;

(b) total wages in Utah attributable to four- and five-star jobs that require postsecondary training according to the Occupational Employment and Wage Statistics program over the previous five years;

(c) total wages in Utah for all occupations according to the Occupational Employment and Wage Statistics program over the previous five years;

(d) the quotient of total wages in Subsection (1)(a) and total wages in Subsection (1)(b); and

(e) the quotient of total wages in Subsection (1)(c) and total wages in Subsection (1)(b).

(2) On or before October 1, 2030 and each subsequent fifth year, the commissioner shall report to the Higher Education Appropriations Subcommittee on:

(a) all institutions' high yield awards over the previous five years;

(b) the estimated revenue growth from targeted jobs associated with high yield awards over the previous five years;

(c) the connection between the data described in Subsections (2)(a) and (2)(b); and

(d) the estimated median effective income tax rate.

Section 240. Section 53H-8-307, which is renumbered from Section 53B-7-708 is renumbered and amended to read:

[~~53B-7-708~~]53H-8-307 (Effective upon governor's approval). Legislative audit.

(1) Subject to prioritization of the Audit Subcommittee, the Office of the Legislative Auditor General established under Section 36-12-15 shall in any fiscal year:

(a) conduct an audit of money appropriated for performance funding; and

(b) prepare and submit a written report for an audit described in this section in accordance with Section 36-12-15.

(2) An audit described in this section shall include:

(a) an evaluation of the implementation of performance funding; and

(b) the use of performance funding.

Section 241. Section 53H-8-401, which is renumbered from Section 53B-7-801 is renumbered and amended to read:

PART 4. Higher Education Student Success Endowment

[~~53B-7-801~~]53H-8-401 (Effective upon governor's approval). Definitions.

As used in this part, "endowment" means the Higher Education Student Success Endowment created in Section [~~53B-7-802~~]53H-8-402.

Section 242. Section 53H-8-402, which is renumbered from Section 53B-7-802 is renumbered and amended to read:

[~~53B-7-802~~]53H-8-402 (Effective upon governor's approval). Higher Education Student Success Endowment.

(1) There is created the Higher Education Student Success Endowment.

(2) The endowment consists of:

(a) the proceeds from divestment of the dissolved Utah Higher Education Assistance Authority's loan portfolio;

(b) appropriations made to the endowment by the Legislature, if any;

(c) income from the investment of the endowment; and

(d) other revenues received from other sources.

(3) The board shall account for the receipt and expenditures of endowment money in accordance with the policies and guidance of the Division of Finance.

(4) (a) (i) The state treasurer shall invest the endowment money with the primary goal of providing for stability, income, and growth of the principal.

(ii) The state treasurer may deduct any administrative costs incurred in managing endowment assets from earnings before distributing the earnings.

(b) Nothing in this section requires a specific outcome in investing.

(c) The state treasurer may employ professional asset managers to assist in the investment of assets of the endowment.

(d) The state treasurer may only provide compensation to asset managers from earnings generated by the endowment's investments.

(e) The state treasurer shall invest and manage the endowment assets as a prudent investor would, by:

(i) considering the purposes, terms, distribution requirements, and other circumstances of the endowment; and

(ii) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.

(f) In determining whether or not the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:

(i) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and

(ii) evaluate the state treasurer's investment and management decisions respecting individual assets not in isolation, but in context of an endowment portfolio as a whole as a part of an overall investment strategy that has risk and return objectives reasonably suited to the endowment.

(5) (a) The endowment shall earn interest.

(b) The state treasurer shall deposit the interest or other revenue earned from investment of the endowment into the endowment.

(6) The board:

(a) may expend money from the endowment for programs that:

(i) advance the system priorities as established in Subsection [~~53B-1-402(2)(a)~~]53H-1-203(2)(a); and

(ii) support prospective students or current students enrolled at an institution [~~, as described in Section 53B-2-101~~]; and

(b) may not expend money from the endowment for a capital expenditure, including the construction or lease of a capital facility or operation and maintenance of a capital facility.

(7) The board shall ensure that:

(a) money deposited into the endowment is irrevocable and is expended only for programs that advance the system priorities as established in Subsection [~~53B-1-402(2)(a)~~]53H-1-203(2)(a); and

(b) creditors of the board of directors may not seize, attach, or otherwise obtain assets of the endowment.

Section 243. Section 53H-8-403, which is renumbered from Section 53B-7-803 is renumbered and amended to read:

[~~53B-7-803~~]53H-8-403 (Effective upon governor's approval). Board duties.

(1) The board shall:

(a) act as trustee of the endowment and exercise the state's fiduciary responsibilities;

(b) meet at least twice a year to conduct business on behalf of the endowment;

(c) review and approve all endowment policies, projections, rules, criteria, procedures, forms, standards, and performance goals;

(d) review and approve the budget and expenditures for the endowment in accordance with Section [~~53B-7-802~~]53H-8-402;

(e) review financial records for the endowment, including endowment receipts, expenditures, and investments; and

(f) take any other action necessary to perform the board's fiduciary obligations.

(2) The board shall annually submit a budget and expenditures to the Higher Education Appropriations Subcommittee no later than November 1.

Section 244. Section 53H-8-404, which is renumbered from Section 53B-7-804 is renumbered and amended to read:

[~~53B-7-804~~]53H-8-404 (Effective upon governor's approval). Grants and gifts to the authority.

(1) To the extent otherwise allowed, a state entity may grant money or property to the endowment.

(2) A person may make a contribution, gift, grant, bequest, devise, or loans to the endowment.

Section 245. Section 53H-8-501, which is renumbered from Section 53B-1-201 is renumbered and amended to read:

PART 5. Foreign Bank Accounts and Foreign Gifts

[~~53B-1-201~~]53H-8-501 (Effective upon governor's approval). General provisions -- Definitions.

As used in this part:

(1) "Conditional gift" means a gift as defined in Subsection (4) that is subject to conditions:

(a) imposed, requested, or provided by a foreign government or foreign person; and

(b) that relate to:

(i) what kinds of teachers or students may benefit from the gift; or

(ii) a description of the subject matter to be taught with the support of the gift.

(2) "Foreign government" means a government other than the government of:

(a) the United States;

(b) a state within the United States;

(c) a territory or possession of the United States; or

(d) a political subdivision of the United States.

(3) "Foreign person" means:

(a) a foreign government defined in Subsection (2);

(b) an individual who is not a citizen or national of the United States or of a territory or protectorate of the United States;

(c) a corporation, partnership, joint venture, proprietorship, trust, association, or other entity that is created or organized under the laws of a foreign government or that has its principal place of business located outside the United States;

(d) if known by the [~~higher education~~]institution, a corporation, partnership, joint venture, proprietorship, trust, association, or other entity that is created or organized pursuant to the laws of the United States or a state within the United States, if a majority of the stock or other equity interest is directly or indirectly owned by, or which derives a majority of its funding from:

(i) a foreign government;

(ii) an individual described in Subsection (3)(b); or

(iii) an entity described in Subsection (3)(c) or (d); or

(e) if known by the [~~higher education~~]institution, a committee or other group in which a majority of the membership is composed of:

(i) a foreign government;

(ii) an individual described in Subsection (3)(b); or

(iii) an entity described in Subsection (3)(c) or (d).

(4) "Gift" means an endowment, scholarship, gift, donation, or grant of money or property of any kind.

[~~(5) "Higher education institution" means an institution in the state system of higher education as defined in Section 53B-1-102.~~]

[~~(6)~~](5) "Restricted foreign entity" means:

(a) a company that the United States Secretary of Defense is required to list as a military company under the requirements of federal national defense authorization acts;

(b) any affiliate of a company described in Subsection (6)(a);

(c) the country with a commercial or defense industrial base of which a company described in Subsection (6)(a) is a part; or

(d) any subsidiary of a company described in Subsection (6)(a) or a country described in Subsection (6)(c).

Section 246. Section 53H-8-502, which is renumbered from Section 53B-7-601 is renumbered and amended to read:

[~~53B-7-601~~]53H-8-502 (Effective upon governor's approval). Foreign bank accounts for higher education purposes.

(1) As used in this section, "foreign depository institution" is as defined in Section 7-1-103.

(2) In accordance with Subsection 51-7-4(1)(b)(iii), [~~a higher education~~]an institution may deposit funds [~~in~~]into a foreign depository institution for purposes of conducting academic, research, or clinical activities in the foreign country, if the:

(a) laws of the foreign country require the money to be deposited in the foreign country; or

(b) terms of a grant, gift, or contract require the funds to be deposited in the foreign country.

(3) The foreign depository institution in which funds are deposited under this section shall meet the requirements of rules made by the State Money Management Council under Section 51-7-18.

Section 247. Section 53H-8-503, which is renumbered from Section 53B-1-202 is renumbered and amended to read:

[~~53B-1-202~~]53H-8-503 (Effective upon governor's approval). Disclosure of foreign gifts to institutions -- Prohibition on restricted foreign entity funds.

(1) (a) Except as provided in Subsection (1)(c), on or before July 31 of each year, [~~a higher education~~]an institution shall disclose to the board, by filing a disclosure report described in Subsection (2), a gift received by the [~~higher education~~]institution of $50,000 or more from a foreign person, considered alone or in combination with all other gifts from the foreign person, during the period beginning July 1 and ending on June 30 immediately preceding the July 31 deadline.

(b) [~~A higher education~~]An institution may rely on the following address of a foreign person to determine the citizenship or nationality of the foreign person if the citizenship or nationality is unknown:

(i) for a foreign person that is an individual, the principal residence; and

(ii) for a foreign person that is not an individual, the principal place of business.

(c) The $50,000 amount described in Subsection (1)(a) is increased to $250,000 if the gift, considered alone or in combination with all other gifts, described in Subsection (1)(a) is from a foreign person:

(i) with a principal residence or principal place of business located in the United States; and

(ii) with a permanent resident status:

(A) under Section 245 of the Immigration and Nationality Act; and

(B) for 10 years or more.

(2) A disclosure report regarding all gifts described in Subsection (1) shall include:

(a) the amount of each gift described in Subsection (1);

(b) the date on which each gift described in Subsection (1) was received by the [~~higher education~~]institution;

(c) the name of the foreign person making each gift described in Subsection (1);

(d) the aggregate amount of all gifts described in Subsection (1) from a foreign person during the prior fiscal year of the [~~higher education~~]institution;

(e) for a conditional gift, a description of the conditions or restrictions related to the conditional gift;

(f) for a conditional gift:

(i) for a foreign person that is an individual, if known, the country of citizenship or principal residence of the individual; or

(ii) for a foreign person that is not an individual, if known, the country of incorporation or place of business of the foreign person; and

(g) for a conditional gift that is a contract entered into between [~~a higher education~~]an institution and a foreign person:

(i) the amount;

(ii) the date;

(iii) a description of all conditions or restrictions; and

(iv) the name of the foreign person.

(3) A disclosure report required by this section is a public record open to inspection and review during the [~~higher education~~]institution's business hours.

(4) At the request of the board, the attorney general may file a civil action to compel [~~a higher education~~]an institution to comply with the requirements of this section.

(5) The board shall make rules for the administration of this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) [~~Beginning July 1, 2023, a higher education~~]An institution may not seek or accept funding support from a restricted foreign entity or an entity that passes on funding support from a restricted foreign entity.

Section 248. Section 53H-8-601, which is renumbered from Section 53B-13-102 is renumbered and amended to read:

PART 6. Higher Education Loans

[~~53B-13-102~~]53H-8-601 (Effective upon governor's approval). Definitions.

As used in this [~~chapter~~]part:

(1) "Bonds" means the bonds authorized to be issued by the board under this [~~chapter~~]part, and may consist of bonds, notes, or debt obligations evidencing an obligation to repay borrowed money and payable solely from revenues and other money of the board pledged for repayment.

(2) "Eligible borrower" means a person, or the parent of a person, who is eligible to borrow under regulations applicable to the student loan program.

(3) "Eligible institution" means an institution which is approved by the board and the United States Secretary of Education for purposes of the guaranteed loan program.

(4) "Obligations" means student loan notes and other debt obligations reflecting loans to students which the board may take, acquire, buy, sell, or endorse under this [~~chapter~~]part, and may include a direct or indirect interest in the whole or any part of the notes or obligations.

(5) "Resolution," when used in relation to the issuance of bonds, means the resolution or trust agreement securing the bonds.

(6) "Student" means a person who, under rules promulgated by the board, is enrolled or accepted for enrollment at an eligible institution and who is making suitable progress in the person's education toward obtaining a degree or other appropriate certification in accordance with standards acceptable to the board.

Section 249. Section 53H-8-602, which is renumbered from Section 53B-13-103 is renumbered and amended to read:

[~~53B-13-103~~]53H-8-602 (Effective upon governor's approval). Powers of Utah Board of Higher Education.

The [~~Utah Board of Higher Education~~]board has the powers necessary to carry out the purposes of this [~~chapter~~]part, including the following:

(1) to accept gifts, grants, loans, and other aids or amounts from a person, corporation, or governmental agency;

(2) to loan money to eligible borrowers to assist [~~them~~]the eligible borrowers in obtaining a post-high school education by attending an eligible institution, including refinancing or consolidating obligations previously incurred by eligible borrowers with other lending sources for this purpose and participating in loans to eligible borrowers for this purpose with other lending sources;

(3) (a) to acquire, purchase, or make commitments to purchase, and take assignments from lenders of obligations [~~.~~];

(b) [~~No~~]no obligation is eligible for acquisition, purchase, or commitment to purchase by the board unless at or before the time of transfer to the board the lender certifies either:

(i) [~~(a) that,~~]that under and to the extent required by rules and regulations of the board, the proceeds of sale or its equivalent shall be reinvested in other obligations under the student loan program; or

(ii) [~~(b)~~]that the obligation was made in anticipation of its sale to the board under rules and regulations of the board promulgated under this [~~chapter~~]part;

(4) to enforce its rights under a contract or agreement including the commencement of court action;

(5) to acquire, hold, and dispose of real and personal property necessary for the accomplishment of the purposes of this [~~chapter~~]part;

(6) to obtain insurance against losses which may be incurred in connection with its property, assets, activities, or the exercise of the powers granted under this [~~chapter~~]part;

(7) to borrow money and to issue its bonds and provide for the rights of bondholders and to secure the bonds by assignment, pledge, or granting a security interest in its property including all or a part of an obligation. The state is not liable for the repayment of bonds issued by the board. The bonds issued by the board are not a debt of the state, and each bond shall contain on its face a statement to this effect;

(8) to invest funds not required for immediate use or disbursement as provided in the State Money Management Act;

(9) subject to a contract with the holders of its bonds, an applicable bond resolution, or a contract with the recipient of a loan, to consent to the modification, with respect to security, rate of interest, time of payment of interest or principal, or other term of a bond contract or agreement between the board and a recipient of a loan, bondholder, or agency or institution guaranteeing the repayment of an obligation;

(10) to engage and employ officers, agents, employees, and other private consultants to render and perform professional and technical duties, assistance, and advice in carrying out the purposes of this [~~chapter~~]part, to describe [~~their~~]the duties, and to fix the amount and source of [~~their~~]the compensation;

(11) to make rules and regulations governing the activities authorized under this [~~chapter~~]part;

(12) to solicit grants and contributions from the public or from any government or governmental agency and to arrange for the guaranteeing of the repayment of obligations by other agencies of this state or the United States;

(13) to collect fees and charges in connection with its loans, commitments, and servicing, including reimbursement of the costs of financing, service charges, and insurance premiums which are determined as reasonable and are approved by the board;

(14) to sell obligations held by the board at such prices and at such times as it may determine, when that sale would not impair the rights or interests of holders of bonds issued by the board; and

(15) to participate in federal programs supporting loans to eligible borrowers and to agree to, and comply with, the conditions of those programs.

Section 250. Section 53H-8-603, which is renumbered from Section 53B-13-104 is renumbered and amended to read:

[~~53B-13-104~~]53H-8-603 (Effective upon governor's approval). Issuance of bonds -- Disposition of funds -- Refunding bonds -- Resolution to authorize bonds -- Contents -- Sale of bonds -- Bond debt service reserve funds -- Restoration of fund assets -- Establishment of other subfunds.

(1) The board may issue [~~its~~]the board's bonds in the principal amounts necessary to provide funds for achieving [~~its~~]the board's purposes under this [~~chapter~~]part, including the payment of interest, the establishment of reserves to secure the bonds, and other expenditures of the board necessary to carry out its purposes and powers.

(2) The board may issue refunding bonds when it considers refunding expedient, whether the bonds to be refunded have or have not matured.

(3) The proceeds of the refunding bonds shall be applied to the purchase, redemption, or payment of the bonds refunded.

(4) Except as otherwise expressly provided in a resolution authorizing bonds, an issue of bonds is a special obligation of the board to be satisfied only out of revenue or money of the board, subject to an agreement with the holders of particular receipts or revenues of the board which have been pledged.

(5) The board shall authorize its bonds by resolution.

(6) The bonds are fully negotiable for all purposes, shall bear a date, shall be serial bonds or term bonds or both and, if serial bonds, shall be payable either semiannually or annually, and shall mature at a time or times, not exceeding 40 years after the date of issue, as provided in the resolution.

(7) The resolution shall specify the following:

(a) either the interest rate or rates or a formula by means of which the interest rate or rates are determined during the time the bonds are outstanding;

(b) denomination and form, either coupon or registered;

(c) registration privileges;

(d) manner of execution;

(e) medium of payment; and

(f) place and terms for the redemption of the bonds.

(8) If the resolution sets forth a formula by means of which the interest rate or rates on the bonds are determined, it shall also state the maximum rate which the bonds may bear under the formula.

(9) Pursuant to the resolution or another instrument, the board may delegate to the chair, vice-chair, or chair of the Budget and Finance Subcommittee the authority:

(a) to approve any changes with respect to interest rate, price, amount, redemption features, and other terms of the bonds as are within reasonable parameters set forth in the resolution; and

(b) to approve and execute all documents relating to the issuance of the bonds.

(10) The bonds are sold by the board in such manner and at such a price as the board determines.

(11) (a) The board may create and establish one or more bond debt service reserve funds in order to secure its bonds from the following:

(i) any proceeds of the sale of bonds, to the extent provided in the resolution authorizing the issuance of the bonds;

(ii) any money appropriated and made available by the state for the purpose of the funds; and

(iii) any other money available to the board for the purpose of the funds.

(b) All money held in any bond debt service reserve fund shall be used, as provided in the resolution establishing the fund, to pay principal of, premium, and interest on bonds of the board issued under this [~~chapter~~]part.

(c) If the assets in any bond debt service reserve fund are less than the amount currently required in the authorizing resolution to be on deposit, the chairman of the board shall, annually before the second day of December, certify to the governor and to the director of finance the amount necessary to restore the assets of the funds to the required amount.

(d) The governor may request from the Legislature an appropriation of the certified amount in order to restore the required amount to the funds.

(12) The board may create and establish any other subfunds and accounts as may be necessary for its corporate purposes.

Section 251. Section 53H-8-604, which is renumbered from Section 53B-13-105 is renumbered and amended to read:

[~~53B-13-105~~]53H-8-604 (Effective upon governor's approval). Agreements with bondholders unalterable.

(1) Neither limitations or alterations of the rights vested in the board to fulfill the terms of an agreement made with bondholders nor impairment of the rights and remedies of those bondholders may occur until:

(a) the bonds, together with interest on the bonds and interest on unpaid installments of interest are met and discharged; and

(b) all costs and expenses in connection with an action or proceeding by or on behalf of those bondholders are met and discharged.

(2) The board may include provisions to this effect in an agreement with the holders of the bonds.

Section 252. Section 53H-8-605, which is renumbered from Section 53B-13-106 is renumbered and amended to read:

[~~53B-13-106~~]53H-8-605 (Effective upon governor's approval). Investments in bonds of the board.

The bonds of the board are securities, in which public officers and bodies of this state, municipalities and municipal subdivisions, insurance companies and associations, persons carrying on an insurance business, banks, trust companies, savings banks and savings associations, saving and loan associations, investment companies, administrators, guardians, executors, trustees, other fiduciaries, and all other persons who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in [~~their~~]the control of or belonging to [~~them~~]the aforementioned entities, groups, or individuals.

Section 253. Section 53H-8-606, which is renumbered from Section 53B-13-107 is renumbered and amended to read:

[~~53B-13-107~~]53H-8-606 (Effective upon governor's approval). Payment of funds -- Payment on warrants -- Contracts with bondholders -- Security.

(1) The funds of the board, except as otherwise authorized or provided in this section, are paid to the state treasurer.

(2) The money in the accounts is paid out on warrants signed by the [~~State~~]Division of Finance on requisition of the chairman of the board or of a board authorized officer or employee.

(3) The board, subject to the approval of the state treasurer, may contract with the holders of its bonds as to the custody, collection, securing, investment, and payment of money of the board or of money held in trust or otherwise for the payment of bonds.

(4) Money held in trust or otherwise for the payment of bonds or to secure bonds and deposits of the money may be secured in the same manner as money of the board.

(5) Banks and trust companies are authorized to give such security for the deposits.

Section 254. Section 53H-8-607, which is renumbered from Section 53B-13-108 is renumbered and amended to read:

[~~53B-13-108~~]53H-8-607 (Effective upon governor's approval). Bonds and interest exempt from taxation except corporate franchise tax.

The bonds issued under this [~~chapter~~]part and the interest on the bonds are exempt from all taxation in this state, except for the corporate franchise tax.

Section 255. Section 53H-8-608, which is renumbered from Section 53B-13-113 is renumbered and amended to read:

[~~53B-13-113~~]53H-8-608 (Effective upon governor's approval). Bond approval by attorney general incontestable after 30 days -- Recital of certification.

(1) The attorney general shall examine the resolutions and proceedings authorizing the issuance and confirming the sale of bonds under this [~~chapter~~]part.

(2) Once examined and certified as legal obligations by the attorney general, the bonds become incontestable in any court in the state unless suit is brought in a court having jurisdiction within 30 days from the date of certification.

(3) The bonds certified under this section shall contain a recital on [~~their~~]the bond's face as follows: "This bond is one of a series of bonds which were certified as legal obligations by the Attorney General of the state of Utah on _____."

(4) Bonds authorized, issued, and sold under resolutions and proceedings certified by the attorney general are valid and binding obligations according to [~~their~~]the bond's terms.

Section 256. Section 53H-8-609, which is renumbered from Section 53B-13-109 is renumbered and amended to read:

[~~53B-13-109~~]53H-8-609 (Effective upon governor's approval). Board pledges -- Attachment of lien -- Recording unnecessary.

(1) A pledge made by the board is valid and binding from the time the pledge is made.

(2) The money or property pledged and subsequently received by the board is immediately subject to the lien of the pledge without physical delivery or further act.

(3) The lien of the pledge is valid and binding against all parties having a claim in tort, contract, or otherwise against the board, irrespective of whether the parties have notice of the claim.

(4) Neither the resolution nor another instrument by which a pledge is created need be recorded.

Section 257. Section 53H-8-610, which is renumbered from Section 53B-13-110 is renumbered and amended to read:

[~~53B-13-110~~]53H-8-610 (Effective upon governor's approval). Default by board -- Appointment of a trustee -- Powers of the trustee and bondholders.

(1) If the board defaults in the payment of principal of or interest on an issue of bonds after the issue becomes due, whether at maturity or upon call for redemption, and the default continues for 30 days, or if the board fails or refuses to comply with this [~~chapter~~]part, or defaults in an agreement made with the holders of an issue of bonds, the holders of 25% of the aggregate principal amount of the bonds of the issue then outstanding, may appoint a trustee to represent all holders of that issue of bonds for the purposes provided in this section.

(2) The trustee may, and upon written request of the holders of 25% of the aggregate principal amount of the bonds of the issue then outstanding shall, in the trustee's own name by action or proceeding enforce all rights of the bondholders including the following:

(a) bringing an action to require the board to collect fees, charges, interest, and amortization payments of loans made by it adequate to carry out the agreement as to, or pledge of, the fees, charges, interest, and amortization payment on the loans and other properties;

(b) bringing an action to require the board to carry out other agreements with the holders of the bonds and to perform its duties under this [~~chapter~~]part;

(c) bringing an action upon the bonds; or

(d) bringing an action to require the board to account as if it were the trustee of an express trust for the holders of the bonds due and payable, and if all defaults are made good, then, with the consent of the holders of 25% of the principal amount of the issue of bonds then outstanding, to annul the declaration and its consequences.

(3) The holders of bonds and the trustee authorized by this section shall have all of the rights to which [~~they~~]the holders of bonds and the trustee authorized by this section are entitled by virtue of provisions included in the bonds or otherwise available to [~~them~~]the holders of bonds and the trustee authorized by this section under the law.

Section 258. Section 53H-8-611, which is renumbered from Section 53B-13-111 is renumbered and amended to read:

[~~53B-13-111~~]53H-8-611 (Effective upon governor's approval). Loans or purchase of obligations -- Rules -- Options -- Repayment of federally insured loans.

(1) The board may purchase obligations from lenders or make loans to eligible borrowers, out of money available to the board for loans. The board shall promulgate rules for determining the needs of the respective borrowers for loans and for the purpose of making loans or purchasing obligations. The amount of an obligation purchased by the board or of a loan made by the board to an eligible borrower, whether enrolled or to be enrolled in a private postsecondary educational institution or [~~a tax-supported public~~]an institution, is determined by the board upon the basis of substantially similar standards and guides set forth in the board's rules. The board, in determining the needs of eligible borrowers for guaranteed loans, may consider the amount of assistance available to the students.

(2) When the board purchases an obligation or makes a loan, and again immediately before a repayment schedule on the loan or obligation is signed by the borrower, the board shall cause a written statement to be delivered to the borrower describing in detail whether an option exists and, if so, who may exercise the option, under what conditions the option may be exercised, and what options are available relating to the following:

(a) the term of the loan;

(b) the repayment period on the loan;

(c) an extension of the term or repayment period on the loan and the conditions of repayment under the extension;

(d) a deferment or forbearance on the repayment of the loan or on interest accruing on the loan, whether interest is to be paid during the deferment or forbearance, and the terms of repayment after the deferment or forbearance;

(e) the period of time between installment payments on the loan and whether graduated or unequal installment payments may be made;

(f) the minimum annual payment on the loan, and if more than one loan is taken from the board or if the borrower takes or has taken an educational loan from another source, the availability of consolidation, transfer, or assignment of the loans and the minimum annual payment on the aggregate of the loans;

(g) the granting of an interview before or at the time the borrower signs a repayment schedule; and

(h) the revision or renegotiation of the repayment schedule on the loan after repayment has commenced, or if other educational loans from the board or another source are taken after the repayment has commenced.

(3) On obligations purchased or loans made by the board which are federally insured loans, the board may establish variable repayment schedules conforming to the need and documented income levels of borrowers, if the schedules are not inconsistent with federal laws, rules, or regulations governing the insured loans. A borrower making payments on a loan may request and be granted a revised repayment term or schedule based upon the established variable repayment schedules.

Section 259. Section 53H-8-612, which is renumbered from Section 53B-13-112 is renumbered and amended to read:

[~~53B-13-112~~]53H-8-612 (Effective upon governor's approval). Separation of duties, responsibilities, funds, liabilities, and expenses -- Immunity from personal liability.

(1) The duties, responsibilities, funds, liabilities, and expenses of the board under this [~~chapter~~]part shall be maintained wholly separate and apart from [~~their~~]the board's other duties, responsibilities, funds, liabilities, and expenses.

(2) A member of the board or a person executing the notes, bonds, or other obligations of the board is not personally liable for the repayment of the note, bond, or other obligation or subject to personal liability or accountability by reason of its issuance or nonissuance.

Section 260. Section 53H-8-613, which is renumbered from Section 53B-13-114 is renumbered and amended to read:

[~~53B-13-114~~]53H-8-613 (Effective upon governor's approval). Mandamus in Supreme Court -- Precedence.

(1) If an official required by the proceeding authorizing bonds under this [~~chapter~~]part to sign the bonds refuses to affix the official's signature to the bonds, or if the attorney general refuses to certify the bonds as legal obligations, alleging illegality of the bonds, the board may bring an original action in mandamus in the Supreme Court of Utah.

(2) The importance to the state and its inhabitants of the program of loans to eligible borrowers is such that this action brought in the Supreme Court should be given precedence over the other matters pending before the court, and the court is requested to give this action precedence and to render its decision concerning it at the earliest possible time.

Section 261. Section 53H-9-101 is enacted to read:

CHAPTER 9. Property and Facilities

PART 1. General Provisions

53H-9-101 (Effective upon governor's approval). Definitions.

Reserved.

Section 262. Section 53H-9-201 is enacted to read:

PART 2. Property Rights

53H-9-201 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 263. Section 53H-9-202, which is renumbered from Section 53B-20-101 is renumbered and amended to read:

[~~53B-20-101~~]53H-9-202 (Effective upon governor's approval). Property of institutions to vest in state board.

The Utah Board of Higher Education is the successor to, and vested with, all the powers and authority relating to all properties, real and personal, tangible and intangible, and to the control and management of the property which was held by the governing board of each institution prior to the creation of the board.

Section 264. Section 53H-9-203, which is renumbered from Section 53B-20-102 is renumbered and amended to read:

[~~53B-20-102~~]53H-9-203 (Effective upon governor's approval). Vesting of rights, claims, and causes of action in higher education institutions -- Right to sue in corporate name.

(1) All rights, claims, and causes of action to or for any property vested in an institution of higher education prior to the effective date of this chapter, or the use of or income from the property, or for any conversion, disposition, and withholding of the property, or for any damage or injury to the property vests in the institution.

(2) The institution may bring and maintain actions in [~~its~~]the institution's corporate name to recover, protect, and preserve all property and rights of the institution and enforce any contract relating to those rights and property.

Section 265. Section 53H-9-204, which is renumbered from Section 53B-20-105 is renumbered and amended to read:

[~~53B-20-105~~]53H-9-204 (Effective upon governor's approval). Institutional right to receive and convert grants, gifts, devises, or bequests.

(1) Each institution may convert property received by gift, grant, devise, or bequest, and not suitable for its use, into other property or into money. All property received or converted under this subsection shall be held, invested, and managed and the proceeds used for the purposes and under the conditions prescribed in the grant or donation.

(2) If a condition is imposed by the terms of a grant, gift, devise, or bequest which is impracticable under the law, the grant is still valid. However, the condition must be rejected and the intent of the grantor carried out as nearly as may be possible.

(3) A grant, gift, devise, or bequest for the benefit of the institution is not defeated or prejudiced by any misnomer, misdescription, or informality, if the intent of the grantor or donor can be shown or ascertained with reasonable certainty.

Section 266. Section 53H-9-205, which is renumbered from Section 53B-20-106 is renumbered and amended to read:

[~~53B-20-106~~]53H-9-205 (Effective upon governor's approval). Property exempt from taxes and assessments.

The property of the institutions governed by the board is exempt from all taxes and assessments.

Section 267. Section 53H-9-206, which is renumbered from Section 53B-20-108 is renumbered and amended to read:

[~~53B-20-108~~]53H-9-206 (Effective upon governor's approval). Development of university property.

(1) As used in this section:

(a) "Board of trustees" means the board of trustees of an eligible university.

(b) "Conflict" means a situation in which a board of trustees member or a family member of a board of trustees member will or is likely to receive a direct financial benefit because of the development of eligible university property within a development area.

(c) "Designation resolution" means a board of trustees' resolution designating eligible university property as a development area.

(d) "Development action" means:

(i) a board of trustees' deliberations on whether to adopt a designation resolution;

(ii) a board of trustees' adoption of a designation resolution;

(iii) a board of trustees' deliberations on whether to approve a development agreement; or

(iv) a board of trustees' approval of a development agreement.

(e) "Development agreement" means an agreement between an eligible university and a development partner that governs the development of eligible university property within a development area.

(f) "Development area" means a single, contiguous area that:

(i) consists only of eligible university property;

(ii) is no larger than 75 acres; and

(iii) the board of trustees designates for development or redevelopment in a designation resolution under this section.

(g) "Development fund" means the fund described in and established under Subsection (4).

(h) "Development partner" means a person who enters into a development agreement with an eligible university to develop or redevelop eligible university property within a development area.

(i) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(j) "Eligible university" means an institution of higher education listed in Subsection [~~53B-1-102(1)(a)~~]53H-1-102(1)(a).

(k) "Eligible university property" means real property owned by an eligible university as of January 1, 2025.

(l) "Family member" means a parent, spouse, sibling, child, or grandchild.

(m) "Leased property" means eligible university property that:

(i) is within a development area; and

(ii) an eligible university leases to a private person.

(n) "Privilege tax" means a tax imposed under Section 59-4-101.

(2) (a) Except as provided in Subsection (2)(f), before January 1, 2035, an eligible university may, by resolution of the eligible university's board of trustees, designate eligible university property as a development area.

(b) Before adopting a designation resolution, a board of trustees shall:

(i) obtain approval from the Utah Board of Higher Education of the geographic area proposed to be designated as a development area; and

(ii) after obtaining approval from the Utah Board of Higher Education under Subsection (2)(b)(i):

(A) provide notice of the public hearing required under Subsection (2)(b)(ii)(B), as required for a class A notice under Section 63G-30-102, for at least seven days before the day of the public hearing; and

(B) hold a public hearing on the proposed adoption of a designation resolution.

(c) A notice under Subsection (2)(b)(ii)(A) shall include a copy of the proposed designation resolution.

(d) A designation resolution, including a proposed designation resolution that accompanies a notice under Subsection (2)(b)(ii)(A), shall:

(i) accurately describe the boundary of the proposed development area;

(ii) describe the development that is proposed to occur in the proposed development area; and

(iii) estimate the amount and sources of revenue the eligible university expects to receive from the development area.

(e) Before adopting a designation resolution, a board of trustees may modify the proposed designation resolution to:

(i) address concerns raised in a public hearing held under Subsection (2)(b)(ii)(B); or

(ii) clarify or adjust provisions of the proposed designation resolution, as the board of trustees considers appropriate.

(f) A board of trustees may not adopt a designation resolution if:

(i) the board of trustees has previously adopted a designation resolution; or

(ii) the area in the proposed development area would overlap with part or all of:

(A) a community reinvestment project area created under Title 17C, Chapter 5, Part 1, Community Reinvestment Project Area Plan, as that project area exists on January 1, 2025; or

(B) a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, as that zone exists on January 1, 2025.

(3) Within 30 days after a board of trustees' adoption of a designation resolution, the board of trustees or the board of trustees' delegee shall deliver a copy of the designation resolution to:

(a) the clerk of the municipality in which the development area that is the subject of the designation resolution is located; and

(b) the assessor, treasurer, and auditor of the county in which the development area that is the subject of the designation resolution is located.

(4) (a) Upon adoption of a designation resolution, a board of trustees shall establish a separate fund related to the development area that is the subject of the designation resolution.

(b) An eligible university shall deposit into a development fund all money the eligible university receives from the development and lease of eligible university property within a development area.

(c) Money in a development fund shall be accounted for separately from any other fund of the eligible university.

(d) An eligible university may use money in a development fund for:

(i) expenses associated with the development of the development area;

(ii) capital facility projects of the eligible university;

(iii) operation and maintenance costs associated with capital facilities of the eligible university; or

(iv) any other eligible university-related purpose.

(5) An eligible university may enter into a development agreement.

(6) (a) A board of trustees member may not participate in a development action if the board of trustees member or a family member of the board of trustees member owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the board of trustees member reasonably believes is likely to participate in or receive a direct financial benefit from the development of land that is the subject of a development agreement.

(b) Before the board of trustees approves a development agreement, the board of trustees shall require any member with a conflict to disclose the conflict in writing to the board of trustees.

(c) Nothing in this Subsection (6) affects the application or effect of any other code provision applicable to a board of trustees member relating to ethics or conflicts of interest.

(7) (a) Beginning January 1 of the year immediately following the execution of a development agreement, the possession or other

beneficial use enjoyed by a person of leased property that is located within the development area subject to the development agreement shall be subject to Title 59, Chapter 4, Privilege Tax, if that leased property is used in connection with a business conducted for profit.

(b) The treasurer of the county in which the leased property described in Subsection (7)(a) is located shall, in the manner and at the time provided in Section 59-2-1365:

(i) collect privilege tax from a lessee of the leased property; and

(ii) distribute 80% of the privilege tax revenue to the eligible university.

(8) (a) A board of trustees shall present a written report to the Higher Education Appropriations Subcommittee no later than September 30 of each year after the board of trustees' adoption of a designation resolution.

(b) A report under Subsection (8)(a) shall:

(i) describe the development taking place or expected to take place within the development area; and

(ii) provide a summary of money deposited into and expended from the development fund for that development area.

Section 268. Section 53H-9-301 is enacted to read:

PART 3. Revenue Bonds

53H-9-301 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 269. Section 53H-9-302, which is renumbered from Section 53B-21-101 is renumbered and amended to read:

[~~53B-21-101~~]53H-9-302 (Effective upon governor's approval). Financing of projects or buildings -- Issuance of bonds -- Sale price determined by board -- Payment of bonds -- Bonds exempt from income taxation.

(1) [~~In order to~~]To pay all or part of the cost of the acquisition, purchase, construction, improvement, remodeling, addition to, extension, equipment, and furnishing of any project or building, including the acquisition of all necessary land, the board, on behalf of the institution for which this is to be done, may do the following:

(a) [~~(a)~~] borrow money on the credit of the income and revenues to be derived from the operation of the building, the imposition of student building fees, land grant interest, and net profits from proprietary activities, or from sources other than by appropriations by the Legislature to issuing institutions and, in anticipation of the collection of this income and revenues, issue negotiable bonds of the institution in an amount as the board determines is necessary for these purposes; and

(b) [~~(b)~~] provide for the payment of these bonds and the rights of [~~their~~]the bond's holders as provided in this [~~chapter~~]part.

(2) Bonds may:

(a) [~~(a)~~]be issued in one or more series;

(b) [~~(b)~~]bear any date or dates;

(c) [~~(c)~~]mature at any time or times not exceeding 40 years from [~~their~~]the bond's date;

(d) [~~(d)~~]be in any denominations;

(e) [~~(e)~~]be in any form, either coupon or registered;

(f) [~~(f)~~]carry registration and conversion privileges;

(g) [~~(g)~~]be executed in any manner;

(h) [~~(h)~~]be payable in any medium of payment at any place;

(i) [~~(i)~~]be subject to any terms of redemption with or without premium; and

(j) [~~(j)~~]bear interest at any rate or rates as provided by resolution adopted by the board at or before the sale of the bonds.

(3) (a) The bonds may be sold in a manner, at the lowest obtainable rate or rates of interest, and at a price or prices as determined by the board.

(b) [~~These~~]The determinations described in Subsection (3)(a) are conclusive.

(4) (a) The board may authorize one issue of bonds for the acquisition, purchase, construction, improvement, remodeling, adding to, extending, furnishing, or equipping of more than one building [~~, including~~].

(b) Subsection (4)(a) includes the acquisition of all necessary land, and the board may make the bonds payable from the combined revenues of all the buildings as well as from:

(i) student building fees [~~,~~];

(ii) land grant interest [~~,~~];

(iii) net profits from proprietary activities [~~,~~]; and [~~from~~]

(iv) sources other than those derived from appropriations from the Legislature.

(5) The bonds issued under this [~~chapter~~]part have all of the qualities and incidents of negotiable paper and are not subject to state or local income taxation.

(6) This section does not apply to a technical college.

Section 270. Section 53H-9-303, which is renumbered from Section 53B-21-102 is renumbered and amended to read:

[~~53B-21-102~~]53H-9-303 (Effective upon governor's approval). Bonds do not create state indebtedness -- Special obligations -- Discharge of bonded indebtedness -- Agreements and covenants by the board regarding bonds -- Enforcement by court action.

(1) (a) The bonds issued under this [~~chapter~~]part are not an indebtedness of the state, of the institution for which they are issued, or of the board.

(b) They are special obligations payable solely from the revenues derived from the operation of the building and student building fees, land grant interest, net profits from proprietary activities, and any other revenues pledged other than appropriations by the Legislature as provided in Sections [~~53B-21-101~~]53H-9-302 and [~~53B-21-111~~]53H-9-312.

(c) (i) Notwithstanding any other provision of law, the chair of the board shall certify annually by December 1 any amount required to:

(A) restore any debt service reserve funds established by the board for bonds issued under this [~~chapter~~]part to the amount required by

the related authorizing proceedings; or

(B) meet projected shortfalls of payment of principal or interest or both for the following year on any bonds issued under this [~~chapter~~]part.

(ii) The governor may request from the Legislature an appropriation of the amount certified under Subsection (1)(c)(i) to restore the debt service reserve funds to [~~their~~]the debt service reserve fund's required amounts or to meet any projected principal or interest payment deficiency.

(d) (i) The state may not alter, impair, or limit the rights of bondholders or persons contracting with the board until the bonds, including interest and other contractual obligations, are fully met and discharged.

(ii) Nothing in this [~~chapter~~]part precludes an alteration, impairment, or limitation if provision is made by law for the protection of bondholders or persons entering into contracts with the board.

(2) The board shall pledge all or any part of the revenues to the payment of principal of and interest on the bonds.

(3) In order to secure the prompt payment of principal and interest and the proper application of the revenues pledged, the board may, by appropriate provisions in the resolution authorizing the bonds:

(a) covenant as to the use and disposition of the proceeds of the sale of the bonds;

(b) covenant as to the operation of the building and the collection and disposition of the revenues derived from the operation;

(c) collect student building fees from all students, and pledge the fees to the payment of building bonds;

(d) covenant as to the rights, liabilities, powers, and duties arising from the breach of any covenant or agreement into which it may enter in authorizing and issuing the bonds;

(e) covenant and agree to carry insurance on the building, and [~~its~~]the building's use and occupancy, and provide that the cost of any insurance is part of the expense of operating the building;

(f) vest in a trustee:

(i) the right to receive all or any part of the income and revenues pledged and assigned to or for the benefit of the holder or holders of the bonds issued under this [~~chapter~~]part, and to hold, apply, and dispose of the income and revenue; and

(ii) the right to:

(A) enforce any covenant made to secure the bonds;

(B) execute and deliver a trust agreement which sets forth the powers and duties and the remedies available to the trustee and limits the trustee's liabilities; and

(C) prescribe the terms and conditions upon which the trustee or the holders of the bonds in any specified amount or percentage may exercise such rights and enforce any or all covenants and resort to any appropriate remedies;

(g) (i) fix rents, charges, and fees, including student building fees, to be imposed in connection with and for the use of the building and [~~its~~]the building's facilities, which are:

(A) income and revenues derived from the operation of the building; and

(B) expressly required to be fully sufficient either by themselves or with land grant interest and net profits from proprietary activities, or from sources other than by appropriations by the Legislature to such issuing institutions to assure the prompt payment of principal of and interest on the bonds as each becomes due; and

(ii) make and enforce rules with reference to the use of the building and with reference to requiring any class or classes of students to use the building as desirable for the welfare of the institution and [~~its~~]the institution's students or for the accomplishment of the purposes of this [~~chapter~~]part;

(h) covenant to maintain a maximum percentage of occupancy of the building;

(i) covenant against the issuance of any other obligations payable from the revenues to be derived from the building, unless subordinated;

(j) make provision for refunding;

(k) covenant as to the use and disposition of sources of revenue other than those derived from appropriations by the Legislature, and pledge those sources of revenues to the payment of bonds issued under this [~~chapter~~]part;

(l) make other covenants considered necessary or advisable to effect the purposes of this [~~chapter~~]part; and

(m) delegate to the chair, vice-chair, or chair of the Budget and Finance Subcommittee the authority:

(i) to approve any changes with respect to interest rate, price, amount, redemption features, and other terms of the bonds as are within reasonable parameters set forth in the resolution; and

(ii) to approve and execute all documents relating to the issuance of the bonds.

(4) (a) The agreements and covenants entered into by the board under this section are binding in all respects upon the board and [~~its~~]the board's officials, agents, and employees, and upon [~~its~~]the board's successors.

(b) They are enforceable by appropriate action or suit at law or in equity brought by any holder or holders of bonds issued under this [~~chapter~~]part.

Section 271. Section 53H-9-304, which is renumbered from Section 53B-21-103 is renumbered and amended to read:

[~~53B-21-103~~]53H-9-304 (Effective upon governor's approval). Agreements with federal government for funds.

The board may enter into an agreement with the federal government in order to obtain funds for the following purposes:

(1) [~~(1)~~]to supplement bond proceeds used to pay for the projects referred to in Section [~~53B-21-101~~]53H-9-302; and

(2) [~~(2)~~]to supplement income and revenues which, under this [~~chapter~~]part, are used to pay debt service on bonds issued under this [~~chapter~~]part.

Section 272. Section 53H-9-305, which is renumbered from Section 53B-21-104 is renumbered and amended to read:

[~~53B-21-104~~]53H-9-305 (Effective upon governor's approval). Deposit of bond proceeds -- Division of Facilities Construction and Management responsibilities and approval.

(1) The board treasurer or other fiscal officer, with the approval of the state treasurer, deposits the proceeds from the sale of bonds under this [~~chapter~~]part into a special Construction Trust Fund Account established in compliance with [~~the~~]Title 51, Chapter 7, State Money Management Act [~~of 1974~~].

(2) The proceeds are credited to the board on behalf of the institution of higher education for which the bonds were issued.

(3) The proceeds are kept in a separate fund and used solely for the purpose for which they were authorized by the board.

(4) The Division of Facilities Construction and Management makes all contracts and executes all instruments which it considers necessary to provide for the projects referred to in Section [~~53B-21-101~~]53H-9-302.

(5) The proceeds in the special Construction Trust Fund Account shall be disbursed only upon receipt of written statements supported by itemized estimates and claims presented to the Division of Facilities Construction and Management as provided in the resolution authorizing the issuance of the bonds.

Section 273. Section 53H-9-306, which is renumbered from Section 53B-21-105 is renumbered and amended to read:

[~~53B-21-105~~]53H-9-306 (Effective upon governor's approval). Disposition and use of income from operation of buildings -- Payment of principal and interest on bonds.

(1) Except for the revenues paid directly to a trustee under Subsection [~~53B-21-102(3)(f)~~]53H-9-303(3)(f), all income and revenues from the operation of the buildings under this [~~chapter~~]part are deposited as collected in a fund established in compliance with [~~the~~]Title 51, Chapter 7, State Money Management Act.

(2) (a) This money is for the payment of the principal and interest on the bonds authorized under this [~~chapter~~]part.

(b) The money shall also be used, to the extent provided in the resolution authorizing the bonds, to pay for the cost of maintaining and operating the building and to establish reserves for that purpose.

(3) The board treasurer or other designated fiscal officer shall, not less than 15 days prior to the date interest and principal payments are due, transmit to the paying agent sufficient money from the fund to pay the obligation.

Section 274. Section 53H-9-307, which is renumbered from Section 53B-21-106 is renumbered and amended to read:

[~~53B-21-106~~]53H-9-307 (Effective upon governor's approval). Examination and certification of bonds by attorney general -- Recital of certification -- Incontestability of bonds.

(1) The resolutions and proceedings authorizing the issuance and confirming sale of bonds under this [~~chapter~~]part are submitted to the attorney general for examination.

(2) When the resolutions and proceedings have been examined and the bonds certified as legal obligations by the attorney general, the bonds are incontestable in any court in the state unless suit is brought within 30 days from the date of the approval.

(3) A bond authorized under this section shall contain a recital on [~~its~~]the bond's face in substantially the following form: "This bond is one of a series of bonds which were certified as legal obligations by the attorney general of the state of Utah on ___."

(4) Bonds authorized, issued, and sold under resolutions and proceedings approved by the attorney general are prima facie valid and binding obligations according to [~~their~~]the bond's terms.

(5) The only defense which may be offered in any suit instituted after the 30-day period has expired is forgery, fraud, or violation of the Utah Constitution.

Section 275. Section 53H-9-308, which is renumbered from Section 53B-21-107 is renumbered and amended to read:

[~~53B-21-107~~]53H-9-308 (Effective upon governor's approval). Investment in bonds by private and public entities -- Approval as collateral security.

(1) Any bank, savings and loan association, trust, or insurance company organized under the laws of this state or federal law may invest [~~its~~]the bank's capital and surplus in bonds issued under this [~~chapter~~]part.

(2) The officers having charge of a sinking fund or any county, city, town, or school district may invest the sinking fund in bonds issued under this [~~chapter~~]part.

(3) The bonds shall also be approved as collateral security for the deposit of any public funds and for the investment of trust funds.

Section 276. Section 53H-9-309, which is renumbered from Section 53B-21-108 is renumbered and amended to read:

[~~53B-21-108~~]53H-9-309 (Effective upon governor's approval). Financing project by contract or lease agreement instead of by bond issue -- Authority of board -- Term of lease -- Terms of agreement -- Board covenants.

(1) Whenever the board, by resolution, finds and declares it preferable to acquire a project under this [~~chapter~~]part by purchase or lease of the facilities constituting the project under an agreement which provides the consideration for the purchase or lease to be paid in installments during a period not exceeding 99 years, rather than through the issuance of revenue bonds by the board in the manner provided in this [~~chapter~~]part, it may do so upon compliance with this section.

(2) The board may lease, to any person, any portion of the campus of the institution necessary as a site for a project which the board is authorized to acquire under Section [~~53B-20-103~~]53H-9-403, for a term not exceeding 99 years.

(3) The agreement authorized to be entered into by the board shall provide that the person shall construct, improve, remodel, add to, or extend a project of the type and construction described in the agreement on the part of the campus to be leased to the person, or on such real property as may be acquired for that purpose by the person.

(4) The agreement shall further provide for the leasing of the project, including necessary equipment, furnishings, and land, from the person to the board executing the agreement, for a period not exceeding 99 years.

(5) Prior to the execution of the agreement, the person proposing to lease the project, including the necessary equipment, furnishings, and land, to the board shall submit to the board all plans, specifications, and estimates for the project.

(6) The plans, specifications, and estimates shall be approved by resolution of the board prior to the execution of the agreement.

(7) The board may, by appropriate provisions in the agreement:

(a) covenant as to the use which will be made of the project;

(b) covenant as to the operation, maintenance, and supervision of the project;

(c) covenant to collect fees and charges from all students and other persons availing themselves of the use of the accommodations and facilities of the project;

(d) covenant to levy and collect student building fees from all regular and part-time students enrolled in the institution for the use and availability of the project;

(e) covenant as to the collection, use, and disposition of the proceeds arising from the collection of all the revenues, fees, and charges;

(f) covenant to impose and collect fees and charges in amounts adequate to pay all costs incurred in maintaining and operating the

project and to pay the amortization of the acquisition cost of the project, including necessary equipment and furnishings, and interest on the unpaid part of the acquisition cost, whether represented by rental installments or otherwise;

(g) covenant to pledge all revenues, fees, and charges, including student building fees, arising from the ownership and operation of the project to the payment of the rental installments provided for under the terms of the contract or lease agreement;

(h) covenant as to the rights, liabilities, powers, and duties arising from the breach of any covenant or agreement contained in the agreement;

(i) covenant and agree to carry any insurance on the project, and [~~its~~]the project's use and occupancy, as the board considers desirable, and to provide that the cost of the insurance shall be included as a part of the cost of operating the project;

(j) covenant to make and enforce such parietal rules and regulations with reference to the use of the facilities comprising the project, or any part of the project, and with reference to requiring any class of students to use the project, or any part of the project, as the board determines desirable for the institution; and

(k) covenant against the pledging of the revenues, fees, and charges, including student building fees, arising from the ownership and operation of the project for any purpose other than the payment of the rental installments required to be paid under the agreement, or against the issuance of any obligations payable therefrom, unless the pledge or obligations are made subordinate to the agreement.

(8) Nothing in this section prevents the board from providing conditions and terms under which pledges may be made and obligations issued on a parity with the pledge of revenues, fees, and charges under the agreement.

[~~(8)~~](9) It shall be specifically provided in the agreement that the board is not obligated to pay the rental installments or amortization of the acquisition cost of the project, and interest on the unpaid part of the acquisition cost, from any source other than the revenues, fees, and charges arising from the ownership and operation of the project, including student building fees levied for the use and availability of the facilities of the project.

[~~(9)~~](10) Each agreement shall provide that the rental installments, or amortization of the acquisition cost of the project, including necessary equipment, furnishings, and land, and interest on the unpaid part of the acquisition cost, are not an obligation of the state, and that ad valorem taxes or appropriations from the state may not be used to pay or discharge the amounts required to be paid under the agreement.

[~~(10)~~](11) The agreement shall also provide that when the amortized acquisition cost, as represented by the rental installments, has been paid in full and when all obligations, if any, issued by the person to finance the cost of the acquisition of the project have been paid in full as to both principal and interest, the agreement terminates and title to the project, including the land upon which the project is situated, and all equipment and furnishings, vests in the board.

[~~(11)~~](12) The agreement may provide that the board may purchase the project, including the land upon which the project is situated, and all equipment and furnishings, which is subject to the agreement upon terms wherein rental installments previously made, or a portion of [~~them~~]rental installments, are deducted from the cost of acquisition of the project, including the land upon which the project is situated, and all equipment and furnishings, as provided for in the agreement.

[~~(12)~~](13) The board may furnish without charge heat, light, water, power, and similar facilities for any project leased by the board for operation by the board under this section, and all projects acquired and constructed under this section are exempt from taxation.

[~~(13)~~](14) The agreement may provide that the board may lease the project, including the land upon which the project is situated, and all equipment and furnishings, to any person for a term not exceeding 99 years for operation by any person.

[~~(14)~~](15) (a) A lease may not be entered into unless the rental to be paid to the board by the person is sufficient to satisfy the rental to be paid by the board to the person from which the project was originally leased.

(b) [~~But in no event may the rental paid to the board~~]The rental paid to the board may not be less than the fair rental value of the property leased.

Section 277. Section 53H-9-310, which is renumbered from Section 53B-21-109 is renumbered and amended to read:

[~~53B-21-109~~]53H-9-310 (Effective upon governor's approval). Student building fees.

(1) The board issuing bonds under this [~~chapter~~]part may impose and collect student building fees from all students in attendance at the institution in behalf of which the bonds are issued.

(2) The board may also pledge the fees in the same manner provided for the pledging of other revenues of the board or institution under this [~~chapter~~]part.

Section 278. Section 53H-9-311, which is renumbered from Section 53B-21-110 is renumbered and amended to read:

[~~53B-21-110~~]53H-9-311 (Effective upon governor's approval). Refunding bonds -- Issuance -- Proceeds -- Limitations.

(1) Bonds may be issued under this [~~chapter~~]part for the purpose of refunding any bonds previously issued under authority of this [~~chapter~~]part, if:

(a) the bonds to be refunded are due or callable, redeemable, or repurchasable by [~~their~~]the bond's terms on or prior to the date that the refunding bonds are issued;

(b) [~~or~~]the bonds to be refunded will become due or callable, redeemable, or repurchasable by [~~their~~]the bond's terms within 10 years thereafter; or

(c) [~~if~~]the bonds to be refunded, even though not becoming due, callable, redeemable, or repurchasable within this period, are voluntarily surrendered by the bondholders for cancellation at the time of the issuance of the refunding bonds.

(2) (a) These refunding bonds shall have such details, bear such rate of interest, and be otherwise issued and secured as provided by the board authorizing the issuance of the bonds and as otherwise provided in this [~~chapter~~]part.

(b) [~~However, the changes in the security and revenues pledged to the payment of the bonds may be made by the board as may be provided by it in the proceedings authorizing the bonds, but in no event shall the refunding bonds ever be secured by revenues not authorized by this chapter to be pledged to the payment of bonds issued for other than refunding purposes.~~]The board may make changes in the security and revenues pledged to the payment of the bonds, as provided in the proceedings authorizing the bonds.

(c) The board may not secure refunding bonds with revenues that this part does not authorize for the payment of bonds issued for purposes other than issuing a refund.

(3) (a) Refunding bonds issued under this [~~chapter~~]part may be exchanged for a like principal amount of the bonds to be refunded, may be sold in the manner provided in this [~~chapter~~]part for the sale of other bonds, or may be exchanged in part and sold in part.

(b) If sold, the proceeds of the sale not required for the payment of expenses may be invested in United States Government obligations or in obligations unconditionally guaranteed by the United States of America in a manner as may be provided in the authorizing resolution, so long as these investments will mature with interest so as to provide funds to pay when due, or called for redemption, the bonds to be refunded together with interest and redemption premiums, if any.

(4) The proceeds or obligations shall, and other funds legally available to the board for such purposes may, be deposited in trust with an FDIC insured bank doing business in Utah, or [~~its~~]the bank's successor, to be held for the payment and redemption of bonds to be refunded.

(5) The deposit and any reinvestment shall be held in trust by the escrow agent for the payment of bonds with interest and redemption premiums, if any, on maturity or upon an available redemption date or upon an earlier voluntary surrender with the consent of the board.

(6) (a) No refunding bonds may be issued under this section in a principal amount in excess of the principal amount of the bonds to be refunded nor may any bonds not maturing or callable for redemption under [~~their~~]the bond's terms as provided in this section be refunded without the consent of the holders of the bonds.

(b) Refunding bonds authorized and issued under this section may in the discretion of the board be combined with other bonds to be authorized and issued under this [~~chapter~~]part, and a single issue of bonds may be authorized, part for improvement and part for refunding purposes.

Section 279. Section 53H-9-312, which is renumbered from Section 53B-21-111 is renumbered and amended to read:

[~~53B-21-111~~]53H-9-312 (Effective upon governor's approval). Authorized loans for acquisition, construction, furnishing, and equipping of projects -- Evidence of indebtedness -- Provisions -- Agreements with lending institutions -- Satisfaction and discharge -- Exemption from taxation.

(1) For the purpose of paying all or part of the costs of a project under Section [~~53B-21-101~~]53H-9-302, the board, on behalf of the institution of higher education for which the project is to be acquired, constructed, furnished, and equipped, may:

(a) borrow money on the credit of:

(i) the income and revenues to be derived from the operation of the project [~~, and from~~];

(ii) the imposition of student building fees [~~,~~];

(iii) land grant interest [~~, and~~];

(iv) net proceeds from proprietary activities; or [~~from~~]

(v) sources other than by appropriations by the Legislature to the issuing institutions [~~,~~]; and

(b) to evidence the indebtedness may execute any promissory note or other evidence of indebtedness appropriate, provided the note or other evidence of indebtedness specifies on its face that it does not constitute a general obligation of the state.

(2) The board may, in order to secure the payment of the loan, grant a mortgage, trust deed, or other security device covering:

(a) all or part of the project [~~,~~]; and

(b) the land acquired for the project and upon which the project is situated.

(3) The rights and remedies available in the event of a default to the mortgagee, trustee, or other lender are subject to agreement as contained in the:

(a) mortgage [~~,~~];

(b) trust deed [~~,~~]; or

(c) other security instrument.

(4) (a) The agreement may provide that, in the event of a default in the payment or the violation of any agreement contained in the document, the mortgage, trust deed, or other security instrument may be foreclosed or otherwise realized in any manner permitted by law.

(b) [~~However, no deficiency judgment shall lie in any event and no breach of the agreement shall impose any general obligations or liability upon the state or the borrowing institution.~~]The state and the borrowing institution are not subject to any general obligation or liability for breach of the agreement.

(c) A court may not enter a deficiency judgment in the event of a breach of the agreement.

(5) (a) The note or other evidence of indebtedness may have all the qualities and incidents of negotiable paper [~~, and~~].

(b) The note or other evidence of indebtedness is not subject to:

(i) taxation by the state, except for the corporate franchise tax [~~,~~]; or [~~to~~]

(ii) taxation by any county, municipality, or political subdivision of the state.

(6) The note or other evidence of indebtedness and mortgage may contain additional provisions with respect to repayment out of:

(a) the income and revenues derived from the operation of the building [~~, from~~];

(b) the imposition of student building fees [~~,~~];

(c) land grant interest [~~, and~~];

(d) net profits from proprietary activities [~~,~~]; or

(e) from sources other than appropriations by the Legislature to any issuing institution as the board considers necessary and proper.

(7) The board may enter into an agreement it considers necessary with the lending institution as to the:

(a) [~~the~~]use which will be made of any project [~~,~~];

(b) [~~the~~]operation, maintenance, and supervision of the project [~~,~~];

(c) [~~the~~]imposition of fees, charges, and rentals for [~~its~~]the institution's use, including the equipment contained therein [~~,~~]; and [~~the~~]

(d) collection and disposition to be made of the proceeds of fees, charges, and rentals.

(8) [~~In order to~~]To secure the prompt payment of principal and interest and to pay the cost of the maintenance and operation of the project, the board has the same power and authority with respect to the indebtedness created under this section as it has in respect to the issuance of bonds under the other provisions of this [~~chapter~~]part.

(9) When any obligation owing to finance the cost of any project constructed or acquired under this section has been fully paid as to principal and interest, the mortgage is satisfied and discharged.

(10) All buildings and additions to existing buildings erected, and the equipment therefor, is exempt from taxation as long as the legal title remains in the borrowing agency.

Section 280. Section 53H-9-313, which is renumbered from Section 53B-21-112 is renumbered and amended to read:

[~~53B-21-112~~]53H-9-313 (Effective upon governor's approval). Financing projects and buildings -- Security instruments -- Terms.

(1) In connection with the financing of any project or building under this [~~chapter~~]part, the board, on behalf of an institution of higher

education, may grant a purchase money mortgage, trust deed, or other security device pledging any land, buildings, furnishings, equipment, or other facilities to be acquired or constructed and paid for from the proceeds of the financing.

(2) The rights and remedies available in the event of a default to the mortgagee, trustee, or lender shall be as agreed upon between the board and the lender and contained in the document.

(3) In making any agreements, the board does not have the power to obligate [~~itself~~]the board or the state, except with respect to:

(a) [~~(a)~~]the project;

(b) [~~(b)~~]the building and the application of the revenues from it;

(c) [~~(c)~~]the revenues from any special fund pledged to repay it;

(d) [~~(d)~~]the proceeds of any ad valorem tax; or

(e) [~~(e)~~]any appropriations from the Legislature of the state.

(4) (a) Any purchase money mortgage, trust deed, or other security device made or granted by the board to secure the loan or other method of financing may also provide that in the event of a default in payment or the violation of any agreement, the mortgage, trust deed, or security device may be foreclosed or otherwise realized in any manner permitted by law.

(b) [~~However, no~~]No deficiency judgment shall lie in any event and the breach of the agreement does not impose any general obligation or liability upon:

(i) the board [~~,~~];

(ii) the state [~~,~~];

(iii) the proceeds of ad valorem taxes [~~,~~]; or

(iv) appropriations from the Legislature.

(5) The purchase money mortgage, trust deed, or other security device may also provide that any mortgagee, trustee, lender, or the holder of any evidence of indebtedness secured by the security instrument may become the purchaser at any foreclosure sale, if the highest bidder.

Section 281. Section 53H-9-314, which is renumbered from Section 53B-21-113 is renumbered and amended to read:

[~~53B-21-113~~]53H-9-314 (Effective upon governor's approval). Limitation on issuance of bonds.

No bonds may be authorized or issued by the board or the board of any institution under this [~~chapter~~]part without the prior approval of the Legislature.

Section 282. Section 53H-9-315, which is renumbered from Section 53B-22-102 is renumbered and amended to read:

[~~53B-22-102~~]53H-9-315 (Effective upon governor's approval). Revenue bond authorizations.

(1) The Utah Board of Higher Education, formerly the Board of Regents, on behalf of the institutions listed below, may issue, sell, and deliver revenue bonds or other evidences of indebtedness to borrow money on the credit of the income and revenues of each respective institution, other than appropriations of the Legislature, to finance the cost or partial cost of constructing, furnishing, and equipping the specified projects.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed the amounts for each institution and project specified below, and shall be issued in accordance with this part under such terms and conditions and in such amounts as the board, by resolution, determines are reasonable and necessary:

(a) Utah State University:

(i) student family housing project: $6,600,000; and

(ii) human Resource Research Center: $6,000,000;

(b) Weber State University, student services building: $5,800,000;

(c) Southern Utah University:

(i) student housing project: $6,000,000;

(ii) student center addition: $5,500,000; and

(iii) stadium expansion: $5,500,000;

(d) Utah Tech University, student center building: $3,100,000;

(e) Utah Valley University, student center addition: $13,500,000;

(f) Salt Lake Community College:

(i) classroom/physical education facility: $5,500,000; and

(ii) science/major industry building: $5,150,000;

(g) University of Utah:

(i) biology research building: $21,050,000; and

(ii) Robert L. Rice Stadium renovation and expansion: $12,000,000; and

(h) Utah State University Eastern, Student center: $3,300,000.

[~~(1) The Utah Board of Higher Education, formerly the Board of Regents, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit of the income and revenues of Utah State University, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping a student family housing project and a Human Resource Research Center.~~]

[~~(2) The bonds or other evidences of indebtedness authorized by this section may not exceed $6,600,000 for the student family housing project and $6,000,000 for the Human Resource Research Center, and shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under such terms and conditions and in such amounts as the board, by resolution, determines are reasonable and necessary.~~]

Section 283. Section 53H-9-401 is enacted to read:

PART 4. Buildings and Facilities

53H-9-401 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 284. Section 53H-9-402, which is renumbered from Section 53B-20-104 is renumbered and amended to read:

[~~53B-20-104~~]53H-9-402 (Effective upon governor's approval). Buildings and facilities -- Board approval of construction and purchases -- Rules.

(1) The board shall approve all new construction, repair, or purchase of educational and general buildings and facilities financed from any source at all institutions subject to the jurisdiction of the board.

(2) An institution may not submit plans or specifications to the Division of Facilities Construction and Management for the construction or alteration of buildings, structures, or facilities or for the purchases of equipment or fixtures for the structure without the authorization of the board.

(3) The board shall make rules establishing the conditions under which facilities may be eligible to request state funds for operations and maintenance.

(4) Before approving the purchase of a building, the board shall:

(a) determine whether or not the building will be eligible for state funds for operations and maintenance by applying the rules adopted under Subsection (3); and

(b) if the annual request for state funding for operations and maintenance will be greater than $100,000, notify the speaker of the House, the president of the Senate, and the cochairs of the Transportation and Infrastructure Appropriations Subcommittee.

Section 285. Section 53H-9-403, which is renumbered from Section 53B-20-103 is renumbered and amended to read:

[~~53B-20-103~~]53H-9-403 (Effective upon governor's approval). Powers of state board -- Capital facilities projects -- Exceptions.

(1) As used in this section, "capital facilities projects and buildings" includes any one or more institutional projects and buildings.

(2) The board, on behalf of the institutions of higher education, may:

(a) acquire, purchase, construct, improve, remodel, add to, and extend capital facilities projects and buildings including necessary and related utilities;

(b) accept buildings, land, or a combination of buildings and land, donated to an eligible higher education institution without obtaining approval of the donation from the director of the Division of Facilities Construction and Management;

(c) acquire necessary and suitable equipment, furnishings, and land for institutional projects and buildings;

(d) set aside portions of campuses for institutional projects and buildings;

(e) maintain and operate institutional projects and buildings; and

(f) impose and collect rents, fees, and charges for the use of institutional projects and buildings.

(3) Notwithstanding any other provision of law, if a donor donates land to an eligible institution of higher education and commits to build a building or buildings on that land, and the institution agrees to provide funds for the operations and maintenance costs from sources other than state funds, and agrees that the building or buildings will not be eligible for state capital improvement funding, the higher education institution may:

(a) oversee and manage the construction without involvement, oversight, or management from the Division of Facilities Construction and Management; or

(b) arrange for management of the project by the Division of Facilities Construction and Management.

Section 286. Section 53H-9-404, which is renumbered from Section 53B-2-109 is renumbered and amended to read:

[~~53B-2-109~~]53H-9-404 (Effective upon governor's approval). Notice to local government when constructing student housing.

(1) Each institution that intends to construct student housing on property owned by the institution shall provide written notice of the intended construction, as provided in Subsection (2), before any funds are committed to the construction, if any of the proposed student housing buildings is within 300 feet of privately owned residential property.

(2) Each notice under Subsection (1) shall be provided to the legislative body and, if applicable, the mayor of:

(a) the county in whose unincorporated area the privately owned residential property is located; or

(b) the municipality in whose boundaries the privately owned residential property is located.

(3) (a) (i) Within 21 days after receiving the notice required by Subsection (1), a county or municipality entitled to the notice may submit a written request to the institution for a public hearing on the proposed student housing construction.

(ii) Each county or municipality that submits a written request for a hearing under Subsection (3)(a) shall deliver a copy of the request to the Division of Facilities Construction and Management.

(b) If a county or municipality requests a hearing under Subsection (3)(a), the legislative body of the affected county or municipality and the institution shall jointly hold a public hearing to provide information to the public and to allow the institution and the county or municipality to receive input from the public about the proposed student housing construction.

(c) A public hearing held under Subsection (3)(a) satisfies the public hearing requirement of Subsection 63A-5b-1104(2) for the same proposed student housing construction.

Section 287. Section 53H-9-501, which is renumbered from Section 53B-22-201 is renumbered and amended to read:

PART 5. General Capital Developments

[~~53B-22-201~~]53H-9-501 (Effective upon governor's approval). General provisions -- Definitions.

As used in this part:

(1) "Capital development" means the same as capital development project, as defined in Section 63A-5b-401.

(2) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(3) "Dedicated project" means a capital development project for which state funds from an institution's allocation are requested or used.

(4) "Fund" means the Higher Education Capital Projects Fund created in Section [~~53B-22-202~~]53H-9-502.

[~~(5) "Institution" means a degree-granting institution.~~]

[~~(6)~~](5) "Institution's allocation" means the total amount of money in the fund that an institution has been allocated in accordance with Section [~~53B-22-203~~]53H-9-503.

[~~(7)~~](6) "Nondedicated project" means a capital development project for which state funds from a source other than an institution's allocation are requested or used.

[~~(8)~~](7) "State funds" means the same as that term is defined in Section 63A-5b-401.

Section 288. Section 53H-9-502, which is renumbered from Section 53B-22-202 is renumbered and amended to read:

[~~53B-22-202~~]53H-9-502 (Effective upon governor's approval). Higher Education Capital Projects Fund -- Use of money in fund -- Appropriations to fund -- Administration of fund.

(1) There is created a capital projects fund known as the Higher Education Capital Projects Fund.

(2) Subject to appropriation, money in the fund shall be used:

(a) for a dedicated project approved in accordance with Section [~~53B-22-204~~]53H-9-504; or

(b) to pay debt service in accordance with Subsection (3).

(3) Money in the fund may be used to pay debt service:

(a) on a general obligation bond issued for a capital development project in accordance with Title 63B, Chapter 1a, Master General Obligation Bond Act; and

(b) if the Legislature approves the use by a vote of two-thirds of all members elected to each house.

(4) The fund shall be funded by appropriations.

(5) The fund shall accrue interest, which shall be deposited into the fund.

(6) The Division of Finance shall administer the fund in accordance with this part.

Section 289. Section 53H-9-503, which is renumbered from Section 53B-22-203 is renumbered and amended to read:

[~~53B-22-203~~]53H-9-503 (Effective upon governor's approval). Fund money -- Degree-granting institution allocations.

(1) (a) Based on appropriations to the fund, the board shall annually determine how to allocate among all degree-granting institutions money that has not been previously allocated to [~~an~~]a degree-granting institution.

(b) The board shall make the determination described in Subsection (1)(a) based on each degree-granting institution's:

(i) enrollment;

(ii) total performance across the metrics described in Section [~~53B-7-706~~]53H-8-304;

(iii) projected growth in student population;

(iv) existing square feet per student full-time equivalent;

(v) facility age and condition; and

(vi) utilization of academic space, including off-campus facilities.

(c) [~~On or before August 1, 2019, the~~]The board shall establish how the board will determine the amount of money to allocate to [~~an~~]a degree-granting institution, including, for each factor described in Subsection (1)(b):

(i) how the board will measure [~~an~~]a degree-granting institution's fulfillment of the factor; and

(ii) the relative weight assigned to the factor.

(2) On or before May 31 each year, the board shall notify the Division of Finance of the board's determination described in Subsection (1).

(3) The Division of Finance shall:

(a) maintain within the fund separate accounting for each degree-granting institution's allocation; and

(b) based on the notification described in Subsection (2), add to each degree-granting institution's allocation the amount of money determined by the board.

Section 290. Section 53H-9-504, which is renumbered from Section 53B-22-204 is renumbered and amended to read:

[~~53B-22-204~~]53H-9-504 (Effective upon governor's approval). Funding request for capital development project -- Legislative approval -- Board prioritization, approval, and review.

(1) In accordance with this section, [~~an~~]a degree-granting institution is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(2) [~~An~~]A degree-granting institution shall submit to the board a proposal for a funding request for each dedicated project or nondedicated project for which the institution seeks legislative approval.

(3) The board shall:

(a) review each proposal submitted under Subsection (2) to ensure the proposal:

(i) is cost effective and an efficient use of resources;

(ii) is consistent with the degree-granting institution's mission and master plan; and

(iii) fulfills a critical institutional facility need;

(b) based on the results of the board's review under Subsection (3)(a), create:

(i) a list of approved dedicated projects; and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (5); and

(c) submit the lists described in Subsection (3)(b) to:

(i) the governor;

(ii) the Transportation and Infrastructure Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the Division of Facilities Construction and Management for a:

(A) recommendation, for the list described in Subsection (3)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (3)(b)(ii).

(4) A dedicated project:

(a) is subject to the recommendation of the Division of Facilities Construction and Management as described in Section 63A-5b-403; and

(b) is not subject to the prioritization of the Division of Facilities Construction and Management as described in Section 63A-5b-403.

(5) (a) Subject to Subsection (6), the board shall prioritize institution requests for funding for nondedicated projects based on:

(i) capital facility need;

(ii) utilization of facilities;

(iii) maintenance and condition of facilities; and

(iv) any other factor determined by the board.

(b) [~~On or before August 1, 2019, the~~]The board shall establish how the board will prioritize institution requests for funding for nondedicated projects, including:

(i) how the board will measure each factor described in Subsection (5)(a); and

(ii) procedures for prioritizing requests.

(6) (a) Subject to Subsection (6)(b), and in accordance with Subsection (5), the board may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than $50,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least $50,000,000 but less than $100,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least $100,000,000.

(b) For each calendar year [~~beginning on or after January 1, 2020~~], the dollar amounts described in Subsection (6)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(7) (a) [~~An~~]A degree-granting institution may request operations and maintenance funds for a capital development project approved under this section.

(b) [~~An~~]A degree-granting institution shall make the request described in Subsection (7)(a) at the same time the degree-granting institution submits the proposal described in Subsection (2).

(c) The Legislature shall consider [~~an~~]a degree-granting institution's request described in Subsection (7)(a).

(8) After [~~an~~]a degree-granting institution completes a capital development project described in this section, the board shall review the capital development project, including the costs and design of the capital development project.

Section 291. Section 53H-9-601, which is renumbered from Section 53B-2a-101 is renumbered and amended to read:

PART 6. Technical College Leasing and Capital Development

[~~53B-2a-101~~]53H-9-601 (Effective upon governor's approval). General provisions -- Definitions.

As used in this [~~chapter~~]part:

(1) "Capital development" means the same as capital development project, as defined in Section 63A-5b-401.

(2) "Competency-based" means mastery of subject matter or skill level, as demonstrated through business and industry approved standards and assessments, achieved through participation in a hands-on learning environment, and which is tied to observable, measurable performance objectives.

(3) "Dedicated project" means a capital development project for which state funds from the Technical Colleges Capital Projects Fund created in Section [~~53B-2a-118~~]53H-9-605 are requested or used.

(4) "Nondedicated project" means a capital development project for which state funds from a source other than the Technical Colleges Capital Projects Fund created in Section [~~53B-2a-118~~]53H-9-605 are requested or used.

(5) "State funds" means the same as that term is defined in Section 63A-5b-401.

Section 292. Section 53H-9-602, which is renumbered from Section 53B-2a-113 is renumbered and amended to read:

[~~53B-2a-113~~]53H-9-602 (Effective upon governor's approval). Leasing authority -- Lease-purchase agreements -- Report.

(1) A technical college may enter into a lease with other higher education institutions, school districts, charter schools, state agencies, or business and industry for a term of:

(a) one year or less with the approval of the technical college board of trustees; or

(b) more than one year with the approval of the board if:

(i) the Legislature approves funding for the lease prior to a technical college entering into the lease; or

(ii) the lease agreement includes language that allows termination of the lease without penalty.

(2) (a) A technical college may enter into a lease-purchase agreement if:

(i) there is a long-term benefit to the state;

(ii) the project is included in the technical college master plan;

(iii) the lease-purchase agreement includes language that allows termination of the lease;

(iv) the lease-purchase agreement is approved by the technical college board of trustees and the board; and

(v) the lease-purchase agreement is:

(A) reviewed by the Division of Facilities Construction and Management; and

(B) approved by the Legislature.

(b) An approval under Subsection (2)(a) shall include a recognition of:

(i) all parties, dates, and elements of the agreement;

(ii) the equity or collateral component that creates the benefit; and

(iii) the options dealing with the sale and division of equity.

(3) (a) Each technical college shall provide an annual lease report to the board that details each of the technical college's leases, annual costs, location, square footage, and recommendations for lease continuation.

(b) The board shall compile and distribute an annual combined lease report for all technical colleges to the Division of Facilities Construction and Management and to others upon request.

(4) The board shall use the annual combined lease report in determining planning, utilization, and budget requests.

Section 293. Section 53H-9-603, which is renumbered from Section 53B-2a-112 is renumbered and amended to read: [~~53B-2a-112~~]53H-9-603 (Effective upon governor's approval). Technical colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.

(1) As used in this section, "higher education institution" means:

(a) Utah State University for:

(i) Bridgerland Technical College;

(ii) Tooele Technical College; and

(iii) Uintah Basin Technical College;

(b) Weber State University for:

(i) Ogden-Weber Technical College; and

(ii) Davis Technical College;

(c) Utah Valley University for Mountainland Technical College;

(d) Southern Utah University for Southwest Technical College; and

(e) Utah Tech University for Dixie Technical College.

(2) A technical college may enter into agreements:

(a) with other higher education institutions to cultivate cooperative relationships; or

(b) with other public and higher education institutions to enhance career and technical education within the technical college's region.

(3) Before a technical college develops new instructional facilities, the technical college shall give priority to:

(a) maintaining the technical college's existing instructional facilities for both secondary and adult students;

(b) coordinating with the president of the technical college's degree-granting partner and entering into any necessary agreements to provide career and technical education to secondary and adult students that:

(i) maintain and support existing higher education career and technical education programs; and

(ii) maximize the use of existing higher education facilities; and

(c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.

(4) (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the board, a technical college shall:

(i) ensure that all available instructional facilities are maximized in accordance with Subsections (3)(a) through (c); and

(ii) coordinate the request with the president of the technical college's degree-granting partner, if applicable.

(b) The Division of Facilities Construction and Management shall make a finding that the requirements of this section are met before the Division of Facilities Construction and Management may consider a funding request from the board pertaining to new capital facilities and land purchases for a technical college.

(c) A technical college may not construct, approve the construction of, or consent to the construction of a career and technical education facility without approval of the Legislature.

(5) Before acquiring new fiscal and administrative support structures, a technical college shall:

(a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of education in the region;

(b) determine the feasibility of using existing systems; and

(c) with the approval of the technical college board of trustees and the board, use the existing systems.

Section 294. Section 53H-9-604, which is renumbered from Section 53B-2a-117 is renumbered and amended to read: [~~53B-2a-117~~]53H-9-604 (Effective upon governor's approval). Legislative approval -- Capital development projects -- Prioritization.

(1) As used in this section:

(a) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(b) "Fund" means the Technical Colleges Capital Projects Fund created in Section [~~53B-2a-118~~]53H-9-605.

(2) In accordance with this section, a technical college is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(3) In accordance with Section [~~53B-2a-112~~]53H-9-603, a technical college shall submit to the board a proposal for a funding request for each dedicated project or nondedicated project for which the technical college seeks legislative approval.

(4) The board shall:

(a) review each proposal submitted under Subsection (3) to ensure that the proposal complies with Section [~~53B-2a-112~~]53H-9-603;

(b) based on the results of the board's review under Subsection (4)(a), create:

(i) a list of approved dedicated projects, prioritized in accordance with Subsection (6); and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (6); and

(c) submit the lists described in Subsection (4)(b) to:

(i) the governor;

(ii) the Transportation and Infrastructure Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the Division of Facilities Construction and Management for a:

(A) recommendation, for the list described in Subsection (4)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).

(5) A dedicated project:

(a) is subject to the recommendation of the Division of Facilities Construction and Management as described in Section 63A-5b-403; and

(b) is not subject to the prioritization of the Division of Facilities Construction and Management as described in Section 63A-5b-403.

(6) (a) Subject to Subsection (7), the board shall prioritize funding requests for capital development projects described in this section based on:

(i) growth and capacity;

(ii) effectiveness and support of critical programs;

(iii) cost effectiveness;

(iv) building deficiencies and life safety concerns; and

(v) alternative funding sources.

(b) The board shall establish:

(i) how the board will measure each factor described in Subsection (6)(a); and

(ii) procedures for prioritizing funding requests for capital development projects described in this section.

(7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than $7,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least $7,000,000 but less than $14,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least $14,000,000.

(b) For each calendar year [~~beginning on or after January 1, 2020~~], the dollar amounts described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(8) (a) A technical college may request operations and maintenance funds for a capital development project approved under this section.

(b) A technical college shall make the request described in Subsection (8)(a) at the same time the technical college submits the proposal described in Subsection (3).

(c) The Legislature shall consider a technical college's request described in Subsection (8)(a).

Section 295. Section 53H-9-605, which is renumbered from Section 53B-2a-118 is renumbered and amended to read:

[~~53B-2a-118~~]53H-9-605 (Effective upon governor's approval). Technical Colleges Capital Projects Fund -- Use of money in fund -- Appropriations to fund -- Administration of fund.

(1) As used in this section, "fund" means the Technical Colleges Capital Projects Fund created in this section.

(2) There is created a capital projects fund known as the Technical Colleges Capital Projects Fund.

(3) Subject to appropriation, money in the fund shall be used:

(a) for a dedicated project approved in accordance with Section [~~53B-2a-117~~]53H-9-604; or

(b) to pay debt service in accordance with Subsection (4).

(4) Money in the fund may be used to pay debt service:

(a) on a general obligation bond issued for a capital development project in accordance with Title 63B, Chapter 1a, Master General Obligation Bond Act; and

(b) if the Legislature approves the use by a vote of two-thirds of all members elected to each house.

(5) The fund shall be funded by appropriations.

(6) The fund shall accrue interest, which shall be deposited into the fund.

(7) The Division of Finance shall administer the fund in accordance with this section.

Section 296. Section 53H-10-101, which is renumbered from Section 53B-8a-101 is renumbered and amended to read:

CHAPTER 10. Utah Education Savings

PART 1. General Provisions

[~~53B-8a-101~~]53H-10-101 (Effective upon governor's approval). General provisions -- Definitions.

(1) As used in this chapter:

(a) "Account agreement" means an agreement between an account owner and the Utah Educational Savings Plan entered into under this chapter.

(b) "Account owner" means a person, estate, or trust, if that person, estate, or trust has entered into an account agreement under this chapter to save for the higher education costs on behalf of a beneficiary.

(c) "Beneficiary" means the individual designated in an account agreement to benefit from the amount saved for higher education costs.

(d) "Plan" means the Utah Educational Savings Plan created in Section 53H-10-202.

[~~(1)~~](2) (a) The Legislature finds that the general welfare and well-being of the state are directly related to educational levels and skills

of the citizens of the state.

(b) Therefore, a vital and valid public purpose is served by the creation and implementation of programs which encourage and make possible the attainment of higher education by the greatest number of citizens of the state.

[~~(2)~~](3) (a) The Legislature finds that the state has limited resources to provide additional programs for higher education funding and that the continued operation and maintenance of the state's public institutions of higher education and the general welfare of the citizens of the state will be enhanced by establishing a plan which allows citizens of the state to invest money in a public trust for future application to the payment of higher education costs.

(b) The Legislature further finds that the plan described in Subsection [~~(2)(a)~~](3)(a) serves a vital and valid public purpose.

[~~(3)~~](4) (a) In order to make available to the citizens of the state an opportunity to fund future higher education needs, it is necessary that a public trust be established in which money may be invested for future educational use.

(b) It may also be necessary to establish and create an endowment fund, which may be funded with public funds, among other sources, the income from which may be made available to account owners to enhance or encourage their savings invested for future higher education costs or for use in scholarship or other college savings incentive programs.

Section 297. Section 53H-10-201, which is renumbered from Section 53B-8a-102.5 is renumbered and amended to read:

PART 2. Utah Educational Savings Plan

[~~53B-8a-102.5~~]53H-10-201 (Effective upon governor's approval). General provisions -- Definitions.

As used in this part:

(1) "Administrative fund" means the money used to administer the Utah Educational Savings Plan.

(2) "Board" means the Utah Education Savings Board of Trustees created in Section [~~53B-8a-105~~]53H-10-204.

(3) "Eligible educational institution" means the same as that term is defined in Section 529(e)(5), Internal Revenue Code.

[~~(3)~~](4) "Endowment fund" means the endowment fund established under Section [~~53B-8a-107~~]53H-10-206, which is held as a separate fund within the Utah Educational Savings Plan.

[~~(4)~~](5) "Executive director" means the administrator appointed to administer and manage the Utah Educational Savings Plan.

[~~(5)~~](6) "Federally insured depository institution" means an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation and the National Credit Union Administration.

[~~(6)~~](7) "Grantor trust" means a trust, the income of which is for the benefit of the grantor under Section 677, Internal Revenue Code.

[~~(7)~~](8) "Higher education costs" means qualified higher education expenses as defined in Section 529(e)(3), Internal Revenue Code.

[~~(8) "Eligible educational institution" means the same as that term is defined in Section 529(e)(5), Internal Revenue Code.~~]

(9) "Owner of the grantor trust" means one or more individuals who are treated as an owner of a trust under Section 677, Internal Revenue Code, if that trust is a grantor trust.

(10) "Program fund" means the program fund created under Section [~~53B-8a-107~~]53H-10-206, which is held as a separate fund within the Utah Educational Savings Plan.

(11) "Qualified investment" means an amount invested in accordance with an account agreement established under this part.

(12) "Tuition and fees" means the quarterly or semester charges imposed to attend an institution of higher education and required as a condition of enrollment.

Section 298. Section 53H-10-202, which is renumbered from Section 53B-8a-103 is renumbered and amended to read:

[~~53B-8a-103~~]53H-10-202 (Effective upon governor's approval). Creation of Utah Educational Savings Plan -- Powers and duties of plan -- Certain exemptions.

(1) There is created the Utah Educational Savings Plan, which may also be known and do business as:

(a) the Utah Educational Savings Plan Trust; or

(b) another related name.

(2) The plan:

(a) is a non-profit, self-supporting agency that administers a public trust;

(b) shall administer the various programs, funds, trusts, plans, functions, duties, and obligations assigned to the plan:

(i) consistent with sound fiduciary principles; and

(ii) subject to review of the board; and

(c) shall be known as and managed as a qualified tuition program in compliance with Section 529, Internal Revenue Code, that is sponsored by the state.

(3) The plan may:

(a) make and enter into contracts necessary for the administration of the plan payable from plan money, including:

(i) contracts for goods and services; and

(ii) contracts to engage personnel, with demonstrated ability or expertise, including consultants, actuaries, managers, counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice;

(b) adopt a corporate seal and change and amend the corporate seal;

(c) invest money within the program, administrative, and endowment funds in accordance with the provisions under Section [~~53B-8a-107~~]53H-10-206;

(d) enter into agreements with account owners, any eligible educational institution, any federal or state agency, or other entity as required to implement this chapter;

(e) solicit and accept any grants, gifts, legislative appropriations, and other money from the state, any unit of federal, state, or local government, or any other person, firm, partnership, or corporation for deposit to the administrative fund, endowment fund, or the program fund;

(f) make provision for the payment of costs of administration and operation of the plan;

(g) carry out studies and projections to advise account owners regarding:

(i) present and estimated future higher education costs; and

(ii) levels of financial participation in the plan required to enable account owners to achieve [~~their~~]the account owner's educational funding objective;

(h) participate in federal, state, local governmental, or private programs;

(i) create public and private partnerships, including investment or management relationships with other 529 plans or entities;

(j) promulgate, impose, and collect administrative fees and charges in connection with transactions of the plan, and provide for reasonable service charges;

(k) procure insurance:

(i) against any loss in connection with the property, assets, or activities of the plan; and

(ii) indemnifying any member of the board from personal loss or accountability arising from liability resulting from a member's action or inaction as a member of the plan's board;

(l) administer outreach efforts to:

(i) market and publicize the plan and the plan's products to existing and prospective account owners; and

(ii) encourage economically challenged populations to save for post-secondary education;

(m) adopt, trademark, and copyright names and materials for use in marketing and publicizing the plan and the plan's products;

(n) administer the funds of the plan;

(o) sue and be sued in the plan's own name;

(p) own institutional accounts in the plan to establish and administer:

(i) scholarship programs; or

(ii) other college savings incentive programs, including programs designed to enhance the savings of low income account owners investing in the plan; and

(q) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this chapter.

(4) (a) Except as provided in Subsection (4)(b), the plan is exempt from the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

(b) (i) The annual audited financial statements of the plan described in Section [~~53B-8a-111~~]53H-10-210 are public records.

(ii) Financial information that is provided by the plan to the state auditor and posted on the public finance website established by the state auditor in accordance with Section 67-3-12 is a public record.

(5) The plan is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 6a, Utah Procurement Code.

Section 299. Section 53H-10-203, which is renumbered from Section 53B-8a-104 is renumbered and amended to read:

[~~53B-8a-104~~]53H-10-203 (Effective upon governor's approval). Office facilities, clerical, and administrative support for the Utah Educational Savings Plan.

(1) The Utah Board of Higher Education shall provide to the plan, by agreement, administrative support and office facilities and space.

(2) Reasonable charges or fees may be levied against the plan pursuant to the agreement for the services provided by the Utah Board of Higher Education.

Section 300. Section 53H-10-204, which is renumbered from Section 53B-8a-105 is renumbered and amended to read:

[~~53B-8a-105~~]53H-10-204 (Effective upon governor's approval). Powers and duties of board.

(1) There is created the Utah Education Savings Board of Trustees.

(2) The Utah Board of Higher Education shall:

(a) appoint the members of the board as follows:

(i) not more than three members from the Utah Board of Higher Education; and

(ii) at least four public members, each of whom possesses skills in one or more of the following:

(A) investments;

(B) accounting;

(C) finance;

(D) banking;

(E) education;

(F) technology; or

(G) financial operations; and

(b) designate a member appointed under Subsection (2)(a) as chair.

(3) Each board member serves at the pleasure of the Utah Board of Higher Education.

(4) The board has all powers necessary to carry out and effectuate the purposes, objectives, and provisions of this chapter pertaining to the plan.

(5) The board shall act as a fiduciary of the plan with:

(a) a duty of care to act solely in the best interest of the plan's account owners and beneficiaries;

(b) a duty of loyalty putting the plan's interest ahead of other interests; and

(c) a duty to invest with care, skill, prudence, and diligence.

(6) The duties, responsibilities, funds, liabilities, and expenses of the board in oversight and governance of the plan shall be maintained separate and apart from the Utah Board of Higher Education's other duties, responsibilities, funds, liabilities, and expenses.

(7) The board shall:

(a) make policies governing the administration of the plan; and

(b) amend policies related to board governance.

(8) (a) The board may appoint advisory committees to aid the board in fulfilling [~~its~~]the board's duties and responsibilities.

(b) An advisory committee member may receive compensation and be reimbursed for reasonable expenses incurred in the performance of the member's official duties as determined by the board.

Section 301. Section 53H-10-205, which is renumbered from Section 53B-8a-106 is renumbered and amended to read:

[~~53B-8a-106~~]53H-10-205 (Effective upon governor's approval). Account agreements.

The plan may enter into account agreements with account owners on behalf of beneficiaries under the following terms and agreements:

(1) (a) An account agreement may require an account owner to agree to invest a specific amount of money in the plan for a specific period of time for the benefit of a specific beneficiary, not to exceed an amount determined by the executive director.

(b) Account agreements may be amended to provide for adjusted levels of payments based upon changed circumstances or changes in educational plans.

(c) An account owner may make additional optional payments as long as the total payments for a specific beneficiary do not exceed the total estimated higher education costs as determined by the executive director.

(d) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified investment that a corporation that is an account owner may subtract from unadjusted income for a taxable year in accordance with Title 59, Chapter 7, Corporate Franchise and Income Taxes, is $1,710 for each individual beneficiary for the taxable year [~~beginning on or after January 1, 2010, but beginning on or before December 31, 2010~~].

(e) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified investment that may be used as the basis for claiming a tax credit in accordance with Section 59-10-1017, is:

(i) subject to Subsection (1)(e)(iv), for a resident or nonresident estate or trust that is an account owner, $1,710 for each individual beneficiary for the taxable year [~~beginning on or after January 1, 2010, but beginning on or before December 31, 2010~~];

(ii) subject to Subsection (1)(e)(iv), for a resident or nonresident individual that is an account owner, other than a husband and wife who are account owners and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, $1,710 for each individual beneficiary for the taxable year [~~beginning on or after January 1, 2010, but beginning on or before December 31, 2010~~];

(iii) subject to Subsection (1)(e)(iv), for a husband and wife who are account owners and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, $3,420 for each individual beneficiary:

(A) for the taxable year [~~beginning on or after January 1, 2010, but beginning on or before December 31, 2010~~]; and

(B) regardless of whether the plan has entered into:

(I) a separate account agreement with each spouse; or

(II) a single account agreement with both spouses jointly; or

(iv) for a grantor trust:

(A) if the owner of the grantor trust has a single filing status or head of household filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(e)(ii); or

(B) if the owner of the grantor trust has a joint filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(e)(iii).

(f) (i) For each taxable [~~years beginning on or after January 1, 2011~~]year, the executive director shall annually increase the maximum amount of a qualified investment described in Subsections (1)(d) and (1)(e)(i) and (ii), by a percentage equal to the increase in the consumer price index for the preceding calendar year.

(ii) After making an increase required by Subsection (1)(f)(i), the executive director shall:

(A) round the maximum amount of the qualified investments described in Subsections (1)(d) and (1)(e)(i) and (ii) increased under Subsection (1)(f)(i) to the nearest 10 dollar increment; and

(B) increase the maximum amount of the qualified investment described in Subsection (1)(e)(iii) so that the maximum amount of the qualified investment described in Subsection (1)(e)(iii) is equal to the product of:

(I) the maximum amount of the qualified investment described in Subsection (1)(e)(ii) as rounded under Subsection (1)(f)(ii)(A); and

(II) two.

(iii) For purposes of Subsections (1)(f)(i) and (ii), the executive director shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(g) For each taxable [~~years beginning on or after January 1, 2011~~]year, the executive director shall keep the previous year's maximum amount of a qualified investment described in Subsections (1)(d) and (1)(e)(i) and (ii) if the consumer price index for the preceding calendar year decreases.

(2) (a) Beneficiaries designated in account agreements must be designated after birth and before age 19 for an account owner to:

(i) subtract a qualified investment from income under Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) use a qualified investment as the basis for claiming a tax credit in accordance with Section 59-10-1017.

(b) Account owners may designate a beneficiary age 19 or older, but investments for that beneficiary are not eligible to be:

(i) subtracted from income under Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) used as the basis for claiming a tax credit in accordance with Section 59-10-1017.

(3) Each account agreement shall state clearly that there are no guarantees regarding money in the plan as to the return of principal and that losses could occur.

(4) Each account agreement shall provide that:

(a) a contributor to, or designated beneficiary under, an account agreement may not direct the investment of any contributions or earnings on contributions;

(b) any part of the money in any account may not be used as security for a loan; and

(c) an account owner may not borrow from the plan.

(5) The execution of an account agreement by the plan may not guarantee in any way that higher education costs will be equal to projections and estimates provided by the plan or that the beneficiary named in any account agreement will:

(a) be admitted to an eligible educational institution;

(b) if admitted, be determined a resident for tuition purposes by the eligible educational institution;

(c) be allowed to continue attendance at the eligible educational institution following admission; or

(d) graduate from the eligible educational institution.

(6) A beneficiary may be changed as permitted by the rules and regulations of the board upon written request of the account owner prior to the date of admission of any beneficiary under an account agreement by an eligible educational institution so long as the substitute beneficiary is eligible for participation.

(7) An account agreement may be freely amended throughout the term of the account agreement in order to enable an account owner to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters as authorized by rule.

(8) Each account agreement shall provide that:

(a) the account agreement may be canceled upon the terms and conditions, and upon payment of the fees and costs set forth and contained in the board's rules and regulations; and

(b) the executive director may amend the agreement unilaterally and retroactively, if necessary, to maintain the plan as a qualified tuition program under Section 529, Internal Revenue Code.

Section 302. Section 53H-10-206, which is renumbered from Section 53B-8a-107 is renumbered and amended to read:

[~~53B-8a-107~~]53H-10-206 (Effective upon governor's approval). Program, administrative, and endowment funds -- Investment and payments from funds -- Proxy voting -- State treasurer access.

(1) The plan shall segregate money received by the plan into three funds, the program fund, the administrative fund, and the endowment fund.

(2) The board shall:

(a) invest the plan in a manner that is consistent with the prudent investor rule for trustees established in Title 75B, Chapter 2, Part 9, Uniform Prudent Investor Act;

(b) in accordance with the board's fiduciary responsibilities, make investment decisions with the sole purpose of maximizing the risk-adjusted return on the investments; and

(c) to the extent practicable:

(i) (A) retain the right to vote investor proxies; or

(B) if the investments are commingled with another investor's funds, request the right to vote investor proxies; and

(ii) ensure proxy voting is exercised to maximize risk-adjusted returns for the exclusive benefit of beneficiaries.

(3) Transfers may be made from the program fund to the administrative fund to pay operating costs:

(a) associated with administering the plan and as required under Sections [~~53B-8a-103~~]53H-10-202 through [~~53B-8a-105~~]53H-10-204; and

(b) as included in the budget approved by the board.

(4) (a) All money paid by account owners in connection with account agreements shall be deposited as received into separate accounts within the program fund which shall be invested and accounted for separately.

(b) Money accrued by account owners in the program fund may be used for:

(i) payments to any eligible educational institution;

(ii) payments to the account owner or beneficiary;

(iii) transfers to another 529 plan; or

(iv) other expenditures or transfers made in accordance with the account agreement.

(5) (a) All money received by the plan from the proceeds of gifts and other endowments for the purposes of the plan shall be:

(i) deposited, according to the nature of the donation, as received into the endowment fund or the administrative fund; and

(ii) invested and accounted for separately.

(b) Any gifts, grants, or donations made by any governmental unit or any person, firm, partnership, or corporation to the plan for deposit to the endowment fund or the administrative fund is a grant, gift, or donation to the state for the accomplishment of a valid public eleemosynary, charitable, and educational purpose and is not included in the income of the donor for Utah tax purposes.

(c) The endowment fund or the administrative fund may be used to enhance the savings of low income account owners investing in the plan, for scholarships, or for other college savings incentive programs as approved by the board.

(d) Transfers may be made between the endowment fund and the administrative fund upon approval by the board.

(e) Endowment fund earnings not accruing to a beneficiary under an account agreement, not transferred to the administrative fund, or not otherwise approved by the board for expenditure, shall be reinvested in the endowment fund.

(6) Subsection (2) does not prohibit the board from offering individual account owners a variety of voluntary investment options that have different risk profiles and investment objectives.

(7) (a) The board shall make proxy voting records available to the state treasurer upon the state treasurer's request.

(b) The state treasurer is subject to the same restrictions on disclosure of the proxy voting records as the board.

Section 303. Section 53H-10-207, which is renumbered from Section 53B-8a-108 is renumbered and amended to read:

[~~53B-8a-108~~]53H-10-207 (Effective upon governor's approval). Cancellation of agreements.

(1) Any account owner may cancel an account agreement at will.

(2) If an account agreement is cancelled by the account owner, the current account balance shall be disbursed to the account owner less:

(a) an administrative refund fee, which may be charged by the plan, except as provided in Subsection (3); and

(b) any penalty or tax required to be withheld by the Internal Revenue Code.

(3) An administration refund fee may not be levied by the plan if the account agreement is cancelled due to:

(a) the death of the beneficiary; or

(b) the permanent disability or mental incapacity of the beneficiary.

Section 304. Section 53H-10-208, which is renumbered from Section 53B-8a-109 is renumbered and amended to read:

[~~53B-8a-109~~]53H-10-208 (Effective upon governor's approval). Repayment and ownership of funds in the account -- Transfer of ownership rights.

(1) (a) The account owner retains ownership of funds in the account until:

(i) funds are used to pay higher education costs for the beneficiary;

(ii) funds are otherwise disbursed;

(iii) funds are transferred for administrative costs; or

(iv) the account is closed.

(b) Funds in the account shall be considered to be held in trust for the benefit of the beneficiary.

(2) Any amounts that may be paid pursuant to the plan that are not listed in this section are owned by the plan.

(3) (a) An account owner may transfer ownership rights to another eligible person.

(b) The transfer shall be affected and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the account agreement.

Section 305. Section 53H-10-209, which is renumbered from Section 53B-8a-110 is renumbered and amended to read:

[~~53B-8a-110~~]53H-10-209 (Effective upon governor's approval). Effect of payments on determination of need and eligibility for student aid.

No student loan program, student grant program, or other program administered by any agency of the state, except as may be otherwise provided by federal law or the provisions of any specific grant applicable to that law, shall take into account and consider amounts available for the payment of higher education costs pursuant to the plan in determining need and eligibility for student aid.

Section 306. Section 53H-10-210, which is renumbered from Section 53B-8a-111 is renumbered and amended to read:

[~~53B-8a-111~~]53H-10-210 (Effective upon governor's approval). Annual audit of financial statements.

The financial statements of the plan shall be audited annually by the state auditor or the state auditor's designee and reported in accordance with generally accepted accounting principles.

Section 307. Section 53H-10-211, which is renumbered from Section 53B-8a-112 is renumbered and amended to read:

[~~53B-8a-112~~]53H-10-211 (Effective upon governor's approval). Tax considerations.

(1) For tax purposes the property of the plan and [~~its~~]the plan's income are governed by Section 59-10-201.

(2) The tax commission, in consultation with the board and the plan, may adopt rules necessary to monitor and implement the tax provisions referred to in Subsection (1) as related to the property of the plan and [~~its~~]the plan's income.

Section 308. Section 53H-10-212, which is renumbered from Section 53B-8a-113 is renumbered and amended to read:

[~~53B-8a-113~~]53H-10-212 (Effective upon governor's approval). Property rights to plan assets.

(1) The assets of the plan, including the program fund and the endowment fund, shall at all times be preserved, invested, and expended solely and only for the purposes of the plan and shall be held in trust for the account owners and beneficiaries.

(2) No property rights in the plan shall exist in favor of the state.

(3) The assets may not be transferred or used by the state for any purposes other than the purposes of the plan.

Section 309. Section 53H-10-301, which is renumbered from Section 53B-8a-201 is renumbered and amended to read:

PART 3. Student Prosperity Savings Program

[~~53B-8a-201~~]53H-10-301 (Effective upon governor's approval). General provisions -- Definitions.

As used in this part:

(1) "529 savings account" means a tax-advantaged method of saving for higher education costs on behalf of a particular individual that:

(a) meets the requirements of Section 529, Internal Revenue Code; and

(b) is managed by the plan.

(2) "Child" means an individual less than 20 years of age.

(3) "Community partner" means a nonprofit organization that provide services to a child who is economically disadvantaged or a family member, legal guardian, or legal custodian of a child who is economically disadvantaged.

(4) "Donation" means a gift, grant, donation, or any other conveyance of money by a person other than the Legislature that is not made directly for the benefit or on behalf of a particular individual.

(5) "Economically disadvantaged" means that a child is:

(a) experiencing intergenerational poverty;

(b) a member or foster child of a family with an annual income at or below 185% of the federal poverty level;

(c) living with a legal custodian or legal guardian with an annual family income at or below 185% of the federal poverty level; or

(d) living with a legal custodian or legal guardian who can attest that the child or the child's household is receiving services benefitting low-income households or individuals.

(6) "Eligible individual" means an individual who:

(a) is under 20 years of age and is a resident of Utah;

(b) is economically disadvantaged; and

(c) receives, or has a family member, a foster family member, or a legal custodian or legal guardian who receives, services from a community partner.

(7) "Federal poverty level" means the poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(8) "Higher education costs" means the same as that term is defined in Section [~~53B-8a-102.5~~]53H-10-201, except that the expenses

must be incurred at:

(a) a credit-granting eligible educational institution within the state system of higher education;

(b) a private postsecondary educational institution; or

(c) a technical college.

(9) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(10) "Program" means the Student Prosperity Savings Program created in Section [~~53B-8a-202~~]53H-10-302.

Section 310. Section 53H-10-302, which is renumbered from Section 53B-8a-202 is renumbered and amended to read:

[~~53B-8a-202~~]53H-10-302 (Effective upon governor's approval). Student Prosperity Savings Program.

(1) There is created the Student Prosperity Savings Program.

(2) The program is funded by:

(a) appropriations from the Legislature; and

(b) donations made in accordance with Section [~~53B-8a-203~~]53H-10-303.

(3) (a) The plan shall administer the program.

(b) The plan shall use the program to create 529 savings accounts in accordance with this part.

Section 311. Section 53H-10-303, which is renumbered from Section 53B-8a-203 is renumbered and amended to read:

[~~53B-8a-203~~]53H-10-303 (Effective upon governor's approval). Donations to the program.

(1) (a) A person may make a donation to the program by:

(i) sending the donation to the plan; and

(ii) including with the donation, direction that the donation benefit the program.

(b) A person making a donation shall include the person's name and mailing address with the donation.

(2) (a) The plan shall mail a receipt to the person that makes the donation.

(b) The receipt described in Subsection (2)(a) shall state:

(i) the name of the person that made the donation;

(ii) the amount of the donation; and

(iii) the date on which the person makes the donation.

(c) The date on which the person makes a donation to the program is the date on which the plan receives the donation, unless the plan receives the donation on a Saturday, a Sunday, or a holiday, in which case the date on which the person makes the donation shall be the first business day after the day on which the plan receives the donation.

Section 312. Section 53H-10-304, which is renumbered from Section 53B-8a-204 is renumbered and amended to read:

[~~53B-8a-204~~]53H-10-304 (Effective upon governor's approval). Distribution of program money -- Application process -- Prioritization -- Account agreements.

(1) The plan shall distribute money in the program by creating a 529 savings account for an eligible individual identified by a community partner.

(2) (a) (i) The plan shall carry out the responsibility described in Subsection (1) by establishing a process in which a community partner may apply for an allocation of program money to designate for eligible individuals.

(ii) The Utah Board of Higher Education shall establish the application process for a community partner to apply for an allocation of program money.

(iii) The application process described in Subsection (2)(a)(ii) shall include:

(A) the criteria for a community partner to apply for an allocation of program money;

(B) the criteria that the plan will use to prioritize applications if the dollar amounts requested in the applications exceed the dollar amount available;

(C) the requirements for establishing a 529 savings account in the name of an eligible individual; and

(D) the roles and responsibilities of a community partner that makes a successful application for an allocation of program money.

(b) (i) A community partner that receives an allocation of program money shall enter into a contract with the plan.

(ii) The contract described in Subsection (2)(b)(i) shall:

(A) define the roles and responsibilities of the community partner and the plan with regard to the community partner's allocation of program money; and

(B) specify that the individual the community partner identifies to receive a portion of the community partner's allocation is an eligible individual.

(3) If the plan approves a community partner's application for an allocation of program money, the plan may not promise or otherwise encumber the allocation to any other person unless the allocation is forfeited under Subsection (5)(b)(ii).

(4) (a) A community partner shall identify each eligible individual who will receive a portion of the community partner's allocation of program money.

(b) After a community partner identifies an eligible individual to receive a portion of the community partner's allocation, the community partner shall notify the plan of:

(i) the amount of the community partner's allocation that shall transfer to a 529 savings account in the name of the identified eligible individual; and

(ii) the amount, if any, that the community partner will be contributing in accordance with [~~Part 1, Utah Educational Savings Plan~~]Part 2, Utah Educational Savings Plan, to the 529 savings account on behalf of the identified eligible individual.

(5) (a) Upon receiving the information described in Subsection (4)(b), the plan shall establish a 529 savings account for the identified eligible individual, with the community partner as the account owner.

(b) The community partner shall inform the beneficiary that:

(i) within three years after the day on which the beneficiary graduates from high school, the beneficiary shall enroll in:

(A) a credit-granting eligible educational institution within the state system of higher education;

(B) a private postsecondary educational institution; or

(C) a technical college; and

(ii) if the beneficiary fails to enroll within three years after the day on which the beneficiary graduates from high school, any money that remains in the 529 savings account shall be returned to the program.

(c) After entering into the account agreement described in Subsection (5)(a), the plan shall deposit into the beneficiary's 529 savings account the amount of the allocation described in Subsection (4)(b)(i).

Section 313. Section 53H-10-305, which is renumbered from Section 53B-8a-205 is renumbered and amended to read:

[~~53B-8a-205~~]53H-10-305 (Effective upon governor's approval). Application of other provisions of this chapter.

The provisions of [~~Part 1, Utah Educational Savings Plan~~]Part 2, Utah Educational Savings Plan, except Subsection [~~53B-8a-109(3)~~]53H-10-208(3), govern the 529 savings accounts established under the Student Prosperity Savings Program.

Section 314. Section 53H-10-401, which is renumbered from Section 53B-8a-301 is renumbered and amended to read:

PART 4. Education Savings Incentive Program

[~~53B-8a-301~~]53H-10-401 (Effective upon governor's approval) (Repealed 07/01/28). General provisions -- Definitions.

As used in this part:

(1) "529 savings account" means the same as that term is defined in Section 35A-9-601.

(2) "Department" means the Department of Workforce Services created in Section 35A-1-103.

(3) "Match" means the same as that term is defined in Section 35A-9-601.

(4) "Qualifying individual" means the same as that term is defined in Section 35A-9-601, except that the term is limited to individuals for whom the department sends information in accordance with Subsection 35A-9-604(3).

Section 315. Section 53H-10-402, which is renumbered from Section 53B-8a-302 is renumbered and amended to read:

[~~53B-8a-302~~]53H-10-402 (Effective upon governor's approval) (Repealed 07/01/28). Report of information to Department of Workforce Services.

Within 30 days of receiving the report described in Subsection 35A-9-604(3), the plan shall provide an electronic report to the department that lists:

(1) the total amount of deposits:

(a) during the calendar year for which the department makes the request; and

(b) for each 529 savings account of which a qualifying individual is an account owner; and

(2) the account number and the name of the beneficiary for each 529 savings account:

(a) into which a deposit was made; and

(b) for which a qualifying individual is an account owner.

Section 316. Section 53H-10-403, which is renumbered from Section 53B-8a-303 is renumbered and amended to read:

[~~53B-8a-303~~]53H-10-403 (Effective upon governor's approval) (Repealed 07/01/28). Deposit of match.

(1) The plan shall deposit a match from the Education Savings Incentive Restricted Account, created in Section 35A-9-602, into a 529 savings account in accordance with the provisions of Section 35A-9-605.

(2) If, upon receiving a transfer described in Subsection (1), the plan determines that the 529 savings account into which the plan is to deposit the match has been closed, the plan shall return the match to the department.

(3) The plan shall send the department an electronic receipt of the match deposits.

Section 317. Section 53H-11-101 is enacted to read:

CHAPTER 11. Student Financial Assistance

PART 1. General Provisions

53H-11-101 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 318. Section 53H-11-201 is enacted to read:

PART 2. Resident Student Status and Tuition

53H-11-201 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 319. Section 53H-11-202, which is renumbered from Section 53B-8-102 is renumbered and amended to read:

[~~53B-8-102~~]53H-11-202 (Effective upon governor's approval). Resident student status -- Definitions -- Exceptions.

(1) As used in this section:

(a) "DOD civilian" means an employee of the United States Department of Defense who is assigned to perform the employee's duties at a military organization based in Utah.

(b) "Eligible person" means an individual who is entitled to post-secondary educational benefits under [~~Title 38 U.S.C., Veterans' Benefits~~]Title 38, Veterans' Benefits, U.S.C.

(c) "Immediate family member" means an individual's spouse or dependent child.

(d) "Inmate" means the same as that term is defined in Section 64-13-1.

(e) "Military service member" means an individual who:

(i) is serving on active duty in the United States Armed Forces;

(ii) is a member of a reserve component of the United States Armed Forces; or

(iii) is a member of the National Guard.

(f) "Military veteran" means a veteran as that term is defined in Section 68-3-12.5.

(g) "National Guard" means the same as that term is defined in Section 39A-1-102.

(h) "Parent" means a student's biological or adoptive parent.

(2) The meaning of "resident student" is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3) (a) Institutions [~~within the state system of higher education~~]may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student's name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student's name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in [~~Chapter 8, Tuition Waiver and Scholarships~~]this chapter, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution [~~within the state system of higher education~~]shall grant resident student status for tuition purposes to:

(a) a military service member, if the military service member provides:

(i) the military service member's current United States military identification card;

(ii) a leave and earning statement of the military service member;

(iii) the military service member's military orders;

(iv) documentation of enlistment by the military service member; or

(v) a statement from the military service member's current commander stating that the military service member is currently serving in the military;

(b) a military service member's immediate family member, if the military service member's immediate family member provides:

(i) any of the documentation described in Subsection (8)(a); or

(ii) the immediate family member's current United States military identification card;

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides evidence of an honorable or general discharge;

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides evidence of the military veteran's honorable or general discharge;

(e) a foreign service member as defined in the Foreign Service Family Act of 2021 who is either:

(i) domiciled in Utah, recognizing the individual may not be physically present in the state due to an assignment; or

(ii) assigned to a duty station in Utah if the foreign service member provides:

(A) evidence of the foreign service member's status;

(B) a statement from the foreign service member's current commander, or equivalent, stating that the foreign service member is assigned in Utah; or

(C) evidence that the foreign service member is domiciled in Utah;

(f) a foreign service member's immediate family member if the foreign service member is either:

(i) domiciled in Utah, recognizing the individual may not be physically present in the state due to an assignment; or

(ii) assigned to a duty station in Utah if the foreign service member provides:

(A) evidence of the foreign service member's status;

(B) a statement from the foreign service member's current commander, or equivalent, stating that the foreign service member is assigned in Utah; or

(C) evidence that the foreign service member is domiciled in Utah;

(g) an eligible person who provides:

(i) evidence of eligibility under [~~Title 38 U.S.C., Veterans' Benefits~~]Title 38, Veterans' Benefits, U.S.C.; and

(ii) a signed written declaration that the eligible person will use the [~~Veteran Benefits~~]veteran benefits under Title 38 U.S.C.;

(h) an alien who provides:

(i) evidence that the alien is a special immigrant visa recipient;

(ii) evidence that the alien has been granted refugee status, humanitarian parole, temporary protected status, or asylum; or

(iii) evidence that the alien has submitted in good faith an application for refugee status, humanitarian parole, temporary protected status, or asylum under United States immigration law;

(i) an inmate:

(i) during the time the inmate is enrolled in the course; and

(ii) for one year after the day on which the inmate is released from a correctional facility as defined in Section 64-13-1;

(j) a DOD civilian, if the DOD civilian provides:

(i) the DOD civilian's current United States Department of Defense identification card; and

(ii) (A) a statement from the DOD civilian's current commander, or equivalent, stating that the DOD civilian is assigned in Utah; or

(B) evidence that the DOD civilian is domiciled in Utah, as described in Subsection (9)(a); or

(k) a DOD civilian's immediate family member, if the DOD civilian's immediate family member provides:

(i) the DOD civilian's current United States Department of Defense identification card; and

(ii) (A) a statement from the DOD civilian's current commander, or equivalent, stating that the DOD civilian is assigned in Utah; or

(B) evidence that the DOD civilian is domiciled in Utah, as described in Subsection (9)(a).

(9) (a) The evidence described in Subsection (8)(j)(ii)(B) or (8)(k)(ii)(B) includes:

(i) a current Utah voter registration card;

(ii) a valid Utah driver license or identification card;

(iii) a current Utah vehicle registration;

(iv) a copy of a Utah income tax return, in the name of the DOD civilian or DOD civilian's spouse, filed as a resident in accordance with Section 59-10-502; or

(v) proof that the DOD civilian or DOD civilian's spouse owns a home in Utah, including a property tax notice for property owned in Utah.

(b) Aliens who are present in the United States on visitor, student, or other visas not listed in Subsection (8)(h) or (9)(c), which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(c) Aliens who have been granted or have applied for permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14) (a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other

than to attend an institution of higher education.

(15) (a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16) (a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) A foreign service member or the foreign service member's immediate family member deemed eligible for resident student status under Subsection (8)(e) or (f) shall retain the eligibility for resident student status if the foreign service member or immediate family member maintains continuous enrollment even in the case of a change in domicile or duty station.

(18) A DOD civilian or the DOD civilian's immediate family member deemed eligible for resident student status under Subsection (8)(j) or (k) shall retain the eligibility for resident student status if the DOD civilian or the DOD civilian's immediate family member maintains continuous enrollment even in the case of a change in domicile or duty station.

(19) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

(20) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

Section 320. Section 53H-11-203, which is renumbered from Section 53B-8-106 is renumbered and amended to read:

[~~53B-8-106~~]53H-11-203 (Effective upon governor's approval). Resident tuition -- Requirements -- Rules.

(1) If allowed under federal law, a student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, shall be exempt from paying the nonresident portion of total tuition if the student:

(a) attended high school in this state for three or more years;

(b) graduated from a high school in this state or received the equivalent of a high school diploma in this state; and

(c) registers as an entering student at an institution of higher education [~~not earlier than the fall of the 2002-03 academic year~~].

(2) In addition to the requirements under Subsection (1), a student without lawful immigration status shall file an affidavit with the institution of higher education stating that the student has filed an application to legalize his immigration status, or will file an application as soon as he is eligible to do so.

(3) The board shall make rules for the implementation of this section.

(4) Nothing in this section limits the ability of institutions of higher education to assess nonresident tuition on students who do not meet the requirements under this section.

Section 321. Section 53H-11-301 is enacted to read:

PART 3. Tuition Waivers and Exemptions

53H-11-301 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 322. Section 53H-11-302, which is renumbered from Section 53B-8d-102 is renumbered and amended to read:

[~~53B-8d-102~~]53H-11-302 (Effective upon governor's approval). Tuition waivers for wards of the state.

(1) As used in this [~~chapter~~]section:

[~~(1)~~](a) "Division" means the Division of Child and Family Services.

[~~(2)~~](b) "Long-term foster care" means an individual who remains in the custody of the division, whether or not the individual resides:

[~~(a)~~](i) with licensed foster parents; or

[~~(b)~~](ii) in independent living arrangements under the supervision of the division.

[~~(3) "State institution of higher education" means an institution described in Section 53B-1-102.~~]

[~~(4)~~](c) "Tuition" means tuition at the rate for residents of the state.

[~~(5)~~](d) "Ward of the state" means an individual:

[~~(a)~~](i) who is:

[~~(i)~~](A) at least 17 years old; and

[~~(ii)~~](B) not older than 26 years old;

[~~(b)~~](ii) who had a permanency goal in the individual's child and family plan, as described in Sections 80-3-307 and 80-3-409, of long-term foster care while in the custody of the division; and

[~~(c)~~](iii) for whom the custody of the division was not terminated as a result of adoption.

(2) Subject to the limitations in Subsections (3), (4), and (5), an institution of higher education shall waive tuition for each ward of the state who meets the following requirements:

(a) applies, qualifies, and is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate;

(b) is a resident student of the state as determined under Section 53H-11-202;

(c) applies to the division for a waiver of tuition under this section and provides evidence satisfactory to the division that:

(i) the applicant was in the custody of the division for an aggregate period of not less than 24 months; and

(ii) the course or courses for which the applicant is seeking a tuition waiver meet the requirements of Subsection (3);

(d) applies under Subsection (2)(c) for the first time before the age of 22;

(e) is certified by the financial aid officer at the higher education institution as needing the tuition waiver in order to meet recognized educational expenses;

(f) maintains satisfactory academic progress, as defined by the institution of higher education, for each term or semester in which the individual is enrolled, which may be measured by the definition used for federal student assistance programs under Title IV of the Higher Education Act of 1965; and

(g) has not achieved a bachelor's degree and has received tuition reimbursement under this section for less than 124 semester credits or 180 quarter credits at an institution of higher education.

(3) A ward of the state is eligible for a tuition waiver under this section of not more than nine semesters.

(4) Tuition shall be waived:

(a) after the individual has applied for financial assistance, including scholarships and Pell Grants; and

(b) only to the extent that the tuition is not covered or paid by any scholarship, trust fund, statutory benefit, Pell Grant, or any other source of tuition coverage available for a waiver under this section.

(5) An institution of higher education shall waive tuition under this section only for courses that are applicable toward the degree or certificate requirements of the program in which the student is enrolled.

(6) Upon receiving an application under this section, the division shall determine whether the applicant and the courses for which tuition waiver is sought meet the requirements of this section and, if so, shall approve the application and notify the institution that the application has been approved.

(7) The division shall provide the necessary forms and applications and cooperate with the state's institutions of higher education in developing efficient procedures for the implementation of this section.

(8) The division shall reimburse the state's institutions of higher education for any tuition waived under this section.

(9) The Legislature may annually appropriate the funds necessary to implement this section, including money to offset the reimbursement of tuition waivers.

Section 323. Section 53H-11-303, which is renumbered from Section 53B-8e-102 is renumbered and amended to read:

[~~53B-8e-102~~]53H-11-303 (Effective upon governor's approval). Tuition waivers for Purple Heart recipients.

(1) As used in this [~~chapter.~~]section:

[~~(1)~~](a) "Purple Heart recipient" means any Utah resident who is a military veteran and who has earned a Purple Heart award as a result of military service.

[~~(2) "State institution of higher education" means an institution listed in Section 53B-1-102.~~]

[~~(3)~~](b) [~~(a)~~](i) "Tuition" means tuition at the rate for residents of the state.

[~~(b)~~](ii) "Tuition" excludes fees.

(2) An institution of higher education shall waive undergraduate tuition for each Purple Heart recipient who:

(a) is admitted as a full-time, part-time, or summer school student in an undergraduate program of study leading to a degree or certificate;

(b) is a resident student of the state as determined under Section 53H-11-202; and

(c) submits verification as provided in Subsection (3) that the student is a Purple Heart recipient.

(3) (a) An institution of higher education shall waive graduate tuition as provided in this Subsection (3) for each Purple Heart recipient who:

(i) is admitted as a full-time, part-time, or summer school student in a graduate program of study leading to a degree;

(ii) is a resident student of the state as determined under Section 53H-11-202; and

(iii) submits verification as provided in Subsection (4) that the student is a Purple Heart recipient.

(b) To qualify for a graduate tuition waiver, a Purple Heart recipient shall apply for a graduate program no later than 10 years from the day on which the Purple Heart recipient completes an undergraduate degree.

(c) The total amount of all graduate tuition waived for a Purple Heart recipient may not exceed $10,000.

(d) A Purple Heart recipient may receive a graduate tuition waiver for a period of time that does not exceed the lesser of:

(i) the time it takes for the Purple Heart recipient to complete a graduate degree; or

(ii) five years after the day on which the Purple Heart recipient is accepted to a graduate program.

(4) (a) A Purple Heart recipient seeking a tuition waiver shall request the Department of Veterans and Military Affairs to provide the verification required by Subsection (2)(c).

(b) The Department of Veterans and Military Affairs shall provide the verification upon obtaining evidence satisfactory to the division that the student is a Purple Heart recipient.

(5) The waiver in this section does not apply to fees.

(6) The board may request reimbursement from the Legislature for costs incurred in providing the tuition waiver under this section.

Section 324. Section 53H-11-304, which is renumbered from Section 53B-9-101 is renumbered and amended to read:
[~~53B-9-101~~]53H-11-304 (Effective upon governor's approval). Higher education for senior citizens and veterans.

(1) The Legislature finds that substantial benefits would accrue to the state, as well as those directly involved, through making higher education more accessible to senior citizens and veterans who [~~generally find themselves with~~]possess more time for learning but with less funds for such purposes.

(2) (a) An institution of higher education shall allow Utah residents who have reached 62 years old or are veterans as defined in Section 68-3-12.5 to enroll at the institution, in classes for which [~~they~~]the Utah residents may be qualified, on the basis of surplus space in regularly scheduled classes and in accordance with this [~~chapter~~]section and implementing rules.

(b) These persons are exempt from tuition and other charges, except for a quarterly registration fee established by the board.

(3) Enrollment of senior citizens under this section is permissible after regularly enrolled students have been assigned and admitted to available classroom space in accordance with regular procedures and normal teaching loads in that space within the approved budget.

(4) Enrollments are determined by each institution under rules and guidelines made by the board in accordance with findings of fact that space is available for the enrollments without increased instructional cost.

(5) Institutional enrollment reports shall show senior citizens separately, and the senior citizens are not counted as full-time students.

(6) The board may promulgate reasonable rules to carry out the purpose of this section.

Section 325. Section 53H-11-305, which is renumbered from Section 53B-8-101 is renumbered and amended to read:
[~~53B-8-101~~]53H-11-305 (Effective upon governor's approval). Presidential waivers of tuition.

(1) (a) The president of an institution of higher education [~~described in Section 53B-2-101~~] may waive all or part of the tuition on behalf of meritorious or impecunious resident students to an amount not exceeding 10% of the total amount of tuition which, in the absence of the waivers, would have been collected from all Utah resident students at the institution of higher education.

(b) (i) Two and a half percent of the waivers designated in Subsection (1)(a) shall be set aside for members of the Utah National Guard.

(ii) A waiver described in Subsection (1)(b)(i) shall be preserved by the student at least 60 days before the beginning of an academic term.

(2) (a) A president of [~~an institution of higher education listed in Subsections 53B-2-101(1)(a) through (h)~~]a degree-granting institution may waive all or part of the nonresident portion of tuition for a meritorious nonresident undergraduate student.

(b) In determining which students are meritorious for purposes of granting a tuition waiver under Subsection (2)(a), a president shall consider students who are performing above the average at the institution of higher education, including having an admissions index higher than the average for the institution, if an admissions index is used.

(c) A president of an institution of higher education may continue to waive the nonresident portion of tuition for a student described in Subsection (2)(a) for as long as the student is enrolled at the institution of higher education.

(d) In addition to waiving the nonresident portion of tuition for a meritorious nonresident student under Subsection (2)(a), a president of an institution of higher education may waive the resident portion of tuition after the meritorious nonresident student completes a year of full-time study at the institution of higher education.

(3) To encourage students to enroll for instruction in occupations critical to the state for which trained personnel are in short supply, a president of an institution of higher education shall grant additional full or partial tuition waivers upon recommendation of the board.

(4) A president of an institution of higher education may waive all or part of the difference between resident and nonresident tuition for:

(a) meritorious graduate students; or

(b) nonresident summer school students.

(5) The board may establish policies that:

(a) require [~~an institution of higher education described in Subsections 53B-2-101(1)(a)through (h)~~]a degree-granting institution to regularly assess and report whether the institution of higher education's use of tuition waivers supports the goals established by the board in accordance with Section [~~53B-1-402~~]53H-1-203 for the institution of higher education;

(b) subject to the provisions of this section, establish the amount or percentage of tuition that an institution of higher education may waive;

(c) define the terms "meritorious" and "impecunious," as the terms apply to tuition waivers for resident students described in Subsection (1)(a); and

(d) establish limitations on an institution of higher education's allocation of waivers described in Subsection (1)(a) for resident students who are meritorious or resident students who are impecunious.

(6) (a) The board shall submit an annual budget appropriation request for each institution of higher education [~~described in Section 53B-2-101~~].

(b) A request described in Subsection (6)(a) shall include requests for funds sufficient in amount to equal the estimated loss of dedicated credits that would be realized if all of the tuition waivers authorized by Subsection (2) were granted.

Section 326. Section 53H-11-306, which is renumbered from Section 53B-8c-102 is renumbered and amended to read:
[~~53B-8c-102~~]53H-11-306 (Effective upon governor's approval). Police officer's and firefighter's survivor tuition waiver.

(1) As used in this [~~chapter~~]section:

[~~(1)~~](a) "Child" means an individual who:

[~~(a)~~](i) is a natural or adopted child of a deceased peace officer or deceased firefighter; and

[~~(b)~~](ii) was under the age of 25 at the time of the peace officer's or firefighter's death.

[~~(2)~~](b) "Department" means the Department of Public Safety.

[~~(3)~~](c) [~~(a)~~](i) "Fees" means general course fees, in addition to tuition, that are:

[~~(i)~~](A) imposed by [~~a state~~]an institution of higher education; and

[~~(ii)~~](B) required to be paid by a student to engage in a course of study at the [~~state~~] institution of higher education.

[~~(b)~~](ii) "Fees" does not include a special course fee.

[~~(4)~~](d) "Killed" means that the peace officer's or firefighter's death is the direct and proximate result of a traumatic injury incurred in the line of duty.

[~~(5)~~](e) "Line of duty" means an action that a peace officer or firefighter is obligated or authorized to perform by rule, regulation, condition of employment or service, or law, including a social, ceremonial, or athletic function that the peace officer or firefighter is assigned to or compensated for by the public agency being served.

[~~(6)~~](f) "Occupational disease" means a disease that routinely constitutes a special hazard in, or is commonly regarded as concomitant of, the peace officer's or firefighter's occupation.

[~~(7) "State institution of higher education" means those institutions designated in Section 53B-1-102.~~]

[~~(8)~~](g) "Traumatic injury" means a wound or the condition of the body caused by external force, including an injury inflicted by bullet, explosive, sharp instrument, blunt object, or other physical blow, fire, smoke, chemical, electricity, climatic condition, infectious disease, radiation, or bacteria, but excluding an occupational disease.

[~~(9)~~](h) "Tuition" means tuition and fees at the rate charged for residents of the state.

[~~(10)~~](i) [~~(a)~~](i) "Utah firefighter" or "firefighter" means a member, including volunteer members and members paid on call, of a fire department or other organization that provides fire suppression and other fire-related services, of a political subdivision who is responsible for or is in a capacity that includes responsibility for the extinguishment of fires.

[~~(b)~~](ii) "Utah firefighter" or "firefighter" does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.

[~~(11)~~](j) "Utah peace officer" or "peace officer" means an employee of a law enforcement agency that is part of or administered by the state or any of its political subdivisions, and whose duties consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(2) Subject to the limitations in Subsections (3), (4), and (5), an institution of higher education shall waive tuition for each child and surviving spouse of a Utah peace officer or Utah firefighter who has been killed or is killed in the line of duty if the individual meets the following requirements:

(a) applies, qualifies, and is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate;

(b) is a resident student of the state as determined under Section 53H-11-202;

(c) applies to the department for a waiver of tuition under this section and provides evidence satisfactory to the department that:

(i) the applicant is the surviving spouse or child of a peace officer or firefighter who was killed in the line of duty;

(ii) the course or courses for which the applicant is seeking a tuition waiver meet the requirements of Subsection (3); and

(iii) the applicant meets the other requirements of this section;

(d) for a child of a peace officer or firefighter killed in the line of duty, applies under Subsection (2)(c) for the first time before turning 25 years old;

(e) maintains satisfactory academic progress, as defined by the institution of higher education, for each term or semester in which the individual is enrolled, which may be measured by the definition used for federal student assistance programs under Title IV of the Higher Education Act of 1965; and

(f) has not achieved a bachelor's degree and has received tuition reimbursement under this section for less than 124 semester credits or 180 quarter credits at an institution of higher education.

(3) A child or surviving spouse of a peace officer or firefighter who was killed in the line of duty is eligible for a tuition waiver under this section of not more than nine semesters or the equivalent number of quarters.

(4) Tuition shall be waived only to the extent that the tuition is not covered or paid by any scholarship, trust fund, statutory benefit, or any other source of tuition coverage available for a waiver under this section.

(5) An institution of higher education shall waive tuition under this section only for courses that are applicable toward the degree or certificate requirements of the program in which the child or surviving spouse is enrolled.

(6) Upon receiving an application under Subsection (2)(c), the department shall determine whether the applicant and the courses for which tuition waiver is sought meet the requirements of this section and, if so, shall approve the application and notify the institution that the application has been approved.

(7) The department shall provide the necessary forms and applications and cooperate with the institution of higher education in developing efficient procedures for the implementation of this section.

(8) The Legislature may annually appropriate the funds necessary to implement this section, including money to offset the tuition waivers at each institution.

Section 327. Section 53H-11-307, which is renumbered from Section 53B-8-103 is renumbered and amended to read:

[~~53B-8-103~~]53H-11-307 (Effective upon governor's approval). Waiver of nonresident differential in tuition rates -- Utah Tech University good neighbor tuition waivers.

(1) Notwithstanding any other provision of law:

(a) (i) The board may determine when to grant a full or partial waiver of the nonresident differential in tuition rates charged to undergraduate students pursuant to reciprocal agreements with other states.

(ii) In making the determination described under Subsection (1)(a)(i), the board shall consider the potential of the waiver to:

(A) enhance educational opportunities for Utah residents;

(B) promote mutually beneficial cooperation and development of Utah communities and nearby communities in neighboring states;

(C) contribute to the quality of educational programs; and

(D) assist in maintaining the cost effectiveness of auxiliary operations in [~~Utah~~]institutions of higher education.

(b) (i) Consistent with its determinations made pursuant to Subsection (1)(a), the board may enter into agreements with other states to

provide for a full or partial reciprocal waiver of the nonresident tuition differential charged to undergraduate students.

(ii) An agreement shall provide for the numbers and identifying criteria of undergraduate students, and shall specify the institutions of higher education that will be affected by the agreement.

(c) The board shall establish policy guidelines for the administration by the affected [~~Utah~~] institutions of any tuition waivers authorized under this section, for evaluating applicants for such waivers, and for reporting the results of the reciprocal waiver programs authorized by this section.

(d) A report and financial analysis of any waivers of tuition authorized under this section shall be submitted annually to the general session of the Legislature as part of the budget recommendations of the board for the system of higher education.

(2) (a) Utah Tech University may offer a good neighbor full waiver of the nonresident differential in tuition rates charged to undergraduate students:

(i) pursuant to reciprocal agreements with other states; or

(ii) to a resident of a county that has a portion of the county located within 70 miles of the main campus of Utah Tech University.

(b) (i) A student who attends Utah Tech University under a good neighbor tuition waiver shall pay a surcharge per credit hour in addition to the regular resident tuition and fees of Utah Tech University.

(ii) The surcharge per credit hour shall be based on a percentage of the approved resident tuition per credit hour each academic year.

(iii) The percentage assessed as a surcharge per credit hour shall be set by the board.

(c) Utah Tech University may restrict the number of good neighbor tuition waivers awarded.

(d) A student who attends Utah Tech University on a good neighbor tuition waiver may not count the time during which the waiver is received towards establishing resident student status in Utah.

Section 328. Section 53H-11-308, which is renumbered from Section 53B-8-107 is renumbered and amended to read:

[~~53B-8-107~~]53H-11-308 (Effective upon governor's approval). Scott B. Lundell Military Survivors' tuition waiver.

(1) As used in this section:

(a) "Federal active duty" means serving under orders in accordance with [~~United States Code, Title 10 or Title 32, at any time on or after September 11, 2001.~~]10 U.S.C. or 32 U.S.C. on or after September 11, 2001.

(b) "Qualifying deceased military member" means a person who:

(i) was killed while serving on state or federal active duty, under orders of competent authority and not as a result of the member's own misconduct; or

(ii) dies of wounds or injuries received while serving on state or federal active duty, under orders of competent authority and not as a result of the member's own misconduct; and

(iii) was a member of the armed forces of the United States and a Utah resident;

(iv) was a member of the reserve component of the armed forces on or after September 11, 2001, and a Utah resident; or

(v) was a member of the Utah National Guard on or after September 11, 2001.

(c) "State active duty" means serving in the Utah National Guard in any duty status authorized by the governor under Title 39A, National Guard and Militia Act.

[~~(2) This section shall be known as the Scott B. Lundell Military Survivors' tuition waiver.~~]

[~~(3)~~](2) [~~A state~~]An institution of higher education shall waive undergraduate tuition for a dependent of a qualifying deceased military member under the following conditions:

(a) the dependent has been accepted by the institution in accordance with the institution's admissions guidelines;

(b) except as provided in Subsection [~~(4)~~](3), the dependent is a resident student as determined under Section [~~53B-8-102~~]53H-11-202;

(c) the dependent may not have already completed a course of studies leading to an undergraduate degree;

(d) the dependent may only utilize the waiver for courses that are applicable toward the degree or certificate requirements of the program in which the dependent is enrolled; and

(e) the dependent may not be excluded from the waiver if the dependent has previously taken courses at or has been awarded credit by [~~a state~~]an institution of higher education.

[~~(4)~~](3) Notwithstanding Subsection [~~(3)(b)~~](2)(b), a dependent of a qualifying deceased military member that was a member of the Utah National Guard is not required to be a resident student as determined under Section [~~53B-8-102~~]53H-11-202.

[~~(5)~~](4) The tuition waiver in this section is applicable for undergraduate study only.

[~~(6)~~](5) The Department of Veterans and Military Affairs, after consultation with the adjutant general if necessary, shall certify to the institution that the dependent is a surviving dependent eligible for the tuition waiver in accordance with this section.

[~~(7)~~](6) The waiver in this section does not apply to fees, books, or housing expenses.

[~~(8)~~](7) The board may request reimbursement from the Legislature for costs incurred in providing the tuition waiver under this section.

Section 329. Section 53H-11-401 is enacted to read:

PART 4. Scholarships, Grants, Awards, and Incentive Loans

53H-11-401 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 330. Section 53H-11-402, which is renumbered from Section 53B-8-201 is renumbered and amended to read:

[~~53B-8-201~~]53H-11-402 (Effective upon governor's approval). Opportunity Scholarship Program.

(1) As used in this section:

(a) "Eligible institution" means:

(i) [~~a degree-granting~~]an institution [~~of higher education within the state system of higher education~~]; or

(ii) a private, nonprofit institution of higher education in the state.

(b) "Eligible student" means a student who:

(i) applies to the board in accordance with the rules described in Subsection (5);

(ii) is enrolled in an eligible institution; and

(iii) meets the criteria established by the board in rules described in Subsection (5).

(c) "Fee" means:

(i) for an eligible institution that is a degree-granting institution, a fee approved by the board; or

(ii) for an eligible institution that is a technical college or a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53H-3-608, a fee approved by the eligible institution.

(d) "Program" means the Opportunity Scholarship Program described in this section.

(2) (a) Subject to legislative appropriations, the board shall annually distribute money for the Opportunity Scholarship Program described in this section to each eligible institution to award as Opportunity scholarships to eligible students.

(b) The board shall annually determine the amount of an Opportunity scholarship based on:

(i) the number of eligible students in the state; and

(ii) money available for the program.

(c) The board may not use more than 3% of the money appropriated to the program for administrative costs and overhead.

(3) (a) Except as provided in this Subsection (3), an eligible institution shall provide to an eligible student an Opportunity scholarship in the amount determined by the board described in Subsection (2)(b).

(b) For an Opportunity scholarship for which an eligible student applies on or before July 1, 2019, an eligible institution may reduce the amount of the Opportunity scholarship based on other state aid awarded to the eligible student for tuition and fees.

(c) For an Opportunity scholarship for which an eligible student applies after July 1, 2019:

(i) an eligible institution shall reduce the amount of the Opportunity scholarship so that the total amount of state aid awarded to the eligible student, including tuition or fee waivers and the Opportunity scholarship, does not exceed the cost of the eligible student's tuition and fees; and

(ii) the eligible student may only use the Opportunity scholarship for tuition and fees.

(d) An institution described in Subsection (1)(a)(ii) may not award an Opportunity scholarship to an eligible student in an amount that exceeds the average total cost of tuition and fees among the eligible institutions described in Subsection (1)(a)(i).

(e) If the allocation for an eligible institution described in Subsection (1)(a)(ii) is insufficient to provide the amount described in Subsection (2)(b) to each eligible student, the eligible institution may reduce the amount of an Opportunity scholarship.

(4) The board may:

(a) audit an eligible institution's administration of Opportunity scholarships;

(b) require an eligible institution to repay to the board money distributed to the eligible institution under this section that is not provided to an eligible student as an Opportunity scholarship; and

(c) require an eligible institution to enter into a written agreement with the board in which the eligible institution agrees to provide the board with access to information and data necessary for the purposes of the program.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

(a) requirements related to an eligible institution's administration of Opportunity scholarships;

(b) a process for a student to apply to the board to determine the student's eligibility for an Opportunity scholarship;

(c) criteria to determine a student's eligibility for an Opportunity scholarship, including:

(i) minimum secondary education academic performance standards; and

(ii) the completion of a Free Application for Federal Student Aid or a process approved by the board in lieu of the Free Application for Federal Student Aid;

(d) a requirement for each eligible institution to annually report to the board on all Opportunity scholarships awarded by the eligible institution; and

(e) a process for a student to apply to the board for an Opportunity scholarship who would have likely received the scholarship but for an irreconcilable error in the application process described in Subsection (5)(b).

(6) The board shall annually report on the program to the Higher Education Appropriations Subcommittee.

(7) The State Board of Education, a school district, or a public high school shall cooperate with the board and eligible institutions to facilitate the program, including by exchanging relevant data where allowed by law.

Section 331. Section 53H-11-403, which is renumbered from Section 53B-8-112.5 is renumbered and amended to read: [~~53B-8-112.5~~]53H-11-403 (Effective upon governor's approval). Karen Mayne Public Safety Officer Scholarship Program.

(1) As used in this section:

(a) "Peace officer" means the same as that term is defined in Section [~~53B-8c-102~~]53H-11-306.

(b) "POST" means the Peace Officer Standards and Training Division created in Section 53-6-103.

(c) "Program" means the Karen Mayne Public Safety Officer Scholarship Program that this section creates.

(2) This section creates the Karen Mayne Public Safety Officer Scholarship Program.

(3) (a) Subject to legislative appropriations, the board shall award a scholarship to a qualified applicant who:

(i) is a high school graduate;

(ii) submits an application to the board with a copy of the student's high school diploma;

(iii) when eligible, enrolls in a basic training course at a state certified academy as defined in Section 53-6-202;

(iv) subject to Subsection (3)(b), is enrolled in a qualifying post-secondary program from:

(A) an institution of higher education [~~within the state system of higher education, described~~]listed in Section [~~53B-1-102~~]53H-1-102; or

(B) a private postsecondary educational institution; and

(v) commits to working as a peace officer for no less than five years after the day on which POST certifies the scholarship recipient.

(b) For purposes of Subsection (3)(a)(iv), the board shall determine the programs that qualify for a scholarship award, including criminal justice, police administration, criminology, social sciences, and other disciplines.

(4) (a) The board shall determine the amount of a scholarship award, ensuring that the amount does not exceed the combined cost of tuition, fees, and required textbooks.

(b) A scholarship award described in Subsection (4)(a) is limited to:

(i) POST training and certification in accordance with Title 53, Chapter 6, Peace Officer Standards and Training Act; and

(ii) a maximum of four academic years in a post-secondary program.

(5) The board shall design the scholarship program to ensure that participating institutions combine state or federal loans or grants, internships, student employment, and family and individual contributions toward financing the cost of attendance.

(6) A scholarship recipient shall:

(a) notify the board of the scholarship recipient's POST certification within 15 days after the day on which POST certifies the scholarship recipient;

(b) submit verification of the scholarship recipient's employment to the board within 15 days after the day on which the scholarship recipient is employed as a peace officer, including:

(i) the employer's name, address, and telephone number;

(ii) the date of the scholarship recipient's hiring; and

(iii) the scholarship recipient's job title; and

(c) notify the board within 15 days after the day on which the employer terminates the scholarship recipient.

(7) (a) The board may require a scholarship recipient to repay the full amount of the scholarship award that the scholarship recipient received under the program, including money paid for tuition, fees, and required textbooks, if the scholarship recipient fails to:

(i) meet the requirements for POST certification as described in Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act;

(ii) work as a peace officer for five years after the day on which POST certifies the scholarship recipient; or

(iii) subject to Subsection (3), earn a degree in a post-secondary program.

(b) Notwithstanding Subsection (7)(a), a scholarship recipient is not required to repay any amount of the scholarship award if the scholarship recipient:

(i) is unable to secure employment as a peace officer within 12 months after the day on which the scholarship recipient is POST certified; and

(ii) provides documentation from a prospective employer that the scholarship recipient was not extended an offer of employment.

(8) The board may use up to 2% of the money appropriated for the scholarship program for administrative costs.

(9) (a) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving scholarship applications and supporting documentation;

(ii) establish an application process and appeal process for the program;

(iii) establish policies and procedures for cancellation or repayment of scholarship awards if the scholarship recipient fails to meet the requirements under this section;

(iv) collaborate with POST and other law enforcement and correction agencies to provide high school students information on law enforcement careers; and

(v) notify POST when a student receives a scholarship under the program.

(b) The board shall include a disclosure on all applications and materials related to the program that the amount of the awarded scholarship may be subject to funding availability or reduction in accordance with Subsection (10).

(10) If an appropriation under this section is insufficient to cover the costs associated with the program, the board may:

(a) reduce the amount of a scholarship award; and

(b) distribute scholarship awards on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

Section 332. Section 53H-11-404, which is renumbered from Section 53B-8-103.5 is renumbered and amended to read:
[~~53B-8-103.5~~]53H-11-404 (Effective upon governor's approval). Alumni legacy nonresident scholarships.

(1) (a) In addition to other nonresident tuition scholarships, the president of an institution may waive an amount up to one academic school year's equivalent of the nonresident portion of tuition for alumni legacy nonresident scholarships.

(b) The tuition waiver described in Subsection (1)(a) may only be given once and applied to a student's:

(i) first full school year of non-residency status;

(ii) first two semesters of non-residency status; or

(iii) first four quarters of non-residency status.

(2) The purposes of alumni legacy nonresident scholarships are to:

(a) assist in maintaining an adequate level of service and related cost-effectiveness of auxiliary operations in institutions of higher education;

(b) promote enrollment of nonresident students with high academic aptitudes; and

(c) recognize the legacy of past graduates and promote a continued connection to [~~their~~]the past graduates' alma mater.

(3) To qualify for an alumni legacy scholarship, a student shall:

(a) enroll at an institution [~~within the state system of higher education~~]for the first time; and

(b) have at least one parent who graduated with an associate's degree or higher from the same institution in which the student is enrolling.

Section 333. Section 53H-11-405, which is renumbered from Section 53B-8-104.5 is renumbered and amended to read:
[~~53B-8-104.5~~]53H-11-405 (Effective upon governor's approval). Nonresident tuition scholarships.

(1) In addition to the scholarships authorized under Section [~~53B-8-104~~]53H-11-406, the board may grant scholarships for a waiver of the nonresident portion of total tuition charged by [~~public~~] institutions of higher education to nonresident students, subject to the limitations provided in this section, if the board determines that the scholarships will:

(a) assist in maintaining an adequate level of service and related cost-effectiveness of auxiliary operations in [~~Utah~~]institutions of higher education;

(b) promote enrollment of nonresident students with high academic aptitudes; and

(c) provide for an effective transition to meet the requirements of Section [~~53B-8-102~~]53H-11-202.

(2) The board shall establish policy guidelines for the administration by institutions of higher education of scholarships authorized under Subsection (1), for evaluating applicants for those scholarships, and for reporting the results of the scholarship program authorized under Subsection (1).

(3) The policy guidelines promulgated by the board under Subsection (2) shall include the following provisions:

(a) a maximum of 675 of the approved scholarships may be up to 100% of the differential tuition charged to nonresident students for an equal number of credit hours of instruction;

(b) 225 of the approved scholarships may not be at a level of more than 50% of the differential tuition charged to nonresident students for an equal number of credit hours of instruction;

(c) a nonresident scholarship may be awarded initially only to a nonresident student who has not previously been enrolled in a college or university in Utah and who has enrolled full time for 10 or more credit hours;

(d) the total number of nonresident scholarships granted under Subsection (1) may not exceed a total of 900 such scholarships in effect at any one time;

(e) the board shall determine eligibility for nonresident scholarships on the basis of program availability at an institution and appropriate academic credentials, using quantifiable measurements such as grade point averages and results of test scores; and

(f) a nonresident student who receives a scholarship of greater than 50% of the differential tuition charged to nonresident students for an equal number of credit hours of instruction may not be counted against the funded target for the institution attended.

(4) The board shall submit an annual report and financial analysis of the effects of offering nonresident tuition scholarships authorized under this section to the Legislature as part of its budget recommendations for the system of higher education.

(5) This section applies to tuition scholarships and not the individual admission standards of higher education.

Section 334. Section 53H-11-406, which is renumbered from Section 53B-8-104 is renumbered and amended to read:

[~~53B-8-104~~]53H-11-406 (Effective upon governor's approval). Nonresident partial tuition scholarships.

(1) The board may grant a scholarship for partial waiver of the nonresident portion of total tuition charged by [~~public~~] institutions of higher education to nonresident undergraduate students, subject to the limitations provided in this section, if the board determines that the scholarship will:

(a) promote mutually beneficial cooperation between Utah communities and nearby communities in states adjacent to Utah;

(b) contribute to the quality and desirable cultural diversity of educational programs in [~~Utah~~]institutions;

(c) assist in maintaining an adequate level of service and related cost-effectiveness of auxiliary operations in [~~Utah~~] institutions of higher education; and

(d) promote enrollment of nonresident students with high academic aptitudes.

(2) The board shall establish policy guidelines for the administration by institutions of higher education of any partial tuition scholarships authorized under this section, for evaluating applicants for those scholarships, and for reporting the results of the scholarship program authorized by this section.

(3) The policy guidelines [~~promulgated~~]made by the board under Subsection (2) shall include the following provisions:

(a) the amount of the approved scholarship may not be more than 1/2 of the differential tuition charged to nonresident students for an equal number of credit hours of instruction;

(b) a nonresident partial tuition scholarship may be awarded initially only to a nonresident undergraduate student who has not previously been enrolled in a college or university in Utah and who has enrolled full time for 10 or more credit hours, whose legal domicile is within approximately 100 highway miles of the [~~Utah system of higher education~~]institution at which the recipient wishes to enroll or such distance that the board may establish for any institution;

(c) the total number of nonresident partial tuition scholarships granted may not exceed a total of 600 such scholarships in effect at any one time; and

(d) the board shall determine eligibility for nonresident partial tuition scholarships on the basis of program availability at an institution and on a competitive basis, using quantifiable measurements such as grade point averages and results of test scores.

(4) The board shall submit an annual report and financial analysis of the effects of offering nonresident partial tuition scholarships authorized under this section to the Higher Education Appropriations Subcommittee as part of the board's budget recommendations for the system of higher education.

Section 335. Section 53H-11-407, which is renumbered from Section 53B-8-105 is renumbered and amended to read:

[~~53B-8-105~~]53H-11-407 (Effective upon governor's approval). New Century Scholarship Program.

(1) Notwithstanding the provisions of this section, the board may not accept a new application for a scholarship described in this section on or after August 15, 2021.

(2) As used in this section:

(a) "Complete the requirements for an associate degree" means that a student:

(i) (A) completes all the required courses for an associate degree from [~~a higher education~~]an institution within the state system of higher education that offers associate degrees; and

(B) applies for the associate degree from the institution; or

(ii) completes equivalent requirements described in Subsection (2)(a)(i)(A) from [~~a higher education~~]an institution [~~within the state system of higher education~~]that offers baccalaureate degrees but does not offer associate degrees.

(b) "Fee" means a fee approved by the board.

(3) (a) The board shall award New Century scholarships.

(b) The board shall develop and approve the math and science curriculum described under Subsection (4)(a)(ii).

(4) (a) In order to qualify for a New Century scholarship, a student in Utah schools shall complete the requirements for an:

(i) associate degree; or

(ii) approved math and science curriculum.

(b) The requirements under Subsection (4)(a) shall be completed:

(i) by the day on which the student's class graduates from high school; and

(ii) with at least a 3.0 grade point average.

(c) In addition to the requirements in Subsection (4)(a), a student in Utah shall:

(i) complete the high school graduation requirements of:

(A) a public high school established by the State Board of Education and the student's school district or charter school; or

(B) a private high school in the state that is accredited by a regional accrediting body approved by the board; and

(ii) complete high school with at least a 3.5 cumulative high school grade point average.

(5) Notwithstanding Subsection (4), for a student who does not receive a high school grade point average, the student shall:

(a) complete the requirements for an associate degree:

(i) by June 15 of the year the student completes high school; and

(ii) with at least a 3.0 grade point average; and

(b) score a composite ACT score of 26 or higher.

(6) (a) To be eligible for the scholarship, a student:

(i) shall submit an application to the board with:

(A) an official college transcript showing college courses the student has completed to complete the requirements for an associate degree; and

(B) if applicable, an official high school transcript or, if applicable, a copy of the student's ACT scores;

(ii) shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid;

(iii) if applicable, shall meet the application deadlines as established by the board under Subsection (11); and

(iv) shall demonstrate, in accordance with rules described in Subsection (6)(b), the completion of a Free Application for Federal Student Aid.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding the completion of the Free Application for Federal Student Aid described in Subsection (6)(a)(iv), including:

(i) provisions for students or parents to opt out of the requirement due to:

(A) financial ineligibility for any potential grant or other financial aid;

(B) personal privacy concerns; or

(C) other reasons the board specifies; and

(ii) direction for applicants to financial aid advisors.

(7) (a) The scholarship may be used at [~~a~~]:

(i) [~~higher education~~] institution [~~within the state system of higher education~~] that offers baccalaureate programs; or

(ii) if the scholarship holder applies for the scholarship on or before October 1, 2019, a private postsecondary educational institution that offers baccalaureate programs.

(b) (i) Subject to Subsection (7)(e), the total value of the scholarship is up to $5,000, allocated over a time period described in Subsection (7)(c), as prescribed by the board.

(ii) The board may increase the scholarship amount described in Subsection (7)(b)(i) by an amount not to exceed the average percentage tuition increase approved by the board for institutions [~~in the state system of higher education~~].

(c) The scholarship is valid for the shortest of the following time periods:

(i) two years of full-time equivalent enrollment;

(ii) 60 credit hours; or

(iii) until the student meets the requirements for a baccalaureate degree.

(d) (i) A scholarship holder shall enroll full-time at [~~a higher education~~]an institution by no later than the fall term immediately following the student's high school graduation date or receive an approved deferral from the board.

(ii) The board may grant a deferral or leave of absence to a scholarship holder, but the scholarship holder may only receive scholarship money within five years of the student's high school graduation date.

(e) For a scholarship for which a student applies after October 1, 2019:

(i) the board shall reduce the amount of the scholarship holder's scholarship so that the total amount of state aid awarded to the scholarship holder, including tuition or fee waivers or the scholarship, does not exceed the cost of the scholarship holder's tuition and fees; and

(ii) the scholarship holder may only use the scholarship for tuition and fees.

(8) The board may cancel a New Century scholarship at any time if the student fails to:

(a) register for at least 15 credit hours per semester;

(b) maintain a 3.3 grade point average for two consecutive semesters; or

(c) make reasonable progress toward the completion of a baccalaureate degree.

(9) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the General Fund to the board for the costs associated with the New Century Scholarship Program authorized under this section.

(b) It is understood that the appropriation is offset in part by the state money that would otherwise be required and appropriated for these students if [~~they~~]these students were enrolled in a four-year postsecondary program at [~~a state-operated~~]an institution.

(c) Notwithstanding Subsections (3)(a) and (7), if the appropriation under Subsection (9)(a) is insufficient to cover the costs associated

with the New Century Scholarship Program, the board may reduce the scholarship amount.

(d) If money appropriated under this section is available after New Century scholarships are awarded, the board shall use the money for the Utah Promise Program created in Section [~~53B-13a-103~~]53H-11-414.

(10) (a) The board shall adopt policies establishing an application process and an appeal process for a New Century scholarship.

(b) The board shall disclose on all applications and related materials that the amount of the scholarship is subject to funding and may be reduced, in accordance with Subsection (9)(c).

(c) The board shall require an applicant for a New Century scholarship to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is a noncitizen who is eligible to receive federal student aid.

(d) The certification under this Subsection (10) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(11) The board may set deadlines for receiving New Century scholarship applications and supporting documentation.

(12) A student may not receive both a New Century scholarship and an Opportunity scholarship established in Section [~~53B-8-201~~]53H-11-402.

Section 336. Section 53H-11-408, which is renumbered from Section 53B-8-115 is renumbered and amended to read:

[~~53B-8-115~~]53H-11-408 (Effective upon governor's approval). Technical education scholarships.

(1) As used in this section:

(a) "Eligible institution" means:

(i) a degree-granting institution that provides technical education described in Section [~~53B-2a-201~~]53H-3-608; or

(ii) a technical college.

(b) "High demand program" means a technical education program that:

(i) is offered by an eligible institution;

(ii) leads to a certificate; and

(iii) is designated by the board in accordance with Subsection (6).

(c) "Scholarship" means a technical education scholarship described in this section.

(2) Subject to future budget constraints, the Legislature shall annually appropriate money to the board to be distributed to eligible institutions to award technical education scholarships.

(3) In accordance with the rules described in Subsection (5), an eligible institution may award a scholarship to an individual who:

(a) is enrolled in, or intends to enroll in, a high demand program; and

(b) demonstrates, in accordance with rules described in Subsection (5)(b), the completion of a Free Application for Federal Student Aid.

(4) (a) An eligible institution may award a scholarship for an amount of money up to the total cost of tuition, fees, and required textbooks for the high demand program in which the scholarship recipient is enrolled or intends to enroll.

(b) An eligible institution may award a scholarship to a scholarship recipient for up to three academic years.

(c) An eligible institution may cancel a scholarship if the scholarship recipient does not:

(i) maintain enrollment in the eligible institution on at least a half time basis, as determined by the eligible institution; or

(ii) make satisfactory progress toward the completion of a certificate.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:

(a) that establish:

(i) how state funding available for scholarships is divided among eligible institutions;

(ii) requirements related to an eligible institution's administration of a scholarship;

(iii) requirements related to eligibility for a scholarship, including requiring eligible institutions to prioritize scholarships for underserved populations;

(iv) a process for an individual to apply to an eligible institution to receive a scholarship; and

(v) how to determine satisfactory progress described in Subsection (4)(c)(ii); and

(b) regarding the completion of the Free Application for Federal Student Aid described in Subsection (3)(b), including:

(i) provisions for students or parents to opt out of the requirement due to:

(A) financial ineligibility for any potential grant or other financial aid;

(B) personal privacy concerns; or

(C) other reasons the board specifies; and

(ii) direction for applicants to financial aid advisors.

(6) Every other year, after consulting with the Department of Workforce Services, the board shall designate, as a high demand program, a technical education program that prepares an individual to work in a job that has, in Utah:

(a) high employer demand and high median hourly wages; or

(b) significant industry importance.

Section 337. Section 53H-11-409, which is renumbered from Section 53B-8-116 is renumbered and amended to read:

[~~53B-8-116~~]53H-11-409 (Effective upon governor's approval). Terrel H. Bell Education Scholarship Program.

(1) As used in this section:

(a) "Approved program" means a program that:

(i) is a teacher preparation program that:

(A) meets the standards described in Section 53E-6-302; and

(B) provides enhanced clinical experiences; or

(ii) prepares an individual to become:

(A) a speech-language pathologist; or

(B) another licensed professional providing services in a public school to students with disabilities.

(b) "Eligible institution" means [~~a Utah~~]an institution that offers an approved program and is:

(i) [~~a public postsecondary educational~~]an institution; or

(ii) a private postsecondary educational institution.

(c) "High needs area" means a subject area or field in public education that has a high need for teachers or other employees, as determined in accordance with Subsections (6) and (7).

(d) "Scholarship" means a scholarship described in this section.

(2) Subject to future budget constraints, the Legislature shall annually appropriate money to the board for the Terrel H. Bell Education Scholarship Program to be distributed to eligible institutions to award scholarships to incentivize students to work in public education in Utah.

(3) (a) Subject to the prioritization described in Subsection (3)(b), an eligible institution may award a scholarship to an individual who:

(i) meets the academic standards described in Subsection (6);

(ii) is enrolled in at least six credit hours at the eligible institution;

(iii) declares an intent to:

(A) apply to and complete an approved program at the eligible institution; and

(B) work in a Utah public school; and

(iv) demonstrates, in accordance with rules described in Subsection (6)(b), the completion of a Free Application for Federal Student Aid.

(b) An eligible institution shall prioritize awarding of scholarships:

(i) first, to first generation students who intend to work in any area in a Utah public school;

(ii) second, to students who:

(A) are not first generation students; and

(B) intend to work in a high needs area in a Utah public school; and

(iii) last, to other students who meet the requirements described in Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), an eligible institution may award a scholarship to an individual for an amount up to the cost of resident tuition, fees, and books for the number of credit hours in which the individual is enrolled each semester.

(b) An eligible institution that is a private postsecondary educational institution may not award a scholarship for an amount of money that exceeds the average scholarship amount granted by [~~a public~~]an institution [~~of higher education~~].

(5) (a) Except as provided in Subsection (5)(b), an eligible institution may award a scholarship to an individual for up to four consecutive years.

(b) An eligible institution may grant a scholarship recipient a leave of absence.

(c) An eligible institution may cancel a scholarship if:

(i) the scholarship recipient fails to make reasonable progress toward completion of the approved program, as determined by the eligible institution; or

(ii) the eligible institution determines with reasonable certainty that the scholarship recipient does not intend to work in a Utah public school.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:

(a) that establish:

(i) requirements related to an eligible institution's administration of a scholarship;

(ii) a process for an individual to apply to an eligible institution to receive a scholarship;

(iii) in accordance with Subsection (3)(a), requirements related to eligibility for a scholarship, including required academic standards;

(iv) in accordance with Subsection (3)(b), requirements related to prioritization of scholarships, including determination of:

(A) whether a student is a first generation student; and

(B) high needs areas; and

(v) criteria to determine whether an individual intends to work in a Utah public school; and

(b) regarding the completion of the Free Application for Federal Student Aid described in Subsection (3)(a)(iv), including:

(i) provisions for students or parents to opt out of the requirement due to:

(A) financial ineligibility for any potential grant or other financial aid;

(B) personal privacy concerns; or

(C) other reasons the board specifies; and

(ii) direction for applicants to financial aid advisors.

(7) The board shall consult with the State Board of Education to determine:

(a) whether a teacher preparation program provides enhanced clinical experiences; and

(b) which subject areas and fields are high needs areas.

(8) The board may use up to 5% of money appropriated for the purposes described in this section.

Section 338. Section 53H-11-410, which is renumbered from Section 53B-8-112 is renumbered and amended to read:

[~~53B-8-112~~]53H-11-410 (Effective upon governor's approval). Public Safety Officer Career Advancement Grant Program.

(1) This section creates the Public Safety Officer Career Advancement Grant Program.

(2) Subject to legislative appropriations and Subsection (7), the board shall award a grant to an applicant who:

(a) is a certified peace officer, currently employed by a law enforcement agency within the state; and

(b) is seeking a post-secondary degree in the area of criminal justice from a degree-granting institution [~~of higher education within the state system of higher education,~~]described in Section [~~53B-1-102~~]53H-1-102.

(3) (a) Subject to Subsection (3)(b), the board may award a qualified applicant up to the cost of tuition and fees.

(b) A grant award under Subsection (3)(a) is limited to:

(i) a maximum of $5,000 each academic year; and

(ii) a maximum of four academic years.

(4) The board shall design the program to ensure that degree-granting institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance.

(5) Notwithstanding Subsection (4), the board may not award a scholarship described in Section [~~53B-8-112.5~~]53H-11-403 to an applicant receiving a grant under this section.

(6) (a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving grant applications and supporting documentation; and

(ii) establish the application process and an appeal process for the Public Safety Officer Career Advancement Grant Program.

(b) The board shall include a disclosure on all applications and related materials that the amount of the awarded grants may be subject to funding or be reduced, in accordance with Subsection (7).

(7) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Income Tax Fund to the board for the costs associated with the Public Safety Officer Career Advancement Grant Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the Public Safety Officer Career Advancement Grant Program, the board may:

(i) reduce the amount of a grant; or

(ii) distribute grants on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

(8) Notwithstanding Subsection [~~53B-8-112.5(5)~~]53H-11-403(5), the board may not award a grant under this section to an applicant receiving a scholarship under the Karen Mayne Public Safety Officer Scholarship Program described in Section [~~53B-8-112.5~~]53H-11-403.

Section 339. Section 53H-11-411, which is renumbered from Section 53B-8-117 is renumbered and amended to read:

[~~53B-8-117~~]53H-11-411 (Effective upon governor's approval). First Responder Mental Health Services Grant Program.

(1) As used in this section:

(a) "First responder" means an individual who works in Utah as:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) an emergency medical technician, as defined in Section 53-2e-101;

(iii) an advanced emergency medical technician, as defined in Section 53-2e-101;

(iv) a paramedic, as defined in Section 53-2e-101;

(v) a firefighter, as defined in Section [~~34A-3-113~~]53H-11-306;

(vi) a dispatcher, as defined in Section 53-6-102;

(vii) a correctional officer, as defined in Section 53-13-104;

(viii) a special function officer, as defined in Section 53-13-105, employed by a local sheriff;

(ix) a search and rescue worker under the supervision of a local sheriff;

(x) a forensic interviewer or victim advocate employed by a children's justice center established in accordance with Section 67-5b-102;

(xi) a credentialed criminal justice system victim advocate as defined in Section 77-38-403 who responds to incidents with a law enforcement officer;

(xii) a crime scene investigator technician;

(xiii) a wildland firefighter;

(xiv) an investigator or prosecutor of cases involving sexual crimes against children; or

(xv) a civilian employee of a first responder agency who has been authorized to view or otherwise access information concerning crimes, accidents, or other traumatic events.

(b) "First responder agency" means the same as that term is defined in Section 53-21-101.

(c) "First responder volunteer" means:

(i) an individual who donates services as a first responder to a first responder agency located in Utah without pay or other compensation except:

(A) expenses that the individual actually and reasonably incurs as the supervising first responder agency approves; and

(B) health insurance that a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program described in Section [~~26-8a-603~~]53-2d-703 receives; or

(ii) a volunteer firefighter who is not regularly employed as a firefighter service employee, but who:

(A) has received training in firefighter techniques and skills;

(B) continues to receive regular firefighter training; and

(C) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.

(d) "Retiree" means the same as that term is defined in Section 49-11-102.

(2) This section creates the First Responder Mental Health Services Grant Program.

(3) Subject to legislative appropriations and Subsection (8), the board shall award a grant to an applicant who:

(a) is a first responder, a first responder volunteer, or a retiree who worked as a first responder in the state; and

(b) is seeking a post-secondary degree or certification to become a mental health therapist, as that term is defined in Section 58-60-

102, from:

(i) an institution of higher education [~~within the state system of higher education,~~]described in Section [~~53B-1-102~~]53H-1-102; or

(ii) a private postsecondary educational institution.

(4) (a) Subject to Subsection (4)(b), the board may award a qualified applicant a grant in an amount that is equal to the difference between:

(i) the total cost of tuition and fees for the program in which the recipient is enrolled; and

(ii) the total value of all other grants, tuition waivers, fee waivers, and scholarships that the recipient receives to attend the institution.

(b) A grant award under Subsection (4)(a) is limited to:

(i) a maximum of $6,000 each academic year; and

(ii) a maximum of four academic years.

(5) The board shall design the program to ensure that institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance.

(6) The board shall:

(a) select two periods during each calendar year to accept applications for the program; and

(b) accept applications for no fewer than 30 days during each period described in Subsection (6)(a).

(7) (a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving grant applications and supporting documentation; and

(ii) establish the application process and an appeal process for the First Responder Mental Health Services Grant Program.

(b) The board shall include a disclosure on all applications and related materials that the amount of the awarded grants may be subject to funding or be reduced, in accordance with Subsection (8).

(8) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Income Tax Fund to the board for the costs associated with the First Responder Mental Health Services Grant Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the First Responder Mental Health Services Grant Program, the board may:

(i) reduce the amount of a grant; or

(ii) distribute grants on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

Section 340. Section 53H-11-412, which is renumbered from Section 53B-13c-102 is renumbered and amended to read: [~~53B-13c-102~~]53H-11-412 (Effective upon governor's approval). Adult Learners Grant Program.

(1) As used in this section:

(a) (i) "Cost of attendance" means the estimated costs associated with taking an online course, as established by an eligible institution in accordance with board policies.

(ii) "Cost of attendance" includes tuition, costs payable to the eligible institution, and other direct educational expenses related to taking an online course.

(b) "Eligible institution" means an institution that offers a postsecondary level course of instruction using digital technology, including a private postsecondary educational institution.

(c) "Eligible student" means a financially needy student who is:

(i) an independent student on the Free Application for Federal Student Aid;

(ii) enrolled in an online course at an eligible institution;

(iii) pursuing:

(A) an online postsecondary degree program in a field where there is a demonstrated industry need; or

(B) an online non-degree program that is designed to meet industry needs and leads to a certificate or another recognized educational credential; and

(iv) a resident student under Section 53H-11-202 and rules the board establishes.

(d) "Financially needy student" means a student who demonstrates the financial inability to meet all or a portion of the cost of attendance at an eligible institution as defined by the board, after utilizing family and personal resources, federal assistance, and scholarships.

(e) "Fiscal year" means the fiscal year of the state.

(f) "Online course" means a postsecondary level course of instruction offered by an eligible institution using digital technology.

(g) "Program" means the Adult Learners Grant Program established in this section.

(h) "Tuition" means tuition and fees at the rate charged for residents of the state.

[~~(1)~~](2) There is created the Adult Learners Grant Program to provide financial assistance to eligible students.

[~~(2)~~](3) (a) The board shall, in accordance with the guidelines in this section, develop and administer the program.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to establish:

(i) how an individual establishes financial need for purposes of receiving a grant under the program;

(ii) a requirement that an applicant complete the Free Application for Federal Student Aid;

(iii) how to determine whether an individual is a Utah resident;

(iv) a process and requirements for an individual to apply for a grant under the program;

(v) a formula to allocate money appropriated for the program to eligible students, prioritizing:

(A) students from rural areas;

(B) minority students;

(C) low income students;

(D) first generation students; and

(E) students pursuing education that aligns with industry needs; and

(vi) a method of identifying industry needs for purposes of determining student eligibility to receive a grant under this section.

(c) The board may not use more than 3% of money appropriated for the program for administrative costs or overhead.

[~~(3)~~](4) To be eligible for a grant under this section, a student shall demonstrate, in accordance with rules the board makes under Subsection [~~(2)(b)~~](3)(b):

(a) that the student has completed the Free Application for Federal Student Aid; and

(b) that the student is financially needy.

[~~(4)~~](5) The board shall:

(a) annually establish the minimum and maximum amount for a grant;

(b) (i) award grants to eligible students on an annual basis; and

(ii) distribute grant money on a quarter or semester basis; and

(c) except as provided in [~~Subsection (2)(b)(v)~~]Subsection (3)(b)(v), award all money appropriated for the program without regard to an applicant's race, creed, color, religion, sex, or ancestry.

[~~(5)~~](6) The total sum of program grant money, financial aid from any source, and family or personal contribution may not exceed the cost of attendance for an eligible student at an eligible institution for a fiscal year.

[~~(6)~~](7) An eligible student that receives a grant under the program shall apply the grant money to the cost of attendance.

[~~(7)~~](8) The board shall annually report program outcomes to the Higher Education Appropriations Subcommittee, including:

(a) number of grant recipients at each eligible institution;

(b) average amount of grant money provided per grant recipient;

(c) benefits in fulfillment of the purposes for the program described in this [~~chapter~~]section; and

(d) recommendations for program modification, including recommended funding levels.

Section 341. Section 53H-11-413, which is renumbered from Section 53B-13b-103 is renumbered and amended to read:

[~~53B-13b-103~~]53H-11-413 (Effective upon governor's approval). Establishment of the Veterans Tuition Gap Program.

(1) As used in this section:

(a) "Federal program" means a veterans educational assistance program established in:

(i) 10 U.S.C., Chapter 1606, Educational Assistance for Members of the Selected Reserve;

(ii) 38 U.S.C., Chapter 30, All-Volunteer Force Educational Assistance Program;

(iii) 38 U.S.C., Chapter 31, Training and Rehabilitation for Veterans with Service-Connected Disabilities;

(iv) 38 U.S.C., Chapter 31, Post-Vietnam Era Veterans' Educational Assistance; or

(v) 38 U.S.C., Chapter 33, Post-9/11 Educational Assistance.

(b) "Program" means the Veterans Tuition Gap Program created in this section.

(c) "Qualifying military veteran" means a veteran, as defined in Section 68-3-12.5, who:

(i) is a resident student under:

(A) Section 53H-11-202; and

(B) rules of the board;

(ii) is accepted into an institution and enrolled in a program leading to a bachelor's degree;

(iii) (A) has exhausted the federal benefit under a federal program; or

(B) demonstrates that the veteran no longer qualifies to receive federal benefits under any federal program;

(iv) has not completed a bachelor's degree; and

(v) is not a family member.

(d) There is established a Veterans Tuition Gap Program to serve qualifying military veterans with tuition assistance at [~~institutions of higher education~~]an institution or private postsecondary educational institution when:

[~~(1)~~](i) federal benefits under the federal program have been exhausted or are not available; and

[~~(2)~~](ii) a qualifying military veteran has not finished a bachelor's degree and is in the final year of a bachelor's degree program.

(2) The board shall use the guidelines in this section to develop policies to implement and administer the program.

(3) (a) The board shall allocate money appropriated for the program to institutions or private postsecondary educational institutions to provide grants for qualifying military veterans.

(b) The board may not use program money for administrative costs or overhead.

(c) An institution or private postsecondary educational institution may not use more than 3% of the institution's program money for administrative costs or overhead.

(d) Money returned to the board under Subsection (8)(b) shall be used for future allocations to institutions or private postsecondary educational institutions.

(4) (a) An institution or private postsecondary educational institution shall award a program grant to a qualifying military veteran on an annual basis but distribute the money one quarter or semester at a time, with continuing awards contingent upon the qualifying military veteran maintaining satisfactory academic progress as defined by the institution or private postsecondary educational institution in published policies or rules.

(b) At the conclusion of the academic year, money distributed to an institution or private postsecondary educational institution that was not awarded to a qualifying military veteran or used for allowed administrative purposes shall be returned to the board.

(c) (i) To qualify for a program grant under this section, a military veteran shall demonstrate, in accordance with rules described in Subsection (4)(c)(ii), the completion of a Free Application for Federal Student Aid.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding the completion of the Free Application for Federal Student Aid described in Subsection (4)(c)(i), including:

(A) provisions for students or parents to opt out of the requirement due to financial ineligibility for any potential grant or other financial

aid, personal privacy concerns, or other reasons the board specifies; and

(B) direction for applicants to financial aid advisors.

(5) A qualifying military veteran may receive a program grant until:

(a) the qualifying military veteran completes the requirements for a bachelor's degree; or

(b) the qualifying military veteran receives the maximum award that the board sets.

(6) A qualifying military veteran who receives a program grant may use the grant toward tuition, fees, books, education-related supplies, and a housing allowance at an institution or private postsecondary educational institution.

(7) The board may accept grants, gifts, bequests, and devises of real and personal property from any source for the purpose of awarding grants to qualifying military veterans in addition to those funded by the state.

Section 342. Section 53H-11-414, which is renumbered from Section 53B-13a-103 is renumbered and amended to read:

[~~53B-13a-103~~]53H-11-414 (Effective upon governor's approval). Utah Promise Program.

(1) As used in this section:

(a) (i) "Cost of attendance" means the estimated costs associated with attending a Utah postsecondary institution, as established by the Utah postsecondary institution in accordance with board policies.

(ii) "Cost of attendance" includes costs payable to the Utah postsecondary institution, other direct educational expenses, transportation, and living expenses while attending the Utah postsecondary institution.

(b) "Eligible student" means a financially needy student who is:

(i) unconditionally admitted to and enrolled at a Utah postsecondary institution on at least a half-time basis, as defined by the board, in an eligible postsecondary program leading to a defined education or training objective, as defined by the board;

(ii) making satisfactory academic progress, as defined by the Utah postsecondary institution in published policies or rules, toward an education or training objective;

(iii) (A) a resident student under Section 53H-11-202 and rules of the board; or

(B) exempt from paying the nonresident portion of total tuition under Section 53H-11-203; and

(iv) not a graduate student.

(c) "Financially needy student" means a student who demonstrates the financial inability to meet all or a portion of the cost of attendance at a Utah postsecondary institution for any period of attendance as defined by the board, after considering the student's expected family contribution.

(d) "Fiscal year" means the fiscal year of the state.

(e) "Partner award" means a financial award described in this section.

(f) "Program" means the Utah Promise Program.

(g) "Promise partner" means an employer that participates in the program described in this section.

(h) "Utah postsecondary institution" means:

(i) an institution of higher education; or

(ii) a Utah private, nonprofit postsecondary educational institution.

[~~(1)~~](2) The Legislature finds that:

(a) the prosperity, economic success, and general welfare of the people of Utah and of the state are directly related to the educational levels and skills of the citizens of the state; and

(b) financial assistance, to bridge the gap between a financially needy student's resources and the cost of attendance at a Utah postsecondary institution, is a necessary component for ensuring access to postsecondary education and training.

[~~(2)~~](3) There is created the Utah Promise Program to provide financial assistance to students.

[~~(3)~~](4) The board shall annually submit an electronic report to the Higher Education Appropriations Subcommittee regarding the Utah Promise Program.

(5) (a) As part of the Utah Promise Program and in accordance with this section, the board shall allocate available money to each Utah postsecondary institution to use to award promise grants to eligible students to pay the eligible student's cost of attendance.

(b) An eligible student may apply for a promise grant in accordance with procedures established by board rule.

(c) The amount of a promise grant to an eligible student may not exceed the amount equal to the difference between:

(i) the eligible student's cost of attendance; and

(ii) the total value of other financial aid that the eligible student receives toward the eligible student's cost of attendance.

(d) An eligible student may transfer a promise grant to one or more other Utah postsecondary institutions.

(6) In administering this section, the board shall use a packaging approach that ensures that Utah postsecondary institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing:

(a) an application process;

(b) eligibility criteria, including:

(i) criteria related to academic achievement and enrollment status; and

(ii) a requirement that an applicant demonstrate completion of the Free Application for Federal Student Aid, unless the student or the student's parent opts out in accordance with board rule;

(c) how a student demonstrates financial need;

(d) a formula to determine the allocation of money to Utah postsecondary institutions in accordance with Subsection (5), taking into account:

(i) the cost of attendance for programs offered by Utah postsecondary institutions; and

(ii) the number of eligible students who attend each Utah postsecondary institution; and

(e) a methodology for prioritizing award of promise grants based primarily on financial need.

(8) A student is eligible for a promise grant until the student:

(a) earns a first bachelor's degree; or

(b) completes 120 credit hours.

(9) The board or a Utah postsecondary institution may not represent to a recipient or a potential recipient of a promise grant that promise grants will remain available in perpetuity.

(10) (a) The board may require a Utah postsecondary institution to enter into a participation agreement before the Utah postsecondary institution may award promise grants.

(b) In a participation agreement, the board shall include a requirement that the Utah postsecondary institution:

(i) provide to the board information necessary to administer the promise grants;

(ii) comply with this section and board rules related to the promise grants;

(iii) submit reports related to the promise grants as required by board rule; and

(iv) cooperate in any review or financial audit related to the promise grants that the board determines necessary.

(11) (a) The board may use up to 2% of the money appropriated for promise grants for costs related to administering the promise grants.

(b) A Utah postsecondary institution may use up to 3% of the money the Utah postsecondary institution receives for promise grants for costs related to administering the promise grants.

(12) The board may supplement state appropriations for the program with private contributions.

(13) As part of the Utah Promise Program, the board may select employers to be promise partners.

(14) The board may select an employer as a promise partner if the employer:

(a) applies to the board to be a promise partner; and

(b) meets other requirements established by the board in the rules described in Subsection (18).

(15) An individual employed by, or who is a dependent of an employee of, a promise partner is eligible to receive a partner award if the individual:

(a) applies for a partner award;

(b) is admitted to and enrolled in a Utah postsecondary institution; and

(c) maintains the eligibility requirements described in this Subsection (15) for the full length of time the individual receives the partner award.

(16) (a) Subject to legislative appropriations and Subsection (16)(b), the board shall award a partner award to an individual who meets the requirements described in Subsection (15).

(b) The board may:

(i) award a partner award for up to the portion of tuition and fees for a program at a Utah postsecondary institution that is not covered by a promise partnership described in Subsection (18)(a); and

(ii) prioritize awarding partner awards if an appropriation for partner awards is not sufficient to provide a partner award to each individual who is eligible under Subsection (15).

(c) The board may continue to award a partner award to a recipient who meets the requirements described in Subsection (15) until the earlier of:

(i) four years after the day on which the individual initially receives a partner award;

(ii) when the recipient uses a partner award to attend a Utah postsecondary institution for eight semesters; or

(iii) when the recipient completes an approved program.

(17) The board may name a specific promise grant after the donating business.

(18) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

(a) a process for a business to seek and receive approval from the board to become a promise partner, including providing funds for tuition and fees to be distributed under the Utah Promise Program;

(b) a process for an individual to apply for a partner award; and

(c) criteria for the board to prioritize awarding partner awards to individuals.

(19) The board may allow an individual to apply directly to the board for a partner award.

Section 343. Section 53H-11-415, which is renumbered from Section 53B-10-202 is renumbered and amended to read:

[~~53B-10-202~~]53H-11-415 (Effective upon governor's approval). Talent Development Award Program.

(1) As used in this section:

(a) "Award" means a monetary grant awarded in accordance with this section.

(b) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student for purposes of the program.

(c) "GOEO" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(d) "Program" means the Talent Development Award Program created in this section.

(e) "Qualifying degree" means an associate's or a bachelor's degree that qualifies an individual to work in a qualifying job, as determined by GOEO under this section.

(f) "Qualifying job" means a job:

(i) described in this section for which an individual may receive an award for the current two-year period; or

(ii) (A) that was identified in accordance with this section at the time a recipient received an award; and

(B) for which the recipient is pursuing a qualifying degree, for which the recipient completed a qualifying degree, or in which the recipient is working.

(g) "Recipient" means an individual who receives an award.

[~~(1)~~](2) There is created the Talent Development Award Program to recruit and train individuals to work in certain jobs that have a

high demand for new employees and offer high wages.

[~~(2)~~](3) Subject to available funds, an institution shall award an individual who:

(a) is pursuing or declares an intent to pursue a qualifying degree;

(b) declares an intent to work in a qualifying job described in [~~Subsection 53B-10-201(7)(a)~~]this section in Utah following graduation;

(c) applies to the institution to receive an award; and

(d) meets other criteria determined by the board in the rules described in [~~Section 53B-10-205~~]this section.

[~~(3)~~](4) (a) An institution may award a recipient in an amount up to the cost of resident tuition, fees, and books for the number of credit hours in which the recipient is enrolled each semester.

(b) An institution may award a recipient for up to the expected amount of time for the recipient to complete the qualifying degree, as determined by the institution.

(c) An institution may cancel an award in accordance with the rules described in [~~Section53B-10-205~~]this section.

[~~(4)~~](5) An institution may use money from a partnership with an industry or business for funding or repaying an award.

[~~(5)~~](6) The board may use up to 5% of money appropriated for the program for administration.

(7) Every other year, GOEO shall identify:

(a) five qualifying jobs that:

(i) have the highest demand for new employees; and

(ii) offer high wages; and

(b) the qualifying degrees for each qualifying job.

(8) GOEO shall:

(a) ensure that each qualifying job:

(i) ranks in the top 40% of jobs based on an employment index that considers the job's growth rate and total openings;

(ii) ranks in the top 40% of jobs for wages; and

(iii) requires an associate's degree or a bachelor's degree; and

(b) report the five qualifying jobs and qualifying degrees to the board.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to:

(a) establish an application process for an individual to apply for an award;

(b) subject to this section, establish qualifying criteria for an individual to receive an award, including enrollment status;

(c) establish a process to evaluate applications that prioritizes awards to students who demonstrate financial need;

(d) establish how state funding available for awards is divided among institutions;

(e) establish how to determine an amount of money for an award;

(f) establish the circumstances under which an institution may cancel an award; and

(g) require an institution to provide specified information to the board relevant to administering the program.

(10) In administering the program, the board shall use a packaging approach that ensures that institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance.

Section 344. Section 53H-12-101 is enacted to read:

CHAPTER 12. Student Loan Collection

PART 1. General Provisions

53H-12-101 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 345. Section 53H-12-201 is enacted to read:

PART 2. Collection of Student Loans

53H-12-201 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 346. Section 53H-12-202, which is renumbered from Section 53B-14-101 is renumbered and amended to read:

[~~53B-14-101~~]53H-12-202 (Effective upon governor's approval). Student loan delinquent or in default -- Authority to collect.

If a National Direct Student Loan or a student loan made under [~~Title 53B, Chapter 11, Student Loan Program, or Chapter 12, Higher Education Assistance Authority~~]this title, is delinquent or in default, the state college, university, or board of regents responsible for collection of the loan may proceed under this [~~chapter~~]part to collect the loan.

Section 347. Section 53H-12-203, which is renumbered from Section 53B-14-102 is renumbered and amended to read:

[~~53B-14-102~~]53H-12-203 (Effective upon governor's approval). Mailing of notice of default -- Contents of notice.

(1) Upon default in payment of a student loan or an installment payment on a student loan, the entity responsible for collecting the loan may send a notice, by certified mail, to the borrower at the borrower's last known address.

(2) The notice shall state the following:

(a) the date and amount of the loan;

(b) the balance of the loan;

(c) the amount of delinquent installments and the dates [~~they~~]the installments were due;

(d) a demand for immediate payment of delinquent installments;

(e) the right of the borrower to file a written response to the notice, to have a hearing, to be represented at the hearing, and to appeal any decision of the hearing examiner;

(f) the time within which a written response must be filed; and

(g) the power of the college, university, or board upon the failure of the borrower to respond or upon a decision of the hearing examiner adverse to the borrower, to obtain an order under this [~~chapter~~]part and to execute upon income tax overpayments or refunds of the borrower.

Section 348. Section 53H-12-204, which is renumbered from Section 53B-14-103 is renumbered and amended to read:

[~~53B-14-103~~]53H-12-204 (Effective upon governor's approval). Failure to receive response or payment after notice -- Authority to collect balance.

If a written response or payment of delinquent installments is not received by the college, university, or board within 15 days from the date of receipt of the notice by the borrower, the college, university, or board may determine the balance due and proceed to collect the balance as provided in Section [~~53B-14-106~~]53H-12-207.

Section 349. Section 53H-12-205, which is renumbered from Section 53B-14-104 is renumbered and amended to read:

[~~53B-14-104~~]53H-12-205 (Effective upon governor's approval). Hearing set after receipt of written notice -- Notice of hearing.

If a written response to the notice sent under Section [~~53B-14-102~~]53H-12-203 is received by the college, university, or board, a hearing is set within 30 days of the receipt of the response, and written notice of the hearing is mailed to the borrower at least 15 days before the date for the hearing.

Section 350. Section 53H-12-206, which is renumbered from Section 53B-14-105 is renumbered and amended to read:

[~~53B-14-105~~]53H-12-206 (Effective upon governor's approval). Designation of hearing examiner -- Representation at hearing -- Findings and order of examiner -- Continuance of hearing.

(1) The hearing under Section [~~53B-14-104~~]53H-12-205 is held before a hearing examiner designated by the college, university, or board.

(2) The examiner may not be an officer or employee of the division or office of the college, university, or board responsible for collecting or administering student loans.

(3) The borrower and college, university, or board may be represented at the hearing by an attorney or other person, and may present evidence, exhibits, testimony, witnesses, and other material regarding the student loan, payments, and default as are relevant.

(4) The hearing examiner shall make specific written findings on the student loan, payments, default, and the balance due and shall enter a written order.

(5) If the hearing examiner finds the borrower has defaulted, the order shall state the fact of default and the balance due on the loan including interest. If the examiner finds no default, the order shall dismiss the claim.

(6) The findings and order of the hearing examiner are filed with the college, university, or board and copies mailed to the borrower within 10 days after conclusion of the hearing.

(7) The hearing may be continued by agreement of the parties and approval of the hearing examiner or upon order of the hearing examiner.

Section 351. Section 53H-12-207, which is renumbered from Section 53B-14-106 is renumbered and amended to read:

[~~53B-14-106~~]53H-12-207 (Effective upon governor's approval). Order stating default -- Filing with State Tax Commission -- Lien of order.

(1) An abstract of an order of a hearing examiner stating a default under Section [~~53B-14-105~~]53H-12-206 may be filed with the State Tax Commission and, when filed, constitutes a lien to the extent of the balance due plus interest against any state income tax refund or overpayment due or to become due to the borrower for a period of eight years from the date of the order unless satisfied or otherwise released in writing by the college, university, or board.

(2) The lien created by this section is, for the purposes of Section 59-10-529 only, a judgment, but no credit of a tax refund or overpayment shall be made on account of the lien until 20 days after the date of the hearing examiner's order.

Section 352. Section 53H-12-208, which is renumbered from Section 53B-14-107 is renumbered and amended to read:

[~~53B-14-107~~]53H-12-208 (Effective upon governor's approval). Judicial review of order -- Filing complaint -- Hearing de novo -- Stay of action on lien by State Tax Commission.

(1) Judicial review of an order of a hearing examiner issued under Section [~~53B-14-105~~]53H-12-206 is obtained by any party by filing a complaint with the district court within 20 days after the date of the order.

(2) If a complaint is filed, the matter is heard by the district court de novo.

(3) A notice of the filing of a complaint may be filed with the State Tax Commission and, if filed, the tax commission shall take no action with respect to the lien created under Section [~~53B-14-106~~]53H-12-207 until the matter is finally disposed of by the district court or on appeal from the district court, except as provided in this [~~chapter~~]part.

Section 353. Section 53H-12-209, which is renumbered from Section 53B-14-108 is renumbered and amended to read:

[~~53B-14-108~~]53H-12-209 (Effective upon governor's approval). Complaint filed -- Bond furnished by borrower -- Terms of bond.

(1) If a complaint is filed under Section [~~53B-14-107~~]53H-12-208, the borrower may furnish to the tax commission a bond, with good and sufficient sureties, in the amount of the balance of the loan or the amount of any overpayment or refund due, whichever is less.

(2) The lien created under Section [~~53B-14-106~~]53H-12-207 is then dissolved as to that overpayment or refund and the overpayment or refund released to the borrower.

(3) The bond shall provide that the surety will pay, upon a final determination adverse to the borrower, the amount of the bond, or a lesser amount as the court may determine, to the tax commission for the use and benefit of the college, university, or board obtaining the order.

Section 354. Section 53H-12-210, which is renumbered from Section 53B-14-109 is renumbered and amended to read:

[~~53B-14-109~~]53H-12-210 (Effective upon governor's approval). Rules for hearings.

The board may adopt rules for the implementation of Sections [~~53B-14-104~~]53H-12-205and [~~53B-14-105~~]53H-12-206, including rules for the conduct of hearings and appointment of hearing examiners.

Section 355. Section 53H-12-301, which is renumbered from Section 53B-15-101 is renumbered and amended to read:

PART 3. Collection of Student Loans from Public Employees

[~~53B-15-101~~]53H-12-301 (Effective upon governor's approval). Definitions.

As used in this [~~chapter~~]part:

(1) "Disposable earnings" means the part of an employee's earnings remaining after the deduction of all amounts required by law to be withheld.

(2) "Earnings" or "earnings from personal services" means compensation paid or payable for personal services, whether designated as wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program.

(3) "Public employee" means any employee, officer, or servant of the state of Utah, or any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state, or of any county, city, town, school district, special improvement or taxing district, or any other political subdivision or public corporation of or within the state.

Section 356. Section 53H-12-302, which is renumbered from Section 53B-15-102 is renumbered and amended to read:

[~~53B-15-102~~]53H-12-302 (Effective upon governor's approval). Collection of defaulted student loan from public employee.

If a National Direct Student Loan or a student loan made to a public employee under [~~Title 53B, State System of Higher Education~~]this title, is delinquent or in default, the state college, university, or board responsible for collection of the loan may proceed under this [~~chapter~~]part to collect the loan.

Section 357. Section 53H-12-303, which is renumbered from Section 53B-15-103 is renumbered and amended to read:

[~~53B-15-103~~]53H-12-303 (Effective upon governor's approval). Proceedings -- Notice -- Inspection of records -- Repayment -- Hearing.

When a state college, university, or board determines that a public employee is indebted to the state for debts arising from a defaulted student loan, it may initiate proceedings to collect the debt through deductions from earnings by providing the public employee with the following:

(1) a minimum of 30 days' written notice as provided in Section [~~53B-14-102~~]53H-12-203;

(2) an opportunity to inspect and copy college, university, or board records relating to the debt;

(3) an opportunity to enter into a written agreement with the college, university, or board, under terms agreeable to the college, university, or board, to establish a schedule for the repayment of the debt; and

(4) an opportunity for a hearing on the determination of the college, university, or board concerning the existence or the amount of the debt in accordance with Sections [~~53B-14-104~~]53H-12-205 and [~~53B-14-105~~]53H-12-206 and judicial review of an order of a hearing examiner under Sections [~~53B-14-107~~]53H-12-208 and [~~53B-14-108~~]53H-12-209.

Section 358. Section 53H-12-304, which is renumbered from Section 53B-15-104 is renumbered and amended to read:

[~~53B-15-104~~]53H-12-304 (Effective upon governor's approval). Lack of response.

If a written response or payment of delinquent installments is not received by the college, university, or board within 15 days from the date of receipt of the notice by the public employee, the college, university, or board may determine the balance due and proceed to collect the balance as provided in Section [~~53B-15-105~~]53H-12-305.

Section 359. Section 53H-12-305, which is renumbered from Section 53B-15-105 is renumbered and amended to read:

[~~53B-15-105~~]53H-12-305 (Effective upon governor's approval). Filing of abstract of order of default -- Lien -- Deduction from wages.

An abstract of an order of a hearing examiner stating a default may be filed with the financial officer responsible for payment of the public employee's wages. When filed, the abstract constitutes a lien against 15% of the disposable earnings due, or to become due, to the public employee to the extent of the balance due plus interest. The financial officer shall deduct the amount subject to this lien from the public employee's disposable earnings, and remit the deducted amount to the college, university, or board, but no such amount shall be remitted to the college, university, or board until 20 days after the date of the hearing examiner's order.

Section 360. Section 53H-12-306, which is renumbered from Section 53B-15-106 is renumbered and amended to read:

[~~53B-15-106~~]53H-12-306 (Effective upon governor's approval). Personnel information.

Upon written request of the state college, university, or board, persons with access to personnel information regarding public employees shall disclose the mailing address of individuals who have defaulted under Section [~~53B-15-102~~]53H-12-302 and who are current public employees for use by the college, university, or board in locating those individuals to collect student loan obligations.

Section 361. Section 53H-12-307, which is renumbered from Section 53B-15-107 is renumbered and amended to read:

[~~53B-15-107~~]53H-12-307 (Effective upon governor's approval). Reimbursed costs.

The public employer may obtain reimbursement for costs incurred in providing the information requested under Section [~~53B-15-106~~]53H-12-306 through the state college, university, or board, which costs are the responsibility of and collectible from the public employee.

Section 362. Section 53H-13-101 is enacted to read:

CHAPTER 13. Workforce Development

PART 1. General Provisions

53H-13-101 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 363. Section 53H-13-201, which is renumbered from Section 53B-32-102 is renumbered and amended to read:

PART 2. Career Readiness

[~~53B-32-102~~]53H-13-201 (Effective upon governor's approval). General provisions -- Definitions.

As used in this [~~chapter~~]part:

(1) "Education provider" means:

(a) an institution of higher education [~~listed in Section 53B-2-101~~]; or

(b) a nonprofit Utah provider of postsecondary education.

(2) "Student user" means:

(a) a Utah student in kindergarten through grade 12;

(b) a Utah postsecondary education student;

(c) a parent or guardian of a Utah public education student; or

(d) a Utah potential postsecondary education student.

Section 364. Section 53H-13-202, which is renumbered from Section 53B-32-201 is renumbered and amended to read:

[~~53B-32-201~~]53H-13-202 (Effective upon governor's approval). State online career counseling program.

(1) The board shall develop and administer a state online career counseling program in accordance with this section.

(2) The board shall ensure, as funding allows and is feasible, that the program:

(a) allows a student user to:

(i) access, subject to Subsection (3), information about an education provider or a scholarship provider;

(ii) access information about different career opportunities and understand the related educational requirements to enter that career;

(iii) access information about education providers;

(iv) access up to date information about entrance requirements to education providers; and

(v) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;

(b) allows all users to:

(i) access information about different career opportunities and understand the related educational requirements to enter that career;

(ii) access information about education providers; and

(iii) access up-to-date information about entrance requirements to education providers;

(c) allows an education provider to:

(i) request that the program send information to student users who are interested in various educational opportunities;

(ii) promote the education provider's programs and schools to student users; and

(iii) connect with student users within the program's website;

(d) allows a Utah business to:

(i) request that the program send information to student users who are pursuing educational opportunities that are consistent with jobs the Utah business is trying to fill now or in the future; and

(ii) market jobs and communicate with student users through the program's website as allowed by law; and

(e) provide analysis and reporting on student user interests and education paths within the education system.

(3) A student may access information described in Subsection (2)(a)(i) only if the program obtains written consent:

(a) of a student's parent or legal guardian through the student's school or LEA; or

(b) for a student who is [~~age 18~~]18 years old or older or an emancipated minor, from the student.

(4) The board:

(a) may charge a fee to a Utah business for services provided by the program under this section; and

(b) shall establish a fee described in Subsection (4)(a) in accordance with Section 63J-1-504.

Section 365. Section 53H-13-301, which is renumbered from Section 53B-34-101 is renumbered and amended to read:

PART 3. Talent Ready Utah and Talent, Education, and Industry Alignment

[~~53B-34-101~~]53H-13-301 (Effective upon governor's approval). General provisions -- Definitions.

As used in this [~~chapter~~]part:

(1) "Apprenticeship program" means a program that:

(a) combines paid on-the-job learning with formal classroom instruction to prepare students for careers; and

(b) includes:

(i) structured on-the-job learning for students under the supervision of a skilled employee;

(ii) classroom instruction for students related to the on-the-job learning;

(iii) ongoing student assessments using established competency and skills standards; and

(iv) the student receiving an industry-recognized credential or degree upon completion of the program.

(2) "Career and technical education region" means an economic service area created in Section 35A-2-101.

(3) "GOEO" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(4) "High quality professional learning" means the professional learning standards for teachers and principals described in Section 53G-11-303.

(5) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Utah Tech University, Utah Valley University, or Salt Lake Community College.

(6) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(7) "Master plan" means the computer science education master plan described in Section [~~53B-34-105~~]53H-13-305.

(8) "Participating employer" means an employer that:

(a) partners with an educational institution on a curriculum for an apprenticeship program or work-based learning program; and

(b) provides an apprenticeship or work-based learning program for students.

(9) "State board" means the State Board of Education.

(10) "Talent board" means the Talent, Education, and Industry Alignment Board created in Section [~~53B-34-102~~]53H-13-302.

(11) "Talent program" means the Talent Ready Utah Program created in Section [~~53B-34-103~~]53H-13-303.

(12) "Targeted industry" means an industry or group of industries targeted by GOEO for economic development in the state.

(13) "Technical college" means:

(a) the same as that term is defined in Section [~~53B-1-101.5~~]53H-1-101; and

(b) a degree-granting institution acting in the degree-granting institution's technical education role described in Section [~~53B-2a-201~~]53H-3-608.

(14) (a) "Work-based learning program" means a program that combines structured and supervised learning activities with authentic work experiences and that is implemented through industry and education partnerships.

(b) "Work-based learning program" includes the following objectives:

(i) providing students an applied workplace experience using knowledge and skills attained in a program of study that includes an internship, externship, or work experience;

(ii) providing an educational institution with objective input from a participating employer regarding the education requirements of the current workforce; and

(iii) providing funding for programs that are associated with high-wage, in-demand, or emerging occupations.

(15) "Workforce programs" means education or industry programs that facilitate training the state's workforce to meet industry demand.

Section 366. Section 53H-13-302, which is renumbered from Section 53B-34-102 is renumbered and amended to read:

[~~53B-34-102~~]53H-13-302 (Effective upon governor's approval). Talent, Education, and Industry Alignment Board -- Creation -- Membership -- Expenses -- Duties.

(1) There is created the Talent, Education, and Industry Alignment Board composed of the following members:

(a) the state superintendent of public instruction or the superintendent's designee;

(b) the commissioner or the commissioner's designee;

(c) the chair of the State Board of Education or the chair's designee;

(d) the executive director of the Department of Workforce Services or the executive director's designee;

(e) the executive director of the Governor's Office of Economic Opportunity or the executive director's designee;

(f) the director of the Division of Professional Licensing or the director's designee;

(g) the governor's education advisor or the advisor's designee;

(h) one member of the Senate, appointed by the president of the Senate;

(i) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(j) the president of the Salt Lake Chamber or the president's designee;

(k) six representatives of private industry chosen to represent targeted industries, appointed by GOEO;

(l) the lieutenant governor or the lieutenant governor's designee; and

(m) any additional individuals appointed by GOEO who represent:

(i) one or more individual educational institutions; or

(ii) education or industry professionals.

(2) The talent board shall select a chair and vice chair from among the members of the talent board.

(3) The talent board shall meet at least quarterly.

(4) Attendance of a majority of the members of the talent board constitutes a quorum for the transaction of official talent board business.

(5) Formal action by the talent board requires the majority vote of a quorum.

(6) A member of the talent board:

(a) may not receive compensation or benefits for the member's service; and

(b) who is not a legislator may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The talent board shall:

(a) (i) review and develop metrics to measure the progress, performance, effectiveness, and scope of any state operation, activity, program, or service that primarily involves employment training or placement; and

(ii) ensure that the metrics described in Subsection (7)(a) are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement;

(b) make recommendations to the board and GOEO regarding how to better align training and education in the state with industry demand;

(c) make recommendations to the board and GOEO regarding how to better align technical education with current and future workforce needs;

(d) coordinate with the talent program to meet the responsibilities described in Section [~~53B-34-103~~]53H-13-303;

(e) develop a computer science education master plan in accordance with Section [~~53B-34-105~~]53H-13-305;

(f) coordinate with the talent program to meet the responsibilities described in Section [~~53B-34-107~~]53H-13-310; and

(g) administer the Utah Works Program in accordance with Section [~~53B-34-108~~]53H-13-307.

(8) Nothing in this section prohibits an individual who, on June 30, 2022, is a member of a subcommittee within the Governor's Office of Economic Opportunity known as the Talent, Education, and Industry Alignment Subcommittee from serving as a member of the talent board.

Section 367. Section 53H-13-303, which is renumbered from Section 53B-34-103 is renumbered and amended to read:

[~~53B-34-103~~]53H-13-303 (Effective upon governor's approval). Talent Ready Utah Program.

(1) There is created the Talent Ready Utah Program administered by the commissioner.

(2) The commissioner, with the approval of the board, shall appoint a director of the talent program.

(3) The director of the talent program:

(a) shall appoint, with the approval of the commissioner, an apprenticeship intermediary, to carry out the duties described in Subsection (5); and

(b) may appoint other staff with the approval of the commissioner.

(4) The talent program shall coordinate with the talent board to:

(a) further education and industry alignment in the state;

(b) coordinate the development of new education programs that align with industry demand;

(c) coordinate or partner with other state agencies to administer grant programs;

(d) promote the inclusion of industry partners in education;

(e) provide outreach and information to employers regarding workforce programs and initiatives;

(f) develop and analyze stackable credential programs;

(g) determine efficiencies among workforce providers;

(h) map available workforce programs focusing on programs that successfully create high-paying jobs; and

(i) support initiatives of the talent board.

(5) The apprenticeship intermediary appointed by the director under Subsection (3) shall, in coordination with the talent program and at the direction of the talent board, foster relationships between industry partners, local education agencies, and the talent program, including by:

(a) increasing awareness for the talent program;

(b) recruiting industry partners;

(c) connecting high school students to participating employers, apprenticeship opportunities, and work-based learning opportunities;

(d) working with local education agencies to:

(i) integrate talent program apprenticeship opportunities and work-based learning opportunities;

(ii) connect high school students with higher education opportunities;

(e) training mentors at participating employers in vocational education practices for youth;

(f) holding meetings with education partners and industry partners to discuss curriculum needs and industry needs;

(g) working with institutions of higher education and local education agencies to ensure industry-recognized credential programs are fully stackable; and

(h) performing other duties as directed by the talent board.

Section 368. Section 53H-13-304, which is renumbered from Section 53B-34-104 is renumbered and amended to read:

[~~53B-34-104~~]53H-13-304 (Effective upon governor's approval). Talent program report to board.

The talent program shall annually report to the board on the talent program's operations and recommendations, including the results of the apprenticeship pilot program described in Section [~~53B-34-107~~]53H-13-310.

Section 369. Section 53H-13-305, which is renumbered from Section 53B-34-105 is renumbered and amended to read:

[~~53B-34-105~~]53H-13-305 (Effective upon governor's approval). Computer science education master plan.

The talent board, in consultation with the state board and the talent program, shall develop a computer science education master plan that:

(1) includes a statement of the objectives and goals of the master plan;

(2) describes how the talent board and the state board will administer the Computer Science for Utah Grant Program created in Section [~~53B-34-106~~]53H-13-306;

(3) provides guidance for local education agencies in implementing computer science education opportunities for students in high school, middle school, and elementary school;

(4) integrates recommendations and best practices from private and public entities that are seeking to improve and expand the opportunities for computer science education, including the Expanding Computer Education Pathways Alliance; and

(5) makes recommendations to assist a local education agency in creating a local education agency computer science plan described in Subsection [~~53B-34-106(6)~~]53H-13-306(6), including:

(a) providing recommendations regarding course offerings in computer science;

(b) providing recommendations regarding professional development opportunities in computer science for licensed teachers;

(c) providing recommendations regarding curriculum software for computer science courses;

(d) providing recommendations regarding assessment solutions to measure the learning outcomes of students in computer science courses; and

(e) providing information regarding how a local education agency can receive technical support from the talent board in providing computer science education opportunities for students.

Section 370. Section 53H-13-306, which is renumbered from Section 53B-34-106 is renumbered and amended to read:

[~~53B-34-106~~]53H-13-306 (Effective upon governor's approval). Computer Science for Utah Grant Program.

(1) As used in this section, "grant program" means the Computer Science for Utah Grant Program created in Subsection (2).

(2) The Computer Science for Utah Grant Program is created to provide grants to eligible local education agencies for improving computer science learning outcomes and course offerings as demonstrated by:

(a) the creation and implementation of a local education agency computer science plan as described in Subsection (6); and

(b) the effective implementation of approved courses and the provision of effective training opportunities for licensed teachers.

(3) Subject to appropriations from the Legislature, the state board, in consultation with the talent board, shall distribute to local education agencies money appropriated for the grant program in accordance with this section.

(4) In administering the Computer Science for Utah Grant Program, the state board, in consultation with the talent board, may make rules, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) describe the form and deadlines for a grant application by a local education agency under this section; and

(b) describe the reporting requirements required by a local education agency after receiving a grant under this section.

(5) In awarding a grant under Subsection (3), the state board shall consider the effectiveness of the local education agency in creating and implementing a local education agency computer science plan as described in Subsection (6).

(6) Each local education agency that seeks a grant as described in this section shall submit a written computer science plan, in a form approved by the state board, that:

(a) covers at least four years;

(b) addresses the recommendations of the talent board's computer science education master plan described in Section [~~53B-34-105~~]53H-13-305;

(c) identifies targets for improved computer science offerings, student learning, and licensed teacher training;

(d) describes a computer science professional development program and other opportunities for high quality professional learning for licensed teachers or individuals training to become licensed teachers;

(e) provides a detailed budget, communications, and reporting structure for implementing the computer science plan;

(f) commits to provide one computer science course offering, approved by the talent board, in every middle and high school within the local education agency;

(g) commits to integrate computer science education into the curriculum of each elementary school within the local education agency; and

(h) includes any other requirement established by the state board by rule, in consultation with the talent board, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) Each local education agency that receives a grant as described in this section shall provide an annual written assessment to the state board and the talent board for each year that the local education agency receives a grant or expends grant money that includes:

(a) how the grant money was used;

(b) any improvements in the number and quality of computer science offerings provided by the local education agency and any increase in the number of licensed teachers providing computer science teaching to students;

(c) any difficulties encountered during implementation of the local education agency's written computer science plan and steps that will be taken to address the difficulties; and

(d) any other requirement established by the state board by rule, in consultation with the talent board, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) (a) The state board and the talent board shall review each annual written assessment described in Subsection (7).

(b) As a result of the review described in Subsection (8)(a):

(i) the state board or the talent board may provide recommendations to improve the progress of the local education agency in meeting the objectives of the written computer science plan;

(ii) the state board may determine not to renew or extend a grant under this section; or

(iii) the state board or the talent board may take other action to assist the local education agency.

Section 371. Section 53H-13-307, which is renumbered from Section 53B-34-108 is renumbered and amended to read:

[~~53B-34-108~~]53H-13-307 (Effective upon governor's approval). Utah Works Program.

(1) There is created the Utah Works Program.

(2) The Utah Works Program, under the direction of the talent board, shall partner with the following entities to develop short-term pre-employment training and short-term early employment training for student and workforce participants that meet the needs of businesses that are creating jobs and economic growth in the state:

(a) the Department of Workforce Services;

(b) the Governor's Office of Economic Opportunity; and

(c) businesses that have significant hiring demands for primarily newly created jobs in the state.

(3) In addition to the duties described in Subsection (2), the Utah Works Program may:

(a) coordinate with the Department of Workforce Services, education agencies, and employers to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;

(b) coordinate with the board to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program; and

(c) coordinate with the state board and local education agencies when appropriate to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program.

(4) The board, in consultation with the talent board, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding the development and administration of the Utah Works Program.

(5) The Utah Works Program shall annually report the following metrics to the board:

(a) the number of participants in the program;

(b) how program participants learned about or were referred to the program;

(c) the number of participants who have completed training offered by the program; and

(d) the number of participants who have been hired by a business participating in the program.

Section 372. Section 53H-13-308, which is renumbered from Section 53B-34-109 is renumbered and amended to read:

[~~53B-34-109~~]53H-13-308 (Effective upon governor's approval). Grants for business entities offering employee return to work programs.

(1) As used in this section, "business entity" means a for-profit or nonprofit entity.

(2) Subject to appropriations from the Legislature, the talent program, in consultation with the talent board, may award grants to business entities to offer innovative return to work programs for employees.

(3) A business entity that receives grant funds under this section may only use grant funds for:

(a) costs associated with developing a new return to work program; or

(b) costs associated with expanding an existing return to work program.

(4) The talent program shall include the following information in the report described in Section [~~53B-34-104~~]53H-13-304:

(a) the process by which the talent program determines which business entities shall receive grants; and

(b) the formula for awarding grants.

(5) The talent program shall award grant funds on a rolling basis, until the earlier of funds being exhausted or June 30, 2025.

Section 373. Section 53H-13-309, which is renumbered from Section 53B-34-110 is renumbered and amended to read:

[~~53B-34-110~~]53H-13-309 (Effective upon governor's approval). Talent advisory councils.

(1) As used in this section:

(a) "Advisory council" means an advisory council the talent board creates under Subsection (10).

[~~(b) "Institution of higher education" means the same as the term is defined in Section 53B-1-102.~~]

[~~(c)~~](b) "Talent initiative" means an initiative the board creates under Subsection (2).

(2) (a) Subject to legislative appropriations and in accordance with the proposal process and other provisions of this section, the board shall develop and oversee one or more talent initiatives that include providing funding for expanded programs at an institution of higher education related to the talent initiative.

(b) The board shall ensure that a talent initiative the board creates:

(i) uses a name for the talent initiative that reflects the area the initiative is targeting;

(ii) contains an outline of the disciplines, industries, degrees, certifications, credentials, and types of skills the talent initiative will target; and

(iii) uses a corresponding advisory council created in Subsection (10).

(3) In creating a talent initiative, the board shall facilitate collaborations between an institution of higher education and participating employers that:

(a) create expanded, multidisciplinary programs or stackable credential programs offered at a technical college, undergraduate, or graduate level of study; and

(b) prepare students to be workforce participants in jobs requiring skills related to a talent initiative.

(4) (a) An institution of higher education seeking to partner with one or more participating employers to create a program related to a talent initiative shall submit a proposal to the talent board through a process the talent board creates.

(b) An institution of higher education shall submit a proposal that contains:

(i) a description of the proposed program, including:

(A) implementation timelines for the program;

(B) a demonstration of how the program will be responsive to the talent needs related to the talent initiative;

(C) an outline of relevant industry involvement that includes at least one participating employer that partners with the institution of higher education; and

(D) an explanation of how the program addresses an unmet regional workforce need related to a talent initiative;

(ii) an estimate of:

(A) projected student enrollment and completion rates for a program;

(B) the academic credit or credentials that a program will provide; and

(C) occupations for which a graduate will qualify;

(iii) evidence that each participating employer is committed to participating and contributing to the program by providing any combination of:

(A) instruction;

(B) curriculum review;

(C) feedback regarding effectiveness of program graduates as employees;

(D) work-based learning opportunities; or

(E) mentoring;

(iv) a description of any resources a participating employer will provide within the program; and

(v) the amount of funding requested for the program, including:

(A) the justification for the funding; and

(B) the cost per student served as estimated under Subsection (4)(b)(ii).

(5) In reviewing a proposal, the talent board shall provide a proposal to the relevant advisory council described in Subsections (10) and (11).

(6) The relevant advisory council shall:

(a) review and prioritize each proposal the advisory council receives; and

(b) recommend to the talent board whether the proposal should be funded and the funding amount based on:

(i) the quality and completeness of the elements of the proposal described in Subsection (4)(b);

(ii) to what extent the proposed program:

(A) would expand the capacity to meet state or regional workforce needs related to the talent initiative;

(B) would integrate industry-relevant competencies with disciplinary expertise;

(C) would incorporate internships or significant project experiences, including team-based experiences;

(D) identifies how industry professionals would participate in elements described in Subsection (4)(b)(iii); and

(E) would be cost effective; and

(iii) other relevant criteria as the relevant advisory council and the talent board determines.

(7) The board shall review the recommendations of an advisory council and may provide funding for a program related to a talent initiative using the criteria described in Subsection (6)(b).

(8) In a form that the board approves, each institution of higher education that receives funding shall annually provide written information to the board regarding the activities, successes, and challenges related to administering the program related to the talent initiative, including:

(a) specific entities that received funding under this section;

(b) the amount of funding provided to each entity;

(c) the number of participating students in each program;

(d) the number of graduates of the program;

(e) the number of graduates of the program employed in jobs requiring skills related to the talent initiative; and

(f) progress and achievements relevant to the implementation timeline submitted under Subsection (4)(b)(i)(A).

(9) On or before October 1 of each year, the board shall provide an annual written report containing the information described in Subsection (8) to the:

(a) Education Interim Committee; and

(b) Higher Education Appropriations Subcommittee.

(10) The talent board shall create a talent advisory council for each talent initiative created under Subsection (2) to make recommendations to the board regarding the administration of a talent initiative including:

(a) a deep technology initiative;

(b) a life sciences workforce initiative;

(c) engineering and computer technology; and

(d) health professions initiatives including a nursing initiative.

(11) An advisory council shall consist of the following members:

(a) a minimum of four members who have extensive experience in the talent initiative's subject matter from the private sector whom the chair of the talent board appoints and the board approves;

(b) a representative of the board described in Section [~~53B-1-402~~]53H-1-203 whom the chair of the board appoints;

(c) a representative of the Governor's Office of Economic Opportunity whom the executive director of the Governor's Office of Economic Opportunity appoints;

(d) a representative from Talent Ready Utah; and

(e) any other specialized industry experts whom a majority of the advisory council may invite to participate as needed as nonvoting members.

(12) Talent Ready Utah shall provide staff support for an advisory council.

(13) (a) Two advisory council members appointed under Subsection (11)(a) shall serve an initial term of two years.

(b) Except as described in Subsection (13)(a), all other advisory council members shall serve an initial term of four years.

(c) Successor advisory council members upon appointment or reappointment shall each serve a term of four years.

(d) When a vacancy occurs in the membership for any reason, the initial appointing authority shall appoint a replacement for the unexpired term.

(e) An advisory council member may not serve more than two consecutive terms.

(14) A vote of a majority of the advisory council members constitutes an action of the advisory council.

(15) The duties of the advisory council include reviewing, prioritizing, and making recommendations to the board regarding proposals for funding under the talent initiative created in accordance with Subsection (2) for which the council was created.

(16) An advisory council member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(17) The board may discontinue a talent initiative and the related talent advisory council by majority vote.

Section 374. Section 53H-13-310, which is renumbered from Section 53B-34-107 is renumbered and amended to read:

[~~53B-34-107~~]53H-13-310 (Effective upon governor's approval). Apprenticeships and work-based learning.

(1) The talent program, in collaboration with the talent board, may partner with one or more of the following to facilitate and encourage apprenticeship opportunities and work-based learning opportunities for Utah students:

(a) the State Board of Education;

(b) the Utah system of higher education; or

(c) a participating employer in the state.

(2) Subject to appropriations from the Legislature and in accordance with the proposal process and other provisions of this section, the talent board, in coordination with the talent program, may provide funding for approved apprenticeship opportunities and work-based learning opportunities.

(3) To receive funding under this section, an entity described in Subsection (1) seeking to partner with the talent program shall submit a proposal through the talent program, in a form approved by the talent program and in accordance with deadlines determined by the talent program, that contains the following elements:

(a) the proposal shall include:

(i) a description of the proposed apprenticeship program or work-based learning program that demonstrates the program will be:

(A) responsive to the workforce needs of a high demand industry or occupation; and

(B) a partnership between at least one participating employer and at least one public high school, technical college, or institution of higher education;

(ii) an estimate of:

(A) student enrollment in the program;

(B) what school credit, credentials, certifications, or other workforce attainments will be provided by the program; and

(C) job-placement rates for students who complete the program;

(iii) a description of any financial contributions or in-kind contributions that will be provided by each participating employer in the program;

(iv) if the program would require state board approval under the provisions of Section [~~53B-16-102~~]53H-3-603, evidence that the state board has approved the program; and

(v) the amount of funding requested for the program, including justification for the funding; and

(b) while not required, a preference may be given to a proposal that includes:

(i) a description of a stackable credentialing pathway for participating students that will be created by the program between at least two of the following:

(A) a public high school;

(B) a technical college; and

(C) an institution of higher education; or

(ii) the potential for participating students to obtain full-time employment with the participating employer upon completion of the program.

(4) The talent board shall review and prioritize each proposal received and determine whether the proposal should be funded, using the following criteria:

(a) the quality and completeness of the elements of the proposal described in Subsection (3)(a);

(b) the quality of the optional elements of the proposal described in Subsection (3)(b);

(c) to what extent the proposal would expand the capacity to meet state or regional workforce needs; and

(d) other relevant criteria as determined by the talent board.

(5) A partnership that receives funding under this section:

(a) shall use the money to accomplish the proposed apprenticeship program or work-based learning program;

(b) may use the money to offset a participating employer's direct operational costs associated with employing students as part of an approved apprenticeship program or work-based learning program;

(c) except as provided in Subsection (5)(d), may not use the money for educational administration; and

(d) may use the money to support one full-time employee within a career and technical education region if:

(i) each participating local education agency, public high school, technical college, and institution of higher education agree on which entity will house the full-time employee;

(ii) the full-time employee spends all of the employee's time working exclusively to develop apprentice programs or work-based learning programs; and

(iii) the full-time employee is responsible for regular reporting to and receiving training from the director of the talent program.

(6) The talent program shall be responsible for the administration of apprenticeship programs and work-based learning programs described in this section, including:

(a) working with and providing technical assistance to the participating partners that establish apprentice programs and work-based learning programs and that receive funding under the provisions of this section;

(b) establishing reporting requirements for participating partners that establish apprentice programs and work-based learning programs and that receive funding under the provisions of this section;

(c) providing outreach and marketing to encourage more employers to participate; and

(d) annually reporting on the activities, successes, and challenges of the talent program related to administering apprentice programs and work-based learning programs for inclusion in the report described in Section [~~53B-34-104~~]53H-13-304, including:

(i) specific entities that received funding under this section;

(ii) the amount of funding provided to each entity; and

(iii) the number of participating students in each apprentice program and work-based learning program.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the talent program may make rules regarding:

(a) the method and deadlines for applying for funding under this section;

(b) the distribution of funding under this section; and

(c) the reporting requirements of each entity receiving funding under this section.

Section 375. Section 53H-13-311, which is renumbered from Section 53B-34-111 is renumbered and amended to read:

[~~53B-34-111~~]53H-13-311 (Effective upon governor's approval). Youth apprenticeship governance study.

(1) As used in this section:

(a) "Apprenticeship" means the same as the term is defined in Section 35A-6-102.

(b) "Study" means the study created in Subsection (2).

(2) There is created a study to design a framework and system for maximizing efficiencies and expanding youth apprenticeship opportunities for students.

(3) The study shall be conducted collaboratively by the following entities:

(a) the governor's office;

(b) the State Board of Education;

(c) the Department of Workforce Services;

(d) the Talent Ready Utah Program; and

(e) relevant participating employers as determined by the entities described in Subsections (3)(a) through (d).

(4) The study shall examine framework and system design recommendations regarding:

(a) ways to increase youth apprenticeship offerings;

(b) increasing student and employer participation in youth apprenticeships;

(c) formalizing roles and streamlining use of existing infrastructure described in:

(i) Title 35A, Chapter 6, Apprenticeship Act;

(ii) [~~Title 53B, Chapter 34, Talent, Education, and Industry Alignment~~]this part, including the role of the state apprenticeship intermediary described in [~~Section 53B-34-103~~]Section 53H-13-303; and

(iii) Section 53G-7-902;

(d) aligning youth apprenticeship efforts to meet the definition of youth apprenticeship defined in Section 35A-6-102;

(e) identifying metrics to assess the success of youth apprenticeship programs;

(f) opportunities to leverage secondary and post-secondary educational programs in conjunction with youth apprenticeships, including:

(i) career and technical education;

(ii) concurrent enrollment; and

(iii) stackable credentials; and

(g) the creation of career competencies to prepare a qualified workforce.

(5) The staff of the Talent Ready Utah Program shall staff the study.

(6) No later than May 1, 2025, the entities described in Subsection (3) shall report the recommendations described in Subsection (4) to the talent board.

Section 376. Section 53H-13-401, which is renumbered from Section 53B-38-102 is renumbered and amended to read:

PART 4. Talent Connect

[~~53B-38-102~~]53H-13-401 (Effective upon governor's approval). General provisions -- Definitions.

As used in this [~~chapter~~]part:

(1) "Co-op employee" means a student who participates in a cooperative education program and is employed by a participating cooperative education employer.

(2) "Cooperative education employer" means a business or organization participating in the cooperative education program that provides structured work opportunities for students.

(3) "Cooperative education program" or "co-op" means a structured educational pilot program that integrates academic learning with full-time paid work experience aligned with the student's academic discipline and career goals.

(4) "High-demand job" means an occupation or position that:

(a) has a higher than average projected growth rate in Utah;

(b) offers wages at or above the state median wage;

(c) follows star ranking criteria established by the Department of Workforce Services; and

(d) considers occupations that have a high societal demand and impact.

(5) "Participating institution" means the following institutions of higher education:

(a) Weber State University;

(b) University of Utah;

(c) Southern Utah University;

(d) Utah State University;

(e) Utah Tech University; and

(f) Utah Valley University.

(6) "Recent graduate" means a graduate of a program or degree within a year of completion.

(7) "Talent portal" means the Utah High-Demand Talent Portal created in Section [~~53B-38-103~~]53H-13-402.

(8) "Talent portal administrator" means the Talent, Education, and Industry Alignment Board created in Section [~~53B-34-102~~]53H-13-302.

(9) "Talent Ready Utah" means the program within the Utah System of Higher Education established in Section [~~53B-34-103~~]53H-13-303.

Section 377. Section 53H-13-402, which is renumbered from Section 53B-38-103 is renumbered and amended to read:

[~~53B-38-103~~]53H-13-402 (Effective upon governor's approval). Utah High-Demand Talent Portal -- Creation -- Purpose.

(1) There is created the Utah High-Demand Talent Portal within Talent Ready Utah.

(2) The purpose of the talent portal is to:

(a) connect Utah employers with qualified, trained, and educated talent from higher education institutions;

(b) provide students within the Utah System of Higher Education with high-demand and high-wage employment opportunities;

(c) connect recent graduate job seekers with high-demand employment opportunities in Utah;

(d) provide a platform to post high-demand job openings;

(e) highlight skills and qualifications needed for high-demand jobs;

(f) integrate with workforce development, work-based learning;

(g) support career pathway development and promote long-term workforce alignment; and

(h) utilize matchmaking software strategies to intuitively match employers with students across the Utah System of Higher Education.

Section 378. Section 53H-13-403, which is renumbered from Section 53B-38-104 is renumbered and amended to read:
[~~53B-38-104~~]53H-13-403 (Effective upon governor's approval). Talent portal requirements -- Administration -- Labor market data integration.

(1) The talent portal shall:

(a) focus on industries and occupations identified as high-demand in collaboration with Talent Ready Utah, the Governor's Office of Economic Opportunity, and the Department of Workforce Services and in coordination with state labor market data;

(b) provide an intuitive, user-friendly interface for job seekers and employers;

(c) include robust search, filtering, and geolocation options;

(d) offer mobile-optimized access;

(e) allow users to create profiles and upload resumes;

(f) integrate with relevant training, credentialing, and educational resources;

(g) connect prospective talent to industry requirements for posted high-demand jobs;

(h) highlight internships, apprenticeships, and career pathway opportunities;

(i) provide data analytics to employers on job listing performance;

(j) implement security measures to protect user data and verify employer listings; and

(k) be accessible to users with disabilities in compliance with the Americans with Disabilities Act.

(2) In accordance with Subsection (3), the talent portal administrator shall:

(a) partner with:

(i) Talent Ready Utah;

(ii) the Governor's Office of Economic Opportunity;

(iii) the Department of Workforce Services;

(iv) industry associations; and

(v) employers to enhance talent portal offerings;

(b) partner with the State Tax Commission to reconcile that employers registering to utilize the talent portal are businesses registered to do business in the state of Utah and are in good standing;

(c) conduct targeted outreach to promote the talent portal to:

(i) institutions of higher education within the Utah System of Higher Education;

(ii) students; and

(iii) Utah employers;

(d) regularly collect and analyze user feedback to improve the talent portal; and

(e) provide annual reports on talent portal performance metrics, including:

(i) usage statistics;

(ii) placement rates; and

(iii) user demographics.

(3) The talent portal administrator shall:

(a) utilize current labor market data to inform job listings, industry focus, and emerging opportunities;

(b) update high-demand job categories at least annually based on projected growth, wage data, and workforce needs; and

(c) provide labor market insights to users, including salary ranges, career growth trends, and skill requirements.

(4) The talent portal administrator shall ensure that the talent portal has the ability to dynamically adjust to reflect changes in labor market trends and high-demand occupations.

Section 379. Section 53H-13-404, which is renumbered from Section 53B-38-105 is renumbered and amended to read:
[~~53B-38-105~~]53H-13-404 (Effective upon governor's approval). Cooperative Education Program -- Creation -- Purpose.

(1) A cooperative education program is established within the Utah System of Higher Education beginning July 1, 2025 and ending December 31, 2027.

(2) The purpose of the co-op is to:

(a) provide students with structured, credit-bearing cooperative education opportunities that align with academic disciplines, program accreditation requirements, and career outcomes while maintaining full-time student status;

(b) foster partnerships between higher education institutions and employers to offer valuable employment opportunities;

(c) establish clear roles and responsibilities for participating institutions and employers; and

(d) maintain accountability and program effectiveness through regular evaluation.

Section 380. Section 53H-13-405, which is renumbered from Section 53B-38-106 is renumbered and amended to read:
[~~53B-38-106~~]53H-13-405 (Effective upon governor's approval). Cooperative education program -- Requirements -- Administration and oversight.

(1) The following entities shall collaborate to create and implement the co-op:

(a) the Office of the Commissioner of Higher Education;

(b) an engineering focused trade association that the Talent, Education, and Industry Alignment Board created in Section [~~53B-34-102~~]53H-13-302 selects;

(c) Weber State University;

(d) University of Utah;

(e) Utah State University;

(f) Utah Tech University;
(g) Southern Utah University;
(h) Utah Valley University; and
(i) Talent Ready Utah established in Section [~~53B-34-103~~]53H-13-303.
(2) The entities listed in Subsection (1) shall collaborate to:
(a) establish program requirements and standards for cooperative education experiences that:
(i) occur during a student's third or fourth academic year;
(ii) are equivalent to two continuous academic terms; and
(iii) align with degree requirements and career pathways;
(b) develop the policies for academic credit recognition;
(c) create program evaluation metrics;
(d) maintain oversight of program implementation; and
(e) focus the program's initial efforts on high-demand jobs in fields that require an engineering degree, including the life-sciences sector.
(3) In accordance with the program components described under Subsection (2), a participating institution shall:
(a) establish admission criteria for the cooperative education program;
(b) create preparatory workshops that address:
(i) career development;
(ii) professional skill building;
(iii) workplace communication; and
(iv) employment preparation;
(c) develop procedures for:
(i) program orientation;
(ii) academic progress monitoring;
(iii) experience documentation; and
(iv) performance evaluation;
(d) assign a cooperative education advisor who will:
(i) provide regular guidance;
(ii) monitor academic alignment;
(iii) coordinate with workplace mentors; and
(iv) assess learning outcomes; and
(e) maintain records of:
(i) placement details;
(ii) student progress;
(iii) completed evaluations; and
(iv) program outcomes.
(4) The engineering focused trade association described in Subsection (1) shall:
(a) identify and recruit qualified employers from the engineering focused trade association's membership;
(b) communicate industry needs to participating institutions;
(c) facilitate employer participation in co-op development; and
(d) promote co-op opportunities within engineering sectors, including the life sciences sector.
(5) The Office of the Commissioner of Higher Education shall establish employment standards that require participating employers to:
(a) provide compensation that:
(i) meets or exceeds minimum wage requirements; and
(ii) reflects industry standards for the position;
(b) schedule work hours that:
(i) total at least 32 hours per week; and
(ii) accommodate academic requirements; and
(c) maintain compliance with:
(i) federal employment laws;
(ii) state employment laws; and
(iii) program participation requirements.
(6) A cooperative education employer shall:
(a) submit to the relevant participating institution:
(i) detailed position descriptions;
(ii) work location information;
(iii) scheduling requirements; and
(iv) supervisor contact details;
(b) provide structured workplace experiences for a cooperative education employee that:
(i) align with academic programs;

(ii) develop professional skills;

(iii) include regular supervision; and

(iv) offer meaningful work assignments;

(c) assign qualified workplace mentors for a cooperative education employee who will:

(i) provide professional guidance;

(ii) monitor work performance;

(iii) coordinate with academic advisors; and

(iv) complete required evaluations; and

(d) conduct regular evaluations and monitoring as directed by the participating institution in consultation with the Office of the Commissioner of Higher Education.

Section 381. Section 53H-13-406, which is renumbered from Section 53B-38-107 is renumbered and amended to read:

[~~53B-38-107~~]53H-13-406 (Effective upon governor's approval). Cooperative education program -- Liability and risk management.

(1) (a) The Utah System of Higher Education and participating institutions are not liable for any act, omission, or conduct of cooperative education employees or cooperative education employers.

(b) A cooperative education employer shall indemnify and hold harmless all participating institutions against claims arising from co-op placements.

(2) The Office of the Commissioner of Higher Education shall:

(a) establish procedures for:

(i) program administration;

(ii) risk management;

(iii) issue resolution; and

(iv) early termination protocols; and

(b) develop policies regarding:

(i) liability coverage;

(ii) workplace safety;

(iii) co-op performance standards; and

(iv) professional conduct requirements for a cooperative education employee.

(3) A participating institution shall:

(a) maintain documentation systems for:

(i) placement agreements;

(ii) performance reports;

(iii) incident records; and

(iv) program evaluations; and

(b) implement procedures for:

(i) issue resolution;

(ii) performance intervention;

(iii) placement modification; and

(iv) program termination.

(4) A cooperative education employer shall:

(a) maintain appropriate insurance coverage;

(b) in accordance with Subsection (1), indemnify participating institutions against claims arising from cooperative education placements;

(c) regarding a cooperative education employee, notify the relevant participating institution of:

(i) performance concerns;

(ii) policy violations;

(iii) workplace incidents; and

(iv) proposed terminations; and

(d) regarding a cooperative education employee, document and report to the relevant participating institution:

(i) workplace injuries;

(ii) safety incidents;

(iii) policy violations; and

(iv) program departures.

Section 382. Section 53H-13-407, which is renumbered from Section 53B-38-108 is renumbered and amended to read:

[~~53B-38-108~~]53H-13-407 (Effective upon governor's approval). Cooperative education program -- Evaluation and reporting.

(1) No later than September 15 of each year, the Office of the Commissioner of Higher Education, in collaboration with the entities described in Subsection [~~53B-37-106(1)~~]53H-13-405(1), shall prepare an annual report for submission to:

(a) the Talent, Education, and Industry Alignment Board created in Section [~~53B-34-102~~]53H-13-302;

(b) the Utah Board of Higher Education; and

(c) the Education Interim Committee and the Economic Development and Workforce Services Interim Committee.

(2) The annual report described in Subsection (1) shall:

(a) include:

(i) the number of student placements and cooperative education employers;

(ii) student and cooperative education employer feedback;

(iii) key workforce impact metrics; and

(iv) recommendations for additional on-going resources to scale cooperative education program offerings; and

(b) provide analysis on the co-op's effectiveness in:

(i) enhancing student career readiness;

(ii) addressing Utah workforce needs and retention; and

(iii) improving competency validation practices based on cooperative education employers' input.

Section 383. Section 53H-14-101 is enacted to read:

CHAPTER 14. Data, Records, and Privacy

PART 1. General Provisions

53H-14-101 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 384. Section 53H-14-201, which is renumbered from Section 53B-16-301 is renumbered and amended to read:

PART 2. Restricted Records

[~~53B-16-301~~]53H-14-201 (Effective upon governor's approval). General provisions -- Definitions.

As used in this part:

(1) "Person" means:

(a) a federal, state, or local governmental entity:

(i) that sponsors sponsored research; or

(ii) participates in a technology transfer;

(b) an individual;

(c) a nonprofit or profit corporation;

(d) a partnership;

(e) a sole proprietorship; or

(f) other type of business organization.

[~~(2) "Public institution of higher education" means an institution within the state system of higher education defined in Section 53B-1-102.~~]

[~~(3)~~](2) "Restricted record" means a record that is restricted as provided by Section [~~53B-16-303~~]53H-14-203.

[~~(4)~~](3) "Sponsored research" refers to research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted by [~~a public institution of higher education~~]an institution through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external person that is not created or controlled by the [~~public institution of higher education~~]institution.

[~~(5)~~](4) "Technology transfer" refers to transferring information, commercializing research, or providing technical assistance between [~~a public institution of higher education~~]an institution and external persons for the purpose of economic development.

Section 385. Section 53H-14-202, which is renumbered from Section 53B-16-302 is renumbered and amended to read:

[~~53B-16-302~~]53H-14-202 (Effective upon governor's approval). Records that may be classified as restricted.

[~~A public institution of higher education~~]An institution may classify only the following records as restricted:

(1) that portion of a technology transfer record or sponsored research record to which access must be restricted for the purpose of securing and maintaining proprietary protection of intellectual property rights, including but not limited to patents, copyrights, trademarks, and trade secrets; or

(2) that portion of a technology transfer record or sponsored research record to which access is restricted for competitive or proprietary purposes, as a condition of actual or potential participation in a sponsored research or technology transfer agreement; provided, however, that upon receipt of a written request for a reasonably identifiable record, the [~~public institution of higher education~~]institution shall disclose:

(a) prior to a memorandum of intent to contract or an agreement in principle between the parties:

(i) the names of the parties, or, if the disclosure of names would cause competitive harm, a general description of the type of parties negotiating the technology transfer or sponsored research agreement; and

(ii) a general description of the nature of the technology transfer or sponsored research under consideration, excluding proprietary or competitive information; or

(b) after a memorandum of intent to contract or an agreement in principle between the parties:

(i) the names of the parties involved in the technology transfer or sponsored research;

(ii) a general description of the nature of the technology transfer or sponsored research to be conducted, excluding proprietary or competitive information; and

(iii) records of the technology transfer or sponsored research to be conducted, excluding those portions of records to which access is limited under this part or Title 63G, Chapter 2, Government Records Access and Management Act.

Section 386. Section 53H-14-203, which is renumbered from Section 53B-16-303 is renumbered and amended to read:

[~~53B-16-303~~]53H-14-203 (Effective upon governor's approval). Access to restricted records.

(1) Notwithstanding any other provision of Title 63G, Chapter 2, Government Records Access and Management Act, access to records restricted by this part shall only be permitted upon:

(a) written consent of the [~~public institution of higher education~~]institution originating, receiving, or maintaining the records; or

(b) a finding by the director of the Government Records Office or a court that the record has not been properly classified as restricted under Section 63G-2-302, provided that the review of a restricted classification of a record shall not include considerations of weighing public and private interests regarding access to a properly classified record as contained in Subsection 63G-2-403(11)(b) or 63G-2-404(7) or Section 63G-2-309.

(2) Subsection (1)(b) does not limit the authority of the board to reclassify and disclose a record of [~~a public institution of higher education~~]an institution.

Section 387. Section 53H-14-204, which is renumbered from Section 53B-16-304 is renumbered and amended to read:

[~~53B-16-304~~]53H-14-204 (Effective upon governor's approval). Business confidentiality claims.

(1) (a) Any person who provides to [~~a public institution of higher education~~]an institution a record that the person believes should be protected under a provision listed in Subsection 63G-2-309(1)(b)(i), restricted under Section [~~53B-16-302~~]53H-14-202, or both protected under a provision listed in Subsection 63G-2-309(1)(b)(i) and restricted under Section [~~53B-16-302~~]53H-14-202, shall provide the [~~public institution of higher education~~]institution:

(i) a written claim of business confidentiality; and

(ii) a concise statement of reasons supporting the claim of business confidentiality.

(b) The person described in Subsection (1)(a) shall make the filing at the commencement of:

(i) the sponsored research project; or

(ii) the technology transfer process.

(c) A claim of business confidentiality submitted under this Subsection (1) shall cover all protected and restricted records exchanged during the:

(i) sponsored research project; or

(ii) technology transfer process.

(2) The inadvertent failure to make a legally adequate claim of business confidentiality at the time required by Subsection (1) does not prejudice the claimant's right to make a legally adequate claim at a different time before disclosure of the record.

Section 388. Section 53H-14-205, which is renumbered from Section 53B-16-305 is renumbered and amended to read:

[~~53B-16-305~~]53H-14-205 (Effective upon governor's approval). Applicability of the Government Records Access and Management Act.

Except as otherwise provided by this part, the provisions of Title 63G, Chapter 2, Government Records Access and Management Act, will apply to restricted technology transfer or sponsored research records as defined in this part, as if the records were protected records as defined by Title 63G, Chapter 2, Government Records Access and Management Act.

Section 389. Section 53H-14-301, which is renumbered from Section 53B-25-102 is renumbered and amended to read:

PART 3. Internet Postsecondary Institution Privacy

[~~53B-25-102~~]53H-14-301 (Effective upon governor's approval). General provisions -- Definitions.

As used in this [~~chapter~~]part:

(1) [~~(a)~~] "Personal Internet account" means an online account that is used by a student or prospective student exclusively for personal communications unrelated to any purpose of [~~the postsecondary~~]an institution.

[~~(b)~~](2) "Personal Internet account" does not include an account created, maintained, used, or accessed by a student or prospective student for education related communications or for an educational purpose of the [~~postsecondary~~]institution.

[~~(2) "Postsecondary institution" means an institution that provides educational services offered primarily to persons who have completed or terminated their secondary or high school education or who are beyond the age of compulsory school attendance.~~]

Section 390. Section 53H-14-302, which is renumbered from Section 53B-25-201 is renumbered and amended to read:

[~~53B-25-201~~]53H-14-302 (Effective upon governor's approval). Prohibited activities.

[~~A postsecondary~~]An institution may not do any of the following:

(1) request a student or prospective student to disclose a username and password, or a password that allows access to the student's or prospective student's personal Internet account; or

(2) expel, discipline, fail to admit, or otherwise penalize a student or prospective student for failure to disclose information specified in Subsection (1).

Section 391. Section 53H-14-303, which is renumbered from Section 53B-25-202 is renumbered and amended to read:

[~~53B-25-202~~]53H-14-303 (Effective upon governor's approval). Permitted activities.

(1) This [~~chapter~~]part does not prohibit [~~a postsecondary~~]an institution from requesting or requiring a student to disclose a username or password to gain access to or operate the following:

(a) an electronic communications device supplied by or paid for in whole or in part by the [~~postsecondary~~]institution; or

(b) an account or service provided by the [~~postsecondary~~] institution that is either obtained by virtue of the student's admission to the [~~postsecondary~~] institution or used by the student for educational purposes.

(2) This [~~chapter~~]part does not prohibit or restrict [~~a postsecondary~~]an institution from viewing, accessing, or using information about a student or prospective student that can be obtained without the information described in Subsection [~~53B-25-201(1)~~]53H-14-302(1) or that is available in the public domain.

Section 392. Section 53H-14-304, which is renumbered from Section 53B-25-203 is renumbered and amended to read:

[~~53B-25-203~~]53H-14-304 (Effective upon governor's approval). Duties not created.

(1) This [~~chapter~~]part does not create a duty for [~~a postsecondary~~]an institution to search or monitor the activity of a personal Internet account.

(2) [~~A postsecondary~~]An institution is not liable under this [~~chapter~~]part for failure to request or require that a student or prospective student grant access to, allow observation of, or disclose information that allows access to or observation of the student's or prospective student's personal Internet account.

Section 393. Section 53H-14-305, which is renumbered from Section 53B-25-301 is renumbered and amended to read:

[~~53B-25-301~~]53H-14-305 (Effective upon governor's approval). Private right of action.

(1) A person aggrieved by a violation of this [~~chapter~~]part may bring a civil cause of action against [~~a postsecondary~~]an institution in a court of competent jurisdiction.

(2) In an action brought under Subsection (1), if the court finds a violation of this [~~chapter~~]part, the court shall award the aggrieved person not more than $500.

Section 394. Section 53H-14-401, which is renumbered from Section 53B-28-201 is renumbered and amended to read:

PART 4. Confidential Communications for Institutional Advocacy Services

[~~53B-28-201~~]53H-14-401 (Effective upon governor's approval). General provisions -- Definitions.

As used in this part:

(1) "Certified advocate" means an individual who:

(a) is employed by or volunteers at a qualified institutional victim services provider;

(b) has completed at least 40 hours of training in counseling and assisting victims of sexual harassment, sexual assault, rape, dating violence, domestic violence, or stalking; and

(c) acts under the supervision of the director or director's designee of a qualified institutional victim services provider.

(2) (a) "Confidential communication" means information that is communicated by a victim, in the course of the victim seeking an institutional advocacy service, to:

(i) a certified advocate;

(ii) a qualified institutional victim services provider;

(iii) a person reasonably necessary for the transmission of the information;

(iv) an individual who is present at the time the information is transmitted for the purpose of furthering the victim's interests; or

(v) another individual, in the context of group counseling at a qualified institutional victim services provider.

(b) "Confidential communication" includes a record that is created or maintained as a result of the communication described in Subsection (2)(a).

(3) "Institution" means a Utah institution that is a private postsecondary educational institution or a public institution, including an institution of higher education listed in Section 53H-1-102.

[~~(3)~~](4) "Institutional advocacy service" means a safety planning, counseling, psychological, support, advocacy, medical, or legal service that:

(a) addresses issues involving:

(i) sexual harassment;

(ii) sexual assault;

(iii) rape;

(iv) domestic violence;

(v) dating violence; or

(vi) stalking; and

(b) is provided by a qualified institutional victim services provider.

[~~(4)~~](5) (a) "Qualified institutional victim services provider" means an organization that:

(i) is affiliated with an institution;

(ii) employs or provides volunteer opportunities for certified advocates;

(iii) provides an institutional advocacy service to victims or families of victims; and

(iv) is designated by the affiliated institution as a qualified institutional victim services provider.

(b) "Qualified institutional victim services provider" may include an institution's:

(i) sexual assault center;

(ii) victim advocacy center;

(iii) women's center;

(iv) health center; or

(v) counseling service center.

[~~(5)~~](6) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics.

[~~(6)~~](7) "Victim" means an individual who seeks an institutional advocacy service.

Section 395. Section 53H-14-402, which is renumbered from Section 53B-28-202 is renumbered and amended to read:

[~~53B-28-202~~]53H-14-402 (Effective upon governor's approval). Confidentiality of information -- Disclosure of confidential communication.

(1) Except as provided in Subsection (2), and notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a person may not disclose a confidential communication.

(2) A person may disclose a confidential communication if:

(a) the victim gives written and informed consent to the disclosure;

(b) the person has an obligation to disclose the confidential communication under Section 26B-6-205, 80-2-602, or 78B-3-502;

(c) the disclosure is required by federal law; or

(d) a court of competent jurisdiction orders the disclosure.

Section 396. Section 53H-14-501, which is renumbered from Section 53B-28-501 is renumbered and amended to read:

PART 5. Higher Education Student Data Protection

[~~53B-28-501~~]53H-14-501 (Effective upon governor's approval). General provisions -- Definitions.

As used in this part:

(1) "Advisory group" means the institution of higher education privacy advisory group established by the state privacy [~~officer~~]auditor under Section [~~53B-28-502~~]53H-14-502.

(2) "Aggregate data" means data that:

(a) are totaled and reported at the group, cohort, class, course, institution, region, or state level, with at least 10 individuals in the level; and

(b) do not reveal personally identifiable student data.

(3) "Data breach" means an unauthorized release of or unauthorized access to personally identifiable student data that an education entity maintains.

(4) "Data governance plan" means an education entity's comprehensive plan for managing education data that:

(a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;

(b) describes the role, responsibility, and authority of the board or an institution privacy officer;

(c) provides for necessary technical assistance, training, support, and auditing;

(d) describes the process for sharing student data between the education entity and another person;

(e) describes the education entity's data expungement process, including how to respond to requests for expungement;

(f) describes the data breach response process; and

(g) is published annually and available on the institution's website or the Utah System of Higher Education's website.

(5) "Education entity" means the Utah Board of Higher Education or an institution.

(6) "Higher education privacy officer" means a privacy officer that the board designates under Section [~~53B-28-503~~]53H-14-503.

[~~(7) "Institution" means an institution of higher education described in Section 53B-1-102.~~]

[~~(8)~~](7) "Minor" means a person younger than 18 years old.

[~~(9)~~](8) (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.

(b) "Personally identifiable student data" includes:

(i) a student's first and last name;

(ii) the first and last name of a student's family member;

(iii) a student's or a student's family's home or physical address;

(iv) a student's email address or other online contact information;

(v) a student's telephone number;

(vi) a student's social security number;

(vii) a student's biometric identifier;

(viii) a student's health or disability data;

(ix) a student's education entity student identification number;

(x) a student's social media user name and password or alias;

(xi) if associated with personally identifiable student data, the student's persistent identifier, including:

(A) a customer number held in a cookie; or

(B) a processor serial number;

(xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;

(xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and

(xiv) information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

[~~(10)~~](9) "State privacy [~~officer~~]auditor" means the state privacy [~~officer~~]auditor described in Section 67-3-13.

[~~(11)~~](10) "Student" means an individual enrolled in an institution.

[~~(12)~~](11) (a) "Student data" means information about a student at the individual student level.

(b) "Student data" does not include aggregate or de-identified data.

[~~(13)~~](12) "Third-party contractor" means a person who:

(a) is not an institution or an employee of an institution; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

Section 397. Section 53H-14-502, which is renumbered from Section 53B-28-502 is renumbered and amended to read:

[~~53B-28-502~~]53H-14-502 (Effective upon governor's approval). State student data protection governance.

(1) The state privacy [~~officer~~]auditor shall establish a higher education privacy advisory group to advise institutions and institution boards of trustees on student data protection.

(2) The advisory group shall consist of:

(a) the state privacy [~~officer~~]auditor;

(b) the higher education privacy officer; and

(c) the following members, appointed by the commissioner:

(i) at least one Utah System of Higher Education employee; and

(ii) at least one representative of the Utah Board of Higher Education.

(3) The advisory group shall:

(a) discuss and make recommendations to the board and institutions regarding:

(i) existing and proposed:

(A) board rules; or

(B) board policies of the Utah Board of Higher Education or institutions; and

(ii) training on protecting student data privacy; and

(b) perform other tasks related to student data protection as designated by the Utah Board of Higher Education.

(4) The higher education privacy officer shall:

(a) provide training and support to institution boards and employees; and

(b) produce:

(i) resource materials;

(ii) model data governance plans;

(iii) model forms for institution student data protection governance; and

(iv) a model data collection notice.

(5) The board shall:

(a) (i) create and maintain a data governance plan; and

(ii) annually publish the data governance plan on the Utah System of Higher Education website; and

(b) establish standards for:

(i) institution policies to protect student data;

(ii) institution data governance plans; and

(iii) a third-party contractor's use of student data.

Section 398. Section 53H-14-503, which is renumbered from Section 53B-28-503 is renumbered and amended to read:

[~~53B-28-503~~]53H-14-503 (Effective upon governor's approval). Institution student data protection governance.

(1) (a) An institution shall adopt policies to protect student data in accordance with this part and board rule, including the standards the board establishes under Subsection [~~53B-28-502(5)~~]53H-14-502(5).

(b) The policies described in Subsection (1)(a) shall take into account the specific needs and priorities of the institution.

(2) The board shall designate a higher education privacy officer.

(3) The higher education privacy officer shall:

(a) verify compliance with student privacy laws, rules, and policies throughout the Utah System of Higher Education;

(b) support institutions in developing data governance plans and student data privacy training; and

(c) act as the primary point of contact for the state privacy [~~officer~~]auditor.

(4) An institution shall:

(a) designate an individual to act as the primary contact for the higher education privacy officer;

(b) create and maintain an institution:

(i) data governance plan that complies with the standards the board establishes under Subsection [~~53B-28-502(5)~~]53H-14-502(5); and

(ii) record of student data privacy training; and

(c) annually publish the institution's data governance plan on the institution's website.

Section 399. Section 53H-14-504, which is renumbered from Section 53B-28-504 is renumbered and amended to read:

[~~53B-28-504~~]53H-14-504 (Effective upon governor's approval). Notification of significant data breach.

(1) If a significant data breach occurs at an institution, the institution shall notify each student whose personally-identifiable student data was disclosed.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to define a significant data breach described in Subsection (1).

Section 400. Section 53H-14-505, which is renumbered from Section 53B-28-505 is renumbered and amended to read:

[~~53B-28-505~~]53H-14-505 (Effective upon governor's approval). Third-party contractors.

(1) A third-party contractor shall use personally identifiable student data received under a contract with an education entity strictly for the purpose of providing the contracted product or service within the negotiated contract terms.

(2) When contracting with a third-party contractor [~~on or after January 1, 2024~~], an education entity, or a government agency contracting on behalf of an education entity, shall:

(a) ensure that the contract terms comply with the standards the board establishes under Subsection [~~53B-28-502(5)~~]53H-14-502(5); and

(b) require the following provisions in the contract:

(i) requirements and restrictions related to the collection, use, storage, or sharing of student data by the third-party contractor that are necessary for the education entity to ensure compliance with the provisions of this part and board rule;

(ii) a description of a person, or type of person, including an affiliate of the third-party contractor, with whom the third-party contractor may share student data;

(iii) provisions that, at the request of the education entity, govern the deletion of the student data received by the third-party contractor;

(iv) except as provided in Subsection (4) and if required by the education entity, provisions that prohibit the secondary use of personally identifiable student data by the third-party contractor; and

(v) an agreement by the third-party contractor that, at the request of the education entity that is a party to the contract, the education entity or the education entity's designee may audit the third-party contractor to verify compliance with the contract.

(3) As authorized by law or court order, a third-party contractor shall share student data as requested by law enforcement.

(4) A third-party contractor may:

(a) use student data for adaptive learning or customized student learning purposes;

(b) market an educational application or product to a student if the third-party contractor does not use student data, shared by or collected on behalf of an education entity, to market the educational application or product;

(c) use a recommendation engine to recommend to a student:

(i) content that relates to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party; or

(ii) services that relate to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party;

(d) respond to a student request for information or feedback, if the content of the response is not motivated by payment or other consideration from another party;

(e) use student data to allow or improve operability and functionality of the third-party contractor's application; or

(f) identify for a student nonprofit institutions of higher education or scholarship providers that are seeking students who meet specific criteria:

(i) regardless of whether the identified nonprofit institutions of higher education or scholarship providers provide payment or other consideration to the third-party contractor; and

(ii) only if the third-party contractor obtains authorization in writing from:

(A) the student's parent, if the student is a minor; or

(B) the student.

(5) At the completion of a contract with an education entity, if the contract has not been renewed, a third-party contractor shall return or delete upon the education entity's request all personally identifiable student data under the control of the education entity unless a student or a minor student's parent consents to the maintenance of the personally identifiable student data.

(6) (a) A third-party contractor may not:

(i) except as provided in Subsection (6)(b), sell student data;

(ii) collect, use, or share student data, if the collection, use, or sharing of the student data is inconsistent with the third-party contractor's contract with the education entity; or

(iii) use student data for targeted advertising.

(b) A person may obtain student data through the purchase of, merger with, or otherwise acquiring a third-party contractor if the third-party contractor remains in compliance with this section.

(7) The provisions of this section do not:

(a) apply to the use of a general audience application, including the access of a general audience application with login credentials created by a third-party contractor's application;

(b) apply if the student data is shared in accordance with the education entity's directory information policy, as described in 34 C.F.R. Sec. 99.37;

(c) apply to the providing of Internet service; or

(d) impose a duty on a provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230, to review or enforce compliance with this section.

(8) A provision of this section that relates to a student's student data does not apply to a third-party contractor if the education entity or third-party contractor obtains authorization from the following individual, in writing, to waive that provision:

(a) the student's parent, if the student is a minor; or

(b) the student.

Section 401. Section 53H-14-506, which is renumbered from Section 53B-28-506 is renumbered and amended to read:
[~~53B-28-506~~]53H-14-506 (Effective upon governor's approval). Penalties.

(1) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:

(a) except as provided in Subsection (2), may not enter into a future contract with an institution;

(b) may be required by the board to pay a civil penalty of up to $25,000; and

(c) may be required to pay:

(i) an institution's cost of notifying parents and students of the unauthorized sharing or use of student data; and

(ii) any expense incurred by the institution as result of the unauthorized sharing or use of student data.

(2) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

(a) the education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

(b) the third-party contractor demonstrates:

(i) if the third-party contractor is under contract with the education entity, current compliance with this part; or

(ii) an ability to comply with the requirements of this part.

(3) (a) If necessary, the board may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce payment of the civil penalty described in Subsection (1)(b).

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the board shall bring an action described in Subsection (3)(a) in the county in which the office of the education entity is located if the action is brought in the district court.

(4) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.

(5) (a) A student or a minor student's parent may bring an action against a third-party contractor in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for damages caused by a knowing or reckless violation of Section [~~53B-28-505~~]53H-14-505 by a third-party contractor.

(b) If the court finds that a third-party contractor has violated Section [~~53B-28-505~~]53H-14-505, the court may award to the parent or student:

(i) damages; and

(ii) costs.

Section 402. Section 53H-15-101, which is renumbered from Section 53B-33-101 is renumbered and amended to read:

CHAPTER 15. Utah Data Research Center

PART 1. General Provisions

[~~53B-33-101~~]53H-15-101 (Effective upon governor's approval). General provisions -- Definitions.

As used in this chapter:

(1) "Advisory board" means the Utah Data Research Advisory Board created in Section [~~53B-33-202~~]53H-15-203.

(2) "Center" means the Utah Data Research Center created in [~~Section 53B-33-201~~]Section 53H-15-202.

(3) "Data" means any information about a person stored in a physical or electronic record.

(4) "Data research program" means the data maintained by the center in accordance with Section [~~53B-33-301~~]53H-15-302.

(5) "De-identified data" means data about a person that cannot, without additional information, identify the person to another person or machine.

(6) "Director" means the director of the Utah Data Research Center created in Section [~~53B-33-201~~]53H-15-202.

[~~(7) "Institution of higher education" means an institution of higher education described in Section 53B-1-102.~~]

[~~(8)~~](7) "Office" means the Office of the Legislative Auditor General created in Section 36-12-15.

[~~(9)~~](8) "Participating entity" means:

(a) the State Board of Education, which includes the director as defined in Section 53E-10-701;

(b) the board;

(c) the Department of Workforce Services;

(d) the Department of Health and Human Services; and

(e) the Department of Commerce.

[~~(10)~~](9) "Unique student identifier" means the same as that term is defined in Section 53E-4-308.

Section 403. Section 53H-15-201 is enacted to read:

PART 2. Council Duties

53H-15-201 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 404. Section 53H-15-202, which is renumbered from Section 53B-33-201 is renumbered and amended to read:
[~~53B-33-201~~]53H-15-202 (Effective upon governor's approval). Utah Data Research Center -- Creation.

The Utah Data Research Center is created within the Utah system of higher education.

Section 405. Section 53H-15-203, which is renumbered from Section 53B-33-202 is renumbered and amended to read:
[~~53B-33-202~~]53H-15-203 (Effective upon governor's approval). Utah Data Research Advisory Board -- Composition -- Appointment.

(1) There is created the Utah Data Research Advisory Board.

(2) The advisory board is composed of the following members:

(a) the state superintendent of the State Board of Education or the state superintendent's designee;

(b) the commissioner or the commissioner's designee;

(c) the executive director of the Department of Workforce Services or the executive director's designee;

(d) the executive director of the Department of Health and Human Services or the executive director's designee; and

(e) the executive director of the Department of Commerce or the executive director's designee.

(3) The commissioner or the commissioner's designee shall serve as chair.

(4) A member of the advisory board:

(a) except to the extent a member's service on the advisory board is related to the member's duties outside of the advisory board, may not receive compensation or benefits for the member's service; and

(b) may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 406. Section 53H-15-204, which is renumbered from Section 53B-33-203 is renumbered and amended to read:
[~~53B-33-203~~]53H-15-204 (Effective upon governor's approval). Director -- Additional staff -- Administrative support.

(1) The commissioner shall appoint a director to manage the day-to-day operations of the center.

(2) The director may, with the commissioner's approval, hire staff, including:

(a) data scientists;

(b) data technology experts; and

(c) data security experts.

Section 407. Section 53H-15-301 is enacted to read:

PART 3. Data Research Program

53H-15-301 (Effective upon governor's approval). General Provisions -- Definitions.

Reserved.

Section 408. Section 53H-15-302, which is renumbered from Section 53B-33-301 is renumbered and amended to read:
[~~53B-33-301~~]53H-15-302 (Effective upon governor's approval). Data research program.

(1) The center shall establish a data research program for the purpose of analyzing data that is:

(a) collected over time;

(b) aggregated from multiple sources; and

(c) connected and de-identified.

(2) The center may, in order to establish the data research program described in Subsection (1):

(a) acquire property or equipment in order to store aggregated, connected, and de-identified data derived from data contributed by the participating entities; or

(b) contract with a private entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or with a state government entity to:

(i) store aggregated, connected, and de-identified data derived from data contributed by the participating entities; or

(ii) utilize existing aggregated, connected, and de-identified data maintained by a state government entity.

(3) A participating entity shall contribute data to the data research program described in Subsection (1) within guidelines established by the center.

(4) The center may only release data maintained by the center in accordance with the procedures described in this chapter.

(5) The center shall:

(a) as directed by the board, serve as a repository in the state of data from institutions of higher education;

(b) collaborate with the board and the State Board of Education to coordinate access to the unique student identifier of a public education student who later attends an institution of higher education in accordance with Sections [~~53B-1-109~~]53H-1-207 and 53E-4-308;

(c) develop, establish, and maintain programs that promote access to data from institutions of higher education;

(d) identify initiatives that leverage education data that will improve a state citizen's ability to:

(i) access services at an institution of higher education; or

(ii) graduate with a postsecondary certificate or degree; and

(e) perform all other duties provided in this chapter.

(6) The director shall identify the resources necessary to successfully implement initiatives described in Subsection (5)(d), in accordance with Section [~~53B-7-101~~]53H-8-202.

(7) The center may:

(a) employ staff necessary to carry out the center's duties;

(b) purchase, own, create, or maintain equipment necessary to:

(i) collect data from the participating entities;

(ii) connect and de-identify data collected by the center;

(iii) store connected and de-identified data; or

(iv) conduct research on data stored or obtained by the center; or

(c) contract with a private entity, another state or federal entity, or a political subdivision of the state to carry out the center's duties as provided in this chapter.

(8) The data research program is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(9) (a) The center:

(i) shall, in connection with the office's audit of an entity, provide the office, at the office's request, with access to all records, data, and other materials in possession of the center; and

(ii) is otherwise subject to the authority of the legislative auditor general in accordance with Utah Constitution, Article VI, Section 33, and Section 36-12-15.

(b) The office's request for access to records, data, and other materials under Subsection (9)(a)(i) is not:

(i) a data research request under [~~Subsection 53B-33-302(3)(a) or (4)~~]Subsection 53H-15-303(3)(a) or (4); or

(ii) a request for a data set under [~~Subsection 53B-33-302(10)~~]Subsection 53H-15-303(10).

(c) The center, in complying with Subsection (9)(a)(i):

(i) shall, upon the office's request, provide the office with records, data, and other materials that are not de-identified; and

(ii) may not charge the office a fee for completing the request.

Section 409. Section 53H-15-303, which is renumbered from Section 53B-33-302 is renumbered and amended to read:

[~~53B-33-302~~]53H-15-303 (Effective upon governor's approval). Data research requests.

(1) The center shall use data that the center maintains or that a participating entity contributes to the data research program under Section [~~53B-33-301~~]53H-15-302 to conduct research for the purpose of developing public policy for the state.

(2) The director, with consultation by the advisory board, shall create a prioritized list of data research for the center to conduct using the data research program each year.

(3) (a) In developing the list described in Subsection (2), the center shall accept data research requests from:

(i) a legislative committee or a legislative staff office;

(ii) the governor or an executive branch agency;

(iii) the State Board of Education; and

(iv) the board.

(b) The center shall report the list described in Subsection (2) to the Education Interim Committee before December 1 of each year.

(4) In addition to conducting data research in accordance with the prioritized list described in Subsection (2), the center may use additional resources to prepare data research at the request of:

(a) a state government entity;

(b) a political subdivision of the state;

(c) a private entity; or

(d) a member of the public.

(5) The director, with approval by the advisory board, shall determine, for a data research request described in Subsection (4):

(a) whether the center has the resources to complete the data research request;

(b) the order in which the center shall complete the data research request, if at all; and

(c) a reasonable estimated cost for the request.

(6) The center, after evaluating a request under Subsection (5), shall:

(a) provide the person that requested the data research with a cost estimate; and

(b) require, before accepting a data research request, that the person that submitted the data research request agree to pay, once the data research is complete, the full cost of completing the data research request as determined by the center under Subsection (5).

(7) The center shall make available to the public, on a website maintained by the center, any data research request that the center completes under this section.

(8) The center shall ensure that any data contained in a completed data research request is de-identified.

(9) The center shall:

(a) establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) procedures for submitting a data research request under this section;

(ii) criteria to determine how to prioritize data research requests; and

(iii) minimum standards for information a person is required to include in a data research request; and

(b) create a fee schedule in accordance with Section 63J-1-504 for completing a data research request.

(10) In addition to submitting a data research request under Subsection (4), a participating entity, executive branch agency, or legislative staff office may request, and the center may release, a data set from the data research program if the data set is:

(a) connected;

(b) aggregated; and

(c) de-identified.

(11) (a) The center shall use any fee the center collects under this section to cover the center's costs to administer this chapter.

(b) The center shall deposit any fee the center collects under this section not used to cover the center's costs into the General Fund.

Section 410. Section 53H-15-304, which is renumbered from Section 53B-33-303 is renumbered and amended to read:

[~~53B-33-303~~]53H-15-304 (Effective upon governor's approval). Data visualization access.

(1) In addition to performing data research and responding to data research requests under Section [~~53B-33-302~~]53H-15-303, the center shall create an online data visualization portal that provides access to the public to connected, aggregated, and de-identified data in the program.

(2) The data visualization portal described in Subsection (1) shall include role-based dashboards that:

(a) allow a user to query data in the program;

(b) integrate real-time data; and

(c) allow a user to view queried data in a customizable environment.

Section 411. Section 53H-15-305, which is renumbered from Section 53B-33-304 is renumbered and amended to read:

[~~53B-33-304~~]53H-15-305 (Effective upon governor's approval). Reporting.

(1) The center shall report to the Education Interim Committee and Business and Labor Interim Committee:

(a) before July 1 of each year regarding the center's:

(i) research and services priorities for the year;

(ii) completed research from the previous year; and

(iii) activities and accomplishments in the previous year; and

(b) before December 1 of each year, the center's ongoing data research and services priority list described in Subsection [~~53B-33-302(2)~~]53H-15-303(2).

(2) The Education Interim Committee shall provide the center ongoing input regarding the center's activities and data research priorities.

Section 412. Section 53H-16-101 is enacted to read:

CHAPTER 16. Nucleus Institute

PART 1. General Provisions

53H-16-101 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 413. Section 53H-16-201, which is renumbered from Section 53B-37-101 is renumbered and amended to read:

PART 2. Nucleus Institute

[~~53B-37-101~~]53H-16-201 (Effective upon governor's approval). General provisions -- Definitions.

As used in this [~~chapter~~]part:

(1) "Executive director" means the executive director of the institute appointed under Section [~~53B-37-203~~]53H-16-304.

(2) "Institute board" means the board of directors of the Nucleus Institute as described in Section [~~53B-37-201~~]53H-16-302.

(3) "Investment committee" means the investment committee of the Utah innovation fund created in Section [~~53B-37-302~~]53H-16-403.

(4) "Nucleus Institute" or "institute" means the Nucleus Institute created in Section [~~53B-37-102~~]53H-16-202.

(5) "Qualified business" means a business entity that:

(a) is established to commercialize a technology, product, or service developed in partnership with a technology commercialization program at a public institution or [~~private institution of higher education~~]private postsecondary educational institution in the state; and

(b) maintains the business's principal business operations in the state.

(6) "Qualified investment" means any distribution or payment of funds to a qualified business from the Utah innovation fund, including:

(a) a direct investment of capital in a qualified business for the purchase of shares of stock;

(b) a secured loan or revolving line of credit to a qualified business; or

(c) a financial grant to a qualified business.

(7) "Utah innovation fund" means a limited liability company organized under Section [~~53B-37-301~~]53H-16-402.

Section 414. Section 53H-16-202, which is renumbered from Section 53B-37-102 is renumbered and amended to read:

[~~53B-37-102~~]53H-16-202 (Effective upon governor's approval). Creation of Nucleus Institute -- Status and applicability of other law -- Powers and purposes.

(1) There is created the Nucleus Institute.

(2) The institute is:

(a) an independent, nonprofit, quasi-public corporation as defined in Section 63E-1-102; and

(b) subject to and governed by Sections 63E-2-106, 63E-2-108, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) The institute and the Utah innovation fund are not subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; or

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(4) Pursuant to [~~Subsection 53B-1-402(2)(p)(i)~~]Subsection 53H-1-203(2)(p)(i), in coordination with the board and the commissioner, the institute shall promote efficiency and support of the Utah System of Higher Education on commercialization efforts as provided in this chapter.

(5) The institute shall:

(a) organize and administer the Utah innovation fund; and

(b) coordinate and support innovation districts that have a connection with higher education.

(6) The institute may:

(a) engage consultants and legal counsel;

(b) invest and expend funds;

(c) apply for grants;

(d) enter into contracts;

(e) insure against loss;

(f) receive private donations;

(g) hire employees;

(h) sue and be sued in the institute's own name; and

(i) perform any other act necessary to carry out the purposes of the institute.

(7) The institute may not:

(a) issue debt or borrow funds;

(b) exercise governmental functions;

(c) have members; or

(d) pledge the credit or taxing power of the state or any political subdivision of the state.

Section 415. Section 53H-16-203, which is renumbered from Section 53B-37-103 is renumbered and amended to read:

[~~53B-37-103~~]53H-16-203 (Effective upon governor's approval). Office facilities, clerical, and administrative support for the Nucleus Institute.

(1) The Utah Board of Higher Education shall provide to the institute, by agreement, administrative support, office facilities, and space.

(2) The Utah Board of Higher Education may levy reasonable charges or fees against the institute pursuant to the agreement for the services provided by the Utah Board of Higher Education.

Section 416. Section 53H-16-301 is enacted to read:

PART 3. Nucleus Institute Governance

53H-16-301 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 417. Section 53H-16-302, which is renumbered from Section 53B-37-201 is renumbered and amended to read:
[~~53B-37-201~~]53H-16-302 (Effective upon governor's approval). Board of directors -- Membership -- Limitations.

(1) The institute shall be governed by a board of directors which shall manage and conduct the business and affairs of the institute.

(2) The institute board shall consist of seven voting members as follows:

(a) the executive director, appointed as described in Section [~~53B-37-203~~]53H-16-304;

(b) the director of the Talent Ready Utah Program, described in Section [~~53B-34-103~~]53H-13-303; and

(c) five individuals with relevant experience, jointly appointed by the commissioner, the executive director, and the director of the Talent Ready Utah Program described in Section [~~53B-34-103~~]53H-13-303.

(3) (a) A member described in Subsection (2)(c):

(i) shall serve a term of two years; and

(ii) may serve more than one term.

(b) The commissioner, jointly with the executive director and the director of the Talent Ready Utah Program described in Section [~~53B-34-103~~]53H-13-303, may remove a member from the institute board.

(c) If a vacancy occurs for a member described in Subsection (2)(c), the commissioner, jointly with the executive director and the director of the Talent Ready Utah Program described in Section [~~53B-34-103~~]53H-13-303, shall appoint a replacement to serve the remainder of the member's term.

(4) The executive director shall serve as the chair of the institute board.

(5) (a) A majority of the members of the institute board constitutes a quorum of the institute board.

(b) The action by a majority of the members of a quorum constitutes the action of the institute board.

(6) A member of the institute board:

(a) is subject to any restrictions on conflicts of interest specified in the organizational documents of the institute;

(b) may not influence a vote by the investment committee related to a qualified investment by the Utah innovation fund, if the member has an interest in the qualified investment; and

(c) except for the executive director, may not receive compensation or benefits for the member's service.

Section 418. Section 53H-16-303, which is renumbered from Section 53B-37-202 is renumbered and amended to read:
[~~53B-37-202~~]53H-16-303 (Effective upon governor's approval). Institute board duties and powers.

(1) The institute board shall:

(a) manage and conduct the business and affairs of the institute and determine all questions of institute and Utah innovation fund policy;

(b) provide strategic oversight for all institute initiatives;

(c) support and guide workforce development, innovation, and policy integration across institutions and industry;

(d) consistent with this chapter, oversee the Utah innovation fund and investment committee;

(e) coordinate efforts and collaborations across innovation districts;

(f) create opportunities for students through projects and partnerships;

(g) set compensation and incentives for the executive director;

(h) advance the purposes of the Utah innovation fund as described in Section [~~53B-37-301~~]53H-16-402; and

(i) consider investment proposals and determine whether a proposal furthers the objectives of the fund.

(2) The institute board may establish independent committees for the purpose of assisting the institute board in an advisory role.

(3) In coordination with the Governor's Office of Economic Opportunity, the institute board shall convene and facilitate discussions with industry, education, and policy makers to promote regulatory innovation.

Section 419. Section 53H-16-304, which is renumbered from Section 53B-37-203 is renumbered and amended to read:
[~~53B-37-203~~]53H-16-304 (Effective upon governor's approval). Executive director appointment -- Duties and powers.

(1) The commissioner shall appoint an executive director for the institute.

(2) The executive director shall serve as the chair of the institute board as described in Section [~~53B-37-202~~]53H-16-302.

(3) The executive director shall:

(a) manage the day-to-day operations of the institute and the Utah innovation fund;

(b) execute the policies of the institute board;

(c) oversee the investment and expenditure of funds;

(d) oversee qualified investments made by the Utah innovation fund;

(e) assess reasonable fees for management of assets in the Utah innovation fund for reasonable costs of the Utah innovation fund;

(f) consult with the institute board regarding policies and direction of the institute;

(g) prepare an operating budget for the institute and submit the operating budget to the Utah Board of Higher Education for approval;

(h) adopt a budget submitted by the chair of the investment committee;

(i) establish job descriptions and, within budgetary constraints, employ staff necessary to accomplish the purposes of the institute and Utah innovation fund; and

(j) execute other duties as assigned by the institute board.

(4) The executive director may:

(a) hire and supervise necessary staff for the institute;

(b) manage contracts and collaborations with consultants; and

(c) enter into contracts on behalf of the institute.

Section 420. Section 53H-16-401 is enacted to read:

PART 4. Utah Innovation Fund

53H-16-401 (Effective upon governor's approval). General provisions -- Definitions.

Reserved.

Section 421. Section 53H-16-402, which is renumbered from Section 53B-37-301 is renumbered and amended to read:

[~~53B-37-301~~]53H-16-402 (Effective upon governor's approval). Organization of Utah innovation fund -- Powers and purposes -- Use of investment proceeds.

(1) (a) The institute shall organize, and be the sole member and manager of, the Utah innovation fund.

(b) The Utah innovation fund shall be organized as a limited liability company.

(c) The Utah innovation fund may:

(i) engage consultants and legal counsel;

(ii) invest and expend funds;

(iii) use funds for operations of the Utah innovation fund;

(iv) enter into contracts;

(v) insure against loss;

(vi) hire employees; and

(vii) perform any other act necessary to carry out the purposes of the Utah innovation fund.

(2) The Utah innovation fund shall, subject to investment committee approval, make qualified investments in a manner and for the following purposes:

(a) to advance innovative technologies developed in Utah;

(b) to strengthen Utah's economy and facilitate job creation;

(c) to help qualified businesses gain access to capital;

(d) to attract entrepreneurs and innovation to Utah;

(e) to facilitate the commercialization of technologies discovered, advanced, or developed at [~~state~~] institutions of higher education;

(f) to advance the competitiveness of Utah businesses in the global economy;

(g) to ensure that the Utah innovation fund remains financially self-sustaining; and

(h) to encourage other investors to invest in qualified businesses alongside the Utah innovation fund.

(3) The Utah innovation fund shall hold and manage qualified investments made by the Utah innovation fund and the proceeds of those qualified investments.

(4) The Utah innovation fund may charge a fee on assets under management in the Utah innovation fund to pay for reasonable and necessary costs of the Utah innovation fund, including the costs of the annual audit required under Section [~~53B-37-306~~]53H-16-407.

Section 422. Section 53H-16-403, which is renumbered from Section 53B-37-302 is renumbered and amended to read:

[~~53B-37-302~~]53H-16-403 (Effective upon governor's approval). Utah innovation fund investment committee.

(1) The Utah innovation fund shall be governed by an investment committee.

(2) The investment committee shall consist of five members appointed by the institute board.

(3) (a) A member of the investment committee:

(i) shall serve a term of two years; and

(ii) may serve more than one term.

(b) If a vacancy occurs for a member of the investment committee, the institute board shall appoint a replacement to serve the remainder of the member's term.

(c) The commissioner or the institute board may remove a member of the investment committee for cause.

(4) The institute board shall appoint a chair of the investment committee.

(5) The investment committee may appoint up to two additional nonvoting members to provide industry and technical expertise.

(6) (a) A member of the investment committee:

(i) shall have significant experience in venture capital or entrepreneurship;

(ii) is subject to any restrictions on conflicts of interest specified in the organizational documents of the institute;

(iii) may not participate in a vote by the investment committee related to a qualified investment by the Utah innovation fund if the member has an interest in the qualified investment; and

(iv) except as provided in Subsection (6)(b), may not receive compensation or benefits for the member's service.

(b) The chair of the investment committee may receive compensation or benefits for the chair's service.

(7) (a) A majority of the members of the investment committee constitutes a quorum of the investment committee.

(b) The action by a majority of the members of a quorum constitutes the action of the investment committee.

Section 423. Section 53H-16-404, which is renumbered from Section 53B-37-303 is renumbered and amended to read:
[~~53B-37-303~~]53H-16-404 (Effective upon governor's approval). Utah innovation fund investment committee duties.

(1) The investment committee shall:

(a) comply with guidelines and directives from the institute board;

(b) manage and conduct business affairs of the Utah innovation fund;

(c) establish policies for the management of the Utah innovation fund, including:

(i) an investment management code of conduct and associated compliance policy;

(ii) a policy for the strategic allocation of Utah innovation fund assets; and

(iii) a policy articulating the investment committee's investment philosophy for Utah innovation fund assets; and

(d) ensure that policies adopted by the investment committee are:

(i) consistent with this chapter, the Utah Constitution, and other applicable law;

(ii) consistent with sound fiduciary principles; and

(iii) designed to maintain the integrity of the Utah innovation fund and prevent the misapplication of money in the Utah innovation fund.

(2) The investment committee shall engage a third-party to audit the Utah innovation fund at least annually.

Section 424. Section 53H-16-405, which is renumbered from Section 53B-37-304 is renumbered and amended to read:
[~~53B-37-304~~]53H-16-405 (Effective upon governor's approval). Utah innovation fund investment committee chair -- Duties.

(1) The institute board shall appoint and determine compensation for a chair of the investment committee.

(2) The committee chair shall:

(a) manage and execute the policies established by the institute board and the investment committee;

(b) in consultation with the investment committee, manage qualified investments made by the Utah innovation fund;

(c) annually submit to the institute:

(i) a budget for the Utah innovation fund; and

(ii) a financial plan for operations of the Utah innovation fund;

(d) in accordance with generally accepted principles of fund accounting, establish a system to identify and account for Utah innovation fund assets;

(e) maintain appropriate records of Utah innovation fund activities to enable auditors to conduct periodic audits as described in Section [~~53B-37-306~~]53H-16-407; and

(f) fulfill other duties as provided by the investment committee.

Section 425. Section 53H-16-406, which is renumbered from Section 53B-37-305 is renumbered and amended to read:
[~~53B-37-305~~]53H-16-406 (Effective upon governor's approval). Annual report.

(1) On or before October 1 of each year, the institute shall publish an annual report of the activities conducted by the Utah innovation fund and submit, in accordance with Section 68-3-14, the written report to:

(a) the governor;

(b) the Economic Development and Workforce Services Interim Committee; and

(c) the Executive Appropriations Committee.

(2) The annual report shall:

(a) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;

(b) include a copy of the annual audit required under Section [~~53B-37-306~~]53H-16-407;

(c) describe the policies adopted by the institute board under Subsection [~~53B-37-303(1)(c)~~]53H-16-404(1)(c);

(d) include detailed information regarding:

(i) the name and location of each qualified business that received capital from the Utah innovation fund;

(ii) the amount of each qualified investment made by the Utah innovation fund;

(iii) the aggregate amount of capital provided to qualified businesses; and

(iv) realized gains from qualified investments and any realized losses;

(e) include detailed information regarding the institute's yearly expenditures, including:

(i) administrative, operating, and financing expenses; and

(ii) aggregate compensation information for full-time and part-time employees, including benefit and travel expenses;

(f) include detailed information regarding all funding sources for administrative, operating, and financing expenses, including any fees charged by the institute to the Utah innovation fund under Subsection [~~53B-37-203(3)(c)~~]53H-16-304(3)(e); and

(g) include an explanation of the Utah innovation fund's progress in achieving the purposes described in Subsection [~~53B-37-301(2)~~]53H-16-402(2).

Section 426. Section 53H-16-407, which is renumbered from Section 53B-37-306 is renumbered and amended to read:
[~~53B-37-306~~]53H-16-407 (Effective upon governor's approval). Annual audit.

(1) Each calendar year, an audit of the activities of the Utah innovation fund shall be conducted by:

(a) the state auditor; or

(b) the state auditor's designee.

(2) A designee described in Subsection (1)(b) may not have a business, contractual, or other connection to the institute or the Utah innovation fund.

(3) The annual audit shall:

(a) include a valuation of the assets owned by the Utah innovation fund as of the end of the reporting year, using market-standard techniques for assets typically held by early stage private investment and venture capital funds;

(b) include an opinion regarding the accuracy of the information provided in the annual report described in Section [~~53B-37-305~~]53H-16-406; and

(c) on or before September 1, be delivered to:

(i) the institute; and

(ii) the state treasurer.

(4) The institute shall pay the costs associated with the annual audit.

Section 427. Repealer.

This bill repeals:

Section 53B-1-108, Board succeeds to rights and duties of predecessor board and council.

Section 53B-2a-100.5, Title.

Section 53B-2a-119, Technical college required to provide leave to a legislator on an authorized legislative day.

Section 53B-3-102, State institution of higher education defined.

Section 53B-7-501, Purpose.

Section 53B-7-701, Title.

Section 53B-7-805, Gifts to the endowment.

Section 53B-8a-102, Definitions for chapter.

Section 53B-8c-101, Title.

Section 53B-8c-103, Tuition waivers for surviving spouses and children of police officers and firefighters killed in the line of duty -- Qualifications -- Limitations.

Section 53B-8c-104, Notice of tuition waiver approval -- Annual appropriation.

Section 53B-8d-101, Title.

Section 53B-8d-103, Tuition waivers for wards of the state.

Section 53B-8d-104, Notice of tuition waiver approval -- Annual appropriation.

Section 53B-8e-101, Title.

Section 53B-8e-103, Tuition waivers for Purple Heart recipients -- Qualifications -- Limitations.

Section 53B-9-102, Enrollment on space-available basis -- Enrollment reports.

Section 53B-9-103, Rules.

Section 53B-10-101, Terrel H. Bell Teaching Incentive Loans program -- Eligible students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet requirements -- Duration of incentive loans.

Section 53B-10-201, Definitions.

Section 53B-10-203, Identification of qualifying jobs and qualifying degrees.

Section 53B-10-205, Rulemaking -- Program administration.

Section 53B-13-101, Short title of chapter.

Section 53B-13a-102, Definitions.

Section 53B-13a-104, Promise grants.

Section 53B-13a-106, Utah promise partners.

Section 53B-13b-101, Title.

Section 53B-13b-102, Definitions.

Section 53B-13b-104, Guidelines for administration of the program.

Section 53B-13c-101, Definitions.

Section 53B-16-111, In-person instruction.

Section 53B-16-207, Utah State University regional institutions -- Career and technical education.

Section 53B-16-208, Utah State University career and technical education advisory committee -- Membership -- Duties.

Section 53B-17-101.5, Definitions.

Section 53B-17-202, Use of funds -- Rehabilitation building.

Section 53B-17-302, Receipt for dead body -- Records.

Section 53B-17-303, Use of unclaimed dead bodies for promotion of science.

Section 53B-17-304, Failure to comply with chapter is a misdemeanor.

Section 53B-17-402, Utah Engineering Experiment Station.

Section 53B-17-403, Functions of the station.

Section 53B-17-501, Research park authorized.

Section 53B-17-502, Definitions.

Section 53B-17-503, Administration through nonprofit corporations or foundations -- Control -- Authority of corporations or foundations -- Personnel considered employees of university.

Section 53B-17-505, City to provide services and facilities to research park -- Fees and charges -- Disallowance of special improvement district or special taxes.

Section 53B-17-506, Agreements with Department of Transportation regarding research park roads.

Section 53B-17-601, Utah Museum of Natural History -- Traveling exhibits and Outreach Programs.

Section 53B-17-602, Acceptance of gifts.

Section 53B-17-702, Acceptance of gifts.

Section 53B-17-901, Admissions -- Increase authorized.

Section 53B-17-903, Education in pain treatment.
Section 53B-17-904, Agreement for out-of-state students.
Section 53B-17-1101, Definitions.
Section 53B-17-1201, Definitions.
Section 53B-17-1203, SafeUT and School Safety Commission established -- Members.
Section 53B-17-1204, SafeUT and School Safety Commission duties -- LEA governing board duties -- Fees.
Section 53B-17-1301, Definitions.
Section 53B-17-1401, Definitions.
Section 53B-18-101, Agricultural experiment station.
Section 53B-18-102, Purchases of land -- Equipment -- Personnel.
Section 53B-18-103, Cooperative agreements.
Section 53B-18-105, Climate center.
Section 53B-18-201, Agricultural extension service.
Section 53B-18-202, Cooperative contracts for expenses.
Section 53B-18-203, Federal aid for experiment station.
Section 53B-18-205, State guarantee of federal funds.
Section 53B-18-206, Treasurer to receive appropriations.
Section 53B-18-301, Regional campuses -- Administration -- Location.
Section 53B-18-302, Courses offered at regional campuses.
Section 53B-18-401, Control and supervision.
Section 53B-18-601, Program creation -- Location.
Section 53B-18-1001, Definitions.
Section 53B-18-1202, Utah State University Blanding -- Establishment -- Regional advisory council.
Section 53B-18-1601, Definitions.
Section 53B-18-1701, Definitions.
Section 53B-18-1703, Duties of Food Security Council -- Reporting.
Section 53B-18-1901, Definitions.
Section 53B-19-102, Establishment of state arboreta at University of Utah and Utah State University.
Section 53B-19-103, Acceptance of gifts by University of Utah and Utah State University.
Section 53B-22-103, Weber State University revenue bonds -- Student services building.
Section 53B-22-104, Southern Utah University revenue bonds -- Student housing and student center addition.
Section 53B-22-105, Utah Tech University revenue bonds -- Student center building.
Section 53B-22-106, Utah Valley University revenue bonds -- Student center addition.
Section 53B-22-107, Salt Lake Community College revenue bonds -- Classroom/physical education facility.
Section 53B-22-109, Salt Lake Community College revenue bonds -- Science/major industry building.
Section 53B-22-111, Southern Utah University revenue bonds -- Stadium expansion.
Section 53B-22-112, University of Utah revenue bonds -- Biology research building.
Section 53B-22-113, University of Utah revenue bonds -- Robert L. Rice Stadium renovation and expansion.
Section 53B-22-114, Utah State University Eastern revenue bonds -- Student center.
Section 53B-23-101, Title.
Section 53B-25-101, Title.
Section 53B-27-101, Title.
Section 53B-27-102, Definitions.
Section 53B-27-201, Title.
Section 53B-28-101, Title.
Section 53B-28-102, Definitions.
Section 53B-29-101, Title.
Section 53B-29-201, Definitions.
Section 53B-29-301, Definitions.
Section 53B-30-101, Title.
Section 53B-30-201, Title.
Section 53B-31-101, Title.
Section 53B-32-101, Title.
Section 53B-35-201, Higher Education and Corrections Council.
Section 53B-35-202, Council duties -- Reporting.
Section 53B-35-301, Higher education student advisors.
Section 53B-38-101, Title.

Section 428. Effective Date.

This bill takes effect:
(1) except as provided in Subsection (2), December 6, 2025; or
(2) if approved by two-thirds of all members elected to each house:
(a) upon approval by the governor;
(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 9
S. B. 1002
Passed October 6, 2025
Approved October 14, 2025
Effective October 14, 2025

HIGHER EDUCATION RECODIFICATION EXTERNAL REFERENCES

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill renumbers references throughout the code to the higher education code to conform with the recodification of the higher education code.

Highlighted Provisions:

This bill:

- ► renumbers references throughout the code to the higher education code to conform with the recodification of the higher education code; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-1-109, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 438
4-2-701, (Effective upon governor's approval) (Repealed 07/01/26) as last amended by Laws of Utah 2025, Chapter 94
4-41a-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 392
9-8a-302, (Effective upon governor's approval) as renumbered and amended by Laws of Utah 2023, Chapter 160
9-8a-305, (Effective upon governor's approval) as renumbered and amended by Laws of Utah 2023, Chapter 160
9-9-402, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 160
9-20-301, (Effective upon governor's approval) (Repealed 07/01/27) as last amended by Laws of Utah 2025, Chapter 44
9-22-102, (Effective upon governor's approval) as last amended by Laws of Utah 2021, Chapter 282
9-22-106, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapter 365
9-22-112, (Effective upon governor's approval) as last amended by Laws of Utah 2019, Chapter 357 and renumbered and amended by Laws of Utah 2019, Chapter 487
9-22-113, (Effective upon governor's approval) as renumbered and amended by Laws of Utah 2019, Chapter 487
10-9a-210, (Effective upon governor's approval) as enacted by Laws of Utah 2005, Chapter 231
11-13a-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 164
11-17-2, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 53, 438 and 535
11-17-3, (Effective upon governor's approval) as last amended by Laws of Utah 2013, Chapter 345
11-36a-202, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 419
11-41-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 477
11-70-101, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 498
13-1-15, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 438
13-34-101, (Effective upon governor's approval) as repealed and reenacted by Laws of Utah 2023, Chapter 458
13-34-303, (Effective upon governor's approval) as enacted by Laws of Utah 2023, Chapter 458
16-6a-102, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 102
17-27a-1102, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 327
17-43-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 141
20A-8-101, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 90
20A-8-404, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 42, 448
26B-1-242, (Effective upon governor's approval) as enacted by Laws of Utah 2023, Chapter 275
26B-1-310, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 128
26B-1-435, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 392
26B-3-108, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 426
26B-4-222, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 114, 414
26B-4-243, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 414
26B-4-512, (Effective upon governor's approval) as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-705, (Effective upon governor's approval) as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-5-121, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 141

26B-5-310, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 46
26B-5-801, (Effective upon governor's approval) (Repealed 01/01/33) as last amended by Laws of Utah 2025, Chapter 135
26B-8-225, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 240
31A-3-301, (Effective upon governor's approval) as last amended by Laws of Utah 2011, Chapter 275
31A-23a-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 438
31A-26-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 438
32B-4-424, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 94
34-41-101, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 352
34-41-102, (Effective upon governor's approval) as last amended by Laws of Utah 2016, Chapter 348
34-41-103, (Effective upon governor's approval) as repealed and reenacted by Laws of Utah 2024, Chapter 352
34-41-104, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 352
34-41-105, (Effective upon governor's approval) as enacted by Laws of Utah 1994, Chapter 18
34-41-107, (Effective upon governor's approval) as enacted by Laws of Utah 1994, Chapter 18
34-49-102, (Effective upon governor's approval) as enacted by Laws of Utah 2015, Chapter 156
34A-2-104.5, (Effective upon governor's approval) as last amended by Laws of Utah 2018, Chapter 415
34A-2-202.5, (Effective upon governor's approval) (Repealed 12/31/30) as last amended by Laws of Utah 2025, Chapter 390
34A-2-410.5, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapter 18
34A-2-701, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 350
34A-3-101, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 184
35A-1-102, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapters 16, 328
35A-1-109, (Effective upon governor's approval) as last amended by Laws of Utah 2022, Chapter 362
35A-9-601, (Effective upon governor's approval) (Repealed 07/01/28) as enacted by Laws of Utah 2023, Chapter 52
35A-9-604, (Effective upon governor's approval) (Repealed 07/01/28) as enacted by Laws of Utah 2023, Chapter 52
36-12-15.1, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 403
36-12-15.4, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 323
41-1a-1601, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 247
41-1a-1605, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 247
41-6a-2003, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 251
49-11-102, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 16
49-11-623, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 72
49-20-202, (Effective upon governor's approval) as last amended by Laws of Utah 2010, Chapters 211, 318
51-4-1, (Effective upon governor's approval) as last amended by Laws of Utah 2013, Chapter 388
51-7-2, (Effective upon governor's approval) (Partially Repealed 07/01/27) as last amended by Laws of Utah 2025, Chapter 167
51-7-3, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 387
51-7-11, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 187
51-7-17, (Effective upon governor's approval) as last amended by Laws of Utah 2019, Chapter 56
51-8-102, (Effective upon governor's approval) as last amended by Laws of Utah 2011, Chapter 342
52-4-103, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 390
53-1-102, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 425
53-3-207, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapters 16, 328 and 456
53-6-209, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 453
53-7-204, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 18
53-9-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 438
53-10-302, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 21
53-13-103, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 214
53-17a-101, (Effective upon governor's approval) as enacted by Laws of Utah 2023, Chapter 410
53C-3-105, (Effective upon governor's approval) as enacted by Laws of Utah 2005, Chapter 189
53D-2-203, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 20, 425
53E-1-201, (Effective upon governor's approval) (Partially Repealed 07/01/27) as last amended by Laws of Utah 2025, Chapters 165, 413 and 427
53E-3-501, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 427
53E-3-507, (Effective upon governor's approval) as last amended by Laws of Utah 2021, Chapters 187, 254
53E-3-507.1, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 478
53E-3-1101, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 3
53E-3-1201, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 438
53E-4-308, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 380
53E-6-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 438
53E-10-301, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapters 83, 240
53E-10-310, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 377
53E-10-706, (Effective upon governor's approval) as last amended by Laws of Utah 2022, Chapters 401, 461
53E-10-707, (Effective upon governor's approval) as last amended by Laws of Utah 2022, Chapters 401, 461
53F-2-415, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 73
53F-2-502, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 129
53F-2-510, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 349
53F-2-526, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 323

53F-4-504, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 24
53F-5-223, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 433
53F-5-501, (Effective upon governor's approval) as last amended by Laws of Utah 2021, Chapter 129
53F-6-401, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 541
53G-1-103, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 173, 438
53G-2-104, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 3
53G-2-105, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 3
53G-5-102, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 63
53G-5-306, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 63
53G-6-708, (Effective upon governor's approval) as last amended by Laws of Utah 2019, Chapter 293
53G-7-227, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 329
53G-7-1101, (Effective upon governor's approval) as last amended by Laws of Utah 2019, Chapter 293
53G-8-202, (Effective upon governor's approval) as last amended by Laws of Utah 2019, Chapters 293, 446
53G-8-203, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 327
53G-9-703, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 308, 388
53G-9-902, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 380
53G-11-303, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 20
54-8b-10, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapter 365
57-21-3, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 11
58-1-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 491
58-22-302, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 213
58-37-3.5, (Effective upon governor's approval) (Repealed 07/01/27) as enacted by Laws of Utah 2024, Chapter 539
59-7-105, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapter 184
59-7-106, (Effective upon governor's approval) as last amended by Laws of Utah 2021, Chapters 368, 370
59-9-101, (Effective upon governor's approval) as last amended by Laws of Utah 2022, Chapter 364
59-9-102.5, (Effective upon governor's approval) (Repealed 12/31/30) as last amended by Laws of Utah 2025, Chapter 390
59-10-114, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 182
59-10-136, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 248
59-10-201, (Effective upon governor's approval) as last amended by Laws of Utah 2010, Chapter 6
59-10-202, (Effective upon governor's approval) as last amended by Laws of Utah 2019, Chapter 412
59-10-1017, (Effective upon governor's approval) as last amended by Laws of Utah 2021, Chapters 367, 370
59-10-1313, (Effective upon governor's approval) as last amended by Laws of Utah 2015, Chapter 94
59-12-102, (Effective upon governor's approval) (Superseded 07/01/26) as last amended by Laws of Utah 2025, Chapter 194
59-12-102, (Effective 07/01/26) as last amended by Laws of Utah 2025, Chapter 285
59-12-702, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 277
61-1-32, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 438
61-2f-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 248
63A-3-103, (Effective upon governor's approval) as last amended by Laws of Utah 2021, Chapter 84
63A-3-106, (Effective upon governor's approval) as last amended by Laws of Utah 2018, Chapter 415
63A-3-107, (Effective upon governor's approval) as last amended by Laws of Utah 2014, Chapter 387
63A-3-201, (Effective upon governor's approval) as last amended by Laws of Utah 2022, Chapter 169
63A-5b-102, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 425
63A-5b-403, (Effective upon governor's approval) as last amended by Laws of Utah 2022, Chapter 421
63A-5b-805, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapters 360, 365 and renumbered and amended by Laws of Utah 2020, Chapter 152
63A-9-101, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 16
63A-16-803, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 108
63A-16-1102, (Effective upon governor's approval) as renumbered and amended by Laws of Utah 2024, Chapter 426
63A-17-301, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 403
63B-5-201, (Effective upon governor's approval) as last amended by Laws of Utah 2022, Chapter 447
63C-4a-303, (Effective upon governor's approval) (Repealed 07/01/28) as last amended by Laws of Utah 2025, Chapter 497
63C-28-101, (Effective upon governor's approval) (Repealed 07/01/26) as enacted by Laws of Utah 2022, Chapter 472
63G-2-103, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 368, 476
63G-2-301, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 188
63G-2-305, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 360
63G-2-309, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 476
63G-3-201, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapter 408
63G-6a-103, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 69
63G-6a-1303, (Effective upon governor's approval) as last amended by Laws of Utah 2020, Chapter 257
63G-7-102, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 16
63G-7-301, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 173, 291 and 364
63G-12-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 173
63G-12-402, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 96
63G-16-201, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 355
63G-31-305, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 11

63H-9-101, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 93
63I-1-253, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 165, 270
63I-2-253, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 427
63J-1-206, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 287
63J-1-602.1, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 426
63J-1-602.2, (Effective upon governor's approval) (Partially Repealed 07/01/29) as last amended by Laws of Utah 2025, Chapter 172
63L-6-102, (Effective upon governor's approval) as enacted by Laws of Utah 2012, Chapter 353
63M-7-210, (Effective upon governor's approval) as last amended by Laws of Utah 2019, Chapter 136
63M-7-502, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 173
64-13-6, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 86, 214 and 299
64-13e-102, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 243
67-3-12, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 270
67-5-1, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 271
67-8-3, (Effective upon governor's approval) as last amended by Laws of Utah 2021, Chapter 344
67-21-2, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 16
67-21-3, (Effective upon governor's approval) as last amended by Laws of Utah 2022, Chapter 174
67-21-3.7, (Effective upon governor's approval) as last amended by Laws of Utah 2022, Chapter 174
67-21-4, (Effective upon governor's approval) as last amended by Laws of Utah 2022, Chapter 174
67-27-106, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 500
67-27-107, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 3
67-27-108, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 3
67-27-109, (Effective upon governor's approval) as enacted by Laws of Utah 2024, Chapter 3
71A-1-201, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 71, 266 and 528
71A-9-101, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 71
71A-9-102, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 71
72-2-205, (Effective upon governor's approval) as last amended by Laws of Utah 2011, Chapter 342
75A-8-110, (Effective upon governor's approval) as renumbered and amended by Laws of Utah 2024, Chapter 364
76-5-802, (Effective upon governor's approval) as renumbered and amended by Laws of Utah 2025, Chapter 173
76-5-803, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 173
76-8-311.1, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapters 173, 208
76-8-703, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 96
76-8-705, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 96
77-23e-102, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 216
77-38-203, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapter 99
77-38-404, (Effective upon governor's approval) as enacted by Laws of Utah 2019, Chapter 361
79-3-102, (Effective upon governor's approval) as renumbered and amended by Laws of Utah 2009, Chapter 344
79-3-503, (Effective upon governor's approval) as renumbered and amended by Laws of Utah 2009, Chapter 344
79-6-106, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 88
79-6-409, (Effective upon governor's approval) as enacted by Laws of Utah 2025, Chapter 521
79-6-1003, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 375

Utah Code Sections Affected by Coordination Clause:

AMENDS:

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-1-109 is amended to read:

4-1-109 (Effective upon governor's approval). General definitions.

As used in this title:

(1) "Agricultural product" or "product of agriculture" means any product that is derived from agriculture, including any product derived from aquaculture as defined in Section 4-37-103.

(2) "Agriculture" means the science and art of the production of plants and animals useful to man, including the preparation of plants and animals for human use and disposal by marketing or otherwise.

(3) "Commissioner" means the commissioner of agriculture and food.

(4) "Department" means the Department of Agriculture and Food created in Chapter 2, Administration.

(5) "Dietary supplement" means the same as that term is defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

(6) "DOD civilian" means the same as that term is defined in Section [~~53B-8-102~~]53H-11-202.

(7) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept for profit.

(8) "Local food" means an agricultural product or livestock that is:

(a) produced, processed, and distributed for sale or consumption within the state; and

(b) sold to an end consumer within the state.

(9) "Organization" means a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

(10) "Person" means a natural person or individual, corporation, organization, or other legal entity.

Section 2. Section 4-2-701 is amended to read:

4-2-701 (Effective upon governor's approval) (Repealed 07/01/26). Pollinator habitat program.

(1) Subject to the other provisions of this section, the department shall implement a pollinator habitat program that includes one or more of the following:

(a) public education efforts that include workshops, planting guides, or a public education campaign to raise awareness about creating pollinator habitats;

(b) distribution of pollinator-friendly native flowering plants or seeds for native flowering plants for planting within the state to protect a diversity of pollinators;

(c) pollinator programs run by local governments and nonprofit organizations with support from the department; and

(d) grants that:

(i) are provided on a first-come, first-served basis; and

(ii) cover up to 75% of the costs for the planting of pollinator-friendly native flowering plants or seeds for native flowering plants on private or public land.

(2) (a) The department may coordinate with the federal government, other state agencies, [~~state~~]institutions of higher education, as defined in Section 53H-1-101, or political subdivisions to provide for the activities described in Subsection (1).

(b) The department may designate smaller areas of the state to begin the activities described in Subsection (1).

(3) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the criteria for receiving a grant under this section; and

(b) the process to apply for and receive a grant under this section.

Section 3. Section 4-41a-102 is amended to read:

4-41a-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoid;

(f) toxins; or

(g) foreign matter.

(2) "Advertise" or "advertising" means information provided by a person in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

(3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(4) (a) "Anticompetitive business practice" means any practice that is an illegal anticompetitive activity under Section 76-16-510.

(b) "Anticompetitive business practice" may include:

(i) agreements that may be considered unreasonable when competitors interact to the extent that they are:

(A) no longer acting independently; or

(B) when collaborating are able to wield market power together;

(ii) monopolizing or attempting to monopolize trade by:

(A) acting to maintain or acquire a dominant position in the market; or

(B) preventing new entry into the market; or

(iii) other conduct outlined in rule.

(5) (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(6) "Batch" means a quantity of:

(a) cannabis extract produced on a particular date and time and produced between completion of equipment and facility sanitation protocols until the next required sanitation cycle during which lots of cannabis are used;

(b) cannabis product produced on a particular date and time and produced between completion of equipment and facility sanitation protocols until the next required sanitation cycle during which cannabis extract is used; or

(c) cannabis flower packaged on a particular date and time and produced between completion of equipment and facility sanitation protocols until the next required sanitation cycle during which lots of cannabis are being used.

(7) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(8) "Cannabis" means the same as that term is defined in Section 26B-4-201.

(9) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural cannabinoid or artificially derived cannabinoid in an artificially derived cannabinoid's purified state.

(10) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

(11) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

(12) "Cannabis cultivation facility agent" means an individual who

holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.

(13) "Cannabis derivative product" means a product made using cannabis concentrate.

(14) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

(15) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

(16) "Cannabis processing facility agent" means an individual who

holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

(17) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

(18) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(19) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(20) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(21) "Closed-door medical cannabis pharmacy" means a facility operated by a home delivery medical cannabis pharmacy for delivering medical cannabis.

(22) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(23) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

(24) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility:

(i) the medical cannabis cardholder's home address; or

(ii) an address designated by the medical cannabis cardholder that:

(A) is the medical cannabis cardholder's workplace; and

(B) is not a community location; or

(b) for a medical cannabis cardholder that is a facility, the facility's address.

(25) "Department" means the Department of Agriculture and Food.

(26) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(27) "Government issued photo identification" means the same as that term is defined in Section 26B-4-201, including expired identification in accordance with Section 26B-4-244.

(28) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders.

(29) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

(30) "Independent cannabis testing laboratory agent" means an individual who

holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.

(31) "Inventory control system" means a system described in Section 4-41a-103.

(32) "Licensing board" or "board" means the Cannabis Production Establishment and Pharmacy Licensing Advisory Board created in Section 4-41a-201.1.

(33) "Medical cannabis" or "medical cannabis product" means the same as that term is defined in Section 26B-4-201.

(34) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.

(35) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 4-41a-1201; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders.

(36) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

(37) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

(38) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.

(39) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

(40) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

(41) "Medical cannabis shipment" means a shipment of medical cannabis that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order.

(42) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.

(43) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

(44) "Patient product information insert" means the same as that term is defined in Section 26B-4-201.

(45) "Pharmacy ownership limit" means an amount equal to 30% of the total number of medical cannabis pharmacy licenses issued by the department rounded down to the nearest whole number.

(46) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.

(47) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

(48) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

(49) "Research university" means the same as that term is defined in Section [~~53B-7-702~~]53H-8-202 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

(50) "State electronic verification system" means the system described in Section 26B-4-202.

(51) "Targeted marketing" means the promotion of medical cannabis, a medical cannabis brand, or a medical cannabis device using any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

(b) an in-person marketing event that is:

(i) held inside a medical cannabis pharmacy; and

(ii) in an area where only a medical cannabis cardholder may access the event;

(c) other marketing material that is physically available or digitally displayed in a medical cannabis pharmacy; or

(d) a leaflet a medical cannabis pharmacy places in the opaque package or box that is provided to an individual when obtaining medical cannabis:

(i) in the medical cannabis pharmacy;

(ii) at the medical cannabis pharmacy's drive-through pick up window; or

(iii) in a medical cannabis shipment.

(52) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

(53) "Tier one cannabis processing facility" means a cannabis processing facility that is able to:

(a) create cannabis concentrate;

(b) create cannabis derivative product; and

(c) package and label medical cannabis.

(54) "Tier two cannabis processing facility" means a cannabis processing facility that is able to package and label medical cannabis only if the medical cannabis is a cannabis plant product.

(55) "THC analog" means the same as that term is defined in Section 4-41-102.

(56) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

(57) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 4. Section 9-8a-302 is amended to read:

9-8a-302 (Effective upon governor's approval). Definitions.

As used in this part and Part 4, Historic Sites:

(1) "Agency" means a department, division, office, bureau, board, commission, or other administrative unit of the state.

(2) "Ancient human remains" means all or part of the following that are historic or prehistoric:

(a) a physical individual; and

(b) any object on or attached to the physical individual that is placed on or attached to the physical individual as part of the death rite or ceremony of a culture.

(3) "Antiquities Section" means the Antiquities Section of the office created in Section 9-8a-304.

(4) "Archaeological resources" means all material remains and their associations, recoverable or discoverable through excavation or survey, that provide information pertaining to the historic or prehistoric peoples of the state.

(5) "Collection" means a specimen and the associated records documenting the specimen and the specimen's recovery.

(6) "Curation" means management and care of collections according to standard professional museum practice, which may include

inventorying, accessioning, labeling, cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting, cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of original collections or reproductions, and providing access to and facilities for studying collections.

(7) "Curation facility" means the same as that term is defined in Section [~~53B-17-603~~]53H-4-211.

(8) "Excavate" means the recovery of archaeological resources.

(9) "Historic property" means any prehistoric or historic district, site, building, structure, or specimen included in, or eligible for inclusion in, the National Register of Historic Places or the State Register.

(10) "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(11) "Museum" means the Utah Museum of Natural History.

(12) (a) "Nonfederal land" means land in the state that is not owned, controlled, or held in trust by the federal government.

(b) "Nonfederal land" includes:

(i) land owned or controlled by:

(A) the state;

(B) a county, city, or town;

(C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members; or

(D) a person other than the federal government; or

(ii) school and institutional trust lands.

(13) "Principal investigator" means the individual with overall administrative responsibility for the survey or excavation project authorized by the permit.

(14) "Repository" means the same as that term is defined in Section [~~53B-17-603~~]53H-4-211.

(15) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

(16) "Site" means any petroglyphs, pictographs, structural remains, or geographic location that is the source of archaeological resources or specimens.

(17) "Specimen" means all man-made artifacts and remains of an archaeological or anthropological nature found on or below the surface of the earth, excluding structural remains.

(18) (a) "State land" means land owned by the state including the state's:

(i) legislative and judicial branches;

(ii) departments, divisions, agencies, boards, commissions, councils, and committees; and

(iii) institutions of higher education as defined under Section [~~53B-3-102~~]53H-1-101.

(b) "State land" does not include:

(i) land owned by a political subdivision of the state;

(ii) land owned by a school district;

(iii) private land; or

(iv) school and institutional trust lands.

(19) "Survey" means a surface investigation for archaeological resources that may include:

(a) insubstantial surface collection of archaeological resources; and

(b) limited subsurface testing that disturbs no more of a site than is necessary to determine the nature and extent of the archaeological resources or whether the site is a historic property.

Section 5. Section 9-8a-305 is amended to read:

9-8a-305 (Effective upon governor's approval). Permit required to survey or excavate on state lands -- Public Lands Policy Coordinating Office to issue permits and make rules -- Ownership of collections and resources -- Revocation or suspension of permits -- Criminal penalties.

(1) (a) Except as provided by Subsections (1)(d) and (3)(c), each principal investigator who wishes to survey or excavate on any lands owned or controlled by the state, its political subdivisions, or by the School and Institutional Trust Lands Administration shall obtain a survey or excavation permit from the Public Lands Policy Coordinating Office.

(b) A principal investigator who holds a valid permit under this section may allow other individuals to assist the principal investigator in a survey or excavation if the principal investigator ensures that all the individuals comply with the law, the rules, the permit, and the appropriate professional standards.

(c) A person, other than a principal investigator, may not survey or excavate on any lands owned or controlled by the state, its political subdivisions, or by the School and Institutional Trust Lands Administration unless the person works under the direction of a principal investigator who holds a valid permit.

(d) A permit obtained before July 1, 2006, shall continue until the permit terminates on its own terms.

(2) (a) To obtain a survey permit, a principal investigator shall:

(i) submit a permit application on a form furnished by the Public Lands Policy Coordinating Office;

(ii) except as provided in Subsection (2)(b), possess a graduate degree in anthropology, archaeology, or history;

(iii) have one year of full-time professional experience or equivalent specialized training in archaeological research, administration, or management; and

(iv) have one year of supervised field and analytical experience in Utah prehistoric or historic archaeology.

(b) In lieu of the graduate degree required by Subsection (2)(a)(ii), a principal investigator may submit evidence of training and experience equivalent to a graduate degree.

(c) Unless the permit is revoked or suspended, a survey permit is valid for the time period specified in the permit by the Public Lands Policy Coordinating Office, which may not exceed three years.

(3) (a) Except as provided by Subsection (3)(c), to obtain an excavation permit, a principal investigator shall, in addition to complying with Subsection (2)(a), submit:

(i) a research design to the Public Lands Policy Coordinating Office and the Antiquities Section that:

(A) states the questions to be addressed;

(B) states the reasons for conducting the work;

(C) defines the methods to be used;

(D) describes the analysis to be performed;

(E) outlines the expected results and the plan for reporting;

(F) evaluates expected contributions of the proposed work to archaeological or anthropological science; and

(G) estimates the cost and the time of the work that the principal investigator believes is necessary to provide the maximum amount of historic, scientific, archaeological, anthropological, and educational information; and

(ii) proof of permission from the landowner to enter the property for the purposes of the permit.

(b) An excavation permit is valid for the amount of time specified in the permit, unless the permit is revoked according to Subsection (9).

(c) The Public Lands Policy Coordinating Office may delegate to an agency the authority to issue excavation permits if the agency:

(i) requests the delegation; and

(ii) employs or has a long-term contract with a principal investigator with a valid survey permit.

(d) The Public Lands Policy Coordinating Office shall conduct an independent review of the delegation authorized by Subsection (3)(c) every three years and may revoke the delegation at any time without cause.

(4) The Public Lands Policy Coordinating Office shall:

(a) grant a survey permit to a principal investigator who meets the requirements of this section; and

(b) grant an excavation permit to a principal investigator after approving, in consultation with the Antiquities Section, the research design for the project.

(5) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Public Lands Policy Coordinating Office shall, after consulting with the Antiquities Section, make rules to:

(a) establish survey methodology;

(b) standardize report and data preparation and submission;

(c) require other permit application information that the Public Lands Policy Coordinating Office finds necessary, including proof of consultation with the appropriate Native American tribe;

(d) establish what training and experience is equivalent to a graduate degree;

(e) establish requirements for a person authorized by Subsection (1)(b) to assist the principal investigator;

(f) establish requirements for a principal investigator's employer, if applicable; and

(g) establish criteria that, if met, would allow the Public Lands Policy Coordinating Office to reinstate a suspended permit.

(6) Each principal investigator shall submit a summary report of the work for each project to the Antiquities Section in a form prescribed by a rule established under Subsection (5)(b), which shall include copies of all:

(a) site forms;

(b) data;

(c) maps;

(d) drawings;

(e) photographs; and

(f) descriptions of specimens.

(7) (a) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from lands owned or controlled by the state or its political subdivisions, other than school and institutional trust lands, without permission from the Antiquities Section, and prior consultation with the landowner and any other agencies managing other interests in the land.

(b) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from school and institutional trust lands without permission from the School and Institutional Trust Lands Administration, granted after consultation with the Antiquities Section.

(c) If a specimen, site, or portion of a site is placed in a repository or curation facility, a person may remove it by following the procedures established by the repository or curation facility.

(8) (a) Collections recovered from school and institutional trust lands are owned by the respective trust.

(b) Collections recovered from lands owned or controlled by the state or its subdivisions, other than school and institutional trust lands, are owned by the state.

(c) Within a reasonable time after the completion of fieldwork, each permit holder shall deposit all collections at the museum, a curation facility, or a repository.

(d) The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions shall be designated according to the rules made under the authority of Section [~~53B-17-603~~]53H-4-211.

(9) (a) Upon complaint by an agency, the Public Lands Policy Coordinating Office shall investigate a principal investigator and the work conducted under a permit.

(b) By following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, the Public Lands Policy Coordinating Office may revoke or suspend a permit if the principal investigator fails to conduct a survey or excavation according to law, the rules enacted by the Public Lands Policy Coordinating Office, or permit provisions.

(10) (a) Any person violating this section is guilty of a class B misdemeanor.

(b) A person convicted of violating this section, or found to have violated the rules authorized by this section, shall, in addition to any other penalties imposed, forfeit all archaeological resources discovered by or through the person's efforts to the state or the respective trust.

(11) The office may enter into memoranda of agreement to issue project numbers or to retain other data for federal lands or Native

American lands within the state.

Section 6. Section 9-9-402 is amended to read:

9-9-402 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Antiquities Section" means the Antiquities Section of the State Historic Preservation Office.

(2) "Burial site" means a natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture individual human remains are deposited.

(3) "Cultural affiliation" means that there is a relationship of shared group identity that can be reasonably traced historically or prehistorically between a present day Indian tribe and an identifiable earlier group.

(4) "Director" means the director of the Division of Indian Affairs.

(5) "Division" means the Division of Indian Affairs.

(6) "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(7) "Lineal descendant" means the genealogical descendant established by oral or written record.

(8) "Native American" means of or relating to a tribe, people, or culture that is indigenous to the United States.

(9) "Native American remains" means remains that are Native American.

(10) (a) "Nonfederal land" means land in the state that is not owned, controlled, or held in trust by the federal government.

(b) "Nonfederal land" includes:

(i) land owned or controlled by:

(A) the state;

(B) a county, city, or town;

(C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members; or

(D) a person other than the federal government; or

(ii) school and institutional trust lands as defined in Section 53C-1-103.

(11) "Partner agency" means an agency of the state or a tribal agency that participates in the remains repatriation process.

(12) "Remains" means all or part of a physical individual and objects on or attached to the physical individual that are placed there as part of the death rite or ceremony of a culture.

(13) "Review committee" means the Native American Remains Review Committee created by Section 9-9-405.

(14) (a) "State land" means land owned by the state including the state's:

(i) legislative and judicial branches;

(ii) departments, divisions, agencies, boards, commissions, councils, and committees; and

(iii) institutions of higher education as defined under Section [~~53B-3-102~~]53H-1-101.

(b) "State land" does not include:

(i) land owned by a political subdivision of the state;

(ii) land owned by a school district;

(iii) private land; or

(iv) school and institutional trust lands as defined in Section 53C-1-103.

(15) "Tribal consultation" means the state and the tribes exchanging views and information, in writing or in person, regarding implementing proposed state action under this part that has or may have substantial implications for tribes including impacts on:

(a) tribal cultural practices;

(b) tribal lands;

(c) tribal resources;

(d) access to traditional areas of tribal cultural or religious importance; or

(e) the consideration of the state's responsibilities to Indian tribes.

Section 7. Section 9-20-301 is amended to read:

9-20-301 (Effective upon governor's approval) (Repealed 07/01/27). One Utah Service Fellowship Program.

(1) As used in this section:

(a) "Education expense" means:

(i) tuition or student fees at an institution of higher education that participates in the federal student assistance programs under the Higher Education Act of 1965, Title IV, 20 U.S.C. Sec. 1070 et seq.;

(ii) repayment of a student loan; or

(iii) other costs of attending an institution of higher education described in Subsection (1)(a)(i), as determined by the institution of higher education, for a degree or certificate program, including:

(A) books;

(B) supplies;

(C) transportation; and

(D) room and board.

(b) "Eligible recipient" means an individual who:

(i) is a resident of the state;

(ii) successfully completes a fellowship under the program created in this section; and

(iii) is a citizen of the United States, a United States national, or a lawful permanent resident of the United States.

(c) "Federal requirements for the AmeriCorps program" means:

(i) relevant provisions of:

(A) the National and Community Service Act of 1990, as amended, 42 U.S.C. 12501 et seq. and corresponding federal regulations;

(B) the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4950 et seq. and corresponding federal regulations;

(C) the Federal Grant and Cooperative Agreement Act, as amended, 31 U.S.C. Secs. 6301 through 6308, and corresponding federal regulations; and

(D) AmeriCorps' C.F.R. Chapters XII and XXV; and

(ii) any terms and conditions associated with AmeriCorps federal grant funding.

(d) "Institution of higher education" means [~~an entity described in Section 53B-2-101~~]the same as that term is defined in Section 53H-1-101.

(e) "Participant" means an individual who:

(i) is at least 17 years old;

(ii) has received a high school diploma or its equivalent; and

(iii) the program matches with a qualified partner organization to participate in a program fellowship.

(f) "Program" means the One Utah Service Fellowship Program created in Subsection (2).

(g) "Qualified partner organization" means a nonprofit organization or government entity that:

(i) agrees to supervise a participant for the total number of hours outlined in an agreement with the commission;

(ii) except as provided in Subsection (4)(d) or (6), agrees to provide the commission or third-party administrator with a matching living allowance amount, as described in Subsection (5); and

(iii) provides a valuable service to the community, as determined by the commission or commission rule.

(h) "State funds" means funds that are owned, held, or administered by the department to administer the program as described in this section.

(i) "Supervise" means the act of overseeing the work of an eligible recipient, including some component of in-person interaction.

(j) "Third-party administrator" means an entity that:

(i) enters into an agreement with the department, as described in Subsection (8);

(ii) is a nonprofit organization or subsidiary or affiliate of an institution of higher education;

(iii) has experience managing programs and funds; and

(iv) operates under the direction of the commission.

(k) "Tuition award" means an amount of money to be used for an education expense, as described in Subsection (7).

(2) There is created a One Utah Service Fellowship Program to provide meaningful service opportunities to young adults in the state to:

(a) prepare young adults for additional educational, training, and career opportunities;

(b) address high-priority needs within the state; and

(c) provide a living allowance to a participant, a tuition award to an eligible recipient, or both, in accordance with this section.

(3) (a) Subject to appropriations from the Legislature, the commission shall administer the program as described in this section.

(b) Except as otherwise provided in an agreement authorized by Subsection (8)(b) the commission:

(i) shall create and maintain a list of high-priority policy needs in the state where program service opportunities can provide the most value to the state;

(ii) shall receive an application from a potential participant;

(iii) shall match a participant to a qualified partner organization for participation in the program;

(iv) shall approve a potential qualified partner organization to participate in the program;

(v) shall prioritize the placement of participants with qualified partner organizations that address the high-priority policy needs identified under Subsection (3)(b)(i);

(vi) shall create and maintain, or contract with a third-party to create and maintain, an online portal that:

(A) provides information about the program, including required qualifications for participation, tuition awards, and living allowances;

(B) lists all service opportunities with qualified partner organizations that are available through the program; and

(C) allows a potential participant to apply for placement with a qualified partner organization;

(vii) shall determine the metrics of success of the program, including metrics regarding whether an eligible recipient:

(A) matriculates at an institution of higher education after completing a One Utah Service Fellowship; and

(B) graduates from, or otherwise completes a program at, an institution of higher education;

(viii) shall measure the success of the program according to the metrics determined under this Subsection (3);

(ix) shall coordinate with institutions of higher education to:

(A) connect an eligible recipient with additional educational, training, certification, and apprenticeship opportunities; and

(B) explore options to award an eligible recipient with academic credit for the completion of a One Utah Service Fellowship, in addition to the living allowance or tuition award;

(x) may solicit private donations to supplement the program, including to offset a matching amount required of a qualified partner organization as described in Subsection (4)(d);

(xi) shall market and provide outreach for the program; and

(xii) shall ensure the program complies with federal requirements for the AmeriCorps program administered by the commission.

(c) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

(4) (a) Before a participant begins providing service through the program, the commission or third-party administrator shall enter into an agreement with the participant that outlines the mutual expectations of the program and the participant.

(b) The agreement described in Subsection (4)(a) shall detail the requirements of the participant, including:

(i) the total number of hours of service required under the agreement;

(ii) the exact living allowance amount promised to the participant in consideration of service, as described in Subsection (5);

(iii) the exact tuition award amount promised to the participant upon successful completion of a fellowship, as described in Subsection (7);

(iv) qualifications for and acceptable uses of the tuition award, as described in Subsection (7); and

(v) the circumstances under which the agreement may be amended, including for participant hardship or compelling personal circumstance.

(c) (i) Subject to Subsection (4)(c)(ii), before a qualified partner organization accepts service from a participant, the commission or third-party administrator shall enter into an agreement with the qualified partner organization that outlines the mutual expectations of the program and qualified partner organization, including the exact amount of matching funds the qualified partner organization shall provide to the commission or third-party administrator to contribute to a participant's living allowance.

(ii) A qualified partner organization shall agree to contribute no less than $5 per hour to a participant's living allowance, except as provided in Subsection (4)(d) or (6).

(d) The agreement described in Subsection (4)(c) may include a provision that the program is reducing the qualified partner organization's matching fund requirement due to the receipt of private donations or eligible federal funds, as described in Subsection (5)(c)(ii).

(5) (a) The commission may issue, and a participant may receive, a living allowance for participating in the program.

(b) The commission or third-party administrator shall establish the exact living allowance for a participant on a case-by-case basis in an agreement described in Subsection (4)(a) based on:

(i) available program funds; and

(ii) any matching funds provided by:

(A) the qualified partner organization with which the participant is paired;

(B) private donations to the program; or

(C) eligible federal funds.

(c) (i) Except as provided in Subsection (5)(c)(v) or (6), the commission or third-party administrator shall contribute no less than $5 per hour and no more than $8,500 of the living allowance for the term of the agreement, from state funds.

(ii) The commission or third-party administrator shall supplement the remaining balance of a participant's exact living allowance from other funds, including:

(A) matching funds provided to the commission or third-party administrator by a qualified partner organization;

(B) private donations to the program; or

(C) eligible federal funds.

(iii) The commission or third-party administrator shall prioritize a participant's placement with a qualified partner organization based on the amount of matching funds the qualified partner organization proposes to provide to the commission or third-party administrator under Subsection (5)(c)(ii)(A), with preference going to qualified partner organizations that offer to provide a larger living allowance.

(iv) (A) The living allowance and matching fund amounts shall be established based on the participant's total committed number of hours over the term of the agreement described in Subsection (4).

(B) The commission or third-party administrator shall disburse the living allowance to a participant in equal installments over the term of the agreement, no less than on a monthly basis.

(v) The commission or third-party administrator may contribute less than $5 per hour of the living allowance from state funds when another source of eligible funding, including funding from federal programs, covers all or part of the living allowance for the term of the agreement.

(6) (a) A qualified partner organization that is an institution of higher education, as defined in [~~Section 53B-2-102~~]Section 53H-1-101, may enter into an agreement with a participant for a tuition-only award under the program.

(b) The agreement in Subsection (6)(a) shall comply with the requirements described in Subsections (4)(a), (4)(b)(i), and (4)(b)(iii) through (v).

(c) (i) The director shall review the participation data collected under Subsection (6)(a)to determine whether the participation data supports continuing the tuition-only award under the program.

(ii) If the participation data fails to support a tuition-only award under the program, the director may discontinue the tuition-only award under the program.

(7) (a) The commission or third-party administrator shall provide or approve the issuance of a tuition award to an eligible recipient, according to the terms of the agreement described in Subsection (4), upon the successful completion of a fellowship.

(b) The commission or third-party administrator shall establish the exact tuition award for an eligible recipient on a case-by-case basis in an agreement described in Subsection (4)(a).

(c) The commission or third-party shall base the tuition award described in Subsection (7)(b) on federal requirements for the AmeriCorps program, including:

(i) a maximum tuition award for 1,700 hours of service during the term of service; and

(ii) a reduced tuition award for a reduced number of hours of service during the term of service.

(d) An eligible recipient may use a tuition award:

(i) for an eligible education expense;

(ii) over a seven-year period beginning the day on which the eligible recipient receives the tuition award; and

(iii) subject to the requirements of Subsection (7)(e).

(e) If the program uses state funds to supplement a tuition award:

(i) the commission or third-party administrator shall detail that information in an agreement described in Subsection (4)(a); and

(ii) an eligible recipient may only use the state funded portion of the tuition award after the eligible recipient has exhausted any scholarship, education grant, or financial aid.

(8) The department:

(a) shall provide staff support to the commission to implement the program; and

(b) may enter into an agreement with one or more third-party administrators to administer and implement the program under the direction of the commission, including by fulfilling one or more of the responsibilities described in Subsection (3).

Section 8. Section 9-22-102 is amended to read:

9-22-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Computing partnerships" means a set of skills, knowledge, and aptitudes used in computer science, information technology, or computer engineering courses and career options.

(2) "Director" means the director appointed by the STEM board to oversee the administration of the STEM Action Center.

(3) "Educator" means the same as that term is defined in Section 53E-6-102.

(4) "Foundation" means a foundation established as described in Subsections 9-22-104(3) and (4).

(5) "Fund" means the STEM Action Center Foundation Fund created in Section 9-22-105.

(6) "Grant program" means the Computing Partnerships Grants program created in this part.

(7) "High quality professional development" means professional development that meets high quality standards developed by the State Board of Education.

(8) "Institution of higher education" means [~~an institution listed in Section 53B-1-102~~]the same as that term is defined in Section 53H-1-101.

(9) "K-16" means kindergarten through grade 12 and post-secondary education programs.

(10) "Provider" means a provider selected on behalf of the STEM board by the staff of the STEM board and the staff of the State Board of Education:

(a) through a request for proposals process; or

(b) through a direct award or sole source procurement process for a pilot described in Section 9-22-107.

(11) "Review committee" means the committee established under Section 9-22-114.

(12) "Stacked credentials" means credentials that:

(a) an individual can build upon to access an advanced job or higher wage;

(b) are part of a career pathway system;

(c) provide a pathway culminating in the equivalent of an associate's or bachelor's degree;

(d) facilitate multiple exit and entry points; and

(e) recognize sub-goals or momentum points.

(13) "STEM" means science, technology, engineering, and mathematics.

(14) "STEM Action Center" means the center described in Section 9-22-106.

(15) "STEM board" means the STEM Action Center Board created in Section 9-22-103.

(16) "Talent Ready Program" means the Talent Ready Utah Program created in Section [~~53B-34-103~~]53H-13-303.

Section 9. Section 9-22-106 is amended to read:

9-22-106 (Effective upon governor's approval). STEM Action Center.

(1) The STEM board shall:

(a) establish a STEM Action Center;

(b) ensure that the STEM Action Center:

(i) is accessible to the public; and

(ii) includes the components described in Subsection (2);

(c) work cooperatively with the State Board of Education to:

(i) further STEM education; and

(ii) ensure best practices are implemented as described in Sections 9-22-107 and 9-22-108;

(d) engage private entities to provide financial support or employee time for STEM activities in schools in addition to what is currently provided by private entities; and

(e) work cooperatively with stakeholders to support and promote activities that align STEM education and training activities with the employment needs of business and industry in the state.

(2) As funding allows, the director of the STEM Action Center shall:

(a) support high quality professional development for educators regarding STEM education;

(b) ensure that the STEM Action Center acts as a research and development center for STEM education through a request for proposals process described in Section 9-22-107;

(c) review and acquire STEM education related materials and products for:

(i) high quality professional development;

(ii) assessment, data collection, analysis, and reporting; and

(iii) public school instruction;

(d) facilitate participation in interscholastic STEM related competitions, fairs, camps, and STEM education activities;

(e) engage private industry in the development and maintenance of the STEM Action Center and STEM Action Center projects;

(f) use resources to bring the latest STEM education learning tools into public education classrooms;

(g) identify at least 10 best practice innovations used in Utah that have resulted in a measurable improvement in student performance

or outcomes in STEM areas;

(h) identify best practices being used outside the state and, as appropriate, develop and implement selected practices through a pilot program;

(i) identify:

(i) learning tools for kindergarten through grade 6 identified as best practices; and

(ii) learning tools for grades 7 through 12 identified as best practices;

(j) collect data on Utah best practices, including best practices from public education, higher education, the Utah Education and Telehealth Network, and other STEM related entities;

(k) keep track of the following items related to best practices described in Subsection (2)(j):

(i) how the best practices data are being used; and

(ii) how many individuals are using the data, including the demographics of the users, if available;

(l) as appropriate, join and participate in a national STEM network;

(m) work cooperatively with the State Board of Education to designate schools as STEM schools, where the schools have agreed to adopt a plan of STEM implementation in alignment with criteria set by the State Board of Education and the board;

(n) support best methods of high quality professional development for STEM education in kindergarten through grade 12, including methods of high quality professional development that reduce cost and increase effectiveness, to help educators learn how to most effectively implement best practice learning tools in classrooms;

(o) recognize achievement in the STEM competitions, fairs, and camps described in Subsection (2)(d);

(p) send student results from STEM competitions, fairs, and camps described in Subsection (2)(d) to media and ask the media to report on them;

(q) develop and distribute STEM information to parents of students in the state;

(r) support targeted high quality professional development for improved instruction in STEM education, including:

(i) improved instructional materials that are dynamic and engaging for students;

(ii) use of applied instruction; and

(iii) introduction of other research-based methods that support student achievement in STEM areas; and

(s) ensure that an online college readiness assessment tool be accessible by:

(i) public education students; and

(ii) higher education students.

(3) The STEM board may prescribe other duties for the STEM Action Center in addition to the responsibilities described in this section.

(4) (a) The director shall work with an independent evaluator to track and compare the student performance of students participating in a STEM Action Center program to all other similarly situated students in the state, if appropriate, in the following activities:

(i) public education high school graduation rates;

(ii) the number of students taking a remedial mathematics course at an institution of higher education [~~described~~]listed in Section [~~53B-2-101~~]53H-1-102;

(iii) the number of students who graduate from a Utah public school and begin a postsecondary education program; and

(iv) the number of students, as compared to all similarly situated students, who are performing at grade level in STEM classes.

(b) The State Board of Education and the Utah Board of Higher Education shall provide information to the STEM board to assist the STEM board in complying with the requirements of Subsection (4)(a) if allowed under federal law.

Section 10. Section 9-22-112 is amended to read:

9-22-112 (Effective upon governor's approval). High school STEM education initiative.

(1) Subject to legislative appropriations, after consulting with State Board of Education staff, the STEM Action Center shall award grants to school districts and charter schools to fund STEM related certification for high school students.

(2) (a) A school district or charter school may apply for a grant from the STEM Action Center, through a competitive process, to fund the school district's or charter school's STEM related certification training program.

(b) A school district's or charter school's STEM related certification training program shall:

(i) prepare high school students to be job ready for available STEM related positions of employment; and

(ii) when a student completes the program, result in the student gaining an industry-recognized employer STEM related certification.

(3) A school district or charter school may partner with one or more of the following to provide a STEM related certification program:

(a) a technical college described in Section [~~53B-2a-105~~]53H-3-1202;

(b) Salt Lake Community College;

(c) Snow College;

(d) Utah State University Eastern;

(e) Utah State University Blanding; or

(f) a private sector employer.

Section 11. Section 9-22-113 is amended to read:

9-22-113 (Effective upon governor's approval). Computer science initiative for public schools.

(1) As used in this section:

(a) "Computational thinking" means the set of problem-solving skills and techniques that software engineers use to write programs that underlie computer applications, including decomposition, pattern recognition, pattern generalization, and algorithm design.

(b) "Computer coding" means the process of writing script for a computer program or mobile device.

(c) "Educator" means the same as that term is defined in Section 53E-6-102.

(d) "Endorsement" means a stipulation, authorized by the State Board of Education and appended to a license, that specifies the areas of practice to which the license applies.

(e) [~~(i)~~] "Institution of higher education" means the same as that term is defined in Section [~~53B-3-102~~]53H-1-101.

[~~(ii) "Institution of higher education" includes a technical college described in Section 53B-2a-105.~~]

(f) "Employer" means a private employer, public employer, industry association, union, or the military.

(g) "License" means the same as that term is defined in Section 53E-6-102.

(2) Subject to legislative appropriations, on behalf of the STEM board, the staff of the STEM board and the staff of the State Board of Education shall collaborate to develop and implement a computer science initiative for public schools by:

(a) creating an online repository that:

(i) is available for school districts and charter schools to use as a resource; and

(ii) includes high quality computer science instructional resources that are designed to teach students in all grade levels:

(A) computational thinking skills; and

(B) computer coding skills;

(b) providing for professional development on teaching computer science by:

(i) including resources for educators related to teaching computational thinking and computer coding in the STEM education high quality professional development application described in Section 9-22-110; and

(ii) providing statewide or regional professional development institutes; and

(c) awarding grants to a school district or charter school, on a competitive basis, that may be used to provide incentives for an educator to earn a computer science endorsement.

(3) A school district or charter school may enter into an agreement with one or more of the following entities to jointly apply for a grant under Subsection (2)(c):

(a) a school district;

(b) a charter school;

(c) an employer;

(d) an institution of higher education; or

(e) a non-profit organization.

(4) To apply for a grant described in Subsection (2)(c), a school district or charter school shall submit a plan to the State Board of Education for the use of the grant, including a statement of purpose that describes the methods the school district or charter school proposes to use to incentivize an educator to earn a computer science endorsement.

(5) The State Board of Education and the STEM board shall encourage schools to independently pursue computer science and coding initiatives, subject to local school board or charter school governing board approval, based on the unique needs of the school's students.

(6) The STEM board shall include information on the status of the computer science initiative in the annual report described in Section 9-22-109.

Section 12. Section 10-9a-210 is amended to read:

10-9a-210 (Effective upon governor's approval). Notice to municipality when a private institution of higher education is constructing student housing.

(1) Each [~~private institution of higher education~~]private postsecondary educational institution, as defined in Section 53H-1-101, that intends to construct student housing on property owned by the institution shall provide written notice of the intended construction, as provided in Subsection (2), before any funds are committed to the construction, if any of the proposed student housing buildings is within 300 feet of privately owned residential property.

(2) Each notice under Subsection (1) shall be provided to the legislative body and, if applicable, the mayor of:

(a) the county in whose unincorporated area the privately owned residential property is located; or

(b) the municipality in whose boundaries the privately owned residential property is located.

(3) At the request of a county or municipality that is entitled to notice under this section, the institution and the legislative body of the affected county or municipality shall jointly hold a public hearing to provide information to the public and receive input from the public about the proposed construction.

Section 13. Section 11-13a-102 is amended to read:

11-13a-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Controlling interest" means that one or more governmental entities collectively represent a majority of the board's voting power as outlined in the nonprofit corporation's governing documents.

(2) (a) "Governing board" means the body that governs a governmental nonprofit corporation.

(b) "Governing board" includes a board of directors.

(3) "Governmental entity" means the state, a county, a municipality, a special district, a special service district, a school district, [~~a state~~]an institution of higher education, as defined in Section 53H-1-101, or any other political subdivision or administrative unit of the state.

(4) (a) "Governmental nonprofit corporation" means:

(i) a nonprofit corporation that is wholly owned or wholly controlled by one or more governmental entities, unless the nonprofit corporation receives no operating funding or other financial support from any governmental entity; or

(ii) a nonprofit corporation in which one or more governmental entities exercise a controlling interest and:

(A) that exercises taxing authority;

(B) that imposes a mandatory fee for association or participation with the nonprofit corporation where that association or participation is mandated by law; or

(C) that receives a majority of the nonprofit corporation's operating funding from one or more governmental entities under the

nonprofit corporation's governing documents, except where voluntary membership fees, dues, or assessments compose the operating funding.

(b) "Governmental nonprofit corporation" does not include:

(i) a water company, as that term is defined in Section 16-4-102, unless the water company is wholly owned by one or more governmental entities; or

(ii) the Utah Association of Special Districts.

(5) "Municipality" means a city or town.

Section 14. Section 11-17-2 is amended to read:

11-17-2 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Bonds" means bonds, notes, or other evidences of indebtedness.

(2) "Clean energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from clean resources, including:

(a) a photovoltaic system;

(b) a solar thermal system;

(c) a wind system;

(d) a geothermal system, including:

(i) a direct-use system; or

(ii) a ground source heat pump system;

(e) a micro-hydro system;

(f) nuclear fuel;

(g) carbon capture utilization and sequestration; or

(h) another clean energy system approved by the governing body.

(3) "Energy efficiency upgrade" means an improvement that is permanently affixed to real property and that is designed to reduce energy consumption, including:

(a) insulation in:

(i) a wall, ceiling, roof, floor, or foundation; or

(ii) a heating or cooling distribution system;

(b) an insulated window or door, including:

(i) a storm window or door;

(ii) a multiglazed window or door;

(iii) a heat-absorbing window or door;

(iv) a heat-reflective glazed and coated window or door;

(v) additional window or door glazing;

(vi) a window or door with reduced glass area; or

(vii) other window or door modifications that reduce energy loss;

(c) an automatic energy control system;

(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(e) caulking or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of a low-flow toilet or showerhead;

(ii) installation of a timer or timing system for a hot water heater; or

(iii) installation of a rain catchment system; or

(j) any other modified, installed, or remodeled fixture that is approved as a utility cost-savings measure by the governing body.

(4) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.

(5) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for the Utah Inland Port Authority created in Section 11-58-201, the board, as defined in Section 11-58-102;

(c) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102;

(d) for a state university except as provided in Subsection (5)(e), the board or body having the control and supervision of the state university; and

(e) for a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.

(6) (a) "Industrial park" means land, including all necessary rights, appurtenances, easements, and franchises relating to it, acquired and developed by a municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use.

(b) "Industrial park" includes the development of the land for an industrial park under this chapter or the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

(7) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other lending institution that lends, loans, or leases proceeds of a financing to the user or a user's designee.

(8) "Mortgage" means a mortgage, trust deed, or other security device.

(9) "Municipality" means any incorporated city or town in the state, including cities or towns operating under home rule charters.

(10) "Pollution" means any form of environmental pollution including water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

(11) (a) "Project" means:

(i) an industrial park, land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction:

(A) that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(B) that is suitable to provide services to the general public;

(C) that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities; or

(D) that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions;

(ii) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(iii) an energy efficiency upgrade;

(iv) a clean energy system;

(v) facilities, machinery, or equipment, the manufacturing and financing of which will maintain or enlarge domestic or foreign markets for Utah industrial products; or

(vi) any economic development or new venture investment fund to be raised other than from:

(A) municipal or county general fund money;

(B) money raised under the taxing power of any county or municipality; or

(C) money raised against the general credit of any county or municipality.

(b) "Project" does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

(12) "State university" means an institution of higher education [~~as described~~]listed in Section [~~53B-2-101~~]53H-1-102 and includes any nonprofit corporation or foundation created by and operating under [~~their~~]the institution of higher education's authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Section 15. Section 11-17-3 is amended to read:

11-17-3 (Effective upon governor's approval). Powers of municipalities, counties, and state universities.

(1) A municipality, county, and state university may:

(a) finance or acquire, whether by construction, purchase, devise, gift, exchange, or lease, or any one or more of those methods, and construct, reconstruct, improve, maintain, equip, and furnish or fund one or more projects, within this state, and which shall be located within, or partially within, the municipality or county or within the county within which a state university is located, unless an agreement under [~~Title 11, Chapter 13, Interlocal Cooperation Act~~]Chapter 13, Interlocal Cooperation Act, has been entered into as authorized by Subsection (5), except that if a governing body finds, by resolution, that the effects of international trade practices have been or will be adverse to Utah manufacturers of industrial products and, therefore, it is desirable to finance a project in order to maintain or enlarge domestic or foreign markets for Utah industrial products, a project may consist of the financing on behalf of a user of the costs of acquiring industrial products manufactured in, and which are to be exported from, the state;

(b) finance for, sell, lease, contract the management of, or otherwise dispose of to, any person, firm, partnership, or corporation, either public or private, including without limitation any person, firm, partnership, or corporation engaged in business for a profit, any or all of its projects upon the terms and conditions as the governing body considers advisable and which do not conflict with this chapter;

(c) issue revenue bonds for the purpose of defraying the cost of financing, acquiring, constructing, reconstructing, improving, maintaining, equipping, furnishing, or funding any project and secure the payment of the bonds as provided in this chapter, which revenue bonds may be issued in one or more series or issues where considered advisable, and each series or issue may contain different maturity dates, interest rates, priorities on securities available for guaranteeing payment of them, and other differing terms and conditions considered necessary and not in conflict with this chapter;

(d) (i) grant options to renew any lease with respect to any project and to buy any project at a price the governing body considers desirable; and

(ii) sell and convey any real or personal property acquired under Subsection (1)(a) at public or private sale, and make an order respecting the sale considered conducive to the best interests of the municipality, county, or state university, the sale or conveyance to be subject to the terms of any lease but to be free and clear of any other encumbrance;

(e) establish, acquire, develop, maintain, and operate industrial parks; and

(f) offer to the holders of its bonds issued under this chapter the right, where its governing body considers it appropriate, to convert

the bonds or some portion of the bond obligation into an equity position in some or all of the assets developed with the proceeds of the bond offering.

(2) (a) An economic development or new venture investment fund is considered to be located in the municipality or county where its headquarters is located or where any office of it is located, if it is headquartered within the state.

(b) An economic development or new venture investment fund need not make all of its investments within the state or the county or municipality, if it:

(i) locates within the state, the county, or the municipality its headquarters where its actual investment decisions and management functions occur; and

(ii) limits the aggregate amount of its investments in companies located outside the state to an amount which in the aggregate does not exceed the aggregate amount of investments made by institutions and funds located outside the state in companies headquartered in Utah which the locally managed fund has sponsored or in which it has invested and which it has brought to the attention of investors outside the state.

(c) (i) For purposes of enabling an offering of bonds to fund a fund described in this Subsection (2), a certification of an executive managerial officer of the manager of the fund of the intention to comply with this provision may be relied upon.

(ii) A fund shall at least annually certify to the governmental offeror of the bonds its compliance with this provision.

(3) (a) Before any municipality, county, or state university issues revenue bonds under this chapter for the purpose of defraying the cost of acquiring, constructing, reconstructing, improving, maintaining, equipping, or furnishing any industrial park project, the governing body of the state university, county, or municipality shall:

(i) adopt and establish a plan of development for the tracts of land to constitute the industrial park; and

(ii) by resolution, find:

(A) that the project for the establishment of the industrial park is well conceived and has a reasonable prospect of success, and that the project will tend to provide proper economic development of the municipality or county and will encourage industry to locate within or near the municipality or county; or

(B) in the case of state universities, will further, through industrial research and development, the instructional progress of the state university.

(b) There may be included as a part of any plan of development for any industrial park:

(i) zoning regulations, including:

(A) restrictions on usage of sites within the boundaries of the industrial park;

(B) minimum size of sites; and

(C) parking and loading regulations; and

(ii) methods for the providing and furnishing of police and fire protection and for the furnishing of other municipal or county services which are considered necessary in order to provide for the maintenance of the public health and safety.

(c) If any water or sewerage facilities are to be acquired as part of the development of the land for an industrial park under this chapter, water and sewerage facilities may be acquired as part of the issue of bonds issued under this chapter, through the issuance of bonds payable from water and sewer charges as provided by law, in combination with an issue of refunding bonds, in combination with an issue of bonds upon the consent of the holders of outstanding bonds issued for the same purpose, in combination with bonds issued for the purposes of financing water and sewer facilities which will not be a part of an industrial park, or in any combination of the foregoing.

(d) (i) A municipality, county, or state university establishing an industrial park may lease any land acquired and developed as part of an industrial park to one or more lessees.

(ii) The lessee may sublease all or a portion of the land so leased from the municipality or county.

(iii) A municipality, county, or state university may sell or lease land in connection with the establishment, acquisition, development, maintenance, and operation of an industrial park project.

(iv) A lease or sale of land shall be undertaken only after the adoption by the governing body of a resolution authorizing the lease or sale of the land for industrial park purposes.

(4) (a) (i) A municipality, county, or state university may not:

(A) operate any project under this section, as a business or in any other manner, except as the lessor or administrator of it; or

(B) acquire any project, or any part of it, by condemnation.

(ii) The provisions of Subsection (4)(a)(i) do not apply to projects involving research conducted, administered, or managed by a state university.

(b) Except for a project described in Subsection 11-17-2(10)(a)(ii) or (vi), a municipality, county, or state university may not, under this chapter, acquire or lease projects, or issue revenue bonds for the purpose of defraying the cost of any project or part of it, used for the generation, transmission, or distribution of electric energy beyond the project site, or the production, transmission, or distribution of natural gas.

(5) (a) A municipality, county, or state university may enter, either before or after the bonds have been issued, into interlocal agreements under [~~Title 11, Chapter 13, Interlocal Cooperation Act~~]Chapter 13, Interlocal Cooperation Act, with one or more municipalities, counties, state universities, or special service districts created under Title 17D, Chapter 1, Special Service District Act, in order to accomplish economies of scale or other cost savings and any other additional purposes to be specified in the interlocal agreement, for the issuance of bonds under this chapter on behalf of all of the signatories to the interlocal agreement by one of the municipalities, counties, or state universities which is a signatory to the interlocal agreement for the financing or acquisition of projects qualifying as a project.

(b) For all purposes of Section 11-13-207 the signatory to the interlocal agreement designated as the issuer of the bonds constitutes the administrator of the interlocal agreement.

(6) Notwithstanding the provisions of Subsection (4), the governing body of any state university owning or desiring to own facilities or administer projects may:

(a) become a signatory to the interlocal agreement under Subsection (5);

(b) enter into a separate security agreement with the issuer of the bonds, as provided in Section 11-17-5 for the financing or acquisition of a project to be owned by the state university;

(c) enter into agreements to secure the obligations of the state university under a security agreement entered into under Subsection (6)(b), or to provide liquidity for the obligations including, without limitation, letter of credit agreements with banking institutions for letters of credit or for standby letters of credit, reimbursement agreements with financial institutions, line of credit agreements, standby bond purchase agreements, and to provide for payment of fees, charges, and other amounts coming due under the agreements entered into

under the authority contained in this Subsection (6)(c);

(d) provide in security agreements entered into under Subsection (6)(b) and in agreements entered into under Subsection (6)(c) that the obligations of the state university under an agreement shall be special obligations payable solely from the revenues derived from the operation or management of the project, owned by the state university and from net profits from proprietary activities and any other revenues pledged other than appropriations by the Utah Legislature, and the governing body of the state university shall pledge all or any part of the revenues to the payment of its obligations under an agreement; and

(e) in order to secure the prompt payment of the obligations of the state university under a security agreement entered into under Subsection (6)(b) or an agreement entered into under Subsection (6)(c) and the proper application of the revenues pledged to them, covenant and provide appropriate provisions in an agreement to the extent allowed under Section [~~53B-21-102~~]53H-9-303.

(7) Notwithstanding the provisions of Subsection (4), the governing body of any municipality, county, or special service district owning, desiring to own, or administering projects or facilities may:

(a) become a signatory to the interlocal agreement provided in Subsection (5);

(b) enter into a separate security agreement with the issuer of the bonds, as provided in Section 11-17-5, for the financing or acquisition of a project to be owned by the municipality, county, or special service district, except that no municipality, county, or special service district may mortgage the facilities financed or acquired;

(c) enter into agreements to secure the obligations of the municipality, county, or special service district, as the case may be, under a security agreement entered into under Subsection (7)(b), or to provide liquidity for the obligations including, without limitation, letter of credit agreements with banking institutions for letters of credit or for standby letters of credit, reimbursement agreements with financial institutions, line of credit agreements, standby bond purchase agreements, and to provide for payment of fees, charges, and other amounts coming due under the agreements entered into under the authority contained in this Subsection (7)(c);

(d) provide in security agreements entered into under Subsection (7)(b) and in agreements entered into under Subsection (7)(c) that the obligations of the municipality, county, or special service district, as the case may be, under an agreement shall be special obligations payable solely from the revenues derived from the operation or management of the project, owned by the municipality, county, or special service district and the governing body of the municipality, county, or special service district shall pledge all or any part of the revenues to the payment of its obligations under an agreement; and

(e) in order to secure the prompt payment of obligations under a security agreement entered into under Subsection (7)(b) or an agreement entered into under Subsection (7)(c) and the proper application of the revenues pledged to them, covenant and provide appropriate provisions in an agreement to the extent permitted and provided for with respect to revenue obligations under Section 11-14-306.

(8) In connection with the issuance of bonds under this chapter, a municipality, county, or state university may:

(a) provide for the repurchase of bonds tendered by their owners and may enter into an agreement to provide liquidity for the repurchases, including a letter of credit agreement, line of credit agreement, standby bond purchase agreement, or other type of liquidity agreement;

(b) enter into remarketing, indexing, tender agent, or other agreements incident to the financing of the project or the performance of the issuer's obligations relative to the bonds; and

(c) provide for payment of fees, charges, and other amounts coming due under the agreements entered into under Subsection (6).

Section 16. Section 11-36a-202 is amended to read:

11-36a-202 (Effective upon governor's approval). Prohibitions on impact fees.

(1) A local political subdivision or private entity may not:

(a) impose an impact fee to:

(i) cure deficiencies in a public facility serving existing development;

(ii) raise the established level of service of a public facility serving existing development; or

(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement;

(b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or

(c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.

(2) (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:

(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;

(ii) on a school district or charter school for a park, recreation facility, open space, or trail;

(iii) on a school district or charter school unless:

(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and

(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;

(iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:

(A) the Utah National Guard;

(B) the Utah Highway Patrol; or

(C) [~~a state~~]an institution of higher education or private postsecondary educational institution, as defined in Section 53H-1-101, that has [~~its own~~]a police force;

(v) on development activity on state-owned land, as defined in Section 11-70-101; or

(vi) on development activity that consists of the construction of an internal accessory dwelling unit, as defined in Section 10-9a-530, within an existing primary dwelling.

(b) (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:

(A) the school is intended to replace another school, whether on the same or a different parcel;

(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and

(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.

(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

(c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:

(i) the state's development causes an impact on the road facility; and

(ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.

(3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 11-36a-206.

Section 17. Section 11-41-102 is amended to read:

11-41-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a public entity and a person.

(2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.

(4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.

(5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.

(6) "General plan" means the same as that term is defined in Section 23A-6-101.

(7) "Legislative body" means the same as that term is defined in:

(a) Section 10-9a-103; or

(b) Section 17-27a-103.

(8) "Mixed-use development" means development with mixed land uses, including housing.

(9) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(10) "Moderate income housing plan" means the moderate income housing plan element of a general plan.

(11) "Office" means the Governor's Office of Economic Opportunity.

(12) "Political subdivision" means any county, city, town, school district, special district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under [~~Title 11,~~]Chapter 13, Interlocal Cooperation Act.

(13) "Public entity" means:

(a) a political subdivision;

(b) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state;

(c) [~~a higher education institution~~]an institution of higher education as defined in Section [~~53B-1-201~~]53H-1-101;

(d) the Military Installation Development Authority created in Section 63H-1-201;

(e) the Utah Inland Port Authority created in Section 11-58-201; or

(f) the Point of the Mountain State Land Authority created in Section 11-59-201.

(14) "Public funds" means any money received by a public entity that is derived from:

(a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) a property tax levy.

(15) "Public infrastructure" means:

(a) a public facility, as defined in Section 11-36a-102;

(b) a system improvement, as defined in Section 11-36a-102; or

(c) infrastructure developed with public funds included as part of an infrastructure master plan related to a general plan.

(16) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.

(17) "Retail facility incentive payment" means a payment of public funds:

(a) to a person by a public entity;

(b) for the development, construction, renovation, or operation of a retail facility within an area of the state; and

(c) in the form of:

(i) a payment;

(ii) a rebate;

(iii) a refund;

(iv) a subsidy; or

(v) any other similar incentive, award, or offset.

(18) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(19) (a) "Small business" means a business entity that:

(i) has fewer than 30 full-time equivalent employees; and

(ii) maintains the business entity's principal office in the state.

(b) "Small business" does not include:

(i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;

(ii) a dealer, as defined in Section 41-1a-102; or

(iii) a subsidiary or affiliate of another business entity that is not a small business.

Section 18. Section 11-70-101 is amended to read:

11-70-101 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Base taxable value" means the taxable value of land within the fairpark district boundary as of January 1, 2024, as determined under Subsection 11-70-206(9).

(2) "Board" means the fairpark district's governing body, created in Section 11-70-301.

(3) "Designated parcel" means a parcel of land specified in a designation resolution.

(4) "Designation resolution" means a resolution adopted by the board that designates a transition date for the parcel specified in the resolution.

(5) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including public infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (5)(a).

(6) "Development project" means a project for the development of land within a project area.

(7) "District sales tax area" means an area described in and established as provided in Subsection 11-70-206(10).

(8) "Enhanced property tax revenue":

(a) means the amount of money that is equal to the difference between:

(i) the amount of property tax revenues generated in a tax year by all taxing entities from privately owned land, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated in the same tax year by all taxing entities from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

(9) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(10) "Fair park authority" means the State Fair Park Authority created in Section 11-68-201.

(11) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(12) "Fairpark district boundary" means a line or set of lines that:

(a) defines the geographic boundary of the fairpark district, consisting of the interior space within each polygon described by the line or set of lines; and

(b) is delineated in the electronic shapefile that is the electronic component of H.B. 562, Utah Fairpark Area Investment and Restoration District, 2024 General Session.

(13) "Fairpark district funds" means money the fairpark district receives from any source, including money the fairpark district receives under:

(a) Sections 10-1-304 and 11-70-205;

(b) Section 10-1-403;

(c) Section 11-70-203;

(d) Section 11-70-204;

(e) Section 51-9-902;

(f) Section 59-12-103;

(g) Sections 59-12-352 and 59-12-354;

(h) Section 59-12-401;

(i) Section 59-12-402.5;

(j) Section 59-12-402; and

(k) Section 59-12-1201.

(14) "Fair park land" means the same as that term is defined in Section 11-68-101.

(15) "Franchise agreement" means a legally binding and valid agreement under which:

(a) a franchise is confirmed for a major league sports team that before January 1, 2024, had not been located in the state; and

(b) the major league sports team agrees to play home games in a stadium to be constructed within the fairpark district boundary.

(16) "Franchise agreement date" means the date that a franchise agreement is fully executed and in effect.

(17) "Host municipality" means the municipality whose boundary includes the land within the fairpark district boundary.

(18) (a) "Major league sports team" means a team:

(i) consisting of professional athletes;

(ii) that is part of a professional sports league; and

(iii) that is engaged in the business of presenting live sporting events before primarily a paying audience.

(b) "Major league sports team" does not include a team organized and operated by an institution of higher education [~~as~~

~~described~~]listed in Section [~~53B-2-101~~]53H-1-102.

(19) "Other state land" means:

(a) land within the fairpark district boundary, other than fair park land, that is owned by the state on January 1, 2024; and

(b) except for land acquired under Subsection 11-70-502(3)(a)(ii), land within the fairpark district boundary that is acquired by the fairpark district or the state on or after May 1, 2024.

(20) "Payment period" means a period of up to 35 years, as specified in a designation resolution, beginning on the transition date, during which enhanced property tax revenue under Section 11-70-401 is to be paid.

(21) "Post-designation parcel" means a parcel within a project area after the transition date for that parcel.

(22) "Pre-designation parcel" means a parcel within a project area before the transition date for that parcel.

(23) "Professional sports league" means a group of major league sports teams that have formed a league for the major league sports teams to compete against one another.

(24) "Project area" means land described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(25) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

(26) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

(27) "Property tax" includes each levy on an ad valorem basis on tangible or intangible personal or real property.

(28) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the fairpark district.

(29) (a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) (A) benefit the public and are owned by a public entity or a utility; or

(B) benefit the public and are publicly maintained or operated by a public entity; or

(ii) (A) are privately owned;

(B) benefit the public;

(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to applicable design and safety standards.

(b) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking facilities, rail lines, intermodal facilities, multimodal facilities, and public transportation facilities;

(iii) a qualified stadium;

(iv) public trails and pathways associated with and rehabilitation of and improvements to the Jordan River;

(v) agricultural and related exhibit facilities on fair park land; and

(vi) hotels, hospitality facilities, eating establishments, convention facilities, and other related facilities.

(30) "Qualified owner" means an owner of at least 65 contiguous acres of privately owned land within the fairpark district boundary, or the owner's affiliate.

(31) (a) "Qualified stadium" means a stadium:

(i) within the fairpark district boundary;

(ii) with a minimum capacity of 30,000 spectators; and

(iii) that will primarily be used as the home of a major league sports team.

(b) "Qualified stadium" includes parking structures or facilities, lighting facilities, plazas, and open space associated with a stadium described in Subsection (31)(a).

(32) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(33) "Stadium contribution" means the principal amount of bonds that the district issues to pay for the development and construction of a qualified stadium, plus any other amount the district pays toward the development and construction of a qualified stadium.

(34) "State fair purposes" means the purposes for the use of fair park land related to the fair park authority's management, supervision, and control over a state fair and related events and activities.

(35) "State-owned land" means:

(a) fair park land; and

(b) other state land.

(36) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(37) "Taxing entity" means the same as that term is defined in Section 59-2-102, excluding a public infrastructure district that the fairpark district creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(38) "Transition date" means the date indicated in a designation resolution after which the parcel that is the subject of the designation resolution becomes a post-designation parcel.

Section 19. Section 13-1-15 is amended to read:

13-1-15 (Effective upon governor's approval). Exemptions from licensure.

(1) As used in this section, "DOD civilian" means the same as that term is defined in Section [~~53B-8-102~~]53H-11-202.

(2) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this title, subject to the stated circumstances and limitations, without being licensed under this title:

(a) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(b) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(c) the spouse of an individual serving in the armed forces of the United States or the spouse of a DOD civilian while the individual or DOD civilian is stationed within this state, if:

(i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 20. Section 13-34-101 is amended to read:

13-34-101 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Accredited postsecondary school" means a postsecondary school that is accredited by an accrediting agency.

(2) "Accrediting agency" means a private educational association that:

(a) is recognized by the United States Department of Education;

(b) develops education criteria; and

(c) conducts evaluations to assess whether a postsecondary school meets the criteria described in Subsection (2)(b).

(3) "Agent" means a person who:

(a) owns an interest in a postsecondary school;

(b) is employed by a postsecondary school;

(c) enrolls or attempts to enroll a Utah resident in a postsecondary school;

(d) offers to award an educational credential on behalf of a postsecondary school; or

(e) holds oneself out to a Utah resident as representing a postsecondary school for any purpose.

(4) "Apprentice" means the same as that term is defined in Section 35A-6-102.

(5) "Apprenticeship" means the same as that term is defined in Section 35A-6-102.

(6) "Distance postsecondary education" means the same as that term is defined in 20 U.S.C. Sec. 1003(7).

(7) "Division" means the Division of Consumer Protection.

(8) "Educational credential" means a degree, diploma, certificate, transcript, report, document, letter of designation, mark, or series of letters, numbers, or words that represent enrollment, attendance, or satisfactory completion of the requirements or prerequisites of an educational program.

(9) "Longstanding nonprofit accredited postsecondary school" means an accredited postsecondary school that:

(a) is a nonprofit organization; and

(b) has operated continuously as a nonprofit for at least 20 years.

(10) "Nonprofit organization" means a nonprofit corporation or foreign nonprofit corporation as those terms are defined in Section 16-6a-102.

(11) "Operate" means to:

(a) maintain a physical presence in the state; or

(b) provide postsecondary education to an individual who resides in the state.

(12) "Physical presence" means:

(a) to maintain in the state a physical location where a student receives postsecondary education; or

(b) to provide to a student distance postsecondary education from a location in this state.

(13) (a) "Postsecondary education" means education or educational services offered primarily to an individual who:

(i) has completed or terminated their secondary or high school education; or

(ii) is beyond the age of compulsory school attendance.

(b) "Postsecondary education" does not include instruction at or below the 12th grade level.

(14) "Postsecondary school" means a person that offers postsecondary education:

(a) in exchange for payment of tuition, fees, or other consideration; and

(b) for the purpose of attaining educational, professional, or vocational objectives.

(15) "Principal" means a postsecondary school's owner, officer, director, trustee, or administrator.

(16) "Public postsecondary school" means a postsecondary school that is:

(a) (i) an institution listed in Section [~~53B-1-102~~]53H-1-102; or

(ii) established by another state or other governmental entity; and

(b) substantially supported with government funds.

(17) "Reciprocity agreement" means an agreement the division enters into with another state in accordance with Section 13-34-303.

(18) (a) "Registration certificate" means approval from the division to operate a postsecondary school in accordance with this chapter, and with rules adopted in accordance with this chapter.

(b) "Registration certificate" does not mean an approval or endorsement of the postsecondary school by the division or the state.

(19) "Registration statement" means an application and accompanying documentation required under this chapter for:

(a) a registration certificate; or

(b) a state authorization certificate.

(20) (a) "State authorization certificate" means a certificate that the division issues to an accredited postsecondary school in accordance with Section 13-34-302.

(b) "State authorization certificate" does not mean an approval or endorsement of the accredited postsecondary school by the division or the state.

(21) "Student" means:

(a) a person who pays or is obligated to pay a postsecondary school for postsecondary education; or

(b) a legal guardian of a person described in Subsection (21)(a).

Section 21. Section 13-34-303 is amended to read:

13-34-303 (Effective upon governor's approval). Authority to execute interstate reciprocity agreement.

(1) As used in this section, "institution of higher education" means [~~an institution listed in Section 53B-1-102~~]the same as that term is defined in Section 53H-1-101.

(2) The division may execute an interstate reciprocity agreement that is:

(a) for purposes of state authorization in accordance with 34 C.F.R. Sec. 600.9; and

(b) for the benefit of:

(i) postsecondary schools in the state; or

(ii) (A) postsecondary schools in the state; and

(B) institutions of higher education.

(3) If the division executes an interstate reciprocity agreement described in Subsection (2) that includes institutions of higher education, the Utah Board of Higher Education may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) implement the reciprocity agreement; and

(b) relate to institutions of higher education.

Section 22. Section 16-6a-102 is amended to read:

16-6a-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) (a) "Address" means a location where mail can be delivered by the United States Postal Service.

(b) "Address" includes:

(i) a post office box number;

(ii) a rural free delivery route number; and

(iii) a street name and number.

(2) "Affiliate" means a person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the person specified.

(3) "Articles of incorporation" include:

(a) amended articles of incorporation;

(b) restated articles of incorporation;

(c) articles of merger; and

(d) a document of a similar import to the documents described in Subsections (3)(a) through (c).

(4) "Assumed corporate name" means a name assumed for use in this state:

(a) by a:

(i) foreign corporation as described in Section 16-10a-1506; or

(ii) a foreign nonprofit corporation as described in Section 16-6a-1506; and

(b) because the corporate name of the foreign corporation described in Subsection (4)(a) is not available for use in this state.

(5) (a) Except as provided in Subsection (5)(b), "board of directors" means the body authorized to manage the affairs of a domestic or foreign nonprofit corporation.

(b) Notwithstanding Subsection (5)(a), a person may not be considered a member of the board of directors because of a power delegated to that person under Subsection 16-6a-801(2).

(6) (a) "Bylaws" means the one or more codes of rules, other than the articles of incorporation, adopted under this chapter for the regulation or management of the affairs of a domestic or foreign nonprofit corporation irrespective of the one or more names by which the codes of rules are designated.

(b) "Bylaws" includes:

(i) amended bylaws; and

(ii) restated bylaws.

(7) (a) "Cash" or "money" means:

(i) legal tender;

(ii) a negotiable instrument; or

(iii) other cash equivalent readily convertible into legal tender.

(b) "Cash" and "money" are used interchangeably in this chapter.

(8) "Charitable organization" means the same as that term is defined in Section 13-22-2.

(9) (a) "Class" means a group of memberships that has the same right with respect to voting, dissolution, redemption, transfer, or other characteristics.

(b) For purposes of Subsection (9)(a), a right is considered the same if it is determined by a formula applied uniformly to a group of memberships.

(10) (a) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed the writing.

(b) "Conspicuous" includes printing or typing in:

(i) italics;

(ii) boldface;

(iii) contrasting color;

(iv) capitals; or

(v) underlining.

(11) "Control" or a "controlling interest" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity by:

(a) the ownership of voting shares;

(b) contract; or

(c) a means other than those specified in Subsection (11)(a) or (b).

(12) Subject to Section 16-6a-207, "cooperative nonprofit corporation" or "cooperative" means a nonprofit corporation organized or existing under this chapter.

(13) "Corporate name" means:

(a) the name of a domestic corporation as stated in the domestic corporation's articles of incorporation;

(b) the name of a domestic nonprofit corporation as stated in the domestic nonprofit corporation's articles of incorporation;

(c) the name of a foreign corporation as stated in the foreign corporation's:

(i) articles of incorporation; or

(ii) document of similar import to articles of incorporation; or

(d) the name of a foreign nonprofit corporation as stated in the foreign nonprofit corporation's:

(i) articles of incorporation; or

(ii) document of similar import to articles of incorporation.

(14) (a) "Corporate records" means the records described in Section 16-6a-1601.

(b) "Corporate records" does not include correspondence, communications, notes, or other similar information, regardless of format or method of storage, that are not an official decision, published document, or record of the corporation.

(15) "Corporation" or "domestic corporation" means a corporation for profit that:

(a) is not a foreign corporation; and

(b) is incorporated under or subject to Chapter 10a, Utah Revised Business Corporation Act.

(16) "Delegate" means a person elected or appointed to vote in a representative assembly:

(a) for the election of a director; or

(b) on matters other than the election of a director.

(17) "Deliver" includes delivery by mail or another means of transmission authorized by Section 16-6a-103, except that delivery to the division means actual receipt by the division.

(18) "Director" means a member of the board of directors.

(19) (a) "Distribution" means the payment of a dividend or any part of the income or profit of a nonprofit corporation to the nonprofit corporation's:

(i) members;

(ii) directors; or

(iii) officers.

(b) "Distribution" does not include a fair-value payment for:

(i) a good sold; or

(ii) a service received.

(20) "Division" means the Division of Corporations and Commercial Code.

(21) "Effective date," when referring to a document filed by the division, means the time and date determined in accordance with Section 16-6a-108.

(22) "Effective date of notice" means the date notice is effective as provided in Section 16-6a-103.

(23) "Electronic transmission" or "electronically transmitted" means a process of communication not directly involving the physical transfer of paper that is suitable for the receipt, retention, retrieval, and reproduction of information by the recipient, whether by email, texting, facsimile, or otherwise.

(24) (a) "Employee" includes an officer of a nonprofit corporation.

(b) (i) Except as provided in Subsection (24)(b)(ii), "employee" does not include a director of a nonprofit corporation.

(ii) Notwithstanding Subsection (24)(b)(i), a director may accept one or more duties that make that director an employee of a nonprofit corporation.

(25) "Entity" includes:

(a) a domestic or foreign corporation;

(b) a domestic or foreign nonprofit corporation;

(c) a limited liability company;

(d) a profit or nonprofit unincorporated association;

(e) a business trust;

(f) an estate;

(g) a partnership;

(h) a trust;

(i) two or more persons having a joint or common economic interest;

(j) a state;

(k) the United States; or

(l) a foreign government.

(26) "Executive director" means the executive director of the Department of Commerce.

(27) "Foreign corporation" means a corporation for profit incorporated under a law other than the laws of this state.

(28) "Foreign nonprofit corporation" means an entity:

(a) incorporated under a law other than the laws of this state; and

(b) that would be a nonprofit corporation if formed under the laws of this state.

(29) "Governmental entity" means:

(a) (i) the executive branch of the state;

(ii) the judicial branch of the state;

(iii) the legislative branch of the state;

(iv) an independent entity, as defined in Section 63E-1-102;

(v) a political subdivision of the state;

(vi) [~~a state~~]an institution of higher education, as defined in Section [~~53B-3-102~~]53H-1-101;

(vii) an entity within the state system of public education; or

(viii) the National Guard; or

(b) any of the following that is established or controlled by a governmental entity listed in Subsection (29)(a) to carry out the public's business:

(i) an office;

(ii) a division;

(iii) an agency;

(iv) a board;

(v) a bureau;

(vi) a committee;

(vii) a department;

(viii) an advisory board;

(ix) an administrative unit; or

(x) a commission.

(30) "Governmental subdivision" means:

(a) a county;

(b) a city;

(c) a town; or

(d) another type of governmental subdivision authorized by the laws of this state.

(31) "Individual" means:

(a) a natural person;

(b) the estate of an incompetent individual; or

(c) the estate of a deceased individual.

(32) "Internal Revenue Code" means the federal "Internal Revenue Code of 1986," as amended from time to time, or to corresponding provisions of subsequent internal revenue laws of the United States of America.

(33) (a) "Mail," "mailed," or "mailing" means deposit, deposited, or depositing in the United States mail, properly addressed, first-class postage prepaid.

(b) "Mail," "mailed," or "mailing" includes registered or certified mail for which the proper fee is paid.

(34) (a) "Member" means one or more persons identified or otherwise appointed as a member of a domestic or foreign nonprofit corporation as provided:

(i) in the articles of incorporation;

(ii) in the bylaws;

(iii) by a resolution of the board of directors; or

(iv) by a resolution of the members of the nonprofit corporation.

(b) "Member" includes:

(i) "voting member"; and

(ii) a shareholder in a water company.

(35) "Membership" refers to the rights and obligations of a member or members.

(36) "Mutual benefit corporation" means a nonprofit corporation:

(a) that issues shares of stock to its members evidencing a right to receive distribution of water or otherwise representing property rights; or

(b) all of whose assets are contributed or acquired by or for the members of the nonprofit corporation or the members' predecessors in interest to serve the mutual purposes of the members.

(37) "Nonprofit corporation" or "domestic nonprofit corporation" means an entity that:

(a) is not a foreign nonprofit corporation; and

(b) is incorporated under or subject to this chapter.

(38) "Notice" means the same as that term is defined in Section 16-6a-103.

(39) "Party related to a director" means:

(a) the spouse of the director;

(b) a child of the director;

(c) a grandchild of the director;

(d) a sibling of the director;

(e) a parent of the director;

(f) the spouse of an individual described in Subsections (39)(b) through (e);

(g) an individual having the same home as the director;

(h) a trust or estate of which the director or another individual specified in this Subsection (39) is a substantial beneficiary; or

(i) any of the following of which the director is a fiduciary:

(i) a trust;

(ii) an estate;

(iii) an incompetent;

(iv) a conservatee; or

(v) a minor.

(40) "Person" means an:

(a) individual; or

(b) entity.

(41) "Principal office" means:

(a) the office, in or out of this state, designated by a domestic or foreign nonprofit corporation as its principal office in the most recent document on file with the division providing that information, including:

(i) an annual report;

(ii) an application for a certificate of authority; or

(iii) a notice of change of principal office; or

(b) if no principal office can be determined, a domestic or foreign nonprofit corporation's registered office.

(42) "Proceeding" includes:

(a) a civil suit;

(b) arbitration;

(c) mediation;

(d) a criminal action;

(e) an administrative action; or

(f) an investigatory action.

(43) "Receive," when used in reference to receipt of a writing or other document by a domestic or foreign nonprofit corporation, means the writing or other document is actually received:

(a) by the domestic or foreign nonprofit corporation at:

(i) its registered office in this state; or

(ii) its principal office;

(b) by the secretary of the domestic or foreign nonprofit corporation, wherever the secretary is found; or

(c) by another person authorized by the bylaws or the board of directors to receive the writing or other document, wherever that person is found.

(44) (a) "Record date" means the date established under Part 6, Members, or Part 7, Member Meetings and Voting, on which a nonprofit corporation determines the identity of the nonprofit corporation's members.

(b) The determination described in Subsection (44)(a) shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(45) "Registered agent" means the registered agent of:

(a) a domestic nonprofit corporation; or

(b) a foreign nonprofit corporation.

(46) "Registered office" means the office within this state designated by a domestic or foreign nonprofit corporation as its registered office in the most recent document on file with the division providing that information, including:

(a) articles of incorporation;

(b) an application for a certificate of authority; or

(c) a notice of change of registered office.

(47) "Secretary" means the corporate officer to whom the bylaws or the board of directors delegates responsibility under Subsection 16-6a-818(3) for:

(a) the preparation and maintenance of:

(i) minutes of the meetings of:

(A) the board of directors; or

(B) the members; and

(ii) the other records and information required to be kept by the nonprofit corporation as described in Section 16-6a-1601; and

(b) authenticating records of the nonprofit corporation.

(48) "Share" means a unit of interest in a nonprofit corporation.

(49) "Shareholder" means a person in whose name a share is registered in the records of a nonprofit corporation.

(50) "State," when referring to a part of the United States, includes:

(a) a state;

(b) a commonwealth;

(c) the District of Columbia;

(d) an agency or governmental and political subdivision of a state, commonwealth, or District of Columbia;

(e) territory or insular possession of the United States; or

(f) an agency or governmental and political subdivision of a territory or insular possession of the United States.

(51) "Street address" means:

(a) (i) street name and number;

(ii) city or town; and

(iii) United States post office zip code designation; or

(b) if, by reason of rural location or otherwise, a street name, number, city, or town does not exist, an appropriate description other than that described in Subsection (51)(a) fixing as nearly as possible the actual physical location, but only if the information includes:

(i) the rural free delivery route;

(ii) the county; and

(iii) the United States post office zip code designation.

(52) "Tribal nonprofit corporation" means a nonprofit corporation:

(a) incorporated under the law of a tribe; and

(b) that is at least 51% owned or controlled by the tribe.

(53) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village, that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of the tribe's status as Indians.

(54) "United States" includes a district, authority, office, bureau, commission, department, and another agency of the United States of America.

(55) "Vote" includes authorization by:

(a) written ballot; and

(b) written consent.

(56) (a) "Voting group" means all the members of one or more classes of members or directors that, under this chapter, the articles of incorporation, or the bylaws, are entitled to vote and be counted together collectively on a matter.

(b) All members or directors entitled by this chapter, the articles of incorporation, or the bylaws to vote generally on a matter are for that purpose a single voting group.

(57) (a) "Voting member" means a person entitled to vote for all matters required or permitted under this chapter to be submitted to a vote of the members, except as otherwise provided in the articles of incorporation or bylaws.

(b) A person is not a voting member solely because of:

(i) a right the person has as a delegate;

(ii) a right the person has to designate a director; or

(iii) a right the person has as a director.

(c) Except as the bylaws may otherwise provide, "voting member" includes a "shareholder" if the nonprofit corporation has shareholders.

(58) "Water company" means:

(a) the same as that term is defined in Subsection 16-4-102(5); or

(b) a mutual benefit corporation, when the stock in the mutual benefit corporation represents a right to receive a distribution of water for beneficial use.

Section 23. Section 17-27a-1102 is amended to read:

17-27a-1102 (Effective upon governor's approval). Definitions.

(1) "Animal feeding operation" means a lot or facility where the following conditions are met:

(a) animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

(b) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(2) (a) "Commercial enterprise" means a building:

(i) used as a part of a business that manufactures goods, delivers services, or sells goods or services;

(ii) customarily and regularly used by the general public during the entire calendar year; and

(iii) connected to electric or water systems.

(b) "Commercial enterprise" does not include an agriculture operation.

(3) "County large concentrated animal feeding operation land use ordinance" means an ordinance adopted in accordance with Section 17-27a-1103.

(4) "Education institution" means a building in which any part is used:

(a) for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten;

(b) [~~a state~~]by an institution of higher education as defined in Section [~~53B-3-102~~]53H-1-101; or

(c) by a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(5) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(6) "Large concentrated animal feeding operation" means an animal feeding operation that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

(a) 700 mature dairy cows, whether milked or dry;

(b) 1,000 veal calves;

(c) 1,000 cattle other than mature dairy cows or veal calves, with "cattle" including heifers, steers, bulls, and cow calf pairs;

(d) 2,500 swine each weighing 55 pounds or more;

(e) 10,000 swine each weighing less than 55 pounds;

(f) 500 horses;

(g) 10,000 sheep or lambs;

(h) 55,000 turkeys;

(i) 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;

(j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;

(k) 82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system;

(l) 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system; or

(m) 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.

(7) "Manure" includes manure, bedding, compost, a raw material, or other material commingled with manure or set aside for disposal.

(8) "Public area" means land that:

(a) is owned by the federal government, the state, or a political subdivision with facilities that attract the public to congregate and remain in the area for significant periods of time;

(b) (i) is part of a public park, preserve, or recreation area that is owned or managed by the federal government, the state, a political subdivision, or a nongovernmental entity; and

(ii) has a cultural, archaeological, scientific, or historic significance or contains a rare or valuable ecological system, including a site recognized as a National Historic Landmark or Site; or

(c) is a cemetery.

(9) "Religious institution" means a building and grounds used at least monthly for religious services or ceremonies.

Section 24. Section 17-43-102 is amended to read:

17-43-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(2) "Division" means the Division of Integrated Healthcare within the department.

(3) "First responder" means:

(a) a law enforcement officer, as that term is defined in Section 53-13-103;

(b) emergency medical service personnel, as that term is defined in Section 53-2d-101;

(c) an emergency medical technician, as that term is defined in Section 53-2e-101;

(d) an advanced emergency medical technician, as that term is defined in Section 53-2e-101;

(e) a firefighter, as that term is defined in Section [~~53B-8e-102~~]53H-11-306;

(f) a dispatcher, as that term is defined in Section 53-6-102; or

(g) a mobile outreach social worker.

Section 25. Section 20A-8-101 is amended to read:

20A-8-101 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Continuing political party" means an organization of voters that:

(a) participated in the last regular general election; and

(b) in at least one of the last two regular general elections, polled a total vote for any of [~~its~~]the political party's candidates for any office equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives in the same regular general election.

(2) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the county political party, are members of the registered political party.

(3) "Institution of higher education" means the same as that term is defined in Section 53H-1-101.

[~~(3)~~](4) "Legislative office" means the office of state senator or state representative.

[~~(4)~~](5) "Newly registered political party" means a statewide organization of voters that has complied with the petition and organizing procedures of this chapter to become a registered political party.

[~~(5) "Public institution of higher education" means the same as that term is defined in Section 53B-16-301.~~]

(6) "Registered political party" means an organization of voters that:

(a) (i) participated in the last regular general election; and

(ii) in at least one of the last two regular general elections, polled a total vote for any of its candidates for any office equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives in the same regular general election; or

(b) has complied with the petition and organizing procedures of this chapter.

(7) "State office" means the office of governor, lieutenant governor, attorney general, state auditor, state treasurer, or state school board member.

(8) "State political party" means, for each registered political party, all of the persons in Utah who, under definitions established by the state political party, are members of the registered political party.

Section 26. Section 20A-8-404 is amended to read:

20A-8-404 (Effective upon governor's approval). Use of public meeting buildings by political parties.

(1) The legislative body of a county, municipality, school district, or [~~public~~]an institution of higher education shall make all meeting facilities in buildings under its control available to registered political parties, without discrimination, to be used for political party activities if:

(a) the political party requests the use of the meeting facility no later than 5 p.m. on the last business day that is at least 30 calendar days before the day on which the use by the political party will take place; and

(b) the meeting facility is not already scheduled for another purpose at the time of the proposed use.

(2) Subject to the requirements of Subsection (3), when a legislative body makes a meeting facility available under Subsection (1), it may establish terms and conditions for use of that meeting facility.

(3) The charge imposed for the use of a meeting facility described in Subsection (1) by a registered political party may not exceed the actual cost of:

(a) custodial services for cleaning the meeting facility after the use by the political party; and

(b) any service requested by the political party and provided by the meeting facility.

(4) An entity described in Subsection (1) shall, to the extent possible, avoid scheduling an event in a government building for the same evening as an announced party caucus meeting.

(5) This section does not apply to a convention center, sports arena, or other facility at which conventions, conferences, or other gatherings are held:

(a) that is owned or operated by a public entity other than [~~a public~~]an institution of higher education; and

(b) whose primary business or function is to host sporting events, conventions, conferences, or other gatherings.

Section 27. Section 26B-1-242 is amended to read:

26B-1-242 (Effective upon governor's approval). Prohibition on requiring immunity passports or vaccination -- Exceptions.

(1) As used in this section:

(a) "Governmental entity" means the same as that term is defined in Section 63D-2-102.

(b) "Immunity passport" means a document, digital record, or software application indicating that an individual is immune to a disease, whether through vaccination or infection and recovery.

(c) "Regulated entity" means an employer, as defined in Section 34A-6-103, that is subject to a regulation by the Centers for Medicare and Medicaid Services regarding a vaccine, unless the employer is:

(i) the state or a political subdivision of the state; and

(ii) not a health care facility as defined in Section 26B-2-201.

(d) "Vaccination status" means an indication of whether an individual has received one or more doses of a vaccine.

(2) A governmental entity may not:

(a) refuse, withhold from, or deny to an individual any local or state service, good, facility, advantage, privilege, license, educational opportunity, health care access, or employment opportunity based on the individual's vaccination status, including whether the individual has an immunity passport; or

(b) require any individual, directly or indirectly, to receive a vaccine.

(3) Subsection (2) does not apply to:

(a) a vaccination requirement by an institution of higher education, if the vaccination requirement is implemented in accordance with Section [~~53B-2-113~~]53H-3-1302;

(b) a vaccination requirement by a school if the vaccination requirement is implemented in accordance with Title 53G, Chapter 9, Part 3, Immunization Requirements;

(c) a child care program as defined in Section 26B-2-401 if the vaccination requirement is implemented in accordance with applicable provisions of state and federal law;

(d) a regulated entity if compliance with Subsection (2) would result in a violation of binding, mandatory regulations or requirements that affect the regulated entity's funding issued by the Centers for Medicare and Medicaid Services or the United States Centers for Disease Control and Prevention;

(e) a contract for goods or services entered into before May 3, 2023, if:

(i) application of this section would result in a substantial impairment of the contract; and

(ii) the contract is not between an employer and the employer's employee;

(f) a federal contractor;

(g) a governmental entity vaccination requirement of an employee who, as determined by the governmental entity:

(i) has, as part of the employee's duties, direct exposure to human blood, human fecal matter, or other potentially infectious materials that may expose the employee to hepatitis or tuberculosis; or

(ii) is acting in a public health or medical setting that requires the employee to receive vaccinations to perform the employee's assigned duties and responsibilities; or

(h) a governmental entity that:

(i) establishes a nexus between a vaccination requirement and the employee's assigned duties and responsibilities; or

(ii) identifies an external requirement for vaccination that is not imposed by the governmental entity and is related to the employee's duties and responsibilities.

(4) Nothing in this section prohibits a governmental entity from recommending that an employee receive a vaccine.

Section 28. Section 26B-1-310 is amended to read:

26B-1-310 (Effective upon governor's approval). Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality -- Uniform fee.

(1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund under Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

(4) Money deposited into the fund may only be used by:

(a) the department to accomplish the department's responsibilities described in Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(b) the Center for Medical Cannabis Research created in [~~Section 53B-17-1402~~]Section 53H-4-206 to accomplish the Center for Medical Cannabis Research's responsibilities; and

(c) the Department of Agriculture and Food for the one time purchase of equipment to meet the requirements described in Section 4-41a-204.1.

(5) The department shall set fees authorized under Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(6) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection (5), the department sets in accordance with Section 63J-1-504.

Section 29. Section 26B-1-435 is amended to read:

26B-1-435 (Effective upon governor's approval). Medical Cannabis Policy Advisory Board creation -- Membership -- Duties.

(1) There is created within the department the Medical Cannabis Policy Advisory Board.

(2) (a) The advisory board shall consist of the following members:

(i) appointed by the executive director:

(A) a recommending medical provider who has recommended medical cannabis to at least 100 patients before being appointed;

(B) a mental health specialist;

(C) an individual who represents an organization that advocates for medical cannabis patients;

(D) a member of the general public who holds a medical cannabis patient card; and

(E) a member of the general public who does not hold a medical cannabis card;

(ii) appointed by the commissioner of the Department of Agriculture and Food:

(A) an individual who owns or operates a licensed cannabis cultivation facility, as defined in Section 4-41a-102;

(B) an individual who owns or operates a licensed medical cannabis pharmacy; and

(C) a law enforcement officer; and

(iii) a representative from the Center for Medical Cannabis Research created in Section [~~53B-14-1402~~]53H-4-206, appointed by the Center for Medical Cannabis Research.

(b) The commissioner of the Department of Agriculture and Food shall ensure that at least one individual appointed under Subsection (2)(a)(ii)(A) or (B) also owns or operates a licensed cannabis processing facility.

(3) (a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a four year term.

(b) When appointing the initial membership of the advisory board, the executive director and the commissioner of the Department of Agriculture and Food shall coordinate to appoint four advisory board members to serve a term of two years to ensure that approximately half of the board is appointed every two years.

(4) (a) If an advisory board member is no longer able to serve as a member, a new member shall be appointed in the same manner as the original appointment.

(b) A member appointed in accordance with Subsection (4)(a) shall serve for the remainder of the unexpired term of the original appointment.

(5) (a) A majority of the advisory board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory board.

(c) For a term lasting one year, the advisory board shall annually designate members of the advisory board to serve as chair and vice-chair.

(d) When designating the chair and vice-chair, the advisory board shall ensure that at least one individual described Subsection (2)(a)(i) is appointed as chair or vice-chair.

(6) An advisory board member may not receive compensation or benefits for the member's service on the advisory board but may receive per diem and reimbursement for travel expenses incurred as an advisory board member in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department shall:

(a) provide staff support for the advisory board; and

(b) assist the advisory board in conducting meetings.

(8) The advisory board may recommend:

(a) to the department or the Department of Agriculture and Food changes to current or proposed medical cannabis rules or statutes; and

(b) to the appropriate legislative committee whether the advisory board supports a change to medical cannabis statutes.

(9) The advisory board shall:

(a) review any draft rule that is authorized under Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) consult with the Department of Agriculture and Food regarding the issuance of an additional:

(i) cultivation facility license under Section 4-41a-205; or

(ii) pharmacy license under Section 4-41a-1005;

(c) consult with the department regarding cannabis patient education;

(d) consult regarding the reasonableness of any fees set by the department or the Department of Agriculture and Food that pertain to the medical cannabis program; and

(e) consult regarding any issue pertaining to medical cannabis when asked by the department or the [~~Utah~~]Department of Agriculture and Food.

Section 30. Section 26B-3-108 is amended to read:

26B-3-108 (Effective upon governor's approval). Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Optional dental services costs and delivery -- Internal audits -- Health opportunity accounts.

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) (a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

(i) the standards used by the department for determining eligibility for Medicaid services;

(ii) the services and benefits to be covered by the Medicaid program;

(iii) reimbursement methodologies for providers under the Medicaid program; and

(iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26B-8-411 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social Services Appropriations Subcommittee when the department:

(i) implements a change in the Medicaid State Plan;

(ii) initiates a new Medicaid waiver;

(iii) initiates an amendment to an existing Medicaid waiver;

(iv) applies for an extension of an application for a waiver or an existing Medicaid waiver;

(v) applies for or receives approval for a change in any capitation rate within the Medicaid program; or

(vi) initiates a rate change that requires public notice under state or federal law.

(b) The report required by Subsection (3)(a) shall:

(i) be submitted to the Social Services Appropriations Subcommittee prior to the department implementing the proposed change; and

(ii) include:

(A) a description of the department's current practice or policy that the department is proposing to change;

(B) an explanation of why the department is proposing the change;

(C) the proposed change in services or reimbursement, including a description of the effect of the change;

(D) the effect of an increase or decrease in services or benefits on individuals and families;

(E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and

(F) the fiscal impact of the proposed change, including:

(I) the effect of the proposed change on current or future appropriations from the Legislature to the department;

(II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;

(III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and

(IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

(4) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.

(5) The department may, in its discretion, contract with other qualified agencies for services in connection with the administration of the Medicaid program, including:

(a) the determination of the eligibility of individuals for the program;

(b) recovery of overpayments; and

(c) consistent with Section 26B-3-1113, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7) (a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited into the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(b) In accordance with Section 63J-1-602.2, sanctions collected under this Subsection (7)are nonlapsing.

(8) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Part 9, Utah Children's Health Insurance Program, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9) (a) As used in this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or has a disability is eligible for a service or benefit under this chapter, the department shall use 100% of the federal poverty level as:

(i) the allowable income standard for eligibility for services or benefits; and

(ii) the allowable income standard for eligibility as a result of spend down.

(10) The department shall conduct internal audits of the Medicaid program.

(11) (a) (i) The department shall apply for, and if approved, implement an amendment to the state plan under this Subsection (11) for benefits for:

(A) medically needy pregnant women;

(B) medically needy children; and

(C) medically needy parents and caretaker relatives.

(ii) The department may implement the eligibility standards of Subsection (11)(b) for eligibility determinations made on or after the date of the approval of the amendment to the state plan.

(b) In determining whether an applicant is eligible for benefits described in Subsection (11)(a)(i), the department shall:

(i) disregard resources held in an account in a savings plan created under [~~Title 53B, Chapter 8a, Utah Educational Savings Plan~~]Title 53H, Chapter 10, Utah Education Savings, if the beneficiary of the account is:

(A) under [~~the age of 26~~]26 years old; and

(B) living with the account owner, as that term is defined in Section [~~53B-8a-102~~]53H-10-101, or temporarily absent from the residence of the account owner; and

(ii) include withdrawals from an account in the Utah Educational Savings Plan as resources for a benefit determination, if the withdrawals were not used for qualified higher education costs as that term is defined in Section [~~53B-8a-102.5~~]53H-10-201.

(12) (a) The department may not deny or terminate eligibility for Medicaid solely because an individual is:

(i) incarcerated; and

(ii) not an inmate as defined in Section 64-13-1.

(b) Subsection (12)(a) does not require the Medicaid program to provide coverage for any services for an individual while the individual is incarcerated.

(13) The department is a party to, and may intervene at any time in, any judicial or administrative action:

(a) to which the Department of Workforce Services is a party; and

(b) that involves medical assistance under this chapter.

(14) (a) The department may not deny or terminate eligibility for Medicaid solely because a birth mother, as that term is defined in Section 81-13-101, considers an adoptive placement for the child or proceeds with an adoptive placement of the child.

(b) A health care provider, as that term is defined in Section 26B-3-126, may not decline payment by Medicaid for covered health and medical services provided to a birth mother, as that term is defined in Section 81-13-101, who is enrolled in Utah's Medicaid program and who considers an adoptive placement for the child or proceeds with an adoptive placement of the child.

Section 31. Section 26B-4-222 is amended to read:

26B-4-222 (Effective upon governor's approval). Report.

(1) By the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients; and

(g) the expenses and revenues of the Qualified Patient Enterprise Fund created in Section 26B-1-310.

(2) The report shall include information provided by the Center for Medical Cannabis Research described in Section [~~53B-17-1402~~]53H-4-206.

(3) The department may not include personally identifying information in the report described in this section.

(4) The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 32. Section 26B-4-243 is amended to read:

26B-4-243 (Effective upon governor's approval). Guidance for treatment with medical cannabis.

The department, in consultation with the Center for Medical Cannabis Research created in Section [~~53B-17-1402~~]53H-4-206, shall:

(1) develop evidence-based guidance for treatment with medical cannabis based on the latest medical research that shall include:

(a) for each qualifying condition, a summary of the latest medical research regarding the treatment of the qualifying condition with medical cannabis;

(b) risks, contraindications, side effects, and adverse reactions that are associated with medical cannabis use; and

(c) potential drug interactions between medical cannabis and medications that have been approved by the United States Food and Drug Administration;

(2) educate recommending medical providers, pharmacy medical providers, medical cannabis cardholders, and the public regarding:

(a) the evidence-based guidance for treatment with medical cannabis described in Subsection (1)(a);

(b) relevant warnings and safety information related to medical cannabis use; and

(c) other topics related to medical cannabis use as determined by the department; and

(3) develop patient product information inserts for medical cannabis products:

(a) in consultation with the cannabis processing facility that created the product; and

(b) that do not contain proprietary information about the product.

Section 33. Section 26B-4-512 is amended to read:

26B-4-512 (Effective upon governor's approval). Opiate Overdose Outreach Pilot Program -- Grants -- Annual reporting by grantees -- Rulemaking -- Annual reporting by department.

(1) As used in this section:

(a) "Persons that are in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event":

(i) means the following organizations:

(A) a law enforcement agency;

(B) the department or a local health department, as defined in Section 26A-1-102;

(C) an organization that provides drug or alcohol treatment services;

(D) an organization that provides services to the homeless;

(E) an organization that provides training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event;

(F) a school; or

(G) except as provided in Subsection (1)(a)(ii), any other organization, as defined by department rule made under Subsection (7)(e), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; and

(ii) does not mean:

(A) a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) a health care facility; or

(C) an individual.

(b) "School" means:

(i) a public school:

(A) for elementary or secondary education, including a charter school; or

(B) for other purposes;

(ii) a private school:

(A) for elementary or secondary education; or

(B) accredited for other purposes, including higher education or specialty training; or

(iii) an institution [~~within the state system~~]of higher education, [~~as described~~]listed in Section [~~53B-1-102~~]53H-1-102.

(2) There is created within the department the "Opiate Overdose Outreach Pilot Program."

(3) The department may use funds appropriated for the program to:

(a) provide grants under Subsection (4);

(b) promote public awareness of the signs, symptoms, and risks of opioid misuse and overdose;

(c) increase the availability of educational materials and other resources designed to assist individuals at increased risk of opioid overdose, their families, and others in a position to help prevent or respond to an overdose event;

(d) increase public awareness of, access to, and use of opiate antagonist;

(e) update the department's Utah Clinical Guidelines on Prescribing Opioids and promote its use by prescribers and dispensers of opioids;

(f) develop a directory of substance misuse treatment programs and promote its dissemination to and use by opioid prescribers, dispensers, and others in a position to assist individuals at increased risk of opioid overdose;

(g) coordinate a multi-agency coalition to address opioid misuse and overdose; and

(h) maintain department data collection efforts designed to guide the development of opioid overdose interventions and track their effectiveness.

(4) No later than September 1, 2016, and with available funding, the department shall grant funds through the program to persons that are in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.

(5) Funds granted by the program:

(a) may be used by a grantee to:

(i) pay for the purchase by the grantee of an opiate antagonist; or

(ii) pay for the grantee's cost of providing training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event; and

(b) may not be used:

(i) to pay for costs associated with the storage or dispensing of an opiate antagonist; or

(ii) for any other purposes.

(6) Grantees shall report annually to the department on the use of granted funds in accordance with department rules made under Subsection (7)(d).

(7) No later than July 1, 2016, the department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules specifying:

(a) how to apply for a grant from the program;

(b) the criteria used by the department to determine whether a grant request is approved, including criteria providing that:

(i) grants are awarded to areas of the state, including rural areas, that would benefit most from the grant; and

(ii) no more than 15% of the total amount granted by the program is used to pay for grantees' costs of providing training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event;

(c) the criteria used by the department to determine the amount of a grant;

(d) the information a grantee shall report annually to the department under Subsection (6), including:

(i) the amount of opiate antagonist purchased and dispensed by the grantee during the reporting period;

(ii) the number of individuals to whom the opiate antagonist was dispensed by the grantee;

(iii) the number of lives known to have been saved during the reporting period as a result of opiate antagonist dispensed by the grantee; and

(iv) the manner in which the grantee shall record, preserve, and make available for audit by the department the information described in Subsections (7)(d)(i) through (7)(d)(iii); and

(e) as required by Subsection (1)(a)(i)(G), any other organization that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.

Section 34. Section 26B-4-705 is amended to read:

26B-4-705 (Effective upon governor's approval). Utah Health Workforce Information Center.

(1) As used in this section:

(a) "Council" means the Utah Health Workforce Advisory Council created in Section 26B-1-425.

(b) "Health sector" means any place of employment where the primary function is the delivery of health care services.

(c) (i) "Health workforce" means the individuals, collectively and by profession, who deliver health care services or assist in the delivery of health care services.

(ii) "Health workforce" includes any health care professional who does not work in the health sector and any non-health care professional who works in the health sector.

(2) There is created within the department the Utah Health Workforce Information Center.

(3) The information center shall:

(a) under the guidance of the council, work with the Department of Commerce to collect data described in Section 58-1-112;

(b) analyze data from any available source regarding Utah's health workforce including data collected by the Department of Commerce under Section 58-1-112;

(c) send a report to the council regarding any analysis of health workforce data;

(d) conduct research on Utah's health workforce as directed by the council;

(e) notwithstanding the provisions of Subsection 35A-4-312(3), receive information obtained by the Department of Workforce Services under the provisions of Section 35A-4-312 for purposes consistent with the information center's duties, including identifying changes in Utah's health workforce numbers, types, and geographic distribution;

[~~(f) project the demand for individuals to enter health care professions, including the nursing profession in accordance with Section 53B-26-202;~~]

[~~(g)~~](f) subject to Section 26B-8-406, share data with any appropriate person as determined by the information center; and

[~~(h)~~](g) conduct research and provide analysis for any state agency as approved by the executive director or the executive director's designee.

(4) Notwithstanding any other provision of state law, the information center is authorized to obtain data from any state agency if:

(a) the council and the information center deem receiving the data necessary to perform a duty listed under Subsection (3) or 26B-1-425(7); and

(b) the information center's access to the data will not:

(i) violate any federal statute or federal regulation; or

(ii) violate a condition a state agency must follow:

(A) to participate in a federal program; or

(B) to receive federal funds.

Section 35. Section 26B-5-121 is amended to read:

26B-5-121 (Effective upon governor's approval). Voluntary referrals to substance use and mental health services by first responders -- Immunity from liability -- Reporting -- Rulemaking.

(1) As used in this section:

(a) "First responder" means:

(i) a law enforcement officer, as that term is defined in Section 53-13-103;

(ii) emergency medical service personnel, as that term is defined in Section 53-2d-101;

(iii) an emergency medical technician, as that term is defined in Section 53-2e-101;

(iv) an advanced emergency medical technician, as that term is defined in Section 53-2e-101;

(v) a firefighter, as that term is defined in Section [~~53B-8e-102~~]53H-11-306; or

(vi) a dispatcher, as that term is defined in Section 53-6-102.

(b) "Local services list" means a comprehensive list of local substance use or mental health services, as described in Subsections 17-43-201(5)(b)(iii) and 17-43-301(6)(c).

(2) As and when appropriate, a first responder is encouraged to offer a referral to substance use or mental health services to an individual who experiences an intentional or accidental overdose.

(3) If an individual expresses interest in substance use or mental health services, a first responder may, as appropriate:

(a) facilitate a real-time connection with an appropriate local service provider;

(b) contact the statewide 988 crisis line for assistance; or

(c) if the individual does not wish to speak with a service provider at that time, provide the individual with a physical copy of a local services list.

(4) (a) This section does not create a duty for a first responder to offer or provide a referral to substance use or mental health services.

(b) A first responder and an employer of a first responder are not liable under this section for a first responder's action or failure to act in regards to offering or providing a referral to substance use or mental health services as described in this section.

(c) This section does not affect any privilege or immunity from liability, exemption from law, ordinance, or rule, or any other benefit that applies to a first responder or an employer of a first responder.

(5) (a) If a first responder offers a referral to substance use or mental health services as described in this section, the first responder's employer shall report annually to the division the total number of individuals who accepted a referral from all first responders employed by the employer.

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how the reports required by Subsection (5)(a) shall be submitted.

Section 36. Section 26B-5-310 is amended to read:

26B-5-310 (Effective upon governor's approval). Restrictions and limitations -- Rights and privileges.

(1) Subject to the general rules of the division, subject to the requirement in Subsection (2)that the reason, nature, and extent of any limitation or denial of a patient's right shall be entered in the patient's treatment record, and except to the extent that the director or the director's designee determines that it is necessary for the welfare of the patient or the patient's caretakers to impose restrictions, every patient is entitled to:

(a) (i) communicate, by sealed mail or otherwise, with persons, including official agencies, inside or outside the responsible mental health authority, local substance abuse authority, or approved treatment facility or program;

(ii) be provided with letter-writing materials, including postage; and

(iii) have staff of the responsible mental health authority, local substance abuse authority, or approved treatment facility or program assist the patient if the patient is unable to write, prepare, or mail correspondence;

(b) have frequent and consistent opportunities to receive visitors at reasonable times that do not interfere with clinical activities;

(c) speak or visit with the patient's attorney or clergy member within a reasonable period of time;

(d) exercise all civil rights, including the right to dispose of property, execute instruments, make purchases, enter contractual relationships, and vote, unless the patient has been adjudicated to be incompetent and has not been restored to legal capacity;

(e) while in an inpatient or residential facility, have access to adequate water and food and have the patient's nutritional needs met in a manner that is consistent with recognized dietary practices;

(f) be treated fairly, with respect and recognition of the patient's dignity and individuality;

(g) not be discriminated against on the basis of a characteristic identified in Subsection 57-21-5(1);

(h) within 72 business hours after the patient's request, see and receive the services of a patient representative, including a peer specialist or patient advocate, who is not involved in the direct clinical care of the patient;

(i) have the patient's behavioral health orders for scope of treatment, declaration for mental health treatment, or other psychiatric advance directive reviewed and considered as the preferred treatment option for involuntary administration of medications by the responsible local mental health authority, local substance abuse authority, or approved treatment facility or program, unless by clear and convincing evidence the patient's directive does not qualify as effective participation in behavioral health decision-making;

(j) with the patient's consent, have the patient's information or records disclosed to an adult family member, the patient's lay person, or, in accordance with state and federal law, to a protection and advocacy system designated pursuant to 42 U.S.C. Sec. 10801 et seq.;

(k) (i) access to a telephone to make and receive private calls, unless determined a clinical or safety risk; and

(ii) staff assistance to be able to communicate with others, if the patient does not have a contact list;

(l) wear the patient's own clothes, keep and use the patient's own possessions, and keep and be allowed to spend a reasonable amount of the patient's own money, unless deemed a clinical or safety risk; and

(m) be told:

(i) the reason for the patient's detainment and the limitation of the patient's detainment, including a description of the patient's right to refuse medication unless the patient requires emergency medications; and

(ii) that the patient's commitment does not mean all treatment during commitment is mandatory.

(2) (a) When any right of a patient is limited or denied, the nature, extent, and reason for that limitation or denial shall be entered in the patient's treatment record.

(b) Information pertaining to a denial of any right of a patient shall be made available, upon request, to the patient, the patient's attorney, and the patient's lay person.

(c) Any continuing denial or limitation of any right of a patient shall be reviewed every 30 days and shall also be entered in the patient's treatment record.

(d) Notice of a continuing denial of any right of a patient in excess of 30 days shall be sent to the division, the responsible local mental health authority, the appropriate local substance abuse authority, or an approved treatment facility or program.

(3) Local mental health authorities, local substance abuse authorities, and approved treatment facilities or programs shall provide reasonable means and arrangements for informing involuntary patients of their right to release as provided in this chapter, and for assisting them in making and presenting requests for release.

(4) Local mental health facilities, local substance abuse authorities, and approved treatment facilities or programs shall post a statement, created by the division, describing a patient's rights under Utah law.

(5) A local mental health authority, local substance abuse authority, or approved treatment facility or program may not intentionally retaliate or discriminate against a detained patient or employee for contacting or providing information to any official or to an employee of any state protection and advocacy agency or for initiating, participating in, or testifying in a grievance procedure or in an action for any remedy authorized pursuant to this section.

(6) Notwithstanding Section [~~53B-17-303~~]53H-4-203, an individual committed under this chapter has the right to determine the final disposition of that individual's body after death.

Section 37. Section 26B-5-801 is amended to read:

26B-5-801 (Effective upon governor's approval) (Repealed 01/01/33). Definitions -- Creation of committee -- Membership -- Terms.

(1) (a) As used in this part, "committee" means the Utah Substance Use and Mental Health Advisory Committee created in this section.

(b) There is created within the department the Utah Substance Use and Mental Health Advisory Committee, which serves under the direction of the Utah Behavioral Health Commission created in Section 26B-5-702.

(2) The committee shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) one elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner's designee;

(d) the director of the Division of Integrated Healthcare or the director's designee;

(e) the state superintendent of public instruction or the superintendent's designee;

(f) the executive director of the Department of Health and Human Services or the executive director's designee;

(g) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;

(h) the executive director of the Department of Corrections or the executive director's designee;

(i) the director of the Division of Juvenile Justice and Youth Services or the director's designee;

(j) the director of the Division of Child and Family Services or the director's designee;

(k) the chair of the Board of Pardons and Parole or the chair's designee;

(l) the director of the Office of Multicultural Affairs or the director's designee;

(m) the director of the Division of Indian Affairs or the director's designee;

(n) the state court administrator or the state court administrator's designee;

(o) one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) one district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

(q) one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(r) one prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each subcommittee established by the committee;

(t) the chair or co-chair of the Statewide Suicide Prevention Committee created under Subsection 26B-5-611(3);

(u) one representative appointed by the Utah League of Cities and Towns to serve a four-year term;

(v) the chair of the Utah Victim Services Commission or the chair's designee;

(w) the superintendent of the Utah State Hospital or the superintendent's designee;

(x) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

(y) in addition to the voting members described in Subsections (2)(a) through (x), the following voting members appointed by a majority of the members described in Subsections (2)(a) through (x) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

(ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;

(iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;

(iv) one resident of the state who represents prevention professionals;

(v) one resident of the state who represents treatment professionals;

(vi) one resident of the state who represents the physical health care field;

(vii) one resident of the state who is a criminal defense attorney;

(viii) one resident of the state who is a military servicemember or military veteran under Section [~~53B-8-102~~]53H-11-202;

(ix) one resident of the state who represents local law enforcement agencies;

(x) one representative of private service providers that serve youth with substance use disorders or mental health disorders; and

(xi) one resident of the state who is certified by the Division of Integrated Healthcare as a peer support specialist as described in Subsection 26B-5-102(2)(gg).

(3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the committee.

Section 38. Section 26B-8-225 is amended to read:

26B-8-225 (Effective upon governor's approval). Burial of an unclaimed body -- Request by the school of medicine at the University of Utah -- Medical examiner may retain tissue for dog training.

(1) Except as described in Subsection (2) or (3), a county shall provide, at the county's expense, decent disposition of an unclaimed body found in the county.

(2) A county is not responsible for decent disposition of an unclaimed body found in the county if the body is requested by the dean of the [~~school of medicine~~]School of Medicine at the University of Utah under Section [~~53B-17-301~~]53H-4-203.

(3) For an unclaimed body that is temporarily in the medical examiner's custody before disposition under Subsection (1), the medical examiner may retain tissue from the unclaimed body in order to donate the tissue to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

Section 39. Section 31A-3-301 is amended to read:

31A-3-301 (Effective upon governor's approval). Tax imposed on surplus lines insurance transactions.

(1) (a) An insurance transaction under Section 31A-15-103 is subject to a tax of 4-1/4% of gross premiums, less 4-1/4% of return premiums paid to insureds by reason of policy cancellations or premium reductions.

(b) "Gross premium," for a surplus lines insurance transaction, means the monetary consideration for an insurance policy including the fees charged to the insured, however designated.

(2) The tax imposed by this section does not apply to:

(a) ocean marine insurance;

(b) insurance premiums paid by institutions [~~within the state system~~]of higher education [~~as specified~~]listed in Section [~~53B-1-102~~]53H-1-102; or

(c) annuities.

(3) The department shall deposit a tax imposed by this section [~~in~~]into the General Fund.

(4) (a) A county, city, or municipality within the state may not impose an occupation tax or other tax or fee on a surplus lines insurance transaction.

(b) Notwithstanding Subsection (4)(a), an insurer, producer, or policyholder may be subject to other taxes not described in Subsection (4)(a).

Section 40. Section 31A-23a-102 is amended to read:

31A-23a-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Bail bond producer" is as defined in Section 31A-35-102.

(2) "Designated home state" means the state or territory of the United States or the District of Columbia:

(a) in which an insurance producer, limited lines producer, consultant, managing general agent, or reinsurance intermediary licensee does not maintain the licensee's principal:

(i) place of residence; or

(ii) place of business;

(b) if the resident state, territory, or District of Columbia of the licensee does not license for the line of authority sought, the licensee has qualified for the license as if the person were a resident in the state, territory, or District of Columbia described in Subsection (2)(a), including an applicable:

(i) examination requirement;

(ii) fingerprint background check requirement; and

(iii) continuing education requirement; and

(c) if the licensee has designated the state, territory, or District of Columbia as the designated home state.

(3) "DOD civilian" means the same as that term is defined in Section [~~53B-8-102~~]53H-11-202.

(4) "Home state" means:

(a) a state or territory of the United States or the District of Columbia in which an insurance producer, limited lines producer, consultant, managing general agent, or reinsurance intermediary licensee:

(i) maintains the licensee's principal:

(A) place of residence; or

(B) place of business; and

(ii) is licensed to act as a resident licensee; or

(b) if the resident state, territory, or the District of Columbia described in Subsection (4)(a) does not license for the line of authority sought, a state, territory, or the District of Columbia:

(i) in which the licensee is licensed;

(ii) in which the licensee is in good standing; and

(iii) that the licensee has designated as the licensee's designated home state.

(5) "Insurer" is as defined in Section 31A-1-301, except that the following persons or similar persons are not insurers for purposes of Part 7, Producer Controlled Insurers:

(a) a risk retention group as defined in:

(i) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499;

(ii) the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.; and

(iii) Chapter 15, Part 2, Risk Retention Groups Act;

(b) a residual market pool;

(c) a joint underwriting authority or association; and

(d) a captive insurer.

(6) "License" is defined in Section 31A-1-301.

(7) (a) "Managing general agent" means a person that:

(i) manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office;

(ii) acts as an agent for the insurer whether it is known as a managing general agent, manager, or other similar term;

(iii) produces and underwrites an amount of gross direct written premium equal to, or more than, 5% of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year:

(A) with or without the authority;

(B) separately or together with an affiliate; and

(C) directly or indirectly; and

(iv) (A) adjusts or pays claims in excess of an amount determined by the commissioner; or

(B) negotiates reinsurance on behalf of the insurer.

(b) Notwithstanding Subsection (7)(a), the following persons may not be considered as managing general agent for the purposes of this chapter:

(i) an employee of the insurer;

(ii) a United States manager of the United States branch of an alien insurer;

(iii) an underwriting manager that, pursuant to contract:

(A) manages all the insurance operations of the insurer;

(B) is under common control with the insurer;

(C) is subject to Chapter 16, Insurance Holding Companies; and

(D) is not compensated based on the volume of premiums written; and

(iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney.

(8) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning a substantive benefit, term, or condition of the contract if the person engaged in that act:

(a) sells insurance; or

(b) obtains insurance from insurers for purchasers.

(9) "Reinsurance intermediary" means:

(a) a reinsurance intermediary-broker; or

(b) a reinsurance intermediary-manager.

(10) "Reinsurance intermediary-broker" means a person other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the insurer.

(11) (a) "Reinsurance intermediary-manager" means a person who:

(i) has authority to bind or who manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office; and

(ii) acts as an agent for the reinsurer whether the person is known as a reinsurance intermediary-manager, manager, or other similar term.

(b) Notwithstanding Subsection (11)(a), the following persons may not be considered reinsurance intermediary-managers for the purpose of this chapter with respect to the reinsurer:

(i) an employee of the reinsurer;

(ii) a United States manager of the United States branch of an alien reinsurer;

(iii) an underwriting manager that, pursuant to contract:

(A) manages all the reinsurance operations of the reinsurer;

(B) is under common control with the reinsurer;

(C) is subject to Chapter 16, Insurance Holding Companies; and

(D) is not compensated based on the volume of premiums written; and

(iv) the manager of a group, association, pool, or organization of insurers that:

(A) engage in joint underwriting or joint reinsurance; and

(B) are subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.

(12) "Resident" is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) "Sell" means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

(14) "Solicit" means:

(a) attempting to sell insurance;

(b) asking or urging a person to apply for:

(i) a particular kind of insurance; and

(ii) insurance from a particular insurance company;

(c) advertising insurance, including advertising for the purpose of obtaining leads for the sale of insurance; or

(d) holding oneself out as being in the insurance business.

(15) "Terminate" means:

(a) the cancellation of the relationship between:

(i) an individual licensee or agency licensee and a particular insurer; or

(ii) an individual licensee and a particular agency licensee; or

(b) the termination of:

(i) an individual licensee's or agency licensee's authority to transact insurance on behalf of a particular insurance company; or

(ii) an individual licensee's authority to transact insurance on behalf of a particular agency licensee.

(16) "Title examination" means a license subline of authority in conjunction with the title insurance line of authority that allows a person to issue title insurance commitments or policies on behalf of a title insurer.

(17) "Title marketing representative" means a person who:

(a) represents a title insurer in soliciting, requesting, or negotiating the placing of:

(i) title insurance; or

(ii) escrow services; and

(b) does not have a title examination or escrow license as provided in Section 31A-23a-106.

(18) "Uniform application" means the version of the National Association of Insurance Commissioners' uniform application for resident and nonresident producer licensing at the time the application is filed.

(19) "Uniform business entity application" means the version of the National Association of Insurance Commissioners' uniform business entity application for resident and nonresident business entities at the time the application is filed.

Section 41. Section 31A-26-102 is amended to read:

31A-26-102 (Effective upon governor's approval). Definitions.

As used in this chapter, unless expressly provided otherwise:

(1) "Company adjuster" means a person employed by an insurer who negotiates or settles claims on behalf of the insurer or an affiliated insurer.

(2) "Designated home state" means the state or territory of the United States or the District of Columbia:

(a) in which an insurance adjuster does not maintain the adjuster's principal:

(i) place of residence; or

(ii) place of business;

(b) if the resident state, territory, or District of Columbia of the adjuster does not license adjusters for the line of authority sought, the adjuster has qualified for the license as if the person were a resident in the state, territory, or District of Columbia described in Subsection (2)(a), including an applicable:

(i) examination requirement;

(ii) fingerprint background check requirement; and

(iii) continuing education requirement; and

(c) that the adjuster has designated as the insurance adjuster's designated home state.

(3) "DOD civilian" means the same as that term is defined in Section [~~53B-8-102~~]53H-11-202.

(4) "Home state" means:

(a) a state or territory of the United States or the District of Columbia in which an insurance adjuster:

(i) maintains the adjuster's principal:

(A) place of residence; or

(B) place of business; and

(ii) is licensed to act as a resident adjuster; or

(b) if the resident state, territory, or the District of Columbia described in Subsection (4)(a) does not license adjusters for the line of authority sought, a state, territory, or the District of Columbia:

(i) in which the adjuster is licensed;

(ii) in which the adjuster is in good standing; and

(iii) that the adjuster has designated as the adjuster's designated home state.

(5) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201, who engages in insurance adjusting as a representative of one or more insurers.

(6) "Insurance adjusting" or "adjusting" means directing or conducting the investigation, negotiation, or settlement of a claim under an insurance policy, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

(7) (a) "Organization" means a person other than a natural person.

(b) "Organization" includes a sole proprietorship by which a natural person does business under an assumed name.

(8) "Portable electronics insurance" means the same as that term is defined in Section 31A-22-1802.

(9) "Public adjuster" means a person required to be licensed under Section 31A-26-201, who engages in insurance adjusting as a representative of insureds and claimants under insurance policies.

Section 42. Section 32B-4-424 is amended to read:

32B-4-424 (Effective upon governor's approval). Powdered or vaporized alcohol.

(1) As used in this section:

(a) "Powdered alcohol" means a product that is in a powdered or crystalline form and contains any amount of alcohol.

(b) "Vaporized alcohol" means a product created by mixing alcohol with pure oxygen or another gas to produce a vaporized product for the purpose of consumption through inhalation.

(2) It is unlawful for a person to use, offer for use, purchase, offer to purchase, sell, offer to sell, furnish, or possess for human consumption powdered alcohol or vaporized alcohol.

(3) It is unlawful for a holder of a retail license to use powdered alcohol or vaporized alcohol as an alcoholic product.

(4) This section does not apply to the use of powdered alcohol or vaporized alcohol for a commercial use specifically approved by state law or bona fide research purposes by a:

(a) health care practitioner that operates primarily for the purpose of conducting scientific research;

(b) department, commission, board, council, agency, institution, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state, including [~~a state~~]an institution of higher education listed in Section [~~53B-2-101~~]53H-1-102;

(c) private college or university research facility; or

(d) pharmaceutical or biotechnology company.

Section 43. Section 34-41-101 is amended to read:

34-41-101 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Donor" means an employee, a volunteer, a prospective employee, or a prospective volunteer of a local government entity or [~~a state~~]an institution of higher education.

(2) "Drug" means any substance recognized as a drug in the United States Pharmacopeia, the National Formulary, the Homeopathic Pharmacopeia, or other drug compendia, including Title 58, Chapter 37, Utah Controlled Substances Act, or supplement to any of those compendia.

(3) "Drug testing" means the scientific analysis for the presence of drugs or their metabolites in the human body in accordance with the definitions and terms of this chapter.

(4) "Institution of higher education" means the same as that term is defined in Section 53H-1-101.

[~~(4)~~](5) "Local governmental employee" means any person or officer in the service of a local governmental entity or [~~state~~]institution of higher education for compensation.

[~~(5)~~](6) (a) "Local governmental entity" means any political subdivision of Utah including any county, municipality, local school district, special district, special service district, or any administrative subdivision of those entities.

(b) "Local governmental entity" does not mean Utah state government or its administrative subdivisions provided for in Sections 63A-17-1001 through 63A-17-1006.

[~~(6)~~](7) "Periodic testing" means preselected and preannounced drug testing of employees or volunteers conducted on a regular schedule.

[~~(7)~~](8) "Prospective employee" means any person who has made a written or oral application to become an employee of a local governmental entity or [~~a state~~]an institution of higher education.

[~~(8)~~](9) "Random testing" means the unannounced drug testing of an employee or volunteer who was selected for testing by using a method uninfluenced by any personal characteristics other than job category.

[~~(9)~~](10) "Reasonable suspicion for drug testing" means an articulated belief based on the recorded specific facts and reasonable inferences drawn from those facts that a local government employee or volunteer is in violation of the drug-free workplace policy.

[~~(10)~~](11) "Rehabilitation testing" means unannounced but preselected drug testing done as part of a program of counseling, education, and treatment of an employee or volunteer in conjunction with the drug-free workplace policy.

[~~(11)~~](12) "Safety sensitive position" means any local governmental or [~~state~~]institution of higher education position involving duties which directly affects the safety of governmental employees, the general public, or positions where there is access to controlled substances, as defined in Title 58, Chapter 37, Utah Controlled Substances Act, during the course of performing job duties.

[~~(12)~~](13) "Sample" means urine, blood, breath, saliva, or hair.

[~~(13) "State institution of higher education" means the institution as defined in Section 53B-3-102.~~]

(14) "Volunteer" means any person who donates services as authorized by the local governmental entity or [~~state~~]institution of higher education without pay or other compensation except expenses actually and reasonably incurred.

Section 44. Section 34-41-102 is amended to read:

34-41-102 (Effective upon governor's approval). Governmental drug-free workplace policies.

(1) Any local governmental entity or [~~state~~] institution of higher education may establish workplace policies and procedures designed to:

(a) educate, counsel, and increase awareness of the dangers of drugs; and

(b) prohibit and discourage the detrimental use of drugs among its various classes of employees and volunteers.

(2) A local governmental entity or [~~state~~] institution of higher education may test employees, volunteers, prospective employees, and prospective volunteers for the presence of drugs or their metabolites, in accordance with the provisions of this chapter, as a condition of hiring, continued employment, and voluntary services.

(3) A drug-free workplace policy may include, but does not require, drug testing under the following circumstances:

(a) preemployment hiring or volunteer selection procedures;

(b) postaccident investigations;

(c) reasonable suspicion situations;

(d) preannounced periodic testing;

(e) rehabilitation programs;

(f) random testing in safety sensitive positions; or

(g) to comply with the federal Drug Free Workplace Act of 1988, 41 U.S.C. Sec. 8101 et seq., or other federally required drug policies.

(4) This section may not be construed to prohibit local governmental entities or [~~state~~]institutions of higher education from establishing policies regarding other hazardous or intoxicating substances.

Section 45. Section 34-41-103 is amended to read:

34-41-103 (Effective upon governor's approval). Policy requirements.

(1) (a) A local governmental entity or [~~a state~~]institution of higher education may not test a donor for the presence of drugs, unless the local government entity or [~~state~~]institution of higher education:

(i) adopts a written policy or ordinance for the testing;

(ii) distributes the policy or ordinance to employees and volunteers; and

(iii) makes the policy or ordinance available for review by prospective employees and prospective volunteers.

(b) The local governmental entity or [~~state~~]institution of higher education may only test or retest for the presence of drugs in accordance with the policy or ordinance described in Subsection (1)(a).

(2) The local government entity or [~~state~~]institution of higher education:

(a) shall collect and test samples in accordance with Section 34-41-104; and

(b) if otherwise permitted by law, is not limited only to collecting or testing in circumstances where there are indications of job-related impairment of an employee or volunteer.

(3) The use and disposition of all drug test results are subject to the limitations of Title 63G, Chapter 2, Government Records Access and Management Act, and the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213.

(4) A donor who is subject to testing under a policy or ordinance described in Subsection (1)(a) shall:

(a) submit an oral sample for testing; or

(b) submit a split urine sample for testing or retesting.

(5) Unless the policy or ordinance described in Subsection (1)(a) provides otherwise, the local governmental entity or [~~state~~]institution of higher education may specify the type of sample, described in Subsection (4), that the donor is required to submit.

(6) A split urine sample shall consist of at least 45 milliliters of urine, divided into two specimen bottles with:

(a) at least 30 milliliters of urine in one bottle, for the initial test; and

(b) at least 15 milliliters of urine in the other bottle for retesting, if requested under Subsection (7).

(7) If the test results of a urine or oral test indicate the presence of drugs, the local governmental entity or [~~state~~]institution of higher education shall:

(a) give notice to the donor:

(i) of the test results; and

(ii) for a urine test, that the donor may, within 72 hours after the local government entity or [~~state~~]institution of higher education provides the notice, request testing of the second sample; and

(b) test the second sample if the donor timely requests testing of the second sample.

(8) The expense of testing the second urine sample will be equally divided between the donor and the local governmental entity or [~~state~~]institution of higher education.

(9) The test results of the samples shall be considered at any subsequent disciplinary hearing if the requirements of this section and Section 34-41-104 are complied with in the collection, handling, and testing of the samples.

Section 46. Section 34-41-104 is amended to read:

34-41-104 (Effective upon governor's approval). Requirements for identification, collection, and testing of samples.

(1) The local governmental entity or [~~state~~]institution of higher education shall ensure that:

(a) all sample collection under this chapter is performed by an entity independent of the local government or [~~state~~]institution of higher education;

(b) all testing for drugs under this chapter is performed by an independent laboratory certified for employment drug testing by either the Substance Abuse and Mental Health Services Administration or the College of American Pathology;

(c) the instructions, chain of custody forms, and collection kits, including containers and seals, used for sample collection are prepared by an independent laboratory certified for employment drug testing by either the Substance Abuse and Mental Health Services Administration or the College of American Pathology; and

(d) sample collection and testing for drugs under this chapter is in accordance with the requirements of this section.

(2) The local governmental entity or [~~state~~]institution of higher education may:

(a) in accordance with a policy or ordinance described in Subsection 34-41-103(1)(a), require samples from a donor;

(b) require presentation of reliable identification to the person collecting the samples; and

(c) in order to dependably test for the presence of drugs, designate the type of sample to be used for testing.

(3) The local governmental entity or [~~state~~]institution of higher education shall ensure that the local governmental entity's or [~~state~~]institution of higher education's ordinance or policy requires that:

(a) the collection of samples is performed under reasonable and sanitary conditions;

(b) samples are collected and tested:

(i) to ensure the privacy of the individual being tested; and

(ii) in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples;

(c) sample collection is appropriately documented to ensure that:

(i) samples are labeled and sealed to reasonably preclude the probability of erroneous identification of test results; and

(ii) a donor has the opportunity to provide notification of any information:

(A) that a donor considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs or other relevant medical information; and

(B) in compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213;

(d) sample collection, storage, and transportation to the place of testing are performed in a manner that reasonably precludes the probability of sample misidentification, contamination, or adulteration; and

(e) sample testing conforms to scientifically accepted analytical methods and procedures.

(4) Before the result of any test may be used as a basis for any action by a local governmental entity or [~~state~~]institution of higher education under Section 34-41-105, the local governmental entity or [~~state~~]institution of higher education shall:

(a) verify or confirm any positive initial screening test by gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytical methods; and

(b) provide the notice described in Subsection 34-41-103(7), as soon as possible after a positive test result, at the last known address or telephone number of the donor.

(5) Any drug testing by a local governmental entity or [~~state~~]institution of higher education shall occur during or immediately after the regular work period of the employee or volunteer and shall be considered as work time for purposes of compensation and benefits.

(6) The local governmental entity or [~~state~~]institution of higher education shall pay all costs of sample collection and initial testing for drugs required under the policy or ordinance described in Subsection 34-41-103(1)(a), including the costs of transportation if the testing of an employee or volunteer is conducted at a place other than the workplace.

Section 47. Section 34-41-105 is amended to read:

34-41-105 (Effective upon governor's approval). Rehabilitative and disciplinary actions.

(1) If a verified or confirmed positive drug test result indicates a violation of the local governmental entity's or [~~state~~]institution of higher education's written drug-free workplace policy, if an employee, volunteer, prospective employee, or prospective volunteer refuses to provide a sample in accordance with the written policy, or otherwise violates the written policy, an employer may use that test result, refusal, or violation as the basis for imposing any rehabilitative and disciplinary actions authorized by this section.

(2) If the conditions required by Subsection (1) are met, the employer may:

(a) require the employee to enroll in a rehabilitation, treatment, or counseling and educational program, approved by the local governmental entity or [~~state~~]institution of higher education as a condition of continued employment or volunteer service;

(b) suspend the employee with or without pay for a period of time;

(c) terminate the employment or voluntary services;

(d) refuse to hire a prospective employee or use the services of a volunteer; and

(e) impose disciplinary measures in conformance with the usual procedures, including employment contracts of the local governmental entity or [~~state~~]institution of higher education.

Section 48. Section 34-41-107 is amended to read:

34-41-107 (Effective upon governor's approval). No physician-patient relationship created.

A physician-patient relationship is not created between an employee, volunteer, prospective employee, or prospective volunteer, and the local governmental entity, [~~state~~]institution of higher education, or any person performing the test, solely by the establishment of a drug testing program in the workplace.

Section 49. Section 34-49-102 is amended to read:

34-49-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Public employee" means a person:

(a) employed by a public employer; and

(b) who is breastfeeding.

(2) "Public employer" means the following entities:

(a) a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government;

(b) a municipality;

(c) a county;

(d) a school district; or

(e) an institution of higher education as described in Section [~~53B-2-101~~]53H-1-102.

Section 50. Section 34A-2-104.5 is amended to read:

34A-2-104.5 (Effective upon governor's approval). Nongovernment entity volunteers.

(1) As used in this section:

(a) (i) "Intern" means a student or trainee who works without pay at a trade or occupation in order to gain work experience.

(ii) Notwithstanding Subsection (1)(a)(i), "intern" does not include an intern described in Section 53G-7-903 or [~~53B-16-403~~]53H-3-1003.

(b) "Nongovernment entity" means an entity or individual that:

(i) is an employer as provided in Section 34A-2-103; and

(ii) is not a government entity.

(c) "Utah minimum wage" means the highest wage designated as Utah's minimum wage under Title 34, Chapter 40, Utah Minimum

Wage Act.

(d) (i) "Volunteer" means an individual who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising nongovernment entity.

(ii) "Volunteer" includes an intern of a nongovernment entity.

(iii) "Volunteer" does not include an individual participating in human subjects research to the extent that the participation is governed by federal law or regulation inconsistent with this chapter.

(2) A volunteer for a nongovernment entity is not an employee of the nongovernment entity for purposes of this chapter and Chapter 3, Utah Occupational Disease Act, unless the nongovernment entity elects in accordance with this section to provide coverage under this chapter and Chapter 3, Utah Occupational Disease Act.

(3) (a) A nongovernment entity may elect to secure coverage for all of the nongovernment entity's volunteers by obtaining coverage for the volunteers in accordance with Section 34A-2-201 under the same policy it uses to cover the nongovernment entity's employees.

(b) If a nongovernment entity obtains coverage under Section 34A-2-201 for the nongovernment entity's volunteers, for purposes of receiving benefits under this chapter and Chapter 3, Utah Occupational Disease Act:

(i) a volunteer is considered an employee of the nongovernment entity; and

(ii) these benefits are the exclusive remedy of the volunteer in accordance with Section 34A-2-105 for an industrial injury or disease covered by this chapter and Chapter 3, Utah Occupational Disease Act.

(4) A nongovernment entity shall keep sufficient records of the nongovernment entity's volunteers and the volunteers' duties to determine compliance with this section.

(5) To compute the disability compensation benefits under Subsection (3), the disability compensation shall be calculated in accordance with Part 4, Compensation and Benefits, with the average weekly wage of the nongovernment volunteer assumed to be the Utah minimum wage at the time of the industrial accident or occupational disease that is the basis for the volunteer's workers' compensation claim.

(6) A workers' compensation insurer shall calculate the premium for a nongovernment entity's volunteer on the basis of the Utah minimum wage on the actual hours the volunteer provides service to the nongovernment entity, except that a workers' compensation insurer may assume 30 hours worked per week if the nongovernment entity does not provide a record of actual hours worked. The imputed wages shall be assigned to the class code on the policy that best describes the volunteer's duties.

(7) The failure or refusal of a nongovernment entity to make an election under this section in regard to volunteers does not alter, have an effect on, or give rise to any implication or presumption regarding:

(a) the nongovernment entity's duties or liabilities with respect to volunteers; or

(b) the rights of volunteers.

(8) Subject to Subsection (3)(b)(ii), nothing in this section affects a volunteer's right to seek remedies available to the volunteer through a personal insurance policy that the volunteer obtains for the volunteer in addition to any workers' compensation benefits obtained under this section.

(9) A nongovernment entity shall notify a volunteer of an election under Subsection (3)(a) by posting:

(a) printed notices where volunteers are likely to see the notices in conspicuous places about the nongovernment entity's place of business; and

(b) notices on a website that the nongovernment entity uses to recruit or provide information to volunteers.

Section 51. Section 34A-2-202.5 is amended to read:

34A-2-202.5 (Effective upon governor's approval) (Repealed 12/31/30). Offset for occupational health and safety related donations.

(1) As used in this section:

(a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in [~~Title 53B, Chapter 30, Part 2, Rocky Mountain Center for Occupational and Environmental Health~~]Title 53H, Chapter 5, Part 2, Rocky Mountain Center for Occupational and Environmental Health.

(b) "Qualified donation" means a donation that is:

(i) cash;

(ii) given directly to an occupational health and safety center; and

(iii) given exclusively for the purpose of:

(A) supporting graduate level education and training in fields of:

(I) safety and ergonomics;

(II) industrial hygiene;

(III) occupational health nursing;

(IV) occupational injury prevention; and

(V) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Self-insured employer" is a self-insured employer as defined in Section 34A-2-201.5 that is required to pay the assessment imposed under Section 34A-2-202.

(2) (a) A self-insured employer may offset against the assessment imposed under Section 34A-2-202 an amount equal to the lesser of:

(i) the total of qualified donations made by the self-insured employer in the calendar year for which the assessment is calculated; and

(ii) .20% of the self-insured employer's total calculated premium calculated under Subsection 34A-2-202(1)(d) for the calendar year for which the assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a self-insured employer a receipt for any qualified donation made by the self-insured employer to the occupational health and safety center; and

(b) expend money received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii).

Section 52. Section 34A-2-410.5 is amended to read:

34A-2-410.5 (Effective upon governor's approval). Employee cooperation with reemployment.

(1) As used in this section:

(a) "Controlled substance" is as defined in Section 58-37-2.

(b) "Correctional facility" means:

(i) a correctional facility as defined in Section 76-8-311.3; or

(ii) a facility operated by or contracting with the federal government to house a criminal offender in either a secure or nonsecure setting.

(c) "Disability claim" means a claim for compensation for:

(i) a temporary total disability benefit; or

(ii) a temporary partial disability benefit.

(d) "Institution of higher education" means the same as that term is defined in Section 53H-1-101.

[~~(d)~~](e) "Local governmental entity" is as defined in Section 34-41-101.

[~~(e)~~](f) "Reemployment" means employment that:

(i) is after an accident or occupational disease that is the basis for a disability claim; and

(ii) in a manner consistent with [~~Subsection (2)(b)~~]Subsection (2)(a), offers to an employee an opportunity for earnings, considering the employee's:

(A) education;

(B) experience; and

(C) physical and mental impairment or condition.

[~~(f) "State institution of higher education" means an institution listed in Section 53B-3-102.~~]

(g) "Valid prescription" is a prescription, as defined in Section 58-37-2, that is:

(i) prescribed for a controlled substance for use by the employee for whom it is prescribed; and

(ii) not altered or forged.

(2) In accordance with this section, the commission may reduce or terminate an employee's disability compensation for a disability claim for good cause shown by the employer including if:

(a) the employer terminates the employee from the reemployment and the termination is:

(i) reasonable;

(ii) for cause; and

(iii) as a result, in whole or in part, of:

(A) criminal conduct;

(B) violent conduct; or

(C) a violation of a reasonable, written workplace health, safety, licensure, or nondiscrimination rule that is applied in a manner that is reasonable and nondiscriminatory;

(b) the employee is incarcerated in a correctional facility for a period of time that would result in the termination of the employee's reemployment in accordance with a reasonable, written workplace rule that is applied in a manner that is reasonable and nondiscriminatory; or

(c) subject to Subsection (6), the employee is terminated from the reemployment:

(i) (A) for use of a controlled substance that the employee did not obtain under a valid prescription;

(B) for intentional abuse of a controlled substance that the employee obtained under a valid prescription, if the employee uses the controlled substance intentionally:

(I) in excess of a prescribed therapeutic amount; or

(II) in an otherwise abusive manner; or

(C) for the use of alcohol that results in intoxication from alcohol with a blood or breath alcohol concentration of .05 grams or greater; and

(ii) in accordance with a reasonable, written workplace rule that is applied in a manner that is reasonable and nondiscriminatory.

(3) Notwithstanding the other provisions of this section, the employee described in Subsection (2) is eligible for medical benefits to the extent otherwise allowed under this title.

(4) (a) An employer or the employer's insurance carrier may file an application for a hearing with the Division of Adjudication to request that an employee's disability compensation for a disability claim be reduced or terminated under this section.

(b) An action under this Subsection (4) is barred if an application for a hearing is not filed within one year from the day on which the employer terminates the employee from reemployment as described in Subsection (2).

(c) An employer or the employer's insurance carrier shall notify the employee that the employer or employer's insurance carrier has filed a request for a hearing under this section within three business days of the day on which the filing is made.

(5) (a) The commission may reduce or terminate the disability compensation of an employee for a disability claim if after a hearing requested under Subsection (4), the commission determines that the conditions of Subsection (2) are met.

(b) The commission shall issue an order as to whether or not an employee's disability compensation is reduced or terminated under this section by no later than 45 days from the day on which an application for a hearing is filed.

(c) A reduction or termination of disability compensation under this Subsection (5) takes effect on the day determined by the commission.

(d) If the disability compensation is ordered terminated or reduced, the employer or employer's insurance carrier shall treat a resulting overpayment as an offset against the employer's or employer's insurance carrier's future obligations to pay disability compensation to the employee.

(6) (a) For purposes of Subsection (2)(c), the commission may consider a chemical test that conforms to scientifically accepted analytical methods and procedures and includes verification or confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytical method showing that the employee has:

(i) in the employee's system during employment:

(A) any amount of a controlled substance or its metabolites if the employee did not obtain the controlled substance under a valid prescription; or

(B) a controlled substance the employee obtained under a valid prescription or the metabolites of the controlled substance if the amount in the employee's system is consistent with the employee using the controlled substance intentionally:

(I) in excess of prescribed therapeutic amounts; or

(II) in an otherwise abusive manner; or

(ii) a blood or breath alcohol concentration of .05 grams or greater during employment.

(b) A local governmental entity or [~~state~~]an institution of higher education shall comply with Title 34, Chapter 41, Local Governmental Entity Drug-Free Workplace Policies, in engaging in a test for a controlled substance that is the basis of a presumption under this section.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) describing factors to be considered under Subsection (2); and

(b) related to the procedures for a request for a hearing under this section.

(8) The adjudication of a dispute arising under this section is governed by Part 8, Adjudication.

(9) An issue related to an employee's cooperation with regard to a claim for compensation for permanent total disability benefits is governed by Section 34A-2-413.

Section 53. Section 34A-2-701 is amended to read:

34A-2-701 (Effective upon governor's approval). Premium assessment restricted account for safety.

(1) There is created in the General Fund a restricted account known as the "Workplace Safety Account."

(2) (a) An amount equal to 0.25% of the premium income remitted to the state treasurer pursuant to Subsection 59-9-101(2)(c)(ii) shall be deposited in the Workplace Safety Account in the General Fund for use as provided in this section.

(b) Beginning with fiscal year 2008-09, if the balance in the Workplace Safety Account exceeds $500,000 at the close of a fiscal year, the excess shall be transferred to:

(i) the Employers' Reinsurance Fund, created under Subsection 34A-2-702(1); or

(ii) if the commissioner has made the notification described in Subsection 34A-2-702(7), the Uninsured Employers' Fund created in Section 34A-2-704.

(3) The Legislature shall appropriate from the restricted account money to one or both of the following:

(a) money to the commission for use by the commission to:

(i) improve safety consultation services available to Utah employers;

(ii) provide for electronic or print media advertising campaigns designed to promote workplace safety; or

(iii) pay the salary and benefits of an employee of the commission who is an authorized representative of the Division of Occupational Safety and Health under Chapter 6, Part 3, Enforcement; and

(b) subject to Subsection (7), money known as the "Eddie P. Mayne Workplace Safety and Occupational Health Funding Program":

(i) to an institution [~~within the state system~~]of higher education, as defined in Section [~~53B-1-102~~]53H-1-101; and

(ii) to be expended by an education and research center that is:

(A) affiliated with the institution described in Subsection (3)(b)(i); and

(B) designated as an education and research center by the National Institute for Occupational Safety and Health.

(4) From money appropriated by the Legislature from the restricted account to the commission for use by the commission, the commission may fund other safety programs or initiatives recommended to it by its state workers' compensation advisory council created under Section 34A-2-107.

(5) (a) The commission shall annually report to the governor, the Legislature, and its state council regarding:

(i) the use of the money appropriated to the commission under Subsection (3) or (4); and

(ii) the impact of the use of the money on the safety of Utah's workplaces.

(b) By no later than August 15 following a fiscal year in which an education and research center receives money from an appropriation under Subsection (3)(b), the education and research center shall report:

(i) to:

(A) the governor;

(B) the Legislature;

(C) the commission; and

(D) the state workers' compensation advisory council created under Section 34A-2-107; and

(ii) regarding:

(A) the use of the money appropriated under Subsection (3)(b); and

(B) the impact of the use of the money on the safety of Utah's workplaces.

(6) The money deposited in the restricted account:

(a) shall be:

(i) used only for the activities described in Subsection (3) or (4); and

(ii) expended according to processes that can be verified by audit; and

(b) may not be used by the commission for:

(i) administrative costs unrelated to the restricted account; or

(ii) any activity of the commission other than the activities of the commission described in Subsection (3) or (4).

(7) The total of appropriations under Subsection (3)(b) may not exceed for a fiscal year an amount equal to 20% of the premium income remitted to the state treasurer pursuant to Subsection 59-9-101(2)(c) and deposited in the Workplace Safety Account during the previous fiscal year.

Section 54. Section 34A-3-101 is amended to read:

34A-3-101 (Effective upon governor's approval). Title -- Definitions.

(1) This chapter is known as the "Utah Occupational Disease Act."

(2) For purposes of this chapter:

(a) "Division" means the Division of Industrial Accidents.

(b) "Fire and rescue training program" means the program described in Section [~~53B-29-202~~]53H-4-705.

(c) (i) "Firefighter" means a member of a public fire department or other public firefighting organization that provides fire suppression and other fire-related service who is responsible for or serves in a capacity that includes responsibility for the extinguishment of fires.

(ii) "Firefighter" includes:

(A) an individual who is a designated personal protective equipment technician; or

(B) a volunteer safety officer as described in Subsection 67-20-2(10)(b)(ii).

(iii) (A) "Firefighter" does not include any other individual whose job description, duties, or responsibilities do not include direct involvement in fire suppression; or

(B) individuals who provide private suppression or other private fire-related protection services.

(d) "Presumptive cancer" means one or more of the following cancers:

(i) bladder;

(ii) brain;

(iii) colorectal;

(iv) esophageal;

(v) kidney;

(vi) leukemias;

(vii) lung;

(viii) lymphomas;

(ix) melanomas;

(x) mesotheliomas;

(xi) oropharynx;

(xii) ovarian;

(xiii) prostate;

(xiv) testicular; and

(xv) thyroid.

(e) "Rocky Mountain Center for Occupational and Environmental Health" means the center described in Section [~~53B-30-203~~]53H-5-202.

Section 55. Section 35A-1-102 is amended to read:

35A-1-102 (Effective upon governor's approval). Definitions.

Unless otherwise specified, as used in this title:

(1) "Client" means an individual who the department has determined to be eligible for services or benefits under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(2) "Department" means the Department of Workforce Services created in Section 35A-1-103.

(3) "Economic service area" means an economic service area established in accordance with Chapter 2, Economic Service Areas.

(4) "Employment assistance" means services or benefits provided by the department under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(5) "Employment center" is a location in an economic service area where the services provided by an economic service area under Section 35A-2-201 may be accessed by a client.

(6) "Employment counselor" means an individual responsible for developing an employment plan and coordinating the services and benefits under this title in accordance with Chapter 2, Economic Service Areas.

(7) "Employment plan" means a written agreement between the department and a client that describes:

(a) the relationship between the department and the client;

(b) the obligations of the department and the client; and

(c) the result if an obligation is not fulfilled by the department or the client.

(8) "Executive director" means the executive director of the department appointed under Section 35A-1-201.

(9) "Government entity" means the state or any county, municipality, special district, special service district, or other political subdivision or administrative unit of the state, [~~a state~~]an institution of higher education as defined in Section [~~53B-2-101~~]53H-1-101, or a local education agency as defined in Section 53G-7-401.

(10) "Public assistance" means:

(a) services or benefits provided under Chapter 3, Employment Support Act;

(b) medical assistance provided under Title 26B, Chapter 3, Health Care - Administration and Assistance;

(c) foster care maintenance payments provided from the General Fund or under Title IV-E of the Social Security Act;

(d) SNAP benefits; and

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the federal Food Stamp Program.

(12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or privilege available under SNAP.

(13) "Stabilization" means addressing the basic living, family care, and social or psychological needs of the client so that the client may take advantage of training or employment opportunities provided under this title or through other agencies or institutions.

(14) "Vulnerable populations" means children or adults with a life situation that substantially affects that individual's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own financial resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

Section 56. Section 35A-1-109 is amended to read:

35A-1-109 (Effective upon governor's approval). Annual report -- Content -- Format.

(1) The department shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the department, including [~~its~~]the department's divisions, offices, boards, commissions, councils, and committees, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the department, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the department to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive director, the commissioner of higher education, and the executive director of the Governor's Office of Planning and Budget;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the department that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The department shall:

(a) submit the annual report in accordance with Section 68-3-14;

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the department's website; and

(c) provide the data and metrics described in Subsection (2)(b) to the Talent, Education, and Industry Alignment Board created in Section [~~53B-34-102~~]53H-13-302.

Section 57. Section 35A-9-601 is amended to read:

35A-9-601 (Effective upon governor's approval) (Repealed 07/01/28). Definitions.

As used in this part:

(1) "529 savings account" means a tax-advantaged method of saving for higher education costs that:

(a) meets the requirements of Section 529, Internal Revenue Code; and

(b) is managed by the plan.

(2) "Beneficiary" means the individual designated:

(a) in a 529 savings account agreement between a person, an estate, or a trust and the plan; and

(b) to benefit from the amount saved in a 529 savings account.

(3) "Commission" means the State Tax Commission.

(4) "Deposit" means the payment of money from a source other than a match.

(5) "Eligible 529 savings account" means a 529 savings account for which:

(a) a qualifying individual is the account owner; and

(b) a qualifying individual or a minor dependent of a qualifying individual is a beneficiary.

(6) "Federal earned income tax credit" means the federal earned income tax credit:

(a) described in Section 32, Internal Revenue Code; and

(b) that a qualifying individual claims and is eligible to claim on the federal income tax return for the taxable year.

(7) "Match" means the monetary amount described in Subsection 35A-9-603(2).

(8) "Minor dependent" means an individual under 19 years old for whom a qualifying individual can claim a tax credit under Section 24, Internal Revenue Code, on the qualifying individual's federal income tax return for the taxable year.

(9) "Plan" means the Utah Educational Savings Plan created in Section [~~53B-8a-103~~]53H-10-202.

(10) "Program" means the Education Savings Incentive Program created in Section 35A-9-603.

(11) "Qualifying individual" means an individual who the department identifies as experiencing intergenerational poverty and who has not been disqualified from participating in the program for overclaiming a match in a previous year.

Section 58. Section 35A-9-604 is amended to read:

35A-9-604 (Effective upon governor's approval) (Repealed 07/01/28). Application for program.

(1) The department shall provide to each qualifying individual:

(a) notice of the program;

(b) information about the benefits of participating in the program;

(c) information explaining that participation in the program requires that the qualifying individual:

(i) apply for the program in accordance with this section;

(ii) be eligible for and claim a federal earned income tax credit for the taxable year before the year in which the qualifying individual applies for the program;

(iii) own one or more eligible 529 savings accounts into which a deposit is made during the same year for which the qualifying individual applies for the program; and

(iv) sign an information release;

(d) information about how to claim a federal earned income tax credit;

(e) information about how to open an eligible 529 savings account; and

(f) information about how to apply for the program.

(2) (a) To participate in the program, a qualifying individual shall complete annually an online application that includes:

(i) a means for a qualifying individual to sign the information release described in Subsection (2)(b);

(ii) a statement that the qualifying individual claimed a federal earned income tax credit for the previous taxable year;

(iii) the name of the account owner, the name of the beneficiary, and the account number of any of the qualifying individual's eligible 529 savings accounts;

(iv) the amount of deposit into one or more of the qualifying individual's eligible 529 savings accounts during the calendar year in which the application is made;

(v) the allocation of the match among the qualifying individual's eligible 529 savings accounts; and

(vi) any other information required by the department, the plan, or the commission to administer the program.

(b) The department, the plan, and the commission shall develop an information release that directs and allows:

(i) the department to report to the plan:

(A) the name and identifying information of the qualifying individual;

(B) contact information for the qualifying individual; and

(C) the name of the account owner, the name of the beneficiary, and the account number of any eligible 529 savings account;

(ii) the plan to report to the department:

(A) the account number, name of the account owner, and the name of the beneficiary for each eligible 529 savings account into which a deposit was made during the calendar year; and

(B) the amount of deposit made into each eligible 529 savings account for the calendar year;

(iii) the department to disclose to the commission, if the plan lists the qualifying individual on the report described in Section [~~53B-8a-302~~]53H-10-402, the name and identifying information of the qualifying individual; and

(iv) the commission to disclose to the department, whether the qualifying individual claimed a federal earned income tax credit on the qualifying individual's federal income tax return for a taxable year.

(3) (a) The department shall provide to the plan the information described in Subsection (2)(b)(i) for each qualifying individual that the department determines completes the application requirements described in Subsection (2).

(b) The department shall provide the information described in Subsection (3)(a):

(i) in a single report; and

(ii) with information about which calendar year the department requests a report under Section [~~53B-8a-302~~]53H-10-402.

(4) (a) The department may provide to the commission the information described in Subsection (2)(b)(iii) for each qualifying individual that the plan lists on the report described in Section [~~53B-8a-302~~]53H-10-402.

(b) The department shall provide the information described in Subsection (4)(a):

(i) in a single report; and

(ii) with information about which calendar year the department requires a disclosure under Subsection 59-1-403(4)(aa).

(5) The department, the plan, and the commission shall provide for the security and maintenance of confidentiality of any information shared under an information release.

(6) (a) The department shall determine whether an applicant for the program:

(i) is a qualifying individual; and

(ii) meets the program requirements described in this section.

(b) An applicant may not appeal the department's determination that the applicant is not a qualifying individual.

(c) An applicant may reapply if the department later identifies the applicant as a qualifying individual.

Section 59. Section 36-12-15.1 is amended to read:

36-12-15.1 (Effective upon governor's approval). Systemic performance audits.

(1) As used in this section, "entity" means:

(a) an entity in the executive branch that receives an ongoing line item appropriation in an appropriations act; and

(b) any local education agency, as defined in Section 53E-1-102, that receives public funds.

(2) (a) Each year, subject to the availability of work capacity and the discretion of the Legislative Audit Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General may, in addition to other audits performed by the office, perform a systemic performance audit of:

(i) one or more executive branch entities;

(ii) one or more local education agencies;

(iii) one or more institutions of higher education as defined in Section 53H-1-101; and

(iv) one or more independent entities.

(b) An audit performed under Subsection (2)(a) shall, as is appropriate for each individual audit:

(i) evaluate the extent to which the entity has efficiently and effectively used the appropriation by identifying:

(A) the entity's appropriation history;

(B) the entity's spending and efficiency history; and

(C) historic trends in the entity's operational performance effectiveness;

(ii) evaluate whether the entity's size and operation are commensurate with the entity's spending history;

(iii) evaluate whether the entity is diligent in [~~its~~]the entity's stewardship of resources;

(iv) provide a systemic performance audit of the entity's operations performance improvements;

(v) if possible, incorporate the audit methodology of other audits performed by the Office of the Legislative Auditor General; and

(vi) be conducted according to the process established for the Legislative Audit Subcommittee.

(c) In conducting an audit of an institution of higher education, as defined in Section 53H-1-101, under Subsection (2)(a)(iii), the Office of the Legislator Auditor General shall, in addition to the subjects of evaluation described in Subsection (2)(b), review the institution's admissions practices for:

(i) compliance with applicable laws, rules, and policies;

(ii) best practices; and

(iii) efficiency and effectiveness.

(d) After releasing an audit report under Subsection (2)(a), the Legislative Audit Subcommittee shall make the audit report available to:

(i) each member of the Senate and the House of Representatives; and

(ii) the governor or the governor's designee.

(e) The Office of the Legislative Auditor General shall:

(i) summarize the findings of an audit described in Subsection (2)(a); and

(ii) provide a copy of each audit report and the annual report to the legislative fiscal analyst and director of the Office of Legislative Research and General Counsel as soon as each report is completed.

(3) The Office of the Legislative Auditor General may consult with the Office of the Legislative Fiscal Analyst or the Office of Legislative Research and General Counsel in preparing the summary required by [~~Subsection (2)(d)~~]Subsection (2)(e).

(4) The Legislature, in evaluating an entity's request for an increase in its base budget, shall:

(a) review the audit report required by this section and any relevant audits; and

(b) consider the entity's request for an increase in its base budget in light of the entity's prior history of savings and efficiencies as evidenced by the audit report required by this section.

Section 60. Section 36-12-15.4 is amended to read:

36-12-15.4 (Effective upon governor's approval). Legislative auditor general -- Review of Utah System of Higher Education.

(1) As used in this section:

(a) "Board" means the Utah Board of Higher Education, created in Section [~~53B-1-402~~]53H-1-203.

(b) "Institution" means [~~an institution within the Utah System of Higher Education~~]the same as that term is defined in Section 53H-1-101.

(c) "Office" means the Office of the Legislative Auditor General created in Section 36-12-15.

(d) "System" means the Utah System of Higher Education described in Section [~~53B-1-102~~]53H-1-102.

(2) As directed by the Legislative Audit Subcommittee, the office may:

(a) review and monitor the system, board, and an institution;

(b) identify areas where the system, board, and an institution can enhance performance, effectiveness, and efficiency, or otherwise meet responsibilities set forth for the system in statute; and

(c) establish a list of high-risk programs, operations, and functions in the system that may require executive action, or have capacity for improved efficiency or effectiveness.

(3) Upon request, the system, board, or an institution shall provide to the office information, materials, or resources in accordance with Subsection 36-12-15(8).

(4) The legislative auditor general shall report findings to and regularly update the Legislative Audit Subcommittee and board.

Section 61. Section 41-1a-1601 is amended to read:

41-1a-1601 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Applicant" means a registered owner who submits an application to obtain or renew a sponsored special group license plate in accordance with this part.

(2) (a) "Charitable purpose" means:

(i) relief of the poor, the distressed, or the underprivileged;

(ii) advancement of religion;

(iii) advancement of education or science;

(iv) erecting or maintaining a public building, monument, or work;

(v) reducing the burdens of government;

(vi) reducing neighborhood tensions;

(vii) eliminating prejudice and discrimination;

(viii) defending human rights and civil rights secured by law; or

(ix) combating community deterioration and juvenile delinquency.

(b) "Charitable purpose" does not include providing, encouraging, or paying for the costs of obtaining an abortion.

(3) "Collegiate special group license plate" means a sponsored special group license plate issued to a contributor to an institution.

(4) "Contributor" means an applicant who contributes the required contribution to a sponsoring organization for a sponsored special group license plate.

(5) "Corporate brand sponsored special group license plate" means a sponsored special group license plate with a sponsoring organization that is a private business.

(6) (a) "Existing special group license plate" means a special group license plate that the division issues before January 1, 2024.

(b) "Existing special group license plate" does not include a special group license plate described in Subsection 41-1a-418(1)(a) or (b).

(7) "Existing state agency recognition special group license plate" means an existing special group license plate issued to a registered owner who:

(a) has a special license that supports or furthers a government purpose;

(b) has received an honor that supports or furthers a government purpose;

(c) has achieved an accomplishment that supports or furthers a government purpose; or

(d) holds an elected office.

(8) "Institution" means:

(a) [~~a state~~]an institution of higher education as defined in Section [~~53B-3-102~~]53H-1-101; or

(b) [~~a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education~~]a private postsecondary educational institution as defined in Section 53H-1-101.

(9) "Major league sport" means the same as that term is defined in Section 11-70-101.

(10) (a) "Private nonprofit organization" means a private nonprofit organization that:

(i) qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

(ii) has a charitable purpose.

(b) "Private nonprofit organization" does not include an organization that provides, encourages, or pays for the costs of obtaining an abortion.

(11) "Private nonprofit special group license plate" means a sponsored special group license plate issued to a contributor to a private nonprofit organization.

(12) "Required contribution" means:

(a) the minimum annual contribution amount established under Subsection 41-1a-1603(4)(a)(iii); or

(b) if the sponsoring organization establishes a minimum annual contribution amount in accordance with Subsection 41-1a-1603(4)(b) that is greater than the minimum required contribution amount established under Subsection 41-1a-1603(4)(a)(iii), the amount the sponsoring organization establishes.

(13) "Special group license plate" means:

(a) a collegiate special group license plate;

(b) a private nonprofit special group license plate;

(c) a corporate brand sponsored special group license plate;

(d) a major league sports team sponsored special group license plate;

(e) a sponsored special group license plate;

(f) a state agency recognition special group license plate; or

(g) a state agency support special group license plate.

(14) "Sponsored special group license plate" means a license plate:

(a) designed for and associated with a sponsoring organization; and

(b) issued to an applicant in accordance with this part.

(15) "Sponsoring organization" means an institution, a private nonprofit organization, a private business, or a state agency that is or seeks to be associated with a sponsored special group license plate created under this part.

(16) "State agency recognition special group license plate" means a sponsored special group license plate issued to an applicant who:

(a) has a special license that supports or furthers a government purpose;

(b) has received an honor that supports or furthers a government purpose;

(c) has achieved an accomplishment that supports or furthers a government purpose; or

(d) holds an elected office.

(17) (a) "State agency support special group license plate" means:

(i) a sponsored special group license plate issued to a contributor to a state agency to support a specific state agency program; or

(ii) an existing special group license plate issued for a special interest vehicle.

(b) "State agency support special group license plate" includes a cancer support license plate created by an act of the Legislature before December 31, 2022.

Section 62. Section 41-1a-1605 is amended to read:

41-1a-1605 (Effective upon governor's approval). Collegiate special group license plates.

(1) A sponsoring organization that is an institution may use funds received through the sponsored special group license plate program only for:

(a) the institution's academic scholarships; or

(b) the institution's intercollegiate athletics program for compensation for a student athlete's name, image, or likeness as described in [~~Title 53B, Chapter 16, Part 6, Use of Student Athlete's Name, Image, and Likeness in Collegiate Athletics~~]Title 53H, Chapter 6, Part 2, Athletics.

(2) The state auditor may audit each institution to verify that the money an institution collects from contributors is used only for the uses described in Subsection (1).

(3) A sponsoring organization that is an institution may establish the contribution amount required to obtain the institution's collegiate special group license plate.

Section 63. Section 41-6a-2003 is amended to read:

41-6a-2003 (Effective upon governor's approval). Automatic license plate reader systems -- Restrictions.

(1) Except as provided in Subsection (2), a governmental entity may not use an automatic license plate reader system.

(2) Subject to Subsection (3), an automatic license plate reader system may be used:

(a) by a law enforcement agency to access captured license plate data:

(i) as part of an active criminal investigation;

(ii) to apprehend an individual with an outstanding warrant;

(iii) to locate a missing or endangered person; or

(iv) to locate a stolen vehicle;

(b) by a law enforcement agency to access the Utah Criminal Justice Information System to:

(i) verify valid vehicle registration information;

(ii) confirm vehicle identification;

(iii) verify insurance information; or

(iv) identify a stolen vehicle;

(c) by a governmental parking enforcement entity for the purpose of enforcing state and local parking laws;

(d) by a parking enforcement entity for regulating the use of a parking facility;

(e) for the purpose of controlling access to a secured area;

(f) for the purpose of collecting an electronic toll;

(g) for the purpose of enforcing motor carrier laws;

(h) by a public transit district for the purpose of assessing parking needs and conducting a travel pattern analysis;

(i) by an institution of higher education [~~within the state system of higher education~~]as described in Section [~~53B-1-102~~]53H-1-102:

(i) for a purpose described in Subsections (2)(a) through (e); or

(ii) if the data collected is anonymized, for research and educational purposes;

(j) by the Utah Inland Port Authority, created in Section 11-58-201, or by a contractor of the Utah Inland Port Authority with the approval of the board of the Utah Inland Port Authority, if:

(i) the automatic license plate reader system is used only within a project area, as defined in Section 11-58-102, of the Utah Inland Port Authority;

(ii) the purpose of using the automatic license plate reader system is to improve supply chain efficiency or the efficiency of the movement of goods by analyzing and researching data related to commercial vehicle traffic; and

(iii) specific license plate information is anonymized; or

(k) by an international airport owned by a governmental entity for the purpose of promoting efficient regulation and implementation of traffic control and direction, parking, security, and other similar operational objectives on the airport campus.

(3) A law enforcement agency may not use an automatic license plate reader system unless:

(a) the law enforcement agency has a written policy regarding the use, management, and auditing of the automatic license plate reader system;

(b) for any stationary device installed with the purpose of capturing license plate data of vehicles traveling on a state highway, the law enforcement agency obtains a special use permit as described in Section 72-1-212 from the Department of Transportation before installing the device; and

(c) the policy under Subsection (3)(a) and any special use permits granted in accordance with Subsection (3)(b) are:

(i) posted and publicly available on the appropriate city, county, or state website; or

(ii) posted on the Utah Public Notice Website created in Section 63A-16-601 if the law enforcement agency does not have access to a website under Subsection (3)(c)(i).

Section 64. Section 49-11-102 is amended to read:

49-11-102 (Effective upon governor's approval). Definitions.

As used in this title:

(1) (a) "Active member" means a member who:

(i) is employed by a participating employer and accruing service credit; or

(ii) within the previous 120 days:

(A) has been employed by a participating employer; and

(B) accrued service credit.

(b) "Active member" does not include a retiree.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of mortality tables as recommended by the actuary and adopted by the executive director, including regular interest.

(3) "Actuarial interest rate" means the interest rate as recommended by the actuary and adopted by the board upon which the funding of system costs and benefits are computed.

(4) (a) "Agency" means:

(i) a department, division, agency, office, authority, commission, board, institution, or hospital of the state;

(ii) a county, municipality, school district, special district, or special service district;

(iii) a state college or university; or

(iv) any other participating employer.

(b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a subdivision of another entity listed under Subsection (4)(a).

(5) "Allowance" or "retirement allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.

(6) "Alternate payee" means a member's former spouse or family member eligible to receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

(7) "Amortization rate" means the board certified percent of salary required to amortize the unfunded actuarial accrued liability in accordance with policies established by the board upon the advice of the actuary.

(8) "Annuity" means monthly payments derived from member contributions.

(9) "Appointive officer" means an employee appointed to a position for a definite and fixed term of office by official and duly recorded action of a participating employer whose appointed position is designated in the participating employer's charter, creation document, or similar document, and:

(a) who earns $500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407 for a Tier I appointive officer; and

(b) whose appointive position is full-time as certified by the participating employer for a Tier II appointive officer.

(10) (a) "At-will employee" means a person who is employed by a participating employer and:

(i) who is not entitled to merit or civil service protection and is generally considered exempt from a participating employer's merit or career service personnel systems;

(ii) whose on-going employment status is entirely at the discretion of the person's employer; or

(iii) who may be terminated without cause by a designated supervisor, manager, or director.

(b) "At-will employee" does not include a career employee who has obtained a reasonable expectation of continued employment based on inclusion in a participating employer's merit system, civil service protection system, or career service personnel systems, policies, or plans.

(11) "Beneficiary" means any person entitled to receive a payment under this title through a relationship with or designated by a member, participant, covered individual, or alternate payee of a defined contribution plan.

(12) "Board" means the Utah State Retirement Board established under Section 49-11-202.

(13) "Board member" means a person serving on the Utah State Retirement Board as established under Section 49-11-202.

(14) "Board of Higher Education" or "Utah Board of Higher Education" means the Utah Board of Higher Education described in Section [~~53B-1-402~~]53H-1-203.

(15) "Certified contribution rate" means the board certified percent of salary paid on behalf of an active member to the office to maintain the system on a financially and actuarially sound basis.

(16) "Contributions" means the total amount paid by the participating employer and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act.

(17) "Council member" means a person serving on the Membership Council established under Section 49-11-205.

(18) "Covered individual" means any individual covered under Chapter 20, Public Employees' Benefit and Insurance Program Act.

(19) "Current service" means covered service under:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act;

(e) Chapter 16, Firefighters' Retirement Act;

(f) Chapter 17, Judges' Contributory Retirement Act;

(g) Chapter 18, Judges' Noncontributory Retirement Act;

(h) Chapter 19, Utah Governors' and Legislators' Retirement Act;

(i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(20) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's spouse after retirement that is based on a set formula involving one or more of the following factors:

(a) years of service;

(b) final average monthly salary; or

(c) a retirement multiplier.

(21) "Defined contribution" or "defined contribution plan" means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code and administered by the board.

(22) "Educational institution" means a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including:

(a) the State Board of Education and its instrumentalities;

(b) any institution of higher education and its branches;

(c) any school district and its instrumentalities;

(d) any vocational and technical school; and

(e) any entity arising out of a consolidation agreement between entities described under this Subsection (22).

(23) "Elected official":

(a) means a person elected to a state office, county office, municipal office, school board or school district office, special district office, or special service district office;

(b) includes a person who is appointed to serve an unexpired term of office described under Subsection (23)(a); and

(c) does not include a judge or justice who is subject to a retention election under Section 20A-12-201.

(24) (a) "Employer" means any department, educational institution, or political subdivision of the state eligible to participate in a government-sponsored retirement system under federal law.

(b) "Employer" may also include an agency financed in whole or in part by public funds.

(25) "Exempt employee" means an employee working for a participating employer:

(a) who is not eligible for service credit under Section 49-12-203, 49-13-203, 49-14-203, 49-15-203, or 49-16-203; and

(b) for whom a participating employer is not required to pay contributions or nonelective contributions.

(26) "Final average monthly salary" means the amount computed by dividing the compensation received during the final average salary period under each system by the number of months in the final average salary period.

(27) "Fund" means any fund created under this title for the purpose of paying benefits or costs of administering a system, plan, or program.

(28) (a) "Inactive member" means a member who has not been employed by a participating employer for a period of at least 120 days.

(b) "Inactive member" does not include retirees.

(29) (a) "Initially entering" means hired, appointed, or elected for the first time, in current service as a member with any participating employer.

(b) "Initially entering" does not include a person who has any prior service credit on file with the office.

(c) "Initially entering" includes an employee of a participating employer, except for an employee that is not eligible under a system or plan under this title, who:

(i) does not have any prior service credit on file with the office;

(ii) is covered by a retirement plan other than a retirement plan created under this title; and

(iii) moves to a position with a participating employer that is covered by this title.

(30) "Institution of higher education" means an institution described in Section [~~53B-1-102~~]53H-1-102.

(31) (a) "Member" means a person, except a retiree, with contributions on deposit with a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act, or with a terminated system.

(b) "Member" also includes leased employees within the meaning of Section 414(n)(2) of the Internal Revenue Code, if the employees have contributions on deposit with the office. If leased employees constitute less than 20% of the participating employer's work force that is not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code, "member" does not include leased employees covered by a plan described in Section 414(n)(5) of the federal Internal Revenue Code.

(32) "Member contributions" means the sum of the contributions paid to a system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if allowed by a system, and which are made by:

(a) the member; and

(b) the participating employer on the member's behalf under Section 414(h) of the Internal Revenue Code.

(33) "Nonelective contribution" means an amount contributed by a participating employer into a participant's defined contribution account.

(34) "Normal cost rate":

(a) means the percent of salary that is necessary for a retirement system that is fully funded to maintain its fully funded status; and

(b) is determined by the actuary based on the assumed rate of return established by the board.

(35) "Office" means the Utah State Retirement Office.

(36) "Participant" means an individual with voluntary deferrals or nonelective contributions on deposit with the defined contribution plans administered under this title.

(37) "Participating employer" means a participating employer, as defined by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges' Noncontributory Retirement Act, or an agency financed in whole or in part by public funds which is participating in a system or plan as of January 1, 2002.

(38) "Part-time appointed board member" means a person:

(a) who is appointed to serve as a member of a board, commission, council, committee, or panel of a participating employer; and

(b) whose service as a part-time appointed board member does not qualify as a regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102.

(39) "Pension" means monthly payments derived from participating employer contributions.

(40) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under Section 49-11-801.

(41) (a) "Political subdivision" means any local government entity, including cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally separate and distinct from the state and only if its employees are not by virtue of their relationship to the entity employees of the state.

(b) "Political subdivision" includes special districts, special service districts, or authorities created by the Legislature or by local governments, including the office.

(c) "Political subdivision" does not include a project entity created under Title 11, Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

(42) "Program" means the Public Employees' Insurance Program created under Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees' Long-Term Disability program created under Chapter 21, Public Employees' Long-Term Disability Act.

(43) "Public funds" means those funds derived, either directly or indirectly, from public taxes or public revenue, dues or contributions paid or donated by the membership of the organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the governmental, educational, and social programs and systems of the state or its political subdivisions.

(44) "Qualified defined contribution plan" means a defined contribution plan that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

(45) "Refund interest" means the amount accrued on member contributions at a rate adopted by the board.

(46) "Retiree" means an individual who has qualified for an allowance under this title.

(47) "Retirement" means the status of an individual who has become eligible, applies for, and is entitled to receive an allowance under this title.

(48) "Retirement date" means the date selected by the member on which the member's retirement becomes effective with the office.

(49) "Retirement related contribution":

(a) means any employer payment to any type of retirement plan or program made on behalf of an employee; and

(b) does not include Social Security payments or Social Security substitute payments made on behalf of an employee.

(50) "Service credit" means:

(a) the period during which an employee is employed and compensated by a participating employer and meets the eligibility requirements for membership in a system or the Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are paid to the office; and

(b) periods of time otherwise purchasable under this title.

(51) "Surviving spouse" means:

(a) the lawful spouse who has been married to a member for at least six months immediately before the death date of the member; or

(b) a former lawful spouse of a member with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612.

(52) "System" means the individual retirement systems created by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

(53) "Technical college" means the same as that term is defined in Section [~~53B-1-101.5~~]53H-1-101.

(54) "Tier I" means a system or plan under this title for which:

(a) an employee is eligible to participate if the employee initially enters regular full-time employment before July 1, 2011; or

(b) a governor or legislator who initially enters office before July 1, 2011.

(55) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I system or plan for an employee, governor, legislator, or full-time elected official who does not have Tier I service credit in a system or plan under this title:

(i) if the employee initially enters regular full-time employment on or after July 1, 2011; or

(ii) if the governor, legislator, or full-time elected official initially enters office on or after July 1, 2011.

(b) "Tier II" includes:

(i) the Tier II hybrid system established under:

(A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

(B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

(ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

(A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

(56) "Unfunded actuarial accrued liability" or "UAAL":

(a) is determined by the system's actuary; and

(b) means the excess, if any, of the accrued liability of a retirement system over the actuarial value of its assets.

(57) "Voluntary deferrals" means an amount contributed by a participant into that participant's defined contribution account.

Section 65. Section 49-11-623 is amended to read:

49-11-623 (Effective upon governor's approval). Withdrawing entity -- Participation election date -- Withdrawal costs -- Rulemaking.

(1) As used in this section, "withdrawing entity" means an entity that:

(a) participates in a system or plan under this title prior to July 1, 2014;

(b) provides mental health and substance abuse services for a county under Section 17-50-318;

(c) after beginning participation with a system or plan under this title, has modified its federal tax status to a nonprofit organization that qualifies under Section 501(c) of the Internal Revenue Code; and

(d) is not [~~a state~~]an institution of higher education as described in Section [~~53B-2-101~~]53H-1-102.

(2) Notwithstanding any other provision of this title, a withdrawing entity may provide for the participation of its employees with that system or plan as follows:

(a) the withdrawing entity shall determine a date that is no later than January 1, 2017, on which the withdrawing entity shall make an election under Subsection (3); and

(b) subject to the provisions of Subsection (6), the withdrawing entity shall pay to the office any reasonable actuarial and administrative costs determined by the office to have arisen out of an election made under this section, including an actuarially determined short-fall liability contribution and a contingency payment to provide financial protection to the remaining participating employers.

(3) The withdrawing entity described under Subsection (2) may elect to:

(a) (i) continue its participation for all current employees of the withdrawing entity, who are covered by a system or plan as of the date set under Subsection (2)(a); and

(ii) withdraw from participation in all systems or plans for all persons initially entering employment with the withdrawing entity, beginning on the date set under Subsection (2)(a); or

(b) withdraw from participation in all systems or plans for all current and future employees of the withdrawing entity, beginning on the date set under Subsection (2)(a).

(4) (a) An election provided under Subsection (3):

(i) is a one-time election made no later than the date specified under Subsection (2)(a);

(ii) shall be documented by a resolution adopted by the governing body of the withdrawing entity;

(iii) is irrevocable; and

(iv) applies to the withdrawing entity as the employer and to all employees of the withdrawing entity.

(b) Notwithstanding an election made under Subsection (3), any eligibility for service credit earned by an employee under this title before the date specified under Subsection (2)(a) is not affected by this section.

(5) If a withdrawing entity elects to continue participation under Subsection (3), the withdrawing entity shall continue to be subject to the laws and the rules governing the system or plan in which an employee participates, including the accrual of service credit and payment of contributions.

(6) Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on:

(a) the costs described under Subsection (2)(b); and

(b) arrangements for the payment of the costs described under Subsection (2)(b).

(7) The board shall make rules to implement this section.

Section 66. Section 49-20-202 is amended to read:

49-20-202 (Effective upon governor's approval). Establishment of separate risk pools.

(1) The program shall establish separate risk pools for:

(a) state employees; and

(b) the Utah Children's Health Insurance Program.

(2) In accordance with participation standards established by the program, the following entities may elect to participate in the risk pool established under Subsection (1)(a):

(a) in accordance with Subsection (3)(b), an institution of higher education designated under Section [~~53B-1-102~~]53H-1-102 with a total full-time equivalent enrollment of less than 18,000;

(b) an independent entity as defined in Section 63E-1-102; and

(c) a comprehensive regional college.

(3) (a) The program shall create risk pools for other covered employers separate from those created in Subsection (1) as determined by the program.

(b) (i) If an institution of higher education described in Subsection (2)(a) has 1,000 or more plan enrollees, the program shall establish a rate for the institution of higher education based 100% on experience; and

(ii) if the rate established under Subsection (3)(b)(i) is:

(A) less than the risk pool rate established for the state employees' risk pool, the program may include the institution of higher education in the state employees' risk pool described in Subsection (1)(a); or

(B) more than the risk pool rate established for the state employees' risk pool, the program shall create a risk pool for the institution of higher education that is separate from the state employees' risk pool under Subsection (1)(a).

Section 67. Section 51-4-1 is amended to read:

51-4-1 (Effective upon governor's approval). Deposits by state officers, boards, commissions, institutions, departments, divisions, agencies, and similar instrumentalities.

(1) As used in this section, "agency" means each officer, board, commission, institution, department, division, agency, and other similar instrumentality of the state of Utah.

(2) Except as provided under Section [~~53B-7-601~~]53H-8-502, or through the receipt of a written variance from the state treasurer, each agency shall deposit daily, if practicable, but no later than once every three banking days, all collections of state money and other public funds with:

(a) the state treasurer; or

(b) a qualified depository for the credit of the state.

(3) The state treasurer may make policies governing the reporting and remitting of these funds.

Section 68. Section 51-7-2 is amended to read:

51-7-2 (Effective upon governor's approval) (Partially Repealed 07/01/27). Exemptions from chapter.

(1) Except as provided in Subsection (2), the following funds are exempt from this chapter:

(a) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(b) funds of the Utah State Retirement Board;

(c) funds of the Utah Housing Corporation;

(d) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section [~~53B-7-802~~]53H-8-402;

(e) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(f) the State Post-Retirement Benefits Trust Fund;

(g) the funds of the Utah Educational Savings Plan;

(h) funds of the permanent state trust fund created by and operated under Utah

Constitution, Article XXII, Section 4;

(i) the funds in the Navajo Trust Fund;

(j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(k) the funds in the Employers' Reinsurance Fund;

(l) the funds in the Uninsured Employers' Fund;

(m) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 26B-1-331;

(n) the funds in the Risk Management Fund created in Section 63A-4-201;

(o) the Utah fund of funds created in Section 63N-6-401;

(p) the funds deposited into the Utah Homes Investment Program from the Transportation Infrastructure General Fund Support Subfund created in Section 72-2-134;

(q) subject to Subsection 67-4-19(2), the portion of the funds in the following accounts invested by the state treasurer in precious metals:

(i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;

(ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;

(iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and

(iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in Section 63J-1-315;

(r) except as provided in Section 11-13-533, the funds of a public agency insurance mutual as that term is defined in Subsection 31A-1-103(7)(a);

(s) the State Sovereignty Fund created in Section 51-13-201; and

(t) the funds in the Opioid Litigation Proceeds Fund, created in Section 51-9-801.

(2) Except for the funds of the Utah State Retirement Board and the Utah Educational Savings Plan, the funds described in Subsection (1) are not exempt from Subsections 51-7-14(2) and (3).

(3) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, a public body that administers a fund described in Subsection (1) may hold a closed meeting to discuss the sale or purchase of identifiable securities, investment funds, or investment contracts.

(4) A paper, electronic, or other depiction or record of information relating to investment activities of a fund described in Subsection (1) is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Section 69. Section 51-7-3 is amended to read:

51-7-3 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Agent" means the same as that term is defined in Section 61-1-13.

(2) "Certified dealer" means:

(a) a primary reporting dealer recognized by the Federal Reserve Bank of New York who is certified by the director as having met the applicable criteria of council rule; or

(b) a broker dealer who:

(i) has and maintains an office and a resident registered principal in the state;

(ii) meets the capital requirements established by council rules;

(iii) meets the requirements for good standing established by council rule; and

(iv) is certified by the director as meeting quality criteria established by council rule.

(3) "Certified investment adviser" means a federal covered adviser, as defined in Section 61-1-13, or an investment adviser, as defined in Section 61-1-13, who is certified by the director as having met the applicable criteria of council rule.

(4) "Commissioner" means the commissioner of financial institutions.

(5) "Council" means the State Money Management Council created by Section 51-7-16.

(6) "Covered bond" means a publicly placed debt security issued by a bank, other regulated financial institution, or a subsidiary of either that is secured by a pool of loans that remain on the balance sheet of the issuer or its subsidiary.

(7) "Director" means the director of the Utah State Division of Securities of the Department of Commerce.

(8) (a) "Endowment funds" means gifts, devises, or bequests of property of any kind donated to a higher education institution from any source.

(b) "Endowment funds" does not mean money used for the general operation of a higher education institution that is received by the higher education institution from:

(i) state appropriations;

(ii) federal contracts;

(iii) federal grants;

(iv) private research grants; and

(v) tuition and fees collected from students.

(9) "First tier commercial paper" means commercial paper rated by at least two nationally recognized statistical rating organizations in the highest short-term rating category.

(10) "Funds functioning as endowments" means funds, regardless of source, whose corpus is intended to be held in perpetuity by formal institutional designation according to the institution's policy for designating those funds.

(11) "GASB" or "Governmental Accounting Standards Board" means the Governmental Accounting Standards Board that is responsible for accounting standards used by public entities.

(12) "Hard put" means an unconditional sell-back provision or a redemption provision applicable at issue to a note or bond, allowing holders to sell their holdings back to the issuer or to an equal or higher-rated third party provider at specific intervals and specific prices determined at the time of issuance.

(13) "Higher education institution" means the institutions specified in Section [~~53B-1-102~~]53H-1-102.

(14) "Investment adviser representative" means the same as that term is defined in Section 61-1-13.

(15) (a) "Investment agreement" means any written agreement that has specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate.

(b) "Investment agreement" includes any agreement to supply investments on one or more future dates.

(16) "Local government" means a county, municipality, school district, special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(17) "Market value" means market value as defined in the Master Repurchase Agreement.

(18) "Master Repurchase Agreement" means the current standard Master Repurchase Agreement approved by the Public Securities Association or by any successor organization.

(19) "Maximum amount" means, with respect to qualified depositories, the total amount of:

(a) deposits in excess of the federal deposit insurance limit; and

(b) nonqualifying repurchase agreements.

(20) "Money market mutual fund" means an open-end managed investment fund:

(a) that complies with the diversification, quality, and maturity requirements of Rule 2a-7 or any successor rule of the Securities and Exchange Commission applicable to money market mutual funds; and

(b) that assesses no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated.

(21) "Nationally recognized statistical rating organization" means an organization that has been designated as a nationally recognized statistical rating organization by the Securities and Exchange Commission's Division of Market Regulation.

(22) "Nonqualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a qualified depository arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers that is:

(a) evidenced by a safekeeping receipt issued by the qualified depository;

(b) included in the depository's maximum amount of public funds; and

(c) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

(23) "Operating funds" means current balances and other funds that are to be disbursed for operation of the state government or any of its boards, commissions, institutions, departments, divisions, agencies, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.

(24) "Permanent funds" means funds whose principal may not be expended, the earnings from which are to be used for purposes designated by law.

(25) "Permitted depository" means any out-of-state financial institution that meets quality criteria established by rule of the council.

(26) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.

(27) (a) "Public money" means "public funds."

(b) "Public money," as used in Article VII, Sec. 15, Utah Constitution, means the same as "state funds."

(28) "Public treasurer" includes the state treasurer and the official of any state board, commission, institution, department, division, agency, or other similar instrumentality, or of any county, city, school district, charter school, political subdivision, or other public body who has the responsibility for the safekeeping and investment of any public funds.

(29) "Public Treasurers' Investment Fund" means the public fund created for any public funds transferred by a public treasurer to the state treasurer in accordance with Section 51-7-5.

(30) "Qualified depository" means a Utah depository institution or an out-of-state depository institution, as those terms are defined in Section 7-1-103, that is authorized to conduct business in this state under Section 7-1-702 or Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, whose deposits are insured by an agency of the federal government and that has been certified by the commissioner of financial institutions as having met the requirements established under this chapter and the rules of the council to be eligible to receive deposits of public funds.

(31) "Qualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a financial institution or government securities dealer acting as principal arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers only if purchased securities are:

(a) delivered to the public treasurer's safekeeping agent or custodian as contemplated by Section 7 of the Master Repurchase Agreement; and

(b) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

(32) "Reciprocal deposits" means deposits that are initially deposited into a qualified depository and are then redeposited through a deposit account registry service:

(a) in one or more FDIC-insured depository institutions in amounts up to the relevant FDIC-insured deposit limit for a depositor in each depository institution; and

(b) in exchange for reciprocal FDIC-insured deposits made through the deposit account registry service to the qualified depository.

(33) "Securities division" means Utah's Division of Securities created within the Department of Commerce by Section 13-1-2.

(34) "State funds" means:

(a) public money raised by operation of law for the support and operation of the state government; and

(b) all other money, funds, and accounts, regardless of the source from which the money, funds, or accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities.

Section 70. Section 51-7-11 is amended to read:

51-7-11 (Effective upon governor's approval). Authorized deposits or investments of public funds.

(1) (a) Except as provided in Subsections (1)(b) through (1)(d), a public treasurer shall conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities.

(b) A public treasurer may designate a certified investment adviser to make trades on behalf of the public treasurer.

(c) A public treasurer may make a deposit in accordance with Section [~~53B-7-601~~]53H-8-502 in a foreign depository institution as defined in Section 7-1-103.

(d) The state treasurer is exempt from the requirement to conduct investment transactions through a certified dealer under Subsection (1)(a).

(2) The remaining term to maturity of the investment may not exceed the period of availability of the funds to be invested.

(3) Except as provided in Subsection (4), all public funds shall be deposited or invested in the following assets that meet the criteria of Section 51-7-17:

(a) negotiable or nonnegotiable deposits of qualified depositories;

(b) qualifying or nonqualifying repurchase agreements and reverse repurchase agreements with qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools;

(v) Federal Agriculture Mortgage Corporation pools; or

(vi) other investments authorized by this section;

(c) qualifying repurchase agreements and reverse repurchase agreements with certified dealers, permitted depositories, or qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools; or

(v) other investments authorized by this section;

(d) commercial paper that is classified as "first tier" by two nationally recognized statistical rating organizations, which has a remaining term to maturity of:

(i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or

(ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);

(e) bankers' acceptances that:

(i) are eligible for discount at a Federal Reserve bank; and

(ii) have a remaining term to maturity of 270 days or fewer;

(f) fixed rate negotiable deposits issued by a permitted depository that have a remaining term to maturity of 365 days or fewer;

(g) obligations of the United States Treasury, including United States Treasury bills, United States Treasury notes, and United States Treasury bonds that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less;

(ii) if the funds are invested by an institution of higher education as defined in Section [~~53B-3-102~~]53H-1-101, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a reserve fund, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(h) obligations other than mortgage pools and other mortgage derivative products that:

(i) are issued by, or fully guaranteed as to principal and interest by, the following agencies or instrumentalities of the United States in which a market is made by a primary reporting government securities dealer, unless the agency or instrumentality has become private and is no longer considered to be a government entity:

(A) Federal Farm Credit banks;

(B) Federal Home Loan banks;

(C) Federal National Mortgage Association;

(D) Federal Home Loan Mortgage Corporation;

(E) Federal Agriculture Mortgage Corporation; and

(F) Tennessee Valley Authority; and

(ii) unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(A) five years or less;

(B) if the funds are invested by an institution of higher education as defined in Section [~~53B-3-102~~]53H-1-101, a city of the first class, or a county of the first class, 10 years or less; or

(C) if the funds are invested by a reserve fund, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(i) fixed rate corporate obligations that:

(i) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(iii) are publicly traded; and

(iv) have a remaining term to final maturity of 15 months or less or are subject to a hard put at par value or better, within 365 days;

(j) tax anticipation notes and general obligation bonds of the state or a county, incorporated city or town, school district, or other political subdivision of the state, including bonds offered on a when-issued basis without regard to the limitations described in Subsection (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less;

(ii) if the funds are invested by an institution of higher education as defined in Section [~~53B-3-102~~]53H-1-101, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a reserve fund, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or town, school district, or other political subdivision of the state that are payable from assessments or from revenues or earnings specifically pledged for payment of the principal and interest on these obligations, including bonds offered on a when-issued basis without regard to the limitations described in Subsection (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less;

(ii) if the funds are invested by an institution of higher education as defined in Section [~~53B-3-102~~]53H-1-101, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a reserve fund, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(l) shares or certificates in a money market mutual fund;

(m) variable rate negotiable deposits that:

(i) are issued by a qualified depository or a permitted depository;

(ii) are repriced at least semiannually; and

(iii) have a remaining term to final maturity not to exceed three years;

(n) variable rate securities that:

(i) (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(B) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(C) are publicly traded;

(D) are repriced at least semiannually; and

(E) have a remaining term to final maturity not to exceed three years or are subject to a hard put at par value or better, within 365 days;

(ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a security making unscheduled periodic principal payments other than optional redemptions;

(o) reciprocal deposits made in accordance with Subsection 51-7-17(4); and

(p) negotiable brokered certificates of deposit made in accordance with Subsection 51-7-17(4).

(4) The following public funds are exempt from the requirements of Subsection (3):

(a) a local government other post-employment benefits trust fund under Section 51-7-12.2; and

(b) a nonnegotiable deposit made in accordance with Section [~~53B-7-601~~]53H-8-502 in a foreign depository institution as defined in Section 7-1-103.

(5) If any of the deposits authorized by Subsection (3)(a) are negotiable or nonnegotiable large time deposits issued in amounts of $100,000 or more, the interest shall be calculated on the basis of the actual number of days divided by 360 days.

(6) A public treasurer may maintain fully insured deposits in demand accounts in a federally insured nonqualified depository only if a qualified depository is not reasonably convenient to the entity's geographic location.

(7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall ensure that all purchases and sales of securities are settled within:

(a) 15 days of the trade date for outstanding issues; and

(b) 30 days for new issues.

Section 71. Section 51-7-17 is amended to read:

51-7-17 (Effective upon governor's approval). Criteria for investments.

(1) As used in this section:

(a) "Affiliate" means, in relation to a provider:

(i) an entity controlled, directly or indirectly, by the provider;

(ii) an entity that controls, directly or indirectly, the provider; or

(iii) an entity directly or indirectly under common control with the provider.

(b) "Control" means ownership of a majority of the voting power of the entity or provider.

(2) (a) A public treasurer shall consider and meet the following objectives when depositing and investing public funds:

(i) safety of principal;

(ii) protection of principal during periods of financial market volatility;

(iii) need for liquidity;

(iv) yield on investments;

(v) recognition of the different investment objectives of operating and permanent funds; and

(vi) maturity of investments, so that the maturity date of the investment does not exceed the anticipated date of the expenditure of funds.

(b) A public treasurer shall invest the proceeds of general obligation bond issues, tax anticipation note issues, and funds pledged or otherwise dedicated to the payment of interest and principal of general obligation bonds and tax anticipation notes issued by the state or a political subdivision of the state in accordance with:

(i) Section 51-7-11; or

(ii) the terms of the borrowing instrument applicable to those issues and funds, if those terms are more restrictive than Section 51-7-11.

(c) A public treasurer shall invest the proceeds of bonds other than general obligation bonds and the proceeds of notes other than tax anticipation notes issued by the state or a political subdivision of the state, and all funds pledged or otherwise dedicated to the payment of interest and principal of those notes and bonds:

(i) in accordance with the terms of the borrowing instruments applicable to those bonds or notes; or

(ii) if none of those provisions are applicable, in accordance with Section 51-7-11.

(d) A public treasurer may invest proceeds of bonds, notes, or other money pledged or otherwise dedicated to the payment of debt service on the bonds or notes in investment agreements if:

(i) the investment is permitted by the terms of the borrowing instrument applicable to those bonds or notes or the borrowing instrument authorizes the investment as an investment permitted by the State Money Management Act;

(ii) either the provider of the investment agreement or an entity fully, unconditionally, and irrevocably guaranteeing the provider's obligations under the investment agreement has received a rating of:

(A) at least "AA-" from S &P or "Aa3" from Moody's for investment agreements having a term of more than one year; or

(B) at least "A-1+" from S &P or "P-1" from Moody's for investment agreements having a term of one year or less;

(iii) the investment agreement contains provisions approved by the public treasurer that provide that, in the event of a rating downgrade of the provider or its affiliate guarantor, as applicable, by either S &P or Moody's below the "A" category or its equivalent, or a rating downgrade of a nonaffiliate guarantor by either S &P or Moody's below the "AA" category or its equivalent, the provider must, within 30 days after receipt of notice of the downgrade:

(A) collateralize the investment agreement with direct obligations of, or obligations guaranteed by, the United States of America having a market value at least equal to 105% of the amount of the money invested, valued at least quarterly, and deposit the collateral with a third-party custodian or trustee selected by the public treasurer; or

(B) terminate the agreement without penalty and repay all of the principal invested and the interest accrued on the investment to the date of termination; and

(iv) the public treasurer receives an enforceability opinion from the legal counsel of the investment agreement provider and, if there is a guarantee, an enforceability opinion from the legal counsel of the guarantor with respect to the guarantee.

(3) (a) As used in this Subsection (3), "interest rate contract" means interest rate exchange contracts, interest rate floor contracts, interest rate ceiling contracts, or other similar contracts authorized by resolution of the governing board or issuing authority, as applicable.

(b) A public treasurer may, with the approval of the state treasurer:

(i) enter into interest rate contracts that the governing board or issuing authority determines are necessary, convenient, or appropriate for the control or management of debt or for the cost of servicing debt; and

(ii) use its public funds to satisfy its payment obligations under those contracts.

(c) Those contracts:

(i) shall comply with the requirements established by council rules; and

(ii) may contain payment, security, default, termination, remedy, and other terms and conditions that the governing board or issuing authority considers appropriate.

(d) Neither interest rate contracts nor public funds used in connection with these interest rate contracts may be considered a deposit or investment.

(4) A public treasurer shall ensure that all public funds invested in deposit instruments are invested with qualified depositories within Utah, except:

(a) for deposits made in accordance with Section [~~53B-7-601~~]53H-8-502 in a foreign depository institution as defined in Section 7-1-103;

(b) reciprocal deposits, subject to rules made by the council under Subsection 51-7-18(2);

(c) negotiable brokered certificates of deposit, subject to rules made by the council under Subsection 51-7-18(2); or

(d) if national market rates on instruments of similar quality and term exceed those offered by qualified depositories, investments in out-of-state deposit instruments may be made only with institutions that meet quality criteria set forth by the rules of the council.

Section 72. Section 51-8-102 is amended to read:

51-8-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of governmental purposes, and any other purpose the achievement of which is beneficial to the community.

(2) (a) "Endowment fund" means an institutional fund, or any part of an institutional fund, not wholly expendable by the institution on a current basis under the terms of a gift instrument.

(b) "Endowment fund" does not include assets of an institution designated by the institution as an endowment fund for its own use.

(3) "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

(4) (a) "Governing board" means the body responsible for the management of an institution or of an institutional fund.

(b) "Governing board" means, for a higher education institution, the board of trustees of the higher education institution.

(5) "Higher education institution" means the institutions specified in Section [~~53B-1-102~~]53H-1-102.

(6) "Institution" means:

(a) a person, other than an individual, organized and operated exclusively for charitable purposes;

(b) a government or a governmental subdivision, agency, or instrumentality to the extent that it holds funds exclusively for a charitable purpose; and

(c) a trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

(7) (a) "Institutional fund" means a fund held by an institution exclusively for charitable purposes.

(b) "Institutional fund" does not include:

(i) program-related assets;

(ii) a fund held for an institution by a trustee that is not an institution;

(iii) a fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund; or

(iv) operating funds.

(8) "Manager" means either:

(a) the state treasurer; or

(b) a higher education institution that accepts the responsibility for the management of institutional funds of a different higher education institution.

(9) "Operating funds" means money used for the general operation of a higher education institution that is received by the higher education institution from:

(a) state appropriations;

(b) government contracts;

(c) government grants; or

(d) tuition and fees collected from students.

(10) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, instrumentality, or any other legal or commercial entity.

(11) "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for appreciation or the production of income.

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Section 73. Section 52-4-103 is amended to read:

52-4-103 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Anchor location" means:

(a) the physical location where the public body conducting an electronic meeting under Section 52-4-207 normally conducts meetings of the public body; or

(b) a location other than the location described in Subsection (1)(a) that is reasonably as accessible to the public as the location described in Subsection (1)(a).

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) "Electronic meeting" means a meeting that some or all public body members attend through an electronic video, audio, or both video and audio connection, as provided in Section 52-4-207.

(4) "Fiduciary or commercial information" means information:

(a) related to any subject if disclosure:

(i) would conflict with a fiduciary obligation; or

(ii) is prohibited by insider trading provisions; or

(b) that is commercial in nature including:

(i) account owners or borrowers;

(ii) demographic data;

(iii) contracts and related payments;

(iv) negotiations;

(v) proposals or bids;

(vi) investments;

(vii) management of funds;

(viii) fees and charges;

(ix) plan and program design;

(x) investment options and underlying investments offered to account owners;

(xi) marketing and outreach efforts;

(xii) financial plans; or

(xiii) reviews and audits.

(5) "Meeting" means a gathering:

(a) of a public body or specified body;

(b) with a quorum present; and

(c) that is convened:

(i) by an individual:

(A) with authority to convene the public body or specified body; and

(B) following the process provided by law for convening the public body or specified body; and

(ii) for the express purpose of acting as a public body or specified body to:

(A) receive public comment about a relevant matter;

(B) deliberate about a relevant matter; or

(C) take action upon a relevant matter.

(6) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(7) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more individuals;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:

(A) consists of two or more individuals;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.

(b) "Public body" includes:

(i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103, except for the Water District Water Development Council created pursuant to Section 11-13-228;

(ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102;

(iii) the Utah Independent Redistricting Commission; and

(iv) a project entity, as that term is defined in Section 11-13-103.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, a sifting committee, or an administrative staff committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;

(iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed interlocal entity is not a project entity;

(v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee; or

(vi) a search committee that selects finalists for a position as an institution of higher education president under Section [~~53B-2-102~~]53H-3-302.

(8) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(9) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(10) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(11) (a) "Relevant matter" means a matter that is within the scope of the authority of a public body or specified body.

(b) "Relevant matter" does not include, for a public body with both executive and legislative responsibilities, a managerial or operational matter.

(12) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (7)(c)(ii) or (7)(c)(v).

Section 74. Section 53-1-102 is amended to read:

53-1-102 (Effective upon governor's approval). Definitions.

(1) As used in this title:

(a) "Capitol hill complex" means capitol hill, as defined in Section 63O-1-101.

(b) "Commissioner" means the commissioner of public safety appointed under Section 53-1-107.

(c) "Department" means the Department of Public Safety created in Section 53-1-103.

(d) "Governor-elect" means an individual whom the board of canvassers determines to be the successful candidate for governor after a general election for the office of governor.

(e) "Institution of higher education" means the same as that term is defined in Section 53H-1-101.

[~~(e)~~](f) "Law enforcement agency" means an entity or division of:

(i) (A) the federal government, a state, or a political subdivision of a state;

(B) [~~a state~~]an institution of higher education; or

(C) a private institution of higher education, if the entity or division is certified by the commissioner under Title 53, Chapter 19, Certification of Private Law Enforcement Agency; and

(ii) that exists primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.

[~~(f)~~](g) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

[~~(g)~~](h) "Motor vehicle" means every self-propelled vehicle and every vehicle propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheel chairs and vehicles moved solely by human power.

[~~(h)~~](i) "Peace officer" means any officer certified in accordance with Title 53, Chapter 13, Peace Officer Classifications.

[~~(i)~~](j) "Public official" means the same as that term is defined in Section 36-11-102.

[~~(j) "State institution of higher education" means the same as that term is defined in Section 53B-3-102.~~]

(k) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(2) The definitions provided in Subsection (1) are to be applied throughout this title in addition to definitions that are applicable to specific chapters or parts.

Section 75. Section 53-3-207 is amended to read:

53-3-207 (Effective upon governor's approval). License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.

(1) As used in this section:

(a) "Authorized guardian" means:

(i) the parent or legal guardian of a child who:

(A) is under 18 years old; and

(B) has an invisible condition; or

(ii) the legal guardian or conservator of an adult who:

(A) is 18 years old or older; and

(B) has an invisible condition.

(b) "Driving privilege" means the privilege granted under this chapter to drive a motor vehicle.

(c) "First responder" means:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) an emergency medical technician, as defined in Section 53-2e-101;

(iii) an advanced emergency medical technician, as defined in Section 53-2e-101;

(iv) a paramedic, as defined in Section 53-2e-101;

(v) a firefighter, as defined in Section [~~53B-8e-102~~]53H-11-306; or

(vi) a dispatcher, as defined in Section 53-6-102.

(d) "Governmental entity" means the state or a political subdivision of the state.

(e) "Health care professional" means:

(i) a licensed physician, physician assistant, nurse practitioner, or mental health therapist; or

(ii) any other licensed health care professional the division designates by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(f) "Invisible condition" means a physical or mental condition that may interfere with an individual's ability to communicate with a first responder, including:

(i) a communication impediment;

(ii) hearing loss;

(iii) blindness or a visual impairment;

(iv) autism spectrum disorder;

(v) a drug allergy;

(vi) Alzheimer's disease or dementia;

(vii) post-traumatic stress disorder;

(viii) traumatic brain injury;

(ix) schizophrenia;

(x) epilepsy;

(xi) a developmental disability;

(xii) Down syndrome;

(xiii) diabetes;

(xiv) a heart condition; or

(xv) any other condition approved by the department.

(g) "Invisible condition identification symbol" means a symbol or alphanumeric code that indicates that an individual is an individual with an invisible condition.

(h) "Political subdivision" means any county, city, town, school district, public transit district, community reinvestment agency, special improvement or taxing district, special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(i) "State" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(2) (a) The division shall issue to every individual privileged to drive a motor vehicle, a regular license certificate, a limited-term license certificate, or a driving privilege card indicating the type or class of motor vehicle the individual may drive.

(b) An individual may not drive a class of motor vehicle unless granted the privilege in that class.

(3) (a) Every regular license certificate, limited-term license certificate, or driving privilege card shall bear:

(i) the distinguishing number assigned to the individual by the division;

(ii) the name, birth date, and Utah residence address of the individual;

(iii) a brief description of the individual for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the individual;

(vi) a photograph or other facsimile of the individual's signature;

(vii) an indication whether the individual intends to make an anatomical gift under Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under Subsection 53-3-214(3); and

(viii) except as provided in Subsection (3)(b), if the individual states that the individual is a veteran of the United States military on the application for a driver license in accordance with Section 53-3-205 and provides verification that the individual was granted an honorable or general discharge from the United States Armed Forces, an indication that the individual is a United States military veteran for a regular license certificate or limited-term license certificate issued on or after July 1, 2011.

(b) A regular license certificate or limited-term license certificate issued to an individual younger than 21 years old on a portrait-style format as required in Subsection (7)(b) is not required to include an indication that the individual is a United States military veteran under Subsection (3)(a)(viii).

(c) A new license certificate issued by the division may not bear the individual's social security number.

(d) (i) The regular license certificate, limited-term license certificate, or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) The size, form, and color of the regular license certificate, limited-term license certificate, or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate, limited-term license certificate, or driving privilege card under Subsection 53-3-220(4).

(4) (a) The division shall include or affix an invisible condition identification symbol on an individual's regular license certificate, limited-term license certificate, or driving privilege card if the individual or the individual's authorized guardian, on a form prescribed by the department:

(i) requests the division to include the invisible condition identification symbol;

(ii) provides written verification from a health care professional that the individual is an individual with an invisible condition; and

(iii) signs a waiver of liability for the release of any medical information to:

(A) the department;

(B) any person who has access to the individual's medical information as recorded on the individual's driving record or the Utah Criminal Justice Information System under this chapter;

(C) any other person who may view or receive notice of the individual's medical information by seeing the individual's regular license certificate, limited-term license certificate, or driving privilege card or the individual's information in the Utah Criminal Justice Information System;

(D) a local law enforcement agency that receives a copy of the form described in this Subsection (4)(a) and enters the contents of the form into the local law enforcement agency's record management system or computer-aided dispatch system; and

(E) a dispatcher who accesses the information regarding the individual's invisible condition through the use of a local law enforcement agency's record management system or computer-aided dispatch system.

(b) As part of the form described in Subsection (4)(a), the department shall advise the individual or the individual's authorized guardian that by submitting the signed waiver, the individual or the individual's authorized guardian consents to the release of the individual's medical information to any person described in Subsections (4)(a)(iii)(A) through (E), even if the person is otherwise ineligible to access the individual's medical information under state or federal law.

(c) The division may not:

(i) charge a fee to include the invisible condition identification symbol on the individual's regular license certificate, limited-term license certificate, or driving privilege card; or

(ii) after including the invisible condition identification symbol on the individual's previously issued regular license certificate, limited-term license certificate, or driving privilege card, require the individual to provide subsequent written verification described in

Subsection (4)(a)(ii) to include the invisible condition identification symbol on the individual's renewed or extended regular license certificate, limited-term license certificate, or driving privilege card.

(d) The division shall confirm with the Division of Professional Licensing that the health care professional described in Subsection (4)(a)(ii) holds a current state license.

(e) The inclusion of an invisible condition identification symbol on an individual's license certificate, limited-term license certificate, or driving privilege card in accordance with Subsection (4)(a) does not confer any legal rights or privileges on the individual, including parking privileges for individuals with disabilities under Section 41-1a-414.

(f) For each individual issued a regular license certificate, limited-term license certificate, or driving privilege card under this section that includes an invisible condition identification symbol, the division shall include in the division's database a brief description of the nature of the individual's invisible condition in the individual's record and provide the brief description to the Utah Criminal Justice Information System.

(g) Except as provided in this section, the division may not release the information described in Subsection (4)(f).

(h) Within 30 days after the day on which the division receives an individual's or the individual's authorized guardian's written request, the division shall:

(i) remove from the individual's record in the division's database the invisible condition identification symbol and the brief description described in Subsection (4)(f); and

(ii) provide the individual's updated record to the Utah Criminal Justice Information System.

(5) As provided in Section 63G-2-302, the information described in Subsection (4)(a) is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(6) (a) (i) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege, may issue to an applicant a receipt for the fee if the applicant is eligible for a regular license certificate or limited-term license certificate.

(ii) (A) The division shall issue a temporary regular license certificate or temporary limited-term license certificate allowing the individual to drive a motor vehicle while the division is completing the division's investigation to determine whether the individual is entitled to be granted a driving privilege.

(B) A temporary regular license certificate or a temporary limited-term license certificate issued under this Subsection (6) shall be recognized and have the same rights and privileges as a regular license certificate or a limited-term license certificate.

(b) The temporary regular license certificate or temporary limited-term license certificate shall be in the individual's immediate possession while driving a motor vehicle, and the temporary regular license certificate or temporary limited-term license certificate is invalid when the individual's regular license certificate or limited-term license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the temporary regular license certificate or temporary limited-term license certificate a date after which the temporary regular license certificate or temporary limited-term license certificate is not valid as a temporary license.

(d) (i) Except as provided in Subsection (6)(d)(ii), the division may not issue a temporary driving privilege card or other temporary permit to an applicant for a driving privilege card.

(ii) The division may issue a learner permit issued in accordance with Section 53-3-210.5 to an applicant for a driving privilege card.

(7) (a) The division shall distinguish learner permits, temporary permits, regular license certificates, limited-term license certificates, and driving privilege cards issued to any individual younger than 21 years old by use of plainly printed information or the use of a color or other means not used for other regular license certificates, limited-term license certificates, or driving privilege cards.

(b) The division shall distinguish a regular license certificate, limited-term license certificate, or driving privilege card issued to an individual younger than 21 years old by use of a portrait-style format not used for other regular license certificates, limited-term license certificates, or driving privilege cards and by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 21 years old.

(8) The division shall distinguish a limited-term license certificate by clearly indicating on the document:

(a) that the limited-term license certificate is temporary; and

(b) the limited-term license certificate's expiration date.

(9) (a) The division shall only issue a driving privilege card to an individual whose privilege was obtained without providing evidence of lawful presence in the United States as required under Subsection 53-3-205(8).

(b) The division shall distinguish a driving privilege card from a license certificate by:

(i) use of a format, color, font, or other means; and

(ii) clearly displaying on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

(10) The provisions of Subsection (7)(b) do not apply to a learner permit, temporary permit, temporary regular license certificate, temporary limited-term license certificate, or any other temporary permit.

(11) The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223.

(12) (a) A governmental entity may not accept a driving privilege card as proof of personal identification.

(b) A driving privilege card may not be used as a document providing proof of an individual's age for any government required purpose.

(13) An individual who violates Subsection (2)(b) is guilty of an infraction.

(14) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

(a) driving privilege in the same way as a license or limited-term license issued under this chapter; and

(b) limited-term license certificate or driving privilege card in the same way as a regular license certificate issued under this chapter.

Section 76. Section 53-6-209 is amended to read:

53-6-209 (Effective upon governor's approval). Termination of employment -- Change of status form.

(1) When a peace officer's employment terminates, the employing agency shall submit a change of status form noting the termination of the peace officer to the division.

(2) The change of status form shall:

(a) be completed and submitted within 30 days after the day on which the peace officer's employment terminates;

(b) identify the circumstances of the peace officer's status change by indicating that the peace officer has resigned, retired, terminated, transferred, is deceased, or that the peace officer's name has changed;

(c) indicate the effective date of action; and

(d) indicate the name of the new employer, if the status change is due to a transfer.

(3) If a peace officer's employment terminates during an open internal investigation regarding that peace officer and involving an alleged violation of Subsection 53-6-211(1), the employing agency shall:

(a) notify the division of the investigation in accordance with Subsection 53-6-211(6) within 30 days after the day on which the peace officer's employment terminates; and

(b) provide a reasonable estimated date of completion for the investigation.

(4) (a) If an employing agency receives credible allegations and opens an internal investigation within two years after the day on which a peace officer's employment terminates, the employing agency shall:

(i) notify the division within 30 days after the day on which the employing agency opens the investigation; and

(ii) provide a reasonable estimated date of completion for the investigation.

(b) If the allegations described in Subsection (4)(a) involve alleged violations of Subsection 53-6-211(1), the agency shall report the allegations to the division in accordance with Subsection 53-6-211(6), regardless of whether the employing agency opens an internal investigation.

(5) (a) Any person or agency who intentionally falsifies, misrepresents, or fails to give notice of the change of status of a peace officer is liable to the division for any damages that the failure to make the notification causes.

(b) The division shall provide the change of status form described in this section to the Utah Board of Higher Education within 30 days after the day on which the division receives a notice of termination if the relevant peace officer has received a Karen Mayne Public Safety Officer Scholarship as described in Section [~~53B-8-112.5~~]53H-11-403.

Section 77. Section 53-7-204 is amended to read:

53-7-204 (Effective upon governor's approval). Duties of Utah Fire Prevention Board -- Unified Code Analysis Council -- Local administrative duties.

(1) The board shall:

(a) administer the state fire code as the standard in the state;

(b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing standards for the prevention of fire and for the protection of life and property against fire and panic in any:

(A) publicly owned building, including all public and private schools, colleges, and university buildings;

(B) building or structure used or intended for use as an asylum, a mental hospital, a hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or day care center, or any building or structure used for a similar purpose; or

(C) place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

(ii) establishing safety and other requirements for placement and discharge of display fireworks on the basis of:

(A) the state fire code; and

(B) relevant publications of the National Fire Protection Association;

(iii) establishing safety standards for retail storage, handling, and sale of a division 1.4G common state approved explosive;

(iv) defining methods to establish proof of competence to place and discharge display fireworks, special effects fireworks, and flame effects;

(v) subject to Subsection (2), creating a uniform statewide policy regarding a state, county, special district, and local government entity's safe seizure, storage, and repurposing, destruction, or disposal of a division 1.1G explosive, division 1.2G explosive, division 1.3G explosive, or division 1.4G explosive that:

(A) is illegal; or

(B) a person uses or handles in an illegal manner;

(vi) deputizing qualified persons to act as deputy fire marshals, and to secure special services in emergencies;

(vii) implementing Section 15A-1-403;

(viii) establishing criteria for the certification of firefighters, pump operators, instructors, fire officers, fire investigators, and rescue personnel not certified or licensed under any other section of the Utah Code;

(ix) establishing criteria for training and safety equipment grants for fire departments enrolled in firefighter certification;

(x) establishing ongoing training standards for hazardous materials emergency response agencies;

(xi) establishing criteria for the fire safety inspection of a food truck; and

(xii) establishing criteria for the accreditation and reaccreditation of fire service training organizations;

(c) recommend to the commissioner a state fire marshal;

(d) develop policies under which the state fire marshal and the state fire marshal's authorized representatives will perform;

(e) provide for the employment of field assistants and other salaried personnel as required;

(f) prescribe the duties of the state fire marshal and the state fire marshal's authorized representatives;

(g) provide technical expertise, advice, and support to Utah Valley University in the establishment and operation of the fire and rescue training program described in Section [~~53B-29-202~~]53H-4-705;

(h) establish a statewide fire statistics program for the purpose of gathering fire data from all political subdivisions of the state;

(i) coordinate the efforts of all people engaged in fire suppression in the state;

(j) work aggressively with the local political subdivisions to reduce fire losses;

(k) regulate the sale and servicing of portable fire extinguishers and automatic fire suppression systems in the interest of safeguarding lives and property;

(l) establish a certification program for persons who inspect and test automatic fire sprinkler systems;

(m) establish a certification program for persons who inspect and test fire alarm systems;

(n) establish a certification for persons who provide response services regarding hazardous materials emergencies;

(o) in accordance with Sections 15A-1-403 and 68-3-14, submit a written report to the Business and Labor Interim Committee; and

(p) jointly create the Unified Code Analysis Council with the Uniform Building Code Commission in accordance with Section 15A-1-203.

(2) (a) In the rules that the board makes under Subsection (1)(b)(v), the board shall include a provision prohibiting a state, county, special district, or local government entity from disposing of an item described in Subsection (1)(b)(v) by means of open burning, except under circumstances described in the rule.

(b) When making a rule under Subsection (1)(b)(v), the board shall:

(i) review and include applicable references to:

(A) requirements described in Title 15A, Chapter 5, State Fire Code Act; and

(B) provisions of the International Fire Code; and

(ii) consider the appropriate role of the following in relation to the rule:

(A) the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives; and

(B) a firework wholesaler or distributor.

(3) The board may incorporate in its rules by reference, in whole or in part:

(a) the state fire code; or

(b) subject to the state fire code, a nationally recognized and readily available standard pertaining to the protection of life and property from fire, explosion, or panic.

(4) The following functions shall be administered locally by a city, county, or fire protection district:

(a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and 19-2-114;

(b) creating a local board of appeals in accordance with the state fire code; and

(c) subject to the state fire code and the other provisions of this chapter, establishing, modifying, or deleting fire flow and water supply requirements.

Section 78. Section 53-9-102 is amended to read:

53-9-102 (Effective upon governor's approval). Definitions.

In this chapter, unless otherwise stated:

(1) "Adequate records" means records containing, at a minimum, sufficient information to identify the client, the dates of service, the fee for service, the payments for service, the type of service given, and copies of any reports that may have been made.

(2) "Advertising" means the submission of bids, contracting or making known by any public notice, publication, or solicitation of business, directly or indirectly, that services regulated under this chapter are available for consideration.

(3) "Agency" means a person who holds an agency license pursuant to this chapter, and includes one who employs an individual for wages and salary, and withholds all legally required deductions and contributions, or contracts with a registrant or an apprentice on a part-time or case-by-case basis to conduct an investigation on behalf of the agency.

(4) "Applicant" means any person who has submitted a completed application and all required fees.

(5) "Apprentice" means a person who holds an apprentice license pursuant to this chapter, has not met the requirements for registration, and works under the direct supervision and guidance of an agency.

(6) "Board" means the Bail Bond Recovery and Private Investigator Licensure Board created in Section 53-11-104.

(7) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(8) "Commissioner" means the commissioner of the Department of Public Safety.

(9) "Conviction" means an adjudication of guilt by a federal, state, or local court resulting from trial or plea, including a plea of no contest, regardless of whether the imposition of sentence was suspended.

(10) "Department" means the Department of Public Safety.

(11) "Direct supervision" means that the agency or employer:

(a) is responsible for, and authorizes, the type and extent of work assigned;

(b) reviews and approves all work produced by the apprentice before it goes to the client;

(c) closely supervises and provides direction and guidance to the apprentice in the performance of his assigned work; and

(d) is immediately available to the apprentice for verbal contact, including by electronic means.

(12) "DOD civilian" means the same as that term is defined in Section [~~53B-8-102~~]53H-11-202.

(13) "Emergency action" means a summary suspension of a license pending revocation, suspension, or probation in order to protect the public health, safety, or welfare.

(14) "Employee" means an individual who works for an agency or other employer, is listed on the agency's or employer's payroll records, and is under the agency's or employer's direction and control. An employee is not an independent contractor.

(15) "Identification card" means a card issued by the commissioner to a qualified applicant for an agency, registrant, or apprentice license.

(16) "Letter of concern" means an advisory letter to notify a licensee that while there is insufficient evidence to support probation, suspension, or revocation of a license, the department informs the licensee of the need to modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the department may result in further disciplinary action against the licensee.

(17) "Licensee" means a person to whom an agency, registrant, or apprentice license is issued by the department.

(18) (a) "Private investigator or private detective" means any person, except collection agencies and credit reporting agencies, who, for consideration, engages in business or accepts employment to conduct any investigation for the purpose of obtaining information with

reference to:

(i) crime, wrongful acts, or threats against the United States or any state or territory of the United States;

(ii) the identity, reputation, character, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, or transactions of any person or group of persons;

(iii) the credibility of witnesses or other persons;

(iv) the whereabouts of missing persons or owners of abandoned property;

(v) the causes and origin of, or responsibility for a fire, libel, slander, a loss, an accident, damage, or an injury to real or personal property;

(vi) the business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the trial preparation;

(vii) the prevention, detection, and removal of installed devices for eavesdropping or observation;

(viii) the business of "skip tracing" persons who have become delinquent in their lawful debts, either when hired by an individual, collection agency, or through the direct purchase of the debt from a financial institution or entity owning the debt or judgment; or

(ix) serving civil process.

(b) "Private investigator or private detective" does not include:

(i) any person or employee conducting an investigation on the person's or employee's own behalf or on behalf of the employer if the employer is not a private investigator under this chapter;

(ii) an employee of an attorney licensed to practice law in this state; or

(iii) a currently licensed certified public accountant or CPA as defined in Section 58-26a-102.

(19) "Qualifying party" means the individual meeting the qualifications under this chapter for a private investigator license.

(20) "Registrant" means any person who holds a registrant license pursuant to this chapter. The registrant performs private investigative work either as an employee on an employer's payroll or, on a contract with an agency, part-time, or case-by-case basis, with a minimum amount of direction.

(21) "Restructuring" means any change in the legal status of a business.

(22) "Unprofessional conduct" means any of the following:

(a) engaging or offering to engage by fraud or misrepresentation in any activities regulated by this chapter;

(b) aiding or abetting a person who is not licensed pursuant to this chapter in representing that person as a private investigator or registrant in this state;

(c) gross negligence in the practice of a private investigator or registrant;

(d) failing or refusing to maintain adequate records and investigative findings on a subject of investigation or a client;

(e) committing a felony or a misdemeanor involving any crime that is grounds for denial, suspension, or revocation of an agency, registrant, or apprentice license. In all cases, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission of the crime; or

(f) making a fraudulent or untrue statement to the bureau, board, department, or its investigators, staff, or consultants.

Section 79. Section 53-10-302 is amended to read:

53-10-302 (Effective upon governor's approval). Bureau duties.

The bureau shall:

(1) provide assistance and investigative resources to divisions within the Department of Public Safety;

(2) upon request, provide assistance and specialized law enforcement services to local law enforcement agencies;

(3) conduct financial investigations regarding suspicious cash transactions, fraud, and money laundering;

(4) investigate criminal activity of organized crime networks, gangs, extremist groups, and others promoting violence;

(5) investigate criminal activity of terrorist groups;

(6) enforce the Utah Criminal Code;

(7) cooperate and exchange information with other state agencies and with other law enforcement agencies of government, both within and outside of this state, through a statewide information and intelligence center to obtain information that may achieve more effective results in the prevention, detection, and control of crime and apprehension of criminals, including systems described in [~~Sections~~]Section 53E-3-518, [~~53B-17-1202~~]Section 53H-4-210, and Subsection 63H-7a-103(14);

(8) create and maintain a statewide criminal intelligence system;

(9) provide specialized case support and investigate illegal drug production, cultivation, and sales;

(10) investigate, follow-up, and assist in highway drug interdiction cases;

(11) make rules to implement this chapter;

(12) perform the functions specified in Part 2, Bureau of Criminal Identification;

(13) provide a state cybercrime unit to investigate computer and network intrusion matters involving state-owned computer equipment and computer networks as reported under Section 76-6-705;

(14) investigate violations of Section 76-6-703 and other computer related crimes, including:

(a) computer network intrusions;

(b) denial of services attacks;

(c) computer related theft or fraud;

(d) intellectual property violations; and

(e) electronic threats;

(15) upon request, investigate the following offenses when alleged to have been committed by an individual who is currently or has been previously elected, appointed, or employed by a governmental entity:

(a) criminal offenses; and

(b) matters of public corruption; and

(16) (a) not be prohibited from investigating crimes not specifically referred to in this section; and

(b) other agencies are not prohibited from investigating crimes referred to in this section.

Section 80. Section 53-13-103 is amended to read:

53-13-103 (Effective upon governor's approval). Law enforcement officer.

(1) (a) "Law enforcement officer" means a sworn and certified peace officer:

(i) who is an employee of a law enforcement agency; and

(ii) whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) "Law enforcement officer" includes the following:

(i) a sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;

(ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(iii) all individuals specified in Section 79-2-704;

(iv) a police officer employed by [~~a state~~]an institution of higher education;

(v) investigators for the Motor Vehicle Enforcement Division;

(vi) investigators for the Department of Insurance, Fraud Division;

(vii) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

(viii) employees of the Department of Natural Resources designated as peace officers by law;

(ix) school district police officers as designated by the board of education for the school district;

(x) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

(xi) correctional enforcement, investigative, or Division of Adult Probation and Parole officers employed by the Department of Corrections serving on or before July 1, 1993;

(xii) members of a law enforcement agency established by a private college or university if the agency is certified by the commissioner under Chapter 19, Certification of Private Law Enforcement Agency;

(xiii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

(xiv) transit police officers designated under Section 17B-2a-822.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority:

(a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

(ii) have met the waiver requirements in Section 53-6-206; and

(b) have satisfactorily completed annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 81. Section 53-17a-101 is amended to read:

53-17a-101 (Effective upon governor's approval). Fallen Officer Memorial Scholarship Program -- Rulemaking.

(1) As used in this section:

(a) "Child" means an individual who:

(i) is a natural or adopted child of a public safety officer or a firefighter who died in the line of duty; and

(ii) was under [~~the age of~~]25 years old at the time of the public safety officer's or firefighter's death.

(b) "Died in the line of duty" means a death that is classified as a line-of-duty death under the provisions of Section 49-14-102, 49-15-102, 49-16-102, or 49-23-102.

(c) "Educational-related expenses" includes tuition, fees, books, and other expenses related to obtaining an education.

(d) "Firefighter" means the same as that term is defined in Section 34A-3-113.

(e) "Public safety officer" means an individual who:

(i) is employed as:

(A) a law enforcement officer in accordance with Section 53-13-103;

(B) a correctional officer in accordance with Section 53-13-104; or

(C) a special function officer in accordance with Section 53-13-105; and

(ii) in the course of the individual's employment, put the individual's life or personal safety at risk.

(2) This section creates the Fallen Officer Memorial Scholarship Program, to be administered by the department.

(3) Subject to legislative appropriations and Subsection (6), the department shall provide $5,000 per year for up to four years to an

applicant who:

(a) is a child of a public safety officer or a firefighter who died in the line of duty;

(b) is 17 years old or older;

(c) certifies, on a form provided by the department, that the applicant agrees to use the funds entirely for educational-related expenses; and

(d) fulfills any other application requirement established by the department.

(4) Nothing in this section affects a child's ability to obtain a tuition waiver under Section [~~53B-8c-103~~]53H-11-306.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules necessary to administer this section, including:

(i) setting deadlines for receiving applications and supporting documentation; and

(ii) establishing the application process and an appeal process for the Fallen Officer Memorial Scholarship Program.

(b) The department shall include a disclosure on all applications and related materials that the amount of funds provided may be subject to funding or be reduced, in accordance with Subsection (6).

(6) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Income Tax Fund to the department for the costs associated with the Fallen Officer Memorial Scholarship Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the Fallen Officer Memorial Scholarship Program, the department may:

(i) reduce the amount of funds distributed to an applicant; or

(ii) distribute funds on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

Section 82. Section 53C-3-105 is amended to read:

53C-3-105 (Effective upon governor's approval). Disposition of revenue for normal schools.

Money distributed for the benefit of the state's normal schools, as provided under the Utah Enabling Act, Section 12, Utah Constitution, Article X, Section 7, Utah Constitution, Article XX, Section 2, and Sections 53C-3-101 and 53C-3-103, shall be allocated to institutions [~~within the state system~~]of higher education, as defined in Section [~~53B-1-102~~]53H-1-101, that offer bachelor's degrees in education in proportion to the number of bachelor's degrees awarded by those institutions in the previous fiscal year.

Section 83. Section 53D-2-203 is amended to read:

53D-2-203 (Effective upon governor's approval). Land Trusts Protection and Advocacy Office director -- Appointment -- Removal -- Power and duties.

(1) (a) The advocacy committee shall:

(i) discuss candidates who may qualify for appointment as the advocacy director, as described in Subsection (1)(b);

(ii) determine the two most qualified candidates; and

(iii) submit the names of those two candidates to the state treasurer as potential appointees for the advocacy director.

(b) A potential appointee for advocacy director shall have significant expertise and qualifications relating to generating revenue to the school and institutional trust and the duties of the advocacy office and the advocacy director, which may include expertise in:

(i) business;

(ii) finance;

(iii) economics;

(iv) natural resources; or

(v) advocacy.

(c) From the individuals described in Subsection (1)(a), the state treasurer shall appoint one as the advocacy director.

(2) (a) An advocacy director shall serve a four-year term.

(b) If a vacancy occurs in the advocacy director's position, the advocacy committee and state treasurer shall, in accordance with Subsection (1), appoint a replacement director for a four-year term.

(3) The advocacy committee may remove the advocacy director during a meeting that is not closed as described in Section 52-4-204, if:

(a) removal of the advocacy director is scheduled on the agenda for the meeting; and

(b) a majority of a committee quorum votes to remove the advocacy director.

(4) In accordance with state and federal law, the advocacy director may attend a presentation, discussion, meeting, or other gathering related to the school and institutional trust.

(5) In order to fulfill the duties of the advocacy office described in Section 53D-2-201, the advocacy director shall:

(a) maintain a direct relationship with each individual who is key to fulfilling the state's trustee obligations and duties related to the trust;

(b) facilitate open communication among key individuals described in Subsection (5)(a);

(c) actively seek necessary and accurate information;

(d) review and, if necessary, recommend the state auditor audit, activities involved in:

(i) generating trust revenue;

(ii) protecting trust assets; or

(iii) distributing funds for the exclusive use of trust beneficiaries;

(e) promote accurate record keeping of all records relevant to the trust and distribution to trust beneficiaries;

(f) report at least quarterly to the advocacy committee and the state treasurer on the current activities of the advocacy office;

(g) annually submit a proposed advocacy office budget to the state treasurer;

(h) regarding the trust's compliance with law, and among the School and Institutional Trust Lands System as a whole, report annually to:

(i) the advocacy committee;

(ii) the state treasurer;

(iii) the State Board of Education; and

(iv) the Executive Appropriations Committee;

(i) annually send a financial report regarding the relevant individual trust, and, upon request, report in person to:

(i) Utah State University, on behalf of the agricultural college trust;

(ii) the University of Utah;

(iii) the Utah State Hospital, on behalf of the mental hospital trust;

(iv) the Utah Schools for the Deaf and the Blind, on behalf of the schools for the deaf and blind trusts;

(v) the youth in care program at the State Board of Education, on behalf of the reform school trust;

(vi) the Division of Water Resources, created in Section 73-10-18, on behalf of the reservoir trust;

(vii) the College of Mines and Earth Sciences created in Section [~~53B-17-401~~]53H-4-208;

(viii) each state teachers' college, based on the college's annual number of teacher graduates, on behalf of the normal school trust;

(ix) the Miners' Hospital described in Section [~~53B-17-201~~]53H-4-207; and

(x) the State Capitol Preservation Board, created in Section 63O-2-201, on behalf of the public buildings trust;

(j) as requested by the state treasurer, draft proposed rules and submit the proposed rules to the advocacy committee for review;

(k) in accordance with state and federal law, respond to external requests for information about the School and Institutional Trust Lands System;

(l) in accordance with state and federal law, speak on behalf of trust beneficiaries:

(i) at School and Institutional Trust Lands Administration meetings;

(ii) at School and Institutional Trust Fund Office meetings; and

(iii) with the media;

(m) review proposed legislation that affects the school and institutional trust and trust beneficiaries and advocate for legislative change that best serves the interests of the trust beneficiaries; and

(n) educate the public regarding the School and Institutional Trust Lands System.

(6) With regard to reviewing the activities described in Subsection (5)(d), the advocacy director may have access to the financial reports and other data required for a review.

Section 84. Section 53E-1-201 is amended to read:

53E-1-201 (Effective upon governor's approval) (Partially Repealed 07/01/27). Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section [~~53B-33-302~~]53H-15-303 and the report on research and activities described in Section [~~53B-33-304~~]53H-15-305 by the Utah Data Research Center;

(c) the report described in Section [~~53B-1-402~~]53H-1-203 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(d) the annual report of the Utah Board of Higher Education described in Section [~~53B-1-402~~]53H-1-203;

(e) the reports described in Section [~~53B-28-403~~]53H-7-603 by the Utah Board of Higher Education regarding activities related to campus safety;

(f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(h) the report described in Section 53E-3-501 by the state board on students in an LEA who receive academic credit through the packet method;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-2-522 regarding mental health screening programs;

(l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(m) the report described in Section 53F-6-412 by the program manager of the Utah Fits All Scholarship Program;

(n) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

(o) the report described in Section 53F-5-215 by the state board related to a grant for an elementary teacher preparation assessment;

(p) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

(q) the report described in Section 53F-5-405 by the state board regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low-income;

(r) the report described in Section [~~53B-35-202~~]53H-1-604 regarding the Higher Education and Corrections Council;

(s) the report described in Section 53G-7-221 by the state board regarding innovation plans; and

(t) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) in 2027, 2030, 2033, and 2035, the reports described in Sections [~~53B-1-116~~]53H-1-502, [~~53B-1-117~~]53H-1-503, and [~~53B-1-118~~]53H-1-504;

(b) in 2025, the report described in Section [~~53B-16-701~~]53H-6-203 by a degree-granting institution regarding policies on abusive coaching practices;

(c) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(d) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(e) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(f) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high-poverty schools;

(g) upon request, the report described in Section 53F-10-303 by the state board regarding the Rural School Sports Facilities Grant Program;

(h) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

(i) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

(j) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the state board, and the Department of Health and Human Services regarding recommendations related to Medicaid reimbursement for school-based health services.

(3) In accordance with applicable provisions and Section 68-3-14, every five years the Education Interim Committee shall review the programs described in the following sections of code:

(a) beginning July 1, 2027, Title 53E, Chapter 10, Part 3, Concurrent Enrollment;

(b) beginning July 1, 2027, Section 53F-2-408, Enhancement for Accelerated Students Program;

(c) beginning July 1, 2027, Section 53F-2-409, Concurrent enrollment funding;

(d) beginning July 1, 2027, Section 53F-2-415, Student health and counseling support -- Qualifying personnel -- Distribution formula -- Rulemaking;

(e) beginning July 1, 2028, Section 53F-2-416, Appropriation and distribution for the Teacher and Student Success Program;

(f) beginning July 1, 2028, Section 53F-2-510, Digital Teaching and Learning Grant Program;

(g) beginning July 1, 2028, Section 53F-9-306, Teacher and Student Success Account;

(h) beginning July 1, 2028, Title 53G, Chapter 7, Part 13, Teacher and Student Success Program; and

(i) beginning July 1, 2029, Section 53F-2-502, Dual language immersion.

Section 85. Section 53E-3-501 is amended to read:

53E-3-501 (Effective upon governor's approval). State board to establish miscellaneous minimum standards for public schools.

(1) The state board shall establish rules and minimum standards for the public schools that are consistent with this public education code, including rules and minimum standards governing the following:

(a) (i) the qualification and certification of educators and ancillary personnel who provide direct student services;

(ii) required school administrative and supervisory services; and

(iii) the evaluation of instructional personnel;

(b) (i) access to programs;

(ii) attendance;

(iii) competency levels;

(iv) graduation requirements; and

(v) discipline and control;

(c) (i) school accreditation;

(ii) the academic year;

(iii) alternative and pilot programs;

(iv) curriculum and instruction requirements; and

(v) school libraries;

(d) services to:

(i) persons with a disability as defined by and covered under:

(A) the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102;

(B) the Rehabilitation Act of 1973, 29 U.S.C. Sec. 705(20)(A); and

(C) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1401(3); and

(ii) other special groups;

(e) (i) state reimbursed bus routes;

(ii) bus safety and operational requirements; and

(iii) other transportation needs;

(f) (i) school productivity and cost effectiveness measures;

(ii) federal programs;

(iii) school budget formats; and

(iv) financial, statistical, and student accounting requirements; and

(g) data collection and reporting by LEAs.

(2) Except as provided in Subsection (3), the state board shall determine if:

(a) the minimum standards have been met; and

(b) required reports are properly submitted.

(3) When the state board makes a request of an LEA under Subsection (1)(f) or (g), the state board shall include:

(a) the justification for the requested information;

(b) a statement confirming that the information is not available elsewhere;

(c) a deadline by which the LEA must provide the information in accordance with state board rule; and

(d) penalties, including withholding of funds, for non-compliance in accordance with state and federal law.

(4) The state board may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.

(5) (a) A technical college listed in Section [~~53B-2a-105~~]53H-3-1202 shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the state board.

(b) A school district may grant a high school diploma to a student participating in a course described in Subsection (5)(a) that is provided by a technical college listed in Section [~~53B-2a-105~~]53H-3-1202.

(6) (a) As used in this Subsection (6), "generally accepted accounting principles" means a common framework of accounting rules and standards for financial reporting promulgated by the Governmental Accounting Standards Board.

(b) Subject to Subsections (6)(c) and (d), the state board shall ensure the rules and standards described in Subsections (1)(f) and (g) allow for an LEA to make adjustments to the LEA's general entry ledger, in accordance with generally accepted accounting principles, to accurately reflect the LEA's use of funds for allowable costs and activities:

(i) during a fiscal year; and

(ii) at the close of a fiscal year.

(c) If the state board determines under Subsection (2) that an LEA has not met the minimum standards described in Subsection (1)(f) or (g) or has not properly submitted a required report, the state board shall allow the LEA an opportunity to cure the relevant defect through an adjustment described in Subsection (6)(b).

(d) An LEA may not, in an adjustment described in Subsection (6)(b), reflect the use of restricted federal or state funds for a cost or activity that is not an allowable cost or activity for the restricted funds.

(7) (a) As used in this Subsection (7):

(i) (A) "Comparable course" means a course that fulfills the same graduation credit requirements as a course for which a student seeks to improve a grade.

(B) "Comparable course" does not include a course a student completes through the packet method.

(ii) "Grade replacement" means credit a student earns by retaking a teacher-led course for a letter grade to improve a previous grade, which:

(A) may raise the student's grade point average if the new grade is higher; and

(B) replaces the lower grade on the student's transcript.

(iii) "Original credit" means credit a student earns through the successful completion of a course for the first time.

(iv) "Packet" means a collection of instructional materials and assessments used to receive credit through the packet method.

(v) "Packet method" means an educational approach where:

(A) a high school student receives a collection of instructional materials from an institution, organization, or LEA;

(B) the high school student works through the materials independently with minimal or no direct instruction from a teacher; and

(C) assessment is primarily based on completion of assignments within the instructional materials.

(vi) "Replacement credit" means a pass-fail credit a student earns for a course the student did not pass or complete, which:

(A) does not affect the student's grade point average; and

(B) allows the student to fulfill high school graduation requirements.

(b) An LEA may award a grade for original credit or replacement credit through the packet method if the packet adheres to the standards prescribed in state board rule and:

(i) the LEA approves the packet for use as an instructional material in accordance with:

(A) Subsection 53G-4-402(27) for a district school; or

(B) Section 53G-5-404 for a charter school; or

(ii) the state board recommends the packet after going through the state instructional materials process described in Title 53E, Chapter 4, Part 4, State Instructional Materials.

(c) An LEA may not use the packet method, or classify a packet as original credit, to improve a previous course grade of a high school student as described in Subsection (7)(d).

(d) A high school student may improve a grade through grade replacement by:

(i) repeating a course one or more times; or

(ii) enrolling in and completing a comparable course that is teacher-led.

(e) The state board shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules or policies that:

(A) establish standards for the use of the packet method to award original credit and replacement credit;

(B) include alignment with core standards the state board establishes under Sections 53E-3-501 and 53E-4-202; and

(C) maintain a comprehensive list of state board approved packets in the state board's Recommended Instructional Materials System on the state board's website; and

(ii) report annually to the Education Interim Committee the number of students in each LEA who receive academic credit through the packet method.

(f) An LEA shall:

(i) assign a distinct course name and number for credit earned through the packet method to easily identify the use of the packet method on a student transcript; and

(ii) track and record the number of packets an LEA uses to award original credit or replacement credit each school year.

Section 86. Section 53E-3-507 is amended to read:

53E-3-507 (Effective upon governor's approval). Powers of the state board.

The state board:

(1) shall establish minimum standards for career and technical education programs in the public education system;

(2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;

(3) shall cooperate with federal and state governments to administer programs that promote and maintain career and technical education;

(4) shall cooperate with the Utah Board of Higher Education, technical colleges, and degree-granting institutions that provide technical education described in Section [~~53B-2a-201~~]53H-3-608 to ensure that students in the public education system have access to career and technical education at technical colleges and degree-granting institutions that provide technical education described in Section [~~53B-2a-201~~]53H-3-608;

(5) shall require that before a minor student may participate in clinical experiences as part of a health care occupation program at a high school or other institution to which the student has been referred, the student's parent has:

(a) been first given written notice through appropriate disclosure when registering and prior to participation that the program contains a clinical experience segment in which the student will observe and perform specific health care procedures that may include personal care, patient bathing, and bathroom assistance; and

(b) provided specific written consent for the student's participation in the program and clinical experience;

(6) shall, after consulting with school districts, charter schools, the Utah Board of Higher Education, technical colleges, and degree-granting institutions that provide technical education described in Section [~~53B-2a-201~~]53H-3-608, prepare and submit an annual report in accordance with Section 53E-1-203 detailing:

(a) how the career and technical education needs of secondary students are being met; and

(b) the access secondary students have to programs offered:

(i) at technical colleges; and

(ii) within the regions served by degree-granting institutions that provide technical education described in Section [~~53B-2a-201~~]53H-3-608; and

(7) when the Office of the Legislative Fiscal Analyst requests information from the board related to a fiscal note for a proposed bill, shall report to the Office of the Legislative Fiscal Analyst, in addition to the other information requested, whether the proposed bill will impact the reporting requirements for local education agencies and if so:

(a) whether the impact increases or decreases the reporting requirements;

(b) whether the change in requirements is high, medium, or low; and

(c) the effect of the change in requirements on the amount and quality of information available to taxpayers, parents, and legislators.

Section 87. Section 53E-3-507.1 is amended to read:

53E-3-507.1 (Effective upon governor's approval). Catalyst Center Grant Program.

(1) As used in this section:

(a) "Catalyst center" means a program or facility operated by an LEA that:

(i) provides learning experiences and instruction that replicate professional environments and workplace practices, including experiences obtained through the Utah First Credential program described in Section 53E-10-310;

(ii) provides profession-based learning experiences by partnering with local industry, business, and community organizations to develop and implement student projects that address specific needs or objectives identified by those partners;

(iii) aligns programs with high-skill, high-demand career pathways and postsecondary education opportunities;

(iv) incorporates industry-standard tools, technologies, and methods into instruction and student work;

(v) prioritizes student activities and profession-based learning projects to build durable professional skills aligned with industry standards and needs;

(vi) facilitates mentorship and participation by industry professionals to guide a student and evaluate the student's work;

(vii) includes an advisory board composed of industry, postsecondary, and community representatives to review program direction and ensure alignment with workforce needs; and

(viii) establishes programs or activities that address gaps in training or resources within the local or regional workforce.

(b) "Director" means the employee described in Subsection (3).

(c) "LEA" means:

(i) a school district;

(ii) charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(d) "Program" means the Catalyst Center Grant Program created in this section.

(2) Subject to legislative appropriation as described in Section 53F-9-204, the state board shall establish the Catalyst Center Grant Program to provide funding to an LEA to create or expand an existing catalyst center.

(3) The state board shall hire a director to oversee the program who:

(a) has demonstrated abilities in:

(i) developing and implementing innovative initiatives that transform traditional education delivery models;

(ii) establishing public-private partnership frameworks that create student pathways into high-growth industries; and

(iii) scaling programs that integrate real-world experiences directly into educational environments;

(b) possesses expertise in:

(i) managing complex multi-stakeholder initiatives across education, industry, and government sectors;

(ii) implementing data-driven organizational change strategies; and

(iii) developing sustainable funding models for innovative education programs;

(c) maintains active leadership roles in:

(i) state or national workforce innovation organizations;

(ii) industry associations focused on talent development; and

(iii) public-private collaboratives addressing workforce transformation;

(d) reports directly to the state superintendent or a deputy superintendent to ensure appropriate program oversight and cross-departmental coordination while maintaining distinct program objectives and outcomes;

(e) establishes formal collaboration mechanisms with the state board's career and technical education director to align catalyst center initiatives with existing career and technical education programs; and

(f) facilitates training and a collaborative network of experienced catalyst center administrators and instructors across all participating LEAs.

(4) The director:

(a) shall:

(i) administer the program;

(ii) collaborate with the director of career and technical education to align the program with the career and technical education standards described in Section 53E-3-507;

(iii) create a web-based application system to streamline submissions and allow for linked supporting documentation;

(iv) ensure that grant funds are used in accordance with this section; and

(v) allow grant funds to be used for planning, including:

(A) feasibility studies;

(B) stakeholder engagement;

(C) labor market analysis;

(D) initial program design and rollout; and

(E) teacher and staff training specific to the delivery of profession-based learning; and

(b) may collaborate with the Utah System of Higher Education and the First Credential Oversight Committee established in Section 53E-10-310.

(5) An LEA applying for a grant shall demonstrate capacity for workforce alignment programs within the LEA or provide a plan to establish or enhance alignment by:

(a) describing current or planned efforts to align programming with labor market needs and local industry demands;

(b) outlining steps to establish or enhance partnerships with:

(i) local industries and employers to ensure workforce relevance; or

(ii) technical colleges, degree-granting institutions, or other postsecondary entities to support postsecondary transitions for students;

(c) identifying proposed programming goals and how the goals address gaps in regional workforce training or opportunities; and

(d) as the LEA determines relevant, planning to incorporate:

(i) career and technical student organizations;

(ii) advisory boards with representation from local industries and workforce experts;

(iii) professional learning opportunities for instructors to improve workforce-focused skills; and

(iv) strategies for using labor market data to refine and improve program offerings.

(6) (a) An LEA may apply for a grant by submitting an application to the state board.

(b) The application shall include:

(i) a plan to:

(A) create or expand one or more catalyst centers; or

(B) create or expand current career and technical education offerings within the LEA to bring the LEA's career and technical education offerings in alignment with the definition of a catalyst center in Subsection (1);

(ii) a detailed multi-year budget, identifying proposed expenditures for each year of the grant;

(iii) justification for any capital expenditures, including plans for building use;

(iv) a description of how the grant will be used to improve student outcomes, including:

(A) increased access to career pathway offerings;

(B) measurable improvements in career readiness, including certifications, credentials, or apprenticeships;

(C) increased offerings that advance students' progression toward postsecondary education or advanced training; and

(D) plans for enhanced student engagement through real-world, profession-based learning;

(v) evidence of any existing partnerships with industry, including letters of collaboration;

(vi) evidence of alignment with the LEA's strategic plan and local labor market needs;

(vii) an explanation of how awarded funds will be used without unnecessary carryforward;

(viii) as applicable, a description of how the catalyst center programming will align with or enhance programs funded by the weighted pupil unit add-on described in Section 53F-2-311;

(ix) for applications submitted by a consortium of LEAs, a description of how:

(A) the catalyst center will serve students across the consortium;

(B) costs and resources will be shared; and

(C) economies of scale will be achieved; and

(x) a description of any proposed planning activities, including expected timelines and outcomes.

(7) The director shall:

(a) prioritize an LEA that:

(i) proposes innovative programming supported by local labor market data;

(ii) collaborates with local postsecondary institutions and industry;

(iii) demonstrates the ability to sustain the catalyst center after the grant period;

(iv) demonstrates a strong focus on student outcomes and workforce alignment;

(v) addresses gaps in high-demand, high-skill career pathways;

(vi) ensures funds are used to enhance programming quality before expansion; and

(vii) provides for a large number of students to participate in catalyst center programs without limiting participation to students based on socio-economic challenges;

(b) allow an LEA to apply for:

(i) smaller grants to bring existing career and technical education programs to high-quality standards the state board establishes;

(ii) larger multi-year grants for capital expenditures and program expansion; and

(iii) ensure that grant funding does not duplicate existing resources provided by other state or local entities;

(c) consider the unique challenges and opportunities faced by rural LEAs in developing and sustaining a career and technical education program or catalyst center, including:

(i) encouraging collaborative applications from rural consortia or regional education service agencies described in Section 53G-4-410 to maximize resources and impact; and

(ii) grant awards that consider both rural and non-rural applicants, recognizing regional workforce needs and program readiness; and

(d) allow an LEA to propose a catalyst center collocated on the campus of an institution of higher education if the application includes evidence of an agreement between the LEA and the institution of higher education.

(8) (a) An LEA that receives a grant:

(i) may coordinate and collaborate with the Utah Board of Higher Education or an individual institution of higher education; and

(ii) shall submit an annual report to the state board.

(b) The report shall include:

(i) the use of grant funds;

(ii) progress in meeting proposed goals and benchmarks;

(iii) updates on partnerships with industry and postsecondary institutions;

(iv) a demonstration of the alignment of programming with labor market data; and

(v) a description of student participation and outcomes.

(c) The state board shall ensure that awarded funds:

(i) are used in accordance with an LEA's application; and

(ii) that are not used are returned for reallocation.

(d) Upon request, the director shall submit a report on the program to the Education Interim Committee and the Public Education Appropriations Subcommittee.

(9) The Talent Ready Utah Program described in Section [~~53B-34-103~~]53H-13-303 and the Utah Leading through Effective, Actionable, and Dynamic Education established in Section 53E-10-702, shall collaborate with the state board to develop and execute a marketing and outreach plan for the Catalyst Center Grant Program.

(10) Talent Ready Utah and the Utah Leading through Effective, Actionable, and Dynamic Education shall:

(a) execute the marketing and outreach plan described in Subsection (9); and

(b) submit an annual report to the state board that includes:

(i) the number of LEAs reached through marketing efforts;

(ii) a description of outreach activities and events conducted; and

(iii) feedback from LEAs regarding program accessibility and clarity.

(11) The state board:

(a) may provide up to 1% of the funds appropriated by the Legislature as described in Section 53F-9-204 to administer the program;

(b) in fiscal year 2026, shall provide up to 1% of the funds appropriated by the Legislature as described in Section 53F-9-204 to Talent Ready Utah and the Utah Leading through Effective, Actionable, and Dynamic Education for the purposes described in Subsections (9) and (10); and

(c) shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this Subsection (11).

Section 88. Section 53E-3-1101 is amended to read:

53E-3-1101 (Effective upon governor's approval). Prohibited discriminatory practices -- Restrictions -- Reporting.

(1) As used in this section, "prohibited discriminatory practice" means the same as that term is defined in Section [~~53B-1-118~~]53H-1-504.

(2) The state board may not:

(a) establish or maintain an office, division, or employment position established to implement, develop, plan, or promote policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or

(b) employ or assign an employee or a third-party whose duties for the state board include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.

(3) Nothing in this section limits or prohibits the state board's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

(4) The state board shall provide an update to the Education Interim Committee and Public Education Appropriations Subcommittee

on the state board's compliance with this section at or before:

(a) the Education Interim Committee's November interim committee meeting; and

(b) the Public Education Appropriations Subcommittee December interim subcommittee meeting.

Section 89. Section 53E-3-1201 is amended to read:

53E-3-1201 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "DOD civilian" means the same as that term is defined in Section [~~53B-8-102~~]53H-11-202.

(2) "Child of a DOD civilian family" means a school-aged child, enrolled in kindergarten through grade 12, in the household of a currently serving DOD civilian.

(3) "Deployment" means the period one month prior to the DOD civilian's departure from the DOD civilian's home station on orders through six months after return to the DOD civilian's home station.

(4) (a) "Educational record" means an official record, file, or data directly related to a student and maintained by a school or an LEA.

(b) "Educational record" includes records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance, and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

(5) (a) "Extracurricular activity" means a voluntary activity sponsored by a school or an LEA or an organization sanctioned by the LEA.

(b) "Extracurricular activity" includes preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

(6) (a) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense.

(b) "Military installation" includes a leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory of the United States.

(c) "Military installation" does not include a facility used primarily for civil works, rivers and harbors projects, or flood control projects.

(7) "Sending state" means the state from which a child of a DOD civilian family is sent, brought, or caused to be sent or brought.

(8) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory of the United States.

(9) "Transferring student" means a child of a DOD civilian family who is seeking to be enrolled in a school in Utah.

Section 90. Section 53E-4-308 is amended to read:

53E-4-308 (Effective upon governor's approval). Unique student identifier -- Coordination of higher education and public education information technology systems -- Coordination of preschool and public education information technology systems.

(1) As used in this section, "unique student identifier" means an alphanumeric code assigned to each public education student for identification purposes, which:

(a) is not assigned to any former or current student; and

(b) does not incorporate personal information, including a birth date or [~~Social Security~~]social security number.

(2) The state board, through the state superintendent, shall assign each public education student a unique student identifier, which shall be used to track individual student performance on achievement tests administered under this part.

(3) The state board and the Utah Board of Higher Education, in collaboration with the Utah Data Research Center created in Section [~~53B-33-201~~]53H-15-202, shall:

(a) coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section [~~53B-1-109~~]53H-1-207; and

(b) coordinate access to the unique student identifier of a public education student who later attends an institution within the state system of higher education.

(4) (a) The state board and the Department of Workforce Services shall coordinate assignment of a unique student identifier to each student enrolled in a program described in Title 35A, Chapter 15, Preschool Programs.

(b) A unique student identifier assigned to a student under Subsection (4)(a) shall remain the student's unique student identifier used by the state board when the student enrolls in a public school in kindergarten or a later grade.

(c) The Governor's Office of Economic Opportunity, the state board, the Department of Workforce Services, and a contractor as defined in Section 63N-20-101, shall coordinate access to the unique student identifier of a preschool student who later attends an LEA.

Section 91. Section 53E-6-102 is amended to read:

53E-6-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Certificate" means a license issued by a governmental jurisdiction outside the state.

(2) "DOD civilian" means the same as that term is defined in Section [~~53B-8-102~~]53H-11-202.

(3) "Educator" means:

(a) a person who holds a license;

(b) a teacher, counselor, administrator, librarian, or other person required, under rules of the state board, to hold a license; or

(c) a person who is the subject of an allegation which has been received by an LEA, the state board, or UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure.

(4) "License" means an authorization issued by the state board that permits the holder to serve in a professional capacity in the public schools.

(5) "National Board certification" means a current certificate issued by the National Board for Professional Teaching Standards.

(6) "School" means a public or private entity that provides educational services to a minor child.

(7) "UPPAC" means the Utah Professional Practices Advisory Commission.

Section 92. Section 53E-10-301 is amended to read:

53E-10-301 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Career and technical education course" means a concurrent enrollment course in career and technical education, as determined by the policy established by the Utah Board of Higher Education under Section 53E-10-302.

(2) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.

(3) "Educator" means the same as that term is defined in Section 53E-6-102.

(4) "Eligible institution" means:

(a) a degree-granting institution of higher education or a technical college [~~within the state system of higher education~~], as [~~identified~~]defined in Section [~~53B-1-102~~]53H-1-101; or

(b) a degree-granting institution of higher education or a technical college [~~within the state system of higher education~~], as [~~identified~~]defined in Section [~~53B-1-102~~]53H-1-101, that offers an online concurrent enrollment course.

(5) "Eligible instructor" means an instructor who meets the requirements described in Section 53E-10-302.

(6) "Eligible student" means a student who:

(a) (i) is enrolled in, and counted in average daily membership in, a public school within the state; or

(ii) is in the custody of the Division of Juvenile Justice and Youth Services and subject to the jurisdiction of the Youth Parole Authority;

(b) has on file a plan for college and career readiness as described in Section 53E-2-304; and

(c) is in grade 9, 10, 11, or 12.

(7) "License" means the same as that term is defined in Section 53E-6-102.

(8) "Local education agency" or "LEA" means a school district or charter school.

(9) "Qualifying experience" means an LEA employee's experience in an academic field that:

(a) qualifies the LEA employee to teach a concurrent enrollment course in the academic field; and

(b) may include the LEA employee's:

(i) number of years teaching in the academic field;

(ii) holding a higher level secondary teaching credential issued by the state board;

(iii) research, publications, or other scholarly work in the academic field;

(iv) continuing professional education in the academic field;

(v) portfolio of work related to the academic field; or

(vi) professional work experience or certifications in the academic field.

(10) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 93. Section 53E-10-310 is amended to read:

53E-10-310 (Effective upon governor's approval). Utah first credential program.

(1) As used in this section:

(a) "Eligible institution" means [~~a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Subsection 53B-2-101(1)~~]an institution of higher education as defined in Section 53H-1-101.

(b) "First credential" means a certificate awarded by the state board to an eligible student who meets the criteria described in Subsection (7).

(c) (i) "Industry-recognized credential" means a credential that is:

(A) developed and offered by, or endorsed by, a nationally recognized industry association or organization representing a sizable portion of the industry sector;

(B) sought or accepted by employers within the industry or sector as a recognized, preferred, or required credential for recruitment, screening, hiring, retention, or advancement purposes; and

(C) regularly reviewed, updated, and validated by the issuing body to ensure ongoing alignment with industry standards and labor market needs.

(ii) "Industry-recognized credential" may also include a credential offered through a catalyst center as described in Section 53E-3-507.1.

(d) "Master credential list" means the list of approved industry-recognized credentials maintained by the state board in accordance with this section.

(e) "Program" means the first credential program described in this section.

(f) "Technical college" means the same as that term is defined in Section [~~53B-1-101.5~~]53H-1-101.

(2) The commissioner of higher education, the state superintendent of public instruction, and the governor's education advisor shall establish the First Credential Oversight Committee comprised of:

(a) representatives from industries, including:

(i) members of professional associations or trade groups; and

(ii) employers from high-demand sectors as the state board determines in collaboration with the Utah Board of Higher Education and the Department of Workforce Services;

(b) representatives from education including:

(i) members from the state board;

(ii) the director of the Catalyst Center Grant Program described in Section 53E-3-507.1;

(iii) LEA administrators, such as a superintendent or charter school director;

(iv) professionals from institutions of higher education, including technical colleges;

(v) career and technical education specialists; and

(vi) Talent Ready Utah; and

(c) workforce development experts, including representatives from the Department of Workforce Services.

(3) The state board shall staff the First Credential Oversight Committee.

(4) The First Credential Oversight Committee shall develop a first credential master plan, which shall include:

(a) a framework for developing and maintaining the master credential list;

(b) a comprehensive needs assessment framework that evaluates:

(i) resources available through institutions of higher education, including:

(A) faculty expertise and availability;

(B) facilities and equipment;

(C) existing certification programs; and

(D) potential for program expansion;

(ii) industry partnership opportunities, including:

(A) geographical proximity to potential partners;

(B) willingness of local industries to participate;

(C) capacity for work-based learning placements; and

(D) alignment between industry needs and educational capabilities; and

(iii) general resource availability, including:

(A) current funding streams and potential funding sources;

(B) existing technology infrastructure;

(C) qualified personnel and staffing needs; and

(D) professional development requirements;

(c) credential approval processes;

(d) methods for ensuring industry demand alignment;

(e) wage considerations for occupations associated with approved credentials;

(f) clear definitions of industry-recognized credentials;

(g) strategies for promoting stackability and sequencing of credentials;

(h) approaches to ensure regional relevance of credentials;

(i) mechanisms for collaboration between educational institutions, industry partners, and workforce development agencies;

(j) strategies for continuous evaluation and improvement of the program;

(k) the creation of a credentials review committee, including membership and duties;

(l) in accordance with Subsection (17), an established framework of planning, implementation, and student outcome performance funding for an LEA administering first credential programming;

(m) a weighted system for the master credential list that:

(i) assigns higher values to credentials based on:

(A) alignment with high-demand, high-wage occupations;

(B) incorporation of multiple learning pathways, including coursework, apprenticeships, internships, work-based learning, and related service opportunities;

(C) industry recognition and portability; and

(D) stackability with other credentials or degrees; and

(ii) uses the weighted values to:

(A) determine incentive funding levels;

(B) prioritize program expansion support; and

(C) guide student career planning; and

(n) guidelines for LEAs to procure industry-recognized certification program licenses, including:

(i) verification that certifications appear on the master credential list;

(ii) requirement for competency-based assessments in proctored environments;

(iii) documentation of local industry endorsement; and

(iv) alignment with state and federal computer science initiatives where applicable, including the Computer Science for Utah Grant Program described in Section [~~53B-34-106~~]53H-13-306.

(5) In accordance with the Utah First Credential Master Plan, the state board shall:

(a) ensure that the credentials review committee membership reflects a balance of perspectives and expertise;

(b) develop an online application and submission system for credentialing organizations and providers to submit programs for inclusion in the master credential list;

(c) establish and maintain the master credential list based on the recommendations of the credentials review committee;

(d) develop clear mechanisms for students to understand how earning one credential can lead to higher-level certifications or degrees; and

(e) foster partnerships between high schools, technical colleges, employers, and apprenticeship programs to ensure students have access to meaningful work-based learning opportunities.

(6) The state board shall:

(a) automatically include on the initial master credential list any existing credential that:

(i) meets the definition of industry-recognized credential under this section; and

(ii) is currently recognized by the state board or Utah Board of Higher Education as of July 1, 2024; and

(b) review all automatically included credentials within one year to ensure ongoing compliance with program requirements.

(7) The state board shall award a first credential certificate to an eligible student who completes one of the following:

(a) concurrent enrollment courses, composed of:

(i) between 12 and 18 core general education credits, or as industry standards dictate, with courses from different general education categories; or

(ii) a prescribed set of courses as the Utah Board of Higher Education designates;

(b) an industry-recognized credential included on the master credential list;

(c) 300 hours of completion through a youth apprenticeship program that:

(i) is described in Sections 35A-6-102 and 35A-6-104.5; and

(ii) includes courses that fulfill the requirements for an industry-recognized credential included on the master credential list;

(d) completion of a technical college certificate; or

(e) completion of a Career and Technical Education Pathway program.

(8) The Utah Board of Higher Education shall ensure that credits earned for a first credential certificate are:

(a) accepted and transferable to institutions of higher education, including technical colleges;

(b) applicable towards relevant degree programs; and

(c) recognized by relevant industries as adequate preparation for employment.

(9) Subject to legislative appropriations, the Utah Board of Higher Education shall award a first credential scholarship to each student who earns a first credential certificate.

(10) The first credential scholarship may be used at the following institutions:

(a) [~~a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Subsection 53B-2-101(1)~~]an institution of higher education as defined in Section 53H-1-101; or

(b) a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

(11) The Utah Board of Higher Education shall annually determine the first credential scholarship amount based on:

(a) the number of eligible students; and

(b) appropriations made by the Legislature.

(12) A student may use the first credential scholarship for:

(a) tuition and fees;

(b) books and supplies; or

(c) other educational expenses as the Utah Board of Higher Education determines.

(13) The Utah Board of Higher Education shall ensure the scholarship is valid for use within three years from the date the student graduates from high school.

(14) A student may earn the first credential scholarship in addition to any other state-sponsored scholarships for which the student may be eligible.

(15) The first credential oversight committee shall present the master plan described in Subsection (4) to the Education Interim Committee by the November 2025 interim committee meeting.

(16) Every three years, the First Credential Oversight Committee shall:

(a) review the Utah First Credential Master Plan;

(b) as needed, create a list of recommendations and update the Utah First Credential Master Plan;

(c) report the list of recommendations and the updated Utah First Credential Master Plan to:

(i) the state board;

(ii) the Utah Board of Higher Education;

(iii) the Department of Workforce Services;

(iv) the Education Interim Committee; and

(v) the Economic Development and Workforce Services Interim Committee.

(17) (a) The state board shall administer a first credential grant program for an LEA and award a grant in accordance with the following process.

(b) The First Credential Oversight Committee shall establish:

(i) a needs assessment tool that evaluates:

(A) an LEA's current first credential offering;

(B) an LEA's capacity to develop or expand a first credential pathway;

(C) resources and support needed for a first credential program, including resources available through institutions of higher education, industry partnership opportunities, and general resource availability; and

(D) each potential barrier to implementation; and

(ii) a continuum of need to place each applying LEA.

(c) An LEA seeking a first credential grant shall submit to the First Credential Oversight Committee:

(i) a completed needs assessment; and

(ii) a grant application that contains:

(A) current first credential data, including current credentials offered;

(B) preliminary goals for creating or expanding first credential opportunities within the LEA; and

(C) if applicable, plans for procurement of industry certification program licenses, including certification details and alignment with master credential list, documentation of employer endorsements, assessment and proctoring procedures, and integration with existing computer science programs.

(d) The First Credential Oversight Committee shall:

(i) review each submitted application and needs assessment;

(ii) assign the LEA a placement on the continuum of need; and

(iii) provide to the LEA a specific requirement for an implementation plan based on:

(A) the LEA's continuum placement;

(B) each identified area for growth;

(C) each available resource; and

(D) each additional factor the First Credential Oversight Committee determines relevant.

(e) An LEA shall submit to the First Credential Oversight Committee an implementation plan that includes:

(i) specific goals for expanding a first credential opportunity;

(ii) each implementation step and timeline;

(iii) a detailed cost projection; and

(iv) each additional element the committee requires based on the needs assessment results.

(f) The First Credential Oversight Committee shall:

(i) review the implementation plan;

(ii) direct technical assistance to the LEA in accordance with the LEA's implementation plan;

(iii) provide feedback to the LEA to improve the implementation plan;

(iv) approve each implementation plan that meets the established criteria; and

(v) award an implementation grant for each approved plan.

(g) Subject to legislative appropriations, the state board shall:

(i) award an incentive grant to an LEA that:

(A) has implemented an approved plan;

(B) increases the number of students who earn a first credential certificate; and

(C) achieves each established implementation goal; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the First Credential Oversight Committee, establish by rule:

(A) tiers for incentive grant awards;

(B) performance metrics for continued funding;

(C) reporting requirements for a grant recipient;

(D) requirements for reporting certification program outcomes and industry alignment;

(E) procedures for coordinating with computer science initiative grants; and

(F) guidelines for certification program procurement and implementation.

(18) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Utah Board of Higher Education and the Department of Workforce Services, the state board shall make rules to implement the provisions of this section.

Section 94. Section 53E-10-706 is amended to read:

53E-10-706 (Effective upon governor's approval). Electronic resources -- Research clearinghouse.

(1) The state board shall publish a ULEAD website containing information provided by the director as described in this part.

(2) The director shall within two years of appointment:

(a) develop and maintain a research clearinghouse publicly available through the website described in Subsection (1); and

(b) include in the research clearinghouse:

(i) research on K-12 education, including peer-reviewed research;

(ii) information on K-12 education innovation and best practices;

(iii) an index and explanation of academic, state, federal, or other K-12 education research repositories;

(iv) K-12 education research and policy briefs generated by Utah public and private institutions of higher education, including participating institutions, categorized and searchable by topic;

(v) access points to and explanation of currently available K-12 education data, including data managed by the Utah Data Research Center created in Section [~~53B-33-201~~]53H-15-202 and data maintained by the state board;

(vi) other K-12 education information as determined by the director, including information regarding efforts by institutions or other individuals to promote innovative and effective education practices in Utah; and

(vii) each innovative practice report prepared by ULEAD, categorized and searchable by topic, location of the studied LEA, and socioeconomic and demographic profile.

(3) The director shall publish:

(a) as identified in ULEAD research and reports, an electronic directory of:

(i) K-12 education experts; and

(ii) LEAs described in Subsection 53E-10-703(5)(b); and

(b) a monthly report to LEAs, via electronic channels provided by the state board, highlighting ULEAD activities and soliciting proposals from education practitioners for ULEAD research and reports.

(4) The director may provide electronic seminars or forums for professional learning regarding subjects of ULEAD research and reports to K-12 practitioners.

Section 95. Section 53E-10-707 is amended to read:

53E-10-707 (Effective upon governor's approval). ULEAD Steering Committee.

(1) (a) There is created the ULEAD Steering Committee.

(b) The member described in Subsection (2)(b) and the member described in Subsection (2)(e) are the co-chairs of the steering committee.

(2) The steering committee shall consist of the following members each appointed for a term of two years:

(a) the director;

(b) one member of the state board appointed by the chair of the state board;

(c) the state superintendent or the state superintendent's designee;

(d) the staff director of the State Charter School Board or the director's designee;

(e) one member appointed by the office of the governor;

(f) one member, appointed by the director, who is a superintendent of a school district;

(g) one member, appointed by the director, of a local school board;

(h) two principals or other public school leaders of public schools that are not charter schools, appointed by the director;

(i) one principal or other public school leader of charter schools, appointed by the director;

(j) two educators who hold a current license under Chapter 6, Education Professional Licensure, nominated by LEA leaders and appointed by the director; and

(k) one member representing citizens or business, nominated by the members of the public and appointed by the director.

(3) (a) A member of the steering committee may be appointed for more than one term.

(b) If a midterm vacancy occurs on the steering committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.

(4) (a) The steering committee shall hold a meeting at least quarterly on dates chosen by the co-chairs, in consultation with the director.

(b) The state board shall provide physical space for the steering committee to meet, or a means to participate in a meeting remotely.

(5) The steering committee shall:

(a) discuss prospective and current ULEAD projects and findings;

(b) consult with and make recommendations to the director to prioritize ULEAD reports and areas of focused research;

(c) facilitate connections between the director and Utah's political, business, education technology, and academic communities;

(d) make recommendations to improve gathering, retaining, and disseminating education data and research and evaluation findings for use by participating institutions and other education policy researchers, including data managed by the Utah Data Research Center created in Section [~~53B-33-201~~]53H-15-202; and

(e) annually vote on and establish steering committee priorities for ULEAD.

(6) In order to determine research priorities for ULEAD, the director shall consult with:

(a) members of the Legislature responsible for public education;

(b) members of Utah professional education associations, including principals and LEA governing board members; and

(c) policy-research centers based in Utah.

(7) The state board or state superintendent may request that the director arrange with a participating institution to prepare a report on a specific LEA or area of practice meeting the criteria established in this part.

(8) A member of the steering committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.

(9) The steering committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Section 96. Section 53F-2-415 is amended to read:

53F-2-415 (Effective upon governor's approval). Student health and counseling support -- Qualifying personnel -- Distribution formula -- Rulemaking.

(1) As used in this section:

(a) "Behavioral health support personnel" means an individual who:

(i) works under the direct supervision of qualifying personnel to:

(A) support and track a student's progress and access to and completion of school curriculum; and

(B) support students by prompting, redirecting, encouraging, and reinforcing positive behaviors;

(ii) is not certified or licensed in mental health; and

(iii) meets the professional qualifications as defined by state board rule [~~;~~].

(b) "Qualifying personnel" means a school counselor or other counselor, a school psychologist or other psychologist, a school social worker or other social worker, or a school nurse who:

(i) is licensed; and

(ii) collaborates with educators and a student's parent on:

(A) early identification and intervention of the student's academic and mental health needs; and

(B) removing barriers to learning and developing skills and behaviors critical for the student's academic achievement.

(c) "Telehealth services" means the same as that term is defined in Section 26B-4-704.

(2) (a) Subject to legislative appropriations, and in accordance with Subsection (2)(b), the state board shall distribute money appropriated under this section to LEAs to provide targeted school-based mental health support, including clinical services and trauma-

informed care, through:

(i) employing qualifying personnel;

(ii) employing behavioral health support personnel; or

(iii) entering into contracts for services provided by qualifying personnel, including telehealth services.

(b) (i) The state board shall, after consulting with LEA governing boards, develop a formula to distribute money appropriated under this section to LEAs.

(ii) The state board shall ensure that the formula described in Subsection (2)(b)(i) incentivizes an LEA to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(iii) The state board shall provide guidance for LEAs regarding the training, qualifications, roles, and scopes of practice for qualifying personnel and behavioral health support personnel that incorporates parent consent and partnership as key components in addressing the mental health and behavioral health needs of students.

(3) To qualify for money under this section, an LEA shall submit to the state board a plan that includes:

(a) measurable goals approved by the LEA governing board on improving student safety, student engagement, school climate, or academic achievement;

(b) how the LEA intends to meet the goals described in Subsection (3)(a) through the use of the money;

(c) how the LEA is meeting the requirements related to parent education described in Section 53G-9-703; and

(d) whether the LEA intends to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(4) The state board shall distribute money appropriated under this section to an LEA that qualifies under Subsection (3), based on the formula described in Subsection (2)(b).

(5) An LEA may not use money distributed by the state board under this section to supplant federal, state, or local money previously allocated to:

(a) employ qualifying personnel;

(b) employ behavioral health support personnel; or

(c) enter into contracts for services provided by qualified personnel, including telehealth services.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:

(a) procedures for submitting a plan for and distributing money under this section;

(b) the formula the state board will use to distribute money to LEAs described in Subsection (2)(b); and

(c) in accordance with Subsection (7), annual reporting requirements for an LEA that receives money under this section.

(7) An LEA that receives money under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (3)(a);

(b) if the LEA discontinues a qualifying personnel position or a behavioral health support personnel position, the LEA's reason for discontinuing the positions; and

(c) how the LEA, in providing school-based mental health support, complies with the provisions of Section 53E-9-203.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

(9) The state board may use up to:

(a) 2% of an appropriation under this section for costs related to the administration of the provisions of this section; and

(b) $1,500,000 in nonlapsing balances from fiscal year 2022 for the purposes described in this section to provide scholarships for up to four years to certain LEA employees, as defined by the state board, for education and training to become a school social worker, a school psychologist, or other school-based mental health worker.

(10) Notwithstanding the provisions of this section, money appropriated under this section may be used, as determined by the state board, for:

(a) the SafeUT Crisis Line described in Section [~~53B-17-1202~~]53H-4-210;

(b) (i) youth suicide prevention programs described in Section 53G-9-702; or

(ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525; or

(c) providing grants to LEAs as provided in Subsection 53F-2-522(5).

Section 97. Section 53F-2-502 is amended to read:

53F-2-502 (Effective upon governor's approval). Dual language immersion.

(1) As used in this section:

(a) "Dual language immersion" means an instructional setting in which a student receives a portion of instruction in English and a portion of instruction exclusively in a partner language.

(b) "Local education agency" or "LEA" means a school district or a charter school.

(c) "Participating LEA" means an LEA selected by the state board to receive a grant described in this section.

(d) "Partner language" means a language other than English in which instruction is provided in dual language immersion.

(e) "Restricted foreign entity" means the same as that term is defined in Section [~~53B-1-201~~]53H-8-501.

(2) The state board shall:

(a) establish a dual language immersion program;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish:

(i) a grant program for an LEA to receive funding for dual language immersion;

(ii) the required qualifications for an LEA to be a participating LEA;

(iii) subject to this section, requirements of a participating LEA;

(iv) a proficiency assessment for each partner language; and

(v) a progression of how a school in a participating LEA adds grade levels in which the school offers dual language immersion; and

(c) subject to legislative appropriations:

(i) select participating LEAs; and

(ii) award to a participating LEA a grant to support dual language immersion in the LEA.

(3) A participating LEA shall:

(a) establish in a school a full-day dual language immersion instructional model that provides at least 50% of instruction exclusively in a partner language;

(b) in accordance with the state board rules described in Subsection (2)(b), add grades in which dual language immersion is provided in a school; and

(c) annually administer to each student in grades 3 through 8 who participates in dual language immersion an assessment described in Subsection (2)(b)(iv).

(4) The state board shall:

(a) provide support to a participating LEA, including by:

(i) offering professional learning for dual language immersion educators;

(ii) developing curriculum related to dual language immersion; or

(iii) providing instructional support for a partner language;

(b) conduct a program evaluation of the dual language immersion program established under Subsection (2)(a); and

(c) on or before November 1, 2019, report to the Education Interim Committee and the Public Education Appropriations Subcommittee on the results of the program evaluation described in Subsection (4)(b).

(5) The state board may, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with a third party to conduct the program evaluation described in Subsection (4)(b).

(6) Regardless of whether an LEA is a participating LEA or provides language instruction through another method, beginning July 1, 2024, an LEA may not seek or accept funding support from a restricted foreign entity or an entity that passes on funding support from a restricted foreign entity.

(7) Subject to budget constraints, in addition to the base increases described in Section 53F-2-208, the Legislature shall annually increase the money appropriated for dual language immersion in proportion to the percentage increase over the previous school year in the value of the weighted pupil unit.

Section 98. Section 53F-2-510 is amended to read:

53F-2-510 (Effective upon governor's approval). Digital Teaching and Learning Grant Program.

(1) As used in this section:

(a) "Advisory committee" means the committee established by the state board under Subsection (6)(b).

(b) "Digital readiness assessment" means an assessment provided by the state board that:

(i) is completed by an LEA analyzing an LEA's readiness to incorporate comprehensive digital teaching and learning; and

(ii) informs the preparation of an LEA's plan for incorporating comprehensive digital teaching and learning.

(c) "High quality professional learning" means the professional learning standards described in Section 53G-11-303.

(d) "Implementation assessment" means an assessment that analyzes an LEA's implementation of an LEA plan, including identifying areas for improvement, obstacles to implementation, progress toward the achievement of stated goals, and recommendations going forward.

(e) "LEA plan" means an LEA's plan to implement a digital teaching and learning program that meets the requirements of this section and requirements set forth by the state board and the advisory committee.

(f) "Program" means the Digital Teaching and Learning Grant Program created and described in Subsections (5) through (10).

(g) "Utah Education and Telehealth Network" or "UETN" means the Utah Education and Telehealth Network created in Section [~~53B-17-105~~]53H-4-213.4.

(2) (a) The state board shall establish a digital teaching and learning task force to develop a funding proposal to present to the Legislature for digital teaching and learning in elementary and secondary schools.

(b) The digital teaching and learning task force shall include representatives of:

(i) the state board;

(ii) UETN;

(iii) LEAs; and

(iv) the Governor's Education Excellence Commission.

(3) As funding allows, the state board shall develop a master plan for a statewide digital teaching and learning program, including the following:

(a) a statement of purpose that describes the objectives or goals the state board will accomplish by implementing a digital teaching and learning program;

(b) a forecast for fundamental components needed to implement a digital teaching and learning program, including a forecast for:

(i) student and teacher devices;

(ii) Wi-Fi and wireless compatible technology;

(iii) curriculum software;

(iv) assessment solutions;

(v) technical support;

(vi) change management of LEAs;

(vii) high quality professional learning;

(viii) Internet delivery and capacity; and

(ix) security and privacy of users;

(c) a determination of the requirements for:

(i) statewide technology infrastructure; and

(ii) local LEA technology infrastructure;

(d) standards for high quality professional learning related to implementing and maintaining a digital teaching and learning program;

(e) a statewide technical support plan that will guide the implementation and maintenance of a digital teaching and learning program, including standards and competency requirements for technical support personnel;

(f) (i) a grant program for LEAs; or

(ii) a distribution formula to fund LEA digital teaching and learning programs;

(g) in consultation with UETN, an inventory of the state public education system's current technology resources and other items and a plan to integrate those resources into a digital teaching and learning program;

(h) an ongoing evaluation process that is overseen by the state board;

(i) proposed rules that incorporate the principles of the master plan into the state's public education system as a whole; and

(j) a plan to ensure long-term sustainability that:

(i) accounts for the financial impacts of a digital teaching and learning program; and

(ii) facilitates the redirection of LEA savings that arise from implementing a digital teaching and learning program.

(4) UETN shall:

(a) in consultation with the state board, conduct an inventory of the state public education system's current technology resources and other items as determined by UETN, including software;

(b) perform an engineering study to determine the technology infrastructure needs of the public education system to implement a digital teaching and learning program, including the infrastructure needed for the state board, UETN, and LEAs; and

(c) as funding allows, provide infrastructure and technology support for school districts and charter schools.

(5) There is created the Digital Teaching and Learning Grant Program to improve educational outcomes in public schools by effectively incorporating comprehensive digital teaching and learning technology.

(6) The state board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules for the administration of the program, including rules requiring:

(i) an LEA to complete a digital readiness assessment the first time an LEA applies for the grant;

(ii) measures to ensure that the LEA monitors and implements technology with best practices; and

(iii) robust goals for learning outcomes and appropriate measurements of goal achievement;

(b) establish an advisory committee to make recommendations on the program and LEA plan requirements and report to the state board; and

(c) in accordance with this section, approve LEA plans and award grants.

(7) (a) The state board shall, subject to legislative appropriations, award a grant to an LEA:

(i) that submits an LEA plan that meets the requirements described in Subsection (8); and

(ii) for which the LEA's leadership and management members have completed a digital teaching and learning leadership and implementation training as provided in Subsection (7)(b).

(b) The state board or its designee shall provide the training described in Subsection (7)(a)(ii).

(8) The state board shall establish requirements of an LEA plan that shall include:

(a) the results of the LEA's digital readiness assessment and a proposal to remedy an obstacle to implementation or other issues identified in the assessment;

(b) high quality professional learning for educators in the use of digital teaching and learning technology;

(c) leadership training and management restructuring, if necessary, for successful implementation;

(d) targets for improved student achievement, student learning, and college readiness through digital teaching and learning; and

(e) any other requirement established by the state board in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including an application process and metrics to analyze the quality of a proposed LEA plan.

(9) The state board or the state board's designee shall establish an interactive dashboard available to each LEA that is awarded a grant for the LEA to track and report the LEA's long-term, intermediate, and direct outcomes in real time and for the LEA to use to create customized reports.

(10) (a) There is no federal funding, federal requirement, federal education agreement, or national program included or related to this state adopted program.

(b) Any inclusion of federal funding, federal requirement, federal education agreement, or national program shall require separate express approval as provided in Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(11) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall contract with an independent evaluator to:

(a) support each LEA that receives a grant as part of the program to complete an implementation assessment for each year that the LEA participates;

(b) report the findings of an implementation assessment to the state board; and

(c) submit to the state board recommendations to resolve issues that an implementation assessment raises.

(12) The state board or the state board's designee shall review an implementation assessment and review each participating LEA's progress from the previous year, as applicable.

(13) The state board shall establish interventions for an LEA that does not make progress on implementation of the LEA's implementation plan, including:

(a) nonrenewal of, or time period extensions for, the LEA's grant;

(b) reduction of funds; or

(c) other interventions to assist the LEA.

(14) (a) To implement an LEA plan, a contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or other agreement with one or more providers of technology powered learning solutions and one or more providers of wireless networking solutions may be entered into by:

(i) UETN, in cooperation with or on behalf of, as applicable, the state board, the state board's designee, or an LEA; or

(ii) an LEA.

(b) A contract or agreement entered into under Subsection (14)(a) may be a contract or agreement that:

(i) UETN enters into with a provider and payment for services is directly appropriated by the Legislature, as funds are available, to UETN;

(ii) UETN enters into with a provider and pays for the provider's services and is reimbursed for payments by an LEA that benefits from the services;

(iii) UETN negotiates the terms of on behalf of an LEA that enters into the contract or agreement directly with the provider and the LEA pays directly for the provider's services; or

(iv) an LEA enters into directly, pays a provider, and receives preapproved reimbursement from a UETN fund established for this purpose.

(c) If an LEA does not reimburse UETN in a reasonable time for services received under a contract or agreement described in Subsection (14)(b), the state board shall pay the balance due to UETN from the LEA's funds received under Chapter 2, State Funding -- Minimum School Program.

(d) If UETN negotiates or enters into an agreement as described in Subsection (14)(b)(ii)or (14)(b)(iii), and UETN enters into an additional agreement with an LEA that is associated with the agreement described in Subsection (14)(b)(ii) or (14)(b)(iii), the associated agreement may be treated by UETN and the LEA as a cooperative procurement, as that term is defined in Section 63G-6a-103, regardless of whether the associated agreement satisfies the requirements of Section 63G-6a-2105.

Section 99. Section 53F-2-526 is amended to read:

53F-2-526 (Effective upon governor's approval). Excellence in Education and Leadership Supplement.

(1) As used in this section:

(a) "Center" means the Center for the School of the Future at Utah State University established in [~~Section 53B-18-801~~]Section 53H-3-304.

(b) "Eligible teacher" means a teacher who is a top-performing teacher that the center determines using an LEA's assessment methods, including:

(i) student growth or achievement measures;

(ii) professional evaluations;

(iii) parent or student surveys; and

(iv) other data-driven criteria the LEA establishes and the center verifies for validity.

(c) "Eligible teacher" includes an individual whom an LEA participating in the program employs and who holds:

(i) a license the state board issues; and

(ii) a position that includes a current classroom teaching assignment.

(d) "High poverty school" means the same as [~~the~~]that term is defined in Section 53F-2-513.

(e) "LEA" means:

(i) a school district;

(ii) a charter school;

(iii) the Utah Schools for the Deaf and the Blind; and

(iv) a regional education service agency.

(f) "Program" means the Excellence in Education and Leadership Supplement created in Subsection (2).

(g) "Tier performance level" means the following levels of performance for a teacher in comparison to all teachers the center determines in accordance with Subsection (7):

(i) the top 5% of teachers;

(ii) the next 6%-10% of teachers; and

(iii) the next 11%-25% of teachers.

(h) "Top-performing" means the top 25% of teachers in comparison to all teachers the center determines using the methods described in Subsection (1)(b).

(2) Beginning July 1, 2024, there is created a five-year pilot program known as the Excellence in Education and Leadership Supplement to provide a performance-based award to an eligible teacher in recognition for outstanding instructional talent.

(3) (a) No later than December 31, 2024, an LEA shall declare the LEA's intent to participate in the program to the center.

(b) If an LEA declares an intent to participate in the program, the LEA shall:

(i) develop a process for a school principal or the principal's designee to assess a teacher's performance consistent with this section to determine if a teacher is an eligible teacher, including the corresponding tier performance level; and

(ii) create an appeals process for an employee who is not nominated to be an eligible teacher.

(4) No later than July 1, 2025, an LEA shall:

(a) attend a training that the center creates regarding the guidelines for developing a process described in Subsection (3); and

(b) develop and submit for approval the LEA's process described in Subsection (3) to the center.

(5) (a) The center shall review the LEA's process described in Subsection (3) and approve the process or request that the LEA make changes to the submitted process.

(b) If the center requests changes to the LEA's submitted process, the LEA shall work with the center to make necessary changes to receive final approval from the center.

(c) No later than August 15, 2025, the center shall provide final approval or denial of an LEA's process.

(6) Before August 31, 2025, an LEA with an approved process as described in Subsection (5) shall:

(a) ensure each school principal or the principal's designee attends a training that the center creates regarding:

(i) how to effectively use the LEA's approved process to select and submit to the center nominations for eligible teachers, including the corresponding tier performance level; and

(ii) how to protect student and educator data privacy when submitting nominations and applications, as described in Subsection (9)(b)(ii);

(b) provide information to teachers within the LEA regarding the program and how the school's principal or principal's designee will use the approved LEA process to make nominations of eligible teachers; and

(c) ensure each school principal or the principal's designee is able to use the LEA's approved process to evaluate and select which teachers within the school to nominate as eligible teachers, including the corresponding tier performance level.

(7) In assessing if a nominated teacher is an eligible teacher, the center shall create an assessment process that:

(a) uses the methods described in Subsection (1)(b);

(b) calibrates the submissions an LEA submits to determine, for all nominated teachers statewide, which teachers are eligible teachers, including the corresponding tier performance level;

(c) may use additional criteria as determined by the center in consultation with participating LEAs; and

(d) establishes a scoring rubric including the scores required for a designation in each tier performance level.

(8) (a) The center shall collaborate with LEAs to create:

(i) selection and submission guidelines for:

(A) the approval of the LEA's process as described in Subsection (5); and

(B) the list of nominated eligible teachers described in Subsection (6);

(ii) methods to determine student growth and achievement measures for subject areas that do not have standardized assessment data;

(iii) the weightings for each element of the assessment process described in Subsection (7); and

(iv) the trainings described in this section.

(b) In addition to the requirements in Subsection (8)(a), an LEA may include the following if the LEA collaborates with the center to do so:

(i) methods to determine student growth and achievement measures for subject areas that have standardized assessment data; and

(ii) methods for combining measures described in Subsections (8)(a)(ii) and (8)(b)(i) as appropriate to assure compatibility across all subject areas.

(c) The center may provide program related technical assistance to an LEA.

(9) (a) An LEA shall:

(i) apply to the center on behalf of the nominated eligible teachers within the LEA through a process and format that the center determines; and

(ii) ensure a school principal or the principal's designee reevaluates an eligible teacher's designation under this section every three years.

(b) The center shall:

(i) create an application process for an LEA to submit the list of nominated eligible teachers described in Subsection (9)(a), including a deadline for submission of the list of nominated teachers to the center;

(ii) coordinate with the state board in the creation of the application process described in Subsection (9)(b)(i) to ensure that any sharing of student and educator data during the application process:

(A) complies with the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99;

(B) complies with Title 53E, Chapter 9, Student Privacy and Data Protection; and

(C) uses disclosure avoidance techniques, including aggregating and otherwise de-identifying data;

(iii) no later than October 1, 2026, determine if a nominated teacher is an eligible teacher through the process described in Subsection (7);

(iv) verify:

(A) the validity of the LEA's process and assessment of an eligible teacher as described in Subsections (4) and (5); and

(B) the nominations described in Subsection (7) with the LEA and school administrators;

(v) certify a list of eligible teachers, including the total amount of funding the LEA receives for the LEA's eligible teachers; and

(vi) provide the list described in Subsection (9)(b)(v) to the state board.

(10) (a) Subject to legislative appropriations, the state board shall:

(i) within 45 days of receiving the list described in Subsection (9)(b)(v) from the center, disburse funding to an LEA in the amount the center verifies that an LEA qualifies to receive for performance-based awards under this section;

(ii) allocate up to 4.25% of the funds appropriated under this section to the center; and

(iii) develop a method to compensate an LEA for program administration that:

(A) does not exceed 4% of the total funds appropriated under this section;

(B) first compensates an LEA for fixed efforts associated with development and management of the LEA's teacher performance-based award program; and

(C) allocates any remaining balance to compensate an LEA for variable efforts associated with ongoing program administration and management.

(b) The annual performance-based award for an eligible teacher is:

(i) $10,000 for a teacher in the top 5% of teachers;

(ii) $5,000 for a teacher in the next 6%-10% of teachers; and

(iii) $2,000 for a teacher in the next 11%-25% of teachers.

(c) If the eligible teacher is employed at a high poverty school, the eligible teacher shall receive an additional performance-based award that is equal in amount to the eligible teacher's performance-based award described in Subsection (10)(b).

(11) (a) An LEA shall:

(i) within 45 days of receiving the LEA's funds from the state board for all eligible teachers, use the program funds to provide a performance-based award equal to the amount specified in Subsection (10) for each eligible teacher in each tier performance level; and

(ii) provide the performance-based award in an eligible teacher's regularly occurring compensation in equal amounts through the contracted school years related to the performance-based award.

(b) An LEA:

(i) may use money appropriated to the LEA for the performance-based award for employer-paid benefits;

(ii) may not include a performance-based award received under this section:

(A) in a retirement calculation; or

(B) as part of retirement contributions; and

(iii) may not reduce an eligible teacher's award to ensure the LEA maintains the funds described in Subsection (10)(a)(iii).

(c) The performance-based award is not part of an eligible teacher's base pay, and is subject to the eligible teacher's designation as an eligible teacher.

(12) Except as provided for in Subsection (11), if the appropriation for the program is insufficient to cover the costs associated with performance-based awards, an LEA may distribute the funds to each eligible teacher of the same tier of performance level on a pro rata basis.

(13) (a) (i) In accordance with state and federal privacy laws, the state board shall provide the following data to the center:

(A) relevant student achievement data;

(B) relevant teacher data; and

(C) any other relevant data as the center determines.

(ii) If the center needs data from a non-participating LEA for purposes of the program, the state board:

(A) shall provide the data; and

(B) may provide the data in a de-identified manner, including providing an individual teacher's or student's data with a unique identifier that is not associated with the teacher's or student's name or school provided identification number.

(b) The state board shall:

(i) consult with the center; and

(ii) contract with a third party to obtain and house a secure web-based portal for authorized LEA and state board users to:

(A) allow a teacher to track the teacher's students' academic achievement and growth and assess within the teacher's LEA the teacher's individual progress toward becoming an eligible teacher nominee;

(B) report results of the chosen model or models at the district, school, and subject or grade levels;

(C) provide diagnostic data showing the growth and achievement trends for different groups of students associated with a teacher, school, charter system, or district; and

(D) provide resources for teachers to interpret the model results, training modules, and receive or request technical support.

(c) The state board shall use up to 2.5% of the total funds appropriated under this section for the web-based access portal described in Subsection (13)(b).

(14) (a) An eligible teacher that receives a performance-based award under the program has no vested property right in the performance-based award or the designation as an eligible teacher.

(b) An eligible teacher's performance-based award and designation under this section are void if the school principal or principal's designee, LEA, or the center made or certified the designation improperly.

(15) (a) Subject to prioritization of the Audit Subcommittee, unless the state board contracts a private auditor in accordance with Subsection (15)(b), the Office of the Legislative Auditor General established under Section 36-12-15 shall, in any fiscal year:

(i) conduct an audit of the program including:

(A) an evaluation of the implementation of the program; and

(B) the efficacy of the program, including program outcomes; and

(ii) prepare and submit a written report for an audit described in this section in accordance with Subsection 36-12-15(6)(b).

(b) Subject to legislative appropriations, the state board may contract with an external auditor to perform the audit described in this Subsection (15).

(16) (a) The center shall report to the Education Interim Committee no later than the 2024 October meeting the following:

(i) the methodology and process the center develops to achieve the requirements of Subsection (7);

(ii) relevant data and updates resulting from the collaborations described in Subsection (8);

(iii) any recommendations for future legislation; and

(iv) data regarding performance-based award programs, including:

(A) different approaches used to reward teacher performance, including different evaluation methods;

(B) research outlining the effectiveness and impact of different performance-based award amounts on teacher retention; and

(C) other considerations for impactful performance-based award programs in relation to teacher retention.

(b) Beginning November 1, 2026, the center shall provide an annual report to the Education Interim Committee regarding:

(i) the statewide metrics used in accordance with Subsection (7);

(ii) de-identified and aggregated data showing the number of:

(A) performance-based awards per school, including total number of eligible teachers in each school;

(B) eligible teachers in high poverty schools;

(C) eligible teachers in each tier performance level;

(D) eligible teachers in subject areas that do not have standardized assessments; and

(E) performance-based award denials per school, including the reasons for a denial;

(iii) proportion of eligible teachers in:

(A) school districts; and

(B) charter schools; and

(iv) teacher retention data for a school where an eligible teacher is employed.

Section 100. Section 53F-4-504 is amended to read:

53F-4-504 (Effective upon governor's approval). Authorized online course providers -- Certified online course providers.

(1) The following entities are known as an authorized online course provider and may offer online courses to eligible students through the Statewide Online Education Program:

(a) a school within an LEA created exclusively for the purpose of serving students online;

(b) an LEA program, approved by the LEA governing board, that is created exclusively for the purpose of serving students online;

(c) a program of an institution of higher education listed in Section [~~53B-2-101~~]53H-1-102 that:

(i) offers secondary school level courses; and

(ii) is created exclusively for the purpose of serving students online; and

(d) a certified online course provider.

(2) The state board shall approve an online course provider as a certified online course provider if the online course provider:

(a) complies with the application procedures described in Section 53F-4-514;

(b) meets the standards described in Section 53F-4-514; and

(c) has prior experience offering online courses to secondary students.

(3) The state board may revoke the approval described in Subsection (2) if the state board:

(a) finds that a certified online course provider is not complying with the requirements described in Section 53F-4-514;

(b) provides written notice describing the findings of non-compliance to the certified online course provider;

(c) provides the certified online course provider with at least 60 days to remedy the findings of non-compliance;

(d) reevaluates the findings of non-compliance at least 60 days after the certified online course provider's remedy period described in Subsection (3)(c); and

(e) finds after reevaluation that the certified online course provider has failed to satisfactorily remedy the findings of non-compliance.

Section 101. Section 53F-5-223 is amended to read:

53F-5-223 (Effective upon governor's approval). Stipends for Future Educators Grant Program.

(1) As used in this section:

(a) "Eligible student teacher" means a student teacher who:

(i) is enrolled in an educator preparation program that leads to a professional level educator license, regardless of whether the student teacher is enrolled at [~~a state~~]an institution described in Section [~~53B-1-102~~]53H-1-102, or another public or private institution within the state or another state;

(ii) works at an LEA within the state as a full-time student teacher to meet the educator preparation program requirements; and

(iii) signs an affidavit demonstrating the student teacher's intent to work in Utah and pursue a Utah professional level educator license.

(b) "License" means the same as that term is defined in Section 53E-6-102.

(c) "Program" means the Stipends for Future Educators Grant Program described in Subsection (2).

(2) This section creates the Stipends for Future Educators Grant Program.

(3) Subject to legislative appropriations, the state board shall award a grant to an eligible student teacher who:

(a) submits an application to the state board;

(b) is enrolled and in good standing in an educator preparation program leading to a Utah professional level educator license;

(c) seeks to obtain the student teacher's first Utah professional level educator license;

(d) has not received a grant award under the program or funding from another state program regarding the student teaching; and

(e) does not receive compensation during the student teaching experience from:

(i) an LEA, unless the eligible student teacher works as a substitute teacher or in an extracurricular activity;

(ii) a work service program offered through the Department of Workforce Services; or

(iii) the Grow Your Own Educator Pipeline Program as described in Section 53F-5-218.

(4) The state board shall determine the amount of the grant award.

(5) The state board may, subject to legislative appropriations and the number of applicants:

(a) reduce the amount of the grant award; and

(b) distribute grant awards on a pro rata basis.

Section 102. Section 53F-5-501 is amended to read:

53F-5-501 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Blended learning" means a formal education program in which a student learns:

(a) at least in part, through online learning with some element of student control over time, place, path, and pace;

(b) at least in part, in a supervised brick-and-mortar location away from home; and

(c) in a program in which the modalities along each student's learning path within a course or subject are connected to provide an integrated learning experience.

(2) "Extended learning" means learning opportunities outside of a traditional school structure, including:

(a) online learning available anywhere, anytime;

(b) career-based experiences, including internships and job shadowing;

(c) community-based projects; and

(d) off-site postsecondary learning.

(3) "Grant program" means the Personalized, Competency-Based Learning Grants Program created in this part.

(4) "Institution of higher education" means an institution listed in Section [~~53B-1-102~~]53H-1-102.

(5) "Personalized, competency-based learning" means a system of learning in which the following principles influence the daily actions of the educational community:

(a) students are empowered daily to make important decisions about the students' learning experiences, how the students will create and apply knowledge, and how students will demonstrate the students' learning;

(b) assessment is a meaningful, positive, and empowering learning experience for students that yields timely, relevant, and actionable evidence;

(c) students receive timely, differentiated support based on the students' individual learning needs;

(d) students progress based on evidence of mastery rather than by hours of attendance;

(e) students learn actively using different pathways and varied pacing;

(f) strategies to ensure equity for all students are embedded in the culture, structure, and pedagogy of schools and education systems; and

(g) rigorous, common expectations for learning, including knowledge, skills, and dispositions, are explicit, transparent, measurable, and transferable.

(6) "Review committee" means the committee established under Section 53F-5-502.

(7) "STEM" means science, technology, engineering, and mathematics.

Section 103. Section 53F-6-401 is amended to read:

53F-6-401 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Contract administrator" means the state board's appointed Deputy Superintendent of Operations that ensures the program manager or financial administrator meets contractual obligations.

(2) "Contract oversight and compliance" means the oversight and coordination functions performed by the Department of Operations contract administrator, including:

(a) establishing and maintaining program standards within a contract with a program manager or financial administrator;

(b) determining operational requirements and structures;

(c) procuring and managing contracts for program services and standards;

(d) ensuring program integrity through direct or contracted oversight;

(e) coordinating program functions and contracted services with a program manager or financial administrator; and

(f) maintaining appropriate separation between government oversight and independent program operations.

(3) "Contracted entity" means:

(a) an organization that:

(i) contracts with the state board under Section 53F-6-404 to perform duties and functions necessary for program administration and operations;

(ii) is not affiliated with any international organization;

(iii) does not harvest data for the purpose of reproducing or distributing the data to other entities;

(iv) is not involved in guiding or directing any curriculum or curriculum standards; and

(v) performs the specific duties and functions assigned in the contract with the state board.

(b) "Contracted entity" includes:

(i) the program manager, unless the program manager is the Department of Operations for any duration of time;

(ii) the financial administrator; and

(iii) any other entity contracted to perform program functions under Section 53F-6-404.

(c) "Contracted entity" does not include:

(i) a qualifying provider;

(ii) an eligible school; or

(iii) an eligible service provider.

(4) (a) "Contracted entity employee" means an individual working for an entity contracted under Section 53F-6-404 in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.

(b) "Contracted entity employee" does not include:

(i) an individual who volunteers for a contracted entity or for a qualifying provider;

(ii) an individual who works for a qualifying provider; or

(iii) a qualifying provider.

(5) "Contracted entity officer" means:

(a) a member of the board of a contracted entity; or

(b) the chief administrative officer of a contracted entity.

(6) "Department of Operations" means the section of the state board that oversees financial operations, procurement operations, data and statistics operations, school land trust, and information technology operations for the state board.

(7) (a) "Educational supplements" means:

(i) materials, tools, and equipment that:

(A) are directly related to and necessary for subjects aligned with the core standards the state board establishes pursuant to Section 53E-4-202;

(B) are used for specific learning objectives or competencies;

(C) support structured learning activities or lessons; and

(D) are consumable or non-reusable in nature;

(ii) supplemental learning materials that:

(A) directly support or enhance the delivery of instruction in core academic subjects;

(B) are tied to specific educational goals or outcomes; and

(C) are not primarily for entertainment or general enrichment purposes;

(iii) arts and music education materials that:

(A) align with state core standards; and

(B) are used in structured arts or music instruction; and

(iv) other educational materials that the program manager determines are:

(A) necessary for meeting specific learning objectives;

(B) appropriate for the student's age or grade level; and

(C) primarily educational rather than recreational in nature.

(b) "Educational supplements" does not include:

(i) entertainment materials;

(ii) recreational equipment;

(iii) food or nutritional items;

(iv) furniture or household items;

(v) general office supplies not specific to an educational activity; or

(vi) other items that do not have a clear, direct educational purpose aligned with academic instruction.

(8) "Eligible student" means a student:

(a) who is eligible to participate in public school, in kindergarten, or grades 1 through 12;

(b) who is a primary resident of the state, including a child of a military service member, as that term is defined in Section [~~53B-8-102~~]53H-11-202;

(c) who, during the school year for which the student is applying for a scholarship account:

(i) does not receive a scholarship under:

(A) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(B) the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402; and

(ii) before receiving the scholarship is not enrolled in:

(A) an LEA; or

(B) the Statewide Online Education Program to participate in a course with funding provided under Chapter 4, Part 5, Statewide Online Education Program, which does not include participation in a course by an entity as described in Subsection 53F-6-409(7);

(d) whose eligibility is not suspended or disqualified under Section 53F-6-401;

(e) who completes, to maintain eligibility, the portfolio requirement described in Subsection 53F-6-402(3)(d);

(f) who provides verification of primary residence in Utah, including a parent's utility bill, mortgage statement, lease agreement, or property tax records from the current calendar year in which the eligible student is renewing, reapplying, or applying for the scholarship for the first time; and

(g) for out-of-state military families, who attests that the student is not enrolled in a public school elsewhere while receiving the scholarship.

(9) "Federal poverty level" means the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(10) (a) "Financial administrator" means an organization that:

(i) is not affiliated with any international organization;

(ii) does not harvest data for the purpose of reproducing or distributing the data to other entities;

(iii) is not involved in guiding or directing any curriculum or curriculum standards; and

(iv) contracts with the state board to administer scholarship payments in accordance with this part.

(b) "Financial administrator" may include an organization that serves as both program manager and financial administrator if the organization maintains appropriate separation of duties and meets all qualifications for both roles.

(11) (a) "Home-based scholarship student" means a student who:

(i) is eligible to participate in public school, in kindergarten or grades 1 through 12;

(ii) attests to being exited from enrollment in a public school to attend a home-based learning environment if the student was enrolled at any time in a public school; and

(iii) receives a benefit of scholarship funds.

(b) "Home-based scholarship student" does not mean a home-based student who does not receive a scholarship under the program.

(12) "Household income" means:

(a) the combined gross income of all parents residing in the same household as the eligible student;

(b) the gross income of a single parent who claims the student as a dependent; or

(c) the gross income of a parent who claims the student as a dependent under the terms of a joint custody agreement.

(13) "Parent" means:

(a) the same as that term is defined in Section 53E-1-102; and

(b) a foster parent who has initiated a process to adopt the foster child.

(14) "Primary residence" means the one location where an individual resides for the majority of the year.

(15) "Private school" means a full-time, tuition-bearing educational institution where the student receives the majority of the student's academic instruction.

(16) (a) "Program manager" means a contracted entity or entities that:

(i) perform program operational functions outlined in the procurement agreement described in Section 53F-6-404, including:

(A) processing scholarship applications and eligibility determinations;

(B) maintaining scholarship account records;

(C) coordinating with qualifying providers and the financial administrator; and

(D) providing customer service to program participants;

(ii) in accordance with required program administration, implement established program standards and procedures; and

(iii) perform other operational duties as specified in the contract.

(b) "Program manager" may include an organization that serves as both program manager and financial administrator if the organization maintains appropriate separation of duties and meets all qualifications for both roles.

(17) (a) "Qualifying provider" means one of the following entities:

(i) an eligible school that the program manager approves in accordance with Section 53F-6-408; or

(ii) an eligible service provider that the program manager approves in accordance with Section 53F-6-409.

(b) "Qualifying provider" does not include:

(i) a parent of a home-based scholarship student solely in relation to the parent's child; or

(ii) any other individual that does not meet the requirements described in Subsection (17)(a).

(18) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(19) "Scholarship account" means the account to which a program manager allocates funds for the payment of approved scholarship expenses in accordance with this part.

(20) (a) "Scholarship expense" means an expense described in Section 53F-6-402 that a parent or scholarship student incurs in the education of the scholarship student for a service or goods that a qualifying provider provides, including:

(i) tuition and fees of a qualifying provider;

(ii) fees and instructional materials at a technical college;

(iii) tutoring services;

(iv) fees for after-school or summer education programs;

(v) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum or a qualifying provider recommends;

(vi) educational software and applications;

(vii) supplies or other equipment related to a scholarship student's educational needs;

(viii) computer hardware or other technological devices that are intended primarily for a scholarship student's educational needs, not to exceed once every three years for a scholarship student;

(ix) fees for the following examinations, or for a preparation course for the following examinations, that the program manager approves:

(A) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;

(B) a state-recognized industry certification examination; and

(C) an examination related to college or university admission;

(x) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;

(xi) contracted services that the program manager approves and that an LEA provider offers, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;

(xii) ride fees or fares for a fee-for-service transportation provider to transport the scholarship student to and from a qualifying provider, not to exceed $750 in a given school year;

(xiii) in accordance with Subsection (20)(c), expenses related to extracurricular activities, field trips, educational supplements, physical education experiences, and other educational experiences;

(xiv) coursework or an educational supplement for arts and music that aligns with state core standards;

(xv) a musical instrument rental, excluding purchase; or

(xvi) any other expense for a good or service that:

(A) a parent or scholarship student incurs in the education of the scholarship student; and

(B) the program manager approves.

(b) "Scholarship expense" does not include:

(i) chaperone expenses, except that a family with one or more scholarship students receiving the scholarship under Subsection 53F-6-402(2)(c) may use scholarship funds for one chaperone expense or pass per family, regardless of how many scholarship students are in the family or household;

(ii) season tickets or subscriptions to entertainment venues;

(iii) ski passes or lift tickets;

(iv) access to recreational facilities unless for physical education of the student;

(v) playground equipment;

(vi) the purchase of any type of:

(A) furniture; or

(B) a musical instrument;

(vii) apparel; and

(viii) other non-educational expenses as the program manager determines.

(c) (i) A scholarship expense for extracurricular activities may not exceed 20% of the total scholarship amount.

(ii) A scholarship expense for physical education requirements may not exceed an additional 20% of the total scholarship amount from the amount described in Subsection (20)(c)(i).

(iii) A scholarship expense for arts and music described in Subsection (20)(a)(xiv) is not an extracurricular activity.

(21) "Scholarship funds" means:

(a) funds that the Legislature appropriates for the program; and

(b) interest that scholarship funds accrue.

(22) (a) "Scholarship student" means an eligible student, including a home-based scholarship student, for whom the program manager establishes and maintains a scholarship account in accordance with this part.

(b) "Scholarship student" does not include a home-based student who does not receive a scholarship award under the program.

(23) "Utah Fits All Scholarship Program" or "program" means the scholarship program established in Section 53F-6-402.

Section 104. Section 53G-1-103 is amended to read:

53G-1-103 (Effective upon governor's approval). Definitions.

As used in this title:

(1) "DOD civilian" means the same as that term is defined in Section [~~53B-8-102~~]53H-11-202.

(2) "Electronic cigarette product" means the same as that term is defined in Section 76-9-1101.

(3) "Military service member" means the same as that term is defined in Section [~~53B-8-102~~]53H-11-202.

Section 105. Section 53G-2-104 is amended to read:

53G-2-104 (Effective upon governor's approval). Prohibition on the use of certain training in public education -- Exceptions.

(1) As used in this section:

(a) "Prohibited training" means a mandatory instructional program and related materials that an LEA requires the LEA's employees, prospective employees, students, or prospective students, to attend that promote prohibited discriminatory practices as that term is defined in Section [~~53B-1-118~~]53H-1-504.

(b) "Prohibited training" includes an in-person or online seminar, discussion group, workshop, other program, or related materials.

(2) An LEA may not require prohibited training.

(3) Nothing in this section limits or prohibits an LEA's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

(4) If the state board identifies a reported violation of this section, the state board shall provide an update to the Education Interim Committee on an LEA's compliance with this section at or before the Education Interim Committee's November interim committee meeting.

(5) An individual may bring a violation of this section to the state board in accordance with the process described in Section 53E-3-401.

Section 106. Section 53G-2-105 is amended to read:

53G-2-105 (Effective upon governor's approval). Prohibited discriminatory practices -- Restrictions -- Reporting.

(1) As used in this section, "prohibited discriminatory practice" means the same as that term is defined in Section [~~53B-1-118~~]53H-1-504.

(2) An LEA may not:

(a) engage in prohibited discriminatory practices;

(b) establish or maintain an office, division, employment position, or other unit of an institution established to implement, develop, plan, or promote campus policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or

(c) employ or assign an employee or a third-party whose duties for an institution include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.

(3) An LEA shall ensure that all students have access to programs providing student success and support, as that term is defined in Section [~~53B-1-118~~]53H-1-504.

(4) Nothing in this section limits or prohibits an LEA's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

(5) If the state board identifies a reported violation of this section, the state board shall provide an update to the Education Interim Committee and the Public Education Appropriations Subcommittee on an LEA's compliance with this section at or before the Education Interim Committee's November interim committee meeting.

(6) An individual may bring a violation of this section to the state board in accordance with the process described in Section 53E-3-401.

Section 107. Section 53G-5-102 is amended to read:

53G-5-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

(a) cash;

(b) stock or other investments;

(c) real property;

(d) equipment and supplies;

(e) an ownership interest;

(f) a license;

(g) a cause of action; and

(h) any similar property.

(2) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205 that authorizes a charter school.

(3) "Institution of higher education board of trustees" or "board of trustees" means:

(a) the board of trustees of:

(i) the University of Utah;

(ii) Utah State University;

(iii) Weber State University;

(iv) Southern Utah University;

(v) Snow College;

(vi) Utah Tech University;

(vii) Utah Valley University; or

(viii) Salt Lake Community College;

(b) a technical college board of trustees described in Section [~~53B-2a-108~~]53H-3-205; or

(c) a board of trustees of a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

Section 108. Section 53G-5-306 is amended to read:

53G-5-306 (Effective upon governor's approval). Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.

(1) Except as provided in Subsection (6), an applicant identified in Section 53G-5-302 may enter into an agreement with an institution of higher education board of trustees authorizing the applicant to establish and operate a charter school.

(2) (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the local school board of the school district in which the proposed charter school will be located either before or at the same time the applicant files the application with the board of trustees.

(b) The local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by the local school board under Subsection (2)(b).

(3) The state board shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.

(4) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(5) (a) The school's charter agreement may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Section 53G-5-205.

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (5)(a) shall be:

(i) paid to the board of trustees; and

(ii) expended as directed by the board of trustees.

(6) (a) In addition to complying with the requirements of this section, a technical college board of trustees, as [~~defined~~]described in Section [~~53B-2a-108~~]53H-3-205, shall obtain the approval of the Utah Board of Higher Education before entering into an agreement to establish and operate a charter school.

(b) If a technical college board of trustees approves an application to establish and operate a charter school, the technical college board of trustees shall submit the application to the Utah Board of Higher Education.

(c) The Utah Board of Higher Education shall, by majority vote, within 60 days of receipt of an application described in Subsection (6)(b), approve or deny the application.

(d) The Utah Board of Higher Education may deny an application approved by a technical college board of trustees if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53G-5-104.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

(i) an enrollment decline;

(ii) a decrease in funding; or

(iii) a modification of programs or services.

(7) (a) Subject to the requirements of this chapter and other related provisions, a technical college board of trustees may establish:

(i) procedures for submitting applications to establish and operate a charter school; or

(ii) criteria for approval of an application to establish and operate a charter school.

(b) The Utah Board of Higher Education may not establish policy governing the procedures or criteria described in Subsection (7)(a).

(8) Before a technical college board of trustees accepts a charter school application, the technical college board of trustees shall, in accordance with state board rules, establish and make public:

(a) application requirements, in accordance with Section 53G-5-302;

(b) the application process, including timelines, in accordance with this section; and

(c) minimum academic, governance, operational, and financial standards.

Section 109. Section 53G-6-708 is amended to read:

53G-6-708 (Effective upon governor's approval). Career and technical education program alternatives.

(1) A secondary student may attend a technical college described in Section [~~53B-2a-105~~]53H-3-1202 if the secondary student's career and technical education goals are better achieved by attending a technical college as determined by:

(a) the secondary student; and

(b) if the secondary student is a minor, the secondary student's parent.

(2) A secondary student served under this section by a technical college described in Section [~~53B-2a-105~~]53H-3-1202 shall be counted in the average daily membership of the sending school district or charter school.

Section 110. Section 53G-7-227 is amended to read:

53G-7-227 (Effective upon governor's approval). Cellular device prohibition.

(1) As used in this section:

(a) "Cellphone" means a handheld, portable electronic device that is designed to be operated using one or both hands and is capable of transmitting and receiving voice, data, or text communication by means of:

(i) a cellular network;

(ii) a satellite network; or

(iii) any other wireless technology.

(b) "Cellphone" includes:

(i) a smartphone;

(ii) a feature phone;

(iii) a mobile phone;

(iv) a satellite phone; or

(v) a personal digital assistant that incorporates capabilities similar to a smartphone, feature phone, mobile phone, or satellite phone.

(c) "Classroom hours" means:

(i) time during which a student receives scheduled, teacher-supervised instruction that occurs:

(A) in a physical or virtual classroom setting;

(B) during regular school operating hours; and

(C) as part of an approved educational curriculum.

(ii) "Classroom hours" does not include:

(A) lunch periods;

(B) recess;

(C) transit time between classes;

(D) study halls unless directly supervised by a qualified instructor;

(E) after-school activities unless part of an approved extended learning program; or

(F) independent study time occurring outside scheduled instruction.

(d) (i) "Emerging technology" means any other device that has or will be able to act in place of or as an extension of an individual's cellphone.

(ii) "Emerging technology" does not include school provided or required devices.

(e) "Smart watch" means a wearable computing device that closely resembles a wristwatch or other time-keeping device with the capacity to act in place of or as an extension of an individual's cellphone.

(f) "Smart watch" does not include a wearable device that can only:

(i) tell time;

(ii) monitor an individual's health informatics;

(iii) receive and display notifications or information without the capability to respond; or

(iv) track the individual's physical location.

(2) (a) An LEA:

(i) shall establish a policy that allows a student to use a cellphone, smart watch, or emerging technology:

(A) to respond to an imminent threat to the health or safety of an individual;

(B) to respond to a school-wide emergency;

(C) to use the SafeUT Crisis Line described in [~~Title 53B, Chapter 17, Part 12, SafeUT Crisis Line~~]Section 53H-4-210;

(D) for a student's IEP or Section 504 accommodation plan; or

(E) to address a medical necessity; and

(ii) may establish a policy that provides for other circumstances when a student may use a cellphone, smart watch, or emerging technology.

(b) An LEA may establish policies that:

(i) extend restrictions on student use of cellphones, smart watches, or emerging technologies to non-classroom hours during the school day, including:

(A) lunch periods;

(B) transition times between classes; and

(C) other school-supervised activities; and

(ii) impose additional limitations on the use of cellphones, smart watches, or emerging technologies beyond those required by this section.

(3) Except as provided in Subsection (2), a student may not use a cellphone, smart watch, or emerging technology at a school during classroom hours.

(4) The state board may create one or more model policies regarding when a student may use a student's cellphone, smart watch, or emerging technology in a school during classroom hours consistent with this section.

Section 111. Section 53G-7-1101 is amended to read:

53G-7-1101 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Alignment" or "realignment" means the initial or subsequent act, respectively, of assigning a public school a classification or region.

(2) "Appeals panel" means the appeals panel created in Section 53G-7-1106.

(3) (a) "Association" means an organization that governs or regulates a student's participation in an athletic interscholastic activity.

(b) "Association" does not include an institution of higher education described in Section [~~53B-1-102~~]53H-1-102.

(4) "Classification" means the designation of a school based on the size of the school's student enrollment population for purposes of interscholastic activities.

(5) "Eligibility" means eligibility to participate in an interscholastic activity regulated or governed by an association.

(6) "Governing body" means a body within an association that:

(a) is responsible for:

(i) adopting standards or policies that govern interscholastic activities or the administration of the association;

(ii) adopting or amending the association's governing document or bylaws;

(iii) enforcing the standards and policies of the association; and

(iv) adopting the association's budget; and

(b) has oversight of other boards, committees, councils, or bodies within the association.

(7) "Interscholastic activity" means an activity within the state in which:

(a) a student that participates represents the student's school in the activity; and

(b) the participating student is enrolled in grade 9, 10, 11, or 12.

(8) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(9) "Region" means a grouping of schools of the same classification for purposes of interscholastic activities.

Section 112. Section 53G-8-202 is amended to read:

53G-8-202 (Effective upon governor's approval). Public school discipline policies -- Basis of the policies -- Enforcement.

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2) (a) To foster such an environment, each local school board or charter school governing board, with input from school employees, parents of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools in accordance with Section 53G-8-211.

(b) A district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted standards of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

(c) (i) On or before September 1, 2015, the state board shall revise the conduct and discipline policy models for elementary and secondary public schools to include procedures for responding to reports received through the SafeUT Crisis Line under Subsection [~~53B-17-1202(3)~~]53H-4-210(2)(c).

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

Section 113. Section 53G-8-203 is amended to read:

53G-8-203 (Effective upon governor's approval). Conduct and discipline policies and procedures.

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(a) provisions governing student conduct, safety, and welfare;

(b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

(c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (1)(b);

(d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section 53G-8-301;

(e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

(i) the school;

(ii) school property;

(iii) a person associated with the school; or

(iv) property associated with a person described in Subsection (1)(e)(iii);

(f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;

(g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;

(h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and

(i) procedures for responding to reports received through the SafeUT Crisis Line under Subsection [~~53B-17-1202(3)~~]53H-4-210(2)(c).

(2) (a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.

(b) (i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through 6.

(ii) The local school board shall receive input from teachers, school administrators, and parents of the affected students before adopting the policy.

(c) The policy described in Subsection (2)(a) shall provide for:

(i) notice to the parent of a student prior to holding the student after school on a particular day; and

(ii) exceptions to the notice provision if detention is necessary for the student's health or safety.

(3) (a) Each LEA shall adopt a policy for responding to possession or use of electronic cigarette products by a student on school property.

(b) The policy described in Subsection (3)(a) shall:

(i) prohibit students from possessing or using electronic cigarette products on school property;

(ii) include policies or procedures for the confiscation or surrender of electronic cigarette products; and

(iii) require a school administrator or school administrator's designee to dispose of or destroy a confiscated electronic cigarette product.

(c) Notwithstanding Subsection (3)(b)(iii), an LEA may release a confiscated electronic cigarette product to local law enforcement if:

(i) a school official has a reasonable suspicion that a confiscated electronic cigarette product contains an illegal substance; and

(ii) local law enforcement requests that the LEA release the confiscated electronic cigarette product to local law enforcement as part of an investigation or action.

(4) (a) Each LEA shall adopt a policy for responding to when a student has committed a serious offense or sexual crime.

(b) The policy described in Subsection (4)(a) shall:

(i) address a serious offense or sexual misconduct related to hazing;

(ii) distinguish procedures for when the crime occurs on school property and off of school property;

(iii) if a student has committed a serious offense or sexual crime, provide a process for a school resource officer to provide input for the LEA to consider regarding the safety risks a student may pose upon reintegration;

(iv) establish a process to inform a school resource officer of any student who is on probation;

(v) create procedures for determining an alternative placement for a student if the student attends the same school as:

(A) the victim of the student's crime; and

(B) an individual who has a protective order against the student; and

(vi) be compliant with state and federal law.

Section 114. Section 53G-9-703 is amended to read:

53G-9-703 (Effective upon governor's approval). Parent education -- Mental health -- Bullying -- Safety -- Video presentation regarding student use of technology.

(1) (a) Except as provided in Subsection (3), a school district shall offer a seminar for parents of students who attend school in the school district that:

(i) is offered at no cost to parents;

(ii) (A) if in person, begins at or after 6 p.m.;

(B) if in person, takes place on a Saturday; or

(C) may be conducted at anytime online and recorded if the recording is made available on the school district's website, including the parent portal created in Section 53G-6-806[~~.~~]_;_

(iii) (A) is held in at least one school located in the school district; or

(B) is provided through a virtual platform; and

(iv) covers the topics described in Subsection (2).

(b) (i) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(ii) Notwithstanding Subsection (1)(b)(i), a school district may not be required to offer more than three seminars.

(c) A school district may:

(i) develop the district school's own curriculum for the seminar described in Subsection (1)(a); or

(ii) use the curriculum developed by the state board under Subsection (2).

(d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.

(2) The state board shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;

(iv) Internet safety, including pornography addiction;

(v) the SafeUT Crisis Line established in Section [~~53B-17-1202~~]53H-4-210; and

(vi) resources related to the topics described in this Subsection (2); and

(b) provide the curriculum, including resources and training, to school districts upon request.

(3) (a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the state board and provide the reasons why the local school board chose not to offer the parent seminar.

(4) (a) The state board shall develop a brief video presentation that is directed at educating parents about potential safety and legal issues a student may encounter regarding the student's use of technology, including:

(i) sharing personal data via social media and other means of communication; and

(ii) creating or sharing sexual or nude images, both real and artificially produced.

(b) The state board shall make the video presentation described in Subsection (4)(a) available to each school district so that the school district may provide the video presentation to parents within the school district.

Section 115. Section 53G-9-902 is amended to read:

53G-9-902 (Effective upon governor's approval). Informed parental consent required -- Parental notification required.

(1) Except as provided in a student's IEP or Section 504 accommodation plan:

(a) an individual who is not authorized personnel may not provide a restricted service; and

(b) authorized personnel may not provide a restricted service:

(i) outside the scope of the relevant license; or

(ii) with other students present.

(2) For authorized personnel to provide a restricted service:

(a) the relevant LEA, school, or authorized personnel shall obtain informed written parental consent before the first session of a restricted service in a given school year, using a standard form that includes:

(i) fields for at least the following information:

(A) the name of the student;

(B) the name of the individual giving informed consent; and

(C) the name of each authorized personnel who has authority under the informed written consent to provide a restricted service;

(ii) a statement that the authorized personnel will provide information about the restricted service in accordance with Subsection (2)(b), including that the parent has the right to opt out of receiving notifications at any time; and

(iii) a statement that authorized personnel will adhere to the topics or issues the parent identifies, in collaboration with authorized personnel, for discussion or exclusion with the student under Subsection (3)(a), except that the authorized personnel may address topics if the omission would compromise the student's immediate safety, the omission would violate mandatory reporting obligations, or, based on behaviors or statements the authorized personnel observes, the authorized personnel determines a need to assess the student's safety; and

(b) unless the student's parent opts out of receiving notifications from the authorized personnel under this Subsection (2)(b), within one business day after each session of a restricted service, the authorized personnel shall provide to the student's parent:

(i) notice that the restricted service took place; and

(ii) a description of the topic of the restricted service.

(3) (a) (i) When obtaining the informed written parental consent described in Subsection (2)(a), the LEA, school, or authorized personnel shall, through consultation with the parent, provide the parent an opportunity to identify topics or issues the parent intends the authorized personnel to address or to not address with the student.

(ii) Except as described in Subsection (3)(a)(iii), authorized personnel may not address a topic or issue for which a parent has expressly stated an intent for authorized personnel to not address with the student under this Subsection (3)(a).

(iii) Subsection (3)(a)(ii) does not apply if:

(A) an omission within a restricted service would compromise the student's immediate safety; or

(B) the student discloses information that creates a duty on the authorized personnel to make a mandatory report for the purpose of discussing the information with the student to the extent necessary to make the report, including for suspected cases of child abuse or neglect under Section 80-2-602, abuse of a student under Section 53E-6-701, or any other legally mandated duty to report an incident.

(b) (i) The requirement to obtain prior informed written parental consent before providing a restricted service described in Subsection (2)(a) does not apply in a case in which a delay to contact a parent would create an immediate serious risk of suicide or serious bodily injury, as defined in Section 76-1-101.5, to the student or to another individual.

(ii) For a circumstance described in Subsection (3)(b)(i), the LEA, school, or authorized personnel shall notify a parent in accordance with Section 53G-9-604.

(c) A student's IEP or Section 504 accommodation plan that includes a restricted service satisfies the informed parental consent requirement described in Subsection (2)(a).

(4) (a) The state board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the application of this section to the actions of educators and staff in the public education system.

(b) The state board shall, in consultation with the Department of Health and Human Services, provide guidance to authorized personnel, educators, and school support staff on conduct and practices that constitute and do not constitute a restricted service.

(5) Nothing in this part authorizes an individual to take an action that exceeds the scope of the individual's license or certification.

(6) This section does not apply to a service a student accesses through the SafeUT Crisis Line established in Section [~~53B-17-1202~~]53H-4-210.

Section 116. Section 53G-11-303 is amended to read:

53G-11-303 (Effective upon governor's approval). Professional learning standards.

(1) As used in this section:

(a) "Evidence-based" means that a strategy, not including reading software, demonstrates a statistically significant effect, of at least a 0.40 effect size, on improving student outcomes based on:

(i) strong evidence from at least one well-designed and well-implemented experimental study, as the state board further defines; or

(ii) moderate evidence from at least one well-designed and well-implemented quasi-experimental study, as the state board further defines.

(b) "Evidence-informed" means that a strategy:

(i) is developed using high-quality research outside of a controlled setting in the given field, as the state board further defines; and

(ii) includes strategies and activities with a strong scientific basis for use, as the state board further defines.

(c) "Professional learning" means a comprehensive, sustained, and evidence-based approach to improving teachers' and principals' effectiveness in raising student achievement.

(2) A school district or charter school shall implement high quality professional learning that meets the following standards:

(a) professional learning occurs within learning communities committed to continuous improvement, individual and collective responsibility, and goal alignment;

(b) professional learning requires skillful leaders who develop capacity, advocate, and create support systems, for professional learning;

(c) professional learning requires prioritizing, monitoring, and coordinating resources for educator learning;

(d) professional learning uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate professional learning;

(e) professional learning integrates theories, research, and models of human learning to achieve its intended outcomes;

(f) professional learning applies research on change and sustains support for implementation of professional learning for long-term change;

(g) professional learning aligns its outcomes with:

(i) performance standards for teachers and school administrators as described in rules of the state board; and

(ii) performance standards for students as described in the core standards for Utah public schools adopted by the state board pursuant to Section 53E-4-202;

(h) professional learning:

(i) incorporates the use of technology in the design, implementation, and evaluation of high quality professional learning practices; and

(ii) includes targeted professional learning on the use of technology devices to enhance the teaching and learning environment and the integration of technology in content delivery; and

(i) professional learning uses evidence-informed core materials and evidence-based instructional practices and intervention materials.

(3) School districts and charter schools shall use money appropriated by the Legislature for professional learning or federal grant money awarded for professional learning to implement professional learning that meets the standards specified in Subsection (2).

(4) The state board, ULEAD, as that term is defined in Section 53E-10-701, and the Center for the School of the Future, established in [~~Section 53B-18-801~~]Section 53H-4-304, shall jointly, in collaboration with an independent university-based research center, develop and maintain a repository of evidence-based practice and evidence-informed intervention materials to support school districts and charter schools in meeting the standards described in Subsection (2).

Section 117. Section 54-8b-10 is amended to read:

54-8b-10 (Effective upon governor's approval). Imposing a surcharge to provide deaf, hard of hearing, and speech impaired individuals with telecommunication devices -- Definitions -- Procedures for establishing program -- Surcharge -- Administration and disposition of surcharge money.

(1) As used in this section:

(a) "Certified deaf, hard of hearing, or severely speech impaired individual" means any state resident who:

(i) is so certified by:

(A) a licensed physician;

(B) a licensed physician assistant;

(C) an otolaryngologist;

(D) a speech language pathologist;

(E) an audiologist; or

(F) a qualified state agency; and

(ii) qualifies for assistance under any low income public assistance program administered by a state agency.

(b) "Certified interpreter" means a person who is a certified interpreter under Title 35A, Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.

(c) (i) "Telecommunication device" means any mechanical adaptation device that enables a deaf, hard of hearing, or severely speech impaired individual to use the telephone.

(ii) "Telecommunication device" includes:

(A) telecommunication devices for the deaf (TDD);

(B) telephone amplifiers;

(C) telephone signal devices;

(D) artificial larynxes; and

(E) adaptive equipment for TDD keyboard access.

(2) The commission shall establish a program whereby a certified deaf, hard of hearing, or severely speech impaired customer of a telecommunications corporation that provides service through a local exchange or of a wireless telecommunications provider may obtain a telecommunication device capable of serving the customer at no charge to the customer beyond the rate for basic service.

(3) (a) The program described in Subsection (2) shall provide a dual party relay system using third party intervention to connect a certified deaf, hard of hearing, or severely speech impaired individual with a normal hearing individual by way of telecommunication devices designed for that purpose.

(b) The commission may, by rule, establish the type of telecommunications device to be provided to ensure functional equivalence.

(4) The commission shall cover the costs of the program described in this section from the Universal Public Telecommunications Service Support Fund created in Section 54-8b-15.

(5) In administering the program described in this section, the commission may use funds from the Universal Public Telecommunications Service Support Fund:

(a) for the purchase, maintenance, repair, and distribution of telecommunication devices;

(b) for the acquisition, operation, maintenance, and repair of a dual party relay system;

(c) for the general administration of the program;

(d) to train individuals in the use of telecommunications devices; and

(e) to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code, with:

(i) an institution [~~within the state system~~]of higher education listed in Section [~~53B-1-102~~]53H-1-102 for a program approved by the Utah Board of Higher Education that trains persons to qualify as certified interpreters; or

(ii) the Utah State Office of Rehabilitation created in Section 35A-1-202 for a program that trains persons to qualify as certified interpreters.

(6) The commission may create disbursement criteria and procedures by rule made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for administering funds under Subsection (5).

(7) The commission shall solicit advice, counsel, and physical assistance from deaf, hard of hearing, or severely speech impaired individuals and the organizations serving deaf, hard of hearing, or severely speech impaired individuals in the design and implementation of the program.

Section 118. Section 57-21-3 is amended to read:

57-21-3 (Effective upon governor's approval). Exemptions -- Sale by private individuals -- Nonprofit organizations -- Noncommercial transactions.

(1) This chapter does not apply to a single-family dwelling unit sold or rented by its owner if:

(a) the owner does not own an interest in four or more single-family dwelling units held for sale or lease at the same time;

(b) during a 24-month period, the owner does not sell two or more single-family dwelling units in which the owner was not residing or was not the most recent resident at the time of sale;

(c) the owner does not retain or use the facilities or services of a real estate broker or salesperson; and

(d) the owner does not use a discriminatory housing practice under Subsection 57-21-5(2) in the sale or rental of the dwelling.

(2) This chapter does not apply to a dwelling or a temporary or permanent residence facility if:

(a) the discrimination is by sex, as defined in Section 68-3-12.5, sexual orientation, gender identity, or familial status for reasons of personal modesty or privacy, or in the furtherance of a religious institution's free exercise of religious rights under the First Amendment of the United States Constitution or the Utah Constitution; and

(b) the dwelling or the temporary or permanent residence facility is:

(i) operated by a nonprofit or charitable organization;

(ii) owned by, operated by, or under contract with a religious organization, a religious association, a religious educational institution, or a religious society;

(iii) owned by, operated by, or under contract with an affiliate of an entity described in Subsection (2)(b)(ii); or

(iv) owned by or operated by a person under contract with an entity described in Subsection (2)(b)(ii).

(3) This chapter, except for Subsection 57-21-5(2), does not apply to the rental of a room in a single-family dwelling by an owner-occupant of the single-family dwelling to another person if:

(a) the dwelling is designed for occupancy by four or fewer families; and

(b) the owner-occupant resides in one of the units.

(4) (a) (i) Unless membership in a religion is restricted by race, color, sex, or national origin, this chapter does not prohibit an entity described in Subsection (4)(a)(ii) from:

(A) limiting the sale, rental, or occupancy of a dwelling or temporary or permanent residence facility the entity owns or operates for primarily noncommercial purposes to persons of the same religion; or

(B) giving preference to persons of the same religion when selling, renting, or selecting occupants for a dwelling, or a temporary or permanent residence facility, the entity owns or operates for primarily noncommercial purposes.

(ii) The following entities are entitled to the exemptions described in Subsection (4)(a)(i):

(A) a religious organization, association, or society; or

(B) a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society.

(b) (i) This chapter does not prohibit an entity described in Subsection (4)(b)(ii) from:

(A) limiting the sale, rental, or occupancy of a dwelling, or a temporary or permanent residence facility, the entity owns or operates to persons of a particular religion, sex, sexual orientation, or gender identity; or

(B) giving preference to persons of a particular religion, sex, sexual orientation, or gender identity when selling, renting, or selecting occupants for a dwelling, or a temporary or permanent residence facility, the entity owns or operates.

(ii) The following entities are entitled to the exemptions described in Subsection (4)(b)(i):

(A) an entity described in Subsection (4)(a)(ii); and

(B) a person who owns a dwelling, or a temporary or permanent residence facility, that is under contract with an entity described in Subsection (4)(a)(ii).

(5) (a) If the conditions of Subsection (5)(b) are met, this chapter does not prohibit a private club not open to the public, including a

fraternity or sorority associated with an institution of higher education, from:

(i) limiting the rental or occupancy of lodgings to members; or

(ii) giving preference to its members.

(b) This Subsection (5) applies only if the private club owns or operates the lodgings as an incident to its primary purpose and not for a commercial purpose.

(6) This chapter does not prohibit distinctions based on inability to fulfill the terms and conditions, including financial obligations, of a lease, rental agreement, contract of purchase or sale, mortgage, trust deed, or other financing agreement.

(7) This chapter does not prohibit a nonprofit educational institution, including a degree-granting institution of higher education listed in Subsection [~~53B-1-102(1)(a)~~]53H-1-102(1)(a), from:

(a) requiring its single students to live in a dwelling, or a temporary or permanent residence facility, that is owned by, operated by, or under contract with the nonprofit educational institution;

(b) segregating a dwelling, or a temporary or permanent residence facility, that is owned by, operated by, or under contract with the nonprofit educational institution on the basis of sex, as defined in Section 68-3-12.5, regardless of gender identity, or familial status or both:

(i) for reasons of personal modesty or privacy; or

(ii) in the furtherance of a religious institution's free exercise of religious rights under the First Amendment of the United States Constitution or the Utah Constitution; or

(c) otherwise assisting another person in making a dwelling, or a temporary or permanent residence facility, available to students on a sex-segregated basis as may be permitted by:

(i) regulations implementing the federal Fair Housing Amendments Act of 1988;

(ii) Title IX of the Education Amendments of 1972; or

(iii) other applicable law.

(8) This chapter does not prohibit any reasonable local, state, or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling.

(9) A provision of this chapter that pertains to familial status does not apply to the existence, development, sale, rental, advertisement, or financing of an apartment complex, condominium, or other housing development designated as housing for older persons, as defined by Title VIII of the Civil Rights Act of 1968, as amended.

Section 119. Section 58-1-102 is amended to read:

58-1-102 (Effective upon governor's approval). Definitions.

As used in this title:

(1) (a) "Ablative procedure" means the same as that term is defined in Section 58-67-102.

(b) "Ablative procedure" does not include laser tattoo removal.

(2) "Cosmetic medical procedure":

(a) means the same as that term is defined in Section 58-67-102; and

(b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual licensed under this title if the individual's scope of practice includes the authority to operate or perform surgical procedures.

(3) "Cryolipolysis" means a nonablative fat reduction procedure that uses cold temperature to reduce fat deposits in certain areas of the body.

(4) "Department" means the Department of Commerce.

(5) "Director" means the director of the Division of Professional Licensing.

(6) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(7) "DOD civilian" means the same as that term is defined in Section [~~53B-8-102~~]53H-11-202.

(8) "Executive director" means the executive director of the Department of Commerce.

(9) "Licensee" includes any holder of a license, certificate, registration, permit, student card, or apprentice card authorized under this title.

(10) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (10)(a)(i), nonablative procedure includes hair removal and cryolipolysis.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure;

(ii) the application of permanent make-up;

(iii) laser tattoo removal; or

(iv) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within their scope of practice.

(11) "Pain clinic" means:

(a) a clinic that advertises its primary purpose is the treatment of chronic pain; or

(b) a clinic in which greater than 50% of the clinic's annual patient population receive treatment primarily for non-terminal chronic pain using Schedule II-III controlled substances.

(12) "Superficial procedure" means a procedure that is expected or intended to temporarily alter living skin tissue and may excise or remove stratum corneum but have no appreciable risk of damage to any tissue below the stratum corneum.

(13) "Telemedicine service" means the same as that term is defined in Section 26B-4-704.

(14) "Unlawful conduct" means the same as that term is defined in Subsection 58-1-501(1).

(15) "Unprofessional conduct" means the same as that term is defined in Subsection 58-1-501(2).

Section 120. Section 58-22-302 is amended to read:

58-22-302 (Effective upon governor's approval). Qualifications for licensure.

(1) Each applicant for licensure as a professional engineer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) (i) have graduated and received a bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board; or

(ii) have completed the Transportation Engineering Technology and Fundamental Engineering College Program before July 1, 1998, under the direction of the Utah Department of Transportation and as certified by the Utah Department of Transportation;

(d) have successfully completed a program of qualifying experience established by rule by the division in collaboration with the board;

(e) have successfully passed examinations established by rule by the division in collaboration with the board; and

(f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(2) Each applicant for licensure as a professional structural engineer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have graduated and received an earned bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board;

(d) have successfully completed three years of licensed professional engineering experience established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating that the applicant is currently engaged in the practice of structural engineering;

(e) have successfully passed examinations established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating that the applicant is currently engaged in the practice of structural engineering; and

(f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(3) Each applicant for licensure as a professional land surveyor shall:

(a) submit an application in a form approved by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) (i) hold, at a minimum, an associates degree from a land surveying program, or an equivalent land surveying program, such as a program offered by a technical college described in Section [~~53B-2a-105~~]53H-3-1202, established by rule by the division in collaboration with the board, and have successfully completed a program of qualifying experience in land surveying established by rule by the division in collaboration with the board; or

(ii) have successfully completed a program of qualifying experience in land surveying prior to January 1, 2007, in accordance with rules established by the division in collaboration with the board;

(d) have successfully passed examinations established by rule by the division in collaboration with the board; and

(e) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(4) Each applicant for licensure by endorsement shall:

(a) submit an application in a form approved by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) submit satisfactory evidence of:

(i) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board;

(ii) having successfully passed an examination established by rule by the division in collaboration with the board; and

(iii) full-time employment as a principal for at least five of the last seven years immediately preceding the date of the application as a:

(A) licensed professional engineer for licensure as a professional engineer;

(B) licensed professional structural engineer for licensure as a structural engineer; or

(C) licensed professional land surveyor for licensure as a professional land surveyor; and

(d) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

(5) The rules made to implement this section shall be in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 121. Section 58-37-3.5 is amended to read:

58-37-3.5 (Effective upon governor's approval) (Repealed 07/01/27). Drugs for behavioral health treatment.

(1) As used in this section:

(a) "Drug" means any form of psilocybin or methylenedioxymethamphetamine that is in federal Food and Drug Administration Phase 3 testing for an investigational drug described in 21 C.F.R. Part 312.

(b) "Healthcare system" means:

(i) a privately-owned, non-profit, vertically-integrated healthcare system that operates at least 15 licensed hospitals in the state; or

(ii) a health care system closely affiliated with an institution of higher education [~~described~~]listed in Section [~~53B-2-101~~]53H-1-102.

(2) A healthcare system may develop a behavioral health treatment program that includes a treatment based on a drug that the healthcare system determines is supported by a broad collection of scientific and medical research.

(3) A healthcare system described in Subsection (2):

(a) shall ensure that a drug used under the exclusive authority of this section is used by a patient only under the direct supervision and control of the healthcare system and the healthcare system's health care providers who are licensed under this title; and

(b) may not provide treatments that are authorized exclusively under this section to an individual who is not at least 18 years old.

(4) Before July 1, 2026, a healthcare system that creates a behavioral health treatment program under this section shall provide a written report to the Health and Human Services Interim Committee regarding:

(a) drugs used;

(b) health outcomes of patients;

(c) side effects of any drugs used; and

(d) any other information necessary for the Legislature to evaluate the medicinal value of any drugs.

(5) An individual or entity that complies with this section when using, distributing, possessing, administering, or supervising the use of, a drug is not guilty of a violation of this title.

Section 122. Section 59-7-105 is amended to read:

59-7-105 (Effective upon governor's approval). Additions to unadjusted income.

In computing adjusted income the following amounts shall be added to unadjusted income:

(1) interest from bonds, notes, and other evidences of indebtedness issued by any state of the United States, including any agency and instrumentality of a state of the United States;

(2) the amount of any deduction taken on a corporation's federal return for taxes paid by a corporation:

(a) to Utah for taxes imposed by this chapter; and

(b) to another state of the United States, a foreign country, a United States possession, or the Commonwealth of Puerto Rico for taxes imposed for the privilege of doing business, or exercising its corporate franchise, including income, franchise, corporate stock and business and occupation taxes;

(3) the safe harbor lease adjustment required under Subsections 59-7-111(1)(a) and (2)(a);

(4) capital losses that have been deducted on a Utah corporate return in previous years;

(5) any deduction on the federal return that has been previously deducted on the Utah return;

(6) charitable contributions, to the extent deducted on the federal return when determining federal taxable income;

(7) the amount of gain or loss determined under Section 59-7-114 relating to a target corporation under Section 338, Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;

(8) the amount of gain or loss determined under Section 59-7-115 relating to corporations treated for federal purposes as having disposed of its assets under Section 336(e), Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;

(9) adjustments to gains, losses, depreciation expense, amortization expense, and similar items due to a difference between basis for federal purposes and basis as computed under Section 59-7-107;

(10) the amount withdrawn under [~~Title 53B, Chapter 8a, Utah Educational Savings Plan~~]Title 53H, Chapter 10, Utah Education Savings, from the account of a corporation that is an account owner as defined in Section [~~53B-8a-102~~]53H-10-101, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the corporation that is the account owner:

(a) is not expended for:

(i) higher education costs as defined in Section [~~53B-8a-102.5~~]53H-10-201; or

(ii) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(b) is subtracted by the corporation:

(i) that is the account owner; and

(ii) in accordance with Subsection 59-7-106(1)(r);

(11) the amount of the deduction for dividends paid, as defined in Section 561, Internal Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in computing the taxable income of a captive real estate investment trust, if that captive real estate investment trust is subject to federal income taxation; and

(12) any deduction on a return filed under this chapter for a royalty or other expense that a corporation pays to an entity related by common ownership for the use of an intangible asset where the intangible asset is owned by the entity related by common ownership unless the corporation can demonstrate to the satisfaction of the commission or a court on judicial review in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, that:

(a) for the same taxable year, the entity related by common ownership is subject to income taxes on the royalty or other expense:

(i) under this chapter;

(ii) under the laws of another state; or

(iii) by a foreign government that has in force an income tax treaty with the United States; or

(b) if Subsection (12)(a) does not apply, the corporation paying the royalty or other expenses never owned the intangible asset.

Section 123. Section 59-7-106 is amended to read:

59-7-106 (Effective upon governor's approval). Subtractions from unadjusted income.

(1) In computing adjusted income, the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax purposes under Section 78, Internal Revenue Code;

(b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the net capital loss on the return filed under this chapter for the taxable year for which the net capital loss is incurred;

(c) the decrease in salary expense deduction for federal income tax purposes due to claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

(d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;

(e) the decrease in qualified clinical testing expense deduction for federal income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or conditions under Section 45C, Internal Revenue Code;

(f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;

(g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);

(h) any income on the federal corporation income tax return that has been previously taxed by Utah;

(i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax:

(i) if that tax is imposed for the privilege of:

(A) doing business; or

(B) exercising a corporate franchise;

(ii) if that tax is paid by the corporation to:

(A) Utah;

(B) another state of the United States;

(C) a foreign country;

(D) a United States possession; or

(E) the Commonwealth of Puerto Rico; and

(iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

(j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

(k) subject to Subsection (3), 50% of a dividend considered to be received or received from a subsidiary that:

(i) is a member of the unitary group;

(ii) is organized or incorporated outside of the United States; and

(iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

(l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a foreign operating company;

(m) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, if an election has been made in accordance with Section 338(h)(10), Internal Revenue Code;

(n) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has been made for federal purposes;

(o) subject to Subsection (5), an adjustment to the following due to a difference between basis for federal purposes and basis as computed under Section 59-7-107:

(i) an amortization expense;

(ii) a depreciation expense;

(iii) a gain;

(iv) a loss; or

(v) an item similar to Subsections (1)(o)(i) through (iv);

(p) an interest expense that is not deducted on a federal corporation income tax return under Section 265(b) or 291(e), Internal Revenue Code;

(q) 100% of dividends received from a subsidiary that is an insurance company if that subsidiary that is an insurance company is:

(i) exempt from this chapter under Subsection 59-7-102(1)(c); and

(ii) under common ownership;

(r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as defined in Section [~~53B-8a-102~~]53H-10-101, the amount of a qualified investment as defined in Section [~~53B-8a-102.5~~]53H-10-201:

(i) that the corporation or a person other than the corporation makes into an account owned by the corporation during the taxable year;

(ii) to the extent that neither the corporation nor the person other than the corporation described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax return; and

(iii) to the extent the qualified investment does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsection [~~53B-8a-106(1)~~]53H-10-205(1);

(s) for purposes of income included in a combined report under Part 4, Combined Reporting, the entire amount of the dividends a member of a unitary group receives or is considered to receive from a captive real estate investment trust;

(t) the increase in income for federal income tax purposes due to claiming a:

(i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

(ii) qualified zone academy bond under Section 1397E, Internal Revenue Code;

(u) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and

(v) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year.

(2) For purposes of Subsection (1)(b):

(a) the subtraction shall be made by claiming the subtraction on a return filed:

(i) under this chapter for the taxable year for which the net capital loss is incurred; and

(ii) by the due date of the return, including extensions; and

(b) a net capital loss for a taxable year shall be:

(i) subtracted for the taxable year for which the net capital loss is incurred; or

(ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code.

(3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or received an expense directly attributable to that dividend.

(b) For purposes of Subsection (3)(a), the amount of an interest expense that is considered to be directly attributable to a dividend is calculated by multiplying the interest expense by a fraction:

(i) the numerator of which is the taxpayer's average investment in the dividend paying subsidiaries; and

(ii) the denominator of which is the taxpayer's average total investment in assets.

(c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in determining income apportionable to this state, a portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k)shall be included in the combined report factors as provided in this Subsection (3)(c).

(ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be included in the combined report factors is calculated by multiplying each factor of the foreign subsidiary by a fraction:

(A) not to exceed 100%; and

(B) (I) the numerator of which is the amount of the dividend paid by the foreign subsidiary that is included in adjusted income; and

(II) the denominator of which is the current year earnings and profits of the foreign subsidiary as determined under the Internal Revenue Code.

(d) A dividend described in Subsection (1)(k) includes amounts included in federal taxable income under Section 965(a), Internal Revenue Code and amounts included in federal taxable income under Section 951A, Internal Revenue Code.

(4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under Subsection (1)(l):

(i) if the taxpayer elects to file a worldwide combined report as provided in Section 59-7-403; or

(ii) for the following:

(A) income generated from intangible property; or

(B) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating company:

(i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

(ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a transaction that occurs between members of a unitary group.

(c) For purposes of the subtraction provided for in Subsection (1)(l), in determining income apportionable to this state, the factors for a foreign operating company shall be included in the combined report factors in the same percentages as the foreign operating company's adjusted income is included in the combined adjusted income.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes:

(i) income generated from intangible property; or

(ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax credit is claimed if:

(i) there is a reduction in federal basis for a federal tax credit; and

(ii) there is no corresponding tax credit allowed in this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an item similar to Subsections (1)(o)(i) through (iv).

Section 124. Section 59-9-101 is amended to read:

59-9-101 (Effective upon governor's approval). Tax basis -- Rates -- Exemptions -- Rate reductions.

(1) (a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall pay to the commission on or before March 31 in each year, a tax of [~~2-1/4%~~]2.25%of the total premiums received by [~~it~~]admitted insurer during the preceding calendar year from insurance covering property or risks located in this state.

(b) This Subsection (1) does not apply to:

(i) workers' compensation insurance, assessed under Subsection (2);

(ii) title insurance premiums taxed under Subsection (3);

(iii) annuity considerations;

(iv) insurance premiums paid by an institution within the state system of higher education as specified in Section [~~53B-1-102~~]53H-1-102; and

(v) ocean marine insurance.

(c) The taxable premium under this Subsection (1) shall be reduced by:

(i) the premiums returned or credited to policyholders on direct business subject to tax in this state;

(ii) the premiums received for reinsurance of property or risks located in this state; and

(iii) the dividends, including premium reduction benefits maturing within the year:

(A) paid or credited to policyholders in this state; or

(B) applied in abatement or reduction of premiums due during the preceding calendar year.

(d) (i) For purposes of this Subsection (1)(d):

(A) "Utah variable life insurance premium" means an insurance premium paid:

(I) by:

(Aa) a corporation; or

(Bb) a trust established or funded by a corporation; and

(II) for variable life insurance covering risks located within the state.

(B) "Variable life insurance" means an insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of one or more separate accounts that are established and maintained by the insurer pursuant to Title 31A, Insurance Code.

(ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable life insurance premium shall be calculated as follows:

(A) [~~2.1/4%~~]2.25% of the first $100,000 of Utah variable life insurance premiums:

(I) paid for each variable life insurance policy; and

(II) received by the admitted insurer in the preceding calendar year; and

(B) .08% of the Utah variable life insurance premiums that exceed $100,000:

(I) paid for the policy described in Subsection (1)(d)(ii)(A); and

(II) received by the admitted insurer in the preceding calendar year.

(2) (a) An admitted insurer writing workers' compensation insurance in this state shall pay to the tax commission, on or before March 31 in each year, a premium assessment on the basis of the total workers' compensation premium income received by the insurer from workers' compensation insurance in this state during the preceding calendar year as follows:

(i) on or before December 31, 2010, an amount of equal to or greater than 1%, but equal to or less than 5.75% of the total workers' compensation premium income described in this Subsection (2);

(ii) on and after January 1, 2011, but on or before December 31, 2022, an amount of equal to or greater than 1%, but equal to or less than 4.25% of the total workers' compensation premium income described in this Subsection (2); and

(iii) on and after January 1, 2023, an amount equal to 1.25% of the total workers' compensation premium income described in this Subsection (2).

(b) Total workers' compensation premium income means the net written premium as calculated before any premium reduction for any insured employer's deductible, retention, or reimbursement amounts and also those amounts equivalent to premiums as provided in Section 34A-2-202.

(c) The percentage of premium assessment applicable for a calendar year shall be determined by the Labor Commission under Subsection (2)(d). The total premium income shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not as provided in Subsection (1)(c)(iii). The commission shall promptly remit from the premium assessment collected under this Subsection (2):

(i) income to the state treasurer for credit to the Employers' Reinsurance Fund created under Subsection 34A-2-702(1) as follows:

(A) on or before December 31, 2009, an amount of up to 5% of the total workers' compensation premium income;

(B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up to 4.5% of the total workers' compensation premium income;

(C) on and after January 1, 2011, but on or before December 31, 2022, an amount of up to 3% of the total workers' compensation premium income; and

(D) on and after January 1, 2023, 0% of the total workers' compensation premium income;

(ii) an amount equal to .25% of the total workers' compensation premium income to the state treasurer for credit to the Workplace Safety Account created by Section 34A-2-701;

(iii) an amount of up to .5% and any remaining assessed percentage of the total workers' compensation premium income to the state treasurer for credit to the Uninsured Employers' Fund created under Section 34A-2-704; and

(iv) beginning on January 1, 2010, .5% of the total workers' compensation premium income to the state treasurer for credit to the Industrial Accident Restricted Account created in Section 34A-2-705.

(d) (i) The Labor Commission shall determine the amount of the premium assessment for each year on or before each October 15 of the preceding year. The Labor Commission shall make this determination following a public hearing. The determination shall be based upon the recommendations of a qualified actuary.

(ii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Employers' Reinsurance Fund and to project a funded condition with assets greater than liabilities by no later than June 30, 2025.

(iii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a funded condition with assets equal to or greater than liabilities.

(iv) At the end of each fiscal year the minimum approximate assets in the Employers' Reinsurance Fund shall be $5,000,000 which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.

(v) The requirements of Subsection (2)(d)(iv) cease when the future annual disbursements from the Employers' Reinsurance Fund are projected to be less than the calculations of the corresponding future minimum required assets. The Labor Commission shall, after a public hearing, determine if the future annual disbursements are less than the corresponding future minimum required assets from projections provided by the actuary.

(vi) At the end of each fiscal year the minimum approximate assets in the Uninsured Employers' Fund shall be $2,000,000, which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.

(e) A premium assessment that is to be transferred into the General Fund may be collected on premiums received from Utah public agencies.

(3) An admitted insurer writing title insurance in this state shall pay to the commission, on or before March 31 in each year, a tax of .45% of the total premium received by either the insurer or by its agents during the preceding calendar year from title insurance concerning property located in this state. In calculating this tax, "premium" includes the charges made to an insured under or to an applicant for a policy or contract of title insurance for:

(a) the assumption by the title insurer of the risks assumed by the issuance of the policy or contract of title insurance; and

(b) abstracting title, title searching, examining title, or determining the insurability of title, and every other activity, exclusive of escrow, settlement, or closing charges, whether denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a

title insurance producer, or any of them.

(4) Beginning July 1, 1986, a former county mutual and a former mutual benefit association shall pay the premium tax or assessment due under this chapter. Premiums received after July 1, 1986, shall be considered in determining the tax or assessment.

(5) The following insurers are not subject to the premium tax on health care insurance that would otherwise be applicable under Subsection (1):

(a) an insurer licensed under Title 31A, Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(b) an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) an insurer licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(d) an insurer licensed under Title 31A, Chapter 9, Insurance Fraternals;

(e) an insurer licensed under Title 31A, Chapter 11, Motor Clubs; and

(f) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

(6) (a) As used in this Subsection (6):

(i) "Cancellation fee waiver" means the same as that term is defined in Section 31A-23a-902.

(ii) "Primary certificate holder" means an individual who elects and purchases travel insurance under a group policy.

(iii) "Primary policyholder" means an individual who elects and purchases individual travel insurance.

(iv) "Travel assistance service" means the same as that term is defined in Section 31A-23a-902.

(v) "Travel insurance" means the same as that term is defined in Section 31A-23a-902.

(b) A travel insurer shall:

(i) pay a premium tax required under Subsection (1) on a travel insurance premium that:

(A) an individual primary policyholder pays, if the policyholder is a resident of this state;

(B) a primary certificate holder pays, if the certificate holder is a resident of this state and elects coverage under a group travel insurance policy; or

(C) subject to any apportionment rules that apply to the insurer across multiple taxing jurisdictions or permit the insurer to allocate the premium on an apportioned basis in a reasonable and equitable manner across multiple jurisdictions, a blanket travel insurance policyholder pays for eligible blanket group members, if the policyholder is a resident in this state, has the policyholder's principal place of business in this state, or has the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance in this state;

(ii) document the state of residence or principal place of business of each policyholder and certificate holder; and

(iii) report as a premium only the amount allocable to travel insurance and not an amount received for:

(A) a cancellation fee waiver; or

(B) a travel assistance service.

(7) A captive insurer, as provided in Section 31A-3-304, that pays a fee imposed under Section 31A-3-304 is not subject to the premium tax under this section.

(8) An insurer issuing multiple policies to an insured may not artificially allocate the premiums among the policies for purposes of reducing the aggregate premium tax or assessment applicable to the policies.

(9) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and Taxes, apply to the tax or assessment imposed under this chapter.

Section 125. Section 59-9-102.5 is amended to read:

59-9-102.5 (Effective upon governor's approval) (Repealed 12/31/30). Offset for occupational health and safety related donations.

(1) As used in this section:

(a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in [~~Title 53B, Chapter 30, Part 2, Rocky Mountain Center for Occupational and Environmental Health~~]Title 53H, Chapter 5, Part 2, Rocky Mountain Center for Occupational and Environmental Health.

(b) "Qualified donation" means a donation that is:

(i) cash;

(ii) given directly to an occupational health and safety center; and

(iii) given exclusively for the purpose of:

(A) supporting undergraduate or graduate level education and training in fields of:

(I) safety and ergonomics;

(II) industrial hygiene;

(III) occupational health nursing;

(IV) occupational injury prevention; and

(V) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Workers' compensation insurer" means an admitted insurer writing workers' compensation insurance in this state that is required to pay the premium assessment imposed under Subsection 59-9-101(2).

(2) (a) A workers' compensation insurer may offset against the premium assessment imposed under Subsection 59-9-101(2) an amount equal to the lesser of:

(i) the total of qualified donations made by the workers' compensation insurer in the calendar year for which the premium assessment is calculated; and

(ii) .20% of the workers' compensation insurer's total workers' compensation premium income as defined in Subsection 59-9-101(2)(b) in the calendar year for which the premium assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a workers' compensation insurer a receipt for any qualified donation made by the workers' compensation insurer to the occupational health and safety center; and

(b) expend money received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii).

Section 126. Section 59-10-114 is amended to read:

59-10-114 (Effective upon governor's approval). Additions to and subtractions from adjusted gross income of an individual.

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(b) the amount of a child's income calculated under Subsection (4) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

(C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under [~~Title 53B, Chapter 8a, Utah Educational Savings Plan~~]Title 53H, Chapter 10, Utah Education Savings, from the account of a resident or nonresident individual who is an account owner as defined in Section [~~53B-8a-102~~]53H-10-101, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section [~~53B-8a-102.5~~]53H-10-201; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

(II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;

(e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

(i) issued by one or more of the following entities:

(A) a state other than this state;

(B) the District of Columbia;

(C) a political subdivision of a state other than this state; or

(D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A) through (C); and

(ii) to the extent the interest is not included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

(g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income;

(h) any adoption expense:

(i) for which a resident or nonresident individual receives reimbursement from another person; and

(ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:

(A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) from federal taxable income on a federal individual income tax return;

(i) the amount of tax paid on income attributed to the individual in accordance with Subsection 59-10-1403.2(2) that is not included in adjusted gross income; and

(j) the amount of tax paid:

(i) on income attributed to the individual and taxable in this state, that is not included in adjusted gross income;

(ii) to another state; and

(iii) that the commission determines is substantially similar to the tax imposed under Subsection 59-10-1403.2(2).

(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:

(a) the difference between:

(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:

(A) included in adjusted gross income for federal income tax purposes for the taxable year; and

(B) exempt from state income taxes under the laws of the United States; and

(ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);

(b) if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:

(i) if that amount or distribution constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;

(d) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year;

(e) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction;

(f) an amount received:

(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;

(ii) by a resident or nonresident individual;

(iii) for the taxable year; and

(iv) to the extent the amount is included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(g) the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member if:

(i) both the nonmilitary spouse and the active duty military member are nonresident individuals;

(ii) the active duty military member is stationed in Utah;

(iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec. 4001(a)(2); and

(iv) the income is included in adjusted gross income for federal income tax purposes for the taxable year;

(h) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year;

(i) an amount of a distribution from a qualified retirement plan under Section 401(a), Internal Revenue Code, if:

(i) the amount of the distribution is included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(ii) for the taxable year when the amount of the distribution was contributed to the qualified retirement plan, the amount of the distribution:

(A) was not included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(B) was taxed by another state of the United States, the District of Columbia, or a possession of the United States; and

(j) the amount of any repayment in the current taxable year of social security income received in a previous taxable year if:

(i) the individual claimed a credit for the repayment on the individual's federal individual income tax return for the current taxable year; and

(ii) the individual did not claim a tax credit under Section 59-10-1042 for the taxable year in which the individual received the social security income.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).

(b) The agreement described in Subsection (3)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(b);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4) (a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Section 127. Section 59-10-136 is amended to read:

59-10-136 (Effective upon governor's approval). Domicile.

(1) (a) An individual is considered to have domicile in this state if:

(i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state;

(ii) the individual or the individual's spouse is a resident student in accordance with Section [~~53B-8-102~~]53H-11-202 who is enrolled in an institution of higher education [~~deseribed~~]listed in Section [~~53B-2-101~~]53H-1-102 in this state; or

(iii) the individual or the individual's spouse, in that taxable year:

(A) votes in this state in a regular general election, municipal general election, primary election, or special election;

(B) has not registered to vote in another state; and

(C) has not voted in another state that does not require voter registration.

(b) The determination of whether an individual is considered to have domicile in this state may not be determined in accordance with Subsection (1)(a)(i) if the individual:

(i) is the noncustodial parent of a dependent:

(A) with respect to whom the individual claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's federal individual income tax return; and

(B) who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; and

(ii) (A) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i); or

(B) was never married to the custodial parent of the dependent described in Subsection (1)(b)(i).

(2) (a) Subject to Subsection (2)(b), if the requirements of Subsection (1) are not met for an individual to be considered to have domicile in this state, the individual is considered to have domicile in this state if:

(i) the individual or the individual's spouse has a permanent home in this state to which the individual or the individual's spouse intends to return after being absent; and

(ii) the individual or the individual's spouse has voluntarily fixed the individual's or the individual's spouse's habitation in this state, not for a special or temporary purpose, but with the intent of making a permanent home.

(b) The determination of whether an individual is considered to have domicile in this state under this Subsection (2) shall be based on the preponderance of the evidence, taking into consideration the totality of only the following facts and circumstances:

(i) whether the individual or the individual's spouse has a driver license in this state;

(ii) whether the individual or the individual's spouse receives a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;

(iii) whether a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is a resident student in accordance with Section [~~53B-8-102~~]53H-11-202 who is enrolled in an institution of higher education [~~described~~]listed in Section [~~53B-2-101~~]53H-1-102 in this state;

(iv) the nature and quality of the living accommodations that the individual or the individual's spouse has in this state as compared to another state;

(v) the presence in this state of a spouse or dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return;

(vi) the physical location in which earned income as defined in Section 32(c)(2), Internal Revenue Code, is earned by the individual or the individual's spouse;

(vii) the state of registration of a vehicle as defined in Section 59-12-102 owned or leased by the individual or the individual's spouse;

(viii) whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state;

(ix) whether the individual or the individual's spouse lists an address in this state on mail, a telephone listing, a listing in an official government publication, other correspondence, or another similar item;

(x) whether the individual or the individual's spouse lists an address in this state on a state or federal tax return;

(xi) whether the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state;

(xii) whether the individual or the individual's spouse asserts residency in this state on a document, other than an individual income tax return filed under this chapter, filed with or provided to a court or other governmental entity;

(xiii) the failure of an individual or the individual's spouse to obtain a permit or license normally required of a resident of the state for which the individual or the individual's spouse asserts to have domicile;

(xiv) whether the individual is an individual described in Subsection (1)(b);

(xv) whether the individual:

(A) maintains a place of abode in this state; and

(B) spends in the aggregate 183 or more days of the taxable year in this state; or

(xvi) whether the individual or the individual's spouse:

(A) did not vote in this state in a regular general election, municipal general election, primary election, or special election during the taxable year, but voted in the state in a general election, municipal general election, primary election, or special election during any of the three taxable years prior to that taxable year; and

(B) has not registered to vote in another state during a taxable year described in Subsection (2)(b)(xvi)(A).

(3) Notwithstanding Subsection (2), for individuals who are spouses for purposes of this section and one of the spouses has domicile under this section, the other spouse is not considered to have domicile in this state under Subsection (2) if one of the spouses establishes by a preponderance of the evidence that, during the taxable year and for three taxable years prior to that taxable year, that other spouse:

(a) is not an owner of property in this state;

(b) has not spent in the aggregate more than 30 days of the taxable year in this state;

(c) has not received earned income as defined in Section 32(c)(2), Internal Revenue Code, in this state;

(d) has not voted in this state in a regular general election, municipal general election, primary election, or special election; and

(e) does not have a driver license in this state.

(4) (a) For purposes of this section, an individual is not considered to have a spouse if:

(i) the individual is legally separated or divorced from the spouse; or

(ii) the individual and the individual's spouse claim married filing separately filing status for purposes of filing a federal individual income tax return for the taxable year.

(b) Except as provided in Subsection (4)(a)(ii), for purposes of this section, an individual's filing status on a federal individual income tax return or a return filed under this chapter may not be considered in determining whether the individual has a spouse.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsections (2)(b)(xv) and (3)(b), the commission may by rule define what constitutes spending a day of the taxable year in this state.

Section 128. Section 59-10-201 is amended to read:

59-10-201 (Effective upon governor's approval). Taxation of resident trusts and estates.

(1) Except as provided in Subsection (2), a tax determined in accordance with the rate prescribed by Subsection 59-10-104(2)(b) is imposed for each taxable year on the state taxable income of each resident estate or trust.

(2) The following are not subject to a tax imposed by this part:

(a) a resident estate or trust that is not required to file a federal income tax return for estates and trusts for the taxable year; or

(b) a resident trust taxed as a corporation.

(3) A resident estate or trust shall be allowed the credit provided in Section 59-10-1003, relating to an income tax imposed by another state, except that the limitation shall be computed by reference to the taxable income of the estate or trust.

(4) The property of the Utah Educational Savings Plan established in [~~Title 53B, Chapter 8a, Utah Educational Savings Plan~~]Title 53H, Chapter 10 Utah Education Savings, and [~~its~~]the Utah Educational Savings Plan's income from operations and investments are exempt from all taxation by the state under this chapter.

Section 129. Section 59-10-202 is amended to read:

59-10-202 (Effective upon governor's approval). Additions to and subtractions from unadjusted income of a resident or nonresident estate or trust.

(1) There shall be added to unadjusted income of a resident or nonresident estate or trust:

(a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in determining adjusted gross income;

(b) except as provided in Subsection (3), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

(i) issued by one or more of the following entities:

(A) a state other than this state;

(B) the District of Columbia;

(C) a political subdivision of a state other than this state; or

(D) an agency or instrumentality of an entity described in Subsections (1)(b)(i)(A) through (C); and

(ii) to the extent the interest is not included in federal taxable income on the taxpayer's federal income tax return for the taxable year;

(c) any portion of federal taxable income for a taxable year if that federal taxable income is derived from stock:

(i) in an S corporation; and

(ii) that is held by an electing small business trust;

(d) the amount withdrawn under [~~Title 53B, Chapter 8a, Utah Educational Savings Plan~~]Title 53H, Chapter 10, Utah Education Savings, from the account of a resident or nonresident estate or trust that is an account owner as defined in Section [~~53B-8a-102~~]53H-10-101, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident estate or trust that is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section [~~53B-8a-102.5~~]53H-10-201; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident estate or trust:

(I) that is the account owner; and

(II) on the resident or nonresident estate's or trust's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident estate or trust that is the account owner to claim a tax credit under Section 59-10-1017; and

(e) any fiduciary adjustments required by Section 59-10-210.

(2) There shall be subtracted from unadjusted income of a resident or nonresident estate or trust:

(a) the interest or a dividend on obligations or securities of the United States and its possessions or of any authority, commission, or instrumentality of the United States, to the extent that interest or dividend is included in gross income for federal income tax purposes for the taxable year but exempt from state income taxes under the laws of the United States, but the amount subtracted under this Subsection (2) shall be reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations or securities described in this Subsection (2), and by any expenses incurred in the production of interest or dividend income described in this Subsection (2) to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(b) income of an irrevocable resident trust if:

(i) the income would not be treated as state taxable income derived from Utah sources under Section 59-10-204 if received by a nonresident trust;

(ii) the trust first became a resident trust on or after January 1, 2004;

(iii) no assets of the trust were held, at any time after January 1, 2003, in another resident irrevocable trust created by the same settlor or the spouse of the same settlor;

(iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

(v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the settlor or any other person is treated as an owner of any portion of the trust under Subtitle A, Subchapter J, Subpart E of the Internal Revenue Code; and

(vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on indebtedness incurred or continued to purchase or carry the assets generating the income described in this Subsection (2)(b), and by any expenses incurred in the production of income described in this Subsection (2)(b), to the extent that those expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or nonresident estate or trust derived from a deceased Ute tribal member:

(i) during a time period that the Ute tribal member resided on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(d) any amount:

(i) received by a resident or nonresident estate or trust;

(ii) that constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(iii) to the extent that amount is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts for that taxable year;

(e) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident estate or trust derived from a deceased resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts;

(f) an amount:

(i) received by a resident or nonresident estate or trust if that amount is derived from a deceased enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction;

(g) the amount that a qualified nongrantor charitable lead trust deducts under Section 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the qualified nongrantor charitable lead trust's federal income tax return for estates and trusts for the taxable year;

(h) any fiduciary adjustments required by Section 59-10-210;

(i) an amount received:

(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;

(ii) by a resident or nonresident estate or trust;

(iii) for the taxable year; and

(iv) to the extent the amount is included in federal taxable income on the taxpayer's federal income tax return for the taxable year;

(j) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the resident or nonresident estate or trust that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the resident's or nonresident estate's or trust's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the resident or nonresident estate or trust that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and

(k) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the resident or nonresident estate or trust that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year.

(3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(b)(i)(A) through (D) may not be added to unadjusted income of a resident or nonresident estate or trust if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(b)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(b)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

(4) (a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:

(i) the income is derived from a deceased Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (4).

(b) The agreement described in Subsection (4)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(c); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(c);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction permitted under Subsection (2)(c) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

Section 130. Section 59-10-1017 is amended to read:

59-10-1017 (Effective upon governor's approval). Utah Educational Savings Plan tax credit.

(1) As used in this section:

(a) "Account owner" means the same as that term is defined in Section [~~53B-8a-102~~]53H-10-101.

(b) "Grantor trust" means the same as that term is defined in Section [~~53B-8a-102.5~~]53H-10-201.

(c) "Higher education costs" means the same as that term is defined in Section [~~53B-8a-102.5~~]53H-10-201.

(d) "Maximum amount of a qualified investment for the taxable year" means, for a taxable year, the product of the percentage listed in Subsection 59-10-104(2) and:

(i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account owner, if that claimant, estate, or trust is other than husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection [~~53B-8a-106(1)(e)(ii)~~]53H-10-205(1)(e)(ii); and

(B) increased or kept for that taxable year in accordance with Subsections [~~53B-8a-106(1)(f) and (g)~~]53H-10-205(1)(f) and (g);

(ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection [~~53B-8a-106(1)(e)(iii)~~]53H-10-205(1)(e)(iii); and

(B) increased or kept for that taxable year in accordance with Subsections [~~53B-8a-106(1)(f) and (g)~~]53H-10-205(1)(f) and (g); or

(iii) for a grantor trust:

(A) if the owner of the grantor trust has a single filing status or head of household filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or

(B) if the owner of the grantor trust has a joint filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(ii).

(e) "Owner of the grantor trust" means the same as that term is defined in Section [~~53B-8a-102.5~~]53H-10-201.

(f) "Qualified investment" means the same as that term is defined in Section [~~53B-8a-102.5~~]53H-10-201.

(2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax credit equal to the product of:

(a) the amount of a qualified investment made:

(i) during the taxable year; and

(ii) into an account owned by the claimant, estate, or trust; and

(b) the percentage listed in Subsection 59-10-104(2).

(3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may make a qualified investment described in Subsection (2).

(4) A claimant, estate, or trust that is an account owner may not claim a tax credit under this section with respect to any portion of a qualified investment described in Subsection (2)that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal income tax return.

(5) A tax credit under this section may not exceed the maximum amount of a qualified investment for the taxable year.

(6) A claimant, estate, or trust that is an account owner may not carry forward or carry back the tax credit under this section.

Section 131. Section 59-10-1313 is amended to read:

59-10-1313 (Effective upon governor's approval). Contribution to a Utah Educational Savings Plan account.

(1) (a) If a resident or nonresident individual is owed an individual income tax refund for the taxable year, the individual may designate on the resident or nonresident individual's income tax return a contribution to a Utah Educational Savings Plan account established under [~~Title 53B, Chapter 8a, Utah Educational Savings Plan~~]Title 53H, Chapter 10, Utah Education Savings, as provided in this part.

(b) If a resident or nonresident individual is not owed an individual income tax refund for the taxable year, the individual may not designate on the resident or nonresident's individual income tax return a contribution to a Utah Educational Savings Plan account.

(2) (a) The commission shall send the contribution to the Utah Educational Savings Plan along with the following information:

(i) the amount of the individual income tax refund; and

(ii) the taxpayer's:

(A) name;

(B) [~~Social Security~~]social security number or taxpayer identification number; and

(C) address.

(b) The commission shall provide the taxpayer's telephone number and number of dependents claimed, as requested, to the Utah Educational Savings Plan.

(c) If a contribution to a Utah Educational Savings Plan account is designated in a single individual income tax return filed jointly by a husband and wife, the commission shall send the information described under Subsection (2)(a) or (b) for both the husband and wife to the Utah Educational Savings Plan.

(3) (a) If the taxpayer owns a Utah Educational Savings Plan account, the Utah Educational Savings Plan shall deposit the contribution

into the account.

(b) If the taxpayer owns more than one Utah Educational Savings Plan account, the Utah Educational Savings Plan shall allocate the contribution among the accounts in equal amounts.

(c) (i) If the taxpayer does not own a Utah Educational Savings Plan account, the Utah Educational Savings Plan shall send the taxpayer an account agreement.

(ii) If the taxpayer does not sign and return the account agreement by the date specified by the Utah Educational Savings Plan, the Utah Educational Savings Plan shall return the contribution to the taxpayer without any interest or earnings.

(4) For the purpose of determining interest on an overpayment or refund under Section 59-1-402, no interest accrues after the commission sends the contribution to the Utah Educational Savings Plan.

Section 132. Section 59-12-102 is amended to read:

59-12-102 (Effective upon governor's approval) (Superseded 07/01/26). Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Adaptive driving equipment" means mobility enhancing equipment:

(i) to be installed in a motor vehicle; and

(ii) regardless of who provides the equipment or parts.

(b) "Adaptive driving equipment" includes:

(i) a wheelchair or scooter lift;

(ii) equipment to secure a wheelchair;

(iii) a swivel seat;

(iv) a hand or foot control; and

(v) a steering aid.

(4) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(5) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(7) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (8); and

(b) that are imposed within a local taxing jurisdiction.

(8) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d);

(e) Subsection 59-12-103(2)(f)(i)(A)(I);

(f) Section 59-12-204;

(g) Section 59-12-401;

(h) Section 59-12-402;

(i) Section 59-12-402.1;

(j) Section 59-12-703;

(k) Section 59-12-802;

(l) Section 59-12-804;

(m) Section 59-12-1102;

(n) Section 59-12-1302;

(o) Section 59-12-1402;

(p) Section 59-12-1802;

(q) Section 59-12-2003;

(r) Section 59-12-2103;

(s) Section 59-12-2213;

(t) Section 59-12-2214;

(u) Section 59-12-2215;

(v) Section 59-12-2216;

(w) Section 59-12-2217;

(x) Section 59-12-2218;

(y) Section 59-12-2219; or

(z) Section 59-12-2220.

(9) "Aircraft" means the same as that term is defined in Section 72-10-102.

(10) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(11) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(12) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(13) (a) Subject to Subsection (13)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(14) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

(16) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(17) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(18) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(19) (a) "Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(20) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (20)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (20)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (20)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (20)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (20)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (20)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (20)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (20)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (20)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(21) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

(23) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (23)(a)(i).

(24) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(25) (a) Subject to Subsection (25)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (61) or residential use under Subsection (117).

(28) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (28)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(29) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(30) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(31) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(32) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (32)(a) and (b).

(33) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (33)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (33)(a).

(34) "Construction materials" means any tangible personal property that will be converted into real property.

(35) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(36) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (36)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(37) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(38) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (38)(b)(i) through (v);

(c) (i) except as provided in Subsection (38)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (38)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(39) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(40) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(41) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(42) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(43) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(44) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26B-2-201;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (44)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (44)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(45) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(46) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (46)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(47) (a) "Durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (47)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(48) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (48)(b)(i) through (vi).

(49) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(50) "Employee" means the same as that term is defined in Section 59-10-401.

(51) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(52) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(53) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(54) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (100)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(55) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (55)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or school district.

(56) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(57) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(58) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education [~~described~~]listed in Section [~~53B-1-102~~]53H-1-102.

(59) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(60) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

(61) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (61)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(62) (a) "Installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(63) "Institution of higher education" means an institution of higher education listed in Section [~~53B-2-101~~]53H-1-102.

(64) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes:

(i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code; and

(ii) car sharing.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (64)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(65) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(66) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(67) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(68) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(69) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(70) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(71) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (71)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(72) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(73) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (73)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (73)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(74) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(75) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (75)(a) through (g); or

(j) person similar to a person described in Subsections (75)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(76) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(77) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(78) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (78)(a)(i) and the termination point described in Subsection (78)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(79) (a) "Mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (79)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(80) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(81) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (81)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(82) (a) Subject to Subsection (82)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenue of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (82)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(83) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(84) "Modular home" means a modular unit as defined in Section 15A-1-302.

(85) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(86) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(87) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(88) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(89) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(90) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (90)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(91) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(92) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(93) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (93)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (93)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (93)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (139)(c).

(94) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(95) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(96) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(97) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(98) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(99) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(100) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (100)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes;

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (100)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (100)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(101) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(102) (a) "Prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (102)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (102)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (102)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(103) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(104) (a) "Product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(105) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(106) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(107) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(108) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (108)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(109) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(110) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(111) "Qualifying energy storage manufacturing facility" means a facility that manufactures, in the state, equipment or devices that store and discharge energy for the purpose of providing electrical power.

(112) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(113) "Rental" means the same as that term is defined in Subsection (64).

(114) (a) "Repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(115) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(116) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (116)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(117) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(118) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(119) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(120) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(121) "Sale at retail" means the same as that term is defined in Subsection (118).

(122) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(123) "Sales price" means the same as that term is defined in Subsection (108).

(124) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenue generated by the sales is deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (124)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(125) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(126) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(127) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (127)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(128) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.

(129) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

(130) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

(131) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

(132) (a) Subject to Subsections (132)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (132)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(133) (a) "Short-term rental" means a lease or rental for less than 30 consecutive days.

(b) "Short-term rental" does not include car sharing.

(134) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(135) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(136) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(137) "State" means the state of Utah, its departments, and agencies.

(138) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(139) (a) "Tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (139)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(140) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (140)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (140)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (140)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi).

(141) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(142) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(143) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(144) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (144)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (144)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(145) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (145)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (145)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (145)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (145)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (145)(b)(i) through (ix).

(146) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (146)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (146)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv) as the commission determines by rule made in accordance with Subsection (146)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv).

(147) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(148) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(149) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(150) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(151) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(152) (a) Subject to Subsection (152)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (152)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(153) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (152).

(154) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(155) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(156) (a) "Waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(157) "Watercraft" means a vessel as defined in Section 73-18-2.

(158) "Wind energy" means wind used as the sole source of energy to produce electricity.

(159) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 133. Section 59-12-102 is amended to read:
59-12-102 (Effective 07/01/26). Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Adaptive driving equipment" means mobility enhancing equipment:

(i) to be installed in a motor vehicle; and

(ii) regardless of who provides the equipment or parts.

(b) "Adaptive driving equipment" includes:

(i) a wheelchair or scooter lift;

(ii) equipment to secure a wheelchair;

(iii) a swivel seat;

(iv) a hand or foot control; and

(v) a steering aid.

(4) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(5) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(7) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (8); and

(b) that are imposed within a local taxing jurisdiction.

(8) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(a)(i)(B);

(c) Subsection 59-12-103(2)(b)(i);

(d) Subsection 59-12-103(2)(c)(i);

(e) Subsection 59-12-103(2)(d);

(f) Subsection 59-12-103(2)(e)(i)(A);

(g) Section 59-12-204;

(h) Section 59-12-401;

(i) Section 59-12-402;

(j) Section 59-12-402.1;

(k) Section 59-12-703;

(l) Section 59-12-802;

(m) Section 59-12-804;

(n) Section 59-12-1102;

(o) Section 59-12-1302;

(p) Section 59-12-1402;

(q) Section 59-12-1802;

(r) Section 59-12-2003;

(s) Section 59-12-2103;

(t) Section 59-12-2213;

(u) Section 59-12-2214;

(v) Section 59-12-2215;

(w) Section 59-12-2216;

(x) Section 59-12-2217;

(y) Section 59-12-2218;

(z) Section 59-12-2219; or

(aa) Section 59-12-2220.

(9) "Aircraft" means the same as that term is defined in Section 72-10-102.

(10) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(11) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(12) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(13) (a) Subject to Subsection (13)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(14) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

(16) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(17) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(18) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(19) (a) "Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(20) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (20)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (20)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (20)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (20)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (20)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (20)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (20)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (20)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (20)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(21) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

(23) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (23)(a)(i).

(24) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(25) (a) Subject to Subsection (25)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (61) or residential use under Subsection (117).

(28) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (28)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(29) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(30) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(31) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(32) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (32)(a) and (b).

(33) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (33)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (33)(a).

(34) "Construction materials" means any tangible personal property that will be converted into real property.

(35) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(36) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (36)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(37) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(38) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (38)(b)(i) through (v);

(c) (i) except as provided in Subsection (38)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (38)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(39) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(40) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(41) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(42) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(43) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(44) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26B-2-201;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (44)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (44)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(45) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of

drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(46) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (46)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(47) (a) "Durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (47)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(48) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (48)(b)(i) through (vi).

(49) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(50) "Employee" means the same as that term is defined in Section 59-10-401.

(51) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(52) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(53) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(54) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (100)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(55) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (55)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or school district.

(56) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(57) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(58) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education [~~deseribed~~]listed in Section [~~53B-1-102~~]53H-1-102.

(59) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(60) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

(61) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (61)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(62) (a) "Installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(63) "Institution of higher education" means an institution of higher education listed in Section [~~53B-2-101~~]53H-1-102.

(64) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes:

(i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code; and

(ii) car sharing.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (64)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(65) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(66) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(67) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(68) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(69) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(70) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(71) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (71)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(72) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(73) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (73)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (73)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(74) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(75) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (75)(a) through (g); or

(j) person similar to a person described in Subsections (75)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(76) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(77) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(78) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (78)(a)(i) and the termination point described in Subsection (78)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(79) (a) "Mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (79)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(80) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(81) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (81)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(82) (a) Subject to Subsection (82)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenue of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (82)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(83) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(84) "Modular home" means a modular unit as defined in Section 15A-1-302.

(85) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(86) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(87) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(88) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(89) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(90) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (90)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(91) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(92) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(93) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (93)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (93)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (93)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (139)(c).

(94) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(95) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(96) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(97) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(98) "Prepaid calling service" means a telecommunications service:
(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;
(b) that:
(i) is paid for in advance; and
(ii) enables the origination of a call using an:
(A) access number; or
(B) authorization code;
(c) that is dialed:
(i) manually; or
(ii) electronically; and
(d) sold in predetermined units or dollars that decline:
(i) by a known amount; and
(ii) with use.
(99) "Prepaid wireless calling service" means a telecommunications service:
(a) that provides the right to utilize:
(i) mobile wireless service; and
(ii) other service that is not a telecommunications service, including:
(A) the download of a product transferred electronically;
(B) a content service; or
(C) an ancillary service;
(b) that:
(i) is paid for in advance; and
(ii) enables the origination of a call using an:
(A) access number; or
(B) authorization code;
(c) that is dialed:
(i) manually; or
(ii) electronically; and
(d) sold in predetermined units or dollars that decline:
(i) by a known amount; and
(ii) with use.
(100) (a) "Prepared food" means:
(i) food:
(A) sold in a heated state; or
(B) heated by a seller;
(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or
(iii) except as provided in Subsection (100)(c), food sold with an eating utensil provided by the seller, including a:
(A) plate;
(B) knife;
(C) fork;
(D) spoon;
(E) glass;
(F) cup;
(G) napkin; or
(H) straw.
(b) "Prepared food" does not include:
(i) food that a seller only:
(A) cuts;
(B) repackages; or
(C) pasteurizes;
(ii) (A) the following:
(I) raw egg;
(II) raw fish;
(III) raw meat;
(IV) raw poultry; or
(V) a food containing an item described in Subsections (100)(b)(ii)(A)(I) through (IV); and
(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (100)(b)(ii)(A) to prevent food borne illness; or
(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(101) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(102) (a) "Prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (102)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (102)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (102)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(103) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(104) (a) "Product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(105) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(106) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(107) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(108) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (108)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(109) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(110) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(111) "Qualifying energy storage manufacturing facility" means a facility that manufactures, in the state, equipment or devices that store and discharge energy for the purpose of providing electrical power.

(112) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(113) "Rental" means the same as that term is defined in Subsection (64).

(114) (a) "Repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(115) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(116) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (116)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(117) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(118) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(119) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(120) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(121) "Sale at retail" means the same as that term is defined in Subsection (118).

(122) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(123) "Sales price" means the same as that term is defined in Subsection (108).

(124) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenue generated by the sales is deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (124)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(125) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(126) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(127) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (127)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(128) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.

(129) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

(130) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

(131) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

(132) (a) Subject to Subsections (132)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (132)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(133) (a) "Short-term rental" means a lease or rental for less than 30 consecutive days.

(b) "Short-term rental" does not include car sharing.

(134) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(135) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(136) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(137) "State" means the state of Utah, its departments, and agencies.

(138) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(139) (a) "Tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (139)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(140) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (140)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (140)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (140)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi).

(141) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(142) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(143) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(144) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (144)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (144)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(145) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (145)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (145)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (145)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (145)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (145)(b)(i) through (ix).

(146) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (146)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (146)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv) as the commission determines by rule made in accordance with Subsection (146)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv).

(147) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(148) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(149) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(150) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(151) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(152) (a) Subject to Subsection (152)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (152)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(153) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (152).

(154) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(155) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(156) (a) "Waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(157) "Watercraft" means a vessel as defined in Section 73-18-2.

(158) "Wind energy" means wind used as the sole source of energy to produce electricity.

(159) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 134. Section 59-12-702 is amended to read:

59-12-702 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Administrative unit" means a division of a private nonprofit organization or institution that:

(a) would, if it were a separate entity, be a botanical organization or cultural organization; and

(b) consistently maintains books and records separate from those of the administrative unit's parent organization.

(2) "Aquarium" means a park or building where a collection of water animals and plants is kept for study, conservation, and public exhibition.

(3) "Aviary" means a park or building where a collection of birds is kept for study, conservation, and public exhibition.

(4) "Botanical organization" means:

(a) a private nonprofit organization or institution having as the private nonprofit organization's or institution's primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education; or

(b) an administrative unit.

(5) "Cultural facility" means the same as that term is defined in Section 59-12-602.

(6) (a) "Cultural organization" means:

(i) a private nonprofit organization or institution having as the private nonprofit organization's or institution's primary purpose the advancement and preservation of:

(A) natural history;

(B) art;

(C) music;

(D) theater;

(E) dance; or

(F) cultural arts, including literature, a motion picture, or storytelling; and

(ii) an administrative unit.

(b) "Cultural organization" includes, for purposes of Subsections 59-12-704(1)(d) and (10) only:

(i) a private nonprofit organization or institution having as the private nonprofit organization's or institution's primary purpose the advancement and preservation of history; or

(ii) a municipal or county cultural council having as the municipal or county cultural council's primary purpose the advancement and preservation of:

(A) history;

(B) natural history;

(C) art;

(D) music;

(E) theater; or

(F) dance.

(c) "Cultural organization" does not include:

(i) an agency of the state;

(ii) except as provided in Subsection (6)(b)(ii), a political subdivision of the state;

(iii) an educational institution for which annual revenue is directly derived more than 50% from state funds; or

(iv) in a county of the first or second class, a radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(7) "Institution" means an institution of higher education listed in [~~Subsection 53B-1-102(1)(a)~~]Subsection 53H-1-102(1)(a).

(8) "Recreational facility" means a publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, or other facility used for recreational purposes.

(9) "Rural radio station" means a nonprofit radio station based in a county of the third, fourth, fifth, or sixth class.

(10) In a county of the first class, "zoological facility" means a public, public-private partnership, or private nonprofit building, exhibit, utility and infrastructure, walkway, pathway, roadway, office, administration facility, public service facility, educational facility, enclosure, public viewing area, animal barrier, animal housing, animal care facility, and veterinary and hospital facility related to the advancement, exhibition, or preservation of a mammal, bird, reptile, fish, or an amphibian.

(11) (a) (i) Except as provided in Subsection (11)(a)(ii), "zoological organization" means a public, public-private partnership, or private nonprofit organization having as its primary purpose the advancement and preservation of zoology.

(ii) In a county of the first class, "zoological organization" means a nonprofit organization having as the nonprofit organization's primary purpose the advancement and exhibition of a mammal, bird, reptile, fish, or an amphibian to an audience of 75,000 or more persons annually.

(b) "Zoological organization" does not include an agency of the state, educational institution, radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(12) "Zoological park" means a park or garden where a collection of wild animals is kept for study, conservation, and public exhibition.

Section 135. Section 61-1-32 is amended to read:

61-1-32 (Effective upon governor's approval). Exemptions from licensure.

(1) As used in this section, "DOD civilian" means the same as that term is defined in Section [~~53B-8-102~~]53H-11-202.

(2) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this chapter, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an individual licensed under the laws of this state, other than under this chapter, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(b) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(c) the spouse of an individual serving in the armed forces of the United States or the spouse of a DOD civilian while the individual or DOD civilian is stationed within this state, if:

(i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 136. Section 61-2f-102 is amended to read:

61-2f-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Admonition" means a public discipline that declares the conduct of a person as improper and does not identify the person.

(2) (a) "Advertisement" means a notice or announcement meant to:

(i) promote the availability of real estate, an option on real estate, or a business opportunity for sale, exchange, auction, or lease;

(ii) offer specific types of brokerage services; or

(iii) specifically solicit the public to contact that licensee for more information.

(b) "Advertisement" does not include a social media post that generally identifies the person as being engaged in the profession of real estate if the social media post does not:

(i) promote the availability of real estate, an option on real estate, or a business opportunity for sale, exchange, auction, or lease;

(ii) offer specific types of brokerage services; or

(iii) specifically solicit the public to contact that licensee for more information.

(3) "Advertising" or "advertise" means placing or directing the placement of an advertisement.

(4) "Associate broker" means an individual who is:

(a) employed or engaged as an independent contractor by or on behalf of a principal broker to perform an act described in Subsection (29) for valuable consideration; and

(b) licensed or is required to be licensed under this chapter as an associate broker.

(5) "Branch broker" means an associate broker who manages a principal broker's branch office under the supervision of the principal broker.

(6) "Branch office" means a principal broker's real estate brokerage office that is not the principal broker's main office.

(7) "Brokerage" means an entity registered or required to be registered with the division pursuant to Section 61-2f-206.

(8) "Brokerage name" means:

(a) the name of the brokerage as shown on division records;

(b) the name of a branch office of the brokerage; or

(c) a DBA of the brokerage.

(9) "Business day" means a day other than:

(a) a Saturday;

(b) a Sunday; or

(c) a federal or state holiday.

(10) "Business opportunity" means the sale, lease, or exchange of any business that includes an interest in real estate.

(11) "Commission" means the Real Estate Commission established under this chapter.

(12) "Common interest association" means the same as that term is defined in Section 57-1-46.

(13) "Concurrence" means the entities given a concurring role must jointly agree for action to be taken.

(14) (a) "Condominium hotel" means one or more condominium units that are operated as a hotel.

(b) "Condominium hotel" does not mean a hotel consisting of condominium units, all of which are owned by a single entity.

(15) "Condominium unit" means the same as that term is defined in Section 57-8-3.

(16) "Director" means the director of the Division of Real Estate.

(17) "Division" means the Division of Real Estate.

(18) "Doing business as" or "DBA" means a name that is registered with the Division of Corporations and Commercial Code that allows a business to operate under a name different from the business's legal name.

(19) "DOD civilian" means the same as that term is defined in Section [~~53B-8-102~~]53H-11-202.

(20) "Entity" means:

(a) a corporation;

(b) a partnership;

(c) a limited liability company;

(d) a company;

(e) an association;

(f) a joint venture;

(g) a business trust;

(h) a trust; or

(i) any organization similar to an entity described in Subsections (20)(a) through (h).

(21) "Executive director" means the director of the Department of Commerce.

(22) "Factory built housing" means a manufactured home or mobile home.

(23) "Foreclosure rescue" means, for compensation or with the expectation of receiving valuable consideration:

(a) an act that:

(i) the person represents will assist a borrower in preventing a foreclosure; and

(ii) relates to a transaction involving the transfer of title to residential real property; or

(b) as an employee or agent of another person:

(i) a solicitation or an offer that the other person will engage in an act described in Subsection (23)(a); or

(ii) negotiation of the terms in relationship to an act described in Subsection (23)(a).

(24) "Loan modification assistance" means, for compensation or with the expectation of receiving valuable consideration:

(a) an act, or an offer to act, on behalf of a person to:

(i) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

(A) an increase or decrease in an interest rate;

(B) a change to the type of interest rate;

(C) an increase or decrease in the principal amount of the residential mortgage loan;

(D) a change in the number of required period payments;

(E) an addition of collateral;

(F) a change to, or addition of, a prepayment penalty;

(G) an addition of a cosigner; or

(H) a change in persons obligated under the existing residential mortgage loan; or

(ii) a substitute of a new residential mortgage loan for an existing residential mortgage loan; or

(b) as an employee or agent of another person:

(i) a solicitation or an offer that the other person will engage in an act described in Subsection (24)(a); or

(ii) negotiation of the terms in relationship to an act described in Subsection (24)(a).

(25) "Main office" means the address that a principal broker designates with the division as the principal broker's primary brokerage office.

(26) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(27) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(28) "Person" means an individual or entity.

(29) "Principal broker" means an individual who:

(a) is licensed or required to be licensed as a principal broker under this chapter; and

(b) (i) sells or lists for sale real estate, including real estate being sold as part of a foreclosure rescue, a business opportunity, or, unless licensed with the Division of Professional Licensing as a dealer under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act, factory built housing, with the expectation of receiving valuable consideration;

(ii) buys, exchanges, or auctions real estate, an option on real estate, a business opportunity, or, unless licensed with the Division of Professional Licensing as a dealer under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act, factory built housing, with the expectation of receiving valuable consideration;

(iii) advertises, offers, attempts, or otherwise holds the individual out to be engaged in the business described in Subsection (29)(a) or (b)(ii);

(iv) is employed by or on behalf of the owner of real estate or by a prospective purchaser of real estate and performs an act described in Subsection (29)(a), whether the individual's compensation is at a stated salary, a commission basis, upon a salary and commission basis, or otherwise;

(v) with the expectation of receiving valuable consideration, manages property owned by another person;

(vi) advertises or otherwise holds the individual out to be engaged in property management;

(vii) with the expectation of receiving valuable consideration, assists or directs in the procurement of prospects for or the negotiation of a transaction listed in Subsections (29)(a) and (v);

(viii) except for a mortgage lender, title insurance producer, or an employee of a mortgage lender or title insurance producer, assists or directs in the closing of a real estate transaction with the expectation of receiving valuable consideration;

(ix) engages in foreclosure rescue; or

(x) advertises, offers, attempts, or otherwise holds the person out as being engaged in foreclosure rescue.

(30) (a) "Property management" means the management of real estate owned by another person, with the expectation of receiving valuable consideration, or advertising or otherwise claiming to be engaged in the management of real estate owned by another person, by:

(i) advertising for, arranging, negotiating, offering, or otherwise attempting or participating in a transaction calculated to secure the rental or leasing of real estate;

(ii) collecting, agreeing, offering, or otherwise attempting to collect rent for the real estate; or

(iii) signing a lease agreement or an addendum with a tenant.

(b) "Property management" does not include:

(i) hotel or motel management;

(ii) rental of tourist accommodations, including hotels, motels, tourist homes, condominiums, condominium hotels, mobile home park accommodations, campgrounds, or similar public accommodations for a period of less than 30 consecutive days, and the management activities associated with these rentals; or

(iii) the leasing or management of surface or subsurface minerals or oil and gas interests, if the leasing or management is separate from a sale or lease of the surface estate.

(31) "Property manager" means an individual who:

(a) is licensed or required to be licensed as a property manager under this chapter; and

(b) (i) engages in property management; or

(ii) advertises or otherwise holds the individual out to be engaged in property management.

(32) "Real estate" includes leaseholds and business opportunities involving real property.

(33) (a) "Regular salaried employee" means an individual:

(i) who performs a service for wages or other remuneration; and

(ii) whose employer withholds federal employment taxes under a contract of hire, written or oral, express or implied.

(b) "Regular salaried employee" does not include an individual who performs services on a project-by-project basis or on a commission basis.

(34) "Reinstatement" means the restoration of a license that has expired or has been suspended.

(35) "Reissuance" means the process by which an individual may obtain a license following revocation of the license.

(36) "Renewal" means the extension of a license for an additional licensing period on or before the date the license expires.

(37) "Reprimand" means a public discipline that declares the conduct of a person as improper and includes the name of the person.

(38) "Sales agent" means an individual who is:

(a) affiliated with a principal broker, either as an independent contractor or an employee as provided in Section 61-2f-303, to perform for valuable consideration an act described in Subsection (29); and

(b) licensed, or required to be licensed, under this chapter as a sales agent.

(39) "Transaction" means, whether complete or incomplete:

(a) a purchase of real estate;

(b) a sale of real estate;

(c) an exchange of real estate;

(d) a lease of real estate;

(e) an auction of real estate;

(f) management of real estate;

(g) an option on real estate; or

(h) a business opportunity.

(40) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.

Section 137. Section 63A-3-103 is amended to read:

63A-3-103 (Effective upon governor's approval). Duties of director of division -- Application to institutions of higher education.

(1) The director of the Division of Finance shall:

(a) define fiscal procedures relating to approval and allocation of funds;

(b) provide for the accounting control of funds;

(c) promulgate rules that:

(i) establish procedures for maintaining detailed records of all types of leases;

(ii) account for all types of leases in accordance with generally accepted accounting principles;

(iii) require the performance of a lease with an option to purchase study by state agencies prior to any lease with an option to purchase acquisition of capital equipment; and

(iv) require that the completed lease with an option to purchase study be approved by the director of the Division of Finance;

(d) if the department operates the Division of Finance as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee;

(e) oversee the Office of State Debt Collection;

(f) publish the state's current constitutional debt limit on the public finance website established by the state auditor in accordance with Section 67-3-12; and

(g) prescribe other fiscal functions required by law or under the constitutional authority of the governor to transact all executive business for the state.

(2) (a) Institutions of higher education are subject to the provisions of Title 63A, Chapter 3, Part 1, General Provisions, and Title 63A, Chapter 3, Part 2, Accounting System, only to the extent expressly authorized or required by the Utah Board of Higher Education under [~~Title 53B, State System of Higher Education~~]Title 53H, Higher Education.

(b) Institutions of higher education shall submit financial data for the past fiscal year conforming to generally accepted accounting principles to the director of the Division of Finance.

(3) The Division of Finance shall prepare financial statements and other reports in accordance with legal requirements and generally accepted accounting principles for the state auditor's examination and certification:

(a) not later than 60 days after a request from the state auditor; and

(b) at the end of each fiscal year.

Section 138. Section 63A-3-106 is amended to read:

63A-3-106 (Effective upon governor's approval). Per diem rates for board members.

(1) As used in this section and Section 63A-3-107:

(a) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.

(b) "Board member" means a person appointed or designated by statute to serve on a board.

(c) "Executive branch" means an agency within the executive branch of state government.

(d) (i) "Governmental entity" has the same meaning, except as provided in Subsection (1)(d)(ii), as provided under Section 63G-2-103.

(ii) "Governmental entity" does not include an association as defined in Section 53G-7-1101.

(e) "Higher education" means [~~a state~~]an institution of higher education, as defined under Section [~~53B-1-102~~]53H-1-102.

(f) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.

(g) "Official meeting" means a meeting of a board that is called in accordance with statute.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules establishing per diem rates to defray subsistence costs for a board member's attendance at an official meeting.

(3) Unless otherwise provided by statute, a per diem rate established under Subsection (2) is applicable to a board member who serves:

(a) within the executive branch, except as provided under Subsection (3)(b);

(b) within an institution of higher education, unless an institution of higher education pays the costs of the per diem;

(c) on a board that is:

(i) not included under Subsection (3)(a) or (b); and

(ii) created by a statute that adopts the per diem rates by reference to:

(A) this section; and

(B) the rule authorized by this section; and

(d) within a government entity that is not included under Subsection (3)(a), if the government entity adopts the per diem rates by reference to:

(i) this section; or

(ii) the rule establishing the per diem rates.

(4) (a) Unless otherwise provided by statute, a board member who is not a legislator may receive per diem under this section and travel expenses under Section 63A-3-107 if the per diem and travel expenses are incurred by the board member for attendance at an official meeting.

(b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or travel expenses under this Subsection (4) if the board member is being paid by a governmental entity while performing the board member's service on the board.

(5) A board member may decline to receive per diem for the board member's service.

(6) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 139. Section 63A-3-107 is amended to read:

63A-3-107 (Effective upon governor's approval). Travel expenses of board members and state officers and employees.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules governing in-state and out-of-state travel expenses.

(2) Unless otherwise provided by statute, a travel expense rule established under Subsection (1) is applicable to:

(a) a board member, an officer, or employee of the executive branch, except as provided under Subsection (2)(b);

(b) a board member, an officer, or employee of an institution of higher education, unless the institution of higher education pays the costs of the travel expenses;

(c) a board member who:

(i) is not included under Subsection (2)(a) or (b); and

(ii) serves on a board created by a statute that adopts the travel expense rates by reference to:

(A) this section; and

(B) the rule authorized by this section; and

(d) a government entity that is not included under Subsection (2)(a), if the government entity adopts the travel expense provisions by reference to:

(i) this section; or

(ii) the rule establishing the travel expense provisions.

(3) The Division of Finance shall make the travel expense rules on the basis of:

(a) a mileage allowance; and

(b) reimbursement for other travel expenses incurred.

(4) The travel expense rules may specify an exception to a travel expense rule or allow the director of the Division of Finance to make an exception to a travel expense rule, when justified by the executive director of the executive branch agency or department, to meet special circumstances encountered in official attendance at a conference, convention, meeting, or other official business, as determined by the director of the Division of Finance.

(5) An officer or employee of the executive branch may not incur obligations for travel outside the state without the advance approval of the executive director or a designee of the executive director of an executive branch department or agency.

(6) A board member may decline to receive travel expenses for the board member's service.

(7) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 140. Section 63A-3-201 is amended to read:

63A-3-201 (Effective upon governor's approval). Appointment of accounting and other officers and employees by director of the Division of Finance -- Delegation of powers and duties by director -- Background checks.

(1) With the approval of the executive director, the director of the Division of Finance shall appoint an accounting officer and other administrative officers that are necessary to efficiently and economically perform the functions of the Division of Finance.

(2) The director of the Division of Finance may:

(a) organize the division and employ other assistants to discharge the functions of the division;

(b) delegate to assistants, officers, and employees any of the powers and duties of the office subject to his or her control and subject to any conditions he may prescribe; and

(c) delegate the powers and duties of the office only by written order filed with the lieutenant governor.

(3) (a) As used in this Subsection (3):

(i) "Public employee" means a person employed by a state agency.

(ii) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by a state agency.

(iii) "Public funds position" means employment with a state agency that requires:

(A) physical or electronic access to public funds;

(B) performing internal control functions or accounting;

(C) creating reports on public funds; or

(D) using, operating, or accessing state systems that account for or help account for public funds.

(iv) "State agency" means:

(A) an executive branch agency; or

(B) a state educational institution with the exception of an institution [~~defined~~]described in Subsection [~~53B-1-102(1).~~]53H-1-102(1).

(b) The Division of Finance may require that a public employee who applies for or holds a public funds position:

(i) submit a fingerprint card in a form acceptable to the division;

(ii) consent to a criminal background check by:

(A) the Federal Bureau of Investigation;

(B) the Utah Bureau of Criminal Identification; or

(C) another agency of any state that performs criminal background checks; or

(iii) consent to a credit history report, subject to the requirements of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.

(c) The Bureau of Criminal Identification shall provide all the results from the state, regional, and nationwide criminal history background checks to the division.

(d) The Division of Finance may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to implement this section.

Section 141. Section 63A-5b-102 is amended to read:

63A-5b-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Capitol hill" means the same as that term is defined in Section 63O-1-101.

(2) "Compliance agency" means the same as that term is defined in Section 15A-1-202.

(3) "Director" means the division director, appointed under Section 63A-5b-302.

(4) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.

(5) "Institution of higher education" means [~~an institution listed in Subsection 53B-2-101(1)~~]the same as that term is defined in Section 53H-1-101.

(6) "Trust lands administration" means the School and Institutional Trust Lands Administration established in Section 53C-1-201.

(7) "Utah Board of Higher Education" means the Utah Board of Higher Education established in Section [~~53B-1-402~~]53H-1-203.

Section 142. Section 63A-5b-403 is amended to read:

63A-5b-403 (Effective upon governor's approval). Institutions of higher education -- Capital development projects -- Dedicated and nondedicated projects -- Recommendations and prioritization.

(1) As used in this section:

(a) "Dedicated project" has the same meaning as that term is defined in:

(i) Section [~~53B-2a-101~~]53H-9-601, for a capital development project under [~~Title 53B, Chapter 2a, Technical Education~~]Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development; or

(ii) Section [~~53B-22-201~~]53H-9-501, for a capital development project under [~~Title 53B, Chapter 22, Higher Education Capital Projects~~]Title 53H, Chapter 9, Part 5, General Capital Developments.

(b) "Nondedicated project" has the same meaning as that term is defined in:

(i) Section [~~53B-2a-101~~]53H-9-601, for a capital development project under [~~Title 53B, Chapter 2a, Technical Education~~]Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development; or

(ii) Section [~~53B-22-201~~]53H-9-501, for a capital development project under [~~Title 53B, Chapter 22, Higher Education Capital Projects~~]Title 53H, Chapter 9, Part 5, General Capital Developments.

(2) (a) The division shall submit recommendations to the Legislature in accordance with:

(i) Section [~~53B-2a-117~~]53H-9-604, for a dedicated project under [~~Title 53B, Chapter 2a, Technical Education~~]Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development; or

(ii) Section [~~53B-22-204~~]53H-9-504, for a dedicated project under [~~Title 53B, Chapter 22, Higher Education Capital Projects~~]Title 53H, Chapter 9, Part 5, General Capital Developments.

(b) A dedicated project is not subject to prioritization by the division.

(3) (a) The division shall prioritize nondedicated projects in accordance with:

(i) Section 63A-5b-402; and

(ii) (A) Section [~~53B-2a-117~~]53H-9-604, for a nondedicated project under [~~Title 53B, Chapter 2a, Technical Education~~]Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development; or

(B) Section [~~53B-22-204~~]53H-9-504, for a nondedicated project under [~~Title 53B, Chapter 22, Higher Education Capital Projects~~]Title 53H, Chapter 9, Part 5, General Capital Developments.

(b) In the division's scoring process for prioritizing nondedicated projects, the division shall give more weight to a request that is designated as a higher priority by the Utah Board of Higher Education than a request that is designated as a lower priority by the Utah Board of Higher Education only for determining the order of prioritization among requests submitted by the Utah Board of Higher Education.

(4) The division shall require that an institution of higher education that submits a request for a capital development project address whether and how, as a result of the project, the institution of higher education will:

(a) offer courses or other resources that will help meet demand for jobs, training, and employment in the current market and the

projected market for the next five years;

(b) respond to individual skilled and technical job demand over the next three, five, and 10 years;

(c) respond to industry demands for trained workers;

(d) help meet commitments made by the Governor's Office of Economic Opportunity, including relating to training and incentives;

(e) respond to changing needs in the economy; and

(f) respond to demands for online or in-class instruction, based on demographics.

(5) The division shall:

(a) (i) assist institutions of higher education in providing the information required by Subsection (4); and

(ii) verify the completion and accuracy of the information submitted by an institution of higher education under Subsection (4);

(b) assist the Utah Board of Higher Education to fulfill the requirements of Section [~~53B-2a-112~~]53H-9-603 in connection with the finding that the division is required to make under Subsection [~~53B-2a-112(4)(b)~~]53H-9-603(4)(b); and

(c) assist the Utah Board of Higher Education in submitting a list of dedicated projects to the division for approval and nondedicated projects to the division for recommendation and prioritization pursuant to Section [~~53B-22-204~~]53H-9-504.

Section 143. Section 63A-5b-805 is amended to read:

63A-5b-805 (Effective upon governor's approval). Leasing by higher education institutions.

(1) The Utah Board of Higher Education shall establish written policies and procedures governing leasing by an institution of higher education.

(2) Except as provided in Section [~~53B-2a-113~~]53H-9-602, an institution of higher education shall comply with the procedures and requirements of the Utah Board of Higher Education policies before signing or renewing a lease.

Section 144. Section 63A-9-101 is amended to read:

63A-9-101 (Effective upon governor's approval). Definitions.

As used in this part:

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" includes the State Board of Education and each higher education institution [~~described~~]listed in Section [~~53B-1-102~~]53H-1-102.

(c) "Agency" includes the legislative and judicial branches.

(2) "Committee" means the Motor Vehicle Review Committee created by this chapter.

(3) "Director" means the director of the division.

(4) "Division" means the Division of Fleet Operations created by this chapter.

(5) "Executive director" means the executive director of the Department of Government Operations.

(6) "Local agency" means:

(a) a county;

(b) a municipality;

(c) a school district;

(d) a special district;

(e) a special service district;

(f) an interlocal entity as defined under Section 11-13-103; or

(g) any other political subdivision of the state, including a local commission, board, or other governmental entity that is vested with the authority to make decisions regarding the public's business.

(7) (a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.

(b) "Motor vehicle" includes vehicles used for construction and other nontransportation purposes.

(8) "State vehicle" means each motor vehicle owned, operated, or in the possession of an agency.

Section 145. Section 63A-16-803 is amended to read:

63A-16-803 (Effective upon governor's approval). Single sign-on citizen portal -- Creation.

(1) The division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on citizen portal that is:

(a) a web portal through which an individual may access information and services described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

(b) secure, centralized, and interconnected.

(2) The division shall ensure that the single sign-on citizen portal allows an individual, at a single point of entry, to:

(a) access and submit an application for:

(i) medical and support programs including:

(A) a medical assistance program administered under Title 26B, Chapter 3, Health Care - Administration and Assistance, including Medicaid;

(B) the Children's Health Insurance Program under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program;

(C) the Primary Care Network as defined in Section 26B-3-211; and

(D) the Women, Infants, and Children program administered under 42 U.S.C. Sec. 1786;

(ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;

(iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;

(iv) employment with a state agency;

(v) a driver license or state identification card renewal under Title 53, Chapter 3, Uniform Driver License Act;

(vi) a birth or death certificate under Title 26B, Chapter 8, Part 1, Vital Statistics; and

(vii) a hunting or fishing license under Title 23A, Chapter 4, Licenses, Permits, Certificates of Registration, and Tags;

(b) access the individual's:

(i) transcripts from an institution of higher education [~~described~~]listed in Section [~~53B-2-101~~]53H-1-102; and

(ii) immunization records maintained by the Department of Health and Human Services;

(c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration, with the Motor Vehicle Division of the State Tax Commission;

(d) file the individual's state income taxes under Title 59, Chapter 10, Individual Income Tax Act, beginning December 1, 2020;

(e) access information about positions available for employment with the state; and

(f) access any other service or information the department determines is appropriate in consultation with the entities described in Subsection (4).

(3) The division shall develop the single sign-on citizen portal using an open platform that:

(a) facilitates participation in the portal by a state entity;

(b) allows for optional participation in the portal by a political subdivision of the state; and

(c) contains a link to the State Tax Commission website.

(4) In developing the single sign-on citizen portal, the department shall consult with:

(a) each state executive branch agency that administers a program, provides a service, or manages applicable information described in Subsection (2);

(b) the Utah League of Cities and Towns;

(c) the Utah Association of Counties; and

(d) other appropriate state executive branch agencies.

(5) The division shall ensure that the single sign-on citizen portal is fully operational no later than January 1, 2025.

(6) (a) As used in this Subsection (6):

(i) "Digital verifiable credential" means the same as that term is defined in Section 63A-16-108.

(ii) "Digital verifiable record" means the same as that term is defined in Section 63A-16-108.

(iii) "Offender" means the same as that term is defined in Section 64-13-1.

(b) No later than January 1, 2027, the division shall ensure that a version of the single sign-on citizen portal is made available to an individual who:

(i) is a Utah resident; and

(ii) (A) is an offender; or

(B) previously was an offender resulting from a conviction that occurred on or after January 1, 2027.

(c) The portal described in Subsection (6)(b) shall include:

(i) if possible, an electronic copy of, or link to, the individual's digital verifiable credentials and digital verifiable records; and

(ii) if available:

(A) information on the individual's debts such as restitution, court costs, fines, tax obligations, alimony, child support, other court-ordered payments, and similar debts; and

(B) links or another method to access more information concerning the debts listed in Subsection (6)(c)(ii)(A).

Section 146. Section 63A-16-1102 is amended to read:

63A-16-1102 (Effective upon governor's approval). Utah Cyber Center -- Creation -- Duties.

(1) (a) There is created within the division the Utah Cyber Center.

(b) The chief information security officer appointed under Section 63A-16-210 shall serve as the director of the Cyber Center.

(2) The division shall operate the Cyber Center in partnership with the following entities within the Department of Public Safety created in Section 53-1-103:

(a) the Statewide Information and Analysis Center;

(b) the State Bureau of Investigation created in Section 53-10-301; and

(c) the Division of Emergency Management created in Section 53-2a-103.

(3) In addition to the entities described in Subsection (3), the Cyber Center shall collaborate with:

(a) the Cybersecurity Commission created in Section 63C-27-201;

(b) the Office of the Attorney General;

(c) the Utah Education and Telehealth Network created in Section [~~53B-17-105~~]53H-4-213.4;

(d) appropriate federal partners, including the Federal Bureau of Investigation and the Cybersecurity and Infrastructure Security Agency;

(e) appropriate information sharing and analysis centers;

(f) information technology directors, cybersecurity professionals, or equivalent individuals representing political subdivisions in the state; and

(g) any other person the division believes is necessary to carry out the duties described in Subsection (4).

(4) The Cyber Center shall, within legislative appropriations:

(a) by June 30, 2024, develop a statewide strategic cybersecurity plan for governmental entities;

(b) with respect to executive branch agencies:

(i) identify, analyze, and, when appropriate, mitigate cyber threats and vulnerabilities;

(ii) coordinate cybersecurity resilience planning;

(iii) provide cybersecurity incident response capabilities; and

(iv) recommend to the division standards, policies, or procedures to increase the cyber resilience of executive branch agencies individually or collectively;

(c) at the request of a governmental entity, coordinate cybersecurity incident response for a data breach affecting the governmental entity in accordance with Section 63A-19-405;

(d) promote cybersecurity best practices;

(e) share cyber threat intelligence with governmental entities and, through the Statewide Information and Analysis Center, with other public and private sector organizations;

(f) serve as the state cybersecurity incident response repository to receive reports of breaches of system security, including notification or disclosure under Section 13-44-202 and data breaches under Section 63A-16-1103;

(g) develop incident response plans to coordinate federal, state, local, and private sector activities and manage the risks associated with an attack or malfunction of critical information technology systems within the state;

(h) coordinate, develop, and share best practices for cybersecurity resilience in the state;

(i) identify sources of funding to make cybersecurity improvements throughout the state;

(j) develop a sharing platform to provide resources based on information, recommendations, and best practices; and

(k) partner with institutions of higher education and other public and private sector organizations to increase the state's cyber resilience.

Section 147. Section 63A-17-301 is amended to read:

63A-17-301 (Effective upon governor's approval). Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as provided in Subsection (3)(d), the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

(i) the office and at the residence of the governor;

(ii) the Public Lands Policy Coordinating Office;

(iii) the Office of the State Auditor; and

(iv) the Office of the State Treasurer;

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;

(f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(g) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the division; or

(B) educators as defined by Section 53E-8-102;

(h) schedule AN includes employees of the Legislature;

(i) schedule AO includes employees of the judiciary;

(j) schedule AP includes all judges in the judiciary;

(k) schedule AQ includes:

(i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;

(ii) a water commissioner appointed under Section 73-5-1;

(iii) other local officials serving in an ex officio capacity; and

(iv) officers, faculty, and other employees of [~~state universities and other state~~]institutions of higher education;

(l) schedule AR includes employees in positions that involve responsibility:

(i) for determining policy;

(ii) for determining the way in which a policy is carried out; or

(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the director;

(m) schedule AS includes any other employee:

(i) whose appointment is required by statute to be career service exempt;

(ii) whose agency is not subject to this chapter; or

(iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;

(n) schedule AT includes employees of the Division of Technology Services, designated as executive/professional positions by the director of the Division of Technology Services with the concurrence of the director of the division;

(o) schedule AU includes patients and inmates employed in state institutions;

(p) employees of the Department of Workforce Services, designated as schedule AW:

(i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or

(ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the director of the division;

(q) subject to Subsection (6), schedule AX includes employees in positions that:

(i) require the regular supervision and performance evaluation of one or more other employees; and

(ii) are not designated exempt from career service under any other schedule described in this Subsection (1); and

(r) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the division by administrative rule.

(2) The civil service shall consist of two schedules as follows:

(a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of:

(i) all positions filled through competitive selection procedures as defined by the director; or

(ii) positions filled through a division approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71A, Chapter 2, Veterans Preference.

(3) (a) The director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the director before changing the schedule assignment and tenure rights of any position.

(c) Unless the director's decision is reversed by the governor, when the director denies an agency's request, the director's decision is final.

(d) (i) An agency may file a request with the division:

(A) to keep a position scheduled as a schedule B position as a schedule B position; or

(B) to reschedule a position that is scheduled as a schedule A position as a schedule B position.

(ii) The division shall review a request filed under Subsection (3)(d)(i) and approve the request only if the exception is necessary to conform to a requirement imposed as a condition precedent to receipt of federal funds or grant of a tax benefit under federal law.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in [~~Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education~~]Title 53H, Chapter 1, Utah System of Higher Education, and Title 53H, Chapter 3, Institutions of Higher Education Generally.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the director.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the division.

(6) (a) An employee who is hired for a schedule AX position on or after July 1, 2022, is exempt from career service status.

(b) An employee who before July 1, 2022, is a career service employee employed in a schedule B position that is rescheduled to a schedule AX position on July 1, 2022, shall maintain the employee's career service status for the duration of the employee's employment in the same position unless the employee voluntarily converts to career service exempt status before July 1, 2023.

(c) (i) Subject to Subsection (6)(c)(ii), an employee is exempt from career service status if:

(A) before July 1, 2022, the employee was a probationary employee in a schedule B position and had not completed the probationary period; and

(B) on July 1, 2022, the schedule B position in which the probationary employee is employed is rescheduled as a scheduled AX position.

(ii) An employee described in Subsection (6)(c)(i):

(A) is not a probationary employee on or after July 1, 2022; and

(B) is exempt from career service status on and after July 1, 2022, unless the employee changes employment to a schedule B position.

(d) The division shall disseminate to each employee described in Subsection (6)(b)information on financial and other incentives for voluntary conversion to career-service exempt status.

(e) An agency may adopt a policy, created in consultation with the division, for agency review of recommendations that schedule AX employees be suspended, demoted, or dismissed from employment.

Section 148. Section 63B-5-201 is amended to read:

63B-5-201 (Effective upon governor's approval). Legislative intent statements.

(1) If the United States Department of Defense has not provided matching funds to construct the National Guard Armory in Orem by December 31, 1997, the Division of Facilities Construction and Management shall transfer any funds received from issuance of a General Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital improvements.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Health Science East parking structure under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) the Health Science Office Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) the new Student Housing/Olympic Athletes Village under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah State University use institutional funds to plan, design, and construct a multipurpose facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal funding to plan, design, and construct a sample library facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(5) (a) If legislation introduced in the 1996 General Session to fund the Wasatch State Park Club House does not pass, the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $1,500,000 for the remodel and expansion of the clubhouse at Wasatch Mountain State Park for the Division of State Parks, formerly known as the Division of Parks and Recreation, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Division of State Parks, formerly known as the Division of Parks and Recreation, to seek out the most cost effective and prudent lease purchase plan available.

(6) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $835,300 for the construction of a liquor store in the Snyderville area, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Alcoholic Beverage Services to seek out the most cost effective and prudent lease purchase plan available.

(7) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $15,000,000 for the construction of the Huntsman Cancer Institute, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the University of Utah to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that the University of Utah lease land to the State Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

(8) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $857,600 for the construction of an addition to the Human Services facility in Vernal, Utah together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Health and Human Services to seek out the most cost effective and prudent lease purchase plan available.

(9) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $3,470,200 for the construction of the Student Services Center, at Utah State University Eastern, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with Utah State University Eastern to seek out the most cost effective and prudent lease purchase plan available.

(10) (a) Notwithstanding anything to the contrary in [~~Title 53B, Chapter 21, Revenue Bonds~~]Title 53H, Chapter 9, Part 3, Revenue Bonds, which prohibits the issuance of revenue bonds payable from legislative appropriations, the State Board of Regents, on behalf of [~~Dixie College~~]Utah Tech University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of [~~Dixie College~~]Utah Tech University to borrow money on the credit of the income and revenues, including legislative appropriations, of [~~Dixie College~~]Utah Tech University, to finance the acquisition of the Dixie Center.

(b) (i) The bonds or other evidences of indebtedness authorized by this section shall be issued in accordance with [~~Title 53B, Chapter 21, Revenue Bonds~~]Title 53H, Chapter 9, Part 3, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary and may not exceed $6,000,000 together with additional amounts necessary to:

(A) pay cost of issuance;

(B) pay capitalized interest; and

(C) fund any debt service reserve requirements.

(ii) To the extent that future legislative appropriations will be required to provide for payment of debt service in full, the board shall ensure that the revenue bonds are issued containing a clause that provides for payment from future legislative appropriations that are legally available for that purpose.

(11) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $10,479,000 for the construction of a facility for the Courts - Davis County Regional Expansion, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Administrative Office of the Courts to seek out the most cost effective and prudent lease purchase plan available.

(12) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $4,200,000 for the purchase and remodel of the Washington County Courthouse, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Administrative Office of the Courts to seek out the most cost effective and prudent lease purchase plan available.

(13) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $14,299,700 for the construction of a facility for the State Library and the Division of Services for the Blind and Visually Impaired, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the State Board of Education and the Governor's Office of Economic Opportunity to seek out the most cost effective and prudent lease purchase plan available.

Section 149. Section 63C-4a-303 is amended to read:

63C-4a-303 (Effective upon governor's approval) (Repealed 07/01/28). Federalism Commission to evaluate federal law -- Curriculum on federalism -- Environment discussions -- Oversight of Center for Constitutional Studies in relation to center's federalism duties.

(1) (a) In accordance with Section 63C-4a-304, the commission may evaluate a federal law:

(i) as agreed by a majority of the commission;

(ii) submitted to the commission by a council member; or

(iii) reported to the commission in accordance with Subsection (1)(b).

(b) (i) To assist the commission in the evaluation of federal law as required in this section and Section 63C-4a-304, the commission may contract with a third party that is a Utah institution of higher education to monitor federal law for possible implications on the principles of federalism.

(ii) A third party contracted to monitor federal law as described in Subsection (1)(b)(i) shall:

(A) monitor federal law for possible implications on the principles of federalism and state sovereignty; and

(B) report to the commission any law or action by the federal government that may implicate the principles of federalism or state sovereignty.

(c) (i) As used in this Subsection (1)(c), "interim committee" means the same as that term is defined in Section 36-12-1.

(ii) The commission shall provide an annual report to each interim committee concerning any law or action by the federal government that implicates the principles of federalism or state sovereignty.

(iii) The commission may notify the appropriate interim committee of any law or action by the federal government that implicates the principles of federalism or state sovereignty.

(2) The commission may request information regarding a federal law under evaluation from a United States senator or representative elected from the state.

(3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair or the commission may:

(a) request from a United States senator or representative elected from the state:

(i) information about the federal law; or

(ii) assistance in communicating with a federal governmental entity regarding the federal law;

(b) (i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and

(ii) request a response by a specific date to the evaluation from the federal governmental entity;

(c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy; or

(d) give written notice of an evaluation and the conclusions of the commission to any other relevant entity.

(4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission's evaluation of a federal law.

(5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-

4a-305.

(6) The commission shall keep a current list on the Legislature's website of:

(a) a federal law that the commission evaluates under Subsection (1);

(b) an action taken by a cochair of the commission or the commission under Subsection (3);

(c) any coordination undertaken with another state under Section 63C-4a-305; and

(d) any response received from a federal government entity that was requested under Subsection (3).

(7) (a) The commission shall develop curriculum for a seminar on the principles of federalism.

(b) The curriculum under Subsection (7)(a) shall be available to the general public and include:

(i) fundamental principles of federalism;

(ii) the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;

(iii) the history and practical implementation of the Tenth Amendment to the United States Constitution;

(iv) the authority and limits on the authority of the federal government as found in the United States Constitution;

(v) the relationship between the state and federal governments;

(vi) methods of evaluating a federal law in the context of the principles of federalism;

(vii) how and when challenges should be made to a federal law or regulation on the basis of federalism;

(viii) the separate and independent powers of the state that serve as a check on the federal government;

(ix) first amendment rights and freedoms contained therein; and

(x) any other issues relating to federalism the commission considers necessary.

(8) The commission may apply for and receive grants, and receive private donations to assist in funding the creation, enhancement, and dissemination of the curriculum.

(9) The commission shall submit a report on or before November 30 of each year to the Government Operations Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee that:

(a) describes any action taken by the commission under Section 63C-4a-303; and

(b) includes any proposed legislation the commission recommends.

(10) The commission shall comply with Section 19-1-110 in discussions with the Department of Environmental Quality on issues related to the environment or the functioning of the Department of Environmental Quality.

(11) The commission shall:

(a) coordinate with and make recommendations to the center concerning the center's federalism-related duties under Section [~~53B-29-402~~]53H-4-703, including:

(i) the development of the federalism education and training program under Subsection [~~53B-29-402(1)~~]53H-4-703(1); and

(ii) the scope and objectives of:

(A) the annual federalism conference organized under Subsection [~~53B-29-402(2)~~]53H-4-703(2);

(B) the study conducted under Subsection [~~53B-29-402(3)~~]53H-4-703(3); and

(C) the center's coordination efforts under Subsection [~~53B-29-402(4)~~]53H-4-703(4);

(b) coordinate with and make recommendations to the institute regarding the institute's federalism-related duties under Section [~~53B-29-403~~]53H-4-704; and

(c) report annually to the Legislative Management Committee regarding:

(i) the center's progress in fulfilling the requirements of Section [~~53B-29-402~~]53H-4-703; and

(ii) the institute's progress in fulfilling the requirements of Section [~~53B-29-403~~]53H-4-704.

(12) Each executive branch agency shall, at the request of the commission, designate a contact person to coordinate with the commission regarding the federalism education and training program developed under Section [~~53B-29-402~~]53H-4-703 for purposes of:

(a) determining the extent of federal jurisdiction in the agency's resource sphere;

(b) determining whether federal action exceeds the federal government's jurisdictional authority;

(c) assessing what actions the agency may take in the event that federal action exceeds the federal government's jurisdictional authority; and

(d) assessing how actions described in Subsection (12)(c) may better enable the agency to use the agency's best judgment in serving the people of Utah.

Section 150. Section 63C-28-101 is amended to read:

63C-28-101 (Effective upon governor's approval) (Repealed 07/01/26). Definitions.

As used in this part:

(1) "Commission" means the Ethnic Studies Commission created in Section 63C-28-201.

(2) "Core standards for Utah public schools" or "core standards" means the standards the state board establishes as described in Section 53E-4-202.

(3) "Education entity" means:

(a) the Utah Board of Higher Education;

(b) an institution of higher education, as that term is defined in Section [~~53B-3-102~~]53H-1-101;

(c) the state board;

(d) a local school board;

(e) a charter school governing board;

(f) a school district;

(g) a district school;

(h) a charter school; or

(i) the Utah Schools for the Deaf and the Blind.

(4) "Ethnic studies" means the same as that term is defined in Section 53E-4-204.1.

(5) "State board" means the State Board of Education.

(6) "Utahns of diverse ethnicities" means the same as that term is defined in Section 53E-4-204.1.

Section 151. Section 63G-2-103 is amended to read:

63G-2-103 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chief administrative officer" means the chief administrative officer of a governmental entity who is responsible to fulfill the duties described in Section 63A-12-103.

(3) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(4) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(5) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(6) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(7) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(8) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(9) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, special district office, or special service district office, but does not include judges.

(10) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(11) "Government audit agency" means any governmental entity that conducts an audit.

(12) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (12)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking, except for the Water District Water Development Council created pursuant to Section 11-13-228;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section [~~53B-8a-103~~]53H-10-202.

(13) "Government Records Office" means the same as that term is defined in Section 63A-12-201.

(14) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(15) "Individual" means a human being.

(16) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (16)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(17) "Legislative body" means the Legislature.

(18) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the director of the Government Records Office.

(19) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(20) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(21) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(22) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(23) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(24) "Reasonable search" means a search that is:

(a) reasonable in scope and intensity; and

(b) not unreasonably burdensome for the government entity.

(25) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not include:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar;

(x) a note prepared by the originator for the originator's own use or for the sole use of an individual for whom the originator is working;

(xi) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xii) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xiii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiv) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xvi) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvii) child sexual abuse material, as defined by Section 76-5b-103;

(xviii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201;

(xix) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702;

(xx) any item described in Subsection (25)(a) that is:

(A) described in Subsection 63G-2-305(17), (18),or (23)(b); and

(B) shared between any of the following entities:

(I) the Division of Risk Management;

(II) the Office of the Attorney General;

(III) the governor's office; or

(IV) the Legislature;

(xxi) the email address that a candidate for elective office provides to a filing officer under Subsection 20A-9-201(5)(c)(ii) or 20A-9-203(4)(c)(iv); or

(xxii) except as provided in Sections 31A-16-105, 31A-16-107.5, and 27a-3-303, an investment policy, or information related to an investment policy, provided to the insurance commissioner as described in Title 31A, Chapter 18, Investments.

(26) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(27) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(28) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(29) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education [~~defined~~]described in Section [~~53B-1-102~~]53H-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(30) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(31) "State archivist" means the director of the state archives.

(32) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 152. Section 63G-2-301 is amended to read:

63G-2-301 (Effective upon governor's approval). Public records.

(1) As used in this section:

(a) "Business address" means a single address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(b) "Business email address" means a single email address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(c) "Business telephone number" means a single telephone number of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(d) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(2) The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 63G-2-201(3)(b) and (6)(a):

(a) laws;

(b) the name, gender, gross compensation, job title, job description, business address, business email address, business telephone number, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of a current or former employee or officer of the governmental entity, excluding:

(i) undercover law enforcement personnel; and

(ii) investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;

(c) final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, controlled, or protected;

(d) final interpretations of statutes or rules by a governmental entity unless classified as protected as provided in Subsection 63G-2-305(17) or (18);

(e) information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public Meetings Act, including the records of all votes of each member of the governmental entity;

(f) judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;

(g) unless otherwise classified as private under Section 63G-2-303, records or parts of records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or other governmental entities that give public notice of:

(i) titles or encumbrances to real property;

(ii) restrictions on the use of real property;

(iii) the capacity of persons to take or convey title to real property; or

(iv) tax status for real and personal property;

(h) records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;

(i) data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public;

(j) documentation of the compensation that a governmental entity pays to a contractor or private provider;

(k) summary data;

(l) voter registration records, including an individual's voting history, except for a voter registration record or those parts of a voter registration record that are classified as private under Subsections 63G-2-302(1)(j) through (n) or withheld under Subsection 20A-2-104(7);

(m) for an elected official, as defined in Section 11-47-102, a telephone number, if available, and email address, if available, where that elected official may be reached as required in Title 11, Chapter 47, Access to Elected Officials;

(n) for a school community council member, a telephone number, if available, and email address, if available, where that elected official may be reached directly as required in Section 53G-7-1203;

(o) annual audited financial statements of the Utah Educational Savings Plan described in Section [~~53B-8a-111~~]53H-10-210; and

(p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as defined in Section 20A-7-101, after the packet is submitted to a county clerk.

(3) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305:

(a) administrative staff manuals, instructions to staff, and statements of policy;

(b) records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;

(c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the governmental entity;

(d) contracts entered into by a governmental entity;

(e) any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;

(f) records relating to government assistance or incentives publicly disclosed, contracted for, or given by a governmental entity, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63G-2-305(35);

(g) chronological logs and initial contact reports;

(h) correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;

(i) empirical data contained in drafts if:

(i) the empirical data is not reasonably available to the requester elsewhere in similar form; and

(ii) the governmental entity is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;

(j) drafts that are circulated to anyone other than:

(i) a governmental entity;

(ii) a political subdivision;

(iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;

(iv) a government-managed corporation; or

(v) a contractor or private provider;

(k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;

(l) original data in a computer program if the governmental entity chooses not to disclose the program;

(m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;

(n) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;

(o) records that would disclose information relating to formal charges or disciplinary actions against a past or present governmental entity employee if:

(i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and

(ii) the charges on which the disciplinary action was based were sustained;

(p) records maintained by the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that evidence mineral production on government lands;

(q) final audit reports;

(r) occupational and professional licenses;

(s) business licenses;

(t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by a governmental entity, but not including records that initiate employee discipline; and

(u) (i) records that disclose a standard, regulation, policy, guideline, or rule regarding the operation of a correctional facility or the care and control of inmates committed to the custody of a correctional facility; and

(ii) records that disclose the results of an audit or other inspection assessing a correctional facility's compliance with a standard, regulation, policy, guideline, or rule described in Subsection (3)(u)(i).

(4) The list of public records in this section is not exhaustive and should not be used to limit access to records.

Section 153. Section 63G-2-305 is amended to read:

63G-2-305 (Effective upon governor's approval). Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property

including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) a research request from a legislator to a legislative staff member and research findings prepared in response to the request;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution [~~within the state system~~] of higher education defined in Section [~~53B-1-102~~]53H-1-101 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed

legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution [~~within the state system~~]of higher education defined in Section [~~53B-1-102~~]53H-1-101, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution [~~within the state system~~]of higher education defined in Section [~~53B-1-102~~]53H-1-101, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) [~~(a)~~] subject to Subsections (40)(g) and (40)(h),the following records of an institution [~~within the state system~~]of higher education defined in Section [~~53B-1-102~~]53H-1-101, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

[~~(i)~~](a) unpublished lecture notes;

[~~(ii)~~](b) unpublished notes, data, and information:

[~~(A)~~](i) relating to research; and

[~~(B)~~](ii) of:

[~~(I)~~](A) the institution [~~within the state system~~]of higher education defined in Section [~~53B-1-102~~]53H-1-101; or

[~~(II)~~](B) a sponsor of sponsored research;

[~~(iii)~~](c) unpublished manuscripts;

[~~(iv)~~](d) creative works in process;

[~~(v)~~](e) scholarly correspondence; and

[~~(vi)~~](f) confidential information contained in research proposals;

[~~(b)~~](g) [~~Subsection (40)(a)~~]this Subsection (40) may not be construed to prohibit disclosure of public information required pursuant to Subsection [~~53B-16-302(2)(a) or (b)~~]53H-14-202(2)(a) or (b); and

[~~(c)~~](h) [~~Subsection (40)(a)~~]this Subsection (40) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26B-2-709:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a provider, program, or facility which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a provider, program, or facility;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as [~~defined~~]described in Section [~~53B-1-102~~]53H-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(65) a record pertaining to the search process for a president of an institution of higher education described in Section [~~53B-2-102~~]53H-3-302;

(66) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(67) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Legislative Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(68) work papers as defined in Section 31A-2-204;

(69) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(70) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(71) a record described in Section 31A-37-503;

(72) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(73) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (74) or (75), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(78) a record submitted to the Insurance Department under Section 31A-48-103;

(79) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(80) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding;

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest; or

(d) the image is displayed to a person who is permitted to view the image under Section 17-22-30;

(81) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(82) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (82) may not be used to restrict access to a record evidencing a final contract or approval decision;

(83) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (83)(a);

(84) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

(85) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401;

(86) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake;

(87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is reclassified as public as described in Subsection 13-2-11(4); and

(88) a record of the Utah water agent, appointed under Section 73-10g-702:

(a) concerning a claim to the use of waters;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state, a tribe, the federal government, or other government entity as provided in Title 73, Chapter 10g, Part [~~6~~]7, Utah Water Agent; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water;

(ii) harm the ability of the Utah water agent to negotiate the best terms and conditions regarding the use of water; or

(iii) give an advantage to another state, a tribe, the federal government, or other government entity in negotiations regarding the use of water; and

(89) a record created or maintained for an investigation of the Prosecutor Conduct Commission, created in Section 63M-7-1102, that contains any personal identifying information of a prosecuting attorney, including:

(a) a complaint, or a document that is submitted or created for a complaint, received by the Prosecutor Conduct Commission; or

(b) a finding by the Prosecutor Conduct Commission.

Section 154. Section 63G-2-309 is amended to read:

63G-2-309 (Effective upon governor's approval). Confidentiality claims.

(1) (a) (i) Any person who provides to a governmental entity a record that the person believes should be protected under Subsection 63G-2-305(1) or (2) or both Subsections 63G-2-305(1) and (2) shall provide with the record:

(A) a written claim of business confidentiality; and

(B) a concise statement of reasons supporting the claim of business confidentiality.

(ii) Any of the following who provides to an institution [~~within the state system~~]of higher education defined in Section [~~53B-1-102~~]53H-1-101 a record that the person or governmental entity believes should be protected under Subsection 63G-2-305(40)(a)(ii) or (vi) or both Subsections 63G-2-305(40)(a)(ii) and (vi) shall provide the institution within the state system of higher education a written claim of business confidentiality in accordance with Section [~~53B-16-304~~]53H-14-204:

(A) a person;

(B) a federal governmental entity;

(C) a state governmental entity; or

(D) a local governmental entity.

(b) A person or governmental entity who complies with this Subsection (1) shall be notified by the governmental entity to whom the request for a record is made if:

(i) a record claimed to be protected under one of the following is classified public:

(A) Subsection 63G-2-305(1);

(B) Subsection 63G-2-305(2);

(C) Subsection 63G-2-305(40)(a)(ii);

(D) Subsection 63G-2-305(40)(a)(vi); or

(E) a combination of the provisions described in Subsections (1)(b)(i)(A) through (D); or

(ii) the governmental entity to whom the request for a record is made determines that the record claimed to be protected under a provision listed in Subsection (1)(b)(i)should be released after balancing interests under Subsection 63G-2-201(5)(b) or 63G-2-401(6).

(c) A person who makes a claim of business confidentiality under this Subsection (1) shall protect, defend, and indemnify the governmental entity that retains the record, and all staff and employees of the governmental entity from and against any claims, liability, or damages resulting from or arising from a denial of access to the record as a protected record based on the claim of business confidentiality.

(2) (a) Except as provided in Subsection (2)(b) or by court order, the governmental entity to whom the request for a record is made may not disclose a record claimed to be protected under a provision listed in Subsection (1)(b)(i) but which the governmental entity or the director of the Government Records Office determines should be disclosed until the period in which to bring an appeal expires or the end of the appeals process, including judicial appeal.

(b) Subsection (2)(a) does not apply where the claimant, after notice, has waived the claim by not appealing or intervening before the director of the Government Records Office.

(3) Disclosure or acquisition of information under this chapter does not constitute misappropriation under Subsection 13-24-2(2).

Section 155. Section 63G-3-201 is amended to read:

63G-3-201 (Effective upon governor's approval). When rulemaking is required.

(1) Each agency shall:

(a) maintain a current version of its rules; and

(b) make it available to the public for inspection during its regular business hours.

(2) In addition to other rulemaking required by law, each agency shall make rules when agency action:

(a) authorizes, requires, or prohibits an action;

(b) provides or prohibits a material benefit;

(c) applies to a class of persons or another agency; and

(d) is explicitly or implicitly authorized by statute.

(3) Rulemaking is also required when an agency issues a written interpretation of a state or federal legal mandate.

(4) Rulemaking is not required when:

(a) agency action applies only to internal agency management, inmates or residents of a state correctional, diagnostic, or detention facility, persons under state legal custody, patients admitted to a state hospital, members of the state retirement system, or [~~,~~],except as provided in [~~Title 53B, Chapter 27, Part 3, Student Civil Liberties Protection Act~~]Title 53H, Chapter 7, Part 3, Student Civil Liberties Protection, students enrolled in a state education institution;

(b) a standardized agency manual applies only to internal fiscal or administrative details of governmental entities supervised under statute;

(c) an agency issues policy or other statements that are advisory, informative, or descriptive, and do not conform to the requirements of Subsections (2) and (3); or

(d) an agency makes nonsubstantive changes in a rule, except that the agency shall file all nonsubstantive changes in a rule with the office.

(5) (a) A rule shall enumerate any penalty authorized by statute that may result from its violation, subject to Subsections (5)(b) and (c).

(b) A violation of a rule may not be subject to the criminal penalty of a class C misdemeanor or greater offense, except as provided under Subsection (5)(c).

(c) A violation of a rule may be subject to a class C misdemeanor or greater criminal penalty under Subsection (5)(a) when:

(i) authorized by a specific state statute;

(ii) a state law and programs under that law are established in order for the state to obtain or maintain primacy over a federal program; or

(iii) state civil or criminal penalties established by state statute regarding the program are equivalent to or less than corresponding federal civil or criminal penalties.

(6) Each agency shall enact rules incorporating the principles of law not already in its rules that are established by final adjudicative decisions within 120 days after the decision is announced in its cases.

(7) (a) Each agency may enact a rule that incorporates by reference:

(i) all or any part of another code, rule, or regulation that has been adopted by a federal agency, an agency or political subdivision of this state, an agency of another state, or by a nationally recognized organization or association;

(ii) state agency implementation plans mandated by the federal government for participation in the federal program;

(iii) lists, tables, illustrations, or similar materials that are subject to frequent change, fully described in the rule, and are available for public inspection; or

(iv) lists, tables, illustrations, or similar materials that the director determines are too expensive to reproduce in the administrative code.

(b) Rules incorporating materials by reference shall:

(i) be enacted according to the procedures outlined in this chapter;

(ii) state that the referenced material is incorporated by reference;

(iii) state the date, issue, or version of the material being incorporated; and

(iv) define specifically what material is incorporated by reference and identify any agency deviations from it.

(c) The agency shall identify any substantive changes in the material incorporated by reference by following the rulemaking procedures of this chapter.

(d) The agency shall maintain a complete and current copy of the referenced material available for public review at the agency and at the office.

(8) (a) This chapter is not intended to inhibit the exercise of agency discretion within the limits prescribed by statute or agency rule.

(b) An agency may enact a rule creating a justified exception to a rule.

(9) An agency may obtain assistance from the attorney general to ensure that its rules meet legal and constitutional requirements.

Section 156. Section 63G-6a-103 is amended to read:

63G-6a-103 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) (a) "Award" means, in relation to a contract, a procurement unit's selection of a vendor to supply a procurement item after the procurement unit engages in:

(i) a standard procurement process; or

(ii) an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements.

(b) "Award" does not mean, in relation to a contract, a procurement unit's offer or acceptance of any terms or conditions related to the procurement unit's acquisition or receipt of the procurement item.

(5) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(6) "Bidding process" means the procurement process described in Part 6, Bidding.

(7) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(8) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(9) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(10) "Chief procurement officer" means the individual appointed under Section 63A-2-102.

(11) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(12) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(13) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(14) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(15) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(16) "Contract" means an agreement for a procurement.

(17) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(18) "Contractor" means a person who is awarded a contract with a procurement unit.

(19) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(20) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(21) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(22) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(23) "Days" means calendar days, unless expressly provided otherwise.

(24) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(25) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(c) an individual licensed under Title 58, Chapter 53, Landscape Architects Licensing Act, to engage in the practice of landscape architecture, as defined in Section 58-53-102; or

(d) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(26) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(27) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services;

(d) professional services within the scope of the practice of landscape architecture, as defined in Section 58-53-102; or

(e) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(29) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(30) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section [~~53B-1-102~~]53H-1-102; or

(f) the State Board of Education.

(31) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(32) (a) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(b) "Executive branch procurement unit" does not include the Colorado River Authority of Utah as provided in Section 63M-14-210.

(33) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(34) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(35) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(36) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(37) "Human services procurement item" means a procurement item used to provide services or support to a child, youth, adult, or family.

(38) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

(39) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(40) "Independent procurement unit" means:

(a) (i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local governmental procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a special district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code;

(e) the Department of Health and Human Services, but only for the procurement of a human services procurement item; or

(f) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

(41) (a) "Interlocal entity" means a separate political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(b) "Interlocal entity" does not include a project entity.

(42) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (42)(a).

(43) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(44) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(45) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(46) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(47) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(48) "Local government procurement unit" means:

(a) a county, municipality, interlocal entity, or project entity, and each office of the county, municipality, interlocal entity, or project entity, unless:

(i) the county or municipality adopts a procurement code by ordinance;

(ii) the interlocal entity adopts procurement rules or policies as provided in Subsection 11-13-226(2); or

(iii) the project entity adopts a procurement code through the process described in Section 11-13-316;

(b) (i) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; and

(ii) a project entity that has adopted this entire chapter through the process described in Subsection 11-13-316; or

(c) a county, municipality, or project entity, and each office of the county, municipality, or project entity that has adopted a portion of this chapter to the extent that:

(i) a term in the ordinance is used in the adopted chapter; or

(ii) a term in the ordinance is used in the language a project entity adopts in its procurement code through the process described in Section 11-13-316.

(49) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(50) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(51) "Municipality" means a city or town.

(52) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (52)(a).

(53) "Offeror" means a person who submits a proposal in response to a request for proposals.

(54) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(55) "Procure" means to acquire a procurement item through a procurement.

(56) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

(57) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

(58) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a special district, the board of trustees of the special district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section [~~53B-2-101~~]53H-1-102, the president of the institution of higher education or the president's designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee; or

(p) (i) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

(ii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

(iii) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designee;

(iv) for the Department of Health and Human Services, and only to the extent of the procurement activities of the Department of Health and Human Services as an independent procurement unit, the executive director of the Department of Health and Human Services or the executive director's designee; or

(v) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

(59) "Procurement unit" means:

(a) a legislative procurement unit;

(b) an executive branch procurement unit;

(c) a judicial procurement unit;

(d) an educational procurement unit;

(e) the Utah Communications Authority, established in Section 63H-7a-201;

(f) a local government procurement unit;

(g) a special district;

(h) a special service district;

(i) a local building authority;

(j) a conservation district; or

(k) a public corporation.

(60) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(61) "Project entity" means the same as that term is defined in Section 11-13-103.

(62) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(63) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(64) "Public entity" means the state or any other governmental entity within the state that expends public funds.

(65) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(66) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(67) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(68) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(69) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(70) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(71) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(72) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(73) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

(74) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(75) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(76) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(77) "Responsive" means conforming in all material respects to the requirements of a solicitation.

(78) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

(79) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the facilities division, the facilities division;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation;

(D) for the Department of Health and Human Services, the executive director of the Department of Health and Human Services; and

(E) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for [~~a state~~]an institution of higher education, the Utah Board of Higher Education;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a special district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the special district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section [~~53B-8a-103~~]53H-10-202, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

(80) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(81) "Small purchase process" means the procurement process described in Section 63G-6a-506.

(82) "Sole source contract" means a contract resulting from a sole source procurement.

(83) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(84) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

(85) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(86) "Special district" means the same as that term is defined in Section 17B-1-102.

(87) "Special service district" means the same as that term is defined in Section 17D-1-102.

(88) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(89) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(90) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(91) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(92) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(93) "Technology" means the same as "information technology," as defined in Section 63A-16-102.

(94) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(95) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(96) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(97) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 157. Section 63G-6a-1303 is amended to read:

63G-6a-1303 (Effective upon governor's approval). Drug and alcohol testing required for state construction contracts.

(1) As used in this section:

(a) "Contractor" means a person who is or may be awarded a state construction contract.

(b) "Covered individual" means an individual who:

(i) on behalf of a contractor or subcontractor provides services directly related to design or construction under a state construction contract; and

(ii) is in a safety sensitive position, including a design position that has responsibilities that directly affect the safety of an improvement to real property that is the subject of a state construction contract.

(c) "Drug and alcohol testing policy" means a policy under which a contractor or subcontractor tests a covered individual to establish, maintain, or enforce the prohibition of:

(i) the manufacture, distribution, dispensing, possession, or use of drugs or alcohol, except the medically prescribed possession and use of a drug; or

(ii) the impairment of judgment or physical abilities due to the use of drugs or alcohol.

(d) "Random testing" means that a covered individual is subject to periodic testing for drugs and alcohol:

(i) in accordance with a drug and alcohol testing policy; and

(ii) on the basis of a random selection process.

(e) "State executive entity" means:

(i) a state executive branch:

(A) department;

(B) division;

(C) agency;

(D) board;

(E) commission;

(F) council;

(G) committee; or

(H) institution; or

(ii) [~~a state~~]an institution of higher education, as defined in Section [~~53B-3-102~~]53H-1-101.

(f) "State construction contract" means a contract for design or construction entered into by a state executive entity.

(2) Except as provided in Subsection (7), a state executive entity may not enter into a state construction contract unless the public construction contract requires that the contractor demonstrate to the state executive entity that the contractor:

(a) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the contractor;

(b) posts in one or more conspicuous places notice to covered individuals hired by the contractor that the contractor has the drug and alcohol testing policy described in Subsection (2)(a);

(c) subjects the covered individuals to random testing under the drug and alcohol testing policy described in Subsection (2)(a) if at any time during the period of the state construction contract there are 10 or more individuals who are covered individuals hired by the contractor; and

(d) requires that as a condition of contracting with the contractor, a subcontractor:

(i) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the subcontractor;

(ii) posts in one or more conspicuous places notice to covered individuals hired by the subcontractor that the subcontractor has the drug and alcohol testing policy described in Subsection (2)(d)(i); and

(iii) subjects the covered individuals hired by the subcontractor to random testing under the drug and alcohol testing policy described in Subsection (2)(d)(i) if at any time during the period of the state construction contract there are 10 or more individuals who are covered individuals hired by the subcontractor.

(3) (a) Except as otherwise provided in this Subsection (3), if a contractor or subcontractor fails to comply with Subsection (2), the contractor or subcontractor may be suspended or debarred in accordance with this chapter.

(b) A state executive entity shall include in a state construction contract:

(i) a reference to the rules described in Subsection (4)(b); or

(ii) if the rulemaking authority has not made the rules described in Subsection (4)(b), a process that provides a contractor or subcontractor reasonable notice and opportunity to cure a violation of this section before suspension or debarment of the contractor or subcontractor in light of the circumstances of the state construction contract or the violation.

(c) (i) A contractor is not subject to penalties for the failure of a subcontractor to comply with Subsection (2).

(ii) A subcontractor is not subject to penalties for the failure of a contractor to comply with Subsection (2).

(4) A rulemaking authority:

(a) may make rules that establish the requirements and procedures a contractor is required to follow to comply with Subsection (2); and

(b) shall make rules that establish:

(i) the penalties that may be imposed in accordance with Subsection (3); and

(ii) a process that provides a contractor or subcontractor reasonable notice and opportunity to cure a violation of this section before suspension or debarment of the contractor or subcontractor in light of the circumstances of the state construction contract or the violation.

(5) The failure of a contractor or subcontractor to meet the requirements of Subsection (2):

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Part 17, Procurement Appeals Board, or Part 18, Appeals to Court and Court Proceedings; and

(b) may not be used by a state executive entity, a prospective bidder, an offeror, a contractor, or a subcontractor as a basis for an action that would suspend, disrupt, or terminate the design or construction under a state construction contract.

(6) (a) After a state executive entity enters into a state construction contract in compliance with this section, the state is not required to audit, monitor, or take any other action to ensure compliance with this section.

(b) The state is not liable in any action related to this section, including not being liable in relation to:

(i) a contractor or subcontractor having or not having a drug and alcohol testing policy;

(ii) failure to test for a drug or alcohol under a contractor's or subcontractor's drug and alcohol testing policy;

(iii) the requirements of a contractor's or subcontractor's drug and alcohol testing policy;

(iv) a contractor's or subcontractor's implementation of a drug and alcohol testing policy, including procedures for:

(A) collection of a sample;

(B) testing of a sample;

(C) evaluation of a test; or

(D) disciplinary or rehabilitative action on the basis of a test result;

(v) an individual being under the influence of drugs or alcohol; or

(vi) an individual under the influence of drugs or alcohol harming another person or causing property damage.

(7) This section does not apply if the state executive entity determines that the application of this section would severely disrupt the operation of a procurement unit to the detriment of the procurement unit or the general public, including:

(a) jeopardizing the receipt of federal funds;

(b) causing the state construction contract to be a sole source contract; or

(c) causing the state construction contract to be an emergency procurement.

(8) If a contractor or subcontractor meets the requirements of this section, this section may not be construed to restrict the contractor's or subcontractor's ability to impose or implement an otherwise lawful provision as part of a drug and alcohol testing policy.

Section 158. Section 63G-7-102 is amended to read:

63G-7-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Arises out of or in connection with, or results from," when used to describe the relationship between conduct or a condition and an injury, means that:

(a) there is some causal relationship between the conduct or condition and the injury;

(b) the causal relationship is more than any causal connection but less than proximate cause; and

(c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.

(2) "Claim" means any asserted demand for or cause of action for money or damages, whether arising under the common law, under

state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee's personal capacity.

(3) (a) "Employee" includes:

(i) a governmental entity's officers, employees, servants, trustees, or commissioners;

(ii) a member of a governing body;

(iii) a member of a government entity board;

(iv) a member of a government entity commission;

(v) members of an advisory body, officers, and employees of a Children's Justice Center created in accordance with Section 67-5b-102;

(vi) a student holding a license issued by the State Board of Education;

(vii) an educational aide;

(viii) a student engaged in an internship under Section [~~53B-16-402~~]53H-3-1002 or 53G-7-902;

(ix) a volunteer, as defined in Section 67-20-2; and

(x) a tutor.

(b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or not the individual holding that position receives compensation.

(c) "Employee" does not include an independent contractor.

(4) "Governmental entity" means:

(a) the state and its political subdivisions; and

(b) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(5) (a) "Governmental function" means each activity, undertaking, or operation of a governmental entity.

(b) "Governmental function" includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.

(c) "Governmental function" includes a governmental entity's failure to act.

(6) "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to the person or estate, that would be actionable if inflicted by a private person or the private person's agent.

(7) "Personal injury" means an injury of any kind other than property damage.

(8) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal property.

(10) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children's Justice Center, or other instrumentality of the state.

(11) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's conduct will probably result in injury.

Section 159. Section 63G-7-301 is amended to read:

63G-7-301 (Effective upon governor's approval). Waivers of immunity.

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Section 63G-7-302, as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;

(j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-5-418, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, a kidnap offender, or a child abuse offender as described in Section 53-29-202, required to register under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex offender, kidnap offender, or child abuse offender would have been revealed in a background check under Section 53G-11-402;

(k) as to any action brought under Section 78B-6-2303;

(l) as to any action brought to obtain relief under [~~Title 53B, Chapter 27, Part 6~~]Title 53H, Chapter 7, Part 7, Student Legal Representation; and

(m) as to any action brought under Section 53-30-301.

(3) (a) As used in this Subsection (3):

(i) "Code of conduct" means a code of conduct that:

(A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-5-418, considering the term "child" in that section to include an individual under 18 years old.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the code of conduct to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

(4) (a) As used in this Subsection (4):

(i) [~~"Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102~~]"Institution of higher education" means the same as that term is defined in Section 53H-1-101.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-5-418.

(iv) "Special trust employee" means an employee of [~~a higher education institution~~]an institution of higher education who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of [~~a higher education institution~~]an institution of higher education; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution of higher education proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the [~~higher education~~]institution of higher education was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 160. Section 63G-12-102 is amended to read:

63G-12-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a federally qualified high deductible health plan.

(2) "Department" means the Department of Public Safety created in Section 53-1-103.

(3) "Employee" means an individual employed by an employer under a contract for hire.

(4) "Employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(5) "E-verify program" means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a, known as the e-verify program.

(6) "Family member" means for an undocumented individual:

(a) a member of the undocumented individual's immediate family;

(b) the undocumented individual's grandparent;

(c) the undocumented individual's sibling;

(d) the undocumented individual's grandchild;

(e) the undocumented individual's nephew;

(f) the undocumented individual's niece;

(g) a spouse of an individual described in this Subsection (6); or

(h) an individual who is similar to one listed in this Subsection (6).

(7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security or an equivalent program designated by the Department of Homeland Security.

(8) "Guest worker" means an undocumented individual who holds a guest worker permit.

(9) "Guest worker permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-205.

(10) "Immediate family" means for an undocumented individual:

(a) the undocumented individual's spouse; or

(b) a child of the undocumented individual if the child is:

(i) under 21 years old; and

(ii) unmarried.

(11) "Immediate family permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-206.

(12) "Permit" means a permit issued under Part 2, Guest Worker Program, and includes:

(a) a guest worker permit; and

(b) an immediate family permit.

(13) "Permit holder" means an undocumented individual who holds a permit.

(14) "Private employer" means an employer who is not the federal government or a public employer.

(15) "Program" means the Guest Worker Program described in Section 63G-12-201.

(16) "Program start date" means the day on which the department is required to implement the program under Subsection 63G-12-202(3).

(17) "Public employer" means an employer that is:

(a) the state of Utah or any administrative subunit of the state;

(b) [~~a state~~]an institution of higher education, as defined in Section [~~53B-3-102~~]53H-1-101;

(c) a political subdivision of the state including a county, city, town, school district, special district, or special service district; or

(d) an administrative subunit of a political subdivision.

(18) "Relevant contact information" means the following for an undocumented individual:

(a) the undocumented individual's name;

(b) the undocumented individual's residential address;

(c) the undocumented individual's residential telephone number;

(d) the undocumented individual's personal email address;

(e) the name of the person with whom the undocumented individual has a contract for hire;

(f) the name of the contact person for the person listed in Subsection (18)(e);

(g) the address of the person listed in Subsection (18)(e);

(h) the telephone number for the person listed in Subsection (18)(e);

(i) the names of the undocumented individual's immediate family members;

(j) the names of the family members who reside with the undocumented individual; and

(k) any other information required by the department by rule made in accordance with Chapter 3, Utah Administrative Rulemaking Act.

(19) "Restricted account" means the Immigration Act Restricted Account created in Section 63G-12-103.

(20) "Serious felony" means a felony under:

(a) Section 53-5a-304;

(b) Title 76, Chapter 5, Offenses Against the Individual;

(c) Title 76, Chapter 5b, Sexual Exploitation Act;

(d) Title 76, Chapter 5c, Pornographic and Harmful Materials and Performances;

(e) Title 76, Chapter 5d, Prostitution;

(f) Title 76, Chapter 6, Offenses Against Property;

(g) Title 76, Chapter 7, Offenses Against the Family;

(h) Title 76, Chapter 8, Offenses Against the Administration of Government;

(i) Title 76, Chapter 9, Offenses Against Public Order, Health, and Safety;

(j) Title 76, Chapter 11, Weapons;

(k) Title 76, Chapter 12, Offenses Related to Privacy, Information, and Communication;

(l) Title 76, Chapter 13, Offenses Involving Cruelty to Animals;

(m) Title 76, Chapter 14, Offenses Related to Immigration Status;

(n) Title 76, Chapter 15, Explosives and Weapons of Mass Destruction;

(o) Title 76, Chapter 16, Offenses Concerning Business Practices; and

(p) Title 76, Chapter 17, Offenses Concerning Kickbacks, Pyramid Schemes, and Patterns of Unlawful Activity.

(21) (a) "Status verification system" means an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision for a purpose authorized under this section.

(b) "Status verification system" includes:

(i) the e-verify program;

(ii) an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986;

(iii) the Social Security Number Verification Service or similar online verification process implemented by the United States Social Security Administration; or

(iv) an independent third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).

(22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).

(23) "Undocumented individual" means an individual who:

(a) lives or works in the state; and

(b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101 et seq. with regard to presence in the United States.

(24) "U-verify program" means the verification procedure developed by the department in accordance with Section 63G-12-210.

Section 161. Section 63G-12-402 is amended to read:

63G-12-402 (Effective upon governor's approval). Receipt of state, local, or federal public benefits -- Verification -- Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.

(1) (a) Except as provided in Subsection (3) or when exempted by federal law, an agency or political subdivision of the state shall verify the lawful presence in the United States of an individual at least 18 years old who applies for:

(i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

(ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an agency or political subdivision of this state.

(b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United States of each individual who:

(i) owns an interest in the contractor that is an unincorporated entity; and

(ii) engages, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection (1)(b)(i).

(2) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(3) Verification of lawful presence under this section is not required for:

(a) any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;

(b) assistance for health care items and services that:

(i) are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

(ii) are not related to an organ transplant procedure;

(c) short-term, noncash, in-kind emergency disaster relief;

(d) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by the communicable disease;

(e) programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter, specified by the United States Attorney General, in the sole and unreviewable discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, that:

(i) deliver in-kind services at the community level, including through public or private nonprofit agencies;

(ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and

(iii) are necessary for the protection of life or safety;

(f) the exemption for paying the nonresident portion of total tuition as set forth in Section [~~53B-8-106~~]53H-11-203;

(g) an applicant for a license under Section 61-1-4, if the applicant:

(i) is registered with the Financial Industry Regulatory Authority; and

(ii) files an application with the state Division of Securities through the Central Registration Depository;

(h) a state public benefit to be given to an individual under Title 49, Utah State Retirement and Insurance Benefit Act;

(i) a home loan that will be insured, guaranteed, or purchased by:

(i) the Federal Housing Administration, the Veterans Administration, or any other federal agency; or

(ii) an enterprise as defined in 12 U.S.C. Sec. 4502;

(j) a subordinate loan or a grant that will be made to an applicant in connection with a home loan that does not require verification under Subsection (3)(i);

(k) an applicant for a license issued by the Department of Commerce or individual described in Subsection (1)(b), if the applicant or individual provides the Department of Commerce:

(i) certification, under penalty of perjury, that the applicant or individual is:

(A) a United States citizen;

(B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

(C) lawfully present in the United States; and

(ii) (A) the number assigned to a driver license or identification card issued under Title 53, Chapter 3, Uniform Driver License Act; or

(B) the number assigned to a driver license or identification card issued by a state other than Utah if, as part of issuing the driver license or identification card, the state verifies an individual's lawful presence in the United States; and

(l) an applicant for:

(i) an Opportunity scholarship described in [~~Title 53B, Chapter 8, Part 2, Regents' Scholarship Program~~]Section 53H-11-402;

(ii) a New Century scholarship described in Section [~~53B-8-105~~]53H-11-407;

(iii) a promise grant described in Section [~~53B-13a-104~~]53H-11-414; or

(iv) a scholarship:

(A) for an individual who is a graduate of a high school located within Utah; and

(B) administered by an institution of higher education as defined in Section [~~53B-2-101~~]53H-1-101.

(4) (a) An agency or political subdivision required to verify the lawful presence in the United States of an applicant under this section shall require the applicant to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is:

(A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

(B) lawfully present in the United States.

(b) The certificate required under this Subsection (4) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(5) An agency or political subdivision shall verify a certification required under Subsection (4)(a)(ii) through the federal SAVE program.

(6) (a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject to the criminal penalties applicable in this state for:

(i) making a written false statement under Section 76-8-504; and

(ii) fraudulently obtaining:

(A) public assistance program benefits under Section 76-8-1203.1; or

(B) unemployment compensation under Section 76-8-1301, 76-8-1302, 76-8-1303, or 76-8-1304.

(b) If the certification constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United States Attorney General for the applicable district based upon the venue in which the application was made.

(c) If an agency or political subdivision receives verification that a person making an application for a benefit, service, or license is not a qualified alien, the agency or political subdivision shall provide the information to the Office of the Attorney General unless prohibited by federal mandate.

(7) An agency or political subdivision may adopt variations to the requirements of this section that:

(a) clearly improve the efficiency of or reduce delay in the verification process; or

(b) provide for adjudication of unique individual circumstances where the verification procedures in this section would impose an unusual hardship on a legal resident of Utah.

(8) It is unlawful for an agency or a political subdivision of this state to provide a state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

(9) A state agency or department that administers a program of state or local public benefits shall:

(a) provide an annual report to the governor, the president of the Senate, and the speaker of the House regarding its compliance with this section; and

(b) (i) monitor the federal SAVE program for application verification errors and significant delays;

(ii) provide an annual report on the errors and delays to ensure that the application of the federal SAVE program is not erroneously denying a state or local benefit to a legal resident of the state; and

(iii) report delays and errors in the federal SAVE program to the United States Department of Homeland Security.

Section 162. Section 63G-16-201 is amended to read:

63G-16-201 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

(2) "Federal agency" means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States government.

(3) (a) "Federal directive" means:

(i) a statute passed by the United States Congress;

(ii) an executive order by the president of the United States;

(iii) a rule or regulation adopted by a federal agency; or

(iv) an order or action by:

(A) a federal agency; or

(B) an employee or official appointed by the president of the United States.

(b) "Federal directive" does not include any order by the federal government calling the Utah National Guard into the service of the United States.

(4) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (4)(a)(i) or (ii), when acting in the capacity of the position;

(iv) an individual appointed to or employed in a full-time position by state government, local government, or a board of education, when acting in the capacity of the individual's appointment or employment; or

(v) an individual employed by:

(A) an institution of higher education [~~described~~]listed in Section [~~53B-2-101~~]53H-1-102; or

(B) a school district as defined in Section 53G-11-501.

(b) "Government officer" does not include a member or employee of the legislative branch of state government.

(5) "Local government" means:

(a) a county, city, town, or metro township;

(b) a special district governed by Title 17B, Limited Purpose Local Government Entities - Special Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

Section 163. Section 63G-31-305 is amended to read:

63G-31-305 (Effective upon governor's approval). Higher education student housing.

(1) As used in this section:

(a) "Degree-granting institution" means the same as that term is defined in Section [~~53B-1-101.5~~]53H-1-101.

(b) "Dwelling unit" means the same as that term is defined in Section 15A-5-102.

(c) "Student housing" means housing that a degree-granting institution publicly owns or controls.

(2) To preserve the individual privacy of males and females, a degree-granting institution that provides student housing may only rent to, assign, or otherwise place an individual in a dwelling unit that is sex-designated within the institution's student housing if the individual's sex corresponds with the sex designation of the dwelling unit within the institution's student housing.

(3) An individual may use the following evidence as a defense against an allegation that the individual is not eligible for renting, assignment, or placement in a sex-designated dwelling unit under Subsection (2): an individual's unamended birth certificate that corresponds with the sex designation of the dwelling unit, which may be supported with a review of any amendment history obtained under Section 26B-8-125.

(4) Subsection (2) does not apply to:

(a) dwelling units within student housing that the institution designates as unisex or single-occupant; or

(b) an intersex individual.

(5) Nothing in this section prohibits a degree-granting institution from offering a dwelling unit in student housing that is not sex-designated if the institution only assigns or places an individual in the dwelling unit who seeks a dwelling unit that is not sex-designated.

Section 164. Section 63H-9-101 is amended to read:

63H-9-101 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Best practices toolbox" means the collection of resources for governmental entities provided on the website of the Office of the Legislative Auditor General that includes a best practice self-assessment and other resources, tools, surveys, and reports designed to help government organizations better serve the citizens of the state.

(2) "Consensus group" means the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst.

(3) (a) "Independent entity" means an entity that:

(i) has a public purpose relating to the state or its citizens;

(ii) is individually created by the state;

(iii) is separate from the judicial and legislative branches of state government; and

(iv) is not under the direct supervisory control of the governor.

(b) "Independent entity" does not include an entity that is:

(i) a county;

(ii) a municipality as defined in Section 10-1-104;

(iii) an institution of higher education as defined in Section [~~53B-2-102~~]53H-1-101;

(iv) a public school as defined in Section 53G-8-701;

(v) a special district as defined in Section 17B-1-102;

(vi) a special service district as defined in Section 17D-1-102;

(vii) created by an interlocal agreement as described in Section 11-13-203; or

(viii) an elective constitutional office, including the state auditor, the state treasurer, and the attorney general.

(c) Independent entities that are subject to the provisions of this chapter include the:

(i) Career Service Review Office created in Section 67-19a-201;

(ii) Capitol Preservation Board created in Section 63C-9-201;

(iii) Heber Valley Historic Railroad Authority created in Section 63H-4-102;

(iv) Military Installation Development Authority created in Section 63H-1-201;

(v) Office of Inspector General of Medicaid Services created in Section 63A-13-201;

(vi) Point of the Mountain State Land Authority created in Section 11-59-201;

(vii) Public Service Commission created in Section 54-1-1;

(viii) School and Institutional Trust Fund Office created in Section 53C-1-201;

(ix) School and Institutional Trust Lands Administration created in Section 53D-1-201;

(x) Utah Beef Council created in Section 4-21-103;

(xi) Utah Capital Investment Corporation created in Section 63N-6-301;

(xii) Utah Communications Authority created in Section 63H-7a-201;

(xiii) Utah Dairy Commission created in Section 4-22-103;

(xiv) Utah Education and Telehealth Network created in Section [~~53B-17-105~~]53H-4-213.4;

(xv) Utah Housing Corporation created in Section 63H-8-201;

(xvi) Utah Inland Port Authority created in Section 11-58-201;

(xvii) Utah Innovation Lab created in Section 63N-20-201;

(xviii) Utah Lake Authority created in Section 11-65-201;

(xix) Utah Retirement Systems created in Section 49-11-201; and

(xx) Utah State Fair Park Authority created in Section 11-68-201.

Section 165. Section 63I-1-253 is amended to read:

63I-1-253 (Effective upon governor's approval). Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.

(2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2030.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

(5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

(6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.

(7) Section 53-2d-503, Establishment of maximum rates, is repealed July 1, 2027.

(8) Section 53-5a-302, Concealed Firearm Review Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

(9) Section 53-11-104, Board, is repealed July 1, 2029.

(10) Title 53, Chapter 31, Department Interaction With Local Law Enforcement, is repealed July 1, 2027.

[~~(11) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.~~]

[~~(12) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.~~]

[~~(13) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.~~]

[~~(14) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.~~]

[~~(15) Section 53B-17-1203, SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.~~]

[~~(16) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.~~]

[~~(17) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.~~]

[~~(18) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.~~]

[~~(19) Title 53B, Chapter 18, Part 19, Center for Civic Excellence, is repealed July 1, 2030.~~]

[~~(20) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.~~]

[~~(21)~~](11) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(22)~~](12) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(23)~~](13) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(24)~~](14) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(25)~~](15) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(26)~~](16) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

[~~(27)~~](17) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

[~~(28)~~](18) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(29)~~](19) Subsection 53E-7-207(7), regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(30)~~](20) Section 53F-5-215, Elementary teacher preparation assessment grant, is repealed July 1, 2028.

[~~(31)~~](21) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is repealed July 1, 2026.

[~~(32)~~](22) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(33)~~](23) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(34)~~](24) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(35)~~](25) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(36)~~](26) Subsection 53G-9-703(4), regarding the parental video presentation concerning student use of technology, is repealed January 1, 2030.

(27) Subsection 53H-1-402(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

(28) Section 53H-1-604, Higher Education and Corrections Council, is repealed July 1, 2027.

(29) Subsection 53H-4-210(3), regarding the creation of the SafeUT and School Safety Commission, is repealed January 1, 2030.

(30) Subsection 53H-4-210(4), regarding the appointment of the members of the SafeUT and School Safety Commission, is repealed January 1, 2030.

(31) Subsection 53H-4-210(5), regarding the attorney general designating the chair of the SafeUT and School Safety Commission, is repealed January 1, 2030.

(32) Subsection 53H-4-210(6), regarding the quorum requirements of the SafeUT and School Safety Commission, is repealed January 1, 2030.

(33) Subsection 53H-4-210(7), regarding a formal action of the SafeUT and School Safety Commission, is repealed January 1, 2030.

(34) Subsection 53H-4-210(8), regarding compensation for members of the SafeUT and School Safety Commission, is repealed January 1, 2030.

(35) Subsection 53H-4-210(9), regarding the support staff for the SafeUT and School Safety Commission, is repealed January 1, 2030.

(36) Section 53H-4-306.1, Definitions -- Electrification of Transportation Infrastructure Research Center, is repealed July 1, 2028.

(37) Section 53H-4-306.2, Electrification of Transportation Infrastructure Research Center -- Designation -- Duties, is repealed July 1, 2028.

(38) Section 53H-4-306.3, Electrification of Transportation Infrastructure Research Center -- Steering committee, is repealed July 1, 2028.

(39) Section 53H-4-306.4, Electrification of Transportation Infrastructure Research Center -- Industry advisory board, is repealed July 1, 2028.

(40) Section 53H-4-306.5, Electrification of Transportation Infrastructure Research Center -- Duties of the project director, is repealed July 1, 2028.

(41) Section 53H-4-306.6, Electrification of Transportation Infrastructure Research Center -- Project development and strategic objectives -- Reporting requirements, is repealed July 1, 2028.

(42) Section 53H-4-307.1, Center for Civic Excellence, is repealed July 1, 2030.

(43) Section 53H-4-307.2, Center for Civic Excellence -- Duties -- Authority, is repealed July 1, 2030.

(44) Section 53H-4-307.3, Center for Civic Excellence -- Leadership, is repealed July 1, 2030.

(45) Section 53H-4-307.4, Center for Civic Excellence -- Faculty, is repealed July 1, 2030.

(46) Section 53H-4-307.5, Center for Civic Excellence -- Curriculum, is repealed July 1, 2030.

(47) Section 53H-4-307.6, Center for Civic Excellence -- Oversight -- Reporting, is repealed July 1, 2030.

(48) Section 53H-4-313, Food Security Council, is repealed July 1, 2027.

(49) Section 53H-8-305, Five-year performance goals, is repealed July 1, 2027.

(50) Title 53H, Chapter 10, Part 4, Education Savings Incentive Program, is repealed July 1, 2028.

Section 166. Section 63I-2-253 is amended to read:

63I-2-253 (Effective upon governor's approval). Repeal dates: Titles 53 through 53G.

(1) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed July 1, 2026.

(2) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(3) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

(4) Section 53-25-103, Airport dangerous weapon possession reporting requirements, is repealed December 31, 2031.

(5) Subsection 53-25-602(4)(b), regarding the rights of a peace officer placed onto a prosecution agency's Brady identification system before May 7, 2025, is repealed December 1, 2025.

(6) Subsection 53-29-302(2)(b)(ii), regarding the requirement for the Department of Corrections to submit the results of risk assessments for sex offenders to the State Commission on Criminal and Juvenile Justice, is repealed January 1, 2030.

[~~(7) Section 53B-10-101, Terrel H. Bell Teaching Incentive Loans program -- Eligible students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet requirements -- Duration of incentive loans, is repealed July 1, 2027.~~]

[~~(8)~~](7) Subsection 53E-3-501(7)(e)(ii), regarding a report on the packet method, is repealed July 1, 2028.

[~~(9)~~](8) Subsection 53F-2-504(6), regarding a report on the Salary Supplement for Highly Needed Educators, is repealed July 1, 2026.

[~~(10)~~](9) Section 53F-5-221, Management of energy and water use pilot program, is repealed July 1, 2028.

[~~(11)~~](10) Section 53F-5-222, Mentoring and Supporting Teacher Excellence and Refinement Pilot Program, is repealed July 1, 2028.

[~~(12)~~](11) Section 53F-5-223, Stipends for Future Educators Grant Program, is repealed July 1, 2028.

[~~(13)~~](12) Subsection 53G-11-502(1), regarding implementation of the educator evaluation process, is repealed July 1, 2029.

[~~(14)~~](13) Section 53G-11-506, Establishment of educator evaluation program -- Joint committee, is repealed July 1, 2029.

[~~(15)~~](14) Section 53G-11-507, Components of educator evaluation program, is repealed July 1, 2029.

[~~(16)~~](15) Section 53G-11-508, Summative evaluation timelines -- Review of summative evaluations, is repealed July 1, 2029.

[~~(17)~~](16) Section 53G-11-509, Mentor for provisional educator, is repealed July 1, 2029.

[~~(18)~~](17) Section 53G-11-510, State board to describe a framework for the evaluation of educators, is repealed July 1, 2029.

[~~(19)~~](18) Section 53G-11-511, Rulemaking for privacy protection, is repealed July 1, 2029.

[~~(20)~~](19) Subsection 53G-11-520(1), regarding optional alternative educator evaluation processes, is repealed July 1, 2029.

[~~(21)~~](20) Subsection 53G-11-520(2), regarding an exception from educator evaluation process requirements, is repealed July 1, 2029.

Section 167. Section 63J-1-206 is amended to read:

63J-1-206 (Effective upon governor's approval). Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) If the money appropriated to an agency to pay lease payments under the program established in Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

(3) Notwithstanding Subsection (2)(c)(i):

(a) the state superintendent:

(i) may transfer money appropriated for:

(A) the Minimum School Program between line items in accordance with Section 53F-2-205;

(B) initial enrollment estimates for charter schools between line items in accordance with Section 53F-2-707; and

(ii) shall provide the state board with information on the transfers described in Subsection (3)(a)(i) within 60 days of a transfer; and

(b) the Utah Board of Higher Education may transfer reinvestment funds, as defined in Section [~~53B-7-107~~]53H-8-210, to a degree-granting institution, in accordance with the process described in Section [~~53B-7-107~~]53H-8-210; and

(c) the Department of Government Operations may transfer money appropriated to another department, agency, institution, or division for the purpose of paying the costs of pay for performance under Section 63A-17-112.

(4) During fiscal years 2026 through 2029, the Utah Board of Higher Education may transfer money from the Utah Board of Higher Education's line item for high-value careers to the operating budgets of institutions of higher education, as defined in Section [~~53B-3-102~~]53H-1-101, in amounts that are no greater than the amount the Legislature approves.

Section 168. Section 63J-1-602.1 is amended to read:

63J-1-602.1 (Effective upon governor's approval). List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Native American Repatriation Restricted Account created in Section 9-9-407.

(2) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Title 9, Chapter 23, Pete Suazo Utah Athletic Commission Act.

(3) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(4) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(5) The Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17.

(6) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(7) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(8) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26B-3-906.

(9) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26B-7-111.

(10) The Technology Development Restricted Account created in Section 31A-3-104.

(11) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(12) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(13) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(14) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(15) The State Mandated Insurer Payments Restricted Account created in Section 31A-30-118.

(16) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(17) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(18) The School Readiness Restricted Account created in Section 35A-15-203.

(19) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(20) The Property Loss Related to Homelessness Compensation Enterprise Fund created in Section 35A-16-212.

(21) The Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(22) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(23) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(24) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(25) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(26) The License Plate Restricted Account created by Section 41-1a-122.

(27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(28) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(29) The Disaster Response, Recovery, and Mitigation Restricted Account created in Section 53-2a-1302.

(30) The Emergency Medical Services Critical Needs Account created in Section 53-2d-110.

(31) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(32) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(33) The DNA Specimen Restricted Account created in Section 53-10-407.

(34) The Technical Colleges Capital Projects Fund created in Section [~~53B-2a-118~~]53H-9-605.

(35) The Higher Education Capital Projects Fund created in Section [~~53B-22-202~~]53H-9-502.

(36) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(37) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(38) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(39) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(43) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(44) The Relative Value Study Restricted Account created in Section 59-9-105.

(45) The Cigarette Tax Restricted Account created in Section 59-14-204.

(46) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(47) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(48) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

(49) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

(50) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(51) The Immigration Act Restricted Account created in Section 63G-12-103.

(52) Money received by the military installation development authority, as provided in Section 63H-1-504.

(53) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(54) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(55) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(56) The Motion Picture Incentive Account created in Section 63N-8-103.

(57) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(58) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(59) The following funds or accounts created in Section 72-2-124:

(a) Transportation Investment Fund of 2005;

(b) Transit Transportation Investment Fund;

(c) Cottonwood Canyons Transportation Investment Fund;

(d) Active Transportation Investment Fund; and

(e) Commuter Rail Subaccount.

(60) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(61) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(62) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(63) Award money under the State Asset Forfeiture Grant Program, as provided under Section 77-11b-403.

(64) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(65) Fees for certificate of admission created under Section 78A-9-102.

(66) Funds collected for adoption document access as provided in Sections 81-13-103, 81-13-504, and 81-13-505.

(67) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(68) The Utah Geological Survey Restricted Account created in Section 79-3-403.

(69) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(70) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 169. Section 63J-1-602.2 is amended to read:

63J-1-602.2 (Effective upon governor's approval) (Partially Repealed 07/01/29). List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund Program created in Title 4, Chapter 46, Part 3, LeRay McAllister Working Farm and Ranch Fund [~~Program~~].

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The primary care grant program created in Section 26B-4-310.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(12) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(16) The Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program created in Section 26B-7-122.

(17) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(18) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(19) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

(20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(21) The Emergency Medical Services Grant Program in Section 53-2d-207.

(22) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(23) The Utah Board of Higher Education for teacher preparation programs, as provided in Section [~~53B-6-104~~]53H-5-402.

(24) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(3).

(25) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The State Capitol Preservation Board created by Section 63O-2-201.

(28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) County correctional facility reimbursement program for state probationary inmates and state parole inmates as described in Section 64-13e-104.

(34) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(35) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(36) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(37) The Traffic Noise Abatement Program created in Section 72-6-112.

(38) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(39) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(40) A state rehabilitative employment program, as provided in Section 78A-6-210.

(41) The Utah Geological Survey, as provided in Section 79-3-401.

(42) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(43) Adoption document access as provided in Sections 81-13-103, 81-13-504, and 81-13-505.

(44) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(45) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(46) The State Tax Commission for reimbursing counties for deferrals in accordance with Section 59-2a-901.

(47) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 170. Section 63L-6-102 is amended to read:

63L-6-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Governmental entity" is as defined in Section 59-2-511.

(2) "Net proceeds" means the proceeds from the sale of public lands, after subtracting expenses incident to the sale of the public lands.

(3) "Public lands" means lands within the exterior boundaries of this state except:

(a) lands to which title is held by a person who is not a governmental entity;

(b) lands owned or held in trust by this state, a political subdivision of this state, or an independent entity;

(c) lands reserved for use by the state system of public education as described in Utah Constitution, Article X, Section 2, or [~~a state~~]an institution of higher education listed in Section [~~53B-1-102~~]53H-1-102;

(d) school and institutional trust lands as defined in Section 53C-1-103;

(e) lands within the exterior boundaries as of January 1, 2012, of the following that are designated as national parks:

(i) Arches National Park;

(ii) Bryce Canyon National Park;

(iii) Canyonlands National Park;

(iv) Capitol Reef National Park; and

(v) Zion National Park;

(f) lands within the exterior boundaries as of January 1, 2012, of the following national monuments managed by the National Park Service as of January 1, 2012:

(i) Cedar Breaks National Monument;

(ii) Dinosaur National Monument;

(iii) Hovenweep National Monument;

(iv) Natural Bridges National Monument;

(v) Rainbow Bridge National Monument; and

(vi) Timpanogos Cave National Monument;

(g) lands within the exterior boundaries as of January 1, 2012, of the Golden Spike National Historic Site;

(h) lands within the exterior boundaries as of January 1, 2012, of the following wilderness areas located in the state that, as of January 1, 2012, are designated as part of the National Wilderness Preservation System under the Wilderness Act of 1964, 16 U.S.C. 1131 et seq.:

(i) Ashdown Gorge Wilderness;

(ii) Beartrap Canyon Wilderness;

(iii) Beaver Dam Mountains Wilderness;

(iv) Black Ridge Canyons Wilderness;

(v) Blackridge Wilderness;

(vi) Box-Death Hollow Wilderness;

(vii) Canaan Mountain Wilderness;

(viii) Cedar Mountain Wilderness;

(ix) Cottonwood Canyon Wilderness;

(x) Cottonwood Forest Wilderness;

(xi) Cougar Canyon Wilderness;

(xii) Dark Canyon Wilderness;

(xiii) Deep Creek Wilderness;

(xiv) Deep Creek North Wilderness;

(xv) Deseret Peak Wilderness;

(xvi) Doc's Pass Wilderness;

(xvii) Goose Creek Wilderness;

(xviii) High Uintas Wilderness;

(xix) LaVerkin Creek Wilderness;

(xx) Lone Peak Wilderness;

(xxi) Mount Naomi Wilderness;

(xxii) Mount Nebo Wilderness;

(xxiii) Mount Olympus Wilderness;

(xxiv) Mount Timpanogos Wilderness;

(xxv) Paria Canyon-Vermilion Cliffs Wilderness;

(xxvi) Pine Valley Mountain Wilderness;

(xxvii) Red Butte Wilderness;

(xxviii) Red Mountain Wilderness;

(xxix) Slaughter Creek Wilderness;

(xxx) Taylor Creek Wilderness;

(xxxi) Twin Peaks Wilderness;

(xxxii) Wellsville Mountain Wilderness; and

(xxxiii) Zion Wilderness;

(i) lands with respect to which the jurisdiction is ceded to the United States as provided in Section 63L-1-201 or 63L-1-203;

(j) real property or tangible personal property owned by the United States if the property is within the boundaries of a municipality; or

(k) lands, including water rights, belonging to an Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Section 171. Section 63M-7-210 is amended to read:

63M-7-210 (Effective upon governor's approval). Pilot program of competency-based career and technical education grants.

(1) As used in this section:

(a) "Certificate program provider" means a technical college that provides competency-based career and technical education.

(b) "Commission" means the State Commission on Criminal and Juvenile Justice.

(c) (i) "Competency-based career and technical education" means career and technical education that will result in appropriate licensing, certification, or other evidence of completion of training and qualification for specific employment.

(ii) "Competency-based career and technical education" includes services provided under Section [~~53B-2a-106~~]53H-3-1203.

(d) "Qualifying education program" means a program overseen by a city or county prosecutor office to provide for an individual obtaining:

(i) a high school diploma or a Utah high school completion diploma as defined by rule made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) competency-based career and technical education.

(e) "Technical college" means the same as that term is defined in Section [~~53B-1-101.5~~]53H-1-101.

(2) In accordance with this section, the commission shall establish a pilot grant program for fiscal year 2019 that funds the costs of two employees who:

(a) are located in different prosecutor offices that operate in areas that have proximity to a technical college; and

(b) oversee a program that provides for participation in a qualifying education program by an individual who is convicted of, pleads guilty to, or pleads no contest to a misdemeanor or third degree felony:

(i) as an alternative to incarceration;

(ii) for a reduction of fines or court fees;

(iii) for a two-step conviction reduction under Section 76-3-402; or

(iv) for a combination of the actions described in Subsections (2)(b)(i) through (iii).

(3) As a condition of participating in a qualifying education program under this section, an individual shall:

(a) comply with the requirements of the plea agreement entered into by the individual, the prosecutor, and the court; and

(b) work with a financial aid officer for a qualifying education program and pay the tuition for the competency-based career and technical education charged by the certificate program provider.

(4) The commission will structure and administer the grant pilot program consistent with other grant program requirements that the commission administers.

(5) The commission shall compile a report regarding this grant pilot program based on performance measures and provide the report by no later than November 30, 2020, to the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations

subcommittee.

Section 172. Section 63M-7-502 is amended to read:

63M-7-502 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(4) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

(5) "Child" means an unemancipated individual who is under 18 years old.

(6) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the claimant has received, or that is readily available to the claimant from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers' compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the claimant for the loss the claimant sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran's benefits, including veteran's hospitalization benefits.

(7) (a) "Confidential record" means a record in the custody of the office that relates to a claimant's eligibility for a reparations award.

(b) "Confidential record" includes:

(i) a reparations claim;

(ii) any correspondence regarding:

(A) the approval or denial of a reparations claim; or

(B) the payment of a reparations award;

(iii) a document submitted to the office in support of a reparations award;

(iv) a medical or mental health treatment plan; and

(v) an investigative report provided to the office by a law enforcement agency.

(8) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

(9) (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is:

(A) intended to cause bodily injury or death;

(B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or

(C) chargeable as an offense for driving under the influence of alcohol or drugs.

(b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

(10) (a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

(b) "Dependent" includes a child of the victim born after the victim's death.

(11) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

(12) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

(13) "Director" means the director of the office.

(14) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

(15) (a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

(b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

(c) "Economic loss" does not include noneconomic detriment.

(16) "Elderly victim" means an individual who is 60 years old or older and who is a victim.

(17) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

(18) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(19) (a) "Interpersonal violence" means an act involving violence, physical harm, or a threat of violence or physical harm, that is committed by an individual who is or has been in a domestic, dating, sexual, or intimate relationship with the victim.

(b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act described in Subsection (19)(a).

(20) "Law enforcement agency" means a public or private agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision of this state.

(21) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(22) (a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.

(b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

(23) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(24) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(25) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

(26) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

(27) "Nonpublic restitution record" means a restitution record that contains a claimant's medical or mental health information.

(28) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

(29) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

(30) "Offense" means a violation of Title 76, Utah Criminal Code.

(31) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

(32) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

(33) "Public restitution record" means a restitution record that does not contain a claimant's medical or mental health information.

(34) (a) "Rape crisis and services center" means a nonprofit entity that assists victims of sexual assault and victims' families by offering sexual assault crisis intervention and counseling through a sexual assault counselor.

(b) "Rape crisis and services center" does not include a qualified institutional victim services provider as defined in Section [~~53B-28-201~~]53H-14-401.

(35) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

(36) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

(37) (a) "Reparations officer" means an individual employed by the office to investigate a claimant's request for reparations and award reparations under this part.

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

(38) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

(39) (a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

(b) "Representative" does not include a service provider or collateral source.

(40) "Restitution" means the same as that term is defined in Section 77-38b-102.

(41) (a) "Restitution record" means a record documenting payments made to, or on behalf of, a claimant by the office that the office relies on to support a restitution request made in accordance with Section 77-38b-205.

(b) "Restitution record" includes:

(i) a notice of restitution;

(ii) an itemized list of payments;

(iii) an invoice, receipt, or bill submitted to the office for reimbursement; and

(iv) any documentation that the office relies on to establish a nexus between an offender's criminally injurious conduct and a reparations award made by the office.

(42) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(43) "Service provider" means an individual or agency who provides a service to a claimant for a monetary fee, except attorneys as provided in Section 63M-7-524.

(44) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

(45) (a) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(b) "Sexual assault" does not include criminal conduct described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-418, sexual battery;

(iii) Section 76-5-419, lewdness; or

(iv) Section 76-5-420, lewdness involving a child.

(46) "Sexual assault counselor" means an individual who:

(a) is employed by or volunteers at a rape crisis and services center;

(b) has a minimum of 40 hours of training in counseling and assisting victims of sexual assault; and

(c) is under the supervision of the director of a rape crisis and services center or the director's designee.

(47) "Strangulation" means any act involving the use of unlawful force or violence that:

(a) impedes breathing or the circulation of blood; and

(b) is likely to produce a loss of consciousness by:

(i) applying pressure to the neck or throat of an individual; or

(ii) obstructing the nose, mouth, or airway of an individual.

(48) "Substantial bodily injury" means the same as that term is defined in Section 76-1-101.5.

(49) (a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

(ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(50) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 173. Section 64-13-6 is amended to read:

64-13-6 (Effective upon governor's approval). Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

(f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(h) manage programs that take into account the needs and interests of victims, where reasonable;

(i) through the Division of Adult Probation and Parole created in Section 64-14-202, supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(j) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i) (A) if an offender is to be supervised in the community, the department shall establish a case action plan for the offender no later than 60 days after the day on which the department's community supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan for the offender no later than 90 days after the day on which the offender is committed to the custody of the department;

(ii) each case action plan shall:

(A) integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements; and

(B) require that a case manager will:

(I) ensure that an assessment of the education level, occupational interests, and aptitudes of the inmate has been completed;

(II) refer the inmate to a higher education student advisor at an institution offering programs consistent with the inmate's interests and aptitudes for advisement on educational preferences and plans;

(III) incorporate the inmate's interests, aptitudes, and student advisement into an education plan consistent with the guidance provided by the Higher Education and Corrections Council created in Section [~~53B-35-201~~]53H-1-604; and

(IV) refer the inmate to the student advisor at the institution called for in the case action plan for guidance and assistance with the education process;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change;

(n) ensure that an inmate has reasonable access to legal research;

(o) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-

22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(p) when reporting on statewide recidivism, include the metrics and requirements described in Section 63M-7-102;

(q) create a reentry division that focuses on the successful reentry of inmates into the community, which shall include:

(i) screening and assessments for an inmate's risks and needs;

(ii) individualized plans and case management;

(iii) quality treatment, education, and job preparation;

(iv) community partnerships; and

(v) comprehensive release planning before the inmate's release, including:

(A) coordination with support services; and

(B) coordination with one or more family members or friends, if the inmate has given permission to contact specific individuals for this purpose;

(r) coordinate with the Board of Pardons and Parole regarding inmate records that are necessary for the Board of Pardons and Parole to make necessary determinations regarding an inmate; and

(s) ensure that inmate records regarding discipline, programs, and other relevant metrics are:

(i) complete and updated in a timely manner; and

(ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.

(2) In accordance with department policy, the department may conduct criminal investigations regarding an allegation that:

(a) an offender has committed a criminal offense; or

(b) an employee of the department has committed a criminal offense.

(3) (a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding:

(i) the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time; and

(ii) the progress of the department's implementation of the inmate program requirements described in Section 64-13-50.

(4) (a) As used in this Subsection (4):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-14-204, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection (4)(c); and

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection (4) only applies to offenders sentenced before July 1, 2021.

(5) (a) The department may procure or adopt technology services to facilitate the coordination of services and enhance accountability with agencies, local partners, and community-based organizations that are involved with assisting individuals on probation or parole.

(b) If possible, the technology services described in Subsection (5)(a) shall:

(i) maintain a single, secure client record with a unique identifier to ensure seamless coordination and reduce duplication of services;

(ii) notify authorized users of incoming service requests or referrals;

(iii) provide secure access to information necessary to understanding and addressing the needs of an individual, including the individual's service and care history;

(iv) allow authorized users to exchange information with referring or collaborating organizations through a secure and live chat feature; and

(v) send and track individual referrals, store referral outcomes, and document services provided.

Section 174. Section 64-13e-102 is amended to read:

64-13e-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Alternative treatment program" means:

(a) an evidence-based cognitive behavioral therapy program; or

(b) a certificate-based program provided by:

(i) an institution of higher education described in Subsection [~~53B-1-102(1)(b)~~]53H-1-102(1)(b); or

(ii) a degree-granting institution acting in the degree-granting institution's technical education role described in Section [~~53B-2a-~~

~~201~~]53H-3-608.

(2) "Average state daily incarceration cost" means the average cost incurred by the department per bed day over the previous three fiscal years, that reflects the following expenses incurred by the department for housing an inmate:

(a) executive overhead;

(b) administrative overhead;

(c) transportation overhead;

(d) division overhead; and

(e) motor pool expenses.

(3) "Board" means the Board of Pardons and Parole.

(4) "Commission" means the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

(5) (a) "Condition of probation day" means a day spent by a state probationary inmate in a county correctional facility as a condition of probation.

(b) "Condition of probation day" includes a day spent by a state probationary inmate in a county correctional facility:

(i) after the date of sentencing;

(ii) before the date of sentencing, if a court orders that the state probationary inmate shall receive credit for time served in a county correctional facility before the date of sentencing;

(iii) as a condition of an original order of probation; and

(iv) as a condition of a new order of probation after a prior revocation of probation.

(c) "Condition of probation day" does not include a day spent by a state probationary inmate in a county correctional facility:

(i) as a probation sanction day;

(ii) after the state probationary inmate has spent 365 consecutive days in a county correctional facility for a single order of probation;

(iii) as a condition of a plea in abeyance agreement if a conviction has not been entered;

(iv) on a hold instituted by the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security; or

(v) after the termination of probation if the state probationary inmate is:

(A) sentenced to prison; or

(B) eligible for release.

(6) "Department" means the Department of Corrections, created in Section 64-13-2.

(7) "Division" means the Division of Finance, created in Section 63A-3-101.

(8) (a) "Eligible bed day" means a day spent by a state probationary inmate or a state parole inmate in a county correctional facility that is eligible for reimbursement under Section 64-13e-104.

(b) "Eligible bed day" includes:

(i) a condition of probation day;

(ii) a parole hold day;

(iii) a parole sanction day; and

(iv) a probation sanction day.

(9) (a) "Parole hold day" means a day spent in a county correctional facility by a state parole inmate under Subsection 64-13-29(3) based on a suspected violation of the state parole inmate's terms of parole.

(b) "Parole hold day" does not include a day spent in a county correctional facility by a state parole inmate:

(i) after the state parole inmate has spent 72 hours, excluding weekends and holidays, for a single suspected violation of the state parole inmate's terms of parole; or

(ii) as a parole sanction day.

(10) (a) "Parole sanction day" means a day spent in a county correctional facility by a state parole inmate as a sanction under Subsection 64-13-6(2) for a violation of the state parole inmate's terms of parole.

(b) "Parole sanction day" includes not more than three consecutive days and not more than a total of six days within a period of 30 days for each sanction.

(c) "Parole sanction day" does not include a parole hold day.

(11) (a) "Probation sanction day" means a day spent in a county correctional facility by a state probationary inmate as a sanction under Subsection 64-13-6(2) based on a violation of the state probationary inmate's terms of probation.

(b) "Probation sanction day" includes not more than three consecutive days and not more than a total of six days within a period of 30 days for each sanction.

(c) "Probation sanction day" does not include:

(i) a condition of probation day; or

(ii) a day spent in a county correctional facility by a state probationary inmate under Subsection 64-14-205(3) based on a suspected violation of the state probationary inmate's terms of probation.

(12) "Rate surplus" means the dollar amount by which the average state daily incarceration cost for a given year exceeds 105% of the prior year's state daily incarceration rate.

(13) "State daily incarceration rate" means the daily per bed dollar basis upon which the department will calculate payments to other parties for housing state inmates and state probationary inmates.

(14) "State inmate" means an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.

(15) "State parole inmate" means an individual who is:

(a) on parole, as defined in Section 77-27-1; and

(b) housed in a county correctional facility for a reason related to the individual's parole.

(16) "State probationary inmate" means a felony probationer sentenced to time in a county correctional facility under Subsection 77-18-105(6).

(17) "Treatment program" means:

(a) an alcohol treatment program;

(b) a substance abuse treatment program;

(c) a sex offender treatment program; or

(d) an alternative treatment program.

Section 175. Section 67-3-12 is amended to read:

67-3-12 (Effective upon governor's approval). Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) As used in this section:

(a) (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same as that term is defined in Section 63E-1-102.

(ii) "Independent entity" includes an entity that is part of an independent entity described in Subsection (1)(a)(i), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(iii) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(b) "Local education agency" means a school district or charter school.

(c) "Participating local entity" means:

(i) a county;

(ii) a municipality;

(iii) the State Fair Park Authority, created in Section 11-68-201;

(iv) a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts;

(v) a special service district under Title 17D, Chapter 1, Special Service District Act;

(vi) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(vii) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(viii) except for a taxed interlocal entity as defined in Section 11-13-602:

(A) an interlocal entity as defined in Section 11-13-103;

(B) a joint or cooperative undertaking as defined in Section 11-13-103; or

(C) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(ix) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (1)(c)(i) through (viii), if the entity is considered a component unit of the entity described in Subsections (1)(c)(i) through (viii) under the governmental accounting standards issued by the Governmental Accounting Standards Board;

(x) a conservation district under Title 17D, Chapter 3, Conservation District Act; or

(xi) a governmental nonprofit corporation under Title 11, Chapter 13a, Governmental Nonprofit Corporations Act.

(d) (i) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(ii) "Participating state entity" includes an entity that is part of an entity described in Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(e) "Public finance website" or "website" means the website established by the state auditor in accordance with this section.

(f) "Public financial information" means each record that is required under this section or by rule made by the Office of the State Auditor under Subsection (9) to be made available on the public finance website, a participating local entity's website, or an independent entity's website.

(g) "Qualifying entity" means:

(i) an independent entity;

(ii) a participating local entity;

(iii) a participating state entity;

(iv) a local education agency;

(v) [~~a state~~]an institution of higher education as defined in Section [~~53B-3-102~~]53H-1-101;

(vi) the Utah Educational Savings Plan created in Section [~~53B-8a-103~~]53H-10-202;

(vii) the Utah Housing Corporation created in Section 63H-8-201;

(viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or

(x) a URS-participating employer.

(h) (i) "URS-participating employer" means an entity that:

(A) is a participating employer, as that term is defined in Section 49-11-102; and

(B) is not required to report public financial information under this section as a qualifying entity described in Subsections (1)(g)(i) through (ix).

(ii) "URS-participating employer" does not include:

(A) the Utah State Retirement Office created in Section 49-11-201;

(B) an insurer that is subject to the disclosure requirements of Section 31A-4-113;

(C) a private nonprofit organization that is not a public employees' association; or

(D) a withdrawing entity.

(i) (i) "Withdrawing entity" means:

(A) an entity that elects to withdraw from participation in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records;

(B) until the date determined under Subsection 49-11-626(2)(a), a public employees' association that provides the notice of intent described in Subsection 49-11-626(2)(b); and

(C) beginning on the date determined under Subsection 49-11-626(2)(a), a public employees' association that makes an election described in Subsection 49-11-626(3).

(ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in Sections 49-11-623 and 49-11-624.

(2) The state auditor shall establish and maintain a public finance website in accordance with this section.

(3) The website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, participating local entities, and URS-participating employers, using the website; and

(ii) link to websites administered by participating local entities, independent entities, or URS-participating employers that do not use the website for the purpose of providing public financial information as required by this section and by rule made under Subsection (9);

(b) allow a person that has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the website;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule made in accordance with Subsection (9);

(e) have a unique and simplified website address;

(f) be guided by the principles described in Subsection 63A-16-202(2);

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule made under Subsection (9); and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(4) The state auditor shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities; and

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities.

(5) A qualifying entity shall permit the public to view the qualifying entity's public financial information by posting the public financial information to the public finance website in accordance with rules made under Subsection (9).

(6) The content of the public financial information posted to the public finance website is the responsibility of the qualifying entity posting the public financial information.

(7) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the Utah Public Finance Website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.

(8) (a) A qualifying entity may not post financial information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, to the public finance website.

(b) An individual who negligently discloses financial information that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the financial information if the financial information is disclosed solely as a result of the preparation or publication of the website.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of the State Auditor:

(a) shall make rules to:

(i) establish which records a qualifying entity is required to post to the public finance website; and

(ii) establish procedures for obtaining, submitting, reporting, storing, and posting public financial information on the public finance website; and

(b) may make rules:

(i) governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure; and

(ii) allowing for the inclusion of financial data provided by a participating local entity to be included on the Utah Public Finance Website in a uniform manner.

(10) The rules made under Subsection (9) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the public finance website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state auditor for posting on the public finance website.

Section 176. Section 67-5-1 is amended to read:

67-5-1 (Effective upon governor's approval). General duties -- Restrictions.

(1) The attorney general shall:

(a) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of process as necessary to execute the judgment;

(d) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(e) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(ii) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(iii) deliver this information to the attorney general's successor in office;

(f) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of the district and county attorneys' offices, including the authority described in Subsection (2);

(g) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

(i) in accordance with Section 67-5-1.1, to the Legislature or either house;

(ii) to any state officer, board, or commission; and

(iii) to any county attorney or district attorney;

(h) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(i) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(j) when the property of a judgment debtor in any judgment mentioned in Subsection (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(k) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(l) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(m) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(n) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(o) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(q) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(r) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False Claims Act;

(s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:

(i) in health care facilities that receive payments under the state Medicaid program;

(ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

(iii) who are receiving medical assistance under the Medicaid program as defined in Section 26B-3-101 in a noninstitutional or other setting;

(t) (i) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(A) cost the state more than $500,000; or

(B) require the state to take legally binding action that would cost more than $500,000 to implement; and

(ii) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(u) (i) submit a written report to the committees described in Subsection (1)(u)(ii) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection (1)(u), including any:

(A) settlements reached;

(B) consent decrees entered;

(C) judgments issued;

(D) preliminary injunctions issued;

(E) temporary restraining orders issued; or

(F) formal or informal policies of the Office of the Attorney General to not enforce a law; and

(ii) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (1)(u)(i) to:

(A) the Legislative Management Committee;

(B) the Judiciary Interim Committee; and

(C) the Law Enforcement and Criminal Justice Interim Committee;

(v) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(ii) any other information or analysis requested by the rate committee;

(w) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;

(x) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(y) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

(i) the constitutionality of a state statute;

(ii) the validity of legislation; or

(iii) any action of the Legislature;

(z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:

(A) establish outreach to the tribes and affected counties and communities; and

(B) foster better relations and a cooperative framework; and

(ii) annually report to the Criminal Justice Appropriations Subcommittee regarding:

(A) the status of the work of the special advisor described in Subsection (1)(z)(i); and

(B) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection (1)(z)(i);

(aa) (i) enforce compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and

(ii) report to the Legislative Management Committee, upon request, regarding the attorney general's enforcement under this Subsection (1)(aa); and

(bb) ensure compliance with [~~Title 53B, Chapter 27, Part 6~~]Title 53H, Chapter 7, Part 7, Student Legal Representation, by:

(i) establishing a process to track the number of complaints submitted by students;

(ii) pursuing civil action to enforce statutory protections; and

(iii) no later than November 1 each year, reporting to the Judiciary Interim Committee regarding the attorney general's enforcement under this Subsection (1)(bb).

(2) (a) The attorney general may require a district attorney or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge.

(b) The attorney general may review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:

(i) a law enforcement agency submits investigation results to the county attorney or district attorney of the jurisdiction where the incident occurred and the county attorney or district attorney:

(A) declines to file criminal charges; or

(B) fails to screen the case for criminal charges within six months after the law enforcement agency's submission of the investigation results; and

(ii) after consultation with the county attorney or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county attorney or district attorney of the jurisdiction where the incident occurred.

(c) If the attorney general decides to conduct a review under Subsection (2)(b), the district attorney, county attorney, and law enforcement agency shall, within 14 days after the day on which the attorney general makes a request, provide the attorney general with:

(i) all information relating to the investigation, including all reports, witness lists, witness statements, and other documents created or collected in relation to the investigation;

(ii) all recordings, photographs, and other physical or digital media created or collected in relation to the investigation;

(iii) access to all evidence gathered or collected in relation to the investigation; and

(iv) the identification of, and access to, all officers or other persons who have information relating to the investigation.

(d) If a district attorney, county attorney, or law enforcement agency fails to timely comply with Subsection (2)(c), the attorney general may seek a court order compelling compliance.

(e) If the attorney general seeks a court order under Subsection (2)(d), the court shall grant the order unless the district attorney, county attorney, or law enforcement agency shows good cause and a compelling interest for not complying with Subsection (2)(c).

(3) The attorney general:

(a) is a full-time employee of the state; and

(b) may not engage in the private practice of law.

Section 177. Section 67-8-3 is amended to read:

67-8-3 (Effective upon governor's approval). Compensation plan for appointive officers -- Exceptions -- Legislative approval -- Career status attorneys.

(1) (a) The director of the Division of Human Resource Management, based upon recommendations of the Executive and Judicial Compensation Commission shall, before October 31 of each year, recommend to the governor a compensation plan for appointed officers

of the state except those officers whose compensation is set under Section 49-11-203, 53E-3-302, [~~53B-1-408~~]53H-1-302, or 53C-1-301.

(b) The plan shall include salaries and wages, paid leave, group insurance plans, retirement programs, and any other benefits that may be offered to state officers.

(2) The governor shall include in each annual budget proposal to the Legislature specific recommendations on compensation for those appointed state officers in Subsection (1).

(3) (a) After consultation with the attorney general, the director of the Division of Human Resource Management shall place career status attorneys on a state salary schedule at a range comparable with salaries paid attorneys in private and other public employment.

(b) The attorney general and the executive director shall take into consideration the experience of the attorney, length of service with the Office of the Attorney General, quality of performance, and responsibility involved in legal assignments.

(c) The attorney general and the executive director shall periodically adjust the salary levels for attorneys in a career status to reasonably compensate them for full-time employment and the restrictions placed on the private practice of law.

Section 178. Section 67-21-2 is amended to read:

67-21-2 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Abuse of authority" means an arbitrary or capricious exercise of power that:

(a) adversely affects the employment rights of another; or

(b) results in personal gain to the person exercising the authority or to another person.

(2) "Communicate" means a verbal, written, broadcast, or other communicated report.

(3) "Damages" means general and special damages for injury or loss caused by each violation of this chapter.

(4) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied.

(5) (a) "Employer" means the public body or public entity that employs the employee.

(b) "Employer" includes an agent of an employer.

(6) "Good faith" means that an employee acts with:

(a) subjective good faith; and

(b) the objective good faith of a reasonable employee.

(7) "Gross mismanagement" means action or failure to act by a person, with respect to a person's responsibility, that causes significant harm or risk of harm to the mission of the public entity or public body that employs, or is managed or controlled by, the person.

(8) "Institution of higher education" means the same as that term is defined in Section 53H-1-101.

[~~(8)~~](9) "Judicial employee" means an employee of the judicial branch of state government.

[~~(9)~~](10) "Legislative employee" means an employee of the legislative branch of state government.

[~~(10)~~](11) "Political subdivision employee" means an employee of a political subdivision of the state.

[~~(11)~~](12) "Public body" means any of the following:

(a) a state officer, employee, agency, department, division, bureau, board, commission, council, authority, educational institution, or any other body in the executive branch of state government;

(b) an agency, board, commission, council, institution member, or employee of the legislative branch of state government;

(c) a county, city, town, regional governing body, council, school district, special district, special service district, or municipal corporation, board, department, commission, council, agency, or any member or employee of them;

(d) any other body that is created by state or local authority, or that is primarily funded by or through state or local authority, or any member or employee of that body;

(e) a law enforcement agency or any member or employee of a law enforcement agency; and

(f) the judiciary and any member or employee of the judiciary.

[~~(12)~~](13) "Public entity" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

[~~(13)~~](14) "Public entity employee" means an employee of a public entity.

[~~(14)~~](15) "Retaliatory action" means the same as that term is defined in Section 67-19a-101.

[~~(15) "State institution of higher education" means the same as that term is defined in Section 53B-3-102.~~]

(16) "Unethical conduct" means conduct that violates a provision of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Section 179. Section 67-21-3 is amended to read:

67-21-3 (Effective upon governor's approval). Reporting of governmental waste or violations of law -- Employer action -- Exceptions.

(1) (a) An employer may not take retaliatory action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith:

(i) the waste or misuse of public funds, property, or manpower;

(ii) a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; or

(iii) as it relates to a state government employer:

(A) gross mismanagement;

(B) abuse of authority; or

(C) unethical conduct.

(b) For purposes of Subsection (1)(a), an employee is presumed to have communicated in good faith if the employee gives written notice or otherwise formally communicates the conduct described in Subsection (1)(a) to:

(i) a person in authority over the person alleged to have engaged in the conduct described in Subsection (1)(a);

(ii) the attorney general's office;

(iii) law enforcement, if the conduct is criminal in nature;

(iv) if the employee is a public entity employee, public body employee, legislative employee, or a judicial employee:

(A) the state auditor's office;

(B) the president of the Senate;

(C) the speaker of the House of Representatives;

(D) the Office of Legislative Auditor General;

(E) the governor's office;

(F) the state court administrator; or

(G) the Division of Finance;

(v) if the employee is a public entity employee, but not an employee of [~~astate~~]an institution of higher education, the director of the Division of Purchasing and General Services;

(vi) if the employee is a political subdivision employee:

(A) the legislative body, or a member of the legislative body, of the political subdivision;

(B) the governing body, or a member of the governing body, of the political subdivision;

(C) the top executive of the political subdivision; or

(D) any government official with authority to audit the political subdivision or the applicable part of the political subdivision; or

(vii) if the employee is an employee of [~~astate~~]an institution of higher education:

(A) the Utah Board of Higher Education or a member of the Utah Board of Higher Education;

(B) the commissioner of higher education;

(C) the president of the [~~state~~]institution of higher education where the employee is employed; or

(D) the entity that conducts audits of the [~~state~~]institution of higher education where the employee is employed.

(c) The presumption described in Subsection (1)(b) may be rebutted by showing that the employee knew or reasonably ought to have known that the report is malicious, false, or frivolous.

(2) An employer may not take retaliatory action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review held by the public body.

(3) An employer may not take retaliatory action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law of this state, a political subdivision of this state, or the United States, or a rule or regulation adopted under the authority of the laws of this state, a political subdivision of this state, or the United States.

(4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document:

(a) the waste or misuse of public funds, property, or manpower;

(b) a violation or suspected violation of any law, rule, or regulation; or

(c) as it relates to a state government employer:

(i) gross mismanagement;

(ii) abuse of authority; or

(iii) unethical conduct.

Section 180. Section 67-21-3.7 is amended to read:

67-21-3.7 (Effective upon governor's approval). Administrative review for institution of higher education employees.

(1) (a) As used in this section, "independent personnel board" means a board where no member of the board:

(i) is in the same department as the complainant;

(ii) is a supervisor of the complainant; or

(iii) has a conflict of interest in relation to the complainant or an allegation made in the complaint.

(b) [~~Astate~~]An institution of higher education shall adopt a policy to establish an independent personnel board to hear and take action on a complaint alleging retaliatory action.

(c) The policy described in Subsection (1)(b) shall include:

(i) procedures for filing a complaint and conducting a hearing; and

(ii) a burden of proof on the employer to establish by substantial evidence that the employer's action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3.

(2) (a) An employee of [~~astate~~]an institution of higher education may file a complaint with the independent personnel board described in Subsection (1)(b) alleging retaliatory action.

(b) An independent personnel board that receives a complaint under Subsection (2)(a) shall hear the matter, resolve the complaint, and take action under Subsection (3) within the later of:

(i) 30 days after the day on which the employee files the complaint; or

(ii) a longer period of time, not to exceed 30 additional days, if the employee and the independent personnel board mutually agree on the longer time period.

(3) If an independent personnel board finds that retaliatory action is taken in violation of the policy described in Subsection (1)(b), the independent personnel board may order, or recommend to a final decision maker:

(a) reinstatement of the employee at the same level as before the retaliatory action;

(b) the payment of back wages;

(c) full reinstatement of fringe benefits;

(d) full reinstatement of seniority rights; or

(e) if the retaliatory action includes failure to promote, as described in Subsection 67-19a-101(11)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.

(4) A final decision maker who receives a recommendation under Subsection (3) shall render a decision and enter an order within seven days after the day on which the final decision maker receives the recommendation.

Section 181. Section 67-21-4 is amended to read:

67-21-4 (Effective upon governor's approval). Choice of forum -- Remedies for employee bringing action -- Proof required.

(1) (a) Except as provided in Subsection (1)(b) or (d), and subject to Subsections (1)(d) through (e), an employee who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.

(b) Except as provided in Subsection (1)(d):

(i) an employee of a political subdivision that has adopted an ordinance described in Section 67-21-3.6:

(A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and

(B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies; and

(ii) an employee of [~~astate~~]an institution of higher education:

(A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and

(B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies.

(c) Except as provided in Subsection (1)(d), a public entity employee who is not a legislative employee or a judicial employee may bring a claim of retaliatory action by selecting one of the following methods:

(i) filing a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5; or

(ii) bringing a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.

(d) (i) A claimant may bring an action after the 180-day limit described in this Subsection (1) if:

(A) the claimant originally brought the action within the 180-day time limit;

(B) the action described in Subsection (1)(d)(i)(A) failed or was dismissed for a reason other than on the merits; and

(C) the claimant brings the new action within 180 days after the day on which the claimant originally brought the action under Subsection (1)(d)(i)(A).

(ii) A claimant may commence a new action under this Subsection (1)(d) only once.

(e) A public entity employee who files a grievance under Subsection (1)(d)(i):

(i) may not, at any time, bring a civil action in relation to the subject matter of the grievance;

(ii) may seek a remedy described in Subsection 67-21-3.5(2); and

(iii) waives the right to seek a remedy or a type of damages not included in Subsection 67-21-3.5(2).

(f) A public entity employee who files a civil action under Subsection (1)(d)(ii) may not, at any time, file a grievance with the Career Service Review Office in relation to the subject matter of the civil action.

(2) An employee who brings a civil action under this section shall bring the action in the district court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has the person's principal place of business.

(3) (a) An employee who brings an action under this section has the burden of proving by a preponderance of the evidence that the employee, in good faith, engaged in protected reporting and suffered a retaliatory action.

(b) If the employee satisfies the burden described in Subsection (3)(a), the employer has the burden of proving by substantial evidence that the employer's action was justified.

(c) If the employer satisfies the burden described in Subsection (3)(b), the employee has the burden of proving by a preponderance of the evidence that the employer's justification is pretextual.

Section 182. Section 67-27-106 is amended to read:

67-27-106 (Effective upon governor's approval). Reasonable accommodations for government employees.

(1) As used in this section:

(a) "Confidential information" means any:

(i) information related to an employee's request under Subsection (2); or

(ii) record created under Subsection (3) or (4).

(b) "Conscience" means a sincerely held belief as to the rightness or wrongness of an action or inaction.

(c) (i) "Employee" means an individual employed by a governmental entity.

(ii) "Employee" does not include:

(A) an elected official;

(B) an individual employed by the Legislature; or

(C) an individual who is appointed or employed to be on an elected official's personal staff to assist the elected official in fulfilling the elected official's duties.

(d) "First responder" means:

(i) a law enforcement officer, as that term is defined in Section 53-13-103;

(ii) an emergency medical technician, as that term is defined in Section 53-2e-101;

(iii) an advanced emergency medical technician, as that term is defined in Section 53-2e-101;

(iv) a paramedic, as that term is defined in Section 53-2e-101;

(v) a firefighter, as that term is defined in Section [~~53B-8c-102~~]53H-11-306; or

(vi) a dispatcher, as that term is defined in Section 53-6-102.

(e) "Governmental entity" means:

(i) the state;

(ii) a political subdivision of the state, including a county, city, town, school district, special district, institution of higher education, or special service district; or

(iii) an entity created by the state, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(f) "Retaliatory action" means any of the following actions taken by a governmental entity against an employee as a result of the employee filing a request under Subsection (2):

(i) a dismissal;

(ii) a reduction of compensation;

(iii) a failure to increase compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) a failure to promote if the employee would otherwise be promoted; or

(v) a threat to take an action described in Subsections (1)(f)(i) through (iv).

(g) "Task" means a specific job, duty, or function.

(h) "Undue hardship" means a substantial burden, privation, or adversity on a governmental entity that would result from granting an employee's request to be relieved from performing a certain task when considering all relevant factors, including:

(i) the practical impact on the governmental entity in light of the nature, size, and operating cost of the governmental entity;

(ii) the disruption of the governmental entity's operations;

(iii) the nature of the employee's duties;

(iv) the number of employees the governmental entity will be required to grant a request to if the governmental entity grants the employee's request;

(v) the type of workplace; and

(vi) the number of requests by the employee in the preceding 12 months from the day on which the employee submitted the request.

(2) (a) Except as provided in Subsection (2)(b), a governmental entity may not deny an employee's reasonable request to be relieved from performing a certain task if:

(i) performing the task would conflict with the employee's sincerely held religious beliefs or conscience;

(ii) the employee has complied with the requirements of Subsection (3); and

(iii) relieving the employee from the task would not impose an undue hardship on the governmental entity.

(b) A governmental entity is not required to grant an employee's request under Subsection (2)(a) if:

(i) the request is to be relieved from performing a task that is part of training or safety instructions directly related to the employee's employment;

(ii) granting the request would result in a deficit in the amount of work for which the employee is compensated;

(iii) granting the request would create a conflict with an existing legal obligation and the governmental entity cannot avoid the conflict if the governmental entity grants the employee's request under Subsection (3);

(iv) the employee is a first responder and the request by the employee under Subsection (2)(a) is to be relieved from performing a task that involves protecting the safety of the public; or

(v) the employee's asserted religious beliefs or conscience described in Subsection (2)(a)(i) is being asserted for an improper purpose.

(3) Except as provided in Subsection (3)(b), an employee seeking to be relieved from performing a certain task under Subsection (2) shall:

(a) (i) as soon as practicable but not more than two days after the day on which the employee received the assignment to perform the task, submit a written request to the employee's supervisor providing an explanation as to why the task would conflict with the employee's sincerely held religious beliefs or conscience; or

(ii) if the employee receives the assignment to perform the task within two days after the day on which the employee received the assignment, orally or in writing immediately request to be relieved from performing the task; and

(b) provide the governmental entity with a reasonable opportunity to grant the employee's request or otherwise address the employee's concerns.

(4) (a) Except as provided in Subsection (4)(c), a governmental entity that receives a request under Subsection (3) shall respond to the request as soon as practicable but at least five days before the day on which the certain task is required to be performed.

(b) If a governmental entity denies an employee's request submitted as described in Subsection (3), the governmental entity shall include in the response required under Subsection (4)(a):

(i) an explanation of the governmental entity's decision and why:

(A) granting the request would impose an undue hardship on the governmental entity; or

(B) the governmental entity is not required to grant the employee's request for a reason described in Subsection (2)(b); and

(ii) that the employee may seek redress in a court as described in Subsection (6) if the employee has exhausted the internal process allowing the governmental entity to address the employee's concerns under Subsection (3)(b).

(c) An employee and governmental entity may agree in writing to waive or extend the time limit described in Subsection (4)(a).

(5) (a) A governmental entity may adopt a policy detailing the requirements of this section.

(b) A policy adopted under Subsection (5)(a) shall:

(i) provide the governmental entity's employees a process for making a request under this section;

(ii) designate an individual to receive an employee request described in Subsection (3);

(iii) outline the information an employee is required to provide to the governmental entity in a request described in Subsection (3);

(iv) describe the process the employee is required to undertake to allow the governmental entity a reasonable opportunity to grant the

employee's request or otherwise address the employee's concerns under Subsection (3)(b); and

(v) outline the process the governmental entity will use to evaluate a request received under Subsection (3) in determining if the request will impose an undue hardship on the governmental entity.

(c) A governmental entity establishing a policy under this Subsection (5) shall ensure that:

(i) the governmental entity's employees receive notice of the policy and access to a copy of the policy when the policy is adopted or when an employee begins working for the governmental entity, whichever occurs first; and

(ii) if the governmental agency receives a request under Subsection (3), the governmental entity includes a reference to the governmental entity's policy in the governmental entity's response.

(6) (a) An employee has a right of action against the governmental entity that employs the employee if:

(i) the employee has complied with Subsection (3) in good faith;

(ii) the employee has complied with any policy created under Subsection (5) after receiving notice and a reference of the policy as described in Subsection (5)(c);

(iii) the employee's asserted religious beliefs or conscience described in Subsection (2)(a)(i) is not asserted for an improper purpose; and

(iv) (A) granting the request would not have imposed an undue hardship on the governmental entity; or

(B) the governmental entity cannot meet an exception described in Subsection (2)(b).

(b) An employee seeking to assert a right of action under this section shall bring the action in a court within 180 calendar days after the day on which the employee received the governmental entity's response described in Subsection (4).

(c) If an employee establishes, by a preponderance of the evidence, that the employee meets the requirements described in Subsection (6)(a), the court:

(i) shall grant the employee relief by:

(A) issuing an injunction ordering the governmental entity to relieve the employee from the specific task if the task is still to be performed; or

(B) ordering the governmental entity to reinstate or rehire the employee, with an award of back pay, if the employee was constructively discharged, demoted, or terminated as a direct result of the governmental entity's violation of Subsection (2); and

(ii) may award to the employee reasonable attorney fees, and court costs.

(7) The classification of an employee's confidential information is governed by Title 63G, Chapter 2, Government Records Access and Management Act.

(8) A governmental entity may not take retaliatory action against an employee for submitting a meritorious request under Subsection (3).

(9) Nothing in this section:

(a) limits the employee's right to bring any other claim the employee may have against the governmental entity; or

(b) prevents a governmental entity from implementing a policy required by state or federal law.

Section 183. Section 67-27-107 is amended to read:

67-27-107 (Effective upon governor's approval). Prohibition on the use of certain submissions by governmental employers -- Exceptions.

(1) As used in this section:

(a) (i) "Governmental employer" means any department, division, agency, commission, board, council, committee, authority, municipality, county, political subdivision, or any other institution of the state.

(ii) "Governmental employer" does not mean a local education agency or institution of higher education.

(b) (i) "Prohibited submission" means a submission, statement, or document that requires an individual to articulate the individual's position, view, contribution, effort, or experience regarding a policy, program, or initiative that promotes differential treatment based on an individual's personal identity characteristics, as that term is defined in Section [~~53B-1-118~~]53H-1-504.

(ii) "Prohibited submission" includes a submission, statement, or document that relates to a policy, program, or initiative regarding:

(A) anti-racism;

(B) bias;

(C) critical race theory;

(D) implicit bias;

(E) intersectionality;

(F) prohibited discriminatory practice, as that term is defined in Section [~~53B-1-118~~]53H-1-504; or

(G) racial privilege.

(iii) "Prohibited submission" does not include a submission, statement, or document for an employment position if the submission, statement, or document relates to a bona fide occupational qualification for the position.

(2) Except as provided in Subsection (4), a governmental employer may not require, request, solicit, or compel a prohibited submission as a certification or condition before taking action with respect to:

(a) employment, including decisions regarding:

(i) hiring;

(ii) terms of employment;

(iii) benefits;

(iv) compensation;

(v) seniority status;

(vi) tenure or continuing status;

(vii) promotion;

(viii) performance reviews;

(ix) transfer;

(x) termination; or

(xi) appointment; or

(b) admissions and aid, including:

(i) admission to any state program or course;

(ii) financial or other forms of state-administered aid or assistance; or

(iii) other benefits from the governmental employer for which an individual is eligible.

(3) A governmental employer may not grant any form of preferential consideration to an individual who, with or without solicitation from the governmental employer, provides a prohibited submission for any action described in Subsection (2).

(4) If federal law requires a governmental employer to accept or require a prohibited submission, the governmental employer:

(a) may accept the prohibited submission only to the extent required under federal law; and

(b) shall limit consideration of the information contained in the prohibited submission to the extent necessary to satisfy the requirement under federal law.

(5) Nothing in this section limits or prohibits a governmental employer's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

Section 184. Section 67-27-108 is amended to read:

67-27-108 (Effective upon governor's approval). Prohibition on the use of certain training by governmental employers -- Exceptions.

(1) As used in this section:

(a) "Governmental employer" means the same as that term is defined in Section 67-27-107.

(b) (i) "Prohibited training" means a mandatory instructional program and related materials that a governmental employer requires the governmental employer's current or prospective employees to attend that promote prohibited discriminatory practices as that term is defined in Section [~~53B-1-118~~]53H-1-504.

(ii) "Prohibited training" includes an in-person or online seminar, discussion group, workshop, other program, or related materials.

(2) A governmental employer may not require prohibited training.

(3) Nothing in this section limits or prohibits a governmental employer's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

Section 185. Section 67-27-109 is amended to read:

67-27-109 (Effective upon governor's approval). Prohibited discriminatory practices -- Restrictions -- Reporting.

(1) As used in this section:

(a) "Executive agency director" means the executive agency director of an executive department agency who, at the direction of the governor, carries out state business.

(b) "Governmental employer" means the same as that term is defined in Section 67-27-107.

(c) "Personal identity characteristics" means the same as that term is defined in Section [~~53B-1-118~~]53H-1-504.

(d) "Prohibited discriminatory practice" means the same as that term is defined in Section [~~53B-1-118~~]53H-1-504.

(2) (a) This section does not apply to a federal grant or program that would otherwise require a governmental employer to engage in a prohibited discriminatory practice if the grant or program has been reviewed and approved by the governmental employer's executive director, legislative body, or governing body, as that term is defined in Section 10-1-104.

(b) A governmental employer's executive director, legislative body, or governing body shall report the reviewed and approved federal grant or program under Subsection (2)(a) to the Executive Appropriations Committee.

(3) A governmental employer may not engage in prohibited discriminatory practices.

(4) Nothing in this section limits or prohibits a governmental employer from:

(a) as required or permitted by state law:

(i) establishing or maintaining an office, division, or employment position to implement, develop, plan, or promote practices relating to personal identity characteristics if the office, division, or employment position is not engaging in prohibited discriminatory practices; or

(ii) employing or assigning an employee or a third-party whose duties for governmental employer include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to personal identity characteristics if the employee or the third-party is not engaging in prohibited discriminatory practices;

(b) establishing policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment; or

(c) establishing policies that are necessary to comply with state law enacted on or before July 1, 2024.

(5) (a) Beginning on July 1, 2024, each executive agency director shall conduct a thorough review of existing agency programs and offices to determine if the program or office is in compliance with Subsection (3).

(b) On or before August 1, 2025, each executive agency director shall report on the compliance of agency programs and offices under Subsection (5)(a) to the governor.

(c) The governor shall provide the reports under Subsection (5)(b) to:

(i) the Government Operations Interim Committee at or before the November 2025, interim committee meeting; and

(ii) the Legislative Management Committee upon request.

Section 186. Section 71A-1-201 is amended to read:

71A-1-201 (Effective upon governor's approval). Department of Veterans and Military Affairs -- Creation -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department who is subject to Senate confirmation.

(3) The executive director shall be a veteran.

(4) The department shall:

(a) conduct and supervise all veteran and military affairs activities as provided in this title;

(b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title;

(c) in accordance with Section 41-1a-418:

(i) determine which campaign or combat theater awards are eligible for a special group license plate;

(ii) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it; and

(iii) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;

(d) maintain liaison with local, state, and federal veterans agencies and with Utah veterans organizations;

(e) provide current information to veterans, service members, their surviving spouses and family members, and Utah veterans and military organizations on benefits they are entitled to;

(f) assist veterans, service members, and their families in applying for benefits and services;

(g) cooperate with other state entities in the receipt of information to create and maintain a record of veterans in Utah;

(h) create and administer a veterans assistance registry in accordance with Chapter 5, Veterans Assistance Registry, with recommendations from the council, that provides contact information to the qualified donors of materials and labor for certain qualified recipients;

(i) identify military-related issues, challenges, and opportunities, and develop plans for addressing them;

(j) develop, coordinate, and maintain relationships with military leaders of Utah military installations, including the National Guard;

(k) develop and maintain relationships with military-related organizations in Utah;

(l) consult with municipalities and counties regarding compatible use plans as described in Sections 10-9a-537 and 17-27a-533;

(m) enforce a food delivery dead zone as described in Section 13-80-201;

(n) work in conjunction with the Utah Homeless Services Board to create best practices for helping veterans, as that term is defined in Section 68-3-12.5, avoid homelessness;

(o) provide services and benefits directly or indirectly to service members, veterans, and families of service members and veterans, including services and benefits related to claims, health care, employment, education, mental wellness, counseling, business, housing, recognition, camaraderie, and other functions; and

(p) serve as the State Approving Agency under United States Code, Title 38, Veterans Benefits.

(5) (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (5)(a) to:

(i) an institution of higher education listed in Section [~~53B-1-102~~]53H-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:

(i) the form and process for submitting an application to the department;

(ii) the method and criteria for selecting a grant recipient;

(iii) the method and formula for determining a grant amount; and

(iv) the reporting requirements of a grant recipient.

(6) (a) The department may:

(i) receive gifts, contributions, and donations to support service members, veterans, families of service members and veterans, and military missions, including tangible objects and real property, if the department uses the gifts, contributions, and donations for the benefit of, or in connection with, service members, veterans, families of service members and veterans, or military missions; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules related to the administration of gifts, contributions, and donations described in Subsection (6)(a).

(b) A gift, contribution, or donation received by the department as described in Subsection (6)(a), does not revert to the General Fund and is considered non-lapsing funds.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules related to:

(a) the consultation with municipalities and counties regarding compatible use plans as required in Subsection (4)(l); and

(b) criteria to evaluate whether a proposed land use is compatible with military operations.

(8) Nothing in this chapter alters or preempts any provisions of Title 39A, National Guard and Militia Act, as specifically related to the National Guard.

Section 187. Section 71A-9-101 is amended to read:

71A-9-101 (Effective upon governor's approval). Definitions.

As used in this chapter, ["~~state~~]"institution of higher education" means an institution described in Section [~~53B-2-101~~]53H-1-102 or any other university or college that is established and maintained by the state.

Section 188. Section 71A-9-102 is amended to read:

71A-9-102 (Effective upon governor's approval). Military installation ability to enter into an intergovernmental support agreement.

(1) A state agency, local municipality, special service district, or [~~state~~]an institution of higher education may enter into an intergovernmental support agreement with a military installation or entity, including the National Guard, to provide support services to the military installation or entity in accordance with the agreement.

(2) Copies of the agreement described in Subsection (1) shall be filed with the department.

Section 189. Section 72-2-205 is amended to read:

72-2-205 (Effective upon governor's approval). Loan contracts of state agencies.

(1) (a) Notwithstanding Sections [~~53B-21-113~~]53H-9-314 and 63A-1-112, a state agency may obtain an infrastructure loan.

(b) A state agency may contract to repay an infrastructure loan from the money which is appropriated to the agency and may pledge all or any portion of the money to repay the loan.

(c) A state agency's infrastructure loan may not constitute a debt of the state or lending the credit of the state within the meaning of any constitutional or statutory limitation.

(2) The terms of an infrastructure loan contract shall bind the state and a state agency, and the state agency shall unconditionally repay the loan from the money the agency has pledged under the terms of the loan contract.

Section 190. Section 75A-8-110 is amended to read:

75A-8-110 (Effective upon governor's approval). Manner of creating custodial property and effecting transfer -- Designation of initial custodian -- Control.

(1) Custodial property is created and a transfer is made when:

(a) an uncertificated security or a certificated security in registered form is either:

(i) registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act"; or

(ii) delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement, to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form in Subsection (2);

(b) money is paid or delivered, or a security held in the name of a broker, financial institution, or its nominee is transferred to a broker, or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act";

(c) the ownership of a life or endowment insurance policy or annuity contract is either:

(i) registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act"; or

(ii) assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act";

(d) an irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act";

(e) an interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act";

(f) a certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

(i) issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act"; or

(ii) delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act";

(g) an interest in any property not described in Subsections (1)(a) through (f) is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in Subsection (2); or

(h) contributions are made into a custodial account at the Utah Educational Savings Plan in accordance with [~~Title 53B, Chapter 8a, Utah Educational Savings Plan~~]Title 53H, Chapter 10, Utah Educational Savings.

(2) An instrument in the following form satisfies the requirements of Subsections (1)(a)(ii) and (1)(g): "Transfer Under the Uniform Transfers to Minors Act

I, ... (name of transferor or name and representative capacity if a fiduciary) hereby transfer to ..... (name of custodian), as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated: .....

.....

(Signature)

..... (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Uniform Transfers to Minors Act.

Dated: .....

.....

(Signature of Custodian)"

(3) A transferor shall place the custodian in control of the custodial property as soon as practicable.

Section 191. Section 76-5-802 is amended to read:

76-5-802 (Effective upon governor's approval). Abuse or desecration of a dead human body.

(1) (a) As used in this section, "sexual penetration" means the penetration, however slight, of the genital or anal opening by any object, substance, instrument, or device, including a part of the human body, or penetration involving the genitals of the actor and the mouth of a dead human body.

(b) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.

(2) An actor commits abuse or desecration of a dead human body if the actor intentionally and unlawfully:

(a) disturbs, moves, removes, conceals, or destroys a dead human body or any part of the dead human body;

(b) disinters a buried or otherwise interred dead human body, without authority of a court order;

(c) dismembers a dead human body to any extent, or damages or detaches any part or portion of a dead human body; or

(d) commits or attempts to commit upon any dead human body any act of sexual penetration, regardless of the sex of the actor and of the dead human body.

(3) A violation of Subsection (2) is a third degree felony.

(4) An actor does not violate this section if when the actor directs or carries out procedures regarding a dead human body, the actor complies with:

(a) Title 9, Chapter 8a, Part 3, Antiquities;

(b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;

(c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

(d) [~~Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes~~]Section 53H-4-203;

(e) Title 58, Chapter 9, Funeral Services Licensing Act; or

(f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.

(5) For purposes of this section, a dead human body includes any part of a human body in any stage of decomposition, including ancient human remains.

Section 192. Section 76-5-803 is amended to read:

76-5-803 (Effective upon governor's approval). Failure to report the finding of a dead human body.

(1) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.

(2) An actor commits failure to report the finding of a dead human body if the actor:

(a) finds a dead human body; and

(b) intentionally fails to report the finding of the dead human body to a local law enforcement agency.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) An actor does not violate this section if when the actor directs or carries out procedures regarding a dead human body, the actor complies with:

(a) Title 9, Chapter 8a, Part 3, Antiquities;

(b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;

(c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

(d) [~~Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes~~]Section 53H-4-203;

(e) Title 58, Chapter 9, Funeral Services Licensing Act; or

(f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.

(5) For purposes of this section, a dead human body includes any part of a human body in any stage of decomposition, including ancient human remains.

Section 193. Section 76-8-311.1 is amended to read:

76-8-311.1 (Effective upon governor's approval). Establishment of secure areas -- Items prohibited -- References to penalty provisions.

(1) (a) As used in this section:

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

(iii) "Explosive" means the same as the term "explosive, chemical, or incendiary device" defined in Section 76-15-210.

(iv) "Firearm" means the same as that term is defined in Section 76-11-101.

(v) "Law enforcement facility" means a facility that is owned, leased, or operated by a law enforcement agency.

(vi) "Mental health facility" means the same as that term is defined in Section 26B-5-301.

(vii) (A) "Secure area" means an area created under this section into which certain individuals are restricted from transporting a firearm or other dangerous weapon, ammunition, or explosive.

(B) "Secure area" does not include any area normally accessible to the public.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) (a) The State Tax Commission or a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm or other dangerous weapon, ammunition, or explosive.

(b) This section applies to:

(i) a higher education secure area hearing room established in accordance with Section [~~53B-3-103~~]53H-3-902; and

(ii) a secure area established by the Judicial Council in accordance with Section 78A-2-203.

(3) An entity that creates a secure area under this section shall ensure that at least one notice is prominently displayed at each entrance to the secure area in which a firearm, ammunition, dangerous weapon, or explosive is restricted.

(4) (a) An entity that creates a secure area under this section shall provide a secure weapons storage area so that an individual entering the secure area may store the individual's weapon before entering the secure area.

(b) The entity operating the facility shall be responsible for a weapon while the weapon is stored in the storage area described in Subsection (4)(a).

(5) (a) An actor who transports a firearm or other dangerous weapon or ammunition into a secure area created under this section or a higher education secure area hearing room created under this section may be punished under Section 76-8-311.2.

(b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a secure area or a higher education secure area hearing room created under this section may be punished under Section 76-15-210.

(c) It is a defense to a prosecution related to this section that the actor acted in conformity with the facility's rule or policy established pursuant to this section.

Section 194. Section 76-8-703 is amended to read:

76-8-703 (Effective upon governor's approval). Criminal trespass upon an institution of higher education.

(1) (a) As used in this section:

(i) "Chief administrative officer" means the same as that term is defined in Section [~~53B-20-107~~]53H-3-304.

(ii) "Enters" means intrusion of the entire body.

(iii) "Institution of higher education" means the same as that term is defined in Section [~~53B-20-107~~]53H-1-101.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits criminal trespass upon an institution of higher education if the actor enters or remains on property that is owned, operated, or controlled by an institution of higher education:

(a) after being ordered to leave by the chief administrative officer; or

(b) without authorization if notice against entry or remaining has been given by:

(i) personal communication to the person by the chief administrative officer or a person with apparent authority to act for the institution of higher education;

(ii) the posting of signs reasonably likely to come to the attention of a trespasser;

(iii) fencing or other enclosure obviously designed to exclude a trespasser; or

(iv) a current order of suspension or expulsion.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted two or more times of a violation of Subsection (2).

(4) The mere carrying or possession of a firearm on the campus of [~~a state~~]an institution of higher education, as defined in Section [~~53B-3-102~~]53H-1-101, does not warrant an order to leave under Subsection (2)(a) if the individual carrying or possessing the firearm is otherwise complying with all state laws regulating the possession and use of a firearm.

(5) If an employee or student of an institution of higher education is ordered to leave under Subsection (2)(a) or receives a notice against entry or remaining under Subsection (2)(b), the institution of higher education shall afford the employee or student the process required by the institution of higher education's rules and regulations.

Section 195. Section 76-8-705 is amended to read:

76-8-705 (Effective upon governor's approval). Willful interference with lawful activities of students or faculty.

(1) (a) As used in this section, "institution" means the same as that term is defined in Section [~~53B-20-107~~]53H-1-101.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits willful interference with lawful activities of students or faculty if the actor, while on property that is owned, operated, or controlled by an institution, willfully:

(a) denies to a student, school official, employee, or invitee lawful:

(i) freedom of movement;

(ii) use of the property or facilities; or

(iii) ingress or egress to the institution's physical facilities;

(b) impedes a faculty or staff member of the institution in the lawful performance of the member's duties; or

(c) impedes a student of the institution in the lawful pursuit of the student's educational activities.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 196. Section 77-23e-102 is amended to read:

77-23e-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Department" means the Department of Public Safety, created in Section 53-1-103.

(2) "Facial biometric data" means data derived from a measurement, pattern, contour, or other characteristic of an individual's face, either directly or from an image.

(3) (a) "Facial recognition comparison" means the process of comparing an image or facial biometric data to an image database.

(b) "Facial recognition comparison" does not include biometric surveillance information as that term is defined in Section 77-23d-102.

(4) (a) "Facial recognition system" means a computer system that, for the purpose of attempting to determine the identity of an unknown individual, uses an algorithm to compare biometric data of the face of the unknown individual to facial biometric data of known

individuals.

(b) "Facial recognition system" does not include:

(i) a system described in Subsection (4)(a) that is available for use, free of charge, by the general public; or

(ii) a system a consumer uses for the consumer's private purposes.

(5) (a) "Government entity" means:

(i) an executive department agency of the state;

(ii) the office of:

(A) the governor;

(B) the lieutenant governor;

(C) the state auditor;

(D) the attorney general; or

(E) the state treasurer;

(iii) the Board of Pardons and Parole;

(iv) the Board of Examiners;

(v) the National Guard;

(vi) the Career Service Review Office;

(vii) the State Board of Education;

(viii) the Utah Board of Higher Education;

(ix) the State Archives;

(x) the Office of the Legislative Auditor General;

(xi) the Office of Legislative Fiscal Analyst;

(xii) the Office of Legislative Research and General Counsel;

(xiii) the Legislature;

(xiv) a legislative committee of the Legislature;

(xv) a court, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(xvi) [~~a state~~]an institution of higher education as that term is defined in Section [~~53B-3-102~~]53H-1-101;

(xvii) an entity within the system of public education that receives funding from the state; or

(xviii) a political subdivision of the state as that term is defined in Section 63G-7-102.

(b) "Government entity" includes:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity described in Subsection (5)(a) that is funded or established by the government to carry out the public's business; or

(ii) an individual acting as an agent of a government entity or acting on behalf of an entity described in this Subsection (5).

(6) (a) "Image database" means a database maintained by a government entity that contains images the government entity captures of an individual while the individual interacts with the government entity.

(b) "Image database" does not include publicly available information.

(7) "Law enforcement agency" means a public entity that exists primarily to prevent, detect, or prosecute crime or enforce criminal statutes or ordinances.

(8) "Trained employee" means an individual who is trained to make a facial recognition comparison and identification and who has completed implicit bias training.

Section 197. Section 77-38-203 is amended to read:

77-38-203 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Confidential communication" means information given to a sexual assault counselor by a victim and includes reports or working papers made in the course of the counseling relationship.

(2) (a) "Rape crisis and services center" means a nonprofit entity that assists victims of sexual assault and victims' families by offering sexual assault crisis intervention and counseling through a sexual assault counselor.

(b) "Rape crisis and services center" does not include a qualified institutional victim services provider as defined in Section [~~53B-28-201~~]53H-14-401.

(3) "Sexual assault counselor" means an individual who:

(a) is employed by or volunteers at a rape crisis and services center;

(b) has a minimum of 40 hours of training in counseling and assisting victims of sexual assault; and

(c) is under the supervision of the director or designee of a rape crisis and services center.

(4) "Victim" means an individual who has experienced a sexual assault of whatever nature including incest and rape and requests counseling or assistance regarding the mental, physical, and emotional consequences of the sexual assault.

Section 198. Section 77-38-404 is amended to read:

77-38-404 (Effective upon governor's approval). Scope of part.

This part governs the disclosure of a confidential communication to a victim advocate, except that:

(1) if [~~Title 53B, Chapter 28, Part 2, Confidential Communications for Institutional Advocacy Services Act~~]Title 53H, Chapter 14, Part 4, Confidential Communications for Institutional Advocacy Services, applies, that part governs; and

(2) if Part 2, Confidential Communications for Sexual Assault Act, applies, that part governs.

Section 199. Section 79-3-102 is amended to read:

79-3-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Agency" means a department, division, office, bureau, board, commission, or other administrative unit of the state.

(2) "Board" means the Board of the Utah Geological Survey.

(3) "Collection" means a specimen and the associated records documenting the specimen and its recovery.

(4) "Critical paleontological resources" means vertebrate fossils and other exceptional fossils that are designated state paleontological landmarks as provided for in Section 79-3-505.

(5) "Curation" means:

(a) management and care of collections according to standard professional museum practice, which may include inventorying, accessioning, labeling, cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting, cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of original collections or reproductions; and

(b) providing access to and facilities for studying collections.

(6) "Curation facility" is as defined in Section [~~53B-17-603~~]53H-4-211.

(7) "Director" means the director of the survey.

(8) "Excavate" means the recovery of critical paleontological resources.

(9) "Museum" means the Utah Museum of Natural History.

(10) "Paleontological resources" means remains of prehistoric life pertaining to the natural history of the state.

(11) "Repository" is defined as provided in Section [~~53B-17-603~~]53H-4-211.

(12) "School and institutional land grants" means the transfer of properties pursuant to Sections 6 and 8 of the Utah Enabling Act and Utah Constitution, Article XX.

(13) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

(14) "Site" means any paleontological deposit or other location that is the source of a specimen.

(15) "Specimen" means remains of a critical paleontological nature found on or below the surface of the earth.

(16) "State Paleontological Register" means a register of paleontological sites and localities.

(17) "Survey" means the Utah Geological Survey.

Section 200. Section 79-3-503 is amended to read:

79-3-503 (Effective upon governor's approval). Ownership of collections and resources.

(1) Collections recovered from lands owned or controlled by the state or its subdivisions, except as provided in Subsection (2), shall be owned by the state.

(2) Collections recovered from school and institutional trust lands shall be owned by the respective trust.

(3) Paleontological resources, other than critical paleontological resources, recovered from school and institutional trust lands, shall be owned by the respective trust and shall be managed pursuant to statutory authority of the School and Institutional Trust Lands Administration.

(4) The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions shall be designated pursuant to Section [~~53B-17-603~~]53H-4-211.

(5) Specimens found on lands owned or controlled by the state or its subdivisions may not be sold.

Section 201. Section 79-6-106 is amended to read:

79-6-106 (Effective upon governor's approval). Hydrogen advisory council.

(1) The department shall create a hydrogen advisory council within the office that consists of seven to nine members appointed by the executive director, in consultation with the director. The executive director shall appoint members with expertise in:

(a) hydrogen energy in general;

(b) hydrogen project facilities;

(c) technology suppliers;

(d) hydrogen producers or processors;

(e) renewable and fossil based power generation industries; and

(f) fossil fuel based hydrogen feedstock providers.

(2) (a) Except as required by Subsection (2)(b), a member shall serve a four-year term.

(b) The executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the hydrogen advisory council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) (a) A majority of the members appointed under this section constitutes a quorum of the hydrogen advisory council.

(b) The hydrogen advisory council shall determine:

(i) the time and place of meetings; and

(ii) any other procedural matter not specified in this section.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The office shall staff the hydrogen advisory council.

(6) The hydrogen advisory council may:

(a) develop hydrogen facts and figures that facilitate use of hydrogen fuel within the state;

(b) encourage cross-state cooperation with states that have hydrogen programs;

(c) work with state agencies, the private sector, and other stakeholders, such as environmental groups, to:

(i) recommend realistic goals for hydrogen development that can be executed within realistic time frames; and

(ii) educate, discuss, consult, and make recommendations in hydrogen related matters that benefit the state;

(d) promote hydrogen research at [~~state institutions~~]an institution of higher education, as defined in Section [~~53B-3-102~~]53H-1-101;

(e) make recommendations regarding how to qualify for federal funding of hydrogen projects, including hydrogen related projects for:

(i) the state;

(ii) a local government;

(iii) a privately commissioned project;

(iv) an educational project;

(v) scientific development; and

(vi) engineering and novel technologies;

(f) make recommendations related to the development of multiple feedstock or energy resources in the state such as wind, solar, hydroelectric, geothermal, coal, natural gas, oil, water, electrolysis, coal gasification, liquefaction, hydrogen storage, safety handling, compression, and transportation;

(g) make recommendations to establish statewide safety protocols for production, transportation, and handling of hydrogen for both residential and commercial applications;

(h) facilitate public events to raise the awareness of hydrogen and hydrogen related fuels within the state and how hydrogen can be advantageous to all forms of transportation, heat, and power generation;

(i) review and make recommendations regarding legislation; and

(j) make other recommendations to the director related to hydrogen development in the state.

Section 202. Section 79-6-409 is amended to read:

79-6-409 (Effective upon governor's approval). Energy Education and Workforce Development Advisory Group established -- Energy education and workforce development programs.

(1) As used in this section:

(a) "Advisory group" means the Energy Education and Workforce Development Advisory Group created in this section.

(b) "Core standards" means the science standards established by the state board as described in Section 53E-4-202.

(c) "Institution of higher education" means the same as that term is defined in Section [~~53B-1-102~~]53H-1-101.

(2) Pursuant to Subsection 79-6-301(1)(h) and subject to legislative appropriations and other funding sources, the office shall establish the Energy Education and Workforce Development Advisory Group consisting of the following:

(a) the director of the office, or the director's designee;

(b) the director of the Division of Oil, Gas, and Mining, or the director's designee;

(c) the state superintendent of public instruction, or the superintendent's designee from the State Board of Education elementary science team;

(d) the state superintendent of public instruction, or the superintendent's designee from the State Board of Education secondary science team;

(e) the commissioner of higher education, or the commissioner's designee from Talent Ready Utah;

(f) the president of the Utah Rural Schools Association, or the president's designee;

(g) the president of the Utah Science Teaching Association, or the president's designee;

(h) the chief executive officer of the Utah Municipal Power Agency or the Utah Associated Municipal Power Systems, or the chief executive officer's designee;

(i) the executive director of the Utah Rural Electric Cooperative Association, or the executive director's designee;

(j) the president of the Utah Petroleum Association, or the president's designee; and

(k) the president of the Utah Mining Association, or the president's designee.

(3) In consultation with the advisory group, the office shall:

(a) develop and maintain energy education programs and curricula for kindergarten through grade 12 that:

(i) meet core standards;

(ii) align with the state energy policy described in Section 79-6-301;

(iii) are appropriate for each grade level; and

(iv) are available to school districts, charter schools, and the public for voluntary use;

(b) develop and provide professional development training for educators that:

(i) promotes the use and appropriate deployment and teaching of the energy education programs and curricula developed under Subsection (3)(a);

(ii) builds fluency for educators with the energy education programs and curricula;

(iii) provides educators with opportunities and activities to receive renewal hours for professional licensure; and

(iv) complies with state educator licensure requirements; and

(c) develop energy-related workforce development programs and facilitate collaboration among institutions of higher education, elementary and secondary schools, and industry.

(4) The office may:

(a) include in the curricula other elements of the state energy policy to advance a comprehensive understanding of energy policy;

(b) contract with third-party curriculum development organizations to create the curricula based on guidance from the office and the advisory committee; and

(c) provide comment on the development of Utah science core standards.

(5) The professional development training provided to educators by the office may include:

(a) virtual or in-person classroom instruction;

(b) conferences;

(c) seminars; and

(d) site visits.

(6) An energy-related workforce development program described in Subsection (3)(c) shall:

(a) create expanded, multidisciplinary programs or stackable credential programs;

(b) prepare students for energy industry jobs; and

(c) promote policies consistent with the state energy policy described in Section 79-6-301.

(7) The advisory group's duties may include providing recommendations to the office regarding the development and implementation of:

(a) energy education programs and curricula in grades kindergarten through grade 12;

(b) professional development trainings for educators;

(c) energy related workforce development programs; and

(d) any potential comments to be submitted on the development of science core standards for Utah public schools for the state.

(8) On or before October 1 of each year, the office shall submit a written report to the Public Utilities, Energy, and Technology Interim Committee describing activities, successes, challenges, and funding needs related to the programs and training established in this section.

Section 203. Section 79-6-1003 is amended to read:

79-6-1003 (Effective upon governor's approval). Utah Energy Research Board -- Duties -- Expenses.

(1) There is established in the office the Utah Energy Research Board that is composed of the following voting board members:

(a) the director, or the director's designee, who shall serve as the chair of the board;

(b) the president, or the president's designee, of each public and private university in the state that is classified as a Research 1 institution by the Carnegie Classification of Institutions of Higher Education;

(c) the commissioner of higher education, as described in Section [~~53B-1-408~~]53H-1-302, or the commissioner's designee;

(d) one member, who is not a legislator, with experience in the non-regulated energy industry appointed by the speaker of the House of Representatives;

(e) one member, who is not a legislator, with experience in energy commercialization appointed by the president of the Senate;

(f) one member appointed by the governor who resides in a county of the third, fourth, fifth, or sixth class as described in Section 17-50-501;

(g) one member appointed by the director representing the Idaho National Laboratory; and

(h) two members appointed by the director with relevant expertise in energy research and development.

(2) (a) The term of an appointed board member is four years.

(b) Notwithstanding Subsection (2)(a), the person making an appointment shall, at the time of appointment or reappointment, adjust the length of board member terms to ensure the terms of board members are staggered so that approximately half of the board is constituted of new members every two years.

(c) The person who appoints a member under Subsection (1) may remove an appointee who was appointed by the person for cause.

(d) The person who appoints a member under Subsection (1) shall fill a vacancy on the board in the same manner as provided in Subsection (1).

(e) An individual appointed to fill a vacancy shall serve the remaining unexpired term.

(f) Unless removed for cause under Subsection (2)(c) a board member shall serve until a successor is appointed.

(3) (a) A majority of the board constitutes a quorum.

(b) A majority vote of the quorum is required for an action to be taken by the board.

(4) The board shall:

(a) oversee and supervise the management of:

(i) the lab; and

(ii) the institute;

(b) appoint directors for the lab and institute, who shall serve at the pleasure of the board;

(c) establish reasonable compensation for:

(i) the lab director; and

(ii) the institute director;

(d) develop and implement:

(i) bylaws to govern the lab; and

(ii) bylaws to govern the institute;

(e) establish policies for:

(i) joint appointments between the Idaho National Laboratory and public and private institutions of higher education;

(ii) research partnerships between institutions;

(iii) technology commercialization; and

(iv) workforce development initiatives;

(f) foster innovation and support technological development in the energy sector by collaborating with industry leaders, researchers, entrepreneurs, investors, and other stakeholders;

(g) identify areas of economic growth and workforce development opportunities related to emerging energy technologies and solutions;

(h) seek potential investors and partners from the technology, finance, and business sectors to support innovative research and early-stage ventures focused on developing commercially viable energy technologies in the state;

(i) develop evaluation criteria for approving project proposals, with input from the lab director, including:

(i) alignment with state energy policy priorities;

(ii) commercialization potential;

(iii) economic impact; and

(iv) other relevant factors as determined by the board;

(j) approve providing matching grants to applicants under the Utah Energy Research Grant Program created in Section 79-6-403; and

(k) make recommendations to the council regarding funding allocations for:

(i) research projects;

(ii) facility operations;

(iii) workforce development programs; and

(iv) technology commercialization initiatives;

(l) administer the funds allocated by the council to the board;

(m) coordinate energy research activities between:

(i) the lab;

(ii) the institute;

(iii) public and private institutions of higher education;

(iv) the Idaho National Laboratory; and

(v) industry partners;

(n) review and approve annual reports from the lab and institute directors;

(o) report annually to:

(i) the governor;

(ii) the Public Utilities, Energy, and Technology Interim Committee; and

(iii) the Education Interim Committee;

(p) engage with industry partners to:

(i) identify research needs;

(ii) develop workforce programs;

(iii) commercialize technologies; and

(iv) secure additional funding sources;

(q) coordinate with federal agencies on:

(i) research initiatives;

(ii) grant opportunities; and

(iii) regulatory compliance;

(r) provide quarterly reports to the Utah Energy Council regarding:

(i) ongoing research projects and the research projects' alignment with state energy goals;

(ii) potential commercialization opportunities;

(iii) emerging technologies and the potential impact on the state's energy landscape; and

(iv) recommendations for policy changes or initiatives to support energy innovation; and

(s) coordinate with the council on:

(i) strategic planning for statewide energy research initiatives;

(ii) identifying priority research areas that align with state energy policy;

(iii) developing frameworks for public-private partnerships in energy research; and

(iv) establishing metrics for measuring research outcomes and impact.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The board shall meet at least quarterly and may hold additional meetings as necessary to review project proposals.

Section 204. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect:

(a) except as provided in Subsection (1)(b), December 6, 2025; or

(b) if approved by two-thirds of all members elected to each house:

(i) upon approval by the governor;

(ii) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(iii) in the case of a veto, the date of veto override.

(2) The actions affecting Section 59-12-102 (Effective 07/01/26) take effect on July 1, 2026.

Section 205. Coordinating with S.B. 1001

If S.B. 1002, Higher Education Recodification External References, passes, and S.B., 1001, Higher Education Recodification, does not pass and become law, the Legislature intends that S.B. 1002, Higher Education Recodification External References, not be enrolled.

CHAPTER 10
S. B. 1003
Passed October 6, 2025
Approved October 14, 2025
Effective October 14, 2025

JUDICIARY AMENDMENTS

Chief Sponsor: Brady Brammer
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill modifies provisions relating to the Utah Supreme Court.

Highlighted Provisions:

This bill:

- ► modifies provisions governing the membership and internal management of the Utah Supreme Court;
- ► provides that the governor shall appoint a chief justice of the Utah Supreme Court (chief justice) when a vacancy in the office occurs;
- ► requires that a governor's selection for chief justice is subject to the advice and consent of the Senate;
- ► modifies the term of office for chief justice;
- ► modifies provisions related to an interim chief justice and appointment procedures; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

78A-3-101, as last amended by Laws of Utah 2022, Chapter 276

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-3-101 is amended to read:

78A-3-101. Number of justices -- Terms -- Chief justice and associate chief justice -- Selection and functions.

(1) The Supreme Court consists of five justices.

(2) (a) A justice of the Supreme Court [~~shall be~~]is appointed initially to serve until the first general election held more than three years after the effective date of the appointment.

(b) After the first term of appointment under Subsection (2)(a), the term of office of a justice of the Supreme Court is 10 years and commences on the first Monday in January following the date of election.

[~~(c) A justice whose term expires may serve upon request of the Judicial Council until a successor is appointed and qualified.~~]

(3) [~~(a) The justices of the Supreme Court shall elect a chief justice from among the members of the court by a majority vote of all justices.~~]

[~~(b) The term of the office of chief justice is four years.~~]

[~~(c) The chief justice may serve successive terms.~~]

[~~(d)~~](a) Upon any vacancy in the office of chief justice, including expiration of a term of the office of chief justice, or upon a chief justice's death, removal, or resignation, the governor shall appoint a chief justice from among the members of the Supreme Court, with the advice and consent of the Senate.

(b) Except as provided in Subsection (3)(c), the term of the office of chief justice is eight years.

(c) (i) For a chief justice whose term of office began on April 1, 2024, the term of the office of the chief justice is four years.

(ii) The term of the office of chief justice expires on April 1, 2028, for any chief justice who is elected to serve by the justices of the Supreme Court before the effective date of this bill.

(d) On and after the effective date of this bill, a member of the Supreme Court may not serve as chief justice for more than one term.

(e) The chief justice may resign from the office of chief justice without resigning from the Supreme Court.

[~~(e)~~](f) The chief justice may be removed from the office of chief justice by a majority vote of all justices of the Supreme Court.

[~~(f)~~](g) The chief justice shall receive the sum of $2,000 per annum as additional compensation for the period served as chief justice.

(4) (a) [~~If the justices are unable to elect a chief justice~~]If a chief justice has not been appointed by the governor and confirmed by the Senate within 30 days of a vacancy in that office, the associate chief justice shall act as interim chief justice until a chief justice is [~~elected~~]appointed and confirmed under this section.

(b) If the associate chief justice is unable or unwilling to act as interim chief justice as described in Subsection (4)(a), the most senior justice shall act as interim chief justice until a chief justice is [~~elected~~]appointed and confirmed under this section.

(5) In addition to the chief justice's duties as a member of the Supreme Court, the chief justice has duties as provided by law.

(6) (a) There is created the office of associate chief justice.

(b) The associate chief justice is elected by a majority vote of the members of the Supreme Court.

[~~(b)~~](c) The term of office of the associate chief justice is two years.

[~~(c) The associate chief justice shall be:~~]

[~~(i) elected by a majority vote of the members of the Supreme Court; and~~]

[~~(ii) allocated duties as the chief justice determines.~~]

[~~(d) If the chief justice is absent or otherwise unable to serve, the associate chief justice shall serve as chief justice.~~]

[~~(c)~~](d) The chief justice may:

(i) determine the allocated duties of the associate chief justice; and

(ii) delegate responsibilities to the associate chief justice as consistent with law.

(e) If the chief justice is absent or otherwise unable to serve, the associate chief justice shall perform the duties of the office of the chief justice until the chief justice is no longer absent or unable to serve.

(f) The associate chief justice shall receive the sum of $1,000 per annum for the period served as associate chief justice.

Section 2. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), December 6, 2025; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

Section 3. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the phrase "the effective date of this bill" with the actual effective date of the bill.

CHAPTER 11
S. B. 1004
Passed October 6, 2025
Approved October 14, 2025
Effective October 14, 2025

REVISOR'S TECHNICAL CORRECTIONS TO UTAH CODE

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill makes technical corrections to the Utah Code.

Highlighted Provisions:

This bill:

► modifies parts of the Utah Code to make technical corrections, including:
- eliminating or correcting references involving repealed provisions;
- eliminating redundant or obsolete language;
- making minor word changes;
- updating cross-references;
- repealing codified titles; and
- correcting numbering and other errors.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-2-905, as enacted by Laws of Utah 2025, Chapter 399
17-31-2, as last amended by Laws of Utah 2025, Chapter 270
17B-1-414, as last amended by Laws of Utah 2024, Chapters 342, 388
17B-1-416, as last amended by Laws of Utah 2025, Chapter 161
17B-1-502, as last amended by Laws of Utah 2024, Chapter 438
26A-1-114, as last amended by Laws of Utah 2025, Chapters 109, 156
26B-2-801, as renumbered and amended by Laws of Utah 2025, Chapter 439
53G-8-701.8, as last amended by Laws of Utah 2025, Chapters 173, 208, 348, and 388
59-12-104.11, as enacted by Laws of Utah 2025, Chapter 194
63G-2-305, as last amended by Laws of Utah 2025, Chapter 360
63H-9-101, as last amended by Laws of Utah 2025, Chapter 93
63M-7-506, as last amended by Laws of Utah 2024, Chapter 506
63M-7-509, as last amended by Laws of Utah 2022, Chapter 148
63M-7-517, as last amended by Laws of Utah 2024, Chapter 506
63M-7-529, as enacted by Laws of Utah 2024, Chapter 156
76-6-202, as last amended by Laws of Utah 2023, Chapter 111
77-37-3, as last amended by Laws of Utah 2024, Chapters 96, 164
78B-3-407.5, as enacted by Laws of Utah 2025, Chapter 43
78B-5-505, as last amended by Laws of Utah 2025, Chapters 173, 208 and 310
81-6-101, as last amended by Laws of Utah 2025, Chapters 86, 479

REPEALS:

59-1-1301, as enacted by Laws of Utah 2006, Chapter 237
59-1-1401, as enacted by Laws of Utah 2009, Chapter 212
59-1-1501, as last amended by Laws of Utah 2012, Chapter 399
59-1-1601, as enacted by Laws of Utah 2014, Chapter 356
59-1-1701, as enacted by Laws of Utah 2016, Chapter 326
59-2-101, as enacted by Laws of Utah 1987, Chapter 4
59-2-501, as renumbered and amended by Laws of Utah 1987, Chapter 4
59-2-1501, as enacted by Laws of Utah 2004, Chapter 243
59-2-1701, as enacted by Laws of Utah 2012, Chapter 197
59-3-101, as renumbered and amended by Laws of Utah 1987, Chapter 2
59-7-901, as enacted by Laws of Utah 2014, Chapter 315

59-10-101, as renumbered and amended by Laws of Utah 1987, Chapter 2
59-10-1001, as enacted by Laws of Utah 2006, Chapter 223
59-10-1101, as enacted by Laws of Utah 2006, Chapter 223
59-10-1301, as enacted by Laws of Utah 2008, Chapter 389
59-10-1401, as last amended by Laws of Utah 2009, Chapter 312
59-11-101, as renumbered and amended by Laws of Utah 1987, Chapter 2
59-12-101, as renumbered and amended by Laws of Utah 1987, Chapter 5
59-12-201, as last amended by Laws of Utah 1999, Chapter 21
59-12-400, as enacted by Laws of Utah 2015, Chapter 182
59-12-601.1, as enacted by Laws of Utah 2008, Chapter 286
59-12-1301, as enacted by Laws of Utah 1998, Chapter 243
59-12-1801, as enacted by Laws of Utah 2007, Chapter 288
59-12-2001, as enacted by Laws of Utah 2008, Chapter 286
59-12-2101, as enacted by Laws of Utah 2008, Chapter 323
59-12-2201, as enacted by Laws of Utah 2010, Chapter 263
59-13-101, as enacted by Laws of Utah 1987, Chapter 6
59-14-101, as renumbered and amended by Laws of Utah 1987, Chapter 2
59-14-701, as enacted by Laws of Utah 2013, Chapter 148
59-14-801, as last amended by Laws of Utah 2020, Chapter 347
59-18-101, as renumbered and amended by Laws of Utah 1987, Chapter 2
59-23-1, as enacted by Laws of Utah 1997, Chapter 179
59-24-101, as last amended by Laws of Utah 2003, Chapter 295
59-26-101, as enacted by Laws of Utah 2004, Chapter 300
59-27-101, as enacted by Laws of Utah 2004, Chapter 214
59-28-101, as enacted by Laws of Utah 2017, Chapter 166

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-905 is amended to read:

10-2-905. Municipal boundary adjustment effect on local districts and special service districts.

[~~(1)~~] Except as provided in Section 17B-1-416 and Subsection 17B-1-502(2), the adjustment of a boundary shared by municipalities does not affect the boundaries of:

(1) a local district under Title 17B, Limited Purpose Local Government Entities -- Special Districts; or

(2) a special service district under Title 17D, Chapter 1, Special Service District Act.

Section 2. Section 17-31-2 is amended to read:

17-31-2. Purposes of transient room tax and expenditure of revenue -- Purchase or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions -- Issuance of bonds.

(1) As used in this section:

(a) "Airport" means the same as that term is defined in Section 72-10-102.

(b) "Airport operator" means the same as that term is defined in Section 72-10-102.

(c) "Establishing and promoting" means an activity or related expense to encourage, solicit, advertise, or market in order to attract or enhance transient guest spending in a county for a purpose described in Subsection (3)(a).

(d) "Mitigation" means activity to address the direct impacts of tourism, recreation related to tourism, or conventions in a county, specifically sanitation and solid waste disposal, emergency medical services, search and rescue services, law enforcement, road repair, and road upgrades.

(e) "Transient room tax" means a tax at a rate not to exceed the relevant rate authorized by Section 59-12-301.

(2) Subject to the requirements of this section, a county legislative body may impose the transient room tax for a purpose described in Subsection (3).

(3) A county legislative body may expend revenue generated by the transient room tax imposed under this section [~~and any revenue the county receives from the State Tax Commission under Section 59-28-103~~]only:

(a) for the purpose of establishing and promoting:

(i) tourism;

(ii) recreation;

(iii) film production; or

(iv) conventions;

(b) to pay for tourism- or recreation-related facilities in the county, including acquiring, leasing, constructing, furnishing, maintaining, or operating:

(i) convention meeting rooms;

(ii) exhibit halls;

(iii) visitor information centers;

(iv) museums;

(v) sports and recreation facilities including practice fields, stadiums, arenas, and trails;

(vi) the following on any route to a recreation destination within the county, as designated by the county legislative body:

(A) transit service, including shuttle service; and

(B) parking infrastructure; and

(vii) an airport, if the county is the airport operator of the airport;

(c) for the purpose of acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the facilities listed in Subsection (3)(b);

(d) to pay mitigation costs, specifically:

(i) solid waste disposal operations;

(ii) emergency medical services;

(iii) search and rescue activities;

(iv) law enforcement activities; and

(v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104; or

(C) class D roads, as defined in Section 72-3-105; and

(e) to make the annual payment of principal, interest, premiums, and necessary reserves for any of the aggregate of bonds authorized under Subsection (4).

(4) The county legislative body may issue bonds or cause bonds to be issued, as permitted by law, to pay all or part of any costs incurred for the purposes set forth in Subsections (3)(b) through (3)(d) that are permitted to be paid from bond proceeds.

(5) (a) Activity described in Subsection (3)(a) is exclusive of activity described in Subsection (3)(b) or (c).

(b) A county may not distribute revenue generated by the transient room tax imposed under this section to a large public transit district, as that term is defined in Section 17B-2a-802.

(6) A county that generates $1 million or more in revenue from a transient room tax imposed under this section in the preceding calendar year:

(a) shall expend, at a minimum, the revenue the county generates from the first 2% of the tax rate of a transient room tax on a purpose described in Subsection (3)(a); and

(b) may expend the remainder of the revenue the county generates from a transient room tax on any purpose described in Subsection (3).

(7) A county that generates $500,000 or more but less than $1 million in revenue from a transient room tax imposed under this section in the preceding calendar year:

(a) shall expend, at a minimum, the revenue the county generates from the first 1% of the tax rate of a transient room tax on a purpose described in Subsection (3)(a); and

(b) may expend the remainder of the revenue the county generates from a transient room tax on any purpose described in Subsection (3).

(8) A county that is not described in Subsection (6) or (7) may expend the revenue the county generates from a transient room tax on any purpose described in Subsection (3).

(9) The legislative body of a county may cause revenue generated by a transient room tax to be expended by a municipality within the county if:

(a) the revenue the county shares with the municipality is not required to be spent by the county for a purpose described in Subsection (3)(a);

(b) the county and municipality enter into an interlocal agreement:

(i) governing the use of the revenue; and

(ii) requiring the municipality to report the municipality's expenditures of the revenue to the county; and

(c) the municipality receiving revenue generated by the county's transient room tax agrees to and expends the revenue for a purpose described in Subsection (3).

Section 3. Section 17B-1-414 is amended to read:

17B-1-414. Resolution approving an annexation -- Filing of notice and plat with lieutenant governor -- Recording requirements -- Effective date.

(1) (a) Subject to Subsection (1)(b), the special district board shall adopt a resolution approving the annexation of the area proposed to be annexed or rejecting the proposed annexation within 90 days after:

(i) expiration of the protest period under Subsection 17B-1-412(2), if sufficient protests to require an election are not filed;

(ii) for a petition that meets the requirements of Subsection 17B-1-413(1):

(A) a public hearing under Section 17B-1-409 is held, if the board chooses or is required to hold a public hearing under Subsection 17B-1-413(2)(a)(ii); or

(B) expiration of the time for submitting a request for public hearing under Subsection 17B-1-413(2)(a)(ii)(B), if no request is submitted and the board chooses not to hold a public hearing; or

(iii) for a proposed annexation to an infrastructure financing district, the board's certification of the annexation petition under Section 17B-1-405.

(b) If the special district has entered into an agreement with the United States that requires the consent of the United States for an annexation of territory to the district, a resolution approving annexation under this part may not be adopted until the written consent of the United States is obtained and filed with the board of trustees.

(2) (a) (i) Within the time specified under Subsection (2)(a)(ii), the board shall file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3) and, if applicable, Subsection (2)(b); and

(B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(ii) The board shall file the documents listed in Subsection (2)(a)(i) with the lieutenant governor:

(A) within 30 days after adoption of a resolution under Subsection (1), Subsection 17B-1-412(3)(c)(i), or Section 17B-1-415; and

(B) as soon as practicable after receiving the notice under Subsection 10-2-425(3) of a municipal annexation that causes an automatic annexation to a special district under Section 17B-1-416.

(b) For an automatic annexation to a special district under Section 17B-1-416, the notice of an impending boundary action required under Subsection (2)(a) shall state that an area outside the boundaries of the special district is being automatically annexed to the special district under Section 17B-1-416 because of a municipal annexation under [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 8, Annexation, or a boundary adjustment under Title 10, Chapter 2, Part 9, Municipal Boundary Adjustments.

(c) Upon the lieutenant governor's issuance of a certificate of annexation under Section 67-1a-6.5, the board shall:

(i) if the annexed area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of annexation; and

(III) approved final local entity plat; and

(B) a certified copy of the annexation resolution; or

(ii) if the annexed area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (2)(c)(i)(A)(I), (II), and (III); and

(II) a certified copy of the annexation resolution; and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsection (2)(c)(i)(A)(I), (II), and (III); and

(II) a certified copy of the annexation resolution.

(3) (a) As used in this Subsection (3), "fire district annexation" means an annexation under this part of an area located in a county of the first class to a special district:

(i) created to provide fire protection, paramedic, and emergency services; and

(ii) in the creation of which an election was not required because of Subsection 17B-1-214(3)(d).

(b) An annexation under this part is complete and becomes effective:

(i) (A) on July 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from January 1 through June 30; or

(B) on January 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from July 1 through December 31; or

(ii) upon the lieutenant governor's issuance of the certificate of annexation under Section 67-1a-6.5, for any other annexation.

(c) (i) The effective date of a special district annexation for purposes of assessing property within the annexed area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2)(c) are recorded in the office of the recorder of each county in which the property is located, a special district may not:

(A) levy or collect a property tax on property within the annexed area;

(B) levy or collect an assessment on property within the annexed area; or

(C) charge or collect a fee for service provided to property within the annexed area.

(iii) Subsection (3)(c)(ii)(C):

(A) may not be construed to limit a special district's ability before annexation to charge and collect a fee for service provided to property that is outside the special district's boundary; and

(B) does not apply until 60 days after the effective date, under Subsection (3)(b), of the special district's annexation, with respect to a fee that the special district was charging for service provided to property within the annexed area immediately before the area was annexed to the special district.

Section 4. Section 17B-1-416 is amended to read:

17B-1-416. Automatic annexation to a district providing fire protection, paramedic, and emergency services or law enforcement service.

(1) An area outside the boundaries of a special district that is annexed to a municipality under Title 10, Chapter 2, Part 8, Annexation, or added to a municipality by a boundary adjustment under [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 9, Municipal Boundary Adjustments, is automatically annexed to the special district if:

(a) the special district provides:

(i) fire protection, paramedic, and emergency services; or

(ii) law enforcement service;

(b) the special district is located in a county of the first class, but not otherwise, an election for the creation of the special district was not required because of Subsection 17B-1-214(3)(d); and

(c) before the municipal annexation or boundary adjustment, the entire municipality that is annexing the area or adding the area by boundary adjustment was included within the special district.

(2) The effective date of an annexation under this section is governed by Subsection 17B-1-414(3)(b).

Section 5. Section 17B-1-502 is amended to read:

17B-1-502. Withdrawal of area from special district -- Automatic withdrawal in certain circumstances.

(1) (a) An area within the boundaries of a special district may be withdrawn from the special district only as provided in this part or, if applicable, as provided in Chapter 2a, Part 11, Municipal Services District Act.

(b) Except as provided in Subsections (2) and (3), the inclusion of an area of a special district within a municipality because of a municipal incorporation under Title 10, Chapter 2a, Municipal Incorporation, [~~or~~]a municipal annexation under Title 10, Chapter 2, Part 8, Annexation, or a boundary adjustment under [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 9, Municipal Boundary

Adjustments, does not affect the requirements under this part for the process of withdrawing that area from the special district.

(2) (a) An area within the boundaries of a special district is automatically withdrawn from the special district by the annexation of the area to a municipality under Title 10, Chapter 2, Part 8, Annexation, or the adding of the area to a municipality by boundary adjustment under [~~Title 10, Chapter 2, Part 4, Annexation~~]Title 10, Chapter 2, Part 9, Municipal Boundary Adjustments, if:

(i) the special district provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) an election for the creation of the special district was not required because of Subsection 17B-1-214(3)(d) or (g); and

(iii) before annexation or boundary adjustment, the boundaries of the special district do not include any of the annexing municipality.

(b) The effective date of a withdrawal under this Subsection (2) is governed by Subsection 17B-1-512(2)(b).

(3) (a) Except as provided in Subsection (3)(c) or (d), an area within the boundaries of a special district located in a county of the first class is automatically withdrawn from the special district by the incorporation of a municipality whose boundaries include the area if:

(i) the special district provides municipal services, as defined in Section 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services;

(ii) an election for the creation of the special district was not required because of Subsection [~~17B-1-214(3) (g)~~]17B-1-214(3)(g); and

(iii) the legislative body of the newly incorporated municipality:

(A) adopts a resolution no later than 180 days after the effective date of incorporation approving the withdrawal that includes the legal description of the area to be withdrawn; and

(B) delivers a copy of the resolution to the board of trustees of the special district.

(b) The effective date of a withdrawal under this Subsection (3) is governed by Subsection 17B-1-512(2)(a).

(c) Section 17B-1-505 governs the withdrawal of an incorporated area within a county of the first class if:

(i) the special district from which the area is withdrawn provides:

(A) fire protection, paramedic, and emergency services;

(B) law enforcement service; or

(C) municipal services, as defined in Section 17B-2a-1102;

(ii) an election for the creation of the special district was not required under Subsection 17B-1-214(3)(d) or (g); and

(iii) for a special district that provides municipal services, as defined in Section 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services, the 180-day period described in Subsection (3)(a)(iii)(A) is expired.

(d) An area may not be withdrawn from a special district that provides municipal services, as defined in Section 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services, if the area is within a converted municipality, as defined in Section 10-1-201.5.

Section 6. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and (10), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food Safety, in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, over an individual in accordance with an order of restriction issued under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) exercise physical control of property to abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or the Department of Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the [~~Crime Victim Reparations Board~~]Utah Office for Victims of Crime to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321;

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities; and

(q) when conducting routine inspections of businesses regulated by the local health department, notify the Department of Agriculture and Food of a potential violation of Title 4, Chapter 41, Hemp and Cannabinoid Act.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws;

(d) enter into a cooperative agreement with the Department of Environmental Quality as described in Subsection 19-1-201(1)(c); and

(e) investigate a report made in accordance with Section 59-14-811 to determine whether a product is sold in violation of law.

(3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c) (i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) This part does not authorize a local health department to:

(a) require the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling; or

(b) control the production, processing, distribution, or sale price of local food in response to a public health emergency.

(7) (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before declaring a public health emergency.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency.

(d) (i) The relevant county governing body may at any time terminate a public health emergency issued by the local health department by majority vote of the county governing body.

(ii) A vote by the relevant county governing body to terminate a public health emergency as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b) (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9) (a) During a public health emergency declared as described in this title, the department or a local health department may not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(b) Notwithstanding Subsection (9)(a), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(10) A local health department may not:

(a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5);

(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:

(i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or

(ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice; or

(c) issue an order of constraint under any circumstance.

Section 7. Section 26B-2-801 is amended to read:

26B-2-801. Definitions for part.

As used in this [~~chapter~~]part:

(1) "Adult" means an individual who is:

(a) at least 18 years old; or

(b) under 18 years old and is emancipated.

(2) "APRN" means an individual who is:

(a) certified or licensed as an advance practice registered nurse under Subsection 58-31b-301(2)(e);

(b) an independent practitioner; and

(c) acting within the scope of practice for that individual, as provided by law, rule, and specialized certification and training in that individual's area of practice.

(3) "Capacity" means the same as that term is defined in Section 75A-9-101.

(4) "Emergency medical services provider" means a person that is licensed, designated, or certified under Title 53, Chapter 2d, Emergency Medical Services Act.

(5) "Health care" means the same as that term is defined in Section 75A-9-101.

(6) "Health care provider" means the same as that term is defined in Section 78B-3-403, except that "health care provider" does not include an emergency medical services provider.

(7) (a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.

(b) "Life sustaining care" does not include care provided for the purpose of keeping an individual comfortable.

(8) "Minor" means an individual who:

(a) is under 18 years old; and

(b) is not emancipated.

(9) "Order for life sustaining treatment" means an order related to life sustaining treatment, on a form designated by the Department of Health and Human Services under Section 26B-2-802, that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the individual to whom the order relates.

(10) "Parent" means the same as that term is defined in Section 75-1-201.

(11) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

(12) "Physician assistant" means an individual licensed as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(13) "Sign" means the same as that term is defined in Section 75-1-201.

(14) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the capacity to make health care decisions, which requires the surrogate to consider:

(a) specific preferences expressed by the adult:

(i) when the adult had the capacity to make health care decisions; and

(ii) at the time the decision is being made;

(b) the surrogate's understanding of the adult's health care preferences;

(c) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(d) to the extent that the preferences described in Subsections (14)(a) through (c) are unknown, the best interest of the adult.

(15) "Surrogate" means the same as that term is defined in Section 75A-9-101.[~~-~~]

Section 8. Section 53G-8-701.8 is amended to read:

53G-8-701.8. School safety and security director.

(1) Except as provided in Subsection 53G-8-701.5(3), an LEA shall designate a school safety and security director as the LEA point of contact for the county security chief, local law enforcement, and the state security chief.

(2) A school safety and security director shall:

(a) participate in and satisfy the training requirements as follows:

(i) only once, the training requirements described in Section 53-22-105 for school guardians; and

(ii) the school resource officer and administrator training the state security chief approves in consultation with the School Safety Center; [~~and~~]

(b) if serving as a backup school guardian, satisfy all requirements described in 53-22-105;

(c) if the designee is an employee of an LEA, participate on the multidisciplinary team the LEA establishes;

(d) coordinate security responses among, if applicable, the following individuals in the LEA that employs the school safety and security director:

(i) school safety and security specialists;

(ii) school resource officers;

(iii) armed school security guards; and

(iv) school guardians; and

(e) collaborate and maintain effective communications with local law enforcement, a county security chief, the LEA, and school-based behavioral and mental health professionals to ensure adherence with all policies, procedures, protocols, rules, and regulations relating to school safety and security.

(3) A school safety and security director:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the LEA that employs the director:

(i) take actions necessary to prevent or abate an active threat; and

(ii) temporarily detain an individual when the school safety and security director has reasonable cause to believe the individual has committed or is about to commit a forcible felony.

(4) Notwithstanding Subsection 76-11-205(4), if a school safety and security director is carrying a firearm, the school safety and security director shall carry the school safety and security director's firearm in a concealed manner and may not, unless during an active threat, display or open carry a firearm while on school grounds.

(5) A school may use the services of the school safety and security director on a temporary basis to satisfy the school safety personnel requirement of Subsection 53G-8-701.5(2).

(6) The state security chief shall:

(a) for each school safety and security director, track each school safety and security director by collecting the photograph and the name and contact information for each school safety and security director; and

(b) make the information described in Subsection (6)(a) readily available to each law enforcement agency in the state categorized by LEA.

Section 9. Section 59-12-104.11 is amended to read:

59-12-104.11. Sales tax due for motor vehicle with adaptive driving equipment.

(1) An owner of a motor vehicle with adaptive driving equipment installed may claim the sales tax exemption described in Subsection [~~59-12-104(99)~~]59-12-104(100) at the time of purchase if the owner purchases the motor vehicle from a vehicle dealer.

(2) A vehicle dealer shall collect sales tax required by this chapter on the purchase price of the vehicle after subtracting the amount of the purchase price attributed to the adaptive driving equipment.

(3) (a) A vehicle dealer shall state the purchase price attributed to the adaptive driving equipment on the contract of sale.

(b) The vehicle dealer shall retain the contract of sale described in Subsection (3)(a) for the same period of time a vehicle dealer is required to keep books and records under Section 59-1-1406.

Section 10. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) a research request from a legislator to a legislative staff member and research findings prepared in response to the request;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26B-2-709:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a provider, program, or facility which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a provider, program, or facility;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of

a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(65) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102;

(66) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(67) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(68) work papers as defined in Section 31A-2-204;

(69) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(70) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(71) a record described in Section 31A-37-503;

(72) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(73) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (74) or (75), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(78) a record submitted to the Insurance Department under Section 31A-48-103;

(79) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(80) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding;

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest; or

(d) the image is displayed to a person who is permitted to view the image under Section 17-22-30;

(81) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(82) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (82)may not be used to restrict access to a record evidencing a final contract or approval decision;

(83) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (83)(a);

(84) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

(85) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401;

(86) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake;

(87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is reclassified as public as described in Subsection 13-2-11(4); [~~and~~]

(88) a record of the Utah water agent, appointed under Section 73-10g-702:

(a) concerning a claim to the use of waters;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state, a tribe, the federal government, or other government entity as provided in Title [~~73, Chapter 10g, Part 6~~]73, Chapter 10g, Part 7, Utah Water Agent; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water;

(ii) harm the ability of the Utah water agent to negotiate the best terms and conditions regarding the use of water; or

(iii) give an advantage to another state, a tribe, the federal government, or other government entity in negotiations regarding the use of water; and

(89) a record created or maintained for an investigation of the Prosecutor Conduct Commission, created in Section 63M-7-1102, that contains any personal identifying information of a prosecuting attorney, including:

(a) a complaint, or a document that is submitted or created for a complaint, received by the Prosecutor Conduct Commission; or

(b) a finding by the Prosecutor Conduct Commission.

Section 11. Section 63H-9-101 is amended to read:

63H-9-101. Definitions.

As used in this chapter:

(1) "Best practices toolbox" means the collection of resources for governmental entities provided on the website of the Office of the Legislative Auditor General that includes a best practice self-assessment and other resources, tools, surveys, and reports designed to help government organizations better serve the citizens of the state.

(2) "Consensus group" means the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst.

(3) (a) "Independent entity" means an entity that:

(i) has a public purpose relating to the state or its citizens;

(ii) is individually created by the state;

(iii) is separate from the judicial and legislative branches of state government; and

(iv) is not under the direct supervisory control of the governor.

(b) "Independent entity" does not include an entity that is:

(i) a county;

(ii) a municipality as defined in Section 10-1-104;

(iii) an institution of higher education as defined in Section 53B-2-102;

(iv) a public school as defined in Section 53G-8-701;

(v) a special district as defined in Section 17B-1-102;

(vi) a special service district as defined in Section 17D-1-102;

(vii) created by an interlocal agreement as described in Section 11-13-203; or

(viii) an elective constitutional office, including the state auditor, the state treasurer, and the attorney general.

(c) Independent entities that are subject to the provisions of this chapter include the:

(i) Career Service Review Office created in Section 67-19a-201;

(ii) Capitol Preservation Board created in Section 63C-9-201;

(iii) Heber Valley Historic Railroad Authority created in Section 63H-4-102;

(iv) Military Installation Development Authority created in Section 63H-1-201;

(v) Office of Inspector General of Medicaid Services created in Section 63A-13-201;

(vi) Point of the Mountain State Land Authority created in Section 11-59-201;

(vii) Public Service Commission created in Section 54-1-1;

(viii) School and Institutional Trust Fund Office created in Section 53C-1-201;

(ix) School and Institutional Trust Lands Administration created in Section 53D-1-201;

(x) Utah Beef Council created in Section 4-21-103;

(xi) Utah Capital Investment Corporation created in Section 63N-6-301;

(xii) Utah Communications Authority created in Section 63H-7a-201;

(xiii) Utah Dairy Commission created in Section 4-22-103;

(xiv) Utah Education and Telehealth Network created in Section 53B-17-105;

(xv) Utah Housing Corporation created in Section 63H-8-201;

(xvi) Utah Inland Port Authority created in Section 11-58-201;

[~~(xvii) Utah Innovation Lab created in Section 63N-20-201;~~]

[~~(xviii)~~](xvii) Utah Lake Authority created in Section 11-65-201;

[~~(xix)~~](xviii) Utah Retirement Systems created in Section 49-11-201; and

[~~(xx)~~](xix) Utah State Fair Park Authority created in Section 11-68-201.

Section 12. Section 63M-7-506 is amended to read:

63M-7-506. Duties of the office.

(1) The office shall:

(a) prescribe policy for the office;

(b) under the direction of the executive director of the Commission on Criminal and Juvenile Justice, adopt rules to implement and administer this part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may include setting of ceilings on reparations, defining of terms not specifically stated in this part, and establishing of rules governing attorney fees;

(c) prescribe forms for applications for reparations;

(d) render an annual report to the governor and the Legislature regarding the staff's[~~ and the board's~~] activities;

(e) formulate standards for the uniform application of Section 63M-7-509, taking into consideration the rates and amounts of reparation payable for injuries and death under other laws of this state and the United States;

(f) allocate money available in the fund to victims of criminally injurious conduct for reparations claims;

(g) allocate money available to other victim services as provided by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, once a sufficient reserve has been established for reparation claims; and

(h) as authorized by the Commission on Criminal and Juvenile Justice, allocate and disburse funds made available to the office by the United States, the state, foundations, corporations, or other entities or individuals to subgrantees from private, non-profit, and governmental entities operating qualified statewide assistance programs.

(2) All rules, or other statements of policy, along with application forms specified by the office, are binding upon the director, the reparations officers, assistance officers, and other staff.

Section 13. Section 63M-7-509 is amended to read:

63M-7-509. Grounds for eligibility.

(1) A victim is eligible for a reparations award under this part if:

(a) the claimant is:

(i) a victim of criminally injurious conduct;

(ii) a dependent of a deceased victim of criminally injurious conduct; or

(iii) a representative acting on behalf of one of the above;

(b) (i) the criminally injurious conduct occurred in Utah; or

(ii) the victim is a Utah resident who suffers injury or death as a result of criminally injurious conduct inflicted in a state, territory, or country that does not provide a crime victims' compensation program;

(c) the application is made in writing in a form that conforms substantially to that prescribed by the [~~board~~]office;

(d) the criminally injurious conduct is reported to a law enforcement officer, in the law enforcement officer's capacity as a law enforcement officer, or another federal or state investigative agency;

(e) the claimant or victim cooperates with the appropriate law enforcement agencies and prosecuting attorneys in efforts to apprehend or convict the perpetrator of the alleged offense; and

(f) the criminally injurious conduct occurred after December 31, 1986.

(2) A reparations award may be made to a victim regardless of whether any individual is arrested, prosecuted, or convicted of the criminally injurious conduct giving rise to a reparations claim.

(3) (a) Notwithstanding the requirements of Subsections (1)(d) and (e), a victim of sexual assault is not required to report the sexual assault to a law enforcement officer or another federal or state investigative agency or cooperate with the appropriate law enforcement agencies and prosecuting attorneys to be eligible for a reparations award under this section if:

(i) the victim seeks assistance from an advocacy services provider, a criminal justice system victim advocate, or a nongovernment organization victim advocate; and

(ii) the advocacy services provider, the criminal justice system victim advocate, or the nongovernment organization victim advocate completes a questionnaire, provided by the office, regarding the sexual assault.

(b) Notwithstanding the requirement of Subsection (1)(e), a victim who has suffered strangulation in the course of interpersonal violence is not required to cooperate with the appropriate law enforcement agencies and prosecuting attorneys to be eligible for a reparations award under this section if the victim:

(i) reports the strangulation to a law enforcement officer or another federal or state investigative agency after the strangulation occurs; or

(ii) seeks medical care for the strangulation immediately after the strangulation occurs.

Section 14. Section 63M-7-517 is amended to read:

63M-7-517. Additional testing.

(1) If the mental, physical, or emotional condition of a victim is material to a reparations claim, the reparations officer, director, or the assistant director reparations program manager[~~, or chair of the board~~] who hears the reparations claim or the appeal may order the claimant to submit to a mental or physical examination by a physician or psychologist and may recommend to the court to order an autopsy of a deceased victim.

(2) The court may order an additional examination for good cause shown and shall provide notice to the individual to be examined and the individual's representative.

(3) All reports from additional examinations shall set out findings, including results of all tests made, diagnoses, prognoses, other conclusions, and reports of earlier examinations of the same conditions.

(4) A copy of the report shall be made available to the victim or the representative of the victim unless dissemination of that copy is prohibited by law.

Section 15. Section 63M-7-529 is amended to read:

63M-7-529. Determination of eligibility for victim reparations -- Law enforcement agency to provide investigative reports -- Restrictions on usage -- Criminal penalty.

(1) (a) Notwithstanding Section 63G-2-206, and subject to Subsection (1)(c), a law enforcement agency shall provide a copy of an investigative report that describes the facts and circumstances of a criminal episode within 10 business days of the date the law enforcement agency receives a request for that information from the office.

(b) Before releasing an investigative report, the law enforcement agency may redact the following information:

(i) the name of:

(A) an undercover officer; or

(B) a confidential informant; and

(ii) any information that would:

(A) jeopardize the investigation; or

(B) disclose law enforcement techniques not generally known to the public.

(c) If a criminal episode remains under investigation when the office requests an investigative report and the law enforcement agency determines that release of an investigative report at that time would jeopardize the investigation, a law enforcement agency may provide a detailed description of the following information, instead of providing an investigative report, within 10 [~~business~~]business days of the date the law enforcement agency received the original request from the office:

(i) the law enforcement agency's case number;

(ii) the location where the criminal episode occurred;

(iii) the criminal conduct under investigation;

(iv) a summary of the criminal episode;

(v) verification that the claimant is a victim of the criminal conduct;

(vi) any information regarding whether the claimant's conduct may have contributed to the criminal conduct; and

(vii) whether the claimant was and continues to be cooperative with law enforcement.

(d) An investigative report provided under Subsection (1)(a), or information provided under Subsection (1)(c), shall contain sufficient information for the office to determine whether a claimant is eligible for a reparations award under Sections 63M-7-509 and 63M-7-510.

(e) If an investigative report or information provided to the office by a law enforcement agency is not sufficient for the office to determine whether a claimant is eligible for a reparations award, the office may contact the law enforcement agency for additional information.

(f) (i) A law enforcement agency may give written notice that a request may take up to an additional 10 business days to process if exigent circumstances exist, which include:

(A) a circumstance where another agency is using relevant documents;

(B) the request requires review of a voluminous amount of documents;

(C) the request requires legal review;

(D) the request requires extensive redaction;

(E) the law enforcement agency is currently processing multiple requests; or

(F) other exigent circumstances.

(ii) Notice of an extended response time shall include the type of exigent circumstances involved and the new due date for the response.

(2) (a) An investigative report provided under this section may only be used for the purpose of carrying out the provisions of this part.

(b) An investigative report received under this section:

(i) may only be viewed by the office[~~, the board,~~] and legal counsel for the office; and

(ii) may not be further disclosed or disseminated for any reason.

(3) The office shall dispose of or retain an investigative report received under this section in a secure manner.

(4) An investigative report provided to the office under this section is not subject to the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

(5) A public employee or other person who knowingly or intentionally uses or distributes an investigative report, or information received from an investigative report, in violation of the requirements of Subsection (2) is guilty of a class B misdemeanor.

Section 16. Section 76-6-202 is amended to read:

76-6-202. Burglary.

(1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor commits burglary if the actor enters or remains unlawfully in a building or any portion of a building with intent to commit:

(a) a felony;

(b) theft;

(c) an assault on any person;

(d) lewdness, in violation of Section 76-5-419;

(e) sexual battery, in violation of Section 76-5-418;

(f) lewdness involving a child, in violation of Section 76-5-420;[~~ or~~]

(g) voyeurism, in violation of Section [~~76-9-702.7.~~]76-12-306;

(h) recorded or photographed voyeurism, in violation of Section 76-12-307; or

(i) distribution of images obtained through voyeurism, in violation of Section 76-12-308.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.

(b) A violation of Subsection (2) is a second degree felony if the violation is committed in a dwelling.

(4) A violation of this section is a separate offense from any of the offenses listed in Subsections (2)(a) through [~~(g)~~](i), and which may be committed by the actor while in the building.

Section 17. Section 77-37-3 is amended to read:

77-37-3. Bill of rights.

(1) The bill of rights for victims and witnesses is:

(a) Victims and witnesses have a right to be informed as to the level of protection from intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508, regarding tampering with a witness, and Section 76-8-509, regarding extortion or bribery to dismiss a criminal proceeding. Law enforcement, prosecution, and corrections personnel have the duty to timely provide this information in a form which is useful to the victim.

(b) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.

(c) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.

(d) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.

(e) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime Victims Restitution Act, and Section 80-6-710. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the [~~Crime Victim Reparations Board~~]Utah Office for Victims of Crime and to inform victims of these procedures.

(f) Victims and witnesses have a right to have any personal property returned as provided in Chapter 11a, Seizure of Property and Contraband, and Chapter 11d, Lost or Mislaid Property. Criminal justice agencies shall expeditiously return the property when it is no longer needed for court law enforcement or prosecution purposes.

(g) Victims and witnesses have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process. Officers of the court shall provide these services and shall consider victims' and witnesses' schedules so that activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.

(h) Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.

(i) Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies have the duty to provide these notifications. Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.

(2) In addition to the rights of a victim described in Subsection (1), a victim of a sexual offense has the right to:

(a) request voluntary testing for themselves for HIV infection as described in Section 53-10-803;

(b) request mandatory testing of the alleged sexual offender for HIV infection as described in Section 53-10-802;

(c) not to be prevented from, or charged for, a medical forensic examination;

(d) have the evidence from a sexual assault kit, or the contents of the sexual assault kit, preserved for the time periods described in [~~Title 77, Chapter 11c~~]Chapter 11c, Retention of Evidence, without any charge to the victim;

(e) be informed whether a DNA profile was obtained from the testing of the evidence in a sexual assault kit or from other crime scene evidence;

(f) be informed whether a DNA profile developed from the evidence in a sexual assault kit, or from other crime scene evidence, has been entered into the Utah Combined DNA Index System;

(g) be informed of any result from a sexual assault kit or from other crime scene evidence if that disclosure would not impede or compromise an ongoing investigation, including:

(i) whether there is a match between a DNA profile developed from the evidence in a sexual assault kit, or from other crime scene evidence, and a DNA profile contained in the Utah Combined DNA Index System; and

(ii) a toxicology result or other information that is collected from a sexual assault kit as part of a medical forensic examination of the victim;

(h) be informed in writing of policies governing the collection and preservation of a sexual assault kit;

(i) be informed of the status and location of a sexual assault kit;

(j) upon written request by the victim, receive a notice of intent from an agency, as defined in Section 53-10-905, if the agency intends to destroy or dispose of evidence from a sexual assault kit;

(k) be granted further preservation of the sexual assault kit if the agency, as defined in Section 53-10-905, intends to destroy or dispose of evidence from a sexual assault kit and the victim submits a written request as described in Section 53-10-905;

(l) designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection (2) or Subsections (3) and (4); and

(m) be informed of all the enumerated rights in this Subsection (2).

(3) Subsections (2)(e) through (g) do not require that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing, absent a specific request received from the victim or the victim's designee.

(4) A law enforcement agency investigating a sexual offense may:

(a) release the information indicated in Subsections (2)(e) through (g) upon the request of the victim of the sexual offense, or the victim's designee and is the designated agency to provide that information to the victim or the victim's designee;

(b) require that the victim's request be in writing; and

(c) respond to the victim's request with verbal communication, written communication, or by email if an email address is available.

(5) A law enforcement agency investigating a sexual offense shall:

(a) notify the victim of the sexual offense, or the victim's designee, if the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not be confirmed;

(b) provide the information described in this section in a timely manner; and

(c) upon request of the victim or the victim's designee, advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.

(6) The law enforcement agency investigating the sexual offense is responsible for informing the victim of the sexual offense, or the victim's designee, of the rights established under this section.

(7) Informational rights of the victim under this chapter are based upon the victim providing the current name, address, telephone number, and email address, if an email address is available, of the person to whom the information should be provided to the criminal justice agencies involved in the case.

Section 18. Section 78B-3-407.5 is amended to read:

78B-3-407.5. Requirements for written agreement or consent for egg retrieval.

(1) As used in this section:

(a) "Assisted reproduction" means the same as that term is defined in Section [~~78B-15-102~~]81-5-102.

(b) "Donor" means an individual who provides the individual's egg for use in assisted reproduction that is to be performed on a recipient other than the individual or the individual's regular sexual partner.

(c) "Egg retrieval" means a procedure by which an egg is collected from an individual's ovarian follicles.

(d) "Reproductive tissue facility" means the facility that performs an egg retrieval.

(2) A written agreement or consent between a reproductive tissue facility and a donor for an egg retrieval shall contain a clause that discloses any reasonably foreseeable complication associated with the egg retrieval.

(3) A clause in a written agreement or consent between a reproductive tissue facility and a donor for an egg retrieval is against public policy and is void and unenforceable if the clause requires the donor to release the reproductive tissue facility from liability for any complication associated with the egg retrieval that arises within 90 days after the day on which the egg retrieval occurs.

Section 19. Section 78B-5-505 is amended to read:

78B-5-505. Property exempt from execution.

(1) (a) An individual is entitled to exemption of the following property:

(i) a burial plot for the individual and the individual's family;

(ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain health;

(iii) benefits that the individual or the individual's dependent have received or are entitled to receive from any source because of:

(A) disability;

(B) illness; or

(C) unemployment;

(iv) benefits paid or payable for medical, surgical, or hospital care to the extent that the benefits are used by an individual or the individual's dependent to pay for that care;

(v) veterans benefits;

(vi) money or property received, and rights to receive money or property for child support;

(vii) money or property received, and rights to receive money or property for alimony or separate maintenance, to the extent reasonably necessary for the support of the individual and the individual's dependents;

(viii) (A) one:

(I) clothes washer and dryer;

(II) refrigerator;

(III) freezer;

(IV) stove;

(V) microwave oven; and

(VI) sewing machine;

(B) all carpets in use;

(C) provisions sufficient for 12 months actually provided for individual or family use;

(D) all wearing apparel of every individual and dependent, not including jewelry or furs; and

(E) all beds and bedding for every individual or dependent;

(ix) except for works of art held by the debtor as part of a trade or business, works of art:

(A) depicting the debtor or the debtor and the debtor's resident family; or

(B) produced by the debtor or the debtor and the debtor's resident family;

(x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;

(xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or children of the debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired period of one year;

(xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the death of the debtor, provided that the contract or policy has been in existence for a continuous unexpired period of one year;

(xiii) proceeds and avails of any unmatured life insurance contracts owned by the debtor or any revocable grantor trust created by the debtor, excluding any payments made on the contract during the one year immediately preceding a creditor's levy or execution;

(xiv) except as provided in Subsection (1)(b), and except for a judgment described in Subsection 75B-2-503(2)(c), any money or other assets held for or payable to the individual as an owner, participant, or beneficiary from or an interest of the individual as an owner, participant, or beneficiary in a fund or account, including an inherited fund or account, in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or otherwise;

(xv) the interest of or any money or other assets payable to an alternate payee under a qualified domestic relations order as those terms are defined in Section 414(p), Internal Revenue Code;

(xvi) unpaid earnings of the household of the filing individual due as of the date of the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for the household size of the filing individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of the Utah State annual median family income for the household size of the individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers;

(xvii) except for curio or relic firearms, any three of the following:

(A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

(B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

(C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds; and

(xviii) money, not exceeding $200,000, in the aggregate, that an individual deposits, more than 18 months before the day on which the individual files a petition for bankruptcy or an action is filed by a creditor against the individual, as applicable, in all tax-advantaged accounts for saving for higher education costs on behalf of a particular individual that meets the requirements of Section 529, Internal Revenue Code.

(b) (i) Any money, asset, or other interest in a fund or account that is exempt from a claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does not cease to be exempt after the owner's, participant's, or beneficiary's death by reason of a direct transfer or eligible rollover to an inherited individual retirement account as defined in Section 408(d)(3), Internal Revenue Code.

(ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement accounts without regard to the date on which the account was created.

(c) (i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

(A) an alternate payee under a qualified domestic relations order, as those terms are defined in Section 414(p), Internal Revenue Code; or

(B) amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy, except amounts directly rolled over from other funds that are exempt from attachment under this section.

(ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the secured creditor's interest in proceeds and avails of any matured or unmatured life insurance contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

(2) (a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a victim who is a child if the person receiving the benefits has been convicted of a felony sex offense against the victim and ordered by the sentencing court to pay restitution to the victim.

(b) The exemption from execution under this Subsection (2) shall be reinstated upon payment of the restitution in full.

(3) The exemptions under this section do not limit items that may be claimed as exempt under Section 78B-5-506.

(4) (a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii), (xiii), (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil judgment of restitution for an individual who is found in contempt under Section 78B-6-317.

(b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if the individual's dependent received, or is entitled to receive, the benefits.

Section 20. Section 81-6-101 is amended to read:

81-6-101. Definitions for chapter.

As used in this chapter:

(1) "Administrative agency" means the Office of Recovery Services or the Department of Health and Human Services.

(2) "Administrative order" means the same as that term is defined in Section 26B-9-201.

(3) "Alimony" means the same as that term is defined in Section 81-4-101.

(4) "Base child support award" means the award that may be ordered and is calculated using the child support guidelines before additions for medical expenses and work-related child care costs.

(5) "Base combined child support obligation" means the presumed amount of child support that the parents should provide for their child as described in Subsection 81-6-204(1).

(6) "Base combined child support obligation table" means the [~~appropriate table described in Sections 81-6-302 and~~]table described in Section81-6-304.

(7) "Child" means:

(a) a son or daughter who is under 18 years old and who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(b) a son or daughter who is 18 years old or older while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.

(8) (a) "Child support" means a base child support award, or a monthly financial award for uninsured medical expenses, ordered by a tribunal for the support of a child.

(b) "Child support" includes current periodic payments, arrearages that accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(9) "Child support guidelines" means the calculation and application of child support as described in Part 2, Calculation and Adjustment of Child Support.

(10) "Child support order" means a judgment, decree, or order issued by a tribunal whether temporary, final, or subject to modification, that:

(a) establishes or modifies child support;

(b) reduces child support arrearages to judgment; or

(c) establishes child support or registers a child support order under [~~Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act~~]Chapter 8, Uniform Interstate Family Support Act.

(11) "Child support tables" means the tables described in Part 3, Child Support Tables.

(12) "Child support services" means the same as that term is defined in Section 26B-9-101.

(13) "Gross income" means the amount of income calculated for a parent as described in Section 81-6-203.

(14) "Health care coverage" means coverage under which medical services are provided to a child through:

(a) fee for service;

(b) a health maintenance organization;

(c) a preferred provider organization;

(d) any other type of private health insurance; or

(e) public health care coverage.

(15) (a) "Incarceration" means the placement of an obligor who has been ordered to pay child support into a carceral setting in which the obligor is not permitted to earn wages from employment outside of the carceral setting.

(b) "Incarceration" does not include being placed on probation, parole, or work release.

(16) (a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

(b) "Income" includes:

(i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(ii) interest and dividends;

(iii) periodic payments made under pension or retirement programs or insurance policies of any type;

(iv) unemployment compensation benefits;

(v) workers' compensation benefits; and

(vi) disability benefits.

(17) "Joint physical custody" means the same as that term is defined in Section 81-9-101.

(18) "Low income table" means the [~~appropriate table under Section 81-6-303 or~~]table described in Section 81-6-305.

(19) "Medical expenses" means health and dental expenses and related insurance costs.

(20) "Minor child" means a child who is younger than 18 years old.

(21) "Obligee" means an individual, this state, another state, or another comparable jurisdiction to whom child support is owed or who

is entitled to reimbursement of child support or public assistance.

(22) "Obligor" means a person owing a duty of support.

(23) "Office" means the Office of Recovery Services within the Department of Health and Human Services.

(24) "Ongoing expense for child care" means a periodic payment that an administrative agency or court orders an obligor parent to pay to assist with the child care expenses of the obligor parent's child.

(25) "Pregnancy expenses" means an amount equal to:

(a) the sum of a pregnant mother's:

(i) health insurance premiums while pregnant that are not paid by an employer or government program; and

(ii) medical costs related to the pregnancy, incurred after the date of conception and before the pregnancy ends; and

(b) minus any portion of the amount described in Subsection (25)(a) that a court determines is equitable based on the totality of the circumstances, not including any amount paid by the mother or father of the child.

(26) "Split custody" means that each parent has physical custody of at least one of the children.

(27) "State" means a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American tribe, or other comparable domestic or foreign jurisdiction.

(28) "Support" means past-due, present, and future obligations to provide for the financial support, maintenance, or medical expenses of a child.

(29) "Support order" means:

(a) a child support order; or

(b) a judgment, decree, or order by a tribunal, whether temporary, final, or subject to modification, for alimony.

(30) "Suspension" means adjusting a child support order to zero dollars during the period of an obligor's incarceration.

(31) "Temporary" means a period of time that is projected to be less than 12 months in duration.

(32) "Third party" means an agency or a person other than a parent or a child who provides care, maintenance, and support to a child.

(33) "Tribunal" means the district court, the Department of Health and Human Services, Office of Recovery Services, or court or administrative agency of a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American tribe, or other comparable domestic or foreign jurisdiction.

(34) "Work-related child care expenses" means reasonable child care costs for up to a full-time work week or training schedule as necessitated by the employment or training of a parent.

(35) "Worksheet" means a form used to aid in calculating the base child support award.

Section 21. Repealer.

This bill repeals:

Section 59-1-1301, Title.
Section 59-1-1401, Title.
Section 59-1-1501, Title.
Section 59-1-1601, Title.
Section 59-1-1701, Title.
Section 59-2-101, Short title.
Section 59-2-501, Short title.
Section 59-2-1501, Title.
Section 59-2-1701, Title.
Section 59-3-101, Short title.
Section 59-7-901, Title.
Section 59-10-101, Short title.
Section 59-10-1001, Title.
Section 59-10-1101, Title.
Section 59-10-1301, Title.
Section 59-10-1401, Title.
Section 59-11-101, Short title.
Section 59-12-101, Short title.
Section 59-12-201, Title.
Section 59-12-400, Title.
Section 59-12-601.1, Title.
Section 59-12-1301, Title.
Section 59-12-1801, Title.
Section 59-12-2001, Title.
Section 59-12-2101, Title.
Section 59-12-2201, Title.
Section 59-13-101, Short title.
Section 59-14-101, Short title.
Section 59-14-701, Title.
Section 59-14-801, Title.
Section 59-18-101, Short title.
Section 59-23-1, Title.
Section 59-24-101, Title.
Section 59-26-101, Title.

Section 59-27-101, Title.
Section 59-28-101, Title.

Section 22. Effective Date.

This bill takes effect:
(1) except as provided in Subsection (2), December 6, 2025; or
(2) if approved by two-thirds of all members elected to each house:
(a) upon approval by the governor;
(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or
(c) in the case of a veto, the date of veto override.

CHAPTER 12
S. B. 1005
Passed October 6, 2025
Approved October 14, 2025
Effective October 14, 2025

LOCAL OPTION SALES TAX AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Joseph Elison

LONG TITLE

General Description:

This bill modifies provisions related to local option sales and use taxes.

Highlighted Provisions:

This bill:

- ► defines terms;
- ► allows qualifying political subdivisions to impose a sales and use tax for purposes of funding emergency services;
- ► establishes requirements for a qualifying political subdivision to impose the tax, dependent on the tax rate imposed;
- ► addresses the administration, collection, and distribution of tax revenue;
- ► allows the State Tax Commission to retain an administrative charge from collected tax revenue;
- ► repeals provisions allowing certain counties to impose a rural county health care facilities tax for purposes of funding emergency medical services; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17D-1-103, (Effective upon governor's approval) as last amended by Laws of Utah 2024, Chapter 382
59-12-102, (Effective upon governor's approval) (Superseded 07/01/26) as last amended by Laws of Utah 2025, Chapter 194
59-12-102, (Effective 07/01/26) as last amended by Laws of Utah 2025, Chapter 285
59-12-801, (Effective upon governor's approval) as last amended by Laws of Utah 2023, Chapters 92, 310 and 329
59-12-802, (Effective upon governor's approval) as last amended by Laws of Utah 2025, Chapter 290

ENACTS:

59-12-2401, (Effective upon governor's approval) Utah Code Annotated 1953
59-12-2402, (Effective upon governor's approval) Utah Code Annotated 1953
59-12-2403, (Effective upon governor's approval) Utah Code Annotated 1953
59-12-2404, (Effective upon governor's approval) Utah Code Annotated 1953
59-12-2405, (Effective upon governor's approval) Utah Code Annotated 1953
59-12-2406, (Effective upon governor's approval) Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17D-1-103 is amended to read:

17D-1-103 (Effective upon governor's approval). Special service district status, powers, and duties -- Registration as a limited purpose entity -- Limitation on districts providing jail service.

(1) A special service district:

(a) is:

(i) a body corporate and politic with perpetual succession, separate and distinct from the county or municipality that creates it;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state; and

(b) may sue and be sued.

(2) A special service district may:

(a) exercise the power of eminent domain possessed by the county or municipality that creates the special service district;

(b) enter into a contract that the governing authority considers desirable to carry out special service district functions, including a contract:

(i) with the United States or an agency of the United States, the state, an institution of higher education, a county, a municipality, a school district, a special district, another special service district, or any other political subdivision of the state; or

(ii) that includes provisions concerning the use, operation, and maintenance of special service district facilities and the collection of fees or charges with respect to commodities, services, or facilities that the district provides;

(c) acquire or construct facilities;

(d) acquire real or personal property, or an interest in real or personal property, including water and water rights, whether by purchase, lease, gift, devise, bequest, or otherwise, and whether the property is located inside or outside the special service district, and own, hold, improve, use, finance, or otherwise deal in and with the property or property right;

(e) sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the special service district's property or assets, including water and water rights;

(f) mortgage, pledge, or otherwise encumber all or any part of the special service district's property or assets, including water and water rights;

(g) enter into a contract with respect to the use, operation, or maintenance of all or any part of the special service district's property or assets, including water and water rights;

(h) accept a government grant or loan and comply with the conditions of the grant or loan;

(i) use an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district, subject to reimbursement as provided in Subsection (4);

(j) employ one or more officers, employees, or agents, including one or more engineers, accountants, attorneys, or financial consultants, and establish their compensation;

(k) designate an assessment area and levy an assessment as provided in Title 11, Chapter 42, Assessment Area Act;

(l) contract with a franchised, certificated public utility for the construction and operation of an electrical service distribution system within the special service district;

(m) borrow money and incur indebtedness;

(n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of acquiring, constructing, and equipping any of the facilities required for the services the special service district is authorized to provide, including:

(i) bonds payable in whole or in part from taxes levied on the taxable property in the special service district;

(ii) bonds payable from revenues derived from the operation of revenue-producing facilities of the special service district;

(iii) bonds payable from both taxes and revenues;

(iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable property in the special service district;

(v) tax anticipation notes;

(vi) bond anticipation notes;

(vii) refunding bonds;

(viii) special assessment bonds; and

(ix) bonds payable in whole or in part from mineral lease payments as provided in Section 11-14-308;

(o) except as provided in Subsection (5), impose fees or charges or both for commodities, services, or facilities that the special service district provides;

(p) provide to an area outside the special service district's boundary, whether inside or outside the state, a service that the special service district is authorized to provide within its boundary, if the governing body makes a finding that there is a public benefit to providing the service to the area outside the special service district's boundary;

(q) provide other services that the governing body determines will more effectively carry out the purposes of the special service district;[~~ and~~]

(r) adopt an official seal for the special service district[~~.~~]; and

(s) if authorized, impose an emergency services tax under Title 59, Chapter 12, Part 24, Emergency Services Tax.

(3) (a) Each special service district shall register and maintain the special service district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A special service district that fails to comply with Subsection (3)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(4) (a) Each special service district that uses an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district shall reimburse the county or municipality a reasonable amount for what the special service district uses.

(b) The amount invoiced for what the special service district uses under Subsection (4)(a)may not exceed the actual documented cost incurred, without markup, by the county or municipality.

(5) (a) A special service district that provides jail service as provided in Subsection 17D-1-201(10) may not impose a fee or charge for the service it provides.

(b) Subsection (5)(a) may not be construed to limit a special service district that provides jail service from:

(i) entering into a contract with the federal government, the state, or a political subdivision of the state to provide jail service for compensation; or

(ii) receiving compensation for jail service it provides under a contract described in Subsection (5)(b)(i).

Section 2. Section 59-12-102 is amended to read:

59-12-102 (Effective upon governor's approval) (Superseded 07/01/26). Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Adaptive driving equipment" means mobility enhancing equipment:

(i) to be installed in a motor vehicle; and

(ii) regardless of who provides the equipment or parts.

(b) "Adaptive driving equipment" includes:

(i) a wheelchair or scooter lift;

(ii) equipment to secure a wheelchair;

(iii) a swivel seat;

(iv) a hand or foot control; and

(v) a steering aid.

(4) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(5) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(7) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (8); and

(b) that are imposed within a local taxing jurisdiction.

(8) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d);

(e) Subsection 59-12-103(2)(f)(i)(A)(I);

(f) Section 59-12-204;

(g) Section 59-12-401;

(h) Section 59-12-402;

(i) Section 59-12-402.1;

(j) Section 59-12-703;

(k) Section 59-12-802;

(l) Section 59-12-804;

(m) Section 59-12-1102;

(n) Section 59-12-1302;

(o) Section 59-12-1402;

(p) Section 59-12-1802;

(q) Section 59-12-2003;

(r) Section 59-12-2103;

(s) Section 59-12-2213;

(t) Section 59-12-2214;

(u) Section 59-12-2215;

(v) Section 59-12-2216;

(w) Section 59-12-2217;

(x) Section 59-12-2218;

(y) Section 59-12-2219;[~~or~~]

(z) Section 59-12-2220[~~.~~]; or

(aa) Section 59-12-2402.

(9) "Aircraft" means the same as that term is defined in Section 72-10-102.

(10) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(11) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(12) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(13) (a) Subject to Subsection (13)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(14) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

(16) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(17) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(18) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(19) (a) "Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(20) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (20)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (20)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (20)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (20)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (20)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (20)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (20)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (20)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (20)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(21) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

(23) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (23)(a)(i).

(24) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124to remit a tax on the seller's own purchases.

(25) (a) Subject to Subsection (25)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (61) or residential use under Subsection (117).

(28) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (28)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(29) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(30) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(31) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(32) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (32)(a) and (b).

(33) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (33)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (33)(a).

(34) "Construction materials" means any tangible personal property that will be converted into real property.

(35) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(36) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (36)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(37) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(38) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (38)(b)(i) through (v);

(c) (i) except as provided in Subsection (38)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (38)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(39) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(40) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(41) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(42) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(43) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(44) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26B-2-201;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (44)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (44)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(45) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(46) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (46)(a)(i)(A) through (C);
(ii) intended for use in the:
(A) diagnosis of disease;
(B) cure of disease;
(C) mitigation of disease;
(D) treatment of disease; or
(E) prevention of disease; or
(iii) intended to affect:
(A) the structure of the body; or
(B) any function of the body.
(b) "Drug" does not include:
(i) food and food ingredients;
(ii) a dietary supplement;
(iii) an alcoholic beverage; or
(iv) a prosthetic device.
(47) (a) "Durable medical equipment" means equipment that:
(i) can withstand repeated use;
(ii) is primarily and customarily used to serve a medical purpose;
(iii) generally is not useful to a person in the absence of illness or injury; and
(iv) is not worn in or on the body.
(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (47)(a).
(c) "Durable medical equipment" does not include mobility enhancing equipment.
(48) "Electronic" means:
(a) relating to technology; and
(b) having:
(i) electrical capabilities;
(ii) digital capabilities;
(iii) magnetic capabilities;
(iv) wireless capabilities;
(v) optical capabilities;
(vi) electromagnetic capabilities; or
(vii) capabilities similar to Subsections (48)(b)(i) through (vi).
(49) "Electronic financial payment service" means an establishment:
(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
(b) that performs electronic financial payment services.
(50) "Employee" means the same as that term is defined in Section 59-10-401.
(51) "Fixed guideway" means a public transit facility that uses and occupies:
(a) rail for the use of public transit; or
(b) a separate right-of-way for the use of public transit.
(52) "Fixed wing turbine powered aircraft" means an aircraft that:
(a) is powered by turbine engines;
(b) operates on jet fuel; and
(c) has wings that are permanently attached to the fuselage of the aircraft.
(53) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.
(54) (a) "Food and food ingredients" means substances:
(i) regardless of whether the substances are in:
(A) liquid form;
(B) concentrated form;
(C) solid form;
(D) frozen form;
(E) dried form; or
(F) dehydrated form; and
(ii) that are:
(A) sold for:
(I) ingestion by humans; or
(II) chewing by humans; and
(B) consumed for the substance's:
(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (100)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(55) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (55)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or school district.

(56) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(57) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(58) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, [~~the Legislative Printing Office~~]Legislative Services, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(59) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(60) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

(61) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (61)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(62) (a) "Installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(63) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(64) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes:

(i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code; and

(ii) car sharing.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (64)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(65) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(66) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(67) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(68) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(69) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(70) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(71) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the

federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (71)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(72) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(73) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (73)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (73)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(74) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(75) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (75)(a) through (g); or

(j) person similar to a person described in Subsections (75)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(76) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(77) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(78) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (78)(a)(i) and the termination point described in Subsection (78)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(79) (a) "Mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (79)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(80) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(81) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (81)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(82) (a) Subject to Subsection (82)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenue of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (82)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(83) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(84) "Modular home" means a modular unit as defined in Section 15A-1-302.

(85) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(86) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(87) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(88) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(89) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(90) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of

activating a specific pager.

(b) For purposes of Subsection (90)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(91) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(92) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(93) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (93)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (93)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (93)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (139)(c).

(94) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(95) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(96) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(97) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(98) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(99) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(100) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (100)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes;

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (100)(b)(ii)(A)(I)through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (100)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(101) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(102) (a) "Prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (102)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (102)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (102)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(103) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(104) (a) "Product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(105) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(106) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(107) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(108) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (108)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(109) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(110) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(111) "Qualifying energy storage manufacturing facility" means a facility that manufactures, in the state, equipment or devices that store and discharge energy for the purpose of providing electrical power.

(112) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(113) "Rental" means the same as that term is defined in Subsection (64).

(114) (a) "Repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which

the prewritten computer software is detached is not permanently attached to real property.

(115) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(116) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (116)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(117) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(118) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(119) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(120) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(121) "Sale at retail" means the same as that term is defined in Subsection (118).

(122) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(123) "Sales price" means the same as that term is defined in Subsection (108).

(124) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenue generated by the sales is deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (124)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(125) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(126) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(127) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (127)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(128) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.

(129) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

(130) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

(131) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

(132) (a) Subject to Subsections (132)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (132)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(133) (a) "Short-term rental" means a lease or rental for less than 30 consecutive days.

(b) "Short-term rental" does not include car sharing.

(134) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(135) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(136) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(137) "State" means the state of Utah, its departments, and agencies.

(138) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(139) (a) "Tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (139)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(140) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (140)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (140)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (140)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi).

(141) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(142) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(143) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(144) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (144)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (144)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(145) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (145)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (145)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (145)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (145)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (145)(b)(i) through (ix).

(146) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (146)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (146)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv) as the commission determines by rule made in accordance with Subsection (146)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv).

(147) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(148) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(149) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(150) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(151) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(152) (a) Subject to Subsection (152)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (152)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(153) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (152).

(154) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(155) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(156) (a) "Waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(157) "Watercraft" means a vessel as defined in Section 73-18-2.

(158) "Wind energy" means wind used as the sole source of energy to produce electricity.

(159) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 3. Section 59-12-102 is amended to read:

59-12-102 (Effective 07/01/26). Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Adaptive driving equipment" means mobility enhancing equipment:

(i) to be installed in a motor vehicle; and

(ii) regardless of who provides the equipment or parts.

(b) "Adaptive driving equipment" includes:

(i) a wheelchair or scooter lift;

(ii) equipment to secure a wheelchair;

(iii) a swivel seat;

(iv) a hand or foot control; and

(v) a steering aid.

(4) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(5) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(7) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (8); and

(b) that are imposed within a local taxing jurisdiction.

(8) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(a)(i)(B);

(c) Subsection 59-12-103(2)(b)(i);

(d) Subsection 59-12-103(2)(c)(i);

(e) Subsection 59-12-103(2)(d);

(f) Subsection 59-12-103(2)(e)(i)(A);

(g) Section 59-12-204;

(h) Section 59-12-401;

(i) Section 59-12-402;

(j) Section 59-12-402.1;

(k) Section 59-12-703;

(l) Section 59-12-802;

(m) Section 59-12-804;

(n) Section 59-12-1102;

(o) Section 59-12-1302;

(p) Section 59-12-1402;

(q) Section 59-12-1802;

(r) Section 59-12-2003;

(s) Section 59-12-2103;

(t) Section 59-12-2213;

(u) Section 59-12-2214;

(v) Section 59-12-2215;

(w) Section 59-12-2216;

(x) Section 59-12-2217;

(y) Section 59-12-2218;

(z) Section 59-12-2219;[~~or~~]

(aa) Section 59-12-2220[~~.~~]; or

(bb) Section 59-12-2402.

(9) "Aircraft" means the same as that term is defined in Section 72-10-102.

(10) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(11) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(12) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(13) (a) Subject to Subsection (13)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(14) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

(16) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(17) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(18) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(19) (a) "Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(20) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (20)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (20)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (20)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (20)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (20)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (20)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (20)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (20)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (20)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(21) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

(23) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (23)(a)(i).

(24) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124to remit a tax on the seller's own purchases.

(25) (a) Subject to Subsection (25)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (61) or residential use under Subsection (117).

(28) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment,

transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (28)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(29) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(30) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(31) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(32) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (32)(a) and (b).

(33) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (33)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (33)(a).

(34) "Construction materials" means any tangible personal property that will be converted into real property.

(35) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(36) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (36)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(37) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(38) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (38)(b)(i) through (v);

(c) (i) except as provided in Subsection (38)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (38)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(39) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(40) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(41) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(42) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(43) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(44) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26B-2-201;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (44)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (44)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(45) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(46) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (46)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(47) (a) "Durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (47)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(48) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (48)(b)(i) through (vi).

(49) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(50) "Employee" means the same as that term is defined in Section 59-10-401.

(51) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(52) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(53) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(54) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (100)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(55) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (55)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or school district.

(56) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(57) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(58) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, [~~the Legislative Printing Office~~]Legislative Services, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(59) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(60) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

(61) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (61)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(62) (a) "Installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(63) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(64) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes:

(i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code; and

(ii) car sharing.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (64)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(65) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(66) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(67) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(68) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(69) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(70) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(71) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (71)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(72) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(73) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (73)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (73)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(74) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(75) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (75)(a) through (g); or

(j) person similar to a person described in Subsections (75)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(76) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(77) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(78) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (78)(a)(i) and the termination point described in Subsection (78)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(79) (a) "Mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (79)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(80) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(81) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (81)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(82) (a) Subject to Subsection (82)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenue of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (82)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(83) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(84) "Modular home" means a modular unit as defined in Section 15A-1-302.

(85) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(86) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(87) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(88) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(89) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(90) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (90)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(91) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(92) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(93) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (93)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (93)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (93)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (139)(c).

(94) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(95) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(96) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(97) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(98) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(99) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(100) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (100)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes;

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (100)(b)(ii)(A)(I)through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (100)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(101) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(102) (a) "Prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (102)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (102)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (102)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(103) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(104) (a) "Product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(105) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(106) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(107) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(108) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (108)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(109) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(110) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(111) "Qualifying energy storage manufacturing facility" means a facility that manufactures, in the state, equipment or devices that store and discharge energy for the purpose of providing electrical power.

(112) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(113) "Rental" means the same as that term is defined in Subsection (64).

(114) (a) "Repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(115) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(116) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an

individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (116)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(117) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(118) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(119) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(120) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(121) "Sale at retail" means the same as that term is defined in Subsection (118).

(122) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(123) "Sales price" means the same as that term is defined in Subsection (108).

(124) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenue generated by the sales is deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (124)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(125) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(126) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(127) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (127)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(128) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.

(129) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

(130) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

(131) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

(132) (a) Subject to Subsections (132)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (132)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(133) (a) "Short-term rental" means a lease or rental for less than 30 consecutive days.

(b) "Short-term rental" does not include car sharing.

(134) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(135) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(136) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(137) "State" means the state of Utah, its departments, and agencies.

(138) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(139) (a) "Tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (139)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(140) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (140)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (140)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (140)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi).

(141) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(142) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(143) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(144) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (144)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (144)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(145) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (145)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (145)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (145)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (145)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (145)(b)(i) through (ix).

(146) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (146)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (146)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv) as the commission determines by rule made in accordance with Subsection (146)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv).

(147) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(148) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(149) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(150) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(151) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(152) (a) Subject to Subsection (152)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (152)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(153) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (152).

(154) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(155) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(156) (a) "Waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(157) "Watercraft" means a vessel as defined in Section 73-18-2.

(158) "Wind energy" means wind used as the sole source of energy to produce electricity.

(159) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 4. Section 59-12-801 is amended to read:

59-12-801 (Effective upon governor's approval). Definitions.

As used in this part:

[~~(1) "Affected area" means the portion of a county in which a tax is imposed under Subsection 59-12-802(4).~~]

[~~(2)~~](1) "Emergency medical services" means the same as that term is defined in Section 53-2d-101.

[~~(3)~~](2) "Federally qualified health center" means the same as that term is defined in 42 U.S.C. Sec. 1395x.

[~~(4)~~](3) "Freestanding urgent care center" means a facility that provides outpatient health care service:

(a) on an as-needed basis, without an appointment;

(b) to the public;

(c) for the diagnosis and treatment of a medical condition if that medical condition does not require hospitalization or emergency intervention for a life threatening or potentially permanently disabling condition; and

(d) including one or more of the following services:

(i) a medical history physical examination;

(ii) an assessment of health status; or

(iii) treatment:

(A) for a variety of medical conditions; and

(B) that is commonly offered in a physician's office.

[~~(5) "Municipality" means a city or town.~~]

[~~(6)~~](4) "Nursing care facility" means the same as that term is defined in Section 26B-2-201.

[~~(7) "Political subdivision" means a county, municipality, local district, or special service district.~~]

[~~(8)~~](5) "Rural city hospital" means a hospital owned by a city that is located within a third, fourth, fifth, or sixth class county.

[~~(9)~~](6) "Rural county health care facility" means a:

(a) rural county hospital; or

(b) rural county nursing care facility.

[~~(10)~~](7) "Rural county hospital" means a hospital owned by a county that is:

(a) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(b) located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

[~~(11)~~](8) "Rural county nursing care facility" means a nursing care facility owned by:

(a) a county that is:

(i) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(ii) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau; or

(b) a special service district if the special service district is:

(i) created for the purpose of operating the nursing care facility; and

(ii) within a county that is:

(A) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(B) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.

[~~(12)~~](9) "Rural emergency medical services" means emergency medical services that are provided by a county that is:

(a) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and

(b) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.

[~~(13)~~](10) "Rural health clinic" means the same as that term is defined in 42 U.S.C. Sec. 1395x.

Section 5. Section 59-12-802 is amended to read:

59-12-802 (Effective upon governor's approval). Imposition of rural county health care tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, enforcement, and interpretation of tax -- Administrative charge.

(1) (a) A county legislative body of [~~the following counties~~]a county of the third, fourth, fifth, or sixth class may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county[~~:~~].

[~~(i) a county of the third, fourth, fifth, or sixth class; or~~]

[~~(ii) a county of the second class that has:~~]

[~~(A) a national park within or partially within the county's boundaries; and~~]

[~~(B) two or more state parks within or partially within the county's boundaries.~~]

(b) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) [~~Except as provided in Subsection (5)(b), before~~]Before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) Subject to Subsection (4), a county legislative body may use money collected from a tax imposed under Subsection (1) to fund:

[~~(a) for a county described in Subsection (1)(a)(i):~~]

[~~(i)~~](a) the following costs associated with a federally qualified health center within the county, a freestanding urgent care center within the county, a rural county health care facility within the county, or a rural health clinic within the county:

[~~(A)~~](i) ongoing operating expenses of the center, clinic, or facility;

[~~(B)~~](ii) the acquisition of land for the center, clinic, or facility; or

[~~(C)~~](iii) the design, construction, equipping, or furnishing of the center, clinic, or facility;

[~~(ii)~~](b) rural emergency medical services within the county; or

[~~(iii)~~](c) a combination of the activities described in this Subsection [~~(3)(a); and~~](3).

[~~(b) for a county described in Subsection (1)(a)(ii), emergency medical services that are provided by a political subdivision within that county, subject to Subsection (5)(c).~~]

(4) (a) For a tax enacted on or after July 1, 2024, [~~by a county described in Subsection (1)(a)(i),~~]a county legislative body may use money collected from a tax imposed under Subsection (1) to fund:

(i) the costs described in Subsection [~~(3)(a)(i)~~](3)(a);

(ii) the following activities to mitigate the impacts of visitors within the county:

(A) emergency medical services;

(B) solid waste disposal;

(C) search and rescue activities;

(D) law enforcement activities; or

(E) fire protection services;

(iii) avalanche forecasting within the county; or

(iv) a combination of the activities described in this Subsection (4)(a).

(b) For a tax increased on or after July 1, 2024, [~~by a county described in Subsection (1)(a)(i),~~]a county legislative body may use the money collected from the increased tax rate to fund the activities described in Subsections (4)(a)(i) through (iv).

[~~(5) (a) A county described in Subsection (1)(a)(ii) may impose a tax under this section within a portion of the county if the affected area includes:~~]

[~~(i) the entire unincorporated area of the county; and~~]

[~~(ii) the entire boundaries of any municipality located within the affected area.~~]

[~~(b) Before a county described in Subsection (1)(a)(ii) may impose a tax under this section within a portion of the county, the county legislative body shall obtain approval to impose the tax from a majority of:~~]

[~~(i) the members of the county's legislative body;~~]

[~~(ii) the county's registered voters within the affected area voting on the imposition of the tax, in an election conducted according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act; and~~]

[~~(iii) (A) the members of the legislative body of each municipality located within the affected area; or~~]

[~~(B) the members of the governing body of a special service district established under Title 17D, Chapter 1, Special Service District Act, to provide emergency medical services within the affected area.~~]

[~~(c) A county described in Subsection (1)(a)(ii) that imposes a tax under this section within a portion of the county in accordance with this Subsection (5) may use the money collected from the tax to fund emergency medical services that are provided by a political subdivision within the affected area.~~]

[~~(6)~~](5) (a) A tax under this section shall be:

(i) except as provided in Subsection [~~(6)(b)~~](5)(b), administered, collected, enforced, and interpreted in accordance with:

(A) the same procedures used to administer, collect, enforce, and interpret the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the 10-year period by the county legislative body and the county's registered voters in accordance with the procedures and requirements for levying a tax under Subsection (2)[~~or (5)(b)~~], except as provided in Subsection [~~(6)(d)~~](5)(d).

(b) A tax under this section is not subject to Subsections 59-12-205(2) and (4) through (6).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

(d) (i) This Subsection [~~(6)(d)~~](5)(d) applies to a county that imposes a tax under this section on or before January 1, 2024.

(ii) Notwithstanding Subsection [~~(6)(a)(ii)~~](5)(a)(ii), a county described in Subsection [~~(6)(d)(i)~~](5)(d)(i) is not subject to the voter approval requirement in Subsection (2)[~~or (5)(b) ~~]for the first time the county reauthorizes the tax at the end of the 10-year levy period after January 1, 2024.

(iii) The voter approval requirement in Subsection (2)[~~or (5)(b)~~]applies to a county described in Subsection [~~(6)(d)(i)~~](5)(d)(i) for any time the county reauthorizes the tax at the end of the 10-year levy period after the reauthorization described in Subsection [~~(6)(d)(ii)~~](5)(d)(ii).

[~~(7)~~](6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 6. Section 59-12-2401 is enacted to read:

PART 24. Emergency Services Tax

59-12-2401 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Emergency services" means:

(a) emergency medical services as defined in Section 53-2d-101;

(b) fire protection services; or

(c) a combination of emergency medical services, as defined in Section 53-2d-101, and fire protection services.

(2) "Emergency services tax" means the sales and use tax authorized under Section 59-12-2402.

(3) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town; or

(b) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been created under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been created under Section 17D-1-301.

(4) "Qualifying political subdivision" means:

(a) a specified county;

(b) a special service district established under Title 17D, Chapter 1, Special Service District Act, to provide emergency services within a specified county; or

(c) a city or town that:

(i) is located:

(A) within a specified county; and

(B) outside the boundaries of a special service district described in Subsection (4)(b); and

(ii) provides, or contracts with a special service district described in Subsection (4)(b)to receive, emergency services within the city or town.

(5) "Specified county" means a county of the second or third class, as defined in Section 17-50-501, that contains:

(a) a national park and two or more state parks within or partially within the county's boundaries; and

(b) a municipality with a population of 95,000 or more.

Section 7. Section 59-12-2402 is enacted to read:

59-12-2402 (Effective upon governor's approval). Imposition of emergency services tax -- Permitted rates -- Expenditure and distribution of tax revenue -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) The governing body of a qualifying political subdivision may, subject to Subsection (1)(b), impose a sales and use tax on the transactions described in Subsection 59-12-103(1) in the following amount:

(i) an amount of up to .33% if the governing body:

(A) first holds a public hearing at which the tax is discussed, subject to Subsection (2); and

(B) after the public hearing is held, passes an ordinance or resolution approving the tax; or

(ii) an amount of up to 1% if the governing body obtains approval to impose the tax from a majority of:

(A) the members of the governing body; and

(B) voters within the qualifying political subdivision voting in an election held for that purpose in accordance with Title 11, Chapter 14, Local Government Bonding Act.

(b) (i) A tax imposed by a county under Subsection (1)(a) shall be imposed within all unincorporated areas of the county.

(ii) A tax imposed by a special service district under Subsection (1)(a) shall be imposed within the boundaries of each city and town located within the area of the special service district.

(iii) A tax may not be imposed under this section within:

(A) a portion of a city, town, or the unincorporated area of a county; or

(B) an area in which a tax under this section has already been imposed.

(c) Notwithstanding Subsection (1)(a), a qualifying political subdivision may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A qualifying political subdivision that imposes a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) The governing body of a qualifying political subdivision proposing a tax rate described in Subsection (1)(a)(i) shall, as a class A notice under Section 63G-30-102, publish notice of the public hearing required by Subsection (1)(a)(i)(A) for at least 14 days before the day of the public hearing.

(b) The notice described in Subsection (2)(a) shall:

(i) state the governing body's intent to adopt a tax under this section;

(ii) describe the proposed tax rate;

(iii) describe the cities, towns, and unincorporated areas within which the proposed tax is to be imposed;

(iv) specify the date, time, and location of the public hearing; and

(v) state that the purpose of the public hearing is to obtain public comments regarding the proposed tax.

(3) For a county proposing a tax rate described in Subsection (1)(a)(ii), the voter approval requirement in Subsection (1)(a)(ii)(B) applies only to voters residing within the unincorporated areas of the county.

(4) (a) Subject to Subsection (4)(b), a qualifying political subdivision may use money collected from a tax imposed under this section to fund emergency services provided by, or on behalf of, a qualifying political subdivision.

(b) A qualifying political subdivision that imposes a tax under this section may:

(i) use money collected from the tax to fund emergency services within an area in which the tax is not imposed; and

(ii) enter into an agreement authorized by Title 11, Chapter 13, Interlocal Cooperation Act, allowing for another qualifying political subdivision to use money collected from the tax to fund emergency services.

(5) (a) Except as provided in Subsection (5)(b), a tax under this section shall be administered, collected, and enforced in accordance with the same procedures used to administer, collect, and enforce the tax under:

(i) (A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this section is not subject to Subsections 59-12-205(2) through (5).

(c) A tax under this section shall be levied for a period of 10 years and may, in accordance with the procedures and requirements for levying a tax under Subsections (1) through (3), be reauthorized at the end of the 10-year period by:

(i) the governing body that imposed the tax, for reauthorizing a tax rate described in Subsection (1)(a)(i); or

(ii) the governing body that imposed the tax and the qualifying political subdivision's voters, for reauthorizing a tax rate described in Subsection (1)(a)(ii).

(d) Except as provided in Subsection (5)(e), the commission shall distribute the revenue the commission collects from a tax imposed

under this section directly to the qualifying political subdivision imposing the tax.

(e) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 8. Section 59-12-2403 is enacted to read:

59-12-2403 (Effective upon governor's approval). Enactment, repeal, or change in the rate of an emergency services tax -- Annexation -- Notice.

(1) (a) Except as provided in Subsection (2), if a qualifying political subdivision enacts or repeals an emergency services tax or changes the rate of an emergency services tax, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice that meets the requirements of Subsection (1)(b) from the qualifying political subdivision.

(b) The notice described in Subsection (1)(a)(ii) shall state:

(i) that the qualifying political subdivision will enact, repeal, or change the rate of an emergency services tax;

(ii) the statutory authority for the emergency services tax;

(iii) the effective date of the enactment, repeal, or change in the rate of the emergency services tax; and

(iv) if the county enacts or changes the rate of the emergency services tax:

(A) the rate of the emergency services tax; and

(B) the cities, towns, and unincorporated areas within which the emergency services tax is imposed.

(2) (a) If the billing period for a transaction begins before the effective date of the enactment of an emergency services tax or the increase in the rate of an emergency services tax, the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(b) If the billing period for a transaction begins before the effective date of the repeal of an emergency services tax or the decrease in the rate of an emergency services tax, the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(c) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (1)(a) shall take effect:

(i) on the first day of a calendar quarter; and

(ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (1)(a).

(3) (a) Except as provided in Subsection (4), if an annexation will result in the enactment, repeal, or change in the rate of an emergency services tax for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the political subdivision that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in the enactment, repeal, or change in the rate of an emergency services tax for the annexing area;

(ii) the statutory authority for the emergency services tax;

(iii) the effective date of the enactment, repeal, or change in the rate of the emergency services tax; and

(iv) if the annexation results in the enactment or change in the rate of an emergency services tax for the annexing area, the rate of the emergency services tax.

(4) (a) If the billing period for a transaction begins before the effective date of the enactment of an emergency services tax or the increase in the rate of an emergency services tax, the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(b) If the billing period for a transaction begins before the effective date of the repeal of an emergency services tax or the decrease in the rate of an emergency services tax, the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(c) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) shall take effect:

(i) on the first day of a calendar quarter; and

(ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsections (2)(c) and (4)(c), the commission may by rule define the term "catalogue sale."

Section 9. Section 59-12-2404 is enacted to read:

59-12-2404 (Effective upon governor's approval). Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect an emergency services tax if the seller's or certified service provider's failure to collect the emergency services tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Section 10. Section 59-12-2405 is enacted to read:

59-12-2405 (Effective upon governor's approval). Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect an emergency services tax if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect an emergency services tax is a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Section 11. Section 59-12-2406 is enacted to read:

59-12-2406 (Effective upon governor's approval). Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay an emergency services tax or an underpayment of the emergency services tax if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term that is in the library of definitions and that is listed as taxable or exempt, included in or excluded from "sales price," or included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term that is in the library of definitions and that is listed as taxable or exempt, included in or excluded from "sales price," or included in or excluded from a definition.

Section 12. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect:

(a) except as provided in Subsection (1)(b), December 6, 2025; or

(b) if approved by two-thirds of all members elected to each house:

(i) upon approval by the governor;
(ii) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or
(iii) in the case of a veto, the date of veto override.
(2) The actions affecting Section 59-12-102 (Effective 07/01/26) take effect on July 1, 2026.

CHAPTER 13
S. B. 1006
Passed October 6, 2025
Approved October 14, 2025
Effective November 6, 2025

TITLE 17 RECODIFICATION GENERAL PROVISIONS AND COUNTY OFFICERS

Chief Sponsor: Don L. Ipson
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill reorganizes and renumbers provisions of the state code related to counties.

Highlighted Provisions:

This bill:

- ► reorganizes and renumbers certain provisions of Title 17, Counties;
- ► defines terms and modifies definitions;
- ► enacts provisions related to counties for organizational purposes;
- ► amends provisions related to counties for organizational purposes;
- ► repeals provisions related to counties for organizational purposes; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

17-60-504, (Effective 11/06/25) Utah Code Annotated 1953
17-61-101, (Effective 11/06/25) Utah Code Annotated 1953
17-63-307, (Effective 11/06/25) Utah Code Annotated 1953
17-64-101, (Effective 11/06/25) Utah Code Annotated 1953
17-64-102, (Effective 11/06/25) Utah Code Annotated 1953
17-65-101, (Effective 11/06/25) Utah Code Annotated 1953
17-65-201, (Effective 11/06/25) Utah Code Annotated 1953
17-66-101, (Effective 11/06/25) Utah Code Annotated 1953
17-66-205, (Effective 11/06/25) Utah Code Annotated 1953
17-66-206, (Effective 11/06/25) Utah Code Annotated 1953
17-66-501, (Effective 11/06/25) Utah Code Annotated 1953
17-67-101, (Effective 11/06/25) Utah Code Annotated 1953
17-67-302, (Effective 11/06/25) Utah Code Annotated 1953
17-68-605, (Effective 11/06/25) Utah Code Annotated 1953
17-69-103, (Effective 11/06/25) Utah Code Annotated 1953
17-69-201, (Effective 11/06/25) Utah Code Annotated 1953
17-70-101, (Effective 11/06/25) Utah Code Annotated 1953
17-70-102, (Effective 11/06/25) Utah Code Annotated 1953
17-70-103, (Effective 11/06/25) Utah Code Annotated 1953
17-70-201, (Effective 11/06/25) Utah Code Annotated 1953
17-71-101, (Effective 11/06/25) Utah Code Annotated 1953
17-71-103, (Effective 11/06/25) Utah Code Annotated 1953
17-71-201, (Effective 11/06/25) Utah Code Annotated 1953
17-72-303, (Effective 11/06/25) Utah Code Annotated 1953
17-72-409, (Effective 11/06/25) Utah Code Annotated 1953
17-72-410, (Effective 11/06/25) Utah Code Annotated 1953
17-73-101, (Effective 11/06/25) Utah Code Annotated 1953
17-73-104, (Effective 11/06/25) Utah Code Annotated 1953
17-74-101, (Effective 11/06/25) Utah Code Annotated 1953
17-74-201, (Effective 11/06/25) Utah Code Annotated 1953
17-74-501, (Effective 11/06/25) Utah Code Annotated 1953

RENUMBERS AND AMENDS:

17-60-101, (Effective 11/06/25) (Renumbered from 17-50-101, as last amended by Laws of Utah 2006, Chapter 46)

17-60-102, (Effective 11/06/25) (Renumbered from 17-50-314, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-60-103, (Effective 11/06/25) (Renumbered from 17-50-103, as last amended by Laws of Utah 2024, Chapter 158)
17-60-104, (Effective 11/06/25) (Renumbered from 17-50-501, as last amended by Laws of Utah 2025, Chapter 217)
17-60-105, (Effective 11/06/25) (Renumbered from 17-50-502, as last amended by Laws of Utah 2025, Chapter 400)
17-60-106, (Effective 11/06/25) (Renumbered from 17-15-31, as last amended by Laws of Utah 2020, Chapter 30)
17-60-107, (Effective 11/06/25) (Renumbered from 17-15-32, as last amended by Laws of Utah 2023, Chapter 15)
17-60-201, (Effective 11/06/25) (Renumbered from 17-50-301, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-60-202, (Effective 11/06/25) (Renumbered from 17-50-302, as last amended by Laws of Utah 2013, Chapter 445)
17-60-203, (Effective 11/06/25) (Renumbered from 17-50-303, as last amended by Laws of Utah 2023, Chapter 435)
17-60-204, (Effective 11/06/25) (Renumbered from 17-50-304, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-60-205, (Effective 11/06/25) (Renumbered from 17-50-315, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-60-301, (Effective 11/06/25) (Renumbered from 17-11-1, Utah Code Annotated 1953)
17-60-302, (Effective 11/06/25) (Renumbered from 17-11-2, as last amended by Laws of Utah 2023, Chapter 116)
17-60-401, (Effective 11/06/25) (Renumbered from 17-50-401, as last amended by Laws of Utah 2012, Chapter 17)
17-60-402, (Effective 11/06/25) (Renumbered from 17-50-402, as last amended by Laws of Utah 2001, Chapter 241)
17-60-403, (Effective 11/06/25) (Renumbered from 17-50-403, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-60-404, (Effective 11/06/25) (Renumbered from 17-50-404, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-60-405, (Effective 11/06/25) (Renumbered from 17-50-405, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-60-406, (Effective 11/06/25) (Renumbered from 17-50-406, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-60-407, (Effective 11/06/25) (Renumbered from 17-34-6, as last amended by Laws of Utah 2015, Chapter 310)
17-60-501, (Effective 11/06/25) (Renumbered from 17-50-321, as enacted by Laws of Utah 2006, Chapter 214)
17-60-502, (Effective 11/06/25) (Renumbered from 17-50-332, as enacted by Laws of Utah 2011, Chapter 272)
17-60-503, (Effective 11/06/25) (Renumbered from 17-15-25, as enacted by Laws of Utah 1995, Chapter 131)
17-60-505, (Effective 11/06/25) (Renumbered from 17-50-337, as enacted by Laws of Utah 2014, Chapter 222)
17-60-506, (Effective 11/06/25) (Renumbered from 17-50-329, as enacted by Laws of Utah 2009, Chapter 236)
17-60-507, (Effective 11/06/25) (Renumbered from 17-50-334, as enacted by Laws of Utah 2012, Chapter 87)
17-60-508, (Effective 11/06/25) (Renumbered from 17-50-336, as last amended by Laws of Utah 2023, Chapter 419)
17-61-102, (Effective 11/06/25) (Renumbered from 17-50-105, as last amended by Laws of Utah 2021, Chapters 162, 345)
17-61-201, (Effective 11/06/25) (Renumbered from 17-2-103, as last amended by Laws of Utah 2023, Chapter 116)
17-61-202, (Effective 11/06/25) (Renumbered from 17-2-104, as renumbered and amended by Laws of Utah 2009, Chapter 350)
17-61-203, (Effective 11/06/25) (Renumbered from 17-2-105, as renumbered and amended by Laws of Utah 2009, Chapter 350)
17-61-204, (Effective 11/06/25) (Renumbered from 17-2-106, as last amended by Laws of Utah 2024, Chapter 158)
17-61-301, (Effective 11/06/25) (Renumbered from 17-2-203, as last amended by Laws of Utah 2023, Chapter 116)
17-61-302, (Effective 11/06/25) (Renumbered from 17-2-204, as renumbered and amended by Laws of Utah 2009, Chapter 350)
17-61-303, (Effective 11/06/25) (Renumbered from 17-2-205, as renumbered and amended by Laws of Utah 2009, Chapter 350)
17-61-304, (Effective 11/06/25) (Renumbered from 17-2-206, as renumbered and amended by Laws of Utah 2009, Chapter 350)
17-61-305, (Effective 11/06/25) (Renumbered from 17-2-207, as renumbered and amended by Laws of Utah 2009, Chapter 350)
17-61-306, (Effective 11/06/25) (Renumbered from 17-2-209, as last amended by Laws of Utah 2024, Chapter 438)
17-61-401, (Effective 11/06/25) (Renumbered from 17-3-1, as last amended by Laws of Utah 2023, Chapter 116)
17-61-402, (Effective 11/06/25) (Renumbered from 17-3-3, as last amended by Laws of Utah 2009, Chapter 350)
17-61-403, (Effective 11/06/25) (Renumbered from 17-3-4, as last amended by Laws of Utah 1993, Chapter 227)
17-61-404, (Effective 11/06/25) (Renumbered from 17-3-5, as last amended by Laws of Utah 1993, Chapter 227)
17-61-405, (Effective 11/06/25) (Renumbered from 17-3-6, as last amended by Laws of Utah 1993, Chapter 227)
17-61-406, (Effective 11/06/25) (Renumbered from 17-3-7, as last amended by Laws of Utah 2024, Chapter 158)
17-61-407, (Effective 11/06/25) (Renumbered from 17-3-9, as last amended by Laws of Utah 2024, Chapter 365)
17-62-101, (Effective 11/06/25) (Renumbered from 17-52a-102, as last amended by Laws of Utah 2020, Chapter 47)
17-62-102, (Effective 11/06/25) (Partially Repealed 01/01/28) (Renumbered from 17-52a-103, as last amended by Laws of Utah 2020, Chapter 47 and further amended by Revisor Instructions, Laws of Utah 2020, Chapter 47)
17-62-201, (Effective 11/06/25) (Renumbered from 17-52a-201, as renumbered and amended by Laws of Utah 2018, Chapter 68)
17-62-202, (Effective 11/06/25) (Renumbered from 17-52a-202, as renumbered and amended by Laws of Utah 2018, Chapter 68)
17-62-203, (Effective 11/06/25) (Renumbered from 17-52a-203, as renumbered and amended by Laws of Utah 2018, Chapter 68)
17-62-204, (Effective 11/06/25) (Renumbered from 17-52a-204, as last amended by Laws of Utah 2025, Chapter 535)
17-62-301, (Effective 11/06/25) (Renumbered from 17-52a-301, as last amended by Laws of Utah 2020, Chapter 47)
17-62-302, (Effective 11/06/25) (Renumbered from 17-52a-302, as last amended by Laws of Utah 2020, Chapter 47)
17-62-303, (Effective 11/06/25) (Renumbered from 17-52a-303, as last amended by Laws of Utah 2023, Chapter 116)
17-62-304, (Effective 11/06/25) (Renumbered from 17-52a-305, as last amended by Laws of Utah 2020, Chapter 47)
17-62-401, (Effective 11/06/25) (Renumbered from 17-52a-402, as last amended by Laws of Utah 2020, Chapter 47)
17-62-402, (Effective 11/06/25) (Renumbered from 17-52a-403, as last amended by Laws of Utah 2025, Chapter 535)
17-62-403, (Effective 11/06/25) (Renumbered from 17-52a-404, as last amended by Laws of Utah 2025, Chapter 535)
17-62-404, (Effective 11/06/25) (Renumbered from 17-52a-405, as last amended by Laws of Utah 2020, Chapter 47)
17-62-405, (Effective 11/06/25) (Renumbered from 17-52a-406, as last amended by Laws of Utah 2020, Chapter 47)
17-62-501, (Effective 11/06/25) (Renumbered from 17-52a-501, as last amended by Laws of Utah 2020, Chapter 47)
17-62-502, (Effective 11/06/25) (Renumbered from 17-52a-502, as last amended by Laws of Utah 2020, Chapter 47)
17-62-503, (Effective 11/06/25) (Renumbered from 17-52a-503, as last amended by Laws of Utah 2023, Chapter 15)
17-62-504, (Effective 11/06/25) (Renumbered from 17-52a-504, as renumbered and amended by Laws of Utah 2018, Chapter 68)

17-62-505, (Effective 11/06/25) (Renumbered from 17-52a-505, as last amended by Laws of Utah 2023, Chapter 116)
17-63-101, (Effective 11/06/25) (Renumbered from 17-36-3, as last amended by Laws of Utah 2022, Chapter 288)
17-63-102, (Effective 11/06/25) (Renumbered from 17-36-2, as last amended by Laws of Utah 1983, Chapter 73)
17-63-103, (Effective 11/06/25) (Renumbered from 17-50-102, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-63-201, (Effective 11/06/25) (Renumbered from 17-36-3.5, as enacted by Laws of Utah 1999, Chapter 300)
17-63-202, (Effective 11/06/25) (Renumbered from 17-36-4, as last amended by Laws of Utah 2022, Chapter 288)
17-63-203, (Effective 11/06/25) (Renumbered from 17-36-6, as last amended by Laws of Utah 2022, Chapter 451)
17-63-204, (Effective 11/06/25) (Renumbered from 17-36-16, as last amended by Laws of Utah 2021, Chapter 52)
17-63-301, (Effective 11/06/25) (Renumbered from 17-36-8, as last amended by Laws of Utah 2022, Chapter 288)
17-63-302, (Effective 11/06/25) (Renumbered from 17-36-9, as last amended by Laws of Utah 2023, Chapter 15)
17-63-303, (Effective 11/06/25) (Renumbered from 17-36-10, as last amended by Laws of Utah 2022, Chapter 288)
17-63-304, (Effective 11/06/25) (Renumbered from 17-36-12, as last amended by Laws of Utah 2023, Chapter 435)
17-63-305, (Effective 11/06/25) (Renumbered from 17-36-15, as last amended by Laws of Utah 2022, Chapter 288)
17-63-306, (Effective 11/06/25) (Renumbered from 17-36-26.5, as enacted by Laws of Utah 1999, Chapter 300)
17-63-401, (Effective 11/06/25) (Renumbered from 17-36-24, as enacted by Laws of Utah 1975, Chapter 22)
17-63-402, (Effective 11/06/25) (Renumbered from 17-36-26, as last amended by Laws of Utah 2023, Chapter 435)
17-63-403, (Effective 11/06/25) (Renumbered from 17-36-22, as last amended by Laws of Utah 2022, Chapter 288)
17-63-404, (Effective 11/06/25) (Renumbered from 17-36-27, as last amended by Laws of Utah 2014, Chapters 176, 269)
17-63-501, (Effective 11/06/25) (Renumbered from 17-36-20, as last amended by Laws of Utah 2022, Chapter 288)
17-63-502, (Effective 11/06/25) (Renumbered from 17-36-21, as enacted by Laws of Utah 1975, Chapter 22)
17-63-503, (Effective 11/06/25) (Renumbered from 17-15-16, as last amended by Laws of Utah 2011, Chapter 297)
17-63-504, (Effective 11/06/25) (Renumbered from 17-15-18, Utah Code Annotated 1953)
17-63-505, (Effective 11/06/25) (Renumbered from 17-15-19, Utah Code Annotated 1953)
17-63-506, (Effective 11/06/25) (Renumbered from 17-53-225, as last amended by Laws of Utah 2012, Chapter 347)
17-63-601, (Effective 11/06/25) (Renumbered from 17-36-43, as last amended by Laws of Utah 2012, Chapter 17)
17-63-602, (Effective 11/06/25) (Renumbered from 17-36-36, as last amended by Laws of Utah 2022, Chapter 288)
17-63-603, (Effective 11/06/25) (Renumbered from 17-36-37, as last amended by Laws of Utah 2025, Chapter 270)
17-63-604, (Effective 11/06/25) (Renumbered from 17-36-40, as last amended by Laws of Utah 2009, Chapter 388)
17-63-605, (Effective 11/06/25) (Renumbered from 17-36-45, as enacted by Laws of Utah 1996, Chapter 212)
17-63-701, (Effective 11/06/25) (Renumbered from 17-53-222, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-63-702, (Effective 11/06/25) (Renumbered from 17-53-219, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-63-703, (Effective 11/06/25) (Renumbered from 17-36-18, as enacted by Laws of Utah 1975, Chapter 22)
17-63-704, (Effective 11/06/25) (Renumbered from 17-36-31, as last amended by Laws of Utah 2021, Chapter 434)
17-63-705, (Effective 11/06/25) (Renumbered from 17-50-328, as enacted by Laws of Utah 2009, Chapter 98)
17-63-706, (Effective 11/06/25) (Renumbered from 17-50-319, as last amended by Laws of Utah 2023, Chapter 497)
17-63-707, (Effective 11/06/25) (Renumbered from 17-53-211, as last amended by Laws of Utah 2022, Chapter 319)
17-63-708, (Effective 11/06/25) (Renumbered from 17-36-34, as enacted by Laws of Utah 1975, Chapter 22)
17-63-709, (Effective 11/06/25) (Renumbered from 17-15-28, as enacted by Laws of Utah 2005, Chapter 29)
17-63-710, (Effective 11/06/25) (Renumbered from 17-23-19, as last amended by Laws of Utah 2014, Chapter 189)
17-63-801, (Effective 11/06/25) (Renumbered from 17-36-31.5, as enacted by Laws of Utah 2019, Chapter 301)
17-63-802, (Effective 11/06/25) (Renumbered from 17-36-32, as last amended by Laws of Utah 2022, Chapter 288)
17-63-803, (Effective 11/06/25) (Renumbered from 17-36-46, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-63-804, (Effective 11/06/25) (Renumbered from 17-36-47, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-63-805, (Effective 11/06/25) (Renumbered from 17-36-50, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-63-806, (Effective 11/06/25) (Renumbered from 17-36-51, as last amended by Laws of Utah 2014, Chapter 176)
17-63-807, (Effective 11/06/25) (Renumbered from 17-36-53, as last amended by Laws of Utah 2014, Chapter 176)
17-63-808, (Effective 11/06/25) (Renumbered from 17-36-29, as last amended by Laws of Utah 2024, Chapter 438)
17-63-809, (Effective 11/06/25) (Renumbered from 17-36-30, as last amended by Laws of Utah 2024, Chapter 387)
17-63-901, (Effective 11/06/25) (Renumbered from 17-12-1, as last amended by Laws of Utah 2005, Chapter 105)
17-63-902, (Effective 11/06/25) (Renumbered from 17-12-2, as last amended by Laws of Utah 1993, Chapter 227)
17-63-903, (Effective 11/06/25) (Renumbered from 17-12-3, as enacted by Laws of Utah 1963, Chapter 27)
17-63-904, (Effective 11/06/25) (Renumbered from 17-12-4, as last amended by Laws of Utah 2011, Chapter 41)
17-63-1001, (Effective 11/06/25) (Renumbered from 17-15-20, Utah Code Annotated 1953)
17-63-1002, (Effective 11/06/25) (Renumbered from 17-15-22, as enacted by Laws of Utah 1977, Chapter 70)
17-63-1101, (Effective 11/06/25) (Renumbered from 17-36-35, as last amended by Laws of Utah 1996, Chapter 212)
17-64-103, (Effective 11/06/25) (Renumbered from 17-53-214, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-64-201, (Effective 11/06/25) (Renumbered from 17-53-202, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-64-202, (Effective 11/06/25) (Renumbered from 17-53-227, as repealed and reenacted by Laws of Utah 2025, Chapter 76)
17-64-301, (Effective 11/06/25) (Renumbered from 17-53-204, as last amended by Laws of Utah 2025, Chapter 70)
17-64-302, (Effective 11/06/25) (Renumbered from 17-53-205, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-64-303, (Effective 11/06/25) (Renumbered from 17-53-206, as last amended by Laws of Utah 2011, Chapter 107)
17-64-304, (Effective 11/06/25) (Renumbered from 17-53-203, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-64-305, (Effective 11/06/25) (Renumbered from 17-53-207, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-64-401, (Effective 11/06/25) (Renumbered from 17-53-201, as last amended by Laws of Utah 2001, Chapter 241)
17-64-402, (Effective 11/06/25) (Renumbered from 17-53-209, as last amended by Laws of Utah 2011, Chapter 297)

17-64-403, (Effective 11/06/25) (Renumbered from 17-53-210, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-64-404, (Effective 11/06/25) (Renumbered from 17-53-212, as last amended by Laws of Utah 2022, Chapter 288)
17-64-405, (Effective 11/06/25) (Renumbered from 17-53-226, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-64-406, (Effective 11/06/25) (Renumbered from 17-26-1, as last amended by Laws of Utah 1993, Chapter 227)
17-64-407, (Effective 11/06/25) (Renumbered from 17-53-218, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-64-501, (Effective 11/06/25) (Renumbered from 17-53-223, as last amended by Laws of Utah 2025, Chapter 141)
17-64-502, (Effective 11/06/25) (Renumbered from 17-53-208, as last amended by Laws of Utah 2020, Chapter 89)
17-64-503, (Effective 11/06/25) (Renumbered from 17-33-15, as last amended by Laws of Utah 2011, Chapter 297)
17-64-504, (Effective 11/06/25) (Renumbered from 17-53-228, as last amended by Laws of Utah 2019, Chapter 278)
17-64-505, (Effective 11/06/25) (Renumbered from 17-53-216, as last amended by Laws of Utah 2024, Chapter 423)
17-65-301, (Effective 11/06/25) (Renumbered from 17-53-301, as last amended by Laws of Utah 2015, Chapter 258)
17-65-302, (Effective 11/06/25) (Renumbered from 17-53-302, as last amended by Laws of Utah 2022, Chapters 39, 260)
17-65-303, (Effective 11/06/25) (Renumbered from 17-53-316, as last amended by Laws of Utah 2022, Chapter 260)
17-65-304, (Effective 11/06/25) (Renumbered from 17-53-303, as last amended by Laws of Utah 2022, Chapter 288)
17-65-305, (Effective 11/06/25) (Renumbered from 17-53-315, as last amended by Laws of Utah 2001, Chapter 241)
17-65-306, (Effective 11/06/25) (Renumbered from 17-53-306, as enacted by Laws of Utah 2000, Chapter 133)
17-65-307, (Effective 11/06/25) (Renumbered from 17-53-317, as last amended by Laws of Utah 2011, Chapter 209)
17-65-308, (Effective 11/06/25) (Renumbered from 17-53-312, as enacted by Laws of Utah 2000, Chapter 133)
17-65-401, (Effective 11/06/25) (Renumbered from 17-53-307, as last amended by Laws of Utah 2025, Chapter 76)
17-65-402, (Effective 11/06/25) (Renumbered from 17-53-313, as last amended by Laws of Utah 2012, Chapter 347)
17-65-403, (Effective 11/06/25) (Renumbered from 17-53-309, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-65-404, (Effective 11/06/25) (Renumbered from 17-53-310, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-65-405, (Effective 11/06/25) (Renumbered from 17-53-311, as last amended by Laws of Utah 2011, Chapter 297)
17-66-102, (Effective 11/06/25) (Renumbered from 17-53-101, as last amended by Laws of Utah 2018, Chapter 68)
17-66-103, (Effective 11/06/25) (Renumbered from 17-16-9, as last amended by Laws of Utah 2025, Chapter 70)
17-66-104, (Effective 11/06/25) (Renumbered from 17-16-3, as last amended by Laws of Utah 2023, Chapter 55)
17-66-105, (Effective 11/06/25) (Renumbered from 17-16-11, as last amended by Laws of Utah 2025, Chapter 76)
17-66-106, (Effective 11/06/25) (Renumbered from 17-16-8, Utah Code Annotated 1953)
17-66-201, (Effective 11/06/25) (Renumbered from 17-16-1, as last amended by Laws of Utah 2025, Chapter 230)
17-66-202, (Effective 11/06/25) (Renumbered from 17-16-6, as last amended by Laws of Utah 2019, Chapter 258)
17-66-203, (Effective 11/06/25) (Renumbered from 17-16-12, as last amended by Laws of Utah 2024, Chapter 365)
17-66-204, (Effective 11/06/25) (Renumbered from 17-16-10.5, as last amended by Laws of Utah 2006, Chapter 321)
17-66-301, (Effective 11/06/25) (Renumbered from 17-53-103, as last amended by Laws of Utah 2025, Chapter 76)
17-66-302, (Effective 11/06/25) (Renumbered from 17-53-105, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-66-303, (Effective 11/06/25) (Renumbered from 17-16-21, as last amended by Laws of Utah 2024, Chapter 366)
17-66-304, (Effective 11/06/25) (Renumbered from 17-53-224, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-66-401, (Effective 11/06/25) (Renumbered from 17-16-14, as last amended by Laws of Utah 2024, Chapter 475)
17-66-402, (Effective 11/06/25) (Renumbered from 17-16-19, as last amended by Laws of Utah 1993, Chapter 227)
17-66-403, (Effective 11/06/25) (Renumbered from 17-16-20, as last amended by Laws of Utah 1993, Chapter 227)
17-66-404, (Effective 11/06/25) (Renumbered from 17-16-17, as last amended by Laws of Utah 1993, Chapter 227)
17-66-502, (Effective 11/06/25) (Renumbered from 17-16-16, as last amended by Laws of Utah 2017, Chapter 70)
17-66-503, (Effective 11/06/25) (Renumbered from 17-15-27, as last amended by Laws of Utah 2018, Chapter 68)
17-66-504, (Effective 11/06/25) (Renumbered from 17-53-106, as last amended by Laws of Utah 2002, Chapters 11, 185)
17-66-505, (Effective 11/06/25) (Renumbered from 17-53-318, as enacted by Laws of Utah 2013, Chapter 97)
17-66-506, (Effective 11/06/25) (Renumbered from 17-53-217, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-67-201, (Effective 11/06/25) (Renumbered from 17-17-2, as repealed and reenacted by Laws of Utah 2016, Chapter 285)
17-67-301, (Effective 11/06/25) (Renumbered from 17-17-1, as last amended by Laws of Utah 2010, Chapter 381)
17-68-101, (Effective 11/06/25) (Renumbered from 17-18a-102, as enacted by Laws of Utah 2013, Chapter 237)
17-68-102, (Effective 11/06/25) (Renumbered from 17-16-2.5, as last amended by Laws of Utah 2013, Chapter 237)
17-68-103, (Effective 11/06/25) (Renumbered from 17-18a-204, as enacted by Laws of Utah 2013, Chapter 237)
17-68-104, (Effective 11/06/25) (Repealed 07/01/29) (Renumbered from 17-18a-203.5, as last amended by Laws of Utah 2025, Chapter 252)
17-68-201, (Effective 11/06/25) (Renumbered from 17-18a-301, as enacted by Laws of Utah 2013, Chapter 237)
17-68-202, (Effective 11/06/25) (Renumbered from 17-18a-302, as enacted by Laws of Utah 2013, Chapter 237)
17-68-203, (Effective 11/06/25) (Renumbered from 17-18a-803, as enacted by Laws of Utah 2013, Chapter 237)
17-68-301, (Effective 11/06/25) (Renumbered from 17-18a-603, as enacted by Laws of Utah 2013, Chapter 237)
17-68-302, (Effective 11/06/25) (Renumbered from 17-18a-202, as enacted by Laws of Utah 2013, Chapter 237)
17-68-303, (Effective 11/06/25) (Renumbered from 17-18a-203, as enacted by Laws of Utah 2013, Chapter 237)
17-68-304, (Effective 11/06/25) (Renumbered from 17-18a-601, as last amended by Laws of Utah 2018, Chapter 24)
17-68-305, (Effective 11/06/25) (Renumbered from 17-18a-602, as enacted by Laws of Utah 2013, Chapter 237)
17-68-306, (Effective 11/06/25) (Renumbered from 17-18a-605, as enacted by Laws of Utah 2013, Chapter 237)
17-68-401, (Effective 11/06/25) (Renumbered from 17-18a-701, as enacted by Laws of Utah 2013, Chapter 237)
17-68-402, (Effective 11/06/25) (Renumbered from 17-18a-702, as enacted by Laws of Utah 2013, Chapter 237)
17-68-403, (Effective 11/06/25) (Renumbered from 17-18a-703, as enacted by Laws of Utah 2013, Chapter 237)
17-68-501, (Effective 11/06/25) (Renumbered from 17-18a-401, as enacted by Laws of Utah 2013, Chapter 237)
17-68-502, (Effective 11/06/25) (Renumbered from 17-18a-801, as enacted by Laws of Utah 2013, Chapter 237)

17-68-503, (Effective 11/06/25) (Renumbered from 17-18a-402, as enacted by Laws of Utah 2013, Chapter 237)
17-68-504, (Effective 11/06/25) (Renumbered from 17-18a-403, as enacted by Laws of Utah 2013, Chapter 237)
17-68-505, (Effective 11/06/25) (Renumbered from 17-18a-404, as last amended by Laws of Utah 2021, Chapter 262)
17-68-506, (Effective 11/06/25) (Renumbered from 17-18a-405, as last amended by Laws of Utah 2023, Chapter 448)
17-68-601, (Effective 11/06/25) (Renumbered from 17-18a-501, as enacted by Laws of Utah 2013, Chapter 237)
17-68-602, (Effective 11/06/25) (Renumbered from 17-18a-802, as enacted by Laws of Utah 2013, Chapter 237)
17-68-603, (Effective 11/06/25) (Renumbered from 17-18a-502, as enacted by Laws of Utah 2013, Chapter 237)
17-68-604, (Effective 11/06/25) (Renumbered from 17-18a-505, as enacted by Laws of Utah 2013, Chapter 237)
17-69-101, (Effective 11/06/25) (Renumbered from 17-19a-102, as last amended by Laws of Utah 2025, Chapter 230)
17-69-102, (Effective 11/06/25) (Renumbered from 17-19a-201, as enacted by Laws of Utah 2012, Chapter 17)
17-69-202, (Effective 11/06/25) (Renumbered from 17-19a-201.5, as enacted by Laws of Utah 2025, Chapter 230)
17-69-301, (Effective 11/06/25) (Renumbered from 17-19a-202, as last amended by Laws of Utah 2025, Chapter 230)
17-69-302, (Effective 11/06/25) (Renumbered from 17-19a-204, as enacted by Laws of Utah 2012, Chapter 17)
17-69-303, (Effective 11/06/25) (Renumbered from 17-19a-206, as last amended by Laws of Utah 2025, Chapter 261)
17-69-304, (Effective 11/06/25) (Renumbered from 17-19a-205, as last amended by Laws of Utah 2022, Chapter 288)
17-69-305, (Effective 11/06/25) (Renumbered from 17-19a-207, as enacted by Laws of Utah 2012, Chapter 17)
17-69-306, (Effective 11/06/25) (Renumbered from 17-19a-208, as last amended by Laws of Utah 2023, Chapter 178)
17-69-307, (Effective 11/06/25) (Renumbered from 17-19a-301, as enacted by Laws of Utah 2012, Chapter 17)
17-69-308, (Effective 11/06/25) (Renumbered from 17-19a-401, as last amended by Laws of Utah 2023, Chapter 178)
17-70-301, (Effective 11/06/25) (Renumbered from 17-20-1, as last amended by Laws of Utah 2008, Chapter 3)
17-70-302, (Effective 11/06/25) (Renumbered from 17-20-1.7, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-70-303, (Effective 11/06/25) (Renumbered from 17-20-5, as last amended by Laws of Utah 2022, Chapter 18)
17-70-304, (Effective 11/06/25) (Renumbered from 17-16-1.5, as enacted by Laws of Utah 2025, Chapter 90)
17-70-401, (Effective 11/06/25) (Renumbered from 17-16-202, as last amended by Laws of Utah 2024, Chapter 447)
17-70-402, (Effective 11/06/25) (Renumbered from 17-16-203, as enacted by Laws of Utah 2016, Chapter 50)
17-70-403, (Effective 11/06/25) (Renumbered from 17-16-6.5, as last amended by Laws of Utah 2025, Chapter 90)
17-70-501, (Effective 11/06/25) (Renumbered from 17-16a-3, as last amended by Laws of Utah 2024, Chapter 443)
17-70-502, (Effective 11/06/25) (Renumbered from 17-16a-2, as enacted by Laws of Utah 1983, Chapter 46)
17-70-503, (Effective 11/06/25) (Renumbered from 17-16a-4, as last amended by Laws of Utah 2024, Chapter 443)
17-70-504, (Effective 11/06/25) (Renumbered from 17-16a-5, as last amended by Laws of Utah 2024, Chapter 443)
17-70-505, (Effective 11/06/25) (Renumbered from 17-16a-6, as last amended by Laws of Utah 2024, Chapter 443)
17-70-506, (Effective 11/06/25) (Renumbered from 17-16a-7, as last amended by Laws of Utah 2024, Chapter 443)
17-70-507, (Effective 11/06/25) (Renumbered from 17-16a-8, as last amended by Laws of Utah 2024, Chapter 443)
17-70-508, (Effective 11/06/25) (Renumbered from 17-16a-12, as last amended by Laws of Utah 2024, Chapter 443)
17-70-509, (Effective 11/06/25) (Renumbered from 17-16a-13, as enacted by Laws of Utah 2024, Chapter 443)
17-70-510, (Effective 11/06/25) (Renumbered from 17-16a-10, as last amended by Laws of Utah 2024, Chapter 443)
17-70-511, (Effective 11/06/25) (Renumbered from 17-16a-11, as last amended by Laws of Utah 2018, Chapter 461)
17-71-102, (Effective 11/06/25) (Renumbered from 17-21-2, as last amended by Laws of Utah 1993, Chapter 227)
17-71-301, (Effective 11/06/25) (Renumbered from 17-21-1, as last amended by Laws of Utah 2023, Chapter 413)
17-71-302, (Effective 11/06/25) (Renumbered from 17-21-6, as last amended by Laws of Utah 2024, Chapter 430)
17-71-303, (Effective 11/06/25) (Renumbered from 17-21-21, as last amended by Laws of Utah 2001, Chapter 241)
17-71-304, (Effective 11/06/25) (Renumbered from 17-21-22, as last amended by Laws of Utah 2002, Chapter 291)
17-71-305, (Effective 11/06/25) (Renumbered from 17-21-16, Utah Code Annotated 1953)
17-71-306, (Effective 11/06/25) (Renumbered from 17-50-340, as enacted by Laws of Utah 2023, Chapter 413)
17-71-307, (Effective 11/06/25) (Renumbered from 17-21-17, as last amended by Laws of Utah 2023, Chapter 165)
17-71-401, (Effective 11/06/25) (Renumbered from 17-21-12, as last amended by Laws of Utah 2008, Chapter 97)
17-71-402, (Effective 11/06/25) (Renumbered from 17-21-20, as last amended by Laws of Utah 2025, Chapter 31)
17-71-403, (Effective 11/06/25) (Renumbered from 17-21-25, as last amended by Laws of Utah 2006, Chapter 38)
17-71-404, (Effective 11/06/25) (Renumbered from 17-21-3, as last amended by Laws of Utah 1999, Chapter 85)
17-71-405, (Effective 11/06/25) (Renumbered from 17-21-19, as last amended by Laws of Utah 2023, Chapter 165)
17-71-406, (Effective 11/06/25) (Renumbered from 17-21-12.5, as enacted by Laws of Utah 2023, Chapter 165)
17-71-407, (Effective 11/06/25) (Renumbered from 17-21-18.5, as last amended by Laws of Utah 2023, Chapter 165)
17-71-408, (Effective 11/06/25) (Renumbered from 17-21-11, as last amended by Laws of Utah 1999, Chapter 85)
17-71-501, (Effective 11/06/25) (Renumbered from 17-21-9, as last amended by Laws of Utah 1999, Chapter 85)
17-71-502, (Effective 11/06/25) (Renumbered from 17-21-10, as last amended by Laws of Utah 2011, Chapter 88)
17-71-503, (Effective 11/06/25) (Renumbered from 17-21-14, as last amended by Laws of Utah 1999, Chapter 85)
17-71-504, (Effective 11/06/25) (Renumbered from 17-27a-538, as enacted by Laws of Utah 2025, Chapter 515)
17-71-601, (Effective 11/06/25) (Renumbered from 17-21a-102, as enacted by Laws of Utah 2014, Chapter 89)
17-71-602, (Effective 11/06/25) (Renumbered from 17-21a-202, as enacted by Laws of Utah 2014, Chapter 89)
17-71-603, (Effective 11/06/25) (Renumbered from 17-21a-203, as enacted by Laws of Utah 2014, Chapter 89)
17-71-604, (Effective 11/06/25) (Renumbered from 17-21a-402, as enacted by Laws of Utah 2014, Chapter 89)
17-71-605, (Effective 11/06/25) (Renumbered from 17-21a-403, as enacted by Laws of Utah 2014, Chapter 89)
17-72-101, (Effective 11/06/25) (Renumbered from 17-22-1, Utah Code Annotated 1953)
17-72-201, (Effective 11/06/25) (Renumbered from 17-22-1.5, as last amended by Laws of Utah 2011, Chapter 58)
17-72-301, (Effective 11/06/25) (Renumbered from 17-22-2, as last amended by Laws of Utah 2025, Chapter 334)

17-72-302, (Effective 11/06/25) (Renumbered from 17-22-31, as enacted by Laws of Utah 2014, Chapter 333)
17-72-304, (Effective 11/06/25) (Renumbered from 17-22-2.5, as last amended by Laws of Utah 2023, Chapters 327, 497)
17-72-305, (Effective 11/06/25) (Renumbered from 17-22-18, as last amended by Laws of Utah 2024, Chapter 365)
17-72-401, (Effective 11/06/25) (Renumbered from 17-22-4, as last amended by Laws of Utah 1993, Chapter 227)
17-72-402, (Effective 11/06/25) (Renumbered from 17-22-5.5, as last amended by Laws of Utah 2025, Chapter 243)
17-72-403, (Effective 11/06/25) (Renumbered from 17-22-7, as last amended by Laws of Utah 1993, Chapter 227)
17-72-404, (Effective 11/06/25) (Renumbered from 17-22-9, Utah Code Annotated 1953)
17-72-405, (Effective 11/06/25) (Renumbered from 17-22-33, as enacted by Laws of Utah 2020, Chapter 65)
17-72-406, (Effective 11/06/25) (Renumbered from 17-22-28, as enacted by Laws of Utah 1996, Chapter 94)
17-72-407, (Effective 11/06/25) (Renumbered from 17-22-29, as enacted by Laws of Utah 1996, Chapter 237)
17-72-408, (Effective 11/06/25) (Renumbered from 17-22-32, as last amended by Laws of Utah 2025, Chapter 428)
17-72-501, (Effective 11/06/25) (Renumbered from 17-22-8, as last amended by Laws of Utah 2025, Chapters 88, 397 and 428)
17-72-502, (Effective 11/06/25) (Renumbered from 17-22-3, Utah Code Annotated 1953)
17-72-503, (Effective 11/06/25) (Renumbered from 17-22-5, as last amended by Laws of Utah 2024, Chapters 96, 187 and 341)
17-72-504, (Effective 11/06/25) (Renumbered from 17-22-6, as last amended by Laws of Utah 2011, Chapter 297)
17-72-505, (Effective 11/06/25) (Renumbered from 17-22-9.5, as last amended by Laws of Utah 2025, Chapter 227)
17-72-506, (Effective 11/06/25) (Renumbered from 17-22-10, as last amended by Laws of Utah 2024, Chapter 365)
17-72-507, (Effective 11/06/25) (Renumbered from 17-22-17, as last amended by Laws of Utah 2024, Chapter 365)
17-72-601, (Effective 11/06/25) (Renumbered from 17-22-5.6, as last amended by Laws of Utah 2025, Chapter 526)
17-72-701, (Effective 11/06/25) (Renumbered from 17-22-26, as last amended by Laws of Utah 1988, Chapter 152)
17-72-702, (Effective 11/06/25) (Renumbered from 17-22-22, as last amended by Laws of Utah 2011, Chapter 297)
17-72-703, (Effective 11/06/25) (Renumbered from 17-22-11, as last amended by Laws of Utah 2024, Chapter 365)
17-72-704, (Effective 11/06/25) (Renumbered from 17-22-13, as last amended by Laws of Utah 2024, Chapter 365)
17-72-705, (Effective 11/06/25) (Renumbered from 17-22-20, as last amended by Laws of Utah 2024, Chapter 365)
17-72-706, (Effective 11/06/25) (Renumbered from 17-22-24, as last amended by Laws of Utah 2024, Chapter 365)
17-72-707, (Effective 11/06/25) (Renumbered from 17-22-23, as last amended by Laws of Utah 2011, Chapter 297)
17-72-708, (Effective 11/06/25) (Renumbered from 17-22-27, as last amended by Laws of Utah 2011, Chapter 297)
17-72-801, (Effective 11/06/25) (Renumbered from 17-22-15, as last amended by Laws of Utah 2024, Chapter 365)
17-72-802, (Effective 11/06/25) (Renumbered from 17-22-30, as last amended by Laws of Utah 2024, Chapters 135, 344)
17-72-803, (Effective 11/06/25) (Renumbered from 17-22-35, as enacted by Laws of Utah 2025, Chapter 86)
17-72-804, (Effective 11/06/25) (Renumbered from 17-22-36, as enacted by Laws of Utah 2025, Chapter 252)
17-73-102, (Effective 11/06/25) (Renumbered from 17-23-3, as last amended by Laws of Utah 2001, Chapter 241)
17-73-103, (Effective 11/06/25) (Renumbered from 17-23-2, as last amended by Laws of Utah 2001, Chapter 241)
17-73-201, (Effective 11/06/25) (Renumbered from 17-23-1, as last amended by Laws of Utah 2025, Chapter 70)
17-73-301, (Effective 11/06/25) (Renumbered from 17-23-5, as last amended by Laws of Utah 2001, Chapter 241)
17-73-302, (Effective 11/06/25) (Renumbered from 17-23-12, as last amended by Laws of Utah 2003, Chapter 211)
17-73-401, (Effective 11/06/25) (Renumbered from 17-23-16, as last amended by Laws of Utah 2011, Chapter 297)
17-73-402, (Effective 11/06/25) (Renumbered from 17-23-7, as last amended by Laws of Utah 1961, Chapter 33)
17-73-501, (Effective 11/06/25) (Renumbered from 17-23-13, as enacted by Laws of Utah 1987, Chapter 29)
17-73-502, (Effective 11/06/25) (Renumbered from 17-23-14, as last amended by Laws of Utah 2019, Chapter 22)
17-73-503, (Effective 11/06/25) (Renumbered from 17-23-15, as last amended by Laws of Utah 2019, Chapter 22)
17-73-504, (Effective 11/06/25) (Renumbered from 17-23-17, as last amended by Laws of Utah 2024, Chapter 438)
17-73-505, (Effective 11/06/25) (Renumbered from 17-23-17.5, as last amended by Laws of Utah 2024, Chapter 438)
17-73-506, (Effective 11/06/25) (Renumbered from 17-23-18, as last amended by Laws of Utah 2003, Chapter 211)
17-73-507, (Effective 11/06/25) (Renumbered from 17-23-20, as enacted by Laws of Utah 2009, Chapter 350)
17-74-102, (Effective 11/06/25) (Renumbered from 17-16-5.5, as last amended by Laws of Utah 2006, Chapter 39)
17-74-103, (Effective 11/06/25) (Renumbered from 17-24-21, as last amended by Laws of Utah 1993, Chapter 227)
17-74-301, (Effective 11/06/25) (Renumbered from 17-24-1, as last amended by Laws of Utah 2017, Chapter 460)
17-74-302, (Effective 11/06/25) (Renumbered from 17-24-4, as last amended by Laws of Utah 2025, Chapter 459)
17-74-401, (Effective 11/06/25) (Renumbered from 17-24-12, as last amended by Laws of Utah 2001, Chapter 241)
17-74-402, (Effective 11/06/25) (Renumbered from 17-24-11, as last amended by Laws of Utah 1996, Chapter 212)
17-74-403, (Effective 11/06/25) (Renumbered from 17-24-19, as last amended by Laws of Utah 1993, Chapters 38, 227)

REPEALS:

17-2-101, (Effective 11/06/25) as enacted by Laws of Utah 2009, Chapter 350
17-2-201, (Effective 11/06/25) as enacted by Laws of Utah 2009, Chapter 350
17-2-208, (Effective 11/06/25) as renumbered and amended by Laws of Utah 2009, Chapter 350
17-3-8, (Effective 11/06/25) as last amended by Laws of Utah 2011, Chapter 297
17-16-4, (Effective 11/06/25) as last amended by Laws of Utah 2025, Chapter 76
17-16-18, (Effective 11/06/25) as last amended by Laws of Utah 2014, Chapter 176
17-16a-1, (Effective 11/06/25) as enacted by Laws of Utah 1983, Chapter 46
17-16a-9, (Effective 11/06/25) as last amended by Laws of Utah 2024, Chapter 443
17-18a-101, (Effective 11/06/25) as enacted by Laws of Utah 2013, Chapter 237
17-18a-201, (Effective 11/06/25) as enacted by Laws of Utah 2013, Chapter 237
17-18a-503, (Effective 11/06/25) as enacted by Laws of Utah 2013, Chapter 237

17-18a-504, (Effective 11/06/25) as last amended by Laws of Utah 2022, Chapter 260
17-18a-604, (Effective 11/06/25) as enacted by Laws of Utah 2013, Chapter 237
17-20-1.5, (Effective 11/06/25) as renumbered and amended by Laws of Utah 2000, Chapter 133
17-20-3, (Effective 11/06/25) as last amended by Laws of Utah 2003, Chapter 136
17-20-4, (Effective 11/06/25) as last amended by Laws of Utah 2015, Chapter 46
17-21-4, (Effective 11/06/25) as last amended by Laws of Utah 1999, Chapter 85
17-21-5, (Effective 11/06/25) as last amended by Laws of Utah 1999, Chapter 85
17-21-18, (Effective 11/06/25) as last amended by Laws of Utah 2018, Chapter 191
17-21a-101, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 89
17-21a-201, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 89
17-21a-401, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 89
17-22-8.1, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 272
17-22-8.2, (Effective 11/06/25) as enacted by Laws of Utah 2025, Chapter 88
17-22-12, (Effective 11/06/25) Utah Code Annotated 1953
17-22-16, (Effective 11/06/25) as last amended by Laws of Utah 2024, Chapter 365
17-22-19, (Effective 11/06/25) as last amended by Laws of Utah 2024, Chapter 365
17-22-21, (Effective 11/06/25) as last amended by Laws of Utah 2011, Chapter 297
17-22-25, (Effective 11/06/25) as last amended by Laws of Utah 2024, Chapter 365
17-24-5, (Effective 11/06/25) as last amended by Laws of Utah 1996, Chapter 212
17-25-1, (Effective 11/06/25) as last amended by Laws of Utah 2024, Chapter 158
17-25-4, (Effective 11/06/25) as renumbered and amended by Laws of Utah 2001, Chapter 46
17-25-5, (Effective 11/06/25) as last amended by Laws of Utah 2012, Chapter 48
17-34-5, (Effective 11/06/25) as last amended by Laws of Utah 2011, Chapter 297
17-36-7, (Effective 11/06/25) as enacted by Laws of Utah 1975, Chapter 22
17-36-11, (Effective 11/06/25) as last amended by Laws of Utah 2022, Chapter 288
17-36-13, (Effective 11/06/25) as enacted by Laws of Utah 1975, Chapter 22
17-36-14, (Effective 11/06/25) as enacted by Laws of Utah 1975, Chapter 22
17-36-17, (Effective 11/06/25) as last amended by Laws of Utah 2011, Chapter 297
17-36-19, (Effective 11/06/25) as last amended by Laws of Utah 1983, Chapter 73
17-36-23, (Effective 11/06/25) as last amended by Laws of Utah 2022, Chapter 288
17-36-28, (Effective 11/06/25) as last amended by Laws of Utah 1999, Chapter 300
17-36-38, (Effective 11/06/25) as last amended by Laws of Utah 1999, Chapter 300
17-36-39, (Effective 11/06/25) as last amended by Laws of Utah 2014, Chapter 189
17-36-44, (Effective 11/06/25) as last amended by Laws of Utah 2012, Chapter 17
17-36-48, (Effective 11/06/25) as renumbered and amended by Laws of Utah 2000, Chapter 133
17-36-49, (Effective 11/06/25) as renumbered and amended by Laws of Utah 2000, Chapter 133
17-36-52, (Effective 11/06/25) as last amended by Laws of Utah 2024, Chapter 387
17-36-54, (Effective 11/06/25) as last amended by Laws of Utah 2024, Chapter 258
17-50-104, (Effective 11/06/25) as last amended by Laws of Utah 2009, Chapter 350
17-52a-101, (Effective 11/06/25) as enacted by Laws of Utah 2018, Chapter 68
17-53-104, (Effective 11/06/25) as renumbered and amended by Laws of Utah 2000, Chapter 133
17-53-213, (Effective 11/06/25) as renumbered and amended by Laws of Utah 2000, Chapter 133
17-53-220, (Effective 11/06/25) as renumbered and amended by Laws of Utah 2000, Chapter 133
17-53-221, (Effective 11/06/25) as renumbered and amended by Laws of Utah 2000, Chapter 133
17-53-305, (Effective 11/06/25) as renumbered and amended by Laws of Utah 2000, Chapter 133
17-53-314, (Effective 11/06/25) as enacted by Laws of Utah 2000, Chapter 21

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-60-101, which is renumbered from Section 17-50-101 is renumbered and amended to read:

CHAPTER 60. General Provisions Applicable to Counties

PART 1. General Provisions

[~~17-50-101~~]17-60-101 (Effective 11/06/25). Definitions.

As used in this title:

(1) "County" means a unit of local government that is a body corporate and politic and a legal subdivision of the state, with:

(a) geographic boundaries as described in Section [~~17-50-104,~~]17-61-102; and

(b) powers as provided in [~~Part 3, County Powers~~]Part 2, County Powers Generally.

(2) "Executive," when used to describe the powers, duties, or functions of [~~a person~~]an individual or body elected as the county executive or [~~a person~~]an individual appointed as the county manager or administrative officer, refers to:

(a) the power and duty to carry laws and ordinances into effect and secure [~~their~~]the due observance of laws and ordinances; and

(b) those powers, duties, and functions that, under constitutional and statutory provisions and through long usage and accepted practice and custom at the federal and state level, have come to be regarded as belonging to the executive branch of government.

(3) "Legislative," when used to describe the powers, duties, or functions of a county commission or county council, refers to:

(a) the power and duty to enact ordinances, levy taxes, and establish budgets; and

(b) those powers, duties, and functions that, under constitutional and statutory provisions and through long usage and accepted practice and custom at the federal and state level, have come to be regarded as belonging to the legislative branch of government.

(4) "Voter" means an individual who is registered to vote in Utah.

Section 2. Section 17-60-102, which is renumbered from Section 17-50-314 is renumbered and amended to read:
[~~17-50-314~~]17-60-102 (Effective 11/06/25). Powers of municipalities not affected.

Nothing in this [~~chapter~~]title may be construed to diminish, impair, or affect the power conferred upon cities and towns.

Section 3. Section 17-60-103, which is renumbered from Section 17-50-103 is renumbered and amended to read:
[~~17-50-103~~]17-60-103 (Effective 11/06/25). Relationship to special districts -- Use of "county" prohibited -- Legal action to compel compliance.

(1) For purposes of this section[~~:~~], "special district" means the same as that term is defined in Section 17B-1-102.

[~~(a) (i) "Existing local entity" means a special district, special service district, or other political subdivision of the state created before May 1, 2000.~~]

[~~(ii) "Existing local entity" does not include a county, city, town, or school district.~~]

[~~(b) (i) "New local entity" means a city, town, school district, special district, special service district, or other political subdivision of the state created on or after May 1, 2000.~~]

[~~(ii) "New local entity" does not include a county.~~]

[~~(c) (i) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, that:~~]

[~~(A) by statute is a political and corporate entity separate from the county that created the special district; and~~]

[~~(B) by statute is not subject to the direction and control of the county that created the special district~~].

[~~(ii)~~]

(2) The county legislative body's statutory authority to appoint members to the governing body of a special district does not alone make the special district subject to the direction and control of that county.

[~~(2)~~](3) [~~(a) A new local entity may not use the word "county" in its name.~~]

[~~(b) After January 1, 2005, an existing~~]A local entity may not use the word "county" in [~~its~~]the local entity's name unless the county whose name is used by the [~~existing~~]local entity gives [~~its~~]or has given the local entity the county's written consent.

[~~(3)~~](4) A county with a name similar to the name of a [~~new~~]local entity [~~or existing local entity~~]in violation of this section may bring legal action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to compel compliance with this section.

Section 4. Section 17-60-104, which is renumbered from Section 17-50-501 is renumbered and amended to read:
[~~17-50-501~~]17-60-104 (Effective 11/06/25). Classification of counties.

(1) Each county shall be classified according to [~~its~~]the county's population.

(2) (a) A county with a population of 1,150,000 or more is a county of the first class.

(b) A county with a population of 260,000 or more but less than 1,150,000 is a county of the second class.

(c) A county with a population of 40,000 or more but less than 260,000 is a county of the third class.

(d) A county with a population of 12,000 or more but less than 40,000 is a county of the fourth class.

(e) A county with a population of 5,000 or more but less than 12,000 is a county of the fifth class.

(f) A county with a population less than 5,000 is a county of the sixth class.

Section 5. Section 17-60-105, which is renumbered from Section 17-50-502 is renumbered and amended to read:
[~~17-50-502~~]17-60-105 (Effective 11/06/25). Change of class of county.

(1) Each county shall retain [~~its~~]the county's classification under Section [~~17-50-501~~]17-60-104 until changed as provided in this section.

(2) The lieutenant governor shall monitor the population figure for each county as shown on:

(a) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(b) if the Utah Population Committee estimate is not available, the census or census estimate of the United States Bureau of the Census.

(3) After July 1, 2021, if the applicable population figure under Subsection (2) indicates that a county's population has increased beyond the limit for [~~its~~]the county's current class, the lieutenant governor shall:

(a) prepare a certificate indicating the class in which the county belongs based on the increased population figure; and

(b) within 10 days after preparing the certificate, deliver a copy of the certificate to the county legislative body and, if the county has an executive that is separate from the legislative body, the executive of the county whose class was changed.

(4) A county's change in class is effective on the date of the lieutenant governor's certificate under Subsection (3).

Section 6. Section 17-60-106, which is renumbered from Section 17-15-31 is renumbered and amended to read:
[~~17-15-31~~]17-60-106 (Effective 11/06/25). Registration as a local government entity.

(1) (a) Each county shall register and maintain the county's registration as a local government entity, in accordance with Section 67-1a-15.

(b) The county clerk shall register and maintain the county's registration.

(2) A county that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 7. Section 17-60-107, which is renumbered from Section 17-15-32 is renumbered and amended to read:
[~~17-15-32~~]17-60-107 (Effective 11/06/25). County website requirements.

(1) As used in this section:

(a) (i) "Limited purpose entity" means a legal entity that:

(A) performs a single governmental function or limited governmental functions; and

(B) is not a state executive branch agency, a state legislative office, or within the judicial branch.

(ii) "Limited purpose entity" includes:

(A) area agencies, area agencies on aging, and area agencies on high risk adults, as those terms are defined in Section [~~62A-3-101~~]26B-6-101;

(B) charter schools created under Title 53G, Chapter 5, Charter Schools;

(C) community reinvestment agencies, as that term is defined in Section 17C-1-102;

(D) conservation districts, as that term is defined in Section 17D-3-102;

(E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;

(F) housing authorities, as that term is defined in Section 35A-8-401;

(G) independent entities and independent state agencies, as those terms are defined in Section 63E-1-102;

(H) interlocal entities, as that term is defined in Section 11-13-103;

(I) local building authorities, as that term is defined in Section 17D-2-102;

(J) special districts, as that term is defined in Section 17B-1-102;

(K) local health departments, as that term is defined in Section 26A-1-102;

(L) nonprofit corporations that receive an amount of money requiring an accounting report under Section 51-2a-201.5;

(M) school districts under Title 53G, Chapter 3, School District Creation and Change; and

(N) special service districts, as that term is defined in Section 17D-1-102.

(b) "Local government entity" means a municipality, as that term is defined in Section 10-1-104.

(2) Beginning on July 1, 2019, each county shall list on the county's website any of the following information that the lieutenant governor publishes in a registry of local government entities and limited purpose entities regarding each limited purpose entity and local government entity that operates, either in whole or in part, within the county or has geographic boundaries that overlap or are contained within the boundaries of the county:

(a) the entity's name;

(b) the entity's type of local government entity or limited purpose entity;

(c) the entity's governmental function;

(d) the entity's physical address and phone number, including the name and contact information of an individual whom the entity designates as the primary contact for the entity;

(e) names of the members of the entity's governing board or commission, managing officers, or other similar managers;

(f) the entity's sources of revenue; and

(g) if the entity has created an assessment area, as that term is defined in Section 11-42-102, information regarding the creation, purpose, and boundaries of the assessment area.

Section 8. Section 17-60-201, which is renumbered from Section 17-50-301 is renumbered and amended to read:

PART 2. County Powers Generally

[~~17-50-301~~]17-60-201 (Effective 11/06/25). Exercise of county powers.

The powers of a county may be exercised only by the following individuals or bodies, or designees of the following individuals or bodies, operating under the authority of law:

(1) the county executive[~~, and~~];

(2) the county legislative body[~~, or by agents and officers acting under their authority or under authority of law~~]; and

(3) a county officer.

Section 9. Section 17-60-202, which is renumbered from Section 17-50-302 is renumbered and amended to read:

[~~17-50-302~~]17-60-202 (Effective 11/06/25). Counties authorized to levy and collect taxes, sue and be sued, and acquire property.

(1) (a) Except as provided in Subsection (1)(b), a county may:

(i) as prescribed by statute:

(A) levy a tax;

(B) perform an assessment;

(C) collect a tax;

(D) borrow money; or

(E) levy and collect a special assessment for a conferred benefit; or

(ii) provide a service, exercise a power, or perform a function that is reasonably related to the safety, health, morals, and welfare of county inhabitants[~~, except as limited or prohibited by statute~~].

(b) A county or a governmental instrumentality of a county may not perform an action described in Subsection (1)(a)(i) or provide a service, exercise a power, or perform a function described in Subsection (1)(a)(ii) in another county or a municipality within the other county without first entering into an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or other contract with the other county to perform the action, provide the service, exercise the power, or perform the function.

(2) [~~(a)~~] A county may:

[~~(i)~~](a) sue and be sued;

[~~(ii)~~](b) (i) subject to Subsection [~~(2)(c)~~](4), acquire real property by tax sale, purchase, lease, contract, or gift[;]; and

(ii) hold the real property acquired under Subsection (2)(b)(i)as necessary and proper for county purposes;

[~~(iii)~~](c) [~~(A)~~](i) subject to [~~Subsection (2)(b)~~]Subsections (3)(a) and (b), acquire real property by condemnation, as provided in Title

78B, Chapter 6, Part 5, Eminent Domain; and

[~~(B)~~](ii) hold the real property acquired under Subsection (2)(c)(i) as necessary and proper for county purposes;

[~~(iv)~~](d) as may be necessary to the exercise of its powers, acquire personal property by purchase, lease, contract, or gift, and hold such personal property; and

[~~(v)~~](e) manage and dispose of its property as the interests of its inhabitants may require.

[~~(b)~~]

[~~(i)~~](3) (a) For purposes of Subsection [~~(2)(a)(iii)~~](2)(c), water rights that are not appurtenant to land do not constitute real property that may be acquired by the county through condemnation.

[~~(ii)~~](b) Nothing in Subsection [~~(2)(a)(iii)~~](2)(c) may be construed to authorize a county to acquire by condemnation the rights to water unless the land to which those water rights are appurtenant is acquired by condemnation.

[~~(c)~~]

[~~(i)~~](4) Except as provided in Subsection [~~(2)(c)(iv)~~](6), each county intending to acquire real property for the purpose of expanding the county's infrastructure or other facilities used for providing services that the county offers or intends to offer shall provide written notice[~~, as provided in this Subsection (2)(c),~~]of [~~its~~]the county's intent to acquire the property if:

[~~(A)~~](a) the property is located:

[~~(I)~~](i) outside the boundaries of the unincorporated area of the county; and

[~~(II)~~](ii) in a county of the first or second class; and

[~~(B)~~](b) the intended use of the property is contrary to:

[~~(I)~~](i) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

[~~(II)~~](ii) the property's current zoning designation.

[~~(ii)~~](5) (a) Each notice under Subsection [~~(2)(c)(i)~~](4) shall:

[~~(A)~~](i) indicate that the county intends to acquire real property;

[~~(B)~~](ii) identify the real property; and

[~~(C)~~](iii) be sent to:

[~~(I)~~](A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

[~~(II)~~](B) each affected entity.

[~~(iii)~~](b) A notice under [~~this~~]Subsection [~~(2)(c)~~](4) is a protected record as provided in Subsection 63G-2-305(8).

[~~(iv)~~]

[~~(A)~~](6) The notice requirement of Subsection [~~(2)(c)(i)~~](4) does not apply if the county previously provided notice under Section [~~17-27a-203~~]17-79-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

[~~(B)~~](7) If a county is not required to comply with the notice requirement of Subsection [~~(2)(c)(i)~~](4) because of application of Subsection [~~(2)(c)(iv)(A)~~](6), the county shall provide the notice specified in Subsection [~~(2)(c)(i)~~](4) as soon as practicable after [~~its~~]the county's acquisition of the real property.

Section 10. Section 17-60-203, which is renumbered from Section 17-50-303 is renumbered and amended to read:

[~~17-50-303~~]17-60-203 (Effective 11/06/25). County may borrow in anticipation of revenues -- Assistance to nonprofit and private entities -- Notice requirements -- County prohibited from lending credit.

[~~(1) A county may not give or lend its credit to or in aid of any person or corporation, or, except as provided in Subsection (3), appropriate money in aid of any private enterprise.~~]

[~~(2)~~](1) (a) A county may borrow money in anticipation of the collection of taxes and other county revenues in the manner and subject to the conditions of Title 11, Chapter 14, Local Government Bonding Act.

(b) A county may incur indebtedness under Subsection [~~(2)(a)~~](1)(a) for any purpose for which funds of the county may be expended.

(2) A county may not:

(a) give or lend county credit to or in aid of any person or corporation; or

(b) except as provided in Subsection (3), appropriate money in aid of any private enterprise.

(3) (a) A county may appropriate money to or provide nonmonetary assistance to a nonprofit entity, or waive fees required to be paid by a nonprofit entity, if, in the judgment of the county legislative body, the assistance contributes to the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of county residents.

(b) A county may appropriate money to a nonprofit entity from the county's own funds or from funds the county receives from the state or any other source.

(4) (a) As used in this Subsection (4):

(i) "Private enterprise" means a person that engages in an activity for profit.

(ii) "Project" means an activity engaged in by a private enterprise.

(b) A county may appropriate money in aid of a private enterprise project if:

(i) subject to Subsection (4)(c), the county receives value in return for the money appropriated; and

(ii) in the judgment of the county legislative body, the private enterprise project provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents.

(c) The county shall measure the net value received by the county for money appropriated by the county to a private entity on a project-by-project basis over the life of the project.

(d) (i) Before a county legislative body may appropriate funds in aid of a private enterprise project under this Subsection (4), the county legislative body shall:

(A) adopt by ordinance criteria to determine what value, if any, the county will receive in return for money appropriated under this Subsection (4);

(B) conduct a study as described in Subsection (4)(e) on the proposed appropriation and private enterprise project; and

(C) post notice, subject to Subsection (4)(f), and hold a public hearing on the proposed appropriation and the private enterprise project.

(ii) The county legislative body may consider an intangible benefit as a value received by the county.

(e) (i) Before publishing or posting notice in accordance with Subsection (4)(f), the county shall study:

(A) any value the county will receive in return for money or resources appropriated to a private entity;

(B) the county's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents; and

(C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the county in the area of economic development, job creation, affordable housing, elimination of a development impediment, as defined in Section 17C-1-102, job preservation, the preservation of historic structures, analyzing and improving county government structure or property, or any other public purpose.

(ii) The county shall:

(A) prepare a written report of the results of the study; and

(B) make the report available to the public at least 14 days immediately [~~prior to~~]before the scheduled day of the public hearing described in Subsection (4)(d)(i)(C).

(f) The county shall publish notice of the public hearing required in Subsection (4)(d)(i)(C) for the county, as a class A notice under Section 63G-30-102, for at least 14 days before the day of the public hearing.

(g) (i) A person may appeal the decision of the county legislative body to appropriate funds under this Subsection (4).

(ii) A person shall file an appeal with the district court within 30 days after the day on which the legislative body adopts an ordinance or approves a budget to appropriate the funds.

(iii) A court shall:

(A) presume that an ordinance adopted or appropriation made under this Subsection (4) is valid; and

(B) determine only whether the ordinance or appropriation is arbitrary, capricious, or illegal.

(iv) A determination of illegality requires a determination that the decision or ordinance violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance was adopted.

(v) The district court's review is limited to:

(A) a review of the criteria adopted by the county legislative body under Subsection (4)(d)(i)(A);

(B) the record created by the county legislative body at the public hearing described in Subsection (4)(d)(i)(C); and

(C) the record created by the county in preparation of the study and the study itself as described in Subsection (4)(e).

(vi) If there is no record, the court may call witnesses and take evidence.

(h) This section applies only to an appropriation not otherwise approved in accordance with [~~Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties~~]Chapter 63, Fiscal Authority and Processes.

Section 11. Section 17-60-204, which is renumbered from Section 17-50-304 is renumbered and amended to read:

[~~17-50-304~~]17-60-204 (Effective 11/06/25). County safety and welfare regulations.

A county may make and enforce within the limits of the county, outside the limits of cities and towns, all [~~such~~]local, police, building, and sanitary regulations [~~as~~]that are not in conflict with general laws.

Section 12. Section 17-60-205, which is renumbered from Section 17-50-315 is renumbered and amended to read:

[~~17-50-315~~]17-60-205 (Effective 11/06/25). Study and improvement of county government -- Charges and expenses.

(1) A county may, individually or in association with other counties, study the processes and methods of county government with a view to improvement and cause to be assembled and presented to the Legislature or the Congress of the United States, or to or before the appropriate committees of either or both, such information and factual data with respect to the effect upon counties, the taxpayers, and the people, of existing, pending or proposed legislation, as in the judgment of county executives and legislative bodies, will be in the interest of and beneficial to counties, taxpayers, and people.

(2) The charges and expenses incurred under Subsection (1) shall be proper claim against county funds, to be audited and paid as other county claims.

Section 13. Section 17-60-301, which is renumbered from Section 17-11-1 is renumbered and amended to read:

PART 3. County Seats

[~~17-11-1~~]17-60-301 (Effective 11/06/25). County seats fixed -- Election to move a county seat.

(1) The county seats of the several counties of this state as now fixed by law are hereby recognized as such.

(2) [~~No~~]In accordance with Utah Constitution, Article XI, Section 2, no county seat shall be [~~removed~~]moved unless:

(a) two-thirds of the qualified electors of the county, voting on the proposition at a countywide general election, [~~shall~~]vote in favor of [~~such removal,~~]the relocation; and

(b) two-thirds of the votes cast on the proposition [~~shall be required to relocate a~~]approve the relocation of the county seat.

Section 14. Section 17-60-302, which is renumbered from Section 17-11-2 is renumbered and amended to read:

[~~17-11-2~~]17-60-302 (Effective 11/06/25). Initiating a petition to move a county seat -- Certification of petition signatures -- Removal of signature -- Limitation.

[~~(1) Whenever there is presented to the county legislative body of any county a petition signed by registered voters of the county, in number equal to a majority of the votes cast at the preceding general election, praying for the submission of the question of the removal of the county seat, it shall be the duty of the county legislative body to submit the question of the removal at the next general election to the registered voters of the county.~~]

(1) (a) A voter may file a petition to move the county seat with the county legislative body of the county in which the voter lives if the

petition is signed by a majority of registered voters in the county, calculated by the number of votes cast in the county at the preceding general election.

(b) If the county legislative body receives a petition that complies with this section, the county legislative body shall submit the question of moving the county seat to the county's voters at the next general election.

(2) (a) Within three business days after the day on which a county legislative body receives a petition under Subsection (1), the county legislative body shall provide the petition to the county clerk.

(b) Within 14 days after the day on which a county clerk receives a petition from the county legislative body under Subsection (2)(a), the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (1);

(ii) certify on the petition whether each name is that of a registered voter in the county; and

(iii) deliver the certified petition to the county legislative body.

(3) (a) [~~A voter~~]An individual who signs a petition under this section may have the [~~voter's~~]individual's signature removed from the petition by, no later than three business days after the day on which the county legislative body provides the petition to the county clerk, submitting to the county clerk a statement requesting that the [~~voter's~~]individual's signature be removed.

(b) A statement described in Subsection (3)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

(4) The election shall be conducted and the returns canvassed in all respects as provided by law for the conducting of general elections and canvassing the returns.

(5) [~~A~~]In accordance with Utah Constitution, Article XI, Section 2, a proposition [~~of removal of~~]to move the county seat may not be submitted in the same county more than once in four years, or within four years after the day on which a proposition [~~of removal of~~]to move the county seat is submitted to the voters.

Section 15. Section 17-60-401, which is renumbered from Section 17-50-401 is renumbered and amended to read:

PART 4. Claims Against the County

[~~17-50-401~~]17-60-401 (Effective 11/06/25). Review of claims by county executive -- Auditor review -- Attorney review -- Claim requirements -- Approval or disapproval of claim -- Written explanation of claim process.

(1) Upon receiving a notice of claim under Section 63G-7-401, the county clerk shall deliver the notice of claim to the county executive described in Chapter 65, County Executive.

(2) Subject to Subsection (3), each county executive shall review each claim, as defined in Section [~~17-19a-102~~]17-69-101, against the county and [~~disapprove or, if payment appears to the county executive to be~~]:

(a) if the claim is just, lawful, and properly due and owing, approve the claim[~~.~~]; or

(b) disapprove the claim.

[~~(2) Upon receiving a notice of claim under Section 63G-7-401, the county clerk shall deliver the notice of claim to the county executive.~~]

(3) (a) The county executive shall forward all claims [~~regarding liability or attorney fees~~]to the county attorney, or, in a county that has a district attorney but not a county attorney, to the district attorney for the attorney's review and recommendation to the county executive regarding liability and payment.

(b) Except as provided in Section [~~17-50-405~~]17-60-405, the county executive shall forward all claims requesting payment for goods or services to the county auditor for the county auditor's review and recommendation, subject to Subsection (7), to the county executive.

(4) Each claim for goods or services against a county shall:

(a) itemize the claim, giving applicable names, dates, and particular goods provided or services rendered;

(b) if the claim is for service of process, state the character of process served, upon whom served, the number of days engaged, and the number of miles traveled;

(c) be duly substantiated as to [~~its~~]the claim's correctness and as to the fact that [~~it~~]the claim is justly due;

(d) if the claim is for materials furnished, state to whom the materials were furnished, by whom ordered, and the quantity and price agreed upon; and

(e) be presented to the county executive within a year after the last item of the account or credit accrued.

(5) If the county executive refuses to hear or consider a claim because it is not properly made out, the county executive shall cause notice of the refusal to be given to the claimant or the claimant's agent and shall allow a reasonable amount of time for the claim to be properly itemized and substantiated.

(6) Each county shall prepare and make available to a person submitting or intending to submit a claim under this part a written explanation, in simple and easy to understand language, of how to submit a claim to the county and of the county's process for receiving, reviewing, and deciding a claim.

(7) Upon receiving a claim in accordance with Subsection (3)(b), the county auditor shall:

(a) (i) investigate, examine, review, and inspect the claim; and

(ii) (A) recommend that the county executive approve or reject the claim; and

(B) endorse the recommendation;

(b) after completing the investigation, examination, and inspection, report the claim and the recommendation described in Subsection (7)(a)(ii) to the county executive; and

(c) keep a complete record of the claim, the claim recommendation, the reasons for the recommendation, and the county executive's final action as described in Subsection (8).

(8) After receiving the county or district attorney's recommendation in accordance with Subsection (3)(a)[~~, or~~]and the county auditor's recommendation in accordance with Subsection (3)(b), the county executive shall decide whether to approve or reject a claim.

(9) (a) The county auditor shall pay, subject to Subsection (9)(b), a claim approved by the county executive in accordance with Subsection (8) by:

(i) a warrant drawn by the auditor on the county treasurer in favor of the person entitled to payment; or

(ii) a county check or other payment mechanism as may be adopted in accordance with [~~Chapter 36, Uniform Fiscal Procedures Act for Counties~~]Chapter 63, Fiscal Authority and Processes.

(b) The county auditor may not pay a claim against the county unless:

(i) the auditor:

(A) receives from the county executive a certified list described in [~~Subsection 17-20-1.7(4)~~]Section 17-70-302; and

(B) has complied with the recommendation and other requirements of Subsection (7); and

(ii) the county executive has approved the claim in accordance with Subsection (8).

(10) Nothing in this section may be construed to modify the requirements of Section 63G-7-401.

Section 16. Section 17-60-402, which is renumbered from Section 17-50-402 is renumbered and amended to read:

[~~17-50-402~~]17-60-402 (Effective 11/06/25). Payment or rejection of claims.

(1) If the county executive finds that any claim presented to the county is not payable by the county or is not a proper county charge, the county executive shall reject the claim.

(2) (a) If the claim is found to be a proper county charge, but greater in amount than is justly due, the county executive may allow the claim in part and may order a warrant drawn for the portion allowed.

(b) If the claimant is unwilling to receive the amount in full payment, the county executive may again consider the claim.

(3) No claim may be paid if paying the claim would exceed the current unencumbered funds.

Section 17. Section 17-60-403, which is renumbered from Section 17-50-403 is renumbered and amended to read:

[~~17-50-403~~]17-60-403 (Effective 11/06/25). Action on rejected claim -- Limitation.

(1) (a) A claimant dissatisfied with the rejection of a claim or demand or with the amount allowed on an account may sue the county on the claim, demand, or account at any time within one year after the first rejection of the claim, demand, or account by the county executive[~~, but not afterward~~].

(b) A claim brought later than the time period described in Subsection (1)(a) is barred.

(2) If in [~~such~~]an action described in Subsection (1), judgment is recovered for more than the county executive allowed, costs shall be taxed against the county, but if no more is recovered than the county executive allowed, costs shall be taxed against the plaintiff.

(3) On presentation of a certified copy of a judgment against the county, the county executive shall allow and pay the same.

Section 18. Section 17-60-404, which is renumbered from Section 17-50-404 is renumbered and amended to read:

[~~17-50-404~~]17-60-404 (Effective 11/06/25). Judgments against county -- Payment.

(1) If a person obtains a judgment [~~is obtained~~]against a county, [~~it~~]the county shall [~~be paid as are~~]pay the judgment, the same as other county charges.

(2) The county legislative body shall levy and authorize the collection of a sufficient amount of revenue to pay off and discharge [~~such~~]a judgment in addition to the ordinary expenses of the county[~~, but the~~].

(3) The property of the county and of the persons owning property situated or liable to taxation in the county may not be liable to judgment lien or to seizure or sale upon execution or other process of any court.

Section 19. Section 17-60-405, which is renumbered from Section 17-50-405 is renumbered and amended to read:

[~~17-50-405~~]17-60-405 (Effective 11/06/25). County legislative body claim for expenses -- County attorney's opinion of legality.

(1) Each claim against the county presented by a member of the county legislative body for the member's expenses shall:

(a) be itemized and verified as other claims;

(b) state that the service has been actually rendered; and

(c) be presented to the county attorney or, in a county that has a district attorney but not a county attorney, the district attorney.

(2) (a) The county or district attorney, as the case may be, shall endorse on the claim, in writing, the attorney's opinion as to [~~its~~]the legality of the claim.

(b) If the attorney declares the claim illegal, the attorney shall state specifically the reasons why [~~it~~]the claim is illegal, and the county executive shall reject the claim.

Section 20. Section 17-60-406, which is renumbered from Section 17-50-406 is renumbered and amended to read:

[~~17-50-406~~]17-60-406 (Effective 11/06/25). Officers not to advocate claims -- Right to oppose claims.

(1) No county officer may, except for the officer's own services, present any claim, account, or demand for allowance against the county or in any way advocate the relief asked in the claim or demand made by any other person.

(2) Notwithstanding Subsection (1), a county officer may forward to the county executive a claim made by another and may endorse on the claim the county officer's recommendation to the county executive regarding payment of the claim.

(3) Any person may appear before the county executive and oppose the allowance of any claim or demand made against the county.

Section 21. Section 17-60-407, which is renumbered from Section 17-34-6 is renumbered and amended to read:

[~~17-34-6~~]17-60-407 (Effective 11/06/25). State to indemnify county regarding refusal to site nuclear waste -- Terms and conditions.

If a county is challenged in a court of law regarding [~~its~~]the county's decision to deny siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste or [~~its~~]the county's refusal to provide municipal-type services regarding the operation of the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless from any claims or damages, including court costs and attorney fees that are assessed as a result of the county's action, if:

(1) the county has complied with the provisions of [~~Subsection 17-27a-401(4)(b)~~]Section 17-79-402 by adopting an ordinance rejecting all proposals for the siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the boundaries of the county;

(2) the county has complied with [~~Subsection 17-34-1(3)~~]Section 17-60-504 regarding refusal to provide municipal-type services; and

(3) the court challenge against the county addresses the county's actions in compliance with [~~Subsection 17-27a-401(4)(b)~~]Section 17-79-402 or [~~17-34-1(3)~~]17-60-504.

Section 22. Section 17-60-501, which is renumbered from Section 17-50-321 is renumbered and amended to read:

PART 5. Limitations on County Power

[~~17-50-321~~]17-60-501 (Effective 11/06/25). Implements of husbandry tracking debris onto county roads.

A county may not prohibit or punish the tracking of dirt, mud, or other debris onto county roads resulting from the operation of an implement of husbandry if the operation of the implement of husbandry is consistent with accepted agricultural practices.

Section 23. Section 17-60-502, which is renumbered from Section 17-50-332 is renumbered and amended to read:

[~~17-50-332~~]17-60-502 (Effective 11/06/25). Knives regulated by state.

(1) As used in this section, "knife" means a cutting instrument that includes a sharpened or pointed blade.

(2) The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a county.

(3) (a) Unless specifically authorized by the Legislature or, subject to Subsection (3)(b), a county ordinance with a criminal penalty, a county may not enact or enforce an ordinance or a regulation pertaining to a knife.

(b) A county may not enact an ordinance with a criminal penalty pertaining to a knife that is:

(i) more restrictive than a state criminal penalty pertaining to a knife; or

(ii) has a greater criminal penalty than a state penalty pertaining to a knife.

Section 24. Section 17-60-503, which is renumbered from Section 17-15-25 is renumbered and amended to read:

[~~17-15-25~~]17-60-503 (Effective 11/06/25). Right to breast feed.

The county legislative body may not prohibit a woman's breast feeding in any location where she otherwise may rightfully be, irrespective of whether the breast is uncovered during or incidental to the breast feeding.

Section 25. Section 17-60-504 is enacted to read:

17-60-504 (Effective 11/06/25). County prohibited from providing municipal-type services to certain facilities managing high-level nuclear waste.

(1) For purposes of this section:

(a) "Greater than class C radioactive waste" means the same as that term is defined in Section 19-3-303.

(b) "High-level nuclear waste" means the same as that term is defined in Section 19-3-303.

(c) "Municipal-type services" means the same as that term is defined in Section 19-3-303.

(d) "Placement" means the same as that term is defined in Section 19-3-303.

(e) "Storage facility" means the same as that term is defined in Section 19-3-303.

(f) "Transfer facility" means the same as that term is defined in Section 19-3-303.

(2) A county may not:

(a) provide, contract to provide, or agree in any manner to provide municipal-type services to any area under consideration for a storage facility or transfer facility for the placement of high-level nuclear waste, or greater than class C radioactive waste; or

(b) seek to fund services for a storage facility or transfer facility by:

(i) levying a tax; or

(ii) charging a service charge or fee to persons benefiting from the municipal-type services.

Section 26. Section 17-60-505, which is renumbered from Section 17-50-337 is renumbered and amended to read:

[~~17-50-337~~]17-60-505 (Effective 11/06/25). Reassignment of lien prohibited.

A county may not reassign a lien created under Title 59, Chapter 2, Part 13, Collection of Taxes, on real property.

Section 27. Section 17-60-506, which is renumbered from Section 17-50-329 is renumbered and amended to read:

[~~17-50-329~~]17-60-506 (Effective 11/06/25). Prohibition against regulation of nutritional information dissemination.

(1) A county may not regulate the dissemination of nutritional information or the content required to be placed on a menu, menu board, or food tag by a restaurant, eating establishment, or other food facility.

(2) An ordinance or regulation that violates Subsection (1) is void.

Section 28. Section 17-60-507, which is renumbered from Section 17-50-334 is renumbered and amended to read:

[~~17-50-334~~]17-60-507 (Effective 11/06/25). Private employee benefit requirements prohibited -- Exception.

(1) For the purpose of this section:

(a) "Accident and health insurance" is as defined in Section 31A-1-301.

(b) "Employee" means an individual employed by an employer.

(c) "Employee benefit" means one or more benefits or services provided to:

(i) an employee; or

(ii) a dependent of an employee.

(d) "Private employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(e) "Insurance" is as defined in Section 31A-1-301.

(f) "Life insurance" is as defined in Section 31A-1-301.

(2) A county may not enact or enforce an ordinance that establishes, mandates, or requires a private employer to establish or offer an employee benefit, including:

(a) accident and health insurance;

(b) life insurance;

(c) sick leave; or

(d) family medical leave.

(3) Nothing in this section prohibits a county from considering an employee benefit described in Subsection (2) among other criteria when issuing a request for proposals.

Section 29. Section 17-60-508, which is renumbered from Section 17-50-336 is renumbered and amended to read:

[~~17-50-336~~]17-60-508 (Effective 11/06/25). Service animals permitted.

(1) As used in this section:

(a) "Retired service animal" means a dog that:

(i) at one time was a service animal for the current owner; and

(ii) no longer provides service animal services to the owner because of the dog's age or other factors limiting the dog's service capability.

(b) "Service animal" means the same as that term is defined in Section [~~18-8-65~~]10-8-65.

(2) If a county adopts a limit as to the number of dogs a person may keep, the county shall allow a person to keep a service animal, a retired service animal, or both in addition to that limit.

Section 30. Section 17-61-101 is enacted to read:

CHAPTER 61. County Boundaries

PART 1. General Provisions

17-61-101 (Effective 11/06/25). Definitions.

(1) "Annexing county" means the county to which a portion of territory of an adjoining county is annexed, or proposed to be annexed, as provided in Part 3, County Annexation.

(2) "Consolidating county" means the county to which another county is joined, or is proposed to be joined, by consolidation as provided in Part 2, Consolidation of Counties.

(3) "Independent surveyor" means the surveyor whose position is established within the Utah Geospatial Resource Center under Section 63A-16-505.

(4) "Initiating county" means the county from which a portion of territory is annexed, or is proposed to be annexed, to an adjoining county as provided in Part 3, County Annexation.

(5) "New county" means the county that is created through the process described in Part 4, Creating New Counties.

(6) "Originating county" means the county that is joined, or is proposed to be joined, to another county through consolidation as provided in Part 2, Consolidation of Counties.

(7) "Seceding county" means the county that loses, or is proposed to lose, territory to a new county through the process described in Part 4, Creating New Counties.

Section 31. Section 17-61-102, which is renumbered from Section 17-50-105 is renumbered and amended to read:

[~~17-50-105~~]17-61-102 (Effective 11/06/25). Counties of the state -- County boundaries maintained by lieutenant governor -- Process to determine disputed county boundaries.

[~~(1) As used in this section, "independent surveyor" means the surveyor whose position is established within the Utah Geospatial Resource Center under Subsection 63A-16-505(3).~~]

(1) The counties of the state are those whose geographical boundaries in the official county boundary records maintained by the office of the lieutenant governor, as described in Section 17E-2-301, and may be changed only in accordance with the provisions of this chapter.

(2) The office of the lieutenant governor shall:

(a) maintain the official county boundaries of the state; and

(b) update the official county boundaries upon the lieutenant governor's issuance, under Section 67-1a-6.5, of an applicable certificate.

[~~(2)~~](3) (a) If a dispute or uncertainty arises as to the true location of a county boundary as described in the official records maintained by the office of the lieutenant governor, the county surveyors of each county whose boundary is the subject of the dispute or uncertainty may determine the true location.

(b) If agreement is reached under Subsection [~~(2)(a)~~](3)(a), the county surveyors of each county whose boundary was the subject of the dispute or uncertainty shall provide notice, accompanied by a map, to the lieutenant governor showing the true location of the county boundary.

[~~(3)~~](4) (a) If the county surveyors fail to agree on or otherwise fail to establish the true location of the county boundary, the county executive of either or both of the affected counties shall engage the services of [~~the~~]an independent surveyor.

(b) After being engaged under Subsection [~~(3)(a)~~](4)(a), the independent surveyor shall notify the county surveyor of each county whose boundary is the subject of the dispute or uncertainty of the procedure the independent surveyor will use to determine the true location of the boundary.

(c) With the assistance of each county surveyor who chooses to participate, the independent surveyor shall determine permanently the true location of the boundary by marking surveys and erecting suitable monuments to designate the boundary.

(d) Each boundary established under this Subsection [~~(3)~~](4) shall be considered permanent until superseded by legislative enactment.

(e) The independent surveyor shall provide notice, accompanied by a map, to the lieutenant governor showing the true location of the county boundary.

[~~(4)~~](5) Nothing in this section may be construed to give the county surveyors or independent surveyor any authority other than to erect suitable monuments to designate county boundaries as they are described in the official records maintained by the office of the lieutenant governor.

Section 32. Section 17-61-201, which is renumbered from Section 17-2-103 is renumbered and amended to read:

PART 2. Consolidation of Counties

[~~17-2-103~~]17-61-201 (Effective 11/06/25). Consolidation of counties -- Petition -- Certification of petition signatures -- Removal of signature -- Election -- Ballot.

(1) [~~If a majority of the legal voters of any county desire~~]A voter of a county who desires to have the county joined to and consolidated with an adjoining county[~~, they~~] may petition the county legislative body of the county in which [~~they reside~~]the voter resides and the county legislative body of the adjoining county, as described in this section.

(2) Each petition under Subsection (1) shall be:

(a) signed by a majority of the voters who reside in the originating county;

(b) signed by a majority of the voters who reside in the consolidating county; and

(c) presented to the county legislative body of the originating county and the county legislative body of the consolidating county before the first Monday in June of any year.

(3) (a) Within three business days after the day on which a county legislative body receives a petition under Subsection (1), the county legislative body shall provide the petition to the county clerk.

(b) Within 14 days after the day on which a county clerk receives a petition from the county legislative body under Subsection (3)(a), the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection [~~(1)~~](2) in regard to the voters of the county in which the county clerk is an officer;

(ii) certify on the petition whether each name is that of a registered voter in the county in which the county clerk is an officer; and

(iii) deliver the certified petition to the county legislative body.

(4) (a) [~~A voter~~]An individual who signs a petition under this section may have the [~~voter's~~]individual's signature removed from the petition by, no later than three business days after the day on which the county legislative body provides the petition to the county clerk, submitting to the county clerk a statement requesting that the [~~voter's~~]individual's signature be removed.

(b) A statement described in Subsection (4)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

(5) If the county clerks of the originating county and consolidating county each determine that the petition meets the requirements of Subsection (2)(a), each county clerk shall ensure that the petition is submitted to the voters of the respective counties as described in Subsection (6).

[~~(5)~~](6) (a) If a petition under Subsection (1) is presented in a year during which a regular general election is held, the county legislative body of the originating county and the county legislative body of the consolidating county shall cause the proposition to be submitted to the legal voters of [~~their~~]the respective counties at the next regular general election.

(b) If a petition under Subsection (1) is presented during a year in which there is no regular general election, the county legislative body of the originating county and the county legislative body of the consolidating county shall:

(i) call a special election to be held on the first Tuesday after the first Monday in November following the presentation of the petition; and

(ii) cause the proposition to be submitted to the [~~legal~~]voters of the respective counties [~~on that day~~]during the special election.

(c) Except as otherwise provided in this part, an election under this Subsection [~~(5)~~](6)shall be held, the results canvassed, and returns made under the provisions of the general election laws of the state.

(d) The ballot language to be used at an election under this Subsection [~~(5)~~](6) shall be:

For combining ____ county with ____ county.

Against combining ____ county with ____ county.

Section 33. Section 17-61-202, which is renumbered from Section 17-2-104 is renumbered and amended to read:

[~~17-2-104~~]17-61-202 (Effective 11/06/25). Certification of election result to governor.

If it appears from the certified report that the lieutenant governor receives under Section 20A-4-304 that a majority of the voters in [~~each of the counties~~]both the originating county and the consolidating county have voted in favor of consolidation, the lieutenant governor shall certify the result of the vote to the governor.

Section 34. Section 17-61-203, which is renumbered from Section 17-2-105 is renumbered and amended to read:

[~~17-2-105~~]17-61-203 (Effective 11/06/25). Governor's proclamation -- Notice and plat to lieutenant governor -- Recording requirements -- Effective date.

(1) Upon receipt of the election result from the lieutenant governor under Section [~~17-2-104~~]17-61-202, the governor shall issue a proclamation, stating:

(a) the result of the vote in [~~each of the counties,~~]the originating county and the consolidating county; and

(b) that the consolidation of the [~~one~~]originating county with the [~~other~~]consolidating county will take effect as provided in Subsection (3).

(2) The legislative body of the consolidating county shall:

(a) within 30 days after the issuance of the governor's proclamation under Subsection (1), send to the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of consolidation under Section 67-1a-6.5, submit to the recorder of the consolidating county:

(i) the original notice of an impending boundary action;

(ii) the original certificate of consolidation;

(iii) the original approved final local entity plat; and

(iv) a certified copy of the governor's proclamation under Subsection (1).

(3) (a) A consolidation of counties approved at an election under Section [~~17-2-103~~]17-61-201 takes effect on January 1 of the year immediately following the lieutenant governor's issuance of a certificate of consolidation under Section 67-1a-6.5.

(b) (i) The effective date of a consolidation of counties for purposes of assessing property within the consolidating county is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2)(b) are recorded in the office of the recorder of the county in which the property is located, a consolidating county may not:

(A) levy or collect a property tax on property in the consolidating county that used to be in the originating county;

(B) levy or collect an assessment on property in the consolidating county that used to be in the originating county; or

(C) charge or collect a fee for service provided to property within the consolidating county that used to be in the originating county.

Section 35. Section 17-61-204, which is renumbered from Section 17-2-106 is renumbered and amended to read:

[~~17-2-106~~]17-61-204 (Effective 11/06/25). Effect of consolidation -- Pending criminal proceedings.

(1) All territory included within the boundaries of the originating county becomes, upon the consolidation effective date described in Section 17-61-203, the territory of the consolidating county.

(2) The precincts and school districts existing in the originating county:

(a) continue and become precincts and school districts in the consolidating county[~~, and~~];

(b) remain [~~as then~~]organized until changed in the manner provided by law[~~,~~]; and

(c) retain the same officers of those precincts and school districts [~~hold their respective offices~~]until the expiration of the applicable terms.

(3) The ownership of all property, both real and personal, held and owned by the originating county at the time of consolidation is vested in the consolidating county.

(4) (a) The [~~terms of all county officers~~]term of a county officer in the originating county [~~terminate~~]terminates and [~~cease~~]ceases on the [~~day the~~]consolidation [~~takes effect, and those officers~~]effective date.

(b) A county officer of the originating county shall immediately, and before the consolidation effective date, deliver to the corresponding [~~officers~~]county officer of the consolidating county all books, records, and papers of the originating county.

(5) [~~Any person~~]An individual who is confined under lawful commitment in the county jail of the originating county, or otherwise lawfully held to answer for alleged violation of any of the criminal laws of this state, shall:

(a) be [~~immediately~~]delivered to the sheriff of the consolidating county[~~, and such person shall~~]before the consolidation effective date; and

(b) be confined in [~~its~~]the county jail of the consolidating county for the unexpired term of the individual's sentence or held as specified in the individual's commitment.

(6) (a) All criminal proceedings pending in the originating county shall be prosecuted to judgment and execution in the consolidating county.

(b) All offenses committed in the originating county before consolidation that have not been prosecuted shall be prosecuted in the consolidating county.

(7) All actions, proceedings, and matters pending in:

(a) the district court of the originating county may be proceeded with in the district court of the consolidating county; and

(b) the juvenile court of the originating county may be proceeded with in the juvenile court of the consolidating county.

(8) All indebtedness of the originating county are transferred to and become the indebtedness of the consolidating county with the same effect as if it had been incurred by the consolidating county.

Section 36. Section 17-61-301, which is renumbered from Section 17-2-203 is renumbered and amended to read:

PART 3. County Annexation

[~~17-2-203~~]17-61-301 (Effective 11/06/25). Annexation of portion of county to adjoining county -- Petition -- Certification of petition signatures -- Removal of signature -- Election -- Ballot.

[~~(1) (a)~~](1) Except as provided in Section [~~17-2-209~~]17-61-306, [~~if a majority of the legal voters of any portion of any county, in number equal to a majority of the votes cast at the preceding general election within that portion of the county, desire to have the territory within which they reside included within the boundaries of an adjoining county, they~~]a voter who desires to have initiating county territory in which the voter resides included within the boundary of an adjoining county, the voter may petition the county legislative body of the initiating county [~~in which they reside~~]and the county legislative body of the [~~adjoining~~]annexing county.

[~~(b)~~](2) [~~Each~~]A petition under Subsection [~~(1)(a)~~](1) shall be:

(a) signed by a majority of the voters living in the portion of the initiating county proposed to be included within the boundaries of an annexing county; and

(b) presented before the first Monday in June of a year during which a general election is held.

[~~(c) If a petition is presented under Subsection (1)(a), at the ensuing regular general election:~~]

[~~(i) the legislative body of the initiating county shall cause the proposition to be submitted to the legal voters residing in the initiating county; and~~]

[~~(ii) the legislative body of the annexing county shall cause the proposition to be submitted to the legal voters of the annexing county.~~]

[~~(2)~~](3) (a) Within three business days after the day on which a county legislative body receives a petition under Subsection (1), the county legislative body shall provide the petition to the county clerk.

(b) Within 14 days after the day on which a county clerk of an initiating county receives a petition from the county legislative body under Subsection [~~(2)(a)~~](3)(a), the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection [~~(1)~~](2);

(ii) certify on the petition whether each name is that of a [~~registered~~]voter in the portion of the initiating county that is proposed to be annexed; and

(iii) deliver the certified petition to the county legislative body.

[~~(3)~~](4) (a) [~~A voter~~]An individual who signs a petition under this section may have the [~~voter's~~]individual's signature removed from the petition by, no later than three business days after the day on which the county legislative body provides the petition to the county clerk, submitting to the county clerk a statement requesting that the [~~voter's~~]individual's signature be removed.

(b) A statement described in Subsection [~~(3)(a)~~](4)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

[~~(4)~~](5) (a) If the county clerk of the initiating county determines that the petition meets the requirements of Subsection (2), the county clerk of the initiating county and the county clerk of the annexing county shall ensure the petition is submitted to the voters of the respective counties at the next regular general election as described in this Subsection (5).

[~~(a)~~](b) Except as otherwise provided, the election [~~provided in Subsection (1) ~~]shall be held, the results canvassed, and returns made under the provisions of the general election laws of the state.

[~~(b)~~](c) The ballot language to be used in an election held under this Subsection (5) shall be:

For annexing a portion of ____ county to ____ county.

Against annexing a portion of ____ county to ____ county.

Section 37. Section 17-61-302, which is renumbered from Section 17-2-204 is renumbered and amended to read:

[~~17-2-204~~]17-61-302 (Effective 11/06/25). Certification of election result to governor.

In an election held under [~~Subsection 17-2-203(1)~~]Section 17-61-301, if it appears from the certified report that the lieutenant governor receives under Section 20A-4-304 that a majority of those voting in [~~each county~~]both the initiating county and the annexing county have voted in favor of the annexation, as required by Utah Constitution, Article XI, Section 3, the lieutenant governor shall certify the result of the vote to the governor.

Section 38. Section 17-61-303, which is renumbered from Section 17-2-205 is renumbered and amended to read:

[~~17-2-205~~]17-61-303 (Effective 11/06/25). Governor's proclamation -- Notice to lieutenant governor -- Recording requirements -- Effective date.

(1) Upon receipt of the lieutenant governor's certification under Section [~~17-2-204~~]17-61-302, the governor shall issue a proclamation, stating:

(a) the result of the vote in [~~each~~]the initiating county and the annexing county[~~,~~]; and

(b) that the annexation of the territory to the annexing county will take effect as provided in Subsection (3).

(2) The legislative body of the annexing county shall:

(a) within 30 days after the issuance of the governor's proclamation under Subsection (1), send to the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of annexation under Section 67-1a-6.5, submit to the recorder of the annexing county:

(i) the original notice of an impending boundary action;

(ii) the original certificate of consolidation;

(iii) the original approved final local entity plat; and

(iv) a certified copy of the governor's proclamation under Subsection (1).

(3) (a) An annexation approved at an election under Section [~~17-2-203 ~~]17-61-301 takes effect on January 1 of the year immediately following the lieutenant governor's issuance of a certificate of annexation under Section 67-1a-6.5.

(b) (i) The effective date of a county annexation for purposes of assessing property within the annexing county is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2)(b) are recorded in the office of the recorder of the county in which the property is located, an annexing county may not:

(A) levy or collect a property tax on property in the annexing county that used to be in the initiating county;

(B) levy or collect an assessment on property in the annexing county that used to be in the initiating county; or

(C) charge or collect a fee for service provided to property within the annexing county that used to be in the initiating county.

Section 39. Section 17-61-304, which is renumbered from Section 17-2-206 is renumbered and amended to read:

[~~17-2-206~~]17-61-304 (Effective 11/06/25). Territory becomes part of annexing county -- Division of revenues.

(1) Upon the effective date of the annexation described in Section 17-61-303, all the area proposed to be annexed shall become part of the annexing county.

(2) (a) The legislative body of the initiating county shall:

(i) until the date of annexation, continue:

(A) to levy and collect ad valorem property tax and other revenues from or pertaining to the area; and

(B) except as otherwise agreed with the annexing county, to provide the same services to the area proposed to be annexed as the initiating county provided before the commencement of the annexation proceedings; and

(ii) after annexation, share pro rata with the annexing county the taxes and service charges or fees levied and collected by the initiating county during the year of the annexation if and to the extent that the annexing county provides, by itself or by contract, the same services for which the initiating county levied and collected the taxes and service charges or fees.

(b) The pro rata allocation of taxes under Subsection (2)(a)(ii) shall be based on the date of annexation, and the pro rata allocation of service charges and fees shall be based on the proportion of services related to the service charges and fees that remain to be rendered after annexation.

Section 40. Section 17-61-305, which is renumbered from Section 17-2-207 is renumbered and amended to read:

[~~17-2-207~~]17-61-305 (Effective 11/06/25). Effect on precincts and school districts -- Pending criminal proceedings.

(1) The precincts and school districts in the annexed territory:

(a) continue;

(b) become precincts and school districts in the annexing county; and

(c) remain as then organized until changed in the manner provided by law.

(2) The officers of those precincts and school districts hold their respective offices until the expiration of their terms.

(3) If a precinct or school district is divided because of a county annexation under this part:

(a) the precinct or school district is disorganized, and the property and territory embraced in the precinct or school district is subject to the action of the county legislative body of the respective counties; and

(b) any bonded or other indebtedness of a school district attaches to and becomes the obligation of the district that is created out of the territory that retains the buildings and other property of the original district.

(4) All criminal proceedings and actions pending in the annexed territory as of the consolidation effective date shall be prosecuted to judgment and execution in the annexed territory as part of the annexing county.

(5) All offenses committed in the annexed territory before annexation that have not been prosecuted may be prosecuted to judgment and execution in the annexed territory or any part of the annexing county.

Section 41. Section 17-61-306, which is renumbered from Section 17-2-209 is renumbered and amended to read:

[~~17-2-209~~]17-61-306 (Effective 11/06/25). Minor adjustments to county boundaries authorized -- Public hearing -- Joint resolution of county legislative bodies -- Notice and plat to lieutenant governor -- Recording requirements -- Effective date.

(1) (a) Counties sharing a common boundary may, in accordance with the provisions of Subsection (2) and Utah Constitution, Article XI, Section 3[~~, of the Utah Constitution~~] and for purposes of real property tax assessment and county record keeping, adjust all or part of the common boundary to move it, subject to Subsection (1)(b), a sufficient distance to reach to, and correspond with, the closest existing property boundary of record.

(b) A boundary adjustment under Subsection (1)(a) may not create a boundary line that divides or splits:

(i) an existing parcel;

(ii) an interest in the property; or

(iii) a claim of record in the office of recorder of either county sharing the common boundary.

(2) The legislative bodies of both counties desiring to adjust a common boundary in accordance with Subsection (1) shall:

(a) hold a joint public hearing on the proposed boundary adjustment;

(b) at least seven days before the public hearing described in Subsection (2)(a), provide written notice of the proposed adjustment to:

(i) each owner of real property whose property, or a portion of whose property, may change counties as the result of the proposed adjustment; and

(ii) any of the following whose territory, or a portion of whose territory, may change counties as the result of the proposed boundary adjustment, or whose boundary is aligned with any portion of the existing county boundary that is being proposed for adjustment:

(A) a city;

(B) a town;

(C) a school district;

(D) a special district governed by Title 17B, Limited Purpose Local Government Entities - Special Districts;

(E) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(F) an interlocal entity governed by Title 11, Chapter 13, Interlocal Cooperation Act;

(G) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(H) a local building authority governed by Title 17D, Chapter 2, Local Building Authority Act; and

(I) a conservation district governed by Title 17D, Chapter 3, Conservation District Act; and

(c) adopt a joint resolution approved by both county legislative bodies approving the proposed boundary adjustment.

(3) The legislative bodies of both counties adopting a joint resolution under Subsection (2)(c) shall:

(a) within 15 days after adopting the joint resolution, jointly send to the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5, jointly submit to the recorder of the county in which the property is located after the boundary adjustment:

(i) the original notice of an impending boundary action;

(ii) the original certificate of boundary adjustment;

(iii) the original approved final local entity plat; and

(iv) a certified copy of the joint resolution approving the boundary adjustment.

(4) (a) As used in this Subsection (4):

(i) "Affected area" means an area that, as a result of a boundary adjustment under this section, is moved from within the boundary of one county to within the boundary of another county.

(ii) "Receiving county" means a county whose boundary includes an affected area as a result of a boundary adjustment under this section.

(b) A boundary adjustment under this section takes effect on the date the lieutenant governor issues a certificate of boundary adjustment under Section 67-1a-6.5.

(c) (i) The effective date of a boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (3)(b) are recorded in the office of the recorder of the county in which the property is located, a receiving county may not:

(A) levy or collect a property tax on property within an affected area;

(B) levy or collect an assessment on property within an affected area; or

(C) charge or collect a fee for service provided to property within an affected area.

(5) Upon the effective date of a boundary adjustment under this section:

(a) all territory designated to be adjusted into another county becomes the territory of the other county; and

(b) the provisions of [~~Sections 17-2-207 and 17-2-208~~]Section 17-61-305 apply in the same manner as with an annexation under this part.

Section 42. Section 17-61-401, which is renumbered from Section 17-3-1 is renumbered and amended to read:

PART 4. Creating New Counties

[~~17-3-1~~]17-61-401 (Effective 11/06/25). Creating a new county -- Petition -- Certification of petition signatures -- Removal of signature -- Election -- Ballots.

(1) Whenever[~~ any number of the registered voters of any portion of any county desire~~] a voter desires to have the territory within which [~~they reside~~]the voter resides created into a new county[~~, they~~], the voter may file a petition for the creation of a new county with the county legislative body of the seceding county in which [~~they reside~~]the voter resides as described in this section.

(2) (a) The petition described in Subsection (1) shall:

(i) propose the name and define the boundaries of the new county; and

(ii) be signed:

(A) by at least one-fourth of the [~~registered~~]voters [~~as shown by the registration list of the last preceding general election,~~]residing in [~~that~~]the portion of the seceding county proposed to be created into a new county[~~,~~]; and

(B) by [~~not~~]no less than one-fourth of the [~~registered~~]voters residing in the remaining portion of the seceding county.

(b) If a petition proposes to take territory from more than one seceding county, the requirements of Subsection (2)(a)(ii) apply to each seceding county affected by the petition.

(3) [~~The petition shall be presented~~]A voter shall file a petition for the creation of a new county on or before the first Monday in May of any year[~~, and shall propose the name and define the boundaries of the new county.~~]with the county legislative body of the seceding county.

(4) (a) Within three business days after the day on which a county legislative body receives a petition[~~ under Subsection (1)~~], the county legislative body shall provide the petition to the county clerk.

(b) Within 14 days after the day on which a county clerk receives a petition from the county legislative body under Subsection (4)(a), the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (2);

(ii) certify on the petition whether each name is that of a registered voter in the seceding county; and

(iii) deliver the certified petition to the county legislative body.

(5) (a) [~~A voter~~]An individual who signs a petition under this section may have the [~~voter's~~]individual's signature removed from the petition by, no later than three business days after the day on which the county legislative body provides the petition to the county clerk, submitting to the county clerk a statement requesting that the [~~voter's~~]individual's signature be removed.

(b) A statement described in Subsection (5)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

(6) The seceding county legislative body shall cause the proposition to be submitted to the [~~legal~~]voters residing in the seceding county at a special election to be held according to the dates established in Section 20A-1-204, first causing 30 days' notice of the election to be given in the manner provided by law for giving notice of general elections.

(7) The county clerk shall ensure that the special election [~~shall be~~]is held, the result canvassed, and returns made under the provisions of the general election laws.

(8) The form of ballot to be used at [~~such~~]the special election shall be:

For the creation of (supplying the name proposed) county.

Against the creation of (supplying the name proposed) county.

(9) (a) Subject to Subsection (9)(b), the expenses of any special election described in this section shall be paid out of the general fund of the seceding county.

(b) If the voters approve the creation of the new county, the new county shall reimburse the seceding county for half of the cost of the special election within one year of the effective date of the new county from the general fund of the new county.

Section 43. Section 17-61-402, which is renumbered from Section 17-3-3 is renumbered and amended to read:

[~~17-3-3~~]17-61-402 (Effective 11/06/25). Certification of returns -- Governor's proclamation of creation of new county -- Notice and plat to lieutenant governor -- Recording requirements -- Effective date.

(1) (a) If a petition for the creation of a new county impacts only one seceding county, the proposition submitted to voters under Section 17-61-401 shall be approved by a majority vote of those voters who reside:

(i) in the portion of the seceding county proposed as a new county; and

(ii) in the remaining portion of the seceding county.

(b) If a petition for the creation of a new county impacts more than one seceding county, the proposition submitted to voters under Section 17-61-401 shall be approved by a majority of those voters who reside:

(i) in each portion of each seceding county proposed to be part of a new county; and

(ii) in each remaining portion of each seceding county.

(2) If it appears that any proposition submitted to the [~~electors~~]voters as provided in [~~this chapter~~]Section 17-61-401 has been[~~carried in the affirmative by a majority vote of the qualified electors residing in that portion of the county proposed as a new county, and also by a majority vote of the qualified electors residing in the remaining portion of that county~~] approved as described in Subsection (1):

(a) the lieutenant governor, upon receiving the certified report under Section 20A-4-304, shall certify the result to the governor; and

(b) upon receiving the results from the lieutenant governor under Subsection (1)(a), the governor shall issue a proclamation, stating:

(i) the result of the vote in each division of the county;

(ii) the name and boundaries of the new county;

(iii) the boundaries of [~~the original~~]a seceding county as changed by the creation of the new county;

(iv) that the creation of the new county will take effect on the first Monday in January following the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5;

(v) the name proposed in the petition as the name of the new county; and

(vi) the judicial district to which the new county belongs.

[~~(2)~~](3) The legislative body of the county from which the greatest portion of the new county was taken shall:

(a) within 30 days after the issuance of the governor's proclamation under Subsection (1), send to the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, submit to the recorder of the new county:

(i) the original notice of an impending boundary action;

(ii) the original certificate of creation;

(iii) the original approved final local entity plat; and

(iv) a certified copy of the governor's proclamation under Subsection (1).

[~~(3)~~](4) (a) The new county that is the subject of the lieutenant governor's certificate of creation under Section 67-1a-6.5 is a county of the state from and after [~~12 noon of the first Monday in~~]January 1 following the issuance of the lieutenant governor's certificate of creation.

(b) (i) The effective date of the creation of a new county for purposes of assessing property within the county is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection [~~(3)(b)~~](2)(b) are recorded in the office of the recorder of the new county, the new county may not:

(A) levy or collect a property tax on property in the county;

(B) levy or collect an assessment on property in the county; or

(C) charge or collect a fee for service provided to property within the county.

Section 44. Section 17-61-403, which is renumbered from Section 17-3-4 is renumbered and amended to read:

[~~17-3-4~~]17-61-403 (Effective 11/06/25). County seat, selection by election -- First officers -- Election.

(1) [~~Whenever~~]When a new county [~~shall have been~~]is created under the provisions of this chapter, the county legislative body of the seceding county from which the greatest portion of territory [~~has been~~]is taken to create [~~such~~]the new county shall provide for an election to:

(a) select a county seat [~~therefor~~]for the new county; and [~~to~~]

(b) elect officers for the new county[~~; provided, that whenever the petitions provided for in this chapter shall be presented to any county legislative body~~].

(2) If a new county is created during a year when no general election is scheduled to be held[~~, they~~], the seceding county from which the greatest portion of territory was taken shall call a special election to select a county seat and county officers for [~~such~~]the new county[~~, such election~~]:

(a) to be held on the first Tuesday after the first Monday of November following; and

(b) to be conducted under the laws providing for general elections.

(3) The county clerk of the seceding county from which the greatest portion of territory is taken shall ensure that only voters who are residents of the new county vote in an election or special election described in this section.

(4) (a) Except as provided in Subsection (4)(c), in an election or special election to select a county seat for the new county, the county clerk of the seceding county described in Subsection (2) shall:

(i) list all cities and towns located in the new county on a ballot for a new county seat; or

(ii) list the five most populous cities and towns located in the new county, if there are at least five cities and towns located in the new county, on a ballot for a new county seat.

(b) The city or town in the new county receiving the largest number of votes [~~therefor~~]for designation as county seat shall be the county seat of the new county.

(c) If the county seat of a seceding county is included in the new county created under this part:

(i) the county seat of the seceding county shall be the county seat of the new county; and

(ii) a new county seat of the seceding county shall be chosen in accordance with the requirements of Utah Constitution, Article XI, Section 2.

(5) In an election for county officers for the new county, the county clerk of the seceding county described in Subsection (2) shall:

(a) accept candidates for county officers for the new county in the same manner as described in Title 20A, Election Code; and

(b) ensure that all candidates who meet the requirements established by law for county office are listed on the ballot for the election or special election of county officers for the new county.

(6) The new county shall reimburse the seceding county described in Subsection (2) for the expenses of an election or special election

held under this section within one year from the day on which the election or special election is held.

Section 45. Section 17-61-404, which is renumbered from Section 17-3-5 is renumbered and amended to read:

[~~17-3-5~~]17-61-404 (Effective 11/06/25). Records to be transmitted -- Expenses for transcribing and transfer.

(1) (a) Whenever a new county [~~shall have been~~]is created under the provisions of this [~~chapter~~]part, the county executive of the seceding county [~~from which the new county has been taken~~]shall furnish to the respective officers of the new county, in a form [~~and on~~]suitable [~~paper~~]for [~~binding into~~]creating permanent records, certified copies of all [~~such~~]records or parts of [~~such~~]records [~~and books as pertain to or affect~~]pertaining to or affecting the title of real or personal property in [~~such~~]the new county[~~; such~~].

(b) The certified copies [~~to~~]described in Subsection (1)(a) shall be complete [~~up to 12 o'clock noon of the first Monday in January following the election for the creation of such new county; provided, that~~]as of the effective creation date of the new county.

(c) The original records, books, maps, or plats, whether filed or recorded, or filed papers which exclusively relate to or affect the title to land in [~~such~~]the new county or which affect personal property owned by residents of [~~such~~]the new county, [~~as shown by the records pertaining thereto,~~] shall be transferred by the seceding county to the custody of the [~~proper~~]relevant county officer of the new county[~~, who shall give his receipt therefor; and where any~~].

(d) For a record of any antecedent county [~~from which such new county is taken~~]that has been compiled or arranged in [~~such~~]a manner that [~~it~~]the record may be divided by segregating [~~such~~]the instruments [~~therein or pages thereof as to~~]that relate to or affect exclusively the title to [~~lands~~]land in [~~such~~]the new county or personal property owned by residents [~~thereof, such record shall be so~~]of the new county, the record shall be divided[~~,~~] and the separate parts of [~~such~~]the divided [~~or segregated records~~]record shall be the property of the [~~counties~~]county to which [~~they relate~~]the information within the record relates.

(2) The county clerk of a seceding county shall transfer to the new county:

(a) (i) except as provided in Subsection (2)(a)(ii), original records in the possession of the seceding county of all corporations whose principal place of business is situated in the new county[~~,~~]; or

(ii) [~~unless recorded in such a manner that~~]if the original record of a corporation is unavailable, or it is otherwise impractical to transfer an original record, a certified copy of the original record in the possession of the seceding county pertaining to any [~~such~~]corporation[~~, may, as herein provided, be delivered over to the new county, shall be copied and certified, and such certified copy of copies, together with~~] whose principal place of business is situated in the new county along with all original documents, files, and papers relating to [~~such corporations shall be transmitted to the new county.~~]the corporation;

(b) (i) [~~All~~]except as provided in Subsection (2)(b)(ii), certified copies of all recorded official bonds of county officers within the new county in force at the time [~~it~~]the new county is created[~~,~~]; or

(ii) [~~unless~~]if the official bond of a county officer is recorded in such manner that the original record [~~thereof~~]may be transferred to the new county, the official bond;

(c) [~~shall be copied, certified and transmitted to the new county, and all~~]bonds of local officers within the new county which are required by law to be filed[~~ only shall be transferred to the new county.~~], if in the possession of the seceding county;

(d) [~~All~~]official registers, books, papers, and files of every description relating to or affecting elections, both general and local, which shall have been held in any district, precinct, or other subdivision wholly within [~~such~~]the new county that are in the possession of the seceding county;[~~, and~~]

(e) certified copies of the last election proceedings had in any districts which are partly in the new county and partly in the [~~old~~]seceding county[~~ shall be transmitted to the new county.~~];

(f) [~~All~~]records, maps, plats, files, and papers relating to or affecting the creation, regulation and operation of irrigation, drainage and mosquito abatement districts which are wholly within the new county[~~,~~] and in the possession of the seceding county; and

(g) certified copies of [~~such~~]records, maps, plats, files, and papers relating to and affecting the creation, regulation and operation of irrigation, drainage, and mosquito abatement districts which are partly in the new and partly in the [~~old~~]seceding county[~~ shall be transmitted to the new county~~].

(3) All expenses lawfully incurred by a seceding county for transcribing[~~ and for the transfer of~~], copying, and transferring records provided for in this section shall be [~~paid out of~~]reimbursed from the general funds of the new county[~~, and the expenses of any special election provided for in this chapter shall be paid one-half out of the general funds of the county from which territory is taken and one-half out of the general funds of the new county.~~] no later than 30 days from the day on which the record is transferred to the new county.

Section 46. Section 17-61-405, which is renumbered from Section 17-3-6 is renumbered and amended to read:

[~~17-3-6~~]17-61-405 (Effective 11/06/25). Effect on precincts and school and other districts -- Indebtedness.

(1) All precincts, school districts, road districts, and election districts[~~, as they~~]entirely in the new county that existed [~~prior to~~]before the creation of [~~such~~]the new county[~~, shall~~]:

(a) continue[~~ and~~]; and

(b) become precincts, school districts, road districts, and election districts of [~~such~~]the new county[~~, and~~].

(2) [~~the~~]The respective officers [~~thereof~~]of the precincts, school districts, road districts, and election districts described in Subsection (1) shall hold office until the expiration of the [~~several~~]terms for which [~~they~~]the officers were elected or appointed[~~; provided, that wherever pursuant to the provisions of this chapter~~].

(3) [~~any~~]If a precinct, school district, road district, or election district [~~shall be~~]is divided as a result of the creation of a new county:

(a) the [~~same~~]precinct, school district, road district, or election district shall be [~~by reason thereof~~]disorganized[~~,~~]; and

(b) the property and territory [~~embraced therein~~]of the precinct, school district, road district, or election district shall be subject to the action of the county legislative body of the respective counties in which the property or territory is located as to reorganization thereof or adding the same to other like subdivisions already organized[~~; provided further, that any~~].

(4) Any bonded or other indebtedness of any [~~such~~]school district [~~so divided shall attach to and become~~]described in Subsection (3) attaches and becomes the obligation of the district that shall be created out of the territory that shall retain the buildings and other property of the original district or to the district to which the same may be added[~~; and all~~].

(5) All bonded or other indebtedness of [~~the~~]a seceding county [~~from which territory is taken~~]shall attach to and become the obligation of [~~such~~]the new county.

Section 47. Section 17-61-406, which is renumbered from Section 17-3-7 is renumbered and amended to read:

[~~17-3-7~~]17-61-406 (Effective 11/06/25). Pending civil and criminal actions -- Prior offenses.

(1) All civil and criminal actions that are pending in the territory embraced in a new county shall be prosecuted to judgment and execution in the new county.

(2) All actions pending in the district court or the juvenile court in any county shall be prosecuted to judgment and execution in the county in which the same are pending, subject to change of venue as provided by law.

(3) An offense that was committed within the boundaries of a new county before the new county was created may be prosecuted to judgment and execution in the new county.

Section 48. Section 17-61-407, which is renumbered from Section 17-3-9 is renumbered and amended to read:

[~~17-3-9~~]17-61-407 (Effective 11/06/25). Division of taxes.

(1) [~~Whenever a new county shall be~~]When a new county is created under the provisions of this [~~chapter~~]part and the county officers [~~thereof shall have duly qualified the county treasurer of the county from which territory has been taken to create such new county shall furnish to the county treasurer of such new county~~]of the new county have been elected:

(a) the county treasurer of the seceding county shall provide to the county treasurer of the new county a certified list of all taxes collected by the county treasurer of the seceding county [~~from which territory has been taken~~]for the preceding year upon the property located within [~~such~~]the portion of [~~that~~]the seceding county [~~as~~]that has become a part of [~~such~~]the new county[~~, together with~~]; and

(b) subject to Subsection (2), the county treasurer of the seceding county shall provide to the county treasurer of the new county the [~~entire amount of such~~]county, [~~district~~]school district, or other special [~~taxes~~]tax revenue collected by the county treasurer of the seceding county[~~ from which territory has been taken~~] for [~~such~~]the preceding year[~~;~~] within territory that has become part of the new county.

(2) Before furnishing the revenue described in Subsection (1)(b) to the new county, the seceding county may retain:

(a) [~~less~~] the pro rata cost of assessing and collecting the [~~same~~]county, school district, or other special tax revenue collected by the seceding county; and

(b) the entire cost of making [~~said~~]the certified lists described in Subsection (1)(a).

Section 49. Section 17-62-101, which is renumbered from Section 17-52a-102 is renumbered and amended to read:

CHAPTER 62. Forms of County Government

PART 1. General Provisions

[~~17-52a-102~~]17-62-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Optional plan" means a plan establishing an alternate form of government for a county as provided in Section [~~17-52a-404~~]17-62-403.

(2) "Study committee" means the committee that has five members appointed and charged with the duties as provided in Section [~~17-52a-403~~]17-62-402.

Section 50. Section 17-62-102, which is renumbered from Section 17-52a-103 is renumbered and amended to read:

[~~17-52a-103~~]17-62-102 (Effective 11/06/25) (Partially Repealed 01/01/28). Forms of county government -- County commission form required unless another is adopted -- Restrictions on form of county government.

(1) In accordance with Utah Constitution, Article XI, Section 4, this chapter provides optional forms of county government.

(2) Subject to Subsection [~~(2)~~](3), each county shall operate under one of the following forms of county government:

(a) the county commission form under Section [~~17-52a-201~~]17-62-201;

(b) the expanded county commission form under Section [~~17-52a-202~~]17-62-202;

(c) the county executive and council form under Section [~~17-52a-203~~]17-62-203; or

(d) the council-manager form under Section [~~17-52a-204~~]17-62-204.

[~~(2)~~](3) Unless a county adopts another form of government as provided in this chapter, the county shall operate under the county commission form of government under Section [~~17-52a-201~~]17-62-201.

[~~(3)~~](4) (a) In a county that operates under a form of government that is not described in Subsection [~~(2)~~](3):

(i) the county's legislative body shall, before July 1, 2018, initiate the process under Section [~~17-52a-302~~]17-62-302 of changing the county's form of government;

(ii) the county shall hold a special election on November 6, 2018;

(iii) if the voters approve the appointment of a study committee at the special election described in Subsection [~~(3)(a)(ii)~~](4)(a)(ii):

(A) the study committee may not recommend under Section [~~17-52a-403~~]17-62-402 that the county retain the county's current form of government; and

(B) the county shall hold an election described in Section [~~17-52a-501~~]17-62-501before December 31, 2020, on an optional plan that the study committee creates; and

(iv) the registered voters of the county may not repeal an optional plan under Section [~~17-52a-505~~]17-62-505 that is adopted at an election described in Subsection [~~(3)(a)(iii)(B)~~](4)(a)(iii)(B).

(b) If the voters of a county described in Subsection [~~(3)(a)~~](4)(a) do not approve a change in the county's form of government at an election described in Subsection [~~(3)(a)(iii)(B)~~](4)(a)(iii)(B) before December 31, 2020:

(i) the county shall operate under the county commission form of government under Section [~~17-52a-201~~]17-62-201; and

(ii) the county shall transition to the form of government described in Subsection [~~(3)(b)(i)~~](4)(b)(i) in the same manner as if the voters of the county had approved the change in the form of government described in Subsection [~~(3)(b)(i)~~](4)(b)(i)in the applicable election described in Subsection [~~(3)(b)~~](4)(b).

[~~(4)~~](5) In a county of the fifth or sixth class, if the county legislative body under Section [~~17-52a-302~~]17-62-302 or the registered voters under Section [~~17-52a-303~~]17-62-303, after March 24, 2020, initiate the process to adopt an optional plan, the proposed optional plan may only propose a form of government authorized under Section [~~17-52a-405~~]17-62-404.

Section 51. Section 17-62-201, which is renumbered from Section 17-52a-201 is renumbered and amended to read:

PART 2. Permissible Forms of County Government

[~~17-52a-201~~]17-62-201 (Effective 11/06/25). County commission form of government -- Commission member elections.

(1) As used in this section:

(a) "Midterm vacancy" means a county commission position that is being filled at an election for less than the position's full term as established in:

(i) Subsection (4)(a); or

(ii) a county's optional plan under [~~Subsection 17-52a-404(5)(b)~~]Section 17-62-403.

(b) "Open position" means a county commission position that is being filled at a regular general election for the position's full term as established in:

(i) Subsection (4)(a); or

(ii) a county's optional plan under [~~Subsection 17-52a-404(5)(b)~~]Section 17-62-403.

(c) "Opt-in county" means a county that has, in accordance with Subsection (6)(a), chosen to conduct county commissioner elections in accordance with Subsection (6).

(2) A county commission consisting of three members shall govern each county operating under the county commission form of government.

(3) A county commission under a county commission form of government is both the county legislative body and the county executive and has the powers, duties, and functions of a county legislative body under [~~Chapter 53, Part 2, County Legislative Body~~]Chapter 64, County Legislative Body, and the powers, duties, and functions of a county executive under [~~Chapter 53, Part 3, County Executive~~]Chapter 65, County Executive.

(4) Except as otherwise provided in an optional plan adopted under this chapter:

(a) the term of office of each county commission member is four years;

(b) the terms of county commission members shall be staggered so that two members are elected at a regular general election date that alternates with the regular general election date of the other member; and

(c) each county commission member shall be elected:

(i) at large, unless otherwise required by court order; and

(ii) subject to the provisions of this section, in accordance with Title 20A, Election Code.

(5) Except as provided in Subsection (6):

(a) if two county commission positions are vacant for an election, the positions shall be designated "county commission seat A" and "county commission seat B";

(b) each candidate who files a declaration of candidacy when two positions are vacant shall designate on the declaration of candidacy form whether the candidate is a candidate for seat A or seat B; and

(c) no person may file a declaration of candidacy for, be a candidate for, or be elected to two county commission positions in the same election.

(6) (a) A county of the first or second class may, through an optional plan as described in Subsection [~~17-52a-404(5)~~]17-62-403(5) or by ordinance, choose to conduct county commissioner elections in accordance with this Subsection (6).

(b) When issuing the notice of election required by Subsection 20A-5-101(2), the clerk of an opt-in county shall, if there is at least one open position and at least one midterm vacancy, designate:

(i) each open position as "open position"; and

(ii) each midterm vacancy as "midterm vacancy."

(c) An individual who files a declaration of candidacy for the office of county commissioner in an opt-in county:

(i) if there is more than one open position, is not required to indicate which open position the individual is running for;

(ii) if there is at least one open position and at least one midterm vacancy, shall designate on the declaration of candidacy whether the individual is filing for an open position or a midterm vacancy; and

(iii) may not file a declaration of candidacy for an open position and a midterm vacancy in the same election.

(d) If there is an open position and a midterm vacancy being voted upon in the same election in an opt-in county, the county clerk shall indicate on the ballot for the election which positions are open positions and which positions are midterm vacancies.

(e) In an opt-in county:

(i) the candidates for open positions, in a number equal to the number of open positions, who receive the highest number of votes are:

(A) for the purposes of a regular primary election, nominated by the candidates' party for the open positions; and

(B) for the purposes of a regular general election, elected to fill the open positions; and

(ii) the candidates for midterm vacancies, in a number equal to the number of midterm vacancies, who receive the highest number of votes are:

(A) for the purposes of a regular primary election, nominated by the candidates' party for the midterm vacancies; and

(B) for the purposes of a regular general election, elected to fill the midterm vacancies.

Section 52. Section 17-62-202, which is renumbered from Section 17-52a-202 is renumbered and amended to read:

[~~17-52a-202~~]17-62-202 (Effective 11/06/25). Expanded county commission form of government -- Commission member elections.

(1) As used in this section:

(a) "Midterm vacancy" means the same as that term is defined in Section [~~17-52a-201~~]17-62-201.

(b) "Open position" means the same as that term is defined in Section [~~17-52a-201~~]17-62-201.

(c) "Opt-in county" means a county that has, in accordance with Subsection (6)(a), chosen to conduct county commissioner elections in accordance with Subsection (6).

(2) A county commission consisting of five or seven members shall govern each county operating under an expanded county commission form of government.

(3) A county commission under the expanded county commission form of government is both the county legislative body and the county executive and has the powers, duties, and functions of a county legislative body under [~~Chapter 53, Part 2, County Legislative Body~~]Chapter 64, County Legislative Body, and the powers, duties, and functions of a county executive under [~~Chapter 53, Part 3, County Executive~~]Chapter 65, County Executive.

(4) Except as otherwise provided in an optional plan adopted under this chapter:

(a) the term of office of each county commission member is four years;

(b) the terms of county commission members shall be staggered so that approximately half the members are elected at alternating regular general election dates; and

(c) each county commission member shall be elected:

(i) at large, unless otherwise required by court order; and

(ii) subject to the provisions of this section, in accordance with Title 20A, Election Code.

(5) Except as provided in Subsection (6):

(a) if multiple at-large county commission positions are vacant for an election, the positions shall be designated "county commission seat A," "county commission seat B," and so on as necessary for the number of vacant positions;

(b) each candidate who files a declaration of candidacy when multiple positions are vacant shall designate the letter of the county commission seat for which the candidate is a candidate; and

(c) no person may file a declaration of candidacy for, be a candidate for, or be elected to two county commission positions in the same election.

(6) (a) A county of the first or second class may, through an optional plan as described in Subsection [~~17-52a-404(5)~~]17-62-403(5) or by ordinance, choose to conduct county commissioner elections in accordance with this Subsection (6).

(b) When issuing the notice of election required by Subsection 20A-5-101(2), the clerk of an opt-in county shall, if there is at least one open position and at least one midterm vacancy, designate:

(i) each open position as "open position"; and

(ii) each midterm vacancy as "midterm vacancy."

(c) An individual who files a declaration of candidacy for the office of county commissioner in an opt-in county:

(i) if there is more than one open position, is not required to indicate which open position the individual is running for;

(ii) if there is at least one open position and at least one midterm vacancy, shall designate on the declaration of candidacy whether the individual is filing for an open position or a midterm vacancy; and

(iii) may not file a declaration of candidacy for an open position and a midterm vacancy in the same election.

(d) If there is an open position and a midterm vacancy being voted upon in the same election in an opt-in county, the county clerk shall indicate on the ballot for the election which positions are open positions and which positions are midterm vacancies.

(e) In an opt-in county:

(i) the candidates for open positions, in a number equal to the number of open positions, who receive the highest number of votes are:

(A) for the purposes of a regular primary election, nominated by the candidates' party for the open positions; and

(B) for the purposes of a regular general election, elected to fill the open positions; and

(ii) the candidates for midterm vacancies, in a number equal to the number of midterm vacancies, who receive the highest number of votes are:

(A) for the purposes of a regular primary election, nominated by the candidates' party for the midterm vacancies; and

(B) for the purposes of a regular general election, elected to fill the midterm vacancies.

Section 53. Section 17-62-203, which is renumbered from Section 17-52a-203 is renumbered and amended to read:

[~~17-52a-203~~]17-62-203 (Effective 11/06/25). County executive-council form of county government.

(1) (a) The following shall govern a county operating under the form of government known as the "county executive-council" form:

(i) an elected county council;

(ii) an elected county executive; and

(iii) other officers and employees authorized by law.

(b) The optional plan shall provide for the qualifications, time, and manner of election, term of office and compensation of the county executive.

(2) The county executive is the chief executive officer or body of the county.

(3) In the county executive-council form of county government:

(a) the county council is the county legislative body and has the powers, duties, and functions of a county legislative body under [~~Chapter 53, Part 2, County Legislative Body~~]Chapter 64, County Legislative Body; and

(b) the county executive has the powers, duties, and functions of a county executive under [~~Chapter 53, Part 3, County Executive~~]Chapter 65, County Executive.

(4) References in any statute [~~or state rule~~]to the "governing body" or the "board of county commissioners" of the county, in the county executive-council form of county government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county executive, with respect to executive functions, duties, and powers.

Section 54. Section 17-62-204, which is renumbered from Section 17-52a-204 is renumbered and amended to read:

[~~17-52a-204~~]17-62-204 (Effective 11/06/25). Council-manager form of county government -- Establishment of voting districts.

(1) As used in this section, "district" means a geographic area within the boundaries of a county with a council-manager form of government that is represented only by one council member who is a resident of the area.

(2) (a) The following shall govern a county operating under the form of government known as the "council-manager" form:

(i) an elected county council;

(ii) a county manager appointed by the council; and

(iii) other officers and employees authorized by law.

(b) The optional plan shall provide for the qualifications, time and manner of appointment subject to Subsections (7) and (8), term of office, compensation, and removal of the county manager.

(3) The county manager is the administrative head of the county government and has the powers, functions, and duties of a county executive, except:

(a) as the county legislative body otherwise provides by ordinance; and

(b) that the county manager may not veto any ordinances enacted by the council.

(4) (a) An individual member of the council may not directly or indirectly, by suggestion or otherwise:

(i) attempt to influence or coerce the manager in:

(A) making any appointment;

(B) removing any officer or employee; or

(C) purchasing supplies;

(ii) attempt to exact any promise relative to any appointment from any candidate for manager; or

(iii) discuss directly or indirectly with the manager the matter of specific appointments to any county office or employment.

(b) (i) A member of the county council who violates the provisions of this Subsection (4) shall forfeit the member's county council office.

(ii) Nothing in this section shall be construed, however, as prohibiting the council from fully and freely discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county.

(iii) The county manager may not take part in securing, or contributing any money toward, the nomination or election of any candidate for a county office.

(iv) The optional plan may provide procedures for implementing this Subsection (4).

(5) In the council-manager form of county government:

(a) the legislative powers of the county are vested in the county council; and

(b) the executive powers of the county are vested in the county manager.

(6) A reference in statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the council-manager form of county government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county manager, with respect to executive functions, duties, and powers.

(7) (a) As used in this Subsection (7), "interim vacancy period" means the period of time that:

(i) begins on the day on which a general election described in Section [~~17-16-6~~]17-66-202 is held to elect a council member; and

(ii) ends on the day on which the council member-elect begins the council member's term.

(b) (i) The county council may not appoint a county manager during an interim vacancy period.

(ii) Notwithstanding Subsection (7)(b)(i):

(A) the county council may appoint an interim county manager during an interim vacancy period; and

(B) the interim county manager's term shall expire once a new county manager is appointed by the new administration after the interim vacancy period has ended.

(c) Subsection (7)(b) does not apply if all the county council members who held office on the day of the county general election whose term of office was vacant for the election are re-elected to the council for the following term.

(8) A county council that appoints a county manager in accordance with this section may not enter into an employment contract that contains an automatic renewal provision with the county manager.

(9) A county of the third through sixth class with a council-manager form of government shall ensure that each council member:

(a) represents a single district, rather than being elected at large;

(b) is elected by a majority vote of voters residing within the member's district; and

(c) is a resident of the district the council member represents.

(10) (a) For a county with a council-manager form of government that, on May 7, 2025, does not meet the requirements described in Subsection (9), the county council shall, on or before June 1, 2025:

(i) in accordance with Subsection (10)(b), establish a county districting commission; and

(ii) in accordance with Subsection (10)(c)(i), approve a map of the county council districts.

(b) (i) A county council shall comply with Subsection (10)(a)(i) by establishing a county districting commission, consisting of:

(A) one representative from each municipality in the county, who is either the municipality's mayor or a resident whom the mayor appoints;

(B) one representative who resides in an unincorporated area of the county and is appointed by the county council; and

(C) the county clerk, or the county clerk's designee, as a non-voting member.

(ii) The county districting commission shall divide the county into districts by:

(A) relying on the total population enumeration of the most recent decennial census;

(B) ensuring that between districts, there is less than 10% total population deviation;

(C) ensuring that each district is contiguous and reasonably compact;

(D) ensuring that district boundaries do not divide existing voter precincts; and

(E) complying with the United States Constitution.

(iii) The county districting commission shall submit a proposed map of district boundaries to the county council for approval for the initial districting process, on or before October 1, 2025.

(iv) The county manager shall provide for the county districting commission:

(A) county staff for assistance; and

(B) suitable meeting facilities.

(c) After receiving the district map described in Subsection (10)(b)(iii), the county council shall, within 30 calendar days after the day on which the county council receives the map, hold a public hearing, at which:

(i) the county council shall approve the district map if the map complies with the requirements described in Subsection (10)(b)(ii); and

(ii) the county clerk shall designate, by lot, a current county council member to represent each district for the remainder of the council member's term of office, regardless of whether the council member is a resident of that district.

(11) After the adoption of a district map under Subsection (10)(c)(i), at an election in which a county council position is subject to an election:

(a) each candidate for that position [~~must~~]shall reside in the district that the position represents; and

(b) the council member for the district shall be elected by a majority vote of voters residing in the district.

(12) (a) After creating districts and adopting a district map under Subsections (10) and (11), a county described in Subsection (10) may not redistrict until an official decennial census publicly releases population data for the county, unless otherwise required by law.

(b) Each time a county described in Subsection (10)(a) conducts redistricting for the county council districts, the county council shall redistrict by:

(i) adjusting districts in accordance with Subsections (10)(b)(ii)(A), (B), (C), and (E); and

(ii) after drawing a proposed map of district boundaries, holding a public hearing, at which the county council shall approve the map as proposed, or revise the map and approve the revised map.

Section 55. Section 17-62-301, which is renumbered from Section 17-52a-301 is renumbered and amended to read:

PART 3. Procedure for Initiating Optional Plan

[~~17-52a-301~~]17-62-301 (Effective 11/06/25). Procedure for initiating adoption of optional plan -- Limitations -- Pending proceedings.

(1) An optional plan proposing an alternate form of government for a county may be adopted as provided in this chapter.

(2) The process to adopt an optional plan establishing an alternate form of county government may be initiated by:

(a) the county legislative body as provided in Section [~~17-52a-302~~]17-62-302; or

(b) registered voters of the county as provided in Section [~~17-52a-303~~]17-62-303.

(3) (a) If the process to adopt an optional plan is initiated under Laws of Utah 1973, Chapter 26, Section 3, 4, or 5, or Section [~~17-52a-302~~]17-62-302 or [~~17-52a-303~~]17-62-303, the county legislative body may not initiate the process again under Section [~~17-52a-302~~]17-62-302, and registered voters may not initiate the process again under Section [~~17-52a-303~~]17-62-303, until:

(i) the first initiated process concludes with an election under Section [~~17-52a-501~~]17-62-501;

(ii) the first initiated process concludes under Subsection [~~17-52a-403(7)~~]17-62-402(7) because the study committee recommended that the county's form of government not change; or

(iii) the first initiated process concludes because registered voters fail to submit a sufficient number of valid signatures for a petition before the deadline described in Subsection [~~17-52a-303(2)(c)~~]17-62-303(2)(c).

(b) A county legislative body may not initiate the process to adopt an optional plan under Section [~~17-52a-302~~]17-62-302 within four years of an election at which voters first elect elected county officials in accordance with Section [~~17-52a-503~~]17-62-503 and as specified in an optional plan proposed as a result of a process initiated by the county legislative body.

(c) Registered voters of a county may not initiate the process to adopt an optional plan under Section [~~17-52a-303~~]17-62-303 within four years of an election at which voters first elect elected county officials in accordance with Section [~~17-52a-503~~]17-62-503 and as specified in an optional plan proposed as a result of a process initiated by registered voters.

Section 56. Section 17-62-302, which is renumbered from Section 17-52a-302 is renumbered and amended to read:

[~~17-52a-302~~]17-62-302 (Effective 11/06/25). County legislative body initiation of adoption of optional plan -- Procedure.

(1) (a) A county legislative body may only initiate the process of adopting an optional plan by:

(i) approving a motion to establish a study committee to study changing the form of government; and

(ii) adopting a resolution to submit to the voters the question of whether the county should adopt an optional plan proposed by the study committee described in Subsection (1)(a)(i).

(b) The county legislative body may not submit to the voters an optional plan unless the optional plan complies with the requirements of Sections [~~17-52a-404~~]17-62-403 and [~~17-52a-405~~]17-62-404.

(2) (a) No later than 10 days after the day on which the county legislative body approves a motion as described in Subsection (1)(a)(i), the county legislative body shall notify the county executive of the county legislative body's approval to establish a study committee.

(b) No later than 10 days after the day on which the county legislative body adopts a resolution as described in Subsection (1)(a)(ii), the legislative body shall send a copy of the optional plan that the legislative body recommends to:

(i) the county clerk; and

(ii) the county attorney for review in accordance with Section [~~17-52a-406~~]17-62-405.

Section 57. Section 17-62-303, which is renumbered from Section 17-52a-303 is renumbered and amended to read:

[~~17-52a-303~~]17-62-303 (Effective 11/06/25). Registered voter initiation of adoption of optional plan -- Certification of petition signatures -- Removal of signature -- Procedure.

(1) (a) Registered voters of a county may initiate the process of adopting an optional plan by filing with the county clerk a notice of intent to gather signatures for a petition:

(i) for the establishment of a study committee described in Section [~~17-52a-403~~]17-62-402; or

(ii) to adopt an optional plan that:

(A) accompanies the petition during the signature gathering process and accompanies the petition in the submission to the county clerk under Subsection (2)(b); and

(B) complies with the requirements described in Sections [~~17-52a-404~~]17-62-403 and [~~17-52a-405~~]17-62-404.

(b) A notice of intent described in Subsection (1)(a) shall:

(i) designate five sponsors for the petition;

(ii) designate a contact sponsor to serve as the primary contact for the petition sponsors;

(iii) list the mailing address and telephone number of each of the sponsors; and

(iv) be signed by each of the petition sponsors.

(c) Registered voters of a county may not file a notice of intent to gather signatures in bad faith.

(2) (a) The sponsors of a petition may circulate the petition after filing a notice of intent to gather signatures under Subsection (1).

(b) (i) Except as provided in Subsection (2)(b)(ii), the petition is valid if the petition contains the number of legal signatures required under Subsection 20A-7-501(2).

(ii) For a county of the fifth or sixth class, the petition is valid if the petition contains at least the number of legal signatures equal to 30% of the number of active voters, as defined in Section 20A-7-501, in the county.

(iii) The county clerk may not count a signature that was collected for the petition before the petition sponsors filed a notice of intent under Subsection (1)(a).

(iv) Notwithstanding any other provision of law, an individual may not sign a petition circulated under this section by electronic signature as defined in Section 20A-1-202.

(c) Except as provided in Subsection (4)(b)(ii), the sponsors of the petition shall submit the completed petition and any amended or supplemental petition described in Subsection (4) with the county clerk not more than 180 days after the day on which the sponsors file the notice described in Subsection (1).

(d) (i) Within 30 days after the day on which the sponsors submit a petition, the sponsors shall submit financial disclosures to the county clerk that include:

(A) a list of each contribution received by the sponsors and the name of the donor; and

(B) a list of each expenditure for purposes of furthering or sponsoring the petition and the recipient of each expenditure.

(ii) The county clerk shall publish the financial disclosures described in Subsection (2)(d)(i).

(iii) All sponsors of a petition shall date and sign each list described in Subsection (2)(d)(i).

(3) Within 30 days after the day on which the sponsors submit a petition under Subsection (2)(c) or an amended or supplemental petition under Subsection (4), the county clerk shall:

(a) (i) use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter; and

(ii) determine whether the petition or amended or supplemental petition has been signed by the required number of registered voters;

(b) (i) if the petition was signed by a sufficient number of registered voters:

(A) certify the petition;

(B) deliver the petition to the county legislative body and county executive; and

(C) notify the contact sponsor in writing of the certification; or

(ii) if the petition was not signed by a sufficient number of registered voters:

(A) reject the petition; and

(B) notify the county legislative body and the contact sponsor in writing of the rejection and the reasons for the rejection; and

(c) for a petition described in Subsection (1)(a)(ii), no later than 10 days after the day on which the county clerk certifies the petition under Subsection (3)(b)(i), the county clerk shall send a copy of the optional plan that accompanied the petition to the county attorney for review in accordance with Section [~~17-52a-406~~]17-62-405.

(4) The sponsors of a petition circulated under this section may submit supplemental signatures for the petition:

(a) if the county clerk rejects the petition under Subsection (3)(b)(ii); and

(b) before the earlier of:

(i) the deadline described in Subsection (2)(c); or

(ii) 20 days after the day on which the county clerk rejects the petition under Subsection (3)(b)(ii).

(5) With the unanimous approval of petition sponsors, a petition filed under this section may be withdrawn at any time within 90 days after the day on which the county clerk certifies the petition under Subsection (3)(b)(i) and no later than 45 days before an election under Section [~~17-52a-501~~]17-62-501 if the petition included a notification to petition signers, in conspicuous language and in a conspicuous location, that the petition sponsors are authorized to withdraw the petition.

(6) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the sponsors submit the petition to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (6)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 58. Section 17-62-304, which is renumbered from Section 17-52a-305 is renumbered and amended to read:

[~~17-52a-305~~]17-62-304 (Effective 11/06/25). Public hearings.

The county legislative body shall hold four public hearings on a proposed optional plan within 45 days after the day on which:

(1) the county legislative body adopts a resolution that proposes an optional plan under Subsection [~~17-52a-302(1)(a)(ii)~~]17-62-302(1)(a)(ii); or

(2) the county clerk certifies, in accordance with Subsection [~~17-52a-303(3)~~]17-62-303(3), a petition that proposes an optional plan under Subsection [~~17-52a-303(1)(a)(ii)~~]17-62-303(1)(a)(ii).

Section 59. Section 17-62-401, which is renumbered from Section 17-52a-402 is renumbered and amended to read:

PART 4. Study Committee and Optional Plan

[~~17-52a-402~~]17-62-401 (Effective 11/06/25). Convening of first meeting of study committee.

(1) The county executive shall convene the first meeting of the study committee no later than 10 days after the day on which the county executive receives notification:

(a) of the establishment of a study committee by the county legislative body as described in Section [~~17-52a-302~~]17-62-302; or

(b) of a certified petition from the county clerk as described in Section [~~17-52a-303~~]17-62-303.

(2) (a) At the study committee's first meeting, the study committee shall select a chair from among the members of the study committee.

(b) The chair of the study committee is responsible for convening each future meeting of the study committee.

Section 60. Section 17-62-402, which is renumbered from Section 17-52a-403 is renumbered and amended to read:

[~~17-52a-403~~]17-62-402 (Effective 11/06/25). Study committee -- Members -- Powers and duties -- Proposed plan and report -- Services provided by county.

(1) (a) As used in this Subsection (1), "council of governments" means the same as that term is defined in Section 17B-2a-802.

(b) A study committee consists of:

(i) for a study committee established by the county legislative body under Section [~~17-52a-302~~]17-62-302:

(A) two members appointed by the county legislative body, who each may be either a member of the county legislative body or an individual appointed by the county legislative body; and

(B) three members appointed by the county's council of governments, who each may be either a member of the county's council of governments or an individual appointed by the county's council of governments; or

(ii) for a study committee established by the registered voters through a petition under Section [~~17-52a-303~~]17-62-303:

(A) one member appointed by the sponsors of the petition; and

(B) four members appointed by the county's council of governments.

(c) A member of a study committee:

(i) may not receive compensation for service on the study committee;

(ii) may not hold an elected county office or have filed a current declaration of candidacy for an elected county office; and

(iii) shall be a registered voter.

(d) The county legislative body shall reimburse each member of a study committee for necessary expenses incurred in performing the member's duties on the study committee.

(2) A study committee may:

(a) [~~adopt~~]make rules for the study committee's own organization and procedure and to fill a vacancy in its membership;

(b) establish advisory boards or committees and include on the advisory boards or committees persons who are not members of the study committee; and

(c) request the assistance and advice of any officers or employees of any agency of state or local government.

(3) (a) A study committee shall:

(i) study the form of government within the county and compare it with other forms available under this chapter;

(ii) determine whether the administration of local government in the county could be strengthened, made more clearly responsive or accountable to the people, or significantly improved in the interest of economy and efficiency by a change in the form of county government;

(iii) hold public hearings and community forums and other means the committee considers appropriate to disseminate information and stimulate public discussion of the committee's purposes, progress, and conclusions; and

(iv) file a written report of the study committee's findings and recommendations with the county executive, the county legislative body, and the county clerk no later than one year after the convening of the study committee's first meeting under Section [~~17-52a-402~~]17-62-401.

(b) Within 10 days after the day on which the study committee submits the study committee's report under Subsection (3)(a)(iv), if the report recommends a change in the form of county government, the county clerk shall send to the county attorney a copy of the optional plan recommended in the report for review in accordance with Section [~~17-52a-406~~]17-62-405.

(4) Each study committee report under Subsection (3)(a)(iv) shall include:

(a) the study committee's recommendation as to whether the form of county government should be changed to another form authorized under this chapter;

(b) if the study committee recommends changing the form of government, a complete detailed draft of a proposed optional plan to change the form of county government, including all necessary implementing provisions; and

(c) any additional recommendations the study committee considers appropriate to improve the efficiency and economy of the administration of local government within the county.

(5) (a) If the study committee's report recommends a change in the form of county government, the study committee may conduct additional public hearings after filing the report under Subsection (3)(a)(iv) and, following the hearings and subject to Subsection (5)(b), alter the report or proposed optional plan.

(b) Notwithstanding Subsection (5)(a), the study committee may not make an alteration to the report or proposed optional plan:

(i) that would recommend the adoption of an optional form different from that recommended in the original report; or

(ii) within the 160-day period before the election under Section [~~17-52a-501~~]17-62-501.

(6) Each meeting that the study committee holds shall be open to the public.

(7) If the study committee's report does not recommend a change in the form of county government, the report is final, the study committee is dissolved, and the process to change the county's form of government is concluded.

(8) The county legislative body shall provide for the study committee:

(a) suitable meeting facilities;

(b) necessary secretarial services;

(c) necessary printing and photocopying services;

(d) necessary clerical and staff assistance; and

(e) adequate funds for the employment of independent legal counsel and professional consultants that the study committee reasonably determines to be necessary to help the study committee fulfill its duties.

(9) The county legislative body may not interfere with the work of the study committee.

Section 61. Section 17-62-403, which is renumbered from Section 17-52a-404 is renumbered and amended to read:

[~~17-52a-404~~]17-62-403 (Effective 11/06/25). Contents of proposed optional plan.

(1) The study committee or the sponsors of a petition described in Subsection [~~17-52a-303(1)(a)(ii)~~]17-62-303(1)(a)(ii) shall ensure that an optional plan the committee or registered voters propose under this chapter, respectively:

(a) proposes the adoption of one of the forms of county government authorized in Subsection [~~17-52a-405(1)(a)~~]17-62-404(1)(a);

(b) contains detailed provisions relating to the transition from the existing form of county government to the form proposed in the optional plan, including provisions relating to the:

(i) election or appointment of officers specified in the optional plan for the new form of county government;

(ii) retention, elimination, or combining of existing offices and, if an office is eliminated, the division or department of county government responsible for performing the duties of the eliminated office;

(iii) continuity of existing ordinances and regulations;

(iv) continuation of pending legislative, administrative, or judicial proceedings;

(v) making of interim and temporary appointments; and

(vi) preparation, approval, and adjustment of necessary budget appropriations;

(c) specifies the date the optional plan becomes effective if adopted, which may not be earlier than the first day of January next following the election of officers under the new plan; and

(d) notwithstanding any other provision of this title and except with respect to an optional plan that proposes the adoption of the county commission or expanded county commission form of government, with respect to the county budget provides that:

(i) the county executive's role is to prepare and present a proposed budget to the county legislative body; and

(ii) the county legislative body's role is to adopt a final budget.

(2) Subject to Subsection (3), an optional plan may include provisions that are considered necessary or advisable to the effective operation of the proposed optional plan.

(3) An optional plan may not:

(a) include any provision that is inconsistent with or prohibited by the Utah Constitution or any statute;

(b) if the optional plan is proposed after March 20, 2020:

(i) specify compensation, including benefits, for any appointed or elected county official; or

(ii) specify the full or part-time status of any appointed or elected county official; or

(c) if the optional plan specifies that county council or commission members are to be elected from districts, establish, divide, abolish, alter, change, or otherwise attempt to draw boundaries of election districts or impair the duties of the county legislative body as described in Section [~~17-52a-503~~]17-62-503.

(4) The optional plan proponent described in Subsection (1) shall ensure that an optional plan proposing to change the form of government to the county executive-council form under Section [~~17-52a-203~~]17-62-203 or the council-manager form under Section [~~17-52a-204~~]17-62-204:

(a) provides for the same executive and legislative officers as are specified in the applicable section for the form of government that the optional plan proposes;

(b) provides for the election of the county council;

(c) specifies the number of county council members, which shall be an odd number from three to nine;

(d) subject to Subsection (3)(c), and except as provided in Section [~~17-52a-204~~]17-62-204, specifies whether the members of the county council are to be elected from districts, at large, or by a combination of at large and by district;

(e) specifies county council members' qualifications and terms and whether the terms are to be staggered; and

(f) contains procedures for filling vacancies on the county council, consistent with the provisions of Section 20A-1-508.

(5) The optional plan proponent described in Subsection (1) shall ensure that an optional plan proposing to change the form of government to the county commission form under Section [~~17-52a-201~~]17-62-201 or the expanded county commission form under Section [~~17-52a-202~~]17-62-202 specifies:

(a) (i) for the county commission form of government, that the county commission shall have three members; or

(ii) for the expanded county commission form of government, whether the county commission shall have five or seven members;

(b) the terms of office for county commission members and whether the terms are to be staggered;

(c) subject to Subsection (3)(c), whether members of the county commission are to be elected from districts, at large, or by a combination of at large and from districts;

(d) if any members of the county commission are to be elected from districts, the district residency requirements for those commission members; and

(e) if any members of the county commission are to be elected at large, whether the election of county commission members is subject to the provisions of Subsection [~~17-52a-201(6)~~]17-62-201(6) or Subsection [~~17-52a-202(6)~~]17-62-202(6).

Section 62. Section 17-62-404, which is renumbered from Section 17-52a-405 is renumbered and amended to read:

[~~17-52a-405~~]17-62-404 (Effective 11/06/25). Plan may propose changing forms of county government -- Partisan elections.

(1) (a) The optional plan proponent described in Subsection [~~17-52a-404(1)~~]17-62-403(1) shall ensure that each optional plan proposes changing the form of county government to:

(i) for a county of the first, second, third, or fourth class:

(A) the county commission form under Section [~~17-52a-201~~]17-62-201;

(B) the expanded county commission form under Section [~~17-52a-202~~]17-62-202;

(C) the county executive and council form under Section [~~17-52a-203~~]17-62-203; or

(D) the council-manager form under Section [~~17-52a-204~~]17-62-204; and

(ii) for a county of the fifth or sixth class:

(A) the county commission form under Section [~~17-52a-201~~]17-62-201; or

(B) the expanded county commission form under Section [~~17-52a-202~~]17-62-202.

(b) The optional plan proponent described in Subsection [~~17-52a-404(1)~~]16-62-403(1) may not recommend an optional plan that:

(i) proposes changing the form of government to a form not authorized in Subsection (1)(a);

(ii) provides for the nonpartisan election of elected officers;

(iii) imposes a limit on the number of terms or years that an elected officer may serve;

(iv) provides for elected officers to be subject to a recall election; or

(v) provides, in a county with a population of 225,000 or more, for a full-time county commission in an expanded county commission form of government under Section [~~17-52a-202~~]17-62-202.

(2) A county that provides for the election of the county's elected officers through a partisan election may not change to a process that provides for the election of the county's elected officers through a nonpartisan election.

Section 63. Section 17-62-405, which is renumbered from Section 17-52a-406 is renumbered and amended to read:

[~~17-52a-406~~]17-62-405 (Effective 11/06/25). County attorney review of proposed optional plan -- Conflict with statutory or constitutional provisions -- Processing of optional plan after attorney review.

(1) As used in this section:

(a) "Proposed optional plan" means an optional plan that is submitted to the county attorney for review in accordance with a provision of this chapter.

(b) "Requesting entity" means the person who submits a proposed optional plan to the county attorney for review in accordance with a provision of this chapter.

(2) (a) Within 45 days after the day on which the county attorney receives a proposed optional plan from a requesting entity, the county attorney shall review the proposed optional plan and send a written report containing the information described in Subsection (2)(b) to:

(i) the requesting entity; and

(ii) (A) the petition sponsors, if the proposed optional plan was recommended under Section [~~17-52a-303~~]17-62-303; or

(B) the study committee, if the proposed optional plan was recommended under Section [~~17-52a-403~~]17-62-402.

(b) A report from the county attorney under Subsection (2)(a) shall:

(i) state the county attorney's opinion as to whether implementation of the proposed optional plan would result in a violation of any applicable statutory or constitutional provision;

(ii) if the county attorney concludes that a violation would result:

(A) identify specifically each statutory or constitutional provision that implementation of the proposed optional plan would violate;

(B) identify specifically each provision or feature of the proposed optional plan that would result in a statutory or constitutional violation if the proposed optional plan is implemented; and

(C) recommend how the proposed optional plan may be modified to avoid the statutory or constitutional violation.

(3) (a) The proposed optional plan may not be the subject of an election under Section [~~17-52a-501~~]17-62-501 if:

(i) the county attorney has not reviewed and submitted a written report in accordance with this section; or

(ii) the county attorney concludes that implementation of the proposed optional plan would result in a violation of an applicable statutory or constitutional provision.

(b) The study committee may:

(i) modify a proposed optional plan that the study committee recommends in accordance with Section [~~17-52a-403~~]17-62-402 to avoid a violation that a county attorney's report describes under Subsection (2); and

(ii) file a new report under Subsection [~~17-52a-403(3)(a)(iv)~~]17-62-402(3)(a)(iv).

(c) A county legislative body may:

(i) modify a proposed optional plan that the county legislative body proposes in accordance with Section [~~17-52a-302~~]17-62-302 or [~~17-52a-403~~]17-62-402 to avoid a violation that a county attorney's report describes under Subsection (2); and

(ii) within 10 days of modifying the proposed optional plan, send the modified proposed optional plan to:

(A) the county clerk, if the proposed optional plan was proposed in accordance with Section [~~17-52a-302~~]17-62-302; and

(B) the county attorney for review in accordance with this section.

(d) (i) The petition sponsors may:

(A) modify a proposed optional plan that the petition proposes in accordance with Subsection [~~17-52a-303(1)(a)(ii)~~]17-62-303(1)(a)(ii) to avoid a violation that a county attorney's report describes under Subsection (2); and

(B) submit the modified proposed optional plan to the county clerk.

(ii) Upon receipt of a modified proposed optional plan described in Subsection (3)(d)(i), the county clerk shall send the modified proposed optional plan to the county attorney for review in accordance with this section.

(4) The county executive, county legislative body, county attorney, and county clerk shall treat the following as an original:

(a) a new report that a study committee files under Subsection [~~17-52a-403(3)(a)(iv)~~]17-62-402(3)(a)(iv);

(b) a modified proposed optional plan that a county legislative body sends under Subsection (3)(c); and

(c) a modified proposed optional plan that petition sponsors submit to the county clerk and that the county clerk sends under Subsection (3)(d).

(5) If the county attorney's written report under Subsection (2)(b) does not identify any provisions or features of the proposed optional plan that, if implemented, would violate a statutory or constitutional provision, the proposed optional plan is subject to the provisions described in Section [~~17-52a-501~~]17-62-501.

Section 64. Section 17-62-501, which is renumbered from Section 17-52a-501 is renumbered and amended to read:

PART 5. Adoption and Implementation of Optional Plan

[~~17-52a-501~~]17-62-501 (Effective 11/06/25). Election on recommended optional plan.

(1) If the county attorney finds under Section [~~17-52a-406~~]17-62-405 that a proposed optional plan does not violate a statutory or constitutional provision, a county shall hold an election on the optional plan at the next regular general election that is not less than 65 days after the day on which the county attorney submits to the county clerk the attorney's report described in Section [~~17-52a-406~~]17-62-405.

(2) The county clerk shall prepare the ballot for an election under this section so that the question on the ballot states substantially the following:

"Shall _____ County adopt the alternate form of government known as the (insert the proposed form of government) as recommended in the proposed optional plan?"

(3) The county clerk shall:

(a) publish the complete text of the proposed optional plan in a newspaper of general circulation within the county at least once during two different calendar weeks within the 30-day period immediately before the date of the election described in Subsection (1);

(b) post the complete text of the proposed optional plan in a conspicuous place on the county's website during the 45-day period that immediately precedes the election on the optional plan; and

(c) make a complete copy of the optional plan and the study committee report available free of charge to any member of the public who requests a copy.

(4) A county clerk shall declare an optional plan as adopted by the voters if a majority of voters voting on the optional plan vote in favor of the optional plan.

Section 65. Section 17-62-502, which is renumbered from Section 17-52a-502 is renumbered and amended to read:

[~~17-52a-502~~]17-62-502 (Effective 11/06/25). Voter information pamphlet.

(1) In anticipation of an election under Section [~~17-52a-501~~]17-62-501, the county clerk shall prepare a voter information pamphlet to inform the public of the proposed optional plan in accordance with the provisions of Title 20A, Chapter 7, Part 7, Voter Information Pamphlet.

(2) In preparing a voter information pamphlet under this section, the county clerk shall:

(a) allow proponents and opponents of the proposed optional plan to provide written statements to be included in the pamphlet; and

(b) ensure each written statement described in Subsection (2)(a) is printed in the same font style and point size.

(3) A county clerk shall cause the publication and distribution of the pamphlet in a manner that the county clerk determines is adequate.

Section 66. Section 17-62-503, which is renumbered from Section 17-52a-503 is renumbered and amended to read:

[~~17-52a-503~~]17-62-503 (Effective 11/06/25). Adoption of optional plan -- Election of new county officers -- Effect of adoption.

(1) If a proposed optional plan is approved at an election held under Section [~~17-52a-501~~]17-62-501:

(a) on or before November 1 of the year immediately following the year of the election described in Section [~~17-52a-501~~]17-62-501 in which the optional plan is approved, the county legislative body shall:

(i) if the proposed optional plan under Section [~~17-52a-404~~]17-62-403 specifies that one or more members of the county legislative body are elected from districts, adopt the geographic boundaries of each council or commission member district; and

(ii) adopt the compensation, including benefits, for each member of the county legislative body;

(b) the elected county officers specified in the plan shall be elected at the next regular general election following the election under Section [~~17-52a-501~~]17-62-501, according to the procedure and schedule established under Title 20A, Election Code, for the election of county officers;

(c) the proposed optional plan:

(i) becomes effective according to the optional plan's terms;

(ii) subject to Subsection [~~17-52a-404(1)(c)~~]17-62-403(1)(c), at the time specified in the optional plan, is a public record open to inspection by the public; and

(iii) is judicially noticeable by all courts;

(d) the county clerk shall, within 10 days of the canvass of the election, file with the lieutenant governor a copy of the optional plan, certified by the clerk to be a true and correct copy;

(e) all public officers and employees shall cooperate fully in making the transition between forms of county government; and

(f) the county legislative body may enact and enforce necessary ordinances to bring about an orderly transition to the new form of government, including any transfer of power, records, documents, properties, assets, funds, liabilities, or personnel that are consistent with the approved optional plan and necessary or convenient to place it into full effect.

(2) An action by the county legislative body under Subsection (1)(a) is not an amendment for purposes of Section [~~17-52a-504~~]17-62-504.

(3) Adoption of an optional plan does not alter or affect the boundaries, organization, powers, duties, or functions of any:

(a) school district;

(b) justice court;

(c) special district under Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) special service district under Title 17D, Chapter 1, Special Service District Act;

(e) city or town; or

(f) entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(4) (a) After adoption of the optional plan, the county legislative body may adopt a change to the geographic boundaries of a council or commission member's district.

(b) An action by the county legislative body under Subsection (4)(a) is not an amendment for purposes of Section [~~17-52a-504~~]17-62-504.

(5) After the adoption of an optional plan, the county remains vested with all powers and duties vested generally in counties by statute.

Section 67. Section 17-62-504, which is renumbered from Section 17-52a-504 is renumbered and amended to read:

[~~17-52a-504~~]17-62-504 (Effective 11/06/25). Amendment of optional plan.

(1) Subject to Subsection (2), an optional plan, after going into effect following an election held under Section [~~17-52a-501~~]17-62-501, may be amended by an affirmative vote of two-thirds of the county legislative body.

(2) Notwithstanding Subsection (1), an amendment to an optional plan that is in effect may not take effect until a majority of registered voters voting in a general or special election at which the amendment is proposed approve the amendment, if the amendment changes:

(a) the size or makeup of the legislative body, except for adjustments necessary due to decennial reapportionment;

(b) the distribution of powers between the executive and legislative branches of county government; or

(c) the status of the county executive or legislative body from full-time to part-time or vice versa.

Section 68. Section 17-62-505, which is renumbered from Section 17-52a-505 is renumbered and amended to read:

[~~17-52a-505~~]17-62-505 (Effective 11/06/25). Repeal of optional plan -- Certification of petition signatures -- Removal of signature.

(1) An optional plan that the voters in an election adopt under this chapter may be repealed as provided in this section.

(2) Registered voters of a county that has adopted an optional plan may initiate the process of repealing an optional plan by filing a petition for the repeal of the optional plan.

(3) (a) Registered voters of a county may not file a petition to repeal an optional plan sooner than four years or more than five years after the election of county officers under Section [~~17-52a-503~~]17-62-503.

(b) (i) If the registered voters file a petition to repeal an optional plan under this section, the petition is certified, and the optional plan is not repealed at an election described in Subsection (9), the voters may not circulate or file a subsequent petition to repeal until at least four, and not more than five, years after the certification of the original petition.

(ii) If, after four years, the voters file a subsequent petition under Subsection (3)(b)(i), the voters:

(A) may not circulate or file another petition to repeal until at least four, and not more than five, years after certification of the subsequent petition; and

(B) shall wait an additional four, and not more than five, years after the date of certification of the previous petition for each petition filed thereafter.

(4) A petition described in Subsection (2) shall:

(a) be signed by registered voters residing in the county:

(i) equal in number to at least 15% of the total number of votes cast in each precinct described in Subsection (4)(a)(ii) for all candidates for president of the United States at the most recent election in which a president of the United States was elected; and

(ii) who represent at least 85% of the voting precincts located within the county;

(b) designate up to five of the petition signers as sponsors, designating one petition signer as the contact sponsor, with the mailing address and telephone number of each; and

(c) be filed in the office of the clerk of the county in which the petition signers reside.

(5) Within 30 days after the filing of a petition under Subsection (2) or an amended petition under Subsection (6), the county clerk shall:

(a) (i) use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter; and

(ii) determine whether the required number of voters have signed the petition or amended petition has been signed by the required number of registered voters; and

(b) (i) if a sufficient number of voters have signed the petition, certify the petition or amended petition and deliver it to the county legislative body, and notify in writing the contact sponsor of the certification; or

(ii) if a sufficient number of voters have not signed the petition, reject the petition or the amended petition and notify the county legislative body and the contact sponsor in writing of the rejection and the reasons for the rejection.

(6) If a county clerk rejects a petition or an amended petition under Subsection (5)(b)(ii), the petition may be amended or an amended petition may be further amended with additional signatures and refiled within 20 days of the date of rejection.

(7) (a) A voter who signs a petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the sponsors file the petition in the office of the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (7)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

(8) If a county clerk certifies a petition under Subsection (2), the county legislative body shall hold an election on the proposal to repeal the optional plan at the next regular general election that is at least 60 days after the day on which the county clerk certifies the petition.

(9) If, at an election held under Subsection (8), a majority of voters voting on the proposal to repeal the optional plan vote in favor of repealing:

(a) the optional plan is repealed, effective January 1 of the year following the election of county officers under Subsection (9)(c);

(b) upon the effective date of the repeal under Subsection (9)(a), the form of government under which the county operates reverts to the form it had before the optional plan was adopted; and

(c) the county officers under the form of government to which the county reverts, who are different than the county officers under the repealed optional plan, shall be elected at the next regular general election following the election under Subsection (8).

Section 69. Section 17-63-101, which is renumbered from Section 17-36-3 is renumbered and amended to read:

CHAPTER 63. Fiscal Authority and Processes

PART 1. General Provisions

[~~17-36-3~~]17-63-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Accrual basis of accounting" means a method where revenues are recorded when earned and expenditures recorded when they

become liabilities notwithstanding that the receipt of the revenue or payment of the expenditure may take place in another accounting period.

(2) "Appropriation" means an allocation of money for a specific purpose.

(3) (a) "Budget" means a plan for financial operations for a fiscal period, embodying estimates for proposed expenditures for given purposes and the means of financing the expenditures.

(b) "Budget" may refer to the budget of a fund for which a budget is required by law, or collectively to the budgets for all those funds.

(4) "Budgetary fund" means a fund for which a budget is required, such as those described in Section [~~17-36-8~~]17-63-301.

(5) "Budget period" means the fiscal period for which a budget is prepared.

(6) "Check" means an order in a specific amount drawn upon the depositary by any authorized officer in accordance with:

(a) Section [~~17-19a-301,~~]17-69-307; or

(b) [~~17-24-1~~]Section 17-74-301.

(7) "County general fund" means the general fund used by a county.

(8) "Countywide service" means a service provided in both incorporated and unincorporated areas of a county.

(9) "Current period" means the fiscal period in which a budget is prepared and adopted.

(10) "Department" means any functional unit within a fund which carries on a specific activity.

(11) "Encumbrance system" means a method of budgetary control where part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account. An expenditure ceases to be an encumbrance when paid or when the actual liability is entered in the books of account.

(12) "Estimated revenue" means any revenue estimated to be received during the budget period in any fund for which a budget is prepared.

(13) "Finance officer" means:

(a) (i) the county auditor; or

(ii) the person selected to provide accounting services for the county in accordance with Section [~~17-19a-205~~]17-69-304; or

(b) notwithstanding Subsection (13)(a), for the purposes of preparing a tentative budget in a county operating under a county executive-council form of county government, the county executive.

(14) "Fiscal period" means the annual or biennial period for recording county fiscal operations.

(15) "Fund" means an independent fiscal and accounting entity comprised of a sum of money or other resources segregated for a specific purpose or objective.

(16) "Fund balance" means the excess of the assets over liabilities, reserves, and contributions, as reflected by its books of account.

(17) "Fund deficit" means the excess of liabilities, reserves, and contributions over its assets, as reflected by its books of account.

(18) "General fund" [~~is~~]means the same as that term is defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.

(19) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment.

(20) "Last completed fiscal period" means the fiscal period [~~next preceding~~]immediately before the current period.

(21) "Modified accrual basis of accounting" means a method under which expenditures other than accrued interest on general long-term debt are recorded at the time liabilities are incurred and revenues are recorded when they become measurable and available to finance expenditures of the current period.

(22) "Municipal capital project" means the acquisition, construction, or improvement of capital assets that facilitate providing municipal service.

(23) "Municipal service" means a service not provided on a countywide basis and not accounted for in an enterprise fund, and includes police patrol, fire protection, culinary or irrigation water retail service, water conservation, local parks, sewers, sewage treatment and disposal, cemeteries, garbage and refuse collection, street lighting, airports, planning and zoning, local streets and roads, curb, gutter, and sidewalk maintenance, and ambulance service.

(24) "Retained earnings" means that part of the net earnings retained by an enterprise or internal service fund which is not segregated or reserved for any specific purpose.

(25) "Special fund" means any fund other than the county general fund[~~, such as those described in Section 17-36-6~~].

(26) "Unappropriated surplus" means that part of a fund which is not appropriated for an ensuing budget period.

(27) "Warrant" means an order [~~in a specific amount drawn upon the treasurer by the auditor~~]for payment in a specific amount, issued by a county officer or county employee with the authority to make the order, directing the disbursement of funds.

Section 70. Section 17-63-102, which is renumbered from Section 17-36-2 is renumbered and amended to read:

[~~17-36-2~~]17-63-102 (Effective 11/06/25). Purpose of chapter.

(1) [~~— The purpose of this act is to codify and revise the law relating to county fiscal procedures in order to establish~~]This chapter establishes uniform accounting, budgeting, and financial reporting procedures for all counties.

(2) The [~~act provides for the establishment of~~]chapter establishes uniform procedures for the adoption and administration of fiscal and optional performance budgets.

(3) The [~~act~~]chapter is intended to:

(a) enable counties to make financial plans for both current and [~~capital~~]future expenditures[~~, to~~];

(b) ensure that executive staffs administer [~~their respective~~]county functions in accordance with adopted budgets[~~,~~]; and [~~to~~]

(c) provide taxpayers and investors with information about the financial policies and administration of the county[~~ in which they are interested~~].

Section 71. Section 17-63-103, which is renumbered from Section 17-50-102 is renumbered and amended to read:

[~~17-50-102~~]17-63-103 (Effective 11/06/25). Unlawful liabilities void.

Each contract, authorization, allowance, payment, and purported liability [~~to pay~~]made or attempted to be made in regard to a county in violation of this [~~title~~]chapter:

(1) [~~shall be absolutely~~]is void; and

(2) [~~shall never~~]may not be the foundation or basis of a claim against the county.

Section 72. Section 17-63-201, which is renumbered from Section 17-36-3.5 is renumbered and amended to read:

PART 2. Accounting Procedures

[~~17-36-3.5~~]17-63-201 (Effective 11/06/25). Fiscal period -- Annual or biennial.

(1) Except as provided in Subsection (2), the fiscal period for each county [~~shall be~~]is an annual period beginning on January 1 of each year and ending December 31 of the same calendar year.

(2) (a) Notwithstanding Subsection (1), [~~the~~]a county legislative body [~~of a county~~]may, by ordinance, adopt for the county a fiscal period that is a biennial period beginning January 1 and ending December 31 of the following calendar year.

(b) Each [~~county~~]legislative body adopting an ordinance under Subsection (2)(a) shall separately specify in [~~its~~]the county budget the amount of ad valorem property tax [~~it~~]the county intends to levy and collect during both the first half and the second half of the budget period.

(c) Each county that adopts a fiscal period that is a biennial period under Subsection (2)(a) shall:

(i) comply with Sections 59-2-912 through 59-2-926 as if [~~it~~]the county had adopted a fiscal period that is an annual period; and

(ii) allocate budgeted revenues and expenditures to each of the two annual periods in the biennial budget.

(d) The legislative body of each county that adopts a fiscal period that is a biennial period under Subsection (2)(a) shall, within 10 days after the adoption of the ordinance adopting the biennial period, deliver a copy of the ordinance to the state auditor.

Section 73. Section 17-63-202, which is renumbered from Section 17-36-4 is renumbered and amended to read:

[~~17-36-4~~]17-63-202 (Effective 11/06/25). Counties to utilize uniform system of fiscal procedures.

(1) The state auditor shall prescribe a uniform system of fiscal procedures, as described in Section 17E-2-401, for counties.[~~:~~]

[~~(a) prescribe a uniform system of fiscal procedures for the several counties;~~]

[~~(b) conduct a constant review and modification of such procedures to improve them;~~]

[~~(c) prepare and supply each county finance officer with suitable budget forms; and~~]

[~~(d) prepare instructional materials, conduct training programs, and render other services deemed necessary to assist counties in implementing the uniform system.~~]

[~~(2) The uniform system of procedure may include reasonable exceptions and modifications applicable to counties with a population of 25,000 or less, such population to be determined by the Utah Population Committee.~~]

(2) (a) [~~Counties~~]Except as provided in Subsection (2)(b), a county may expand the uniform system prescribed by the state auditor to serve better [~~their~~]the county's needs.

(b) [~~Deviations from or alterations to~~]A county may not deviate from or alter the basic prescribed classification system for the identity of funds and accounts[~~ should not be made~~].

Section 74. Section 17-63-203, which is renumbered from Section 17-36-6 is renumbered and amended to read:

[~~17-36-6~~]17-63-203 (Effective 11/06/25). Basis of accounting -- Required funds and accounts -- Lapse of appropriations.

(1) A county shall use either accrual or modified accrual, as prescribed in the uniform system of budgeting, accounting, and reporting, as the basis of accounting to record county transactions.

(2) In [~~its~~]the county system of accounts, each county shall maintain the following funds or account groups that are appropriate to [~~its~~]the county's needs:

(a) a county general fund;

(b) special revenue funds;

(c) debt service funds to account for the retirement of general obligation bonds or other long-term indebtedness including the payment of interest;

(d) capital project funds, as required to account for the application of proceeds from the sale of general obligation bonds or other general long-term debt, or funds derived from other sources, to the specific purposes for which they are authorized;

(e) a separate fund for each utility or enterprise such as an airport fund, a sewer fund, a water fund, or other similar funds;

(f) intragovernmental service funds;

(g) fiduciary funds such as a cemetery perpetual-care fund or a retirement fund;

(h) a separate fund for each special improvement district, which shall be known as a special assessment fund;

(i) a ledger or group of accounts to record the details relating to the general fixed assets of the county;

(j) a ledger or group of accounts to record the details relating to the general obligation bonds or other long-term indebtedness of the county;

(k) municipal services fund as required in [~~Section 17-36-9~~]Chapter 78, Part 5, Provision of Municipal-Type Services to Unincorporated Areas; and

(l) any other funds for special purposes required or established under the uniform system of budgeting, accounting, and reporting.

[~~(2)~~](3) The county shall classify the funds and account groups established under the authority of this section according to the [~~uniform~~]procedures established by this chapter.

(4) All appropriations shall lapse following the close of the budget period to the extent that the appropriation is unexpended or unencumbered.

Section 75. Section 17-63-204, which is renumbered from Section 17-36-16 is renumbered and amended to read:

[~~17-36-16~~]17-63-204 (Effective 11/06/25). Retained earnings -- Accumulation -- Restrictions -- Disbursements.

(1) (a) A county may accumulate:

(i) retained earnings in any enterprise or internal service fund[~~ or~~]; and

(ii) a fund balance in any [~~other~~]fund that is not an enterprise or internal service fund.

(b) Notwithstanding Subsection (1)(a), use of the county general fund shall be restricted to the following purposes:

(i) to provide cash to finance expenditures from the beginning of the budget period until general property taxes, sales taxes, or other

revenues are collected;

(ii) to provide a fund or reserve to meet emergency expenditures; and

(iii) to cover unanticipated deficits for future years.

(2) (a) The maximum accumulated unappropriated surplus in the county general fund, as determined [~~prior to~~]before adoption of the tentative budget, may not exceed an amount equal to the greater of:

(i) (A) for a county with a taxable value of $750,000,000 or more and a population of 100,000 or more, 25% of the total revenues of the county general fund for the current fiscal period; or

(B) for any other county, 65% of the total revenues of the county general fund for the current fiscal period; and

(ii) the estimated total revenues from property taxes for the current fiscal period.

(b) Any surplus balance in excess of the above computed maximum shall be included in the estimated revenues of the county general fund budget for the next fiscal period.

(3) Any fund balance exceeding 5% of the total county general fund revenues may be used for budgetary purposes.

(4) (a) A county may appropriate funds from estimated revenue in any budget period to a reserve for capital improvements within any capital improvements fund which has been duly established by ordinance or resolution.

(b) Money in the reserves shall be allowed to accumulate from fiscal period to fiscal period until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

(c) Disbursements from the reserves shall be made only by transfer to a revenue account within a capital improvements fund [~~pursuant to~~]in accordance with an appropriation for the fund.

(d) Expenditures from the capital improvement budget accounts shall conform to all requirements of this [~~act~~]chapter as it relates to the execution and control of budgets.

Section 76. Section 17-63-301, which is renumbered from Section 17-36-8 is renumbered and amended to read:

PART 3. Preparation and Adoption of County Budgets

[~~17-36-8~~]17-63-301 (Effective 11/06/25). Preparation of budgets.

The finance officer of each county shall prepare each budget period, in a format [~~provided pursuant to Section 17-36-4~~]that complies with Sections 17-63-202 and 17E-2-401, a tentative budget for each of the following funds which are included in the county's system of accounts:

(1) county general fund;

(2) special revenue funds;

(3) debt service funds;

(4) capital project funds; and

(5) any other fund or funds for which a budget is required by the uniform system of budgeting, accounting, and reporting.

Section 77. Section 17-63-302, which is renumbered from Section 17-36-9 is renumbered and amended to read:

[~~17-36-9~~]17-63-302 (Effective 11/06/25). Budget -- Financial plan -- Contents.

[~~(1) (a)~~](1) The budget for each fund shall provide a complete financial plan for the budget period and shall contain in tabular form classified by the account titles as required by the uniform system of budgeting, accounting, and reporting:

[~~(i)~~](a) estimates of all anticipated revenues;

[~~(ii)~~](b) all appropriations for expenditures; and

[~~(iii)~~](c) any additional data required by Section [~~17-36-10~~]17-63-303 or by the uniform system of budgeting, accounting, and reporting.

[~~(b)~~](2) The total of appropriated expenditures shall be equal to the total of anticipated revenues.

[~~(2) (a) Each first-, second-, and third-class county that provides municipal-type services under Section 17-34-1 shall:~~]

[~~(i) establish a special revenue fund, "Municipal Services Fund," and a capital projects fund, "Municipal Capital Projects Fund," or establish a special district or special service district to provide municipal services; and~~]

[~~(ii) budget appropriations for municipal services and municipal capital projects from these funds.~~]

[~~(b) The Municipal Services Fund is subject to the same budgetary requirements as the county general fund.~~]

[~~(c) (i) Except as provided in Subsection (2)(c)(ii), the county may deposit revenue derived from any taxes otherwise authorized by law, income derived from the investment of money contained within the municipal services fund and the municipal capital projects fund, the appropriate portion of federal money, and fees collected into a municipal services fund and a municipal capital projects fund.~~]

[~~(ii) The county may not deposit revenue derived from a fee, tax, or other source based upon a countywide assessment or from a countywide service or function into a municipal services fund or a municipal capital projects fund.~~]

[~~(d) The maximum accumulated unappropriated surplus in the municipal services fund, as determined prior to adoption of the tentative budget, may not exceed an amount equal to the total estimated revenues of the current fiscal period.~~]

Section 78. Section 17-63-303, which is renumbered from Section 17-36-10 is renumbered and amended to read:

[~~17-36-10~~]17-63-303 (Effective 11/06/25). Preparation of tentative budget.

(1) (a) On or before [~~the first day of the next to last month of every fiscal period~~]November 1, the finance officer shall prepare for the next budget period and file with the governing body a tentative budget for each fund for which a budget is required.

(b) During the preparation of a tentative budget described in Subsection (1)(a), the following may participate in the creation of the tentative budget:

(i) for a county commission or expanded county commission form of county government, the county commission;

(ii) for a county executive-council form of county government, the county council and the county executive; and

(iii) for a council-manager form of county government, the county council and the county manager.

(2) (a) A department for which county funds are appropriated shall file with the finance officer not less than three months before the commencement of each fiscal year on forms furnished by the finance officer a detailed estimate and statement of the revenue and necessary

expenditures of the department for the next budget year.

(b) The estimate and statement described in Subsection (2)(a) shall [~~set forth~~]include:

(i) the number of persons to be regularly employed;

(ii) the kinds of service the department will perform;

(iii) the salaries and wages the department expects to pay;

(iv) the kind of work the department will perform and the improvements the department expects to make; and

(v) the estimated cost of the service, work, and improvements.

(c) The finance officer shall make the estimate and statement described in Subsection (2)(a) available to:

(i) for a county commission or expanded county commission form of county government, the county commission;

(ii) for a county executive-council form of county government, the county council and the county executive; and

(iii) for a council-manager form of county government, the county council and the county manager.

(d) The statement shall also record performance data expressed in work units, unit costs, [~~man~~]personnel hours, and [~~man~~]personnel years sufficient in detail, content, and scope to permit the finance officer to prepare and process the county budget.

(3) In the preparation of the budget, the finance officer and all other county officers are subject to [~~Sections 17-36-1 through 17-36-44 and to the uniform system of budgeting, accounting, and reporting established therein~~]the provisions of this chapter and the uniform system of fiscal procedures established under Section 17E-2-401.

(4) In the tentative budget, the finance officer shall set forth in tabular form:

(a) actual revenues and expenditures in the last completed fiscal period;

(b) estimated total revenues and expenditures for the current fiscal period;

(c) the estimated available revenues and expenditures for the ensuing budget period computed by determining:

(i) the estimated expenditure for each fund after review of each departmental budget request; and

(ii) the total revenue requirements of the fund, including:

(A) the part of the total revenue that will be derived from revenue sources other than property tax; and

(B) the part of the total revenue that will be derived from property taxes; and

(d) if required by the governing body, actual performance experience to the extent available in work units, unit costs, [~~man~~]personnel hours, and [~~man~~]personnel years for each budgeted fund that includes an appropriation for salaries or wages for the last completed fiscal period and the first eight months of the current fiscal period if the county is on an annual fiscal period, or the first 20 months of the current fiscal period if the county is on a biennial fiscal period, together with the total estimated performance data of like character for the current fiscal period and for the ensuing budget period.

(5) The finance officer may recommend modification of any departmental budget request under Subsection (4)(c)(i) before the budget request is filed with the governing body, if each department head has been given an opportunity to be heard concerning the modification.

(6) (a) A tentative budget shall contain the estimates of expenditures submitted by any department together with specific work programs and other supportive data as the governing body requests.

(b) The finance officer shall include with the tentative budget a supplementary estimate of all capital projects or planned capital projects within the budget period and within the next three succeeding years.

(7) (a) A finance officer that submits a tentative budget in a county with a population of more than 25,000 shall include with the tentative budget [~~a budget message in~~]an explanation of the budget.

(b) The [~~budget message~~]explanation described in Subsection (7)(a) shall:

(i) include an outline of the proposed financial policies of the county for the budget period;

(ii) describe the important features of the budgetary plan;

(iii) state the reasons for changes from the previous fiscal period in appropriation and revenue items; and

(iv) explain any major changes in financial policy.

(c) A finance officer of a county with a population of less than 25,000 may prepare a budget message in explanation of the tentative budget.

(8) (a) The governing body shall review, consider, and adopt a tentative budget in a regular or special meeting called for that purpose.

(b) (i) Subject to Subsection (8)(b)(ii), the governing body may thereafter amend or revise the tentative budget [~~prior to~~]before public hearings on the tentative budget.

(ii) A governing body may not:

(A) reduce below the required minimum an appropriation required for debt retirement and interest; or

(B) reduce, in accordance with Section [~~17-36-17~~]17-63-305, an existing deficit.

Section 79. Section 17-63-304, which is renumbered from Section 17-36-12 is renumbered and amended to read:

[~~17-36-12~~]17-63-304 (Effective 11/06/25). Tentative budget -- Public record before adoption -- Notice of budget hearing -- Public hearing on tentative budget -- Adjustments.

(1) (a) A tentative budget and all supportive schedules and data are a public record.

(b) A county shall, for at least 10 days before the public hearing to adopt a final budget, make a tentative budget and all supportive schedules and data available for inspection during business hours at the office of the county finance officer.

(2) The governing body shall determine the time and place for the public hearing on the adoption of the budget.

[~~(2)~~](3) Notice of [~~such~~]the hearing described in Subsection (2) shall be published for the county, as a class A notice under Section 63G-30-102, for at least [~~seven~~]10 days before the day of the hearing.

(4) The governing body shall hold a public hearing on the budget where all interested individuals shall have an opportunity to be heard for or against the estimates of revenue and expenditures and performance data or any item in any fund.

(5) (a) Except as provided in Subsection (5)(b), the governing body may make final adjustments to the tentative budget after the public hearing, as the governing body determines are appropriate, giving due consideration to matters discussed at the hearing.

(b) The governing body may not make the following adjustments to a tentative budget before adopting the tentative budget as a final budget:

(i) decrease the amount appropriated, as provided in Section 17-63-305, for the reduction of a deficit; or

(ii) increase any appropriation, if the increase would result in exceeding the estimated revenue for the budget.

Section 80. Section 17-63-305, which is renumbered from Section 17-36-15 is renumbered and amended to read:

[~~17-36-15~~]17-63-305 (Effective 11/06/25). Adoption of final budget -- Appropriations in final budget -- Addressing deficits.

[~~(1) (a)~~](1) On or before the last day of each fiscal period, the governing body by resolution shall adopt the final budget.

[~~(b)~~](2) A final budget adopted in accordance with Subsection [~~(1)(a)~~](1) is, unless amended, in effect for the next fiscal period.

[~~(c)~~](3) The finance officer shall:

[~~(i)~~](a) certify a copy of the final budget, and of any subsequent budget amendment; and

[~~(ii)~~](b) file a copy with the state auditor not later than 30 days after the day on which the governing body adopts the budget.

[~~(d)~~](4) The finance officer shall file a certified copy of the budget in the office of the finance officer for inspection by the public during business hours.

(5) The governing body may not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue of the fund for the budget period.

(6) If there is a deficit in any fund as of the close of the last completed fiscal period, there shall be included as an item of appropriation in the budget of the fund of:

(a) at least 5% of the total revenue of the fund in the last completed fiscal period; or

(b) if the deficit is less than 5% of the total revenue, an amount equal to the deficit.

[~~(2) (a) Except as provided in Subsection (2)(b), a county officer or county employee may not file a legal action in state or federal court against the county, a department, or a county officer for any matter related to the following:~~]

[~~(i) the adoption of a county budget;~~]

[~~(ii) a county appropriation;~~]

[~~(iii) a county personnel allocation; or~~]

[~~(iv) a fund related to the county budget, a county appropriation, or a county personnel allocation.~~]

[~~(b) A county or district attorney may enforce a procedural requirement that governs the adoption or approval of a budget in accordance with this chapter.~~]

Section 81. Section 17-63-306, which is renumbered from Section 17-36-26.5 is renumbered and amended to read:

[~~17-36-26.5~~]17-63-306 (Effective 11/06/25). Review of second year's budget for biennial budgets.

(1) In a county that has adopted a fiscal period that is a biennial period under [~~Subsection 17-36-3.5(2)~~]Section 17-63-201, the governing body shall, in a public hearing before December 31 of the first year of the biennial period, review the individual budgets of the funds set forth in Sections [~~17-36-8~~]17-63-301 and [~~17-36-32~~]17-63-802 for the second year of the biennial period.

(2) In each review under Subsection (1), the governing body shall follow the procedures of [~~Sections 17-36-12 and 17-36-13~~]Section 17-63-304 for holding a public hearing.

Section 82. Section 17-63-307 is enacted to read:

17-63-307 (Effective 11/06/25). Immunity.

(1) Except as provided in Subsection (2), a county officer or county employee may not file a legal action in state or federal court against the county, a department, or a county officer for any matter related to the following:

(a) the adoption of a county budget;

(b) a county appropriation;

(c) a county personnel allocation; or

(d) a fund related to the county budget, a county appropriation, or a county personnel allocation.

(2) A county or district attorney may enforce a procedural requirement that governs the making or approval of a budget in accordance with this chapter.

Section 83. Section 17-63-401, which is renumbered from Section 17-36-24 is renumbered and amended to read:

PART 4. Budget Modifications

[~~17-36-24~~]17-63-401 (Effective 11/06/25). Budget appropriation reduction.

(1) [~~The~~]A county governing body may reduce a budget appropriation for any department [~~may be reduced,~~]for any purpose other than to transfer funds to another department[~~,~~] by resolution[~~ of the governing body provided that~~], if:

(a) five days' notice of the proposed [~~action~~]reduction is given to all members of the governing body and to the director of the affected department[~~ affected,~~]; and

(b) [~~that such~~]the director of the affected department is permitted to be heard on the proposed reduction.

(2) [~~Notice~~]The notice requirements of Subsection (1) may be waived in writing by the affected department or by any member of the governing body.

Section 84. Section 17-63-402, which is renumbered from Section 17-36-26 is renumbered and amended to read:

[~~17-36-26~~]17-63-402 (Effective 11/06/25). Increase in budgetary fund or county general fund -- Public hearing -- Notice.

(1) Before the governing body may, by resolution, increase a budget appropriation of any budgetary fund, increase the budget of the county general fund, or make an amendment to a budgetary fund or the county general fund, the governing body shall hold a public hearing giving all interested parties an opportunity to be heard.

(2) Notice of the public hearing described in Subsection (1) shall be published for the county, as a class A notice under Section 63G-30-102, for at least five days before the day of the hearing.

Section 85. Section 17-63-403, which is renumbered from Section 17-36-22 is renumbered and amended to read:

[~~17-36-22~~]17-63-403 (Effective 11/06/25). Transfer of unexpended appropriation balance by department -- Transfer of unexpended appropriation balance by governing body.

(1) After review by the finance officer and in accordance with budgetary and fiscal policies or ordinances adopted by the county legislative body, any county department may:

(a) transfer any unencumbered or unexpended appropriation balance or any part from one expenditure account to another within the department during the budget year; or

(b) incur an excess expenditure of one or more line items.

(2) A transfer or expenditure under Subsection (1) may not occur if the transfer or expenditure would cause the total of all excess expenditures or encumbrances to exceed the total unused appropriation within the department at the close of the budget period.

(3) Except as provided in Subsection (4), upon the request of the finance officer or upon the governing body's own motion, the governing body may by resolution transfer any unencumbered or unexpended appropriation balance, or part of any unencumbered or unexpended appropriation balance, from one county department in a fund to another county department within the same fund.

(4) No appropriation for debt retirement and interest, reduction of deficit, or other appropriation required by law may be reduced below the required minimum.

Section 86. Section 17-63-404, which is renumbered from Section 17-36-27 is renumbered and amended to read:

[~~17-36-27~~]17-63-404 (Effective 11/06/25). Emergency expenditures -- Deficit.

(1) As used in this section:

(a) "Fiscal emergency" means a major disruption in county operations or services caused by the unforeseen and sudden significant decrease or elimination of funding from the United States government or Legislature that was appropriated in the county's current budget.

(b) "Natural disaster" means widespread damage within a county caused by:

(i) an explosion;

(ii) fire;

(iii) a flood;

(iv) a storm;

(v) a tornado;

(vi) winds;

(vii) an earthquake;

(viii) lightning; or

(ix) any other adverse weather event.

(2) (a) Subject to Subsection (2)(b), if the governing body determines that a natural disaster or fiscal emergency exists, and that the expenditure of money in excess of the county general fund budget is necessary to respond to the natural disaster or fiscal emergency, the county legislative body may make expenditures and incur deficits that are reasonably necessary to meet the natural disaster or fiscal emergency.

(b) (i) A county may not take an action in response to a natural disaster or fiscal emergency in accordance with Subsection (2)(a) or (3) unless the action:

(A) is for the current budget year only and the current budget year is the year in which the natural disaster or fiscal emergency occurs; and

(B) is approved by a majority of the elected members of the county legislative body.

(ii) If a fiscal emergency occurs, the county may take an action described in Subsection (2)(a) or (3) only if the state or federal funding that was significantly decreased or eliminated was:

(A) ongoing funding appropriated by the county to a county program or service; and

(B) repeatedly relied on by the county for that program or service rather than a one-time or limited-time funding source.

(3) (a) Notwithstanding the provisions of Sections [~~17-36-21, 17-36-22, 17-36-23, 17-36-24, and 17-36-26~~]17-63-401, 17-63-402, 17-63-403, and 17-63-502, and subject to Subsections (3)(b) and (c), the county legislative body may respond to a natural disaster or fiscal emergency by:

(i) transferring, increasing, or decreasing an appropriation in a county budget or fund; or

(ii) making or directing the making of an expenditure in excess of a budget or fund.

(b) An action by the county legislative body described in Subsection (3)(a)(i) or (ii) may not result in an expenditure or change in an appropriation that exceeds the total unencumbered county budget.

(c) If a county legislative body takes an action described in Subsection (3)(a)(i) or (ii), the county legislative body shall, as soon as possible, conduct a public hearing on the action and affirm the emergency action by adopting a resolution.

(4) Except to the extent provided for in Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act, the governing body of the county may not expend money in the county's local fund for an emergency, if the county creates a local fund under Title 53, Chapter 2a, Part 6, Disaster Recovery Funding Act.

Section 87. Section 17-63-501, which is renumbered from Section 17-36-20 is renumbered and amended to read:

PART 5. Purchases, Payments, and Costs Between Counties

[~~17-36-20~~]17-63-501 (Effective 11/06/25). Encumbrance system -- Purchasing agent -- Purchases or encumbrances by purchasing agent.

(1) Each county shall use an encumbrance system or other budgetary controls to ensure that no expenditure is made for any item of an appropriation unless there is a sufficient unencumbered balance in the appropriation and available funds, except in cases of fiscal emergency or natural disaster as described in Section 17-63-404.

(2) A person may not make a purchase or incur an encumbrance on behalf of a county unless that person acts in accordance with an order by, or approval of, the person duly authorized to act as purchasing agent for the county, except encumbrances or expenditures directly investigated and specifically approved by the executive or legislative body.

[~~(2)~~](3) Unless otherwise provided by the governing body, the finance officer or the finance officer's agents shall serve as a purchasing

agent.

Section 88. Section 17-63-502, which is renumbered from Section 17-36-21 is renumbered and amended to read:
[~~17-36-21~~]17-63-502 (Effective 11/06/25). Expenditure limitation.

(1) No county officer or county employee [~~of a county shall~~]may make any expenditure or encumbrance in excess of the total appropriation for any department.

(2) Any obligation that is contracted by [~~any such~~]a county officer or county employee in excess of the total departmental appropriation is:

(a) the personal obligation of the officer or employee; and [~~is~~]

(b) unenforceable against the county.

Section 89. Section 17-63-503, which is renumbered from Section 17-15-16 is renumbered and amended to read:
[~~17-15-16~~]17-63-503 (Effective 11/06/25). Warrants -- Payment -- Registration -- Duty of auditor.

(1) Warrants drawn by order of the county executive on the county treasurer for current expenses during each year shall specify:

(a) the liability for which [~~they are~~]the warrant is drawn[~~,~~];

(b) when [~~they~~]the liability accrued[~~,~~]; and

(c) the funds from which [~~they are~~]the warrant is to be paid[~~, and~~].

(2) Warrants shall be paid in the order of presentation to the treasurer.

(3) If [~~the~~]a fund is insufficient to pay any warrant, [~~it~~]the warrant shall be registered and then paid in the order of registration.

(4) Accounts for county charges of every description shall be presented to the county auditor and county executive to be audited as prescribed in this [~~title~~]chapter or Chapter 69, County Auditor.

Section 90. Section 17-63-504, which is renumbered from Section 17-15-18 is renumbered and amended to read:
[~~17-15-18~~]17-63-504 (Effective 11/06/25). Costs between counties on removal of criminal actions.

When a criminal action is removed before trial, the costs accruing upon [~~such~~]the removal shall be a charge against the county in which the indictment or information was found or filed.

Section 91. Section 17-63-505, which is renumbered from Section 17-15-19 is renumbered and amended to read:
[~~17-15-19~~]17-63-505 (Effective 11/06/25). Costs between counties from change of venue in civil cases.

(1) [~~In all civil cases~~]Except as provided in Subsection (2), in a civil case where any change of venue is granted from one county to another, [~~excepting where the change is granted because the action should have been begun in the county to which the case is taken for trial,~~] the costs and expenses connected with the trial of the action that are payable by the county shall be refunded by the county in which the action originated to the county in which the case is tried, upon the county clerk of the county wherein the case is tried certifying the amount of costs so paid to the county clerk of the county wherein the action originated.

(2) Subsection (1) does not apply to a civil case where the change of venue is granted because the civil action should have been filed in the county to which the case is taken for trial.

Section 92. Section 17-63-506, which is renumbered from Section 17-53-225 is renumbered and amended to read:
[~~17-53-225~~]17-63-506 (Effective 11/06/25). County legislative body may adopt Utah Procurement Code -- Retention of records.

(1) A county legislative body may adopt any or all of the provisions of Title 63G, Chapter 6a, Utah Procurement Code, or the rules [~~promulgated pursuant to that code.~~]made under the authority of Utah Procurement Code, as described in Section 63G-6a-107.4.

(2) Whenever any county is required by law to receive bids for purchases, construction, repairs, or any other purpose requiring the expenditure of funds, that county shall keep on file all bids received, together with proof of advertisement by publication or otherwise, for:

(a) at least three years [~~following the letting of~~]after issuing any contract [~~pursuant to those bids~~]to one or more responsive bidders; or

(b) three years following the first advertisement for the bids, if all bids [~~pursuant to~~]received for that advertisement are rejected.

Section 93. Section 17-63-601, which is renumbered from Section 17-36-43 is renumbered and amended to read:

PART 6. Administering and Auditing Finances

[~~17-36-43~~]17-63-601 (Effective 11/06/25). Financial administration ordinance -- Purposes.

(1) The county legislative body, after consultation with the county auditor, may adopt a financial administration ordinance authorizing the county auditor, county executive, county manager, or, in the case of [~~county operated~~]county-operated hospitals or mental health districts, an appointed administrator, to act as the financial officer for the purpose of approving:

[~~(1)~~](a) payroll checks, if the checks are prepared in accordance with a salary schedule established in a personnel ordinance or resolution; or

[~~(2)~~](b) routine expenditures, such as utility bills, payroll-related expenses, supplies, materials, and payments on county-approved contracts and capital expenditures which are referenced in the budget document and approved by an appropriation resolution adopted for the current fiscal year.

(2) A financial administration ordinance adopted in accordance with Subsection (1) shall provide:

(a) a maximum amount over which purchases may not be made without the approval of the county executive;

(b) that the financial officer be bonded for a reasonable amount; and

(c) any other provisions the county legislative body considers advisable.

Section 94. Section 17-63-602, which is renumbered from Section 17-36-36 is renumbered and amended to read:
[~~17-36-36~~]17-63-602 (Effective 11/06/25). Finance officer to present finance statements.

(1) The finance officer shall present to the governing body the following financial statements prepared in the manner prescribed by the uniform system of budgeting, accounting, and reporting:

(a) a summary of cash receipts and disbursements for each fund or group of funds and for each department within each fund reportable at the end of each month showing the cash and invested balance at the beginning of the period, the total receipts collected during the period,

the total disbursements made during the period, and the cash and invested balance at the end of the period;

(b) not less than once each quarter or more often if requested by the governing body, a condensed statement of revenues and expenditures and comparison with the budget of the county general fund and the allotments thereof, as reflected by the books of account;

(c) a comparative quarterly income and expense statement for each enterprise fund showing a comparative analysis between the operations of such fund for the current fiscal reporting period and the same period in the previous year;

(d) a condensed statement of the operating and capital budget of each enterprise fund showing revenues and expenses and balances compared with the budget for any period requested by the governing body or required by the uniform system of budgeting, accounting, and reporting; and

(e) any other statements of operations or reports on financial condition as the governing body or the uniform system of budgeting, accounting, and reporting may require.

(2) All financial statements made [~~pursuant to~~]in accordance with this section shall be open for public inspection during regular business hours.

Section 95. Section 17-63-603, which is renumbered from Section 17-36-37 is renumbered and amended to read:

[~~17-36-37~~]17-63-603 (Effective 11/06/25). Finance officer -- Annual financial statement -- Contents.

(1) The finance officer of each county, within 180 days after the close of each fiscal period, or, for a county that has adopted a fiscal period that is a biennial period, within 180 days after both the midpoint and the close of the fiscal period, except as provided by Section [~~17-36-38~~]17-63-604, shall prepare and make available to the governing body an annual financial report that shall contain:

(a) a statement of revenues and expenditures and a comparison with the budget of the county general fund, similar statements of all other funds for which budgets are required, and statements of revenues and expenditures or of income and expense for all other operating funds of the county;

(b) a balance sheet of each fund and a combined balance sheet of all funds as of:

(i) for a county that has adopted a fiscal period that is a biennial period, the midpoint and the close of the fiscal period; and

(ii) for each other county, the close of the fiscal period; or

(c) any other reports the governing body may require, including work performance data, tax levies, taxable values, details of bonded indebtedness, and historical facts of interest to the governing body and the public.

(2) Copies of the annual report shall be furnished to the state auditor and made a matter of public record in the office of the finance officer.

(3) The statement of revenues and expenditures described in Subsection (1)(a) shall specifically identify when revenue is restricted for only statutorily authorized expenditures, including:

(a) transient room tax, according to the expenditure authorizations described in Section [~~17-31-2~~]17-78-702; and

(b) tourism, recreation, cultural, convention, and airport facilities tax, according to the expenditure authorizations described in Sections 59-12-602 and 59-12-603.

(4) The state auditor:

(a) shall review a county's annual report as described in Section 17E-2-403; and

(b) may take any action authorized in Section 17E-2-403.[~~:~~]

[~~(a) may provide guidance to the finance officer of each county to ensure uniform reporting across counties;~~]

[~~(b) may include the information described in Subsection (3) on the public finance website described in Section 67-3-12;~~]

[~~(c) shall, on a regular basis determined by the state auditor, evaluate a county's annual financial report in regard to revenues and expenditures described in Subsection (3)and determine whether a county's reporting is sufficient to ensure transparency and accountability; and~~]

[~~(d) shall, upon receipt of a county's written report under Section 17-31-5.5 and in conjunction with evaluating the information described in Subsection (3), determine if a county is compliant with the expenditure authorizations described in Sections 17-31-2, 59-12-602, and 59-12-603.~~]

[~~(5) If the state auditor determines under Subsection (4)(c) that a county is not sufficiently reporting or determines under Subsection (4)(d) that a county is not compliant, the state auditor:~~]

[~~(a) shall provide the county finance officer with written notice of the determination, including the rationale for the determination; and~~]

[~~(b) shall provide the county finance officer with an opportunity to respond to the determination in writing, including an opportunity to correct any deficiencies identified by the state auditor.~~]

[~~(6) If the auditor determines, after providing a county with an opportunity to respond and correct any deficiencies as described in Subsection (5)(b), that a county is still not in compliance with this section, the auditor:~~]

[~~(a) shall provide notice of the determination to the Division of Outdoor Recreation created in Section 79-7-201;~~]

[~~(b) may provide notice to the Revenue and Taxation Interim Committee and the Political Subdivisions Interim Committee, or if the Legislature is in session, the Legislative Management Committee; and~~]

[~~(c) may take any action authorized in Section 51-2a-401 or other provision of law.~~]

Section 96. Section 17-63-604, which is renumbered from Section 17-36-40 is renumbered and amended to read:

[~~17-36-40~~]17-63-604 (Effective 11/06/25). Presentation of annual report by independent auditor -- Notice that audit complete.

(1) The annual report required by Section 17-63-603 may be satisfied by a county by the presentation of the report of the independent auditor on the results of operations for the year and financial condition at the midpoint of the fiscal period or at the close of the fiscal period if it is prepared in conformity with the uniform system of budgeting, accounting, and reporting.

(2) Independent audits are required for all counties as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(3) Within 10 days after the receipt of the audit report furnished by the independent auditor, the county auditor shall prepare and publish a notice to the public that the county audit is complete:

(a) at least twice in a newspaper of general circulation within the county; and

(b) as required in Section 45-1-101.

[~~(2)~~](4) A copy of the county audit may be inspected at the office of the county auditor.

Section 97. Section 17-63-605, which is renumbered from Section 17-36-45 is renumbered and amended to read:

[~~17-36-45~~]17-63-605 (Effective 11/06/25). Internal control structure.

(1) Each county legislative body shall, with the advice and assistance of the county auditor and county treasurer, implement an internal control structure to ensure, on a reasonable basis, that all valid financial transactions of the county are identified and recorded accurately and timely.

(2) The objectives of the internal control structure described in Subsection (1) shall be to ensure:

(a) the proper authorization of transactions and activities;

(b) the appropriate segregation of:

(i) the duty to authorize transactions;

(ii) the duty to record transactions; and

(iii) the duty to maintain custody of assets;

(c) the design and use of adequate documents and records to ensure the proper recording of events;

(d) adequate safeguards over access to and use of assets and records; and

(e) independent checks on performance and proper valuation of recorded amounts.

(3) A county shall:

(a) assist the state auditor in complying with Section 17E-2-404; and

(b) consider and implement improvements and updates to the internal control structure, as recommended by the state auditor under Section 17E-2-404.

[~~(2) The state auditor shall evaluate procedures implemented to effectuate this section and shall provide advice and consultation in approving and updating these procedures.~~]

Section 98. Section 17-63-701, which is renumbered from Section 17-53-222 is renumbered and amended to read:

PART 7. Taxes, Fees, and Special Assessments

[~~17-53-222~~]17-63-701 (Effective 11/06/25). Authorized taxes -- List nonexhaustive.

(1) In addition to taxes described in this chapter, a county may implement the following local taxes:

(a) taxes to support the provision of municipal-type services, as described in Chapter 78, Part 5, Provision of Municipal-Type Services to Unincorporated Areas;

(b) a transient room tax, as described in Section 17-78-702;

(c) a tax levy for the establishment of a planetarium, as described in Section 17-78-801; and

(d) a tax levy for the establishment of a zoo, as described in Section 17-78-901.

(2) (a) A county legislative body may annually at the public meeting at which the annual tax levy for county purposes is fixed and levied, assess and levy a tax for:

(i) the care, maintenance, and relief of the indigent sick or dependent poor individuals lawfully residing in the county;

(ii) the temporary relief of indigent individuals not having a lawful residence in the county;

(iii) the burial of indigent individuals who die within the county;

(iv) the erection and maintenance of hospitals, infirmaries, and farms in connection with Subsections (2)(a)(i) and (ii);

(v) the employment of a superintendent for county hospitals and infirmaries described in Subsection (2)(a)(iv) and any other necessary employees; and

(vi) the salary of a county physician for attending the indigent sick or dependent poor.

(b) The taxes authorized under Subsection (2)(a) shall be assessed, levied, and collected in the same manner as other county taxes are assessed, levied, and collected.

(3) A county legislative body may levy a special tax on the taxable property within the county for the purpose of:

(a) creating a fund to be used for collecting, preparing, and maintaining an exhibit of the products and industries of the county at any domestic or foreign exposition, fair, or livestock show [~~for the purpose of encouraging~~]that encourages immigration and [~~increasing~~]increases trade in the products of the state[~~and for the purpose of~~];

(b) maintaining, conducting, and furnishing facilities for livestock or other exhibitions; or [~~for the purpose of~~]

(c) promoting and making water surveys, collecting data relating to the supply, distribution and use of water or the necessity for drainage or other reclamation work and the compilation of data or information to encourage the conservation of water for the reclamation of lands within the county or counties of the state[~~either by the county or through the instrumentality of a corporation not for pecuniary profit, organized for that purpose~~].

(4) The taxes enumerated in this section are nonexhaustive.

Section 99. Section 17-63-702, which is renumbered from Section 17-53-219 is renumbered and amended to read:

[~~17-53-219~~]17-63-702 (Effective 11/06/25). Taxation for county purposes -- Statement of county debt required.

(1) A county legislative body may levy taxes upon the taxable property, real or personal, within the county for any and all county purposes.

(2) (a) [~~The legislative body of each county shall have prepared by the auditor under its direction prior to the annual meeting for levying taxes~~]The county auditor shall prepare a statement showing the indebtedness of the county, funded and floating, stating the amount of each class and the rate of interest borne by such indebtedness or any part of [~~it~~]the indebtedness before the annual meeting of the county legislative body for levying taxes.

(b) The statement described in Subsection (2)(a) shall be prepared under the direction of the county legislative body.

Section 100. Section 17-63-703, which is renumbered from Section 17-36-18 is renumbered and amended to read:

[~~17-36-18~~]17-63-703 (Effective 11/06/25). Estimated revenue from property tax.

The amount of estimated revenue from property tax required by the budget shall constitute the basis for determination of the property

tax to be levied for the corresponding tax year, subject to legal limitations.

Section 101. Section 17-63-704, which is renumbered from Section 17-36-31 is renumbered and amended to read:
[~~17-36-31~~]17-63-704 (Effective 11/06/25). Property tax levy -- Amount.

(1) (a) Before June 22 of each year, the county legislative body shall levy a tax on the taxable real and personal property within the county.

(b) In the legislative body's computation of the total levy subject to Sections 59-2-908and 59-2-911, the legislative body shall determine the requirements for each fund and specify the amount of the levy apportioned to each fund.

(2) The proceeds of the tax apportioned for purposes of the county general fund shall be credited in the county general fund.

(3) The proceeds of the tax apportioned for utility and other special fund purposes shall be credited to the appropriate accounts in the utility or other special funds.

(4) For the first calendar year in which a county imposes a levy under Section 11-46-104, the county shall reduce the levy imposed under this section for general tax purposes by the amount necessary to offset the revenue described in Subsection 11-46-104(5)(c)(ii).

Section 102. Section 17-63-705, which is renumbered from Section 17-50-328 is renumbered and amended to read:
[~~17-50-328~~]17-63-705 (Effective 11/06/25). Use of incremental tax revenue for relocation expenses of displaced mobile home park residents.

(1) As used in this section:

(a) "Displaced mobile home park resident" means a resident within a mobile home park who is required to relocate his or her residence from the mobile home park because of development activities that will change the use of the property on which the mobile home park is located.

(b) "Former mobile home park property" means property on which a mobile home park was located but whose use has changed from a mobile home park because of development activities that require mobile home park residents to relocate.

(c) "Incremental tax revenue" means property tax revenue that:

(i) is generated from a former mobile home park property located within the unincorporated part of a county;

(ii) exceeds the amount of property tax revenue the former mobile home park property would have generated if its use had not changed from a mobile home park; and

(iii) is levied and collected by:

(A) the county in whose unincorporated area the former mobile home park property is located; or

(B) another taxing entity.

(d) "Taxing entity" has the same meaning as defined in Section 59-2-102.

(2) A county may use incremental tax revenue to pay some or all of the relocation expenses of a displaced mobile home park resident.

(3) Any taxing entity may share some or all of its incremental tax revenue with a county for use as provided in Subsection (2).

Section 103. Section 17-63-706, which is renumbered from Section 17-50-319 is renumbered and amended to read:
[~~17-50-319~~]17-63-706 (Effective 11/06/25). County charges enumerated.

(1) County charges are:

(a) charges incurred against the county by any law;

(b) the necessary expenses of the county attorney or district attorney incurred in criminal cases arising in the county, and all other expenses necessarily incurred by the county or district attorney in the prosecution of criminal cases, except jury and witness fees;

(c) the expenses of [~~medical~~]health care as described in Section [~~17-22-8~~]17-72-501, and other expenses necessarily incurred in the support of [~~persons charged with or convicted of a criminal offense and~~]prisoners committed to the county jail, except as provided in Subsection (2);

(d) for a county not within the state district court administrative system, the sum required by law to be paid jurors in civil cases;

(e) all charges and accounts for services rendered by any justice court judge for services in the trial and examination of persons charged with a criminal offense not otherwise provided for by law;

(f) the contingent expenses necessarily incurred for the use and benefit of the county;

(g) every other sum directed by law to be raised for any county purposes under the direction of the county legislative body or declared a county charge;

(h) the fees of constables for services rendered in criminal cases;

(i) the necessary expenses of the sheriff and deputies incurred in civil and criminal cases arising in the county, and all other expenses necessarily incurred by the sheriff and deputies in performing the duties imposed upon [~~them~~]the sheriff and deputies by law;

(j) the sums required by law to be paid by the county to jurors and witnesses serving at inquests and in criminal cases in justice courts; and

(k) subject to Subsection (2), expenses incurred by a health care facility or health care provider in providing [~~medical~~]health care services, treatment, hospitalization, or related transportation, at the request of a county sheriff for:

(i) [~~persons~~]prisoners booked into a county jail on a charge of a criminal offense; or

(ii) [~~persons~~]inmates convicted of a criminal offense and committed to a county jail.

(2) (a) Expenses described in Subsections (1)(c) and (1)(k) are a charge to the county only to the extent that [~~they exceed~~]the charge exceeds any private insurance in effect that covers the expenses described in Subsections (1)(c) and (1)(k).

(b) The county may collect costs of [~~medical~~]health care, treatment, hospitalization, and related transportation provided to [~~the~~]a person described in Subsection (1)(k) who has the resources or the ability to pay, subject to the following priorities for payment:

(i) first priority shall be given to restitution; and

(ii) second priority shall be given to family support obligations.

(c) A county may seek reimbursement from a [~~person~~]prisoner or inmate described in Subsection (1)(k) for expenses incurred by the county in behalf of the prisoner or inmate for [~~medical~~]health care, treatment, hospitalization, or related transportation by:

(i) deducting the cost from the prisoner's or inmate's cash account on deposit with the detention facility during the prisoner's or inmate's incarceration or during a subsequent incarceration if:

(A) the subsequent incarceration occurs within the same county; and

(B) the incarceration is within 10 years of the date of the expense in behalf of the prisoner or inmate;

(ii) placing a lien for the amount of the expense against the prisoner's or inmate's personal property held by the jail; and

(iii) adding the amount of expenses incurred to any other amount owed by the prisoner or inmate to the jail upon the prisoner's or inmate's release in accordance with Subsection 76-3-201(4)(c).

(d) [~~An~~]A prisoner or inmate who receives [~~medical~~]health care, treatment, hospitalization, or related transportation shall cooperate with the jail facility seeking payment or reimbursement under this section for the prisoner's or inmate's expenses.

(e) If there is no contract between a county jail and a health care facility or health care provider that establishes a fee schedule for [~~medical~~]services rendered, expenses under Subsection (1)(k) shall be commensurate with:

(i) for a health care facility, the current noncapitated state Medicaid rates; and

(ii) for a health care provider, 65% of the amount that would be paid to the health care provider:

(A) under the Public Employees' Benefit and Insurance Program, created in Section 49-20-103; and

(B) if the person receiving the [~~medical~~]health care service were a covered employee under the Public Employees' Benefit and Insurance Program.

(f) Subsection (1)(k) does not apply to expenses of [~~a person~~]an individual held at the county jail at the request of an agency of the United States.

(g) A county that receives information from the Public Employees' Benefit and Insurance Program to enable the county to calculate the amount to be paid to a health care provider under Subsection (2)(e)(ii) shall keep that information confidential.

Section 104. Section 17-63-707, which is renumbered from Section 17-53-211 is renumbered and amended to read:

[~~17-53-211~~]17-63-707 (Effective 11/06/25). Fees for services -- Exceptions.

The legislative body of each county shall adopt an ordinance or resolution that establishes fees for services provided by each county officer, except:

(1) fees for the recorder[~~,~~] described in Chapter 71, County Recorder;

(2) fees for the county sheriff[~~, and~~]described in Chapter 72, County Sheriff;

(3) fees for county constables described in Chapter 78, Part 6, Constables; and

[~~(2)~~](4) fees established by statute.

Section 105. Section 17-63-708, which is renumbered from Section 17-36-34 is renumbered and amended to read:

[~~17-36-34~~]17-63-708 (Effective 11/06/25). Special assessment.

(1) A county may make a special assessment.

(2) Money received by the county treasurer from any special assessment shall be:

(a) applied [~~towards~~]toward payment of the improvement for which the assessment was approved[~~.~~]; and

(b) [~~Such money shall be~~]used exclusively for the payment of the principal and interest on the bonds or other indebtedness incurred to finance such improvements, except as provided in Section [~~17-36-29~~]17-63-808.

Section 106. Section 17-63-709, which is renumbered from Section 17-15-28 is renumbered and amended to read:

[~~17-15-28~~]17-63-709 (Effective 11/06/25). County authorized to accept electronic payments.

(1) As used in this section:

(a) "Electronic payment" means the payment of money to a county by electronic means, including by means of a credit card, charge card, debit card, prepaid or stored value card or similar device, or automatic clearinghouse transaction.

(b) "Electronic payment fee" means an amount of money to defray the discount fee, processing fee, or other fee charged by a credit card company or processing agent to process an electronic payment.

(c) "Processing agent" means a bank, transaction clearinghouse, or other third party that charges a fee to process an electronic payment.

(2) A county may accept an electronic payment for the payment of funds which the county could have received through another payment method.

(3) A county that accepts an electronic payment may charge an electronic payment fee.

Section 107. Section 17-63-710, which is renumbered from Section 17-23-19 is renumbered and amended to read:

[~~17-23-19~~]17-63-710 (Effective 11/06/25). County permitted to establish Public Land Corner Preservation Fund -- Use of fund -- Fee schedule for filing maps.

(1) The county legislative body may establish by ordinance a fund to be known as the Public Land Corner Preservation Fund. [~~Money generated for the fund shall be used only to pay expenses incurred and authorized by the county surveyor in the establishment, reestablishment, and maintenance of corners of government surveys pursuant to the powers and duties provided under Title 17, Chapter 23, County Surveyor, and Title 57, Chapter 10, Utah Coordinate System.~~]

(2) (a) The county legislative body may by ordinance establish a fee schedule for filing maps in the county surveyor's office of surveys filed under Section [~~17-23-17~~]17-73-504, subdivisions, road dedication plats, and other property plats. [~~All money collected under this subsection shall be deposited with the county treasurer to be credited to the Public Land Corner Preservation Fund.~~]

(b) The county surveyor shall collect a fee authorized under Subsection (2)(a) as described in Section 17-73-104.

(c) The county treasurer shall deposit funds received from the county surveyor as described in Section 17-74-501.

(d) Money in the Public Land Corner Preservation Fund shall be used by the county surveyor as described in Section 17-73-104.

Section 108. Section 17-63-801, which is renumbered from Section 17-36-31.5 is renumbered and amended to read:

PART 8. Specified Services, Special Funds, Interfund Loans

[~~17-36-31.5~~]17-63-801 (Effective 11/06/25). Property taxes levied for specified services -- Special revenue fund -- Limitations on use -- Collection, accounting, and expenditures.

(1) A county may account separately for the revenues derived from a property tax, that is lawfully levied for a specific purpose, in

accordance with this section.

(2) To levy a property tax under this section, the legislative body of the county that levies the property tax shall indicate through ordinance:

(a) that the county levies the tax under this section; and

(b) the specific service for which the county levies the tax.

(3) A property tax levied under this section is subject to the maximum rate a county may levy for property taxes under Section 59-2-908.

(4) (a) A county that collects a property tax under this section shall:

(i) create a special revenue fund to hold the revenues collected under this section; and

(ii) deposit revenues collected from that tax into the special revenue fund described in Subsection (4)(a)(i).

(b) A county may only expend revenues from a special revenue fund described in Subsection (4)(a) for a purpose that is solely related to the provision of the service described in Subsection (2)(b) for which the county created the special revenue fund.

(5) Except as provided in Subsections (2) and (4), a county that levies a property tax under this section shall:

(a) levy and collect the tax in accordance with Title 59, Chapter 2, Property Tax Act;

(b) account for revenues derived from the tax in accordance with this chapter; and

(c) levy and collect and account for revenues derived from the tax in the same general manner as for the county's other property taxes.

Section 109. Section 17-63-802, which is renumbered from Section 17-36-32 is renumbered and amended to read:

[~~17-36-32~~]17-63-802 (Effective 11/06/25). Operating and capital budget -- Expenditures.

(1) (a) As used in this section, "operating and capital budget" means a plan of financial operation for an enterprise or other special fund embodying estimates of operating and nonoperating resources and expenses and other outlays for a fiscal period.

(b) Except as otherwise expressly provided, "budget" or "budgets" and the procedures and controls relating to [~~them~~]budgets in other sections of this [~~act~~]chapter are not applicable to the operating and capital budgets provided in this section.

(2) At or before the time that the governing body adopts budgets for the budgetary funds specified in Section [~~17-36-8~~]17-63-301, the governing body shall adopt an operating and capital budget for the next fiscal period for:

(a) each enterprise fund; and

(b) any other special nonbudgetary fund for which operating and capital budgets are prescribed by the uniform system of budgeting, accounting, and reporting.

(3) (a) The governing body shall adopt and administer the operating and capital budget in accordance with this Subsection (3).

(b) At or before the first day of the next to last month of each fiscal period, the finance officer shall prepare for the next fiscal period on forms provided [~~pursuant to~~]in accordance with Section [~~17-36-4~~]17E-2-401, and file with the governing body a tentative operating and capital budget for:

(i) each enterprise fund; and

(ii) any other special fund that requires an operating and capital budget.

(c) The tentative operating and capital budget shall be accompanied by a supplementary estimate of all capital projects or planned capital projects:

(i) within the next fiscal period; and

(ii) within the fiscal period immediately following the fiscal period described in Subsection (3)(c)(i).

(d) (i) Subject to Subsection (3)(d)(ii), the finance officer shall prepare all estimates after review and consultation, if requested, with a department proposing a capital project.

(ii) After complying with Subsection (3)(d)(i), the finance officer may revise any departmental estimate before it is filed with the governing body.

(e) (i) Except as provided in Subsection (3)(e)(iv), if a governing body includes in a tentative budget, or an amendment to a budget, allocations or transfers between a utility enterprise fund and another fund that are not reasonable allocations of costs between the utility enterprise fund and the other fund, the governing body shall:

(A) hold a public hearing;

(B) prepare a written notice of the date, time, place, and purpose of the hearing, in accordance with Subsection (3)(e)(ii); and

(C) subject to Subsection (3)(e)(iii), mail the notice to each utility enterprise fund customer at least seven days before the day of the hearing.

(ii) The purpose portion of the written notice described in Subsection (3)(e)(i)(B)shall identify:

(A) the utility enterprise fund from which money is being transferred;

(B) the amount being transferred; and

(C) the fund to which the money is being transferred.

(iii) The governing body:

(A) may print the written notice required under Subsection (3)(e)(i) on the utility enterprise fund customer's bill; and

(B) shall include the written notice required under Subsection (3)(e)(i) as a separate notification mailed or transmitted with the utility enterprise fund customer's bill.

(iv) The notice and hearing requirements in this Subsection (3)(e) are not required for an allocation or a transfer included in an original budget or in a subsequent budget amendment previously approved by the governing body for the current fiscal year.

(f) (i) The governing body shall review the tentative operating and capital budget at any regular or special meeting called for that purpose.

(ii) In accordance with Subsection (3)(f)(i), the governing body may make any changes to the tentative operating and capital budget that the governing body considers advisable.

(iii) Before the close of the fiscal period, the governing body shall adopt an operating and capital budget for the next fiscal period.

(g) (i) Upon final adoption by the governing body, the operating and capital budget shall be in effect for the budget period subject to amendment.

(ii) The governing body shall:

(A) certify a copy of the operating and capital budget for each fund with the finance officer; and

(B) make a copy available to the public during business hours in the offices of the county auditor.

(iii) The governing body shall file a copy of the operating and capital budget with the state auditor within 30 days after the day on which the operating and capital budget is adopted.

(iv) The governing body may during the budget period amend the operating and capital budget of an enterprise or other special fund by resolution.

(v) A copy of the operating and capital budget as amended shall be filed with the state auditor.

(4) Any expenditure from an operating and capital budget shall conform to the requirements for budgets specified by Sections [~~17-36-20, 17-36-22, 17-36-23, and 17-36-24~~]17-63-401, 17-63-403, and 17-63-501.

Section 110. Section 17-63-803, which is renumbered from Section 17-36-46 is renumbered and amended to read:

[~~17-36-46~~]17-63-803 (Effective 11/06/25). Reserve fund for capital improvements -- Creation -- Purpose -- Limitation.

(1) The legislative body of any county may establish and maintain, by ordinance, a cumulative reserve fund to be accumulated by levy for the purpose of financing the purchase of real property and the cost of planning, constructing or rehabilitating public buildings or other public works and capital improvements.

(2) (a) Before a reserve fund under Subsection (1) may be established, the county legislative body shall designate by ordinance the specific purpose for which the fund is established.

(b) Except as provided in Section [~~17-36-50~~]17-63-805, all funds in a reserve fund under Subsection (1) shall be expended for the designated purposes.

Section 111. Section 17-63-804, which is renumbered from Section 17-36-47 is renumbered and amended to read:

[~~17-36-47~~]17-63-804 (Effective 11/06/25). Reserve fund for capital improvements -- Estimate of amount required -- Tax levy -- Accumulation from year to year -- Restriction on use.

(1) Subject to Subsection (4) the legislative body of a county that has established a reserve fund under Section [~~17-36-46~~]17-63-803 may:

(a) include in the annual budget or estimate of amounts required to meet the public expenses of the county for the ensuing year such sum as it considers necessary for the uses and purposes of the fund; and

(b) include those amounts in the annual tax levy of the county.

(2) Subject to Subsection (4), the money in the fund shall be allowed to accumulate from year to year until the county legislative body determines to spend any money in the fund for the purpose specified.

(3) Subject to Subsection (4), money in the fund at the end of a fiscal year shall remain in the fund as surplus available for future use, and may not be transferred to any other fund or used for any other purpose.

(4) The amount of money in a reserve fund established under Section [~~17-36-46~~]17-63-803may not exceed .6% of the taxable value of the county.

Section 112. Section 17-63-805, which is renumbered from Section 17-36-50 is renumbered and amended to read:

[~~17-36-50~~]17-63-805 (Effective 11/06/25). Reserve fund for capital improvements -- Transfer to fund of unencumbered surplus -- Investment -- Interest and income -- Modification of use -- Special election.

(1) At any time after the creation of a reserve fund under Section 17-63-803, the county legislative body may transfer to the fund any unencumbered surplus county funds remaining at the end of a fiscal year.

(2) All money belonging to a reserve fund created under Section 17-63-803 shall be invested in such securities as are legal for other funds of the county.

(3) The interest and income from the investments shall be a part of the fund.

(4) The legislative body of any county may submit the proposition of using funds in a reserve fund established under Section [~~17-36-46~~]17-63-803 for projects other than originally specified to the electors of the county at a special election if the projects are for the purposes set forth in Section [~~17-36-46~~]17-63-803.

[~~(2)~~](5) If a proposition under Subsection [~~(1)~~](4) is proposed, the county legislative body shall fix a time and place for a special election on the proposition, to be held as provided by law.

Section 113. Section 17-63-806, which is renumbered from Section 17-36-51 is renumbered and amended to read:

[~~17-36-51~~]17-63-806 (Effective 11/06/25). Establishment of tax stability and trust fund -- Increase in tax levy -- Deposit or investment of funds -- Use of interest or other income.

(1) (a) Notwithstanding anything to the contrary contained in statute, the legislative body of any county may by ordinance establish and maintain a tax stability and trust fund, for the purpose of preserving funds during years with favorable tax revenues for use during years with less favorable tax revenues.

(b) Each fund under Subsection (1)(a) shall be subject to all of the limitations and restrictions imposed by this section [~~and Sections 17-36-52~~]and [~~17-36-53~~]Section 17-63-807.

(c) The principal of the fund shall consist of all sums transferred to it in accordance with Subsection (2) and interest or other income retained in the fund under Subsection [~~17-36-52(2)(a)~~](4)(a).

(2) (a) After establishing a tax stability and trust fund as provided in Subsection (1), the legislative body, in establishing the levy for the property tax levied by the county under Section 59-2-908, may establish the levy at a level not to exceed .0001 per dollar of taxable value of taxable property increase per year that will permit the county to receive during that fiscal year sums in excess of what may be required to provide for the purposes of the county.

(b) Any excess sums so received are to be transferred from the county general fund into the tax stability and trust fund.

(3) (a) All amounts in the tax stability and trust fund established by a county under this section may be deposited or invested as provided in Section 51-7-11.

(b) The amounts described in Subsection (3)(a) may also be transferred by the county treasurer to the Public Treasurers' Investment Fund, as defined in Section 51-7-3, for the treasurer's management and control under Title 51, Chapter 7, State Money Management Act.

(4) (a) The interest or other income realized from amounts in the tax stability and trust fund shall be returned to the county general fund during the fiscal year in which the income or interest is paid to the extent the interest or income is required by the county to provide for county purposes during that fiscal year.

(b) An amount returned in accordance with Subsection (4)(a) may be used for all purposes as other amounts in the county general fund.

(c) Any interest or income that is not returned to the county general fund in accordance with Subsection (4)(a) shall be added to the principal of that county's tax stability and trust fund.

Section 114. Section 17-63-807, which is renumbered from Section 17-36-53 is renumbered and amended to read: [~~17-36-53~~]17-63-807 (Effective 11/06/25). Amount in tax stability and trust fund limited -- Disposition of excess -- Use of principal -- Determination of necessity -- Election -- Exception.

(1) The total amount in a county's tax stability and trust fund established under Section [~~17-36-51~~]17-63-806 shall be limited to the percentage of the total taxable value of property in that county not to exceed the limits provided in the following schedule:

Total Taxable Value	Fund Limits Percentage of Taxable Value	but not to exceed:	
Less than $500,000,000	1.6%		$5,000,000
From 500,000,000 to 1,500,000,000	1.0%		7,500,000
Over 1,500,000,000	.5%		15,000,000

(2) If any excess occurs in the tax stability and trust fund over the percentage or maximum dollar amounts specified in Subsection (1), this excess shall be transferred to the county general fund and may be used for all purposes as other amounts in the county general fund are used.

(3) (a) Subject to Subsection (3)(b), if any excess in the fund exists because of a decrease in total taxable value, that excess may remain in the fund.

(b) If the excess amount in the fund is decreased below the limitations of the fund for any reason, the fund limitations established under Subsection (1) apply.

(4) (a) Except as provided in Subsection (5), if the legislative body of a county that has established a tax stability and trust fund under Section 17-63-806 determines that it is necessary for purposes of that county to use any portion of the principal of the fund, the county legislative body shall submit this proposition to the electorate of that county in a special election called and held in the manner provided for in Title 11, Chapter 14, Local Government Bonding Act, for the holding of bond elections.

(b) If the proposition is approved at the special election by a majority of the qualified electors of the county voting at the election, then that portion of the principal of the fund covered by the proposition may be transferred to the county general fund for use for purposes of that county.

(5) (a) The requirements of Subsection (4) do not apply to the use of any portion of the principal of a tax stability and trust fund established under Section 17-63-806 for payment of any refund of property taxes owed by the county as a result of an objection to the assessment of property assessed by the State Tax Commission under Section 59-2-1007.

(b) The legislative body of a county may, by ordinance or resolution, authorize the use of any portion of the tax stability and trust fund for the purpose described in Subsection (5)(a).

Section 115. Section 17-63-808, which is renumbered from Section 17-36-29 is renumbered and amended to read: [~~17-36-29~~]17-63-808 (Effective 11/06/25). Special funds -- Ceases -- Transfer.

(1) A county legislative body may:

(a) establish a salary fund or any other special fund as the legislative body considers necessary for the proper transaction of the business of the county; and

(b) transfer money from one fund to another as the public interest requires, except as otherwise specifically provided in statute.

(2) (a) Except as provided in Subsection [~~(1)(b)~~](2)(b), if a county legislative body determines that the purpose no longer exists for which the legislative body created a special fund or any portion of the special fund, the legislative body may authorize the transfer of the remaining balance or a portion of the remaining balance to the fund balance account in the county general fund.

(b) The legislative body may redistribute the remaining balance or a portion of the remaining balance described in Subsection [~~(1)(a)~~](2)(a) in accordance with Subsection [~~(1)(c)~~](2)(c) if:

(i) the county levied the fund primarily on property in the unincorporated areas of the county;

(ii) the county established a municipal services fund to provide municipal services under [~~Sections 17-34-1 and 17-36-9~~]Chapter 78, Part 5, Provision of Municipal-Type Services to Unincorporated Areas; and

(iii) the area from which the county levied the fund has since incorporated as a city or town.

(c) The legislative body of a county described in Subsection [~~(1)(b)~~](2)(b) may set aside the remaining balance or a portion of the remaining balance described in Subsection [~~(1)(a)~~](2)(a) in a fund from which the county may make disbursements to support and benefit the area and the residents in the area from which the county originally derived the special fund.

[~~(2)~~](3) Any balance which remains in a special assessment fund and any unrequired balance in a special improvement guaranty fund shall be treated as provided in Subsection 11-42-701(5).

[~~(3)~~](4) Any balance which remains in a capital projects fund shall be transferred to the appropriate debt service fund or such other fund as the bond ordinance requires or to the county general fund balance account.

Section 116. Section 17-63-809, which is renumbered from Section 17-36-30 is renumbered and amended to read: [~~17-36-30~~]17-63-809 (Effective 11/06/25). Interfund loans -- Acquisition of issued unmatured bonds.

(1) Subject to this section, restrictions imposed by bond covenants, or other controlling regulations, the governing body may:

(a) subject to the restrictions in Section 53-2a-605, authorize an interfund loan from one fund to another; and

(b) with available cash in any fund, purchase or otherwise acquire for investment an unmatured bond of the county or of any county fund.

(2) An interfund loan under Subsection (1)(a) shall be in writing and specify the terms and conditions of the loan, including the:

(a) effective date of the loan;

(b) name of the fund loaning the money;

(c) name of the fund receiving the money;

(d) amount of the loan;

(e) subject to Subsection (3), term of and repayment schedule for the loan;

(f) subject to Subsection (4), interest rate of the loan;

(g) method of calculating interest applicable to the loan;

(h) procedures for:

(i) applying interest to the loan; and

(ii) paying interest on the loan; and

(i) other terms and conditions the governing body determines applicable.

(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.

(4) (a) In determining the interest rate of the loan specified under Subsection (2)(f), the governing body shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.

(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):

(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund as defined in Section 51-7-3; or

(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:

(A) the Public Treasurers' Investment Fund as defined in Section 51-7-3; or

(B) a United States Treasury note of a comparable term.

(5) (a) For an interfund loan under Subsection (1)(a), the governing body shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);

(iii) provide notice of the public hearing in the same manner as required under Section [~~17-36-12~~]17-63-304as if the hearing were a budget hearing; and

(iv) authorize the interfund loan by ordinance or resolution in a public meeting.

(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the governing body for the current fiscal year.

(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:

(a) a loan from the county general fund to any other fund of the county; or

(b) a short-term advance from the county's cash and investment pool to individual funds that are repaid by the end of the fiscal year.

Section 117. Section 17-63-901, which is renumbered from Section 17-12-1 is renumbered and amended to read:

PART 9. Bond Indebtedness

[~~17-12-1~~]17-63-901 (Effective 11/06/25). Authority and applicable procedure for issuance of bonds -- Application of proceeds -- Debt limit.

(1) This part is adopted for the purpose of:

(a) eliminating or reducing, so far as possible, the ad valorem taxes necessary to be levied for the payment of bonds;

(b) improving the security of bonds; and

(c) ensuring that the holders of the bonds from time to time shall have a vested and enforceable contract right in the provisions of the bond proceedings made in accordance with the provisions of this part.

(2) (a) Except as otherwise provided under Section [~~17-50-303~~]17-60-203, the county legislative body may contract a bonded indebtedness in the manner and subject to the conditions provided under Title 11, Chapter 14, Local Government Bonding Act.

(b) The revenue derived from the sale of bonds shall be applied only to the purpose or purposes specified in the order of the county legislative body.

(c) If there is any surplus, [~~it~~]the surplus shall be applied to the payment of the bonds.

(3) [~~In no event may any county~~]A county may not become so indebted to an amount, including existing indebtedness, exceeding 2% of the fair market value, as defined under Section 59-2-102, of the taxable property in the county as computed from the last equalized assessment roll for county purposes [~~prior to the incurring of~~]before the county incurred the indebtedness.

Section 118. Section 17-63-902, which is renumbered from Section 17-12-2 is renumbered and amended to read:

[~~17-12-2~~]17-63-902 (Effective 11/06/25). Bond elections -- Consolidating voting districts and precincts -- Voting places.

The county legislative body may in any bond election consolidate voting districts and precincts and may select for the purposes of such election any voting places which [~~it~~]the legislative body considers desirable, without regard to regularly established voting precincts and [~~the~~]voting places[~~ therefor~~].

Section 119. Section 17-63-903, which is renumbered from Section 17-12-3 is renumbered and amended to read:

[~~17-12-3~~]17-63-903 (Effective 11/06/25). Additional purposes for which bonds may be issued -- Joint ownership of facilities authorized.

(1) In addition to other purposes for which bonds may be issued, bonds may be issued for the purpose of:

(a) acquiring, improving or extending systems for the collection, retention and disposition of storm and flood waters[~~,~~];

(b) [~~ for the acquisition, improvement or extension of~~]acquiring, improving, or extending public libraries, including procuring

equipment, furnishings, and books[~~therefor,~~];

(c) acquiring or improving facilities for the collection, disposal, or incineration of garbage and trash[~~;~~];

(d) acquiring, improving, extending, furnishing, and equipping auditoriums, sports arenas, stadiums, convention centers, and all properties and facilities ordinarily forming part of a so-called convention complex, or any part [~~thereof~~]of a convention complex; and [~~for~~]

(e) acquiring, improving, extending, furnishing, or equipping any improvement or facility which the county is authorized by law to own.

(2) (a) Bonds may be issued for the county's share of any [~~such~~]facility described in Subsection (1) to be owned jointly with any municipality or taxing district in the county[~~and such~~].

(b) [~~joint~~]Joint ownership of a facility between a county and any municipality or taxing district in the county, as described in Subsection (2)(a), is expressly authorized.

Section 120. Section 17-63-904, which is renumbered from Section 17-12-4 is renumbered and amended to read:

[~~17-12-4~~]17-63-904 (Effective 11/06/25). Bond issue for certain facilities -- Board of directors -- Use of revenues from facilities -- Rights of bondholders.

(1) (a) A county legislative body adopting proceedings authorizing the issuance of county bonds for the purpose of acquiring, improving, extending, furnishing, and equipping auditoriums, sports arenas, stadiums, convention centers, and all properties and facilities ordinarily forming part of a so-called "convention complex," or for any part or combination of the foregoing may, by resolution, provide for the creation of a board of directors which, [~~so long as~~]if any of the bonds remain outstanding either in original or refunded form, may:

(i) have complete management and control of the facilities acquired with the proceeds of the bonds; or

(ii) act as an advisory board to the county executive and legislative body regarding the management and operation of a property or facility described in this Subsection (1)(a).

(b) (i) The board of directors described in Subsection (1)(a) shall have the number of members, possessing such qualifications and selected for such terms, and shall operate [~~pursuant to~~]in accordance with such rules and regulations as adopted by the county legislative body.

(ii) The members of the board of directors described in Subsection (1)(a) shall serve without compensation except for reimbursement of expenses actually incurred in the performance of their duties.

(iii) After the appointment and organization of the board of directors, all vacancies thereafter occurring, whether by expiration of term or otherwise, shall be filled by majority vote of the remaining members of the board.

(iv) Subject to provisions adopted by the county legislative body, the members of the board of directors may have the powers and duties ordinarily enjoyed by the directors of a private corporation operating similar facilities.

(2) A county legislative body that adopts proceedings for the purpose of and as described in Subsection (1)(a) shall provide that all revenues of every nature derived from the operation of the facilities so acquired with bond proceeds and not expended in the reasonable and proper costs of maintaining and operating the facilities, including the making of necessary repairs and replacements, be pledged to and utilized for the payment of principal of and interest on the bonds and, if so provided, the creation of a reserve for such purpose.

[~~(3) This act is adopted for the purpose of eliminating or reducing so far as possible the ad valorem taxes necessary to be levied for the payment of such bonds and for the purpose of improving the security of such bonds, and accordingly the holders of the bonds from time to time shall have a vested and enforceable contract right in the provisions of this act and in the provisions of the bond proceedings adopted pursuant hereto.~~]

Section 121. Section 17-63-1001, which is renumbered from Section 17-15-20 is renumbered and amended to read:

PART 10. County Management of Federally Generated Revenue

[~~17-15-20~~]17-63-1001 (Effective 11/06/25). Disposition of coal land revenue.

(1) Eighty percent of all money received by the state of Utah from the treasurer of the United States, as bonuses, royalties, and rentals upon United States coal lands located in this state shall be allocated to the county or counties out of or from which is taken the coal from which such bonuses, royalties, and rentals are derived[~~; provided, that such sum or sums so~~].

(2) [~~received shall be paid over to such county or counties~~]A county that receives money under Subsection (1) shall only use the money for:

(a) the construction and maintenance of roads; and

(b) [~~for~~]the support and maintenance of public schools [~~of such county or counties and no other~~]in the county.

Section 122. Section 17-63-1002, which is renumbered from Section 17-15-22 is renumbered and amended to read:

[~~17-15-22~~]17-63-1002 (Effective 11/06/25). Federal entitlement lands -- In-lieu payments -- Allocation -- Agreements with political subdivisions.

(1) Any county may use any [~~amounts it~~]money the county receives from the United States as in-lieu payments under P.L. 94-565 (90 Stat. 2662) for any governmental purpose in the county, and may share [~~these~~] revenues with cities, towns, or any other political subdivision within [~~its~~]the county's jurisdiction.

(2) The county may contract with [~~these political subdivisions~~]another political subdivision as to how [~~these amounts~~]money shared under Subsection (1) may be allocated and used by the political subdivision.

Section 123. Section 17-63-1101, which is renumbered from Section 17-36-35 is renumbered and amended to read:

PART 11. Improper Use of Public Funds

[~~17-36-35~~]17-63-1101 (Effective 11/06/25). Profit from public funds prohibited.

(1) If the governing body receives evidence that a county [~~official~~]officer or county employee is profiting from public money or uses [~~it~~]public money for any unauthorized purpose, the matter shall be promptly referred to the county attorney or district attorney for appropriate action.

(2) (a) If convicted for any [~~such~~]offense described in Subsection (1), [~~the county official~~]a county officer shall immediately forfeit [~~his~~]the county officer's office.

(b) The forfeiture of county office described in Subsection (2)(a) is in addition to any penalties that may apply and the provisions of Utah Constitution, Article XXII, Section 5.

Section 124. Section 17-64-101 is enacted to read:

CHAPTER 64. County Legislative Body

PART 1. General Provisions

17-64-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Chair" means the member of the legislative body selected under Section 17-64-304.

(2) "County officer" means the same as that term is defined in Section 17-66-101.

(3) "Finance officer" means the same as that term is defined in Section 17-63-101.

(4) "Legislative body" means:

(a) a county commission; or

(b) a county council.

(5) "Member" means an individual who has been elected or appointed to serve on a legislative body.

(6) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

Section 125. Section 17-64-102 is enacted to read:

17-64-102 (Effective 11/06/25). Members of county legislative bodies constitute county officers.

A member of a county legislative body:

(1) is a county officer, as described in Section 17-66-102; and

(2) shall comply with the relevant provisions of Chapter 66, County Officers and Officials Generally, in addition to the provisions of this chapter.

Section 126. Section 17-64-103, which is renumbered from Section 17-53-214 is renumbered and amended to read:

[~~17-53-214~~]17-64-103 (Effective 11/06/25). Seal for county -- Optional seal for county district court.

(1) The legislative body of each county shall:

[~~(1)~~](a) adopt a seal for the county, the impression of which shall contain the words "State of Utah, County of _____"; and

[~~(2)~~](b) file an impression of the seal in the office of the county clerk and with the Division of Archives.

(2) If a county provides clerk services to that county's district court, the legislative body of the county shall:

(a) provide a seal for the clerk of the district court of the county, the impression of which shall contain the words "District Court, State of Utah," together with the name of the county; and

(b) file an impression of the seal in the office of the county clerk and with the Division of Archives.

Section 127. Section 17-64-201, which is renumbered from Section 17-53-202 is renumbered and amended to read:

PART 2. Qualifications and Term

[~~17-53-202~~]17-64-201 (Effective 11/06/25). Eligibility -- Election.

Each member of a [~~county~~]legislative body shall:

(1) be a registered voter of the county which the member represents; and

(2) have been a registered voter for at least one year immediately [~~preceding~~]before the member's election.

Section 128. Section 17-64-202, which is renumbered from Section 17-53-227 is renumbered and amended to read:

[~~17-53-227~~]17-64-202 (Effective 11/06/25). Crime insurance for breach of duty by county legislative body member.

A [~~county~~]legislative body shall:

(1) obtain, and pay the premiums for, crime insurance on the members of the [~~county~~]legislative body in relation to the performance of the member's duties; and

(2) set the amount of coverage required for the crime insurance described in Subsection (1).

Section 129. Section 17-64-301, which is renumbered from Section 17-53-204 is renumbered and amended to read:

PART 3. Meetings

[~~17-53-204~~]17-64-301 (Effective 11/06/25). Meetings -- At county seat -- Exception.

(1) (a) The [~~county~~]legislative body shall provide by ordinance for the holding of regular meetings of the [~~county~~]legislative body.

(b) The [~~county~~]legislative body may cancel a regular meeting as the [~~county~~]legislative body considers appropriate.

(2) (a) Except as provided in Subsection (2)(b), each regular meeting of the [~~county~~]legislative body shall be held at:

(i) the county seat; or

(ii) a location within the county, established by county ordinance.

(b) If approved by a vote of the [~~county~~]legislative body, a [~~county~~]legislative body may hold an occasional meeting in a location not described in Subsection (2)(a) but within the county as the public business requires.

Section 130. Section 17-64-302, which is renumbered from Section 17-53-205 is renumbered and amended to read:

[~~17-53-205~~]17-64-302 (Effective 11/06/25). Special meetings -- How called -- Business limited.

(1) If the business of the county requires a special meeting of the legislative body, [~~such~~]a meeting may be ordered by a majority of the legislative body or by the chair.

(2) Each order calling a special meeting shall:

(a) be signed by the members or chair calling the meeting;

(b) be entered in the minutes of the legislative body; and

(c) specify the business to be transacted at the meeting.

(3) No business other than that specified in the order may be transacted at a special meeting unless all members of the [~~county~~]legislative body are present and give [~~their~~]consent.

(4) Except as otherwise provided by county ordinance, the county clerk shall give five days notice of each special meeting to each member of [~~a county~~]the legislative body [~~that~~]who does not join in the order calling the meeting.

Section 131. Section 17-64-303, which is renumbered from Section 17-53-206 is renumbered and amended to read:

[~~17-53-206~~]17-64-303 (Effective 11/06/25). Meetings to comply with open meetings law -- Records and minutes -- Compelling attendance at meetings of legislative body.

[~~(1) As used in this section, "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:~~]

[~~(a) parliamentary order and procedure;~~]

[~~(b) ethical behavior; and~~]

[~~(c) civil discourse.~~]

[~~(2)~~](1) Each meeting of the [~~county~~]legislative body shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

[~~(3)~~](2) (a) Subject to Subsection [~~(3)(b)~~](2)(b), a [~~county~~]legislative body shall:

(i) make or adopt rules of order and procedure to govern a public meeting of the legislative body;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection [~~(3)(a)(i)~~](2)(a)(i); and

(iii) make the rules of order and procedure described in Subsection [~~(3)(a)(i)~~](2)(a)(i) available to the public on the county's public website.[~~:~~]

[~~(A) at each meeting of the county legislative body; and~~]

[~~(B) on the county's public website, if available.~~]

(b) Subsection [~~(3)(a)~~](2)(a) does not affect a [~~county~~]legislative body's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

[~~(4)~~](3) The chair and county clerk [~~of the county legislative body~~]shall sign the records and minutes of the [~~county~~]legislative body.

[~~(5)~~](4) The legislative body [~~of a county~~]may compel the attendance of [~~its~~]the legislative body's own members at [~~its~~]meetings and provide penalties [~~it considers necessary~~]for the failure to comply with an exercise of the authority to compel attendance.

Section 132. Section 17-64-304, which is renumbered from Section 17-53-203 is renumbered and amended to read:

[~~17-53-203~~]17-64-304 (Effective 11/06/25). Chair -- Oaths -- Quorum.

(1) Each [~~county~~]legislative body shall:

(a) elect [~~one of their number~~]a chair from the membership of the legislative body; and

(b) may elect a vice chair from the membership of the legislative body.

(2) (a) [~~The~~]Except as provided in Subsection (2)(b), the chair shall preside at all meetings of the [~~county~~]legislative body, and in case of the chair's absence or inability to act, the vice chair, if there is one, shall preside.

(b) If both the chair and vice chair, if there is one, are absent or unable to act, the members present shall, by an order entered in [~~their~~]the meeting minutes, select [~~one of their number to act as chair temporarily~~]a temporary chair to preside at the meeting.

(3) Any member of the [~~county~~]legislative body may administer oaths to any [~~person~~]individual when necessary in the performance of official duties.

(4) Not less than a majority of members shall constitute a quorum for the transaction of business, and no act of the [~~county~~]legislative body shall be valid or binding unless a majority of members present when a quorum is present concurs therein.

Section 133. Section 17-64-305, which is renumbered from Section 17-53-207 is renumbered and amended to read:

[~~17-53-207~~]17-64-305 (Effective 11/06/25). Rules and regulations governing legislative body and transaction of business -- Expulsion of members prohibited -- Exception for disorderly conduct.

(1) The [~~county~~]legislative body may make and enforce [~~such rules and~~]regulations for:

(a) the government of [~~itself,~~]the legislative body;

(b) the preservation of order[~~,~~]; and

(c) the transaction of business [~~as may be necessary~~].

(2) Except as provided in Subsection (3), the legislative body may not expel a member from an open public meeting or prohibit the member from attending an open public meeting.

(3) Except as provided in Subsection (4), following a two-thirds vote of the members, the legislative body may fine or expel a member of the legislative body for:

(a) disorderly conduct at the open public meeting;

(b) a member's direct or indirect financial conflict of interest regarding an issue discussed at or action proposed to be taken at the open public meeting; or

(c) a commission of a crime during the open public meeting.

(4) A legislative body may adopt ordinances that expand the reasons or establish more restrictive procedures for the expulsion of a member from a public meeting.

Section 134. Section 17-64-401, which is renumbered from Section 17-53-201 is renumbered and amended to read:

PART 4. Powers and Duties

[~~17-53-201~~]17-64-401 (Effective 11/06/25). General powers, duties, and functions of legislative body.

(1) Except as expressly provided otherwise in statute, [~~each county~~]a legislative body shall exercise all legislative powers, have all legislative duties, and perform all legislative functions of the county, including those enumerated in this [~~part~~]chapter.

(2) A [~~county~~]legislative body may take any action required by law and necessary to the full discharge of [~~its~~]the legislative body's duties, even though the action is not expressly authorized by statute.

Section 135. Section 17-64-402, which is renumbered from Section 17-53-209 is renumbered and amended to read:

[~~17-53-209~~]17-64-402 (Effective 11/06/25). Records to be kept.

[~~The~~]A legislative body [~~of each county shall cause to be kept~~]shall ensure the following records are kept:

(1) a minute record, in which shall be recorded:

(a) all orders and decisions made by the [~~county~~]legislative body; and

(b) the daily proceedings had at all regular and special meetings;

(2) an allowance record, in which shall be recorded all orders for the allowance of money from the county treasury, to whom made and on what account, dating, numbering, and indexing the same through each year;

(3) a road record, containing all proceedings and adjudications relating to the establishment, maintenance, charge, and discontinuance of roads and road districts, and all contracts and other matters pertaining thereto;

(4) a franchise record, containing all franchises granted by the board, for what purpose, the length of time, and to whom granted, the amount of bond and license tax required or other consideration to be paid;

(5) an ordinance record, in which shall be entered all ordinances [~~or laws duly passed~~]and resolutions adopted by the [~~county~~]legislative body in accordance with Part 5, Ordinances and Policies; and

(6) a warrant record, to be kept by the county auditor, in which shall be entered in the order of drawing all warrants drawn on the treasurer, with their number and reference to the order on the minute record, with date, amount, on what account, and the name of the payee.

Section 136. Section 17-64-403, which is renumbered from Section 17-53-210 is renumbered and amended to read:

[~~17-53-210~~]17-64-403 (Effective 11/06/25). Dividing county into precincts and districts.

A [~~county~~]legislative body may:

(1) divide the county into precincts, districts, or other entities as permitted or required by law[~~,~~]; and

(2) may change [~~them~~]any precinct, district, or other entity and create [~~others~~]new precincts, districts, or other entities as convenience requires.

Section 137. Section 17-64-404, which is renumbered from Section 17-53-212 is renumbered and amended to read:

[~~17-53-212~~]17-64-404 (Effective 11/06/25). Examination and audit of accounts.

[~~(1) As used in this section, "finance officer" means the same as that term is defined in Section 17-36-3.~~]

[~~(2)~~](1) A [~~county~~]legislative body may examine and audit the accounts of all county officers having the care, management, collection, or disbursement of money belonging to the county or appropriated by law or otherwise for [~~its~~]the county's use and benefit.

[~~(3)~~](2) (a) Subject to Subsection [~~(3)(b)~~](2)(b), the finance officer of the county shall reply to each request for financial information by a [~~county~~]legislative body or any [~~individual~~]member of a [~~county~~]legislative body within five business days after the day on which the finance officer receives the request[~~ is received~~].

(b) If a request for financial information requires an extended time period to research and compile, the finance officer [~~of the county~~]shall provide written notice to the legislative body that includes an explanation for the delay and the date when the information will be provided to the legislative body.

[~~(4)~~](3) A [~~county~~]legislative body may hire professional staff to provide technical assistance and analysis of all financial matters of the county.

[~~(5)~~](4) Nothing in this section may be construed to affect a county auditor's authority under [~~Chapter 19a, County Auditor~~]Chapter 69, County Auditor.

Section 138. Section 17-64-405, which is renumbered from Section 17-53-226 is renumbered and amended to read:

[~~17-53-226~~]17-64-405 (Effective 11/06/25). Investigation by legislative body -- Witnesses -- Hearings.

(1) A [~~county~~]legislative body may investigate any matter pertaining to the county or [~~its~~]county business or affairs or any county officer, and may require the attendance of witnesses and take evidence in [~~its~~]legislative body investigations.

(2) At [~~such~~]legislative body investigations, any member [~~of the county legislative body~~]may administer oaths to witnesses.

(3) If the [~~county~~]legislative body appoints a member [~~of its body~~]to a committee upon any subject or matter and confers upon that member power to hear or take evidence, [~~such~~]the committee shall have the same powers [~~in the premises~~]as the [~~county~~]legislative body itself.

Section 139. Section 17-64-406, which is renumbered from Section 17-26-1 is renumbered and amended to read:

[~~17-26-1~~]17-64-406 (Effective 11/06/25). County hospitals under jurisdiction of legislative body.

(1) All county hospitals [~~established under Chapter 106, Laws of 1917, shall hereafter be~~]are under the jurisdiction of the [~~county~~]legislative body[~~, and the office of trustees therefor is abolished~~].

(2) The legislative body shall ensure that any county hospital complies with Chapter 77, Local Health and Human Services.

Section 140. Section 17-64-407, which is renumbered from Section 17-53-218 is renumbered and amended to read:

[~~17-53-218~~]17-64-407 (Effective 11/06/25). Duties as board of equalization.

The legislative body [~~of each county~~]shall perform [~~such~~]the duties as a county board of equalization [~~as~~]that are provided by law.

Section 141. Section 17-64-501, which is renumbered from Section 17-53-223 is renumbered and amended to read:

PART 5. Ordinances and Policies

[~~17-53-223~~]17-64-501 (Effective 11/06/25). Ordinances -- Power to enact -- Penalty for violation.

(1) A [~~county~~] legislative body may:

(a) pass [~~all~~]ordinances[~~ and rules and make all regulations, not repugnant to law,~~]:

(i) necessary for carrying into effect or discharging the powers and duties conferred by this title[~~,~~]; and

(ii) as are necessary and proper to provide for the safety, and preserve the health, promote the prosperity, improve the morals, peace, and good order, comfort, and convenience of the county and [~~its~~]county inhabitants, and for the protection of property in the county;

(b) enforce obedience to ordinances with fines or penalties as the [~~county~~]legislative body considers proper; [~~and~~]

(c) pass ordinances to control air pollution;

(d) pass resolutions; and

(e) make or adopt policies that conform with a county ordinance, county resolution, or provision of state or federal law.

(2) (a) (i) Punishment imposed under Subsection (1)(b) shall be by fine, [~~not to exceed the maximum fine for a class B misdemeanor under Section 76-3-301,~~]imprisonment, or both fine and imprisonment.

(ii) A fine imposed under Subsection (2)(a)(i) may not exceed the maximum fine for a class B misdemeanor under Section 76-3-301.

(b) Notwithstanding Subsection (2)(a), a county may not impose a criminal penalty greater than an infraction for a violation pertaining to an individual's pet, as defined in Section 4-12-102, or an individual's use of the individual's residence unless:

(i) the violation:

(A) is a nuisance as that term is defined in Section 78B-6-1101; and

(B) threatens the health, safety, or welfare of the individual or an identifiable third party; or

(ii) the county has imposed a fine on the individual for a violation that involves the same residence or pet on three previous occasions within the past 12 months.

(c) Subsection (2)(b) does not apply to county enforcement of a building code or fire code ordinance in accordance with Title 15A, State Construction and Fire Codes Act.

(d) When a penalty for a violation of an ordinance includes any possibility of imprisonment, the [~~county~~]legislative body shall include in the ordinance a statement that the county is required, under Section 78B-22-301, to provide for indigent defense services, as that term is defined in Section 78B-22-102.

(e) Notwithstanding any other provision of law, the following may issue a criminal citation for a violation that is punished as a misdemeanor if the violation threatens the health and safety of an animal or the public:

(i) a fire officer described in Section 53-7-102;

(ii) a law enforcement officer described in Section 53-13-103; or

(iii) an animal control officer described in Section 11-46-102.

(3) (a) Except as specifically authorized by statute, the [~~county~~]legislative body may not impose a civil penalty for the violation of a county traffic ordinance.

(b) Subsection (3)(a) does not apply to an ordinance regulating the parking of vehicles on a highway.

(4) A county may not issue more than one infraction within a 14-day period for a violation described in Subsection (2)(b) that is ongoing.

Section 142. Section 17-64-502, which is renumbered from Section 17-53-208 is renumbered and amended to read:

[~~17-53-208~~]17-64-502 (Effective 11/06/25). Ordinances -- Effective dates -- Publication -- Adoption of ordinances printed in book form -- Review of nuisance ordinances.

(1) The enacting clause of an ordinance adopted by the county legislative body shall be as follows: "The County Legislative Body of _____County ordains as follows:".

(2) (a) The chair [~~of the county legislative body~~]shall sign, and the county clerk shall attest to, each ordinance.

(b) If the [~~county~~]legislative body votes to adopt an ordinance, county staff shall:

(i) record the vote of each [~~county legislative body~~]member in attendance and enter each vote in the minutes of the meeting; and

(ii) enter the full text of the adopted ordinance in the county ordinance book.

(3) (a) [~~No~~]Except as provided in Subsection (6), no ordinance passed by the [~~county~~]legislative body may take effect within less than 15 days after [~~its~~]passage of the ordinance.

(b) The [~~county~~]legislative body shall, before the ordinance may take effect:

(i) deposit a copy of the ordinance in the office of the county clerk; and

(ii) (A) publish a short summary of the ordinance, together with a statement that a complete copy of the ordinance is available at the county clerk's office and with the name of the members voting for and against the ordinance:

(I) for at least one publication in:

(Aa) a newspaper published in and having general circulation in the county, if there is one; or

(Bb) if there is none published in the county, in a newspaper of general circulation within the county; and

(II) as required in Section 45-1-101; or

(B) post a complete copy of the ordinance in nine public places within the county.

(4) Any ordinance printed by authority of the [~~county~~]legislative body in book form or electronic media, or any general revision of county ordinances printed in book form or electronic media, may be adopted by an ordinance making reference to the printed ordinance or revision if a copy of the ordinance or revision is filed in the office of the county clerk at the time of adoption for use and examination by the public.

(5) If the [~~county~~]legislative body adopts an ordinance establishing rules and regulations, printed as a code in book form or electronic media, for the construction of buildings, the installation of plumbing, the installation of electric wiring, or other related or similar work, the [~~county~~]legislative body may adopt the ordinance by reference to the code book if a copy of the code book is filed in the office of the county clerk at the time of the adoption of the ordinance for use and examination by the public.

(6) If, in the opinion of the [~~county~~]legislative body, an ordinance is necessary for the immediate preservation of the peace, health, or safety of the county and the county's inhabitants, the ordinance may, if clearly stated in the ordinance, take effect immediately upon publication in one issue of a newspaper published in and having general circulation in the county, if there is one, and if there is none

published in the county, then immediately after posting at the courthouse door.

(7) An ordinance may take effect at a later date than provided in this section, if the ordinance clearly states the later effective date.

(8) An order entered in the minutes of the [~~county~~]legislative body that an ordinance has been duly published or posted shall be prima facie proof of the publication or posting.

Section 143. Section 17-64-503, which is renumbered from Section 17-33-15 is renumbered and amended to read:

[~~17-33-15~~]17-64-503 (Effective 11/06/25). Duty of county legislative body to provide for operation and functioning of county personnel -- Conflicts with state or federal law.

(1) It [~~shall be~~]is the duty of the [~~county~~]legislative body to provide [~~by rule or regulation~~]for the operation and functioning of any activity within the purpose and spirit of [~~the act~~]Chapter 75, General County Personnel Management, and Chapter 76, County Emergency Personnel Management, which is necessary and expedient.

[~~(2) If any provision of this act or the application thereof is found to be in conflict with any state or federal law, conflict with which would impair funding otherwise receivable from the state or federal government, the conflicting part is hereby declared to be inoperative solely to the extent of the conflict and with respect to the department, agency, or institution of the county directly affected, but such finding does not affect the operation of the remainder of this act in any of its applications.~~]

[~~(3)~~](2) Notwithstanding any provision to the contrary, [~~no rule or regulation shall be adopted by the county legislative body which~~]a legislative body may not adopt an ordinance or resolution that would deprive the county or any [~~of its~~]county departments, agencies, or institutions of state or federal grants or other forms of financial assistance.

Section 144. Section 17-64-504, which is renumbered from Section 17-53-228 is renumbered and amended to read:

[~~17-53-228~~]17-64-504 (Effective 11/06/25). Administrative hearings and procedures -- Penalty for code violation.

(1) A [~~county~~]legislative body may adopt an ordinance establishing an administrative hearing process to review and decide matters relating to the violation, enforcement, or administration of a county civil ordinance, including an ordinance related to the following:

(a) a building code;

(b) planning and zoning;

(c) animal control;

(d) licensing;

(e) health and safety;

(f) county employment; or

(g) sanitation.

(2) An ordinance adopted in accordance with Subsection (1) shall provide appropriate due process protections for a party participating in an administrative hearing.

(3) An administrative hearing held in accordance with an ordinance described in Subsection (1) may be conducted by an administrative law judge.

(4) A county may not impose a civil penalty and adjudication for the violation of a county moving traffic ordinance.

(5) (a) A county may not impose a nonjudicial penalty for a violation of a land use regulation or a nuisance ordinance unless the county provides to the individual who is subject to the penalty written notice that:

(i) identifies the relevant regulation or ordinance at issue;

(ii) specifies the violation of the relevant regulation or ordinance; and

(iii) provides for a reasonable time to cure the violation, taking into account the cost of curing the violation.

(b) A county may not collect on a nonjudicial penalty for a violation of a land use regulation or a nuisance ordinance that is outstanding or pending on or after May 14, 2019, unless the county imposed the outstanding or pending penalty in relation to a written notice that:

(i) identified the relevant regulation or ordinance at issue;

(ii) specified the violation of the relevant regulation or ordinance; and

(iii) provided for a reasonable time to cure the violation, taking into account the cost of curing the violation.

Section 145. Section 17-64-505, which is renumbered from Section 17-53-216 is renumbered and amended to read:

[~~17-53-216~~]17-64-505 (Effective 11/06/25). Business license fees and taxes -- Application information to be transmitted to the county assessor.

(1) As used in this section, "business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(2) Except as provided in Subsection (4), the legislative body [~~of a county~~]may by ordinance:

(a) provide for the licensing of businesses within the unincorporated areas of the county for the purpose of regulation[~~,~~]; and

(b) [~~may~~]impose fees on businesses to recover the county's costs of regulation.

(3) All license fees and taxes shall be uniform in respect to the class upon which [~~they~~]the license fees and taxes are imposed.

(4) (a) As used in this Subsection (4):

(i) (A) "Event requirement" means a requirement a county imposes on individuals who participate in a county event.

(B) "Event requirement" does not include a requirement that is inconsistent with Subsection (4)(b).

(ii) "Exempt individual" means an individual who, under Subsection (4)(b), may not be required to have a business license or permit.

(iii) "County event" means an event hosted or sponsored by a county.

(b) A county may not require a license or permit for a business that is operated:

(i) only occasionally; and

(ii) by an individual who is under 19 years old.

(c) Subsection (4)(b) does not prevent a county from imposing an event requirement on an exempt individual who participates in a county event.

(5) A county may not:

(a) charge a license fee for a [~~home based~~]home-based business unless the combined offsite impact of the [~~home based~~]home-based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone; or

(b) require, as a condition of obtaining or maintaining a license or permit for a business:

(i) that an employee or agent of a business complete education, continuing education, or training that is in addition to requirements under state law or state licensing requirements; or

(ii) that a business disclose financial information, inventory amounts, or proprietary business information except as specifically authorized under state or federal law.

(6) The county business licensing agency shall transmit the information from each approved business license application to the county assessor within 60 days [~~following the approval of~~]after the day on which the licensing agency approves the application.

(7) This section may not be construed to enhance, diminish, or otherwise alter the taxing power of counties existing [~~prior to~~]before the effective date of Laws of Utah 1988,

Chapter 144.

Section 146. Section 17-65-101 is enacted to read:

CHAPTER 65. County Executive

PART 1. General Provisions

17-65-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(2) "Finance officer" means the same as that term is defined in Section 17-63-101.

(3) "Interim vacancy period" means:

(a) for a county commission form or expanded county commission form of government, the period of time that:

(i) begins on the day on which a general election described in Section 17-66-202 is held to elect a commission member; and

(ii) ends on the day on which the commission member-elect begins the commission member's term; or

(b) for a county executive-council form of government, the period of time that:

(i) begins on the day on which a general election described in Section 17-66-202 is held to elect a county executive; and

(ii) ends on the day on which the county executive-elect begins the county executive's term.

Section 147. Section 17-65-201 is enacted to read:

PART 2. Qualifications

17-65-201 (Effective 11/06/25). Reserved.

Reserved.

Section 148. Section 17-65-301, which is renumbered from Section 17-53-301 is renumbered and amended to read:

PART 3. Powers and Duties

[~~17-53-301~~]17-65-301 (Effective 11/06/25). General powers, duties, and functions.

(1) The elected county executive is the chief executive officer of the county.

(2) Each county executive shall exercise all executive powers, have all executive duties, and perform all executive functions of the county, including those enumerated in this [~~part~~]chapter, except as expressly provided otherwise in statute and except as contrary to the powers, duties, and functions of other county officers expressly provided for in:

(a) [~~Chapter 16, County Officers~~]Chapter 66, County Officers and Officials Generally;

(b) [~~Chapter 17, County Assessor~~]Chapter 67, County Assessor;

(c) [~~Chapter 18a, Powers and Duties of County and District Attorney~~]Chapter 68, County and District Attorney;

(d) [~~Chapter 19a, County Auditor~~]Chapter 69, County Auditor;

(e) [~~Chapter 20, County Clerk~~]Chapter 70, County Clerk;

(f) [~~Chapter 21, Recorder;~~]Chapter 71, County Recorder;

(g) [~~Chapter 22, Sheriff~~]Chapter 72, County Sheriff;

(h) [~~Chapter 23, County Surveyor~~]Chapter 73, County Surveyor; and

(i) [~~Chapter 24, County Treasurer~~]Chapter 74, County Treasurer.

(3) A county executive may take any action required by law and necessary to the full discharge of the executive's duties, even though the action is not expressly authorized in statute.

Section 149. Section 17-65-302, which is renumbered from Section 17-53-302 is renumbered and amended to read:

[~~17-53-302~~]17-65-302 (Effective 11/06/25). Specific duties.

Each county executive shall:

(1) exercise supervisory control over all functions of the executive branch of county government;

(2) direct and organize the management of the county in a manner consistent with state law, county ordinance, and the county's optional plan of county government;

(3) (a) carry out programs and policies established by the county legislative body; and

(b) ensure that all departments of county government comply with programs and policies established by the county legislative body;

(4) faithfully ensure compliance with all applicable laws and county ordinances;

(5) exercise supervisory and coordinating control over all departments of county government;

(6) except as otherwise vested in the county legislative body by state law or by the optional plan of county government, and subject to Section [~~17-53-317~~]17-65-308, appoint, suspend, and remove the directors of all county departments and all appointive officers of boards and commissions;

(7) except as otherwise delegated by statute to another county officer, exercise administrative and auditing control over all county funds and assets, tangible and intangible[~~, of the county~~];

(8) except as otherwise delegated by statute to another county officer, supervise and direct the county's centralized budgeting, accounting, personnel management, purchasing, and other service functions[~~, of the county~~];

(9) conduct planning studies and make recommendations to the county legislative body relating to county government financial, administrative, procedural, and operational plans, programs, and improvements[~~, in county government~~];

(10) maintain a continuing review of expenditures and of the effectiveness of county departmental budgetary controls;

(11) develop systems and procedures, not inconsistent with statute, for planning, programming, budgeting, and accounting for all county activities[~~, of the county~~];

(12) if the county executive is an elected county executive, exercise a power of veto over the county legislative body's legislative enactments[~~, by the county legislative body~~], which are defined as county ordinances and budget appropriations, and include an item veto upon budget appropriations, in the manner provided by the optional plan of county government;

(13) review, negotiate, approve, and execute contracts for the county, unless otherwise provided by statute;

(14) perform all other functions and duties required of the executive by state law, county ordinance, and the optional plan of county government; and

(15) sign on behalf of the county all deeds that convey county property.

Section 150. Section 17-65-303, which is renumbered from Section 17-53-316 is renumbered and amended to read:

[~~17-53-316~~]17-65-303 (Effective 11/06/25). Executive orders.

(1) The county executive may issue an executive order to:

(a) establish an executive policy;

(b) implement an executive practice; or

(c) execute a legislative policy or ordinance, as provided by statute.

(2) (a) The county executive may not issue an executive order that:

(i) is inconsistent with county ordinances that address the same subject as the executive order or with policies established by the county legislative body that address the same subject as the executive order; or

(ii) expands or narrows legislative action taken or legislative policy issued by the county legislative body.

(b) If a county legislative body adopts an ordinance or establishes a policy that conflicts with an existing executive order, the ordinance or policy adopted or established by the county legislative body supersedes the executive order.

(3) Each executive order exercising supervisory power over other elected county officers shall be consistent with the authority given the county executive under Section [~~17-53-106~~]17-65-504.

Section 151. Section 17-65-304, which is renumbered from Section 17-53-303 is renumbered and amended to read:

[~~17-53-303~~]17-65-304 (Effective 11/06/25). Examination and audit of accounts.

[~~(1) As used in this section, "finance officer" means the same as that term is defined in Section 17-36-3.~~]

[~~(2)~~](1) The county executive may examine and audit the accounts of all officers having the care, management, collection, or disbursement of money belonging to the county or appropriated by law or otherwise for [~~its~~]the county's use and benefit.

[~~(3)~~](2) (a) Subject to Subsection [~~(3)(b)~~](2)(b), the county's finance officer [~~of the county~~]shall reply to each request for financial information by a county executive within five business days after the day on which the finance officer receives the request[~~, is received~~].

(b) If a request for financial information requires an extended time period to research and compile, the county's finance officer [~~of the county~~]shall provide written notice to the county executive that includes:

(i) an explanation for the delay; and

(ii) the date when the information will be provided to the county executive.

[~~(4)~~](3) Nothing in this section may be construed to affect a county auditor's authority under [~~Chapter 19a, County Auditor~~]Chapter 69, County Auditor.

Section 152. Section 17-65-305, which is renumbered from Section 17-53-315 is renumbered and amended to read:

[~~17-53-315~~]17-65-305 (Effective 11/06/25). Actions -- Control and direction.

(1) (a) A county executive may control and direct the prosecution, defense, and settlement of all lawsuits and other actions:

(i) to which the county is a party;

(ii) as to which the county may be required to pay the judgment or the costs of prosecution or defense; or

(iii) as further provided by county ordinance.

(b) If necessary, the county executive may, upon the recommendation of the county or district attorney or if required by court order, employ counsel to:

(i) represent the county in the lawsuit or other action; or

(ii) assist the county attorney or[~~, in a county that does not have a county attorney,~~]the district attorney in conducting those lawsuits or any other actions where the county attorney or district attorney, as the case may be, is authorized by law to act.

(2) If a lawsuit or other action is brought or prosecuted by another elected official or a board or other entity of the county under a statutory duty, that other elected official, board, or other entity may control and direct the lawsuit or other action, consistent with applicable law.

Section 153. Section 17-65-306, which is renumbered from Section 17-53-306 is renumbered and amended to read:

[~~17-53-306~~]17-65-306 (Effective 11/06/25). Warrants -- Authority to draw on treasury.

(1) The county executive may settle and allow all accounts legally chargeable against the county, after examination by the county auditor, and order warrants to be drawn on the county treasurer for those accounts.

(2) Each warrant drawn by order of the county executive on the county treasurer for current expenses during each year shall specify:

(a) the liability for which it is drawn[~~,~~];

(b) when it accrued[~~,~~]; and

(c) the funds from which it is to be paid.

[~~(2)~~](3) Each warrant shall be paid in the order of presentation to the county treasurer.

[~~(3)~~](4) If the money in the county treasury is insufficient to pay a warrant, the county treasurer shall:

(a) register the warrant; and

(b) pay [~~it~~]the warrant in the order of registration.

[~~(4)~~](5) Accounts for county charges of every description shall be presented to the county auditor and county executive to be audited as prescribed in statute.

Section 154. Section 17-65-307, which is renumbered from Section 17-53-317 is renumbered and amended to read:

[~~17-53-317~~]17-65-307 (Effective 11/06/25). Appointment of an individual with advice and consent of county legislative body.

(1) The appointment of [~~a person~~]an individual to fill a position on a board, committee, or similar body whose membership is appointed by the county shall be by the county executive, with the advice and consent of the county legislative body.

[~~(2) (a) As used in this Subsection (2), "interim vacancy period" means:~~]

[~~(i) for a county commission form or expanded county commission form of government, the period of time that:~~]

[~~(A) begins on the day on which a general election described in Section 17-16-6 is held to elect a commission member; and~~]

[~~(B) ends on the day on which the commission member-elect begins the council member's term; or~~]

[~~(ii) for a county executive-council form of government, the period of time that:~~]

[~~(A) begins on the day on which a general election described in Section 17-16-6 is held to elect a county executive; and~~]

[~~(B) ends on the day on which the county executive-elect begins the county executive's term.~~]

[~~(b)~~]

[~~(i)~~](2) (a) (i) A county commission in a county commission form of government, or a county commission in an expanded county commission form of government, may not appoint during an interim period vacancy a manager, a chief executive officer, a chief administrative officer, or a similar position to perform executive and administrative duties or functions.

(ii) Notwithstanding Subsection [~~(2)(b)(i)~~](2)(a)(i):

(A) a county commission in a county commission form of government, or a county commission in an expanded county commission form of government, may appoint an interim manager, a chief executive officer, a chief administrative officer, or a similar position during an interim vacancy period; and

(B) the interim appointee's term shall expire once a new manager, a chief executive officer, a chief administrative officer, or a similar position is appointed by the new administration after the interim vacancy period has ended.

[~~(c)~~](b) Subsection [~~(2)(b)~~](2)(a) does not apply if all the county commission members who held office on the day of the county general election whose term of office was vacant for the election are re-elected to the county commission for the following term.

[~~(d)~~](c) (i) A county executive in a county executive-council form of government may not appoint during an interim vacancy period a manager, a chief executive officer, a chief administrative officer, or a similar position to perform executive and administrative duties or functions.

(ii) Notwithstanding Subsection [~~(2)(d)(i)~~](2)(c)(i):

(A) a county executive in a county executive-council form of government may appoint an interim manager, a chief executive officer, a chief administrative officer, or a similar position during an interim vacancy period; and

(B) the interim appointee's term shall expire once a new manager, a chief executive officer, a chief administrative officer, or a similar position is appointed by the new county executive after the interim vacancy period has ended.

[~~(e)~~](d) Subsection [~~(2)(d)~~](2)(c) does not apply if the county executive who held office on the day of the county general election is re-elected to the office of county executive for the following term.

(3) A county commission in a county commission form of government, a county commission in an expanded county commission form of government, or a county executive in a county executive-council form of government that appoints a manager, a chief executive officer, a chief administrative officer, or a similar position in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager, chief executive officer, chief administrative officer, or similar position.

Section 155. Section 17-65-308, which is renumbered from Section 17-53-312 is renumbered and amended to read:

[~~17-53-312~~]17-65-308 (Effective 11/06/25). County resource development committee -- Membership -- Term -- Compensation and expenses -- Duties.

(1) (a) A county executive may, with the advice and consent of the county legislative body, appoint a county resource development committee of three or more members, at least one of which shall be a member of the county legislative body.

(b) Each member of a county resource development committee shall be a resident of the county.

(2) (a) The term of each member of a county resource development committee shall be two years and until a successor has been appointed.

(b) The legislative body of each county with a county resource development committee shall provide by ordinance for the filling of a vacancy in the membership of the committee and for the removal of a member for nonperformance of duty or misconduct.

(3) (a) Each member shall serve without compensation.

(b) The county legislative body may reimburse a member for actual expenses incurred in performing the member's duties and responsibilities on the committee, upon presentation of proper receipts and vouchers.

(4) The committee may elect such officers from its members as it considers appropriate and may, with the consent and approval of the

county legislative body, employ an executive director for the committee.

(5) The committee shall:

(a) assist in promoting the development of the county's mineral, water, manpower, industrial, historical, cultural, and other resources; and

(b) make such recommendations to the county for resource development as the committee considers advisable.

(6) The county executive may cooperate and enter into contracts with municipalities, local communities, other counties, and the state for the purpose of promoting the development of the economic, historical, and cultural resources of the county.

Section 156. Section 17-65-401, which is renumbered from Section 17-53-307 is renumbered and amended to read:

PART 4. County Assets and Contracts

[~~17-53-307~~]17-65-401 (Effective 11/06/25). County purchasing agent.

(1) [~~The county executive, with the advice and consent of the county legislative body, in each~~]In a county having a taxable value in excess of $500,000,000, the county executive may, with the advice and consent of the county legislative body, appoint a county purchasing agent.

(2) (a) The purchasing agent shall qualify by taking, subscribing, and filing the constitutional oath.

(b) The county shall obtain crime insurance:

(i) in an amount set by the county legislative body, in relation to the duties of the purchasing agent; and

(ii) before the purchasing agent begins fulfilling the duties of the purchasing agent.

(3) (a) The county purchasing agent shall, under the direction and supervision of the county executive and except as provided in Subsection (3)(b):

(i) negotiate for the purchase of or contract for all supplies and materials required by the county;

(ii) submit all contracts and purchases negotiated by the purchasing agent under Subsection (3)(a)(i) to the county executive for approval and ratification;

(iii) keep an accurate and complete record of all purchases and a detailed disposition of the purchases; and

(iv) when required by the county legislative body, make a complete and detailed report to the county legislative body of business transacted.

(b) Subject to Subsection (3)(c), the county executive may structure the county purchasing agent's office so that:

(i) the county purchasing agent's office is physically located within the county auditor's office; and

(ii) the county purchasing agent receives direction and supervision from the county auditor.

(c) The county executive:

(i) may not structure the county purchasing agent's office as described in Subsection (3)(b) unless:

(A) the county executive receives the advice and consent of the county [~~council~~]legislative body; and

(B) the county executive and county auditor agree, in writing, to the proposed structure, including the level of direction and supervision of the county purchasing agent retained by the county executive; and

(ii) shall maintain the level of direction and supervision over the county purchasing agent as agreed upon with the county auditor.

(4) The county executive may exclude from the purchasing agent's responsibility a county clerk's duties concerning elections or a sheriff's duties under Section [~~17-22-8~~]17-72-501.

Section 157. Section 17-65-402, which is renumbered from Section 17-53-313 is renumbered and amended to read:

[~~17-53-313~~]17-65-402 (Effective 11/06/25). Hiring of professional architect, engineer, or surveyor -- Higher education entity restrictions.

(1) Notwithstanding the adoption of some or all of the provisions of Title 63G, Chapter 6a, Utah Procurement Code, under Section [~~17-53-225~~]17-63-506, each county executive that engages the services of a professional architect, engineer, or surveyor and considers more than one such professional for the engagement:

[~~(1)~~](a) shall consider, as a minimum, in the selection process:

[~~(a)~~](i) the qualifications, experience, and background of each firm submitting a proposal;

[~~(b)~~](ii) the specific individuals assigned to the project and the time commitments of each to the project; and

[~~(c)~~](iii) the project schedule and the approach to the project that the firm will take; and

[~~(2)~~](b) may engage the services of a professional architect, engineer, or surveyor based on the criteria under Subsection (1) rather than solely on lowest cost.

(2) When a county elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of the county's competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to the county's competitive procurement process; and

(b) the county may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

Section 158. Section 17-65-403, which is renumbered from Section 17-53-309 is renumbered and amended to read:

[~~17-53-309~~]17-65-403 (Effective 11/06/25). Approval of cost-increase changes in plans and specifications -- Delegation.

(1) If the county executive adopts plans and specifications for the alteration, construction, or repair of any public building or other public structure, the plans and specifications may not be altered or changed in any manner that would increase the cost of altering, constructing, or repairing the building or structure, unless the county executive approves the alteration or change in the plans and specifications.

(2) The county executive may adopt policies and procedures to delegate authority to approve alterations or changes in plans and specifications to a county employee, including the county engineer, architect, surveyor, or director of the department or division responsible for the work.

Section 159. Section 17-65-404, which is renumbered from Section 17-53-310 is renumbered and amended to read:

[~~17-53-310~~]17-65-404 (Effective 11/06/25). Changes or alterations in contract -- Liability of county.

(1) If the county executive enters into a contract for the construction, alteration, or repair of any public building or other public

structure, the contract may be altered or changed only if the alteration or change is within the general scope of the contract.

(2) If [~~a~~]the county executive makes a change or alteration [~~in~~]to the contract [~~is made~~], as described in Subsection (1):

(a) the particular change or alteration shall be specified in writing; and

(b) the increase or decrease in cost due to the change or alteration shall be established by the county executive according to either:

(i) the provisions of the contract; or

(ii) established principles of the construction industry.

(3) (a) The county executive may adopt policies and procedures to delegate authority for approval of changes or alterations in the contract to a county employee, including the county engineer, architect, surveyor, or director of the department or division responsible for the work.

(b) Unless the requirements of this section are met, the county is not liable for any extra work done on the buildings or public structures.

Section 160. Section 17-65-405, which is renumbered from Section 17-53-311 is renumbered and amended to read:

[~~17-53-311~~]17-65-405 (Effective 11/06/25). Contracting for management, maintenance, operation, or construction of county jails.

(1) (a) With the approval of the sheriff, a county executive may contract with private contractors for management, maintenance, operation, and construction of county jails.

(b) A county executive may include a provision in the contract that allows use of a building authority created under the provisions of Title 17D, Chapter 2, Local Building Authority Act, to construct or acquire a jail facility.

(c) A county executive may include a provision in the contract that requires that any county jail facility meet any federal, state, or local standards for the construction of jails.

(2) If a county executive contracts only for the management, maintenance, or operation of a county jail, the county executive shall include provisions in the contract that:

(a) require the private contractor to post a performance bond in the amount set by the county legislative body;

(b) establish training standards that shall be met by county jail personnel;

(c) require the private contractor to provide and fund training for county jail personnel so that the county jail personnel meet the standards established in the contract and any other federal, state, or local standards for the operation of jails and the treatment of jail prisoners;

(d) require the private contractor to indemnify the county for errors, omissions, defalcations, and other activities committed by the private contractor that result in liability to the county;

(e) require the private contractor to show evidence of liability insurance protecting the county and its officers, employees, and agents from liability arising from the construction, operation, or maintenance of the county jail, in an amount not less than those specified in Title 63G, Chapter 7, Governmental Immunity Act of Utah;

(f) require the private contractor to:

(i) receive all prisoners committed to the county jail by competent authority; and

(ii) provide them with necessary food, clothing, and bedding in the manner prescribed by the governing body; and

(g) prohibit [~~the use of inmates by~~]the private contractor from using inmates for private business purposes of any kind.

(3) A contractual provision requiring the private contractor to maintain liability insurance in an amount not less than the liability limits established by Title 63G, Chapter 7, Governmental Immunity Act of Utah, may not be construed as waiving the limitation on damages recoverable from a governmental entity or its employees established by that chapter.

Section 161. Section 17-66-101 is enacted to read:

CHAPTER 66. County Officers and Officials Generally

PART 1. General Provisions

17-66-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Compensation" means:

(a) salary, including salary paid under a contract;

(b) a budgeted bonus or budgeted incentive pay;

(c) a vehicle allowance; and

(d) deferred salary.

(2) "Compensation increase" means an increase in any item of compensation listed in Subsection (1).

(3) "County office" means an office enumerated in Section 17-66-102 that is required to be filled by an election.

(4) "County officer" means an elected official enumerated in Section 17-66-102.

(5) "Governing body" means, respectively:

(a) a county commission;

(b) a county council and county executive; or

(c) a county council and county manager.

(6) "Legislative body" means the same as that term is defined in Section 17-64-101.

Section 162. Section 17-66-102, which is renumbered from Section 17-53-101 is renumbered and amended to read:

[~~17-53-101~~]17-66-102 (Effective 11/06/25). County officers enumerated.

[~~(1)~~] The elected officers of a county are:

[~~(a)~~](1) [~~(i)~~](a) in a county operating under a county commission, as described in Section 17-62-201, or expanded county commission form of government, as described in Section 17-62-202, each county commission [~~members~~]member; or

[~~(ii)~~](b) in a county operating under [~~one of the other forms of county government under Subsection 17-52a-405(1)(a)~~]a county

executive-council form of government, as described in Section 17-62-203, or a council-manager form of government, as described in Section 17-62-204, the county legislative body members and the county executive;

(2) the county assessor, with powers and duties described in Chapter 67, County Assessor;

(3) the county attorney and a district attorney in a county which is part of a prosecution district, with powers and duties described in Chapter 68, County and District Attorney;

(4) the county auditor, with powers and duties described in Chapter 69, County Auditor;

(5) the county clerk, with powers and duties described in Chapter 70, County Clerk;

(6) the county recorder, with powers and duties described in Chapter 71, County Recorder;

(7) the county sheriff, with powers and duties described in Chapter 72, County Sheriff;

(8) the county surveyor, with powers and duties described in Chapter 73, County Surveyor; and

(9) the county treasurer, with powers and duties described in Chapter 74, County Treasurer.

[~~(b) a county treasurer, a sheriff, a county clerk, a county auditor, a county recorder, a county attorney, a district attorney in a county which is part of a prosecution district, a county surveyor, and a county assessor; and~~]

[~~(c) any others provided by law.~~]

[~~(2) Notwithstanding Subsection (1), in counties having a taxable value of less than $100,000,000 the county clerk shall be ex officio auditor of the county and shall perform the duties of the office without extra compensation.~~]

Section 163. Section 17-66-103, which is renumbered from Section 17-16-9 is renumbered and amended to read:

[~~17-16-9~~]17-66-103 (Effective 11/06/25). Officers at county seats -- Office hours.

(1) (a) The elected county officers of a county, except a county with a population of less than 8,000, shall have offices at the county seat.

(b) A county legislative body may authorize [~~the elected~~]county officers [~~of the county~~]to maintain additional office space at a location within the county that is not at the county seat.

(c) The county shall furnish an office, furniture, and necessary supplies for a county officer.

(2) (a) In all counties, the clerk, sheriff, recorder, auditor, treasurer, assessor, and county attorney shall keep office space open for the transaction of business as authorized by resolution of the county legislative body.

(b) If the [~~county~~]legislative body does not authorize hours of operation for Saturdays, then the hours served by [~~the~~]county employees [~~of the county may not be less than under their present schedule~~]shall be set by:

(i) the county legislative body; or

(ii) personnel policies governing county employees made in accordance with the provisions of this title.

(c) (i) Any act authorized, required, or permitted to be performed at or by, or with respect to, any county office on a Saturday when the county office is closed, may be performed on the next business day.

(ii) No liability or loss of rights of any kind may result from the delay described in Subsection (2)(c)(i).

Section 164. Section 17-66-104, which is renumbered from Section 17-16-3 is renumbered and amended to read:

[~~17-16-3~~]17-66-104 (Effective 11/06/25). Consolidation of county offices -- County clerk to perform duties of county auditor under certain circumstances.

(1) A [~~county~~]legislative body may, unless prohibited by Subsection (2), pass an ordinance that:

(a) consolidates county offices and establishes the duties of [~~those~~]consolidated county offices;

(b) separates any previously consolidated offices and reconsolidates [~~them~~]county offices; or

(c) separates any previously consolidated county offices without reconsolidating them.

(2) A [~~county~~]legislative body may not:

(a) consolidate the offices of county commissioner, county council member, or county treasurer with the office of county auditor;

(b) consolidate the office of county executive with the office of county auditor, unless a referendum approving that consolidation passes; or

(c) consolidate the offices of county commissioner, county council member, county executive, county assessor, or county auditor with the office of county treasurer.

(3) Each [~~county~~]legislative body shall ensure that any ordinance consolidating or separating county offices:

(a) is enacted before [~~the~~]November 1 of the year before the year in which county officers are elected; and

(b) takes effect on the first Monday in January after the year in which county officers are elected.

(4) (a) Each [~~county~~]legislative body shall:

(i) enact an ordinance by February 1, 2010, separating any county offices that are prohibited from consolidation by this section; and

(ii) publish, by February 15, 2010, a notice once in a newspaper of general circulation in the county identifying the county offices that will be filled in the November 2010 election.

(b) [~~(i)~~] If a [~~county~~]legislative body has, by February 1, 2006, enacted an ordinance, in compliance with this Subsection (4) then in effect, separating county offices that are prohibited from consolidation by this section, the [~~county~~]legislative body may repeal that ordinance.

[~~(ii) If a county legislative body has published notice in a newspaper identifying the county offices that will be filled in the November 2006 election, and that notice, because of a repeal of an ordinance under Subsection (4)(b)(i), is incorrect, the county legislative body shall publish notice once in a newspaper of general circulation in the county indicating that the previous notice was incorrect and correctly identifying the county offices that will be filled in the November 2006 election.~~]

(5) Notwithstanding the provisions of this section and Section 17-66-102, in counties having a taxable value of less than $100,000,000, the county clerk shall be ex officio county auditor and shall perform the duties of the office without extra compensation.

Section 165. Section 17-66-105, which is renumbered from Section 17-16-11 is renumbered and amended to read:

[~~17-16-11~~]17-66-105 (Effective 11/06/25). Crime insurance for county officers.

(1) As used in this section, "county officials" means:

(a) [~~the members of the county legislative body;~~]a county officer enumerated in Section 17-66-102;

(b) a deputy or assistant of a county officer enumerated in Section 17-66-102, if the county legislative body requires the deputy or assistant to obtain crime insurance;

[~~(b) the county executive;~~]

[~~(c) the county clerk;~~]

[~~(d) the county auditor;~~]

[~~(e) the county sheriff;~~]

[~~(f) the county attorney;~~]

[~~(g) in a county that is within a prosecution district, the district attorney;~~]

[~~(h) the county recorder;~~]

[~~(i) the county assessor;~~]

[~~(j) the county surveyor;~~]

[~~(k)~~](c) each justice court judge [~~and constable~~]within the county; and

(d) each constable appointed or contracted within the county, as described in Chapter 78, Part 6, Constables.

[~~(l) the county treasurer; and~~]

[~~(m) a deputy or assistant of an individual described in Subsections (1)(a) through (l) whom the county legislative body requires to obtain crime insurance.~~]

(2) (a) Except as provided in Subsection (2)(b):

(i) the legislative body [~~of each county~~]shall set the amount of crime insurance to be acquired for county officials; and

(ii) a county official may not discharge the duties of the county official's office before obtaining the crime insurance described in Subsection (2)(a)(i).

(b) The State Money Management Council created in Section 51-7-16 shall set the amount of crime insurance required for the county treasurer.

(c) The county treasurer may not discharge the duties of the county treasurer's office before obtaining the crime insurance described in Subsection (2)(b).

(3) A [~~county~~]legislative body may acquire crime insurance on all county officials as a group rather than individually.

(4) The cost of a crime insurance policy shall be paid from county funds.

(5) The county clerk shall maintain proof of the crime insurance described in this section.

(6) (a) The district attorney of each multicounty prosecution district shall:

(i) obtain crime insurance in the amount specified in the interlocal agreement that created the prosecution district; and

(ii) file proof of the crime insurance policy with the county clerk as specified in the interlocal agreement.

(b) The cost of a crime insurance policy described in Subsection (6)(a) shall be paid as specified in the interlocal agreement that created the prosecution district.

Section 166. Section 17-66-106, which is renumbered from Section 17-16-8 is renumbered and amended to read:

[~~17-16-8~~]17-66-106 (Effective 11/06/25). County officer deputies -- Powers, duties, and liabilities of county officer deputies.

(1) A county officer may appoint one or more deputies in accordance with the requirements of Section 17-75-201.

(2) Whenever the [~~official name~~]title of [~~any principal~~]a county officer is used in any law conferring powers or imposing duties or liabilities[~~, it~~], the title of the county officer includes the county officer's deputies.

Section 167. Section 17-66-201, which is renumbered from Section 17-16-1 is renumbered and amended to read:

PART 2. Qualifications and Term

[~~17-16-1~~]17-66-201 (Effective 11/06/25). Eligibility and residency requirements for county office -- Election of county officer to consolidated office.

(1) An individual filing a declaration of candidacy for a [~~county, district, precinct, or prosecution district office~~]county officer enumerated in Section 17-66-102 or any other county elected official established by law shall:

(a) be a United States citizen;

(b) except as provided in Section 20A-1-509.2 with respect to the office of county attorney or district attorney, as of the date of the election, have been a resident for at least one year of the county, district, precinct, or prosecution district in which the individual seeks office;

(c) be a registered voter in the county, district, precinct, or prosecution district in which the individual seeks office; and

(d) if the individual is filing a declaration of candidacy for the office of county auditor in a county of the first class, meet the qualifications described in Section [~~17-19a-201.5~~]17-69-202.

(2) (a) A county, district, precinct, or prosecution district officer shall maintain residency within the county, district, precinct, or prosecution district in which the officer was elected during the officer's term of office.

(b) If a county, district, precinct, or prosecution district officer establishes the officer's principal place of residence as provided in Section 20A-2-105 outside the county, district, precinct, or prosecution district in which the officer was elected, the office is automatically vacant.

(3) When county offices are consolidated, as described in Section 17-66-104:

(a) only one individual shall be elected to fill the consolidated offices; and

(b) the individual elected shall:

(i) take the oath required for each of the offices;

(ii) obtain the crime insurance required for each of the offices, as established under Section 17-66-105; and

(iii) discharge all the duties of each of the offices.

Section 168. Section 17-66-202, which is renumbered from Section 17-16-6 is renumbered and amended to read:

[~~17-16-6~~]17-66-202 (Effective 11/06/25). County officers -- Time of holding elections -- County commissioners -- Terms of office.

(1) Except as otherwise provided in an optional plan adopted under [~~Chapter 52a, Changing Forms of County Government~~]Chapter 62, Forms of County Government:

(a) each elected county officer shall be elected at the regular general election every four years in accordance with Section 20A-1-201, except as otherwise provided in this title;

(b) county commissioners shall be elected at the times, in the manner, and for the terms provided in Section [~~17-52a-201~~]17-62-201; and

(c) an elected officer shall hold office for the term for which the officer is elected, beginning at noon on the first Monday in January following the officer's election and until a successor is elected or appointed and qualified, except as provided in Section [~~17-16-1~~]17-66-201.

(2) (a) The terms of county officers shall be staggered in accordance with this Subsection (2).

(b) Except as provided in Subsection (2)(c), in the 2014 general election:

(i) the following county officers shall be elected to one six-year term and thereafter elected to a four-year term:

(A) county treasurer;

(B) county recorder;

(C) county surveyor; and

(D) county assessor; and

(ii) all other county officers shall be elected to a four-year term.

(c) If a county legislative body consolidates two or more county offices in accordance with Section [~~17-16-3~~]17-66-104, and the consolidated offices are on conflicting election schedules, the county legislative body shall pass an ordinance [~~that sets~~]setting the election schedule for the consolidated offices in a reasonable manner that staggers the terms of county officers as provided in this Subsection (2).

(3) An individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(4) The restriction described in Subsection (3) applies regardless of whether the individual is elected to the office or appointed to fill a vacancy in the office.

Section 169. Section 17-66-203, which is renumbered from Section 17-16-12 is renumbered and amended to read:

[~~17-16-12~~]17-66-203 (Effective 11/06/25). Business to be finished before expiration of term -- Vacancy in a county office.

(1) It shall be the duty of all county officers [~~in this title named~~]to complete the business of [~~their~~]the county officer's respective [~~offices~~]office to the time of the expiration of [~~their~~]the county officer's respective [~~terms, and in case an~~]term.

(2) If a county officer, at the close of the county officer's term[~~, shall leave~~], leaves to the county officer's successor official labor to be performed for which the preceding county officer has received compensation or which it was the preceding county officer's duty to perform, the preceding county officer shall be liable to pay the [~~officer's successor~~]county the full value of [~~such~~]the service.

(3) Except as provided in Section 17-68-203, a vacancy in a county office shall be filled as provided in Section 20A-1-508.

Section 170. Section 17-66-204, which is renumbered from Section 17-16-10.5 is renumbered and amended to read:

[~~17-16-10.5~~]17-66-204 (Effective 11/06/25). Failure to perform duties constitutes malfeasance in office -- Felony charges arising from official duties -- Paid administrative leave -- Reassignment of duties.

(1) The failure of [~~an elected~~]a county officer or prosecution district officer[~~, substantially~~], as described in Chapter 68, County and District Attorney, to substantially perform the officer's official duties constitutes malfeasance in office under Section 77-6-1.

(2) (a) If [~~an elected~~]a county officer or prosecution district officer is charged with the commission of a felony arising from conduct related to the county officer's or district officer's official duties, the officer shall be placed on paid administrative leave by the county legislative body until:

(i) the charges are dismissed or the officer is acquitted, at which time the officer shall be entitled to return to office, unless the officer's term of office has in the meantime expired; or

(ii) the officer is convicted of a felony or attempt to commit a felony arising from conduct related to the officer's official duties, in which case the sentencing judge shall order the officer removed from office.

(b) A conviction or a plea of guilty or nolo contendere, relating to a felony charge described in Subsection (2)(a), constitutes malfeasance in office for purposes of Section 77-6-1.

(c) Entry of a plea in abeyance is the equivalent of a conviction for purposes of Subsection (2)(a)(ii), even if the charge is later dismissed pursuant to a plea in abeyance agreement.

(d) The provisions under this Subsection (2) for the removal of a county or prosecution district officer are in addition to and do not replace or supersede the removal provisions under Title 77, Chapter 6, Removal by Judicial Proceedings.

(3) (a) During the time that [~~an elected~~]a county officer or prosecution district officer is on paid administrative leave under Subsection (2), the officer's duties may, except as provided in Subsection (3)(c), be temporarily:

(i) reassigned to another officer by the county legislative body; or

(ii) performed by [~~a person~~]an individual employed for [~~that~~]the purpose of fulfilling the officer's duties while the officer is on paid administrative leave.

(b) For purposes of Subsection (3)(a) with respect to a prosecution district officer in a multi-county prosecution district, "county legislative body" means the legislative bodies of all counties included in the prosecution district.

(c) A reassignment under Subsection (3)(a) may not result in the same [~~person~~]individual exercising the duties of:

(i) both a county legislative body member or county treasurer and county auditor; or

(ii) both a county executive and county auditor.

Section 171. Section 17-66-205 is enacted to read:

17-66-205 (Effective 11/06/25). Candidates to comply with conflict of interest disclosures.

A candidate for county office or local school board office shall comply with the requirements of Section 17-70-304.

Section 172. Section 17-66-206 is enacted to read:

17-66-206 (Effective 11/06/25). Qualifications not exhaustive.

The qualifications for a county office described in this part are not exhaustive.

Section 173. Section 17-66-301, which is renumbered from Section 17-53-103 is renumbered and amended to read:

PART 3. Fiscal Duties

[~~17-53-103~~]17-66-301 (Effective 11/06/25). Unauthorized payment or warrant -- Investigation by another county attorney -- Action to enjoin or recover payment.

(1) (a) If a county officer, without authority of law, orders any money paid for any purpose, or if any other county officer draws a warrant in the county officer's own favor or in favor of any other person without being authorized by the county legislative body or by law, the county attorney of that county shall request a county attorney from another county to investigate whether an unauthorized payment has been ordered or an unauthorized warrant drawn.

(b) If the county attorney requests a county attorney from another county to investigate under Subsection (1)(a), the county attorney shall deputize the investigating county attorney.

(2) If an investigating county attorney determines that an unauthorized payment has been ordered or that an unauthorized warrant has been drawn, that county attorney may commence and prosecute an action in the name of the county:

(a) if the payment has not been made or the warrant paid, to enjoin the payment of the unauthorized payment or of the unauthorized warrant; or

(b) if the payment has been made or the warrant paid:

(i) to the extent possible, to recover the amount from the payee or the county officer; or

(ii) to the extent applicable, to recover the amount in accordance with the applicable crime insurance policy.

(3) An order of the county legislative body is not necessary in order to maintain an action under Subsection (2).

Section 174. Section 17-66-302, which is renumbered from Section 17-53-105 is renumbered and amended to read:

[~~17-53-105~~]17-66-302 (Effective 11/06/25). Deposit of money in treasury.

Each county officer who collects any money on behalf of the county shall as rapidly as [~~it~~]the money is collected deposit [~~it~~]the money into the county treasury.

Section 175. Section 17-66-303, which is renumbered from Section 17-16-21 is renumbered and amended to read:

[~~17-16-21~~]17-66-303 (Effective 11/06/25). Fees of county officers.

(1) As used in this section, "county officer" means a county officer enumerated in Section [~~17-53-101~~]17-66-102 except a county recorder, a county constable, or a county sheriff.

(2) (a) A county officer shall collect, in advance, for exclusive county use and benefit:

(i) a fee established by the county legislative body under Section [~~17-53-211~~]17-63-707; and

(ii) any other fee authorized or required by law.

(b) As long as the Children's Legal Defense Account is authorized by Section 51-9-408, the county clerk shall:

(i) assess $10 in addition to whatever fee for a marriage license is established under authority of this section; and

(ii) transmit $10 from each marriage license fee to the Division of Finance for deposit into the Children's Legal Defense Account.

(c) (i) As long as the Division of Child and Family Services, created in Section 80-2-201, has the responsibility under Section 80-2-301 to provide services, including temporary shelter, for victims of domestic violence, the county clerk shall:

(A) collect $10 in addition to whatever fee for a marriage license is established under authority of this section and in addition to the amount described in Subsection (2)(b), if an applicant chooses, as provided in Subsection (2)(c)(ii), to pay the additional $10; and

(B) to the extent actually paid, transmit $10 from each marriage license fee to the Division of Finance for distribution to the Division of Child and Family Services for the operation of shelters for victims of domestic violence.

(ii) (A) The county clerk shall provide a method for an applicant for a marriage license to choose to pay the additional $10 referred to in Subsection (2)(c)(i).

(B) An applicant for a marriage license may choose not to pay the additional $10 referred to in Subsection (2)(c)(i) without affecting the applicant's ability to be issued a marriage license.

(d) If a county operates an online marriage application system, the county clerk of that county:

(i) may assess $20 in addition to the other fees for a marriage license established under this section;

(ii) except as provided in Subsection (2)(d)(iii), shall transmit $20 from the marriage license fee to the state treasurer for deposit annually as follows:

(A) the first $400,000 shall accrue to the Utah Marriage Commission, created in Title 63M, Chapter 15, Utah Marriage Commission, as dedicated credits for the operation of the Utah Marriage Commission; and

(B) proceeds in excess of $400,000 shall be deposited into the General Fund; and

(iii) may not transmit $20 from the marriage license fee to the state treasurer under this Subsection (2)(d) if both individuals seeking the marriage license certify that they have completed premarital counseling or education in accordance with Section 81-2-206.

(3) This section does not apply to a fee currently being assessed by the state but collected by a county officer.

Section 176. Section 17-66-304, which is renumbered from Section 17-53-224 is renumbered and amended to read:

[~~17-53-224~~]17-66-304 (Effective 11/06/25). Rewards for information that assists with law enforcement.

(1) (a) A county legislative body may appropriate funds from the county treasury for the offering and payment of rewards for information which directly assists in the enforcement of law and protection of county property.

(b) The offering and payment of rewards shall be made under conditions and limitations as established by the county legislative body.

(2) With the prior approval of the county legislative body, any county officer or county agency may offer rewards to the same extent and for the same purposes authorized by Subsection (1).

Section 177. Section 17-66-401, which is renumbered from Section 17-16-14 is renumbered and amended to read:

PART 4. Salaries of County Officers

[~~17-16-14~~]17-66-401 (Effective 11/06/25). Salaries of county officers to be fixed by county legislative body.

(1) The annual salaries of [~~the officers of all counties in the state shall be fixed by the respective county~~]county officers shall be set by the respective county[]legislative bodies, subject to the requirements of this [~~section~~]part.

(2) (a) As used in this Subsection (2),[~~:~~]

[~~(i) "Compensation" means:~~]

[~~(A) salary, including salary paid under a contract;~~]

[~~(B) a budgeted bonus or budgeted incentive pay;~~]

[~~(C) a vehicle allowance; and~~]

[~~(D) deferred salary.~~]

[~~(ii) "Compensation increase" means an increase in any item of compensation listed in Subsection (2)(a)(i).~~]

[~~(iii) "Executive~~]"executive county officer" means:

[~~(A)~~](i) the county manager or chief administrative officer;

[~~(B)~~](ii) the assistant county manager or assistant county chief administrative officer;

[~~(C)~~](iii) an individual who is the head or chief of a county department or division;

[~~(D)~~](iv) an individual who is the chief assistant or deputy of an individual described in Subsection [~~(2)(a)(iii)(C)~~](2)(a)(iii); or

[~~(E)~~](v) in a county of the first class with a county executive-council form of government under Section [~~17-52a-203~~]17-62-203, an individual appointed by the county executive to a position requiring the advice and consent of the county legislative body, as provided by county ordinance.

(b) Before a county legislative body may adopt a final budget or a final amended budget that includes a compensation increase for an executive county officer, the county legislative body shall:

(i) hold a public hearing on the compensation increase; and

(ii) publish notice of the time, place, and purpose of the public hearing:

(A) for at least seven days before the date of the public hearing; and

(B) as a class A notice under Section 63G-30-102.

(c) A public hearing under Subsection (2)(b)(i):

(i) shall be held separate from any other public hearing; and

(ii) may be held the same day as another public hearing, including immediately before or after the other public hearing.

(3) The salaries of county officers shall be paid monthly, semi-monthly, or bi-weekly, as determined by the county legislative body, out of the county general fund or, if applicable, the county salary fund.

Section 178. Section 17-66-402, which is renumbered from Section 17-16-19 is renumbered and amended to read:

[~~17-16-19~~]17-66-402 (Effective 11/06/25). Salaries to be full compensation -- Compensation for deputies.

(1) [~~The salaries herein provided for~~]The salary of a county officer set by a county legislative body as described in this part shall be full compensation for all services of every kind and description rendered by the [~~officers named herein; and~~]county officer.

(2) [~~where deputies or assistants have been allowed to any such officers~~]If a county officer has a deputy or other assistant, the salary of [~~any~~]the deputy or assistant shall be:

(a) fixed by the county legislative body[~~,~~]; and

(b) [~~shall be~~]a county charge.

Section 179. Section 17-66-403, which is renumbered from Section 17-16-20 is renumbered and amended to read:

[~~17-16-20~~]17-66-403 (Effective 11/06/25). Salaries in case of consolidated offices.

Whenever the county legislative body [~~shall combine~~]consolidates the duties of any county officers, as described in Section 17-66-104, the salary of the [~~person~~]individual discharging the duties of [~~such offices~~]the consolidated offices shall be fixed at a sum not exceeding the highest salary paid to either of the county officers whose offices are so [~~combined, in addition to~~]consolidated, plus:

(1) an amount not exceeding one-half of the salary fixed for the [~~other~~]second county officer, when only two offices are [~~combined,~~]consolidated; or

(2) when more than two county offices are [~~combined~~]consolidated, [~~in addition to such highest salary,~~] one-third of the combined salaries of [~~such~~]the other county officers.

Section 180. Section 17-66-404, which is renumbered from Section 17-16-17 is renumbered and amended to read:

[~~17-16-17~~]17-66-404 (Effective 11/06/25). Change of county class effect on salaries -- Salaries for new counties.

(1) If the taxable value of any existing county has been reduced below or raised above the class and rank first assumed, the county legislative body of the county shall designate the class to which the county has been reduced or raised, and the county is in that class, and the salaries of county officers shall be adjusted on or before January 1 next succeeding by the county legislative body, but in no event may the salaries be reduced for the term for which the county officers were elected and are qualified.

(2) The county legislative body in a newly created county shall, at [~~its~~]the county legislative body's first meeting after the organization of the county, for the purpose of fixing salaries and compensation of county officers, [~~determine to which class the county belongs, and~~]fix the salaries for the first term of the officers [~~accordingly~~]according to the class of county to which the new county belongs.

Section 181. Section 17-66-501 is enacted to read:

PART 5. Provisions Applicable to Legislative Officers and County Executives

17-66-501 (Effective 11/06/25). Applicability.

(1) This part applies to members of the county legislative body and the county executive.

(2) The definition of appointed officer in Section 17-75-101 does not have the effect of making an appointed individual or employee a county officer.

Section 182. Section 17-66-502, which is renumbered from Section 17-16-16 is renumbered and amended to read:

[~~17-16-16~~]17-66-502 (Effective 11/06/25). Commissioner traveling expenses.

(1) The members of the board of county commissioners may not receive any compensation in addition to that provided in Section [~~17-16-14~~]17-66-401 for any special or committee work, but, subject to Subsection (2), each [~~member~~]commissioner shall receive travel expenses for attending the regular and special sessions of the board and in the discharge of necessary duties, in accordance with Section 11-55-103.

(2) Before receiving travel expenses described in Subsection (1), the [~~member~~]commissioner shall:

(a) submit an itemized statement showing in detail the expenses incurred; and

(b) subscribe and swear to the statement described in Subsection (2)(a).

Section 183. Section 17-66-503, which is renumbered from Section 17-15-27 is renumbered and amended to read:

[~~17-15-27~~]17-66-503 (Effective 11/06/25). Appointment of legal counsel by county executive and county legislative body.

(1) (a) An elected county executive in a county that has adopted a county executive-council form of county government under [~~Chapter 52a, Changing Forms of County Government~~]Chapter 62, Forms of County Government, may appoint an attorney to advise and represent the county executive.

(b) An attorney appointed under Subsection (1)(a):

(i) serves at the pleasure of the county executive; and

(ii) may not perform any of the functions of a county attorney or district attorney under [~~this title~~]Chapter 68, County and District Attorney, except as provided in this section.

(c) An attorney appointed under this Subsection (1) may represent the county executive in cases and controversies before courts and administrative agencies and tribunals when a conflict exists that precludes the county or district attorney from representing the county executive.

(2) (a) The legislative body of a county that has adopted a county executive-council form of county government under [~~Chapter 52a, Changing Forms of County Government~~]Chapter 62, Forms of County Government, may appoint an attorney to advise and represent the county legislative body.

(b) An attorney appointed under Subsection (2)(a):

(i) serves at the pleasure of the county legislative body; and

(ii) may not perform any of the functions of a county attorney or district attorney under this title, except as provided in this section.

(c) An attorney appointed under this Subsection (2) may represent the county legislative body in cases and controversies before courts and administrative agencies and tribunals when a conflict exists that precludes the county or district attorney from representing the county legislative body.

Section 184. Section 17-66-504, which is renumbered from Section 17-53-106 is renumbered and amended to read:

[~~17-53-106~~]17-66-504 (Effective 11/06/25). Supervision of county elected officers -- Legislative body and executive may examine and audit accounts and conduct investigation.

(1) As used in this section, "professional duties" means a county elected officer's functions, duties, and responsibilities specifically provided for by law and includes:

(a) the exercise of professional judgment and discretion reasonably related to the officer's required functions, duties, and responsibilities; and

(b) the management of deputies and other employees under the supervision of the elected officer under statute or county ordinance, policy, or regulation.

(2) (a) A [~~county~~]legislative body and a county executive each:

(i) may generally direct and supervise all elected county officers and employees to ensure compliance with general county administrative ordinances, rules, or policies;

(ii) may not direct or supervise other elected county officers or their sworn deputies with respect to the performance of the professional duties of the officers or deputies;

(iii) may examine and audit the accounts of all county officers having the care, management, collection, or distribution of money belonging to the county, appropriated to the county, or otherwise available for the county's use and benefit; and

(iv) may investigate any matter pertaining to a county officer or to the county or its business or affairs, and may require the attendance of witnesses and take evidence in any such investigation.

(b) In an investigation under Subsection (2)(a)(iv):

(i) the county executive or any member of the [~~county~~]legislative body may issue subpoenas and administer oaths to witnesses; and

(ii) if the county legislative body appoints members of the legislative body as a committee and confers on the committee power to hear or take evidence, the committee shall have the same power as the full [~~county~~] legislative body.

(3) Nothing in this section may be construed to prohibit the county executive or county legislative body from initiating an action for removal or prosecution of an elected county officer as provided by statute.

Section 185. Section 17-66-505, which is renumbered from Section 17-53-318 is renumbered and amended to read:

[~~17-53-318~~]17-66-505 (Effective 11/06/25). Governing body as cooperating agency in federal land planning and regulation.

(1) As used in this section:

(a) "Cooperating agency" means:

(i) a cooperating agency as defined in 43 CFR 1601.0-5; or

(ii) a cooperating agency as defined in 40 CFR 1508.5.

(b) "General plan" means the general plan described in [~~Title 17, Chapter 27a, Part 4, General Plan~~]Chapter 79, Part 4, General Plan.

[~~(c) "Governing body" means, respectively:~~]

[~~(i) a county commission;~~]

[~~(ii) a county council and county executive; or~~]

[~~(iii) a county council and county manager.~~]

(2) A governing body or a person designated by the governing body:

(a) may represent the county as a cooperating agency; and

(b) is considered to have special expertise:

(i) in a matter related to the:

(A) National Environmental Policy Act of 1969, 42 U.S.C. Sec. 4321 et seq.;

(B) Federal Land Policy Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.;

(C) Wilderness Act of 1964, 16 U.S.C. Sec. 1131 et seq.;

(D) Multiple-Use Sustained Yield Act of 1960, 16 U.S.C. Sec. 528 et seq.;

(E) National Forest Management Act of 1976, 16 U.S.C. Sec. 1600 et seq.; or

(F) an energy policy and conservation act amended by the Energy Policy Act of 2005, 42 U.S.C. Sec. 16511 et seq.;

(ii) in a matter related to federal land development and planning, the implementation of a federal resource management plan, and other related federal land management actions;

(iii) regarding whether a federal land development and plan, resource management plan, or other related federal land management action is consistent with an adopted county general plan; and

(iv) on a subject matter for which it has statutory responsibility, including a subject matter related to the health, safety, welfare, custom, culture, or socioeconomic viability of a county.

(3) A county through its governing body or a person designated by the governing body may participate in efforts to coordinate and make consistent the federal agency resource management plan or other related management action with the general plan as provided in:

(a) the Federal Land Policy Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.;

(b) 16 U.S.C. Sec. 1604; or

(c) any other federal law or rule that provides for coordination and consistency with local government plans and policies.

Section 186. Section 17-66-506, which is renumbered from Section 17-53-217 is renumbered and amended to read:

[~~17-53-217~~]17-66-506 (Effective 11/06/25). Commanding services of sheriff.

(1) [~~A county~~]A legislative body may direct the sheriff to serve notices, subpoenas, citations, or other process issued by the legislative body, and to attend in person or by deputy all meetings of the legislative body to preserve order.

(2) The county executive may direct the county sheriff to:

(a) serve notices, subpoenas, citations, or other similar documents issued by the county executive; and

(b) attend in person or by deputy all meetings the county executive conducts to preserve order.

Section 187. Section 17-67-101 is enacted to read:

CHAPTER 67. County Assessor

PART 1. General Provisions

17-67-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "State-certified appraiser" means a state-certified general appraiser or state-certified residential appraiser as those terms are defined in Section 61-2g-102.

(2) "State-licensed appraiser" means the same as that term is defined in Section 61-2g-102.

Section 188. Section 17-67-201, which is renumbered from Section 17-17-2 is renumbered and amended to read:

PART 2. Qualifications

[~~17-17-2~~]17-67-201 (Effective 11/06/25). Assessor to be state qualified -- Vacancy -- Filling vacancy.

[~~(1) As used in this section:~~]

[~~(a) "State-certified appraiser" means a state-certified general appraiser or state-certified residential appraiser as those terms are defined in Section 61-2g-102.~~]

[~~(b) "State-licensed appraiser" means the same as that term is defined in Section 61-2g-102.~~]

[~~(2)~~](1) An individual elected to the office of county assessor shall:

(a) meet the requirements described in Section [~~17-16-1~~]17-66-201; and

(b) (i) except as provided in Subsection [~~(2)(b)(ii)~~](1)(b)(ii), [~~if elected on or after November 1, 1993,~~]become a state-licensed or state-certified appraiser no later than 36 months after the day on which the individual's term of office begins; or

(ii) [~~if elected on or after January 1, 2010,~~]in a county of the first, second, or third class, be a state-licensed or state-certified appraiser before filing a declaration of candidacy for the office of county assessor.

[~~(3)~~](2) The county assessor's office is vacant if:

(a) an assessor fails to meet the requirements described in Subsection [~~(2)~~](1); or

(b) no individual who meets the requirements described in Subsection [~~(2)~~](1) timely files a declaration of candidacy for the office of county assessor.

[~~(4)~~](3) (a) If a vacancy described in Subsection [~~(3)~~](2) occurs, the county legislative body shall fill the vacancy in accordance with Sections [~~17-53-104~~]17-66-203 and 20A-1-508.

(b) The individual who the county legislative body selects to fill the vacancy shall be a state-licensed or state-certified appraiser before

the individual assumes the office of county assessor.

[~~(5)~~](4) If the county legislative body cannot find an individual who meets the requirements described in Subsection [~~(2)~~](1) to fill a vacancy described in Subsection [~~(3)~~](2), the county legislative body may contract with a state-licensed or state-certified appraiser from outside the county to fill the remainder of the county assessor's term of office.

Section 189. Section 17-67-301, which is renumbered from Section 17-17-1 is renumbered and amended to read:

PART 3. Powers and Duties

[~~17-17-1~~]17-67-301 (Effective 11/06/25). Duties of assessor.

[~~(1)~~] The assessor, in cooperation with the State Tax Commission, shall:

[~~(a)~~](1) perform the duties required in Title 59, Chapter 2, Part 13, Collection of Taxes, except those duties that have been reassigned to the treasurer in an ordinance adopted under Section [~~17-16-5.5~~]17-74-102; and

[~~(b)~~](2) perform any other duties required by law.

[~~(2) An assessment shall be collected in accordance with the effective date and boundary adjustment provisions in Subsection 17-2-209(4).~~]

Section 190. Section 17-67-302 is enacted to read:

17-67-302 (Effective 11/06/25). Effective date of boundary changes for assessment.

The county assessor shall conduct and collect an assessment in accordance with the effective date and boundary adjustment provisions in Section 17-61-306.

Section 191. Section 17-68-101, which is renumbered from Section 17-18a-102 is renumbered and amended to read:

CHAPTER 68. County and District Attorney

PART 1. General Provisions

[~~17-18a-102~~]17-68-101 (Effective 11/06/25). Definitions.

(1) "Attorney" means:

(a) a county attorney described in Section [~~17-18a-301~~]17-68-201; or

(b) a district attorney described in Section [~~17-18a-301~~]17-68-201.

(2) "Civil counsel" means the attorney who is exercising the attorney's civil duties for the county.

(3) "Prosecution district" means a district created under [~~Part 7, Prosecution District~~]Part 4, Prosecution District.

Section 192. Section 17-68-102, which is renumbered from Section 17-16-2.5 is renumbered and amended to read:

[~~17-16-2.5~~]17-68-102 (Effective 11/06/25). Creation of Office of the District Attorney.

For each prosecution district created in accordance with [~~Chapter 18a, Part 7, Prosecution District~~]Part 4, Prosecution District, there is created the Office of the District Attorney.

Section 193. Section 17-68-103, which is renumbered from Section 17-18a-204 is renumbered and amended to read:

[~~17-18a-204~~]17-68-103 (Effective 11/06/25). Consolidated office.

Within a prosecution district, the duties and responsibilities of the district attorney and county attorney may be consolidated into one office as provided in Section [~~17-16-3~~]17-66-104.

Section 194. Section 17-68-104, which is renumbered from Section 17-18a-203.5 is renumbered and amended to read:

[~~17-18a-203.5~~]17-68-104 (Effective 11/06/25) (Repealed 07/01/29). District attorney and county attorney data collection for counties of the first, second, and third class -- Report.

(1) The district attorney in a county of the first class, and the county attorney in a county of the second or third class, shall provide a written report to the Law Enforcement and Criminal Justice Interim Committee by May 1, annually, beginning on May 1, 2026, to report data from the prior calendar year.

(2) The annual report required in Subsection (1) shall include the following information, organized by the offense classification, for the cases that were active during the reporting period:

(a) the average amount of taxpayer dollars spent per case, as calculated by the total number of misdemeanors, juvenile adjudications, and felonies, divided by the portion of the attorney's annual budget allocated to prosecution;

(b) the total number of juvenile adjudications, misdemeanors, and felonies;

(c) the total case numbers and individual prosecutor average annual caseload of felonies broken down by sexual offenses, general crimes, and crimes of violence;

(d) the total number of cases categorized by the most serious charge as follows:

(i) cases that were referred to the prosecutor's office by law enforcement but not filed due to insufficient evidence;

(ii) cases that were dismissed after charges were filed;

(iii) cases in which a plea agreement was reached by the parties [~~prior to~~]before the preliminary hearing;

(iv) cases that were dismissed by the court after the preliminary hearing;

(v) cases in which a plea agreement was reached by the parties after the preliminary hearing;

(vi) cases that resulted in a conviction at trial; and

(vii) cases that resulted in an acquittal at trial; and

(e) the average number of days between:

(i) the filing of criminal charges; and

(ii) (A) the delivery of discovery information, including witness statements; or

(B) the first day of trial.

Section 195. Section 17-68-201, which is renumbered from Section 17-18a-301 is renumbered and amended to read:

PART 2. Qualifications

[~~17-18a-301~~]17-68-201 (Effective 11/06/25). County attorney and district attorney serve as county officers -- Eligibility for private practice.

(1) The county attorney is [~~an elected~~]a county officer as described in [~~Section 17-53-101~~]Chapter 66, County Officers and Officials Generally.

(2) (a) If the boundaries of a prosecution district are located entirely within one county, the district attorney of the prosecution district is an elected county officer of that county.

(b) If the boundaries of a prosecution district include more than one county, the interlocal agreement that creates that prosecution district in accordance with Section [~~17-18a-602~~]17-68-305 may designate the district attorney as an elected officer in one or more of the counties in which the prosecution district is located.

(3) The district attorney:

(a) is a full-time employee of the prosecution district; and

(b) may not engage in the private practice of law.

(4) A county attorney may:

(a) serve as a part-time employee; and

(b) engage in the private practice of law, subject to Section [~~17-18a-605~~]17-68-306 and the Rules of Professional Conduct.

Section 196. Section 17-68-202, which is renumbered from Section 17-18a-302 is renumbered and amended to read:

[~~17-18a-302~~]17-68-202 (Effective 11/06/25). Qualifications.

(1) [~~A person~~]An individual filing a declaration of candidacy for the office of county or district attorney shall be:

(a) a United States citizen;

(b) an attorney licensed to practice law in the state;

(c) an active member of the Utah State Bar in good standing;

(d) except as provided in Subsection (2), a registered voter in the county or prosecution district in which the attorney is elected to office; and

(e) except as provided in Subsection (2), as of the date of election, a resident for at least one year of the county or prosecution district in which the [~~person~~]individual seeks office.

(2) [~~A person~~]An individual appointed to the office of county or district attorney in accordance with Section 20A-1-509.2 shall be:

(a) a United States citizen;

(b) an attorney licensed to practice law in the state; and

(c) an active member of the Utah State Bar in good standing.

Section 197. Section 17-68-203, which is renumbered from Section 17-18a-803 is renumbered and amended to read:

[~~17-18a-803~~]17-68-203 (Effective 11/06/25). License suspended -- Vacancy.

(1) [~~If the~~]If a county attorney or district attorney is suspended or disbarred from the practice of law in the state, the county attorney's or district attorney's office is considered vacant immediately upon suspension or disbarment.

(2) A vacancy in the office of county attorney or district attorney shall be filled as provided in Sections 20A-1-509.1, 20A-1-509.2, and 20A-1-509.3.

Section 198. Section 17-68-301, which is renumbered from Section 17-18a-603 is renumbered and amended to read:

PART 3. Powers, Duties, and Prohibitions

[~~17-18a-603~~]17-68-301 (Effective 11/06/25). County and district attorney duties, powers, and functions -- Legislative functions.

(1) The duties, functions, and responsibilities of a county attorney or district attorney, acting as a public prosecutor or as civil counsel, are as provided in this chapter.

(2) The attorney:

[~~(1)~~](a) may review a state statute;

[~~(2)~~](b) shall review each county ordinance;

[~~(3)~~](c) shall call to the attention of the state Legislature or the county legislative body any defect in the operation of the law; and

[~~(4)~~](d) shall suggest and assist the Legislature or county legislative body in presenting an amendment to correct [~~the~~]a defect described in Subsection (2)(c).

(3) The attorney shall perform each duty and responsibility of public prosecutor and civil counsel as provided by statute or ordinance.

Section 199. Section 17-68-302, which is renumbered from Section 17-18a-202 is renumbered and amended to read:

[~~17-18a-202~~]17-68-302 (Effective 11/06/25). County attorney powers and functions.

(1) Except within a county that is located in a prosecution district, the county attorney:

(a) is a public prosecutor for the county; and

(b) shall perform each public prosecutor and civil counsel duty in accordance with this chapter or as otherwise required by law.

(2) In a county that is located within a prosecution district, the county attorney:

(a) is the civil counsel for the county; and

(b) shall perform each civil counsel duty in the county or prosecution district in accordance with this chapter or as otherwise required by law.

Section 200. Section 17-68-303, which is renumbered from Section 17-18a-203 is renumbered and amended to read:

[~~17-18a-203~~]17-68-303 (Effective 11/06/25). District attorney powers and functions.

In a county that is located within a prosecution district, the district attorney:

(1) is a public prosecutor for the county; and

(2) shall perform each public prosecutor duty in accordance with this chapter or as otherwise required by law.

Section 201. Section 17-68-304, which is renumbered from Section 17-18a-601 is renumbered and amended to read:

[~~17-18a-601~~]17-68-304 (Effective 11/06/25). Assistance to the attorney general.

(1) (a) The attorney shall appear and assist the attorney general in criminal and civil legal matters involving the state if:

(i) except as provided in Subsection (1)(b), the attorney general requests assistance; or

(ii) the attorney is required by law to provide assistance.

(b) The attorney is not required to provide, if requested, the attorney general assistance if the attorney's assistance would:

(i) interfere with the attorney's duties and responsibilities to the county; or

(ii) create a conflict of interest.

(c) The attorney shall cooperate with the attorney general in an investigation.

(2) The attorney general shall assist the attorney with a criminal prosecution if a court:

(a) finds that the attorney is unable to satisfactorily and adequately perform the duties of prosecuting a criminal case; and

(b) recommends that the attorney seek additional legal assistance.

Section 202. Section 17-68-305, which is renumbered from Section 17-18a-602 is renumbered and amended to read:

[~~17-18a-602~~]17-68-305 (Effective 11/06/25). Deputy attorneys.

(1) The attorney may employ a deputy attorney to perform the duties of public prosecutor or civil counsel.

(2) (a) Subject to the approval of the county attorney, the district attorney may cross deputize a county deputy attorney as a deputy district attorney.

(b) Subject to the approval of the district attorney, the county attorney may cross deputize a deputy district attorney as a deputy county attorney.

(3) The county attorney may specially deputize, for a limited time or limited purpose, an attorney licensed to practice law in the state and in good standing with the Utah State Bar as a deputy to assist in any public prosecutor or civil counsel duties specified in the special deputization.

Section 203. Section 17-68-306, which is renumbered from Section 17-18a-605 is renumbered and amended to read:

[~~17-18a-605~~]17-68-306 (Effective 11/06/25). Prohibited acts.

(1) Within the state, the attorney may not consult with or otherwise represent a person charged with a crime, misdemeanor, or breach of a criminal statute or ordinance.

(2) A public prosecutor may not prosecute or dismiss in the name of the state a case in which the public prosecutor has previously acted as legal counsel for the accused.

(3) A public prosecutor may not after the filing of an indictment or information and without the consent of the court:

(a) compromise a prosecution; or

(b) enter a plea of nolle prosequi.

Section 204. Section 17-68-401, which is renumbered from Section 17-18a-701 is renumbered and amended to read:

PART 4. Prosecution District

[~~17-18a-701~~]17-68-401 (Effective 11/06/25). Creation of a prosecution district.

A county legislative body may, by ordinance, create a countywide prosecution district.

Section 205. Section 17-68-402, which is renumbered from Section 17-18a-702 is renumbered and amended to read:

[~~17-18a-702~~]17-68-402 (Effective 11/06/25). Multicounty prosecution district.

(1) (a) Subject to Subsection (2), two or more counties, whether [~~or not~~]contiguous, may enter into an agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, to create and maintain a prosecution district.

(b) A prosecution district described in Subsection (1)(a) shall include all of the area within the boundaries of each county party to the agreement.

(2) A county may not enter into an agreement to create a multicounty prosecution district unless each county entering into the agreement is located within a single judicial district, as described in Section 78A-1-102, with the other party counties.

Section 206. Section 17-68-403, which is renumbered from Section 17-18a-703 is renumbered and amended to read:

[~~17-18a-703~~]17-68-403 (Effective 11/06/25). Dissolution of prosecution district.

(1) A county legislative body of a prosecution district [~~described in~~]created under Section [~~17-18a-701~~]17-68-401, or the legislative bodies of multiple counties within a multicounty prosecution district [~~described in Section 17-18a-702~~]created under Section 17-68-402, may not dissolve the prosecution district or multicounty prosecution district, respectively, during the term of office of an elected or appointed district attorney.

(2) Each county legislative body shall ensure that an ordinance dissolving a prosecution district within a single county or an interlocal agreement dissolving a prosecution district within multiple counties:

(a) is enacted before February 1 of the year in which the regular general election, as defined in Section 20A-1-102, is held to elect an attorney; and

(b) takes effect on the first Monday in January after the year in which the attorney is elected.

Section 207. Section 17-68-501, which is renumbered from Section 17-18a-401 is renumbered and amended to read:

PART 5. Public Prosecutor Duties

[~~17-18a-401~~]17-68-501 (Effective 11/06/25). Public prosecutor powers and duties.

An attorney who serves as a public prosecutor shall:

(1) except for a prosecution undertaken by a city attorney under Section 10-3-928, conduct, on behalf of the state, all prosecutions for a public offense committed within a county or prosecution district;

(2) conduct, on behalf of the county, all prosecutions for a public offense in violation of a county criminal ordinance; and

(3) perform all other duties and responsibilities as required by law.

Section 208. Section 17-68-502, which is renumbered from Section 17-18a-801 is renumbered and amended to read:

[~~17-18a-801~~]17-68-502 (Effective 11/06/25). Public prosecutor's ethical duties.

An attorney exercising public prosecutor duties under this chapter:

(1) is a lawyer representing an organization as a client under the Rules of Professional Conduct, Rule 1.13;

(2) represents the state as an organizational client;

(3) is considered the representative of the state; and

(4) is empowered to make commitments for and decisions on behalf of the state.

Section 209. Section 17-68-503, which is renumbered from Section 17-18a-402 is renumbered and amended to read:

[~~17-18a-402~~]17-68-503 (Effective 11/06/25). Pretrial responsibilities.

(1) (a) A public prosecutor shall:

(i) institute proceedings before the proper court:

(A) for the arrest of a person charged with a public offense; or

(B) if the prosecutor has probable cause to believe that a public offense has been committed and a grand jury has been convened by a court;

(ii) draw all indictments and information for offenses against:

(A) the laws of the state occurring within the county; and

(B) the criminal ordinances of the county;

(iii) cause all persons under indictment or informed against to be speedily arraigned for crimes charged; and

(iv) issue subpoenas for all witnesses for the state or for the county in the prosecution of a criminal ordinance.

(b) A public prosecutor described in Subsection (1)(a)(i)(B) shall:

(i) assist and attend the deliberations of the grand jury; and

(ii) prepare all necessary indictments and arrange for the subpoena of witnesses to appear before the grand jury.

(2) The public prosecutor may:

(a) examine as to the sufficiency of an appearance bond that may be tendered to the court; and

(b) upon a court order:

(i) institute proceedings for the recovery upon forfeiture of a bond running to the state or county; and

(ii) enforce the collection of a bond described in Subsection (2)(b)(i).

(3) The public prosecutor is authorized to grant transactional immunity to a witness for violation of a state statute or county criminal ordinance.

Section 210. Section 17-68-504, which is renumbered from Section 17-18a-403 is renumbered and amended to read:

[~~17-18a-403~~]17-68-504 (Effective 11/06/25). Appeals.

(1) A public prosecutor shall assist and cooperate, as required by the attorney general, in a case that may be appealed to the Court of Appeals or Utah Supreme Court regarding a criminal violation of state statute.

(2) A public prosecutor shall appear and prosecute all appeals, in the appropriate court, for a crime charged as a misdemeanor in district court or as a violation of a county criminal ordinance.

Section 211. Section 17-68-505, which is renumbered from Section 17-18a-404 is renumbered and amended to read:

[~~17-18a-404~~]17-68-505 (Effective 11/06/25). Juvenile proceedings.

For a proceeding involving an offense committed by a minor as defined in Section 80-1-102, a public prosecutor shall:

(1) review cases in accordance with Title 80, Chapter 6, Juvenile Justice; and

(2) appear and prosecute for the state in the juvenile court of the county.

Section 212. Section 17-68-506, which is renumbered from Section 17-18a-405 is renumbered and amended to read:

[~~17-18a-405~~]17-68-506 (Effective 11/06/25). Civil responsibilities of public prosecutors.

A public prosecutor may act as legal counsel to the state, county, government agency, or government entity regarding the following matters of civil law:

(1) bail bond forfeiture actions;

(2) actions for the forfeiture of property or contraband, as provided in Title 77, Chapter 11b, Forfeiture of Seized Property;

(3) civil actions incidental to or appropriate to supplement a public prosecutor's duties, including an injunction, a habeas corpus, a declaratory action, or an extraordinary writ action, in which the interests of the state may be affected; and

(4) any other civil duties related to criminal prosecution that are otherwise provided by statute.

Section 213. Section 17-68-601, which is renumbered from Section 17-18a-501 is renumbered and amended to read:

PART 6. Counsel for Civil Matters

[~~17-18a-501~~]17-68-601 (Effective 11/06/25). Duties as civil counsel.

The attorney serves as civil counsel to the county and shall:

(1) appear in, prosecute, and defend each civil action in which the county is a party;

(2) prosecute, either directly or through a private contract for debt collection, each action for the recovery of debts, fines, penalties, and forfeitures accruing to the county;

(3) prosecute each appeal regarding a civil counsel's duties or functions in which the county is a party;

(4) act as the civil legal advisor to the county; and

(5) attend the meetings and hearings of the county legislative body as necessary.

Section 214. Section 17-68-602, which is renumbered from Section 17-18a-802 is renumbered and amended to read:
[~~17-18a-802~~]17-68-602 (Effective 11/06/25). Ethical duties of civil counsel -- County is client.

(1) (a) An attorney acting as civil counsel under this chapter represents an organization as a client in accordance with Rules of Professional Conduct, Rule 1.13.

(b) The county is the client organization described in Subsection (1)(a).

(2) The attorney:

(a) does not represent a county commission, county agency, county board, county council, county officer, or county employee;

(b) counsels with the county regarding civil matters; and

(c) receives direction from the county through the county elected officers in accordance with the officers' duties and powers in accordance with law.

(3) Notwithstanding Subsection (2)(a), the attorney may represent an employee named as a party in litigation:

(a) with the approval of the county executive; and

(b) if permitted by law and the Rules of Professional Conduct.

Section 215. Section 17-68-603, which is renumbered from Section 17-18a-502 is renumbered and amended to read:
[~~17-18a-502~~]17-68-603 (Effective 11/06/25). Civil violation of county ordinance.

The civil counsel shall enforce and prosecute, in the appropriate court, civil violations of a county ordinance.

Section 216. Section 17-68-604, which is renumbered from Section 17-18a-505 is renumbered and amended to read:
[~~17-18a-505~~]17-68-604 (Effective 11/06/25). Legal opinions -- Review and advise as to form -- Escheats to the state.

(1) Upon request by a county officer or the county legislative body, the civil counsel shall prepare a legal opinion in writing to a county officer on matters relating to the duties of the respective county officer's office.

(2) The civil counsel shall review and advise as to form and legality each county contract, ordinance, regulation, real estate document, conveyance, and legal document.

(3) The civil counsel shall:

[~~(1)~~](a) assist in determining what estate or property located within the county escheates or reverts to the state; and

[~~(2)~~](b) provide assistance to the county assessor and the state auditor in discovering and recovering an escheat.

Section 217. Section 17-68-605 is enacted to read:
17-68-605 (Effective 11/06/25). County attorney to review certain county plans, county contracts -- List nonexhaustive.

(1) In addition to the duties described in this chapter, the county attorney shall:

(a) review and provide to the county legislative body a legal opinion, in writing, on a proposed optional plan for a form of government under Section 17-62-405; and

(b) fulfill the obligations described in Section 17E-6-301 for correctional facility telephone service contracts.

(2) The list of duties in this section is nonexhaustive.

Section 218. Section 17-69-101, which is renumbered from Section 17-19a-102 is renumbered and amended to read:

CHAPTER 69. County Auditor

PART 1. General Provisions

[~~17-19a-102~~]17-69-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Account" or "accounting" means:

(a) the systematic recording, classification, or summarizing of a financial transaction or event; and

(b) the interpretation or presentation of the result of an action described in Subsection (1)(a).

(2) (a) "Accounting services" means the creation, modification, or deletion of transactions and records in a financial accounting system, including the preparation of a county's annual financial report.

(b) "Accounting services" does not include the creation of a purchase order.

(3) "Audit" or "auditing" means an examination that is a formal analysis of a county account or county financial record:

(a) to verify accuracy, completeness, or compliance with an internal control;

(b) to give a fair presentation of a county's financial status; and

(c) that conforms to the uniform classification of accounts established by the state auditor.

(4) "Book" means a financial record of the county, regardless of a record's format.

(5) (a) "Budget" or "budgeting" means the preparation or presentation of a proposed or tentative budget as provided in [~~Chapter 36, Uniform Fiscal Procedures Act for Counties~~]Chapter 63, Fiscal Authority and Processes.

(b) "Budget" or "budgeting" includes:

(i) a revenue projection;

(ii) a budget request compilation; or

(iii) the performance of an activity described in Subsection (5)(b)(i) or (ii).

(6) (a) "Claim" means under the color of law:

(i) a demand presented for money or damages; or

(ii) a cause of action presented for money or damages.

(b) "Claim" does not mean a routine, uncontested, or regular payment, including a bill, purchase, or payroll.

(7) (a) "County auditor" means the county officer elected as the county auditor under [~~Section 17-53-101~~]Chapter 66, County Auditor.

(b) "County auditor" includes an individual given the title of county controller under Subsection [~~17-19a-202(4)~~]17-69-301(5).

(8) "County executive" means the elected chief executive officer of a county under Chapter 66, County Officers and Officials Generally.

(9) "Performance audit" means an assessment of whether a county office, officer, department, division, court, or entity, or any related county program is:

(a) managing public resources and exercising authority in compliance with law and policy;

(b) achieving objectives and desired outcomes; and

(c) providing services effectively, efficiently, economically, ethically, and equitably.

(10) "Renumeration" means a warrant, check, or other payment mechanism.

(11) "Warrant" means an order for payment, issued by a county officer or county employee with the authority to make the order, directing the disbursement of funds.

Section 219. Section 17-69-102, which is renumbered from Section 17-19a-201 is renumbered and amended to read:

[~~17-19a-201~~]17-69-102 (Effective 11/06/25). Seal.

(1) The county legislative body shall furnish the county auditor a seal in accordance with Subsection (2).

(2) The seal shall contain or be impressed with:

(a) the name of the county; and

(b) "State of Utah, County Auditor."

Section 220. Section 17-69-103 is enacted to read:

17-69-103 (Effective 11/06/25). County clerk ex officio county auditor in certain counties.

In accordance with Section 17-66-104, in counties having a taxable value of less than $100,000,000, the county clerk shall:

(1) be ex officio auditor of the county; and

(2) shall perform the duties of the office without extra compensation.

Section 221. Section 17-69-201 is enacted to read:

PART 2. Qualifications and Term

17-69-201 (Effective 11/06/25). Qualifications for county auditor generally.

Reserved.

Section 222. Section 17-69-202, which is renumbered from Section 17-19a-201.5 is renumbered and amended to read:

[~~17-19a-201.5~~]17-69-202 (Effective 11/06/25). Qualifications for a county auditor in a county of the first class.

(1) In a county of the first class, in addition to the requirements described in Section [~~17-16-1~~]17-66-201, an individual filing a declaration of candidacy for the office of county auditor, an individual elected to the office of county auditor, or an interim replacement appointed under Subsection 20A-1-508(3), shall have one or more of the following professional certifications active and in good standing:

(a) certified public accountant;

(b) certified internal auditor;

(c) certified fraud examiner;

(d) certified management accountant; or

(e) certified information systems auditor.

(2) Subsection (1) does not apply to any other position within an auditor's office, except that a chief deputy or other individual filling the vacancy of an elected auditor in a county of the first class may not be appointed as an interim replacement under Subsection 20A-1-508(3) unless the individual meets the qualifications of Subsection (1)and Section [~~17-16-1~~]17-66-201.

Section 223. Section 17-69-301, which is renumbered from Section 17-19a-202 is renumbered and amended to read:

PART 3. Powers and Duties

[~~17-19a-202~~]17-69-301 (Effective 11/06/25). Duties and services.

(1) A county auditor shall perform:

(a) in accordance with Section [~~17-19a-205~~]17-69-304, an accounting duty or service described in this chapter[~~, or otherwise required by law~~];

(b) an auditing duty or service described in this chapter[~~, or otherwise required by law~~]; and

(c) other duties as may be required by law.

(2) A county auditor shall provide to the county legislative body a statement of county debt in accordance with Section 17-63-702.

(3) A county auditor may conduct, in relation to any county officer or county office[~~, officer~~], department, division, court, or entity, as the county auditor [~~deems~~]considers necessary, the following duties and services:

(a) financial audits;

(b) attestation-level examinations, reviews, and agreed-upon procedures, engagements, or reviews of financial statements;

(c) subject to Section [~~17-19a-206~~]17-69-303, performance audits;

(d) subject to Section [~~17-19a-205~~]17-69-304, accounting services; and

(e) other duties as required by law.

[~~(3)~~](4) In a county of the first class, the county auditor shall conduct the services under Subsections [~~(2)(a)~~](3)(a) through (c) in accordance with generally accepted government auditing standards.

[~~(4)~~](5) A county legislative body may change the title of county auditor to county controller for a county auditor's office that predominantly performs accounting services.

[~~(5)~~](6) The county auditor may not conduct the services described in Subsections [~~(2)(a)~~](3)(a) through (c) with respect to the auditor's own office, accounts, or financial records.

[~~(6)~~](7) Nothing in this chapter limits a county legislative body's authority under Section [~~17-53-212~~]17-64-404 or a county executive's authority under Section [~~17-53-303~~]17-65-304.

Section 224. Section 17-69-302, which is renumbered from Section 17-19a-204 is renumbered and amended to read:

[~~17-19a-204~~]17-69-302 (Effective 11/06/25). Auditing services.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), a county auditor [~~is authorized to~~]may audit the financial records and accounts of a:

(i) county office;

(ii) county department;

(iii) county division;

(iv) county justice court; or

(v) [~~any other~~]county entity.

(b) The county auditor may not audit the county auditor's own office, including any of the county auditor's financial records or accounts.

(2) The county auditor shall perform an audit:

(a) as needed, as defined by good management practices and the standards of the profession; and

(b) based on the county auditor's professional judgement, taking into account considerations related to risk and materiality.

(3) Nothing in this section may be construed to affect a county legislative body's authority under Section [~~17-53-212~~]17-64-404 or a county executive's authority under Section [~~17-53-303~~]17-65-304.

Section 225. Section 17-69-303, which is renumbered from Section 17-19a-206 is renumbered and amended to read:

[~~17-19a-206~~]17-69-303 (Effective 11/06/25). Performance audit services.

(1) In a county of the first class, the county auditor shall conduct a performance audit:

(a) as the county auditor [~~deems~~]considers appropriate, taking into account:

(i) the standards of the profession;

(ii) the county auditor's professional judgment; and

(iii) the county auditor's assessment of risk and materiality; or

(b) as requested and engaged by the county legislative body or county executive, in accordance with the following:

(i) the county legislative body or county executive shall establish the goals and nature of the performance audit;

(ii) the county auditor shall conduct the audit in a manner consistent with the county auditor's professional judgment and statutory duties; and

(iii) the county legislative body or county executive and the county auditor shall agree upon the prioritization and timing of the performance audit, with terms that are consistent with the county auditor's statutory duties and available resources.

(2) (a) In a county of the second through sixth class, the county auditor shall conduct a performance audit under the direction and supervision of the county legislative body or county executive.

(b) The county legislative body or county executive shall establish the goals and nature of a performance audit conducted under Subsection (2)(a).

(3) A performance audit conducted under this section may include an assessment of the following:

(a) the honesty and integrity of financial and other affairs;

(b) the accuracy and reliability of financial and management reports;

(c) the adequacy of financial controls to safeguard public funds;

(d) the management and staff adherence to statute, ordinance, and policies;

(e) the economy, efficiency, and effectiveness of operational performance;

(f) the accomplishment of intended objectives; and

(g) whether management, financial, and information systems are adequate and effective.

Section 226. Section 17-69-304, which is renumbered from Section 17-19a-205 is renumbered and amended to read:

[~~17-19a-205~~]17-69-304 (Effective 11/06/25). Accounting services.

(1) Except as provided in Subsections (2) and (3), the county auditor shall provide accounting services for the county.

(2) For a county operating under the county executive-council form of government as described in Section [~~17-52a-203~~]17-62-203, the county council may, by ordinance, delegate accounting services provided for or executed on behalf of the entire county:

(a) to the county executive; or

(b) to [~~an~~]a county office's or department's officer or director.

(3) For a county operating under the council-manager form of county government as described in Section [~~17-52a-204~~]17-62-204, if

the county auditor provides preapproval or postpayment review for all payments by the county, the county council may by ordinance passed on or before December 31, 2021, delegate accounting services provided for or executed on behalf of the entire county:

(a) to the county manager; or

(b) to [~~an~~]a county office's or department's officer or director.

(4) If a county council delegates the provision of accounting services in accordance with Subsection (2) or (3):

(a) the county council shall make the delegation in accordance with good management practice to foster:

(i) effectiveness[~~,~~];

(ii) efficiency[~~,~~]; and

(iii) the adequate protection of a county asset;

(b) the county council shall make the delegation by considering appropriate checks and balances within county government; and

(c) the county entity that is selected to provide accounting services shall prepare the tentative budget as provided in [~~Chapter 36, Uniform Fiscal Procedures Act for Counties~~]Chapter 63, Fiscal Authority and Processes.

Section 227. Section 17-69-305, which is renumbered from Section 17-19a-207 is renumbered and amended to read:

[~~17-19a-207~~]17-69-305 (Effective 11/06/25). Management of financial records -- Disposal of records.

(1) A county auditor shall:

(a) maintain the books of the county in [~~such~~]a manner [~~as will show~~]that shows the amount of receipts from and disbursement of a county office, department, division, or [~~other county~~]entity;

(b) keep accounts current with the county treasurer;

(c) preserve a document, book, record, or paper that the county legislative body requires the county auditor to keep in the county auditor's office; and

(d) make an item described in Subsection (1)(c) available for public inspection during office hours.

(2) The county auditor shall, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, remove from the county auditor's files and destroy or otherwise dispose of:

(a) fee statements of a county officer;

(b) county warrants; and

(c) claims against the county.

Section 228. Section 17-69-306, which is renumbered from Section 17-19a-208 is renumbered and amended to read:

[~~17-19a-208~~]17-69-306 (Effective 11/06/25). Reporting -- State treasurer -- County legislative body.

(1) On or before the last day of each month, the county finance officer shall submit a report to the state treasurer regarding the county's collection, care, and disbursement of state money [~~by the county~~]during the preceding month.

(2) The county auditor and the county treasurer shall, as required by the county legislative body, make a joint report to the county executive and the county legislative body accounting for the county's financial condition[~~of the county~~].

(3) If a county auditor determines that a county office, officer, department, division, court, or entity has not implemented a county auditor's prior recommendation in connection with a previous financial audit, performance audit, examination, or review, the county auditor shall notify the county legislative body that the county entity has not implemented the recommendation.

Section 229. Section 17-69-307, which is renumbered from Section 17-19a-301 is renumbered and amended to read:

[~~17-19a-301~~]17-69-307 (Effective 11/06/25). Payments and warrants.

(1) (a) Subject to Subsection (1)(b), if a debt or demand against a county is fixed by law, the debt or demand shall be paid by:

(i) subject to Subsection (2)(a), a warrant drawn by the county auditor or the county treasurer; or

(ii) subject to Subsection (2)(b), a check or other payment mechanism as may be adopted in accordance with [~~Chapter 36, Uniform Fiscal Procedures Act for Counties~~]Chapter 63, Fiscal Authority and Processes.

(b) Subsection (1)(a) does not apply to a debt or demand against the county that is, in accordance with law, audited by another person or tribunal.

(2) (a) The county auditor shall:

(i) distinctly specify on a warrant the liability for which the warrant is made and when the liability accrued; and

(ii) notify the county treasurer:

(A) as described in Subsection [~~(3)(b)~~](3), of the date, amount, payee of, and number assigned to a warrant; and

(B) of the aggregate amount of all contemporaneous payments by warrant.

(b) The county auditor shall notify the county treasurer and county executive:

(i) as described in Subsection [~~(3)(b)~~](3), of the amount and payee of all payments made by check or other payment mechanism;

(ii) as described in Subsection [~~(3)(b)~~](3), the date of and number assigned to a check or other payment mechanism; and

(iii) the aggregate amount of a contemporaneous payment.

(3) [~~(a) As used in this Subsection (3), "remuneration" means a warrant, check, or other payment mechanism.~~]

[~~(b)~~] For a remuneration issued by the county auditor, the auditor shall:

[~~(i)~~](a) number each remuneration consecutively, commencing annually on the first day of January; and

[~~(ii)~~](b) state on the remuneration:

[~~(A)~~](i) the number of the remuneration;

[~~(B)~~](ii) the date of payment;

[~~(C)~~](iii) the amount of the payment made;

[~~(D)~~](iv) the name of the person to whom payable; and

[~~(E)~~](v) the purpose for which the remuneration was made.

(4) The county auditor shall dispose of a payment not presented for collection in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(5) The county legislative body may delegate by ordinance the processing of payments and warrants in accordance with Section [~~17-19a-205~~]17-69-304.

Section 230. Section 17-69-308, which is renumbered from Section 17-19a-401 is renumbered and amended to read:

[~~17-19a-401~~]17-69-308 (Effective 11/06/25). Investigations -- Report of findings.

(1) (a) A county auditor:

(i) may conduct an investigation of an issue or action associated with or related to the county auditor's statutory duties, including investigating a book or account of a county office, officer, department, division, court, or entity; and

(ii) may not conduct an investigation of an issue or action that is not associated with or related to the county auditor's statutory duties.

(b) A county officer, employee, or other county administrative entity shall grant the county auditor complete and free access to a book [~~requested by~~]the county auditor requests in accordance with Subsection (1)(a)(i).

(c) A county auditor, with the assistance of the county attorney or district attorney, may:

(i) administer an oath or affirmation; or

(ii) issue an administrative subpoena for a witness or document necessary to the performance of the county auditor's statutory duties.

(2) [~~If the~~]A county auditor, after a complete investigation, shall prepare a report of the county auditor's findings and submit the report to the county executive if the county auditor finds that:

(a) a book or account of a county office, officer, department, division, court, or entity is not kept in accordance to law[~~,~~]; or

(b) [~~that an~~]a county office, officer, department, division, court, or entity has made an incorrect or improper financial report[~~, the county auditor shall prepare a report of the auditor's findings and submit a copy of the report to the county executive~~].

(3) [~~If a~~]A county auditor, after a complete investigation, shall prepare a report of the county auditor's findings and submit a copy of the report to the state court administrator, the county executive, and the county legislative body if the county auditor finds that:

(a) a justice court judge has not kept a book or account according to law[~~,~~]; or

(b) [~~that the~~]a justice court judge has made an incorrect or improper financial report[~~, the auditor shall prepare a report of the auditor's findings and submit a copy of the report to the state court administrator, the county executive, and the county legislative body~~].

Section 231. Section 17-70-101 is enacted to read:

CHAPTER 70. County Clerk

PART 1. General Provisions

17-70-101 (Effective 11/06/25). Definitions.

Reserved.

Section 232. Section 17-70-102 is enacted to read:

17-70-102 (Effective 11/06/25). Seal.

(1) The county legislative body shall furnish the county clerk a seal in accordance with Subsection (2).

(2) The seal shall contain or be impressed with:

(a) the name of the county; and

(b) "State of Utah, County Clerk."

Section 233. Section 17-70-103 is enacted to read:

17-70-103 (Effective 11/06/25). Ex officio auditor in certain counties.

In accordance with Section 17-66-102, in counties having a taxable value of less than $100,000,000 the county clerk shall:

(1) be ex officio auditor of the county; and

(2) shall perform the duties of the office without extra compensation.

Section 234. Section 17-70-201 is enacted to read:

PART 2. Qualifications and Term

17-70-201 (Effective 11/06/25). Elections training.

A county clerk shall complete elections training in accordance with Section 20A-1-107.

Section 235. Section 17-70-301, which is renumbered from Section 17-20-1 is renumbered and amended to read:

PART 3. Powers and Duties

[~~17-20-1~~]17-70-301 (Effective 11/06/25). County legislative body clerk -- District court clerk duties.

(1) The county clerk is the clerk of the county legislative body[~~ of the county~~].

(2) (a) [~~The~~]A county clerk shall:

(i) act as clerk of the district court in secondary counties of the state district court administrative system and those counties not in the system[~~,~~]; and

(ii) [~~shall~~]perform the duties listed in Section 78A-5-108.

(b) If a county clerk performs district court clerk functions, the legislative body of the county shall provide the clerk with deputies and employees for the business of the district court as described in Subsection 17-75-201(2).

Section 236. Section 17-70-302, which is renumbered from Section 17-20-1.7 is renumbered and amended to read: [~~17-20-1.7~~]17-70-302 (Effective 11/06/25). Duties.

[~~The~~]A county clerk shall:

(1) record all proceedings of the county legislative body;

(2) make full entries of all resolutions and decisions of the county legislative body on all questions concerning the county;

(3) record the vote of each member of the county legislative body on any [~~question upon which~~]motion where there is a division of the county legislative body;

(4) prepare and certify duplicate lists of all claims[~~,~~] that:

(a) [~~showing~~]show the amount of each claim or order;

(b) [~~and~~]show the date of each claim or order;

(c) [~~and~~]show the date of the county's allowance or rejection of the claim[~~,~~]; and

(d) [~~which lists shall be~~]are countersigned by the county executive;

(5) deliver [~~to and leave with the county auditor~~]one of the lists referred to in Subsection (4) to the:

(a) county auditor; and

(b) [~~deliver to and leave with the~~]county treasurer[~~, the other list~~];

(6) file and preserve [~~the reports of the~~]a county [~~officers~~]officer's report to the county legislative body;

(7) [~~preserve and file~~]file and preserve all accounts [~~acted upon by the county legislative body, except such as are necessarily kept by the auditor~~]except accounts that are kept by the county auditor;

(8) [~~preserve and file~~]file and preserve all petitions and applications for franchises[~~, and~~];

(9) record the county legislative body's action [~~of the county legislative body on them~~]on petitions and applications for franchises;

[~~(9)~~](10) authenticate with the clerk's signature and the seal of the county the county legislative body's proceedings[~~ of the county legislative body if the proceedings are ordered published~~];

[~~(10)~~](11) authenticate with the clerk's signature and the seal of the county all ordinances [~~or laws passed by~~]the county legislative body passes, and record them [~~at length~~]in the ordinance book;

[~~(11)~~](12) record all orders levying taxes;

[~~(12)~~](13) keep at the county clerk's office all county books, records, and accounts that the county clerk is required by law to keep;

(14) [~~and keep them open at all times~~]during regular business hours, provide for public inspection all county books, records, and accounts that the county clerk is required by law to keep; [~~and~~]

[~~(13)~~](15) perform all other duties [~~required~~]the county legislative body requires by:

(a) [~~law or by any rule or order of the county legislative body~~]ordinance; or

(b) resolution[~~,~~];

(16) establish policies to issue marriage licenses to county residents and individuals getting married in the county;

(17) keep a register of marriage licenses the county clerk issues;

(18) establish policies to ensure that the county clerk, or a designee of the county clerk who is willing, is available during business hours to solemnize a legal marriage for which a marriage license has been issued;

(19) execute with the county clerk's seal described in Section 17-70-102 all deeds and conveyances of all real estate conveyed by the county;

(20) take and certify acknowledgments;

(21) administer oaths;

(22) keep a fee schedule as provided by law;

(23) take charge of and safely keep the seal of the county described in Section 17-64-103; and

(24) keep other records and perform other duties as may be prescribed by law.

Section 237. Section 17-70-303, which is renumbered from Section 17-20-5 is renumbered and amended to read: [~~17-20-5~~]17-70-303 (Effective 11/06/25). Report of election and appointment of county officers.

Within 10 days after the day on which a county clerk issues a certificate of election or a certificate of appointment made to fill vacancies in elective county offices, the county clerk shall notify the lieutenant governor of the following:

(1) the name of the county;

(2) the name of the county office to which the individual was elected or appointed;

(3) the date [~~of the election~~]the individual was elected or [~~appointment of the individual~~]appointed;

(4) the date [~~of~~]the [~~expiration of the~~]term for which the individual was elected or appointed expires;

(5) the date of the certificate of election or appointment; and

(6) the date of the qualification of the individual elected or appointed.

Section 238. Section 17-70-304, which is renumbered from Section 17-16-1.5 is renumbered and amended to read: [~~17-16-1.5~~]17-70-304 (Effective 11/06/25). Conflict of interest disclosure statement for county and local school board office -- Required when filing for candidacy -- Public availability -- Enforcement.

(1) (a) A county clerk shall, for each person seeking to become a candidate for a county office or local school board office that is to be filled at the next general election, create, print, and provide the person with a copy of the conflict of interest disclosure statement described in Subsection (1)(b).

(b) A conflict of interest disclosure statement shall:

(i) be divided into sections representing each item of information described in Subsections 20A-11-1604(6)(a) through (n); and

(ii) immediately beneath each section, include a space for the candidate to provide a written response.

(2) Except as provided in Subsection (3), a candidate for an office described in Subsection (1)(a) shall complete the conflict of interest disclosure statement and submit the statement to the county clerk at the time the candidate files a declaration of candidacy.

(3) A candidate is not required to comply with Subsection (2) if the candidate:

(a) currently holds the office for which the candidate seeks reelection;

(b) already, that same year, filed a conflict of interest disclosure statement for the office described in Subsection (3)(a), in accordance with:

(i) for a county office, Section 17-16a-13; or

(ii) for a local school board office, Section 67-16-16; and

(c) at the time the candidate files a declaration of candidacy, indicates, in writing, that the conflict of interest disclosure statement described in Subsection (3)(b) is updated and accurate as of the date of filing the declaration of candidacy.

(4) Except as provided in Subsection (3), a county clerk:

(a) may not accept a declaration of candidacy from a candidate for an office described in Subsection (1)(a) until the county clerk receives a complete conflict of interest disclosure statement from the candidate; and

(b) shall make a candidate's conflict of interest disclosure statement available for public inspection by posting an electronic copy of the statement on the county's website.

(5) A county clerk shall ensure that a candidate's conflict of interest disclosure statement remains posted on the website described in Subsection (4)(b) until:

(a) the candidate resigns or is disqualified as a candidate; or

(b) the day after the day of the official canvass for the general election.

(6) (a) A private party in interest may bring a civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the provisions of this section.

(b) In a civil action under Subsection (6)(a), the court may award costs and attorney fees to the prevailing party.

Section 239. Section 17-70-401, which is renumbered from Section 17-16-202 is renumbered and amended to read:

PART 4. Campaign Finance and County Officers and Other Local Officials

[~~17-16-202~~]17-70-401 (Effective 11/06/25). Definitions.

As used in this part:

(1) (a) [~~Except as provided in Subsection (1)(b), "contribution"~~]"Contribution" means any of the following when done for a political purpose:

(i) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) a loan made by a county office candidate or local school board candidate deposited into the county office candidate's or local school board candidate's own campaign account; or

(vi) an in-kind contribution.

(b) "Contribution" does not include:

(i) services provided by an individual volunteering a portion or all of the individual's time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a county office candidate or local school board candidate at less than fair market value that are not authorized by or coordinated with the county office candidate or the local school board candidate.

(2) "County office" means an office described in Section [~~17-53-101~~]17-66-102 that is required to be filled by an election.

(3) "County office candidate" means an individual who:

(a) files a declaration of candidacy for a county office; or

(b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a county office.

(4) "County officer" means an individual who holds a county office.

(5) (a) Except as provided in Subsection (5)(b), "expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or the separate bank account required under Section [~~17-16-6.5~~]17-70-403;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for a political purpose;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a county office candidate's, or a local school board candidate's, personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for a political purpose at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything described in Subsection (5)(a) that is given by a reporting entity to a candidate or officer in another state.

(6) "Filing entity" means:

(a) a county office candidate;

(b) a county officer;

(c) a local school board candidate;

(d) a local school board member; or

(e) a reporting entity that is required to meet a campaign finance disclosure requirement adopted by a county in accordance with Section [~~17-16-6.5~~]17-70-403.

(7) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(8) "Local school board candidate" means an individual who:

(a) files a declaration of candidacy for local school board; or

(b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a local school board.

(9) (a) "Personal use expenditure" means an expenditure that:

(i) (A) is not excluded from the definition of personal use expenditure by Subsection (9)(c); and

(B) primarily furthers a personal interest of a county office candidate, county officer, local school board candidate, or a local school board member, or a member of a county office candidate's, county officer's, local school board candidate's, or local school board member's family; or

(ii) would cause the county office candidate, county officer, local school board candidate, or local school board member to recognize the expenditure as taxable income under federal law.

(b) "Personal use expenditure" includes:

(i) a mortgage, rent, utility, or vehicle payment;

(ii) a household food item or supply;

(iii) a clothing expense, except:

(A) clothing bearing the county office candidate's or local school board candidate's name or campaign slogan or logo that is used in the county office candidate's or local school board candidate's campaign;

(B) clothing bearing the logo or name of a jurisdiction, district, government organization, government entity, caucus, or political party that the county officer or local school board member represents or of which the county officer or local school board member is a member;

(C) repair or replacement of clothing that is damaged while the county office candidate or county officer is engaged in an activity of a county office candidate or county officer; or

(D) repair or replacement of clothing that is damaged while the local school board candidate or local school board member is engaged in an activity of a local school board candidate or local school board member;

(iv) admission to a sporting, artistic, or recreational event or other form of entertainment;

(v) dues, fees, or gratuities at a country club, health club, or recreational facility;

(vi) a salary payment made to:

(A) a county office candidate, county officer, local school board candidate, or local school board member; or

(B) a person who has not provided a bona fide service to a county candidate, county officer, local school board candidate, or local school board member;

(vii) a vacation;

(viii) a vehicle expense;

(ix) a meal expense;

(x) a travel expense;

(xi) payment of an administrative, civil, or criminal penalty;

(xii) satisfaction of a personal debt;

(xiii) a personal service, including the service of an attorney, accountant, physician, or other professional person;

(xiv) a membership fee for a professional or service organization; and

(xv) a payment in excess of the fair market value of the item or service purchased.

(c) "Personal use expenditure" does not include an expenditure made:

(i) for a political purpose;

(ii) for candidacy for county office or local school board;

(iii) to fulfill a duty or activity of a county officer or local school board member;

(iv) for a donation to a registered political party;

(v) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;

(vi) to return all or a portion of a contribution to a contributor;

(vii) for the following items, if made in connection with the candidacy for county office or local school board, or an activity or duty of a county officer or local school board member:

(A) a mileage allowance at the rate established by the political subdivision that provides the mileage allowance;

(B) for motor fuel or special fuel, as defined in Section 59-13-102;

(C) a meal expense;

(D) a travel expense, including an expense incurred for airfare or a rental vehicle;

(E) a payment for a service provided by an attorney or accountant;

(F) a tuition payment or registration fee for participation in a meeting or conference;

(G) a gift;

(H) a payment for rent, utilities, a supply, or furnishings, in connection with an office space;

(I) a booth at a meeting or event; or

(J) educational material;

(viii) to purchase or mail informational material, a survey, or a greeting card;

(ix) for a donation to a charitable organization, as defined in Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;

(x) to repay a loan a county office candidate or local school board candidate makes from the candidate's personal account to the candidate's campaign account;

(xi) to pay membership dues to a national organization whose primary purpose is to address general public policy;

(xii) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the county candidate's, county officer's, local school board candidate's, or local school board member's community;

(xiii) for one or more guests of a county office candidate, county officer, local school board candidate, or local school board member to attend an event, meeting, or conference described in this Subsection (9)(c);

(xiv) that is connected with the performance of an activity as a county office candidate or local school board member, or an activity or duty of a county officer or local school board member; or

(xv) to pay childcare expenses of:

(A) a candidate while the candidate is engaging in campaign activity; or

(B) an officeholder while the officeholder is engaging in the duties of an officeholder.

(10) "Political purpose" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking an office at any caucus, political convention, or election.

(11) "Reporting entity":

(a) means the same as that term is defined in Section 20A-11-101; and

(b) includes a county office candidate, a county office candidate's personal campaign committee, a county officer, a local school board candidate, a local school board candidate's personal campaign committee, and a local school board member.

Section 240. Section 17-70-402, which is renumbered from Section 17-16-203 is renumbered and amended to read:

[~~17-16-203~~]17-70-402 (Effective 11/06/25). Personal use expenditure -- Authorized and prohibited uses of campaign funds -- Enforcement -- Penalties.

(1) A county office candidate, county officer, local school board candidate, or local school board member may not use money deposited into the separate bank account required under Section [~~17-16-6.5~~]17-70-403 for:

(a) a personal use expenditure; or

(b) an expenditure prohibited by law.

(2) (a) A county clerk shall enforce this section prohibiting a personal use expenditure by:

(i) evaluating a financial statement to identify a personal use expenditure; and

(ii) commencing an adjudicative proceeding in accordance with applicable county ordinance or policy if the county clerk has probable cause to believe a county office candidate, county officer, local school board candidate, or local school board member has made a personal use expenditure.

(b) Following the adjudicative proceeding described in Subsection (2)(a)(ii), the county clerk may issue a signed order requiring a county office candidate, county officer, local school board candidate, or local school board member who has made a personal use expenditure to:

(i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the county clerk; and

(ii) deposit the amount of the personal use expenditure in the campaign account from which the personal use expenditure was disbursed.

(c) The county clerk shall deposit money received under Subsection (2)(b)(i) into the county's general fund.

Section 241. Section 17-70-403, which is renumbered from Section 17-16-6.5 is renumbered and amended to read:

[~~17-16-6.5~~]17-70-403 (Effective 11/06/25). Campaign financial disclosure in county elections.

(1) A county shall adopt an ordinance establishing campaign finance disclosure requirements for:

(a) candidates for county office; and

(b) candidates for local school board office who reside in that county.

(2) The ordinance required by Subsection (1) shall include:

(a) a requirement that each candidate for county office or local school board office report the candidate's itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;

(b) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things;

(c) a requirement that the financial reports identify:

(i) for each contribution, the name of the donor of the contribution, if known, and the amount of the contribution; and

(ii) for each expenditure, the name of the recipient and the amount of the expenditure;

(d) a requirement that a candidate for county office or local school board office deposit a contribution in a separate campaign account into a financial institution;

(e) a prohibition against a candidate for county office or local school board office depositing or mingling any contributions received into a personal or business account;

(f) a requirement that a candidate for county office who receives a contribution that is cash or a negotiable instrument, exceeds $50,

and is from a donor whose name is unknown, shall, within 30 days after receiving the contribution, disburse the amount of the contribution to:

(i) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(ii) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(g) a requirement that a candidate seeking appointment to fill a midterm vacancy in a county office or local school board office file the financial report described in Subsection (2)(c) with the county clerk:

(i) for a county office vacancy described in Subsection 20A-1-508(3) or (7), no later than three business days before the day on which the political party of the prior officeholder submits the candidate's name to the county legislative body as the individual the political party selects to fill the vacancy;

(ii) for a county or district attorney office vacancy described in Subsection 20A-1-509.1(5)(a), no later than three business days before the day on which the political party of the prior officeholder submits the candidate's name to the county legislative body as one of the three individuals the party nominates to fill the vacancy;

(iii) for a county or district attorney office vacancy described in Section 20A-1-509.2:

(A) no later than the deadline for the candidate to submit an application to fill the vacancy under Subsection 20A-1-509.2(2)(c); and

(B) if, under Subsection 20A-1-509.2(3), more than three attorneys submit an application to fill the vacancy, no later than three business days before the day on which the political party of the prior officeholder submits the candidate's name to the county legislative body as one of the three individuals the party nominates to fill the vacancy; or

(iv) for a local school board office vacancy, no later than three business days before the day on which the local school board meets to interview each candidate interested in filling the vacancy in accordance with Section 20A-1-511; and

(h) a requirement that, upon receipt of the financial report described in Subsection (2)(g), the county clerk immediately submit a copy of the report to the county legislative body.

(3) (a) As used in this Subsection (3), "account" means an account in a financial institution:

(i) that is not described in Subsection (2)(d); and

(ii) into which or from which a person who, as a candidate for an office, other than a county office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) The ordinance required by Subsection (1) shall include a requirement that a candidate for county office or local school board office include on a financial report filed in accordance with the ordinance a contribution deposited in or an expenditure made from an account:

(i) since the last financial report was filed; or

(ii) that has not been reported under a statute or ordinance that governs the account.

(4) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections (5) through (10).

(5) A candidate for elective office in a county or local school board office:

(a) shall deposit a contribution into a separate campaign account in a financial institution; and

(b) may not deposit or mingle any contributions received into a personal or business account.

(6) Each candidate for elective office in any county who is not required to submit a campaign financial statement to the lieutenant governor, and each candidate for local school board office, shall file a signed campaign financial statement with the county clerk:

(a) seven days before the date of the regular general election, reporting each contribution and each expenditure as of 10 days before the date of the regular general election; and

(b) no later than 30 days after the date of the regular general election.

(7) (a) The statement filed seven days before the regular general election shall include:

(i) a list of each contribution received by the candidate, and the name of the donor, if known; and

(ii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

(b) The statement filed 30 days after the regular general election shall include:

(i) a list of each contribution received after the cutoff date for the statement filed seven days before the election, and the name of the donor; and

(ii) a list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.

(8) (a) As used in this Subsection (8), "account" means an account in a financial institution:

(i) that is not described in Subsection (5)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than a county office for which the person filed a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person filed a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A county office candidate and a local school board office candidate shall include on any campaign financial statement filed in accordance with Subsection (6) or (7):

(i) a contribution deposited into an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(9) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from a donor whose name is unknown, a county office candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(10) Candidates for elective office in any county, and candidates for local school board office, who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(11) (a) A candidate seeking appointment to fill a midterm vacancy in a county office or local school board office shall:

(i) comply with Subsections (5) and (9); and

(ii) file a signed campaign financial statement with the county clerk no later than the deadline described in Subsection (2)(g).

(b) Upon receipt of the campaign financial statement described in Subsection (11)(a)(ii), the county clerk shall immediately submit a copy of the statement to the county legislative body.

(12) Any [~~person~~]individual who fails to comply with this section is guilty of an infraction.

(13) (a) Counties may, by ordinance, enact requirements that:

(i) require greater disclosure of campaign contributions and expenditures; and

(ii) impose additional penalties.

(b) The requirements described in Subsection (13)(a) apply to a local school board office candidate who resides in that county.

(14) If a candidate fails to file an interim report due before the election, the county clerk:

(a) may send an electronic notice to the candidate and the political party of which the candidate is a member, if any, that states:

(i) that the candidate failed to timely file the report; and

(ii) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified and the political party will not be permitted to replace the candidate; and

(b) impose a fine of $100 on the candidate.

(15) (a) The county clerk shall disqualify a candidate and inform the appropriate election officials that the candidate is disqualified if the candidate fails to file an interim report described in Subsection (14) within 24 hours after the deadline for filing the report.

(b) The political party of a candidate who is disqualified under Subsection (15)(a) may not replace the candidate.

(c) A candidate who is disqualified under Subsection (15)(a) shall file with the county clerk a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.

(16) If a candidate is disqualified under Subsection (15)(a), the election official:

(a) shall:

(i) notify every opposing candidate for the county office that the candidate is disqualified;

(ii) send an email notification to each voter who is eligible to vote in the county election office race for whom the election official has an email address informing the voter that the candidate is disqualified and that votes cast for the candidate will not be counted;

(iii) post notice of the disqualification on the county's website; and

(iv) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; and

(b) may not count any votes for that candidate.

(17) An election official may fulfill the requirement described in Subsection (16)(a) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to the county's website to inform the voter whether a candidate on the ballot is disqualified.

(18) A candidate is not disqualified if:

(a) the candidate files the interim reports described in Subsection (14) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(19) (a) A report is considered timely filed if:

(i) the report is received in the county clerk's office no later than midnight, Mountain Time, at the end of the day on which the report is due;

(ii) the report is received in the county clerk's office with a United States Postal Service postmark three days or more before the date that the report was due; or

(iii) the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a report is due, the county clerk shall permit a candidate to file the report via email or another electronic means designated by the county clerk.

(20) (a) Any private party in interest may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the provisions of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection (20)(a), the court shall award costs and attorney fees to the prevailing party.

(21) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) posting an electronic copy or the contents of the statement on the county's website no later than seven business days after the day on which the statement is filed; and

(ii) in order to meet the requirements of Subsection 20A-11-103(4)(b)(ii), providing the lieutenant governor with a link to the electronic posting described in Subsection (21)(b)(i) no later than two business days after the day the statement is filed.

Section 242. Section 17-70-501, which is renumbered from Section 17-16a-3 is renumbered and amended to read:

PART 5. Disclosure Duties Applicable to All County Officers

[~~17-16a-3~~]17-70-501 (Effective 11/06/25). Definitions.

As used in this part:

(1) (a) "Appointed officer" means an individual appointed to:

(i) a statutory office or position; or

(ii) a position of employment with a county, except a special employee.

(b) "Appointed officer" includes an individual serving on a special, regular, or full-time committee, agency, or board, regardless of whether the individual is compensated for the individual's services.

(c) "Appointed officer" does not include an elected officer.

(2) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to [~~a person~~]an individual or business entity, believing that such action is of help, aid, advice, or assistance to such [~~person~~]individual or business entity and with the intent to so assist [~~such person~~]the individual or business entity.

(3) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(4) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated or transferred to any person or business entity for or in consideration of personal services, materials, property, or any other thing whatsoever.

(5) "Elected officer" means an individual elected or appointed to an office in the county.

(6) "Governmental action" means an action on the part of a county including:

(a) a decision, determination, finding, ruling, or order;

(b) a grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval; or

(c) the denial of, or failure to act upon, a matter described in Subsection (6)(a) or (b).

(7) "Officer" means an appointed officer or an elected officer.

(8) "Special employee" means an individual hired on the basis of a contract to perform a special service for the county [~~pursuant to an award of a contract~~]following a public bid.

(9) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, and the individual's minor children, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity.

Section 243. Section 17-70-502, which is renumbered from Section 17-16a-2 is renumbered and amended to read:

[~~17-16a-2~~]17-70-502 (Effective 11/06/25). Purposes.

The purposes of this [~~chapter~~]part are to:

(1) establish standards of conduct for county officers and county employees; and

(2) [~~to require these persons~~]require county officers and county employees to disclose conflicts of interest between their public duties and their personal interests.

Section 244. Section 17-70-503, which is renumbered from Section 17-16a-4 is renumbered and amended to read:

[~~17-16a-4~~]17-70-503 (Effective 11/06/25). Prohibited use of official position -- Exception.

(1) Except as provided in Subsection (3) or (5), it is an offense for an officer to:

(a) disclose confidential information acquired by reason of the officer's official position [~~or~~];

(b) use [~~that~~]the information described in Subsection (1)(a) to secure special privileges or exemptions for the officer or others;

[~~(b)~~](c) use or attempt to use the officer's official position to secure special privileges for the officer or for others; or

[~~(c)~~](d) knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or loan for the officer or for another, if the gift or loan tends to influence the officer in the discharge of the officer's official duties.

(2) This section does not apply to:

(a) an occasional nonpecuniary gift having a value of less than $50;

(b) an award publicly presented;

(c) any bona fide loan made in the ordinary course of business; or

(d) political campaign contributions subject to Section [~~17-16-6.5~~]17-70-403.

(3) A member of a county legislative body who is also a member of the governing board of a provider of mental health or substance abuse services under contract with the county does not commit an offense under Subsection (1)(a)[~~or~~], (b), or (c) by discharging, in good faith, the duties and responsibilities of each position, if the county legislative body member does not participate in the process of selecting the mental health or substance abuse service provider.

(4) Notwithstanding the provisions of this section, a county or county official may encourage support from a public or private individual or institution, whether in financial contributions or by other means, on behalf of an organization or activity that benefits the community.

(5) This section does not apply to an officer who engages in conduct that constitutes a violation of this section to the extent that the officer is chargeable, for the same conduct, under Section 76-8-105.

Section 245. Section 17-70-504, which is renumbered from Section 17-16a-5 is renumbered and amended to read:

[~~17-16a-5~~]17-70-504 (Effective 11/06/25). Compensation for assistance in transaction involving county -- Public disclosure and filing required.

(1) An officer may not receive or agree to receive compensation for assisting [~~a person~~]an individual or business entity in a transaction involving the county in which the officer is elected or appointed unless the officer:

(a) files with the county legislative body a sworn statement disclosing the information described in Subsection (5);

(b) discloses in open meeting to the members of the body of which the officer is a member, immediately before the discussion, the information described in Subsection (5); and

(c) for an officer who is an elected officer, files the sworn statement described in Subsection (1)(a) with the county clerk.

(2) An officer shall file the sworn statement described in Subsection (1)(a) on or before the earlier of:

(a) 10 days before the date on which the officer and the person or business entity being assisted enter into an agreement; or

(b) 10 days before the date on which the officer receives compensation.

(3) In accordance with Subsection (1)(c), an elected officer shall file the sworn statement with the county clerk on or before the earlier of the deadlines described in Subsections (2)(a) and (b).

(4) A county clerk who receives the sworn statement described in Subsection (1)(a) shall:

(a) post a copy of the sworn statement on the county's website; and

(b) ensure that the sworn statement remains posted on the county's website until the elected officer leaves office.

(5) The sworn statement described in Subsection (1)(a) is public information and is available for examination by the public.

(6) The sworn statement and public disclosure described in Subsection (1) shall contain the following information:

(a) the name and address of the officer;

(b) the name and address of the [~~person~~]individual or business entity being or to be assisted, or in which the officer has a substantial interest; and

(c) a brief description of:

(i) the transaction as to which service is rendered or is to be rendered; and

(ii) [~~of~~]the nature of the service performed or to be performed.

Section 246. Section 17-70-505, which is renumbered from Section 17-16a-6 is renumbered and amended to read:

[~~17-16a-6~~]17-70-505 (Effective 11/06/25). Interest in business entity regulated by county -- Disclosure.

(1) An officer under this part who is an officer, director, agent, or employee or the owner of a substantial interest in any business entity that is subject to the regulation of the county in which the officer is appointed or elected shall disclose the position held and the precise nature and value of the officer's interest:

(a) upon first becoming appointed or elected; and

(b) during January of each year during which the officer continues to be an appointed or elected officer.

(2) An officer shall make the disclosure described in Subsection (1) in a sworn statement filed with:

(a) the county legislative body; and

(b) if the officer is an elected officer, the county clerk.

(3) The commission shall:

(a) report the substance of the sworn statement described in Subsection (2) to the members of the governing body; or

(b) provide a copy of the sworn statement described in Subsection (2) to the members of the governing body no later than 30 days after the day on which the commission receives the statement.

(4) A county clerk who receives the sworn statement described in Subsection (2) shall:

(a) post a copy of the sworn statement on the county's website; and

(b) ensure that the sworn statement remains posted on the county's website until the elected officer leaves office.

(5) (a) This section does not apply to instances where the value of the interest does not exceed $5,000.

(b) A life insurance policy or an annuity may not be considered in determining the value of the interest.

Section 247. Section 17-70-506, which is renumbered from Section 17-16a-7 is renumbered and amended to read:

[~~17-16a-7~~]17-70-506 (Effective 11/06/25). Interest in business entity doing business with county -- Disclosure.

(1) An officer under this part who is an officer, director, agent, or employee, or owner of a substantial interest in a business entity that does or anticipates doing business with the county in which the officer is appointed or elected shall:

(a) publicly disclose:

(i) the conflict of interest to the members of the body of which the officer is a member[~~,~~] immediately before a discussion by the body on matters relating to the business entity[~~,~~];and

(ii) the nature of the officer's interest in the business entity; and

(b) for an officer who is an elected officer, file a sworn statement describing the conflict of interest with the county clerk.

(2) The public disclosure described in Subsection (1)(a) shall be entered in the minutes of the meeting where an officer makes the public disclosure.

(3) A county clerk who receives the sworn statement described in Subsection (1)(b) shall:

(a) post a copy of the sworn statement on the county's website; and

(b) ensure that the sworn statement remains posted on the county's website until the elected officer leaves office.

Section 248. Section 17-70-507, which is renumbered from Section 17-16a-8 is renumbered and amended to read:

[~~17-16a-8~~]17-70-507 (Effective 11/06/25). Investment creating conflict of interest with duties -- Disclosure.

An officer who has a personal interest or investment that creates a potential or actual conflict between the officer's personal interests and the officer's public duties shall disclose the conflict in the manner described in Section [~~17-16a-6~~]17-70-505.

Section 249. Section 17-70-508, which is renumbered from Section 17-16a-12 is renumbered and amended to read:

[~~17-16a-12~~]17-70-508 (Effective 11/06/25). Rescission of prohibited transaction.

If a transaction is entered into in connection with a violation of Section [~~17-16a-6~~]17-70-505, the county may rescind or void a contract or subcontract entered into pursuant to that transaction without returning any part of the consideration received by the county.

Section 250. Section 17-70-509, which is renumbered from Section 17-16a-13 is renumbered and amended to read:

[~~17-16a-13~~]17-70-509 (Effective 11/06/25). Annual conflict of interest disclosure -- Penalties.

(1) In addition to any other disclosure obligation described in this part, an elected officer shall, no sooner than January 1 and no later than January 31 of each year during which the elected officer holds county elective office:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the county clerk.

(2) (a) No later than 10 business days after the day on which an elected officer submits the written disclosure described in Subsection (1) to the county clerk, the county clerk shall:

(i) post an electronic copy of the written disclosure statement on the county's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (2)(a)(i).

(b) The county clerk shall ensure that the elected officer's written disclosure statement remains posted on the county's website until the elected officer leaves office.

(3) A county clerk shall take the action described in Subsection (4) if:

(a) an elected officer fails to timely submit the written disclosure statement described in Subsection (1); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(4) If a circumstance described in Subsection (3) occurs, the county clerk shall, within five days after the day on which the county clerk determines that a violation occurred, notify the elected officer of the violation and direct the elected officer to submit an amended written disclosure statement correcting the problem.

(5) (a) It is unlawful for an elected officer to fail to submit or amend a written disclosure statement within seven days after the day on which the elected officer receives the notice described in Subsection (4).

(b) [~~A regulated officeholder~~]An officer who violates Subsection (5)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report a violation of Subsection (5)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (5)(b), the county clerk shall impose a civil fine of $100 against an elected officer who violates Subsection (5)(a).

(6) The county clerk shall deposit a fine collected under this part into the county's general fund as a dedicated credit to pay for the costs of administering this section.

Section 251. Section 17-70-510, which is renumbered from Section 17-16a-10 is renumbered and amended to read:

[~~17-16a-10~~]17-70-510 (Effective 11/06/25). Prohibitions -- Violations.

(1) In addition to any penalty contained in any other provision of law, [~~a person~~]an individual who knowingly and intentionally violates this part:

(a) is guilty of a class A misdemeanor; and

(b) shall be dismissed from employment or removed from office.

(2) No person shall induce or seek to induce an officer to violate any of the provisions of this part.

Section 252. Section 17-70-511, which is renumbered from Section 17-16a-11 is renumbered and amended to read:

[~~17-16a-11~~]17-70-511 (Effective 11/06/25). County ethics commission -- Complaints charging violations -- Procedure.

(1) A county may establish by ordinance an ethics commission to review a complaint, except as provided in Subsection (3), against [~~an~~]a county officer or county employee subject to this part for a violation of a provision of this part.

(2) (a) Except as provided in Subsection (3), a person filing a complaint for a violation of this part shall file the complaint:

(i) with the county ethics commission, if the county has established a county ethics commission in accordance with Subsection (1); or

(ii) with the Political Subdivisions Ethics Review Commission established in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission, if the county has not established a county ethics commission.

(b) A county that receives a complaint described in Subsection (2)(a) may:

(i) accept the complaint if the county has established a county ethics commission in accordance with Subsection (1); or

(ii) forward the complaint to the Political Subdivisions Ethics Review Commission established in Section 63A-15-201:

(A) regardless of whether the county has established a county ethics commission; or

(B) if the county has not established a county ethics commission.

(3) Any complaint against [~~a person~~]an individual who is under the merit system, charging [~~that person~~]the individual with a violation of this part, shall be filed and processed in accordance with the provisions of the merit system.

Section 253. Section 17-71-101 is enacted to read:

CHAPTER 71. County Recorder

PART 1. General Provisions

17-71-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Boundary action" means the same as that term is defined in Section 17-73-101.

(2) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(3) "Local entity" means the same as that term is defined in Section 67-1a-6.5.

(4) "Personal information" means:

(a) a signature;

(b) the first five digits of a social security number; or

(c) the month and day of the month of a birth date.

Section 254. Section 17-71-102, which is renumbered from Section 17-21-2 is renumbered and amended to read:
[~~17-21-2~~]17-71-102 (Effective 11/06/25). Seal.

The county recorder shall have a seal, [~~to be~~]furnished by the county legislative body, the impression of which shall contain:

(1) the [~~following~~]words: "State of Utah, County Recorder[~~,~~]"; and

(2) [~~together with~~]the name of the county in which the [~~same~~]seal is to be used.

Section 255. Section 17-71-103 is enacted to read:
17-71-103 (Effective 11/06/25). County recorder duties in certain counties.

In counties where there is no elected surveyor, the county recorder shall fulfill the duties of a county surveyor as described in Section 17-73-201.

Section 256. Section 17-71-201 is enacted to read:

PART 2. Qualifications and Term

17-71-201 (Effective 11/06/25). Reserved.

Reserved.

Section 257. Section 17-71-301, which is renumbered from Section 17-21-1 is renumbered and amended to read:

PART 3. Powers, Duties, and Prohibitions

[~~17-21-1~~]17-71-301 (Effective 11/06/25). Document custody responsibility -- Compliance with County Recorder Standards Board rules -- Compliance with county appeal authority.

The county recorder:

(1) is custodian of all recorded documents, [~~and~~]records, and associated data required by law to be recorded;

(2) shall comply with rules made by the County Recorder Standards Board under Section 63C-30-202, including rules that govern:

(a) the protection of recorded documents and records in the county recorder's custody;

(b) the electronic submission of plats, records, and other documents to the county recorder's office;

(c) the protection of privacy interests in the case of documents and records in the county recorder's custody; and

(d) the formatting, recording, and redaction of documents and records in the county recorder's custody;

(3) shall comply with the appeal authority established by the county legislative body in accordance with Section [~~17-50-340~~]17-71-306; and

(4) may adopt policies and procedures governing the office of the county recorder that do not conflict with this chapter or rules made by the County Recorder Standards Board under Section 63C-30-202.

Section 258. Section 17-71-302, which is renumbered from Section 17-21-6 is renumbered and amended to read:
[~~17-21-6~~]17-71-302 (Effective 11/06/25). General duties -- Records and indexes.

(1) [~~Each~~]The county recorder shall:

(a) keep an entry record, in which the county recorder shall, upon acceptance and recording of [~~any~~]an instrument[~~,~~]:

(i) enter the instrument in the entry record in the order [~~of its recording,~~]the county recorder recorded the instrument;

(ii) include in the entry record for the instrument:

(A) the names of the parties to the instrument[~~,~~];

(B) [~~its~~]the date, [~~the~~]hour, [~~the~~]day of the month, and [~~the~~]year [~~of recording,~~]the county recorder recorded the instrument; and

(C) a brief description[~~,~~] of the instrument; and

(iii) endorse upon [~~each~~]the instrument a number corresponding with the number of the entry;

(b) keep a grantors' index, in which the county recorder shall index deeds and final judgments or decrees partitioning or affecting the title to or possession of real property, which shall show:

(i) the instrument's entry number [~~of the instrument,~~]in the county recorder's entry record;

(ii) [~~the name of each grantor~~]each grantor's name in alphabetical order[~~,~~];

(iii) [~~the name of the grantee,~~]the grantee's name;

(iv) the instrument's date[~~ of the instrument,~~];

(v) the time [~~of recording,~~]the county recorder recorded the instrument;

(vi) the kind of instrument[~~,~~];

(vii) the book and page[~~,~~] of the entry record where the county recorder entered the instrument; and

(viii) a brief description of the instrument;

(c) keep a grantees' index, in which the county recorder shall index deeds and final judgments or decrees partitioning or affecting the title to or possession of real property, which shall show:

(i) the instrument's entry number [~~of the instrument,~~]in the county recorder's entry record;

(ii) [~~the name of each grantee~~]each grantee's name in alphabetical order[~~,~~];

(iii) the grantor's name[~~ of the grantor,~~];

(iv) the instrument's date [~~of the instrument,~~];

(v) the time [~~of recording,~~]the county recorder recorded the instrument;

(vi) the kind of instrument[~~,~~];

(vii) the book and page[~~,~~] of the entry record where the county recorder entered the instrument; and

(viii) a brief description of the instrument;

(d) keep a mortgagors' index, in which the recorder shall enter all mortgages, deeds of trust, liens, and other instruments in the nature of an encumbrance upon real estate, which shall show:

(i) the instrument's entry number [~~of the instrument,~~]in the county recorder's entry record;

(ii) the name of each mortgagor, debtor, or person charged with the encumbrance in alphabetical order[~~,~~];

(iii) the name of the mortgagee, lien holder, creditor, or claimant[~~,~~];

(iv) the instrument's date[~~ of the instrument,~~];

(v) the time [~~of recording~~]the county recorder recorded the instrument[~~,~~];

(vi) the kind of instrument[~~,~~];

(vii) the consideration[~~,~~];

(viii) the book and page of the entry record where the county recorder entered the instrument[~~,~~]; and

(ix) a brief description of the instrument;

(e) keep a mortgagees' index, in which the recorder shall enter all mortgages, deeds of trust, liens, and other instruments in the nature of an encumbrance upon real estate, which shall show:

(i) the instrument's entry number [~~of the instrument~~]in the county recorder's entry record[~~,~~];

(ii) the name of each mortgagee, lien holder, creditor, or claimant[~~,~~] in alphabetical order[~~,~~];

(iii) the name of the mortgagor or person charged with the encumbrance[~~,~~];

(iv) the instrument's date[~~ of the instrument,~~];

(v) the time [~~of recording,~~]the county recorder recorded the instrument;

(vi) the kind of instrument[~~,~~];

(vii) the consideration[~~,~~];

(viii) the book and page[~~,~~] of the entry record where the county recorder entered the instrument; and

(ix) a brief description;

(f) subject to Subsection (4), keep a tract index, which shall show by description for every recorded instrument[~~ recorded,~~]:

(i) the instrument's date[~~ and~~];

(ii) the kind of instrument[~~,~~];

(iii) the time [~~of recording,~~]the county recorder recorded the instrument;[~~and~~]

(iv) the book and page of the entry record where the county recorder entered the instrument; and

(v) the instrument's entry number in the county recorder's entry record;

(g) keep an index of recorded maps, plats, and subdivisions;

(h) keep an index of powers of attorney showing:

(i) the date and time [~~of recording,~~]the county recorder recorded the power of attorney;

(ii) the book[~~, the~~] and page[~~,~~] of the entry record where the county recorder entered the power of attorney; and

(iii) the power of attorney's entry number in the county recorder's entry record;

(i) keep a miscellaneous index, in which the county recorder shall enter all instruments of a miscellaneous character not otherwise provided for in this section, showing:

(i) the date [~~of recording,~~]the county recorder recorded the instrument;

(ii) the book[~~, the~~] and page of the entry record where the county recorder entered the instrument[~~,~~];

(iii) the instrument's entry number in the county recorder's entry record[~~,~~];

(iv) the kind of instrument[~~,~~];and

(v) [~~from, to, and~~]the parties to the instrument;

(j) keep an index of judgments showing:

(i) the judgment debtors[~~,~~];

(ii) the judgment creditors[~~,~~];

(iii) the judgment amount[~~ of judgment,~~];

(iv) the date and time [~~of recording,~~]the county recorder recorded the judgment;

(v) the satisfaction[~~, and~~];

(vi) the book[~~, the~~] and page[~~,~~] of the entry record where the county recorder entered the instrument; and

(vii) the instrument's entry number in the county recorder's entry record;

(k) keep a general recording index in which the county recorder shall index all executions and writs of attachment, and any other instruments not required by law to be spread upon the records, and in separate columns the county recorder shall enter the names of the plaintiffs in the execution and the names of the defendants in the execution;

(l) keep an index of water right numbers that are included on an instrument recorded on or after May 13, 2014, showing:

(i) the date and time [~~of recording,~~]the county recorder recorded the instrument;

(ii) (A) the book and [~~the~~]page of the entry record where the county recorder entered the instrument; or

(B) the instrument's entry number[~~,~~] in the county recorder's entry record; and

(iii) the kind of instrument; and

(m) beginning January 1, 2025:

(i) maintain a system that allows a property owner to receive, upon the property owner's election, an electronic notice when the county recorder records a deed or mortgage, as defined in Section 70D-1-102, on the property owner's real property; and

(ii) if a property owner elects to receive electronic notice as described in Subsection (1)(m)(i), within 30 days after the day on which the county recorder records a deed or a mortgage as defined in Section 70D-1-102 on real property, provide an electronic notice of the

recording to each property owner.

(2) Upon request, a county recorder may provide the notice described in Subsection (1)(m)(ii) to a property owner by a means other than electronic.

(3) Subsection (1)(m) applies only to real property for which the county treasurer provides a tax notice described in Section 59-2-1317.

(4) The recorder shall alphabetically arrange the indexes required by this section and keep a reverse index.

(5) (a) The tract index required by Subsection (1)(f) shall be kept so that it shows a true chain of title to each tract or parcel, together with each encumbrance on the tract or parcel, according to the records of the county recorder's office.

(b) A recorder shall abstract an instrument in the tract index unless:

(i) the instrument is required to contain a legal description under Section [~~17-21-20~~]17-71-402 or Section 57-3-105 and does not contain that legal description; or

(ii) the instrument contains errors, omissions, or defects to the extent that the tract or parcel to which the instrument relates cannot be determined.

(c) If a recorder abstracts an instrument in the tract index or another index required by this section, the recorder may:

(i) use a tax parcel number;

(ii) use a site address;

(iii) reference to other instruments of record recited on the instrument; or

(iv) reference another instrument that is recorded concurrently with the instrument.

(d) A recorder is not required to go beyond the face of an instrument to determine the tract or parcel to which an instrument may relate.

(e) A person may not bring an action against a recorder for injuries or damages suffered as a result of information contained in an instrument recorded in a tract index or other index that is required by this section despite errors, omissions, or defects in the instrument.

(f) The fact that a recorded instrument described in Subsection (3)(e) is included in the tract index does not cure a failure to give public notice caused by an error, omission, or defect.

(g) A document that is indexed in all or part of the indexes required by this section shall give constructive notice.

(6) Nothing in this section prevents the county recorder from using a single name index if that index includes all of the indexes required by this section.

Section 259. Section 17-71-303, which is renumbered from Section 17-21-21 is renumbered and amended to read:

[~~17-21-21~~]17-71-303 (Effective 11/06/25). Ownership plats -- Use of geographic information systems or computer systems.

(1) The county recorder shall prepare and keep ownership plats that:

(a) are drawn to a convenient scale[~~, which~~];

(b) show the record owners of each tract of land in the county[~~;~~]; and

(c) [~~together with~~]show the dimensions of [~~the~~]each tract of land in the county.

(2) The county recorder may not be required to:

(a) show ownership of timeshare units or timeshare estates on ownership plats; or

(b) show lot or unit ownership on subdivisions or condominium plats or other ownership plats if that information is available through computer systems or other indexes.

(3) Nothing in this chapter precludes the [~~use of~~]county recorder from using geographic information systems or computer systems [~~by the recorder~~]if the systems include all of the information [~~required by~~]this section requires.

(4) An ownership plat prepared under this section does not constitute a boundary record.

Section 260. Section 17-71-304, which is renumbered from Section 17-21-22 is renumbered and amended to read:

[~~17-21-22~~]17-71-304 (Effective 11/06/25). Annual revision -- Reporting changes in ownership to county assessors -- Use of geographic information systems or computer systems.

(1) The county recorder shall:

(a) each year, prepare copies of ownership plats and descriptions, showing record owners at noon on January 1;

(b) on or before January 30 of each year, transmit the copies to the county assessor;

(c) report all changes in recorded ownership of real property made during the first seven months of each calendar year to the county assessor not later than August 15 of that year;

(d) for the remainder of the calendar year, report the changes in the ownership of real property that are recorded in the county recorder's office each month on or before the 15th day of the month following the month in which the changes were recorded;

(e) transmit the changes of ownership on appropriate forms that show the current owner's name and a full legal description of the property conveyed; and

(f) where only a part of the grantor's property is conveyed, transmit an additional form showing a full legal description of the portion retained.

(2) Nothing in this chapter precludes the [~~use of~~]county recorder from using geographic information systems or computer systems [~~by the recorder~~]if the systems include all of the information [~~required by~~]this section requires.

Section 261. Section 17-71-305, which is renumbered from Section 17-21-16 is renumbered and amended to read:

[~~17-21-16~~]17-71-305 (Effective 11/06/25). Acknowledgments and administrations of oaths.

County recorders may take and certify acknowledgments and administer oaths.

Section 262. Section 17-71-306, which is renumbered from Section 17-50-340 is renumbered and amended to read:

[~~17-50-340~~]17-71-306 (Effective 11/06/25). Establishment of county recorder appeal authority.

(1) On or before July 1, 2023, a county legislative body shall, by ordinance, establish an appeal authority to hear and decide appeals from a county recorder's application of rules made by the County Recorder Standards Board under Section 63C-30-201.

(2) This section:

(a) does not preclude an individual who seeks an appeal from a county recorder's decision from pursuing any other available remedy; and

(b) may not be construed as requiring an individual to exhaust administrative remedies with an appeal authority established under Subsection (1) before seeking any other available remedy.

Section 263. Section 17-71-307, which is renumbered from Section 17-21-17 is renumbered and amended to read:

[~~17-21-17~~]17-71-307 (Effective 11/06/25). Prohibited acts.

(1) (a) Upon acceptance of an instrument entitled to be recorded, the county recorder may not:

(i) record the instrument in any manner other than the manner required by this chapter; [~~or~~]

(ii) alter, change, obliterate, or insert any new matter in any instrument of record; or

(iii) remove the instrument from the county recorder's records.

(b) In accordance with Section [~~17-21-12.5~~]17-71-406, a county recorder may redact personal information from a copy of an originally recorded instrument.

(2) A county recorder does not violate this section by:

(a) denying access to:

(i) an instrument of record that has been classified as private under Section 63G-2-302;

(ii) a portion of an instrument of record that has been classified as private under Section 63G-2-302; or

(iii) subject to Section [~~17-21-12.5~~]17-71-406, an originally recorded instrument of record for which a redacted copy exists and is accessible under Section [~~17-21-12.5~~]17-71-406; or

(b) placing an endorsement, reference, or other note on a document in the course of the county recorder's work.

Section 264. Section 17-71-401, which is renumbered from Section 17-21-12 is renumbered and amended to read:

PART 4. General Recording Provisions

[~~17-21-12~~]17-71-401 (Effective 11/06/25). Recording procedures -- Endorsements of entry number required on documents.

(1) When a document is accepted by the county recorder's office for recording, the county recorder shall:

(a) endorse upon the first page of the document [~~an entry number and the time when the document was accepted, noting the year, month, day, hour, and minute of its reception, and the amount of fees for recording it~~]the relevant information described in Section 17-71-302; and

(b) record the document during office hours in the order it was accepted.

(2) [~~Each~~]A county recorder shall place an entry number or a book and page reference on each page of a document that the county recorder accepts for recording only if the original document or a copy of the document is kept as a public record under Section [~~17-21-3~~]17-71-404.

(3) (a) A county recorder may endorse each document that the county recorder accepts for recording with a book and page reference.

(b) If a county recorder elects not to endorse a document with a book and page reference, the book and page reference may be omitted:

(i) in each index required by statute; and

(ii) on each document presented for recording that is required to recite recording data.

(4) Subject to Section [~~17-21-3~~]17-71-404, the county recorder shall return the document to the person that the county recorder considers appropriate.

Section 265. Section 17-71-402, which is renumbered from Section 17-21-20 is renumbered and amended to read:

[~~17-21-20~~]17-71-402 (Effective 11/06/25). Recording required -- County recorder may impose requirements on documents to be recorded -- Requirements for recording local entity plat -- Point of the Mountain State Land Authority plat.

(1) Subject to Subsections [~~(2)~~](3), [~~(3)~~](4), and [~~(4)~~](5), a county recorder shall record each paper, notice, and instrument required by law to be recorded in the office of the county recorder unless otherwise provided.

(2) (a) Beginning on or before January 1, 2022, each county shall accept and provide for the electronic recording of instruments.

(b) Beginning on or before January 1, 2023, each county shall:

(i) provide for the electronic recording of a plat; and

(ii) accept an electronic document for the recording of a plat.

[~~(2)~~](3) Subject to [~~Chapter 21a, Uniform Real Property Electronic Recording Act~~]Part 6, Uniform Real Property Electronic Recording Act, each document that is submitted for recording to a county recorder's office shall:

(a) unless otherwise provided by law, be an original or certified copy of the document;

(b) be in English or be accompanied by an accurate English translation of the document;

(c) contain a brief title, heading, or caption on the first page stating the nature of the document;

(d) except as otherwise provided by statute, contain the legal description of the property that is the subject of the document in accordance with Subsection 57-3-105(4);

(e) comply with the requirements of Section [~~17-21-25~~]17-71-403 and Subsections 57-3-105(1) and (2);

(f) except as otherwise provided by statute, be notarized with the notary stamp with the seal legible; and

(g) have original signatures.

[~~(3)~~](4) (a) Subject to [~~Chapter 21a, Uniform Real Property Electronic Recording Act~~]Part 6, Uniform Real Property Electronic Recording Act, a county recorder may require that each paper, notice, and instrument submitted for recording in the county recorder's office:

(i) be on white paper that is 8-1/2 inches by 11 inches in size;

(ii) have a margin of one inch on the left and right sides and at the bottom of each page;

(iii) have a space of 2-1/2 inches down and 4-1/2 inches across the upper right corner of the first page and a margin of one inch at the

top of each succeeding page;

(iv) not be on sheets of paper that are continuously bound together at the side, top, or bottom;

(v) not contain printed material on more than one side of each page;

(vi) be printed in black ink and not have text smaller than seven lines of text per vertical inch; and

(vii) be sufficiently legible to make certified copies.

(b) A county recorder who intends to establish requirements under Subsection [~~(3)(a)~~](4)(a) shall first:

(i) provide formal notice of the requirements; and

(ii) establish and publish an effective date for the requirements that is at least three months after the formal notice under Subsection [~~(3)(b)(i)~~](4)(b)(i).

[~~(4)~~](5) (a) To facilitate the abstracting of an instrument to which a tax identification number is assigned, a county recorder may require that the applicable tax identification number of each parcel described in the instrument be noted on the instrument before the county recorder accepts the instrument for recording.

(b) If a county recorder requires the applicable tax identification number to be on an instrument before the instrument may be recorded:

(i) the county recorder shall post a notice of that requirement in a conspicuous place at the recorder's office;

(ii) the tax identification number may not be considered to be part of the legal description and may be indicated on the margin of the instrument; and

(iii) an error in the tax identification number does not affect the validity of the instrument or effectiveness of the recording.

[~~(5)~~](6) Subsections [~~(2), (3), and (4)~~](3), (4), and (5) do not apply to:

(a) a map or plat;

(b) a certificate or affidavit of death that a government agency issues;

(c) a military discharge or other record that a branch of the United States military service issues;

(d) a document regarding taxes that is issued by the Internal Revenue Service of the United States Department of the Treasury;

(e) a document submitted for recording that has been filed with a court and conforms to the formatting requirements established by the court; or

(f) a document submitted for recording that is in a form required by law.

[~~(6)~~](7) [~~(a) As used in this Subsection (6):~~]

[~~(i) "Boundary action" has the same meaning as defined in Section 17-23-20.~~]

[~~(ii) "Local entity" has the same meaning as defined in Section 67-1a-6.5.~~]

[~~(b)~~](a) A person may not submit to a county recorder for recording a plat depicting the boundary of a local entity as the boundary exists as a result of a boundary action, unless:

(i) the plat has been approved under Section [~~17-23-20~~]17-73-507 by the county surveyor as a final local entity plat, as defined in Section [~~17-23-20~~]17-73-101; and

(ii) the person also submits for recording:

(A) the original notice of an impending boundary action, as defined in Section 67-1a-6.5, for the boundary action for which the plat is submitted for recording;

(B) the original applicable certificate, as defined in Section 67-1a-6.5, issued by the lieutenant governor under Section 67-1a-6.5 for the boundary action for which the plat is submitted for recording; and

(C) each other document required by statute to be submitted for recording with the notice of an impending boundary action and applicable certificate.

[~~(c)~~](b) Promptly after recording the documents described in Subsection [~~(6)(b)~~](7)(a)relating to a boundary action, but no later than 10 days after [~~recording~~]the day on which the county recorder records those documents, the county recorder shall send a copy of all those documents to the State Tax Commission.

[~~(7)~~](8) The county recorder for a county of the first class shall record a plat submitted by the Point of the Mountain State Land Authority, created in Section 11-59-201, for point of the mountain state land if the submitted plat:

(a) is in a recordable and legible format; and

(b) includes:

(i) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(ii) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the authority will use any parcel of ground as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(iii) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, and acreage or square footage for all parcels, units, or lots;

(iv) every existing right-of-way and recorded easement located within the plat for:

(A) an underground facility;

(B) a water conveyance facility; or

(C) any other utility facility; and

(v) any water conveyance facility located, entirely or partially, within the plat that:

(A) is not recorded; and

(B) of which the authority has actual or constructive knowledge, including from information made available to the authority in the state engineer's inventory of canals or from a surveyor.

Section 266. Section 17-71-403, which is renumbered from Section 17-21-25 is renumbered and amended to read:

[~~17-21-25~~]17-71-403 (Effective 11/06/25). Names of persons signing to be typed or printed on instruments presented for recording.

(1) (a) Each instrument presented to the county recorder for recording shall have typed or printed on it the name of each person whose

signature appears on the instrument whose name is required to be indexed.

(b) The person's typed or printed name shall appear just beneath that person's signature.

(2) The requirements of Subsection (1) do not affect the legality of the instrument to be recorded.

Section 267. Section 17-71-404, which is renumbered from Section 17-21-3 is renumbered and amended to read:
[~~17-21-3~~]17-71-404 (Effective 11/06/25). Public record of original documents or copies -- Receipt of recording.

(1) After accepting a document for recording, receiving the fees for recording it, and completing recording procedures, the county recorder shall, only if required by statute, keep the original document or a copy of the original document as a public record in a form sufficient to meet the requirements of this chapter.

(2) (a) The county recorder may make and furnish certified photographic copies of any of the records in the office to an individual who pays the applicable fees.

(b) The county recorder shall supply certified copies of any of the records to a county officer for the officer's official use without the payment of a fee.

(3) Upon recording an instrument, the county recorder shall, if requested, give a receipt to the individual presenting an instrument for recording.

Section 268. Section 17-71-405, which is renumbered from Section 17-21-19 is renumbered and amended to read:
[~~17-21-19~~]17-71-405 (Effective 11/06/25). Records open to inspection -- Copies.

(1) All instruments of record and all indexes required by this chapter are open to public inspection during office hours, except:

(a) [~~those~~]instruments classified as private under Section 63G-2-302;

(b) military records described in Section 17-71-503; and

[~~(b)~~](c) [~~those~~]instruments with respect to which a redaction of personal information has occurred under Section [~~17-21-12.5~~]17-71-406, if the redacted copy of the instrument is open to public inspection during office hours.

(2) Upon payment of the applicable fee, a person may obtain copies of a public record.

(3) (a) The county recorder may make and furnish certified copies of any of the records in the office to an individual who pays the applicable fees.

(b) The county recorder shall supply certified copies of any of the records to a county officer for the officer's official use without the payment of a fee.

Section 269. Section 17-71-406, which is renumbered from Section 17-21-12.5 is renumbered and amended to read:
[~~17-21-12.5~~]17-71-406 (Effective 11/06/25). Redacting personal information.

[~~(1) As used in this section, "personal information" means:~~]

[~~(a) a signature;~~]

[~~(b) the first five digits of a social security number; or~~]

[~~(c) the month and day of the month of a birth date.~~]

[~~(2)~~](1) (a) An individual may request, in accordance with Subsection [~~(3)~~](2), to have the county recorder create a redacted version of a previously recorded instrument.

(b) The redacted version of a previously recorded instrument will, in accordance with this section, reflect redactions of the individual's personal information.

[~~(3)~~](2) A request under Subsection [~~(2)(a)~~](1)(a) shall:

(a) be in writing;

(b) include payment of the fee [~~under~~]described in Subsection [~~(6)~~](5); and

(c) identify the location of the personal information in the county recorder's records by:

(i) entry number and page number; or

(ii) book and page number.

[~~(4)~~](3) If an individual makes a request in accordance with Subsection [~~(3)~~](2), the county recorder shall:

(a) create a copy of the originally recorded instrument of record for the purpose of creating a redacted version of the originally recorded instrument;

(b) on the copy of the originally recorded instrument created under Subsection [~~(4)(a)~~](3)(a):

(i) redact the personal information, ensuring that the originally recorded instrument is not altered or changed;

(ii) indicate:

(A) the date and time that the redaction occurred; and

(B) that the originally recorded instrument remains on file with the county recorder's office; and

(c) make the redacted copy of the originally recorded instrument accessible and available for inspection.

[~~(5)~~](4) The county recorder shall produce or provide access to the originally recorded instrument of record if:

(a) the individual requesting a copy of the originally recorded instrument is:

(i) the individual whose personal information was redacted on the copy of the originally recorded instrument;

(ii) if the instrument is a trust deed, a beneficiary of the trust deed;

(iii) acting on behalf of a title company that has a valid business license issued by the state or a political subdivision of the state; or

(iv) an attorney that has a valid license from the Utah State Bar;

(b) the county recorder is responding to a valid subpoena;

(c) the county recorder is responding to a valid request under Title 63G, Chapter 2, Government Records Access and Management Act; or

(d) a court of competent jurisdiction orders the county recorder to produce the originally recorded instrument.

[~~(6)~~](5) The county recorder may charge a fee, in accordance with Section [~~17-21-18.5~~]17-71-407, for costs related to redacting

personal information.

Section 270. Section 17-71-407, which is renumbered from Section 17-21-18.5 is renumbered and amended to read:
[~~17-21-18.5~~]17-71-407 (Effective 11/06/25). Fees -- Fees must be paid in advance.

(1) The county recorder may not record any instrument, furnish any copies, or provide any service connected with the office of the county recorder, until the relevant fees described in this section or established by county ordinance or resolution have been:

(a) paid; or

(b) authorized to be paid electronically.

(2) The county may determine and collect a fee for all services not enumerated in this section.

(3) The county recorder shall receive the following fees:

(a) for recording any instrument, not otherwise provided for, other than bonds of public officers, $40;

(b) (i) for recording any instrument, including those provided for under Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise provided for, $40[~~,~~]; and

(ii) if an instrument contains more than 10 descriptions, $2 for each additional description;

(c) for recording mining location notices and affidavits of labor affecting mining claims, $40;

(d) for an affidavit or proof of labor [~~which~~]that contains more than 10 mining claims, $2 for each additional mining claim; and

(e) for redacting personal information [~~pursuant to~~]in accordance with Section [~~17-21-12.5~~]17-71-406, $5.

[~~(2)~~](4) (a) Each county recorder shall record the mining rules of the several mining districts in each county without a fee.

(b) Certified copies of these records shall be received in all tribunals and before all officers of this state as prima facie evidence of the rules.

[~~(3)~~](5) The county recorder shall receive the following fees:

(a) for copies of any record or document, a reasonable fee as determined by the county legislative body;

(b) for each certificate under seal, $5;

(c) for recording any plat, $50 for each sheet and $2 for each lot or unit designation;

(d) for taking and certifying acknowledgments, including seal, $5 for one name and $2 for each additional name;

(e) for recording any license issued by the Division of Professional Licensing, $40; [~~and~~]

(f) for recording a federal tax lien, $40[~~,~~]; and

(g) for recording the discharge of [~~the~~]a federal tax lien, $40.

[~~(4)~~](6) A county recorder may not charge more than one recording fee for each instrument, regardless of whether the instrument bears multiple descriptive titles or includes one or more attachments as part of the instrument.

[~~(5) (a) Beginning on or before January 1, 2022, each county shall accept and provide for the electronic recording of instruments.~~]

[~~(b) Beginning on or before January 1, 2023, each county shall:~~]

[~~(i) provide for the electronic recording of a plat; and~~]

[~~(ii) accept an electronic document for the recording of a plat.~~]

[~~(6) The county may determine and collect a fee for all services not enumerated in this section.~~]

(7) A county recorder may not be required to collect a fee for services that are unrelated to the county recorder's office.

Section 271. Section 17-71-408, which is renumbered from Section 17-21-11 is renumbered and amended to read:
[~~17-21-11~~]17-71-408 (Effective 11/06/25). Notice given by recording.

(1) Each certified copy from the time of recording of the original record gives notice to all persons of the contents of the recorded document.

(2) Subsequent purchasers, mortgagees, and lien holders purchase and encumber with the same notice and effect as if the certified copy was the original document.

Section 272. Section 17-71-501, which is renumbered from Section 17-21-9 is renumbered and amended to read:

PART 5. Particular Recorded Documents

[~~17-21-9~~]17-71-501 (Effective 11/06/25). Indexing of deeds and other instruments.

Deeds and other instruments affecting real estate made by a United States marshal, a sheriff, master in chancery, special commissioner, executor, administrator, guardian, trustee, or other person [~~acting~~]with legal authority to act in behalf of another shall be indexed in the name of the person whose land is sold or affected as grantor.

Section 273. Section 17-71-502, which is renumbered from Section 17-21-10 is renumbered and amended to read:
[~~17-21-10~~]17-71-502 (Effective 11/06/25). Judgments affecting real estate.

(1) A county recorder shall record for real property, any part of which is located in the county:

(a) a judgment affecting the real property;

(b) a release, assignment, renewal, or extension of a judgment lien affecting the real property; or

(c) a certified copy of a final judgment or decree partitioning or affecting the title or possession of the real property.

(2) A document recorded in accordance with this section is subject to the requirements of Section 57-3-106.

Section 274. Section 17-71-503, which is renumbered from Section 17-21-14 is renumbered and amended to read:
[~~17-21-14~~]17-71-503 (Effective 11/06/25). Military records -- Evidence.

(1) Upon presentation, the county recorder shall:

(a) record, free of charge[~~,~~];

(i) discharges from the United States military, naval, or marine service[~~of the United States,~~]; and

(ii) [~~any and all~~]orders, citations, and decorations of honor relating to [~~a person~~]an individual while the [~~person~~]individual was in the

United States military, naval, or marine service[~~ of the United States~~]; and

(b) [~~furnish~~]give, free of charge, certified copies [~~of any of those records to~~]of a record described in Subsection (1) to:

(i) the [~~person to whom they relate~~]individual who is the subject of the record; and

(ii) [~~to the~~]a father, mother, [~~brothers, sisters, or any~~]brother, sister, or lineal descendant of [~~that person~~]the individual who is the subject of the record.

(2) [~~Those certified~~]Certified copies of records kept by the county recorder may be read in evidence with the same effect as the original in [~~any~~]an action or proceeding before [~~any~~]a court, commission, or other tribunal in this state.

Section 275. Section 17-71-504, which is renumbered from Section 17-27a-538 is renumbered and amended to read:

[~~17-27a-538~~]17-71-504 (Effective 11/06/25). Notice of significant private airports.

(1) As used in this section, "significant private airport" means the same as that term is defined in Section 72-10-102.

(2) If a county receives a notification described in Section 72-10-416, the county land use authority[~~ of the county~~] shall record with the county recorder and against any existing residential parcel within 2,500 feet of a runway of a significant private airport located within an unincorporated area within the boundary of the county a notice with the following language: "In accordance with Utah Code Section [~~17-27a-538~~]17-71-504, notice is hereby given that the subject property is located within 2,500 feet of a runway of a significant airport that as of [INSERT THE DATE OF THE RECORDING] is known as [AIRPORT NAME] and is located at [INSERT THE ADDRESS OF THE SIGNIFICANT PRIVATE AIRPORT]. Said notice boundary more accurately described as [INSERT BOUNDARY LEGAL DESCRIPTION OF ALL PROPERTY WITHIN 2,500 FEET OF RUNWAY]."

Section 276. Section 17-71-601, which is renumbered from Section 17-21a-102 is renumbered and amended to read:

PART 6. Uniform Real Property Electronic Recording Act

[~~17-21a-102~~]17-71-601 (Effective 11/06/25). Definitions.

As used in this [~~chapter~~]part:

(1) "Commission" means the Utah Electronic Recording Commission established in Section 17-21a-302.

(2) "Document" means information that is:

(a) inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(b) eligible to be recorded in the land records maintained by the county recorder.

(3) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(4) "Electronic document" means a document that is received by the county recorder in an electronic form.

(5) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Section 277. Section 17-71-602, which is renumbered from Section 17-21a-202 is renumbered and amended to read:

[~~17-21a-202~~]17-71-602 (Effective 11/06/25). Validity of electronic documents.

(1) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this chapter.

(2) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(3) (a) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature.

(b) A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

Section 278. Section 17-71-603, which is renumbered from Section 17-21a-203 is renumbered and amended to read:

[~~17-21a-203~~]17-71-603 (Effective 11/06/25). Recording of documents.

(1) As used in this section, "paper document" means a document that is received by the county recorder in a form that is not electronic.

(2) A county recorder:

[~~(a) who implements any of the functions listed in this section shall do so in compliance with standards established by the Utah Electronic Recording Commission created in Section 17-21a-301;~~]

[~~(b)~~](a) may receive, index, store, archive, and transmit electronic documents;

[~~(c)~~](b) may provide for access to, and for search and retrieval of, documents and information by electronic means;

[~~(d)~~](c) who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

[~~(e)~~](d) may convert paper documents accepted for recording into electronic form;

[~~(f)~~](e) may convert into electronic form information recorded before the county recorder began to record electronic documents;

[~~(g)~~](f) may accept electronically any fee that the county recorder is authorized to collect; and

[~~(h)~~](g) may agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees.

Section 279. Section 17-71-604, which is renumbered from Section 17-21a-402 is renumbered and amended to read:

[~~17-21a-402~~]17-71-604 (Effective 11/06/25). Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 280. Section 17-71-605, which is renumbered from Section 17-21a-403 is renumbered and amended to read:

[~~17-21a-403~~]17-71-605 (Effective 11/06/25). Relation to Electronic Signatures in Global and National Commerce Act.

This [~~chapter~~]part modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001, et seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Sec. 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Sec. 7003(b)).

Section 281. Section 17-72-101, which is renumbered from Section 17-22-1 is renumbered and amended to read:

CHAPTER 72. County Sheriff

PART 1. General Provisions

[~~17-22-1~~]17-72-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Commissary account" means an account from which a prisoner may withdraw money, deposited by the prisoner or another individual, to purchase discretionary items for sale by a correctional facility.

(2) "Commissary purchase" means a transaction initiated by a prisoner by which the prisoner obtains an item or items offered for sale by the correctional facility in exchange for money withdrawn from the prisoner's commissary account.

(3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(4) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(5) "County inmate" means an inmate who is sentenced to a county jail.

(6) "Cross-sex hormone treatment" means the same as that term is defined in Section 26B-4-1001.281-12(6)

(7) (a) "In-custody death" means a prisoner death that occurs while the prisoner is in the custody of a county jail.

(b) "In-custody death" includes a prisoner death that occurs while the prisoner is:

(i) being transported for health care; or

(ii) receiving health care outside of a county jail.

(8) "Inmate" means a prisoner who is in the custody of a correctional facility following a criminal conviction.

(9) "Medication assisted treatment plan" means a prescription plan to use prescribed medication approved by the Food and Drug Administration, such as buprenorphine, methadone, or naltrexone to treat substance use withdrawal symptoms or an opioid use disorder.

(10) "Notice" means all papers and orders, except process, required to be served in any proceeding before any court, board, commission, or officer, or when required by law to be served independently of a court proceeding.

(11) "Opiate" means the same as that term is defined in Section 58-37-2.

(12) "Primary sex characteristic surgical procedure" means the same as that term is defined in Section 26B-4-1001.

(13) "Prisoner" means an individual who is:

(a) in custody of a peace officer in accordance with a lawful arrest; or

(b) confined in a county jail.

(14) "Police interlocal entity" means the same as that term is defined in Sections 17-76-201and 17-76-301.

(15) "Police special district" means the same as that term is defined in Section 17-76-201.

(16) "Probationer" means an individual on probation under the supervision of the county sheriff.

(17) "Process" [~~as~~][~~used in this chapter includes~~]means all writs, warrants, summonses and orders of the courts of justice or judicial officers. [~~"Notice" includes all papers and orders, except process, required to be served in any proceeding before any court, board, commission or officer, or when required by law to be served independently of such proceedings.~~]

(18) (a) "Qualifying domestic violence offense" means the same as that term is defined in Section 77-36-1.1.

(b) "Qualifying domestic violence offense" does not include criminal mischief as that term is defined in Section 76-6-106.

(19) "State inmate" means an inmate who is sentenced to the Department of Corrections, created in Section 64-13-2, even if the inmate is in the custody of a county jail.

(20) "Secondary sex characteristic surgical procedure" means the same as that term is defined in Section 26B-4-1001.

(21) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

Section 282. Section 17-72-201, which is renumbered from Section 17-22-1.5 is renumbered and amended to read:

PART 2. Qualifications and Term

[~~17-22-1.5~~]17-72-201 (Effective 11/06/25). County sheriff qualifications -- Declaring office vacant -- Term.

(1) Each [~~person~~]individual filing a declaration of candidacy for the office of county sheriff shall submit to the county clerk, at the time of filing a declaration of candidacy, a certificate issued by the Peace Officer Standards and Training Division created under Section 53-6-103 stating that the candidate has:

(a) (i) successfully met the standards and training requirements established for peace officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(ii) met the waiver requirements in Section 53-6-206; and

(b) met the qualifications to be certified as a law enforcement officer, as defined in Section 53-13-103.

(2) In addition to the general qualifications required of county officers by [~~Title 17, Chapter 16, County Officers~~]Chapter 66, County Officers and Officials Generally, each county sheriff shall:

(a) at the time of taking office:

(i) (A) have successfully met the standards and training requirements established for peace officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) have met the waiver requirements in Section 53-6-206; and

(ii) be qualified to be certified as:

(A) a law enforcement officer, as defined in Section 53-13-103; and

(B) if the [~~person~~]individual is elected to the office of county sheriff in any election held after the 2008 general election:

(I) a correctional officer, as defined in Section 53-13-104; or

(II) a correctional facility manager by having successfully completed a correctional facility management course that is offered by a certified academy in both an online web-based format and in a classroom format and that is approved by the Peace Officer Standards and Training Council created in Section 53-6-106;

(b) satisfactorily complete annual certified training as required in Section 53-13-103; and

(c) after certification as provided in Subsection (2)(a), remain certified during the sheriff's term of office as:

(i) a law enforcement officer; and

(ii) if the person is elected to the office of county sheriff in any election held after the 2008 general election:

(A) a correctional officer; or

(B) a correctional facility manager by having completed a correctional facility management course approved by the Peace Officer Standards and Training Council.

(3) If a sheriff resigns, retires, dies, or otherwise does not complete the term of office, the [~~person~~]individual appointed to serve for the remainder of the term shall within 60 days after the date of appointment complete the training and exam required under Subsection (2)(a)(ii)(B).

(4) (a) The county legislative body shall declare the office of sheriff to be vacant if at any time the incumbent sheriff fails to meet the qualifications for office under Subsection (2).

(b) In addition to the circumstance described in Subsection (4)(a), the office of the county sheriff is considered vacant when the sheriff is committed for not paying over money received by the sheriff by virtue of the sheriff's office and remains committed for 60 or more days.

(5) The term of office of a county sheriff is governed by Utah Constitution, Article XI, Section 10.

Section 283. Section 17-72-301, which is renumbered from Section 17-22-2 is renumbered and amended to read:

PART 3. Powers and Duties

[~~17-22-2~~]17-72-301 (Effective 11/06/25). General duties.

(1) The sheriff shall:

(a) preserve the peace;

(b) make all lawful arrests;

(c) (i) attend in person or by deputy:

(A) the Supreme Court and the Court of Appeals when required; or

(B) when the court is held within the sheriff's county, all courts of record, and court commissioner and referee sessions held within the sheriff's county[~~,~~];

(ii) obey [~~their~~]a court's lawful orders and directions[~~,~~]; and

(iii) comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration;

(d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;

(e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of [~~jail inmates~~]prisoners in the sheriff's custody, or for the custody of jurors;

(f) command the aid of as many inhabitants of the sheriff's county as the sheriff considers necessary in the execution of [~~these~~]duties described in this section;

(g) take charge of and keep the county jail and [~~the jail inmates~~]prisoners in the county jail as described in Part 4, County Jails, and Part 5, Responsibility for Prisoners;

(h) (i) receive and safely keep all [~~persons~~]prisoners committed to the sheriff's custody[~~,~~];

(ii) file and preserve the commitments of [~~those persons in custody,~~]prisoners; and

(iii) record the name, age, place of birth, and description of each [~~person committed~~]prisoner;

(i) release on the record all attachments of real property when the attachment the sheriff receives has been released or discharged;

(j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the [~~person~~]individual delivering process or notice showing the names of the parties, title of paper, and the time of receipt;

(k) serve all process and notices as prescribed by [~~law~~]Part 7, Process Service and Duty to the Court, or any other provision of law;

(l) (i) if the sheriff makes service of process or notice, certify on the process or notices the manner, time, and place of service[~~,~~]; or[~~,~~]

(ii) if the sheriff fails to make service, certify the reason upon the process or notice, and return them without delay;

(m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public land within the sheriff's county;

(n) perform as required by any contracts between the county and private contractors for management, maintenance, operation, and construction of county jails entered into under the authority of Section [~~17-53-311~~]17-65-405;

(o) manage and direct search and rescue services in the sheriff's county, including emergency medical responders and other related incident response activities;

(p) obtain saliva DNA specimens as required under Section 53-10-404;

(q) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender;

(r) as applicable, select a representative of law enforcement to serve as a member of a child protection team, as defined in Section 80-1-102;

(s) appoint a county security chief in accordance with Section 53-22-103 and ensure the county security chief fulfills the county security chief's duties;

(t) ensure that a [~~jail inmate~~]prisoner who is awaiting trial, sentencing, or disposition of criminal charges has:

(i) a private and confidential space to review discovery and other evidence or documents related to the [~~jail inmate's~~]prisoner's criminal case with the [~~jail inmate's~~]prisoner's counsel; and

(ii) the means to access and review discovery and other evidence or documents related to the [~~jail inmate's~~]prisoner's criminal case, with or without the [~~jail inmate's~~]prisoner's counsel, including the means to access and review digital, audio, video, or other technological evidence or documents; and

(u) perform any other duties that are required by law.

(2) (a) Violation of Subsection (1)(j) is a class C misdemeanor.

(b) Violation of any other subsection under Subsection (1) is a class A misdemeanor.

(3) (a) A [~~jail inmate~~]prisoner may access or review discovery, evidence, or other documents under Subsection (1)(t) with:

(i) technology provided by the jail; or

(ii) technology, including a computer, that is approved by the jail and is provided by the [~~jail inmate's~~]prisoner's counsel.

(b) If a [~~jail inmate's~~]prisoner's counsel leaves discovery, evidence, or other documents with the [~~jail inmate~~]prisoner at the jail, the [~~jail inmate's~~]prisoner's counsel shall ensure that the discovery, evidence, or other documents does not include:

(i) any visual depiction of an individual who is younger than 18 years old;

(ii) any personal identifying information of an individual other than the [~~jail inmate~~]prisoner;

(iii) any financial information of a person other than the [~~jail inmate~~]prisoner;

(iv) any child sexual abuse material as defined in Section 76-5b-103;

(v) any intimate image as defined in Section 76-5b-203; or

(vi) any visual depiction or information for which possession is prohibited, by policy, at the jail.

Section 284. Section 17-72-302, which is renumbered from Section 17-22-31 is renumbered and amended to read:

[~~17-22-31~~]17-72-302 (Effective 11/06/25). Primary law enforcement authority.

The sheriff is the primary law enforcement authority of state law on federal land except as otherwise assigned by law to the authority of a state or municipal law enforcement agency.

Section 285. Section 17-72-303 is enacted to read:

17-72-303 (Effective 11/06/25). Duty to respond to county legislative body, county executive.

The county sheriff shall respond to a request for assistance made by the county legislative body or county executive in accordance with Section 17-66-506.

Section 286. Section 17-72-304, which is renumbered from Section 17-22-2.5 is renumbered and amended to read:

[~~17-22-2.5~~]17-72-304 (Effective 11/06/25). Fees.

(1) (a) The legislative body of a county may set a fee for a service described in this section and charged by the county sheriff:

(i) in an ordinance adopted under Section [~~17-53-223~~]17-64-501; and

(ii) in an amount reasonably related to, but not exceeding, the actual cost of providing the service.

(b) If the legislative body of a county does not under Subsection (1)(a) set a fee charged by the county sheriff, the sheriff shall charge a fee in accordance with Subsections (2)through (7).

(2) Unless under Subsection (1) the legislative body of a county sets a fee amount for a fee described in this Subsection (2), the sheriff shall charge the following fees:

(a) for serving a notice, rule, order, subpoena, garnishment, summons, or summons and complaint, or garnishee execution, or other process by which an action or proceeding is commenced, on each defendant, including copies when furnished by plaintiff, $20;

(b) for taking or approving a bond or undertaking in any case in which he is authorized to take or approve a bond or undertaking, including justification, $5;

(c) for a copy of any writ, process or other paper when demanded or required by law, for each folio, 50 cents;

(d) for serving an attachment on property, or levying an execution, or executing an order of arrest or an order for the delivery of personal property, including copies when furnished by plaintiff, $50;

(e) for taking and keeping possession of and preserving property under attachment or execution or other process, the amount the court orders to a maximum of $15 per day;

(f) for advertising property for sale on execution, or any judgment, or order of sale, exclusive of the cost of publication, $15;

(g) for drawing and executing a sheriff's deed or a certificate of redemption, exclusive of acknowledgment, $15, to be paid by the grantee;

(h) for recording each deed, conveyance, or other instrument affecting real estate, exclusive of the cost of recording, $10, to be paid by the grantee;

(i) for serving a writ of possession or restitution, and putting any person entitled to possession into possession of premises, and removing occupant, $50;

(j) for holding each trial of right of property, to include all services in the matter, except mileage, $35;

(k) for conducting, postponing, or canceling a sale of property, $15;

(l) for transporting a prisoner to and from prison to attend court proceedings in a civil case, $2.50 for each mile necessarily traveled, up to a maximum of 100 miles;

(m) for receiving and paying over money on execution or other process, as follows:

(i) if the amount collected does not exceed $1,000, 2% of this amount, with a minimum of $1; and

(ii) if the amount collected exceeds $1,000, 2% on the first $1,000 and 1-1/2% on the balance; and

(n) for executing in duplicate a certificate of sale, exclusive of filing it, $10.

(3) The fees allowed by Subsection (2)(f) for the levy of execution and for advertising shall be collected from the judgment debtor as part of the execution in the same manner as the sum directed to be made.

(4) When serving an attachment on property, an order of arrest, or an order for the delivery of personal property, the sheriff may only collect traveling fees for the distance actually traveled beyond the distance required to serve the summons if the attachment or those orders:

(a) accompany the summons in the action; and

(b) may be executed at the time of the service of the summons.

(5) (a) (i) When traveling generally to serve notices, orders, process, or other papers, the sheriff may receive, except as otherwise provided under Subsection (1)(a), $2.50 for each mile necessarily traveled, in going only, computed from the courthouse for each person served, to a maximum of 100 miles.

(ii) When transmitting notices, orders, process, or other papers by mail, the sheriff may receive, except as otherwise provided under Subsection (1)(a), $2.50 for each mile necessarily traveled, in going only, computed from the post office where received for each person served, to a maximum of 100 miles.

(b) The sheriff may only charge one mileage fee if any two or more papers are required to be served in the same action or proceeding at the same time and at the same address.

(c) If it is necessary to make more than one trip to serve any notice, order, process, or other paper, the sheriff may not collect more than two additional mileage charges.

(6) (a) For transporting a patient to the Utah State Hospital or to or from a hospital or a mental health facility, as defined in Section 26B-5-301, when the cost of transportation is payable by private individuals, the sheriff may collect, except as otherwise provided under Subsection (1)(a), $2.50 for each mile necessarily traveled, in going only, to a maximum of 100 miles.

(b) If the sheriff requires assistance to transport the person, the sheriff may also charge the actual and necessary cost of that assistance.

(7) (a) Subject to Subsection (7)(b), for obtaining a saliva DNA specimen under Section 53-10-404, the sheriff shall collect the fee of $150 in accordance with Section 53-10-404.

(b) The fee amount described in Subsection (7)(a) may not be changed by a county legislative body under Subsection (1).

Section 287. Section 17-72-305, which is renumbered from Section 17-22-18 is renumbered and amended to read:

[~~17-22-18~~]17-72-305 (Effective 11/06/25). Certain liability.

The sheriff is liable for the rescue of [~~a person~~]an individual arrested in a civil action equally as for an escape.

Section 288. Section 17-72-401, which is renumbered from Section 17-22-4 is renumbered and amended to read:

PART 4. County Jails

[~~17-22-4~~]17-72-401 (Effective 11/06/25). County jails -- Sheriff as keeper -- Contracting with private contractor.

(1) The [~~common jails in the several counties~~]county jail shall be kept by the [~~sheriffs,~~]sheriff and shall be used for:

(a) the detention of [~~persons~~]an individual committed to jail to secure [~~their~~]the individual's attendance as [~~witnesses~~]a witness in a criminal [~~cases~~]case;

(b) the detention of [~~persons~~]prisoners charged with crime and committed for trial;

(c) the confinement of [~~persons~~]prisoners committed for contempt, or upon civil process, or by other authority of law; and

(d) the confinement of [~~persons~~]inmates sentenced to imprisonment upon conviction of crime.

(2) If the county executive contracts with a private contractor to manage, maintain, operate, or construct county jail facilities, the sheriff shall perform whatever obligations are imposed upon [~~him~~]the sheriff by that contract.

Section 289. Section 17-72-402, which is renumbered from Section 17-22-5.5 is renumbered and amended to read:

[~~17-22-5.5~~]17-72-402 (Effective 11/06/25). Sheriff's classification of jail facilities -- Maximum operating capacity of jail facilities -- Limitations on contracting -- Transfer or release of prisoners -- Limitation -- Records regarding release.

(1) (a) Except as provided in Subsection (5), a county sheriff shall determine:

(i) subject to Subsection (1)(b), the classification of each county jail facility or section of a county jail facility under the sheriff's control;

(ii) the nature of each program conducted at a county jail facility under the sheriff's control; and

(iii) the internal operation of a county jail facility under the sheriff's control.

(b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any applicable zoning ordinance or conditional use permit of the county or municipality.

(2) Except as provided in Subsection (5), each county sheriff shall:

(a) with the approval of the county legislative body, establish a maximum operating capacity for each county jail facility under the sheriff's control, based on facility design and staffing; and

(b) upon a county jail facility reaching the county jail facility's maximum operating capacity:

(i) transfer prisoners to another appropriate facility:

(A) under the sheriff's control; or

(B) available to the sheriff by contract;

(ii) subject to the requirements of Subsection (4), release prisoners:

(A) to a supervised release program, according to release criteria established by the sheriff; or

(B) to another alternative incarceration program developed by the sheriff; or

(iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all entities using the county jail.

(3) (a) The sheriff shall keep records of the release status and the type of release program or alternative incarceration program for any prisoner released under Subsection (2)(b)(ii).

(b) The sheriff shall make [~~these~~]records described in Subsection (3)(a) available upon request to the Department of Corrections, the [~~Judiciary~~]judiciary, and the [~~Commission on Criminal and Juvenile Justice~~]commission.

(4) A sheriff may not release an individual due to overcrowding who, based on information that is reasonably available to the sheriff:

(a) is arrested or convicted of a violent criminal offense as defined in Section 76-3-203.10;

(b) is arrested or convicted of a drug offense that is a felony;

(c) is arrested or convicted of possession of any composition or mixture, including pills, that contains 100 grams or more of fentanyl or a fentanyl-related substance;

(d) is arrested or convicted of an offense of driving under the influence or driving with a measurable controlled substance in the body, if the offense results in death or serious bodily injury to an individual;

(e) has been previously booked into the same jail within the [~~immediately preceding~~]12-month period immediately before the individual's current incarceration began; or

(f) has an outstanding warrant for failing to appear in a case:

(i) involving any charge described in Subsections (4)(a) through (4)(d); or

(ii) where the individual classifies as a habitual offender as defined in Section 77-18-102.

(5) (a) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail [~~an individual~~]a state inmate sentenced to the Department of Corrections.

(b) A county contracting with another county to house [~~an individual~~]a county inmate due to capacity issues:

(i) shall contract with a county that:

(A) has available capacity in [~~its~~]the county's county jail; and

(B) agrees to contract to house the [~~individual~~]county inmate;

(ii) shall, subject to the agreement of the parties to the contract, pay to the county contracting to receive the transferred [~~individual~~]county inmate a day per capita rate that does not exceed the higher of:

(A) the current average cost of housing [~~an individual~~]a county inmate in the transferring county jail; or

(B) the daily incarceration rates described in Section 64-13e-103.1; and

(iii) if the county is a county of the first class, and if the county or a sheriff in the county has released [~~an individual~~]a prisoner due to overcrowding during the lookback period described in Subsection (5)(c), the county:

(A) may not enter into a new contract with a federal agency for the purpose of housing [~~individuals~~]federal detainees;

(B) may not house federal detainees in a number that exceeds the number of beds that the county has contracted for with a federal agency in the current fiscal year; and

(C) shall publish daily totals on the public data dashboard showing:

(I) the total number of federal detainees held;

(II) the total number of beds under contract with a federal agency; and

(III) the total number of beds that are currently under contract with another county for the purpose of housing [~~individuals~~]federal detainees.

(c) The lookback period described in Subsection (5)(b)(iii) is:

(i) beginning on September 1, 2025, the period that begins on September 1, 2025 and ends on August 31, 2026; and

(ii) for September 1, 2026 forward, the period that begins on September 1 of the previous calendar year and ends on August 31 of the current calendar year.

(6) Regardless of whether a county jail facility has reached the county jail facility's maximum operating capacity under Subsection (2), a sheriff may release an individual from a county jail facility in accordance with:

(a) Section [~~17-22-36~~]17-72-804 and Section 77-20-203; or

(b) Section 77-20-204.

(7) The sheriff of a county of the first class is encouraged to open and operate all sections of a county jail facility within the county that [~~is~~]are not being used to full capacity.

Section 290. Section 17-72-403, which is renumbered from Section 17-22-7 is renumbered and amended to read:

[~~17-22-7~~]17-72-403 (Effective 11/06/25). Special guards for county jail.

(1) The sheriff when necessary may with the assent of the county executive employ a temporary guard for the protection of the county jail, or for the safekeeping of prisoners[~~, and the expenses thereof~~].

(2) The expenses of a temporary guard employed under Subsection (1) shall be a county charge.

Section 291. Section 17-72-404, which is renumbered from Section 17-22-9 is renumbered and amended to read:

[~~17-22-9~~]17-72-404 (Effective 11/06/25). County jails authorized to hold federal prisoners.

[~~Persons~~]An individual convicted of crime in any of the courts of the United States in the state of Utah [~~as well as~~]and prisoners held to answer before [~~such courts~~]a federal court for a violation of any of the laws of the United States shall be received and held:

(1) in the jail of any county under the same regulations and laws governing prisoners held under the authority of this state[~~,~~]; and

(2) upon [~~such~~]the terms as to compensation as may be agreed upon by the county and the United States.

Section 292. Section 17-72-405, which is renumbered from Section 17-22-33 is renumbered and amended to read:

[~~17-22-33~~]17-72-405 (Effective 11/06/25). Commissary account disclosure requirements.

[~~(1) As used in this section:~~]

[~~(a) "Commissary account" means an account from which an inmate may withdraw money, deposited by the inmate or another individual, to purchase discretionary items for sale by a correctional facility.~~]

[~~(b) "Commissary purchase" means a transaction initiated by an inmate by which the inmate obtains an item or items offered for sale by the correctional facility in exchange for money withdrawn from the inmate's commissary account.~~]

[~~(c) "Correctional facility" means the same as that term is defined in Section 77-16b-102.~~]

[~~(d) "Inmate" means an individual in the custody of a correctional facility for criminal charges or a criminal conviction.~~]

[~~(2)~~](1) A correctional facility may implement a policy governing when the correctional facility withdraws money from a prisoner's commissary account for a purpose other than a commissary purchase.

(2) [~~A correctional facility that employs a policy or practice by which the~~]A correctional facility [~~withdraws~~]may only withdraw

money from [~~an inmate's~~]a prisoner's commissary account[~~,~~] for [~~any~~]a purpose other than a commissary purchase[~~,~~]in accordance with a policy implemented under Subsection (1).

(3) [~~must~~]Before a correctional facility withdraws money from a prisoner's commissary account for a purpose other than a commissary purchase, the correctional facility shall disclose [~~that~~]the policy [~~or practice~~]implemented under Subsection (1) to the [~~inmate~~]prisoner or any other individual seeking to make a deposit of money into the [~~inmate's~~]prisoner's commissary account before the correctional facility may accept and deposit the money into the [~~inmate's~~]prisoner's commissary account.

Section 293. Section 17-72-406, which is renumbered from Section 17-22-28 is renumbered and amended to read:

[~~17-22-28~~]17-72-406 (Effective 11/06/25). Maintaining order in the county jail -- Imposing restitution.

(1) If a prisoner commits an act of violence against another [~~person~~]individual, attempts to damage jail property, attempts to escape, or refuses to obey a lawful order and reasonable command, an officer or [~~other employee of the~~]jail employee may use all reasonable means under the circumstances, including the use of a weapon[~~, to defend himself.~~]:

(a) in self-defense;

(b) to defend another[~~,~~];

(c) to protect jail property[~~,~~];

(d) to prevent escape[~~,~~]; or

(e) to enforce compliance with a lawful order and reasonable command.

(2) (a) A jail may request restitution from a prisoner for damaging jail property as part of an administrative disciplinary hearing.

(b) To enforce ordered or agreed upon restitution, a jail may withdraw money from or place a hold on a prisoner's commissary account.

Section 294. Section 17-72-407, which is renumbered from Section 17-22-29 is renumbered and amended to read:

[~~17-22-29~~]17-72-407 (Effective 11/06/25). Notice to county jail facilities.

(1) Before an order is entered granting visitation or correspondence between [~~a person~~]an individual and a prisoner, the moving party shall provide notice to the county jail facility administrator.

(2) The court shall:

(a) provide an opportunity to the facility representative to respond before the order is granted; and

(b) consider facility policy.

Section 295. Section 17-72-408, which is renumbered from Section 17-22-32 is renumbered and amended to read:

[~~17-22-32~~]17-72-408 (Effective 11/06/25). County jail reporting requirements.

[~~(1) As used in this section:~~]

[~~(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.~~]

[~~(b) (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of a county jail.~~]

[~~(ii) "In-custody death" includes an inmate death that occurs while the inmate is:~~]

[~~(A) being transported for medical care; or~~]

[~~(B) receiving medical care outside of a county jail.~~]

[~~(c) "Inmate" means an individual who is processed or booked into custody or housed in a county jail in the state.~~]

[~~(d) "Opiate" means the same as that term is defined in Section 58-37-2.~~]

[~~(2)~~](1) Each county jail shall submit a report to the commission before June 15 of each year that includes, for the preceding calendar year:

(a) the average daily [~~inmate~~]prisoner population each month;

(b) the number of [~~inmates~~]prisoners in the county jail on the last day of each month who identify as each race or ethnicity included in the Standards for Transmitting Race and Ethnicity published by the [~~Untied~~]United States Federal Bureau of Investigation;

(c) the number of [~~inmates~~]prisoners booked into the county jail;

(d) the number of [~~inmates~~]prisoners held in the county jail each month on behalf of each of the following entities:

(i) the Bureau of Indian Affairs;

(ii) a state prison;

(iii) a federal prison;

(iv) the United States Immigration and Customs Enforcement; and

(v) any other entity with which a county jail has entered a contract to house inmates on the entity's behalf;

(e) the number of [~~inmates~~]prisoners that are denied pretrial release and held in the custody of the county jail while the [~~inmate~~]prisoner awaited final disposition of the [~~inmate's~~]prisoner's criminal charges;

(f) for each [~~inmate~~]prisoner booked into the county jail:

(i) the name of the agency that arrested the [~~inmate~~]prisoner;

(ii) the date and time the [~~inmate~~]prisoner was booked into and released from the custody of the county jail;

(iii) if the [~~inmate~~]prisoner was released from the custody of the county jail, the reason the inmate was released from the custody of the county jail;

(iv) if the [~~inmate~~]prisoner was released from the custody of the county jail on a financial condition, whether the financial condition was set by a county sheriff or a court;

(v) the number of days the [~~inmate~~]prisoner was held in the custody of the county jail before disposition of the [~~inmate's~~]prisoner's criminal charges;

(vi) whether the [~~inmate~~]prisoner was released from the custody of the county jail before final disposition of the [~~inmate's~~]prisoner's criminal charges; and

(vii) the prisoner's state identification number[~~ of the inmate~~];

(g) the number of in-custody deaths that occurred at the county jail;

(h) for each in-custody death:

(i) the deceased's name, gender, race, ethnicity, age, and known or suspected medical diagnosis or disability, if any[~~, of the deceased~~];

(ii) the date, time, and location of death;

(iii) the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and

(iv) a brief description of the circumstances surrounding the death;

(i) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(g);

(j) the county jail's policy for notifying an inmate's next of kin after the [~~inmate's~~]prisoner's in-custody death;

(k) the county jail policies, procedures, and protocols:

(i) for treatment of [~~an inmate~~]a prisoner experiencing withdrawal from alcohol or substance use, including use of opiates;

(ii) that relate to the county jail's provision, or lack of provision, of medications used to treat, mitigate, or address [~~an inmate's~~]a prisoner's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(iii) that relate to screening, assessment, and treatment of [~~an inmate~~]a prisoner for a substance use or mental health disorder, including the policies, procedures, and protocols that implement the requirements described in [~~Subsection 17-22-8(2)(c)~~]Section 17-72-501;

(l) (i) the number of [~~inmates~~]prisoners whose screening described in [~~Subsection 17-22-8(2)(c)~~]Section 17-72-501indicated the presence of a substance use disorder; and

(ii) of the [~~inmates~~]prisoners whose screening indicated the presence of a substance use disorder, the number of [~~inmates~~]prisoners who received medication [~~pursuant to~~]under a medication assisted treatment plan[~~, as that term is defined in Section 17-22-8~~]; and

(m) any report the county jail provides or is required to provide under federal law or regulation relating to [~~inmate~~]prisoner deaths.

[~~(3)~~](2) (a) Subsection [~~(2)~~](1) does not apply to a county jail if the county jail:

(i) collects and stores the data described in Subsection [~~(2)~~](1); and

(ii) enters into a memorandum of understanding with the commission that allows the commission to access the data described in Subsection [~~(2)~~](1).

(b) The memorandum of understanding described in Subsection [~~(3)(a)(ii)~~](2)(a)(ii) shall include a provision to protect any information related to an ongoing investigation and comply with all applicable federal and state laws.

(c) If the commission accesses data from a county jail in accordance with Subsection [~~(3)(a)~~](2)(a), the commission may not release a report prepared from that data, unless:

(i) the commission provides the report for review to:

(A) the county jail; and

(B) any arresting agency that is named in the report; and

(ii) (A) the county jail approves the report for release;

(B) the county jail reviews the report and prepares a response to the report to be published with the report; or

(C) the county jail fails to provide a response to the report within four weeks after the day on which the commission provides the report to the county jail.

[~~(4)~~](3) The commission shall:

(a) compile the information from the reports described in Subsection [~~(2)~~](1);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law;

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Committee before November 1 of each year; and

(d) submit the compilation to the protection and advocacy agency designated by the governor before November 1 of each year.

[~~(5)~~](4) The commission may not provide access to or use a county jail's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

[~~(6)~~](5) [~~A~~]Upon request, a county jail shall make a report, including only the names and causes of death of deceased inmates and the facility in which [~~they~~]the deceased inmates were being held in custody[~~ shall be made~~], available to the public.

Section 296. Section 17-72-409 is enacted to read:

17-72-409 (Effective 11/06/25). Suicide Deterrence Grant application.

A county sheriff, on behalf of a county jail, may apply for a Suicide Deterrence Grant as described in Section 17E-6-201.

Section 297. Section 17-72-410 is enacted to read:

17-72-410 (Effective 11/06/25). Correctional facility telephone service.

A county sheriff shall comply with Section 17E-6-301.

Section 298. Section 17-72-501, which is renumbered from Section 17-22-8 is renumbered and amended to read:

PART 5. Responsibility for Prisoners

[~~17-22-8~~]17-72-501 (Effective 11/06/25). Disclosure of prisoner medical clearance -- Care and health care of prisoners -- Funding of services -- Private contractor.

[~~(1) As used in this section, "medication assisted treatment plan" means a prescription plan to use prescribed medication approved by the Food and Drug Administration, such as buprenorphine, methadone, or naltrexone to treat substance use withdrawal symptoms or an opioid use disorder.~~]

[~~(2)~~]

(1) (a) A health care provider, as defined in Section 78B-3-403, who provides health care to an individual before the individual is booked into a county jail by a competent authority, is authorized to disclose to the competent authority whether the individual is medically cleared for incarceration.

(b) The disclosure under Subsection (1)(a) shall be made in writing if requested by the competent authority.

(2) Except as provided in Subsection [~~(7)~~](8), a sheriff shall:

(a) receive each [~~individual~~]prisoner committed to jail by competent authority;

(b) provide each prisoner with necessary food, clothing, and bedding in the manner prescribed by the county legislative body;

(c) subject to [~~Section 17-22-8.2~~]Subsection (7), provide each prisoner [~~medical~~]healthcare when:

(i) the prisoner's symptoms evidence a serious disease or injury;

(ii) the prisoner's disease or injury is curable or may be substantially alleviated; and

(iii) the potential for harm to the [~~person~~]prisoner by reason of delay or the denial of [~~medical~~]health care would be substantial;

(d) provide each prisoner, as part of the intake process, with the option of continuing any of the following medically prescribed methods of contraception:

(i) an oral contraceptive;

(ii) an injectable contraceptive;

(iii) a patch;

(iv) a vaginal ring; or

(v) an intrauterine device, if the prisoner was prescribed the intrauterine device because the prisoner experiences serious and persistent adverse effects when using the methods of contraception described in Subsections (2)(d)(i) and (ii);

(e) (i) within 30 days after [~~an inmate~~]a prisoner is committed to jail, use an evidence-based screening tool to screen each inmate for substance use disorders; and

(ii) use the results of the screening to assist with providing programming and treatment options for the [~~inmate~~]prisoner;

(f) cooperate with [~~medical~~]health care personnel to continue a medication assisted treatment plan for [~~an inmate~~]a prisoner if the [~~inmate~~]prisoner was an active client before arrest and commitment; and

(g) ensure that each female prisoner younger than 50 years old who has been incarcerated for longer than 72 hours on a state or local criminal offense is offered, which the prisoner may reject, a test for pregnancy.

(3) A sheriff may provide the generic form of a contraceptive described in Subsection (2)(d)(i) or (ii).

(4) A sheriff shall follow the provisions of Section 64-13-46 if a prisoner is pregnant or in postpartum recovery.

(5) (a) Except as provided in Section [~~17-22-10~~]17-72-506 and Subsection (5)(b), the expense incurred in providing the services required by this section to prisoners shall be paid from the county treasury.

(b) The expense incurred in providing the services described in Subsection (2)(d) to prisoners shall be paid by the Department of Health and Human Services.

(6) A medication used for a medication assisted treatment plan under Subsection (2)(f):

(a) shall be administered to [~~an inmate~~]a prisoner in accordance with the [~~inmate's~~]prisoner's prescription under the direction of the sheriff;

(b) may be paid for by a county; and

(c) may be left or stored at a jail at the discretion of the sheriff.

(7) (a) A sheriff may not initiate any of the following procedures or treatments for a prisoner:

(i) a cross-sex hormone treatment;

(ii) a primary sex characteristic surgical procedure; or

(iii) a secondary sex characteristic surgical procedure.

(b) Subject to Subsection (7)(a) and Section 17-72-503, a sheriff may provide psychotherapy, mental health care, or any other necessary and appropriate treatment to treat a prisoner's gender dysphoria and any co-occuring mental health disorder.

(8) If the county executive contracts with a private contractor to provide the services required by this section, the sheriff shall provide only those services required of the sheriff by the contract between the county and the private contractor.

Section 299. Section 17-72-502, which is renumbered from Section 17-22-3 is renumbered and amended to read: [~~17-22-3~~]17-72-502 (Effective 11/06/25). Transfer of inmates to state prison.

The sheriff of the county in which [~~a criminal~~]an individual is sentenced to confinement in the state prison, or is sentenced to death, shall cause [~~such convict~~]the inmate to be removed from the county jail within five days after the day on which the [~~sentence~~]inmate is sentenced and [~~conveyed~~]transferred to the state prison[~~ and delivered to the warden thereof~~].

Section 300. Section 17-72-503, which is renumbered from Section 17-22-5 is renumbered and amended to read: [~~17-22-5~~]17-72-503 (Effective 11/06/25). Sheriff's classification of prisoners -- Classification criteria -- Alternative incarceration programs -- Limitation.

(1) As used in this section, "living area" means the same as that term is defined in Section 64-13-7.

(2) (a) Except as provided in Subsections (5) and (6), the sheriff shall adopt and implement written policies:

(i) for admission of [~~inmates~~]prisoners to the county jail; and

(ii) for the classification of [~~individuals incarcerated in the jail which shall~~]prisoners that provide for the separation of prisoners by gender and by [~~such~~]other factors as may reasonably provide for the safety and well-being of [~~inmates~~]prisoners and the community.

(b) To the extent authorized by law, any written admission policies adopted and implemented under this Subsection (2) shall be applied equally to all entities using the county correctional facilities.

(3) Except as provided in Subsections (5) and (6), each county sheriff shall assign [~~inmates~~]prisoners to a facility or section of a facility based on classification criteria that the sheriff develops and maintains.

(4) (a) Except as provided in Subsection (6), a county sheriff may develop and implement alternative incarceration programs that may involve housing [~~an inmate~~]a prisoner in a jail facility.

(b) [~~An inmate~~]A prisoner housed under an alternative incarceration program under Subsection (4)(a) shall be considered to be in the full custody and control of the sheriff for purposes of Sections 76-8-309 and 76-8-309.3.

(c) [~~An inmate~~]A prisoner may not be placed in an alternative incarceration program under Subsection (4)(a) unless:

(i) the county jail [~~facility~~]is at maximum operating capacity, as established under Section [~~17-22-5.5~~]17-72-402; or

(ii) ordered by the court.

(5) A jail facility shall comply with the same requirements as the Department of Corrections described in Subsections 64-13-7(4), (5), and (6) when assigning [~~an inmate~~]a prisoner to a living area, including the reporting requirements in Subsections 64-13-45(2)(d) and (e).

(6) This section does not authorize a sheriff to modify provisions of a contract with the Department of Corrections to house state inmates in a county jail[~~, inmates sentenced to the Department of Corrections~~].

Section 301. Section 17-72-504, which is renumbered from Section 17-22-6 is renumbered and amended to read:

[~~17-22-6~~]17-72-504 (Effective 11/06/25). Service of process on prisoners -- Penalty.

(1) A sheriff [~~or jailer upon whom~~]who receives a paper in a judicial proceeding directed to a prisoner in the sheriff's[~~, or jailer's~~] custody [~~is served~~]shall forthwith deliver the paper to the prisoner, with a note [~~thereon~~]of the time of [~~its~~]the paper's service.

(2) A sheriff [~~or jailer~~] who neglects to comply with Subsection (1) is liable to the prisoner for all damages occasioned by that neglect.

Section 302. Section 17-72-505, which is renumbered from Section 17-22-9.5 is renumbered and amended to read:

[~~17-22-9.5~~]17-72-505 (Effective 11/06/25). Citizenship determination of prisoners -- Notification to and coordination with federal authorities when releasing certain individuals.

(1) The sheriff shall make a reasonable effort to determine the citizenship status of [~~an individual~~]a prisoner charged with a felony or driving under the influence under Section 41-6a-502[~~, when the individual is confined to the county jail for a period of time~~].

(2) If [~~the confined individual~~]a prisoner described in Subsection (1) is a foreign national, the sheriff shall make a reasonable effort to verify that:

(a) the individual has been lawfully admitted into the United States; and

(b) the individual's lawful status has not expired.

(3) (a) If the sheriff cannot verify the [~~confined individual's~~]lawful status of a prisoner described in Subsection (1) from documents in the [~~individual's~~]prisoner's possession, the sheriff shall attempt to verify that status within 48 hours of the [~~individual's~~]prisoner's confinement at the jail through contacting:

(i) the Law Enforcement Support Center of the United States Department of Homeland Security; or

(ii) an office or agency designated for citizenship status verification by the United States Department of Homeland Security.

(b) The sheriff shall notify the United States Department of Homeland Security of [~~an individual~~]a prisoner whose lawful citizenship status cannot be verified under Subsection (2) or (3)(a).

(4) In accordance with Title 77, Chapter 20, Bail, it is a rebuttable presumption for the purpose of determining whether to grant pretrial release that an individual who is verified under this section as a foreign national not lawfully admitted into the United States is at risk of flight.

(5) (a) As soon as practicable before the day of release, the sheriff shall notify the United States Department of Homeland Security, or other relevant federal agency in charge of handling immigration violations or deportations, when the sheriff is preparing to release an individual from the county jail who:

(i) is being released after serving the individual's jail sentence for:

(A) a class A misdemeanor described under Subsection 76-3-204(1)(b)(i); or

(B) a felony; and

(ii) is unlawfully present in the United States.

(b) The sheriff shall coordinate with federal authorities to transfer the custody of a released individual into federal custody as may be required under Subsection (5)(a).

(c) The requirements described in Subsection (5)(a) do not prohibit a sheriff from notifying or working with the United States Department of Homeland Security, or other relevant federal agency in charge of handling immigration violations or deportations, at any time with regard to an individual who is at the county jail or otherwise in the sheriff's custody.

Section 303. Section 17-72-506, which is renumbered from Section 17-22-10 is renumbered and amended to read:

[~~17-22-10~~]17-72-506 (Effective 11/06/25). Prisoners under civil process.

(1) Whenever [~~a person~~]an individual is committed upon process in a civil action or proceeding, except when the state is a party thereto, the sheriff is not bound:

(a) to receive [~~such person~~]the individual unless security is given on the part of the party at whose instance the process is issued, by deposit of money, to meet the expenses of necessary food, clothing, and bedding for the committed person[~~,~~]; or

(b) to detain [~~such person~~]the individual for any longer than the expenses described in Subsection (1)(a) are provided for.

(2) This section does not apply to cases where a party is committed as a punishment for disobedience to the mandates, process, writs or orders of court.

Section 304. Section 17-72-507, which is renumbered from Section 17-22-17 is renumbered and amended to read:

[~~17-22-17~~]17-72-507 (Effective 11/06/25). Escapes -- Sheriff's liability -- Defenses.

(1) A sheriff who suffers the escape of [~~a person~~]an individual arrested in a civil action, without the consent or connivance of the party in whose behalf the arrest or imprisonment is made, [~~is~~]may be liable as follows:

[~~(1)~~](a) [~~When~~]when the arrest is upon an order to hold to bail or upon a surrender in exoneration of bail before judgment, the sheriff is liable to the plaintiff as bail[~~.~~];

[~~(2)~~](b) [~~When~~]when the arrest is on an execution or commitment to enforce the payment of money, the sheriff is liable for the amount expressed in the execution or commitment[~~.~~]; and

[~~(3)~~](c) [~~When~~]when the arrest is on an execution or commitment other than to enforce the payment of money, the sheriff is liable for the actual damages sustained.

[~~(4)~~](2) Upon being sued for damages for an escape or rescue, the sheriff may introduce evidence in mitigation and exculpation.

(3) A person cannot maintain an action against the sheriff for a rescue or for an escape of a prisoner arrested upon an execution or

commitment, if after that prisoner's rescue or escape and before the commencement of the action, the prisoner returns to the jail or is retaken by the sheriff or by any other person.

Section 305. Section 17-72-601, which is renumbered from Section 17-22-5.6 is renumbered and amended to read:

PART 6. Responsibility for Individuals on Probation

[~~17-22-5.6~~]17-72-601 (Effective 11/06/25). Probation supervision -- Violation of probation -- Detention -- Hearing.

[~~(1) As used in this section:~~]

[~~(a) "Probationer" means an individual on probation under the supervision of the county sheriff.~~]

[~~(b)~~ ~~(i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).~~]

[~~(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.~~]

[~~(c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.~~]

[~~(2)~~](1) In a county that offers probation services, the county sheriff shall adopt probation standards and practices that are established by the Utah Sheriffs' Association.

[~~(3)~~](2) A county sheriff shall ensure that the court is notified of violations of the terms and conditions of a probationer's probation when the county sheriff determines that:

(a) incarceration is recommended as a sanction;

(b) a graduated and evidence-based response is not an appropriate response to the offender's violation and recommends revocation of probation; or

(c) there is probable cause that the conduct that led to a violation of probation is:

(i) a violent felony; or

(ii) a qualifying domestic violence offense.

[~~(4)~~](3) A county sheriff may take custody of, and detain, a probationer for a maximum of 72 hours, excluding weekends and holidays, if there is probable cause to believe that the probationer has committed a violation of probation.

[~~(5)~~](4) A county sheriff may not detain a probationer or parolee for longer than 72 hours without obtaining a warrant issued by the court.

[~~(6)~~](5) If the county sheriff detains a probationer under Subsection [~~(4)~~](3), the county sheriff shall ensure the proper court is notified.

[~~(7)~~](6) A written order from the county sheriff is sufficient authorization for a peace officer to incarcerate a probationer if the county sheriff has determined that there is probable cause to believe that the probationer has violated the conditions of probation.

[~~(8)~~](7) If a probationer commits a violation outside of the jurisdiction of the county sheriff supervising the probationer, the arresting law enforcement agency is not required to hold or transport the probationer to the county sheriff.

[~~(9)~~](8) This section does not require the county sheriff to release a probationer who is being held for something other than a probation violation, including a warrant issued for new criminal conduct or a new conviction where the individual is sentenced to incarceration.

Section 306. Section 17-72-701, which is renumbered from Section 17-22-26 is renumbered and amended to read:

PART 7. Process Service and Duty to the Court

[~~17-22-26~~]17-72-701 (Effective 11/06/25). Process on behalf of state -- Fees.

(1) [~~The~~]Except as specifically otherwise provided by law, the sheriff shall, without fee, serve and return all process in criminal cases to which the state is a party[~~,~~] and that are lawfully issued by any court of the state[~~, except as otherwise provided by law~~].

(2) (a) If the process issues from a court outside of [~~his~~]the sheriff's county, [~~he~~]the sheriff is entitled to [~~his~~]the sheriff's actual expenses necessarily incurred.

(b) The expenses shall be paid by the county where the process was issued.

Section 307. Section 17-72-702, which is renumbered from Section 17-22-22 is renumbered and amended to read:

[~~17-22-22~~]17-72-702 (Effective 11/06/25). Process justifies sheriff's action -- Process to be exhibited.

(1) A sheriff is justified in the execution of, and shall execute, all process, writs, and orders issued by a competent authority.

(2) The officer executing process shall then, and at all times subsequent as long as the officer retains it, upon request show the [~~same~~]document for which the officer is executing process, with all papers attached, to any interested person.

Section 308. Section 17-72-703, which is renumbered from Section 17-22-11 is renumbered and amended to read:

[~~17-22-11~~]17-72-703 (Effective 11/06/25). Return of process -- Prima facie evidence.

(1) When process or notice is returnable, the sheriff may enclose such process or notice in an envelope addressed to the officer or person from whom the same emanated, and deposit it in the post office, prepaying the postage.

(2) The return of the sheriff upon process or notice is prima facie evidence of the facts in such return stated.

Section 309. Section 17-72-704, which is renumbered from Section 17-22-13 is renumbered and amended to read:

[~~17-22-13~~]17-72-704 (Effective 11/06/25). Failure or delay in making return on process -- Failure to levy execution -- Penalty.

(1) If a sheriff does not return without delay a process or notice in the sheriff's possession with the necessary endorsement thereon, the sheriff is liable to the party aggrieved for all damages sustained by the aggrieved party.

(2) If the sheriff to whom a writ of execution is delivered neglects or refuses, after being required by the creditor or the creditor's attorney, the fees having first been paid or tendered, to levy upon or sell any property of the party charged in the writ which is liable to be levied upon and sold, the sheriff shall be liable to the creditor for the value of the property.

Section 310. Section 17-72-705, which is renumbered from Section 17-22-20 is renumbered and amended to read:

[~~17-22-20~~]17-72-705 (Effective 11/06/25). Only written directions to sheriff binding.

No direction [~~or authority~~]by a party or the party's attorney to the sheriff in respect to the execution of process or the return thereof or to any act or omission relating thereto is available to discharge or excuse the sheriff from liability for neglect or misconduct, unless [~~it~~]the direction is contained in a writing, signed by the attorney of the party or by the party[~~,~~] if the party has no attorney.

Section 311. Section 17-72-706, which is renumbered from Section 17-22-24 is renumbered and amended to read:

[~~17-22-24~~]17-72-706 (Effective 11/06/25). Service of papers, other than process, on sheriff -- Powers of successor.

(1) Service upon the sheriff of a paper other than process may be made by delivering it or a copy thereof to the sheriff or to one of the sheriff's deputies or to [~~a person~~]an individual in charge of the sheriff's office during office hours, or, if no such [~~person~~]individual is there, by leaving it in a conspicuous place in the office.

(2) When any process remains with the sheriff unexecuted, in whole or in part, at the time of the sheriff's death, resignation of office, or at the expiration of the sheriff's [~~office such~~]term, process shall be executed by the sheriff's successor in office[~~; and when~~].

(3) When the sheriff sells real estate under and by virtue of an execution or order of court, the sheriff or the sheriff's successor in office shall execute and deliver to the purchaser all [~~such~~]deeds and conveyances [~~as~~]that are required by law and necessary for that purpose, and [~~such~~]the deeds and conveyances shall be as valid in law as if they had been executed by the sheriff who made the sale.

Section 312. Section 17-72-707, which is renumbered from Section 17-22-23 is renumbered and amended to read:

[~~17-22-23~~]17-72-707 (Effective 11/06/25). Crier of court.

The sheriff in attendance upon court shall, if required by the court[~~,~~]:

(1) act as crier for the court[~~,~~];

(2) call the parties and witnesses and other persons bound to appear at the court[~~,~~]; and

(3) make proclamation of the opening and adjournment of court and of any other matter under [~~its~~]the court's direction.

Section 313. Section 17-72-708, which is renumbered from Section 17-22-27 is renumbered and amended to read:

[~~17-22-27~~]17-72-708 (Effective 11/06/25). Sheriff -- Assignment of court bailiffs -- Contract and costs.

(1) The sheriff shall assign law enforcement officers or special function officers, as defined under Sections 53-13-103 and 53-13-105, to serve as court bailiffs and security officers in the courts of record and county justice courts as required by the rules of the Judicial Council.

(2) (a) The state court administrator shall enter into a contract with the county sheriff for bailiffs and building security officers for the district and juvenile courts within the county.

(b) The contract may not exceed amounts appropriated by the Legislature for that purpose.

(c) The county shall assume costs related to security administration, supervision, travel, equipment, and training of bailiffs.

[~~(b)~~](d) The contract shall specify the agreed services, costs of services, and terms of payment.

[~~(c)~~](3) (a) If the court is located in the same facility as a state or local law enforcement agency and the county sheriff's office is not in close proximity to the court, the state court administrator in consultation with the sheriff may enter into a contract with the state or local law enforcement agency for bailiff and security services subject to meeting all other requirements of this section.

(b) If the services are provided by another agency, the county sheriff shall have no responsibility for the services under this section.

[~~(3)~~](4) (a) At the request of the court, the sheriff may appoint as a law clerk bailiff graduates of a law school accredited by the American Bar Association to provide security and legal research assistance.

(b) Any law clerk who is also a bailiff shall meet the requirements of Subsection (1) of this section.

[~~(b)~~](c) The sheriff may appoint a law clerk bailiff by contract for a period not to exceed two years, who shall be exempt from the deputy sheriff merit service commission.

Section 314. Section 17-72-801, which is renumbered from Section 17-22-15 is renumbered and amended to read:

PART 8. Responsibility for Assets, Records, and Information

[~~17-22-15~~]17-72-801 (Effective 11/06/25). Neglect or refusal to pay over money -- Penalty.

(1) If the sheriff neglects or refuses to pay over on demand to the person entitled thereto any money which may come into the sheriff's hands by virtue of the sheriff's office, after deducting all legal fees, the amount thereof with 25% damages and interest at the rate of 1% per month from the time of demand may be recovered by such person[~~; provided, that such sheriff~~].

(2) A sheriff may pay [~~such~~]the money described in Subsection (1) into the court or to the clerk thereof issuing the writ or process upon which [~~such~~]the money is collected or received and from the time of such payment the sheriff shall be relieved of all liability therefor, unless the detention is shown to have been wrongful.

Section 315. Section 17-72-802, which is renumbered from Section 17-22-30 is renumbered and amended to read:

[~~17-22-30~~]17-72-802 (Effective 11/06/25). Prohibition on providing copy of booking photograph -- Statement required -- Victim access -- Criminal liability for false statement -- Remedy for failure to remove or delete.

(1) As used in this section:

(a) "Booking photograph" means a photograph or image of an individual that is generated:

(i) for identification purposes; and

(ii) when the individual is booked into a county jail.

(b) "Publish-for-pay publication" or "publish-for-pay website" means a publication or website that requires the payment of a fee or other consideration in order to remove or delete a booking photograph from the publication or website.

(2) (a) A sheriff may not provide a copy of a booking photograph in any format to a person requesting a copy of the booking photograph if:

(i) the booking photograph will be placed in a publish-for-pay publication or posted to a publish-for-pay website; or

(ii) the booking photograph is a protected record under Subsection [~~63G-2-305 (80)~~]63G-2-305(80).

(b) (i) A sheriff shall display a copy of a booking photograph to a person requesting to view the booking photograph if[~~ the person making the request:~~]:

(A) (I) the person making the request is an alleged victim of a crime that resulted in the creation of the booking photograph; and

(II) subject to Utah Rules of Evidence, Rule 617, the prosecuting agency with jurisdiction consents to the request; or

(B) if an alleged victim is deceased or incapacitated, the person making the request is an immediate family member, guardian, or conservator of an alleged victim of the crime that resulted in the creation of the booking photograph.

(ii) A person entitled to view a booking photograph under Subsection (2)(b)(i) is not permitted to:

(A) retain the booking photograph;

(B) make a copy, take a picture of, or otherwise reproduce the booking photograph; or

(C) disseminate or distribute the booking photograph.

(3) (a) A person who requests a copy of a booking photograph from a sheriff shall, at the time of making the request, submit a statement signed by the person affirming that the booking photograph will not be placed in a publish-for-pay publication or posted to a publish-for-pay website.

(b) A person who submits a false statement under Subsection (3)(a) is subject to criminal liability as provided in Section 76-8-504.

(4) (a) Except as provided in Subsection (5), a publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within 30 calendar days after the day on which the individual makes the request.

(b) A publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) may not condition removal or destruction of the booking photograph on the payment of a fee in an amount greater than $50.

(c) If the publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) does not remove and destroy the booking photograph in accordance with Subsection (4)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of $50 per day for each day after the 30-day deadline described in Subsection (4)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(5) (a) A publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within seven calendar days after the day on which the individual makes the request if:

(i) the booking photograph relates to a criminal charge:

(A) on which the individual was acquitted or not prosecuted; or

(B) that was expunged, vacated, or pardoned; and

(ii) the individual submits, in relation to the request, evidence of a disposition described in Subsection (5)(a)(i).

(b) If the publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) does not remove and destroy the booking photograph in accordance with Subsection (5)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action that the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of $100 per day for each day after the seven-day deadline described in Subsection (5)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(c) An act of a publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) that seeks to condition removal or destruction of the booking photograph on the payment of any fee or amount constitutes theft by extortion under Section 76-6-406.

Section 316. Section 17-72-803, which is renumbered from Section 17-22-35 is renumbered and amended to read:

[~~17-22-35~~]17-72-803 (Effective 11/06/25). Notification requirements to state agencies concerning potential inmate debts.

[~~(1) As used in this section, "inmate" means an individual who is in the custody of a county jail.~~]

[~~(2) (a)~~](1) Beginning on January 1, 2027, a county jail is required to notify the Office of State Debt Collection, the State Tax Commission, and the Office of Recovery Services:

[~~(i)~~](a) within five business days after the day on which [~~an inmate~~]a prisoner has been incarcerated in the county jail for 90 consecutive days; and

[~~(ii)~~](b) if [~~an inmate~~]a prisoner has been incarcerated in the county jail for more than 90 consecutive days, within five business days after the day on which [~~an inmate~~]a prisoner is released from the county jail.

[~~(b)~~](2) The notification described in Subsection [~~(2)(a)~~](1) shall include:

[~~(i)~~](a) the relevant dates of the [~~inmate's~~]prisoner's incarceration and identifying information concerning the [~~inmate's~~]prisoner's identity; and

[~~(ii)~~](b) whether the [~~inmate's~~]prisoner's incarceration is based on:

[~~(A)~~](i) criminal non-payment of a child support order; or

[~~(B)~~](ii) an offense against the [~~inmate's~~]prisoner's child or custodial parent of the [~~inmate's~~]prisoner's child.

[~~(c)~~](3) The requirement described in Subsection [~~(2)(a)(i)~~](1)(a) does not apply if a court, another county jail, the Department of Corrections, or another entity already has notified the Office of State Debt Collection, the State Tax Commission, and the Office of Recovery Services as described in Subsection [~~(2)(a)~~](1) about the inmate's incarceration.

[~~(d)~~](4) The requirement described in Subsection [~~(2)(a)(ii)~~](1)(b) does not apply if an inmate is transferred to a different county jail or another incarcerated setting for the purpose of continued incarceration.

Section 317. Section 17-72-804, which is renumbered from Section 17-22-36 is renumbered and amended to read:

[~~17-22-36~~]17-72-804 (Effective 11/06/25). State identification numbers and biometric and other personal information.

(1) As used in this section, "state identification number" means the number issued by the Bureau of Criminal Identification within the Department of Public Safety that corresponds to a certain individual.

(2) If an individual is brought to a county jail for processing or booking into custody, the county jail shall, regardless of whether the county jail retains custody of the individual or releases the individual due to capacity issues or another reason:

(a) collect the individual's biometric and other personal information required by law; and

(b) (i) to the extent possible, connect the individual with the individual's state identification number; and

(ii) if identified, use the individual's state identification number in association with any records created or accessed by the county jail concerning the individual.

Section 318. Section 17-73-101 is enacted to read:

CHAPTER 73. County Surveyor

PART 1. General Provisions

17-73-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) (a) "Accessory to a corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded.

(b) "Accessory to a corner" may include a bearing tree, bearing object, monument, reference monument, line tree, pit, mound, charcoal-filled bottle, steel or wooden stake, or another object.

(2) "Approving authority" means the person required under applicable statute to submit to the lieutenant governor a notice of an impending boundary action, as defined in Section 67-1a-6.5.

(3) (a) "Boundary action" means any action that establishes, modifies, or eliminates the boundary of a local entity, including incorporation or creation, annexation, withdrawal or disconnection, consolidation, division, boundary adjustment, and dissolution.

(b) "Boundary action" does not include the determination of the true location of a county boundary under Section 17-61-102.

(4) (a) "Construction" means:

(i) the preparation of an area for a building or structure, including demolition, site clearance, exploration, drilling, boring, and excavation; and

(ii) the carrying out of any building, civil engineering, or engineering work for the assembly or maintenance of any building or structure.

(b) "Construction" does not mean normal maintenance of a roadway and related infrastructure that does not require construction drawings.

(5) "Corner," unless otherwise qualified, means a property corner, a property controlling corner, a public land survey corner, or any combination of these.

(6) "County surveyor" means:

(a) the individual elected to the county office of county surveyor; or

(b) in a county where there is no elected county surveyor:

(i) for purposes of the retention and management of county survey records, the county recorder; or

(ii) a licensed land surveyor under contract with the county to perform county surveyor duties.

(7) "Federal survey" means a survey conducted under the authority of the United States.

(8) "Final local entity plat" means a plat that meets the requirements to be approved in Section 17-73-507.

(9) (a) "Geographic coordinates" means mathematical values that designate a position on the earth relative to a given reference system.

(b) "Geographic coordinates" shall be established in accordance with Title 57, Chapter 10, Utah Coordinate System.

(10) "Government survey monument" means a monument that:

(a) a government entity maintains; or

(b) the county surveyor sets in accordance with Section 17-73-501.

(11) "Local entity" means the same as that term is defined in Section 67-1a-6.5.

(12) "Monument" means an accessory that is presumed to occupy the exact position of a corner.

(13) "Professional land surveyor" means an individual who is licensed to practice land surveying in Utah in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(14) "Property controlling corner" means a public land survey corner or any property corner which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.

(15) "Property corner" means a geographic point of known geographic coordinates on the surface of the earth, and is on, a part of, and controls a property line.

(16) "Public land survey corner" means any corner actually established and monumented in an original survey or resurvey used as a basis of legal descriptions for issuing a patent for the land to a private person from the United States government.

(17) "Public land survey government corner" means:

(a) a corner that the county surveyor establishes or reestablishes under Section 17-73-201;

(b) a section corner, quarter section corner, or other corner that a government survey establishes; or

(c) a public land survey corner as that term is defined in Section 17-73-505.

(18) "Reference monument" means a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded and which serves to witness the corner.

(19) "Structure" means any organization of parts, production, or pieces artificially built up or joined together to preserve or alter any natural feature, including roads, railways, tunnels, bridges, underground or overground pipelines or cables, river works, drainage works, earthworks, retaining walls, walls, dams, tanks, towers, and fences.

(20) "Township" means a term used in the context of identifying a geographic area in common surveyor practice.

Section 319. Section 17-73-102, which is renumbered from Section 17-23-3 is renumbered and amended to read:
[~~17-23-3~~]17-73-102 (Effective 11/06/25). County surveyor seal.

The county surveyor shall have a seal, [~~to be~~]furnished by the county, the impression of which shall contain:

(1) the [~~following~~]words: "State of Utah, County Surveyor[;]"; and

(2) [~~together with~~]the name of the county in which the [~~same~~]seal is to be used.

Section 320. Section 17-73-103, which is renumbered from Section 17-23-2 is renumbered and amended to read:
[~~17-23-2~~]17-73-103 (Effective 11/06/25). Office furnishings and supplies -- Filing and indexing fees -- Records remain county property.

(1) (a) The county shall furnish an office, furniture, and all stationery and record books necessary for the county surveyor's office.

(b) In a county where there is no elected county surveyor, the county shall furnish sufficient office space, furniture, stationery, and record books necessary for the county recorder's office to fulfill the duties described in Section 17-73-201.

(2) (a) The county legislative body, by ordinance or resolution, may establish the fee to be collected by the county for filing and indexing a map of a survey.

(b) Fees for filing of maps under Section [~~17-23-17~~]17-73-504 shall be governed by Section [~~17-23-19~~]17-63-710.

(3) The following are property of a county, open to the inspection of any person, and shall be delivered by the county surveyor to the county surveyor's successor in office:

(a) [~~All~~]all records, maps, plats, profiles, calculations, and field notes of all surveys made by the county surveyor in an official capacity during the county surveyor's term of office[~~, or~~];

(b) all records, maps, plats, profiles, calculations, and field notes of all surveys made by persons [~~designated by~~]the county surveyor designates to do survey work on behalf of the county[~~, or~~]; and

(c) maps of a survey filed under Section [~~17-23-17, shall be the property of the county, open to the inspection of any person, and shall be delivered by the surveyor to a successor in office.~~]17-73-504.

Section 321. Section 17-73-104 is enacted to read:

17-73-104 (Effective 11/06/25). County surveyor to use funds in Public Land Corner Preservation Fund.

(1) If a county legislative body has established a public land corner preservation fund, as described in Section 17-63-710, the county surveyor may use money in the fund to pay expenses incurred to establish, reestablish, and maintain the corners of government surveys in accordance with the powers and duties provided under this chapter and Title 57, Chapter 10, Utah Coordinate System.

(2) The county surveyor shall collect any fee established by ordinance or resolution for the filing of maps of survey in the county surveyor's office, as described in Section 17-73-504, and deposit collections with the county treasurer.

Section 322. Section 17-73-201, which is renumbered from Section 17-23-1 is renumbered and amended to read:

PART 2. Qualifications

[~~17-23-1~~]17-73-201 (Effective 11/06/25). County surveyor to be elected -- Requirement to be licensed land surveyor -- Authority to contract with licensed land surveyor if no elected county surveyor -- County surveyor duties.

(1) (a) The office of the county surveyor in each county shall be filled by:

(i) election; and[~~;~~]

(ii) except as provided in Subsection (1)(b), [~~the county surveyor shall be a licensed~~]a professional land surveyor[~~ in the state~~].

(b) In a county where the office of county surveyor is consolidated with another elected county office, as provided in Section 17-66-104, all county surveying work shall be performed by a [~~licensed~~]professional land surveyor.

(c) In a county where there is no elected county surveyor:

(i) the county executive or legislative body may, consistent with Section [~~17-53-313~~]17-65-402, contract with a [~~licensed~~]professional land surveyor to perform [~~those~~]the duties of a county surveyor;

(ii) all county survey work shall be done by a licensed land surveyor;

(iii) the county recorder shall assume and perform all statutory functions and duties of the county surveyor related to the retention [~~and~~], maintenance, and accessibility of survey records, both physical and digital; and

(iv) the county recorder's office shall act as the county surveyor's office only for the purpose of accepting, retaining, and managing county survey records[~~;~~].

[~~(v) the county shall furnish sufficient office space, furniture, stationery, and record books necessary for the county recorder's office to fulfill its functions and duties under Subsection (1)(c)(iv); and~~]

[~~(vi) for purposes of this chapter, "county surveyor" means:~~]

[~~(A) for purposes of the retention and management of county survey records, the county recorder; and~~]

[~~(B) except as provided in Subsection (1)(c)(vi)(A), the licensed land surveyor under contract with the county to perform county surveyor duties.~~]

(2) The county surveyor shall execute:

(a) all orders directed to the surveyor by any court; and

(b) all orders of survey required by the county executive or county legislative body.

(3) (a) The surveyor of each county shall:

(i) advise the county executive and county legislative body regarding all surveying work;

(ii) perform or arrange for the performance of all surveying work for the county;

(iii) permanently keep at county government offices a fair and accurate record of all surveys made, including legal descriptions and geographic coordinates, all surveys received [~~pursuant to~~]in accordance with Section [~~17-23-17~~]17-73-504, and all corner files received [~~pursuant to~~]in accordance with Section [~~17-23-17.5~~]17-73-505;

(iv) number progressively all surveys received and state by whom and for whom the surveys were made;

(v) deliver a copy of any survey to any person or court requiring the survey after the payment of the fee established by the county legislative body;

(vi) ensure that all surveys of legal subdivisions of sections are made according to the United States Manual of Surveying Instructions in effect at the time the survey is completed;

(vii) verify the correctness of or establish correct coordinates for all survey reference monuments set in place and shown on all subdivision maps and plats which have a spatial relationship with any section or quarter section corner; and

(viii) perform other duties required by law.

(b) In arranging for the performance of surveying work for the county under Subsection (3)(a)(ii), a surveyor may comply with Section [~~17-53-313~~]17-65-402.

(4) (a) The county surveyor or the county surveyor's designee shall establish all corners of government surveys and reestablish all corners of government surveys where corners have been destroyed and where witness markers or other [~~evidences~~]evidence of the government corners remain so that the corners established by government survey can be positively located.

(b) The corners shall be reestablished in the manner provided in Section [~~17-23-13~~]17-73-501 for establishing corners.

(c) The county surveyor shall keep a separate record of the established and reestablished corners of government surveys, giving the date and names of persons present and shall provide those records to the county surveyor's successor when the county surveyor vacates office.

(d) Established or reestablished corners shall be recognized as the legal and permanent corners.

(5) The county executive or legislative body may direct the county surveyor or county surveyor staff to perform engineering and architectural work if the county surveyor or county surveyor staff is qualified and licensed to perform that work.

Section 323. Section 17-73-301, which is renumbered from Section 17-23-5 is renumbered and amended to read:

PART 3. Powers and Duties

[~~17-23-5~~]17-73-301 (Effective 11/06/25). Maps for county or county officers.

(1) Except as provided in Subsection (2), each county surveyor shall:

(a) [~~trace, blueprint, or otherwise make~~]provide all maps necessary for the county or any county officer; and

(b) file those maps and all data [~~obtained by~~]the county surveyor obtains from other sources in the county surveyor's office.

(2) Subsection (1) does not apply to an ownership plat that the county recorder is required under Section [~~17-21-21~~]17-71-303 to prepare and keep.

Section 324. Section 17-73-302, which is renumbered from Section 17-23-12 is renumbered and amended to read:

[~~17-23-12~~]17-73-302 (Effective 11/06/25). Authority of county surveyor.

The county surveyor may:

(1) administer oaths or affirmations necessary to legally establish roads and other surveys;

(2) take evidence from any [~~person~~]individual who may have information to prove any point material to a survey or whenever necessary in the discharge of [~~his~~]the county surveyor's official duties; and

(3) establish procedures and guidelines to govern the electronic submission of plats, records, and other documents to the county surveyor's office consistent with Title 46, Chapter 4, Uniform Electronic Transactions Act.

Section 325. Section 17-73-401, which is renumbered from Section 17-23-16 is renumbered and amended to read:

PART 4. County Surveyors and Other Government Entities

[~~17-23-16~~]17-73-401 (Effective 11/06/25). Resurveys of surveys conducted by the United States.

In the resurvey of [~~lands surveyed under the authority of the United States~~]a federal survey, the county surveyor or the county surveyor's designee shall [~~observe the following rules~~]ensure that:

(1) [~~Section~~]section and quarter-section corners, and all other corners established by the [~~government~~]federal survey, [~~shall~~]stand as the true corner[~~.~~];

(2) [~~Missing~~]missing corners [~~shall be~~]are reestablished at the point where existing evidence would indicate the original corner was located by the [~~government~~]federal survey[~~.~~]; and

(3) [~~In all cases,~~]missing corners [~~shall~~]be reestablished with reference to the United States Manual of Surveying Instructions.

Section 326. Section 17-73-402, which is renumbered from Section 17-23-7 is renumbered and amended to read:

[~~17-23-7~~]17-73-402 (Effective 11/06/25). Survey by direction of court -- Compensation.

(1) When land, the title to which is in dispute before any court, is divided by a county line, the court making an order of survey may direct the order to the county surveyor of any county in which any part of the land is situated.

(2) The court order shall [~~also~~]provide for reasonable compensation for [~~said~~]county surveyor services ordered under Subsection (1).

Section 327. Section 17-73-501, which is renumbered from Section 17-23-13 is renumbered and amended to read:

PART 5. Surveying Processes and Penalties

[~~17-23-13~~]17-73-501 (Effective 11/06/25). Setting monuments.

(1) (a) When establishing a [~~section, quarter-section, or center corners~~]public land survey corner, the county surveyor or [~~his~~]the county surveyor's designee shall set a monument of durable quality.

(b) Wherever the nature of the ground will not allow the setting of a monument at the exact corner as described, then [~~a~~]the county surveyor or the county surveyor's designee shall set a witness monument [~~shall be set~~].

(2) (a) Whenever possible, [~~section corners and quarter-section corners~~]public land survey corners shall be witnessed by at least four references of durable quality.

(b) All references shall be carefully described, and [~~their~~]the bearings and distances noted in the report.

Section 328. Section 17-73-502, which is renumbered from Section 17-23-14 is renumbered and amended to read:

[~~17-23-14~~]17-73-502 (Effective 11/06/25). Disturbed corners -- County surveyor to be notified -- Coordination with certain state agencies.

[~~(1) As used in this section:~~]

[~~(a) (i) "Construction" means:~~]

[~~(A) the preparation of an area for a building or structure, including demolition, site clearance, exploration, drilling, boring, and excavation; and~~]

[~~(B) the carrying out of any building, civil engineering, or engineering work for the assembly or maintenance of any building or structure.~~]

[~~(ii) "Construction" does not mean normal maintenance of a roadway and related infrastructure that does not require construction drawings.~~]

[~~(b) "Corner" means the same as that term is defined in Section 17-23-17.5.~~]

[~~(c) "Government survey monument" means a monument that:~~]

[~~(i) a government entity maintains; or~~]

[~~(ii) the county surveyor sets in accordance with Section 17-23-13.~~]

[~~(d) "Monument" means the same as that term is defined in Section 17-23-17.5.~~]

[~~(e) "Public land survey government corner" means:~~]

[~~(i) a corner that the county surveyor establishes or reestablishes under Subsection 17-23-1(4);~~]

[~~(ii) a section corner, quarter section corner, or other corner that a government survey establishes; or~~]

[~~(iii) a public land survey corner as that term is defined in Section 17-23-17.5.~~]

[~~(f) "Structure" means any organization of parts, production, or pieces artificially built up or joined together to preserve or alter any natural feature, including roads, railways, tunnels, bridges, underground or overground pipelines or cables, river works, drainage works, earthworks, retaining walls, walls, dams, tanks, towers, and fences.~~]

[~~(2)~~](1) A person who finds it necessary to disturb any established government survey monument or public land survey government corner location for any reason, including the improvement of a road, shall notify the county surveyor at least five business days before the day on which the person disturbs the government survey monument or public land survey government corner location.

[~~(3)~~](2) (a) A county legislative body may enact an ordinance requiring a person to obtain a permit before performing construction work within 30 feet of an established government survey monument or public land survey government corner location.

(b) A county legislative body shall ensure that an ordinance described in Subsection [~~(3)(a)~~](2)(a) provides for an exemption from the permitting requirement [~~in the event of~~]if an emergency situation that poses a threat to public health or safety arises.

(c) (i) A county may charge a fee for a permit described in Subsection [~~(3)(a)~~](2)(a), in accordance with this Subsection [~~(3)(c)~~](2)(c).

(ii) The fee described in Subsection [~~(3)(c)(i)~~](2)(c)(i) may not exceed $400 per government survey monument or public land survey government corner location.

(iii) If, after completion of the construction work, the government survey monument or public land survey government corner location is undisturbed, the county shall disburse a partial fee refund of $250 to the permit holder.

(iv) If the construction work disturbs the government survey monument or public land survey government corner location related to the permit:

(A) the permit holder is responsible for the necessary construction work and installation of the government survey monument or public land survey government corner location; and

(B) the county shall provide to the permit holder the necessary brass monument, ring, and lid for the permit holder's work described in Subsection [~~(3)(c)(iv)(A)~~](2)(c)(iv)(A).

(d) A county shall provide a system allowing a person to apply electronically for and the county to approve or deny electronically a permit described in Subsection [~~(3)(a)~~](2)(a).

[~~(4)~~](3) A person may not perform any construction work within 30 feet of a government survey monument or public land survey government corner location unless the person obtains any permit the county requires before beginning construction work within 30 feet of the government survey monument or public land survey government corner location, together with any additional permits that applicable law may require.

[~~(5)~~](4) A person who produces drawings or plans for construction work to be performed within 30 feet of a government survey monument or public land survey government corner location shall show, on the face of the drawings or plans:

(a) the government survey monument or public land survey government corner location; and

(b) an accompanying note exhibiting compliance with Subsections [~~(2)~~](1) and [~~(4)~~](3).

[~~(6)~~](5) A person who finds a monument that needs rehabilitation shall notify the county surveyor within five business days after the day on which the person finds the monument.

[~~(7)~~](6) The county surveyor or the county surveyor's designee shall:

(a) consistent with federal law or rule, reconstruct or rehabilitate the monument for the corner by lowering and witnessing the corner or placing another monument and witness over the existing monument so that the monument:

(i) is left in a physical condition to remain as permanent a monument as is reasonably possible; and

(ii) may be reasonably located at all times in the future; and

(b) file the record of each reconstruction or rehabilitation in accordance with Subsection [~~(7)(a)~~](6)(a).

[~~(8)~~](7) (a) The county may, by ordinance, establish a civil penalty for a violation of:

(i) any provision of Subsection [~~(4)or (5)~~](3) or (4); or

(ii) any ordinance that the county adopts under Subsection [~~(3)~~](2).

(b) It is a defense to the civil penalty described in Subsection [~~(8)(a) that~~](7)(a) if the violation related to an emergency situation that posed a threat to public health or safety.

Section 329. Section 17-73-503, which is renumbered from Section 17-23-15 is renumbered and amended to read:

[~~17-23-15~~]17-73-503 (Effective 11/06/25). Removal, destruction, or defacement of monuments or corners as infraction -- Costs.

(1) A person may not willfully or negligently remove, destroy, or deface any government survey monument, corner, or witness corner.

(2) Any person who violates this section is guilty of an infraction and is additionally responsible for:

(a) the costs of any necessary legal action;

(b) the costs of reestablishing the survey monument, corner, or witness corner; and

(c) any civil penalty that the county establishes for a violation of:

(i) any provision of this section; or

(ii) any ordinance that the county adopts under Section [~~17-23-14~~]17-73-502.

Section 330. Section 17-73-504, which is renumbered from Section 17-23-17 is renumbered and amended to read:

[~~17-23-17~~]17-73-504 (Effective 11/06/25). Map of boundary survey -- Procedure for filing -- Contents -- Marking of monuments -- Record of corner changes -- Penalties.

[~~(1) As used in this section:~~]

[~~(a) "Land surveyor" means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.~~]

[~~(b) "Township" means a term used in the context of identifying a geographic area in common surveyor practice.~~]

[~~(2)~~](1) (a) (i) Each professional land surveyor making a boundary survey of lands within this state to establish or reestablish a boundary line or to obtain data for constructing a map or plat showing a boundary line shall file a map of the survey that meets the requirements of this section with the county surveyor or designated office within 90 days of the establishment or reestablishment of a boundary.

(ii) A professional land surveyor who fails to file a map of the survey as required by Subsection [~~(2)(a)(i)~~](1)(a)(i) is guilty of an infraction.

(iii) Each failure to file a map of the survey as required by Subsection [~~(2)(a)(i)~~](1)(a)(i) is a separate violation.

(b) The county surveyor or designated office shall file and index the map of the survey.

(c) The map shall be a public record in the office of the county surveyor or designated office.

[~~(3)~~](2) This type of map shall show:

(a) the location of survey by quarter section and township and range;

(b) the date of survey;

(c) the scale of drawing and north point;

(d) the distance and course of all lines traced or established, giving the basis of bearing and the distance and course to two or more section corners or quarter corners, including township and range, or to identified monuments within a recorded subdivision;

(e) all measured bearings, angles, and distances separately indicated from those of record;

(f) a written boundary description of property surveyed;

(g) all monuments set and their relation to older monuments found;

(h) a detailed description of monuments found and monuments set, indicated separately;

(i) the surveyor's seal or stamp; and

(j) the surveyor's business name and address.

[~~(4)~~](3) (a) The map shall contain a written narrative that explains and identifies:

(i) the purpose of the survey;

(ii) the basis on which the lines were established; and

(iii) the found monuments and deed elements that controlled the established or reestablished lines.

(b) If the narrative is a separate document, it shall contain:

(i) the location of the survey by quarter section and by township and range;

(ii) the date of the survey;

(iii) the surveyor's stamp or seal; and

(iv) the surveyor's business name and address.

(c) The map and narrative shall be referenced to each other if they are separate documents.

[~~(5)~~](4) The map and narrative shall be created on material of a permanent nature on stable base reproducible material in the sizes required by the county surveyor.

[~~(6)~~](5) (a) Any monument set by a licensed professional land surveyor to mark or reference a point on a property or land line shall be durably and visibly marked or tagged with the registered business name or the letters "L.S." followed by the registration number of the surveyor in charge.

(b) If the monument is set by a licensed land surveyor who is a public officer, it shall be marked with the official title of the office.

[~~(7)~~](6) (a) If, in the performance of a survey, a surveyor finds or makes any changes to the section corner or quarter-section corner, or their accessories, the surveyor shall complete and submit to the county surveyor or designated office a record of the changes made.

(b) The record described in Subsection (6)(a) shall:

(i) be submitted within 45 days of the corner visits; and [~~shall~~]

(ii) include the surveyor's seal, business name, and address.

[~~(8)~~](7) The Utah State Board of Engineers and Land Surveyors Examiners may revoke the license of any professional land surveyor who fails to comply with the requirements of this section, according to the procedures [~~set forth~~]in Title 58, Chapter 1, Division of Professional Licensing Act.

[~~(9)~~](8) Each federal or state agency, board, or commission, special district, special service district, or municipal corporation that makes a boundary survey of lands within this state shall comply with this section.

Section 331. Section 17-73-505, which is renumbered from Section 17-23-17.5 is renumbered and amended to read:

[~~17-23-17.5~~]17-73-505 (Effective 11/06/25). Corner perpetuation and filing -- Establishment of corner file -- Preservation of map records -- Filing fees -- Exemptions.

[~~(1) As used in this section:~~]

[~~(a) "Accessory to a corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.~~]

[~~(b) "Corner," unless otherwise qualified, means a property corner, a property controlling corner, a public land survey corner, or any combination of these.~~]

[~~(c) "Geographic coordinates" means mathematical values that designate a position on the earth relative to a given reference system. Coordinates shall be established pursuant to Title 57, Chapter 10, Utah Coordinate System.~~]

[~~(d) "Land surveyor" means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.~~]

[~~(e) "Monument" means an accessory that is presumed to occupy the exact position of a corner.~~]

[~~(f) "Property controlling corner" means a public land survey corner or any property corner which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.~~]

[~~(g) "Property corner" means a geographic point of known geographic coordinates on the surface of the earth, and is on, a part of, and controls a property line.~~]

[~~(h) "Public land survey corner" means any corner actually established and monumented in an original survey or resurvey used as a basis of legal descriptions for issuing a patent for the land to a private person from the United States government.~~]

[~~(i) "Reference monument" means a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded and which serves to witness the corner.~~]

[~~(j) "Township" means a term used in the context of identifying a geographic area in common surveyor practice.~~]

[~~(2)~~](1) (a) Any land surveyor making a boundary survey of lands within this state and utilizing a corner shall, within 90 days, complete, sign, and file with the county surveyor of the county where the corner is situated, a written record to be known as a corner file for every public land survey corner and accessory to the corner which is used as control in any survey by the surveyor, unless the corner and its accessories are already a matter of record in the county.

(b) Where reasonably possible, the corner file shall include the geographic coordinates of the corner.

(c) A surveyor may file a corner record as to any property corner, reference monument, or accessory to a corner.

(d) Corner records may be filed concerning corners used before the effective date of this section.

[~~(3)~~](2) The county surveyor of the county containing the corners shall have on record as part of the official files maps of each township within the county, the bearings and lengths of the connecting lines to government corners, and government corners looked for and not found.

[~~(4)~~](3) The county surveyor shall make these records available for public inspection at the county facilities during normal business hours.

[~~(5)~~](4) Filing fees for corner records shall be established by the county legislative body consistent with existing fees for similar services. All corners, monuments, and their accessories used [~~prior to the effective date of this section~~]before May 1, 1995 shall be accepted and filed with the county surveyor without requiring the payment of the fees.

[~~(6)~~](5) When a corner record of a public land survey corner is required to be filed under the provisions of this section and the monument needs to be reconstructed or rehabilitated, the land surveyor shall contact the county surveyor in accordance with Section [~~17-23-14~~]17-73-502.

[~~(7)~~](6) A corner record may not be filed unless it is signed by a land surveyor.

[~~(8)~~](7) All filings relative to official cadastral surveys of the Bureau of Land Management of the United States of America performed by authorized personnel shall be exempt from filing fees.

Section 332. Section 17-73-506, which is renumbered from Section 17-23-18 is renumbered and amended to read:

[~~17-23-18~~]17-73-506 (Effective 11/06/25). Amendment of survey maps or narratives by affidavit of corrections.

(1) Any survey map or narrative filed under the provisions of this chapter may be amended by an affidavit of corrections:

(a) to show any courses or distances omitted from the map or narrative;

(b) to correct an error in the description of the real property shown on the map or narrative; or

(c) to correct any other errors or omissions where the error or omission is ascertainable from the data shown on the map or narrative as recorded.

(2) (a) The affidavit of correction shall be prepared by the licensed professional land surveyor who filed the map or narrative.

(b) In the event of the death, disability, or retirement from practice of the surveyor who filed the map or narrative, the county surveyor may prepare the affidavit of correction.

(c) The affidavit shall set forth in detail the corrections made.

(d) The seal and signature of the licensed professional land surveyor filing the affidavit of correction shall be affixed to the affidavit.

(3) The county surveyor having jurisdiction of the map or narrative shall certify that the affidavit of correction has been examined and that the changes shown on the map or narrative are changes permitted under this section.

(4) Nothing in this section permits changes in courses or distances for the purpose of redesigning parcel configurations.

Section 333. Section 17-73-507, which is renumbered from Section 17-23-20 is renumbered and amended to read:

[~~17-23-20~~]17-73-507 (Effective 11/06/25). Final plats of local entity boundary actions -- County surveyor approval of final plat -- Plat requirements.

[~~(1) As used in this section:~~]

[~~(a) "Approving authority" means the person or body required under applicable statute to submit to the lieutenant governor a notice of an impending boundary action, as defined in Section 67-1a-6.5.~~]

[~~(b)~~ (i) ~~"Boundary action" means any action that establishes, modifies, or eliminates the boundary of a local entity, including incorporation or creation, annexation, withdrawal or disconnection, consolidation, division, boundary adjustment, and dissolution.~~]

[~~(ii) "Boundary action" does not include the determination of the true location of a county boundary under Section 17-50-105.~~]

[~~(c) "Final local entity plat" means a plat that meets the requirements of Subsection (4).~~]

[~~(d) "Local entity" has the same meaning as defined in Section 67-1a-6.5.~~]

[~~(2)~~](1) Upon request and in consultation with the county recorder, the county surveyor of each county in which property depicted on a plat is located shall determine whether the plat is a final local entity plat.

[~~(3)~~](2) (a) If a county surveyor determines that a plat meets the requirements of Subsection [~~(4)~~](3), the county surveyor shall approve the plat as a final local entity plat.

(b) The county surveyor shall indicate the approval of a plat as a final local entity plat on the face of the final local entity plat.

[~~(4)~~](3) A plat may not be approved as a final local entity plat unless the plat:

(a) contains a graphical illustration depicting:

(i) in the case of a proposed creation or incorporation of a local entity, the boundary of the proposed local entity;

(ii) in the case of a proposed annexation of an area into an existing local entity, the boundary of the area proposed to be annexed;

(iii) in the case of a proposed adjustment of a boundary between local entities, the boundary of the area that the boundary adjustment

proposes to move from inside the boundary of one local entity to inside the boundary of another local entity;

(iv) in the case of a proposed withdrawal or disconnection of an area from a local entity, the boundary of the area that is proposed to be withdrawn or disconnected;

(v) in the case of a proposed consolidation of multiple local entities, the boundary of the proposed consolidated local entity; and

(vi) in the case of a proposed division of a local entity into multiple local entities, the boundary of each new local entity created by the proposed division;

(b) is created on reproducible material that is:

(i) permanent in nature; and

(ii) the size and type specified by the county recorder;

(c) is drawn to a scale so that all data are legible;

(d) contains complete and accurate boundary information, including, as appropriate, calls along existing boundary lines, sufficient to enable:

(i) the county surveyor to establish the boundary on the ground, in the event of a dispute about the accurate location of the boundary; and

(ii) the county recorder to identify, for tax purposes, each tract or parcel included within the boundary;

(e) depicts a name for the plat, approved by the county recorder, that is sufficiently unique to distinguish the plat from all other recorded plats in the county;

(f) contains:

(i) the name of the local entity whose boundary is depicted on the plat;

(ii) the name of each county within which any property depicted on the plat is located;

(iii) the date that the plat was prepared;

(iv) a north arrow and legend;

(v) a signature block for:

(A) the signatures of:

(I) the professional land surveyor who prepared the plat; and

(II) the local entity's approving authority; and

(B) the approval of the county surveyor; and

(vi) a three-inch by three-inch block in the lower right hand corner for the county recorder's use when recording the plat;

(g) has been certified and signed by a professional land surveyor licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; and

(h) has been reviewed and signed by the approving authority of the local entity whose boundary is depicted on the plat.

[~~(5)~~](4) The county surveyor may charge and collect a reasonable fee for the costs associated with:

(a) the process of determining whether a plat is a final local entity plat; and

(b) the approval of a plat as a final local entity plat.

Section 334. Section 17-74-101 is enacted to read:

CHAPTER 74. County Treasurer

PART 1. General Provisions

17-74-101 (Effective 11/06/25). Definitions.

As used in this chapter, "warrant" means the same as that term is defined in Section 17-63-101.

Section 335. Section 17-74-102, which is renumbered from Section 17-16-5.5 is renumbered and amended to read:
[~~17-16-5.5~~]17-74-102 (Effective 11/06/25). Reassignment of certain assessor duties to treasurer.

A county legislative body may by ordinance reassign to the county treasurer the duties of the county assessor under Sections 41-1a-1320, 59-2-407, 59-2-1302, 59-2-1303, and 59-2-1305.

Section 336. Section 17-74-103, which is renumbered from Section 17-24-21 is renumbered and amended to read:
[~~17-24-21~~]17-74-103 (Effective 11/06/25). Seal of county treasurer.

(1) The county treasurer of each county shall have an official seal to be provided by the county legislative body with which [~~to~~]the county treasurer shall authenticate [~~his~~]official acts and records.

(2) [~~It~~]The seal described in Subsection (1) shall have inscribed thereon:

(a) the words "County Treasurer -- Official Seal"; and

(b) the name of the county in which the treasurer holds office.

Section 337. Section 17-74-201 is enacted to read:

PART 2. Qualifications

17-74-201 (Effective 11/06/25). Qualifications.

Reserved.

Section 338. Section 17-74-301, which is renumbered from Section 17-24-1 is renumbered and amended to read:

PART 3. Powers and Duties Generally

[~~17-24-1~~]17-74-301 (Effective 11/06/25). General duties.

The county treasurer shall:

(1) receive all money belonging to the county and all other money by law directed to be paid to the treasurer, including proceeds of bonds, notes, or other evidences of indebtedness issued under Title 11, Chapter 14, Local Government Bonding Act;

(2) deposit and invest all money received under Title 51, Chapter 7, State Money Management Act;

(3) keep a record of the receipts and expenditures of all such money;

(4) disburse county money:

(a) on a county warrant issued by the county auditor; or

(b) subject to Section [~~17-19a-301~~]17-69-307, by a county check or [~~such~~]other payment mechanism as may be [~~adopted pursuant to Chapter 36, Uniform Fiscal Procedures Act for Counties~~]adopted in accordance with Chapter 63, Fiscal Procedures and Processes;

(5) perform the duties assigned to the treasurer under Title 59, Chapter 2, Part 13, Collection of Taxes;

(6) perform the duties under Title 59, Chapter 2, Part 13, Collection of Taxes, that have been reassigned to the treasurer in an ordinance adopted under Section [~~17-16-5.5~~]17-74-102;

(7) provide the notice required under Section 10-11-4 or 17B-1-902; and

(8) perform other duties that are required by law or ordinance.

Section 339. Section 17-74-302, which is renumbered from Section 17-24-4 is renumbered and amended to read:

[~~17-24-4~~]17-74-302 (Effective 11/06/25). Payment of warrants in order presented -- Nonpayment and interest.

(1) The county treasurer shall pay all warrants in the order presented and as funds are available.

(2) Except as provided in Subsection [~~(3)~~](4), the county treasurer shall execute payment for a warrant when:

(a) a warrant is presented for payment; and

(b) there is sufficient money in the county treasury[~~, the treasurer shall pay it.~~]to cover the payment.

[~~(2)~~](3) Upon receiving the notice from the county auditor under Section [~~17-19a-301~~]17-69-307 and if there is adequate money in the treasury, the treasurer shall, by check or other payment mechanism, make any payment not already paid by warrant.

[~~(3)~~](4) Notwithstanding Subsections (1) and (2), the treasurer has no obligation to pay any warrant or to issue any check or other payment instrument before receiving the certified list under [~~Subsection 17-20-1.7(4)~~]Section 17-70-302.

[~~(4)~~](5) Before providing certain funding to a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, a treasurer shall consult with the community reinvestment agency as described in Section 17C-1-409.

(6) When a warrant is presented to the county treasurer for payment and is not paid due to a lack of sufficient county funds, the warrant shall bear interest at the rate of 5% per annum until paid.

Section 340. Section 17-74-401, which is renumbered from Section 17-24-12 is renumbered and amended to read:

PART 4. Duties To Other County Officers

[~~17-24-12~~]17-74-401 (Effective 11/06/25). Reports to county executive or legislative body.

(1) Each county treasurer shall make a detailed report whenever required so to do by the county executive or by the legislative body [~~at any of their regular or special meetings~~]of:

(a) all money received by the treasurer [~~, and of~~];

(b) all disbursements [~~thereof,~~]of money received by the treasurer; and

(c) [~~of~~]all other proceedings in the county treasurer's office so that the receipts into the treasury and the amount of disbursements shall clearly and distinctly appear.

(2) A report described in Subsection (1) may be made at a regular or special meeting of the legislative body.

Section 341. Section 17-74-402, which is renumbered from Section 17-24-11 is renumbered and amended to read:

[~~17-24-11~~]17-74-402 (Effective 11/06/25). Monthly reconciliation with county auditor -- Assistance to county auditor in making reports.

(1) The county treasurer shall reconcile with the county auditor by the last day of each month for the preceding month.

(2) The county treasurer shall assist the county auditor to fulfill the reporting obligations described in Section 17-69-306.

Section 342. Section 17-74-403, which is renumbered from Section 17-24-19 is renumbered and amended to read:

[~~17-24-19~~]17-74-403 (Effective 11/06/25). Examination of records open to other county officers, officials.

The books, accounts, and vouchers of the county treasurer are at all times subject to the inspection and examination of:

(1) the county executive and county legislative body[~~,~~];

(2) the county attorney[~~,~~] and the district attorney[~~,~~];

(3) the county auditor[~~,~~]; and [~~the~~]

(4) a grand jury.

Section 343. Section 17-74-501 is enacted to read:

PART 5. Specific Deposit Responsibilities

17-74-501 (Effective 11/06/25). Deposit of certain funds.

(1) The county treasurer shall deposit:

(a) 100% of the rollback tax funds into an account or fund of the county set aside for preserving or restoring open land and agricultural land, as described in Section 17-81-501;

(b) funds received from the county surveyor into the Public Land Corner Preservation Fund, as described in Section 17-63-710; and

(c) funds received under Section 17-66-303.

(2) The list of required deposits in this section is nonexhaustive.

Section 344. Repealer.

This bill repeals:

Section 17-2-101, Title.
Section 17-2-201, Title.
Section 17-2-208, Pending criminal proceedings.
Section 17-3-8, Prior offenses.
Section 17-16-4, Election of officer to consolidated office.
Section 17-16-18, Salaries paid out of general fund.
Section 17-16a-1, Citation of chapter.
Section 17-16a-9, Inducing officer to violate provisions prohibited.
Section 17-18a-101, Title.
Section 17-18a-201, County and district attorney duties.
Section 17-18a-503, Legal opinions.
Section 17-18a-504, Review and advise as to form.
Section 17-18a-604, Other duties.
Section 17-20-1.5, Clerk of county legislative body.
Section 17-20-3, County clerk -- Record of notaries public.
Section 17-20-4, Duties of county clerk.
Section 17-21-4, Certified copies.
Section 17-21-5, Receipts for documents received for record.
Section 17-21-18, Fees must be paid in advance.
Section 17-21a-101, Title.
Section 17-21a-201, Title.
Section 17-21a-401, Title.
Section 17-22-8.1, Disclosure of detainee medical clearance.
Section 17-22-8.2, Jail health care.
Section 17-22-12, Return of process as prima facie evidence.
Section 17-22-16, Declaring office vacant.
Section 17-22-19, Action for escape or rescue -- Defenses.
Section 17-22-21, Process justifies sheriff's action.
Section 17-22-25, Service of process on sheriff -- When constable to act.
Section 17-24-5, Payment of warrants in order presented -- Nonpayment of warrants -- Interest.
Section 17-25-1, General powers and duties.
Section 17-25-4, Constables' fees in criminal cases -- Procedure.
Section 17-25-5, Contracts for constable services.
Section 17-34-5, Budgeting, accounting for, and disbursing of funds -- Annual audit.
Section 17-36-7, Basis of accounting.
Section 17-36-11, Tentative budget -- Public record prior to adoption.
Section 17-36-13, Public hearing on budget.
Section 17-36-14, Adjustments to tentative budget.
Section 17-36-17, Appropriations in final budget -- Limitations.
Section 17-36-19, Encumbrance system.
Section 17-36-23, Transfer of unexpended appropriation balance by governing body.
Section 17-36-28, Lapse of appropriations.
Section 17-36-38, Presentation of annual report by independent auditor.
Section 17-36-39, Independent audits.
Section 17-36-44, Financial administration ordinance -- Required provisions.
Section 17-36-48, Reserve fund for capital improvements -- Transfer to fund of unencumbered surplus county funds.
Section 17-36-49, Reserve fund for capital improvements -- Investment -- Interest and income.
Section 17-36-52, Tax stability and trust fund -- Deposit or investment of funds -- Use of interest or other income.
Section 17-36-54, Tax stability and trust fund -- Use of principal -- Determination of necessity -- Election -- Exception.
Section 17-50-104, Counties of the state -- County boundaries maintained by lieutenant governor.
Section 17-52a-101, Title.
Section 17-53-104, Vacancy in a county office -- Vacancies in the office of county attorney or district attorney.
Section 17-53-213, Special funds.
Section 17-53-220, Taxation for county purposes.
Section 17-53-221, Tax for care, relief, and burial of indigents.
Section 17-53-305, Warrants -- Authority to draw on treasurer.
Section 17-53-314, Restrictions on county procurement of architect-engineer services.

Section 345. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), December 6, 2025; or

(2) if approved by two-thirds of all members elected to each house, the later of:
(a) November 6, 2025; or
(b) (i) upon approval by the governor;
(ii) without the governor's approval, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or
(iii) with the governor's veto and a vote of the Legislature to override the veto, the date of veto override.

CHAPTER 14
S. B. 1007
Passed October 6, 2025
Approved October 14, 2025
Effective November 6, 2025

TITLE 17 RECODIFICATION COUNTY PROGRAMS AND RELATED PROVISIONS

Chief Sponsor: Don L. Ipson
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill reorganizes and renumbers provisions of the state code related to counties.

Highlighted Provisions:

This bill:

- ► reorganizes and renumbers certain provisions of Title 17, Counties;
- ► defines terms and modifies definitions;
- ► enacts provisions related to counties for organizational purposes;
- ► amends provisions related to counties for organizational purposes;
- ► repeals provisions related to counties for organizational purposes; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-1-217, (Effective 11/06/25) as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-217, (Effective 11/06/25) as last amended by Laws of Utah 2025, Chapter 62

ENACTS:

10-7-87, (Effective 11/06/25) Utah Code Annotated 1953
10-7-88, (Effective 11/06/25) Utah Code Annotated 1953
17-75-202, (Effective 11/06/25) Utah Code Annotated 1953
17-75-302, (Effective 11/06/25) Utah Code Annotated 1953
17-75-601, (Effective 11/06/25) Utah Code Annotated 1953
17-76-101, (Effective 11/06/25) Utah Code Annotated 1953
17-76-102, (Effective 11/06/25) Utah Code Annotated 1953
17-76-401, (Effective 11/06/25) Utah Code Annotated 1953
17-76-501, (Effective 11/06/25) Utah Code Annotated 1953
17-78-101, (Effective 11/06/25) Utah Code Annotated 1953
17-78-503, (Effective 11/06/25) Utah Code Annotated 1953
17-78-701, (Effective 11/06/25) Utah Code Annotated 1953
17-79-402, (Effective 11/06/25) Utah Code Annotated 1953
17-79-811, (Effective 11/06/25) Utah Code Annotated 1953
17-80-102, (Effective 11/06/25) Utah Code Annotated 1953
17-80-201, (Effective 11/06/25) Utah Code Annotated 1953
17-80-601, (Effective 11/06/25) Utah Code Annotated 1953
17-81-103, (Effective 11/06/25) Utah Code Annotated 1953
17E-1-101, (Effective 11/06/25) Utah Code Annotated 1953
17E-1-302, (Effective 11/06/25) Utah Code Annotated 1953
17E-2-301, (Effective 11/06/25) Utah Code Annotated 1953
17E-2-302, (Effective 11/06/25) Utah Code Annotated 1953
17E-2-401, (Effective 11/06/25) Utah Code Annotated 1953
17E-2-403, (Effective 11/06/25) Utah Code Annotated 1953
17E-2-404, (Effective 11/06/25) Utah Code Annotated 1953
17E-2-405, (Effective 11/06/25) Utah Code Annotated 1953
17E-2-406, (Effective 11/06/25) Utah Code Annotated 1953
17E-3-101, (Effective 11/06/25) Utah Code Annotated 1953
17E-5-101, (Effective 11/06/25) Utah Code Annotated 1953
17E-6-101, (Effective 11/06/25) Utah Code Annotated 1953

17E-6-401, (Effective 11/06/25) Utah Code Annotated 1953
17E-7-301, (Effective 11/06/25) Utah Code Annotated 1953

RENUMBERS AND AMENDS:

17-75-101, (Effective 11/06/25) (Renumbered from 17-33-2, as last amended by Laws of Utah 1999, Chapter 182)
17-75-102, (Effective 11/06/25) (Contingently Superseded 11/28/26) (Renumbered from 17-33-11.5, as enacted by Laws of Utah 2003, Chapter 284)
17-75-102, (Contingently Effective 11/28/26) (Renumbered from 17-33-11.5, as last amended by Laws of Utah 2025, Chapter 10)
17-75-103, (Effective 11/06/25) (Renumbered from 17-50-108, as enacted by Laws of Utah 2018, Chapter 200)
17-75-201, (Effective 11/06/25) (Renumbered from 17-16-7, as last amended by Laws of Utah 2001, Chapter 241)
17-75-301, (Effective 11/06/25) (Renumbered from 17-50-325, as enacted by Laws of Utah 2008, Chapter 127)
17-75-303, (Effective 11/06/25) (Renumbered from 17-33-11, as last amended by Laws of Utah 1983, Chapter 65)
17-75-304, (Effective 11/06/25) (Renumbered from 17-15-33, as enacted by Laws of Utah 2024, Chapter 402)
17-75-305, (Effective 11/06/25) (Renumbered from 17-15-26, as enacted by Laws of Utah 1998, Chapter 134)
17-75-401, (Effective 11/06/25) (Renumbered from 17-33-1, as last amended by Laws of Utah 2014, Chapter 366)
17-75-402, (Effective 11/06/25) (Renumbered from 17-33-3, as last amended by Laws of Utah 2001, Chapter 73)
17-75-403, (Effective 11/06/25) (Renumbered from 17-33-10, as last amended by Laws of Utah 2011, Chapter 297)
17-75-501, (Effective 11/06/25) (Renumbered from 17-33-4, as last amended by Laws of Utah 2017, Chapter 70)
17-75-502, (Effective 11/06/25) (Renumbered from 17-33-8, as last amended by Laws of Utah 2008, Chapters 25, 172)
17-75-503, (Effective 11/06/25) (Renumbered from 17-33-9, as enacted by Laws of Utah 1981, Chapter 81)
17-75-602, (Effective 11/06/25) (Renumbered from 17-33-5, as last amended by Laws of Utah 2025, Chapter 426)
17-75-603, (Effective 11/06/25) (Renumbered from 17-33-7, as last amended by Laws of Utah 2001, Chapter 241)
17-75-604, (Effective 11/06/25) (Renumbered from 17-33-6, as enacted by Laws of Utah 1981, Chapter 81)
17-75-605, (Effective 11/06/25) (Renumbered from 17-33-12, as enacted by Laws of Utah 1981, Chapter 81)
17-75-701, (Effective 11/06/25) (Renumbered from 17-33-13, as last amended by Laws of Utah 1998, Chapter 92)
17-75-702, (Effective 11/06/25) (Renumbered from 17-33-14, as last amended by Laws of Utah 1991, Chapter 241)
17-76-103, (Effective 11/06/25) (Renumbered from 17-30-23, as enacted by Statewide Initiative A, Nov. 8, 1960)
17-76-201, (Effective 11/06/25) (Renumbered from 17-30-1, as last amended by Laws of Utah 2009, Chapter 218)
17-76-202, (Effective 11/06/25) (Renumbered from 17-30-2, as last amended by Laws of Utah 2014, Chapter 366)
17-76-203, (Effective 11/06/25) (Renumbered from 17-30-3, as last amended by Laws of Utah 2025, Chapter 57)
17-76-204, (Effective 11/06/25) (Renumbered from 17-30-4, as enacted by Statewide Initiative A, Nov. 8, 1960)
17-76-205, (Effective 11/06/25) (Renumbered from 17-30-5, as last amended by Laws of Utah 1993, Chapter 227)
17-76-206, (Effective 11/06/25) (Renumbered from 17-30-21, as enacted by Statewide Initiative A, Nov. 8, 1960)
17-76-207, (Effective 11/06/25) (Renumbered from 17-30-6, as last amended by Laws of Utah 2009, Chapter 388)
17-76-208, (Effective 11/06/25) (Renumbered from 17-30-7, as last amended by Laws of Utah 2021, First Special Session, Chapter 13)
17-76-209, (Effective 11/06/25) (Renumbered from 17-30-9, as enacted by Statewide Initiative A, Nov. 8, 1960)
17-76-210, (Effective 11/06/25) (Renumbered from 17-30-12, as enacted by Statewide Initiative A, Nov. 8, 1960)
17-76-211, (Effective 11/06/25) (Renumbered from 17-30-14, as enacted by Statewide Initiative A, Nov. 8, 1960)
17-76-212, (Effective 11/06/25) (Renumbered from 17-30-16, as last amended by Laws of Utah 2024, Chapter 365)
17-76-213, (Effective 11/06/25) (Renumbered from 17-30-13, as enacted by Statewide Initiative A, Nov. 8, 1960)
17-76-214, (Effective 11/06/25) (Renumbered from 17-30-17, as last amended by Laws of Utah 2024, Chapter 365)
17-76-215, (Effective 11/06/25) (Renumbered from 17-30-18, as enacted by Statewide Initiative A, Nov. 8, 1960)
17-76-216, (Effective 11/06/25) (Renumbered from 17-30-19, as last amended by Laws of Utah 2000, Chapter 151)
17-76-217, (Effective 11/06/25) (Renumbered from 17-30-22, as last amended by Laws of Utah 2018, Chapter 148)
17-76-301, (Effective 11/06/25) (Renumbered from 17-30a-102, as enacted by Laws of Utah 2014, Chapter 366)
17-76-302, (Effective 11/06/25) (Renumbered from 17-30a-103, as enacted by Laws of Utah 2014, Chapter 366)
17-76-303, (Effective 11/06/25) (Renumbered from 17-30a-104, as enacted by Laws of Utah 2014, Chapter 366)
17-76-304, (Effective 11/06/25) (Renumbered from 17-30a-202, as last amended by Laws of Utah 2025, Chapter 57)
17-76-305, (Effective 11/06/25) (Renumbered from 17-30a-203, as enacted by Laws of Utah 2014, Chapter 366)
17-76-306, (Effective 11/06/25) (Renumbered from 17-30a-204, as enacted by Laws of Utah 2014, Chapter 366)
17-76-307, (Effective 11/06/25) (Renumbered from 17-30a-302, as enacted by Laws of Utah 2014, Chapter 366)
17-76-308, (Effective 11/06/25) (Renumbered from 17-30a-303, as last amended by Laws of Utah 2021, First Special Session, Chapter 13)
17-76-309, (Effective 11/06/25) (Renumbered from 17-30a-304, as enacted by Laws of Utah 2014, Chapter 366)
17-76-310, (Effective 11/06/25) (Renumbered from 17-30a-305, as enacted by Laws of Utah 2014, Chapter 366)
17-76-311, (Effective 11/06/25) (Renumbered from 17-30a-308, as enacted by Laws of Utah 2014, Chapter 366)
17-76-312, (Effective 11/06/25) (Renumbered from 17-30a-310, as enacted by Laws of Utah 2014, Chapter 366)
17-76-313, (Effective 11/06/25) (Renumbered from 17-30a-311, as enacted by Laws of Utah 2014, Chapter 366)
17-76-314, (Effective 11/06/25) (Renumbered from 17-30a-309, as enacted by Laws of Utah 2014, Chapter 366)
17-76-315, (Effective 11/06/25) (Renumbered from 17-30a-313, as enacted by Laws of Utah 2014, Chapter 366)
17-76-316, (Effective 11/06/25) (Renumbered from 17-30a-312, as enacted by Laws of Utah 2014, Chapter 366)
17-76-317, (Effective 11/06/25) (Renumbered from 17-30a-402, as enacted by Laws of Utah 2014, Chapter 366)
17-76-318, (Effective 11/06/25) (Renumbered from 17-30a-314, as enacted by Laws of Utah 2014, Chapter 366)
17-76-402, (Effective 11/06/25) (Renumbered from 17-33-11.7, as enacted by Laws of Utah 2024, Chapter 151)
17-76-403, (Effective 11/06/25) (Renumbered from 17-30a-502, as enacted by Laws of Utah 2014, Chapter 366)
17-76-502, (Effective 11/06/25) (Renumbered from 17-28-1, as last amended by Laws of Utah 2002, Chapter 158)

17-76-503, (Effective 11/06/25) (Renumbered from 17-28-2, as last amended by Laws of Utah 2025, Chapter 57)
17-76-504, (Effective 11/06/25) (Renumbered from 17-28-3, as last amended by Laws of Utah 2002, Chapter 158)
17-76-505, (Effective 11/06/25) (Renumbered from 17-28-6, as last amended by Laws of Utah 2002, Chapter 158)
17-76-506, (Effective 11/06/25) (Renumbered from 17-28-2.4, as enacted by Laws of Utah 1992, Chapter 115)
17-76-507, (Effective 11/06/25) (Renumbered from 17-28-5, as last amended by Laws of Utah 1997, Chapter 170)
17-76-508, (Effective 11/06/25) (Renumbered from 17-28-7, as last amended by Laws of Utah 1992, Chapter 115)
17-76-509, (Effective 11/06/25) (Renumbered from 17-28-8, as last amended by Laws of Utah 1992, Chapter 115)
17-76-510, (Effective 11/06/25) (Renumbered from 17-28-10, as last amended by Laws of Utah 1992, Chapter 115)
17-76-511, (Effective 11/06/25) (Renumbered from 17-28-11, as last amended by Laws of Utah 2011, Chapter 297)
17-76-512, (Effective 11/06/25) (Renumbered from 17-28-12, as last amended by Laws of Utah 1993, Chapter 227)
17-77-101, (Effective 11/06/25) (Renumbered from 17-43-102, as last amended by Laws of Utah 2025, Chapter 141)
17-77-102, (Effective 11/06/25) (Renumbered from 17-50-313, as last amended by Laws of Utah 2002, Chapter 249)
17-77-103, (Effective 11/06/25) (Renumbered from 17-50-318, as last amended by Laws of Utah 2023, Chapter 327)
17-77-201, (Effective 11/06/25) (Renumbered from 17-43-201, as last amended by Laws of Utah 2025, Chapter 141)
17-77-202, (Effective 11/06/25) (Renumbered from 17-43-202, as last amended by Laws of Utah 2012, Chapter 347)
17-77-203, (Effective 11/06/25) (Renumbered from 17-43-203, as last amended by Laws of Utah 2024, Chapter 240)
17-77-204, (Effective 11/06/25) (Renumbered from 17-43-204, as last amended by Laws of Utah 2023, Chapter 327)
17-77-205, (Effective 11/06/25) (Renumbered from 17-43-205, as enacted by Laws of Utah 2018, Chapter 256)
17-77-301, (Effective 11/06/25) (Renumbered from 17-43-301, as last amended by Laws of Utah 2025, Chapters 112, 141)
17-77-302, (Effective 11/06/25) (Renumbered from 17-43-302, as last amended by Laws of Utah 2012, Chapter 347)
17-77-303, (Effective 11/06/25) (Renumbered from 17-43-303, as last amended by Laws of Utah 2023, Chapter 327)
17-77-304, (Effective 11/06/25) (Renumbered from 17-43-304, as last amended by Laws of Utah 2009, Chapter 75)
17-77-305, (Effective 11/06/25) (Renumbered from 17-43-306, as last amended by Laws of Utah 2023, Chapter 327)
17-77-306, (Effective 11/06/25) (Renumbered from 17-43-308, as last amended by Laws of Utah 2018, Chapter 148)
17-77-307, (Effective 11/06/25) (Renumbered from 17-43-309, as last amended by Laws of Utah 2004, Chapter 80)
17-77-308, (Effective 11/06/25) (Renumbered from 17-43-310, as enacted by Laws of Utah 2018, Chapter 256)
17-78-102, (Effective 11/06/25) (Renumbered from 17-50-310, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-78-103, (Effective 11/06/25) (Renumbered from 17-50-312, as last amended by Laws of Utah 2018, Chapter 350)
17-78-104, (Effective 11/06/25) (Renumbered from 17-50-311, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-78-201, (Effective 11/06/25) (Renumbered from 17-50-316, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-78-202, (Effective 11/06/25) (Renumbered from 17-50-326, as enacted by Laws of Utah 2008, Chapter 360)
17-78-203, (Effective 11/06/25) (Renumbered from 17-50-320, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-78-204, (Effective 11/06/25) (Renumbered from 17-50-335, as last amended by Laws of Utah 2024, Chapter 53)
17-78-301, (Effective 11/06/25) (Renumbered from 17-8-1, as last amended by Laws of Utah 1993, Chapter 227)
17-78-302, (Effective 11/06/25) (Renumbered from 17-8-2, as last amended by Laws of Utah 1993, Chapter 227)
17-78-303, (Effective 11/06/25) (Renumbered from 17-8-3, Utah Code Annotated 1953)
17-78-304, (Effective 11/06/25) (Renumbered from 17-8-4, Utah Code Annotated 1953)
17-78-305, (Effective 11/06/25) (Renumbered from 17-8-5, as last amended by Laws of Utah 1993, Chapter 227)
17-78-306, (Effective 11/06/25) (Renumbered from 17-8-5.5, as last amended by Laws of Utah 1993, Chapter 227)
17-78-307, (Effective 11/06/25) (Renumbered from 17-8-7, as last amended by Laws of Utah 2012, Chapter 17)
17-78-401, (Effective 11/06/25) (Renumbered from 17-50-305, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-78-402, (Effective 11/06/25) (Renumbered from 17-50-306, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-78-403, (Effective 11/06/25) (Renumbered from 17-50-307, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-78-404, (Effective 11/06/25) (Renumbered from 17-50-308, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-78-405, (Effective 11/06/25) (Renumbered from 17-50-309, as renumbered and amended by Laws of Utah 2000, Chapter 133)
17-78-406, (Effective 11/06/25) (Renumbered from 17-50-330, as enacted by Laws of Utah 2009, Chapter 332)
17-78-407, (Effective 11/06/25) (Renumbered from 17-50-322, as last amended by Laws of Utah 2010, Chapter 263)
17-78-501, (Effective 11/06/25) (Renumbered from 17-34-1, as last amended by Laws of Utah 2019, Chapter 510)
17-78-502, (Effective 11/06/25) (Renumbered from 17-34-3, as last amended by Laws of Utah 2023, Chapter 15)
17-78-504, (Effective 11/06/25) (Renumbered from 17-34-4, as last amended by Laws of Utah 2000, Chapter 199)
17-78-601, (Effective 11/06/25) (Renumbered from 17-25a-1, as last amended by Laws of Utah 2019, Chapter 218)
17-78-602, (Effective 11/06/25) (Renumbered from 17-25a-2, as enacted by Laws of Utah 1990, Chapter 44)
17-78-603, (Effective 11/06/25) (Renumbered from 17-25a-3, as last amended by Laws of Utah 2019, Chapter 218)
17-78-604, (Effective 11/06/25) (Renumbered from 17-25-2, as renumbered and amended by Laws of Utah 2001, Chapter 46)
17-78-605, (Effective 11/06/25) (Renumbered from 17-25-3, as renumbered and amended by Laws of Utah 2001, Chapter 46)
17-78-606, (Effective 11/06/25) (Renumbered from 17-25a-4, as last amended by Laws of Utah 2001, Chapter 46)
17-78-607, (Effective 11/06/25) (Renumbered from 17-25-6, as last amended by Laws of Utah 2012, Chapter 48)
17-78-702, (Effective 11/06/25) (Renumbered from 17-31-2, as last amended by Laws of Utah 2025, Chapter 270)
17-78-703, (Effective 11/06/25) (Renumbered from 17-31-5, as last amended by Laws of Utah 2025, Chapter 270)
17-78-704, (Effective 11/06/25) (Renumbered from 17-31-5.5, as last amended by Laws of Utah 2025, Chapter 270)
17-78-705, (Effective 11/06/25) (Renumbered from 17-31-3, as last amended by Laws of Utah 2022, Chapter 360)
17-78-706, (Effective 11/06/25) (Renumbered from 17-31-8, as last amended by Laws of Utah 2025, Chapter 270)
17-78-707, (Effective 11/06/25) (Renumbered from 17-31-9, as last amended by Laws of Utah 2021, Chapter 282)
17-78-801, (Effective 11/06/25) (Renumbered from 17-37-1, as last amended by Laws of Utah 1988, Chapter 3)
17-78-802, (Effective 11/06/25) (Renumbered from 17-37-2, as last amended by Laws of Utah 2002, Chapter 95)

17-78-803, (Effective 11/06/25) (Renumbered from 17-37-3, as last amended by Laws of Utah 1993, Chapter 227)
17-78-804, (Effective 11/06/25) (Renumbered from 17-37-4, as last amended by Laws of Utah 2011, Chapter 297)
17-78-805, (Effective 11/06/25) (Renumbered from 17-37-5, as last amended by Laws of Utah 1993, Chapter 227)
17-78-806, (Effective 11/06/25) (Renumbered from 17-37-6, as last amended by Laws of Utah 1982, Chapter 16)
17-78-807, (Effective 11/06/25) (Renumbered from 17-37-7, as last amended by Laws of Utah 2005, Chapter 71)
17-78-808, (Effective 11/06/25) (Renumbered from 17-37-8, as last amended by Laws of Utah 2003, Chapter 31)
17-78-809, (Effective 11/06/25) (Renumbered from 17-37-9, as last amended by Laws of Utah 1993, Chapter 227)
17-78-901, (Effective 11/06/25) (Renumbered from 17-38-1, as last amended by Laws of Utah 1988, Chapter 3)
17-78-902, (Effective 11/06/25) (Renumbered from 17-38-2, as last amended by Laws of Utah 1993, Chapter 227)
17-78-903, (Effective 11/06/25) (Renumbered from 17-38-3, as enacted by Laws of Utah 1982, Chapter 14)
17-78-1001, (Effective 11/06/25) (Renumbered from 17-50-323, as last amended by Laws of Utah 2017, Chapter 345)
17-78-1002, (Effective 11/06/25) (Renumbered from 17-50-329.5, as last amended by Laws of Utah 2018, Chapter 166)
17-78-1003, (Effective 11/06/25) (Renumbered from 17-50-331, as enacted by Laws of Utah 2010, Chapter 398)
17-78-1004, (Effective 11/06/25) (Renumbered from 17-50-333, as last amended by Laws of Utah 2025, Chapter 173)
17-78-1005, (Effective 11/06/25) (Renumbered from 17-50-339, as last amended by Laws of Utah 2023, Chapter 327)
17-78-1101, (Effective 11/06/25) (Renumbered from 17-50-341, as enacted by Laws of Utah 2023, Chapter 533)
17-78-1102, (Effective 11/06/25) (Renumbered from 17-50-338, as last amended by Laws of Utah 2025, Chapter 37)
17-78-1103, (Effective 11/06/25) (Renumbered from 17-50-327, as enacted by Laws of Utah 2009, Chapter 304)
17-78-1104, (Effective 11/06/25) (Renumbered from 17-15-29, as enacted by Laws of Utah 2007, Chapter 246)
17-79-101, (Effective 11/06/25) (Renumbered from 17-27a-102, as last amended by Laws of Utah 2025, Chapters 385, 399)
17-79-102, (Effective 11/06/25) (Renumbered from 17-27a-103, as last amended by Laws of Utah 2025, Chapters 40, 399 and 400)
17-79-103, (Effective 11/06/25) (Renumbered from 17-27a-104, as last amended by Laws of Utah 2019, Chapter 384)
17-79-201, (Effective 11/06/25) (Renumbered from 17-27a-201, as enacted by Laws of Utah 2005, Chapter 254)
17-79-202, (Effective 11/06/25) (Renumbered from 17-27a-202, as last amended by Laws of Utah 2006, Chapter 257)
17-79-203, (Effective 11/06/25) (Renumbered from 17-27a-203, as last amended by Laws of Utah 2023, Chapter 435)
17-79-204, (Effective 11/06/25) (Renumbered from 17-27a-204, as last amended by Laws of Utah 2023, Chapter 435)
17-79-205, (Effective 11/06/25) (Renumbered from 17-27a-205, as last amended by Laws of Utah 2025, Chapter 399)
17-79-206, (Effective 11/06/25) (Renumbered from 17-27a-206, as last amended by Laws of Utah 2020, Chapter 377)
17-79-207, (Effective 11/06/25) (Renumbered from 17-27a-207, as last amended by Laws of Utah 2009, Chapter 338)
17-79-208, (Effective 11/06/25) (Renumbered from 17-27a-208, as last amended by Laws of Utah 2023, Chapter 435)
17-79-209, (Effective 11/06/25) (Renumbered from 17-27a-209, as enacted by Laws of Utah 2005, Chapter 254)
17-79-210, (Effective 11/06/25) (Renumbered from 17-27a-210, as last amended by Laws of Utah 2015, Chapter 465)
17-79-211, (Effective 11/06/25) (Renumbered from 17-27a-211, as last amended by Laws of Utah 2017, Chapters 410, 428)
17-79-212, (Effective 11/06/25) (Renumbered from 17-27a-212, as last amended by Laws of Utah 2022, Chapter 355)
17-79-213, (Effective 11/06/25) (Renumbered from 17-27a-213, as enacted by Laws of Utah 2019, Chapter 235)
17-79-301, (Effective 11/06/25) (Renumbered from 17-27a-301, as last amended by Laws of Utah 2021, Chapter 363)
17-79-302, (Effective 11/06/25) (Renumbered from 17-27a-302, as last amended by Laws of Utah 2025, Chapter 400)
17-79-303, (Effective 11/06/25) (Renumbered from 17-27a-306, as last amended by Laws of Utah 2023, Chapter 435)
17-79-304, (Effective 11/06/25) (Renumbered from 17-27a-303, as renumbered and amended by Laws of Utah 2005, Chapter 254)
17-79-305, (Effective 11/06/25) (Renumbered from 17-27a-305, as last amended by Laws of Utah 2025, Chapter 461)
17-79-306, (Effective 11/06/25) (Renumbered from 17-27a-304, as renumbered and amended by Laws of Utah 2005, Chapter 254)
17-79-401, (Effective 11/06/25) (Renumbered from 17-27a-401, as last amended by Laws of Utah 2024, Chapter 53)
17-79-403, (Effective 11/06/25) (Renumbered from 17-27a-403, as last amended by Laws of Utah 2025, Chapter 385)
17-79-404, (Effective 11/06/25) (Renumbered from 17-27a-404, as last amended by Laws of Utah 2023, Chapter 435)
17-79-405, (Effective 11/06/25) (Renumbered from 17-27a-405, as last amended by Laws of Utah 2015, Chapter 310)
17-79-406, (Effective 11/06/25) (Renumbered from 17-27a-406, as renumbered and amended by Laws of Utah 2005, Chapter 254)
17-79-407, (Effective 11/06/25) (Renumbered from 17-27a-407, as renumbered and amended by Laws of Utah 2005, Chapter 254)
17-79-408, (Effective 11/06/25) (Renumbered from 17-27a-901, as last amended by Laws of Utah 2021, Chapter 363)
17-79-501, (Effective 11/06/25) (Renumbered from 17-27a-501, as last amended by Laws of Utah 2023, Chapter 65)
17-79-502, (Effective 11/06/25) (Renumbered from 17-27a-502, as last amended by Laws of Utah 2019, Chapter 384)
17-79-503, (Effective 11/06/25) (Renumbered from 17-27a-503, as last amended by Laws of Utah 2019, Chapter 384)
17-79-504, (Effective 11/06/25) (Renumbered from 17-27a-504, as last amended by Laws of Utah 2023, Chapter 478)
17-79-505, (Effective 11/06/25) (Renumbered from 17-27a-505, as last amended by Laws of Utah 2015, Chapters 327, 352)
17-79-506, (Effective 11/06/25) (Renumbered from 17-27a-506, as last amended by Laws of Utah 2021, Chapter 385)
17-79-507, (Effective 11/06/25) (Renumbered from 17-27a-506.5, as enacted by Laws of Utah 2025, Chapter 49)
17-79-508, (Effective 11/06/25) (Renumbered from 17-27a-528, as last amended by Laws of Utah 2024, Chapter 415)
17-79-601, (Effective 11/06/25) (Renumbered from 17-27a-505.5, as last amended by Laws of Utah 2021, Chapter 102)
17-79-602, (Effective 11/06/25) (Renumbered from 17-27a-508.1, as enacted by Laws of Utah 2025, Chapter 399)
17-79-603, (Effective 11/06/25) (Renumbered from 17-27a-509.7, as last amended by Laws of Utah 2025, Chapter 399)
17-79-604, (Effective 11/06/25) (Renumbered from 17-27a-511, as last amended by Laws of Utah 2018, Chapter 239)
17-79-605, (Effective 11/06/25) (Renumbered from 17-27a-512, as last amended by Laws of Utah 2018, Chapter 239)
17-79-606, (Effective 11/06/25) (Renumbered from 17-27a-514, as renumbered and amended by Laws of Utah 2005, Chapter 254)
17-79-607, (Effective 11/06/25) (Renumbered from 17-27a-515, as repealed and reenacted by Laws of Utah 2013, Chapter 309)
17-79-608, (Effective 11/06/25) (Renumbered from 17-27a-520, as last amended by Laws of Utah 2022, Chapter 216)
17-79-609, (Effective 11/06/25) (Renumbered from 17-27a-521, as enacted by Laws of Utah 2010, Chapter 306)

17-79-610, (Effective 11/06/25) (Renumbered from 17-27a-525, as last amended by Laws of Utah 2024, Chapter 238)
17-79-611, (Effective 11/06/25) (Renumbered from 17-27a-510.5, as last amended by Laws of Utah 2021, Chapter 102)
17-79-612, (Effective 11/06/25) (Renumbered from 17-27a-527, as enacted by Laws of Utah 2021, Chapter 15)
17-79-613, (Effective 11/06/25) (Renumbered from 17-27a-529, as enacted by Laws of Utah 2021, Chapter 385)
17-79-614, (Effective 11/06/25) (Renumbered from 17-27a-530, as last amended by Laws of Utah 2025, Chapter 449)
17-79-615, (Effective 11/06/25) (Renumbered from 17-27a-532, as last amended by Laws of Utah 2025, Chapter 399)
17-79-616, (Effective 11/06/25) (Renumbered from 17-27a-533, as last amended by Laws of Utah 2024, Chapter 336)
17-79-617, (Effective 11/06/25) (Renumbered from 17-27a-534, as enacted by Laws of Utah 2024, Chapter 415)
17-79-618, (Effective 11/06/25) (Renumbered from 17-27a-535, as enacted by Laws of Utah 2024, Chapter 329)
17-79-619, (Effective 11/06/25) (Renumbered from 17-27a-539, as enacted by Laws of Utah 2025, Chapter 228)
17-79-620, (Effective 11/06/25) (Renumbered from 17-27a-540, as enacted by Laws of Utah 2025, Chapter 469)
17-79-701, (Effective 11/06/25) (Renumbered from 17-27a-601, as last amended by Laws of Utah 2022, Chapter 355)
17-79-702, (Effective 11/06/25) (Renumbered from 17-27a-602, as last amended by Laws of Utah 2020, Chapter 354)
17-79-703, (Effective 11/06/25) (Renumbered from 17-27a-603, as last amended by Laws of Utah 2022, Chapter 355)
17-79-704, (Effective 11/06/25) (Renumbered from 17-27a-604, as last amended by Laws of Utah 2021, Chapter 47)
17-79-705, (Effective 11/06/25) (Renumbered from 17-27a-604.1, as enacted by Laws of Utah 2023, Chapter 501)
17-79-706, (Effective 11/06/25) (Renumbered from 17-27a-604.2, as last amended by Laws of Utah 2024, Chapter 415)
17-79-707, (Effective 11/06/25) (Renumbered from 17-27a-604.5, as last amended by Laws of Utah 2025, Chapter 399)
17-79-708, (Effective 11/06/25) (Renumbered from 17-27a-605, as last amended by Laws of Utah 2025, Chapters 40, 100)
17-79-709, (Effective 11/06/25) (Renumbered from 17-27a-606, as last amended by Laws of Utah 2017, Chapter 405)
17-79-710, (Effective 11/06/25) (Renumbered from 17-27a-607, as last amended by Laws of Utah 2019, Chapter 384)
17-79-711, (Effective 11/06/25) (Renumbered from 17-27a-608, as last amended by Laws of Utah 2025, Chapter 40)
17-79-712, (Effective 11/06/25) (Renumbered from 17-27a-609, as last amended by Laws of Utah 2019, Chapter 384)
17-79-713, (Effective 11/06/25) (Renumbered from 17-27a-609.5, as last amended by Laws of Utah 2021, Chapter 385)
17-79-714, (Effective 11/06/25) (Renumbered from 17-27a-610, as renumbered and amended by Laws of Utah 2005, Chapter 254)
17-79-715, (Effective 11/06/25) (Renumbered from 17-27a-611, as last amended by Laws of Utah 2020, Chapter 434)
17-79-716, (Effective 11/06/25) (Renumbered from 17-27a-1004, as enacted by Laws of Utah 2019, Chapter 227)
17-79-801, (Effective 11/06/25) (Renumbered from 17-27a-308, as enacted by Laws of Utah 2017, Chapter 84)
17-79-802, (Effective 11/06/25) (Renumbered from 17-27a-309, as enacted by Laws of Utah 2025, Chapter 399)
17-79-803, (Effective 11/06/25) (Renumbered from 17-27a-508, as last amended by Laws of Utah 2025, Chapters 399, 464)
17-79-804, (Effective 11/06/25) (Renumbered from 17-27a-509, as last amended by Laws of Utah 2025, Chapters 62, 399)
17-79-805, (Effective 11/06/25) (Renumbered from 17-27a-509.5, as last amended by Laws of Utah 2025, Chapter 399)
17-79-806, (Effective 11/06/25) (Renumbered from 17-27a-522, as last amended by Laws of Utah 2025, Chapter 40)
17-79-807, (Effective 11/06/25) (Renumbered from 17-27a-523, as last amended by Laws of Utah 2025, Chapter 40)
17-79-808, (Effective 11/06/25) (Renumbered from 17-27a-524, as enacted by Laws of Utah 2013, Chapter 476)
17-79-809, (Effective 11/06/25) (Renumbered from 17-27a-536, as enacted by Laws of Utah 2025, Chapter 399)
17-79-810, (Effective 11/06/25) (Renumbered from 17-27a-537, as renumbered and amended by Laws of Utah 2025, Chapter 399)
17-79-812, (Effective 11/06/25) (Renumbered from 17-27a-507, as last amended by Laws of Utah 2023, Chapters 255, 478)
17-79-901, (Effective 11/06/25) (Renumbered from 17-27a-802, as last amended by Laws of Utah 2025, Chapter 399)
17-79-902, (Effective 11/06/25) (Renumbered from 17-27a-803, as last amended by Laws of Utah 2012, Chapter 218)
17-79-903, (Effective 11/06/25) (Renumbered from 17-27a-510, as last amended by Laws of Utah 2022, Chapter 355)
17-79-1001, (Effective 11/06/25) (Renumbered from 17-27a-701, as last amended by Laws of Utah 2025, Chapter 399)
17-79-1002, (Effective 11/06/25) (Renumbered from 17-27a-702, as renumbered and amended by Laws of Utah 2005, Chapter 254)
17-79-1003, (Effective 11/06/25) (Renumbered from 17-27a-703, as last amended by Laws of Utah 2020, Chapter 434)
17-79-1004, (Effective 11/06/25) (Renumbered from 17-27a-704, as last amended by Laws of Utah 2020, Chapter 434)
17-79-1005, (Effective 11/06/25) (Renumbered from 17-27a-705, as enacted by Laws of Utah 2005, Chapter 254)
17-79-1006, (Effective 11/06/25) (Renumbered from 17-27a-706, as enacted by Laws of Utah 2005, Chapter 254)
17-79-1007, (Effective 11/06/25) (Renumbered from 17-27a-707, as last amended by Laws of Utah 2019, Chapter 384)
17-79-1008, (Effective 11/06/25) (Renumbered from 17-27a-708, as last amended by Laws of Utah 2006, Chapter 240)
17-79-1009, (Effective 11/06/25) (Renumbered from 17-27a-801, as last amended by Laws of Utah 2022, Chapter 355)
17-79-1010, (Effective 11/06/25) (Renumbered from 17-27a-804, as enacted by Laws of Utah 2025, Chapter 464)
17-80-101, (Effective 11/06/25) (Renumbered from 17-27a-1201, as enacted by Laws of Utah 2024, Chapter 431)
17-80-202, (Effective 11/06/25) (Renumbered from 17-27a-408, as last amended by Laws of Utah 2025, Chapter 385)
17-80-301, (Effective 11/06/25) (Renumbered from 17-27a-531, as last amended by Laws of Utah 2025, Chapter 385)
17-80-302, (Effective 11/06/25) (Renumbered from 17-27a-513, as last amended by Laws of Utah 2011, Chapters 14, 297)
17-80-303, (Effective 11/06/25) (Renumbered from 17-27a-526, as last amended by Laws of Utah 2023, Chapter 501)
17-80-401, (Effective 11/06/25) (Renumbered from 17-27a-403.1, as enacted by Laws of Utah 2025, Chapter 385)
17-80-402, (Effective 11/06/25) (Renumbered from 17-27a-403.2, as enacted by Laws of Utah 2025, Chapter 385)
17-80-501, (Effective 11/06/25) (Renumbered from 17-27a-1202, as enacted by Laws of Utah 2024, Chapter 431)
17-80-502, (Effective 11/06/25) (Renumbered from 17-27a-1203, as enacted by Laws of Utah 2024, Chapter 431)
17-80-503, (Effective 11/06/25) (Renumbered from 17-27a-1204, as last amended by Laws of Utah 2025, Chapter 277)
17-80-504, (Effective 11/06/25) (Renumbered from 17-27a-1205, as last amended by Laws of Utah 2025, Chapter 464)
17-81-101, (Effective 11/06/25) (Renumbered from 17-41-101, as last amended by Laws of Utah 2025, Chapter 387)
17-81-102, (Effective 11/06/25) (Renumbered from 17-41-201, as last amended by Laws of Utah 2019, Chapter 227)
17-81-201, (Effective 11/06/25) (Renumbered from 17-41-301, as last amended by Laws of Utah 2024, Chapter 30)

17-81-202, (Effective 11/06/25) (Renumbered from 17-41-302, as last amended by Laws of Utah 2023, Chapter 435)
17-81-203, (Effective 11/06/25) (Renumbered from 17-41-303, as last amended by Laws of Utah 2019, Chapter 227)
17-81-204, (Effective 11/06/25) (Renumbered from 17-41-304, as last amended by Laws of Utah 2023, Chapter 435)
17-81-205, (Effective 11/06/25) (Renumbered from 17-41-305, as last amended by Laws of Utah 2019, Chapter 227)
17-81-206, (Effective 11/06/25) (Renumbered from 17-41-306, as last amended by Laws of Utah 2019, Chapter 227)
17-81-207, (Effective 11/06/25) (Renumbered from 17-41-307, as last amended by Laws of Utah 2019, Chapter 227)
17-81-301, (Effective 11/06/25) (Renumbered from 17-41-401, as last amended by Laws of Utah 2011, Chapter 297)
17-81-302, (Effective 11/06/25) (Renumbered from 17-41-402, as last amended by Laws of Utah 2025, Chapter 387)
17-81-303, (Effective 11/06/25) (Renumbered from 17-41-402.5, as last amended by Laws of Utah 2023, Chapter 255)
17-81-304, (Effective 11/06/25) (Renumbered from 17-41-403, as last amended by Laws of Utah 2025, Chapter 173)
17-81-305, (Effective 11/06/25) (Renumbered from 17-41-405, as last amended by Laws of Utah 2023, Chapter 435)
17-81-306, (Effective 11/06/25) (Renumbered from 17-41-404, as last amended by Laws of Utah 2019, Chapter 227)
17-81-307, (Effective 11/06/25) (Renumbered from 17-41-406, as last amended by Laws of Utah 2019, Chapter 227)
17-81-401, (Effective 11/06/25) (Renumbered from 17-41-501, as enacted by Laws of Utah 2009, Chapter 376)
17-81-402, (Effective 11/06/25) (Renumbered from 17-41-502, as last amended by Laws of Utah 2025, Chapter 387)
17-81-403, (Effective 11/06/25) (Renumbered from 17-41-503, as enacted by Laws of Utah 2009, Chapter 376)
17-81-501, (Effective 11/06/25) (Renumbered from 17-41-602, as last amended by Laws of Utah 2025, Chapter 143)
17-81-601, (Effective 11/06/25) (Renumbered from 17-27a-1102, as last amended by Laws of Utah 2023, Chapter 327)
17-81-602, (Effective 11/06/25) (Renumbered from 17-27a-1103, as last amended by Laws of Utah 2022, Chapter 274)
17-81-603, (Effective 11/06/25) (Renumbered from 17-27a-1104, as enacted by Laws of Utah 2021, Chapter 244)
17-81-701, (Effective 11/06/25) (Renumbered from 17-27a-1002, as last amended by Laws of Utah 2025, Chapter 387)
17-81-702, (Effective 11/06/25) (Renumbered from 17-27a-1003, as last amended by Laws of Utah 2025, Chapter 387)
17-81-703, (Effective 11/06/25) (Renumbered from 17-27a-1005, as last amended by Laws of Utah 2025, Chapter 387)
17E-1-201, (Effective 11/06/25) (Renumbered from 17-27a-402, as repealed and reenacted by Laws of Utah 2015, Chapter 310)
17E-1-301, (Effective 11/06/25) (Renumbered from 17-50-106, as last amended by Laws of Utah 2010, Chapter 379)
17E-2-101, (Effective 11/06/25) (Renumbered from 17-55-101, as enacted by Laws of Utah 2022, Chapter 187)
17E-2-201, (Effective 11/06/25) (Renumbered from 17-55-201, as last amended by Laws of Utah 2025, Chapter 214)
17E-2-402, (Effective 11/06/25) (Renumbered from 17-36-41, as last amended by Laws of Utah 1983, Chapter 73)
17E-4-101, (Effective 11/06/25) (Renumbered from 17-56-101, as enacted by Laws of Utah 2025, Chapter 258)
17E-4-201, (Effective 11/06/25) (Renumbered from 17-56-201, as enacted by Laws of Utah 2025, Chapter 258)
17E-4-202, (Effective 11/06/25) (Renumbered from 17-56-202, as enacted by Laws of Utah 2025, Chapter 258)
17E-6-201, (Effective 11/06/25) (Renumbered from 17-22-34, as enacted by Laws of Utah 2023, Chapter 152)
17E-6-301, (Effective 11/06/25) (Renumbered from 17-18a-506, as enacted by Laws of Utah 2021, Chapter 142)
17E-7-101, (Effective 11/06/25) (Renumbered from 17-15-23, as last amended by Laws of Utah 2015, Chapter 451)
17E-7-201, (Effective 11/06/25) (Renumbered from 17-27a-519, as last amended by Laws of Utah 2023, Chapter 327)
17E-7-401, (Effective 11/06/25) (Renumbered from 17-16-22, as enacted by Laws of Utah 2025, Chapter 74)

REPEALS:

17-8-6, (Effective 11/06/25) as last amended by Laws of Utah 1961, Chapter 30
17-16a-3.5, (Effective 11/06/25) as enacted by Laws of Utah 2024, Chapter 443
17-27a-1001, (Effective 11/06/25) as last amended by Laws of Utah 2025, Chapter 387
17-27a-1101, (Effective 11/06/25) as enacted by Laws of Utah 2021, Chapter 244
17-28-2.6, (Effective 11/06/25) as last amended by Laws of Utah 2001, Chapter 73
17-28-4, (Effective 11/06/25) as last amended by Laws of Utah 1992, Chapter 115
17-28-9, (Effective 11/06/25) as last amended by Laws of Utah 1992, Chapter 115
17-28-13, (Effective 11/06/25) as last amended by Laws of Utah 1992, Chapter 115
17-28-14, (Effective 11/06/25) as last amended by Laws of Utah 2002, Chapter 158
17-30-8, (Effective 11/06/25) as last amended by Laws of Utah 2011, Chapter 297
17-30-10, (Effective 11/06/25) as last amended by Laws of Utah 2024, Chapter 365
17-30-11, (Effective 11/06/25) as last amended by Laws of Utah 2007, Chapter 149
17-30-15, (Effective 11/06/25) as enacted by Statewide Initiative A, Nov. 8, 1960
17-30-20, (Effective 11/06/25) as last amended by Laws of Utah 2024, Chapter 365
17-30a-101, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 366
17-30a-201, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 366
17-30a-205, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 366
17-30a-206, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 366
17-30a-207, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 366
17-30a-301, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 366
17-30a-306, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 366
17-30a-307, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 366
17-30a-401, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 366
17-30a-403, (Effective 11/06/25) as last amended by Laws of Utah 2021, Chapter 349
17-30a-404, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 366
17-30a-501, (Effective 11/06/25) as enacted by Laws of Utah 2014, Chapter 366
17-33-4.5, (Effective 11/06/25) as last amended by Laws of Utah 2016, Chapter 145

17-33-16, (Effective 11/06/25) as enacted by Laws of Utah 2008, Chapter 172
17-38-4, (Effective 11/06/25) as last amended by Laws of Utah 2011, Chapter 297
17-41-601, (Effective 11/06/25) as last amended by Laws of Utah 2025, Chapter 143
17-43-101, (Effective 11/06/25) as enacted by Laws of Utah 2003, Chapter 22
17-43-305, (Effective 11/06/25) as last amended by Laws of Utah 2018, Chapter 407
17-43-307, (Effective 11/06/25) as renumbered and amended by Laws of Utah 2003, Chapter 22

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-7-87 is enacted to read:
10-7-87 (Effective 11/06/25). Cities authorized to appoint, contract with constables.

(1) A city may appoint or contract with a constable to provide services described in Title 17, Chapter 78, Part 6, Constables, the same as if the city were a county.

(2) A constable that is appointed or contracted with a city shall comply with the provisions of Title 17, Chapter 78, Part 6, Constables, in regard to the city the same as if the city were a county.

xref

Section 2. Section 10-7-88 is enacted to read:
10-7-88 (Effective 11/06/25). Municipalities to approve, protect certain protection areas.

A municipality shall comply with the following provisions of Title 17, Chapter 81, Agriculture, Industrial, and Critical Infrastructure Materials, the same as if the municipality were a county:

(1) Section 17-81-101, Definitions;

(2) Part 2, Proposal and Approval of Protection Area;

(3) Part 3, Protection of Land in a Protection Area;

(4) Part 4, Vested Mining Use; and

(5) Part 5, Open Land and Working Agricultural Land Use.

Section 3. Section 17-75-101, which is renumbered from Section 17-33-2 is renumbered and amended to read:

CHAPTER 75. General County Personnel Management

PART 1. General Provisions

[~~17-33-2~~]17-75-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) (a) "Appointed officer" means an individual appointed to:

(i) a statutory office or position; or

(ii) a position of employment with a county, except a special employee.

(b) "Appointed officer" includes an individual serving on a special, regular or full-time committee, agency, or board, regardless of whether the individual is compensated for the individual's services.

(c) "Appointed officer" does not include an elected officer.

(2) "Assist" means to act, or offer or agree to act:

(a) to help, represent, aid, advise, furnish information to, or otherwise provide assistance to an individual or business entity;

(b) believing that the action is of help, aid, advice, or assistance to the individual or business entity; and

(c) with the intent to assist the individual or business entity.

(3) "Authorized legislative day" means:

(a) a day on which the Legislature convenes for:

(i) the annual general session;

(ii) a special session;

(iii) a veto override session; or

(iv) an interim day, designated by the Legislative Management Committee described in Section 36-12-6;

(b) an authorized legislative training day; or

(c) any other day on which a meeting of a committee, subcommittee, commission, task force, or other entity is held, if:

(i) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;

(ii) the legislator's attendance at the meeting is approved by the Legislative Management Committee described in Section 36-12-6; and

(iii) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.

(4) "Authorized legislative training day" means a day that a Legislative Expenses Oversight Committee, described in Legislative Joint Rule 5-1-102 or any successor provision, designates as an authorized legislative day for training or informational purposes, including:

(a) chair training;

(b) an issue briefing;

(c) legislative leadership instruction;

(d) legislative process training;

(e) legislative rules training;

(f) new legislator orientation; or

(g) another meeting to brief, instruct, orient, or train a legislator in relation to the legislator's official duties.

(5) "Business entity" means to conduct business as a:

(a) sole proprietorship;

(b) partnership;

(c) association;

(d) joint venture;

(e) corporation;

(f) firm;

(g) trust;

(h) foundation;

(i) organization; or

(j) entity.

(6) "Career service position" means any position in the county service except those exempted under Section [~~17-33-8~~]17-75-502.

(7) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated or transferred to any person or business entity for or in consideration of personal services, materials, property, or any other thing whatsoever.

[~~(2)~~](8) "Council" means the career service council, a bipartisan, three-member appeals and personnel advisory board.

[~~(3)~~](9) "Director" means the director of personnel management.

(10) "Elected officer" means an individual elected or appointed to an office in the county.

[~~(4)~~](11) "Eligible applicant" means any applicant for employment that meets the job related minimum requirements established for a position in the career service.

[~~(5)~~](12) "Eligible list" means a list of eligible applicants for employment ranked in order of relative knowledge, skill, ability and merit.

[~~(6)~~](13) "Exempt positions" means those positions which are not in the career service as specified in Section [~~17-33-8~~]17-75-502.

(14) "Governmental action" means an action on the part of a county including:

(a) a decision, determination, finding, ruling, or order;

(b) a grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval; or

(c) the denial of, or failure to act upon, a matter described in Subsection (14)(a) or (b).

(15) "Legislator" means:

(a) a member of the Utah Senate;

(b) a member of the Utah House of Representatives; or

(c) an individual who has been elected as a member described in Subsection (15)(a) or (b), but has not yet been sworn in or begun the individual's term of office.

[~~(7)~~](16) "Merit system" means a system of personnel administration based on the principles set forth in Section [~~17-33-3~~]17-75-402.

(17) "Miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

(18) "Officer" means an appointed officer or an elected officer.

[~~(8)~~](19) "Personnel rules" means the rules the county adopts in accordance with Section 17-75-602.

(20) "Position classification" means a grouping of positions under the same title which are sufficiently similar to be compensated at the same salary range and to which the same tests of ability can be applied.

[~~(9)~~](21) "Provisional appointment" means an appointment to fill a position pending the establishment of a register for such position.

(22) "Retaliatory action" means to:

(a) dismiss the employee;

(b) reduce the employee's compensation;

(c) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(d) fail to promote the employee if the employee would have otherwise been promoted; or

(e) threaten to take an action described in Subsections (22)(a) through (d).

(23) "Special employee" means an individual hired on the basis of a contract to perform a special service for the county in accordance with an award of a contract following a public bid.

(24) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, and the individual's minor children, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity.

Section 4. Section 17-75-102, which is renumbered from Section 17-33-11.5 is renumbered and amended to read: [~~17-33-11.5~~]17-75-102 (Effective 11/06/25) (Contingently Superseded 11/28/26). Compliance with Labor Code requirements.

Each county shall comply with the requirements of Section 34-32-1.1.

Section 5. Section 17-75-102, which is renumbered from Section 17-33-11.5 is renumbered and amended to read: [~~17-33-11.5~~]17-75-102 (Contingently Effective 11/28/26). Compliance with Labor Code requirements.

Each county shall comply with the requirements of Section 34-32-102.

Section 6. Section 17-75-103, which is renumbered from Section 17-50-108 is renumbered and amended to read: [~~17-50-108~~]17-75-103 (Effective 11/06/25). Training requirements.

A county shall ensure that any training that the county requires of a county officer or employee complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 7. Section 17-75-201, which is renumbered from Section 17-16-7 is renumbered and amended to read:

PART 2. County Officer Deputies

[~~17-16-7~~]17-75-201 (Effective 11/06/25). Deputies and employees -- Appointments -- County legislative body consent power -- Liability of principal -- Deputy may serve despite vacancy in office of appointing officer.

(1) (a) A county or precinct officer, including an elected county executive, except a county commissioner or county council member, may, with the consent of the county legislative body, appoint deputies and employees as necessary for the discharge of the duties of the county officer's office.

(b) The county legislative body's consent power under Subsection (1)(a) shall be defined in county ordinance and may include consent by:

(i) the budget approval process;

(ii) approval of an allocation of a certain number of positions; or

(iii) approval or disapproval of the hiring of individual applicants for employment.

(c) A county legislative body may by ordinance delegate to the county executive the authority to consent to the appointment of deputies and employees under this Subsection (1).

(2) If [~~the~~]a county clerk performs district court clerk functions, the legislative body of [~~that~~]the county shall provide the county clerk with deputies and employees for the business of the district [~~courts~~]court:

(a) as [~~considered necessary and advisable by~~]the district court judge or judges [~~of the district court,~~]consider necessary and advisable; and

(b) consistent with the level of funding for clerk services from the court administrator's office.

(3) (a) Each county officer appointing a deputy shall, for each deputy appointed[~~, file a signed writing with the county clerk that memorializes the appointment.~~]:

(i) sign a document that states that the county officer appointed the deputy; and

(ii) file the signed document with the county clerk.

(b) The county officer appointing the deputy is liable for all the deputy's official acts [~~of the deputy~~].

(c) If the office of the county officer who appointed the deputy becomes vacant, the deputy may continue to serve despite the vacancy.

(4) A sheriff in a county employing more than 100 full-time uniformed peace officers may, with the consent of the council and the county legislative body, appoint more than one chief deputy or undersheriff.

Section 8. Section 17-75-202 is enacted to read:

17-75-202 (Effective 11/06/25). Compensation for deputies.

If a county officer has a deputy or other assistant, the salary of the deputy or assistant shall be:

(1) fixed by the county legislative body; and

(2) a county charge.

Section 9. Section 17-75-301, which is renumbered from Section 17-50-325 is renumbered and amended to read:

PART 3. Specific Employee Benefits and Protections

[~~17-50-325~~]17-75-301 (Effective 11/06/25). Counties authorized to make benefits generally available to employees, employee dependents, or an employee's adult designee -- Registry authorized -- Limitations.

(1) A county may, by ordinance enacted by the county legislative body, make benefits generally available to:

(a) [~~all~~]county employees[~~,~~];

(b) [~~their~~]the dependents[~~,~~] of county employees; and

(c) an unmarried employee's financially dependent or interdependent adult designee.

(2) (a) Subject to Subsection (2)(b), a county may, by ordinance enacted by the county legislative body, create a registry for adult relationships of financial dependence or interdependence.

(b) A county may not create or maintain a registry or other means that defines, identifies, or recognizes and gives legal status or effect to a domestic partnership, civil union, or domestic cohabitation relationship other than marriage.

(3) The [~~county's~~]following county actions are not and may not be treated the same as or substantially equivalent to marriage:

(a) the county's recognition of an adult designee[~~,~~];

(b) the county's creation and maintenance of a registry under Subsection (2)(a)[~~,~~]; and

(c) any certificate issued to or other designation of a person on the county's registry [~~are not and may not be treated the same as or substantially equivalent to marriage~~]under Subsection (2)(a).

(4) Neither an ordinance under Subsection (1) or (2)(a) nor a registry created under Subsection (2)(a) making an employee benefit available to an adult designee may create, modify, or affect a spousal, marital, or parental status, duty, or right.

(5) An ordinance, executive order, rule, or regulation adopted or other action taken before, on, or after May 5, 2008, that is inconsistent with this section is void.

Section 10. Section 17-75-302 is enacted to read:

17-75-302 (Effective 11/06/25). Bereavement leave following miscarriage or stillbirth.

Personnel rules shall provide for at least three work days of paid bereavement leave for a county employee:

(1) following the end of the county employee's pregnancy by way of miscarriage or stillbirth; or

(2) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(a) the county employee is the individual's spouse or partner;

(b) (i) the county employee is the individual's former spouse or partner; and

(ii) the county employee would have been a biological parent of a child born as a result of the pregnancy;

(c) the county employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 81-13-101, of a child born as a result of the pregnancy; or

(d) under a valid gestational agreement in accordance with Title 81, Chapter 5, Part 8, Gestational Agreement, the county employee would have been a parent of a child born as a result of the pregnancy.

Section 11. Section 17-75-303, which is renumbered from Section 17-33-11 is renumbered and amended to read:
[~~17-33-11~~]17-75-303 (Effective 11/06/25). Political activities of employees.

Except as otherwise provided by law or by personnel rules [~~and regulations promulgated~~]made under this chapter for federally aided programs, county employees may voluntarily participate in political activity subject to the following provisions:

(1) [~~No person shall be denied~~]A county may not deny an individual the opportunity to become an applicant for a position under the merit system in any covered county department [~~by virtue~~]because of the individual's political [~~opinion~~]opinions or affiliation.

(2) [~~No person employed by the~~]A county may not dismiss a county employee that is employed under the merit system [~~may be dismissed from service as a result~~]because of the county employee's political [~~opinion~~]opinions or affiliation.

(3) A county career service employee may:

(a) voluntarily contribute funds to political groups; and

(b) become a candidate for public office.

(4) [~~No~~]A county officer or employee, whether elected or appointed, may not directly or indirectly coerce, command, or advise any officer or employee covered under the merit system to pay, lend, or contribute part of his or her salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes.

(5) [~~No~~]A county officer or employee, whether elected or appointed, may not attempt to make any county officer's or employee's personnel status dependent upon the county officer's or employee's support or lack of support for any political party, committee, organization, agency, or person engaged in a political activity.

[~~(5)~~](6) [~~No~~]A county officer or employee may not engage in[~~ any~~] political activity during the hours of employment.

(7) [~~nor shall any~~]A person may not solicit political contributions from county employees during hours of employment for political purposes[~~;~~].

(8) [~~but nothing~~]Nothing in this section [~~shall preclude~~]prohibits a county officer or employee from voluntary contribution [~~by a county employee~~]to [~~the~~]a political party or candidate[~~ of the employee's choice~~].

[~~(6)~~](9) Nothing contained in this chapter [~~shall~~]may be construed to permit partisan political activity of any county employee who is prevented or restricted from engaging in [~~such~~]partisan political activity by the[~~ provision of the federal~~] Hatch Act, 5 U.S.C. Sec. 1501 et seq.

Section 12. Section 17-75-304, which is renumbered from Section 17-15-33 is renumbered and amended to read:
[~~17-15-33~~]17-75-304 (Effective 11/06/25). County required to provide leave to a legislator on an authorized legislative day.

[~~(1) As used in this section:~~]

[~~(a) "Authorized legislative day" means:~~]

[~~(i) the day on which the Legislature convenes in annual general session, and each day after that day, until midnight of the 45th day of the annual general session;~~]

[~~(ii) a special session day;~~]

[~~(iii) a veto override session day;~~]

[~~(iv) an interim day designated by the Legislative Management Committee;~~]

[~~(v) an authorized legislative training day; or~~]

[~~(vi) any other day on which a meeting of a committee, subcommittee, commission, task force, or other entity is held, if:~~]

[~~(A) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;~~]

[~~(B) the legislator's attendance at the meeting is approved by the Legislative Management Committee; and~~]

[~~(C) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.~~]

[~~(b) "Authorized legislative training day" means a day that a Legislative Expenses Oversight Committee designates as an authorized legislative day for training or informational purposes, including:~~]

[~~(i) chair training;~~]

[~~(ii) an issue briefing;~~]

[~~(iii) legislative leadership instruction;~~]

[~~(iv) legislative process training;~~]

[~~(v) legislative rules training;~~]

[~~(vi) new legislator orientation; or~~]

[~~(vii) another meeting to brief, instruct, orient, or train a legislator in relation to the legislator's official duties.~~]

[~~(c) "Legislator" means:~~]

[~~(i) a member of the Utah Senate;~~]

[~~(ii) a member of the Utah House of Representatives; or~~]

[~~(iii) an individual who has been elected as a member described in Subsection (1)(c)(i) or (ii), but has not yet been sworn in or begun the individual's term of office.~~]

[~~(d) "Retaliatory action" means to:~~]

[~~(i) dismiss the employee;~~]

[~~(ii) reduce the employee's compensation;~~]

[~~(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;~~]

[~~(iv) fail to promote the employee if the employee would have otherwise been promoted; or~~]

[~~(v) threaten to take an action described in Subsections (1)(d)(i) through (iv).~~]

[~~(2)~~](1) Except as provided in Subsection [~~(4)~~](3), a county that employs an individual who is a legislator:

(a) shall grant leave to the individual on an authorized legislative day for the number of hours [~~requested by~~]the individual requests;

(b) may not interfere with, or otherwise restrain the individual from, using the leave described in Subsection [~~(2)(a)~~](1)(a); and

(c) may not take retaliatory action against the individual for using the leave described in Subsection [~~(2)(a)~~](1)(a).

[~~(3)~~](2) The leave described in Subsection [~~(2)~~](1) is leave without pay unless the county and the individual described in Subsection [~~(2)~~](1) agree to terms that are more favorable to the individual.

[~~(4)~~](3) A county is not required to comply with Subsection [~~(2)~~](1) if the legislative body of the county determines that complying with the requirement would cause the county significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the county's operations.

Section 13. Section 17-75-305, which is renumbered from Section 17-15-26 is renumbered and amended to read:

[~~17-15-26~~]17-75-305 (Effective 11/06/25). Leave of absence for county employee seeking election to county office.

(1) A county employee who has filed a declaration of candidacy under Section 20A-9-202for a county office may, at the county employee's discretion, take an unpaid leave of absence, subject to applicable employee policies on giving notice before taking leave, for some or all of the period from the filing of the declaration of candidacy until the earliest of:

(a) the county employee's defeat at a primary election;

(b) the county employee's withdrawal as a candidate for the county office; or

(c) the day after the regular general election for which the county employee is a candidate.

(2) Neither the filing of a declaration of candidacy under Section 20A-9-202 nor a leave of absence under Subsection (1) may be used as the basis for any adverse employment action against the employee, including discipline or termination.

Section 14. Section 17-75-401, which is renumbered from Section 17-33-1 is renumbered and amended to read:

PART 4. Personnel Management - General

[~~17-33-1~~]17-75-401 (Effective 11/06/25). Establishment of merit system -- Separate systems for peace officers and firemen recognized -- Options of small counties.

[~~(1) This chapter shall be known and may be cited as the "County Personnel Management Act."~~]

[~~(2)~~](1) A merit system of personnel administration for the counties of the state of Utah, [~~their~~]county departments, county offices, and county agencies, except as otherwise specifically provided, is established.

[~~(3)~~](2) (a) This [~~chapter~~]part recognizes the existence of the merit systems for[~~peace officers of the several counties as provided for in Chapter 30, Deputy Sheriffs - Merit System, and Chapter 30a, Peace Officer Merit System in Counties of the First Class Act, and for firemen of the several counties as provided for in Chapter 28, Firemen's Civil Service Commission, and~~]:

(i) county law enforcement officers as provided in Chapter 76, Part 2, Deputy Sheriff Merit System, and Chapter 76, Part 3, Peace Officer Merit System in Counties of the First Class; and

(ii) county firefighters, as provided in Chapter 76, Part 5, Firefighters' Civil Service Commission.

(b) The intent of this part, Part 5, Career Service, and Part 6, Office of Personnel Management, is [~~intended~~]to give [~~county commissions~~]counties the option [~~of using the provisions of this chapter as~~]to use:

(i) a single merit system for all county employees; or

(ii) a merit system in combination with [~~these~~]the existing systems [~~for firemen and peace officers~~]described in Subsection (2)(a).

[~~(4)~~](3) [~~On or after May 6, 2002, any~~]A county that has fewer than 200 employees not covered by other merit systems or not exempt under [~~Subsections 17-33-8(1)(b)(i)through (vii)~~]Section 17-75-502 may[~~, at its option,~~] comply with the merit system provisions of this chapter.

[~~(5)~~](4) Notwithstanding the provisions of Subsection [~~(4)~~](3), any county [~~which was in compliance~~]that complied with the merit system provisions of this chapter prior to May 6, 2002, shall continue to comply with the merit system provisions of this chapter even though the county may not thereafter meet or exceed the threshold requirements of Subsection [~~(4)~~](3).

Section 15. Section 17-75-402, which is renumbered from Section 17-33-3 is renumbered and amended to read:

[~~17-33-3~~]17-75-402 (Effective 11/06/25). Merit principles.

It is the policy of this state that each county may establish a personnel system administered in a manner that will provide for the effective implementation of the following merit principles:

(1) recruiting, selecting, and advancing county employees on the basis of [~~their~~]relative ability, knowledge, and skills, including open consideration of qualified applicants for employment for initial appointment;

(2) [~~provision of equitable~~]providing equitable and adequate compensation to county employees;

(3) training [~~of~~]county employees as needed to assure high-quality performance;

(4) [~~retention of~~]retaining county employees on the basis of the adequacy of [~~their~~]the county employee's performance[~~, and~~];

(5) [~~separation of~~]separating from county employees whose inadequate performance cannot be corrected;

[~~(5)~~](6) [~~fair treatment of~~]treating applicants for employment and county employees fairly in all aspects of personnel administration without regard to:

(a) race[~~,~~];

(b) color[~~,~~];

(c) religion[~~,~~];

(d) sex[~~,~~];

(e) national origin[~~,~~];

(f) political affiliation[~~,~~];

(g) age[~~,~~]; or

(h) disability[~~, and~~];

(7) [~~with~~]having proper regard for [~~their~~]each county employee's privacy and constitutional rights as citizens;

[~~(6)~~](8) [~~provision of information to~~]providing county employees information regarding [~~their~~]a county employee's political rights and prohibited practices under the Hatch Act; and

[~~(7)~~](9) [~~provision of~~]providing a formal procedure for processing [~~the~~]a county employee's appeals and grievances[~~ of employees~~] without:

(a) discrimination[~~,~~];

(b) coercion[~~,~~];

(c) restraint[~~,~~]; or

(d) [~~reprisal~~]retaliation.

Section 16. Section 17-75-403, which is renumbered from Section 17-33-10 is renumbered and amended to read:

[~~17-33-10~~]17-75-403 (Effective 11/06/25). Grievance and appeals procedure -- Employees' complaints of discriminatory employment practice.

(1) (a) Any county to which the provisions of [~~this act~~]Part 5, Career Service, and Part 6, Office of Personnel Management, apply shall establish in [~~its~~]the county's personnel rules [~~and regulations~~] a grievance and appeals procedure.

(b) [~~The~~]A grievance and appeals procedure shall be used to resolve disputes arising from grievances as defined in the personnel rules[~~ and regulations~~], including acts of discrimination.

(c) [~~The~~]County employees may use the grievance and appeals procedure [~~may also be used by employees in the event of~~]if the county employee is:

(i) [~~dismissal,~~]dismissed;

(ii) [~~demotion,~~]demoted;

(iii) [~~suspension,~~]suspended; or

(iv) [~~transfer~~]transferred.

(2) (a) [~~Any charge by a~~]A county career service employee that accuses a county of discriminatory or prohibited employment practice as prohibited by Section 34A-5-106, [~~can be filed~~]may file a complaint with the Division of Antidiscrimination and Labor [~~within the Labor Commission~~]created in Section 34A-1-202.

(b) [~~Complaints~~]A county employee that files a complaint with the Division of Antidiscrimination and Labor shall [~~be filed~~]file the complaint within 30 days [~~of the issuance of a written decision of~~]after the day on which the [~~county career service~~]council issues a written decision on the county employee's grievance or appeal.

Section 17. Section 17-75-501, which is renumbered from Section 17-33-4 is renumbered and amended to read:

PART 5. Career Service

[~~17-33-4~~]17-75-501 (Effective 11/06/25). Career service council -- Members and alternate members -- Powers and duties -- Appeals -- Time limit -- Qualifications, appointment, terms, and compensation of council members -- Career service council authorized to refer an appeal to an administrative law judge.

(1) (a) (i) There shall be in each county establishing a system a [~~three-member bipartisan career~~]service council appointed by the county executive.

(ii) The members of the council shall be [~~persons in sympathy with the application of~~]individuals willing to apply merit principles to public employment.

[~~(ii)~~](iii) (A) The county executive may appoint alternate members of the [~~career service~~]council to hear appeals that one or more regular [~~career service~~]council members are unable to hear.

(B) The term of an alternate member of the [~~career service~~]council may not exceed one year.

(b) The council shall hear appeals not resolved at lower levels in [~~the~~]cases of:

(i) career service employees who the county has:

(A) suspended[~~,~~];

(B) transferred[~~,~~];

(C) demoted[~~,~~]; or

(D) dismissed[~~ as well in~~]; and

(ii) [~~the cases of other~~]grievances not resolved by the grievance procedure at the county division or departmental level.

(c) The [~~career service~~]council:

(i) may make an initial determination in each appeal whether the appeal is one of the types of matters under Subsection (1)(b) over which the council has jurisdiction;

(ii) shall, subject to [~~Section 17-33-4.5~~]Subsections (9) through (11), review written appeals in cases of applicants rejected for examination and report final binding appeals decisions, in writing, to the county legislative body;

(iii) may not hear any other personnel matter; and

(iv) may affirm, modify, vacate, or set aside an order for disciplinary action.

(d) (i) [~~A person~~]An individual adversely affected by a decision of the [~~career service~~]council may appeal the decision to the district court.

(ii) An appeal to the district court under this Subsection (1)(d) is barred unless it is filed within 30 days after the day on which the [~~career service~~]council issues [~~its~~]the council's decision.

(iii) If there is a record of the [~~career service~~]council proceedings, the district court review shall be limited to the record provided by the [~~career service~~]council.

(iv) In reviewing a decision of the [~~career service~~]council, the district court shall presume that the decision is valid and may determine

only whether the decision is arbitrary or capricious.

(2) (a) [~~Each~~]A council member shall serve a term of three years [~~to expire~~]that expires on June 30, three years after the [~~date of his or her appointment,~~]county executive appointed the council member.

(b) [~~except that~~]Notwithstanding Subsection (2)(a),the term for original appointees to a council shall be [~~chosen as follows: one member for a term expiring June 30, 1982; one member for a term expiring June 30, 1983; and one member for a term expiring June 30, 1984. Successors of original council members shall be chosen for three-year terms~~]staggered so that the term of only one council member expires each year.

(c) [~~An~~]A county executive's appointment to fill a vacancy on the council shall be for only the unexpired term of the appointee's successor.

(d) Each council member[~~of the board~~] shall hold office until [~~his~~]the council member's successor is appointed and confirmed.

(e) [~~A~~]The county executive may remove the council member[~~of the council may be removed by the county executive~~] for cause, after:

(i) [~~having been given~~]receiving a copy of the charges against [~~him or her~~]the council member; and

(ii) the council member has had an opportunity to be heard publicly on the charges before the county legislative body.

(f) [~~Adequate annual appropriations shall be made available~~]The county shall annually appropriate adequate funds to enable the council to effectively [~~to~~]carry out [~~its~~]the council duties under this [~~law~~]chapter.

(3) [~~Members~~]Each county council member and [~~alternates of the~~]alternate county council member shall be:

(a) a citizen of the United States[~~citizens~~]; and

(b) [~~be~~]for a period of at least one year before the day on which the council member is appointed, an actual and bona fide [~~residents of~~]resident of:

(i) the state of Utah; and

(ii) the county [~~from which appointed for a period of not less than one year preceding the date of appointment and~~].

(4) [~~a~~]A council member may not hold another government office or be employed by the county.

[~~(4)~~](5) The council shall elect [~~one of its members~~]a member of the council as chairperson[~~,~~].

(6) [~~and two~~]Two or more council members [~~of the council shall constitute~~]constitutes a quorum necessary for carrying on the council's business and activity [~~of the council~~].

[~~(5)~~](7) The council shall have subpoena power to:

(a) compel attendance of witnesses[~~,~~]; and

(b) [~~to~~]authorize witness fees [~~where it~~]when the council deems appropriate, to be paid at the same rate as in justice courts.

[~~(6)~~](8) (a) [~~Council members~~]A council member shall receive compensation for attending each day or partial day [~~they are~~]the council is in session at a per diem rate established in accordance with Section 11-55-103.

(b) An alternate council member shall receive compensation for each day or partial day that the alternate council member is required to replace a regular council member, at a per diem rate established in accordance with Section 11-55-103.

(9) (a) A county legislative body may appoint one or more administrative law judges to hear appeals referred by a council under this section.

(b) Each administrative law judge shall be trained and experienced in personnel matters.

(10) (a) A council may refer an appeal to an administrative law judge appointed under Subsection (9) if the council determines that the referral is in each party's best interest.

(b) After holding a hearing on an appeal described in Subsection (10)(a), the administrative law judge shall make:

(i) findings of fact; and

(ii) a recommendation to the council.

(c) After receiving the administrative law judge's recommendation, the council may request the administrative law judge to hold a further factual hearing before the council issues a decision.

(d) The council may adopt or reject the administrative law judge's recommendation, whether before or after a further hearing under Subsection (10)(c).

(11) (a) A council shall refer an appeal to an administrative law judge appointed under Subsection (9) if the county employee or county official assigned by the county executive or county legislative body to manage personnel functions requests that the appeal be referred.

(b) In an appeal described in Subsection (11)(a), the administrative law judge, not the council, issues a final decision.

Section 18. Section 17-75-502, which is renumbered from Section 17-33-8 is renumbered and amended to read:

[~~17-33-8~~]17-75-502 (Effective 11/06/25). Career service -- Exempt positions.

(1) The career service:

(a) is a permanent service to which this [~~chapter~~]part applies; and

(b) comprises all tenured county positions in the public service, except:

(i) subject to Subsection (2):

(A) the county executive, members of the county legislative body, and other elected officials; and

(B) each major county department head charged directly by the county legislative body, or by a board appointed by the county legislative body, with the responsibility of assisting to formulate and carry out policy matters;

(ii) one confidential secretary for each elected county officer and major county department head, if a confidential secretary is assigned;

(iii) an administrative assistant to the county executive, each member of the county legislative body, and each elected official, if an administrative assistant is assigned;

(iv) each duly appointed chief deputy of any elected county officer who takes over and discharges the duties of the elected county officer in the absence or disability of the elected county officer;

(v) subject to Subsection (3), [~~a person~~]an individual who is:

(A) appointed by an elected county officer to be a division director, to administer division functions in furtherance of the performance of the elected officer's professional duties;

(B) in a confidential relationship with the elected county officer; and

(C) not in a law enforcement rank position of captain or below;

(vi) each person employed to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the county legislative body or one of its committees;

(vii) each noncareer employee:

(A) compensated for the employee's services on a seasonal or contractual basis; and

(B) hired on emergency or seasonal appointment basis, as approved by the council; [~~and~~]

(viii) each provisional employee, as defined by the county's policies and procedures or [~~its~~]personnel rules[~~ and regulations~~];

(ix) each part-time county employee, as defined by the county's policies and procedures or [~~its~~]personnel rules[~~ and regulations~~];

(x) each county employee appointed to perform:

(A) work that does not exceed three years in duration; or

(B) work with limited funding; and

(xi) each county position that, by [~~its~~]the position's confidential or key policy-determining nature, cannot or should not be appropriately included in the career service.

(2) Before a position under Subsection (1)(b)(i) may be changed from its current status to exempt or tenured, the [~~career service~~]council shall, after giving due notice, hold a public hearing on the proposed change of status.

(3) (a) Subsection (1)(b)(v) may not be construed to cause [~~a person~~]an individual serving as a nonexempt county employee on May 5, 2008, in a position described in that subsection to lose the nonexempt status.

(b) The elected county officer in a supervisory position over [~~an~~]a county employee described in Subsection (3)(a) shall work with the county's office of personnel management to develop financial and other incentives to encourage a nonexempt employee to convert voluntarily to exempt status.

(4) (a) [~~Rules and regulations promulgated under this chapter~~]County policies made in conformity with this part shall list by job title and county department, office or agency, each position designated as exempt under Subsection (1)(b)(xi).

(b) A change in exempt status of a position designated as being exempt under Subsection (1)(b)(xi) constitutes an amendment to the personnel rules [~~and regulations promulgated~~]made under this chapter.

Section 19. Section 17-75-503, which is renumbered from Section 17-33-9 is renumbered and amended to read:

[~~17-33-9~~]17-75-503 (Effective 11/06/25). Acceptance of exempt position by career service employee -- Reappointment register.

(1) Any career service employee accepting an appointment to an exempt position who is not retained by the appointing officer, unless discharged for cause as provided by this [~~act~~]part or [~~by regulation~~]county policies made in conformity with this part, shall:

(a) be appointed to any career service position for which the employee qualifies in a pay grade comparable to the employee's last position in the career service provided an opening exists; or

(b) be appointed to any lesser career service position for which the employee qualifies pending the opening of a position described in Subsection (1) of this section.

(2) The director described in Section 17-75-601 shall maintain a reappointment register to facilitate the operation of this section, which shall have precedence over other registers.

Section 20. Section 17-75-601 is enacted to read:

PART 6. Office of Personnel Management

17-75-601 (Effective 11/06/25). County executive creates office of personnel management and appoints the director.

(1) (a) A county executive shall:

(i) create an office of personnel management, administered by a director of personnel management; and

(ii) ensure that the director is an individual with proven experience in personnel management.

(b) Except as provided in Subsection (2), the director position shall be:

(i) a merit position; and

(ii) filled as provided in Subsection (1)(c).

(c) Except as provided in Subsection (2), the council shall:

(i) advertise and recruit for the director position in the same manner as for other merit positions;

(ii) select three names from an eligible list; and

(iii) submit those names as recommendations to the county legislative body.

(d) Except as provided in Subsection (1)(b), the county legislative body shall select an individual to serve as director from the names submitted to it by the council.

(2) (a) As an alternative to the procedure under Subsections (1)(b), (c), and (d), and at the county executive's discretion, the county executive may appoint a director with the advice and consent of the county legislative body.

(b) The position of a director appointed under this Subsection (2) shall be a merit exempt position.

(c) A director appointed under this Subsection (2) may be terminated by the county executive with the consent of the county legislative body.

Section 21. Section 17-75-602, which is renumbered from Section 17-33-5 is renumbered and amended to read:

[~~17-33-5~~]17-75-602 (Effective 11/06/25). Director of personnel management responsibilities -- Personnel policies.

[~~(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.~~]

[~~(2) (a) (i) Each county executive shall:~~]

[~~(A) create an office of personnel management, administered by a director of personnel management; and~~]

[~~(B) ensure that the director is a person with proven experience in personnel management.~~]

[~~(ii) Except as provided in Subsection (2)(b), the position of director of personnel management shall be:~~]

[~~(A) a merit position; and~~]

[~~(B) filled as provided in Subsection (2)(a)(iii).~~]

[~~(iii) Except as provided in Subsection (2)(b), the career service council shall:~~]

[~~(A) advertise and recruit for the director position in the same manner as for merit positions;~~]

[~~(B) select three names from a register; and~~]

[~~(C) submit those names as recommendations to the county legislative body.~~]

[~~(iv) Except as provided in Subsection (2)(b), the county legislative body shall select a person to serve as director of the office of personnel management from the names submitted to it by the career service council.~~]

[~~(b) (i) Effective for appointments made after May 1, 2006, and as an alternative to the procedure under Subsections (2)(a)(ii), (iii), and (iv) and at the county executive's discretion, the county executive may appoint a director of personnel management with the advice and consent of the county legislative body.~~]

[~~(ii) The position of each director of personnel management appointed under this Subsection (2)(b) shall be a merit exempt position.~~]

[~~(iii) A director of personnel management appointed under this Subsection (2)(b) may be terminated by the county executive with the consent of the county legislative body.~~]

[~~(3)~~](1) The director [~~of personnel management~~]shall:

(a) encourage and exercise leadership in the development of expertise in personnel administration within [~~the several~~]county departments, offices, and agencies in the county service; [~~and~~]

(b) make available the facilities of the office of personnel management to [~~this end~~]county departments, offices, and agencies for the development of expertise in personnel administration;

[~~(b)~~](c) advise the county legislative [~~and~~]body, county executive[~~, bodies~~], and any county officer on the use of human resources;

[~~(c)~~](d) develop and implement programs [~~for the improvement of~~]to improve employee effectiveness, [~~such as~~]including:

(i) training[~~,~~];

(ii) safety[~~,~~];

(iii) health[~~,~~];

(iv) counseling[~~,~~]; and

(v) welfare;

[~~(d)~~](e) (i) investigate periodically the operation and effect of this [~~law~~]chapter and of the policies made under [~~it~~]this chapter; and

(ii) report investigation findings and recommendations to the county legislative body;

[~~(e)~~](f) establish and maintain records of all employees in the county service[~~, setting forth as to~~]that includes each [~~employee~~]county employee's:

(i) class[~~,~~];

(ii) title[~~,~~];

(iii) pay or status[~~,~~]; and

(iv) other relevant data;

[~~(f)~~](g) make an annual report to the county legislative body and county executive regarding the work of the [~~department; and~~]office;

[~~(g)~~](h) apply and carry out this [~~law~~]chapter and the policies under [~~it~~]this chapter; and

(i) perform any other lawful acts that are necessary to carry out the provisions of this [~~law~~]chapter.

[~~(4)~~](2) (a) [~~(i)~~] The director shall recommend personnel [~~rules~~]policies for the county.

[~~(ii)~~](b) The county legislative body may:

[~~(A)~~](i) recommend personnel [~~rules~~]policies for the county; and

[~~(B)~~](ii) approve, amend, or reject personnel [~~rules~~]policies for the county before they are adopted.

[~~(b)~~](3) [~~The rules~~]Personnel policies shall provide for:

[~~(i)~~](a) recruiting efforts [~~to be~~]that are planned and carried out in a manner that:

(i) assures open competition[~~,~~]; and

(ii) [~~with~~]places special emphasis [~~to be placed~~]on recruiting efforts to attract and help assure that individuals belonging to the following groups will be among the candidates from whom appointments are made:

(A) minorities[~~,~~];

(B) women[~~,~~];

(C) [~~persons~~]individuals with a disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102[~~,~~]; or

(D) other groups that are substantially underrepresented in the county [~~work force to help assure they will be among the candidates from whom appointments are made~~]workforce;

[~~(ii)~~](b) the establishment of job related minimum requirements, wherever practical, that all successful candidates [~~shall be~~]are required to meet [~~in order~~]to be eligible for consideration for appointment or promotion;

[~~(iii)~~](c) selection procedures that include:

(i) consideration of the relative merit of each applicant for employment[~~,~~];

(ii) a job related method of determining the eligibility or ineligibility of each applicant[~~,~~] for employment; and

(iii) a valid, reliable, and objective system of ranking eligible applicants according to their qualifications and merit;

[~~(iv)~~](d) certification procedures that [~~insure~~]ensure equitable consideration of an appropriate number of the most qualified eligible applicants based on the ranking system;

[~~(v)~~](e) appointments to positions in the career service by selection from the most qualified eligible applicants certified on eligible lists

established in accordance with Subsections [~~(4)(b)(iii)~~](3)(c)and [~~(iv)~~](d);

[~~(vi)~~](f) occasional noncompetitive appointments [~~in the occasional instance~~]where there is evidence that open or limited competition is not practical, [~~such as~~]including for unskilled positions that have no minimum job requirements;

[~~(vii)~~](g) limitation of [~~competitions~~]competition at the discretion of the director for appropriate positions to facilitate employment of qualified applicants for employment with:

(i) a substantial physical or mental impairment[~~,~~]; or

(ii) other groups protected by Title VII of the Civil Rights Act;

[~~(viii)~~](h) (i) permanent appointment for entry to the career service that [~~shall be~~]is contingent upon a probationary county employee's satisfactory performance[~~, by the employee~~] during a six-month probationary period[~~, of six months,~~];

(ii) [~~with the probationary period extendable~~]a six-month probationary period that the county may extend for a period not to exceed an additional six months for good cause[~~,~~]; and

(iii) [~~but with the condition that the~~]an opportunity for a probationary county employee [~~may~~]to appeal directly to the council any undue [~~prolongation~~]prolonging of the six-month probationary period by the county that is designed to thwart merit principles;

[~~(ix)~~](i) temporary, provisional, or other noncareer service appointments, which may not:

(i) be used [~~as a way of defeating~~]to defeat the purpose of the career service; and

(ii) [~~may not~~]exceed 270 days;

[~~(x)~~](j) lists of eligible applicants[~~, normally to be used~~], if available, for filling temporary positions[~~,~~] and short[~~-~~]-term emergency appointments [~~to be~~]that:

(i) are made without regard to the other provisions of law;

(ii) [~~to~~]provide for maintenance of essential services in an emergency situation where normal procedures are not practical[~~,~~]; and

(iii) [~~these emergency appointments~~]do not [~~to~~]exceed 270 days;

[~~(xi)~~](k) (i) promotion and career ladder advancement of county employees to higher level positions; and

(ii) assurance that [~~all persons~~]an individual promoted [~~are~~]is qualified for the higher level position;

[~~(xii)~~](l) recognition of the equivalency of other merit processes by waiving, at the director's discretion[~~, of the director~~], the open competitive examination for placement in the career service positions of [~~those~~]applicants for employment who were originally selected through a competitive examination process in another governmental entity, [~~the~~]an individual in those cases, to serve a probationary period;

[~~(xiii)~~](m) preparation, maintenance, and revision of a position classification plan for all positions in the career service[~~,~~] that:

(i) is based upon similarity of duties performed and responsibilities assumed[~~,~~];

(ii) [~~so that~~]for all positions in the same class:

(A) reasonably requires the same qualifications[~~, may reasonably be required for,~~]; and

(B) equitably applies the same schedule of pay[~~, may be equitably applied to, all positions in the same class,~~]; and

(iii) [~~the~~]includes a compensation plan that, [~~in order~~]to maintain a high quality public [~~work force, to take into account~~]workforce, accounts for:

(A) the responsibility and difficulty of the work[~~,~~] for each position;

(B) the comparative pay and benefits needed to compete in the labor market[~~, and~~];

(C) [~~to stay in~~]proper alignment with other similar governmental units[~~,~~]; and

(D) other factors;

[~~(xiv)~~](n) (i) keeping records of performance on all county employees in the career service; and

(ii) requiring consideration of performance records in determining:

(A) salary increases[~~,~~];

(B) [~~any~~]benefits for meritorious service[~~,~~];

(C) promotions[~~,~~];

(D) the order of layoffs and reinstatements[~~,~~];

(E) demotions[~~,~~];

(F) discharges[~~,~~]; and

(G) transfers;

[~~(xv)~~](o) establishment of a plan:

(i) governing layoffs of county employees resulting from:

(A) lack of funds or work[~~,~~];

(B) abolition of positions[~~,~~]; or

(C) material changes in duties or organization[~~,~~]; and

(ii) governing reemployment of [~~persons so~~]former county employees that the county laid off[~~, taking~~]that takes into account the former county employee's:

(A) [~~with regard to layoffs and reemployment the~~]relative ability[~~,~~];

(B) seniority[~~,~~]; and

(C) merit [~~of each employee~~];

[~~(xvi)~~](p) establishment of a plan for resolving employee grievances and complaints with final and binding decisions;

[~~(xvii)~~](q) establishment of disciplinary measures [~~such as~~]including:

(i) suspension[~~,~~];

(ii) demotion in rank or grade[~~, or~~];

(iii) discharge[~~,~~]; and

(iv) [~~measures to provide for~~]presentation of charges, hearing rights, and appeals for all permanent employees in the career service to the [~~career service~~]council;

[~~(xviii)~~](r) establishment of a procedure for employee development and improvement of poor performance;

[~~(xix)~~](s) establishment of:

(i) hours of work[~~,~~];

(ii) holidays[~~,~~]; and

(iii) attendance requirements in various classes of positions in the career service;

[~~(xx)~~](t) establishment and publicizing of fringe benefits [~~such as~~]including:

(i) insurance[~~,~~];

(ii) retirement[~~,~~]; and

(iii) leave programs; and

[~~(xxi)~~](u) any other requirements not inconsistent with this [~~law~~]chapter that are proper for [~~its~~]the chapter's enforcement.

[~~(5) Rules adopted pursuant to Subsection (4)(b)(xx) shall provide for at least three work days of paid bereavement leave for an employee:~~]

[~~(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or~~]

[~~(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:~~]

[~~(i) the employee is the individual's spouse or partner;~~]

[~~(ii) (A) the employee is the individual's former spouse or partner; and~~]

[~~(B) the employee would have been a biological parent of a child born as a result of the pregnancy;~~]

[~~(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 81-13-101, of a child born as a result of the pregnancy; or~~]

[~~(iv) under a valid gestational agreement in accordance with Title 81, Chapter 5, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.~~]

Section 22. Section 17-75-603, which is renumbered from Section 17-33-7 is renumbered and amended to read:

[~~17-33-7~~]17-75-603 (Effective 11/06/25). Functions of county office of personnel management -- Personnel functions of county agencies, departments, or offices.

(1) (a) The county office of personnel management shall perform the functions required by this Subsection (1).

(b) The county executive, county legislative body, and county office of personnel management may not delegate [~~those~~]the functions described by this section to a separate county agency, office, or department.

(c) The county office of personnel management shall:

(i) design and administer a county pay plan that includes:

(A) salaries[~~,~~];

(B) wages[~~,~~];

(C) incentives[~~,~~];

(D) bonuses[~~,~~];

(E) leave[~~,~~];

(F) insurance[~~,~~];

(G) retirement[~~,~~]; and

(H) other benefits;

(ii) design and administer the county classification plan and grade allocation system, including:

(A) final decisions on position classification; and

(B) final decisions on grade allocation;

(iii) conduct position classification studies, including periodic desk audits, except that an agency, department, or office may submit classification recommendations to the county office of personnel management;

(iv) maintain registers of:

(A) publicly recruited applicants; and

(B) certification of top-ranking eligible applicants;

(v) monitor county agency, department, or office personnel practices to determine compliance with equal opportunity and affirmative action guidelines; and

(vi) maintain central personnel records.

(d) The county legislative body may approve, amend, or reject the pay plan.

(2) County agencies, departments, or offices shall:

(a) establish initial job descriptions;

(b) recommend position classifications and grade allocations;

(c) make final selections for appointments and promotions to vacant positions;

(d) conduct performance evaluations;

(e) discipline employees; and

(f) perform other functions approved by the county executive, and agreed to by the county agency, office, or department.

Section 23. Section 17-75-604, which is renumbered from Section 17-33-6 is renumbered and amended to read:

[~~17-33-6~~]17-75-604 (Effective 11/06/25). Certification of eligibility by director -- Power of director to examine payrolls.

(1) The director shall certify:

(a) [~~No~~]anew county employee[~~ shall be~~] hired [~~in~~]to a position covered by this chapter[~~,~~]; and

(b) [~~no employee shall be changed~~]a change in [~~pay~~]a county employee's compensation, title, or status [~~,~~].

(2) [~~nor shall any~~]The director, or the director's designee, shall certify an employee[~~ be paid, unless certified by the director~~] as eligible to be paid under [~~the provisions of~~]this chapter, or [~~regulations promulgated~~]personnel rules made under[~~,~~] this chapter.

(3) The director[~~ of personnel management~~] may examine payrolls at any time to determine conformity with this chapter and the [~~county~~]personnel rules.

Section 24. Section 17-75-605, which is renumbered from Section 17-33-12 is renumbered and amended to read:

[~~17-33-12~~]17-75-605 (Effective 11/06/25). Reciprocal agreements for benefit of system -- Cooperation by director with other governmental agencies.

(1) The county may enter into reciprocal agreements, upon such terms as may be agreed upon, for the use of equipment, materials, facilities, and services with any public agency or body for purposes deemed of benefit to the public personnel system.

(2) The director may cooperate with other governmental agencies charged with public personnel administration in:

(a) conducting personnel tests[~~,~~];

(b) recruiting personnel[~~,~~];

(c) training personnel[~~,~~];

(d) establishing lists from which [~~eligibles shall be~~]eligible individuals are certified for appointment; and

(e) for the interchange of personnel and their benefits.

Section 25. Section 17-75-701, which is renumbered from Section 17-33-13 is renumbered and amended to read:

PART 7. Prohibited Actions

[~~17-33-13~~]17-75-701 (Effective 11/06/25). Prohibited actions.

(1) [~~It is an offense for a~~]A person commits an offense under this chapter by:

(a) [~~to make any~~]making a false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment made under [~~any provision of this law~~]this chapter; or

(b) in any manner [~~commit~~]committing or [~~attempt~~]attempting to commit any fraud preventing the impartial execution of this chapter.

(2) (a) [~~It is an offense for a~~]A person[~~, under circumstances not amounting to a violation of Section 76-8-103 or 76-8-105, to~~] commits an offense under this chapter by directly or indirectly, [~~give, render, pay, offer, solicit, or accept~~]giving, rendering, paying, offering, soliciting, or accepting any money, service, or other valuable consideration for any appointment, proposed appointment, promotion, or proposed promotion to, or for any advantage in, a position in the career service.

(b) Offenses described under Subsection (2)(a) do not include circumstances that are violations of Sections 76-8-103 and 76-8-105.

(3) [~~It is an offense for any~~]An employee of the county office of personnel [~~department~~]management, examiner, or other person [~~to~~]may not:

(a) defeat, deceive, or obstruct [~~any person in his or her~~]an individual's right to examination, eligibility, certification, or appointment under this chapter; or

(b) furnish to [~~any person~~]an individual any special or secret information for the purpose of affecting the rights or prospects of [~~any person~~]an individual with respect to employment in the career service.

Section 26. Section 17-75-702, which is renumbered from Section 17-33-14 is renumbered and amended to read:

[~~17-33-14~~]17-75-702 (Effective 11/06/25). Violations -- Misdemeanor -- Ineligibility for employment and forfeiture of position.

(1) [~~Any person~~]An individual who willfully violates any provision of this chapter or the personnel rules [~~and regulations promulgated~~]made under [~~it~~]this chapter is guilty of a class A misdemeanor.

(2) [~~Any person~~]In addition to the sanctions of Subsection (1), an individual who has been adjudged guilty of violating any of the provisions of this chapter or the personnel rules [~~and regulations promulgated~~]made under [~~it~~]this chapter shall, for a period of five years[~~, in addition to the sanctions of Subsection (1),~~]:

(a) be ineligible for appointment to or employment in a county position[~~ in the county service,~~]; and

(b) if [~~an~~]a county officer or employee[~~ of the county~~], [~~shall~~]forfeit [~~that~~]the county office or position.

Section 27. Section 17-76-101 is enacted to read:

CHAPTER 76. County Emergency Personnel Management

PART 1. General Provisions

17-76-101 (Effective 11/06/25). Definitions.

Reserved.

Section 28. Section 17-76-102 is enacted to read:

17-76-102 (Effective 11/06/25). Applicability.

Reserved.

Section 29. Section 17-76-103, which is renumbered from Section 17-30-23 is renumbered and amended to read:

[~~17-30-23~~]17-76-103 (Effective 11/06/25). Severability.

(1) If any section or provision of this [~~act~~]chapter is declared unconstitutional or void, the fact of such holding shall in no wise affect those sections and provisions not held unconstitutional or void and which can be retained in effect without the provision declared unconstitutional and void[~~, and it shall be the duty of the merit service commission to provide by rule for the operation and functioning of any activity within the purpose and spirit of the act which may be or may become necessary and proper and which is not specifically provided hereby~~].

(2) (a) If any provision of this chapter or the application of this chapter is found to be in conflict with any state or federal law, conflict with which would impair funding otherwise receivable from the state or federal government, the conflicting provision is hereby declared to be inoperative solely to the extent of the conflict and with respect to the department, agency, or institution of the county directly affected.

(b) A conflict with state or federal law described in Subsection (2)(a) does not affect the operation of the remainder of this chapter.

Section 30. Section 17-76-201, which is renumbered from Section 17-30-1 is renumbered and amended to read:

PART 2. Deputy Sheriff Merit System

[~~17-30-1~~]17-76-201 (Effective 11/06/25). Definitions.

As used in this part:

[~~(1) "Governing body" means the county legislative body.~~]

[~~(2)~~](1) "Appointing authority" means the sheriff of a county having jurisdiction over any peace officer.

[~~(3) "Peace officer" means any paid deputy sheriff, other than a chief deputy designated by the sheriff, who is in the continuous employ of a county.~~]

[~~(4)~~](2) "Commission" means the merit system commission consisting of three [~~persons~~]individuals appointed [~~as provided in~~]in accordance with Section [~~17-30-3~~]17-76-203 and having the duty, power, and responsibility for the discharge of the functions of this chapter.

[~~(5)~~](3) "Department of Public Safety" means the department created in Section 53-1-103.

(4) "Eligible register" means the list made by a commission described in Subsection 17-76-209(1) that contains the names of all applicants that took the examination and that received a passing grade.

(5) "Examination" means the competitive examination for employment as a peace officer described in Section 17-76-207.

(6) "Member" means an individual appointed to the merit commission in accordance with Section 17-76-203.

(7) "Merit system officer" means a peace officer who has merit status as defined in this part.

(8) "Peace officer" means any paid deputy sheriff, other than a chief deputy designated by the sheriff, who is in the continuous employ of a county.

(9) "Police interlocal entity" means an interlocal entity, as defined in Section 11-13-103, that is created:

(a) under Title 11, Chapter 13, Interlocal Cooperation Act, by an agreement to which a county of the first class is a party; and

(b) to provide law enforcement service to an area that includes the unincorporated part of the county.

(10) "Police special district" means a special district, as defined in Section 17B-1-102:

(a) whose creation was initiated by the adoption of a resolution under Section 17B-1-203 by the legislative body of a county of the first class, alone or with one or more other county legislative bodies; and

(b) that is created to provide law enforcement service to an area that includes the unincorporated part of the county.

Section 31. Section 17-76-202, which is renumbered from Section 17-30-2 is renumbered and amended to read:

[~~17-30-2~~]17-76-202 (Effective 11/06/25). Applicability.

(1) This chapter does not apply to a county of the first class or an interlocal entity, as defined in Section 11-13-103, in which a county of the first class is a party to an interlocal agreement to provide law enforcement service.

(2) [~~From and after the effective date of this act the~~]The sheriff of each county with a population of 20,000 people or more [~~which shall~~]who regularly employ s one or more peace officers shall[~~;~~]:

(a) appoint peace officers and fill vacant positions for peace officers:

(i) [~~by and~~]with the advice and consent of the county legislative body[~~;~~];

(ii) [~~and~~]subject to the rules[~~ and regulations~~] of the merit service commission[~~;~~]; and

(iii) [~~appoint~~]from the classified merit service list furnished by the merit service commission[~~, all subordinate peace officers in his department and in like manner fill all vacancies in the same~~]; and

(b) [~~shall further~~]promote, transfer, demote, suspend or remove peace officers in accordance with [~~the provisions of~~]this [~~act~~]part.

(3) Every peace officer who is serving as such upon the effective date of this [~~act~~]part is considered:

(a) fully qualified for such position without examination or test; and

(b) [~~is considered~~]to have been appointed and to hold [~~his~~]the position [~~and classification pursuant to the provisions of this act~~]of peace officer in accordance with this part.

(4) Counties with a population of less than 20,000 people may implement a deputy [~~sheriff's~~]sheriff merit system if:

(a) [~~approved by~~]the county legislative body approves the deputy sheriff merit system; or

(b) the people of the county through referendum or initiative approve the deputy sheriff merit system.

Section 32. Section 17-76-203, which is renumbered from Section 17-30-3 is renumbered and amended to read:

[~~17-30-3~~]17-76-203 (Effective 11/06/25). Establishment of merit system commission -- Appointment, qualifications, and compensation of members.

(1) (a) Each county with a population of 20,000 or more shall establish a merit system commission consisting of three members appointed [~~as provided in~~]in accordance with Subsection (1)(b).

[~~(b) (i) As used in this Subsection (1)(b):~~]

[~~(A) "Police interlocal entity" means an interlocal entity, as defined in Section 11-13-103, that is created:~~]

[~~(I) under Title 11, Chapter 13, Interlocal Cooperation Act, by an agreement to which a county of the first class is a party; and~~]

[~~(II) to provide law enforcement service to an area that includes the unincorporated part of the county.~~]

[~~(B) "Police special district" means a special district, as defined in Section 17B-1-102:~~]

[~~(I) whose creation was initiated by the adoption of a resolution under Section 17B-1-203 by the legislative body of a county of the first class, alone or with one or more other legislative bodies; and~~]

[~~(II) that is created to provide law enforcement service to an area that includes the unincorporated part of the county.~~]

[~~(ii)~~](b) (i) For a county in which a police interlocal entity is created, whether or not a police special district is also created in the county:

(A) two members shall be appointed by the county legislative body[~~ of the county~~]; and

(B) one member shall be appointed by the governing body of the police interlocal entity.

[~~(iii)~~](ii) For a county in which a police special district is created but in which a police interlocal entity has not been created:

(A) two members shall be appointed by the county legislative body[~~ of the county~~]; and

(B) one member shall be appointed by the board of trustees of the police special district.

[~~(iv)~~](iii) For each other county, all three members shall be appointed by the county legislative body.

(c) Of the original [~~appointees,~~]members appointed in accordance with Subsection (1)(b):

(i) one member shall be appointed for a term ending February 1 of the first odd-numbered year after the date of appointment[~~,~~];

(ii) [~~and~~]one member shall be appointed[~~each~~] for [~~terms~~]a term ending two years after the date the term ends for the member described in Subsection (1)(c)(i); and

(iii) one member shall be appointed for a term ending four years [~~thereafter~~]after the date the term ends for the member described in Subsection (1)(c)(i).

(d) Upon the expiration of [~~any of the terms~~]a member's term, a successor shall be appointed for a [~~full~~]term of six years.

(e) Appointment of a successor to fill a vacancy resulting other than from expiration of term shall be for the unexpired portion of the term only.

(2) [~~Members of a commission~~]A member shall:

(a) be [~~citizens~~]a citizen of the state[~~,~~];

(b) [~~shall~~]have been [~~residents~~]a resident of the area [~~embraced by the governmental unit from which appointed~~]governed by the commission not less than five years [~~next preceding~~]before the date of appointment[~~,~~]; and

(c) [~~shall~~]hold no other office or employment under the governmental unit [~~for which~~]that appointed the member.

(3) The county legislative body may:

(a) compensate a member for service on the commission; and

(b) reimburse [~~the~~]a member for necessary expenses incurred in the performance of the member's duties.

Section 33. Section 17-76-204, which is renumbered from Section 17-30-4 is renumbered and amended to read:

[~~17-30-4~~]17-76-204 (Effective 11/06/25). Duty of commission -- Provide for unspecified activities.

(1) The commission shall be responsible for:

(a) [~~carrying out the provisions of~~]implementing this [~~act,~~]part; and

(b) [~~shall make~~]making all necessary rules[~~ and regulations,~~]:

(i) not in conflict with [~~the provisions hereof,~~]this part; and

(ii) as may be necessary [~~for that purpose~~]to implement this part.

(2) The commission shall make a rule for an activity within the purpose and spirit of this part that:

(a) the commission deems necessary and proper; and

(b) is not specifically provided by this part.

Section 34. Section 17-76-205, which is renumbered from Section 17-30-5 is renumbered and amended to read:

[~~17-30-5~~]17-76-205 (Effective 11/06/25). Organization of commission -- Secretary -- Offices -- Job classification plan.

(1) [~~Each merit system commission shall be organized by its members who~~]Members shall select one member as [~~chairman~~]chairperson of the commission.

(2) (a) [~~and shall have assigned to it by the~~]The county legislative body[~~,~~]shall assign to the commission a qualified county employee[~~ of the county~~] to act as the commission's secretary.

(b) [~~Such~~]The county employee described in Subsection (2)(a) shall:

(i) be acceptable to the commission; and

(ii) [~~shall~~]act and serve as secretary without additional compensation unless the county legislative body[~~ so~~] specifies additional compensation to be paid to the county employee.

(3) The county legislative body shall provide suitable accommodations, supplies and equipment as needed to enable the commission to attend to [~~its~~]commission business.

(4) (a) The commission shall formulate a comprehensive job classification plan [~~covering~~]that:

(i) includes all peace officers of the governmental unit[~~.~~];

(ii) [~~The plan shall place~~]places all positions requiring substantially the same duties and qualifications in the same classification;

(iii) [~~and shall include~~]specifies minimum physical and educational qualifications of the applicants for each position[~~, and~~];

(iv) [~~provide~~]provides standards for promotion[~~.~~]; and

(v) is the basis for implementing this part.

(b) The commission shall adopt [~~a~~]and may amend the comprehensive job classification plan described in Subsection (4)(a)[~~which shall be the basis of the administration of this act until changed with the approval of the commission~~].

(c) [~~In the event~~]If a new position is created and approved by the [~~governing~~]county legislative body, [~~such~~]the new position shall automatically be classified and become a part of the comprehensive job classification plan described in this Subsection (4).

Section 35. Section 17-76-206, which is renumbered from Section 17-30-21 is renumbered and amended to read:

[~~17-30-21~~]17-76-206 (Effective 11/06/25). Power of commission members to administer oaths and subpoena witnesses -- Rights of and fees for witnesses.

(1) (a) [~~Any~~]A member[~~ of a commission~~], in [~~performance of his~~]performing the member's duties[~~ as such~~], [~~shall have power to~~]may administer oaths and subpoena witnesses and documents.

(b) If [~~a person~~]an individual refuses to [~~[or]~~]comply or fails to [~~obey~~]comply with a subpoena issued by a [~~commissioner~~]member, the district court may, [~~upon application of a commissioner~~]at the member's request, compel [~~obedience as in like cases before the district court~~]the individual to comply with the subpoena.

(2) [~~Witnesses~~]A witness in [~~proceedings~~]a proceeding before a commission:

(a) [~~shall be~~]is subject to all the rights, privileges, duties, and penalties of witnesses in courts of record[~~,~~]; and

(b) shall [~~be paid the same fees, as an expense of the commission~~]receive a witness fee from the commission, equivalent to those paid in a court of record.

Section 36. Section 17-76-207, which is renumbered from Section 17-30-6 is renumbered and amended to read:

[~~17-30-6~~]17-76-207 (Effective 11/06/25). Examinations -- How prepared, conducted, and graded -- Notice of examination -- Preservation and inspection of examination papers.

(1) (a) When necessary, [~~the~~]a commission shall [~~give~~]administer a competitive [~~examinations~~]examination for employment as a peace officer to determine the qualification of applicants [~~for positions as peace officers~~].

(b) [~~The examinations~~]An examination shall be practical in character and shall relate to matters that will fairly test the mental and physical ability and knowledge of the applicants to discharge the duties of [~~the positions~~]peace officer.

(c) [~~The examinations~~]An examination shall be prepared, conducted, and graded [~~under the direction of the~~]as directed by the commission, or by impartial special examiners if the commission finds it necessary.

(2) (a) Notice of examination shall be:

(i) (A) published one time not less than 15 days before the examination in a newspaper of general circulation in the area concerned; and

(B) published, in accordance with Section 45-1-101, for 15 days before the examination; and

(ii) posted in a conspicuous place in the office of the appointing authority's department[~~ concerned~~].

(b) The notice shall set forth minimum and maximum wages, physical and educational requirements, and passing grades[~~, which shall be not~~]that are not less than 70% correct answers.

(c) [~~A person~~]An applicant completing an examination shall be promptly notified of the applicant's final grade by mail at [~~his~~]the applicant's last known address[~~ of his final grade~~].

(3) All examination papers are the commission's property, and the commission shall preserve the examination papers until the expiration of the eligible register.

(4) Examination papers are not open to public inspection without court order, except that:

(a) an applicant may inspect the applicant's own examination papers at any time within 30 days after the date the commission mails the notice described in Subsection (2); and

(b) the appointing authority may inspect the papers of any eligible applicant the commission certifies for appointment.

Section 37. Section 17-76-208, which is renumbered from Section 17-30-7 is renumbered and amended to read:

[~~17-30-7~~]17-76-208 (Effective 11/06/25). Disqualification of applicant for examination -- Appeal to commission.

(1) The commission shall disqualify an applicant [~~for~~]from taking an examination who:

(a) does not meet advertised qualifications for peace officer;

(b) has been convicted of a criminal offense inimical to the public service, or involving moral turpitude;

(c) has practiced or attempted deception or fraud in the applicant's application or examination, or in securing eligibility for appointment; or

(d) is not:

(i) a citizen of the United States; or

(ii) a lawful permanent resident of the United States who:

(A) has been in the United States legally for the five years immediately before the day on which the application is made; and

(B) has legal authorization to work in the United States.

(2) If the commission disqualifies an applicant [~~is rejected~~]in accordance with Subsection (1), the commission shall notify the applicant [~~shall be notified~~]by mail at the applicant's last known address.

(3) At any time before the day on which the examination is held, an applicant may:

(a) correct a defect in the applicant's application[~~,~~]; or

(b) appeal in writing to the commission the commission's decision to disqualify the applicant.

Section 38. Section 17-76-209, which is renumbered from Section 17-30-9 is renumbered and amended to read:

[~~17-30-9~~]17-76-209 (Effective 11/06/25). Preparation and expiration of eligible register -- Appointments from eligible register -- Failure to accept appointment -- Probationary period.

(1) (a) Upon completion of an examination, the commission shall [~~prepare~~]make an eligible register [~~containing~~]that contains the names of all [~~persons receiving~~]applicants that received a passing grade in the order of grades earned, beginning with the highest.

[~~(2)~~](b) An eligible register [~~shall expire~~]expires not later than two years after the date of the examination unless the commission, for good reason, [~~shall extend~~]extends the time not to exceed one additional year.

(c) [~~The promulgation of~~]When the commission makes a new eligible register [~~shall automatically cancel all~~], previous eligible registers for the same class or position are automatically canceled.

(2) (a) When a peace officer is to be appointed, the appointing authority shall request that the commission certify three eligible applicants for the position.

(b) After the appointing authority makes a request described in Subsection (2)(a):

(i) the commission shall certify to the appointing authority the names of the three applicants standing highest on the eligible register; and

(ii) the appointing authority shall select and appoint one of the three applicants the commission certifies.

(c) If an applicant described in Subsection (2)(b)(ii) does not accept the appointing authority's offer of appointment, the applicant may, in writing:

(i) request that the applicant retain the applicant's place on the eligible register; and

(ii) provide reasons sufficient, in the judgment of the commission, to justify the applicant's rejection of the appointing authority's offer of appointment.

(3) (a) A peace officer appointed under Subsection (2) shall serve a probationary period of 12 consecutive months, during which time the appointing authority may discharge the peace officer.

(b) The probationary period shall be extended as necessary for a peace officer who has not yet satisfactorily completed an approved peace officer training program and received a certificate of completion under Title 53, Chapter 6, Peace Officer Standards and Training Act.

(c) If a peace officer remains in the position to which the peace officer was appointed after the expiration of the probationary period, the peace officer's retention constitutes appointment to merit status.

(d) Service as a peace officer under a temporary or emergency appointment is not considered as part of the probationary period.

(e) A peace officer removed during the peace officer's probationary period may not be placed on the eligible register again without having passed another regular examination.

Section 39. Section 17-76-210, which is renumbered from Section 17-30-12 is renumbered and amended to read:

[~~17-30-12~~]17-76-210 (Effective 11/06/25). Vacancies -- Positions requiring special qualifications -- Competition suspended -- Promotion -- Promotion register.

(1) (a) [~~In case of~~]When there is a vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional, or expert character, the commission may, after public hearing and by unanimous vote of the commission, suspend competition regarding the position upon satisfactory evidence that:

(i) [~~competition~~]competitive hiring is impracticable; and

(ii) [~~that~~]the position can best be filled by the selection of [~~some designated person~~]an individual of recognized attainments[~~, the board may, after public hearing and by the affirmative vote of all members suspend competition,~~].

(b) [~~and all such cases of suspension~~]When the commission suspends competitive hiring, the commission shall [~~be reported together with~~]report the reason [~~therefor,~~]for suspending competitive hiring in the commission's annual reports[~~, of the commission~~].

(2) (a) [~~Vacancies~~]The appointing authority shall fill vacancies occurring in the merit system classification [~~of any county shall be filled by~~]by promotion [~~insofar as~~]if possible.

(b) A promotion shall be made only after an [~~open competitive~~]examination, with admission to [~~which shall be~~]the examination limited to merit system officers.

(c) [~~Such examination~~]An examination for a promotion shall include an average of service ratings for the next preceding year, a rating of seniority, and test the merit system officer's competence[~~, of the peace officer~~] to perform the duties required in the position for which application is made.

(d) [~~The combined~~]An examination for a promotion shall not combine the weights of service rating and seniority [~~shall be not~~]to more than 40% of the whole examination.

(e) [~~Succeeding~~]The appointing authority shall fill subsequent vacancies[~~, shall also be filled~~] by promotion until the lowest grade is reached, which grade shall then be filled from the eligible list [~~as herein set forth~~]in accordance with this part.

[~~(3)~~](f) (i) After [~~a promotional~~]an examination for a promotion, the commission shall prepare a [~~promotional~~]promotion register [~~which shall take~~]that takes precedence over an eligible register.

(ii) [~~Certification therefrom~~]The commission shall [~~be made~~]make the promotion register in the same manner as [~~from an~~]it makes an eligible register.

Section 40. Section 17-76-211, which is renumbered from Section 17-30-14 is renumbered and amended to read:

[~~17-30-14~~]17-76-211 (Effective 11/06/25). Temporary appointment -- Emergency appointment.

(1) [~~A~~]An appointing authority may make a temporary appointment for a period not exceeding 60 days[~~, may be made~~], pending examination, when there is no existing eligible, promotion, or re-employment register[~~, in existence~~].

(2) (a) An appointing authority may make an emergency appointment for a period not exceeding seven days.

(b) With the commission's consent, the appointing authority may extend an emergency appointment one time, for an additional period not to exceed seven days, if:

(i) an eligible applicant is not immediately available from an existing eligible register, promotion register described in Section 17-76-210, or reemployment register described in Section 17-76-212; and

(ii) the work to be performed is necessary to expedite the public business.

Section 41. Section 17-76-212, which is renumbered from Section 17-30-16 is renumbered and amended to read:

[~~17-30-16~~]17-76-212 (Effective 11/06/25). Temporary layoffs -- Reemployment register.

(1) A peace officer may be temporarily laid off:

(a) [~~When~~]when the appointing authority determines it is necessary because of lack of funds or work[~~, an officer may,~~]; and

(b) with the commission's approval[~~, of the commission, be temporarily laid off~~].

(2) [~~Such~~]A layoff described in Subsection (1) shall be made according to the lowest rating of the peace officers of the class of position affected, calculated upon seniority under a method prescribed by the commission.

(3) [~~A person~~]An individual serving under temporary or emergency appointment shall be laid off before any merit system officer.

(4) A merit system officer who is laid off shall be placed upon a [~~re-employment~~]reemployment register to be re-employed in the inverse order in which the merit system officer is laid off, which reemployment register shall take precedence over all eligible registers.

Section 42. Section 17-76-213, which is renumbered from Section 17-30-13 is renumbered and amended to read:

[~~17-30-13~~]17-76-213 (Effective 11/06/25). Transfer of merit system officer.

A merit system officer may be transferred, without examination, from one position to a similar position in the same class and grade in the same governmental unit.

Section 43. Section 17-76-214, which is renumbered from Section 17-30-17 is renumbered and amended to read:

[~~17-30-17~~]17-76-214 (Effective 11/06/25). Leave of absence -- Sick leaves and vacations.

(1) The appointing authority, with the commission's approval[~~ of the commission~~], may grant [~~an~~]a peace officer a leave of absence without pay for a period not to exceed one year.

(2) [~~In the event an~~]If a peace officer on leave takes a higher position in police work [~~which~~]that does not come under the merit system provisions of this [~~act~~]part, the [~~leave~~]appointing authority may, with the commission's consent[~~ of the commission~~], [~~be renewed~~]renew the leave of absence.

(3) [~~In the event an~~]If a peace officer is elected sheriff, or is appointed chief deputy, the peace officer shall automatically be placed on a leave of absence for the period of time the peace officer remains sheriff or chief deputy.

(4) Upon the termination of a leave of absence, the peace officer shall be returned to the peace officer's former position.

[~~(2)~~](5) Sick leaves and vacations with pay shall be as provided by law or ordinance.

Section 44. Section 17-76-215, which is renumbered from Section 17-30-18 is renumbered and amended to read:

[~~17-30-18~~]17-76-215 (Effective 11/06/25). Demotion, reduction in pay, suspension or discharge -- Grounds.

(1) A merit system officer holding a permanent appointment may be demoted, reduced in pay, suspended, or discharged for:

(a) neglect of duty;

(b) disobedience of a reasonable order;

(c) misconduct;

(d) inefficiency, or inability to satisfactorily perform assigned duties; or

(e) any act inimical to the public service.

(2) No merit system officer shall be suspended for more than 30 days at one time, nor more than 60 days in one year.

(3) Demotion, reduction in pay, suspension, or discharge shall be made upon order of the appointing authority.

Section 45. Section 17-76-216, which is renumbered from Section 17-30-19 is renumbered and amended to read:

[~~17-30-19~~]17-76-216 (Effective 11/06/25). Disciplinary charges and merit system officer grievances -- Appeal to commission -- Hearing -- Findings.

(1) [~~Each person~~]An appointing authority who orders the demotion, reduction in pay, suspension, or discharge of a merit system officer for any cause [~~set forth~~]described in Section [~~17-30-18~~]17-76-215 shall:

(a) file written charges with the commission; and

(b) serve the merit system officer with a copy of the written charges.

(2) (a) (i) [~~An~~]A merit system officer who is the subject of charges under Subsection (1) may, within 10 days after [~~service of~~]the day on which the charges were served, appeal in writing to the commission.

(ii) In the absence of an appeal, a copy of the charges under Subsection (1) may not be made public without the consent of the merit system officer charged.

(b) If [~~an~~]a merit system officer files a grievance, as defined by the commission, and exhausts all internal grievance procedures, if any, the merit system officer may, within 10 days after [~~receiving~~]the day on which the merit system officer received notice of the final disposition of the grievance, file an appeal with the commission.

(3) (a) The commission shall:

(i) fix a time and place for a hearing upon the charges or appeal of [~~the~~]a merit system officer grievance; and

(ii) give notice of the hearing to the parties.

(b) (i) Except as provided in Subsection (3)(b)(ii), each hearing under this Subsection (3) shall be held not less than 10 days, and not more than 90 days, after the day on which a merit system officer files an appeal or grievance[~~ is filed~~].

(ii) A hearing may be held more than 90 days after an appeal or grievance is filed if:

(A) the merit system officer and employer agree; or

(B) the commission determines [~~for~~]there is good cause [~~the commission so orders~~]to delay the hearing.

(4) (a) If the aggrieved merit system officer so desires, the hearing shall be public.

(b) The parties may be represented by counsel at the hearing.

(5) After the hearing, the commission shall make its decision in writing, including findings of fact, and shall mail a copy of the commission's decision to each party.

(6) (a) An individual aggrieved by an act or failure to act of any commission under this part has exhausted the remedies of appeal to the commission, the individual may appeal the commission's decision to the district court.

(b) The courts may review questions of law and fact, and may affirm, set aside, or modify the ruling complained of.

Section 46. Section 17-76-217, which is renumbered from Section 17-30-22 is renumbered and amended to read:

[~~17-30-22~~]17-76-217 (Effective 11/06/25). Prohibitions against political activities -- Penalties.

(1) [~~Any employee of a governmental unit or member of a governing body, or appointing authority, or peace officer who shall~~]It is a class B misdemeanor for an individual with authority to, or who seeks, assists, promises, or threatens to appoint, promote, transfer, demote, suspend, discharge, or change the amount of compensation of [~~any~~]a merit system officer[~~ or seek, aid or abet the appointment, promotion, transfer, demotion, suspension, discharge or change in the amount of compensation of any merit system officer, or promise or threaten to do so~~], for giving, withholding, or neglecting to make any contributions or any service for any political purpose[~~;~~].

(2) [~~or who solicits~~]It is a class B misdemeanor for an individual described in Subsection (1)to solicit, directly or indirectly, [~~any such~~]a contribution or service[~~;~~] for a political purpose from a merit system officer[~~, is guilty of a class B misdemeanor~~].

(3) This section does not apply to political speeches or use of mass [~~communications~~]communication media for political purposes by [~~persons~~]an individual who is not a merit system [~~officers~~]officer even though a merit system [~~officers~~]officer may be present or within the reach of such media unless the purpose and intent is to violate this section with direct respect to [~~those officers~~]the merit system officer.

[~~(2)~~](4) [~~No~~]A merit system officer may not engage in [~~any~~]political activity during the hours of employment[~~;~~].

(5) [~~nor shall any person~~]An individual may not solicit political contributions from a merit system [~~officers~~]officer during hours of employment for political purposes[~~;~~].

(6) [~~but nothing in this section shall~~]This section does not preclude [~~voluntary contributions by~~]a merit system officer from voluntarily contributing to the party or candidate of the merit system officer's choice.

Section 47. Section 17-76-301, which is renumbered from Section 17-30a-102 is renumbered and amended to read:

PART 3. Peace Officer Merit System in Counties of the First Class

[~~17-30a-102~~]17-76-301 (Effective 11/06/25). Definitions.

As used in this part:

(1) "Appointing authority" means the county sheriff or the chief executive officer of a police interlocal entity.

(2) "Commission" means the merit system commission consisting of three [~~persons~~]individuals appointed in accordance with Section [~~17-30a-202~~]17-76-304.

(3) "Department" means a county sheriff's office or a police interlocal entity.

(4) "Eligible appointment register" means the list made by a commission described in Section 17-76-310 that contains the names of all applicants that took the examination and that received a passing grade.

(5) "Examination" means the competitive examination to determine the qualification of an applicant for a position as a peace officer described in Section 17-76-307.

[~~(4)~~](6) "Legislative body" means the county legislative body or the governing body of the police interlocal entity.

[~~(5)~~](7) "Merit system officer" means a peace officer who has merit status as defined in this [~~chapter~~]part.

[~~(6)~~](8) "Peace officer" means a paid deputy sheriff or law enforcement officer, other than a chief deputy or other exempt appointed officer designated by the appointing authority, who is in the continuous employ of the appointing authority.

[~~(7)~~](9) "Police interlocal entity" means an interlocal entity, as defined in Section 11-13-103, created:

(a) under Title 11, Chapter 13, Interlocal Cooperation Act, by an agreement to which a county of the first class is a party; and

(b) to provide law enforcement service to an area that includes the unincorporated part of the county.

Section 48. Section 17-76-302, which is renumbered from Section 17-30a-103 is renumbered and amended to read:

[~~17-30a-103~~]17-76-302 (Effective 11/06/25). Applicability.

This [~~chapter~~]part applies to a county of the first class or a police interlocal entity in which a county of the first class is a party to an interlocal agreement to provide law enforcement service.

Section 49. Section 17-76-303, which is renumbered from Section 17-30a-104 is renumbered and amended to read:

[~~17-30a-104~~]17-76-303 (Effective 11/06/25). Subordinate peace officers appointed, reappointed.

(1) The appointing authority of a county or police interlocal entity subject to this [~~chapter~~]part that regularly employs one or more peace officers shall:

(a) appoint a peace officer with the advice and consent of the county legislative body or police interlocal entity governing body, subject to the commission's rules[~~, and regulations of the commission~~];

(b) appoint each subordinate peace officer;

(c) fill a vacancy in the department; and

(d) further promote, transfer, reassign, reappoint, demote, suspend, or remove a peace officer in accordance with [~~the provisions of~~]this [~~chapter~~]part.

(2) The commission shall adopt rules governing the appointment of peace officers through reappointment of a former employee who separated in good standing, within one year after separation.

(3) A peace officer appointed before May 13, 2014, is considered to have been appointed to and hold the peace officer's position and classification [~~pursuant to~~]in accordance with the provisions of this [~~chapter~~]part.

Section 50. Section 17-76-304, which is renumbered from Section 17-30a-202 is renumbered and amended to read:

[~~17-30a-202~~]17-76-304 (Effective 11/06/25). Establishment of merit commission -- Appointment, qualifications, and compensation of members.

(1) (a) Except as provided in Subsection (1)(b), a county subject to this chapter shall establish a merit system commission consisting of three appointed members:

(i) two members appointed by the legislative body of the county; and

(ii) one member appointed by the governing body of a police interlocal entity.

(b) If there is no police interlocal entity within the county, the county legislative body shall appoint all three members of a commission described in Subsection (1)(a).

(c) (i) Of the original appointees described in Subsection (1)(a) or (b)[~~,~~]:

(A) one member shall be appointed for a term ending February 1 of the first odd-numbered year after the date of appointment[~~,~~];

(B) [~~and~~]one [~~each~~]member shall be appointed for [~~terms~~]a term ending two years after the date the term ends for the member described in Subsection (1)(c)(i)(A); and

(C) one member shall be appointed for a term ending four years [~~thereafter~~]after the date the term ends for the member described in Subsection (1)(c)(i)(A).

(ii) For a term [~~subsequent to~~]after a term described in Subsection (1)(c), a commission member shall hold a term of six years.

(d) If an appointed position described in Subsection (1)(a) or (b) is vacated for a cause other than expiration of the member's term, the position is filled by appointment for the unexpired portion of the term only.

(2) A member of the commission:

(a) shall be a resident of the state;

(b) for at least five years [~~preceding~~]before the date of appointment, shall be a resident of:

(i) the county; or

(ii) if applicable, the area served by the police interlocal entity from which appointed; and

(c) may not hold another office or employment with the county or, if applicable, in a municipality served by the police interlocal entity for which the member is appointed.

(3) The county legislative body or interlocal entity governing body may:

(a) compensate a member for service on the commission; and

(b) reimburse the member for necessary expenses incurred in the performance of the member's duties.

Section 51. Section 17-76-305, which is renumbered from Section 17-30a-203 is renumbered and amended to read:

[~~17-30a-203~~]17-76-305 (Effective 11/06/25). General duty -- Creation of comprehensive job classification plan -- Oaths and subpoenas -- Provide for unspecified activities.

(1) The commission:

(a) is responsible for carrying out the provisions of this chapter; and

(b) shall make necessary rules and regulations to govern the merit system in accordance with this [~~chapter~~]part, including:

(i) adopting merit rules regarding:

(A) appointments and registers;

(B) examinations;

(C) promotions;

(D) reassignments;

(E) reappointments;

(F) disciplinary grievance procedures;

(G) administrative reviews;

(H) recognition of the equivalency of another merit system for the purpose of appointing a peace officer from another agency; and

(I) reductions in force;

(ii) adopting a rule regarding the preparation of a job classification plan; and

(iii) adopting rules necessary for the efficient management of the merit system not specifically enumerated above and not inconsistent with this chapter or applicable law.

(2) Upon the request of the appointing authority and after conducting a public hearing, the commission may temporarily suspend a rule if the suspension is necessary for the proper enforcement of this [~~chapter~~]part.

(3) (a) The commission shall formulate a comprehensive job classification plan covering all merit system officers employed by the sheriff or by the police interlocal entity.

(b) The job classification plan shall:

(i) place all positions requiring substantially the same duties and qualifications in the same classification;

(ii) include minimum physical and educational qualifications of the applicants for each position; and

(iii) provide standards for promotion.

(c) If a new position is created and approved, the commission shall classify the position in the job classification plan.

(4) (a) A member of the commission, in performance of commission duties, may administer oaths and subpoena witnesses and documents.

(b) If an individual refuses to comply with or fails to comply with a subpoena issued by a member of the commission, the district court may, upon application by the member of the commission, compel obedience.

(5) (a) A witness in a proceeding before the commission is subject to all the rights, privileges, duties, and penalties of witnesses in courts of record.

(b) The commission shall pay a witness fee equivalent to those paid for a court of record.

(6) The commission may adopt a rule for an activity within the purpose and spirit of this part that:

(a) the commission deems is necessary and proper; and

(b) not otherwise prohibited by law.

Section 52. Section 17-76-306, which is renumbered from Section 17-30a-204 is renumbered and amended to read:

[~~17-30a-204~~]17-76-306 (Effective 11/06/25). Organization of commission -- Support -- Offices.

(1) The members of [~~the~~]a commission shall select one member as chair.

(2) The commission shall adopt rules concerning [~~its~~]the commission's internal organization and procedures.

(3) (a) The county sheriff or the chief executive of the police interlocal entity:

(i) shall assign human resources staff sufficient to perform the commission's support duties; and

(ii) may assign other staff to the commission with the commission's consent[~~ of the commission~~].

(b) The county or police interlocal entity shall provide suitable accommodations, supplies, and equipment as needed to enable the commission to attend to [~~its~~]commission business.

(c) The county sheriff or chief executive of the police interlocal entity may, in accordance with the contracting process established by the county or police interlocal entity, contract support services to third parties.

Section 53. Section 17-76-307, which is renumbered from Section 17-30a-302 is renumbered and amended to read:

[~~17-30a-302~~]17-76-307 (Effective 11/06/25). Examinations -- How prepared, conducted, and graded -- Notice.

(1) (a) If necessary, the commission shall give a competitive examination to determine the qualification of an applicant for a position as a merit system officer.

(b) The commission shall ensure that an examination:

(i) is practical in character; and

(ii) relates to matters that fairly test the mental and physical ability and knowledge of an applicant to discharge the duties of the position.

(c) (i) Except as provided in Subsection (1)(c)(ii), the commission shall direct the preparation, administration, and grading of the examination.

(ii) The commission may direct an impartial special examiner to prepare, administer, and grade the examination on behalf of the commission.

(2) (a) The commission shall publish notice of an examination internally and to the public.

(b) (i) The commission shall design the notice described in Subsection (2)(a) to encourage an applicant to participate in competitive appointments.

(ii) The notice shall [~~set forth~~]describe minimum qualifications, pay scale, physical and educational requirements, and passing grades.

(c) The commission or the commission's designee shall promptly notify [~~a person~~]an applicant of the [~~person's~~]applicant's final grade.

Section 54. Section 17-76-308, which is renumbered from Section 17-30a-303 is renumbered and amended to read:

[~~17-30a-303~~]17-76-308 (Effective 11/06/25). Disqualification of applicant for examination -- Appeal to commission.

(1) In accordance with this section and rules adopted by [~~the~~]a commission, the commission may disqualify an applicant[~~, may be disqualified~~] if the applicant:

(a) does not meet minimum qualifications;

(b) has been convicted of a criminal offense inimical to the public service or involving moral turpitude;

(c) has practiced or attempted deception or fraud in the application or examination process or in securing eligibility for appointment; or

(d) is not:

(i) a citizen of the United States; or

(ii) a lawful permanent resident of the United States who:

(A) has been in the United States legally for the five years immediately before the day on which the application is made; and

(B) has legal authorization to work in the United States.

(2) If an applicant is rejected, the commission shall promptly notify the applicant[~~, shall be promptly notified~~].

(3) At any time before the day on which the examination is held, an applicant may correct a defect in the applicant's application.

(4) An applicant may file a written appeal regarding the application process with the commission at any time before the day on which the examination is held.

Section 55. Section 17-76-309, which is renumbered from Section 17-30a-304 is renumbered and amended to read:

[~~17-30a-304~~]17-76-309 (Effective 11/06/25). Preservation and inspection of examination papers.

(1) (a) Examination papers and related documents:

(i) are the commission's property[~~, of the commission~~]; and

(ii) the commission shall preserve [~~them~~]examination papers and related documents until the expiration of the eligible register for which an examination is given.

(b) Preservation of examination papers and related documents after the time period described in Subsection (1)(a) is subject to a retention schedule adopted by the commission.

(2) (a) Except as provided in Subsection (2)(b), examination papers and related documents are not open to public inspection without a court order.

(b) An applicant may inspect the applicant's own papers at any time within 30 days after the commission sends notice of the applicant's grade.

(c) The appointing authority may inspect the papers of any eligible applicant certified for appointment.

Section 56. Section 17-76-310, which is renumbered from Section 17-30a-305 is renumbered and amended to read:

[~~17-30a-305~~]17-76-310 (Effective 11/06/25). Preparation and expiration of eligible appointment register -- Appointments from eligible appointment register -- Failure to accept appointment -- Probationary period.

(1) Upon completion of an examination, the commission shall prepare and adopt an eligible appointment register containing the names of applicants receiving a passing grade ranked in the order of grades earned, beginning with the highest.

(2) (a) An eligible appointment register shall expire not later than two years after the date of the examination unless the commission, for good reason, extends the time not to exceed one additional year.

(b) If the commission adopts a new eligible appointment register, a previous eligible appointment register for the same class or position is cancelled.

(3) If the appointment of a peace officer is an appointment based on an examination, the appointing authority shall request that the commission certify eligible applicants for each position.

(4) (a) The commission shall certify, to the appointing authority, a number of names equal to three times the number of allocations being filled.

(b) The names of the applicants shall be ranked in order of examination score, beginning with the name of the applicant standing highest on the eligible appointment register.

(5) The appointing authority shall select a person described in Subsection (4)(b) and appoint one person to each open position.

(6) If a certified applicant fails to accept a proffered appointment, the applicant:

(a) may request in writing that the applicant be able to retain the applicant's place on the eligible appointment register; and

(b) shall provide reasons sufficient, in the judgment of the commission, to justify the applicant's failure to accept.

(7) A peace officer appointed under Subsection (5) shall serve a probationary period of 12 consecutive months, during which time the officer may be discharged at the appointing authority's sole discretion.

(8) (a) At the request of the appointing authority, and with the approval of the commission, the probationary period may be extended beyond 12 months for a peace officer who has not yet satisfactorily completed an approved peace officer training program and received a certificate of completion under Title 53, Chapter 6, Peace Officer Standards and Training Act.

(b) At the request of the appointing authority, and with the approval of the commission, the probationary period of a peace officer may be extended beyond 12 months for good cause shown.

(c) Service under a temporary or part-time appointment is not considered a part of the probationary period.

(9) If a peace officer is retained in a position after the expiration of the probationary period, the peace officer's retention constitutes appointment to merit status.

(10) A person removed from employment during the probationary period may not be placed on the eligible appointment register again without having passed another regular examination.

(11) The commission may make or adopt policies governing probationary periods for other appointments, including the appointing or transfer of a peace officer from another jurisdiction.

Section 57. Section 17-76-311, which is renumbered from Section 17-30a-308 is renumbered and amended to read:

[~~17-30a-308~~]17-76-311 (Effective 11/06/25). Vacancies -- Positions requiring special qualifications -- Competition suspended -- Promotion -- Promotion register.

(1) [~~In case of~~]When there is a vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional, or expert character, [~~and~~]the commission may, after a public hearing and unanimous vote by the commission, suspend competition regarding the position upon satisfactory evidence that:

(a) [~~competition~~]competitive hiring is impracticable; and

(b) the position can best be filled by the selection of [~~some designated person~~]an individual of recognized attainments[~~, the commission may, after a public hearing and by unanimous vote, suspend competition regarding that position~~].

(2) The commission shall report a suspension under Subsection (1) in the commission minutes, together with the reason for suspension.

(3) With the exception of an appointment made in accordance with a commission rule adopted under [~~Subsection 17-30a-203(1)(b)(i)(H)~~]Subsection 17-76-305(1)(b)(i)(H), a department shall fill a supervisor vacancy in the merit system classification by promotion insofar as possible.

(4) (a) A department shall make a promotion only after an open competitive examination, admission to which shall be limited to merit system officers.

(b) [~~An~~]A promotion examination process described in Subsection (4)(a) shall include consideration of the seniority and competence of the [~~peace~~]merit system officer to perform the duties required in the position for which application is made.

(c) The seniority element of the promotion examination may not exceed 40% of the entire examination score.

(5) (a) After a promotional examination, the commission shall prepare a promotional eligible appointment register that shall take precedence over any previously existing eligible appointment register.

(b) The certified promotional eligible appointment register shall consist of three names for the initial vacancy and one more name for each additional vacancy, ranked in the order of the examination score, beginning with the highest scoring applicant.

Section 58. Section 17-76-312, which is renumbered from Section 17-30a-310 is renumbered and amended to read:

[~~17-30a-310~~]17-76-312 (Effective 11/06/25). Temporary and part-time appointment.

(1) A department may appoint an employee to a temporary appointment for a period not exceeding 120 days within any [~~12 month~~]12-month period.

(2) A temporary employee is not a merit system officer and may be appointed without examination.

(3) A department may appoint an employee to a part-time appointment for a period not to exceed 29 hours per week.

(4) A part-time employee is not a merit system officer and may be appointed without examination.

Section 59. Section 17-76-313, which is renumbered from Section 17-30a-311 is renumbered and amended to read:

[~~17-30a-311~~]17-76-313 (Effective 11/06/25). Temporary layoffs -- Reappointment register.

(1) Subject to Subsections (2) and (3), and if necessary, because of lack of funds or work, a department may temporarily lay off a merit system officer.

(2) A department that lays off a merit system officer under Subsection (1) shall lay off the merit system officer according to the seniority of the merit system officers of the class of positions affected, following the process prescribed by commission rule.

(3) A department shall lay off [~~a person~~]an individual serving under temporary or part-time appointment before a merit system officer.

(4) (a) If a merit system officer is laid off, the department shall place the merit system officer on [~~a~~]an eligible reappointment register to be reappointed in the inverse order in which the officer is laid off.

(b) The eligible reappointment register described in Subsection (4)(a) takes precedence over all other eligible reappointment registers.

Section 60. Section 17-76-314, which is renumbered from Section 17-30a-309 is renumbered and amended to read:

[~~17-30a-309~~]17-76-314 (Effective 11/06/25). Transfer and reassignment.

(1) A merit system officer may be transferred, without examination, from one position to a similar position in the same class and grade within the department.

(2) A merit system officer may be voluntarily reassigned, including to another class and grade, in accordance with rules adopted by the commission.

Section 61. Section 17-76-315, which is renumbered from Section 17-30a-313 is renumbered and amended to read:

[~~17-30a-313~~]17-76-315 (Effective 11/06/25). Vacation, sick leave, and other benefits.

For merit system officers, provisions regarding vacation, sick, other leave, or any other employment condition or benefit not covered by this chapter shall be established by:

(1) applicable law;

(2) county ordinance or regulation; or

(3) police interlocal entity rule or regulation.

Section 62. Section 17-76-316, which is renumbered from Section 17-30a-312 is renumbered and amended to read:
[~~17-30a-312~~]17-76-316 (Effective 11/06/25). Reappointment after temporary leave.

(1) (a) Consistent with [~~rules~~]policies adopted by the commission and within the appointing authority's discretion, a merit system officer may be granted a temporary leave of absence outside the department.

(b) Leave granted under Subsection (1)(a) is without pay and for a period not to exceed one year.

(c) In accordance with applicable law or ordinance, the appointing authority may reappoint the merit system officer without examination at the end of the leave.

(2) (a) In the event a merit system officer is elected sheriff or is appointed to any merit-exempt position in the department, the merit system officer's merit system status shall automatically be suspended for the period of time the officer remains sheriff or in a merit-exempt appointment.

(b) At the end of the period of election to sheriff or suspension of merit status under Subsection (2)(a), the merit system officer shall be returned to the merit system officer's former position as a merit system officer without examination.

(3) The appointing authority shall authorize any leave required by federal law.

Section 63. Section 17-76-317, which is renumbered from Section 17-30a-402 is renumbered and amended to read:
[~~17-30a-402~~]17-76-317 (Effective 11/06/25). Disciplinary charges and merit system officer grievances -- Appeal to commission -- Hearings -- Findings -- Appeal to district court -- Scope of review.

(1) An appointing authority may demote, suspend, discharge, or reduce a merit system officer's pay for:

(a) neglect of duty;

(b) disobedience of a reasonable order;

(c) misconduct;

(d) inefficiency or inability to satisfactorily perform assigned duties; or

(e) an act inimical to public service.

(2) A department may not suspend a merit system officer for more than 176 work hours at one time, or for more than 352 work hours in one year.

(3) The appointing authority shall order the demotion, reduction in pay, suspension, or discharge of a merit system officer.

(4) The appointing authority:

(a) may impose disciplinary charges in accordance with a rule, policy, ordinance, or law; and

(b) shall serve the merit system officer to be disciplined with a copy of the written charges.

(5) (a) A disciplined merit system officer may file an appeal of the disciplinary charges with the department, which shall conduct the appeal internally.

(b) The department shall conduct an appeal in accordance with policies made by the appointing authority.

(6) If the disciplinary charges are sustained on internal appeal, the merit system officer may appeal to the commission in accordance with the provisions of this section and commission policy.

(7) (a) A merit system officer disciplined in accordance with Subsection (1) may, within 10 calendar days after the day on which the department makes the appeal decision described in Subsection (5), make an appeal in writing to the commission.

(b) If the merit system officer fails to make an internal appeal of the disciplinary action, the merit system officer may not appeal to the commission.

(8) The commission may hear appeals regarding demotion, reduction in pay, suspension, or discharge of a merit system officer for any cause provided in Subsection (1).

(9) (a) The commission shall:

(i) fix a time and place for a hearing on the appeal; and

(ii) give notice of the hearing to the parties.

(b) (i) Except as provided in Subsection (9)(b)(ii), the commission shall hold a hearing under this Subsection (9) no less than 10 and no more than 90 days after the day on which an appeal is filed.

(ii) The commission may hold a hearing more than 90 days after the day on which an appeal is filed if:

(A) the parties agree; or

(B) the commission finds that the delay is for good cause.

(c) (i) The commission shall hold the hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(ii) Notwithstanding Subsection (9)(c)(i), if the commission proposes to and is authorized to close the hearing to the public in accordance with Title 52, Chapter 4, Open and Public Meetings Act, the commission shall open the meeting to the public if the aggrieved merit system officer requests that the commission open the hearing.

(d) The parties may be represented by counsel at the hearing.

(10) The commission, on the commission's own motion or at the request of the appointing authority, may dismiss an appeal for unjustified delay, removal to a court or other venue, or for other good cause shown.

(11) In resolving an appeal, the commission may sustain, modify, or vacate a decision of the appointing authority.

(12) After the hearing described in Subsection (9), the commission shall publish a written decision, including findings of fact and conclusions of law, and shall notify each party.

(13) A person may appeal a final action or order of the commission to the Court of Appeals for review.

(a) A person shall file a notice of appeal within 30 days of the issuance of the final action or order of the commission.

(b) The Court of Appeals shall base the court's review on the record of the commission and for the purpose of determining if the commission has abused the commission's discretion or exceeded the commission's authority.

Section 64. Section 17-76-318, which is renumbered from Section 17-30a-314 is renumbered and amended to read:

[~~17-30a-314~~]17-76-318 (Effective 11/06/25). Prohibitions against political activities -- Penalties.

(1) (a) An officer, employee, or member of a governing body of a county or a police interlocal entity, whether elected or appointed, may not directly or indirectly coerce, command, or advise a merit system officer to pay, lend, or contribute part of the merit system officer's salary or compensation or anything else of value to a party, committee, organization, agency, or person for political purpose.

(b) A county or police interlocal entity officer, employee, or member of a governing body, whether elected or appointed, may not make or attempt to make a merit system officer's personnel status dependent upon the merit system officer's support or lack of support for a political party, committee, organization, agency, or person engaged in a political activity.

(2) Subsection (1) does not apply to political speeches or use of mass communications media for political purposes by [~~a person~~]an individual where a merit system officer is present, unless the purpose and intent of the speaker is to violate this section with direct respect to those merit system officers.

(3) (a) Except as provided in Subsection (3)(b), a merit system officer may not engage in a political activity or solicit political contributions from merit system officers during the hours of employment, or use employer resources at any time for political purposes.

(b) Subsection (3)(a) does not preclude a voluntary contribution by a merit system officer to the party or candidate of the merit system officer's choice.

Section 65. Section 17-76-401 is enacted to read:

PART 4. Provisions Unique to Law Enforcement Officers

17-76-401 (Effective 11/06/25). Definitions.

As used in this section:

(1) "Commission" means the same as that term is defined in Sections 17-76-201 and 17-76-301.

(2) "Nonexempt employee" means a county employee who is nonexempt under the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(3) "Overtime" means hours worked in excess of a nonexempt employee's work period.

(4) "Regular hourly rate" means the hourly rate of pay a nonexempt employee receives for hours worked during a work period.

(5) "Work period" means the maximum number of hours, within a specified number of consecutive days, that a nonexempt employee may work before the nonexempt employee is compensated for overtime.

Section 66. Section 17-76-402, which is renumbered from Section 17-33-11.7 is renumbered and amended to read:

[~~17-33-11.7~~]17-76-402 (Effective 11/06/25). Applicability -- Overtime for law enforcement personnel -- Exception.

[~~(1) As used in this section:~~]

[~~(a) "Nonexempt employee" means an county employee who is nonexempt under the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.~~]

[~~(b) "Overtime" means hours worked in excess of a nonexempt employee's work period.~~]

[~~(c) "Regular hourly rate" means the hourly rate of pay a nonexempt employee receives for hours worked during a work period.~~]

[~~(d) "Work period" means the maximum number of hours, within a specified number of consecutive days, that a nonexempt employee may work before the nonexempt employee is compensated for overtime.~~]

[~~(2)~~](1) This section does not apply to a county subject to [~~Chapter 30a, Peace Officer Merit System in Counties of the First Class Act~~]Part 3, Peace Officer Merit System in Counties of the First Class.

[~~(3)~~](2) The legislative body of a county that employs a nonexempt employee engaged in law enforcement activities may, except as otherwise required by a contract or a collective bargaining agreement, enact an ordinance or pass a resolution that:

(a) designates a work period for the nonexempt employee that is the same as, or equivalent to, a work period described in Subsection 63A-17-502(2); and

(b) compensates the nonexempt employee for overtime at a rate of one and one-half times the nonexempt employee's regular hourly rate.

Section 67. Section 17-76-403, which is renumbered from Section 17-30a-502 is renumbered and amended to read:

[~~17-30a-502~~]17-76-403 (Effective 11/06/25). Appointment of more than one deputy.

(1) The sheriff, with the consent of the commission and the county legislative body, may appoint more than one chief deputy, deputy chief, or undersheriff.

(2) In counties employing more than 100 full time uniformed peace officers, the appointing authority, with the consent of the merit commission and the county legislative body, may appoint more than one chief deputy or undersheriff.

Section 68. Section 17-76-501 is enacted to read:

PART 5. Firefighters' Civil Service Commission

17-76-501 (Effective 11/06/25). Definitions.

As used in this section:

(1) "Council" means a county fire civil service council created in accordance with Section 17-76-502.

(2) "Executive director" means a council fire civil service executive director appointed in accordance with Section 17-76-505.

Section 69. Section 17-76-502, which is renumbered from Section 17-28-1 is renumbered and amended to read:

[~~17-28-1~~]17-76-502 (Effective 11/06/25). County fire civil service councils created.

(1) There is created in each of the counties of this state having and maintaining a regularly organized fire department in which there are regularly employed four or more paid firefighters, a [~~County Fire Civil Service Council~~]county fire civil service council consisting of three members to be appointed by the county executive.

(2) Each member of the council shall serve for a term of three years except that the county executive shall appoint the original council members as follows:

(a) one member for a period of one year;

(b) one member for a period of two years; and

(c) one member for a period of three years.

Section 70. Section 17-76-503, which is renumbered from Section 17-28-2 is renumbered and amended to read:

[~~17-28-2~~]17-76-503 (Effective 11/06/25). Vacancies -- Compensation -- Removal from office.

(1) Any vacancy occurring on the [~~County Fire Civil Service Council~~]council shall be filled by appointment by the county executive for the unexpired term.

(2) A council member[~~ of the council~~] may not hold, during the term of the council member's office, any other public office or be a candidate for any other public office.

(3) (a) Each council member shall receive $50 for each meeting of the council attended by the council member.

(b) The county legislative body may raise the compensation of a council member as the county legislative body considers appropriate.

(c) The compensation and allowance described in Subsections (3)(a) and (b) shall be a charge against the county and paid monthly.

(4) (a) In case of misconduct, willful neglect, or an inability to perform the duties of the council member's office, a council member may be removed from office by the county legislative body upon a majority vote of the county legislative body.

(b) A county legislative body that moves to remove a council member from office under Subsection (4)(a) shall provide the council member with the opportunity to be heard in the council member's own defense.

Section 71. Section 17-76-504, which is renumbered from Section 17-28-3 is renumbered and amended to read:

[~~17-28-3~~]17-76-504 (Effective 11/06/25). Organization of fire civil service council.

(1) [~~The County Fire Civil Service Council~~]A council shall select one of [~~its~~]the council's members as chair.

(2) The county executive shall assign a qualified employee of the county to act as secretary to the council and a qualified attorney to act as legal counsel to the council, each of which shall be acceptable to the council and shall act and serve without additional compensation.

(3) The county executive shall provide suitable accommodations, equipment, and necessary funds to enable the council [~~of its county~~]to properly conduct [~~its~~]council business.

Section 72. Section 17-76-505, which is renumbered from Section 17-28-6 is renumbered and amended to read:

[~~17-28-6~~]17-76-505 (Effective 11/06/25). Duties of executive director -- Duties of secretary.

(1) (a) Within each county subject to this [~~chapter~~]part, there is created the office of executive director of [~~County Fire Civil Service~~]county fire civil service, who shall be appointed by the county executive.

(b) The executive director shall:

(i) be [~~a person~~]an individual with proven experience in personnel management; and

(ii) [~~shall~~]be accountable to the county executive for [~~his~~]the executive director's performance in office.

(c) The position of executive director shall be a merit position under [~~Title 17, Chapter 33, County Personnel Management Act~~]Chapter 75, General County Personnel Management, and shall be recruited and selected in the same manner as the holders of other career service merit positions, with the concurrence of the [~~County Fire Civil Service Council~~]council.

(2) [~~The County Fire Civil Service~~]An executive director shall:

(a) exercise, on behalf of the county, executive or administrative duties regarding the management and administration of the County Fire Civil Service System, including the management and administration of examinations, classification of duties, preparation of hiring registers, recommendations regarding civil service regulations and policies, and other duties provided in this [~~chapter~~]part;

(b) classify [~~persons~~]individuals successfully passing examinations in the order of [~~their~~]each individual's ascertained merit and prepare a list of [~~them~~]the individuals;

(c) make certification of classifications when required;

(d) make, publish, and distribute necessary rules relative to examinations, classifications, and certifications as may be proper and desirable in the administration of this [~~chapter~~]part;

(e) establish and maintain records of employees in the County Fire Civil Service System setting forth as to each employee class, title, pay, status, and other relevant data;

(f) make necessary and proper reports to the [~~County Fire Civil Service Council~~]council, the fire chief, or the county executive;

(g) apply and carry out [~~the provisions of~~]this [~~chapter~~]part and the policies and rules adopted under [~~it~~]this part; and

(h) perform other lawful acts that may be necessary or desirable to carry out the purposes of this [~~chapter~~]part.

(3) [~~The~~]An executive director shall appoint the members of and act as chair to a County Fire Civil Service Advisory Committee which shall assist the executive director in making recommendations to the county executive regarding County Fire Civil Service System rules and policies.

(4) A secretary of a council shall:

(a) keep a record of all council meetings, work, and official acts;

(b) have custody of the council's books and records; and

(c) perform other service as required by the council.

(5) Each executive director shall:

(a) each December, make an annual report to the county executive and the county legislative body; and

(b) make other reports as required by the county executive regarding the activities of the council and County Fire Civil Service System.

Section 73. Section 17-76-506, which is renumbered from Section 17-28-2.4 is renumbered and amended to read:

[~~17-28-2.4~~]17-76-506 (Effective 11/06/25). County Fire Civil Service System rules and policies.

(1) The executive director shall recommend[~~ rules and~~] policies for the County Fire Civil Service System, which shall be subject to approval by the county legislative body.

(2) The County Fire Civil Service System [~~rules~~]policies shall provide for recruiting activities, including the recruiting of minorities

and women, job-related minimum requirements, selection procedures, certification procedures, appointments, probationary periods, promotion, position classification, recordkeeping, reductions in force, grievances and complaints, disciplinary action, work hours, holidays, and other necessary and proper requirements not inconsistent with this [~~chapter~~]part.

(3) The executive director shall publish or cause to be published [~~these rules and~~]policies made or adopted under this section in a manual form, to be updated regularly and made available to fire department employees.

(4) The County Fire Civil Service System shall be established and administered in a manner that will provide for the effective implementation of the following merit principles:

(a) recruiting, selecting, and advancing employees on the basis of the employee's relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(b) provision of equitable and adequate job classification and compensation systems, including pay and benefits programs;

(c) training of employees as needed to assure high-quality performance;

(d) retention of employees on the basis of the adequacy of the employee's performance and separation of employees whose inadequate performance cannot be corrected;

(e) fair treatment of applicants and employees in all aspects of personal administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for their privacy and constitutional rights as citizens;

(f) provision of information to employees regarding the employee's political rights and prohibited practices under the Hatch Act; and

(g) provision of a formal procedure for processing the appeals and grievances of employees without discrimination, coercion, restraint, or reprisal.

Section 74. Section 17-76-507, which is renumbered from Section 17-28-5 is renumbered and amended to read:

[~~17-28-5~~]17-76-507 (Effective 11/06/25). Appointment of county fire department personnel -- Volunteers.

(1) (a) Except for the chief and deputy chief of a county fire department, all firefighter positions in county fire departments shall be filled by [~~persons~~]individuals appointed from a certified county fire civil service register.

(b) County fire civil service registers for employment and promotion shall be prepared by the [~~County Fire Civil Service~~]executive director according to the requirements of this [~~chapter~~]part and civil service [~~rules~~]policies.

(2) (a) The chief and the deputy chief of any county fire department may be appointed from either the certified county fire civil service register or from qualified applicants outside of the county civil service system.

(b) The positions of chief and deputy chief are exempt from civil service status.

(c) A chief or deputy chief who is appointed from the certified county fire civil service register shall be returned to the civil service status that [~~he~~]the individual held before [~~his~~]the individual's appointment after [~~his~~]the individual's appointment expires or terminates.

(3) (a) All [~~persons~~]individuals employed as firefighters, emergency medical technicians, or a combination of firefighter and emergency medical technician[~~,~~]:

(i) [~~shall be~~]are subject to [~~the provisions of~~]this [~~chapter~~]part; and

(ii) shall be members of the County Fire Civil Service System.

(b) Other fire department employees who do not provide firefighter services are not considered subject to this [~~chapter~~]part and [~~shall be covered by the countywide~~]are subject to the merit system described in Chapter 75, General County Personnel Management.

(4) (a) A volunteer firefighter or paid-call firefighter is not subject to this [~~chapter~~]part and is not a merit employee subject to the County Fire Civil Service System.

(b) (i) Except as provided in Subsection (4)(b)(ii), a volunteer or paid-call firefighter may not work more than 1,040 hours per calendar year.

(ii) Notwithstanding Subsection (4)(b)(i), a wildland firefighter may work more than 1,040 hours per calendar year if approved by the county legislative body.

(iii) For purposes of this Subsection (4)(b), "wildland firefighter" means a seasonally employed firefighter who does not receive the same employment benefits as a full-time employee and who is hired to suppress wildland fires in areas outside of inhabited, urban areas.

Section 75. Section 17-76-508, which is renumbered from Section 17-28-7 is renumbered and amended to read:

[~~17-28-7~~]17-76-508 (Effective 11/06/25). Examinations.

(1) (a) [~~A person~~]An individual may not be appointed to any civil service position as a firefighter in any fire department subject to the provisions of this [~~chapter~~]part until [~~he~~]the firefighter has successfully passed an examination and been certified as eligible for consideration by the [~~County Fire Civil Service~~]executive director[~~, except that any~~].

(b) Any honorably discharged veteran of the United States military service shall receive preferential employment consideration for entry into the County Fire Civil Service System.

(2) All examinations shall be public, competitive, and free and fairly test the ability of [~~persons~~]applicants to discharge the duties of the position.

Section 76. Section 17-76-509, which is renumbered from Section 17-28-8 is renumbered and amended to read:

[~~17-28-8~~]17-76-509 (Effective 11/06/25). Eligible appointees -- Certification of eligible appointees -- Probationary period.

(1) The fire chief of each fire department of counties subject to the provisions of this [~~chapter~~]part shall, subject to the [~~rules~~]policies of the [~~County Fire Civil Service Council~~]council, appoint from the certified county fire civil service register, all [~~persons~~]individuals necessary to fill all firefighter civil service positions in the county fire department.

(2) (a) The fire chief of each county fire department shall notify the executive director of all positions to be filled in the department when the need arises.

(b) After receiving the notice described in Subsection (2)(a), the executive director shall, as soon as possible, certify from the certified county fire civil service register to the head of the fire department the appropriate number of persons, consistent with adopted rules.

(3) Appointments from the certified register shall be placed on probation under conditions and for a period as prescribed by council rules.

Section 77. Section 17-76-510, which is renumbered from Section 17-28-10 is renumbered and amended to read:

[~~17-28-10~~]17-76-510 (Effective 11/06/25). Vacancies in civil service positions.

Any vacancy occurring in any county fire civil service position in any county fire department subject to this [~~chapter~~]part shall be filled

by an employee of the department having a lesser, equal, or superior position than that in which the vacancy occurs if that employee submits [~~himself~~]to examination for the position, is found qualified, and is certified by the [~~County Fire Civil Service~~]executive director as provided in this [~~chapter~~]part.

Section 78. Section 17-76-511, which is renumbered from Section 17-28-11 is renumbered and amended to read:

[~~17-28-11~~]17-76-511 (Effective 11/06/25). Temporary work -- Term or period.

(1) Subject to Subsection (2), the head of any county fire department coming within the provisions of this [~~act~~]part may, with the advice and consent of the county legislative body, appoint to any position or place of employment in the fire department, any [~~person~~]individual for temporary work without making the appointment from the certified civil service list.

(2) An appointment described in Subsection (1) may not be longer than one month in the aggregate in the same calendar year.

Section 79. Section 17-76-512, which is renumbered from Section 17-28-12 is renumbered and amended to read:

[~~17-28-12~~]17-76-512 (Effective 11/06/25). Removal from office and disciplinary action -- Appeals -- Hearing and determination -- Findings -- Appeal to district court.

(1) [~~Any person~~]An individual holding a position under this [~~chapter~~]part may be removed from office or employment, reduced in rank or grade, or otherwise disciplined by the fire chief for:

(a) misconduct[~~,~~];

(b) incompetency[~~,~~];

(c) failure to perform [~~the duties of his~~]employment duties;

(d) [~~or~~]failure to properly observe the rules of the office or department in which [~~he~~]the individual is employed[~~,~~]; or

(e) for other cause, as set out in [~~County Fire Civil Service Council rules~~]council policies.

(2) (a) Any [~~such~~]disciplinary action described in Subsection (1) is subject to appeal in all cases by the aggrieved party to the [~~County Fire Civil Service Council~~]council in the manner established by rule.

(b) After an appeal described in Subsection (2)(a) is filed the council shall, as soon as practicable, hear and determine the matter.

(3) (a) If [~~it~~]the council determines that it is in the best interest of the county, the county legislative body may appoint an administrative law judge, trained and experienced in personnel matters, to initially hear the matter.

(b) Upon hearing, the administrative law judge shall make findings of fact and a recommendation to the council.

(c) The council may:

(i) adopt or reject the recommendation of the administrative law judge; or

(ii) request that the administrative law judge hold further factual hearings prior to the council's decision.

(4) The council may then affirm, modify, vacate, or set aside the order for disciplinary action.

(5) The aggrieved party shall, upon demand, be granted a public hearing, at which [~~he~~]the aggrieved party may appear in person or by counsel or both.

(6) (a) After the hearing, the findings and determination of the [~~County Fire Civil Service Council~~]council shall be certified to the head of the county fire department from whose order the appeal is taken.

(b) Notice in writing of the determination of the council shall be served upon the [~~person~~]individual affected.

(7) The council determination shall be enforced and followed by the head of the fire department until an appeal is taken to the district court by any affected [~~person~~]individual.

(8) (a) An individual aggrieved by a determination of the council described in Subsection (6) may, within 30 days after notice of the council's determination, file an action in the district court of the county or in the county of the aggrieved individual's residence, against the council in the council's official capacity, setting out the individual's grievance and right to complain.

(b) In the council's answer to the complaint described in Subsection (8)(a), the council may set out any matter in justification.

(9) The court shall determine the issues of both questions of law and fact and may affirm, set aside, or modify the council ruling.

Section 80. Section 17-77-101, which is renumbered from Section 17-43-102 is renumbered and amended to read:

CHAPTER 77. Local Health and Human Service

PART 1. General Provisions

[~~17-43-102~~]17-77-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Assisted outpatient treatment" means the same as that term is defined in Section 26B-5-301.

(2) "Crisis worker" means the same as that term is defined in Section 26B-5-610.

(3) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

[~~(2)~~](4) "Division" means the Division of Integrated Healthcare within the department.

[~~(3)~~](5) "First responder" means:

(a) a law enforcement officer, as that term is defined in Section 53-13-103;

(b) emergency medical service personnel, as that term is defined in Section 53-2d-101;

(c) an emergency medical technician, as that term is defined in Section 53-2e-101;

(d) an advanced emergency medical technician, as that term is defined in Section 53-2e-101;

(e) a firefighter, as that term is defined in Section 53B-8c-102;

(f) a dispatcher, as that term is defined in Section 53-6-102; or

(g) a mobile outreach social worker.

(6) "Local mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(7) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(8) "Public funds":

(a) means:

(i) federal money received from the department;

(ii) state money appropriated by the Legislature to the department, a county governing body, or a local substance abuse authority for the purposes of providing substance abuse programs or services; and

(iii) state money appropriated by the Legislature to the department, a county governing body, or a local mental health authority for the purposes of providing mental health programs or services; and

(b) includes federal and state money described in Subsection (8)(a):

(i) even after the money has been transferred by:

(A) a local substance abuse authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for the local substance abuse authority; or

(B) a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for the local mental health authority; and

(ii) while in the possession of the private provider.

(9) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

Section 81. Section 17-77-102, which is renumbered from Section 17-50-313 is renumbered and amended to read:

[~~17-50-313~~]17-77-102 (Effective 11/06/25). Provisions for general health -- Creation of local health department.

Each county shall:

(1) make provisions for the preservation of health in the county and pay the related expenses; and

(2) create a local health department as provided in Title 26A, Chapter 1, Part 1, Local Health Department Act.

Section 82. Section 17-77-103, which is renumbered from Section 17-50-318 is renumbered and amended to read:

[~~17-50-318~~]17-77-103 (Effective 11/06/25). Mental health and substance use services.

Each county shall provide mental health and substance use services in accordance with Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Section 83. Section 17-77-201, which is renumbered from Section 17-43-201 is renumbered and amended to read:

PART 2. Local Substance Abuse Authorities

[~~17-43-201~~]17-77-201 (Effective 11/06/25). Local substance abuse authorities -- Responsibilities.

(1) (a) (i) In each county other than a county described in Subsection (1)(a)(ii) or (iii), the county legislative body is the local substance abuse authority.

(ii) In each county operating under a county executive-council form of government under Section [~~17-52a-203~~]17-62-203, the county legislative body is the local substance abuse authority, [~~provided however~~]except that the county executive administers any contract for plan services[~~, shall be administered by the county executive~~].

[~~(ii)~~](iii) In each county operating under a council-manager form of government under Section [~~17-52a-204~~]17-62-204, the county manager is the local substance abuse authority.

[~~(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local substance abuse authority.~~]

(b) Within legislative appropriations and county matching funds required by this section, and under the direction of the division, each local substance abuse authority shall:

(i) develop substance use prevention and treatment services plans;

(ii) provide substance use services to residents of the county; and

(iii) cooperate with the division's efforts[~~, of the division~~] to promote integrated programs that address an individual's substance use, mental health, and physical healthcare needs, as described in Section 26B-5-102.

(c) Within legislative appropriations and county matching funds required by this section, each local substance abuse authority shall cooperate with the department's efforts[~~, of the department~~] to promote a system of care, as defined in Section 26B-5-101, for minors with or at risk for complex emotional and behavioral needs, as described in Section 26B-5-101.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide substance use prevention and treatment services; or

(ii) create a united local health department that provides substance use treatment services, mental health services, and local health department services in accordance with Subsection (3).

(b) The legislative bodies of counties joining to provide services may establish [~~acceptable~~]ways of apportioning the cost of substance use services.

(c) Each agreement for joint substance use services shall:

(i) (A) designate the county treasurer of one of the participating counties, or another [~~person~~]individual as the treasurer, for the combined substance abuse authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined substance abuse authorities;

(iii) (A) provide for the appointment of the county attorney or district attorney of one of the participating counties as the designated legal officer for the combined substance abuse authorities; and

(B) authorize the[~~, designated~~] legal officer designated under Subsection (2)(c)(iii)(A) to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined substance abuse authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint substance use services may provide for:

(i) joint operation of services and facilities; or

(ii) [~~for~~]operation of services and facilities under contract by one participating local substance abuse authority for other participating local substance abuse authorities.

(3) (a) A county governing body may elect to combine the local substance abuse authority with:

(i) the local mental health authority created in Part 3, Local Mental Health Authorities[~~, and~~]; or

(ii) the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act[~~, to create a united local health department under Section 26A-1-105.5~~].

(b) A local substance abuse authority that joins a united local health department shall comply with this part.

(4) (a) Each local substance abuse authority is accountable to the department and the state with regard to the use of state and federal funds received from [~~those departments~~]the department for substance use services, regardless of whether the services are provided by a private contract provider.

(b) (i) Each local substance abuse authority shall comply, and require compliance by [~~its~~]the local substance abuse authority's contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from [~~those departments~~]the department for the purpose of providing substance use programs and services.

(ii) The department shall:

(A) ensure that [~~those~~]directives issued by the department described in Subsection (4)(b)(i) are not duplicative or conflicting[~~,~~]; and

(B) [~~shall~~]consult and coordinate with local substance abuse authorities with regard to programs and services.

(5) Each local substance abuse authority shall:

(a) review and evaluate substance use prevention and treatment needs and services, including substance use needs and services for [~~individuals~~]an individual incarcerated in a county jail or other county correctional facility;

(b) annually prepare and submit to the division a plan approved by the county legislative body for funding and service delivery that includes:

(i) provisions for services, either directly by the substance abuse authority or by contract, for adults, youth, and children, including those incarcerated in a county jail or other county correctional facility;

(ii) primary prevention, targeted prevention, early intervention, and treatment services; and

(iii) in a form and format usable by a first responder, an inclusive list of providers of substance use services available for individuals within the local substance abuse authority's jurisdiction;

(c) establish and maintain, either directly or by contract, programs licensed under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(d) appoint directly or by contract a full or part time director for substance use programs, and prescribe the director's duties;

(e) provide input and comment on new and revised rules established by the division;

(f) establish and require contract providers to establish administrative, clinical, procurement, personnel, financial, and management policies regarding substance use services and facilities, in accordance with the rules of the division, and state and federal law;

(g) establish mechanisms allowing for direct citizen input;

(h) annually contract with the division to provide substance use programs and services in accordance with the provisions of Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(i) comply with all applicable state and federal:

(i) statutes[~~,~~];

(ii) policies[~~,~~];

(iii) audit requirements[~~,~~];

(iv) contract requirements[~~,~~]; and

(v) any directives resulting from those audits and contract requirements;

(j) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;

(k) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(l) comply with the requirements and procedures of:

(i) Title 11, Chapter 13, Interlocal Cooperation Act[~~,~~];

(ii) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts[~~,~~]; and

(iii) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(m) for persons convicted of driving under the influence in violation of Section 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

(i) a screening;

(ii) an assessment;

(iii) an educational series; and

(iv) substance abuse treatment; and

(n) utilize proceeds of the accounts described in Subsection 26B-5-209(1) to supplement the cost of providing the services described in Subsection (5)(m).

(6) Before disbursing any public funds, each local substance abuse authority shall require that each entity that receives any public funds from the local substance abuse authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the local substance abuse authority shall be subject to examination by:

(i) the division;

(ii) the local substance abuse authority director;

(iii) (A) the county treasurer and county attorney or district attorney; or

(B) if two or more counties jointly provide substance use services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local substance abuse authority; and

(c) the entity will comply with the provisions of Subsection (4)(b).

(7) (a) A local substance abuse authority may receive for substance abuse services:

(i) property[~~,~~];

(ii) grants[~~,~~];

(iii) gifts[~~,~~];

(iv) supplies[~~,~~];

(v) materials[~~,~~];

(vi) contributions[~~,~~]; and

(vii) any benefit derived [~~therefrom, for substance abuse services~~]from the items described in Subsections (7)(a)(i) through (vi).

(b) If [~~those gifts~~]an item described in Subsections (7)(a)(i) through (vi) are conditioned upon [~~their~~]the item's use for a specified service or program, [~~they~~]the item shall be so used.

(8) [~~(a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-203.~~]

[~~(b)~~] Public funds received for the provision of services [~~pursuant to~~]in accordance with the local substance abuse plan may not be used for any other purpose except those authorized in the contract between the local substance abuse authority and the provider for the provision of plan services.

(9) Subject to the requirements of the federal Substance Abuse Prevention and Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure that all substance use treatment programs that receive public funds:

(a) accept and provide priority for admission to a pregnant woman or a pregnant minor; and

(b) if admission of a pregnant woman or a pregnant minor is not possible within 24 hours of the time that a request for admission is made, provide a comprehensive referral for interim services that:

(i) are accessible to the pregnant woman or pregnant minor;

(ii) are best suited to provide services to the pregnant woman or pregnant minor;

(iii) may include:

(A) counseling;

(B) case management; or

(C) a support group; and

(iv) shall include a referral for:

(A) prenatal care; and

(B) counseling on the effects of alcohol and drug use during pregnancy.

(10) If a substance use treatment program described in Subsection (9) is not able to accept and admit a pregnant woman or pregnant minor under Subsection (9) within 48 hours of the time that request for admission is made, the local substance abuse authority shall contact the Division of Integrated Healthcare for assistance in providing services to the pregnant woman or pregnant minor.

Section 84. Section 17-77-202, which is renumbered from Section 17-43-202 is renumbered and amended to read:

[~~17-43-202~~]17-77-202 (Effective 11/06/25). Requirements for distributing public funds.

(1) Each local substance abuse authority shall award all public funds in accordance with this section and in compliance with:

(a) the requirements of Title 63G, Chapter 6a, Utah Procurement Code; or

(b) a county procurement ordinance [~~that requires similar procurement practices~~]adopted under Section 17-63-506.

(2) (a) If all initial bids on the project are rejected, the local substance abuse authority shall publish a new invitation to bid.

(b) If no satisfactory bid is received by the local substance abuse authority when the bids received from the second invitation are opened, the local substance abuse authority may execute a contract without requiring competitive bidding.

(3) A local substance abuse authority [~~need not~~]is not required to comply with the procurement provisions of this section when [~~it~~]the local substance abuse authority disburses public funds to:

(a) another political subdivision of the state; or

(b) an institution of higher education of the state.

(4) (a) Each contract awarded by a local substance abuse authority shall be for a fixed amount and limited period.

(b) A local substance abuse authority may modify a contract[~~, may be modified~~] due to changes in available funding for the same contract purpose without competition.

Section 85. Section 17-77-203, which is renumbered from Section 17-43-203 is renumbered and amended to read:

[~~17-43-203~~]17-77-203 (Effective 11/06/25). Use and oversight of public funds.

[~~(1) As used in this section, "public funds":~~]

[~~(a) means:~~]

[~~(i) federal money received from the Department of Health and Human Services; and~~]

[~~(ii) state money appropriated by the Legislature to the Department of Health and Human Services, a county governing body, or a local substance abuse authority for the purposes of providing substance abuse programs or services; and~~]

[~~(b) includes that federal and state money:~~]

[~~(i) even after the money has been transferred by a local substance abuse authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for the local substance abuse authority; and~~]

[~~(ii) while in the possession of the private provider.~~]

[~~(2)~~](1) (a) Each local substance abuse authority is responsible for [~~oversight of~~]overseeing all public funds [~~received by it~~]the local substance abuse authority receives, to determine that [~~those~~] public funds are utilized in accordance with:

(i) federal and state law[~~,~~];

(ii) the rules and policies of the [~~Department of Health and Human Services,~~]department; and

(iii) [~~the provisions of~~]any contract between the local substance abuse authority and the [~~Department of Health and Human Services~~]department or a private provider.

(b) [~~That~~]Local substance abuse authority oversight includes requiring that neither [~~the contract provider, as described in Subsection (1)~~]a private provider that contracts with the local substance abuse authority to provide comprehensive substance abuse programs or services for the local substance abuse authority, nor any of [~~its~~]the private provider's employees:

[~~(a)~~](i) violate any applicable federal or state criminal law;

[~~(b)~~](ii) knowingly violate:

(A) any applicable department rule or policy [~~of the Department of Health and Human Services, or knowingly violate~~];or

(B) any provision of a contract between the local substance abuse authority and the [~~Department of Health and Human Services~~]department or the private provider;

[~~(c)~~](iii) knowingly:

(A) keep any false account; or

(B) make any false entry or erasure in any account of or relating to the public funds;

[~~(d)~~](iv) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating to public funds;

[~~(e)~~](v) fail to ensure competent oversight for lawful disbursement of public funds;

[~~(f)~~](vi) appropriate public funds for an unlawful use or for a use that [~~is not in compliance~~]does not comply with contract provisions; or

[~~(g)~~](vii) knowingly or intentionally use public funds:

(A) unlawfully[~~, or~~];

(B) in violation of a governmental contract provision[~~,~~]; or

(C) in violation of state policy.

[~~(3)~~](2) [~~Each~~]A local substance abuse authority that knows or reasonably should know of any of the circumstances described in Subsection [~~(2)~~](1), and that fails or refuses to take timely corrective action in good faith shall, in addition to any other penalties provided by law, be required to make full and complete repayment to the state of all public funds improperly used or expended.

[~~(4)~~](3) Any public funds required to be repaid to the state by a local substance abuse authority under Subsection [~~(3)~~](2), based upon the actions or failure of the contract provider, may be recovered by the local substance abuse authority from [~~its~~]the contract provider, in addition to the local substance abuse authority's costs and [~~attorney's~~]attorney fees.

Section 86. Section 17-77-204, which is renumbered from Section 17-43-204 is renumbered and amended to read:

[~~17-43-204~~]17-77-204 (Effective 11/06/25). Fees for substance abuse services -- Responsibility for cost of service to nonresident -- Funds from other sources.

(1) Each local substance abuse authority shall charge a fee for substance use services, except that substance use services may not be refused to any [~~person~~]individual because of inability to pay.

(2) If a local substance abuse authority, through [~~its~~]a designated provider, provides a service described in [~~Subsection 17-43-201(5)~~]Section 17-77-201 to [~~a person~~]an individual who resides within the jurisdiction of another local substance abuse authority, the local substance abuse authority in whose jurisdiction the [~~person~~]individual resides is responsible for the cost of that service if [~~its~~]that local substance abuse authority's designated provider has authorized the provision of [~~that~~]the service.

(3) A local substance abuse authority, and entities that contract with a local substance abuse authority to provide substance use services, may receive funds made available by federal, state, or local health, substance use, mental health, education, welfare, or other agencies, in accordance with the provisions of this part and Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Section 87. Section 17-77-205, which is renumbered from Section 17-43-205 is renumbered and amended to read:

[~~17-43-205~~]17-77-205 (Effective 11/06/25). Registration as a limited purpose entity.

(1) Each local substance abuse authority shall register and maintain the local substance abuse authority's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(2) A local substance abuse authority that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 88. Section 17-77-301, which is renumbered from Section 17-43-301 is renumbered and amended to read:

PART 3. Local Mental Health Authorities

[~~17-43-301~~]17-77-301 (Effective 11/06/25). Local mental health authorities -- Responsibilities.

[~~(1) As used in this section:~~]

[~~(a) "Assisted outpatient treatment" means the same as that term is defined in Section 26B-5-301.~~]

[~~(b) "Crisis worker" means the same as that term is defined in Section 26B-5-610.~~]

[~~(c) "Local mental health crisis line" means the same as that term is defined in Section 26B-5-610.~~]

[~~(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.~~]

[~~(c) "Public funds" means the same as that term is defined in Section 17-43-303.~~]

[~~(f) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.~~]

[~~(2)~~](1) (a) (i) In each county other than a county described in Subsection (1)(a)(ii) or (iii), the county legislative body is the local mental health authority.

(ii) In each county operating under a county executive-council form of government under Section [~~17-52a-203~~]17-62-203, the county legislative body is the local mental health authority, [~~provided however~~]except that the county executive administers any contract for plan services[~~, shall be administered by the county executive~~].

[~~(ii)~~](iii) In each county operating under a council-manager form of government under Section [~~17-52a-204~~]17-62-204, the county manager is the local mental health authority.

[~~(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.~~]

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to individuals within the county; and

(ii) cooperate with the division's efforts[~~, of the division~~] to promote integrated programs that address an individual's substance use, mental health, and physical healthcare needs, as described in Section 26B-5-102.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the department's efforts[~~, of the department~~] to promote a system of care, as defined in Section 26B-5-101, for minors with or at risk for complex emotional and behavioral needs, as described in Section 26B-5-101.

[~~(3)~~](2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance use treatment services, mental health services, and local health department services in accordance with Subsection [~~(4)~~](3).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the county treasurer of one of the participating counties or another [~~person~~]individual as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated county treasurer, or other disbursing officer authorized by the designated county treasurer, may make payments from the money available for the joint services upon audit of the appropriate [~~auditing officer or officers~~]county auditor representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county attorney or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

[~~(4)~~](3) (a) A county governing body may elect to combine the local mental health authority with:

(i) the local substance abuse authority created in Part 2, Local Substance Abuse Authorities[~~, and~~]; or

(ii) the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act[~~, to create a united local health department under Section 26A-1-105.5~~].

(b) A local mental health authority that joins with a united local health department shall comply with this part.

[~~(5)~~](4) (a) Each local mental health authority is accountable to the department and the state with regard to the use of state and federal funds received from [~~those departments~~]the department for mental health services, regardless of whether the services are provided by a private contract provider.

(b) (i) Each local mental health authority shall comply, and require compliance by [~~its~~]the local mental health authority's contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from [~~those departments~~]the department for the purpose of providing mental health programs and services.

(ii) The department shall:

(A) ensure that [~~those~~]directives issued by the department described in Subsection (4)(b)(i) are not duplicative or conflicting[~~,~~]; and

(B) [~~shall~~]consult and coordinate with local mental health authorities with regard to programs and services.

[~~(6)~~](5) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for:

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section 26B-5-351;

(ii) in accordance with Subsections [~~(6)(b)~~](5)(b) and (c), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(ix) comply with all applicable state and federal:

(A) statutes[~~,~~];

(B) policies[~~,~~];

(C) audit requirements[~~,~~];

(D) contract requirements[~~,~~]; and

(E) any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of:

(A) Title 11, Chapter 13, Interlocal Cooperation Act[~~,~~];

(B) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts[~~,~~]; and

(C) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18; and

(xiii) cooperate with the Department of Corrections to complete the requirements described in [~~Subsection 64-13-21(8)~~]Section 64-14-204.

(b) Each plan under Subsection [~~(6)(a)(ii)~~](5)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including:

(A) in-home services[~~,~~];

(B) housing[~~,~~];

(C) family support services[~~,~~]; and

(D) respite services;

(ix) consultation and education services, including:

(A) case consultation[~~,~~]; and

(B) collaboration with other county service agencies, public education, and public information;

(x) services to [~~individuals~~]an individual incarcerated in a county jail or other county correctional facility; and

(xi) services to [~~individuals~~]an individual described in Subsection [~~64-13-21(8)(a)~~]64-14-204(8)(a).

(c) Each plan under Subsection [~~(6)(a)(ii)~~](5)(a)(ii) shall include, in a form and format usable by a first responder, an inclusive list of providers of mental health services for individuals within the local mental health authority's jurisdiction.

[~~(7)~~](6) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection [~~(6)(b)(iv)~~](5)(b)(iv), the local mental health authority shall:

(i) collaborate with the statewide mental health crisis line described in Section 26B-5-610;

(ii) ensure that each individual who answers calls to the local mental health crisis line:

(A) is a mental health therapist or a crisis worker; and

(B) meets the standards of care and practice established by the Division of Integrated Healthcare, in accordance with Section 26B-5-610; and

(iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:

(A) waiting on hold; or

(B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection [~~(6)(b)(iv)~~](5)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

[~~(8)~~](7) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection [~~(3)~~](2), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection [~~(5)(b)~~](4)(b).

[~~(9)~~](8) (a) A local mental health authority may receive for mental health services:

(i) property[~~,~~];

(ii) grants[~~,~~];

(iii) gifts[~~,~~];

(iv) supplies[~~,~~];

(v) materials[~~,~~];

(vi) contributions[~~,~~]; and

(vii) any benefit derived [~~therefrom, for mental health services~~]from the items described in Subsections (8)(a)(i) through (vi).

(b) If [~~those gifts~~]the items described in Subsections (8)(a)(i) through (vi) are conditioned upon their use for a specified service or program, they shall be so used.

[~~(10)~~](9) Public funds received for the provision of services [~~pursuant to~~]in accordance with the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

[~~(11)~~](10) A local mental health authority shall:

(a) provide assisted outpatient treatment services to a resident of the county who has been ordered under Section 26B-5-351 to receive assisted outpatient treatment; and

(b) to the extent feasible, coordinate with the Department of Corrections to ensure the continuity of mental health services for county residents who are on probation or parole.

Section 89. Section 17-77-302, which is renumbered from Section 17-43-302 is renumbered and amended to read:

[~~17-43-302~~]17-77-302 (Effective 11/06/25). Requirements for distributing public funds.

(1) Each local mental health authority shall award all public funds [~~by complying~~]in accordance with this section and in compliance with:

(a) the requirements of Title 63G, Chapter 6a, Utah Procurement Code[~~,~~]; or

(b) [~~by complying with~~]a county procurement ordinance [~~which requires similar procurement practices~~]adopted under Section 17-63-506.

(2) (a) If the local mental health authority rejects all initial bids on the project [~~are rejected~~], the local mental health authority shall publish a new invitation to bid in the manner specified in this section.

(b) If [~~no~~]the local mental health authority does not receive a satisfactory bid[~~is received by the authority~~] when the bids received from the second invitation are opened, the local mental health authority may execute a contract without requiring competitive bidding.

(3) The local mental health authority [~~need not~~]is not required to comply with the procurement provisions of this section when [~~it~~]the local mental health authority disburses public funds to:

(a) another political subdivision of the state; or

(b) an institution of higher education of the state.

(4) (a) Each contract awarded by a local mental health authority shall be for a fixed amount and limited period.

(b) A contract may be modified due to changes in available funding for the same contract purpose without competition.

Section 90. Section 17-77-303, which is renumbered from Section 17-43-303 is renumbered and amended to read:

[~~17-43-303~~]17-77-303 (Effective 11/06/25). Use and oversight of public funds.

[~~(1) As used in this section, "public funds":~~]

[~~(a) means:~~]

[~~(i) federal money received from the department or the Department of Health and Human Services; and~~]

[~~(ii) state money appropriated by the Legislature to the department, the Department of Health and Human Services, a county governing body, or a local mental health authority for the purposes of providing mental health programs or services; and~~]

[~~(b) includes that federal and state money:~~]

[~~(i) even after the money has been transferred by a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for the local mental health authority; and~~]

[~~(ii) while in the possession of the private provider.~~]

[~~(2)~~](1) (a) Each local mental health authority is responsible for [~~oversight of~~]overseeing all public funds [~~received by it~~]the local mental health authority receives, to determine that those public funds are utilized in accordance with:

(i) federal and state law[~~,~~];

(ii) the rules and policies of the department [~~and the Department of Health and Human Services,~~]; and

(iii) [~~the provisions of~~]any contract between the local mental health authority and the department[~~, the Department of Health and Human Services,~~] or a private provider.

(b) [~~That~~]The local mental health authority oversight includes requiring that neither [~~the contract provider, as described in Subsection (1)~~]a private provider that contracts with the local mental health authority to provide comprehensive mental health programs or services for the local mental health authority, nor any of [~~its~~]the private provider's employees:

[~~(a)~~](i) violate any applicable federal or state criminal law;

[~~(b)~~](ii) knowingly violate:

(A) any applicable department rule or policy[~~ of the department or Department of Health and Human Services,~~]; or

(B) any provision of contract between the local mental health authority and the department[~~, the Department of Health and Human Services,~~] or the private provider;

[~~(c)~~](iii) knowingly keep any false account or make any false entry or erasure in any account of or relating to the public funds;

[~~(d)~~](iv) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating to public funds;

[~~(e)~~](v) fail to ensure competent oversight for lawful disbursement of public funds;

[~~(f)~~](vi) appropriate public funds for an unlawful use or for a use that is not in compliance with contract provisions; or

[~~(g)~~](vii) knowingly or intentionally use public funds:

(A) unlawfully[~~ or~~];

(B) in violation of a governmental contract provision[~~,~~]; or

(C) in violation of state policy.

[~~(3)~~](2) A local mental health authority that knew or reasonably should have known of any of the circumstances described in Subsection [~~(2)~~](1), and that fails or refuses to take timely corrective action in good faith shall, in addition to any other penalties provided by law, be required to make full and complete repayment to the state of all public funds improperly used or expended.

[~~(4)~~](3) Any public funds required to be repaid to the state by a local mental health authority [~~pursuant to~~]in accordance with Subsection [~~(3)~~](2), based upon the actions or failure of the contract provider, may be recovered by the local mental health authority from its contract provider, in addition to the local mental health authority's costs and attorney fees.

Section 91. Section 17-77-304, which is renumbered from Section 17-43-304 is renumbered and amended to read:

[~~17-43-304~~]17-77-304 (Effective 11/06/25). Contracts for mental health services provided by local mental health authorities.

If a local mental health authority has established a plan to provide services authorized by this part, and those services meet standards fixed by rules of the division, the local mental health authority may enter into a contract with the division for [~~those~~]mental health services to be furnished by that local mental health authority for an agreed compensation to be paid by the division.

Section 92. Section 17-77-305, which is renumbered from Section 17-43-306 is renumbered and amended to read:

[~~17-43-306~~]17-77-305 (Effective 11/06/25). Fees for mental health services -- Responsibility for cost of services to nonresident -- Authority may receive funds from other sources.

(1) Each local mental health authority shall charge a fee for mental health services, except that mental health services may not be refused to any [~~person~~]individual because of inability to pay.

(2) If a local mental health authority, through [~~its~~]a designated provider, provides a service described in Section [~~17-43-301~~]17-77-301 to [~~a person~~]an individual who resides within the jurisdiction of another local mental health authority, the local mental health authority in whose jurisdiction the [~~person~~]individual resides is responsible for the cost of that service if [~~its~~]that local mental health authority's designated provider has authorized the provision of [~~that~~]the service.

(3) A local mental health authority, and entities that contract with a local mental health authority to provide mental health services, may receive funds made available by federal, state, or local health, substance use, mental health, education, welfare, or other agencies, in accordance with the provisions of this part and Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Section 93. Section 17-77-306, which is renumbered from Section 17-43-308 is renumbered and amended to read:

[~~17-43-308~~]17-77-306 (Effective 11/06/25). Specified treatments prohibited -- Criminal penalties.

(1) It is a class B misdemeanor to give shock treatment, lobotomy, or surgery to anyone without the written consent of the [~~person's~~]individual's next of kin or legal guardian. [~~Services provided under this part are governed by Title 58, Chapter 67, Utah Medical Practice Act.~~]

(2) It is a felony to give psychiatric treatment, nonvocational mental health counseling, case-finding testing, psychoanalysis, drugs, shock treatment, lobotomy, or surgery to any individual for the purpose of changing his concept of, belief about, or faith in God.

(3) Services provided under this part are governed by Title 58, Chapter 67, Utah Medical Practice Act.

Section 94. Section 17-77-307, which is renumbered from Section 17-43-309 is renumbered and amended to read:

[~~17-43-309~~]17-77-307 (Effective 11/06/25). Local mental health advisory councils -- Powers and responsibilities.

(1) A county legislative body may, separately or in conjunction with one or more other counties, establish a local mental health advisory council.

(2) If a county legislative body establishes a local mental health advisory council, the local mental health advisory council shall comply with this section.

(3) (a) [~~Mental~~]Local mental health advisory council members shall be appointed by their respective county legislative bodies.

(b) [~~Initially one-fourth~~]Initial appointment of the members of the local mental health advisory council shall be [~~appointed~~]:

(i) one-fourth for one year[~~,~~];

(ii) one-fourth for two years[~~,~~];

(iii) one-fourth for three years[~~,~~]; and

(iv) one-fourth for four years.

(c) (i) After the initial appointment described in Subsection (3)(b), the term of each local mental health advisory council member shall be [~~for~~]four years.

(ii) Vacancies for a local mental health advisory council member shall be filled in the same manner as for unexpired terms.

(iii) [~~Council~~]The county legislative body may remove local mental health advisory council members[~~ may be removed~~] for cause.

[~~(3)~~](4) Each local mental health advisory council shall be responsible and advisory to local mental health authorities in planning, organizing, and operating community mental health programs.

[~~(4)~~](5) [~~Council~~]Local mental health advisory council members shall be selected from persons representative of interested groups in the community, including, if possible:

(a) an officer or employee of the school district within the city or county;

(b) one or more [~~persons~~]individuals familiar with problems in mental health, as these are involved in proceedings in criminal, domestic, or juvenile courts;

(c) one or more members of voluntary health, welfare, or mental health associations or agencies;

(d) a member of the legislative body of each participating county; and

(e) at least one [~~person~~]individual:

(i) licensed in this state to practice medicine[~~ and surgery in all their branches~~]; and

(ii) engaged in the private practice of medicine.

[~~(5)~~](6) [~~Council~~]Local mental health advisory council members may be reimbursed for actual and necessary expenses incurred in the performance of official duties, from funds made available to local mental health authorities.

[~~(6)~~](7) Each local mental health advisory council shall be:

(a) an agent of the local mental health authority[~~,~~]; and

(b) [~~is~~]subject to laws and requirements relating to the local mental health authority.

Section 95. Section 17-77-308, which is renumbered from Section 17-43-310 is renumbered and amended to read:
[~~17-43-310~~]17-77-308 (Effective 11/06/25). Registration as a limited purpose entity.

(1) Each local mental health authority shall register and maintain the local mental health authority's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(2) A local mental health authority that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 96. Section 17-78-101 is enacted to read:

CHAPTER 78. County Property, Programs, and Entities

PART 1. County Property - General Provisions

17-78-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Adjusted present value" means:

(a) the disposition price; plus

(b) the anticipated future value.

(2) (a) "Anticipated future value" means the total value of all reasonably anticipated future benefits to a county from the disposal of a significant parcel of real property, including:

(i) increased tax revenues; and

(ii) job creation or maintenance.

(b) "Anticipated future value" does not include the present fair market value of the significant parcel of real property.

(3) "Dispose" means to sell or lease.

(4) "Disposition price" means the price a potential purchaser or lessee offers to pay in exchange for the sale or lease of a significant parcel of real property.

(5) "Federal agency" means any department of the executive branch of the federal government.

(6) "Flood plain" means the land along the course of a river or stream which is periodically flooded and for which flood control protective works would normally be provided or desirable.

Section 97. Section 17-78-102, which is renumbered from Section 17-50-310 is renumbered and amended to read:
[~~17-50-310~~]17-78-102 (Effective 11/06/25). County powers regarding property, water rights, and water facilities -- Retainage.

(1) A county may:

(a) purchase, receive by donation, or lease any real or personal property or water rights necessary for the use of the county;

(b) (i) purchase or otherwise acquire the necessary real estate upon which to sink wells to obtain water for sprinkling roads and for other county purposes;

(ii) [~~and erect thereon~~]erect pumping apparatus, tanks, and reservoirs on county-owned property for obtaining and storing water for such purposes; and

(iii) preserve, take care of, manage, and control[~~ that~~] real estate described in Subsection (1)(b)(i) and[~~ those~~] facilities described in Subsection (1)(b)(ii);

(c) purchase, receive by donation, or lease any water rights or stock or rights in reservoirs or storage companies or associations for the use of citizens of the county;

(d) construct dams and canals for the storage and distribution of waters [~~referred to~~]described in Subsection (1)(c); and

(e) fix the price for and sell water, water rights, stock, or rights in reservoir or storage companies or associations, with the dams and canals, as are not required for public use to citizens of the county.

(2) If any payment on a contract with a private contractor to construct dams and canals under this section is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Section 98. Section 17-78-103, which is renumbered from Section 17-50-312 is renumbered and amended to read:
[~~17-50-312~~]17-78-103 (Effective 11/06/25). Acquisition, management, and disposal of property.

[~~(1) As used in this section:~~]

[~~(a) "Adjusted present value" means:~~]

[~~(i) the disposition price; plus~~]

[~~(ii) the anticipated future value.~~]

[~~(b) (i) "Anticipated future value" means the total value of all reasonably anticipated future benefits to a county from the disposal of a significant parcel of real property, including:~~]

[~~(A) increased tax revenues; and~~]

[~~(B) job creation or maintenance.~~]

[~~(ii) "Anticipated future value" does not include the present fair market value of the significant parcel of real property.~~]

[~~(c) "Dispose" means to sell or lease.~~]

[~~(d) "Disposition price" means the price a potential purchaser or lessee offers to pay in exchange for the sale or lease of a significant parcel of real property.~~]

[~~(2)~~](1) Subject to Subsection [~~(5)~~](4), a county may purchase, receive, hold, sell, lease, convey, or otherwise acquire and dispose of any real or personal property or any interest in such property if the action is in the public interest and complies with other law.

[~~(3)~~](2) Any property interest acquired by the county shall be held in the name of the county unless specifically otherwise provided by law.

[~~(4)~~](3) The county legislative body shall provide by ordinance, resolution, rule, or regulation for the manner in which property shall be acquired, managed, and disposed of.

[~~(5)~~](4) (a) Before a county may dispose of a significant parcel of real property, the county shall:

(i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection [~~(5)(a)(ii)~~](4)(a)(ii); and

(ii) allow an opportunity for public comment on the proposed disposition.

(b) Each county shall, by ordinance, define what constitutes:

(i) a significant parcel of real property for purposes of Subsection [~~(5)(a)~~](4)(a); and

(ii) reasonable notice for purposes of Subsection [~~(5)(a)(i)~~](4)(a)(i).

[~~(6)~~](5) (a) A county may dispose of a significant parcel of real property in exchange for less than the present fair market value of the significant parcel of real property if the adjusted present value of the significant parcel of real property is equal to or greater than the present fair market value of the significant parcel of real property.

(b) Subsection [~~(6)(a)~~](5)(a) does not affect a county's authority to dispose of a significant parcel of real property in a manner different from Subsection [~~(6)(a)~~](5)(a) and in accordance with applicable law.

[~~(7)~~](6) Before a county agrees to dispose of a significant parcel of real property, the county may require the potential purchaser or lessee to provide evidence that:

(a) the potential purchaser's or lessee's offer is bona fide;

(b) the potential purchaser or lessee has the ability to pay the disposition price; or

(c) any future benefits to the county from the disposal of the significant parcel of real property are reasonably anticipated.

[~~(8)~~](7) If a county receives an unsolicited offer to purchase or lease a significant parcel of real property:

(a) the county is not required to consider the offer; and

(b) a person may not consider the offer in determining the present fair market value of the significant parcel of real property, unless considering the offer is warranted under generally accepted standards of professional appraisal practice.

[~~(9)~~](8) A county may presume that the present fair market value of a significant parcel of real property is equal to the average of two appraised values each of which is based upon fair market value and calculated by a unique, independent appraiser who is licensed or certified in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

Section 99. Section 17-78-104, which is renumbered from Section 17-50-311 is renumbered and amended to read:

[~~17-50-311~~]17-78-104 (Effective 11/06/25). Courthouse, jail, hospital, and other public buildings -- Retainage.

(1) A county may erect, repair or rebuild, and furnish a courthouse, jail, hospital, and such other public buildings as may be necessary, and join with cities and towns in the construction, ownership, and operation of hospitals.

(2) If any payment on a contract with a private contractor to erect, repair, or rebuild public buildings under this section is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Section 100. Section 17-78-201, which is renumbered from Section 17-50-316 is renumbered and amended to read:

PART 2. Development and Preservation of County Areas and Culture

[~~17-50-316~~]17-78-201 (Effective 11/06/25). Development of county resources.

A county may provide for the development of the county's mineral, water, manpower, industrial, historical, cultural, and other resources.

Section 101. Section 17-78-202, which is renumbered from Section 17-50-326 is renumbered and amended to read:

[~~17-50-326~~]17-78-202 (Effective 11/06/25). Preservation of historical areas and sites.

A county may:

(1) expend public funds to preserve, protect, or enhance an historical area or site;

(2) acquire an historical area or site by direct purchase, contract, lease, trade, or gift;

(3) obtain an easement or right-of-way across public or private property to ensure access or proper development of an historical area or site;

(4) protect an historical area or site;

(5) ensure proper development and utilization of land or an area adjacent to an historical area or site; and

(6) enter into an agreement with a private individual for the right to purchase an historical area or site if and when the private individual elects to sell or dispose of the owner's property.

Section 102. Section 17-78-203, which is renumbered from Section 17-50-320 is renumbered and amended to read:

[~~17-50-320~~]17-78-203 (Effective 11/06/25). Support of the arts by counties -- Guidelines.

A county may:

(1) provide for and appropriate funds for the support of the arts, including music, dance, theatre, crafts and visual, folk and literary art, for the purpose of enriching the lives of [~~its~~]county residents; and

(2) [~~may~~]establish guidelines for the county's support of the arts.

Section 103. Section 17-78-204, which is renumbered from Section 17-50-335 is renumbered and amended to read:

[~~17-50-335~~]17-78-204 (Effective 11/06/25). Energy efficiency upgrade, clean energy system, or electric vehicle charging infrastructure.

A county may provide or finance an energy efficiency upgrade, a clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in a designated voluntary assessment area in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

Section 104. Section 17-78-301, which is renumbered from Section 17-8-1 is renumbered and amended to read:

PART 3. Flood Control Projects and Drought Emergencies

[~~17-8-1~~]17-78-301 (Effective 11/06/25). Powers of county -- Contracts with United States -- Construction of flood control project.

A county may contract with the United States of America, or any federal agency [~~thereof~~], for the construction of any flood control project within the county designed to:

(1) abate or control flood waters or any excessive or unusual accumulation of water in any natural or artificial basin, stream, or body of water; or

(2) for the protection of life and property against the danger, menace, injury, or damage resulting from [~~said waters~~]any natural or artificial basin, stream, or body of water.

Section 105. Section 17-78-302, which is renumbered from Section 17-8-2 is renumbered and amended to read:

[~~17-8-2~~]17-78-302 (Effective 11/06/25). Maintenance of project -- Acquisition of property.

A county may contract to:

(1) maintain [~~such~~]a flood control [~~projects~~]project after the construction work is completed, which maintenance may be without expense to the United States of America[~~,~~]; and

(2) [~~may contract to and~~]acquire easements and [~~rights of way~~]rights-of-way to relocate public roads or bridges when the replacement shall be rendered necessary by the construction of any flood control project and may give satisfactory assurance to the United States of America, or any federal agency [~~thereof~~], that the location, relocation, building or rebuilding of such roads, [~~rights of way~~]rights-of-way, or bridges shall be done without expense to the United States of America or any federal agency[~~ thereof~~].

Section 106. Section 17-78-303, which is renumbered from Section 17-8-3 is renumbered and amended to read:

[~~17-8-3~~]17-78-303 (Effective 11/06/25). Distribution of waters -- Operation of projects.

The duty of distributing the waters of and operating the flood control project when completed shall rest upon the state engineer [~~of the state of Utah~~]described in Section 73-2-1, provided, that the cost of such distribution and operation of the project by the state engineer shall be borne by the county entering into the cooperative contract with the United States of America for the construction and the operation of the flood control project.

Section 107. Section 17-78-304, which is renumbered from Section 17-8-4 is renumbered and amended to read:

[~~17-8-4~~]17-78-304 (Effective 11/06/25). Joint action of two or more counties.

Whenever the construction of a flood control project[~~, as hereinabove provided, shall be~~]described in this part is for the mutual benefit of two or more counties, the [~~boards of commissioners~~]governing bodies of the counties may jointly enter into such co-operative contracts with the United States of America, or any federal agency [~~thereof~~], for the construction of [~~such~~]the flood control project.

Section 108. Section 17-78-305, which is renumbered from Section 17-8-5 is renumbered and amended to read:

[~~17-8-5~~]17-78-305 (Effective 11/06/25). Clearing, improving, fencing, and construction of natural channels, sewers, and drains -- Enforcement of laws and regulations.

(1) In anticipation of and to provide for the carrying away and the safe disposal of natural storm and flood waters, the county may:

(a) remove any obstacle from any natural channels within the county and the incorporated municipalities in the county[~~. For the same purpose the county may~~]; and

(b) plan for and construct new channels, storm sewers, and drains to serve as though they were natural channels.

(2) The county may cause[~~ such~~] channels, storm sewers, and drains described in Subsection (1)(b) to be surveyed, and the county legislative body may, by ordinance, establish their location and dimensions.

(3) (a) The county legislative body may promulgate regulations to prevent the destruction or obstruction of[~~ these~~] channels, storm sewers, and drains, and may provide for the enforcement of those regulations.

(b) The county legislative body may also provide for the maintenance, improvement, and fencing of all such channels, including covering or replacement with buried conduits.

(c) To implement the establishment, clearing, protection, and continued use of such channels, storm sewers, and drains, the county may acquire, by right of eminent domain necessary easements and [~~rights of way~~]rights-of-way.

(4) All laws and sanitary regulations against the pollution of water in natural streams, canals, and lakes shall be enforced by:

(a) the county [~~executives in their respective counties,~~]officers;

(b) [~~or, by~~]the state, through the attorney general and in co-operation with the state board of health, state fish and game commission[~~,~~]; and

(c) the several county legislative bodies.

Section 109. Section 17-78-306, which is renumbered from Section 17-8-5.5 is renumbered and amended to read:

[~~17-8-5.5~~]17-78-306 (Effective 11/06/25). Protection of channels and flood plains -- Acquisition of land.

(1) The county legislative body may also provide by ordinance for the protection and use of flood channels and present flood plains on rivers, streams, and canals located within the county and the incorporated municipalities in the county and may establish by ordinance the boundaries of these flood channels and present flood plains.

(2) The county may acquire and hold by gift or purchase, such lands, [~~rights of way~~]rights-of-way, easements, or other interests in property within the established boundaries of these flood channels and present flood plains.[~~Flood plain as used herein means the lands along the course of the river or stream which is periodically flooded and for which flood control protective works would normally be provided or desirable.~~]

Section 110. Section 17-78-307, which is renumbered from Section 17-8-7 is renumbered and amended to read:

[~~17-8-7~~]17-78-307 (Effective 11/06/25). Declaration of drought emergency -- Appropriation -- Tax levy.

(1) The county legislative body of each county may at any regular meeting or at a special meeting called for such purpose, declare that an emergency drought exists in said county[~~; and thereupon may~~].

(2) (a) After a declaration of drought in a county, the county legislative body may appropriate from the money not otherwise appropriated in the county general fund such funds as shall be necessary for the gathering of information upon, and aiding in any program for increased precipitation within said county or in conjunction with any other county or counties[~~, or that if~~].

(b) If there are not sufficient funds available in the county general fund for [~~such~~]the purpose described in Subsection (2)(a), the county legislative body may[~~, during any such emergency so declared by them,~~] assess, levy, and direct the county to collect annually to aid in any program of increased precipitation.

[~~(2)~~](3) The provisions of [~~Chapter 19a, County Auditor,~~]Chapter 69, County Auditor, relating to budgeting do not apply to appropriations necessitated by[~~such~~] an emergency described in this section.

Section 111. Section 17-78-401, which is renumbered from Section 17-50-305 is renumbered and amended to read:

PART 4. Transportation

[~~17-50-305~~]17-78-401 (Effective 11/06/25). County powers to acquire, construct, and control roads and other facilities -- Retainage.

(1) A county may:

(a) contract for, purchase, or otherwise acquire, when necessary, rights of way for county roads over private property, and may institute proceedings for acquiring such rights of way as provided by law;

(b) lay out, construct, maintain, control, and manage county roads, sidewalks, ferries and bridges within the county, outside of cities and towns;

(c) designate the county roads to be maintained by the county within or extending through any city or town, which may not be more than three in the same direction;

(d) abolish or abandon county roads that are unnecessary for the use of the public, in the manner provided by law; and

(e) lay out, construct, maintain, control, and manage landing fields and hangars for the use of airplanes or other vehicles for aerial travel.

(2) If any payment on a contract with a private contractor to construct county roads, sidewalks, ferries, and bridges under this section is retained or withheld, [~~it~~]the payment shall be retained or withheld and released as provided in Section 13-8-5.

Section 112. Section 17-78-402, which is renumbered from Section 17-50-306 is renumbered and amended to read:

[~~17-50-306~~]17-78-402 (Effective 11/06/25). Granting franchises over public roads -- Limitation.

(1) A county may grant franchises along and over the public roads and highways for all lawful purposes, upon such terms, conditions, and restrictions as in the judgment of the county legislative body are necessary and proper, to be exercised in such manner as to present the least possible obstruction and inconvenience to the traveling public.

(2) A franchise under Subsection (1) may not be granted for a period longer than 50 years.

Section 113. Section 17-78-403, which is renumbered from Section 17-50-307 is renumbered and amended to read:

[~~17-50-307~~]17-78-403 (Effective 11/06/25). Franchises for toll roads.

(1) Subject to Subsection (2), a county may grant, on such terms, conditions, and restrictions as in the judgment of the county executive are necessary and proper, licenses and franchises for taking tolls on public roads or highways whenever in the judgment of the county executive the expense of operating or maintaining the roads or highways as free public highways is too great to justify the county in operating or maintaining [~~them~~]the public roads or highways.

(2) Each license and franchise granted under Subsection (1) shall contain the condition that the roads and highways shall be kept in reasonable repair by the persons to whom such licenses or franchises are granted.

Section 114. Section 17-78-404, which is renumbered from Section 17-50-308 is renumbered and amended to read:

[~~17-50-308~~]17-78-404 (Effective 11/06/25). Franchises for ferries and bridges.

(1) A county may grant licenses and franchises for:

(a) constructing and keeping in repair roads, bridges, and ferries; and

(b) [~~for~~]the taking of tolls on [~~them~~]roads, bridges, and ferries.

(2) Each person operating any toll boat or ferry for the transportation of persons, vehicles, or livestock across any stream, river, or body of water in this state shall obtain a franchise for [~~its~~]the boat's or ferry's operation from the county executive of the county in which [~~such~~]the boat or ferry is operated.

(3) If [~~such~~]a boat or ferry is operated on a stream or body of water forming the boundary line between two adjoining counties, the person operating the boat or ferry shall obtain a franchise from the county executive of each county.

Section 115. Section 17-78-405, which is renumbered from Section 17-50-309 is renumbered and amended to read:

[~~17-50-309~~]17-78-405 (Effective 11/06/25). Regulation of use of roads.

A county may enact ordinances and make regulations not in conflict with law for the control, construction, alteration, repair, and use of all public roads and highways in the county outside of cities and towns.

Section 116. Section 17-78-406, which is renumbered from Section 17-50-330 is renumbered and amended to read:

[~~17-50-330~~]17-78-406 (Effective 11/06/25). Prohibition against spending certain transportation funds.

(1) As used in this section:

(a) "Apportioned" means divided or assigned among the states based on a prescribed formula established in 23 U.S.C.

(b) "Authorization act" means an act of Congress enacted after July 1, 2009, that authorizes transportation programs from the Highway Trust Fund established in 26 U.S.C. Sec. 9503.

(2) A county may not spend project-specific funds that are allocated through an authorization act for a transportation-related project that is eligible for funds apportioned to the state in support of the statewide transportation improvement program unless the specified project is included on the statewide transportation improvement program.

Section 117. Section 17-78-407, which is renumbered from Section 17-50-322 is renumbered and amended to read:

[~~17-50-322~~]17-78-407 (Effective 11/06/25). County funding for a fixed guideway.

(1) For purposes of this section, "fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(2) (a) Except as provided in Subsection (2)(b), a county legislative body may not levy a property tax or expend revenues from uniform fees or any tax or fee imposed in lieu of a property tax, to purchase, erect, repair, rebuild, maintain, or otherwise fund a fixed guideway.

(b) Subsection (2)(a) does not apply to a property tax levy imposed by a county for the purpose of paying for bonds if:

(i) before January 1, 2007, the bonds were issued or approved by voters for issuance to fund a fixed guideway; and

(ii) the county does not impose a sales and use tax authorized by Section 59-12-2217.

Section 118. Section 17-78-501, which is renumbered from Section 17-34-1 is renumbered and amended to read:

PART 5. Provision of Municipal-Type Services to Unincorporated Areas

[~~17-34-1~~]17-78-501 (Effective 11/06/25). Counties may provide municipal services -- First-class counties to provide certain services -- Counties allowed to provide certain services in recreational areas.

(1) For purposes of this [~~chapter, except as otherwise provided in Subsection (3):~~]part, "municipal-type services" means:

[~~(a) "Greater than class C radioactive waste" has the same meaning as in Section 19-3-303.~~]

[~~(b) "High-level nuclear waste" has the same meaning as in Section 19-3-303.~~]

[~~(c) "Municipal-type services" means:~~]

[~~(i)~~](a) fire protection service;

[~~(ii)~~](b) waste and garbage collection and disposal;

[~~(iii)~~](c) planning and zoning;

[~~(iv)~~](d) street lighting;

[~~(v)~~](e) animal services;

[~~(vi)~~](f) storm drains;

[~~(vii)~~](g) traffic engineering;

[~~(viii)~~](h) code enforcement;

[~~(ix)~~](i) business licensing;

[~~(x)~~](j) building permits and inspections;

[~~(xi)~~](k) in a county of the first class:

[~~(A)~~](i) advanced life support and paramedic services; and

[~~(B)~~](ii) detective investigative services; and

[~~(xii)~~](l) all other services and functions that are required by law to be budgeted, appropriated, and accounted for from a municipal services fund or a municipal capital projects fund as defined under [~~Chapter 36, Uniform Fiscal Procedures Act for Counties~~]Chapter 63, Fiscal Authority and Processes.

[~~(d) "Placement" has the same meaning as in Section 19-3-303.~~]

[~~(e) "Storage facility" has the same meaning as in Section 19-3-303.~~]

[~~(f) "Transfer facility" has the same meaning as in Section 19-3-303.~~]

(2) A county may:

(a) provide municipal-type services to areas of the county outside the limits of cities and towns without providing the same services to cities or towns; and

(b) fund [~~those~~]municipal-type services by:

(i) levying a tax on taxable property in the county outside the limits of cities and towns;

(ii) charging a service charge or fee to persons benefitting from the municipal-type services; or

(iii) providing funds to a municipal services district in accordance with Section 17B-2a-1109.

[~~(3) A county may not:~~]

[~~(a) provide, contract to provide, or agree in any manner to provide municipal-type services, as these services are defined in Section 19-3-303, to any area under consideration for a storage facility or transfer facility for the placement of high-level nuclear waste, or greater than class C radioactive waste; or~~]

[~~(b) seek to fund services for these facilities by:~~]

[~~(i) levying a tax; or~~]

[~~(ii) charging a service charge or fee to persons benefitting from the municipal-type services.~~]

[~~(4)~~](3) Each county of the first class shall provide to the area of the county outside the limits of cities and towns:

(a) advanced life support and paramedic services; and

(b) detective investigative services.

[~~(5)~~](4) (a) A county may provide fire, paramedic, and police protection services in any area of the county outside the limits of cities

and towns that is designated as a recreational area in accordance with the provisions of this Subsection [~~(5)~~](4).

(b) A county legislative body may designate any area of the county outside the limits of cities and towns as a recreational area if:

(i) the area has fewer than 1,500 residents and is primarily used for recreational purposes, including canyons, ski resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas; and

(ii) the county legislative body makes a finding that the recreational area is used by residents of the county who live both inside and outside the limits of cities and towns.

(c) Fire, paramedic, and police protection services needed to primarily serve those involved in the recreation activities in areas designated as recreational areas by the county legislative body in accordance with Subsection [~~(5)(b)~~](4)(b) may be funded from the county general fund.

(d) A county legislative body may determine that fire, paramedic, and police protection services within a municipality that is located in an area designated as a recreational area, in accordance with this Subsection [~~(5)~~](4), may be funded with county general funds if the county legislative body makes a finding that a disproportionate share of public safety service needs within the municipality are generated by residents of the county who live both inside and outside the limits of cities and towns.

(5) A county may be limited in the municipal-type services the county provides, in accordance with Section 17-60-504.

Section 119. Section 17-78-502, which is renumbered from Section 17-34-3 is renumbered and amended to read:

[~~17-34-3~~]17-78-502 (Effective 11/06/25). Taxes or service charges for municipal-type services -- Budgeting, accounting for, and disbursing of funds -- Annual audit.

(1) (a) If a county furnishes the municipal-type services and functions described in Section [~~17-34-1~~]17-78-501 to areas of the county outside the limits of incorporated cities or towns, the entire cost of the services or functions so furnished shall be defrayed from funds that the county has derived from:

(i) taxes that the county may lawfully levy or impose outside the limits of incorporated towns or cities;

(ii) service charges or fees the county may impose upon the persons benefited in any way by the services or functions; or

(iii) a combination of these sources.

(b) As the taxes or service charges or fees are levied and collected, they shall be placed in a special revenue fund of the county and shall be disbursed only for the rendering of the services or functions established in Section [~~17-34-1~~]17-78-501 within the unincorporated areas of the county or as provided in Subsection 10-2a-219(2).

(2) (a) For the purpose of levying taxes, service charges, or fees provided in this section, the county legislative body may establish a district or districts in the unincorporated areas of the county.

(b) A district established by a county as provided in Subsection (2)(a) may be reorganized as a special district in accordance with the procedures set forth in Sections 17D-1-601, 17D-1-603, and 17D-1-604.

(3) Nothing contained in this chapter may be construed to authorize counties to impose or levy taxes not otherwise allowed by law.

(4) Notwithstanding any other provision of this [~~chapter~~]part, a county providing fire, paramedic, and police protection services in a designated recreational area, as provided in [~~Subsection 17-34-1(5)~~]Section 17-78-501, may fund [~~those~~]fire, paramedic, or police protection services from the county general fund with revenues derived from both inside and outside the limits of cities and towns, and the funding of those services is not limited to unincorporated area revenues.

(5) (a) With respect to the budgeting, accounting for, and disbursing of funds to furnish the municipal-type services and functions described in Section 17-78-501 to areas of the county outside the limits of incorporated towns and cities, including levying of taxes and imposition of fees and charges under this section, each county legislative body shall separately budget and strictly account for and apportion to the costs of providing municipal-type services and functions for the following:

(i) the salaries of each county commissioner and the salaries and wages of all other elected and appointed county officials and employees;

(ii) the operation and maintenance costs of each municipal-type service or function provided, set forth separately as line items in the Municipal Services Fund budget;

(iii) the cost of renting or otherwise using capital facilities for the purposes of providing municipal-type services or functions; and

(iv) all other costs including administrative costs associated, directly or indirectly, with the costs of providing municipal-type services or functions.

(b) At all times these funds and any expenditures from these funds shall be separately accounted for and utilized only for the purposes of providing municipal-type services and functions to areas of the county outside the limits of incorporated towns or cities.

(6) To implement Subsection (5):

(a) a budget shall be adopted and administered in the same manner as the budget for general purposes of the county which furnishes the municipal-type services and functions is adopted and administered, either as a part of the general budget or separate from it;

(b) funds for the purposes of furnishing municipal-type services and functions under this chapter shall be collected, held, and administered in the same manner as other funds of the county are collected, held, and administered, but shall be segregated and separately maintained, except that where, in the judgment of the county legislative body, advantages inure to the fund from coinvestment of these funds and other funds also subject to control by the county legislative body, the county legislative body may direct this coinvestment, but in no event may the funds to furnish municipal-type services and functions or the income from their investment be used for purposes other than those described in Section 17-78-501;

(c) expenditures shall be made in the same manner as other expenditures of the county are made; and

(d) any taxes levied under this part shall be levied at the same time and in the same manner as other taxes of the county are levied.

(7) An annual audit of the budgeting, accounting for, and disbursing of funds used to furnish municipal-type services and functions, shall be conducted by an independent certified public accountant.

Section 120. Section 17-78-503 is enacted to read:

17-78-503 (Effective 11/06/25). Certain counties to establish funds or special service districts.

(1) Each county of the first, second, or third class that provides municipal-type services to unincorporated areas under this part shall:

(a) establish a special revenue fund, "Municipal Services Fund," and a capital projects fund, "Municipal Capital Projects Fund," or establish a special district or special service district to provide municipal services; and

(b) budget appropriations for municipal services and municipal capital projects from the funds described in Subsection (1)(a).

(2) The Municipal Services Fund is subject to the same budgetary requirements as the county general fund.

(3) (a) Except as provided in Subsection (3)(b), the county may deposit revenue derived from any taxes otherwise authorized by law, income derived from the investment of money contained within the municipal services fund and the municipal capital projects fund, the appropriate portion of federal money, and fees collected into a municipal services fund and a municipal capital projects fund.

(b) The county may not deposit revenue derived from a fee, tax, or other source based upon a countywide assessment or from a countywide service or function into a municipal services fund or a municipal capital projects fund.

(4) The maximum accumulated unappropriated surplus in the municipal services fund, as determined before adoption of the tentative budget, may not exceed an amount equal to the total estimated revenues of the current fiscal period.

Section 121. Section 17-78-504, which is renumbered from Section 17-34-4 is renumbered and amended to read:

[~~17-34-4~~]17-78-504 (Effective 11/06/25). Contracts under Interlocal Cooperation Act.

This [~~chapter~~]part may not be construed to prevent counties, cities, and towns from entering into contracts covering the furnishing by one to the other of all or any of the municipal-type services [~~listed in Section 17-34-1~~] under Title 11, Chapter 13, Interlocal Cooperation Act, except that where incorporated cities or towns perform one or more of the municipal services set forth in Section [~~17-34-1~~]17-78-501 for unincorporated areas of a county, payment shall be made from the special revenue fund.

Section 122. Section 17-78-601, which is renumbered from Section 17-25a-1 is renumbered and amended to read:

PART 6. Constables

[~~17-25a-1~~]17-78-601 (Effective 11/06/25). County legislative body to determine whether to appoint or contract with constables -- Authority.

(1) (a) (i) The legislative [~~governing bodies of counties and cities~~]body of a county shall determine whether to appoint one or more constables to serve in the county.

(ii) If a county [~~or city~~]decides to appoint constables, the county[~~or city~~] shall nominate and appoint constables in accordance with this chapter.

(b) (i) Notwithstanding Subsection (1)(a), a constable holding office on July 1, 2019, may complete the constable's term.

(ii) A constable shall serve any subsequent terms the constable may serve in accordance with this [~~chapter~~]part.

(2) To nominate a constable, the legislative body of a county of the first or second class [~~or the legislative body of a city of the first or second class~~]shall establish a nominating commission.

(a) The county nominating commission shall consist of:

(i) one member of the county legislative governing body or the member's designee;

(ii) one judge or the judge's designee;

(iii) the county attorney or the county attorney's designee;

(iv) the district attorney or the district attorney's designee;

(v) the sheriff of the county or the sheriff's designee; and

(vi) one private citizen.

[~~(b) The city nominating commission shall consist of:~~]

[~~(i) one member of the city legislative governing body;~~]

[~~(ii) one judge;~~]

[~~(iii) the city attorney;~~]

[~~(iv) the chief of police; and~~]

[~~(v) one private citizen.~~]

[~~(c)~~](b) The nominating commission described in this Subsection (2) shall review each applicant's credentials and, by majority vote, recommend to the legislative governing body of the county [~~or city~~]the nominees the nominating commission finds most qualified.

[~~(d)~~](c) The county [~~or city~~]legislative[~~governing~~] body shall either appoint or reject any nominee that the nominating commission recommends under Subsection [~~(2)(c)~~](2)(b).

(3) The legislative body of a county of the third, fourth, fifth, or sixth class [~~or the legislative body of a city of the third, fourth, or fifth class~~]may appoint a constable on a recommendation from:

(a) the county sheriff and the county attorney; or

(b) the chief of police.

(4) A county [~~or city~~]legislative[~~governing~~] body that appoints a constable under this section may withdraw the authority of the constable for cause, including if the constable's peace officer certification is suspended or revoked under Section 53-6-211.

(5) In addition to the appointment process described in Subsections (1) through (4), the legislative body of a county where a justice court exists may contract with a constable to provide services in criminal cases for the contracting governmental entity by a method and for an amount mutually agreed upon.

(6) (a) A contract between a county legislative body and a constable, including a contract described in Subsection (5), may not exceed four years.

(b) A contract described in Subsection (6)(a) may be renewed or extended for a period not to exceed four years.

Section 123. Section 17-78-602, which is renumbered from Section 17-25a-2 is renumbered and amended to read:

[~~17-25a-2~~]17-78-602 (Effective 11/06/25). Constable qualification -- Duties -- Constables to serve process in certain circumstances.

(1) To qualify as a constable, [~~a person~~]an individual shall be certified as a special function peace officer in the state.

(2) A constable shall:

(a) avoid all conflicts of interest; and

(b) maintain a public office and be accessible to the public and to the court during the hours the court is open.

(3) In cases where it appears in any court of record that the sheriff is a party, or where an affidavit is filed with the clerk of the court stating partiality, prejudice, consanguinity, or interest on the part of the sheriff, the clerk of the court shall direct process to any constable

of the county, whose duty it shall be to execute it in the same manner as if the constable were sheriff.

Section 124. Section 17-78-603, which is renumbered from Section 17-25a-3 is renumbered and amended to read:
[~~17-25a-3~~]17-78-603 (Effective 11/06/25). Term -- Authority -- Deputies.

(1) (a) Constables appointed by a county [~~or city~~]are appointed for terms of six years and may serve more than one term if reappointed by the appointing body.

(b) Notwithstanding the law in place at the time a constable was appointed, the term of a constable appointed on or after July 1, 2018, expires six years after the day on which the term began.

(2) (a) [~~Constables~~]Appointed constables serving process outside the county in which they are appointed shall contact the sheriff's office or police department of the jurisdiction [~~prior to~~]before serving executions or seizing any property.

(b) [~~A constable~~]An appointed constable or a deputy of an appointed constable shall notify the agency of jurisdiction by contacting the sheriff's office or police department of jurisdiction before serving a warrant of arrest.

(3) The appointed constable may, upon approval of the appointing county[~~, or city~~], employ and deputize persons who are certified as special function peace officers to function as deputy constables.

(4) If the county [~~or city appointing~~]legislative body withdraws the authority of [~~a~~]an appointed constable, the authority of all deputy constables employed or deputized by the appointed constable is also withdrawn.

(5) If the authority of a constable or deputy constable is withdrawn under Subsection (4), [~~notification of~~]the county shall notify the Peace Officer Standards and Training Division of the Department of Public Safety [~~shall be made pursuant to~~]in accordance with Section 53-6-209.

(6) A constable, contracted or appointed, shall:

(a) attend the justice courts within the constable's county when required by contract or court order; and

(b) execute, serve, and return all process directed or delivered to the constable by a judge of the justice court serving the county, or by any competent authority within the limits of this section.

(7) A constable, contracted or appointed, may:

(a) serve any process throughout the state; and

(b) carry out all other functions associated with a constable.

(8) A constable shall serve exclusively as an agent for:

(a) the government entity that has a contract with the constable;

(b) the county that appointed the constable; or

(c) the court authorizing or directing the constable.

(9) Except as otherwise provided in this part, a constable may not serve as an agent, or be considered to be serving as an agent, for a person that is not described in Subsection (8).

Section 125. Section 17-78-604, which is renumbered from Section 17-25-2 is renumbered and amended to read:
[~~17-25-2~~]17-78-604 (Effective 11/06/25). Fees for constables -- Civil.

(1) Constables may, for [~~their~~]the constable's own use, collect as compensation in civil matters the same fees as those specified for sheriffs in Section [~~17-22-2.5~~]17-72-304.

(2) Constable fees that exceed the amounts in Section [~~17-22-2.5~~]17-72-304 are recoverable:

(a) by the constable only if [~~he~~]the constable has received prior approval for the increased fee from the party requesting the service; and

(b) by prevailing party as a cost of the action only if the court finds the service and increased fee are justifiable.

Section 126. Section 17-78-605, which is renumbered from Section 17-25-3 is renumbered and amended to read:
[~~17-25-3~~]17-78-605 (Effective 11/06/25). Fees for constables -- Criminal.

(1) (a) [~~In~~]Except as provided in Subsections (3) and (6), a constable shall be paid in criminal matters[~~, constables shall be paid~~] for each copy of a summons, subpoena, notice, court order, or other criminal paper[~~, except a warrant of arrest;~~]as follows:

(i) $5 for each defendant served; and

(ii) mileage of $1 per mile for each mile necessarily traveled in going only, to be computed from either the courthouse, or when transmitted by mail, from the post office where received.

(b) If more than one trip is necessary to serve, or diligently attempt to serve, service of process, a constable may collect mileage charges for more than two trips [~~may be collected~~]only if the party requesting the service of process has approved the additional mileage charges.

(c) [~~Each charge~~]A constable shall[~~ be~~] individually [~~documented~~]document each charge under this Subsection (1) on the affidavit of return of service.

[~~(2) Lower charges may be established by contract for services under this section.~~]

[~~(3)~~](2) If a constable serves process in a county other than the county where the process originated, travel expenses may not exceed the fee that would be charged if served by the sheriff of that county under Chapter 72, County Sheriff.

[~~(4)~~](3) (a) [~~For~~]A constable may charge a county a fee of $1 for each mile traveled for the purpose of serving, or to diligently attempt service of, a warrant of arrest, both in going to and returning from the defendant's address[~~, a fee of $1 may be charged~~].

(b) If more than one trip is necessary to serve, or diligently attempt to serve, a warrant of arrest, a constable may collect no more than two additional mileage charges[~~ may be collected~~].

(c) [~~Each~~]A constable shall individually document each charge [~~shall be individually documented~~]under this Subsection (3) on the affidavit of return of service.

[~~(5)~~](4) For arresting [~~each~~]a prisoner and bringing [~~him~~]the prisoner into court, or otherwise satisfying a warrant, a constable may charge a fee of $15[~~ may be charged~~].

(5) (a) Accounts against the county filed by constables for services in criminal cases shall be:

(i) certified as correct by the county attorney or district attorney; and

(ii) presented to the auditor.

(b) The county legislative body may reject constable bills in all causes or proceedings in which the county attorney or district attorney has not authorized the issuance of the warrant of arrest in writing.

(6) A county may, by contract with a constable, establish lower fees for services than the fees described in this section.

Section 127. Section 17-78-606, which is renumbered from Section 17-25a-4 is renumbered and amended to read:

[~~17-25a-4~~]17-78-606 (Effective 11/06/25). Fees for constable service of process -- Exception.

(1) The rates recoverable through court action for service of process by a constable are governed by Section [~~17-22-2.5, 17-25-3, or 17-25-5~~]17-72-304, 17-78-601, or 17-78-605, when applicable.

(2) Constable fees that exceed the amounts in Section [~~17-22-2.5~~]17-72-304 are recoverable in court:

(a) by the constable only if [~~he~~]the constable has received prior approval for the increased fee from the party requesting the service; and

(b) by a prevailing party as a cost of the action only if the court finds the service and increased fee are justifiable.

Section 128. Section 17-78-607, which is renumbered from Section 17-25-6 is renumbered and amended to read:

[~~17-25-6~~]17-78-607 (Effective 11/06/25). Identification of constables -- Uniform requirements.

(1) While performing a duty described in Section [~~17-25-1~~]17-78-603, a constable shall prominently display a badge or other visible form of credentials and identification identifying:

(a) [~~a person~~]the individual as a constable;

(b) the [~~person's~~]individual's name; and

(c) the county [~~or municipality~~]for which the constable is appointed or contracted.

(2) If a constable serves process, the constable shall:

(a) verbally communicate to the person being served that the constable is a constable; and

(b) print on the first page of each document served:

(i) the constable's name and identification as a constable;

(ii) the county [~~or municipality~~]for which the constable is appointed; and

(iii) a business phone number for the constable.

(3) If a constable wears a uniform, the uniform shall be clearly marked with the word "constable" on the uniform shirt and, if applicable, the jacket.

Section 129. Section 17-78-701 is enacted to read:

PART 7. Establishing and Promoting Recreation, Tourism, and Conventions

17-78-701 (Effective 11/06/25). Definitions.

As used in this part:

(1) "Airport" means the same as that term is defined in Section 72-10-102.

(2) "Airport operator" means the same as that term is defined in Section 72-10-102.

(3) "Establishing and promoting" means an activity or related expense to encourage, solicit, advertise, or market in order to attract or enhance transient guest spending in a county for a purpose described in Subsection 17-78-702(2)(a).

(4) "Mitigation" means activity to address the direct impacts of tourism, recreation related to tourism, or conventions in a county, specifically sanitation and solid waste disposal, emergency medical services, search and rescue services, law enforcement, road repair, and road upgrades.

(5) "Transient room tax" means a tax at a rate not to exceed the relevant rate authorized by Section 59-12-301.

Section 130. Section 17-78-702, which is renumbered from Section 17-31-2 is renumbered and amended to read:

[~~17-31-2~~]17-78-702 (Effective 11/06/25). Purposes of transient room tax and expenditure of revenue -- Purchase or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions -- Issuance of bonds.

[~~(1) As used in this section:~~]

[~~(a) "Airport" means the same as that term is defined in Section 72-10-102.~~]

[~~(b) "Airport operator" means the same as that term is defined in Section 72-10-102.~~]

[~~(c) "Establishing and promoting" means an activity or related expense to encourage, solicit, advertise, or market in order to attract or enhance transient guest spending in a county for a purpose described in Subsection (3)(a).~~]

[~~(d) "Mitigation" means activity to address the direct impacts of tourism, recreation related to tourism, or conventions in a county, specifically sanitation and solid waste disposal, emergency medical services, search and rescue services, law enforcement, road repair, and road upgrades.~~]

[~~(e) "Transient room tax" means a tax at a rate not to exceed the relevant rate authorized by Section 59-12-301.~~]

[~~(2)~~](1) Subject to the requirements of this section, a county legislative body may impose the transient room tax for a purpose described in Subsection [~~(3)~~](2).

[~~(3)~~](2) A county legislative body may expend revenue generated by the transient room tax imposed under this section and any revenue the county receives from the State Tax Commission under Section 59-28-103 only:

(a) for the purpose of establishing and promoting:

(i) tourism;

(ii) recreation;

(iii) film production; or

(iv) conventions;

(b) to pay for tourism- or recreation-related facilities in the county, including acquiring, leasing, constructing, furnishing, maintaining,

or operating:

(i) convention meeting rooms;

(ii) exhibit halls;

(iii) visitor information centers;

(iv) museums;

(v) sports and recreation facilities including practice fields, stadiums, arenas, and trails;

(vi) the following on any route to a recreation destination within the county, as designated by the county legislative body:

(A) transit service, including shuttle service; and

(B) parking infrastructure; and

(vii) an airport, if the county is the airport operator of the airport;

(c) for the purpose of acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the facilities listed in Subsection [~~(3)(b)~~](2)(b);

(d) to pay mitigation costs, specifically:

(i) solid waste disposal operations;

(ii) emergency medical services;

(iii) search and rescue activities;

(iv) law enforcement activities; and

(v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104; or

(C) class D roads, as defined in Section 72-3-105; and

(e) to make the annual payment of principal, interest, premiums, and necessary reserves for any of the aggregate of bonds authorized under Subsection [~~(4)~~](3).

[~~(4)~~](3) The county legislative body may issue bonds or cause bonds to be issued, as permitted by law, to pay all or part of any costs incurred for the purposes set forth in Subsections [~~(3)(b)~~](2)(b) through [~~(3)(d)~~](2)(d) that are permitted to be paid from bond proceeds.

[~~(5)~~](4) (a) Activity described in Subsection [~~(3)(a)~~](2)(a) is exclusive of activity described in Subsection [~~(3)(b)~~](2)(b) or (c).

(b) A county may not distribute revenue generated by the transient room tax imposed under this section to a large public transit district, as that term is defined in Section 17B-2a-802.

[~~(6)~~](5) A county that generates $1 million or more in revenue from a transient room tax imposed under this section in the preceding calendar year:

(a) shall expend, at a minimum, the revenue the county generates from the first 2% of the tax rate of a transient room tax on a purpose described in Subsection [~~(3)(a)~~](2)(a); and

(b) may expend the remainder of the revenue the county generates from a transient room tax on any purpose described in Subsection [~~(3)~~](2).

[~~(7)~~](6) A county that generates $500,000 or more but less than $1 million in revenue from a transient room tax imposed under this section in the preceding calendar year:

(a) shall expend, at a minimum, the revenue the county generates from the first 1% of the tax rate of a transient room tax on a purpose described in Subsection [~~(3)(a)~~](2)(a); and

(b) may expend the remainder of the revenue the county generates from a transient room tax on any purpose described in Subsection [~~(3)~~](2).

[~~(8)~~](7) A county that is not described in Subsection (5) or (6) [~~or (7)~~]may expend the revenue the county generates from a transient room tax on any purpose described in Subsection [~~(3)~~](2).

[~~(9)~~](8) The legislative body of a county may cause revenue generated by a transient room tax to be expended by a municipality within the county if:

(a) the revenue the county shares with the municipality is not required to be spent by the county for a purpose described in Subsection [~~(3)(a)~~](2)(a);

(b) the county and municipality enter into an interlocal agreement:

(i) governing the use of the revenue; and

(ii) requiring the municipality to report the municipality's expenditures of the revenue to the county; and

(c) the municipality receiving revenue generated by the county's transient room tax agrees to and expends the revenue for a purpose described in Subsection [~~(3)~~](2).

Section 131. Section 17-78-703, which is renumbered from Section 17-31-5 is renumbered and amended to read:

[~~17-31-5~~]17-78-703 (Effective 11/06/25). General powers and duties of a county legislative body related to the transient room tax.

(1) The legislative body of each county that imposes a transient room tax in accordance with Section [~~17-31-2~~]17-78-702:

(a) shall, except as provided in Subsection (2), at least annually consider the priorities and recommendations of the county's tourism tax advisory board created under Subsection [~~17-31-8(1)(a)~~]17-78-706(1)(a) or the substantially similar body as described in Subsection [~~17-31-8(1)(b)~~]17-78-706(1)(b) in one or more public meetings before finalizing decisions on expenditures of revenue from the transient room tax in each fiscal year;

(b) shall prepare and provide the annual written report for each fiscal year as described in Section [~~17-31-5.5~~]17-78-704; and

(c) may do and perform any and all other acts and things necessary, desirable, or appropriate to carry out the provisions of this chapter.

(2) Subsection (1)(a) does not apply to the legislative body of a county if:

(a) the legislative body of the county has entered into a written contract with a substantially similar body to a tourism tax advisory board as described in Subsection [~~17-31-8(1)(b)~~]17-78-706(1)(b); and

(b) the written contract described in Subsection (2)(a) clearly delineates how the expenditures of revenue from the transient room tax are to be spent.

Section 132. Section 17-78-704, which is renumbered from Section 17-31-5.5 is renumbered and amended to read:

[~~17-31-5.5~~]17-78-704 (Effective 11/06/25). Report by county legislative body -- Content.

(1) The legislative body of each county that imposes a transient room tax under Section 59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall:

(a) ensure that the annual financial report required by Section [~~17-36-37~~]17-63-603includes a breakdown of expenditures:

(i) for revenue generated by the transient room tax, according to the allowable expenditure categories described in Subsection [~~17-31-2(3)~~]17-78-702(2); and

(ii) for revenue generated by the tourism, recreation, cultural, convention, and airport facilities tax, according to the allowable expenditure categories described in Sections 59-12-602 and 59-12-603; and

(b) prepare annually a written report in accordance with Subsection (2).

(2) (a) For the transient room tax, the written report described in Subsection (1)(b) shall include:

(i) a breakdown of promotion expenditures;

(ii) if the county caused revenue generated by the transient room tax to be expended by a municipality within the county, as described in Subsection [~~17-31-2(9)~~]17-78-702(8), a description:

(A) of each interlocal agreement the county entered into with a municipality; and

(B) the amount of revenue the county shared with a municipality [~~pursuant to~~]in accordance with an interlocal agreement;

(iii) the number of search and rescue efforts conducted by the county in the previous fiscal year;

(iv) the total cost of search and rescue efforts and emergency medical services that were related to tourism or recreation within the eligible county in the previous fiscal year;

(v) a description of any factors that made a search and rescue effort or emergency medical service more expensive or difficult, including the condition of roads within the county;

(vi) what money, if any, the county was able to recover in the previous fiscal year from an individual on whose behalf the county incurred the cost of search and rescue or emergency medical services; and

(vii) (A) data on the percentages of individuals on whose behalf the county incurred the cost of search and rescue or emergency medical services who were in-state visitors to the county, out-of-state visitors to the county, or residents of the county; and

(B) if data described in Subsection (2)(a)(vii)(A) is unavailable regarding an individual on whose behalf the county incurred the cost of search and rescue or emergency medical services, the number of individuals whose data described in Subsection (2)(a)(vii)(A) is unavailable.

(b) A county legislative body preparing a report required under this section shall utilize the form created by the state auditor under Section 17E-2-406.

[~~(b) The state auditor, in consultation with the Utah Office of Tourism created in Section 63N-7-102, shall:~~]

[~~(i) create a form for a financial report and a form for a written report required under this section;~~]

[~~(ii) designate at least one employee within the state auditor's office to serve as the point of contact for counties preparing a financial report or written report under this section; and~~]

[~~(iii) if the state auditor's office determines it is advisable, create written guidance to assist counties in preparing a financial report or written report under this section.~~]

(3) On or before October 1, the county legislative body shall provide a copy of the annual written report described in Subsection (1)(b) for the previous fiscal year to the state auditor and the Office of the Legislative Fiscal Analyst.

(4) (a) On or before December 1 of each year, the Office of the Legislative Fiscal Analyst shall:

(i) analyze each written report received under Subsection (3) to determine if the information in the report sufficiently demonstrates that the county is expending revenue in accordance with the requirements of Sections [~~17-31-2~~]17-78-702, 59-12-301, and 59-12-603; and

(ii) provide a summary of the analysis and determination described in Subsection (4)(a)(i) to:

(A) the Revenue and Taxation Interim Committee;

(B) the Political Subdivisions Interim Committee; and

(C) the state auditor.

(b) If the Office of the Legislative Fiscal Analyst determines a county written report does not sufficiently demonstrate that a county is expending revenue in accordance with the requirements of [~~Section 17-31-2~~]Sections 17-78-702, 59-12-301, and 59-12-603, the Office of the Legislative Fiscal Analyst shall include a copy of the county's written report with the summary described in Subsection (4)(a)(ii) to the entities described in Subsections (4)(a)(ii)(A) through (C).

Section 133. Section 17-78-705, which is renumbered from Section 17-31-3 is renumbered and amended to read:

[~~17-31-3~~]17-78-705 (Effective 11/06/25). Reserve fund authorized -- Use of collected funds -- Limitation on surplus in fund.

(1) The county legislative body may create a reserve fund.

(2) (a) Subject to Subsections (2)(b) and (c), a county legislative body shall retain any transient room tax funds collected but not expended during any fiscal year in the reserve fund to be used in accordance with [~~Sections 17-31-2 through 17-31-5~~]Sections 17-78-702, 17-78-703, and 17-78-705.

(b) Except as described in Subsection (2)(c), accumulated unappropriated surplus in the reserve fund, as determined before the county's adoption of a tentative budget, may not exceed 50% of the total transient room tax revenue for the current fiscal year.

(c) For a fiscal year beginning on or after July 1, 2019, and ending on or before July 1, 2023:

(i) if a county receives more than 150% of total transient room tax revenue in the fiscal year compared to the total transient room tax revenue received in the previous fiscal year, accumulated unappropriated surplus in the reserve fund, as determined before the county's adoption of a tentative budget, may not exceed 50% of the total transient room tax revenue for the previous fiscal year plus an amount equal to the total transient room tax revenue that is more than 100% of total transient room tax revenue from the previous fiscal year; and

(ii) if a county adds to the county's reserve fund an amount equal to the total transient room tax revenue that is more than 100% of total transient room tax revenue from the previous fiscal year as authorized in Subsection (2)(c)(i), the county may expend that additional reserve

fund money for visitor management and destination development subject to the requirements described in [~~Subsections 17-31-2(6)(a)(ii)(A) and (B)~~]Section 17-78-702.

Section 134. Section 17-78-706, which is renumbered from Section 17-31-8 is renumbered and amended to read:

[~~17-31-8~~]17-78-706 (Effective 11/06/25). Tourism tax advisory boards.

(1) (a) Except as provided in Subsection (1)(b), any county that collects the following taxes shall operate a tourism tax advisory board:

(i) the tax allowed under Section 59-12-301; or

(ii) the tax allowed under Section 59-12-603.

(b) Notwithstanding Subsection (1)(a), a county is exempt from Subsection (1)(a) if the county has an existing board, council, committee, convention visitor's bureau, or body that substantially conforms with Subsections (2), (3), and (4).

(2) A tourism tax advisory board created under Subsection (1) shall consist of at least five members.

(3) (a) A tourism tax advisory board shall be composed of the following members that are residents of the county:

(i) a majority of the members shall be current employees of entities in the county that are subject to the taxes referred to in Section 59-12-301 or 59-12-603; and

(ii) at least two of the board's membership shall be employees of recreational facilities, convention facilities, museums, cultural attractions, or other tourism related industries located within the county.

(b) A tourism tax advisory board may add additional members to the board, including board members who represent the interests of municipalities in the county.

(c) If a county generates 50% or more of the county's revenue generated by the imposition of a tax described in Subsection (1)(a)(i) within one municipality in the county, the tourism tax advisory board for that county shall include a board member to represent the interests of the municipality.

(4) (a) Each tourism tax advisory board shall advise the county legislative body on the best use of revenues collected from the tax allowed under Section 59-12-301 by providing the legislative body with a priority listing for proposed expenditures based on projected available tax revenues supplied to the board by the county legislative body on an annual basis.

(b) Each tourism tax advisory board in a county operating under the county commission form of government under Section [~~17-52a-201~~]17-62-201 or the expanded county commission form under Section [~~17-52a-202~~]17-62-202 shall advise the county legislative body on the best use of revenues collected from the tax allowed under Section 59-12-603 by providing the legislative body with a priority listing for proposed expenditures based on projected available tax revenues supplied to the board by the county legislative body on an annual basis.

(5) A member of any county tourism tax advisory board:

(a) may not receive compensation or benefits for the member's services; and

(b) may receive per diem and travel expenses incurred in the performance of the member's official duties, in accordance with Section 11-55-103.

Section 135. Section 17-78-707, which is renumbered from Section 17-31-9 is renumbered and amended to read:

[~~17-31-9~~]17-78-707 (Effective 11/06/25). Payment to Stay Another Day and Bounce Back Fund and Hotel Impact Mitigation Fund.

A county in which a qualified hotel, as defined in Section 63N-2-502, is located shall:

(1) make an annual payment to the Division of Finance:

(a) for deposit into the Stay Another Day and Bounce Back Fund, established in Section 63N-2-511;

(b) for any year in which the Governor's Office of Economic Opportunity provides a convention incentive, as defined in Section 63N-2-502; and

(c) in the amount of 5% of the state portion, as defined in Section 63N-2-502; and

(2) make payments to the Division of Finance:

(a) for deposit into the Hotel Impact Mitigation Fund, created in Section 63N-2-512;

(b) for each year described in Subsection [~~63N-2-512(5)(a)(ii)~~]63N-2-512(5) during which the balance of the Hotel Impact Mitigation Fund, defined in Section 63N-2-512, is less than $2,100,000 before any payment for that year under Subsection [~~63N-2-512(5)(a)~~]63N-2-512(5); and

(c) in the amount of the difference between $2,100,000 and the balance of the Hotel Impact Mitigation Fund, defined in Section 63N-2-512, before any payment for that year under Subsection [~~63N-2-512(5)(a)~~]63N-2-512(5).

Section 136. Section 17-78-801, which is renumbered from Section 17-37-1 is renumbered and amended to read:

PART 8. Planetariums

[~~17-37-1~~]17-78-801 (Effective 11/06/25). County tax for public planetarium.

(1) [~~For~~]A county may annually levy a tax, not to exceed 0.00004 per dollar of taxable value of taxable property in the county, for:

(a) the acquisition, construction, establishment, maintenance, and operation of a public planetarium;

(b) [~~or for the purpose of~~]funding a contract or a lease agreement for the operation and management of a county planetarium[~~,~~];

(c) the provision of planetarium facilities and equipment[~~,~~]; and

(d) [~~for~~]other planetarium services[~~, any county may levy annually a tax not to exceed .00004 per dollar of taxable value of taxable property in the county~~].

(2) The tax described in Subsection (1) is in addition to all taxes levied by counties and is not limited by the levy limitation imposed on counties by law.

(3) The taxes described in this section shall be levied and collected in the same manner as other general taxes of the county and [~~shall constitute~~]the revenue generated by the tax shall be deposited to a fund to be known as the County Planetarium Fund.

Section 137. Section 17-78-802, which is renumbered from Section 17-37-2 is renumbered and amended to read:

[~~17-37-2~~]17-78-802 (Effective 11/06/25). Planetarium board of directors -- Establishment -- Expenses.

(1) Upon the establishment of a county planetarium under the provisions of this [~~chapter~~]part, or upon the determination of the county

executive to contract for planetarium facilities and equipment and other planetarium services, the county executive shall:

(a) with the advice and consent of the county legislative body, appoint a planetarium board of directors, chosen at large based upon fitness for the office; and

(b) determine the number of people to serve as the board of directors.

(2) Members of the county legislative body may serve on the board of directors, but not more than one member of the county legislative body may be a member of the board at any one time.

(3) (a) [~~Directors~~]A director shall serve without compensation[~~, but their~~].

(b) A director's actual and necessary expenses incurred in the performance of [~~their~~]the director's official duties may be paid from the county planetarium fund.

Section 138. Section 17-78-803, which is renumbered from Section 17-37-3 is renumbered and amended to read:

[~~17-37-3~~]17-78-803 (Effective 11/06/25). Appointment of directors -- Terms -- Removal of directors -- Vacancies.

(1) [~~Directors~~]A planetarium director shall be appointed for [~~three year terms~~]a three-year term, or until [~~their successors are~~]the director's successor is appointed.

(2) Initially, appointments shall be made for one-, two-, and three[-]-year terms.

(3) Annually thereafter, the county executive, with the advice and consent of the county legislative body shall, before the first day of July of each year, appoint for a three-year term, directors to take the place of the retiring directors.

(4) Directors shall serve not more than two full terms in succession.

(5) Following[~~-such~~] appointments, the directors shall meet and select a [~~chairman~~]chair and [~~such~~]any other officers, as [~~they deem~~]the directors determine necessary, for one-year terms.

(6) The county executive may remove any director for misconduct or neglect of duty.

(7) Vacancies in the board of directors, occasioned by removals, resignations, or otherwise, shall be filled for the unexpired terms in the same manner as original appointments.

Section 139. Section 17-78-804, which is renumbered from Section 17-37-4 is renumbered and amended to read:

[~~17-37-4~~]17-78-804 (Effective 11/06/25). Delegation of management and control authority to directors by county executive body -- Contract or lease with private entity for management -- Deposit of money collected -- Expenditures -- Recommendations by directors to county executive body.

(1) (a) Upon the appointment of a planetarium board of directors, the county executive may delegate to the board of directors the authority to manage and control the functions, activities, operations, maintenance, and repair of any county planetarium, and shall include in its delegation the authority to approve and control all expenditures from the county planetarium fund.

(b) Any delegation of authority made to the board of directors under this section shall at all times be subject to the ultimate authority and responsibility of the county executive for the management and control of all county funds and properties as conferred upon that board by general law applicable to counties.

(2) (a) Upon the recommendation of the board of directors, the county may enter into a contract or lease agreement with a private organization or entity for partial or full management, operation and maintenance of any county planetarium and for other planetarium services, which may include providing the physical facilities and equipment for the operation of a planetarium.

(b) A contract or lease for the purposes described in Subsection (2)(a) may not extend for more than a four-year period and shall be subject to annual review by the board of directors to determine if performance is in conformance with the terms of the contract or lease and to establish the level of the subsequent funding [~~pursuant to~~]in accordance with the contract or lease.

(3) (a) All money collected from a county planetarium tax levy shall be deposited in the county treasury to the credit of the county planetarium fund.

(b) All money collected from operations of or from donations to any planetarium owned and operated by the county shall also be deposited in the county treasury to the credit of the planetarium fund.

(c) Any money collected from operations of a planetarium by a contracting party or lessee shall be used or deposited as the contract or lease may provide.

(d) Income or proceeds from any investment by the county treasurer of county planetarium funds shall be credited to the county planetarium fund and used only for planetarium purposes.

(4) (a) Expenditures from the county planetarium fund shall be drawn upon by the authorized officers of the county upon presentation of properly authenticated vouchers or documentation of the board of directors or other appropriate planetarium official.

(b) The county planetarium fund may not be used for any purpose other than to pay the costs of acquiring, constructing, operating, managing, equipping, furnishing, maintaining or repairing a planetarium, including appropriate, reasonable and proportionate costs allocated by the county for support of the planetarium, or to pay the cost of financing and funding a contract or lease agreement for facilities, equipment, management, operation, and maintenance of a planetarium.

(5) The planetarium board of directors shall provide recommendations to the county executive with respect to the purchase, lease, exchange, construction, erection, or other acquisition of land, real property improvements, and fixtures or the sale, lease, exchange, or other disposition of land, real property improvements, and fixtures for the use or benefit of a county planetarium.

Section 140. Section 17-78-805, which is renumbered from Section 17-37-5 is renumbered and amended to read:

[~~17-37-5~~]17-78-805 (Effective 11/06/25). Budget prepared by directors -- Fiscal year -- Tax levy.

(1) The planetarium board of directors shall prepare an annual budget and estimate of expenditures and in all other respects comply with the requirements of [~~the Uniform Fiscal Procedures Act for Counties and all other general laws relating to budgeting, accounting, disbursing of funds, and other financial matters applicable to counties~~]Chapter 63, Fiscal Authority and Processes.

(2) A county planetarium shall operate on the same fiscal year as the county and upon approval by the county legislative body of a final fiscal year budget submitted by the board of directors[~~, the county legislative body may, at the time and in the manner prescribed by law for levying general county taxes, levy a tax for planetarium purposes, as provided in this chapter, which shall be sufficient to provide funds for the approved annual budget; but the tax levy imposed may not exceed in any one year .00004 of taxable value of taxable property in the county~~].

Section 141. Section 17-78-806, which is renumbered from Section 17-37-6 is renumbered and amended to read:

[~~17-37-6~~]17-78-806 (Effective 11/06/25). Rules and regulations -- Use of planetarium by nonresidents.

(1) The planetarium board of directors shall adopt [~~rules and~~]regulations for the use and operations of any planetarium acquired and established by the county.

(2) [~~All persons~~]A person visiting or using the planetarium shall be subject to the [~~rules and~~]regulations adopted by the board.

(3) The board may exclude from the use of the planetarium any and all persons who willfully violate the [~~rules~~]regulations.

(4) The board may extend the privileges and use of the planetarium to persons residing outside of the county upon such terms and conditions as may be prescribed by [~~its~~]the board's regulations.

Section 142. Section 17-78-807, which is renumbered from Section 17-37-7 is renumbered and amended to read:

[~~17-37-7~~]17-78-807 (Effective 11/06/25). Annual report -- Financial statement.

(1) To the extent that independent accounting records are prepared and maintained by the planetarium, the planetarium board of directors shall make, or in the case of a contracting entity, require that there be made, an annual report to the county executive and the county legislative body on the condition and operation of the planetarium, including a financial statement.

(2) The financial statement described in Subsection (1) shall be:

(a) prepared in accordance with generally accepted accounting principles; and

(b) [~~consistently applied and shall be~~]reviewed by the county auditor.

(3) The planetarium shall be included in the annual audit of the county conducted by an independent public accountant as required by Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 143. Section 17-78-808, which is renumbered from Section 17-37-8 is renumbered and amended to read:

[~~17-37-8~~]17-78-808 (Effective 11/06/25). Director to be appointed -- Duties and compensation -- Other personnel.

(1) (a) Subject to Subsection (1)(b), the county executive shall appoint a competent [~~person~~]individual as planetarium director to have immediate charge of:

(i) planetarium facilities and activities not contracted to an outside entity; and

(ii) overseeing the performance of the terms of any contract or lease entered into with a contracting entity.

(b) In a county with a form of government that has a county executive that is separate from the county legislative body, the appointment under Subsection (1)(a) shall be with the advice and consent of the county legislative body.

(2) The planetarium director shall:

(a) have[~~ such~~] duties and receive[~~ such~~] compensation for the director's services as the county executive shall determine; and

(b) act as the executive officer for the planetarium board and implement the policies of the board.

(3) (a) The county executive may appoint, upon the recommendation of the planetarium director, other planetarium personnel.

(b) Each county employee working at the planetarium shall be subject to the provisions of [~~Chapter 33, County Personnel Management Act, and other general laws relating to county personnel matters~~]Chapter 75, General County Personnel Management.

Section 144. Section 17-78-809, which is renumbered from Section 17-37-9 is renumbered and amended to read:

[~~17-37-9~~]17-78-809 (Effective 11/06/25). Donations permitted -- Use.

(1) If a person desires to make donations of money, personal property, or real estate specifically for the benefit of a county planetarium, the board of directors may, with the consent of the county legislative body, accept those donations or other contributions.

(2) The board of directors shall manage and administer[~~ the~~] donations or contributions in accordance with the terms and conditions of the donating or contributing instrument.

(3) All real property and improvements acquired by or specifically for a county planetarium by any means whatsoever, including gift, devise or donation, shall be deeded to and held in the name of the county.

Section 145. Section 17-78-901, which is renumbered from Section 17-38-1 is renumbered and amended to read:

PART 9. Zoos

[~~17-38-1~~]17-78-901 (Effective 11/06/25). Tax levy for establishment of zoo.

(1) [~~For the establishment and maintenance of a public zoo counties~~]A county may levy annually a tax not exceeding .0002 of taxable value of taxable property in the county for the establishment and maintenance of a public zoo.

(2) The tax described in Subsection (1) is in addition to all taxes levied by counties and is not limited by the levy limitation imposed on counties by law.

(3) The taxes described in this section shall be levied and collected in the same manner as other general taxes of the county and shall be deposited in a fund to be known as a County Zoo Fund.

Section 146. Section 17-78-902, which is renumbered from Section 17-38-2 is renumbered and amended to read:

[~~17-38-2~~]17-78-902 (Effective 11/06/25). Operation and maintenance of zoo -- Advisory board -- Contract for services.

(1) Upon the establishment of a county zoo under this [~~act~~]part, the county legislative body may provide rules and regulations for [~~its~~]the zoo's governance and operation, including the establishment of an advisory board.

(2) The county executive may contract with an agency or vendor to supply all or part of the services necessary for the operation and maintenance of a county zoo.

Section 147. Section 17-78-903, which is renumbered from Section 17-38-3 is renumbered and amended to read:

[~~17-38-3~~]17-78-903 (Effective 11/06/25). Donations.

The county may, for the benefit of the zoo, accept donations of money, personal property, or real estate upon such terms and conditions as [~~it~~]the county sees fit.

Section 148. Section 17-78-1001, which is renumbered from Section 17-50-323 is renumbered and amended to read:

PART 10. Counties and Certain Business

[~~17-50-323~~]17-78-1001 (Effective 11/06/25). Indemnification of farmers markets.

A county may:

(1) operate a farmers market, as defined in Section 4-5-102, on county-owned property in order to promote economic development;

(2) indemnify a food producer participating in the farmers market; and

(3) define the scope of the indemnification in an agreement with the food producer.

Section 149. Section 17-78-1002, which is renumbered from Section 17-50-329.5 is renumbered and amended to read:

[~~17-50-329.5~~]17-78-1002 (Effective 11/06/25). Regulation of drive-through facilities.

(1) As used in this section:

(a) "Business" means a private enterprise carried on for the purpose of gain or economic profit.

(b) (i) "Business lobby" means a public area, including a lobby, dining area, or other area accessible to the public where business is conducted within a place of business.

(ii) "Business lobby" does not include the area of a business where drive-through service is conducted.

(c) "Land use application" means the same as that term is defined in Section 17-27a-103.

(d) (i) "Motor vehicle" means a self-propelled vehicle, including a motorcycle, intended primarily for use and operation on the highways.

(ii) "Motor vehicle" does not include an off-highway vehicle.

(e) "Motorcycle" means a motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(f) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle.

(2) A county may not withhold a business license, deny a land use application, or otherwise require a business that has a drive-through service as a component of its business operations to:

(a) allow a person other than a person in a motorized vehicle to use the drive-through service; or

(b) offer designated hours of the day that a customer is accommodated and business is conducted in the business lobby that are the same as or exceed the hours of the day that a customer is accommodated and business is conducted in the drive-through service.

Section 150. Section 17-78-1003, which is renumbered from Section 17-50-331 is renumbered and amended to read:

[~~17-50-331~~]17-78-1003 (Effective 11/06/25). Regulation of sexually oriented business.

(1) As used in this section:

(a) "Adult service" means dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted by a nude or partially denuded individual for compensation.

(b) "Compensation" means:

(i) a salary;

(ii) a fee;

(iii) a commission;

(iv) employment;

(v) a profit; or

(vi) other pecuniary gain.

(c) (i) "Escort" means a person who, for compensation, dates, socializes with, visits, consorts with, or accompanies another, or offers to date, consort with, socialize with, visit, or accompany another:

(A) to a social affair, entertainment, or a place of amusement; or

(B) within:

(I) a place of public or private resort;

(II) a business or commercial establishment; or

(III) a private quarter.

(ii) "Escort" does not mean a person who provides business or personal services, including:

(A) a licensed private nurse;

(B) an aide for the elderly or a person with a disability;

(C) a social secretary or similar service personnel:

(I) whose relationship with a patron is characterized by a contractual relationship having a duration of 12 hours or more; and

(II) who provides a service not principally characterized as dating or socializing; or

(D) a person who provides services such as singing telegrams, birthday greetings, or similar activities:

(I) characterized by an appearance in a public place;

(II) contracted for by a party other than the person for whom the service is being performed; and

(III) of a duration not to exceed one hour.

(d) "Escort service" means any person who furnishes or arranges for an escort to accompany another individual for compensation.

(e) "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:

(i) genitals;

(ii) the pubic region; or

(iii) a female breast below a point immediately above the top of the areola.

(f) (i) "Sexually oriented business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually oriented business or an independent contractor, performs any service for

compensation.

(ii) "Sexually oriented business" includes:

(A) an escort service; or

(B) an adult service.

(2) A person employed in a sexually oriented business may not work in the unincorporated area of a county:

(a) if the county requires that a person employed in a sexually oriented business be licensed individually; and

(b) if the person is not licensed by the county.

(3) A business entity that conducts a sexually oriented business may not conduct business in an unincorporated area of a county:

(a) if the county requires that a sexually oriented business be licensed; and

(b) if the business entity is not licensed by the county.

Section 151. Section 17-78-1004, which is renumbered from Section 17-50-333 is renumbered and amended to read: [~~17-50-333~~]17-78-1004 (Effective 11/06/25). Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-9-1101.

(d) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(e) "Local health department" means the same as that term is defined in Section 26A-1-102.

(f) "Nicotine product" means the same as that term is defined in Section 76-9-1101.

(g) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business; or

(v) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(h) "Self-service display" means the same as that term is defined in Section 76-9-1107.

(i) "Tobacco product" means:

(i) the same as that term is defined in Section 76-9-1101; or

(ii) tobacco paraphernalia as defined in Section 76-9-1101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by the delegation of the state's police power to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a county may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; or

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a county to issue a retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

(iv) under any other provision of state law or local ordinance.

(7) (a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) [~~Title 26, Chapter 38,~~]Section 26B-7-503, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~]Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) [~~Title 26, Chapter 38,~~]Section 26B-7-503, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 152. Section 17-78-1005, which is renumbered from Section 17-50-339 is renumbered and amended to read:

[~~17-50-339~~]17-78-1005 (Effective 11/06/25). Prohibition on licensing or certification of child care programs.

(1) (a) As used in this section, "child care program" means a child care facility or program operated by a person who holds a license or certificate from the Department of Health and Human Services under Title 26B, Chapter 2, Part 4, Child Care Licensing.

(b) "Child care program" does not include a child care program for which a county provides oversight, as described in Subsection 26B-2-405(2)(e).

(2) A county may not enact or enforce an ordinance that:

(a) imposes licensing or certification requirements for a child care program; or

(b) governs the manner in which care is provided in a child care program.

(3) This section does not prohibit a county from:

(a) requiring a business license to operate a business within the county; or

(b) imposing requirements related to building, health, and fire codes.

Section 153. Section 17-78-1101, which is renumbered from Section 17-50-341 is renumbered and amended to read:

PART 11. County Regulation of Particular Non-County Property

[~~17-50-341~~]17-78-1101 (Effective 11/06/25). Ordinances regarding co-ownership -- Prohibition on county ordinances restricting co-ownership models.

(1) As used in this section:

(a) "Co-owned home" means any residential unit that is jointly owned, in any manner or form, by any combination of individuals or entities.

(b) "Residential unit" means the same as that term is defined in Section [~~17-50-338~~]17-78-1102.

(2) Notwithstanding Section [~~17-27a-501~~]17-79-501 or Subsection [~~17-27a-503(1)~~]17-79-503(1), a county legislative body may not:

(a) adopt or enforce a land use regulation that governs co-owned homes differently than other residential units; or

(b) use a land use regulation that regulates co-owned homes to fine, charge, prosecute, or otherwise punish an individual solely for the act of owning or using a co-owned home.

(3) Notwithstanding Subsection (2), a legislative body may adopt and enforce land use regulations, if the regulations are applied equally to all residential units, including co-owned homes.

(4) This section does not limit homeowners' associations or condominium associations from adopting rules or regulations governing co-owned homes.

(5) Nothing in this section limits a county's authority to adopt or enforce regulations regarding:

(a) accessory dwelling units, as defined in Section [~~17-27a-103~~]17-79-102;

(b) internal accessory dwelling units, as defined in Section [~~17-27a-510.5~~]17-79-611; or

(c) the rental of a residential unit for fewer than 30 days consistent with Section [~~17-50-338~~]17-78-1102.

Section 154. Section 17-78-1102, which is renumbered from Section 17-50-338 is renumbered and amended to read:

[~~17-50-338~~]17-78-1102 (Effective 11/06/25). Ordinances regarding short-term rentals -- Prohibition on ordinances restricting speech on short-term rental websites -- Evidence of short-term rental -- Removing a listing.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means the same as that term is defined in Section 10-9a-511.5.

(b) "Permit number" means a unique identifier issued by a county and may include a business license number.

(c) "Request" means a formal inquiry made by a county to a short-term rental website that is not a legal requirement.

(d) "Residential unit" means a residential structure or any portion of a residential structure that is occupied as a residence.

(e) "Short-term rental" means a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days.

(f) "Short-term rental website" means a website or other digital platform that:

(i) allows a person to offer a short-term rental to one or more prospective renters; and

(ii) facilitates the renting of, and payment for, a short-term rental.

(g) "URL" means uniform resource locater.

(2) Notwithstanding Section [~~17-27a-501~~]17-79-501 or Subsection [~~17-27a-503(1)~~]17-79-503(1), a legislative body may not:

(a) enact or enforce an ordinance that prohibits an individual from listing or offering a short-term rental on a short-term rental website; or

(b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term rental on a short-term rental website.

(3) If a county regulates short-term rentals, Subsection (2)(b) does not prevent the county from using a listing or offering of a short-term rental on a short-term rental website as evidence that a short-term rental took place so long as the county has additional information to support the position that a property owner or lessee violated a county ordinance.

(4) A county may adopt an ordinance requiring the owner or lessee of a short-term rental to obtain a business license or other permit from the county before operating a short-term rental within an unincorporated area of the county.

(5) (a) A county may not regulate a short-term rental website.

(b) If a county allows short-term rentals within a portion of or all residential or commercial unincorporated zones in the county, the legislative body of a county may only request a short-term rental website to remove a short-term rental listing or offering from the short-term rental website after notice from the county, as described in Subsection (5), only if the short-term rental is operating in violation of business license requirements or zoning requirements.

(6) A county that provides a notice to a short-term rental website that a short-term rental within the unincorporated county is in violation of the county's business licensing requirements or zoning requirements shall identify in the notice:

(a) the listing or offering to be removed by the listing's or offering's URL; and

(b) the reason for the requested removal.

(7) If a legislative body imposes transient room tax on the rental of rooms in hotels, motels, inns, trailer courts, campgrounds, tourist homes, and similar accommodations for stays of less than 30 consecutive days as authorized by Section 59-12-301:

(a) the county may utilize a listing or offering of a short-term rental on a short-term rental website as evidence that the owner or lessee of a short-term rental may be subject to the transient room tax; and

(b) the county auditor may utilize the listing or offering of a short-term rental on a short-term rental website when making a referral to the State Tax Commission, as described in Section 59-12-302.

(8) Subsection (2) does not apply to an individual who lists or offers an internal accessory dwelling unit as a short-term rental on a short-term rental website if the county records a notice for the internal accessory dwelling unit under [~~Subsection 17-27a-526(6)~~]Section 17-78-303.

Section 155. Section 17-78-1103, which is renumbered from Section 17-50-327 is renumbered and amended to read:

[~~17-50-327~~]17-78-1103 (Effective 11/06/25). Regulation of carbon monoxide detectors -- Enforcement against occupant only.

(1) Subject to Subsection (2), a county may not enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(2) Subsection (1) may not be construed to affect:

(a) a building permit applicant's obligation to comply with a building code that requires the installation of a carbon monoxide detector as part of new construction; or

(b) a county's ability to require a building permit applicant to comply with a building code that requires the installation of a carbon monoxide detector as part of new construction.

Section 156. Section 17-78-1104, which is renumbered from Section 17-15-29 is renumbered and amended to read:

[~~17-15-29~~]17-78-1104 (Effective 11/06/25). Easement for utility use -- Realignment at property owner's expense.

(1) As used in this section, "utility easement" means an easement acquired by a county through the use of eminent domain to provide utility services to the county's residents.

(2) The owner of a servient estate subject to a utility easement may realign the easement at the servient estate owner's expense unless the alignment cannot be reasonably changed because of engineering or safety requirements.

Section 157. Section 17-79-101, which is renumbered from Section 17-27a-102 is renumbered and amended to read:

CHAPTER 79. County Land Use, Development, and Management Act

PART 1. General Provisions

[~~17-27a-102~~]17-79-101 (Effective 11/06/25). Purposes -- General land use authority -- Limitations.

(1) (a) The purposes of this chapter are to:

(i) provide for the health, safety, and welfare;

(ii) promote the prosperity;

(iii) improve the morals, peace, good order, comfort, convenience, and aesthetics of each county and each county's present and future inhabitants and businesses;

(iv) protect the tax base;

(v) secure economy in governmental expenditures;

(vi) foster the state's agricultural and other industries;

(vii) protect both urban and nonurban development;

(viii) protect and ensure access to sunlight for solar energy devices;

(ix) provide fundamental fairness in land use regulation;

(x) facilitate orderly growth, allow growth in a variety of housing types, and contribute toward housing affordability; and

(xi) protect property values.

(b) Subject to Subsection (4) and Section 11-41-103, to accomplish the purposes of this chapter, a county may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the county considers necessary or appropriate for the use and development of land within the unincorporated area of the county or a designated mountainous planning district, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:

(i) uses;

(ii) density;

(iii) open spaces;

(iv) structures;

(v) buildings;

(vi) energy-efficiency;

(vii) light and air;

(viii) air quality;

(ix) transportation and public or alternative transportation;

(x) infrastructure;

(xi) street and building orientation and width requirements;

(xii) public facilities;

(xiii) fundamental fairness in land use regulation; and

(xiv) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.

(2) Each county shall comply with the mandatory provisions of this part before any agreement or contract to provide goods, services, or municipal-type services to any storage facility or transfer facility for high-level nuclear waste, or greater than class C radioactive waste, may be executed or implemented.

(3) (a) Any ordinance, resolution, or rule enacted by a county [~~pursuant to its~~]in accordance with the county's authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(b) A county may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the county demonstrates that the regulation:

(i) is necessary for the purposes of this chapter;

(ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and

(iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(4) (a) This Subsection (4) applies to development agreements entered into on or after May 5, 2021.

(b) A provision in a county development agreement is unenforceable if the provision requires an individual or an entity, as a condition for issuing building permits or otherwise regulating development activities within an unincorporated area of the county, to initiate a process for a municipality to annex the unincorporated area in accordance with Title 10, Chapter 2, Part 8, Annexation.

(c) Subsection (4)(b) does not affect or impair the enforceability of any other provision in the development agreement.

Section 158. Section 17-79-102, which is renumbered from Section 17-27a-103 is renumbered and amended to read: [~~17-27a-103~~]17-79-102 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owner's association, public utility, or the Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) "Building code adoption cycle" means the period of time beginning the day on which a specific edition of a construction code from a nationally recognized code authority is adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day before a new edition of a construction code is adopted and effective in Title 15A, State Construction and Fire Codes Act.

(8) (a) "Boundary adjustment" means an agreement between adjoining property owners to relocate a common boundary that results in a conveyance of property between the adjoining lots, adjoining parcels, or adjoining lots and parcels.

(b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:

(i) creates an additional lot or parcel; or

(ii) is made by the Department of Transportation.

(9) (a) "Boundary establishment" means an agreement between adjoining property owners to clarify the location of an ambiguous, uncertain, or disputed common boundary.

(b) "Boundary establishment" does not mean a modification of a lot or parcel boundary that:

(i) creates an additional lot or parcel; or

(ii) is made by the Department of Transportation.

(10) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(11) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(12) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(13) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(14) "Conveyance document" means an instrument that:

(a) meets the definition of "document" in Section 57-1-1; and

(b) meets the requirements of Section 57-1-45.5.

(15) "Conveyance of property" means the transfer of ownership of any portion of real property from one person to another person.

(16) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

(17) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(18) "Department of Transportation" means the entity created in Section 72-1-201.

(19) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(20) (a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(21) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

(22) "Document" means the same as that term is defined in Section 57-1-1.

(23) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (23)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (23)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (23)(a)(i); or

(ii) a therapeutic school.

(24) "Establishment document" means an instrument that:

(a) meets the definition of "document" in Section 57-1-1; and

(b) meets the requirements of Section 57-1-45.

(25) "Full boundary adjustment" means a boundary adjustment that is not a simple boundary adjustment.

(26) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(27) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(28) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(29) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

(30) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(31) "Home-based microschool" means the same as that term is defined in Section 53G-6-201.

(32) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(33) (a) "Identical plans" means floor plans submitted to a county that:

(i) are submitted within the same building code adoption cycle as floor plans that were previously approved by the county;

(ii) have no structural differences from floor plans that were previously approved by the county; and

(iii) describe a building that:

(A) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(B) has a substantially identical floor plan to a floor plan previously approved by the county; and

(C) does not require any engineering or analysis beyond a review to confirm the submitted floor plans are substantially identical to a floor plan previously approved by the county or a review of the site plan and associated geotechnical reports for the site.

(b) "Identical plans" include floor plans that are oriented differently as the floor plan that was previously approved by the county.

(34) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(35) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(36) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(37) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required public landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines, based on accepted industry standards and for good cause, that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(38) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant [~~must~~]shall install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

(39) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(40) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(41) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(42) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(43) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(44) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(45) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(46) "Land use permit" means a permit issued by a land use authority.

(47) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, engineering or development standard, specification for public improvement, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(48) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(49) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(50) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2202.

(51) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.

(52) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(53) "Mountainous planning district" means an area designated by a county legislative body in accordance with Section [~~17-27a-901~~]17-79-408.

(54) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(55) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(56) "Nonconforming use" means a use of land that:

(a) legally existed before the current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(57) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(58) "Parcel" means any real property that is not a lot.

(59) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(60) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(61) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

(62) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section [~~17-27a-603~~]17-79-703 or 57-8-13.

(63) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(64) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, special district, special service district, or other political subdivision of the state; or

(d) a charter school.

(65) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(66) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(67) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(68) "Receiving zone" means an unincorporated area that a county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(69) "Record of survey map" means a map of a survey of land prepared in accordance with Section [~~17-23-17~~]17-73-504.

(70) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(71) "Residential roadway" means a public local residential road that:

(a) will serve primarily to provide access to adjacent primarily residential areas and property;

(b) is designed to accommodate minimal traffic volumes or vehicular traffic;

(c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;

(d) has a posted speed limit of 25 miles per hour or less;

(e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;

(f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

(72) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(73) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(74) "Sending zone" means an unincorporated area that a county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(75) "Simple boundary adjustment" means a boundary adjustment that does not:

(a) affect a public right-of-way, county utility easement, or other public property;

(b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or

(c) result in a lot or parcel out of conformity with land use regulations.

(76) "Site plan" means a document or map that may be required by a county during a preliminary review [~~preceding~~]before the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

(77) (a) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(b) "Special district" includes a governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(78) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(79) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in

Section 54-2-1.

(80) "State" includes any department, division, or agency of the state.

(81) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (81)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a recorded conveyance document:

(A) consolidating multiple lots or parcels into one legal description encompassing all lots by reference to a recorded plat and all parcels by metes and bounds description; or

(B) joining a lot to a parcel;

(iii) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(iv) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(v) a boundary adjustment;

(vi) a boundary establishment;

(vii) a road, street, or highway dedication plat;

(viii) a deed or easement for a road, street, or highway purpose; or

(ix) any other division of land authorized by law.

(82) (a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section [~~17-27a-608~~]17-79-711 that:

(i) vacates all or a portion of the subdivision;

(ii) increases the number of lots within the subdivision;

(iii) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(iv) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a simple boundary adjustment.

(83) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(84) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(85) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(86) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(87) "Unincorporated" means the area outside of the incorporated area of a municipality.

(88) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(89) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 159. Section 17-79-103, which is renumbered from Section 17-27a-104 is renumbered and amended to read:
[~~17-27a-104~~]17-79-103 (Effective 11/06/25). County standards.

(1) This chapter does not prohibit a county from adopting the county's own land use standards.

(2) Notwithstanding Subsection (1), a county may not impose a requirement, regulation, condition, or standard that conflicts with a provision of this chapter, Chapter 80, Counties and Housing Supply, other state law, or federal law.

Section 160. Section 17-79-201, which is renumbered from Section 17-27a-201 is renumbered and amended to read:

PART 2. Notice

[~~17-27a-201~~]17-79-201 (Effective 11/06/25). Required notice.

(1) At a minimum, each county shall provide actual notice or the notice required by this part.

(2) A county may by ordinance require greater notice than required under this part.

Section 161. Section 17-79-202, which is renumbered from Section 17-27a-202 is renumbered and amended to read:
[~~17-27a-202~~]17-79-202 (Effective 11/06/25). Applicant notice -- Waiver of requirements.

(1) For each land use application, the county shall:

(a) notify the applicant of the date, time, and place of each public hearing and public meeting to consider the application;

(b) provide to each applicant a copy of each staff report regarding the applicant or the pending application at least three business days before the public hearing or public meeting; and

(c) notify the applicant of any final action on a pending application.

(2) If a county fails to comply with the requirements of Subsection (1)(a) or (b) or both, an applicant may waive the failure so that the application may stay on the public hearing or public meeting agenda and be considered as if the requirements had been met.

Section 162. Section 17-79-203, which is renumbered from Section 17-27a-203 is renumbered and amended to read:
[~~17-27a-203~~]17-79-203 (Effective 11/06/25). Notice of intent to prepare a general plan or comprehensive general plan amendments in certain counties.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each county of the first or second class shall provide 10 calendar days notice of the county's intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the Utah Geospatial Resource Center created in Section 63A-16-505;

(c) to the association of governments, established [~~pursuant to~~]in accordance with an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and

(d) for the county, as a class A notice under Section 63G-30-102, for at least 10 days.

(2) Each notice under Subsection (1) shall:

(a) indicate that the county intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the county to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the county that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the county has one, and the name and telephone number of an individual where more information can be obtained concerning the county's proposed general plan or amendment.

Section 163. Section 17-79-204, which is renumbered from Section 17-27a-204 is renumbered and amended to read:
[~~17-27a-204~~]17-79-204 (Effective 11/06/25). Notice of public hearings and public meetings to consider general plan or modifications.

(1) A county shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:

(a) published for the county, as a class A notice under Section 63G-30-102, for at least 10 days; and

(b) mailed to each affected entity.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be published for the county, as a class A notice under Section 63G-30-102, for at least 24 hours.

Section 164. Section 17-79-205, which is renumbered from Section 17-27a-205 is renumbered and amended to read:

[~~17-27a-205~~]17-79-205 (Effective 11/06/25). Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing; and

(b) (i) provided for the area affected by the land use ordinance changes, as a class B notice under Section 63G-30-102, for at least 10 calendar days before the day of the public hearing; or

(ii) if the proposed land use ordinance adoption or modification is ministerial in nature, as described in Subsections (6)(a) and (b), provided as a class A notice under Section 63G-30-102 for at least 10 calendar days before the day of the public hearing.

(3) In addition to the notice requirements described in Subsections (1) and (2), for any proposed modification to the text of a zoning code, the notice posted in accordance with Subsection (2) shall:

(a) include:

(i) a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; or

(ii) a direct link to the county's webpage where a person can find a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; and

(b) be provided to any person upon written request.

(4) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be published for the county, as a class A notice under Section 63G-30-102, for at least 24 hours.

(5) (a) A county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the county will be provided to the county legislative body; and

(viii) state the location, date, and time of the public hearing described in Section [~~17-27a-502~~]17-79-502.

(c) If a county mails notice to a property owner under Subsection (2)(b)(i) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (5) may be included in or part of the notice described in Subsection (2)(b)(i) rather than sent separately.

(6) (a) A proposed land use ordinance is ministerial in nature if the proposed land use ordinance change is to:

(i) bring the county's land use ordinances into compliance with a state or federal law;

(ii) adopt a county land use update that affects:

(A) an entire zoning district; or

(B) multiple zoning districts;

(iii) adopt a non-substantive, clerical text amendment to an existing land use ordinance;

(iv) recodify the county's existing land use ordinances; or

(v) designate or define an affected area for purposes of a boundary adjustment or annexation.

(b) A proposed land use ordinance may include more than one of the purposes described in Subsection (6)(a) and remain ministerial in nature.

(c) If a proposed land use ordinance includes an adoption or modification not described in Subsection (6)(a):

(i) the proposed land use ordinance is not ministerial in nature, even if the proposed land use ordinance also includes a change or modification described in Subsection (6)(a); and

(ii) the notice requirements of Subsection (2)(b)(i) apply.

Section 165. Section 17-79-206, which is renumbered from Section 17-27a-206 is renumbered and amended to read:

[~~17-27a-206~~]17-79-206 (Effective 11/06/25). Third party notice -- High priority transportation corridor notice.

(1) (a) If a county requires notice to adjacent property owners, the county shall:

(i) mail notice to the record owner of each parcel within parameters specified by county ordinance; or

(ii) post notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.

(b) If a county mails notice to third party property owners under Subsection (1), it shall mail equivalent notice to property owners within an adjacent jurisdiction.

(2) (a) As used in this Subsection (2), "high priority transportation corridor" means a transportation corridor identified as a high priority transportation corridor under Section 72-5-403.

(b) The Department of Transportation may request, in writing, that a county provide the department with electronic notice of each land use application received by the county that may adversely impact the development of a high priority transportation corridor.

(c) If the county receives a written request as provided in Subsection (2)(b), the county shall provide the Department of Transportation with timely electronic notice of each land use application that the request specifies.

(3) (a) A large public transit district, as defined in Section 17B-2a-802, may request, in writing, that a county provide the large public transit district with electronic notice of each land use application received by the county that may impact the development of a major transit investment corridor.

(b) If the county receives a written request as provided in Subsection (3)(a), the county shall provide the large public transit district with timely electronic notice of each land use application that the request specifies.

Section 166. Section 17-79-207, which is renumbered from Section 17-27a-207 is renumbered and amended to read:

[~~17-27a-207~~]17-79-207 (Effective 11/06/25). Notice for an amendment to a subdivision -- Notice for vacation of or change to street.

(1) (a) For an amendment to a subdivision, each county shall provide notice of the date, time, and place of at least one public meeting, as provided in Subsection (1)(b).

(b) At least 10 calendar days before the public meeting, the notice required under Subsection (1)(a) shall be:

(i) mailed and addressed to the record owner of each parcel within specified parameters of that property; or

(ii) posted on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.

(2) Each county shall provide notice as required by Section [~~17-27a-208~~]17-79-208 for a subdivision that involves a vacation, alteration, or amendment of a street.

Section 167. Section 17-79-208, which is renumbered from Section 17-27a-208 is renumbered and amended to read:

[~~17-27a-208~~]17-79-208 (Effective 11/06/25). Hearing and notice for petition to vacate a public street.

(1) For any petition to vacate some or all of a public street or county utility easement, the legislative body shall:

(a) hold a public hearing; and

(b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1)(a), the legislative body shall ensure that the notice required under Subsection (1)(b) is:

(a) published for the county, as a class A notice under Section 63G-30-102, for at least 10 days;

(b) provided to the owner of each parcel that is accessed by the public street or county utility easement; and

(c) mailed to each affected entity.

Section 168. Section 17-79-209, which is renumbered from Section 17-27a-209 is renumbered and amended to read:

[~~17-27a-209~~]17-79-209 (Effective 11/06/25). Notice challenge.

If notice given under authority of this part is not challenged under Section [~~17-27a-801~~]17-79-1009 within 30 days after the meeting or action for which notice is given, the notice is considered adequate and proper.

Section 169. Section 17-79-210, which is renumbered from Section 17-27a-210 is renumbered and amended to read:

[~~17-27a-210~~]17-79-210 (Effective 11/06/25). Notice to county when a private institution of higher education is constructing student housing.

(1) Each private institution of higher education that intends to construct student housing on property owned by the institution shall provide written notice of the intended construction, as provided in Subsection (2), before any funds are committed to the construction, if any of the proposed student housing buildings is within 300 feet of privately owned residential property.

(2) Each notice under Subsection (1) shall be provided to the legislative body and, if applicable, the mayor of:

(a) the county in whose unincorporated area or the mountainous planning district area the privately owned residential property is located; or

(b) the municipality in whose boundaries the privately owned residential property is located.

(3) At the request of a county or municipality that is entitled to notice under this section, the institution and the legislative body of the affected county or municipality shall jointly hold a public hearing to provide information to the public and receive input from the public about the proposed construction.

Section 170. Section 17-79-211, which is renumbered from Section 17-27a-211 is renumbered and amended to read:

[~~17-27a-211~~]17-79-211 (Effective 11/06/25). Canal owner or operator -- Notice to county.

(1) A canal company or a canal operator shall ensure that each county in which the canal company or canal operator owns or operates a canal has on file, regarding the canal company or canal operator:

(a) a current mailing address and phone number;

(b) a contact name; and

(c) a general description of the location of each canal owned or operated by the canal owner or canal operator.

(2) If the information described in Subsection (1) changes after a canal company or a canal operator has provided the information to the county, the canal company or canal operator shall provide the correct information to the county within 30 days of the day on which the information changes.

Section 171. Section 17-79-212, which is renumbered from Section 17-27a-212 is renumbered and amended to read:

[~~17-27a-212~~]17-79-212 (Effective 11/06/25). Notice for an amendment to public improvements in a subdivision or development.

Before implementing an amendment to adopted specifications for public improvements that apply to a subdivision or a development, a county shall:

(1) hold a public hearing;

(2) mail a notice 30 days or more before the date of the public hearing to:

(a) each person who has submitted a land use application for which the land use authority has not issued a land use decision; and

(b) each person who makes a written request to receive a copy of the notice; and

(3) allow each person who receives a notice in accordance with Subsection (2) to provide public comment in writing before the public hearing or in person during the public hearing.

Section 172. Section 17-79-213, which is renumbered from Section 17-27a-213 is renumbered and amended to read:

[~~17-27a-213~~]17-79-213 (Effective 11/06/25). Hearing and notice procedures for modifying sign regulations.

(1) (a) [~~Prior to~~]Before any hearing or public meeting to consider a proposed land use regulation or land use application modifying sign regulations for an illuminated sign within any unified commercial development, as defined in Section 72-7-504.6, or within any planned unit development, a county shall give written notice of the proposed illuminated sign to:

(i) each property owner within a 500 foot radius of the sign site;

(ii) a municipality or county within a 500 foot radius of the sign site; and

(iii) any outdoor advertising permit holder described in Subsection 72-7-506(2)(b).

(b) The notice described in Subsection (1)(a) shall include the schedule of public meetings at which the proposed changes to land use regulations or land use application will be discussed.

(2) A county shall require the property owner or applicant to commence in good faith the construction of the commercial or industrial development within one year after the installation of the illuminated sign.

Section 173. Section 17-79-301, which is renumbered from Section 17-27a-301 is renumbered and amended to read:

PART 3. General Land Use Provisions

[~~17-27a-301~~]17-79-301 (Effective 11/06/25). Ordinance establishing planning commission required -- Exception -- Ordinance requirements -- Planning advisory area planning commission -- Compensation.

(1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance establishing a countywide planning commission for the unincorporated areas of the county not within a planning advisory area.

(b) Subsection (1)(a) does not apply if all of the county is included within any combination of:

(i) municipalities;

(ii) planning advisory areas each with a separate planning commission; and

(iii) mountainous planning districts.

(c) (i) Notwithstanding Subsection (1)(a), a county that designates a mountainous planning district shall enact an ordinance, subject to Subsection (1)(c)(ii), establishing a planning commission that has jurisdiction over the entire mountainous planning district.

(ii) A planning commission described in Subsection (1)(c)(i) has jurisdiction subject to a local health department exercising the local health department's authority in accordance with Title 26A, Chapter 1, Local Health Departments, and a municipality exercising the municipality's authority in accordance with Section 10-8-15.

(iii) The ordinance shall require that members of the planning commission be appointed by the county executive with the advice and consent of the county legislative body.

(2) (a) Notwithstanding Subsection (1)(b), the county legislative body of a county of the first or second class that includes more than one planning advisory area each with a separate planning commission may enact an ordinance that:

(i) dissolves each planning commission within the county; and

(ii) establishes a countywide planning commission that has jurisdiction over:

(A) each planning advisory area within the county; and

(B) the unincorporated areas of the county not within a planning advisory area.

(b) A countywide planning commission established under Subsection (2)(a) shall assume the duties of each dissolved planning commission.

(3) (a) The ordinance described in Subsection (1)(a)[~~or (c)~~], (1)(c), or (2)(a) shall define:

(i) the number and terms of the members and, if the county chooses, alternate members;

(ii) the mode of appointment;

(iii) the procedures for filling vacancies and removal from office;

(iv) the authority of the planning commission;

(v) subject to Subsection (3)(b), the rules of order and procedure for use by the planning commission in a public meeting; and

(vi) other details relating to the organization and procedures of the planning commission.

(b) Subsection (3)(a)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(4) (a) (i) If the county establishes a planning advisory area planning commission, the county legislative body shall enact an ordinance that defines:

(A) appointment procedures;

(B) procedures for filling vacancies and removing members from office;

(C) subject to Subsection (4)(a)(ii), the rules of order and procedure for use by the planning advisory area planning commission in a public meeting; and

(D) details relating to the organization and procedures of each planning advisory area planning commission.

(ii) Subsection (4)(a)(i)(C) does not affect the planning advisory area planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) The planning commission for each planning advisory area shall consist of seven members who shall be appointed by:

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

(ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.

(c) (i) Members shall serve four-year terms and until their successors are appointed and qualified.

(ii) Notwithstanding the provisions of Subsection (4)(c)(i), members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.

(d) (i) Each member of a planning advisory area planning commission shall be a registered voter residing within the planning advisory area.

(ii) Subsection (4)(d)(i) does not apply to a member described in Subsection (5)(a) if that member was, [~~prior to~~]before May 12, 2015, authorized to reside outside of the planning advisory area.

(5) (a) A member of a planning commission who was elected to and served on a planning commission on May 12, 2015, shall serve out the term to which the member was elected.

(b) Upon the expiration of an elected term described in Subsection (5)(a), the vacant seat shall be filled by appointment in accordance with this section.

(6) Upon the appointment of all members of a planning advisory area planning commission, each planning advisory area planning commission under this section shall begin to exercise the powers and perform the duties provided in Section [~~17-27a-302~~]17-79-302 with respect to all matters then pending that previously had been under the jurisdiction of the countywide planning commission or planning advisory area planning and zoning board.

(7) The legislative body may authorize a member of a planning commission to receive per diem and travel expenses for meetings actually attended, in accordance with Section 11-55-103.

Section 174. Section 17-79-302, which is renumbered from Section 17-27a-302 is renumbered and amended to read:

[~~17-27a-302~~]17-79-302 (Effective 11/06/25). Planning commission powers and duties -- Training requirements.

(1) Each countywide, planning advisory area, or mountainous planning district planning commission shall, with respect to the unincorporated area of the county, the planning advisory area, or the mountainous planning district, review and make a recommendation to the county legislative body for:

(a) a general plan and amendments to the general plan;

(b) land use regulations, including:

(i) ordinances regarding the subdivision of land within the county; and

(ii) amendments to existing land use regulations;

(c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

(d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

(e) application processes that:

(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) land use applicant and adversely affected party to require formal consideration of any application by a land use authority;

(B) land use applicant or adversely affected party to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section [~~17-27a-404~~]17-79-404.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

(5) Nothing in this section limits the right of a county to initiate or propose the actions described in this section.

(6) (a) (i) This Subsection (6) applies to a county that:

(A) is a county of the first, second, or third class; and

(B) has a population in the county's unincorporated areas of 5,000 or more.

(ii) The population for each county described in Subsection (6)(a)(i) shall be derived from:

(A) an estimate of the Utah Population Committee created in Section 63C-20-103; or

(B) if the Utah Population Committee estimate is not available, the most recent official census or census estimate of the United States Bureau of the Census.

(b) A county described in Subsection (6)(a)(i) shall ensure that each member of the county's planning commission completes four hours of annual land use training as follows:

(i) one hour of annual training on general powers and duties under Title 17, Chapter 27a, County Land Use, Development, and Management Act; and

(ii) three hours of annual training on land use, which may include:

(A) appeals and variances;

(B) conditional use permits;

(C) exactions;

(D) impact fees;

(E) vested rights;

(F) subdivision regulations and improvement guarantees;

(G) land use referenda;

(H) property rights;

(I) real estate procedures and financing;

(J) zoning, including use-based and form-based; and

(K) drafting ordinances and code that complies with statute.

(c) A newly appointed planning commission member may not participate in a public meeting as an appointed member until the member completes the training described in Subsection (6)(b)(i).

(d) A planning commission member may qualify for one completed hour of training required under Subsection (6)(b)(ii) if the member attends, as an appointed member, 12 public meetings of the planning commission within a calendar year.

(e) A county shall provide the training described in Subsection (6)(b) through:

(i) county staff;

(ii) the Utah Association of Counties; or

(iii) a list of training courses selected by:

(A) the Utah Association of Counties; or

(B) the Division of Real Estate created in Section 61-2-201.

(f) A county shall, for each planning commission member:

(i) monitor compliance with the training requirements in Subsection (6)(b); and

(ii) maintain a record of training completion at the end of each calendar year.

Section 175. Section 17-79-303, which is renumbered from Section 17-27a-306 is renumbered and amended to read: [~~17-27a-306~~]17-79-303 (Effective 11/06/25). Planning advisory areas -- Notice of hearings.

(1) (a) A planning advisory area may be established as provided in this Subsection (1).

(b) A planning advisory area may not be established unless the area to be included within the proposed planning advisory area:

(i) is unincorporated;

(ii) is contiguous; and

(iii) (A) contains:

(I) at least 20% but not more than 80% of:

(Aa) the total private land area in the unincorporated county; or

(Bb) the total value of locally assessed taxable property in the unincorporated county; or

(II) (Aa) in a county of the second or third class, at least 5% of the total population of the unincorporated county, but not less than 300 residents; or

(Bb) in a county of the fourth, fifth, or sixth class, at least 25% of the total population of the unincorporated county; or

(B) has been declared by the United States Census Bureau as a census designated place.

(c) (i) The process to establish a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the proposed planning advisory area is located.

(ii) A petition to establish a planning advisory area may not be filed if it proposes the establishment of a planning advisory area that includes an area within a proposed planning advisory area in a petition that has previously been certified under Subsection (1)(g), until after the canvass of an election on the proposed planning advisory area under Subsection (1)(j).

(d) A petition under Subsection (1)(c) to establish a planning advisory area shall:

(i) be signed by the owners of private real property that:

(A) is located within the proposed planning advisory area;

(B) covers at least 10% of the total private land area within the proposed planning advisory area; and

(C) is equal in value to at least 10% of the value of all private real property within the proposed planning advisory area;

(ii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be established as a planning advisory area;

(iii) indicate the typed or printed name and current residence address of each owner signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to establish a planning advisory area.

(e) Subsection 10-2a-102(3) applies to a petition to establish a planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter 2a, Municipal Incorporation.

(f) (i) Within seven days after the filing of a petition under Subsection (1)(c)proposing the establishment of a planning advisory area in a county of the second class, the county clerk shall provide notice of the filing of the petition to:

(A) each owner of real property owning more than 1% of the assessed value of all real property within the proposed planning advisory area; and

(B) each owner of real property owning more than 850 acres of real property within the proposed planning advisory area.

(ii) A property owner may exclude all or part of the property owner's property from a proposed planning advisory area in a county of the second class:

(A) if:

(I) (Aa) (Ii) the property owner owns more than 1% of the assessed value of all property within the proposed planning advisory area;

(IIii) the property is nonurban; and

(IIIiii) the property does not or will not require municipal provision of municipal-type services; or

(Bb) the property owner owns more than 850 acres of real property within the proposed planning advisory area; and

(II) exclusion of the property will not leave within the planning advisory area an island of property that is not part of the planning advisory area; and

(B) by filing a notice of exclusion within 10 days after receiving the clerk's notice under Subsection (1)(f)(i).

(iii) (A) The county legislative body shall exclude from the proposed planning advisory area the property identified in a notice of exclusion timely filed under Subsection (1)(f)(ii)(B) if the property meets the applicable requirements of Subsection (1)(f)(ii)(A).

(B) If the county legislative body excludes property from a proposed planning advisory area under Subsection (1)(f)(iii), the county legislative body shall, within five days after the exclusion, send written notice of its action to the contact sponsor.

(g) (i) Within 45 days after the filing of a petition under Subsection (1)(c), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (1)(d); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (1)(d):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (1)(d), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (1)(g)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(h) (i) Within 90 days after a petition to establish a planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to establish a planning advisory area.

(ii) A public hearing under Subsection (1)(h)(i) shall be:

(A) within the boundary of the proposed planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) At least one week before holding a public hearing under Subsection (1)(h)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing for the county, as a class A notice under Section 63G-30-102, for at least one week.

(i) Following the public hearing under Subsection (1)(h)(i), the county legislative body shall arrange for the proposal to establish a planning advisory area to be submitted to voters residing within the proposed planning advisory area at the next regular general election that is more than 90 days after the public hearing.

(j) A planning advisory area is established at the time of the canvass of the results of an election under Subsection (1)(i) if the canvass indicates that a majority of voters voting on the proposal to establish a planning advisory area voted in favor of the proposal.

(k) An area that is an established township before May 12, 2015:

(i) is, as of May 12, 2015, a planning advisory area; and

(ii) (A) shall change its name, if applicable, to no longer include the word "township"; and

(B) may use the word "planning advisory area" in its name.

(2) The county legislative body may:

(a) assign to the countywide planning commission the duties established in this part that would have been assumed by a planning advisory area planning commission designated under Subsection (2)(b); or

(b) designate and appoint a planning commission for the planning advisory area.

(3) (a) An area within the boundary of a planning advisory area may be withdrawn from the planning advisory area as provided in this Subsection (3) or in accordance with Subsection (5)(a).

(b) The process to withdraw an area from a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the planning advisory area is located.

(c) A petition under Subsection (3)(b) shall:

(i) be signed by the owners of private real property that:

(A) is located within the area proposed to be withdrawn from the planning advisory area;

(B) covers at least 50% of the total private land area within the area proposed to be withdrawn from the planning advisory area; and

(C) is equal in value to at least 33% of the value of all private real property within the area proposed to be withdrawn from the planning advisory area;

(ii) state the reason or reasons for the proposed withdrawal;

(iii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be withdrawn from the planning advisory area;

(iv) indicate the typed or printed name and current residence address of each owner signing the petition;

(v) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(vi) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vii) request the county legislative body to withdraw the area from the planning advisory area.

(d) Subsection 10-2a-102(3) applies to a petition to withdraw an area from a planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter 2a, Municipal Incorporation.

(e) (i) Within 45 days after the filing of a petition under Subsection (3)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (3)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (3)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (3)(e)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(f) (i) Within 60 days after a petition to withdraw an area from a planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to withdraw the area from the planning advisory area.

(ii) A public hearing under Subsection (3)(f)(i) shall be held:

(A) within the area proposed to be withdrawn from the planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (3)(f)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing for the area proposed to be withdrawn, as a class B notice under Section 63G-30-102, for at least three weeks before the date of the hearing.

(g) (i) Within 45 days after the public hearing under Subsection (3)(f)(i), the county legislative body shall make a written decision on the proposal to withdraw the area from the planning advisory area.

(ii) In making its decision as to whether to withdraw the area from the planning advisory area, the county legislative body shall consider:

(A) whether the withdrawal would leave the remaining planning advisory area in a situation where the future incorporation of an area within the planning advisory area or the annexation of an area within the planning advisory area to an adjoining municipality would be economically or practically not feasible;

(B) if the withdrawal is a precursor to the incorporation or annexation of the withdrawn area:

(I) whether the proposed subsequent incorporation or withdrawal:

(Aa) will leave or create an unincorporated island or peninsula; or

(Bb) will leave the county with an area within its unincorporated area for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years; and

(II) whether the municipality to be created or the municipality into which the withdrawn area is expected to annex would be or is capable, in a cost effective manner, of providing service to the withdrawn area that the county will no longer provide due to the incorporation or annexation;

(C) the effects of a withdrawal on adjoining property owners, existing or projected county streets or other public improvements, law enforcement, and zoning and other municipal services provided by the county; and

(D) whether justice and equity favor the withdrawal.

(h) Upon the written decision of the county legislative body approving the withdrawal of an area from a planning advisory area, the area is withdrawn from the planning advisory area and the planning advisory area continues as a planning advisory area with a boundary that excludes the withdrawn area.

(4) (a) A planning advisory area may be dissolved as provided in this Subsection (4).

(b) The process to dissolve a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the planning advisory area is located.

(c) A petition under Subsection (4)(b) shall:

(i) be signed by registered voters within the planning advisory area equal in number to at least 25% of all votes cast by voters within the planning advisory area at the last congressional election;

(ii) state the reason or reasons for the proposed dissolution;

(iii) indicate the typed or printed name and current residence address of each person signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsors to act on behalf of all persons signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to dissolve the planning advisory area.

(d) (i) Within 45 days after the filing of a petition under Subsection (4)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (4)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (4)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (4)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (4)(d)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(e) (i) Within 60 days after a petition to dissolve the planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to dissolve the planning advisory area.

(ii) A public hearing under Subsection (4)(e)(i) shall be held:

(A) within the boundary of the planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (4)(e)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing for the county, as a class A notice under Section 63G-30-102, for three consecutive weeks immediately before the public hearing.

(f) Following the public hearing under Subsection (4)(e)(i), the county legislative body shall arrange for the proposal to dissolve the planning advisory area to be submitted to voters residing within the planning advisory area at the next regular general election that is more than 90 days after the public hearing.

(g) A planning advisory area is dissolved at the time of the canvass of the results of an election under Subsection (4)(f) if the canvass indicates that a majority of voters voting on the proposal to dissolve the planning advisory area voted in favor of the proposal.

(5) (a) If a portion of an area located within a planning advisory area is annexed by a municipality or incorporates, that portion is withdrawn from the planning advisory area.

(b) If a planning advisory area in whole is annexed by a municipality or incorporates, the planning advisory area is dissolved.

Section 176. Section 17-79-304, which is renumbered from Section 17-27a-303 is renumbered and amended to read:

[~~17-27a-303~~]17-79-304 (Effective 11/06/25). Entrance upon land.

A county may enter upon any land at reasonable times to make examinations and surveys pertinent to the:

(1) preparation of its general plan; or

(2) preparation or enforcement of its land use ordinances.

Section 177. Section 17-79-305, which is renumbered from Section 17-27a-305 is renumbered and amended to read:

[~~17-27a-305~~]17-79-305 (Effective 11/06/25). Other entities required to conform to county's land use ordinances -- Exceptions -- School districts, charter schools, home-based microschools, and micro-education entities -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within a mountainous planning district or the unincorporated portion of the county, as applicable.

(b) In addition to any other remedies provided by law, when a county's land use ordinance is violated or about to be violated by another political subdivision, that county may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a county's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a county may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a county may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a county may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the county in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a county building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is not an employee of the contractor, licensed to perform the inspection that the inspector is requested to perform, and approved by a county building inspector or:

(A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located.

(b) The approval under Subsection (6)(a)(iii) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and county building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school, home-based microschool, or micro-education entity shall be considered a permitted use in all zoning districts within a county.

(b) Each land use application for any approval required for a charter school, home-based microschool, or micro-education entity, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school or micro-education entity may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

(d) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school or micro-education entity may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school or micro-education entity provides a waiver.

(e) (i) A school district , charter school, or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district, charter school, or micro-education entity used an independent building inspector for inspection of the school building; or

(B) a county official with authority to issue the certificate, if the school district, charter school, or micro-education entity used a county building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection [~~53E-3-706(3)(a)(ii)~~]53E-3-706(3)(d)(ii).

(iii) A charter school or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school or micro-education entity used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any county requirement for an inspection or a certificate of occupancy.

(f) (i) A micro-education entity may operate a facility that meets Group E Occupancy requirements as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a).

(ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i)may have up to 100 students in the facility.

(g) A micro-education entity may operate a facility that is subject to and complies with the same occupancy requirements as a Class A-1, A-3, B, or M Occupancy as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:

(i) the facility has a code compliant fire alarm system and carbon monoxide detection system;

(ii) (A) each classroom in the facility has an exit directly to the outside at the level of exit discharge; or

(B) the structure has a code compliant fire sprinkler system; and

(iii) the facility has an automatic fire sprinkler system in fire areas of the facility that are greater than 12,000 square feet.

(h) (i) A home-based microschool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling.

(ii) If a floor that is below grade in a home-based microschool is used for home-based microschool purposes, the below grade floor of the home-based microschool shall have at least one emergency escape or rescue window that complies with the requirements for emergency escape and rescue windows as defined by the International Residential Code, as incorporated in Section 15A-1-210.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section [~~17-27a-509~~]17-79-804;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii)in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section [~~17-27a-304~~]17-79-306; or

(b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

(10) Nothing in Subsection (7) prevents a political subdivision from:

(a) requiring a home-based microschool or micro-education entity to comply with local zoning and land use regulations that do not conflict with this section, including:

(i) parking;

(ii) traffic; and

(iii) hours of operation;

(b) requiring a home-based microschool or micro-education entity to obtain a business license;

(c) enacting county ordinances and regulations consistent with this section;

(d) subjecting a micro-education entity to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(e) imposing regulations on the location of a project that are necessary to avoid risks to health or safety.

(11) Notwithstanding any other provision of law, the proximity restrictions that apply to community locations do not apply to a micro-education entity.

Section 178. Section 17-79-306, which is renumbered from Section 17-27a-304 is renumbered and amended to read:

[~~17-27a-304~~]17-79-306 (Effective 11/06/25). State and federal property.

Unless otherwise provided by law, nothing contained in this chapter or Chapter 80, Counties and Housing Supply, may be construed as giving a county jurisdiction over property owned by the state or the United States.

Section 179. Section 17-79-401, which is renumbered from Section 17-27a-401 is renumbered and amended to read:

PART 4. General Plan

[~~17-27a-401~~]17-79-401 (Effective 11/06/25). General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, a county shall prepare and adopt a comprehensive, long-range general plan:

(a) for present and future needs of the county;

(b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) To promote health, safety, and welfare, the general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and clean energy resources;

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation;

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and

(i) an official map.

[~~(3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408, shall include a moderate income housing element that meets the requirements of Subsection 17-27a-403(2)(a)(iii).~~]

[~~(ii) (A) This Subsection (3)(a)(ii) applies to a county that does not qualify as a specified county as of January 1, 2023.~~]

[~~(B) As of January 1, if a county described in Subsection (3)(a)(ii)(A) changes from one class to another or grows in population to qualify as a specified county as defined in Section 17-27a-408, the county shall amend the county's general plan to comply with Subsection (3)(a)(i) on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.~~]

[~~(iii) A county described in Subsection (3)(a)(ii)(B) shall send a copy of the county's amended general plan to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member.~~]

[~~(b) The general plan shall contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.~~]

[~~(c) The resource management plan described in Subsection (3)(b) shall address:~~]

[~~(i) mining;~~]

[~~(ii) land use;~~]

[~~(iii) livestock and grazing;~~]

[~~(iv) irrigation;~~]

[~~(v) agriculture;~~]

[~~(vi) fire management;~~]

[~~(vii) noxious weeds;~~]

[~~(viii) forest management;~~]

[~~(ix) water rights;~~]

[~~(x) ditches and canals;~~]

[~~(xi) water quality and hydrology;~~]

[~~(xii) flood plains and river terraces;~~]

[~~(xiii) wetlands;~~]

[~~(xiv) riparian areas;~~]

[~~(xv) predator control;~~]

[~~(xvi) wildlife;~~]

[~~(xvii) fisheries;~~]

[~~(xviii) recreation and tourism;~~]

[~~(xix) energy resources;~~]

[~~(xx) mineral resources;~~]

[~~(xxi) cultural, historical, geological, and paleontological resources;~~]

[~~(xxii) wilderness;~~]

[~~(xxiii) wild and scenic rivers;~~]

[~~(xxiv) threatened, endangered, and sensitive species;~~]

[~~(xxv) land access;~~]

[~~(xxvi) law enforcement;~~]

[~~(xxvii) economic considerations; and~~]

[~~(xxviii) air.~~]

[~~(d) For each item listed under Subsection (3)(c), a county's resource management plan shall:~~]

[~~(i) establish findings pertaining to the item;~~]

[~~(ii) establish defined objectives; and~~]

[~~(iii) outline general policies and guidelines on how the objectives described in Subsection (3)(d)(ii) are to be accomplished.~~]

[~~(4) (a) (i) The general plan shall include specific provisions related to an area within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303.~~]

[~~(ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:~~]

[~~(A) the information identified in Section 19-3-305;~~]

[~~(B) information supported by credible studies that demonstrates that Subsection 19-3-307(2) has been satisfied; and~~]

[~~(C) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.~~]

[~~(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.~~]

[~~(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.~~]

[~~(d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.~~]

[~~(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:~~]

[~~(i) comply with Subsection (4)(a) as soon as reasonably possible; and~~]

[~~(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.~~]

[~~(5)~~](3) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

[~~(6)~~](4) Subject to [~~Subsection 17-27a-403(2)~~]Section 17-79-403, the county may determine the comprehensiveness, extent, and format of the general plan.

[~~(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan.~~]

[~~(8)~~](5) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23A, Wildlife Resources Act.

[~~(9)~~](6) On or before December 31, 2025, a county that has a general plan that does not include a water use and preservation element that complies with Section [~~17-27a-403~~]17-79-403 shall amend the county's general plan to comply with Section [~~17-27a-403~~]17-79-403.

Section 180. Section 17-79-402 is enacted to read:

17-79-402 (Effective 11/06/25). Specific provisions for general plan.

(1) (a) The general plan of a specified county, as defined in Section 17-80-101, shall include a moderate income housing element that meets the requirements of Section 17-80-201.

(b) (i) This Subsection (1)(b) applies to a county that does not qualify as a specified county as of January 1, 2023.

(ii) As of January 1, if a county changes from one class to another or grows in population to qualify as a specified county, the county shall amend the county's general plan to include a moderate income housing element that meets the requirements of Section 17-80-201 on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.

(iii) A county described in Subsection (1)(b)(ii) shall send a copy of the county's amended general plan to the association of governments, established in accordance with an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member.

(2) (a) All county general plans shall contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(b) The resource management plan described in Subsection (2)(a) shall address:

(i) mining;

(ii) land use;

(iii) livestock and grazing;

(iv) irrigation;

(v) agriculture;

(vi) fire management;

(vii) noxious weeds;

(viii) forest management;

(ix) water rights;

(x) ditches and canals;

(xi) water quality and hydrology;

(xii) flood plains and river terraces;

(xiii) wetlands;

(xiv) riparian areas;

(xv) predator control;

(xvi) wildlife;

(xvii) fisheries;

(xviii) recreation and tourism;

(xix) energy resources;

(xx) mineral resources;

(xxi) cultural, historical, geological, and paleontological resources;

(xxii) wilderness;

(xxiii) wild and scenic rivers;

(xxiv) threatened, endangered, and sensitive species;

(xxv) land access;

(xxvi) law enforcement;

(xxvii) economic considerations; and

(xxviii) air.

(c) For each item listed under Subsection (2)(b), a county's resource management plan shall:

(i) establish findings pertaining to the item;

(ii) establish defined objectives; and

(iii) outline general policies and guidelines on how the objectives described in Subsection (2)(c)(ii) are to be accomplished.

(3) (a) (i) All county general plans shall include specific provisions related to an area within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303.

(ii) The provisions described in Subsection (3)(a)(i) shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(A) the information identified in Section 19-3-305;

(B) information supported by credible studies that demonstrates that Subsection 19-3-307(2) has been satisfied; and

(C) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (3)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (3)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection (3)(b)to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (3)(b), the county shall:

(i) comply with Subsection (3)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(4) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan.

Section 181. Section 17-79-403, which is renumbered from Section 17-27a-403 is renumbered and amended to read: [~~17-27a-403~~]17-79-403 (Effective 11/06/25). General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section [~~17-27a-203~~]17-79-203, of the planning commission's intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) is coordinated to integrate the land use element with the water use and preservation element; and

(D) accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) for a specified county as defined in Section [~~17-27a-408~~]17-80-101, a moderate income housing element that[~~:~~]meets the requirements of Section 17-80-202;

[~~(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;~~]

[~~(B) selects three or more moderate income housing strategies described in Subsections (2)(b)(ii)(A) through (V), or one moderate income housing strategy described in Subsections (2)(b)(ii)(W) through (BB), for implementation; and~~]

[~~(C) includes an implementation plan as provided in Subsection (2)(f);~~]

(iv) a resource management plan detailing the findings, objectives, and policies required by [~~Subsection 17-27a-401(3)~~]Section 17-79-402; and

(v) a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the county to modify the county's operations to eliminate practices or conditions that waste water.

[~~(b) In drafting the moderate income housing element, the planning commission:~~]

[~~(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:~~]

[~~(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and~~]

[~~(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and~~]

[~~(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies:~~]

[~~(A) rezone for densities necessary to facilitate the production of moderate income housing;~~]

[~~(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;~~]

[~~(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;~~]

[~~(D) identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing;~~]

[~~(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;~~]

[~~(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones, commercial centers, or employment centers;~~]

[~~(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;~~]

[~~(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;~~]

[~~(I) amend land use regulations to allow for single room occupancy developments;~~]

[~~(J) implement zoning incentives for moderate income units in new developments;~~]

[~~(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;~~]

[~~(L) reduce, waive, or eliminate impact fees related to moderate income housing;~~]

[~~(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;~~]

[~~(N) implement a mortgage assistance program for employees of the county, an employer that provides contracted services for the county, or any other public employer that operates within the county;~~]

[~~(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;~~]

[~~(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;~~]

[~~(Q) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;~~]

[~~(R) create a program to transfer development rights for moderate income housing;~~]

[~~(S) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;~~]

[~~(T) develop a moderate income housing project for residents who are disabled or 55 years old or older;~~]

[~~(U) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones;~~]

[~~(V) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption~~

~~of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing;~~]

[~~(W) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;~~]

[~~(X) create a home ownership investment zone in accordance with Part 12, Home Ownership Promotion Zone for Counties;~~]

[~~(Y) create a first home investment zone in accordance with Title 63N, Chapter 3, Part 16, First Home Investment Zone Act;~~]

[~~(Z) approve a project that receives funding from, or qualifies to receive funding from, the Utah Homes Investment Program created in Title 51, Chapter 12, Utah Homes Investment Program;~~]

[~~(AA) adopt or approve an affordable home ownership density bonus for single-family residential units, as described in Section 17-27a-403.1; and~~]

[~~(BB) adopt or approve an affordable home ownership density bonus for multi-family residential units, as described in Section 17-27a-403.2.~~]

[~~(c) The planning commission shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(ii).~~]

[~~(d)~~](b) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

[~~(e)~~](c) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the county's region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

[~~(f) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the county for implementation.~~]

[~~(ii) The timeline described in Subsection (2)(f)(i) shall:~~]

[~~(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and~~]

[~~(B) provide flexibility for the county to make adjustments as needed.~~]

[~~(g)~~](d) In drafting the water use and preservation element, the planning commission:

(i) shall consider applicable regional water conservation goals recommended by the Division of Water Resources;

(ii) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and water use and preservation element may affect the Great Salt Lake;

(iii) shall notify the community water systems serving drinking water within the unincorporated portion of the county and request feedback from the community water systems about how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(iv) shall consider the potential opportunities and benefits of planning for regionalization of public water systems;

(v) shall consult with the Department of Agriculture and Food for information and technical resources regarding the potential benefits of agriculture conservation easements and potential implementation of agriculture water optimization projects that would support regional water conservation goals;

(vi) shall notify an irrigation or canal company located in the county so that the irrigation or canal company can be involved in the protection and integrity of the irrigation or canal company's delivery systems;

(vii) shall include a recommendation for:

(A) water conservation policies to be determined by the county; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(viii) shall review the county's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(ix) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(x) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(xi) shall include a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection [~~17-27a-401(2)~~]17-79-401(2) or [~~(3)(a)(i)~~]17-79-402(1); and

(g) any other element the county considers appropriate.

Section 182. Section 17-79-404, which is renumbered from Section 17-27a-404 is renumbered and amended to read: [~~17-27a-404~~]17-79-404 (Effective 11/06/25). Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing the planning commission's recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing for the county, as a class A notice under Section 63G-30-102, for at least 10 calendar days before the day of the public hearing.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section [~~17-27a-204~~]17-79-204, the legislative body shall provide notice of the legislative body's intent to consider the general plan proposal.

(b) (i) (A) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection [~~17-27a-401(4)~~]17-79-402(3).

(B) The public hearing procedure shall comply with this Subsection (3)(b).

(ii) The public hearing format shall allow:

(A) adequate time for public comment at the actual public hearing[~~,~~]; and[~~ shall also allow~~]

(B) for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection [~~17-27a-401(4)~~]17-79-402(3) are complete.

(ii) Direct notice of the public hearing shall be given, in writing, to:

(A) the governor[~~,~~];

(B) members of the state Legislature[~~,~~];

(C) the executive director of the Department of Environmental Quality[~~,~~];

(D) the state planning coordinator[~~,~~];

(E) the Resource Development Coordinating Committee[~~,~~] created in Section 63L-11-401; and

(F) any other citizens or entities who specifically request notice of the public hearing in writing.

(iii) Public notice shall be given for the county, as a class A notice under Section 63G-30-102, for at least 180 days.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding Subsection [~~17-27a-401(4)~~]17-79-402(3), including publication described in Subsection (3)(c)(iii) for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may adopt, reject, or make any revisions to the proposed general plan that the legislative body considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).

(c) If the county legislative body rejects the proposed general plan or amendment, the legislative body may provide suggestions to the planning commission for the planning commission's review and recommendation.

(5) The legislative body shall adopt the following elements and plans in conformity with the requirements of Section 17-79-403:

(a) a land use element[~~, as provided in Subsection 17-27a-403(2)(a)(i)~~];

(b) a transportation and traffic circulation element[~~, as provided in Subsection 17-27a-403(2)(a)(ii)~~];

(c) for a specified county as defined in Section [~~17-27a-408~~]17-80-101, a moderate income housing element[~~, as provided in Subsection 17-27a-403(2)(a)(iii)~~];

(d) a resource management plan[~~, as provided by Subsection 17-27a-403(2)(a)(iv)~~]; and

(e) on or before December 31, 2025, a water use and preservation element[~~, as provided in Subsection 17-27a-403(2)(a)(v)~~].

Section 183. Section 17-79-405, which is renumbered from Section 17-27a-405 is renumbered and amended to read:

[~~17-27a-405~~]17-79-405 (Effective 11/06/25). Effect of general plan -- Coordination with federal government.

(1) Except for the mandatory provisions in Subsection [~~17-27a-401(4)(b)~~]17-79-402(3)(b)and Section [~~17-27a-406~~]17-79-406, and except as provided in Subsection (3), the general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.

(2) The legislative body may adopt an ordinance mandating compliance with the general plan, and shall adopt an ordinance requiring compliance with all provisions of Subsection [~~17-27a-401(4)(b)~~]17-79-402(3)(b).

(3) (a) As used in this Subsection (3), "coordinate with" means an action taken by the federal government on a given matter, [~~pursuant to~~]in accordance with a federal law, rule, policy, or regulation, to:

(i) work with a county on the matter to achieve a consistent outcome;

(ii) make resource management plans in conjunction with a county on the matter;

(iii) make resource management plans consistent with a county's plans on the matter;

(iv) integrate a county's plans on the matter into the federal government's plans; or

(v) follow a county's plans when contemplating any action on the matter.

(b) If the federal government is required to coordinate with a county or a local government on a matter, the county's general plan is the principle document through which the coordination shall take place.

(c) The federal government is not considered to have coordinated with a county or a local government on a matter unless the federal government has:

(i) kept the county apprised of the federal government's proposed plans, amendments, policy changes, and management actions with regard to the matter;

(ii) worked with the county in developing and implementing plans, policies, and management actions on the matter;

(iii) treated the county as an equal partner in negotiations related to the matter;

(iv) listened to and understood the county's position on the matter to determine whether a conflict exists between the federal government's proposed plan, policy, rule, or action and the county's general plan;

(v) worked with the county in an amicable manner to reconcile any differences or disagreements, to the greatest extent possible under federal law, between the federal government and the county with regards to plans, policies, rules, or proposed management actions that relate to the matter;

(vi) engaged in a good-faith effort to reconcile any conflicts discovered under Subsection (3)(c)(iv) to achieve, to the greatest extent possible under federal law, consistency between the federal government's proposed plan, policy, rule, or action and the county's general plan; and

(vii) given full consideration to a county's general plan to the extent that the general plan addresses the matter.

Section 184. Section 17-79-406, which is renumbered from Section 17-27a-406 is renumbered and amended to read:

[~~17-27a-406~~]17-79-406 (Effective 11/06/25). Public uses to conform to general plan.

After the legislative body has adopted a general plan, the following public properties may not be constructed or authorized unless the public property conforms to the current county general plan:

(1) [~~no~~]a street, park, or other public way, ground, place, or space[~~, no~~];

(2) a publicly owned building or structure[~~,~~]; and [~~no~~]

(3) a public utility, whether publicly or privately owned[~~, may be constructed or authorized until and unless it conforms to the current general plan~~].

Section 185. Section 17-79-407, which is renumbered from Section 17-27a-407 is renumbered and amended to read:

[~~17-27a-407~~]17-79-407 (Effective 11/06/25). Effect of official maps.

(1) Counties may adopt an official map.

(2) (a) An official map does not:

(i) require a landowner to dedicate and construct a street as a condition of development approval, except under circumstances provided in Subsection (2)(b)(iii); or

(ii) require a county to immediately acquire property it has designated for eventual use as a public street.

(b) This section does not prohibit a county from:

(i) recommending that an applicant consider and accommodate the location of the proposed streets in the planning of a development proposal in a manner that is consistent with Section [~~17-27a-507~~]17-79-812;

(ii) acquiring the property through purchase, gift, voluntary dedication, or eminent domain; or

(iii) requiring the dedication and improvement of a street if the street is found necessary by the county because of a proposed development and if the dedication and improvement is consistent with Section [~~17-27a-507~~]17-79-812.

Section 186. Section 17-79-408, which is renumbered from Section 17-27a-901 is renumbered and amended to read:

[~~17-27a-901~~]17-79-408 (Effective 11/06/25). Mountainous planning district.

(1) (a) The legislative body of a county of the first class may adopt an ordinance designating an area located within the county as a mountainous planning district if the legislative body determines that:

(i) the area is primarily used for recreational purposes, including canyons, foothills, ski resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas within the Wasatch Range;

(ii) the area is used by residents of the county who live inside and outside the limits of a municipality;

(iii) the total resident population in the proposed mountainous planning district is equal to or less than 5% of the population of the county;

(iv) the area is within the unincorporated area of the county or was within the unincorporated area of the county before May 12, 2015; and

(v) the area includes land designated as part of a national forest on or before May 9, 2017.

(b) The population figure under Subsection (1)(a)(iii) shall be derived from a population estimate by the Utah Population Committee created in Section 63C-20-103.

(2) (a) A county may adopt a general plan and adopt a zoning or subdivision ordinance for a property that is located within a mountainous planning district.

(b) A county plan or zoning or subdivision ordinance governs a property described in Subsection (2)(a).

Section 187. Section 17-79-501, which is renumbered from Section 17-27a-501 is renumbered and amended to read:

PART 5. Land Use Regulations - General Processes

[~~17-27a-501~~]17-79-501 (Effective 11/06/25). Enactment of land use regulation.

(1) Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.

(2) (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use regulation only by ordinance.

(b) A legislative body may, by ordinance or resolution, enact a land use regulation that imposes a fee.

(3) A land use regulation shall be consistent with the purposes set forth in this chapter.

(4) (a) A legislative body shall adopt a land use regulation to:

(i) create or amend a zoning district under Subsection [~~17-27a-503(1)(a)~~]17-79-503(1)(a); and

(ii) designate general uses allowed in each zoning district.

(b) A land use authority may establish or modify other restrictions or requirements other than those described in Subsection (4)(a), including the configuration or modification of uses or density, through a land use decision that applies criteria or policy elements that a land use regulation establishes or describes.

(5) A county may not adopt a land use regulation, development agreement, or land use decision that restricts the type of crop that may be grown in an area that is:

(a) zoned agricultural; or

(b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

(6) A county land use regulation pertaining to an airport or an airport influence area, as that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4, Airport Zoning Act.

Section 188. Section 17-79-502, which is renumbered from Section 17-27a-502 is renumbered and amended to read:

[~~17-27a-502~~]17-79-502 (Effective 11/06/25). Preparation and adoption of land use regulation.

(1) A planning commission shall:

(a) provide notice as required by Subsection [~~17-27a-205(1)(a)~~]17-79-205(1)(a) and, if applicable, Subsection [~~17-27a-205(4)~~]17-79-205(4);

(b) hold a public hearing on a proposed land use regulation;

(c) if applicable, consider each written objection filed in accordance with Subsection [~~17-27a-205(4) prior to~~]17-79-205(4) before the public hearing; and

(d) (i) review and recommend to the legislative body a proposed land use regulation that represents the planning commission's recommendation for regulating the use and development of land within:

(A) all or any part of the unincorporated area of the county; or

(B) for a mountainous planning district, all or any part of the area in the mountainous planning district; and

(ii) forward to the legislative body all objections filed in accordance with Subsection [~~17-27a-205(4)~~]17-79-205(4).

(2) (a) The legislative body shall consider each proposed land use regulation that the planning commission recommends to the legislative body.

(b) After providing notice as required by Subsection [~~17-27a-205(1)(b)~~]17-79-205(1)(b)and holding a public meeting, the legislative body may adopt or reject the proposed land use regulation described in Subsection (2)(a):

(i) as proposed by the planning commission; or

(ii) after making any revision the legislative body considers appropriate.

(c) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Section 189. Section 17-79-503, which is renumbered from Section 17-27a-503 is renumbered and amended to read:
[~~17-27a-503~~]17-79-503 (Effective 11/06/25). Zoning district or land use regulation amendments.

(1) Only a legislative body may amend:

(a) the number, shape, boundaries, area, or general uses of any zoning district;

(b) any regulation of or within the zoning district; or

(c) any other provision of a land use regulation.

(2) A legislative body may not make any amendment authorized by this section unless the legislative body first submits the amendment to the planning commission for the planning commission's recommendation.

(3) A legislative body shall comply with the procedure specified in Section [~~17-27a-502~~]17-79-502 in preparing and adopting an amendment to a land use regulation.

Section 190. Section 17-79-504, which is renumbered from Section 17-27a-504 is renumbered and amended to read:
[~~17-27a-504~~]17-79-504 (Effective 11/06/25). Temporary land use regulations.

(1) (a) Except as provided in Subsection (2)(b), a county legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the county if:

(i) the legislative body makes a finding of compelling, countervailing public interest; or

(ii) the area is unregulated.

(b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.

(c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.

(2) (a) The legislative body shall establish a period of limited effect for the ordinance not to exceed 180 days.

(b) A county legislative body may not apply the provisions of a temporary land use regulation to the review of a specific land use application if the land use application is impaired or prohibited by proceedings initiated under Subsection [~~17-27a-508(1)(a)(ii)(B)~~]17-79-803(1)(a)(ii)(B).

(3) (a) A legislative body may, without prior planning commission consideration or recommendation, enact an ordinance establishing a temporary land use regulation prohibiting construction, subdivision approval, and other development activities within an area that is the subject of an Environmental Impact Statement or a Major Investment Study examining the area as a proposed highway or transportation corridor.

(b) A regulation under Subsection (3)(a):

(i) may not exceed 180 days in duration;

(ii) may be renewed, if requested by the Transportation Commission created under Section 72-1-301, for up to two additional 180-day periods by ordinance enacted before the expiration of the previous regulation; and

(iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the Environmental Impact Statement or Major Investment Study is in progress.

Section 191. Section 17-79-505, which is renumbered from Section 17-27a-505 is renumbered and amended to read:
[~~17-27a-505~~]17-79-505 (Effective 11/06/25). Zoning districts.

(1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.

(b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.

(c) A county may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:

(i) protect life; and

(ii) prevent:

(A) the substantial loss of real property; or

(B) substantial damage to real property.

(d) A county of the second, third, fourth, fifth, or sixth class may not adopt a land use ordinance requiring a property owner to revegetate or landscape a single family dwelling disturbance area unless the property is located in a flood zone or geologic hazard except as required in Title 19, Chapter 5, Water Quality Act, to comply with federal law related to water pollution.

(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zone, but the regulations in one zone may differ from those in other zones.

(3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.

(b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a county decision.

(4) A county may by ordinance exempt from specific zoning district standards a subdivision of land to accommodate the siting of a public utility infrastructure.

Section 192. Section 17-79-506, which is renumbered from Section 17-27a-506 is renumbered and amended to read:
[~~17-27a-506~~]17-79-506 (Effective 11/06/25). Conditional uses.

(1) (a) A county may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in an applicable ordinance.

(b) A county may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2) (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

(c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

(3) A land use authority's decision to approve or deny a conditional use is an administrative land use decision.

(4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

Section 193. Section 17-79-507, which is renumbered from Section 17-27a-506.5 is renumbered and amended to read: [~~17-27a-506.5~~]17-79-507 (Effective 11/06/25). Classification of new and unlisted business uses.

(1) As used in this section:

(a) "Classification request" means a request to determine whether a proposed business use aligns with an existing land use specified in a county's land use ordinances.

(b) "New or unlisted business use" means a business activity that does not align with an existing land use specified in a county's land use ordinances.

(2) (a) Each county shall incorporate into the county's land use ordinances a process for reviewing and approving a new or unlisted business use and designating an appropriate zone or zones for an approved use.

(b) The process described in Subsection (2)(a) shall:

(i) detail how an applicant may submit a classification request;

(ii) establish a procedure for the county to review a classification request, including:

(A) providing a land use authority with criteria to determine whether a proposed use aligns with an existing use; and

(B) allowing an applicant to proceed under the regulations of an existing use if a land use authority determines a proposed use aligns with that existing use;

(iii) provide that if a use is determined to be a new or unlisted business use:

(A) the applicant shall submit an application for approval of the new or unlisted business use to the legislative body for review;

(B) the legislative body shall consider and determine whether to approve or deny the new or unlisted business use; and

(C) the legislative body shall approve or deny the new or unlisted business use, within a time frame the legislative body establishes by ordinance, if the applicant responds to requests for additional information within a time frame established by the county and appears at required hearings;

(iv) provide that if the legislative body approves a proposed new or unlisted business use, the legislative body shall designate an appropriate zone or zones for the approved use; and

(v) provide that if the legislative body denies a proposed new or unlisted business use, or if an applicant disagrees with a land use authority's classification of the proposed use, the legislative body shall:

(A) notify the applicant in writing of each reason for the classification or denial; and

(B) offer the applicant an opportunity to challenge the classification or denial through an administrative appeal process established by the county.

(3) Each county shall amend each land use ordinance that contains a list of approved or prohibited business uses to include a reference to the process for petitioning to approve a new or unlisted business use, as described in Subsection (2).

Section 194. Section 17-79-508, which is renumbered from Section 17-27a-528 is renumbered and amended to read: [~~17-27a-528~~]17-79-508 (Effective 11/06/25). Development agreements.

(1) Subject to Subsection (2), a county may enter into a development agreement containing any term that the county considers necessary or appropriate to accomplish the purposes of this chapter, including a term relating to:

(a) a master planned development;

(b) a planned unit development;

(c) an annexation;

(d) affordable or moderate income housing with development incentives;

(e) a public-private partnership; or

(f) a density transfer or bonus within a development project or between development projects.

(2) (a) A development agreement may not:

(i) limit a county's authority in the future to:

(A) enact a land use regulation; or

(B) take any action allowed under Section [~~17-53-223~~]17-64-501;

(ii) require a county to change the zoning designation of an area of land within the county in the future; or

(iii) allow a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section [~~17-27a-502~~]17-79-502, including a review and recommendation from the planning commission and a public hearing.

(b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section [~~17-27a-502~~]17-79-502.

(c) Subject to Subsection (2)(d), a county may require a development agreement for developing land within the unincorporated area of the county if the applicant has applied for a legislative or discretionary approval, including an approval relating to:

(i) the height of a structure;

(ii) a parking or setback exception;

(iii) a density transfer or bonus;

(iv) a development incentive;

(v) a zone change; or

(vi) an amendment to a prior development agreement.

(d) A county may not require a development agreement as a condition for developing land within the unincorporated area of the county if:

(i) the development otherwise complies with applicable statute and county ordinances;

(ii) the development is an allowed or permitted use; or

(iii) the county's land use regulations otherwise establish all applicable standards for development on the land.

(e) A county may submit to a county recorder's office for recording:

(i) a fully executed agreement; or

(ii) a document related to:

(A) code enforcement;

(B) a special assessment area;

(C) a local historic district boundary; or

(D) the memorializing or enforcement of an agreed upon restriction, incentive, or covenant.

(f) Subject to Subsection (2)(e), a county may not cause to be recorded against private real property a document that imposes development requirements, development regulations, or development controls on the property.

(g) To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by:

(i) this chapter; and

(ii) any applicable land use regulations.

Section 195. Section 17-79-601, which is renumbered from Section 17-27a-505.5 is renumbered and amended to read:

PART 6. Land Use Regulations - Particular Situations

[~~17-27a-505.5~~]17-79-601 (Effective 11/06/25). Limit on single family designation.

(1) As used in this section, "single-family limit" means the number of individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.

(2) A county may not adopt a single-family limit that is less than:

(a) three, if the county has within its unincorporated area:

(i) a state university;

(ii) a private university with a student population of at least 20,000; or

(iii) a mountainous planning district; or

(b) four, for each other county.

Section 196. Section 17-79-602, which is renumbered from Section 17-27a-508.1 is renumbered and amended to read:

[~~17-27a-508.1~~]17-79-602 (Effective 11/06/25). Private maintenance of public access amenities prohibited.

(1) As used in this section:

(a) "Public access amenity" means a physical feature like a trail or recreation area that a municipality designates for public access and use.

(b) "Retail water line" means the same as that term is defined in Section 11-8-4.

(c) "Sewer lateral" means the same as that term is defined in Section 11-8-4.

(d) (i) "Water utility" means a main line or other integral part of a sewer or water utility service.

(ii) "Water utility" does not include a retail water line or sewer lateral.

(2) A county may not require a private individual or entity, including a community association or homeowners association, to maintain and be responsible for a public access amenity or water utility in perpetuity unless:

(a) the public access amenity is the property located adjacent to the private property owned by the private individual or entity to the curb line of the street, including park strips and sidewalks; or

(b) the private individual or entity agreed to maintain or be responsible for the public access amenity or water utility in perpetuity in a covenant, utility service agreement, development agreement, or other agreement between the county and the private individual or entity.

Section 197. Section 17-79-603, which is renumbered from Section 17-27a-509.7 is renumbered and amended to read:

[~~17-27a-509.7~~]17-79-603 (Effective 11/06/25). Transferable development rights.

(1) A county may adopt an ordinance:

(a) designating sending zones and receiving zones located wholly within the unincorporated area of the county;

(b) designating a sending zone if the area described in the sending zone is located, at least in part, within the unincorporated county, and the area described in the sending zone that is located outside the county complies with Subsection (2);

(c) designating a receiving zone if the area described in the receiving zone is located, at least in part, within the unincorporated county, and the area described in the receiving zone that is located outside the county complies with Subsection (2); and

(d) allowing the transfer of a transferable development right from a sending zone to a receiving zone.

(2) A county may adopt an ordinance designating a sending zone or receiving zone that is located, in part, in a municipality or unincorporated area of another county, if the legislative body of every municipality or county with land inside the sending zone or receiving zone adopts an ordinance designating the sending zone or receiving zone.

(3) A county may not allow the use of a transferable development right unless the county adopts an ordinance described in Subsection (1).

Section 198. Section 17-79-604, which is renumbered from Section 17-27a-511 is renumbered and amended to read: [~~17-27a-511~~]17-79-604 (Effective 11/06/25). Termination of a billboard and associated rights.

(1) A county may only require termination of a billboard and associated rights through:

(a) gift;

(b) purchase;

(c) agreement;

(d) exchange; or

(e) eminent domain.

(2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent of the billboard owner.

(3) A termination under Subsection (1)(e) requires the county to:

(a) acquire the billboard and associated rights through eminent domain, in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain, except as provided in Subsections [~~17-27a-512(2)(f)~~]17-79-605(2)(f) and (h); and

(b) after acquiring the rights under Subsection (3)(a), terminate the billboard and associated rights.

Section 199. Section 17-79-605, which is renumbered from Section 17-27a-512 is renumbered and amended to read: [~~17-27a-512~~]17-79-605 (Effective 11/06/25). County's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboard to be rebuilt or replaced -- Validity of county permit after issuance of state permit.

(1) As used in this section:

(a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.

(b) "Highest allowable height" means:

(i) if the height allowed by the county, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the county; or

(ii) (A) for a noninterstate billboard:

(I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or

(II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and

(B) for an interstate billboard:

(I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or

(II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.

(c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.

(d) "Interstate height" means a height that is the higher of:

(i) 65 feet above the ground; and

(ii) 25 feet above the grade of the interstate.

(e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.

(f) "Visibility area" means the area on a street or highway that is:

(i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

(ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:

(A) perpendicular to the street or highway; and

(B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

(II) for a noninterstate billboard, 300 feet from the base of the billboard.

(2) (a) If a billboard owner makes a written request to the county with jurisdiction over the billboard to take an action described in Subsection (2)(b), the billboard owner may take the requested action, without further county land use approval, 180 days after the day on which the billboard owner makes the written request, unless within the 180-day period the county:

(i) in an attempt to acquire the billboard and associated rights through eminent domain under Section [~~17-27a-511~~]17-79-604 for the purpose of terminating the billboard and associated rights:

(A) completes the procedural steps required under Title 78B, Chapter 6, Part 5, Eminent Domain, before the filing of an eminent domain action; and

(B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain;

(ii) denies the request in accordance with Subsection (2)(d); or

(iii) requires the billboard owner to remove the billboard in accordance with Subsection (3).

(b) Subject to Subsection (2)(a), a billboard owner may:

(i) rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism;

(ii) relocate or rebuild a billboard structure, or take another measure, to correct a mistake in the placement or erection of a billboard for which the county issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;

(iii) structurally modify or upgrade a billboard;

(iv) relocate a billboard into any commercial, industrial, or manufacturing zone within the unincorporated area of the county, if the relocated billboard is:

(A) within 5,280 feet of the billboard's previous location; and

(B) no closer than 300 feet from an off-premise sign existing on the same side of the street or highway, or if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; or

(v) make one or more of the following modifications, as the billboard owner determines, to a billboard that is structurally altered by modification or upgrade under Subsection (2)(b)(iii), by relocation under Subsection (2)(b)(iv), or by any combination of these alterations:

(A) erect the billboard:

(I) to the highest allowable height; and

(II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; or

(B) install a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before the billboard's relocation.

(c) A modification under Subsection (2)(b)(v) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

(d) A county may deny a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard without acquiring the billboard and associated rights through eminent domain under Section [~~17-27a-511~~]17-79-604, if the mistake in placement or erection of the billboard is determined by clear and convincing evidence, in a proceeding that protects the billboard owner's due process rights, to have resulted from an intentionally false or misleading statement:

(i) by the billboard applicant in the application; and

(ii) regarding the placement or erection of the billboard.

(e) A county that acquires a billboard and associated rights through eminent domain under Section [~~17-27a-511~~]17-79-604 shall pay just compensation to the billboard owner in an amount that is:

(i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;

(ii) the value of any other right associated with the billboard;

(iii) the cost of the sign structure; and

(iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner's interest is a part.

(f) If a county commences an eminent domain action under Subsection (2)(a)(i):

(i) the provisions of Section 78B-6-510 do not apply; and

(ii) the county may not take possession of the billboard or the billboard's associated rights until:

(A) completion of all appeals of a judgment allowing the county to acquire the billboard and associated rights; and

(B) the billboard owner receives payment of just compensation, described in Subsection (2)(e).

(g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a billboard owner may proceed, without further county land use approval, to take an action requested under Subsection (2)(a), if the county's eminent domain action commenced under Subsection (2)(a)(i) is dismissed without an order allowing the county to acquire the billboard and associated rights.

(h) (i) A billboard owner may withdraw a request made under Subsection (2)(a) at any time before the county takes possession of the billboard or the billboard's associated rights in accordance with Subsection (2)(f)(ii).

(ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i), the court shall dismiss the county's eminent domain action to acquire the billboard or associated rights.

(3) Notwithstanding Section [~~17-27a-511~~]17-79-604, a county may require an owner of a billboard to remove the billboard without acquiring a billboard and associated rights through eminent domain if:

(a) the county determines:

(i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard:

(A) is structurally unsafe;

(B) is in an unreasonable state of repair; or

(C) has been abandoned for at least 12 months;

(b) the county notifies the billboard owner in writing that the billboard owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);

(c) the billboard owner fails to remedy the condition or conditions within:

(i) 180 days after the day on which the billboard owner receives written notice under Subsection (3)(b); or

(ii) if the condition forming the basis of the county's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, after the day on which the billboard owner receives written notice under Subsection (3)(b); and

(d) following the expiration of the applicable period under Subsection (3)(c) and after providing the billboard owner with reasonable notice of proceedings and an opportunity for a hearing, the county finds:

(i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

(4) A county may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than the billboard's owner, or the billboard's owner acting through a contractor, within 500 feet of the nonconforming location.

(5) A permit that a county issues, extends, or renews for a billboard remains valid beginning on the day on which the county issues, extends, or renews the permit and ending 180 days after the day on which a required state permit is issued for the billboard if:

(a) the billboard requires a state permit; and

(b) an application for the state permit is filed within 30 days after the day on which the county issues, extends, or renews a permit for the billboard.

Section 200. Section 17-79-606, which is renumbered from Section 17-27a-514 is renumbered and amended to read:
[~~17-27a-514~~]17-79-606 (Effective 11/06/25). Regulation of amateur radio antennas.

(1) A county may not enact or enforce an ordinance that does not comply with the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part 97.

(2) If a county adopts an ordinance involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance shall:

(a) reasonably accommodate amateur radio communications; and

(b) represent the minimal practicable regulation to accomplish the county's purpose.

Section 201. Section 17-79-607, which is renumbered from Section 17-27a-515 is renumbered and amended to read:
[~~17-27a-515~~]17-79-607 (Effective 11/06/25). Regulation of residential facilities for persons with disabilities.

A county may only regulate a residential facility for persons with a disability to the extent allowed by:

(1) Title 57, Chapter 21, Utah Fair Housing Act, and applicable jurisprudence;

(2) the Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., and applicable jurisprudence; and

(3) Section 504, Rehabilitation Act of 1973, and applicable jurisprudence.

Section 202. Section 17-79-608, which is renumbered from Section 17-27a-520 is renumbered and amended to read:
[~~17-27a-520~~]17-79-608 (Effective 11/06/25). Wetlands.

(1) A county may not designate or treat any land as wetlands unless the United States Army Corps of Engineers or other agency of the federal government has designated the land as wetlands.

(2) A land use authority that issues a land use permit that affects land designated as wetlands by the United States Army Corps of Engineers or another agency of the federal government shall provide a copy of the land use permit to the Utah Geological Survey established in Section 79-3-201.

Section 203. Section 17-79-609, which is renumbered from Section 17-27a-521 is renumbered and amended to read:
[~~17-27a-521~~]17-79-609 (Effective 11/06/25). Refineries.

(1) As used in this section, "develop" or "development" means:

(a) the construction, alteration, or improvement of land, including any related moving, demolition, or excavation outside of a refinery property boundary;

(b) the subdivision of land for a non-industrial use; or

(c) the construction of a non-industrial structure on a parcel that is not subject to the subdivision process.

(2) Before a legislative body may adopt a non-industrial zoning change to permit development within 500 feet of a refinery boundary, the legislative body shall consult with the refinery to determine whether the proposed change is compatible with the refinery.

(3) Before a land use authority may approve an application to develop within 500 feet of a refinery boundary, the land use authority shall consult with the refinery to determine whether the development is compatible with the refinery.

(4) A legislative body described in Subsection (2), or a land use authority described in Subsection (3), may not request from the refinery:

(a) proprietary information;

(b) information, if made public, that would create a security or safety risk to the refinery or the public;

(c) information that is restricted from public disclosure under federal or state law; or

(d) information that is available in public record.

(5) (a) This section does not grant authority to a legislative body described in Subsection (2), or a land use authority described in Subsection (3), to require a refinery to undertake or cease an action.

(b) This section does not create a cause of action against a refinery.

(c) Except as expressly provided in this section, this section does not alter or remove any legal right or obligation of a refinery.

Section 204. Section 17-79-610, which is renumbered from Section 17-27a-525 is renumbered and amended to read:
[~~17-27a-525~~]17-79-610 (Effective 11/06/25). Cannabis production establishments and medical cannabis pharmacies.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102 and includes a closed-door medical cannabis pharmacy.

(b) "Closed-door medical cannabis pharmacy" means the same as that term is defined in Section 4-41a-102.

(c) "Industrial hemp producer licensee" means the same as the term " medical cannabis research licensee" is defined in Section 4-41-102.

(d) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

(2) (a) (i) A county may not regulate a cannabis production establishment or a medical cannabis pharmacy in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, and applicable jurisprudence; and

(B) this chapter.

(ii) A county may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment or a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a county shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section 4-41a-1105.

(b) A county shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the county receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection [~~17-27a-509.5(2)~~]17-79-805(2).

Section 205. Section 17-79-611, which is renumbered from Section 17-27a-510.5 is renumbered and amended to read:

[~~17-27a-510.5~~]17-79-611 (Effective 11/06/25). Changes to rental dwelling units -- Egress windows.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(c) "Rental dwelling" means the same as that term is defined in Section 10-8-85.5.

(2) A county ordinance [~~adopted under Section 10-1-203.5~~]may not:

(a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:

(i) the reasonable installation of:

(A) a smoke detector that is plugged in or battery operated;

(B) a ground fault circuit interrupter protected outlet on existing wiring;

(C) street addressing;

(D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;

(E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;

(F) hand or guard rails; or

(G) occupancy separation doors as required by the International Residential Code; or

(ii) the abatement of a structure; or

(b) be enforced to terminate a legal nonconforming rental dwelling use.

(3) (a) A county may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:

(i) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

(A) a detached one-, two-, three-, or four-family dwelling; or

(B) a town home that is not more than three stories above grade with a separate means of egress; and

(ii) (A) the window in the existing bedroom is smaller than that required by current State Construction Code; and

(B) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.

(b) Subsection (3)(a) does not apply to an internal accessory dwelling unit.

(4) Nothing in this section prohibits a county from:

(a) regulating the style of window that is required or allowed in a bedroom;

(b) requiring that a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code; or

(c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

Section 206. Section 17-79-612, which is renumbered from Section 17-27a-527 is renumbered and amended to read:

[~~17-27a-527~~]17-79-612 (Effective 11/06/25). Utility service connections.

(1) A county may not enact an ordinance, a resolution, or a policy that prohibits, or has the effect of prohibiting, the connection or reconnection of an energy utility service provided by a public utility as that term is defined in Section 54-2-1.

(2) Subsection (1) does not apply to:

(a) an incentive offered by a county; or

(b) a building owned by a county.

Section 207. Section 17-79-613, which is renumbered from Section 17-27a-529 is renumbered and amended to read:

[~~17-27a-529~~]17-79-613 (Effective 11/06/25). Infrastructure improvements involving roadways.

(1) As used in this section:

(a) "Low impact development" means the same as that term is defined in Section 19-5-108.5.

(b) (i) "Pavement" means the bituminous or concrete surface of a roadway.

(ii) "Pavement" does not include a curb or gutter.

(c) "Residential street" means a public or private roadway that:

(i) currently serves or is projected to serve an area designated primarily for single-family residential use;

(ii) requires at least two off-site parking spaces for each single-family residential property abutting the roadway; and

(iii) has or is projected to have, on average, traffic of no more than 1,000 trips per day, based on findings contained in:

(A) a traffic impact study;

(B) the county's general plan under Section [~~17-27a-401~~]17-79-401;

(C) an adopted phasing plan; or

(D) a written plan or report on current or projected traffic usage.

(2) (a) Except as provided in Subsection (2)(b), a county may not, as part of an infrastructure improvement, require the installation of pavement on a residential street at a width in excess of 32 feet if the county requires low impact development for the area in which the residential street is located.

(b) Subsection (2)(a) does not apply if a county requires the installation of pavement:

(i) in a vehicle turnaround area; or

(ii) to address specific traffic flow constraints at an intersection or other area.

(3) (a) A county shall, by ordinance, establish any standards that the county requires, as part of an infrastructure improvement, for fire department vehicle access and turnaround on roadways.

(b) The county shall ensure that the standards established under Subsection (3)(a) are consistent with the State Fire Code as defined in Section 15A-1-102.

Section 208. Section 17-79-614, which is renumbered from Section 17-27a-530 is renumbered and amended to read:

[~~17-27a-530~~]17-79-614 (Effective 11/06/25). Regulation of building design elements prohibited -- Regulation of parking spaces prohibited -- Exceptions.

(1) As used in this section:

(a) "Affordable housing" means housing occupied or reserved for occupancy that is priced at 80% of the county median home price.

(b) "Building design element" means:

(i) exterior color;

(ii) type or style of exterior cladding material;

(iii) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(iv) exterior nonstructural architectural ornamentation;

(v) location, design, placement, or architectural styling of a window or door;

(vi) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(vii) number or type of rooms;

(viii) interior layout of a room;

(ix) minimum square footage over 1,000 square feet, not including a garage;

(x) rear yard landscaping requirements;

(xi) minimum building dimensions; or

(xii) a requirement to install front yard fencing.

(c) "Owner-occupied" means a housing unit in which the individual who owns the housing unit, solely or jointly, lives as the individual's primary residence for no less than five years.

(d) "Specified county" means the same as that term is defined in Section [~~17-27a-408~~]17-80-101.

(e) "Unobstructed" means a parking space that has no permanent barriers that would unreasonably reduce the size of an available parking space described in Subsection (4).

(2) Except as provided in Subsection (3), a county may not impose a requirement for a building design element on a one- or two-family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8a-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021, except as provided under Subsection (3)(b);

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding;

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the county to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district; or

(i) an ordinance enacted to mitigate the impacts of an accidental explosion:

(i) in excess of 20,000 pounds of trinitrotoluene equivalent;

(ii) that would create overpressure waves greater than .2 pounds per square inch; and

(iii) that would pose a risk of damage to a window, garage door, or carport of a facility located within the vicinity of the regulated area.

(4) A county that is a specified county may not:

(a) require that the dimensions of a single parking space for a one- or two-family dwelling or town home be:

(i) for unobstructed, enclosed, or covered parking:

(A) more than 10 feet wide; or

(B) more than 20 feet long; or

(ii) for uncovered parking:

(A) more than nine feet wide; or

(B) more than 20 feet long;

(b) restrict an unobstructed tandem parking space from satisfying two parking spaces as part of a minimum parking space requirement; and

(c) restrict a two-car garage from satisfying two parking spaces as part of a minimum parking space requirement.

(5) A county may not require a garage for a single-family attached or detached dwelling that is owner-occupied affordable housing.

(6) If a county requires a garage, the county shall count each parking space within the garage as part of the county's minimum parking space requirement as described in Section [~~17-27a-526~~]17-80-303.

(7) Nothing in this section prohibits a county from requiring on-site parking for owner-occupied affordable housing.

Section 209. Section 17-79-615, which is renumbered from Section 17-27a-532 is renumbered and amended to read:

[~~17-27a-532~~]17-79-615 (Effective 11/06/25). Water wise landscaping -- County landscaping regulations.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) "Private landscaping plan" means the same as that term is defined in Section [~~17-27a-604.5~~]17-79-707.

(e) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(f) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a county from requiring a property owner to:

(i) comply with a site plan review, private landscaping plan review, or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the county, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to county operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A county may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

(4) A county may require a seller of a newly constructed residence within the unincorporated area of the county to inform the first buyer of the newly constructed residence of a county ordinance requiring water wise landscaping.

(5) A county shall report to the Division of Water Resources the existence, enactment, or modification of an ordinance, resolution, or policy that implements regional-based water use efficiency standards established by the Division of Water Resources by rule under Section 73-10-37.

(6) A county may enforce a county landscaping ordinance in compliance with this section.

Section 210. Section 17-79-616, which is renumbered from Section 17-27a-533 is renumbered and amended to read:

[~~17-27a-533~~]17-79-616 (Effective 11/06/25). Land use compatibility with military use.

(1) As used in this section:

(a) "Department" means the Department of Veterans and Military Affairs.

(b) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(c) "Military land" means the following land or facilities:

(i) Camp Williams;

(ii) Hill Air Force Base;

(iii) Dugway Proving Ground;

(iv) Tooele Army Depot;

(v) Utah Test and Training Range;

(vi) Nephi Readiness Center;

(vii) Cedar City Alternate Flight Facility; or

(viii) Little Mountain Test Facility.

(2) (a) Except as provided in Subsection (2)(b), on or before July 1, 2025, for any area in a county within 5,000 feet of a boundary of military land, a county shall, in consultation with the department, develop and maintain a compatible use plan to ensure permitted uses and conditional uses relevant to the military land are compatible with the military operations on military land.

(b) A county that has a compatible use plan as of January 1, 2023, is not required to develop a new compatible use plan.

(3) If a county receives a land use application related to land within 5,000 feet of a boundary of military land, before the county may approve the land use application, the county shall notify the department in writing.

(4) (a) If the department receives the notice described in Subsection (3), the executive director of the department shall:

(i) determine whether the proposed land use is compatible with the military use of the relevant military land; and

(ii) within 90 days after the receipt of the notice described in Subsection (3), respond in writing to the county regarding the determination of compatibility described in Subsection (4)(a)(i).

(b) (i) For a land use application pertaining to a parcel within 5,000 feet of military land that may have an adverse effect on the operations of the military installation, except as provided in Subsection (4)(b)(ii), the county shall consider the compatible use plan in processing the land use application.

(ii) For a land use application pertaining to a parcel within 5,000 feet of military land that may have an adverse effect on the operations of the military installation, if the applicant has a vested right, the county is not required to consider the compatible land use plan in consideration of the land use application.

(5) If the department receives the notice described in Subsection (3) before the county has completed the compatible use plan as described in this section, the department shall consult with the county and representatives of the relevant military land to determine whether the use proposed in the land use application is a compatible use.

Section 211. Section 17-79-617, which is renumbered from Section 17-27a-534 is renumbered and amended to read:

[~~17-27a-534~~]17-79-617 (Effective 11/06/25). Residential rear setback limitations.

(1) As used in this section:

(a) "Allowable feature" means:

(i) a landing or walkout porch that:

(A) is no more than 32 square feet in size; and

(B) is used for ingress to and egress from the rear of the residential dwelling; or

(ii) a window well.

(b) "Landing" means an uncovered, above-ground platform, with or without stairs, connected to the rear of a residential dwelling.

(c) "Setback" means the required distance between the property line of a lot or parcel and the location where a structure is allowed to be placed under an adopted land use regulation.

(d) "Walkout porch" means an uncovered platform that is on the ground and connected to the rear of a residential dwelling.

(e) "Window well" means a recess in the ground around a residential dwelling to allow for ingress and egress through a window installed in a basement that is fully or partially below ground.

(2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits or has the effect of prohibiting an allowable feature within the rear setback of a residential building lot or parcel.

(3) Subsection (2) does not apply to a historic district located within the unincorporated area of a county.

Section 212. Section 17-79-618, which is renumbered from Section 17-27a-535 is renumbered and amended to read:

[~~17-27a-535~~]17-79-618 (Effective 11/06/25). Operation of a tower crane.

(1) As used in this section:

(a) "Affected land" means the same as that term is defined in Section 10-9a-539.

(b) "Airspace approval" means the same as that term is defined in Section 10-9a-539.

(c) "Live load" means the same as that term is defined in Section 10-9a-539.

(d) "Permit period" means the same as that term is defined in Section 10-9a-539.

(e) "Tower crane" means the same as that term is defined in Section 10-9a-539.

(2) Except as provided in Subsection (3), a county may not require airspace approval as a condition for the county's:

(a) approval of a building permit; or

(b) authorization of a development activity.

(3) A county may require airspace approval relating to affected land as a condition for the county's approval of a building permit or for the county's authorization of a development activity if:

(a) the tower crane will, during the permit period or development activity, carry a live load over the affected land; or

(b) the affected land is within:

(i) an airport overlay zone; or

(ii) another zone designated to protect the airspace around an airport.

Section 213. Section 17-79-619, which is renumbered from Section 17-27a-539 is renumbered and amended to read:

[~~17-27a-539~~]17-79-619 (Effective 11/06/25). Digital asset mining -- Zoning restrictions.

(1) As used in this section:

(a) "Digital asset" means the same as that term is defined in Section 7-29-101.

(b) "Digital asset mining" means using computer hardware and software specifically designed or utilized for validating data and securing a blockchain network.

(c) "Digital asset mining business" means a group of computers working at a single site that:

(i) consumes more than one megawatt of energy on an average annual basis; and

(ii) operates for the purpose of generating blockchain tokens by securing a blockchain network.

(2) A [~~political subdivision of the state~~]county may not enact an ordinance, resolution, or rule that:

(a) for digital asset mining businesses located in unincorporated areas zoned for industrial use, imposes sound restrictions on digital asset mining businesses that are more stringent than the generally applicable limits set for industrial-zoned areas; or

(b) prevents a digital asset mining business from operating in an unincorporated area zoned for industrial use if the digital asset mining business meets other requirements for industrial use.

Section 214. Section 17-79-620, which is renumbered from Section 17-27a-540 is renumbered and amended to read:

[~~17-27a-540~~]17-79-620 (Effective 11/06/25). High tunnels -- Exemption from county regulation.

(1) As used in this section, "high tunnel" means a structure that:

(a) is not a permanent structure;

(b) is used for the growing, keeping, storing, sale, or shelter of an agricultural commodity; and

(c) has a:

(i) metal, wood, or plastic frame;

(ii) plastic, woven textile, or other flexible covering; and

(iii) floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.

(2) A county building code does not apply to a high tunnel.

(3) No building permit shall be required for the construction of a high tunnel.

Section 215. Section 17-79-701, which is renumbered from Section 17-27a-601 is renumbered and amended to read:

PART 7. Subdivisions

[~~17-27a-601~~]17-79-701 (Effective 11/06/25). Enactment of subdivision ordinance.

(1) The legislative body of a county may enact ordinances requiring that a subdivision plat comply with the provisions of the county's ordinances and this part before:

(a) the subdivision plat may be filed and recorded in the county recorder's office; and

(b) lots may be sold.

(2) If the legislative body fails to enact a subdivision ordinance, the county may regulate subdivisions only as provided in this part.

(3) The joining of a lot or lots to a parcel does not constitute a subdivision as to the parcel or subject the parcel to the county's subdivision ordinance.

(4) A legislative body may adopt a land use regulation that specifies that combining lots does not require a subdivision plat amendment.

Section 216. Section 17-79-702, which is renumbered from Section 17-27a-602 is renumbered and amended to read:

[~~17-27a-602~~]17-79-702 (Effective 11/06/25). Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.

(1) A county planning commission established as required by Section 17-79-301 shall:

(a) review and provide a recommendation to the legislative body on any proposed ordinance that regulates the subdivision of land in the county;

(b) review and make a recommendation to the legislative body on any proposed ordinance that amends the regulation of the subdivision of the unincorporated land in the county or, in the case of a mountainous planning district, the mountainous planning district;

(c) provide notice consistent with Section [~~17-27a-205~~]17-79-205; and

(d) hold a public hearing on the proposed ordinance before making the planning commission's final recommendation to the legislative body.

(2) (a) A legislative body may adopt, modify, revise, or reject an ordinance described in Subsection (1) that the planning commission recommends.

(b) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Section 217. Section 17-79-703, which is renumbered from Section 17-27a-603 is renumbered and amended to read:

[~~17-27a-603~~]17-79-703 (Effective 11/06/25). Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and verification of plat -- Recording plat.

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact described in:

(A) Section [~~17-27a-211~~]17-79-211;

(B) Subsection 73-5-7(3); or

(C) Subsection (6)(c).

(b) "Local health department" means the same as that term is defined in Section 26A-1-102.

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

(2) Unless exempt under Section [~~17-27a-605~~]17-79-708 or excluded from the definition of subdivision under Section [~~17-27a-103~~]17-79-102, whenever any land is laid out and platted, the owner of the land shall provide to the county in which the land is located an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale;

(d) every existing right-of-way and recorded easement located within the plat for:

(i) an underground facility;

(ii) a water conveyance facility; or

(iii) any other utility facility; and

(e) any water conveyance facility located, entirely or partially, within the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or

(B) from a surveyor under Subsection (6)(c).

(3) (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) A county shall:

(i) within 20 days after the day on which an owner of land submits to the county a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the county:

(A) from the facility owner under Section [~~10-9a-211~~]17-79-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;

(B) in the state engineer's inventory of canals; or

(C) from a surveyor under Subsection (6)(c); and

(ii) not approve the subdivision plat for at least 20 days after the day on which the county mails to each facility owner the notice under Subsection (3)(d)(i) in order to receive any comments from each facility owner regarding:

(A) access to the water conveyance facility;

(B) maintenance of the water conveyance facility;

(C) protection of the water conveyance facility integrity;

(D) safety of the water conveyance facility; or

(E) any other issue related to water conveyance facility operations.

(e) When applicable, the owner of the land seeking subdivision plat approval shall comply with Section 73-1-15.5.

(f) A facility owner's failure to provide comments to a county in accordance with Subsection (3)(d)(ii) does not affect or impair the county's authority to approve the subdivision plat.

(4) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(5) (a) Within 30 days after approving a final plat under this section, a county shall submit to the Utah Geospatial Resource Center, created in Section 63A-16-505, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Utah Geospatial Resource Center, a county that approves a final plat under this section shall:

(i) coordinate with the Utah Geospatial Resource Center to validate the information described in Subsection (5)(a); and

(ii) assist the Utah Geospatial Resource Center in creating electronic files that contain the information described in Subsection (5)(a) for inclusion in the unified statewide 911 emergency service database.

(6) (a) A county recorder may not record a plat unless, subject to Subsection [~~17-27a-604(1)~~]17-79-704(1):

(i) [~~prior to~~]before recordation, the county has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as provided by law.

(b) A surveyor who prepares the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section [~~17-23-17~~]17-73-504 and has verified all measurements; or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a representative designated by the owner or operator, of an existing water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of the existing water conveyance facility, or the existing or proposed underground facility or utility facility; and

(C) physical restrictions governing the location of the existing or proposed underground facility or utility facility.

(ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection (6)(c)(i):

(A) indicates only that the plat approximates the location of the existing facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(7) (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged, certified, and approved, the owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the county.

(8) A county acting as a land use authority shall approve a condominium plat that complies with the requirements of Section 57-8-13 unless the condominium plat violates a land use regulation of the county.

Section 218. Section 17-79-704, which is renumbered from Section 17-27a-604 is renumbered and amended to read:

[~~17-27a-604~~]17-79-704 (Effective 11/06/25). Subdivision plat approval procedure -- Effect of not complying.

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection [~~17-27a-603(6)(a)~~]17-79-703(6)(a);

(b) the plat has been approved by:

(i) the land use authority of the:

(A) county in whose unincorporated area the land described in the plat is located; or

(B) mountainous planning district in whose area the land described in the plat is located; and

(ii) other officers that the county designates in its ordinance;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a, Community Association Act.

(3) A plat recorded without the signatures required under this section is void.

(4) A transfer of land pursuant to a void plat is voidable by the land use authority.

Section 219. Section 17-79-705, which is renumbered from Section 17-27a-604.1 is renumbered and amended to read:

[~~17-27a-604.1~~]17-79-705 (Effective 11/06/25). Process for subdivision review and approval.

(1) (a) As used in this section, an "administrative land use authority" means an individual, board, or commission, appointed or employed by a county, including county staff or a county planning commission.

(b) "Administrative land use authority" does not include a county legislative body or a member of a county legislative body.

(2) (a) This section applies to land use decisions arising from subdivision applications for single-family dwellings, two-family dwellings, or townhomes.

(b) This section does not apply to land use regulations adopted, approved, or agreed upon by a legislative body exercising land use authority in the review of land use applications for zoning or other land use regulation approvals.

(3) A county ordinance governing the subdivision of land shall:

(a) comply with this section and establish a standard method and form of application for preliminary subdivision applications and final subdivision applications; and

(b) (i) designate a single administrative land use authority for the review of preliminary applications to subdivide land; or

(ii) if the county has adopted an ordinance that establishes a separate procedure for the review and approval of subdivisions under Section [~~17-27a-605~~]17-79-708, the county may designate a different and separate administrative land use authority for the approval of subdivisions under Section [~~17-27a-605~~]17-79-708.

(4) (a) If an applicant requests a pre-application meeting, the county shall, within 15 business days after the request, schedule the meeting to review the concept plan and give initial feedback.

(b) At the pre-application meeting, the county staff shall provide or have available on the county website the following:

(i) copies of applicable land use regulations;

(ii) a complete list of standards required for the project;

(iii) preliminary and final application checklists; and

(iv) feedback on the concept plan.

(5) A preliminary subdivision application shall comply with all applicable county ordinances and requirements of this section.

(6) An administrative land use authority may complete a preliminary subdivision application review in a public meeting or at a county staff level.

(7) With respect to a preliminary application to subdivide land, an administrative land use authority may:

(a) receive public comment; and

(b) hold no more than one public hearing.

(8) If a preliminary subdivision application complies with the applicable county ordinances and the requirements of this section, the administrative land use authority shall approve the preliminary subdivision application.

(9) A county shall review and approve or deny a final subdivision plat application in accordance with the provisions of this section and county ordinances, which:

(a) may permit concurrent processing of the final subdivision plat application with the preliminary subdivision plat application; and

(b) may not require planning commission or county legislative body approval.

(10) If a final subdivision application complies with the requirements of this section, the applicable county ordinances, and the preliminary subdivision approval granted under Subsection (9)(a), a county shall approve the final subdivision application.

Section 220. Section 17-79-706, which is renumbered from Section 17-27a-604.2 is renumbered and amended to read:

[~~17-27a-604.2~~]17-79-706 (Effective 11/06/25). Review of subdivision applications and subdivision improvement plans.

(1) As used in this section:

(a) "Review cycle" means the occurrence of:

(i) the applicant's submittal of a complete subdivision application;

(ii) the county's review of that subdivision application;

(iii) the county's response to that subdivision application, in accordance with this section; and

(iv) the applicant's reply to the county's response that addresses each of the county's required modifications or requests for additional information.

(b) "Subdivision application" means a land use application for the subdivision of land located within the unincorporated area of a county.

(c) "Subdivision improvement plans" means the civil engineering plans associated with required infrastructure improvements and county-controlled utilities required for a subdivision.

(d) "Subdivision ordinance review" means review by a county to verify that a subdivision application meets the criteria of the county's ordinances.

(e) "Subdivision plan review" means a review of the applicant's subdivision improvement plans and other aspects of the subdivision application to verify that the application complies with county ordinances and applicable installation standards and inspection specifications for infrastructure improvements.

(2) The review cycle restrictions and requirements of this section do not apply to the review of subdivision applications affecting property within identified geological hazard areas.

(3) (a) A county may require a subdivision improvement plan to be submitted with a subdivision application.

(b) A county may not require a subdivision improvement plan to be submitted with both a preliminary subdivision application and a final subdivision application.

(4) (a) The review cycle requirements of this section apply:

(i) to the review of a preliminary subdivision application, if the county requires a subdivision improvement plan to be submitted with a preliminary subdivision application; or

(ii) to the review of a final subdivision application, if the county requires a subdivision improvement plan to be submitted with a final subdivision application.

(b) A county may not, outside the review cycle, engage in a substantive review of required infrastructure improvements or a county controlled utility.

(5) (a) A county shall complete the initial review of a complete subdivision application submitted for ordinance review for a residential subdivision for single-family dwellings, two-family dwellings, or town homes:

(i) no later than 15 business days after the complete subdivision application is submitted, if the county has a population over 5,000; or

(ii) no later than 30 business days after the complete subdivision application is submitted, if the county has a population of 5,000 or less.

(b) A county shall maintain and publish a list of the items comprising the complete subdivision application, including:

(i) the application;

(ii) the owner's affidavit;

(iii) an electronic copy of all plans in PDF format;

(iv) the preliminary subdivision plat drawings; and

(v) a breakdown of fees due upon approval of the application.

(6) A county shall publish a list of the items that comprise a complete subdivision land use application.

(7) A county shall complete a subdivision plan review of a subdivision improvement plan that is submitted with a complete subdivision application for a residential subdivision for single-family dwellings, two-family dwellings, or town homes:

(a) within 20 business days after the complete subdivision application is submitted, if the county has a population over 5,000; or

(b) within 40 business days after the complete subdivision application is submitted, if the county has a population of 5,000 or less.

(8) (a) In reviewing a subdivision application, a county may require:

(i) additional information relating to an applicant's plans to ensure compliance with county ordinances and approved standards and specifications for construction of public improvements; and

(ii) modifications to plans that do not meet current ordinances, applicable standards, or specifications or do not contain complete information.

(b) A county's request for additional information or modifications to plans under Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances, standards, or specifications that require the modifications to subdivision improvement plans, and shall be logged in an index of requested modifications or additions.

(c) A county may not require more than four review cycles for a subdivision improvement plan review.

(d) (i) Subject to Subsection (8)(d)(ii), unless the change or correction is necessitated by the applicant's adjustment to a subdivision improvement plan or an update to a phasing plan that adjusts the infrastructure needed for the specific development, a change or correction not addressed or referenced in a county's subdivision improvement plan review is waived.

(ii) A modification or correction necessary to protect public health and safety or to enforce state or federal law may not be waived.

(iii) If an applicant makes a material change to a subdivision improvement plan, the county has the discretion to restart the review process at the first review of the subdivision improvement plan review, but only with respect to the portion of the subdivision improvement plan that the material change substantively affects.

(e) (i) This Subsection (8) applies if an applicant does not submit a revised subdivision improvement plan within:

(A) 20 business days after the county requires a modification or correction, if the county has a population over 5,000; or

(B) 40 business days after the county requires a modification or correction, if the county has a population of 5,000 or less.

(ii) If an applicant does not submit a revised subdivision improvement plan within the time specified in Subsection (8)(e)(i), a county has an additional 20 business days after the time specified in Subsection (7) to respond to a revised subdivision improvement plan.

(9) After the applicant has responded to the final review cycle, and the applicant has complied with each modification requested in the county's previous review cycle, the county may not require additional revisions if the applicant has not materially changed the plan, other than changes that were in response to requested modifications or corrections.

(10) (a) In addition to revised plans, an applicant shall provide a written explanation in response to the county's review comments, identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any.

(b) The applicant's written explanation shall be comprehensive and specific, including citations to applicable standards and ordinances for the design and an index of requested revisions or additions for each required correction.

(c) If an applicant fails to address a review comment in the response, the review cycle is not complete and the subsequent review cycle may not begin until all comments are addressed.

(11) (a) If, on the fourth or final review, a county fails to respond within 20 business days, the county shall, upon request of the property owner, and within 10 business days after the day on which the request is received:

(i) for a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Subsection [~~17-27a-507(5)(d)~~]17-79-812(5)(d) to review and approve or deny the final revised set of plans; or

(ii) for a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to a designated appeal authority.

Section 221. Section 17-79-707, which is renumbered from Section 17-27a-604.5 is renumbered and amended to read:

[~~17-27a-604.5~~]17-79-707 (Effective 11/06/25). Subdivision plat recording or development activity before required infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) As used in this section:

(a) "Private landscaping plan" means a proposal:

(i) to install landscaping on a lot owned by a private individual or entity; and

(ii) submitted to a county by the private individual or entity, or on behalf of a private individual or entity, that owns the lot.

(b) "Public landscaping improvement" means landscaping that an applicant is required to install to comply with published installation and inspection specifications for public improvements that:

(i) will be dedicated to and maintained by the county; or

(ii) are associated with and proximate to trail improvements that connect to planned or existing public infrastructure.

(2) A land use authority shall establish objective inspection standards for acceptance of a required public landscaping improvement or infrastructure improvement.

(3) (a) Except as provided in Subsection (3)(d) or (3)(e), before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required public landscaping improvements or infrastructure improvements; or

(ii) post an improvement completion assurance for any required public landscaping improvements or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall in accordance with Subsection (5) provide completion assurance for:

(i) completion of 100% of the required public landscaping improvements or infrastructure improvements; or

(ii) if the county has inspected and accepted a portion of the public landscaping improvements or infrastructure improvements, 100% of the incomplete or unaccepted public landscaping improvements or infrastructure improvements.

(c) A county shall:

(i) establish a minimum of two acceptable forms of completion assurance;

(ii) (A) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this chapter and any local ordinances; and

(B) if a county accepts cash deposits as a form of completion assurance and an applicant elects to post a cash deposit as a form of

completion assurance, place the cash deposit in an interest-bearing account upon receipt and return any earned interest to the applicant with the return of the completion assurance according to the conditions of this chapter and any local ordinances;

(iii) establish a system for the partial release of an improvement completion assurance as portions of required public landscaping improvements or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iv) issue or deny a building permit in accordance with Section [~~17-27a-802~~]17-79-901 based on the installation of public landscaping improvements or infrastructure improvements.

(d) A county may not require an applicant to post an improvement completion assurance for:

(i) public landscaping improvements or infrastructure improvements that the county has previously inspected and accepted;

(ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation;

(iii) in a county where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the county requires to be private;

(iv) landscaping improvements that are not public landscaping improvements, unless the landscaping improvements and completion assurance are required under the terms of a development agreement;

(v) a private landscaping plan;

(vi) landscaping improvements or infrastructure improvements that an applicant elects to install at the applicant's own risk:

(A) before the plat is recorded;

(B) pursuant to inspections required by the county for the infrastructure improvement; and

(C) pursuant to final civil engineering plan approval by the county; or

(vii) any individual public landscaping improvement or individual infrastructure improvement when the individual public landscaping improvement or individual infrastructure improvement is also included as part of a separate improvement completion assurance.

(e) (i) A county may not:

(A) prohibit an applicant from installing a public landscaping improvement or an infrastructure improvement when the municipality has approved final civil engineering plans for the development activity or plat for which the public landscaping improvement or infrastructure improvement is required; or

(B) require an applicant to sign an agreement, release, or other document inconsistent with this chapter as a condition of posting an improvement completion assurance, security for an improvement warranty, or receiving a building permit.

(ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and infrastructure improvements that are installed by an applicant are subject to inspection by the county in accordance with the county's adopted inspection standards.

(f) (i) Each improvement completion assurance and improvement warranty posted by an applicant with a county shall be independent of any other improvement completion assurance or improvement warranty posted by the same applicant with the county.

(ii) Subject to Section [~~10-9a-509.5~~]17-79-805, if an applicant has posted a form of security with a county for more than one infrastructure improvement or public landscaping improvement, the county may not withhold acceptance of an applicant's required subdivision improvements, public landscaping improvement, infrastructure improvements, or the performance of warranty work for the same applicant's failure to complete a separate subdivision improvement, public landscaping improvement, infrastructure improvement, or warranty work under a separate improvement completion assurance or improvement warranty.

(4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or other entitlement benefit not currently available under the existing zone, a county may require a completion assurance bond for landscaped amenities and common area that are dedicated to and maintained by a homeowners association.

(b) Any agreement regarding a completion assurance bond under Subsection (4)(a)between the applicant and the county shall be memorialized in a development agreement.

(c) A county may not require a completion assurance bond for or dictate who installs or is responsible for the cost of the landscaping of residential lots or the equivalent open space surrounding single-family attached homes, whether platted as lots or common area.

(5) The sum of the improvement completion assurance required under Subsections (3) and (4) may not exceed the sum of:

(a) 100% of the estimated cost of the public landscaping improvements or infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's bid; and

(b) 10% of the amount of the bond to cover administrative costs incurred by the county to complete the improvements, if necessary.

(6) (a) Upon an applicant's written request that the land use authority accept or reject the applicant's installation of required subdivision improvements or performance of warranty work as set forth in Section [~~17-27a-509.5~~]17-79-805, and for the duration of each improvement warranty period, the land use authority may require the applicant to:

(i) execute an improvement warranty for the improvement warranty period; and

(ii) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the county, in the amount of up to 10% of the lesser of the:

(A) county engineer's original estimated cost of completion; or

(B) applicant's reasonable proven cost of completion.

(b) A county may not require the payment of the deposit of the improvement warranty assurance described in Subsection (6)(a) for an infrastructure improvement or public landscaping improvement before the applicant indicates through written request that the applicant has completed the infrastructure improvement or public landscaping improvement.

(7) When a county accepts an improvement completion assurance for public landscaping improvements or infrastructure improvements for a development in accordance with Subsection (3)(c)(ii)(A), the county may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

(8) A county may not require the submission of a private landscaping plan as part of an application for a building permit.

(9) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 222. Section 17-79-708, which is renumbered from Section 17-27a-605 is renumbered and amended to read:

[~~17-27a-605~~]17-79-708 (Effective 11/06/25). Exemptions from plat requirement.

(1) Notwithstanding any other provision of law, a plat is not required if:

(a) a county establishes a process to approve an administrative land use decision for the subdivision of unincorporated land or mountainous planning district land into 10 or fewer parcels without a plat; and

(b) the county provides in writing that:

(i) the county has provided a certificate or written approval as required by ordinance; and

(ii) the proposed subdivision:

(A) is not traversed by the mapped lines of a proposed street as shown in the general plan unless the county has approved the location and dedication of any public street, county utility easement, any other easement, or any other land for public purposes as the county's ordinance requires;

(B) has been approved by the culinary water authority and the sanitary sewer authority;

(C) is located in a zoned area; and

(D) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a parcel resulting from a division of agricultural land is exempt from the plat requirements of Section [~~17-27a-603~~]17-79-703 if:

(i) the parcel:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used and will not be used for any nonagricultural purpose; and

(ii) the new owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel by legal description; and

(B) stating that the parcel is created for agricultural purposes as defined in Section 59-2-502 and will remain so until a future zoning change permits other uses.

(b) If a parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county shall require the parcel to comply with the requirements of Section [~~17-27a-603~~]17-79-703 and all applicable land use ordinance requirements.

(3) (a) Except as provided in Subsection (4), a document recorded in the county recorder's office that divides property by a metes and bounds description does not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

(i) prohibit the county recorder from recording a document; or

(ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached and that complies with Section 57-3-106.

(4) (a) As used in this Subsection (4):

(i) "Divided land" means land that has been divided by a minor subdivision.

(ii) "Land to be divided" means land that is proposed to be divided by a minor subdivision.

(iii) "Minor subdivision" means a division of at least 50 contiguous acres of agricultural land in a county of the third, fourth, fifth, or sixth class to create one new parcel that, after the division, is separate from the remainder of the original 50 or more contiguous acres of agricultural land.

(iv) "Minor subdivision parcel" means a parcel created by a minor subdivision.

(b) Notwithstanding Sections [~~17-27a-603~~]17-79-703 and [~~17-27a-604~~]17-79-704, an owner of at least 50 contiguous acres of agricultural land may make a minor subdivision by submitting for recording in the office of the recorder of the county in which the land to be divided is located:

(i) a recordable deed containing the legal description of the minor subdivision parcel; and

(ii) a notice:

(A) indicating that the owner of the land to be divided is making a minor subdivision;

(B) referring specifically to this section as the authority for making the minor subdivision; and

(C) containing the legal description of:

(I) the land to be divided; and

(II) the proposed minor subdivision parcel.

(c) A minor subdivision parcel:

(i) may not be less than one acre in size;

(ii) may not be within 500 feet of another minor subdivision parcel within the divided land;

(iii) is not subject to the subdivision ordinance of the county in which the minor subdivision parcel is located; and

(iv) is not required to be owned by the same person that owns the divided land.

(d) A minor subdivision is effective the day on which it is recorded.

(e) A county:

(i) may not deny a building permit to an owner of a minor subdivision parcel based on:

(A) the parcel's status as a minor subdivision parcel; or

(B) the absence of standards described in Subsection (4)(e)(ii); and

(ii) may, in connection with the issuance of a building permit, subject a minor subdivision parcel to reasonable health, safety, and access standards that the county has established and made public.

(5) (a) Notwithstanding Sections [~~17-27a-603~~]17-79-703 and [~~17-27a-604~~]17-79-704, and subject to Subsection (1), the legislative body of a county may enact an ordinance allowing the subdivision of a parcel, without complying with the plat requirements of Section

[~~17-27a-603~~]17-79-703, if:

(i) the parcel contains an existing legal single family dwelling unit;

(ii) the subdivision results in two parcels, one of which is agricultural land;

(iii) the parcel of agricultural land:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used, and will not be used, for a nonagricultural purpose;

(iv) both the parcel with an existing legal single family dwelling unit and the parcel of agricultural land meet the minimum area, width, frontage, and setback requirements of the applicable zoning designation in the applicable land use ordinance; and

(v) the owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel of agricultural land by legal description; and

(B) stating that the parcel of agricultural land is created as land in agricultural use, as defined in Section 59-2-502, and will remain as land in agricultural use until a future zoning change permits another use.

(b) If a parcel of agricultural land divided from another parcel under Subsection (5)(a) is later used for a nonagricultural purpose, the exemption provided in Subsection (5)(a)no longer applies, and the county shall require the owner of the parcel to:

(i) retroactively comply with the subdivision plat requirements of Section [~~17-27a-603~~]17-79-703; and

(ii) comply with all applicable land use ordinance requirements.

(6) (a) The boundaries of any subdivision exempted from the plat requirement under this section shall be graphically illustrated on a record of survey map that includes:

(i) a legal description of the parcel to be divided;

(ii) a legal description of each parcel created by the subdivision; and

(iii) a citation to the specific provision of this section for which an exemption to the plat requirement is authorized.

(b) The record of survey map described in Subsection (6)(a) shall be filed with the county surveyor in accordance with Section [~~17-23-17~~]17-73-504.

Section 223. Section 17-79-709, which is renumbered from Section 17-27a-606 is renumbered and amended to read:

[~~17-27a-606~~]17-79-709 (Effective 11/06/25). Common area parcels on a plat -- No separate ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

(1) As used in this section:

(a) "Association" means the same as that term is defined in:

(i) regarding a common area, Section 57-8a-102; and

(ii) regarding a common area and facility, Section 57-8-3.

(b) "Common area" means the same as that term is defined in Section 57-8a-102.

(c) "Common area and facility" means the same as that term is defined in Section 57-8-3.

(d) "Declarant" means the same as that term is defined in:

(i) regarding a common area, Section 57-8a-102; and

(ii) regarding a common area and facility, Section 57-8-3.

(e) "Declaration," regarding a common area and facility, means the same as that term is defined in Section 57-8-3.

(f) "Period of administrative control" means the same as that term is defined in:

(i) regarding a common area, Section 57-8a-102; and

(ii) regarding a common area and facility, Section 57-8-3.

(2) A person may not separately own, convey, or modify a parcel designated as a common area or common area and facility on a plat recorded in compliance with this part, independent of the other lots, units, or parcels created by the plat unless:

(a) an association holds in trust the parcel designated as a common area for the owners of the other lots, units, or parcels created by the plat; or

(b) the conveyance or modification is approved under Subsection (5).

(3) If a conveyance or modification of a common area or common area and facility is approved in accordance with Subsection (5), the person who presents the instrument of conveyance to a county recorder shall:

(a) attach a notice of the approval described in Subsection (5) as an exhibit to the document of conveyance; or

(b) record a notice of the approval described in Subsection (5) concurrently with the conveyance as a separate document.

(4) When a plat contains a common area or common area and facility:

(a) each parcel that the plat creates has an equal ownership interest in the common area or common area and facility within the plat, unless the plat or an accompanying recorded document indicates a different division of interest for assessment purposes; and

(b) each instrument describing a parcel on the plat by the parcel's identifying plat number implicitly includes the ownership interest in the common area or common area and facility within the plat, even if that ownership interest is not explicitly stated in the instrument.

(5) Notwithstanding Subsection (2), a person may modify the size or location of or separately convey a common area or common area and facility if the following approve the conveyance or modification:

(a) the local government;

(b) (i) for a common area that an association owns, 67% of the voting interests in the association; or

(ii) for a common area that an association does not own, or for a common area and facility, 67% of the owners of lots, units, and parcels designated on a plat that is subject to a declaration and on which the common area or common area and facility is included; and

(c) during the period of administrative control, the declarant.

Section 224. Section 17-79-710, which is renumbered from Section 17-27a-607 is renumbered and amended to read:

[~~17-27a-607~~]17-79-710 (Effective 11/06/25). Dedication by plat of public streets and other public places.

(1) A plat that is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part, operates, when recorded, as a dedication of all public streets and other public places, and vests the fee of those parcels of land in the county for the public for the uses named or intended in the plat.

(2) The dedication established by this section does not impose liability upon the county for public streets and other public places that are dedicated in this manner but are unimproved unless:

(a) adequate financial assurance has been provided in accordance with this chapter; and

(b) the county has accepted the dedication.

Section 225. Section 17-79-711, which is renumbered from Section 17-27a-608 is renumbered and amended to read:
[~~17-27a-608~~]17-79-711 (Effective 11/06/25). Subdivision amendments.

(1) (a) A fee owner of a lot, as shown on the last county assessment roll, in a plat that has been laid out and platted as provided in this part may file a petition with the land use authority to request a subdivision amendment.

(b) Upon filing a petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section [~~17-27a-603~~]17-79-703 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

(c) (i) The land use authority shall provide notice of a petition filed under Subsection (1)(a) by mail or email to:

(A) each affected entity that provides a service to a property owner of record of the portion of the plat that is being amended; and

(B) each property owner of record within the portion of the subdivision that is proposed to be amended.

(ii) The notice described in Subsection (1)(c)(i)(B) shall include a deadline by which written objections to the petition are due to the land use authority, but no earlier than 10 calendar days after the day on which the land use authority sends the notice.

(d) The land use authority shall hold a public hearing within 45 days after the day on which a petition is filed under Subsection (1)(a) if:

(i) any property owner within the subdivision that is proposed to be amended notifies the county of the owner's objection in writing by the deadline for objections, as described in Subsection (1)(c)(ii); or

(ii) a county ordinance requires a public hearing if all of the owners within the portion of the subdivision proposed to be amended have not signed the proposed amended plat.

(e) A land use authority may approve a petition for subdivision amendment no earlier than:

(i) the day after the day on which written objections were due to the land authority, as described in Subsection (1)(c)(ii); or

(ii) if a public hearing is required as described in Subsection (1)(d), the day on which the public hearing takes place.

(f) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

(2) The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioning fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(iv) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or county utility easement is also subject to Section [~~17-27a-609.5~~]17-79-713.

(4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in:

(i) the entire plat; or

(ii) that portion of the plan described in the petition; and

(b) the signature of each owner who consents to the petition.

(5) A surveyor preparing an amended plat under this section shall certify that the surveyor:

(a) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(b) (i) has completed a survey of the property described on the plat in accordance with Section [~~17-23-17~~]17-73-504 and has verified all measurements;

(ii) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; or

(iii) has referenced the original plat that created the lot boundaries being amended; and

(c) has placed monuments as represented on the plat.

Section 226. Section 17-79-712, which is renumbered from Section 17-27a-609 is renumbered and amended to read:
[~~17-27a-609~~]17-79-712 (Effective 11/06/25). Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

(1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or

amendment if the land use authority finds that:

(a) there is good cause for the vacation or amendment; and

(b) no public street or county utility easement has been vacated or amended.

(2) (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.

(b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.

(3) (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.

(b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.

(4) An amended plat may not be submitted to the county recorder for recording unless it is:

(a) signed by the land use authority; and

(b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.

(5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.

(6) A plat may be corrected as provided in Section 57-3-106.

Section 227. Section 17-79-713, which is renumbered from Section 17-27a-609.5 is renumbered and amended to read:
[~~17-27a-609.5~~]17-79-713 (Effective 11/06/25). Petition to vacate a public street.

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections [~~17-27a-603~~]17-79-703 through [~~17-27a-609~~]17-79-712, a legislative body may approve a petition to vacate a public street in accordance with this section.

(2) A petition to vacate some or all of a public street or county utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street or county utility easement between the two nearest public street intersections; or

(ii) accessed exclusively by or within 300 feet of the public street or county utility easement;

(b) proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or county utility easement sought to be vacated; and

(c) the signature of each owner under Subsection (2)(a) who consents to the vacation.

(3) If a petition is submitted containing a request to vacate some or all of a public street or county utility easement, the legislative body shall hold a public hearing in accordance with Section [~~17-27a-208~~]17-79-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

(4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or county utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

(5) If the legislative body adopts an ordinance vacating some or all of a public street or county utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection (4); and

(ii) a legal description of the public street to be vacated.

(6) The action of the legislative body vacating some or all of a public street or county utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the county's fee in the vacated street, right-of-way, or easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any parcel or lot owner;

(ii) the rights of any public utility; or

(iii) the rights of a culinary water authority or sanitary sewer authority.

(7) (a) A county may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

(b) If a county submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except to the extent:

(A) the easement is not a protected utility easement as defined in Section 54-3-27;

(B) the easement is included within the public street; and

(C) the notice to vacate the public street also contains a notice to vacate the easement; and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

(8) A legislative body may not approve a petition to vacate a public street under this section unless the vacation identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the public street.

Section 228. Section 17-79-714, which is renumbered from Section 17-27a-610 is renumbered and amended to read:
[~~17-27a-610~~]17-79-714 (Effective 11/06/25). Restrictions for solar and other energy devices.

The land use authority may refuse to approve or renew any plat, subdivision plan, or dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the plat or subdivision

prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the plat or subdivision.

Section 229. Section 17-79-715, which is renumbered from Section 17-27a-611 is renumbered and amended to read:

[~~17-27a-611~~]17-79-715 (Effective 11/06/25). Prohibited acts.

(1) (a) If a subdivision requires a plat, an owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.

(b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.

(c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:

(i) does not affect the validity of the instrument or other document; and

(ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable county ordinances on land use and development.

(2) (a) A county may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.

(b) An action under this Subsection (2) may include an injunction or any other appropriate action or proceeding to prevent or enjoin the violation.

(c) A county need only establish the violation to obtain the injunction.

Section 230. Section 17-79-716, which is renumbered from Section 17-27a-1004 is renumbered and amended to read:

[~~17-27a-1004~~]17-79-716 (Effective 11/06/25). Notice.

(1) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a vested critical infrastructure materials operations created under Chapter 81, Part 7, Vested Critical Infrastructure Materials Operations, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Vested Critical Infrastructure Materials Operations

This property is located in the vicinity of an established vested critical infrastructure materials operations in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from such normal critical infrastructure materials operations."

(2) For any new subdivision development located in whole or in part within 300 feet of the boundary of an agriculture protection area created under Chapter 81, Part 2, Proposal and Approval of Protection Areas, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Agriculture Protection Area

This property is located in the vicinity of an established agriculture protection area in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future be conducted on property included in the agriculture protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."

(3) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of an industrial protection area created under Chapter 81, Part 2, Proposal and Approval of Protection Areas, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Industrial Protection Area

This property is located in the vicinity of an established industrial protection area in which normal industrial uses and activities have been afforded the highest priority use status. It can be anticipated that such industrial uses and activities may now or in the future be conducted on property included in the industrial protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal industrial uses and activities."

(4) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a critical infrastructure materials protection area created under Chapter 81, Part 2, Proposal and Approval of Protection Areas, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Critical Infrastructure Materials Protection Area

This property is located in the vicinity of an established critical infrastructure materials protection area in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal critical infrastructure materials operations."

(5) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a mining protection area created under Chapter 81, Part 2, Proposal and Approval of Protection Areas, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"This property is located within the vicinity of an established mining protection area in which normal mining uses and activities have been afforded the highest priority use status. It can be anticipated that the mining uses and activities may now or in the future be conducted on property included in the mining protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from the normal mining uses and activities."

Section 231. Section 17-79-801, which is renumbered from Section 17-27a-308 is renumbered and amended to read:

PART 8. Administration of Land Use, Development, and Management Provisions

[~~17-27a-308~~]17-79-801 (Effective 11/06/25). Land use authority requirements -- Nature of land use decision.

(1) A land use authority shall apply the plain language of land use regulations.

(2) If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application.

(3) A land use decision of a land use authority is an administrative act, even if the land use authority is the legislative body.

Section 232. Section 17-79-802, which is renumbered from Section 17-27a-309 is renumbered and amended to read:

[~~17-27a-309~~]17-79-802 (Effective 11/06/25). Urban development in municipal expansion area -- Requirements.

(1) For purposes of this section, "urban development" means the same as [~~the~~]that term is defined in Section 10-2-801.

(2) A county legislative body may approve urban development within an adopted expansion area of a municipality if the county notifies the municipality of the proposed urban development, and:

(a) the municipality consents in writing to the proposed urban development; or

(b) the municipality fails to respond to the county's notification of the proposed urban development within 90 days after the day on which the county provides the notice.

(3) If a municipality responds to the county's notice under Subsection (2) within 90 days after the county's notification of the proposed urban development to object to the proposed urban development, the county may approve the urban development if the county responds to the municipality's objection in writing.

Section 233. Section 17-79-803, which is renumbered from Section 17-27a-508 is renumbered and amended to read:

[~~17-27a-508~~]17-79-803 (Effective 11/06/25). Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) Subject to Subsection (7), an applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or

(B) during the 12 months [~~prior to~~]before the county processing the application or multiple applications of the same type, the application is impaired or prohibited under the terms of a temporary land use regulation adopted under Section [~~17-27a-504~~]17-79-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) Unless a phasing sequence is required in an executed development agreement, a county shall, without regard to any other separate and distinct land use application, accept and process a complete land use application in accordance with this chapter.

(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(f) Subject to Subsection (7), a county may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a county ordinance in effect on the date that the applicant submits a complete application, subject to Subsection (1)(a)(ii); or

(iii) a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(g) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a county ordinance; or

(vii) in a county specification for residential roadways in effect at the time a residential subdivision was approved.

(h) Except as provided in Subsection (1)(i) or (j), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(i) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable local ordinance.

(j) A county may not conduct a final inspection required before issuing a certificate of occupancy for a residential unit that is within the boundary of an infrastructure financing district, as defined in Section 17B-1-102, until the applicant for the certificate of occupancy provides adequate proof to the county that any lien on the unit arising from the infrastructure financing district's assessment against the unit under Title 11, Chapter 42, Assessment Area Act, has been released after payment in full of the infrastructure financing district's assessment against that unit.

(k) A county:

(i) may require the submission of a private landscaping plan, as defined in Section [~~17-27a-604.5~~]17-79-707, before landscaping is installed; and

(ii) may not withhold an applicant's building permit or certificate of occupancy because the applicant has not submitted a private landscaping plan.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Subject to Subsection (7), a specified public agency's submission of a development plan and schedule as required in Subsection [~~17-27a-305(8)~~]17-79-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(4).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

(6) (a) After issuance of a building permit, a county may not:

(i) change or add to the requirements expressed in the building permit, unless the change or addition is:

(A) requested by the building permit holder; or

(B) necessary to comply with an applicable state building code; or

(ii) revoke the building permit or take action that has the effect of revoking the building permit.

(b) Subsection (6)(a) does not prevent a county from issuing a building permit that contains an expiration date defined in the building permit.

(7) A county shall comply with the provisions of this chapter regarding all pending land use applications and new land use applications submitted under this chapter.

Section 234. Section 17-79-804, which is renumbered from Section 17-27a-509 is renumbered and amended to read:

[~~17-27a-509~~]17-79-804 (Effective 11/06/25). Limit on fees -- Requirement to itemize fees -- Appeal of fee.

(1) A county may impose or collect a fee for reviewing or approving the plans for a commercial or residential building, not to exceed the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the county charges for a building permit fee for that building.

(2) (a) Subject to Subsection (2)(b), a county may impose and collect a fee for reviewing and approving identical plans, as described in Section [~~17-27a-536~~]17-79-809, not to exceed the lesser of:

(i) the actual cost of performing the plan review; or

(ii) 30% of the fee that would be imposed and collected under Subsection (1).

(b) A county may impose and collect a fee for reviewing an original plan, as defined in Section [~~17-27a-536~~]17-79-809, that an applicant submits with the intent that the original plan be used as the basis for a future identical plan submission, the same as any other plan review fee under Subsection (1).

(3) A county may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the county water, sewer, storm water, power, or other utility system.

(4) A county may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit;

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review; or

(c) an inspection fee on a qualified water conservancy district, as defined in Section 17B-2a-1010, that hires a qualified inspector to conduct inspections on new infrastructure.

(5) (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the county shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the county shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the county to create the calculation method described in Subsection (5)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed; and

(iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A county shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:

(i) regulation;

(ii) processing an application;

(iii) issuing a permit; or

(iv) delivering the service for which the applicant or owner paid the fee.

(6) A county may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

(b) subject to Subsection (3), a hookup fee; and

(c) an impact fee for a public facility listed in Subsection 11-36a-102(17)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

[~~(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a county:~~]

[~~(a) Subsections (5) and (6);~~]

[~~(b) Section 17-27a-507; and~~]

[~~(c) Section 17-27a-509.5.~~]

Section 235. Section 17-79-805, which is renumbered from Section 17-27a-509.5 is renumbered and amended to read:

[~~17-27a-509.5~~]17-79-805 (Effective 11/06/25). Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

(1) (a) Each county shall, in a timely manner, determine whether a land use application is complete for the purposes of subsequent, substantive land use authority review.

(b) After a reasonable period of time to allow the county diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the county provide a written determination either that the application is:

(i) complete for the purposes of allowing subsequent, substantive land use authority review; or

(ii) deficient with respect to a specific, objective, ordinance-based application requirement.

(c) Within 30 days of receipt of an applicant's request under this section, the county shall either:

(i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application must be supplemented by specific additional information identified in the notice; or

(ii) accept the application as complete for the purposes of further substantive processing by the land use authority.

(d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

(e) (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).

(ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).

(f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).

(ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.

(2) (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.

(b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

(c) Within 45 days from the date of service of the written request described in Subsection (2)(b):

(i) except as provided in Subsection (2)(c)(ii), the land use authority shall take final action, approving or denying the application; and

(ii) if a landowner petitions for a land use regulation, a legislative body shall take final action by approving or denying the petition.

(d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

(e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority should have taken final action under Subsection (2)(c).

(3) (a) As used in this Subsection (3), an "infrastructure improvement category" includes a:

(i) culinary water system;

(ii) sanitary sewer system;

(iii) storm water system;

(iv) transportation system;

(v) secondary and irrigation water system;

(vi) public landscaping; or

(vii) public parks, trails, or open space.

(b) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the county's adopted standards.

(c) (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision

improvements or performance of warranty work.

(ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(c)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.

(iii) Except as provided in Subsection (3)(c)(iv), (3)(d), or (3)(e), the land use authority shall accept or reject the performance of warranty work within:

(A) for a county of [~~a~~]the first, second, or third class, 15 days after the day on which the land use authority receives an applicant's written request under Subsection (3)(c)(i); and

(B) for a county of the fourth, fifth, or sixth class, 30 days after the day on which the land use authority receives an applicant's written request under Subsection (3)(c)(i).

(iv) If winter weather conditions do not reasonably permit a full and complete inspection of warranty work within the time periods described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) so the land use authority is able to accept or reject the warranty work, the land use authority shall:

(A) notify the applicant in writing before the end of the applicable time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) that, because of winter weather conditions, the land use authority will require additional time to accept or reject the performance of warranty work; and

(B) complete the inspection of the performance of warranty work and provide the applicant with an acceptance or rejection as soon as practicable.

(d) If a land use authority rejects an applicant's performance of warranty work three times, the county may take 15 days in addition to the relevant time period described in Subsection (3)(c)(iii) for subsequent inspections of the applicant's warranty work.

(e) (i) If extraordinary circumstances do not permit a land use authority to complete inspection of warranty work within the relevant time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) so the land use authority is able to accept or reject the warranty work, the land use authority shall:

(A) notify the applicant in writing before the end of the applicable time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) that, because of the extraordinary circumstances, the land use authority will require additional time to accept or reject the performance of warranty work; and

(B) complete the inspection of the performance of warranty work and provide the applicant with an acceptance or rejection within 30 days after the day on which the relevant time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B)ends.

(ii) The following situations constitute extraordinary circumstances for purposes of Subsection (3)(e)(i):

(A) the land use authority is processing a request for inspection that substantially exceeds the normal scope of inspection the county is customarily required to perform;

(B) the applicant has provided two or more written requests described in Subsection (3)(c)(i) within the same 30-day time period; or

(C) the land use authority is processing an unusually large number of written requests described in Subsection (3)(c)(i) to accept or reject subdivision improvements or performance of warranty work.

(f) (i) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the county's adopted standards, the land use authority shall, within 15 days of the day on which the land use authority makes the determination, comprehensively and with specificity list the reasons for the land use authority's determination.

(ii) If the land use authority fails to provide an applicant with the list described in Subsection (3)(f)(i) within the required time period:

(A) the applicant may send written notice to the land use authority requesting the list within five days; and

(B) if the applicant does not receive the list within five days from the day on which the applicant provides the land use authority with written notice as described in Subsection (3)(f)(ii)(A), the applicant may demand, and the land use authority shall provide, a reimbursement equal to 20% of the applicant's improvement completion assurance or security for the warranty work within each infrastructure improvement category.

(g) Subject to the provisions of Section [~~10-9a-604.5~~]17-79-707:

(i) within 15 days of the day on which the land use authority determines that an infrastructure improvement within a certain infrastructure improvement category, as described in Subsection (3)(a), meets the county's adopted standards for that category of infrastructure improvement and an applicant submits complete as-built drawings to the land use authority, whichever occurs later, the land use authority shall return to the applicant 90% of the applicant's improvement completion assurance allocated toward that infrastructure improvement category; and

(ii) within 15 days of the day on which the warranty period expires and the land use authority determines that an infrastructure improvement within a certain infrastructure improvement category, as described in Subsection (3)(a), meets the county's adopted standards for that category of infrastructure improvement, the land use authority shall return to the applicant the remaining 10% of the applicant's improvement completion assurance allocated toward that infrastructure improvement category, plus any remaining portion of a bond described in Subsection [~~10-9a-604.5(5)(b)~~]17-79-707(5)(b).

(h) The following acts under this Subsection (3) are administrative acts:

(i) a county's return of an applicant's improvement completion assurance, or any portion of an improvement completion assurance, within a category of infrastructure improvements, to the applicant; and

(ii) a county's return of an applicant's security for an improvement warranty, or any portion of security for an improvement warranty, within a category of infrastructure improvements, to the applicant.

(4) Subject to Section [~~17-27a-508~~]17-79-803, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.

(5) There shall be no money damages remedy arising from a claim under this section.

Section 236. Section 17-79-806, which is renumbered from Section 17-27a-522 is renumbered and amended to read: [~~17-27a-522~~]17-79-806 (Effective 11/06/25). Simple boundary adjustment -- Full boundary adjustment -- Process -- Review by land use authority.

(1) A person may propose a simple boundary adjustment to a land use authority as described in this section.

(2) A proposal for a simple boundary adjustment shall:

(a) include a conveyance document that complies with Section 57-1-45.5; and

(b) describe all lots or parcels affected by the proposed boundary adjustment.

(3) A land use authority shall consent to a proposed simple boundary adjustment if the land use authority verifies that the proposed simple boundary adjustment:

(a) meets the requirements of Subsection (2); and

(b) does not:

(i) affect a public right-of-way, county utility easement, or other public property;

(ii) affect an existing easement, onsite wastewater system, or an internal lot restriction; or

(iii) result in a lot or parcel out of conformity with land use regulations.

(4) If the land use authority determines that a proposed simple boundary adjustment does not meet the requirements of Subsection (3), a full boundary adjustment is required.

(5) To propose a full boundary adjustment, the adjoining property owners shall submit a proposal to the land use authority that includes:

(a) a conveyance document that complies with Section 57-1-45.5;

(b) a survey that complies with Subsection [~~57-1-4.5(3)(b)~~]57-1-45.5(3)(b); and

(c) if required by county ordinance, a proposed plat amendment corresponding with the proposed full boundary adjustment, prepared in accordance with Section [~~17-27a-608~~]17-79-711.

(6) The land use authority shall consent to a proposed full boundary adjustment made under Subsection (5) if:

(a) the proposal submitted to the land use authority under Subsection (5) includes all necessary information;

(b) the survey described in Subsection (5)(b) shows no evidence of a violation of a land use regulation; and

(c) if required by county ordinance, the plat amendment corresponding with the proposed full boundary adjustment has been approved in accordance with Section [~~17-27a-608~~]17-79-711.

(7) (a) Consent under Subsection (3) or (6) is an administrative act.

(b) Notice of consent under Subsection (3) or (6) shall be provided to the person proposing the boundary adjustment in a format that makes clear:

(i) the land use authority is not responsible for any error related to the boundary adjustment; and

(ii) a county recorder may record the boundary adjustment.

(8) A boundary adjustment is effective from the day on which the boundary adjustment, as consented to by the land use authority, is recorded by the county recorder along with the relevant conveyance document.

(9) The recording of a boundary adjustment does not constitute a land use approval.

(10) A county may enforce county ordinances against, or withhold approval of a land use application for, property that is subject to a boundary adjustment if the county determines that the resulting lots or parcels are not in compliance with the county's land use regulations in effect on the day on which the boundary adjustment is recorded.

Section 237. Section 17-79-807, which is renumbered from Section 17-27a-523 is renumbered and amended to read:
[~~17-27a-523~~]17-79-807 (Effective 11/06/25). Boundary establishment -- Process -- Boundary agreement not subject to review by land use authority -- Prohibitions.

(1) The owners of adjoining property may initiate a boundary establishment to:

(a) resolve an ambiguous, uncertain, or disputed boundary between the adjoining properties; and

(b) agree upon the location of the boundary between the adjoining properties.

(2) Adjoining property owners executing a boundary establishment described in Subsection (1) shall:

(a) prepare an establishment document that complies with Section 57-1-45; and

(b) record the boundary establishment with the county recorder, in accordance with Section 57-1-45.

(3) A boundary establishment:

(a) is not subject to review of a land use authority; and

(b) does not require consent or approval from a land use authority before it may be recorded.

(4) A boundary establishment is effective from the day it is recorded by the county recorder.

(5) A county may enforce county ordinances against property with a boundary establishment that violates a land use regulation.

(6) A boundary establishment that complies with this section presumptively:

(a) has no detrimental effect on any easement on the property that is recorded before the day on which the agreement is executed; and

(b) conveys the ownership of the adjoining parties to the established common boundary.

Section 238. Section 17-79-808, which is renumbered from Section 17-27a-524 is renumbered and amended to read:
[~~17-27a-524~~]17-79-808 (Effective 11/06/25). Site plan.

A site plan submitted to a county for approval of a building permit:

(1) if modified, may not be used to impose a penalty on a property owner;

(2) does not represent an agreement for a specific final layout;

(3) does not bind an owner from future development activity or modifications to a development activity on the property; and

(4) is superseded by the terms of a building permit requirement.

Section 239. Section 17-79-809, which is renumbered from Section 17-27a-536 is renumbered and amended to read:
[~~17-27a-536~~]17-79-809 (Effective 11/06/25). Identical plan review -- Process -- Indexing of plans -- Prohibitions.

(1) As used in this section:

(a) "Business day" means Monday, Tuesday, Wednesday, Thursday, or Friday, unless the day falls on a federal, state, or county holiday.

(b) "Nonidentical plan" means a plan that does not meet the definition of an identical plan in Section [~~17-27a-103~~]17-79-102.

(c) "Original plan" means the same as that term is defined in Section 10-9a-541.

(2) An applicant may submit, and a county shall review, an identical plan as described in this section.

(3) At the time of submitting an identical plan for review to a county, an applicant shall:

(a) mark the floor plan as "identical plans";

(b) identify in writing:

(i) the building permit number the county issued for the original plan:

(A) that was previously approved by the county; and

(B) to which the submitted floor plan qualifies as an identical plan; or

(ii) the identifying index number assigned by the county to the original plan, as described in Subsection (5)(b); and

(c) identify the site on which the applicant intends to implement the identical plan.

(4) Beginning May 7, 2025, an applicant that intends to submit an identical plan for review to a county shall:

(a) indicate, at the time of submitting an original plan to the county for review and approval, that the applicant intends to use the original plan as the basis for submitting a future identical plan if the original plan is approved by the county; and

(b) identify:

(i) the name or other identifier of the original plan; and

(ii) the zone the building will be located in, if the county approves the original plan.

(5) Upon approving an original plan and receiving the information described in Subsection (4), a county shall:

(a) file and index the original plan for future reference against an identical plan later submitted under Subsection (2); and

(b) provide the applicant with an identifying index number for the original plan.

(6) A county that receives a submission under Subsection (2) shall review and compare the submitted identical plan to the original plan to ensure:

(a) the identical plan and original plan are substantially identical; and

(b) no structural changes have been made from the original plan.

(7) Nothing in this section prohibits a county from conducting a site review and requiring geological analysis of the proposed site identified by the applicant under Subsection (3)(c).

(8) A county shall:

(a) review a submitted identical plan for compliance with this section; and

(b) approve or reject the identical plan within five business days after the day on which the identical plan was submitted under Subsection (2).

(9) An applicant that submits a nonidentical plan to a county as an identical plan, with knowledge that the nonidentical plan does not qualify as an identical plan and with intent to deceive the county:

(a) may be fined by the county receiving the submission of the nonidentical plan:

(i) in an amount not to exceed three times the building permit fee, if the county approved the nonidentical plan as an identical plan before discovering the submission did not qualify as an identical plan; or

(ii) in an amount equal to the building permit fee that would have been issued for the nonidentical plan, if the county did not approve the nonidentical plan before discovering the submission did not qualify as an identical plan; and

(b) is prohibited from submitting an identical plan for review and approval under this section for a period of two years from the day on which the county discovers the nonidentical plan identified as an identical plan in the applicant's submission did not qualify as an identical plan.

(10) A county may impose a criminal penalty, as described in Section [~~17-53-223~~]17-64-501, for an applicant that knowingly violates the prohibition described in Subsection (9)(b).

Section 240. Section 17-79-810, which is renumbered from Section 17-27a-537 is renumbered and amended to read:

[~~17-27a-537~~]17-79-810 (Effective 11/06/25). Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Automated review" means a computerized process used to conduct a plan review, including through the use of software and algorithms to assess compliance with an applicable building code, regulation, or ordinance to ensure that a plan meets all of a county's required criteria for approval.

(b) "Business day" means the same as that term is defined in Section [~~17-27a-536~~]17-79-809.

(c) "Construction project" means:

(i) the same as that term is defined in Section 38-1a-102; or

(ii) any work requiring a permit for construction of or on a one- or two-family dwelling, a townhome, or other residential structure built under the State Construction Code and State Fire Code.

(d) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

(e) (i) "Plan review" means all of the reviews and approvals of a plan that a county, including all relevant divisions or departments within a county, requires before issuing a building permit, with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project complies with local ordinances;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project received a structural review;

(G) the total square footage for each building level of finished, garage, and unfinished space; and

(H) that the plans include a printed statement indicating that, before the disturbance of land and during the actual construction, the applicant will comply with applicable federal, state, and local laws and ordinances, including any storm water protection laws and ordinances.

(ii) "Plan review" does not mean a review of:

(A) a document required to be re-submitted for a construction project other than a construction project for a one-or two-family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) a document submitted as part of a deferred submittal when requested by the applicant and approved by the building official;

(C) a document that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party; or

(D) a storm water permit.

(f) "Screening period" means the three business days following the day on which an applicant submits an application.

(g) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

(h) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

(i) "Storm water permit" means the same as that term is defined in Section 19-5-108.5.

(j) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(j)(i), a review that a licensed engineer conducts.

(k) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a county collects a fee for the inspection of a construction project, the county shall ensure that the construction project receives a prompt inspection.

(b) If a county cannot provide a building inspection within three business days after the day on which the county receives the request for the inspection, the applicant may engage an inspection with a third-party inspection firm from the third-party inspection firm list, as described in Section 15A-1-105.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3) (a) (i) A county that receives an application for a plan review shall determine if the application is complete, as described in Subsection (12), within the screening period.

(ii) If the county determines an application for a plan review is complete, as described in Subsection (12), within the screening period, the county shall begin the plan review process described in Subsection (4).

(b) If the county determines that an application for a plan review is not complete as described in Subsection (12), and if the county notifies the applicant of the county's determination:

(i) before 5 p.m. on the last day of the screening period, the county may:

(A) pause the screening period until the applicant ensures the application meets the requirements of Subsection (12); or

(B) reject the incomplete application; or

(ii) after 5 p.m. on the last day of the screening period, the county may not pause the screening period and shall begin the plan review process described in Subsection (4).

(c) If an application is rejected as described in Subsection (3)(b)(i)(B) and an applicant resubmits the application, the resubmission begins a new screening period in which the county shall review the resubmitted application to determine if the application is complete as described in Subsection (12).

(d) If the county gives notice of an incomplete application after 5 p.m. on the last day of the screening period, the county:

(i) shall immediately notify the applicant that the county has determined the application is not complete and the basis for the determination;

(ii) may not, except as provided in Subsection (3)(d)(iii), pause the relevant time period described in Subsection (4); and

(iii) may pause the relevant time period described in Subsection (4)(a) or (b) as described in Subsection (4)(c).

(4) (a) Except as provided in Subsection (7), once a county determines an application for plan review is complete, or proceeds to review an incomplete application for plan review under Subsection (3)(b)(ii), the county shall complete a plan review of a construction project for a one- or two-family dwelling or townhome by no later than 14 business days after the day on which the screening period for the application ends.

(b) Except as provided in Subsection (7), once a county determines an application for plan review is complete, or proceeds to review an incomplete application for plan review under Subsection (3)(b)(ii), the county shall complete a plan review of a construction project for a residential structure built under the State Construction Code that is not a one- or two-family dwelling, townhome, or a lodging establishment, by no later than 21 business days after the day on which the screening period for the application ends.

(c) If a county gives notice of an incomplete application as described in Subsection (3)(d), the county:

(i) may pause the time period described in Subsection (4)(a) or (b):

(A) within the last five days of the relevant time period; and

(B) until the applicant provides the county with the information necessary to consider the application complete under Subsection (12);

(ii) shall resume the relevant time period upon receipt of the information necessary to consider the application complete; and

(iii) may, if necessary, use five additional days beginning the day on which the county receives the information described in Subsection (4)(c)(ii) to consider whether the application meets the requirements for a building permit, even if the five additional days extend beyond the relevant time period described in Subsection 4(a) or (b).

(d) If, at the conclusion of plan review, the county determines the application meets the requirements for a building permit, the county shall approve the application and, subject to Subsection (10)(b), issue the building permit to the applicant.

(5) (a) A county may utilize another government entity to determine if an application is complete or perform a plan review, in whole or in part.

(b) A county that utilizes another government entity to determine if an application is complete or perform a plan review, as described in Subsection (5)(a), shall:

(i) notify any other government entities, including water providers, within 24 hours of receiving any building permit application; and

(ii) provide the government entity all documents necessary to determine if an application is complete or perform a plan review, in whole or in part, as requested by the county.

(6) A government entity determining if an application is complete or performing a plan review, in whole or in part, as requested by a county, shall:

(a) comply with the requirements of this chapter; and

(b) notify the county within the screening period whether the application, or a portion of the application, is complete.

(7) An applicant may:

(a) waive the plan review time requirements described in Subsection (4); or

(b) with the county's written consent, establish an alternative plan review time requirement.

(8) (a) A county may not enforce a requirement to have a plan review if:

(i) the county does not complete the plan review within the relevant time period described in Subsection (4); and

(ii) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(b) If a county is prohibited from enforcing a requirement to have a plan review under Subsection (8)(a), the county shall return to the applicant the plan review fee.

(9) (a) A county may attach to a reviewed plan a list that includes:

(i) items with which the county is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(b) A county may not require an applicant to redraft a plan if the county requests minor changes to the plan that the list described in Subsection (9)(a) identifies.

(c) A county may require a single resubmittal of plans for a one- or two-family dwelling or townhome if deficiencies in the plan would affect the site plan interaction or footprint of the design.

(10) (a) If a county charges a fee for a building permit, the county may not refuse payment of the fee at the time the applicant submits an application under Subsection (3).

(b) If a county charges a fee for a building permit and does not require the fee for a building permit to be included in an application for plan review, upon approval of an application for plan review under Subsection (4)(d), the county may require the applicant to pay the fee for the building permit before the county issues the building permit.

(11) A county may not limit the number of applications submitted under Subsection (3).

(12) For purposes of Subsection (3), an application for plan review is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) existing and proposed utilities, including water, sewer, and subsurface drainage facilities;

(J) street names;

(K) driveway locations;

(L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors, windows, and egress;

(iii) foundation, structural, and framing detail;

(iv) electrical, mechanical, and plumbing design;

(v) a licensed architect's or structural engineer's stamp, when required by law; and

(vi) fire suppression details, when required by fire code;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the county;

(g) a statement indicating that:

(i) before land disturbance occurs on the subject property, the applicant will obtain a storm water permit; and

(ii) during actual construction, the applicant shall comply with applicable local ordinances and building codes; and

(h) the fees, if any, established by ordinance for the county to perform a plan review.

(13) A county may, at the county's discretion, utilize automated review to fulfill, in whole or in part, the county's obligation to conduct a plan review described in this section.

Section 241. Section 17-79-811 is enacted to read:

17-79-811 (Effective 11/06/25). Provisions applicable to a provider of culinary or secondary water.

A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following provisions the same as if the provider were a county:

(1) Subsections 17-79-804(5) and (6);

(2) Section 17-79-805; and

(3) Section 17-79-812.

Section 242. Section 17-79-812, which is renumbered from Section 17-27a-507 is renumbered and amended to read:

[~~17-27a-507~~]17-79-812 (Effective 11/06/25). Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A county may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:

(a) an essential link exists between a legitimate governmental interest and each exaction; and

(b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) If a land use authority imposes an exaction for another governmental entity:

(a) the governmental entity shall request the exaction; and

(b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.

(3) (a) (i) Subject to the requirements of this Subsection (3), a county or, if applicable, the county's culinary water authority shall base any exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.

(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base an exaction for a culinary water interest on:

(A) consideration of the system-wide minimum sizing standards established for the culinary water authority by the Division of Drinking Water [~~pursuant to~~]in accordance with Section 19-4-114; and

(B) the number of equivalent residential connections associated with the culinary water demand for each specific development proposed in the development's land use application, applying lower exactions for developments with lower equivalent residential connections as demonstrated by at least five years of usage data for like land uses within the county.

(iii) A county or culinary water authority may impose an exaction for a culinary water interest that results in less water being exacted than would otherwise be exacted under Subsection (3)(a)(ii) if the county or culinary water authority, at the county's or culinary water authority's sole discretion, determines there is good cause to do so.

(iv) A county shall make public the methodology used to comply with Subsection (3)(a)(ii)(B). A land use applicant may appeal to the county's governing body an exaction calculation used by the county or the county's culinary water authority under Subsection (3)(a)(ii). A land use applicant may present data and other information that illustrates a need for an exaction recalculation and the county's governing body shall respond with due process.

(v) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.

(b) A county or [~~its~~]the county's culinary water authority may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).

(4) (a) If a county plans to dispose of surplus real property under Section [~~17-50-312~~]17-78-103 that was acquired under this section and has been owned by the county for less than 15 years, the county shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the county.

(b) A person to whom a county offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the county's offer.

(c) If a person to whom a county offers to reconvey property declines the offer, the county may offer the property for sale.

(d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community development or urban renewal agency.

(5) (a) A county may not, as part of an infrastructure improvement, require the installation of pavement on a residential roadway at a width in excess of 32 feet.

(b) Subsection (5)(a) does not apply if a county requires the installation of pavement in excess of 32 feet:

(i) in a vehicle turnaround area;

(ii) in a cul-de-sac;

(iii) to address specific traffic flow constraints at an intersection, mid-block crossings, or other areas;

(iv) to address an applicable general or master plan improvement, including transportation, bicycle lanes, trails, or other similar improvements that are not included within an impact fee area;

(v) to address traffic flow constraints for service to or abutting higher density developments or uses that generate higher traffic volumes, including community centers, schools, and other similar uses;

(vi) as needed for the installation or location of a utility which is maintained by the county and is considered a transmission line or requires additional roadway width;

(vii) for third-party utility lines that have an easement preventing the installation of utilities maintained by the county within the roadway;

(viii) for utilities over 12 feet in depth;

(ix) for roadways with a design speed that exceeds 25 miles per hour;

(x) as needed for flood and stormwater routing;

(xi) as needed to meet fire code requirements for parking and hydrants; or

(xii) as needed to accommodate street parking.

(c) Nothing in this section shall be construed to prevent a county from approving a road cross section with a pavement width less than 32 feet.

(d) (i) A land use applicant may appeal a municipal requirement for pavement in excess of 32 feet on a residential roadway.

(ii) A land use applicant that has appealed a municipal specification for a residential roadway pavement width in excess of 32 feet may request that the county assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(iii) Unless otherwise agreed by the applicant and the county, the panel described in Subsection (5)(d)(ii) shall consist of the following three experts:

(A) one licensed engineer, designated by the county;

(B) one licensed engineer, designated by the land use applicant; and

(C) one licensed engineer, agreed upon and designated by the two designated engineers under Subsections (5)(d)(iii)(A) and (B).

(iv) A member of the panel assembled by the county under Subsection (5)(d)(ii) may not have an interest in the application that is the subject of the appeal.

(v) The land use applicant shall pay:

(A) 50% of the cost of the panel; and

(B) the county's published appeal fee.

(vi) The decision of the panel is a final decision, subject to a petition for review under Subsection (5)(d)(vii).

(vii) [~~Pursuant to~~]In accordance with Section [~~17-27a-801~~]17-79-1009, a land use applicant or the county may file a petition for review of the decision with the district court within 30 days after the date that the decision is final.

Section 243. Section 17-79-901, which is renumbered from Section 17-27a-802 is renumbered and amended to read:

PART 9. Enforcement

[~~17-27a-802~~]17-79-901 (Effective 11/06/25). Enforcement -- Limitations on a county's ability to enforce an ordinance by withholding a permit or certificate.

(1) (a) A county or an adversely affected party may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A county need only establish the violation to obtain the injunction.

(2) (a) Except as provided in Subsections (3) through (6), a county may enforce the county's ordinance by withholding a building permit or certificate of occupancy.

(b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a county without approval of a building permit.

(c) The county may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A county may require an applicant to install a permanent road, cover a temporary road with asphalt or concrete, or create another method for servicing a structure that is consistent with Appendix D of the International Fire Code, before receiving a certificate of

occupancy for that structure.

(e) A county may require an applicant to maintain and repair a temporary fire apparatus road during the construction of a structure accessed by the temporary fire apparatus road in accordance with the county's adopted standards.

(f) A county may require temporary signs to be installed at each street intersection once construction of new roadway allows passage by a motor vehicle.

(g) A county may adopt and enforce any appendix of the International Fire Code, 2021 Edition.

(3) (a) A county may not deny an applicant a building permit or certificate of occupancy because the applicant has not completed an infrastructure improvement:

(i) unless the infrastructure improvement is essential to meet the requirements for the issuance of a building permit or certificate of occupancy under Title 15A, State Construction and Fire Codes Act; and

(ii) for which the county has accepted an improvement completion assurance for a public landscaping improvement, as defined in Section [~~17-27a-604.5~~]17-79-707, or an infrastructure improvement for the development.

(b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6, infrastructure improvement that is essential means:

(i) operable fire hydrants installed in a manner that is consistent with the county's adopted engineering standards; and

(ii) for temporary roads used during construction, a properly compacted road base installed in a manner consistent with the county's adopted engineering standards.

(c) A county may not adopt an engineering standard that requires an applicant to install a permanent road or a temporary road with asphalt or concrete before receiving a building permit.

(4) A county may not deny an applicant a building permit or certificate of occupancy for failure to:

(a) submit a private landscaping plan, as defined in Section [~~17-27a-604.5~~]17-79-707; or

(b) complete a landscaping improvement that is not a public landscaping improvement, as defined in Section [~~17-27a-604.5~~]17-79-707.

(5) A county may not withhold a building permit based on the lack of completion of a portion of a public sidewalk to be constructed within a public right-of-way serving a lot where a single-family or two-family residence or town home is proposed in a building permit application if an improvement completion assurance has been posted for the incomplete portion of the public sidewalk.

(6) A county may not prohibit the construction of a single-family or two-family residence or town home, withhold recording a plat, or withhold acceptance of a public landscaping improvement, as defined in Section [~~17-27a-604.5~~]17-79-707, or an infrastructure improvement based on the lack of installation of a public sidewalk if an improvement completion assurance has been posted for the public sidewalk.

(7) A county may not redeem an improvement completion assurance securing the installation of a public sidewalk sooner than 18 months after the date the improvement completion assurance is posted.

(8) A county shall allow an applicant to post an improvement completion assurance for a public sidewalk separate from an improvement completion assurance for:

(a) another infrastructure improvement; or

(b) a public landscaping improvement, as defined in Section [~~17-27a-604.5~~]17-79-707.

(9) A county may withhold a certificate of occupancy for a single-family or two-family residence or town home until the portion of the public sidewalk to be constructed within a public right-of-way and located immediately adjacent to the single-family or two-family residence or town home is completed and accepted by the county.

Section 244. Section 17-79-902, which is renumbered from Section 17-27a-803 is renumbered and amended to read:

[~~17-27a-803~~]17-79-902 (Effective 11/06/25). Penalties -- Notice.

(1) The county may, by ordinance, establish civil penalties for violations of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter.

(2) Violation of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter is punishable as a class C misdemeanor upon conviction either:

(a) as a class C misdemeanor; or

(b) by imposing the appropriate civil penalty adopted under the authority of this section.

(3) [~~Prior to~~]Before imposing upon an owner of record a civil penalty established by ordinance under authority of this chapter, a county shall provide:

(a) written notice, by mail or hand delivery, of each ordinance violation to the address of the:

(i) owner of record on file in the office of the county recorder; or

(ii) person designated, in writing, by the owner of record as the owner's agent for the purpose of receiving notice of an ordinance violation;

(b) the owner of record a reasonable opportunity to cure a noticed violation; and

(c) a schedule of the civil penalties that may be imposed upon the expiration of a time certain.

Section 245. Section 17-79-903, which is renumbered from Section 17-27a-510 is renumbered and amended to read:

[~~17-27a-510~~]17-79-903 (Effective 11/06/25). Nonconforming uses and noncomplying structures.

(1) (a) Except as provided in this section, a nonconforming use or a noncomplying structure may be continued by the present or a future property owner.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a nonconforming use due to its abandonment.

(3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(b) A county may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

(i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after the day on which written notice is served to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

(c) (i) Notwithstanding a prohibition in the county's zoning ordinance, a county may permit a billboard owner to relocate the billboard within the county's unincorporated area to a location that is mutually acceptable to the county and the billboard owner.

(ii) If the county and billboard owner cannot agree to a mutually acceptable location within 180 days after the day on which the owner submits a written request to relocate the billboard, the billboard owner may relocate the billboard in accordance with Subsection [~~17-27a-512(2)~~]17-79-605(2).

(4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use through substantial evidence, which may not be limited to municipal or county records.

(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

(c) Abandonment may be presumed to have occurred if:

(i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the county regarding an extension of the nonconforming use;

(ii) the use has been discontinued for a minimum of one year; or

(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.

(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and has the burden of establishing that any claimed abandonment under Subsection (4)(c) has not occurred.

(5) A county may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Section 246. Section 17-79-1001, which is renumbered from Section 17-27a-701 is renumbered and amended to read:

PART 10. Appeal Authority, Variances, and District Court Review

[~~17-27a-701~~]17-79-1001 (Effective 11/06/25). Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) (a) Each county adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities.

(b) An appeal authority shall hear and decide:

(i) requests for variances from the terms of land use ordinances;

(ii) appeals from land use decisions applying land use ordinances; and

(iii) appeals from a fee charged in accordance with Section [~~17-27a-509~~]17-79-802.

(c) An appeal authority may not hear an appeal from the enactment of a land use regulation.

(2) As a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision, in accordance with local ordinance.

(3) An appeal authority described in Subsection (1)(a):

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a county may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority the county designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that the adversely affected party can raise in district court;

(d) not require a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of an appealing party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) A county may not require a public hearing for a request for a variance or land use appeal.

(6) If the county establishes or, [~~prior to the effective date of this chapter~~]before May 2, 2005, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of the members of the board, body, or panel of any meeting or hearing of the board, body, or panel;

(b) provide each of the members of the board, body, or panel with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of the members of the board, body, or panel is present; and

(d) act only upon the vote of a majority of the convened members of the board, body, or panel.

Section 247. Section 17-79-1002, which is renumbered from Section 17-27a-702 is renumbered and amended to read:

[~~17-27a-702~~]17-79-1002 (Effective 11/06/25). Variances.

(1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that [~~he~~]the person or entity owns, leases, or in which [~~he~~]the person or entity holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.

(2) (a) The appeal authority may grant a variance only if:

(i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;

(ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;

(iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

(iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and

(v) the spirit of the land use ordinance is observed and substantial justice done.

(b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:

(A) is located on or associated with the property for which the variance is sought; and

(B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

(c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:

(i) relate to the hardship complained of; and

(ii) deprive the property of privileges granted to other properties in the same zone.

(3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(4) Variances run with the land.

(5) The appeal authority may not grant a use variance.

(6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:

(a) mitigate any harmful affects of the variance; or

(b) serve the purpose of the standard or requirement that is waived or modified.

Section 248. Section 17-79-1003, which is renumbered from Section 17-27a-703 is renumbered and amended to read:

[~~17-27a-703~~]17-79-1003 (Effective 11/06/25). Appealing a land use authority's decision -- Panel of experts for appeals of geologic hazard decisions.

(1) The land use applicant, a board or officer of the county, or an adversely affected party may, within the time period provided by ordinance, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.

(2) (a) A land use applicant who has appealed a decision of the land use authority administering or interpreting the county's geologic hazard ordinance may request the county to assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(b) If a land use applicant makes a request under Subsection (2)(a), the county shall assemble the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the land use applicant and county:

(i) one expert designated by the county;

(ii) one expert designated by the land use applicant; and

(iii) one expert chosen jointly by the county's designated expert and the applicant's land use designated expert.

(c) A member of the panel assembled by the county under Subsection (2)(b) may not be associated with the application that is the subject of the appeal.

(d) The land use applicant shall pay:

(i) 1/2 of the cost of the panel; and

(ii) the county's published appeal fee.

Section 249. Section 17-79-1004, which is renumbered from Section 17-27a-704 is renumbered and amended to read:

[~~17-27a-704~~]17-79-1004 (Effective 11/06/25). Time to appeal.

(1) The county shall enact an ordinance establishing a reasonable time of not less than 10 days to appeal to an appeal authority a written decision issued by a land use authority.

(2) In the absence of an ordinance establishing a reasonable time to appeal, a land use applicant or adversely affected party shall have 10 calendar days to appeal to an appeal authority a written decision issued by a land use authority.

Section 250. Section 17-79-1005, which is renumbered from Section 17-27a-705 is renumbered and amended to read:

[~~17-27a-705~~]17-79-1005 (Effective 11/06/25). Burden of proof.

The appellant has the burden of proving that the land use authority erred.

Section 251. Section 17-79-1006, which is renumbered from Section 17-27a-706 is renumbered and amended to read:

[~~17-27a-706~~]17-79-1006 (Effective 11/06/25). Due process.

(1) Each appeal authority shall conduct each appeal and variance request as described by local ordinance.

(2) Each appeal authority shall respect the due process rights of each of the participants.

Section 252. Section 17-79-1007, which is renumbered from Section 17-27a-707 is renumbered and amended to read:

[~~17-27a-707~~]17-79-1007 (Effective 11/06/25). Scope of review of factual matters on appeal -- Appeal authority requirements.

(1) A county may, by ordinance, designate the scope of review of factual matters for appeals of land use authority decisions.

(2) If the county fails to designate a scope of review of factual matters, the appeal authority shall review the matter de novo, without deference to the land use authority's determination of factual matters.

(3) If the scope of review of factual matters is on the record, the appeal authority shall determine whether the record on appeal includes substantial evidence for each essential finding of fact.

(4) The appeal authority shall:

(a) determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations; and

(b) interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.

(5) (a) An appeal authority's land use decision is a quasi-judicial act.

(b) A legislative body may act as an appeal authority unless both the legislative body and the appealing party agree to allow a third party to act as the appeal authority.

(6) Only a decision in which a land use authority has applied a land use regulation to a particular land use application, person, or parcel may be appealed to an appeal authority.

Section 253. Section 17-79-1008, which is renumbered from Section 17-27a-708 is renumbered and amended to read:

[~~17-27a-708~~]17-79-1008 (Effective 11/06/25). Final decision.

(1) A decision of an appeal authority takes effect on the date when the appeal authority issues a written decision, or as otherwise provided by local ordinance.

(2) A written decision, or other event as provided by ordinance, constitutes a final decision under Subsection [~~17-27a-801(2)(a)~~]17-79-1009(2)(a) or a final action under Subsection [~~17-27a-801(4)~~]17-79-1009(4).

Section 254. Section 17-79-1009, which is renumbered from Section 17-27a-801 is renumbered and amended to read:

[~~17-27a-801~~]17-79-1009 (Effective 11/06/25). No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) Subject to Subsection (1), a land use applicant or adversely affected party may file a petition for review of a land use decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall presume that a final land use decision of a land use authority or an appeal authority is valid unless the land use decision is:

(i) arbitrary and capricious; or

(ii) illegal.

(c) (i) A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.

(ii) A land use decision is illegal if the land use decision:

(A) is based on an incorrect interpretation of a land use regulation;

(B) conflicts with the authority granted by this title; or

(C) is contrary to law.

(d) (i) A court may affirm or reverse a land use decision.

(ii) If the court reverses a land use decision, the court shall remand the matter to the land use authority with instructions to issue a land use decision consistent with the court's decision.

(4) The provisions of Subsection (2)(a) apply from the date on which the county takes final action on a land use application, if the county conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending land use decision.

(5) If the county has complied with Section [~~17-27a-205~~]17-79-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of the proceedings of the land use authority or appeal authority, including the minutes, findings, orders and, if available, a true and correct transcript of the proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that the evidence was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the land use decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may petition the appeal authority to stay the appeal authority's decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order the appeal authority's decision stayed pending district court review if the appeal authority finds the order to be in the best interest of the county.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's land use decision.

(10) If the court determines that a party initiated or pursued a challenge to a land use decision on a land use application in bad faith, the court may award attorney fees.

Section 255. Section 17-79-1010, which is renumbered from Section 17-27a-804 is renumbered and amended to read:

[~~17-27a-804~~]17-79-1010 (Effective 11/06/25). Consent agreement.

(1) A legislative body may, by resolution or ordinance, settle litigation initiated under Section [~~17-27a-801~~]17-79-1009 regarding a land use decision with a property owner through a consent agreement.

(2) A legislative body shall approve the consent agreement under Subsection (1) in a public meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(3) A legislative body is not required to present to a planning commission on any matter covered by a consent agreement.

Section 256. Section 17-80-101, which is renumbered from Section 17-27a-1201 is renumbered and amended to read:

CHAPTER 80. Counties and Housing Supply

PART 1. General Provisions

[~~17-27a-1201~~]17-80-101 (Effective 11/06/25). Definitions.

As used in this part:

(1) "Affordable housing" means housing offered for sale at 80% or less of the median county home price for housing of that type.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.

(4) "Base year" means, for a proposed home ownership promotion zone area, a year beginning the first day of the calendar quarter determined by the last equalized tax roll before the adoption of the home ownership promotion zone.

(5) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

[~~(5)~~](6) "Home ownership promotion zone" means a home ownership promotion zone created [~~pursuant to~~]in accordance with this part.

(7) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified county's general plan.

(8) "Initial report" means the one-time moderate income housing report described in Subsection 17-80-202(1).

(9) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(a) within a primary dwelling;

(b) within the footprint of the detached primary dwelling at the time the internal accessory dwelling unit is created; and

(c) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(10) "Moderate income housing strategy" means a strategy described in Section 17-80-201.

[~~(6)~~](11) "Participant" means the same as that term is defined in Section 17C-1-102.

[~~(7)~~](12) "Participation agreement" means the same as that term is defined in Section 17C-1-102.

(13) (a) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(b) "Primary dwelling" includes a garage if the garage:

(i) is a habitable space; and

(ii) is connected to the primary dwelling by a common wall.

[~~(8)~~](14) "Project improvements" means the same as that term is defined in Section 11-36a-102.

(15) "Report" means an initial report or a subsequent report described in Section 17-80-202.

(16) "Specified county" means a county of the first, second, or third class, which has a population of more than 5,000 in the county's unincorporated areas.

(17) "Subsequent progress report" means the annual moderate income housing report described in Section 17-80-202.

[~~(9)~~](18) "System improvements" means the same as that term is defined in Section 11-36a-102.

[~~(10)~~](19) "Tax commission" means the State Tax Commission created in Section 59-1-201.

[~~(11)~~](20) (a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a home ownership promotion zone, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include property revenue from:

(i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2); or

(ii) a county additional property tax described in Subsection 59-2-1602(4).

[~~(12)~~](21) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

Section 257. Section 17-80-102 is enacted to read:

17-80-102 (Effective 11/06/25). Applicability.

(1) The provisions of Chapter 79, County Land Use, Development, and Management Act, apply to this chapter.

(2) The definitions in Section 17-80-101 are in addition to the definitions in Section 17-79-102, except that if there is any conflict between a definition in this chapter and a definition in Chapter 79, County Land Use, Development, and Management Act, the definition in this chapter prevails in regard to the provisions of this chapter.

Section 258. Section 17-80-201 is enacted to read:

PART 2. County Plans for Housing

17-80-201 (Effective 11/06/25). Moderate income housing plan required.

(1) A moderate income housing element of a general plan shall include a moderate income housing element that meets the requirements of this section.

(2) For a specified county, as defined in Section 17-80-101, a moderate income housing element shall:

(a) provide a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(b) select three or more moderate income housing strategies described in Subsections (3)(a)(ii)(A) through (V), or at least one moderate income housing strategy described in Subsections (3)(a)(ii)(W) through (BB), for implementation; and

(c) include an implementation plan as provided in Subsection (4).

(3) (a) In drafting the moderate income housing element, the county planning commission shall:

(i) consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the county, an employer that provides contracted services for the county, or any other public employer that operates within the county;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 17-79-611;

(R) create a program to transfer development rights for moderate income housing;

(S) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(T) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(U) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones;

(V) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption

of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing;

(W) create a housing and transit reinvestment zone in accordance with Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(X) create a home ownership investment zone in accordance with Part 5, Home Ownership Promotion Zone;

(Y) create a first home investment zone in accordance with Title 63N, Chapter 3, Part 16, First Home Investment Zone Act;

(Z) approve a project that receives funding from, or qualifies to receive funding from, the Utah Homes Investment Program created in Title 51, Chapter 12, Utah Homes Investment Program;

(AA) adopt or approve a qualifying affordable home ownership density bonus for single-family residential units, as described in Section 17-80-401; and

(BB) adopt or approve an affordable home ownership density bonus for multi-family residential units, as described in Section 17-80-402.

(b) The planning commission shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (3)(a)(ii).

(4) (a) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(c), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the county for implementation.

(b) The timeline described in Subsection (4)(a) shall:

(i) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and

(ii) provide flexibility for the county to make adjustments as needed.

Section 259. Section 17-80-202, which is renumbered from Section 17-27a-408 is renumbered and amended to read: [~~17-27a-408~~]17-80-202 (Effective 11/06/25). Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

[~~(1) As used in this section:~~]

[~~(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.~~]

[~~(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified county's general plan as provided in Subsection 17-27a-403(2)(f).~~]

[~~(c) "Initial report" means the one-time moderate income housing report described in Subsection (2).~~]

[~~(d) "Moderate income housing strategy" means a strategy described in Subsection 17-27a-403(2)(b)(ii).~~]

[~~(e) "Report" means an initial report or a subsequent report.~~]

[~~(f) "Specified county" means a county of the first, second, or third class, which has a population of more than 5,000 in the county's unincorporated areas.~~]

[~~(g) "Subsequent progress report" means the annual moderate income housing report described in Subsection (3).~~]

[~~(2)~~](1) (a) The legislative body of a specified county shall annually submit an initial report to the division.

(b) (i) This Subsection [~~(2)(b)~~](1)(b) applies to a county that is not a specified county as of January 1, 2023.

(ii) As of January 1, if a county [~~described in Subsection (2)(b)(i) ~~]changes from one class to another or grows in population to qualify as a specified county, the county shall submit an initial plan to the division on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.

(c) The initial report shall:

(i) identify each moderate income housing strategy selected by the specified county for continued, ongoing, or one-time implementation, using the exact language used to describe the moderate income housing strategy[~~ in Subsection 17-27a-403(2)(b)(ii)~~]; and

(ii) include an implementation plan.

[~~(3)~~](2) (a) After the division approves a specified county's initial report under this section, the specified county shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified county is required to submit the initial report.

(b) The subsequent progress report shall include:

(i) subject to Subsection [~~(3)(c)~~](2)(c), a description of each action, whether one-time or ongoing, taken by the specified county during the previous 12-month period to implement the moderate income housing strategies identified in the initial report for implementation;

(ii) a description of each land use regulation or land use decision made by the specified county during the previous 12-month period to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;

(iii) a description of any barriers encountered by the specified county in the previous 12-month period in implementing the moderate income housing strategies;

(iv) the number of residential dwelling units that have been entitled that have not received a building permit as of the submission date of the progress report;

(v) shapefiles, or website links if shapefiles are not available, to current maps and tables related to zoning;

(vi) information regarding the number of internal and external or detached accessory dwelling units located within the specified county for which the specified county:

(A) issued a building permit to construct; or

(B) issued a business license or comparable license or permit to rent;

(vii) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(viii) any recommendations on how the state can support the specified county in implementing the moderate income housing strategies.

(c) For purposes of describing actions taken by a specified county under Subsection [~~(3)(b)(i)~~](2)(b)(i), the specified county may include an ongoing action taken by the specified county [~~prior to~~]before the 12-month reporting period applicable to the subsequent progress report if the specified county:

(i) has already adopted an ordinance, approved a land use application, made an investment, or approved an agreement or financing that substantially promotes the implementation of a moderate income housing strategy identified in the initial report; and

(ii) demonstrates in the subsequent progress report that the action taken under Subsection [~~(3)(c)(i)~~](2)(b)(i) is relevant to making meaningful progress towards the specified county's implementation plan.

(d) A specified county's report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before May 1 of the year in which the report is required.

[~~(4)~~](3) Within 90 days after the day on which the division receives a specified county's report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified county is located, and, if the unincorporated area of the specified county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection [~~(5)~~](4), review the report to determine compliance with this section.

[~~(5)~~](4) (a) An initial report complies with this section if the report:

(i) includes the information required under Subsection [~~(2)(c)~~](1)(c);

(ii) demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies described in [~~Subsection 17-27a-403(2)(b)(ii)(A) though~~]Subsections 17-80-201(3)(a)(ii)(A) through (V) or at least one moderate income housing strategy described in Subsections [~~17-27a-403(2)(b)(ii)(W)~~]17-80-201(3)(a)(ii)(W) through (BB); and

(iii) is in a form approved by the division.

(b) A subsequent progress report complies with this section if the report:

(i) demonstrates to the division that the specified county made plans to implement or is implementing three or more moderate income housing strategies described in [~~Subsection 17-27a-403(2)(b)(ii)(A)~~]Subsections 17-80-201(3)(a)(ii)(A) though (V) or at least one moderate income housing strategy described in Subsections [~~17-27a-403(2)(b)(ii)(W)~~]17-80-201(3)(a)(ii)(W) through (BB);

(ii) is in a form approved by the division; and

(iii) provides sufficient information for the division to:

(A) assess the specified county's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified county's implementation plan;

(C) identify a clear correlation between the specified county's land use decisions and efforts to implement the moderate income housing strategies;

(D) identify how the market has responded to the specified county's selected moderate income housing strategies; and

(E) identify any barriers encountered by the specified county in implementing the selected moderate income housing strategies.

(c) If a specified county initial report or subsequent progress report demonstrates the county plans to implement or is implementing at least one moderate income housing strategy described in Subsections [~~17-27a-403(2)(b)(ii)(W)~~]17-80-201(3)(a)(ii)(W) through (BB), the division shall also consider the specified county compliant with the reporting requirement described in this section for:

(i) the year in which the specified county submits the report; and

(ii) two subsequent reporting years.

[~~(6)~~](5) (a) A specified county qualifies for priority consideration under this Subsection [~~(6)~~](5) if the specified county's report:

(i) complies with this section; and

(ii) demonstrates to the division that the specified county made plans to implement five or more moderate income housing strategies.

(b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within the unincorporated areas of a specified county described in Subsection [~~(6)(a)~~](5)(a) until the Department of Transportation receives notice from the division under Subsection [~~(6)(e)~~](5)(e).

(c) Upon determining that a specified county qualifies for priority consideration under this Subsection [~~(6)~~](5), the division shall send a notice of prioritization to the legislative body of the specified county and the Department of Transportation.

(d) The notice described in Subsection [~~(6)(c)~~](5)(c) shall:

(i) name the specified county that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified county qualifies to receive priority consideration; and

(iii) state the basis for the division's determination that the specified county qualifies for priority consideration.

(e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the specified county no longer qualifies for priority consideration under this Subsection [~~(6)~~](5).

[~~(7)~~](6) (a) If the division, after reviewing a specified county's report, determines that the report does not comply with this section, the division shall send a notice of noncompliance to the legislative body of the specified county.

(b) A specified county that receives a notice of noncompliance may:

(i) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(c) The notice described in Subsection [~~(7)(a)~~](6)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified county has an opportunity to:

(A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

(iii) state that failure to take action under Subsection [~~(7)(c)(ii)~~](6)(c)(ii) will result in the specified county's ineligibility for funds and

fees owed under Subsection [~~(9)~~](8).

(d) For purposes of curing the deficiencies in a report under this Subsection [~~(7)~~](6), if the action needed to cure the deficiency as described by the division requires the specified county to make a legislative change, the specified county may cure the deficiency by making that legislative change within the 90-day cure period.

(e) (i) If a specified county submits to the division a corrected report in accordance with Subsection [~~(7)(b)(i)~~](6)(b)(i), and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified county.

(ii) A specified county that receives a second notice of noncompliance may request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent.

(iii) The notice described in Subsection [~~(7)(e)(i)~~](6)(e)(i) shall:

(A) state that the specified county has an opportunity to submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; and

(B) state that failure to take action under Subsection [~~(7)(e)(iii)(A)~~](6)(e)(iii)(A)will result in the specified county's ineligibility for funds under Subsection [~~(9)~~](8).

[~~(8)~~](7) (a) A specified county that receives a notice of noncompliance under Subsection [~~(7)(a)~~](6)(a) or [~~(7)(e)(i)~~](6)(e)(i) may request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(b) Within 90 days after the day on which the division receives a request for an appeal, an appeal board consisting of the following three members shall review and issue a written decision on the appeal:

(i) one individual appointed by the Utah Association of Counties;

(ii) one individual appointed by the Utah Homebuilders Association; and

(iii) one individual appointed by the presiding member of the association of governments, established [~~pursuant to~~]in accordance with an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified county is a member.

(c) The written decision of the appeal board shall either uphold or reverse the division's determination of noncompliance.

(d) The appeal board's written decision on the appeal is final.

[~~(9)~~](8) (a) A specified county is ineligible for funds and owes a fee under this Subsection [~~(9)~~](8) if:

(i) the specified county fails to submit a report to the division;

(ii) after submitting a report to the division, the division determines that the report does not comply with this section and the specified county fails to:

(A) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent;

(iii) after submitting to the division a corrected report to cure the deficiencies in a previously submitted report, the division determines that the corrected report does not comply with this section and the specified county fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection [~~(8)~~](7), the appeal board issues a written decision upholding the division's determination of noncompliance.

(b) The following apply to a specified county described in Subsection [~~(9)(a)~~](8)(a) until the division provides notice under Subsection [~~(9)(c)~~](8)(e):

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the unincorporated areas of the specified county in accordance with Subsection 72-2-124(6);

(ii) beginning with the report submitted in 2024, the specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $250 per day that the specified county:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection [~~(7)~~](6); and

(iii) beginning with the report submitted in 2025, the specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $500 per day that the specified county, for a consecutive year:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection [~~(7)~~](6).

(c) Upon determining that a specified county is ineligible for funds under this Subsection [~~(9)~~](8), and is required to pay a fee under Subsection [~~(9)(b)~~](8)(b), if applicable, the division shall send a notice of ineligibility to the legislative body of the specified county, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection [~~(9)(c)~~](8)(c) shall:

(i) name the specified county that is ineligible for funds;

(ii) describe the funds for which the specified county is ineligible to receive;

(iii) describe the fee the specified county is required to pay under Subsection [~~(9)(b)~~](8)(b), if applicable; and

(iv) state the basis for the division's determination that the specified county is ineligible for funds.

(e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the provisions of this Subsection [~~(9)~~](8) no longer apply to the specified county.

(f) The division may not determine that a specified county that is required to pay a fee under Subsection [~~(9)(b)~~](8)(b) is in compliance with the reporting requirements of this section until the specified county pays all outstanding fees required under Subsection [~~(9)(b)~~](8)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

[~~(10)~~](9) In a civil action seeking enforcement or claiming a violation of this section or of Subsection [~~17-27a-404(5)(c)~~]17-79-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 260. Section 17-80-301, which is renumbered from Section 17-27a-531 is renumbered and amended to read:

PART 3. Land Use Regulations Unique to Residential Zones and Residential Units

[~~17-27a-531~~]17-80-301 (Effective 11/06/25). Moderate income housing.

(1) A county may only require the development of a certain number of moderate income housing units as a condition of approval of a land use application if:

(a) the county and the applicant enter into a written agreement regarding the number of moderate income housing units;

(b) the county provides incentives for an applicant who agrees to include moderate income housing units in a development; or

(c) the county offers or approves, and an applicant accepts, an incentive described in Section [~~17-27a-403.1~~]17-80-401 or [~~17-27a-403.2~~]17-80-402.

(2) If an applicant does not agree to participate in the development of moderate income housing units under Subsection (1)(a) or (b), a county may not take into consideration the applicant's decision in the county's determination of whether to approve or deny a land use application.

(3) Notwithstanding Subsections (1) and (2), a county of the third class, which has a ski resort located within the unincorporated area of the county, may require the development of a certain number of moderate income housing units as a condition of approval of a land use application if the requirement is in accordance with an ordinance enacted by the county before January 1, 2022.

Section 261. Section 17-80-302, which is renumbered from Section 17-27a-513 is renumbered and amended to read:

[~~17-27a-513~~]17-80-302 (Effective 11/06/25). Manufactured homes.

(1) For purposes of this section, a manufactured home [~~is~~]means the same as that term is defined in Section 15A-1-302, except that the manufactured home shall be attached to a permanent foundation in accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection in compliance with the applicable building code. All appendages, including carports, garages, storage buildings, additions, or alterations shall be built in compliance with the applicable building code.

(2) A manufactured home may not be excluded from any land use zone or area in which a single-family residence would be permitted, provided the manufactured home complies with all local land use ordinances, building codes, and any restrictive covenants, applicable to a single-family residence within that zone or area.

(3) A county may not:

(a) adopt or enforce an ordinance or regulation that treats a proposed development that includes manufactured homes differently than one that does not include manufactured homes; or

(b) reject a development plan based on the fact that the development is expected to contain manufactured homes.

Section 262. Section 17-80-303, which is renumbered from Section 17-27a-526 is renumbered and amended to read:

[~~17-27a-526~~]17-80-303 (Effective 11/06/25). Internal accessory dwelling units.

[~~(1) As used in this section:~~]

[~~(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:~~]

[~~(i) within a primary dwelling;~~]

[~~(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and~~]

[~~(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.~~]

[~~(b) (i) "Primary dwelling" means a single-family dwelling that:~~]

[~~(A) is detached; and~~]

[~~(B) is occupied as the primary residence of the owner of record.~~]

[~~(ii) "Primary dwelling" includes a garage if the garage:~~]

[~~(A) is a habitable space; and~~]

[~~(B) is connected to the primary dwelling by a common wall.~~]

[~~(2)~~](1) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use;

(b) except as provided in Subsections (2) and (3)[~~and (4)~~], a county may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:

(i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

(ii) total lot size;

(iii) street frontage; or

(iv) internal connectivity; and

(c) a county's regulation of architectural elements for internal accessory dwelling units shall be consistent with the regulation of single-family units, including single-family units located in historic districts.

[~~(3)~~](2) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

[~~(4)~~](3) A county may:

(a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;

(b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;

(c) require a primary dwelling:

(i) regardless of whether the primary dwelling is existing or new construction, to include one additional on-site parking space for an internal accessory dwelling unit, in addition to the parking spaces required under the county's land use ordinance, except that if the county's land use ordinance requires four off-street parking spaces, the county may not require the additional space contemplated under this Subsection [~~(4)(c)(i)~~](3)(c)(i); and

(ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport and is habitable space;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to 25% or less of the total unincorporated area in the county that is zoned primarily for residential use, except that the county may not prohibit newly constructed internal accessory dwelling units that:

(i) have a final plat approval dated on or after October 1, 2021; and

(ii) comply with applicable land use regulations;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection [~~(5)~~](4); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection [~~(6)~~](5).

[~~(5)~~](4) (a) In addition to any other legal or equitable remedies available to a county, a county may hold a lien against a property that contains an internal accessory dwelling unit if:

(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection [~~(4)~~](3);

(ii) the county provides a written notice of violation in accordance with Subsection [~~(5)(b)~~](4)(b);

(iii) the county holds a hearing and determines that the violation has occurred in accordance with Subsection [~~(5)(d)~~](4)(d), if the owner files a written objection in accordance with Subsection [~~(5)(b)(iv)~~](4)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection [~~(5)(b)~~](4)(b);

(v) the county provides a written notice of lien in accordance with Subsection [~~(5)(c)~~](4)(c); and

(vi) the county records a copy of the written notice of lien described in Subsection [~~(5)(a)(v)~~](4)(a)(v) with the county recorder of the county in which the property is located.

(b) The written notice of violation shall:

(i) describe the specific violation;

(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:

(A) no less than 14 days after the day on which the county sends the written notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days; or

(B) no less than 30 days after the day on which the county sends the written notice of violation, for any other violation;

(iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection [~~(5)(b)(ii)~~](4)(b)(ii), the county may hold a lien against the property in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) notify the owner of the property:

(A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and

(B) of the name and address of the county office where the owner may file the written objection;

(v) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(vi) be posted on the property.

(c) The written notice of lien shall:

(i) comply with the requirements of Section 38-12-102;

(ii) describe the specific violation;

(iii) specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(v) be posted on the property.

(d) (i) If an owner of property files a written objection in accordance with Subsection [~~(5)(b)(iv)~~](4)(b)(iv), the county shall:

(A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection [~~(5)(b)~~](4)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection [~~(5)(d)(i)(A)~~](4)(d)(i)(A) no less than 14 days before the day on which the hearing is held.

(ii) If an owner of property files a written objection under Subsection [~~(5)(b)(iv)~~](4)(b)(iv), a county may not record a lien under this Subsection [~~(5)~~](4) until the county holds a hearing and determines that the specific violation has occurred.

(iii) If the county determines at the hearing that the specific violation has occurred, the county may impose a lien in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.

(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection [~~(5)(b)~~](4)(b), the county may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described

in the written notice of violation under Subsection [~~(5)(b)~~](4)(b).

[~~(6)~~](5) (a) A county that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection [~~(6)(a)~~](5)(a) shall include:

(i) a description of the primary dwelling;

(ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and

(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the county's land use regulations.

(c) The county shall, upon recording the notice described in Subsection [~~(6)(a)~~](5)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Section 263. Section 17-80-401, which is renumbered from Section 17-27a-403.1 is renumbered and amended to read:

PART 4. Optional Tools for Counties to Promote Housing Supply

[~~17-27a-403.1~~]17-80-401 (Effective 11/06/25). Affordable home ownership density bonus for single-family residential units.

(1) As used in this section:

(a) "Affordable housing" means the same as that term is defined in Section 10-9a-403.2.

(b) "Owner-occupier" means the same as that term is defined in Section 10-9a-403.2.

(c) "Qualifying affordable home ownership single-family density bonus" means:

(i) for an area with an underlying zoning density of less than six residential units per acre, county approval of a density at least six residential units per acre; or

(ii) for an area with an underlying zoning density of six residential units per acre or more, county approval of a density at least 0.5 residential units per acre greater than the underlying zoning density for the area.

(2) If a county approves a qualifying affordable home ownership single-family density bonus, either through a zoning ordinance or a development agreement, the county may adopt requirements for the qualifying affordable home ownership single-family density bonus area to ensure:

(a) at least 60% of the total single-family residential units be deed-restricted to owner-occupancy for at least five years;

(b) at least 25% of the total single-family residential units qualify as affordable housing;

(c) at least 25% of the single-family residential units per acre to be no larger than 1,600 square feet; or

(d) the applicant creates a preferential qualifying buyer program in which a single-family residential unit is initially offered for sale, for up to 30 days, to a category of preferred qualifying buyers established by the county, in accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

(3) A county may offer additional incentives in a qualifying affordable home ownership single-family density bonus area approved for single-family residential units to promote owner-occupied, affordable housing.

Section 264. Section 17-80-402, which is renumbered from Section 17-27a-403.2 is renumbered and amended to read:

[~~17-27a-403.2~~]17-80-402 (Effective 11/06/25). Affordable home ownership density bonus for multi-family residential units.

(1) As used in this section:

(a) "Affordable housing" means the same as that term is defined in Section 10-9a-403.2.

(b) "Owner-occupier" means the same as that term is defined in Section 10-9a-403.2.

(c) "Qualifying affordable home ownership multi-family density bonus" means county approval of a density of at least 20 residential units per acre.

(2) If a county approves a qualifying affordable home ownership multi-family density bonus, either through a zoning ordinance or a development agreement, the county may adopt requirements for the qualifying affordable home ownership multi-family density bonus area to ensure:

(a) at least 20% more residential units per acre than are otherwise allowed in the area;

(b) at least 60% of the total units in the multi-family residential building be deed-restricted to owner-occupancy for at least five years;

(c) at least 25% of the total units in the multi-family residential building qualify as affordable housing;

(d) at least 25% of the total units in a multi-family residential building to be no larger than 1,600 square feet; or

(e) the applicant creates a preferential qualifying buyer program in which a unit in a multi-family residential building is initially offered for sale, for up to 30 days, to a category of preferred qualifying buyers established by the county, in accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

(3) A county may offer additional incentives in a qualifying affordable home ownership multi-family density bonus area for multi-family residential units to promote owner-occupied, affordable housing.

Section 265. Section 17-80-501, which is renumbered from Section 17-27a-1202 is renumbered and amended to read:

PART 5. Home Ownership Promotion Zone

[~~17-27a-1202~~]17-80-501 (Effective 11/06/25). County designation of a home ownership promotion zone.

(1) Subject to Sections [~~17-27a-1203~~]17-80-502 and [~~17-27a-1204~~]17-80-503, a county may create a home ownership promotion zone as described in this section.

(2) A home ownership promotion zone created under this section:

(a) is an area of 10 contiguous unincorporated acres or less located entirely within the boundaries of the county, zoned for fewer than six housing units per acre before the creation of the home ownership promotion zone;

(b) shall be re-zoned for at least six housing units per acre; and

(c) may not be encumbered by any residential building permits as of the day on which the home ownership promotion zone is created.

(3) (a) The county shall designate the home ownership promotion zone by resolution of the legislative body of the county following:

(i) the recommendation of the county planning commission; and

(ii) the notification requirements described in Section [~~17-27a-1204~~]17-80-503.

(b) The resolution described in Subsection (3)(a) shall describe how the home ownership promotion zone created [~~pursuant to~~]in accordance with this section meets the objectives and requirements of Section [~~17-27a-1203~~]17-80-502.

(c) The home ownership promotion zone is created on the effective date of the resolution described in Subsection (3)(a).

(4) If a home ownership promotion zone is created as described in this section:

(a) affected local taxing entities are required to participate according to the requirements of the home ownership promotion zone established by the county; and

(b) each affected taxing entity is required to participate at the same rate.

(5) A home ownership promotion zone may be modified by the same manner it is created as described in Subsection (3).

(6) Within 30 days after the day on which the county creates the home ownership promotion zone as described in Subsection (3), the county shall:

(a) record with the recorder a document containing:

(i) a description of the land within the home ownership promotion zone; and

(ii) the date of creation of the home ownership promotion zone;

(b) transmit a copy of the description of the land within the home ownership promotion zone and an accurate map or plat indicating the boundaries of the home ownership promotion zone to the Utah Geospatial Resource Center created under Section 63A-16-505; and

(c) transmit a map and description of the land within the home ownership promotion zone to:

(i) the auditor, recorder, attorney, surveyor, and assessor of the county in which any part of the home ownership promotion zone is located;

(ii) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(iii) the legislative body or governing board of each taxing entity impacted by the home ownership promotion zone;

(iv) the tax commission; and

(v) the State Board of Education.

(7) A county may receive tax increment and use home ownership promotion zone funds as described in Section [~~17-27a-1205~~]17-80-504.

Section 266. Section 17-80-502, which is renumbered from Section 17-27a-1203 is renumbered and amended to read:

[~~17-27a-1203~~]17-80-502 (Effective 11/06/25). Applicability, requirements, and limitations.

(1) A home ownership promotion zone shall promote the following objectives:

(a) increasing availability of housing, including affordable housing;

(b) promotion of home ownership;

(c) overcoming development impediments and market conditions that render an affordable housing development cost prohibitive absent the incentives resulting from a home ownership promotion zone; and

(d) conservation of water resources through efficient land use.

(2) In order to accomplish the objectives described in Subsection (1), a county shall ensure that:

(a) land inside the proposed home ownership promotion zone is zoned as residential, with at least six planned housing units per acre;

(b) at least 60% of the proposed housing units within the home ownership promotion zone are affordable housing units; and

(c) all of the proposed housing units within the home ownership promotion zone are deed restricted to require owner occupation for at least five years.

(3) A county may restrict short term rentals in a home ownership promotion zone.

(4) A county may not create a home ownership promotion zone if:

(a) the proposed home ownership promotion zone would overlap with a school district and:

(i) (A) the school district has more than one municipality within the school district's boundaries; and

(B) the school district already has 100 acres designated as home ownership promotion zone within the school district's boundaries; or

(ii) (A) the school district has one municipality within the school district's boundaries; and

(B) the school district already has 50 acres designated as home ownership promotion zone within the school district's boundaries; or

(b) the area in the proposed home ownership promotion zone would overlap with:

(i) a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, until the project area is dissolved [~~pursuant to~~]in accordance with Section 17C-1-702; or

(ii) an existing housing and transit reinvestment zone.

Section 267. Section 17-80-503, which is renumbered from Section 17-27a-1204 is renumbered and amended to read:

[~~17-27a-1204~~]17-80-503 (Effective 11/06/25). Notification before creation of a home ownership promotion zone.

(1) (a) As used in this section, "hearing" means a public meeting in which the legislative body of a county:

(i) considers a resolution creating a home ownership promotion zone; and

(ii) takes public comment on a proposed home ownership promotion zone.

(b) A hearing under this section may be combined with any other public meeting of a legislative body of a county.

(2) Before a county creates a home ownership promotion zone as described in Section [~~17-27a-1202~~]17-80-501, [~~it~~]the county shall provide notice of a hearing as described in this section.

(3) The notice required by Subsection (2) shall be given by:

(a) publishing notice for the county, as a class A notice under Section 63G-30-102, for at least 14 days before the day on which the legislative body of the county intends to have a hearing;

(b) at least 30 days before the hearing, mailing notice to:

(i) each record owner of property located within the proposed home ownership promotion zone;

(ii) the State Tax Commission; and

(iii) (A) if the proposed home ownership promotion zone is subject to a taxing entity committee, each member of the taxing entity committee and the State Board of Education; or

(B) if the proposed home ownership promotion zone is not subject to a taxing entity committee, the legislative body or governing board of each taxing entity within the boundaries of the proposed home ownership promotion zone.

(4) The mailing of the notice to record property owners required under Subsection (3)(b)shall be conclusively considered to have been properly completed if:

(a) the county mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(5) The county shall include in each notice required under this section:

(a) (i) a boundary description of the proposed home ownership promotion zone; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the boundary description of the proposed home ownership promotion zone be sent at no cost to the person by mail, email, or facsimile transmission; and

(B) if the agency or community has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the boundary description of the proposed home ownership promotion zone;

(b) a map of the boundaries of the proposed home ownership promotion zone;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(6) The county shall include in each notice under Subsection (3)(b):

(a) a statement that property tax revenue resulting from an increase in valuation of property within the proposed home ownership promotion zone will be paid to the county for proposed home ownership promotion zone development rather than to the taxing entity to which the tax revenue would otherwise have been paid; and

(b) an invitation to the recipient of the notice to submit to the county comments concerning the subject matter of the hearing before the date of the hearing.

(7) A county may include in a notice under Subsection (2) any other information the county considers necessary or advisable, including the public purpose achieved by the proposed home ownership promotion zone.

Section 268. Section 17-80-504, which is renumbered from Section 17-27a-1205 is renumbered and amended to read:

[~~17-27a-1205~~]17-80-504 (Effective 11/06/25). Payment, use, and administration of revenue from a home ownership promotion zone.

(1) (a) A county may receive tax increment and use home ownership promotion zone funds in accordance with this section.

(b) The maximum amount of time that a county may receive and use tax increment [~~pursuant to~~]collected from a home ownership promotion zone is 15 consecutive years.

(2) A county that collects property tax on property located within a home ownership promotion zone shall, in accordance with Section 59-2-1365, retain 60% of the tax increment collected from property within the home ownership promotion zone to be used as described in this section.

(3) (a) Tax increment retained by a county in accordance with Subsection (2) is not revenue of the taxing entity or county, but home ownership promotion zone funds.

(b) Home ownership promotion zone funds may be administered by an agency created by the county within which the home ownership promotion zone is located.

(c) Before an agency may receive home ownership promotion zone funds from a county, the agency shall enter into an interlocal agreement with the county.

(4) (a) A county or agency shall use home ownership promotion zone funds within, or for the direct benefit of, the home ownership promotion zone.

(b) If any home ownership promotion zone funds will be used outside of the home ownership promotion zone, the legislative body of the county shall make a finding that the use of the home ownership promotion zone funds outside of the home ownership promotion zone will directly benefit the home ownership promotion zone.

(5) A county or agency shall use home ownership promotion zone funds to achieve the purposes described in Section [~~17-27a-1203~~]17-80-502 by paying all or part of the costs of any of the following:

(a) project improvement costs;

(b) systems improvement costs;

(c) water exaction costs;

(d) street lighting costs;

(e) environmental remediation costs; or

(f) the costs of the county to create and administer the home ownership promotion zone, which may not exceed 3% of the total home ownership promotion zone funds.

(6) Home ownership promotion zone funds may be paid to a participant, if the county and participant enter into a participation agreement which requires the participant to utilize the home ownership promotion zone funds as allowed in this section.

(7) Home ownership promotion zone funds may be used to pay all of the costs of bonds issued by the county in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.

(8) A county may:

(a) create one or more public infrastructure districts within home ownership promotion zone under Title 17D, Chapter 4, Public Infrastructure District Act; and

(b) pledge and utilize the home ownership promotion zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Section 269. Section 17-80-601 is enacted to read:

PART 6. Other Housing Supply Tools

17-80-601 (Effective 11/06/25). Reserved.

Reserved.

Section 270. Section 17-81-101, which is renumbered from Section 17-41-101 is renumbered and amended to read:

CHAPTER 81. Agriculture, Industrial, and Critical Infrastructrure Materials

PART 1. General Provisions

[~~17-41-101~~]17-81-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Advisory board" means:

(a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section [~~17-41-201~~]17-81-102;

(b) for an industrial protection area, the industrial protection area advisory board created as provided in Section [~~17-41-201~~]17-81-102; and

(c) for a critical infrastructure materials protection area, the critical infrastructure materials protection area advisory board created as provided in Section [~~17-41-201~~]17-81-102.

(2) "Agricultural land" means the same as the term "land in agricultural use" is defined in Section 59-2-502.

[~~(2)~~](3) (a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.

(b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

[~~(3)~~](4) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

[~~(4)~~](5) "Applicable legislative body" means:

(a) with respect to a proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the land proposed to be included in the relevant protection area is located, if the land is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the land proposed to be included in the relevant protection area is located; and

(b) with respect to an existing agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the relevant protection area is located, if the relevant protection area is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the relevant protection area is located.

[~~(5)~~](6) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(7) "Commercial quantities" means critical infrastructure materials:

(a) extracted or processed by a commercial enterprise in the ordinary course of business; and

(b) in a sufficient amount that the critical infrastructure materials introduction into commerce would create a reasonable expectation of profit.

[~~(6)~~](8) "Contiguous land" means surface or subsurface land that shares a common boundary and is not separated by a highway as defined in Section 41-6a-102.

(9) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

[~~(7)~~](10) "Critical infrastructure materials operations" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

[~~(8)~~](11) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials operation; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.

[~~(9)~~](12) "Critical infrastructure materials protection area" means a geographic area created under the authority of this chapter on or after May 14, 2019, that is granted the specific legal protections contained in this chapter.

(13) "Critical infrastructure materials use" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

[~~(10)~~](14) "Crops, livestock, and livestock products" includes:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

(ii) grains and feed crops;

(iii) livestock, as that term is defined in Section 59-2-102;

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

[~~(11)~~](15) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.

(16) "Existing legal use" means a critical infrastructure materials use that has operated in accordance with:

(a) a legal nonconforming use that has not been abandoned for more than 24 consecutive months; or

(b) a permit issued by the applicable political subdivision.

[~~(12)~~](17) "Industrial protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

[~~(13)~~](18) "Mine operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that, before January 1, 2019:

(a) owns, controls, or manages a mining use under a large mine permit issued by the division or the board; and

(b) has produced commercial quantities of a mineral deposit from the mining use.

[~~(14)~~](19) "Mineral deposit" means the same as that term is defined in Section 40-8-4.

[~~(15)~~](20) "Mining protection area" means land where a vested mining use occurs, including each surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or controls on January 1, 2026.

[~~(16)~~](21) "Mining use":

(a) means:

(i) the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(ii) the use of the surface and subsurface and groundwater and surface water of an area in connection with the activities described in Subsection [~~(16)(a)(i)~~](21)(a)(i)that have been, are being, or will be conducted; and

(b) includes, whether conducted on-site or off-site:

(i) any sampling, staking, surveying, exploration, or development activity;

(ii) any drilling, blasting, excavating, or tunneling;

(iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(iv) any removal, transportation, extraction, beneficiation, or processing of ore;

(v) any smelting, refining, autoclaving, or other primary or secondary processing operation;

(vi) the recovery of any mineral left in residue from a previous extraction or processing operation;

(vii) a mining activity that is identified in a work plan or permitting document;

(viii) the use, operation, maintenance, repair, replacement, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(x) the construction of a storage, factory, processing, or maintenance facility; and

(xi) an activity described in Subsection 40-8-4(19)(a).

[~~(17)~~](22) (a) "Municipal" means of or relating to a city or town.

(b) "Municipality" means a city or town.

[~~(18)~~]

(23) "New land" means surface or subsurface land or mineral estate that a mine operator gains ownership or control of, whether that land or mineral estate is included in the mine operator's large mine permit.

[~~(19)~~](24) "Off-site" means the same as that term is defined in Section 40-8-4.

[~~(20)~~](25) "On-site" means the same as that term is defined in Section 40-8-4.

(26) (a) "Open land" means land that is:

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in, or restoration of the land to, a predominantly natural, open, and undeveloped condition.

(b) "Open land" includes land described in Subsection (26)(a) that contains facilities, including trails, waterways, and grassy areas, that, in the judgment of the county legislative body:

(i) enhance the natural, scenic, or aesthetic qualities of the land; or

(ii) facilitate the public's access to, or use of, the land for the enjoyment of the land's natural, scenic, or aesthetic qualities and for compatible recreational activities.

(c) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities played on fields or courses, including baseball, tennis, soccer, golf, or other sporting or similar activities.

[~~(21)~~](27) "Planning commission" means:

(a) a countywide planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within the unincorporated part of the county and not within a planning advisory area;

(b) a planning advisory area planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a planning advisory area; or

(c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a city or town.

[~~(22)~~](28) "Political subdivision" means a county, city, town, school district, special district, or special service district.

[~~(23)~~](29) "Proposal sponsors" means the owners of land in agricultural production, industrial use, or critical infrastructure materials operations who are sponsoring the proposal for creating an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

(30) "Public land county" means a county in which over 50% of the land area is publicly owned.

(31) "Rollback tax funds" means the rollback taxes or in lieu fee payments paid to a county in accordance with Sections 59-2-506, 59-2-511, 59-2-1705, and 59-2-1710.

[~~(24)~~](32) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

[~~(25)~~](33) "Unincorporated" means not within a city or town.

(34) "Vested critical infrastructure materials use" means a critical infrastructure materials operations use by a critical infrastructure materials operator that is an existing legal use.

[~~(26)~~](35) "Vested mining use" means a mining use:

(a) by a mine operator; and

(b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

Section 271. Section 17-81-102, which is renumbered from Section 17-41-201 is renumbered and amended to read:

[~~17-41-201~~]17-81-102 (Effective 11/06/25). Protection area advisory board.

(1) (a) (i) A county legislative body shall appoint no more than five members from the county's conservation district board of supervisors to serve as the agriculture protection area advisory board.

(ii) A county legislative body shall appoint an industrial protection area advisory board.

(iii) Subject to Subsection (1)(b), a county legislative body shall form a critical infrastructure materials protection area advisory board that consists of:

(A) the executive director of the Department of Transportation, or the executive director's designee;

(B) a local government elected official appointed by the county legislative body;

(C) a representative of a local highway authority appointed by the county legislative body;

(D) a representative of the critical infrastructure materials industry appointed by the county legislative body; and

(E) a representative of the construction industry appointed by the county legislative body.

(b) (i) A county legislative body may appoint an advisory board before or after a proposal to create an agriculture protection area or industrial protection area is filed.

(ii) A county legislative body shall appoint a critical infrastructure materials protection area advisory board only after a proposal to create a critical infrastructure materials protection area is filed.

(2) A member of an advisory board shall serve without salary, but a county legislative body may reimburse members for expenses incurred in the performance of [~~their~~]the member's duties.

(3) An advisory board shall:

(a) evaluate proposals for the establishment of the relevant protection areas and make recommendations to the applicable legislative body about whether the proposal should be accepted;

(b) provide expert advice to the planning commission and to the applicable legislative body about:

(i) the desirability of the proposal;

(ii) the nature of agricultural production, industrial use, or critical infrastructure materials operations, as the case may be, within the proposed area;

(iii) the relation of agricultural production, industrial use, or critical infrastructure materials operations, as the case may be, in the area to the county as a whole; and

(iv) which agriculture production, industrial use, or critical infrastructure materials operations, should be allowed within the relevant protection area; and

(c) perform the other duties required by this chapter.

Section 272. Section 17-81-103 is enacted to read:

17-81-103 (Effective 11/06/25). Applicability.

(1) A person or entity that wishes to propose the creation of a protection area within the boundaries of a municipality and ensure the subsequent protection and management of a created protection area shall, in accordance with Section 10-7-88, comply with the following provisions the same as if the protection area is located on unincorporated county land:

(a) Section 17-81-101, Definitions;

(b) Part 2, Proposal and Approval of Protection Area;

(c) Part 3, Protection of Land in a Protection Area;

(d) Part 4, Vested Mining Use; and

(e) Part 5, Open Land and Working Agricultural Land Use.

(2) In accordance with Section 10-7-88, a municipality shall comply with the following provisions the same as if the municipality were a county:

(a) Section 17-81-101, Definitions;

(b) Part 2, Proposal and Approval of Protection Area;

(c) Part 3, Protection of Land in a Protection Area;

(d) Part 4, Vested Mining Use; and

(e) Part 5, Open Land and Working Agricultural Land Use.

(3) The provisions of Chapter 79, County Land Use, Development, and Management Act, also apply to Part 6, Large Concentrated Animal Feeding Operations, and Part 7, Vested Critical Infrastructure Materials Operations.

Section 273. Section 17-81-201, which is renumbered from Section 17-41-301 is renumbered and amended to read:

PART 2. Proposal and Approval of a Protection Area

[~~17-41-301~~]17-81-201 (Effective 11/06/25). Proposal for creation of a protection area.

(1) (a) A proposal to create an agriculture protection area, an industrial protection area, or critical infrastructure materials protection area may be filed with[~~:~~]

[~~(i)~~] the legislative body of the county in which the area is located, if the area is within the unincorporated part of a county[~~; or~~].

[~~(ii) the legislative body of the city or town in which the area is located, if the area is within a city or town.~~]

(b) (i) A proposal to create a critical infrastructure protection area can only be initiated by the legislative body of the municipality or county.

(ii) Creation of a critical infrastructure materials protection area is a legislative act.

(c) (i) To be accepted for processing by the[~~applicable~~] legislative body, a proposal under Subsection (1)(a) shall be signed by a majority in number of all owners of real property and the owners of a majority of the land area in agricultural production, industrial use, or critical infrastructure materials operations within the proposed relevant protection area.

(ii) For purposes of Subsection (1)(c)(i), the owners of real property shall be determined by the records of the county recorder.

(2) The proposal shall identify:

(a) the boundaries of the land proposed to become part of the relevant protection area;

(b) any limits on the types of agriculture production, industrial use, or critical infrastructure materials operations to be allowed within the relevant protection area; and

(c) for each parcel of land:

(i) the names of the owners of record of the land proposed to be included within the relevant protection area;

(ii) the tax parcel number or account number identifying each parcel; and

(iii) the number of acres of each parcel.

(3) An agriculture protection area, industrial protection area, or critical infrastructure materials protection area may include within [~~its~~]the protection area boundaries land used for a roadway, dwelling site, park, or other nonagricultural use, in the case of an industrial protection area, nonindustrial use, or in the case of a critical infrastructure materials protection area, use unrelated to critical infrastructure materials operations, if that land constitutes a minority of the total acreage within the relevant protection area.

(4) An agricultural protection area may include within the boundaries of the agricultural protection area an agritourism activity, as defined in Section 78B-4-512.

(5) A county[~~or municipal~~] legislative body may establish:

(a) the manner and form for submission of proposals for the creation of a protection area; and

(b) reasonable fees for accepting and processing the proposal for the creation of a protection area.

(6) A [~~county and municipal~~]legislative body shall establish the minimum number of continuous acres that shall be included in an agriculture protection area, industrial protection area, or critical infrastructure materials protection area for the legislative body to approve a proposal filed with the legislative body under this section.

Section 274. Section 17-81-202, which is renumbered from Section 17-41-302 is renumbered and amended to read:

[~~17-41-302~~]17-81-202 (Effective 11/06/25). Notice of proposal for creation of protection area -- Responses.

(1) (a) An applicable legislative body shall provide notice of the proposal, as a class B notice under Section 63G-30-102, for at least 15 days.

(b) A legislative body shall provide the notice described in Subsection (1)(a) for the geographic boundaries of the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area, and the area that extends 1,000 feet beyond the geographic boundaries of the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

(2) The notice shall contain:

(a) a statement that a proposal for the creation of an agriculture protection area, industrial protection area, or critical infrastructure materials protection area has been filed with the applicable legislative body;

(b) a statement that the proposal will be open to public inspection in the office of the applicable legislative body;

(c) a statement that any person affected by the establishment of the area may, within 15 days of the date of the notice, file with the applicable legislative body:

(i) written objections to the proposal; or

(ii) a written request to modify the proposal to exclude land from or add land to the proposed protection area;

(d) a statement that the applicable legislative body will submit the proposal to the advisory committee and to the planning commission for review and recommendations;

(e) a statement that the applicable legislative body will hold a public hearing to discuss and hear public comment on:

(i) the proposal to create the agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(ii) the recommendations of the advisory committee and planning commission; and

(iii) any requests for modification of the proposal and any objections to the proposal; and

(f) a statement indicating the date, time, and place of the public hearing.

(3) (a) A person wishing to modify the proposal for the creation of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall, within 15 days after the date of the notice, file a written request for modification of the proposal, which identifies specifically the land that should be added to or removed from the proposal.

(b) A person wishing to object to the proposal for the creation of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall, within 15 days after the date of the notice, file a written objection to the creation of the relevant protection area.

Section 275. Section 17-81-203, which is renumbered from Section 17-41-303 is renumbered and amended to read:

[~~17-41-303~~]17-81-203 (Effective 11/06/25). Review of proposal for creation of protection area.

(1) After 15 days from the date of the notice, the applicable legislative body shall refer the proposal and any objections and proposed modifications to the proposal to the:

(a) county advisory [~~committee~~]board created in accordance with Section 17-81-102;and

(b) planning commission[~~, for their review, comments, and recommendations~~].

(2) (a) Within 45 days after receipt of the proposal, the planning commission shall submit a written report to the applicable legislative body that:

(i) analyzes and evaluates the effect of the creation of the proposed area on the planning policies and objectives of the county or municipality, as the case may be;

(ii) analyzes and evaluates the proposal by applying the criteria contained in Section [~~17-41-305~~]17-81-205;

(iii) recommends any modifications to the land to be included in the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(iv) analyzes and evaluates any objections to the proposal; and

(v) includes a recommendation to the applicable legislative body either to accept, accept and modify, or reject the proposal.

(b) Within 45 days after receipt of the proposal, the advisory board shall submit a written report to the applicable legislative body that:

(i) recommends any modifications to the land to be included in the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(ii) analyzes and evaluates the proposal by applying the criteria contained in Section 17-41-305;

(iii) analyzes and evaluates any objections to the proposal; and

(iv) includes a recommendation to the applicable legislative body either to accept, accept and modify, or reject the proposal.

(c) The applicable legislative body shall consider a failure of the planning commission or advisory committee to submit a written report within the 45 days under Subsection (2)(a) or (b) as a recommendation of that committee to approve the proposal as submitted.

Section 276. Section 17-81-204, which is renumbered from Section 17-41-304 is renumbered and amended to read:

[~~17-41-304~~]17-81-204 (Effective 11/06/25). Public hearing -- Notice -- Review and action on proposal.

(1) After receipt of the written reports from the advisory committee and planning commission, or after the 45 days have expired, whichever is earlier, the [~~county or municipal~~]legislative body shall:

(a) schedule a public hearing;

(b) provide notice of the public hearing for the geographic area described in Subsection [~~17-41-302(1)(b)~~]17-81-202(1)(b), as a class B notice under Section 63G-30-102, for at least seven days; and

(c) ensure that the notice includes:

(i) the time, date, and place of the public hearing on the proposal;

(ii) a description of the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(iii) any proposed modifications to the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(iv) a summary of the recommendations of the advisory committee and planning commission; and

(v) a statement that interested persons may appear at the public hearing and speak in favor of or against the proposal, any proposed modifications to the proposal, or the recommendations of the advisory committee and planning commission.

(2) The applicable legislative body shall:

(a) convene the public hearing at the time, date, and place specified in the notice; and

(b) take oral or written testimony from interested persons.

(3) (a) Within 120 days of the submission of the proposal, the applicable legislative body shall approve, modify and approve, or reject the proposal.

(b) The creation of an agriculture protection area, industrial protection area, or critical infrastructure materials protection area is effective at the earlier of:

(i) the applicable legislative body's approval of a proposal or modified proposal; or

(ii) 120 days after submission of a proposal complying with Subsection 17-41-301(2)if the applicable legislative body has failed to approve or reject the proposal within that time.

(c) Notwithstanding Subsection (3)(b), a critical infrastructure materials protection area is effective only if the applicable legislative body, at [~~its~~]the legislative body's discretion, approves a proposal or modified proposal.

(4) (a) To give constructive notice of the existence of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the relevant protection area within 10 days of the creation of the relevant protection area, the applicable legislative body shall file an executed document containing a legal description of the relevant protection area with:

(i) the county recorder[~~, of deeds~~]; and

(ii) the affected planning commission.

(b) If the legal description of the property to be included in the relevant protection area is available through the county recorder's office, the applicable legislative body shall use that legal description in [~~its~~]the executed document required in Subsection (4)(a).

(5) Within 10 days of the recording of the agriculture protection area, the applicable legislative body shall:

(a) send written notification to the commissioner of agriculture and food that the agriculture protection area has been created; and

(b) include in the notification:

(i) the number of landowners owning land within the agriculture protection area;

(ii) the total acreage of the area;

(iii) the date of approval of the area; and

(iv) the date of recording.

(6) The applicable legislative body's failure to record the notice required under Subsection (4) or to send the written notification under Subsection (5) does not invalidate the creation of an agriculture protection area.

(7) The applicable legislative body may consider the cost of recording notice under Subsection (4) and the cost of sending notification under Subsection (5) in establishing a fee under Subsection 17-41-301(4)(b).

Section 277. Section 17-81-205, which is renumbered from Section 17-41-305 is renumbered and amended to read: [~~17-41-305~~]17-81-205 (Effective 11/06/25). Criteria to be applied in evaluating a proposal for the creation of a protection area.

In evaluating a proposal and in determining whether or not to create or recommend the creation of an agriculture protection area, industrial protection area, or critical infrastructure materials protection area, the advisory committee, planning commission, and applicable legislative body shall apply the following criteria:

(1) whether or not the land is currently being used for agriculture production, industrial use, or critical infrastructure materials operations, as the case may be;

(2) whether or not the land is zoned for agriculture use, industrial use, or critical infrastructure materials operations, as the case may be;

(3) whether or not the land is viable for agriculture production, industrial use, or critical infrastructure materials operations, as the case may be;

(4) (a) for an agriculture protection area, the extent and nature of existing or proposed farm improvements[~~,~~];

(b) for an industrial protection area, the extent and nature of existing or proposed improvements to or expansion of the industrial use[~~,~~]; or

(c) for a critical infrastructure materials protection area, the extent and nature of existing or proposed improvements to or expansion of critical infrastructure materials operations[~~, as the case may be~~]; and

(5) (a) in the case of an agriculture protection area, anticipated trends in agricultural and technological conditions;

(b) in the case of an industrial protection area, anticipated trends in technological conditions applicable to the industrial use of the land in question; or

(c) in the case of a critical infrastructure materials protection area, anticipated trends in technological conditions applicable to the critical infrastructure materials operations of the land in question.

Section 278. Section 17-81-206, which is renumbered from Section 17-41-306 is renumbered and amended to read: [~~17-41-306~~]17-81-206 (Effective 11/06/25). Adding land to or removing land from a protection area -- Removing land from a mining protection area.

(1) (a) Any owner may add land to an existing agriculture protection area, industrial protection area, critical infrastructure materials protection area, as the case may be, by:

(i) filing a proposal with:

(A) the county legislative body, if the relevant protection area and the land to be added are within the unincorporated part of the county; or

(B) the municipal legislative body, if the relevant protection area and the land to be added are within a city or town; and

(ii) obtaining the approval of the applicable legislative body for the addition of the land to the relevant protection area.

(b) The applicable legislative body shall:

(i) comply with the provisions for creating an agriculture protection area, industrial protection area, critical infrastructure materials protection area, as the case may be, in determining whether to accept the proposal; and

(ii) for purposes of a critical infrastructure materials protection area, request a copy of the applicable Division of Air Quality approval order.

(c) The applicable legislative body may deny the expansion if [~~it~~]expansion is contrary to the Division of Air Quality's approval order.

(2) (a) An owner of land within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area may remove any or all of the owner's land from the relevant protection area, by filing a petition for removal with the applicable legislative body.

(b) (i) The applicable legislative body:

(A) shall:

(I) grant the petition for removal of land from the relevant protection area, even if removal of the land would result in an agriculture protection area, industrial protection area, or critical infrastructure materials protection area of less than the number of acres established by the applicable legislative body as the minimum under Section 17-41-301; and

(II) to give constructive notice of the removal to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the agriculture protection area, industrial protection area, or critical infrastructure materials protection area and the land removed from the relevant protection area, file a legal description of the revised boundaries of the relevant protection area with the county recorder of deeds and the affected planning commission; and

(B) may not charge a fee in connection with a petition to remove land from an agriculture protection area, an industrial protection area, or critical infrastructure materials protection area.

(ii) [~~The~~]If a petition to remove land in a protection area is granted, the remaining land in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is still an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

(iii) (A) A critical infrastructure materials operator may abandon some or all of [~~its~~]the operator's critical infrastructure materials operations use only as provided in this Subsection (2)(b)(iii).

(B) To abandon some or all of a critical infrastructure materials operations, a critical infrastructure materials operator shall record a written declaration of abandonment with the county recorder of the county in which the critical infrastructure materials operations being abandoned is located.

(C) The written declaration of abandonment under this Subsection (2)(b)(iii) shall specify the critical infrastructure materials operations or the portion of the critical infrastructure materials operations being abandoned.

(3) (a) If a municipality annexes any land that is part of an agriculture protection area, industrial protection area, or critical infrastructure materials protection area located in the unincorporated part of the county, the county legislative body shall, within 30 days after the land is annexed, review the feasibility of that land remaining in the relevant protection area according to the procedures and requirements of Section [~~17-41-307~~]17-81-207.

(b) The county legislative body shall remove the annexed land from the relevant protection area if:

(i) the county legislative body concludes, after the review under Section [~~17-41-307~~]17-81-207, that removal is appropriate; and

(ii) the owners of all the annexed land that is within the relevant protection area consent in writing to the removal.

(c) Removal of land from an agriculture protection area, industrial protection area, or critical infrastructure materials protection area under this Subsection (3) does not affect whether that land may be:

(i) included in a proposal under Section [~~17-41-301~~]17-81-201 to create an agriculture protection area, industrial protection area, or critical infrastructure materials protection area within the municipality; or

(ii) added to an existing agriculture protection area, industrial protection area, or critical infrastructure materials protection area within the municipality under Subsection (1).

(4) A mine operator that owns or controls land within a mining protection area may remove any or all of the land from the mining protection area by filing a notice of removal with the legislative body of the county in which the land is located.

Section 279. Section 17-81-207, which is renumbered from Section 17-41-307 is renumbered and amended to read:

[~~17-41-307~~]17-81-207 (Effective 11/06/25). Review of protection areas.

(1) In the 20th calendar year after [~~its~~]the creation of a protection area under this part, an agriculture protection area, industrial protection area, or critical infrastructure materials protection area, [~~as the case may be,~~]shall be reviewed, under the provisions of this section, by:

(a) the county legislative body, if the relevant protection area is within the unincorporated part of the county; or

(b) the municipal legislative body, if the relevant protection area is within the municipality.

(2) (a) In the 20th year, the applicable legislative body may:

(i) request the planning commission and advisory board to submit recommendations about whether the agriculture protection area, industrial protection area, or critical infrastructure materials protection area, as the case may be, should be continued, modified, or terminated;

(ii) at least 120 days before the end of the calendar year, hold a public hearing to discuss whether the relevant protection area, should be continued, modified, or terminated;

(iii) give notice of the hearing using the same procedures required by Section [~~17-41-302~~]17-81-202; and

(iv) after the public hearing, continue, modify, or terminate the relevant protection area.

(b) If the applicable legislative body modifies or terminates the agriculture protection area, industrial protection area, or critical infrastructure materials protection area, the applicable legislative body shall file an executed document containing the legal description of the relevant protection area, with the county recorder[~~of deeds~~].

(3) If the applicable legislative body fails affirmatively to continue, modify, or terminate the agriculture protection area, industrial protection area, or critical infrastructure materials protection area, as the case may be, in the 20th calendar year, the relevant protection area is considered to be reauthorized for another 20 years.

Section 280. Section 17-81-301, which is renumbered from Section 17-41-401 is renumbered and amended to read:

PART 3. Protection of Land in a Protection Area

[~~17-41-401~~]17-81-301 (Effective 11/06/25). Farmland Assessment Act benefits not affected.

(1) Creation of an agriculture protection area may not impair the ability of land within the area to obtain the benefits of Title 59, Chapter 2, Part 5, Farmland Assessment Act.

(2) The eligibility of land for the benefits of Title 59, Chapter 2, Part 5, Farmland Assessment Act, shall be determined exclusively by the provisions of that act, notwithstanding the land's location within an agriculture protection area.

Section 281. Section 17-81-302, which is renumbered from Section 17-41-402 is renumbered and amended to read:

[~~17-41-402~~]17-81-302 (Effective 11/06/25). Limitations on local regulations.

(1) (a) [~~A~~]Except as provided in Subsection (1)(b), a political subdivision within which an agriculture protection area, industrial protection area, or critical infrastructure materials protection area is created or with a mining protection area within [~~its~~]the political subdivision's boundary shall encourage the continuity, development, and viability of agriculture use, industrial use, critical infrastructure materials operations, or mining use, within the relevant protection area by not enacting a local law, ordinance, or regulation that[~~, unless the law, ordinance, or regulation bears a direct relationship to public health or safety,~~]would unreasonably restrict:

[~~(a)~~](i) in the case of an agriculture protection area, a farm structure or farm practice;

[~~(b)~~](ii) in the case of an industrial protection area, an industrial use of the land within the area;

[~~(c)~~](iii) in the case of a critical infrastructure materials protection area, critical infrastructure materials operations; or

[~~(d)~~](iv) in the case of a mining protection area, a mining use within the protection area.

(b) Subsection (1)(a) does not restrict the ability of a political subdivision to enact a local law, ordinance, or regulation that bears a direct relationship to public health or safety.

(2) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within an agriculture protection area unless the political subdivision receives written approval for the change from all the landowners within the agriculture protection area affected by the change.

(3) Except as provided by Section 19-4-113, a political subdivision may not change the zoning designation of or a zoning regulation affecting land within an industrial protection area unless the political subdivision receives written approval for the change from all the landowners within the industrial protection area affected by the change.

(4) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within a critical infrastructure materials protection area unless the political subdivision receives written approval for the change from each critical infrastructure materials operator within the relevant area.

(5) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within a mining protection area unless the political subdivision receives written approval for the change from each mine operator within the area.

(6) A county, city, or town may not:

(a) adopt, enact, or amend an existing land use regulation, ordinance, or regulation that would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials operations with a vested critical infrastructure materials use as defined in Section 10-9a-901 or [~~17-~~

~~27a-1001~~]17-81-101; or

(b) initiate proceedings to amend the county's, city's, or town's land use ordinances as described in Subsection 10-9a-509(1)(a)(ii) or [~~17-27a-508(1)(a)(ii)~~]17-79-803(1)(a)(ii) as [~~it~~]the land use ordinance regards the rights of a critical infrastructure materials operator with a vested critical infrastructure materials use.

Section 282. Section 17-81-303, which is renumbered from Section 17-41-402.5 is renumbered and amended to read:

[~~17-41-402.5~~]17-81-303 (Effective 11/06/25). Limits on political subdivisions with respect to a vested mining use -- Exception.

(1) A political subdivision may not:

(a) terminate a vested mining use, whether by amortization, the exercise of police power, or otherwise;

(b) prohibit, restrict, or otherwise limit a mine operator with a vested mining use from exercising the rights permitted under this chapter;

(c) require, for a vested mining use:

(i) a variance;

(ii) a conditional use permit;

(iii) a special exception;

(iv) the establishment or determination of a nonconforming use right; or

(v) any other type of zoning or land use permit; or

(d) prohibit, restrict, limit, or otherwise regulate a vested mining use under a variance, conditional use permit, special exception, or other zoning or land use permit issued before May 12, 2009.

(2) Subsection (1) does not prohibit a political subdivision from requiring a vested mining use to comply with the generally applicable, reasonable health and safety regulations and building code adopted by the political subdivision including a drinking water protection zone as defined and limited to Subsections 19-4-113(5)(a) and (b).

Section 283. Section 17-81-304, which is renumbered from Section 17-41-403 is renumbered and amended to read:

[~~17-41-403~~]17-81-304 (Effective 11/06/25). Nuisances.

(1) A political subdivision shall ensure that any of the political subdivision's laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition:

(a) for an agriculture protection area, any agricultural activity or operation within an agriculture protection area conducted using sound agricultural practices unless that activity or operation bears a direct relationship to public health or safety;

(b) for an industrial protection area, any industrial use of the land within the industrial protection area that is consistent with sound practices applicable to the industrial use, unless that use bears a direct relationship to public health or safety; or

(c) for a critical infrastructure materials protection area, any critical infrastructure materials operations on the land within the critical infrastructure materials protection area that is consistent with sound practices applicable to the critical infrastructure materials operations, unless that use bears a direct relationship to public health or safety.

(2) In a civil action for nuisance or a criminal action for public nuisance under Section 76-9-1301, it is a complete defense if the action involves agricultural activities and:

(a) those agricultural activities were:

(i) conducted within an agriculture protection area; and

(ii) not in violation of any federal, state, or local law or regulation relating to the alleged nuisance or were conducted according to sound agricultural practices; or

(b) a defense under Section 4-44-201 applies.

(3) (a) A vested mining use undertaken in conformity with applicable federal and state law and regulations is presumed to be operating within sound mining practices.

(b) A vested mining use that is consistent with sound mining practices:

(i) is presumed to be reasonable; and

(ii) may not constitute a private or public nuisance under Section 76-9-1301.

(c) A vested mining use in operation for more than three years may not be considered to have become a private or public nuisance because of a subsequent change in the condition of land within the vicinity of the vested mining use.

(4) The county recorder shall, from time to time, ensure compliance with Section 17-79-716in regard to subdivision development near a protection area.

[~~(4) (a) For any new subdivision development located in whole or in part within 300 feet of the boundary of an agriculture protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:~~

~~"Agriculture Protection Area~~

~~This property is located in the vicinity of an established agriculture protection area in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future be conducted on property included in the agriculture protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."~~]

[~~(b) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of an industrial protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:~~

~~"Industrial Protection Area~~

~~This property is located in the vicinity of an established industrial protection area in which normal industrial uses and activities have been afforded the highest priority use status. It can be anticipated that such industrial uses and activities may now or in the future be conducted on property included in the industrial protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal industrial uses and activities."~~]

[~~(c) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a critical infrastructure materials protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:~~

~~"Critical Infrastructure Materials Protection Area~~

~~This property is located in the vicinity of an established critical infrastructure materials protection area in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal critical infrastructure materials operations."~~]

[~~(d) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a mining protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:~~

~~"This property is located within the vicinity of an established mining protection area in which normal mining uses and activities have been afforded the highest priority use status. It can be anticipated that the mining uses and activities may now or in the future be conducted on property included in the mining protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from the normal mining uses and activities."~~]

Section 284. Section 17-81-305, which is renumbered from Section 17-41-405 is renumbered and amended to read:

[~~17-41-405~~]17-81-305 (Effective 11/06/25). Eminent domain restrictions -- Notice of hearing.

(1) A political subdivision having or exercising eminent domain powers may not condemn for any purpose any land within an agriculture protection area that is being used for agricultural production, land within an industrial protection area that is being put to an industrial use, or land within a critical infrastructure materials protection area, unless the political subdivision obtains approval, according to the procedures and requirements of this section, from the applicable legislative body and the advisory board.

(2) Any condemnor wishing to condemn property within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall file a notice of condemnation with the applicable legislative body and the relevant protection area's advisory board at least 30 days before filing an eminent domain complaint.

(3) The applicable legislative body and the advisory board shall:

(a) hold a joint public hearing on the proposed condemnation at a location within the county in which the relevant protection area is located; and

(b) publish notice of the time, date, place, and purpose of the public hearing for the relevant protection area, as a class A notice under Section 63G-30-102, for at least seven days.

(4) (a) If the condemnation is for highway purposes or for the disposal of solid or liquid waste materials, the applicable legislative body and the advisory board may approve the condemnation only if there is no reasonable and prudent alternative to the use of the land within the agriculture protection area, industrial protection area, or critical infrastructure materials protection area for the project.

(b) If the condemnation is for any other purpose, the applicable legislative body and the advisory board may approve the condemnation only if:

(i) the proposed condemnation would not have an unreasonably adverse effect upon the preservation and enhancement of:

(A) agriculture within the agriculture protection area;

(B) the industrial use within the industrial protection area; or

(C) critical infrastructure materials operations within the critical infrastructure materials protection area; or

(ii) there is no reasonable and prudent alternative to the use of the land within the relevant protection area for the project.

(5) (a) Within 60 days after receipt of the notice of condemnation, the applicable legislative body and the advisory board shall approve or reject the proposed condemnation.

(b) If the applicable legislative body and the advisory board fail to act within the 60 days or such further time as the applicable legislative body establishes, the condemnation shall be considered rejected.

(6) The applicable legislative body or the advisory board may request the county or municipal attorney to bring an action to enjoin any condemnor from violating any provisions of this section.

Section 285. Section 17-81-306, which is renumbered from Section 17-41-404 is renumbered and amended to read:

[~~17-41-404~~]17-81-306 (Effective 11/06/25). Policy of state agencies.

A state agency shall encourage the continuity, development, and viability of agriculture within agriculture protection areas, industrial uses with industrial protection areas, and critical infrastructure materials operations within critical infrastructure protection areas by:

(1) not enacting rules that would impose unreasonable restrictions on farm structures or farm practices within the agriculture protection area, on industrial uses and practices within the industrial protection area, or on critical infrastructure materials operations with a critical infrastructure materials protection area, unless those laws, ordinances, or regulations bear a direct relationship to public health or safety or are required by federal law; and

(2) modifying existing rules that would impose unreasonable restrictions on farm structures or farm practices within the agriculture protection area, on industrial uses and activities within the industrial protection area, or on critical infrastructure materials operations within a critical infrastructure materials protection area, unless those laws, ordinances, or regulations bear a direct relationship to public health or safety or are required by federal law.

Section 286. Section 17-81-307, which is renumbered from Section 17-41-406 is renumbered and amended to read:

[~~17-41-406~~]17-81-307 (Effective 11/06/25). Restrictions on state development projects.

(1) A state agency that plans any development project that might affect land within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area, shall submit the state agency's development plan to:

(a) the advisory board of the relevant protection area; and

(b) in the case of an agriculture protection area, the commissioner of agriculture and food.

(2) The commissioner of agriculture and food, in the case of an agriculture protection area, and the advisory board shall:

(a) review the state agency's proposed development plan; and

(b) recommend any modifications to the development project that would protect the integrity of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area, as the case may be, or that would protect the agriculture protection area from nonfarm encroachment, the industrial protection area from nonindustrial encroachment, or the critical infrastructure materials protection area from encroachment of uses unrelated to critical infrastructure materials operations.

(3) A state agency and political subdivision of the state that designates or proposes to designate a transportation corridor shall:

(a) consider:

(i) whether the transportation corridor would:

(A) be located on land that is included within an agriculture protection area; or

(B) interfere with agriculture production activities on land within an agriculture protection area; and

(ii) each other reasonably comparable alternative to the placement of the corridor on land within an agriculture protection area; and

(b) make reasonable efforts to minimize or eliminate any detrimental impact on agriculture that may result from the designation of a transportation corridor.

Section 287. Section 17-81-401, which is renumbered from Section 17-41-501 is renumbered and amended to read:

PART 4. Vested Mining Use

[~~17-41-501~~]17-81-401 (Effective 11/06/25). Vested mining use -- Conclusive presumption.

(1) (a) A mining use is conclusively presumed to be a vested mining use if the mining use existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits the mining use.

(b) Anyone claiming that a vested mining use has not been established has the burden of proof to show by clear and convincing evidence that the vested mining use has not been established.

(2) A vested mining use:

(a) runs with the land; and

(b) may be changed to another mining use without losing its status as a vested mining use.

(3) The present or future boundary described in the large mine permit of a mine operator with a vested mining use does not limit:

(a) the scope of the mine operator's rights under this chapter; or

(b) the protection that this chapter provides for a mining protection area.

(4) (a) A mine operator with a vested mining use shall file a declaration for recording in the office of the recorder of the county in which the vested mining use is located.

(b) A declaration under Subsection (4)(a) shall:

(i) contain a legal description of the land included within the vested mining use; and

(ii) provide notice of the vested mining use.

Section 288. Section 17-81-402, which is renumbered from Section 17-41-502 is renumbered and amended to read:

[~~17-41-502~~]17-81-402 (Effective 11/06/25). Rights of a mine operator with a vested mining use -- Expanding vested mining use.

(1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a mining use adopted after the establishment of the mining use, the rights of a mine operator with a vested mining use include the rights to:

(a) progress, extend, enlarge, grow, or expand the vested mining use to any surface or subsurface land or mineral estate that the mine operator owns or controls;

(b) expand the vested mining use to any new land that:

(i) is contiguous and related in mineralization to surface or subsurface land or a mineral estate that the mine operator already owns or controls;

(ii) contains minerals that are part of the same mineral trend as the minerals that the mine operator already owns or controls; or

(iii) is a geologic offshoot to surface or subsurface land or a mineral estate that the mine operator already owns or controls;

(c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings on any surface or subsurface land or mineral estate that the mine operator owns or controls;

(d) increase production or volume, alter the method of mining or processing, and mine or process a different or additional mineral than previously mined or owned on any surface or subsurface land or mineral estate that the mine operator owns or controls; and

(e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily or permanently, all or any part of the mining use.

(2) (a) As used in this Subsection (2), "applicable legislative body" means the legislative body of each:

(i) county in whose unincorporated area the new land to be included in the vested mining use is located; and

(ii) municipality in which the new land to be included in the vested mining use is located.

(b) A mine operator with a vested mining use is presumed to have a right to expand the vested mining use to new land.

(c) Before expanding a vested mining use to new land, a mine operator shall provide written notice:

(i) of the mine operator's intent to expand the vested mining use; and

(ii) to each applicable legislative body.

(d) (i) An applicable legislative body shall:

(A) hold a public meeting or hearing at its next available meeting that is more than 10 days after receiving the notice under Subsection (2)(c); and

(B) provide reasonable, advance, written notice:

(I) of:

(Aa) the intended expansion of the vested mining use; and

(Bb) the public meeting or hearing; and

(II) to each owner of the surface estate of the new land.

(ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide sufficient public notice of the mine operator's intent to expand the vested mining use to the new land.

(e) After the public meeting or hearing under Subsection (2)(d)(ii), a mine operator may expand a vested mining use to new land without any action by an applicable legislative body, unless the applicable legislative body finds that there is clear and convincing evidence in the record that the expansion to new land will imminently endanger the public health, safety, and welfare. If the applicable legislative

body makes the finding of endangerment described in this Subsection (2)(e), Subsection (4)applies.

(3) If a mine operator expands a vested mining use to new land, as authorized under this section:

(a) the mine operator's rights under the vested mining use with respect to land on which the vested mining use occurs apply with equal force after the expansion to the new land; and

(b) the mining protection area that includes land on which the vested mining use occurs is expanded to include the new land.

(4) (a) If the applicable legislative body makes the finding of endangerment described in Subsection (2)(e):

(i) the mining operator shall submit to the applicable legislative body the mining operator's plan for expansion under this section;

(ii) by no later than 30 days after receipt of the plan for expansion described in Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:

(A) evidence that the expansion to new land will endanger the public health, safety, and welfare; and

(B) proposed measures to mitigate the endangerment of the public health, safety, and welfare; and

(iii) the applicable legislative body shall hold a public hearing by no later than 30 days after the date the applicable legislative body complies with Subsection (4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).

(b) The applicable legislative body may impose mitigation measures under this Subsection (4) that are reasonable and do not exceed requirements imposed by permits issued by a state agency such as an air quality permit.

(c) A political subdivision may not prohibit the expansion of a vested mining use if the mining operator agrees to comply with the mitigation measures described in Subsection (4)(b).

(d) The process under this Subsection (4) is not a land use application or conditional use application under Title10, [~~Chapter 9a,~~]Chapter 20, Municipal Land Use, Development, and Management Act, or [~~Chapter 27a,~~]Chapter 79, County Land Use, Development, and Management Act.

Section 289. Section 17-81-403, which is renumbered from Section 17-41-503 is renumbered and amended to read:

[~~17-41-503~~]17-81-403 (Effective 11/06/25). Abandonment of a vested mining use.

(1) A mine operator may abandon some or all of a vested mining use only as provided in this section.

(2) To abandon some or all of a vested mining use, a mine operator shall record a written declaration of abandonment with the recorder of the county in which the vested mining use being abandoned is located.

(3) The written declaration of abandonment under Subsection (2) shall specify the vested mining use or the portion of the vested mining use being abandoned.

Section 290. Section 17-81-501, which is renumbered from Section 17-41-602 is renumbered and amended to read:

PART 5. Open Land and Working Agricultural Land Use

[~~17-41-602~~]17-81-501 (Effective 11/06/25). Use of money -- Criteria -- Administration.

(1) The county treasurer shall deposit 100% of the rollback tax funds into an account or fund of the county set aside for preserving or restoring open land and agricultural land.

(2) The rollback funds:

(a) may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land; and

(b) if the property to be purchased is in a public land county, may not be used to purchase a fee interest in real property to preserve open land or agricultural land, unless, the governmental entity purchasing the property contemporaneously transfers to the private ownership real property, in the same public land county, that is roughly equivalent in size to the property to be purchased.

(3) Eminent domain may not be used or threatened in connection with any purchase using the rollback tax funds.

(4) The funds collected by the account or fund of the county may roll over from year-to-year, except that if the county does not spend, or obligate, 100% of the rollback tax funds for a purpose described in Subsection (2) within 10 years after the year in which the county collects the rollback tax funds, the county shall pay the balance to the LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

Section 291. Section 17-81-601, which is renumbered from Section 17-27a-1102 is renumbered and amended to read:

PART 6. Large Concentrated Animal Feeding Operations

[~~17-27a-1102~~]17-81-601 (Effective 11/06/25). Definitions.

(1) "Animal feeding operation" means a lot or facility where the following conditions are met:

(a) animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

(b) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(2) (a) "Commercial enterprise" means a building:

(i) used as a part of a business that manufactures goods, delivers services, or sells goods or services;

(ii) customarily and regularly used by the general public during the entire calendar year; and

(iii) connected to electric or water systems.

(b) "Commercial enterprise" does not include an agriculture operation.

(3) "County large concentrated animal feeding operation land use ordinance" means an ordinance adopted in accordance with Section [~~17-27a-1103~~]17-81-602.

(4) "Education institution" means a building in which any part is used:

(a) for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten;

(b) a state institution of higher education as defined in Section 53B-3-102; or

(c) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(5) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(6) "Large concentrated animal feeding operation" means an animal feeding operation that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

(a) 700 mature dairy cows, whether milked or dry;

(b) 1,000 veal calves;

(c) 1,000 cattle other than mature dairy cows or veal calves, with "cattle" including heifers, steers, bulls, and cow calf pairs;

(d) 2,500 swine each weighing 55 pounds or more;

(e) 10,000 swine each weighing less than 55 pounds;

(f) 500 horses;

(g) 10,000 sheep or lambs;

(h) 55,000 turkeys;

(i) 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;

(j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;

(k) 82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system;

(l) 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system; or

(m) 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.

(7) "Manure" includes manure, bedding, compost, a raw material, or other material commingled with manure or set aside for disposal.

(8) "Public area" means land that:

(a) is owned by the federal government, the state, or a political subdivision with facilities that attract the public to congregate and remain in the area for significant periods of time;

(b) (i) is part of a public park, preserve, or recreation area that is owned or managed by the federal government, the state, a political subdivision, or a nongovernmental entity; and

(ii) has a cultural, archaeological, scientific, or historic significance or contains a rare or valuable ecological system, including a site recognized as a National Historic Landmark or Site; or

(c) is a cemetery.

(9) "Religious institution" means a building and grounds used at least monthly for religious services or ceremonies.

Section 292. Section 17-81-602, which is renumbered from Section 17-27a-1103 is renumbered and amended to read:

[~~17-27a-1103~~]17-81-602 (Effective 11/06/25). County adoption of a county large concentrated animal feeding operation land use ordinance.

(1) (a) The legislative body of a county desiring to restrict siting of large concentrated animal feeding operations shall adopt a county large concentrated animal feeding operation land use ordinance in accordance with this part by no later than February 1, 2022.

(b) A county may consider an application to locate large concentrated animal feeding operations in the county before the county adopts the county large concentrated animal feeding operation land use ordinance under this part.

(2) A county large concentrated animal feeding operation land use ordinance described in Subsection (1) shall:

(a) designate geographic areas of sufficient size to support large concentrated animal feeding operations, including state trust lands described in Subsection 53C-1-103(8)and private property within the county, including adopting a map described in Section [~~17-27a-1104~~]17-81-603;

(b) establish requirements and procedures for applying for a land use decision that provides a reasonable opportunity to operate large concentrated animal feeding operations within the geographic area described in Subsection (2)(a);

(c) disclose fees imposed to apply for the land use decision described in Subsection (2)(b);

(d) disclose any requirements in addition to fees described in Subsection (2)(c) to be imposed by the county; and

(e) provide for administrative remedies consistent with this chapter.

(3) (a) This part does not authorize a county to regulate the operation of large concentrated animal feeding operations in any way that conflicts with state or federal statutes or regulations.

(b) Nothing in this part supersedes or authorizes enactment of an ordinance that infringes on Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, or Title 4, Chapter 44, Agricultural Operations Nuisances Act.

Section 293. Section 17-81-603, which is renumbered from Section 17-27a-1104 is renumbered and amended to read:

[~~17-27a-1104~~]17-81-603 (Effective 11/06/25). Criteria considered in adopting the geographic area of a county large concentrated animal feeding operation land use ordinance -- Maps -- Exception.

(1) (a) To determine the geographic areas where large concentrated animal feeding operations may be located under a county large concentrated animal feeding operation land use ordinance, the county shall consider:

(i) the distance of the geographic area measured in feet from the following:

(A) a residential zone;

(B) a health care facility;

(C) a public area;

(D) an education institution;

(E) a religious institution;

(F) a commercial enterprise;

(G) a municipal boundary; and

(H) a state or county highway or road;

(ii) prevailing winds;

(iii) topography;

(iv) economic benefits to the county; and

(v) reasonable access to transportation, water, and power infrastructure.

(b) A county may consider criteria in addition to those described in Subsection (1)(a).

(2) After considering the factors described in Subsection (1), the county shall designate the geographic areas where large concentrated animal feeding operations may locate as required by Subsection [~~17-27a-1103(2)(a)~~]17-81-602(2)(a) and prepare a map available to the public showing the geographic areas in the county.

(3) A county may not designate a geographic area for large concentrated animal feeding operations based solely on a uniform setback distance requirement from the locations described in Subsection (1)(a)(i), but shall determine the geographic area by evaluating all criteria in Subsection (1).

(4) A county shall designate at least one geographic area within the county where large concentrated animal feeding operations for all animal species listed in Subsection [~~17-27a-1102(6)~~]17-81-601(6) may be located unless the county demonstrates that one of the following makes it not feasible for the county to meet the criteria described in this section:

(a) the county's population density; or

(b) the county's population density relative to the amount of private land within the county.

Section 294. Section 17-81-701, which is renumbered from Section 17-27a-1002 is renumbered and amended to read:

PART 7. Vested Critical Infrastructure Materials Operations

[~~17-27a-1002~~]17-81-701 (Effective 11/06/25). Vested critical infrastructure materials use-- Presumption.

(1) (a) A critical infrastructure materials use is presumed to be a vested critical infrastructure materials use if the critical infrastructure materials use meets the definition of vested critical infrastructure materials use as defined in Section [~~17-27a-1001~~]17-81-101.

(b) A person claiming that a vested critical infrastructure materials use has not been established has the burden of proof to show by the preponderance of the evidence that the vested critical infrastructure materials use has not been established.

(2) A vested critical infrastructure materials use:

(a) runs with the land; and

(b) may be changed to another critical infrastructure materials use without losing its status as a vested critical infrastructure materials use.

(3) The present or future boundary of the critical infrastructure materials use of a critical infrastructure materials operator with a vested critical infrastructure materials use does not limit:

(a) the scope of rights of a critical infrastructure materials operator with a vested critical infrastructure material use; or

(b) the protection for a critical infrastructure materials protection area.

(4) (a) A critical infrastructure operator with a vested critical infrastructure materials use shall file a declaration for recording in the office of the recorder of the county in which the vested critical infrastructure materials use is located.

(b) A declaration under Subsection (4)(a) shall:

(i) contain a legal description of the land included within the vested critical infrastructure materials use; and

(ii) provide notice of the vested critical infrastructure materials use.

Section 295. Section 17-81-702, which is renumbered from Section 17-27a-1003 is renumbered and amended to read:

[~~17-27a-1003~~]17-81-702 (Effective 11/06/25). Rights of a critical infrastructure materials operator with a vested critical infrastructure materials use.

(1) As used in this section, "new land" means surface or subsurface land that a critical infrastructure materials operator gains ownership or control of on or before January 1, 2026, regardless of whether that land is included in any applicable permit issued by a political subdivision or a legal nonconforming use.

(2) Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a critical infrastructure materials use adopted after the establishment of the critical infrastructure materials use, the rights of a critical infrastructure materials operator with a vested critical infrastructure materials use include with respect to that existing legal use the right to:

(a) progress, extend, enlarge, grow, or expand the vested critical infrastructure materials use to any contiguous land that the critical infrastructure materials operator owns or controls before May 7, 2025;

(b) expand the vested critical infrastructure materials use to new land that is contiguous land to the surface or subsurface land on which the critical infrastructure materials operator has a vested critical infrastructure materials use, including the surface or subsurface land under Subsection (1)(a);

(c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings, on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025;

(d) on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025:

(i) increase production or volume;

(ii) alter the method of extracting or processing, including with respect to the vested use, the right to stockpile or hold in reserve critical infrastructure materials, to recycle, and to batch and mix concrete and asphalt; and

(iii) extract or process a different or additional critical infrastructure material than previously extracted or processed on the surface or subsurface land; and

(e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily or permanently, all or any part of the critical infrastructure materials use.

[~~(2)~~](3) (a) As used in this Subsection [~~(2)~~](3), "applicable legislative body" means the legislative body of each:

(i) county in whose unincorporated area the new land to be included in the vested critical infrastructure materials use is located; or

(ii) municipality in which the new land to be included in the critical infrastructure use is located.

(b) A critical infrastructure materials operator with a vested critical infrastructure materials use is presumed to have a right to expand the vested critical infrastructure materials use to new land.

(c) Before expanding a vested critical infrastructure materials use to new land, a critical infrastructure materials operator shall provide written notice:

(i) of the critical infrastructure materials operator's intent to expand the vested critical infrastructure materials use; and

(ii) to each applicable legislative body.

(d) (i) An applicable legislative body shall:

(A) hold a public meeting or hearing at the applicable legislative body's next available meeting that is no later than 30 days after receiving the notice under Subsection [~~(2)(c)~~]3)(c); and

(B) provide reasonable, advance, written notice of the intended expansion of the vested critical infrastructure materials use and the public meeting or hearing to each owner of the surface estate of the new land.

(ii) A public meeting or hearing under Subsection [~~(2)(d)(i)~~]3)(d)(i) serves to provide sufficient public notice of the critical infrastructure materials operator's intent to expand the vested critical infrastructure materials use to the new land.

(e) (i) After the public meeting or hearing under Subsection [~~(2)(d)(i)~~]3)(d)(i), a critical infrastructure materials operator may expand a vested critical infrastructure materials use to new land without any action by an applicable legislative body, unless the applicable legislative body finds by the preponderance of the evidence on the record that the expansion to new land will endanger the public health, safety, and welfare.

(ii) If the applicable legislative body makes the finding of endangerment described in [~~this Subsection(2)(e)~~]Subsection (3)(e)(i), Subsection [~~(4)~~](5) applies.

[~~(3)~~](4) If a critical infrastructure materials operator expands a vested critical infrastructure materials use to new land, as authorized under this section:

(a) the critical infrastructure materials operator's rights under the vested critical infrastructure materials use with respect to land on which the vested critical infrastructure materials use occurs apply with equal force after the expansion to the new land; and

(b) the critical infrastructure materials protection area that includes land on which the vested critical infrastructure materials use occurs is expanded to include the new land.

[~~(4)~~](5) (a) If the applicable legislative body makes the finding of endangerment described in Subsection [~~(2)(c)~~]3)(e):

(i) the critical infrastructure materials operator shall submit to the applicable legislative body the critical infrastructure materials operator's plan for expansion under this section;

(ii) by no later than 90 days after receipt of the plan for expansion described in Subsection [~~(4)(a)(i)~~](5)(a)(i), the applicable legislative body shall notify the operator of:

(A) evidence that the expansion to new land will endanger the public health, safety, and welfare; and

(B) proposed measures to mitigate the endangerment of the public health, safety, and welfare; and

(iii) the applicable legislative body shall hold a public hearing by no later than 30 days after the date the applicable legislative body complies with Subsection [~~(4)(a)(ii)~~](5)(a)(ii) to present mitigation measures proposed under Subsection [~~(4)(a)(ii)~~](5)(a)(ii).

(b) The applicable legislative body may impose mitigation measures under this Subsection [~~(4)~~](5) that are reasonable and do not exceed requirements imposed by permits issued by a state agency such as an air quality permit.

(c) A political subdivision may not prohibit the expansion of a vested critical infrastructure materials use if the critical infrastructure materials operator agrees to comply with the mitigation measures described in Subsection [~~(4)(b)~~](5)(b).

(d) The process under this Subsection [~~(4)~~](5) is not a land use application or conditional use application under [~~this chapter~~]Chapter 79, County Land Use, Development, and Management Act.

Section 296. Section 17-81-703, which is renumbered from Section 17-27a-1005 is renumbered and amended to read:

[~~17-27a-1005~~]17-81-703 (Effective 11/06/25). Abandonment of a vested critical infrastructure materials use.

(1) A critical infrastructure materials operator may abandon some or all of a vested critical infrastructure materials use only as provided in this section.

(2) To abandon some or all of a vested critical infrastructure materials use, a critical infrastructure materials operator shall record a written declaration of abandonment with the recorder of the county in which the vested critical infrastructure materials use being abandoned is located.

(3) The written declaration of abandonment under Subsection (2) shall specify the vested critical infrastructure materials use or the portion of the vested critical infrastructure materials use being abandoned.

Section 297. Section 17E-1-101 is enacted to read:

TITLE 17E. Counties and State Government

CHAPTER 1. General Provisions

PART 1. General Provisions

17E-1-101 (Effective 11/06/25). Definitions.

Reserved.

Section 298. Section 17E-1-201, which is renumbered from Section 17-27a-402 is renumbered and amended to read:

PART 2. Information and Assistance to Counties

[~~17-27a-402~~]17E-1-201 (Effective 11/06/25). Information and technical assistance from the state.

(1) A county may request that the state, including any agency, department, division, institution, or official of the state, provide the county with information that would assist the county in creating the county's general plan, or any aspect of the county's general plan, under Title 17, Chapter 79, County Land Use, Development, and Management Act.

(2) The state or an agency, department, division, institution, or official of the state from which a county has requested information under Subsection (1) shall provide the county with:

(a) the information requested by the county, unless providing the information is prohibited by Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) any other technical assistance or advice the county needs with regards to the county's general plan, without any additional cost to the county.

Section 299. Section 17E-1-301, which is renumbered from Section 17-50-106 is renumbered and amended to read:

PART 3. Exemptions and Special Circumstances

[~~17-50-106~~]17E-1-301 (Effective 11/06/25). Exemption from state licensure by Division of Real Estate.

In accordance with Section 61-2f-202, an employee of a county is exempt from licensure under Title 61, Chapter 2f, Real Estate Licensing and Practices Act:

(1) when engaging in an act on behalf of the county in accordance with:

(a) [~~this title~~]Title 17, Counties; or

(b) Title 11, Cities, Counties, and Local Taxing Units; and

(2) if the act described in Subsection (1) is related to one or more of the following:

(a) acquiring real estate, including by eminent domain;

(b) disposing of real estate;

(c) providing services that constitute property management, as defined in Section 61-2f-102; or

(d) leasing real estate.

Section 300. Section 17E-1-302 is enacted to read:

17E-1-302 (Effective 11/06/25). State agencies and protection areas.

(1) As used in this section, "state agency" means the same as that term is defined in Section 17-81-101.

(2) A state agency shall comply with Sections 17-81-306 and 17-81-307 with respect to land in a protection area.

Section 301. Section 17E-2-101, which is renumbered from Section 17-55-101 is renumbered and amended to read:

CHAPTER 2. Counties and State Executive Officers

PART 1. General Provisions

[~~17-55-101~~]17E-2-101 (Effective 11/06/25). Definitions.

As used in this [~~part~~]chapter:

(1) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) "Criminal justice agency" means an agency or institution directly involved in the apprehension, prosecution, or incarceration of a person involved in criminal activity.

(3) "Criminal justice coordinating council" or "council" means a council created by a county or counties in accordance with Section [~~17-55-201~~]17E-2-201.

(4) "Criminal justice system" means the continuum of criminal justice agencies and post-incarceration services that an individual may encounter as a result of the individual's criminal activity.

(5) (a) "Post-incarceration services" means services that may assist an individual who is leaving incarceration to reintegrate into the community.

(b) "Post-incarceration services" includes:

(i) educational services;

(ii) housing services;

(iii) health care services;

(iv) workforce services; and

(v) human services programs.

Section 302. Section 17E-2-201, which is renumbered from Section 17-55-201 is renumbered and amended to read:

PART 2. Governor and Governor's Programs

[~~17-55-201~~]17E-2-201 (Effective 11/06/25). Criminal justice coordinating councils -- Creation -- Strategic plan -- Reporting requirements.

(1) (a) Beginning January 1, 2023, a county shall:

(i) create a criminal justice coordinating council; or

(ii) jointly with another county or counties, create a criminal justice coordinating council.

(b) The purpose of a council is to coordinate and improve components of the criminal justice system in the county or counties.

(2) (a) A council shall include:

(i) one county commissioner or county council member;

(ii) the county sheriff or the sheriff's designee;

(iii) one chief of police of a municipality within the county or the chief's designee;

(iv) the county attorney or the attorney's designee;

(v) one public defender or attorney who provides public defense within the county;

(vi) one district court judge;

(vii) one justice court judge;

(viii) one representative from the Division of Adult Probation and Parole created in Section 64-14-202;

(ix) one representative from the local mental health authority within the county; and

(x) one individual who is:

(A) a crime victim; or

(B) a victim advocate, as defined in Section 77-38-403.

(b) A council may include:

(i) an individual representing:

(A) local government;

(B) human services programs;

(C) higher education;

(D) peer support services;

(E) workforce services;

(F) local housing services;

(G) mental health or substance use disorder providers;

(H) a health care organization within the county;

(I) a local homeless council;

(J) family counseling and support groups; or

(K) organizations that work with families of incarcerated individuals; or

(ii) an individual with lived experiences in the criminal justice system.

(3) (a) A member who is an elected county official shall serve as chair of the council.

(b) The council shall elect the member to serve as chair under Subsection (3)(a).

(4) (a) A council shall develop and implement a strategic plan for the county's or counties' criminal justice system that includes:

(i) mapping of all systems, resources, assets, and services within the county's or counties' criminal justice system;

(ii) a plan for data sharing across the county's or counties' criminal justice system;

(iii) recidivism reduction objectives; and

(iv) community reintegration goals, including identifying strategies for connecting county residents who are on probation, parole, or leaving jail or prison, including those under the custody of the Division of Juvenile Justice and Youth Services, with county-based housing, employment, mental health services, substance use treatment, and related resources.

(b) The commission may assist a council in the development of a strategic plan.

(5) As part of the council's duties described in Subsection (4)(a)(i), the council shall prepare a list of private probation providers for a court to provide to defendants as described in Section 77-18-105.

(6) Before November 30 of each year, a council shall provide a written report to the commission regarding:

(a) the implementation of a strategic plan described in Subsection (4); and

(b) any data on the impact of the council on the criminal justice system in the county or counties.

Section 303. Section 17E-2-301 is enacted to read:

PART 3. Office of the Lieutenant Governor

17E-2-301 (Effective 11/06/25). County boundaries maintained by lieutenant governor.

(1) The office of the lieutenant governor shall maintain the official county boundaries for the counties of the state and update those boundaries upon the lieutenant governor's issuance, under Section 67-1a-6.5, of an applicable certificate, as defined in that section.

(2) (a) If a county surveyor determines the true location of a county boundary under Section 17-61-102, the lieutenant governor shall receive the notice and map showing the true location of the county boundary.

(b) Nothing in Section 17-61-102 gives a county surveyor or any other individual the authority to modify official records maintained by the office of the lieutenant governor.

Section 304. Section 17E-2-302 is enacted to read:

17E-2-302 (Effective 11/06/25). Lieutenant governor to record new county boundaries.

The office of the lieutenant governor shall modify county boundaries in accordance with:

(1) Title 17, Chapter 61, Part 2, Consolidation of Counties;

(2) Title 17, Chapter 61, Part 3, County Annexation; and

(3) Title 17, Chapter 61, Part 4, Creating New Counties.

Section 305. Section 17E-2-401 is enacted to read:

PART 4. State Auditor

17E-2-401 (Effective 11/06/25). State auditor and uniform fiscal procedures for counties.

(1) The state auditor shall:

(a) prescribe a uniform system of fiscal procedures for the several counties;

(b) conduct a constant review of the uniform system in order to modify and improve the uniform system;

(c) prepare and supply each county finance officer with suitable budget forms; and

(d) prepare instructional materials, conduct training programs, and render other services to assist counties in implementing the uniform

system.

(2) The uniform system of procedure created under Subsection (1) may include reasonable exceptions and modifications applicable to counties with a population of 25,000 or less, such population to be determined by the Utah Population Committee.

Section 306. Section 17E-2-402, which is renumbered from Section 17-36-41 is renumbered and amended to read:

[~~17-36-41~~]17E-2-402 (Effective 11/06/25). Analysis and evaluation of accounting practices and systems by state auditor -- Regional accounting services.

(1) The state auditor shall:

(a) analyze and evaluate the accounting practices and systems used by the counties, as described in Title 17, Chapter 63, Fiscal Authority and Processes; and

(b) provide advice and consultation to [~~them~~]the counties in improving and updating [~~their~~]county practices and systems.

(2) (a) Any county or group or association of counties may, by agreement [~~pursuant to~~]in accordance with the Interlocal Co-operation Act, provide accounting services upon a regional basis for other counties or other local governmental units.

(b) The state auditor shall evaluate the county or other organization's ability to provide such service and shall periodically review the internal controls maintained by such a county or organization.

Section 307. Section 17E-2-403 is enacted to read:

17E-2-403 (Effective 11/06/25). State auditor to review annual financial statements from counties.

(1) The state auditor:

(a) may provide guidance to the finance officer of each county to ensure uniform reporting across counties;

(b) may include the information described in Subsection 17-63-603(3) on the public finance website described in Section 67-3-12;

(c) shall, on a regular basis determined by the state auditor, evaluate a county's annual financial report in regard to revenues and expenditures described in Subsection 17-63-603(3) and determine whether a county's reporting is sufficient to ensure transparency and accountability; and

(d) shall, upon receipt of a county's written report under Section 17-78-704 and in conjunction with evaluating the information described in Subsection 17-63-603(3), determine if a county is compliant with the expenditure authorizations described in Sections 17-78-702, 59-12-602, and 59-12-603.

(2) If the state auditor determines under Subsection (1)(c) that a county is not sufficiently reporting or determines under Subsection (1)(d) that a county is not compliant, the state auditor:

(a) shall provide the county finance officer with written notice of the determination, including the rationale for the determination; and

(b) shall provide the county finance officer with an opportunity to respond to the determination in writing, including an opportunity to correct any deficiencies identified by the state auditor.

(3) If the auditor determines, after providing a county with an opportunity to respond and correct any deficiencies as described in Subsection (2)(b), that a county is still not in compliance with this section, the auditor:

(a) shall provide notice of the determination to the Division of Outdoor Recreation created in Section 79-7-201;

(b) may provide notice to the Revenue and Taxation Interim Committee and the Political Subdivisions Interim Committee, or if the Legislature is in session, the Legislative Management Committee; and

(c) may take any action authorized in Section 51-2a-401 or other provision of law.

Section 308. Section 17E-2-404 is enacted to read:

17E-2-404 (Effective 11/06/25). State auditor to review county internal control procedures.

The state auditor shall:

(1) evaluate the internal control procedures a county implements to effectuate Section 17-63-605;

(2) recommend and approve improvements and updates to the county procedures established under Section 17-63-605; and

(3) provide advice and consultation to a county implementing an internal control structure.

Section 309. Section 17E-2-405 is enacted to read:

17E-2-405 (Effective 11/06/25). Enforcement of registration requirements for local substance abuse authority.

The state auditor shall enforce the provisions of Section 17-77-205 in regard to the registration of a local substance abuse authority as a limited purpose entity.

Section 310. Section 17E-2-406 is enacted to read:

17E-2-406 (Effective 11/06/25). State auditor to create form for transient room tax reports.

(1) The state auditor, in consultation with the Utah Office of Tourism created in Section 63N-7-102, shall:

(a) create a form for a financial report and a form for a written report required under Section 17-78-704;

(b) designate at least one employee within the state auditor's office to serve as the point of contact for counties preparing a financial report or written report under Section 17-78-704; and

(c) if the state auditor's office determines it is advisable, create written guidance to assist counties in preparing a financial report or written report under Section 17-78-704.

(2) The state auditor shall receive annual written reports from the counties as described in Section 17-78-704.

Section 311. Section 17E-3-101 is enacted to read:

CHAPTER 3. Counties and the Legislature

17E-3-101 (Effective 11/06/25). Counties and the Legislature.

Reserved.

Section 312. Section 17E-4-101, which is renumbered from Section 17-56-101 is renumbered and amended to read:

CHAPTER 4. Counties and the State Tax Commission and Division of Finance

PART 1. General Provisions

[~~17-56-101~~]17E-4-101 (Effective 11/06/25). Definitions.

As used in this chapter:

(1) "Commission" means the State Tax Commission.

(2) "Contributing business" means a person who is centrally assessed and owns a qualifying transmission line.

(3) "Division" means the Division of Finance created in Section 63A-3-101.

[~~(3)~~](4) "Qualifying transmission line" means an electrical transmission line that first transmits electrical current within the state on or after January 1, 2026, and operates at a nominal voltage of at least 340,000 volts, including structures, equipment, plant, or fixtures associated with the electrical transmission line.

Section 313. Section 17E-4-201, which is renumbered from Section 17-56-201 is renumbered and amended to read:

PART 2. Species Protection Funding Act

[~~17-56-201~~]17E-4-201 (Effective 11/06/25). Payments due -- Calculation of payment amount.

(1) (a) On or before March 1 of each year, and included with the statement of taxpayer required under Section 59-2-202, the owner of a contributing business shall electronically file with the commission a statement containing the following information, in a manner prescribed by the commission:

(i) the name, description, location, and number of miles of qualifying transmission line located within each county, by tax area, in which a qualifying transmission line is located as of January 1 of the year of the statement; and

(ii) any other reasonable and necessary information required by the commission.

(b) The owner of the contributing business or the owner's designee shall sign and swear to the statement described in Subsection (1)(a).

(2) (a) On or before November 30 of each year, the commission shall notify each county that contains a portion of the qualifying transmission line owned by a contributing business of the amount calculated in Subsection (2)(b).

(b) The commission shall calculate an amount for each county by multiplying $6,400 by the number of miles of qualifying transmission line owned by a contributing business that is located within the county.

(3) On or before December 31 of each year, the county treasurer of a county notified under Subsection (2)(a) shall remit the amount calculated under Subsection (2)(b) to the [~~Division of Finance~~]division from the revenue derived from the current year's property taxes.

Section 314. Section 17E-4-202, which is renumbered from Section 17-56-202 is renumbered and amended to read:

[~~17-56-202~~]17E-4-202 (Effective 11/06/25). Deposit into Species Protection Account.

The [~~Division of Finance~~]division shall deposit revenue remitted to the [~~Division of Finance~~]division under [~~this chapter~~]Section 17E-4-201 into the Species Protection Account created in Section 23A-3-214.

Section 315. Section 17E-5-101 is enacted to read:

CHAPTER 5. Agriculture

17E-5-101 (Effective 11/06/25). Counties and the Department of Agriculture and Food.

Reserved.

Section 316. Section 17E-6-101 is enacted to read:

CHAPTER 6. Counties and the Departments of Corrections and Public Safety

PART 1. General Provisions

17E-6-101 (Effective 11/06/25). Definitions.

Reserved.

Section 317. Section 17E-6-201, which is renumbered from Section 17-22-34 is renumbered and amended to read:

PART 2. Public Safety

[~~17-22-34~~]17E-6-201 (Effective 11/06/25). Suicide Deterrence Grant Program -- Rulemaking.

(1) As used in this section:

(a) "Department" means the Department of Public Safety.

(b) "Grant" means a grant awarded under this section.

(c) "Program" means the Suicide Deterrence Grant Program created in this section.

(d) "Suicide barrier" means a barrier installed on an upper level of a building to prevent an individual from falling.

(2) (a) There is created within the department the Suicide Deterrence Grant Program.

(b) The purpose of the program is to award grants to county jails for materials to construct and install suicide barriers.

(3) (a) A county jail that submits a proposal for a grant to the department shall include in the proposal:

(i) a statement describing the need for suicide barriers in the county jail;

(ii) the amount and type of material to be used in constructing the suicide barriers;

(iii) a plan for installation of the suicide barriers;

(iv) any funding sources in addition to the grant for the proposal;

(v) any existing or planned partnerships between the county jail and another entity to implement the proposal; and

(vi) other information the department determines necessary to evaluate the proposal.

(b) When evaluating a proposal for a grant, the department shall consider:

(i) the likelihood the proposal will accomplish the purpose described in Subsection (2);

(ii) the cost of the proposal;

(iii) the extent to which additional funding sources or existing or planned partnerships may benefit the proposal; and

(iv) the viability and sustainability of the proposal.

(4) Subject to Subsection (3), the department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:

(a) eligibility criteria for a grant;

(b) the form and process for submitting a proposal to the department for a grant;

(c) the method and formula for determining a grant amount; and

(d) reporting requirements for a grant recipient.

Section 318. Section 17E-6-301, which is renumbered from Section 17-18a-506 is renumbered and amended to read:

PART 3. Correctional Facilities

[~~17-18a-506~~]17E-6-301 (Effective 11/06/25). Correctional facility telephone service contracts -- Approval by civil counsel -- Required rates.

(1) As used in this section:

(a) "Civil counsel" means the attorney[~~, as that term is defined in Section 17-18a-102,~~] who is exercising the attorney's civil duties, as described in Chapter 68, Part 6, Counsel for Civil Matters, for the county in which a correctional facility is located.

(b) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(c) "Correctional facility administrator" means the same as that term is defined in Section 77-16b-102.

[~~(c)~~](d) "Correctional facility telephone service" means a public telecommunications service provided to a correctional facility for inmate use.

[~~(d)~~](e) "Inmate" means an individual who is committed to the custody of or housed in a correctional facility.

[~~(e)~~](f) "Inmate telephone rate" means any amount a correctional facility or a service provider charges an inmate for use of a correctional facility telephone service, including each per-minute rate or surcharge for:

(i) a collect call, a prepaid phone card, or any other method by which a correctional facility allows an inmate to access a correctional facility telephone service; or

(ii) a local or a long-distance phone call.

[~~(f)~~](g) "Service provider" means a public entity or a private entity that provides a correctional facility telephone service.

(2) (a) A correctional facility administrator shall consider the importance of inmate access to telephones in preserving family connections and reducing recidivism when proposing an inmate telephone rate in a new or renewed contract for correctional facility telephone service.

(b) A correctional facility or other state entity may not enter into or renew a contract for a correctional facility telephone service, unless the contract is approved by the civil counsel for the county in which the correctional facility is located.

(c) To obtain approval of a contract described in Subsection (2)(b), a correctional facility or other state entity shall submit to the civil counsel:

(i) the proposed contract;

(ii) documentation that the correctional facility or other state entity has confirmed that:

(A) the provisions of the contract, other than the rates described in Subsection (3)(a), are consistent with correctional facility telephone service contracts throughout the state; and

(B) the contract provides for adequate services that meet the needs of the correctional facility; and

(iii) any additional information the civil counsel requires to analyze the contract.

(3) (a) The civil counsel shall review a contract and any additional information described in Subsection [~~(2)(b)~~](2)(c) to determine whether:

(i) each inmate telephone rate for interstate calls provided in the contract exceeds the corresponding inmate telephone service monetary cap per-use rate established and published by the Federal Communications Commission; and

(ii) each inmate telephone rate for intrastate calls provided in the contract exceeds the greater of:

(A) 25% higher than the corresponding inmate telephone service monetary cap per-use rate established and published by the Federal Communications Commission; or

(B) the corresponding inmate telephone system rate established and published by the Utah Department of Corrections.

(b) (i) After receiving and reviewing the proposed contract and additional information, the civil counsel shall approve the contract if the proposed contract meets the requirements described in Subsection (3)(a).

(ii) The civil counsel shall inform the correctional facility or other state entity of the civil counsel's determination.

Section 319. Section 17E-6-401 is enacted to read:

PART 4. Constables

17E-6-401 (Effective 11/06/25). Reserved.

Reserved.

Section 320. Section 17E-7-101, which is renumbered from Section 17-15-23 is renumbered and amended to read:

CHAPTER 7. Counties and Other Executive Branch Entities

PART 1. Department of Environmental Quality

[~~17-15-23~~]17E-7-101 (Effective 11/06/25). County solid waste management plans submitted to the Waste Management and Radiation Control Board.

(1) (a) Each county, or entity created or designated by a county for [~~this~~]the purpose of fulfilling the duties of this section, shall submit to the Waste Management and Radiation Control Board, [~~organized in~~]created in Section 19-6-103, a county solid waste management plan providing solid waste management information as reasonably required by the board and according to a timetable established by the board.

(b) Each county shall review and modify [~~its~~]the county solid waste management plan no less frequently than every five years.

(2) Each county solid waste management plan shall:

(a) be consistent with Title 19, Chapter 6, Part 5, Solid Waste Management Act[~~,~~]; and

(b) [~~shall~~]establish the county's solid waste management plan for the next 20 years.

(3) Each county solid waste management plan shall include an estimate of the solid waste capacity needed in the county for the next 20 years and the county's program to ensure that the county will have sufficient solid waste disposal capacity for the next 20 years.

(4) (a) The solid waste management plan mandated by this section is contingent upon the adoption and implementation of a funding mechanism.

(b) Nothing contained in this section precludes a political subdivision, local health department, or district from undertaking comprehensive solid waste planning.

Section 321. Section 17E-7-201, which is renumbered from Section 17-27a-519 is renumbered and amended to read:

PART 2. Department of Health and Human Services

[~~17-27a-519~~]17E-7-201 (Effective 11/06/25). Licensing of residences for persons with a disability.

(1) As used in this section, "residential facility for persons with a disability" means the same as that term is defined in Section 17-79-102.

(2) The responsibility to license local programs or entities that operate [~~facilities~~]a residential facility for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with the Department of Health and Human Services as provided in:

[~~(1)~~](a) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

[~~(2)~~](b) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities.

Section 322. Section 17E-7-301 is enacted to read:

PART 3. Department of Veterans and Military Affairs

17E-7-301 (Effective 11/06/25). Department of Veterans and Military Affairs and land use planning.

The Department of Veterans and Military Affairs created in Section 71A-1-201 shall comply with the provisions of Section 17-79-616.

Section 323. Section 17E-7-401, which is renumbered from Section 17-16-22 is renumbered and amended to read:

PART 4. Department of Natural Resources

[~~17-16-22~~]17E-7-401 (Effective 11/06/25). Wildland urban interface evaluation and fees.

(1) As used in this section:

(a) "County officer" means the same as that term is defined in Section [~~17-16-21~~]17-66-101.

(b) "High risk wildland urban interface property" means the same as that term is defined in Section 65A-8-401.

(c) "Wildland urban interface" means the same as that term is defined in Section 65A-8-401.

(d) "Wildland urban interface coordinator" means the same as that term is defined in Section 65A-8-401.

(2) If evaluation of high risk wildland urban interface property is assigned to a county under Section 65A-8-402:

(a) the county shall enter into a cooperative agreement with the Division of Forestry, Fire, and State Lands, in accordance with Subsection 65A-8-203(2)(a), which agreement shall address compliance with this Subsection (2) for evaluation and classification of high risk wildland urban interface property; and

(b) a county officer shall require that a wildland urban interface coordinator representing the county annually evaluate high risk wildland urban interface property within the county in accordance with Section 65A-8-402.

(3) Beginning January 1, 2026, a county officer shall:

(a) annually assess a fee:

(i) against the property owner of high risk wildland urban interface property within the incorporated and unincorporated portions of the county; and

(ii) in the amount set by the Division of Forestry, Fire, and State Lands under Section 65A-8-402; and

(b) (i) after retaining a portion of the fee under Subsection (3)(b)(ii), transmit the fee assessed under Subsection (3)(a) to the Division of Forestry, Fire, and State Lands for deposit into the Utah Wildfire Fund created in Section 65A-8-217; and

(ii) retain that portion of the fee assessed under Subsection (3)(a) necessary to pay costs incurred by the county in implementing this section, which the county may include in the county's annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs for purposes of Subsection 65A-8-203(4)(c).

(4) A county may hold a political subdivision lien on high risk wildland urban interface property for a fee that is past due by following the procedures in Sections 17B-1-902and 17B-1-902.1, as if the county is a special district.

Section 324. Section 63I-1-217 is amended to read:

63I-1-217 (Effective 11/06/25). Repeal dates: Titles 17 through 17D.

[~~(1)~~] Section [~~17-18a-203.5~~]17-68-104, District attorney and county attorney data collection for counties of the first, second, and third class -- Report, is repealed July 1, 2029.

[~~(2) Section 17-41-102, Study of critical infrastructure materials operations and related mining, is repealed July 1, 2026.~~]

Section 325. Section 63I-2-217 is amended to read:

63I-2-217 (Effective 11/06/25). Repeal dates: Titles 17 through 17D.

[~~(1) Subsection 17-22-2(1)(o), regarding a sheriff's contractual duties under an interlocal agreement for law enforcement services, is repealed July 1, 2025.~~]

[~~(2) Subsection 17-22-2(3), regarding the role of a sheriff in a police interlocal entity or police local district, is repealed July 1, 2025.~~]

[~~(3) Section 17-27a-604.9, Effective dates of Sections 17-27a-604.1 and 17-27a-604.2, is repealed January 1, 2025.~~]

[~~(4)~~](1) Subsection [~~17-27a-509(4)(c)~~]17-79-804(4)(c), regarding an inspection fee on a qualified water conservancy district, is repealed July 1, 2026.

[~~(5)~~](2) Subsection [~~17-52a-103(3)~~]17-62-102(3), regarding the process for changing a form of county government, is repealed January 1, 2028.

Section 326. Repealer.

This bill repeals:

Section 17-8-6, Taxation by counties.

Section 17-16a-3.5, Statutory construction.

Section 17-27a-1001, Definitions.

Section 17-27a-1101, Title.

Section 17-28-2.6, Merit principles.

Section 17-28-4, Duties of secretary.

Section 17-28-9, Certification of eligible appointees -- Probationary period.

Section 17-28-13, Appeal to district court.

Section 17-28-14, Reports by executive director.

Section 17-30-8, Preservation and inspection of examination papers.

Section 17-30-10, Appointments from eligible register -- Failure to accept appointment.

Section 17-30-11, Probationary period of appointment.

Section 17-30-15, Emergency appointment.

Section 17-30-20, Appeal to district court -- Scope of review.

Section 17-30a-101, Title.

Section 17-30a-201, Title.

Section 17-30a-205, Comprehensive job classification plan.

Section 17-30a-206, Oaths and subpoenas -- Witnesses.

Section 17-30a-207, Duty of commission to provide for unspecified activities.

Section 17-30a-301, Title.

Section 17-30a-306, Appointments from eligible appointment register -- Failure to accept appointment.

Section 17-30a-307, Probationary period of appointment.

Section 17-30a-401, Title.

Section 17-30a-403, Disciplinary charges -- Appeal to commission -- Hearing -- Findings.

Section 17-30a-404, Appeal to Court of Appeals -- Scope of review.

Section 17-30a-501, Title.

Section 17-33-4.5, Council may refer an appeal to an administrative law judge for a recommendation -- Council action on recommendation.

Section 17-33-16, Appointment of more than one chief deputy or undersheriff.

Section 17-38-4, Nontermination of taxing power.

Section 17-41-601, Definitions.

Section 17-43-101, Title.

Section 17-43-305, Responsibility for cost of services provided by local mental health authority.

Section 17-43-307, Authority to receive funds.

Section 327. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect:

(a) except as provided in Subsection (1)(b), December 6, 2025; or

(b) if approved by two-thirds of all members elected to each house, the later of:

(i) November 6, 2025; or

(ii) upon approval by the governor;

(iii) without the governor's approval, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(iv) with the governor's veto and a vote of the Legislature to override the veto, the date of veto override.

(2) The actions affecting Section 17-75-102 (Contingently Effective 11/28/26) take effect on November 28, 2026.

CHAPTER 15
S. B. 1008
Passed October 6, 2025
Approved October 14, 2025
Effective November 6, 2025

MUNICIPAL LAND USE, DEVELOPMENT, AND MANAGEMENT ACT RECODIFICATION

Chief Sponsor: Don L. Ipson
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill reorganizes and renumbers the Municipal Land Use, Development, and Management Act.

Highlighted Provisions:

This bill:

- ► reorganizes and renumbers Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;
- ► defines terms;
- ► enacts provisions related to municipal land use regulation for organizational purposes;
- ► amends provisions related to municipal land use regulation for organizational purposes;
- ► repeals provisions related to municipal land use regulation for organizational purposes; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-41a-406,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 128
4-41a-1105,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
4-46-302,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 91
10-8-2,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 435
10-8-85.4,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 37
10-8-85.10,
(Effective 11/06/25)
as enacted by Laws of Utah 2023, Chapter 533
10-8-87,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 452
11-13-227,
(Effective 11/06/25)
as last amended by Laws of Utah 2019, Chapter 479
11-36a-202,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 419
11-36a-301,
(Effective 11/06/25)
as last amended by Laws of Utah 2013, Chapter 200
11-36a-302,
(Effective 11/06/25)
as last amended by Laws of Utah 2013, Chapter 200

11-36a-502,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 16
11-36a-504,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapters 16, 435
11-36a-701,
(Effective 11/06/25)
as last amended by Laws of Utah 2018, Chapter 215
11-46a-102,
(Effective 11/06/25)
as enacted by Laws of Utah 2023, Chapter 245
11-58-103,
(Effective 11/06/25)
as enacted by Laws of Utah 2020, Chapter 126
11-59-103,
(Effective 11/06/25) (Repealed 01/01/29)
as last amended by Laws of Utah 2025, Chapter 31
11-59-204,
(Effective 11/06/25) (Repealed 01/01/29)
as last amended by Laws of Utah 2023, Chapters 16, 100
11-70-203,
(Effective 11/06/25)
as enacted by Laws of Utah 2024, Chapter 419
11-70-206,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 498
13-43-205,
(Effective 11/06/25)
as last amended by Laws of Utah 2014, Chapter 59
13-43-206,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 337
13-80-101,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 266
15A-1-105,
(Effective 11/06/25) (Superseded 01/01/26)
as last amended by Laws of Utah 2025, Chapter 399
15A-1-105,
(Effective 01/01/26)
as last amended by Laws of Utah 2025, Chapter 75
15A-3-203,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 399
15A-5-202,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 15
15A-5-205.6,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 399
15A-6-301,
(Effective 11/06/25)
as enacted by Laws of Utah 2024, Chapter 329
17-27a-403,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 385
17-27a-403.1,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 385
17-27a-403.2,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 385
17-27a-509.5,
(Effective 11/06/25)

as last amended by Laws of Utah 2025, Chapter 399
17-27a-535,
(Effective 11/06/25)
as enacted by Laws of Utah 2024, Chapter 329
17-27a-536,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 399
17-27a-603,
(Effective 11/06/25)
as last amended by Laws of Utah 2022, Chapter 355
17-27a-604.5,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 399
17-41-402,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 387
17-41-502,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 387
17-50-338,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 37
17B-2a-802,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 400, 544
17B-2a-804,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 517
17B-2a-1305,
(Effective 11/06/25)
as enacted by Laws of Utah 2024, Chapter 388
17C-1-104,
(Effective 11/06/25)
as last amended by Laws of Utah 2017, Chapter 84
17C-2-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2019, Chapter 376
17C-2-304,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 158
17C-3-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2016, Chapter 350
17C-4-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2016, Chapter 350
17C-5-104,
(Effective 11/06/25)
as last amended by Laws of Utah 2019, Chapter 376
17C-5-406,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 158
20A-7-601,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 448
23A-3-205,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 147
35A-8-202,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 385
35A-8-803,
(Effective 11/06/25)
as last amended by Laws of Utah 2022, Chapter 406
35A-8-804,

(Effective 11/06/25)
as last amended by Laws of Utah 2018, Chapter 218
38-9-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 415
53E-3-706,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 21
53E-3-710,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2018, Chapter 1
54-18-102,
(Effective 11/06/25)
as enacted by Laws of Utah 2009, Chapter 316
54-18-303,
(Effective 11/06/25)
as enacted by Laws of Utah 2009, Chapter 316
54-18-304,
(Effective 11/06/25)
as enacted by Laws of Utah 2009, Chapter 316
54-21-101,
(Effective 11/06/25)
as enacted by Laws of Utah 2018, Chapter 299
54-21-208,
(Effective 11/06/25)
as enacted by Laws of Utah 2018, Chapter 299
57-1-45.5,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 40
57-3-101,
(Effective 11/06/25)
as last amended by Laws of Utah 2005, Chapter 254
57-8-4.5,
(Effective 11/06/25)
as enacted by Laws of Utah 2013, Chapter 152
57-8-32,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 40, 226 and 453
57-8-35,
(Effective 11/06/25)
as last amended by Laws of Utah 2005, Chapter 254
57-8a-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 197, 226 and 291
57-8a-209,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 453
57-8a-218,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 226, 291 and 453
57-8a-222,
(Effective 11/06/25)
as enacted by Laws of Utah 2013, Chapter 152
57-8a-232,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 226, 453
59-2-301.1,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 519
59-2-301.2,
(Effective 11/06/25)
as last amended by Laws of Utah 2005, Chapter 254
59-2-301.6,
(Effective 11/06/25)
as enacted by Laws of Utah 2014, Chapter 218

59-2-502,
(Effective 11/06/25)
as last amended by Laws of Utah 2017, Chapter 319
59-2-507,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 183
59-2-924,
(Effective 11/06/25) (Superseded 01/01/26)
as last amended by Laws of Utah 2025, Chapters 183, 375
59-2-924,
(Effective 01/01/26)
as last amended by Laws of Utah 2025, Chapters 29, 258 and 495
59-2-1101,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 449
59-12-2220,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 400
63A-5b-604,
(Effective 11/06/25)
as last amended by Laws of Utah 2022, Chapter 421
63G-7-201,
(Effective 11/06/25) (Superseded 01/01/26)
as last amended by Laws of Utah 2023, Chapters 34, 105, 259, 329, 452, and 456
63G-7-201,
(Effective 01/01/26)
as last amended by Laws of Utah 2025, Chapter 74
63H-1-202,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 476
63I-2-210,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 62
63J-4-402,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 385
63L-10-104,
(Effective 11/06/25)
as last amended by Laws of Utah 2019, Chapter 246
63N-3-603,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 29
63N-3-1602,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 440
71A-1-201,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 71, 266 and 528
72-1-304,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 385, 452
72-2-124,
(Effective 11/06/25) (Superseded 07/01/26)
as last amended by Laws of Utah 2025, Chapters 385, 452 and 502
72-2-124,
(Effective 07/01/26)
as last amended by Laws of Utah 2025, Chapter 285
72-5-117,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 391
72-5-401,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 373
72-5-403,
(Effective 11/06/25)

as last amended by Laws of Utah 2023, Chapter 39
72-7-502,
(Effective 11/06/25)
as last amended by Laws of Utah 2016, Chapter 299
72-7-510.5,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 436
72-10-403,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 483
73-1-8,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 105
73-10-36,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 29
73-10c-11,
(Effective 11/06/25)
as enacted by Laws of Utah 2023, Chapter 238
78B-6-1101,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 141, 173, 174, 178, and 387
79-3-202,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapters 53, 88

ENACTS:

10-20-403,
(Effective 11/06/25)
Utah Code Annotated 1953
10-20-601,
(Effective 11/06/25)
Utah Code Annotated 1953
10-20-910,
(Effective 11/06/25)
Utah Code Annotated 1953
10-21-102,
(Effective 11/06/25)
Utah Code Annotated 1953
10-21-201,
(Effective 11/06/25)
Utah Code Annotated 1953
10-21-601,
(Effective 11/06/25)
Utah Code Annotated 1953

RENUMBERS AND AMENDS:

10-20-101,
(Effective 11/06/25)
(Renumbered from 10-9a-102, as last amended by Laws of Utah 2025, Chapter 385)
10-20-102,
(Effective 11/06/25)
(Renumbered from 10-9a-103, as last amended by Laws of Utah 2025, Chapters 40, 399 and 400)
10-20-103,
(Effective 11/06/25)
(Renumbered from 10-9a-104, as last amended by Laws of Utah 2019, Chapter 384)
10-20-201,
(Effective 11/06/25)
(Renumbered from 10-9a-201, as enacted by Laws of Utah 2005, Chapter 254)
10-20-202,
(Effective 11/06/25)
(Renumbered from 10-9a-202, as last amended by Laws of Utah 2006, Chapter 257)
10-20-203,
(Effective 11/06/25)
(Renumbered from 10-9a-203, as last amended by Laws of Utah 2023, Chapters 219, 435)
10-20-204,

(Effective 11/06/25)
(Renumbered from 10-9a-204, as last amended by Laws of Utah 2023, Chapter 435)
10-20-205,
(Effective 11/06/25)
(Renumbered from 10-9a-205, as last amended by Laws of Utah 2025, Chapter 399)
10-20-206,
(Effective 11/06/25)
(Renumbered from 10-9a-206, as last amended by Laws of Utah 2020, Chapter 377)
10-20-207,
(Effective 11/06/25)
(Renumbered from 10-9a-207, as last amended by Laws of Utah 2009, Chapter 338)
10-20-208,
(Effective 11/06/25)
(Renumbered from 10-9a-208, as last amended by Laws of Utah 2023, Chapter 435)
10-20-209,
(Effective 11/06/25)
(Renumbered from 10-9a-209, as enacted by Laws of Utah 2005, Chapter 254)
10-20-210,
(Effective 11/06/25)
(Renumbered from 10-9a-210, as enacted by Laws of Utah 2005, Chapter 231)
10-20-211,
(Effective 11/06/25)
(Renumbered from 10-9a-211, as last amended by Laws of Utah 2017, Chapters 410, 428)
10-20-212,
(Effective 11/06/25)
(Renumbered from 10-9a-212, as last amended by Laws of Utah 2022, Chapter 355)
10-20-213,
(Effective 11/06/25)
(Renumbered from 10-9a-213, as enacted by Laws of Utah 2019, Chapter 235)
10-20-214,
(Effective 11/06/25)
(Renumbered from 10-9a-543, as enacted by Laws of Utah 2025, Chapter 515)
10-20-301,
(Effective 11/06/25)
(Renumbered from 10-9a-301, as last amended by Laws of Utah 2017, Chapter 70)
10-20-302,
(Effective 11/06/25)
(Renumbered from 10-9a-302, as last amended by Laws of Utah 2025, Chapter 400)
10-20-303,
(Effective 11/06/25)
(Renumbered from 10-9a-303, as renumbered and amended by Laws of Utah 2005, Chapter 254)
10-20-304,
(Effective 11/06/25)
(Renumbered from 10-9a-305, as last amended by Laws of Utah 2025, Chapter 461)
10-20-305,
(Effective 11/06/25)
(Renumbered from 10-9a-304, as last amended by Laws of Utah 2021, Chapter 363)
10-20-401,
(Effective 11/06/25)
(Renumbered from 10-9a-401, as last amended by Laws of Utah 2024, Chapter 53)
10-20-402,
(Effective 11/06/25)
(Renumbered from 10-9a-402, as last amended by Laws of Utah 2008, Chapter 382)
10-20-404,
(Effective 11/06/25)
(Renumbered from 10-9a-403, as last amended by Laws of Utah 2025, Chapter 385)
10-20-405,
(Effective 11/06/25)
(Renumbered from 10-9a-404, as last amended by Laws of Utah 2022, Chapters 282, 406)
10-20-406,
(Effective 11/06/25)
(Renumbered from 10-9a-405, as enacted by Laws of Utah 2005, Chapter 254)
10-20-407,
(Effective 11/06/25)
(Renumbered from 10-9a-406, as renumbered and amended by Laws of Utah 2005, Chapter 254)

10-20-408,
(Effective 11/06/25)
(Renumbered from 10-9a-407, as renumbered and amended by Laws of Utah 2005, Chapter 254)
10-20-501,
(Effective 11/06/25)
(Renumbered from 10-9a-501, as last amended by Laws of Utah 2023, Chapter 65)
10-20-502,
(Effective 11/06/25)
(Renumbered from 10-9a-502, as last amended by Laws of Utah 2019, Chapter 384)
10-20-503,
(Effective 11/06/25)
(Renumbered from 10-9a-503, as last amended by Laws of Utah 2019, Chapter 384)
10-20-504,
(Effective 11/06/25)
(Renumbered from 10-9a-504, as last amended by Laws of Utah 2023, Chapter 478)
10-20-505,
(Effective 11/06/25)
(Renumbered from 10-9a-505, as last amended by Laws of Utah 2015, Chapter 327)
10-20-506,
(Effective 11/06/25)
(Renumbered from 10-9a-507, as last amended by Laws of Utah 2021, Chapter 385)
10-20-507,
(Effective 11/06/25)
(Renumbered from 10-9a-507.5, as enacted by Laws of Utah 2025, Chapter 49)
10-20-508,
(Effective 11/06/25)
(Renumbered from 10-9a-532, as last amended by Laws of Utah 2024, Chapter 415)
10-20-602,
(Effective 11/06/25)
(Renumbered from 10-9a-505.5, as last amended by Laws of Utah 2021, Chapter 102)
10-20-603,
(Effective 11/06/25)
(Renumbered from 10-9a-506, as renumbered and amended by Laws of Utah 2005, Chapter 254)
10-20-604,
(Effective 11/06/25)
(Renumbered from 10-9a-508.1, as enacted by Laws of Utah 2025, Chapter 399)
10-20-605,
(Effective 11/06/25)
(Renumbered from 10-9a-509.7, as last amended by Laws of Utah 2025, Chapter 399)
10-20-606,
(Effective 11/06/25)
(Renumbered from 10-9a-511.5, as last amended by Laws of Utah 2021, Chapter 102)
10-20-607,
(Effective 11/06/25)
(Renumbered from 10-9a-512, as last amended by Laws of Utah 2018, Chapter 239)
10-20-608,
(Effective 11/06/25)
(Renumbered from 10-9a-513, as last amended by Laws of Utah 2018, Chapter 239)
10-20-609,
(Effective 11/06/25)
(Renumbered from 10-9a-515, as renumbered and amended by Laws of Utah 2005, Chapter 254)
10-20-610,
(Effective 11/06/25)
(Renumbered from 10-9a-516, as repealed and reenacted by Laws of Utah 2013, Chapter 309)
10-20-611,
(Effective 11/06/25)
(Renumbered from 10-9a-521, as last amended by Laws of Utah 2022, Chapter 216)
10-20-612,
(Effective 11/06/25)
(Renumbered from 10-9a-522, as enacted by Laws of Utah 2010, Chapter 306)
10-20-613,
(Effective 11/06/25)
(Renumbered from 10-9a-525, as last amended by Laws of Utah 2025, Chapter 469)
10-20-614,
(Effective 11/06/25)

(Renumbered from 10-9a-528, as last amended by Laws of Utah 2024, Chapter 238)
10-20-615,
(Effective 11/06/25)
(Renumbered from 10-9a-529, as last amended by Laws of Utah 2025, Chapters 40, 399)
10-20-616,
(Effective 11/06/25)
(Renumbered from 10-9a-531, as enacted by Laws of Utah 2021, Chapter 15)
10-20-617,
(Effective 11/06/25)
(Renumbered from 10-9a-533, as enacted by Laws of Utah 2021, Chapter 385)
10-20-618,
(Effective 11/06/25)
(Renumbered from 10-9a-534, as last amended by Laws of Utah 2025, Chapter 449)
10-20-619,
(Effective 11/06/25)
(Renumbered from 10-9a-536, as last amended by Laws of Utah 2025, Chapter 399)
10-20-620,
(Effective 11/06/25)
(Renumbered from 10-9a-537, as last amended by Laws of Utah 2024, Chapter 336)
10-20-621,
(Effective 11/06/25)
(Renumbered from 10-9a-538, as enacted by Laws of Utah 2024, Chapter 431)
10-20-622,
(Effective 11/06/25)
(Renumbered from 10-9a-539, as enacted by Laws of Utah 2024, Chapter 329)
10-20-623,
(Effective 11/06/25)
(Renumbered from 10-9a-540, as enacted by Laws of Utah 2024, Chapter 415)
10-20-624,
(Effective 11/06/25)
(Renumbered from 10-9a-544, as enacted by Laws of Utah 2025, Chapter 228)
10-20-701,
(Effective 11/06/25)
(Renumbered from 10-9a-901, as last amended by Laws of Utah 2025, Chapter 387)
10-20-702,
(Effective 11/06/25)
(Renumbered from 10-9a-902, as last amended by Laws of Utah 2025, Chapter 387)
10-20-703,
(Effective 11/06/25)
(Renumbered from 10-9a-903, as last amended by Laws of Utah 2025, Chapter 387)
10-20-704,
(Effective 11/06/25)
(Renumbered from 10-9a-905, as last amended by Laws of Utah 2025, Chapter 387)
10-20-801,
(Effective 11/06/25)
(Renumbered from 10-9a-601, as last amended by Laws of Utah 2022, Chapter 355)
10-20-802,
(Effective 11/06/25)
(Renumbered from 10-9a-602, as last amended by Laws of Utah 2019, Chapter 384)
10-20-803,
(Effective 11/06/25)
(Renumbered from 10-9a-603, as last amended by Laws of Utah 2022, Chapter 355)
10-20-804,
(Effective 11/06/25)
(Renumbered from 10-9a-604, as last amended by Laws of Utah 2021, Chapter 47)
10-20-805,
(Effective 11/06/25)
(Renumbered from 10-9a-604.1, as enacted by Laws of Utah 2023, Chapter 501)
10-20-806,
(Effective 11/06/25)
(Renumbered from 10-9a-604.2, as last amended by Laws of Utah 2024, Chapter 415)
10-20-807,
(Effective 11/06/25)
(Renumbered from 10-9a-604.5, as last amended by Laws of Utah 2025, Chapter 399)
10-20-808,

(Effective 11/06/25)
(Renumbered from 10-9a-605, as last amended by Laws of Utah 2025, Chapter 40)
10-20-809,
(Effective 11/06/25)
(Renumbered from 10-9a-606, as last amended by Laws of Utah 2017, Chapter 405)
10-20-810,
(Effective 11/06/25)
(Renumbered from 10-9a-607, as last amended by Laws of Utah 2019, Chapter 384)
10-20-811,
(Effective 11/06/25)
(Renumbered from 10-9a-608, as last amended by Laws of Utah 2025, Chapter 40)
10-20-812,
(Effective 11/06/25)
(Renumbered from 10-9a-609, as last amended by Laws of Utah 2019, Chapter 384)
10-20-813,
(Effective 11/06/25)
(Renumbered from 10-9a-609.5, as last amended by Laws of Utah 2021, Chapter 385)
10-20-814,
(Effective 11/06/25)
(Renumbered from 10-9a-610, as renumbered and amended by Laws of Utah 2005, Chapter 254)
10-20-815,
(Effective 11/06/25)
(Renumbered from 10-9a-611, as last amended by Laws of Utah 2020, Chapter 434)
10-20-816,
(Effective 11/06/25)
(Renumbered from 10-9a-904, as enacted by Laws of Utah 2019, Chapter 227)
10-20-901,
(Effective 11/06/25)
(Renumbered from 10-9a-306, as enacted by Laws of Utah 2017, Chapter 84)
10-20-902,
(Effective 11/06/25)
(Renumbered from 10-9a-509, as last amended by Laws of Utah 2025, Chapter 399)
10-20-903,
(Effective 11/06/25)
(Renumbered from 10-9a-527, as enacted by Laws of Utah 2017, Chapter 17)
10-20-904,
(Effective 11/06/25)
(Renumbered from 10-9a-510, as last amended by Laws of Utah 2025, Chapters 62, 399)
10-20-905,
(Effective 11/06/25)
(Renumbered from 10-9a-509.5, as last amended by Laws of Utah 2025, Chapter 399)
10-20-906,
(Effective 11/06/25)
(Renumbered from 10-9a-523, as last amended by Laws of Utah 2025, Chapter 40)
10-20-907,
(Effective 11/06/25)
(Renumbered from 10-9a-524, as last amended by Laws of Utah 2025, Chapter 40)
10-20-908,
(Effective 11/06/25)
(Renumbered from 10-9a-541, as enacted by Laws of Utah 2025, Chapter 399)
10-20-909,
(Effective 11/06/25)
(Renumbered from 10-9a-542, as renumbered and amended by Laws of Utah 2025, Chapter 399)
10-20-911,
(Effective 11/06/25)
(Renumbered from 10-9a-508, as last amended by Laws of Utah 2025, Chapter 399)
10-20-1001,
(Effective 11/06/25)
(Renumbered from 10-9a-802, as last amended by Laws of Utah 2025, Chapter 399)
10-20-1002,
(Effective 11/06/25)
(Renumbered from 10-9a-803, as last amended by Laws of Utah 2012, Chapter 218)
10-20-1003,
(Effective 11/06/25)
(Renumbered from 10-9a-511, as last amended by Laws of Utah 2022, Chapter 355)

10-20-1101,
(Effective 11/06/25)
(Renumbered from 10-9a-701, as last amended by Laws of Utah 2025, Chapter 399)
10-20-1102,
(Effective 11/06/25)
(Renumbered from 10-9a-702, as renumbered and amended by Laws of Utah 2005, Chapter 254)
10-20-1103,
(Effective 11/06/25)
(Renumbered from 10-9a-703, as last amended by Laws of Utah 2020, Chapter 434)
10-20-1104,
(Effective 11/06/25)
(Renumbered from 10-9a-704, as last amended by Laws of Utah 2020, Chapter 434)
10-20-1105,
(Effective 11/06/25)
(Renumbered from 10-9a-705, as enacted by Laws of Utah 2005, Chapter 254)
10-20-1106,
(Effective 11/06/25)
(Renumbered from 10-9a-706, as enacted by Laws of Utah 2005, Chapter 254)
10-20-1107,
(Effective 11/06/25)
(Renumbered from 10-9a-707, as last amended by Laws of Utah 2019, Chapter 384)
10-20-1108,
(Effective 11/06/25)
(Renumbered from 10-9a-708, as last amended by Laws of Utah 2020, Chapter 126)
10-20-1109,
(Effective 11/06/25)
(Renumbered from 10-9a-801, as last amended by Laws of Utah 2022, Chapter 355)
10-20-1110,
(Effective 11/06/25)
(Renumbered from 10-9a-804, as enacted by Laws of Utah 2025, Chapter 464)
10-21-101,
(Effective 11/06/25)
(Renumbered from 10-9a-1001, as enacted by Laws of Utah 2024, Chapter 431)
10-21-202,
(Effective 11/06/25)
(Renumbered from 10-9a-408, as last amended by Laws of Utah 2025, Chapter 385)
10-21-203,
(Effective 11/06/25)
(Renumbered from 10-9a-403.1, as last amended by Laws of Utah 2025, Chapter 452)
10-21-301,
(Effective 11/06/25)
(Renumbered from 10-9a-535, as last amended by Laws of Utah 2025, Chapter 385)
10-21-302,
(Effective 11/06/25)
(Renumbered from 10-9a-514, as last amended by Laws of Utah 2025, Chapter 354)
10-21-303,
(Effective 11/06/25)
(Renumbered from 10-9a-530, as last amended by Laws of Utah 2023, Chapter 501)
10-21-401,
(Effective 11/06/25)
(Renumbered from 10-9a-403.2, as enacted by Laws of Utah 2025, Chapter 385)
10-21-402,
(Effective 11/06/25)
(Renumbered from 10-9a-403.3, as enacted by Laws of Utah 2025, Chapter 385)
10-21-501,
(Effective 11/06/25)
(Renumbered from 10-9a-1002, as enacted by Laws of Utah 2024, Chapter 431)
10-21-502,
(Effective 11/06/25)
(Renumbered from 10-9a-1003, as enacted by Laws of Utah 2024, Chapter 431)
10-21-503,
(Effective 11/06/25)
(Renumbered from 10-9a-1004, as enacted by Laws of Utah 2024, Chapter 431)
10-21-504,
(Effective 11/06/25)

(Renumbered from 10-9a-1005, as last amended by Laws of Utah 2025, Chapter 464)

REPEALS:

10-9a-101,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2005, Chapter 254

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-406 is amended to read:
4-41a-406
(Effective 11/06/25)
. Local control.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102 and includes a closed-door medical cannabis pharmacy.

(b) "Land use application" means the same as that term is defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102.

(c) "Land use decision" means the same as that term is defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102.

(d) "Land use permit" means the same as that term is defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102.

(e) "Land use regulation" means the same as that term is defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102.

(2) (a) If a municipality's or county's zoning ordinances provide for an industrial zone, the operation of a cannabis production establishment shall be a permitted industrial use in any industrial zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one industrial zone in which the operation of a cannabis production establishment is a permitted use.

(b) If a municipality's or county's zoning ordinances provide for an agricultural zone, the operation of a cannabis production establishment shall be a permitted agricultural use in any agricultural zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one agricultural zone in which the operation of a cannabis production establishment is a permitted use.

(c) The operation of a cannabis production establishment shall be a permitted use on land that the municipality or county has not zoned.

(3) A municipality or county may not:

(a) on the sole basis that the applicant, or cannabis production establishment violates federal law regarding the legal status of cannabis, deny or revoke:

(i) a land use permit to operate a cannabis production facility; or

(ii) a business license to operate a cannabis production facility; or

(b) require a certain distance between a cannabis production establishment and:

(i) another cannabis production establishment;

(ii) a medical cannabis pharmacy;

(iii) a retail tobacco specialty business, as that term is defined in Section 26B-7-501; or

(iv) an outlet, as that term is defined in Section 32B-1-202.

(4) (a) Subject to the provisions of this section, when evaluating and approving a land use application for a cannabis production establishment:

(i) a municipality shall comply with Section [~~10-9a-509~~]10-20-902; and

(ii) a county shall comply with Section [~~17-27a-508~~]17-79-803.

(b) An applicant for a land use permit to operate a cannabis production establishment shall comply with the land use requirements and application process described in:

(i) [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act; and

(ii) [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act.

Section 2. Section 4-41a-1105 is amended to read:
4-41a-1105
(Effective 11/06/25)
. Local control.

(1) The operation of a medical cannabis pharmacy:

(a) shall be a permitted use:

(i) in any zone, overlay, or district within the municipality or county except for a primarily residential zone; and

(ii) on land that the municipality or county has not zoned; and

(b) is subject to the land use regulations, as defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102, that apply in the underlying zone.

(2) A municipality or county may not:

(a) on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis, deny or revoke:

(i) a land use permit, as that term is defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102, to operate a medical cannabis pharmacy; or

(ii) a business license to operate a medical cannabis pharmacy;

(b) require a certain distance between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy;

(ii) a cannabis production establishment;

(iii) a retail tobacco specialty business, as that term is defined in Section 26B-7-506; or

(iv) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with [~~Subsections 10-9a-509(1)~~]Sections 10-20-902 and [~~17-27a-508(1)~~]17-79-803, enforce a land use regulation against a medical cannabis pharmacy that was not in effect on the day on which the medical cannabis pharmacy submitted a complete land use application.

(3) (a) A municipality or county may enact an ordinance that:

(i) is not in conflict with this chapter; and

(ii) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.

(b) An ordinance that a municipality or county enacts under Subsection (3)(a) may not restrict the hours of operation from 7 a.m. to 10 p.m.

(4) An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application process described in:

(a) [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act, including Section [~~10-9a-528~~]10-20-614; and

(b) [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act, including Section [~~17-27a-525~~]17-79-610.

Section 3. Section 4-46-302 is amended to read:

4-46-302

(Effective 11/06/25)

. Program -- Use of money in fund -- Criteria -- Administration.

(1) Subject to Subsection (2), the board shall administer the LeRay McAllister Working Farm and Ranch Fund Program under which the board may authorize the use of money in the fund, by grant, to:

(a) a local entity;

(b) the Department of Natural Resources created under Section 79-2-201;

(c) an entity within the department; or

(d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code.

(2) (a) The money in the fund shall be used for preserving or restoring open land and agricultural land.

(b) Except as provided in Subsection (2)(c), money from the fund:

(i) may be used to:

(A) establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act; or

(B) fund similar methods to preserve open land or agricultural land; and

(ii) may not be used to purchase a fee interest in real property to preserve open land or agricultural land.

(c) Money from the fund may be used to purchase a fee interest in real property to preserve open land or agricultural land if:

(i) the property to be purchased is no more than 20 acres in size; and

(ii) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.

(d) Eminent domain may not be used or threatened in connection with any purchase using money from the fund.

(e) A parcel of land larger than 20 acres in size may not be divided to create one or more parcels that are smaller than 20 acres in order to comply with Subsection (2)(c)(i).

(f) A local entity, department, or organization under Subsection (1) may not receive money from the fund unless the local entity, department, or organization provides matching funds equal to or greater than the amount of money received from the fund.

(g) In granting money from the fund, the board may impose conditions on the recipient as to how the money is to be spent.

(h) The board shall give priority to:

(i) working agricultural land; and

(ii) after giving priority to working agricultural land under Subsection (2)(h)(i), requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the fund if the money is used for the protection of wildlife or watershed.

(i) (i) The board may not make a grant from the fund that exceeds $1,000,000 until after making a report to the Legislative Management Committee about the grant.

(ii) The Legislative Management Committee may make a recommendation to the board concerning the intended grant, but the recommendation is not binding on the board.

(3) In determining the amount and type of financial assistance to provide a local entity, department, or organization under Subsection (1) and subject to Subsection (2)(i), the board shall consider:

(a) the nature and amount of open land and agricultural land proposed to be preserved or restored;

(b) the qualities of the open land and agricultural land proposed to be preserved or restored;

(c) the cost effectiveness of the project to preserve or restore open land or agricultural land;

(d) the funds available;

(e) the number of actual and potential applications for financial assistance and the amount of money sought by those applications;

(f) the open land preservation plan of the local entity where the project is located and the priority placed on the project by that local entity;

(g) the effects on housing affordability and diversity; and

(h) whether the project protects against the loss of private property ownership.

(4) If a local entity, department, or organization under Subsection (1) seeks money from the fund for a project whose purpose is to protect critical watershed, the board shall require that the needs and quality of that project be verified by the state engineer.

(5) An interest in real property purchased with money from the fund shall be held and administered by the state or a local entity.

(6) (a) The board may not authorize the use of money under this section for a project unless the land use authority for the land in which the project is located consents to the project.

(b) (i) To obtain consent to a project, the person who is seeking money from the fund shall submit a request for consent to a project with the applicable land use authority.

(ii) The land use authority may grant or deny consent.

(iii) If the land use authority does not take action within 60 days from the day on which the request for consent is filed with the land use authority under this Subsection (6), the board shall treat the project as having the consent of the land use authority.

(c) An action of a land use authority under this Subsection (6) is not a land use decision subject to:

(i) [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act; or

(ii) [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act.

Section 4. Section 10-8-2 is amended to read:

10-8-2

(Effective 11/06/25)

. Appropriations -- Acquisition and disposal of property -- Municipal authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.

(1) (a) Subject to Section 11-41-103, a municipal legislative body may:

(i) appropriate money for corporate purposes only;

(ii) provide for payment of debts and expenses of the corporation;

(iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and dispose of real and personal property for the benefit of the municipality, whether the property is within or without the municipality's corporate boundaries, if the action is in the public interest and complies with other law;

(iv) improve, protect, and do any other thing in relation to this property that an individual could do; and

(v) subject to Subsection (2) and after first holding a public hearing, authorize municipal services or other nonmonetary assistance to be provided to or waive fees required to be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

(b) A municipality may:

(i) furnish all necessary local public services within the municipality;

(ii) purchase, hire, construct, own, maintain and operate, or lease public utilities located and operating within and operated by the municipality; and

(iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property located inside or outside the corporate limits of the municipality and necessary for any of the purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

(c) Each municipality that intends to acquire property by eminent domain under Subsection (1)(b) shall comply with the requirements of Section 78B-6-505.

(d) Subsection (1)(b) may not be construed to diminish any other authority a municipality may claim to have under the law to acquire by eminent domain property located inside or outside the municipality.

(2) (a) Services or assistance provided [~~pursuant to~~]in accordance with Subsection (1)(a)(v) is not subject to the provisions of Subsection (3).

(b) The total amount of services or other nonmonetary assistance provided or fees waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the municipality's budget for that fiscal year.

(3) It is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to this Subsection (3).

(a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.

(b) (i) A municipal legislative body shall establish the criteria for a determination under this Subsection (3).

(ii) A municipal legislative body's determination of value received is presumed valid unless a person can show that the determination was arbitrary, capricious, or illegal.

(c) The municipality may consider intangible benefits received by the municipality in determining net value received.

(d) (i) Before the municipal legislative body makes any decision to appropriate any funds for a corporate purpose under this section, the municipal legislative body shall hold a public hearing.

(ii) For at least 14 days before the date of the hearing, the municipal legislative body shall publish a notice of the hearing described in Subsection (3)(d)(i) for the municipality, as a class A notice under Section 63G-30-102.

(e) (i) Before a municipality provides notice as described in Subsection (3)(d)(ii), the municipality shall perform a study that analyzes and demonstrates the purpose for an appropriation described in this Subsection (3) in accordance with Subsection (3)(e)(iii).

(ii) A municipality shall make the study described in Subsection (3)(e)(i) available at the municipality for review by interested parties at least 14 days immediately before the public hearing described in Subsection (3)(d)(i).

(iii) A municipality shall consider the following factors when conducting the study described in Subsection (3)(e)(i):

(A) what identified benefit the municipality will receive in return for any money or resources appropriated;

(B) the municipality's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the

safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality; and

(C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the municipality in the area of economic development, job creation, affordable housing, elimination of a development impediment, job preservation, the preservation of historic structures and property, and any other public purpose.

(f) (i) An appeal may be taken from a final decision of the municipal legislative body, to make an appropriation.

(ii) A person shall file an appeal as described in Subsection (3)(f)(i) with the district court within 30 days after the day on which the municipal legislative body makes a decision.

(iii) Any appeal shall be based on the record of the proceedings before the legislative body.

(iv) A decision of the municipal legislative body shall be presumed to be valid unless the appealing party shows that the decision was arbitrary, capricious, or illegal.

(g) The provisions of this Subsection (3) apply only to those appropriations made after May 6, 2002.

(h) This section applies only to appropriations not otherwise approved [~~pursuant to~~]in accordance with Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

(4) (a) Before a municipality may dispose of a significant parcel of real property, the municipality shall:

(i) provide notice of the proposed disposition for the municipality, as a class A notice under Section 63G-30-102, for at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and

(ii) allow an opportunity for public comment on the proposed disposition.

(b) Each municipality shall, by ordinance, define what constitutes a significant parcel of real property for purposes of Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire real property for the purpose of expanding the municipality's infrastructure or other facilities used for providing services that the municipality offers or intends to offer shall provide written notice, as provided in this Subsection (5), of its intent to acquire the property if:

(i) the property is located:

(A) outside the boundaries of the municipality; and

(B) in a county of the first or second class; and

(ii) the intended use of the property is contrary to:

(A) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

(B) the property's current zoning designation.

(b) Each notice under Subsection (5)(a) shall:

(i) indicate that the municipality intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (5) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality previously provided notice under Section [~~10-9a-203~~]10-20-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a municipality is not required to comply with the notice requirement of Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real property.

Section 5. Section 10-8-85.4 is amended to read:

10-8-85.4

(Effective 11/06/25)

. Ordinances regarding short-term rentals -- Prohibition on ordinances restricting speech on short-term rental websites -- Evidence of short-term rental -- Removing a listing.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means the same as that term is defined in Section [~~10-9a-511.5~~]10-20-606.

(b) "Permit number" means a unique identifier issued by a municipality and may include a business license number.

(c) "Request" means a formal inquiry made by a municipality to a short-term rental website that is not a legal requirement.

(d) "Residential unit" means a residential structure or any portion of a residential structure that is occupied as a residence.

(e) "Short-term rental" means a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days.

(f) "Short-term rental website" means a website or other digital platform that:

(i) allows a person to offer a short-term rental to one or more prospective renters; and

(ii) facilitates the renting of, and payment for, a short-term rental.

(g) "URL" means uniform resource locater.

(2) Notwithstanding Section [~~10-9a-501~~]10-20-501 or [~~Subsection 10-9a-503(1)~~]10-20-503, a legislative body may not:

(a) enact or enforce an ordinance that prohibits an individual from listing or offering a short-term rental on a short-term rental website; or

(b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term rental on a short-term rental website.

(3) If a municipality regulates short-term rentals, Subsection (2)(b) does not prevent the municipality from using a listing or offering of a short-term rental on a short-term rental website as evidence that a short-term rental took place so long as the municipality has additional information to support the position that an owner or lessee violated a municipal ordinance.

(4) A municipality may adopt an ordinance requiring the owner or lessee of a short-term rental to obtain a business license or other permit from the municipality before operating a short-term rental within the municipality.

(5) (a) A municipality may not regulate a short-term rental website.

(b) If a municipality allows short-term rentals within a portion of or all residential or commercial zones in the municipality, the municipal legislative body may request a short-term rental website to remove a short-term rental listing or offering from the short-term rental website after notice from the municipality, as described in Subsection (6), only if the short-term rental is operating in violation of business license requirements or zoning requirements.

(6) A municipality that provides a notice to a short-term rental website that a short-term rental within the municipality is in violation of the municipality's business licensing requirements or zoning requirements shall identify in the notice:

(a) the listing or offering to be removed by the listing's offering's URL; and

(b) the reason for the requested removal.

(7) If a legislative body imposes transient room tax on the rental of rooms in hotels, motels, inns, trailer courts, campgrounds, tourist homes, and similar accommodations for stays of less than 30 consecutive days as authorized by Section 59-12-352 or 59-12-353:

(a) the municipality may provide the listing or offering of a short-term rental on a short-term rental website to the county auditor as evidence that the owner or lessee of a short-term rental may be subject to the transient room tax; and

(b) the county auditor may utilize the listing or offering of a short-term rental on a short-term rental website when making a referral to the State Tax Commission, as described in Section 59-12-302.

(8) Subsection (2) does not apply to an individual who lists or offers an internal accessory dwelling unit as a short-term rental on a short-term rental website if the municipality records a notice for the internal accessory dwelling unit under Subsection [~~10-9a-530(6)~~]10-21-303(5).

Section 6. Section 10-8-85.10 is amended to read:

10-8-85.10

(Effective 11/06/25)

. Ordinances regarding co-ownership -- Prohibition on municipal ordinances restricting co-ownership models.

(1) As used in this section:

(a) "Co-owned home" means any residential unit that is jointly owned, in any manner or form, by any combination of individuals or entities.

(b) "Residential unit" means the same as that term is defined in Section 10-8-85.4.

(2) Notwithstanding Section [~~10-9a-501~~]10-20-501 and Subsection [~~10-9a-503(1)~~]10-20-503(1), a municipal legislative body may not:

(a) adopt or enforce a land use regulation that regulates co-owned homes differently than other residential units; or

(b) use a land use regulation governing co-owned homes to fine, charge, prosecute, or otherwise punish an individual solely for the act of owning or using a co-owned home.

(3) Notwithstanding Subsection (2), a legislative body may adopt and enforce land use regulations, if the regulations are applied equally to all residential units, including co-owned homes.

(4) This section does not limit private individuals or associations from adopting rules or regulations governing co-owned homes.

(5) Nothing in this section limits a municipality's authority to adopt or enforce regulations regarding:

(a) accessory dwelling units, as defined in Section [~~10-9a-103~~]10-20-102;

(b) internal accessory dwelling units, as defined in Section [~~10-9a-511.5~~]10-21-101; or

(c) the rental of a residential unit for fewer than 30 days consistent with Section 10-8-85.4.

Section 7. Section 10-8-87 is amended to read:

10-8-87

(Effective 11/06/25)

. Transportation connectivity plan -- Reporting.

(1) On or before July 1, 2027, a municipality within a metropolitan planning organization boundary shall, in consultation with relevant stakeholders, update the transportation and traffic circulation element of the municipality's general plan as described in Subsection [~~10-9a-403(2)(a)(ii)~~]10-20-404(2)(a)(ii) to identify priority connections to remedy physical impediments, including water conveyances, that would improve circulation and enhance vehicle, transit, bicycle, or pedestrian access to significant economic, educational, recreational, and other priority destinations.

(2) For a priority connection identified [~~pursuant to~~]in accordance with Subsection (1), a municipality shall identify:

(a) cost estimates;

(b) potential funding sources, including state, local, federal, and private funding; and

(c) impediments to constructing the connections.

(3) (a) A metropolitan planning organization, in consultation with each affected municipality, shall report to the Transportation Interim Committee regarding:

(i) the status of the required municipal modifications to general plans required by Subsection (2);

(ii) the status of a regional roadway grid network study;

(iii) physical and other impediments to constructing priority transportation connections; and

(iv) potential funding sources, including state, local, federal, and private funding, to make transportation connectivity improvements.

(b) The metropolitan planning organization shall provide the report described in Subsection (3)(a) on or before November 1 of 2025, 2026, and 2027.

(4) Enhancement of transportation connectivity as described in Subsection (1) shall be given consideration in the prioritization processes described in Sections 72-1-304 and 72-2-302.

Section 8. Section 10-20-101, which is renumbered from Section 10-9a-102 is renumbered and amended to read:

CHAPTER 20. Municipal Land Use, Development, and Management Act

PART 1. General Provisions

[~~10-9a-102~~]10-20-101
(Effective 11/06/25)
. Purposes -- General land use authority.

(1) The purposes of this chapter are to:

(a) provide for the health, safety, and welfare;

(b) promote the prosperity;

(c) improve the morals, peace, good order, comfort, convenience, and aesthetics of each municipality and each municipality's present and future inhabitants and businesses;

(d) protect the tax base;

(e) secure economy in governmental expenditures;

(f) foster the state's agricultural and other industries;

(g) protect both urban and nonurban development;

(h) protect and ensure access to sunlight for solar energy devices;

(i) provide fundamental fairness in land use regulation;

(j) facilitate orderly growth, allow growth in a variety of housing types, and contribute toward housing affordability; and

(k) protect property values.

(2) To accomplish the purposes of this chapter, a municipality may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the municipality considers necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:

(a) uses;

(b) density;

(c) open spaces;

(d) structures;

(e) buildings;

(f) energy efficiency;

(g) light and air;

(h) air quality;

(i) transportation and public or alternative transportation;

(j) infrastructure;

(k) street and building orientation;

(l) width requirements;

(m) public facilities;

(n) fundamental fairness in land use regulation; and

(o) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.

(3) (a) Any ordinance, resolution, or rule enacted by a municipality [~~pursuant to~~]in accordance with its authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(b) A municipality may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the municipality demonstrates that the regulation:

(i) is necessary for the purposes of this chapter;

(ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and

(iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

Section 9. Section 10-20-102, which is renumbered from Section 10-9a-103 is renumbered and amended to read:
[~~10-9a-103~~]10-20-102
(Effective 11/06/25)
. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with [~~Subsection~~]Section 20A-7-601[~~(6)~~]; and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Boundary adjustment" means an agreement between adjoining property owners to relocate a common boundary that results in a conveyance of property between the adjoining lots, adjoining parcels, or adjoining lots and parcels.

(b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:

(i) creates an additional lot or parcel; or

(ii) is made by the Department of Transportation.

(8) (a) "Boundary establishment" means an agreement between adjoining property owners to clarify the location of an ambiguous, uncertain, or disputed common boundary.

(b) "Boundary establishment" does not mean a modification of a lot or parcel boundary that:

(i) creates an additional lot or parcel; or

(ii) is made by the Department of Transportation.

(9) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(10) "Building code adoption cycle" means the period of time beginning the day on which a specific edition of a construction code from a nationally recognized code authority is adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day before a new edition of a construction code is adopted and effective in Title 15A, State Construction and Fire Codes Act.

(11) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(12) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(13) "Conveyance document" means an instrument that:

(a) meets the definition of "document" in Section 57-1-1; and

(b) meets the requirements of Section 57-1-45.5.

(14) "Conveyance of property" means the transfer of ownership of any portion of real property from one person to another person.

(15) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(16) "Department of Transportation" means the entity created in Section 72-1-201.

(17) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(18) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(19) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in [~~Section 102 of~~]the Controlled Substances Act, 21 U.S.C. 802.

(20) "Document" means the same as that term is defined in Section 57-1-1.

(21) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (21)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (21)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (21)(a)(i); or

(ii) a therapeutic school.

(22) "Establishment document" means an instrument that:

(a) meets the definition of "document" in Section 57-1-1; and

(b) meets the requirements of Section 57-1-45.

(23) "Full boundary adjustment" means a boundary adjustment that is not a simple boundary adjustment.

(24) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(25) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(26) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(27) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(28) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(29) "Home-based microschool" means the same as that term is defined in Section 53G-6-201.

(30) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(31) (a) "Identical plans" means floor plans submitted to a municipality that:

(i) are submitted within the same building code adoption cycle as floor plans that were previously approved by the municipality;

(ii) have no structural differences from floor plans that were previously approved by the municipality; and

(iii) describe a building that:

(A) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(B) has a substantially identical floor plan to a floor plan previously approved by the municipality; and

(C) does not require any engineering or analysis beyond a review to confirm the submitted floor plans are substantially identical to a floor plan previously approved by the municipality or a review of the site plan and associated geotechnical reports for the site.

(b) "Identical plans" include floor plans that are oriented differently as the floor plan that was previously approved by the municipality.

(32) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(33) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(34) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(35) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required public landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines, based on accepted industry standards and for good cause, that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(36) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant [~~must~~]shall install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(37) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(38) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(39) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(40) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(41) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit; or

(b) a land use application.

(42) "Land use permit" means a permit issued by a land use authority.

(43) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, engineering or development standard, specification for public improvement, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(44) "Legislative body" means the municipal council.

(45) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

(46) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(47) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2202.

(48) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.

(49) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(50) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section [~~10-9a-529~~]10-20-615 and is used by a specified public utility.

(51) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(52) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(53) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(54) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

(55) "Parcel" means any real property that is not a lot.

(56) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(57) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

(58) "Planning commission" means the commission established under Section 10-20-301.

[~~(58)~~](59) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section [~~10-9a-603~~]10-20-803 or 57-8-13.

[~~(59)~~](60) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[~~(60)~~](61) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, special district, special service district, or other political subdivision of the state; or

(d) a charter school.

[~~(61)~~](62) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(62)~~](63) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(63)~~](64) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(64)~~](65) "Receiving zone" means an area that a municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(65)~~](66) "Record of survey map" means a map of a survey of land prepared in accordance with Section [~~17-23-17~~]17-73-504.

[~~(66)~~](67) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

[~~(67)~~](68) "Residential roadway" means a public local residential road that:

(a) will serve primarily to provide access to adjacent primarily residential areas and property;

(b) is designed to accommodate minimal traffic volumes or vehicular traffic;

(c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;

(d) has a posted speed limit of 25 miles per hour or less;

(e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;

(f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

[~~(68)~~](69) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(69)~~](70) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(70)~~](71) "Sending zone" means an area that a municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[~~(71)~~](72) "Simple boundary adjustment" means a boundary adjustment that does not:

(a) affect a public right-of-way, municipal utility easement, or other public property;

(b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or

(c) result in a lot or parcel out of conformity with land use regulations.

[~~(72)~~](73) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[~~(73)~~](74) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(74)~~](75) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(75)~~](76) "State" includes any department, division, or agency of the state.

[~~(76)~~](77) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection [~~(76)(c)~~](77)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of land used for agricultural purposes as provided in Subsection [~~10-9a-605(2)~~]10-20-808(2);

(ii) a recorded conveyance document:

(A) consolidating multiple lots or parcels into one legal description encompassing all lots by reference to a recorded plat and all parcels by metes and bounds description; or

(B) joining a lot to a parcel;

(iii) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(iv) a boundary adjustment;

(v) a boundary establishment;

(vi) a road, street, or highway dedication plat;

(vii) a deed or easement for a road, street, or highway purpose; or

(viii) any other division of land authorized by law.

[~~(77)~~](78) (a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section [~~10-9a-608~~]10-20-811 that:

(i) vacates all or a portion of the subdivision;

(ii) increases the number of lots within the subdivision;

(iii) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(iv) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a simple boundary adjustment.

[~~(78)~~](79) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

[~~(79)~~](80) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~(80)~~](81) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~(81)~~](82) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~(82)~~](83) "Unincorporated" means the area outside of the incorporated area of a city or town.

[~~(83)~~](84) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[~~(84)~~](85) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 10. Section 10-20-103, which is renumbered from Section 10-9a-104 is renumbered and amended to read:

[~~10-9a-104~~]10-20-103

(Effective 11/06/25)

. Municipal standards.

(1) This chapter does not prohibit a municipality from adopting the municipality's own land use standards.

(2) Notwithstanding Subsection (1), a municipality may not impose a requirement, regulation, condition, or standard that conflicts with a provision of this chapter, Chapter 21, Municipalities and Housing Supply, other state law, or federal law.

Section 11. Section 10-20-201, which is renumbered from Section 10-9a-201 is renumbered and amended to read:

PART 2. Notice

[~~10-9a-201~~]10-20-201

(Effective 11/06/25)

. Required notice.

(1) At a minimum, each municipality shall provide actual notice or the notice required by this part.

(2) A municipality may by ordinance require greater notice than required under this part.

Section 12. Section 10-20-202, which is renumbered from Section 10-9a-202 is renumbered and amended to read:

[~~10-9a-202~~]10-20-202

(Effective 11/06/25)

. Applicant notice -- Waiver of requirements.

(1) For each land use application, the municipality shall:

(a) notify the applicant of the date, time, and place of each public hearing and public meeting to consider the application;

(b) provide to each applicant a copy of each staff report regarding the applicant or the pending application at least three business days before the public hearing or public meeting; and

(c) notify the applicant of any final action on a pending application.

(2) If a municipality fails to comply with the requirements of Subsection (1)(a) or (b) or both, an applicant may waive the failure so that the application may stay on the public hearing or public meeting agenda and be considered as if the requirements had been met.

Section 13. Section 10-20-203, which is renumbered from Section 10-9a-203 is renumbered and amended to read:

[~~10-9a-203~~]10-20-203

(Effective 11/06/25)

. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain municipalities.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each municipality within a county of the first or second class shall provide 10 calendar days notice of the municipality's intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the Utah Geospatial Resource Center created in Section 63A-16-505;

(c) to the association of governments, established [~~pursuant to~~]in accordance with an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member; and

(d) for the municipality, as a class A notice under Section 63G-30-102, for at least 10 days.

(2) Each notice under Subsection (1) shall:

(a) indicate that the municipality intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the municipality that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the municipality has one, and the name and telephone number of an individual where more information can be obtained concerning the municipality's proposed general plan or amendment.

(3) A municipality shall send the newly adopted general plan and comprehensive general plan amendments to the relevant association of governments within 45 days of the date of adoption.

Section 14. Section 10-20-204, which is renumbered from Section 10-9a-204 is renumbered and amended to read:

[~~10-9a-204~~]10-20-204

(Effective 11/06/25)

. Notice of public hearings and public meetings to consider general plan or modifications.

(1) Each municipality shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:

(a) published for the municipality, as a class A notice under Section 63G-30-102, for at least 10 days; and

(b) mailed to each affected entity.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be published for the municipality, as a class A notice under Section 63G-30-102, for at least 24 hours.

Section 15. Section 10-20-205, which is renumbered from Section 10-9a-205 is renumbered and amended to read:

[~~10-9a-205~~]10-20-205

(Effective 11/06/25)

. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each municipality shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing; and

(b) (i) provided for the area directly affected by the land use ordinance change, as a class B notice under Section 63G-30-102, for at least 10 calendar days before the day of the public hearing; or

(ii) if the proposed land use ordinance adoption or modification is ministerial in nature, as described in Subsections (6)(a) and (b), provided as a class A notice under Section 63G-30-102 for at least 10 calendar days before the day of the public hearing.

(3) In addition to the notice requirements described in Subsections (1) and (2), for any proposed modification to the text of a zoning code, the notice posted in accordance with Subsection (2) shall:

(a) include:

(i) a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; or

(ii) a direct link to the municipality's webpage where a person can find a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; and

(b) be provided to any person upon written request.

(4) Each notice of a public meeting under Subsection (1)(b) shall be provided for the municipality, as a class A notice under Section 63G-30-102, for at least 24 hours before the meeting.

(5) (a) A municipality shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within a proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the municipality will be provided to the municipal legislative body; and

(viii) state the location, date, and time of the public hearing described in Section [~~10-9a-502~~]10-20-502.

(c) If a municipality mails notice to a property owner in accordance with Subsection (2)(b)(i) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (5) may be included in or part of the notice described in Subsection (2)(b)(i) rather than sent separately.

(6) (a) For purpose of the notice requirements in Subsection (2)(b) only, a proposed land use ordinance is ministerial in nature if the proposed land use ordinance is to:

(i) bring the municipality's land use ordinances into compliance with a state or federal law;

(ii) adopt a municipal land use update that affects:

(A) an entire zoning district; or

(B) multiple zoning districts;

(iii) adopt a non-substantive, clerical text amendment to an existing land use ordinance;

(iv) recodify the municipality's existing land use ordinances; or

(v) designate or define an affected area for purposes of a boundary adjustment or annexation.

(b) A proposed land use ordinance may include more than one of the purposes described in Subsection (6)(a) and remain ministerial in nature.

(c) If a proposed land use ordinance includes an adoption or modification not described in Subsection (6)(a):

(i) the proposed land use ordinance is not ministerial in nature, even if the proposed land use ordinance also includes a change or modification described in Subsection (6)(a); and

(ii) the notice requirements of Subsection (2)(b)(i) apply.

Section 16. Section 10-20-206, which is renumbered from Section 10-9a-206 is renumbered and amended to read:

[~~10-9a-206~~]10-20-206

(Effective 11/06/25)

. Third party notice -- High priority transportation corridor notice.

(1) (a) If a municipality requires notice to adjacent property owners, the municipality shall:

(i) mail notice to the record owner of each parcel within parameters specified by municipal ordinance; or

(ii) post notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.

(b) If a municipality mails notice to third party property owners under Subsection (1)(a), it shall mail equivalent notice to property owners within an adjacent jurisdiction.

(2) (a) As used in this Subsection (2), "high priority transportation corridor" means a transportation corridor identified as a high priority transportation corridor under Section 72-5-403.

(b) The Department of Transportation may request, in writing, that a municipality provide the department with electronic notice of each land use application received by the municipality that may adversely impact the development of a high priority transportation corridor.

(c) If the municipality receives a written request as provided in Subsection (2)(b), the municipality shall provide the Department of Transportation with timely electronic notice of each land use application that the request specifies.

(3) (a) A large public transit district, as defined in Section 17B-2a-802, may request, in writing, that a municipality provide the large public transit district with electronic notice of each land use application received by the municipality that may impact the development of a major transit investment corridor.

(b) If the municipality receives a written request as provided in Subsection (3)(a), the municipality shall provide the large public transit district with timely electronic notice of each land use application that the request specifies.

Section 17. Section 10-20-207, which is renumbered from Section 10-9a-207 is renumbered and amended to read:

[~~10-9a-207~~]10-20-207

(Effective 11/06/25)

. Notice for an amendment to a subdivision -- Notice for vacation of or change to street.

(1) (a) For an amendment to a subdivision, each municipality shall provide notice of the date, time, and place of at least one public meeting, as provided in Subsection (1)(b).

(b) At least 10 calendar days before the public meeting, the notice required under Subsection (1)(a) shall be:

(i) mailed and addressed to the record owner of each parcel within specified parameters of that property; or

(ii) posted on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.

(2) Each municipality shall provide notice as required by Section [~~10-9a-208~~]10-20-208 for a subdivision that involves a vacation, alteration, or amendment of a street.

Section 18. Section 10-20-208, which is renumbered from Section 10-9a-208 is renumbered and amended to read:

[~~10-9a-208~~]10-20-208

(Effective 11/06/25)

. Hearing and notice for petition to vacate a public street.

(1) For any petition to vacate some or all of a public street or municipal utility easement the legislative body shall:

(a) hold a public hearing; and

(b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1)(a), the legislative body shall ensure that the notice required under Subsection (1)(b) is:

(a) mailed to the record owner of each parcel that is accessed by the public street or municipal utility easement;

(b) mailed to each affected entity; and

(c) provided for the public street or municipal utility easement, as a class A notice under Section 63G-30-102, for at least 10 days.

Section 19. Section 10-20-209, which is renumbered from Section 10-9a-209 is renumbered and amended to read:

[~~10-9a-209~~]10-20-209

(Effective 11/06/25)

. Notice challenge.

If notice given under authority of this part is not challenged under Section [~~10-9a-801~~]10-20-1109 within 30 days after the meeting or action for which notice is given, the notice is considered adequate and proper.

Section 20. Section 10-20-210, which is renumbered from Section 10-9a-210 is renumbered and amended to read:

[~~10-9a-210~~]10-20-210

(Effective 11/06/25)

. Notice to municipality when a private institution of higher education is constructing student housing.

(1) Each private institution of higher education that intends to construct student housing on property owned by the institution shall provide written notice of the intended construction, as provided in Subsection (2), before any funds are committed to the construction, if any of the proposed student housing buildings is within 300 feet of privately owned residential property.

(2) Each notice under Subsection (1) shall be provided to the legislative body and, if applicable, the mayor of:

(a) the county in whose unincorporated area the privately owned residential property is located; or

(b) the municipality in whose boundaries the privately owned residential property is located.

(3) At the request of a county or municipality that is entitled to notice under this section, the institution and the legislative body of the affected county or municipality shall jointly hold a public hearing to provide information to the public and receive input from the public about the proposed construction.

Section 21. Section 10-20-211, which is renumbered from Section 10-9a-211 is renumbered and amended to read:

[~~10-9a-211~~]10-20-211

(Effective 11/06/25)

. Canal owner or operator -- Notice to municipality.

(1) A canal company or a canal operator shall ensure that each municipality in which the canal company or canal operator owns or operates a canal has on file, regarding the canal company or canal operator:

(a) a current mailing address and phone number;

(b) a contact name; and

(c) a general description of the location of each canal owned or operated by the canal owner or canal operator.

(2) If the information described in Subsection (1) changes after a canal company or a canal operator has provided the information to the municipality, the canal company or canal operator shall provide the correct information to the municipality within 30 days of the day on which the information changes.

Section 22. Section 10-20-212, which is renumbered from Section 10-9a-212 is renumbered and amended to read:

[~~10-9a-212~~]10-20-212

(Effective 11/06/25)

. Notice for an amendment to public improvements in a subdivision or development.

Before implementing an amendment to adopted specifications for public improvements that apply to a subdivision or a development, a municipality shall:

(1) hold a public hearing;

(2) mail a notice 30 days or more before the date of the public hearing to:

(a) each person who has submitted a land use application for which the land use authority has not issued a land use decision; and

(b) each person who makes a written request to receive a copy of the notice; and

(3) allow each person who receives a notice in accordance with Subsection (2) to provide public comment in writing before the public hearing or in person during the public hearing.

Section 23. Section 10-20-213, which is renumbered from Section 10-9a-213 is renumbered and amended to read:

[~~10-9a-213~~]10-20-213

(Effective 11/06/25)

. Hearing and notice procedures for modifying sign regulations.

(1) (a) [~~Prior to~~]Before any hearing or public meeting to consider a proposed land use regulation or land use application modifying sign regulations for an illuminated sign within any unified commercial development, as defined in Section 72-7-504.6, or within any planned unit development, a municipality shall give written notice of the proposed illuminated sign to:

(i) each property owner within a 500 foot radius of the sign site;

(ii) a municipality or county within a 500 foot radius of the sign site; and

(iii) any outdoor advertising permit holder described in Subsection 72-7-506(2)(b).

(b) The notice described in Subsection (1)(a) shall include the schedule of public meetings at which the proposed changes to land use regulations or land use application will be discussed.

(2) A municipality shall require the property owner or applicant to commence in good faith the construction of the commercial or industrial development within one year after the installation of the illuminated sign.

Section 24. Section 10-20-214, which is renumbered from Section 10-9a-543 is renumbered and amended to read:

[~~10-9a-543~~]10-20-214
(Effective 11/06/25)
. Notice of significant private airports.

(1) As used in this section, "significant private airport" means the same as that term is defined in Section 72-10-102.

(2) If a municipality receives a notification described in Section 72-10-416, the municipal land use authority [~~of the municipality~~]shall record with the county recorder and against any existing residential parcel within 2,500 feet of a runway of a significant private airport located within the boundary of the municipality a notice with the following language: "In accordance with Utah Code Section [~~10-9a-543~~]10-20-214, notice is hereby given that the subject property is located within 2,500 feet of a runway of a significant airport that as of [INSERT THE DATE OF THE RECORDING] is known as [AIRPORT NAME] and is located at [INSERT THE ADDRESS OF THE SIGNIFICANT PRIVATE AIRPORT]. Said notice boundary more accurately described as [INSERT BOUNDARY LEGAL DESCRIPTION OF ALL PROPERTY WITHIN 2,500 FEET OF RUNWAY]."

Section 25. Section 10-20-301, which is renumbered from Section 10-9a-301 is renumbered and amended to read:

PART 3. General Land Use Provisions

[~~10-9a-301~~]10-20-301
(Effective 11/06/25)
. Ordinance establishing planning commission required -- Ordinance requirements -- Compensation.

(1) (a) Each municipality shall enact an ordinance establishing a planning commission.

(b) The ordinance shall define:

(i) the number and terms of the members and, if the municipality chooses, alternate members;

(ii) the mode of appointment;

(iii) the procedures for filling vacancies and removal from office;

(iv) the authority of the planning commission;

(v) subject to Subsection (1)(c), the rules of order and procedure for use by the planning commission in a public meeting; and

(vi) other details relating to the organization and procedures of the planning commission.

(c) Subsection (1)(b)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(2) The legislative body may authorize a member to receive per diem and travel expenses for meetings actually attended, in accordance with Section 11-55-103.

Section 26. Section 10-20-302, which is renumbered from Section 10-9a-302 is renumbered and amended to read:
[~~10-9a-302~~]10-20-302
(Effective 11/06/25)
. Planning commission powers and duties -- Training requirements.

(1) The planning commission shall review and make a recommendation to the legislative body for:

(a) a general plan and amendments to the general plan;

(b) land use regulations, including:

(i) ordinances regarding the subdivision of land within the municipality; and

(ii) amendments to existing land use regulations;

(c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

(d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

(e) application processes that:

(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) land use applicant and adversely affected party to require formal consideration of any application by a land use authority;

(B) land use applicant or adversely affected party to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section [~~10-9a-404~~]10-20-405.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

(5) Nothing in this section limits the right of a municipality to initiate or propose the actions described in this section.

(6) (a) (i) This Subsection (6) applies to:

(A) a city of the first, second, third, or fourth class; and

(B) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class.

(ii) The population for each city described in Subsection (6)(a)(i) shall be derived from:

(A) an estimate of the Utah Population Committee created in Section 63C-20-103; or

(B) if the Utah Population Committee estimate is not available, the most recent official census or census estimate of the United States Bureau of the Census.

(b) A municipality described in Subsection (6)(a)(i) shall ensure that each member of the municipality's planning commission completes four hours of annual land use training as follows:

(i) one hour of annual training on general powers and duties under this chapter; and

(ii) three hours of annual training on land use, which may include:

(A) appeals and variances;

(B) conditional use permits;

(C) exactions;

(D) impact fees;

(E) vested rights;

(F) subdivision regulations and improvement guarantees;

(G) land use referenda;

(H) property rights;

(I) real estate procedures and financing;

(J) zoning, including use-based and form-based; and

(K) drafting ordinances and code that complies with statute.

(c) A newly appointed planning commission member may not participate in a public meeting as an appointed member until the member completes the training described in Subsection (6)(b)(i).

(d) A planning commission member may qualify for one completed hour of training required under Subsection (6)(b)(ii) if the member attends, as an appointed member, 12 public meetings of the planning commission within a calendar year.

(e) A municipality shall provide the training described in Subsection (6)(b) through:

(i) municipal staff;

(ii) the Utah League of Cities and Towns; or

(iii) a list of training courses selected by:

(A) the Utah League of Cities and Towns; or

(B) the Division of Real Estate created in Section 61-2-201.

(f) A municipality shall, for each planning commission member:

(i) monitor compliance with the training requirements in Subsection (6)(b); and

(ii) maintain a record of training completion at the end of each calendar year.

Section 27. Section 10-20-303, which is renumbered from Section 10-9a-303 is renumbered and amended to read:

[~~10-9a-303~~]10-20-303

(Effective 11/06/25)

. Entrance upon land.

The municipality may enter upon any land at reasonable times to make examinations and surveys pertinent to the:

(1) preparation of its general plan; or

(2) preparation or enforcement of its land use ordinances.

Section 28. Section 10-20-304, which is renumbered from Section 10-9a-305 is renumbered and amended to read:

[~~10-9a-305~~]10-20-304

(Effective 11/06/25)

. Political subdivisions required to conform to municipality's land use ordinances -- Exceptions.

(1) (a) Each county, municipality, school district, charter school, special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.

(b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a municipality may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a municipal building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is not an employee of the contractor, licensed to perform the inspection that the inspector is requested to perform, and approved by a municipal building inspector or:

(A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located.

(b) The approval under Subsection (6)(a)(iii) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and municipal building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school, home-based microschool, or micro-education entity shall be considered a permitted use in all zoning districts within a municipality.

(b) Each land use application for any approval required for a charter school, home-based microschool, or micro-education entity, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school or a micro-education entity may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

(d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school or a micro-education entity may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school or micro-education entity provides a waiver.

(e) (i) A school district, charter school, or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a municipal official with authority to issue the certificate, if the school district, charter school, or micro-education entity used a municipal building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection [~~53E-3-706(3)(a)(ii)~~]53E-3-706(3)(a).

(iii) A charter school or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school or micro-education entity used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.

(f) (i) A micro-education entity may operate in a facility that meets Group E Occupancy requirements as defined by the International Building Code, as incorporated by [~~Subsection~~]Section 15A-2-103[~~(1)(a)~~].

(ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i) may have up to 100 students in the facility.

(g) A micro-education entity may operate in a facility that is subject to and complies with the same occupancy requirements as a Class A-1, A-3, B, or M Occupancy as defined by the International Building Code, as incorporated by [~~Subsection~~]Section 15A-2-103[~~(1)(a)~~], if:

(i) the facility has a code compliant fire alarm system and carbon monoxide detection system;

(ii) (A) each classroom in the facility has an exit directly to the outside at the level of exit or discharge; or

(B) the structure has a code compliant fire sprinkler system; and

(iii) the facility has an automatic fire sprinkler system in fire areas of the facility that are greater than 12,000 square feet.

(h) (i) A home-based microschool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling.

(ii) If a floor that is below grade in a home-based microschool is used for home-based microschool purposes, the below grade floor of

the home-based microschool shall have at least one emergency escape or rescue window that complies with the requirements for emergency escape and rescue windows as defined by the International Residential Code, as incorporated by Section [~~15A-1-210~~]15A-2-103.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in [~~Section 10-9a-510~~]Sections 10-20-904 and 10-20-910;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section [~~10-9a-304~~]10-20-305; or

(b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102, or any other provision of federal law.

(10) Nothing in Subsection (7) prevents a political subdivision from:

(a) requiring a home-based microschool or micro-education entity to comply with municipal zoning and land use regulations that do not conflict with this section, including:

(i) parking;

(ii) traffic; and

(iii) hours of operation;

(b) requiring a home-based microschool or micro-education entity to obtain a business license;

(c) enacting municipal ordinances and regulations consistent with this section;

(d) subjecting a micro-education entity to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(e) imposing regulations on the location of a project that are necessary to avoid risks to health or safety.

Section 29. Section 10-20-305, which is renumbered from Section 10-9a-304 is renumbered and amended to read:

[~~10-9a-304~~]10-20-305

(Effective 11/06/25)

. State and federal property.

Unless otherwise provided by law, nothing contained in this chapter or Chapter 21, Municipalities and Housing Supply, may be construed as giving a municipality jurisdiction over property owned by the state or the United States.

Section 30. Section 10-20-401, which is renumbered from Section 10-9a-401 is renumbered and amended to read:

PART 4. General Plan

[~~10-9a-401~~]10-20-401

(Effective 11/06/25)

. General plan required -- Content.

(1) To accomplish the purposes of this chapter, a municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and clean energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and

(j) an official map.

[~~(3) (a) The general plan of a specified municipality, as defined in Section 10-9a-408, shall include a moderate income housing element that meets the requirements of Subsection 10-9a-403(2)(a)(iii).~~]

[~~(b) (i) This Subsection (3)(b) applies to a municipality that is not a specified municipality as of January 1, 2023.~~]

[~~(ii) As of January 1, if a municipality described in Subsection (3)(b)(i) changes from one class to another or grows in population to qualify as a specified municipality as defined in Section 10-9a-408, the municipality shall amend the municipality's general plan to comply with Subsection (3)(a) on or before August 1 of the first calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.~~]

[~~(4)~~](3) Subject to [~~Subsection 10-9a-403(2)~~]Section 10-20-404, the municipality may determine the comprehensiveness, extent, and format of the general plan.

[~~(5)~~](4) Except for a city of the fifth class or a town, on or before December 31, 2025, a municipality that has a general plan that does not include a water use and preservation element that complies with Section [~~10-9a-403~~]10-20-404 shall amend the municipality's general plan to comply with Section [~~10-9a-403~~]10-20-404.

Section 31. Section 10-20-402, which is renumbered from Section 10-9a-402 is renumbered and amended to read:

[~~10-9a-402~~]10-20-402

(Effective 11/06/25)

. Information and technical assistance from the state.

Each state official, department, and agency shall:

(1) promptly deliver any data and information requested by a municipality unless the disclosure is prohibited by Title 63G, Chapter 2, Government Records Access and Management Act; and

(2) furnish any other technical assistance and advice that they have available to the municipality without additional cost to the municipality.

Section 32. Section 10-20-403 is enacted to read:

10-20-403

(Effective 11/06/25)

. Specific provisions for general plan -- Moderate income housing plan.

(1) The general plan of a specified municipality, as defined in Section 10-21-101, shall include a moderate income housing element that meets the requirements of Section 10-21-201.

(2) (a) This Subsection (2) applies to a municipality that is not a specified municipality as of January 1, 2023.

(b) As of January 1, if a municipality described in Subsection (2)(a) changes from one class to another or grows in population to qualify as a specified municipality as defined in Section 10-21-101, the municipality shall amend the municipality's general plan to comply with Subsection (1) on or before August 1 of the first calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.

Section 33. Section 10-20-404, which is renumbered from Section 10-9a-403 is renumbered and amended to read:

[~~10-9a-403~~]10-20-404

(Effective 11/06/25)

. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section [~~10-9a-203~~]10-20-203, of the planning commission's intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) except for a city of the fifth class or a town, is coordinated to integrate the land use element with the water use and preservation element; and

(D) except for a city of the fifth class or a town, accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) a moderate income housing element that meets the requirements of Section 10-21-201; and[~~:~~]

[~~(A) provides a realistic opportunity to meet the need for additional moderate income housing within the municipality during the next~~

~~five years;~~]

[~~(B) for a municipality that is not a specified municipality, may include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii);~~]

[~~(C) for a specified municipality, as defined in Section 10-9a-408, that does not have a fixed guideway public transit station, shall include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii) or at least one of the moderate income housing strategies described in Subsections (2)(b)(iii)(X) through (CC);~~]

[~~(D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed guideway public transit station, shall include:~~]

[~~(I) a recommendation to implement five or more of the moderate income housing strategies described in Subsection (2)(b)(iii), of which one shall be the moderate income housing strategy described in Subsection (2)(b)(iii)(U) and one shall be a moderate income housing strategy described in Subsection (2)(b)(iii)(G) or (H); or~~]

[~~(II) a recommendation to implement the moderate income housing strategy described in Subsection (2)(b)(iii)(U), one of the moderate income housing strategies described in Subsections (2)(b)(iii)(X) through (CC), and one moderate income housing strategy described in Subsection (2)(b)(iii); and~~]

[~~(E) for a specified municipality, as defined in Section 10-9a-408, shall include an implementation plan as provided in Subsection (2)(e); and~~]

(iv) except for a city of the fifth class or a town, a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the municipality to modify the municipality's operations to eliminate practices or conditions that waste water.

[~~(b) In drafting the moderate income housing element, the planning commission:~~]

[~~(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:~~]

[~~(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and~~]

[~~(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;~~]

[~~(ii) for a municipality that is not a specified municipality, may include, and for a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;~~]

[~~(iii) for a municipality that is not a specified municipality, may include, and for a specified municipality as defined in Section 10-9a-408, shall include a recommendation to implement the required number of any of the following moderate income housing strategies as specified in Subsection (2)(a)(iii):~~]

[~~(A) rezone for densities necessary to facilitate the production of moderate income housing;~~]

[~~(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;~~]

[~~(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;~~]

[~~(D) identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;~~]

[~~(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;~~]

[~~(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers;~~]

[~~(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;~~]

[~~(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;~~]

[~~(I) amend land use regulations to allow for single room occupancy developments;~~]

[~~(J) implement zoning incentives for moderate income units in new developments;~~]

[~~(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or, notwithstanding Section 10-9a-535, establishing a housing loss mitigation fund;~~]

[~~(L) reduce, waive, or eliminate impact fees related to moderate income housing;~~]

[~~(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;~~]

[~~(N) implement a mortgage assistance program for employees of the municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;~~]

[~~(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;~~]

[~~(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;~~]

[~~(Q) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;~~]

[~~(R) create a program to transfer development rights for moderate income housing;~~]

[~~(S) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;~~]

[~~(T) develop a moderate income housing project for residents who are disabled or 55 years old or older;~~]

[~~(U) develop and adopt a station area plan in accordance with Section 10-9a-403.1;~~]

[~~(V) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones;~~]

[~~(W) demonstrate implementation of any other program or strategy to address the housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing;~~]

[~~(X) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;~~]

[~~(Y) create a home ownership promotion zone pursuant to Part 10, Home Ownership Promotion Zone for Municipalities;~~]

[~~(Z) create a first home investment zone in accordance with Title 63N, Chapter 3, Part 16, First Home Investment Zone Act;~~]

[~~(AA) approve a project that receives funding from, or qualifies to receive funding from, the Utah Homes Investment Program created in Title 51, Chapter 12, Utah Homes Investment Program;~~]

[~~(BB) adopt or approve a qualifying affordable home ownership density bonus for single-family residential units, as described in Section 10-9a-403.2; and~~]

[~~(CC) adopt or approve a qualifying affordable home ownership density bonus for multi-family residential units, as described in Section 10-9a-403.3; and~~]

[~~(iv) shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(iii).~~]

[~~(c) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the municipality for implementation.~~]

[~~(ii) The timeline described in Subsection (2)(c)(i) shall:~~]

[~~(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the municipality, whether one-time or ongoing; and~~]

[~~(B) provide flexibility for the municipality to make adjustments as needed.~~]

[~~(d)~~](b) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by the municipality if required under Section [~~10-9a-403.1~~]10-21-203.

[~~(e)~~](c) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the municipality's region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by the municipality if required under Section [~~10-9a-403.1~~]10-21-203.

[~~(f)~~](d) In drafting the water use and preservation element, the planning commission:

(i) shall consider:

(A) applicable regional water conservation goals recommended by the Division of Water Resources; and

(B) if Section 73-10-32 requires the municipality to adopt a water conservation plan [~~pursuant to~~]in accordance with Section 73-10-32, the municipality's water conservation plan;

(ii) shall include a recommendation for:

(A) water conservation policies to be determined by the municipality; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(iii) shall review the municipality's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(iv) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(v) shall consult with the public water system or systems serving the municipality with drinking water regarding how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(vi) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and the water use and preservation element may affect the Great Salt Lake;

(vii) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing development such as modification of existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(viii) for a town, may include, and for another municipality, shall include, a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection [~~10-9a-401(2)~~]10-20-401(2) or [~~(3)~~]Section 10-20-403; and

(g) any other element the municipality considers appropriate.

Section 34. Section 10-20-405, which is renumbered from Section 10-9a-404 is renumbered and amended to read:

[~~10-9a-404~~|10-20-405

(Effective 11/06/25)

. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing the planning commission's recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section [~~10-9a-204~~]10-20-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) The legislative body may adopt, reject, or make any revisions to the proposed general plan or amendment that the legislative body considers appropriate.

(b) If the municipal legislative body rejects the proposed general plan or amendment, the legislative body may provide suggestions to the planning commission for the planning commission's review and recommendation.

(4) The legislative body shall adopt the following elements and plans in conformity with the requirements of Section 10-20-404:

(a) a land use element[~~as provided in Subsection 10-9a-403(2)(a)(i)~~];

(b) a transportation and traffic circulation element[~~as provided in Subsection 10-9a-403(2)(a)(ii)~~];

(c) for a specified municipality as defined in Section [~~10-9a-408~~]10-21-101, a moderate income housing element[~~as provided in Subsection 10-9a-403(2)(a)(iii)~~]; and

(d) except for a city of the fifth class or a town, on or before December 31, 2025, a water use and preservation element[~~as provided in~~

~~Subsection 10-9a-403(2)(a)(iv)~~].

Section 35. Section 10-20-406, which is renumbered from Section 10-9a-405 is renumbered and amended to read:

[~~10-9a-405~~]10-20-406

(Effective 11/06/25)

. Effect of general plan.

Except as provided in Section [~~10-9a-406~~]10-20-407, the general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.

Section 36. Section 10-20-407, which is renumbered from Section 10-9a-406 is renumbered and amended to read:

[~~10-9a-406~~]10-20-407

(Effective 11/06/25)

. Public uses to conform to general plan.

After the legislative body has adopted a general plan, the following public properties may not be constructed or authorized unless the public property conforms to the current general plan:

(1) [~~no~~]a street, park, or other public way, ground, place, or space[~~,~~];

(2) [~~no~~]a publicly owned building or structure[~~,~~]; and

(3) [~~no~~]a public utility, whether publicly or privately owned[~~, may be constructed or authorized until and unless it conforms to the current general plan~~].

Section 37. Section 10-20-408, which is renumbered from Section 10-9a-407 is renumbered and amended to read:

[~~10-9a-407~~]10-20-408

(Effective 11/06/25)

. Effect of official maps.

(1) Municipalities may adopt an official map.

(2) (a) An official map does not:

(i) require a landowner to dedicate and construct a street as a condition of development approval, except under circumstances provided in Subsection (2)(b)(iii); or

(ii) require a municipality to immediately acquire property it has designated for eventual use as a public street.

(b) This section does not prohibit a municipality from:

(i) recommending that an applicant consider and accommodate the location of the proposed streets in the planning of a development proposal in a manner that is consistent with Section [~~10-9a-508~~]10-20-911;

(ii) acquiring the property through purchase, gift, voluntary dedication, or eminent domain; or

(iii) requiring the dedication and improvement of a street if the street is found necessary by the municipality because of a proposed development and if the dedication and improvement are consistent with Section [~~10-9a-508~~]10-20-911.

Section 38. Section 10-20-501, which is renumbered from Section 10-9a-501 is renumbered and amended to read:

PART 5. Land Use Regulations - General Processes

[~~10-9a-501~~]10-20-501

(Effective 11/06/25)

. Enactment of land use regulation, land use decision, or development agreement.

(1) Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.

(2) (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use regulation only by ordinance.

(b) A legislative body may, by ordinance or resolution, enact a land use regulation that imposes a fee.

(3) A legislative body shall ensure that a land use regulation is consistent with the purposes set forth in this chapter.

(4) (a) A legislative body shall adopt a land use regulation to:

(i) create or amend a zoning district under Subsection [~~10-9a-503(1)(a)~~]10-20-503(1)(a); and

(ii) designate general uses allowed in each zoning district.

(b) A land use authority may establish or modify other restrictions or requirements other than those described in Subsection (4)(a), including the configuration or modification of uses or density, through a land use decision that applies criteria or policy elements that a land use regulation establishes or describes.

(5) A municipality may not adopt a land use regulation, development agreement, or land use decision that restricts the type of crop that may be grown in an area that is:

(a) zoned agricultural; or

(b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

(6) A municipal land use regulation pertaining to an airport or an airport influence area, as that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4, Airport Zoning Act.

Section 39. Section 10-20-502, which is renumbered from Section 10-9a-502 is renumbered and amended to read:

[~~10-9a-502~~]10-20-502

(Effective 11/06/25)

. Preparation and adoption of land use regulation.

(1) A planning commission shall:

(a) provide notice as required by Subsection [~~10-9a-205(1)(a)~~]10-20-205(1)(a) and, if applicable, Subsection [~~10-9a-205(4)~~]10-20-205(4);

(b) hold a public hearing on a proposed land use regulation;

(c) if applicable, consider each written objection filed in accordance with Subsection [~~10-9a-205(4)~~]10-20-205(5) [~~prior to~~]before the public hearing; and

(d) (i) review and recommend to the legislative body a proposed land use regulation that represents the planning commission's recommendation for regulating the use and development of land within all or any part of the area of the municipality; and

(ii) forward to the legislative body all objections filed in accordance with Subsection [~~10-9a-205(4)~~]10-20-205(5).

(2) (a) A legislative body shall consider each proposed land use regulation that the planning commission recommends to the legislative body.

(b) After providing notice as required by Subsection [~~10-9a-205(1)(b)~~]10-20-205(1)(b) and holding a public meeting, the legislative body may adopt or reject the land use regulation described in Subsection (2)(a):

(i) as proposed by the planning commission; or

(ii) after making any revision the legislative body considers appropriate.

(c) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Section 40. Section 10-20-503, which is renumbered from Section 10-9a-503 is renumbered and amended to read:

[~~10-9a-503~~]10-20-503

(Effective 11/06/25)

. Land use ordinance or zoning map amendments.

(1) Only a legislative body may amend:

(a) the number, shape, boundaries, area, or general uses of any zoning district;

(b) any regulation of or within the zoning district; or

(c) any other provision of a land use regulation.

(2) A legislative body may not make any amendment authorized by this section unless the legislative body first submits the amendment to the planning commission for the planning commission's recommendation.

(3) A legislative body shall comply with the procedure specified in Section [~~10-9a-502~~]10-20-502 in preparing and adopting an amendment to a land use regulation.

[~~(4) (a) As used in this Subsection (4):~~]

[~~(i) "Citizen-led process" means a process established by a municipality to create a local historic district or area that requires:~~]

[~~(A) a petition signed by a minimum number of property owners within the boundaries of the proposed local historic district or area; or~~]

[~~(B) a vote of the property owners within the boundaries of the proposed local historic district or area.~~]

[~~(ii) "Condominium project" means the same as that term is defined in Section 57-8-3.~~]

[~~(iii) "Unit" means the same as that term is defined in Section 57-8-3.~~]

[~~(b) If a municipality provides a citizen-led process, the process shall require that:~~]

[~~(i) more than 33% of the property owners within the boundaries of the proposed local historic district or area agree in writing to the creation of the proposed local historic district or area;~~]

[~~(ii) before any property owner agrees to the creation of a proposed local historic district or area under Subsection (4)(b)(i), the municipality prepare and distribute, to each property owner within the boundaries of the proposed local historic district or area, a neutral information pamphlet that:~~]

[~~(A) describes the process to create a local historic district or area; and~~]

[~~(B) lists the pros and cons of a local historic district or area;~~]

[~~(iii) after the property owners satisfy the requirement described in Subsection (4)(b)(i), for each parcel or, if the parcel contains a condominium project, each unit, within the boundaries of the proposed local historic district or area, the municipality provide:~~]

[~~(A) a second copy of the neutral information pamphlet described in Subsection (4)(b)(ii); and~~]

[~~(B) one public support ballot that, subject to Subsection (4)(c), allows the owner or owners of record to vote in favor of or against the creation of the proposed local historic district or area;~~]

[~~(iv) in a vote described in Subsection (4)(b)(iii)(B), the returned public support ballots that reflect a vote in favor of the creation of the proposed local historic district or area:~~]

[~~(A) equal at least two-thirds of the returned public support ballots; and~~]

[~~(B) represent more than 50% of the parcels and units within the proposed local historic district or area;~~]

[~~(v) if a local historic district or area proposal fails in a vote described in Subsection (4)(b)(iii)(B), the legislative body may override the vote and create the proposed local historic district or area with an affirmative vote of two-thirds of the members of the legislative body; and~~]

[~~(vi) if a local historic district or area proposal fails in a vote described in Subsection (4)(b)(iii)(B) and the legislative body does not override the vote under Subsection (4)(b)(v), a resident may not initiate the creation of a local historic district or area that includes more than 50% of the same property as the failed local historic district or area proposal for four years after the day on which the public support ballots for the vote are due.~~]

[~~(c) In a vote described in Subsection (4)(b)(iii)(B):~~]

[~~(i) a property owner is eligible to vote regardless of whether the property owner is an individual, a private entity, or a public entity;~~]

[~~(ii) the municipality shall count no more than one public support ballot for:~~]

[~~(A) each parcel within the boundaries of the proposed local historic district or area; or~~]

[~~(B) if the parcel contains a condominium project, each unit within the boundaries of the proposed local historic district or area; and~~]

[~~(iii) if a parcel or unit has more than one owner of record, the municipality shall count a public support ballot for the parcel or unit only if the public support ballot reflects the vote of the property owners who own at least a 50% interest in the parcel or unit.~~]

[~~(d) The requirements described in Subsection (4)(b)(iv) apply to the creation of a local historic district or area that is:~~]

[~~(i) initiated in accordance with a municipal process described in Subsection (4)(b); and~~]

[~~(ii) not complete on or before January 1, 2016.~~]

[~~(c) A vote described in Subsection (4)(b)(iii)(B) is not subject to Title 20A, Election Code.~~]

Section 41. Section 10-20-504, which is renumbered from Section 10-9a-504 is renumbered and amended to read:

[~~10-9a-504~~]10-20-504

(Effective 11/06/25)

. Temporary land use regulations.

(1) (a) Except as provided in Subsection (2)(b), a municipal legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the municipality if:

(i) the legislative body makes a finding of compelling, countervailing public interest; or

(ii) the area is unregulated.

(b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.

(c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.

(2) (a) The municipal legislative body shall establish a period of limited effect for the ordinance not to exceed 180 days.

(b) A municipal legislative body may not apply the provisions of a temporary land use regulation to the review of a specific land use application if the land use application is impaired or prohibited by proceedings initiated under Subsection [~~10-9a-509(1)(a)(ii)(B)~~]10-20-902(1)(a)(ii)(B).

(3) (a) A municipal legislative body may, without prior planning commission consideration or recommendation, enact an ordinance establishing a temporary land use regulation prohibiting construction, subdivision approval, and other development activities within an area that is the subject of an Environmental Impact Statement or a Major Investment Study examining the area as a proposed highway or transportation corridor.

(b) A regulation under Subsection (3)(a):

(i) may not exceed 180 days in duration;

(ii) may be renewed, if requested by the Transportation Commission created under Section 72-1-301, for up to two additional 180-day periods by ordinance enacted before the expiration of the previous regulation; and

(iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the Environmental Impact Statement or Major Investment Study is in progress.

Section 42. Section 10-20-505, which is renumbered from Section 10-9a-505 is renumbered and amended to read:

[~~10-9a-505~~]10-20-505

(Effective 11/06/25)

. Zoning districts.

(1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.

(b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.

(c) A municipality may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:

(i) protect life; and

(ii) prevent:

(A) the substantial loss of real property; or

(B) substantial damage to real property.

(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zoning district, but the regulations in one zone may differ from those in other zones.

(3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.

(b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a municipal decision.

(4) A municipality may by ordinance exempt from specific zoning district standards a subdivision of land to accommodate the siting of a public utility infrastructure.

Section 43. Section 10-20-506, which is renumbered from Section 10-9a-507 is renumbered and amended to read:

[~~10-9a-507~~]10-20-506

(Effective 11/06/25)

. Conditional uses.

(1) (a) A municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in an applicable ordinance.

(b) A municipality may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2) (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

(c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or

the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

(3) A land use authority's decision to approve or deny conditional use is an administrative land use decision.

(4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

Section 44. Section 10-20-507, which is renumbered from Section 10-9a-507.5 is renumbered and amended to read:

[~~10-9a-507.5~~]10-20-507

(Effective 11/06/25)

. Classification of new and unlisted business uses.

(1) As used in this section:

(a) "Classification request" means a request to determine whether a proposed business use aligns with an existing land use specified in a municipality's land use ordinances.

(b) "New or unlisted business use" means a business activity that does not align with an existing land use specified in a municipality's land use ordinances.

(2) (a) Each municipality shall incorporate into the municipality's land use ordinances a process for reviewing and approving a new or unlisted business use and designating an appropriate zone or zones for an approved use.

(b) The process described in Subsection (2)(a) shall:

(i) detail how an applicant may submit a classification request;

(ii) establish a procedure for the municipality to review a classification request, including:

(A) providing a land use authority with criteria to determine whether a proposed use aligns with an existing use; and

(B) allowing an applicant to proceed under the regulations of an existing use if a land use authority determines a proposed use aligns with that existing use;

(iii) provide that if a use is determined to be a new or unlisted business use:

(A) the applicant shall submit an application for approval of the new or unlisted business use to the legislative body for review;

(B) the legislative body shall consider and determine whether to approve or deny the new or unlisted business use; and

(C) the legislative body shall approve or deny the new or unlisted business use, within a time frame the legislative body establishes by ordinance, if the applicant responds to requests for additional information within a time frame established by the municipality and appears at required hearings;

(iv) provide that if the legislative body approves a proposed new or unlisted business use, the legislative body shall designate an appropriate zone or zones for the approved use; and

(v) provide that if the legislative body denies a proposed new or unlisted business use, or if an applicant disagrees with the land use authority's classification of the proposed use, the legislative body shall:

(A) notify the applicant in writing of each reason for the classification or denial; and

(B) offer the applicant an opportunity to challenge the classification or denial through an administrative appeal process established by the municipality.

(3) Each municipality shall amend each land use ordinance that contains a list of approved or prohibited business uses to include a reference to the process for petitioning to approve a new or unlisted business use, as described in Subsection (2).

Section 45. Section 10-20-508, which is renumbered from Section 10-9a-532 is renumbered and amended to read:

[~~10-9a-532~~]10-20-508

(Effective 11/06/25)

. Development agreements.

(1) Subject to Subsection (2), a municipality may enter into a development agreement containing any term that the municipality considers necessary or appropriate to accomplish the purposes of this chapter, including a term relating to:

(a) a master planned development;

(b) a planned unit development;

(c) an annexation;

(d) affordable or moderate income housing with development incentives;

(e) a public-private partnership; or

(f) a density transfer or bonus within a development project or between development projects.

(2) (a) A development agreement may not:

(i) limit a municipality's authority in the future to:

(A) enact a land use regulation; or

(B) take any action allowed under Section 10-8-84;

(ii) require a municipality to change the zoning designation of an area of land within the municipality in the future; or

(iii) allow a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section [~~10-9a-502~~]10-20-502, including a review and recommendation from the planning commission and a public hearing.

(b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section [~~10-9a-502~~]10-20-502.

(c) Subject to Subsection (2)(d), a municipality may require a development agreement for developing land within the municipality if the applicant has applied for a legislative or discretionary approval, including an approval relating to:

(i) the height of a structure;

(ii) a parking or setback exception;

(iii) a density transfer or bonus;

(iv) a development incentive;

(v) a zone change; or

(vi) an amendment to a prior development agreement.

(d) A municipality may not require a development agreement as a condition for developing land within the municipality if:

(i) the development otherwise complies with applicable statute and municipal ordinances;

(ii) the development is an allowed or permitted use; or

(iii) the municipality's land use regulations otherwise establish all applicable standards for development on the land.

(e) A municipality may submit to a county recorder's office for recording:

(i) a fully executed agreement; or

(ii) a document related to:

(A) code enforcement;

(B) a special assessment area;

(C) a local historic district boundary; or

(D) the memorializing or enforcement of an agreed upon restriction, incentive, or covenant.

(f) Subject to Subsection (2)(e), a municipality may not cause to be recorded against private real property a document that imposes development requirements, development regulations, or development controls on the property.

(g) To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by:

(i) this chapter; and

(ii) any applicable land use regulations.

Section 46. Section 10-20-601 is enacted to read:

PART 6. Land Use Regulations - Particular Situations

10-20-601
(Effective 11/06/25)
. Local historic district or area.

(1) As used in this section:

(a) "Citizen-led process" means a process established by a municipality to create a local historic district or area that requires:

(i) a petition signed by a minimum number of property owners within the boundaries of the proposed local historic district or area; or

(ii) a vote of the property owners within the boundaries of the proposed local historic district or area.

(b) "Condominium project" means the same as that term is defined in Section 57-8-3.

(c) "Unit" means the same as that term is defined in Section 57-8-3.

(2) If a municipality provides a citizen-led process, the process shall require that:

(a) more than 33% of the property owners within the boundaries of the proposed local historic district or area agree in writing to the creation of the proposed local historic district or area;

(b) before any property owner agrees to the creation of a proposed local historic district or area under Subsection (2)(a), the municipality prepare and distribute, to each property owner within the boundaries of the proposed local historic district or area, a neutral information pamphlet that:

(i) describes the process to create a local historic district or area; and

(ii) lists the pros and cons of a local historic district or area;

(c) after the property owners satisfy the requirement described in Subsection (2)(a), for each parcel or, if the parcel contains a condominium project, each unit, within the boundaries of the proposed local historic district or area, the municipality provide:

(i) a second copy of the neutral information pamphlet described in Subsection (2)(b); and

(ii) one public support ballot that, subject to Subsection (3), allows the owner or owners of record to vote in favor of or against the creation of the proposed local historic district or area;

(d) in a vote described in Subsection (2)(c)(ii), the returned public support ballots that reflect a vote in favor of the creation of the proposed local historic district or area:

(i) equal at least two-thirds of the returned public support ballots; and

(ii) represent more than 50% of the parcels and units within the proposed local historic district or area;

(e) if a local historic district or area proposal fails in a vote described in Subsection (2)(c)(ii), the legislative body may override the vote and create the proposed local historic district or area with an affirmative vote of two-thirds of the members of the legislative body; and

(f) if a local historic district or area proposal fails in a vote described in Subsection (2)(c)(ii) and the legislative body does not override the vote under Subsection (2)(e), a resident may not initiate the creation of a local historic district or area that includes more than 50% of the same property as the failed local historic district or area proposal for four years after the day on which the public support ballots for the vote are due.

(3) In a vote described in Subsection (2)(c)(ii):

(a) a property owner is eligible to vote regardless of whether the property owner is an individual, a private entity, or a public entity;

(b) the municipality shall count no more than one public support ballot for:

(i) each parcel within the boundaries of the proposed local historic district or area; or

(ii) if the parcel contains a condominium project, each unit within the boundaries of the proposed local historic district or area; and

(c) if a parcel or unit has more than one owner of record, the municipality shall count a public support ballot for the parcel or unit only

if the public support ballot reflects the vote of the property owners who own at least a 50% interest in the parcel or unit.

(4) The requirements described in Subsection (2)(d) apply to the creation of a local historic district or area that is:

(a) initiated in accordance with a municipal process described in Subsection (2); and

(b) not complete on or before January 1, 2016.

(5) A vote described in Subsection (2)(c)(ii) is not subject to Title 20A, Election Code.

Section 47. Section 10-20-602, which is renumbered from Section 10-9a-505.5 is renumbered and amended to read:

[~~10-9a-505.5~~]10-20-602

(Effective 11/06/25)

. Limit on single family designation.

(1) As used in this section, "single-family limit" means the number of individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.

(2) A municipality may not adopt a single-family limit that is less than:

(a) three, if the municipality has within its boundary:

(i) a state university; or

(ii) a private university with a student population of at least 20,000; or

(b) four, for each other municipality.

Section 48. Section 10-20-603, which is renumbered from Section 10-9a-506 is renumbered and amended to read:

[~~10-9a-506~~]10-20-603

(Effective 11/06/25)

. Regulating annexed territory.

(1) The legislative body of each municipality shall assign a land use zone or a variety [~~thereof~~]of land use zones to territory annexed to the municipality at the time the territory is annexed.

(2) If the legislative body fails to assign a land use zone at the time the territory is annexed, all land uses within the annexed territory shall be compatible with surrounding uses within the municipality.

Section 49. Section 10-20-604, which is renumbered from Section 10-9a-508.1 is renumbered and amended to read:

[~~10-9a-508.1~~]10-20-604

(Effective 11/06/25)

. Private maintenance of public access amenities prohibited.

(1) As used in this section:

(a) "Public access amenity" means a physical feature like a trail or recreation area that a municipality designates for public access and use.

(b) "Retail water line" means the same as that term is defined in Section 11-8-4.

(c) "Sewer lateral" means the same as that term is defined in Section 11-8-4.

(d) (i) "Water utility" means a main line or other integral part of a sewer or water utility service.

(ii) "Water utility" does not include a retail water line, privately owned water utility, or sewer lateral.

(2) A municipality may not require a private individual or entity, including a community association or homeowners association, to maintain and be responsible for a public access amenity or water utility in perpetuity unless:

(a) the public access amenity is the property located adjacent to the private property owned by the private individual or entity to the curb line of the street, including park strips and sidewalks; or

(b) the private individual or entity agreed to maintain or be responsible for the public access amenity or water utility in perpetuity in a covenant, utility service agreement, development agreement, or other agreement between the municipality and the private individual or entity.

Section 50. Section 10-20-605, which is renumbered from Section 10-9a-509.7 is renumbered and amended to read:

[~~10-9a-509.7~~]10-20-605

(Effective 11/06/25)

. Transferable development rights.

(1) A municipality may adopt an ordinance:

(a) designating sending zones and receiving zones located wholly within the municipality;

(b) designating a sending zone if the area described in the sending zone is located, at least in part, within the municipality, and the area described in the sending zone that is located outside the municipality complies with Subsection (2);

(c) designating a receiving zone if the area described in the receiving zone is located, at least in part, within the municipality, and the area described in the receiving zone that is located outside the municipality complies with Subsection (2); and

(d) allowing the transfer of a transferable development right from a sending zone to a receiving zone.

(2) A municipality may adopt an ordinance designating a sending zone or receiving zone that is located, in part, in another municipality or unincorporated county if the legislative body of every municipality or county with land inside the sending zone or receiving zone adopts an ordinance designating the sending zone or receiving zone.

(3) A municipality may not allow the use of a transferable development right unless the municipality adopts an ordinance described in Subsection (1).

Section 51. Section 10-20-606, which is renumbered from Section 10-9a-511.5 is renumbered and amended to read:

[~~10-9a-511.5~~]10-20-606

(Effective 11/06/25)

. Changes to rental dwelling units-- Egress windows.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(c) "Rental dwelling" means the same as that term is defined in Section 10-8-85.5.

(2) A municipal ordinance [~~adopted under Section 10-1-203.5~~]may not:

(a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:

(i) the reasonable installation of:

(A) a smoke detector that is plugged in or battery operated;

(B) a ground fault circuit interrupter protected outlet on existing wiring;

(C) street addressing;

(D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;

(E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;

(F) hand or guard rails; or

(G) occupancy separation doors as required by the International Residential Code; or

(ii) the abatement of a structure; or

(b) be enforced to terminate a legal nonconforming rental dwelling use.

(3) (a) A municipality may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:

(i) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

(A) a detached one-, two-, three-, or four-family dwelling; or

(B) a town home that is not more than three stories above grade with a separate means of egress; and

(ii) (A) the window in the existing bedroom is smaller than that required by current State Construction Code; and

(B) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.

(b) Subsection (3)(a) does not apply to an internal accessory dwelling unit.

(4) Nothing in this section prohibits a municipality from:

(a) regulating the style of window that is required or allowed in a bedroom;

(b) requiring that a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code; or

(c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

Section 52. Section 10-20-607, which is renumbered from Section 10-9a-512 is renumbered and amended to read:

[~~10-9a-512~~]10-20-607

(Effective 11/06/25)

. Termination of a billboard and associated rights.

(1) A municipality may only require termination of a billboard and associated rights through:

(a) gift;

(b) purchase;

(c) agreement;

(d) exchange; or

(e) eminent domain.

(2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent of the billboard owner.

(3) A termination under Subsection (1)(e) requires the municipality to:

(a) acquire the billboard and associated rights through eminent domain, in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain, except as provided in Subsections [~~10-9a-513(2)(f)~~]10-20-608(2)(f) and (h); and

(b) after acquiring the rights under Subsection (3)(a), terminate the billboard and associated rights.

Section 53. Section 10-20-608, which is renumbered from Section 10-9a-513 is renumbered and amended to read:

[~~10-9a-513~~]10-20-608

(Effective 11/06/25)

. Municipality's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboards to be rebuilt or replaced -- Validity of municipal permit after issuance of state permit.

(1) As used in this section:

(a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.

(b) "Highest allowable height" means:

(i) if the height allowed by the municipality, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the municipality; or

(ii) (A) for a noninterstate billboard:

(I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or

(II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and

(B) for an interstate billboard:

(I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or

(II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.

(c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.

(d) "Interstate height" means a height that is the higher of:

(i) 65 feet above the ground; and

(ii) 25 feet above the grade of the interstate.

(e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.

(f) "Visibility area" means the area on a street or highway that is:

(i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

(ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:

(A) perpendicular to the street or highway; and

(B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

(II) for a noninterstate billboard, 300 feet from the base of the billboard.

(2) (a) If a billboard owner makes a written request to the municipality with jurisdiction over the billboard to take an action described in Subsection (2)(b), the billboard owner may take the requested action, without further municipal land use approval, 180 days after the day on which the billboard owner makes the written request, unless within the 180-day period the municipality:

(i) in an attempt to acquire the billboard and associated rights through eminent domain under Section [~~10-9a-512~~]10-20-607 for the purpose of terminating the billboard and associated rights:

(A) completes the procedural steps required under Title 78B, Chapter 6, Part 5, Eminent Domain, before the filing of an eminent domain action; and

(B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain;

(ii) denies the request in accordance with Subsection (2)(d); or

(iii) requires the billboard owner to remove the billboard in accordance with Subsection (3).

(b) Subject to Subsection (2)(a), a billboard owner may:

(i) rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism;

(ii) relocate or rebuild a billboard structure, or take another measure, to correct a mistake in the placement or erection of a billboard for which the municipality issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;

(iii) structurally modify or upgrade a billboard;

(iv) relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if the relocated billboard is:

(A) within 5,280 feet of the billboard's previous location; and

(B) no closer than 300 feet from an off-premise sign existing on the same side of the street or highway, or if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; or

(v) make one or more of the following modifications, as the billboard owner determines, to a billboard that is structurally altered by modification or upgrade under Subsection (2)(b)(iii), by relocation under Subsection (2)(b)(iv), or by any combination of these alterations:

(A) erect the billboard:

(I) to the highest allowable height; and

(II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; or

(B) install a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before the billboard's relocation.

(c) A modification under Subsection (2)(b)(v) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

(d) A municipality may deny a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard without acquiring the billboard and associated rights through eminent domain under Section [~~10-9a-512~~]10-20-607, if the mistake in placement or erection of the billboard is determined by clear and convincing evidence, in a proceeding that protects the billboard owner's due process rights, to have resulted from an intentionally false or misleading statement:

(i) by the billboard applicant in the application; and

(ii) regarding the placement or erection of the billboard.

(e) A municipality that acquires a billboard and associated rights through eminent domain under Section [~~10-9a-512~~]10-20-607 shall pay just compensation to the billboard owner in an amount that is:

(i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;

(ii) the value of any other right associated with the billboard;

(iii) the cost of the sign structure; and

(iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner's interest is a part.

(f) If a municipality commences an eminent domain action under Subsection (2)(a)(i):

(i) the provisions of Section 78B-6-510 do not apply; and

(ii) the municipality may not take possession of the billboard or the billboard's associated rights until:

(A) completion of all appeals of a judgment allowing the municipality to acquire the billboard and associated rights; and

(B) the billboard owner receives payment of just compensation, described in Subsection (2)(e).

(g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a billboard owner may proceed, without further municipal land use approval, to take an action requested under Subsection (2)(a), if the municipality's eminent domain action commenced under Subsection (2)(a)(i) is dismissed without an order allowing the municipality to acquire the billboard and associated rights.

(h) (i) A billboard owner may withdraw a request made under Subsection (2)(a) at any time before the municipality takes possession of the billboard or the billboard's associated rights in accordance with Subsection (2)(f)(ii).

(ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i), the court shall dismiss the municipality's eminent domain action to acquire the billboard or associated rights.

(3) Notwithstanding Section [~~10-9a-512~~]10-20-607, a municipality may require the owner of a billboard to remove the billboard without acquiring the billboard and associated rights through eminent domain if:

(a) the municipality determines:

(i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard:

(A) is structurally unsafe;

(B) is in an unreasonable state of repair; or

(C) has been abandoned for at least 12 months;

(b) the municipality notifies the billboard owner in writing that the billboard owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);

(c) the billboard owner fails to remedy the condition or conditions within:

(i) 180 days after the day on which the billboard owner receives written notice under Subsection (3)(b); or

(ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, after the day on which the billboard owner receives written notice under Subsection (3)(b); and

(d) following the expiration of the applicable period under Subsection (3)(c) and after providing the billboard owner with reasonable notice of proceedings and an opportunity for a hearing, the municipality finds:

(i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

(4) A municipality may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than the billboard's owner, or the billboard's owner acting through a contractor, within 500 feet of the nonconforming location.

(5) A permit that a municipality issues, extends, or renews for a billboard remains valid beginning on the day on which the municipality issues, extends, or renews the permit and ending 180 days after the day on which a required state permit is issued for the billboard if:

(a) the billboard requires a state permit; and

(b) an application for the state permit is filed within 30 days after the day on which the municipality issues, extends, or renews a permit for the billboard.

Section 54. Section 10-20-609, which is renumbered from Section 10-9a-515 is renumbered and amended to read:

[~~10-9a-515~~]10-20-609

(Effective 11/06/25)

. Regulation of amateur radio antennas.

(1) A municipality may not enact or enforce an ordinance that does not comply with the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part 97.

(2) If a municipality adopts an ordinance involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance shall:

(a) reasonably accommodate amateur radio communications; and

(b) represent the minimal practicable regulation to accomplish the municipality's purpose.

Section 55. Section 10-20-610, which is renumbered from Section 10-9a-516 is renumbered and amended to read:

[~~10-9a-516~~]10-20-610

(Effective 11/06/25)

. Regulation and licensing of residential facilities for persons with disabilities.

(1) A municipality may only regulate a residential facility for persons with [~~a disability~~]disabilities to the extent allowed by:

[~~(1)~~](a) Title 57, Chapter 21, Utah Fair Housing Act, and applicable jurisprudence;

[~~(2)~~](b) the Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., and applicable jurisprudence; and

[~~(3)~~](c) Section 504, Rehabilitation Act of 1973, and applicable jurisprudence.

(2) The responsibility to license programs or entities that operate facilities for persons with disabilities, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with the Department of Health and Human Services as provided in:

(a) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(b) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities.

Section 56. Section 10-20-611, which is renumbered from Section 10-9a-521 is renumbered and amended to read:

[~~10-9a-521~~]10-20-611

(Effective 11/06/25)

. Wetlands.

(1) A municipality may not designate or treat any land as wetlands unless the United States Army Corps of Engineers or other agency of the federal government has designated the land as wetlands.

(2) A land use authority that issues a land use permit that affects land designated as wetlands by the United States Army Corps of Engineers or another agency of the federal government shall provide a copy of the land use permit to the Utah Geological Survey established in Section 79-3-201.

Section 57. Section 10-20-612, which is renumbered from Section 10-9a-522 is renumbered and amended to read:

[~~10-9a-522~~]10-20-612

(Effective 11/06/25)

. Refineries.

(1) As used in this section, "develop" or "development" means:

(a) the construction, alteration, or improvement of land, including any related moving, demolition, or excavation outside of a refinery property boundary;

(b) the subdivision of land for a non-industrial use; or

(c) the construction of a non-industrial structure on a parcel that is not subject to the subdivision process.

(2) Before a legislative body may adopt a non-industrial zoning change to permit development within 500 feet of a refinery boundary, the legislative body shall consult with the refinery to determine whether the proposed change is compatible with the refinery.

(3) Before a land use authority may approve an application to develop within 500 feet of a refinery boundary, the land use authority shall consult with the refinery to determine whether the development is compatible with the refinery.

(4) A legislative body described in Subsection (2), or a land use authority described in Subsection (3), may not request from the refinery:

(a) proprietary information;

(b) information, if made public, that would create a security or safety risk to the refinery or the public;

(c) information that is restricted from public disclosure under federal or state law; or

(d) information that is available in public record.

(5) (a) This section does not grant authority to a legislative body described in Subsection (2), or a land use authority described in Subsection (3), to require a refinery to undertake or cease an action.

(b) This section does not create a cause of action against a refinery.

(c) Except as expressly provided in this section, this section does not alter or remove any legal right or obligation of a refinery.

Section 58. Section 10-20-613, which is renumbered from Section 10-9a-525 is renumbered and amended to read:

[~~10-9a-525~~]10-20-613

(Effective 11/06/25)

. High tunnels -- Exemption from municipal regulation.

(1) As used in this section, "high tunnel" means a structure that:

(a) is not a permanent structure;

(b) is used for the growing, keeping, storing, sale, or shelter of an agricultural commodity; and

(c) has a:

(i) metal, wood, or plastic frame;

(ii) plastic, woven textile, or other flexible covering; and

(iii) floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.

(2) A municipal building code does not apply to a high tunnel.

(3) No building permit shall be required for the construction of a high tunnel.

Section 59. Section 10-20-614, which is renumbered from Section 10-9a-528 is renumbered and amended to read:

[~~10-9a-528~~]10-20-614

(Effective 11/06/25)

. Cannabis production establishments, medical cannabis pharmacies, and industrial hemp producer licensee.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102 and includes a closed-door medical cannabis pharmacy.

(b) "Closed-door medical cannabis pharmacy" means the same as that term is defined in Section 4-41a-102.

(c) "Industrial hemp producer licensee" means the same as the term "medical cannabis research licensee" is defined in Section 4-41-102.

(d) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

(2) (a) (i) A municipality may not regulate a cannabis production establishment or a medical cannabis pharmacy in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, and applicable jurisprudence; and

(B) this chapter.

(ii) A municipality may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment or a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section 4-41a-1105.

(b) A municipality shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and

(ii) after January 1, 2021, in accordance with [~~Subsection 10-9a-509.5(2)~~]Section 10-20-905.

Section 60. Section 10-20-615, which is renumbered from Section 10-9a-529 is renumbered and amended to read:

[~~10-9a-529~~]10-20-615

(Effective 11/06/25)

. Specified public utility located in a municipal utility easement.

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:

(1) with the consent of a municipality; and

(2) that is located within a municipal utility easement described in Subsections [~~10-9a-103(50)(a)~~]10-20-102(50)(a) through (e).

Section 61. Section 10-20-616, which is renumbered from Section 10-9a-531 is renumbered and amended to read:

[~~10-9a-531~~]10-20-616

(Effective 11/06/25)

. Utility service connections.

(1) A municipality may not enact an ordinance, a resolution, or a policy that prohibits, or has the effect of prohibiting, the connection or reconnection of an energy utility service provided by a public utility as that term is defined in Section 54-2-1.

(2) Subsection (1) does not apply to:

(a) an incentive offered by a municipality; or

(b) a building owned by a municipality.

Section 62. Section 10-20-617, which is renumbered from Section 10-9a-533 is renumbered and amended to read:

[~~10-9a-533~~]10-20-617

(Effective 11/06/25)

. Infrastructure improvements involving roadways.

(1) As used in this section:

(a) "Low impact development" means the same as that term is defined in Section 19-5-108.5.

(b) (i) "Pavement" means the bituminous or concrete surface of a roadway.

(ii) "Pavement" does not include a curb or gutter.

(c) "Residential street" means a public or private roadway that:

(i) currently serves or is projected to serve an area designated primarily for single-family residential use;

(ii) requires at least two off-site parking spaces for each single-family residential property abutting the roadway; and

(iii) has or is projected to have, on average, traffic of no more than 1,000 trips per day, based on findings contained in:

(A) a traffic impact study;

(B) the municipality's general plan under Section [~~10-9a-401~~]10-20-401;

(C) an adopted phasing plan; or

(D) a written plan or report on current or projected traffic usage.

(2) (a) Except as provided in Subsection (2)(b), a municipality may not, as part of an infrastructure improvement, require the installation of pavement on a residential street at a width in excess of 32 feet if the municipality requires low impact development for the area in which the residential street is located.

(b) Subsection (2)(a) does not apply if a municipality requires the installation of pavement:

(i) in a vehicle turnaround area; or

(ii) to address specific traffic flow constraints at an intersection or other area.

(3) (a) A municipality shall, by ordinance, establish any standards that the municipality requires, as part of an infrastructure improvement, for fire department vehicle access and turnaround on roadways.

(b) The municipality shall ensure that the standards established under Subsection (3)(a) are consistent with the State Fire Code as defined in Section 15A-1-102.

Section 63. Section 10-20-618, which is renumbered from Section 10-9a-534 is renumbered and amended to read:

[~~10-9a-534~~]10-20-618

(Effective 11/06/25)

. Regulation of building design elements prohibited -- Regulation of parking spaces prohibited -- Exceptions.

(1) As used in this section:

(a) "Affordable housing" means housing occupied or reserved for occupancy that is priced at 80% of the county median home price.

(b) "Building design element" means:

(i) exterior color;

(ii) type or style of exterior cladding material;

(iii) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(iv) exterior nonstructural architectural ornamentation;

(v) location, design, placement, or architectural styling of a window or door;

(vi) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(vii) number or type of rooms;

(viii) interior layout of a room;

(ix) minimum square footage over 1,000 square feet, not including a garage;

(x) rear yard landscaping requirements;

(xi) minimum building dimensions; or

(xii) a requirement to install front yard fencing.

(c) "Owner-occupied" means a housing unit in which the individual who owns the housing unit, solely or jointly, lives as the individual's primary residence for no less than five years.

(d) "Specified municipality" means the same as that term is defined in Section [~~10-9a-408~~]10-21-101.

(e) "Unobstructed" means a parking space that has no permanent barriers that would unreasonably reduce the size of an available parking space described in Subsection (4).

(2) Except as provided in Subsection (3), a municipality may not impose a requirement for a building design element on a one- or two-family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8a-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021, except as provided under Subsection (3)(b);

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding;

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the municipality to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district; or

(i) an ordinance enacted to mitigate the impacts of an accidental explosion:

(i) in excess of 20,000 pounds of trinitrotoluene equivalent;

(ii) that would create overpressure waves greater than .2 pounds per square inch; and

(iii) that would pose a risk of damage to a window, garage door, or carport of a facility located within the vicinity of the regulated area.

(4) A municipality that is a specified municipality may not:

(a) require that the dimensions of a single parking space for a one- or two-family dwelling or town home be:

(i) for unobstructed, enclosed, or covered parking:

(A) more than 10 feet wide; or

(B) more than 20 feet long; or

(ii) for uncovered parking:

(A) more than nine feet wide; or

(B) more than 20 feet long;

(b) restrict an unobstructed tandem parking space from satisfying two parking spaces as part of a minimum parking space requirement; and

(c) restrict a two-car garage from satisfying two parking spaces as part of a minimum parking space requirement.

(5) A municipality may not require a garage for a single-family attached or detached dwelling that is owner-occupied affordable housing.

(6) If a municipality requires a garage, the municipality shall count each parking space within the garage as part of the municipality's minimum parking space requirement as described in Section [~~10-9a-530~~]10-21-303.

(7) Nothing in this section prohibits a municipality from requiring on-site parking for owner-occupied affordable housing.

Section 64. Section 10-20-619, which is renumbered from Section 10-9a-536 is renumbered and amended to read:
[~~10-9a-536~~]10-20-619

(Effective 11/06/25)
. Water wise landscaping -- Municipal landscaping regulations.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) "Private landscaping plan" means the same as that term is defined in Section [~~10-9a-604.5~~]10-20-807.

(e) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(f) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A municipality may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality from requiring a property owner to:

(i) comply with a site plan review, private landscaping plan review, or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the municipality, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to municipal operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A municipality may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

(4) A municipality may require a seller of a newly constructed residence to inform the first buyer of the newly constructed residence of a municipal ordinance requiring water wise landscaping.

(5) A municipality shall report to the Division of Water Resources the existence, enactment, or modification of an ordinance, resolution, or policy that implements regional-based water use efficiency standards established by the Division of Water Resources by rule under Section 73-10-37.

(6) A municipality may enforce a municipal landscaping ordinance in compliance with this section.

Section 65. Section 10-20-620, which is renumbered from Section 10-9a-537 is renumbered and amended to read:
[~~10-9a-537~~]10-20-620
(Effective 11/06/25)
. Land use compatibility with military use.

(1) As used in this section:

(a) "Department" means the Department of Veterans and Military Affairs.

(b) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(c) "Military land" means the following land or facilities:

(i) Camp Williams;

(ii) Hill Air Force Base;

(iii) Dugway Proving Ground;

(iv) Tooele Army Depot;

(v) Utah Test and Training Range;

(vi) Nephi Readiness Center;

(vii) Cedar City Alternate Flight Facility; or

(viii) Little Mountain Test Facility.

(2) (a) Except as provided in Subsection (2)(b), on or before July 1, 2025, for any area in a municipality within 5,000 feet of a boundary of military land, a municipality shall, in consultation with the department, develop and maintain a compatible use plan to ensure permitted uses and conditional uses relevant to the military land are compatible with the military operations on military land.

(b) A municipality that has a compatible use plan as of January 1, 2023, is not required to develop a new compatible use plan.

(3) If a municipality receives a land use application related to land within 5,000 feet of a boundary of military land, before the municipality may approve the land use application, the municipality shall notify the department in writing.

(4) (a) If the department receives the notice described in Subsection (3), the executive director of the department shall:

(i) determine whether the proposed land use is compatible with the military use of the relevant military land; and

(ii) within 90 days after the receipt of the notice described in Subsection (3), respond in writing to the municipality regarding the determination of compatibility described in Subsection (4)(a)(i).

(b) (i) For a land use application pertaining to a parcel within 5,000 feet of military land that may have an adverse effect on the

operations of the military installation, except as provided in Subsection (4)(b)(ii), the municipality shall consider the compatible use plan in processing the land use application.

(ii) For a land use application pertaining to a parcel within 5,000 feet of military land that may have an adverse effect on the operations of the military installation, if the applicant has a vested right, the municipality is not required to consider the compatible land use plan in consideration of the land use application.

(5) If the department receives the notice described in Subsection (3) before the municipality has completed the compatible use plan as described in this section, the department shall consult with the municipality and representatives of the relevant military land to determine whether the use proposed in the land use application is a compatible use.

Section 66. Section 10-20-621, which is renumbered from Section 10-9a-538 is renumbered and amended to read:

[~~10-9a-538~~]10-20-621

(Effective 11/06/25)

. Modular building.

(1) Title 15A, State Construction and Fire Codes Act, governs regulations related to the construction, transportation, installation, inspection, fees, and enforcement related to modular building.

(2) A municipality may adopt an ordinance regulating modular building so long as the ordinance conforms with Title 15A, State Construction and Fire Codes Act, Chapter 21, Municipalities and Housing Supply, and this chapter.

Section 67. Section 10-20-622, which is renumbered from Section 10-9a-539 is renumbered and amended to read:

[~~10-9a-539~~]10-20-622

(Effective 11/06/25)

. Operation of a tower crane.

(1) As used in this section:

(a) "Affected land" means a parcel of land over which a part of a tower crane travels, other than the parcel on which the tower crane is located.

(b) "Airspace approval" means a license, easement, permission of the owner of affected land, or other approval for a part of a tower crane to travel within the air space over affected land.

(c) (i) "Live load" means material being suspended from or lifted by a tower crane.

(ii) "Live load" does not include the components of a tower crane.

(d) "Permit period" means the period during which a land use permit is in effect.

(e) (i) "Tower crane" means a crane that is attached to and supported by a building or foundation.

(ii) "Tower crane" does not include a crane supported by tracks or tires.

(2) Except as provided in Subsection (3), a municipality may not require airspace approval as a condition for the municipality's:

(a) approval of a building permit; or

(b) authorization of a development activity.

(3) A municipality may require airspace approval relating to affected land as a condition for the municipality's approval of a building permit or for the municipality's authorization of a development activity if:

(a) the tower crane will, during the permit period or development activity, carry a live load over the affected land; or

(b) the affected land is within:

(i) an airport overlay zone; or

(ii) another zone designated to protect the airspace around an airport.

Section 68. Section 10-20-623, which is renumbered from Section 10-9a-540 is renumbered and amended to read:

[~~10-9a-540~~]10-20-623

(Effective 11/06/25)

. Residential rear setback limitations.

(1) As used in this section:

(a) "Allowable feature" means:

(i) a landing or walkout porch that:

(A) is no more than 32 square feet in size; and

(B) is used for ingress to and egress from the rear of the residential dwelling; or

(ii) a window well.

(b) "Landing" means an uncovered, above-ground platform, with or without stairs, connected to the rear of a residential dwelling.

(c) "Setback" means the required distance between the property line of a lot or parcel and the location where a structure is allowed to be placed under an adopted land use regulation.

(d) "Walkout porch" means an uncovered platform that is on the ground and connected to the rear of a residential dwelling.

(e) "Window well" means a recess in the ground around a residential dwelling to allow for ingress and egress through a window installed in a basement that is fully or partially below ground.

(2) A municipality may not enact or enforce an ordinance, resolution, or policy that prohibits or has the effect of prohibiting an allowable feature within the rear setback of a residential building lot or parcel.

(3) Subsection (2) does not apply to a historic district within the municipality.

Section 69. Section 10-20-624, which is renumbered from Section 10-9a-544 is renumbered and amended to read:

[~~10-9a-544~~]10-20-624

(Effective 11/06/25)

. Digital asset mining -- Zoning restrictions.

(1) As used in this section:

(a) "Digital asset" means the same as that term is defined in Section 7-29-101.

(b) "Digital asset mining" means using computer hardware and software specifically designed or utilized for validating data and securing a blockchain network.

(c) "Digital asset mining business" means a group of computers working at a single site that:

(i) consumes more than one megawatt of energy on an average annual basis; and

(ii) operates for the purpose of generating blockchain tokens by securing a blockchain network.

(2) A [~~political subdivision of the state~~]municipality may not enact an ordinance, resolution, or rule that:

(a) for digital asset mining businesses located in areas zoned for industrial use, imposes sound restrictions on digital asset mining businesses that are more stringent than the generally applicable limits set for industrial-zoned areas; or

(b) prevents a digital asset mining business from operating in an area zoned for industrial use if the digital asset mining business meets other requirements for industrial use.

Section 70. Section 10-20-701, which is renumbered from Section 10-9a-901 is renumbered and amended to read:

PART 7. Vested Critical Infrastructure Materials Operations

[~~10-9a-901~~]10-20-701

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Commercial quantities," for purposes of this section, means critical infrastructure materials:

(a) extracted or processed by a commercial enterprise in the ordinary course of business; and

(b) in a sufficient amount that the critical infrastructure materials introduction into commerce would create a reasonable expectation of profit.

(2) "Contiguous land" means surface or subsurface land that shares a common boundary and is not separated by a highway as defined in Section 41-6a-102.

(3) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

(4) "Critical infrastructure materials use" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

(5) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials use; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials use.

(6) "Existing legal use" means a critical infrastructure materials use that has operated in accordance with:

(a) a legal nonconforming use that has not been abandoned for more than 24 consecutive months; or

(b) a permit issued by the applicable political subdivision.

(7) "New land" means surface or subsurface land that a critical infrastructure materials operator gains ownership or control of on or before January 1, 2026, regardless of whether that land is included in any applicable permit issued by a political subdivision or a legal nonconforming use.

(8) "Vested critical infrastructure materials use" means a critical infrastructure materials use by a critical infrastructure materials operator that is an existing legal use.

Section 71. Section 10-20-702, which is renumbered from Section 10-9a-902 is renumbered and amended to read:

[~~10-9a-902~~]10-20-702

(Effective 11/06/25)

. Vested critical infrastructure materials use -- Presumption.

(1) (a) A critical infrastructure materials use is presumed to be a vested critical infrastructure materials use if the critical infrastructure materials use meets the definition of vested critical infrastructure materials use in Section [~~10-9a-901~~]10-20-701.

(b) A person claiming that a vested critical infrastructure materials use has not been established has the burden of proof to show by the preponderance of the evidence that the vested critical infrastructure materials use has not been established.

(2) A vested critical infrastructure materials use:

(a) runs with the land; and

(b) may be changed to another critical infrastructure materials use without losing its status as a vested critical infrastructure materials use.

(3) The present or future boundary of the critical infrastructure materials use of a critical infrastructure materials operator with a vested critical infrastructure materials use does not limit:

(a) the scope of rights of a critical infrastructure materials operator with a vested critical infrastructure material use; or

(b) the protection for a critical infrastructure materials protection area.

(4) (a) A critical infrastructure operator with a vested critical infrastructure materials use shall file a declaration for recording in the office of the recorder of the county in which the vested critical infrastructure materials use is located.

(b) A declaration under Subsection (4)(a) shall:

(i) contain a legal description of the land included within the vested critical infrastructure materials use; and

(ii) provide notice of the vested critical infrastructure materials use.

Section 72. Section 10-20-703, which is renumbered from Section 10-9a-903 is renumbered and amended to read:

[~~10-9a-903~~]10-20-703

(Effective 11/06/25)

. Rights of a critical infrastructure materials operator with a vested critical infrastructure materials use.

(1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a critical infrastructure materials use adopted after the establishment of the critical infrastructure materials use, the rights of a critical infrastructure materials operator with a vested critical infrastructure materials use include with respect to that existing legal use the right to:

(a) progress, extend, enlarge, grow, or expand the vested critical infrastructure materials use to any contiguous land that the critical infrastructure materials operator owns or controls before May 7, 2025;

(b) expand the vested critical infrastructure materials use to new land that is contiguous land to the surface or subsurface land on which the critical infrastructure materials operator has a vested critical infrastructure materials use, including the surface or subsurface land under Subsection (1)(a);

(c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025;

(d) on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025:

(i) increase production or volume;

(ii) alter the method of extracting or processing, including with respect to the vested use, the right to stockpile or hold in reserve critical infrastructure materials, to recycle, and to batch and mix concrete and asphalt; and

(iii) extract or process a different or additional critical infrastructure material than previously extracted or processed on the surface or subsurface land; and

(e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily or permanently, all or any part of the critical infrastructure materials use.

(2) (a) As used in this Subsection (2), "applicable legislative body" means the legislative body of each:

(i) county in whose unincorporated area the new land to be included in the vested critical infrastructure materials use is located; or

(ii) municipality in which the new land to be included in the critical infrastructure materials use is located.

(b) A critical infrastructure materials operator with a vested critical infrastructure materials use is presumed to have a right to expand the vested critical infrastructure materials use to new land.

(c) Before expanding a vested critical infrastructure materials use to new land, a critical infrastructure materials operator shall provide written notice:

(i) of the critical infrastructure materials operator's intent to expand the vested critical infrastructure materials use; and

(ii) to each applicable legislative body.

(d) (i) An applicable legislative body shall:

(A) hold a public meeting or hearing at the applicable legislative body's next available meeting that is no later than 30 days after receiving the notice under Subsection (2)(c); and

(B) provide reasonable, advance, written notice of the intended expansion of the vested critical infrastructure materials use and the public meeting or hearing to each owner of the surface estate of the new land.

(ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide sufficient public notice of the critical infrastructure materials operator's intent to expand the vested critical infrastructure materials use to the new land.

(e) (i) After the public meeting or hearing under Subsection (2)(d)(i), a critical infrastructure materials operator may expand a vested critical infrastructure materials use to new land without any action by an applicable legislative body, unless the applicable legislative body finds by the preponderance of the evidence on the record that the expansion to new land will endanger the public health, safety, and welfare.

(ii) If the applicable legislative body makes the finding of endangerment described in [~~this~~] Subsection [~~(2)(e)~~](2)(e)(i), Subsection (4) applies.

(3) If a critical infrastructure materials operator expands a vested critical infrastructure materials use to new land, as authorized under this section:

(a) the critical infrastructure materials operator's rights under the vested critical infrastructure materials use with respect to land on which the vested critical infrastructure materials use occurs apply with equal force after the expansion to the new land; and

(b) the critical infrastructure materials protection area that includes land on which the vested critical infrastructure materials use occurs is expanded to include the new land.

(4) (a) If the applicable legislative body makes the finding of endangerment described in Subsection [~~(2)(e)~~](2)(e)(i):

(i) the critical infrastructure materials operator shall submit to the applicable legislative body the critical infrastructure materials operator's plan for expansion under this section;

(ii) by no later than 90 days after receipt of the plan for expansion described in Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:

(A) evidence that the expansion to new land will endanger the public health, safety, and welfare; and

(B) proposed measures to mitigate the endangerment of the public health, safety, and welfare; and

(iii) the applicable legislative body shall hold a public hearing by no later than 30 days after the date the applicable legislative body complies with Subsection (4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).

(b) The applicable legislative body may impose mitigation measures under this Subsection (4) that are reasonable and do not exceed requirements imposed by permits issued by a state agency such as an air quality permit.

(c) A political subdivision may not prohibit the expansion of a vested critical infrastructure materials use if the critical infrastructure materials operator agrees to comply with the mitigation measures described in Subsection (4)(b).

(d) The process under this Subsection (4) is not a land use application or conditional use application under this chapter.

Section 73. Section 10-20-704, which is renumbered from Section 10-9a-905 is renumbered and amended to read:

[~~10-9a-905~~]10-20-704

(Effective 11/06/25)

. Abandonment of a vested critical infrastructure materials use.

(1) A critical infrastructure materials operator may abandon some or all of a vested critical infrastructure materials use only as provided in this section.

(2) To abandon some or all of a vested critical infrastructure materials use, a critical infrastructure materials operator shall record a written declaration of abandonment with the recorder of the county in which the vested critical infrastructure materials use being abandoned is located.

(3) The written declaration of abandonment under Subsection (2) shall specify the vested critical infrastructure materials use or the portion of the vested critical infrastructure materials use being abandoned.

Section 74. Section 10-20-801, which is renumbered from Section 10-9a-601 is renumbered and amended to read:

PART 8. Subdivisions

[~~10-9a-601~~]10-20-801
(Effective 11/06/25)
. Enactment of subdivision ordinance.

(1) The legislative body of a municipality may enact ordinances requiring that a subdivision plat comply with the provisions of the municipality's ordinances and this part before:

(a) the subdivision plat may be filed and recorded in the county recorder's office; and

(b) lots may be sold.

(2) If the legislative body fails to enact a subdivision ordinance, the municipality may regulate subdivisions only to the extent provided in this part.

(3) The joining of a lot or lots to a parcel does not constitute a subdivision as to the parcel or subject the parcel to the municipality's subdivision ordinance.

(4) A legislative body may adopt a land use regulation that specifies that combining lots does not require a subdivision plat amendment.

Section 75. Section 10-20-802, which is renumbered from Section 10-9a-602 is renumbered and amended to read:
[~~10-9a-602~~]10-20-802
(Effective 11/06/25)
. Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.

(1) A planning commission shall:

(a) review and provide a recommendation to the legislative body on any proposed ordinance that regulates the subdivision of land in the municipality;

(b) review and make a recommendation to the legislative body on any proposed ordinance that amends the regulation of the subdivision of the land in the municipality;

(c) provide notice consistent with Section [~~10-9a-205~~]10-20-205; and

(d) hold a public hearing on the proposed ordinance before making the planning commission's final recommendation to the legislative body.

(2) (a) A legislative body may adopt, modify, revise, or reject an ordinance described in Subsection (1) that the planning commission recommends.

(b) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Section 76. Section 10-20-803, which is renumbered from Section 10-9a-603 is renumbered and amended to read:
[~~10-9a-603~~]10-20-803
(Effective 11/06/25)
. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact described in:

(A) Section [~~10-9a-211~~]10-20-211;

(B) Subsection 73-5-7(3); or

(C) Subsection (6)(c).

(b) "Local health department" means the same as that term is defined in Section 26A-1-102.

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

(2) Unless exempt under Section [~~10-9a-605~~]10-20-808 or excluded from the definition of subdivision under Section [~~10-9a-103~~]10-20-102, whenever any land is laid out and platted, the owner of the land shall provide to the municipality in which the land is located an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale;

(d) every existing right-of-way and recorded easement located within the plat for:

(i) an underground facility;

(ii) a water conveyance facility; or

(iii) any other utility facility; and

(e) any water conveyance facility located, entirely or partially, within the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or

(B) from a surveyor under Subsection (6)(c).

(3) (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the municipality; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) A municipality shall:

(i) within 20 days after the day on which an owner of land submits to the municipality a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the municipality:

(A) from the facility owner under Section [~~10-9a-211~~]10-20-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;

(B) in the state engineer's inventory of canals; or

(C) from a surveyor under Subsection (6)(c); and

(ii) not approve the subdivision plat for at least 20 days after the day on which the municipality mails to each facility owner the notice described in Subsection (3)(d)(i), in order to receive any comments from each facility owner regarding:

(A) access to the water conveyance facility;

(B) maintenance of the water conveyance facility;

(C) protection of the water conveyance facility;

(D) safety of the water conveyance facility; or

(E) any other issue related to water conveyance facility operations.

(e) When applicable, the owner of the land seeking subdivision plat approval shall comply with Section 73-1-15.5.

(f) A facility owner's failure to provide comments to a municipality in accordance with Subsection (3)(d)(ii) does not affect or impair the municipality's authority to approve the subdivision plat.

(4) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(5) (a) Within 30 days after approving a final plat under this section, a municipality shall submit to the Utah Geospatial Resource Center, created in Section 63A-16-505, for inclusion in the unified statewide 911 emergency service database described in [~~Subsection 63H-7a-304(4)(b)~~]Section 63H-7a-304:

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Utah Geospatial Resource Center, a municipality that approves a final plat under this section shall:

(i) coordinate with the Utah Geospatial Resource Center to validate the information described in Subsection (5)(a); and

(ii) assist the Utah Geospatial Resource Center in creating electronic files that contain the information described in Subsection (5)(a) for inclusion in the unified statewide 911 emergency service database.

(6) (a) A county recorder may not record a plat unless:

(i) [~~prior to~~]before recordation, the municipality has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as provided by law.

(b) A surveyor who prepares the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section [~~17-23-17~~]17-73-504 and has verified all measurements; or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a representative designated by the owner or

operator, of an existing water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of the existing water conveyance facility, or the existing or proposed underground facility or utility facility; and

(C) physical restrictions governing the location of the existing or proposed underground facility or utility facility.

(ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection (6)(c)(i):

(A) indicates only that the plat approximates the location of the existing facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(7) (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged, certified, and approved, the owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the municipality.

(8) A municipality acting as a land use authority shall approve a condominium plat that complies with the requirements of Section 57-8-13 unless the condominium plat violates a land use regulation of the municipality.

Section 77. Section 10-20-804, which is renumbered from Section 10-9a-604 is renumbered and amended to read:

[~~10-9a-604~~]10-20-804

(Effective 11/06/25)

. Subdivision plat approval procedure -- Effect of not complying.

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection [~~10-9a-603(6)(a)~~]10-20-803(6)(a);

(b) the plat has been approved by:

(i) the land use authority of the municipality in which the land described in the plat is located; and

(ii) other officers that the municipality designates in its ordinance;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) A subdivision plat recorded without the signatures required under this section is void.

(3) A transfer of land pursuant to a void plat is voidable by the land use authority.

Section 78. Section 10-20-805, which is renumbered from Section 10-9a-604.1 is renumbered and amended to read:

[~~10-9a-604.1~~]10-20-805

(Effective 11/06/25)

. Process for subdivision review and approval.

(1) (a) As used in this section, an "administrative land use authority" means an individual, board, or commission, appointed or employed by a municipality, including municipal staff or a municipal planning commission.

(b) "Administrative land use authority" does not include a municipal legislative body or a member of a municipal legislative body.

(2) (a) This section applies to land use decisions arising from subdivision applications for single-family dwellings, two-family dwellings, or townhomes.

(b) This section does not apply to land use regulations adopted, approved, or agreed upon by a legislative body exercising land use authority in the review of land use applications for zoning or other land use regulation approvals.

(3) A municipal ordinance governing the subdivision of land shall:

(a) comply with this section, and establish a standard method and form of application for preliminary subdivision applications and final subdivision applications; and

(b) (i) designate a single administrative land use authority for the review of preliminary applications to subdivide land; or

(ii) if the municipality has adopted an ordinance that establishes a separate procedure for the review and approval of subdivisions under Section [~~10-9a-605~~]10-20-808, the municipality may designate a different and separate administrative land use authority for the approval of subdivisions under Section [~~10-9a-605~~]10-20-808.

(4) (a) If an applicant requests a pre-application meeting, the municipality shall, within 15 business days after the request, schedule the meeting to review the concept plan and give initial feedback.

(b) At the pre-application meeting, the municipal staff shall provide or have available on the municipal website the following:

(i) copies of applicable land use regulations;

(ii) a complete list of standards required for the project;

(iii) preliminary and final application checklists; and

(iv) feedback on the concept plan.

(5) A preliminary subdivision application shall comply with all applicable municipal ordinances and requirements of this section.

(6) An administrative land use authority may complete a preliminary subdivision application review in a public meeting or at a municipal staff level.

(7) With respect to a preliminary application to subdivide land, an administrative land use authority may:

(a) receive public comment; and

(b) hold no more than one public hearing.

(8) If a preliminary subdivision application complies with the applicable municipal ordinances and the requirements of this section,

the administrative land use authority shall approve the preliminary subdivision application.

(9) A municipality shall review and approve or deny a final subdivision plat application in accordance with the provisions of this section and municipal ordinances, which:

(a) may permit concurrent processing of the final subdivision plat application with the preliminary subdivision plat application; and

(b) may not require planning commission or city council approval.

(10) If a final subdivision application complies with the requirements of this section, the applicable municipal ordinances, and the preliminary subdivision approval granted under Subsection (9)(a), a municipality shall approve the final subdivision application.

Section 79. Section 10-20-806, which is renumbered from Section 10-9a-604.2 is renumbered and amended to read:

[~~10-9a-604.2~~]10-20-806

(Effective 11/06/25)

. Review of subdivision applications and subdivision improvement plans.

(1) As used in this section:

(a) "Review cycle" means the occurrence of:

(i) the applicant's submittal of a complete subdivision application;

(ii) the municipality's review of that subdivision application;

(iii) the municipality's response to that subdivision application, in accordance with this section; and

(iv) the applicant's reply to the municipality's response that addresses each of the municipality's required modifications or requests for additional information.

(b) "Subdivision application" means a land use application for the subdivision of land.

(c) "Subdivision improvement plans" means the civil engineering plans associated with required infrastructure improvements and municipally controlled utilities required for a subdivision.

(d) "Subdivision ordinance review" means review by a municipality to verify that a subdivision application meets the criteria of the municipality's ordinances.

(e) "Subdivision plan review" means a review of the applicant's subdivision improvement plans and other aspects of the subdivision application to verify that the application complies with municipal ordinances and applicable installation standards and inspection specifications for infrastructure improvements.

(2) The review cycle restrictions and requirements of this section do not apply to the review of subdivision applications affecting property within identified geological hazard areas.

(3) (a) A municipality may require a subdivision improvement plan to be submitted with a subdivision application.

(b) A municipality may not require a subdivision improvement plan to be submitted with both a preliminary subdivision application and a final subdivision application.

(4) (a) The review cycle requirements of this section apply:

(i) to the review of a preliminary subdivision application, if the municipality requires a subdivision improvement plan to be submitted with a preliminary subdivision application; or

(ii) to the review of a final subdivision application, if the municipality requires a subdivision improvement plan to be submitted with a final subdivision application.

(b) A municipality may not, outside the review cycle, engage in a substantive review of required infrastructure improvements or a municipally controlled utility.

(5) (a) A municipality shall complete the initial review of a complete subdivision application submitted for ordinance review for a residential subdivision for single-family dwellings, two-family dwellings, or town homes:

(i) no later than 15 business days after the complete subdivision application is submitted, if the municipality has a population over 5,000; or

(ii) no later than 30 business days after the complete subdivision application is submitted, if the municipality has a population of 5,000 or less.

(b) A municipality shall maintain and publish a list of the items comprising the complete subdivision application, including:

(i) the application;

(ii) the owner's affidavit;

(iii) an electronic copy of all plans in PDF format;

(iv) the preliminary subdivision plat drawings; and

(v) a breakdown of fees due upon approval of the application.

(6) A municipality shall publish a list of the items that comprise a complete subdivision land use application.

(7) A municipality shall complete a subdivision plan review of a subdivision improvement plan that is submitted with a complete subdivision application for a residential subdivision for single-family dwellings, two-family dwellings, or town homes:

(a) within 20 business days after the complete subdivision application is submitted, if the municipality has a population over 5,000; or

(b) within 40 business days after the complete subdivision application is submitted, if the municipality has a population of 5,000 or less.

(8) (a) In reviewing a subdivision application, a municipality may require:

(i) additional information relating to an applicant's plans to ensure compliance with municipal ordinances and approved standards and specifications for construction of public improvements; and

(ii) modifications to plans that do not meet current ordinances, applicable standards or specifications, or do not contain complete information.

(b) A municipality's request for additional information or modifications to plans under Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances, standards, or specifications that require the modifications to subdivision improvement plans, and shall be logged in an index of requested modifications or additions.

(c) A municipality may not require more than four review cycles for a subdivision improvement plan review.

(d) (i) Subject to Subsection (8)(d)(ii), unless the change or correction is necessitated by the applicant's adjustment to a subdivision

improvement plan or an update to a phasing plan that adjusts the infrastructure needed for the specific development, a change or correction not addressed or referenced in a municipality's subdivision improvement plan review is waived.

(ii) A modification or correction necessary to protect public health and safety or to enforce state or federal law may not be waived.

(iii) If an applicant makes a material change to a subdivision improvement plan, the municipality has the discretion to restart the review process at the first review of the subdivision improvement plan review, but only with respect to the portion of the subdivision improvement plan that the material change substantively affects.

(e) (i) This Subsection (8)(e) applies if an applicant does not submit a revised subdivision improvement plan within:

(A) 20 business days after the municipality requires a modification or correction, if the municipality has a population over 5,000; or

(B) 40 business days after the municipality requires a modification or correction, if the municipality has a population of 5,000 or less.

(ii) If an applicant does not submit a revised subdivision improvement plan within the time specified in Subsection (8)(e)(i), a municipality has an additional 20 business days after the time specified in Subsection (7) to respond to a revised subdivision improvement plan.

(9) After the applicant has responded to the final review cycle, and the applicant has complied with each modification requested in the municipality's previous review cycle, the municipality may not require additional revisions if the applicant has not materially changed the plan, other than changes that were in response to requested modifications or corrections.

(10) (a) In addition to revised plans, an applicant shall provide a written explanation in response to the municipality's review comments, identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any.

(b) The applicant's written explanation shall be comprehensive and specific, including citations to applicable standards and ordinances for the design and an index of requested revisions or additions for each required correction.

(c) If an applicant fails to address a review comment in the response, the review cycle is not complete and the subsequent review cycle may not begin until all comments are addressed.

(11) (a) If, on the fourth or final review, a municipality fails to respond within 20 business days, the municipality shall, upon request of the property owner, and within 10 business days after the day on which the request is received:

(i) for a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Subsection [~~10-9a-508(5)(d)~~]10-20-911(5)(d) to review and approve or deny the final revised set of plans; or

(ii) for a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to a designated appeal authority.

Section 80. Section 10-20-807, which is renumbered from Section 10-9a-604.5 is renumbered and amended to read:

[~~10-9a-604.5~~]10-20-807

(Effective 11/06/25)

. Subdivision plat recording or development activity before required landscaping or infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) As used in this section:

(a) "Private landscaping plan" means a proposal:

(i) to install landscaping on a lot owned by a private individual or entity; and

(ii) submitted to a municipality by the private individual or entity, or on behalf of a private individual or entity, that owns the lot.

(b) "Public landscaping improvement" means landscaping that an applicant is required to install to comply with published installation and inspection specifications for public improvements that:

(i) will be dedicated to and maintained by the municipality; or

(ii) are associated with and proximate to trail improvements that connect to planned or existing public infrastructure.

(2) A land use authority shall establish objective inspection standards for acceptance of a public landscaping improvement or infrastructure improvement that the land use authority requires.

(3) (a) Except as provided in Subsection (3)(d) or (e), before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required public landscaping improvements or infrastructure improvements; or

(ii) post an improvement completion assurance for any required public landscaping improvements or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall in accordance with Subsection (5) provide completion assurance for:

(i) completion of 100% of the required public landscaping improvements or infrastructure improvements; or

(ii) if the municipality has inspected and accepted a portion of the public landscaping improvements or infrastructure improvements, 100% of the incomplete or unaccepted public landscaping improvements or infrastructure improvements.

(c) A municipality shall:

(i) establish a minimum of two acceptable forms of completion assurance;

(ii) (A) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this chapter and any local ordinances; and

(B) if a municipality accepts cash deposits as a form of completion assurance and the applicant elects to post a cash deposit as a form of completion assurance, place the cash deposit in an interest-bearing account upon receipt and return any earned interest to the applicant with the return of the completion assurance according to the conditions of this chapter and any local ordinances;

(iii) establish a system for the partial release of an improvement completion assurance as portions of required public landscaping improvements or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iv) issue or deny a building permit in accordance with Section [~~10-9a-802~~]10-20-1001 based on the installation of public landscaping improvements or infrastructure improvements.

(d) A municipality may not require an applicant to post an improvement completion assurance for:

(i) public landscaping improvements or an infrastructure improvement that the municipality has previously inspected and accepted;

(ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use

regulation;

(iii) in a municipality where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the municipality requires to be private;

(iv) landscaping improvements that are not public landscaping improvements, unless the landscaping improvements and completion assurance are required under the terms of a development agreement;

(v) a private landscaping plan;

(vi) landscaping improvements or infrastructure improvements that an applicant elects to install at the applicant's own risk:

(A) before the plat is recorded;

(B) [~~pursuant to~~]in accordance with inspections required by the municipality for the infrastructure improvement; and

(C) [~~pursuant to~~]in accordance with final civil engineering plan approval by the municipality; or

(vii) any individual public landscaping improvement or individual infrastructure improvement when the individual public landscaping improvement or individual infrastructure improvement is also included as part of a separate improvement completion assurance.

(e) (i) A municipality may not:

(A) prohibit an applicant from installing a public landscaping improvement or an infrastructure improvement when the municipality has approved final civil engineering plans for the development activity or plat for which the public landscaping improvement or infrastructure improvement is required; or

(B) require an applicant to sign an agreement, release, or other document inconsistent with this chapter as a condition of posting an improvement completion assurance, security for an improvement warranty, or receiving a building permit.

(ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and infrastructure improvements that are installed by an applicant are subject to inspection by the municipality in accordance with the municipality's adopted inspection standards.

(f) (i) Each improvement completion assurance and improvement warranty posted by an applicant with a municipality shall be independent of any other improvement completion assurance or improvement warranty posted by the same applicant with the municipality.

(ii) Subject to Section [~~10-9a-509.5~~]10-20-905, if an applicant has posted a form of security with a municipality for more than one infrastructure improvement or public landscaping improvement, the municipality may not withhold acceptance of an applicant's required subdivision improvements, public landscaping improvement, infrastructure improvements, or the performance of warranty work for the same applicant's failure to complete a separate subdivision improvement, public landscaping improvement, infrastructure improvement, or warranty work under a separate improvement completion assurance or improvement warranty.

(4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or other entitlement benefit not currently available under the existing zone, a municipality may require a completion assurance bond for landscaped amenities and common area that are dedicated to and maintained by a homeowners association.

(b) Any agreement regarding a completion assurance bond under Subsection (4)(a) between the applicant and the municipality shall be memorialized in a development agreement.

(c) A municipality may not require a completion assurance bond for or dictate who installs or is responsible for the cost of the landscaping of residential lots or the equivalent open space surrounding single-family attached homes, whether platted as lots or common area.

(5) The sum of the improvement completion assurance required under Subsections (3) and (4) may not exceed the sum of:

(a) 100% of the estimated cost of the public landscaping improvements or infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's bid; and

(b) 10% of the amount of the bond to cover administrative costs incurred by the municipality to complete the improvements, if necessary.

(6) (a) Upon an applicant's written request that the land use authority accept or reject the applicant's installation of required subdivision improvements or performance of warranty work as set forth in Section [~~10-9a-509.5~~]10-20-905, and for the duration of each improvement warranty period, the municipality may require the applicant to:

(i) execute an improvement warranty for the improvement warranty period; and

(ii) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:

(A) municipal engineer's original estimated cost of completion; or

(B) applicant's reasonable proven cost of completion.

(b) A municipality may not require the payment of the deposit of the improvement warranty assurance described in Subsection (6)(a)(i) for an infrastructure improvement or public landscaping improvement before the applicant indicates through written request that the applicant has completed the infrastructure improvement or public landscaping improvement.

(7) When a municipality accepts an improvement completion assurance for public landscaping improvements or infrastructure improvements for a development in accordance with Subsection (3)(c)(ii), the municipality may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

(8) A municipality may not require the submission of a private landscaping plan as part of an application for a building permit.

(9) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 81. Section 10-20-808, which is renumbered from Section 10-9a-605 is renumbered and amended to read:

[~~10-9a-605~~]10-20-808

(Effective 11/06/25)

. Exemptions from plat requirement.

(1) Notwithstanding any other provision of law, a plat is not required if:

(a) a municipality establishes a process to approve an administrative land use decision for a subdivision of 10 or fewer parcels without a plat; and

(b) the municipality provides in writing that:

(i) the municipality has provided a certificate or written approval as required by ordinance; and

(ii) the proposed subdivision:

(A) is not traversed by the mapped lines of a proposed street as shown in the general plan unless the municipality has approved the

location and dedication of any public street, municipal utility easement, any other easement, or any other land for public purposes as the municipality's ordinance requires;

(B) has been approved by the culinary water authority and the sanitary sewer authority;

(C) is located in a zoned area; and

(D) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a parcel resulting from a division of agricultural land is exempt from the plat requirements of Section [~~10-9a-603~~]10-20-803 if the parcel:

(i) qualifies as land in agricultural use under Section 59-2-502;

(ii) meets the minimum size requirement of applicable land use ordinances; and

(iii) is not used and will not be used for any nonagricultural purpose.

(b) If a parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the municipality may require the parcel to comply with the requirements of Section [~~10-9a-603~~]10-20-803.

(3) (a) Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

(i) prohibit the county recorder from recording a document; or

(ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached and that complies with Section 57-3-106.

(4) (a) The boundaries of any subdivision exempted from the plat requirement under this section shall be graphically illustrated on a record of survey map that includes:

(i) a legal description of the parcel to be divided;

(ii) a legal description of each parcel created by the subdivision; and

(iii) a citation to the specific provision of this section for which an exemption to the plat requirement is authorized.

(b) The record of survey map described in Subsection (4)(a) shall be filed with the county surveyor in accordance with Section [~~17-23-17~~]17-73-504.

Section 82. Section 10-20-809, which is renumbered from Section 10-9a-606 is renumbered and amended to read:

[~~10-9a-606~~]10-20-809

(Effective 11/06/25)

. Common area parcels on a plat -- No separate ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

(1) As used in this section:

(a) "Association" means the same as that term is defined in:

(i) regarding a common area, Section 57-8a-102; and

(ii) regarding a common area and facility, Section 57-8-3.

(b) "Common area" means the same as that term is defined in Section 57-8a-102.

(c) "Common area and facility" means the same as that term is defined in Section 57-8-3.

(d) "Declarant" means the same as that term is defined in:

(i) regarding a common area, Section 57-8a-102; and

(ii) regarding a common area and facility, Section 57-8-3.

(e) "Declaration," regarding a common area and facility, means the same as that term is defined in Section 57-8-3.

(f) "Period of administrative control" means the same as that term is defined in:

(i) regarding a common area, Section 57-8a-102; and

(ii) regarding a common area and facility, Section 57-8-3.

(2) A person may not separately own, convey, or modify a parcel designated as a common area or common area and facility, on a plat recorded in compliance with this part, independent of the other lots, units, or parcels created by the plat unless:

(a) an association holds in trust the parcel designated as a common area for the owners of the other lots, units, or parcels created by the plat; or

(b) the conveyance or modification is approved under Subsection (5).

(3) If a conveyance or modification of a common area or common area and facility is approved in accordance with Subsection (5), the person who presents the instrument of conveyance to a county recorder shall:

(a) attach a notice of the approval described in Subsection (5) as an exhibit to the document of conveyance; or

(b) record a notice of the approval described in Subsection (5) concurrently with the conveyance as a separate document.

(4) When a plat contains a common area or common area and facility:

(a) for purposes of assessment, each parcel that the plat creates has an equal ownership interest in the common area or common area and facility within the plat, unless the plat or an accompanying recorded document indicates a different division of interest for assessment purposes; and

(b) each instrument describing a parcel on the plat by the parcel's identifying plat number implicitly includes the ownership interest in the common area or common area and facility, even if that ownership interest is not explicitly stated in the instrument.

(5) Notwithstanding Subsection (2), a person may modify the size or location of or separately convey a common area or common area and facility if the following approve the conveyance or modification:

(a) the local government;

(b) (i) for a common area that an association owns, 67% of the voting interests in the association; or

(ii) for a common area that an association does not own, or for a common area and facility, 67% of the owners of lots, units, and parcels designated on a plat that is subject to a declaration and on which the common area or common area and facility is included; and

(c) during the period of administrative control, the declarant.

Section 83. Section 10-20-810, which is renumbered from Section 10-9a-607 is renumbered and amended to read:

[~~10-9a-607~~]10-20-810

(Effective 11/06/25)

. Dedication by plat of public streets and other public places.

(1) A plat that is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part, operates, when recorded, as a dedication of all public streets and other public places, and vests the fee of those parcels of land in the municipality for the public for the uses named or intended in the plat.

(2) The dedication established by this section does not impose liability upon the municipality for public streets and other public places that are dedicated in this manner but are unimproved unless:

(a) adequate financial assurance has been provided in accordance with this chapter; and

(b) the municipality has accepted the dedication.

Section 84. Section 10-20-811, which is renumbered from Section 10-9a-608 is renumbered and amended to read:

[~~10-9a-608~~]10-20-811

(Effective 11/06/25)

. Subdivision amendments.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a petition with the land use authority to request a subdivision amendment.

(b) Upon filing a petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section [~~10-9a-603~~]10-20-803 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

(c) (i) The land use authority shall provide notice of a petition filed under Subsection (1)(a) by mail or email to:

(A) each affected entity that provides a service to a property owner of record of the portion of the plat that is being vacated or amended; and

(B) each property owner of record within the portion of the subdivision that is proposed to be amended.

(ii) The notice described in Subsection (1)(c)(i)(B) shall include a deadline by which written objections to the petition are due to the land use authority, but no earlier than 10 calendar days after the day on which the land use authority sends the notice.

(d) The land use authority shall hold a public hearing within 45 days after the day on which a petition is filed under Subsection (1)(a) if:

(i) any property owner within the subdivision that is proposed to be amended notifies the municipality of the owner's objection in writing before the deadline for objections as described in Subsection (1)(c)(ii); or

(ii) a municipal ordinance requires a public hearing if all of the property owners within the portion of the subdivision proposed to be amended have not signed the proposed amended plat.

(e) A land use authority may approve a petition for subdivision amendment no earlier than:

(i) the day after the day on which written objections were due to the land use authority, as described in Subsection (1)(c)(ii); or

(ii) if a public hearing is required as described in Subsection (1)(d), the day the public hearing takes place.

(f) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

(2) The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioner fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(iv) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or municipal utility easement is also subject to Section [~~10-9a-609.5~~]10-20-813.

(4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and

(b) the signature of each owner described in Subsection (4)(a) who consents to the petition.

(5) A surveyor preparing an amended plat under this section shall certify that the surveyor:

(a) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(b) (i) has completed a survey of the property described on the plat in accordance with Section [~~17-23-17~~]17-73-504 and has verified all measurements;

(ii) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; or

(iii) has referenced the original plat that created the lot boundaries being amended; and

(c) has placed monuments as represented on the plat.

Section 85. Section 10-20-812, which is renumbered from Section 10-9a-609 is renumbered and amended to read:

[~~10-9a-609~~]10-20-812

(Effective 11/06/25)

. Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

(1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:

(a) there is good cause for the vacation or amendment; and

(b) no public street or municipal utility easement has been vacated or amended.

(2) (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.

(b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.

(3) (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.

(b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.

(4) An amended plat may not be submitted to the county recorder for recording unless it is:

(a) signed by the land use authority; and

(b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.

(5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.

(6) A plat may be corrected as provided in Section 57-3-106.

Section 86. Section 10-20-813, which is renumbered from Section 10-9a-609.5 is renumbered and amended to read:

[~~10-9a-609.5~~]10-20-813

(Effective 11/06/25)

. Petition to vacate a public street.

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections [~~10-9a-603~~]10-20-803 through [~~10-9a-609~~]10-20-812, a legislative body may approve a petition to vacate a public street in accordance with this section.

(2) A petition to vacate some or all of a public street or municipal utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street or municipal utility easement between the two nearest public street intersections; or

(ii) accessed exclusively by or within 300 feet of the public street or municipal utility easement;

(b) proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or municipal utility easement sought to be vacated; and

(c) the signature of each owner under Subsection (2)(a) who consents to the vacation.

(3) If a petition is submitted containing a request to vacate some or all of a public street or municipal utility easement, the legislative body shall hold a public hearing in accordance with Section [~~10-9a-208~~]10-20-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

(4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or municipal utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

(5) If the legislative body adopts an ordinance vacating some or all of a public street or municipal utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection (4); and

(ii) a legal description of the public street to be vacated.

(6) The action of the legislative body vacating some or all of a public street or municipal utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated public street or municipal utility easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any parcel or lot owner;

(ii) the rights of any public utility; or

(iii) the rights of a culinary water authority or sanitary sewer authority.

(7) (a) A municipality may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or

all of a public street.

(b) If a municipality submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except to the extent:

(A) the easement is not a protected utility easement as defined in Section 54-3-27;

(B) the easement is included within the public street; and

(C) the notice to vacate the public street also contains a notice to vacate the easement; and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

(8) A legislative body may not approve a petition to vacate a public street under this section unless the vacation identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the public street.

Section 87. Section 10-20-814, which is renumbered from Section 10-9a-610 is renumbered and amended to read:

[~~10-9a-610~~]10-20-814

(Effective 11/06/25)

. Restrictions for solar and other energy devices.

The land use authority may refuse to approve or renew any plat, subdivision plan, or dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the plat or subdivision prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the plat or subdivision.

Section 88. Section 10-20-815, which is renumbered from Section 10-9a-611 is renumbered and amended to read:

[~~10-9a-611~~]10-20-815

(Effective 11/06/25)

. Prohibited acts regarding subdivisions.

(1) (a) (i) If a subdivision requires a plat, an owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.

(ii) A violation of Subsection (1)(a)(i) is an infraction.

(b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.

(c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:

(i) does not affect the validity of the instrument or other document; and

(ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable municipal ordinances on land use and development.

(2) (a) A municipality may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.

(b) An action under this Subsection (2) may include an injunction or any other appropriate action or proceeding to prevent or enjoin the violation.

(c) A municipality need only establish the violation to obtain the injunction.

Section 89. Section 10-20-816, which is renumbered from Section 10-9a-904 is renumbered and amended to read:

[~~10-9a-904~~]10-20-816

(Effective 11/06/25)

. Notice of subdivision located near vested critical infrastructure materials operation.

For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a vested critical infrastructure materials operations created under Part 7, Vested Critical Infrastructure Materials Operations, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Vested Critical Infrastructure Materials Operations

This property is located in the vicinity of an established vested critical infrastructure materials operations in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from such normal critical infrastructure materials operations."

Section 90. Section 10-20-901, which is renumbered from Section 10-9a-306 is renumbered and amended to read:

PART 9. Administration of Land Use, Development, and Management Provisions

[~~10-9a-306~~]10-20-901

(Effective 11/06/25)

. Land use authority requirements -- Nature of land use decision.

(1) A land use authority shall apply the plain language of land use regulations.

(2) If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application.

(3) A land use decision of a land use authority is an administrative act, even if the land use authority is the legislative body.

Section 91. Section 10-20-902, which is renumbered from Section 10-9a-509 is renumbered and amended to read:

[~~10-9a-509~~]10-20-902

(Effective 11/06/25)

. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or

(B) during the 12 months [~~prior to~~]before the municipality processing the application, or multiple applications of the same type, are impaired or prohibited under the terms of a temporary land use regulation adopted under Section [~~10-9a-504~~]10-20-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section [~~17-27a-508~~]17-79-803.

(e) Unless a phasing sequence is required in an executed development agreement, a municipality shall, without regard to any other separate and distinct land use application, accept and process a complete land use application.

(f) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(g) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance in effect on the date that the applicant submits a complete application, subject to Subsection [~~10-9a-509(1)(a)(ii)~~]10-20-902(1)(a)(ii); or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(h) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a municipal ordinance; or

(vii) in a municipal specification for residential roadways in effect at the time a residential subdivision was approved.

(i) Except as provided in Subsection (1)(j) or (k), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(j) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable local ordinance.

(k) A municipality may not conduct a final inspection required before issuing a certificate of occupancy for a residential unit that is within the boundary of an infrastructure financing district, as defined in Section 17B-1-102, until the applicant for the certificate of occupancy provides adequate proof to the municipality that any lien on the unit arising from the infrastructure financing district's assessment against the unit under Title 11, Chapter 42, Assessment Area Act, has been released after payment in full of the infrastructure financing district's assessment against that unit.

(l) A municipality:

(i) may require the submission of a private landscaping plan, as defined in Section [~~10-9a-604.5~~]10-20-807, before landscaping is installed; and

(ii) may not withhold an applicant's building permit or certificate of occupancy because the applicant has not submitted a private landscaping plan.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection [~~10-9a-305(8)~~]10-20-304(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

(6) (a) After issuance of a building permit, a municipality may not:

(i) change or add to the requirements expressed in the building permit, unless the change or addition is:

(A) requested by the building permit holder; or

(B) necessary to comply with an applicable state building code; or

(ii) revoke the building permit or take action that has the effect of revoking the building permit.

(b) Subsection (6)(a) does not prevent a municipality from issuing a building permit that contains an expiration date defined in the building permit.

Section 92. Section 10-20-903, which is renumbered from Section 10-9a-527 is renumbered and amended to read:

[~~10-9a-527~~]10-20-903

(Effective 11/06/25)

. Historic preservation authority.

(1) (a) A legislative body may designate a historic preservation authority.

(b) A legislative body may not designate the legislative body or the municipality's governing body as a historic preservation authority.

(2) In making administrative decisions on land use applications, a historic preservation authority shall apply the plain language of the land use regulations to a land use application.

(3) If a land use regulation does not plainly restrict a land use application, the historic preservation authority shall interpret and apply the land use regulation to favor the land use application.

Section 93. Section 10-20-904, which is renumbered from Section 10-9a-510 is renumbered and amended to read:

[~~10-9a-510~~]10-20-904

(Effective 11/06/25)

. Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

(1) A municipality may impose or collect a fee for reviewing or approving the plans for a commercial or residential building, not to exceed the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the municipality charges for a building permit fee for that building.

(2) (a) Subject to Subsection (2)(b), a municipality may impose and collect a fee for reviewing and approving identical plans, as described in Section [~~10-9a-541~~]10-20-908, not to exceed the lesser of:

(i) the actual cost of performing the plan review; or

(ii) 30% of the fee that would be imposed and collected under Subsection (1).

(b) A municipality may impose and collect a fee for reviewing an original plan, as defined in Section [~~10-9a-541~~]10-20-908, that an applicant submits with the intent that the original plan be used as the basis for a future identical plan submission, the same as any other plan review fee under Subsection (1).

(3) A municipality may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, and appurtenance to connect to the municipal water, sewer, storm water, power, or other utility system.

(4) A municipality may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit;

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review; or

(c) an inspection fee on a qualified water conservancy district, as defined in Section 17B-2a-1010, that hires a qualified inspector to conduct inspections on new infrastructure.

(5) (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the municipality shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the municipality shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the municipality to create the calculation method described in Subsection (5)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed; and

(iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A municipality shall establish a fee appeal process subject to an appeal authority described in [~~Part 7, Appeal Authority and Variances~~]Part 11, Appeal Authority, Variances, and District Court Review, and district court review in accordance with [~~Part 8, District Court Review~~]Part 11, Appeal Authority, Variances, and District Court Review, to determine whether a fee reflects only the reasonable

estimated cost of:

(i) regulation;

(ii) processing an application;

(iii) issuing a permit; or

(iv) delivering the service for which the applicant or owner paid the fee.

(6) A municipality may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

(b) subject to Subsection (3), a hookup fee; and

(c) an impact fee for a public facility listed in Subsection 11-36a-102(17)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

[~~(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a municipality:~~]

[~~(a) Subsections (5) and (6);~~]

[~~(b) Section 10-9a-508; and~~]

[~~(c) Section 10-9a-509.5.~~]

Section 94. Section 10-20-905, which is renumbered from Section 10-9a-509.5 is renumbered and amended to read:

[~~10-9a-509.5~~]10-20-905

(Effective 11/06/25)

. Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

(1) (a) Each municipality shall, in a timely manner, determine whether a land use application is complete for the purposes of subsequent, substantive land use authority review.

(b) After a reasonable period of time to allow the municipality diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the municipality provide a written determination either that the application is:

(i) complete for the purposes of allowing subsequent, substantive land use authority review; or

(ii) deficient with respect to a specific, objective, ordinance-based application requirement.

(c) Within 30 days of receipt of an applicant's request under this section, the municipality shall either:

(i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application shall be supplemented by specific additional information identified in the notice; or

(ii) accept the application as complete for the purposes of further substantive processing by the land use authority.

(d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

(e) (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(b).

(ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).

(f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).

(ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.

(2) (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.

(b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

(c) Within 45 days from the date of service of the written request described in Subsection (2)(b):

(i) except as provided in Subsection (2)(c)(ii), the land use authority shall take final action, approving or denying the application; and

(ii) if a landowner petitions for a land use regulation, a legislative body shall take final action by approving or denying the petition.

(d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

(e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority is required to take final action under Subsection (2)(c).

(3) (a) As used in this Subsection (3), an "infrastructure improvement category" includes:

(i) a culinary water system;

(ii) a sanitary sewer system;

(iii) a storm water system;

(iv) a transportation system;

(v) a secondary and irrigation water system;

(vi) public landscaping; or

(vii) public parks, trails, or open space.

(b) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the municipality's adopted standards.

(c) (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.

(ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(c)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.

(iii) Except as provided in Subsection (3)(c)(iv), (3)(d), or (3)(e), the land use authority shall accept or reject the performance of warranty work within:

(A) for a city of a first, second, third, or fourth class, 15 days after the day on which the land use authority receives an applicant's written request under Subsection (3)(c)(i); and

(B) for a city of the fifth class or a town, 30 days after the day on which the land use authority receives an applicant's written request under Subsection (3)(c)(i).

(iv) If winter weather conditions do not reasonably permit a full and complete inspection of warranty work within the relevant time period described in Subsection (3)(c)(iii) so the land use authority is able to accept or reject the warranty work, the land use authority shall:

(A) notify the applicant in writing before the end of the applicable time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) that, because of winter weather conditions, the land use authority will require additional time to accept or reject the performance of warranty work; and

(B) complete the inspection of the performance of warranty work and provide the applicant with an acceptance or rejection as soon as practicable.

(d) If a land use authority rejects an applicant's performance of warranty work three times, the municipality may take 15 days in addition to the relevant time period described in Subsection (3)(c)(iii) for subsequent inspections of the applicant's warranty work.

(e) (i) If extraordinary circumstances do not permit a land use authority to complete inspection of warranty work within the relevant time period described in Subsection (3)(c)(iii) so the land use authority is able to accept or reject the warranty work, the land use authority shall:

(A) notify the applicant in writing before the end of the applicable time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) that, because of the extraordinary circumstances, the land use authority requires additional time to accept or reject the performance of warranty work; and

(B) complete the inspection of the performance of warranty work and provide the applicant with an acceptance or rejection within 30 days after the day on which the relevant time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) ends.

(ii) The following situations constitute extraordinary circumstances for purposes of Subsection (3)(e)(i):

(A) the land use authority is processing a request for inspection that substantially exceeds the normal scope of inspection the municipality is customarily required to perform;

(B) the applicant has provided two or more written requests described in Subsection (3)(c)(i) within the same 30-day time period; or

(C) the land use authority is processing an unusually large number of written requests described in Subsection (3)(c)(i) to accept or reject subdivision improvements or performance of warranty work.

(f) (i) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the municipality's adopted standards, the land use authority shall, within 15 days of the day on which the land use authority makes the determination, comprehensively and with specificity list the reasons for the land use authority's determination.

(ii) If the land use authority fails to provide an applicant with the list described in Subsection (3)(f)(i) within the required time period:

(A) the applicant may send written notice to the land use authority requesting the list within five days; and

(B) if the applicant does not receive the list within five days from the day on which the applicant provides the land use authority with written notice as described in Subsection (3)(f)(ii)(A), the applicant may demand, and the land use authority shall provide, a reimbursement equal to 20% of the applicant's improvement completion assurance or security for the warranty work within each infrastructure improvement category.

(g) Subject to the provisions of Section [~~10-9a-604.5~~]10-20-807:

(i) within 15 days of the day on which the land use authority determines that an infrastructure improvement within a certain infrastructure improvement category, as described in Subsection (3)(a), meets the municipality's adopted standards for that category of infrastructure improvement and an applicant submits complete as-built drawings to the land use authority, whichever occurs later, the land use authority shall return to the applicant 90% of the applicant's improvement completion assurance allocated toward that infrastructure improvement category; and

(ii) within 15 days of the day on which the warranty period expires and the land use authority determines that an infrastructure improvement within a certain infrastructure improvement category, as described in Subsection (3)(a), meets the municipality's adopted standards for that category of infrastructure improvement, the land use authority shall return to the applicant the remaining 10% of the applicant's improvement completion assurance allocated toward that infrastructure improvement category, plus any remaining portion of a bond described in Subsection [~~10-9a-604.5(5)(b)~~]10-20-807(5)(b).

(h) The following acts under this Subsection (3) are administrative acts:

(i) a municipality's return of an applicant's improvement completion assurance, or any portion of an improvement completion assurance, within a category of infrastructure improvements, to the applicant; and

(ii) a municipality's return of an applicant's security for an improvement warranty, or any portion of security for an improvement warranty, within a category of infrastructure improvements, to the applicant.

(4) Subject to Section [~~10-9a-509~~]10-20-902, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.

(5) There shall be no money damages remedy arising from a claim under this section.

Section 95. Section 10-20-906, which is renumbered from Section 10-9a-523 is renumbered and amended to read:

[~~10-9a-523~~]10-20-906

(Effective 11/06/25)

. Simple boundary adjustment -- Full boundary adjustment -- Process -- Review by land use authority.

(1) A person may propose a simple boundary adjustment to a land use authority as described in this section.

(2) A proposal for a simple boundary adjustment shall:

(a) include a conveyance document that complies with Section 57-1-45.5; and

(b) describe all lots or parcels affected by the proposed boundary adjustment.

(3) A land use authority shall consent to a proposed simple boundary adjustment if the land use authority verifies that the proposed simple boundary adjustment:

(a) meets the requirements of Subsection (2); and

(b) does not:

(i) affect a public right-of-way, municipal utility easement, or other public property;

(ii) affect an existing easement, onsite wastewater system, or an internal lot restriction; or

(iii) result in a lot or parcel out of conformity with land use regulations.

(4) If the land use authority determines that a proposed simple boundary adjustment does not meet the requirements of Subsection (3), a full boundary adjustment is required.

(5) To propose a full boundary adjustment, the adjoining property owners shall submit a proposal to the land use authority that includes:

(a) a conveyance document that complies with Section 57-1-45.5;

(b) a survey that complies with Subsection 57-1-45.5(3)(b); and

(c) if required by municipal ordinance, a proposed plat amendment corresponding with the proposed full boundary adjustment, prepared in accordance with Section [~~10-9a-608~~]10-20-811.

(6) A land use authority shall consent to a proposed full boundary adjustment made under Subsection (5) if:

(a) the proposal submitted to the land use authority under Subsection (5) includes all necessary information;

(b) the survey described in Subsection (5)(b) shows no evidence of a violation of a land use regulation; and

(c) if required by municipal ordinance, the plat amendment corresponding with the proposed full boundary adjustment has been approved in accordance with Section [~~10-9a-608~~]10-20-811.

(7) (a) Consent under Subsection (3) or (6) is an administrative act.

(b) Notice of consent under Subsection (3) or (6) shall be provided to the person proposing the boundary adjustment in a format that makes clear:

(i) the land use authority is not responsible for any error related to the boundary adjustment; and

(ii) a county recorder may record the boundary adjustment.

(8) A boundary adjustment is effective from the day on which the boundary adjustment, as consented to by the land use authority, is recorded by a county recorder along with the relevant conveyance document.

(9) The recording of a boundary adjustment does not constitute a land use approval.

(10) A municipality may enforce municipal ordinances against, or withhold approval of a land use application for, property that is subject to a boundary adjustment if the municipality determines that the resulting lots or parcels are not in compliance with the municipality's land use regulations in effect on the day on which the boundary adjustment is recorded.

Section 96. Section 10-20-907, which is renumbered from Section 10-9a-524 is renumbered and amended to read:

[~~10-9a-524~~]10-20-907

(Effective 11/06/25)

. Boundary establishment -- Process -- Boundary agreement not subject to review by land use authority -- Prohibitions.

(1) The owners of adjoining property may initiate a boundary establishment to:

(a) resolve an ambiguous, uncertain, or disputed boundary between the adjoining properties; and

(b) agree upon the location of an existing common boundary between the adjoining properties.

(2) Adjoining property owners executing a boundary establishment described in Subsection (1) shall:

(a) prepare an establishment document that complies with Section 57-1-45; and

(b) record the boundary establishment with the county recorder for the county in which the property exists, in accordance with Section 57-1-45.

(3) A boundary establishment:

(a) is not subject to review of a land use authority; and

(b) does not require consent or approval from a land use authority before it may be recorded.

(4) A boundary establishment is effective from the day it is recorded by a county recorder.

(5) A municipality may enforce municipal ordinances against property with a boundary establishment that violates a land use regulation.

(6) A boundary establishment that complies with this section presumptively:

(a) has no detrimental effect on any easement on the property that is recorded before the day on which the agreement is executed; and

(b) conveys the ownership of the adjoining parties to the established common boundary.

Section 97. Section 10-20-908, which is renumbered from Section 10-9a-541 is renumbered and amended to read:

[~~10-9a-541~~]10-20-908

(Effective 11/06/25)

. Identical plan review -- Process -- Indexing of plans -- Prohibitions.

(1) As used in this section:

(a) "Business day" means Monday, Tuesday, Wednesday, Thursday, or Friday, unless the day falls on a federal, state, or municipal holiday.

(b) "Nonidentical plan" means a plan that does not meet the definition of an identical plan in Section [~~10-9a-103~~]10-20-102.

(c) "Original plan" means a floor plan that an applicant intends to:

(i) replicate in the future; and

(ii) use as the basis for the submission of an identical plan.

(2) An applicant may submit, and a municipality shall review, an identical plan as described in this section.

(3) At the time of submitting an identical plan for review to a municipality, an applicant shall:

(a) mark the floor plan as "identical plans";

(b) identify in writing:

(i) the building permit number the municipality issued for the original plan:

(A) that was previously approved by the municipality; and

(B) to which the submitted floor plan qualifies as an identical plan; or

(ii) the identifying index number assigned by the municipality to the original plan, as described in Subsection (5)(b); and

(c) identify the site on which the applicant intends to implement the identical plan.

(4) Beginning May 7, 2025, an applicant that intends to submit an identical plan for review to a municipality shall:

(a) indicate, at the time of submitting an original plan to the municipality for review and approval, that the applicant intends to use the original plan as the basis for submitting a future identical plan if the original plan is approved by the municipality; and

(b) identify:

(i) the name or other identifier of the original plan; and

(ii) the zone the building will be located in, if the municipality approves the original plan.

(5) Upon approving an original plan and receiving the information described in Subsection (4), a municipality shall:

(a) file and index the original plan for future reference against an identical plan later submitted under Subsection (2); and

(b) provide the applicant with an identifying index number for the original plan.

(6) A municipality that receives a submission under Subsection (2) shall review and compare the submitted identical plan to the original plan to ensure:

(a) the identical plan and original plan are substantially identical; and

(b) no structural changes have been made from the original plan.

(7) Nothing in this section prohibits a municipality from conducting a site review and requiring geological analysis of the proposed site identified by the applicant under Subsection (3)(c).

(8) A municipality shall:

(a) review a submitted identical plan for compliance with this section; and

(b) approve or reject the identical plan within five business days after the day on which the identical plan was submitted under Subsection (2).

(9) An applicant that submits a nonidentical plan to a municipality as an identical plan, with knowledge that the nonidentical plan does not qualify as an identical plan and with intent to deceive the municipality:

(a) may be fined by the municipality receiving the submission of the nonidentical plan:

(i) in an amount not to exceed three times the building permit fee, if the municipality approved the nonidentical plan as an identical plan before discovering the submission did not qualify as an identical plan; or

(ii) in an amount equal to the building permit fee that would have been issued for the nonidentical plan, if the municipality did not approve the nonidentical plan before discovering the submission did not qualify as an identical plan; and

(b) is prohibited from submitting an identical plan for review and approval under this section for a period of two years from the day on which the municipality discovers the nonidentical plan identified as an identical plan in the applicant's submission did not qualify as an identical plan.

(10) A municipality may impose a criminal penalty, as described in Section 10-3-703, for an applicant that knowingly violates the prohibition described in Subsection (9)(b).

Section 98. Section 10-20-909, which is renumbered from Section 10-9a-542 is renumbered and amended to read:

[~~10-9a-542~~]10-20-909

(Effective 11/06/25)

. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Automated review" means a computerized process used to conduct a plan review, including through the use of software and algorithms to assess compliance with an applicable building code, regulation, or ordinance to ensure that a plan meets all of a municipality's required criteria for approval.

(b) "Business day" means the same as that term is defined in Section [~~10-9a-541~~]10-20-908.

(c) "Construction project" means:

(i) the same as that term is defined in Section 38-1a-102; or

(ii) any work requiring a permit for construction of or on a one- or two-family dwelling, a townhome, or other residential structure built under the State Construction Code and State Fire Code.

(d) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

(e) (i) "Plan review" means all of the reviews and approvals of a plan that a municipality, including all relevant divisions or departments

within a municipality, requires before issuing a building permit, with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code[~~under Title 15A, State Construction and Fire Codes Act~~];

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project complies with local ordinances;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project received a structural review;

(G) the total square footage for each building level of finished, garage, and unfinished space; and

(H) that the plans include a printed statement indicating that, before the disturbance of land and during the actual construction, the applicant will comply with applicable federal, state, and local laws and ordinances, including any storm water protection laws and ordinances.

(ii) "Plan review" does not mean a review of:

(A) a document required to be re-submitted for a construction project other than a construction project for a one-or two-family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) a document submitted as part of a deferred submittal when requested by the applicant and approved by the building official;

(C) a document that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party; or

(D) a storm water permit.

(f) "Screening period" means the three business days following the day on which an applicant submits an application.

(g) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

(h) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

(i) "Storm water permit" means the same as that term is defined in Section 19-5-108.5.

(j) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(j)(i), a review that a licensed engineer conducts.

(k) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a municipality collects a fee for the inspection of a construction project, the municipality shall ensure that the construction project receives a prompt inspection as described in Subsection (2)(b).

(b) If a municipality cannot provide a building inspection within three business days after the day on which the municipality receives the request for the inspection, the building permit applicant may engage a third-party inspection firm from the third-party inspection firm list described in Section 15A-1-105.

(c) Notwithstanding Subsection (2)(b), if an applicant requests that an inspection take place on a date that is more than three days from the day on which the applicant requests the inspection, the municipality shall conduct the inspection on the date requested.

(d) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3) (a) (i) A municipality that receives an application for a plan review shall determine if the application is complete, as described in Subsection (12), within the screening period.

(ii) If the municipality determines an application for a plan review is complete as described in Subsection (12) within the screening period, the municipality shall begin the plan review process described in Subsection (4).

(b) If the municipality determines that an application for a plan review is not complete as described in Subsection (12), and if the municipality notifies the applicant of the municipality's determination:

(i) before 5 p.m. on the last day of the screening period, the municipality may:

(A) pause the screening period until the applicant ensures the application meets the requirements of Subsection (12); or

(B) reject the incomplete application; or

(ii) after 5 p.m. on the last day of the screening period, the municipality may not pause the screening period and shall begin the plan review process described in Subsection (4).

(c) If an application is rejected as described in Subsection (3)(b)(i)(B) and an applicant resubmits the application, the resubmission begins a new screening period in which the municipality shall review the resubmitted application to determine if the application is complete as described in Subsection (12).

(d) If the municipality gives notice of an incomplete application after 5 p.m. on the last day of the screening period, the municipality:

(i) shall immediately notify the applicant that the municipality has determined the application is not complete and the basis for the determination;

(ii) may not, except as provided in Subsection (3)(d)(iii), pause the relevant time period described in Subsection (4); and

(iii) may pause the relevant time period described in Subsection (4)(a) or (b) as described in Subsection (4)(c).

(4) (a) Except as provided in Subsection (7), once a municipality determines an application is complete, or proceeds to review an incomplete application for plan review under Subsection (3)(b)(ii), the municipality shall complete a plan review of a construction project for a one-or two-family dwelling or townhome by no later than 14 business days after the day on which the screening period for the application ends.

(b) Except as provided in Subsection (7), once a municipality determines an application is complete, or proceeds to review an incomplete application for plan review under Subsection (3)(b)(ii), the municipality shall complete a plan review of a construction project for a residential structure built under the State Construction Code that is not a one- or two-family dwelling, townhome, or a lodging establishment, by no later than 21 business days after the day on which the screening period for the application ends.

(c) If a municipality gives notice of an incomplete application as described in Subsection (3)(d), the municipality:

(i) may pause the time period described in Subsection (4)(a) or (b):

(A) within the last five days of the relevant time period; and

(B) until the applicant provides the municipality with the information necessary to consider the application complete under Subsection (12); and

(ii) shall resume the relevant time period upon receipt of the information necessary to consider the application complete; and

(iii) may, if necessary, use five additional days beginning the day on which the municipality receives the information described in Subsection (4)(c)(ii) to consider whether the application meets the requirements for a building permit, even if the five additional days extend beyond the relevant time period described in Subsection 4(a) or (b).

(d) If, at the conclusion of plan review, the municipality determines the application meets the requirements for a building permit, the municipality shall approve the application and, subject to Subsection (10)(b), issue the building permit to the applicant.

(5) (a) A municipality may utilize another government entity to determine if an application is complete or perform a plan review, in whole or in part.

(b) A municipality that utilizes another government entity to determine if an application is complete or perform a plan review, as described in Subsection (5)(a), shall:

(i) notify any other government entities, including water providers, within 24 hours of receiving any building permit application; and

(ii) provide the government entity all documents necessary to determine if an application is complete or perform a plan review, in whole or in part, as requested by the municipality.

(6) A government entity determining if an application is complete or performing a plan review, in whole or in part, as requested by a municipality, shall:

(a) comply with the requirements of this chapter; and

(b) notify the municipality within the screening period whether the application, or a portion of the application, is complete.

(7) An applicant may:

(a) waive the plan review time requirements described in Subsection (4); or

(b) with the municipality's written consent, establish an alternative plan review time requirement.

(8) (a) A municipality may not enforce a requirement to have a plan review if:

(i) the municipality does not complete the plan review within the relevant time period described in Subsection (4); and

(ii) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(b) If a municipality is prohibited from enforcing a requirement to have a plan review under Subsection (8)(a), the municipality shall return to the applicant the plan review fee.

(9) (a) A municipality may attach to a reviewed plan a list that includes:

(i) items with which the municipality is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(b) A municipality may not require an applicant to redraft a plan if the city requests minor changes to the plan that the list described in Subsection (9)(a) identifies.

(c) A municipality may only require a single resubmittal of plans for a one- or two-family dwelling or townhome if deficiencies in the plan would affect the site plan interaction or footprint of the design.

(10) (a) If a municipality charges a fee for a building permit, the municipality may not refuse payment of the fee at the time the applicant submits an application under Subsection (3).

(b) If a municipality charges a fee for a building permit and does not require the fee for a building permit be included in an application for plan review, upon approval of an application for plan review under Subsection (4)(d), the municipality may require the applicant to pay the fee for the building permit before the municipality issues the building permit.

(11) A municipality may not limit the number of applications submitted under Subsection (3).

(12) For purposes of Subsection (3), an application for plan review is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) existing and proposed utilities, including water, sewer, and subsurface drainage facilities;

(J) street names;

(K) driveway locations;

(L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors, windows, and egress;

(iii) foundation, structural, and framing detail;

(iv) electrical, mechanical, and plumbing design;

(v) a licensed architect's or structural engineer's stamp, when required by law; and

(vi) fire suppression details, when required by fire code;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the city;

(g) a statement indicating:

(i) before land disturbance occurs on the subject property, the applicant will obtain a storm water permit; and

(ii) during actual construction, the applicant shall comply with applicable local ordinances and building codes; and

(h) the fees, if any, established by ordinance for the municipality to perform a plan review.

(13) A municipality may, at the municipality's discretion, utilize automated review to fulfill, in whole or in part, the municipality's obligation to conduct a plan review described in this section.

Section 99. Section 10-20-910 is enacted to read:

10-20-910

(Effective 11/06/25)

. Provisions applicable to a provider of culinary or secondary water.

A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a municipality:

(1) Subsections 10-20-904(5) and (6);

(2) Section 10-20-905; and

(3) Section 10-20-911.

Section 100. Section 10-20-911, which is renumbered from Section 10-9a-508 is renumbered and amended to read:

[~~10-9a-508~~]10-20-911

(Effective 11/06/25)

. Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A municipality may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:

(a) an essential link exists between a legitimate governmental interest and each exaction; and

(b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) If a land use authority imposes an exaction for another governmental entity:

(a) the governmental entity shall request the exaction; and

(b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.

(3) (a) (i) Subject to the requirements of this Subsection (3), a municipality shall base an exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.

(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base an exaction for a culinary water interest on:

(A) consideration of the system-wide minimum sizing standards established for the culinary water authority by the Division of Drinking Water [~~pursuant to~~]in accordance with Section 19-4-114; and

(B) the number of equivalent residential connections associated with the culinary water demand for each specific development proposed in the development's land use application, applying lower exactions for developments with lower equivalent residential connections as demonstrated by at least five years of usage data for like land uses within the municipality.

(iii) A municipality may impose an exaction for a culinary water interest that results in less water being exacted than would otherwise be exacted under Subsection (3)(a)(ii) if the municipality, at the municipality's sole discretion, determines there is good cause to do so.

(iv) (A) A municipality shall make public the methodology used to comply with Subsection (3)(a)(ii)(B).

(B) A land use applicant may appeal to the municipality's governing body an exaction calculation used by the municipality under Subsection (3)(a)(ii).

(C) A land use applicant may present data and other information that illustrates a need for an exaction recalculation and the municipality's governing body shall respond with due process.

(v) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.

(b) A municipality may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).

(4) (a) If a municipality plans to dispose of surplus real property that was acquired under this section and has been owned by the municipality for less than 15 years, the municipality shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the municipality.

(b) A person to whom a municipality offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the municipality's offer.

(c) If a person to whom a municipality offers to reconvey property declines the offer, the municipality may offer the property for sale.

(d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community reinvestment agency.

(5) (a) A municipality may not, as part of an infrastructure improvement, require the installation of pavement on a residential roadway at a width in excess of 32 feet.

(b) Subsection (5)(a) does not apply if a municipality requires the installation of pavement in excess of 32 feet:

(i) in a vehicle turnaround area;

(ii) in a cul-de-sac;

(iii) to address specific traffic flow constraints at an intersection, mid-block crossings, or other areas;

(iv) to address an applicable general or master plan improvement, including transportation, bicycle lanes, trails, or other similar improvements that are not included within an impact fee area;

(v) to address traffic flow constraints for service to or abutting higher density developments or uses that generate higher traffic volumes, including community centers, schools, and other similar uses;

(vi) as needed for the installation or location of a utility which is maintained by the municipality and is considered a transmission line or requires additional roadway width;

(vii) for third-party utility lines that have an easement preventing the installation of utilities maintained by the municipality within the roadway;

(viii) for utilities over 12 feet in depth;

(ix) for roadways with a design speed that exceeds 25 miles per hour;

(x) as needed for flood and stormwater routing;

(xi) as needed to meet fire code requirements for parking and hydrants; or

(xii) as needed to accommodate street parking.

(c) Nothing in this section shall be construed to prevent a municipality from approving a road cross section with a pavement width less than 32 feet.

(d) (i) A land use applicant may appeal a municipal requirement for pavement in excess of 32 feet on a residential roadway.

(ii) A land use applicant that has appealed a municipal specification for a residential roadway pavement width in excess of 32 feet may request that the municipality assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(iii) Unless otherwise agreed by the applicant and the municipality, the panel described in Subsection (5)(d)(ii) shall consist of the following three experts:

(A) one licensed engineer, designated by the municipality;

(B) one licensed engineer, designated by the land use applicant; and

(C) one licensed engineer, agreed upon and designated by the two designated engineers under Subsections (5)(d)(iii)(A) and (B).

(iv) A member of the panel assembled by the municipality under Subsection (5)(d)(ii) may not have an interest in the application that is the subject of the appeal.

(v) The land use applicant shall pay:

(A) 50% of the cost of the panel; and

(B) the municipality's published appeal fee.

(vi) The decision of the panel is a final decision, subject to a petition for review under Subsection (5)(d)(vii).

(vii) [~~Pursuant to~~]In accordance with Section [~~10-9a-801~~]10-20-1109, a land use applicant or the municipality may file a petition for review of the decision with the district court within 30 days after the date that the decision is final.

(6) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the provisions of this section the same as if the provider were a municipality.

Section 101. Section 10-20-1001, which is renumbered from Section 10-9a-802 is renumbered and amended to read:

PART 10. Enforcement

[~~10-9a-802~~**]10-20-1001**

(Effective 11/06/25)

. Enforcement -- Limitations on a municipality's ability to enforce an ordinance by withholding a permit or certificate.

(1) (a) A municipality or an adversely affected party may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A municipality need only establish the violation to obtain the injunction.

(2) (a) Except as provided in Subsections (3) though (6), a municipality may enforce the municipality's ordinance by withholding a building permit or certificate of occupancy.

(b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.

(c) A municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A municipality may require an applicant to maintain and repair a temporary fire apparatus road during the construction of a structure accessed by the temporary fire apparatus road in accordance with the municipality's adopted standards.

(e) A municipality may require temporary signs to be installed at each street intersection once construction of a new roadway allows passage by a motor vehicle.

(f) A municipality may adopt and enforce any appendix of the International Fire Code, 2021 Edition.

(3) (a) A municipality may not deny an applicant a building permit or certificate of occupancy because the applicant has not completed an infrastructure improvement:

(i) unless the infrastructure improvement is essential to meet the requirements for the issuance of a building permit or certificate of occupancy under Title 15A, State Construction and Fire Codes Act; and

(ii) for which the municipality has accepted an improvement completion assurance for a public landscaping improvement, as defined in Section [~~10-9a-604.5~~]10-20-807, or an infrastructure improvement for the development.

(b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6, infrastructure improvement that is essential means:

(i) for a building permit:

(A) operable fire hydrants installed in a manner that is consistent with the municipality's adopted engineering standards; and

(B) for temporary roads used during construction, a properly compacted road base installed in a manner consistent with the municipality's adopted engineering standards;

(ii) for a certificate of occupancy, at the discretion of the municipality, at least one of the following:

(A) a permanent road;

(B) a temporary road covered with asphalt or concrete; or

(C) another method for accessing a structure consistent with Appendix D of the International Fire Code; and

(iii) public infrastructure necessary for the health, life, and safety of the occupant.

(c) A municipality may not adopt an engineering standard that requires an applicant to install a permanent road or a temporary road with asphalt or concrete before receiving a building permit.

(4) A municipality may not deny an applicant a building permit or certificate of occupancy for failure to:

(a) submit a private landscaping plan, as defined in Section [~~10-9a-604.5~~]10-20-807; or

(b) complete a landscaping improvement that is not a public landscaping improvement, as defined in Section [~~10-9a-604.5~~]10-20-807.

(5) A municipality may not withhold a building permit based on the lack of completion of a portion of a public sidewalk to be constructed within a public right-of-way serving a lot where a single-family or two-family residence or town home is proposed in a building permit application if an improvement completion assurance has been posted for the incomplete portion of the public sidewalk.

(6) A municipality may not prohibit the construction of a single-family or two-family residence or town home, withhold recording a plat, or withhold acceptance of a public landscaping improvement, as defined in Section [~~10-9a-604.5~~]10-20-807, or an infrastructure improvement based on the lack of installation of a public sidewalk if an improvement completion assurance has been posted for the public sidewalk.

(7) A municipality may not redeem an improvement completion assurance securing the installation of a public sidewalk sooner than 18 months after the date the improvement completion assurance is posted.

(8) A municipality shall allow an applicant to post an improvement completion assurance for a public sidewalk separate from an improvement completion assurance for:

(a) another infrastructure improvement; or

(b) a public landscaping improvement, as defined in Section [~~10-9a-604.5~~]10-20-807.

(9) A municipality may withhold a certificate of occupancy for a single-family or two-family residence or town home until the portion of the public sidewalk to be constructed within a public right-of-way and located immediately adjacent to the single-family or two-family residence or town home is completed and accepted by the municipality.

Section 102. Section 10-20-1002, which is renumbered from Section 10-9a-803 is renumbered and amended to read:

[~~10-9a-803~~]10-20-1002

(Effective 11/06/25)

. Penalties -- Notice.

(1) The municipality may, by ordinance, establish civil penalties for violations of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter.

(2) Violation of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter is punishable as a class C misdemeanor upon conviction either:

(a) as a class C misdemeanor; or

(b) by imposing the appropriate civil penalty adopted under the authority of this section.

(3) [~~Prior to~~]Before imposing upon an owner of record a civil penalty established by ordinance under authority of this chapter, a municipality shall provide:

(a) written notice, by mail or hand delivery, of each ordinance violation to the address of the:

(i) owner of record on file in the office of the county recorder; or

(ii) person designated, in writing, by the owner of record as the owner's agent for the purpose of receiving notice of an ordinance violation;

(b) the owner of record a reasonable opportunity to cure a noticed violation; and

(c) a schedule of the civil penalties that may be imposed upon the expiration of a time certain.

Section 103. Section 10-20-1003, which is renumbered from Section 10-9a-511 is renumbered and amended to read:

[~~10-9a-511~~]10-20-1003

(Effective 11/06/25)

. Nonconforming uses and noncomplying structures.

(1) (a) Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a nonconforming use due to its abandonment.

(3) (a) A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

(i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after the day on which written notice is served to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

(c) (i) Notwithstanding a prohibition in the municipality's zoning ordinance, a municipality may permit a billboard owner to relocate the billboard within the municipality's boundaries to a location that is mutually acceptable to the municipality and the billboard owner.

(ii) If the municipality and billboard owner cannot agree to a mutually acceptable location within 180 days after the day on which the owner submits a written request to relocate the billboard, the billboard owner may relocate the billboard in accordance with [~~Subsection 10-9a-513(2)~~]Section 10-20-608.

(4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use through substantial evidence, which may not be limited to municipal or county records.

(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

(c) Abandonment may be presumed to have occurred if:

(i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;

(ii) the use has been discontinued for a minimum of one year; or

(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.

(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and has the burden of establishing that any claimed abandonment under Subsection (4)(b) has not occurred.

(5) A municipality may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Section 104. Section 10-20-1101, which is renumbered from Section 10-9a-701 is renumbered and amended to read:

PART 11. Appeal Authority, Variances, and District Court Review

[~~10-9a-701~~]10-20-1101

(Effective 11/06/25)

. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) (a) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities.

(b) An appeal authority described in Subsection (1)(a) shall hear and decide:

(i) requests for variances from the terms of land use ordinances;

(ii) appeals from land use decisions applying land use ordinances; and

(iii) appeals from a fee charged in accordance with Section [~~10-9a-510~~]10-20-904.

(c) An appeal authority described in Subsection (1)(a) may not hear an appeal from the enactment of a land use regulation.

(2) As a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision, in accordance with local ordinance.

(3) An appeal authority described in Subsection (1)(a):

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use

authority.

(4) By ordinance, a municipality may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority the municipality designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that the adversely affected party can raise in district court;

(d) not require a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of an appealing party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) A municipality may not require a public hearing for a request for a variance or land use appeal.

(6) If the municipality establishes or, [~~prior to~~]before the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of the members of the board, body, or panel of any meeting or hearing of the board, body, or panel;

(b) provide each of the members of the board, body, or panel with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of the members of the board, body, or panel is present; and

(d) act only upon the vote of a majority of the convened members of the board, body, or panel.

Section 105. Section 10-20-1102, which is renumbered from Section 10-9a-702 is renumbered and amended to read:

[~~10-9a-702~~]10-20-1102

(Effective 11/06/25)

. Variances.

(1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.

(2) (a) The appeal authority may grant a variance only if:

(i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;

(ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;

(iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

(iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and

(v) the spirit of the land use ordinance is observed and substantial justice done.

(b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:

(A) is located on or associated with the property for which the variance is sought; and

(B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

(c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:

(i) relate to the hardship complained of; and

(ii) deprive the property of privileges granted to other properties in the same zone.

(3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(4) Variances run with the land.

(5) The appeal authority may not grant a use variance.

(6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:

(a) mitigate any harmful affects of the variance; or

(b) serve the purpose of the standard or requirement that is waived or modified.

Section 106. Section 10-20-1103, which is renumbered from Section 10-9a-703 is renumbered and amended to read:

[~~10-9a-703~~]10-20-1103

(Effective 11/06/25)

. Appealing a land use authority's decision -- Panel of experts for appeals of geologic hazard decisions.

(1) The land use applicant, a board or officer of the municipality, or an adversely affected party may, within the applicable time period, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.

(2) (a) A land use applicant who has appealed a decision of the land use authority administering or interpreting the municipality's geologic hazard ordinance may request the municipality to assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(b) If a land use applicant makes a request under Subsection (2)(a), the municipality shall assemble the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the applicant and municipality:

(i) one expert designated by the municipality;

(ii) one expert designated by the land use applicant; and

(iii) one expert chosen jointly by the municipality's designated expert and the land use applicant's designated expert.

(c) A member of the panel assembled by the municipality under Subsection (2)(b) may not be associated with the application that is the subject of the appeal.

(d) The land use applicant shall pay:

(i) 1/2 of the cost of the panel; and

(ii) the municipality's published appeal fee.

Section 107. Section 10-20-1104, which is renumbered from Section 10-9a-704 is renumbered and amended to read:

[~~10-9a-704~~]10-20-1104

(Effective 11/06/25)

. Time to appeal.

(1) The municipality shall enact an ordinance establishing a reasonable time of not less than 10 days to appeal to an appeal authority a written decision issued by a land use authority.

(2) In the absence of an ordinance establishing a reasonable time to appeal, a land use applicant or adversely affected party shall have 10 calendar days to appeal to an appeal authority a written decision issued by a land use authority.

(3) Notwithstanding Subsections (1) and (2), for an appeal from a decision of a historic preservation authority regarding a land use application, the land use applicant may appeal the decision within 30 days after the day on which the historic preservation authority issues a written decision.

Section 108. Section 10-20-1105, which is renumbered from Section 10-9a-705 is renumbered and amended to read:

[~~10-9a-705~~]10-20-1105

(Effective 11/06/25)

. Burden of proof.

The appellant has the burden of proving that the land use authority erred.

Section 109. Section 10-20-1106, which is renumbered from Section 10-9a-706 is renumbered and amended to read:

[~~10-9a-706~~]10-20-1106

(Effective 11/06/25)

. Due process.

(1) Each appeal authority shall conduct each appeal and variance request as provided in local ordinance.

(2) Each appeal authority shall respect the due process rights of each of the participants.

Section 110. Section 10-20-1107, which is renumbered from Section 10-9a-707 is renumbered and amended to read:

[~~10-9a-707~~]10-20-1107

(Effective 11/06/25)

. Scope of review of factual matters on appeal -- Appeal authority requirements.

(1) A municipality may, by ordinance, designate the scope of review of factual matters for appeals of land use authority decisions.

(2) If the municipality fails to designate a scope of review of factual matters, the appeal authority shall review the matter de novo, without deference to the land use authority's determination of factual matters.

(3) If the scope of review of factual matters is on the record, the appeal authority shall determine whether the record on appeal includes substantial evidence for each essential finding of fact.

(4) The appeal authority shall:

(a) determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations; and

(b) interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.

(5) (a) An appeal authority's land use decision is a quasi-judicial act.

(b) A legislative body may act as an appeal authority unless both the legislative body and the appealing party agree to allow a third party to act as the appeal authority.

(6) Only a decision in which a land use authority has applied a land use regulation to a particular land use application, person, or parcel may be appealed to an appeal authority.

Section 111. Section 10-20-1108, which is renumbered from Section 10-9a-708 is renumbered and amended to read:

[~~10-9a-708~~]10-20-1108

(Effective 11/06/25)

. Final decision.

(1) A decision of an appeal authority takes effect on the date when the appeal authority issues a written decision, or as otherwise provided by ordinance.

(2) A written decision, or other event as provided by ordinance, constitutes a final decision under Subsection [~~10-9a-801(2)(a)~~]10-20-1109(2)(a) or a final action under Subsection [~~10-9a-801(4)~~]10-20-1109(4).

Section 112. Section 10-20-1109, which is renumbered from Section 10-9a-801 is renumbered and amended to read:

[~~10-9a-801~~]10-20-1109

(Effective 11/06/25)

. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in [~~Part 7, Appeal Authority and Variances~~]this part, if applicable.

(2) (a) Subject to Subsection (1), a land use applicant or adversely affected party may file a petition for review of a land use decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall presume that a final land use decision of a land use authority or an appeal authority is valid unless the land use decision is:

(i) arbitrary and capricious; or

(ii) illegal.

(c) (i) A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.

(ii) A land use decision is illegal if the land use decision:

(A) is based on an incorrect interpretation of a land use regulation;

(B) conflicts with the authority granted by this title; or

(C) is contrary to law.

(d) (i) A court may affirm or reverse a land use decision.

(ii) If the court reverses a land use decision, the court shall remand the matter to the land use authority with instructions to issue a land use decision consistent with the court's ruling.

(4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes final action on a land use application, if the municipality conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending land use decision.

(5) If the municipality has complied with Section [~~10-9a-205~~]10-20-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of the proceedings of the land use authority or appeal authority, including the minutes, findings, orders, and, if available, a true and correct transcript of the proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that the evidence was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the land use decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may petition the appeal authority to stay the appeal authority's land use decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order the appeal authority's land use decision stayed pending district court review if the appeal authority finds the order to be in the best interest of the municipality.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's land use decision.

(10) If the court determines that a party initiated or pursued a challenge to a land use decision on a land use application in bad faith, the court may award attorney fees.

Section 113. Section 10-20-1110, which is renumbered from Section 10-9a-804 is renumbered and amended to read:

[~~10-9a-804~~]10-20-1110

(Effective 11/06/25)

. Consent agreement.

(1) A legislative body may, by resolution or ordinance, settle litigation initiated under Section [~~10-9a-801~~]10-20-1109 regarding a land use decision with a property owner through a consent agreement.

(2) A legislative body shall approve the consent agreement under Subsection (1) in a public meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(3) A legislative body is not required to present to a planning commission on any matter covered by a consent agreement.

Section 114. Section 10-21-101, which is renumbered from Section 10-9a-1001 is renumbered and amended to read:

CHAPTER 21. Municipalities and Housing Supply

PART 1. General Provisions

[~~10-9a-1001~~]10-21-101
(Effective 11/06/25)
. Definitions.

As used in this part:

(1) "Affordable housing" means housing offered for sale at 80% or less of the median county home price for housing of that type.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Applicable metropolitan planning organization" means the metropolitan planning organization that has jurisdiction over the area in which a fixed guideway public transit station is located.

(4) "Applicable public transit district" means the public transit district, as defined in Section 17B-2a-802, of which a fixed guideway public transit station is included.

[~~(3)~~](5) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.

[~~(4)~~](6) "Base year" means, for a proposed home ownership promotion zone area, a year beginning the first day of the calendar quarter determined by the last equalized tax roll before the adoption of the home ownership promotion zone.

(7) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(8) "Existing fixed guideway public transit station" means a fixed guideway public transit station for which construction begins before June 1, 2022.

(9) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

[~~(5)~~](10) "Home ownership promotion zone" means a home ownership promotion zone created [~~pursuant to~~]in accordance with this part.

(11) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified municipality's general plan as provided in Subsection 10-21-201(4).

(12) "Initial report" or "initial moderate income housing report" means the one-time report described in Subsection 10-21-202(1).

(13) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(a) within a primary dwelling;

(b) within the footprint of the primary dwelling described in Subsection (13)(a) at the time the internal accessory dwelling unit is created; and

(c) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(14) "Moderate income housing strategy" means a strategy described in Subsection 10-21-201(3)(a)(iii).

(15) "New fixed guideway public transit station" means a fixed guideway public transit station for which construction begins on or after June 1, 2022.

[~~(6)~~](16) "Participant" means the same as that term is defined in Section 17C-1-102.

[~~(7)~~](17) "Participation agreement" means the same as that term is defined in Section 17C-1-102.

(18) (a) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(b) "Primary dwelling" includes a garage if the garage:

(i) is a habitable space; and

(ii) is connected to the primary dwelling by a common wall.

[~~(8)~~](19) "Project improvements" means the same as that term is defined in Section 11-36a-102.

(20) "Qualifying land use petition" means a petition:

(a) that involves land located within a station area for an existing public transit station that provides rail services;

(b) that involves land located within a station area for which the municipality has not yet satisfied the requirements of Subsection 10-21-203(1)(a);

(c) that proposes the development of an area greater than five contiguous acres, with no less than 51% of the acreage within the station area;

(d) that would require the municipality to amend the municipality's general plan or change a zoning designation for the land use application to be approved;

(e) that would require a higher density than the density currently allowed by the municipality;

(f) that proposes the construction of new residential units, at least 10% of which are dedicated to moderate income housing; and

(g) for which the land use applicant requests the municipality to initiate the process of satisfying the requirements of Subsection 10-21-203(1)(a) for the station area in which the development is proposed, subject to Subsection 10-21-203(2)(d).

(21) "Report" means an initial report or a subsequent progress report.

(22) "Specified municipality" means:

(a) a city of the first, second, third, or fourth class; or

(b) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class.

(23) (a) "Station area" means:

(i) for a fixed guideway public transit station that provides rail services, the area within a one-half mile radius of the center of the fixed guideway public transit station platform; or

(ii) for a fixed guideway public transit station that provides bus services only, the area within a one-fourth mile radius of the center of the fixed guideway public transit station platform.

(b) "Station area" includes any parcel bisected by the radius limitation described in Subsection (a)(i) or (ii).

(24) "Station area plan" means a plan that:

(a) establishes a vision, and the actions needed to implement that vision, for the development of land within a station area; and

(b) is developed and adopted in accordance with this section.

(25) "Subsequent progress report" means the annual report described in Subsection 10-21-202(2).

[~~(9)~~](26) "System improvements" means the same as that term is defined in Section 11-36a-102.

[~~(10)~~](27) "Tax commission" means the State Tax Commission created in Section 59-1-201.

[~~(11)~~](28) (a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a home ownership promotion zone, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include property revenue from:

(i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2); or

(ii) a county additional property tax described in Subsection 59-2-1602(4).

[~~(12)~~](29) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

Section 115. Section 10-21-102 is enacted to read:

10-21-102

(Effective 11/06/25)

. Applicability.

(1) The provisions of Chapter 20, Municipal Land Use, Development, and Management Act, apply to this chapter.

(2) The definitions in Section 10-21-101 are in addition to the definitions in Section 10-20-102, except that if there is any conflict between a definition in this chapter and a definition in Chapter 20, Municipal Land Use, Development, and Management Act, the definition in this chapter prevails in regard to the provisions in this chapter.

Section 116. Section 10-21-201 is enacted to read:

PART 2. Municipal Plans for Housing

10-21-201

(Effective 11/06/25)

. Moderate income housing plan required.

(1) A moderate income housing element of a general plan shall include a moderate income housing plan that meets the requirements of this section.

(2) A moderate income housing plan:

(a) shall provide a realistic opportunity to meet the need for additional moderate income housing within the municipality during the next five years;

(b) for a municipality that is not a specified municipality, may include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (3)(a)(iii);

(c) for a specified municipality that does not have a fixed guideway public transit station, shall include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (3)(a)(iii) or at least one of the moderate income housing strategies described in Subsections (3)(a)(iii)(X) through (CC);

(d) for a specified municipality that has a fixed guideway public transit station, shall include:

(i) a recommendation to implement five or more of the moderate income housing strategies described in Subsection (3)(a)(iii), of which one shall be the moderate income housing strategy described in Subsection (3)(a)(iii)(U) and one shall be a moderate income housing strategy described in Subsection (3)(a)(iii)(G) or (H); or

(ii) a recommendation to implement the moderate income housing strategy described in Subsection (3)(a)(iii)(U), one of the moderate income housing strategies described in Subsections (3)(a)(iii)(X) through (CC), and one moderate income housing strategy described in Subsection (3)(a)(iii); and

(e) for a specified municipality shall include an implementation plan as provided in Subsection (4).

(3) (a) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a municipality that is not a specified municipality, may include, and for a specified municipality shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a municipality that is not a specified municipality, may include, and for a specified municipality shall include, a recommendation to implement the required number of any of the following moderate income housing strategies as specified in Subsection (2):

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely

to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or, notwithstanding Section 10-21-301, establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within the Utah Housing Corporation's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-21-101;

(R) create a program to transfer development rights for moderate income housing;

(S) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(T) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(U) develop and adopt a station area plan in accordance with Section 10-21-203;

(V) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones;

(W) demonstrate implementation of any other program or strategy to address the housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing;

(X) create a housing and transit reinvestment zone in accordance with Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(Y) create a home ownership promotion zone in accordance with Part 5, Home Ownership Promotion Zone for Municipalities;

(Z) create a first home investment zone in accordance with Title 63N, Chapter 3, Part 16, First Home Investment Zone Act;

(AA) approve a project that receives funding from, or qualifies to receive funding from, the Utah Homes Investment Program created in Title 51, Chapter 12, Utah Homes Investment Program;

(BB) adopt or approve a qualifying affordable home ownership density bonus for single-family residential units, as described in Section 10-21-401; and

(CC) adopt or approve a qualifying affordable home ownership density bonus for multi-family residential units, as described in Section 10-21-402; and

(b) the planning commission shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (3)(a)(iii).

(4) (a) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(c), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the municipality for implementation.

(b) The timeline described in Subsection (4)(a) shall:

(i) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the municipality, whether one-time or ongoing; and

(ii) provide flexibility for the municipality to make adjustments as needed.

Section 117. Section 10-21-202, which is renumbered from Section 10-9a-408 is renumbered and amended to read:

[~~10-9a-408~~]10-21-202

(Effective 11/06/25)

. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

[~~(1) As used in this section:~~]

[~~(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.~~]

[~~(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified municipality's general plan as provided in Subsection 10-9a-403(2)(c).~~]

[~~(c) "Initial report" or "initial moderate income housing report" means the one-time report described in Subsection (2).~~]

[~~(d) "Moderate income housing strategy" means a strategy described in Subsection 10-9a-403(2)(b)(iii).~~]

[~~(e) "Report" means an initial report or a subsequent progress report.~~]

[~~(f) "Specified municipality" means:~~]

[~~(i) a city of the first, second, third, or fourth class; or~~]

[~~(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class.~~]

[~~(g) "Subsequent progress report" means the annual report described in Subsection (3).~~]

[~~(2)~~](1) (a) The legislative body of a specified municipality shall submit an initial moderate income housing report to the division.

(b) (i) This Subsection [~~(2)(b)~~](1)(b) applies to a municipality that is not a specified municipality as of January 1, 2023.

(ii) As of January 1, if a municipality [~~described in Subsection (2)(b)(i)~~]changes from one class to another or grows in population to qualify as a specified municipality, the municipality shall submit an initial plan to the division on or before August 1 of the first calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.

(c) The initial report shall:

(i) identify each moderate income housing strategy selected by the specified municipality for continued, ongoing, or one-time implementation, restating the exact language used to describe the moderate income housing strategy[~~in Subsection 10-9a-403(2)(b)(iii)~~]; and

(ii) include an implementation plan.

[~~(3)~~](2) (a) After the division approves a specified municipality's initial report under this section, the specified municipality shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified municipality is required to submit the initial report.

(b) The subsequent progress report shall include:

(i) subject to Subsection [~~(3)(c)~~](2)(c), a description of each action, whether one-time or ongoing, taken by the specified municipality during the previous 12-month period to implement the moderate income housing strategies identified in the initial report for implementation;

(ii) a description of each land use regulation or land use decision made by the specified municipality during the previous 12-month period to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified municipality's efforts to implement the moderate income housing strategies;

(iii) a description of any barriers encountered by the specified municipality in the previous 12-month period in implementing the moderate income housing strategies;

(iv) information regarding the number of internal and external or detached accessory dwelling units located within the specified municipality for which the specified municipality:

(A) issued a building permit to construct; or

(B) issued a business license or comparable license or permit to rent;

(v) the number of residential dwelling units that have been entitled that have not received a building permit as of the submission date of the progress report;

(vi) shapefiles, or website links if shapefiles are not available, to current maps and tables related to zoning;

(vii) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(viii) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.

(c) For purposes of describing actions taken by a specified municipality under Subsection [~~(3)(b)(i)~~](2)(b)(i), the specified municipality may include an ongoing action taken by the specified municipality [~~prior to~~]before the 12-month reporting period applicable to the subsequent progress report if the specified municipality:

(i) has already adopted an ordinance, approved a land use application, made an investment, or approved an agreement or financing that substantially promotes the implementation of a moderate income housing strategy identified in the initial report; and

(ii) demonstrates in the subsequent progress report that the action taken under Subsection [~~(3)(c)(i)~~](2)(c)(i) is relevant to making meaningful progress towards the specified municipality's implementation plan.

(d) A specified municipality's report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before May 1 of the year in which the report is required.

[~~(4)~~](3) Within 90 days after the day on which the division receives a specified municipality's report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection [~~(5)~~](4), review the report to determine compliance with this section.

[~~(5)~~](4) (a) An initial report complies with this section if the report:

(i) includes the information required under Subsection [~~(2)(c)~~](1)(c);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) if the specified municipality has a fixed guideway public transit station:

(I) five or more of the moderate income housing strategies described in Subsection [~~10-9a-403(2)(b)(iii)~~]10-21-201(3)(a)(iii), of which one shall be the moderate income housing strategy described in Subsection [~~10-9a-403(2)(b)(iii)(U)~~]10-21-201(3)(a)(iii)(U) and one shall be a moderate income housing strategy described in Subsection [~~10-9a-403(2)(b)(iii)(G)~~]10-21-201(3)(a)(iii)(G) or (H); or

(II) the moderate income housing strategy described in Subsection [~~10-9a-403(2)(b)(iii)(U)~~]10-21-201(3)(a)(iii)(U), one of the moderate income housing strategies described in Subsections [~~10-9a-403(2)(b)(iii)(X)~~]10-21-201(3)(a)(iii)(X) through (CC), and one moderate income strategy described in Subsection [~~10-9a-403(2)(b)(iii)~~]10-21-201(3)(a)(iii); and

(iii) is in a form approved by the division.

(b) A subsequent progress report complies with this section if the report:

(i) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) if the specified municipality has a fixed guideway public transit station:

(I) five or more of the moderate income housing strategies described in Subsection [~~10-9a-403(2)(b)(iii)~~]10-21-201(3)(a)(iii), of which one shall be the moderate income housing strategy described in Subsection [~~10-9a-403(2)(b)(iii)(U)~~]10-21-201(3)(a)(iii)(U) and one shall be a moderate income housing strategy described in Subsection [~~10-9a-403(2)(b)(iii)(G)~~]10-21-201(3)(a)(iii)(G) or (H); or

(II) the moderate income housing strategy described in Subsection [~~10-9a-403(2)(b)(iii)(U)~~]10-21-201(3)(a)(iii)(U), one of the moderate income housing strategies described in Subsections [~~10-9a-403(2)(b)(iii)(X)~~]10-21-201(3)(a)(iii)(X) through (CC), and one moderate income housing strategy described in Subsection [~~10-9a-403(2)(b)(iii)~~]10-21-201(3)(a)(iii);

(ii) is in a form approved by the division; and

(iii) provides sufficient information for the division to:

(A) assess the specified municipality's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified municipality's implementation plan;

(C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies;

(D) identify how the market has responded to the specified municipality's selected moderate income housing strategies; and

(E) identify any barriers encountered by the specified municipality in implementing the selected moderate income housing strategies.

(c) (i) Notwithstanding the requirements of Subsection [~~(5)(a)(ii)(A)~~](4)(a)(ii)(A) or (b)(i)(A), if a specified municipality without a fixed guideway public transit station implements or is implementing, by ordinance or development agreement, one of the following moderate income housing strategies, the division shall consider that one moderate income housing strategy to be the equivalent of three moderate income housing strategies:

(A) a housing and transit reinvestment zone, as described in Subsection [~~10-9a-403(2)(b)(iii)(X)~~]10-21-201(3)(a)(iii)(X);

(B) a home ownership promotion zone, as described in Subsection [~~10-9a-403(2)(b)(iii)(Y)~~]10-21-201(3)(a)(iii)(Y);

(C) a first home investment zone, described in Subsection [~~10-9a-403(2)(b)(iii)(Z)~~]10-21-201(3)(a)(iii)(Z);

(D) the approval of a project described in Subsection [~~10-9a-403(2)(b)(iii)(AA)~~]10-21-201(3)(a)(iii)(AA);

(E) a qualifying affordable home ownership density bonus for single-family residential units, as described in Subsection [~~10-9a-403(2)(b)(iii)(BB)~~]10-21-201(3)(a)(iii)(BB); or

(F) a qualifying affordable home ownership density bonus for multi-family residential units, as described in Subsection [~~10-9a-403(2)(b)(iii)(CC)~~]10-21-201(3)(a)(iii)(CC).

(ii) If the division considers one moderate income housing strategy described in Subsection [~~(5)(c)(i)~~](4)(c)(i) as the equivalent of three moderate income housing strategies, the division shall also consider the specified municipality compliant with the reporting requirement described in this section for:

(A) the year in which the specified municipality submits the initial report or subsequent report; and

(B) two subsequent reporting years.

[~~(6)~~](5) (a) A specified municipality qualifies for priority consideration under this Subsection [~~(6)~~](5) if the specified municipality's report:

(i) complies with this section; and

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) five or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) six or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station.

(b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within the boundaries of a specified municipality described in Subsection [~~(6)(a)~~](5)(a) until the Department of Transportation receives notice from the division under Subsection [~~(6)(c)~~](5)(c).

(c) Upon determining that a specified municipality qualifies for priority consideration under this Subsection [~~(6)~~](5), the division shall send a notice of prioritization to the legislative body of the specified municipality and the Department of Transportation.

(d) The notice described in Subsection [~~(6)(c)~~](5)(c) shall:

(i) name the specified municipality that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration; and

(iii) state the basis for the division's determination that the specified municipality qualifies for priority consideration.

(e) The division shall notify the legislative body of a specified municipality and the Department of Transportation in writing if the division determines that the specified municipality no longer qualifies for priority consideration under this Subsection [~~(6)~~](5).

[~~(7)~~](6) (a) If the division, after reviewing a specified municipality's report, determines that the report does not comply with this section, the division shall send a notice of noncompliance to the legislative body of the specified municipality.

(b) A specified municipality that receives a notice of noncompliance may:

(i) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(c) The notice described in Subsection [~~(7)(a)~~](6)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified municipality has an opportunity to:

(A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of compliance is sent; or

(B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

(iii) state that failure to take action under Subsection [~~(7)(c)(ii)~~](6)(c)(ii) will result in the specified municipality's ineligibility for funds under Subsection [~~(9)~~](8).

(d) For purposes of curing the deficiencies in a report under this Subsection [~~(7)~~](6), if the action needed to cure the deficiency as described by the division requires the specified municipality to make a legislative change, the specified municipality may cure the deficiency by making that legislative change within the 90-day cure period.

(e) (i) If a specified municipality submits to the division a corrected report in accordance with Subsection [~~(7)(b)(i)~~](6)(b)(i) and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified municipality within 30 days after the day on which the corrected report is submitted.

(ii) A specified municipality that receives a second notice of noncompliance may submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent.

(iii) The notice described in Subsection [~~(7)(e)(i)~~](6)(e)(i) shall:

(A) state that the specified municipality has an opportunity to submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; and

(B) state that failure to take action under Subsection [~~(7)(e)(iii)(A)~~](6)(e)(iii)(A) will result in the specified municipality's ineligibility for funds under Subsection [~~(9)~~](8).

[~~(8)~~](7) (a) A specified municipality that receives a notice of noncompliance under Subsection [~~(7)(a)~~](6)(a) or [~~(7)(e)(i)~~](6)(e)(i) may request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(b) Within 90 days after the day on which the division receives a request for an appeal, an appeal board consisting of the following three members shall review and issue a written decision on the appeal:

(i) one individual appointed by the Utah League of Cities and Towns;

(ii) one individual appointed by the Utah Homebuilders Association; and

(iii) one individual appointed by the presiding member of the association of governments, established [~~pursuant to~~]in accordance with an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified municipality is a member.

(c) The written decision of the appeal board shall either uphold or reverse the division's determination of noncompliance.

(d) The appeal board's written decision on the appeal is final.

[~~(9)~~](8) (a) A specified municipality is ineligible for funds under this Subsection [~~(9)~~](8) if:

(i) the specified municipality fails to submit a report to the division;

(ii) after submitting a report to the division, the division determines that the report does not comply with this section and the specified municipality fails to:

(A) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent;

(iii) after submitting to the division a corrected report to cure the deficiencies in a previously submitted report, the division determines that the corrected report does not comply with this section and the specified municipality fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection [~~(8)~~](7), the appeal board issues a written decision upholding the division's determination of noncompliance.

(b) The following apply to a specified municipality described in Subsection [~~(9)(a)~~](8)(a) until the division provides notice under Subsection [~~(9)(e)~~](8)(e):

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the boundaries of the specified municipality in accordance with Subsection 72-2-124(5);

(ii) beginning with a report submitted in 2024, the specified municipality shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $250 per day that the specified municipality:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection [~~(7)~~](6); and

(iii) beginning with the report submitted in 2025, the specified municipality shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $500 per day that the specified municipality, in a consecutive year:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection [~~(7)~~](6).

(c) Upon determining that a specified municipality is ineligible for funds under this Subsection [~~(9)~~](8), and is required to pay a fee under Subsection [~~(9)(b)~~](8)(b), if applicable, the division shall send a notice of ineligibility to the legislative body of the specified municipality, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection [~~(9)(c)~~](8)(c) shall:

(i) name the specified municipality that is ineligible for funds;

(ii) describe the funds for which the specified municipality is ineligible to receive;

(iii) describe the fee the specified municipality is required to pay under Subsection [~~(9)(b)~~](8)(b), if applicable; and

(iv) state the basis for the division's determination that the specified municipality is ineligible for funds.

(e) The division shall notify the legislative body of a specified municipality and the Department of Transportation in writing if the division determines that the provisions of this Subsection [~~(9)~~](8) no longer apply to the specified municipality.

(f) The division may not determine that a specified municipality that is required to pay a fee under Subsection [~~(9)(b)~~](8)(b) is in compliance with the reporting requirements of this section until the specified municipality pays all outstanding fees required under Subsection [~~(9)(b)~~](8)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

[~~(10)~~](9) In a civil action seeking enforcement or claiming a violation of this section or of Subsection [~~10-9a-404(4)(c)~~]10-20-405(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 118. Section 10-21-203, which is renumbered from Section 10-9a-403.1 is renumbered and amended to read:

[~~10-9a-403.1~~]10-21-203

(Effective 11/06/25)

. Station area plan requirements -- Contents -- Review and certification by applicable metropolitan planning organization.

[~~(1) As used in this section:~~]

[~~(a) "Applicable metropolitan planning organization" means the metropolitan planning organization that has jurisdiction over the area in which a fixed guideway public transit station is located.~~]

[~~(b) "Applicable public transit district" means the public transit district, as defined in Section 17B-2a-802, of which a fixed guideway public transit station is included.~~]

[~~(c) "Existing fixed guideway public transit station" means a fixed guideway public transit station for which construction begins before June 1, 2022.~~]

[~~(d) "Fixed guideway" means the same as that term is defined in Section 59-12-102.~~]

[~~(e) "Metropolitan planning organization" means an organization established under 23 U.S.C. Sec. 134.~~]

[~~(f) "New fixed guideway public transit station" means a fixed guideway public transit station for which construction begins on or after June 1, 2022.~~]

[~~(g) "Qualifying land use petition" means a petition:~~]

[~~(i) that involves land located within a station area for an existing public transit station that provides rail services;~~]

[~~(ii) that involves land located within a station area for which the municipality has not yet satisfied the requirements of Subsection (2)(a);~~]

[~~(iii) that proposes the development of an area greater than five contiguous acres, with no less than 51% of the acreage within the station area;~~]

[~~(iv) that would require the municipality to amend the municipality's general plan or change a zoning designation for the land use application to be approved;~~]

[~~(v) that would require a higher density than the density currently allowed by the municipality;~~]

[~~(vi) that proposes the construction of new residential units, at least 10% of which are dedicated to moderate income housing; and~~]

[~~(vii) for which the land use applicant requests the municipality to initiate the process of satisfying the requirements of Subsection (2)(a) for the station area in which the development is proposed, subject to Subsection (3)(d).~~]

[~~(h)~~ (i) ~~"Station area" means:~~]

[~~(A) for a fixed guideway public transit station that provides rail services, the area within a one-half mile radius of the center of the fixed guideway public transit station platform; or~~]

[~~(B) for a fixed guideway public transit station that provides bus services only, the area within a one-fourth mile radius of the center of the fixed guideway public transit station platform.~~]

[~~(ii) "Station area" includes any parcel bisected by the radius limitation described in Subsection (1)(h)(i)(A) or (B).~~]

[~~(i) "Station area plan" means a plan that:~~]

[~~(i) establishes a vision, and the actions needed to implement that vision, for the development of land within a station area; and~~]

[~~(ii) is developed and adopted in accordance with this section.~~]

[~~(2)~~](1) (a) Subject to the requirements of this section, a municipality that has a fixed guideway public transit station located within the municipality's boundaries shall, for the station area:

(i) develop and adopt a station area plan; and

(ii) adopt any appropriate land use regulations to implement the station area plan.

(b) The requirements of Subsection [~~(2)(a)~~](1)(a) shall be considered satisfied if:

(i) (A) the municipality has already adopted plans or ordinances, approved land use applications, approved agreements or financing, or investments have been made, before June 1, 2022, that substantially promote each of the objectives in Subsection [~~(7)(a)~~](6)(a) within the station area, and can demonstrate that such plans, ordinances, approved land use applications, approved agreements or financing, or investments are still relevant to making meaningful progress towards achieving such objectives; and

(B) the municipality adopts a resolution finding that the objectives of Subsection [~~(7)(a)~~](6)(a) have been substantially promoted[~~.~~]; or

(ii) (A) the municipality has determined that conditions exist that make satisfying a portion or all of the requirements of Subsection [~~(2)(a)~~](1)(a) for a station area impracticable, including conditions that relate to existing development, entitlements, land ownership, land uses that make opportunities for new development and long-term redevelopment infeasible, environmental limitations, market readiness, development impediment conditions, or other similar conditions; and

(B) the municipality adopts a resolution describing the conditions that exist to make satisfying the requirements of Subsection [~~(2)(a)~~](1)(a) impracticable.

(c) To the extent that previous actions by a municipality do not satisfy the requirements of Subsection [~~(2)(a)~~](1)(a) for a station area, the municipality shall take the actions necessary to satisfy those requirements.

[~~(3)~~](2) (a) A municipality that has a new fixed guideway public transit station located within the municipality's boundaries shall satisfy the requirements of Subsection [~~(2)(a)~~](1)(a) for the station area surrounding the new fixed guideway public transit station before the new fixed guideway public transit station begins transit services.

(b) Except as provided in Subsections [~~(3)(c)~~](2)(c) and (d), a municipality that has an existing fixed guideway public transit station located within the municipality's boundaries shall satisfy the requirements of Subsection [~~(2)(a)~~](1)(a) for the station area surrounding the existing fixed guideway public transit station on or before December 31, 2025.

(c) If a municipality has more than four existing fixed guideway public transit stations located within the municipality's boundaries, the municipality shall:

(i) on or before December 31, 2025, satisfy the requirements of Subsection [~~(2)(a)~~](1)(a) for four or more station areas located within the municipality; and

(ii) on or before December 31 of each year thereafter, satisfy the requirements of Subsection [~~(2)(a)~~](1)(a) for no less than two station areas located within the municipality until the municipality has satisfied the requirements of Subsection [~~(2)(a)~~](1)(a) for each station area located within the municipality.

(d) (i) Subject to Subsection [~~(3)(d)(ii)~~](2)(d)(ii):

(A) if a municipality receives a complete qualifying land use petition on or before July 1, 2022, the municipality shall satisfy the requirements of Subsection [~~(2)(a)~~](1)(a) for the station area in which the development is proposed on or before July 1, 2023; and

(B) if a municipality receives a complete qualifying land use petition after July 1, 2022, the municipality shall satisfy the requirements of Subsection [~~(2)(a)~~](1)(a) for the station area in which the development is proposed within a 12-month period beginning on the first day of the month immediately following the month in which the qualifying land use petition is submitted to the municipality, and shall notify

the applicable metropolitan planning organization of the receipt of the qualified land use petition within 45 days of the date of receipt.

(ii) (A) A municipality is not required to satisfy the requirements of Subsection [~~(2)(a)~~](1)(a) for more than two station areas under Subsection [~~(3)(d)(i)~~](2)(d)(i) within any 12-month period.

(B) If a municipality receives more than two complete qualifying land use petitions on or before July 1, 2022, the municipality shall select two station areas for which the municipality will satisfy the requirements of Subsection [~~(2)(a)~~](1)(a) in accordance with Subsection [~~(3)(d)(i)(A)~~](2)(d)(i)(A).

(iii) A municipality shall process on a first priority basis a land use application, including an application for a building permit, if:

(A) the land use application is for a residential use within a station area for which the municipality has not satisfied the requirements of Subsection [~~(2)(a)~~](1)(a); and

(B) the municipality would be required to change a zoning designation for the land use application to be approved.

(e) Notwithstanding Subsections [~~(3)(a)~~](2)(a) through (d), the time period for satisfying the requirements of Subsection [~~(2)(a)~~](1)(a) for a station area may be extended once for a period of 12 months if:

(i) the municipality demonstrates to the applicable metropolitan planning organization that conditions exist that make satisfying the requirements of Subsection [~~(2)(a)~~](1)(a) within the required time period infeasible, despite the municipality's good faith efforts; and

(ii) the applicable metropolitan planning organization certifies to the municipality in writing that the municipality satisfied the demonstration in Subsection [~~(3)(e)(i)~~](2)(e)(i).

[~~(4)~~](3) (a) Except as provided in Subsection [~~(4)(b)~~](3)(b), if a station area is included within the boundaries of more than one municipality, each municipality with jurisdiction over the station area shall satisfy the requirements of Subsection [~~(2)(a)~~](1)(a) for the portion of the station area over which the municipality has jurisdiction.

(b) Two or more municipalities with jurisdiction over a station area may coordinate to develop a shared station area plan for the entire station area.

[~~(5)~~](4) A municipality that has more than one fixed guideway public transit station located within the municipality may, through an integrated process, develop station area plans for multiple station areas if the station areas are within close proximity of each other.

[~~(6)~~](5) (a) A municipality that is required to develop and adopt a station area plan under this section may request technical assistance from the applicable metropolitan planning organization.

(b) An applicable metropolitan planning organization that receives funds from the Governor's Office of Economic Opportunity under Section 63N-3-113 shall, when utilizing the funds, give priority consideration to requests for technical assistance for station area plans required under Subsection [~~(3)(d)~~](2)(d).

[~~(7)~~](6) (a) A station area plan shall promote the following objectives within the station area:

(i) increasing the availability and affordability of housing, including moderate income housing;

(ii) promoting sustainable environmental conditions;

(iii) enhancing access to opportunities; and

(iv) increasing transportation choices and connections.

(b) (i) To promote the objective described in Subsection [~~(7)(a)(i)~~](6)(a)(i), a municipality may consider implementing the following actions:

(A) aligning the station area plan with the moderate income housing element of the municipality's general plan;

(B) providing for densities necessary to facilitate the development of moderate income housing;

(C) providing for affordable costs of living in connection with housing, transportation, and parking; or

(D) any other similar action that promotes the objective described in Subsection [~~(7)(a)(i)~~](6)(a)(i).

(ii) To promote the objective described in Subsection [~~(7)(a)(ii)~~](6)(a)(ii), a municipality may consider implementing the following actions:

(A) conserving water resources through efficient land use;

(B) improving air quality by reducing fuel consumption and motor vehicle trips;

(C) establishing parks, open spaces, and recreational opportunities; or

(D) any other similar action that promotes the objective described in Subsection [~~(7)(a)(ii)~~](6)(a)(ii).

(iii) To promote the objective described in Subsection [~~(7)(a)(iii)~~](6)(a)(iii), a municipality may consider the following actions:

(A) maintaining and improving the connections between housing, transit, employment, education, recreation, and commerce;

(B) encouraging mixed-use development;

(C) enabling employment and educational opportunities within the station area;

(D) encouraging and promoting enhanced broadband connectivity; or

(E) any other similar action that promotes the objective described in Subsection [~~(7)(a)(iii)~~](6)(a)(iii).

(iv) To promote the objective described in Subsection [~~(7)(a)(iv)~~](6)(a)(iv), a municipality may consider the following:

(A) supporting investment in infrastructure for all modes of transportation;

(B) increasing utilization of public transit;

(C) encouraging safe streets through the designation of pedestrian walkways and bicycle lanes;

(D) encouraging manageable and reliable traffic conditions;

(E) aligning the station area plan with the regional transportation plan of the applicable metropolitan planning organization; or

(F) any other similar action that promotes the objective described in Subsection [~~(7)(a)(iv)~~](6)(a)(iv).

[~~(8)~~](7) A station area plan shall include the following components:

(a) a station area vision that:

(i) is consistent with Subsection [~~(7)~~](6); and

(ii) describes the following:

(A) opportunities for the development of land within the station area under existing conditions;

(B) constraints on the development of land within the station area under existing conditions;

(C) the municipality's objectives for the transportation system within the station area and the future transportation system that meets those objectives;

(D) the municipality's objectives for land uses within the station area and the future land uses that meet those objectives;

(E) the municipality's objectives for public and open spaces within the station area and the future public and open spaces that meet those objectives; and

(F) the municipality's objectives for the development of land within the station area and the future development standards that meet those objectives;

(b) a map that depicts:

(i) the station area;

(ii) the area within the station area to which the station area plan applies, provided that the station area plan may apply to areas outside the station area, and the station area plan is not required to apply to the entire station area; and

(iii) the area where each action is needed to implement the station area plan;

(c) an implementation plan that identifies and describes each action needed within the next five years to implement the station area plan, and the party responsible for taking each action, including any actions to:

(i) modify land use regulations;

(ii) make infrastructure improvements;

(iii) modify deeds or other relevant legal documents;

(iv) secure funding or develop funding strategies;

(v) establish design standards for development within the station area; or

(vi) provide environmental remediation;

(d) a statement that explains how the station area plan promotes the objectives described in Subsection [~~(7)(a)~~](6)(a); and

(e) as an alternative or supplement to the requirements of Subsection [~~(7)~~](6) or this Subsection [~~(8)~~](7), and for purposes of Subsection [~~(2)(b)(ii)~~](1)(b)(ii), a statement that describes any conditions that would make the following impracticable:

(i) promoting the objectives described in Subsection [~~(7)(a)~~](6)(a); or

(ii) satisfying the requirements of this Subsection [~~(8)~~](7).

[~~(9)~~](8) A municipality shall develop a station area plan with the involvement of all relevant stakeholders that have an interest in the station area through public outreach and community engagement, including:

(a) other impacted communities;

(b) the applicable public transit district;

(c) the applicable metropolitan planning organization;

(d) the Department of Transportation;

(e) owners of property within the station area; and

(f) the municipality's residents and business owners.

[~~(10)~~](9) (a) A municipality that is required to develop and adopt a station area plan for a station area under this section shall submit to the applicable metropolitan planning organization and the applicable public transit district documentation evidencing that the municipality has satisfied the requirement of Subsection [~~(2)(a)(i)~~](1)(a)(i) for the station area, including:

(i) a station area plan; or

(ii) a resolution adopted under Subsection [~~(2)(b)(i)~~](1)(b)(i) or (ii).

(b) The applicable metropolitan planning organization, in consultation with the applicable public transit district, shall:

(i) review the documentation submitted under Subsection [~~(10)(a)~~](9)(a) to determine the municipality's compliance with this section; and

(ii) provide written certification to the municipality if the applicable metropolitan planning organization determines that the municipality has satisfied the requirement of Subsection [~~(2)(a)(i)~~](1)(a)(i) for the station area.

(c) The municipality shall include the certification described in Subsection [~~(10)(b)(ii)~~](9)(b)(ii) in the municipality's report to the Department of Workforce Services under Section [~~10-9a-408~~]10-21-202.

[~~(11)~~](10) (a) Following certification by a metropolitan planning organization of a municipality's station area plan under Subsection [~~(10)(b)(ii)~~](9)(b)(ii), the municipality shall provide a report to the applicable metropolitan planning organization on or before December 31 of the fifth year after the year in which the station area plan was certified, and every five years thereafter for a period not to exceed 15 years.

(b) The report described in Subsection [~~(11)(a)~~](10)(a) shall:

(i) contain the status of advancing the station area plan objectives, including, if applicable, actions described in the implementation plan required in Subsection [~~(8)(c)~~](7)(c); and

(ii) identify potential actions over the next five years that would advance the station area plan objectives.

(c) If a municipality has multiple certified station area plans, the municipality may consolidate the reports required in Subsection [~~(11)(a)~~](10)(a) for the purpose of submitting reports to the metropolitan planning organization.

Section 119. Section 10-21-301, which is renumbered from Section 10-9a-535 is renumbered and amended to read:

PART 3. Provisions Unique to Residential Zones and Residential Units

[~~10-9a-535~~]10-21-301
(Effective 11/06/25)
. Moderate income housing.

(1) A municipality may only require the development of a certain number of moderate income housing units as a condition of approval of a land use application if:

(a) the municipality and the applicant enter into a written agreement regarding the number of moderate income housing units;

(b) the municipality provides incentives for an applicant who agrees to include moderate income housing units in a development; or

(c) the municipality offers or approves, and an applicant accepts, an incentive described in Section [~~10-9a-403.2~~]10-21-401 or [~~10-9a-403.3~~]10-21-402.

(2) If an applicant does not agree to participate in the development of moderate income housing units under Subsection (1)(a) or (b), a municipality may not take into consideration the applicant's decision in the municipality's determination of whether to approve or deny a land use application.

(3) Notwithstanding Subsections (1) and (2), a municipality that imposes a resort community sales and use tax as described in Section 59-12-401, may require the development of a certain number of moderate income housing units as a condition of approval of a land use application if the requirement is in accordance with an ordinance enacted by the municipality before January 1, 2022.

Section 120. Section 10-21-302, which is renumbered from Section 10-9a-514 is renumbered and amended to read:

[~~10-9a-514~~]10-21-302

(Effective 11/06/25)

. Manufactured homes.

(1) (a) For purposes of this section, a manufactured home is the same as defined in Section 15A-1-302, except that the manufactured home shall be attached to a permanent foundation in accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection in compliance with the applicable building code.

(b) All appendages, including carports, garages, storage buildings, additions, or alterations shall be built in compliance with the applicable building code.

(2) A manufactured home may not be excluded from any land use zone or area in which a single-family residence would be permitted, provided the manufactured home complies with all local land use ordinances, building codes, and any restrictive covenants, applicable to a single family residence within that zone or area.

(3) A municipality may not:

(a) adopt or enforce an ordinance or regulation that treats a proposed development that includes manufactured homes differently than one that does not include manufactured homes; or

(b) reject a development plan based on the fact that the development is expected to contain manufactured homes.

Section 121. Section 10-21-303, which is renumbered from Section 10-9a-530 is renumbered and amended to read:

[~~10-9a-530~~]10-21-303

(Effective 11/06/25)

. Internal accessory dwelling units.

[~~(1) As used in this section:~~]

[~~(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:~~]

[~~(i) within a primary dwelling;~~]

[~~(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and~~]

[~~(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.~~]

[~~(b) (i) "Primary dwelling" means a single-family dwelling that:~~]

[~~(A) is detached; and~~]

[~~(B) is occupied as the primary residence of the owner of record.~~]

[~~(ii) "Primary dwelling" includes a garage if the garage:~~]

[~~(A) is a habitable space; and~~]

[~~(B) is connected to the primary dwelling by a common wall.~~]

[~~(2)~~](1) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use;

(b) except as provided in Subsections [~~(3)~~](2) and [~~(4)~~](3), a municipality may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:

(i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

(ii) total lot size;

(iii) street frontage; or

(iv) internal connectivity; and

(c) a municipality's regulation of architectural elements for internal accessory dwelling units shall be consistent with the regulation of single-family units, including single-family units located in historic districts.

[~~(3)~~](2) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

[~~(4)~~](3) A municipality may:

(a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;

(b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;

(c) require a primary dwelling:

(i) regardless of whether the primary dwelling is existing or new construction, to include one additional on-site parking space for an internal accessory dwelling unit, in addition to the parking spaces required under the municipality's land use regulation, except that if the municipality's land use ordinance requires four off-street parking spaces, the municipality may not require the additional space contemplated under this Subsection [~~(4)(c)(i)~~](3)(c)(i); and

(ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport and is a habitable space;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to:

(i) 25% or less of the total area in the municipality that is zoned primarily for residential use, except that the municipality may not prohibit newly constructed internal accessory dwelling units that:

(A) have a final plat approval dated on or after October 1, 2021; and

(B) comply with applicable land use regulations; or

(ii) 67% or less of the total area in the municipality that is zoned primarily for residential use, if the main campus of a state or private university with a student population of 10,000 or more is located within the municipality;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection [~~(5)~~](4); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection [~~(6)~~](5).

[~~(5)~~](4) (a) In addition to any other legal or equitable remedies available to a municipality, a municipality may hold a lien against a property that contains an internal accessory dwelling unit if:

(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection [~~(4)~~](3);

(ii) the municipality provides a written notice of violation in accordance with Subsection [~~(5)(b)~~](4)(b);

(iii) the municipality holds a hearing and determines that the violation has occurred in accordance with Subsection [~~(5)(d)~~](4)(d), if the owner files a written objection in accordance with Subsection [~~(5)(b)(iv)~~](4)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection [~~(5)(b)~~](4)(b);

(v) the municipality provides a written notice of lien in accordance with Subsection [~~(5)(c)~~](4)(c); and

(vi) the municipality records a copy of the written notice of lien described in Subsection [~~(5)(a)(v)~~](4)(a)(v) with the county recorder of the county in which the property is located.

(b) The written notice of violation shall:

(i) describe the specific violation;

(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:

(A) no less than 14 days after the day on which the municipality sends the written notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days; or

(B) no less than 30 days after the day on which the municipality sends the written notice of violation, for any other violation;

(iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection [~~(5)(b)(ii)~~](4)(b)(ii), the municipality may hold a lien against the property in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) notify the owner of the property:

(A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and

(B) of the name and address of the municipal office where the owner may file the written objection;

(v) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(vi) be posted on the property.

(c) The written notice of lien shall:

(i) comply with the requirements of Section 38-12-102;

(ii) state that the property is subject to a lien;

(iii) specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(v) be posted on the property.

(d) (i) If an owner of property files a written objection in accordance with Subsection [~~(5)(b)(iv)~~](4)(b)(iv), the municipality shall:

(A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection [~~(5)(b)~~](4)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection [~~(5)(d)(i)(A)~~](4)(d)(i)(A) no less than 14 days before the day on which the hearing is held.

(ii) If an owner of property files a written objection under Subsection [~~(5)(b)(iv)~~](4)(b)(iv), a municipality may not record a lien under this Subsection [~~(5)~~](4) until the municipality holds a hearing and determines that the specific violation has occurred.

(iii) If the municipality determines at the hearing that the specific violation has occurred, the municipality may impose a lien in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.

(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection [~~(5)(b)~~](4)(b), the municipality may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation under Subsection [~~(5)(b)~~](4)(b).

[~~(6)~~](5) (a) A municipality that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an

internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection [~~(6)(a)~~](5)(a) shall include:

(i) a description of the primary dwelling;

(ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and

(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the municipality's land use regulations.

(c) The municipality shall, upon recording the notice described in Subsection [~~(6)(a)~~](5)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Section 122. Section 10-21-401, which is renumbered from Section 10-9a-403.2 is renumbered and amended to read:

PART 4. Optional Tools for Municipalities to Promote Housing Supply

[~~10-9a-403.2~~]10-21-401

(Effective 11/06/25)

. Affordable home ownership density bonus for single-family residential units.

(1) As used in this section:

(a) "Affordable housing" means a dwelling:

(i) offered for sale to an owner-occupier at a purchase price affordable to a household with a gross income of no more than 120% of area median income for the county in which the residential unit is offered for sale; or

(ii) offered for rent at a rental price affordable to a household with a gross income of no more than 80% of area median income for the county in which the residential unit is offered for rent.

(b) "Owner-occupier" means an individual who owns, solely or jointly, a housing unit in which the individual lives as the individual's primary residence.

(c) "Qualifying affordable home ownership single-family density bonus" means:

(i) for an area with an underlying zoning density of less than six residential units per acre, municipal approval of a density at least six residential units per acre; or

(ii) for an area with an underlying zoning density of six residential units per acre or more, municipal approval of a density at least 0.5 residential units per acre greater than the underlying zoning density for the area.

(2) If a municipality approves a qualifying affordable home ownership single-family density bonus, either through a zoning ordinance or a development agreement, the municipality may adopt requirements for the qualifying affordable home ownership single-family density bonus area to ensure:

(a) at least 60% of the total single-family residential units be deed-restricted to owner-occupancy for at least five years;

(b) at least 25% of the total single-family residential units qualify as affordable housing;

(c) at least 25% of the single-family residential units per acre to be no larger than 1,600 square feet; or

(d) the applicant creates a preferential qualifying buyer program in which a single-family residential unit is initially offered for sale, for up to 30 days, to a category of preferred qualifying buyers established by the municipality, in accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

(3) A municipality may offer additional incentives in a qualifying affordable home ownership single-family density bonus area approved for single-family residential units to promote owner-occupied, affordable housing.

Section 123. Section 10-21-402, which is renumbered from Section 10-9a-403.3 is renumbered and amended to read:

[~~10-9a-403.3~~]10-21-402

(Effective 11/06/25)

. Affordable home ownership density bonus for multi-family residential units.

(1) As used in this section:

(a) "Affordable housing" means the same as that term is defined in Section [~~10-9a-403.2~~]10-21-401.

(b) "Owner-occupier" means the same as that term is defined in Section [~~10-9a-403.2~~]10-21-401.

(c) "Qualifying affordable home ownership multi-family density bonus" means municipal approval of a density of at least 20 residential units per acre.

(2) If a municipality approves a qualifying affordable home ownership multi-family density bonus, either through a zoning ordinance or a development agreement, the municipality may adopt requirements for the qualifying affordable home ownership multi-family density bonus area to ensure:

(a) at least 20% more residential units per acre than are otherwise allowed in the area;

(b) at least 60% of the total units in the multi-family residential building be deed-restricted to owner-occupancy for at least five years;

(c) at least 25% of the total units in the multi-family residential building qualify as affordable housing;

(d) at least 25% of the total units in a multi-family residential building to be no larger than 1,600 square feet; or

(e) the applicant creates a preferential qualifying buyer program in which a unit in a multi-family residential building is initially offered for sale, for up to 30 days, to a category of preferred qualifying buyers established by the municipality, in accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

(3) A municipality may offer additional incentives in a qualifying affordable home ownership multi-family density bonus area for multi-family residential units to promote owner-occupied, affordable housing.

Section 124. Section 10-21-501, which is renumbered from Section 10-9a-1002 is renumbered and amended to read:

PART 5. Home Ownership Promotion Zone for Municipalities

[~~10-9a-1002~~]10-21-501

(Effective 11/06/25)

. Municipal designation of a home ownership promotion zone.

(1) Subject to the requirements of Sections [~~10-9a-1003~~]10-21-502 and [~~10-9a-1004~~]10-21-503, a municipality may create a home ownership promotion zone as described in this section.

(2) A home ownership promotion zone created under this section:

(a) is an area of 10 contiguous acres or less located entirely within the boundaries of the municipality, zoned for fewer than six housing units per acre before the creation of the home ownership promotion zone;

(b) shall be re-zoned for at least six housing units per acre; and

(c) may not be encumbered by any residential building permits as of the day on which the home ownership promotion zone is created.

(3) (a) The municipality shall designate the home ownership promotion zone by resolution of the legislative body of the municipality, passed or adopted in a public meeting of the legislative body of the municipality, following:

(i) the recommendation of the municipality planning commission; and

(ii) the notification requirements described in Section [~~10-9a-1004~~]10-21-503.

(b) The resolution described in Subsection (3)(a) shall describe how the home ownership promotion zone created [~~pursuant to~~]in accordance with this section meets the objectives and requirements in Section [~~10-9a-1003~~]10-21-502.

(c) The home ownership promotion zone is created on the effective date of the resolution described in Subsection (3)(a).

(4) If a home ownership promotion zone is created as described in this section:

(a) affected local taxing entities are required to participate according to the requirements of the home ownership promotion zone established by the municipality; and

(b) each affected taxing entity is required to participate at the same rate.

(5) A home ownership promotion zone may be modified by the same manner it is created as described in Subsection (3).

(6) Within 30 days after the day on which the municipality creates the home ownership promotion zone as described in Subsection (3), the municipality shall:

(a) record with the recorder of the county in which the home ownership promotion zone is located a document containing:

(i) a description of the land within the home ownership promotion zone; and

(ii) the date of creation of the home ownership promotion zone;

(b) transmit a copy of the description of the land within the home ownership promotion zone and an accurate map or plat indicating the boundaries of the home ownership promotion zone to the Utah Geospatial Resource Center created under Section 63A-16-505; and

(c) transmit a map and description of the land within the home ownership promotion zone to:

(i) the auditor, recorder, attorney, surveyor, and assessor of the county in which any part of the home ownership promotion zone is located;

(ii) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(iii) the legislative body or governing board of each taxing entity impacted by the home ownership promotion zone;

(iv) the tax commission; and

(v) the State Board of Education.

(7) A municipality may receive tax increment and use home ownership promotion zone funds as described in Section [~~10-9a-1005~~]10-21-504.

Section 125. Section 10-21-502, which is renumbered from Section 10-9a-1003 is renumbered and amended to read:

[~~10-9a-1003~~]10-21-502

(Effective 11/06/25)

. Applicability, requirements, and limitations.

(1) A home ownership promotion zone shall promote the following objectives:

(a) increasing availability of housing, including affordable housing;

(b) promotion of home ownership;

(c) overcoming development impediments and market conditions that render an affordable housing development cost prohibitive absent the incentives resulting from a home ownership promotion zone; and

(d) conservation of water resources through efficient land use.

(2) In order to accomplish the objectives described in Subsection (1), a municipality shall ensure that:

(a) land inside the proposed home ownership promotion zone is zoned as residential, with at least six planned housing units per acre;

(b) at least 60% of the proposed housing units within the home ownership promotion zone are affordable housing units; and

(c) all of the proposed housing units within the home ownership promotion zone are deed restricted to require owner occupation for at least five years.

(3) A municipality may restrict short term rentals in a home ownership promotion zone.

(4) A municipality may not create a home ownership promotion zone if:

(a) the proposed home ownership promotion zone would overlap with a school district and:

(i) (A) the school district has more than one municipality within the school district's boundaries; and

(B) the school district already has 100 acres designated as home ownership promotion zone within the school district's boundaries; or

(ii) (A) the school district has one municipality within the school district's boundaries; and

(B) the school district already has 50 acres designated as home ownership promotion zone within the school district's boundaries; or

(b) the area in the proposed home ownership zone would overlap with:

(i) a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, until the project area is dissolved [~~pursuant to~~]in accordance with Section 17C-1-702; or

(ii) an existing housing and transit reinvestment zone.

Section 126. Section 10-21-503, which is renumbered from Section 10-9a-1004 is renumbered and amended to read:

[~~10-9a-1004~~]10-21-503

(Effective 11/06/25)

. Notification before creation of a home ownership promotion zone.

(1) (a) As used in this section, "hearing" means a public meeting in which the legislative body of a municipality:

(i) considers a resolution creating a home ownership promotion zone; and

(ii) takes public comment on a proposed home ownership promotion zone.

(b) A hearing under this section may be combined with any other public meeting of a legislative body of a municipality.

(2) Before a municipality creates a home ownership promotion zone as described in Section [~~10-9a-1002~~]10-21-501, [~~it~~]the municipality shall provide notice of a hearing as described in this section.

(3) The notice required by Subsection (2) shall be given by:

(a) publishing notice for the municipality, as a class A notice under Section 63G-30-102, for at least 14 days before the day on which the legislative body of the municipality intends to have a hearing;

(b) at least 30 days before the hearing, mailing notice to:

(i) each record owner of property located within the proposed home ownership promotion zone;

(ii) the State Tax Commission;

(iii) the assessor and auditor of the county in which the proposed home ownership promotion zone is located; and

(iv) (A) if the proposed home ownership promotion zone is subject to a taxing entity committee, each member of the taxing entity committee and the State Board of Education; or

(B) if the proposed home ownership promotion zone is not subject to a taxing entity committee, the legislative body or governing board of each taxing entity within the boundaries of the proposed home ownership promotion zone.

(4) The mailing of the notice to record property owners required under Subsection (3)(b) shall be conclusively considered to have been properly completed if:

(a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(5) The municipality shall include in each notice required under this section:

(a) (i) a boundary description of the proposed home ownership promotion zone; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the boundary description of the proposed home ownership promotion zone be sent at no cost to the person by mail, email, or facsimile transmission; and

(B) if the agency or community has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the boundary description of the proposed home ownership promotion zone;

(b) a map of the boundaries of the proposed home ownership promotion zone;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(6) The municipality shall include in each notice under Subsection (3)(b):

(a) a statement that property tax revenue resulting from an increase in valuation of property within the proposed home ownership promotion zone will be paid to the municipality for proposed home ownership promotion zone development rather than to the taxing entity to which the tax revenue would otherwise have been paid; and

(b) an invitation to the recipient of the notice to submit to the municipality comments concerning the subject matter of the hearing before the date of the hearing.

(7) A municipality may include in a notice under Subsection (2) any other information the municipality considers necessary or advisable, including the public purpose achieved by the proposed home ownership promotion zone.

Section 127. Section 10-21-504, which is renumbered from Section 10-9a-1005 is renumbered and amended to read:

[~~10-9a-1005~~]10-21-504

(Effective 11/06/25)

. Payment, use, and administration of revenue from a home ownership promotion zone.

(1) (a) A municipality may receive tax increment and use home ownership promotion zone funds in accordance with this section.

(b) The maximum amount of time that a municipality may receive and use tax increment [~~pursuant to~~]in accordance with a home ownership promotion zone is 15 consecutive years.

(2) A county that collects property tax on property located within a home ownership promotion zone shall, in accordance with Section 59-2-1365, distribute 60% of the tax increment collected from property within the home ownership promotion zone to the municipality over the home ownership promotion zone to be used as described in this section.

(3) (a) Tax increment distributed to a municipality in accordance with Subsection (2) is not revenue of the taxing entity or municipality, but home ownership promotion zone funds.

(b) Home ownership promotion zone funds may be administered by an agency created by the municipality within which the home ownership promotion zone is located.

(c) Before an agency may receive home ownership promotion zone funds from a municipality, the agency shall enter into an interlocal agreement with the municipality.

(4) (a) A municipality or agency shall use home ownership promotion zone funds within, or for the direct benefit of, the home ownership promotion zone.

(b) If any home ownership promotion zone funds will be used outside of the home ownership promotion zone, the legislative body of the municipality shall make a finding that the use of the home ownership promotion zone funds outside of the home ownership promotion zone will directly benefit the home ownership promotion zone.

(5) A municipality or agency shall use home ownership promotion zone funds to achieve the purposes described in Section [~~10-9a-1003~~]10-21-502 by paying all or part of the costs of any of the following:

(a) project improvement costs;

(b) systems improvement costs;

(c) water exaction costs;

(d) street lighting costs;

(e) environmental remediation costs; or

(f) the costs of the municipality or agency to create and administer the home ownership promotion zone, which may not exceed 3% of the total home ownership promotion zone funds.

(6) Home ownership promotion zone funds may be paid to a participant, if the municipality and participant enter into a participation agreement which requires the participant to utilize the home ownership promotion zone funds as allowed in this section.

(7) Home ownership promotion zone funds may be used to pay all of the costs of bonds issued by the municipality in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.

(8) A municipality may:

(a) create one or more public infrastructure districts within a home ownership promotion zone under Title 17D, Chapter 4, Public Infrastructure District Act; and

(b) pledge and utilize the home ownership promotion zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Section 128. Section 10-21-601 is enacted to read:

PART 6. Other Housing Supply Tools

10-21-601
(Effective 11/06/25)
. Reserved.

Reserved.

Section 129. Section 11-13-227 is amended to read:
11-13-227
(Effective 11/06/25)
. Transportation reinvestment zones.

(1) Subject to the provisions of this part, any two or more public agencies may enter into an agreement with one another to create a transportation reinvestment zone as described in this section.

(2) To create a transportation reinvestment zone, two or more public agencies, at least one of which has land use authority over the transportation reinvestment zone area, shall:

(a) define the transportation infrastructure need and proposed improvement;

(b) define the boundaries of the zone;

(c) establish terms for sharing sales tax revenue among the members of the agreement;

(d) establish a base year to calculate the increase of property tax revenue within the zone;

(e) establish terms for sharing any increase in property tax revenue within the zone; and

(f) before an agreement is approved as required in Section 11-13-202.5, hold a public hearing regarding the details of the proposed transportation reinvestment zone.

(3) Any agreement to establish a transportation reinvestment zone is subject to the requirements of Sections 11-13-202, 11-13-202.5, 11-13-206, and 11-13-207.

(4) (a) Each public agency that is party to an agreement under this section shall annually publish a report including a statement of the increased tax revenue and the expenditures made in accordance with the agreement.

(b) Each public agency that is party to an agreement under this section shall transmit a copy of the report described in Subsection (4)(a) to the state auditor.

(5) If any surplus revenue remains in a tax revenue account created as part of a transportation reinvestment zone agreement, the parties may use the surplus for other purposes as determined by agreement of the parties.

(6) (a) An action taken under this section is not subject to:

(i) Section 10-8-2;

(ii) [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act;

(iii) [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act; or

(iv) Section [~~17-50-312~~]17-78-103.

(b) An ordinance, resolution, or agreement adopted under this title is not a land use regulation as defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102.

Section 130. Section 11-36a-202 is amended to read:
11-36a-202
(Effective 11/06/25)
. Prohibitions on impact fees.

(1) A local political subdivision or private entity may not:

(a) impose an impact fee to:

(i) cure deficiencies in a public facility serving existing development;

(ii) raise the established level of service of a public facility serving existing development; or

(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement;

(b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or

(c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.

(2) (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:

(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;

(ii) on a school district or charter school for a park, recreation facility, open space, or trail;

(iii) on a school district or charter school unless:

(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and

(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;

(iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:

(A) the Utah National Guard;

(B) the Utah Highway Patrol; or

(C) a state institution of higher education that has its own police force;

(v) on development activity on state-owned land, as defined in Section 11-70-101; or

(vi) on development activity that consists of the construction of an internal accessory dwelling unit, as defined in Section [~~10-9a-530~~]10-21-303, within an existing primary dwelling.

(b) (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:

(A) the school is intended to replace another school, whether on the same or a different parcel;

(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and

(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.

(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

(c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:

(i) the state's development causes an impact on the road facility; and

(ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.

(3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 11-36a-206.

Section 131. Section 11-36a-301 is amended to read:

11-36a-301

(Effective 11/06/25)

. Impact fee facilities plan.

(1) Before imposing an impact fee, each local political subdivision or private entity shall, except as provided in Subsection (3), prepare an impact fee facilities plan to determine the public facilities required to serve development resulting from new development activity.

(2) A municipality or county need not prepare a separate impact fee facilities plan if the general plan required by Section [~~10-9a-401~~]10-20-401 or [~~17-27a-401~~]17-79-401, respectively, contains the elements required by Section 11-36a-302.

(3) A local political subdivision or a private entity with a population, or serving a population, of less than 5,000 as of the last federal census that charges impact fees of less than $250,000 annually need not comply with the impact fee facilities plan requirements of this part, but shall ensure that:

(a) the impact fees that the local political subdivision or private entity imposes are based upon a reasonable plan that otherwise complies with the common law and this chapter; and

(b) each applicable notice required by this chapter is given.

Section 132. Section 11-36a-302 is amended to read:

11-36a-302

(Effective 11/06/25)

. Impact fee facilities plan requirements -- Limitations -- School district or charter school.

(1) (a) An impact fee facilities plan shall:

(i) identify the existing level of service;

(ii) subject to Subsection (1)(c), establish a proposed level of service;

(iii) identify any excess capacity to accommodate future growth at the proposed level of service;

(iv) identify demands placed upon existing public facilities by new development activity at the proposed level of service; and

(v) identify the means by which the political subdivision or private entity will meet those growth demands.

(b) A proposed level of service may diminish or equal the existing level of service.

(c) A proposed level of service may:

(i) exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service; or

(ii) establish a new public facility if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service.

(2) In preparing an impact fee facilities plan, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:

(a) grants;

(b) bonds;

(c) interfund loans;

(d) impact fees; and

(e) anticipated or accepted dedications of system improvements.

(3) A local political subdivision or private entity may only impose impact fees on development activities when the local political subdivision's or private entity's plan for financing system improvements establishes that impact fees are necessary to maintain a proposed level of service that complies with Subsection (1)(b) or (c).

(4) (a) Subject to Subsection (4)(c), the impact fee facilities plan shall include a public facility for which an impact fee may be charged or required for a school district or charter school if the local political subdivision is aware of the planned location of the school district facility or charter school:

(i) through the planning process; or

(ii) after receiving a written request from a school district or charter school that the public facility be included in the impact fee facilities plan.

(b) If necessary, a local political subdivision or private entity shall amend the impact fee facilities plan to reflect a public facility described in Subsection (4)(a).

(c) (i) In accordance with [~~Subsections 10-9a-305(3)~~]Sections 10-20-304 and [~~17-27a-305(3)~~]17-79-305, a local political subdivision may not require a school district or charter school to participate in the cost of any roadway or sidewalk.

(ii) Notwithstanding Subsection (4)(c)(i), if a school district or charter school agrees to build a roadway or sidewalk, the roadway or sidewalk shall be included in the impact fee facilities plan if the local jurisdiction has an impact fee facilities plan for roads and sidewalks.

Section 133. Section 11-36a-502 is amended to read:

11-36a-502

(Effective 11/06/25)

. Notice to adopt or amend an impact fee facilities plan.

(1) If a local political subdivision chooses to prepare an independent impact fee facilities plan rather than include an impact fee facilities element in the general plan in accordance with Section 11-36a-301, the local political subdivision shall, before adopting or amending the impact fee facilities plan:

(a) give public notice, in accordance with Subsection (2), of the plan or amendment at least 10 days before the day on which the public hearing described in Subsection (1)(d) is scheduled;

(b) make a copy of the plan or amendment, together with a summary designed to be understood by a lay person, available to the public;

(c) place a copy of the plan or amendment and summary in each public library within the local political subdivision; and

(d) hold a public hearing to hear public comment on the plan or amendment.

(2) With respect to the public notice required under Subsection (1)(a):

(a) each municipality shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections [~~10-9a-205~~]10-20-205 and [~~10-9a-801~~]10-20-1109 and Subsection [~~10-9a-502(2)~~]10-20-502(2);

(b) each county shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections [~~17-27a-205~~]17-79-205 and [~~17-27a-801~~]17-79-1009 and Subsection [~~17-27a-502(2)~~]17-79-502(2); and

(c) each special district, special service district, and private entity shall comply with the notice and hearing requirements of, and receive the protections of, Section 17B-1-111.

(3) Nothing contained in this section or Section 11-36a-503 may be construed to require involvement by a planning commission in the impact fee facilities planning process.

Section 134. Section 11-36a-504 is amended to read:

11-36a-504

(Effective 11/06/25)

. Notice of intent to adopt impact fee enactment -- Hearing -- Protections.

(1) Before adopting an impact fee enactment:

(a) a municipality legislative body shall:

(i) comply with the notice requirements of Section [~~10-9a-205~~]10-20-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section [~~10-9a-502~~]10-20-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section [~~10-9a-801~~]10-9-1109 as if the impact fee were a land use regulation;

(b) a county legislative body shall:

(i) comply with the notice requirements of Section [~~17-27a-205~~]17-79-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section [~~17-27a-502~~]17-79-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section [~~17-27a-801~~]17-79-1009 as if the impact fee were a land use regulation;

(c) a special district or special service district shall:

(i) comply with the notice and hearing requirements of Section 17B-1-111; and

(ii) receive the protections of Section 17B-1-111;

(d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:

(i) make a copy of the impact fee enactment available to the public; and

(ii) provide notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, for the local political subdivision, as a class A notice under Section 63G-30-102, for at least 10 days; and

(e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section 11-36a-303 on its website or to each public library within the local political subdivision.

(2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Section 135. Section 11-36a-701 is amended to read:

11-36a-701

(Effective 11/06/25)

. Impact fee challenge.

(1) A person or an entity residing in or owning property within a service area, or an organization, association, or a corporation representing the interests of persons or entities owning property within a service area, has standing to file a declaratory judgment action challenging the validity of an impact fee.

(2) (a) A person or an entity required to pay an impact fee who believes the impact fee does not meet the requirements of law may file a written request for information with the local political subdivision who established the impact fee.

(b) Within two weeks after the receipt of the request for information under Subsection (2)(a), the local political subdivision shall provide the person or entity with the impact fee analysis, the impact fee facilities plan, and any other relevant information relating to the impact fee.

(3) (a) Subject to the time limitations described in Section 11-36a-702 and procedures set forth in Section 11-36a-703, a person or an entity that has paid an impact fee that a local political subdivision imposed may challenge:

(i) if the impact fee enactment was adopted on or after July 1, 2000:

(A) subject to Subsection (3)(b)(i) and except as provided in Subsection (3)(b)(ii), whether the local political subdivision complied with the notice requirements of this chapter with respect to the imposition of the impact fee; and

(B) whether the local political subdivision complied with other procedural requirements of this chapter for imposing the impact fee; and

(ii) except as limited by Subsection (3)(c), the impact fee.

(b) (i) The sole remedy for a challenge under Subsection (3)(a)(i)(A) is the equitable remedy of requiring the local political subdivision to correct the defective notice and repeat the process.

(ii) The protections given to a municipality under Section [~~10-9a-801~~]10-20-1109 and to a county under Section [~~17-27a-801~~]17-79-1009 do not apply in a challenge under Subsection (3)(a)(i)(A).

(c) The sole remedy for a challenge under Subsection (3)(a)(ii) is a refund of the difference between what the person or entity paid as an impact fee and the amount the impact fee should have been if it had been correctly calculated.

(4) (a) Subject to Subsection (4)(d), if an impact fee that is the subject of an advisory opinion under Section 13-43-205 is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion:

(i) the substantially prevailing party on that cause of action:

(A) may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution; and

(B) shall be refunded an impact fee held to be in violation of this chapter, based on the difference between the impact fee paid and what the impact fee should have been if the local political subdivision had correctly calculated the impact fee; and

(ii) in accordance with Section 13-43-206, a local political subdivision shall refund an impact fee held to be in violation of this chapter to the person who was in record title of the property on the day on which the impact fee for the property was paid if:

(A) the impact fee was paid on or after the day on which the advisory opinion on the impact fee was issued but before the day on which the final court ruling on the impact fee is issued; and

(B) the person described in Subsection (3)(a)(ii) requests the impact fee refund from the local political subdivision within 30 days after the day on which the court issued the final ruling on the impact fee.

(b) A local political subdivision subject to Subsection (3)(a)(ii) shall refund the impact fee based on the difference between the impact fee paid and what the impact fee should have been if the local political subdivision had correctly calculated the impact fee.

(c) This Subsection (4) may not be construed to create a new cause of action under land use law.

(d) Subsection (4)(a) does not apply unless the cause of action described in Subsection (4)(a) is resolved and final.

(5) Subject to the time limitations described in Section 11-36a-702 and procedures described in Section 11-36a-703, a claimant, as defined in Section 11-36a-603, may challenge whether a local political subdivision spent or encumbered an impact fee in accordance with Section 11-36a-602.

Section 136. Section 11-46a-102 is amended to read:

11-46a-102

(Effective 11/06/25)

. Limitations on animal enterprise and working animal regulations.

(1) Subject to Subsection (2), a political subdivision may not adopt or enforce an ordinance or other regulation that prohibits or effectively prohibits:

(a) the operation of an animal enterprise;

(b) the use of a working animal; or

(c) domestic dogs from:

(i) actively participating in an exposition or rodeo; or

(ii) performing a specific duty as a working animal.

(2) Subsection (1) does not apply to an ordinance or other regulation that a political subdivision adopts or enforces if the ordinance or other regulation:

(a) enforces a state or federal law;

(b) is a land use regulation as that term is defined in Section [~~10-9a-103~~]10-20-102; or

(c) is adopted or enforced, in accordance with Section 10-8-15 or 19-4-113, to protect:

(i) drinking water or a source of drinking water from pollution; or

(ii) a waterworks system.

Section 137. Section 11-58-103 is amended to read:

11-58-103

(Effective 11/06/25)

. Vested right of landowner.

(1) As used in this section:

(a) "Municipal inland port regulations" means a municipality's land use ordinances and regulations relating to the use of land within the authority jurisdictional land for an inland port use.

(b) "Vested development right" means a right:

(i) to use or develop land located within the authority jurisdictional land for an inland port use in accordance with municipal inland port regulations in effect on December 31, 2018; and

(ii) that may not be affected by later changes to municipal ordinances or regulations.

(c) "Vested right notice" means a notice that complies with the requirements of Subsection (3).

(2) An owner of land located within the boundary of the authority jurisdictional land may establish a vested development right on that land by causing a notice to be recorded in the office of the recorder of the county in which the land is located.

(3) A notice under Subsection (2) shall:

(a) state that the owner elects to establish a vested development right on the owner's land to use or develop the land for an inland port use in accordance with municipal inland port regulations in effect on December 31, 2018;

(b) state that the owner's election is made under Title 11, Chapter 58, Utah Inland Port Authority Act;

(c) describe the land in a way that complies with applicable requirements for the recording of an instrument affecting land;

(d) indicate the zoning district in which the land is located, including any overlay district;

(e) bear the signature of each owner of the land;

(f) be accompanied by the applicable recording fee; and

(g) include the following acknowledgment:

"I/we acknowledge that:

the land identified in this notice is situated within the authority jurisdictional land of the Utah Inland Port Authority, established under Utah Code Title 11, Chapter 58, Utah Inland Port Authority Act, and is eligible for this election of a vested right;

this vested right allows the land described in this notice to be used or developed in the manner allowed by applicable land use regulations in effect on December 31, 2018;

all development activity must comply with those land use regulations;

the right to use and develop the land described in this notice in accordance with those land use regulations continues for 40 years from the date this notice is recorded, unless a land use application is submitted to the applicable land use authority that proposes a use or development activity that is not allowed under the land use regulations in effect on December 31, 2018, or all record owners of the land record a rescission of the election of a vested development right for this land.".

(4) (a) An owner of land against which a vested right notice is recorded has a vested development right with respect to that land for 40 years from the date the vested right notice is recorded, or, if earlier, until the vested development right is rescinded by the recording of a rescission of the election of the vested development right signed by all record owners of the land.

(b) A vested development right may not be affected by changes to municipal ordinances or regulations that occur after a vested right notice is recorded.

(5) Within 10 days after the recording of a vested right notice under this section, the owner of the land shall provide a copy of the vested right notice, with recording information, to the applicable local land use authority.

(6) A vested development right may not be affected by an action under Subsection [~~17-27a-508(1)(a)(ii)(A)~~]17-79-803(1)(a)(ii)(A) or (B) or Subsection [~~10-9a-509(1)(a)(ii)(A)~~]10-20-902(1)(a)(ii)(A) or (B).

Section 138. Section 11-59-103 is amended to read:

11-59-103

(Effective 11/06/25) (Repealed 01/01/29)

. Scope of chapter -- Limit on selling or leasing point of the mountain state land -- Authority control over point of the mountain state land -- Role of Division of Facilities Construction and Management -- Local government authority not applicable.

(1) This chapter governs the management of the point of the mountain state land, and the process of planning, managing, and implementing the development of the point of the mountain state land.

(2) (a) No part of the point of the mountain state land may be sold or otherwise disposed of or leased without the approval of the board.

(b) The authority has complete and exclusive control over the management, development, and disposition of the point of the mountain state land.

(3) (a) The facilities division serves the role of compliance agency under Title 15A, State Construction and Fire Codes Act, with respect to the point of the mountain state land.

(b) The facilities division is the permitting agency responsible for the issuance of a building permit or certificate of occupancy related to construction on the point of the mountain state land, in accordance with applicable building codes and standards.

(4) The authority of a local government under [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act, or [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act, does not apply to the use of the point of the mountain state land or to any improvements constructed on the point of the mountain state land, including improvements constructed by an entity other than the authority.

Section 139. Section 11-59-204 is amended to read:

11-59-204

(Effective 11/06/25) (Repealed 01/01/29)

. Applicability of other law -- Coordination with municipality.

(1) The authority and the point of the mountain state land are not subject to:

(a) [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act; or

(b) the jurisdiction of a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, except to the extent that:

(i) some or all of the point of the mountain state land is, on May 8, 2018, included within the boundary of a special district or special service district; and

(ii) the authority elects to receive service from the special district or special service district for the point of the mountain state land that is included within the boundary of the special district or special service district, respectively.

(2) In formulating and implementing a development plan for the point of the mountain state land, the authority shall consult with officials of the municipality within which the point of the mountain state land is located on planning and zoning matters.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) Nothing in this chapter may be construed to remove the point of the mountain state land from the service area of the municipality in which the point of the mountain state land is located, for purposes of water, sewer, and other similar municipal services currently being provided.

(5) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act, except that for an electronic meeting of the authority board that otherwise complies with Section 52-4-207, the authority board:

(a) is not required to establish an anchor location; and

(b) may convene and conduct the meeting without the determination otherwise required under Subsection 52-4-207(5)(a)(i).

Section 140. Section 11-70-203 is amended to read:

11-70-203

(Effective 11/06/25)

. Privilege tax on state-owned land.

(1) (a) Subject to Subsection (1)(b), the possession or beneficial use of property on state-owned land is subject to Title 59, Chapter 4, Privilege Tax.

(b) Subsection (1)(a) does not apply to a qualified stadium during the construction of the qualified stadium and before title to the stadium is conveyed to the fairpark district as required in an agreement under Subsection 11-70-502(3).

(2) (a) As provided in Subsection (2)(b):

(i) for revenue from a privilege tax under Subsection (1) on a designated parcel that is part of the fair park land:

(A) 75% of the revenue shall be paid to the fairpark district; and

(B) 25% of the revenue shall be paid to the fair park authority; and

(ii) for revenue from a privilege tax under Subsection (1) on a designated parcel that is part of other state land, 100% of the revenue shall be paid to the fairpark district.

(b) The treasurer of the county in which the fair park land is located shall, in the manner and at the time provided in Section 59-2-1365, pay and distribute to the fairpark district and the fair park authority, as applicable, the revenue described in Subsection (2)(a).

(3) (a) The fairpark district shall use 20% of the money the fairpark district is paid under Subsection (2)(a)(ii) for moderate income housing, as defined in Section [~~10-9a-103~~]10-20-102, within the host municipality.

(b) The fairpark district and host municipality shall coordinate and work together to identify how, when, and where the money described in Subsection (3)(a) is spent.

Section 141. Section 11-70-206 is amended to read:

11-70-206

(Effective 11/06/25)

. Applicability of other law -- Cooperation of state and local governments -- Municipal services -- Services from state agencies -- Procurement policy -- Public infrastructure district.

(1) With respect to the use or development of state-owned land, the fairpark district is not subject to:

(a) [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act; or

(b) the jurisdiction of a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, except to the extent that:

(i) some or all of the state land is, on January 1, 2024, included within the boundary of a special district or special service district; and

(ii) the fairpark district elects to receive service from the special district or special service district for the state land that is included within the boundary of the special district or special service district, respectively.

(2) The fairpark district has and may exercise all powers relating to the regulation of land uses on state-owned land.

(3) (a) Subject to Subsections (3)(b) and (c), the fairpark district has and may exercise all powers relating to the regulation of land uses on privately owned land within the fairpark district boundary.

(b) (i) Except as provided in Subsection (3)(d), land owned by a qualified owner is subject to a host municipality's land use authority under [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act, if the qualified owner and the host municipality enter into an agreement, as provided in Subsection (3)(b)(ii), no later than December 31, 2024.

(ii) (A) An agreement under Subsection (3)(b)(i) shall require the host municipality to provide an expedited process for the review and approval of a qualified owner's completed land use application that complies with adopted land use regulations.

(B) In an agreement under Subsection (3)(b)(i), the host municipality shall agree to vest the qualified owner in any approved land use for a qualified stadium and related uses.

(c) (i) If the board approves the addition of land owned by a qualified owner to the fairpark district boundary, the host municipality shall, within six months after the day of the board's approval, approve an amendment to the agreement established under Subsection (3)(b) to include the additional land.

(ii) A host municipality may not unreasonably withhold, delay, or condition approving the amendment described in Subsection (3)(c)(i).

(iii) If a host municipality fails to approve an amendment described in Subsection (3)(c)(i) within the time frame described in Subsection (3)(c)(i), the fairpark district shall become the land use authority for the additional land.

(d) If an agreement under Subsection (3)(b) terminates for any reason described in the agreement or by operation of law, the fairpark district shall become the land use authority for the land that was subject to the agreement immediately upon termination of the agreement.

(e) Upon expiration of the agreement described in Subsection (3)(b), the host municipality shall remain the sole land use authority for the land that was subject to the expired agreement.

(f) A host municipality may not prohibit or condition the use of a qualified owner's land for a qualified stadium.

(g) In making land use decisions affecting land within the fairpark district boundary that is subject to a host municipality's land use authority under this Subsection (3), the legislative body of the host municipality shall consider input from the board.

(4) (a) No later than December 31, 2024, the host municipality and the host municipality's community reinvestment agency shall take all necessary actions to withdraw from the fairpark district boundary any area that is within a project area of the community reinvestment agency.

(b) If land is added to the fairpark district boundary, the host municipality and the community reinvestment agency shall take all necessary actions to withdraw from the fairpark district boundary any area that is within a project area of the community reinvestment agency.

(5) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the fairpark district to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the fairpark district fulfill the fairpark district's duties and responsibilities under this chapter.

(6) (a) A host municipality shall provide the same municipal services to the area of the municipality that is within the fairpark district boundary as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) The level and quality of municipal services that a host municipality provides within the fairpark district boundary shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(c) No later than December 31, 2024, the fairpark district and host municipality shall enter into an agreement providing for the fairpark district to reimburse the host municipality for services the host municipality provides to a project area.

(7) (a) The fairpark district may request and, upon request, shall receive:

(i) fuel dispensing and motor pool services provided by the Division of Fleet Operations;

(ii) surplus property services provided by the Division of Purchasing and General Services;

(iii) information technology services provided by the Division of Technology Services;

(iv) archive services provided by the Division of Archives and Records Service;

(v) financial services provided by the Division of Finance;

(vi) human resources services provided by the Division of Human Resource Management;

(vii) legal services provided by the Office of the Attorney General; and

(viii) banking services provided by the Office of the State Treasurer.

(b) Nothing in Subsection (7)(a) relieves the fairpark district of the obligation to pay the applicable fee for the service provided.

(8) (a) To govern fairpark district procurements, the board shall adopt a procurement policy that the board reasonably determines to substantially fulfill the purposes described in Section 63G-6a-102.

(b) The board may delegate to the executive director the responsibility to adopt a procurement policy.

(c) The board's determination under Subsection (8)(a) is final and conclusive.

(9) No later than December 31, 2024, the board and the assessor of the county in which the fairpark district is located shall together determine the base taxable value of privately owned property within the fairpark district boundary.

(10) (a) As used in this Subsection (10):

(i) "District ZIP area" means a ZIP area a majority of which includes land within the fairpark district boundary.

(ii) "ZIP area" means an area defined by the ZIP Code, as defined in Section 59-12-102, plus the four-digit deliver route extension.

(b) No later than June 1, 2024, the State Tax Commission shall:

(i) define the area that consists of all district zip areas; and

(ii) provide a description of the area under Subsection (10)(b)(i) to the host municipality and the board.

(c) The State Tax Commission shall annually:

(i) update the definition of the area under Subsection (10)(b)(i); and

(ii) provide the updated description to the host municipality and the board.

(11) (a) (i) A public infrastructure district created by the fairpark district under Title 17D, Chapter 4, Public Infrastructure District Act, may, subject to limitations of that chapter, levy a property tax for the operations and maintenance of the public infrastructure district's financed public infrastructure and improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (11)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a public infrastructure district created by the fairpark district issues a bond:

(i) the public infrastructure district may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in Title 17D, Chapter 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum rate of .015.

(c) (i) A public infrastructure district created by the fairpark district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (11)(a)(i) and (11)(b)(ii).

(ii) If a public infrastructure district created by the fairpark district issues bonds, the public infrastructure district may issue bonds secured by property taxes from:

(A) the entire public infrastructure district; or

(B) one or more tax areas within the public infrastructure district.

(d) A public infrastructure district created by the fairpark district may use bond proceeds to:

(i) pay for public infrastructure and improvements; and

(ii) pay costs related to the development, operation, or maintenance of infrastructure described in Subsection (11)(d)(i).

Section 142. Section 13-43-205 is amended to read:

13-43-205

(Effective 11/06/25)

. Advisory opinion.

(1) A local government, private entity, or a potentially aggrieved person may, in accordance with Section 13-43-206, request a written advisory opinion:

(a) from a neutral third party to determine compliance with:

(i) [~~Section 10-9a-505.5 and Sections 10-9a-507 through 10-9a-511~~]Sections 10-20-506, 10-20-507, 10-20-602, 10-20-604, 10-20-605, 10-20-902, 10-20-904, 10-20-905, 10-20-910, 10-20-911, and 10-20-1003;

(ii) [~~Section 17-27a-505.5 and Sections 17-27a-506 through 17-27a-510~~]Sections 17-79-506, 17-79-507, 17-79-601, 17-79-602, 17-79-603, 17-79-803, 17-79-804, 17-79-805, 17-79-811, 17-79-812, and 17-79-903; and

(iii) Title 11, Chapter 36a, Impact Fees Act; and

(b) at any time before:

(i) a final decision on a land use application by a local appeal authority under Title 11, Chapter 36a, Impact Fees Act, or Section [~~10-9a-708~~]10-20-1108 or [~~17-27a-708~~]17-79-1008;

(ii) the deadline for filing an appeal with the district court under Title 11, Chapter 36a, Impact Fees Act, or Section [~~10-9a-801~~]10-20-1109 or [~~17-27a-801~~]17-79-1009, if no local appeal authority is designated to hear the issue that is the subject of the request for an advisory opinion; or

(iii) the enactment of an impact fee, if the request for an advisory opinion is a request to review and comment on a proposed impact fee facilities plan or a proposed impact fee analysis as defined in Section 11-36a-102.

(2) A private property owner may, in accordance with Section 13-43-206, request a written advisory opinion from a neutral third party to determine if a condemning entity:

(a) is in occupancy of the owner's property;

(b) is occupying the property:

(i) for a public use authorized by law; and

(ii) without colorable legal or equitable authority; and

(c) continues to occupy the property without the owner's consent, the occupancy would constitute a taking of private property for a public use without just compensation.

(3) An advisory opinion issued under Subsection (2) may justify an award of attorney fees against a condemning entity in accordance with Section 13-43-206 only if the court finds that the condemning entity:

(a) does not have a colorable claim or defense for the entity's actions; and

(b) continued occupancy without payment of just compensation and in disregard of the advisory opinion.

Section 143. Section 13-43-206 is amended to read:

13-43-206

(Effective 11/06/25)

. Advisory opinion -- Process.

(1) A request for an advisory opinion under Section 13-43-205 shall be:

(a) filed with the Office of the Property Rights Ombudsman; and

(b) accompanied by a filing fee of $150.

(2) The Office of the Property Rights Ombudsman may establish policies providing for partial fee waivers for a person who is

financially unable to pay the entire fee.

(3) A person requesting an advisory opinion need not exhaust administrative remedies, including remedies described under Section [~~10-9a-801~~]10-20-1109 or [~~17-27a-801~~]17-79-1009, before requesting an advisory opinion.

(4) The Office of the Property Rights Ombudsman shall:

(a) deliver notice of the request to opposing parties indicated in the request;

(b) inquire of all parties if there are other necessary parties to the dispute; and

(c) deliver notice to all necessary parties.

(5) If a governmental entity is an opposing party, the Office of the Property Rights Ombudsman shall deliver the request in the manner provided for in Section 63G-7-401.

(6) (a) The Office of the Property Rights Ombudsman shall promptly determine if the parties can agree to a neutral third party to issue an advisory opinion.

(b) If no agreement can be reached within four business days after notice is delivered [~~pursuant to~~]in accordance with Subsections (4) and (5), the Office of the Property Rights Ombudsman shall appoint a neutral third party to issue an advisory opinion.

(7) All parties that are the subject of the request for advisory opinion shall:

(a) share equally in the cost of the advisory opinion; and

(b) provide financial assurance for payment that the neutral third party requires.

(8) The neutral third party shall comply with the provisions of Section 78B-11-109, and shall promptly:

(a) seek a response from all necessary parties to the issues raised in the request for advisory opinion;

(b) investigate and consider all responses; and

(c) issue a written advisory opinion within 15 business days after the appointment of the neutral third party under Subsection (6)(b), unless:

(i) the parties agree to extend the deadline; or

(ii) the neutral third party determines that the matter is complex and requires additional time to render an opinion, which may not exceed 30 calendar days.

(9) An advisory opinion shall include a statement of the facts and law supporting the opinion's conclusions.

(10) (a) Copies of any advisory opinion issued by the Office of the Property Rights Ombudsman shall be delivered as soon as practicable to all necessary parties.

(b) A copy of the advisory opinion shall be delivered to the government entity in the manner provided for in Section 63G-7-401.

(11) An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to, nor admissible as evidence in, a dispute involving land use law except as provided in Subsection (12).

(12) Subject to Subsection (13), if the Office of the Property Rights Ombudsman issues an advisory opinion described in this section, and if the same issue that is the subject of the advisory opinion is subsequently litigated in court on a cause of action alleging the same facts and circumstances that are at issue in the advisory opinion, and if the court resolves the issue consistent with the advisory opinion, the court may award the substantially prevailing party:

(a) reasonable attorney fees and court costs pertaining to the development of the cause of action from the date the Office of the Property Rights Ombudsman delivers the advisory opinion to the date of the court's resolution; and

(b) if the court finds that the opposing party knowingly and intentionally violated the law governing the cause of action:

(i) a civil penalty of $250 per day; and

(ii) consequential damages;

(13) (a) Subsection (12) does not apply unless the resolution described in Subsection (12)(a) is final.

(b) The civil penalty described in Subsection (12)(b)(i):

(i) begins to accrue on the later of:

(A) 30 days after the day on which the Office of the Property Rights Ombudsman delivers the advisory opinion; or

(B) the day on which the substantially prevailing party or opposing party filed the action in court; and

(ii) ends the day on which the court enters a final judgment.

(c) A court may not impose a civil penalty against a party under Subsection (12)(b)(i) unless the party is the land use applicant or a government entity.

(14) In addition to any amounts awarded under Subsection (12), if the dispute described in Subsection (12) in whole or in part concerns an impact fee, and if the result of the litigation requires that the political subdivision or private entity refund the impact fee in accordance with Section 11-36a-603, the political subdivision or private entity shall refund the impact fee in an amount that is based on the difference between the impact fee paid and what the impact fee should have been if the political subdivision or private entity had correctly calculated the impact fee.

(15) Nothing in this section is intended to create a new cause of action under land use law.

(16) Unless filed by the local government, a request for an advisory opinion under Section 13-43-205 does not stay the progress of a land use application, the effect of a land use decision, or the condemning entity's occupancy of a property.

Section 144. Section 13-80-101 is amended to read:

13-80-101

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Delivery driver" means an individual working for a food delivery service.

(2) "Department" means the Department of Veterans and Military Affairs established in Section 71A-1-201.

(3) "Food delivery company" means an entity that operates a food delivery service.

(4) "Food delivery dead zone" means a defined geographic area in which a food delivery service may not:

(a) permit the delivery or pickup of food; or

(b) allow an individual delivering food on behalf of the food delivery service to enter.

(5) "Food delivery service" means a service that:

(a) facilitates the delivery of food from a restaurant or other food establishment to a consumer; and

(b) conducts operations online or through a mobile application.

(6) "Military land" means the same as that term is defined in Section [~~10-9a-537~~]10-20-620.

Section 145. Section 15A-1-105 is amended to read:

15A-1-105

(Effective 11/06/25) (Superseded 01/01/26)

. Third-party inspection firms.

(1) As used in this section:

(a) "Building permit applicant" means a person who applies to a local regulator for a building permit.

(b) "Inspection" means a physical examination of all aspects of a structure to ensure compliance with the State Construction Code.

(c) "Local regulator" means the same as that terms is defined in Section 15A-1-102.

(d) "Third-party inspection firm" means an entity that is:

(i) licensed under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act;

(ii) independent, but may include a building inspector for an adjacent city or county; and

(iii) included on the local regulator's third-party inspection firm list.

(e) "Third-party inspection firm list" means a list of:

(i) for a first, second, third, or fourth class county, as classified under Section 17-60-104, or a municipality located within a first, second, third, or fourth class county, three or more third-party inspection firms approved by the local regulator; or

(ii) for a fifth or sixth class county, as classified under Section 17-60-104, or a municipality located within a fifth or sixth class county, one or more third-party inspection firms approved by the local regulator.

(2) (a) Subject to the provisions of this section and Subsections [~~10-9a-542(2)~~]10-20-909(2) and [~~17-27a-537(2)~~]17-79-810(2), after submitting a request for inspection, a building permit applicant may engage a third-party inspection firm from the local regulator's third-party inspection firm list to conduct or complete an inspection for the scope of work identified under the original request for inspection.

(b) If a building permit applicant wishes to engage a third-party inspection firm in accordance with Subsection (2)(a), the building permit applicant shall first notify the local regulator of the third-party inspection firm the building permit applicant intends to engage.

(c) Upon completing the inspection, the third-party inspection firm shall submit the inspection report to the local regulator.

(d) (i) The local regulator shall pay the cost of the inspection to the third-party inspection firm after the local regulator receives the third-party inspection report indicating the third-party inspection firm completed the inspection.

(ii) This section does not require a local regulator to pay for an inspection that exceeds the scope of work identified under the original request for inspection.

(3) (a) The local regulator shall issue a certificate of occupancy to the building permit applicant if the third-party inspection firm:

(i) completes the inspection; and

(ii) submits the inspection report to the local regulator.

(b) The local regulator shall promptly issue the certificate of occupancy or letter of completion after the third-party inspection firm submits the final inspection report to the local regulator as described in Subsection (3)(a)(ii).

(4) A local regulator is not liable for any inspection performed by a third-party inspection firm.

Section 146. Section 15A-1-105 is amended to read:

15A-1-105

(Effective 01/01/26)

. Third-party inspection firms.

(1) As used in this section:

(a) "Building permit applicant" means an individual who applies to a local regulator for a building permit.

(b) "Inspection" means a physical examination of all aspects of a structure to ensure compliance with the State Construction Code.

(c) "Local regulator" means the same as that terms is defined in Section 15A-1-202.

(d) "Third-party inspection firm" means an entity that:

(i) employs or contracts with licensed building inspectors to enforce building codes adopted in this title;

(ii) is independent, but may include a building inspector for an adjacent city or county; and

(iii) is included on the local regulator's third-party inspection firm list.

(e) "Third-party inspection firm list" means a list of:

(i) for a first, second, third, or fourth class county, as classified under Section 17-60-104, or a municipality located within a first, second, third, or fourth class county, three or more third-party inspection firms approved by the local regulator; or

(ii) for a fifth or sixth class county, as classified under Section 17-60-104, or a municipality located within a fifth or sixth class county, one or more third-party inspection firms approved by the local regulator.

(2) (a) Subject to the provisions of this section and Subsections [~~10-9a-542(2)~~]10-20-909(2) and [~~17-27a-537(2)~~]17-79-810(2), after submitting a request for inspection, a building permit applicant may engage a third-party inspection firm from the local regulator's third-party inspection firm list to conduct or complete an inspection for the scope of work identified under the original request for inspection.

(b) If a building permit applicant wishes to engage a third-party inspection firm in accordance with Subsection (2)(a), the building permit applicant shall first notify the local regulator of the third-party inspection firm the building permit applicant intends to engage.

(c) Upon completing the inspection, the third-party inspection firm shall submit the inspection report to the local regulator.

(d) (i) The local regulator shall pay the cost of the inspection to the third-party inspection firm after the local regulator receives the third-party inspection report indicating the third-party inspection firm completed the inspection.

(ii) This section does not require a local regulator to pay for an inspection that exceeds the scope of work identified under the original request for inspection.

(3) (a) The local regulator shall issue a certificate of occupancy to the building permit applicant if the third-party inspection firm:

(i) completes the inspection; and

(ii) submits the inspection report to the local regulator.

(b) The local regulator shall promptly issue the certificate of occupancy or letter of completion after the third-party inspection firm submits the final inspection report to the local regulator as described in Subsection (3)(a)(ii).

(4) A local regulator is not liable for any inspection performed by a third-party inspection firm.

Section 147. Section 15A-3-203 is amended to read:

15A-3-203

(Effective 11/06/25)

. Amendments to Chapters 6 through 15 of IRC.

(1) IRC, Section R609.4.1, is deleted.

(2) In IRC, Section N1101.4 (R102.1.1), a new section N1101.4.1 (R102.1.1) is added as follows: "N1101.4.1 National Green Building Standard. Buildings complying with ICC 700-2020 National Green Building Standard and achieving the Gold rating level for the energy efficiency category shall be deemed to exceed the energy efficiency required by this code. The building shall also meet the requirements identified in table N1105.2 and the building thermal envelope efficiency is greater than or equal to levels of efficiency and solar heat gain coefficients (SHGC) in Tables N1102.2.2 and N1102.1.3 of the 2009 IRC."

(3) In IRC, Section N1101.5 (R103.2), all words after the words "herein governed." are deleted and replaced with the following: "Construction documents include all documentation required for building permits shall include only those items specified in Subsection [~~10-9a-542(8)~~]10-20-909(12) or [~~17-27a-537(8)~~]17-79-810(12) of the Utah Code."

(4) In IRC, Section N1101.10.3 (R303.1.3) the following changes are made:

(a) The following is added at the end of the first sentence "or EN 14351-1:2006+A1:2010."

(b) The word "accredited" is replaced with "approved" in the third sentence.

(c) The following sentence is added after the third sentence: "A conversion factor of 5.678 shall be used to convert from U values expressed in SI units: ()/53678=."

(d) After "NFRC 200" the following words are added: "or EN 14351-1:2006+A1:2010," and in the sentence the word "accredited" is replaced with the word "approved."

(e) The following new sentence shall be inserted immediately [~~prior to~~]before the last sentence: "Total Energy Transmittance values may be substituted for SHGC, and Luminous Transmission values may be substituted for VT."

(5) In IRC, Section N1101.12 (R303.3), all wording after the first sentence is deleted.

(6) In IRC, Section N1101.13 (R401.2), in the first sentence, the words "Section N1101.13.5 and" are deleted.

(7) In IRC, Section N1101.13.5 (R401.2.5) is deleted.

(8) In IRC, Section N1101.14 (R401.3) Number 7, the words "and the compliance path used" are deleted.

(9) In IRC, Table N1102.1.2 (R402.1.2):

(a) in the column titled Fenestration U-Factor the following changes are made:

(i) in the row titled "Climate Zone 3" delete 0.30 and replace it with 0.32;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 0.30 and replace it with 0.32; and

(iii) in the row titled "Climate Zone 6" delete 0.30 and replace it with 0.32;

(b) in the column titled "Glazed Fenestration SHGC", the following change is made: in the row titled "Climate Zone 3" delete 0.25 and replace it with 0.35;

(c) in the column titled "Ceiling U-Factor" the following changes are made:

(i) in the row titled "Climate Zone 3" delete 0.026 and replace it with 0.030;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 0.024 and replace it with 0.026; and

(iii) in the row titled "Climate Zone 6" delete 0.024 and replace it with 0.026;

(d) in the column titled "Wood Frame Wall U Factor", the following changes are made:

(i) in the row titled "Climate Zone 3" delete 0.060 and replace it with 0.060;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 0.045 and replace it with 0.060; and

(iii) in the row titled "Climate Zone 6" delete 0.045 and replace it with 0.060;

(e) in the column titled "Basement Wall U-Factor" the following changes are made:

(i) in the row titled "Climate Zone 5 and Marine 4" delete 0.050 and replace it with 0.075; and

(ii) in the row titled "Climate Zone 6" delete 0.50 and replace it with 0.065; and

(f) in the column titled "Crawl Space Wall U-Factor" the following changes are made:

(i) in the row titled "Climate Zone 5 and Marine 4" delete 0.055 and replace it with 0.078; and

(ii) in the row titled "Climate Zone 6" delete 0.55 and replace it with 0.065.

(10) In IRC, Table N1102.1.3 (R402.1.3), the following changes are made:

(a) in the column titled "Wood Frame Walls R-Value" a new footnote indicator "j" is added and at the bottom of the footnotes the following footnote "j" is added: "j. In climate zone 3B and 5B, an R-15, and in climate zone 6, an R-20 shall be acceptable where air-impermeable insulation is installed in the cavity space, exterior continuous insulation, or some combination thereof; and the tested house air leakage is a maximum of 2.0 ACH50"; and

(b) add a new footnote "k" as follows: "k. Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches

or greater shall be permitted in Zones 5 through 8 when overall window glazing has 0.30 U-factor or lower, minimum heating equipment efficiency is for gas 95 AFUE, or for oil, 84 AFUE, and all other components requirements are met."

(11) In IRC, Table N1102.1.3 (R402.1.3) the following changes are made:

(a) in the column titled "Fenestration U-Factor" the following changes are made:

(i) in the row titled "Climate Zone 3" delete 0.30 and replace it with 0.32;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 0.30 and replace it with 0.32; and

(iii) in the row titled "Climate Zone 6" delete 0.30 and replace it with 0.32;

(b) in the column titled "Glazed Fenestration SHGC" the following change is made: in the row titled "Climate Zone 3" delete 0.25 and replace it with 0.35;

(c) in the Column R-Value the following changes are made:

(i) in the row titled "Climate Zone 3" delete 49 and replace it with 38;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 60 and replace it with 49; and

(iii) in the row titled "Climate Zone 6" delete 60 and replace it with 49;

(d) in the Column titled "Wood Frame Wall R-Value" the following changes are made:

(i) in the row titled "Climate Zone 3" delete all values and replace with 20+Oci or 13+5ci or 015ci;

(ii) in the row titled "Climate Zone 5 or Marine 4" delete all values and replace with 21+Oci or 15+5ci or 0+15ci; and

(iii) in the row titled "Climate Zone 6" delete all values and replace with 21+Oci or 15+5ci or 0+15ci;

(e) in the column titled "Basement Wall R Value" the following changes are made:

(i) in the row titled "Climate Zone 5 or Marine 4" delete all values and replace with 15+Oci or 0+11ci or 11+5ci; and

(ii) in the row titled "Climate Zone 6" delete all values and replace with 19+Oci or 0+13ci or 11+5ci;

(f) in the column titled "Slab R Value and Depth" the following changes are made:

(i) in the row titled "Climate Zone 3" delete 10ci. 2 ft and replace it with NR; and

(ii) in the row titled "Climate Zone 5 & Marine 4" delete 4 ft and replace it with 2 ft; and

(g) in the column titled "Crawl Space Wall R-Value" the following changes are made:

(i) in the row titled "Climate Zone 5 or Marine 4" delete all values and replace with 15+Oci or 0+11ci or 11+5ci; and

(ii) in the row titled "Climate Zone 6" delete all values and replace with 19+Oci or 0+13ci or 0+11+5ci.

(12) In IRC, a new subsection N1102.1.5.1 (R402.1.5.1) is added as follows: "1102.1.5.1 (R402.1.5.1) RESCheck 2012 Utah Energy Conservation Code. Compliance with section N1102.1.5 (R402.1.5) may be satisfied using the software RESCheck 2012 Utah Energy Conservation Code, which shall satisfy the R-value and U-factor requirements of N1102.1, N1102.2, and N1102.3, provided the following conditions are met:

(a) in "Climate Zone 5 and 6" the software result shall show 5% better than code; and

(b) in "Climate Zone 3", the software result shall show 5% better than code when software inputs for window U-factor .65 and window SHGC=0.40, notwithstanding actual windows installed shall conform to requirements of Tables N1102.1.2 (R402.1.2) and N1102.1.3 (R402.1.3)."

(13) In IRC, Sections N1102.2.1 (R402.2.1), a new Section N1102.2.1.1 is added as follows:

"N1102.2.1.1. Unvented attic and unvented enclosed rafter assemblies. Unvented attic and unvented enclosed rafter assemblies conforming to Section R806.5 shall be provided with an R-value of R-22 (maximum U-Factor of 0.045) in Climate Zone 3-B or an R-value of R-26 (maximum U-factor of 0.038) in Climate Zones 5-B and 6-B shall be permitted provided all the following conditions are met:

1. The unvented attic assembly complies with the requirements of the International Residential Code, R806.5.

2. The house shall attain a blower door test result 2.5ACH 50.

3. The house shall require a whole house mechanical ventilation system that does not rely solely on a negative pressure strategy (must be positive, balanced or hybrid).

4. Where insulation is installed below the roof deck and the exposed portion of roof rafters are not already covered by the R-20 depth of the air-impermeable insulation, the exposed portion of the roof rafters shall be wrapped (covered) by minimum R-3 unless directly covered by drywall/finished ceiling. Roof rafters are not required to be covered by minimum R-3 if a continuous insulation is installed above the roof deck.

5. Indoor heating, cooling and ventilation equipment (including ductwork) shall be inside the building thermal envelope."

(14) In IRC, Section N1102.2.9.1 (R402.2.9.1) the numeral (i) is added before the words "cut at a 45 degree" and the following is added after the words "exterior wall": "or (ii) lowered from top of slab 4" when a 4" thermal break material such as, but not limited to, felt or asphalt impregnated fiber board, with a minimum thickness of 1/4" is installed at the upper 4" of slab".

(15) In IRC, Section N1102.4.1 (R402.4.1), in the first sentence, the word "and" is deleted and replaced with the word "or."

(16) In IRC, Section N1102.4.1.1 (R402.4.1.1), the last sentence is deleted and replaced with the following: "Where allowed by the code official, the builder may certify compliance to components criteria for items which may not be inspected during regularly scheduled inspections."

(17) In IRC, Table N1102.4.1.1 (R402.4.1.1) in the column titled "COMPONENT, the following changes are made:

(a) In the row "Rim Joists" the word "exterior" in the first sentence is deleted, and the second sentence is deleted.

(b) In the row "Electrical/phone box on the exterior walls" the last sentence is deleted and replaced with: "Alternatively, close cell foam, caulking or gaskets may be used, or air sealed boxes may be installed."

(18) In IRC, Section N1102.4.1.2 (R402.4.1.2), the following changes are made:

(a) In the fourth sentence, the word "third" is deleted.

(b) The following sentence is added after the fourth sentence: "The following parties shall be approved to conduct testing: Parties

certified by BPI or RESNET, or licensed contractors who have completed training provided by Blower Door Test equipment manufacturers or other comparable training."

(c) In the first Exception the second sentence is deleted.

(19) IRC, Section N1103.3.3 (R403.3.3), is deleted.

(20) IRC Section N1103.3.3.1 (R403.3.3.1) is deleted.

(21) In IRC, Section N1103.3.5 (R403.3.5), the following changes are made:

(a) a second Exception is added as follows: "A duct leakage test shall not be required for any system designed such that no air handlers or ducts are located within unconditioned attics."; and

(b) the following is added at the end of the section: "The following parties shall be approved to conduct testing:

(i) Parties certified by BPT or RESNET; and

(ii) Licensed contractors who have completed training provided by Duct Test equipment manufacturers or other comparable training."

(22) In IRC, Section N1103.3.6 (R403.3.6) the following changes are made:

(a) in Subsection 1:

(i) the number 4.0 is changed to 6.0;

(ii) the number 113.3 is changed to 170;

(iii) the number 3.0 is changed to 5.0; and

(iv) the number 85 is changed to 141;

(b) in Subsection 2:

(i) the number 4.0 is changed to 5.0; and

(ii) the number 113.3 is changed to 141; and

(c) Subsection 3 is deleted.

(23) In IRC, Section N1103.3.7 (R403.3.7) the words "or plenums" are deleted.

(24) In IRC, Section N1103.5.1.1 (R403.5.1.1) the words "Where installed" are added at the beginning of the first sentence.

(25) In IRC, Section N1103.5.2 (R403.5.2) the following change is made, Subsections 5 and 6 are deleted and Subsection 7 is renumbered to 5.

(26) IRC, Section N1103.6.2 (R403.6.2), is deleted and replaced with the following: "N1103.6.2 (R403.6.2) Whole-house mechanical ventilation system fan efficacy. Fans used to provide whole-house mechanical ventilation shall meet the efficacy requirements of Table N1103.6.2 (R403.6.2).

Exception: Where an air handler that is integral to tested and listed HVAC equipment is used to provide whole-house mechanical ventilation, the air handler shall be powered by an electronically commutated motor."

(27) In IRC, Section N1103.6.2 (R403.6.2), the table is deleted and replaced with the following:

"TABLE N1103.6.2 (R403.6.2)",

MECHANICAL VENTILATION SYSTEM FAN EFFICACY

FAN LOCATION	AIR FLOW RATE MINIMUM (CFM)	MINIMUM EFFICACY (CFM/ WATT)	AIR FLOW RATE MAXIMUM (CFM)
HRV or ERV	Any	1.2 cfm/watt	Any
Range hoods	Any	2.8 cfm/watt	Any
In-line fan	Any	2.8 cfm/watt	Any
Bathroom, utility room	10	1.4 cfm/watt	90
Bathroom, utility room	90	2.8 cfm/watt	Any”

(28) IRC, Section N1103.6.3 (R403.6.3) is deleted.

(29) In IRC, Section N1103.7 (R403.7) the word "approved" is deleted in the first sentence and the following is added after the word "methodologies": "complying with N1103.7.1 (R403.7.1)".

(30) A new IRC, Section N1103.7.1 (R403.7.1) is added as follows: "N1103.7.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

(31) In IRC, Section N1104.1 (R404.1), the word "All" is replaced with "Not less than 90 percent of the lamps in".

(32) IRC, Section N1104.1.1 (R404.1.1) is deleted.

(33) IRC, Section N1104.2 (R404.2) is deleted.

(34) IRC, Section N1104.3 (R404.3) is deleted.

(35) In IRC, section N1105.2 (R405.2) the following changes are made:

(a) In Subsection 3, the words "approved by the code official" are deleted; and

(b) In Subsection 3, the following words are added at the end of the sentence: "when applicable and readily available".

(36) In IRC, Section N1106.3 (R406.3) "Building thermal envelope" is deleted, and replaced with "Building thermal envelope and on-site renewables. The proposed total building thermal envelope UA, which is the sum of U-factor times assembly area, shall be less than or equal to the building thermal envelope UA using the prescriptive U-factors from Table N1102.1.2 multiplied by 1.15 in accordance with Equation 11-4. The area-weighted maximum fenestration SHGC permitted in Climate Zones 0 through 3 shall be: 0.30.UAProposed design =1.15xUAPrescriptive reference design (Equation 11-4)."

(37) In IRC, Section N1106.3.1 (R406.3.1) is deleted.

(38) In IRC, Section N1106.3.2 (R403.3.2) is deleted.

(39) In IRC, Section N1106.4 (R406.4) the following changes are made:

(a) In the first sentence, the words "in accordance with Equation 11-5" are deleted and replaced with: "permitted to be calculated using the minimum total air exchange rate for the rated home (Qtot) and for the index adjustment factor in accordance with Equation 11.5.";

(b) In equation 11-5, the words "Ventilation rate, CFM" are deleted and replaced with: "Qtot"; and

(c) In the last sentence the number "5" is deleted and replaced with "15".

(40) In IRC N1106.5, in the column titled "ENERGY RATING INDEX" of Table R406.5, the following changes are made:

(a) In the row for "Climate Zone 3", "51" is deleted and replaced with "65";

(b) In the row for "Climate Zone 5", "55" is deleted and replaced with "69"; and

(c) In the row for "Climate Zone 6", "54" is deleted and replaced with "68".

(41) In IRC, Section N1108 (R408) is deleted.

(42) In IRC, Section M1401.3 the word "approved" is deleted in the first sentence and the following is added after the word methodologies ", complying with M1401.3.1".

(43) A new IRC, Section M1401.3.1, is added as follows: "M1401.3.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

(44) In IRC, Section M1402.1, the following is added at the end of the second sentence: "or UL/CSA 60335-2-40."

(45) In IRC, Section M1403.1, the characters "/ANCE" are deleted.

(46) IRC, Section M1411.9, is deleted.

(47) In IRC, Section M1412.1, the characters "/ANCE" are deleted.

(48) In IRC, Section M1413.1, the characters "/ANCE" are deleted.

Section 148. Section 15A-5-202 is amended to read:

15A-5-202

(Effective 11/06/25)

. Amendments and additions to IFC related to administration, permits, definitions, and general and emergency planning.

(1) For IFC, Chapter 1, Scope and Administration:

(a) IFC, Chapter 1, Section 102.5, is deleted and rewritten as follows:

"102.5 Application of residential code.

If a structure is designed and constructed in accordance with the International Residential Code, the provisions of this code apply only as follows:

1. The construction and design provisions of this code apply only to premises identification, fire apparatus access, fire hydrants and water supplies, and construction permits required by Section 105.7.

2. This code does not supersede the land use, subdivision, or development standards established by a local jurisdiction.

3. The administrative, operational, and maintenance provisions of this code apply."

(b) IFC, Chapter 1, Section 102.9, is deleted and rewritten as follows:

"102.9 Matters not provided for.

Requirements that are essential for the public safety of an existing or proposed activity, building or structure, or for the safety of the occupants thereof, which are not specifically provided for by this code, shall be determined by the fire code official on an emergency basis if:

(a) the facts known to the fire code official show that an immediate and significant danger to the public health, safety, or welfare exists; and

(b) the threat requires immediate action by the fire code official.

102.9.1 Limitation of emergency order.

In issuing its emergency order, the fire code official shall:

(a) limit the order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare; and

(b) give immediate notice to the persons who are required to comply with the order, that includes a brief statement of the reasons for the fire code official's order.

101.9.2 Right to appeal emergency order.

If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the party shall have a right to appeal the fire code official's order in accordance with IFC, Chapter 1, Section 109."

(c) IFC, Chapter 1, Section 106.1, Submittals, is amended to add the following after the last sentence:

"Fire sprinkler system layout shall be prepared and submitted by a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Water-Based System Layout. Fire alarm system layout shall be prepared and submitted by a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Fire Alarm Systems."

(d) IFC, Chapter 1, Section 105.5.18, Flammable and combustible liquids, is amended to add the following section: "12. The owner of an underground tank that is out of service for longer than one year shall receive a Temporary Closure Notice from the Department of Environmental Quality and a copy shall be given to the AHJ."

(e) In IFC, Chapter 1, Section 102.5, a new subsection 3. is added as follows:

"3. For development regulated by a local jurisdiction's land use authority, the fire code official's interpretation of this code is subject to the advisory opinion process described in Utah Code, Section 13-43-205, and to a land use appeal authority appointed under Utah Code, Section [~~10-9a-701~~]10-20-1101 or [~~17-27a-701~~]17-79-1001."

(f) In IFC, Chapter 1, Section 111, a new Section 111.5, Notice of right to appeal, is added as follows: "At the time a fire code official makes an order, decision, or determination that relates to the application or interpretation of this chapter, the fire code official shall inform the person affected by the order, decision, or determination of the person's right to appeal under this section. Upon request, the fire code official shall provide a person affected by an order, decision, or determination that relates to the application or interpretation of this chapter a written notice that describes the person's right to appeal under this section."

(2) For IFC, Chapter 2, Definitions:

(a) In IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Department of Health and Human Services where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code, R432-13, Freestanding Ambulatory Surgical Center Construction Rule."

(b) In IFC, Chapter 2, Section 202, General Definitions, APPROVED is modified by adding the words "or independent third-party licensed engineer or licensed architect and submitted to the fire code official" after the word "official."

(c) In IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Assisted Living Facility, Residential Treatment and Support: "ASSISTED LIVING FACILITY, RESIDENTIAL TREATMENT AND SUPPORT. A residential facility that provides a group living environment for four or more residents licensed by the Department of Health and Human Services and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.

ASSISTED LIVING FACILITY, TYPE I. A residential facility licensed by the Department of Health and Human Services that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person.

ASSISTED LIVING FACILITY, TYPE II. A residential facility licensed by the Department of Health and Human Services that provides an array of coordinated supportive personal and health care services to two or more residents who are:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person.

Subcategories are:

ASSISTED LIVING FACILITY, LIMITED CAPACITY: A Type I or Type II assisted living facility having two to five residents.

ASSISTED LIVING FACILITY, SMALL: A Type I or Type II assisted living facility having six to sixteen residents.

ASSISTED LIVING FACILITY, LARGE: A Type I or Type II assisted living facility having more than sixteen residents."

(d) In IFC, Chapter 2, Section 202, General Definitions, the definition for Child Care Facility is added as follows: "CHILD CARE FACILITY: A facility where care and supervision is provided for four or more children for less than 24 hours a day and for direct or indirect compensation in place of care ordinarily provided in their home."

(e) In IFC, Chapter 2, Section 202, General Definitions, the definition for Independent Third-Party is added as follows: "INDEPENDENT THIRD-PARTY. An engineer or architect licensed in the State of Utah, who is not affiliated with the jurisdiction or the project owner, developer, architect, or engineer, and is agreeable to all parties. The independent third-party will provide unbiased assessments, opinions, or services based on their expertise and professional standards in their respective fields."

(f) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Group E, day care facilities, is deleted and replaced with the following:

"Group E, Child Care Facilities. This group includes buildings and structures or portions thereof occupied by four or more children 2 years of age or older who receive educational, supervision, child care services or personal care services for fewer than 24 hours per day. See Section 429, Day Care, for special requirements for day care.

Within Places of Religious Worship. Rooms and spaces within places of religious worship providing such day care during religious functions shall be classified as part of the primary occupancy.

Four or Fewer Children. A facility having four or fewer children receiving such day care shall be classified as part of the primary occupancy.

Four or Fewer Children in a Dwelling Unit. A facility such as the above within a dwelling unit and having four or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

Child Day Care - Residential Child Care Certificate or a License. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in the International Building Code, Sections 310.3 and 310.4, or shall comply with the International Residential Code, Section R101.2.

Child Care Centers. Each of the following areas may be classified as accessory occupancies, if the area complies with the International Building Code, Section 508.2:

1. Hourly child care center, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers;

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs; and

4. Commercial preschools, as described in Utah Administrative Code, R381-40, Commercial Preschool Programs."

(g) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-1, is amended as follows: In the list of items under "This group shall include," the words "Type-I Large and Type-II Small, see the International Building Code, Section 308.2.5" are added after "Assisted living facilities."

(h) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-1, Five or fewer persons receiving custodial care is amended as follows: On line four after "International Residential Code" the rest of the section is deleted.

(i) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-2, is deleted and replaced with the following:

"Institutional Group I-2. Institutional Group I-2 occupancy shall include buildings and structures used for medical care on a 24-hour basis for more than four persons who are incapable of self-preservation. This group shall include, but not be limited to the following:

Assisted living facilities, Type-II Large, see Section 308.3.3

Child care facilities

Foster care facilities

Detoxification facilities

Hospitals

Nursing homes (both intermediate care facilities and skilled nursing facilities)

Psychiatric hospitals."

(j) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-2, a new section is added as follows:

"Assisted Living Facilities. A Type I, Large assisted living facility is classified as occupancy Group I-1, Condition 1. A Type II, Small assisted living facility is classified as occupancy Group I-1, Condition 2. See Section 202 for definitions."

(k) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-4, day care facilities, Classification as Group E, Five or fewer persons receiving care, and Five or fewer occupants receiving care in a dwelling unit are deleted and replaced with the following:

"Classification as Group E. A child day care facility that provides care for five or more but not more than 100 children under two years of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as a Group E. See the International Building Code, Section 429 for special requirements for Day Care.

Four or Fewer Persons Receiving Care. A facility having four or fewer persons receiving custodial care shall be classified as part of the primary occupancy. See the International Building Code, Section 429, for special requirements for Day Care.

Four or Fewer Persons Receiving Care in a Dwelling Unit. A facility such as the above within a dwelling unit and having four or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code. See the International Building Code, Section 429, for special requirements for Day Care."

(l) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, is deleted and replaced with the following:

"Residential Group R-3. Residential Group R-3 occupancies and single family dwellings complying with the International Residential Code where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, or I occupancies, including:

Assisted Living Facilities, Type-I, limited capacity, see Section 310.5.3

Buildings that do not contain more than two dwellings

Care facilities, other than child care, that provide accommodations for five or fewer persons receiving care

Congregate living facilities (nontransient) with 16 or fewer occupants

Boarding houses (nontransient)

Convents

Dormitories

Fraternities and sororities

Monasteries

Congregate living facilities (transient) with 10 or fewer occupants

Boarding houses (transient)

Lodging houses (transient) with five or fewer guest rooms and 10 or fewer occupants"

(m) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, Care facilities within a dwelling, is deleted and replaced with the following: "Care Facilities within a Dwelling. Care facilities, other than child care, for five or fewer persons receiving care that are within a single family dwelling are permitted to comply with the International Residential Code. See the International Building Code, Section 429, for special requirements for Child Day Care."

(n) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, a new section is added as follows: "Child Care. Areas used for child care purposes may be located in a residential dwelling unit when all of the following conditions are met:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board;

2. Use is approved by the Department of Health and Human Services under the authority of Utah Code, Title 26B, Chapter 2, Part 4, Child Care Licensing, and in any of the following categories:

1.1. Utah Administrative Code, R430-50, Residential Certificate Child Care; or

1.2. Utah Administrative Code, R430-90, Licensed Family Child Care; and

1.3 Compliance with all zoning regulations of the local regulator."

(o) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, a new section is added as follows:

"Assisted Living Facilities. Type I assisted living facilities with two to five residents are Limited Capacity facilities classified as a Residential Group R-3 occupancy or are permitted to comply with the International Residential Code. See Section 202 for definitions."

(p) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-4, the words "Type II Limited Capacity and Type I Small, see R-4 Assisted Living Facility Occupancy Groups" are added after the words "Assisted Living Facilities."

(q) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-4, a new section is added as follows: "Group R-4 - Assisted Living Facility Occupancy Groups. The following occupancy groups shall apply to Assisted Living Facilities:

Type II Assisted Living Facilities with two to five residents are Limited Capacity Facilities classified as a Residential Group R-4, Condition 2 occupancy.

Type I assisted living facilities with six to sixteen residents are Small Facilities classified as Residential Group R-4, Condition 1 occupancies. See Section 202 for definitions."

Section 149. Section 15A-5-205.6 is amended to read:

15A-5-205.6

(Effective 11/06/25)

. Amendments and additions to Chapter 33 of IFC.

(1) IFC, Chapter 33, Section 3311.1, Required access, is deleted and rewritten as follows:

"3311.1 Required access.

3311.1.1 Approved vehicle access. Approved vehicle access for fire fighting shall be provided as described in Chapter 5 of this code to all construction or demolition sites.

3311.1.2 Fire department connections. Vehicle access shall be provided to within 100 feet of temporary or permanent fire department connections.

3311.1.3 Type of access. Vehicle access shall be provided by either temporary or permanent roads.

3311.3.1 Temporary road requirements. Temporary roads shall be constructed with a minimum of site specific required structural fill for permanent roads and road base, or other approved material complying with local standards.

3311.3.2 Reports. Compaction reports may be required. An engineer's review and certification of a temporary fire department access road is not required.

3311.3.3 Local jurisdictions. A local jurisdiction may not require:

(a) permanent roads, or asphalt or concrete on temporary roads before final approval of the structure served by the road; or

(b) permanent roads, or asphalt and concrete on temporary roads, during construction of the structure served by the road.

3311.1.4 Maintenance. Temporary roads shall be maintained until permanent fire apparatus access roads are available.

3311.1.5 Time line. Temporary or permanent fire department access roads shall be functional before construction above the foundation begins and before an appreciable amount of combustible construction materials are on site."

(2) IFC, Chapter 33, Section 3311.2, Key boxes, is deleted.

(3) Notwithstanding IFC 3311.3.1, a temporary road that meets the requirements of Section [~~10-9a-802~~]10-20-1001 or [~~17-27a-802~~]17-79-901, and any local regulation adopted in accordance with Section [~~10-9a-802~~]10-20-1001 or [~~17-27a-802~~]17-79-901, may be constructed.

Section 150. Section 15A-6-301 is amended to read:

15A-6-301

(Effective 11/06/25)

. Tower crane operation.

(1) As used in this section:

(a) "Affected land" means the same as that term is defined in Section [~~10-9a-539~~]10-20-622.

(b) "Airspace approval" means the same as that term is defined in Section [~~10-9a-539~~]10-20-622.

(c) "Jib" means the part of a tower crane that:

(i) extends horizontally or almost horizontally from the main vertical component of the tower crane; and

(ii) carries the live load.

(d) "Live load" means the same as that term is defined in Section [~~10-9a-539~~]10-20-622.

(e) "Minimum hook height" means the distance that, measured from the lowest point of a hook suspended from a jib, is:

(i) 50 feet above the ground level of affected land; or

(ii) 20 feet above a building on affected land.

(f) "Tower crane" means the same as that term is defined in Section [~~10-9a-539~~]10-20-622.

(2) An operator of a tower crane shall operate the tower crane in accordance with the requirements of the manufacturer of the tower crane.

(3) (a) A live load may travel over affected land at the minimum hook height with airspace approval.

(b) A jib, but not a live load, may travel over the affected land at the minimum hook height without airspace approval.

(4) The functioning of a tower crane in accordance with Subsection (3) does not constitute a trespass on affected land.

Section 151. Section 17-27a-403 is amended to read:

17-27a-403

(Effective 11/06/25)

. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of the planning commission's intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) is coordinated to integrate the land use element with the water use and preservation element; and

(D) accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) for a specified county as defined in Section 17-27a-408, a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(B) selects three or more moderate income housing strategies described in Subsections (2)(b)(ii)(A) through (V), or one moderate income housing strategy described in Subsections (2)(b)(ii)(W) through (BB), for implementation; and

(C) includes an implementation plan as provided in Subsection (2)(f);

(iv) a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3); and

(v) a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the county to modify the county's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the county, an employer that provides contracted services for the county, or any other public employer that operates within the county;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section [~~10-9a-530~~]10-21-303;

(R) create a program to transfer development rights for moderate income housing;

(S) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(T) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(U) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones;

(V) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing;

(W) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(X) create a home ownership investment zone in accordance with Part 12, Home Ownership Promotion Zone for Counties;

(Y) create a first home investment zone in accordance with Title 63N, Chapter 3, Part 16, First Home Investment Zone Act;

(Z) approve a project that receives funding from, or qualifies to receive funding from, the Utah Homes Investment Program created in Title 51, Chapter 12, Utah Homes Investment Program;

(AA) adopt or approve an affordable home ownership density bonus for single-family residential units, as described in Section 17-27a-403.1; and

(BB) adopt or approve an affordable home ownership density bonus for multi-family residential units, as described in Section 17-27a-403.2.

(c) The planning commission shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(ii).

(d) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section [~~10-9a-403.1~~]10-21-203.

(e) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the county's region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section [~~10-9a-403.1~~]10-21-203.

(f) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the county for implementation.

(ii) The timeline described in Subsection (2)(f)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and

(B) provide flexibility for the county to make adjustments as needed.

(g) In drafting the water use and preservation element, the planning commission:

(i) shall consider applicable regional water conservation goals recommended by the Division of Water Resources;

(ii) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and water use and preservation element may affect the Great Salt Lake;

(iii) shall notify the community water systems serving drinking water within the unincorporated portion of the county and request feedback from the community water systems about how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(iv) shall consider the potential opportunities and benefits of planning for regionalization of public water systems;

(v) shall consult with the Department of Agriculture and Food for information and technical resources regarding the potential benefits of agriculture conservation easements and potential implementation of agriculture water optimization projects that would support regional water conservation goals;

(vi) shall notify an irrigation or canal company located in the county so that the irrigation or canal company can be involved in the protection and integrity of the irrigation or canal company's delivery systems;

(vii) shall include a recommendation for:

(A) water conservation policies to be determined by the county; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(viii) shall review the county's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(ix) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(x) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(xi) shall include a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 152. Section 17-27a-403.1 is amended to read:

17-27a-403.1

(Effective 11/06/25)

. Affordable home ownership density bonus for single-family residential units.

(1) As used in this section:

(a) "Affordable housing" means the same as that term is defined in Section [~~10-9a-403.2~~]10-21-401.

(b) "Owner-occupier" means the same as that term is defined in Section [~~10-9a-403.2~~]10-21-401.

(c) "Qualifying affordable home ownership single-family density bonus" means:

(i) for an area with an underlying zoning density of less than six residential units per acre, county approval of a density at least six residential units per acre; or

(ii) for an area with an underlying zoning density of six residential units per acre or more, county approval of a density at least 0.5 residential units per acre greater than the underlying zoning density for the area.

(2) If a county approves a qualifying affordable home ownership single-family density bonus, either through a zoning ordinance or a development agreement, the county may adopt requirements for the qualifying affordable home ownership single-family density bonus area to ensure:

(a) at least 60% of the total single-family residential units be deed-restricted to owner-occupancy for at least five years;

(b) at least 25% of the total single-family residential units qualify as affordable housing;

(c) at least 25% of the single-family residential units per acre to be no larger than 1,600 square feet; or

(d) the applicant creates a preferential qualifying buyer program in which a single-family residential unit is initially offered for sale, for up to 30 days, to a category of preferred qualifying buyers established by the county, in accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

(3) A county may offer additional incentives in a qualifying affordable home ownership single-family density bonus area approved for single-family residential units to promote owner-occupied, affordable housing.

Section 153. Section 17-27a-403.2 is amended to read:

17-27a-403.2

(Effective 11/06/25)

. Affordable home ownership density bonus for multi-family residential units.

(1) As used in this section:

(a) "Affordable housing" means the same as that term is defined in Section [~~10-9a-403.2~~]10-21-401.

(b) "Owner-occupier" means the same as that term is defined in Section [~~10-9a-403.2~~]10-21-401.

(c) "Qualifying affordable home ownership multi-family density bonus" means county approval of a density of at least 20 residential units per acre.

(2) If a county approves a qualifying affordable home ownership multi-family density bonus, either through a zoning ordinance or a development agreement, the county may adopt requirements for the qualifying affordable home ownership multi-family density bonus area

to ensure:

(a) at least 20% more residential units per acre than are otherwise allowed in the area;

(b) at least 60% of the total units in the multi-family residential building be deed-restricted to owner-occupancy for at least five years;

(c) at least 25% of the total units in the multi-family residential building qualify as affordable housing;

(d) at least 25% of the total units in a multi-family residential building to be no larger than 1,600 square feet; or

(e) the applicant creates a preferential qualifying buyer program in which a unit in a multi-family residential building is initially offered for sale, for up to 30 days, to a category of preferred qualifying buyers established by the county, in accordance with provisions of the Fair Housing Act, 42 U.S.C. Sec. 3601.

(3) A county may offer additional incentives in a qualifying affordable home ownership multi-family density bonus area for multi-family residential units to promote owner-occupied, affordable housing.

Section 154. Section 17-27a-509.5 is amended to read:

17-27a-509.5

(Effective 11/06/25)

. Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

(1) (a) Each county shall, in a timely manner, determine whether a land use application is complete for the purposes of subsequent, substantive land use authority review.

(b) After a reasonable period of time to allow the county diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the county provide a written determination either that the application is:

(i) complete for the purposes of allowing subsequent, substantive land use authority review; or

(ii) deficient with respect to a specific, objective, ordinance-based application requirement.

(c) Within 30 days of receipt of an applicant's request under this section, the county shall either:

(i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application must be supplemented by specific additional information identified in the notice; or

(ii) accept the application as complete for the purposes of further substantive processing by the land use authority.

(d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

(e) (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).

(ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).

(f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).

(ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.

(2) (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.

(b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

(c) Within 45 days from the date of service of the written request described in Subsection (2)(b):

(i) except as provided in Subsection (2)(c)(ii), the land use authority shall take final action, approving or denying the application; and

(ii) if a landowner petitions for a land use regulation, a legislative body shall take final action by approving or denying the petition.

(d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

(e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority should have taken final action under Subsection (2)(c).

(3) (a) As used in this Subsection (3), an "infrastructure improvement category" includes a:

(i) culinary water system;

(ii) sanitary sewer system;

(iii) storm water system;

(iv) transportation system;

(v) secondary and irrigation water system;

(vi) public landscaping; or

(vii) public parks, trails, or open space.

(b) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the county's adopted standards.

(c) (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.

(ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(c)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.

(iii) Except as provided in Subsection (3)(c)(iv), (3)(d), or (3)(e), the land use authority shall accept or reject the performance of warranty work within:

(A) for a county of a first, second, or third class, 15 days after the day on which the land use authority receives an applicant's written request under Subsection (3)(c)(i); and

(B) for a county of the fourth, fifth, or sixth class, 30 days after the day on which the land use authority receives an applicant's written request under Subsection (3)(c)(i).

(iv) If winter weather conditions do not reasonably permit a full and complete inspection of warranty work within the time periods described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) so the land use authority is able to accept or reject the warranty work, the land use authority shall:

(A) notify the applicant in writing before the end of the applicable time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) that, because of winter weather conditions, the land use authority will require additional time to accept or reject the performance of warranty work; and

(B) complete the inspection of the performance of warranty work and provide the applicant with an acceptance or rejection as soon as practicable.

(d) If a land use authority rejects an applicant's performance of warranty work three times, the county may take 15 days in addition to the relevant time period described in Subsection (3)(c)(iii) for subsequent inspections of the applicant's warranty work.

(e) (i) If extraordinary circumstances do not permit a land use authority to complete inspection of warranty work within the relevant time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) so the land use authority is able to accept or reject the warranty work, the land use authority shall:

(A) notify the applicant in writing before the end of the applicable time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) that, because of the extraordinary circumstances, the land use authority will require additional time to accept or reject the performance of warranty work; and

(B) complete the inspection of the performance of warranty work and provide the applicant with an acceptance or rejection within 30 days after the day on which the relevant time period described in Subsection (3)(c)(iii)(A) or (3)(c)(iii)(B) ends.

(ii) The following situations constitute extraordinary circumstances for purposes of Subsection (3)(e)(i):

(A) the land use authority is processing a request for inspection that substantially exceeds the normal scope of inspection the county is customarily required to perform;

(B) the applicant has provided two or more written requests described in Subsection (3)(c)(i) within the same 30-day time period; or

(C) the land use authority is processing an unusually large number of written requests described in Subsection (3)(c)(i) to accept or reject subdivision improvements or performance of warranty work.

(f) (i) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the county's adopted standards, the land use authority shall, within 15 days of the day on which the land use authority makes the determination, comprehensively and with specificity list the reasons for the land use authority's determination.

(ii) If the land use authority fails to provide an applicant with the list described in Subsection (3)(f)(i) within the required time period:

(A) the applicant may send written notice to the land use authority requesting the list within five days; and

(B) if the applicant does not receive the list within five days from the day on which the applicant provides the land use authority with written notice as described in Subsection (3)(f)(ii)(A), the applicant may demand, and the land use authority shall provide, a reimbursement equal to 20% of the applicant's improvement completion assurance or security for the warranty work within each infrastructure improvement category.

(g) Subject to the provisions of Section [~~10-9a-604.5~~]17-79-707:

(i) within 15 days of the day on which the land use authority determines that an infrastructure improvement within a certain infrastructure improvement category, as described in Subsection (3)(a), meets the county's adopted standards for that category of infrastructure improvement and an applicant submits complete as-built drawings to the land use authority, whichever occurs later, the land use authority shall return to the applicant 90% of the applicant's improvement completion assurance allocated toward that infrastructure improvement category; and

(ii) within 15 days of the day on which the warranty period expires and the land use authority determines that an infrastructure improvement within a certain infrastructure improvement category, as described in Subsection (3)(a), meets the county's adopted standards for that category of infrastructure improvement, the land use authority shall return to the applicant the remaining 10% of the applicant's improvement completion assurance allocated toward that infrastructure improvement category, plus any remaining portion of a bond described in Subsection [~~10-9a-604.5(5)(b)~~]17-79-707(5)(b).

(h) The following acts under this Subsection (3) are administrative acts:

(i) a county's return of an applicant's improvement completion assurance, or any portion of an improvement completion assurance, within a category of infrastructure improvements, to the applicant; and

(ii) a county's return of an applicant's security for an improvement warranty, or any portion of security for an improvement warranty, within a category of infrastructure improvements, to the applicant.

(4) Subject to Section 17-27a-508, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.

(5) There shall be no money damages remedy arising from a claim under this section.

Section 155. Section 17-27a-535 is amended to read:

17-27a-535

(Effective 11/06/25)

. Operation of a tower crane.

(1) As used in this section:

(a) "Affected land" means the same as that term is defined in Section [~~10-9a-539~~]10-20-622.

(b) "Airspace approval" means the same as that term is defined in Section [~~10-9a-539~~]10-20-622.

(c) "Live load" means the same as that term is defined in Section [~~10-9a-539~~]10-20-622.

(d) "Permit period" means the same as that term is defined in Section [~~10-9a-539~~]10-20-622.

(e) "Tower crane" means the same as that term is defined in Section [~~10-9a-539~~]10-20-622.

(2) Except as provided in Subsection (3), a county may not require airspace approval as a condition for the county's:

(a) approval of a building permit; or

(b) authorization of a development activity.

(3) A county may require airspace approval relating to affected land as a condition for the county's approval of a building permit or for the county's authorization of a development activity if:

(a) the tower crane will, during the permit period or development activity, carry a live load over the affected land; or

(b) the affected land is within:

(i) an airport overlay zone; or

(ii) another zone designated to protect the airspace around an airport.

Section 156. Section 17-27a-536 is amended to read:

17-27a-536

(Effective 11/06/25)

. Identical plan review -- Process -- Indexing of plans -- Prohibitions.

(1) As used in this section:

(a) "Business day" means Monday, Tuesday, Wednesday, Thursday, or Friday, unless the day falls on a federal, state, or county holiday.

(b) "Nonidentical plan" means a plan that does not meet the definition of an identical plan in Section 17-27a-103.

(c) "Original plan" means the same as that term is defined in Section [~~10-9a-541~~]10-20-908.

(2) An applicant may submit, and a county shall review, an identical plan as described in this section.

(3) At the time of submitting an identical plan for review to a county, an applicant shall:

(a) mark the floor plan as "identical plans";

(b) identify in writing:

(i) the building permit number the county issued for the original plan:

(A) that was previously approved by the county; and

(B) to which the submitted floor plan qualifies as an identical plan; or

(ii) the identifying index number assigned by the county to the original plan, as described in Subsection (5)(b); and

(c) identify the site on which the applicant intends to implement the identical plan.

(4) Beginning May 7, 2025, an applicant that intends to submit an identical plan for review to a county shall:

(a) indicate, at the time of submitting an original plan to the county for review and approval, that the applicant intends to use the original plan as the basis for submitting a future identical plan if the original plan is approved by the county; and

(b) identify:

(i) the name or other identifier of the original plan; and

(ii) the zone the building will be located in, if the county approves the original plan.

(5) Upon approving an original plan and receiving the information described in Subsection (4), a county shall:

(a) file and index the original plan for future reference against an identical plan later submitted under Subsection (2); and

(b) provide the applicant with an identifying index number for the original plan.

(6) A county that receives a submission under Subsection (2) shall review and compare the submitted identical plan to the original plan to ensure:

(a) the identical plan and original plan are substantially identical; and

(b) no structural changes have been made from the original plan.

(7) Nothing in this section prohibits a county from conducting a site review and requiring geological analysis of the proposed site identified by the applicant under Subsection (3)(c).

(8) A county shall:

(a) review a submitted identical plan for compliance with this section; and

(b) approve or reject the identical plan within five business days after the day on which the identical plan was submitted under Subsection (2).

(9) An applicant that submits a nonidentical plan to a county as an identical plan, with knowledge that the nonidentical plan does not qualify as an identical plan and with intent to deceive the county:

(a) may be fined by the county receiving the submission of the nonidentical plan:

(i) in an amount not to exceed three times the building permit fee, if the county approved the nonidentical plan as an identical plan before discovering the submission did not qualify as an identical plan; or

(ii) in an amount equal to the building permit fee that would have been issued for the nonidentical plan, if the county did not approve the nonidentical plan before discovering the submission did not qualify as an identical plan; and

(b) is prohibited from submitting an identical plan for review and approval under this section for a period of two years from the day on which the county discovers the nonidentical plan identified as an identical plan in the applicant's submission did not qualify as an identical plan.

(10) A county may impose a criminal penalty, as described in Section 17-53-223, for an applicant that knowingly violates the prohibition described in Subsection (9)(b).

Section 157. Section 17-27a-603 is amended to read:

17-27a-603

(Effective 11/06/25)

. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and verification of plat -- Recording plat.

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(3); or

(C) Subsection (6)(c).

(b) "Local health department" means the same as that term is defined in Section 26A-1-102.

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

(2) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide to the county in which the land is located an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale;

(d) every existing right-of-way and recorded easement located within the plat for:

(i) an underground facility;

(ii) a water conveyance facility; or

(iii) any other utility facility; and

(e) any water conveyance facility located, entirely or partially, within the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or

(B) from a surveyor under Subsection (6)(c).

(3) (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) A county shall:

(i) within 20 days after the day on which an owner of land submits to the county a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the county:

(A) from the facility owner under Section [~~10-9a-211~~]17-79-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;

(B) in the state engineer's inventory of canals; or

(C) from a surveyor under Subsection (6)(c); and

(ii) not approve the subdivision plat for at least 20 days after the day on which the county mails to each facility owner the notice under Subsection (3)(d)(i) in order to receive any comments from each facility owner regarding:

(A) access to the water conveyance facility;

(B) maintenance of the water conveyance facility;

(C) protection of the water conveyance facility integrity;

(D) safety of the water conveyance facility; or

(E) any other issue related to water conveyance facility operations.

(e) When applicable, the owner of the land seeking subdivision plat approval shall comply with Section 73-1-15.5.

(f) A facility owner's failure to provide comments to a county in accordance with Subsection (3)(d)(ii) does not affect or impair the county's authority to approve the subdivision plat.

(4) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(5) (a) Within 30 days after approving a final plat under this section, a county shall submit to the Utah Geospatial Resource Center, created in Section 63A-16-505, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Utah Geospatial Resource Center, a county that approves a final plat under this section shall:

(i) coordinate with the Utah Geospatial Resource Center to validate the information described in Subsection (5)(a); and

(ii) assist the Utah Geospatial Resource Center in creating electronic files that contain the information described in Subsection (5)(a) for inclusion in the unified statewide 911 emergency service database.

(6) (a) A county recorder may not record a plat unless, subject to Subsection 17-27a-604(1):

(i) prior to recordation, the county has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as provided by law.

(b) A surveyor who prepares the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a representative designated by the owner or operator, of an existing water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of the existing water conveyance facility, or the existing or proposed underground facility or utility facility; and

(C) physical restrictions governing the location of the existing or proposed underground facility or utility facility.

(ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection (6)(c)(i):

(A) indicates only that the plat approximates the location of the existing facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(7) (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged, certified, and approved, the owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the county.

(8) A county acting as a land use authority shall approve a condominium plat that complies with the requirements of Section 57-8-13 unless the condominium plat violates a land use regulation of the county.

Section 158. Section 17-27a-604.5 is amended to read:

17-27a-604.5

(Effective 11/06/25)

. Subdivision plat recording or development activity before required infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) As used in this section:

(a) "Private landscaping plan" means a proposal:

(i) to install landscaping on a lot owned by a private individual or entity; and

(ii) submitted to a county by the private individual or entity, or on behalf of a private individual or entity, that owns the lot.

(b) "Public landscaping improvement" means landscaping that an applicant is required to install to comply with published installation and inspection specifications for public improvements that:

(i) will be dedicated to and maintained by the county; or

(ii) are associated with and proximate to trail improvements that connect to planned or existing public infrastructure.

(2) A land use authority shall establish objective inspection standards for acceptance of a required public landscaping improvement or infrastructure improvement.

(3) (a) Except as provided in Subsection (3)(d) or (3)(e), before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required public landscaping improvements or infrastructure improvements; or

(ii) post an improvement completion assurance for any required public landscaping improvements or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall in accordance with Subsection (5) provide completion assurance for:

(i) completion of 100% of the required public landscaping improvements or infrastructure improvements; or

(ii) if the county has inspected and accepted a portion of the public landscaping improvements or infrastructure improvements, 100% of the incomplete or unaccepted public landscaping improvements or infrastructure improvements.

(c) A county shall:

(i) establish a minimum of two acceptable forms of completion assurance;

(ii) (A) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this chapter and any local ordinances; and

(B) if a county accepts cash deposits as a form of completion assurance and an applicant elects to post a cash deposit as a form of completion assurance, place the cash deposit in an interest-bearing account upon receipt and return any earned interest to the applicant with the return of the completion assurance according to the conditions of this chapter and any local ordinances;

(iii) establish a system for the partial release of an improvement completion assurance as portions of required public landscaping improvements or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iv) issue or deny a building permit in accordance with Section 17-27a-802 based on the installation of public landscaping improvements or infrastructure improvements.

(d) A county may not require an applicant to post an improvement completion assurance for:

(i) public landscaping improvements or infrastructure improvements that the county has previously inspected and accepted;

(ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation;

(iii) in a county where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the county requires to be private;

(iv) landscaping improvements that are not public landscaping improvements, unless the landscaping improvements and completion assurance are required under the terms of a development agreement;

(v) a private landscaping plan;

(vi) landscaping improvements or infrastructure improvements that an applicant elects to install at the applicant's own risk:

(A) before the plat is recorded;

(B) pursuant to inspections required by the county for the infrastructure improvement; and

(C) pursuant to final civil engineering plan approval by the county; or

(vii) any individual public landscaping improvement or individual infrastructure improvement when the individual public landscaping improvement or individual infrastructure improvement is also included as part of a separate improvement completion assurance.

(e) (i) A county may not:

(A) prohibit an applicant from installing a public landscaping improvement or an infrastructure improvement when the municipality has approved final civil engineering plans for the development activity or plat for which the public landscaping improvement or infrastructure improvement is required; or

(B) require an applicant to sign an agreement, release, or other document inconsistent with this chapter as a condition of posting an improvement completion assurance, security for an improvement warranty, or receiving a building permit.

(ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and infrastructure improvements that are installed by an applicant are subject to inspection by the county in accordance with the county's adopted inspection standards.

(f) (i) Each improvement completion assurance and improvement warranty posted by an applicant with a county shall be independent of any other improvement completion assurance or improvement warranty posted by the same applicant with the county.

(ii) Subject to Section [~~10-9a-509.5~~]17-79-803, if an applicant has posted a form of security with a county for more than one infrastructure improvement or public landscaping improvement, the county may not withhold acceptance of an applicant's required subdivision improvements, public landscaping improvement, infrastructure improvements, or the performance of warranty work for the same applicant's failure to complete a separate subdivision improvement, public landscaping improvement, infrastructure improvement, or warranty work under a separate improvement completion assurance or improvement warranty.

(4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or other entitlement benefit not currently available under the existing zone, a county may require a completion assurance bond for landscaped amenities and common area that are dedicated to and maintained by a homeowners association.

(b) Any agreement regarding a completion assurance bond under Subsection (4)(a) between the applicant and the county shall be memorialized in a development agreement.

(c) A county may not require a completion assurance bond for or dictate who installs or is responsible for the cost of the landscaping of residential lots or the equivalent open space surrounding single-family attached homes, whether platted as lots or common area.

(5) The sum of the improvement completion assurance required under Subsections (3) and (4) may not exceed the sum of:

(a) 100% of the estimated cost of the public landscaping improvements or infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's bid; and

(b) 10% of the amount of the bond to cover administrative costs incurred by the county to complete the improvements, if necessary.

(6) (a) Upon an applicant's written request that the land use authority accept or reject the applicant's installation of required subdivision improvements or performance of warranty work as set forth in Section 17-27a-509.5, and for the duration of each improvement warranty period, the land use authority may require the applicant to:

(i) execute an improvement warranty for the improvement warranty period; and

(ii) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the county, in the amount of up to 10% of the lesser of the:

(A) county engineer's original estimated cost of completion; or

(B) applicant's reasonable proven cost of completion.

(b) A county may not require the payment of the deposit of the improvement warranty assurance described in Subsection (6)(a) for an infrastructure improvement or public landscaping improvement before the applicant indicates through written request that the applicant has completed the infrastructure improvement or public landscaping improvement.

(7) When a county accepts an improvement completion assurance for public landscaping improvements or infrastructure improvements for a development in accordance with Subsection (3)(c)(ii)(A), the county may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

(8) A county may not require the submission of a private landscaping plan as part of an application for a building permit.

(9) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 159. Section 17-41-402 is amended to read:

17-41-402
(Effective 11/06/25)
. Limitations on local regulations.

(1) A political subdivision within which an agriculture protection area, industrial protection area, or critical infrastructure materials protection area is created or with a mining protection area within its boundary shall encourage the continuity, development, and viability of agriculture use, industrial use, critical infrastructure materials operations, or mining use, within the relevant protection area by not enacting a local law, ordinance, or regulation that, unless the law, ordinance, or regulation bears a direct relationship to public health or safety, would unreasonably restrict:

(a) in the case of an agriculture protection area, a farm structure or farm practice;

(b) in the case of an industrial protection area, an industrial use of the land within the area;

(c) in the case of a critical infrastructure materials protection area, critical infrastructure materials operations; or

(d) in the case of a mining protection area, a mining use within the protection area.

(2) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within an agriculture protection area unless the political subdivision receives written approval for the change from all the landowners within the agriculture protection area affected by the change.

(3) Except as provided by Section 19-4-113, a political subdivision may not change the zoning designation of or a zoning regulation affecting land within an industrial protection area unless the political subdivision receives written approval for the change from all the landowners within the industrial protection area affected by the change.

(4) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within a critical infrastructure materials protection area unless the political subdivision receives written approval for the change from each critical infrastructure materials operator within the relevant area.

(5) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within a mining protection area unless the political subdivision receives written approval for the change from each mine operator within the area.

(6) A county, city, or town may not:

(a) adopt, enact, or amend an existing land use regulation, ordinance, or regulation that would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials operations with a vested critical infrastructure materials use as defined in Section [~~10-9a-901~~]10-20-701 or 17-27a-1001; or

(b) initiate proceedings to amend the county's, city's, or town's land use ordinances as described in Subsection [~~10-9a-509(1)(a)(ii)~~]10-20-902(1)(a)(ii) or 17-27a-508(1)(a)(ii) as it regards the rights of a critical infrastructure materials operator with a vested critical infrastructure materials use.

Section 160. Section 17-41-502 is amended to read:
17-41-502
(Effective 11/06/25)
. Rights of a mine operator with a vested mining use -- Expanding vested mining use.

(1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a mining use adopted after the establishment of the mining use, the rights of a mine operator with a vested mining use include the rights to:

(a) progress, extend, enlarge, grow, or expand the vested mining use to any surface or subsurface land or mineral estate that the mine operator owns or controls;

(b) expand the vested mining use to any new land that:

(i) is contiguous and related in mineralization to surface or subsurface land or a mineral estate that the mine operator already owns or controls;

(ii) contains minerals that are part of the same mineral trend as the minerals that the mine operator already owns or controls; or

(iii) is a geologic offshoot to surface or subsurface land or a mineral estate that the mine operator already owns or controls;

(c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings on any surface or subsurface land or mineral estate that the mine operator owns or controls;

(d) increase production or volume, alter the method of mining or processing, and mine or process a different or additional mineral than previously mined or owned on any surface or subsurface land or mineral estate that the mine operator owns or controls; and

(e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily or permanently, all or any part of the mining use.

(2) (a) As used in this Subsection (2), "applicable legislative body" means the legislative body of each:

(i) county in whose unincorporated area the new land to be included in the vested mining use is located; and

(ii) municipality in which the new land to be included in the vested mining use is located.

(b) A mine operator with a vested mining use is presumed to have a right to expand the vested mining use to new land.

(c) Before expanding a vested mining use to new land, a mine operator shall provide written notice:

(i) of the mine operator's intent to expand the vested mining use; and

(ii) to each applicable legislative body.

(d) (i) An applicable legislative body shall:

(A) hold a public meeting or hearing at its next available meeting that is more than 10 days after receiving the notice under Subsection (2)(c); and

(B) provide reasonable, advance, written notice:

(I) of:

(Aa) the intended expansion of the vested mining use; and

(Bb) the public meeting or hearing; and

(II) to each owner of the surface estate of the new land.

(ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide sufficient public notice of the mine operator's intent to expand the vested mining use to the new land.

(e) After the public meeting or hearing under Subsection (2)(d)(ii), a mine operator may expand a vested mining use to new land without any action by an applicable legislative body, unless the applicable legislative body finds that there is clear and convincing evidence in the record that the expansion to new land will imminently endanger the public health, safety, and welfare. If the applicable legislative body makes the finding of endangerment described in this Subsection (2)(e), Subsection (4) applies.

(3) If a mine operator expands a vested mining use to new land, as authorized under this section:

(a) the mine operator's rights under the vested mining use with respect to land on which the vested mining use occurs apply with equal force after the expansion to the new land; and

(b) the mining protection area that includes land on which the vested mining use occurs is expanded to include the new land.

(4) (a) If the applicable legislative body makes the finding of endangerment described in Subsection (2)(e):

(i) the mining operator shall submit to the applicable legislative body the mining operator's plan for expansion under this section;

(ii) by no later than 30 days after receipt of the plan for expansion described in Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:

(A) evidence that the expansion to new land will endanger the public health, safety, and welfare; and

(B) proposed measures to mitigate the endangerment of the public health, safety, and welfare; and

(iii) the applicable legislative body shall hold a public hearing by no later than 30 days after the date the applicable legislative body complies with Subsection (4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).

(b) The applicable legislative body may impose mitigation measures under this Subsection (4) that are reasonable and do not exceed requirements imposed by permits issued by a state agency such as an air quality permit.

(c) A political subdivision may not prohibit the expansion of a vested mining use if the mining operator agrees to comply with the mitigation measures described in Subsection (4)(b).

(d) The process under this Subsection (4) is not a land use application or conditional use application under [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act, or Chapter 27a, County Land Use, Development, and Management Act.

Section 161. Section 17-50-338 is amended to read:

17-50-338

(Effective 11/06/25)

. Ordinances regarding short-term rentals -- Prohibition on ordinances restricting speech on short-term rental websites -- Evidence of short-term rental -- Removing a listing.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means the same as that term is defined in Section [~~10-9a-511.5~~]10-20-606.

(b) "Permit number" means a unique identifier issued by a county and may include a business license number.

(c) "Request" means a formal inquiry made by a county to a short-term rental website that is not a legal requirement.

(d) "Residential unit" means a residential structure or any portion of a residential structure that is occupied as a residence.

(e) "Short-term rental" means a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days.

(f) "Short-term rental website" means a website or other digital platform that:

(i) allows a person to offer a short-term rental to one or more prospective renters; and

(ii) facilitates the renting of, and payment for, a short-term rental.

(g) "URL" means uniform resource locater.

(2) Notwithstanding Section 17-27a-501 or Subsection 17-27a-503(1), a legislative body may not:

(a) enact or enforce an ordinance that prohibits an individual from listing or offering a short-term rental on a short-term rental website; or

(b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term rental on a short-term rental website.

(3) If a county regulates short-term rentals, Subsection (2)(b) does not prevent the county from using a listing or offering of a short-term rental on a short-term rental website as evidence that a short-term rental took place so long as the county has additional information to support the position that a property owner or lessee violated a county ordinance.

(4) A county may adopt an ordinance requiring the owner or lessee of a short-term rental to obtain a business license or other permit from the county before operating a short-term rental within an unincorporated area of the county.

(5) (a) A county may not regulate a short-term rental website.

(b) If a county allows short-term rentals within a portion of or all residential or commercial unincorporated zones in the county, the legislative body of a county may only request a short-term rental website to remove a short-term rental listing or offering from the short-term rental website after notice from the county, as described in Subsection [~~(5)~~](6), only if the short-term rental is operating in violation of business license requirements or zoning requirements.

(6) A county that provides a notice to a short-term rental website that a short-term rental within the unincorporated county is in violation of the county's business licensing requirements or zoning requirements shall identify in the notice:

(a) the listing or offering to be removed by the listing's or offering's URL; and

(b) the reason for the requested removal.

(7) If a legislative body imposes transient room tax on the rental of rooms in hotels, motels, inns, trailer courts, campgrounds, tourist homes, and similar accommodations for stays of less than 30 consecutive days as authorized by Section 59-12-301:

(a) the county may utilize a listing or offering of a short-term rental on a short-term rental website as evidence that the owner or lessee of a short-term rental may be subject to the transient room tax; and

(b) the county auditor may utilize the listing or offering of a short-term rental on a short-term rental website when making a referral to the State Tax Commission, as described in Section 59-12-302.

(8) Subsection (2) does not apply to an individual who lists or offers an internal accessory dwelling unit as a short-term rental on a short-term rental website if the county records a notice for the internal accessory dwelling unit under Subsection 17-27a-526(6).

Section 162. Section 17B-2a-802 is amended to read:

17B-2a-802

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.

(a) "Affordable housing" may include housing occupied or reserved for occupancy by households that meet specific area median income targets or ranges of area median income targets.

(b) "Affordable housing" does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.

(2) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(3) (a) "Chief executive officer" means a person appointed by the board of trustees of a small public transit district to serve as chief executive officer.

(b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(4) "Confidential employee" means a person who, in the regular course of the person's duties:

(a) assists in and acts in a confidential capacity in relation to other persons who formulate, determine, and effectuate management policies regarding labor relations; or

(b) has authorized access to information relating to effectuating or reviewing the employer's collective bargaining policies.

(5) "Council of governments" means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

(6) "Department" means the Department of Transportation created in Section 72-1-201.

(7) "Executive director" means a person appointed by the board of trustees of a large public transit district to serve as executive director.

(8) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(9) "Fixed guideway capital development" means the same as that term is defined in Section 72-1-102.

(10) (a) "General manager" means a person appointed by the board of trustees of a small public transit district to serve as general manager.

(b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public transit district.

(11) "Large public transit district" means a public transit district that provides public transit to an area that includes:

(a) more than 65% of the population of the state based on:

(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available for each county, municipality, and unincorporated area that comprise the district, the most recent official census or census estimate of the United States Bureau of the Census; and

(b) two or more counties.

(12) "Local advisory council" means the local advisory council created in accordance with Section 17B-2a-808.2.

(13) (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

(14) "Managerial employee" means a person who is:

(a) engaged in executive and management functions; and

(b) charged with the responsibility of directing, overseeing, or implementing the effectuation of management policies and practices.

(15) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(16) "Multicounty district" means a public transit district located in more than one county.

(17) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

(18) (a) "Public transit" means regular, continuing, shared-ride, surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.

(b) "Public transit" does not include transportation services provided by:

(i) chartered bus;

(ii) sightseeing bus;

(iii) taxi;

(iv) school bus service;

(v) courtesy shuttle service for patrons of one or more specific establishments; or

(vi) intra-terminal or intra-facility shuttle services.

(19) "Public transit district" means a special district that provides public transit services.

(20) "Public transit innovation grant" means the same as that term is defined in Section 72-2-401.

(21) "Small public transit district" means any public transit district that is not a large public transit district.

(22) "Station area plan" means a plan developed and adopted by a municipality in accordance with Section [~~10-9a-403.1~~]10-21-203.

(23) (a) "Supervisor" means a person who has authority, in the interest of the employer, to:

(i) hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or

(ii) adjust another employee's grievance or recommend action to adjust another employee's grievance.

(b) "Supervisor" does not include a person whose exercise of the authority described in Subsection (23)(a):

(i) is of a merely routine or clerical nature; and

(ii) does not require the person to use independent judgment.

(24) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

(25) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

(26) "Transit-oriented development" means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a large public transit district.

(27) "Transit-supportive development" means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a large public transit district.

Section 163. Section 17B-2a-804 is amended to read:

17B-2a-804

(Effective 11/06/25)

. Additional public transit district powers.

(1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:

(a) provide a public transit system for the transportation of passengers and their incidental baggage;

(b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:

(i) principal and interest of bonded indebtedness of the public transit district; or

(ii) a final judgment against the public transit district if:

(A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and

(B) the district is required by a final court order to levy a tax to pay the judgment;

(c) insure against:

(i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;

(ii) public liability;

(iii) property damage; or

(iv) any other type of event, act, or omission;

(d) subject to Section 72-1-203 pertaining to fixed guideway capital development within a large public transit district, acquire, contract for, lease, construct, own, operate, control, or use:

(i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or

(ii) any structure necessary for access by persons and vehicles;

(e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and

(ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;

(f) operate feeder bus lines and other feeder or ridesharing services as necessary;

(g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States;

(h) study and plan transit facilities in accordance with any legislation passed by Congress;

(i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

(j) subject to Subsection 17B-2a-808.1(4), issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;

(k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

(l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States;

(m) sell or lease property;

(n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or transit-supportive developments;

(o) subject to Subsections (2) and (3), establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented developments or transit-supportive developments; and

(p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a transit-oriented development or a transit-supportive development in connection with project area development as defined in Section 17C-1-102 by:

(i) investing in a project as a limited partner or a member, with limited liabilities; or

(ii) subordinating an ownership interest in real property owned by the public transit district.

(2) (a) A public transit district may only assist in the development of areas under Subsection (1)(p) that have been approved by the board of trustees, and in the manners described in Subsection (1)(p).

(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c) (i) For transit-oriented development projects, a public transit district shall adopt transit-oriented development policies and guidelines that include provisions on affordable housing.

(ii) For transit-supportive development projects, a public transit district shall work with the metropolitan planning organization and city and county governments where the project is located to collaboratively seek to create joint plans for the areas within one-half mile of transit stations, including plans for affordable housing.

(d) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district [~~pursuant to~~]in accordance with Subsection (1)(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) For any transit-oriented development or transit-supportive development authorized in this section, the public transit district shall:

(a) perform a cost-benefit analysis of the monetary investment and expenditures of the development, including effect on:

(i) service and ridership;

(ii) regional plans made by the metropolitan planning agency;

(iii) the local economy;

(iv) the environment and air quality;

(v) affordable housing; and

(vi) integration with other modes of transportation;

(b) provide evidence to the public of a quantifiable positive return on investment, including improvements to public transit service; and

(c) coordinate with the Department of Transportation in accordance with Section 72-1-203 pertaining to fixed guideway capital development and associated parking facilities within a station area plan for a transit oriented development within a large public transit district.

(4) For any fixed guideway capital development project with oversight by the Department of Transportation as described in Section 72-1-203, a large public transit district shall coordinate with the Department of Transportation in all aspects of the project, including planning, project development, outreach, programming, environmental studies and impact statements, impacts on public transit operations, and construction.

(5) A public transit district may participate in a transit-oriented development only if:

(a) for a transit-oriented development involving a municipality:

(i) the relevant municipality has developed and adopted a station area plan; and

(ii) the municipality is in compliance with Sections [~~10-9a-403~~]10-21-201 and [~~10-9a-408~~]10-21-202 regarding the inclusion of moderate income housing in the general plan and the required reporting requirements; or

(b) for a transit-oriented development involving property in an unincorporated area of a county, the county is in compliance with Sections [~~17-27a-403~~]17-79-403 and [~~17-27a-408~~]17-80-202 regarding inclusion of moderate income housing in the general plan and required reporting requirements.

(6) A public transit district may be funded from any combination of federal, state, local, or private funds.

(7) A public transit district may not acquire property by eminent domain.

Section 164. Section 17B-2a-1305 is amended to read:

17B-2a-1305

(Effective 11/06/25)

. Relationship with other local entities.

(1) The applicability of local land use regulations under [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act, or [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act, is not affected by:

(a) the creation or operation of an infrastructure financing district; or

(b) the infrastructure financing district's provision of funding for the development of infrastructure within the infrastructure financing district boundary.

(2) The boundary of an infrastructure financing district is not affected by:

(a) a municipality's annexation of an unincorporated area of a county; or

(b) the adjustment of a boundary shared by more than one municipality.

(3) A debt, obligation, or other financial burden of an infrastructure financing district, including any liability of or claim or judgment against an infrastructure financing district:

(a) is borne solely by the infrastructure financing district; and

(b) is not the debt, obligation, or other financial burden of any other political subdivision of the state or of the state.

(4) (a) Nothing in this part affects the requirement for infrastructure for which an infrastructure financing district provides funding to comply with all applicable standards and design, inspection, and other requirements of the county, municipality, special district, or special service district that will own and operate the infrastructure after the infrastructure is completed.

(b) Upon the completion of infrastructure for which an infrastructure financing district has provided funding, the infrastructure shall be conveyed:

(i) to the county, municipality, special district, or special service district that will operate the infrastructure; and

(ii) at no cost to the county, municipality, special district, or special service district.

Section 165. Section 17C-1-104 is amended to read:

17C-1-104

(Effective 11/06/25)

. Actions not subject to land use laws.

(1) An action taken under this title is not subject to [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act or [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act.

(2) An ordinance or resolution adopted under this title is not a land use regulation as defined in [~~Sections 10-9a-103~~]Section 10-20-102 [~~and~~]or [~~17-27a-103~~]17-79-102.

Section 166. Section 17C-2-102 is amended to read:

17C-2-102

(Effective 11/06/25)

. Process for adopting urban renewal project area plan -- Prerequisites -- Restrictions.

(1) (a) In order to adopt an urban renewal project area plan, after adopting a resolution under Subsection 17C-2-101.5(1) the agency shall:

(i) unless a development impediment determination is based on a determination made under Subsection 17C-2-303(1)(b) relating to an inactive industrial site or inactive airport site:

(A) cause a development impediment study to be conducted within the survey area as provided in Section 17C-2-301;

(B) provide notice of a development impediment hearing as required under Chapter 1, Part 8, Hearing and Notice Requirements; and

(C) hold a development impediment hearing as described in Section 17C-2-302;

(ii) after the development impediment hearing has been held or, if no development impediment hearing is required under Subsection (1)(a)(i), after adopting a resolution under Subsection 17C-2-101.5(1), hold a board meeting at which the board shall:

(A) consider:

(I) the evidence and information relating to the existence or nonexistence of a development impediment; and

(II) whether adoption of one or more urban renewal project area plans should be pursued; and

(B) by resolution:

(I) make a determination regarding the existence of a development impediment in the proposed urban renewal project area;

(II) select one or more project areas comprising part or all of the survey area; and

(III) authorize the preparation of a proposed project area plan for each project area;

(iii) prepare a proposed project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(iv) make the proposed project area plan available to the public at the agency's offices during normal business hours;

(v) provide notice of the plan hearing in accordance with Sections 17C-1-806 and 17C-1-808;

(vi) hold a plan hearing on the proposed project area plan and, at the plan hearing:

(A) allow public comment on:

(I) the proposed project area plan; and

(II) whether the proposed project area plan should be revised, approved, or rejected; and

(B) receive all written and hear all oral objections to the proposed project area plan;

(vii) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity that levies a tax on property within the proposed project area to consult with the agency regarding the proposed project area plan;

(viii) if applicable, hold the election required under Subsection 17C-2-105(3);

(ix) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:

(A) the oral and written objections to the proposed project area plan and evidence and testimony for and against adoption of the proposed project area plan; and

(B) whether to revise, approve, or reject the proposed project area plan;

(x) approve the proposed project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-2-106; and

(xi) submit the project area plan to the community legislative body for adoption.

(b) (i) If an agency makes a determination under Subsection (1)(a)(ii)(B) that a development impediment exists in the proposed urban renewal project area, the agency may not adopt the project area plan until the taxing entity committee approves the development impediment determination.

(ii) (A) A taxing entity committee may not disapprove an agency's development impediment determination unless the committee demonstrates that the conditions the agency found to exist in the urban renewal project area that support the agency's development impediment determination under Section 17C-2-303:

(I) do not exist; or

(II) do not constitute a development impediment.

(B) (I) If the taxing entity committee questions or disputes the existence of some or all of the development impediment conditions that the agency determined to exist in the urban renewal project area or that those conditions constitute a development impediment, the taxing entity committee may hire a consultant, mutually agreed upon by the taxing entity committee and the agency, with the necessary expertise to assist the taxing entity committee to make a determination as to the existence of the questioned or disputed development impediment conditions.

(II) The agency shall pay the fees and expenses of each consultant hired under Subsection (1)(b)(ii)(B)(I).

(III) The determination of a consultant under this Subsection (1)(b)(ii)(B) shall be binding on the taxing entity committee and the agency.

(2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a municipality, [~~Title 10, Chapter 9a, Part 4, General Plan~~]Title 10, Chapter 20, Part 4, General Plan; or

(ii) if the community is a county, [~~Title 17, Chapter 27a, Part 4, General Plan~~]Title 17, Chapter 79, Part 4, General Plan.

(3) (a) Subject to Subsection (3)(b), a board may not approve a project area plan more than one year after adoption of a resolution making a development impediment determination under Subsection (1)(a)(ii)(B).

(b) If a project area plan is submitted to an election under Subsection 17C-2-105(3), the time between the plan hearing and the date of the election does not count for purposes of calculating the year period under Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), a proposed project area plan may not be modified to add real property to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Sections 17C-1-806 and 17C-1-808.

(b) The notice and hearing requirements under Subsection (4)(a) do not apply to a proposed project area plan being modified to add real property to the proposed project area if:

(i) the property is contiguous to the property already included in the proposed project area under the proposed project area plan;

(ii) the record owner of the property consents to adding the real property to the proposed project area; and

(iii) the property is located within the survey area.

Section 167. Section 17C-2-304 is amended to read:

17C-2-304

(Effective 11/06/25)

. Challenging a development impediment determination -- Time limit -- De novo review.

(1) If the board makes a development impediment determination under Subsection 17C-2-102(1)(a)(ii)(B) and that determination is approved by resolution adopted by the taxing entity committee, a record owner of property located within the proposed urban renewal project area may challenge the determination by bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(2) A person shall file a challenge under Subsection (1) within 30 days after the taxing entity committee approves the board's development impediment determination.

(3) In each action under this section, the court shall review the development impediment determination under the standards of review provided in [~~Subsection 10-9a-801(3)~~]Section 10-20-1109.

Section 168. Section 17C-3-102 is amended to read:

17C-3-102

(Effective 11/06/25)

. Process for adopting an economic development project area plan -- Prerequisites -- Restrictions.

(1) In order to adopt an economic development project area plan, after adopting a resolution under Subsection 17C-3-101.5(1) the agency shall:

(a) prepare a proposed economic development project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(b) make the proposed project area plan available to the public at the agency's offices during normal business hours;

(c) provide notice of the plan hearing as provided in Chapter 1, Part 8, Hearing and Notice Requirements;

(d) hold a public hearing on the proposed project area plan and, at that public hearing:

(i) allow public comment on:

(A) the proposed project area plan; and

(B) whether the proposed project area plan should be revised, approved, or rejected; and

(ii) receive all written and hear all oral objections to the proposed project area plan;

(e) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity within the proposed project area to consult with the agency regarding the proposed project area plan;

(f) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:

(i) the oral and written objections to the proposed project area plan and evidence and testimony for or against adoption of the proposed project area plan; and

(ii) whether to revise, approve, or reject the proposed project area plan;

(g) approve the proposed project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-3-105; and

(h) submit the project area plan to the community legislative body for adoption.

(2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a municipality, [~~Title 10, Chapter 9a, Part 4, General Plan~~]Title 10, Chapter 20, Part 4, General Plan; or

(ii) if the community is a county, [~~Title 17, Chapter 27a, Part 4, General Plan~~]Title 17, Chapter 79, Part 4, General Plan.

(3) A board may not approve a project area plan more than one year after the date of the plan hearing.

(4) (a) Except as provided in Subsection (4)(b), a proposed project area plan may not be modified to add one or more parcels to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Chapter 1, Part 8, Hearing and Notice Requirements.

(b) The notice and hearing requirements under Subsection (4)(a) do not apply to a proposed project area plan being modified to add one or more parcels to the proposed project area if:

(i) the parcel is contiguous to the parcels already included in the proposed project area under the proposed project area plan; and

(ii) the record owner of the property consents to adding the parcel to the proposed project area.

Section 169. Section 17C-4-102 is amended to read:

17C-4-102

(Effective 11/06/25)

. Process for adopting a community development project area plan -- Prerequisites -- Restrictions.

(1) In order to adopt a community development project area plan, after adopting a resolution under Subsection 17C-4-101.5(1) the agency shall:

(a) prepare a proposed community development project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(b) make the proposed project area plan available to the public at the agency's offices during normal business hours;

(c) provide notice of the plan hearing as described in Chapter 1, Part 8, Hearing and Notice Requirements;

(d) hold a public hearing on the proposed project area plan and, at that public hearing:

(i) allow public comment on:

(A) the proposed project area plan; and

(B) whether the proposed project area plan should be revised, approved, or rejected; and

(ii) receive all written and hear all oral objections to the proposed project area plan;

(e) after holding the plan hearing, at the same meeting or at one or more subsequent meetings consider:

(i) the oral and written objections to the proposed project area plan and evidence and testimony for or against adoption of the proposed project area plan; and

(ii) whether to revise, approve, or reject the proposed project area plan;

(f) approve the proposed project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-4-104; and

(g) submit the project area plan to the community legislative body for adoption.

(2) An agency may not propose a community development project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a municipality, [~~Title 10, Chapter 9a, Part 4, General Plan~~]Title 10, Chapter 20, Part 4, General Plan; or

(ii) if the community is a county, [~~Title 17, Chapter 27a, Part 4, General Plan~~]Title 17, Chapter 79, Part 4, General Plan.

(3) (a) Except as provided in Subsection (3)(b), a proposed project area plan may not be modified to add a parcel to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Chapter 1, Part 8, Hearing and Notice Requirements.

(b) The notice and hearing requirements under Subsection (3)(a) do not apply to a proposed project area plan being modified to add a parcel to the proposed project area if:

(i) the parcel is contiguous to one or more parcels already included in the proposed project area under the proposed project area plan; and

(ii) the record owner of the property consents to adding the parcel to the proposed project area.

Section 170. Section 17C-5-104 is amended to read:

17C-5-104

(Effective 11/06/25)

. Process for adopting a community reinvestment project area plan -- Prerequisites -- Restrictions.

(1) An agency may not propose a community reinvestment project area plan unless the community in which the proposed community reinvestment project area plan is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a municipality, [~~Title 10, Chapter 9a, Part 4, General Plan~~]Title 10, Chapter 20, Part 4, General Plan; or

(ii) if the community is a county, [~~Title 17, Chapter 27a, Part 4, General Plan~~]Title 17, Chapter 79, Part 4, General Plan.

(2) (a) Before an agency may adopt a proposed community reinvestment project area plan, the agency shall conduct a development impediment study and make a development impediment determination in accordance with Part 4, Development Impediment Determination in a Community Reinvestment Project Area, if the agency anticipates using eminent domain to acquire property within the proposed community reinvestment project area.

(b) If applicable, an agency may not approve a community reinvestment project area plan more than one year after the agency adopts a resolution making a development impediment determination under Section 17C-5-402.

(3) To adopt a community reinvestment project area plan, an agency shall:

(a) prepare a proposed community reinvestment project area plan in accordance with Section 17C-5-105;

(b) make the proposed community reinvestment project area plan available to the public at the agency's office during normal business hours for at least 30 days before the plan hearing described in Subsection (3)(e);

(c) before holding the plan hearing described in Subsection (3)(e), provide an opportunity for the State Board of Education and each taxing entity that levies or imposes a tax within the proposed community reinvestment project area to consult with the agency regarding the proposed community reinvestment project area plan;

(d) provide notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;

(e) hold a plan hearing on the proposed community reinvestment project area plan and, at the plan hearing:

(i) allow public comment on:

(A) the proposed community reinvestment project area plan; and

(B) whether the agency should revise, approve, or reject the proposed community reinvestment project area plan; and

(ii) receive all written and oral objections to the proposed community reinvestment project area plan; and

(f) following the plan hearing described in Subsection (3)(e), or at a subsequent agency meeting:

(i) consider:

(A) the oral and written objections to the proposed community reinvestment project area plan and evidence and testimony for and against adoption of the proposed community reinvestment project area plan; and

(B) whether to revise, approve, or reject the proposed community reinvestment project area plan;

(ii) adopt a resolution in accordance with Section 17C-5-108 that approves the proposed community reinvestment project area plan, with or without revisions, as the community reinvestment project area plan; and

(iii) submit the community reinvestment project area plan to the community legislative body for adoption.

(4) (a) Except as provided in Subsection (4)(b), an agency may not modify a proposed community reinvestment project area plan to add one or more parcels to the proposed community reinvestment project area unless the agency holds a plan hearing to consider the addition and gives notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements.

(b) The notice and hearing requirements described in Subsection (4)(a) do not apply to a proposed community reinvestment project area plan being modified to add one or more parcels to the proposed community reinvestment project area if:

(i) each parcel is contiguous to one or more parcels already included in the proposed community reinvestment project area under the proposed community reinvestment project area plan;

(ii) the record owner of each parcel consents to adding the parcel to the proposed community reinvestment project area; and

(iii) each parcel is located within the survey area.

Section 171. Section 17C-5-406 is amended to read:

17C-5-406

(Effective 11/06/25)

. Challenging a finding of development impediment determination -- Time limit -- Standards governing court review.

(1) If a board makes a development impediment determination under Subsection 17C-5-402(2)(c)(ii), a record owner of property located within the survey area may challenge the determination by bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, no later than 30 days after the day on which the board makes the determination.

(2) In an action under this section:

(a) the agency shall transmit to the court the record of the agency's proceedings, including any minutes, findings, determinations, orders, or transcripts of the agency's proceedings;

(b) the court shall review the development impediment determination under the standards of review provided in Subsection [~~10-9a-801(3)~~]10-20-1109(3); and

(c) (i) if there is a record:

(A) the court's review is limited to the record provided by the agency; and

(B) the court may not accept or consider any evidence outside the record of the agency, unless the evidence was offered to the agency and the district court determines that the agency improperly excluded the evidence; or

(ii) if there is no record, the court may call witnesses and take evidence.

Section 172. Section 20A-7-601 is amended to read:

20A-7-601

(Effective 11/06/25)

. Referenda -- General signature requirements -- Signature requirements for land use laws, subjurisdictional laws, and transit area land use laws -- Time requirements.

(1) As used in this section:

(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.

(b) "Qualifying county" means a county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

(c) "Qualifying transit area" means:

(i) a station area, as defined in Section [~~10-9a-403.1~~]10-21-101, for which the municipality with jurisdiction over the station area has satisfied the requirements of Subsection [~~10-9a-403.1(2)(a)(i)~~]10-21-203(1)(a)(i), as demonstrated by the adoption of a station area plan or resolution under Subsection [~~10-9a-403.1(2)~~]10-21-203(1); or

(ii) a housing and transit reinvestment zone, as defined in Section 63N-3-602, created within a qualifying county.

(d) "Subjurisdiction" means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.

(e) (i) "Subjurisdictional law" means a local law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, or town.

(ii) "Subjurisdictional law" does not include a land use law.

(f) "Transit area land use law" means a land use law that relates to the use of land within a qualifying transit area.

(g) "Voter participation area" means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) Except as provided in Subsections (3) through (5), an eligible voter seeking to have a local law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a city of the first class:

(i) 7.5% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the city's voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county's voter participation areas;

(d) for a city of the second class:

(i) 8.25% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the city's voter participation areas;

(e) for a county of the third class:

(i) 9.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county's voter participation areas;

(f) for a city of the third class:

(i) 10% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the city's voter participation areas;

(g) for a county of the fourth class:

(i) 11.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county's voter participation areas;

(h) for a city of the fourth class:

(i) 11.5% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the city's voter participation areas;

(i) for a city of the fifth class or a county of the fifth class, 25% of the number of active voters in the city or county; or

(j) for a town or a county of the sixth class, 35% of the number of active voters in the town or county.

(3) Except as provided in Subsection (4) or (5), an eligible voter seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county of the first, second, third, or fourth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a county of the fifth or sixth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(c) for a city of the first class:

(i) 15% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 15% of the number of active voters in at least 75% of the city's voter participation areas;

(d) for or a city of the second class:

(i) 16% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the city's voter participation areas;

(e) for a city of the third class:

(i) 27.5% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 27.5% of the number of active voters in at least 75% of the city's voter participation areas;

(f) for a city of the fourth class:

(i) 29% of the number of active voters in the city; and

(ii) beginning on January 1, 2020, 29% of the number of active voters in at least 75% of the city's voter participation areas;

(g) for a city of the fifth class, 35% of the number of active voters in the city; or

(h) for a town, 40% of the number of active voters in the town.

(4) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures of the residents in the subjurisdiction equal to:

(a) 10% of the number of active voters in the subjurisdiction if the number of active voters exceeds 25,000;

(b) 12.5% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 25,000 but is more than 10,000;

(c) 15% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 10,000 but is more than 2,500;

(d) 20% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 2,500 but is more than 500;

(e) 25% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 500 but is more than 250; and

(f) 30% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 250.

(5) An eligible voter seeking to have a transit area land use law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county:

(i) 20% of the number of active voters in the county; and

(ii) 21% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a city of the first class:

(i) 20% of the number of active voters in the city; and

(ii) 20% of the number of active voters in at least 75% of the city's voter participation areas;

(c) for a city of the second class:

(i) 20% of the number of active voters in the city; and

(ii) 21% of the number of active voters in at least 75% of the city's voter participation areas;

(d) for a city of the third class:

(i) 34% of the number of active voters in the city; and

(ii) 34% of the number of active voters in at least 75% of the city's voter participation areas;

(e) for a city of the fourth class:

(i) 36% of the number of active voters in the city; and

(ii) 36% of the number of active voters in at least 75% of the city's voter participation areas; or

(f) for a city of the fifth class or a town, 40% of the number of active voters in the city or town.

(6) Sponsors of any referendum petition challenging, under Subsection (2), (3), (4), or (5), any local law passed by a local legislative body shall file the application no later than the first business day that is at least five days after the day on which the local law was passed.

(7) This section does not authorize a local legislative body to impose a tax or other payment obligation on a subjurisdiction in order to benefit an area outside of the subjurisdiction.

Section 173. Section 23A-3-205 is amended to read:

23A-3-205

(Effective 11/06/25)

. Wildlife Conservation Fund.

(1) As used in this section:

(a) "Fund" means the Wildlife Conservation Fund created by this section.

(b) "Land use authority" means:

(i) a land use authority, as that term is defined in Section [~~10-9a-103~~]10-20-102, of a municipality; or

(ii) a land use authority, as that term is defined in Section [~~17-27a-103~~]17-79-102, of a county.

(c) "Wildlife conservation permit program" means a program under which the division issues permit opportunities to be sold by a conservation organization for auction to the highest bidder at a fund-raising event.

(d) "Wildlife exposition program" means a program under which the division allocates permits to a drawing administered by a selected conservation organization as part of a regional or national exposition for the purpose of generating revenue to fund wildlife conservation activities in Utah.

(2) There is created an expendable special revenue fund known as the "Wildlife Conservation Fund."

(3) The fund consists of:

(a) wildlife conservation permit program revenue transferred to the division [~~pursuant to~~]in accordance with rules, made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) wildlife exposition program revenue transferred to the division [~~pursuant to~~]in accordance with rules, made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) money appropriated to the fund by the Legislature;

(d) contributions, grants, gifts, transfers, bequests, and donations to the fund accepted by the division and specifically directed to the fund; and

(e) interest and earnings on the fund.

(4) (a) The fund shall earn interest and other earnings.

(b) The interest and earnings described in Subsection (4)(a) shall be deposited into the fund.

(5) (a) The division shall use proceeds in the fund to carry out the purposes of the wildlife conservation permit program or wildlife exposition program.

(b) Deposits into and expenditures from the fund shall specifically identify the wildlife conservation permit program or wildlife exposition program to which the deposits and expenditures apply.

(c) The division shall make expenditures from the fund consistent with the rules governing the applicable program.

(6) (a) Before the division may use or approve the use of money in the fund to purchase or acquire a grazing permit, the division shall obtain approval from:

(i) the land use authority for the land in which the grazing permit is located;

(ii) the Department of Natural Resources created in Section 79-2-201; and

(iii) the Department of Agriculture and Food created in Section 4-2-102.

(b) If a request to purchase or acquire a grazing permit under Subsection (6)(a) is not denied by a land use authority, the Department of Natural Resources, or the Department of Agriculture and Food within 60 days after the day on which the division submits the request, the division may consider the request as approved.

(c) An action of a land use authority under this Subsection (6) is not a land use decision subject to:

(i) [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act; or

(ii) [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act.

(7) The division shall annually report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee regarding:

(a) the amount of money in the fund;

(b) the sources of money in the fund; and

(c) how the money is expended.

Section 174. Section 35A-8-202 is amended to read:

35A-8-202

(Effective 11/06/25)

. Powers and duties of division.

(1) The division shall:

(a) assist local governments and citizens in the planning, development, and maintenance of necessary public infrastructure and services;

(b) cooperate with, and provide technical assistance to, counties, cities, towns, regional planning commissions, area-wide clearinghouses, zoning commissions, parks or recreation boards, community development groups, community action agencies, and other agencies created for the purpose of aiding and encouraging an orderly, productive, and coordinated development of the state and its political subdivisions;

(c) assist the governor in coordinating the activities of state agencies which have an impact on the solution of community development problems and the implementation of community plans;

(d) serve as a clearinghouse for information, data, and other materials which may be helpful to local governments in discharging their responsibilities and provide information on available federal and state financial and technical assistance;

(e) carry out continuing studies and analyses of the problems faced by communities within the state and develop such recommendations for administrative or legislative action as appear necessary;

(f) assist in funding affordable housing;

(g) support economic development activities through grants, loans, and direct programs financial assistance;

(h) certify project funding at the local level in conformance with federal, state, and other requirements;

(i) utilize the capabilities and facilities of public and private universities and colleges within the state in carrying out its functions; and

(j) assist and support local governments, community action agencies, and citizens in the planning, development, and maintenance of home weatherization, energy efficiency, and antipoverty activities.

(2) The division may:

(a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

(b) if any federal program requires the expenditure of state funds as a condition to participation by the state in any fund, property, or service, with the governor's approval, expend whatever funds are necessary out of the money provided by the Legislature for the use of the department;

(c) in accordance with Part 9, Domestic Violence Shelters, assist in developing, constructing, and improving shelters for victims of domestic violence, as described in Section 77-36-1, through loans and grants to nonprofit and governmental entities;

(d) assist, when requested by a county or municipality, in the development of accessible housing; and

(e) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the form and content of a moderate income housing report, as described in Sections [~~10-9a-408~~]10-21-202 and [~~17-27a-408~~]17-80-202, to:

(i) ensure consistency across reporting political subdivisions; and

(ii) promote better potential analysis of report data.

Section 175. Section 35A-8-803 is amended to read:

35A-8-803

(Effective 11/06/25)

. Division -- Functions.

(1) In addition to any other functions the governor or Legislature may assign:

(a) the division shall:

(i) provide a clearinghouse of information for federal, state, and local housing assistance programs;

(ii) establish, in cooperation with political subdivisions, model plans and management methods to encourage or provide for the development of affordable housing that may be adopted by political subdivisions by reference;

(iii) undertake, in cooperation with political subdivisions, a realistic assessment of problems relating to housing needs, such as:

(A) inadequate supply of dwellings;

(B) substandard dwellings; and

(C) inability of medium and low income families to obtain adequate housing;

(iv) provide the information obtained under Subsection (1)(a)(iii) to:

(A) political subdivisions;

(B) real estate developers;

(C) builders;

(D) lending institutions;

(E) affordable housing advocates; and

(F) others having use for the information;

(v) advise political subdivisions of serious housing problems existing within their jurisdiction that require concerted public action for solution;

(vi) assist political subdivisions in defining housing objectives and in preparing for adoption a plan of action covering a five-year period designed to accomplish housing objectives within their jurisdiction;

(vii) for municipalities or counties required to submit an annual moderate income housing report to the department as described in Section [~~10-9a-408~~]10-21-202 or [~~17-27a-408~~]17-80-202:

(A) assist in the creation of the reports; and

(B) review the reports to meet the requirements of Sections [~~10-9a-408~~]10-21-202 and [~~17-27a-408~~]17-80-202;

(viii) establish and maintain a database of moderate income housing units located within the state; and

(ix) on or before December 1, 2022, develop and submit to the Commission on Housing Affordability a methodology for determining whether a municipality or county is taking sufficient measures to protect and promote moderate income housing in accordance with the provisions of Sections [~~10-9a-403~~]10-21-201 and [~~17-27a-403~~]17-80-201; and

(b) within legislative appropriations, the division may accept for and on behalf of, and bind the state to, any federal housing or homeless program in which the state is invited, permitted, or authorized to participate in the distribution, disbursement, or administration of any funds or service advanced, offered, or contributed in whole or in part by the federal government.

(2) The administration of any federal housing program in which the state is invited, permitted, or authorized to participate in distribution, disbursement, or administration of funds or services, except those administered by the Utah Housing Corporation, is governed by Sections 35A-8-501 through 35A-8-508.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules describing the review process for moderate income housing reports described in Subsection (1)(a)(vii).

Section 176. Section 35A-8-804 is amended to read:

35A-8-804

(Effective 11/06/25)

. Technical assistance to political subdivisions for housing plan.

(1) Within appropriations from the Legislature, the division shall establish a program to assist municipalities to comply with the moderate income housing requirements described in Section [~~10-9a-403~~]10-21-201 and counties to comply with the moderate income housing requirements described in Section [~~17-27a-403~~]17-80-201.

(2) Assistance under this section may include:

(a) financial assistance for the cost of developing a plan for low and moderate income housing;

(b) information on how to meet present and prospective needs for low and moderate income housing; and

(c) technical advice and consultation on how to facilitate the creation of low and moderate income housing.

(3) The division shall submit an annual report to the department regarding the scope, amount, and type of assistance provided to municipalities and counties under this section, including the number of low and moderate income housing units constructed or rehabilitated within the state, for inclusion in the department's annual written report described in Section 35A-1-109.

Section 177. Section 38-9-102 is amended to read:

38-9-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Affected person" means:

(a) a person who is a record interest holder of the real property that is the subject of a recorded nonconsensual common law document; or

(b) the person against whom a recorded nonconsensual common law document purports to reflect or establish a claim or obligation.

(2) "Document sponsor" means a person who, personally or through a designee, signs or submits for recording a document that is, or is alleged to be, a nonconsensual common law document.

(3) "Interest holder" means a person who holds or possesses a present, lawful property interest in certain real property, including an owner, title holder, mortgagee, trustee, or beneficial owner.

(4) "Lien claimant" means a person claiming an interest in real property who offers a document for recording or filing with any county recorder in the state asserting a lien, or notice of interest, or other claim of interest in certain real property.

(5) "Nonconsensual common law document" means a document that is submitted to a county recorder's office for recording against public official property that:

(a) purports to create a lien or encumbrance on or a notice of interest in the real property;

(b) at the time the document is recorded, is not:

(i) expressly authorized by this chapter or a state or federal statute;

(ii) authorized by or contained in an order or judgment of a court of competent jurisdiction; or

(iii) signed by or expressly authorized by a document signed by the owner of the real property; and

(c) is submitted in relation to the public official's status or capacity as a public official.

(6) "Owner" means a person who has a vested ownership interest in real property.

(7) "Political subdivision" means a county, city, town, school district, special improvement or taxing district, special district, special service district, or other governmental subdivision or public corporation.

(8) "Public official" means:

(a) a current or former:

(i) member of the Legislature;

(ii) member of Congress;

(iii) judge;

(iv) member of law enforcement;

(v) corrections officer;

(vi) active member of the Utah State Bar; or

(vii) member of the Board of Pardons and Parole;

(b) an individual currently or previously appointed or elected to an elected position in:

(i) the executive branch of state or federal government; or

(ii) a political subdivision;

(c) an individual currently or previously appointed to or employed in a position in a political subdivision, or state or federal government that:

(i) is a policymaking position; or

(ii) involves:

(A) purchasing or contracting decisions;

(B) drafting legislation or making rules;

(C) determining rates or fees; or

(D) making adjudicative decisions; or

(d) an immediate family member of a person described in Subsections (8)(a) through (c).

(9) "Public official property" means real property that has at least one record interest holder who is a public official.

(10) (a) "Record interest holder" means a person who holds or possesses a present, lawful property interest in real property, including an owner, titleholder, mortgagee, trustee, or beneficial owner, and whose name and interest in that real property appears in the county recorder's records for the county in which the property is located.

(b) "Record interest holder" includes any grantor in the chain of the title in real property.

(11) "Record owner" means an owner whose name and ownership interest in certain real property is recorded or filed in the county recorder's records for the county in which the property is located.

(12) (a) "Wrongful lien" means any document that purports to create a lien, notice of interest, or encumbrance on an owner's interest in certain real property and at the time it is recorded is not:

(i) expressly authorized by this chapter or another state or federal statute;

(ii) authorized by or contained in an order or judgment of a court of competent jurisdiction in the state; or

(iii) signed by or authorized [~~pursuant to~~]in accordance with a document signed by the owner of the real property.

(b) "Wrongful lien" includes a document recorded in violation of Subsection [~~10-9a-532(2)(d)~~]10-20-508(2)(d).

Section 178. Section 53E-3-706 is amended to read:

53E-3-706

(Effective 11/06/25)

. Enforcement of part by state superintendent -- Employment of personnel -- School districts and charter schools -- Certificate of inspection verification.

(1) Notwithstanding Subsections (4), (5), and (6), the state superintendent shall enforce this part.

(2) The state superintendent may employ architects or other qualified personnel, or contract with the Division of Facilities Construction and Management, the state fire marshal, the state security chief appointed under Section 53-22-102, or a local governmental entity to:

(a) examine the plans and specifications of any school building or alteration submitted under this part;

(b) verify the inspection of any school building during or following construction; and

(c) perform other functions necessary to ensure compliance with this part.

(3) (a) If a local school board uses the school district's building inspector under Subsection [~~10-9a-305(6)(a)(ii)~~]10-20-304(6)(a)(ii) or [~~17-27a-305(6)(a)(ii)~~]17-79-305(6)(a)(ii) and issues its own certificate authorizing permanent occupancy of the school building, the local school board shall file a certificate of inspection verification with the local governmental entity's building official and the state board, advising those entities that the school district has complied with the inspection provisions of this part.

(b) If a charter school uses a school district building inspector under Subsection [~~10-9a-305(6)(a)(ii)~~]10-20-304(6)(a)(ii) or [~~17-27a-305(6)(a)(ii)~~]17-79-305(6)(a)(ii) and the school district issues to the charter school a certificate authorizing permanent occupancy of the school building, the charter school shall file with the state board a certificate of inspection verification.

(c) If a local school board or charter school uses a local governmental entity's building inspector under Subsection [~~10-9a-305(6)(a)(i)~~]10-20-304(6)(a)(i) or [~~17-27a-305(6)(a)(i)~~]17-79-305(6)(a)(i) and the local governmental entity issues the local school board or charter school a certificate authorizing permanent occupancy of the school building, the local school board or charter school shall file with the state board a certificate of inspection verification.

(d) (i) If a local school board or charter school uses an independent, certified building inspector under Subsection [~~10-9a-305(6)(a)(iii)~~]10-20-304(6)(a)(iii) or [~~17-27a-305(6)(a)(iii)~~]17-79-305(6)(a)(iii), the local school board or charter school shall, upon completion of all required inspections of the school building, file with the state board a certificate of inspection verification and a request for the issuance of a certificate authorizing permanent occupancy of the school building.

(ii) Upon the local school board's or charter school's filing of the certificate and request as provided in Subsection (3)(d)(i), the school district or charter school shall be entitled to temporary occupancy of the school building that is the subject of the request for a period of 90 days, beginning the date the request is filed, if the school district or charter school has complied with all applicable fire and life safety code requirements.

(iii) Within 30 days after the local school board or charter school files a request under Subsection (3)(d)(i) for a certificate authorizing permanent occupancy of the school building, the state superintendent shall:

(A) issue to the local school board or charter school a certificate authorizing permanent occupancy of the school building; or

(B) deliver to the local school board or charter school a written notice indicating deficiencies in the school district's or charter school's compliance with the inspection provisions of this part; and

(C) mail a copy of the certificate authorizing permanent occupancy or the notice of deficiency to the building official of the local governmental entity in which the school building is located.

(iv) Upon the local school board or charter school remedying the deficiencies indicated in the notice under Subsection (3)(d)(iii)(B) and notifying the state superintendent that the deficiencies have been remedied, the state superintendent shall issue a certificate authorizing permanent occupancy of the school building and mail a copy of the certificate to the building official of the local governmental entity in which the school building is located.

(v) (A) The state superintendent may charge the school district or charter school a fee for an inspection that the state superintendent considers necessary to enable the state superintendent to issue a certificate authorizing permanent occupancy of the school building.

(B) A fee under Subsection (3)(d)(v)(A) may not exceed the actual cost of performing the inspection.

(e) For purposes of this Subsection (3):

(i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and

(ii) "certificate of inspection verification" means a standard inspection form developed by the state superintendent in consultation with local school boards and charter schools to verify that inspections by qualified inspectors have occurred.

(4) The state security chief appointed under Section 53-22-102 shall establish:

(a) minimum safety and security standards for school construction and design projects, including buildings for private schools;

(b) a timeline for an LEA or private school to comply with the safety and security standards for school construction and design project requirements of this Subsection (4); and

(c) a process for an LEA or private school to seek alternative safety and security standards established under this Subsection (4).

(5) The county security chief appointed under Section 53-22-103 shall ensure a private school, local school district, or charter school shall adhere to all safety and security standards for a school construction or design project the state security chief creates.

(6) A building inspector described in this part shall coordinate with the relevant county security chief to ensure compliance described in Subsection (5) before issuing a certificate authorizing permanent occupancy for a school.

Section 179. Section 53E-3-710 is amended to read:

53E-3-710

(Effective 11/06/25)

. Notification to affected entities of intent to acquire school site or construction of school building -- Local government -- Negotiation of fees -- Confidentiality.

(1) (a) A school district or charter school shall notify the following without delay [~~prior to~~]before the acquisition of a school site or construction of a school building of the school district's or charter school's intent to acquire or construct:

(i) an affected local governmental entity;

(ii) the Department of Transportation; and

(iii) as defined in Section 54-2-1, an electrical corporation, gas corporation, or telephone corporation that provides service or maintains infrastructure within the immediate area of the proposed site.

(b) (i) Representatives of the local governmental entity, Department of Transportation, and the school district or charter school shall meet as soon as possible after the notification under Subsection (1)(a) takes place in order to:

(A) subject to Subsection (1)(b)(ii), review information provided by the school district or charter school about the proposed acquisition;

(B) discuss concerns that each may have, including potential community impacts and site safety;

(C) assess the availability of infrastructure for the site; and

(D) discuss any fees that might be charged by the local governmental entity in connection with a building project.

(ii) The school district or charter school shall provide for review under Subsection (1)(b)(i) the following information, if available, regarding the proposed acquisition:

(A) potential community impacts;

(B) approximate lot size;

(C) approximate building size and use;

(D) estimated student enrollment;

(E) proposals for ingress and egress, parking, and fire lane location; and

(F) building footprint and location.

(2) (a) After the purchase or an acquisition, but before construction begins:

(i) representatives of the local governmental entity and the school district or charter school shall meet as soon as possible to review a rough proposed site plan provided by the school district or charter school, review the information listed in Subsection (1)(b)(ii), and negotiate any fees that might be charged by the local governmental entity in connection with a building project;

(ii) (A) the school district or charter school shall submit the rough proposed site plan to the local governmental entity's design review committee for comments; and

(B) subject to the priority requirement of Subsection [~~10-9a-305(7)(b)~~]10-20-304(7)(b), the local governmental entity's design review committee shall provide comments on the rough proposed site plan to the school district or charter school no later than 30 days after the day that the plan is submitted to the design review committee in accordance with this Subsection (2)(a)(ii); and

(iii) the local governmental entity may require that the school district or charter school provide a traffic study by an independent third party qualified to perform the study if the local governmental entity determines that traffic flow, congestion, or other traffic concerns may require the study if otherwise permitted under Subsection [~~10-9a-305(3)(b)~~]10-20-304(3)(b).

(b) A review conducted by or comment provided by a local governmental entity design review committee under Subsection (2)(a) may not be interpreted as an action that completes a land use application for the purpose of entitling the school district or charter school to a substantive land use review of a land use application under Section [~~10-9a-509~~]10-20-902 or [~~17-27a-508~~]17-79-803.

(3) A local governmental entity may not increase a previously agreed-upon fee after the district or charter school has signed contracts to begin construction.

(4) [~~Prior to~~]Before the filing of a formal application by the affected school district or charter school, a local governmental entity may not disclose information obtained from a school district or charter school regarding the district's or charter school's consideration of, or intent to, acquire a school site or construct a school building, without first obtaining the consent of the district or charter school.

(5) [~~Prior to~~]Before beginning construction on a school site, a school district or charter school shall submit to the Department of Transportation a child access routing plan as described in Section 53G-4-402.

Section 180. Section 54-18-102 is amended to read:

54-18-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Affected entity" means [~~an entity as~~]the same as that term is defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102.

(2) "Affected landowner" means an owner of a property interest, as reflected in the most recent county or city tax records as receiving a property tax notice, whose property is located within a proposed corridor.

(3) (a) "Construction" means the excavation, construction, and installation of a high voltage electric power line or upgraded high voltage transmission line.

(b) "Construction" does not include:

(i) the temporary use of sites; or

(ii) studies and tests for:

(A) requirements of this chapter;

(B) state regulations;

(C) federal regulations;

(D) securing geological and survey data; or

(E) any other actions taken by a public utility reasonably necessary to determine the location of a target study area or proposed corridor.

(4) "High voltage power line" means:

(a) an electrical high voltage power line with a nominal voltage of 230 kilovolts or more; and

(b) an upgraded high voltage power line.

(5) "Land use application" has the same meaning as provided in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102.

(6) "Land use authority" has the same meaning as provided in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102.

(7) "Land use permit" has the same meaning as Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102.

(8) "Legislative body" has the same meaning as provided in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102.

(9) "Proposed corridor" means the transmission line route within a target study area selected by the public utility as the public utility's proposed alignment for a high voltage power line.

(10) "Proposed route" means the right-of-way needed for construction of the high voltage power line.

(11) "Public utility" has the same meaning as provided in Section 54-2-1.

(12) "Target study area" means the geographic area for a new high voltage transmission line or an upgraded high voltage power line as proposed by a public utility.

(13) "Upgraded high voltage power line" means increasing the voltage of an existing transmission line to 230 kilovolts or more.

Section 181. Section 54-18-303 is amended to read:

54-18-303

(Effective 11/06/25)

. Application for land use permit.

(1) Before a public utility may file a land use application for a proposed high voltage power line, the public utility shall, in accordance with Subsection (2), identify a proposed corridor in the public utility's land use application after:

(a) providing a notice of intent in accordance with Section 54-18-301; and

(b) conducting the public workshops in accordance with Section 54-18-302.

(2) If a public utility files a land use application for a high voltage power line, the public utility shall comply with the land use application requirements created by a legislative body and land use authority in accordance with [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act, and [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act.

(3) A local government may request cost information for modifications to the utility's proposed corridor in accordance with the provisions of Title 54, Chapter 14, Utility Facility Review Board Act.

Section 182. Section 54-18-304 is amended to read:

54-18-304

(Effective 11/06/25)

. Review of land use application.

(1) (a) A land use authority shall grant or deny a public utility's land use permit within 60 days after filing in accordance with the provisions of [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act, and [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act.

(b) The Utility Facility Review Board may review a land use authority's land use permit decision in accordance with Title 54, Chapter 14, Part 3, Utility Facility Review Board.

(2) Notwithstanding Subsection (1), if a public utility does not satisfy the notice of intent requirements in accordance with Section 54-18-301 and public workshop requirements in accordance with Section 54-18-302, a land use authority may withhold a decision on a public utility's land use permit until the public utility satisfies the notification and public workshop requirements.

Section 183. Section 54-21-101 is amended to read:

54-21-101

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Antenna" means communications equipment that transmits or receives an electromagnetic radio frequency signal used in the provision of a wireless service.

(2) "Applicable codes" means the International Building Code, the International Fire Code, the National Electrical Code, the International Plumbing Code, and the International Mechanical Code, as adopted and amended under Title 15A, State Construction and Fire Codes Act.

(3) "Applicable standards" means the structural standards for antenna supporting structures and antenna, known as ANSI/TIA-222, from the American National Standards Institute and the Telecommunications Industry Association.

(4) "Applicant" means a wireless provider who submits an application.

(5) "Application" means a request submitted by a wireless provider to an authority for a permit to:

(a) collocate a small wireless facility in a right-of-way; or

(b) install, modify, or replace a utility pole or a wireless support structure.

(6) (a) "Authority" means:

(i) the state;

(ii) a state agency;

(iii) a county;

(iv) a municipality;

(v) a town;

(vi) a metrotownship;

(vii) a subdivision of an entity described in Subsections (6)(a)(i) through (vi); or

(viii) a special district or entity established to provide a single public service within a specific geographic area, including:

(A) a public utility district; or

(B) an irrigation district.

(b) "Authority" does not include a state court having jurisdiction over an authority.

(7) "Authority pole" means a utility pole owned, managed, or operated by, or on behalf of, an authority.

(8) "Authority wireless support structure" means a wireless support structure owned, managed, or operated by, or on behalf of, an authority.

(9) "Category one authority" means a single authority with a population of 65,000 or greater.

(10) "Category two authority" means a single authority with a population of less than 65,000.

(11) "Collocate" means to install, mount, maintain, modify, operate, or replace a small wireless facility:

(a) on a wireless support structure or utility pole; or

(b) for ground-mounted equipment, adjacent to a wireless support structure or utility pole.

(12) "Communications service" means:

(a) a cable service, as defined in 47 U.S.C. Sec. 522(6);

(b) a telecommunications service, as defined in 47 U.S.C. Sec. 153(53);

(c) an information service, as defined in 47 U.S.C. Sec. 153(24); or

(d) a wireless service.

(13) "Communications service provider" means:

(a) a cable operator, as defined in 47 U.S.C. Sec. 522(5);

(b) a provider of information service, as information service is defined in 47 U.S.C. Sec. 153(24);

(c) a telecommunications carrier, as defined in 47 U.S.C. Sec. 153(51); or

(d) a wireless provider.

(14) "Decorative pole" means an authority pole:

(a) that is specially designed and placed for an aesthetic purpose; and

(b) (i) on which a nondiscriminatory rule or code prohibits an appurtenance or attachment, other than:

(A) a small wireless facility;

(B) a specialty designed informational or directional sign; or

(C) a temporary holiday or special event attachment; or

(ii) on which no appurtenance or attachment has been placed, other than:

(A) a small wireless facility;

(B) a specialty designed informational or directional sign; or

(C) a temporary holiday or special event attachment.

(15) "Design district" means an area:

(a) that is zoned or otherwise designated by municipal ordinance or code; and

(b) for which the authority maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

(16) "FCC" means the Federal Communications Commission of the United States.

(17) "Fee" means a one-time, nonrecurring charge.

(18) "Gross revenue" means the same as gross receipts from telecommunications service is defined in Section 10-1-402.

(19) "Historic district" means a group of buildings, properties, or sites that are:

(a) in accordance with 47 C.F.R. Part 1, Appendix C:

(i) listed in the National Register of Historic Places; or

(ii) formally determined eligible for listing in the National Register of Historic Places by the Keeper of the National Register; or

(b) in an historic district or area created under Section [~~10-9a-503~~]10-20-601.

(20) "Nondiscriminatory" means treating similarly situated entities the same absent a reasonable, and competitively neutral basis, for

different treatment.

(21) "Micro wireless facility" means a type of small wireless facility:

(a) that, not including any antenna, is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height;

(b) on which any exterior antenna is no longer than 11 inches; and

(c) that only provides Wi-Fi service.

(22) "Permit" means a written authorization an authority requires for a wireless provider to perform an action or initiate, continue, or complete a project.

(23) "Rate" means a recurring charge.

(24) (a) "Right-of-way" means the area on, below, or above a public:

(i) roadway;

(ii) highway;

(iii) street;

(iv) sidewalk;

(v) alley; or

(vi) property similar to property listed in Subsections (24)(a)(i) through (v).

(b) "Right-of-way" does not include:

(i) the area on, below, or above a federal interstate highway; or

(ii) a fixed guideway, as defined in Section 59-12-102.

(25) "Small wireless facility" means a type of wireless facility:

(a) on which each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and

(b) for which all wireless equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet in volume, not including any:

(i) electric meter;

(ii) concealment element;

(iii) telecommunications demarcation box;

(iv) grounding equipment;

(v) power transfer switch;

(vi) cut-off switch;

(vii) vertical cable run for the connection of power or other service;

(viii) wireless provider antenna; or

(ix) coaxial or fiber-optic cable that is immediately adjacent to or directly associated with a particular collocation, unless the cable is a wireline backhaul facility.

(26) "Substantial modification" means:

(a) a proposed modification or replacement to an existing wireless support structure that will substantially change the physical dimensions of the wireless support structure under the substantial change standard established in 47 C.F.R. Sec. 1.40001(7); or

(b) a proposed modification in excess of the site dimensions specified in 47 C.F.R. Part 1, Appendix C, Sec. III.B.

(27) "Technically feasible" means that by virtue of engineering or spectrum usage, the proposed placement for a small wireless facility, or the small wireless facility's design or site location, can be implemented without a significant reduction or impairment to the functionality of the small wireless facility.

(28) (a) "Utility pole" means a pole or similar structure that:

(i) is in a right-of-way; and

(ii) is or may be used, in whole or in part, for:

(A) wireline communications;

(B) electric distribution;

(C) lighting;

(D) traffic control;

(E) signage;

(F) a similar function to a function described in Subsections (28)(a)(ii)(A) through (E); or

(G) the collocation of a small wireless facility.

(b) "Utility pole" does not include:

(i) a wireless support structure;

(ii) a structure that supports electric transmission lines; or

(iii) a municipally owned structure that supports electric lines used for the provision of municipal electric service.

(29) (a) "Wireless facility" means equipment at a fixed location that enables wireless communication between user equipment and a communications network, including:

(i) equipment associated with wireless communications; and

(ii) regardless of the technological configuration, a radio transceiver, an antenna, a coaxial or fiber-optic cable, a regular or backup power supply, or comparable equipment.

(b) "Wireless facility" does not include:

(i) the structure or an improvement on, under, or within which the equipment is collocated; or

(ii) a coaxial or fiber-optic cable that is:

(A) between wireless structures or utility poles;

(B) not immediately adjacent to or directly associated with a particular antenna; or

(C) a wireline backhaul facility.

(30) (a) "Wireless infrastructure provider" means a person that builds or installs wireless communication transmission equipment, a wireless facility, or a wireless support structure.

(b) "Wireless infrastructure provider" includes a person authorized to provide a telecommunications service in the state.

(c) "Wireless infrastructure provider" does not include a wireless service provider.

(31) "Wireless provider" means a wireless infrastructure provider or a wireless service provider.

(32) (a) "Wireless service" means any service using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public using a wireless facility.

(b) "Wireless service" includes the use of Wi-Fi.

(33) "Wireless service provider" means a person who provides a wireless service.

(34) (a) "Wireless support structure" means an existing or proposed structure that is:

(i) in a right-of-way; and

(ii) designed to support or capable of supporting a wireless facility, including a:

(A) monopole;

(B) tower, either guyed or self-supporting;

(C) billboard; or

(D) building.

(b) "Wireless support structure" does not include a:

(i) structure designed solely for the collocation of a small wireless facility;

(ii) utility pole;

(iii) municipally owned structure that supports electric lines used for the provision of municipal electric service; or

(iv) structure owned by an energy services interlocal entity, as described in Subsection 11-13-203(4), that uses electric lines that are used for the provision of electrical service.

(35) "Wireline backhaul facility" means a facility used to transport communications by wire from a wireless facility to a communications network.

(36) (a) "Written" or "in writing" means a tangible or electronic record of a communication or representation.

(b) "Written" or "in writing" includes a communication or representation that is handwritten, typewritten, printed, photostated, photographed, or electronic.

Section 184. Section 54-21-208 is amended to read:

54-21-208

(Effective 11/06/25)

. Historic and design districts.

(1) Subject to the permit process described in Section 54-21-302, an authority may require a reasonable, technically feasible, nondiscriminatory, or technologically neutral design or concealment measure in an historic district, unless the facility is excluded from evaluation for effects on historic properties under 47 C.F.R. Sec. 1.1307(a)(4).

(2) A design or concealment measure described in Subsection (1) may not:

(a) have the effect of prohibiting a provider's technology; or

(b) be considered a part of the small wireless facility for purposes of the size parameters in the definition of a small wireless facility.

(3) (a) A wireless provider shall obtain advance approval from an authority before collocating a new small wireless facility or installing a new utility pole in an area that is zoned or otherwise designated as an historic district or a design district.

(b) As a condition for approval of a new small wireless facility or a new utility pole in an historic district or a design district, an authority may require reasonable design or concealment measures for the new small wireless facility or the new utility pole.

(4) A wireless provider shall comply with an authority's reasonable and nondiscriminatory design and aesthetic standards requiring the use of certain camouflage measures in connection with a new small wireless facility in an historic district or a design district, if the camouflage measures are technically and economically feasible consistent with this chapter.

(5) This section does not limit an authority's ability to enforce historic preservation zoning regulations consistent with:

(a) the preservation of local zoning authority under 47 U.S.C. Sec. 332(c)(7);

(b) the requirements for facility modifications under:

(i) 47 U.S.C. Sec. 1455(a); or

(ii) the National Historic Preservation Act of 1966, 16 U.S.C. Sec. 470 et seq.;

(c) the regulations adopted to implement the laws described in Subsections (5)(a) and (b); and

(d) Section [~~10-9a-503~~]10-20-601.

Section 185. Section 57-1-45.5 is amended to read:

57-1-45.5

(Effective 11/06/25)

. Conveyance document for a boundary adjustment -- Form and effect.

(1) A conveyance document, as defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102, for a boundary adjustment shall comply with this section.

(2) A conveyance document shall include:

(a) the name and signature of each party to the conveyance document;

(b) the address of each party to the conveyance document for assessment purposes;

(c) a legal description of the parcel or lot owned by each party before the boundary adjustment;

(d) a legal description of the parcel or lot owned by each party after the boundary adjustment; and

(e) sufficient language to convey title from one party to another party, in conformity with the proposed boundary adjustment.

(3) In addition to the information required in Subsection (2), a conveyance document shall include as an exhibit, in a legible and recordable format:

(a) a visual or graphic of the proposed boundary adjustment and all properties affected by the proposed boundary adjustment, depicting:

(i) the former boundary location;

(ii) the new boundary location; and

(iii) the size, shape, and dimensions of each adjusted parcel or lot;

(b) if the property owners have conducted a survey, a reference to the record of the survey map, as defined in Section [~~17-23-17~~]17-73-504, showing:

(i) existing dwellings, outbuildings, improvements, and other physical features;

(ii) existing easements, rights-of-way, conditions, or restrictions recorded or apparent;

(iii) the former boundary location;

(iv) the new boundary location;

(v) the size, shape, and dimensions of each adjusted lot or adjusted parcel; and

(vi) other existing or proposed improvements that impact or are subject to land use regulations; and

(c) if the conveyance document addresses a boundary adjustment that requires an amendment to a subdivision plat under Section [~~10-9a-523~~]10-20-906 or [~~17-27a-522~~]17-79-806, the amendment to the subdivision plat.

(4) (a) A conveyance document is effective on the day it is recorded as part of a boundary adjustment.

(b) Before recording a conveyance document, a county recorder shall confirm that the conveyance document is:

(i) in a legible and recordable format, including any exhibit to the conveyance document; and

(ii) accompanied by a notice of consent to the boundary adjustment from a land use authority under Subsection [~~10-9a-523(3)~~]10-20-906(3) or (6) or Subsection [~~17-27a-522(3)~~]17-79-806(3) or (6).

(c) Upon receipt of a conveyance document, or any exhibit to a conveyance document, that is not in a legible and recordable format, a county recorder shall provide the person submitting the conveyance document with an explanation of the corrections necessary to record the conveyance document.

(5) The recording of a boundary adjustment presumptively:

(a) relocates an existing boundary by creating a new boundary between the adjoining properties;

(b) changes the size, shape, or configuration of two or more adjoining lots or parcels;

(c) does not affect any previously recorded easement unless the easement is expressly and properly modified by the boundary adjustment; and

(d) affixes the ownership of the adjoining parties to the adjusted boundary.

Section 186. Section 57-3-101 is amended to read:

57-3-101

(Effective 11/06/25)

. Certificate of acknowledgment, proof of execution, jurat, or other certificate required -- Notarial acts affecting real property -- Right to record documents unaffected by subdivision ordinances.

(1) A certificate of the acknowledgment of any document, or of the proof of the execution of any document, or a jurat as defined in Section 46-1-2, or other notarial certificate containing the words "subscribed and sworn" or their substantial equivalent, that is signed and certified by the officer taking the acknowledgment, proof, or jurat, as provided in this title, entitles the document and the certificate to be recorded in the office of the recorder of the county where the real property is located.

(2) Notarial acts affecting real property in this state shall also be performed in conformance with Title 46, Chapter 1, Notaries Public Reform Act.

(3) Nothing in the provisions of [~~Title 10, Chapter 9a, Part 6, Subdivisions~~]Title 10, Chapter 20, Part 8, Subdivisions, and [~~Title 17, Chapter 27a, Part 6, Subdivisions~~]Title 17, Chapter 79, Part 7, Subdivisions, shall prohibit the recording of a document which is otherwise entitled to be recorded under the provisions of this chapter.

Section 187. Section 57-8-4.5 is amended to read:

57-8-4.5

(Effective 11/06/25)

. Removing or altering partition or creating aperture between adjoining units.

(1) Subject to the declaration, a unit owner may, after acquiring an adjoining unit that shares a common wall with the unit owner's unit:

(a) remove or alter a partition between the unit owner's unit and the acquired unit, even if the partition is entirely or partly common areas and facilities; or

(b) create an aperture to the adjoining unit or portion of a unit.

(2) A unit owner may not take an action under Subsection (1) if the action would:

(a) impair the structural integrity or mechanical systems of the building or either unit;

(b) reduce the support of any portion of the common areas and facilities or another unit; or

(c) constitute a violation of Section [~~10-9a-608~~]10-20-811 or [~~17-27a-608~~]17-79-711, as applicable, a local government land use ordinance, or a building code.

(3) The management committee may require a unit owner to submit, at the unit owner's expense, a registered professional engineer's or registered architect's opinion stating that a proposed change to the unit owner's unit will not:

(a) impair the structural integrity or mechanical systems of the building or either unit;

(b) reduce the support or integrity of common areas and facilities; or

(c) compromise structural components.

(4) The management committee may require a unit owner to pay all of the legal and other expenses of the association of unit owners related to a proposed alteration to the unit or building under this section.

(5) An action under Subsection (1) does not change an assessment or voting right attributable to the unit owner's unit or the acquired unit, unless the declaration provides otherwise.

Section 188. Section 57-8-32 is amended to read:

57-8-32

(Effective 11/06/25)

. Sale of property and common areas and facilities.

(1) Subject to Subsection [~~10-9a-606(5)~~]10-20-809(5) or [~~17-27a-606(5)~~]17-79-709(5), unless otherwise provided in the declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and 57-8-31, the unit owners may by an affirmative vote of at least 67% of unit owners, elect to sell, convey, transfer, or otherwise dispose of the property or all or part of the common areas and facilities.

(2) An affirmative vote described in Subsection (1) is binding upon all unit owners, and each unit owner shall execute and deliver the appropriate instruments and perform all acts as necessary to affect the sale, conveyance, transfer, or other disposition of the property or common areas and facilities.

(3) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and unit owners through recorded governing documents is extinguished in any portion of the common areas and facilities the unit owners sell, convey, transfer, or otherwise dispose of, if:

(a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the portion of the common areas and facilities, comply with:

(i) the provisions of this section; and

(ii) Section [~~10-9a-606~~]10-20-809 or [~~17-27a-606~~]17-79-709; and

(b) the sale, conveyance, transfer, or other disposition of the portion of the common areas and facilities results in a person other than the association owning the portion of the common areas and facilities.

(4) This section applies to an association of unit owners regardless of when the association of unit owners is created.

(5) A declarant may not sell any part of the common areas and facilities during the period of administrative control, except:

(a) as allowed for convertible land or convertible space within a condominium project; or

(b) as provided in Section [~~10-9a-606~~]10-20-809 or [~~17-27a-606~~]17-79-709.

(6) Unless otherwise prohibited by the association's declaration or bylaws, an authorized representative of the association may act as attorney-in-fact for the association's unit owners in executing a sale, conveyance, transfer, or other disposition of the common areas and facilities following an affirmative vote described in Subsection (1).

Section 189. Section 57-8-35 is amended to read:

57-8-35

(Effective 11/06/25)

. Effect of other laws -- Compliance with ordinances and codes -- Approval of projects by municipality or county.

(1) The provisions of this chapter shall be in addition and supplemental to all other provisions of law, statutory or judicially declared, provided that wherever the application of the provisions of this chapter conflict with the application of such other provisions, this chapter shall prevail: provided further, for purposes of Sections [~~10-9a-604~~]10-20-804, [~~10-9a-611~~]10-20-815, and [~~17-27a-603~~]17-79-703 and provisions of similar import and any law or ordinance adopted pursuant thereto, a condominium project shall be considered to be a subdivision, and a condominium plat or supplement thereto prepared [~~pursuant to~~]in accordance with this chapter shall be considered to be a subdivision map or plat, only with respect to:

(a) such real property or improvements, if any, as are intended to be dedicated to the use of the public in connection with the creation of the condominium project or portion thereof concerned; and

(b) those units, if any, included in the condominium project or portion thereof concerned which are not contained in existing or proposed buildings.

(2) Nothing in this chapter shall be interpreted to state or imply that a condominium project, unit, association or unit owners, or management committee is exempt by this chapter from compliance with the zoning ordinance, building and sanitary codes, and similar development regulations which have been adopted by a municipality or county. No condominium project or any use within said project or any unit or parcel or parcel of land indicated as a separate unit or any structure within said project shall be permitted which is not in compliance with said ordinances and codes.

(3) From and after the time a municipality or county shall have established a planning commission, no condominium project or any condominium plat, declaration, or other material as required for recordation under this chapter shall be recorded in the office of the county recorder unless and until the following mentioned attributes of said condominium project shall have been approved by the municipality or county in which it is located. In order to more fully avail itself of this power, the legislative body of a municipality or county may provide by ordinance for the approval of condominium projects proposed within its limits. This ordinance may include and shall be limited to a procedure for approval of condominium projects, the standards and the criteria for the geographical layout of a condominium project, facilities for utility lines and roads which shall be constructed, the percentage of the project which must be devoted to common or recreational use, and the content of the declaration with respect to the standards which must be adhered to concerning maintenance, upkeep, and operation of any roads, utility facilities, recreational areas, and open spaces included in the project.

(4) Any ordinance adopted by the legislative body of a municipality or county which outlines the procedures for approval of a condominium project shall provide for:

(a) a preliminary approval, which, among other things, will then authorize the developer of the condominium project to proceed with the project; and

(b) a final approval which will certify that all of the requirements set forth in the preliminary approval either have been accomplished or have been assured of accomplishment by bond or other appropriate means. No declaration or condominium plat shall be recorded in the office of the county recorder until a final approval has been granted.

Section 190. Section 57-8a-102 is amended to read:
57-8a-102
(Effective 11/06/25)
. Definitions.

As used in this chapter:

(1) (a) "Assessment" means a charge imposed or levied:

(i) by the association;

(ii) on or against a lot or a lot owner; and

(iii) [~~pursuant to~~]in accordance with a governing document recorded with the county recorder.

(b) "Assessment" includes:

(i) a common expense; and

(ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

(2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:

(i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and

(ii) by virtue of membership or ownership of a residential lot is obligated to pay:

(A) real property taxes;

(B) insurance premiums;

(C) maintenance costs; or

(D) for improvement of real property not owned by the member.

(b) "Association" or "homeowner association" does not include an association created under Chapter 8, Condominium Ownership Act.

(3) "Board meeting" means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.

(4) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.

(5) "Common areas" means property that the association:

(a) owns;

(b) maintains;

(c) repairs; or

(d) administers.

(6) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.

(7) "Declarant":

(a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and

(b) includes the person's successor and assign.

(8) "Development right" means any right or combination of rights a declarant reserves in the declaration to:

(a) add real estate to an association;

(b) create lots, common elements, or limited common elements within an association;

(c) subdivide lots or convert lots into common elements; or

(d) withdraw real estate from an association.

(9) "Director" means a member of the board of directors.

(10) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

(11) "Gas corporation" means the same as that term is defined in Section 54-2-1.

(12) (a) "Governing documents" means a written instrument by which the association may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.

(b) "Governing documents" includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association.

(13) "Independent third party" means a person that:

(a) is not related to the owner of the residential lot;

(b) shares no pecuniary interests with the owner of the residential lot; and

(c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.

(14) "Judicial foreclosure" means a foreclosure of a lot:

(a) for the nonpayment of an assessment;

(b) in the manner provided by law for the foreclosure of a mortgage on real property; and

(c) as provided in Part 3, Collection of Assessments.

(15) "Lease" or "leasing" means regular, exclusive occupancy of a lot:

(a) by a person or persons other than the owner; and

(b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

(16) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

(17) "Lot" means:

(a) a lot, parcel, plot, or other division of land:

(i) designated for separate ownership or occupancy; and

(ii) (A) shown on a recorded subdivision plat; or

(B) the boundaries of which are described in a recorded governing document; or

(b) (i) a unit in a condominium association if the condominium association is a part of a development; or

(ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.

(18) (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.

(b) "Means of electronic communication" includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

(19) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.

(20) "Nonjudicial foreclosure" means the sale of a lot:

(a) for the nonpayment of an assessment;

(b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(c) as provided in Part 3, Collection of Assessments.

(21) "Period of administrative control" means the period during which the person who filed the association's governing documents or the person's successor in interest retains authority to:

(a) appoint or remove members of the association's board of directors; or

(b) exercise power or authority assigned to the association under the association's governing documents.

(22) "Political sign" means any sign or document that advocates:

(a) the election or defeat of a candidate for public office; or

(b) the approval or defeat of a ballot proposition.

(23) "Protected area" means the same as that term is defined in Section 77-27-21.7.

(24) "Rentals" or "rental lot" means:

(a) a lot that:

(i) is not owned by an entity or trust; and

(ii) is occupied by an individual while the lot owner is not occupying the lot as the lot owner's primary residence;

(b) an occupied lot owned by an entity or trust, regardless of who occupies the lot; or

(c) an internal accessory dwelling unit as defined in Section [~~10-9a-530~~]10-21-101 or [~~17-27a-526~~]17-80-101.

(25) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.

(26) (a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association that:

(i) is not set forth in a contract, easement, article of incorporation, bylaw, or declaration; and

(ii) governs:

(A) the conduct of persons; or

(B) the use, quality, type, design, or appearance of real property or personal property.

(b) "Rule" does not include the internal business operating procedures of a board.

(27) "Sex offender" means an individual who is a sex offender as described in Subsection 53-29-202(2)(b) if the offense that the individual committed that resulted in the individual being a sex offender was committed against an individual younger than 18 years old.

(28) "Solar energy system" means:

(a) a system that is used to produce electric energy from sunlight; and

(b) the components of the system described in Subsection (28)(a).

Section 191. Section 57-8a-209 is amended to read:

57-8a-209

(Effective 11/06/25)

. Rental restrictions.

(1) (a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:

(i) create restrictions on the number and term of rentals in an association; or

(ii) prohibit rentals in the association.

(b) Except as provided in Subsection (1)(c), an association that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.

(c) An association may establish, by rule, a minimum lease term of six months or less.

(2) If an association prohibits or imposes a restriction on the number and term of rentals or charges a fee described in Subsection (9)(c),

the association shall:

(a) exempt the following from the prohibition, restriction, or fee:

(i) a lot owner in the military for the period of the lot owner's deployment;

(ii) a lot occupied by a lot owner's parent, child, or sibling;

(iii) a lot owner whose employer has relocated the lot owner for two years or less;

(iv) a lot owned by an entity that is occupied by an individual who:

(A) has voting rights under the entity's organizing documents; and

(B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:

(A) the estate of a current resident of the lot; or

(B) the parent, child, or sibling of the current resident of the lot;

(b) allow a lot owner who has a rental in the association before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the association is located to continue renting without a fee described in Subsection (9)(c) until:

(i) the lot owner occupies the lot;

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; or

(iii) the lot is transferred; and

(c) create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of any rental prohibition, restriction, or fee.

(3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a lot by deed;

(b) the granting of a life estate in the lot; or

(c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(4) This section does not limit or affect residency age requirements for an association that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).

(6) (a) Subsections (1) through (5) do not apply to:

(i) an association that contains a time period unit as defined in Section 57-8-3;

(ii) any other form of timeshare interest as defined in Section 57-19-2; or

(iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or after May 12, 2015, the association:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

(b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).

(7) Notwithstanding this section, an association may restrict or prohibit rentals without an exception described in Subsection (2) if:

(a) the restriction or prohibition receives unanimous approval by all lot owners; and

(b) when the restriction or prohibition requires an amendment to the association's recorded declaration of covenants, conditions, and restrictions, the association fulfills all other requirements for amending the recorded declaration of covenants, conditions, and restrictions described in the association's governing documents.

(8) Except as provided in Subsection (9), an association may not require a lot owner who owns a rental lot to:

(a) obtain the association's approval of a prospective renter;

(b) give the association:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age;

(c) pay an additional assessment, fine, or fee because the lot is a rental lot;

(d) use a lease agreement provided by the association; or

(e) obtain the association's approval of a lease agreement.

(9) (a) A lot owner who owns a rental lot shall give an association the documents described in Subsection (8)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (8)(b), if:

(i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and

(ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.

(c) An association that permits at least 35% of the lots in the association to be rental lots may charge a lot owner who owns a rental

lot a fee of up to $200 once every 12 months to defray the association's additional administrative expenses directly related to a lot that is a rental lot, as detailed in a notice described in Subsection (12).

(d) An association may require a lot owner who owns a rental lot and the renter of the lot owner's rental lot to sign an addendum to a lease agreement provided by the association.

(e) Before an association may charge a fee described in Subsection (9)(c), an association shall:

(i) provide notice to each lot owner in the association of a board meeting described in Subsection (9)(e)(ii) 15 days before the day on which the association holds the board meeting;

(ii) hold a board meeting to discuss and allow lot members to publicly comment on:

(A) the new administrative expenses that the association intends to cover using the funds from the fee; and

(B) the circumstances that require the association to impose or increase the fee; and

(iii) ensure that during the board meeting described in Subsection (9)(e)(ii), the board approves the fee by a majority vote.

(10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the rental of an internal accessory dwelling unit, as defined in Section [~~10-9a-530~~]10-21-101 or [~~17-27a-526~~]17-80-101, constructed within a lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:

(a) land use ordinances;

(b) building codes;

(c) health codes; and

(d) fire codes.

(11) The provisions of Subsections (8) through (10) apply to an association regardless of when the association is created.

(12) Within 30 days after the day on which the association imposes a fee described in Subsection (9)(c), an association shall provide to each lot owner impacted by the fee a notice describing:

(a) the new administrative expenses that the association intends to cover using the funds from the fee; and

(b) the circumstances that require the association to impose or increase the fee.

(13) (a) A lot owner may contest a fee described in Subsection (9)(c) by providing to the association a written request that the association waive the fee if:

(i) the association fails to provide the notice described in Subsection (12) within 30 days after the day on which the association imposes the fee; or

(ii) the notice the association provides to the lot owner does not contain the information required in Subsection (12).

(b) If a lot owner contests a fee under this Subsection (13) by submitting a written request, an association of lot owners shall waive the fee if:

(i) the association does not provide the notice described in Subsection (12) to the lot owner; or

(ii) a notice provided by the association does not contain the information required in Subsection (12).

(14) (a) A lot owner of a rental lot may designate, in a written notice to the association, a primary contact individual who is not the lot owner with whom the association may communicate as though the primary contact individual is the lot owner.

(b) If a lot owner designates a primary contact individual under this Subsection (14), the association shall provide the lot owner a written notice that confirms the association has changed the association's records to identify the primary contact individual designated by the lot owner.

Section 192. Section 57-8a-218 is amended to read:

57-8a-218

(Effective 11/06/25)

. Equal treatment by rules required -- Limits on association rules and design criteria.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) A rule may:

(i) vary according to the level and type of service that the association provides to lot owners;

(ii) differ between residential and nonresidential uses; and

(iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

(2) (a) Except as provided in Subsection (2)(b), if a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) A rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

(A) charge a rental lot owner a fee to use the common areas; or

(B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) Except as provided in Subsection (3)(b), a rule may not abridge the rights of a lot owner to display a religious or holiday sign, symbol, or decoration on:

(i) a lot;

(ii) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation

for, the exterior; or

(iii) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the yard.

(b) The association may adopt a reasonable time, place, and manner restriction with respect to a display that is:

(i) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling; or

(C) the front yard of the dwelling; and

(ii) visible from outside the lot.

(4) (a) A rule may not prohibit a lot owner from displaying a political sign or flag on:

(i) a lot;

(ii) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(iii) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) Except as provided in Subsection (4)(c), a rule may not regulate the content of a political sign or flag.

(c) A rule may restrict a political sign or flag that contains obscene, profane, or commercial content.

(d) A rule may reasonably regulate the time, place, and manner of posting a political sign or flag.

(e) An association design provision may not establish design criteria for a political sign or flag.

(5) (a) A rule may not prohibit a lot owner from displaying a for-sale sign on:

(i) a lot;

(ii) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(iii) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) A rule may reasonably regulate the time, place, and manner of posting a for-sale sign.

(6) (a) Except as provided in Subsection (6)(b), a rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) An association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(7) (a) Except as provided in Subsection (7)(b), a rule may not interfere with a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances.

(b) A rule may prohibit an activity within the confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii) (A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible to an individual standing outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection (7)(b) that affect the use of or behavior inside the dwelling.

(8) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) An association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection (8) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

(9) A rule may not:

(a) prohibit the transfer of a lot; or

(b) require the consent of the association or board to transfer a lot.

(10) (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection (10)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (10)(a).

(11) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

(12) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

(13) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

(14) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(15) (a) For any area for which one or more lot owners, but not the association, are responsible for landscape maintenance of any landscaping within the lot owner's lot or the common areas, the association shall adopt rules supporting water wise landscaping as defined in Section 57-8a-231 including:

(i) low water use requirements on lawns during drought conditions;

(ii) design criterion for water wise landscaping; and

(iii) limiting permissible plant material to specific water wise plant material.

(b) A rule may not:

(i) prohibit or restrict the conversion of a grass park strip to water wise landscaping as defined in Section 57-8a-231; or

(ii) prohibit low water use on lawns during drought conditions.

(16) (a) Except as provided in Subsection (16)(b), a rule may not prohibit the owner of a residential lot from constructing an internal accessory dwelling unit, as defined in Section [~~10-9a-530~~]10-21-101 or [~~17-27a-526~~]17-80-101, within the owner's residential lot.

(b) Subsection (16)(a) does not apply if the construction would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(17) (a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a residential lot from making modifications, consistent with industry standards, for radon mitigation.

(b) Subsection (17)(a) does not apply if the modifications would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(c) A rule governing the placement or external appearance of modifications for radon mitigation does not apply to a lot owner's modifications if the rule would:

(i) unreasonably interfere with the modifications' functionality; or

(ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.

(d) A rule may require that a lot owner making modifications related to radon mitigation:

(i) demonstrate or provide proof of radon contamination; and

(ii) provide proof that the modifications and any related construction will be performed by a licensed person.

(18) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 53-29-306(3).

(19) (a) As used in this Subsection (19), "vegetable garden" means a plot of ground or elevated soil bed where vegetables, herbs, fruits, flowers, pollinator plants, leafy greens, or other edible plants are cultivated.

(b) A rule may not prohibit a vegetable garden on the rear yard of a lot on which the association does not have an ownership interest or a maintenance responsibility.

(c) A rule may:

(i) impose reasonable regulations that do not significantly increase the cost of cultivating a vegetable garden or significantly decrease the efficiency of cultivating a vegetable garden, including reasonable regulations on plant height, water use, fertilizer use, and weed maintenance; and

(ii) prohibit the cultivation of invasive or unlawful species.

(20) (a) Except as provided in Subsection (20)(b), a rule may not restrict an individual from parking an operable vehicle in a driveway where the vehicle has a legal right to park, unless the vehicle is:

(i) a commercial vehicle, as defined in Section 72-9-102;

(ii) a motor home, as defined in Section 13-20-2; or

(iii) a recreational vehicle trailer, as defined in Section 13-20-2.

(b) A rule may require that an individual park in a garage appurtenant to a dwelling before parking elsewhere.

(21) (a) Except as provided in Subsection (21)(b), a rule may not restrict an individual from operating a vehicle that is not a commercial vehicle, as defined in Section 72-9-102, in conformance with state traffic laws.

(b) A rule may enforce a reduced speed limit on a private roadway.

(22) A rule may not:

(a) prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit;

(b) impose a requirement or restriction on:

(i) a dwelling's interior, except as reasonably necessary for the safety of adjacent lots and the occupants of those lots; or

(ii) the use of a public street, as defined in Section [~~10-9a-103~~]10-20-102;

(c) restrict an individual from:

(i) installing, displaying, or storing an item that the individual has a legal right to store if the item is not visible to an individual standing outside the lot;

(ii) installing or keeping a properly maintained basketball standard on the individual's driveway or property if the driveway or property where the basketball standard is located is:

(A) privately owned and maintained; and

(B) abutting a public street; or

(iii) hiring a contractor or worker solely because the contractor or worker:

(A) is not on the association's preferred vendor list; or

(B) does not have a professional or occupational license, unless the license is required by law; or

(d) be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.

(23) A rule shall be reasonable.

(24) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).

(25) This section applies to an association regardless of when the association is created.

Section 193. Section 57-8a-222 is amended to read:

57-8a-222

(Effective 11/06/25)

. Removing or altering partition or creating aperture between dwelling units on adjoining lots.

(1) Subject to the declaration, a lot owner may, after acquiring an adjoining lot with a dwelling unit that shares a common wall with a dwelling unit on the lot owner's lot:

(a) remove or alter a partition between the lot owner's lot and the acquired lot, even if the partition is entirely or partly common areas; or

(b) create an aperture to the adjoining lot or portion.

(2) A lot owner may not take an action under Subsection (1) if the action would:

(a) impair the structural integrity or mechanical systems of the building or either lot;

(b) reduce the support of any portion of the common areas or another lot; or

(c) constitute a violation of Section [~~10-9a-608~~]10-20-811 or [~~17-27a-608~~]17-79-711, as applicable, a local government land use ordinance, or a building code.

(3) The board may require a lot owner to submit, at the lot owner's expense, a registered professional engineer's or registered architect's opinion stating that a proposed change to the lot owner's lot will not:

(a) impair the structural integrity or mechanical systems of the building or either lot;

(b) reduce the support or integrity of common areas; or

(c) compromise structural components.

(4) The board may require a lot owner to pay all of the association's legal and other expenses related to a proposed alteration to the lot or building under this section.

(5) An action under Subsection (1) does not change an assessment or voting right attributable to the lot owner's lot or the acquired lot, unless the declaration provides otherwise.

Section 194. Section 57-8a-232 is amended to read:

57-8a-232

(Effective 11/06/25)

. Sale of common areas.

(1) Subject to Subsection [~~10-9a-606(5)~~]10-20-809(5) or [~~17-27a-606(5)~~]17-79-709(5), unless otherwise provided in the governing documents, an association may by an affirmative vote of at least 67% of the voting interests of the association, elect to sell, convey, transfer, or otherwise dispose of all or part of the common areas.

(2) An affirmative vote described in Subsection (1) is binding upon all lot owners, and each lot owner shall execute and deliver the appropriate instruments and perform all acts as necessary to effect the sale, conveyance, transfer, or other disposition of the common areas.

(3) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and lot owners through recorded governing documents is extinguished in any portion of the common areas the association sells, conveys, transfers, or otherwise disposes of, if:

(a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the portion of the common areas, comply with:

(i) the provisions of this section; and

(ii) Section [~~10-9a-606~~]10-20-809 or [~~17-27a-606~~]17-79-709; and

(b) the sale, conveyance, transfer, or other disposition of the portion of the common areas results in a person other than the association owning the portion of the common areas.

(4) This section applies to an association regardless of when the association is created.

(5) A declarant may not sell any part of the common areas during the period of administrative control, except as provided in Section [~~10-9a-606~~]10-20-809 or [~~17-27a-606~~]17-79-709.

(6) Unless otherwise prohibited by the association's governing documents, an authorized representative of the association may act as attorney-in-fact for the association's lot owners in executing a sale, conveyance, transfer, or other disposition of the common areas following an affirmative vote described in Subsection (1).

Section 195. Section 59-2-301.1 is amended to read:

59-2-301.1

(Effective 11/06/25)

. Assessment of property subject to a conservation easement -- Assessment of golf course or hunting club -- Assessment of common areas.

(1) In assessing the fair market value of property subject to a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, a county assessor shall consider factors relating to the property and neighboring property that affect the fair market value of the property being assessed, including:

(a) value that transfers to neighboring property because of the presence of a conservation easement on the property being assessed;

(b) practical and legal restrictions on the development potential of the property because of the presence of the conservation easement;

(c) the absence of neighboring property similarly subject to a conservation easement to provide a basis for comparing values between properties; and

(d) any other factor that causes the fair market value of the property to be affected because of the presence of a conservation easement.

(2) (a) In assessing the fair market value of a golf course or hunting club, a county assessor shall consider factors relating to the golf course or hunting club and neighboring property that affect the fair market value of the golf course or hunting club, including:

(i) value that transfers to neighboring property because of the presence of the golf course or hunting club;

(ii) practical and legal restrictions on the development potential of the golf course or hunting club; and

(iii) the history of operation of the golf course or hunting club and the likelihood that the present use will continue into the future.

(b) The valuation method a county assessor may use in determining the fair market value of a golf course or hunting club includes:

(i) the cost approach;

(ii) the income capitalization approach; and

(iii) the sales comparison approach.

(3) Except as otherwise provided by the plat or accompanying recorded document, a county assessor shall assess a common area and facility as defined in Section 57-8-3 or a common area as defined in Section 57-8a-102 consistent with the equal ownership interests described in Subsection [~~10-9a-606(4)~~]10-20-809(4) or [~~17-27a-606(4)~~]17-79-709(4) and may not assess the common area and facility or common area in a manner that reflects a different division of interest.

(4) In assessing the fair market value of property that is a common area or facility under Title 57, Chapter 8, Condominium Ownership Act, or a common area under Title 57, Chapter 8a, Community Association Act, a county assessor shall consider factors relating to the property and neighboring property that affect the fair market value of the property being assessed, including:

(a) value that transfers to neighboring property because the property is a common area or facility;

(b) practical and legal restrictions on the development potential of the property because the property is a common area or facility;

(c) the absence of neighboring property similarly situated as a common area or facility to provide a basis for comparing values between properties; and

(d) any other factor that causes the fair market value of the property to be affected because the property is a common area or facility.

Section 196. Section 59-2-301.2 is amended to read:

59-2-301.2

(Effective 11/06/25)

. Definitions -- Assessment of property subject to a minimum parcel size -- Other factors affecting fair market value.

(1) "Minimum parcel size" means the minimum size that a parcel of property may be divided into under a zoning ordinance adopted by a:

(a) county in accordance with [~~Title 17, Chapter 27a, Part 5, Land Use Regulations~~]Title 17, Chapter 79, Part 5, Land Use Regulations - General Processes; or

(b) city or town in accordance with [~~Title 10, Chapter 9a, Part 5, Land Use Regulations~~]Title 10, Chapter 20, Part 5, Land Use Regulations - General Processes.

(2) In assessing the fair market value of a parcel of property that is subject to a minimum parcel size of one acre or more, a county assessor shall include as part of the assessment:

(a) that the parcel of property may not be subdivided into parcels of property smaller than the minimum parcel size; and

(b) any effects Subsection (2)(a) may have on the fair market value of the parcel of property.

(3) This section does not prohibit a county assessor from including as part of an assessment of the fair market value of a parcel of property any other factor affecting the fair market value of the parcel of property.

Section 197. Section 59-2-301.6 is amended to read:

59-2-301.6

(Effective 11/06/25)

. Definition -- Assessment of property having a diminished productive value.

(1) As used in this section, "diminished productive value" means that property has no, or a significantly reduced, ability to generate

income as a result of:

(a) a parcel size requirement established under a land use ordinance or zoning map adopted by a:

(i) city or town in accordance with [~~Title 10, Chapter 9a, Part 5, Land Use Regulations~~]Title 10, Chapter 20, Part 5, Land Use Regulations - General Processes; or

(ii) a county in accordance with [~~Title 17, Chapter 27a, Part 5, Land Use Regulations~~]Title 17, Chapter 79, Part 5, Land Use Regulations - General Processes; or

(b) one or more easements burdening the property.

(2) In assessing the fair market value of property, a county assessor shall consider as part of the determination of fair market value whether property has diminished productive value.

(3) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property.

Section 198. Section 59-2-502 is amended to read:

59-2-502

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Actively devoted to agricultural use" means that the land in agricultural use produces in excess of 50% of the average agricultural production per acre:

(a) as determined under Section 59-2-503; and

(b) for:

(i) the given type of land; and

(ii) the given county or area.

(2) "Conservation easement rollback tax" means the tax imposed under Section 59-2-506.5.

(3) "Identical legal ownership" means legal ownership held by:

(a) identical legal parties; or

(b) identical legal entities.

(4) "Land in agricultural use" means:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

(ii) grains and feed crops;

(iii) livestock as defined in Section 59-2-102;

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

(5) "Other eligible acreage" means land that is:

(a) five or more contiguous acres;

(b) eligible for assessment under this part; and

(c) (i) located in the same county as land described in Subsection 59-2-503(1)(a); or

(ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as provided in Section 59-2-512.

(6) "Platted" means land in which:

(a) parcels of ground are laid out and mapped by their boundaries, course, and extent; and

(b) the plat has been approved as provided in Section [~~10-9a-604~~]10-20-804 or [~~17-27a-604~~]17-79-704.

(7) "Rollback tax" means the tax imposed under Section 59-2-506.

(8) "Withdrawn from this part" means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:

(a) an owner voluntarily requests that the land be withdrawn from this part;

(b) the land is no longer actively devoted to agricultural use;

(c) (i) the land has a change in ownership; and

(ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-509; or

(B) (I) an owner applies for assessment under this part as required by Section 59-2-509; and

(II) the land does not meet the requirements of this part to be assessed under this part;

(d) (i) the legal description of the land changes; and

(ii) (A) an owner fails to apply for assessment under this part as required by Section 59-2-509; or

(B) (I) an owner applies for assessment under this part as required by Section 59-2-509; and

(II) the land does not meet the requirements of this part to be assessed under this part;

(e) if required by the county assessor, the owner of the land:

(i) fails to file a new application as provided in Subsection 59-2-508(5); or

(ii) fails to file a signed statement as provided in Subsection 59-2-508(5); or

(f) except as provided in Section 59-2-503, the land fails to meet a requirement of Section 59-2-503.

Section 199. Section 59-2-507 is amended to read:

59-2-507

(Effective 11/06/25)

. Land included as agricultural -- Site of residence excluded -- Taxation of structures and site of residence.

(1) (a) Land under barns, sheds, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, and irrigation ditches and like facilities is included in determining the total area of land actively devoted to agricultural use.

(b) Land that is under a residence and land used in connection with a residence is excluded from the determination described in Subsection (1)(a).

(2) The following shall be valued, assessed, and taxed using the same standards, methods, and procedures that apply to other taxable structures and other land in the county:

(a) a structure, except as provided in Subsection (3), that is located on land in agricultural use;

(b) a residence and the land on which the residence is located; and

(c) land used in connection with a residence.

(3) A high tunnel, as defined in Section [~~10-9a-525~~]10-20-613, is exempt from assessment for taxation purposes.

Section 200. Section 59-2-924 is amended to read:

59-2-924

(Effective 11/06/25) (Superseded 01/01/26)

. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(v) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

(vi) for a host local government, the same as that term is defined in Section 63N-2-502;

(vii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-602;

(viii) for a home ownership promotion zone created under [~~Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities~~]Title 10, Chapter 21, Part 5, Home Ownership Promotion Zone for Municipalities, or [~~Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties~~]Title 17, Chapter 80, Part 5, Home Ownership Promotion Zone, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section [~~10-9a-1001~~]10-21-101 or Section [~~17-27a-1201~~]17-80-101;

(ix) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-1601; or

(x) for an electrical energy development zone created under Section 79-6-1104, the value of the property within an electrical energy development zone, as shown on the assessment roll last equalized before the creation of the electrical development zone, as that term is defined in Section 79-6-1104.

(e) "Centrally assessed benchmark value" means an amount equal to the average year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous three calendar years, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity;

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment

of Property; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the amount calculated by multiplying:

(A) the difference between the taxable value for the current year and the base taxable value of the property that is located within a project area; and

(B) the number that represents the percentage of enhanced property tax revenue, as defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(v) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority;

(vi) for a housing and transit reinvestment zone created [~~pursuant to~~]in accordance with Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone;

(vii) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government;

(viii) for a home ownership promotion zone created under [~~Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities~~]Title 10, Chapter 21, Part 5, Home Ownership Promotion Zone for Municipalities, or [~~Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties~~]Title 17, Chapter 80, Part 5, Home Ownership Promotion Zone, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a home ownership promotion zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the home ownership promotion zone;

(ix) for a first home investment zone created [~~pursuant to~~]in accordance with Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a first home investment

zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the first home investment zone; or

(x) for an electrical energy development zone created under Section 79-6-1104, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within the electrical energy developmental zone; and

(B) the number that represents the percentage of the tax increment that is paid to a community reinvestment agency and the Electrical Energy Development Investment Fund created in Section 79-6-1105.

(o) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, an amount equal to the incremental value that is no longer provided to the Utah Fairpark Area Investment and Restoration District;

(iv) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment;

(v) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation;

(vi) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone as tax increment;

(vii) for a home ownership promotion zone created under [~~Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities~~]Title 10, Chapter 21, Part 5, Home Ownership Promotion Zone for Municipalities, or [~~Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties~~]Title 17, Chapter 80, Part 5, Home Ownership Promotion Zone, an amount equal to the incremental value that is no longer provided to a home ownership promotion zone as tax increment; or

(viii) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount equal to the incremental value that is no longer provided to a first home investment zone as tax increment.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Sections 11-58-102 and 79-6-1104.

(u) "Tax increment" means:

(i) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(ii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602;

(iii) for a home ownership promotion zone created under [~~Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities~~]Title 10, Chapter 21, Part 5, Home Ownership Promotion Zone for Municipalities, or [~~Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties~~]Title 17, Chapter 80, Part 5, Home Ownership Promotion Zone, the same as that term is defined in Section [~~10-9a-1001~~]10-21-101 or Section [~~17-27a-1201~~]17-80-101; or

(iv) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, the same as that term is defined in Section 63N-3-1601.

(2) Before June 1 of each year, each county assessor shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under [~~Sections 17-34-1 and 17-36-9~~]Title 17, Chapter 78, Part 5, Provision of Municipal-Type Services to Unincorporated Areas; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section [~~17-34-1~~]17-78-501 and Subsection [~~17-36-3(23)~~]17-63-101(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A taxing entity may impose a judgment levy under Section 59-2-1328 or 59-2-1330 at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30 of each year, a taxing entity shall adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 201. Section 59-2-924 is amended to read:

59-2-924

(Effective 01/01/26)

. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(v) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

(vi) for a host local government, the same as that term is defined in Section 63N-2-502;

(vii) for a housing and transit reinvestment zone or convention center reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602;

(viii) for a home ownership promotion zone created under [~~Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities~~]Title 10, Chapter 21, Part 5, Home Ownership Promotion Zone for Municipalities, or [~~Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties~~]Title 17, Chapter 80, Part 5, Home Ownership Promotion Zone, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section [~~10-9a-1001~~]10-21-101 or Section [~~17-27a-1201~~]17-80-101;

(ix) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-1601;

(x) for a major sporting event venue zone created under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the property tax base year, as that term is defined in Section 63N-3-1701; or

(xi) for an electrical energy development zone created under Section 79-6-1104, the value of the property within an electrical energy development zone, as shown on the assessment roll last equalized before the creation of the electrical development zone, as that term is defined in Section 79-6-1104.

(e) "Centrally assessed benchmark value" means an amount equal to the average year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous three calendar years, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity;

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f) "Centrally assessed industry" means the following industry classes the commission assesses in accordance with Part 2, Assessment of Property:

(i) air carrier;

(ii) coal;

(iii) coal load out property;

(iv) electric generation;

(v) electric rural;

(vi) electric utility;

(vii) gas utility;

(viii) ground access property;

(ix) land only property;

(x) liquid pipeline;

(xi) metalliferous mining;

(xii) nonmetalliferous mining;

(xiii) oil and gas gathering;

(xiv) oil and gas production;

(xv) oil and gas water disposal;

(xvi) railroad;

(xvii) sand and gravel; and

(xviii) uranium.

(g) (i) "Centrally assessed new growth" means the greater of:

(A) for each centrally assessed industry, zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value for each centrally assessed industry, adjusted for prior year end incremental value, from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for each centrally assessed industry for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value for a centrally assessed industry as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(h) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(i) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(j) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(k) "Host local government" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(m) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(n) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(o) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the amount calculated by multiplying:

(A) the difference between the taxable value for the current year and the base taxable value of the property that is located within a project area; and

(B) the number that represents the percentage of enhanced property tax revenue, as defined in Section 11-70-101;

(iv) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(v) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority;

(vi) for a housing and transit reinvestment zone or convention center reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone or convention center reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone or convention center reinvestment zone;

(vii) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government;

(viii) for a home ownership promotion zone created under [~~Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities~~]Title 10, Chapter 21, Part 5, Home Ownership Promotion Zone for Municipalities, or [~~Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties~~]Title 17, Chapter 80, Part 5, Home Ownership Promotion Zone, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a home ownership promotion zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the home ownership promotion zone;

(ix) for a first home investment zone created pursuant to Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a first home investment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the first home investment zone;

(x) for a major sporting event venue zone created pursuant to Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a qualified development zone for a major sporting event venue zone and upon which property tax increment is collected; and

(B) the number that represents the percentage of tax increment that is paid to the major sporting event venue zone, as approved by a major sporting event venue zone committee described in Section 63N-1a-1706; or

(xi) for an electrical energy development zone created under Section 79-6-1104, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within the electrical energy developmental zone; and

(B) the number that represents the percentage of the tax increment that is paid to a community reinvestment agency and the Electrical Energy Development Investment Fund created in Section 79-6-1105.

(p) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(q) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

(iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

(v) for a housing and transit reinvestment zone or convention center reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602;

(vi) for a home ownership promotion zone created under [~~Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities~~]Title 10, Chapter 21, Part 5, Home Ownership Promotion Zone for Municipalities, or [~~Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties~~]Title 17, Chapter 80, Part 5, Home Ownership Promotion Zone, the same as that term is defined in Section [~~10-9a-1001~~]10-21-101 or Section [~~17-27a-1201~~]17-80-101;

(vii) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, the same as that term is defined in Section 63N-3-1601; or

(viii) for a major sporting event venue zone established under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, the qualified development zone, as defined in Section 63N-3-1701.

(r) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, an amount equal to the incremental value that is no longer provided to the Utah Fairpark Area Investment and Restoration District;

(iv) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment;

(v) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation;

(vi) for a housing and transit reinvestment zone or convention center reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone or convention center reinvestment zone as tax increment;

(vii) for a home ownership promotion zone created under [~~Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities~~]Title 10, Chapter 21, Part 5, Home Ownership Promotion Zone for Municipalities, or [~~Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties~~]Title 17, Chapter 80, Part 5, Home Ownership Promotion Zone, an amount equal to the

incremental value that is no longer provided to a home ownership promotion zone as tax increment;

(viii) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, an amount equal to the incremental value that is no longer provided to a first home investment zone as tax increment; or

(ix) for a major sporting event venue zone created under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, an amount equal to the incremental value that is no longer provided to the creating entity of a major sporting event venue zone as property tax increment.

(s) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(t) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(u) "Property tax differential" means the same as that term is defined in Sections 11-58-102 and 79-6-1104.

(v) "Tax increment" means:

(i) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(ii) for a housing and transit reinvestment zone or convention center reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as the term "property tax increment" is defined in Section 63N-3-602;

(iii) for a home ownership promotion zone created under [~~Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities~~]Title 10, Chapter 21, Part 5, Home Ownership Promotion Zone for Municipalities, or [~~Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties~~]Title 17, Chapter 80, Part 5, Home Ownership Promotion Zone, the same as that term is defined in Section [~~10-9a-1001~~]10-21-101 or Section [~~17-27a-1201~~]17-80-101;

(iv) for a first home investment zone created under Title 63N, Chapter 3, Part 16, First Home Investment Zone Act, the same as that term is defined in Section 63N-3-1601; or

(v) for a major sporting event venue zone created under Title 63N, Chapter 3, Part 17, Major Sporting Event Venue Zone Act, property tax increment, as that term is defined in Section 63N-3-1701.

(2) Before June 1 of each year, each county assessor shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under [~~Sections 17-34-1 and 17-36-9~~]Title 17, Chapter 78, Part 5, Provision of Municipal-Type Services to Unincorporated Areas; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section [~~17-34-1~~]17-78-501 and Subsection [~~17-36-3(23)~~]17-63-101(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A taxing entity may impose a judgment levy under Section 59-2-1328 or 59-2-1330 at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in

establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30 of each year, a taxing entity shall adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 202. Section 59-2-1101 is amended to read:

59-2-1101

(Effective 11/06/25)

. Definitions -- Exemption of certain property -- Proportional payments for certain property -- Exception -- County legislative body authority to adopt rules or ordinances.

(1) As used in this section:

(a) "Charitable purposes" means:

(i) for property used as a nonprofit hospital or a nursing home, the standards outlined in Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah 1994); and

(ii) for property other than property described in Subsection (1)(a)(i), providing a gift to the community.

(b) "Compliance period" means a period equal to 15 taxable years beginning with the first taxable year for which the taxpayer claims a tax credit under Section 42, Internal Revenue Code, or Section 59-7-607 or 59-10-1010.

(c) (i) "Educational purposes" means purposes carried on by an educational organization that normally:

(A) maintains a regular faculty and curriculum; and

(B) has a regularly enrolled body of pupils and students.

(ii) "Educational purposes" includes:

(A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(B) an activity in support of or incidental to the teaching, training, or conditioning described in this Subsection (1)(c)(ii).

(d) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(i) religious purposes;

(ii) charitable purposes; or

(iii) educational purposes.

(e) (i) "Farm machinery and equipment" means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(ii) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(f) "Gift to the community" means:

(i) the lessening of a government burden; or

(ii) (A) the provision of a significant service to others without immediate expectation of material reward;

(B) the use of the property is supported to a material degree by donations and gifts including volunteer service;

(C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree;

(D) the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and

(E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.

(g) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(h) (i) "Nonprofit entity" means an entity:

(A) that is organized on a nonprofit basis, that dedicates the entity's property to the entity's nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;

(B) for which, upon dissolution, the entity's assets are distributable only for exempt purposes under state law or to the government for a public purpose; and

(C) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.

(ii) "Nonprofit entity" includes an entity:

(A) if the entity is treated as a disregarded entity for federal income tax purposes and wholly owned by, and controlled under the direction of, a nonprofit entity; and

(B) for which none of the net earnings and profits of the entity inure to the benefit of any person other than a nonprofit entity.

(iii) "Nonprofit entity" includes an entity that is not an entity described in Subsection (1)(h)(i) if the entity jointly owns a property that:

(A) is used for the purpose of providing permanent supportive housing;

(B) has an owner that is an entity described in Subsection (1)(h)(i) or that is a housing authority that operates the permanent supportive housing;

(C) has an owner that receives public funding from a federal, state, or local government entity to provide support services and rental subsidies to the permanent supportive housing;

(D) is intended to be transferred at or before the end of the compliance period to an entity described in Subsection (1)(h)(i) or a housing authority that will continue to operate the property as permanent supportive housing; and

(E) has been certified by the Utah Housing Corporation as meeting the requirements described in Subsections (1)(h)(iii)(A) through (D).

(iv) "Nonprofit entity" includes an entity that is not an entity described in Subsection (1)(h)(i) if:

(A) the entity is a housing organization as defined in Subsection 35A-8-2401(1)(a); and

(B) the entity is owned by an entity described in Subsection (1)(h)(i) or a housing authority.

(i) "Permanent supportive housing" means a housing facility that:

(i) provides supportive services;

(ii) makes a 15-year commitment to provide rent subsidies to tenants of the housing facility when the housing facility is placed in service;

(iii) receives an allocation of federal low-income housing tax credits in accordance with 26 U.S.C. Sec. 42; and

(iv) leases each unit to a tenant:

(A) who, immediately before leasing the housing, was homeless as defined in 24 C.F.R. 583.5; and

(B) whose rent is capped at no more than 30% of the tenant's household income.

(j) (i) "Property of" means property that an entity listed in Subsection (3)(a)(ii) or (iii) has a legal right to possess.

(ii) "Property of" includes a lease of real property if:

(A) the property is wholly leased to a state or political subdivision entity listed in Subsection (3)(a)(ii) or (iii) under a triple net lease; and

(B) the lease is in effect for the entire calendar year.

(k) "Supportive service" means a service that is an eligible cost under 24 C.F.R. 578.53.

(l) "Triple net lease" means a lease agreement under which the lessee is responsible for the real estate taxes, building insurance, and maintenance of the property separate from and in addition to the rental price.

(2) (a) Except as provided in Subsection (2)(b), an exemption under this part may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) A claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) [~~pursuant to~~]in accordance with Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) special districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(A) religious purposes;

(B) charitable purposes; or

(C) educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section [~~10-9a-525~~]10-20-613;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or

(ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.

(b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.

(7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(a) the property is used for a purpose that is not religious, charitable, or educational; and

(b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.

(8) A county legislative body may adopt rules or ordinances to:

(a) effectuate an exemption under this part; and

(b) designate one or more persons to perform the functions given to the county under this part.

(9) If a person is dissatisfied with an exemption decision made under designated decision-making authority as described in Subsection (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

Section 203. Section 59-12-2220 is amended to read:

59-12-2220

(Effective 11/06/25)

. County option sales and use tax to fund highways or a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the entire boundary of a county is annexed into a large public transit district; and

(ii) the maximum amount of sales and use tax authorizations allowed [~~pursuant to~~]in accordance with Section 59-12-2203 and authorized under the following sections has been imposed:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision; or

(ii) a city or town within the boundary of the county is an eligible political subdivision; or

(c) a county legislative body of a county not described in Subsection (1)(a) or (1)(b) may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of .2%.

(3) (a) The commission shall distribute sales and use tax revenue collected under this section as determined by a county legislative body as described in Subsection (3)(b).

(b) If a county legislative body imposes a sales and use tax as described in this section, the county legislative body may elect to impose a sales and use tax revenue distribution as described in Subsection (4), (5), (6), or (7), depending on the class of county, and presence and type of a public transit provider in the county.

(4) Subject to Subsection (11), and after application of Subsection 59-12-2206(5), if a county legislative body imposes a sales and use tax as described in this section, and the entire boundary of the county is annexed into a large public transit district, and the county is a county of the first class, the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(5) Subject to Subsection (11), if a county legislative body imposes a sales and use tax as described in this section and the entire boundary of the county is annexed into a large public transit district, and the county is a county not described in Subsection (4), the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(6) (a) Except as provided in Subsection (14)(c), if the entire boundary of a county that imposes a sales and use tax as described in this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district, or if the city or town is an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the county as provided in Subsection (6)(b) or (c).

(b) For a city, town, or portion of the county described in Subsection (6)(a) that is annexed into the single public transit district, or an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the portion of the county that is within a public transit district or eligible political subdivision as follows:

(i) .05% to a public transit provider as described in Subsection (11);

(ii) .075% to the cities and towns as provided in Subsection (8); and

(iii) .075% to the county legislative body.

(c) Except as provided in Subsection (14)(c), for a city, town, or portion of the county described in Subsection (6)(a) that is not annexed into a single public transit district or eligible political subdivision in the county, the commission shall distribute the sales and use tax revenue collected within that portion of the county as follows:

(i) .08% to the cities and towns as provided in Subsection (8); and

(ii) .12% to the county legislative body.

(7) For a county without a public transit service that imposes a sales and use tax as described in this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .08% to the cities and towns as provided in Subsection (8); and

(b) .12% to the county legislative body.

(8) (a) Subject to Subsections (8)(b) and (c), the commission shall make the distributions required by Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection (8) shall be based on, to the extent not otherwise required by federal law:

(A) the most recent estimate from the Utah Population Committee created in Section 63C-20-103; or

(B) if the Utah Population Committee estimate is not available for each municipality and unincorporated area, the adjusted sub-county population estimate provided by the Utah Population Committee in accordance with Section 63C-20-104.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c) (i) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a city or town is ineligible for funds in accordance with Subsection [~~10-9a-408(7)~~]10-21-202(6), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that city or town would have received under Subsection (8)(a) to cities or towns to which Subsection [~~10-9a-408(7)~~]10-21-202(6) does not apply.

(ii) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a county is ineligible for funds in accordance with Subsection [~~17-27a-408(7)~~]17-80-202(6), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that county would have received under Subsection (8)(a) to counties to which Subsection [~~17-27a-408(7)~~]17-80-202(6) does not apply.

(9) If a public transit service is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit provider that the public transit service has been

organized.

(10) (a) Except as provided in Subsections (10)(b) and (c), a county, city, or town that received distributions described in Subsections (4)(b), (4)(c), (5)(b), (5)(c), (6)(b)(ii), (6)(b)(iii), (6)(c), and (7) may only expend those funds for a purpose described in Section 59-12-2212.2.

(b) If a county described in Subsection (1)(a) that is a county of the first class imposes the sales and use tax authorized in this section, the county may also use funds distributed in accordance with Subsection (4)(c) for public safety purposes.

(c) In addition to the purposes described in Subsections (10)(a) and (b), for a city relevant to a project area, as that term is defined in Section 63N-3-1401, an allowable use of revenue from a sales and use tax under this section includes the revitalization of a convention center owned by the county within a city of the first class and surrounding revitalization projects related to the convention center.

(11) (a) Subject to Subsections (11)(b), (c), and (d), revenue designated for public transit as described in this section may be used for capital expenses and service delivery expenses of:

(i) a public transit district;

(ii) an eligible political subdivision; or

(iii) another entity providing a service for public transit or a transit facility within the relevant county, as those terms are defined in Section 17B-2a-802.

(b) (i) (A) If a county of the first class imposes a sales and use tax described in this section, beginning on the date on which the county imposes the sales and use tax under this section, and for a three-year period after at least three counties described in Subsections (4) and (5) have imposed a tax under this section, or until June 30, 2030, whichever comes first, revenue designated for public transit within a county of the first class as described in Subsection (4)(a) shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121.

(B) Revenue deposited into the County of the First Class Highway Projects Fund created in Section 72-2-121 as described in Subsection (11)(b)(i)(A) may be used for public transit innovation grants as provided in Title 72, Chapter 2, Part 4, Public Transit Innovation Grants.

(ii) If a county of the first class imposes a sales and use tax described in this section, beginning on the day three years after the date on which at least three counties described in Subsections (4) and (5) have imposed a tax under this section, or beginning on July 1, 2030, whichever comes first, for revenue designated for public transit as described in Subsection (4)(a):

(A) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9).

(c) (i) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, beginning on the date on which the county imposes the sales and use tax under this section, and for a three-year period following the date on which at least three counties described in Subsections (4) and (5) have imposed a tax under this section, or until June 30, 2030, whichever comes first, revenue designated for public transit as described in Subsection (5)(a) shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(ii) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, beginning on the day three years after the date on which at least three counties described in Subsections (4) and (5) have imposed a tax under this section, or beginning on July 1, 2030, whichever comes first, for the revenue that is designated for public transit in Subsection (5)(a):

(A) 50% shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9); and

(B) 50% shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(d) Except as provided in Subsection (13)(c), for a county that imposes a sales and use tax under this section, for revenue designated for public transit as described in Subsection (6)(b)(i), the revenue shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(12) A large public transit district shall send notice to the commission at least 90 days before the earlier of:

(a) the date that is three years after the date on which at least three counties described in Subsections (4) and (5) have imposed a tax under this section; or

(b) June 30, 2030.

(13) For a city described in Subsection (10)(c), during the bondable term of a revitalization project described in Subsection (10)(c), the city shall transfer at least 50%, and may transfer up to 100%, of any revenue the city receives from a distribution under Subsection (4)(b) to a convention center public infrastructure district created in accordance with Section 17D-4-202.1 for revitalization of a convention center owned by the county within a city of the first class and surrounding revitalization projects related to the convention center as permitted in Subsection (10)(c).

(14) (a) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(b) If a county passes an ordinance to impose a sales and use tax as described in this section, the sales and use tax shall take effect on the first day of the calendar quarter after a 90-day period that begins on the date the commission receives written notice from the county of the passage of the ordinance.

(c) A county that imposed the local option sales and use tax described in this section before January 1, 2023, may maintain that county's distribution allocation in place as of January 1, 2023.

(15) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county, city, or town budgeted for transportation or public transit as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection (15)(a) does not apply to a designated transportation or public transit capital or reserve account a county, city, or town established before the date the tax becomes effective.

Section 204. Section 63A-5b-604 is amended to read:

63A-5b-604

(Effective 11/06/25)

. Construction, alteration, and repair of state facilities -- Powers of director -- Exceptions -- Expenditure of appropriations -- Compliance agency role.

(1) (a) Except as provided in this section and Section 63A-5b-1101, the director shall exercise direct supervision over the design and construction of all new facilities, and all alterations, repairs, and improvements to existing facilities, if the total project construction cost, regardless of the funding source, is greater than $100,000.

(b) A state entity may exercise direct supervision over the design and construction of all new facilities, and over all alterations, repairs, and improvements to existing facilities, if:

(i) the total project construction cost, regardless of the funding sources, is $100,000 or less; and

(ii) the state entity assures compliance with the division's forms and contracts and the division's design, construction, alteration, repair, improvement, and code inspection standards.

(2) The director may enter into a capital improvement partnering agreement with an institution of higher education that permits the institution of higher education to exercise direct supervision for a capital improvement project with oversight from the division.

(3) (a) Subject to Subsection (3)(b), the director may delegate control over design, construction, and other aspects of any project to entities of state government on a project-by-project basis.

(b) With respect to a delegation of control under Subsection (3)(a), the director may:

(i) impose terms and conditions on the delegation that the director considers necessary or advisable to protect the interests of the state; and

(ii) revoke the delegation and assume control of the design, construction, or other aspect of a delegated project if the director considers the revocation and assumption of control to be necessary to protect the interests of the state.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director may delegate control over design, construction, and all other aspects of any project to entities of state government on a categorical basis for projects within a particular dollar range and a particular project type.

(b) Rules adopted by the director under Subsection (4)(a) may:

(i) impose the terms and conditions on categorical delegation that the director considers necessary or advisable to protect the interests of the state;

(ii) provide for the revocation of the delegation on a categorical basis and for the division to assume control of the design, construction, or other aspect of a category of delegated projects or a specific delegated project if the director considers revocation of the delegation and assumption of control to be necessary to protect the interests of the state;

(iii) require that a categorical delegation be renewed by the director on an annual basis; and

(iv) require the division's oversight of delegated projects.

(5) (a) A state entity to which project control is delegated under this section shall:

(i) assume fiduciary control over project finances;

(ii) assume all responsibility for project budgets and expenditures; and

(iii) receive all funds appropriated for the project, including any contingency funds contained in the appropriated project budget.

(b) Notwithstanding a delegation of project control under this section, a state entity to which control is delegated is required to comply with the division's codes and guidelines for design and construction.

(c) A state entity to which project control is delegated under this section may not access, for the delegated project, the division's statewide contingency reserve and project reserve authorized in Section 63A-5b-609.

(d) For a facility that will be owned, operated, maintained, and repaired by an entity that is not an agency and that is located on property that the state owns or leases as a tenant, the director may authorize the facility's owner to administer the design and construction of the project relating to that facility.

(6) (a) A project for the construction of a new facility and a project for alterations, repairs, and improvements to an existing facility are not subject to Subsection (1) if the project:

(i) occurs on property under the jurisdiction of the State Capitol Preservation Board;

(ii) is within a designated research park at the University of Utah or Utah State University;

(iii) occurs within the boundaries of This is the Place State Park and is administered by This is the Place Foundation; or

(iv) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.

(b) Notwithstanding Subsection (6)(a)(iii), the This is the Place Foundation may request the director to administer the design and construction of a project within the boundaries of This is the Place State Park.

(7) (a) The role of compliance agency under Title 15A, State Construction and Fire Codes Act, shall be filled by:

(i) the director, for a project administered by the division;

(ii) the entity designated by the State Capitol Preservation Board, for a project under Subsection (6)(a)(i);

(iii) the local government, for a project that is:

(A) not subject to the division's administration under Subsection (6)(a)(ii); or

(B) administered by This is the Place Foundation under Subsection (6)(a)(iii);

(iv) the compliance agency designated by the director, for a project under Subsection (2), (3), (4), or (5)(d); and

(v) for the installation of art under Subsection (6)(a)(iv), the entity that is acting as the compliance officer for the balance of the project for which the art is being installed.

(b) A local government acting as the compliance agency under Subsection (7)(a)(iii) may:

(i) only review plans and inspect construction to enforce the state construction code or an approved code under Title 15A, State Construction and Fire Codes Act; and

(ii) charge a building permit fee of no more than the amount the local government could have charged if the land upon which the improvements are located were not owned by the state.

(8) (a) The zoning authority of a local government under [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act, or [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act, does not apply to the use of property that the state owns or any improvements constructed on property that the state owns, including improvements constructed by an entity other than a state entity.

(b) A state entity controlling the use of property that the state owns shall consider any input received from a local government in

determining how the property is to be used.

Section 205. Section 63G-7-201 is amended to read:
63G-7-201
(Effective 11/06/25) (Superseded 01/01/26)
. Immunity of governmental entities and employees from suit.

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigate and control suspected bioterrorism and disease as set out in Sections 26B-7-316 through 26B-7-324;

(iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(A) an emergency shelter;

(B) housing;

(C) a staging place; or

(D) a medical facility; and

(iv) adopt methods or measures, in accordance with Section 26B-1-202, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) (a) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(i) a latent dangerous or latent defective condition of:

(A) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(B) another structure located on any of the items listed in Subsection (3)(a)(i); or

(ii) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(b) (i) As used in this Subsection (3)(b):

(A) "Contaminated land" means the same as that term is defined in Section 11-58-102.

(B) "Contamination" means the condition of land that results from the placement, disposal, or release of hazardous matter on, in, or under the land, including any seeping or escaping of the hazardous matter from the land.

(C) "Damage" means any property damage, personal injury, or other injury or any loss of any kind, however denominated.

(D) "Environmentally compliant" means, as applicable, obtaining a certificate of completion from the Department of Environmental Quality under Section 19-8-111 following participation in a voluntary cleanup under Title 19, Chapter 8, Voluntary Cleanup Program, obtaining an administrative letter from the Department of Environmental Quality for a discrete phase of a voluntary cleanup that is conducted under a remedial action plan as defined in Section 11-58-605, or complying with the terms of an environmental covenant, as defined in Section 57-25-102, signed by an agency, as defined in Section 57-25-102, and duly recorded in the office of the recorder of the county in which the contaminated land is located.

(E) "Government owner" means a governmental entity, including an independent entity, as defined in Section 63E-1-102, that acquires an ownership interest in land that was contaminated land before the governmental entity or independent entity acquired an ownership interest in the land.

(F) "Hazardous matter" means hazardous materials, as defined in Section 19-6-302, hazardous substances, as defined in Section 19-6-302, or landfill material, as defined in Section 11-58-102.

(G) "Remediation" means the same as that term is defined in Section 11-58-102.

(ii) (A) A government owner and the government owner's officers and employees are immune from suit, and immunity is not waived, for any claim for damage that arises out of or in connection with, or results from, contamination of contaminated land.

(B) A government owner's ownership of contaminated land may not be the basis of a claim against the government owner for damage that arises out of or in connection with, or results from, contamination of contaminated land.

(iii) Subsection (3)(b)(ii) does not limit or affect:

(A) the liability of a person that placed, disposed of, or released hazardous matter on, in, or under the land; or

(B) a worker compensation claim of an employee of an entity that conducts work on or related to contaminated land.

(iv) Immunity under Subsection (3)(b)(ii)(A) is not affected by a government owner's remediation of contaminated land if the government owner is environmentally compliant.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a trail that is along a water facility, as defined in Section 73-1-8, stream, or river, regardless of ownership or operation of the water facility, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section [~~10-9a-401~~]10-20-401 or by a county under Section [~~17-27a-401~~]17-79-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function [~~pursuant to~~]in accordance with Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity;

(v) an activity of wildlife, as defined in Section 23A-1-101, that arises during the use of a public or private road;

(w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section 53-14-103; or

(x) providing or failing to provide information under Section 53-27-102 or Subsection 41-1a-213(6), (7), or (8), 53-3-207(4), or 53-3-805(5).

Section 206. Section 63G-7-201 is amended to read:

63G-7-201

(Effective 01/01/26)

. Immunity of governmental entities and employees from suit.

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigate and control suspected bioterrorism and disease as set out in Sections 26B-7-316 through 26B-7-324;

(iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(A) an emergency shelter;

(B) housing;

(C) a staging place; or

(D) a medical facility; and

(iv) adopt methods or measures, in accordance with Section 26B-1-202, for health care providers, public health entities, and health

care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) (a) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(i) a latent dangerous or latent defective condition of:

(A) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(B) another structure located on any of the items listed in this Subsection (3)(a)(i); or

(ii) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(b) (i) As used in this Subsection (3)(b):

(A) "Contaminated land" means the same as that term is defined in Section 11-58-102.

(B) "Contamination" means the condition of land that results from the placement, disposal, or release of hazardous matter on, in, or under the land, including any seeping or escaping of the hazardous matter from the land.

(C) "Damage" means any property damage, personal injury, or other injury or any loss of any kind, however denominated.

(D) "Environmentally compliant" means, as applicable, obtaining a certificate of completion from the Department of Environmental Quality under Section 19-8-111 following participation in a voluntary cleanup under Title 19, Chapter 8, Voluntary Cleanup Program, obtaining an administrative letter from the Department of Environmental Quality for a discrete phase of a voluntary cleanup that is conducted under a remedial action plan as defined in Section 11-58-605, or complying with the terms of an environmental covenant, as defined in Section 57-25-102, signed by an agency, as defined in Section 57-25-102, and duly recorded in the office of the recorder of the county in which the contaminated land is located.

(E) "Government owner" means a governmental entity, including an independent entity, as defined in Section 63E-1-102, that acquires an ownership interest in land that was contaminated land before the governmental entity or independent entity acquired an ownership interest in the land.

(F) "Hazardous matter" means hazardous materials, as defined in Section 19-6-302, hazardous substances, as defined in Section 19-6-302, or landfill material, as defined in Section 11-58-102.

(G) "Remediation" means the same as that term is defined in Section 11-58-102.

(ii) (A) A government owner and the government owner's officers and employees are immune from suit, and immunity is not waived, for any claim for damage that arises out of or in connection with, or results from, contamination of contaminated land.

(B) A government owner's ownership of contaminated land may not be the basis of a claim against the government owner for damage that arises out of or in connection with, or results from, contamination of contaminated land.

(iii) Subsection (3)(b)(ii) does not limit or affect:

(A) the liability of a person that placed, disposed of, or released hazardous matter on, in, or under the land; or

(B) a worker compensation claim of an employee of an entity that conducts work on or related to contaminated land.

(iv) Immunity under Subsection (3)(b)(ii)(A) is not affected by a government owner's remediation of contaminated land if the government owner is environmentally compliant.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a trail that is along a water facility, as defined in Section 73-1-8, stream, or river, regardless of ownership or operation of the water facility, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section [~~10-9a-401~~]10-20-401 or by a county under Section [~~17-27a-401~~]17-79-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function [~~pursuant to~~]in accordance with Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity;

(v) an activity of wildlife, as defined in Section 23A-1-101, that arises during the use of a public or private road;

(w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section 53-14-103; or

(x) providing or failing to provide information under Section 53-27-102 or Subsection 41-1a-213(6), (7), or (8), 53-3-207(4), or 53-3-805(5).

(5) The following are immune from suit, and immunity is not waived for an action or failure to act within the scope of duties or employment, if the injury arises out of, in connection with, or results from the implementation of Section [~~17-16-22~~]17E-7-401 to the extent it addresses evaluating and classifying high risk wildland urban interface property, Section 31A-22-1310, or Title 65A, Chapter 8, Part 4, Wildland Urban Interface Property:

(a) the Division of Forestry, Fire, and State Lands;

(b) an officer, employee, or consultant of the Division of Forestry, Fire, and State Lands;

(c) a county;

(d) a wildland urban interface coordinator, as defined in Section 65A-8-401;

(e) the Insurance Department; or

(f) an officer, employee, or consultant of the Insurance Department.

Section 207. Section 63H-1-202 is amended to read:

63H-1-202

(Effective 11/06/25)

. Applicability of other law.

(1) As used in this section:

(a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52-4-103.

(b) "Subsidiary board" means the governing body of a subsidiary.

(2) The authority or land within a project area is not subject to:

(a) [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act;

(b) [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) (a) The definitions in Section 57-8-3 apply to this Subsection (4).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for $1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

(5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

(6) (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.

(7) (a) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:

(i) notwithstanding Section 52-4-104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:

(A) the board chair, for the authority board; or

(B) the subsidiary board chair, for a subsidiary board;

(ii) authority staff may adopt a rule governing the use of electronic meetings under Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the power to adopt the rule; and

(iii) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52-4-207, the authority board or subsidiary board, respectively:

(A) is not required to establish an anchor location; and

(B) may convene and conduct the meeting without the determination otherwise required under Subsection 52-4-207(5)(a)(i).

(b) The authority and subsidiaries are not required to physically post notice notwithstanding any other provision of law.

(8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:

(a) notwithstanding Section 63G-2-701:

(i) the authority may establish an appeals board consisting of at least three members;

(ii) an appeals board established under Subsection (8)(a)(i) shall include:

(A) one of the authority board members appointed by the governor;

(B) the authority board member appointed by the president of the Senate; and

(C) the authority board member appointed by the speaker of the House of Representatives; and

(iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G-2-404, except that the Government Records Office and the director of the Government Records Office are not parties; and

(b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is not prohibited from receiving a benefit from a public-private partnership that results from the facilitator's work as a facilitator.

(10) (a) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may, subject to limitations of Title 17D, Chapter 4, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a subsidiary created as a public infrastructure district issues a bond:

(i) the subsidiary may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in Title 17D, Chapter 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.

(c) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (10)(a)(i) and (10)(b)(ii).

(ii) If a subsidiary created by a public infrastructure district issues bonds, the subsidiary may issue bonds secured by property taxes from:

(A) the entire public infrastructure district; or

(B) one or more tax areas within the public infrastructure district.

(11) (a) Terms defined in Section 57-11-2 apply to this Subsection (11).

(b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, does not apply to an offer or disposition of an interest in land if the interest in land lies within the boundaries of the project area and the authority:

(i) (A) has a development review committee using at least one professional planner;

(B) enacts standards and guidelines that require approval of planning, land use, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and

(C) will have the improvements described in Subsection (11)(b)(i)(B) plus telecommunications and electricity; and

(ii) if at the time of the offer or disposition, the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (11)(b)(i)(C).

(12) (a) As used in this Subsection (12), "officer" means the same as an officer within the meaning of the Utah Constitution, Article IV, Section 10.

(b) An official act of an officer may not be invalidated for the reason that the officer failed to take the oath of office.

Section 208. Section 63I-2-210 is amended to read:

63I-2-210

(Effective 11/06/25)

. Repeal dates: Title 10.

(1) Subsection 10-2a-205(2)(b)(iii), regarding a feasibility study for the proposed incorporation of a community council area, is repealed July 1, 2028.

(2) Section 10-2a-205.5, Additional feasibility consultant considerations for proposed incorporation of community council area -- Additional feasibility study requirements, is repealed July 1, 2028.

(3) Subsection [~~10-9a-510(4)(c)~~]10-20-904(4)(c), regarding an inspection fee on a qualified water conservancy district, is repealed July 1, 2026.

[~~(4) Section 10-9a-604.9, Effective dates of Sections 10-9a-604.1 and 10-9a-604.2, is repealed January 1, 2025.~~]

Section 209. Section 63J-4-402 is amended to read:

63J-4-402

(Effective 11/06/25)

. State housing plan.

(1) The office shall develop a state housing plan by December 31, 2025.

(2) (a) The office shall partner with the Legislature, municipal and county governments, the home building industry and related stakeholders, and the general public in the development of the state housing plan described in Subsection (1).

(b) In developing the state housing plan, the office may develop regional housing plans within the state housing plan.

(3) The state housing plan shall:

(a) prioritize collaboration over preemption and collaboration across private and public sectors;

(b) promote a holistic and regional approach to housing;

(c) enable connected communities and center-based development;

(d) acknowledge cross-issue policy alignment;

(e) maintain a long-range vision;

(f) promote opportunity and inclusivity;

(g) recognize complex market forces; and

(h) consider rural and urban contexts.

(4) The state housing plan shall include data and metrics:

(a) about actual and potential housing production;

(b) about actual and potential infrastructure capacity, maintenance, and development; and

(c) allowing the office to measure success of the state housing plan over time.

(5) In gathering data and developing metrics, the office may analyze moderate income housing reports received by the Division of Housing and Community Development and:

(a) determine which, if any, of the moderate income housing strategies described in [~~Subsections~~]Sections[~~10-9a-403(2)(b)(iii)~~]10-21-201 and [~~17-27a-403(2)(b)(ii)~~]17-80-201 are correlated with an increase in the supply of moderate income housing, either built or entitled to be built, in the political subdivision that implements the moderate income housing strategy; and

(b) draw conclusions regarding any data trends identified by the office as meaningful or significant.

(6) By no later than October 1 of each year, the office shall provide a written report on the development and implementation of the state housing plan to the Political Subdivisions Interim Committee.

Section 210. Section 63L-10-104 is amended to read:

63L-10-104

(Effective 11/06/25)

. Policy statement.

(1) Except as provided in Subsection (2), state agencies and political subdivisions shall refer to and substantially conform with the statewide resource management plan when making plans for public lands or other public resources in the state.

(2) (a) The office shall, as funding allows, maintain a record of all state agency and political subdivision resource management plans and relevant documentation.

(b) On an ongoing basis, state agencies and political subdivisions shall keep the office informed of any substantive modifications to their resource management plans.

(c) On or before August 31 of each year, the office shall provide a report to the commission that includes the following:

(i) any modifications to the state agency or political subdivision resource management plans that are inconsistent with the statewide resource management plan;

(ii) a recommendation as to how an inconsistency identified under Subsection (2)(c)(i), if any, should be addressed; and

(iii) a recommendation:

(A) as to whether the statewide resource management plan should be modified to address any inconsistency identified under Subsection (2)(c)(i); or

(B) on any other modification to the statewide resource management plan the office determines is necessary.

(3) (a) Subject to Subsection (3)(b), nothing in this section preempts the authority granted to a political subdivision under:

(i) Title 10, Chapter 8, Powers and Duties of Municipalities, or [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act; or

(ii) [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act.

(b) Federal regulations state that, when state and local government policies, plans, and programs conflict, those of higher authority will normally be followed.

Section 211. Section 63N-3-603 is amended to read:

63N-3-603

(Effective 11/06/25)

. Applicability, requirements, and limitations on a housing and transit reinvestment zone.

(1) A housing and transit reinvestment zone proposal created under this part shall demonstrate how the proposal addresses the following objectives:

(a) higher utilization of public transit;

(b) increasing availability of housing, including affordable housing, and fulfillment of moderate income housing plans;

(c) promoting and encouraging development of owner-occupied housing;

(d) improving efficiencies in parking and transportation, including walkability of communities near public transit facilities;

(e) overcoming development impediments and market conditions that render a development cost prohibitive absent the proposal and incentives;

(f) conserving water resources through efficient land use;

(g) improving air quality by reducing fuel consumption and motor vehicle trips;

(h) encouraging transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;

(i) strategic land use and municipal planning in major transit investment corridors as described in Subsection [~~10-9a-403(2)~~]10-20-404(2);

(j) increasing access to employment and educational opportunities; and

(k) increasing access to child care.

(2) (a) In order to accomplish the objectives described in Subsection (1), a municipality or public transit county that initiates the process to create a housing and transit reinvestment zone as described in this part shall ensure that the proposal for a housing and transit reinvestment zone includes:

(i) except as provided in Subsection (3), at least 12% of the proposed dwelling units within the housing and transit reinvestment zone are affordable housing units, with:

(A) up to 9% of the proposed dwelling units occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the county median gross income for households of the same size; and

(B) at least 3% of the proposed dwelling units occupied or reserved for occupancy by households with a gross household income equal to or less than 60% of the county median gross income for households of the same size;

(ii) except as provided in Subsection (2)(c), a housing and transit reinvestment zone shall include:

(A) at least 51% of the developable area within a housing and transit reinvestment zone as residential uses; and

(B) an average of at least 50 dwelling units per acre within the acreage of the housing and transit reinvestment zone dedicated to residential uses;

(iii) mixed-use development; and

(iv) a mix of dwelling units to ensure that at least 25% of the dwelling units have more than one bedroom.

(b) (i) If a housing and transit reinvestment zone is phased, a municipality or public transit county shall ensure that a housing and transit reinvestment zone is phased and developed to provide the required 12% of affordable housing units in each phase of development.

(ii) A municipality or public transit county may allow a housing and transit reinvestment zone to be phased and developed in a manner to provide more of the required affordable housing units in early phases of development.

(iii) A municipality or public transit county shall include in a housing and transit reinvestment zone proposal an affordable housing plan, which may include deed restrictions, to ensure the affordable housing required in the proposal will continue to meet the definition of affordable housing at least throughout the entire term of the housing and transit reinvestment zone.

(c) For a housing and transit reinvestment zone proposed by a public transit county at a public transit hub, or for a housing and transit reinvestment zone proposed by a municipality at a bus rapid transit station, the housing and transit reinvestment zone shall include:

(i) at least 51% of the developable area within a housing and transit reinvestment zone as residential uses; and

(ii) an average of at least 39 dwelling units per acre within the acreage of the housing and transit reinvestment zone dedicated to residential uses.

(3) A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement described in Subsection (2)(a).

(4) (a) A municipality may only propose a housing and transit reinvestment zone at a commuter rail station, and a public transit county may only propose a housing and transit reinvestment zone at a public transit hub, that:

(i) subject to Subsection (5)(a):

(A) (I) except as provided in Subsection (4)(a)(i)(A)(II), for a municipality, does not exceed a 1/3 mile radius of a commuter rail station;

(II) for a municipality that is a city of the first or second class that is within a county of the first or second class, with an opportunity zone created [~~pursuant to~~]in accordance with Section 1400Z-1, Internal Revenue Code, does not exceed a 1/2 mile radius of a commuter rail station located within the opportunity zone; or

(III) for a public transit county, does not exceed a 1/3 mile radius of a public transit hub; and

(B) has a total area of no more than 125 noncontiguous acres;

(ii) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's property tax increment above the base year for a term of no more than 25 consecutive years on each parcel within a 45-year period not to exceed the property tax increment amount approved in the housing and transit reinvestment zone proposal; and

(iii) the commencement of collection of property tax increment, for all or a portion of the housing and transit reinvestment zone project area, shall be triggered by providing notice as described in Subsection (6), but a housing and transit reinvestment zone proposal may not propose or include triggering more than three property tax increment collection periods for the same project during the applicable 45-year period.

(b) A municipality or public transit county may only propose a housing and transit reinvestment zone at a light rail station or bus rapid transit station that:

(i) subject to Subsection (5):

(A) does not exceed:

(I) except as provided in Subsection (4)(b)(i)(A)(II), (III), or (4)(e), a 1/4 mile radius of a bus rapid transit station or light rail station;

(II) for a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, a 1/2 mile radius of a light rail station located in an opportunity zone created [~~pursuant to~~]in accordance with Section1400Z-1, Internal Revenue Code; or

(III) a 1/2 mile radius of a light rail station located within a master-planned development of 500 acres or more; and

(B) has a total area of no more than 100 noncontiguous acres;

(ii) subject to Subsection (4)(c) and Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's property tax increment above the base year for a term of no more than 15 consecutive years on each parcel within a 30-year period not to exceed the property tax increment amount approved in the housing and transit reinvestment zone proposal; and

(iii) the commencement of collection of property tax increment, for all or a portion of the housing and transit reinvestment zone project area, shall be triggered by providing notice as described in Subsection (6), but a housing and transit reinvestment zone proposal may not propose or include triggering more than three property tax increment collection periods for the same project during the applicable 30-year period.

(c) For a housing and transit reinvestment zone proposed by a public transit county at a public transit hub, or for a housing and transit reinvestment zone proposed by a municipality at a bus rapid transit station, if the proposed housing density within the housing and transit reinvestment zone is between 39 and 49 dwelling units per acre, the maximum capture of each taxing entity's property tax increment above the base year is 60%.

(d) A municipality that is a city of the first class with a population greater than 150,000 in a county of the first class as described in Subsections (4)(a)(i)(A)(II) and (4)(b)(i)(A)(II) may only propose one housing and transit reinvestment zone within an opportunity zone.

(e) (i) Subject to Subsection (4)(e)(ii), the radius restrictions described in Subsection (4)(b)(i) do not apply, and a housing and transit reinvestment zone may extend to an area between two light rail stations located within a city of the third class if the two light rail stations are within a .95 mile distance on the same light rail line.

(ii) If a housing and transit reinvestment zone is extended to accommodate two light rail stations as described in Subsection (4)(e)(i):

(A) the housing and transit reinvestment zone is limited to a total area not to exceed 100 noncontiguous acres; and

(B) the housing and transit reinvestment zone may not exceed a 1/4 mile radius from the light rail stations or any point on the light rail line between the two stations.

(f) If a parcel within the housing and transit reinvestment zone is included as an area that is part of a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, that parcel may not be triggered for collection unless the project area funds collection period, as that term is defined in Section 17C-1-102, has expired.

(5) (a) For a housing and transit reinvestment zone for a commuter rail station, if a parcel is intersected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(a)(i).

(b) For a housing and transit reinvestment zone for a light rail or bus rapid transit station, if a parcel is intersected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(b)(i).

(c) A housing and transit reinvestment zone may not be smaller than 10 acres.

(6) (a) The notice of commencement of collection of property tax increment required in Subsection (4)(a)(iii) or (4)(b)(iii) shall be sent by mail or electronically to the following entities no later than December 31 of the year before the year for which the property tax increment collection is proposed to commence:

(i) the State Tax Commission;

(ii) the State Board of Education;

(iii) the state auditor;

(iv) the auditor of the county in which the housing and transit reinvestment zone is located;

(v) each taxing entity affected by the collection of property tax increment from the housing and transit reinvestment zone; and

(vi) the Governor's Office of Economic Opportunity.

(b) The notice described in Subsection (4)(a)(iii) or (4)(b)(iii) may not be triggered until the date on which the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee.

(7) (a) The maximum number of housing and transit reinvestment zones at light rail stations, not including a convention center reinvestment zone, is eight in any given county.

(b) Within a county of the first class, the maximum number of housing and transit reinvestment zones at bus rapid transit stations is three.

(c) Within a county of the first class, the maximum total combined number of housing and transit reinvestment zones described in Subsections (7)(a) and (b) and first home investment zones created under Part 16, First Home Investment Zone Act, is 11.

(8) (a) For purposes of this Subsection (8), "entitlement agreement" means:

(i) a land use application;

(ii) a rezone petition; or

(iii) a request, petition, or application to:

(A) enact or approve a development agreement; or

(B) to amend or modify a development agreement.

(b) This Subsection (8) applies to a specified county, as defined in Section [~~17-27a-408~~]17-80-101, that has created a small public transit district on or before January 1, 2022.

(c) To accomplish the objectives described in Subsection (1), an owner of undeveloped property within an unincorporated county shall have the right to develop and build a mixed-use development if:

(i) the owner has submitted an entitlement agreement to the county on or before December 31, 2022, and is within a 1/3 mile radius of a public transit hub in a county described in Subsection (8)(b), including parcels that are intersected by the 1/3 mile radius; and

(ii) the county described in Subsection (8)(b) has failed to approve the entitlement agreement described in Subsection (8)(c)(i) by ordinance before December 31, 2022.

(d) The mixed use development described in Subsection (8)(c) shall include the following:

(i) (A) (I) a maximum number of dwelling units equal to 30 multiplied by the total acres of developable area within the mixed-use development dedicated exclusively to residential use; or

(II) a maximum number of dwelling units equal to 15 multiplied by the total acres of the mixed-use development; and

(B) at least 33% of the dwelling units as affordable housing;

(ii) commercial uses, including office, retail, educational, and healthcare in support of the mixed-use development constituting no more than 1/3 of the total planned gross building square footage of the subject parcels; and

(iii) any other infrastructure element necessary or reasonable to support the mixed-use development, including:

(A) parking infrastructure;

(B) streets;

(C) sidewalks;

(D) parks; and

(E) trails.

(e) (i) The mixed-use development described in this Subsection (8) may qualify for a housing and transit reinvestment zone described in Subsection (4)(a).

(ii) The county described in Subsection (8)(b) may propose a housing and transit reinvestment zone [~~pursuant to~~]in accordance with this part, if the housing and transit reinvestment zone includes:

(A) (I) an average of at least 30 dwelling units per acre within the acreage of the housing and transit reinvestment zone dedicated to residential use; or

(II) a minimum number of 14 dwelling units per acre on average within the acreage of the housing and transit reinvestment zone; and

(B) at least 33% of the dwelling units as affordable housing units.

(f) A county may not take an action or enforce an agreement, ordinance, regulation, or requirement that prevents or creates development impediments to the development of a mixed-use development as described in this Subsection (8).

(g) A county action to approve or implement the development of a mixed-use development as described in this Subsection (8) shall constitute an administrative action taken by the county and does not require county legislative action.

Section 212. Section 63N-3-1602 is amended to read:

63N-3-1602

(Effective 11/06/25)

. Applicability, requirements, and limitations on a first home investment zone.

(1) A first home investment zone created [~~pursuant to~~]in accordance with this part shall promote the following objectives:

(a) encouraging efficient development and opportunities for home ownership by providing a variety of housing options, including affordable housing and for sale, owner-occupied housing;

(b) improving availability of housing options;

(c) overcoming development impediments and market conditions that render a development cost prohibitive absent the proposal and incentives;

(d) conserving water resources through efficient land use;

(e) improving air quality by reducing fuel consumption and motor vehicle trips;

(f) encouraging transformative mixed-use development;

(g) strategic land use and municipal planning in major transit investment corridors as described in Subsection [~~10-9a-403(2)~~]10-20-404(2);

(h) increasing access to employment and educational opportunities;

(i) increasing access to child care; and

(j) improving efficiencies in parking and transportation, including walkability of communities, street and path interconnectivity within the proposed development and connections to surrounding communities, and access to roadways, public transportation, and active transportation.

(2) In order to accomplish the objectives described in Subsection (1), a municipality or county that initiates the process to create a first home investment zone as described in this part shall ensure that the proposal for a first home investment zone includes:

(a) subject to Subsection (3), a minimum of 30 housing units per acre:

(i) in at least 51% of the developable area within the first home investment zone; and

(ii) of which 50% must be owner occupied;

(b) a mixed use development;

(c) a requirement that at least 25% of homes within the first home investment zone remain owner occupied for at least 25 years from the date of original purchase;

(d) for homes inside the first home investment zone, a requirement that at least 12% of the owner occupied homes and 12% of the homes that are not owner occupied are affordable housing;

(e) a requirement that at least 20% of the extraterritorial homes are affordable housing; and

(f) except for extraterritorial homes, the number of homes that result from multiplying the number of housing units described in Subsection (2)(a) by the developable area described in Subsection (2)(a)(i) may be intermingled with other mixed uses within the first home investment zone.

(3) (a) Subject to Subsection (3)(b), to satisfy the requirements described in Subsection (2)(a), a first home investment zone may include an extraterritorial home to count toward the required density and owner-occupancy of the first home investment zone by:

(i) adding the total number of extraterritorial homes related to the first home investment zone to the total number of homes within the first home investment zone; and

(ii) dividing the sum described in Subsection (3)(a)(i) by a number equal to 51% of the total number of developable acres within the first home investment zone.

(b) Extraterritorial homes may account for no more than half of the total homes to calculate density within a first home investment zone.

(4) (a) If a municipality proposes a first home investment zone, the proposal shall comply with the limitations described in this Subsection (4).

(b) A first home investment zone may not be less than 10 acres and no more than 100 acres of developable area in size.

(c) (i) Except as provided in Subsection (4)(c)(ii), a first home investment zone is required to be one contiguous area.

(ii) While considering a first home investment zone proposal as described in Section 63N-3-1605, the housing and transit reinvestment zone committee may consider and approve a first home investment zone that is not one contiguous area if:

(A) the municipality provides evidence in the proposal showing that the deviation from the contiguity requirement will enhance the ability of the first home investment zone to achieve the objectives described in Subsection (1); and

(B) the housing and transit reinvestment zone committee determines that the deviation is reasonable and circumstances justify deviation from the contiguity requirement.

(iii) The first home investment zone area contiguity is not affected by roads or other rights-of-way.

(d) (i) A first home investment zone proposal may propose the capture of a maximum of 60% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years within a 45-year period not to exceed the tax increment amount approved in the first home investment zone proposal.

(ii) A first home investment zone proposal may not propose or include triggering more than three tax increment collection periods during the applicable 25-year period.

(iii) Subject to Subsection (4)(d)(iv), a municipality shall ensure that the required affordable housing units are included proportionally in each phase of the first home investment zone development.

(iv) A municipality may allow a first home investment zone to be phased and developed in a manner to provide more of the required affordable housing units in early phases of development.

(e) If a municipality proposes a first home investment zone, commencement of the collection of tax increment, for all or a portion of the first home investment zone, is triggered by providing notice as described in Subsection (5).

(f) A municipality may restrict homes within a first home investment zone and related extraterritorial homes from being used as a short-term rental.

(g) A municipality shall ensure that affordable housing within a first home investment zone and related extraterritorial homes that are reserved as affordable housing are spread throughout the overall development.

(h) A municipality shall ensure that at least 80% of extraterritorial homes included in a first home investment zone proposal are single-family detached homes.

(i) A municipality shall include in a first home investment zone proposal:

(i) an affordable housing plan, which may include deed restrictions, to ensure the affordable housing required in the proposal will continue to meet the definition of affordable housing at least throughout the entire term of the first home investment zone; and

(ii) an owner occupancy plan, which may include deed restrictions, to ensure the owner occupancy requirements in the proposal will continue to meet the definition of owner occupancy at least throughout the entire term of the first home investment zone.

(j) A municipality shall include in the first home investment zone proposal evidence to demonstrate how the first home investment zone proposal complies with the municipality's moderate income housing plan and general plan.

(5) Notice of commencement of collection of tax increment shall be sent by mail or electronically to the following entities no later than January 1 of the year for which the tax increment collection is proposed to commence:

(a) the State Tax Commission;

(b) the State Board of Education;

(c) the state auditor;

(d) the auditor of the county in which the first home investment zone is located;

(e) each taxing entity affected by the collection of tax increment from the first home investment zone;

(f) the assessor of the county in which the first home investment zone is located; and

(g) the Governor's Office of Economic Opportunity.

(6) A first home investment zone proposal may not include a proposal to capture sales and use tax increment.

(7) A municipality may not propose a first home investment zone in a county of the first class if the limitation described in Subsection 63N-3-603(7)(c) has been reached.

(8) A municipality may not propose a first home investment zone in a location that is eligible for a housing and transit reinvestment zone.

(9) A municipality may not propose a first home investment zone if the municipality's community reinvestment agency, based on the most recent annual comprehensive financial report, retains cash and cash equivalent assets of more than 20% of ongoing and unencumbered annual community reinvestment agency revenue.

Section 213. Section 71A-1-201 is amended to read:

71A-1-201

(Effective 11/06/25)

. Department of Veterans and Military Affairs -- Creation -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department who is subject to Senate confirmation.

(3) The executive director shall be a veteran.

(4) The department shall:

(a) conduct and supervise all veteran and military affairs activities as provided in this title;

(b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title;

(c) in accordance with Section 41-1a-418:

(i) determine which campaign or combat theater awards are eligible for a special group license plate;

(ii) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it; and

(iii) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;

(d) maintain liaison with local, state, and federal veterans agencies and with Utah veterans organizations;

(e) provide current information to veterans, service members, their surviving spouses and family members, and Utah veterans and

military organizations on benefits they are entitled to;

(f) assist veterans, service members, and their families in applying for benefits and services;

(g) cooperate with other state entities in the receipt of information to create and maintain a record of veterans in Utah;

(h) create and administer a veterans assistance registry in accordance with Chapter 5, Veterans Assistance Registry, with recommendations from the council, that provides contact information to the qualified donors of materials and labor for certain qualified recipients;

(i) identify military-related issues, challenges, and opportunities, and develop plans for addressing them;

(j) develop, coordinate, and maintain relationships with military leaders of Utah military installations, including the National Guard;

(k) develop and maintain relationships with military-related organizations in Utah;

(l) consult with municipalities and counties regarding compatible use plans as described in Sections [~~10-9a-537~~]10-20-620 and [~~17-27a-533~~]17-79-616;

(m) enforce a food delivery dead zone as described in Section 13-80-201;

(n) work in conjunction with the Utah Homeless Services Board to create best practices for helping veterans, as that term is defined in Section 68-3-12.5, avoid homelessness;

(o) provide services and benefits directly or indirectly to service members, veterans, and families of service members and veterans, including services and benefits related to claims, health care, employment, education, mental wellness, counseling, business, housing, recognition, camaraderie, and other functions; and

(p) serve as the State Approving Agency under United States Code, Title 38, Veterans Benefits.

(5) (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (5)(a) to:

(i) an institution of higher education listed in Section 53B-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:

(i) the form and process for submitting an application to the department;

(ii) the method and criteria for selecting a grant recipient;

(iii) the method and formula for determining a grant amount; and

(iv) the reporting requirements of a grant recipient.

(6) (a) The department may:

(i) receive gifts, contributions, and donations to support service members, veterans, families of service members and veterans, and military missions, including tangible objects and real property, if the department uses the gifts, contributions, and donations for the benefit of, or in connection with, service members, veterans, families of service members and veterans, or military missions; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules related to the administration of gifts, contributions, and donations described in Subsection (6)(a).

(b) A gift, contribution, or donation received by the department as described in Subsection (6)(a), does not revert to the General Fund and is considered non-lapsing funds.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules related to:

(a) the consultation with municipalities and counties regarding compatible use plans as required in Subsection (4)(l); and

(b) criteria to evaluate whether a proposed land use is compatible with military operations.

(8) Nothing in this chapter alters or preempts any provisions of Title 39A, National Guard and Militia Act, as specifically related to the National Guard.

Section 214. Section 72-1-304 is amended to read:

72-1-304

(Effective 11/06/25)

. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;

(ii) paved pedestrian or paved nonmotorized transportation projects described in Section 72-2-124;

(iii) public transit projects that directly add capacity to the public transit systems within the state, not including facilities ancillary to the public transit system; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or public transit district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or public transit district nominates a project for prioritization by the commission, the local government or public transit district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or public transit district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or public transit district will provide the percentage of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(10)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or public transit district's general plan [~~pursuant to~~]in accordance with Section [~~10-9a-403~~]10-20-404 or [~~17-27a-403~~]17-79-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the percentage of costs required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(10)(e).

(3) (a) When prioritizing a public transit project that increases capacity, the commission:

(i) may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802; and

(ii) shall give priority consideration to projects that are within the boundaries of a housing and transit reinvestment zone created [~~pursuant to~~]in accordance with Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(b) When prioritizing a transportation project that increases capacity, the commission may give priority consideration to projects that are:

(i) part of a transportation reinvestment zone created under Section 11-13-227 if:

(A) the state is a participant in the transportation reinvestment zone; or

(B) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system; or

(ii) within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(c) If the department receives a notice of prioritization for a municipality as described in Subsection [~~10-9a-408(6)~~]10-21-202(5), or a notice of prioritization for a county as described in Subsection [~~17-27a-408(6)~~]17-80-202(5), the commission may give priority consideration to transportation projects that are within the boundaries of the municipality or the unincorporated areas of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that the municipality or county no longer qualifies for prioritization under this Subsection (3)(c).

(d) When prioritizing a transportation project described in Subsection (1)(a)(ii) or (iv), the commission may give priority consideration to projects that improve connectivity [~~pursuant to~~]in accordance with Section 10-8-87.

(4) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(6) The commission shall submit the proposed rules under this section to the Transportation Interim Committee for review [~~prior to~~]before taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (5).

Section 215. Section 72-2-124 is amended to read:

72-2-124

(Effective 11/06/25) (Superseded 07/01/26)

. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103;

(e) revenues transferred to the fund in accordance with Section 72-2-106;

(f) revenues transferred into the fund in accordance with Subsection 72-2-121(4)(l); and

(g) revenue from bond proceeds described in Section 63B-34-101.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-

401(2), (3), and (4);

(iii) subject to Subsection (9), costs of corridor preservation, as that term is defined in Section 72-5-401;

(iv) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(v) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(vi) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) subject to Subsection (4)(c), two lanes on U-111 from Herriman Parkway to South Jordan Parkway;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County;

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10;

(xi) $13,000,000 as pass-through funds to Spanish Fork for the costs of right-of-way acquisition, construction, reconstruction, or renovation to connect Fingerhut Road over the railroad and to U.S. Highway 6;

(xii) for a fiscal year beginning on July 1, 2025, only, as pass-through funds from revenue deposited into the fund in accordance with Section 59-12-103, for the following projects:

(A) $3,000,000 for the department to perform an environmental study for the I-15 Salem and Benjamin project; and

(B) $2,000,000, as pass-through funds, to Kane County for the Coral Pink Sand Dunes Road project; and

(xiii) for a fiscal year beginning on July 1, 2025, up to $300,000,000 for the costs of right-of-way acquisition and construction for improvements on SR-89 in a county of the first class.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(c) (i) Construction related to the project described in Subsection (4)(a)(ix)(D) may not commence until a right-of-way not owned by a federal agency that is required for the realignment and extension of U-111, as described in the department's 2023 environmental study related to the project, is dedicated to the department.

(ii) Notwithstanding Subsection (4)(c)(i), if a right-of-way is not dedicated for the project as described in Subsection (4)(c)(i) on or before October 1, 2024, the department may proceed with the project, except that the project will be limited to two lanes on U-111 from Herriman Parkway to 11800 South.

(5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection [~~10-9a-408(9)~~]10-21-202(8), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (5) no longer applies to the municipality.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection [~~17-27a-408(9)~~]17-80-202(8), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (6) no longer applies to the county.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) The executive director may only use money in the fund for corridor preservation as described in Subsection (4)(a)(iii):

(a) if the project has been prioritized by the commission, including the use of fund money for corridor preservation; or

(b) for a project that has not been prioritized by the commission, if the commission:

(i) approves the use of fund money for the corridor preservation; and

(ii) finds that the use of fund money for corridor preservation will not result in any delay to a project that has been prioritized by the commission.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) transfers of local option sales and use tax revenue as described in Subsection 59-12-2220(11)(b) or (c);

(v) private contributions; and

(vi) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (10)(e), the commission may prioritize money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304;

(ii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility; or

(iii) up to $500,000 per year, to be used for a public transit study.

(e) (i) Subject to Subsections (10)(g), (h), and (i), the commission may only prioritize money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 30% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted [~~pursuant to~~]in accordance with Part 2, State Infrastructure Bank Fund, to provide all or part of the 30% requirement described in Subsection (10)(e)(i) if:

(A) the loan is approved by the commission as required in Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(g) For any revenue transferred into the fund [~~pursuant to~~]in accordance with Subsection 59-12-2220(11)(b):

(i) the commission may prioritize money from the fund for public transit projects, operations, or maintenance within the county of the first class; and

(ii) Subsection (10)(e) does not apply.

(h) For any revenue transferred into the fund [~~pursuant to~~]in accordance with Subsection 59-12-2220(11)(c):

(i) the commission may prioritize public transit projects, operations, or maintenance in the county from which the revenue was generated; and

(ii) Subsection (10)(e) does not apply.

(i) The requirement to provide funds equal to or greater than 30% of the costs needed for the project described in Subsection (10)(e) does not apply to a public transit capital development project or pedestrian or nonmotorized transportation project that the department proposes.

(j) In accordance with Part 4, Public Transit Innovation Grants, the commission may prioritize money from the fund for public transit innovation grants, as defined in Section 72-2-401, for public transit capital development projects requested by a political subdivision within a public transit district.

(11) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

(e) The department may use up to 2% of the revenue deposited into the account under Subsection 59-12-103(7)(b) to contract with local governments as necessary for public safety enforcement related to the Cottonwood Canyons of Salt Lake County.

(f) Beginning with fiscal year beginning on July 1, 2025, the department shall use any sales and use tax growth over sales and use tax collections during the 2025 fiscal year to fund projects to provide ingress and egress for a public transit hub, including construction of the public transit hub, in the Big Cottonwood Canyon area.

(12) (a) There is created in the Transportation Investment Fund of 2005 the Active Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature; and

(iii) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The executive director may only use fund money to pay the costs needed for:

(i) the planning, design, construction, maintenance, reconstruction, or renovation of paved pedestrian or paved nonmotorized trail projects that:

(A) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(B) serve a regional purpose; and

(C) are part of an active transportation plan approved by the department or the plan described in Subsection (12)(d)(ii);

(ii) the development of a plan for a statewide network of paved pedestrian or paved nonmotorized trails that serve a regional purpose; and

(iii) the administration of the fund, including staff and overhead costs.

(13) (a) As used in this Subsection (13), "commuter rail" means the same as that term is defined in Section 63N-3-602.

(b) There is created in the Transit Transportation Investment Fund the Commuter Rail Subaccount.

(c) The subaccount shall be funded by:

(i) contributions deposited into the subaccount in accordance with Section 59-12-103;

(ii) appropriations into the subaccount by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(d) (i) The subaccount shall earn interest.

(ii) All interest earned on money in the subaccount shall be deposited into the subaccount.

(e) As prioritized by the commission through the prioritization process adopted under Section 72-1-304 or as directed by the Legislature, the department may only use money from the subaccount for projects that improve the state's commuter rail infrastructure, including the building or improvement of grade-separated crossings between commuter rail lines and public highways.

(f) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

Section 216. Section 72-2-124 is amended to read:

72-2-124

(Effective 07/01/26)

. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103;

(e) revenues transferred to the fund in accordance with Section 72-2-106;

(f) revenues transferred into the fund in accordance with Subsection 72-2-121(4)(l); and

(g) revenue from bond proceeds described in Section 63B-34-201.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) subject to Subsection (9), costs of corridor preservation, as that term is defined in Section 72-5-401;

(iv) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(v) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(vi) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) subject to Subsection (4)(c), two lanes on U-111 from Herriman Parkway to South Jordan Parkway;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County;

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10;

(xi) $13,000,000 as pass-through funds to Spanish Fork for the costs of right-of-way acquisition, construction, reconstruction, or renovation to connect Fingerhut Road over the railroad and to U.S. Highway 6;

(xii) for a fiscal year beginning on July 1, 2025, only, as pass-through funds from revenue deposited into the fund in accordance with Section 59-12-103, for the following projects:

(A) $3,000,000 for the department to perform an environmental study for the I-15 Salem and Benjamin project; and

(B) $2,000,000, as pass-through funds, to Kane County for the Coral Pink Sand Dunes Road project; and

(xiii) for a fiscal year beginning on July 1, 2025, up to $300,000,000 for the costs of right-of-way acquisition and construction for improvements on SR-89 in a county of the first class.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used

as provided in Subsection (4)(a).

(c) (i) Construction related to the project described in Subsection (4)(a)(ix)(D) may not commence until a right-of-way not owned by a federal agency that is required for the realignment and extension of U-111, as described in the department's 2023 environmental study related to the project, is dedicated to the department.

(ii) Notwithstanding Subsection (4)(c)(i), if a right-of-way is not dedicated for the project as described in Subsection (4)(c)(i) on or before October 1, 2024, the department may proceed with the project, except that the project will be limited to two lanes on U-111 from Herriman Parkway to 11800 South.

(5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection [~~10-9a-408(9)~~]10-21-202(8), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (5) no longer applies to the municipality.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection [~~17-27a-408(9)~~]17-80-202(8), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (6) no longer applies to the county.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) The executive director may only use money in the fund for corridor preservation as described in Subsection (4)(a)(iii):

(a) if the project has been prioritized by the commission, including the use of fund money for corridor preservation; or

(b) for a project that has not been prioritized by the commission, if the commission:

(i) approves the use of fund money for the corridor preservation; and

(ii) finds that the use of fund money for corridor preservation will not result in any delay to a project that has been prioritized by the commission.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) transfers of local option sales and use tax revenue as described in Subsection 59-12-2220(11)(b) or (c);

(v) private contributions; and

(vi) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (10)(e), the commission may prioritize money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304;

(ii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility; or

(iii) up to $500,000 per year, to be used for a public transit study.

(e) (i) Subject to Subsections (10)(g), (h), and (i), the commission may only prioritize money from the fund for a public transit capital

development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 30% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted [~~pursuant to~~]in accordance with Part 2, State Infrastructure Bank Fund, to provide all or part of the 30% requirement described in Subsection (10)(e)(i) if:

(A) the loan is approved by the commission as required in Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(g) For any revenue transferred into the fund [~~pursuant to~~]in accordance with Subsection 59-12-2220(11)(b):

(i) the commission may prioritize money from the fund for public transit projects, operations, or maintenance within the county of the first class; and

(ii) Subsection (10)(e) does not apply.

(h) For any revenue transferred into the fund [~~pursuant to~~]in accordance with Subsection 59-12-2220(11)(c):

(i) the commission may prioritize public transit projects, operations, or maintenance in the county from which the revenue was generated; and

(ii) Subsection (10)(e) does not apply.

(i) The requirement to provide funds equal to or greater than 30% of the costs needed for the project described in Subsection (10)(e) does not apply to a public transit capital development project or pedestrian or nonmotorized transportation project that the department proposes.

(j) In accordance with Part 4, Public Transit Innovation Grants, the commission may prioritize money from the fund for public transit innovation grants, as defined in Section 72-2-401, for public transit capital development projects requested by a political subdivision within a public transit district.

(11) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

(e) The department may use up to 2% of the revenue deposited into the account under Subsection 59-12-103(4)(f) to contract with local governments as necessary for public safety enforcement related to the Cottonwood Canyons of Salt Lake County.

(f) Beginning with fiscal year beginning on July 1, 2025, the department shall use any sales and use tax growth over sales and use tax collections during the 2025 fiscal year to fund projects to provide ingress and egress for a public transit hub, including construction of the public transit hub, in the Big Cottonwood Canyon area.

(12) (a) There is created in the Transportation Investment Fund of 2005 the Active Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature; and

(iii) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The executive director may only use fund money to pay the costs needed for:

(i) the planning, design, construction, maintenance, reconstruction, or renovation of paved pedestrian or paved nonmotorized trail projects that:

(A) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(B) serve a regional purpose; and

(C) are part of an active transportation plan approved by the department or the plan described in Subsection (12)(d)(ii);

(ii) the development of a plan for a statewide network of paved pedestrian or paved nonmotorized trails that serve a regional purpose; and

(iii) the administration of the fund, including staff and overhead costs.

(13) (a) As used in this Subsection (13), "commuter rail" means the same as that term is defined in Section 63N-3-602.

(b) There is created in the Transit Transportation Investment Fund the Commuter Rail Subaccount.

(c) The subaccount shall be funded by:

(i) contributions deposited into the subaccount in accordance with Section 59-12-103;

(ii) appropriations into the subaccount by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(d) (i) The subaccount shall earn interest.

(ii) All interest earned on money in the subaccount shall be deposited into the subaccount.

(e) As prioritized by the commission through the prioritization process adopted under Section 72-1-304 or as directed by the

Legislature, the department may only use money from the subaccount for projects that improve the state's commuter rail infrastructure, including the building or improvement of grade-separated crossings between commuter rail lines and public highways.

(f) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

Section 217. Section 72-5-117 is amended to read:

72-5-117

(Effective 11/06/25)

. Rulemaking for sale of real property -- Licensed or certified appraisers -- Exceptions.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the department buys, sells, or exchanges real property, the department shall make rules to ensure that the value of the real property is congruent with the proposed price and other terms of the purchase, sale, or exchange.

(2) The rules:

(a) shall establish procedures for determining the value of the real property;

(b) may provide that an appraisal, as defined under Section 61-2g-102, demonstrates the real property's value;

(c) may require that the appraisal be completed by a state-certified general appraiser, as defined under Section 61-2g-102;

(d) may provide for the sale or exchange of real property, with or without charge, to a large public transit district if the executive director enters into an agreement with the large public transit district and determines that the real property:

(i) is within the boundaries of a station area that has a station area plan certified by a metropolitan planning organization in accordance with Section [~~10-9a-403.1~~]10-21-203;

(ii) is part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802;

(iii) is adjacent to a completed fixed guideway capital development that was overseen by the department; or

(iv) will only be used by the large public transit district in a manner that the executive director determines will provide a benefit to the state transportation system; and

(e) may provide for a sale of surplus real property to a state agency or an independent entity, as defined in Section 63E-1-102, that administers public interests in housing for a pre-entitlement appraised value the payment of which may be deferred until after the development of owner-occupied housing.

(3) Subsection (1) does not apply to the purchase, sale, or exchange of real property, or to an interest in real property:

(a) that is under a contract or other written agreement before May 5, 2008; or

(b) with a value of less than $100,000, as estimated by the state agency.

Section 218. Section 72-5-401 is amended to read:

72-5-401

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Corridor preservation" means planning or acquisition processes intended to:

(a) protect or enhance the capacity of existing transportation corridors; and

(b) protect the availability of proposed transportation corridors in advance of the need for and the actual commencement of the transportation facility construction.

(2) "Development" means:

(a) the subdividing of land;

(b) the construction of improvements, expansions, or additions; or

(c) any other action that will appreciably increase the value of and the future acquisition cost of land.

(3) "Official map" means a map, drawn by government authorities and recorded in county recording offices that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) for counties and municipalities may be adopted as an element of the general plan, [~~pursuant to~~]in accordance with [~~Title 17, Chapter 27a, Part 4, General Plan~~]Title 17, Chapter 79, Part 4, General Plan, or [~~Title 10, Chapter 9a, Part 4, General Plan~~]Title 10, Chapter 20, Part 4, General Plan.

(4) "Taking" means an act or regulation, either by exercise of eminent domain or other police power, whereby a government entity puts private property to public use or restrains use of private property for public purposes, and that requires compensation to be paid to private property owners.

Section 219. Section 72-5-403 is amended to read:

72-5-403

(Effective 11/06/25)

. Transportation corridor preservation powers.

(1) The department, counties, and municipalities may:

(a) act in cooperation with one another and other government entities to promote planning for and enhance the preservation of transportation corridors and to more effectively use the money available in the Marda Dillree Corridor Preservation Fund created in Section 72-2-117;

(b) undertake transportation corridor planning, review, and preservation processes; and

(c) acquire fee simple rights and other rights of less than fee simple, including easement and development rights, or the rights to limit development, including rights in alternative transportation corridors, and to make these acquisitions up to a projected 40 years in advance of using those rights in actual transportation facility construction.

(2) In addition to the powers described under Subsection (1), counties and municipalities may:

(a) limit development for transportation corridor preservation by land use regulation and by official maps; and

(b) by ordinance prescribe procedures for approving limited development in transportation corridors until the time transportation facility construction begins.

(3) (a) The department shall identify and the commission shall approve transportation corridors as high priority transportation corridors for transportation corridor preservation.

(b) The department shall notify a county or municipality if the county or municipality has land within its boundaries that is located within the boundaries of a high priority transportation corridor.

(c) The department may, on a voluntary basis, acquire private property rights within the boundaries of a high priority transportation corridor for which a notification has been received in accordance with Section [~~10-9a-206~~]10-20-206 or [~~17-27a-206~~]17-79-206.

Section 220. Section 72-7-502 is amended to read:

72-7-502

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on the main traveled way of a street or highway within the visibility area.

(2) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following are commercial or industrial activities:

(a) agricultural, forestry, grazing, farming, and related activities, including wayside fresh produce stands;

(b) transient or temporary activities;

(c) activities not visible from the main-traveled way;

(d) activities conducted in a building principally used as a residence; and

(e) railroad tracks and minor sidings.

(3) (a) "Commercial or industrial zone" means only:

(i) those areas within the boundaries of cities or towns that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;

(ii) those areas within the boundaries of urbanized counties that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;

(iii) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns that:

(A) are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under comprehensive local zoning ordinances or regulations or enabling state legislation; and

(B) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way; or

(iv) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way that are reserved for business, commerce, or trade under enabling state legislation or comprehensive local zoning ordinances or regulations, and are actually used for commercial or industrial purposes.

(b) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of allowing outdoor advertising.

(4) (a) "Comprehensive local zoning ordinances or regulations" means a municipality's [~~comprehensive~~]general plan required by Section [~~10-9a-401~~]10-20-401, the municipal zoning [~~plan~~]regulations authorized by Section [~~10-9a-501~~]10-20-501, [~~and~~]the county [~~master~~]general plan authorized by [~~Sections 17-27a-401~~]Section 17-79-401, and [~~17-27a-501~~]county zoning regulations authorized by Section 17-79-501.

(b) Property that is rezoned by comprehensive local zoning ordinances or regulations is rebuttably presumed to have not been zoned for the sole purpose of allowing outdoor advertising.

(5) "Contiguous" means that a portion of one parcel of land is situated immediately adjacent to, and shares a common boundary with, a portion of another parcel of land.

(6) "Controlled route" means any route where outdoor advertising control is mandated by state or federal law, including under this part and under the Utah-Federal Agreements described in Section 72-7-501.

(7) "Directional signs" means signs containing information about public places owned or operated by federal, state, or local governments or their agencies, publicly or privately owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, that the department considers to be in the interest of the traveling public.

(8) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being.

(b) "Erect" does not include any activities defined in Subsection (8)(a) if they are performed incident to the change of an advertising message or customary maintenance of a sign.

(9) "Highway service zone" means a highway service area where the primary use of the land is used or reserved for commercial and roadside services other than outdoor advertising to serve the traveling public.

(10) "Information center" means an area or site established and maintained at rest areas for the purpose of informing the public of:

(a) places of interest within the state; or

(b) any other information that the department considers desirable.

(11) "Interchange or intersection" means those areas and their approaches where traffic is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration lanes, or feeder systems, from or to another federal, state, county, city, or other route.

(12) "Maintain" means to allow to exist, subject to the provisions of this chapter.

(13) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an existing sign structure safe and in a state suitable for use, including signs destroyed by vandalism or an act of God.

(14) "Main-traveled way" means the through traffic lanes, including auxiliary lanes, acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads and ramps. For a divided highway, there is a separate main-traveled way for the traffic in each direction.

(15) "Major sponsor" means a sponsor of a public assembly facility or of a team or event held at the facility where the amount paid by the sponsor to the owner of the facility, to the team, or for the event is at least $100,000 per year.

(16) "Official signs and notices" means signs and notices erected and maintained by public agencies within their territorial or zoning jurisdictions for the purpose of carrying out official duties or responsibilities in accordance with direction or authorization contained in federal, state, or local law.

(17) "Off-premise sign" means a sign located in an area zoned industrial, commercial, or H-1 and in an area determined by the department to be unzoned industrial or commercial that advertises an activity, service, event, person, or product located on premises other than the premises on which the sign is located.

(18) "On-premise sign" means a sign used to advertise the sale or lease of, or activities conducted on, the property on which the sign is located.

(19) "Outdoor advertising" means any outdoor advertising structure or outdoor structure used in combination with an outdoor advertising sign or outdoor sign within the outdoor advertising corridor which is visible from a place on the main-traveled way of a controlled route.

(20) "Outdoor advertising corridor" means a strip of land 660 feet wide, measured perpendicular from the edge of a controlled highway right-of-way.

(21) "Outdoor advertising structure" or "outdoor structure" means any sign structure, including any necessary devices, supports, appurtenances, and lighting that is part of or supports an outdoor sign.

(22) "Point of widening" means the point of the gore or the point where the intersecting lane begins to parallel the other lanes of traffic, but the point of widening may never be greater than 2,640 feet from the center line of the intersecting highway of the interchange or intersection at grade.

(23) "Public assembly facility" means a convention facility as defined under Section 59-12-602 that:

(a) includes all contiguous interests in land, improvements, and utilities acquired, constructed, and used in connection with the operation of the public assembly facility, whether the interests are owned or held in fee title or a lease or easement for a term of at least 40 years, and regardless of whether the interests are owned or operated by separate governmental authorities or districts;

(b) is wholly or partially funded by public money;

(c) requires a person attending an event at the public assembly facility to purchase a ticket or that otherwise charges for the use of the public assembly facility as part of its regular operation; and

(d) has a minimum and permanent seating capacity of at least 10,000 people.

(24) "Public assembly facility sign" means a sign located on a public assembly facility that only advertises the public assembly facility, major sponsors, events, the sponsors of events held or teams playing at the facility, and products sold or services conducted at the facility.

(25) "Relocation" includes the removal of a sign from one situs together with the erection of a new sign upon another situs in a commercial or industrial zoned area as a substitute.

(26) "Relocation and replacement" means allowing all outdoor advertising signs or permits the right to maintain outdoor advertising along the interstate, federal aid primary highway existing as of June 1, 1991, and national highway system highways to be maintained in a commercial or industrial zoned area to accommodate the displacement, remodeling, or widening of the highway systems.

(27) "Remodel" means the upgrading, changing, alteration, refurbishment, modification, or complete substitution of a new outdoor advertising structure for one permitted pursuant to this part and that is located in a commercial or industrial area.

(28) "Rest area" means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control for the convenience of the traveling public.

(29) "Scenic or natural area" means an area determined by the department to have aesthetic value.

(30) "Traveled way" means that portion of the roadway used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

(31) (a) "Unzoned commercial or industrial area" means:

(i) those areas not zoned by state law or local law, regulation, or ordinance that are occupied by one or more industrial or commercial activities other than outdoor advertising signs;

(ii) the lands along the highway for a distance of 600 feet immediately adjacent to those activities; and

(iii) lands covering the same dimensions that are directly opposite those activities on the other side of the highway, if the department determines that those lands on the opposite side of the highway do not have scenic or aesthetic value.

(b) In measuring the scope of the unzoned commercial or industrial area, all measurements shall be made from the outer edge of the regularly used buildings, parking lots, storage, or processing areas of the activities and shall be along or parallel to the edge of pavement of the highway.

(c) All signs located within an unzoned commercial or industrial area become nonconforming if the commercial or industrial activity used in defining the area ceases for a continuous period of 12 months.

(32) "Urbanized county" means a county with a population of at least 125,000 persons.

(33) "Visibility area" means the area on a street or highway that is:

(a) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

(b) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:

(i) perpendicular to the street or highway; and

(ii) 500 feet from the base of the billboard.

Section 221. Section 72-7-510.5 is amended to read:

72-7-510.5

(Effective 11/06/25)

. Height adjustments for outdoor advertising signs.

(1) If the view and readability of an outdoor advertising sign, including a sign that is a nonconforming sign as defined in Section 72-

7-510, a noncomplying structure as defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102, or a nonconforming use as defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102 is obstructed due to a noise abatement or safety measure, grade change, construction, directional sign, highway widening, or aesthetic improvement made by an agency of this state, along an interstate, federal aid primary highway existing as of June 1, 1991, national highway systems highway, or state highway or by an improvement created on real property subsequent to the department's disposal of the property under Section 72-5-111, the owner of the sign may:

(a) adjust the height of the sign;

(b) if the sign is located along an interstate, federal aid primary highway existing as of June 1, 1991, or national highway systems highway, relocate the sign to either side of the same highway, within the same municipality or unincorporated county, if the sign complies with the spacing requirements under Section 72-7-505 and is in a commercial or industrial zone;

(c) if the sign is located along a state highway, relocate the sign to either side of the same highway, within the same municipality or unincorporated county, to a point within one mile of the sign's prior location, if the sign complies with the spacing requirements under Section 72-7-505 and is located in a commercial or industrial zone; or

(d) relocate the sign to a location that is mutually agreed upon by the owner and:

(i) the same municipality or unincorporated county in which the obstructed sign is located; or

(ii) any other municipality or unincorporated county.

(2) A height adjusted sign under this section does not constitute a substantial change to the sign.

(3) The county or municipality in which the obstructed sign is located or is to be relocated shall, if necessary, provide for the height adjustment or relocation by ordinance for a special exception to its zoning ordinance.

(4) (a) The height adjusted sign:

(i) may be erected:

(A) to a height to make the entire advertising content of the sign clearly visible; and

(B) to an angle to make the entire advertising content of the sign clearly visible; and

(ii) shall be the same size as the previous sign.

(b) The provisions of Subsection (4)(a) are an exception to the height requirements under Section 72-7-505.

Section 222. Section 72-10-403 is amended to read:

72-10-403

(Effective 11/06/25)

. Airport zoning regulations.

(1) Flight of aircraft over the lands and waters of the state is lawful, unless:

(a) at such a low altitude as to interfere with the existing use to which the owner has put the land, water, or the airspace over the land or water; or

(b) so conducted as to be imminently dangerous to persons or property lawfully on the land or water beneath.

(2) In order to prevent the creation or establishment of airport hazards, each political subdivision located within an airport influence area, shall adopt, administer, and enforce land use regulations for the airport influence area, including an airport overlay zone, under the police power and in the manner and upon the conditions prescribed:

(a) in this part;

(b) [~~Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act; and

(c) [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act.

(3) (a) Each political subdivision located within an airport influence area shall notify a person building on or developing land in an airport influence area, in writing, of aircraft overflights and associated noise.

(b) To promote the safe and efficient operation of the airport, a political subdivision located within an airport influence area:

(i) shall:

(A) adopt an airport overlay zone conforming to the requirements of this chapter and 14 C.F.R. Part 77; and

(B) require any proposed development within an airport influence area to conform with 14 C.F.R. Part 77; and

(ii) may, as a condition to granting a building permit, subdivision plat, or a requested zoning change within an airport influence area, require a person building or developing land to grant or sell to the airport owner, at appraised fair market value, an avigation easement.

(4) If a political subdivision located within an airport influence area fails to adopt an airport overlay zone by December 31, 2024, then the following requirements shall apply in an airport influence area:

(a) each political subdivision located within an airport influence area shall notify a person building on or developing land within an airport influence area, in writing, of aircraft overflights and associated noise;

(b) as a condition to granting a building permit, subdivision plat, or a requested zoning change within an airport influence area, require the person building or developing land to grant or sell to the airport owner, at appraised fair market value, an avigation easement; and

(c) require a person building or developing land within an airport influence area conform to the requirements of this chapter and 14 C.F.R. Part 77.

Section 223. Section 73-1-8 is amended to read:

73-1-8

(Effective 11/06/25)

. Duties of owners or operators -- Bridges and trails -- Liability.

(1) As used in this section:

(a) "Water facility" means a dam, pipeline, culvert, flume, conduit, ditch, head gate, canal, reservoir, spring box, well, meter, weir, valve, casing, cap, or other facility used for the diversion, transportation, distribution, measurement, collection, containment, or storage of irrigation water.

(b) "Water facility" does not mean a facility used primarily as part of a:

(i) public water system as defined in Section 19-4-102; or

(ii) residential irrigation system.

(2) An owner or operator of a water facility shall:

(a) maintain the water facility to prevent waste of water, damage to property, or injury to others; and

(b) by bridge or otherwise, keep the water facility in good repair where the water facility crosses a public road or highway to prevent obstruction to travel or damage or overflow on the public road or highway.

(3) Subsection (2)(b) does not apply where a governmental entity maintains or elects to maintain a bridge or other device to prevent obstruction to travel or damage or overflow on the public road or highway.

(4) In addition to immunity if the conditions of Title 57, Chapter 14, Limitations on Landowner Liability, are met, an owner or operator of a water facility, stream, or river, is immune from suit if:

(a) the damage or personal injury arises out of, is in connection with, or results from the use of a trail that is located along a water facility, stream, or river, regardless of ownership or operation of the water facility, stream, or river;

(b) the trail is designated under a general plan adopted by a municipality under Section [~~10-9a-401~~]10-20-401 or by a county under Section [~~17-27a-401~~]17-79-401;

(c) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between the owner or operator of the trail right-of-way, or of the right-of-way where the trail is located, and the municipality or county where the trail is located; and

(d) the written agreement:

(i) contains a plan for operation and maintenance of the trail; and

(ii) provides that an owner or operator of the trail right-of-way, or of the right-of-way where the trail is located has, at minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from use of the trail.

(5) (a) The duty under Subsection (2) requires only reasonable and ordinary care and may not be construed to impose strict liability or to otherwise increase the liability of the owner or operator of a water facility.

(b) An owner or operator of a water facility is not liable for damage or injury caused by:

(i) the diversion or discharge of water or another substance into the water facility by a third party beyond the control of the owner or operator of the water facility, including control exercised by the owner's or operator's employees or agents;

(ii) any other act or omission of a third party that is beyond the control of the owner or operator of the water facility, including control exercised by the owner's or operator's employees or agents; or

(iii) an act of God, including fire, earthquake, storm, flash floods, or similar natural occurrences.

(6) This section may not be interpreted to impair a defense that an owner or operator of a water facility may assert in a civil action.

Section 224. Section 73-10-36 is amended to read:

73-10-36

(Effective 11/06/25)

. Division to provide technical assistance in local government planning.

(1) As used in this section:

(a) "Division" means the Division of Water Resources.

(b) "General plan":

(i) for a municipality, means the same as that term is defined in Section [~~10-9a-103~~]10-20-102; and

(ii) for a county, means the same as that term is defined in Section [~~17-27a-103~~]17-79-102.

(c) "Local government" means a county or a municipality, as defined in Section 10-1-104.

(d) "Watershed council" means a council created under Chapter 10g, Part 3, Watershed Councils Act.

(2) The division shall provide technical assistance to a local government to support the local government's adoption of a water use and preservation element in a general plan.

(3) When consulted by a local government for information and technical resources regarding regional water conservation goals under Subsection [~~10-9a-403(2)(f)(vi)~~]10-20-404(2)(d) or [~~17-27a-403(2)(e)(ii)~~]17-79-403(2)(c), the division may seek input from the appropriate watershed council or councils.

Section 225. Section 73-10c-11 is amended to read:

73-10c-11

(Effective 11/06/25)

. Actions related to coordination of growth and conservation planning.

(1) (a) The council shall identify how different agencies may work together to assist the following in coordinating growth and conservation planning related to water:

(i) municipalities, as defined in Section 10-1-104;

(ii) counties;

(iii) water conservancy districts, as defined in Section 17B-1-102; and

(iv) public water systems, as defined in Section 19-4-102.

(b) To comply with Subsection (1)(a), the council shall consider Sections [~~10-9a-403~~]10-20-404, [~~17-27a-403~~]17-79-403, 19-4-114, and 73-10-32.

(2) The council shall identify incentives that are most effective to help the entities described in Subsection (1) to, where feasible:

(a) develop and implement conservation plans; and

(b) regionalize water systems.

Section 226. Section 78B-6-1101 is amended to read:

78B-6-1101

(Effective 11/06/25)

. Definitions -- Nuisance -- Agriculture operations.

(1) As used in this part:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Critical infrastructure materials operations" means the same as the term "critical infrastructure materials use" is defined in Section [~~10-9a-901~~]10-20-701.

(c) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

(d) "Nuisance" means anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(e) (i) "Possession or use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of a controlled substance, and includes individual, joint, or group possession or use of a controlled substance.

(ii) For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of a controlled substance with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.

(2) A nuisance may be the subject of an action.

(3) A nuisance may include the following:

(a) drug houses and drug dealing as provided in Section 78B-6-1107;

(b) gambling as provided in Title 76, Chapter 9, Part 14, Gambling;

(c) criminal activity committed in concert with two or more individuals as provided in Section 76-3-203.1;

(d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) party houses that frequently create conditions defined in Subsection (1)(d);

(g) prostitution as provided in Title 76, Chapter 5d, Prostitution; or

(h) the unlawful discharge of a firearm as provided in state or local law.

(4) A nuisance under this part includes:

(a) tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

(i) drifts in more than once in each of two or more consecutive seven-day periods; and

(ii) creates any of the conditions described in Subsection (1)(d); or

(b) fumes resulting from the unlawful manufacturing or the unlawful possession or use of a controlled substance that drift into a residential unit a person rents, leases, or owns, from another residential or commercial unit.

(5) Subsection (4)(a) does not apply to:

(a) a residential rental unit available for temporary rental, such as for a vacation, or available for only 30 or fewer days at a time; or

(b) a hotel or motel room.

(6) Subsection (4)(a) does not apply to a unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.

(7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.

Section 227. Section 79-3-202 is amended to read:

79-3-202

(Effective 11/06/25)

. Powers and duties of survey.

(1) The survey shall:

(a) assist and advise state and local agencies and state educational institutions on geologic, paleontologic, and mineralogic subjects;

(b) collect and distribute reliable information regarding the mineral industry and mineral resources, topography, paleontology, and geology of the state;

(c) survey the geology of the state, including mineral occurrences and the ores of metals, energy resources, industrial minerals and rocks, mineral-bearing waters, and surface and ground water resources, with special reference to their economic contents, values, uses, kind, and availability in order to facilitate their economic use;

(d) investigate the kind, amount, and availability of mineral substances contained in lands owned and controlled by the state, to contribute to the most effective and beneficial administration of these lands for the state;

(e) determine and investigate areas of geologic and topographic hazards that could affect the safety of, or cause economic loss to, the citizens of the state;

(f) assist local and state agencies in their planning, zoning, and building regulation functions by publishing maps, delineating appropriately wide special earthquake risk areas, and, at the request of state agencies or other governmental agencies, review the siting of critical facilities;

(g) cooperate with state agencies, political subdivisions of the state, quasi-governmental agencies, federal agencies, schools of higher education, and others in fields of mutual concern, which may include field investigations and preparation, publication, and distribution of

reports and maps;

(h) collect and preserve data pertaining to mineral resource exploration and development programs and construction activities, such as claim maps, location of drill holes, location of surface and underground workings, geologic plans and sections, drill logs, and assay and sample maps, including the maintenance of a sample library of cores and cuttings;

(i) study and analyze other scientific, economic, or aesthetic problems as, in the judgment of the board, should be undertaken by the survey to serve the needs of the state and to support the development of natural resources and utilization of lands within the state;

(j) prepare, publish, distribute, and sell maps, reports, and bulletins, embodying the work accomplished by the survey, directly or in collaboration with others, and collect and prepare exhibits of the geological and mineral resources of this state and interpret their significance;

(k) collect, maintain, and preserve data and information in order to accomplish the purposes of this section and act as a repository for information concerning the geology of this state;

(l) stimulate research, study, and activities in the field of paleontology;

(m) mark, protect, and preserve critical paleontological sites;

(n) collect, preserve, and administer critical paleontological specimens until the specimens are placed in a repository or curation facility;

(o) administer critical paleontological site excavation records;

(p) edit and publish critical paleontological records and reports; and

(q) collect the land use permits described in Sections [~~10-9a-521~~]10-20-611 and [~~17-27a-520~~]17-79-608.

(2) (a) The survey may maintain as confidential, and not as a public record, information provided to the survey by any source.

(b) The board shall adopt rules in order to determine whether to accept the information described in Subsection (2)(a) and to maintain the confidentiality of the accepted information.

(c) The survey shall maintain information received from any source at the level of confidentiality assigned to it by the source.

(3) Upon approval of the board, the survey shall undertake other activities consistent with Subsection (1).

(4) (a) Subject to the authority granted to the department, the survey may enter into cooperative agreements with the entities specified in Subsection (1)(g), if approved by the board, and may accept or commit allocated or budgeted funds in connection with those agreements.

(b) The survey may undertake joint projects with private entities if:

(i) the action is approved by the board;

(ii) the projects are not inconsistent with the state's objectives; and

(iii) the results of the projects are available to the public.

Section 228. Repealer.

This bill repeals:

Section 10-9a-101, Title.

Section 229. Effective Date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect:

(a) except as provided in Subsection (1)(b), December 6, 2025; or

(b) if approved by two-thirds of all members elected to each house, the later of:

(i) November 6, 2025;

(ii) upon approval by the governor;

(iii) without the governor's approval, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(iv) with the governor's veto and a vote of the Legislature to override the veto, the date of veto override.

(2) The actions affecting the following sections take effect on January 1, 2026:

(a) Section 15A-1-105 (Effective 01/01/26);

(b) Section 59-2-924 (Effective 01/01/26); and

(c) Section 63G-7-201 (Effective 01/01/26).

(3) The actions affecting Section 72-2-124 (Effective 07/01/26) take effect on July 1, 2026.

CHAPTER 16
S. B. 1009
Passed October 6, 2025
Approved October 14, 2025
Effective November 6, 2025

COUNTY RECODIFICATION EXTERNAL REFERENCES AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill makes technical corrections related to the recodification of Title 17, Counties.

Highlighted Provisions:

This bill:

- ► modifies cross references to provisions in Title 17, Counties; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-2-301,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2017, Chapter 345
4-41a-204,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 91, 128 and 414
4-41a-1206,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 114
4-44-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 30
4-46-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 180
7-9-51,
(Effective 11/06/25)
as last amended by Laws of Utah 2014, Chapter 97
7-9-55,
(Effective 11/06/25)
as last amended by Laws of Utah 2014, Chapter 189
10-2-805,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2025, Chapter 399
10-2-806,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2025, Chapter 399
10-2a-219,
(Effective 11/06/25)
as last amended by Laws of Utah 2019, Chapter 165
10-8-44.6,
(Effective 11/06/25)
as last amended by Laws of Utah 2018, Chapter 166
10-8-93,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 354
11-13-202,
(Effective 11/06/25)

as last amended by Laws of Utah 2023, Chapter 181
11-26-401,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 438
11-36a-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 16
11-41-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 477
11-46-104,
(Effective 11/06/25)
as enacted by Laws of Utah 2021, Chapter 434
11-51-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2016, Chapter 348
11-51a-102,
(Effective 11/06/25)
as enacted by Laws of Utah 2015, Chapter 419
11-52-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 16
11-55-103,
(Effective 11/06/25)
as enacted by Laws of Utah 2017, Chapter 70 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 165
11-58-601,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 24
11-60-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 16
11-63-201,
(Effective 11/06/25)
as enacted by Laws of Utah 2019, Chapter 50
11-65-304,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 443
11-70-304,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 498
11-70-401,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 498
15A-1-204,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 507
17B-1-105,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 388
17B-1-119,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 399
17B-2a-806,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 517
17B-2a-823,
(Effective 11/06/25)
as last amended by Laws of Utah 2019, Chapter 136
17B-2a-1102,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 438
17C-1-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 459
17C-1-202,

(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 459
17C-1-203,
(Effective 11/06/25)
as last amended by Laws of Utah 2018, Chapter 68
17C-1-207,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 435
17C-1-409,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 459
17D-1-604,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 15
17D-2-203,
(Effective 11/06/25)
as last amended by Laws of Utah 2018, Chapter 68
19-4-109,
(Effective 11/06/25) (Repealed 07/01/29)
as last amended by Laws of Utah 2024, Chapter 158
19-4-113,
(Effective 11/06/25) (Repealed 07/01/29)
as last amended by Laws of Utah 2024, Chapter 158
19-5-115,
(Effective 11/06/25) (Repealed 07/01/29)
as last amended by Laws of Utah 2025, Chapter 158
19-6-113,
(Effective 11/06/25) (Repealed 07/01/29)
as last amended by Laws of Utah 2013, Chapter 237
19-6-119,
(Effective 11/06/25) (Repealed 07/01/29)
as last amended by Laws of Utah 2021, Chapter 64
19-6-502,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 206
20A-1-203,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 45
20A-1-404,
(Effective 11/06/25)
as last amended by Laws of Utah 2008, Chapter 13
20A-1-501,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 234
20A-1-508,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 90, 230 and 448
20A-1-509.1,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 90, 448
20A-1-509.2,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 90, 448
20A-1-511,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 90, 448
20A-1-1001,
(Effective 11/06/25)
as enacted by Laws of Utah 2023, Chapter 116
20A-7-101,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Third Special Session, Chapter 3
20A-7-602.8,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 448

20A-7-607,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 448
20A-9-409,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 39
20A-11-103,
(Effective 11/06/25) (Superseded 01/01/26)
as last amended by Laws of Utah 2025, Chapters 90, 448
20A-11-103,
(Effective 01/01/26)
as last amended by Laws of Utah 2025, Chapter 129
20A-11-701.5,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 448
20A-11-1602,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 443
26A-1-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 109
26A-1-105.5,
(Effective 11/06/25)
as enacted by Laws of Utah 2016, Chapter 113
26A-1-117,
(Effective 11/06/25)
as last amended by Laws of Utah 2002, Chapter 249
26B-1-324,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapters 240, 245 and 250
26B-2-101,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 63
26B-3-113,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 439
26B-3-203,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapters 264, 284
26B-3-207,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-218,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 250
26B-3-224,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 284
26B-4-317,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-701,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 240
26B-5-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 51, 135, 208, 395, 470, and 494
26B-5-104,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-107,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-108,
(Effective 11/06/25)

as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-109,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-114,
(Effective 11/06/25) (Repealed 12/31/26)
as last amended by Laws of Utah 2024, Chapters 245, 250
26B-5-121,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 141
26B-5-201,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-301,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 46, 135
26B-5-382,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 530
26B-5-413,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-612,
(Effective 11/06/25) (Repealed 12/31/25)
as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-6-208,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-6-801,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2023, Chapter 308
31A-3-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2020, Chapter 127
32B-1-102,
(Effective 11/06/25) (Superseded 01/01/26)
as last amended by Laws of Utah 2025, Chapter 162
32B-1-102,
(Effective 01/01/26)
as last amended by Laws of Utah 2025, Chapter 471
32B-2-402,
(Effective 11/06/25) (Partially Repealed 01/01/33)
as last amended by Laws of Utah 2024, Chapters 245, 438
35A-1-501,
(Effective 11/06/25)
as last amended by Laws of Utah 2013, Chapter 237
35A-8-504.5,
(Effective 11/06/25)
as enacted by Laws of Utah 2021, Chapter 102
35A-8-804,
(Effective 11/06/25)
as last amended by Laws of Utah 2018, Chapter 218
35A-16-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 217
36-11-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 90
39A-3-111,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2022, Chapter 373
41-1a-407,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 251
41-1a-1320,

(Effective 11/06/25)
as last amended by Laws of Utah 2006, Chapter 39
46-1-2,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 391
49-11-623,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 72
51-2a-401,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 353
51-7-15,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 76
51-9-408,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 366
52-3-1,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 254
52-6-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 444
53-2a-605,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 387
53-2d-402,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 340
53-13-105,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 328
53-30-101,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 364
53-31-101,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 273
53F-2-304,
(Effective 11/06/25)
as repealed and reenacted by Laws of Utah 2025, Chapter 145
53F-2-520,
(Effective 11/06/25)
as last amended by Laws of Utah 2021, Chapter 303
53F-10-303,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 413
53G-3-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 33
53G-3-202,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 33
53G-3-203,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 526
53G-4-402,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 173, 394 and 501
53G-4-901,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-7-303,
(Effective 11/06/25)
as last amended by Laws of Utah 2019, Chapter 293

57-1-45,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 40
57-3-105,
(Effective 11/06/25)
as last amended by Laws of Utah 2022, Chapter 420
57-3-106,
(Effective 11/06/25)
as last amended by Laws of Utah 2014, Chapters 89, 151
57-3-202,
(Effective 11/06/25)
as enacted by Laws of Utah 1998, Chapter 61
57-8-8.1,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 226, 291 and 453

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-2-301 is amended to read:
4-2-301
(Effective 11/06/25)
. Attorney general legal advisor for department -- County or district attorney may bring action upon request of department for violations of title.

(1) The attorney general is the legal advisor for the department and shall defend the department and the department's representatives in all actions and proceedings brought against the department.

(2) (a) The county attorney or the district attorney, as provided [~~under Sections 17-18a-202 and 17-18a-203,~~]in Title 17, Chapter 68, County and District Attorney, of the county in which a cause of action arises or a public offense occurs may bring civil or criminal action, upon request of the department, to enforce the laws, standards, orders, and rules of the department or to prosecute violations of this title.

(b) If the county attorney or district attorney fails to act under Subsection (2)(a), the department may request the attorney general to bring an action on behalf of the department.

Section 2. Section 4-41a-204 is amended to read:
4-41a-204
(Effective 11/06/25)
. Operating plan.

(1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of each proposed facility, including a floor plan and an architectural elevation;

(b) a description of the credentials and experience of:

(i) each officer, director, and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26B-4-202;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

(g) for a cannabis cultivation facility, the information described in Subsection (2);

(h) for a cannabis processing facility, the information described in Subsection (3);

(i) for an independent cannabis testing laboratory, the information described in Subsection (4); and

(j) for a cannabis production establishment located in an industrial zone, a plan to reduce odor created by the cannabis production establishment that:

(i) meets local ordinance nuisance laws; and

(ii) identifies:

(A) operations and materials that generate odors; and

(B) equipment, operations, or materials the cannabis production establishment will use to mitigate odor emissions, including plans to maintain equipment.

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:

(i) cannabis cultivation practices, including the facility's intended pesticide use and plant food use; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.

(b) Except as provided in Subsection (2)(c)(i) or (c)(ii), a cannabis cultivation facility may not:

(i) for a facility that cultivates cannabis only indoors, use more than 100,000 total square feet of cultivation space;

(ii) for a facility that cultivates cannabis only outdoors, use more than four acres for cultivation; and

(iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).

(c) (i) Each licensee may apply to the department for:

(A) a one-time, permanent increase of up to 20% of the limitation on the cannabis cultivation facility's cultivation space; or

(B) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on the cannabis cultivation facility's cultivation space.

(ii) After conducting a review equivalent to the review described in Subsection 4-41a-205(2)(a), if the department determines that additional cultivation is needed, the department may:

(A) grant the one-time, permanent increase described in Subsection (2)(c)(i)(A); or

(B) grant the short-term increase described in Subsection (2)(c)(i)(B).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b), the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation.

(e) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor cultivation that:

(i) does not exceed, in estimated cultivation yield, the aggregate limitations described in Subsection (2)(b)(i) or (ii); and

(ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

(f) (i) The department may authorize a cannabis cultivation facility to operate at no more than two separate locations.

(ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two cannabis cultivation facility locations combined may not exceed the cultivation limitations described in this Subsection (2).

(3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:

(a) offered variety of cannabis product;

(b) cannabinoid extraction method;

(c) cannabinoid extraction equipment;

(d) processing equipment;

(e) processing techniques; and

(f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:

(a) cannabis and cannabis product testing capability;

(b) cannabis and cannabis product testing equipment; and

(c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

(5) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations [~~, as defined in Sections 10-9a-103 and 17-27a-103,~~]implemented by a local land use authority under Title 10, Chapter 20, Municipal Land Use, Development, and Management Act, or Title 17, Chapter 79, County Land Use, Development, and Management Act, regarding the availability of outdoor cultivation in an industrial zone.

Section 3. Section 4-41a-1206 is amended to read:

4-41a-1206

(Effective 11/06/25)

. Closed-door medical cannabis pharmacy.

(1) (a) Subject to Subsections (1)(b) and (c), a home delivery medical cannabis pharmacy may open a single closed-door medical cannabis pharmacy.

(b) A home delivery medical cannabis pharmacy may not open a closed-door medical cannabis pharmacy unless the home delivery medical cannabis pharmacy:

(i) has an operating plan that includes a closed-door medical cannabis pharmacy; and

(ii) obtains a license issued by the department for a closed-door medical cannabis pharmacy.

(c) An entity that owns multiple home delivery medical cannabis pharmacies may open only one closed-door medical cannabis pharmacy.

(d) The department may institute a fee in accordance with Section 63J-1-504 to administer this section.

(2) A home delivery medical cannabis pharmacy that opens a closed-door medical cannabis pharmacy under Subsection (1) shall ensure:

(a) that a pharmacy medical provider who is a licensed pharmacist:

(i) is directly supervising the packaging of an order; and

(ii) is present in the closed-door medical cannabis pharmacy when an order is packaged for delivery; and

(b) all record keeping requirements, labeling requirements, and patient counseling requirements described in this chapter and Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, are satisfied before sending out an order.

(3) An individual who prepares an order at a closed-door medical cannabis pharmacy under this section shall be registered as:

(a) a pharmacy medical provider; or

(b) a medical cannabis pharmacy agent.

(4) (a) A closed-door medical cannabis pharmacy shall operate:

(i) except as provided in Subsection (4)(b), in a facility that is accessible only by an individual who is a pharmacy medical provider or a medical cannabis pharmacy agent; and

(ii) at a physical address in accordance with Subsection (6).

(b) A closed-door medical cannabis pharmacy may authorize an individual who is at least 18 years old and is not a pharmacy medical provider or a cannabis pharmacy agent to access the closed-door medical cannabis pharmacy if the closed-door medical cannabis pharmacy:

(i) tracks and monitors the individual at all times while the individual is at the closed-door medical cannabis pharmacy; and

(ii) maintains a record of the individual's access, including arrival and departure.

(c) A closed-door medical cannabis pharmacy shall operate in a facility that has:

(i) a single, secure public entrance; and

(ii) a security system with a backup power source that:

(A) detects and records entry into the closed-door medical cannabis pharmacy;

(B) provides notice of an unauthorized entry to law enforcement when the closed-door medical cannabis pharmacy is closed; and

(C) a lock or equivalent restrictive security feature on any area where the closed-door medical cannabis pharmacy stores a cannabis product.

(d) A closed-door medical cannabis pharmacy shall ensure that any cannabis or cannabis products in the closed-door medical cannabis pharmacy that are intended for home delivery are separated in a manner that is readily distinguishable from any other cannabis or cannabis product in the facility.

(5) A closed-door medical cannabis pharmacy may only provide cannabis or a cannabis product to an individual through a delivery that complies with this part.

(6) (a) A person may not locate a closed-door medical cannabis pharmacy:

(i) within 1,000 feet of a community location; or

(ii) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(b) The proximity requirements described in Subsection (6)(a) shall be measured from the nearest entrance to the closed-door medical cannabis pharmacy by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(c) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (6)(a) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed closed-door medical cannabis pharmacy without the waiver.

(d) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (6)(a).

(7) When determining where a closed-door medical cannabis pharmacy may open, the licensing board:

(a) shall utilize geographic regions created by the department through rule;

(b) shall prioritize allowing entities that do not have a medical cannabis pharmacy in a region to open a closed-door medical cannabis pharmacy in the region;

(c) of the total amount of closed-door medical cannabis pharmacies, may allow only three closed-door medical cannabis pharmacies to operate in counties of the first and second class as described in Section [~~17-50-501~~]17-60-104; and

(d) for determining the three closed-door medical cannabis pharmacies described in Subsection (7)(c), consider the following:

(i) the history of compliance with state law and rules for all licenses issued under this chapter;

(ii) the medical cannabis pharmacy's willingness to offer a variety of brands and products;

(iii) the ability of the operating plan to ensure the safety and security of the community;

(iv) the suitability of the proposed location and the location's ability to serve the local community; and

(v) any other relevant information determined through rule.

(8) A closed-door medical cannabis pharmacy may not account for more than:

(a) for an entity that holds a single medical cannabis pharmacy license, the greater of:

(i) 35% of the medical cannabis pharmacy's total revenue; or

(ii) $2,000,000 in total revenue; or

(b) for an entity that holds more than one medical cannabis pharmacy license, the greater of:

(i) 35% of the total revenue of the entity's medical cannabis pharmacy that generates the most revenue; or

(ii) $2,000,000 in total revenue.

(9) Notwithstanding any other provision of this section, the licensing board may issue only one closed-door medical cannabis pharmacy license before July 1, 2027.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to implement this section.

Section 4. Section 4-44-102 is amended to read:

4-44-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) (a) "Agricultural operation" means the commercial production of crops, orchards, livestock, poultry, aquaculture, livestock products, or poultry products.

(b) "Agricultural operation" includes:

(i) the real property where the commercial production described in Subsection (1)(a) occurs;

(ii) a facility, a property, or equipment used to facilitate the commercial production described in Subsection (1)(a);

(iii) an agritourism activity, as defined in Section 78B-4-512; or

(iv) an agricultural protection area established under [~~Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas~~]Title 17, Chapter 81, Agriculture, Industrial, and Critical Infrastructure Materials.

(2) "Fundamental change to the operation" does not include:

(a) a change in ownership or size;

(b) an interruption of farming for a period of no more than three years;

(c) participation in a government-sponsored agricultural program;

(d) employment of new technology; or

(e) a change in the type of agricultural product produced.

(3) "Nuisance" means anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

Section 5. Section 4-46-102 is amended to read:

4-46-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Agricultural land" means "land in agricultural use," as defined in Section 59-2-502.

(2) "Board" means the Land Conservation Board established in Section 4-46-201.

(3) "Conservation commission" means the Conservation Commission created in Section 4-18-104.

(4) "Conservation district" means a limited purpose local government entity created under Title 17D, Chapter 3, Conservation District Act.

(5) "Director" means the director of the Division of Conservation.

(6) "Division" means the Division of Conservation created in Section 4-46-401.

(7) "Fund" means the LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

(8) "Land use authority" means:

(a) a land use authority, as defined in Section [~~10-9a-103~~]10-20-102, of a municipality; or

(b) a land use authority, as defined in Section [~~17-27a-103~~]17-79-102, of a county.

(9) "Local entity" means a county, city, or town.

(10) (a) "Open land" means land that is:

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in, or restoration of the land to, a predominantly natural, open, and undeveloped condition.

(b) "Open land" includes land described in Subsection (10)(a) that contains facilities, including trails, waterways, and grassy areas, that:

(i) enhance the natural, scenic, or aesthetic qualities of the land; or

(ii) facilitate the public's access to or use of the land for the enjoyment of the land's natural, scenic, or aesthetic qualities and for compatible recreational activities.

(c) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activities.

(11) (a) "State conservation efforts" includes:

(i) efforts to optimize and preserve the uses of land for the benefit of the state's agricultural industry and natural resources; and

(ii) conservation of working landscapes that if conserved, preserves the state's agricultural industry and natural resources, such as working agricultural land.

(b) "State conservation efforts" does not include the purpose of opening private property to public access without the consent of the owner of the private property.

(12) (a) "Working agricultural land" means agricultural land for which an owner or producer engages in the activity of producing for commercial purposes crops, orchards, livestock, poultry, aquaculture, livestock products, or poultry products and the facilities, equipment, and property used to facilitate the activity.

(b) "Working agricultural land" includes an agricultural protection area established under [~~Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas~~]Title 17, Chapter 81, Agriculture, Industrial, and Critical Infrastructure Materials.

Section 6. Section 7-9-51 is amended to read:

7-9-51

(Effective 11/06/25)

. Field of membership.

(1) Except as provided in Subsection (3) or (5), the field of membership of a credit union may include only the following:

(a) the immediate family of a member of the credit union;

(b) the employees of the credit union;

(c) residents of a single county;

(d) one or more associations; and

(e) residents of a city of the third, fourth, or fifth class or a town as classified in Section 10-2-301 if:

(i) the city or town is located in a county of the fourth through sixth class as classified in Section [~~17-50-501~~]17-60-104;

(ii) at the time the residents of the city or town are included in the field of membership of a credit union, the credit union has not become a nonexempt credit union under Section 7-9-55; and

(iii) approved by the commissioner in accordance with Subsection 7-9-52(6).

(2) A credit union may have a field of membership that is more restrictive than the field of membership described in Subsection (1).

(3) A credit union may have a field of membership that is less restrictive than the field of membership described in Subsection (1) if the field of membership of the credit union:

(a) is determined under Subsection 7-9-53(2)(c);

(b) is approved by the commissioner after a merger under Subsection 7-9-39(5); or

(c) is permitted by the commissioner after a merger in accordance with Section 7-9-39.5.

(4) If a credit union includes the residents of one county in its field of membership, the credit union may not change its field of membership to include a different county than the county that is first included in the field of membership of the credit union.

(5) Notwithstanding the other provisions of this section or any restrictions of Section 7-9-53, a credit union may have a field of membership that is less restrictive than the field of membership described in Subsection (1), under the following conditions:

(a) the field of membership of the credit union may include no more than all the residents of two counties in addition to any association included in the field of membership of the credit union; and

(b) both counties described in Subsection (5)(a) must be a county of the third through sixth class, as classified in Section [~~17-50-501~~]17-60-104.

Section 7. Section 7-9-55 is amended to read:

7-9-55

(Effective 11/06/25)

. Nonexempt credit unions.

(1) (a) A credit union organized under this chapter is a nonexempt credit union under this section on the day on which:

(i) on or after May 5, 2003, the credit union has a field of membership as evidenced by the bylaws of the credit union that includes all residents of two or more counties; and

(ii) at least two of the counties described in Subsection (1)(a)(i) are counties of the first or second class as classified by Section [~~17-50-501~~]17-60-104.

(b) For purposes of Subsection (1)(a) only:

(i) residents of a county that are added to the field of membership of a credit union as a result of a supervisory action under Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, are not considered to be within the field of membership of that credit union; and

(ii) residents of a city of the third, fourth, or fifth class or a town that are added to the field of membership of a credit union in accordance with Section 7-9-52 are not considered to be within the field of membership of that credit union unless all residents of the county in which that city or town are located are included in the field of membership of the credit union.

(2) If a credit union becomes a nonexempt credit union under this section, the nonexempt credit union is a nonexempt credit union:

(a) for as long as the nonexempt credit union is organized under this chapter; and

(b) notwithstanding whether after the day on which the nonexempt credit union becomes a nonexempt credit union the nonexempt credit union meets the requirements of Subsection (1)(a).

(3) Regardless of whether or not a credit union has located branches in two or more counties in this state, a credit union organized under this chapter does not become a nonexempt credit union if the field of membership of the credit union as evidenced by the bylaws of the credit union does not meet the requirements of Subsection (1).

Section 8. Section 10-2-805 is amended to read:

10-2-805

(Effective 11/06/25)

. Cross-county annexation -- Requirements.

(1) As used in this section:

(a) "Affected county" means the county in which an area proposed for cross-county annexation is located.

(b) "Affected municipality" means a municipality:

(i) located in an affected county; and

(ii) whose expansion area includes the area proposed for cross-county annexation.

(c) "Applicant" means a person intending to file an annexation petition proposing a cross-county annexation.

(d) "Cross-county annexation" means the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located.

(e) "Specified public utility" means the same as that term is defined in Section [~~10-9a-103~~]10-20-102.

(2) An applicant may not file a petition under Section 10-2-806 that proposes a cross-county annexation unless:

(a) the applicant sends a written notice of intent to file a petition proposing a cross-county annexation to the legislative body of each affected municipality describing:

(i) the area proposed for cross-county annexation; and

(ii) the proposed annexing municipality;

(b) the proposed annexing municipality adopts or amends the municipality's annexation policy plan under Section 10-2-803 to include the area proposed for cross-county annexation within the proposed annexing municipality's expansion area;

(c) the applicant files a request to approve the proposed cross-county annexation with the legislative body of the affected county:

(i) no sooner than 90 days after the day on which the applicant sends the written notice described in Subsection (2)(a) to each affected municipality; and

(ii) no later than 180 days after the day on which the applicant sends the written notice described in Subsection (2)(a) to each affected municipality;

(d) a feasibility consultant conducts a feasibility study in accordance with Subsection (3), unless the feasibility study is waived under Subsection (3)(b); and

(e) the legislative body of the affected county:

(i) holds a public hearing in accordance with Subsection (4); and

(ii) adopts the resolution described in Subsection (4)(a)(iii)(A).

(3) (a) Within 60 days after the day on which a legislative body of an affected county receives the request described in Subsection (2)(c), or within a time period longer than 60 days if agreed to by the legislative body of the affected county and the applicant, the legislative body of the affected county and the applicant shall jointly select and engage a feasibility consultant to:

(i) conduct a feasibility study on the proposed cross-county annexation; and

(ii) submit written results of the feasibility study to the legislative body of the affected county and the applicant no later than 90 days after the day on which the feasibility consultant is engaged to conduct the feasibility study.

(b) The legislative body of the affected county may waive the requirement for a feasibility study under Subsection (3)(a).

(c) The feasibility study under Subsection (3)(a) shall determine:

(i) whether the proposed cross-county annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;

(ii) the fiscal impact of the proposed cross-county annexation on:

(A) the affected county;

(B) affected municipalities;

(C) specified public utilities that serve the area proposed for cross-county annexation; and

(D) affected entities;

(iii) the estimated cost that the proposed annexing municipality would incur to provide governmental services in the area proposed for cross-county annexation during the current fiscal year;

(iv) the estimated revenue that the proposed annexing municipality would receive from the area proposed for cross-county annexation during the current fiscal year; and

(v) (A) each entity that has provided municipal-type services in the area proposed for cross-county annexation;

(B) the methods under which each entity described in Subsection (3)(c)(v)(A) has provided municipal-type services in the area proposed for cross-county annexation; and

(C) the feasibility of the proposed annexing municipality providing municipal-type services in the area proposed for cross-county annexation.

(d) For purposes of Subsection (3)(c)(iv), the feasibility consultant shall assume that the ad valorem property tax rate on property within the area proposed for cross-county annexation is the same property tax rate that the proposed annexing municipality currently imposes on property within the municipality.

(e) The applicant and the affected county shall share equally the feasibility consultant fees and expenses.

(4) (a) A legislative body of an affected county shall hold, within 30 days after the day on which the legislative body receives the written results of the feasibility study under Subsection (3)(a) or waives the requirement for a feasibility study under Subsection (3)(b), a public hearing to:

(i) determine whether the requirements described in Subsections (2)(a) and (b) have been met;

(ii) consider the results of the feasibility study under Subsection (3)(a), unless the feasibility study is waived under Subsection (3)(b); and

(iii) (A) adopt a resolution approving the proposed cross-county annexation; or

(B) adopt a resolution rejecting the proposed cross-county annexation.

(b) The legislative body of the affected county shall send, at least 15 days before the day on which the public hearing described in Subsection (4)(a) occurs, written notice of the public hearing to:

(i) the applicant;

(ii) each residence within, and to each owner of real property located within:

(A) the area proposed for cross-county annexation; and

(B) 300 feet of the area proposed for cross-county annexation;

(iii) the legislative body of:

(A) the proposed annexing municipality; and

(B) the county in which the proposed annexing municipality is located;

(iv) each specified public utility that serves the area proposed for cross-county annexation;

(v) each affected municipality; and

(vi) each affected entity.

(c) At the public hearing described in Subsection (4)(a), the legislative body of the affected county shall allow the individuals present to speak to the proposed cross-county annexation.

(d) A legislative body of an affected county may not adopt a resolution rejecting a proposed cross-county annexation under this section unless the legislative body determines that:

(i) the requirements described in Subsections (2)(a) and (b) have not been met; or

(ii) the results of the feasibility study under Subsection (3)(a) show that:

(A) the proposed cross-county annexation would impose a substantial burden on the affected county;

(B) the estimated revenue under Subsection (3)(c)(iv) exceeds the estimated cost to provide governmental services under Subsection (3)(c)(iii) by more than 5%; or

(C) it would not be feasible for the proposed annexing municipality to provide municipal-type services in the area proposed for cross-county annexation.

(e) A legislative body of an affected county that adopts a resolution rejecting a proposed cross-county annexation under this section shall provide to the applicant a written explanation of the legislative body's decision.

(f) A legislative body of an affected county may adopt a resolution approving a proposed cross-county annexation under this section regardless of the results of a feasibility study under Subsection (3)(a).

(5) (a) A party adversely affected by a legislative body of an affected county's decision under Subsection (4)(a) may, within 30 days after the day on which the legislative body adopts a resolution approving or rejecting a cross-county annexation, file a petition for review of the decision in the district court with jurisdiction in the affected county.

(b) The district court shall defer to the legislative body of the affected county's decision under Subsection (4)(a) unless the court determines that the decision is arbitrary, capricious, or unlawful.

(6) Section 10-2-812 does not apply to a cross-county annexation unless consented to by all affected counties.

Section 9. Section 10-2-806 is amended to read:

10-2-806

(Effective 11/06/25)

. Annexation petition -- Requirements -- Notice required before filing.

(1) Except as provided in Section 10-2-812 and except for an automatic annexation under Section 10-2-814, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1), the person intending to file a petition shall:

(A) file with the municipal records officer of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to file a petition to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the municipal records officer of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of all of the rural real property within the area proposed for annexation; and

(C) covers 100% of all of the private land area within the area proposed for annexation if the area is within a migratory bird production area created under Title 23A, Chapter 13, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor in accordance with Section [~~17-23-20~~]17-73-507, of the area

proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes a cross-county annexation, as defined in Section 10-2-805, be accompanied by a copy of the resolution described in Subsection 10-2-805(4)(a)(iii)(A); and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing special districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(6) On the date of filing, the petition contact sponsor shall deliver or mail a copy of the petition to the county clerk of the county in which the area proposed for annexation is located.

(7) A property owner who signs an annexation petition may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the municipal records officer no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-807(2)(c)(i).

Section 10. Section 10-2a-219 is amended to read:

10-2a-219

(Effective 11/06/25)

. Division of municipal service revenues -- County may provide startup funds.

(1) The county in which an area incorporating under this part is located shall, until the day on which the municipality's incorporation is effective under Section 10-2a-217, continue to:

(a) levy and collect ad valorem property tax and other revenues from or pertaining to the future municipality; and

(b) except as otherwise agreed by the county and the officers of the municipality, to provide the same services to the future municipality as the county provided before the commencement of the incorporation proceedings.

(2) (a) The legislative body of the county in which a newly incorporated municipality is located shall share pro rata with the new municipality, based on the date of incorporation, the taxes and service charges or fees levied and collected by the county under Section [~~17-34-3~~]17-78-502 during the year of the new municipality's incorporation if and to the extent that the new municipality provides, by itself or by contract, the same services for which the county levied and collected the taxes and service charges or fees.

(b) (i) The legislative body of a county in which a municipality incorporated after January 1, 2004, is located may share with the new municipality taxes and service charges or fees that were levied and collected by the county under Section [~~17-34-3~~]17-78-502:

(A) before the year of the new municipality's incorporation;

(B) from the previously unincorporated area that, because of the municipality's incorporation, is located within the boundaries of the newly incorporated municipality; and

(C) to provide services to the area that before the new municipality's incorporation was unincorporated.

(ii) A county legislative body may share taxes and service charges or fees under Subsection (2)(b)(i) by a direct appropriation of funds or by a credit or offset against amounts due under a contract for a municipal service provided by the county to the new municipality.

(3) (a) The legislative body of a county in which an area incorporating under this part is located may appropriate county funds to:

(i) before incorporation but after the canvass of the final election of municipal officers under Section 10-2a-215, the officers of the future municipality to pay startup expenses of the future municipality; or

(ii) after incorporation, the new municipality.

(b) Funds appropriated under Subsection (3)(a) may be distributed in the form of a grant, a loan, or as an advance against future distributions made under Subsection (2).

Section 11. Section 10-8-44.6 is amended to read:

10-8-44.6

(Effective 11/06/25)

. Regulation of drive-through facilities.

(1) As used in this section:

(a) "Business" means a private enterprise carried on for the purpose of gain or economic profit.

(b) (i) "Business lobby" means a public area, including a lobby, dining area, or other area accessible to the public where business is conducted within a place of business.

(ii) "Business lobby" does not include the area of a business where drive-through service is conducted.

(c) "Land use application" means the same as that term is defined in Section [~~10-9a-103~~]10-20-102.

(d) (i) "Motor vehicle" means a self-propelled vehicle, including a motorcycle, intended primarily for use and operation on the highways.

(ii) "Motor vehicle" does not include an off-highway vehicle.

(e) "Motorcycle" means a motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(f) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle.

(2) A municipality may not withhold a business license, deny a land use application, or otherwise require a business that has a drive-through service as a component of [~~itsbusiness~~]the business's operations to:

(a) allow a person other than a person in a motorized vehicle to use the drive-through service; or

(b) offer designated hours of the day that a customer is accommodated and business is conducted in the business lobby that are the same as or exceed the hours of the day that a customer is accommodated and business is conducted in the drive-through service.

Section 12. Section 10-8-93 is amended to read:

10-8-93

(Effective 11/06/25)

. Control of funds and disbursements -- Auditing of accounts by county auditor -- Transfer of county tax funds to board to cover deficiencies.

(1) (a) [~~The~~]Subject to Subsection (1)(b), the joint board created pursuant to this part shall have the custody and control of all funds collected in the joint operation of such hospital and the disbursement thereof[~~;~~].

(b) [~~provided that the~~]The county auditor of any county participating under the provisions of this part shall audit the accounts of said board quarterly or at more frequent intervals, if [~~public interest, in the judgment of such~~]the county auditor [~~requires~~]determines the accounts require a more frequent audit.

(2) The county executive of any county participating in the operation and maintenance of hospitals pursuant to this part may pay over to the joint board of such hospitals any funds yielded by a levy made pursuant to [~~Section 17-53-221~~]Subsection 17-63-701(2) that may be required to cover any deficiencies incurred in the operation and maintenance of such hospital.

Section 13. Section 11-13-202 is amended to read:

11-13-202

(Effective 11/06/25)

. Agreements for joint or cooperative undertaking, for providing or exchanging services, or for law enforcement services -- Effective date of agreement -- Public agencies may restrict their authority or exempt each other regarding permits and fees.

(1) Any two or more public agencies may enter into an agreement with one another under this chapter:

(a) for joint or cooperative action;

(b) to provide services that they are each authorized by statute to provide;

(c) to exchange services that they are each authorized by statute to provide;

(d) for a public agency to provide law enforcement services to one or more other public agencies, if the public agency providing law enforcement services under the interlocal agreement is authorized by law to provide those services, or to provide joint or cooperative law enforcement services between or among public agencies that are each authorized by law to provide those services;

(e) to create a transportation reinvestment zone as defined in Section 11-13-103; or

(f) to do anything else that they are each authorized by statute to do.

(2) An agreement under Subsection (1) does not take effect until each public agency that is a party to the agreement approves the agreement, as provided in Section 11-13-202.5.

(3) (a) In an agreement under Subsection (1), a public agency that is a party to the agreement may agree:

(i) to restrict its authority to issue permits to or assess fees from another public agency that is a party to the agreement; and

(ii) to exempt another public agency that is a party to the agreement from permit or fee requirements.

(b) A provision in an agreement under Subsection (1) whereby the parties agree as provided in Subsection (3)(a) is subject to all remedies provided by law and in the agreement, including injunction, mandamus, abatement, or other remedy to prevent, enjoin, abate, or enforce the provision.

(4) A peace officer employed by the interlocal entity, as defined in Section 11-13-103, as of May 3, 2023, who transfers to the county sheriff's office before July 1, 2025, retains the protections of [~~Title 17, Chapter 30A, Part 3, Merit Officer Conditions of Employment~~]Title 17, Chapter 76, Part 3, Peace Officer Merit Systems in Counties of the First Class.

Section 14. Section 11-26-401 is amended to read:

11-26-401

(Effective 11/06/25)

. Definitions -- Prohibition on car sharing program taxes, fees, and other charges.

(1) As used in this part:

(a) "Car sharing" means the same as that term is defined in Section 13-48a-101.

[~~(b) "County" means the same as that term is defined in Section 17-50-101.~~]

[~~(c)~~](b) "Local political subdivision" means the same as that term is defined in Section 11-14-102.

[~~(d) "Municipality" means a city or a town.~~]

[~~(e)~~](c) "Rental" means the same as the terms "lease" or "rental" are defined in Section 59-12-102.

(2) A local political subdivision may not impose a tax, fee, or charge on the gross proceeds or gross income of a car sharing transaction that the [~~jurisdiction~~]local political subdivision does not impose on other transactions involving the rental of a motor vehicle without a driver.

Section 15. Section 11-36a-102 is amended to read:

11-36a-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) (a) "Affected entity" means each county, municipality, special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, special district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

(b) development activity, for a public entity that may develop without written authorization from a local political subdivision;

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section [~~10-9a-103~~]10-20-102:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

(ii) to provide sewer service for a development activity.

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

(b) a county ordinance, for a county; and

(c) a governing board resolution, for a special district, special service district, or private entity.

(6) "Encumber" means:

(a) a pledge to retire a debt; or

(b) an allocation to a current purchase order or contract.

(7) "Expense for overhead" means a cost that a local political subdivision or private entity:

(a) incurs in connection with:

(i) developing an impact fee facilities plan;

(ii) developing an impact fee analysis; or

(iii) imposing an impact fee, including any related overhead expenses; and

(b) calculates in accordance with a methodology that is consistent with generally accepted cost accounting practices.

(8) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, special district, special service district, or private entity.

(9) (a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.

(b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.

(10) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.

(11) "Impact fee facilities plan" means the plan required by Section 11-36a-301.

(12) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

(13) (a) "Local political subdivision" means a county, a municipality, a special district under Title 17B, Limited Purpose Local

Government Entities - Special Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or the Point of the Mountain State Land Authority, created in Section 11-59-201.

(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.

(14) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:

(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and

(ii) is the only realistic source of water for the applicant's development.

(15) (a) "Project improvements" means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) "Project improvements" does not mean system improvements.

(16) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

(17) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

(a) water rights and water supply, treatment, storage, and distribution facilities;

(b) wastewater collection and treatment facilities;

(c) storm water, drainage, and flood control facilities;

(d) municipal power facilities;

(e) roadway facilities;

(f) parks, recreation facilities, open space, and trails;

(g) public safety facilities;

(h) environmental mitigation as provided in Section 11-36a-205; or

(i) municipal natural gas facilities.

(18) (a) "Public safety facility" means:

(i) a building constructed or leased to house police, fire, or other public safety entities; or

(ii) a fire suppression vehicle costing in excess of $500,000.

(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

(19) (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.

(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:

(i) are necessitated by the new development; and

(ii) are not funded by the state or federal government.

(c) "Roadway facilities" does not mean federal or state roadways.

(20) (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.

(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

(21) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(22) (a) "System improvements" means:

(i) existing public facilities that are:

(A) identified in the impact fee analysis under Section 11-36a-304; and

(B) designed to provide services to service areas within the community at large; and

(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

Section 16. Section 11-41-102 is amended to read:

11-41-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a public entity and a person.

(2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.

(4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.

(5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.

(6) "General plan" means the same as that term is defined in Section 23A-6-101.

(7) "Legislative body" means the same as that term is defined in:

(a) Section [~~10-9a-103~~]10-20-102; or

(b) Section [~~17-27a-103~~]17-79-102.

(8) "Mixed-use development" means development with mixed land uses, including housing.

(9) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(10) "Moderate income housing plan" means the moderate income housing plan element of a general plan.

(11) "Office" means the Governor's Office of Economic Opportunity.

(12) "Political subdivision" means any county, city, town, school district, special district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under [~~Title 11, Chapter 13~~]Chapter 13, Interlocal Cooperation Act.

(13) "Public entity" means:

(a) a political subdivision;

(b) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state;

(c) a higher education institution as defined in Section 53B-1-201;

(d) the Military Installation Development Authority created in Section 63H-1-201;

(e) the Utah Inland Port Authority created in Section 11-58-201; or

(f) the Point of the Mountain State Land Authority created in Section 11-59-201.

(14) "Public funds" means any money received by a public entity that is derived from:

(a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) a property tax levy.

(15) "Public infrastructure" means:

(a) a public facility, as defined in Section 11-36a-102;

(b) a system improvement, as defined in Section 11-36a-102; or

(c) infrastructure developed with public funds included as part of an infrastructure master plan related to a general plan.

(16) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.

(17) "Retail facility incentive payment" means a payment of public funds:

(a) to a person by a public entity;

(b) for the development, construction, renovation, or operation of a retail facility within an area of the state; and

(c) in the form of:

(i) a payment;

(ii) a rebate;

(iii) a refund;

(iv) a subsidy; or

(v) any other similar incentive, award, or offset.

(18) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(19) (a) "Small business" means a business entity that:

(i) has fewer than 30 full-time equivalent employees; and

(ii) maintains the business entity's principal office in the state.

(b) "Small business" does not include:

(i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;

(ii) a dealer, as defined in Section 41-1a-102; or

(iii) a subsidiary or affiliate of another business entity that is not a small business.

Section 17. Section 11-46-104 is amended to read:

11-46-104

(Effective 11/06/25)

. County tax for provision of animal welfare services.

(1) As used in this section:

(a) "County" means a county:

(i) of the second, third, fourth, fifth, or sixth class; and

(ii) in which the county is the sole provider of animal welfare services under this part.

(b) "Municipality" means a city or a town that receives animal welfare services from the county.

(2) Subject to Subsections (5) and (6), a legislative body in a county may levy annually a tax not to exceed .0002 of taxable value of taxable property in the county to provide the services described in this chapter.

(3) (a) Except as provided in Section [~~17-36-31~~]17-63-704, the levy described in this section is in addition to other taxes that the county

is authorized to levy.

(b) The levy described in this section is not subject to the aggregate maximum levy limitation described in Section 59-2-908.

(4) (a) The county shall levy and collect the tax described in this section in the same manner as other general taxes of the county.

(b) The county shall deposit revenue collected from the levy described in this section into a fund known as the county animal welfare fund.

(5) Before a county that provides animal welfare services on behalf of one or more municipalities may impose a tax under this section for the first time:

(a) the county shall notify each municipality of:

(i) the total cost to the county for providing animal welfare services; and

(ii) the total amount of revenue the county will generate by imposing a levy under this section;

(b) the county and the municipalities shall determine the county's and each municipality's percentage share of the county's cost for providing animal welfare services; and

(c) the county shall notify the State Tax Commission of:

(i) the names of the municipalities;

(ii) the revenue calculated by multiplying the county's percentage share of the cost for providing animal welfare services by the total amount of revenue the county will generate by imposing a levy under this section; and

(iii) for each municipality described in Subsection (5)(c)(i), the revenue calculated by multiplying the municipality's percentage share of the cost for providing animal welfare services by the total amount of revenue the county will generate by imposing a levy under this section.

(6) A county, as a condition of providing animal welfare services, may not prohibit a municipality from imposing a local animal control ordinance within the municipality that is different than a county animal control ordinance.

Section 18. Section 11-51-102 is amended to read:

11-51-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor, if the municipality is operating under a form of municipal government other than the council-manager form of government; or

(ii) the city manager, if the municipality is operating under the council-manager form of government; or

(b) for a county:

(i) the chair of the county commission, if the county is operating under the county commission or expanded county commission form of government;

(ii) the county executive officer, if the county is operating under the county-executive council form of government; or

(iii) the county manager, if the county is operating under the council-manager form of government.

(2) "County sheriff" means an individual elected to the office of county sheriff in the state who meets the qualifications described in Section [~~17-22-1.5~~]17-72-201.

(3) "Federal agency" means the United States Bureau of Land Management, the United States Forest Service, the United States Fish and Wildlife Service, or the National Park Service.

(4) "Federally managed land" means land that is managed by the United States Bureau of Land Management, the United States Forest Service, or the National Park Service.

(5) "National monument" means a national monument designated or declared in accordance with the Antiquities Act of 1906, 54 U.S.C. Sec. 320301 et seq.

(6) "National recreation area" means a recreation area designated by an act of Congress.

(7) "Political subdivision" means a municipality or county.

Section 19. Section 11-51a-102 is amended to read:

11-51a-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Catastrophic public nuisance" means a condition on state or federal land where natural resources and biota have been managed or neglected to such an extent as to cause:

(a) the threat of a catastrophic wildfire demonstrated by:

(i) stand density, basal area, or ground fuel load greater than 150% of land health standards; or

(ii) an insect or disease infestation severe enough to threaten the mortality of at least 20% of the trees in the area; or

(b) a condition in the area that threatens the:

(i) quantity or quality of the public water supply of a political subdivision;

(ii) health, safety, or welfare of the citizens of a political subdivision;

(iii) air quality of a nonattainment area; or

(iv) vegetative resources required to support land health and authorized livestock grazing.

(2) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor, if the municipality is operating under a form of municipal government other than the council-manager form of government; or

(ii) the city manager, if the municipality is operating under the council-manager form of government; and

(b) for a county:

(i) the chair of the county commission, if the county is operating under the county commission or expanded county commission form of government;

(ii) the county executive officer, if the county is operating under the county-executive form of government; or

(iii) the county manager, if the county is operating under the council-manager form of government.

(3) "County sheriff" means an individual:

(a) elected to the office of county sheriff; and

(b) who fulfills the duties described in [~~Subsection 17-22-1.5(1)~~]Section 17-72-201.

(4) "Federal agency" means the:

(a) United States Bureau of Land Management;

(b) United States Forest Service;

(c) United States Fish and Wildlife Service; or

(d) National Park Service.

(5) "Federally managed land" means land that is managed by a federal agency.

(6) "Political subdivision" means a municipality or county.

Section 20. Section 11-52-102 is amended to read:

11-52-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(2) "Political subdivision" means:

(a) a county, as defined in Section [~~17-50-101~~]17-60-101;

(b) a municipality, as defined in Section 10-1-104;

(c) a special district, as defined in Section 17B-1-102;

(d) a special service district, as defined in Section 17D-1-102;

(e) an interlocal entity, as defined in Section 11-13-103;

(f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(g) a local building authority, as defined in Section 17D-2-102; or

(h) a conservation district, as defined in Section 17D-3-102.

(3) "Single audit" has the same meaning as defined in 31 U.S.C. Sec. 7501.

Section 21. Section 11-55-103 is amended to read:

11-55-103

(Effective 11/06/25)

. General provisions.

(1) A political subdivision may authorize a board member who serves on a board within or created by the political subdivision to receive per diem and travel expenses for meetings actually attended at a rate that the political subdivision establishes, subject to Subsection (2).

(2) A political subdivision may not establish rates for payment of per diem and travel expenses described in Subsection (1) that exceed the rates established in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) a rule adopted by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(3) Nothing in this section limits or supercedes the authority of a political subdivision to set compensation in accordance with Section 10-3-818, 11-13-403, [~~17-28-2, 17-33-4~~]17-75-501, 17-76-503, 17B-1-307, or 17D-1-305.

Section 22. Section 11-58-601 is amended to read:

11-58-601

(Effective 11/06/25)

. General differential and nonmunicipal differential.

(1) As used in this section:

(a) "Designation resolution" means a resolution adopted by the board that designates a transition date and a trigger date, which may be the same date, for the parcel specified in the resolution.

(b) "Post-designation parcel" means a parcel within a project area after the transition date for that parcel.

(c) "Pre-designation parcel" means a parcel within a project area before the transition date for that parcel.

(d) "Transition date" means the date indicated in a designation resolution after which the parcel that is the subject of the designation resolution is a post-designation parcel.

(e) "Trigger date" means the date indicated in a designation resolution upon which tax differential payments due to the authority commence.

(2) This section applies to nonmunicipal differential and general differential to be paid to the authority.

(3) The authority shall be paid 75% of nonmunicipal differential generated from a pre-designation parcel that is part of the authority jurisdictional land:

(a) for the period beginning November 2019 and ending the earlier of:

(i) the transition date for that parcel; and

(ii) November 30, 2044; and

(b) for a period of up to 15 years following November 2044 if, before the end of November 2044:

(i) the parcel has not become a post-designation parcel; and

(ii) the board adopts a resolution approving the extension.

(4) (a) As provided in Subsection (4)(b), the authority shall be paid:

(i) 75% of nonmunicipal differential generated from a post-designation parcel that is part of the authority jurisdictional land; and

(ii) 75% of general differential generated from a post-designation parcel that is not part of the authority jurisdictional land.

(b) The property tax differential paid under Subsection (4)(a) from a post-designation parcel shall be paid:

(i) for a period of 25 years beginning on the trigger date for that parcel; and

(ii) for a period of up to an additional 15 years beyond the period stated in Subsection (4)(b)(i) if the board determines by resolution that the additional years of nonmunicipal differential or general differential, as the case may be, from that parcel will produce a significant benefit.

(5) (a) For purposes of this section, the authority may designate an improved portion of a parcel in a project area as a separate parcel.

(b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection (5)(a) does not constitute a subdivision, as defined in Section [~~10-9a-103~~]10-20-102 or Section [~~17-27a-103~~]17-79-102.

(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the authority as a separate parcel under Subsection (5)(a).

Section 23. Section 11-60-102 is amended to read:

11-60-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Direct charge" means a charge, fee, assessment, or amount, other than a property tax, that a political subdivision charges to a property owner.

(2) "Nonrecurring tax notice charge" means a tax notice charge that a political subdivision certifies to the county treasurer on a one-time or case-by-case basis rather than regularly over multiple calendar years.

(3) "Notice of lien" means a notice that:

(a) a political subdivision records in the office of the recorder of the county in which a property that is the subject of a nonrecurring tax notice charge is located; and

(b) describes the nature and amount of the nonrecurring tax notice charge and whether the political subdivision intends to certify the charge to the county treasurer under statutory authority that allows the treasurer to place the charge on the property tax notice described in Section 59-2-1317.

(4) "Political subdivision" means:

(a) a county, as that term is defined in Section [~~17-50-101~~]17-60-101;

(b) a municipality, as that term is defined in Section 10-1-104;

(c) a special district, as that term is defined in Section 17B-1-102;

(d) a special service district, as that term is defined in Section 17D-1-102;

(e) an interlocal entity, as that term is defined in Section 11-13-103;

(f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(g) a local building authority, as that term is defined in Section 17D-2-102;

(h) a conservation district, as that term is defined in Section 17D-3-102; or

(i) a local entity, as that term is defined in Sections 11-42-102 and 11-42a-102.

(5) "Political subdivision lien" means a lien that a statute expressly authorizes a political subdivision to hold and record, including a direct charge that constitutes, according to an express statutory provision, a lien.

(6) "Property tax" means a tax imposed on real property under Title 59, Chapter 2, Property Tax Act, Title 59, Chapter 3, Tax Equivalent Property Act, or Title 59, Chapter 4, Privilege Tax.

(7) "Tax notice charge" means the same as that term is defined in Section 59-2-1301.5.

(8) "Tax sale" means the tax sale described in Title 59, Chapter 2, Part 13, Collection of Taxes.

Section 24. Section 11-63-201 is amended to read:

11-63-201

(Effective 11/06/25)

. Municipal or county business license required.

To operate a trampoline park the operator of a trampoline park shall obtain and maintain, conditioned upon compliance with this chapter:

(1) if the trampoline park is located within an incorporated municipality, a municipal business license authorized under Section 10-1-203; or

(2) if located within the unincorporated area of a county, a county business license authorized under Section [~~17-53-216~~]17-64-505.

Section 25. Section 11-65-304 is amended to read:

11-65-304

(Effective 11/06/25)

. Limitations on board members and executive director -- Annual conflict of interest disclosure statement -- Exception -- Penalties.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a voting member of the board or as executive director if the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to participate in or receive a direct financial benefit from the management of Utah Lake.

(3) Before taking office as a voting member of the board or accepting employment as executive director, an individual shall submit to the lake authority a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2).

(4) (a) A voting member or nonvoting member of the board or an employee of the lake authority may not receive a direct financial benefit from the management of Utah Lake.

(b) For purposes of Subsection (4)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the lake authority.

(5) Except as provided Subsection (11), a voting member or nonvoting member of the board shall, no sooner than January 1 and no later than January 31 of each year during which the board member holds office on the lake authority's board:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the lake authority's board.

(6) (a) No later than 10 business days after the date on which the board member submits the written disclosure statement described in Subsection (5) to the administrator or clerk of the lake authority's board, the administrator or clerk shall:

(i) post an electronic copy of the written disclosure statement on the lake authority's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (6)(a)(i).

(b) The administrator or clerk shall ensure that the board member's written disclosure statement remains posted on the lake authority's website until the board member leaves office.

(7) The administrator or clerk of the lake authority's board shall take the action described in Subsection (8) if:

(a) a board member fails to timely submit the written disclosure statement described in Subsection (5); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(8) If a circumstance described in Subsection (7) occurs, the administrator or clerk of the lake authority's board shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the board member of the violation and direct the board member to submit an amended written disclosure statement correcting the problem.

(9) (a) It is unlawful for a board member to fail to submit or amend a written disclosure statement within seven days after the day on which the board member receives the notice described in Subsection (8).

(b) A board member who violates Subsection (9)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the lake authority's board shall report a violation of Subsection (9)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (9)(b), the administrator or clerk of the lake authority's board shall impose a civil fine of $100 against a board member who violates Subsection (9)(a).

(10) The administrator or clerk of the lake authority's board shall deposit a fine collected under this section into the lake authority's account to pay for the costs of administering this section.

(11) For an individual who is appointed as a board member under Subsection 11-65-302(2)(b), (c), (d), or (e)(ii):

(a) Subsection (5) does not apply; and

(b) the administrator or clerk of the lake authority's board shall, instead:

(i) post an electronic link on the lake authority's website to the written disclosure statement the board member made in the board member's capacity as:

(A) a state legislator, under Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures;

(B) an elected officer of a county, under Section [~~17-16a-13~~]17-70-509; or

(C) an elected officer of a municipality, under Section 10-3-1313; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (11)(b)(i).

(12) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section 26. Section 11-70-304 is amended to read:

11-70-304

(Effective 11/06/25)

. Limitations on board members and executive director -- Annual conflict of interest disclosure statement -- Penalties.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a member of the board or as executive director if:

(a) the individual owns real property, other than a personal residence in which the individual resides, within the fairpark district boundary, whether or not the ownership interest is a recorded interest;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located within the fairpark district boundary; or

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to:

(i) participate in or receive a direct financial benefit from the development of land within the fairpark district boundary; or

(ii) acquire an interest in or locate a facility within the fairpark district boundary.

(3) Before taking office as a board member or accepting employment as executive director, an individual shall submit to the fairpark district a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2).

(4) (a) An individual may not, at any time during the individual's service as a board member or employment with the fairpark district, acquire, or take any action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property located within the fairpark district boundary, if:

(i) the acquisition is in the individual's personal capacity or in the individual's capacity as an employee or officer of a private firm, private company, or other private entity; and

(ii) the acquisition will enable the individual to receive a direct financial benefit as a result of the development of land within the fairpark district boundary.

(b) Subsection (4)(a) does not apply to an individual's acquisition of, or action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property that is a personal residence in which the individual will reside upon acquisition of the real property.

(5) (a) A board member or an employee of the fairpark district may not receive a direct financial benefit from development within the fairpark district boundary.

(b) For purposes of Subsection (5)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the fairpark district.

(6) (a) In addition to any other limitation on a board member described in this section, and except as provided in Subsection (7), a voting member or nonvoting advisory member of the board shall, no sooner than January 1 and no later than January 31 of each year during which the board member holds office on the board:

(i) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(ii) submit the written disclosure statement to the administrator or clerk of the board.

(b) No later than 10 business days after the day on which the board member submits the written disclosure statement described in Subsection (6)(a) to the administrator or clerk of the board, the administrator or clerk shall:

(i) (A) post an electronic copy of the written disclosure statement on the fairpark district website; or

(B) if the fairpark district does not have a website, post an electronic copy of the disclosure statement on the Utah Public Notice Website created in Section 63A-16-601; and

(ii) provide the lieutenant governor with a link to the posting described in Subsection (6)(b)(i).

(c) The administrator or clerk of the board shall ensure that the board member's written disclosure statement remains posted on the website described in Subsection (6)(b)(i) until the board member leaves office.

(d) The administrator or clerk of the board shall take the action described in Subsection (6)(e) if:

(i) a board member fails to timely submit the written disclosure statement described in Subsection (6)(a); or

(ii) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(e) If a circumstance described in Subsection (6)(d) occurs, the administrator or clerk of the board shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the board member of the violation and direct the board member to submit an amended written disclosure statement correcting the problem.

(f) (i) It is unlawful for a board member to fail to submit or amend a written disclosure statement within seven days after the day on which the board member receives the notice described in Subsection (6)(e).

(ii) A board member who violates Subsection (6)(f)(i) is guilty of a class B misdemeanor.

(iii) The administrator or clerk of the board shall report a violation of Subsection (6)(f)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (6)(f)(ii), the administrator or clerk of the board shall impose a civil fine of $100 against a board member who violates Subsection (6)(f)(i).

(g) The administrator or clerk of the board shall deposit a fine collected under this section into the board's account to pay for the costs of administering this section.

(7) For a board member who is also a state legislator, a member of a county or municipal legislative body, or who is otherwise required to make the written disclosure statement described in Subsection (6)(a) under another provision of law:

(a) Subsection (6) does not apply; and

(b) the administrator or clerk of the board shall, instead:

(i) post an electronic link, on the website described in Subsection (6)(b)(i), to the written disclosure statement the board member made in the board member's capacity as:

(A) a state legislator, under Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures;

(B) an elected officer of a county, under Section [~~17-16a-13~~]17-70-209;

(C) an elected officer of a municipality, under Section 10-3-1313; or

(D) an individual who is required to make the written disclosure statement described in Subsection (6)(a) under another provision of law; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (7)(b)(i).

(8) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section 27. Section 11-70-401 is amended to read:

11-70-401

(Effective 11/06/25)

. Enhanced property tax revenue to be paid to fairpark district.

(1) Subject to Subsection (5), the fairpark district shall be paid 90% of enhanced property tax revenue generated from each parcel of privately owned land within the fairpark district boundary:

(a) beginning the tax year that begins on January 1, 2025; and

(b) until the transition date for that parcel.

(2) Subject to Subsection (5), during the payment period the fairpark district shall be paid up to 100% of enhanced property tax revenue:

(a) generated from designated parcels of privately owned land within a project area; and

(b) as the board specifies in a designation resolution adopted in consultation with a qualified owner.

(3) For purposes of the payment of enhanced property tax revenue under this section, a payment period shall begin, as specified in the designation resolution, on January 1 of a year that begins after the designation resolution is adopted.

(4) (a) For purposes of this section, the fairpark district may designate an improved portion of a parcel in a project area as a separate parcel.

(b) A fairpark district designation of an improved portion of a parcel as a separate parcel under Subsection (4)(a) does not constitute a subdivision, as defined in Section [~~10-9a-103~~]10-20-102 or Section [~~17-27a-103~~]17-79-102.

(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the fairpark district as a separate parcel under Subsection (4)(a).

(5) A host municipality shall be paid a minimum of 25% of the enhanced property tax revenue generated by a property tax imposed by the host municipality to reimburse the host municipality for services the host municipality provides to a project area in accordance with Subsection 11-70-206(6)(c), with the exact amount determined in an agreement between the host municipality and the fairpark district.

Section 28. Section 15A-1-204 is amended to read:

15A-1-204

(Effective 11/06/25)

. Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

(i) to the entire state; or

(ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

(i) adopting a new State Construction Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall prepare a report described in Subsection (4) in 2022 and, thereafter, for every second update of the nationally recognized construction code.

(4) (a) In accordance with Subsection (3), on or before September 1 of the year after the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

(i) states whether the commission recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on the commission's own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electricians and Plumbers Licensing Board; or

(F) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (6), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health and Human Services or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104(20), is exempt from the requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under [~~Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas~~]Title 17, Chapter 81, Agriculture, Industrial, and Critical Infrastructure Materials, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under [~~Title 17, Chapter 27a, Part 6, Subdivisions~~]Title 17, Chapter 79, Part 7, Subdivisions, and less than two contiguous acres.

(12) (a) A remote yurt is exempt from the State Construction Code including the permit requirements of the State Construction Code.

(b) Notwithstanding Subsection (12)(a), a county may by ordinance require remote yurts to comply with the State Construction Code, if the ordinance requires the remote yurts to comply with all of the following:

(i) the State Construction Code;

(ii) notwithstanding Section 15A-5-104, the State Fire Code; and

(iii) notwithstanding Section 19-5-125, Title 19, Chapter 5, Water Quality Act, rules made under that chapter, and local health department's jurisdiction over onsite wastewater disposal.

Section 29. Section 17B-1-105 is amended to read:

17B-1-105

(Effective 11/06/25)

. Name of special district -- Name change.

(1) (a) The name of each special district created on or after May 1, 2000, shall comply with [~~Subsection 17-50-103(2)(a)~~]Section 17-60-103.

(b) The board of each special district affected by [~~Subsection 17-50-103(2)(b)~~]Section 17-60-103 shall ensure that after January 1, 2005, the special district name complies with the requirements of [~~Subsection 17-50-103(2)(b)~~]Section 17-60-103.

(2) The name of a special district created after April 30, 2007, may not include the name of a county or municipality.

(3) The name of a special district may include words descriptive of the type of service that the district provides.

(4) The name of an infrastructure financing district shall comply with Subsection 17B-1-208(1)(b)(ii).

(5) (a) A special district board may change the name of that special district as provided in this Subsection (5).

(b) To initiate a name change, the special district board shall:

(i) hold a public hearing on the proposed name change;

(ii) adopt a resolution approving the name change; and

(iii) file with the lieutenant governor a notice of an impending name change, as defined in Section 67-1a-6.7, that meets the requirements of Subsection 67-1a-6.7(3).

(c) Upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7, the special district board shall:

(i) if the special district is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending name change; and

(II) certificate of name change; and

(B) a certified copy of the resolution approving the name change; or

(ii) if the special district is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (5)(c)(i)(A)(I) and (II); and

(II) a certified copy of the resolution approving the name change; and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (5)(c)(i)(A)(I) and (II); and

(II) a certified copy of the resolution approving the name change.

(d) (i) A name change under this Subsection (5) becomes effective upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7.

(ii) Notwithstanding Subsection (5)(d)(i), the special district may not operate under the new name until the documents listed in Subsection (5)(c) are recorded in the office of the recorder of each county in which the special district is located.

Section 30. Section 17B-1-119 is amended to read:

17B-1-119

(Effective 11/06/25)

. Duty to comply with local land use provisions -- Requirements before providing a service.

(1) (a) If a land use authority consults with or allows a special district to participate in any way in a land use authority's land use development review or approval process, the special district shall comply with [~~Title 10, Chapter 9a, Municipal Land Use and Development Act~~]Title 10, Chapter 20, Municipal Land Use, Development, and Management Act, or [~~Title 17, Chapter 27a, County Land Use and Development Act~~]Title 17, Chapter 79, County Land Use, Development, and Management Act, as applicable to the land use authority.

(b) The compliance required under Subsection (1)(a) is not limited to the special district's participation in the land use authority's review or approval process.

(2) (a) Before a special district begins providing a service to a service applicant, the service applicant shall provide the special district with an improvement assurance and an improvement assurance warranty.

(b) A special district that has not received an improvement assurance and an improvement assurance warranty from a service applicant may not begin providing service to the service applicant.

Section 31. Section 17B-2a-806 is amended to read:

17B-2a-806

(Effective 11/06/25)

. Authority of the state or an agency of the state with respect to a public transit district -- Counties and municipalities authorized to provide funds to public transit district -- Equitable allocation of resources within the public transit district.

(1) The state or an agency of the state may:

(a) make public contributions to a public transit district as in the judgment of the Legislature or governing board of the agency are necessary or proper;

(b) authorize a public transit district to perform, or aid and assist a public transit district in performing, an activity that the state or agency is authorized by law to perform; or

(c) perform any action that the state agency is authorized by law to perform for the benefit of a public transit district.

(2) (a) A county or municipality involved in the establishment and operation of a public transit district may provide funds necessary for the operation and maintenance of the district.

(b) A county's use of property tax funds to establish and operate a public transit district within any part of the county is a county purpose under Section [~~17-53-220~~]17-63-702.

(3) (a) To allocate resources and funds for development and operation of a public transit district, whether received under this section or from other sources, and subject to Section 72-1-203 pertaining to fixed guideway capital development within a large public transit district, a public transit district may:

(i) give priority to public transit services that feed rail fixed guideway services; and

(ii) allocate funds according to population distribution within the public transit district.

(b) The comptroller of a public transit district shall report the criteria and data supporting the allocation of resources and funds in the statement required in Section 17B-2a-812.

Section 32. Section 17B-2a-823 is amended to read:

17B-2a-823

(Effective 11/06/25)

. Public transit district special services.

(1) As used in this section, "bureau" means a recreational, tourist, or convention advisory board, council, committee, body, or bureau [~~under Title 17, Chapter 31, Recreational, Tourist, and Convention Bureaus~~]that substantially conforms to the requirements of Section 17-78-706.

(2) (a) A public transit district may lease its buses to private certified public carriers or operate transit services requested by a public entity if a bureau certifies that privately owned carriers furnishing like services or operating like equipment within the area served by the bureau:

(i) have declined to provide the service; or

(ii) do not have the equipment necessary to provide the service.

(b) A public transit district may lease [~~its~~]the public transit district's buses or operate services as authorized under Subsection (2)(a) outside of the area served by the district.

(3) If part or all of the transportation services are paid for by public funds, a public transit district may:

(a) provide school bus services for transportation of pupils and supervisory personnel between homes and school and other related school activities within the area served by the district; or

(b) provide the transportation of passengers covered by a program within the district for people who are elderly or who have a disability.

(4) Notwithstanding the provisions in Subsection (3), a municipality or county is not prohibited from providing the transportation services identified in Subsection (3).

Section 33. Section 17B-2a-1102 is amended to read:

17B-2a-1102

(Effective 11/06/25)

. Definitions.

As used in this part, "municipal services" means one or more of the services identified in Section [~~17-34-1, 17-36-3~~]17-63-101, 17-78-501, or 17B-1-202.

Section 34. Section 17C-1-102 is amended to read:

17C-1-102

(Effective 11/06/25)

. Definitions.

As used in this title:

(1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.

(2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive:

(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);

(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;

(c) under a project area budget approved by a taxing entity committee; or

(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

(3) "Affordable housing" means housing owned or occupied by a low or moderate income family, as determined by resolution of the agency.

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:

(a) that is a political subdivision of the state;

(b) that is created to undertake or promote project area development as provided in this title; and

(c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan or an implementation plan as defined in Section 17C-1-1001, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development or agency-wide project development as defined in Section 17C-1-1001;

(c) a contribution, loan, grant, or other financial assistance from any public or private source;

(d) project area incremental revenue as defined in Section 17C-1-1001; or

(e) property tax revenue as defined in Section 17C-1-1001.

(6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, as described in the interlocal agreement.

(10) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.

(11) "Board" means the governing body of an agency, as described in Section 17C-1-203.

(12) "Budget hearing" means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

(13) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

(14) "Combined incremental value" means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.

(15) "Community" means a county or municipality.

(16) "Community development project area plan" means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

(17) "Community legislative body" means the legislative body of the community that created the agency.

(18) "Community reinvestment project area plan" means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

(19) "Contest" means to file a written complaint in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, and in a county in which the agency is located if the action is filed in the district court.

(20) "Development impediment" means a condition of an area that meets the requirements described in Section 17C-2-303 for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

(21) "Development impediment hearing" means a public hearing regarding whether a development impediment exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or

(b) community reinvestment project area under Section 17C-5-404.

(22) "Development impediment study" means a study to determine whether a development impediment exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(23) "Economic development project area plan" means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

(24) "Fair share ratio" means the ratio derived by:

(a) for a municipality, comparing the percentage of all housing units within the municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(25) "Family" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

(27) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous

waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(28) "Housing allocation" means project area funds allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

(29) "Housing fund" means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the purposes described in Section 17C-1-411; or

(b) an agency's housing allocation.

(30) (a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A) (I) that is no longer in operation as an airport; or

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).

(31) (a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).

(32) "Income targeted housing" means housing that is:

(a) owned and occupied by a family whose annual income is at or below 120% of the median annual income for a family within the county in which the housing is located; or

(b) occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

(33) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.

(34) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(35) (a) " Local government building" means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

(b) " Local government building" does not include a building the primary purpose of which is cultural or recreational in nature.

(36) "Low-income individual" means the same as that term is defined in Section 35A-8-504.5.

(37) "Major transit investment corridor" means the same as that term is defined in Section [~~10-9a-103~~]10-20-102.

(38) "Marginal value" means the difference between actual taxable value and base taxable value.

(39) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

(40) "Municipality" means a city or town.

(41) "Non-profit housing fund" means:

(a) an organization that meets the definition of "housing organization" in Section 35A-8-2401;

(b) a registered nonprofit that assists veterans or individuals who work in public service to achieve homeownership in the state;

(c) a registered nonprofit that:

(i) assists low-income individuals or families who would qualify for income targeted housing to achieve homeownership in the state; and

(ii) provides direct support to help a low-income individual or a family eligible for income targeted housing to retain ownership of a home, including through rehabilitation services, lending for rehabilitation, or foreclosure mitigation counseling that results in retention of the home, refinancing, or a reverse mortgage;

(d) a registered nonprofit that partners with a community to promote affordable housing for the workforce in that community; or

(e) a registered nonprofit established to administer housing programs on behalf of an association representing 10 or more counties in the state.

(42) "Participant" means one or more persons that enter into a participation agreement with an agency.

(43) "Participation agreement" means a written agreement between a person and an agency under Subsection 17C-1-202(5).

(44) "Plan hearing" means the public hearing on a proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.

(45) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project area plan's adoption.

(46) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

(47) "Private," with respect to real property, means property not owned by a public entity or any other governmental entity.

(48) "Project area" means the geographic area described in a project area plan within which the project area development described in the project area plan takes place or is proposed to take place.

(49) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area prepared in accordance with:

(a) for an urban renewal project area, Section 17C-2-201;

(b) for an economic development project area, Section 17C-3-201;

(c) for a community development project area, Section 17C-4-204; or

(d) for a community reinvestment project area, Section 17C-5-302.

(50) "Project area development" means activity within a project area that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of implementing a project area plan, including:

(a) promoting, creating, or retaining public or private jobs within the state or a community;

(b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;

(c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;

(d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

(f) providing open space, including streets or other public grounds or space around buildings;

(g) providing public or private buildings, infrastructure, structures, or improvements;

(h) relocating a business;

(i) improving public or private recreation areas or other public grounds;

(j) eliminating a development impediment or the causes of a development impediment;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in this Subsection (50) outside of a project area that the board determines to be a benefit to the project area.

(51) "Project area funds" means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.

(52) "Project area funds collection period" means the period of time that:

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement.

(53) "Project area plan" means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan's effective date, guides and controls the project area development.

(54) (a) "Property tax" means each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

(55) "Public entity" means:

(a) the United States, including an agency of the United States;

(b) the state, including any of the state's departments or agencies; or

(c) a political subdivision of the state, including a county, municipality, school district, special district, special service district, community reinvestment agency, or interlocal cooperation entity.

(56) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

(57) "Record property owner" or "record owner of property" means the owner of real property, as shown on the records of the county in which the property is located, to whom the property's tax notice is sent.

(58) "Sales and use tax revenue" means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

(59) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection (59)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(60) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:

(a) one or more project areas within the survey area are feasible; or

(b) a development impediment exists within the survey area.

(61) "Survey area resolution" means a resolution adopted by a board that designates a survey area.

(62) "Taxable value" means:

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(63) (a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(64) "Taxing entity" means a public entity that:

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(65) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

(66) "Unincorporated" means not within a municipality.

(67) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

(68) "Veteran" means the same as that term is defined in Section 68-3-12.5.

Section 35. Section 17C-1-202 is amended to read:

17C-1-202

(Effective 11/06/25)

. Agency powers.

(1) An agency may:

(a) sue and be sued;

(b) enter into contracts generally;

(c) buy, obtain an option upon, acquire by gift, or otherwise acquire any interest in real or personal property;

(d) hold, sell, convey, grant, gift, or otherwise dispose of any interest in real or personal property;

(e) own, hold, maintain, utilize, manage, or operate real or personal property, which may include the use of agency funds or the collection of revenue;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor;

(g) provide for project area development as provided in this title;

(h) receive and use agency funds as provided in this title;

(i) if disposing of or leasing land, retain controls or establish restrictions and covenants running with the land consistent with the project area plan;

(j) accept financial or other assistance from any public or private source for the agency's activities, powers, and duties, and expend any funds the agency receives for any purpose described in this title;

(k) borrow money or accept financial or other assistance from a public entity or any other source for any of the purposes of this title and comply with any conditions of any loan or assistance;

(l) issue bonds to finance the undertaking of any project area development or for any of the agency's other purposes, including:

(i) reimbursing an advance made by the agency or by a public entity to the agency;

(ii) refunding bonds to pay or retire bonds previously issued by the agency; and

(iii) refunding bonds to pay or retire bonds previously issued by the community that created the agency for expenses associated with project area development;

(m) pay an impact fee, exaction, or other fee imposed by a community in connection with land development;

(n) subject to Part 10, Agency Taxing Authority, levy a property tax; or

(o) transact other business and exercise all other powers described in this title.

(2) The establishment of controls or restrictions and covenants under Subsection (1)(i) is a public purpose.

(3) An agency may acquire real property under Subsection (1)(c) that is outside a project area only if the board determines that the property will benefit a project area.

(4) An agency is not subject to Section 10-8-2 or [~~17-50-312~~]17-78-103.

(5) (a) An agency may, subject to Subsection (5)(c), enter into a participation agreement with a person to govern the development the person will undertake within a project area.

(b) A participation agreement under Subsection (5)(a) shall include a description of:

(i) the project area development that the person will undertake;

(ii) the amount of project area funds the agency agrees to pay to the person to facilitate the development; and

(iii) the terms and conditions under which the agency agrees to pay project area funds to the person.

(c) (i) A participation agreement under Subsection (5)(a) is subject to board approval by resolution of the board.

(ii) A resolution under Subsection (5)(c)(i) shall include a finding by the board describing how the project area development described in the participation agreement will contribute to achieving the goals, policies, and purposes of the project area plan.

(d) (i) Beginning on May 7, 2025, any participation agreement under this Subsection (5) shall include a provision authorizing the agency, directly or through the county in which the agency operates, to use funding that would otherwise be provided to the participant to pay a participant's delinquent property tax or privilege tax or resolve a political subdivision lien against the participant, as described in Subsection 17C-1-409(6).

(ii) An agency that has entered into a participation agreement before May 7, 2025, shall, as soon as reasonably practical, enter into an amendment to the participation agreement with a participant to include a provision authorizing the agency to use funding that would otherwise be provided to the participant to pay a participant's delinquent property tax or privilege tax or resolve a political subdivision lien against the participant, as described in Subsection 17C-1-409(6).

Section 36. Section 17C-1-203 is amended to read:

17C-1-203

(Effective 11/06/25)

. Agency board -- Quorum.

(1) The governing body of an agency is a board consisting of the current members of the community legislative body.

(2) A majority of board members constitutes a quorum for the transaction of agency business.

(3) A board may not adopt a resolution, pass a motion, or take any other official board action without the concurrence of at least a majority of the board members present at a meeting at which a quorum is present.

(4) (a) The mayor or the mayor's designee of a municipality operating under a council-mayor form of government, as defined in Section 10-3b-102:

(i) serves as the executive director of an agency created by the municipality; and

(ii) exercises the agency's executive powers.

(b) The county executive or the county executive's designee of a county operating under a county executive-council form of government, as described in Section [~~17-52a-203~~]17-62-203:

(i) serves as the executive director of an agency created by the county; and

(ii) exercises the agency's executive powers.

Section 37. Section 17C-1-207 is amended to read:

17C-1-207

(Effective 11/06/25)

. Public entities may assist with project area development -- Notice requirements.

(1) In order to assist and cooperate in the planning, undertaking, construction, or operation of project area development within an area in which the public entity is authorized to act, a public entity may:

(a) (i) provide or cause to be furnished:

(A) parks, playgrounds, or other recreational facilities;

(B) community, educational, water, sewer, or drainage facilities; or

(C) any other works which the public entity is otherwise empowered to undertake;

(ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;

(iii) in any part of the project area:

(A) (I) plan or replan any property within the project area;

(II) plat or replat any property within the project area;

(III) vacate a plat;

(IV) amend a plat; or

(V) zone or rezone any property within the project area; and

(B) make any legal exceptions from building regulations and ordinances;

(iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;

(v) notwithstanding any law to the contrary, enter into an agreement for a period of time with another public entity concerning action to be taken pursuant to any of the powers granted in this title;

(vi) do anything necessary to aid or cooperate in the planning or implementation of the project area development;

(vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and

(viii) lend, grant, or contribute funds to an agency for project area development or proposed project area development, including assigning revenue or taxes in support of an agency bond or obligation; and

(b) for less than fair market value or for no consideration, and subject to Subsection (3):

(i) purchase or otherwise acquire property from an agency;

(ii) lease property from an agency;

(iii) sell, grant, convey, donate, or otherwise dispose of the public entity's property to an agency; or

(iv) lease the public entity's property to an agency.

(2) The following are not subject to Section 10-8-2, [~~17-50-312, or 17-50-303~~]17-60-203, or 17-78-103:

(a) project area development assistance that a public entity provides under this section; or

(b) a transfer of funds or property from an agency to a public entity.

(3) A public entity may provide assistance described in Subsection (1)(b) no sooner than 15 days after the day on which the public entity completes the requirements for publishing notice of the assistance for the public entity's jurisdiction, as a class A notice under Section

63G-30-102, for at least 15 days.

Section 38. Section 17C-1-409 is amended to read:

17C-1-409

(Effective 11/06/25)

. Allowable uses of agency funds.

(1) (a) An agency may use agency funds:

(i) for any purpose authorized under this title;

(ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;

(iii) subject to Section 11-41-103, to pay for, including financing or refinancing, all or part of:

(A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;

(B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;

(C) an incentive or other consideration paid to a participant under a participation agreement, subject to Subsection (6);

(D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or

(E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area;

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area;

(v) subject to Subsection (5), to transfer funds to a community that created the agency; or

(vi) subject to Subsection (1)(f), for agency-wide project development under Part 10, Agency Taxing Authority.

(b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

(c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.

(d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:

(A) the board approves; and

(B) the community legislative body approves.

(ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for agency funds are sufficient to repay the loan amount.

(iii) A loan described in this Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, [~~Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties~~]Title 17, Chapter 63, Fiscal Authority and Processes, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts.

(e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:

(i) the Department of Transportation; or

(ii) a public transit district.

(f) Before an agency may use project area funds for agency-wide project development, as defined in Section 17C-1-1001, the agency shall obtain the consent of the taxing entity committee or each taxing entity party to an interlocal agreement with the agency.

(2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Retail Facility Incentive Payments Act.

(b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.

(3) (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.

(b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.

(4) Notwithstanding any other provision of this title, an agency may not use project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001, to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.

(5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Subsection 59-12-205(5).

(6) (a) Before providing tax increment funding to a private participant pursuant to a participation agreement, an agency shall consult with the county treasurer of the county in which the agency operates to determine if:

(i) the private participant is delinquent on property tax;

(ii) the private participant is delinquent on privilege tax; or

(iii) the private participant is subject to a political subdivision lien for past due fees or charges.

(b) If the county treasurer, in consultation with the agency, determines a participant is delinquent on property tax or privilege tax or subject to a political subdivision lien, the agency shall confirm whether the participation agreement between the agency and private participant includes a provision described in Subsection 17C-1-202(5)(d).

(c) If authorized by the agency pursuant to a participation agreement, the county treasurer of the county in which the agency operates may provide tax increment funding that would otherwise be provided directly to the agency to provide to the private participant to:

(i) the county, in the amount the private entity is delinquent for property tax or privilege tax; and

(ii) the political subdivision holding the political subdivision lien, in the amount necessary to resolve the political subdivision lien.

Section 39. Section 17D-1-604 is amended to read:

17D-1-604

(Effective 11/06/25)

. Reorganization as a special district.

(1) The legislative body of a county or municipality that has created a special service district may reorganize the special service district as a special district in accordance with this section.

(2) The process to reorganize a special service district as a special district is initiated if the legislative body of the county or municipality that originally created the special service district adopts a resolution that:

(a) indicates the legislative body's intent to reorganize the special service district as a special district; and

(b) complies with the requirements of Subsection (3).

(3) A resolution to initiate reorganization described in Subsection (2) shall:

(a) state the name of the special service district that is proposed to be reorganized as a special district;

(b) generally describe the boundaries of the special service district, whether or not those boundaries coincide with the boundaries of the creating county or municipality; and

(c) specify each service that the special service district is authorized to provide.

(4) After adopting the resolution described in Subsection (3), the legislative body of the county or municipality that created the special service district shall hold a public hearing following the notice requirements of Section 17D-1-205 applicable to the creation of a special service district, with changes as appropriate for the reorganization of the special service district as a special district.

(5) (a) At or following the public hearing, the county or municipal legislative body shall:

(i) subject to Subsection (5)(b), adopt a resolution approving the reorganization of the special service district as a special district; or

(ii) abandon the reorganization.

(b) A resolution approving reorganization shall:

(i) state the name of the special service district that is being reorganized as a special district;

(ii) state the name of the special district in accordance with Subsection (7);

(iii) subject to Subsection (5)(c), describe the boundaries of the special district;

(iv) subject to Subsection (8)(a), specify the service or services to be provided by the special district;

(v) state:

(A) whether the special district is a different type of special district other than a basic special district; and

(B) if the reorganized special district is not a basic special district, the type of special district, including the governing part in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts;

(vi) state whether the special district is to be governed by an appointed or an elected board of trustees, or a combination of appointed and elected trustees, in accordance with Title 17B, Chapter 1, Part 3, Board of Trustees;

(vii) state whether an administrative control board established for the special service district that is being reorganized as a special district will serve as the first board of trustees of the special district; and

(viii) contain additional provisions as necessary.

(c) The boundaries of the special district shall reflect the boundaries of the reorganized special service district.

(6) A county may not reorganize a special service district as a special district to include some or all of the area within a municipality unless the legislative body of the municipality adopts a resolution or ordinance consenting to the reorganization.

(7) The name of the special district:

(a) shall comply with Subsection [~~17-50-103(2)(a)~~]17-60-102(3); and

(b) may not include the phrase "special service district."

(8) A special district created under this section may not provide:

(a) (i) at the time of reorganization, a service that it could not have provided as the special service district prior to reorganization; or

(ii) after reorganization, an additional service listed in Section 17B-1-202, unless the special district adds the service in accordance with the provisions of Title 17B, Chapter 1, Provisions Applicable to All Special Districts; and

(b) more than four of the services listed in Section 17B-1-202 at any time.

(9) After the lieutenant governor issues, in accordance with Section 67-1a-6.5, a certificate of incorporation for a special district created under this section, the special district:

(a) is:

(i) a body corporate and politic with perpetual succession;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state as provided in Section 17B-1-103; and

(b) may, subject to Subsection (8), provide a service that:

(i) the special service district was authorized to provide before reorganization; and

(ii) the special district is authorized to provide under the resolution adopted in accordance with Subsection (5).

(10) An action taken, a bond issued, or a contract or other obligation entered into by the reorganized special service district before reorganization is a valid action, bond issuance, contract, or other obligation of the special district.

(11) A special district created under this section:

(a) may impose and collect taxes, fees, and other charges for services provided in accordance with applicable law;

(b) shall own all property acquired by the special service district before reorganization; and

(c) shall have a power, right, or obligation that the reorganized special service district had before the reorganization, unless otherwise provided by law.

Section 40. Section 17D-2-203 is amended to read:

17D-2-203

(Effective 11/06/25)

. Local building authority board of directors.

(1) Except as provided in Subsection (3), the members of the governing body of the creating local entity constitute the authority board of the local building authority created by the creating local entity.

(2) An authority board may be referred to as a board of trustees.

(3) (a) For a local building authority whose creating local entity is a county that operates under the county commission form of government under Section [~~17-52a-201~~]17-62-201, two members of the authority board may appoint an elected officer of the county to serve temporarily as a member of the authority board if the other authority board member:

(i) is, as a member of the county commission, placed on paid administrative leave under Section [~~17-16-10.5~~]17-66-204;

(ii) is unable to serve due to a disability;

(iii) has a conflict of interest with respect to a matter before the authority board that disqualifies the authority board member or causes the member to abstain from participating in action on that matter; or

(iv) is unable for any other reason to serve temporarily on the authority board or to participate in a matter before the board.

(b) An elected county officer appointed to an authority board under Subsection (3)(a) may serve only until the condition under Subsection (3)(a)(i), (ii), (iii), or (iv) causing the need for the appointment is no longer present.

Section 41. Section 19-4-109 is amended to read:

19-4-109

(Effective 11/06/25) (Repealed 07/01/29)

. Violations -- Penalties -- Reimbursement for expenses.

(1) As used in this section, "criminal negligence" means the same as that term is defined in Section 76-2-103.

(2) (a) A person who violates this chapter, a rule or order issued under the authority of this chapter, or the terms of a permit or other administrative authorization issued under the authority of this chapter is subject to an administrative penalty:

(i) not to exceed $1,000 per day per violation, with respect to a public water system serving a population of less than 10,000 individuals; or

(ii) exactly $1,000 per day per violation, with respect to a public water system serving a population of more than 10,000 individuals.

(b) In all cases, each day of violation is considered a separate violation.

(3) The director may assess and make a demand for payment of an administrative penalty under this section and may compromise or settle that penalty.

(4) To make a demand for payment of an administrative penalty assessed under this section, the director shall issue a notice of agency action, specifying, in addition to the requirements for notices of agency action contained in Title 63G, Chapter 4, Administrative Procedures Act:

(a) the date, facts, and nature of each act or omission charged;

(b) the provision of the statute, rule, order, permit, or administrative authorization that is alleged to have been violated;

(c) each penalty that the director proposes to assess, together with the amount and date of effect of that penalty; and

(d) that failure to pay the penalty or respond may result in a civil action for collection.

(5) A person notified according to Subsection (4) may request an adjudicative proceeding.

(6) Upon request by the director, the attorney general may institute a civil action to collect a penalty assessed under this section.

(7) (a) A person who, with criminal negligence, violates any rule or order made or issued pursuant to this chapter, or with criminal negligence fails to take corrective action required by an order, is guilty of a class B misdemeanor and subject to a fine of not more than $5,000 per day for each day of violation.

(b) In addition, the person is subject, in a civil proceeding, to a penalty of not more than $5,000 per day for each day of violation.

(8) (a) The director may bring a civil action for appropriate relief, including a permanent or temporary injunction, for a violation for which the director is authorized to issue a compliance order under Section 19-4-107.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director shall bring an action under this Subsection (8) in the county where the violation occurs if the director brings the action in a district court.

(9) (a) The attorney general is the legal advisor for the board and the director and shall defend them in an action or proceeding brought against the board or director.

(b) The county attorney or district attorney, as appropriate under Section [~~17-18a-202~~]17-68-302 or [~~17-18a-203~~]17-68-303, in the county in which a cause of action arises, shall bring an action, civil or criminal, requested by the director, to abate a condition that exists in violation of, or to prosecute for the violation of, or to enforce the laws or the standards, orders, and rules of the board or the director issued under this chapter.

(c) The director may initiate action under this section and be represented by the attorney general.

(10) If a person fails to comply with a cease and desist order that is not subject to a stay pending administrative or judicial review, the director may initiate an action for and be entitled to injunctive relief to prevent further or continued violation of the order.

(11) A bond may not be required for injunctive relief under this chapter.

(12) (a) Except as provided in Subsection (12)(b), a penalty assessed and collected under the authority of this section shall be deposited

into the General Fund.

(b) The department may reimburse itself and local governments from money collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.

(c) The department shall regulate reimbursements by making rules that define:

(i) qualifying environmental enforcement activities; and

(ii) qualifying extraordinary expenses.

Section 42. Section 19-4-113 is amended to read:

19-4-113

(Effective 11/06/25) (Repealed 07/01/29)

. Water source protection ordinance.

(1) As used in this section, "municipality" means the same as that term is defined in Section 10-1-104.

(2) (a) Before May 3, 2010, a first or second class county shall:

(i) adopt an ordinance in compliance with this section after:

(A) considering the rules established by the board to protect a watershed or water source used by a public water system;

(B) consulting with a wholesale water supplier or retail water supplier whose drinking water source is within the county's jurisdiction;

(C) considering the effect of the proposed ordinance on:

(I) agriculture production within an agricultural protection area created under [~~Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas~~]Title 17, Chapter 81, Agriculture, Industrial, and Critical Infrastructure Materials; and

(II) a manufacturing, industrial, or mining operation within the county's jurisdiction; and

(D) holding a public hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and

(ii) file a copy of the ordinance with the board.

(b) A municipality in a first or second class county may adopt an ordinance that a first or second class county is required to adopt by this section by following the procedures and requirements of this section.

(3) (a) A county ordinance adopted in accordance with this section applies to the incorporated and unincorporated areas of the county unless a municipality adopts an ordinance in accordance with this section.

(b) A municipal ordinance adopted in accordance with this section supercedes, within the municipality's jurisdiction, a county ordinance adopted in accordance with this section.

(4) An ordinance required or authorized by this section at a minimum shall:

(a) designate a drinking water source protection zone in accordance with Subsection (5)for a groundwater source that is:

(i) used by a public water system; and

(ii) located within the county's or municipality's jurisdiction;

(b) contain a zoning provision regulating the storage, handling, use, or production of a hazardous or toxic substance within a drinking water source protection zone designated under Subsection (4)(a); and

(c) authorize a retail water supplier or wholesale water supplier to seek enforcement of the ordinance provision required by Subsections (4)(a) and (b) in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, if the county or municipality:

(i) notifies the retail water supplier or wholesale water supplier within 10 days of receiving notice of a violation of the ordinance that the county or municipality will not seek enforcement of the ordinance; or

(ii) does not seek enforcement within two days of a notice of violation of the ordinance when the violation may cause irreparable harm to the groundwater source.

(5) A county shall designate a drinking water source protection zone required by Subsection (4)(a) within:

(a) a 100 foot radius from the groundwater source; and

(b) a 250 day groundwater time of travel to the groundwater source if the supplier calculates the time of travel in the public water system's drinking water source protection plan in accordance with board rules.

(6) A zoning provision required by Subsection (4)(b) is not subject to Subsection [~~17-41-402(3)~~]17-81-302(3).

(7) An ordinance authorized by Section 10-8-15 supercedes an ordinance required or authorized by this section to the extent that the ordinances conflict.

(8) The board shall provide information, guidelines, and technical resources to a county or municipality preparing and implementing an ordinance in accordance with this section.

(9) A third, fourth, fifth, or sixth class county or a municipality located within a third, fourth, fifth, or sixth class county may adopt an ordinance in accordance with this section to establish a drinking water source protection zone and take any other action allowed under this section.

Section 43. Section 19-5-115 is amended to read:

19-5-115

(Effective 11/06/25) (Repealed 07/01/29)

. Violations -- Penalties -- Civil actions by director -- Ordinances and rules of political subdivisions -- Acts of individuals.

(1) As used in this section:

(a) "Criminal negligence" means the same as that term is defined in Section 76-2-103.

(b) "Knowingly" means the same as that term is defined in Section 76-2-103.

(c) (i) "Organization" means a legal entity, other than a government, established or organized for any purpose.

(ii) "Organization" includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

(d) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(e) "Willfully" means the same as that term is defined in Section 76-2-103.

(2) (a) A person that violates this chapter, or any permit, rule, or order adopted under this chapter, is subject in a civil proceeding to a civil penalty not to exceed $10,000 per day of violation.

(b) The department shall retain the revenue from an administrative fine under Subsection 19-5-108.3(7) as a dedicated credit for the purposes of outreach and education to applicants.

(c) The division may issue an order to stop construction in accordance with Subsection 19-5-108.3(7).

(3) (a) A person is guilty of a class A misdemeanor, subject to imprisonment under Section 76-3-204, and subject to a fine not exceeding $25,000 per day, if the person with criminal negligence:

(i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any condition or limitation included in a permit issued under Subsection 19-5-107(3);

(ii) violates Section 19-5-113;

(iii) violates a pretreatment standard or toxic effluent standard for publicly owned treatment works; or

(iv) manages sewage sludge in violation of this chapter or rules adopted under this chapter.

(b) A person is guilty of a third degree felony, subject to imprisonment under Section 76-3-203, and subject to a fine not to exceed $50,000 per day of violation, if the person knowingly:

(i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any condition or limitation included in a permit issued under Subsection 19-5-107(3);

(ii) violates Section 19-5-113;

(iii) violates a pretreatment standard or toxic effluent standard for publicly owned treatment works; or

(iv) manages sewage sludge in violation of this chapter or rules adopted under this chapter.

(4) A person is guilty of a third degree felony, subject to imprisonment under Section 76-3-203, and subject to a fine not exceeding $10,000 per day of violation, if the person knowingly:

(a) makes a false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or by any permit, rule, or order issued under this chapter; or

(b) falsifies, tampers with, or knowingly renders inaccurate a monitoring device or method required to be maintained under this chapter.

(5) (a) A person is guilty of a second degree felony, subject to imprisonment under Section 76-3-203, and subject to a fine of not more than $250,000 if the person:

(i) knowingly violates this chapter, or any permit, rule, or order adopted under this chapter; and

(ii) knows at that time that the person is placing another person in imminent danger of death or serious bodily injury.

(b) If a person is an organization, the organization shall, upon conviction of violating Subsection (5)(a), be subject to a fine of not more than $1,000,000.

(c) (i) A defendant who is an individual is considered to have acted knowingly if:

(A) the defendant's conduct placed another person in imminent danger of death or serious bodily injury; and

(B) the defendant was aware of or believed that there was an imminent danger of death or serious bodily injury to another person.

(ii) Knowledge possessed by a person other than the defendant may not be attributed to the defendant.

(iii) Circumstantial evidence may be used to prove that the defendant possessed actual knowledge, including evidence that the defendant took affirmative steps to be shielded from receiving relevant information.

(d) (i) It is an affirmative defense to prosecution under this Subsection (5) that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of:

(A) an occupation, a business, or a profession; or

(B) medical treatment or medical or scientific experimentation conducted by professionally approved methods and the other person was aware of the risks involved before giving consent.

(ii) The defendant has the burden of proof to establish an affirmative defense under this Subsection (5)(d) and shall prove that defense by a preponderance of the evidence.

(6) For purposes of Subsections (3) through (5), a single operational upset that leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(7) (a) The director may bring a civil action for appropriate relief, including a permanent or temporary injunction, for any violation or threatened violation for which the director is authorized to issue a compliance order under Section 19-5-111.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director shall bring a civil action in the district court where the violation or threatened violation occurs if the director brings the action in a district court.

(8) (a) The attorney general is the legal advisor for the board and the director and shall defend the board or director in an action or proceeding brought against the board or director.

(b) The county attorney or district attorney, as appropriate under Section [~~17-18a-202~~]17-68-302 or [~~17-18a-203~~]17-68-303, in the county in which a cause of action arises, shall bring an action, civil or criminal, requested by the director, to abate a condition that exists in violation of, or to prosecute for the violation of, or to enforce, the laws or the standards, orders, and rules of the board or the director issued under this chapter.

(c) The director may initiate an action under this section and be represented by the attorney general.

(9) If a person fails to comply with a cease and desist order that is not subject to a stay pending administrative or judicial review, the director may initiate an action for and be entitled to injunctive relief to prevent any further or continued violation of the order.

(10) A political subdivision of the state may enact and enforce ordinances or rules for the implementation of this chapter that are not inconsistent with this chapter.

(11) (a) Except as provided in Subsections 19-5-108.3(7)(d) and 19-5-115(11)(b) and (c), the department shall deposit penalties imposed and collected under the authority of this section into the General Fund.

(b) The department may reimburse itself and local governments from money collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.

(c) The department shall regulate reimbursements by making rules, in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, that:

(i) define qualifying environmental enforcement activities; and

(ii) define qualifying extraordinary expenses.

(12) (a) For purposes of this section or an ordinance or rule enacted by a political subdivision under Subsection (10), an act performed by an individual wholly within the scope of the individual's employment with an organization, is attributed to the organization.

(b) Notwithstanding the other provisions of this section, an action may not be brought against an individual acting wholly within the scope of the individual's employment with an organization if the action is brought under:

(i) this section;

(ii) an ordinance or rule issued by a political subdivision under Subsection (10); or

(iii) any local law or ordinance governing discharge.

Section 44. Section 19-6-113 is amended to read:

19-6-113

(Effective 11/06/25) (Repealed 07/01/29)

. Violations -- Penalties -- Reimbursement for expenses.

(1) As used in this section, "RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.

(2) Any person who violates any order, plan, rule, or other requirement issued or adopted under this part is subject in a civil proceeding to a penalty of not more than $13,000 per day for each day of violation.

(3) On or after July 1, 1990, no person shall knowingly:

(a) transport or cause to be transported any hazardous waste identified or listed under this part to a facility that does not have a hazardous waste operation plan or permit under this part or RCRA;

(b) treat, store, or dispose of any hazardous waste identified or listed under this part:

(i) without having obtained a hazardous waste operation plan or permit as required by this part or RCRA;

(ii) in knowing violation of any material condition or requirement of a hazardous waste operation plan or permit; or

(iii) in knowing violation of any material condition or requirement of any rules or regulations under this part or RCRA;

(c) omit material information or make any false material statement or representation in any application, label, manifest, record, report, permit, operation plan, or other document filed, maintained, or used for purposes of compliance with this part or RCRA or any rules or regulations made under this part or RCRA; and

(d) transport or cause to be transported without a manifest any hazardous waste identified or listed under this part and required by rules or regulations made under this part or RCRA to be accompanied by a manifest.

(4) (a) (i) Any person who knowingly violates any provision of Subsection (3)(a) or (b) is guilty of a felony.

(ii) Notwithstanding Sections 76-3-203, 76-3-301, and 76-3-302, a person convicted of a felony under Subsection (3)(a) or (b) is subject to a fine of not more than $50,000 for each day of violation, or imprisonment for a term not to exceed five years, or both.

(iii) If a person is convicted of a second or subsequent violation under Subsection (3)(a) or (b), the maximum punishment is double both the fine and the term of imprisonment authorized in Subsection (4)(a)(ii).

(b) (i) Any person who knowingly violates any of the provisions of Subsection (3)(c) or (d) is guilty of a felony.

(ii) Notwithstanding Sections 76-3-203, 76-3-301, and 76-3-302, a person convicted of a felony for a violation of Subsection (3)(c) or (d) is subject to a fine of not more than $50,000 for each day of violation, or imprisonment for a term not to exceed two years, or both.

(iii) If a person is convicted of a second or subsequent violation under Subsection (3)(c) or (d), the maximum punishment is double both the fine and the imprisonment authorized in Subsection (4)(b)(ii).

(c) (i) Any person who knowingly transports, treats, stores, or disposes of any hazardous waste identified or listed under this part in violation of Subsection (3)(a), (b), (c), or (d), who knows at that time that the person thereby places another person in imminent danger of death or serious bodily injury, is guilty of a felony.

(ii) Notwithstanding Sections 76-3-203, 76-3-301, and 76-3-302, a person convicted of a felony described in Subsection (4)(c)(i) is subject to a fine of not more than $250,000, or imprisonment for a term not to exceed 15 years, or both.

(iii) A corporation, association, partnership, or governmental instrumentality, upon conviction of violating Subsection (4)(c)(i), is subject to a fine of not more than $1,000,000.

(5) (a) Except as provided in Subsections (5)(b) and (c) and Section 19-6-722, all penalties assessed and collected under authority of this section shall be deposited in the General Fund.

(b) The department may reimburse itself and local governments from money collected from civil penalties for qualifying extraordinary expenses incurred in qualifying environmental enforcement activities.

(c) Notwithstanding the provisions of Section 78A-5-110, the department may reimburse itself and local governments from money collected from criminal fines for qualifying extraordinary expenses incurred in prosecutions for violations of this part.

(d) The department shall regulate reimbursements by making rules that define:

(i) qualifying environmental enforcement activities; and

(ii) qualifying extraordinary expenses.

(6) [~~Prosecution for criminal violations of this part may be commenced by the~~]The attorney general, the county attorney, or the district attorney, as appropriate under Section [~~17-18a-202~~]17-68-302 or [~~17-18a-203~~]17-68-303, may commence prosecution for a criminal violation of this part in any county where venue is proper.

Section 45. Section 19-6-119 is amended to read:

19-6-119

(Effective 11/06/25) (Repealed 07/01/29)

. Nonhazardous solid waste disposal fees.

(1) (a) Through December 31, 2018, and except as provided in Subsection (4), the owner or operator of a commercial nonhazardous solid waste disposal facility or incinerator shall pay the following fees for waste received for treatment or disposal at the facility if the facility or incinerator is required to have operation plan approval under Section 19-6-108 and primarily receives waste generated by off-

site sources not owned, controlled, or operated by the facility or site owner or operator:

(i) 13 cents per ton on all municipal waste and municipal incinerator ash;

(ii) 50 cents per ton on the following wastes if the facility disposes of one or more of the following wastes in a cell exclusively designated for the waste being disposed:

(A) construction waste or demolition waste;

(B) yard waste, including vegetative matter resulting from landscaping, land maintenance, and land clearing operations;

(C) dead animals;

(D) waste tires and materials derived from waste tires disposed of in accordance with [~~Title 19, Chapter 6, Part 8, Waste Tire Recycling Act~~]Chapter 6, Part 8, Waste Tire Recycling Act; and

(E) petroleum contaminated soils that are approved by the director; and

(iii) $2.50 per ton on:

(A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and

(B) (I) fly ash waste;

(II) bottom ash waste;

(III) slag waste;

(IV) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(V) waste from the extraction, beneficiation, and processing of ores and minerals; and

(VI) cement kiln dust wastes.

(b) A commercial nonhazardous solid waste disposal facility or incinerator subject to the fees under Subsection (1)(a)(i) or (ii) is not subject to the fee under Subsection (1)(a)(iii) for those wastes described in Subsections (1)(a)(i) and (ii).

(c) The owner or operator of a facility described in Subsection 19-6-102(3)(b)(iii) shall pay a fee of 13 cents per ton on all municipal waste received for disposal at the facility.

(2) (a) Through December 31, 2018, and except as provided in Subsections (2)(c) and (4), a waste facility that is owned by a political subdivision shall pay the following annual facility fee to the department by January 15 of each year:

(i) $800 if the facility receives 5,000 or more but fewer than 10,000 tons of municipal waste each year;

(ii) $1,450 if the facility receives 10,000 or more but fewer than 20,000 tons of municipal waste each year;

(iii) $3,850 if the facility receives 20,000 or more but fewer than 50,000 tons of municipal waste each year;

(iv) $12,250 if the facility receives 50,000 or more but fewer than 100,000 tons of municipal waste each year;

(v) $14,700 if the facility receives 100,000 or more but fewer than 200,000 tons of municipal waste each year;

(vi) $33,000 if the facility receives 200,000 or more but fewer than 500,000 tons of municipal waste each year; and

(vii) $66,000 if the facility receives 500,000 or more tons of municipal waste each year.

(b) The fee identified in Subsection (2)(a) for 2018 shall be paid by January 15, 2019.

(c) Through December 31, 2018, and except as provided in Subsection (4), a waste facility that is owned by a political subdivision shall pay $2.50 per ton for:

(i) nonhazardous solid waste that is not a waste described in Subsection (1)(a)(i) or (ii) received for disposal if the waste is:

(A) generated outside the boundaries of the political subdivision; and

(B) received from a single generator and exceeds 500 tons in a calendar year; and

(ii) waste described in Subsection (1)(a)(iii)(B) received for disposal if the waste is:

(A) generated outside the boundaries of the political subdivision; and

(B) received from a single generator and exceeds 500 tons in a calendar year.

(d) Waste received at a facility owned by a political subdivision under Subsection (2)(c) may not be counted as part of the total tonnage received by the facility under Subsection (2)(a).

(3) (a) As used in this Subsection (3):

(i) "Recycling center" means a facility that extracts valuable materials from a waste stream or transforms or remanufactures the material into a usable form that has demonstrated or potential market value.

(ii) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility that is used to deposit collected solid waste from off-site into a transfer vehicle for transport to a solid waste handling or disposal facility.

(b) Through December 31, 2018, and except as provided in Subsection (4), the owner or operator of a transfer station or recycling center shall pay to the department the following fees on waste sent for disposal to a nonhazardous solid waste disposal or treatment facility that is not subject to a fee under this section:

(i) $1.25 per ton on:

(A) all nonhazardous solid waste; and

(B) waste described in Subsection (1)(a)(iii)(B);

(ii) 10 cents per ton on all construction and demolition waste; and

(iii) 5 cents per ton on all municipal waste or municipal incinerator ash.

(c) Wastes subject to fees under Subsection (3)(b)(ii) or (iii) are not subject to the fee required under Subsection (3)(b)(i).

(4) The owner or operator of a waste disposal facility that receives nonhazardous solid waste described in Subsection (1)(a)(iii)(B) is not required to pay any fee on those nonhazardous solid wastes if received solely for the purpose of recycling, reuse, or reprocessing.

(5) Through December 31, 2018, and except as provided in Subsection (2)(a), a facility required to pay fees under this section shall:

(a) calculate the fees by multiplying the total tonnage of nonhazardous solid waste received during the calendar month, computed to the first decimal place, by the required fee rate;

(b) pay the fees imposed by this section to the department by the 15th day of the month following the month in which the fees accrued; and

(c) with the fees required under Subsection (6)(b), submit to the department, on a form prescribed by the department, information that verifies the amount of nonhazardous solid waste received and the fees that the owner or operator is required to pay.

(6) (a) In accordance with Section 63J-1-504, on or before July 1, 2018, and each fiscal year thereafter, the department shall establish a fee schedule for the treatment, transfer, and disposal of all nonhazardous solid waste.

(b) The department shall, before establishing the annual fee schedule described in Subsection (6)(a), consult with industry and local government and complete a review of program costs and indirect costs of regulating nonhazardous solid waste in the state and use the findings of the review to create the fee schedule.

(c) The fee schedule described in Subsection (6)(a) shall:

(i) create an equitable and fair, though not necessarily equal or uniform, fee to be paid by all persons whose treatment, transfer, or disposal of nonhazardous solid waste creates a regulatory burden to the department, based on the actual cost, and taking into consideration whether the owner or operator of a facility elects to self-inspect under Section 19-6-109, except as provided in Subsection (6)(d);

(ii) cover the fully burdened costs of the program and provide for reasonable and timely oversight by the department;

(iii) adequately meet the needs of industry, local government, and the department, including enabling the department to employ the appropriate number of qualified personnel to appropriately oversee industry and local government regulation;

(iv) provide stable funding for the Environmental Quality Restricted Account created in Section 19-1-108; and

(v) for solid waste managed at a transfer facility, be no greater than the cost of regulatory services provided to the transfer facility.

(d) Any person who treats, transfers, stores, or disposes of solid waste from the extraction, beneficiation, and processing of ores and minerals on a site owned, controlled, or operated by that person may not be charged a fee under this section for the treatment, transfer, storage, or disposal of solid waste from the extraction, beneficiation, and processing of ores and minerals that are generated:

(i) on-site by the person; or

(ii) by off-site sources owned, controlled, or operated by the person.

(e) The fees in the fee schedule established by Subsection (6)(a) shall take effect on January 1, 2019.

(7) On and after January 1, 2019, a facility required to pay fees under this section shall:

(a) pay the fees imposed by this section to the department by the 15th day of the month following the quarter in which the fees accrued; and

(b) with the fees required under Subsection (7)(a), submit to the department, on a form prescribed by the department, information that verifies the amount of nonhazardous solid waste received and the fees that the owner or operator is required to pay.

(8) In setting the fee schedule described in Subsection (6)(a), the department shall ensure that a party is not charged multiple fees for the same solid waste, except the department may charge a separate fee for a transfer station.

(9) The department shall:

(a) deposit all fees received under this section into the Environmental Quality Restricted Account created in Section 19-1-108; and

(b) in preparing its budget for the governor and the Legislature, separately indicate the amount of the department's budget necessary to administer the solid and hazardous waste program established by this part.

(10) The department may contract or agree with a county to assist in performing nonhazardous solid waste management activities, including agreements for:

(a) the development of a solid waste management plan required under Section [~~17-15-23~~]17E-7-101; and

(b) pass-through of available funding.

(11) This section does not exempt any facility from applicable regulation under the Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

(12) The department shall report to the Natural Resources, Agriculture, and Environment Interim Committee by November 30, 2017, on the fee schedule described in Subsection (6)(a).

Section 46. Section 19-6-502 is amended to read:

19-6-502

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) (a) "Advanced recycling" means a manufacturing process that converts post-use polymers or recovered feedstock into basic raw materials, chemicals, or advanced recycling products using technology including:

(i) pyrolysis;

(ii) gasification;

(iii) depolymerization;

(iv) catalytic cracking;

(v) reforming;

(vi) hydrogenation;

(vii) solvolysis; or

(viii) chemolysis.

(b) "Advanced recycling" does not include incineration of plastics, energy recovery processes, or a product sold as fuel.

(2) "Advanced recycling facility" means a manufacturing facility:

(a) that is registered with the Division of Waste Management and Radiation Control, created in Subsection 19-1-105(1)(d);

(b) that receives, stores, and converts post-use polymers or recovered feedstock using advanced recycling;

(c) that is subject to applicable Department of Environmental Quality manufacturing regulations for air, water, waste, and land use; and

(d) for which the feedstock received by the manufacturing facility is source-separated, diverted, or recovered from municipal or other waste streams prior to acceptance at the facility.

(3) "Advanced recycling product" means a recycled product produced at an advanced recycling facility, including:

(a) a monomer;

(b) an oligomer;

(c) a plastic;

(d) a chemical feedstock;

(e) a basic and unfinished chemical;

(f) a wax;

(g) a lubricant;

(h) a coating; or

(i) an adhesive.

(4) "Depolymerization" means a manufacturing process that breaks post-use polymers into smaller molecules to produce raw materials or products.

(5) "Gasification" means a manufacturing process that:

(a) heats post-use polymers or recovered feedstock in an oxygen-controlled atmosphere; and

(b) following the process described in Subsection (5)(a), converts the polymers or recovered feedstock into syngas or a raw, intermediate, or final product.

(6) "Governing body" means the governing board, commission, or council of a public entity.

(7) "Jurisdiction" means the area within the incorporated limits of:

(a) a municipality;

(b) a special service district;

(c) a municipal-type service district;

(d) a service area; or

(e) the territorial area of a county not lying within a municipality.

(8) "Long-term agreement" means an agreement or contract having a term of more than five years but less than 50 years.

(9) "Mass balance attribution" means a chain of custody accounting methodology with rules defined by a third-party certification system that enables the attribution of the mass of advanced recycling feedstock to at least one advanced recycling product.

(10) "Municipal residential waste" means solid waste that is:

(a) discarded or rejected at a residence within the public entity's jurisdiction; and

(b) collected at or near the residence by:

(i) a public entity; or

(ii) a person with whom the public entity has as an agreement to provide solid waste management.

(11) "Post-use polymer" means a plastic that:

(a) is derived from an industrial, commercial, agricultural, or domestic activity;

(b) includes pre-consumer materials and post-consumer materials;

(c) has been sorted from solid waste and other regulated waste but may contain residual amounts of waste including organic material and incidental contaminants or impurities;

(d) is not mixed with solid waste or hazardous waste during processing at the advanced recycling facility;

(e) is used as a feedstock for the manufacturing of raw materials, intermediate products, or final products using advanced recycling; and

(f) is held for processing or processed at the advanced recycling facility.

(12) "Product sold as fuel" does not mean a recycled product.

(13) "Public entity" means:

(a) a county;

(b) a municipality;

(c) a special service district under Title 17D, Chapter 1, Special Service District Act;

(d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or

(e) a municipal-type service district created under [~~Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas~~]Title 17, Chapter 78, Part 5, Provision of Municipal-Type Services to Unincorporated Areas.

(14) "Pyrolysis" means a manufacturing process that:

(a) heats post-use polymers or recovered feedstock, without oxygen, until melted and thermally decomposed; and

(b) following the process described in Subsection (14)(a), cools, condenses, and converts post-use polymers or recovered feedstock into raw materials and intermediate and final products.

(15) (a) "Recovered feedstock" means a material:

(i) that includes post-use polymers;

(ii) for which the United States Environmental Protection Agency made a non-waste determination or has otherwise determined is feedstock and solid waste; or

(iii) that is converted using an advanced recycling process after storage of less than 270 days.

(b) "Recovered feedstock" does not include unprocessed municipal solid waste or recovered feedstock that is not mixed with solid waste or hazardous waste onsite, or during processing, at an advanced recycling facility.

(16) "Recycled plastic" means a product produced from:

(a) mechanical recycling of pre-consumer feedstock or plastic, or post-consumer plastic;

(b) the advanced recycling of pre-consumer feedstock or plastic, or post-consumer plastic, using mass balance attribution under a third-party certification system; or

(c) a recycled material, as that term is defined in Section 4-10-102.

(17) "Requirement" means an ordinance, policy, rule, mandate, or other directive that imposes a legal duty on a person.

(18) "Residence" means an improvement to real property used or occupied as a primary or secondary detached single-family dwelling.

(19) "Resource recovery" means the separation, extraction, recycling, or recovery of usable material, energy, fuel, or heat from solid waste and the disposition of it.

(20) "Short-term agreement" means a contract or agreement having a term of five years or less.

(21) (a) "Solid waste" means a putrescible or nonputrescible material or substance discarded or rejected as being spent, useless, worthless, or in excess of the owner's needs at the time of discard or rejection, including:

(i) garbage;

(ii) refuse;

(iii) industrial and commercial waste;

(iv) sludge from an air or water control facility;

(v) rubbish;

(vi) ash;

(vii) contained gaseous material;

(viii) incinerator residue;

(ix) demolition and construction debris;

(x) a discarded automobile; and

(xi) offal.

(b) "Solid waste" does not include:

(i) sewage or another highly diluted water carried material or substance and those in gaseous form; or

(ii) post-use polymers or recovered feedstock that are converted or held at an advanced recycling facility.

(22) (a) "Solid waste management" means the purposeful and systematic collection, transportation, storage, processing, recovery, or disposal of solid waste.

(b) "Solid waste management" does not include advanced recycling.

(23) (a) "Solid waste management facility" means a facility employed for solid waste management, including:

(i) a transfer station;

(ii) a transport system;

(iii) a baling facility;

(iv) a landfill; and

(v) a processing system, including:

(A) a resource recovery facility;

(B) a facility for reducing solid waste volume;

(C) a plant or facility for compacting, or composting, of solid waste;

(D) an incinerator;

(E) a solid waste disposal, reduction, pyrolization, or conversion facility;

(F) a facility for resource recovery of energy consisting of:

(I) a facility for the production, transmission, distribution, and sale of heat and steam;

(II) a facility for the generation and sale of electric energy to a public utility, municipality, or other public entity that owns and operates an electric power system on March 15, 1982; and

(III) a facility for the generation, sale, and transmission of electric energy on an emergency basis only to a military installation of the United States; and

(G) an auxiliary energy facility that is connected to a facility for resource recovery of energy as described in Subsection (23)(a)(v)(F), that:

(I) is fueled by natural gas, landfill gas, or both;

(II) consists of a facility for the production, transmission, distribution, and sale of supplemental heat and steam to meet all or a portion of the heat and steam requirements of a military installation of the United States; and

(III) consists of a facility for the generation, transmission, distribution, and sale of electric energy to a public utility, a municipality described in Subsection (23)(a)(v)(F)(II), or a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(b) "Solid waste management facility" does not mean a facility that:

(i) accepts and processes metal, as described in Subsection 19-6-102(19)(b), by separating, shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a principle commodity grade product of prepared scrap metal for sale or use for remelting purposes provided that any byproduct or residual that would qualify as solid waste is managed at a solid waste management facility; or

(ii) accepts and processes paper, plastic, rubber, glass, or textiles that:

(A) have been source-separated or otherwise diverted from the solid waste stream before acceptance at the facility and that are not otherwise hazardous waste or subject to conditions of federal hazardous waste regulations; and

(B) are reused or recycled as a valuable commercial commodity by separating, shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a principle commodity grade product, provided that any byproduct or residual that would qualify as solid waste is managed at a solid waste management facility.

(c) "Solid waste management facility" does not include an advanced recycling facility.

(24) "Solvolysis" means a manufacturing process that:

(a) purifies post-use polymers using solvents, while heated at low temperatures or pressurized, allowing additives and contaminants to be removed;

(b) uses technology, including:

(i) hydrolysis;

(ii) aminolysis;

(iii) ammonoloysis;

(iv) methanoloysis; or

(v) glycolysis; and

(c) manufactures products, including:

(i) monomers;

(ii) intermediates;

(iii) valuable chemicals;

(iv) chemical feedstock; or

(v) raw materials.

(25) "Third-party certification system" means an international or multinational third-party certification system of rules to implement mass balance attribution approaches for advanced recycling, including:

(a) International Sustainability and Carbon Certification;

(b) Underwriter Laboratories;

(c) SCS Recycled Content;

(d) Roundtable on Sustainable Biomaterials;

(e) Ecoloop; or

(f) REDcert2.

Section 47. Section 20A-1-203 is amended to read:

20A-1-203

(Effective 11/06/25)

. Calling and purpose of special elections -- Two-thirds vote limitations.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted local levy authorized by Section 53F-8-402 or 53F-8-301;

(iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

(iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

(v) if required or authorized by federal law, a vote to determine whether Utah's legal boundaries should be changed;

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

(vii) a vote on a municipality providing a broadband service, a cable television service, or a public telecommunications service under Section 10-18-204;

(viii) a vote to create a new county under Section [~~17-3-1~~]17-61-401;

(ix) a vote on a special property tax under Section 53F-8-402; or

(x) a vote on the incorporation of a municipality in accordance with Section 10-2a-210.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election as authorized by Section 20A-1-204; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section 48. Section 20A-1-404 is amended to read:

20A-1-404

(Effective 11/06/25)

. Election controversies.

(1) (a) (i) Whenever any controversy occurs between any election officer or other person or entity charged with any duty or function under this title and any candidate, or the officers or representatives of any political party, or persons who have made nominations, either

party to the controversy may file a verified petition with the district court.

(ii) If a petition is filed, the petitioner shall serve a copy of the petition on the respondents on the same day that the petition is filed with the court.

(b) The verified petition shall identify concisely the nature of the controversy and the relief sought.

(2) After reviewing the petition, the court shall:

(a) issue an order commanding the respondent named in the petition to appear before the court to answer, under oath, to the petition;

(b) summarily hear and dispose of any issues raised by the petition to obtain:

(i) strict compliance with all filing deadlines for financial disclosure reports under:

(A) Section 10-3-208, regarding campaign finance statements in municipal elections;

(B) Section [~~17-16-6.5~~]17-70-403, regarding campaign finance statements for county offices;

(C) Title 20A, Chapter 11, Part 2, State Office Candidates - Campaign Organization and Financial Reporting Requirements;

(D) Title 20A, Chapter 11, Part 3, Candidates for Legislative Office - Campaign Organization and Financial Reporting Requirements;

(E) Title 20A, Chapter 11, Part 4, Officeholder Financial Reporting Requirements;

(F) Title 20A, Chapter 11, Part 5, Political Party Registration and Financial Reporting Requirements;

(G) Title 20A, Chapter 11, Part 6, Political Action Committee Registration and Financial Reporting Requirements;

(H) Title 20A, Chapter 11, Part 7, Campaign Financial Reporting by Corporations;

(I) Title 20A, Chapter 11, Part 8, Political Issues Committees - Registration and Financial Reporting;

(J) Title 20A, Chapter 11, Part 13, State School Board Candidates; and

(K) Title 20A, Chapter 12, Part 3, Campaign and Financial Reporting Requirements for Judicial Retention Elections; and

(ii) substantial compliance with all other provisions of this title by the parties to the controversy; and

(c) make and enter orders and judgments, and issue the process of the court to enforce all of those orders and judgments.

Section 49. Section 20A-1-501 is amended to read:

20A-1-501

(Effective 11/06/25)

. Candidate vacancies -- Procedure for filling.

(1) As used in this section, "central committee" means:

(a) the state central committee of a political party, for a candidate for:

(i) United States senator, United States representative, governor, lieutenant governor, attorney general, state treasurer, or state auditor; or

(ii) state legislator if the legislative district encompasses all or a portion of more than one county; or

(b) the county central committee of a political party, for a party candidate seeking an office, other than an office described in Subsection (1)(a), elected at an election held in an even-numbered year.

(2) Except as provided in Subsection (6), the central committee may certify the name of another candidate to the appropriate election officer if:

(a) for a registered political party that will have a candidate on a ballot in a primary election:

(i) after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor provides the list described in Subsection 20A-9-403(4)(a), only one or two candidates from that party have filed a declaration of candidacy for that office and one or both dies, resigns as a candidate, or is disqualified as a candidate; and

(ii) the central committee provides written certification of the replacement candidate to the appropriate election officer before the day on which the lieutenant governor provides the list described in Subsection 20A-9-403(4)(a); [~~and~~]

(b) for a registered political party that does not have a candidate on the ballot in a primary, but will have a candidate on the ballot for a regular general election:

(i) after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate dies, resigns as a candidate, or is disqualified as a candidate; and

(ii) the central committee provides written certification of the replacement candidate to the appropriate election officer before the day on which the lieutenant governor makes the certification described in Section 20A-5-409; or

(c) for a registered political party with a candidate certified as winning a primary election:

(i) after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate dies, resigns as a candidate, or is disqualified as a candidate; and

(ii) the central committee provides written certification of the replacement candidate to the appropriate election officer before the day on which the lieutenant governor makes the certification described in Section 20A-5-409.

(3) If no more than two candidates from a political party have filed a declaration of candidacy for an office elected at a regular general election and one resigns to become the party candidate for another position, the central committee of that political party may certify the name of another candidate to the appropriate election officer.

(4) Each replacement candidate shall file a declaration of candidacy as required by [~~Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy~~]Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

(5) (a) The name of a candidate who is certified under Subsection (2)(a) after the deadline described in Subsection (2)(a)(ii) may not appear on the primary election ballot.

(b) The name of a candidate who is certified under Subsection (2)(b) after the deadline described in Subsection (2)(b)(ii) may not appear on the general election ballot.

(c) The name of a candidate who is certified under Subsection (2)(c) after the deadline described in Subsection (2)(c)(ii) may not appear on the general election ballot.

(6) A political party may not replace a candidate who is disqualified for failure to timely file a campaign disclosure financial report

under [~~Title 20A, Chapter 11, Campaign and Financial Reporting Requirements~~]Chapter 11, Campaign and Financial Reporting Requirements, or Section [~~17-16-6.5~~]17-70-403.

(7) This section does not apply to a candidate vacancy for a nonpartisan office.

Section 50. Section 20A-1-508 is amended to read:

20A-1-508

(Effective 11/06/25)

. Midterm vacancies in county elected offices -- Temporary manager -- Interim replacement.

(1) As used in this section:

(a) (i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not include the office of county attorney, district attorney, or judge.

(b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters relating to the political party's relationship with a county as required by Section 20A-8-401.

(2) (a) Except as provided in Subsection (2)(d), until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall temporarily discharge the duties of the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or

(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).

(c) The temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office:

(i) may not take an oath of office for the county office as a temporary manager;

(ii) shall comply with [~~Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties~~]Title 17, Chapter 63, Fiscal Authority and Processes, and the county's budget ordinances and policies;

(iii) unless approved by the county legislative body, may not change the compensation of an employee;

(iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;

(v) may terminate an employee only if the termination is conducted in accordance with:

(A) personnel rules described in Subsection [~~17-33-5(4)~~]17-75-602(2) that are approved by the county legislative body; and

(B) applicable law;

(vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office for which the temporary manager discharges duties was vacated;

(vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and

(viii) if approved by the county legislative body, may receive a performance award after:

(A) the county legislative body appoints an interim replacement under Subsection (3); and

(B) the interim replacement is sworn into office.

(d) This Subsection (2) does not apply to a vacancy in the office of county legislative body member.

(3) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (3).

(b) In addition to this Subsection (3), an interim replacement appointed to the office of county auditor in a county of the first class is subject to the requirements described in Section [~~17-19a-201.5~~]17-69-202.

(c) (i) To appoint an interim replacement, the county legislative body shall, within 10 calendar days after the day on which the vacancy occurs, give notice of the vacancy to:

(A) the county clerk; and

(B) the party liaison of the same political party of the prior office holder.

(ii) The county legislative body shall invite the party liaison described in Subsection (3)(c)(i)(B) to submit the name of an individual to fill the vacancy.

(iii) The party liaison shall, no later than 5 p.m. on the first business day that is at least 30 calendar days after the day on which the party liaison receives the notice described in Subsection (3)(c)(i)(B), or if the party liaison does not receive the notice, no later than 5 p.m. on the first business day that is at least 40 calendar days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual the party selects in accordance with the party's constitution or bylaws to serve as the interim replacement.

(iv) The county legislative body shall, no later than seven calendar days after the day on which a party liaison submits the name of the individual to serve as the interim replacement, appoint the individual to serve out the unexpired term.

(d) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection (3)(c)(iv),

the county clerk shall, no later than seven calendar days after the day of the deadline described in Subsection (3)(c)(iv), send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 calendar days after the day on which the governor receives the letter described in Subsection (3)(d)(i), appoint the individual named by the party liaison as an interim replacement to fill the vacancy.

(e) An individual appointed as interim replacement under this Subsection (3) shall hold office until a successor is elected and has qualified.

(4) (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the officeholder was elected, but before the first day of the declaration of candidacy filing period described in Section 20A-9-201.5.

(b) (i) When the conditions described in Subsection (4)(a) are met, the county clerk shall as soon as practicable, but no later than 180 calendar days before the next regular general election, notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a party candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection [~~17-52a-201(6)~~]17-62-201(6) or [~~17-52a-202(6)~~]17-62-202(6), if applicable.

(iii) An individual who is nominated as a party candidate, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(5) (a) The requirements of this Subsection (5) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs on or after the first day of the declaration of candidacy filing period described in Section 20A-9-201.5, but more than 75 calendar days before the regular primary election.

(b) When the conditions described in Subsection (5)(a) are met, the county clerk shall as soon as practicable, but no later than 70 calendar days before the next regular primary election, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines described in Subsection (5)(c)(i) and the deadlines established under Subsection (5)(d)(ii).

(c) (i) An individual intending to become a party candidate for a vacant office shall, no later than 5 p.m. on the first business day that is at least five calendar days after the day on which the notice is given, file a declaration of candidacy for the vacant office in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection [~~17-52a-201(6)~~]17-62-201(6) or [~~17-52a-202(6)~~]17-62-202(6), if applicable.

(ii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk as soon as practicable, but no later than 5 p.m. on the last business day that is at least 60 calendar days before the day of the regular primary election.

(d) (i) Except as provided in Subsection (5)(d)(ii), an individual intending to become a candidate for a vacant office who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(ii) (A) The county clerk shall establish, in the clerk's reasonable discretion, a deadline that is no later than 5 p.m. on the last business day that is at least 65 calendar days before the day of the next regular general election by which an individual who is not affiliated with a registered political party is required to submit a certificate of nomination under Subsection (5)(d)(i).

(B) The county clerk shall establish the deadline described in Subsection (5)(d)(ii)(A) in a manner that gives an unaffiliated candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is nominated as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(6) (a) The requirements of this Subsection (6) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 75 calendar days or less remain before the day of the regular primary election but more than 65 calendar days remain before the day of the regular general election.

(b) When the conditions described in Subsection (6)(a) are met, the county clerk shall, as soon as practicable, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines established under Subsection (6)(d).

(c) (i) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(A), the county central committee of each registered political party that wishes to submit a candidate for the office shall certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(ii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(B), a candidate who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(iii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(C), a write-in candidate shall submit to the county clerk a declaration of candidacy described in Section 20A-9-601.

(d) (i) The county clerk shall establish, in the clerk's reasonable discretion, deadlines that are no later than 5 p.m. on the last business day that is at least 65 calendar days before the day of the next regular general election by which:

(A) a registered political party is required to certify a name under Subsection (6)(c)(i);

(B) an individual who does not wish to affiliate with a registered political party is required to submit a certificate of nomination under

Subsection (6)(c)(ii); and

(C) a write-in candidate is required to submit a declaration of candidacy under Subsection (6)(c)(iii).

(ii) The county clerk shall establish deadlines under Subsection (6)(d)(i) in a manner that gives an unaffiliated candidate or a write-in candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is certified as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(7) (a) The requirements of this Subsection (7) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 calendar days or less remain before the day of the next regular general election.

(b) (i) When the conditions described in Subsection (7)(a) are met, the county legislative body shall as soon as practicable, but no later than 10 calendar days after the day on which the vacancy occurs, give notice of the vacancy to:

(A) the county clerk; and

(B) the party liaison of the same political party as the prior office holder.

(ii) The county legislative body shall invite the party liaison described in Subsection (7)(b)(i)(B) to submit the name of an individual to fill the vacancy.

(iii) The party liaison shall, no later than 5 p.m. on the first business day that is at least 30 calendar days after the day on which the party liaison receives the notice described in Subsection (7)(b)(i)(B), or if the party liaison does not receive the notice, no later than 5 p.m. on the first business day that is at least 40 calendar days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual to fill the vacancy.

(iv) The county legislative body shall, no later than seven calendar days after the day on which a party liaison submits the name of the individual to fill the vacancy, appoint the individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an individual to fill the vacancy in accordance with Subsection (7)(b)(iv), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint an individual to fill the vacancy within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 calendar days after the day on which the governor receives the letter described in Subsection (7)(c)(i), appoint the individual named by the party liaison to fill the vacancy.

(d) An individual appointed to fill the vacancy under this Subsection (7) shall hold office until a successor is elected and has qualified.

(8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

(9) Nothing in this section prohibits a candidate that does not wish to affiliate with a political party from filing a certificate of nomination for a vacant office within the same time limits as a candidate that is affiliated with a political party.

(10) (a) Each individual elected under Subsection (4), (5), or (6) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the individual who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section [~~17-16-6~~]17-66-202.

(11) (a) Except as provided in Subsection (11)(b), for an individual seeking appointment to fill a vacancy described in Subsection (3) or (7) the individual shall, no later than the deadline for the individual to file a financial report under Section [~~17-16-6.5~~]17-70-403:

(i) complete a conflict of interest disclosure statement in accordance with Section [~~17-16-1.5~~]17-70-304; and

(ii) submit the conflict of interest disclosure statement to the county legislative body and the county clerk.

(b) An individual described in Subsection (11)(a) is not required to comply with Subsection (11)(a) if the individual:

(i) currently holds an office described in Subsection (1)(a)(i);

(ii) already, that same year, filed a conflict of interest disclosure statement for the office described in Subsection (11)(b)(i), in accordance with Section [~~17-16a-13~~]17-70-509; and

(iii) no later than the deadline described in Subsection (11)(a), indicates, in a written notice submitted to the county clerk, that the conflict of interest disclosure statement described in Subsection (11)(b)(ii) is updated and accurate as of the date of the written notice.

(12) (a) The county clerk shall make each conflict of interest disclosure statement made by an individual described in Subsection (11)(a) available for public inspection by posting an electronic copy of the statement on the county's website for at least 10 calendar days after the day on which the county legislative body:

(i) appoints an interim replacement under Subsection (3); or

(ii) appoints an individual to fill a vacancy under Subsection (7).

(b) The county clerk shall post the electronic statement described in Subsection (12)(a) no later than two business days after the day on which the county clerk receives the statement.

(13) A vacancy in a county office does not occur unless the individual occupying the office:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the county legislative body.

Section 51. Section 20A-1-509.1 is amended to read:

20A-1-509.1

(Effective 11/06/25)

. Procedure for filling midterm vacancy in county or district with 15 or more attorneys.

(1) When a vacancy occurs in the office of county or district attorney in a county or district having 15 or more attorneys who are licensed active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

(2) (a) The requirements of this Subsection (2) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs before the first day of the declaration of candidacy filing period described in Section 20A-9-201.5.

(b) When the conditions established in Subsection (2)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(c) All persons intending to become candidates for the vacant office shall:

(i) file a declaration of candidacy according to the procedures and requirements of Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy;

(ii) if nominated as a party candidate or qualified as an independent or write-in candidate under Chapter 9, Candidate Qualifications and Nominating Procedures, run in the regular general election; and

(iii) if elected, complete the unexpired term of the person who created the vacancy.

(d) If the vacancy occurs during the declaration of candidacy filing period described in Section 20A-9-201.5:

(i) the time for filing a declaration of candidacy under Section 20A-9-202 shall be extended until 5 p.m. on the first business day that is no later than seven calendar days after the last day of the filing period described in Section 20A-9-201.5; and

(ii) the county clerk shall notify the public and each registered political party that the vacancy exists.

(3) (a) The requirements of this Subsection (3) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the third Thursday in March of the even-numbered year but more than 75 calendar days before the regular primary election.

(b) When the conditions established in Subsection (3)(a) are met, the county clerk shall:

(i) notify the public and each registered political party that the vacancy exists; and

(ii) identify the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.

(c) All persons intending to become candidates for the vacant office shall:

(i) no later than 5 p.m. on the first business day that is at least five calendar days after the day on which the county clerk gives the notice described in Subsection (3)(b)(i), file a declaration of candidacy for the vacant office as required by Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(ii) if elected, complete the unexpired term of the person who created the vacancy.

(d) The county central committee of each party shall:

(i) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(ii) certify the name of the candidate or candidates to the county clerk:

(A) no later than 5 p.m. on the last business day that is at least 60 calendar days before the day of the regular primary election; or

(B) electronically, before midnight no later than 60 calendar days before the day of the regular primary election.

(4) (a) The requirements of this Subsection (4) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) 75 calendar days or less remain before the regular primary election but more than 65 calendar days remain before the regular general election.

(b) When the conditions established in Subsection (4)(a) are met, the county central committees of each registered political party that wishes to submit a candidate for the office shall, not later than five calendar days after the day on which the vacancy occurs, certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(c) The candidate elected shall complete the unexpired term of the person who created the vacancy.

(5) (a) The requirements of this Subsection (5) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of less than two years; or

(ii) the vacant office has an unexpired term of two years or more but 65 calendar days or less remain before the next regular general election.

(b) When the conditions established in Subsection (5)(a) are met, the county legislative body shall give notice of the vacancy to:

(i) the county clerk; and

(ii) the county central committee of the same political party of the prior officeholder.

(c) The county legislative body shall invite the committee described in Subsection (5)(b)(ii) to submit the names of three nominees to fill the vacancy.

(d) The county central committee shall, within 30 calendar days after the day on which the county legislative body gives the notice described in Subsection (5)(b)(ii), submit to the county legislative body the names of three nominees to fill the vacancy.

(e) The county legislative body shall, within 45 calendar days after the vacancy occurs, appoint one of those nominees to serve out the unexpired term.

(f) If the county legislative body fails to appoint a person to fill the vacancy within 45 calendar days, the county clerk shall send to the governor a letter that:

(i) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(ii) contains the list of nominees submitted by the party central committee.

(g) The governor shall appoint a person to fill the vacancy from that list of nominees within 30 calendar days after the day on which the governor receives the letter described in Subsection (5)(f).

(h) A person appointed to fill the vacancy under this Subsection (5) shall complete the unexpired term of the person who created the vacancy.

(6) A person seeking appointment to fill a vacancy described in Subsection (5)(a) shall, no later than the deadline for the person to file a financial report under Section [~~17-16-6.5~~]17-70-403:

(a) complete a conflict of interest disclosure statement in accordance with Section [~~17-16-1.5~~]17-70-304; and

(b) submit the conflict of interest disclosure statement to the county legislative body and the county clerk.

(7) (a) The county clerk shall make each conflict of interest disclosure statement made by a person described in Subsection (6) available for public inspection by posting an electronic copy of the statement on the county's website for at least 10 calendar days after the day on which the county legislative body appoints a person to fill the vacancy.

(b) The county clerk shall post the electronic statement described in Subsection (7)(a) no later than two business days after the day on which the county clerk receives the statement.

(8) A vacancy in the office described in Subsection (1) does not occur unless the person occupying the office:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the county legislative body.

(9) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the required time limits.

Section 52. Section 20A-1-509.2 is amended to read:

20A-1-509.2

(Effective 11/06/25)

. Procedure for filling vacancy in county or district with fewer than 15 attorneys.

(1) When a vacancy occurs in the office of county or district attorney, including a vacancy created by the failure of a person to file as a candidate for the office of county or district attorney in an election, in a county or district having fewer than 15 attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

(2) The county clerk shall send a letter to each attorney residing in the county or district who is a licensed, active member in good standing with the Utah State Bar and a registered voter that:

(a) informs the attorney of the vacancy;

(b) invites the attorney to apply for the vacancy; and

(c) informs the attorney that if the attorney does not respond before 5 p.m. on the first business day that is at least 10 calendar days after the day on which the county clerk sends the letter, the attorney's candidacy to fill the vacancy will not be considered.

(3) (a) (i) If, before the deadline described in Subsection (2)(c), more than three attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county clerk shall, except as provided in Subsection (3)(a)(ii), submit the applications to the county central committee of the same political party of the prior officeholder.

(ii) In multicounty prosecution districts, the clerk shall submit the applications to the county central committee of each county within the prosecution district.

(b) The central committee shall nominate three of the applicants and forward the applicants' names to the county legislative body no later than 5 p.m. on the first business day that is at least 20 calendar days after the day on which the county clerk submits the applicants' names under Subsection (3)(a).

(c) The county legislative body shall appoint one of the nominees to fill the vacant position.

(d) If the central committee of the political party fails to submit at least three names to the county legislative body before the deadline described in Subsection (3)(b), the county legislative body shall appoint one of the applicants to fill the vacant position.

(e) If the county legislative body fails to appoint a person to fill the vacancy within 120 calendar days after the day on which the vacancy occurs, the county clerk shall mail to the governor:

(i) a letter informing the governor that the county legislative body has failed to appoint a person to fill the vacancy; and

(ii) (A) the list of nominees, if any, submitted by the central committee of the political party; or

(B) if the party central committee has not submitted a list of at least three nominees within the required time, the names of the persons who submitted applications for the vacant position to the county clerk.

(f) The governor shall appoint, within 30 calendar days after the day on which the governor receives the letter described in Subsection (3)(e), a person from the list to fill the vacancy.

(4) (a) If, before the deadline described in Subsection (2)(c), three or fewer attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county legislative body may:

(i) appoint one of them to be county or district attorney; or

(ii) solicit additional applicants and appoint a county or district attorney as provided in Subsection (4)(b).

(b) (i) If three or fewer attorneys who are licensed members in good standing of the Utah State Bar and registered voters in the county or district submit applications, the county legislative body may publicly solicit and accept additional applications for the position from licensed, active members in good standing of the Utah State Bar who are not residents of the county or prosecution district.

(ii) The county legislative body shall consider the applications submitted by the attorneys who are residents of and registered voters in the county or prosecution district and the applications submitted by the attorneys who are not residents of the county or prosecution district and shall appoint one of the applicants to be county attorney or district attorney.

(c) If the legislative body fails to appoint a person to fill the vacancy within 120 calendar days after the day on which the vacancy occurs, the county clerk shall:

(i) notify the governor that the legislative body has failed to fill the vacancy within the required time period; and

(ii) provide the governor with a list of all the applicants.

(d) The governor shall appoint a person to fill the vacancy within 30 calendar days after the day on which the governor receives the notification described in Subsection (4)(c).

(5) The person appointed to fill the vacancy shall serve for the unexpired term of the person who created the vacancy.

(6) A person seeking appointment to fill a vacancy under this section shall, no later than the deadline for the person to file a financial report under Section [~~17-16-6.5~~]17-70-403:

(a) complete a conflict of interest disclosure statement in accordance with Section [~~17-16-1.5~~]17-70-304; and

(b) submit the conflict of interest disclosure statement to the county legislative body and the county clerk.

(7) (a) The county clerk shall make each conflict of interest disclosure statement made by a person described in Subsection (6) available for public inspection by posting an electronic copy of the statement on the county's website for at least 10 calendar days after the day on which the county legislative body appoints a person to fill the vacancy.

(b) The county clerk shall post the electronic statement described in Subsection (7)(a) no later than two business days after the day on which the county clerk receives the statement.

(8) A vacancy in the office described in Subsection (1) does not occur until the person occupying the office:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the county legislative body.

Section 53. Section 20A-1-511 is amended to read:

20A-1-511

(Effective 11/06/25)

. Midterm vacancy on a local school board.

(1) (a) A local school board shall fill a vacancy on the local school board by appointment, except as otherwise provided in Subsections (1)(b) and (2).

(b) The county legislative body, or municipal legislative body in a city district, shall fill a vacancy on a local school board by appointment if the local school board fails to make an appointment to fill the vacancy:

(i) except as provided in Subsection (1)(b)(ii), within 30 calendar days after a vacancy occurs on the local school board; or

(ii) within 45 calendar days after a vacancy occurs on the local school board due to the death of a local school board member.

(c) A member appointed and qualified under this Subsection (1) shall serve until a successor is elected or appointed and qualified.

(2) (a) A vacancy on the board shall be filled by an interim appointment, followed by an election to fill a two-year term if:

(i) the vacancy on the board occurs, or a letter of resignation is received by the board, at least 14 calendar days before the deadline for filing a declaration of candidacy; and

(ii) two years of the vacated term will remain after the first Monday of January following the next school board election.

(b) A member elected under this Subsection (2) shall serve for the remaining two years of the vacated term and until a successor is elected and qualified.

(3) Before appointing an individual to fill a vacancy under this section, the local school board shall:

(a) immediately notify the county clerk;

(b) give public notice of the vacancy at least two weeks before the local school board meets to fill the vacancy;

(c) identify, in the public notice:

(i) the date, time, and place of the meeting where the vacancy will be filled; and

(ii) the person to whom and the date and time before which an individual interested in being appointed to fill the vacancy may submit the individual's name for consideration; and

(d) in an open meeting, interview each individual whose name is submitted for consideration and who meets the qualifications for office, regarding the individual's qualifications.

(4) (a) Subject to Subsection (4)(b), a local school board may appoint an individual to fill a vacancy described in Subsection (1) or (2) before the vacancy occurs if a member of the local school board submits a letter of resignation.

(b) An individual appointed under Subsection (4)(a) may not take office until on or after the day on which the vacancy occurs for which the individual is appointed.

(c) A member of a local school board who submits a letter of resignation under Subsection (4)(a) may not rescind the resignation after the local school board makes an appointment to fill the vacancy created by the resignation.

(5) An individual seeking appointment to fill a vacancy on a local school board shall, no later than the deadline for the individual to file a financial report under Section [~~17-16-6.5~~]17-70-403:

(a) complete a conflict of interest disclosure statement in accordance with Section [~~17-16-1.5~~]17-70-304; and

(b) submit the conflict of interest disclosure statement to the county legislative body and the county clerk.

(6) (a) The county clerk shall make each conflict of interest disclosure statement made by an individual described in Subsection (5) available for public inspection by posting an electronic copy of the statement on the county's website for at least 10 calendar days after the day on which the county legislative body appoints an individual to fill the vacancy.

(b) The county clerk shall post the electronic statement described in Subsection (6)(a) no later than two business days after the day on which the county clerk receives the statement.

Section 54. Section 20A-1-1001 is amended to read:

20A-1-1001

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) (a) "Clerk" means the lieutenant governor, a county clerk, municipal clerk, town clerk, city recorder, or municipal recorder.

(b) "Clerk" includes a board of trustees under Title 17B, Chapter 1, Provisions Applicable to All Special Districts.

(2) "Local petition" means:

(a) a manual or electronic local initiative petition described in Chapter 7, Part 5, Local Initiatives - Procedures; or

(b) a manual or electronic local referendum petition described in Chapter 7, Part 6, Local Referenda - Procedures.

(3) "Petition" means one of the following written requests, signed by registered voters, appealing to an authority with respect to a particular cause:

(a) a local petition;

(b) a petition to consolidate two or more municipalities under Section 10-2-601;

(c) a petition for disincorporation of a municipality under Section 10-2-701;

(d) a petition to incorporate a proposed municipality under Section 10-2a-208;

(e) a petition to consolidate adjoining counties under Section [~~17-2-103~~]17-61-201;

(f) a petition to annex a portion of a county to an adjoining county under Section [~~17-2-203~~]17-61-301;

(g) a petition for the creation of a new county under Section [~~17-3-1~~]17-61-401;

(h) a petition for the removal of a county seat under Section [~~17-11-2~~]17-60-302;

(i) a petition for the adoption of an optional plan under Section [~~17-52a-303~~]17-62-303;

(j) a petition for the repeal of an optional plan under Section [~~17-52a-505~~]17-62-505;

(k) a petition to create a special district under Section 17B-1-203;

(l) a petition to withdraw an area from a special district under Section 17B-1-504;

(m) a petition to dissolve a special district under Section 17B-1-1303;

(n) a petition for issuance of local building authority bonds under Section 17D-2-502;

(o) a petition to become a registered political party under Section 20A-8-103;

(p) a nomination petition for municipal office under Section 20A-9-203;

(q) a nomination petition for a regular primary election under Subsection 20A-9-403(3)(a) and Section 20A-9-405;

(r) a petition for a political party to qualify as a municipal political party under Section 20A-9-404;

(s) a petition for the nomination of a qualified political party under Section 20A-9-408;

(t) a nomination petition for a candidate not affiliated with a political party under Section 20A-9-502;

(u) a nomination petition to become a delegate to a ratification convention under Section 20A-15-103;

(v) a petition to create a new school district under Section 53G-3-301;

(w) a petition to consolidate school districts under Section 53G-3-401;

(x) a petition to transfer a portion of a school district to another district under Section 53G-3-501;

(y) a petition to determine whether a privatization project agreement should be approved under Section 73-10d-4; or

(z) a statewide petition.

(4) "Statewide petition" means:

(a) a manual or electronic statewide initiative petition described in Chapter 7, Part 2, Statewide Initiatives; or

(b) a manual or electronic statewide referendum petition described in Chapter 7, Part 3, Statewide Referenda.

(5) (a) "Substantially similar name" means:

(i) the given name, the surname, or both, provided by the individual with the individual's petition signature, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname provided by the individual with the individual's petition signature exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) "Substantially similar name" does not include a name having an initial or a middle name provided by the individual with the individual's petition signature that does not match a different initial or middle name shown on the official register.

Section 55. Section 20A-7-101 is amended to read:

20A-7-101

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Approved device" means a device described in Subsection 20A-21-201(4) used to gather signatures for the electronic initiative process, the electronic referendum process, or the electronic candidate qualification process.

(2) "Budget officer" means:

(a) for a county, the person designated as finance officer as defined in Section [~~17-36-3~~]17-63-101;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(4); or

(c) for a town, the town council.

(3) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(4) "Circulation" means the process of submitting an initiative petition or a referendum petition to legal voters for their signature.

(5) "Electronic initiative process" means:

(a) as it relates to a statewide initiative, the process, described in Sections 20A-7-215 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local initiative, the process, described in Sections 20A-7-514 and 20A-21-201, for gathering signatures.

(6) "Electronic referendum process" means:

(a) as it relates to a statewide referendum, the process, described in Sections 20A-7-313 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local referendum, the process, described in Sections 20A-7-614 and 20A-21-201, for gathering signatures.

(7) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(8) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(9) "Initial fiscal impact statement" means a financial statement prepared under Section 20A-7-202.5 after the filing of a statewide initiative application.

(10) "Initial fiscal impact and legal statement" means a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for a local initiative or a local referendum.

(11) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(12) "Initiative application" means:

(a) for a statewide initiative, an application described in Subsection 20A-7-202(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-202(2); or

(b) for a local initiative, an application described in Subsection 20A-7-502(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-502(2).

(13) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(14) "Initiative petition":

(a) as it relates to a statewide initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-203(2)(a), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-203(2)(b);

(b) as it relates to a statewide initiative, using the electronic initiative process:

(i) means the form described in Subsections 20A-7-215(2) and (3), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-215(5)(b);

(c) as it relates to a local initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-503(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-503(2)(b); or

(d) as it relates to a local initiative, using the electronic initiative process:

(i) means the form described in Subsection 20A-7-514(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-514(4)(a).

(15) (a) "Land use law" means a law of general applicability, enacted based on the weighing of broad, competing policy considerations, that relates to the use of land, including a land use regulation, a general plan, a land use development code, an annexation ordinance, the rezoning of a single property or multiple properties, or a comprehensive zoning ordinance or resolution.

(b) "Land use law" does not include a land use decision, as defined in Section [~~10-9a-103~~]10-20-102 or [~~17-27a-103~~]17-79-102.

(16) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

(17) "Legal voter" means an individual who is registered to vote in Utah.

(18) "Legally referable to voters" means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

(19) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(20) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(21) (a) "Local law" includes:

(i) an ordinance;

(ii) a resolution;

(iii) a land use law;

(iv) a land use regulation, as defined in Section [~~10-9a-103~~]10-20-102; or

(v) other legislative action of a local legislative body.

(b) "Local law" does not include a land use decision, as defined in Section [~~10-9a-103~~]10-20-102.

(22) "Local legislative body" means the legislative body of a county, city, or town.

(23) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(24) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(25) "Manual initiative process" means the process for gathering signatures for an initiative using paper signature packets that a signer physically signs.

(26) "Manual referendum process" means the process for gathering signatures for a referendum using paper signature packets that a signer physically signs.

(27) (a) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(b) "Measure" does not include a ballot proposition for the creation of a new school district under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4.

(28) "Presiding officers" means the president of the Senate and the speaker of the House of Representatives.

(29) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(30) "Referendum application" means:

(a) for a statewide referendum, an application described in Subsection 20A-7-302(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-302(2); or

(b) for a local referendum, an application described in Subsection 20A-7-602(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-602(2).

(31) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(32) "Referendum petition" means:

(a) as it relates to a statewide referendum, using the manual referendum process, the form described in Subsection 20A-7-303(2)(a), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(b) as it relates to a statewide referendum, using the electronic referendum process, the form described in Subsection 20A-7-313(2), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(c) as it relates to a local referendum, using the manual referendum process, the form described in Subsection 20A-7-603(2)(a), petitioning for submission of a local law to legal voters for their approval or rejection; or

(d) as it relates to a local referendum, using the electronic referendum process, the form described in Subsection 20A-7-614(2), petitioning for submission of a local law to legal voters for their approval or rejection.

(33) "Signature":

(a) for a statewide initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-215 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-203;

(B) as it relates to an individual who, due to a qualifying disability under the Americans with Disabilities Act, is unable to fill out the signature sheet or to sign the voter's name consistently, the initials "AV," indicating that the voter's identity will be verified by an alternate verification process described in Section 20A-7-106; and

(C) does not include an electronic signature;

(b) for a statewide referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-313 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-303;

(B) as it relates to an individual who, due to a qualifying disability under the Americans with Disabilities Act, is unable to fill out the signature sheet or to sign the voter's name consistently, the initials "AV," indicating that the voter's identity will be verified by an alternate verification process described in Section 20A-7-106; and

(C) does not include an electronic signature;

(c) for a local initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-514 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-503;

(B) as it relates to an individual who, due to a qualifying disability under the Americans with Disabilities Act, is unable to fill out the signature sheet or to sign the voter's name consistently, the initials "AV," indicating that the voter's identity will be verified by an alternate verification process described in Section 20A-7-106; and

(C) does not include an electronic signature; or

(d) for a local referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-614 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-603;

(B) as it relates to an individual who, due to a qualifying disability under the Americans with Disabilities Act, is unable to fill out the signature sheet or to sign the voter's name consistently, the initials "AV," indicating that the voter's identity will be verified by an alternate verification process described in Section 20A-7-106; and

(C) does not include an electronic signature.

(34) "Signature sheets" means sheets in the form required by this chapter that are used under the manual initiative process or the manual referendum process to collect signatures in support of an initiative or referendum.

(35) "Special local ballot proposition" means a local ballot proposition that is not a standard local ballot proposition.

(36) "Sponsors" means the legal voters who support the initiative or referendum and who sign the initiative application or referendum application.

(37) (a) "Standard local ballot proposition" means a local ballot proposition for an initiative or a referendum.

(b) "Standard local ballot proposition" does not include a property tax referendum described in Section 20A-7-613.

(38) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

(39) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

(40) "Verified" means acknowledged by the person circulating the petition as required in Section 20A-7-105.

Section 56. Section 20A-7-602.8 is amended to read:

20A-7-602.8

(Effective 11/06/25)

. Referability to voters of local land use law.

(1) Within 20 calendar days after the day on which a referendum eligible voter files an application under Section 20A-7-602 for a land use law, counsel for the county, city, or town to which the referendum pertains shall:

(a) review the referendum application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) (a) Subject to Subsection (2)(b), for a land use law, a proposed referendum is legally referable to voters unless:

(i) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(ii) the proposed referendum challenges a land use decision, rather than a land use regulation, as those terms are defined in Section [~~10-9a-103~~]10-20-102 or [~~17-27a-103~~]17-79-102;

(iii) the proposed referendum challenges more than one law passed by the local legislative body; or

(iv) the referendum application was not timely filed or does not comply with the requirements of this part.

(b) In addition to the limitations of Subsection (2)(a), a proposed referendum is not legally referable to voters for a:

(i) municipal land use law, as defined in Section 20A-7-101, if the land use law was passed by a unanimous vote of the local legislative body; or

(ii) transit area land use law, as defined in Section 20A-7-601, if the transit area land use law was passed by a two-thirds vote of the local legislative body.

(3) After the end of the 20-calendar-day period described in Subsection (1), a county, city, or town may not, for a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If a county, city, or town rejects a proposed referendum concerning a land use law, a sponsor of the proposed referendum may, within seven days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on challenge or appeal, the court determines that the proposed referendum is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(3), or give the sponsors access to the website defined in Section 20A-21-101, within five calendar days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 57. Section 20A-7-607 is amended to read:

20A-7-607

(Effective 11/06/25)

. Evaluation by the local clerk -- Determination of election for vote on referendum.

(1) In relation to the manual referendum process, when the local clerk receives a referendum packet from a county clerk, the local clerk shall record the number of the referendum packet received.

(2) The county clerk shall:

(a) in relation to the manual referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-105(6)(a)(iii) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 calendar days; and

(ii) update on the local clerk's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-616(3) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 calendar days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(3) The local clerk:

(a) shall, except as provided in Subsection (3)(b), declare the referendum petition to be sufficient or insufficient:

(i) in relation to the manual referendum process, no later than 111 calendar days after the day of the deadline, described in Subsection 20A-7-105(5)(a)(iv), to submit a referendum packet to the county clerk; or

(ii) in relation to the electronic referendum process, no later than 111 calendar days after the day of the deadline, described in Subsection 20A-7-616(2), to collect a signature; or

(b) may declare the referendum petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual referendum process, the total of all valid signatures on timely and lawfully submitted referendum packets that have been certified by the county clerk, plus the number of signatures on timely and lawfully submitted referendum packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601;

(ii) in relation to the electronic referendum process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601; or

(iii) a requirement of this part has not been met.

(4) (a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required under Section 20A-7-601, and the requirements of this part are met, the local clerk shall mark upon the front of the referendum petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required under Section 20A-7-601 or a requirement of this part is not met, the local clerk shall mark upon the front of the referendum petition the word "insufficient."

(c) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

(d) After a referendum petition is declared insufficient, a person may not submit additional signatures to qualify the referendum for the ballot.

(5) (a) If the local clerk refuses to declare a referendum petition sufficient, any voter may, no later than 10 days after the day on which the local clerk declares the referendum petition insufficient, apply to the appropriate court for an order finding the referendum petition legally sufficient.

(b) If the court determines that the referendum petition is legally sufficient, the local clerk shall mark the referendum petition "sufficient" and consider the declaration of sufficiency effective as of the date on which the referendum petition should have been declared sufficient by the local clerk's office.

(c) If the court determines that a referendum petition filed is not legally sufficient, the court may enjoin the local clerk and all other officers from:

(i) certifying or printing the ballot title and numbers of that referendum on the official ballot for the next election; or

(ii) as it relates to a local tax law that is conducted entirely by mail, certifying, printing, or mailing the ballot title and numbers of that referendum under Section 20A-7-609.5.

(6) A referendum petition determined to be sufficient in accordance with this section is qualified for the ballot.

(7) (a) Except as provided in Subsection (7)(b) or (c), if a referendum relates to legislative action taken after April 15, the election officer may not place the referendum on an election ballot until a primary election, a general election, or a special election the following year.

(b) The election officer may place a referendum described in Subsection (7)(a) on the ballot for a special, primary, or general election held during the year that the legislative action was taken if the following agree, in writing, on a timeline to place the referendum on that ballot:

(i) the local clerk;

(ii) the county clerk; and

(iii) the attorney for the county or municipality that took the legislative action.

(c) For a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the election ballot for:

(i) the next general election; or

(ii) another election, if the following agree, in writing, on a timeline to place the referendum on that ballot:

(A) the affected owners, as defined in Section [~~10-9a-103~~]10-20-102 or [~~17-27a-103~~]17-79-102, as applicable;

(B) the local clerk;

(C) the county clerk; and

(D) the attorney for the county or municipality that took the legislative action.

Section 58. Section 20A-9-409 is amended to read:

20A-9-409

(Effective 11/06/25)

. Primary election provisions relating to qualified political party.

(1) The regular primary election is held on the date specified in Section 20A-1-201.5.

(2) (a) A qualified political party that nominates one or more candidates for an elective office under Section 20A-9-407 and does not have a candidate qualify as a candidate for that office under Section 20A-9-408, may, but is not required to, participate in the primary election for that office.

(b) A qualified political party that has only one candidate qualify as a candidate for an elective office under Section 20A-9-408 and does not nominate a candidate for that office under Section 20A-9-407, may, but is not required to, participate in the primary election for that office.

(c) A qualified political party that nominates one or more candidates for an elective office under Section 20A-9-407 and has one or more candidates qualify as a candidate for that office under Section 20A-9-408 shall participate in the primary election for that office.

(d) A qualified political party that has two or more candidates qualify as candidates for an elective office under Section 20A-9-408 and does not nominate a candidate for that office under Section 20A-9-407 shall participate in the primary election for that office.

(3) Notwithstanding Subsection (2), in an opt-in county, as defined in Section [~~17-52a-201~~]17-62-201 or [~~17-52a-202~~]17-62-202, a qualified political party shall participate in the primary election for a county commission office if:

(a) there is more than one:

(i) open position as defined in Section [~~17-52a-201~~]17-62-201; or

(ii) midterm vacancy as defined in Section [~~17-52a-201~~]17-62-201; and

(b) the number of candidates nominated under Section 20A-9-407 or qualified under Section 20A-9-408 for the respective open positions or midterm vacancies exceeds the number of respective open positions or midterm vacancies.

(4) (a) As used in this Subsection (4), a candidate is "unopposed" if:

(i) no individual other than the candidate receives a certification, from the appropriate filing officer, for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(ii) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification, from the appropriate filing officer, for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(b) Before the deadline described in Subsection (4)(c), the lieutenant governor shall:

(i) provide to the county clerks:

(A) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications from the appropriate filing officer, along with instructions on how those names shall appear on the primary election ballot in

accordance with Sections 20A-6-109 and 20A-6-110; and

(B) a list of unopposed candidates for elective office who have been nominated by a registered political party; and

(ii) instruct the county clerks to exclude unopposed candidates from the primary election ballot.

(c) The deadline described in Subsection (4)(b) is 5 p.m. on the first Wednesday after the fourth Saturday in April.

Section 59. Section 20A-11-103 is amended to read:

20A-11-103

(Effective 11/06/25) (Superseded 01/01/26)

. Notice of pending interim and summary reports -- Form of submission -- Public availability -- Notice of reporting and filing requirements.

(1) (a) Except as provided under Subsection (1)(b), on the last business day that is at least 10 calendar days before an interim report or summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections, the chief election officer shall inform the filing entity by electronic mail unless postal mail is requested:

(i) that the financial statement is due;

(ii) of the date that the financial statement is due; and

(iii) of the penalty for failing to file the financial statement.

(b) The chief election officer is not required to provide notice:

(i) to a candidate or political party of the financial statement that is due before the candidate's or political party's political convention;

(ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1; or

(iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

(2) A filing entity shall electronically file a financial statement via electronic mail or the Internet according to specifications established by the chief election officer.

(3) (a) A financial statement is considered timely filed if the financial statement is received by the chief election officer's office before midnight, Mountain Time, at the end of the day on which the financial statement is due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a financial statement is due, the county clerk shall permit a candidate to file the financial statement via email or another electronic means designated by the county clerk.

(c) A chief election officer may extend the time in which a filing entity is required to file a financial statement if a filing entity notifies the chief election officer of the existence of an extenuating circumstance that is outside the control of the filing entity.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) post on a website established by the lieutenant governor:

(i) an electronic copy or the contents of each summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date on which the summary report or interim report is electronically filed; or

(ii) for a campaign finance statement filed under the requirements of Section 10-3-208, for a municipality, or Section [~~17-16-6.5~~]17-70-403, for a county, a link to the municipal or county website that hosts the campaign finance statement, no later than seven business days after the date on which the lieutenant governor receives the link from:

(A) the municipal clerk or recorder, in accordance with Subsection 10-3-208(11)(b)(ii); or

(B) the county clerk, in accordance with Subsection [~~17-16-6.5(21)(b)(ii)~~]17-70-403(21)(b)(ii).

(5) Between January 1 and January 15 of each year, the chief election officer shall provide notice, by postal mail or email, to each filing entity for which the chief election officer has a physical or email address, of the reporting and filing requirements described in this chapter.

Section 60. Section 20A-11-103 is amended to read:

20A-11-103

(Effective 01/01/26)

. Notice of pending interim and summary reports -- Form of submission -- Public availability -- Notice of reporting and filing requirements.

(1) (a) Except as provided under Subsection (1)(b), on the last business day that is at least 10 calendar days before an interim report or summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections, the chief election officer shall inform the filing entity by electronic mail unless postal mail is requested:

(i) that the financial statement is due;

(ii) of the date that the financial statement is due; and

(iii) of the penalty for failing to file the financial statement.

(b) The chief election officer is not required to provide notice:

(i) to a candidate or political party of the financial statement that is due before the candidate's or political party's political convention;

(ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1; or

(iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

(2) A filing entity shall electronically file a financial statement via electronic mail or the Internet according to specifications established by the chief election officer.

(3) (a) A financial statement is considered timely filed if the financial statement is received by the chief election officer's office before midnight, Mountain Time, at the end of the day on which the financial statement is due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a financial statement is due, the county clerk shall permit a candidate to file the financial statement via email or another electronic means designated by the county clerk.

(c) A chief election officer may extend the time in which a filing entity is required to file a financial statement if a filing entity notifies the chief election officer of the existence of an extenuating circumstance that is outside the control of the filing entity.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor

shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) post on a website established by the lieutenant governor:

(i) an electronic copy or the contents of each summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date on which the summary report or interim report is electronically filed; or

(ii) for a campaign finance statement filed under the requirements of Section 10-3-208, for a municipality, or Section [~~17-16-6.5~~]11-70-403, for a county, a link to the municipal or county website that hosts the campaign finance statement, no later than seven business days after the date on which the lieutenant governor receives the link from:

(A) the municipal clerk or recorder, in accordance with Subsection 10-3-208(11)(b)(ii); or

(B) the county clerk, in accordance with Subsection [~~17-16-6.5(21)(b)(ii)~~]17-70-403(21)(b)(ii).

(5) The lieutenant governor shall provide, on the website described in Subsection (4)(b), the ability for an individual to search across disclosures made by all filing entities to identify contributions or expenditures made by a specific person.

(6) Between January 1 and January 15 of each year, the chief election officer shall provide notice, by postal mail or email, to each filing entity for which the chief election officer has a physical or email address, of the reporting and filing requirements described in this chapter.

Section 61. Section 20A-11-701.5 is amended to read:

20A-11-701.5

(Effective 11/06/25)

. Campaign financial reporting by corporations -- Filing requirements -- Statement contents.

(1) (a) Each corporation that has made expenditures for political purposes that total at least $750 during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting expenditures as of December 31 of the previous year;

(ii) seven calendar days before the state political convention for each major political party;

(iii) seven calendar days before the regular primary election date;

(iv) on September 30; and

(v) seven calendar days before the regular general election date.

(b) The corporation shall report:

(i) a detailed listing of all expenditures made since the last financial statement;

(ii) for a financial statement described in Subsections (1)(a)(ii) through (v), all expenditures as of five calendar days before the required filing date of the financial statement; and

(iii) whether the corporation, including an officer of the corporation, director of the corporation, or person with at least 10% ownership in the corporation:

(A) has bid since the last financial statement on a contract, as defined in Section 63G-6a-103, in excess of $100,000;

(B) is currently bidding on a contract, as defined in Section 63G-6a-103, in excess of $100,000; or

(C) is a party to a contract, as defined in Section 63G-6a-103, in excess of $100,000.

(c) The corporation need not file a financial statement under this section if the corporation made no expenditures during the reporting period.

(d) The corporation is not required to report an expenditure made to, or on behalf of, a reporting entity that the reporting entity is required to include in a financial statement described in this chapter, Chapter 12, Part 2, Judicial Retention Elections, Section 10-3-208, or Section [~~17-16-6.5~~]17-70-403.

(2) The financial statement shall include:

(a) the name and address of each reporting entity that received an expenditure from the corporation, and the amount of each expenditure;

(b) the total amount of expenditures disbursed by the corporation; and

(c) a statement by the corporation's treasurer or chief financial officer certifying the accuracy of the financial statement.

Section 62. Section 20A-11-1602 is amended to read:

20A-11-1602

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Conflict of interest" means an action that is taken by a regulated officeholder that the officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder's immediate family, or an individual or entity that the officeholder is required to disclose under the provisions of this section, if that benefit or detriment is distinguishable from the effects of that action on the public or on the officeholder's profession, occupation, or association generally.

(2) "Conflict of interest disclosure" means a disclosure, on the website, of all information required under Section 20A-11-1604.

(3) "Entity" means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, regardless of whether it is established primarily for the purpose of gain or economic profit.

(4) "Local official" means:

(a) an elected officer of:

(i) a municipality under Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; or

(ii) a county under [~~Title 17, Chapter 16a, County Officers and Employees Disclosure Act~~]Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers;

(b) a special public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; or

(c) another individual:

(i) who is not a regulated officeholder; and

(ii) who is required to annually make a conflict of interest disclosure in accordance with Subsection 20A-11-1604(6).

(5) "Filing officer" means:

(a) the lieutenant governor, for the office of a state constitutional officer or State Board of Education member; or

(b) the lieutenant governor or the county clerk in the county of the candidate's residence, for a state legislative office.

(6) "Immediate family" means the regulated officeholder's spouse, a child living in the regulated officeholder's immediate household, or an individual claimed as a dependent for state or federal income tax purposes by the regulated officeholder.

(7) "Income" means earnings, compensation, or any other payment made to an individual for gain, regardless of source, whether denominated as wages, salary, commission, pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses, reimbursement, dividends, or otherwise.

(8) (a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

(i) the entity or a portion of the entity; or

(ii) an employee, agent, or independent contractor of the entity.

(b) "Owner or officer" includes:

(i) a member of a board of directors or other governing body of an entity; or

(ii) a partner in any type of partnership.

(9) "Preceding year" means the year immediately preceding the day on which the regulated officeholder makes a conflict of interest disclosure.

(10) "Regulated officeholder" means an individual who is required to make a conflict of interest disclosure under the provisions of this part.

(11) "State constitutional officer" means the governor, the lieutenant governor, the state auditor, the state treasurer, or the attorney general.

(12) "Website" means the Candidate and Officeholder Conflict of Interest Disclosure Website described in Section 20A-11-1602.5.

Section 63. Section 26A-1-102 is amended to read:

26A-1-102

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Board" means a local board of health established under Section 26A-1-109.

(2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52a, Part 2, Forms of County Government.

(3) "County health department" means a local health department that serves a county and municipalities located within that county.

(4) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(5) "Local food" means the same as that term is defined in Section 4-1-109.

(6) "Local health department" means:

(a) a single county local health department;

(b) a multicounty local health department;

(c) a united local health department; or

(d) a multicounty united local health department.

(7) "Mental health authority" means a local mental health authority [~~created~~]described in Section [~~17-43-301~~]17-77-301.

(8) "Multicounty local health department" means a local health department that is formed under Section 26A-1-105 and that serves two or more contiguous counties and municipalities within those counties.

(9) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous counties and municipalities within those counties.

(10) "Order of constraint" means the same as that term is defined in Section 26B-7-301.

(11) "Public health emergency" means the same as that term is defined in Section 26B-7-301.

(12) "Single county local health department" means a local health department that is created by the governing body of one county to provide services to the county and the municipalities within that county.

(13) "Stay-at-home order" means the same as that term is defined in Section 26B-7-301.

(14) "Substance abuse authority" means a local substance abuse authority [~~created~~]described in Section [~~17-43-201~~]17-77-201.

(15) "United local health department":

(a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and

(b) includes a multicounty united local health department.

Section 64. Section 26A-1-105.5 is amended to read:

26A-1-105.5

(Effective 11/06/25)

. United local health department -- Multicounty united local health department -- Election by county governing body -- Appointment of director.

(1) A county governing body may elect to:

(a) form a united local health department for the purpose of combining into a single entity the duties of:

(i) the local health department;

(ii) the mental health authority; and

(iii) the substance abuse authority; and

(b) provide for the coordination of services for the populations served by the entities described in Subsection (1)(a).

(2) (a) Two or more contiguous counties may, by executing an agreement pursuant to the provisions of Title 11, Chapter 13, Interlocal Cooperation Act, unite to create and maintain a multicounty united local health department.

(b) Any municipalities within counties comprising a multicounty united local health department under Subsection (2)(a) shall be served by the multicounty united local health department.

(3) A united local health department created under this section shall administer the programs and services of each entity listed in Subsections (1)(a) in accordance with:

(a) this chapter; and

(b) [~~Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities; and~~]Title 17, Chapter 77, Local Health and Human Services.

[~~(c) Title 17, Chapter 43, Part 3, Local Mental Health Authorities.~~]

(4) (a) Notwithstanding Section 26A-1-110:

(i) the county governing body shall, in consultation with the board, appoint an executive director for a united local health department and determine the executive director's compensation; and

(ii) the county governing bodies of a multicounty united local health department shall, in consultation with the board, appoint an executive director for the multicounty local health department and determine the executive director's compensation.

(b) An executive director appointed under Subsection (4)(a):

(i) shall serve as the local health officer; and

(ii) may be removed for cause under Section 26A-1-111.

(5) The treasurer of a united local health department may establish and maintain funds in addition to the local health department fund established under Section 26A-1-119, if the additional fund is necessary to:

(a) provide substance abuse authority services or mental health authority services; and

(b) comply with federal regulation or federal statute.

Section 65. Section 26A-1-117 is amended to read:

26A-1-117

(Effective 11/06/25)

. Funding of departments -- Tax levies.

(1) Counties involved in the establishment and operation of local health departments shall fund the local health departments with appropriations from the General Fund, from the levy of a tax, or in part by an appropriation and in part by a levy under [~~Section 17-53-221~~]Subsection 17-63-701(2).

(2) A local health department may be funded as provided by law from:

(a) local, state, and federal funds within local levy ceilings;

(b) a separate ceiling exempt tax under Section 59-2-911, which may not exceed .0004 per dollar of taxable value of taxable property; or

(c) in part by each.

(3) Local funds from either tax source shall be appropriated by the local governing authorities of the counties participating in the local health department.

Section 66. Section 26B-1-324 is amended to read:

26B-1-324

(Effective 11/06/25)

. Statewide Behavioral Health Crisis Response Account -- Creation -- Administration -- Permitted uses -- Reporting.

(1) There is created a restricted account within the General Fund known as the "Statewide Behavioral Health Crisis Response Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, or other persons.

(2) (a) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division shall disburse funds in the account only for the purpose of support or implementation of services or enhancements of those services in order to rapidly, efficiently, and effectively deliver 988 services in the state.

(b) Funds distributed from the account to county local mental health and substance abuse authorities for the provision of crisis services are not subject to the 20% county match described in Sections [~~17-43-201~~]17-77-201 and [~~17-43-301~~]17-77-301.

(c) After consultation with the Behavioral Health Crisis Response Committee created in Section 63C-18-202, and local substance use authorities and local mental health authorities described in Sections [~~17-43-201~~]17-77-201 and [~~17-43-301~~]17-77-301, the division shall expend funds from the account on any of the following programs:

(i) the Statewide Mental Health Crisis Line, as defined in Section 26B-5-610, including coordination with 911 emergency service, as defined in Section 69-2-102, and coordination with local substance abuse authorities as described in Section [~~17-43-201~~]17-77-201, and local mental health authorities, described in Section [~~17-43-301~~]17-77-301;

(ii) mobile crisis outreach teams as defined in Section 26B-5-609, distributed in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) behavioral health receiving centers as defined in Section 26B-5-114;

(iv) stabilization services as described in Section 26B-5-101;

(v) mental health crisis services, as defined in Section 26B-5-101, provided by local substance abuse authorities as described in Section [~~17-43-201~~]17-77-201 and local mental health authorities described in Section [~~17-43-301~~]17-77-301 to provide prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis as defined in Section 26B-5-101;

(vi) crisis intervention training for first responders, as that term is defined in Section 78B-4-501;

(vii) crisis worker certification training for first responders, as that term is defined in Section 78B-4-501;

(viii) frontline support for the SafeUT Crisis Line; or

(ix) suicide prevention gatekeeper training for first responders, as that term is defined in Section 78B-4-501.

(d) If the Legislature appropriates money to the account for a purpose described in Subsection (2)(c), the division shall use the appropriation for that purpose.

(3) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division may expend funds in the account for administrative costs that the division incurs related to administering the account.

(4) Notwithstanding Subsection (2)(c), allocations made to local substance use authorities and local mental health authorities for behavioral health receiving centers or mobile crisis outreach teams before the end of fiscal year 2023 shall be maintained through fiscal year 2027, subject to appropriation.

(5) (a) As used in this Subsection (5):

(i) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(ii) "Mental health service provider" means a behavioral health receiving center or mobile crisis outreach team.

(b) The department shall coordinate with each mental health service provider that receives state funds to determine which health benefit plans, if any, have not contracted or have refused to contract with the mental health service provider at usual and customary rates for the services provided by the mental health service provider.

(c) In each year that the department identifies a health benefit plan that meets the description in Subsection (5)(b), the department shall provide a report on the information gathered under Subsection (5)(b) to the Health and Human Services Interim Committee at or before the committee's October meeting.

Section 67. Section 26B-2-101 is amended to read:

26B-2-101

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Abuse" means the same as that term is defined in Section 80-1-102.

(2) "Adoption services" means the same as that term is defined in Section 80-2-801.

(3) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(4) "Applicant" means a person that applies for an initial license or a license renewal under this part.

(5) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (5)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section [~~17-43-301~~]17-77-301;

(B) a local substance abuse authority described in Section [~~17-43-201~~]17-77-201; or

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(6) "Behavioral health receiving center" means a 23-hour non-secure program or facility that is responsible for, and provides mental health crisis services to, an individual experiencing a mental health crisis.

(7) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (7)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (49)(a); or

(B) provides the treatment or services described in Subsection (49)(a) on a limited basis, as described in Subsection (7)(b)(ii).

(b) (i) For purposes of Subsection (7)(a)(iii), "education" means a course of study for one or more grades from kindergarten through grade 12.

(ii) For purposes of Subsection (7)(a)(iv)(B), a private school provides the treatment or services described in Subsection (49)(a) on a limited basis if:

(A) the treatment or services described in Subsection (49)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (49)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (49)(a).

(c) "Boarding school" does not include a therapeutic school.

(8) "Certification" means a less restrictive level of licensure issued by the department.

(9) "Child" means an individual under 18 years old.

(10) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(11) "Child-placing agency" means a person that engages in child placing.

(12) "Client" means an individual who receives or has received services from a licensee.

(13) (a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

(14) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(15) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(16) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(17) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background check approval issued by the office.

(18) "Director" means the director of the office.

(19) "Division" means the Division of Licensing and Background Checks created under Section 26B-2-103.

(20) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(21) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(22) "Elder adult" means a person 65 years old or older.

(23) "Emergency safety intervention" means a tactic used to protect staff or a client from being physically injured, utilized by an appropriately trained direct care staff and only performed in accordance with a nationally or regionally recognized curriculum in the least restrictive manner to restore staff or client safety.

(24) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

(25) "Harm" means the same as that term is defined in Section 80-1-102.

(26) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(27) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(28) "Health insurer" means:

(a) an insurer who offers health care insurance as that term is defined in Section 31A-1-301;

(b) health benefits offered to state employees under Section 49-20-202; and

(c) a workers' compensation insurer:

(i) authorized to provide workers' compensation insurance in the state; or

(ii) that is a self-insured employer as defined in Section 34A-2-201.5.

(29) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence;

(ix) a behavioral health receiving center; or

(x) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school;

(ii) a residential vocational or life skills program, as defined in Section 13-53-102; or

(iii) a short-term relief care provider.

(30) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(31) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(32) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(33) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

(34) "Licensee" means an individual or a human services program licensed by the office.

(35) "Local government" means a city, town, or county.

(36) "Mental health treatment program" means a program that:

(a) is a structured intervention; and

(b) is used to improve mental health, prevent mental disorders, and treat mental health conditions.

(37) "Medication assisted treatment" means the use of a prescribed medication approved by the United States Food and Drug Administration, such as buprenorphine, methadone, or naltrexone, to treat substance use withdrawal symptoms or a substance use disorder.

(38) "Minor" means child.

(39) "Office" means, except as provided in Section 26B-2-120, the Office of Licensing within the department.

(40) "Ombudsman" means the congregate care ombudsman created in Section 26B-2-124.2.

(41) "Outdoor youth program" means a program that provides:

(a) services to a child who has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

(42) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(43) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(44) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

(45) "Qualifying residential treatment program" means a residential treatment program that is licensed under this part and:

(a) is operated as a nonprofit corporation or foreign nonprofit corporation, as those terms are defined in Section 16-6a-102; or

(b) receives any local, state, or federal government funding, government grant money, or any other form of government assistance to operate or provide services or training in the ordinary course of business.

(46) "Qualifying recovery residence" means a recovery residence that is licensed under this part and:

(a) is operated as a nonprofit corporation or foreign nonprofit corporation, as those terms are defined in Section 16-6a-102; or

(b) receives any local, state, or federal government funding, government grant money, or any other form of government assistance to operate or provide services or training in the ordinary course of business.

(47) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program;

(iii) a residential vocational or life skills program; or

(iv) a home, residence, or facility, in which:

(A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

(48) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(49) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(50) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

(51) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

(52) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

(53) "Short-term relief care provider" means an individual who:

(a) provides short-term and temporary relief care to a foster parent:

(i) for less than six consecutive nights; and

(ii) in the short-term relief care provider's home;

(b) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

(c) is direct access qualified, as that term is defined in Section 26B-2-120;

(d) has been approved to provide short-term relief care by the department;

(e) is not reimbursed by the department for the temporary relief care provided; and

(f) is not an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster child.

(54) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

(55) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

(56) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection (56)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

(57) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

(58) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

(59) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(60) (a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for the program's services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

(61) (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 68. Section 26B-3-113 is amended to read:

26B-3-113

(Effective 11/06/25)

. Expanding the Medicaid program.

(1) As used in this section:

(a) "Federal poverty level" means the same as that term is defined in Section 26B-3-207.

(b) "Medicaid ACA Fund" means the Medicaid ACA Fund created in Section 26B-1-315.

(c) "Medicaid expansion" means an expansion of the Medicaid program in accordance with this section.

(2) (a) As set forth in Subsections (2) through (5), eligibility criteria for the Medicaid program shall be expanded to cover additional low-income individuals.

(b) The department shall continue to seek approval from CMS to implement the Medicaid waiver expansion as defined in Section 26B-3-210.

(c) The department may implement any provision described in Subsections 26B-3-210(2)(b)(iii) through (viii) in a Medicaid expansion if the department receives approval from CMS to implement that provision.

(3) The department shall expand the Medicaid program in accordance with this Subsection (3) if the department:

(a) receives approval from CMS to:

(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(b) for enrolling an individual in the Medicaid expansion under this Subsection (3); and

(iii) permit the state to close enrollment in the Medicaid expansion under this Subsection (3) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (3);

(b) pays the state portion of costs for the Medicaid expansion under this Subsection (3)with funds from:

(i) the Medicaid ACA Fund;

(ii) county contributions to the nonfederal share of Medicaid expenditures; or

(iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and

(c) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (3) if the department projects that the cost of the Medicaid expansion under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(4) (a) The department shall expand the Medicaid program in accordance with this Subsection (4) if the department:

(i) receives approval from CMS to:

(A) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(B) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid expansion under this Subsection (4); and

(C) permit the state to close enrollment in the Medicaid expansion under this Subsection (4) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (4);

(ii) pays the state portion of costs for the Medicaid expansion under this Subsection (4) with funds from:

(A) the Medicaid ACA Fund;

(B) county contributions to the nonfederal share of Medicaid expenditures; or

(C) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and

(iii) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (4) if the department projects that the cost of the Medicaid expansion under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(b) The department shall submit a waiver, an amendment to an existing waiver, or a state plan amendment to CMS to:

(i) administer federal funds for the Medicaid expansion under this Subsection (4) according to a per capita cap developed by the department that includes an annual inflationary adjustment, accounts for differences in cost among categories of Medicaid expansion enrollees, and provides greater flexibility to the state than the current Medicaid payment model;

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (4);

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (4) violates certain program requirements as defined by the department;

(iv) allow an individual enrolled in a Medicaid expansion under this Subsection (4) to remain in the Medicaid program for up to a 12-month certification period as defined by the department; and

(v) allow federal Medicaid funds to be used for housing support for eligible enrollees in the Medicaid expansion under this Subsection (4).

(5) (a) (i) If CMS does not approve a waiver to expand the Medicaid program in accordance with Subsection (4)(a) on or before January 1, 2020, the department shall develop proposals to implement additional flexibilities and cost controls, including cost sharing tools, within a Medicaid expansion under this Subsection (5) through a request to CMS for a waiver or state plan amendment.

(ii) The request for a waiver or state plan amendment described in Subsection (5)(a)(i) shall include:

(A) a path to self-sufficiency for qualified adults in the Medicaid expansion that includes employment and training as defined in 7 U.S.C. Sec. 2015(d)(4); and

(B) a requirement that an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan.

(iii) The department shall submit the request for a waiver or state plan amendment developed under Subsection (5)(a)(i) on or before March 15, 2020.

(b) Notwithstanding Sections 26B-3-127 and 63J-5-204, and in accordance with this Subsection (5), eligibility for the Medicaid program shall be expanded to include all persons in the optional Medicaid expansion population under PPACA and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance, on the earlier of:

(i) the day on which CMS approves a waiver to implement the provisions described in Subsections (5)(a)(ii)(A) and (B); or

(ii) July 1, 2020.

(c) The department shall seek a waiver, or an amendment to an existing waiver, from federal law to:

(i) implement each provision described in Subsections 26B-3-210(2)(b)(iii) through (viii) in a Medicaid expansion under this Subsection (5);

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (5); and

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (5) violates certain program requirements as defined by the department.

(d) The eligibility criteria in this Subsection (5) shall be construed to include all individuals eligible for the health coverage improvement program under Section 26B-3-207.

(e) The department shall pay the state portion of costs for a Medicaid expansion under this Subsection (5) entirely from:

(i) the Medicaid ACA Fund;

(ii) county contributions to the nonfederal share of Medicaid expenditures; or

(iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures.

(f) If the costs of the Medicaid expansion under this Subsection (5) exceed the funds available under Subsection (5)(e):

(i) the department may reduce or eliminate optional Medicaid services under this chapter;

(ii) savings, as determined by the department, from the reduction or elimination of optional Medicaid services under Subsection (5)(f)(i) shall be deposited into the Medicaid ACA Fund; and

(iii) the department may submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary to implement budget controls within the Medicaid program to address the deficiency.

(g) If the costs of the Medicaid expansion under this Subsection (5) are projected by the department to exceed the funds available in the current fiscal year under Subsection (5)(e), including savings resulting from any action taken under Subsection (5)(f):

(i) the governor shall direct the department and Department of Workforce Services to reduce commitments and expenditures by an amount sufficient to offset the deficiency:

(A) proportionate to the share of total current fiscal year General Fund appropriations for each of those agencies; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations;

(ii) the Division of Finance shall reduce allotments to the department and Department of Workforce Services by a percentage:

(A) proportionate to the amount of the deficiency; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations; and

(iii) the Division of Finance shall deposit the total amount from the reduced allotments described in Subsection (5)(g)(ii) into the Medicaid ACA Fund.

(6) The department shall maximize federal financial participation in implementing this section, including by seeking to obtain any necessary federal approvals or waivers.

(7) Notwithstanding Sections [~~17-43-201~~]17-77-201 and [~~17-43-301~~]17-77-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under a Medicaid expansion.

(8) The department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that a Medicaid expansion is operational:

(a) the number of individuals who enrolled in the Medicaid expansion;

(b) costs to the state for the Medicaid expansion;

(c) estimated costs to the state for the Medicaid expansion for the current and following fiscal years;

(d) recommendations to control costs of the Medicaid expansion; and

(e) as calculated in accordance with Subsections 26B-3-506(4) and 26B-3-606(2), the state's net cost of the qualified Medicaid expansion.

Section 69. Section 26B-3-203 is amended to read:

26B-3-203

(Effective 11/06/25)

. Base budget appropriations for Medicaid accountable care organizations and behavioral health plans -- Forecast of behavioral health services cost, behavioral health plans, and ABA services -- Forecast of behavioral health services cost.

(1) As used in this section:

(a) "ABA service" means a service applying applied behavior analysis, as that term is defined in Section 31A-22-642.

(b) "ABA service reimbursement rate" means the Medicaid reimbursement rate developed by the division, in accordance with Part 1, Health Care Assistance, and paid to a provider for providing an ABA service.

(c) "ACO" means a Medicaid accountable care organization that contracts with the state's Medicaid program for:

(i) physical health services; or

(ii) integrated physical and behavioral health services.

(d) "Base budget" means the same as that term is defined in legislative rule.

(e) "Behavioral health plan" means a managed care or fee-for-service delivery system that contracts with or is operated by the department to provide behavioral health services to Medicaid eligible individuals.

(f) "Behavioral health services" means mental health or substance use treatment or services.

(g) "General Fund growth factor" means the amount determined by dividing the next fiscal year ongoing General Fund revenue estimate by current fiscal year ongoing appropriations from the General Fund.

(h) "Next fiscal year ongoing General Fund revenue estimate" means the next fiscal year ongoing General Fund revenue estimate identified by the Executive Appropriations Committee, in accordance with legislative rule, for use by the Office of the Legislative Fiscal Analyst in preparing budget recommendations.

(i) "Member" means an enrollee.

(j) "PMPM" means per-member-per-month funding.

(2) If the General Fund growth factor is less than 100%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation to the department in an amount necessary to ensure that the next fiscal year PMPM for ACOs and behavioral health plans equals the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by 100%.

(3) If the General Fund growth factor is greater than or equal to 100%, but less than 102%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation to the department in an amount necessary to ensure that the next fiscal year PMPM for ACOs and behavioral health plans equals the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by the General Fund growth factor.

(4) If the General Fund growth factor is greater than or equal to 102%, the next fiscal year base budget shall, subject to Subsection (5):

(a) in fiscal years 2025 and 2026:

(i) include an appropriation to the department in an amount that would, prior to the application of Subsection (4)(a)(ii), allow the department to ensure that the next fiscal year PMPMs for ACOs and behavioral health plans is greater than or equal to the current fiscal year PMPMs for the ACOs and behavioral health plans multiplied by 102%;

(ii) subject to Subsection (4)(a)(iii), allocate the amount appropriated under Subsection (4)(a)(i) to provide substantially the same year-over-year percentage point increase to:

(A) the PMPMs for ACOs and behavioral health plans; and

(B) each ABA service reimbursement rate; and

(iii) for the initial appropriation under Subsection (4)(a)(i), prior to providing the percentage point increases under Subsection (4)(a)(ii), allocate from the total amount appropriated under Subsection (4)(a)(i) an amount necessary to increase and substantially equalize each of the ABA service reimbursement rates with a corresponding reimbursement rate paid for providing the same or substantially similar service under an ACO or a behavioral health plan; and

(b) beginning in fiscal year 2027, include an appropriation to the department in an amount necessary to ensure that the next fiscal year PMPMs for ACOs and behavioral health plans is greater than or equal to the current fiscal year PMPMs for the ACOs and the behavioral health plans multiplied by 102%, and less than or equal to the current fiscal year PMPMs for the ACOs and the behavioral health plans multiplied by the General Fund growth factor.

(5) The appropriations provided to the department for behavioral health plans under this section shall be reduced by the amount contributed by counties in the current fiscal year for behavioral health plans in accordance with Subsections [~~17-43-201(5)(k)~~]17-77-201(5)(k) and [~~17-43-301(6)(a)(x)~~]17-77-301(5)(a)(x).

(6) In order for the department to estimate the impact of Subsections (2) through (4) before identification of the next fiscal year ongoing General Fund revenue estimate, the Governor's Office of Planning and Budget shall, in cooperation with the Office of the Legislative Fiscal Analyst, develop an estimate of ongoing General Fund revenue for the next fiscal year and provide the estimate to the department no later than November 1 of each year.

(7) The Office of the Legislative Fiscal Analyst shall include an estimate of the cost of behavioral health services in any state Medicaid funding or savings forecast that is completed in coordination with the department and the Governor's Office of Planning and Budget.

Section 70. Section 26B-3-207 is amended to read:

26B-3-207

(Effective 11/06/25)

. Health coverage improvement program -- Eligibility -- Annual report -- Expansion of eligibility for adults with dependent children.

(1) As used in this section:

(a) "Adult in the expansion population" means an individual who:

(i) is described in 42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII); and

(ii) is not otherwise eligible for Medicaid as a mandatory categorically needy individual.

(b) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in Section 26B-3-211.

(c) "Federal poverty level" means the poverty guidelines established by the Secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).

(d) "Health coverage improvement program" means the health coverage improvement program described in Subsections (3) through (9).

(e) "Homeless":

(i) means an individual who is chronically homeless, as determined by the department; and

(ii) includes someone who was chronically homeless and is currently living in supported housing for the chronically homeless.

(f) "Income eligibility ceiling" means the percent of federal poverty level:

(i) established by the state in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and

(ii) under which an individual may qualify for Medicaid coverage in accordance with this section.

(g) "Targeted adult Medicaid program" means the program implemented by the department under Subsections (5) through (7).

(2) Beginning July 1, 2016, the department shall amend the state Medicaid plan to allow temporary residential treatment for substance use, for the traditional Medicaid population, in a short term, non-institutional, 24-hour facility, without a bed capacity limit that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan, as approved by CMS and as long as the county makes the required match under Section [~~17-43-201~~]17-77-201.

(3) Beginning July 1, 2016, the department shall amend the state Medicaid plan to increase the income eligibility ceiling to a percentage of the federal poverty level designated by the department, based on appropriations for the program, for an individual with a dependent child.

(4) Before July 1, 2016, the division shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal statutory and regulatory law necessary for the state to implement the health coverage improvement program in the Medicaid program in accordance with this section.

(5) (a) An adult in the expansion population is eligible for Medicaid if the adult meets the income eligibility and other criteria established under Subsection (6).

(b) An adult who qualifies under Subsection (6) shall receive Medicaid coverage:

(i) through the traditional fee for service Medicaid model in counties without Medicaid accountable care organizations or the state's Medicaid accountable care organization delivery system, where implemented and subject to Section 26B-3-223;

(ii) except as provided in Subsection (5)(b)(iii), for behavioral health, through the counties in accordance with Sections [~~17-43-201~~]17-77-201 and [~~17-43-301~~]17-77-301;

(iii) that, subject to Section 26B-3-223, integrates behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model; and

(iv) that permits temporary residential treatment for substance use in a short term, non-institutional, 24-hour facility, without a bed capacity limit, as approved by CMS, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

(6) (a) An individual is eligible for the health coverage improvement program under Subsection (5) if:

(i) at the time of enrollment, the individual's annual income is below the income eligibility ceiling established by the state under

Subsection (1)(f); and

(ii) the individual meets the eligibility criteria established by the department under Subsection (6)(b).

(b) Based on available funding and approval from CMS, the department shall select the criteria for an individual to qualify for the Medicaid program under Subsection (6)(a)(ii), based on the following priority:

(i) a chronically homeless individual;

(ii) if funding is available, an individual:

(A) involved in the justice system through probation, parole, or court ordered treatment; and

(B) in need of substance use treatment or mental health treatment, as determined by the department; or

(iii) if funding is available, an individual in need of substance use treatment or mental health treatment, as determined by the department.

(c) An individual who qualifies for Medicaid coverage under Subsections (6)(a) and (b) may remain on the Medicaid program for a 12-month certification period as defined by the department. Eligibility changes made by the department under Subsection (1)(f) or (6)(b) shall not apply to an individual during the 12-month certification period.

(7) The state may request a modification of the income eligibility ceiling and other eligibility criteria under Subsection (6) each fiscal year based on projected enrollment, costs to the state, and the state budget.

(8) The current Medicaid program and the health coverage improvement program, when implemented, shall coordinate with a state prison or county jail to expedite Medicaid enrollment for an individual who is released from custody and was eligible for or enrolled in Medicaid before incarceration.

(9) Notwithstanding Sections [~~17-43-201~~]17-77-201 and [~~17-43-301~~]17-77-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under the health coverage improvement program under Subsection (6).

(10) If the enhancement waiver program is implemented, the department:

(a) may not accept any new enrollees into the health coverage improvement program after the day on which the enhancement waiver program is implemented;

(b) shall transition all individuals who are enrolled in the health coverage improvement program into the enhancement waiver program;

(c) shall suspend the health coverage improvement program within one year after the day on which the enhancement waiver program is implemented;

(d) shall, within one year after the day on which the enhancement waiver program is implemented, use all appropriations for the health coverage improvement program to implement the enhancement waiver program; and

(e) shall work with CMS to maintain any waiver for the health coverage improvement program while the health coverage improvement program is suspended under Subsection (10)(c).

(11) If, after the enhancement waiver program takes effect, the enhancement waiver program is repealed or suspended by either the state or federal government, the department shall reinstate the health coverage improvement program and continue to accept new enrollees into the health coverage improvement program in accordance with the provisions of this section.

Section 71. Section 26B-3-218 is amended to read:

26B-3-218

(Effective 11/06/25)

. Medicaid waiver for inpatient care in an institution for mental diseases.

(1) As used in this section, "institution for mental diseases" means the same as that term is defined in 42 C.F.R. Sec. 435.1010.

(2) Before August 1, 2020, the division shall apply for a Medicaid waiver or a state plan amendment with CMS to offer a program that provides reimbursement for mental health services that are provided:

(a) in an institution for mental diseases that includes more than 16 beds; and

(b) to an individual who receives mental health services in an institution for mental diseases for a period of more than 15 days in a calendar month.

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the department shall develop and offer the program described in Subsection (2).

(4) Notwithstanding Sections [~~17-43-201~~]17-77-201 and [~~17-43-301~~]17-77-301, if the waiver or state plan amendment described in Subsection (2) is approved, a county does not have to provide matching funds to the state for the mental health services described in Subsection (2) that are provided to an individual who qualifies for Medicaid coverage under Section 26B-3-113 or 26B-3-207.

Section 72. Section 26B-3-224 is amended to read:

26B-3-224

(Effective 11/06/25)

. Medicaid waiver for increased integrated health care reimbursement.

(1) As used in this section:

(a) "Integrated health care setting" means a health care or behavioral health care setting that provides integrated physical and behavioral health care services.

(b) "Local mental health authority" means a local mental health authority described in Section [~~17-43-301~~]17-77-301.

(2) The department shall develop a proposal to allow the state Medicaid program to reimburse a local mental health authority for covered physical health care services provided in an integrated health care setting to Medicaid eligible individuals.

(3) The department shall apply for a Medicaid waiver or a state plan amendment with CMS to implement the proposal described in Subsection (2).

(4) If the waiver or state plan amendment described in Subsection (3) is approved, the department shall:

(a) implement the proposal described in Subsection (2); and

(b) while the waiver or state plan amendment is in effect, submit a report to the Health and Human Services Interim Committee each year before November 30 detailing:

(i) the number of patients served under the waiver or state plan amendment;

(ii) the cost of the waiver or state plan amendment; and

(iii) any benefits of the waiver or state plan amendment.

Section 73. Section 26B-4-317 is amended to read:

26B-4-317

(Effective 11/06/25)

. Rural County Health Care Special Service District Retirement Grant Program.

(1) As used in this section:

(a) "Participating employer" means an employer that was required to participate in the Utah State Retirement System under Section 49-12-201, 49-12-202, 49-13-201, or 49-13-202.

(b) "Retirement liability" means an obligation in excess of $750,000 owed to the Utah State Retirement Office by a rural county health care special service district as a participating employer.

(c) "Rural county health care special service district" means a special service district formed to provide health care in a third, fourth, fifth, or sixth class county as [~~defined~~]classified in Section [~~17-50-501~~]17-60-104.

(2) Because there is a compelling statewide public purpose in promoting health care in Utah's rural counties, and particularly in ensuring the continued existence and financial viability of hospital services provided by rural county health care special service districts, there is created a grant program to assist rural county health care special service districts in meeting a retirement liability.

(3) (a) Subject to legislative appropriation and this Subsection (3), the department shall make grants to rural county health care special service districts.

(b) To qualify for a grant, a rural county health care special service district shall:

(i) file a grant application with the department detailing:

(A) the name of the rural county health care special service district;

(B) the estimated total amount of the retirement liability;

(C) the grant amount that the rural county health care special service district is requesting; and

(D) the amount of matching funds to be provided by the rural county health care special service district to help fund the retirement liability as required by Subsection (3)(d); and

(ii) commit to provide matching funds as required by Subsection (3)(d).

(c) The department shall review each grant application and, subject to legislative appropriation, award grants to each rural health care special service district that qualifies for a grant under Subsection (3)(b).

(d) The department may not award a grant to a rural county health care special service district unless the rural county health care special service district commits to provide matching funds to the grant equal to at least 40% of the amount of the grant.

Section 74. Section 26B-4-701 is amended to read:

26B-4-701

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Accredited clinical education program" means a clinical education program for a health care profession that is accredited by the Accreditation Council on Graduate Medical Education.

(2) "Accredited clinical training program" means a clinical training program that is accredited by an entity recognized within medical education circles as an accrediting body for medical education, advanced practice nursing education, physician assistant education, doctor of pharmacy education, dental education, or registered nursing education.

(3) "Centers for Medicare and Medicaid Services" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(4) "Health care professionals in training" means medical students and residents, advanced practice nursing students, physician assistant students, doctor of pharmacy students, dental students, and registered nursing students.

(5) "Hospital" means a general acute hospital, as defined in Section 26B-2-201.

(6) "Physician" means a person:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(7) "Rural county" means a county of the third, fourth, fifth, or sixth class under Section [~~17-50-501~~]17-60-104.

(8) "Rural hospital" means a hospital located within a rural county.

(9) "UMEC" means the Utah Medical Education Council created in Section 26B-4-706.

Section 75. Section 26B-5-102 is amended to read:

26B-5-102

(Effective 11/06/25)

. Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.

(1) (a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(c) There is created the Office of Substance Use and Mental Health within the division.

(d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.

(2) The division shall:

(a) educate the general public regarding the nature and consequences of substance use by promoting school and community-based

prevention programs;

(b) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance use;

(c) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;

(d) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance use disorder, by identifying and disseminating information about effective practices and programs;

(e) promote integrated programs that address an individual's substance use, mental health, and physical health;

(f) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;

(g) evaluate the effectiveness of programs described in this Subsection (2);

(h) consider the impact of the programs described in this Subsection (2) on:

(i) emergency department utilization;

(ii) jail and prison populations;

(iii) the homeless population; and

(iv) the child welfare system;

(i) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(j) collect and disseminate information pertaining to mental health;

(k) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(l) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member;

(m) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 26B-5-313;

(n) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) certify an adult as a case manager, qualified to provide case management services within the state;

(ii) establish training and certification requirements;

(iii) specify the types of services each certificate holder is qualified to provide;

(iv) specify the type of supervision under which a certificate holder is required to operate; and

(v) specify continuing education and other requirements for maintaining or renewing certification;

(o) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(p) provide consultation and other assistance to public and private agencies and groups working on substance use and mental health issues;

(q) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(r) promote or conduct research on substance use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(s) receive, distribute, and provide direction over public funds for substance use and mental health services;

(t) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(u) examine expenditures of local, state, and federal funds;

(v) monitor the expenditure of public funds by:

(i) local substance abuse authorities;

(ii) local mental health authorities; and

(iii) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(w) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(y) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(i) a statewide comprehensive continuum of substance use services;

(ii) a statewide comprehensive continuum of mental health services;

(iii) services result in improved overall health and functioning;

(iv) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;

(v) compliance, where appropriate, with the certification requirements in Subsection (2)(gg); and

(vi) appropriate expenditure of public funds;

(z) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(aa) monitor and ensure compliance with division rules and contract requirements;

(bb) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for

contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(cc) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(dd) require each local substance abuse authority and each local mental health authority, in accordance with [~~Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii)~~]Sections 17-77-201 and 17-77-301, to submit a plan to the division on or before May 15 of each year;

(ee) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(ff) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(gg) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(i) a substance use disorder;

(ii) a mental health disorder;

(iii) a substance use disorder and a mental health disorder;

(iv) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(v) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(vi) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(hh) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(ii) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

(jj) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism in accordance with the metrics and requirements described in Section 63M-7-102;

(kk) at the division's discretion, use the data described in Subsection (2)(jj) to make decisions regarding the use of funds allocated to the division to provide treatment;

(ll) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(ii); and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(ii) and residential vocational or life skills programs, as defined in Section 13-53-102;

(mm) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services; and

(nn) create training and educational materials regarding recognizing a drug overdose.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-703, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 53-5a-602;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections [~~17-43-201, 17-43-203, 17-43-303, and 17-43-309~~]17-77-201, 17-77-203, 17-77-303, and 17-77-307.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section [~~17-43-303~~]17-77-303 and to the responsibility and liability described in Section [~~17-43-203~~]17-77-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under [~~Subsection 17-43-201(10)~~]Section 17-77-201 for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 76. Section 26B-5-104 is amended to read:

26B-5-104

(Effective 11/06/25)

. Authority and responsibilities of division.

(1) The division shall set policy for its operation and for programs funded with state and federal money under Sections [~~17-43-201, 17-43-301, 17-43-304~~]17-77-201, 17-77-301, 17-77-304, and 26B-5-108.

(2) The division shall:

[~~(1)~~](a) in establishing rules, seek input from local substance abuse authorities, local mental health authorities, consumers, providers, advocates, division staff, and other interested parties as determined by the division;

[~~(2)~~](b) establish, by rule, minimum standards for local substance abuse authorities and local mental health authorities;

[~~(3)~~](c) establish, by rule, procedures for developing policies that ensure that local substance abuse authorities and local mental health authorities are given opportunity to comment and provide input on any new policy of the division or proposed changes in existing rules of the division;

[~~(4)~~](d) provide a mechanism for review of its existing policy, and for consideration of policy changes that are proposed by local substance abuse authorities or local mental health authorities;

[~~(5)~~](e) develop program policies, standards, rules, and fee schedules for the division; and

[~~(6)~~](f) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules approving the form and content of substance abuse treatment, educational series, screening, and assessment that are described in Section 41-6a-501.

Section 77. Section 26B-5-107 is amended to read:

26B-5-107

(Effective 11/06/25)

. Formula for allocation of funds to local substance abuse authorities and local mental health authorities.

(1) (a) The division shall establish, by rule, formulas for allocating funds to local substance abuse authorities and local mental health authorities through contracts, to provide substance use prevention and treatment services in accordance with the provisions of this chapter and [~~Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities~~]Title 17, Chapter 77, Part 2, Local Substance Abuse Authorities, and mental health services in accordance with the provisions of this chapter and [~~Title 17, Chapter 43, Part 3, Local Mental Health Authorities~~]Title 17, Chapter 77, Part 3, Local Mental Health Authorities.

(b) The formulas shall provide for allocation of funds based on need. Determination of need shall be based on population unless the division establishes, by valid and accepted data, that other defined factors are relevant and reliable indicators of need.

(c) The formulas shall include a differential to compensate for additional costs of providing services in rural areas.

(2) The formulas established under Subsection (1) apply to all state and federal funds appropriated by the Legislature to the division for local substance abuse authorities and local mental health authorities, but does not apply to:

(a) funds that local substance abuse authorities and local mental health authorities receive from sources other than the division;

(b) funds that local substance abuse authorities and local mental health authorities receive from the division to operate specific programs within their jurisdictions which are available to all residents of the state;

(c) funds that local substance abuse authorities and local mental health authorities receive from the division to meet needs that exist only within their local areas; and

(d) funds that local substance abuse authorities and local mental health authorities receive from the division for research projects.

Section 78. Section 26B-5-108 is amended to read:

26B-5-108

(Effective 11/06/25)

. Contracts for substance use and mental health services -- Provisions -- Responsibilities.

(1) If the division contracts with a local substance abuse authority or a local mental health authority to provide substance use or mental health programs and services in accordance with the provisions of this chapter and [~~Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, or Title 17, Chapter 43, Part 3, Local Mental Health Authorities, it~~]Title 17, Chapter 77, Local Health and Human Services, the division shall ensure that those contracts include at least the following provisions:

(a) that an independent auditor shall conduct any audit of the local substance abuse authority or its contract provider's programs or services and any audit of the local mental health authority or its contract provider's programs or services, pursuant to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(b) in addition to the requirements described in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, the division:

(i) shall prescribe guidelines and procedures, in accordance with those formulated by the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of officers, directors, and specified employees of the private contract provider, to assure the state that no personal benefit is gained from travel or other expenses; and

(ii) may prescribe specific items to be addressed by that audit, depending upon the particular needs or concerns relating to the local substance abuse authority, local mental health authority, or contract provider at issue;

(c) the local substance abuse authority or its contract provider and the local mental health authority and its contract provider shall invite and include all funding partners in its auditor's pre- and exit conferences;

(d) each member of the local substance abuse authority and each member of the local mental health authority shall annually certify that he has received and reviewed the independent audit and has participated in a formal interview with the provider's executive officers;

(e) requested information and outcome data will be provided to the division in the manner and within the time lines defined by the division; and

(f) all audit reports by state or county persons or entities concerning the local substance abuse authority or its contract provider, or the local mental health authority or its contract provider shall be provided to the executive director of the department, the local substance abuse authority or local mental health authority, and members of the contract provider's governing board.

(2) Each contract between the division and a local substance abuse authority or a local mental health authority shall authorize the division to withhold funds, otherwise allocated under Section 26B-5-107, to cover the costs of audits, attorney fees, and other expenditures associated with reviewing the expenditure of public funds by a local substance abuse authority or its contract provider or a local mental health authority or its contract provider, if there has been an audit finding or judicial determination that public funds have been misused by the local substance abuse authority or its contract provider or the local mental health authority or its contract provider.

Section 79. Section 26B-5-109 is amended to read:

26B-5-109

(Effective 11/06/25)

. Local plan program funding.

(1) To facilitate the distribution of newly appropriated funds beginning from fiscal year 2018 for prevention, treatment, and recovery support services that reduce recidivism or reduce the per capita number of incarcerated offenders with a substance use disorder or a mental health disorder, the division shall:

(a) form an application review and fund distribution committee that includes:

(i) one representative of the Utah Sheriffs' Association;

(ii) one representative of the Statewide Association of Prosecutors of Utah;

(iii) two representatives from the division; and

(iv) two representatives from the Utah Association of Counties; and

(b) require the application review and fund distribution committee to:

(i) establish a competitive application process for funding of a local plan, as described in Sections [~~17-43-201(5)(b)~~]17-77-201 and [~~17-43-301(6)(a)(ii)~~]17-77-301;

(ii) establish criteria in accordance with this Subsection (1) for the evaluation of an application;

(iii) ensure that the committee members' affiliate groups approve of the application process and criteria;

(iv) evaluate applications; and

(v) distribute funds to programs implemented by counties, local mental health authorities, or local substance abuse authorities.

(2) Demonstration of matching county funds is not a requirement to receive funds, but the application review committee may take into consideration the existence of matching funds when determining which programs to fund.

Section 80. Section 26B-5-114 is amended to read:

26B-5-114

(Effective 11/06/25) (Repealed 12/31/26)

. Behavioral Health Receiving Center Grant Program.

(1) As used in this section:

(a) "Behavioral health receiving center" means a 23-hour nonsecure program or facility that is responsible for, and provides mental health crisis services to, an individual experiencing a mental health crisis.

(b) "Committee" means the Behavioral Health Crisis Response Committee established in Section 63C-18-202.

(c) "Project" means a behavioral health receiving center project described in Subsection (2) or (3)(a).

(2) Before July 1, 2020, the division shall issue a request for proposals in accordance with this section to award a grant to one or more counties of the first or second class, as classified in Section [~~17-50-501~~]17-60-104, to develop and implement a behavioral health receiving center.

(3) (a) Before July 1, 2023, the division shall issue a request for proposals in accordance with this section to award a grant to one county of the third class, as classified in Section [~~17-50- 501~~]17-60-104, to develop and implement a behavioral health receiving center.

(b) Subject to appropriations by the Legislature, the division shall award grants under this Subsection (3) before December 31, 2023.

(c) The committee shall provide recommendations to the division regarding the development and implementation of a behavioral health receiving center.

(4) The purpose of a project is to:

(a) increase access to mental health crisis services for individuals in the state who are experiencing a mental health crisis; and

(b) reduce the number of individuals in the state who are incarcerated or in a hospital emergency room while experiencing a mental health crisis.

(5) An application for a grant under this section shall:

(a) identify the population to which the behavioral health receiving center will provide mental health crisis services;

(b) identify the type of mental health crisis services the behavioral health receiving center will provide;

(c) explain how the population described in Subsection (5)(a) will benefit from the provision of mental health crisis services;

(d) provide details regarding:

(i) how the proposed project plans to provide mental health crisis services;

(ii) how the proposed project will ensure that consideration is given to the capacity of the behavioral health receiving center;

(iii) how the proposed project will ensure timely and effective provision of mental health crisis services;

(iv) the cost of the proposed project;

(v) any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the proposed project;

(vi) any plan to use funding sources in addition to a grant under this section for the proposed project;

(vii) the sustainability of the proposed project; and

(viii) the methods the proposed project will use to:

(A) protect the privacy of each individual who receives mental health crisis services from the behavioral health receiving center;

(B) collect nonidentifying data relating to the proposed project; and

(C) provide transparency on the costs and operation of the proposed project; and

(e) provide other information requested by the division to ensure that the proposed project satisfies the criteria described in Subsection (7).

(6) A recipient of a grant under this section shall enroll as a Medicaid provider and meet minimum standards of care for behavioral health receiving centers established by the division.

(7) In evaluating an application for the grant, the division shall consider:

(a) the extent to which the proposed project will fulfill the purposes described in Subsection (4);

(b) the extent to which the population described in Subsection (5)(a) is likely to benefit from the proposed project;

(c) the cost of the proposed project;

(d) the extent to which any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the project, or additional funding sources available to the applicant for the proposed project, are likely to benefit the proposed project; and

(e) the viability and innovation of the proposed project.

(8) (a) In consultation with the committee, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of a grant under this section.

(b) (i) The rules created under Subsection (8)(a) shall:

(A) implement a funding structure for a behavioral health receiving center developed using a grant awarded under this section;

(B) include implementation standards and minimum program requirements for a behavioral health receiving center developed using a grant awarded under this section, including minimum guidelines and standards of care, and minimum staffing requirements; and

(C) require a behavioral health receiving center developed using a grant awarded under this section to operate 24 hours per day, seven days per week, and every day of the year.

(ii) The funding structure described in Subsection (8)(b)(i)(A) shall provide for tiers and phases of shared funding coverage between the state and counties.

(9) Before June 30, 2024, the division shall report to the Health and Human Services Interim Committee regarding:

(a) grants awarded under Subsection (3)(a); and

(b) the details of each project described in Subsection (3)(a).

(10) Before June 30, 2026, the division shall provide a report to the Health and Human Services Interim Committee that includesdata gathered in relation to each project described in Subsection (3)(a).

Section 81. Section 26B-5-121 is amended to read:

26B-5-121

(Effective 11/06/25)

. Voluntary referrals to substance use and mental health services by first responders -- Immunity from liability -- Reporting -- Rulemaking.

(1) As used in this section:

(a) "First responder" means:

(i) a law enforcement officer, as that term is defined in Section 53-13-103;

(ii) emergency medical service personnel, as that term is defined in Section 53-2d-101;

(iii) an emergency medical technician, as that term is defined in Section 53-2e-101;

(iv) an advanced emergency medical technician, as that term is defined in Section 53-2e-101;

(v) a firefighter, as that term is defined in Section 53B-8c-102; or

(vi) a dispatcher, as that term is defined in Section 53-6-102.

(b) "Local services list" means a comprehensive list of local substance use or mental health services, as described in Subsections [~~17-43-201(5)(b)(iii)~~]17-77-201(5)(b)(iii) and [~~17-43-301(6)(c)~~]17-77-301(5)(c).

(2) As and when appropriate, a first responder is encouraged to offer a referral to substance use or mental health services to an individual who experiences an intentional or accidental overdose.

(3) If an individual expresses interest in substance use or mental health services, a first responder may, as appropriate:

(a) facilitate a real-time connection with an appropriate local service provider;

(b) contact the statewide 988 crisis line for assistance; or

(c) if the individual does not wish to speak with a service provider at that time, provide the individual with a physical copy of a local services list.

(4) (a) This section does not create a duty for a first responder to offer or provide a referral to substance use or mental health services.

(b) A first responder and an employer of a first responder are not liable under this section for a first responder's action or failure to act in regards to offering or providing a referral to substance use or mental health services as described in this section.

(c) This section does not affect any privilege or immunity from liability, exemption from law, ordinance, or rule, or any other benefit that applies to a first responder or an employer of a first responder.

(5) (a) If a first responder offers a referral to substance use or mental health services as described in this section, the first responder's employer shall report annually to the division the total number of individuals who accepted a referral from all first responders employed by the employer.

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how the reports required by Subsection (5)(a) shall be submitted.

Section 82. Section 26B-5-201 is amended to read:

26B-5-201

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Juvenile substance use offender" means any minor who has committed a drug or alcohol related offense under the jurisdiction of the juvenile court in accordance with Section 78A-6-103.

(2) "Local substance abuse authority" means a county legislative body designated to provide substance abuse services in accordance with Section [~~17-43-201~~]17-77-201.

(3) "Minor" means the same as that term is defined in Section 80-1-102.

(4) "Teen substance use school" means any school established by the local substance abuse authority, in cooperation with the Board of Juvenile Court Judges, that provides an educational, interpersonal, skill-building experience for juvenile substance abuse offenders and their parents or legal guardians.

Section 83. Section 26B-5-301 is amended to read:

26B-5-301

(Effective 11/06/25)

. Definitions.

As used in this part, Part 4, Commitment of Persons Under Age 18, and Part 5, Essential Treatment and Intervention:

(1) "Adult" means an individual 18 years old or older.

(2) "Approved treatment facility or program" means a mental health or substance use treatment provider that meets the goals and measurements described in Subsection 26B-5-102(2)(ii).

(3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section 26B-5-351.

(4) "Attending physician" means a physician licensed to practice medicine in this state who has primary responsibility for the care and treatment of the declarant.

(5) "Attorney-in-fact" means an adult properly appointed under this part to make mental health treatment decisions for a declarant under a declaration for mental health treatment.

(6) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.

(7) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.

(8) "Designated examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of mental illness.

(9) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section [~~17-43-304~~]17-77-304.

(10) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult's substance use disorder.

(11) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406(2)(a) through (l):

(a) sexual intercourse;

(b) penetration, however slight, of the genital or anal opening of the individual;

(c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or

(d) any sexual act causing substantial emotional injury or bodily pain.

(12) "Informed waiver" means the patient was informed of a right and, after being informed of that right and the patient's right to waive the right, expressly communicated his or her intention to waive that right.

(13) "Incapable" means that, in the opinion of the court in a guardianship proceeding under Title 75, Utah Uniform Probate Code, or in the opinion of two physicians, a person's ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that the person currently lacks the capacity to make mental health treatment decisions.

(14) "Institution" means a hospital or a health facility licensed under Section 26B-2-206.

(15) "Lay person" means an individual identified and authorized by a patient to participate in activities related to the patient's commitment, including court appearances, discharge planning, and grievances, except that a patient may revoke a lay person's authorization at any time.

(16) "Local substance abuse authority" means the same as that term is defined in Section 26B-5-101 and described in Section [~~17-43-201~~]17-77-201.

(17) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

(18) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:

(a) apply for and provide certification for a temporary commitment; or

(b) assist in the arrangement of transportation to a designated mental health facility.

(19) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(20) "Mental health treatment" means convulsive treatment, treatment with psychoactive medication, or admission to and retention in a facility for a period not to exceed 17 days.

(21) "Patient" means an individual who is:

(a) under commitment to the custody or to the treatment services of a local mental health authority; or

(b) undergoing essential treatment and intervention.

(22) "Physician" means an individual who is:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(23) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(24) "State hospital" means the Utah State Hospital established in Section 26B-5-302.

(25) "Substantial danger" means that due to mental illness, an individual is at serious risk of:

(a) suicide;

(b) serious bodily self-injury;

(c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual;

(e) engaging in harmful sexual conduct; or

(f) if not treated, suffering severe and abnormal mental, emotional, or physical distress that:

(i) is associated with significant impairment of judgment, reason, or behavior; and

(ii) causes a substantial deterioration of the individual's previous ability to function independently.

(26) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 84. Section 26B-5-382 is amended to read:

26B-5-382

(Effective 11/06/25)

. HOME Court Pilot Program -- Requirements -- Funding -- Reporting.

(1) As used in this section, "pilot program" means the HOME Court Pilot Program established in Subsection (2).

(2) Subject to appropriations from the Legislature and the assignment of a judge to preside over the proceedings, the Third Judicial District Court of Salt Lake County shall establish and administer a HOME Court Pilot Program beginning October 1, 2024, and ending June 30, 2029, that provides for comprehensive and individualized, court-supervised treatment and services to individuals with mental illness.

(3) The pilot program shall:

(a) allow a person to petition the court for an order requiring an individual's participation in the pilot program;

(b) require the court to substitute the local mental health authority as the petitioner if the initial petitioner is not the local mental health authority;

(c) provide an opportunity for the parties to enter into an agreement regarding an individual's participation in the pilot program, including a treatment plan, prior to a court order under Subsection (3)(e);

(d) provide for a hearing at which information is presented to determine whether an individual qualifies for court-ordered participation in the pilot program as provided in Subsection (3)(e);

(e) require the court to order an individual to participate in the pilot program if, upon completion of the hearing described in Subsection (3)(d), the court finds by clear and convincing evidence that:

(i) the individual resides or may be presently found within Salt Lake County;

(ii) the individual has a mental illness;

(iii) because of the individual's mental illness, the individual:

(A) is unlikely to survive or remain safe without supervision, assistance, or services; or

(B) meets the criteria described in Subsection 26B-5-351(14)(c)(i) or (ii);

(iv) there is no appropriate less-restrictive alternative to a court order for participation in the pilot program;

(v) the individual is likely to benefit from participation in the pilot program; and

(vi) there is adequate capacity within the pilot program to meet the individual's need for services described in Subsection (3)(f);

(f) upon the court's order for an individual to participate in the pilot program, require the local mental health authority to prepare a comprehensive and individualized treatment plan, for approval by the court, that includes the following components for the individual to successfully achieve the purposes of the pilot program:

(i) mental health services;

(ii) housing resources;

(iii) social services;

(iv) case management;

(v) peer support;

(vi) exit or transition services; and

(vii) individualized goals for the successful completion of the pilot program;

(g) upon the court's approval of a treatment plan prepared by the local mental health authority:

(i) require the local mental health authority to coordinate services required for participation in the pilot program; and

(ii) require the court to conduct regular review hearings as deemed necessary to evaluate the individual's progress in completing the treatment plan; and

(h) operate in a manner that is consistent with the procedures for ordering assisted outpatient treatment under Section 26B-5-351.

(4) (a) (i) If a individual participating in the pilot program has an outstanding warrant or pending criminal matter in another Utah court, the Third Judicial District Court of Salt Lake County may notify the other court in which the individual has an outstanding warrant or pending criminal matter regarding the individual's participation in the pilot program.

(ii) Upon receiving notice of an individual's participation in the pilot program under Subsection (4)(a)(i), the other court may, if deemed appropriate, recall the warrant or stay the case in which the individual is involved unless the warrant or case involves a felony charge.

(iii) In determining whether to recall a warrant or stay a case under Subsection (4)(a)(ii), the other court shall consider the likelihood

of the individual's successful completion of the pilot program, the severity of the pending charges, the impact on victims' rights, and the impact on the government's ability and right to prosecute the case.

(b) (i) If an individual described in Subsection (4)(a)(i) successfully completes the pilot program, the Third Judicial District Court of Salt Lake County may notify the other court in which the individual has an outstanding warrant or pending criminal matter regarding the individual's successful completion of the pilot program.

(ii) Upon receiving notice of an individual's successful completion of the pilot program under Subsection (4)(b)(i), the other court shall consider the effect of the individual's completion of the pilot program on the case pending before that court, including the dismissal of criminal charges if deemed appropriate.

(5) (a) Costs of all services provided under the pilot program, including the costs incurred by the multidisciplinary team described in Subsection (5)(b)(ii)(B), shall be paid by Salt Lake County.

(b) If the Legislature appropriates money to the division for implementation of the pilot program, the division shall:

(i) require the local mental health authority, as part of the plan required under [~~Subsection 17-43-301(6)(a)(ii)~~]Subsection 17-77-301(5), to submit to the division a proposal for implementation of the pilot program on or before May 15 of each year;

(ii) review the proposal described in Subsection (5)(b)(i) to ensure that the proposal:

(A) meets the requirements of this section; and

(B) establishes a multidisciplinary team, with a sufficient number of stakeholders, to adequately address the provision of treatment and services under the pilot program;

(iii) upon approval of the proposal described in Subsection (5)(b)(i), contract funds appropriated for the pilot program with the local mental health authority; and

(iv) conduct an annual audit and review of the local mental health authority, and any contracted provider, regarding the use of funds appropriated for the pilot program.

(c) The matching requirement in Subsection [~~17-41-301(6)(a)(x)~~]17-77-301(6)(a)(x) does not apply to funds appropriated by the Legislature for the pilot program.

(d) Subject to appropriation by the Legislature, Salt Lake County may:

(i) apply to the division to receive funds to cover the county's costs under the pilot program; and

(ii) pay county contributions to the nonfederal share of Medicaid expenditures with funds appropriated for the pilot program.

(6) The department shall:

(a) establish and evaluate metrics for the success of the pilot program with input from the local mental health authority, the Utah Homeless Services Board created in Section 35A-16-204, and the Judicial Council; and

(b) in collaboration with the local mental health authority, submit to the Health and Human Services Interim Committee a report on or before June 30 of each year, beginning in calendar year 2025, regarding the outcomes of the pilot program.

Section 85. Section 26B-5-413 is amended to read:

26B-5-413

(Effective 11/06/25)

. Contracts with local mental health authorities -- Provisions.

When the division contracts with a local mental health authority to provide mental health programs and services in accordance with the provisions of this chapter and [~~Title 17, Chapter 43, Part 3, Local Mental Health Authorities~~]Title 17, Chapter 77, Part 3, Local Mental Health Authorities, it shall ensure that those contracts include at least the following provisions:

(1) that an independent auditor shall conduct any audit of the local mental health authority or its contract provider's programs or services, pursuant to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(2) in addition to the requirements described in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, the division:

(a) shall prescribe guidelines and procedures, in accordance with those formulated by the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of officers, directors, and specified employees of the private contract provider, to assure the state that no personal benefit is gained from travel or other expenses; and

(b) may prescribe specific items to be addressed by that audit, depending upon the particular needs or concerns relating to the local mental health authority or contract provider at issue;

(3) the local mental health authority or its contract provider shall invite and include all funding partners in its auditor's pre- and exit conferences;

(4) each member of the local mental health authority shall annually certify that he has received and reviewed the independent audit and has participated in a formal interview with the provider's executive officers;

(5) requested information and outcome data will be provided to the division in the manner and within the timelines defined by the division;

(6) all audit reports by state or county persons or entities concerning the local mental health authority or its contract provider shall be provided to the executive director of the department, the local mental health authority, and members of the contract provider's governing board; and

(7) the local mental health authority or its contract provider will offer and provide mental health services to residents who are indigent and who meet state criteria for serious and persistent mental illness or severe emotional disturbance.

Section 86. Section 26B-5-612 is amended to read:

26B-5-612

(Effective 11/06/25) (Repealed 12/31/25)

. Integrated behavioral health care grant program.

(1) As used in this section:

(a) "Integrated behavioral health care services" means coordinated physical and behavioral health care services for one patient.

(b) "Local mental health authority" means a local mental health authority described in Section [~~17-43-301~~]17-77-301.

(c) "Project" means a project described in Subsection (2).

(2) Before July 1 of each year, the department shall issue a request for proposals in accordance with this section to award a grant to a local mental health authority for development or expansion of a project to provide effective delivery of integrated behavioral health care services.

(3) To be considered for a grant award under Subsection (2), a local mental health authority shall submit an application to the department that:

(a) explains the benefits of integrated behavioral health care services to a patient who is receiving mental health or substance use disorder treatment;

(b) describes the local mental health authority's operational plan for delivery of integrated behavioral health care services under the proposed project and any data or evidence-based practices supporting the likely success of the operational plan;

(c) includes:

(i) the number of patients to be served by the local mental health authority's proposed project; and

(ii) the cost of the local mental health authority's proposed project; and

(d) provides details regarding:

(i) any plan to use funding sources in addition to the grant award under this section for the local mental health authority's proposed project;

(ii) any existing or planned contracts or partnerships between the local mental health authority and other individuals or entities to develop or implement the local mental health authority's proposed project; and

(iii) the sustainability and reliability of the local mental health authority's proposed project.

(4) In evaluating a local mental health authority's application under Subsection (3) to determine the grant award under Subsection (2), the department shall consider:

(a) how the local mental health authority's proposed project will ensure effective provision of integrated behavioral health care services;

(b) the cost of the local mental health authority's proposed project;

(c) the extent to which any existing or planned contracts or partnerships or additional funding sources described in the local mental health authority's application are likely to benefit the proposed project; and

(d) the sustainability and reliability of the local mental health authority's proposed project.

(5) Before July 1, 2025, the department shall report to the Health and Human Services Interim Committee regarding:

(a) any knowledge gained or obstacles encountered in providing integrated behavioral health care services under each project;

(b) data gathered in relation to each project; and

(c) recommendations for expanding a project statewide.

Section 87. Section 26B-6-208 is amended to read:

26B-6-208

(Effective 11/06/25)

. Enforcement by division -- Duty of county or district attorney.

(1) It is the duty of the county or district attorney, as appropriate under Sections [~~17-18a-202and 17-18a-203~~]17-68-302 and 17-68-303, to:

(a) assist and represent the division;

(b) initiate legal proceedings to protect vulnerable adults; and

(c) take appropriate action to prosecute the alleged offenders.

(2) If the county or district attorney fails to act upon the request of the division to provide legal assistance within five business days after the day on which the request is made:

(a) the division may request the attorney general to act; and

(b) the attorney general may, in the attorney general's discretion, assume the responsibilities and carry the action forward in place of the county or district attorney.

Section 88. Section 26B-6-801 is amended to read:

26B-6-801

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Disability" has the same meaning as defined in 42 U.S.C. Sec. 12102 of the Americans With Disabilities Act of 1990, as may be amended in the future, and 28 C.F.R. Sec. 36.104[~~of the Code of Federal Regulations~~], as may be amended in the future.

(2) "Informed consent" means consent that is voluntary and based on an understanding by the person to be sterilized of the nature and consequences of sterilization, the reasonably foreseeable risks and benefits of sterilization, and the available alternative methods of contraception.

(3) "Institutionalized" means residing in the Utah State Developmental Center, the Utah State Hospital, a residential facility for persons with a disability as defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102, a group home for persons with a disability, a nursing home, or a foster care home or facility.

(4) (a) "Service animal" includes any dog that:

(i) is trained, or is in training, to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability; and

(ii) performs work or tasks, or is in training to perform work or tasks, that are directly related to the individual's disability, including:

(A) assisting an individual who is blind or has low vision with navigation or other tasks;

(B) alerting an individual who is deaf or hard of hearing to the presence of people or sounds;

(C) providing non-violent protection or rescue work;

(D) pulling a wheelchair;

(E) assisting an individual during a seizure;

(F) alerting an individual to the presence of an allergen;

(G) retrieving an item for the individual;

(H) providing physical support and assistance with balance and stability; or

(I) helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors.

(b) "Service animal" does not include:

(i) an animal other than a dog, whether wild or domestic, trained or untrained; or

(ii) an animal used solely to provide:

(A) a crime deterrent;

(B) emotional support;

(C) well-being;

(D) comfort; or

(E) companionship.

(5) "Sterilization" means any medical procedure, treatment, or operation rendering an individual permanently incapable of procreation.

(6) "Support animal" means an animal, other than a service animal, that qualifies as a reasonable accommodation under federal law for an individual with a disability.

Section 89. Section 31A-3-102 is amended to read:

31A-3-102

(Effective 11/06/25)

. Exclusive fees and taxes.

(1) The following are in place of any other license fee or license assessment that might otherwise be levied against a licensee by the state or a political subdivision of the state:

(a) subject to Subsection (4), taxes and fees under this chapter;

(b) the premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers;

(c) the fees under Section 31A-31-108; and

(d) the examination costs under Section 31A-2-205.

(2) The following are not subject to Title 59, Chapter 7, Corporate Franchise and Income Taxes:

(a) an insurer that is subject to premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers, regardless of whether the insurance company has a tax liability under that chapter;

(b) an insurance company that engages in a transaction that is subject to taxes under Section 31A-3-301 or 31A-3-302, regardless of whether the insurance company has a tax liability under that section; and

(c) a captive insurance company as provided in Section 31A-3-304 that pays a fee imposed under Section 31A-3-304.

(3) Unless otherwise exempt, a licensee under this title is subject to real and personal property taxes.

(4) A tax or fee under this chapter is not in place of a tax or fee a municipality or county imposes in accordance with Section 10-1-203 or [~~17-53-216~~]17-64-505.

Section 90. Section 32B-1-102 is amended to read:

32B-1-102

(Effective 11/06/25) (Superseded 01/01/26)

. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport or domestic airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 26B-5-205.

(6) (a) "Amphitheater" means an outdoor, multi-use performance venue that:

(i) is primarily used to present live entertainment, including music, dance, comedy, and theater;

(ii) has the capacity to hold over 10,000 patrons; and

(iii) is located in a county of the first class.

(b) "Amphitheater" does not include a space that is used to present sporting events or sporting competitions.

(7) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(8) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

(9) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility;

(vi) an arena;

(vii) a restaurant venue; or

(viii) an amphitheater;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection (9)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection (9)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

(10) (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(11) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(12) (a) "Beer" means a product that:

(i) contains:

(A) at least .5% of alcohol by volume; and

(B) no more than 5% of alcohol by volume or 4% by weight;

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute; and

(iii) is clearly marketed, labeled, and identified as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager;

(F) a malt;

(G) a malted beverage; or

(H) seltzer.

(b) "Beer" may contain:

(i) hops extract;

(ii) caffeine, if the caffeine is a natural constituent of an added ingredient; or

(iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:

(A) is used in the production of beer;

(B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and

(C) does not contribute more than 10% of the overall alcohol content of the beer.

(c) "Beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsection (12)(b)(iii), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(13) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(14) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(15) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(16) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(17) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(18) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(19) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(20) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(21) "Church" means a building:

(a) set apart for worship;

(b) in which religious services are held;

(c) with which clergy is associated; and

(d) that is tax exempt under the laws of this state.

(22) "Commission" means the Alcoholic Beverage Services Commission created in Section 32B-2-201.

(23) "Commissioner" means a member of the commission.

(24) "Community location" means:

(a) a public or private school as defined in Subsection (116);

(b) a church;

(c) a public library;

(d) a public playground; or

(e) a public park.

(25) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(26) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(27) "Controlled group of manufacturers" means as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(28) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(29) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(30) "Crime involving moral turpitude" is as defined by the commission by rule.

(31) "Department" means the Department of Alcoholic Beverage Services created in Section 32B-2-203.

(32) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

(33) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(34) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(35) "Director," unless the context requires otherwise, means the director of the department.

(36) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(37) (a) Subject to Subsection (37)(b), "dispense" means:

(i) drawing an alcoholic product; and

(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection (37) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license;

(iv) a beer-only restaurant license;

(v) a bar license;

(vi) an on-premise beer retailer;

(vii) an airport lounge license;

(viii) an on-premise banquet license; and

(ix) a hospitality amenity license.

(38) "Dispensing structure" means a surface or structure on a licensed premises:

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

(39) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(40) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(41) "Domestic airport" means an airport that:

(a) has at least 15,000 commercial airline passenger boardings in any five-year period;

(b) receives scheduled commercial passenger aircraft service; and

(c) is not an international airport.

(42) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(43) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

(44) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(45) (a) "Flavored malt beverage" means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally

recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and

(iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

(b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.

(c) "Flavored malt beverage" does not include beer or heavy beer.

(d) "Flavored malt beverage" is considered liquor for purposes of this title.

(46) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(47) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(48) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(49) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(50) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

(51) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(52) (a) "Heavy beer" means a product that:

(i) (A) contains more than 5% alcohol by volume;

(B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes more than 10% of the overall alcohol content of the product; or

(C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and has a label or packaging that is rejected under Subsection 32B-1-606(3)(b); and

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute.

(b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume, contain a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the heavy beer.

(c) "Heavy beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsections (52)(a)(i)(B) and (52)(b), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(d) "Heavy beer" is considered liquor for the purposes of this title.

(53) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

(54) (a) "Hotel" means a commercial lodging establishment that:

(i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

(ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete meals;

(B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or

(C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(b) "Hotel" includes a commercial lodging establishment that:

(i) meets the requirements under Subsection (54)(a); and

(ii) has one or more privately owned dwelling units.

(55) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(56) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(57) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(58) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(59) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

(60) "International airport" means an airport:

(a) with a United States Customs and Border Protection office on the premises of the airport; and

(b) at which international flights may enter and depart.

(61) "Intoxicated" or "intoxication" means that an individual exhibits plain and easily observable outward manifestations of behavior or physical signs produced by or as a result of the use of:

(a) an alcoholic product;

(b) a controlled substance;

(c) a substance having the property of releasing toxic vapors; or

(d) a combination of products or substances described in Subsections (61)(a) through (c).

(62) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

(63) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License;

(d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

(f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

(g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

(64) "Licensee" means a person who holds a license.

(65) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(66) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(67) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(68) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(69) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

(70) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(71) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city or town, the governing body of the city or town; or

(c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

(72) "Lounge or bar area" is as defined by rule made by the commission.

(73) "Malt substitute" means:

(a) rice;

(b) grain;

(c) bran;

(d) glucose;

(e) sugar; or

(f) molasses.

(74) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(75) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

(76) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(77) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

(78) "Minor" means an individual under 21 years old.

(79) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, or town; and

(b) has a responsibility to enforce one or more provisions of this title.

(80) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

(81) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(82) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License.

(83) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(84) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(85) "Opaque" means impenetrable to sight.

(86) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(87) "Package agent" means a person who holds a package agency.

(88) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

(89) (a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

(90) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(91) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections (91)(a) through (f); or

(ii) a package agent.

(92) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(93) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(94) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

(95) "Principal license" means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

(96) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(97) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

(98) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued under Title 53, Chapter 3, Uniform Driver License Act, in accordance with the laws of the state in which it is issued, or in accordance with federal law by the United States Department of State;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(99) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Resort Spa Sublicense.

(100) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

(101) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(102) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection (102)(a) to a third party for the third party's event.

(103) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

(104) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

(105) "Residence" means a person's principal place of abode within Utah.

(106) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

(107) "Resort" means the same as that term is defined in Section 32B-8-102.

(108) "Resort facility" is as defined by the commission by rule.

(109) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(110) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

(111) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

(112) "Restaurant license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

(113) "Restaurant venue" means a room within a restaurant that:

(a) is located on the licensed premises of a restaurant licensee;

(b) is separated from the area within the restaurant for a patron's consumption of food by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a patron in the area within the restaurant for a patron's consumption of food; and

(c) (i) has at least 1,000 square feet that:

(A) may be reserved for a banquet; and

(B) accommodates at least 75 individuals; or

(ii) if the restaurant is located in a small or unincorporated locality, has an appropriate amount of space, as determined by the commission, that may be reserved for a banquet.

(114) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

(115) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

(a) hotel; or

(b) resort facility.

(116) (a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) "School" does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool;

(v) a home school;

(vi) a home-based microschool as defined in Section 53G-6-201; or

(vii) a micro-education entity as defined in Section 53G-6-201.

(117) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

(118) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

(119) "Serve" means to place an alcoholic product before an individual.

(120) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection (120)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

(121) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

(122) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(123) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

(a) if the brewer is part of a controlled group of manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of manufacturers; and

(b) excluding beer, heavy beer, or flavored malt beverage the brewer:

(i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not sell for consumption as, or in, a beverage.

(124) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section [~~17-50-501~~]17-60-104.

(125) "Spa sublicense" means a sublicense:

(a) to a resort license or hotel license; and

(b) that the commission issues in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.

(126) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

(127) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Secs. 5.11 through 5.23.

(128) "Sports center" is as defined by the commission by rule.

(129) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

(130) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

(131) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(132) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

(133) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

(134) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a spa sublicense.

(135) "Supplier" means a person who sells an alcoholic product to the department.

(136) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(137) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(138) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(139) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(140) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(141) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(142) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 91. Section 32B-1-102 is amended to read:

32B-1-102

(Effective 01/01/26)

. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport or domestic airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 26B-5-205.

(6) (a) "Amphitheater" means an outdoor, multi-use performance venue that:

(i) is primarily used to present live entertainment, including music, dance, comedy, and theater;

(ii) has the capacity to hold over 10,000 patrons; and

(iii) is located in a county of the first class.

(b) "Amphitheater" does not include a space that is used to present sporting events or sporting competitions.

(7) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(8) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

(9) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility;

(vi) an arena;

(vii) a restaurant venue; or

(viii) an amphitheater;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection (9)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection (9)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

(10) (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(11) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(12) (a) "Beer" means a product that:

(i) contains:

(A) at least .5% of alcohol by volume; and

(B) no more than 5% of alcohol by volume or 4% by weight;

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute; and

(iii) is clearly marketed, labeled, and identified as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager;

(F) a malt;

(G) a malted beverage; or

(H) seltzer.

(b) "Beer" may contain:

(i) hops extract;

(ii) caffeine, if the caffeine is a natural constituent of an added ingredient; or

(iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:

(A) is used in the production of beer;

(B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and

(C) does not contribute more than 10% of the overall alcohol content of the beer.

(c) "Beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsection (12)(b)(iii), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(13) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(14) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(15) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(16) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(17) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(18) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(19) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(20) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(21) "Church" means a building:

(a) set apart for worship;

(b) in which religious services are held;

(c) with which clergy is associated; and

(d) that is tax exempt under the laws of this state.

(22) "Commission" means the Alcoholic Beverage Services Commission created in Section 32B-2-201.

(23) "Commissioner" means a member of the commission.

(24) "Community location" means:

(a) a public or private school as defined in Subsection (116);

(b) a church;

(c) a public library;

(d) a public playground; or

(e) a public park.

(25) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(26) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(27) "Controlled group of manufacturers" means as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(28) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(29) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(30) "Crime involving moral turpitude" is as defined by the commission by rule.

(31) "Department" means the Department of Alcoholic Beverage Services created in Section 32B-2-203.

(32) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

(33) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(34) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(35) "Director," unless the context requires otherwise, means the director of the department.

(36) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(37) (a) Subject to Subsection (37)(b), "dispense" means:

(i) drawing an alcoholic product; and

(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection (37) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license;

(iv) a beer-only restaurant license;

(v) a bar license;

(vi) an on-premise beer retailer;

(vii) an airport lounge license;

(viii) an on-premise banquet license; and

(ix) a hospitality amenity license.

(38) "Dispensing structure" means a surface or structure on a licensed premises:

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

(39) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(40) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(41) "Domestic airport" means an airport that:

(a) has at least 15,000 commercial airline passenger boardings in any five-year period;

(b) receives scheduled commercial passenger aircraft service; and

(c) is not an international airport.

(42) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(43) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

(44) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(45) (a) "Flavored malt beverage" means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and

(iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

(b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.

(c) "Flavored malt beverage" does not include beer or heavy beer.

(d) "Flavored malt beverage" is considered liquor for purposes of this title.

(46) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(47) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(48) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(49) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(50) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

(51) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(52) (a) "Heavy beer" means a product that:

(i) (A) contains more than 5% alcohol by volume;

(B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes more than 10% of the overall alcohol content of the product; or

(C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and has a label or packaging that is rejected under Subsection 32B-1-606(3)(b); and

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute.

(b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume, contain a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the heavy beer.

(c) "Heavy beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsections (52)(a)(i)(B) and (52)(b), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(d) "Heavy beer" is considered liquor for the purposes of this title.

(53) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

(54) (a) "Hotel" means a commercial lodging establishment that:

(i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

(ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete meals;

(B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or

(C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(b) "Hotel" includes a commercial lodging establishment that:

(i) meets the requirements under Subsection (54)(a); and

(ii) has one or more privately owned dwelling units.

(55) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(56) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(57) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(58) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(59) (a) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(i) law; or

(ii) court order.

(b) "Interdicted person" includes a person who voluntarily obtains a driver license certificate under Section 53-3-236 or an identification card under Section 53-3-805 with an interdicted person identifier.

(60) "International airport" means an airport:

(a) with a United States Customs and Border Protection office on the premises of the airport; and

(b) at which international flights may enter and depart.

(61) "Intoxicated" or "intoxication" means that

an individual exhibits plain and easily observable outward manifestations of behavior or physical signs produced by or as a result of the use of:

(a) an alcoholic product;

(b) a controlled substance;

(c) a substance having the property of releasing toxic vapors; or

(d) a combination of products or substances described in Subsections (61)(a) through (c).

(62) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

(63) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License;

(d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

(f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

(g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

(64) "Licensee" means a person who holds a license.

(65) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(66) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(67) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(68) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(69) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

(70) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(71) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city or town, the governing body of the city or town; or

(c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

(72) "Lounge or bar area" is as defined by rule made by the commission.

(73) "Malt substitute" means:

(a) rice;

(b) grain;

(c) bran;

(d) glucose;

(e) sugar; or

(f) molasses.

(74) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(75) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

(76) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(77) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

(78) "Minor" means an individual under 21 years old.

(79) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, or town; and

(b) has a responsibility to enforce one or more provisions of this title.

(80) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

(81) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(82) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License.

(83) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(84) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(85) "Opaque" means impenetrable to sight.

(86) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(87) "Package agent" means a person who holds a package agency.

(88) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

(89) (a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

(90) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(91) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections (91)(a) through (f); or

(ii) a package agent.

(92) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(93) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(94) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

(95) "Principal license" means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

(96) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(97) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

(98) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued under Title 53, Chapter 3, Uniform Driver License Act, in accordance with the laws of the state in which it is issued, or in accordance with federal law by the United States Department of State;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(99) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Resort Spa Sublicense.

(100) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

(101) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(102) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection (102)(a) to a third party for the third party's event.

(103) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

(104) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

(105) "Residence" means a person's principal place of abode within Utah.

(106) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

(107) "Resort" means the same as that term is defined in Section 32B-8-102.

(108) "Resort facility" is as defined by the commission by rule.

(109) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(110) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

(111) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

(112) "Restaurant license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

(113) "Restaurant venue" means a room within a restaurant that:

(a) is located on the licensed premises of a restaurant licensee;

(b) is separated from the area within the restaurant for a patron's consumption of food by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a patron in the area within the restaurant for a patron's consumption of food; and

(c) (i) has at least 1,000 square feet that:

(A) may be reserved for a banquet; and

(B) accommodates at least 75 individuals; or

(ii) if the restaurant is located in a small or unincorporated locality, has an appropriate amount of space, as determined by the commission, that may be reserved for a banquet.

(114) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

(115) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

(a) hotel; or

(b) resort facility.

(116) (a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) "School" does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool;

(v) a home school;

(vi) a home-based microschool as defined in Section 53G-6-201; or

(vii) a micro-education entity as defined in Section 53G-6-201.

(117) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

(118) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

(119) "Serve" means to place an alcoholic product before an individual.

(120) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection (120)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

(121) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

(122) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(123) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

(a) if the brewer is part of a controlled group of manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of manufacturers; and

(b) excluding beer, heavy beer, or flavored malt beverage the brewer:

(i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not sell for consumption as, or in, a beverage.

(124) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section [~~17-50-501~~]17-60-104.

(125) "Spa sublicense" means a sublicense:

(a) to a resort license or hotel license; and

(b) that the commission issues in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.

(126) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

(127) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Secs. 5.11 through 5.23.

(128) "Sports center" is as defined by the commission by rule.

(129) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

(130) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

(131) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(132) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

(133) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

(134) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a spa sublicense.

(135) "Supplier" means a person who sells an alcoholic product to the department.

(136) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(137) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(138) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(139) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(140) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(141) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(142) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 92. Section 32B-2-402 is amended to read:

32B-2-402

(Effective 11/06/25) (Partially Repealed 01/01/33)

. Definitions -- Calculations.

(1) As used in this part:

(a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section 32B-2-403.

(b) "Advisory committee" means the Utah Substance Use and Mental Health Advisory Committee created in Section 26B-5-801.

(c) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6a-510(1); or

(II) Section 76-5-207; or

(ii) an offense involving the illegal:

(A) sale of an alcoholic product;

(B) consumption of an alcoholic product;

(C) distribution of an alcoholic product;

(D) transportation of an alcoholic product; or

(E) possession of an alcoholic product.

(d) "Annual conviction time period" means the time period that:

(i) begins on July 1 and ends on June 30; and

(ii) immediately precedes the fiscal year for which an appropriation under this part is made.

(e) "Municipality" means a city or town.

(f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Integrated Healthcare within the Department of Health and Human Services.

(ii) In defining the term "prevention," the Division of Substance Abuse and Mental Health shall:

(A) include only evidence-based or evidence-informed programs; and

(B) provide for coordination with local substance abuse authorities designated to provide substance abuse services in accordance with Section [~~17-43-201~~]17-77-201.

(2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located within the limits of a municipality or county:

(a) is the number determined by the department to be so located;

(b) includes the aggregate number of premises of the following:

(i) a state store;

(ii) a package agency; and

(iii) a retail licensee; and

(c) for a county, consists only of the number located within an unincorporated area of the county.

(3) The department shall determine:

(a) a population figure according to the most current population estimate prepared by the Utah Population Committee;

(b) a county's population for the 25% distribution to municipalities and counties under Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and

(c) a county's population for the 25% distribution to counties under Subsection 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.

(4) (a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.

(b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

Section 93. Section 35A-1-501 is amended to read:

35A-1-501

(Effective 11/06/25)

. Legal representation of department.

At the request of the department, it is the duty of the county attorney or district attorney, as appropriate under Sections [~~17-18a-202~~]17-68-302 and [~~17-18a-203~~]17-68-303, and the attorney general to represent the department in any legal action taken under this part, Chapter 3, Employment Support Act, or under Title 76, Chapter 8, Part 12, Public Assistance Fraud.

Section 94. Section 35A-8-504.5 is amended to read:

35A-8-504.5

(Effective 11/06/25)

. Low-income ADU loan guarantee pilot program.

(1) As used in this section:

(a) "Accessory dwelling unit" means the same as that term is defined in Section [~~10-9a-103~~]10-20-102.

(b) "Borrower" means a residential property owner who receives a low-income ADU loan from a lender.

(c) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides low-income ADU loans directly to borrowers.

(d) "Low-income ADU loan" means a loan made by a lender to a borrower for the purpose of financing the construction of an accessory dwelling unit that is:

(i) located on the borrower's residential property; and

(ii) rented to a low-income individual.

(e) "Low-income individual" means an individual whose household income is less than 80% of the area median income.

(f) "Pilot program" means the two-year pilot program created in this section.

(2) The executive director shall establish a two-year pilot program to provide loan guarantees on behalf of borrowers for the purpose of insuring the repayment of low-income ADU loans.

(3) The executive director may not provide a loan guarantee for a low-income ADU loan under the pilot program unless:

(a) the lender:

(i) agrees in writing to participate in the pilot program;

(ii) makes available to prospective borrowers the option of receiving a low-income ADU loan that:

(A) has a term of 15 years; and

(B) charges interest at a fixed rate;

(iii) monitors the activities of the borrower on a yearly basis during the term of the loan to ensure the borrower's compliance with:

(A) Subsection (3)(c); and

(B) any other term or condition of the loan; and

(iv) promptly notifies the executive director in writing if the borrower fails to comply with:

(A) Subsection (3)(c); or

(B) any other term or condition of the loan;

(b) the loan terms of the low-income ADU loan:

(i) are consistent with the loan terms described in Subsection (3)(a)(ii); or

(ii) if different from the loan terms described in Subsection (3)(a)(ii), are mutually agreed upon by the lender and the borrower; and

(c) the borrower:

(i) agrees in writing to participate in the pilot program;

(ii) constructs an accessory dwelling unit on the borrower's residential property within one year after the day on which the borrower receives the loan;

(iii) occupies the primary residence to which the accessory dwelling unit is associated:

(A) after the accessory dwelling unit is completed; and

(B) for the remainder of the term of the loan; and

(iv) rents the accessory dwelling unit to a low-income individual:

(A) after the accessory dwelling unit is completed; and

(B) for the remainder of the term of the loan.

(4) At the direction of the board, the executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the minimum criteria for lenders and borrowers to participate in the pilot program;

(b) the terms and conditions for loan guarantees provided under the pilot program, consistent with Subsection (3); and

(c) procedures for the pilot program's loan guarantee process.

(5) The executive director shall submit a report on the pilot program to the Business and Labor Interim Committee on or before November 30, 2023.

Section 95. Section 35A-8-804 is amended to read:

35A-8-804

(Effective 11/06/25)

. Technical assistance to political subdivisions for housing plan.

(1) Within appropriations from the Legislature, the division shall establish a program to assist municipalities to comply with the moderate income housing requirements described in Section 10-9a-403 and counties to comply with the moderate income housing requirements described in Section [~~17-27a-403~~]17-80-201.

(2) Assistance under this section may include:

(a) financial assistance for the cost of developing a plan for low and moderate income housing;

(b) information on how to meet present and prospective needs for low and moderate income housing; and

(c) technical advice and consultation on how to facilitate the creation of low and moderate income housing.

(3) The division shall submit an annual report to the department regarding the scope, amount, and type of assistance provided to municipalities and counties under this section, including the number of low and moderate income housing units constructed or rehabilitated within the state, for inclusion in the department's annual written report described in Section 35A-1-109.

Section 96. Section 35A-16-102 is amended to read:

35A-16-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Board" means the Utah Homeless Services Board created in Section 35A-16-204.

(2) "Chief executive officer" means the same as that term is defined in Section 11-51-102.

[~~(2)~~](3) "Client" means an individual who is experiencing homelessness or an individual at risk of becoming homeless.

[~~(3) "Chief executive officer" means the same as that term is defined in Section 11-51-102.~~]

(4) "Collaborative applicant" means the entity designated by a continuum of care to collect and submit data and apply for funds on behalf of the continuum of care, as required by the United States Department of Housing and Urban Development.

(5) "Continuum of care" means a regional or local planning body designated by the United States Department of Housing and Urban Development to coordinate services for individuals experiencing homelessness within an area of the state.

(6) "Coordinator" means the state homelessness coordinator appointed under Section 63J-4-202.

(7) "County of the first class" means the same as that term is defined in Section [~~17-50-501~~]17-60-104.

(8) "County of the second class" means the same as that term is defined in Section [~~17-50-501~~]17-60-104.

(9) "Eligible services" means any activities or services that mitigate the impacts of the location of an eligible shelter, including direct services, public safety services, and emergency services, as further defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(10) "Executive committee" means the executive committee of the board.

(11) "Exit destination" means:

(a) a homeless situation;

(b) an institutional situation;

(c) a temporary housing situation;

(d) a permanent housing situation; or

(e) other.

(12) "First-tier eligible municipality" means a municipality that:

(a) is located within:

(i) a county of the first or second class, as classified in Section [~~17-50-501~~]17-60-104; or

(ii) a county of the third class, as classified in Section [~~17-50-501~~]17-60-104, if the municipality has a population of 100,000 or more;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a first-tier eligible municipality in accordance with Section 35A-16-404.

(13) "Homeless Management Information System" or "HMIS" means an information technology system that:

(a) is used to collect client-level data and data on the provision of housing and services to homeless individuals and individuals at risk of homelessness in the state; and

(b) meets the requirements of the United States Department of Housing and Urban Development.

(14) "Homeless services budget" means the comprehensive annual budget and overview of all homeless services available in the state described in Subsection 35A-16-203(1)(b).

(15) "Local homeless council" means a local planning body designated by the steering committee to coordinate services for individuals experiencing homelessness within an area of the state.

(16) "Office" means the Office of Homeless Services.

(17) "Residential, vocational and life skills program" means the same as that term is defined in Section 13-53-102.

(18) "Second-tier eligible municipality" means a municipality that:

(a) is located within:

(i) a county of the fourth, fifth, or sixth class; or

(ii) a county of the third class, if the municipality has a population of less than 100,000;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a second-tier eligible municipality in accordance with Section 35A-16-404.

(19) (a) "Service provider" means a state agency, a local government, or a private organization that provides services to clients.

(b) "Service provider" includes a correctional facility and the Administrative Office of the Courts.

(20) "Steering committee" means the Utah Homeless Network Steering Committee created in Section 35A-16-206.

(21) "Strategic plan" means the statewide strategic plan to minimize homelessness in the state described in Subsection 35A-16-203(1)(c).

(22) "Type of homelessness" means:

(a) chronic homelessness;

(b) episodic homelessness;

(c) situational homelessness; or

(d) family homelessness.

Section 97. Section 36-11-102 is amended to read:

36-11-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved activity" means an event, a tour, or a meeting:

(a) (i) to which a legislator or another nonexecutive branch public official is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives or another nonexecutive branch public official; or

(B) the president of the Senate, if the public official is a member of the Senate or another nonexecutive branch public official; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

(4) "Capitol hill complex" means capitol hill, as defined in Section 63O-1-101.

(5) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to social security deductions, including a payment in excess of the maximum amount subject to deduction under social security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(6) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(7) "Education action" means:

(a) a resolution, policy, or other official action for consideration by a board of education;

(b) a nomination or appointment by an education official or a board of education;

(c) a vote on an administrative action taken by a vote of a board of education;

(d) an adjudicative proceeding over which an education official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(8) "Education official" means:

(a) a member of a board of education;

(b) an individual appointed to or employed in a position under a board of education, if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts resolutions or policies or drafts or makes rules;

(iii) determines rates or fees;

(iv) makes decisions relating to an education budget or the expenditure of public money; or

(v) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (8)(a) or (b).

(9) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(10) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(11) (a) "Expenditure" means any of the items listed in this Subsection (11)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (11)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution:

(A) reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, Section 10-3-208, Section [~~17-16-6.5~~]17-70-403, or any applicable ordinance adopted under Subsection 10-3-208(7) or [~~17-16-6.5(1)~~]17-70-403(1); or

(B) lawfully given to a person that is not required to report the contribution under a law or ordinance described in Subsection (11)(b)(ii)(A);

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection (11)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official;

(C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

(D) the item is not food or beverage, has a value of less than $10, and the aggregate daily expenditures do not exceed $10;

(vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:

(A) all members of the Legislature;

(B) all members of a standing or interim committee;

(C) all members of an official legislative task force;

(D) all members of a party caucus; or

(E) all members of a group described in Subsections (11)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;

(vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:

(A) giving a speech at the event, tour, or meeting;

(B) participating in a panel discussion at the event, tour, or meeting; or

(C) presenting or receiving an award at the event, tour, or meeting;

(viii) a plaque, commendation, or award that:

(A) is presented in public; and

(B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;

(ix) a gift that:

(A) is an item that is not consumable and not perishable;

(B) a public official, other than a local official or an education official, accepts on behalf of the state;

(C) the public official promptly remits to the state;

(D) a property administrator does not reject under Section 63G-23-103;

(E) does not constitute a direct benefit to the public official before or after the public official remits the gift to the state; and

(F) after being remitted to the state, is not transferred, divided, distributed, or used to distribute a gift or benefit to one or more public officials in a manner that would otherwise qualify the gift as an expenditure if the gift were given directly to a public official;

(x) any of the following with a cash value not exceeding $30:

(A) a publication; or

(B) a commemorative item;

(xi) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit a contribution that is reportable under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, 2 U.S.C. Sec. 434, Section 10-3-208, Section [~~17-16-6.5~~]17-70-403, or an applicable ordinance adopted under Subsection 10-3-208(7) or [~~17-16-6.5(1)~~]17-70-403(1);

(B) to solicit a campaign contribution that a person is not required to report under a law or ordinance described in Subsection (11)(b)(xi)(A); or

(C) charitable solicitation, as defined in Section 13-22-2;

(xii) travel to, lodging at, food or beverage served at, and admission to an approved activity;

(xiii) sponsorship of an approved activity;

(xiv) notwithstanding Subsection (11)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:

(A) that is sponsored by a governmental entity;

(B) that is widely attended and related to a governmental duty of a public official;

(C) for a local official, that is sponsored by an organization that represents only local governments, including the Utah Association of Counties, the Utah League of Cities and Towns, or the Utah Association of Special Districts; or

(D) for an education official, that is sponsored by a public school, a charter school, or an organization that represents only public schools or charter schools, including the Utah Association of Public Charter Schools, the Utah School Boards Association, or the Utah School Superintendents Association; or

(xv) travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to:

(A) for a public official who is not a local official or an education official, the state; or

(B) for a public official who is a local official or an education official, the local government or board of education to which the public official belongs.

(12) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(13) (a) "Foreign agent" means an individual who engages in lobbying under contract with a foreign government.

(b) "Foreign agent" does not include an individual who is recognized by the United States Department of State as a duly accredited diplomatic or consular officer of a foreign government, including a duly accredited honorary consul.

(14) "Foreign government" means a government other than the government of:

(a) the United States;

(b) a state within the United States;

(c) a territory or possession of the United States; or

(d) a political subdivision of the United States.

(15) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (15)(a)(i) or (ii), when acting in the capacity of the position; or

(iv) an individual appointed to or employed in a full-time position by state government, local government, or a board of education, when acting in the capacity of the individual's appointment or employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(16) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

(17) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

(18) "Lobbying" means communicating with a public official for the purpose of influencing a legislative action, executive action, local action, or education action.

(19) (a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature, a local government, a board of education, or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative action, executive action, local action, or education action;

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature, an agency of the executive branch of state government, a board of education, the governing body of a local government, a committee of a local government, or a committee of a board of education, solely for the purpose of testifying in support of or in opposition to legislative action, executive action, local action, or education action; or

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official's capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

(20) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and government officers, who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(21) "Local action" means:

(a) an ordinance or resolution for consideration by a local government;

(b) a nomination or appointment by a local official or a local government;

(c) a vote on an administrative action taken by a vote of a local government's legislative body;

(d) an adjudicative proceeding over which a local official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(22) "Local government" means:

(a) a county, city, or town;

(b) a special district governed by Title 17B, Limited Purpose Local Government Entities - Special Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

(23) "Local official" means:

(a) an elected member of a local government;

(b) an individual appointed to or employed in a position in a local government if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts ordinances or resolutions or drafts or makes rules;

(iii) determines rates or fees; or

(iv) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (23)(a) or (b).

(24) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(25) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(26) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(27) "Public official" means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions;

(b) an immediate family member of a person described in Subsection (27)(a);

(c) a local official; or

(d) an education official.

(28) "Public official type" means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection (27)(a)(iii);

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection (27)(a)(iii);

(v) a local official, including a description of the type of local government for which the individual is a local official; or

(vi) an education official, including a description of the type of board of education for which the individual is an education official; or

(b) an immediate family member of an individual described in Subsection (27)(a), (c), or (d).

(29) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(30) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(31) "Relative" means:

(a) a spouse;

(b) a child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin; or

(c) a spouse of an individual described in Subsection (31)(b).

(32) "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official's duties.

Section 98. Section 39A-3-111 is amended to read:

39A-3-111

(Effective 11/06/25)

. Military court -- Concurrent prosecutorial jurisdiction with county or district attorney.

(1) The county attorney or district attorney, as appropriate under Sections [~~17-18a-202~~]17-68-302 and [~~17-18a-203~~]17-68-303, of the county where an offense under the Utah Code of Military Justice is committed has concurrent jurisdiction with a military court to prosecute the accused individual at the expense of the county.

(2) Charges regarding the offense may not be filed in a military court until the appropriate county attorney or district attorney has reviewed and declined to prosecute the offense.

Section 99. Section 41-1a-407 is amended to read:

41-1a-407

(Effective 11/06/25)

. Plates issued to political subdivisions or state -- Use of "EX" letters -- Confidential information.

(1) Except as provided in Subsection (2), each municipality, board of education, school district, state institution of learning, county, other governmental division, subdivision, or district, and the state shall:

(a) place a license plate displaying the letters, "EX" on every vehicle owned and operated by it or leased for its exclusive use; and

(b) display an identification mark designating the vehicle as the property of the entity in a conspicuous place on both sides of the vehicle.

(2) The entity need not display the "EX" license plate or the identification mark required by Subsection (1) if:

(a) the vehicle is in the direct service of the governor, lieutenant governor, attorney general, state auditor, or state treasurer of Utah;

(b) the vehicle is used in official investigative work where secrecy is essential;

(c) the vehicle is used in an organized Utah Highway Patrol operation that is:

(i) conducted within a county of the first or second class as [~~defined~~]classified under Section [~~17-50-501~~]17-60-104, unless no more than one unmarked vehicle is used for the operation;

(ii) approved by the Commissioner of Public Safety;

(iii) of a duration of 14 consecutive days or less; and

(iv) targeted toward careless driving, aggressive driving, and accidents involving:

(A) violations of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(B) speeding violations for exceeding the posted speed limit by 21 or more miles per hour;

(C) speeding violations in a reduced speed school zone under Section 41-6a-604;

(D) violations of Section 41-6a-1002 related to pedestrian crosswalks; or

(E) violations of Section 41-6a-702 related to lane restrictions;

(d) the vehicle is provided to an official of the entity as part of a compensation package allowing unlimited personal use of that vehicle;

(e) the personal security of the occupants of the vehicle would be jeopardized if the "EX" license plate were in place; or

(f) the vehicle is used in routine enforcement on a state highway with four or more lanes involving:

(i) violations of Section 41-6a-701 related to operating a vehicle on the right side of a roadway;

(ii) violations of Section 41-6a-702 related to left lane restrictions;

(iii) violations of Section 41-6a-704 related to overtaking and passing vehicles proceeding in the same direction;

(iv) violations of Section 41-6a-711 related to following a vehicle at a safe distance; and

(v) violations of Section 41-6a-804 related to turning and changing lanes.

(3) Plates issued to Utah Highway Patrol vehicles may bear the capital letters "UHP," a beehive logo, and the call number of the trooper to whom the vehicle is issued.

(4) (a) The commission shall issue "EX" and "UHP" plates.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the procedure for application for and distribution of the plates.

(5) For a vehicle that qualifies for an "EX" or "UHP" license plate, the entity is not required to display the month or year registration decal described in Section 41-1a-402.

(6) (a) Information shall be confidential for vehicles that are not required to display the "EX" license plate or the identification mark under Subsections (2)(a), (b), (d), and (e).

(b) (i) If a law enforcement officer's identity must be kept secret, the law enforcement officer's agency head may request in writing that the division remove the license plate information of the officer's personal vehicles from all public access files and place it in a confidential file until the assignment is completed.

(ii) The agency head shall notify the division when the assignment is completed.

(7) A peace officer engaged in an organized operation under Subsection (2)(c) shall be in a uniform clearly identifying the law enforcement agency the peace officer is representing during the operation.

Section 100. Section 41-1a-1320 is amended to read:

41-1a-1320

(Effective 11/06/25)

. Tax clearance required to move manufactured home or mobile home.

(1) A manufactured home or mobile home may not be transported by any person, including its owner, unless a tax clearance has been obtained from the assessor or, if the responsibility to provide a tax clearance has been reassigned under Section [~~17-16-5.5~~]17-74-102, the treasurer of the county in which the real property upon which the manufactured home or mobile home was last located showing that all property taxes, including any interest and penalties, have been paid.

(2) The tax clearance described in Subsection (1):

(a) is proof of having paid all property taxes, interest, and penalties; and

(b) shall be displayed in a conspicuous place on the rear of the manufactured home or mobile home so as to be plainly visible while in transit.

(3) (a) Any person, including the owner, who transports a manufactured home or mobile home without a valid tax clearance is:

(i) in violation of Section 59-2-309; and

(ii) subject to the penalty provisions of Section 59-2-309.

(b) In addition to the penalty provided in Subsection (3)(a), any commercial mover who transports any manufactured home or mobile home without a valid tax clearance is guilty of a class B misdemeanor.

Section 101. Section 46-1-2 is amended to read:

46-1-2

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has admitted, in the presence of the notary, to voluntarily signing a document for the document's stated purpose.

(2) "Before me" means that an individual appears in the presence of the notary.

(3) "Commission" means:

(a) to empower to perform notarial acts; or

(b) the written document that gives authority to perform notarial acts, including the Certificate of Authority of Notary Public that the lieutenant governor issues to a notary.

(4) "Copy certification" means a notarial act in which a notary certifies that a photocopy is an accurate copy of a document that is neither a public record nor publicly recorded.

(5) "Electronic notarization" means:

(a) a remote notarization; or

(b) a notarization:

(i) in an electronic format;

(ii) of a document that may be recorded electronically under Subsection [~~17-21-18.5(5)~~]17-71-402(2); and

(iii) that conforms with rules made under Section 46-1-3.7.

(6) "Electronic recording" means the audio and video recording, described in Subsection 46-1-3.6(3), of a remote notarization.

(7) "Electronic seal" means an electronic version of the seal described in Section 46-1-16, that conforms with rules made under Subsection 46-1-3.7(1)(d), that a notary may attach to a notarial certificate to complete an electronic notarization.

(8) "Electronic signature" means the same as that term is defined in Section 46-4-102.

(9) "In the presence of the notary" means that an individual:

(a) is physically present with the notary in close enough proximity to see and hear the notary; or

(b) communicates with a remote notary by means of an electronic device or process that:

(i) allows the individual and remote notary to communicate with one another simultaneously by sight and sound; and

(ii) complies with rules made under Section 46-1-3.7.

(10) "Jurat" means a notarial act in which a notary certifies:

(a) the identity of a signer who:

(i) is personally known to the notary; or

(ii) provides the notary satisfactory evidence of the signer's identity;

(b) that the signer affirms or swears an oath attesting to the truthfulness of a document; and

(c) that the signer voluntarily signs the document in the presence of the notary.

(11) "Notarial act" or "notarization" means an act that a notary is authorized to perform under Section 46-1-6.

(12) "Notarial certificate" means the affidavit described in Section 46-1-6.5 that is:

(a) a part of or attached to a notarized document; and

(b) completed by the notary and bears the notary's signature and official seal.

(13) (a) "Notary" means an individual commissioned to perform notarial acts under this chapter.

(b) "Notary" includes a remote notary.

(14) "Oath" or "affirmation" means a notarial act in which a notary certifies that a person made a vow or affirmation in the presence of the notary on penalty of perjury.

(15) "Official misconduct" means a notary's performance of any act prohibited or failure to perform any act mandated by this chapter or by any other law in connection with a notarial act.

(16) (a) "Official seal" means the seal described in Section 46-1-16 that a notary may attach to a notarial certificate to complete a notarization.

(b) "Official seal" includes an electronic seal.

(17) "Personally known" means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.

(18) "Remote notarization" means a notarial act performed by a remote notary in accordance with this chapter for an individual who is not in the physical presence of the remote notary at the time the remote notary performs the notarial act.

(19) "Remote notary" means a notary that holds an active remote notary certification under Section 46-1-3.5.

(20) (a) "Satisfactory evidence of identity" means:

(i) for both an in-person and remote notarization, identification of an individual based on:

(A) subject to Subsection (20)(b), valid personal identification with the individual's photograph, signature, and physical description that the United States government, any state within the United States, or a foreign government issues;

(B) subject to Subsection (20)(b), a valid passport that any nation issues; or

(C) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual; and

(ii) for a remote notarization only, a third party's affirmation of an individual's identity in accordance with rules made under Section 46-1-3.7 by means of:

(A) dynamic knowledge-based authentication, which may include requiring the individual to answer questions about the individual's personal information obtained from public or proprietary data sources; or

(B) analysis of the individual's biometric data, which may include facial recognition, voiceprint analysis, or fingerprint analysis.

(b) "Satisfactory evidence of identity," for a remote notarization, requires the identification described in Subsection (20)(a)(i)(A) or passport described in Subsection (20)(a)(i)(B) to be verified through public or proprietary data sources in accordance with rules made under Section 46-1-3.7.

(c) "Satisfactory evidence of identity" does not include:

(i) a driving privilege card under Subsection 53-3-207(12); or

(ii) another document that is not considered valid for identification.

(21) "Signature witnessing" means a notarial act in which an individual:

(a) appears in the presence of the notary and presents a document;

(b) provides the notary satisfactory evidence of the individual's identity, or is personally known to the notary; and

(c) signs the document in the presence of the notary.

Section 102. Section 49-11-623 is amended to read:

49-11-623

(Effective 11/06/25)

. Withdrawing entity -- Participation election date -- Withdrawal costs -- Rulemaking.

(1) As used in this section, "withdrawing entity" means an entity that:

(a) participates in a system or plan under this title prior to July 1, 2014;

(b) provides mental health and substance abuse services for a county under Section [~~17-50-318~~]17-77-103;

(c) after beginning participation with a system or plan under this title, has modified its federal tax status to a nonprofit organization that qualifies under Section 501(c) of the Internal Revenue Code; and

(d) is not a state institution of higher education as described in Section 53B-2-101.

(2) Notwithstanding any other provision of this title, a withdrawing entity may provide for the participation of its employees with that system or plan as follows:

(a) the withdrawing entity shall determine a date that is no later than January 1, 2017, on which the withdrawing entity shall make an election under Subsection (3); and

(b) subject to the provisions of Subsection (6), the withdrawing entity shall pay to the office any reasonable actuarial and administrative costs determined by the office to have arisen out of an election made under this section, including an actuarially determined short-fall liability contribution and a contingency payment to provide financial protection to the remaining participating employers.

(3) The withdrawing entity described under Subsection (2) may elect to:

(a) (i) continue its participation for all current employees of the withdrawing entity, who are covered by a system or plan as of the date set under Subsection (2)(a); and

(ii) withdraw from participation in all systems or plans for all persons initially entering employment with the withdrawing entity, beginning on the date set under Subsection (2)(a); or

(b) withdraw from participation in all systems or plans for all current and future employees of the withdrawing entity, beginning on the date set under Subsection (2)(a).

(4) (a) An election provided under Subsection (3):

(i) is a one-time election made no later than the date specified under Subsection (2)(a);

(ii) shall be documented by a resolution adopted by the governing body of the withdrawing entity;

(iii) is irrevocable; and

(iv) applies to the withdrawing entity as the employer and to all employees of the withdrawing entity.

(b) Notwithstanding an election made under Subsection (3), any eligibility for service credit earned by an employee under this title before the date specified under Subsection (2)(a) is not affected by this section.

(5) If a withdrawing entity elects to continue participation under Subsection (3), the withdrawing entity shall continue to be subject to the laws and the rules governing the system or plan in which an employee participates, including the accrual of service credit and payment of contributions.

(6) Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on:

(a) the costs described under Subsection (2)(b); and

(b) arrangements for the payment of the costs described under Subsection (2)(b).

(7) The board shall make rules to implement this section.

Section 103. Section 51-2a-401 is amended to read:

51-2a-401

(Effective 11/06/25)

. Prohibiting access to and withholding funds from an entity that does not comply with the accounting report requirements.

(1) If a political subdivision, interlocal organization, or other local entity does not comply with the accounting report requirements of Section 51-2a-201, the state auditor may:

(a) withhold allocated state funds to pay the cost of the accounting report, in accordance with Subsection (2); or

(b) prohibit financial access, in accordance with Subsection (3).

(2) (a) If the state auditor does not prohibit financial access in accordance with Subsection (3), the state auditor may withhold allocated state funds sufficient to pay the cost of the accounting report from any local entity described in Subsection (1).

(b) If no allocated state funds are available for withholding, the local entity shall reimburse the state auditor for any cost incurred in completing the accounting reports required under Section 51-2a-402.

(c) The state auditor shall release the withheld funds if the local entity meets the accounting report requirements either voluntarily or by action under Section 51-2a-402.

(3) (a) If the state auditor does not withhold funds in accordance with Subsection (2), the state auditor may prohibit any local entity described in Subsection (1) from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the entity access to the account.

(b) The state auditor shall remove the prohibition on accessing funds described in Subsection (3)(a) if the local entity meets the accounting report requirements either voluntarily or by action under Section 51-2a-402.

(4) After receiving a report from the Office of Legislative Fiscal Analyst under Section [~~17-31-5.5~~]17-78-704 indicating that a county is not expending revenue in accordance with the requirements of Sections [~~17-31-2~~]17-78-702, 59-12-301, and 59-12-603, the state auditor:

(a) shall make an independent finding about the county's written report described in [~~Subsection 17-31-5.5(1)~~]Section 17-78-704; and

(b) if the state auditor confirms the determination of the Office of Legislative Fiscal Analyst, may take the action described in Subsection (3) in regard to revenue generated by the county's imposition of a transient room tax under Section 59-12-301 or the imposition of a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603.

Section 104. Section 51-7-15 is amended to read:

51-7-15

(Effective 11/06/25)

. Crime insurance for state treasurer and other public treasurers -- Reports to council.

(1) (a) The state treasurer, county, city, and town treasurers, the clerk or treasurer of each school district, and other public treasurers that the council designates by rule shall obtain crime insurance as described in Section [~~17-16-11~~]17-66-105 in an amount of not less than that established by the council.

(b) The council shall base the minimum crime insurance coverage amount as described in Section [~~17-16-11~~]17-66-105 on the amount of public funds normally in the treasurer's possession or control.

(2) (a) A public treasurer shall file a written report with the council on or before January 31 and July 31 of each year.

(b) The report shall contain:

(i) the information about the deposits and investments of that public treasurer during the preceding six months ending December 31 and June 30, respectively, that the council requires by rule; and

(ii) information detailing the nature and extent of interest rate contracts permitted by Subsection 51-7-17(3).

(c) A public treasurer shall make copies of the report available to the public at the public treasurer's office during normal business hours.

Section 105. Section 51-9-408 is amended to read:

51-9-408

(Effective 11/06/25)

. Children's Legal Defense Account.

(1) There is created a restricted account within the General Fund known as the Children's Legal Defense Account.

(2) The purpose of the Children's Legal Defense Account is to provide for programs that protect and defend the rights, safety, and quality of life of children.

(3) (a) The Legislature shall appropriate money from the account for the administrative and related costs of the following programs:

(i) implementing the mandatory courses described in Sections 81-4-105 and 81-9-103 and the mediation program for child custody or parent-time;

(ii) implementing the use of guardians ad litem in accordance with Sections 78A-2-703, 78A-2-705, 78A-2-803, and 78B-3-102;

(iii) the training of attorney guardians ad litem and volunteers as provided in Section 78A-2-803;

(iv) implementing and administering the Expedited Parent-time Enforcement Program as provided in Section 81-9-102; and

(v) implementing and administering the Divorce Education for Children Program.

(b) The Children's Legal Defense Account may not be used to supplant funding for the guardian ad litem program under Section 78A-2-803.

(4) The following withheld fees shall be allocated only to the Children's Legal Defense Account and used only for the purposes provided in Subsections (3)(a)(i) through (v):

(a) the additional $10 fee withheld on every marriage license issued in the state of Utah as provided in Section [~~17-16-21~~]17-66-303; and

(b) a fee of $4 shall be withheld from the existing civil filing fee collected on any complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

(5) The Division of Finance shall allocate the money described in Subsection (4) from the General Fund to the Children's Legal Defense Account.

(6) Any funds in excess of $200,000 remaining in the restricted account as of June 30 of any fiscal year shall lapse into the General Fund.

Section 106. Section 52-3-1 is amended to read:

52-3-1

(Effective 11/06/25)

. Employment of relatives and household members prohibited -- Exceptions.

(1) As used in this chapter:

(a) "Appointee" means an employee whose salary, wages, pay, or compensation is paid from public funds.

(b) "Chief administrative officer" means the person who has ultimate responsibility for the operation of the department or agency of the state or a political subdivision.

(c) "Household member" means a person who resides in the same residence as the public officer.

(d) "Public officer" means a person who holds a position that is compensated by public funds.

(e) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(2) (a) A public officer may not employ, appoint, or vote for or recommend the appointment of an appointee when the appointee will be directly supervised by a relative or household member, unless:

(i) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of the appointee's compliance with civil service or merit system laws or regulations;

(ii) the appointee will be compensated from funds designated for vocational training;

(iii) the appointee will be employed for a period of 12 weeks or less;

(iv) the appointee is a volunteer as defined by the employing entity; or

(v) the chief administrative officer determines that the appointee is the only or best person available, qualified, or eligible for the position.

(b) A public officer may not directly supervise an appointee who is a relative or household member of the public officer, unless:

(i) the appointee was appointed or employed before the public officer assumed the public officer's supervisory position, if the appointee's appointment did not violate the provisions of this chapter in effect at the time of the appointee's appointment;

(ii) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of the appointee's compliance with civil service or merit system laws or regulations;

(iii) the appointee will be compensated from funds designated for vocational training;

(iv) the appointee will be employed for a period of 12 weeks or less;

(v) the appointee is a volunteer as defined by the employing entity;

(vi) the appointee is the only person available, qualified, or eligible for the position; or

(vii) the chief administrative officer determines that the public officer is the only individual available or best qualified to perform supervisory functions for the appointee.

(c) When a public officer supervises a relative or household member under Subsection (2)(b):

(i) the public officer shall immediately submit a complete written disclosure of the public officer's relationship with the relative or household member:

(A) for a public officer subject to the requirements of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, in the same manner the public officer is required to make a disclosure under Section 67-16-7;

(B) for a public officer subject to the requirements of [~~Title 17, Chapter 16a, County Officers and Employees Disclosure Act~~]Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers, in the same manner the public officer is required to make a disclosure under Section [~~17-16a-6~~]17-70-505; and

(C) for a public officer subject to the requirements of Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act, in the same manner the public officer is required to make a disclosure under Section 10-3-1306; and

(ii) the public officer may not evaluate the job performance of or recommend salary increases for the relative or household member.

(d) A disclosure submitted under this Subsection (2) is public, and the person or entity with which the public officer files the disclosure shall make the disclosure available for public inspection.

(3) An appointee may not accept or retain employment if accepting or retaining employment will place the appointee under the direct supervision of a relative or household member unless:

(a) the relative or household member was appointed or employed before the appointee assumed the appointee's position, if the appointment of the relative or household member did not violate the provisions of this chapter in effect at the time of the appointment;

(b) the appointee was or is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of the appointee's compliance with civil service or merit system laws or regulations;

(c) the appointee is the only person available, qualified, or eligible for the position;

(d) the appointee is employed for a period of 12 weeks or less;

(e) the appointee is a volunteer as defined by the employing entity; or

(f) the chief administrative officer determines that the appointee's relative or household member is the only individual available or qualified to supervise the appointee.

Section 107. Section 52-6-102 is amended to read:

52-6-102

(Effective 11/06/25)

. Definitions.

As used in this act:

(1) "Local attorney" means:

(a) a county attorney or district attorney, as described in [~~Title 17, Chapter 18a, Powers and Duties of County and District Attorney~~]Title 17, Chapter 68, County and District Attorney; or

(b) a city attorney under Section 10-3-928.

(2) "Officer or employee" means any individual who at the time of an event giving rise to a claim under this act is or was elected or appointed to or employed by a public entity, whether or not compensated, but does not include an independent contractor.

(3) "Public entity" means the state or any political subdivision of it or any office, department, division, board, agency, commission, council, authority, institution, hospital, school, college, university, or other instrumentality of the state or any such political subdivision.

Section 108. Section 53-2a-605 is amended to read:

53-2a-605

(Effective 11/06/25)

. Local government disaster funds.

(1) (a) Subject to this section and notwithstanding anything to the contrary contained in Title 10, Utah Municipal Code, or Title 17, Counties, Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Chapter 1, Special Service District Act, the governing body of a local government may create and maintain by ordinance a special fund known as a local government disaster fund.

(b) The local fund shall consist of:

(i) subject to the limitations of this section, money transferred to it in accordance with Subsection (2);

(ii) any other public or private money received by the local government that is:

(A) given to the local government for purposes consistent with this section; and

(B) deposited into the local fund at the request of:

(I) the governing body of the local government; or

(II) the person giving the money; and

(iii) interest or income realized from the local fund.

(c) Interest or income realized from the local fund shall be deposited into the local fund.

(d) Money in a local fund may be:

(i) deposited or invested as provided in Section 51-7-11; or

(ii) transferred by the local government treasurer to the Public Treasurers' Investment Fund as defined in Section 51-7-3.

(e) (i) The money in a local fund may accumulate from year to year until the local government governing body determines to spend any money in the local fund for one or more of the purposes specified in Subsection (3).

(ii) Money in a local fund at the end of a fiscal year:

(A) shall remain in the local fund for future use; and

(B) may not be transferred to any other fund or used for any other purpose.

(2) The amounts transferred to a local fund may not exceed 10% of the total estimated revenues of the local government for the current fiscal period that are not restricted or otherwise obligated.

(3) Money in the fund may only be used to fund the services and activities of the local government creating the local fund in response to:

(a) a declared disaster within the boundaries of the local government;

(b) the aftermath of the disaster that gave rise to a declared disaster within the boundaries of the local government; and

(c) subject to Subsection (5), emergency preparedness.

(4) (a) A local fund is subject to this part and:

(i) in the case of a town, Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, except that:

(A) in addition to the funds listed in Section 10-5-106, the mayor shall prepare a budget for the local fund;

(B) Section 10-5-119 addressing termination of special funds does not apply to a local fund; and

(C) the council of the town may not authorize an interfund loan under Section 10-5-120 from the local fund;

(ii) in the case of a city, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, except that:

(A) in addition to the funds listed in Section 10-6-109, the mayor shall prepare a budget for the local fund;

(B) Section 10-6-131 addressing termination of special funds does not apply to a local fund; and

(C) the governing body of the city may not authorize an interfund loan under Section 10-6-132 from the local fund;

(iii) in the case of a county, [~~Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties~~]Title 17, Chapter 63, Fiscal Authority and Processes, except that:

(A) Section [~~17-36-29~~]17-63-808 addressing termination of special funds does not apply to a local fund; and

(B) the governing body of the county may not authorize an interfund loan under Section [~~17-36-30~~]17-63-809 from the local fund;

(iv) in the case of a special district or special service district, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, except that:

(A) Section 17B-1-625, addressing termination of a special fund, does not apply to a local fund; and

(B) the governing body of the special district or special service district may not authorize an interfund loan under Section 17B-1-626 from the local fund; and

(v) in the case of an interlocal entity, Title 11, Chapter 13, Part 5, Fiscal Procedures for Interlocal Entities, except for the following provisions:

(A) Section 11-13-522 addressing termination of a special fund does not apply to a local fund; and

(B) the governing board of the interlocal entity may not authorize an interfund loan under Section 11-13-523 from the local fund.

(b) Notwithstanding Subsection (4)(a), transfers of money to a local fund or the accumulation of money in a local fund do not affect any limits on fund balances, net assets, or the accumulation of retained earnings in any of the following of a local government:

(i) a general fund;

(ii) an enterprise fund;

(iii) an internal service fund; or

(iv) any other fund.

(5) (a) A local government may not expend during a fiscal year more than 10% of the money budgeted to be deposited into a local fund during that fiscal year for emergency preparedness.

(b) The amount described in Subsection (5)(a) shall be determined before the adoption of the tentative budget.

Section 109. Section 53-2d-402 is amended to read:

53-2d-402

(Effective 11/06/25)

. Licensure of emergency medical service personnel.

(1) To promote the availability of comprehensive emergency medical services throughout the state, the bureau shall establish:

(a) initial and ongoing licensure and training requirements for emergency medical service personnel in the following categories:

(i) paramedic;

(ii) advanced emergency medical services technician;

(iii) emergency medical services technician;

(iv) emergency medical responder;

(v) behavioral emergency services technician; and

(vi) advanced behavioral emergency services technician;

(b) a method to monitor the certification status and continuing medical education hours for emergency medical dispatchers; and

(c) guidelines for giving credit for out-of-state training and experience.

(2) The bureau shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel;

(b) issue a license and license renewals to emergency medical service personnel other than emergency medical dispatchers; and

(c) verify the certification of emergency medical dispatchers.

(3) The bureau shall coordinate with local mental health authorities described in Section [~~17-43-301~~]17-77-301 to develop and authorize initial and ongoing licensure and training requirements for licensure as a:

(a) behavioral emergency services technician; and

(b) advanced behavioral emergency services technician.

(4) As provided in Section 53-2d-602, an individual issued a license or certified under this section may only provide emergency medical services to the extent allowed by the license or certification.

(5) An individual may not be issued or retain a license under this section unless the individual obtains and retains background clearance under Section 53-2d-410.

(6) An individual may not be issued or retain a certification under this section unless the individual obtains and retains background clearance in accordance with Section 53-2d-410.5.

Section 110. Section 53-13-105 is amended to read:

53-13-105

(Effective 11/06/25)

. Special function officer.

(1) (a) "Special function officer" means a sworn and certified peace officer performing specialized investigations, service of legal process, security functions, or specialized ordinance, rule, or regulatory functions.

(b) "Special function officer" includes:

(i) state military police;

(ii) constables;

(iii) port-of-entry agents as defined in Section 72-1-102;

(iv) authorized employees or agents of the Department of Transportation assigned to administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;

(v) school district security officers;

(vi) Utah State Hospital security officers designated pursuant to Section 26B-5-303;

(vii) Utah State Developmental Center security officers designated pursuant to Section 26B-6-506;

(viii) fire arson investigators for any political subdivision of the state;

(ix) ordinance enforcement officers employed by municipalities or counties may be special function officers;

(x) employees of the Department of Natural Resources who have been designated to conduct supplemental enforcement functions as a collateral duty;

(xi) railroad special agents deputized by a county sheriff under Section [~~17-30-2 or 17-30a-104,~~]17-76-202 or 17-76-303 or appointed [~~pursuant to~~]under Section 56-1-21.5;

(xii) auxiliary officers, as described by Section 53-13-112;

(xiii) special agents, process servers, and investigators employed by city attorneys;

(xiv) criminal tax investigators designated under Section 59-1-206; and

(xv) all other persons designated by statute as having special function officer authority or limited peace officer authority.

(2) (a) A special function officer may exercise that spectrum of peace officer authority that has been designated by statute to the employing agency, and only while on duty, and not for the purpose of general law enforcement.

(b) If the special function officer is charged with security functions respecting facilities or property, the powers may be exercised only in connection with acts occurring on the property where the officer is employed or when required for the protection of the employer's interest, property, or employees.

(c) A special function officer may carry firearms only while on duty, and only if authorized and under conditions specified by the officer's employer or chief administrator.

(3) (a) A special function officer may not exercise the authority of a special function officer until:

(i) the officer has satisfactorily completed an approved basic training program for special function officers as provided under Subsection (4); and

(ii) the chief law enforcement officer or administrator has certified this fact to the director of the division.

(b) City and county constables and their deputies shall certify their completion of training to the legislative governing body of the city or county they serve.

(4) (a) The agency that the special function officer serves may establish and maintain a basic special function course and in-service training programs as approved by the director of the division with the advice and consent of the council.

(b) The in-service training shall consist of no fewer than 40 hours per year and may be conducted by the agency's own staff or by other agencies.

(5) (a) An individual shall be 19 years old or older before being certified or employed as a special function officer.

(b) A special function officer who is under 21 years old may only work as a correctional officer in accordance with Section 53-13-104.

Section 111. Section 53-30-101 is amended to read:

53-30-101

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Applicant" means an individual who submits an application for certification.

(2) "Application for certification" means an application described in Subsection 53-29-201(1).

(3) "Certifying officer" means the commissioner or an individual the commissioner designates to certify an application for certification.

(4) "Credible threat" means a threat to cause death or serious bodily injury that a state or federal law enforcement agency has confirmed to be authentic.

(5) "Easement holder" means the same as that term is defined in Section 57-13c-101.

(6) "Improvement" means the same as that term is defined in Section 78B-2-225.

(7) "Land use authority" means:

(a) with respect to protected property located within a municipality, the same as that term is defined in Section [~~10-9a-103~~]10-20-102; or

(b) with respect to protected property located within an unincorporated area of a county, the same as that term is defined in Section [~~17-27a-103~~]17-79-102.

(8) "Protected person" means an individual who:

(a) within the four years preceding the day on which the individual submits an application for certification:

(i) received a credible threat; or

(ii) was physically harmed; and

(b) is at risk of serious bodily injury or death caused by:

(i) the individual who made the credible threat described in Subsection (8)(a)(i) or caused the physical harm described in Subsection (8)(a)(ii); or

(ii) an individual affiliated with the individual who made the credible threat described in Subsection (8)(a)(i) or caused the physical harm described in Subsection (8)(a)(ii).

(9) "Protected property" means real property that is owned or occupied by a protected person.

(10) "Protection certificate" means a written determination described in Subsection 53-29-201(4).

(11) (a) "Security improvement" means an improvement that:

(i) is intended to provide protection for a protected person, or a protected person's immediate family member living at the same residence as the protected person, from the risk of death or serious bodily injury caused by an individual who made a credible threat or caused physical harm to the protected person;

(ii) is constructed within the boundaries of protected property; and

(iii) does not interfere with another property owner's property right.

(b) "Security improvement" includes an improvement described in Subsection (11)(a) that provides safe egress from, or safety within, the protected property, including an underground improvement or an improvement that runs below an easement if the improvement does not damage or interfere with the purpose or use of the easement.

Section 112. Section 53-31-101 is amended to read:

53-31-101

(Effective 11/06/25)

. Definitions.

As used in this chapter, "county of the first class" means a county that is classified by population as a county of the first class under Section [~~17-50-501~~]17-60-104.

Section 113. Section 53F-2-304 is amended to read:

53F-2-304

(Effective 11/06/25)

. Weighted pupil units for students in rural school districts and necessarily existent small schools.

(1) As used in this section:

(a) "Necessarily existent small school" means a school that:

(i) is located in an area with a National Center for Education Statistics locale code of 33 or higher;

(ii) is located more than 10 miles from an area with a National Center for Education Statistics locale code of 21 or less;

(iii) is not an online school, specialty school, technical school, alternative school, or charter school; and

(iv) has an average daily membership less than or equal to:

(A) 27 in any individual grade band kindergarten through 6; or

(B) 125 in any individual grade band 7 through 12.

(b) "Scale of operations" means a cost function analysis conducted by the state board to determine the relative higher cost of providing educational services for students enrolled in smaller school districts when compared to larger school districts.

(2) (a) The state board shall adopt a formula to calculate additional weighted pupil units using a two-factor distribution described in Subsection (2)(b).

(b) The two-factor distribution shall be the sum of a scale of operations weighting and a rural-school weighting as follows:

(i) a scale of operations weighting that provides up to 1.5 weighted pupil units based on the cost function analysis the state board conducts and for each student enrolled in:

(A) a school district in a county of the fourth, fifth, or sixth class as [~~described~~]classified in Section [~~17-50-501~~]17-60-104; or

(B) a school district in a county of the third class as [~~described~~]classified in Section [~~17-50-501~~]17-60-104 with fewer than 2,000 students; and

(ii) a rural-school weighting for each necessarily existent small school that provides weighted pupil units for each grade band from kindergarten to grade 6 offered:

(A) with five or fewer students, a base of nine weighted pupil units;

(B) for each student above five students but fewer than 12 students, one additional weighted pupil unit for each additional student above five; and

(C) for each student above 12 students, one less weighted pupil unit for each additional student; and

(iii) a rural-school weighting for each necessarily existent small school that provides weighted pupil units for each grade band from grade 7 to grade 12 offered:

(A) with five or fewer students, a base of nine weighted pupil units;

(B) for each student above five students but fewer than 61 students, one additional weighted pupil unit for each additional student above five;

(C) for each student above 61 students, one less weighted pupil unit for each additional student; and

(D) for each necessarily existent small school with 15 or fewer students, the state board may provide the base level of nine weighted pupil units for each grade band offered.

(c) If any grade band under Subsection (2)(b) generates negative weighted pupil units, the weighted pupil units for that grade band shall be zero.

(d) The funding for a student who falls within the weighting factors described in Subsections (2)(b)(i) and (2)(b)(ii) shall be computed under both weighting factors.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to:

(a) establish the formula described in Subsection (2) including the scale of weighted pupil units described in Subsection (2)(b)(i) by:

(i) conducting a cost function analysis measuring the scale of operations weighting including factors identified by the state board for each small and rural school district compared to all school districts;

(ii) determining a weighting relative to the cost function prediction for each school district that is above the minimum prediction for all school districts;

(iii) establishing a percentile cutoff for a full weighted pupil unit that:

(A) provides a full weighting for districts enrolling fewer than 1,100 students; and

(B) provides no scale of operations weighting described in Subsection (2)(b)(i) for school districts enrolling greater than seven times the full-weight cutoff; and

(iv) based on the cost function analysis, establishing a gradually reduced weighted pupil unit for each school district above the percentile cutoff established;

(b) establish a timeline for the distribution of funds to school districts provided under this section; and

(c) for fiscal year 2030 and subsequently each fifth fiscal year:

(i) revise the:

(A) scale of operations weightings;

(B) county classifications; and

(C) relevant National Center for Education Statistics locale codes; and

(ii) report the results to the Public Education Appropriations Subcommittee by October 1 of the relevant fiscal years including

recommendations for any change to the scale of operations or rural-school weightings for each school district.

(4) A local school board shall use money distributed under this section to effectively operate schools in remote areas of the state and with low student populations.

(5) If an allocation under this section to a school district would be less than the allocation the school district received for necessarily existent small schools in the 2025 fiscal year, the Executive Appropriations Committee shall:

(a) include a one-time appropriation in the public education budget to provide the 2025 fiscal year amount to the school district in the 2026 fiscal year; and

(b) decrease the amount described in Subsection (5)(a) to zero in the 2027 fiscal year.

(6) During each five year review described in Subsection (3)(c):

(a) if a school or school district no longer qualifies under the criteria described in Subsection (2), the state board shall:

(i) review the conditions causing the school or school district to no longer qualify;

(ii) if the school or school district has an average daily membership increase of no more than 10% over the preceding five years, allow the school or school district to remain eligible for funding in an amount that is at least equivalent to the amount the school or school district received in the current fiscal year under this section; and

(iii) if the school or school district has an average daily membership increase of more than 10% but less than 30% over the preceding five years, make recommendations to the Public Education Appropriations Subcommittee regarding an extension of the funding received under this section; and

(b) if a school district is receiving an extension of funds as described in this Subsection (6), the state board shall:

(i) review the necessity and impacts of continued eligibility; and

(ii) make recommendations to the Public Education Appropriations Subcommittee regarding the renewal of eligibility.

(7) If, after the review described in Subsection (6), a school or school district no longer qualifies for funding under this section, the Executive Appropriations Committee shall:

(a) include a one-time appropriation in the public education budget to provide the same amount of funding the school district received in the preceding fiscal year; and

(b) decrease the amount to zero in the next fiscal year.

(8) (a) A school district that intends to split a school that qualifies as a necessarily existent small school or has qualified as a necessarily existent small school within the past five years shall submit a proposal to the state board for review and approval.

(b) The school district proposal shall include:

(i) the current enrollment and projected enrollment for the next five years for the existing school and the proposed new school;

(ii) a detailed explanation of the educational and operational reasons for the proposed split;

(iii) an analysis of the financial impact on the district and the state, including any changes in necessarily existent small school funding that would result from the split;

(iv) a plan for ensuring that educational quality will be maintained or improved in both the existing and new school; and

(v) any other information requested by the state board.

(c) The state board shall review the proposal and may:

(i) approve the proposal if the state board determines that the split is educationally and operationally necessary and not primarily motivated by financial considerations related to necessarily existent small school funding;

(ii) deny the proposal if the state board determines that the split is unnecessary or primarily motivated by financial considerations related to necessarily existent small school funding; or

(iii) request additional information or modifications to the proposal before making a final decision.

(d) If the state board approves the proposal, the state board shall submit a report to the Public Education Appropriations Subcommittee, which shall include:

(i) summary of the approved proposal;

(ii) the state board's rationale for approving the proposal; and

(iii) any recommended changes to necessarily existent small school funding allocations resulting from the approved split.

(e) The Public Education Appropriations Subcommittee shall review the state board's report and may:

(i) approve the funding changes recommended by the state board;

(ii) modify the funding changes; or

(iii) deny the funding changes and require the school district to maintain the current funding allocation.

(f) (i) Subject to Subsection (8)(f)(ii), a school district may split a school that qualifies as a necessarily existent small school or has qualified as a necessarily existent small school within the past five years without submitting a proposal as described in this Subsection (8).

(ii) If a school district proceeds with splitting a necessarily existent small school without applying for or receiving approval from both the state board and the Public Education Appropriations Subcommittee, the schools created from the split may not qualify as necessarily existent small schools.

(g) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) the timeline and procedures for submitting and reviewing proposals;

(ii) criteria for evaluating the necessity and appropriateness of proposed school splits;

(iii) requirements for post-approval monitoring and reporting by a school district that has split a necessarily existent small school; and

(iv) any other provisions necessary to implement this subsection.

Section 114. Section 53F-2-520 is amended to read:

53F-2-520

(Effective 11/06/25)

. Rural school transportation reimbursement.

(1) As used in this section:

(a) "Eligible LEA" means a school district or a charter school:

(i) that is located in a county of the fourth, fifth, or sixth class, as [~~defined in~~]classified under Section [~~17-50-501~~]17-60-104; and

(ii) in which:

(A) for a fiscal year other than fiscal year 2021 or 2022, at least 65% of the students enrolled in the school district or charter school qualify for free or reduced price lunch; or

(B) for fiscal year 2021 or 2022, at least 65% of the students enrolled in the school district or charter school qualified for free or reduced price lunch in fiscal year 2019.

(b) "Eligible school" means a school:

(i) in an eligible LEA; and

(ii) that the eligible LEA has provided transportation to and from for a regular school day for students for at least five years.

(c) "LEA governing board" means:

(i) the local school board of a school district that is an eligible LEA; or

(ii) the charter school governing board of a charter school that is an eligible LEA.

(2) An LEA governing board may annually submit a request to the state board to receive reimbursement for an expense that:

(a) the LEA governing board incurs transporting a student to or from an eligible school for the regular school day; and

(b) the LEA governing board does not pay using state funding for pupil transportation described in Section 53F-2-402 or 53F-2-403.

(3) (a) Subject to legislative appropriations, and except as provided in Subsection (3)(b), the state board shall reimburse an LEA governing board for an expense included in a request described in Subsection (2).

(b) If the legislative appropriation for this section is insufficient to fund an expense in a request received under Subsection (2), the state board may reduce an LEA governing board's reimbursement in accordance with the rules described in Subsection (4).

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:

(a) requirements for information an LEA governing board shall include in a reimbursement request described in Subsection (2);

(b) a deadline by which an LEA governing board shall submit a request described in Subsection (2); and

(c) a formula for reducing an LEA governing board's allocation under Subsection (3).

(5) Nothing in this section affects a school district's allocation for pupil transportation under Sections 53F-2-402 and 53F-2-403.

Section 115. Section 53F-10-303 is amended to read:

53F-10-303

(Effective 11/06/25)

. Rural School Sports Facilities Grant Program.

(1) As used in this section:

(a) "Eligible school" means a public school within a school district:

(i) located in a county of the fourth, fifth, or sixth class, as defined in Section [~~17-50-501~~]17-60-104; or

(ii) with fewer than 3,000 students enrolled in the school district.

(b) "Program" means the Rural School Sports Facilities Grant Program created in Subsection (2).

(c) "Sports facility" means an indoor or outdoor facility primarily designed and used for athletic activities, physical education, or school-sponsored sports programs.

(2) There is created the Rural School Sports Facilities Grant Program to provide funding to an eligible school for the construction or refurbishment of a sports facility.

(3) The state board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:

(i) create an application process for a school district to apply for program funds;

(ii) select a school to receive program funds in accordance with Subsection (3)(b); and

(iii) establish a system to distribute program funds to a school the state board selects to receive program funds through the program; and

(b) subject to legislative appropriations, prioritize applications and distribute program funds to an eligible school based on:

(i) the greatest need for program funds;

(ii) the financial feasibility of a sports facility construction or refurbishment project; and

(iii) the potential benefit program funds may have on the community.

(4) (a) A school district with jurisdiction over an eligible school may submit an application to receive program funds under this section.

(b) In the school district's application, the school district shall:

(i) identify an eligible school within the school district that wishes to receive program funds;

(ii) evidence the need for construction or refurbishment of a sports facility;

(iii) describe the proposed sports facility project; and

(iv) estimate a budget and timeline for the completion of the sports facility project.

(5) A school district to which the state board awards program funds shall submit a report to the state board, by December 31 each year while construction is ongoing, detailing:

(a) how a school is using program funds to complete the sports facility project;

(b) budget and timeline updates related to the construction or refurbishment of the sports facility; and

(c) the progress of the construction or refurbishment of a sports facility.

(6) Subject to legislative appropriations, the state board may award up to $500,000 to each eligible school the state board selects under the program.

(7) Upon request of the Education Interim Committee, the state board shall report to the Education Interim Committee on:

(a) the number of applications the state board accepts;

(b) the dollar amount of program funds the state board awards under this section;

(c) the implementation of the program; and

(d) the use of program funds.

Section 116. Section 53G-3-102 is amended to read:

53G-3-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Allocation date" means:

(a) July 1 of the second calendar year following the local school board election date as described in Section 53G-3-302; or

(b) another date to which the new local school board and reorganized school board agree.

(2) "Creation date" means the date on which voters approve the creation of a new school district under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4.

(3) "Divided school district" means:

(a) an existing school district from which a new school district is created under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4; and

(b) an existing school district from which a reorganized new school district is created.

(4) "Feasibility study" means a study:

(a) that one of the following conducts:

(i) a school district, municipal legislative body, or interlocal agreement participants; or

(ii) the Office of the Legislative Auditor General, subject to prioritization by the Legislative Audit Subcommittee; and

(b) to determine:

(i) the financial viability for a new school district and reorganized new school district that is contained within the boundaries of a divided school district;

(ii) the financial impact on a new school district and reorganized new school district that is contained within the boundaries of a divided school district; and

(iii) the impact of the tax burden on taxpayers within the boundaries of the proposed new school district.

(5) "Interlocal agreement participant" means a public agency, as that term is defined in Section 11-13-103, that enters into an agreement with one or more other public agencies for the purpose described in and in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(6) "Isolated area" means an area that:

(a) is entirely within the boundaries of an existing school district;

(b) is contiguous to the proposed new school district;

(c) has a combined student population of fewer than 5,000 students; and

(d) because of the creation of a new school district from the existing district in which the area is located, would become completely geographically isolated.

(7) "Municipality" means the same as that term is defined in Section 10-1-104.

(8) "New school district" means a school district created under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4.

(9) "Public hearing" means the same as that term is defined in Section [~~10-9a-103~~]10-20-102.

(10) "Reorganized new school district" means the remaining portion of the divided school district after voters approve the creation of a new school district under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4, when:

(a) the entire geographical area of the reorganized new school district is not included in a proposal for the new school district; or

(b) the entire geographical area of the reorganized new school district is:

(i) included in a proposal for a new school district that voters do not approve; and

(ii) within the boundaries of an existing district that contains an area that is included in the new district for which voters approve the creation.

Section 117. Section 53G-3-202 is amended to read:

53G-3-202

(Effective 11/06/25)

. School districts independent of municipal and county governments -- School district name -- Control of property.

(1) (a) Each school district, including a new school district or a reorganized new school district upon the election of the local school board, is:

(i) under the control of the district's local school board; and

(ii) independent of municipal and county governments.

(b) The name of each school district created after May 1, 2000, including a reorganized new school district, shall:

(i) comply with Section [~~17-50-103~~]17-60-103; and

(ii) be a name:

(A) that the local school board of the relevant new school district or reorganized new school district selects; and

(B) that another school district has not previously chosen and recorded.

(2) The local school board:

(a) except as provided in Subsection 53G-3-302(6), has direction and control of all school property in the district; and

(b) may enter into cooperative agreements with other local school boards to provide educational services that best use resources for overall operation of the public school system.

(3) (a) On or before 60 days following the day on which the creation of a new school district occurs under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4, and in accordance with Section 67-1a-15, the following shall register a new school district as a limited purpose entity:

(i) the municipal legislative body of the municipality in which the boundaries for the new school district are entirely located; or

(ii) the legislative body of interlocal agreement participants in which the new school district is located.

(b) Each school district shall maintain the school district's registration as a limited purpose entity in accordance with Section 67-1a-15.

(c) A school district that fails to comply with Subsections (3)(a) and (b) or Section 67-1a-15 is subject to enforcement by the state auditor in accordance with Section 67-3-1.

Section 118. Section 53G-3-203 is amended to read:

53G-3-203

(Effective 11/06/25)

. Filing of notice and plat relating to school district boundary changes including creation, consolidation, division, or dissolution -- Recording requirements -- Effective date.

(1) The county legislative body shall, within 30 days following the day on which the creation, consolidation, division, or dissolution of a school district occurs, file with the lieutenant governor:

(a) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(b) except in the case of a dissolution, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(2) The county legislative body, upon the lieutenant governor's issuance of a certificate of boundary action under Section 67-1a-6.5, shall:

(a) if the school district is or, in the case of dissolution, was located within the boundary of a single county, submit to the recorder of that county:

(i) the original:

(A) notice of an impending boundary action;

(B) certificate of boundary action; and

(C) except in the case of dissolution, approved final local entity plat; and

(ii) if applicable, a certified copy of the resolution approving the boundary action; or

(b) if the school district is or, in the case of a dissolution, was located within the boundaries of more than a single county:

(i) submit to the recorder of one of those counties:

(A) the original of the documents listed in Subsection (2)(a)(i); and

(B) if applicable, a certified copy of the resolution approving the boundary action; and

(ii) submit to the recorder of each other county:

(A) a certified copy of the documents listed in Subsection (2)(a)(i); and

(B) if applicable, a certified copy of the resolution approving the boundary action.

(3) (a) Upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the creation, consolidation, division, dissolution, or other change affecting the boundary of a new or reorganized new school district that was the subject of the action has legal effect.

(b) (i) As used in this Subsection (3)(b), "affected area" means:

(A) in the case of the creation of a school district, the area within the school district's boundary;

(B) in the case of the consolidation of multiple school districts, the area within the boundary of each school district that is consolidated into another school district;

(C) in the case of the division of a school district, the area within the boundary of the school district created by the division; and

(D) in the case of an addition to an existing school district, the area added to the school district.

(ii) For purposes of assessing property within the school district, the effective date of a boundary action, as that term is defined in Section [~~17-23-20~~]17-73-101, is governed by Section 59-2-305.5.

(iii) A school district may not levy or collect a property tax on property within the affected area until the county legislative body records the documents listed in Subsection (2) in the office of the recorder of each county in which the property is located.

Section 119. Section 53G-4-402 is amended to read:

53G-4-402

(Effective 11/06/25)

. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the special districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every student achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment, and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the school board members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by students residing within the district and students residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) A local school board may enter into cooperative agreements with other local school boards to provide educational services that best utilize resources for the overall operation of the school districts, including shared transportation services.

(7) A local school board shall ensure that an agreement under Subsection (6):

(a) is signed by the president of the local school board of each participating district;

(b) specifies the resource being shared;

(c) includes a mutually agreed upon pro rata cost;

(d) includes the duration of the agreement; and

(e) is filed with the state board.

(8) (a) Except as provided in Section 53E-3-905 and Subsection (8)(b), a local school board may enroll children in school who are at least five years old before September 2 of the year in which admission is sought.

(b) A local school board may enroll a child in kindergarten who does not meet the age requirement described in Subsection (8)(a) if the child:

(i) moves to Utah from a different state in which the child, during the relevant school year:

(A) was a resident; and

(B) was enrolled in kindergarten in accordance with the previous state's age requirements for kindergarten enrollment; and

(ii) transfers to the enrolling school after the beginning of the same school year.

(9) A local school board:

(a) may establish and support school libraries; and

(b) shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any material the parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the LEA uses or through a separate platform; and

(ii) (A) for a school district with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a school district with fewer than 1,000 enrolled students, no later than August 1, 2026.

(10) A local school board may collect damages for the loss, injury, or destruction of school property.

(11) A local school board may authorize guidance and counseling services for students and the student's parents before, during, or following school enrollment.

(12) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(13) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents, or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(14) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) The contributions made under Subsection (14)(a) are not subject to appropriation by the Legislature.

(15) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-9-1106(3)(c).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(16) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(17) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(18) A local school board may hold school on legal holidays other than Sundays.

(19) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (19).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others, and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) in consultation with the Utah Safety Council and the Division of Family Health, provide training to all students in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection (19)(c).

(20) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on school vehicles, and in connection with school-related activities or events.

(b) The local school board shall ensure that the plan:

(i) includes prevention, intervention, and response components;

(ii) is consistent with the school discipline and conduct policies required for school districts under Chapter 8, Part 2, School Discipline and Conduct Plans;

(iii) requires professional learning for all district and school building staff on the staff's roles in the emergency response plan;

(iv) provides for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (20)(a); and

(v) includes procedures to notify a student who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (20)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and the student's parents and local law enforcement and public safety representatives.

(21) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (21)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (21).

(22) (a) A local school board shall approve an LEA's policies and procedures that an LEA develops to ensure that students have non-electronic notification of and access to:

(i) school activities and events, including:

(A) schedule changes;

(B) extracurricular activities; and

(C) sporting events; and

(ii) the emergency response plans described in Subsections (20) and (21).

(b) Notwithstanding Subsection (22)(a), an LEA may provide electronic notification of and access to school activities and events as described in Subsections (22)(a)(i) and (ii) if:

(i) (A) the school provides each student with an electronic device; and

(B) the electronic device is capable of receiving electronic notification of and access to school activities and events as described in Subsections (22)(a)(i) and (ii); or

(ii) an emergency, unforeseen circumstance, or other incident arises and an LEA cannot reasonably provide timely non-electronic notification.

(c) An LEA may not require the use of a privately owned electronic device to complete course work.

(23) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(24) (a) As used in this subsection, "special enrollment program" means a full-day academic program in which a parent opts to enroll the parent's student and that is offered at a specifically designated school within an LEA, including:

(i) gifted or advanced learning programs; or

(ii) dual language immersion programs.

(b) Before closing a school, changing the boundaries of a school, or changing or closing the location of a special enrollment program, a local school board shall:

(i) at a local school board meeting, make and approve a motion to initiate the notification required under Subsections (24)(b)(ii) through (iv);

(ii) on or before 90 days before the day on which the local school board approves the school closure or at least 30 days before the day on which the local school board approves a school boundary change, provide notice that the local school board is considering the closure or boundary change to:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents and also by mail, using the United States Postal Service, to the parents at each known address;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents and also by mail, using the United States Postal Service, to the parents at each known address; and

(C) the governing council and the mayor of the municipality in which the school is located;

(iii) provide an opportunity for public comment on the proposed school closure during at least two public local school board meetings;

(iv) provide an opportunity for public comment on the proposed school boundary change during one public local school board meeting; and

(v) hold a public hearing as defined in Section [~~10-9a-103~~]10-20-102 and provide public notice of the public hearing in accordance with Subsection (24)(c).

(c) A local school board shall:

(i) ensure that the notice of a public hearing required under Subsection (24)(b)(v) indicates the:

(A) name of the school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) if feasible, hold the public hearing at the location of the school that is under consideration for closure;

(iii) for at least 10 days before the day on which the public hearing occurs, publish the notice of public hearing occurs, publish the notice of the public hearing for the school district in which the school is located, as a class A notice under Section 63G-30-102; and

(iv) at least 30 days before the day on which the public hearing occurs, provide notice of the public hearing in the same manner as the notice of consideration under Subsection (24)(b)(ii).

(d) A motion made under Subsection (24)(b) shall name each school under consideration for closure in a separate motion.

(e) For a school closure, a local school board shall complete the process described in this Subsection (24) on or before December 31 of the calendar year preceding the beginning of the school year in which a school closure takes effect.

(f) (i) For a school boundary change, a local school board shall complete the process described in this Subsection (24) no more than 60 days after the day on which the local school board votes to approve a school closure.

(ii) Parents of students enrolled in a school affected by a boundary change shall have at least 30 days after the day on which the local school board votes to approve a school boundary change to request an out of area enrollment request in accordance with Chapter 6, Part 4, School District Enrollment.

(25) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(26) A local school board may establish or partner with a certified youth court in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

(27) (a) As used in this Subsection (27):

(i) "Learning material" means any learning material or resource used to deliver or support a student's learning, including textbooks, reading materials, videos, digital materials, websites, and other online applications.

(ii) (A) "Instructional material" means learning material that a local school board adopts and approves for use within the LEA.

(B) "Instructional material" does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class or another class with required instructional material that is not subject to selection by the local school board.

(iii) "Supplemental material" means learning material that:

(A) an educator selects for classroom use; and

(B) a local school board has not considered and adopted, approved, or prohibited for classroom use within the LEA.

(b) A local school board shall:

(i) make instructional material that the school district uses readily accessible and available for a parent to view;

(ii) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection (27)(b)(i); and

(iii) include on the school district's website information about how to access the information described in Subsection (27)(b)(i).

(c) In selecting and approving instructional materials for use in the classroom, a local school board shall:

(i) establish an open process, involving educators and parents of students enrolled in the LEA, to review and recommend instructional materials for board approval; and

(ii) ensure that under the process described in Subsection (27)(c)(i), the board:

(A) before the meetings described in Subsection (27)(c)(ii)(B), posts the recommended learning material online to allow for public review or, for copyrighted material, makes the recommended learning material available at the LEA for public review;

(B) before adopting or approving the recommended instructional materials, holds at least two public meetings on the recommendation that provides an opportunity for educators whom the LEA employs and parents of students enrolled in the LEA to express views and opinions on the recommendation; and

(C) adopts or approves the recommended instructional materials in an open and regular board meeting.

(d) A local school board shall adopt a supplemental materials policy that provides flexible guidance to educators on the selection of supplemental materials or resources that an educator reviews and selects for classroom use using the educator's professional judgment, including whether any process or permission is required before classroom use of the materials or resources.

(e) If an LEA contracts with another party to provide online or digital materials, the LEA shall include in the contract a requirement that the provider give notice to the LEA any time that the provider makes a material change to the content of the online or digital materials, excluding regular informational updates on current events.

(f) Nothing in this Subsection (27) requires a local school board to review all learning materials used within the LEA.

(28) If information, data, or action from a school district is necessary for the state board to fulfill a statutory data gathering, compliance, or reporting requirement, a local school board shall provide the relevant information, data, or action, subject to enforcement under Section 53E-3-401.

Section 120. Section 53G-4-901 is amended to read:

53G-4-901

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Eligible entity" means:

(a) a city or town with a population density of 3,000 or more people per square mile; or

(b) a county whose unincorporated area includes a qualifying planning advisory area.

(2) "Purchase price" means the greater of:

(a) an amount that is the average of:

(i) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the eligible entity; and

(ii) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the school district; and

(b) the amount the school district paid to acquire the surplus property.

(3) "Qualifying planning advisory area" means a planning advisory area under Section [~~17-27a-306~~]17-79-303 that has a population density of 3,000 or more people per square mile within the boundaries of the planning advisory area.

(4) "Surplus property" means land owned by a school district that:

(a) was purchased with taxpayer money;

(b) is located within a city or town that is an eligible entity or within a qualifying planning advisory area;

(c) consists of one contiguous tract at least three acres in size; and

(d) has been declared by the school district to be surplus.

Section 121. Section 53G-7-303 is amended to read:

53G-7-303

(Effective 11/06/25)

. LEA governing board budget procedures.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) "LEA governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) (a) For a school district, before June 30 of each year, a local school board shall adopt a budget and make appropriations for the next fiscal year.

(b) For a school district, if the tax rate in the school district's proposed budget exceeds the certified tax rate defined in Section 59-2-924, the local school board shall comply with Section 59-2-919 in adopting the budget, except as provided by Section 53F-8-301.

(3) (a) For a school district, before the adoption or amendment of a budget, a local school board shall hold a public hearing, as defined in Section [~~10-9a-103~~]10-20-102, on the proposed budget or budget amendment.

(b) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in Subsection (3)(a), at least 10 days prior to the public hearing, a local school board shall:

(i) publish a notice of the public hearing in a newspaper or combination of newspapers of general circulation in the school district, except as provided in Section 45-1-101;

(ii) publish a notice of the public hearing electronically in accordance with Section 45-1-101;

(iii) file a copy of the proposed budget with the local school board's business administrator for public inspection; and

(iv) post the proposed budget on the school district's Internet website.

(c) A notice of a public hearing on a school district's proposed budget shall include information on how the public may access the proposed budget as provided in Subsections (3)(b)(iii) and (iv).

(4) For a charter school, before June 30 of each year, a charter school governing board shall adopt a budget for the next fiscal year.

(5) Within 30 days of adopting a budget, an LEA governing board shall file a copy of the adopted budget with the state auditor and the state board.

Section 122. Section 57-1-45 is amended to read:

57-1-45

(Effective 11/06/25)

. Boundary establishments -- Establishment documents -- Effect.

(1) A boundary establishment shall:

(a) be finalized by recording an establishment document, as defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102; and

(b) comply with this section.

(2) An establishment document shall include:

(a) the name and signature of each party to the establishment document;

(b) the address of each party to the establishment document for assessment purposes;

(c) a statement describing the ambiguity, uncertainty, or dispute being resolved with the boundary establishment;

(d) a statement that the adjoining property owners agree on the established boundary location described in the establishment document;

(e) a current legal description of each parcel or lot that is subject to the established boundary;

(f) a new legal description of the established boundary;

(g) (i) if the property owners have conducted a survey, a reference to a record of the survey map, as defined in Section [~~17-23-17~~]17-73-504, showing information necessary to identify the established boundary that may include:

(A) existing dwellings, outbuildings, improvements, and other physical features;

(B) existing easements, rights-of-way, conditions, or restrictions recorded or apparent;

(C) the location of the agreed boundary; and

(D) an explanation in the survey narrative of the reason for the boundary establishment; or

(ii) if the parcels or lots are unimproved, or if the property owners have otherwise not conducted a survey, an attached visual or graphic depicting a representation of the location of the established boundary relative to physical objects marking the established boundary;

(h) if any of the property that is the subject of the establishment document is located in a recorded subdivision, an acknowledgment that each party to the agreement has been notified of the potential requirement of a subdivision plat amendment; and

(i) a sufficient acknowledgment for each party's signature.

(3) An establishment document described in Subsection (2) may not be used to create a new parcel or new lot.

(4) Property owners who agree to a boundary establishment shall treat the established boundary as the common boundary, as demonstrated by:

(a) actual possession by each owner of the owner's property up to the common boundary, as visibly marked by monuments, fences, buildings, or other physical improvements; or

(b) each owner cultivating or controlling the owner's property up to the visibly marked common boundary.

(5) (a) Before recording an establishment document, a county recorder shall confirm that the establishment document and any accompanying exhibit is presented in a legible and recordable format.

(b) Upon receipt of an establishment document that is not in a legible and recordable format, the county recorder shall provide the person submitting the establishment document with an explanation of corrections necessary to record the establishment document.

(6) (a) An establishment document is effective on the day it is recorded.

(b) A recorded establishment document creates a boundary establishment.

(c) If a judgment made by a court that establishes the location of a disputed boundary is recorded in the county title record:

(i) the judgment is considered an establishment document; and

(ii) the recording of the judgment creates a boundary establishment.

(7) Once recorded, an establishment document described in Subsection (2):

(a) does not affect any previously recorded easement;

(b) establishes the location of the common boundary between the adjoining properties;

(c) conveys the ownership of the adjoining parties to the agreed boundary; and

(d) shall be indexed by a county recorder in the title record against each property affected by the established boundary.

(8) The recording of an establishment document does not constitute a land use approval by a municipality or a county.

(9) A municipality or a county may enforce a municipal or county ordinance against, or withhold approval of a land use application for, property that is subject to a boundary establishment if the municipality or the county determines that the established boundary was not in compliance with the municipality's or the county's land use regulations in effect on the day on which the boundary establishment was recorded.

Section 123. Section 57-3-105 is amended to read:

57-3-105

(Effective 11/06/25)

. Legal description of real property and names and addresses required in documents.

(1) Except as otherwise provided by statute, if a document for recording does not conform to this section, a person may not present the document to the office of the recorder of the county for recording.

(2) A document executed after July 1, 2022, is entitled to be recorded in the office of the recorder of the county in which the property

described in the document is located only if the document contains a legal description of the real property in accordance with Subsection (4).

(3) (a) A document conveying title to real property presented for recording after July 1, 2022, is entitled to be recorded in the office of the recorder of the county in which the property described in the document is located only if the document:

(i) names the grantees and recites a mailing address to be used for assessment and taxation; and

(ii) includes a legal description of the real property in accordance with Subsection (4).

(b) The address of the management committee may be used as the mailing address of a grantee as required in Subsection (3)(a) if the interest conveyed is a timeshare interest as defined by Section 57-19-2.

(4) A legal description required under this [~~Section and Subsection 17-21-20(2)(d)~~]section and Section 17-71-402 shall include a description of the real property by:

(a) metes and bounds;

(b) a government survey that:

(i) references the Public Land Survey System; and

(ii) specifies the township, range, base and meridian, and section, with aliquot part or government lot, if applicable, of the real property;

(c) if the real property consists of a mining claim:

(i) the claim name; and

(ii) if available, a state or federal agency serial number; or

(d) (i) a lot, block, tract, parcel, or unit within a previously recorded plat or map;

(ii) station and offset with reference to centerline;

(iii) a centerline described using:

(A) a bearing and distance; or

(B) at least three elements of curve data;

(iv) a point referenced to a corner of the Public Land Survey System or other controlling corner; or

(v) a type of legal description not described in Subsections (4)(d)(i) through (iv) that meets the requirements described in Section 57-10-4 for a legal and satisfactory description of a land boundary.

(5) Notwithstanding Subsections (2), (3), and (4), a master form, as defined in Section 57-3-201, that does not meet the requirements of Subsections (2) and (3) is entitled to be recorded in the office of the recorder of the county in which the property described in the master form is located if the master form complies with Part 2, Master Mortgage and Trust Deeds.

Section 124. Section 57-3-106 is amended to read:

57-3-106

(Effective 11/06/25)

. Original documents required -- Captions -- Legibility.

(1) A person may not present and a county recorder may refuse to accept a document for recording if the document does not comply with this section.

(2) (a) Unless otherwise provided, a document presented for recording in the office of the county recorder shall:

(i) (A) be an original; or

(B) be an electronic document that satisfies the requirements under [~~Title 17, Chapter 21a, Uniform Real Property Electronic Recording Act~~]Title 17, Chapter 71, Part 6, Uniform Real Property Electronic Recording Act;

(ii) contain a brief caption on the first page of the document stating the nature of the document; and

(iii) contain a legal description of the property as required under Section 57-3-105.

(b) If a document is a master form, as defined in Section 57-3-201, the caption required by Subsection (2)(a)(ii) shall state that the document is a master form.

(3) A court judgment or an abstract of a court judgment presented for recording in the office of the county recorder in compliance with Section 78B-5-202 shall:

(a) be an original, a certified copy, or an electronic document that satisfies the requirements under [~~Title 17, Chapter 21a, Uniform Real Property Electronic Recording Act~~]Title 17, Chapter 71, Part 6, Uniform Real Property Electronic Recording Act; and

(b) include the information identifying the judgment debtor as referred to in Subsection 78B-5-201(4)(b) either:

(i) in the judgment or abstract of judgment; or

(ii) as a separate information statement of the judgment creditor as referred to in Subsection 78B-5-201(5).

(4) A judgment, abstract of judgment, or separate information statement of the judgment creditor does not require an acknowledgment, a legal description, or notarization to be recorded.

(5) A foreign judgment or an abstract of a foreign judgment recorded in the office of a county recorder shall include the affidavit as required in Section 78B-5-303.

(6) Any document recorded in the office of the county recorder to release, assign, renew, or extend a judgment lien shall include:

(a) the name of any judgment creditor, debtor, assignor, or assignee;

(b) the date on which the instrument creating the lien was recorded in the office of the county recorder;

(c) the entry number and book and page of the recorded instrument creating the judgment lien; and

(d) the date on which the document is recorded.

(7) A document presented for recording shall be sufficiently legible for the recorder to make certified copies of the document.

(8) (a) (i) A document that is of record in the office of the appropriate county recorder in compliance with this chapter may not be recorded again in that same county recorder's office unless the original document has been reexecuted by all parties who executed the document.

(ii) Unless exempt by statute, an original document that is reexecuted shall contain the appropriate acknowledgment, proof of execution, jurat, or other notarial certification for all parties who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public Reform Act, and Title 57, Chapter 2, Acknowledgments.

(iii) A document submitted for rerecording shall contain a brief statement explaining the reason for rerecording.

(b) A person may not present and a county recorder may refuse to accept a document for rerecording if that document does not conform to this section.

(c) This Subsection (8) applies only to documents executed after July 1, 1998.

(9) Minor typographical or clerical errors in a document of record may be corrected by the recording of an affidavit or other appropriate instrument.

(10) (a) Except as required by federal law, or by agreement between a borrower under the trust deed and a grantee under the trustee's deed, and subject to Subsection (10)(b), neither the recordation of an affidavit under Subsection (9) nor the reexecution and rerecording of a document under Subsection (8):

(i) divests a grantee of any real property interest;

(ii) alters an interest in real property; or

(iii) returns to the grantor an interest in real property conveyed by statute.

(b) A person who reexecutes and rerecords a document under Subsection (8), or records an affidavit under Subsection (9), shall include with the document or affidavit a notice containing the name and address to which real property valuation and tax notices shall be mailed.

Section 125. Section 57-3-202 is amended to read:

57-3-202

(Effective 11/06/25)

. Recording master mortgage and trust deed -- Requirements for master form -- Indexing by county recorder.

(1) (a) A person may record a master form in the office of the county recorder.

(b) A person who files a master form shall state in the caption required under Section 57-3-106 that the instrument is a master form.

(2) A master form is not required to:

(a) contain identification or description of any specific real property; or

(b) name a specific:

(i) mortgagor;

(ii) trustor; or

(iii) trustee.

(3) A master form shall:

(a) name a specific mortgagee or beneficiary;

(b) contain an acknowledgment, proof, or certification; and

(c) identify the person causing the recording of the master form.

(4) A county recorder shall:

(a) index a master form in the same manner as the county recorder indexes mortgages and trust deeds in accordance with Section [~~17-21-6~~]17-71-302; and

(b) indicate on all indices and records of the county referencing the master form that the instrument is a master form.

(5) (a) If a county recorder receives a document for recording that contains both a master form and a mortgage or trust deed, the county recorder:

(i) is not required to:

(A) separate the master form from the mortgage or trust deed; or

(B) record the master form and the mortgage or trust deed as separate instruments; but

(ii) may separate the master form from the mortgage or trust deed and record only the master form if the unrecorded portion is clearly designated or marked as a section not recorded.

(b) A master form recorded under Subsection (5)(a), is considered as a master form under this part for purposes of the incorporation by reference of a previously recorded master form.

Section 126. Section 57-8-8.1 is amended to read:

57-8-8.1

(Effective 11/06/25)

. Equal treatment by rules required -- Limits on rules.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.

(b) A rule may:

(i) vary according to the level and type of service that the association of unit owners provides to unit owners;

(ii) differ between residential and nonresidential uses; or

(iii) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest.

(2) (a) Except as provided in Subsection (2)(b), if a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under Subsection (4), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

(b) A rule may:

(i) limit or prohibit a rental unit owner from using the common areas and facilities for purposes other than attending an association meeting or managing the rental unit;

(ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally:

(A) charge a rental unit owner a fee to use the common areas and facilities; and

(B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may

use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest; or

(iii) include a provision in the association of unit owners' governing documents that:

(A) requires each tenant of a rental unit to abide by the terms of the governing documents; and

(B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) Except as provided in Subsection (3)(b), a rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.

(b) An association of unit owners may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas and facilities.

(4) Subject to Subsection (14), an association of unit owners may by rule:

(a) unless otherwise provided in the declaration:

(i) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities; and

(ii) impose and receive any payment, fee, or charge for:

(A) the use, rental, or operation of the common areas, except limited common areas and facilities; or

(B) a service provided to a unit owner;

(b) impose, for a late payment of an assessment:

(i) a late fee, not to exceed the greater of:

(A) 10% of the assessment amount; or

(B) $50; and

(ii) interest on the assessment and a late fee of up to 1.5% per month; or

(c) provide for the indemnification of the association of unit owners' officers and management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(5) (a) Except as provided in Subsection (5)(b), a rule may not prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's condominium unit.

(b) A rule may prohibit a unit owner from installing a personal security camera in a common area not physically connected to the owner's unit.

(6) (a) A rule may not abridge the right of a unit owner to display a religious or holiday sign, symbol, or decoration inside the owner's condominium unit.

(b) An association may adopt a reasonable time, place, and manner restriction with respect to a display that is visible from the exterior of a unit.

(7) (a) A rule may not:

(i) prohibit a unit owner from displaying in a window of the owner's condominium unit:

(A) a for-sale sign;

(B) a political sign; or

(C) a flag; or

(ii) except as provided Subsection (7)(b), regulate the content or establish specific design criteria for the content of a political sign or flag.

(b) A rule may restrict a political sign or flag that contains obscene, profane, or commercial content.

(c) A rule may reasonably regulate the size and time, place, and manner of posting a for-sale sign, a political sign, or a flag.

(8) For any area for which one or more unit owners, but not the association, are responsible for landscape maintenance, the association of unit owners:

(a) shall adopt rules supporting water wise landscaping, including:

(i) low water use requirements on lawns during drought conditions;

(ii) design criterion for water wise landscaping; and

(iii) limiting permissible plant material to specific water wise plant material;

(b) may not prohibit low water use on lawns during drought conditions; and

(c) except where reasonably necessary for erosion control, may not prohibit or restrict the conversion of a grass park strip of less than 8 feet wide to water-efficient landscaping.

(9) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 53-29-306(3).

(10) (a) Except as provided in this Subsection (10), a rule may not prohibit a unit owner from making modifications, consistent with industry standards, for radon mitigation.

(b) Subsection (10)(a) does not apply if the modifications would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(c) A rule governing the placement or external appearance of modifications may apply to modifications for radon mitigation unless the rule would:

(i) unreasonably interfere with the modifications' functionality; or

(ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.

(d) A rule may require that a unit owner making modifications related to radon mitigation:

(i) demonstrate or provide proof of radon contamination; and

(ii) provide proof that the modifications and any related construction will be performed by a licensed person.

(11) (a) Except as provided in Subsection (11)(b), a rule may not restrict an individual from parking an operable vehicle in a driveway where the vehicle has a legal right to park, unless the vehicle is:

(i) a commercial vehicle, as that term is defined in Section 72-9-102;

(ii) a motor home, as that term is defined in Section 13-20-2; or

(iii) a recreational vehicle trailer, as that term is defined in Section 13-20-2.

(b) A rule may require that an individual park in a garage appurtenant to a unit before parking elsewhere.

(12) (a) Except as provided in Subsection (12)(b), a rule may not restrict an individual from operating a vehicle that is not a commercial vehicle, as that term is defined in Section 72-9-102, in conformance with state traffic laws.

(b) A rule may enforce a reduced speed limit on a private roadway.

(13) A rule may not:

(a) impose a requirement or restriction on the use of a public street, as that term is defined in Section [~~10-9a-103~~]10-20-102; or

(b) restrict an individual from:

(i) installing, displaying, or storing an item that the individual has a legal right to store if the item is not visible to an individual standing outside the unit;

(ii) hiring a contractor or worker solely because the contractor or worker:

(A) is not on the association's preferred vendor list; or

(B) does not have a professional or occupational license, unless the license is required by law.

(14) A rule shall be reasonable.

(15) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

(16) This section applies to an association of unit owners regardless of when the association of unit owners is created.

(17) Before imposing a fee under Subsection (4), an association of unit owners shall:

(a) adopt a fee schedule by rule that describes the amount of each fee the association of unit owners shall impose; and

(b) provide a copy of the fee schedule to each unit owner.

Section 127. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect:

(a) except as provided in Subsection (1)(b), December 6, 2025; or

(b) if approved by two-thirds of all members elected to each house, the later of:

(i) November 6, 2025; or

(ii) (A) upon approval by the governor;

(B) without the governor's approval, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(C) with the governor's veto and a vote of the Legislature to override the veto, the date of veto override.

(2) The actions affecting the following sections take effect on January 1, 2026:

(a) Section 20A-11-103 (Effective 01/01/26); and

(b) Section 32B-1-102 (Effective 01/01/26).

CHAPTER 17
S. B. 1010
Passed October 6, 2025
Approved October 14, 2025
Effective November 6, 2025

COUNTY RECODIFICATION EXTERNAL REFERENCES MODIFICATIONS

Chief Sponsor: Don L. Ipson
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill makes technical corrections related to the recodification of Title 17, Counties.

Highlighted Provisions:

This bill:

- ► modifies cross references to provisions in Title 17, Counties; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

58-1-111,
(Effective 11/06/25)
as enacted by Laws of Utah 2016, Chapter 407
59-2-305.5,
(Effective 11/06/25)
as enacted by Laws of Utah 2009, Chapter 350
59-2-407,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 237
59-2-511,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 143
59-2-701,
(Effective 11/06/25)
as last amended by Laws of Utah 2012, Chapter 70
59-2-911,
(Effective 11/06/25)
as last amended by Laws of Utah 2021, Chapter 434
59-2-919,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 307, 337 and 484
59-2-1302,
(Effective 11/06/25)
as last amended by Laws of Utah 2011, Chapter 163
59-2-1303,
(Effective 11/06/25)
as last amended by Laws of Utah 2009, Chapter 388
59-2-1304,
(Effective 11/06/25)
as last amended by Laws of Utah 2010, Chapter 381
59-2-1305,
(Effective 11/06/25)
as last amended by Laws of Utah 2018, Chapter 197
59-2-1317,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 337
59-2-1325,
(Effective 11/06/25)

as last amended by Laws of Utah 2010, Chapter 381
59-2-1710,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 143
59-12-104,
(Effective 11/06/25) (Superseded 01/01/26)
as last amended by Laws of Utah 2025, Chapter 194
59-12-104,
(Effective 01/01/26)
as last amended by Laws of Utah 2025, Chapter 495
59-12-208.1,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 399
59-12-301,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 270
59-12-603,
(Effective 11/06/25) (Superseded 01/01/26)
as last amended by Laws of Utah 2025, Chapter 400
59-12-603,
(Effective 01/01/26)
as last amended by Laws of Utah 2025, Chapter 306
59-12-703,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 290
59-12-801,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapters 92, 310 and 329
59-12-806,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 399
59-12-1102,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 400
59-12-1401,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 261
59-12-2202,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 498
63A-3-509,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 86
63A-5b-807,
(Effective 11/06/25) (Repealed 01/01/27)
as enacted by Laws of Utah 2025, Chapter 273
63A-9-701,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 329
63A-15-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 16
63A-15-103,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 378
63A-15-301,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2018, Chapter 461
63A-15-302,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2018, Chapter 461
63A-15-501,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2018, Chapter 461
63A-15-701,

(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2018, Chapter 461
63A-16-505,
(Effective 11/06/25)
as last amended by Laws of Utah 2022, Chapter 169
63A-16-509,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-16-1002,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 214, 252 and 267
63C-30-202,
(Effective 11/06/25)
as enacted by Laws of Utah 2023, Chapter 413
63G-1-704,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 508
63G-2-103,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 368, 476
63G-2-305,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 360
63G-6a-1402,
(Effective 11/06/25)
as last amended by Laws of Utah 2018, Chapter 424
63G-7-704,
(Effective 11/06/25)
as last amended by Laws of Utah 2017, Chapter 453
63G-20-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 466
63G-20-202,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 466
63H-1-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 514
63H-1-304,
(Effective 11/06/25)
as enacted by Laws of Utah 2024, Chapter 443
63H-4-102,
(Effective 11/06/25) (Repealed 07/01/29)
as last amended by Laws of Utah 2024, Chapter 443
63J-1-602.2,
(Effective 11/06/25) (Partially Repealed 07/01/29)
as last amended by Laws of Utah 2025, Chapter 426
63L-11-203,
(Effective 11/06/25)
as last amended by Laws of Utah 2022, Chapter 274
63L-12-102,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2022, Chapter 406
63M-15-206,
(Effective 11/06/25)
as enacted by Laws of Utah 2021, Chapter 91
63N-2-511,
(Effective 11/06/25) (Partially Repealed 07/01/30)
as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63N-2-512,
(Effective 11/06/25) (Repealed 07/01/28)
as last amended by Laws of Utah 2025, Chapter 29
63N-3-403,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 270

63N-4-801,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 217
64-13e-103,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 243
65A-3-3,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 80
65A-8-217,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 113
65A-8-402,
(Effective 01/01/26)
as enacted by Laws of Utah 2025, Chapter 74
67-1a-6.5,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 347
67-1a-15,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 16
67-3-1,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 274, 476 and 508
67-5-1,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 271
67-16-16,
(Effective 11/06/25)
as enacted by Laws of Utah 2024, Chapter 443
68-3-12.5,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 46
70A-9a-525,
(Effective 11/06/25)
as last amended by Laws of Utah 2001, Chapter 46
72-2-108,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 400
72-2-121,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 502
72-2-133,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 217, 400
72-3-104,
(Effective 11/06/25)
as last amended by Laws of Utah 2020, Chapter 377
72-3-301,
(Effective 11/06/25)
as last amended by Laws of Utah 2017, Chapter 144
72-10-401,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapter 483
72-10-416,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 515
73-1-11,
(Effective 11/06/25)
as last amended by Laws of Utah 2013, Chapter 363
73-32-302,
(Effective 11/06/25) (Repealed 07/01/27)
as last amended by Laws of Utah 2025, Chapter 93
76-3-201,
(Effective 11/06/25)

as last amended by Laws of Utah 2024, Chapter 145
77-18-103,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 243
77-18-105,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 214, 299
77-20-504,
(Effective 11/06/25)
as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
77-22a-1,
(Effective 11/06/25)
as last amended by Laws of Utah 2013, Chapter 237
77-22b-1,
(Effective 11/06/25)
as last amended by Laws of Utah 2013, First Special Session, Chapters 1, 1
77-23a-10,
(Effective 11/06/25)
as last amended by Laws of Utah 2013, Chapter 237
77-38b-304,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 214
78A-6-451,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2021, Chapter 261
78B-2-226,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-5-202,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapters 59, 493
78B-5-408,
(Effective 11/06/25)
as last amended by Laws of Utah 2014, Chapter 114
78B-22-102,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 217
78B-22-455,
(Effective 11/06/25)
as last amended by Laws of Utah 2022, Chapter 451
79-6-902,
(Effective 11/06/25)
as last amended by Laws of Utah 2024, Chapters 44, 88
79-6-1003,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 375
79-9-101,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 270
79-9-201,
(Effective 11/06/25)
as enacted by Laws of Utah 2025, Chapter 270
80-2-604,
(Effective 11/06/25)
as last amended by Laws of Utah 2023, Chapter 330
80-2-1005,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 426
81-2-305,
(Effective 11/06/25)
as last amended by Laws of Utah 2025, Chapter 257
81-2-405,
(Effective 11/06/25)
as renumbered and amended by Laws of Utah 2024, Chapter 366

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-111 is amended to read:
58-1-111
(Effective 11/06/25)
. Tax credit certificate -- Psychiatrists and psychiatric mental health nurse practitioners -- Underserved populations.

(1) As used in this section:

(a) "Average of 30 hours or more per week" means that the quotient calculated when dividing the claimant's total hours providing licensed services in the state during the taxable year by the number of weeks in which the claimant is licensed in the state during the taxable year is greater than or equal to 30.

(b) "Licensed services" means the provision of behavioral health treatment in the state and within the scope of practice of a psychiatrist, a psychiatric mental health nurse practitioner, or a volunteer health practitioner.

(c) "Psychiatric mental health nurse practitioner" means an individual who:

(i) is licensed under Chapter 31b, Nurse Practice Act, for the practice of advanced practice registered nursing as that term is defined in Section 58-31b-102; and

(ii) holds a certification recognized by the American Nurses Credentialing Center of the American Association of Colleges of Nursing as a psychiatric mental health nurse practitioner.

(d) "Psychiatrist" means an individual who:

(i) is licensed as a physician under:

(A) Chapter 67, Utah Medical Practice Act;

(B) Chapter 67b, Interstate Medical Licensure Compact; or

(C) Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(e) "Underserved population" means:

(i) an individual located in a county of the third, fourth, fifth, or sixth class, as designated in Section [~~17-50-501~~]17-60-104; or

(ii) a Native American Indian.

(f) "Volunteer retired psychiatrist" means an individual:

(i) described in Subsection (1)(d) who, during the calendar year, did not receive payment for providing licensed services; or

(ii) (A) licensed under Chapter 81, Retired Volunteer Health Care Practitioner Act; and

(B) previously or currently board certified in psychiatry.

(2) (a) An individual who seeks to obtain a state income tax credit under Subsections 59-10-1111(2) through (4) shall file an application with the division with respect to each taxable year in which the individual seeks a state income tax credit.

(b) An individual may qualify for a tax credit certificate under this section for no more than 10 taxable years for each tax credit.

(3) The application for a tax credit certificate under Subsection 59-10-1111(2) shall require the individual to provide the following to the division:

(a) the date on which the individual obtained a license and the specialization described in Subsection (1)(c)(ii) or (d)(ii);

(b) (i) an attestation that the individual was licensed on or after January 1, 2017, to provide licensed services; or

(ii) if the individual was licensed to provide licensed services prior to January 1, 2017, an attestation:

(A) that the individual did not provide licensed services for the two calendar years before the date the individual initially applied for the income tax credit under this subsection; and

(B) the date on which the individual resumed providing licensed services in the state; and

(c) other information as required by the division by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) An application for a tax credit certificate under Subsection 59-10-1111(3) shall require the individual to attest to the division:

(a) that the individual averaged 30 or more hours per week during the taxable year providing licensed services;

(b) that the individual devoted 25% or more of the individual's total hours of licensed services in the taxable year to an underserved population;

(c) the type of underserved population for which the individual provided services during the taxable year; and

(d) other information as required by the division by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) An application for a tax credit certificate under Subsection 59-10-1111(4) shall require the individual to attest to the division:

(a) whether the individual is licensed under Subsection (1)(f)(i) or (ii);

(b) that the individual did not receive payment during the calendar year for providing licensed services;

(c) that during the calendar year, the individual provided at least 300 hours of licensed services to an underserved population, the homeless population, or veterans without receiving payment for providing the licensed services;

(d) a description of the type of population described in Subsection (5)(c) for which the individual provided licensed services; and

(e) other information as required by the division by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) The division shall issue a tax credit certificate in accordance with this subsection.

(b) The tax credit certificate may state that an individual is entitled to:

(i) a tax credit under Subsection 59-10-1111(2) if the individual meets the requirements of Subsection (3);

(ii) a tax credit under Subsection 59-10-1111(3) if the individual meets the requirements of Subsection (4);

(iii) a tax credit under Subsection 59-10-1111(4) if the individual meets the requirements of Subsection (5); or

(iv) a tax credit under Subsections 59-10-1111(2) and (3) if the individual meets the requirements of Subsections (3) and (4).

(7) (a) The division may issue a tax credit certificate to an individual under Subsection 59-10-1111(2) for no more than 10 taxable years after the date on which the individual resumed services under Subsection (3)(b)(ii).

(b) The division may issue a tax credit certificate to an individual under Subsections 59-10-1111(3) and (4) for no more than 10 taxable years.

(8) The division shall provide a copy of a tax credit certificate issued under this section to the individual and the State Tax Commission.

Section 2. Section 59-2-305.5 is amended to read:

59-2-305.5

(Effective 11/06/25)

. Boundary actions not effective for purposes of assessment until required documents are recorded.

(1) As used in this section:

(a) "Affected area" means:

(i) in the case of the creation or incorporation of a local entity, the area within the newly created local entity's boundary;

(ii) in the case of an annexation of an area into an existing local entity, the annexed area;

(iii) in the case of an adjustment of a boundary between local entities, the area that before the boundary adjustment was in the boundary of one local entity but becomes, because of the boundary adjustment, included within the boundary of another local entity;

(iv) in the case of the withdrawal or disconnection of an area from a local entity, the area that is withdrawn or disconnected;

(v) in the case of the consolidation of multiple local entities, the area within the boundary of the consolidated local entity;

(vi) in the case of the division of a local entity into multiple local entities, the area within the boundary of each new local entity created by the division; and

(vii) in the case of the dissolution of a local entity, the area that used to be within the former boundary of the dissolved local entity.

(b) "Applicable certificate" has the same meaning as defined in Section 67-1a-6.5.

(c) "Boundary action" has the same meaning as defined in Section [~~17-23-20~~]17-73-101.

(d) "Effective date" means the effective date, under applicable statute, of the boundary action that is the subject of an applicable certificate.

(e) "Local entity" has the same meaning as defined in Section 67-1a-6.5.

(f) "Required documents" means the documents relating to a boundary action that are required under applicable statute to be submitted to the county recorder for recording following the lieutenant governor's issuance of an applicable certificate.

(2) Notwithstanding the effective date, a boundary action is not effective for purposes of assessing under this part the property located within the affected area until the required documents are recorded in the office of the recorder of each county in which the affected area is located.

Section 3. Section 59-2-407 is amended to read:

59-2-407

(Effective 11/06/25)

. Administration of uniform fees.

(1) (a) Except as provided in Subsection 59-2-405(4) or 59-2-405.3(4), the uniform fee authorized in Sections 59-2-405, 59-2-405.3, and 72-10-110.5 shall be assessed at the same time and in the same manner as ad valorem personal property taxes under Chapter 2, Part 13, Collection of Taxes, except that in listing personal property subject to the uniform fee with real property as permitted by Section 59-2-1302, the assessor or, if this duty has been reassigned in an ordinance under Section [~~17-16-5.5~~]17-74-102, the treasurer shall list only the amount of the uniform fee due, and not the taxable value of the property subject to the uniform fee.

(b) Except as provided in Subsections 59-2-405.1(4), 59-2-405.2(5), and 59-2-405.3(4), the uniform fee imposed by Section 59-2-405.1, 59-2-405.2, or 59-2-405.3 shall be assessed at the time of:

(i) registration as defined in Section 41-1a-102; and

(ii) renewal of registration.

(2) The remedies for nonpayment of the uniform fees authorized by Sections 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, and 72-10-110.5 shall be the same as those provided in Chapter 2, Part 13, Collection of Taxes, for nonpayment of ad valorem personal property taxes.

(3) Any disclosure of information to a county for purposes of distributing a uniform fee under this part is not subject to Title 77, Chapter 38, Part 6, Safe at Home Program.

Section 4. Section 59-2-511 is amended to read:

59-2-511

(Effective 11/06/25)

. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including:

(i) a county;

(ii) a city;

(iii) a town;

(iv) a school district;

(v) a special district; or

(vi) a special service district; or

(d) an entity created by the state or the United States, including:

(i) an agency;

(ii) a board;

(iii) a bureau;

(iv) a commission;

(v) a committee;

(vi) a department;

(vii) a division;

(viii) an institution;

(ix) an instrumentality; or

(x) an office.

(2) (a) Except as provided in Subsections (3) through (5), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) before the governmental entity acquires the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-503 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section [~~10-9a-103~~]10-20-102; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives:

(A) money; or

(B) other consideration.

(3) (a) Except as provided in Subsections (4) and (5), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-506.

(ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) (I) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-503, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity; or

(II) if the land remaining after the acquisition by the governmental entity is less than five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the governmental entity" includes other eligible acreage that is used in conjunction with the land remaining after the acquisition by the governmental entity.

(c) The county treasurer shall pay 100% of the in lieu fee payment collected under this section to the county, which the county shall deposit and use in accordance with Section 17-41-602.

(4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity is made subject to a conservation easement in accordance with Section 59-2-506.5:

(a) the land is not subject to the rollback tax imposed by this part; and

(b) the governmental entity acquiring the land is not required to make an in lieu fee payment under Subsection (3)(b).

(5) (a) This Subsection (5) applies only to a governmental entity that is the state or a political subdivision of the state as described in Subsections (1)(b) and (c).

(b) Land acquired by a governmental entity described in Subsection (5)(a) is not subject to the rollback tax imposed by this part.

(c) Notwithstanding Subsection (5)(b), a governmental entity described in Subsection (5)(a) may not, within five years after the day on which the governmental entity acquires land, sell the land to a private entity unless the governmental entity makes a one-time in lieu fee payment:

(i) to the county treasurer of the county in which the land is located;

(ii) in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity at the time of acquisition; and

(iii) before selling the land to the private entity.

(6) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until the following are paid to the county treasurer:

(a) any tax due under this part;

(b) any one-time in lieu fee payment due under this part; and

(c) any interest due under this part.

Section 5. Section 59-2-701 is amended to read:

59-2-701

(Effective 11/06/25)

. Appraisal by certified or licensed appraisers -- Appraiser trainees -- Certification of elected county assessors -- Commission may prescribe additional requirements for appraisers -- Rulemaking authority -- County assessor to ensure compliance.

(1) (a) Except as provided in Subsection (1)(b), a person performing an appraisal for purposes of establishing fair market value of real estate or real property for the assessment roll shall be the holder of an appraiser's certificate or license issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(b) Notwithstanding Section 61-2g-301, an uncertified or unlicensed appraiser trainee who is registered under Section 61-2g-302 may appraise property under the direction of a holder of an appraiser's certificate or license issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(2) The limitations on appraisal authority under Subsections 61-2g-311(1) and (2) and Section 61-2g-312 do not apply to a person performing an appraisal for purposes of establishing fair market value for the assessment roll.

(3) The commission may prescribe additional requirements for any person performing an appraisal for purposes of establishing fair market value for the assessment roll.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to establish qualifications for personal property appraisers exempt from licensure under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(5) In accordance with [~~Section 17-17-1~~]Sections 17-67-301 and 17-67-302, a county assessor shall ensure that the assessor's office is in compliance with this section and any additional rules or requirements for property appraisers established by the commission.

Section 6. Section 59-2-911 is amended to read:

59-2-911

(Effective 11/06/25)

. Exceptions to maximum levy limitation.

(1) The maximum levies set forth in Section 59-2-908 do not apply to and do not include:

(a) levies made to pay outstanding judgment debts;

(b) levies made in any special improvement districts;

(c) levies made for extended services in any county service area;

(d) levies made for county library services;

(e) levies made for county animal welfare services;

(f) levies made to be used for storm water, flood, and water quality control;

(g) levies made to share disaster recovery expenses for public facilities and structures as a condition of state assistance when a Presidential Declaration has been issued under the Disaster Relief Act of 1974, 42 U.S.C. Sec. 5121;

(h) levies made to pay interest and provide for a sinking fund in connection with any bonded or voter authorized indebtedness, including the bonded or voter authorized indebtedness of county service areas, special service districts, and special improvement districts;

(i) levies made to fund local health departments;

(j) levies made to fund public transit districts;

(k) levies made to establish, maintain, and replenish special improvement guaranty funds;

(l) levies made in any special service district;

(m) levies made to fund municipal-type services to unincorporated areas of counties under [~~Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas~~]Title 17, Chapter 78, Part 5, Provision of Municipal-Type Services to Unincorporated Areas;

(n) levies made to fund the purchase of paramedic or ambulance facilities and equipment and to defray administration, personnel, and other costs of providing emergency medical and paramedic services, but this exception only applies to those counties in which a resolution setting forth the intention to make those levies has been duly adopted by the county legislative body and approved by a majority of the voters of the county voting at a special or general election;

(o) the multicounty and county assessing and collecting levies under Section 59-2-1602; and

(p) all other exceptions to the maximum levy limitation pursuant to statute.

(2) (a) Upon the retirement of bonds issued for the development of a convention complex described in Section [~~17-12-4~~]17-63-904, and notwithstanding Section 59-2-908, any county of the first class may continue to impose a property tax levy equivalent to the average property tax levy previously imposed to pay debt service on those retired bonds.

(b) Notwithstanding that the imposition of the levy described in Subsection (2)(a) may not result in an increased amount of ad valorem tax revenue, the levy is subject to the notice requirements of Section 59-2-919.

(c) The revenue from this continued levy shall be used only for the funding of convention facilities as defined in Section 59-12-602.

Section 7. Section 59-2-919 is amended to read:

59-2-919

(Effective 11/06/25)

. Notice and public hearing requirements for certain tax increases -- Exceptions -- Audit.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Base year" means a taxing entity's fiscal year that immediately precedes the fiscal year in which the taxing entity first adopted a budget below last year's property tax budgeted revenue.

(d) "Base year budgeted revenue" means the property tax budgeted revenue, excluding eligible new growth, for the base year.

(e) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(f) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section [~~17-52a-203~~]17-62-203.

(g) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(h) "Eligible new growth" means the same as that term is defined in Section 59-2-924.

(i) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(j) "Meeting" means the same as that term is defined in Section 52-4-103.

(k) "Last year's property tax budgeted revenue" does not include:

(i) revenue received by a taxing entity from a debt service levy voted on by the public;

(ii) revenue generated by the combined basic rate as defined in Section 53F-2-301; or

(iii) revenue generated by the charter school levy described in Section 53F-2-703.

(l) "Truth-in-taxation exemption period" means a six-year period that begins with the base year.

(2) Except as provided in Subsection (11), a taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section [~~17-36-13~~]17-63-304 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the

calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the dollar amount of additional ad valorem tax revenue that would be generated each year by the proposed increase in the certified tax rate;

(vi) shall include a brief statement of the primary purpose for the proposed tax increase, including the taxing entity's intended use of additional ad valorem tax revenue described in Subsection (3)(c)(v);

(vii) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v);

(viii) shall state the Internet address for the taxing entity's public website;

(ix) may contain other information approved by the commission; and

(x) if sent in calendar year 2024, 2025, or 2026, shall contain:

(A) notice that the taxpayer may request electronic notice as described in Subsection [~~17-21-6(1)(m)~~]17-71-302(1)(m); and

(B) instructions describing how to elect to receive a notice as described in Subsection [~~17-21-6(1)(m)~~]17-71-302(1)(m).

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than $20,000 in ad valorem tax revenue for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than $20,000 of ad valorem tax revenue.

(6) (a) Before holding the public hearing described in Subsection (3)(a)(v) or (4)(b), a taxing entity proposing a tax rate increase under this section shall publish an advertisement regarding the proposed tax increase:

(i) electronically in accordance with Section 45-1-101; and

(ii) as a class A notice under Section 63G-30-102.

(b) The advertisement described in Subsection (6)(a) shall:

(i) be published for at least 14 days before the day on which the taxing entity conducts the public hearing described in Subsection (3)(a)(v) or (4)(b); and

(ii) substantially be in the following form and content:

"NOTICE OF PROPOSED TAX INCREASE

(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from $_____ to $_____, which is $_____ per year.

If the proposed budget is approved, (name of the taxing entity) would receive an additional $_____ in property tax revenue per year as a result of the tax increase.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

The (name of the taxing entity) invites all concerned citizens to a public hearing for the purpose of hearing comments regarding the proposed tax increase and to explain the reasons for the proposed tax increase. You have the option to attend or participate in the public hearing in person or online.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

Virtual Meeting Link: (Internet address for remote participation and live streaming options)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity) or visit (Internet address for the taxing entity's public website)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize a taxing entity's use of a commission-approved direct notice to each taxpayer if:

(i) the direct notice is different and separate from the notice required under Section 59-2-919.1; and

(ii) the taxing entity petitions the commission for the use of a commission-approved direct notice.

(8) (a) (i) On or before June 1, a fiscal year taxing entity shall notify the commission and the county auditor of the date, time, and place of the public hearing described in Subsection (4)(b).

(ii) On or before October 1 of the current calendar year, a calendar year taxing entity shall notify the commission and the county auditor of the date, time, and place of the public hearing described in Subsection (3)(a)(v).

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public;

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a special district's or special service district's fee implementation or increase, or a combination of these items; and

(C) available for individuals to attend or participate either in person or remotely through electronic means.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall:

(A) state the dollar amount of additional ad valorem tax revenue that would be generated each year by the proposed increase in the certified tax rate;

(B) explain the reasons for the proposed tax increase, including the taxing entity's intended use of additional ad valorem tax revenue described in Subsection (8)(b)(ii)(A);

(C) if the county auditor compiles the list required by Section 59-2-919.2, present the list at the public hearing and make the list available on the taxing entity's public website; and

(D) provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) The county auditor shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a special district or a special service district, a fee hearing described in Section 17B-1-643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10-5-107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10-6-135.5.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

(10) (a) A county auditor may conduct an audit to verify a taxing entity's compliance with Subsection (8).

(b) If the county auditor, after completing an audit, finds that a taxing entity has failed to meet the requirements of Subsection (8), the county auditor shall prepare and submit a report of the auditor's findings to the commission.

(c) The commission may not certify a tax rate that exceeds a taxing entity's certified tax rate if, on or before September 15 of the year

in which the taxing entity is required to hold the public hearing described in Subsection (3)(a)(v) or (4)(b), the commission determines that the taxing entity has failed to meet the requirements of Subsection (8).

(11) For a fiscal year within a truth-in-taxation exemption period, a taxing entity may adopt a budget that is equal to or less than the base year budgeted revenue without complying with this section.

Section 8. Section 59-2-1302 is amended to read:

59-2-1302

(Effective 11/06/25)

. Assessor or treasurer's duties -- Collection of uniform fees and taxes on personal property -- Unpaid tax or unpaid uniform fee is a lien -- Delinquency interest -- Rate.

(1) After the assessor assesses taxes or uniform fees on personal property, the assessor or, if this duty has been reassigned in an ordinance under Section [~~17-16-5.5~~]17-74-102, the treasurer shall:

(a) list the personal property tax or uniform fee with the real property of the owner in the manner required by law and as provided under Subsection (3), if the assessor or treasurer, as the case may be, determines that the real property is sufficient to secure the payment of the personal property taxes or uniform fees;

(b) immediately collect the taxes or uniform fees due on the personal property; or

(c) on or before the day on which the tax or uniform fee on personal property is due, obtain from the taxpayer a bond that is:

(i) payable to the county in an amount equal to the amount of the tax or uniform fee due, plus 20% of the amount of the tax or uniform fee due; and

(ii) conditioned for the payment of the tax or uniform fee on or before November 30.

(2) (a) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal property listed with the real property is a lien upon the owner's real property as of noon of January 1 of each year.

(b) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal property not listed with the real property is a lien upon the owner's personal property as of noon of January 1 of each year.

(3) The assessor or treasurer, as the case may be, shall make the listing under this section:

(a) on the record of assessment of the real property; or

(b) by entering a reference showing the record of the assessment of the personal property on the record of assessment of the real property.

(4) (a) The amount of tax or uniform fee assessed upon personal property is delinquent if the tax or uniform fee is not paid on the day on which the tax notice or the combined signed statement and tax notice under Section 59-2-306 is due.

(b) Subject to Subsection (4)(c), delinquent taxes or uniform fees under Subsection (4)(a)shall bear interest from the date of delinquency until the day on which the delinquent tax or uniform fee is paid at an interest rate equal to the sum of:

(i) 6%; and

(ii) the federal funds rate target:

(A) established by the Federal Open Markets Committee; and

(B) that exists on the January 1 immediately preceding the date of delinquency.

(c) The interest rate described in Subsection (4)(b) may not be less than 7% or more than 10%.

(5) A county assessor or treasurer shall deposit all collections of public funds from a personal property tax or personal property uniform fee no later than once every seven banking days with:

(a) the state treasurer; or

(b) a qualified depository for the credit of the county.

Section 9. Section 59-2-1303 is amended to read:

59-2-1303

(Effective 11/06/25)

. Seizure and sale -- Method and procedure.

Unless taxes or uniform fees on personal property assessed by the county assessor are paid or secured as provided under Section 59-2-1302, the assessor or, if this duty has been reassigned in an ordinance under Section [~~17-16-5.5~~]17-74-102, the treasurer shall collect the taxes, including accrued interest and penalties, by seizure or seizure and subsequent sale of any personal property owned by the person against whom the tax is assessed. The assessor or treasurer, as the case may be, may seize that personal property on which a delinquent property tax or uniform fee exists at any time in order to protect a county's interest in that personal property. The sale of personal property shall be made in the following manner:

(1) (a) For all personal property, except manufactured homes and mobile homes as provided in Subsection (1)(b), the sale shall be made:

(i) at public auction;

(ii) of a sufficient amount of property to pay the taxes, or uniform fees and interest, penalties, and costs;

(iii) when practicable, in the city, town, or precinct where the property was seized; and

(iv) after one week's notice of the time and place of the sale, given by:

(A) (I) publication in a newspaper having general circulation in the county; and

(II) publication in accordance with Section 45-1-101; and

(B) posting in three public places in the county.

(b) For manufactured homes and mobile homes that are used as a residence and that are listed on the personal property roll of the county, the sale shall be made:

(i) at public auction;

(ii) when practicable, in the city, town, or precinct where the property was seized;

(iii) no sooner than one year after the taxes on the property became delinquent as determined in Section 59-2-1302;

(iv) after publication of the date, time, and place of sale:

(A) in a newspaper having general circulation in the county, once in each of two successive weeks immediately preceding the date of the sale; and

(B) in accordance with Section 45-1-101 for two weeks immediately preceding the date of the sale; and

(v) after notification, sent by certified mail at least 10 days prior to the first date of publication under Subsection (1)(b)(iv), to the owner of the manufactured home or mobile home, all lien holders of record, and any other person known by the assessor to have an interest in the manufactured home or mobile home, of the date, time, and place of the sale.

(2) For seizing or selling personal property the assessor or treasurer, as the case may be, may charge in each case the actual and necessary expenses for travel and seizing, handling, keeping, selling, or caring for that property.

(3) Upon payment of the price bid for any personal property sold under this section, the delivery of the property, with a bill of sale, vests title in the purchaser.

(4) All sale proceeds in excess of taxes, or uniform fees and interest, penalties, and costs shall be returned to the owner of the personal property, and until claimed shall be deposited in the county treasury and made subject to the order of the owner, the owner's heirs, or assigns.

(5) The unsold portion of any property may be left at the place of sale at the risk of the owner.

(6) If there is no acceptable purchaser of the property, the property shall be declared the property of the county. The county executive may sell or rent any property held in the name of the county at any time after the sale upon terms determined by the county legislative body.

Section 10. Section 59-2-1304 is amended to read:

59-2-1304

(Effective 11/06/25)

. Rate of previous year governs -- Proration among taxing units -- Effective date of boundary changes for assessment.

(1) (a) The amount of taxes to be collected in the current year on personal property assessed by the county assessor shall be based on the tax rates levied by all taxing entities for the previous year, and the tax so billed shall be the full tax on the property for the current year.

(b) The money collected in accordance with Subsection (1)(a) shall be paid:

(i) into the county treasury; and

(ii) by the treasurer to the various taxing entities pro rata in accordance with the tax rates levied and approved for the current year, including new entities levying for the first time.

(2) An assessment shall be collected in accordance with the effective date and boundary adjustment provisions in [~~Subsection 17-2-209(4)~~]Section 17-61-306.

Section 11. Section 59-2-1305 is amended to read:

59-2-1305

(Effective 11/06/25)

. Entries of payments made -- Payments to county treasurer.

(1) The assessor or, if this duty has been reassigned in an ordinance under Section [~~17-16-5.5~~]17-74-102, the treasurer shall note on the assessment roll, opposite the names of each person against whom taxes have been assessed or tax notice charges have been listed, the amount of the taxes and tax notice charges paid.

(2) (a) The assessor or treasurer, as the case may be, shall require all checks to be made payable to the office of the county assessor or treasurer, respectively.

(b) If the assessor or treasurer receives checks made payable to a payee other than the office of the county assessor or treasurer, respectively, the assessor or treasurer, as the case may be, shall immediately endorse the check with a restrictive endorsement that makes the check payable to the office of the county treasurer.

(3) The assessor shall deposit all money the assessor collects into an account controlled by the county treasurer.

Section 12. Section 59-2-1317 is amended to read:

59-2-1317

(Effective 11/06/25)

. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) instructions for payment of the taxes and tax notice charges applicable to the property, including the taxpayer's payment options and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a special district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506;

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007;

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section 17D-4-304; and

(I) if applicable, an annual payment to the Military Installation Development Authority or an entity designated by the authority in accordance with Section 63H-1-501;

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) if applicable, the annual payment described in Subsection 63H-1-501(4)(a);

(x) the date the taxes and tax notice charges are due;

(xi) the street address or website at which the taxes and tax notice charges may be paid;

(xii) the date on which the taxes and tax notice charges are delinquent;

(xiii) the penalty imposed on delinquent taxes and tax notice charges;

(xiv) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);

(xv) other information specifically authorized to be included on the notice under this chapter;

(xvi) other property tax information approved by the commission; and

(xvii) if sent in calendar year 2024, 2025, or 2026:

(A) notice that the taxpayer may request electronic notice as described in Subsection [~~17-21-6(1)(m)~~]17-71-302(1)(m); and

(B) instructions describing how to elect to receive a notice as described in Subsection [~~17-21-6(1)(m)~~]17-71-302(1)(m).

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii) (A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due special district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

Section 13. Section 59-2-1325 is amended to read:

59-2-1325

(Effective 11/06/25)

. Nature and extent of lien -- Time of attachment -- Effective date of boundary changes for assessment.

(1) (a) A tax upon real property is a lien against the property assessed.

(b) A tax due upon improvements upon real property assessed to a person other than the owner of the real property is a lien upon the property and improvements.

(c) A lien described in Subsection (1)(a) or (b) shall attach on January 1 of each year.

(2) An assessment shall be collected in accordance with the effective date and boundary adjustment provisions in [~~Subsection 17-2-209(4)~~]Section 17-61-306.

Section 14. Section 59-2-1710 is amended to read:

59-2-1710

(Effective 11/06/25)

. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including a county, city, town, school district, special district, or special service district; or

(d) an entity created by the state or the United States, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) before the governmental entity acquires the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-1703 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section [~~10-9a-103~~]10-20-102; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives money or other consideration.

(3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-1705.

(ii) A governmental entity that acquires land under Subsection (3)(a)(i) or (ii) shall make a one-time in lieu fee payment to the county treasurer of the county in which the land is located:

(A) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity; or

(B) if the land remaining after the acquisition by the governmental entity is less than one acre, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(c) The county treasurer shall pay 100% of the in lieu fee payment collected under this section to the county, which the county shall deposit and use in accordance with Section 17-41-602.

(4) (a) This Subsection (4) applies only to a governmental entity that is the state or a political subdivision of the state as described in Subsections (1)(b) and (c).

(b) Land acquired by a governmental entity described in Subsection (4)(a) is not subject to the rollback tax imposed by this part.

(c) Notwithstanding Subsection (4)(b), a governmental entity described in Subsection (4)(a) may not, within five years after the day on which the governmental entity acquires land, sell the land to a private entity unless the governmental entity makes a one-time in lieu fee payment:

(i) to the county treasurer of the county in which the land is located;

(ii) in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity at the time of acquisition; and

(iii) before selling the land to the private entity.

(5) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until any tax, one-time in lieu fee payment, and applicable interest due under this part are paid to the county treasurer.

Section 15. Section 59-12-104 is amended to read:

59-12-104

(Effective 11/06/25) (Superseded 01/01/26)

. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if:

(a) the sale is not from the vehicle's lessor to the vehicle's lessee;

(b) the vehicle is not registered in this state; and

(c) (i) the vehicle is not used in this state; or

(ii) the vehicle is used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale, lease agreement, or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale, lease agreement, or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer,

processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in [~~its~~]the product's original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of [~~its~~]another state's subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second or third class, as classified in Section [~~17-50-501~~]17-60-104; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment;

(89) amounts paid or charged for an item exempt under Section 59-12-104.10;

(90) sales of a note, leaf, foil, or film, if the item:

(a) is used as currency;

(b) does not constitute legal tender of a state, the United States, or a foreign nation; and

(c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any transparent polymer holder, coating, or encasement;

(91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, if a trained instructor:

(a) is present with the participant, in person or by video, for the duration of the activity; and

(b) actively instructs the participant, including providing observation or feedback;

(92) amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by or constructed for:

(a) a distribution electrical cooperative, as defined in Section 54-2-1; or

(b) a wholesale electrical cooperative, as defined in Section 54-2-1;

(93) amounts paid by the service provider for tangible personal property, other than machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

(a) is consumed in the performance of a service that is subject to tax under Subsection 59-12-103(1)(b), (f), (g), (h), (i), or (j);

(b) has to be consumed for the service provider to provide the service described in Subsection (93)(a); and

(c) will be consumed in the performance of the service described in Subsection (93)(a), to one or more customers, to the point that the tangible personal property disappears or cannot be used for any other purpose;

(94) sales of rail rolling stock manufactured in Utah;

(95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or construction materials between establishments, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:

(a) the establishments are related directly or indirectly through 100% common ownership or control; and

(b) each establishment is described in one of the following subsectors of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or

(ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing;

(96) sales of construction materials used for the construction of a qualified stadium, as defined in Section 11-70-101;

(97) amounts paid or charged for sales of a cannabinoid product as that term is defined in Section 4-41-102;

(98) amounts paid or charged by an operator of a qualifying energy storage manufacturing facility for:

(a) a purchase of tangible personal property if the tangible personal property is incorporated into equipment or a device that stores and discharges energy at the qualifying energy storage manufacturing facility; and

(b) a purchase or lease of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts are used exclusively in the operation of the qualifying energy storage manufacturing facility;

(99) amounts paid or charged for sales of adaptive driving equipment if the adaptive driving equipment is not yet installed in a motor vehicle; and

(100) amounts paid or charged for sales of adaptive driving equipment if the adaptive driving equipment is installed in a motor vehicle by a previous owner and the requirements of Section 59-12-104.11 are met.

Section 16. Section 59-12-104 is amended to read:

59-12-104

(Effective 01/01/26)

. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if:

(a) the sale is not from the vehicle's lessor to the vehicle's lessee;

(b) the vehicle is not registered in this state; and

(c) (i) the vehicle is not used in this state; or

(ii) the vehicle is used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education;

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale, lease agreement, or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale, lease agreement, or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in [~~its~~]the product's original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of [~~its~~]another state's subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the

semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d);

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i);

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second or third class, as classified in Section [~~17-50-501~~]17-60-104; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment;

(89) amounts paid or charged for an item exempt under Section 59-12-104.10;

(90) sales of a note, leaf, foil, or film, if the item:

(a) is used as currency;

(b) does not constitute legal tender of a state, the United States, or a foreign nation; and

(c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any transparent polymer holder, coating, or encasement;

(91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, if a trained instructor:

(a) is present with the participant, in person or by video, for the duration of the activity; and

(b) actively instructs the participant, including providing observation or feedback;

(92) amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by or constructed for:

(a) a distribution electrical cooperative, as defined in Section 54-2-1; or

(b) a wholesale electrical cooperative, as defined in Section 54-2-1;

(93) amounts paid by the service provider for tangible personal property, other than machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

(a) is consumed in the performance of a service that is subject to tax under Subsection 59-12-103(1)(b), (f), (g), (h), (i), or (j);

(b) has to be consumed for the service provider to provide the service described in Subsection (93)(a); and

(c) will be consumed in the performance of the service described in Subsection (93)(a), to one or more customers, to the point that the tangible personal property disappears or cannot be used for any other purpose;

(94) sales of rail rolling stock manufactured in Utah;

(95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or construction materials between establishments, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:

(a) the establishments are related directly or indirectly through 100% common ownership or control; and

(b) each establishment is described in one of the following subsectors of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or

(ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing;

(96) sales of construction materials used for the construction of a qualified stadium, as defined in Section 11-70-101;

(97) amounts paid or charged for sales of a cannabinoid product as that term is defined in Section 4-41-102;

(98) amounts paid or charged by an operator of a qualifying energy storage manufacturing facility for:

(a) a purchase of tangible personal property if the tangible personal property is incorporated into equipment or a device that stores and discharges energy at the qualifying energy storage manufacturing facility; and

(b) a purchase or lease of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts are used exclusively in the operation of the qualifying energy storage manufacturing facility;

(99) amounts paid or charged for sales of adaptive driving equipment if the adaptive driving equipment is not yet installed in a motor vehicle;

(100) amounts paid or charged for sales of adaptive driving equipment if the adaptive driving equipment is installed in a motor vehicle by a previous owner and the requirements of Section 59-12-104.11 are met; and

(101) sales of construction materials used for the construction, remodeling, or refurbishing of a major sporting event venue, as defined in Section 63N-3-1701, within an approved major sporting event venue zone.

Section 17. Section 59-12-208.1 is amended to read:

59-12-208.1

(Effective 11/06/25)

. Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) For purposes of this section:

(a) "Annexation" means an annexation to:

(i) a county under [~~Title 17, Chapter 2, County Consolidations and Annexations~~]Title 17, Chapter 61, Part 2, Consolidation of Counties, or Part 3, County Annexation; or

(ii) a city or town under Title 10, Chapter 2, Part 8, Annexation.

(b) "Annexing area" means an area that is annexed into a county, city, or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county, city, or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the county, city, or town will enact or repeal a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Section 59-12-204.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under Section 59-12-204.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment or repeal of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) the rate of the tax described in Subsection (3)(b)(i).

(c) (i) The enactment of a tax takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Section 59-12-204.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under Section 59-12-204.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 18. Section 59-12-301 is amended to read:

59-12-301

(Effective 11/06/25)

. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) (a) A county legislative body may impose a tax on charges for the accommodations and services described in Subsection 59-12-103(1)(i) at a rate of not to exceed:

(i) 4.25% beginning on or after October 1, 2006; and

(ii) for counties of the second, third, fourth, fifth, or sixth class, 4.5% beginning on or after July 1, 2025.

(b) Subject to Subsection (2), the revenues raised from the tax imposed under Subsection (1)(a) shall be used for the purposes listed in Section [~~17-31-2~~]17-78-702.

(c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed under Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act.

(2) (a) If a county legislative body of a county of the first class imposes a tax under this section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

(i) deposited into the Transient Room Tax Fund created by Section 63N-3-403; and

(ii) expended as provided in Section 63N-3-403.

(b) If a county legislative body of a county of the first class imposes a tax under this section, beginning on July 1, 2027, and ending on June 30, 2047, each year the first 7.5% of the revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

(i) deposited into the Transient Room Tax Fund created by Section 63N-3-403; and

(ii) expended as provided in Section 63N-3-403.

(3) Subject to Subsection (4), a county legislative body:

(a) may increase or decrease the tax authorized under this part; and

(b) shall regulate the tax authorized under this part by ordinance.

(4) (a) For purposes of this Subsection (4):

(i) "Annexation" means an annexation to a county under [~~Title 17, Chapter 2, County Consolidations and Annexations~~]Title 17, Chapter 61, Part 2, Consolidation of Counties, or Part 3, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(b)(ii) from the county.

(ii) The notice described in Subsection (4)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

(d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (4)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (4)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (4)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(d)(ii)(A), the rate of the tax.

(e) (i) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (4)(e)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Section 19. Section 59-12-603 is amended to read:

59-12-603

(Effective 11/06/25) (Superseded 01/01/26)

. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

(iii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food;

(iv) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i); and

(v) if a county legislative body of any county imposes a tax under Subsection (1)(a)(i), a tax at the same rate applies to car sharing of less than 30 days, except for car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement.

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of [~~Section 17-31-5.5~~]Sections 17-78-704 and 17E-2-406.

(2) (a) Subject to Subsection (2)(c), a county may use revenue from the imposition of a tax under Subsection (1) for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) (i) In addition to the uses described in Subsection (2)(a) and subject to Subsection (2)(b)(ii), a county of the fourth, fifth, or sixth class or a county with a population density of fewer than 15 people per square mile may expend the revenue from the imposition of a tax under Subsections (1)(a)(i) and (ii) on the following activities to mitigate the impacts of tourism:

(A) solid waste disposal;

(B) search and rescue activities;

(C) law enforcement activities;

(D) emergency medical services; or

(E) fire protection services.

(ii) A county may only expend the revenue as outlined in Subsection (2)(b)(i) if the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) has prioritized the use of revenue to mitigate the impacts of tourism.

(c) A county of the first class shall expend at least $450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect a tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable

amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section [~~17-31-8~~]17-78-706, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, enforced, and interpreted in accordance with:

(A) the same procedures used to administer, collect, enforce, and interpret the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) and (4) through (6).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) (a) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(i) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(ii) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(b) Population for purposes of this Subsection (8) shall be based on, to the extent not otherwise required by federal law:

(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available, the most recent census or census estimate of the United States Bureau of the Census.

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under [~~Title 17, Chapter 2, Part 2~~]Title 17, Chapter 61, Part 3, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 20. Section 59-12-603 is amended to read:

59-12-603

(Effective 01/01/26)

. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

(iii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of:

(A) alcoholic beverages, food and food ingredients, or prepared food sold by a restaurant; and

(B) customized prepared food sold by a convenience store, a gas station, or a grocery store;

(iv) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i); and

(v) if a county legislative body of any county imposes a tax under Subsection (1)(a)(i), a tax at the same rate applies to car sharing of less than 30 days, except for car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement.

(b) A tax imposed under Subsection (1)(a) is subject to the reporting provisions of [~~Section 17-31-5.5~~]Sections 17-78-704 and 17E-2-406.

(2) (a) Subject to Subsection (2)(c), a county may use revenue from the imposition of a tax under Subsection (1) for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) (i) In addition to the uses described in Subsection (2)(a) and subject to Subsection (2)(b)(ii), a county of the fourth, fifth, or sixth class or a county with a population density of fewer than 15 people per square mile may expend the revenue from the imposition of a tax under Subsections (1)(a)(i) and (ii) on the following activities to mitigate the impacts of tourism:

(A) solid waste disposal;

(B) search and rescue activities;

(C) law enforcement activities;

(D) emergency medical services; or

(E) fire protection services.

(ii) A county may only expend the revenue as outlined in Subsection (2)(b)(i) if the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) has prioritized the use of revenue to mitigate the impacts of tourism.

(c) A county of the first class shall expend at least $450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter

1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect a tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section [~~17-31-8~~]17-78-706, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, enforced, and interpreted in accordance with:

(A) the same procedures used to administer, collect, enforce, and interpret the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) and (4) through (6).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) (a) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(i) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(ii) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(b) Population for purposes of this Subsection (8) shall be based on, to the extent not otherwise required by federal law:

(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available, the most recent census or census estimate of the United States Bureau of the Census.

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under [~~Title 17, Chapter 2, Part 2~~]Title 17, Chapter 61, Part 3, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 21. Section 59-12-703 is amended to read:

59-12-703

(Effective 11/06/25)

. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) sales and uses within a municipality that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax in accordance with Subsection (1), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(i) described in Subsection (1); and

(ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenue generated from a tax imposed under Subsection (2)(a) without submitting an opinion question to residents of the county.

(3) (a) After the residents of a county of the third, fourth, fifth, or sixth class authorize a tax under this part in accordance with Subsection (1) for two consecutive 10-year periods, the tax may be reauthorized only by a majority vote of the members of the county

legislative body.

(b) For purposes of reauthorizing the tax in accordance with Subsection (3)(a), the county legislative body shall post the purposes for imposing the tax at least 24 hours before the meeting at which the county legislative body votes to reauthorize the tax.

(4) Subject to Section 59-12-704, a county shall expend revenue collected from a tax imposed under Subsection (2) or (3):

(a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(b) to fund ongoing operating expenses of:

(i) recreational facilities described in Subsection (4)(a);

(ii) botanical organizations, cultural organizations, and zoological organizations within the county; and

(iii) rural radio stations within the county; and

(c) (i) as stated in the opinion question described in Subsection (1) if the county authorizes the tax in accordance with Subsections (1) and (2); or

(ii) for the purposes posted by the members of the county legislative body if the county legislative body reauthorizes the tax in accordance with Subsection (3).

(5) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (5)(b), administered, collected, enforced, and interpreted in accordance with:

(A) the same procedures used to administer, collect, enforce, and interpret the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the 10-year period in accordance with this section.

(b) A tax under this part is not subject to Subsections 59-12-205(2) and (4) through (6).

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under [~~Title 17, Chapter 2, Part 2, County Annexation~~]Title 17, Chapter 61, Part 2, Consolidation of Counties, or Part 3, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (6)(c) or (d), if a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (6)(f) or (g), if an annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 22. Section 59-12-801 is amended to read:

59-12-801

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Affected area" means the portion of a county in which a tax is imposed under Subsection 59-12-802(4).

(2) "Emergency medical services" means the same as that term is defined in Section 53-2d-101.

(3) "Federally qualified health center" means the same as that term is defined in 42 U.S.C. Sec. 1395x.

(4) "Freestanding urgent care center" means a facility that provides outpatient health care service:

(a) on an as-needed basis, without an appointment;

(b) to the public;

(c) for the diagnosis and treatment of a medical condition if that medical condition does not require hospitalization or emergency intervention for a life threatening or potentially permanently disabling condition; and

(d) including one or more of the following services:

(i) a medical history physical examination;

(ii) an assessment of health status; or

(iii) treatment:

(A) for a variety of medical conditions; and

(B) that is commonly offered in a physician's office.

(5) "Municipality" means a city or town.

(6) "Nursing care facility" means the same as that term is defined in Section 26B-2-201.

(7) "Political subdivision" means a county, municipality, local district, or special service district.

(8) "Rural city hospital" means a hospital owned by a city that is located within a third, fourth, fifth, or sixth class county.

(9) "Rural county health care facility" means a:

(a) rural county hospital; or

(b) rural county nursing care facility.

(10) "Rural county hospital" means a hospital owned by a county that is:

(a) a third, fourth, fifth, or sixth class county, as defined in Section [~~17-50-501~~]17-60-104; and

(b) located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

(11) "Rural county nursing care facility" means a nursing care facility owned by:

(a) a county that is:

(i) a third, fourth, fifth, or sixth class county, as defined in Section [~~17-50-501~~]17-60-104; and

(ii) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau; or

(b) a special service district if the special service district is:

(i) created for the purpose of operating the nursing care facility; and

(ii) within a county that is:

(A) a third, fourth, fifth, or sixth class county, as defined in Section [~~17-50-501~~]17-60-104; and

(B) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.

(12) "Rural emergency medical services" means emergency medical services that are provided by a county that is:

(a) a third, fourth, fifth, or sixth class county, as defined in Section [~~17-50-501~~]17-60-104; and

(b) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.

(13) "Rural health clinic" means the same as that term is defined in 42 U.S.C. Sec. 1395x.

Section 23. Section 59-12-806 is amended to read:

59-12-806

(Effective 11/06/25)

. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) For purposes of this section:

(a) "Annexation" means an annexation to:

(i) a county under [~~Title 17, Chapter 2, County Consolidations and Annexations~~]Title 17, Chapter 61, Part 2, Consolidation of Counties, or Part 3, County Annexation; or

(ii) a city under Title 10, Chapter 2, Part 8, Annexation.

(b) "Annexing area" means an area that is annexed into a county or city.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a county or city enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county or city.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the county or city will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the county or city enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-802; or

(II) Section 59-12-804.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Section 59-12-802; or

(B) Section 59-12-804.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county or city that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the county or city enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-802; or

(II) Section 59-12-804.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Section 59-12-802; or

(B) Section 59-12-804.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of a tax under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 24. Section 59-12-1102 is amended to read:

59-12-1102

(Effective 11/06/25)

. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through (7), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (6), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) The county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) for the county, as a class A notice under Section 63G-30-102, for two weeks before the day on which the first of the two public hearings is held.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) Beginning no sooner than January 1, 2026, and subject to Section 59-12-205, before application of Subsections (4) through (7), and as described in Section 63N-3-610.1, beginning the first day of a calendar quarter after the year set in the proposal and after the sales and use tax boundary for a convention center reinvestment zone is established under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the commission, at least annually, shall transfer an amount equal to 100% of the sales and use tax increment as defined in Section 63N-3-602, from the sales and use tax imposed under this part on transactions occurring within an established sales and use tax boundary, as defined in Section 63N-3-602, to a convention center public infrastructure district created in accordance with Section 17D-4-202.1.

(4) (a) Subject to Subsection (6), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (6), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (4)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (6), the amount to be distributed annually to a county under Subsection (4)(b)(ii), when combined with the amount distributed to the county under Subsection (4)(b)(i), does not equal at least $75,000, then:

(i) the amount to be distributed annually to that county under Subsection (4)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (4)(b)(i), the amount distributed annually to the county is $75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (4)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (4)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (4)(a), (b), and (c).

(e) Population for each county for purposes of this Subsection (4) shall be based on, to the extent not otherwise required by federal law:

(i) the estimate of the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available, the most recent census or census estimate of the United States Bureau of the Census.

(5) (a) Except as provided in Subsection (5)(b) or (c), a tax authorized under this part shall be administered, collected, enforced, and interpreted in accordance with:

(i) the same procedures used to administer, collect, enforce, and interpret the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) and (4) through (6).

(c) (i) Subject to Subsection (5)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (5)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (4) have been made; and

(B) the commission retains the amount required by Subsection (6).

(6) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (6).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (6)(b) for the county; and

(ii) $6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (6) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

(7) (a) For purposes of this Subsection (7):

(i) "Annexation" means an annexation to a county under [~~Title 17, Chapter 2, County Consolidations and Annexations~~]Title 17, Chapter 61, Part 2, Consolidation of Counties, or Part 3, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (7)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(b)(ii) from the county.

(ii) The notice described in Subsection (7)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (7)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (7)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (7)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (7)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (7)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(e)(i) from the county that annexes the annexing area.

(ii) The notice described in Subsection (7)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (7)(b)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (7)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (7)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (7)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (7)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 25. Section 59-12-1401 is amended to read:

59-12-1401

(Effective 11/06/25)

. Purpose statement -- Definitions -- Scope of part.

(1) In relation to the tax imposed by this part, the legislative findings described in Section 59-12-701 apply similarly to cities and towns as the findings apply to counties.

(2) The definitions of Section 59-12-702 are incorporated into this part.

(3) This part applies only to a city or town that is located within a county of the second, third, fourth, fifth, or sixth class as designated in Section [~~17-50-501~~]17-60-104.

Section 26. Section 59-12-2202 is amended to read:

59-12-2202

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Airline" means the same as that term is defined in Section 59-2-102.

(2) "Airport facility" means the same as that term is defined in Section 59-12-602.

(3) "Airport of regional significance" means an airport identified by the Federal Aviation Administration in the most current National Plan of Integrated Airport Systems or an update to the National Plan of Integrated Airport Systems.

(4) "Annexation" means an annexation to:

(a) a county under [~~Title 17, Chapter 2, County Consolidations and Annexations~~]Title 17, Chapter 61, Part 2, Consolidation of Counties, or Part 3, County Annexation; or

(b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

(5) "Annexing area" means an area that is annexed into a county, city, or town.

(6) "Class A road" means the same as that term is described in Section 72-3-102.

(7) "Class B road" means the same as that term is described in Section 72-3-103.

(8) "Class C road" means the same as that term is described in Section 72-3-104.

(9) "Class D road" means the same as that term is described in Section 72-3-105.

(10) "Council of governments" means the same as that term is defined in Section 72-2-117.5.

(11) "Eligible political subdivision" means a political subdivision that:

(a) provides public transit services;

(b) is not a public transit district; and

(c) is not annexed into a public transit district.

(12) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(13) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(14) "Major collector highway" means the same as that term is defined in Section 72-4-102.5.

(15) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(16) "Minor arterial highway" means the same as that term is defined in Section 72-4-102.5.

(17) "Minor collector road" means the same as that term is defined in Section 72-4-102.5.

(18) "Principal arterial highway" means the same as that term is defined in Section 72-4-102.5.

(19) "Public transit" means the same as that term is defined in Section 17B-2a-802.

(20) "Public transit district" means the same as that term is defined in Section 17B-2a-802.

(21) "Public transit innovation grant" means the same as that term is defined in Section 72-2-401.

(22) "Public transit provider" means a public transit district or an eligible political subdivision.

(23) "Public transit service" means a service provided as part of public transit.

(24) "Regionally significant transportation facility" means:

(a) in a county of the first or second class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a fixed guideway that:

(A) extends across two or more cities or unincorporated areas; or

(B) is an extension to an existing fixed guideway; or

(iv) an airport of regional significance; or

(b) in a county of the second class that is not part of a large public transit district, or in a county of the third, fourth, fifth, or sixth class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a major collector highway;

(iv) a minor collector road; or

(v) an airport of regional significance.

(25) "State highway" means a highway designated as a state highway under Title 72, Chapter 4, Designation of State Highways Act.

(26) (a) Subject to Subsection (26)(b), "system for public transit" means the same as the term "public transit" is defined in Section 17B-2a-802.

(b) "System for public transit" includes:

(i) the following costs related to public transit:

(A) maintenance costs; or

(B) operating costs;

(ii) a fixed guideway;

(iii) a park and ride facility;

(iv) a passenger station or passenger terminal;

(v) a right-of-way for public transit; or

(vi) the following that serve a public transit facility:

(A) a maintenance facility;

(B) a platform;

(C) a repair facility;

(D) a roadway;

(E) a storage facility;

(F) a utility line; or

(G) a facility or item similar to those described in Subsections (26)(b)(vi)(A)through (F).

Section 27. Section 63A-3-509 is amended to read:

63A-3-509

(Effective 11/06/25)

. Suspension of interest on certain accounts receivable during and subsequent to incarceration.

Beginning on January 1, 2027, unless prohibited by another provision of law or a court order, or unless an account receivable contains restitution as defined in Section 77-38b-102, the office shall, upon receipt of a notification from a county jail in accordance with Section [~~17-22-35~~]17-72-803 or a notification from the Department of Corrections in accordance with Subsection 64-13-23(9), suspend the accrual of interest on an individual's accounts receivable under Subsection 63A-3-502(4)(g):

(1) during any period that the individual is incarcerated in a county jail or a state prison, if the period is 90 or more consecutive days; and

(2) for a period of 180 days after the day on which the individual is released from a period of incarceration as described in Subsection (1).

Section 28. Section 63A-5b-807 is amended to read:

63A-5b-807

(Effective 11/06/25) (Repealed 01/01/27)

. Eminent domain of unincorporated city owned land.

(1) As used in this section:

(a) "County of the first class" means a county that is classified by population as a county of the first class under Section [~~17-50-501~~]17-60-104.

(b) "Unincorporated land" means land that before January 1, 2025, was not within the boundaries of a city.

(2) The division may exercise eminent domain, consistent with the procedures described in Title 78B, Chapter 6, Part 5, Eminent Domain, to condemn unincorporated land for the public use of constructing a new facility on the land for homelessness services provided by, or under contract with, the state if the land is owned by a city that is the seat of government for a county of the first class.

(3) The division may consult with the Department of Transportation for assistance in performing the division's duties under Subsection (2).

Section 29. Section 63A-9-701 is amended to read:

63A-9-701

(Effective 11/06/25)

. Subscription to motor pool by certain local government entities.

(1) The following local government entities may subscribe to the central motor pool service provided by the division subject to the conditions established in Subsection (2):

(a) local health departments as defined in Title 26A, Chapter 1, Part 1, Local Health Department Act;

(b) local substance abuse authorities as defined in Section [~~17-43-201~~]17-77-201;

(c) local area agencies, as authorized by Section 26B-6-104, or their subcontractors who are local governmental or public entities; and

(d) local mental health authorities as defined in Section [~~17-43-301~~]17-77-301.

(2) The local government entities outlined in Subsection (1) may subscribe to the central motor pool service provided by the division only if:

(a) the director of the local government entity determines it will result in substantial cost savings or increased efficiency to the local government entity; and

(b) the central motor pool has sufficient vehicles available.

Section 30. Section 63A-15-102 is amended to read:

63A-15-102

(Effective 11/06/25)

. Definitions.

(1) "Commission" means the Political Subdivisions Ethics Review Commission established in Section 63A-15-201.

(2) "Complainant" means a person who files a complaint in accordance with Section 63A-15-501.

(3) "Ethics violation" means a violation of:

(a) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(b) [~~Title 17, Chapter 16a, County Officers and Employees Disclosure Act~~]Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers; or

(c) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(4) "Local political subdivision ethics commission" means an ethics commission established by a political subdivision within the political subdivision or with another political subdivision by interlocal agreement in accordance with Section 63A-15-103.

(5) "Political subdivision" means a county, municipality, school district, community reinvestment agency, special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, a local building authority, or any other governmental subdivision or public corporation.

(6) (a) "Political subdivision employee" means a person who is:

(i) (A) in a municipality, employed as a city manager or non-elected chief executive on a full or part-time basis; or

(B) employed as the non-elected chief executive by a political subdivision other than a municipality on a full or part-time basis; and

(ii) subject to:

(A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(B) [~~Title 17, Chapter 16a, County Officers and Employees Disclosure Act~~]Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers; or

(C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision employee" does not include:

(i) a person who is a political subdivision officer;

(ii) an employee of a state entity; or

(iii) a legislative employee as defined in Section 67-16-3.

(7) "Political subdivision governing body" means:

(a) for a county, the county legislative body as defined in Section 68-3-12.5;

(b) for a municipality, the council of the city or town;

(c) for a school district, the local board of education described in Section 53G-4-201;

(d) for a community reinvestment agency, the agency board described in Section 17C-1-203;

(e) for a special district, the board of trustees described in Section 17B-1-301;

(f) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(g) for an entity created by an interlocal agreement, the governing body of an interlocal entity, as defined in Section 11-13-103;

(h) for a local building authority, the governing body, as defined in Section 17D-2-102, that creates the local building authority; or

(i) for any other governmental subdivision or public corporation, the board or other body authorized to make executive and management decisions for the subdivision or public corporation.

(8) (a) "Political subdivision officer" means a person elected in a political subdivision who is subject to:

(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(ii) [~~Title 17, Chapter 16a, County Officers and Employees Disclosure Act~~]Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers; or

(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision officer" does not include:

(i) a person elected or appointed to a state entity;

(ii) the governor;

(iii) the lieutenant governor;

(iv) a member or member-elect of either house of the Legislature; or

(v) a member of Utah's congressional delegation.

(9) "Respondent" means a person who files a response in accordance with Section 63A-15-604.

Section 31. Section 63A-15-103 is amended to read:

63A-15-103

(Effective 11/06/25)

. Local ethics commission permitted -- Filing requirements.

(1) A political subdivision, other than a municipality described in Section 10-3-1311, a county described in Section [~~17-16a-11~~]17-70-511, or a school district may establish a local political subdivision ethics commission within the political subdivision to review a complaint against a political subdivision officer or employee subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) A political subdivision other than a school district may enter into an interlocal agreement with another political subdivision, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, to establish a local political subdivision ethics commission to review a complaint against a political subdivision officer or employee subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(3) (a) A person filing a complaint for an ethics violation of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, shall file the complaint with:

(i) a local political subdivision ethics commission, if the political subdivision has established a local political subdivision ethics commission under Subsection (1) or (2); or

(ii) the commission if the political subdivision has not established a local political subdivision ethics commission or is a school district.

(b) A political subdivision that receives a complaint described in Subsection (3)(a) may:

(i) accept the complaint if the political subdivision has established a local political subdivision ethics commission in accordance with Subsection (1) or (2); or

(ii) forward the complaint to the commission:

(A) regardless of whether the political subdivision has established a local political subdivision ethics commission;

(B) if the political subdivision has not established a local political subdivision ethics commission; or

(C) if the complaint is regarding a member of a local school board as defined in Section 53E-1-102.

Section 32. Section 63A-15-301 is amended to read:

63A-15-301

(Effective 11/06/25)

. Authority to review complaint -- Grounds for complaint -- Limitations on filings.

(1) Subject to the requirements of this chapter and Section 10-3-1311 or [~~17-16a-11~~]17-70-511, the commission is authorized to review an ethics complaint against a political subdivision officer or employee if the complaint alleges:

(a) if the applicable political subdivision is a municipality, an ethics violation of Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act by:

(i) a city manager or non-elected chief executive; or

(ii) an elected officer, as defined in Section 10-3-1303;

(b) if the applicable political subdivision is a county, an ethics violation of [~~Title 17, Chapter 16a, County Officers and Employees Disclosure Act~~]Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers by:

(i) an appointed officer, as defined in Section [~~17-16a-3~~]17-70-501;

(ii) an elected officer, as defined in Section [~~17-16a-3~~]17-70-501; or

(iii) an employee subject to [~~Title 17, Chapter 16a, County Officers and Employees Disclosure Act~~]Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers; or

(c) for a political subdivision officer or employee other than a municipal officer or employee described in Subsection (1)(a) or a county officer or employee described in Subsection (1)(b), an ethics violation of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) A complaint described in Subsection (1) shall be filed in accordance with the time limit provisions, if any, of the applicable part or chapter.

(3) (a) A complaint may not contain an allegation if that allegation and the general facts and circumstances supporting that allegation have been previously reviewed by a municipal ethics commission established under Section 10-3-1311, a county ethics commission established under Section [~~17-16a-11~~]17-70-511, or a local political subdivision ethics commission established under Section 63A-15-103, as applicable, or the commission unless:

(i) the allegation was previously reviewed and dismissed by the commission under Section 63A-15-602 or 63A-15-701;

(ii) the allegation is accompanied by material facts or circumstances supporting the allegation that were not raised or pled to the commission; and

(iii) the allegation and the general facts and circumstances supporting that allegation have only been reviewed by the commission in accordance with Section 63A-15-701 on one previous occasion.

(b) The commission may not review a complaint that is currently before:

(i) a municipal ethics commission established under Section 10-3-1311;

(ii) a county ethics commission established under Section [~~17-16a-11~~]17-70-511; or

(iii) a local political subdivision ethics commission established under Section 63A-15-103.

(c) If an allegation in the complaint does not comply with the requirements of Subsection (3)(a) or (b), the allegation shall be summarily dismissed with prejudice by:

(i) the chair when reviewing the complaint under Section 63A-15-601; or

(ii) the commission, when reviewing the complaint under Section 63A-15-602 or 63A-15-701.

(4) A complaint against a political subdivision officer or employee may not allege a violation by the political subdivision officer or employee for an act by an individual under the authority of the political subdivision officer or employee, unless the complaint evidences that the political subdivision officer or employee:

(a) encouraged, condoned, or ordered the act;

(b) (i) before the individual engaged in the act, knew or should have known that the individual was likely to engage in the act; and

(ii) failed to take appropriate action to prevent the act;

(c) (i) while the individual engaged in the act, knew or should have known that the individual was engaging in the act; and

(ii) failed to take appropriate action to stop the act; or

(d) (i) after the individual engaged in the act, knew or should have known that the individual engaged in the act; and

(ii) failed to take appropriate action in response to the act.

(5) A complaint against a political subdivision officer or employee may not allege a violation by the political subdivision officer or employee for an individual under the authority of the political subdivision officer or employee failing to act, unless the complaint evidences that the political subdivision officer or employee:

(a) encouraged, condoned, or ordered the failure to act;

(b) (i) before the individual failed to act, knew or should have known that the individual was likely to fail to act; and

(ii) failed to take appropriate action to prevent the failure to act;

(c) (i) while the individual was failing to act, knew or should have known that the individual was failing to act; and

(ii) failed to take appropriate action to prevent the failure to act; or

(d) (i) after the individual failed to act, knew or should have known that the individual failed to act; and

(ii) failed to take appropriate action in response to the failure to act.

Section 33. Section 63A-15-302 is amended to read:

63A-15-302

(Effective 11/06/25)

. General powers -- Jurisdiction.

(1) The commission has jurisdiction only over an individual who is a political subdivision officer or employee.

(2) The commission shall dismiss an ethics complaint if:

(a) the respondent resigns or is terminated from the political subdivision; or

(b) except as provided in Subsection (3):

(i) the respondent is charged with a criminal violation of:

(A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(B) [~~Title 17, Chapter 16a, County Officers and Employees Disclosure Act~~]Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers; or

(C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and

(ii) the facts and allegations presented in the ethics complaint assert the same or similar facts and allegations as those asserted in the criminal charges.

(3) If an ethics complaint asserts an ethics violation in addition to a criminal violation described in Subsection (2)(b), the commission shall:

(a) dismiss an allegation described in Subsection (2)(b)(ii); and

(b) proceed with any remaining allegation in the complaint.

Section 34. Section 63A-15-501 is amended to read:

63A-15-501

(Effective 11/06/25)

. Ethics complaints -- Who may file -- Form.

(1) (a) Notwithstanding any other provision, the following may file a complaint, subject to the requirements of Subsections (1)(b) and (c) and Section 63A-15-301, against a political subdivision officer or employee:

(i) two or more registered voters who reside within the boundaries of a political subdivision;

(ii) two or more registered voters who pay a fee or tax to a political subdivision; or

(iii) one or more registered voters who reside within the boundaries of a political subdivision and one or more registered voters who pay a fee or tax to the political subdivision.

(b) A person described in Subsection (1)(a) may not file a complaint unless at least one person described in Subsection (1)(a)(i), (ii), or (iii) has actual knowledge of the facts and circumstances supporting the alleged ethics violation.

(c) A complainant may file a complaint only against an individual who, on the date that the complaint is filed, is serving as a political subdivision officer or is a political subdivision employee.

(2) (a) The commission shall post, on the state's website, a conspicuous and clearly identified link to the name and address of an individual authorized to accept a complaint on behalf of the commission.

(b) A complainant shall file a complaint with the individual described in Subsection (2)(a).

(c) An individual may not file a complaint during the 60 calendar days immediately preceding:

(i) a regular primary election, if the accused political subdivision officer is a candidate in the primary election; or

(ii) a regular general election in which an accused political subdivision officer is a candidate, unless the accused political subdivision officer is unopposed in the election.

(3) A complainant shall ensure that each complaint filed under this section is in writing and contains the following information:

(a) the name and position of the political subdivision officer or employee alleged to be in violation;

(b) the name, address, and telephone number of each individual who is filing the complaint;

(c) a description of each alleged ethics violation, as applicable of:

(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(ii) [~~Title 17, Chapter 16a, County Officers and Employees Disclosure Act~~]Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers; or

(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(d) include for each alleged ethics violation:

(i) a reference to the section of the code alleged to have been violated;

(ii) the name of the complainant who has actual knowledge of the facts and circumstances supporting each allegation; and

(iii) with reasonable specificity, the facts and circumstances supporting each allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits that include the information required in Subsection (4);

(e) a list of the witnesses that a complainant wishes to have called, including for each witness:

(i) the name, address, and, if available, one or more telephone numbers of the witness;

(ii) a brief summary of the testimony to be provided by the witness; and

(iii) a specific description of any documents or evidence a complainant desires the witness to produce;

(f) a statement that each complainant:

(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the complaint;

(ii) believes that the complaint is submitted in good faith and not for any improper purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the respondent's reputation, or causing unnecessary expenditure of public funds; and

(iii) believes the allegations contained in the complaint to be true and accurate; and

(g) the signature of each complainant.

(4) An affidavit described in Subsection (3)(d)(iii)(B) shall include:

(a) the name, address, and telephone number of the signer;

(b) a statement that the signer has actual knowledge of the facts and circumstances alleged in the affidavit;

(c) the facts and circumstances testified by the signer;

(d) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and

(e) the signature of the signer.

Section 35. Section 63A-15-701 is amended to read:

63A-15-701

(Effective 11/06/25)

. Commission review of ethics violation.

(1) The scope of a review by the commission is limited to an alleged ethics violation stated in a complaint that has not been previously dismissed under Section 63A-15-602.

(2) (a) Before holding the meeting for review of the complaint, the commission chair may schedule a separate meeting of the commission for the purposes of:

(i) hearing motions or arguments from the parties, including hearing motions or arguments relating to dismissal of a complaint, admission of evidence, or procedures;

(ii) holding a vote of the commission, with or without the attendance of the parties, on procedural or commission business matters relating to a complaint; or

(iii) reviewing a complaint, with or without the attendance of the parties, to determine if the complaint should be dismissed in whole or in part, by means of a majority vote of the commission, because the complaint pleads facts or circumstances against a political subdivision officer or employee that have already been reviewed by, as provided in Section 63A-15-301, the commission, a municipal ethics commission established in accordance with Section 10-3-1311, a county ethics commission established in accordance with Section [~~17-16a-11~~]17-70-511, or a local political subdivision ethics commission established in accordance with Section 63A-15-103.

(b) Notwithstanding Section 63A-15-603, the commission may, by a majority vote, change the date of the meeting for review of the complaint in order to accommodate:

(i) a meeting authorized under Subsection (2)(a); or

(ii) necessary scheduling requirements.

(3) (a) The commission shall comply with the Utah Rules of Evidence except where the commission determines, by majority vote, that a rule is not compatible with the requirements of this chapter.

(b) The chair shall make rulings on admissibility of evidence consistent with the provisions of Section 63A-15-402.

(4) (a) A meeting or hearing authorized in this part is open to the public except as provided in Section 52-4-204.

(b) The following individuals may be present during the presentation of testimony and evidence to the commission:

(i) the complainant;

(ii) the complainant's counsel, if applicable;

(iii) the respondent;

(iv) the respondent's counsel, if applicable;

(v) members of the commission;

(vi) staff to the commission;

(vii) a witness, while testifying before the commission; and

(viii) necessary security personnel.

(c) The commission may, in accordance with Section 52-4-204, close a meeting to:

(i) seek or obtain legal advice on legal, evidentiary, or procedural matters; or

(ii) conduct deliberations to reach a decision on the complaint.

(5) If a majority of the commission determines that a continuance is necessary to obtain further evidence and testimony, to accommodate administrative needs, or to accommodate the attendance of commission members, witnesses, or a party, the commission shall:

(a) adjourn and continue the meeting to a future date and time after notice to the parties; and

(b) establish that future date and time by majority vote.

(6) A record, as defined in Section 63G-2-103, created by the commission under this part, reviewed by the commission under this part, or received by the commission under this part, is a public record, as defined in Section 63G-2-103.

Section 36. Section 63A-16-505 is amended to read:

63A-16-505

(Effective 11/06/25)

. Utah Geospatial Resource Center.

(1) There is created the Utah Geospatial Resource Center as part of the division.

(2) The center shall:

(a) provide geographic information system services to state agencies under rules made under Section 63A-16-104 and policies established by the office;

(b) provide geographic information system services to federal government, local political subdivisions, and private persons under rules and policies established by the office;

(c) manage the State Geographic Information Database; and

(d) establish standard format, lineage, and other requirements for the database.

(3) (a) There is created a position of surveyor within the center.

(b) The surveyor under this Subsection (3) shall:

(i) be licensed as a professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) provide technical support to the office of lieutenant governor in the lieutenant governor's evaluation under Section 67-1a-6.5 of a proposed boundary action, as defined in Section [~~17-23-20~~]17-73-101;

(iii) as requested by a county surveyor, provide technical assistance to the county surveyor with respect to the county surveyor's responsibilities under Section [~~17-23-20~~]17-73-507;

(iv) fulfill the duties described in Section [~~17-50-105~~]17-61-102, if engaged to do so as provided in that section;

(v) assist the State Tax Commission in processing and quality assurance of boundary descriptions or maps into digital format for inclusion in the State Geographic Information Database;

(vi) coordinate with county recorders and surveyors to create a statewide parcel layer in the State Geographic Information Database containing parcel boundary, parcel identifier, parcel address, owner type, and county recorder contact information; and

(vii) facilitate and integrate the collection efforts of local government and federal agencies for data collection to densify and enhance the statewide Public Land Survey System reference network in the State Geographic Information Database.

(4) The office may:

(a) make rules and establish policies to govern the center and the center's operations; and

(b) set fees for the services provided by the center.

(5) The state may not sell information obtained from counties under Subsection (3)(b)(v).

Section 37. Section 63A-16-509 is amended to read:

63A-16-509

(Effective 11/06/25)

. Monument Replacement and Restoration Committee.

(1) As used in this section:

(a) "Committee" means the Monument Replacement and Restoration Committee created in this section.

(b) "Corner" means the same as that term is defined in Section [~~17-23-17.5~~]17-73-101.

(c) "Monument" means the same as that term is defined in Section [~~17-23-17.5~~]17-73-101.

(2) (a) There is created the Monument Replacement and Restoration Committee composed of the following seven members:

(i) five members appointed by an organization or association that represents Utah counties:

(A) that have knowledge and understanding of the Public Land Survey System; and

(B) who each represents a different county; and

(ii) two members, appointed by the center, who have a knowledge and understanding of the Public Land Survey System.

(b) (i) Except as provided in Subsection (2)(b)(ii), a member appointed to the committee is appointed for a four-year term.

(ii) The director of the center shall, at the time an entity appoints or reappoints an individual to serve on the committee, adjust the length of the appointed individual's term, as necessary, to ensure that the terms of committee members are staggered so that approximately half of the committee members are appointed every two years.

(iii) When a vacancy occurs on the committee for any reason, the replacement appointee shall serve on the committee for the unexpired term.

(c) The committee shall elect one committee member to serve as chair of the committee for a term of two years.

(d) A majority of the committee constitutes a quorum, and the action of a majority of a quorum constitutes the action of the committee.

(e) (i) The center shall provide staff support to the committee.

(ii) An individual who is a member of the committee may not serve as staff to the committee.

(f) A member of the committee may not receive compensation for the member's service on the committee.

(g) The committee may adopt bylaws to govern the committee's operation.

(3) (a) The committee shall administer a grant program to assist counties in maintaining and protecting corners or monuments.

(b) A county wishing to receive a grant under the program described in Subsection (3)(a) shall submit to the committee an application that:

(i) identifies one or more monuments in the county that are in need of protection or rehabilitation;

(ii) establishes a plan that is consistent with federal law or rule to protect or rehabilitate each monument identified under Subsection (3)(b)(i); and

(iii) requests a specific amount of funding to complete the plan established under Subsection (3)(b)(ii).

(c) The committee shall:

(i) adopt criteria to:

(A) evaluate whether a monument identified by a county under Subsection (3)(b)(i) needs protection or rehabilitation; and

(B) identify which monuments identified by a county under Subsection (3)(b)(i) have the greatest need of protection or rehabilitation;

(ii) evaluate each application submitted by a county under Subsection (3)(b) using the criteria adopted by the committee under Subsection (3)(c)(i);

(iii) subject to sufficient funding and Subsection (3)(d), award grants to counties whose applications are most favorably evaluated under Subsection (3)(c)(ii); and

(iv) establish a date by which a county awarded a grant under Subsection (3)(c)(iii) shall report back to the committee.

(d) The committee may not award a grant to a county under this section in an amount greater than $100,000.

(4) A county that is awarded a grant under this section shall:

(a) document the work performed by the county, pursuant to the plan established by the county under Subsection (3)(b)(ii), to protect or rehabilitate a monument; and

(b) before the date established under Subsection (3)(c)(iv), report to the committee on the work performed by the county.

(5) (a) If the committee has not expended all of the funds appropriated to the committee by the Legislature for the fulfillment of the committee's duties under this section before December 31, 2017, the committee shall disburse any remaining funds equally among all counties that have established a [~~dedicated monument~~] preservation fund by ordinance as provided in Section [~~17-23-19~~]17-63-710.

(b) A county to which the center has disbursed funds under Subsection (5)(a) shall:

(i) deposit the funds into the county's [~~monument~~]preservation fund; and

(ii) expend the funds, in consultation with the committee, for the maintenance and preservation of monuments in the county.

Section 38. Section 63A-16-1002 is amended to read:

63A-16-1002

(Effective 11/06/25)

. Public safety portal.

(1) The commission shall oversee the creation and management of a public safety portal for information and data required to be reported to the commission and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the public safety portal.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the public safety portal;

(b) a gateway, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information from the public safety portal;

(d) a protocol for accessing information in the public safety portal that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed from the public safety portal by participating data source, data use entities, and regulators.

(4) The public safety portal shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, [~~recidivism~~]Recidivism reporting requirements;

(b) Section [~~17-22-32~~]17-72-408, [~~county~~]County jail reporting requirements;

(c) Section [~~17-55-201~~]17E-2-201, Criminal Justice Coordinating Councils reporting;

(d) Section 26B-1-427, Alcohol Abuse Tracking Committee;

(e) Section 41-6a-511, [~~courts~~]Courts to collect and maintain data;

(f) Section 53-10-118, [~~regarding~~]Regarding driving under the influence data;

(g) Section 53-25-301, [~~reporting~~]Reporting requirements for reverse-location warrants;

(h) Section 53-25-202, [~~sexual~~]Sexual assault offense reporting requirements for law enforcement agencies;

(i) Section 53E-3-516, [~~school~~]School disciplinary and law enforcement action report;

(j) Section 53-25-501, [~~reporting~~]Reporting requirements for seized firearms;

(k) Section 53-25-502, [~~law~~]Law enforcement agency reporting requirements for certain firearm data;

(l) Section 63M-7-214, [~~law~~]Law enforcement agency grant reporting;

(m) Section 63M-7-216, [~~prosecutorial~~]Prosecutorial data collection;

(n) Section 63M-7-216.1, [~~prosecutorial~~]Prosecutorial data collection regarding certain prosecutions, dismissals, and declinations to prosecute;

(o) Section 63M-7-220, [~~domestic~~]Domestic violence data collection;

(p) Section 64-14-204, [~~supervision~~]Supervision of sentenced offenders placed in community;

(q) Section 64-13-25, [~~standards~~]Standards for programs;

(r) Section 64-13-45, [~~department~~]Department reporting requirements;

(s) Section 64-13e-104, [~~county~~]County correctional facility reimbursement program for state probationary inmates and state parole inmates;

(t) Section 77-7-8.5, [~~use~~]Use of tactical groups;

(u) Section 77-11b-404, [~~forfeiture~~]Forfeiture reporting requirements;

(v) Section 77-20-103, [~~release~~]Release data requirements;

(w) Section 77-22-2.5, [~~court~~]Court orders for criminal investigations;

(x) Section 78A-2-109.5, [~~court~~]Court data collection on criminal cases;

(y) Section 80-6-104, [~~data~~]Data collection on offenses committed by minors; and

(z) any other statutes that require the collection of specific data and the reporting of that data to the commission.

(5) Before October 1, 2025, the commission shall report all data collected to the Law Enforcement and Criminal Justice Interim Committee.

(6) The commission may:

(a) enter into contracts with private or governmental entities to assist entities in complying with the data reporting requirements of Subsection (4); and

(b) [~~adopt~~]make, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules to administer this section, including establishing requirements and procedures for collecting the data described in Subsection (4).

Section 39. Section 63C-30-202 is amended to read:

63C-30-202

(Effective 11/06/25)

. Duties of the board -- Reporting.

(1) The board shall:

(a) subject to Subsection (2), make rules that establish statewide standards for county recorders as the board deems necessary to reduce

or eliminate inconsistencies, including rules for:

(i) the protection of recorded documents and records in a county recorder's custody, including appropriate methods for obtaining copies of a public record under Section [~~17-21-19~~]17-71-405, and the supervision of individuals who search and make copies of the public record;

(ii) the electronic submission of plats, records, and other documents to a county recorder's office;

(iii) the protection of privacy interests in the case of documents and records in a county recorder's custody; and

(iv) the formatting, recording, and redaction of documents and records in a county recorder's custody; and

(b) promote uniformity throughout the state with respect to the services provided by a county recorder.

(2) (a) The rules under Subsection (1)(a) shall:

(i) be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) be consistent with applicable state law, including:

(A) [~~Title 17, Chapter 21, Recorder~~]Title 17, Chapter 71, County Recorder;

[~~(B) Title 17, Chapter 21a, Uniform Real Property Electronic Recording Act;~~]

[~~(C)~~](B) Title 46, Chapter 4, Uniform Electronic Transactions Act; and

[~~(D)~~](C) Title 57, Real Estate.

(b) The rules under Subsection (1)(a) may not require a county recorder to expend any additional funds.

(3) On or before October 1 of each year, the board shall submit a written report to the Political Subdivisions Interim Committee and the Business and Labor Interim Committee that includes:

(a) information regarding the operations and activities of the board; and

(b) any recommendations for legislation related to the services provided by county recorders, including recommendations for modification of the fees established in Section [~~17-21-18.5~~]17-71-407.

Section 40. Section 63G-1-704 is amended to read:

63G-1-704

(Effective 11/06/25)

. Display of flags on government property -- Indemnification -- Severability.

(1) As used in this section:

(a) "Display" means, in regards to a flag, to place a flag in a prominent location on government property where the flag is easily visible.

(b) "Flag" means a usually rectangular piece of fabric with a specific design that symbolizes a location, government entity, or cause.

(c) "Government entity" means:

(i) any local government entity, as defined in Section 63A-5b-901, including a school within the public education system; or

(ii) any state agency, as defined in Section 63A-5b-901.

(d) "Government property" means any property under the ownership or control of a government entity.

(e) "LEA governing board" means the same as that term is defined in Section 53E-1-102.

(2) Except as provided in Subsection (3), a government entity, or an employee of a school district or school within the public education system acting within the employee's official duties, may not:

(a) display a flag in or on the grounds of government property; or

(b) display an exempt flag described in Subsection (3) with alterations in color, symbols, or appearance.

(3) The prohibition described in Subsection (2) does not apply to the following flags:

(a) the official flag of the United States described in Title 4 U.S.C., Ch. 1, The Flag, and Executive Order 1959-10834, and in accordance with Section 53G-7-211;

(b) an official Utah state flag as described in Title 63G, Chapter 1, Part 5, State Flags;

(c) the current and official flag of another country, state, or political subdivision of another country or state;

(d) a flag that represents a city, municipality, county, or political subdivision of the state, as those terms are defined in Sections 10-1-104, 10-2-301, [~~17-50-101~~]17-60-101, and 17B-1-102;

(e) a flag that represents a branch, unit, or division of the United States military;

(f) the National League of Families POW/MIA flag as described in 36 U.S.C. Sec. 902;

(g) a flag that represents an Indian tribe as defined in federal law;

(h) an officially licensed flag of a college or university depicting only the colors, logos, and marks consistent with official college or university branding;

(i) a historic version of a flag described in Subsections (3)(a) and (b);

(j) an official public school flag;

(k) an official flag of the United States Olympic Committee, United States Paralympic Committee, International Olympic Committee, or International Paralympic Committee;

(l) an official flag of an olympiad or paralympiad that occurred or will occur within the state; or

(m) a flag of an organization authorized to use a public school facility at the location and during the time in which the organization is authorized to use the public school facility.

(4) (a) The state auditor shall:

(i) establish a process to receive and investigate alleged violations of this section;

(ii) provide notice to the relevant government entity of:

(A) each alleged violation of this section involving the government entity;

(B) each violation that the state auditor determines to be substantiated, including an opportunity to cure the violation not to exceed 30 calendar days;

(iii) if a government entity, other than a school district or a school within the public education system, fails to cure a violation in accordance with Subsection (4)(a)(ii)(B), impose a fine of $500 per violation per day; and

(iv) deposit fines described in Subsection (4)(a)(iii) into the General Fund.

(b) A government entity may seek judicial review of a fine the state auditor imposes under this section to determine whether the imposition of the fine is clearly erroneous.

(5) Nothing in this section, for a local education agency, as defined in Section 53E-1-102:

(a) limits the authority of the agency related to student expression under applicable federal or state law; or

(b) removes the agency's obligation to protect all students from discrimination.

(6) Regarding a school district or a school within the public education system, the attorney general shall defend and the state shall indemnify and hold harmless a person acting under color of state law to enforce this section for any claims or damages, including court costs and attorney fees, that:

(a) arise as a result of this section; and

(b) are not covered by the person's insurance policies or by any coverage agreement the State Risk Management Fund issues.

(7) If any provision of this section or the application of any provision of this section to any person or circumstance is held invalid by a final decision of a court, the remainder of this section shall be given effect without the invalidated provision or application.

Section 41. Section 63G-2-103 is amended to read:

63G-2-103

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chief administrative officer" means the chief administrative officer of a governmental entity who is responsible to fulfill the duties described in Section 63A-12-103.

(3) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(4) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(5) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(6) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(7) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(8) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(9) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, special district office, or special service district office, but does not include judges.

(10) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(11) "Government audit agency" means any governmental entity that conducts an audit.

(12) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (12)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking, except for the Water District Water Development Council created pursuant to Section 11-13-228;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(13) "Government Records Office" means the same as that term is defined in Section 63A-12-201.

(14) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(15) "Individual" means a human being.

(16) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (16)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(17) "Legislative body" means the Legislature.

(18) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the director of the Government Records Office.

(19) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(20) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(21) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(22) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(23) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(24) "Reasonable search" means a search that is:

(a) reasonable in scope and intensity; and

(b) not unreasonably burdensome for the government entity.

(25) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not include:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar;

(x) a note prepared by the originator for the originator's own use or for the sole use of an individual for whom the originator is working;

(xi) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xii) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xiii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiv) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection [~~17-50-319(2)(e)(ii)~~]17-63-706(2)(e)(ii);

(xv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xvi) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvii) child sexual abuse material, as defined by Section 76-5b-103;

(xviii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201;

(xix) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702;

(xx) any item described in Subsection (25)(a) that is:

(A) described in Subsection 63G-2-305(17), (18),or (23)(b); and

(B) shared between any of the following entities:

(I) the Division of Risk Management;

(II) the Office of the Attorney General;

(III) the governor's office; or

(IV) the Legislature;

(xxi) the email address that a candidate for elective office provides to a filing officer under Subsection 20A-9-201(5)(c)(ii) or 20A-9-203(4)(c)(iv); or

(xxii) except as provided in Sections 31A-16-105, 31A-16-107.5, and 27a-3-303, an investment policy, or information related to an investment policy, provided to the insurance commissioner as described in Title 31A, Chapter 18, Investments.

(26) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(27) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(28) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(29) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(30) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(31) "State archivist" means the director of the state archives.

(32) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 42. Section 63G-2-305 is amended to read:

63G-2-305

(Effective 11/06/25)

. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) a research request from a legislator to a legislative staff member and research findings prepared in response to the request;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the

identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26B-2-709:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a provider, program, or facility which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a provider, program, or facility;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-

9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(65) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102;

(66) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(67) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Legislative Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(68) work papers as defined in Section 31A-2-204;

(69) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(70) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(71) a record described in Section 31A-37-503;

(72) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(73) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (74) or (75), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(78) a record submitted to the Insurance Department under Section 31A-48-103;

(79) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(80) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding;

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest; or

(d) the image is displayed to a person who is permitted to view the image under Section [~~17-22-30~~]17-72-802;

(81) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(82) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (82) may not be used to restrict access to a record evidencing a final contract or approval decision;

(83) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (83)(a);

(84) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

(85) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401;

(86) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake;

(87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is reclassified as public as described in Subsection 13-2-11(4); [~~and~~]

(88) a record of the Utah water agent, appointed under Section 73-10g-702:

(a) concerning a claim to the use of waters;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state, a tribe, the federal government, or other government entity as provided in Title73, Chapter 10g, [~~Part 6,~~]Part 7, Utah Water Agent; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water;

(ii) harm the ability of the Utah water agent to negotiate the best terms and conditions regarding the use of water; or

(iii) give an advantage to another state, a tribe, the federal government, or other government entity in negotiations regarding the use of water; and

(89) a record created or maintained for an investigation of the Prosecutor Conduct Commission, created in Section 63M-7-1102, that contains any personal identifying information of a prosecuting attorney, including:

(a) a complaint, or a document that is submitted or created for a complaint, received by the Prosecutor Conduct Commission; or

(b) a finding by the Prosecutor Conduct Commission.

Section 43. Section 63G-6a-1402 is amended to read:

63G-6a-1402

(Effective 11/06/25)

. Procurement of design-build transportation project contracts.

(1) As used in this section:

(a) "Design-build transportation project contract" means the procurement of both the design and construction of a transportation project in a single contract with a company or combination of companies capable of providing the necessary engineering services and construction.

(b) "Transportation agency" means:

(i) the Department of Transportation;

(ii) a county of the first or second class, as [~~defined~~]classified in Section [~~17-50-501~~]17-60-104;

(iii) a municipality of the first class, as defined in Section 10-2-301;

(iv) a large public transit district as defined in Section 17B-2a-802; and

(v) a public airport authority.

(2) Except as provided in Subsection (3), a transportation agency may award a design-build transportation project contract for any transportation project that has an estimated cost of at least $50,000,000 by following the requirements of this section.

(3) (a) The Department of Transportation:

(i) may award a design-build transportation project contract for any transportation project by following the requirements of this section; and

(ii) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.

(b) A public transit district that has more than 200,000 people residing within its boundaries:

(i) may award a design-build transportation project contract for any transportation project by following the requirements of this section; and

(ii) shall pass ordinances or a resolution establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.

(c) A design-build transportation project contract authorized under this Subsection (3) is not subject to the estimated cost threshold described in Subsection (2).

(d) A design-build transportation project contract may include provision by the contractor of operations, maintenance, or financing.

(4) (a) Before entering into a design-build transportation project contract, a transportation agency may issue a request for qualifications to prequalify potential contractors.

(b) Public notice of the request for qualifications shall be given in accordance with board rules.

(c) A transportation agency shall require, as part of the qualifications specified in the request for qualifications, that potential contractors at least demonstrate their:

(i) construction experience;

(ii) design experience;

(iii) financial, manpower, and equipment resources available for the project; and

(iv) experience in other design-build transportation projects with attributes similar to the project being procured.

(d) The request for qualifications shall identify the number of eligible competing proposers that the transportation agency will select to submit a proposal, which may not be less than two.

(5) The transportation agency shall:

(a) evaluate the responses received from the request for qualifications;

(b) select from their number those qualified to submit proposals; and

(c) invite those respondents to submit proposals based upon the transportation agency's request for proposals.

(6) If the transportation agency fails to receive at least two qualified eligible competing proposals, the transportation agency shall readvertise the project.

(7) The transportation agency shall issue a request for proposals to those qualified respondents that:

(a) includes a scope of work statement constituting an information for proposal that may include:

(i) preliminary design concepts;

(ii) design criteria, needs, and objectives;

(iii) warranty and quality control requirements;

(iv) applicable standards;

(v) environmental documents;

(vi) constraints;

(vii) time expectations or limitations;

(viii) incentives or disincentives; and

(ix) other special considerations;

(b) requires submitters to provide:

(i) a sealed cost proposal;

(ii) a critical path matrix schedule, including cash flow requirements;

(iii) proposal security; and

(iv) other items required by the department for the project; and

(c) may include award of a stipulated fee to be paid to offerors who submit unsuccessful proposals.

(8) The transportation agency shall:

(a) evaluate the submissions received in response to the request for proposals from the prequalified offerors;

(b) comply with rules relating to discussion of proposals, best and final offers, and evaluations of the proposals submitted; and

(c) after considering price and other identified factors, award the contract to the responsible offeror whose responsive proposal is most advantageous to the transportation agency or the state.

Section 44. Section 63G-7-704 is amended to read:

63G-7-704

(Effective 11/06/25)

. Tax levy by political subdivisions for payment of claims, judgments, or insurance premiums.

(1) Notwithstanding any provision of law to the contrary, a political subdivision may levy an annual property tax sufficient to pay:

(a) any claim, settlement, or judgment, including interest payments and issuance costs for bonds issued under Subsection 11-14-103(1)(d) to pay the portion of any claim, settlement, or judgment that exceeds $3,000,000;

(b) the costs to defend against any claim, settlement, or judgment; or

(c) for the establishment and maintenance of a reserve fund for the payment of claims, settlements, or judgments that may be reasonably anticipated.

(2) (a) The payments authorized to pay for punitive damages or to pay the premium for authorized insurance is money spent for a public purpose within the meaning of this section and Utah Constitution, Article XIII, Sec. 5, even though, as a result of the levy, the maximum levy as otherwise restricted by law is exceeded.

(b) (i) Except as provided in Subsection (2)(b)(ii), a levy under this section may not exceed .0001 per dollar of taxable value of taxable property.

(ii) A levy under Subsection (1)(a) to pay the portion of any claim, settlement, or judgment that exceeds $3,000,000 may not exceed .001 per dollar of taxable value of taxable property.

(c) Except as provided in Subsection [~~17-36-29(1)~~]17-63-808(2), the revenues derived from this levy may not be used for any purpose other than those specified in this section.

(3) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

(4) A political subdivision that levies an annual property tax under Subsection (1)(a) to pay the portion of any claim, settlement, or judgment that exceeds $3,000,000:

(a) shall comply with the notice and public hearing requirements under Section 59-2-919; and

(b) may levy the annual property tax until the bonds' maturity dates expire.

Section 45. Section 63G-20-102 is amended to read:

63G-20-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Child placing" means the same as that term is defined in Section 26B-2-101.

(2) "Child-placing agency" means a private person that is engaged in child placing related to a child who is not in the custody of the state.

(3) "Government retaliation" means an action by a state or local government or an action by a state or local government official that:

(a) is taken in response to a person's exercise of a protection contained in Subsection 17-70-302(18) or Section [~~17-20-4,~~]63G-20-201, 63G-20-203.5, or 63G-20-301; and

(b) (i) imposes a formal penalty on, fines, disciplines, discriminates against, denies the rights of, denies benefits to, or denies tax-exempt status to a person; or

(ii) subjects a person to an injunction or to an administrative claim or proceeding.

(4) (a) "Religious official" means an officer or official of a religion, when acting as such.

(b) "Religious official" includes an individual designated by the religion as clergy, minister, priest, pastor, rabbi, imam, bishop, stake president, or sealer, when that individual is acting as such.

(5) "Religious organization" means:

(a) a religious organization, association, educational institution, or society;

(b) a religious corporation sole; or

(c) any corporation or association constituting a wholly owned subsidiary, affiliate, or agency of any religious organization, association, educational institution, society, or religious corporation sole.

(6) "Sexuality" includes legal sexual conduct, legal sexual expression, sexual desires, and the status of a person as male or female.

(7) "State or local government" means:

(a) a state government entity, agency, or instrumentality; or

(b) a local government entity, agency, or instrumentality.

(8) "State or local government official" means an officer, employee, or appointee of a state or local government.

Section 46. Section 63G-20-202 is amended to read:

63G-20-202

(Effective 11/06/25)

. Prohibition on government retaliation.

Notwithstanding any other law, a state or local government or a state or local government official may not engage in government retaliation against:

(1) an individual, a religious official when acting as such, or a religious organization for exercising the protections contained in Subsection 17-70-302(18) or Section [~~17-20-4,~~]63G-20-201[,] or 63G-20-301; or

(2) a child-placing agency for exercising the protections contained in Section 63G-20-203.5.

Section 47. Section 63H-1-102 is amended to read:

63H-1-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:

(i) before the year in which the authority creates the project area; or

(ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection [~~17-34-3(2)~~]17-78-502(2) to levy a property tax under [~~Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas~~]Title 17, Chapter 78, Part 5, Provision of Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) "Develop" means to engage in development.

(6) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, maintenance, operation, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(7) "Development project" means a project to develop land within a project area.

(8) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(9) "Included municipality" means a municipality, some or all of which is included within a project area.

(10) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States, the authority, or the state.

(11) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

(12) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(13) (a) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

(b) "Military land" includes land that is:

(i) owned or leased by the authority; and

(ii) held or used for the benefit of the military.

(14) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(15) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(a)(ii)(B); and

(c) receives as dedicated tax collections.

(16) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

(17) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(18) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(19) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

(20) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (20)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is $1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

(21) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(22) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including the authority or a county, city, town, school district, special district, special service district, or interlocal cooperation entity.

(23) (a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public, the authority, the military, or military-related entities; and

(ii) (A) are publicly owned by the military, the authority, a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, or another public entity;

(B) are owned by a utility; or

(C) are publicly maintained or operated by the military, the authority, or another public entity.

(b) "Public infrastructure and improvements" also means infrastructure, improvements, facilities, or buildings that:

(i) are privately owned; and

(ii) provide a substantial benefit, as determined by the board, to the development and operation of a project area.

(c) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;

(ii) streets, roads, curb, gutter, sidewalk, walkways, tunnels, solid waste facilities, parking facilities, public transportation facilities,

and parks, trails, and other recreational facilities;

(iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and

(iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.

(24) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

(a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

(25) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(26) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(27) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(28) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(29) "Transient room tax" means a tax under Section 59-12-352.

Section 48. Section 63H-1-304 is amended to read:

63H-1-304

(Effective 11/06/25)

. Annual conflict of interest disclosure statement -- Exception -- Penalties.

(1) Except as provided in Subsection (7), a board member shall, no sooner than January 1 and no later than January 31 of each year during which the board member holds office on the authority's board:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the authority's board.

(2) (a) No later than 10 business days after the date on which the board member submits the written disclosure statement described in Subsection (1) to the administrator or clerk of the authority's board, the administrator or clerk shall:

(i) post an electronic copy of the written disclosure statement on the authority's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (2)(a)(i).

(b) The administrator or clerk shall ensure that the board member's written disclosure statement remains posted on the authority's website until the board member leaves office.

(3) The administrator or clerk of the authority's board shall take the action described in Subsection (4) if:

(a) a board member fails to timely file the written disclosure statement described in Subsection (1); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(4) If a circumstance described in Subsection (3) occurs, the administrator or clerk of the authority's board shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the board member of the violation and direct the board member to submit an amended written disclosure statement correcting the problem.

(5) (a) It is unlawful for a board member to fail to submit or amend a written disclosure statement within seven days after the day on which the board member receives the notice described in Subsection (4).

(b) A board member who violates Subsection (5)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the authority's board shall report a violation of Subsection (5)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (5)(b), the administrator or clerk of the authority's board shall impose a civil fine of $100 against a board member who violates Subsection (5)(a).

(6) The administrator or clerk of the authority's board shall deposit a fine collected under this section into the board's account to pay for the costs of administering this section.

(7) For an individual who is appointed as a board member under Subsection 63H-1-302(2)(b):

(a) Subsection (1) does not apply; and

(b) the administrator or clerk of the authority's board shall, instead:

(i) post an electronic link on the authority's website to the written disclosure statement the board member made in the board member's capacity as an elected officer of:

(A) a county, under Section [~~17-16a-13~~]17-70-509; or

(B) a municipality, under Section 10-3-1313; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (7)(b)(i).

Section 49. Section 63H-4-102 is amended to read:

63H-4-102

(Effective 11/06/25) (Repealed 07/01/29)

. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and expenses -- Annual conflict of interest disclosure statement -- Exception -- Penalties.

(1) There is created an independent state agency and a body politic and corporate known as the "Heber Valley Historic Railroad Authority."

(2) The authority is composed of eight members as follows:

(a) one member of the county legislative body of Wasatch County;

(b) the mayor of Heber City;

(c) the mayor of Midway;

(d) the executive director of the Department of Transportation or the executive director's designee;

(e) the director of the Division of State Parks, or the director's designee; and

(f) three public members appointed by the governor with the advice and consent of the Senate, being private citizens of the state, as follows:

(i) two people representing the tourism industry, one each from Wasatch and Utah counties; and

(ii) one person representing the public at large.

(3) All members shall be residents of the state.

(4) (a) Except as required by Subsection (4)(b), the three public members are appointed for four-year terms beginning July 1, 2010.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members are staggered so that approximately half of the authority is appointed every two years.

(5) Any of the three public members may be removed from office by the governor or for cause by an affirmative vote of any four members of the authority.

(6) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term by the governor with advice and consent of the Senate for the unexpired term.

(7) Each public member shall hold office for the term of appointment and until a successor has been appointed and qualified.

(8) A public member is eligible for reappointment, but may not serve more than two full consecutive terms.

(9) The governor shall appoint the chair of the authority from among its members.

(10) The members shall elect from among their number a vice chair and other officers they may determine.

(11) The powers of the authority are vested in its members.

(12) (a) Four members constitute a quorum for transaction of authority business.

(b) An affirmative vote of at least four members is necessary for any action taken by the authority.

(13) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(14) Except as provided in Subsection (20), a member shall, no sooner than January 1 and no later than January 31 of each year during which the member holds office on the authority:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the authority.

(15) (a) No later than 10 business days after the date on which the member submits the written disclosure statement described in Subsection (14) to the administrator or clerk of the authority, the administrator or clerk shall:

(i) post an electronic copy of the written disclosure statement on the authority's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (15)(a)(i).

(b) The administrator or clerk shall ensure that the member's written disclosure statement remains posted on the authority's website until the member leaves office.

(16) The administrator or clerk of the authority shall take the action described in Subsection (17) if:

(a) a member fails to timely file the written disclosure statement described in Subsection (14); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(17) If a circumstance described in Subsection (16) occurs, the administrator or clerk of the authority shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the member of the violation and direct the member to submit an amended written disclosure statement correcting the problem.

(18) (a) It is unlawful for a member to fail to submit or amend a written disclosure statement within seven days after the day on which the member receives the notice described in Subsection (17).

(b) A member who violates Subsection (18)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the authority shall report a violation of Subsection (18)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (18)(b), the administrator or clerk of the authority shall impose a civil fine of $100 against a member who violates Subsection (18)(a).

(19) The administrator or clerk of the authority shall deposit a fine collected under this section into the authority's account to pay for the costs of administering this section.

(20) For an individual who is appointed to the authority under Subsection (2)(a), (b), or (c):

(a) Subsection (14) does not apply; and

(b) the administrator or clerk of the authority shall, instead:

(i) post an electronic link on the authority's website to the written disclosure statement the member made in the member's capacity as an elected officer of:

(A) a county, under Section [~~17-16a-13~~]17-70-509; or

(B) a municipality, under Section 10-3-1313; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (20)(b)(i).

Section 50. Section 63J-1-602.2 is amended to read:

63J-1-602.2

(Effective 11/06/25) (Partially Repealed 07/01/29)

. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund Program created in Title 4, Chapter 46, Part 3, LeRay McAllister Working Farm and Ranch Fund Program.

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection [~~17-16-21(2)(d)(ii)~~]17-66-303(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The primary care grant program created in Section 26B-4-310.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(12) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(16) The Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program created in Section 26B-7-122.

(17) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(18) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(19) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

(20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(21) The Emergency Medical Services Grant Program, as provided in Section 53-2d-207.

(22) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(23) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(24) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(3).

(25) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The State Capitol Preservation Board created by Section 63O-2-201.

(28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) County correctional facility reimbursement program for state probationary inmates and state parole inmates as described in Section 64-13e-104.

(34) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(35) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(36) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(37) The Traffic Noise Abatement Program created in Section 72-6-112.

(38) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(39) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(40) A state rehabilitative employment program, as provided in Section 78A-6-210.

(41) The Utah Geological Survey, as provided in Section 79-3-401.

(42) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(43) Adoption document access as provided in Sections 81-13-103, 81-13-504, and 81-13-505.

(44) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(45) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(46) The State Tax Commission for reimbursing counties for deferrals in accordance with Section 59-2-1802.5.

(47) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 51. Section 63L-11-203 is amended to read:

63L-11-203

(Effective 11/06/25)

. Resource management plan administration.

(1) The office shall consult with the Federalism Commission before expending funds appropriated by the Legislature for the implementation of this section.

(2) To the extent that the Legislature appropriates sufficient funding, the office may procure the services of a non-public entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to assist the office with the office's responsibilities described in Subsection (3).

(3) The office shall:

(a) assist each county with the creation of the county's resource management plan by:

(i) consulting with the county on policy and legal issues related to the county's resource management plan; and

(ii) helping the county ensure that the county's resource management plan meets the requirements of [~~Subsection 17-27a-401(3)~~]Section 17-79-402;

(b) promote quality standards among all counties' resource management plans; and

(c) upon submission by a county, review and verify the county's:

(i) estimated cost for creating a resource management plan; and

(ii) actual cost for creating a resource management plan.

(4) (a) A county shall cooperate with the office, or an entity procured by the office under Subsection (2), with regards to the office's responsibilities under Subsection (3).

(b) To the extent that the Legislature appropriates sufficient funding, the office may, in accordance with Subsection (4)(c), provide funding to a county before the county completes a resource management plan.

(c) The office may provide pre-completion funding described in Subsection (4)(b):

(i) after:

(A) the county submits an estimated cost for completing the resource management plan to the office; and

(B) the office reviews and verifies the estimated cost in accordance with Subsection (3)(c)(i); and

(ii) in an amount up to:

(A) 50% of the estimated cost of completing the resource management plan, verified by the office; or

(B) $25,000, if the amount described in Subsection (4)(c)(i)(A) is greater than $25,000.

(d) To the extent that the Legislature appropriates sufficient funding, the office shall provide funding to a county in the amount described in Subsection (4)(e) after:

(i) a county's resource management plan:

(A) meets the requirements described in [~~Subsection 17-27a-401(3)~~]Section 17-79-402; and

(B) is adopted under Subsection [~~17-27a-404(5)(d)~~]17-79-404(5)(d);

(ii) the county submits the actual cost of completing the resource management plan to the office; and

(iii) the office reviews and verifies the actual cost in accordance with Subsection (3)(c)(ii).

(e) The office shall provide funding to a county under Subsection (4)(d) in an amount equal to the difference between:

(i) the lesser of:

(A) the actual cost of completing the resource management plan, verified by the office; or

(B) $50,000; and

(ii) the amount of any pre-completion funding that the county received under Subsections (4)(b) and (c).

(5) To the extent that the Legislature appropriates sufficient funding, after the deadline established in Subsection [~~17-27a-404(5)(d)~~]17-79-404(5)(d) for a county to adopt a resource management plan, the office shall:

(a) obtain a copy of each county's resource management plan;

(b) create a statewide resource management plan that:

(i) meets the same requirements described in [~~Subsection 17-27a-401(3)~~]Section 17-79-402; and

(ii) to the extent reasonably possible, coordinates and is consistent with any resource management plan or land use plan established under Title 63J, Chapter 8, State of Utah Resource Management Plan for Federal Lands; and

(c) submit a copy of the statewide resource management plan to the Federalism Commission for review.

[~~(6) Following review of the statewide resource management plan, the Federalism Commission shall prepare a concurrent resolution approving the statewide resource management plan for consideration during the 2018 General Session.~~]

[~~(7)~~](6) To the extent that the Legislature appropriates sufficient funding, the office shall provide legal support to a county that becomes involved in litigation with the federal government over the requirements of Subsection [~~17-27a-405(3)~~]17-79-405(3).

[~~(8)~~](7) After the statewide resource management plan is approved, [~~as described in Subsection (6),~~]and to the extent that the Legislature appropriates sufficient funding, the office shall monitor the implementation of the statewide resource management plan at the federal, state, and local levels.

Section 52. Section 63L-12-102 is amended to read:

63L-12-102

(Effective 11/06/25)

. Grant of real property for moderate income housing.

(1) Subject to the requirements of this section, a governmental entity may grant real property owned by the governmental entity to an entity for the development of moderate income housing on the real property.

(2) A governmental entity shall ensure that real property granted under Subsection (1) is deed restricted for moderate income housing for at least 30 years after the day on which each moderate income housing unit is completed and occupied.

(3) If applicable, a governmental entity granting real property under this section shall comply with:

(a) the provisions of Title 78B, Chapter 6, Part 5, Eminent Domain;

(b) Subsection 10-8-2(4), if a municipality is granting real property under this section;

(c) Subsection [~~17-50-312(5)~~]17-78-103(4), if a county is granting real property under this section; and

(d) except as provided in Subsection (4), any other applicable provisions of law that govern the granting of real property by the governmental entity.

(4) A municipality granting real property under this section is not subject to the provisions of Subsection 10-8-2(3).

Section 53. Section 63M-15-206 is amended to read:

63M-15-206

(Effective 11/06/25)

. Oversight -- Staff support -- Funding.

(1) Utah State University shall:

(a) working in consultation with the commission, hire a coordinator to manage the day-to-day operations of the commission;

(b) pay the salary of the coordinator and review the coordinator's performance;

(c) provide other staff support for the commission; and

(d) provide office space, furnishings, and supplies to the commission, the coordinator, and support staff.

(2) Funding for the commission shall be dedicated credits from the $20 marriage license fee described in Section [~~17-16-21~~]17-66-303 and added funding sought by the commission from private contributions and grants that support the duties of the commission described in Section 63M-15-204.

(3) Before November 1, 2024, and before November 1 of each third year after 2024, the commission shall provide a written report to the Health and Human Services Interim Committee regarding the commission's:

(a) initiatives and whether the initiatives could be accomplished by a private organization; and

(b) funding sources, including the effectiveness and necessity of the marriage license fee, described in Section [~~17-16-21~~]17-66-303, in providing commission funding.

Section 54. Section 63N-2-511 is amended to read:

63N-2-511

(Effective 11/06/25) (Partially Repealed 07/01/30)

. Stay Another Day and Bounce Back Fund.

(1) As used in this section:

(a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created in Subsection (2).

(b) "Tourism board" means the Board of Tourism Development created in Section 63N-7-201.

(2) There is created an expendable special revenue fund known as the Stay Another Day and Bounce Back Fund.

(3) The bounce back fund shall:

(a) be administered by the Utah Office of Tourism;

(b) earn interest; and

(c) be funded by:

(i) annual payments under Section [~~17-31-9~~]17-78-707 from the county in which a qualified hotel is located;

(ii) money transferred to the bounce back fund under Section 63N-2-503.5 or 63N-2-512; and

(iii) any money that the Legislature chooses to appropriate to the bounce back fund.

(4) Interest earned by the bounce back fund shall be deposited into the bounce back fund.

(5) The Utah Office of Tourism may use money in the bounce back fund to pay for a tourism program of advertising, marketing, and branding of the state, taking into consideration the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis.

Section 55. Section 63N-2-512 is amended to read:

63N-2-512

(Effective 11/06/25) (Repealed 07/01/28)

. Hotel Impact Mitigation Fund.

(1) As used in this section:

(a) "Affected hotel" means a hotel built in the state before July 1, 2014.

(b) "City-wide event" means an event hosted at a convention facility pursuant to a contract by a nonprofit corporation responsible for the promotion of convention business.

(c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).

(d) "Qualified losses" means revenue lost by an affected hotel for city-wide events attributable to the qualified hotel room supply being added to the market in the state, calculated by taking the difference between:

(i) an affected hotel's average total annual room-night revenue for city-wide events for the three-year period between January 1, 2017, and December 31, 2019; and

(ii) the affected hotel's total annual room-night revenue for city-wide events for the applicable year.

(2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(3) The mitigation fund shall:

(a) be administered by GOEO;

(b) earn interest; and

(c) be funded by:

(i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103(10);

(ii) money required to be deposited into the mitigation fund under Subsection [~~17-31-9(2)~~]17-78-707(2) by the county in which a qualified hotel is located; and

(iii) any money deposited into the mitigation fund under Subsection (7).

(4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

(5) In accordance with office rules and Subsection (6), GOEO shall annually pay $2,100,000 from the mitigation fund to affected hotels to mitigate qualified losses as follows:

(a) for calendar years 2023 and 2024, on or before June 1, 2025;

(b) for calendar year 2025, on or before February 28, 2026; and

(c) for calendar year 2026, on or before February 28, 2026.

(6) Each calendar year, GOEO shall award the available $2,100,000 to affected hotels proportionally, according to each affected hotel's qualified losses in relation to the total qualified losses suffered collectively by all affected hotels.

(7) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5) to affected hotels.

Section 56. Section 63N-3-403 is amended to read:

63N-3-403

(Effective 11/06/25)

. Transient Room Tax Fund -- Source of revenues -- Interest -- Expenditure or pledge of revenues.

(1) There is created a fiduciary fund held by the state in a purely custodial capacity known as the Transient Room Tax Fund.

(2) (a) The fund shall be funded by the portion of the sales and use tax imposed by a county of the first class described in Subsection 59-12-301(2) and the revenue generated by the tax described in Subsection 59-28-103(5).

(b) (i) The fund shall earn interest.

(ii) Any interest earned on fund money shall be deposited into the fund.

(3) (a) Before July 1, 2027, and subject to Subsection (3)(b), the executive director shall expend or pledge the money deposited into the fund:

(i) to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class;

(ii) for a purpose listed in Section [~~17-31-2~~]17-78-702, except that any requirements in Section [~~17-31-2~~]17-78-702 for the expenditure of money do not apply; or

(iii) for a combination of Subsections (3)(a)(i) and (ii).

(b) The executive director may not expend more than $20,000,000 in total to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class.

(4) Beginning on July 1, 2027, the executive director shall expend or pledge the money deposited into the fund for:

(a) the benefit of a city of the first class:

(i) in a county of the first class;

(ii) with a convention center; and

(iii) that is not a capital city; and

(b) a purpose listed in Section [~~17-31-2~~]17-78-702, except that any requirements in Section [~~17-31-2~~]17-78-702 for the expenditure of money do not apply.

Section 57. Section 63N-4-801 is amended to read:

63N-4-801

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Advisory committee" means the Rural Opportunity Advisory Committee created in Section 63N-4-804.

(2) "Association of governments" means an association of political subdivisions of the state, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(3) (a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(b) "Business entity" does not include a business primarily engaged in the following:

(i) construction;

(ii) staffing;

(iii) retail trade; or

(iv) public utility activities.

(4) "CEO board" means a County Economic Opportunity Advisory Board as described in Section 63N-4-803.

(5) "Fund" means the Rural Opportunity Fund created in Section 63N-4-805.

(6) "Qualified asset" means a physical asset that provides or supports an essential public service.

(7) " Qualified project" means a project to build or improve one or more qualified assets for a rural community, including:

(a) telecom and high-speed Internet infrastructure;

(b) power and energy infrastructure;

(c) water and sewerage infrastructure;

(d) healthcare infrastructure; or

(e) other infrastructure as defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) "Rural community" means a rural county or rural municipality.

(9) "Rural county" means:

(a) a county of the fourth, fifth, or sixth class, as classified in Section [~~17-50-501~~]17-60-104; or

(b) a county of the third class, as classified in Section [~~17-50-501~~]17-60-104, if the county of the third class has no municipality with a population of 100,000 or more.

(10) "Rural health care special district" means a special service district created to provide health care under Subsection 17D-1-201(6) that is located in a rural county or rural municipality.

(11) "Rural municipality" means a city or town located within the boundaries of:

(a) a county of the third, fourth, fifth, or sixth class; or

(b) a county of the second class, if the municipality has a population of 10,000 or less.

(12) "Rural Opportunity Program" or "program" means the Rural Opportunity Program created in Section 63N-4-802.

Section 58. Section 64-13e-103 is amended to read:

64-13e-103

(Effective 11/06/25)

. County correctional facility contracting program for state inmates -- Payments -- Reporting -- Contracts.

(1) Subject to Subsection (7), the department may only contract with a county to house state inmates in a county correctional facility.

(2) (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1) shall be:

(i) except as provided in Subsection (2)(a)(ii), 84% of the state daily incarceration rate for a county correctional facility bed space in a county that, pursuant to the contract, is dedicated to a treatment program for state inmates, if the treatment program is approved by the department under Subsection (2)(c);

(ii) 75% of the state daily incarceration rate for a county correctional facility bed space in a county that, pursuant to the contract, is dedicated to an alternative treatment program for state inmates, if the alternative treatment program is approved by the department under Subsection (2)(c); and

(iii) 70% of the state daily incarceration rate for a county correctional facility bed space in a county other than the bed spaces described in Subsections (2)(a)(i) and (ii).

(b) The department shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is considered for approval for the purpose of a county receiving payment based on the rate described in Subsection (2)(a)(i) or (ii); and

(ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection (2)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection (2)(a)(i) or (ii).

(c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection (2)(a)(i) or (ii), unless:

(i) the program meets the standards established under Subsection (2)(b)(i); and

(ii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(d) (i) The department shall annually:

(A) collect information from each county described in Subsection (1) regarding the treatment programs for state inmates offered by the county;

(B) evaluate, review, and audit the results of each treatment program on state inmate recidivism and other relevant metrics; and

(C) on or before November 30, report the results of the information described in Subsection (2)(d)(i)(B) to the Criminal Justice Appropriations Subcommittee.

(ii) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of Subsection (2)(d)(i).

(3) (a) Compensation to a county for state inmates incarcerated under this section shall be made by the department.

(b) Funds from the County Correctional Facility Contracting Reserve Program may be used only once existing annual appropriated funds for the fiscal year have been exhausted.

(4) Counties that contract with the department under Subsection (1) shall, on or before June 30 of each year, submit a report to the department that includes:

(a) the number of state inmates the county housed under this section;

(b) the total number of state inmate days of incarceration that were provided by the county; and

(c) the information required under Subsection (2)(d)(i)(A).

(5) Except as provided under Subsection (6), the department may not enter into a contract with a county as described under Subsection (1), unless:

(a) beginning July 1, 2023, the county correctional facility within the county is in compliance with the reporting requirements described in [~~Subsection 17-22-32(2)~~]Section 17-72-408; and

(b) the Legislature has previously passed a joint resolution that includes the following information regarding the proposed contract:

(i) the approximate number of beds to be contracted;

(ii) the approximate amount of the county's long-term debt; and

(iii) the repayment time of the debt for the facility where the inmates are to be housed.

(6) The department may enter into a contract with a county government to house inmates without complying with the approval process described in Subsection (5) only if the county facility was under construction, or already in existence, on March 16, 2001.

(7) Any resolution passed by the Legislature under Subsection (5) does not bind or obligate the Legislature or the department regarding the proposed contract.

Section 59. Section 65A-3-3 is amended to read:

65A-3-3

(Effective 11/06/25)

. Enforcement of laws -- City, county, or district attorney to prosecute.

(1) It is the duty of the Division of Law Enforcement, county sheriffs, county sheriff deputies, peace officers, and other law enforcement officers within the law enforcement jurisdiction to enforce the provisions of this chapter and to investigate and gather evidence that may indicate a violation under this chapter.

(2) (a) The city attorney, county attorney, or district attorney, as appropriate under Sections 10-3-928, [~~17-18a-202, and 17-18a-203~~]17-68-302, and 17-68-303, shall prosecute any criminal violations of this chapter.

(b) The counsel for an eligible entity, as defined in Section 65A-8-203, shall initiate a civil action to recover suppression costs incurred by the eligible entity for suppression of fire on private land.

Section 60. Section 65A-8-217 is amended to read:

65A-8-217

(Effective 11/06/25)

. Utah Wildfire Fund.

(1) As used in this section:

(a) "Eligible entity" means the same as that term is defined in Section 65A-8-203.

(b) "Fund" means the Utah Wildfire Fund created by this section.

(c) "Wildfire" means a fire that consumes:

(i) wildland; or

(ii) wildland urban interface.

(d) "Wildfire costs" means costs associated with the suppression of a wildfire or rehabilitation efforts after a wildfire is suppressed as further defined by the division by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including costs for an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203.

(e) "Wildfire prevention costs" means costs for prevention, preparedness, or mitigation efforts before a wildfire, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including costs of an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203.

(2) (a) There is created an expendable special revenue fund known as the "Utah Wildfire Fund."

(b) The fund shall consist of:

(i) interest and earnings from the investment of fund money;

(ii) money appropriated by the Legislature to the fund;

(iii) federal funds received by the division for wildfire management costs, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iv) suppression costs billed to an eligible entity that does not participate in a cooperative agreement;

(v) suppression costs paid to the division by another state agency;

(vi) costs recovered from a settlement or a civil or administrative action related to wildfire suppression;

(vii) restitution payments ordered by a court following a criminal adjudication;

(viii) voluntary contributions received by the division;

(ix) money received as direct payment from cooperative wildfire system participation commitments;

(x) money deposited by the Division of Finance, pursuant to Section 59-21-2;

(xi) money transferred by the Division of Finance, pursuant to Section 63J-1-314; and

(xii) money deposited by the Division of Forestry, Fire, and State Lands, pursuant to Section [~~17-16-22~~]17E-7-401.

(c) The state treasurer shall:

(i) invest the money in the fund in accordance with Title 51, Chapter 7, State Money Management Act; and

(ii) deposit interest or other earnings derived from each investment described in Subsection (2)(c)(i) into the fund.

(3) (a) The division shall administer the fund to:

(i) pay wildfire costs on:

(A) state lands; or

(B) if delegated fire management authority, as described in Section 65A-8-203.1, private land located in an unincorporated area;

(ii) subject to Subsection (4), make one or more grants for the purpose of assisting one or more local fire departments or volunteer fire departments in building capacity for the suppression of wildfire; and

(iii) subject to Subsection (5), pay wildfire prevention costs.

(b) The division may disburse money from the fund only upon written order of the state forester or the state forester's authorized representative.

(c) If the state forester determines money in the fund may be insufficient to cover eligible costs in a fire season, the state forester may:

(i) delay making disbursements from the fund until the close of the fire season; and

(ii) request supplemental appropriations from the Legislature.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to administer the fund

consistent with the requirements of this section.

(4) (a) The division may not issue in a fiscal year an aggregate of grants described in Subsection (3)(a)(ii) that exceed $300,000.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing criteria for receiving a grant under Subsection (3)(a)(ii).

(5) (a) Except as provided in Subsection (5)(b), the division shall pay wildfire prevention costs during that fiscal year in an amount that is the greater of:

(i) $10,000,000; or

(ii) the sum of:

(A) $3,000,000; and

(B) 10% of the money deposited into the fund but not expended in the previous fiscal year for wildfire costs.

(b) In a case of catastrophic need, as determined by the state forester, the division may use money described in Subsection (5)(a) to pay wildfire costs.

(6) Beginning with the fiscal year ending June 30, 2026, the division shall, by no later than the October 31 immediately following the fiscal year, annually report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee:

(a) the balance in the fund at the end of the fiscal year;

(b) the amount of expenditures under Subsections (3)(a)(i), (ii), and (iii) during the fiscal year; and

(c) the revenues deposited into the fund under Subsection (2) during the fiscal year.

Section 61. Section 65A-8-402 is amended to read:

65A-8-402

(Effective 01/01/26)

. Evaluation of wildland urban interface property -- Fee amounts -- Rulemaking.

(1) (a) The division shall establish a program under which a wildland urban interface coordinator evaluates and classifies high risk wildland urban interface property using a triage scale.

(b) The wildland urban interface coordinator shall be:

(i) a representative of the division; or

(ii) if the evaluation and classification is assigned to a county, a representative of the county.

(c) At the beginning of each calendar year, the division shall determine whether to assign evaluation and classification under this section of high risk wildland urban interface property to a county.

(2) After completing the evaluation and classification under this section, the wildland urban interface coordinator shall inform a property owner of property described in Subsection (1)(a) of:

(a) the classification assigned to the property described in Subsection (1)(a) under the triage scale;

(b) the fee the property owner shall pay under Section [~~17-16-22~~]17E-7-401; and

(c) resources from the division or county that the property owner may access to bring the property described in Subsection (1)(a) to the first or second classification by applying wildland urban interface building standards.

(3) As part of the program established under this section, the division:

(a) may provide resources to a property owner described in Subsection (2)(b) to facilitate the property owner bringing the property described in Subsection (1)(a) to the first or second classification under the triage scale; and

(b) beginning on January 1, 2028, shall develop and maintain a database that may be accessed by a wildland urban interface property and casualty insurer to learn the classification under the triage scale for any portion of high risk wildland urban interface property to be covered by the wildland urban interface property and casualty insurer.

(4) (a) The division shall annually set a fee amount that is based on the square footage of a structure within the high risk wildland urban interface to pay for the costs associated with the implementation of this part to be assessed and collected by a county in accordance with Section [~~17-16-22~~]17E-7-401.

(b) The division may tier the fee amount to account for what level on the triage scale a property is assigned by a wildland urban interface coordinator.

(5) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) define high risk wildland urban interface property and wildland urban interface property that is not high risk as provided in Subsection 65A-8-203(8)(b);

(b) establish the criteria used to evaluate and classify property located within high risk wildland urban interface property;

(c) create a process by which the division and counties communicate classifications assigned to property described in Subsection (1)(a);

(d) create a process for communicating to a property owner the information described in Subsection (2);

(e) establish how the division may provide resources under Subsection (3);

(f) create a process for a wildland urban interface property and casualty insurer to learn the classification described in Subsection (3)(b); and

(g) establish how the fee amount described in Subsection (4) is set.

Section 62. Section 67-1a-6.5 is amended to read:

67-1a-6.5

(Effective 11/06/25)

. Certification of local entity boundary actions -- Definitions -- Notice requirements -- Electronic copies -- Filing.

(1) As used in this section:

(a) "Applicable certificate" means:

(i) for the impending incorporation of a city, town, special district, conservation district, incorporation of a special district from a reorganized special service district, or public infrastructure district, a certificate of incorporation;

(ii) for the impending creation of a county, school district, special service district, community reinvestment agency, or interlocal entity,

a certificate of creation;

(iii) for the impending annexation of territory to an existing local entity, a certificate of annexation;

(iv) for the impending withdrawal or disconnection of territory from an existing local entity, a certificate of withdrawal or disconnection, respectively;

(v) for the impending consolidation of multiple local entities, a certificate of consolidation;

(vi) for the impending division of a local entity into multiple local entities, a certificate of division;

(vii) for the impending adjustment of a common boundary between local entities, a certificate of boundary adjustment; and

(viii) for the impending dissolution of a local entity, a certificate of dissolution.

(b) "Approved final local entity plat" means a final local entity plat, as defined in Section [~~17-23-20~~]17-73-101, that has been approved under Section [~~17-23-20~~]17-73-507 as a final local entity plat by the county surveyor.

(c) "Approving authority" [~~has the same meaning as~~]means the same as that term is defined in Section [~~17-23-20~~]17-73-101.

(d) "Boundary action" [~~has the same meaning as~~]means the same as that term is defined in Section [~~17-23-20~~]17-73-101.

(e) "Center" means the Utah Geospatial Resource Center created under Section 63A-16-505.

(f) "Community reinvestment agency" [~~has the same meaning as~~]means the same as that term is defined in Section 17C-1-102.

(g) "Conservation district" [~~has the same meaning as~~]means the same as that term is defined in Section 17D-3-102.

(h) "Interlocal entity" [~~has the same meaning as~~]means the same as that term is defined in Section 11-13-103.

(i) "Local entity" means a county, city, town, school district, special district, community reinvestment agency, special service district, conservation district, or interlocal entity.

(j) "Notice of an impending boundary action" means a written notice, as described in Subsection (3), that provides notice of an impending boundary action.

(k) "Special district" means the same as that term is defined in Section 17B-1-102.

(l) "Special service district" means the same as that term is defined in Section 17D-1-102.

(2) Within 10 days after receiving a notice of an impending boundary action, the lieutenant governor shall:

(a) (i) issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action meets the requirements of Subsection (3); and

(B) except in the case of an impending local entity dissolution, the notice of an impending boundary action is accompanied by an approved final local entity plat;

(ii) send the applicable certificate to the local entity's approving authority;

(iii) return the original of the approved final local entity plat to the local entity's approving authority;

(iv) send a copy of the applicable certificate and approved final local entity plat to:

(A) the State Tax Commission;

(B) the center; and

(C) the county assessor, county surveyor, county auditor, and county attorney of each county in which the property depicted on the approved final local entity plat is located; and

(v) send a copy of the applicable certificate to the state auditor, if the boundary action that is the subject of the applicable certificate is:

(A) the incorporation or creation of a new local entity;

(B) the consolidation of multiple local entities;

(C) the division of a local entity into multiple local entities; or

(D) the dissolution of a local entity; or

(b) (i) send written notification to the approving authority that the lieutenant governor is unable to issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action does not meet the requirements of Subsection (3); or

(B) the notice of an impending boundary action is:

(I) not accompanied by an approved final local entity plat; or

(II) accompanied by a plat or final local entity plat that has not been approved as a final local entity plat by the county surveyor under Section [~~17-23-20~~]17-73-507; and

(ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is unable to issue the applicable certificate.

(3) Each notice of an impending boundary action shall:

(a) be directed to the lieutenant governor;

(b) contain the name of the local entity or, in the case of an incorporation or creation, future local entity, whose boundary is affected or established by the boundary action;

(c) describe the type of boundary action for which an applicable certificate is sought;

(d) be accompanied by a letter from the Utah State Retirement Office, created under Section 49-11-201, to the approving authority that identifies the potential provisions under Title 49, Utah State Retirement and Insurance Benefit Act, that the local entity shall comply with, related to the boundary action, if the boundary action is an impending incorporation or creation of a local entity that may result in the employment of personnel; and

(e) (i) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met; or

(ii) in the case of the dissolution of a municipality, be accompanied by a certified copy of the court order approving the dissolution of the municipality.

(4) The lieutenant governor may require the approving authority to submit a paper or electronic copy of a notice of an impending boundary action and approved final local entity plat in conjunction with the filing of the original of those documents.

(5) (a) The lieutenant governor shall:

(i) keep, index, maintain, and make available to the public each notice of an impending boundary action, approved final local entity

plat, applicable certificate, and other document that the lieutenant governor receives or generates under this section;

(ii) make a copy of each document listed in Subsection (5)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;

(iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a paper copy; and

(iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a certified copy.

(b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (5).

(6) The lieutenant governor's issuance of a certificate of creation for an infrastructure financing district constitutes the state's approval of the creation of the infrastructure financing district.

Section 63. Section 67-1a-15 is amended to read:

67-1a-15

(Effective 11/06/25)

. Local government and limited purpose entity registry.

(1) As used in this section:

(a) "Entity" means a limited purpose entity or a local government entity.

(b) (i) "Limited purpose entity" means a legal entity that:

(A) performs a single governmental function or limited governmental functions; and

(B) is not a state executive branch agency, a state legislative office, or within the judicial branch.

(ii) "Limited purpose entity" includes:

(A) area agencies, area agencies on aging, and area agencies on high risk adults, as those terms are defined in Section 26B-6-101;

(B) charter schools created under Title 53G, Chapter 5, Charter Schools;

(C) community reinvestment agencies, as that term is defined in Section 17C-1-102;

(D) conservation districts, as that term is defined in Section 17D-3-102;

(E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;

(F) housing authorities, as that term is defined in Section 35A-8-401;

(G) independent entities and independent state agencies, as those terms are defined in Section 63E-1-102;

(H) interlocal entities, as that term is defined in Section 11-13-103;

(I) local building authorities, as that term is defined in Section 17D-2-102;

(J) special districts, as that term is defined in Section 17B-1-102;

(K) local health departments, as that term is defined in Section 26A-1-102;

(L) local mental health authorities, as that term is defined in Section 62A-15-102;

(M) nonprofit corporations that receive an amount of money requiring an accounting report under Section 51-2a-201.5;

(N) school districts under Title 53G, Chapter 3, School District Creation and Change;

(O) special service districts, as that term is defined in Section 17D-1-102; and

(P) substance abuse authorities, as that term is defined in Section 62A-15-102.

(c) "Local government and limited purpose entity registry" or "registry" means the registry of local government entities and limited purpose entities created under this section.

(d) "Local government entity" means:

(i) a county, as that term is defined in Section [~~17-50-101~~]17-60-101; and

(ii) a municipality, as that term is defined in Section 10-1-104.

(e) "Notice of failure to register" means the notice the lieutenant governor sends, in accordance with Subsection (7)(a), to an entity that does not register.

(f) "Notice of failure to renew" means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (7)(b).

(g) "Notice of noncompliance" means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (6)(c).

(h) "Notice of non-registration" means the notice the lieutenant governor sends to an entity and the state auditor, in accordance with Subsection (9).

(i) "Notice of registration or renewal" means the notice the lieutenant governor sends, in accordance with Subsection (6)(b)(i).

(j) "Registered entity" means an entity with a valid registration as described in Subsection (8).

(2) The lieutenant governor shall:

(a) create a registry of each local government entity and limited purpose entity within the state that:

(i) contains the information described in Subsection (4); and

(ii) is accessible on the lieutenant governor's website or otherwise publicly available; and

(b) establish fees for registration and renewal, in accordance with Section 63J-1-504, based on and to directly offset the cost of creating, administering, and maintaining the registry.

(3) Each local government entity and limited purpose entity shall:

(a) on or before July 1, 2019, register with the lieutenant governor as described in Subsection (4);

(b) on or before one year after the day on which the lieutenant governor issues the notice of registration or renewal, annually renew the entity's registration in accordance with Subsection (5); and

(c) on or before 30 days after the day on which any of the information described in Subsection (4) changes, send notice of the changes to the lieutenant governor.

(4) Each entity shall include the following information in the entity's registration submission:

(a) the resolution or other legal or formal document creating the entity or, if the resolution or other legal or formal document creating the entity cannot be located, conclusive proof of the entity's lawful creation;

(b) if the entity has geographic boundaries, a map or plat identifying the current geographic boundaries of the entity, or if it is impossible or unreasonably expensive to create a map or plat, a metes and bounds description, or another legal description that identifies the current boundaries of the entity;

(c) the entity's name;

(d) the entity's type of local government entity or limited purpose entity;

(e) the entity's governmental function;

(f) the entity's website, physical address, and phone number, including the name and contact information of an individual whom the entity designates as the primary contact for the entity;

(g) (i) names, email addresses, and phone numbers of the members of the entity's governing board or commission, managing officers, or other similar managers and the method by which the members or officers are appointed, elected, or otherwise designated;

(ii) the date of the most recent appointment or election of each entity governing board or commission member; and

(iii) the date of the anticipated end of each entity governing board or commission member's term;

(h) the entity's sources of revenue; and

(i) if the entity has created an assessment area, as that term is defined in Section 11-42-102, information regarding the creation, purpose, and boundaries of the assessment area.

(5) Each entity shall include the following information in the entity's renewal submission:

(a) identify and update any incorrect or outdated information the entity previously submitted during registration under Subsection (4); or

(b) certify that the information the entity previously submitted during registration under Subsection (4) is correct without change.

(6) Within 30 days of receiving an entity's registration or renewal submission, the lieutenant governor shall:

(a) review the submission to determine compliance with Subsection (4) or (5);

(b) if the lieutenant governor determines that the entity's submission complies with Subsection (4) or (5):

(i) send a notice of registration or renewal that includes the information that the entity submitted under Subsection (4) or (5) to:

(A) the registering or renewing entity;

(B) each county in which the entity operates, either in whole or in part, or where the entity's geographic boundaries overlap or are contained within the boundaries of the county;

(C) the Division of Archives and Records Service; and

(D) the Office of the Utah State Auditor; and

(ii) publish the information from the submission on the registry, except any email address or phone number that is personal information as defined in Section 63G-2-303; and

(c) if the lieutenant governor determines that the entity's submission does not comply with Subsection (4) or (5) or is otherwise inaccurate or deficient, send a notice of noncompliance to the registering or renewing entity that:

(i) identifies each deficiency in the entity's submission with the corresponding statutory requirement;

(ii) establishes a deadline to cure the entity's noncompliance that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of noncompliance; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (6)(c)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(7) (a) If the lieutenant governor identifies an entity that does not make a registration submission in accordance with Subsection (4) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to register to the registered entity that:

(i) identifies the statutorily required registration deadline described in Subsection (3) that the entity did not meet;

(ii) establishes a deadline to cure the entity's failure to register that is the first business day that is at least 10 calendar days after the day on which the lieutenant governor sends the notice of failure to register; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(a)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(b) If a registered entity does not make a renewal submission in accordance with Subsection (5) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to renew to the registered entity that:

(i) identifies the renewal deadline described in Subsection (3) that the entity did not meet;

(ii) establishes a deadline to cure the entity's failure to renew that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of failure to renew; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(b)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(8) An entity's registration is valid:

(a) if the entity makes a registration or renewal submission in accordance with the deadlines described in Subsection (3);

(b) during the period the lieutenant governor establishes in the notice of noncompliance or notice of failure to renew during which the entity may cure the identified registration deficiencies; and

(c) for one year beginning on the day the lieutenant governor issues the notice of registration or renewal.

(9) (a) The lieutenant governor shall send a notice of non-registration to the Office of the Utah State Auditor if an entity fails to:

(i) cure the entity's noncompliance by the deadline the lieutenant governor establishes in the notice of noncompliance;

(ii) register by the deadline the lieutenant governor establishes in the notice of failure to register; or

(iii) cure the entity's failure to renew by the deadline the lieutenant governor establishes in the notice of failure to renew.

(b) The lieutenant governor shall ensure that the notice of non-registration:

(i) includes a copy of the notice of noncompliance, the notice of failure to register, or the notice of failure to renew; and

(ii) requests that the state auditor withhold state allocated funds or the disbursement of property taxes and prohibit the entity from

accessing money held by the state or money held in an account of a financial institution, in accordance with Subsections 67-3-1(7)(i) and 67-3-1(10).

(10) The lieutenant governor may extend a deadline under this section if an entity notifies the lieutenant governor, before the deadline to be extended, of the existence of an extenuating circumstance that is outside the control of the entity.

(11) (a) An entity is not required to renew submission of a registration under this section if an entity provides a record of dissolution.

(b) The lieutenant governor shall include in the registry an entity's record of dissolution and indicate on the registry that the entity is dissolved.

Section 64. Section 67-3-1 is amended to read:

67-3-1

(Effective 11/06/25)

. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b)upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action

is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to [~~Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities~~]Title 17, Chapter 77, Local Health and Human Services, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the

state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the director of the Government Records Office, created in Section 63A-12-202, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of the director's determination, described in Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's [~~audit subcommittee~~]Audit Subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy auditor described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Carson Smith Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402, including an analysis of the cost effectiveness of the program, taking into consideration the amount of the scholarship and the amount of state and local funds dedicated on a per-student basis within the traditional public education system.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23) (a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

(24) The state auditor shall:

(a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and

(b) report to the Legislative Management Committee, upon request, regarding the state auditor's actions under this Subsection (24).

(25) The state auditor shall report compliance with Sections 67-27-107, 67-27-108, and 67-27-109 by:

(a) establishing a process to receive and audit each alleged violation; and

(b) reporting to the Legislative Management Committee, upon request, regarding the state auditor's findings and recommendations under this Subsection (25).

(26) The state auditor shall ensure compliance with Section 63G-1-704 regarding the display of flags in or on government property.

(27) (a) On or before January 31 each year, the state auditor shall prepare a report that states, for each entity that holds public funds as defined in Section 51-7-3, the entity's total balance, as of the last day of the immediately preceding fiscal year, of cash, cash equivalents, and investments, as those terms are defined under the standards established by the Governmental Accounting Standards Board.

(b) The state auditor shall make the report described in Subsection (27)(a) publicly available on a website that the state auditor maintains.

Section 65. Section 67-5-1 is amended to read:

67-5-1

(Effective 11/06/25)

. General duties -- Restrictions.

(1) The attorney general shall:

(a) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(b) except as provided in Sections 10-3-928 and [~~17-18a-403~~]17-68-504, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of process as necessary to execute the judgment;

(d) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(e) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(ii) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a

memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(iii) deliver this information to the attorney general's successor in office;

(f) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of the district and county attorneys' offices, including the authority described in Subsection (2);

(g) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

(i) in accordance with Section 67-5-1.1, to the Legislature or either house;

(ii) to any state officer, board, or commission; and

(iii) to any county attorney or district attorney;

(h) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(i) purchase in the name of the state, under the direction of the [~~state~~]Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(j) when the property of a judgment debtor in any judgment mentioned in Subsection (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the [~~state~~]Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the [~~state~~]Board of Examiners, out of any money appropriated for these purposes;

(k) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the [~~state~~]Board of Examiners, out of any money not otherwise appropriated;

(l) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(m) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(n) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(o) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(q) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(r) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False Claims Act;

(s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:

(i) in health care facilities that receive payments under the state Medicaid program;

(ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

(iii) who are receiving medical assistance under the Medicaid program as defined in Section 26B-3-101 in a noninstitutional or other setting;

(t) (i) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(A) cost the state more than $500,000; or

(B) require the state to take legally binding action that would cost more than $500,000 to implement; and

(ii) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(u) (i) submit a written report to the committees described in Subsection (1)(u)(ii) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection (1)(u), including any:

(A) settlements reached;

(B) consent decrees entered;

(C) judgments issued;

(D) preliminary injunctions issued;

(E) temporary restraining orders issued; or

(F) formal or informal policies of the Office of the Attorney General to not enforce a law; and

(ii) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (1)(u)(i) to:

(A) the Legislative Management Committee;

(B) the Judiciary Interim Committee; and

(C) the Law Enforcement and Criminal Justice Interim Committee;

(v) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(ii) any other information or analysis requested by the rate committee;

(w) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report

on the attorney general's website;

(x) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(y) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

(i) the constitutionality of a state statute;

(ii) the validity of legislation; or

(iii) any action of the Legislature;

(z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:

(A) establish outreach to the tribes and affected counties and communities; and

(B) foster better relations and a cooperative framework; and

(ii) annually report to the Criminal Justice Appropriations Subcommittee regarding:

(A) the status of the work of the special advisor described in Subsection (1)(z)(i); and

(B) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection (1)(z)(i);

(aa) (i) enforce compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and

(ii) report to the Legislative Management Committee, upon request, regarding the attorney general's enforcement under this Subsection (1)(aa); and

(bb) ensure compliance with Title 53B, Chapter 27, Part 6, Student Legal Representation, by:

(i) establishing a process to track the number of complaints submitted by students;

(ii) pursuing civil action to enforce statutory protections; and

(iii) no later than November 1 each year, reporting to the Judiciary Interim Committee regarding the attorney general's enforcement under this Subsection (1)(bb).

(2) (a) The attorney general may require a district attorney or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge.

(b) The attorney general may review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:

(i) a law enforcement agency submits investigation results to the county attorney or district attorney of the jurisdiction where the incident occurred and the county attorney or district attorney:

(A) declines to file criminal charges; or

(B) fails to screen the case for criminal charges within six months after the law enforcement agency's submission of the investigation results; and

(ii) after consultation with the county attorney or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county attorney or district attorney of the jurisdiction where the incident occurred.

(c) If the attorney general decides to conduct a review under Subsection (2)(b), the district attorney, county attorney, and law enforcement agency shall, within 14 days after the day on which the attorney general makes a request, provide the attorney general with:

(i) all information relating to the investigation, including all reports, witness lists, witness statements, and other documents created or collected in relation to the investigation;

(ii) all recordings, photographs, and other physical or digital media created or collected in relation to the investigation;

(iii) access to all evidence gathered or collected in relation to the investigation; and

(iv) the identification of, and access to, all officers or other persons who have information relating to the investigation.

(d) If a district attorney, county attorney, or law enforcement agency fails to timely comply with Subsection (2)(c), the attorney general may seek a court order compelling compliance.

(e) If the attorney general seeks a court order under Subsection (2)(d), the court shall grant the order unless the district attorney, county attorney, or law enforcement agency shows good cause and a compelling interest for not complying with Subsection (2)(c).

(3) The attorney general:

(a) is a full-time employee of the state; and

(b) may not engage in the private practice of law.

Section 66. Section 67-16-16 is amended to read:

67-16-16

(Effective 11/06/25)

. Special public officer -- Annual conflict of interest disclosure statement -- Exception -- Penalties.

(1) Except as provided in Subsection (7), a special public officer shall, no sooner than January 1 and no later than January 31 of each year during which the special public officer holds elected or appointed office:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the filing clerk.

(2) (a) No later than 10 business days after the day on which a special public officer submits the written disclosure statement described in Subsection (1) to the filing clerk, the filing clerk shall:

(i) post an electronic copy of the written disclosure statement on, as applicable, the special district's, special service district's, or school district's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (2)(a)(i).

(b) The filing clerk shall ensure that the special public officer's written disclosure statement remains posted on the website described in Subsection (2)(a)(i) until the special public officer leaves office.

(3) The filing clerk shall take the action described in Subsection (4) if:

(a) a special public officer fails to timely submit a written disclosure statement; or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(4) If a circumstance described in Subsection (3) occurs, the filing clerk shall, within five days after the day on which the filing clerk determines that a violation occurred, notify the special public officer of the violation and direct the special public officer to submit an amended report correcting the problem.

(5) (a) It is unlawful for a special public officer to fail to submit or amend a written disclosure statement within seven days after the day on which the special public officer receives the notice described in Subsection (4).

(b) A special public officer who violates Subsection (5)(a) is guilty of a class B misdemeanor.

(c) The filing clerk shall report a violation of Subsection (5)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (5)(b), the filing clerk shall impose a civil fine of $100 against a special public officer who violates Subsection (5)(a).

(6) The filing clerk shall deposit a fine collected under this section into the, as applicable, special district's, special service district's, or school district's general fund as a dedicated credit to pay for the costs of administering this section.

(7) For a special public officer who is also a state legislator, a member of the legislative body of a county or municipality, or who is otherwise required to make the written disclosure statement described in Subsection (1) under another provision of law:

(a) Subsection (1) does not apply; and

(b) the filing clerk shall, instead:

(i) post an electronic link on the website described in Subsection (2)(a)(i) to the written disclosure statement the special public officer made in the special public officer's capacity as:

(A) a state legislator, under Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures;

(B) an elected officer of a county, under Section [~~17-16a-13~~]17-70-509;

(C) an elected officer of a municipality, under Section 10-3-1313; or

(D) an individual who is otherwise required to make the written disclosure statement described in Subsection (1) under another provision of law; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (7)(b)(i).

Section 67. Section 68-3-12.5 is amended to read:

68-3-12.5

(Effective 11/06/25)

. Definitions for Utah Code.

(1) The definitions listed in this section apply to the Utah Code, unless:

(a) the definition is inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute; or

(b) a different definition is expressly provided for the respective title, chapter, part, section, or subsection.

(2) "Adjudicative proceeding" means:

(a) an action by a board, commission, department, officer, or other administrative unit of the state that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including an action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of an action described in Subsection (2)(a).

(3) "Administrator" includes "executor" when the subject matter justifies the use.

(4) "Advisory board," "advisory commission," and "advisory council" mean a board, commission, committee, or council that:

(a) is created by, and whose duties are provided by, statute or executive order;

(b) performs its duties only under the supervision of another person as provided by statute; and

(c) provides advice and makes recommendations to another person that makes policy for the benefit of the general public.

(5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

(6) "County executive" means:

(a) the county commission, in the county commission or expanded county commission form of government established under [~~Title 17, Chapter 52a, Changing Forms of County Government~~]Title 17, Chapter 62, Forms of County Government;

(b) the county executive, in the county executive-council optional form of government authorized by Section [~~17-52a-203~~]17-62-203; or

(c) the county manager, in the council-manager optional form of government authorized by Section [~~17-52a-204~~]17-62-204.

(7) "County legislative body" means:

(a) the county commission, in the county commission or expanded county commission form of government established under [~~Title 17, Chapter 52a, Changing Forms of County Government~~]Title 17, Chapter 62, Forms of County Government;

(b) the county council, in the county executive-council optional form of government authorized by Section [~~17-52a-203~~]17-62-203; and

(c) the county council, in the council-manager optional form of government authorized by Section [~~17-52a-204~~]17-62-204.

(8) "Depose" means to make a written statement made under oath or affirmation.

(9) (a) "Equal" means, with respect to biological sex, of the same value.

(b) "Equal" does not mean, with respect to biological sex:

(i) a characteristic of being the same or identical; or

(ii) a requirement that biological sexes be ignored or co-mingled in every circumstance.

(10) "Executor" includes "administrator" when the subject matter justifies the use.

(11) "Father" means a parent who is of the male sex.

(12) "Female" means the characteristic of an individual whose biological reproductive system is of the general type that functions in

a way that could produce ova.

(13) "Guardian" includes a person who:

(a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment; or

(b) is appointed by a court to manage the estate of a minor or incapacitated person.

(14) "Highway" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

(15) "Intellectual disability" means the same as that term is defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(16) "Intermediate care facility for people with an intellectual disability" means an institution or distinct part thereof for people with an intellectual disability or related conditions, if the institution or distinct part thereof meets the requirements described in 42 U.S.C. Secs. 1396d(d)(1) through (3).

(17) "Land" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

(18) "Male" means the characteristic of an individual whose biological reproductive system is of the general type that functions to fertilize the ova of a female.

(19) "Man" means an adult human male.

(20) "Month" means a calendar month, unless otherwise expressed.

(21) "Mother" means a parent who is of the female sex.

(22) "Oath" includes "affirmation."

(23) "Person" means:

(a) an individual;

(b) an association;

(c) an institution;

(d) a corporation;

(e) a company;

(f) a trust;

(g) a limited liability company;

(h) a partnership;

(i) a political subdivision;

(j) a government office, department, division, bureau, or other body of government; and

(k) any other organization or entity.

(24) "Personal property" includes:

(a) money;

(b) goods;

(c) chattels;

(d) effects;

(e) evidences of a right in action;

(f) a written instrument by which a pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished; and

(g) a right or interest in an item described in Subsections (24)(a) through (f).

(25) "Personal representative," "executor," and "administrator" include:

(a) an executor;

(b) an administrator;

(c) a successor personal representative;

(d) a special administrator; and

(e) a person who performs substantially the same function as a person described in Subsections (25)(a) through (d) under the law governing the person's status.

(26) "Policy board," "policy commission," or "policy council" means a board, commission, or council that:

(a) is authorized to make policy for the benefit of the general public;

(b) is created by, and whose duties are provided by, the constitution or statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

(27) "Population" is shown by the most recent state or national census, unless expressly provided otherwise.

(28) "Process" means a writ or summons issued in the course of a judicial proceeding.

(29) "Property" includes both real and personal property.

(30) "Real estate" or "real property" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

(31) "Review board," "review commission," and "review council" mean a board, commission, committee, or council that:

(a) is authorized to approve policy made for the benefit of the general public by another body or person;

(b) is created by, and whose duties are provided by, statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

(32) "Road" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

(33) "Sex" means, in relation to an individual, the individual's biological sex, either male or female, at birth, according to distinct reproductive roles as manifested by:

(a) sex and reproductive organ anatomy;

(b) chromosomal makeup; and

(c) endogenous hormone profiles.

(34) "Signature" includes a name, mark, or sign written with the intent to authenticate an instrument or writing.

(35) "State," when applied to the different parts of the United States, includes a state, district, or territory of the United States.

(36) "Swear" includes "affirm."

(37) "Testify" means to make an oral statement under oath or affirmation.

(38) "Uniformed services" means:

(a) the armed forces;

(b) the commissioned corps of the National Oceanic and Atmospheric Administration; and

(c) the commissioned corps of the United States Public Health Service.

(39) "United States" includes each state, district, and territory of the United States of America.

(40) "Utah Code" means the 1953 recodification of the Utah Code, as amended, unless the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

(a) on the day on which the 1953 recodification of the Utah Code was enacted; or

(b) (i) after the day described in Subsection (40)(a); and

(ii) before the most recent amendment to the referenced portion of the 1953 recodification of the Utah Code.

(41) "Vessel," when used with reference to shipping, includes a steamboat, canal boat, and every structure adapted to be navigated from place to place.

(42) (a) "Veteran" means an individual who:

(i) has served in the United States Armed Forces for at least 180 days:

(A) on active duty; or

(B) in a reserve component, to include the National Guard; or

(ii) has incurred an actual service-related injury or disability while in the United States Armed Forces regardless of whether the individual completed 180 days; and

(iii) was separated or retired under conditions characterized as honorable or general.

(b) This definition is not intended to confer eligibility for benefits.

(43) "Will" includes a codicil.

(44) "Woman" means an adult human female.

(45) "Writ" means an order or precept in writing, issued in the name of:

(a) the state;

(b) a court; or

(c) a judicial officer.

(46) "Writing" includes:

(a) printing;

(b) handwriting; and

(c) information stored in an electronic or other medium if the information is retrievable in a perceivable format.

Section 68. Section 70A-9a-525 is amended to read:

70A-9a-525

(Effective 11/06/25)

. Fees.

(1) Except as otherwise provided in Subsection (3), the fee for the Division of Corporations and Commercial Code filing and indexing a record under this part, including an initial financing statement of the kind described in Subsection 70A-9a-502(3), shall:

(a) be determined by the Division of Corporations and Commercial Code;

(b) be reasonable and fair; and

(c) reflect the cost of services provided.

(2) The fee for the Division of Corporations and Commercial Code responding to a request for information from the Division of Corporations and Commercial Code, including for issuing a record showing whether there is on file any financing statement naming a particular debtor shall:

(a) be determined by the Division of Corporations and Commercial Code;

(b) be reasonable and fair; and

(c) reflect the cost of services provided.

(3) (a) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under Subsection 70A-9a-502(3). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(b) (i) This section does not apply to fees charged by a filing office described in Subsection 70A-9a-501(1)(a).

(ii) A filing office described in Subsection 70A-9a-501(1)(a) shall charge fees in accordance with Section [~~17-21-18.5~~]17-71-407.

Section 69. Section 72-2-108 is amended to read:

72-2-108

(Effective 11/06/25)

. Apportionment of funds available for use on class B and class C roads -- Bonds.

(1) For purposes of this section:

(a) "Eligible county" means a county of the fifth class, as [~~described in~~]classified under Section [~~17-50-501~~]17-60-104, that received a distribution for fiscal year 2015 that was reapportioned to include money in addition to the amount calculated under Subsection (2), and the portion of the distribution derived from the calculation under Subsection (2) was less than 60% of the total distribution.

(b) "Graveled road" means a road:

(i) that is:

(A) graded; and

(B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;

(ii) that has an improved surface; and

(iii) that has a wearing surface made of:

(A) gravel;

(B) broken stone;

(C) slag;

(D) iron ore;

(E) shale; or

(F) other material that is:

(I) similar to a material described in Subsection (1)(b)(iii)(A) through (E); and

(II) coarser than sand.

(c) "Paved road" includes:

(i) a graveled road with a chip seal surface; and

(ii) a circulator alley.

(d) "Road mile" means a one-mile length of road, regardless of:

(i) the width of the road; or

(ii) the number of lanes into which the road is divided.

(e) "Weighted mileage" means the sum of the following:

(i) paved road miles multiplied by five; and

(ii) all other road type road miles multiplied by two.

(2) (a) Subject to the provisions of Subsections (2)(b) and (3) through (7), funds appropriated for class B and class C roads shall be apportioned among counties and municipalities in the following manner:

(i) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

(ii) 50% in the ratio that the population of a county or municipality bears to the total population of the state.

(b) To the extent not otherwise required by federal law, population shall be based on:

(i) the most recent estimate from the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available for each municipality and unincorporated area, the adjusted sub-county population estimate provided by the Utah Population Committee in accordance with Section 63C-20-104.

(3) For purposes of Subsection (2)(b), "the population of a county" means:

(a) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 14% of the total population of that county, including municipalities; and

(b) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:

(i) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:

(A) 14%; and

(B) the actual percentage of population outside the corporate limits of municipalities in that county; and

(ii) the population apportioned to the county shall be 14% of the total population of that county, including incorporated municipalities.

(4) For an eligible county, the department shall reapportion the funds under Subsection (2) to ensure that the county or municipality receives, for a fiscal year beginning on or after July 1, 2018, an amount equal to the greater of:

(a) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or

(b) (i) the amount apportioned to the county or municipality for class B and class C roads through the apportionment formula under Subsection (2) or this Subsection (4) in the prior fiscal year; plus

(ii) the amount calculated as described in Subsection (6).

(5) (a) The department shall decrease proportionately as provided in Subsection (5)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4) does not apply.

(b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection (5)(a) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4).

(6) (a) In addition to the apportionment adjustments made under Subsection (4), a county or municipality that qualifies for reapportioned money under Subsection (4) shall receive an amount equal to the amount apportioned to the eligible county or municipality under Subsection (4) for class B and class C roads in the prior fiscal year multiplied by the percentage increase or decrease in the total funds available for class B and class C roads between the prior fiscal year and the fiscal year that immediately preceded the prior fiscal year.

(b) The adjustment under Subsection (6)(a) shall be made in the same way as provided in Subsections (5)(a) and (b).

(7) (a) If a county or municipality does not qualify for a reapportionment under Subsection (4) in the current fiscal year but previously qualified for a reapportionment under Subsection (4) on or after July 1, 2017, the county or municipality shall receive an amount equal to the greater of:

(i) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or

(ii) the amount apportioned to the county or municipality for class B and class C roads in the prior fiscal year.

(b) The adjustment under Subsection (7)(a) shall be made in the same way as provided in Subsections (5)(a) and (b).

(8) The governing body of any municipality or county may issue bonds redeemable up to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

Section 70. Section 72-2-121 is amended to read:

72-2-121

(Effective 11/06/25)

. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b)deposited into or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited into or transferred to the fund;

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222deposited into or transferred to the fund; and

(e) the portion of the sales and use tax transferred into the fund as described in Subsections 59-12-2220(4)(a) and 59-12-2220(11)(b).

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Subject to Subsection (11), the executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(v);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for $30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) equal to an amount needed to cover the debt to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the appropriate debt service or sinking fund for the repayment of bonds issued under Sections 63B-31-102 and 63B-31-103;

(h) after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer $2,000,000 to a public transit district in a county of the first class to fund a system for public transit;

(i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, through fiscal year 2027, to annually transfer 20%, and beginning with fiscal year 2028, and each year thereafter for 20 years, to annually transfer 33% of the amount deposited into the fund under Subsection (2)(b) to the legislative body of a county of the first class for the following purposes:

(i) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state; and

(ii) to be used for purposes allowed in Section [~~17-31-2~~]17-78-702;

(j) subject to Subsection (5), for a fiscal year beginning on or after July 1, 2021, and for 15 years thereafter, to annually transfer the following amounts to the following cities and the county of the first class for priority projects to mitigate congestion and improve transportation safety:

(i) $2,000,000 to Sandy;

(ii) $2,300,000 to Taylorsville;

(iii) $1,100,000 to Salt Lake City;

(iv) $1,100,000 to West Jordan;

(v) $1,100,000 to West Valley City;

(vi) $800,000 to Herriman;

(vii) $700,000 to Draper;

(viii) $700,000 to Riverton;

(ix) $700,000 to South Jordan;

(x) $500,000 to Bluffdale;

(xi) $500,000 to Midvale;

(xii) $500,000 to Millcreek;

(xiii) $500,000 to Murray;

(xiv) $400,000 to Cottonwood Heights; and

(xv) $300,000 to Holladay;

(k) for the 2024-25, 2025-26, and 2026-27 fiscal years, and subject to revenue balances after the distributions under Subsection (4)(j), to reimburse the following municipalities for the amounts and projects indicated, as each project progresses and as revenue balances allow:

(i) $3,200,000 to South Jordan for improvements to Bingham Rim Road from Grandville Avenue to Mountain View Corridor;

(ii) $1,960,000 to Midvale for improvements to Center Street between State Street and 700 West;

(iii) $3,500,000 to Salt Lake City for first and last mile public transit improvements throughout Salt Lake City;

(iv) $1,500,000 to Cottonwood Heights for improvements to Fort Union Boulevard and 2300 East;

(v) $3,450,000 to Draper for improvements to Bangerter Highway between 13800 South and I-15;

(vi) $10,500,000 to Herriman to construct a road between U-111 and 13200 South;

(vii) $3,000,000 to West Jordan for improvements to 1300 West;

(viii) $1,050,000 to Riverton for improvements to the Welby Jacob Canal [~~trail~~]Trail between 11800 South and 13800 South;

(ix) $3,500,000 to Taylorsville for improvements to Bangerter Highway and 4700 South;

(x) $470,000 to the department for construction of a sound wall on Bangerter Highway at approximately 11200 South;

(xi) $1,250,000 to Murray for improvements to Murray Boulevard between 4800 South and 5300 South;

(xii) $1,840,000 to Magna for construction and improvements to 8400 West and 4100 South;

(xiii) $1,000,000 to South Jordan for construction of arterial roads connecting U-111 and Old Bingham Highway;

(xiv) $1,200,000 to Millcreek for reconstruction of and improvements to 2000 East between 3300 South and Atkin Avenue;

(xv) $1,230,000 to Holladay for improvements to Highland Drive between Van Winkle Expressway and Arbor Lane;

(xvi) $1,000,000 to Taylorsville for improvements to 4700 South at the I-215 interchange;

(xvii) $3,750,000 to West Valley City for improvements to 4000 West between 4100 South and 4700 South and improvements to 4700 South from 4000 West to Bangerter Highway;

(xviii) $1,700,000 to South Jordan for improvements to Prosperity Road between Crimson View Drive and Copper Hawk Drive;

(xix) $2,300,000 to West Valley City for a road connecting U-111 at approximately 6200 South, then east and turning north and connecting to 5400 South;

(xx) $1,400,000 to Magna for improvements to 8000 West between 3500 South to 4100 South;

(xxi) $1,300,000 to Taylorsville for improvements on 4700 South between Redwood Road and 2700 West; and

(xxii) $3,000,000 to West Jordan for improvements to 1300 West between 6600 South and 7800 South; and

(l) for a fiscal year beginning on or after July 1, 2026, and for 15 years thereafter, to pay debt service and bond issuance costs for $70,000,000 of the bonds issued under Section 63B-34-201 for the grants awarded under Part 5, Affordable Housing Infrastructure Grants.

(5) (a) If revenue in the fund is insufficient to satisfy all of the transfers described in Subsection (4)(j), the executive director shall proportionately reduce the amounts transferred as described in Subsection (4)(j).

(b) A local government may not use revenue described in Subsection (4)(j) to supplant existing class B or class C road funds that a local government has budgeted for transportation projects.

(6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited into the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(7) The department may expend up to $3,000,000 of revenue deposited into the account as described in Subsection 59-12-2220(11)(b) for public transit innovation grants, as provided in Part 4, Public Transit Innovation Grants.

(8) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(9) Subject to Subsection (11), and notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(10) Subject to Subsection (11), any revenue deposited into the fund as described in Subsection (2)(e) shall be used to provide funding or loans for public transit projects, operations, and supporting infrastructure in the county of the first class.

(11) For the first three years after a county of the first class imposes a sales and use tax authorized in Section 59-12-2220, revenue deposited into the fund as described in Subsection (2)(e) shall be allocated as follows:

(a) 10% to the department to construct an express bus facility on 5600 West; and

(b) 90% into the County of the First Class Infrastructure Bank Fund created in Section 72-2-302.

Section 71. Section 72-2-133 is amended to read:

72-2-133

(Effective 11/06/25)

. Rural Transportation Infrastructure Fund -- Creation -- Uses.

(1) As used in this section:

(a) "Graveled road" means the same as that term is defined in Section 72-2-108.

(b) "Paved road" means the same as that term is defined in Section 72-2-108.

(c) (i) "Qualifying county" means a county that:

(A) is a county of the third through sixth class, as classified in Section [~~17-50-501~~]17-60-104, except as provided in Subsection (1)(c)(ii);

(B) has imposed a local option sales and use tax pursuant to:

(I) Section 59-12-2217;

(II) Section 59-12-2218; or

(III) Section 59-12-2219; and

(C) has not imposed a local option sales and use tax pursuant to Section 59-12-2220 on or before January 1, 2023.

(ii) "Qualifying county" does not include a county of the third class, as classified in Section [~~17-50-501~~]17-60-104, with an airport facilitating commercial flights to three or more airports outside of the state.

(d) "Qualifying municipality" means a municipality located within a qualifying county.

(e) "Qualifying recipient" means qualifying county or a qualifying municipality.

(f) "Road mile" means the same as that term is defined in Section 72-2-108.

(g) "Weighted mileage" means the same as that term is defined in Section 72-2-108.

(2) There is created in the Transportation Fund an expendable special revenue fund called the Rural Transportation Infrastructure Fund.

(3) The Rural Transportation Infrastructure Fund shall be funded by:

(a) deposits into the fund as described in Subsection 41-1a-1201(9);

(b) appropriations by the Legislature; and

(c) other deposits into the fund.

(4) The department shall administer the fund.

(5) (a) Beginning on January 1, 2024, and subject to Subsection (5)(b), the department shall annually distribute revenue in the fund among qualifying recipients in the following manner:

(i) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

(ii) 50% in the ratio that the population of a county or municipality bears to the total population of the state.

(b) To the extent not otherwise required by federal law, population shall be based on:

(i) the most recent estimate from the Utah Population Committee created in Section 63C-20-103; or

(ii) if the Utah Population Committee estimate is not available for each municipality and unincorporated area, the adjusted sub-county population estimate provided by the Utah Population Committee in accordance with Section 63C-20-104.

(6) A qualifying recipient may only use funds distributed as described in this section in the same manner as class B and class C road funds distributed in accordance with Section 72-2-108.

(7) (a) (i) Before October 1 of each year, the department shall inform the State Tax Commission which counties, if any, have an airport

described in Subsection (1)(c)(ii).

(ii) Before November 1 of each year, the State Tax Commission shall notify the department and indicate which counties are qualifying counties.

(b) After receiving the notification described in Subsection (7)(a)(ii), the department shall distribute funds for the following year to the municipalities and counties that were identified as qualifying recipients in the notification described in Subsection (7)(a).

Section 72. Section 72-3-104 is amended to read:

72-3-104

(Effective 11/06/25)

. City streets -- Class C roads -- Construction and maintenance.

(1) City streets comprise:

(a) highways, roads, circulator alleys, and streets within the corporate limits of the municipalities that are not designated as class A state roads or as class B roads; and

(b) those highways, roads, and streets located within a national forest and constructed or maintained by the municipality under agreement with the appropriate federal agency.

(2) City streets are class C roads.

(3) Except for city streets within counties of the first and second class, as [~~defined in~~]classified under Section [~~17-50-501~~]17-60-104, the state and city have joint undivided interest in the title to all rights-of-way for all city streets.

(4) The municipal governing body exercises sole jurisdiction and control of the city streets within the municipality.

(5) The department shall cooperate with the municipal legislative body in the construction and maintenance of the class C roads within each municipality.

(6) The municipal legislative body shall expend or cause to be expended upon the class C roads the funds allocated to each municipality from the Transportation Fund under rules made by the department.

(7) Any town or city in the third, fourth, or fifth class may:

(a) contract with the county or the department for the construction and maintenance of class C roads within its corporate limits; or

(b) transfer, with the consent of the county, its:

(i) class C roads to the class B road system; and

(ii) funds allocated from the Transportation Fund to the municipality to the county legislative body for use upon the transferred class C roads.

(8) A municipal legislative body of any city of the third, fourth, or fifth class may use any portion of the class C road funds allocated to the municipality for the construction of sidewalks, curbs, and gutters on class A state roads within the municipal limits by cooperative agreement with the department.

Section 73. Section 72-3-301 is amended to read:

72-3-301

(Effective 11/06/25)

. Statewide public safety interest highway defined -- Designations -- Control -- Maintenance -- Improvement restrictions -- Formula funding provisions.

(1) As used in this part, "statewide public safety interest highway" means a designated state highway that serves a compelling statewide public safety interest.

(2) Statewide public safety interest highways include:

(a) SR-900. From near the east bound on and off ramps of the I-80 Delle Interchange on the I-80 south frontage road, traversing northwesterly, westerly, and northeasterly, including on portions of a county road and a Bureau of Land Management road for a distance of 9.24 miles. Then beginning again at the I-80 south frontage road traversing southwesterly and northwesterly on a county road for a distance of 4.33 miles. Then beginning again at the I-80 south frontage road traversing southwesterly, northerly, northwesterly, westerly, and northeasterly on a county road and a Bureau of Land Management road to near the east bound on and off ramps of I-80 Low/Lakeside Interchange for a distance of 2.61 miles. The entire length of SR-900 is a total distance of 16.18 miles.

(b) SR-901. From SR-196 traversing westerly and northwesterly on a county road to a junction with a Bureau of Land Management road described as part of SR-901, then northwesterly to a junction with a county road for a distance of 8.70 miles. Then beginning again at a junction with SR-901 traversing northwesterly on a Bureau of Land Management road to a junction with a county road for a distance of 6.52 miles. Then beginning again at a junction with SR-901 traversing southwesterly on a Bureau of Land Management road to a junction with a county road for a distance of 5.44 miles. Then beginning again from a junction with SR-901 traversing southwesterly on a county road to a junction with a county road a distance of 11.52 miles. Then beginning again at a junction with SR-196 traversing westerly on a Bureau of Land Management road to a junction with a county road for a distance of 11.30 miles. The entire length of SR-901 is a total distance of 43.48 miles.

(3) The department has jurisdiction and control over all statewide public safety interest highways.

(4) (a) A county shall maintain the portions of a statewide public safety interest highway that was a class B county road under the county's jurisdiction prior to the designation under this section.

(b) Notwithstanding the provisions of Section [~~17-50-305~~]17-78-401, a county may not abandon any portion of a statewide public safety interest highway.

(c) Except under written authorization of the executive director of the department, a statewide public safety interest highway shall remain the same class of highway that it was prior to the designation under this section with respect to grade, drainage, surface, and improvements and it may not be upgraded or improved to a higher class of highway.

(5) (a) A class B county road that is designated a statewide public safety interest highway under this section is considered a class B county road for the purposes of the distribution formula and distributions of funds.

(b) The amount of funds received by any jurisdiction for class B and class C roads under Section 72-2-107 may not be affected by the provisions of this section.

Section 74. Section 72-10-401 is amended to read:

72-10-401
(Effective 11/06/25)
. Definitions.

As used in this part:

(1) (a) "Airport" means any publicly used area of land or water that is used, or intended to be used, for the landing and take-off of aircraft and utilized or to be utilized in the interest of the public for these purposes.

(b) "Airport" includes a vertiport if the vertiport is open for public use.

(2) "Airport hazard" means any structure, tree, object of natural growth, or use of land that potentially obstructs or otherwise impacts the safe and efficient utilization of the navigable airspace required for the flight of aircraft in landing or take-off at an airport.

(3) "Airport influence area" means land located:

(a) within 5,000 feet of an airport runway; or

(b) within 500 feet of a vertiport that is open for public use.

(4) "Airport overlay zone" means a secondary zoning district designed to protect the public health, safety, and welfare near an airport that:

(a) applies land use regulation in addition to the primary zoning district land use regulation of property used as an airport and property within an airport influence area;

(b) may extend beyond the airport influence area;

(c) ensures airport utility as a public asset;

(d) protects property owner land values near an airport through compatible land use regulations as recommended by the Federal Aviation Administration; and

(e) protects aircraft occupant safety through protection of navigable airspace.

(5) "Avigation easement" means an easement permitting unimpeded aircraft flights over property subject to the easement and includes the right:

(a) to create or increase noise or other effects that may result from the lawful operation of aircraft; and

(b) to prohibit or remove any obstruction to such overflight.

(6) "Land use regulation" means the same as that term is defined in Sections [~~10-9a-103~~]10-20-102 and [~~17-27a-103~~]17-79-102.

(7) "Political subdivision" means any municipality, city, town, or county.

(8) "Structure" means any object constructed or installed by man, including buildings, towers, smokestacks, and overhead transmission lines.

(9) "Tree" means any object of natural growth.

Section 75. Section 72-10-416 is amended to read:
72-10-416
(Effective 11/06/25)
. Private airports designated as significant.

(1) Upon request from an owner of a private airport, the department shall determine whether to designate a private airport as a significant private airport.

(2) The department shall designate a private airport as a significant private airport if the department determines that the private airport:

(a) is registered with the Federal Aviation Administration;

(b) appears on aeronautical charts published by the Federal Aviation Administration; and

(c) has significant infrastructure investment, such as a paved runway, lighting, fuel facilities, or more than 20 based aircraft.

(3) If the department designates a private airport as a significant private airport, the department shall notify the relevant municipality or county of:

(a) the department's designation; and

(b) the municipality's or county's responsibility to make the recording described in Section [~~10-9a-543~~]10-20-214 or [~~17-27a-538~~]17-71-504.

Section 76. Section 73-1-11 is amended to read:
73-1-11
(Effective 11/06/25)
. Appurtenant water rights pass to grantee of land -- Exceptions -- Conveyance of a portion of irrigated land -- Right to the use of water evidenced by shares of stock -- Appurtenant water rights -- Evidence -- Where appurtenant -- Partial conveyances of water and land.

(1) (a) A water right appurtenant to land shall pass to the grantee of the land unless the grantor:

(i) specifically reserves the water right or any part of the water right in the land conveyance document;

(ii) conveys a part of the water right in the land conveyance document; or

(iii) conveys the water right in a separate conveyance document prior to or contemporaneously with the execution of the land conveyance document.

(b) If a county recorder records a document that conveys a water right appurtenant to land as described in Subsection (1)(a) and relies on the document to maintain a tract index described in Section [~~17-21-6~~]17-71-302, the state engineer shall rely on the document as an effective conveyance of a water right appurtenant to land.

(2) (a) If the water right has been exercised in irrigating different parcels of land at different times, it shall pass to the grantee of a parcel of land on which the water right was exercised next preceding the time the land conveyance was executed.

(b) Subsection (2)(a) applies only to land conveyances executed before May 4, 1998.

(3) In any conveyance, the grantee assumes the obligation for any unpaid assessment.

(4) (a) The right to the use of water evidenced by shares of stock in a corporation is not a water right appurtenant to land.

(b) On or after May 14, 2013, unless provided otherwise in a corporation's articles of incorporation or bylaws, the right to the use of water evidenced by shares of stock in a corporation shall transfer only as provided in Subsection 73-1-10(2).

(5) (a) This Subsection (5) governs land conveyances executed on or after May 4, 1998, and has no retrospective operation.

(b) For purposes of land conveyances only, a water right evidenced by any of the following documents is appurtenant to land:

(i) a decree entered by a court;

(ii) a certificate issued under Section 73-3-17;

(iii) a diligence claim for surface or underground water filed pursuant to Section 73-5-13;

(iv) a water user's claim executed for general determination of water rights proceedings conducted pursuant to Title 73, Chapter 4, Determination of Water Rights, or pursuant to Section 73-3-16;

(v) an approval for an application to appropriate water issued under Section 73-3-10;

(vi) an approval for an application to permanently change the place of use of water issued under Section 73-3-10; or

(vii) an approval for an application to exchange water issued under Section 73-3-20.

(c) For purposes of land conveyances only, the land to which a water right is appurtenant is the authorized place of use of water as described in the:

(i) decree;

(ii) certificate;

(iii) diligence claim;

(iv) water user's claim;

(v) approved application to appropriate water;

(vi) approved application to permanently change the place of use of water; or

(vii) approved exchange application.

(d) If a grantor conveys part of the water right in a land conveyance document pursuant to Subsection (1)(b), the portion of the water right not conveyed is presumed to be reserved by the grantor.

(e) If the land conveyed constitutes only a portion of the authorized place of use for the water right, the amount of the appurtenant water right that passes to the grantee shall be proportionate to the conveyed portion of the authorized place of use.

(6) Beginning July 1, 2011, a deed conveying fee simple title to land may include a water rights addendum as provided in Section 57-3-109.

Section 77. Section 73-32-302 is amended to read:

73-32-302

(Effective 11/06/25) (Repealed 07/01/27)

. Advisory council created -- Staffing -- Per diem and travel expenses -- Annual conflict of interest disclosure statement -- Exception -- Penalties.

(1) There is created an advisory council known as the "Great Salt Lake Advisory Council" consisting of 11 members listed in Subsection (2).

(2) (a) The governor shall appoint the following members, with the advice and consent of the Senate:

(i) one representative of industry representing the extractive industry;

(ii) one representative of industry representing aquaculture;

(iii) one representative of conservation interests;

(iv) one representative of a migratory bird protection area as defined in Section 23A-13-101;

(v) one representative who is an elected official from municipal government, or the elected official's designee;

(vi) five representatives who are elected officials from county government, or the elected official's designee, one each representing:

(A) Box Elder County;

(B) Davis County;

(C) Salt Lake County;

(D) Tooele County; and

(E) Weber County; and

(vii) one representative of a publicly owned treatment works.

(3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year term.

(b) Notwithstanding Subsection (3)(a), at the time of appointment or reappointment, the governor shall adjust the length of terms of voting members to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term with the advice and consent of the Senate.

(d) A member shall hold office until the member's successor is appointed and qualified.

(4) The council shall determine:

(a) the time and place of meetings; and

(b) any other procedural matter not specified in this chapter.

(5) (a) Attendance of six members at a meeting of the council constitutes a quorum.

(b) A vote of the majority of the members present at a meeting when a quorum is present constitutes an action of the council.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department and the Department of Environmental Quality shall coordinate and provide necessary staff assistance to the council.

(8) Except as provided in Subsection (14), a council member shall, no sooner than January 1 and no later than January 31 of each year during which the council member holds office on the council:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the council.

(9) (a) No later than 10 business days after the date on which the council member submits the written disclosure statement described in Subsection (8) to the administrator or clerk of the council, the administrator or clerk shall:

(i) post an electronic copy of the written disclosure statement on the council's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (9)(a)(i).

(b) The administrator or clerk of the council shall ensure that the council member's written disclosure statement remains posted on the council's website until the council member leaves office.

(10) The administrator or clerk of the council shall take the action described in Subsection (11) if:

(a) a council member fails to timely file the written disclosure statement described in Subsection (8); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(11) If a circumstance described in Subsection (10) occurs, the administrator or clerk of the council shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the council member of the violation and direct the council member to submit an amended written disclosure statement correcting the problem.

(12) (a) It is unlawful for a council member to fail to submit or amend a written disclosure statement within seven days after the day on which the council member receives the notice described in Subsection (11).

(b) A council member who violates Subsection (12)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the council shall report a violation of Subsection (12)(a)to the attorney general.

(d) In addition to the criminal penalty described in Subsection (12)(b), the administrator or clerk of the council shall impose a civil fine of $100 against a council member who violates Subsection (12)(a).

(13) The administrator or clerk of the council shall deposit a fine collected under this section into the council's account to pay for the costs of administering this section.

(14) For an individual appointed to the council under Subsection (2)(a)(v) or (vi):

(a) Subsection (8) does not apply; and

(b) the administrator or clerk of the council shall, instead:

(i) post an electronic link on the council's website to the written disclosure statement the council member made in the council member's capacity as an elected officer of:

(A) a county, under Section [~~17-16a-13~~]17-70-509; or

(B) a municipality, under Section 10-3-1313; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (14)(b)(i).

Section 78. Section 76-3-201 is amended to read:

76-3-201

(Effective 11/06/25)

. Sentences or combination of sentences allowed -- Restitution and other costs -- Civil penalties.

(1) As used in this section:

(a) (i) "Convicted" means:

(A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a mental condition; or

(B) having received a judgment of guilty or a judgment of guilty with a mental condition.

(ii) "Convicted" does not include an adjudication of an offense under Section 80-6-701.

(b) "Restitution" means the same as that term is defined in Section 77-38b-102.

(2) Within the limits provided by this chapter, a court may sentence an individual convicted of an offense to any one of the following sentences, or combination of the following sentences:

(a) to pay a fine;

(b) to removal or disqualification from public or private office;

(c) except as otherwise provided by law, to probation in accordance with Section 77-18-105;

(d) in accordance with Subsection 77-18-111(4), to imprisonment;

(e) on or after April 27, 1992, to life in prison without parole; or

(f) to death.

(3) (a) This chapter does not deprive a court of authority conferred by law:

(i) to forfeit property;

(ii) to dissolve a corporation;

(iii) to suspend or cancel a license;

(iv) to permit removal of an individual from office;

(v) to cite for contempt; or

(vi) to impose any other civil penalty.

(b) A court may include a civil penalty in a sentence.

(4) In addition to any other sentence that a sentencing court may impose, the court shall order an individual to:

(a) pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act;

(b) subject to Section 77-32b-104, pay the cost expended by an appropriate governmental entity under Section 77-30-24 for the extradition of the individual if the individual:

(i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve pending criminal charges; and

(ii) is convicted of an offense in the county for which the individual is returned;

(c) subject to Subsection (5) and Subsections 77-32b-104(2), (3), and (4), pay the cost of medical care, treatment, hospitalization, and related transportation, as described in Section [~~17-50-319~~]17-63-706, that is provided by a county to the individual while the individual is in a county correctional facility before and after sentencing if:

(i) the individual is convicted of an offense that results in incarceration in the county correctional facility; and

(ii) (A) the individual is not a state prisoner housed in the county correctional facility through a contract with the Department of Corrections; or

(B) the reimbursement does not duplicate the reimbursement under Section 64-13e-104 if the individual is a state probationary inmate or a state parole inmate; and

(d) pay any other cost that the court determines is appropriate under Section 77-32b-104.

(5) The cost of medical care under Subsection (4)(c) does not include expenses incurred by the county correctional facility in providing reasonable accommodation for an inmate qualifying as an individual with a disability as defined and covered by the Americans with Disabilities Act, 42 U.S.C. 12101 through 12213, including medical and mental health treatment for the inmate's disability.

Section 79. Section 77-18-103 is amended to read:

77-18-103

(Effective 11/06/25)

. Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

(1) Before the imposition of a sentence, the court may:

(a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any other source about the defendant; and

(b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.

(2) (a) Notwithstanding Subsection (1), if a defendant is convicted of an offense and the defendant is a habitual offender, the prosecuting attorney shall notify the court that the defendant is a habitual offender.

(b) Upon a notification under Subsection (2)(a), the court may not impose a sentence for the conviction without ordering and obtaining a presentence investigation report, unless the court finds good cause to proceed with sentencing without the presentence investigation report.

(3) If a presentence investigation report is required under Subsection (2) or the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:

(a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);

(b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);

(c) recommendations for treatment for the defendant; and

(d) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section [~~17-22-5.5~~]17-72-402.

(4) The department or law enforcement agency shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.

(5) (a) (i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:

(A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and

(B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.

(ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:

(A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and

(B) provide the written finding to the department or the law enforcement agency.

(b) The department shall attach the written finding to the presentence investigation report as an addendum.

(c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.

(6) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department or law enforcement agency.

(7) (a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the director of the State Records Office, created in Section 63A-12-202, may not order the disclosure of a presentence investigation report.

(8) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:

(a) ordered by the court in accordance with Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;

(c) requested by the board;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:

(i) statements or materials provided by the victim;

(ii) the circumstances of the offense, including statements by the defendant; or

(iii) the impact of the offense on the victim or the victim's household; or

(f) requested by a sex offender treatment provider:

(i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);

(ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and

(iii) who provides written assurance to the department that the report:

(A) is necessary for the treatment of the defendant;

(B) will be used solely for the treatment of the defendant; and

(C) will not be disclosed to an individual or entity other than the defendant.

(9) (a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.

(b) Testimony, evidence, or information under Subsection (9)(a) shall be presented in open court on record and in the presence of the defendant.

(10) The court may not rely solely on an algorithm or a risk assessment tool score in determining the appropriate sentence for a defendant.

Section 80. Section 77-18-105 is amended to read:

77-18-105

(Effective 11/06/25)

. Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

(1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:

(a) in accordance with Chapter 2a, Pleas in Abeyance; and

(b) under the terms of the plea in abeyance agreement.

(2) If a defendant is convicted, the court:

(a) shall impose a sentence in accordance with Section 76-3-201; and

(b) subject to Subsection (5), may suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the division;

(ii) on probation under the supervision of an agency of a local government or a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(3) (a) The legal custody of all probationers under the supervision of the division is with the department.

(b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(c) The court has continuing jurisdiction over all probationers.

(4) (a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.

(b) Supervised probation services provided by the division, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.

(c) If a court orders supervised probation and determines that a public probation provider is unavailable or inappropriate to supervise the defendant, the court shall make available to the defendant the list of private probation providers prepared by a criminal justice coordinating council under Section [~~17-55-201~~]17E-2-201.

(5) (a) Before ordering supervised probation, the court shall consider the supervision costs to the defendant for each entity that can supervise the defendant.

(b) (i) A court may order an agency of a local government to supervise the probation for an individual convicted of any crime if:

(A) the agency has the capacity to supervise the individual; and

(B) the individual's supervision needs will be met by the agency.

(ii) A court may only order:

(A) the division to supervise the probation for an individual convicted of a class A misdemeanor or any felony; or

(B) a private organization to supervise the probation for an individual convicted of a class A, B, or C misdemeanor or an infraction.

(c) A court may not order a specific private organization to supervise an individual unless there is only one private organization that can provide the specific supervision services required to meet the individual's supervision needs.

(6) (a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

(i) to provide for the support of persons for whose support the defendant is legally liable;

(ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

(iii) be voluntarily admitted to the custody of the Division of Substance Use and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

(iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not

exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(v) to serve a term of home confinement in accordance with Section 77-18-107;

(vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-3-410;

(vii) to pay for the costs of investigation, probation, or treatment services;

(viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime Victims Restitution Act; or

(ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(b) If a defendant is placed on probation and a condition of the defendant's probation is routine or random drug testing, the defendant shall sign a waiver consistent with the Health Insurance Portability and Accountability Act, 42 U.S.C. Sec. 1320d et seq., allowing the treatment provider conducting the drug testing to notify the defendant's supervising probation officer regarding the results of the defendant's drug testing.

(c) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.

(ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(c)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(c)(ii).

(7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:

(i) may not exceed the individual's maximum sentence;

(ii) shall be for a period of time that is in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law; and

(iii) shall be terminated in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.

(b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.

(c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.

(d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

(b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.

(c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.

(d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.

(ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(9) When making any decision regarding probation:

(a) the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements; and

(b) the court may not rely solely on an algorithm or a risk assessment tool score.

Section 81. Section 77-20-504 is amended to read:

77-20-504

(Effective 11/06/25)

. Exoneration of a bail bond.

(1) The court shall exonerate a bail bond if:

(a) (i) a defendant, who has posted monetary bail by a bail bond, fails to appear before the appropriate court as required;

(ii) notice of the defendant's failure to appear is not emailed to the surety as listed on the bail bond as described in Subsection 77-20-501(2) or (3); and

(iii) the surety's current name and email address, or the bail bond agency's current name and email address, are listed on the bail bond in the court's file;

(b) the defendant is arrested and booked into a county jail booking facility pursuant to a warrant for failure to appear on the original charges for which the bail bond was issued and the surety provides written proof of the arrest and booking to the court and the prosecuting attorney;

(c) the court recalls a warrant for failure to appear due to the defendant's having paid the fine and before entry of a judgment of forfeiture of the bail bond;

(d) the surety provides written proof to the court and the prosecuting attorney that the defendant is in custody and the surety has served the defendant's bail bond revocation on the custodial authority; or

(e) unless the court makes a finding of good cause why the bail bond should not be exonerated:

(i) the surety has delivered the defendant to the county jail booking facility in the county where the original charge or charges are pending;

(ii) the defendant has been released on a bail bond secured from a subsequent surety for the original charge and the failure to appear;

(iii) after an arrest, the defendant has escaped from jail or has been released on the defendant's own recognizance under a court order regulating jail capacity or by a sheriff's release under Section [~~17-22-5.5~~]17-72-402;

(iv) the surety has transported or agreed to pay for the transportation of the defendant from a location outside of the county back to the county where the original charge is pending and the payment is in an amount equal to the cost of government transportation under Section 76-3-201; or

(v) the surety demonstrates, by a preponderance of the evidence, that:

(A) at the time the surety issued the bail bond, the surety made reasonable efforts to determine that the defendant was legally present in the United States;

(B) a reasonable person would have concluded, based on the surety's determination, that the defendant was legally present in the United States; and

(C) the surety has failed to bring the defendant before the court because the defendant is in federal custody or has been deported.

(2) Under circumstances not otherwise provided for in Subsection (1), the court may exonerate the bail bond if the court finds:

(a) that the prosecuting attorney has been given reasonable notice of a surety's motion to exonerate the bail bond; and

(b) there is good cause for the bail bond to be exonerated.

(3) If a surety's bail bond has been exonerated under Subsection (1) or (2) and the surety remains liable for the cost of transportation of the defendant, the surety may take custody of the defendant for the purpose of transporting the defendant to the jurisdiction where the charge is pending.

(4) If the defendant is subject to extradition or other means by which the state can return the defendant to law enforcement custody within the court's jurisdiction, and the surety gives notice under Subsection 77-20-502(4)(a), the surety's bail bond shall be exonerated:

(a) if the prosecuting attorney elects in writing not to extradite the defendant immediately; and

(b) if the prosecuting attorney elects in writing to extradite the defendant, to the extent the bail bond exceeds the reasonable, actual, or estimated costs to extradite and return the defendant to law enforcement custody within the court's jurisdiction, upon the occurrence of the earlier of:

(i) the prosecuting attorney's lodging a detainer on the defendant; or

(ii) 60 days after the day on which the surety gives notice to the prosecuting attorney under Subsection 77-20-502(4)(a) if the defendant remains in custody of the same authority during that 60-day time period.

(5) (a) Except as provided in Subsection (6), the court shall exonerate the bail bond, without motion, upon sentencing the defendant.

(b) If the defendant's sentence includes commitment to a jail or prison, the court shall exonerate the bail bond when the defendant appears at the appropriate jail or prison, unless the judge does not require the defendant to begin the commitment within seven days, in which case the bail bond is exonerated upon sentencing.

(c) For purposes of this Subsection (5), an order of the court accepting a plea in abeyance agreement and holding that plea in abeyance in accordance with Title 77, Chapter 2a, Pleas in Abeyance, is considered to be the same as a sentencing upon a guilty plea.

(d) Any suspended or deferred sentencing is not the responsibility of the surety and the bail bond is exonerated without any motion, upon acceptance of the court and the defendant of a plea in abeyance, probation, fine payments, post sentencing reviews, or any other deferred sentencing reviews or any other deferred sentencing agreement.

(6) If a surety issues a bail bond after sentencing, the surety is liable on the bail bond during all proceedings and for all court appearances required of the defendant up to and including the defendant's appearance to commence serving the sentence imposed under Subsection (5).

Section 82. Section 77-22a-1 is amended to read:

77-22a-1

(Effective 11/06/25)

. Administrative subpoenas -- Controlled substances investigations -- Procedures -- Witness fees.

(1) (a) The administrative subpoena process of this chapter may be used only to obtain third party information under circumstances where it is clear that the subpoenaed information is not subject to a claim of protection under the Fourth, Fifth, or Sixth Amendment [~~,~~]to the United States Constitution, or a similar claim under Utah Constitution, Article I, Sec. 12 and Sec. 14[~~, Utah Constitution~~].

(b) A party subpoenaed under this chapter shall be advised by the subpoena that the party has a right to challenge the subpoena by motion to quash filed in the appropriate district court named in the subpoena before compliance is required.

(2) (a) In any investigation relating to an attorney's functions under this chapter regarding controlled substances, the attorney general or a deputy or assistant attorney general, the county attorney or a deputy county attorney, or the district attorney or deputy district attorney may subpoena witnesses, compel the attendance and testimony of witnesses, or require the production of any records including books, papers, documents, and other tangible things that constitute or contain evidence found by the attorney general or a deputy or assistant attorney general or the county attorney or district attorney, as provided under Sections [~~17-18a-202 and 17-18a-203~~]17-68-302 and 17-68-303, or the county attorney's or district attorney's deputy under Section [~~17-18a-602~~]17-68-305, to be relevant or material to the investigation.

(b) The attendance of witnesses or the production of records may be required from any place within the state.

(3) Witnesses subpoenaed under this section shall be paid the same fees and mileage costs as witnesses in the state district courts.

(4) If the attorney general, a deputy or assistant attorney general, or the county attorney or district attorney, or a deputy attorney determines that disclosure of the existence of an administrative subpoena or of the information sought or of the existence of the investigation under which it is issued would pose a threat of harm to a person or otherwise impede the investigation, the subpoena shall contain language on its face directing that the witness not disclose to any person the existence or service of the subpoena, the information being sought, or the existence of an investigation.

Section 83. Section 77-22b-1 is amended to read:

77-22b-1

(Effective 11/06/25)

. Immunity granted to witness.

(1) (a) A witness who refuses, or is likely to refuse, on the basis of the witness's privilege against self-incrimination to testify or provide

evidence or information in a criminal investigation, including a grand jury investigation or prosecution of a criminal case, or in aid of an investigation or inquiry being conducted by a government agency or commission, or by either house of the Legislature, a joint committee of the two houses, or a committee or subcommittee of either house, may be compelled to testify or provide evidence or information by any of the following, after being granted use immunity with regards to the compelled testimony or production of evidence or information:

(i) the attorney general or any assistant attorney general authorized by the attorney general;

(ii) a district attorney or any deputy district attorney authorized by a district attorney;

(iii) in a county not within a prosecution district, a county attorney or any deputy county attorney authorized by a county attorney;

(iv) a special counsel for the grand jury;

(v) a prosecutor pro tempore appointed under the Utah Constitution, Article VIII, Sec. 16; or

(vi) legislative general counsel in the case of testimony pursuant to subpoena before:

(A) the Legislature;

(B) either house of the Legislature; or

(C) a committee of the Legislature, including a joint committee, a committee of either house, a subcommittee, or a special investigative committee.

(b) (i) If any prosecutor authorized under Subsection (1)(a) intends to compel a witness to testify or provide evidence or information under a grant of use immunity, the prosecutor shall notify the witness by written notice.

(ii) The notice described in Subsection (1)(b)(i):

(A) shall include the information contained in Subsection (2);

(B) [~~and~~]shall advise the witness that the witness may not refuse to testify or provide evidence or information on the basis of the witness's privilege against self-incrimination[~~.~~]; and

(C) [~~The notice~~]need not be in writing when the grant of use immunity occurs on the record in the course of a preliminary hearing, grand jury proceeding, or trial.

(2) Testimony, evidence, or information compelled under Subsection (1) may not be used against the witness in any criminal or quasi-criminal case, nor any information directly or indirectly derived from this testimony, evidence, or information, unless the testimony, evidence, or information is volunteered by the witness or is otherwise not responsive to a question. Immunity does not extend to prosecution or punishment for perjury or to giving a false statement in connection with any testimony.

(3) (a) If a witness is granted immunity under Subsection (1) and is later prosecuted for an offense that was part of the transaction or events about which the witness was compelled to testify or produce evidence or information under a grant of immunity, the burden is on the prosecution to show by a preponderance of the evidence that no use or derivative use was made of the compelled testimony, evidence, or information in the subsequent case against the witness, and to show that any proffered evidence was derived from sources totally independent of the compelled testimony, evidence, or information.

(b) The remedy for not establishing that any proffered evidence was derived from sources totally independent of the compelled testimony, evidence, or information is suppression of that evidence only.

(4) Nothing in this section prohibits or limits prosecutorial authority granted in Section 77-22-4.5.

(5) A county attorney within a prosecution district shall have the authority to grant immunity only as provided in Subsection [~~17-18a-402(3)~~]17-68-503(3).

(6) For purposes of this section, "quasi-criminal" means only those proceedings that are determined by a court to be so far criminal in their nature that a defendant has a constitutional right against self-incrimination.

Section 84. Section 77-23a-10 is amended to read:

77-23a-10

(Effective 11/06/25)

. Application for order -- Authority of order -- Emergency action -- Application -- Entry -- Conditions -- Extensions -- Recordings -- Admissibility or suppression -- Appeal by state.

(1) Each application for an order authorizing or approving the interception of a wire, electronic, or oral communication shall be made in writing, upon oath or affirmation to a judge of competent jurisdiction, and shall state the applicant's authority to make the application. Each application shall include:

(a) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(b) a full and complete statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that an order should be issued, including:

(i) details regarding the particular offense that has been, is being, or is about to be committed;

(ii) except as provided in Subsection (12), a particular description of the nature and location of the facilities from which, or the place where, the communication is to be intercepted;

(iii) a particular description of the type of communication sought to be intercepted; and

(iv) the identity of the person, if known, committing the offense and whose communication is to be intercepted;

(c) a full and complete statement as to whether other investigative procedures have been tried and failed or why they reasonably appear to be either unlikely to succeed if tried or too dangerous;

(d) a statement of the period of time for which the interception is required to be maintained, and if the investigation is of a nature that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(e) a full and complete statement of the facts concerning all previous applications known to the individual authorizing and the individual making the application, made to any judge for authorization to intercept, or for approval of interceptions of wire, electronic, or oral communications involving any of the same persons, facilities, or places specified in the application, and the action taken by the judge on each application;

(f) when the application is for the extension of an order, a statement setting forth the results so far obtained from the interception, or a reasonable explanation of the failure to obtain results; and

(g) additional testimony or documentary evidence in support of the application as the judge may require.

(2) Upon application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire, electronic, or oral communications within the territorial jurisdiction of the state if the judge determines on the basis of the facts submitted by the applicant that:

(a) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense under Section 77-23a-8;

(b) there is probable cause for belief that particular communications concerning that offense will be obtained through the interception;

(c) normal investigative procedures have been tried and have failed or reasonably appear to be either unlikely to succeed if tried or too dangerous; and

(d) except as provided in Subsection (12), there is probable cause for belief that the facilities from which or the place where the wire, electronic, or oral communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by that person.

(3) Each order authorizing or approving the interception of any wire, electronic, or oral communications shall specify:

(a) the identity of the person, if known, whose communications are to be intercepted;

(b) except as provided in Subsection (12), the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(c) a particular description of the type of communication sought to be intercepted and a statement of the particular offense to which it relates;

(d) the identity of the agency authorized to intercept the communications and of the persons authorizing the application; and

(e) the period of time during which the interception is authorized, including a statement as to whether the interception shall automatically terminate when the described communications has been first obtained.

(4) (a) An order authorizing the interception of a wire, electronic, or oral communications shall, upon request of the applicant, direct that a provider of wire or electronic communications service, landlord, custodian, or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that the provider, landlord, custodian, or person is according the person whose communications are to be intercepted.

(b) Any provider of wire or electronic communications service, landlord, custodian, or other person furnishing the facilities or technical assistance shall be compensated by the applicant for reasonable expenses involved in providing the facilities or systems.

(5) (a) (i) An order entered under this chapter may not authorize or approve the interception of any wire, electronic, or oral communications for any period longer than is necessary to achieve the objective of the authorization, but in any event for no longer than 30 days.

(ii) The 30-day period described in Subsection (5)(a)(i) begins on the day the investigative or law enforcement officer first begins to conduct an interception under the order, or 10 days after the order is entered, whichever is earlier.

(b) Extensions of an order may be granted, but only upon application for an extension made under Subsection (1) and if the court makes the findings required by Subsection (2). The period of extension may be no longer than the authorizing judge considers necessary to achieve the purposes for which it was granted, but in no event for longer than 30 days.

(c) Every order and extension shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted so as to minimize the interception of communications not otherwise subject to interception under this chapter, and must terminate upon attainment of the authorized objective, or in any event within 30 days.

(d) If the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, the minimizing of the interception may be accomplished as soon as practicable after the interception.

(e) An interception under this chapter may be conducted in whole or in part by government personnel or by an individual under contract with the government and acting under supervision of an investigative or law enforcement officer authorized to conduct the interception.

(6) (a) When an order authorizing interception is entered under this chapter, the order may require reports to be made to the judge who issued the order, showing what progress has been made toward achievement of the authorized objective and the need for continued interception.

(b) [~~These~~]The reports described in Subsection (6)(a) shall be made at intervals the judge may require.

(7) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer who is specially designated by either the attorney general or a county attorney or district attorney, as provided under Sections [~~17-18a-202~~]17-68-302 and [~~17-18a-203~~]17-68-303, may intercept wire, electronic, or oral communications if an application for an order approving the interception is made in accordance with this section and within 48 hours after the interception has occurred or begins to occur, when the investigative or law enforcement officer reasonably determines that:

(a) an emergency situation exists that involves:

(i) immediate danger of death or serious physical injury to any person;

(ii) conspiratorial activities threatening the national security interest; or

(iii) conspiratorial activities characteristic of organized crime, that require a wire, electronic, or oral communications to be intercepted before an order authorizing interception can, with diligence, be obtained; and

(b) there are grounds upon which an order could be entered under this chapter to authorize the interception.

(8) (a) In the absence of an order under Subsection (7), the interception immediately terminates when the communication sought is obtained or when the application for the order is denied, whichever is earlier.

(b) If the application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire, electronic, or oral communications intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as provided for in Subsection (9)(d) on the person named in the application.

(9) (a) (i) The contents of any wire, electronic, or oral communications intercepted by any means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device.

(ii) The recording of the contents of any wire, electronic, or oral communications under this Subsection (9)(a) shall be done so as to protect the recording from editing or other alterations.

(iii) Immediately upon the expiration of the period of an order or extension, the recordings shall be made available to the judge issuing the order and sealed under his directions.

(iv) Custody of the recordings shall be where the judge orders.

(v) The recordings:

(A) may not be destroyed, except upon an order of the issuing or denying judge[~~. In any event, it~~]; and

(B) shall be kept for 10 years.

(vi) Duplicate recordings may be made for use or disclosure under Subsections 77-23a-9(1) and (2) for investigations.

(vii) The presence of the seal provided by this Subsection (9)(a), or a satisfactory explanation for the absence of one, is a prerequisite for the use or disclosure of the contents of any wire, electronic, or oral communications or evidence derived from it under Subsection 77-23a-9(3).

(b) Applications made and orders granted under this chapter shall be sealed by the judge. Custody of the applications and orders shall be where the judge directs. The applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and may not be destroyed, except on order of the issuing or denying judge. But in any event they shall be kept for 10 years.

(c) Any violation of any provision of this Subsection (9) may be punished as contempt of the issuing or denying judge.

(d) Within a reasonable time, but not later than 90 days after the filing of an application for an order of approval under Subsection 77-23a-10(7) that is denied or the termination of the period of an order or extensions, the issuing or denying judge shall cause to be served on the persons named in the order or the application, and other parties to the intercepted communications as the judge determines in his discretion is in the interest of justice, an inventory, which shall include notice:

(i) of the entry of the order or application;

(ii) of the date of the entry and the period of authorization, approved or disapproved interception, or the denial of the application; and

(iii) that during the period, wire, electronic, or oral communications were or were not intercepted.

(e) (i) The judge, upon filing of a motion, may in the judge's discretion, make available to the person or the person's counsel for inspection the portions of the intercepted communications, applications, and orders the judge determines to be in the interest of justice.

(ii) On an ex parte showing of good cause to a judge of competent jurisdiction, the serving of the inventory required by this Subsection (9)(e) may be postponed.

(10) (a) The contents of any intercepted wire, electronic, or oral communications, or evidence derived from any of these, may not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a federal or state court unless each party, not less than 10 days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved.

(b) [~~This~~]The ten-day period described in Subsection (10)(a) may be waived by the judge if the judge finds that:

(i) it was not possible to furnish the party with the [~~above~~]information 10 days before the trial, hearing, or proceeding; and

(ii) [~~that~~]the party will not be prejudiced by the delay in receiving the information.

(11) (a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, the state, or a political subdivision may move to suppress the contents of any intercepted wire, electronic, or oral communications, or evidence derived from any of them, on the grounds that:

(i) the communication was unlawfully intercepted;

(ii) the order of authorization or approval under which it was intercepted is insufficient on its face; or

(iii) the interception was not made in conformity with the order of authorization or approval.

(b) (i) The motion described in Subsection (11)(a) shall be made before the trial, hearing, or proceeding, unless there was no opportunity to make the motion or the person was not aware of the grounds of the motion.

(ii) If the motion is granted, the contents of the intercepted wire, electronic, or oral communications, or evidence derived from any of these, shall be treated as having been obtained in violation of this chapter.

(iii) The judge, upon the filing of the motion by the aggrieved person, may in the judge's discretion make available to the aggrieved person or the aggrieved person's counsel for inspection portions of the intercepted communication or evidence derived from the intercepted communication as the judge determines to be in the interests of justice.

(c) (i) In addition to any other right to appeal, the state or its political subdivision may appeal from an order granting a motion to suppress made under Subsection (11)(a), or the denial of an application for an order of approval, if the attorney bringing the appeal certifies to the judge or other official granting the motion or denying the application that the appeal is not taken for the purposes of delay.

(ii) The appeal described in Subsection (11)(c)(i) shall be taken within 30 days after the date the order was entered and shall be diligently prosecuted.

(12) The requirements of Subsections (1)(b)(ii), (2)(d), and (3)(b) relating to the specification of the facilities from which, or the place where, the wire, electronic, or oral communications are to be intercepted do not apply if:

(a) in the case of an applicant regarding the interception of oral communications:

(i) the application is by a law enforcement officer and is approved by the state attorney general, a deputy attorney general, a county attorney or district attorney, or a deputy county attorney or deputy district attorney;

(ii) the application contains a full and complete statement of why the specification is not practical, and identifies the person committing the offense and whose communications are to be intercepted; or

(iii) the judge finds that the specification is not practical; and

(b) in the case of an application regarding wire or electronic communications:

(i) the application is by a law enforcement officer and is approved by the state attorney general, a deputy attorney general, a county attorney or district attorney, or a deputy county attorney or deputy district attorney;

(ii) the application identifies the person believed to be committing the offense and whose communications are to be intercepted, and the applicant makes a showing of a purpose, on the part of that person, to thwart interception by changing facilities; and

(iii) the judge finds that the purpose has been adequately shown.

(13) (a) An interception of a communication under an order regarding which the requirements of Subsections (1)(b)(ii), (2)(d), and (3)(b) do not apply by reason of Subsection (12) does not begin until the facilities from which, or the place where, the communications are to be intercepted is ascertained by the person implementing the interception order.

(b) (i) A provider of wire or electronic communications service that has received an order under Subsection (12)(b) may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion.

(ii) The court, upon notice to the government, shall decide [~~the~~]a motion filed under Subsection (13)(b)(i) expeditiously.

Section 85. Section 77-38b-304 is amended to read:

77-38b-304
(Effective 11/06/25)
. Priority of payment disbursement.

(1) The court, or the office, shall disburse a payment for restitution within 60 days after the day on which the payment is received from the defendant if:

(a) the victim has complied with Subsection 77-38b-203(2);

(b) if the defendant has tendered a negotiable instrument, funds from the financial institution are actually received;

(c) the payment to the victim is at least $25, unless the payment is the final payment; and

(d) there is no pending legal issue that would affect an order for restitution or the distribution of restitution.

(2) The court shall disburse money collected from a defendant for a criminal accounts receivable in the following order of priority:

(a) first, and except as provided in Subsection (4)(b), to restitution owed by the defendant in accordance with Subsection (4);

(b) second, to the cost of obtaining a DNA specimen from the defendant as described in Subsection (4)(b);

(c) third, to any criminal fine or surcharge owed by the defendant;

(d) fourth, to the cost owed by the defendant for a reward described in Section 77-32b-104;

(e) fifth, to the cost owed by the defendant for medical care, treatment, hospitalization, and related transportation paid by a county correctional facility under Section [~~17-50-319~~]17-63-706; and

(f) sixth, to any other amount owed by the defendant.

(3) When the office collects money from a defendant for a criminal accounts receivable, a civil accounts receivable, or a civil judgment of restitution, the office shall disburse the money in the following order of priority:

(a) first, to any past due amount owed to the department for the monthly supervision fee under Subsection 64-14-204(6);

(b) second, and except as provided in Subsection (4)(b), to restitution owed by the defendant in accordance with Subsection (4);

(c) third, to the cost of obtaining a DNA specimen from the defendant in accordance with Subsection (4)(b);

(d) fourth, to any criminal fine or surcharge owed by the defendant;

(e) fifth, to the cost owed by the defendant for a reward described in Section 77-32b-104;

(f) sixth, to the cost owed by the defendant for medical care, treatment, hospitalization and related transportation paid by a county correctional facility under Section [~~17-50-319~~]17-63-706; and

(g) seventh, to any other amount owed by the defendant.

(4) (a) If a defendant owes restitution to more than one person or government agency at the same time, the court, or the office, shall disburse a payment for restitution in the following order of priority:

(i) first, to the victim of the offense;

(ii) second, to the Utah Office for Victims of Crime;

(iii) third, any other government agency that has provided reimbursement to the victim as a result of the defendant's criminal conduct; and

(iv) fourth, any insurance company that has provided reimbursement to the victim as a result of the defendant's criminal conduct.

(b) If a defendant is required under Section 53-10-404 to reimburse the department for the cost of obtaining the defendant's DNA specimen, the reimbursement for the cost of obtaining the defendant's DNA specimen is the next priority after restitution to the victim of the offense under Subsection (4)(a)(i).

(c) If a defendant is required to pay restitution to more than one victim, the court or the office shall disburse a payment for restitution proportionally to each victim.

(5) Notwithstanding the requirements for the disbursement of a payment under Subsection (3) or (4), the office shall disburse money collected from a defendant to a debt that is a part of a civil accounts receivable or civil judgment of restitution if:

(a) a defendant has provided a written request to the office to apply the payment to the debt; and

(b) (i) the payment will eliminate the entire balance of the debt, including any interest; or

(ii) after reaching a settlement, the payment amount will eliminate the entire agreed upon balance of the debt, including any interest.

(6) For a criminal accounts receivable, the department shall collect the current and past due amount owed by a defendant for the monthly supervision fee under Subsection 64-14-204(6)(a) until the court enters a civil accounts receivable on the civil judgment docket under Section 77-18-114.

(7) Notwithstanding any other provision of this section:

(a) the office may collect a fee, as described in Subsection 63A-3-502(4), from each payment for a criminal accounts receivable, a civil accounts receivable, or a civil judgment of restitution before disbursing the payment as described in this section; and

(b) the office shall apply any payment collected through garnishment to the case for which the garnishment was issued.

Section 86. Section 78A-6-451 is amended to read:
78A-6-451
(Effective 11/06/25)
. Who may prosecute an adult in juvenile court -- Transfer to district court.

(1) The county attorney or district attorney, as provided in [~~Title 17, Chapter 18a, Powers and Duties of County and District Attorney~~]Title 17, Chapter 68, County and District Attorney, shall prosecute any case brought under this part.

(2) Any proceeding under this part is governed by the statutes and rules governing criminal proceedings in the district court, except the juvenile court may, on stipulation of the parties, transfer the case to the district court.

Section 87. Section 78B-2-226 is amended to read:
78B-2-226
(Effective 11/06/25)
. Boundary surveys.

[~~An~~]A person shall bring an action against a surveyor for acts, errors, or omissions in the performance of a boundary survey filed pursuant to Section [~~17-23-17 shall be brought~~]17-73-504 within five years of the date of the filing.

Section 88. Section 78B-5-202 is amended to read:

78B-5-202

(Effective 11/06/25)

. Duration of judgment -- Judgment as a lien upon real property -- Abstract of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child support orders.

(1) (a) Judgments shall continue for eight years from the date of entry in a court unless previously satisfied, renewed, or unless enforcement of the judgment is stayed in accordance with law.

(b) Entry of an order renewing a judgment:

(i) maintains the date of the original judgment;

(ii) maintains the priority of collection of the judgment; and

(iii) except as explicitly provided otherwise by law or contract, begins anew the time limitation for an action upon the judgment.

(2) [~~Prior to~~]Before July 1, 1997, except as limited by Subsections (4) and (5), the entry of judgment by a district court creates a lien upon the real property of the judgment debtor, not exempt from execution, owned or acquired during the existence of the judgment, located in the county in which the judgment is entered.

(3) An abstract of judgment issued by the court in which the judgment is entered may be filed in any court of this state and shall have the same force and effect as a judgment entered in that court.

(4) [~~Prior to~~]Before July 1, 1997, and after May 15, 1998, a judgment entered in a small claims action may not qualify as a lien upon real property unless abstracted to the district court and recorded in accordance with Subsection (3).

(5) (a) If any judgment is appealed, upon deposit with the court where the notice of appeal is filed of cash or other security in a form and amount considered sufficient by the court that rendered the judgment to secure the full amount of the judgment, together with ongoing interest and any other anticipated damages or costs, including attorney fees and costs on appeal, the lien created by the judgment shall be terminated as provided in Subsection (5)(b).

(b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court shall enter an order terminating the lien created by the judgment and granting the judgment creditor a perfected lien in the deposited security as of the date of the original judgment.

(6) (a) A child support order, including an order or judgment for guardian ad litem attorney fees and costs, or a sum certain judgment for past due support may be enforced:

(i) within four years after the date the youngest child reaches majority; or

(ii) eight years from the date of entry of the sum certain judgment entered by a tribunal.

(b) The longer period of duration shall apply in every order.

(c) A sum certain judgment may be renewed to extend the duration.

(7) (a) After July 1, 2002, a judgment entered by a district court, a justice court, or the Business and Chancery Court, becomes a lien upon real property if:

(i) the judgment or an abstract of the judgment containing the information identifying the judgment debtor as described in Subsection 78B-5-201(4)(b) is recorded in the office of the county recorder; or

(ii) the judgment or an abstract of the judgment and a separate information statement of the judgment creditor as described in Subsection 78B-5-201(5) is recorded in the office of the county recorder.

(b) The judgment shall run from the date of entry by the court.

(c) The real property subject to the lien includes all the real property of the judgment debtor:

(i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and

(ii) owned or acquired at any time by the judgment debtor during the time the judgment is effective.

(d) If the judgment that gives rise to a lien described in Subsection (7)(a) is a judgment in favor of a state agency, the real property subject to the lien includes all real property of the judgment debtor in the state.

(e) State agencies are exempt from the recording requirement of Subsection (7)(a).

(8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the judgment debtor in the judgment index in the office of the county recorder as required in Section [~~17-21-6~~]17-71-302.

(b) A judgment containing a legal description shall also be abstracted in the appropriate tract index in the office of the county recorder.

(9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the office of a county recorder, a person shall, in the office of the county recorder of each county in which an instrument creating the lien is recorded, record a document releasing, assigning, renewing, or extending the lien.

(b) The document described in Subsection (9)(a) shall include:

(i) the date of the release, assignment, renewal, or extension;

(ii) the name of any judgment creditor, debtor, assignor, or assignee; and

(iii) for the county in which the document is recorded in accordance with Subsection (9)(a):

(A) the date on which the instrument creating the lien was recorded in that county's office of the county recorder; and

(B) in accordance with Section 57-3-106, that county recorder's entry number and book and page of the recorded instrument creating the judgment lien.

Section 89. Section 78B-5-408 is amended to read:

78B-5-408

(Effective 11/06/25)

. Judgments and awards on foreign-money claims -- Time of money conversion -- Form of judgment.

(1) Except as provided in Subsection (3), a judgment or arbitration award on a foreign-money claim must be stated in an amount of the money of the claim.

(2) The judgment or award is payable in that foreign money or at the option of the debtor in the amount of United States dollars which will purchase that foreign money on the conversion date at a bank-offered spot rate.

(3) Assessed costs must be entered in United States dollars.

(4) Each payment in United States dollars must be accepted and credited on the judgment or award in the amount of the foreign money that could be purchased by the dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion date for that payment.

(5) Judgments or awards made in an action on both:

(a) a defense, set-off, recoupment, or counterclaim; and

(b) the adverse party's claim, must be netted by converting the money of the smaller into the money of the larger, and by subtracting the smaller from the larger, and must specify the rates of exchange used.

(6) A judgment substantially in the following form complies with Subsection (1):

IT IS ADJUDGED AND ORDERED that Defendant (insert name) pay to Plaintiff (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the rate of (insert rate - see Section 78B-5-410) percent a year or, at the option of the judgment debtor, the number of United States dollars as will purchase the (insert name of foreign money) with interest due, at a bank-offered spot rate at or near the close of business on the banking day next before the day of payment, together with assessed costs of (insert amount) United States dollars.

(7) If a contract claim is of the type covered by Subsection 78B-5-406(1) or (2), the judgment or award shall be entered for the amount of the money stated to measure the obligation to be paid in the money specified for payment or, at the option of the debtor, the number of United States dollars as will purchase the computed amount of the money of payment on the conversion date at a bank-offered spot rate.

(8) A judgment:

(a) shall be filed in the judgment docket and indexed in foreign money in the same manner[~~, and~~];

(b) shall have the same effect as a lien as other judgments[~~. It~~]; and

(c) may be discharged by payment.

(9) A person shall record a judgment lien, or assignment, release, renewal, or extension of a judgment lien, in the county recorder's office in accordance with the following provisions, as applicable:

(a) Sections [~~17-21-10~~]17-71-502, 78B-5-201, and 78B-5-202; and

(b) Title 38, Chapter 9, Wrongful Lien Act.

Section 90. Section 78B-22-102 is amended to read:

78B-22-102

(Effective 11/06/25)

. Definitions.

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

[~~(2) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.~~]

[~~(3)~~](2) "Child welfare case" means a proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(3) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

(4) "Eligible county" means:

(a) a county of the fourth, fifth, and sixth class, as classified [~~in Section 17-50-501~~]under Section 17-60-104; and

(b) a county of the third class, as classified [~~in Section 17-50-501~~]under Section 17-60-104, if the county of the third class has no municipality with a population of 100,000 or more.

(5) "Executive director" means the executive director of the Office of Indigent Defense Services, created in Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.

(6) "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual.

(7) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual through:

(a) a contract with an indigent defense system to provide indigent defense services;

(b) an order issued by the court under Subsection 78B-22-203(2)(a); or

(c) direct employment with an indigent defense system.

(8) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider; and

(b) the provision of indigent defense resources for an indigent individual.

(9) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services;

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, and the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

(10) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection (10)(a), who is appealing an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

(11) "Minor" means the same as that term is defined in Section 80-1-102.

(12) "Office" means the Office of Indigent Defense Services created in Section 78B-22-451.

(13) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Fund as provided in Sections 78B-22-702 and 78B-22-703.

Section 91. Section 78B-22-455 is amended to read:

78B-22-455

(Effective 11/06/25)

. Indigent Inmate Fund.

(1) There is created a custodial fund known as the "Indigent Inmate Fund" to be disbursed by the office in accordance with contracts entered into under Subsection 78B-22-452(1)(g).

(2) Money deposited into this fund shall only be used:

(a) to pay indigent defense services for an indigent inmate who:

(i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as [~~defined in Section 17-50-501~~]classified under Section 17-60-104;

(ii) is charged with having committed a crime within that state prison; and

(iii) has been appointed counsel in accordance with Section 78B-22-203; and

(b) to cover costs of administering the Indigent Inmate Fund.

(3) The fund consists of:

(a) proceeds received from counties that impose the additional tax levy by ordinance under Subsection 78B-22-454(4), which shall be the total county obligation for payment of costs listed in Subsection (2) for defense services for indigent inmates;

(b) appropriations made to the fund by the Legislature; and

(c) interest and earnings from the investment of fund money.

(4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) (a) In any calendar year in which the fund has insufficient funding, or is projected to have insufficient funding, the commission shall request a supplemental appropriation from the Legislature in the following general session to provide sufficient funding.

(b) The state shall pay any or all of the reasonable and necessary money to provide sufficient funding into the Indigent Inmate Fund.

(6) The fund is capped at $1,000,000.

(7) The office shall notify the contributing counties when the fund approaches $1,000,000 and provide each county with the amount of the balance in the fund.

(8) Upon notification by the office that the fund is near the limit imposed in Subsection (6), the counties may contribute enough money to enable the fund to reach $1,000,000 and discontinue contributions until notified by the office that the balance has fallen below $1,000,000, at which time counties that meet the requirements of Section 78B-22-454 shall resume contributions.

Section 92. Section 79-6-902 is amended to read:

79-6-902

(Effective 11/06/25)

. Utah Energy Infrastructure Board.

(1) There is created within the office the Utah Energy Infrastructure Board that consists of nine members as follows:

(a) subject to Subsection (2), members appointed by the governor:

(i) the director of the Office of Energy Development, who shall serve as chair of the board;

(ii) one member from the Governor's Office of Economic Opportunity;

(iii) one member from a public utility or electric interlocal entity that operates electric transmission facilities within the state;

(iv) one member who resides within a county of the third, fourth, fifth, or sixth class, as [~~described in Section 17-50-501~~]classified under Section 17-60-104, with relevant experience in an energy or extraction industry;

(v) one member currently serving as county commissioner of a county of the third, fourth, fifth, or sixth class, as [~~described in Section 17-50-501~~]classified under Section 17-60-104; and

(vi) two members of the general public with relevant industry experience;

(b) one member appointed jointly by the Utah Farm Bureau Federation, the Utah Manufacturer's Association, the Utah Mining Association, and the Utah Petroleum Association; and

(c) the director of the School and Institutional Trust Lands Administration created in Section 53C-1-201.

(2) The governor shall consult with the president of the Senate and the speaker of the House of Representatives in appointing the members described in Subsections (1)(a)(iii) through (vi).

(3) (a) The term of an appointed board member is four years.

(b) Notwithstanding Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The governor may remove a member of the board for cause.

(d) The governor shall fill a vacancy in the board in the same manner under this section as the appointment of the member whose vacancy is being filled.

(e) An individual appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the individual is filling.

(f) A board member shall serve until a successor is appointed and qualified.

(4) (a) Five members of the board constitute a quorum for conducting board business.

(b) A majority vote of the quorum present is required for an action to be taken by the board.

(5) The board shall meet as needed to review an application.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 93. Section 79-6-1003 is amended to read:

79-6-1003

(Effective 11/06/25)

. Utah Energy Research Board -- Duties -- Expenses.

(1) There is established in the office the Utah Energy Research Board that is composed of the following voting board members:

(a) the director, or the director's designee, who shall serve as the chair of the board;

(b) the president, or the president's designee, of each public and private university in the state that is classified as a Research 1 institution by the Carnegie Classification of Institutions of Higher Education;

(c) the commissioner of higher education, as described in Section 53B-1-408, or the commissioner's designee;

(d) one member, who is not a legislator, with experience in the non-regulated energy industry appointed by the speaker of the House of Representatives;

(e) one member, who is not a legislator, with experience in energy commercialization appointed by the president of the Senate;

(f) one member appointed by the governor who resides in a county of the third, fourth, fifth, or sixth class as [~~described in Section 17-50-501~~]classified under Section 17-60-104;

(g) one member appointed by the director representing the Idaho National Laboratory; and

(h) two members appointed by the director with relevant expertise in energy research and development.

(2) (a) The term of an appointed board member is four years.

(b) Notwithstanding Subsection (2)(a), the person making an appointment shall, at the time of appointment or reappointment, adjust the length of board member terms to ensure the terms of board members are staggered so that approximately half of the board is constituted of new members every two years.

(c) The person who appoints a member under Subsection (1) may remove an appointee who was appointed by the person for cause.

(d) The person who appoints a member under Subsection (1) shall fill a vacancy on the board in the same manner as provided in Subsection (1).

(e) An individual appointed to fill a vacancy shall serve the remaining unexpired term.

(f) Unless removed for cause under Subsection (2)(c) a board member shall serve until a successor is appointed.

(3) (a) A majority of the board constitutes a quorum.

(b) A majority vote of the quorum is required for an action to be taken by the board.

(4) The board shall:

(a) oversee and supervise the management of:

(i) the lab; and

(ii) the institute;

(b) appoint directors for the lab and institute, who shall serve at the pleasure of the board;

(c) establish reasonable compensation for:

(i) the lab director; and

(ii) the institute director;

(d) develop and implement:

(i) bylaws to govern the lab; and

(ii) bylaws to govern the institute;

(e) establish policies for:

(i) joint appointments between the Idaho National Laboratory and public and private institutions of higher education;

(ii) research partnerships between institutions;

(iii) technology commercialization; and

(iv) workforce development initiatives;

(f) foster innovation and support technological development in the energy sector by collaborating with industry leaders, researchers, entrepreneurs, investors, and other stakeholders;

(g) identify areas of economic growth and workforce development opportunities related to emerging energy technologies and solutions;

(h) seek potential investors and partners from the technology, finance, and business sectors to support innovative research and early-stage ventures focused on developing commercially viable energy technologies in the state;

(i) develop evaluation criteria for approving project proposals, with input from the lab director, including:

(i) alignment with state energy policy priorities;

(ii) commercialization potential;

(iii) economic impact; and

(iv) other relevant factors as determined by the board;

(j) approve providing matching grants to applicants under the Utah Energy Research Grant Program created in Section 79-6-403; and

(k) make recommendations to the council regarding funding allocations for:

(i) research projects;

(ii) facility operations;

(iii) workforce development programs; and

(iv) technology commercialization initiatives;

(l) administer the funds allocated by the council to the board;

(m) coordinate energy research activities between:

(i) the lab;

(ii) the institute;

(iii) public and private institutions of higher education;

(iv) the Idaho National Laboratory; and

(v) industry partners;

(n) review and approve annual reports from the lab and institute directors;

(o) report annually to:

(i) the governor;

(ii) the Public Utilities, Energy, and Technology Interim Committee; and

(iii) the Education Interim Committee;

(p) engage with industry partners to:

(i) identify research needs;

(ii) develop workforce programs;

(iii) commercialize technologies; and

(iv) secure additional funding sources;

(q) coordinate with federal agencies on:

(i) research initiatives;

(ii) grant opportunities; and

(iii) regulatory compliance;

(r) provide quarterly reports to the Utah Energy Council regarding:

(i) ongoing research projects and the research projects' alignment with state energy goals;

(ii) potential commercialization opportunities;

(iii) emerging technologies and the potential impact on the state's energy landscape; and

(iv) recommendations for policy changes or initiatives to support energy innovation; and

(s) coordinate with the council on:

(i) strategic planning for statewide energy research initiatives;

(ii) identifying priority research areas that align with state energy policy;

(iii) developing frameworks for public-private partnerships in energy research; and

(iv) establishing metrics for measuring research outcomes and impact.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The board shall meet at least quarterly and may hold additional meetings as necessary to review project proposals.

Section 94. Section 79-9-101 is amended to read:

79-9-101

(Effective 11/06/25)

. Definitions.

As used in this part:

(1) "Board" means the Outdoor Recreation Mitigation Board created in Section 79-9-104.

(2) "Division" means the Division of Outdoor Recreation created in Section [~~79-9-201~~]79-7-201.

(3) "Eligible county" means a county:

(a) of the third, fourth, fifth, or sixth class, as classified under Section 17-60-104;

(b) that imposes the maximum allowable rate of a county transient room tax; and

(c) that generated less than $10,000,000 in revenue from the imposition of a transient room tax in the previous calendar year.

(4) "Grant" means an outdoor recreation mitigation grant issued by the division to an eligible county as described in Section 79-9-201.

(5) "Grantee" means an eligible county that receives an outdoor recreation mitigation grant from the division.

(6) (a) "Visitor-related emergency costs" means the documented expenditures of an eligible county in conducting search and rescue efforts or providing emergency medical services in direct relation to an individual who is in the eligible county for the purpose of outdoor recreation, tourism, or a convention.

(b) "Visitor-related emergency costs" may include road repair and upgrade costs, as described in Subsection [~~17-31-2(3)(d)~~]17-78-702(2)(d), so long as the eligible county applying for a grant presents sufficient evidence to suggest that the condition of roads in the eligible

county has a direct impact on search and rescue efforts or providing emergency medical services in relation to an individual who is in the eligible county for the purpose of outdoor recreation, tourism, or a convention.

(7) "Visitor-related safety costs" means a mitigation cost described in Subsection [~~17-31-2(3)(d)~~]17-78-702(2)(d) that is not a visitor-related emergency cost, so long as the eligible county applying for a grant presents sufficient evidence to suggest that:

(a) the eligible county's current solid waste disposal operations are overwhelmed by outdoor recreation, tourism, or conventions in the eligible county, resulting in unsanitary or unsafe conditions in the eligible county;

(b) law enforcement activities within the eligible county are strained as a direct result of outdoor recreation, tourism, or conventions in the eligible county, resulting in unsafe conditions for recreators, visitors, tourists, county residents, and members of law enforcement within the eligible county; or

(c) road repair and upgrade costs, if the current condition of roads in the eligible county are overwhelmed by outdoor recreation, tourism, or conventions in the eligible county, resulting in unsafe conditions in the eligible county.

Section 95. Section 79-9-201 is amended to read:

79-9-201

(Effective 11/06/25)

. Outdoor recreation mitigation grant criteria -- Priorities -- Application -- Prohibition on awards.

(1) The division may, within available funding, award an outdoor recreation mitigation grant as described in this section.

(2) In the event the division receives grant applications in excess of funding available to make grants, the division shall:

(a) prioritize applications for grant funding for visitor-related emergency costs over applications for grant funding for visitor-related safety costs;

(b) within applications for grant funding to relieve visitor-related emergency costs, prioritize applications for grant funding to support search and rescue efforts or emergency medical services over applications for grant funding to support road repair; and

(c) prioritize an application for grant funding from an eligible county with a smaller population over an application for grant funding from an eligible county with a larger population.

(3) After making the priority determinations described in Subsection (2), the division may prioritize available grant funding based on need, in terms of:

(a) the amount of outdoor recreation or tourism taking place within the eligible county;

(b) the existing capacity of an eligible county to manage search and rescue efforts or emergency medical services without additional financial assistance;

(c) the existing capacity of an eligible county to engage in road repair and maintenance without additional financial assistance; and

(d) the existing capacity of an eligible county to manage tourism-related safety costs without additional financial assistance.

(4) The division may, in the division's discretion and in accordance with this part and any rules made pursuant to Subsection 79-9-102(3), fulfill an eligible county's application for grant funding in whole or in part.

(5) In implementing a competitive grant-making program described in this section, the division shall:

(a) create an application for eligible counties to apply for grant funding; and

(b) require an eligible county applying for grant funding to:

(i) use the application created by the division;

(ii) include information the division requires in an application; and

(iii) apply by a deadline established by the division.

(6) If an eligible county intends to share some or all grant funding awarded to the eligible county under this section with a special district in the eligible county, the eligible county shall provide that information in the eligible county's application for grant funding.

(7) Beginning January 1, 2028, an eligible county may not receive grant funding described in this chapter if the state auditor notifies the division, as authorized in Section 17E-2-403, that the eligible county is not in compliance with Section [~~17-36-37~~]17-63-603.

Section 96. Section 80-2-604 is amended to read:

80-2-604

(Effective 11/06/25)

. Death of a child reporting requirements.

(1) A person who has reason to believe that a child has died as a result of abuse or neglect shall report that fact to:

(a) the local law enforcement agency; and

(b) the appropriate medical examiner in accordance with Title 26B, Chapter 8, Part 2, Utah Medical Examiner.

(2) After receiving a report described in Subsection (1):

(a) the local law enforcement agency shall report to the county attorney or district attorney as provided under Section [~~17-18a-202~~]17-68-302 or [~~17-18a-203~~]17-68-303; and

(b) the medical examiner shall investigate and report the medical examiner's findings to:

(i) the police;

(ii) the appropriate county attorney or district attorney;

(iii) the attorney general's office;

(iv) the division; and

(v) if the institution making the report is a hospital, to the hospital.

Section 97. Section 80-2-1005 is amended to read:

80-2-1005

(Effective 11/06/25)

. Classification of reports of alleged abuse or neglect -- Confidential identity of a person who reports -- Access -- Admitting reports into evidence -- Unlawful release and use -- Penalty.

(1) Except as otherwise provided in this chapter or Chapter 2a, Removal and Protective Custody of a Child, a report made under Part 6, Child Abuse and Neglect Reports, and any other information in the possession of the division obtained as a result of the report is a private, protected, or controlled record under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection team;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) the subject of the report, the parents of the child, an individual who has been awarded permanent custody and guardianship of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;

(g) an office of the public prosecutor or the public prosecutor's deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Individual, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 81-13-403 and 81-13-405;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the department or a local substance abuse authority, described in Section [~~17-43-201~~]17-77-201, for the purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services described in Subsection 26B-5-102(2)(mm).

(2) In accordance with Section 80-2-608 and except as provided in Section 80-2-611, the division and a law enforcement agency shall ensure the anonymity of the person who makes the initial report under Part 6, Child Abuse and Neglect Reports, and any other person involved in the division's or law enforcement agency's subsequent investigation of the report.

(3) Notwithstanding any other provision of law, excluding Section 80-3-107, but including this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Title 63G, Chapter 2, Government Records Access and Management Act, if the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

(a) identify the referent;

(b) impede a criminal investigation; or

(c) endanger an individual's safety.

(4) A child-placing agency or person who receives a report from the division under Subsection (1)(m) may provide the report to:

(a) the subject of the report;

(b) a person who is performing a preplacement adoptive evaluation in accordance with Sections 81-13-403 and 81-13-405;

(c) to a licensed child-placing agency; or

(d) an attorney seeking to facilitate an adoption.

(5) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.

(6) (a) Except as provided in Subsection (6)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

(A) under Subsection (1)(f); or

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

(ii) describes a parent of the child as the alleged perpetrator; and

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b) (i) After a motion to admit the report described in Subsection (6)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection (6)(b)(i), the court may receive the report into evidence upon a finding on the record of good cause.

(7) (a) A person may not:

(i) willfully permit, or aid and abet, the release of data or information in the possession of the division or contained in the Management Information System in violation of this part or Part 6, Child Abuse and Neglect Reports; or

(ii) if the person is not listed in Subsection (1), request another person to obtain or release a report or other information that the other person obtained under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who violates Subsection (7)(a)(i), or violates Subsection (7)(a)(ii) knowing the person's actions are a violation of Subsection (7)(a)(ii), is guilty of a class C misdemeanor.

Section 98. Section 81-2-305 is amended to read:

81-2-305

(Effective 11/06/25)

. Who may solemnize marriages -- Certificate.

(1) The following individuals may solemnize a marriage:

(a) an individual 18 years old or older who is authorized by a religious denomination to solemnize a marriage;

(b) a Native American spiritual advisor;

(c) the governor;

(d) the lieutenant governor;

(e) the state attorney general;

(f) the state treasurer;

(g) the state auditor;

(h) a mayor of a municipality or county executive;

(i) a justice, judge, or commissioner of a court of record;

(j) a judge of a court not of record of the state;

(k) a judge or magistrate of the United States;

(l) the county clerk of any county in the state or the county clerk's designee as authorized by Section [~~17-20-4~~]17-70-302;

(m) a senator or representative of the Utah Legislature;

(n) a member of the state's congressional delegation;

(o) a judge or magistrate who holds office in Utah when retired, under rules set by the Supreme Court; or

(p) a military chaplain.

(2) An individual authorized under Subsection (1) who solemnizes a marriage shall give to the couple married a certificate of marriage that shows the:

(a) name of the county from which the license is issued; and

(b) date of the license's issuance.

(3) Except for an individual described in Subsection (1)(l), an individual described in Subsection (1) has discretion to solemnize a marriage.

(4) Except as provided in Section [~~17-20-4~~]17-70-302 and Subsection (1)(l), and notwithstanding any other provision in law, no individual authorized under Subsection (1) to solemnize a marriage may delegate or deputize another individual to perform the function of solemnizing a marriage.

(5) (a) Within 30 days after the day on which a marriage is solemnized, the individual solemnizing the marriage shall return the marriage license to the county clerk that issued the marriage license with a certificate of the marriage over the individual's signature stating the date and place of solemnization and the names of two or more witnesses present at the marriage.

(b) An individual described in Subsection (5)(a) who fails to return the license is guilty of an infraction.

(c) An individual described in Subsection (5)(a) who knowingly or intentionally makes a false statement on a certificate of marriage is guilty of perjury and may be prosecuted and punished as provided in Title 76, Chapter 8, Part 5, Falsification in Official Matters.

(6) (a) An individual is guilty of a third degree felony if the individual knowingly:

(i) solemnizes a marriage without a valid marriage license; or

(ii) solemnizes a marriage in violation of this section.

(b) An individual is guilty of a class A misdemeanor if the individual knowingly, with or without a marriage license, solemnizes a marriage between two individuals who are 18 years old or older that is prohibited by law.

Section 99. Section 81-2-405 is amended to read:

81-2-405

(Effective 11/06/25)

. Recognition and validation of a marriage regardless of the race, ethnicity, or national origin of the parties.

(1) As used in this section:

(a) "Eligible couple" means two individuals that may legally marry each other in this state.

(b) "Specified characteristic" means the race, ethnicity, or national origin of a party to the marriage.

(2) Regardless of the date of the marriage, a marriage between two individuals may not be deemed invalid or prohibited because of a specified characteristic.

(3) The office of a county clerk may not refuse to issue a marriage license to an eligible couple because of a specified characteristic.

(4) (a) The office of a county clerk may not refuse to solemnize the marriage of an eligible couple because of a specified characteristic.

(b) Subsection (4)(a) does not prevent a county clerk from delegating or deputizing another individual to solemnize a marriage in accordance with [~~Subsections 17-20-4(2) and 30-1-6(2)(l)~~]Sections 17-70-302 and 81-2-305.

Section 100. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect:
(a) except as provided in Subsection (1)(b), December 6, 2025; or
(b) if approved by two-thirds of all members elected to each house, the later of:
(i) November 6, 2025; or
(ii) upon approval by the governor;
(iii) without the governor's approval, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or
(iv) with the governor's veto and a vote of the Legislature to override the veto, the date of veto override.
(2) The actions affecting the following sections take effect on January 1, 2026:
(a) Section 59-12-104 (Effective 01/01/26);
(b) Section 59-12-603 (Effective 01/01/26); and
(c) Section 65A-8-402 (Effective 01/01/26).

H. J. R. 101
Passed October 6, 2025
Approved October 14, 2025
Effective November 6, 2025

JOINT RESOLUTION ON FEDERAL FUNDS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Jerry W Stevenson

LONG TITLE

General Description:

This joint resolution of the Legislature approves acceptance by the state of Utah of certain federal funds.

Highlighted Provisions:

This resolution:

► approves acceptance by the state of Utah of federal funds awarded through the Rural Health Transformation Program from Public Law 119-21, commonly known as One Big Beautiful Bill Act, 2025.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, on July 4, 2025, following congressional approval, the President signed into law Public Law 119-21, commonly known as One Big Beautiful Bill Act, 2025;

WHEREAS, Public Law 119-21, makes appropriations related to the Rural Health Transformation Program, including appropriations provided to the states through certain federal agencies;

WHEREAS, through the Rural Health Transformation Program, the state of Utah is to receive this year federal funds in excess of $10,000,000;

WHEREAS, Section 63J-5-204 of the Utah Code requires that the Legislature approve the state's receipt of new federal funds, if the state will receive total payments of $10,000,000 or more per year from the federal government; and

WHEREAS, the funds appropriated under the Rural Health Transformation Program are temporary grants, the state of Utah should consider the following guiding principles for use of the funds:

(1) initiatives should seek to create sustainable positive financial outcomes without creating future financial obligations for the state or permanently committing the state to a local government or private sector responsibility;

(2) initiatives should prioritize one-time projects or upgrades;

(3) initiatives should seek to leverage non-state resources where possible by partnering with the private sector or other levels of government;

(4) initiatives should inspire innovation in healthcare delivery;

(5) initiatives should seek to improve the health outcomes of Utahns; and

(6) when awarding funds, the state of Utah should notify funding recipients that the funds are temporary and do not create an ongoing obligation by the state government:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah approves acceptance by the state of Utah of $500,000,000 over five years, beginning in fiscal year 2026, with the possibility of another $500,000,000 over that time period, awarded under the Rural Health Transformation Program granted to the state of Utah under Public Law 119-21, commonly known as One Big Beautiful Bill Act, 2025.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the governor and the members of Utah's congressional delegation.

LAWS
of the
STATE OF UTAH, 2025

Passed at the

SECOND SPECIAL SESSION

of the

SIXTY-SIXTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake

December 9, 2025

and Adjourned Sine Die on

December 9, 2025

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2025 Second Special Session of the Sixty-Sixth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2025 Second Special Session of the Sixty-Sixth Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 9th of December 2025 and adjourned sine die on the 9th of December 2025.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City,

this Dec. 11, 2025

Deidre M. Henderson

DEIDRE M. HENDERSON
Lieutenant Governor

CHAPTER 1
H. B. 2001
Passed December 9, 2025
Approved December 11, 2025
Effective December 11, 2025

PUBLIC SECTOR LABOR UNION MODIFICATION

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill repeals H.B. 267, Public Sector Labor Union Amendments, Laws of Utah, 2025 General Session.

Highlighted Provisions:

This bill:

► repeals H.B. 267, Public Sector Labor Union Amendments, which the Legislature passed during the 2025 General Session.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Repealer.

H.B. 267, Public Sector Labor Union Amendments, Laws of Utah, 2025 General Session is repealed.

Section 2. Effective Date.

This bill takes effect:
(1) except as provided in Subsection (2), February 8, 2026; or
(2) if approved by two-thirds of all members elected to each house:
(a) upon approval by the governor;
(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or
(c) in the case of a veto, the date of veto override.

CHAPTER 2
S. B. 2001
Passed December 9, 2025
Approved December 11, 2025
Effective December 11, 2025

ELECTION AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill modifies election provisions relating to qualifying for placement on a primary election ballot.

Highlighted Provisions:

This bill:

- ► for the 2026 election year only, in relation to the office of United States representative only:
  - • permits an individual who desires to circulate a petition to gather signatures to qualify for placement on the regular primary election ballot as a potential nominee of a political party for United States representative (a congressional signature petition) to file a notice of intent to gather signatures before filing as a candidate for United States representative;
  - • until the deadline for filing a declaration of candidacy for United States representative, permits an individual to circulate a congressional signature petition, regardless of whether the individual is also running for an office other than United States representative;
  - • requires that an individual who is running for an office other than United States representative must withdraw as a candidate for that office before filing a declaration of candidacy for United States representative;
  - • provides that the declaration of candidacy filing period is March 9, 2026, through March 13, 2026; and
  - • permits an individual who circulates a congressional signature petition to collect signatures from any resident of the state who is permitted by the political party to vote for the political party's candidates in a primary election, rather than only a resident of the congressional district for which the individual intends to run;
- ► grants rulemaking authority to regulate the circumstances under which an individual may submit a candidate signature packet; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-1-509.1, as last amended by Laws of Utah 2025, First Special Session, Chapter 16
20A-2-107, as last amended by Laws of Utah 2025, Chapter 448
20A-9-201, as last amended by Laws of Utah 2025, Chapters 39, 160 and 448
20A-9-201.5, as last amended by Laws of Utah 2025, Chapter 448
20A-9-406, as last amended by Laws of Utah 2022, Chapter 13
20A-9-407, as last amended by Laws of Utah 2022, Chapter 13
20A-9-408, as last amended by Laws of Utah 2025, Chapters 38, 448
20A-9-410, as enacted by Laws of Utah 2014, Chapter 17
20A-9-502, as last amended by Laws of Utah 2025, Chapter 448
20A-14-203, as last amended by Laws of Utah 2022, Chapters 13, 265

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-509.1 is amended to read:

20A-1-509.1. Procedure for filling midterm vacancy in county or district with 15 or more attorneys.

(1) When a vacancy occurs in the office of county or district attorney in a county or district having 15 or more attorneys who are licensed active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

(2) (a) The requirements of this Subsection (2) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs before the first day of the applicable declaration of candidacy filing period described in Section 20A-9-201.5.

(b) When the conditions established in Subsection (2)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(c) All persons intending to become candidates for the vacant office shall:

(i) file a declaration of candidacy according to the procedures and requirements of Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy;

(ii) if nominated as a party candidate or qualified as an independent or write-in candidate under Chapter 9, Candidate Qualifications and Nominating Procedures, run in the regular general election; and

(iii) if elected, complete the unexpired term of the person who created the vacancy.

(d) If the vacancy occurs during the applicable declaration of candidacy filing period described in Section 20A-9-201.5:

(i) the time for filing a declaration of candidacy under Section 20A-9-202 shall be extended until 5 p.m. on the first business day that is no later than seven calendar days after the last day of the applicable declaration of candidacy filing period described in Section 20A-9-201.5; and

(ii) the county clerk shall notify the public and each registered political party that the vacancy exists.

(3) (a) The requirements of this Subsection (3) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the third Thursday in March of the even-numbered year but more than 75 calendar days before the regular primary election.

(b) When the conditions established in Subsection (3)(a) are met, the county clerk shall:

(i) notify the public and each registered political party that the vacancy exists; and

(ii) identify the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.

(c) All persons intending to become candidates for the vacant office shall:

(i) no later than 5 p.m. on the first business day that is at least five calendar days after the day on which the county clerk gives the notice described in Subsection (3)(b)(i), file a declaration of candidacy for the vacant office as required by Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(ii) if elected, complete the unexpired term of the person who created the vacancy.

(d) The county central committee of each party shall:

(i) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(ii) certify the name of the candidate or candidates to the county clerk:

(A) no later than 5 p.m. on the last business day that is at least 60 calendar days before the day of the regular primary election; or

(B) electronically, before midnight no later than 60 calendar days before the day of the regular primary election.

(4) (a) The requirements of this Subsection (4) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) 75 calendar days or less remain before the regular primary election but more than 65 calendar days remain before the regular general election.

(b) When the conditions established in Subsection (4)(a) are met, the county central committees of each registered political party that wishes to submit a candidate for the office shall, not later than five calendar days after the day on which the vacancy occurs, certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(c) The candidate elected shall complete the unexpired term of the person who created the vacancy.

(5) (a) The requirements of this Subsection (5) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of less than two years; or

(ii) the vacant office has an unexpired term of two years or more but 65 calendar days or less remain before the next regular general election.

(b) When the conditions established in Subsection (5)(a) are met, the county legislative body shall give notice of the vacancy to:

(i) the county clerk; and

(ii) the county central committee of the same political party of the prior officeholder.

(c) The county legislative body shall invite the committee described in Subsection (5)(b)(ii) to submit the names of three nominees to fill the vacancy.

(d) The county central committee shall, within 30 calendar days after the day on which the county legislative body gives the notice described in Subsection (5)(b)(ii), submit to the county legislative body the names of three nominees to fill the vacancy.

(e) The county legislative body shall, within 45 calendar days after the vacancy occurs, appoint one of those nominees to serve out the unexpired term.

(f) If the county legislative body fails to appoint a person to fill the vacancy within 45 calendar days, the county clerk shall send to the governor a letter that:

(i) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(ii) contains the list of nominees submitted by the party central committee.

(g) The governor shall appoint a person to fill the vacancy from that list of nominees within 30 calendar days after the day on which the governor receives the letter described in Subsection (5)(f).

(h) A person appointed to fill the vacancy under this Subsection (5) shall complete the unexpired term of the person who created the vacancy.

(6) A person seeking appointment to fill a vacancy described in Subsection (5)(a) shall, no later than the deadline for the person to file a financial report under Section 17-70-403:

(a) complete a conflict of interest disclosure statement in accordance with Section 17-70-304; and

(b) submit the conflict of interest disclosure statement to the county legislative body and the county clerk.

(7) (a) The county clerk shall make each conflict of interest disclosure statement made by a person described in Subsection (6) available for public inspection by posting an electronic copy of the statement on the county's website for at least 10 calendar days after the day on which the county legislative body appoints a person to fill the vacancy.

(b) The county clerk shall post the electronic statement described in Subsection (7)(a) no later than two business days after the day on which the county clerk receives the statement.

(8) A vacancy in the office described in Subsection (1) does not occur unless the person occupying the office:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the county legislative body.

(9) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the required time limits.

Section 2. Section 20A-2-107 is amended to read:

20A-2-107. Designating or changing party affiliation -- Times permitted.

(1) As used in this section, "change of affiliation deadline" means:

(a) for an election held in an even-numbered year in which a presidential election will be held, the day after the declaration of candidacy deadline described in Subsection [~~20A-9-201.5(2)(b)~~]20A-9-201.5(1); or

(b) for an election held in an even-numbered year in which a presidential election will not be held, April 1.

(2) The county clerk shall:

(a) except as provided in Subsection (6) or 20A-2-107.5(3), record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or

(b) if no political party affiliation is designated by the voter on the voter registration form:

(i) except as provided in Subsection (2)(b)(ii), record the voter's party affiliation as the party that the voter designated the last time that the voter designated a party on a voter registration form, unless the voter more recently registered as "unaffiliated"; or

(ii) record the voter's party affiliation as "unaffiliated" if the voter:

(A) did not previously designate a party;

(B) most recently designated the voter's party affiliation as "unaffiliated"; or

(C) did not previously register.

(3) (a) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of this Subsection (3).

(b) A registered voter may designate or change the voter's political party affiliation by filing with the county clerk, the municipal clerk, or the lieutenant governor a voter registration form or another signed form that identifies the registered political party with which the voter chooses to affiliate.

(c) Except as provided in Subsection (3)(d), a voter registration form or another signed form designating or changing a voter's political party affiliation takes effect when the county clerk receives the signed form.

(d) The party affiliation of a voter who changes party affiliation, or who becomes unaffiliated from a political party, at any time on or after the change of affiliation deadline and on or before the date of the regular primary election, takes effect the day after the statewide canvass for the regular primary election.

(4) For purposes of Subsection (3)(d), a form described in Subsection (3)(c) is received by the county clerk before the change of affiliation deadline if:

(a) the individual submits the form in person at the county clerk's office no later than 5 p.m. on the last business day before the change of affiliation deadline;

(b) the individual submits the form electronically through the system described in Section 20A-2-206, at or before 11:59 p.m. before the day of the change of affiliation deadline; or

(c) the individual's form is clearly postmarked before the change of affiliation deadline.

(5) Subsection (3)(d) does not apply to the party affiliation designated by a voter on a voter registration form if:

(a) the voter has not previously been registered to vote in the state; or

(b) the voter's most recent party affiliation was changed to "unaffiliated" by a county clerk under Subsection (6).

(6) If the most recent party affiliation designated by a voter is for a political party that is no longer a registered political party, the county clerk shall:

(a) change the voter's party affiliation to "unaffiliated"; and

(b) notify the voter electronically or by mail:

(i) that the voter's affiliation has been changed to "unaffiliated" because the most recent party affiliation designated by the voter is for a political party that is no longer a registered political party; and

(ii) of the methods and deadlines for changing the voter's party affiliation.

Section 3. Section 20A-9-201 is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, an individual shall:

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

(c) if seeking a registered political party's nomination as a candidate for elective office, state:

(i) the registered political party of which the individual is a member; or

(ii) that the individual is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the individual resigns the individual's candidacy for the other office after the individual is officially nominated for president or vice president of the United States.

(ii) An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(iv) For the 2026 election year only, an individual who files a declaration of candidacy to seek the nomination of a qualified political party for constitutional office, multicounty office, or county office:

(A) may also be a candidate for United States representative;

(B) may, if the individual desires to use the signature-gathering process to qualify for the primary election ballot for the office of United States representative, file a notice of intent to gather signatures for, and gather signatures for, that office; and

(C) shall, before filing a declaration of candidacy for the office of United States representative, withdraw as a candidate for the constitutional office, multicounty office, or county office for which the individual filed a declaration of candidacy.

(3) (a) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking;

(ii) require the individual to state whether the individual meets the requirements described in Subsection (3)(a)(i);

(iii) if the declaration of candidacy is for a county office, inform the individual that an individual who holds a county elected office may not, at the same time, hold a municipal elected office; and

(iv) if the declaration of candidacy is for a legislative office, inform the individual that Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit or trust, under authority of the United States or Utah, from being a member of the Legislature.

(b) (i) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the individual filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the county in which the individual is seeking office; and

(D) a current resident of the county in which the individual is seeking office and either has been a resident of that county for at least one year before the date of the election or was appointed and is currently serving as county attorney and became a resident of the county within 30 calendar days after appointment to the office.

(ii) An individual filing a declaration of candidacy for the office of county attorney shall submit with the individual's declaration:

(A) a letter from the Utah Supreme Court, affirming that the individual is an attorney in good standing;

(B) proof of the individual's application with the Utah State Bar, with an affidavit describing the status of the individual's application; or

(C) an affidavit describing how the individual intends to comply with the requirements for office of county attorney described in Subsection (3)(b)(i), prior to taking office.

(iii) In addition to the requirements described in Subsection (3)(b)(ii), an individual shall also provide the filing officer with the individual's license number with:

(A) the Utah State Bar, if the individual is a member; or

(B) any other state bar association, if the individual is a member.

(c) (i) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the individual filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the prosecution district in which the individual is seeking office; and

(D) a current resident of the prosecution district in which the individual is seeking office and either will have been a resident of that prosecution district for at least one year before the date of the election or was appointed and is currently serving as district attorney or county attorney and became a resident of the prosecution district within 30 calendar days after receiving appointment to the office.

(ii) An individual filing a declaration of candidacy for the office of district attorney shall submit with the individual's declaration:

(A) a letter from the Utah Supreme Court, affirming that the individual is an attorney in good standing;

(B) proof of the individual's application with the Utah State Bar, with an affidavit describing the status of the individual's application; or

(C) an affidavit describing how the individual intends to comply with the requirements for office of district attorney described in Subsection (3)(c)(i), prior to taking office.

(iii) In addition to the requirements described in Subsection (3)(c)(ii), an individual shall also provide the filing officer with the individual's license number with:

(A) the Utah State Bar, if the individual is a member; or

(B) any other state bar association, if the individual is a member.

(d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the individual filing the declaration:

(i) is a United States citizen;

(ii) is a registered voter in the county in which the individual seeks office;

(iii) (A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) has met the waiver requirements in Section 53-6-206;

(iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(v) before the date of the election, will have been a resident of the county in which the individual seeks office for at least one year.

(e) (i) An individual filing a declaration of candidacy for the office of attorney general shall submit with the individual's declaration:

(A) a letter from the Utah Supreme Court, affirming that the individual is an attorney in good standing;

(B) proof of the individual's application with the Utah State Bar, with an affidavit describing the status of the individual's application; or

(C) an affidavit describing how the individual intends to comply with the requirements for office of attorney general, described in Article VII, Sec. 3, Utah Constitution, prior to taking office.

(ii) In addition to the requirements described in Subsection (3)(e)(i), an individual shall also provide the filing officer with the individual's license number with:

(A) the Utah State Bar, if the individual is a member; or

(B) any other state bar association, if the individual is a member.

(iii) An individual filing the declaration of candidacy for the office of attorney general shall also make the conflict of interest disclosure described in Section 20A-11-1603.

(f) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, state legislator, or State Board of Education member, the filing officer shall ensure that the individual filing the declaration of candidacy also makes the conflict of interest disclosure described in Section 20A-11-1603.

(4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office the individual is seeking, the filing officer may not accept the individual's declaration of candidacy.

(5) If an individual who files a declaration of candidacy meets the requirements described in Subsection (3), the filing officer shall:

(a) inform the individual that:

(i) subject to Section 20A-6-109, the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

(ii) the individual may be required to comply with state or local campaign finance disclosure laws; and

(iii) the individual is required to file a financial statement before the individual's political convention under:

(A) Section 20A-11-204 for a candidate for constitutional office;

(B) Section 20A-11-303 for a candidate for the Legislature; or

(C) local campaign finance disclosure laws, if applicable;

(b) except for a presidential candidate, provide the individual with a copy of the current campaign financial disclosure laws for the office the individual is seeking and inform the individual that failure to comply will result in disqualification as a candidate and removal of the individual's name from the ballot;

(c) (i) provide the individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the individual of the submission deadline under Subsection 20A-7-801(4)(a);

(ii) inform the individual that the individual must provide the filing officer with an email address that the individual actively monitors:

(A) to receive a communication from a filing officer or an election officer; and

(B) if the individual wishes to display a candidate profile on the Statewide Electronic Voter Information Website, to submit to the website the biographical and other information described in Subsection 20A-7-801(4)(a)(ii);

(iii) inform the individual that the email address described in Subsection (5)(c)(ii) is not a record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(iv) obtain from the individual the email address described in Subsection (5)(c)(ii);

(d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(i) signing the pledge is voluntary; and

(ii) signed pledges shall be filed with the filing officer;

(e) accept the individual's declaration of candidacy; and

(f) if the individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the individual is a member.

(6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(a) accept the candidate's pledge; and

(b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(7) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:

(i) be substantially as follows:

"State of Utah, County of ____

I, _____, declare my candidacy for the office of ____, seeking the nomination of the ____ party. I do solemnly swear, under penalty of perjury, that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of ____, Utah, Zip Code _____ Phone No. ____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

_____

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath)."; and

(ii) require the candidate to state, in the sworn statement described in Subsection (7)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(c) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8) (a) Except for a candidate for president or vice president of the United States, the fee for filing a declaration of candidacy is:

(i) $50 for candidates for the local school district board; and

(ii) $50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

"Affidavit of Impecuniosity

Individual Name _____Address_____

Phone Number _____

I,_____(name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____ Signature_____ Affiant

Subscribed and sworn to before me on _____ (month\day\year)

_____

(signature)

Name and Title of Officer Authorized to Administer Oath

_____".

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

"Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot."

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (8)(d) file a financial statement on a form prepared by the election official.

(9) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(10) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section 4. Section 20A-9-201.5 is amended to read:

20A-9-201.5. Declaration of candidacy filing period for a qualified political party.

For a qualified political party [~~,~~]:

(1) except as provided in Subsection (2), the filing period to file a declaration of candidacy for an elective office that is to be filled at the next regular general election:

[~~(1)~~](a) begins at 8 a.m. on the [~~later of:~~]

[~~(a) January 2 of the year in which the next regular general election is held; or~~]

[~~(b) if January 2 is not a business day, the first business day after January 2~~]first business day in January of an even-numbered year; and

[~~(2)~~](b) ends at 5 p.m. on the [~~fourth~~]fifth business day [~~after the day on which the filing period begins.~~]in January of an even-numbered year; and

(2) for the 2026 election year only, the filing period to file a declaration of candidacy for the office of United States representative:

(a) begins at 8 a.m. on March 9, 2026; and

(b) ends at 5 p.m. on March 13, 2026.

Section 5. Section 20A-9-406 is amended to read:

20A-9-406. Qualified political party -- Requirements and exemptions.

The following provisions apply to a qualified political party:

(1) the qualified political party shall, no later than 5 p.m. on the first Monday of October of each odd-numbered year, certify to the lieutenant governor the identity of one or more registered political parties whose members may vote for the qualified political party's candidates and whether unaffiliated voters may vote for the qualified political party's candidates;

(2) the following provisions do not apply to a nomination for the qualified political party:

(a) Subsections 20A-9-403(1) through (3)(b) and [~~(3)(d)~~]Subsections (3)(d)(ii) through (4)(a);

(b) Subsection 20A-9-403(5)(c); and

(c) Section 20A-9-405;

(3) an individual may only seek the nomination of the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

(4) the qualified political party shall comply with the provisions of Sections 20A-9-407, 20A-9-408, and 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)(e), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each individual nominated by a qualified political party:

(a) under the qualified political party's name, if any; or

(b) under the title of the qualified registered political party as designated by the qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

(7) notwithstanding Subsection 20A-6-304(1)(e), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on a mechanical ballot;

(8) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407 or 20A-9-408 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office;

(9) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

(10) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for elective office appear on the primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

(11) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include on the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

(12) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot; and

(13) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election.

Section 6. Section 20A-9-407 is amended to read:

20A-9-407. Convention process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of a qualified political party for an elective office through the qualified political party's convention process.

(2) Notwithstanding Subsection 20A-9-201(7)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election, shall:

(a) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy in person with the filing officer during the applicable declaration of candidacy filing period described in Section 20A-9-201.5; and

(b) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election, shall:

(a) file a declaration of candidacy with the county clerk designated in the interlocal agreement creating the prosecution district during the applicable declaration of candidacy filing period described in Section 20A-9-201.5; and

(b) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an

individual who is nominated by a qualified political party, under this section, for the office of governor shall, during the applicable declaration of candidacy filing period described in Section 20A-9-201.5, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) (a) A qualified political party that nominates a candidate under this section shall certify the name of the candidate to the lieutenant governor before the deadline described in Subsection 20A-9-202(1)(b).

(b) The lieutenant governor shall include, in the primary ballot certification or, for a race where a primary is not held because the candidate is unopposed, in the general election ballot certification, the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

Section 7. Section 20A-9-408 is amended to read:

20A-9-408. Signature-gathering process to seek the nomination of a qualified political party -- Removal of signature.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering process described in this section.

(2) Notwithstanding Subsection 20A-9-201(7)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election shall:

(a) except to the extent otherwise provided in Subsection (13)(a), during the applicable declaration of candidacy filing period described in Section 20A-9-201.5, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy, in person, with the filing officer during the applicable declaration of candidacy filing period described in Section 20A-9-201.5; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) during the applicable declaration of candidacy filing period described in Section 20A-9-201.5, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy, in person, with the filing officer during the applicable declaration of candidacy filing period described in Section 20A-9-201.5; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, during the applicable declaration of candidacy filing period described in Section 20A-9-201.5, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor that complies with Subsection 20A-9-405(3), during the period beginning on the day on which the member files a notice of intent to gather signatures and ending at the applicable deadline described in Subsection (12), in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) except as provided in Subsection (13)(b), for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(v) for a State Board of Education race, the lesser of:

(A) 2,000 signatures of registered voters who are residents of the State Board of Education district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; or

(B) 3% of the registered voters of the qualified political party who are residents of the applicable State Board of Education district; and

(vi) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) This Subsection (9) applies only to the manual candidate qualification process.

(b) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, using the manual candidate qualification process, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor, using the same circulation and verification requirements described in Sections 20A-7-105 and 20A-7-204; and

(ii) in accordance with Section 20A-9-408.3, submit the signatures to the election officer before the applicable deadline described in Subsection (12).

(c) Upon timely receipt of the signatures described in Subsections (8) and (9)(b), and in accordance with Section 20A-9-408.3, the election officer shall, no later than the earlier of 14 calendar days after the day on which the election officer receives the signatures, or one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(c)(i) who is not at least 18 years old to the attorney general and the county attorney;

(iii) with the assistance of the county clerk as applicable, determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-1-1002, used to verify a signature on a petition; and

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet.

(d) (i) A registered voter who physically signs a form under Subsections (8) and (9)(b)may have the voter's signature removed from the form by, no later than 5 p.m. three business days after the day on which the member submits the signature form to the election officer, submitting to the election officer a statement requesting that the voter's signature be removed.

(ii) A statement described in Subsection (9)(d)(i) shall comply with the requirements described in Subsection 20A-1-1003(2).

(iii) With the assistance of the county clerk as applicable, the election officer shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature after receiving a timely, valid statement requesting removal of the signature.

(e) (i) An election officer shall, in accordance with this Subsection (9)(e) and rules made under Section 20A-3a-106, conduct regular audits of signature comparisons made between signatures gathered under this section and voter signatures maintained by the election officer.

(ii) An individual who conducts an audit of signature comparisons under this section may not audit the individual's own work.

(iii) The election officer shall:

(A) audit 1% of all signature comparisons described in Subsection (9)(e)(i) to determine the accuracy of the comparisons made;

(B) record the individuals who conducted the audit;

(C) record the audit results;

(D) provide additional training or staff reassignments, as needed, based on the results of an audit described in Subsection (9)(e)(i); and

(E) record any remedial action taken.

(iv) The audit results described in Subsection (9)(e)(iii)(C) are a public record.

(f) An election officer who certifies signatures under Subsection (9)(c) or 20A-9-403(3)(d) shall, after certifying enough signatures to establish that a candidate has reached the applicable signature threshold described in Subsection (8) or 20A-9-403(3)(a), as applicable, continue to certify signatures submitted for the candidate in excess of the number of signatures required, until the election officer either:

(i) certifies signatures equal to 110% of the applicable signature threshold; or

(ii) has reviewed all signatures submitted for the candidate before reaching an amount equal to 110% of the applicable signature threshold.

(10) (a) This Subsection (10) applies only to the electronic candidate qualification process.

(b) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall, before the deadline described in Subsection (12), collect signatures electronically:

(i) in accordance with Section 20A-21-201; and

(ii) using progressive screens, in a format approved by the lieutenant governor, that complies with Subsection 20A-9-405(4).

(c) Upon timely receipt of the signatures described in Subsections (8) and (9)(b), the election officer shall, no later than the earlier of 14 calendar days after the day on which the election officer receives the signatures, or one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature to determine whether each individual is at least 18 years old; and

(ii) submit the name of each individual described in Subsection (10)(c)(i) who is not at least 18 years old to the attorney general and the county attorney.

(11) (a) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.

(b) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (11)(b)(i).

(c) Upon timely receipt of the signatures described in Subsections (8) and (9)(b), or Subsections (8) and (10)(b), the election officer shall, no later than the day before the day on which the qualified political party holds the convention to select a nominee for the elective

office to which the signature packets relate, notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

(d) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.

(12) The deadline before which a member of a qualified political party must collect and submit signatures to the election officer under this section is 5 p.m. on the last business day that is at least 14 calendar days before the day on which the qualified political party's convention for the office begins.

(13) For the 2026 election year only, an individual who desires to gather signatures to seek the nomination of a qualified political party for the office of United States representative shall:

(a) in accordance with Subsection (3)(a), file a notice of intent to gather signatures during the period beginning at 8 a.m. on the first business day of January and ending at 5 p.m. on March 13, 2026; and

(b) during the period beginning on the day on which the individual files the notice of intent to gather signatures and ending at 5 p.m. on March 13, 2026, on a form approved by the lieutenant governor that complies with Subsection 20A-9-405(3), collect 7,000 signatures of registered voters who are residents of the state and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

Section 8. Section 20A-9-410 is amended to read:

20A-9-410. Rulemaking authority.

The director of elections, within the Office of the Lieutenant Governor, shall make rules, in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act[,]:

(1) relating to procedures for complying with, and verifying compliance with, the candidate nominating process described in this part [,]; and

(2) that permit an individual to submit signatures to qualify as a candidate for placement on the primary election ballot at least once each week during the signature gathering period, regardless of whether the number of signatures gathered has reached the signature threshold for the applicable office.

Section 9. Section 20A-9-502 is amended to read:

20A-9-502. Certificate of nomination -- Contents -- Circulation -- Verification -- Criminal penalty -- Removal of petition signature.

(1) The candidate shall:

(a) prepare a certificate of nomination in substantially the following form:

"State of Utah, County of _____

I, _____, declare my intention of becoming an unaffiliated candidate for the political group designated as ____ for the office of ____. I do solemnly swear that I can qualify to hold that office both legally and constitutionally if selected, and that I reside at ____ Street, in the city of ____, county of ____, state of _____, zip code ____, phone ____, and that I am providing, or have provided, the required number of holographic signatures of registered voters required by law; that as a candidate at the next election I will not knowingly violate any election or campaign law; that, if filing via a designated agent for an office other than president of the United States, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot.

_____

Subscribed and sworn to before me this _____(month\day\year).

_____

Notary Public (or other officer

qualified to administer oaths)";

(b) for each signature packet, bind signature sheets to a copy of the certificate of nomination and the circulator verification, that:

(i) are printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(ii) are ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;

(iii) contain the name of the proposed candidate and the words "Unaffiliated Candidate Certificate of Nomination Petition" printed directly below the horizontal line;

(iv) contain the word "Warning" printed directly under the words described in Subsection (1)(b)(iii);

(v) contain, to the right of the word "Warning," the following statement printed in not less than eight-point, single leaded type:

"It is a class A misdemeanor for anyone to knowingly sign a certificate of nomination signature sheet with any name other than the person's own name or more than once for the same candidate or if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures.";

(vi) contain the following statement directly under the statement described in Subsection (1)(b)(v):

"Each signer says:

I have personally signed this petition with a holographic signature;

I am registered to vote in Utah or intend to become registered to vote in Utah before the county clerk certifies my signature; and

My street address is written correctly after my name.";

(vii) contain horizontally ruled lines, 3/8 inch apart under the statement described in Subsection (1)(b)(vi); and

(viii) be vertically divided into columns as follows:

(A) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle;

(B) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(C) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of Registered Voter";

(D) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

(E) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; and

(F) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be certified as a valid signature if you change your address before petition signatures are certified or if the information you provide does not match your voter registration records."; and

(c) bind a final page to one or more signature sheets that are bound together that contains, except as provided by Subsection (3), the following printed statement:

"Verification

State of Utah, County of ____

I, _____, of ____, hereby state that:

I am at least 18 years old;

All the names that appear on the signature sheets bound to this page were signed by persons who professed to be the persons whose names appear on the signature sheets, and each of them signed the person's name on the signature sheets in my presence;

I believe that each has printed and signed the person's name and written the person's street address correctly, and that each signer is registered to vote in Utah or will register to vote in Utah before the county clerk certifies the signatures on the signature sheet.

_____

(Signature) (Residence Address) (Date)".

(2) An agent designated to file a certificate of nomination under Subsection 20A-9-503(2)(b) or (4)(b) may not sign the form described in Subsection (1)(a).

(3) (a) The candidate shall circulate the nomination petition and ensure that the person in whose presence each signature sheet is signed:

(i) is at least 18 years old; and

(ii) verifies each signature sheet by completing the verification bound to one or more signature sheets that are bound together.

(b) A person may not sign the circulator verification if the person signed a signature sheet bound to the verification.

(4) (a) It is unlawful for any person to:

(i) knowingly sign a certificate of nomination signature sheet:

(A) with any name other than the person's own name;

(B) more than once for the same candidate; or

(C) if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures; or

(ii) sign the verification of a certificate of nomination signature sheet if the person:

(A) has not witnessed the signing by those persons whose names appear on the certificate of nomination signature sheet; or

(B) knows that a person whose signature appears on the certificate of nomination signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state.

(b) Any person violating this Subsection (4) is guilty of a class A misdemeanor.

(5) (a) To qualify for placement on the general election ballot, the candidate shall, no earlier than the start of the applicable declaration of candidacy period described in Section 20A-9-201.5 and no later than 5 p.m. on June 15 of the year in which the election will be held:

(i) comply with Subsection 20A-9-503(1); and

(ii) submit each signature packet to the county clerk where the majority of the signatures in the packet were collected, with signatures totaling:

(A) at least 1,000 registered voters residing within the state when the nomination is for an office to be filled by the voters of the entire state; or

(B) at least 300 registered voters residing within a political division or at least 5% of the registered voters residing within a political division, whichever is less, when the nomination is for an office to be filled by the voters of any political division smaller than the state.

(b) A candidate has not complied with Subsection (5)(a)(ii), unless the county clerks verify that each required signature is a valid signature of a registered voter who is eligible to sign the signature packet and has not signed a signature packet to nominate another candidate for the same office.

(c) In reviewing the signature packets, the county clerk shall count and certify only those persons who signed with a holographic signature, who:

(i) are registered voters within the political division that the candidate seeks to represent; and

(ii) did not sign any other certificate of nomination for that office.

(d) The county clerk shall count and certify the number of registered voters who validly signed a signature packet, no later than 30 calendar days after the day on which the candidate submits the signature packet.

(e) The candidate may supplement the signatures or amend the certificate of nomination or declaration of candidacy at any time on or before 5 p.m. on June 15 of the year in which the election will be held.

(f) The county clerk shall use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter who is qualified to sign the signature packet.

(6) (a) A voter who signs a signature packet under this section may have the voter's signature removed from the signature packet by, no later than 5 p.m. three business days after the day on which the candidate submits the signature packet to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (6)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a signature packet after receiving a timely, valid statement requesting removal of the signature.

Section 10. Section 20A-14-203 is amended to read:

20A-14-203. Becoming a member of a local board of education -- Declaration of candidacy -- Election.

(1) An individual may become a candidate for a local school board by:

(a) filing a declaration of candidacy with the county clerk during the applicable declaration of candidacy filing period described in Section 20A-9-201.5; and

(b) paying the fee described in Section 20A-9-202.

(2) (a) The term of office for an individual elected to a local board of education is four years, beginning on the first Monday in January after the election.

(b) A member of a local board of education shall serve until a successor is:

(i) elected; or

(ii) appointed and takes or signs the constitutional oath of office.

Section 11. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), February 8, 2026; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

CHAPTER 3
S. B. 2002
Passed December 9, 2025
Approved December 11, 2025
Effective December 11, 2025

APPELLATE COURT JURISDICTION AMENDMENTS

Chief Sponsor: Brady Brammer
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill amends and clarifies the jurisdiction of Utah appellate courts.

Highlighted Provisions:

This bill:

- ► clarifies the exclusive and original appellate jurisdiction of the Utah Supreme Court;
- ► provides that a final judgment in certain cases is appealable even if a motion or claim for attorney fees has not been entered by the district court;
- ► clarifies the jurisdiction of the Utah Court of Appeals; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

78A-3-102, as last amended by Laws of Utah 2025, Chapters 190, 456
78A-4-103, as last amended by Laws of Utah 2025, Chapters 190, 456

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-3-102 is amended to read:
78A-3-102. Jurisdiction of Supreme Court.

(1) The Supreme Court has original jurisdiction to answer questions of state law certified by a court of the United States.

(2) The Supreme Court has original jurisdiction to issue all extraordinary writs and authority to issue all writs and process necessary to carry into effect the Supreme Court's orders, judgments, and decrees or in aid of [~~its jurisdiction~~]the jurisdiction of the Supreme Court.

[~~(3) The Supreme Court has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:~~]

[~~(a) a judgment of the Court of Appeals;~~]

[~~(b) cases certified to the Supreme Court by the Court of Appeals prior to final judgment by the Court of Appeals;~~]

[~~(c) discipline of lawyers;~~]

[~~(d) final orders of the Judicial Conduct Commission;~~]

[~~(e) a final agency action, as described in Section 63G-4-403, in a formal adjudicative proceeding originating from:~~]

[~~(i) the Public Service Commission;~~]

[~~(ii) the State Tax Commission;~~]

[~~(iii) the School and Institutional Trust Lands Board of Trustees;~~]

[~~(iv) the Board of Oil, Gas, and Mining;~~]

[~~(v) the state engineer; or~~]

[~~(vi) the executive director of the Department of Natural Resources reviewing actions of the Division of Forestry, Fire, and State Lands;~~]

[~~(f) final orders and decrees of the district court review of informal adjudicative proceedings of agencies under Subsection (3)(e);~~]

[~~(g) a final judgment or decree of any court of record holding a statute of the United States or this state unconstitutional on its face under the Constitution of the United States or the Utah Constitution;~~]

[~~(h) interlocutory appeals from any court of record involving a charge of a first degree or capital felony;~~]

[~~(i) appeals from the district court involving a conviction or charge of a first degree felony or capital felony;~~]

[~~(j) orders, judgments, and decrees of any court of record over which the Court of Appeals does not have original appellate jurisdiction;~~]

[~~(k) appeals from the district court of orders, judgments, or decrees ruling on legislative subpoenas; and~~]

[~~(l) an appeal of an injunctive order as described in Section 78B-5-1002.~~]

[~~(4) The Supreme Court may transfer to the Court of Appeals any of the matters over which the Supreme Court has original appellate jurisdiction, except for:~~]

[~~(a) capital felony convictions or an appeal of an interlocutory order of a court of record involving a charge of a capital felony;~~]

[~~(b) election and voting contests;~~]

[~~(c) reapportionment of election districts;~~]

[~~(d) retention or removal of public officers;~~]

[~~(e) matters involving legislative subpoenas; and~~]

[~~(f) a matter described in Subsections (3)(a) through (d) or Subsection (3)(l).~~]

(3) (a) The Supreme Court has exclusive and original appellate jurisdiction, including exclusive and original appellate jurisdiction of an interlocutory appeal, over:

(i) a judgment of the Court of Appeals;

(ii) a case certified to the Supreme Court by the Court of Appeals before final judgment by the Court of Appeals;

(iii) the discipline of a lawyer;

(iv) a final order of the Judicial Conduct Commission;

(v) an interlocutory appeal from a court of record involving a capital felony;

(vi) an appeal from the district court involving a conviction or charge of a capital felony;

(vii) an appeal from the district court of an order, judgment, or decree ruling on a legislative subpoena;

(viii) an appeal of an injunctive order as described in Section 78B-5-1002;

(ix) a judgment, or an interlocutory appeal of an order, of a district court involving:

(A) an election or voting contest; or

(B) the establishment of boundaries of political districts for purposes of an election; and

(x) the retention or removal of a public officer.

(b) The Supreme Court may not transfer any matter described in Subsection (3)(a) to the Court of Appeals.

(c) In a case involving an election or voting contest or the establishment of boundaries of political districts for purposes of an election, a judgment is appealable to the Supreme Court even if:

(i) a party files a motion or claim for attorney fees under Rule 73 of the Utah Rules of Civil Procedure in the district court; and

(ii) the district court has not entered a dispositive order for that motion or claim.

(4) (a) In addition to Subsection (3)(a), the Supreme Court has original appellate jurisdiction, including original appellate jurisdiction of an interlocutory appeal, over:

(i) a final agency action, as described in Section 63G-4-403, in a formal adjudicative proceeding originating from:

(A) the Public Service Commission;

(B) the State Tax Commission;

(C) the School and Institutional Trust Lands Board of Trustees;

(D) the Board of Oil, Gas, and Mining;

(E) the state engineer; or

(F) the executive director of the Department of Natural Resources reviewing an action of the Division of Forestry, Fire, and State Lands;

(ii) a final order or decree of the district court review of an informal adjudicative proceeding of an agency described in Subsection (4)(a)(i);

(iii) a final judgment or decree of a court of record holding a statute of the United States or this state is unconstitutional on its face under the Constitution of the United States or the Utah Constitution;

(iv) an interlocutory appeal from a court of record involving a first degree felony;

(v) an appeal from a district court involving a conviction or charge of a first degree felony; and

(vi) an order, judgment, or decree of a court of record over which the Court of Appeals does not have appellate jurisdiction.

(b) The Supreme Court may transfer any matter described in Subsection (4)(a) to the Court of Appeals.

(5) (a) The Supreme Court has sole discretion in granting or denying a petition for writ of certiorari for the review of a Court of Appeals adjudication [~~, but the~~].

(b) Notwithstanding Subsection (5)(a), the Supreme Court shall review [~~those cases~~]a case certified to the Supreme Court by the Court of Appeals under Subsection [~~(3)(b)~~](3)(a)(ii).

(6) The Supreme Court shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in the Supreme Court's review of [~~agency adjudicative proceedings~~]an agency adjudicative proceeding.

Section 2. Section 78A-4-103 is amended to read:

78A-4-103. Jurisdiction of Court of Appeals.

(1) As used in this section, "adjudicative proceeding" does not include a proceeding under Title 63G, Chapter 2, Part 4, Appeals, that precedes judicial review under Section 63G-2-404.

(2) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:

(a) to carry into effect the judgments, orders, and decrees of the Court of Appeals; or

(b) in aid of the jurisdiction of the Court of Appeals.

(3) The Court of Appeals has original appellate jurisdiction, including [~~jurisdiction of interlocutory appeals~~]original appellate jurisdiction of an interlocutory appeal, over:

(a) (i) except as provided in Subsection 78A-3-102(4)(a)(i), a final agency action, as described in Section 63G-4-403, originating from:

(A) a formal adjudicative proceeding of a state agency;

(B) a special adjudicative proceeding, as described in Section 19-1-301.5; or

(C) a hearing before a local school board or the State Board of Education as described in Section 53G-11-515; or

(ii) except as provided in Subsection 78A-3-102(4)(a)(ii), an appeal from the district court review of an informal adjudicative proceeding of an agency [~~other than the following:~~];

[~~(A) the Public Service Commission;~~]

[~~(B) the State Tax Commission;~~]

[~~(C) the School and Institutional Trust Lands Board of Trustees;~~]

[~~(D) the Division of Forestry, Fire, and State Lands, for an action reviewed by the executive director of the Department of Natural Resources;~~]

[~~(E) the Board of Oil, Gas, and Mining; or~~]

[~~(F) the state engineer;~~]

(b) appeals from the district court review of:

(i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and

(ii) a challenge to agency action under Section 63G-3-602;

(c) appeals from the juvenile courts;

(d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;

(e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;

(f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except for petitions constituting a challenge to a conviction of or the sentence for a first degree or capital felony;

(g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;

(h) appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, parent-time, visitation, adoption, and paternity;

(i) appeals from the Utah Military Court; and

(j) cases transferred to the Court of Appeals from the Supreme Court.

(4) The Court of Appeals does not have appellate jurisdiction over an appeal of an injunctive order described in Section 78B-5-1002.

(5) [~~The~~]Notwithstanding Subsection (3), the Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.

(6) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in [~~its review of agency adjudicative proceedings~~]the Court of Appeals's review of an agency adjudicative proceeding.

Section 3. Effective Date.

This bill takes effect:

(1) except as provided in Subsection (2), February 8, 2026; or

(2) if approved by two-thirds of all members elected to each house:

(a) upon approval by the governor;

(b) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(c) in the case of a veto, the date of veto override.

H. J. R. 201
Passed December 9, 2025
Approved December 11, 2025
Effective December 11, 2025

JOINT RESOLUTION REGARDING CONSTITUTIONAL AUTHORITY

Chief Sponsor: Casey Snider
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This resolution reaffirms the constitutional and statutory role of the Legislature in redistricting.

Highlighted Provisions:

This resolution:

- ► reaffirms the constitutional and statutory role of the Legislature in redistricting;
- ► condemns actions that ignore the Utah Constitution and Proposition 4;
- ► rejects the unconstitutional use of the special interest groups' congressional map; and
- ► urges the judicial branch to safeguard the text of the Utah Constitution.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Article VI, Section 1, of the Utah Constitution vests the power to enact laws in the Legislature and the people of the state of Utah;

WHEREAS, Article V, Section 1, of the Utah Constitution prohibits any branch of government from exercising the constitutional power of another branch and protects Utahns from government by judicial decree;

WHEREAS, Article IX, Section 1, of the Utah Constitution and Article I, Section 4, of the United States Constitution (the Elections Clause) both vest the power of redistricting solely in the Legislature;

WHEREAS, Proposition 4, approved narrowly in 2018, created procedural expectations for redistricting but did not and could not strip the Legislature of its constitutional authority to adopt or reject a congressional map;

WHEREAS, in 2020, the Legislature worked with the sponsors of Proposition 4 to make necessary statutory changes to ensure that redistricting remained constitutional, transparent, and accountable to voters;

WHEREAS, in the first appeal in League of Women Voters of Utah, et al v. Utah State Legislature, et al (litigation), the Utah Supreme Court contrived a novel and unfounded concept of initiated super laws, preventing future legislatures from amending those laws unless a judge agrees that a policy change is necessary, despite no such restriction appearing in the Utah Constitution;

WHEREAS, this super law doctrine contradicts over a century of Utah constitutional interpretation and, if unchecked, threatens the foundation of representative democracy by allowing courts to elevate ordinary statutes and personal preferences of unelected judges above the authority of the people's elected legislators;

WHEREAS, in the remedial phase of the litigation, the district court disregarded the Proposition 4 requirements that would have provided an independent commission, transparency, and robust legislative and public involvement;

WHEREAS, after still providing some level of legislative hearings and public engagement, the Legislature adopted a congressional map on October 6, 2025, that complied with the Proposition 4 redistricting criteria and was validated using objective, scientific, and statistically based standards without the Legislature using any partisan data or political considerations;

WHEREAS, although the Lieutenant Governor informed the court that her office needed to receive a final map no later than November 10, 2025, the court:

issued its decision rejecting the Legislature's map at 11:41 PM on November 10, well after the Lieutenant Governor's elections office had closed;

did not provide operable map files until well after the final deadline; and

has yet to provide map files that do not contain serious errors, including obvious errors with district lines cutting through homes;

WHEREAS, the court's late-night decision threw out the Legislature's newly-adopted map and unconstitutionally ordered the Lieutenant Governor to use a map drawn by private special interest groups, which never underwent the Proposition 4 process, never received public scrutiny, and never received legislative approval;

WHEREAS, the special interest groups' map heavily favors one political party, eliminates electoral competitiveness, and reflects political goals rather than constitutional fidelity or judicial neutrality;

WHEREAS, the actions of the court undermine the separation of powers, disregard the Legislature's constitutional role, erode public confidence in the courts, and insert judicial policymaking into an area explicitly reserved to the Legislature by both the Utah Constitution and the United States Constitution;

WHEREAS, the court's repeated delays and last-minute rulings manufactured an arbitrary and artificial sense of emergency that has limited meaningful appellate review before the 2026 general election; and

WHEREAS, the people of Utah deserve a redistricting process grounded in constitutional text, transparent public input, and democratic accountability, not a process dictated by unelected judges or private special interest groups:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah condemns the Utah Supreme Court's activist rewriting of the Utah Constitution and its creation of the unfounded doctrine of super laws.

BE IT FURTHER RESOLVED that the Legislature condemns the district court's disregard for the Utah Constitution, for Proposition 4 as enacted by the people, and for the separation of powers that protects Utah's democratic institutions.

BE IT FURTHER RESOLVED that the Legislature condemns the court's delays and errors that created an arbitrary and artificial emergency, allowing special interest groups to impose a politically-driven map on the people of Utah.

BE IT FURTHER RESOLVED that the Legislature condemns the implementation of a map that violates Article IX of the Utah Constitution, Proposition 4, and the Elections Clause of the United States Constitution.

BE IT FURTHER RESOLVED that the Legislature rejects the court-ordered, special interest groups' map and any map that does not reflect the will of the people through their elected legislators.

BE IT FURTHER RESOLVED that the Legislature urges the judicial branch to safeguard and follow the text of the Utah Constitution.

S. J. R. 201
Passed December 9, 2025
Approved December 11, 2025
Effective December 11, 2025

JOINT RESOLUTION AMENDING COURT RULES OF PROCEDURE

Chief Sponsor: Brady Brammer
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This resolution amends court rules of procedure.

Highlighted Provisions:

This resolution:

- ► amends Rule 4 of the Utah Rules of Appellate Procedure to address the time for parties to appeal a judgment in certain election cases;
- ► amends Rule 6 of the Utah Rules of Appellate Procedure to address the payment of a cost bond on appeal;
- ► amends Rule 30 of the Utah Rules of Appellate Procedure to address the time for an appellate court to decide an appeal in certain election cases;
- ► amends Rules 58A and 73 of the Utah Rules of Civil Procedure to address filing a motion for attorney fees in certain election cases; and
- ► makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This resolution provides a special effective date.

Utah Rules of Appellate Procedure Affected:

AMENDS:

Rule 4, Utah Rules of Appellate Procedure
Rule 6, Utah Rules of Appellate Procedure
Rule 30, Utah Rules of Appellate Procedure

Utah Rules of Civil Procedure Affected:

AMENDS:

Rule 58A, Utah Rules of Civil Procedure
Rule 73, Utah Rules of Civil Procedure

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:
As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Rule 4, Utah Rules of Appellate Procedure is amended to read:

Rule 4. Appeal as of right: when taken.

(a) **Appeal as of right.** Except as provided in paragraph (a)(1) or (a)(2), in a case in which an appeal is permitted as a matter of right from the trial court to the appellate court, the notice of appeal required by Rule 3 must be filed with the clerk of the trial court within 30 days after the date of entry of the judgment or order appealed from. If the trial court enters a judgment or order on a Saturday, Sunday, or legal holiday, the date of entry will be deemed to be the first day following the trial court's entry that is not a Saturday, Sunday, or legal holiday.

(1) When a judgment or order is entered in a statutory forcible entry or unlawful detainer action, the notice of appeal required by Rule 3 must be filed with the clerk of the trial court within 10 days after the date of entry of the judgment or order appealed from.

(2) When an order is entered denying, in whole or in part, a motion to dismiss under Utah Code section 78B-25-103, the notice of appeal must be filed with the clerk of the trial court within 21 days after the date of entry of the order appealed from.

(b) **Time for appeal extended by certain motions.**

(1) [~~If~~]Except as provided in paragraph (b)(3), if a party timely files in the trial court any of the following, the time for all parties to appeal from the judgment runs from the entry of the dispositive order:

(A) [~~A~~]a motion for judgment under Rule 50(b) of the Utah Rules of Civil Procedure;

(B) [~~A~~]a motion to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted, under Rule 52(b) of the Utah Rules of Civil Procedure;

(C) [~~A~~]a motion to alter or amend the judgment under Rule 59 of the Utah Rules of Civil Procedure;

(D) [~~A~~]a motion for a new trial under Rule 59 of the Utah Rules of Civil Procedure;

(E) [~~A~~]a motion for relief under Rule 60(b) of the Utah Rules of Civil Procedure if the motion is filed no later than 28 days after the judgment is entered;

(F) [~~A~~]a motion or claim for attorney fees under Rule 73 of the Utah Rules of Civil Procedure; or

(G) [~~A~~]a motion for a new trial under Rule 24 of the Utah Rules of Criminal Procedure.

(2) [~~A~~]Except as provided in paragraph (b)(3), a notice of appeal filed after announcement or entry of judgment, but before entry of an order disposing of any motion listed in paragraph (b) (1), will be treated as filed after entry of the order and on the day thereof, except that such a notice of appeal is effective to appeal only from the underlying judgment. To appeal from a final order disposing of any motion listed in paragraph (b) (1), a party must file a notice of appeal or an amended notice of appeal within the prescribed time measured from the entry of the order. If multiple motions in paragraph (b) (1) are timely filed and the court decides any motion by separate order, the time to file a notice of appeal runs from the entry of the last order.

(3) In a case relating to a voting contest, an election, or the establishment of boundaries of political districts for purposes of an election:

(A) the time for all parties to appeal from the judgment runs from the date of entry of the judgment

regardless of whether a party files any motion described in paragraph (b)(1); and

(B) a notice of appeal will be treated as filed on the day the notice of appeal is filed.

(c) **Filing prior to entry of judgment or order.** A notice of appeal filed after the announcement of a decision, judgment, or order but before entry of the judgment or order will be treated as filed after such entry and on the day thereof.

(d) **Additional or cross-appeal.** If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days after the date on which the first notice of appeal was filed, or within the time otherwise prescribed by paragraphs (a) and (b) of this rule, whichever period last expires.

(e) **Motion for extension of time.**

(1) The trial court, upon a showing of good cause, may extend the time for filing a notice of appeal upon motion filed before the expiration of the time prescribed by paragraphs (a) and (b) of this rule. Responses to such motions for an extension of time are disfavored and the court may rule at any time after the filing of the motion. No extension can exceed 30 days beyond the prescribed time or 14 days beyond the date of entry of the order granting the motion, whichever occurs later.

(2) The trial court, upon a showing of good cause or excusable neglect, may extend the time for filing a notice of appeal upon motion filed not later than 30 days after the expiration of the time prescribed by paragraphs (a) and (b) of this rule. The court may rule at any time after the filing of the motion. That a movant did not file a notice of appeal to which paragraph (c) would apply is not relevant to the determination of good cause or excusable neglect. An extension may not exceed 30 days beyond the prescribed time or 14 days beyond the date of entry of the order granting the motion, whichever occurs later.

(f) **Motion to reinstate period for filing a direct appeal in criminal cases.**

(1) The trial court will reinstate the 30 day period for filing a direct appeal in a criminal case if a defendant demonstrates by a preponderance of the evidence that the defendant was deprived of the right to appeal through no fault of the defendant.

(2) The motion must be filed within one year, or within a reasonable time, whichever is later, from the day on which the defendant personally knew, or should have known in the exercise of reasonable diligence, of evidentiary facts forming the basis of the claim that the defendant was deprived of the right to appeal.

(A) The motion must state:

(i) the date the defendant learned that the defendant was denied the right to an appeal [~~-~~]; and

(ii) how the defendant learned that the defendant was denied the right to an appeal.

(B) If the motion is filed more than one year after the defendant learned that the defendant was denied the right to an appeal, the defendant must allege all of the grounds that support the allegation that the delay in filing the motion was reasonable.

(3) If the defendant is not represented by counsel and is indigent, the trial court will appoint counsel.

(4) The motion must be served on the prosecuting entity. The prosecutor may file a response to the motion within 28 days after being served.

(5) If the motion to reinstate the time to appeal is opposed, the trial court will set a hearing at which the parties may present evidence.

(6) If the prosecutor opposes the motion on the ground that the defendant filed it beyond the time limit in paragraph (f)(2), the prosecutor must prove, by a preponderance of the evidence, that the defendant's delay was unreasonable. The court may deny the motion as untimely only if the court finds that the prosecutor has carried this burden.

(7) If the trial court enters an order reinstating the time for filing a direct appeal, the defendant's notice of appeal must be filed with the clerk of the trial court within 30 days after the date the order is entered.

(g) **Motion to reinstate period for filing a direct appeal in civil cases.**

(1) The trial court will reinstate the 30 day period for filing a direct appeal if the trial court finds by a preponderance of the evidence that:

(A) [~~The~~]the party seeking to appeal lacked actual notice of the entry of judgment at a time that would have allowed the party to file a timely motion under paragraph (e) of this rule;

(B) [~~The~~]the party seeking to appeal exercised reasonable diligence in monitoring the proceedings; and

(C) [~~The~~]the party, if any, responsible for serving the judgment under Rule 58A(d) of the Utah Rules of Civil Procedure did not promptly serve a copy of the signed judgment on the party seeking to appeal.

(2) A party seeking such reinstatement must file a written motion in the trial court within one year from the entry of judgment. The party must comply with Rule 7 of the Utah Rules of Civil Procedure and must serve each of the parties in accordance with Rule 5 of the Utah Rules of Civil Procedure.

(3) If the trial court enters an order reinstating the time for filing a direct appeal, a notice of appeal must be filed within 30 days after the date of entry of the order.

Section 2. Rule 6, Utah Rules of Appellate Procedure is amended to read:

Rule 6. Bond for costs on appeal.

(a) **Definitions.** As used in this rule:

(1) "Government officer" means the same as that term is defined in Utah Code section 63G-2-210.

(2) "Governmental entity" means the same as that term is defined in Utah Code section 63G-2-103.

(b)[~~Except in a criminal case,~~]**Cost bond.** Except as provided in paragraph (c), at the time of filing the notice of appeal, the appellant shall file with the notice a bond for costs on appeal [~~, unless the bond is waived in writing by the adverse party, or unless an affidavit as provided for in Utah Code Section 78A-2-302 is filed~~]. The bond shall be in the sum of at least $300.00 or such greater amount as the trial court may order on motion of the appellee to ensure payment of costs on appeal. No separate bond for costs on appeal is required when a supersedeas bond is filed. The bond on appeal shall be with sufficient sureties and shall be conditioned to secure payment of costs if the appeal is dismissed or the judgment affirmed, or of such costs as the appellate court may award if the judgment is modified. The adverse party may except to the sufficiency of the sureties in accordance with the provisions of Rule 62, Utah Rules of Civil Procedure.

(c) **Exceptions.** An appellant is not required to post a bond for the appeal:

(1) in a criminal case;

(2) if the bond is waived in writing by the adverse party;

(3) if the appellant's fees are waived under Utah Code section 78A-2-302; or

(4) if the appellant is a government officer or governmental entity.

Section 3. Rule 30, Utah Rules of Appellate Procedure is amended to read:

Rule 30. Decision of the court; notice of decision.

(a) **Decision in civil cases**. The court may reverse, affirm, modify, or otherwise dispose of any appealed order or judgment. If the findings of fact in a case are incomplete, the court may order the trial court or agency to supplement, modify, or complete the findings to make them conform to the issues presented and the facts as found from the evidence and may direct the trial court or agency to enter judgment in accordance with the findings as revised. The court may also order a new trial or further proceedings to be conducted. If a new trial is granted, the court may pass upon and determine all questions of law involved in the case presented upon the appeal and necessary to the final determination of the case.

(b) **Decision in election cases.** In a case relating to a voting contest, an election, or the establishment of boundaries of political districts for purposes of an election, the court will establish a briefing schedule, hold oral argument, and issue a decision with sufficient promptness to, as much as possible, avoid prejudicing any candidate or voter or delaying an election deadline or election.

[~~(b)~~](c) **Decision in criminal cases**. If a judgment of conviction is reversed, a new trial will be held unless the court specifies otherwise. If a judgment of conviction or other order is affirmed or modified, the judgment or order affirmed or modified will be executed.

[~~(c)~~](d) **Decision and opinion in writing**. When a judgment, decree, or order is reversed, modified, or affirmed, the reasons will be stated concisely in writing and filed with the clerk. Any justice or judge concurring or dissenting may likewise give reasons in writing and file the same with the clerk. The clerk's entry in the court's records constitutes the entry of the judgment of the court.

[~~(d)~~](e) **Form of decision**. An appellate court's decision may be entered by order, opinion, or per curiam decision. An order will not stand as precedent but will otherwise have the same force and effect as other court decisions.

[~~(e)~~](f) **Entry and notice of decision**. The entry of the decision in the court's records constitutes the entry of the court's judgment. Immediately upon entering the decision, the clerk must give notice to the respective parties and make the decision public in accordance with the court's direction.

(1) If the court's decision is by order, the appellate clerk will transmit the order to the parties and to the lower court or agency.

(2) If the court's decision is by opinion or per curiam decision, the decision will be published on the courts' website at utcourts.gov.

[~~(f)~~](g) **Citation of decisions**. Published decisions of the Supreme Court and the Court of Appeals, and unpublished decisions of the Court of Appeals issued between October 1, 1998, and December 31, 2010, may be cited as precedent in all courts of the State. Other unpublished decisions may also be cited, so long as all parties and the court are supplied with accurate copies at the time all such decisions are first cited.

Section 4. Rule 58A, Utah Rules of Civil Procedure is amended to read:

Rule 58A. Entry of judgment; abstract of judgment.

(a) Separate document required. Every judgment and amended judgment must be set out in a separate document ordinarily titled "Judgment"-or, as appropriate, "Decree."

(b) Separate document not required. A separate document is not required for an order disposing of a post-judgment motion:

[~~(b)~~](1) for judgment under Rule 50(b);

[~~(b)~~](2) to amend or make additional findings under Rule 52(b);

[~~(b)~~](3) for a new trial, or to alter or amend the judgment, under Rule 59;

[~~(b)~~](4) for relief under Rule 60; or

[~~(b)~~](5) for attorney fees under Rule 73.

(c) Preparing a judgment.

[~~(c)~~](1) Preparing and serving a proposed judgment. The prevailing party or a party directed by the court must prepare and serve on the other parties a proposed judgment for review and approval as to form. The proposed judgment shall be served within 14 days after the jury verdict or after the court's decision. If the prevailing party or party directed by the court fails to timely serve a proposed judgment, any other party may prepare a proposed judgment and serve it on the other parties for review and approval as to form.

[~~(c)~~](2) Effect of approval as to form. A party's approval as to form of a proposed judgment certifies that the proposed judgment accurately reflects the verdict or the court's decision. Approval as to form does not waive objections to the substance of the judgment.

[~~(c)~~](3) Objecting to a proposed judgment. A party may object to the form of the proposed judgment by filing an objection within 7 days after the judgment is served.

[~~(c)~~](4) Filing proposed judgment. The party preparing a proposed judgment must file it:

[~~(c)(4)~~](A) after all other parties have approved the form of the judgment; (The party preparing the proposed judgment must indicate the means by which approval was received: in person; by telephone; by signature; by email; etc.)

[~~(c)(4)~~](B) after the time to object to the form of the judgment has expired; (The party preparing the proposed judgment must also file a certificate of service of the proposed judgment.) or

[~~(c)(4)~~](C) within 7 days after a party has objected to the form of the judgment. (The party preparing the proposed judgment may also file a response to the objection.)

(d) Judge's signature; judgment filed with the clerk. Except as provided in paragraph (h) and Rule 55(b)(1), all judgments must be signed by the judge and filed with the clerk. The clerk must promptly record all judgments in the docket.

(e) Time of entry of judgment.

[~~(e)~~](1) If a separate document is not required, a judgment is complete and is entered when it is signed by the judge and recorded in the docket.

[~~(e)~~](2) If a separate document is required, a judgment is complete and is entered at the earlier of these events:

[~~(e)(2)~~](A) the judgment is set out in a separate document signed by the judge and recorded in the docket; or

[~~(e)(2)~~](B) 150 days have run from the clerk recording the decision, however designated, that provides the basis for the entry of judgment.

(f) Award of attorney fees. A motion or claim for attorney fees does not affect the finality of a judgment for any purpose [~~, but under Rule of Appellate Procedure 4,~~]. Except as provided in Rule 73(g), the time in which to file the notice of appeal runs from the disposition of the motion or claim as described in Rule of Appellate Procedure 4.

(g) Notice of judgment. The party preparing the judgment shall promptly serve a copy of the signed judgment on the other parties in the manner provided in Rule 5 and promptly file proof of service with the court. Except as provided in Rule of Appellate Procedure 4(g), the time for filing a notice of appeal is not affected by this requirement.

(h) Judgment after death of a party. If a party dies after a verdict or decision upon any issue of fact and before judgment, judgment may nevertheless be entered.

(i) Judgment by confession. If a judgment by confession is authorized by statute, the party seeking the judgment must file with the clerk a statement, verified by the defendant, as follows:

[~~(i)~~](1) If the judgment is for money due or to become due, the statement must concisely state the claim and that the specified sum is due or to become due.

[~~(i)~~](2) If the judgment is for the purpose of securing the plaintiff against a contingent liability, the statement must state concisely the claim and that the specified sum does not exceed the liability.

[~~(i)~~](3) The statement must authorize the entry of judgment for the specified sum.

The clerk must sign the judgment for the specified sum.

(j) Abstract of judgment. The clerk may abstract a judgment by a signed writing under seal of the court that:

[~~(j)~~](1) identifies the court, the case name, the case number, the judge or clerk that signed the judgment, the date the judgment was signed, and the date the judgment was recorded in the registry of actions and the registry of judgments;

[~~(j)~~](2) states whether the time for appeal has passed and whether an appeal has been filed;

[~~(j)~~](3) states whether the judgment has been stayed and when the stay will expire; and

[~~(j)~~](4) if the language of the judgment is known to the clerk, quotes verbatim the operative language of the judgment or attaches a copy of the judgment.

Section 5. Rule 73, Utah Rules of Civil Procedure is amended to read:

Rule 73. Attorney fees.

(a) **Time in which to claim.** Attorney fees must be claimed by filing a motion for attorney fees no later than 14 days after the judgment is entered, except as provided in paragraph (f) or (g) of this rule, or in accordance with Utah Code [~~&~~]section 75-3-718, and no objection to the fee has been made.

(b) **Content of motion.** The motion must:

[~~(b)~~](1) specify the statute, rule, contract, judgment, or other basis entitling the party to the award;

[~~(b)~~](2) disclose, if the court orders, the terms of any agreement about fees for the services for which the claim is made;

[~~(b)~~](3) specify factors showing the reasonableness of the fees, if applicable;

[~~(b)~~](4) specify the amount of attorney fees claimed and any amount previously awarded; and

[~~(b)~~](5) disclose if the attorney fees are for services rendered to an assignee or a debt collector, the terms of any agreement for sharing the fee and a statement that the attorney will not share the fee in violation of Rule of Professional Conduct 5.4.

(c) **Supporting affidavit.** The motion must be supported by an affidavit or declaration that reasonably describes the time spent and work performed, including for each item of work the name, position (such as attorney, paralegal, administrative assistant, etc.) and hourly rate of the persons who performed the work, and establishes that the claimed fee is reasonable.

(d) **Liability for fees.** The court may decide issues of liability for fees before receiving submissions on the value of services. If the court has established liability for fees, the party claiming them may file an affidavit and a proposed order. The court will enter an order for the claimed amount unless another party objects within 7 days after the affidavit and proposed order are filed.

(e) **Fees claimed in complaint.** If a party claims attorney fees under paragraph (f), the complaint must state the basis for attorney fees, cite the law or attach a copy of the contract authorizing the award, and state that the attorney will not share the fee in violation of Rule of Professional Conduct 5.4.

(f) **Fees.** Attorney fees awarded under this rule may be augmented upon submission of a motion and supporting affidavit meeting the requirements of paragraphs (b) and (c) within a reasonable time after the fees were incurred, except as provided in paragraphs (f)(1), (f)(2) and (f)(3), and only where the augmented fees sought exceed those already awarded.

[~~(f)~~](1) **Fees upon entry of uncontested judgment.** When a party seeks a judgment, the responding party does not contest entry of judgment by presenting at a hearing either evidence or argument, and the party seeking the judgment has complied with paragraph (e) of this rule, the request for judgment may include a request for attorney fees, and the clerk or the court shall allow any amount requested up to $350.00 for such attorney fees without a supporting affidavit.

[~~(f)~~](2) **Fees upon entry of judgment after contested proceeding.** When a party seeks a judgment, the responding party contests the judgment by presenting at a hearing either evidence or argument, and the party seeking the judgment has established its right to attorney fees, the request for judgment may include a request for attorney fees, and the clerk or the court shall allow any amount requested up to $750 for such attorney fees without a supporting affidavit.

[~~(f)~~](3) **Post Judgment Collections.** When a party has established its entitlement to attorney fees under any paragraph of this rule, and subsequently:

[~~(f)(3)~~](A) applies for any writ pursuant to Rules 64, 64A, 64B, 64C, 64D, or 64E; or

[~~(f)(3)~~](B) files a motion pursuant to Rules 64(c)(2) or 58C or pursuant to Utah Code [~~&~~]section 35A-4-314, the party may request as part of its application for a writ or its motion that the party's judgment be augmented according to the following schedule, and the clerk or the court shall allow such augmented attorney fees request without a supporting affidavit if it approves the writ or motion:

Action	Attorney Fees Allowed
Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee;	$75.00
Any subsequent application for a writ under Rule 64D to the same garnishee;	$25.00
Any motion filed with the court under Rule 64(c)(2), Utah Code & 35A-4-314, or Rule 58C;	$75.00
Any subsequent motion under Rule 64(c)(2),Utah Code & 35A-4-314, or Rule 58C filed within 6 months of the previous motion.	$25.00

[~~(f)~~](4) **Fees in excess of the schedule.**If a party seeks attorney fees in excess of the amounts set forth in paragraphs (f)(1), (f)(2), or (f)(3), the party shall comply with paragraphs (a) through (c) of this rule.

[~~(f)~~](5) **Objections.** Nothing in this paragraph shall be deemed to eliminate any right a party may have to object to any claimed attorney fees.

(g) **Attorney fees in an election case.** In a case relating to a voting contest, an election, or the establishment of boundaries of political districts for purposes of an election, a party may not file a motion for attorney fees until after:

(1) the time for all parties to appeal from the judgment expires without either party filing a motion to appeal; or

(2) a party appeals the judgment and an appellate court enters a decision on the appeal.

Section 6. Effective Date.

As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect upon a two-thirds vote of all members elected to each house.